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PROCEEDINGS AND DEBATES OF THE 93^{d} CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, October 16, 1974*

The House met at 11 o'clock a.m.

Dr. Jack P. Lowndes, Memorial Baptist Church, Arlington, Va., offered the following prayer:

The Lord detests a liar but delights in honest men.—Proverbs 12:22 (modern translation).

Almighty and Everlasting God, who art always more ready to hear than we to pray, hear us as we, at the beginning of this session of the House of Representatives, pray for Thy help and guidance. As we think of our Nation, we are grateful for freedom. As our thoughts turn to those who serve here, we are thankful for women and men who meet to enact laws to keep us a nation of free people and help us fulfill our responsibility to our world. Bless the Speaker and all who serve with him.

Help those who serve here to always realize that honesty is the best politics. Give us leaders who will seek the best for our Nation, under God, at all times in honesty and faith.

In the name of Jesus, Thy Truth, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 13561. An act to amend the Intercoastal Shipping Act, 1933; and

H.R. 15540. An act to extend for 1 year the authorization for appropriations to implement title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6169) entitled "An act providing for temporary suspension of the duty on zinc-bearing ores and certain other zinc-bearing materials.

The message also announced that the Senate agreed to the amendment of the House to the amendment of the Senate numbered 3, to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6642) entitled "An act extending the existing suspension of duties on imports of certain bicycle parts."

The message also announced that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 5, 6, and 18 to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7780) entitled "An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk."

The message also announced that the Senate agreed to the amendment of the House to the amendment of the Senate numbered 4, to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11251) entitled "An act to amend the Tariff Schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel."

The message also announced that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 4 and 5 to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11452) entitled "An act to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes."

The message also announced that the Senate agreed to the amendment of the House to the amendment of the Senate numbered 7, to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11830) entitled "An act to suspend the duty of synthetic rutile until the close of June 30, 1977."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12035) entitled "An act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts."

The message also announced that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 1, 2, 3, and 4 to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13631) entitled "An act to suspend for a temporary period the import duty on certain horses."

The message also announced that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 1 and 2 to the foregoing bill.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3173. An act to amend the Intercoastal Shipping Act, 1933.

NEW GENERAL COUNSEL FOR HOUSE BUDGET COMMITTEE

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, last Friday the distinguished chairman of the House Budget Committee, my colleague from Oregon, AL ULLMAN, appointed George Gross to be the first general counsel of the House Budget Committee.

As many of the Members know, George Gross has been the chief counsel for the Subcommittee on Housing of the House Committee on Banking and Currency since 1969. As chairman of the Housing Subcommittee, I originally appointed George to this position, and he has worked very closely with me and all of the members of the full Banking and Currency Committee since that time on every piece of housing and urban development legislation that has come before the committee.

Mr. Gross' tenure with the Housing Subcommittee has been in a most active and changing period regarding the Federal approaches to our Federal housing subsidy programs and our urban development programs. Great changes have been made in the way the Federal Government handles our housing programs and the way our urban development programs have evolved into a community development block grant type of program. George Gross has been one of the most instrumental figures in the development of legislation involving the evolution of the way the Federal Government handles these housing and urban development problems.

Needless to say, Mr. Speaker, I sincerely regret losing George Gross' services to myself and to the members of the Housing Subcommittee, but I am indeed pleased that his services will continue to be made available in a most important position in the House of Representatives as the general counsel of the new Budget Committee. I and all of the members of the Housing Subcommittee, as well as the full Committee on Banking and Currency, will continue to make use of the advice and counsel of Mr. Gross in the future, especially since his position will greatly affect how our Federal resources are to be made available for the domestic needs of this country.

REHABILITATION ACT AMENDMENTS OF 1974

Mr. **BRADEMAS**. Mr. Speaker, I call up the conference report on the bill (H.R. 14225) to amend and extend the Rehabilitation Act of 1973 for 1 additional year, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The **SPEAKER**. Is there objection to the request of the gentleman from Indiana?

Mr. **MYERS**. Mr. Speaker, reserving the right to object, and I will yield to the gentleman from Indiana to answer this question, I would ask has anyone on this side approved of this conference report?

Mr. **BRADEMAS**. If the gentleman will yield, yes, the gentleman from Minnesota (Mr. Quie) is aware of and supports this action.

CALL OF THE HOUSE

Mr. **MYERS**. Mr. Speaker, I make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

Mr. **McFALL**. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 618]

Abdnor
Abzug
Andrews,
  N. Dak.
Archer
Ashley
Aspin
Badillo
Blackburn
Blatnik
Boland
Bolling
Brasco
Breaux
Brooks
Brown, Calif.
Burke, Calif.
Burke, Fla.
Burton, John
Carey, N.Y.
Chamberlain
Chisholm
Clancy
Clark
Clay
Collins, Tex.
Conable
Conlan
Conte
Conyers
Coughlin
Crane
Culver
Daniel,
  Robert W., Jr.
Davis, Ga.
Davis, Wis.
Dellums
Denholm
Diggs
Dorn
Drinan
du Pont
Edwards, Ala.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Findley
Flood
Foley
Fulton
Goldwater
Grasso
Gray
Green, Oreg.
Griffiths
Gubser
Hammer-
  schmidt
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hébert
Heckler, Mass.
Holifield
Holt
Huber
Hudnut
Jarman
Johnson, Colo.
Jones, Ala.
Karth
Kyros
Landgrebe
Landrum
Long, La.
Long, Md.
Macdonald
Madigan
Mallary
Martin, Nebr.
Matsunaga
Mayne
Melcher
Michel
Mills
Mink
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead,
  Calif.
Moss
Nedzi
O'Hara
Owens
Patman
Podell
Powell, Ohio
Rangel
Rarick
Reid
Reuss
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rousselot
Roy
Ruppe
Ruth
Schroeder
Smith, Iowa
Snyder
Steele
Steelman
Steiger, Ariz.
Stubblefield
Stuckey
Sullivan
Taylor, Mo.
Thomson, Wis.
Thone
Tiernan
Udall
Veysey
Waggonner
Waldie
Whitehurst
Widnall
Wiggins
Winn
Wolff
Young, Alaska
Zion

The **SPEAKER**. On this rollcall 297 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 14225, REHABILITATION ACT AMENDMENTS OF 1974

The **SPEAKER**. Is there objection to the request of the gentleman from Indiana (Mr. Brademas) that the statement of the managers be read in lieu of the report?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 9, 1974.)

Mr. **BRADEMAS** (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The **SPEAKER**. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The **SPEAKER**. The gentleman from Indiana (Mr. Brademas) is recognized for 1 hour.

Mr. **BRADEMAS**. Mr. Speaker, I rise to urge my colleagues to give their strong support to the conference report on H.R. 14225 as amended, a bill to extend the Rehabilitation Act of 1973.

This is a strong bill, Mr. Speaker, which will help promote careful planning of the expenditure of Federal funds, make life better for millions of handicapped Americans, and in particular strengthen the Randolph-Sheppard vending stand program for the blind.

Before I discuss the principal provisions of this bill, Mr. Speaker, I must take a moment to commend the gentleman from Kentucky (Mr. Perkins), the distinguished chairman of the Committee on Education and Labor, as well as the distinguished gentleman from Minnesota (Mr. Quie), the ranking minority member of the Education and Labor Committee, for their fine efforts in seeing this measure through the House and through the conference.

MAJOR PROVISIONS

Briefly, the conference report would continue for 1 year, through fiscal year 1976, the Rehabilitation Act of 1973.

Under this act, Mr. Speaker, in fiscal 1973 State vocational rehabilitation agencies served almost 1.2 million handicapped individuals and successfully rehabilitated over 360,000 of them for employment.

The act also makes available funds for research on handicapping conditions, training of personnel to work with the handicapped, and the planning, staffing, and construction of rehabilitation facilities.

Let me take a moment, Mr. Speaker, to cite the major provisions of H.R. 14225. The bill would:

First, extend all programs authorized by the Rehabilitation Act for 1 year with total authorizations of $851.5 million for fiscal 1976; $720 million of that amount is authorized for the basic State rehabilitation program;

Second, move the Rehabilitation Services Administration (RSA) out of the Social and Rehabilitation Service (SRS) to the Office of the Secretary of the Department of Health, Education, and Welfare;

Third, authorize a White House Conference on the Handicapped to be called within 3 years; and

Fourth, amend the Randolph-Sheppard Vending Stand Program Act which authorizes the blind to operate vending stands in Federal buildings, so as to improve such vending opportunities for the blind.

Mr. Speaker, before I discuss these provisions in greater detail, let me just observe that the conference report is very similar to the bill which passed the House, by a vote of 400 to 1, on May 21 of this year.

The House extended the act for 1 year, while the Senate approved a 2-year extension, with the exception of the basic State program which was extended for only 1. The Senate has receded.

The House-passed bill would have authorized $841.5 million for fiscal 1976, and the Senate would have authorized $857.2 million in that year and $151.0 million in 1977. We have compromised the 1976 figure to that contained in the conference report, $851.5 million or $10 million more than the original House bill.

Further, Mr. Speaker, the House has accepted with amendments the Senate provisions with respect to the proposed White House Conference on the Handicapped and the Randolph-Sheppard program.

Finally, the House accepted several modifications and clarification of existing law.

ONE-YEAR EXTENSION

Mr. Speaker, unless Congress acts now to extend the rehabilitation program, we are running a serious risk of damaging the continuity of this important program.

As my colleagues know, the rehabilitation program has frequently been cited as one of the most successful Federal-State cooperative endeavors, a program which returns at least $8 to the Federal Treasury for every $1 spent.

One reason for that success, Mr. Speaker, can be found in the unique allotment formula provided in the authorizing legislation. I should explain that Federal funds authorized for the basic State program constitute a commitment of money to which each State is entitled if it appropriates the funds necessary to match the Federal money.

Therefore, because States know in advance how much Federal money they can expect to receive, they are greatly assisted in their planning processes, and have a powerful incentive to appropriate the necessary matching money.

Unless we approve a 1976 authorization this year, States will be greatly hampered in their planning for the next fiscal year.

I should also mention, Mr. Speaker, that the Department of Health, Education, and Welfare, is now conducting an extensive study of the allotment formula to the States. By extending the existing program for 1 year, we will be able to take advantage of the findings of this study before recommending major changes in the program.

WHITE HOUSE CONFERENCE ON THE HANDICAPPED

Mr. Speaker, title III of the conference report would authorize the President to call a White House Conference on the Handicapped within 3 years of enactment of the bill.

Mr. Speaker, Members of Congress have, for years, received extensive correspondence urging that such a conference be called. The provisions of title III respond to these recommendations.

Hopefully, Mr. Speaker, the conference will stimulate a national assessment of the problems facing individuals suffering from handicaps and help develop recommendations to solve them.

Briefly, Mr. Speaker, the title directs that a National Planning and Advisory Council be established for the conference which is to be planned and conducted by the Secretary of the Department of Health, Education, and Welfare.

The Council is to be composed of 28 persons, of whom 10 are to be persons with handicaps, and 5 are to be parents of persons with handicaps.

The Senate agreed to modify title III to provide that not less than $10,000, and not more than $25,000 are to be made available to each State for State conferences preceding the national conference, and no employee of the conference may be compensated at a level greater than that received by Federal civil service employees at the GS-18 level. The Senate bill authorized $6 million. The conferees also agreed to an authorization of $2 million for the national conference.

Mr. Speaker, many important new issues are emerging that have a significant impact on handicapped Americans.

I cite only several:

Nondiscrimination against the handicapped as guaranteed in the Rehabilitation Act of 1973;

The rights of handicapped youngsters to appropriate educational services are, increasingly, being recognized by courts across the land;

New technologies and the hopes they carry for improving life for handicapped individuals;

New techniques for rehabilitating severely handicapped individuals; and

New attention to mobility for the handicapped and difficulties with architectural and transportation barriers.

Mr. Speaker, the issues of importance to the handicapped are those of society writ large. Hopefully, the White House Conference authorized by the conference report can help us develop a coherent national strategy for dealing with these problems.

REHABILITATION SERVICES ADMINISTRATION

Mr. Speaker, let me now say a word about the provisions in the conference report which would move the Rehabilitation Services Administration, RSA, the agency which administers the rehabilitation program, from the Social and Rehabilitation Service, SRS, to the Office of the Secretary of the Department of Health, Education, and Welfare.

Both the House and Senate bills contained this provision.

Mr. Speaker, there are two principal motives for this proposal.

First, Mr. Speaker, the rehabilitation program is a program designed to help handicapped Americans achieve their full independent potential.

SRS, on the other hand, is made up primarly of welfare programs—which experience indicates have, unfortunately, promoted dependency—and a program such as rehabilitation does not properly lie in SRS.

Indeed I should point out that the sponsors of the Smith-Fess Act of the 66th Congress—which initiated the rehabilitation program—viewed their creation as a human development program, not as a welfare effort.

The second principal motivation, Mr. Speaker, is that the handicapped citizens of our land deserve a more highly placed and visible agency within the Federal Government to serve their needs. Submerged within SRS, RSA, obviously, cannot fulfill this function. The conferees are optimistic that moving the program to the office of the Secretary will give it greater visibility and acknowledge the importance of the rehabilitation effort to millions of American citizens.

RANDOLPH-SHEPPARD AMENDMENTS

Mr. Speaker, I now turn my attention to one of the most difficult problems we discussed during the conference.

I refer to the amendments to the Randolph-Sheppard Act of 1936, an act which authorizes preferences for blind individuals in the operation of vending stands on Federal property.

As my colleagues know, considerable controversy has developed over the Randolph-Sheppard program in the past several years.

Representatives of blind vendors have been extremely concerned about the competition they face from vending machines, which were not, of course, widely available in 1935 when the act was first passed.

The blind have also reported repeated instances of being restricted in the items they can sell from their stands. The General Services Administration, for example, has forbidden some vendors from selling coffee or prepackaged sandwiches from their stands because, it is alleged, the vendor reduces the profits of nearby Government cafeterias.

I must also point out that GSA has been concerned that all Government employees have access to modern, comfortable dining facilities, and that organizations representing Government employees have relied upon income from vending machines for greatly needed funds for many of their important programs.

In addition, representatives of the employees of the Postal Service have been concerned with: First, the safety of blind vendors in work areas; and second, insuring the access of night shift employees to coffee and sandwiches at a time when a blind vendor would not, normally, be working.

Mr. Speaker, I am happy to be able to report that Members of the House and the Senate, following the most intensive meetings with representatives of the blind and of Government employees, have been able to develop acceptable amendments to the Randolph-Sheppard program.

These amendments are, in my view, equitable to all concerned and should guarantee the continued growth of the Randolph-Sheppard program.

The amendments would:

First. Require a priority for licensed blind persons in the operation of vending facilities, including machines, on Federal property, and assign to the Secretary of HEW the responsibility of protecting that priority;

Second. Require the Secretary to promulgate nationally applicable guidelines and procedures for operating blind vendor programs;

Third. Require Federal buildings constructed or renovated after January 1, 1975, to provide satisfactory blind vending sites where feasible;

Fourth. Provide for arbitration procedures under the jurisdiction of the Secretary for the resolution of grievances on the part of blind vendors or the State agencies which license them, as well as judicial review for the vendors; and

Fifth. Improve job training for blind individuals, authorize General Accounting Office audit authority, and provide for additional Federal personnel to operate the program and for increased State agency responsibilities.

These provisions, Mr. Speaker, are designed to help expand the opportunities for blind people to operate vending stands.

And clearly there is need for increased

Federal effort to expand opportunities in this area.

For although there were 881 stands at Federal locations in 1971, the number has slipped to 874 today. But, during the same time the total number of blind vending stands on Federal and non-Federal property has increased from 3,142 to 3,307.

Clearly, the program is flourishing in the State, local, and private sectors, but languishing, and possibly even slipping, on the Federal level.

INCOME ASSIGNMENT

Other provisions of the conference report, Mr. Speaker, address the question of the assignment of vending machine income.

Briefly, this is what the bill would do:

First. One hundred percent of income from machines in direct competition with a vendor, and 50 percent of income from machines not in direct competition shall accrue to blind vendors and their state licensing agencies;

Second. At facilities where at least 50 percent of the hours worked are outside normal working hours, 30 percent of income from vending machines shall accrue to the vendors; and

Third. Facilities with less than $3,000 annual vending machine income are totally exempt, as are retail military sales outlets and the Veterans Canteen Service.

Mr. Speaker, the conferees are confident that these provisions will help blind vendors and adequately protect the rights of the Government and its employees with respect to the availability at all times of vending facilities and the assignment of income.

Finally, Mr. Speaker, I would like to congratulate my friend in the other body, Senator Randolph, for his persistence in this matter.

A SUMMARY

Mr. Speaker, let me quickly summarize.

The conference report before us provides a greatly needed extension of the programs authorized by the Rehabilitation Act of 1973; moves the Rehabilitation Services Administration into a more congenial bureaucratic setting; authorizes a White House Conference on the Handicapped; and makes several important amendments to the Randolph-Sheppard Act of 1936.

Mr. Speaker, this is an important bill which means a great deal to millions of Americans suffering from physical, mental, or emotional disabilities.

I strongly urge my colleagues to support it so that the House in the 93d Congress can continue the overwhelming bipartisan support it gave to the rehabilitation program when, last year, it approved the Rehabilitation Act of 1973 by the unanimous vote of 400 to 0.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman.

Mr. PERKINS. Mr. Speaker, the conference report on H.R. 14225 will have a profound impact on the lives of handicapped Americans and on our rehabilitation efforts in their behalf.

Initially, I wish to compliment the distinguished chairman of our Select Subcommittee on Education, John Brademas. I want to commend him not only for his effective leadership with respect to the conference report before us, but also for this continuing work, interest and concern for handicapped persons and the rehabilitation movement. In recent years, in both legislative and oversight activities, he has been an effective force in maintaining and expanding the great rehabilitation effort in which we all take pride.

I would be derelict if I did not congratulate also the members of the subcommittee for their work and if I did not mention the great contribution of our ranking minority member, Mr. Quie, to this legislation.

Mr. Speaker, the original House rehabilitation bill provided for a 1-year extension of all programs carried on under the Rehabilitation Act of 1973. These programs are due to expire at the end of the current fiscal year.

Mr. Speaker, it is good congressional business to have extension legislation approved by the Congress far in advance of the expiration of any program. With respect to the Rehabilitation Act, however, early enactment of an authorization bill is most important if not mandatory. I say this because the authorization figure for the basic program for rehabilitation services is an intricate part of the formula for distributing funds to the States and it is a figure which guides the States in their deliberations with respect to State financing of the rehabilitation effort. State legislators meeting this January should know, and in fact, must know of the fiscal year 1976 authorization figure.

The original House bill also made certain adjustments in the administration of the Rehabilitation Act in the Department of Health, Education, and Welfare.

Mr. Speaker, the conference report before us carries out the purpose and intent of the House bill and takes even greater steps to improve the lives of handicapped persons, particularly the blind. With respect to the Rehabilitation Act the Senate amendment extended many of the act's programs for 2 additional years and increased the authorization beyond those in the House bill. The conference report maintains the House position that the extension should be for 1 year and considerably reduces the overall cost of the Senate proposal. The cost of the original House bill was approximately $841 million, whereas the cost of the Senate amendment exceeded a billion dollars.

The cost of the conference report before us is only $10 million over the original House bill. The conference agreement does not include more than $161 million proposed by the Senate amendment.

Mr. Speaker, as you know, the Rehabilitation Act was entirely rewritten in 1973. In the House it was our hope that initially we would have a simple 1-year extension. The Senate committee, however, felt that certain clarifications and changes in the 1973 act were necessary. Most of the Senate proposals have been accepted. They are, for all practical purposes, minor adjustments in the 1973 act which in our judgment better carry out our intent and purpose in revising the act in 1973.

Mr. Speaker, the Senate amendment also contained a series of amendments to the Randolph Vending Stand Act of 1936 which provides for the blind vending program on Federal property. As my colleagues know, this act has long needed modification and reform. But, as my colleagues also know, for a variety of reasons proposed changes in the act have been most controversial. There have been sharp differences between the blind and employee groups as to the disposition of income from vending machines on Federal property. The Senate amendment in this area was not acceptable to employee groups but we have reached an agreement that interested parties can live with. This is the case for a number of reasons, Mr. Speaker.

More specifically, a Senate amendment which would have ultimately placed all income from vending machines within the scope of the Randolph-Sheppard Act has been deleted. That amendment would have required that all income from new or replacement vending machines on Federal property be disbursed for the benefit of the blind.

In the past there have been competing interests for vending machine income, including the use of such income by employees through employee welfare committees. Under the conference agreement, 100 percent of vending machine income where the vending operation is in direct competition with the blind vendor is assigned for the benefit of the blind. Where a vending machine is not in direct competition with the blind, there is a formula for the assignment of vending machine income among the blind and other competing interests.

Let me emphasize again that the purpose and intent of the bill is to enlarge opportunities for the employment of the blind. I am confident that careful administration of this program will afford the blind maximum opportunities for employment. At the same time, the legislation will allow for continued consideration of other competing interests. It is not our intent to destroy or to do violence to these interests.

Along this line, Mr. Speaker, the original Senate amendment would have regulated the use of all income from vending machines, including any income distributed to interests other than the blind. Under the conference agreement only amounts distributed for the blind is subject to new regulations. The bill in its final form does not require a change in existing practices with respect to remaining vending machine income.

And I would further expect that this new legislation will be uniformly applied by all Federal officials. This is not legislation directed to any one Federal activity more than any other. It is not intended that these provisions fall more heavily on any one agency more than any other. It is my hope that with fair and uniform application of the act, we will see a substantial expansion of employment opportunities for the blind, throughout the entire Federal Establishment.

With respect to the vending stand program, the conference report requires a priority for blind vendors on Federal property. Overall regulatory authority over the program is vested in the Secretary of Health, Education, and Welfare. Arbitration procedures are established for the resolution of grievances. After January 1, 1975, vending machine income on Federal property is directed to blind vendors and State licensing agencies under a formula: 100 percent of such income in certain interests is directed to the blind; in other instances 50 percent; and in still other instances, 30 percent of such income is directed to the blind.

Mr. Speaker, this conference report today will end a bitter controversy that we have witnessed for a number of years. While neither side has all that it wanted it is an agreement which can be accepted. In my judgment, it is an agreement under which great strides will be made toward the employment of blind persons across the Nation.

Finally, Mr. Speaker, we have agreed to another Senate amendment which requests the President to call a White House Conference on Handicapped Individuals within the next 2 years. Authority has been very carefully reviewed and modified by the House conferees. In contrast to an open-ended authorization in the Senate amendment we have limited the authorization for the national conference to $2 million. In addition to this such sums as are necessary are authorized to assist the States in State conferences which will precede the national conference. Under the original Senate amendment it would have been possible for a State to receive as much as $75,000. Under our agreement the maximum grant to any State will be $25,000.

We have also included amendments to insure that there will be no abuses in the payment of excessive salaries to any person employed for the planning or conduct of the conference.

Mr. Speaker, this is an excellent conference report and it is one which I am sure every Member of this House can support.

Mr. BRADEMAS. I would at this time, Mr. Speaker, yield to the gentleman from Minnesota (Mr. Quie) for such observations as he may wish to make.

Mr. QUIE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the conference report that we bring to the House today reaffirms our confidence and commitment to the vocational rehabilitation program. On May 21, 1974, the House passed this legislation with a vote of 400 to 1 and the Senate subsequently passed it unanimously. When we went to conference there were some differences in the bill, namely, authorization levels, with the House extending the legislation for only 1 year but the Senate extending all but the basic title I program for 2 years. The House prevailed and the Senate deleted its second year authorizations. The original total authorization in the Senate bill was $1.014 billion, while the original authorization in the House bill was $841.5 million. The authorization in the conference bill is $851.5 million, only $10 million higher than the House approved level. In these times of great inflation, the authorization levels in this bill are, I believe, prudent and reasonable.

The second major difference was the amendments to the Randolph-Sheppard Act. This legislation before us today represents the culmination of months of negotiation between representatives of blind organizations and Postal Union officials who have been meeting with Members of both the House and Senate to develop a compromise to the Randolph-Sheppard amendments. I believe that the compromise which was developed is workable and will ultimately be of extreme benefit to the blind throughout the country who will derive benefits as a result of this legislation.

The Randolph-Sheppard legislation is significant in that there is no money appropriated from the Federal Treasury and that all income derived by blind vending stand operators comes from their own efforts as they work to earn a living. I am hopeful that this new legislation will create more opportunities for blind individuals to find gainful employment and derive pleasure and benefits from it.

The third difference is the White House Conference on Handicapped Individuals. It seemed a fruitful conference could enhance opportunities for handicapped individuals.

I urge all of my colleagues to support this conference report today so that we can continue to help the handicapped to help themselves.

I would like to ask the gentleman from Indiana a question. The conference report provides that a White House conference will be held within 2 years of the date of enactment of this act. I have just talked to some people who have worked with the handicapped who think that that may not be enough time. I indicated that if that was the case and we find that at the beginning of next year I would have no objection to extending it for a year, and I ask the gentleman from Indiana if he is of the same mind.

Mr. BRADEMAS. I am, and I would be glad to support the point of view of the gentleman.

Mr. QUIE. Mr. Speaker, I urge the support of the conference report. I think we have reached a good agreement. I believe it would be wise to pass this legislation.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I would be glad to yield to the gentleman.

Mr. DENNIS. I thank the gentleman for yielding.

I would like to ask my colleague from Minnesota a question.

Mr. QUIE. Yes.

Mr. DENNIS. I have not had time to read the conference report. I voted for the bill, like everyone else did. I note the gentleman from Minnesota is the only minority Member apparently who signed the report. I am wondering why.

Mr. QUIE. That is because I was the only minority member of the conference. There were three of us on the conference, the chairman of the committee, the gentleman from Minnesota (Mr. Perkins), the chairman of the subcommittee, the gentleman from Indiana (Mr. Brademas), and myself.

Mr. DENNIS. My friend from Indiana stated a moment ago this was essentially the House bill. Does the gentleman agree with that?

Mr. QUIE. As far as what the House passed is concerned, it is essentially the House bill, but the amendments to the Randolph-Sheppard Act and the White House Conference on Handicapped Individuals constitute an addition to the House bill.

Mr. DENNIS. If the gentleman will yield further, it was my impression that the White House conference was certainly not in the House bill.

For my enlightenment, would the gentleman tell me what the Randolph-Sheppard Act amendments are?

Mr. QUIE. What the Randolph-Sheppard Act does is to provide an opportunity for blind individuals to have vendor stands in public buildings.

The feeling has been for a long time that there was not sufficient opportunity because since the enactment of the Randolph-Sheppard Act, vending machines have come into usage to a far greater extent. Therefore, we changed the legislation so that if a vending machine was in direct competition with the blind operator's stand, 100 percent of the proceeds would go to the blind operator.

If the vending stands were in an area, such as in a post office area that the general public uses, then 50 percent of them would go to the blind individual.

In the case where it was not in competition or where there was no blind individual then 30 percent of it would go to the State agency for the blind, to be used for the benefit of the blind.

Mr. DENNIS. Mr. Speaker, I thank the gentleman. If my friend, the gentleman from Indiana (Mr. Brademas), would yield for one more question, I would appreciate it.

Mr. BRADEMAS. Of course.

Mr. DENNIS. Would either gentleman tell us briefly what the White House conference is and what it is going to do, since it was not in the House version?

Mr. QUIE. To answer the gentleman, I would say that it will be the first conference that will be held on the State level. In the conference we dropped the regional conferences that were in the Senate bill.

We limited the authorization from $6 million as estimated by the Senate bill to $3.4 million. The White House conference will enable handicapped individuals plus those who work with the handicapped to meet together on a national basis to give further direction to services for handicapped individuals.

To give the Members an example, we have made some progress in vocational rehabilitation for the handicapped. We have made some progress in education, but there are about 1 million handicapped children of school age who receive no services whatsoever. This will bring national focus on at least those individuals. Also, the education which handicapped children receive tends to be that of a basic sort such as is provided in the elementary school and not vocational training, and this will enable the White House conference, on a national basis, to give attention to that and develop ways in which we can provide better service for the handicapped.

Mr. DENNIS. Mr. Speaker, I thank the gentleman from Indiana and the gentleman from Minnesota.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. Yes; I yield to the gentleman from Iowa.

Mr. GROSS. During the colloquy a few moments ago with the gentleman from Indiana, the gentleman from Minnesota indicated that there might be required a 1-year extension of the White House conference.

May we be assured that if there is such an extension, there will not be a requirement for additional funds to the States for the purpose of carrying on the White House conference?

Mr. BRADEMAS. I would be pleased to give that assurance to the gentleman.

Mr. GROSS. I thank the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, first let me congratulate my distinguished friend, the gentleman from Indiana (Mr. BRADEMAS), and his committee for an important legislative accomplishment. This is a good bill and a needed bill.

Mr. Speaker, I do seek clarification on one point. I have discussed this with the distinguished gentleman, and let me ask a question.

In section 7(d) of the amended act (section 206 of H.R. 14225), there is a statement that the income-sharing provisions as they pertain to vending machines "within the retail sales outlets under the control of exchange or ship's store's systems authorized by title 10," shall not apply. I would presume, and I would like the distinguished subcommittee chairman to verify for the record, that this provision exempts from the revenue-sharing plan all those vending machines which are operated by the military post exchanges, Navy exchanges, officer and enlisted messes, and so forth.

As you are aware, the profits from these vending machines are utilized by the services to finance such worthwhile endeavors as the base libraries, the youth activities, the gymnasium and other sports activities, hobby shops and motion picture programs, ashore and afloat. The servicemen finance these programs themselves through the revenues collected in the retail sales outlet systems as I have mentioned. To require that these revenues be shared might well necessitate the appropriation of additional funds for the defense budget. Since work in the fiscal year 1975 defense appropriations bill has been completed, the effect would be to cut off these needed programs without support.

Would the gentleman confirm for me the fact that it is the intent that this paragraph shall not apply to the military services, and that this is in keeping with the language on page 24 of the Senate report (S. Rept. No. 93-937) which is more specific on this issue than is the conference report?

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman from Florida for his fine remarks about this legislation. I am pleased to tell the gentleman that the answer to both his questions is "Yes."

Mr. SIKES. Mr. Speaker, I thank the gentleman.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am pleased to yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, as the gentleman is aware, there has been great concern among postal employee organizations, so far as the use of vending machines for some of their employee organizational and welfare funds, and so forth, is concerned.

Has this been worked out with the employee groups so there is no dissatisfaction on their part?

Mr. BRADEMAS. Mr. Speaker, I am pleased to reply to the gentleman from California that the arrangements to which he refers have been subject to discussion by representatives both of the postal unions and of the associations representing the blind, and that this language is acceptable to them.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I thank the gentleman.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I would be glad to yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, is the gentleman saying basically that this report in effect strengthens the Randolph-Sheppard Act and gives added protection to the blind?

Mr. BRADEMAS. Definitely.

Mr. PICKLE. Mr. Speaker, I commend the gentleman and his committee for their work.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 14225, Rehabilitation Act Amendments of 1974.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 334, nays 0, not voting 100, as follows:

[Roll No. 619]

YEAS—334

Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Boggs
Bowen
Brademas
Bray
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chappell
Chisholm
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conte
Conyers
Corman
Cotter
Cronin
Daniel, Dan
Daniels, Dominick V.
Danielson
Davis, S.C.
de la Garza
Delaney
Dellenback
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Fascell
Fish
Fisher
Flowers
Flynt
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Gettys
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Green, Oreg.
Green, Pa.
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hawkins
Hays
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holtzman
Horton
Hosmer
Howard
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Lagomarsino
Latta
Leggett
Lehman
Lent
Litton
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Mahon
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mazzoli
Meeds
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mizell
Moakley
Montgomery
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Neill
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike

Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, N.C.
Teague
Thompson, N.J.
Thornton
Towell, Nev.
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NAYS—0

NOT VOTING—100

Abdnor
Abzug
Andrews, N. Dak.
Aspin
Bingham
Blackburn
Blatnik
Boland
Bolling
Brasco
Breaux
Brooks
Brown, Calif.
Burke, Fla.
Carey, N.Y.
Chamberlain
Clancy
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Culver
Daniel, Robert W., Jr.
Davis, Ga.
Davis, Wis.
Dellums
Denholm
Dorn
Edwards, Ala.
Evans, Colo.
Evins, Tenn.
Findley
Flood
Foley
Fulton
Giaimo
Goldwater
Grasso
Gray
Griffiths
Hammerschmidt
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hébert
Heckler, Mass.
Holifield
Holt
Huber
Hudnut
Johnson, Colo.
Landgrebe
Landrum
Long, La.
Madigan
Mallary
Matsunaga
Mayne
Melcher
Mills
Mitchell, N.Y.
Mollohan
Moorhead, Calif.
Moss
O'Hara
Owens
Patman
Podell
Reid
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rousselot
Roy
Ruppe
Ruth
Schroeder
Smith, Iowa
Snyder
Steele
Steelman
Steiger, Ariz.
Stubblefield
Taylor, Mo.
Thomson, Wis.
Thone
Tiernan
Udall
Veysey
Whitehurst
Winn
Wolff
Young, Alaska
Zion

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Moss with Mr. Davis of Georgia.

Mr. Fulton with Mr. Dorn.

Mr. Hébert with Mr. Blatnik.

Mr. Boland with Mr. Culver.

Mr. O'Hara with Mrs. Grasso.

Mr. Flood with Mr. Gray.

Mr. Melcher with Mrs. Griffiths.

Mr. Mills with Mr. Hanna.

Mr. Mollohan with Mr. Hansen of Idaho.

Mr. Roncalio of Wyoming with Mr. Holifield.

Mr. Breaux with Mr. Mallary.

Mr. Rooney of New York with Mr. Owens.

Mr. Patman with Mr. Reid.

Mr. Brooks with Mr. Roy.

Mr. Carey of New York with Mr. Steele.

Ms. Abzug with Mr. Stubblefield.

Mr. Bingham with Mr. Thone.

Mr. Aspin with Mr. Brown of California.

Mr. Tiernan with Mr. Dellums.

Mr. Burke of Florida with Mr. Blackburn.

Mr. Andrews of North Dakota with Mr. Robert W. Daniel, Jr.

Mr. Clancy with Mr. Evans of Colorado.

Mr. Conable with Mr. Chamberlain.

Mr. Denholm with Mr. Collins of Texas.

Mr. Coughlin with Mr. Davis of Wisconsin.

Mr. Evins of Tennessee with Mr. Conlan.

Mr. Findley with Mr. Goldwater.

Mr. Edwards of Alabama with Mr. Crane.

Mr. Foley with Mr. Hudnut.

Mr. Giaimo with Mr. Roncallo of New York.

Mr. Harrington with Mr. Huber.

Mr. Landrum with Mr. Winn.

Mr. Matsunaga with Mrs. Holt.

Mr. Rooney of Pennsylvania with Mr. Zion.

Mr. Wolff with Mr. Rousselot.

Mrs. Schroeder with Mr. Udall.

Mr. Hammerschmidt with Mr. Abdnor.

Mr. Hanrahan with Mrs. Hansen of Washington.

Mr. Harsha with Mr. Landgrebe.

Mr. Long of Louisiana with Mr. Madigan.

Mr. Hastings with Mr. Mayne.

Mr. Mitchell of New York with Mr. Moorhead of California.

Mrs. Heckler of Massachusetts with Mr. Ruppe.

Mr. Smith of Iowa with Mr. Ruth.

Mr. Steelman with Mr. Snyder.

Mr. Thomson of Wisconsin with Mr. Steiger of Arizona.

Mr. Whitehurst with Mr. Taylor of Missouri.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SPEAKER TO DECLARE A RECESS

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that it shall be in order on today for the Speaker to declare a recess subject to the call of the Chair.

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

Mr. GROSS. Mr. Speaker, reserving the right to object, will the gentleman yield?

Mr. O'NEILL. I will be happy to yield to the gentleman from Iowa.

Mr. GROSS. Would that be after all pending business has been disposed of?

Mr. O'NEILL. The answer is "Yes." We expect when the continuing resolution is completed, there is no current business that will be before the Congress, unless an amendment comes over from the Senate of which we have no knowledge at the present time. Of course, there will be a recess until November 18; but other than the continuing resolution, there will be no business before the House. For that reason, I make this unanimous-consent request.

Mr. GROSS. The gentleman is saying that at the conclusion of the pending business, other than the items of legislation the gentleman has mentioned, the recess would be entered into?

Mr. O'NEILL. Unless there is something unexpected of an emergency nature of which we have no knowledge and we have no knowledge of anything like that.

Mr. GROSS. I thank the distinguished majority leader.

Mr. Speaker, I withdraw my reservation of objection.

Mr. HOSMER. Mr. Speaker, further reserving the right to object, I am informed that the Committee on the Interior has a bill with respect to parks and so forth and the financing thereof and that they want to bring up an amendment from the Senate. Would that be out of order?

Mr. O'NEILL. We have no knowledge of any bill returning from the Senate.

Mr. HOSMER. The gentleman from North Carolina (Mr. TAYLOR) has such a bill. There was a hearing completed on the Senate amendments this morning, so that we have the information on both sides of the aisle, Republicans and Democrats. The leadership of the Committee on the Interior has agreed to bring this up.

Mr. O'NEILL. After we dispose of the continuing resolution and send it to the Senate, if that item is here on the floor at that time, I expect we would call it up before we go into recess.

Mr. HOSMER. I hope the gentleman who preceded me in his colloquy is listening with respect to this, because that I do not believe would be in accord with his understanding.

Mr. O'NEILL. I have had an earlier discussion with the gentleman from Iowa and we see eye to eye.

Mr. HOSMER. I thank the gentleman and I withdraw my reservation of objection.

Mr. ARENDS. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Illinois.

Mr ARENDS. Did the gentleman state that under the resolution for a recess we would come back November 18?

Mr. O'NEILL. That is exactly the same thing the U.S. Senate agreed to and we anticipate that.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Do I understand that the gentleman from Massachusetts and the gentleman from Iowa see eye to eye?

Mr. O'NEILL. That is exactly what this gentleman said, on some things.

Mr. THOMPSON of New Jersey. Did the gentleman provide a stool or something for the gentleman from Iowa to stand on so they could see eye to eye?

Mr. O'NEILL. The gentleman from Iowa may be small in stature but, believe me, he is tall in the eyes of a lot of us.

Mr. THOMPSON of New Jersey. He certainly is.

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, 1975

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1448 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1448

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1163) making further continuing appropriations for the fiscal year 1975, and for other purposes. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I will be yielding time to various Members during the consideration of this rule. I want to make it clear, Mr. Speaker, that I will be yielding for debate purposes only.

Mr. Speaker, I yield 30 minutes to the gentleman from Nebraska (Mr. Martin), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1448 provides for a straight open rule with 1 hour of general debate on House Joint Resolution 1163, making further continuing appropriations for the fiscal year 1975.

Section 6 of the joint continuing resolution includes the language of the Mansfield amendment and prohibits the use of funds obligated by the resolution for military assistance to Turkey, but authorizes the President to suspend the prohibition any time from the date of enactment of the joint resolution up to December 10, 1974, if he determines that such a suspension will further negotiations for a peaceful resolution of the Cyprus conflict.

Mr. Speaker, I urge the adoption of House Resolution 1448 in order that we may discuss and debate House Joint Resolution 1163.

Mr. MARTIN of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from California has explained, House Resolution 1448 provides for an open rule with 1 hour of debate on House Joint Resolution 1163, continuing appropriations for fiscal year 1975.

We have considered this matter several times on the floor of the House. We have gone through the debate with regard to the Turkish situation time and time again.

I would just hope that the Members will restrain themselves from oratory somewhat today, particularly on the rule itself, and confine themselves to general debate, and under the 5-minute rule. I really see no point in continuing this debate under the rule. All we are considering here is the rule itself, whether or not to adopt it.

Mr. Speaker, I have no requests for time on this side of the aisle. If I could move the previous question, I would be more than happy to do so, but I do not have that power.

Mr. SISK. Mr. Speaker, I yield myself 1 minute.

I, of course, concur to a considerable extent with the statement made by my good friend from Nebraska, because I know that Members are desirous of getting away. However, there is a very vital and important subject concerning the Members here. We have had substantial requests for time.

We have whittled our friends down as much as we can, but in fairness to them I will at this time, Mr. Speaker, yield 5 minutes to the gentleman from New York (Mr. Rosenthal).

Mr. ROSENTHAL. Mr. Speaker, I shall try to be brief. I am in agreement with the gentleman from California. I do not oppose the rule, and I hope we expeditiously pass the rule and reach the principal issue.

I do think it is incumbent, though, at this time to give a description of the legislative situation so that Members may appreciate the significance of the progress that has been made by both groups which have been involved in this situation.

The Appropriations Committee, after the President's veto yesterday afternoon, reported out a joint resolution which included all of the Rosenthal-du Pont-Eagleton language. Then the committee added a proviso that the President could delay all of the preceding restrictive language insofar as shipment of military equipment to Turkey was concerned to December 10, 1974, when he determined that such delay will further negotiations for a peaceful resolution of the Cyprus conflict.

Putting it in its best light, that language, honestly and sincerely, is absolutely meaningless. The President obviously, based on his veto and the position that the administration has taken on the previous four votes on this issue, would in my judgment be prepared to certify today that the suspension of the restrictive language would further negotiations for a peaceful resolution. In that sense, the Appropriations Committee made, in my judgment, little progress toward resolving this issue.

I, together with others, Mr. Speaker, will be offering an amendment which I think will be a reasonable resolution to the situation.

I might candidly say that I am unhappy in condoning any illegality by a delay in applying the law. I think something is illegal when it is illegal. There is nothing one can do about it. But because of the parliamentary situation and the attitude of Members in their desire to conclude this matter, some adjustments have to be made. In a spirit of reasonableness we have made those adjustments. What bothers me is the principal argument that we must ignore the illegal acts by delaying application of the law so that the Secretary of State will have an opportunity to reach a settlement. I wonder if we are not setting a bad precedent. In the future, should we decide which laws should be applied by finding out first what the schedule of the Secretary of State or the Secretary of Agriculture or the Secretary of HEW is? How does one know when to apply the law? How does one know when some law should be applied and when it should be suspended?

We find ourselves in a unique situation. We are attributing to this Secretary of State superhuman powers in negotiating which, indeed, he may have; but should we succumb to the desire to recognize the powers by saying this Congress here today should suspend the law so that those superhuman powers can be exercised once again in an area in which they have had very little success so far?

Be that as it may, the amendment that we will offer will acknowledge that the President may suspend the restrictive language to December 10. We had a different view as to the date. My view was it should be November 30. In an effort to narrow the dispute between the committee and myself, we will accede to the date of December 10. However, the one restrictive provision we demand before this Congress leaves Washington, is that there be no transshipment of military equipment from mainland Turkey to Cyprus. The only thing we are saying at this point is that the President has the right to continue military assistance to Turkey, but if we find there is any transshipment of any military equipment from mainland Turkey to Cyprus, then the cutoff is immediate and the President has no further authority in the situation.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman.

Mr. WRIGHT. I thank the gentleman for yielding.

Did I understand the gentleman to say he is agreeing to everything in the bill presented by the committee, but he wants to add the provision that during such time as these negotiations are going forward there shall be no transshipment of U.S.-supplied armaments under the aid agreement from Turkey into Cyprus?

Mr. ROSENTHAL. That is precisely correct.

Mr. WRIGHT. I thank the gentleman.

Mr. Speaker, I shall vote for this provision and hope that it is acceptable to the President. I hope in particular that it will permit the beginnings of serious negotiations toward a settlement of the conflict in Cyprus.

As one who voted last week for the bill which the President vetoed, I quite frankly find it hard to comprehend how the language to which the President objected could have been considered a detriment to negotiations.

As we all know, that language would merely have cut off any further military aid to Turkey until such time as the

President could certify that the Turkish Government was "negotiating in good faith."

It seemed to me that this might have been the very tool which the administration could have used to induce the Turkish Government to begin negotiations aimed at ending the invasion of Cyprus.

I am perfectly willing to give the President and the State Department all the flexibility they need to get productive talks underway, but I for one am not willing to condone the use of American arms, financed by American taxpayers, to start wars of aggression.

The purpose of our military aid program always has been to help friendly countries to defend themselves against attack, not to help any country to launch an attack upon its neighbor.

We should give clear and unequivocal notice that if this purpose is to be perverted and our aid agreements betrayed, there are many more useful and productive things on which we can spend our money.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. ROSENTHAL. I will be happy to yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. How would we possibly enforce that provision? It is my understanding that there are no longer any United Nations observers on the island; is that correct? How does the gentleman propose to do this?

Mr. ROSENTHAL. That is very easy. We have a very substantial military assistance group in Turkey. Right now, as a matter of fact, in the pipeline is $122,791,000 for military equipment, which our military advisory group supervises.

(By unanimous consent, Mr. ROSENTHAL was allowed to proceed for 1 additional minute.)

Mr. ROSENTHAL. Our people in Turkey could advise us if there has been a transshipment. They are all over the place. Let me tell the Members that I came back from Turkey 3 weeks ago. We have a number of installations there. We have our qualified personnel there. We would have to rely on their observations, and I for one would be perfectly willing to rely on their observations.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from Iowa.

Mr. GROSS. Is there any good reason why such a prohibition should not also be imposed upon the Greek Government?

Mr. ROSENTHAL. Greece is not shipping any U.S.-supplied military equipment to the island of Cyprus and has not at any time in this situation.

Mr. GROSS. They shipped some 500 Greek officers to Cyprus. Did they go unarmed? Where did the Cyprus National Guard get its arms?

Mr. ROSENTHAL. Since 1960 there have been somewhere between 600 and 800 Greek military officers attached to the Cyprus National Guard. The U.S. military equipment has never been transferred to the island of Cyprus.

Mr. SARBANES. Mr. Speaker, will the gentleman yield?

Mr. ROSENTHAL. I will be happy to yield to the gentleman.

Mr. SARBANES. I thank the gentleman for yielding.

Under the Geneva Agreement establishing the independence of Cyprus, both Greece and Turkey were permitted to maintain a very limited number of troops on Cyprus, 950 in the case of Greece, and 650 in the case of Turkey; the presence of those limited numbers were therefore in pursuance of international agreement.

Mr. SISK. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I think I shall not need the 4 minutes.

I rise only to give my support of the amendment that the gentleman from New York (Mr. ROSENTHAL) will offer on the adoption of the rule.

It seems to me, Mr. Speaker, that the Rosenthal amendment is a responsible effort to bring some resolution out of the impasse in which the House finds itself and effectively to meet the concerns of both those who support an immediate cutoff of U.S. military aid or sales to Turkey and of those who support a delay in such a cutoff.

The amendment would allow the United States to continue to ship to Turkey during this period, up until December 10, military supplies, the date which we are advised the White House indicates it wants. The amendment would, however, prohibit the shipment of any American military supplies made available to the Government of Turkey to the island of Cyprus. If such supplies were transshipped to Cyprus from Turkey, the cutoff of the military aid or sales to Turkey would become effective immediately.

Some have suggested, as we just heard raised in a question, that it would be impossible to monitor a provision prohibiting transshipment of military supplies to Cyprus. However, as the gentleman from New York (Mr. ROSENTHAL) remarked in his response to the gentleman from Illinois (Mr. ANDERSON), that is not at all an insurmountable difficulty.

Finally, Mr. Speaker, I would simply summarize by saying that those of us who have taken the position which the gentleman from New York (Mr. ROSENTHAL), the gentleman from Maryland (Mr. SARBANES), the gentleman from Maine (Mr. KYROS), I, and others, have tried to go a long way down the road in working out an answer to this matter. We believe that the Rosenthal amendment is a responsible effort to resolve this impasse.

I would point out to my colleagues, Mr. Speaker, that now that the Rosenthal amendment is in total agreement with the White House position on allowing military supplies to be continued or to be sent to Turkey until the 10th of December, there is only one issue facing us.

A vote against the Rosenthal amendment is a vote to continue to permit weapons, arms, tanks or other military supplies provided by the taxpayers of the United States to Turkey to be shipped by Turkey to the island of Cyprus.

I cannot believe that Members of the House of Representatives can object to that responsible restriction.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am glad to yield to my colleague, the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I thank the gentleman for yielding.

I want to rise in support of the amendment of the gentleman from New York (Mr. ROSENTHAL), though I still have a basic problem, frankly, in supporting any amendment that would give aid to Turkey after their action in again opening the drug field by their breaking the treaty where they promised not to grow the poppy used to make heroin.

However, I will support this amendment as I think it is a responsible compromise.

Mr. BRADEMAS. I thank the gentleman.

Mr. Speaker, I would say that I am supporting this Rosenthal amendment not because I like it, but because it seems to me to be a responsible way out of this impasse.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Would any restriction on aid to Turkey apply to Greece likewise?

Mr. BRADEMAS. As I recall, the gentleman from New York (Mr. ROSENTHAL) replied, in his response to Mr. GROSS, that that kind of restriction is not necessary, for the simple reason that it is a moot question because U.S.-supplied military aid to Greece is not being sent to the island of Cyprus.

Mr. PICKLE. And involved in that same understanding, apparently, the same limitations or restrictions would likewise apply to Greece?

Mr. BRADEMAS. The gentleman is correct.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Speaker, would it not be fair to say that the Central Intelligence Agency, whose duty it is to gather intelligence, would be able to let us know if the Turks have shipped our arms to Cyprus, and that would be a nice use for the Central Intelligence Agency?

Mr. BRADEMAS. Mr. Speaker, I think that would be another mechanism by which we could monitor this activity.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, I just want to clarify one matter. The gentleman inferred that this had the approval of the White House.

Mr. BRADEMAS. No, I have certainly not said that.

Mr. CEDERBERG. The President is adamantly opposed to the Rosenthal amendment, as is the Secretary of State, who has just returned from the Middle East after conducting very successful negotiations there. He advised some of us this morning that these provisions would absolutely hamper the negotiations, and the attempts which are being made in trying to bring about peace on Cyprus.

Mr. BRADEMAS. Mr. Speaker, I might say to the gentleman from Michigan that on the 15th of August, which was 60 days ago this past Monday, I met with the Secretary of State, along with some of our colleagues, and that was precisely the song he was singing then.

Mr. CEDERBERG. If the gentleman wishes to refer to it as a "song," then that song has been continued.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. Sarbanes).

Mr. SARBANES. Mr. Speaker, I first wish to thank the members of the Committee on Rules for voting an open rule for the consideration of this continuing resolution. I think the other Members of the House should know that there was a request made for a closed rule, which would have prevented any opportunity to consider amendments.

I want to underscore the comments made by the gentleman from New York (Mr. Rosenthal) and by the gentleman from Indiana (Mr. Brademas) with respect to the efforts that have been made to arrive at a reasonable resolution of the impasse in which the House finds itself at this juncture in our parliamentary proceedings.

It seems to me that an extraordinary attempt has been made to reach a reasonable solution to this problem. The amendment that will be offered by the gentleman from New York (Mr. Rosenthal) carries with it one important and essential provision: it provides that if any American military supplies or equipment are shipped from Turkey to Cyprus, the ban on American military aid to Turkey will become immediately applicable.

Mr. Speaker, I point out to the Members of this House that a vote against the amendment that the gentleman from New York (Mr. Rosenthal) will offer is a vote to permit Turkey to send American arms—arms which have been paid for by American taxpayers—to Cyprus. It does not resolve for a limited time period the question of American military shipments to Turkey, as painful and difficult as that question is, both legally and morally, for many Members of this House. What the amendment affects, what it seeks to preclude, is the shipment by Turkey of American arms, arms paid for by American taxpayers, from Turkey to Cyprus.

Let me point out to the Members that Turkey invaded Cyprus on the 20th of July, that a truce was then achieved, and that the affected parties went to Geneva for talks; those talks were subverted by Turkish obstinacy during the peace negotiations, and in mid-August, Turkey embarked upon a major military expansion, aggressive in every respect, in Cyprus. Is that aggression to be further underwritten by the use of American military equipment and supplies?

Mr. Speaker, I hope the House will support the Rosenthal amendment.

Mr. SISK. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine (Mr. Kyros).

Mr. KYROS. Mr. Speaker, I would like simply to add to the remarks made by the gentleman from Maryland (Mr. Sarbanes).

This amendment, very clearly, will permit our State Department, which is deeply concerned with the issue of relations with Turkey, to maintain our relations with that nation. Indeed, we should strive to keep both Greece and Turkey as friends. Therefore, military assistance to the Turkish Government under this joint resolution will continue, whether we believe it is legal or not because we seek accommodation here today with the State Department.

All that would be added by the amendment which will be offered by the gentleman from New York (Mr. Rosenthal) is that none of these weapons and military supplies will go to the maintaining of the hostile invading force of 40,000 Turkish soldiers in northern Cyprus. Should this great Nation underwrite with weapons a marauding, murdering, and pillaging horde of invaders on a hapless Cyprus? It would seem to me by this time that every one of us would realize that, despite the talks of negotiation and settlements reached by our State Department with the Turks, nothing has really happened. Not a single Turkish soldier armed with our weapons has budged from Cyprus, nor has there been any indication that they intend to do so. And this despite the State Department's repeated assertion of progress through private diplomacy.

Mr. Speaker, by adding this simple amendment, this condition, we will send a message to our State Department and to Turkey that although we want to maintain our friendship with them and maintain our relations in the eastern end of the Mediterranean, nevertheless this country, through its people's parliament, is willing to cut off our military aid to any country that continues such an illegal and immoral act as the Turks are carrying out today in Cyprus.

Finally, if we persist in this policy we will endanger our lifelines in the Mediterranean, weaken permanently our southern NATO flank, and lose both Turkey and Greece as friends.

Mr. MARTIN of Nebraska. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. Frelinghuysen).

Mr. FRELINGHUYSEN. Mr. Speaker, I rise at this time to make it plain, and to avoid any misunderstanding, that the President would surely veto a resolution that contains the so-called simple amendment that the gentleman from New York (Mr. Rosenthal) is offering.

We have a clear opportunity to get this matter behind us. The amendment supported by the gentleman from New York and others is suggested as a restriction which they demand as their price for settling this issue. I would suggest that it would be impossible to monitor whether or not military equipment supplied by us was sent from Turkey to Cyprus. I do not know whether any such shipments are planned or not, but it is not going to be possible to have our diplomatic representatives, our CIA representatives, or our military personnel sitting on board Turkish ships and planes to watch whether any such equipment was sent. So I hope we reject this proposed amendment.

We have had a kind of modification of the position previously taken by the proponents of this kind of restrictive language, because they now agree that it is not unreasonable to suspend the operation of the law for a very limited period of time.

Mr. Speaker, I hope we vote for this resolution and I hope we vote for the language as reported by the committee, and defeat the Rosenthal resolution.

Mr. MARTIN of Nebraska. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Gubser).

Mr. GUBSER. Mr. Speaker, the gentleman from New York (Mr. Rosenthal) has repeatedly stated that under present law it is illegal for U.S. military materiel to be used in the invasion of Cyprus. So if that is the present law I raise this question: What does the proposed amendment, which the gentleman from New York will offer to the resolution, do that is different than present law? If it is already illegal for it to be used, then his amendment does nothing but reiterate the present law. But it does do something else.

It is a psychological slap in the face at the Turks, and it does prejudice Secretary of State Kissinger in his efforts to negotiate a peaceful solution to the situation in Cyprus.

So I believe this: that what we ought to think about are the consequences of our act if we adopt this proposed amendment.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. GUBSER. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, all the military equipment in Turkey is being referred to as American equipment. May I say that Turkey has purchased and has received by grant and credit considerable U.S. military equipment. However, the military equipment involved in the Rosenthal amendment is not necessarily American-owned military equipment. While the United States still maintains a degree of control over such equipment, the Turkish Government would be considered the actual owners of this equipment at the present time. If the amendment referred to prospective U.S. military shipments to Turkey, this would be a different matter. But it does not and we would be guilty of intervening into the affairs of the Turks by telling them what they can or cannot do with the equipment they presently have on hand in their country.

Mr. GUBSER. Mr. Speaker, that is exactly the point I was trying to make.

My sympathies are with Greece but I think we should look down the road at the possible consequences of our actions. As UPI reported yesterday, Turkey may well react to this action on our part by disallowing us our bases within Turkey. Then is it not possible that with the encouragement of Russia that Turkey might exercise what is clearly her military capability, and would take over the mainland of Greece? Under this foreseeable and possible result would we by our actions have helped Greece? Quite to the contrary we would have been responsible for the downfall of Greece.

I ask the further question if we should by our action here today lose our bases in Turkey, lose our bases in Greece, let NATO go down the drain, and when the inevitable military action against Israel comes from the Arab States, aided and abetted by Russia, how will we be in a position to do for Israel what we did during the war which was ended just a little over a year ago? I think we have to look down the road, and we have to think of the future of Greece, the future of Israel. We would be prejudicing that future if we adopt this Rosenthal amendment.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MARTIN of Nebraska. Mr. Speaker, I yield 2 additional minutes to the gentleman from California.

Mr. GUBSER. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

I am intrigued by the fact that there are a number of Members here today who were likewise Members of the House in 1967 when Israel launched a war of aggression and captured substantial Arab territory. I wonder where the Members were at that time, those who now support the proposed Rosenthal amendment, that they did not offer similar legislation in 1967 when Israel went on a rampage in the Middle East and captured a lot of territory much of which it still holds.

Mr. Speaker, I again thank the gentleman for yielding.

Mr. GUBSER. In response to the gentleman, I would never question the motives of any of my colleagues now, in the past, or in the future; but I do say let us think about the future and think of the consequences of this act. It is my considered opinion that we are placing Greece itself in jeopardy with this action and, furthermore, we are placing Israel in jeopardy, and we should think about that.

Mr. MARTIN of Nebraska. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HOSMER).

Mr. HOSMER. Mr. Speaker, I should not want to call this particular action today an exercise in ethnic politics or a dabbling in foreign affairs in a highly abrasive manner, but I do want to remind the House that it has broken its pick once already on this issue and it seems about to try to do so again.

I would like to know whether certain votes in connection with trying to settle a matter that is a third of the way around the world from us are going to have any effect on the election. I would like to know how much greater effect something like a payless payday for Government workers would have in that respect if we succeed in developing an impasse with the executive branch. This is what people are flirting with here.

This amendment which has been announced to the continuing resolution says no U.S. military equipment is to be given to Turkey—given to Turkey. In the first place, we cannot tell what is given to Turkey, or loaned, or bought by Turkey. In the second place, I want to remind the Members of the House that a GI canteen issued up to a soldier is a piece of military equipment, and if those Turks in the normal course of things transfer their people back and forth between Cyprus and their mainland, and let those soldiers haul a canteen with them, that is a piece of military equipment, and it is going to shoot the rocket up on this whole business. As a matter of fact, if the amendment offered by the gentleman from New York passes, those Turks are going to have to take off all their clothes and go naked back and forth between these two areas, according to this amendment.

If Congress wants to send anybody a message, it can send messages all around the world in a decent and in a couth manner. But this thing that we are liable to get up here in a few minutes is more like sending a poisoned dart than sending a message. It is tantamount, in my opinion, to firing Henry Kissinger as Secretary of State and hiring Don Rickles for the job.

If it is politics that anybody needs, I would suggest that there is a discharge petition lying up here on the desk to get the vitamin bill busted loose. If anybody wants to make good politics, he can walk up and sign that discharge petition; or, better still, if he does not want to sign that, he can just wait.

This issue does not have to be decided today. We are coming back here to handle a regular appropriation bill when the postelection session is called to order. At that time we will know more about what is happening in Cyprus; we will know more about what is happening in this country and all over the rest of the world, too, and that is the logical time, if we are going to dabble in these foreign politics, to do our dabbling, not now, in the heat of an election.

Therefore, I suggest that the House, if it does not want to have payless paydays and if it does not want to have a Don Rickles type foreign policy and if it does not want to engage in all these other consequences, refrain from dabbling. The House ought to leave this matter alone today and let this continuing resolution be passed as it is being brought up, without amendment.

Mr. MARTIN of Nebraska. Mr. Speaker, if the 535 Members of the House and the Senate are the ones who are going to dictate foreign policy, we are going to have chaos. That is exactly what the Rosenthal amendment is going to do.

I urge adoption of the rule and rejection of the Rosenthal amendment and support of the committee resolution.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1163) making further continuing appropriations for the fiscal year 1975, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1163), with Mr. ADAMS in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Texas (Mr. MAHON) will be recognized for 30 minutes and the gentleman from Michigan (Mr. CEDERBERG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I yield myself such time as I may consume.

One who listened to the debate on the rule would little suspect the nature of the legislation before us. We have before us now a continuing resolution which would enable several important agencies of the Government, such as the Department of Labor and the Department of Health, Education, and Welfare, and a number of other agencies and departments, to continue in business. That is what it is all about. The continuing resolution and the urgent necessity for it is the reason we are in session here today. That is the issue.

The issue should not be the foreign policy of the United States. The continuing resolution should not ever become the vehicle for determining foreign policy. So it is urgent, it is vital that we have a continuing resolution. We cannot return to our districts with any freedom until we have a continuing resolution enabling certain departments and agencies of the Government to operate.

To send to the White House a continuing resolution with riders tied to it on all manner of subjects including foreign policy and to expect the President to approve the continuing resolution is expecting too much. I would assume that the President, having vetoed the original continuing resolution that contained the Rosenthal amendment, would veto it again if similar damaging amendments are placed on it.

If it is vetoed again, it would be necessary for us to remain in session to entertain another opportunity to override the veto. That makes little sense to me.

I am hoping that the Committee on Appropriations may have the support of the Members of the House and that we will not attach an additional rider to this interim financing measure.

Mr. YATES. Mr. Chairman, will the gentleman yield for a question?

Mr. MAHON. I will yield briefly to the gentleman from Illinois.

Mr. YATES. I have read the proposal and I see on page 3, section 113, it says:

> Notwithstanding any other provision of this joint resolution or any other Act, not to exceed $85,000,000 of the funds made available for foreign assistance by this joint resolution may be obligated to procure fertilizers for, and to provide fertilizers to, South Vietnam.

Now, why in the world with the fertilizer shortage in this country would we provide $85 million worth of fertilizer to South Vietnam?

Mr. MAHON. That is not the main issue before us today.

Mr. YATES. But it is an issue. It is in the bill.

Mr. MAHON. This was placed in the bill in the other body. It was not placed in the House version of the bill. It is a limitation on the amount of fertilizer that can be provided to South Vietnam from various areas of the world, including the United States. It is not a provision with which I am enamored. In my view American farmers deserve the first call on American produced fertilizer. If this issue is not resolved in this resolution it must be resolved in the regular foreign aid bill which is scheduled for later consideration by the House and Senate.

I yield to the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Chairman, I thank the distinguished gentleman for yielding.

Under the original continuing resolution, the administration could obligate at the annual rate of $120 million per year. The Senate felt that was too high. The House conferees agreed it was much too high and they placed a limit of $85 million on the amount of fertilizer that could be procured for South Vietnam, which is a reduction of $35 million. This would make more fertilizer available to Israel, Bangladesh, and Africa.

Finally, Mr. Chairman, if the gentleman will yield further, the most additional fertilizer that can be shipped to South Vietnam during the remainder of the fiscal year 1975 under this restriction is $34 million. That is because $51 million has already been obligated thus far in fiscal year 1975.

Mr. MAHON. I thank the gentleman.

I would like to make this further comment, if I may. The Mansfield resolution gave a stay to the denial of military shipments to Turkey until December 15. It passed the other body before the veto. It almost passed this body before the veto. The change of nine votes would have enabled the resolution to pass. But let me explain, that was before the President's veto. I think many in this House feel if that vote had come after the veto, the Mansfield amendment would have been approved by the House. The thrust of the Mansfield amendment is included in the continuing resolution today, although the date is shortened to December 10.

Now, I went to all limits, all reasonable limits to try to find an agreement, thinking that perhaps some way could be found to work out a compromise between the Rosenthal amendment and the recommendations of the committee. I talked twice to the Secretary of State about the matter. I talked numerous times to the White House. I talked to the President in regard to all these matters and I found no way, and I say no way, to work out a compromise agreement. I wanted to work out something if it were possible, but I have found it impossible to do so.

So it is a question of either approving this resolution, or of putting on additional riders and leaving us in the lurch, so to speak, without any knowledge of what the future holds with respect to when we can recess.

It does seem to me that until December 10 we could live with the proposal which has been presented by the Committee on Appropriations.

Now, I read in the paper this morning that someone advised the press that the White House would accept the new Rosenthal amendment. I brand that as a total, complete, and incorrect statement, if what I have been informed is correct. If I am to believe the highest officials of the Government, the Rosenthal amendment is not acceptable. It is not acceptable and, I think that needs to be understood by the Members. So, this is where we find ourselves.

Now, what is the Rosenthal amendment? It says that Turkey cannot ship any military equipment from Turkey to Cyprus—even a canteen, as was pointed out by the gentleman from California—without triggering a complete cutoff. If a canteen should be shipped, that would trigger the Rosenthal amendment. Of course, who owns the canteen? In all probability, the Turks do. The Turks have been buying from us about $60 million worth of military equipment per year. If they want to send some of this equipment to Cyprus, this amendment would say, "No, you cannot do that."

I was advised this morning by one of the highest officials in the executive branch that such action by the United States would be a massive interference—a massive interference—with the internal affairs of Turkey. I do not see why we should participate in a massive interference with the internal affairs of Turkey.

Turkey is a nation which has been so sensitive to the needs of our Nation; it is where we have important bases, where we have certain base rights, where we have certain troops, and yet we are trying to drive a wedge in the form of the Rosenthal amendment between the United States and Turkey in the mistaken idea that this somehow helps Greece.

Let me brand that as completely unworkable, unsound and unacceptable. Of course, every Member of this Congress wants to be helpful to Greece, and Turkey also, insofar as is reasonably possible in a spirit of fairness and in the best interests of the United States. We want to try to be helpful to the Greek people, and we have traditionally also had a close relationship with the Turks.

But, if we turn the back of our hand to them, if we engage in massive interference with their internal affairs and say, "You cannot even ship one item of equipment from Turkey to Cyprus," such an arrogant stance on the part of the great Nation of the United States is a slap in their face, so to speak.

I just do not see any reason why we should do that, because if Turkey turns its back on the United States, the United States will not be in any position to help Greece. No, we cannot help Greece if we prevent ourselves from being able to work with the Turks. Why people cannot observe this, I do not know.

I know there are voices in this country, political voices in this country, which are saying the contrary. Well, I have always felt that perhaps Arthur Vandenberg was right when he said that partisan politics—or maybe he just said politics, I am not sure—should stop at the water's edge. It is right for us to have our political differences, and I am sure everyone on each side of this issue is sincere, but I think we should test our souls and see whether or not this really is motivated mainly by politics or is sincerely an effort to help the Greeks.

Would it not be a travesty to contend that we are helping the Greeks when we are actually doing irreparable injury to them, and that in my opinion is what we may be doing if we adopt the Rosenthal amendment.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, is the gentleman stating that it behooves us to try to retain the friendship of both Turkey and Greece?

Mr. MAHON. This is our objective, to retain the friendship of Turkey and of Greece, and do the best we can to help bring some order out of the chaotic conditions which exist between them regarding Cyprus.

Mr. CARTER. The Rosenthal amendment might cause us to lose the friendship of both, and as a matter of fact renders the position of the United States fleet in the Mediterranean untenable; is that correct?

Mr. MAHON. Right.

Mr. CARTER. If we do that, what will happen to the little state of Israel? Would it be beleaguered?

Mr. MAHON. Such a situation might easily make Israel's position much more difficult. That is what would happen.

Mr. CARTER. I thank the distinguished chairman for yielding to me. I think it is very necessary for us to support this resolution as it came out of the gentleman's committee.

Mr. MAHON. If the Members of the House, especially those who have been most vocal in this matter, were able to do the negotiations and work as representatives of the executive branch and try to bring about some sort of settlement, that would be one thing. But, they are not doing it. The people who are going to be doing the negotiating are going to be doing it under the auspices of the President of the United States and the Secretary of State. Does it behoove us to tell them how best they should negotiate? We are entitled to our views and entitled to let them know the views of Congress if we want to, but is it good for us to do this in this particular way?

They are pleading with us to give them an opportunity to bring this matter to some sort of peaceful conclusion. They vitally need the tools by which to encourage negotiations. But the Rosenthal amendment takes one of their most important tools away.

The new continuing resolution presented by the committee would terminate military assistance to Turkey on December 10. Greece now has a caretaker government. The Greek elections will be held on November 17. It will probably take about a week to set up a new government. This will only give them, for practical purposes, about 2 weeks to actually negotiate. I do not think they can do much in that period of time. But this is all we give them under this proposal. When we come back in November, we can decide what to do at that time when it will be necessary to pass either a foreign aid bill or another continuing resolution.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Arizona.

Mr. RHODES. I thank the gentleman for yielding. Turkey also has a governmental crisis at this time. Not only is it impossible for Secretary of State Kissinger to deal with a Greek Government until after the Greek election, but it is also impossible for him to deal with the Turkish Government until the Turkish Government is re-formed. So the time we are allowing, really, for the Secretary of State to make some sort of an agreement with these two governments after they re-form, is very short.

Mr. MAHON. I thank the gentleman for his comments.

I would ask my colleagues to bear in mind that there are 40,000 Turkish soldiers in Cyprus. It is said in the Rosenthal amendment you cannot supply them with any military equipment that came originally from the United States. It may have been in Turkey and owned by the Turks for 3 or 4 years, but they cannot supply them with this equipment, not with one single item of this equipment. Suppose we had 40,000 Americans in some area of the world and suppose Russia or France or Britain should say, "We have been negotiating with you in respect to certain conditions but we are not going to participate further if you send any equipment at all from a foreign source to your 40,000 people overseas. You have to leave them isolated until December 10."

How absurd. How indefensible is the proposal which has been made. I wish to urge the Members of the House to vote down this amendment.

The matter has been discussed by the four leading proponents of the Rosenthal amendment. Therefore, I hope that we can conclude this work since the President has assured all of us that the committee language is acceptable to him.

Mr. Chairman, let us proceed to settle the issues.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Louisiana.

Mr. PASSMAN. For clarification, we no longer have very much grant military equipment going to Turkey. I would like to place certain figures in the record, if I may.

Mr. MAHON. Yes, I have not discussed these figures yet, but I would be glad to yield to the gentleman.

Mr. PASSMAN. I thank the gentleman very much for yielding.

As I said earlier, there is very little grant military equipment going into Turkey if you consider fiscal year 1974.

There was only $48 million for grant military aid last year and they could switch all this business overnight to the European nations if we should decline to either sell them equipment on credit or for cash.

Mr. MAHON. Mr. Chairman, I thank my colleague, the gentleman from Louisiana, a distinguished member of the committee and the chairman of the Subcommittee on Foreign Operations, for his contributions.

Mr. CEDERBERG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, and members of the committee, I find it disappointing that we have to be here again today to discuss an issue that we have talked about so many times.

I want to say once again that I yield to no one in my concern for Greece and the problems that they are having. However, my major concern is that we try to get some negotiations moving between the Turkish Government and the Greek Government to bring about some stability on the island of Cyprus.

I think that is what we are talking about here today. I find it unbelievable that this House of Representatives could even consider the possibility of not allowing the President of the United States and the Secretary of State until December 10 to try to get some negotiations moving in this critical area.

The question has been brought up as to why we have not had more movement here. We understand why we have not had a stable government in Greece. There is an election on November 17. It will take some time for that government to form, and then negotiations can move forward.

The same situation is present in Turkey. We have not had a stable situation in Turkey. We hope that situation will stabilize as well.

Let me say to the Members, however, that all of the arguments and all of the votes that have been taken in this House of Representatives have not calmed the waters in that area at all. They have just kept them stirred up, and it is time to bring some calm to that area by allowing our Secretary of State to move forward with negotiations. He has just returned from the Middle East where all indications are that we have had quite successful negotiations in that troubled area.

Just look at what has happened in the Middle East where we have had these problems for thousands of years, and now, through the good offices of our Secretary of State, we have been able to bring that area to a period of relative calm.

That is all we want to do in Cyprus.

I have yet to find anyone who has been able to explain to me how the passage of the Rosenthal amendment will lend itself in any way toward bringing out a peaceful situation on the Island of Cyprus. I just cannot understand how anybody could come to that conclusion.

Let me say further that I also have talked to the Secretary of State this morning. The Secretary of State is very concerned that the adoption of the Rosenthal amendment will make it absolutely impossible for him to carry on the kind of negotiations that will get the situation moving as far as Cyprus is concerned.

Are we going to deny him that opportunity—just until December 10? I cannot believe that, but evidently we may be going to do just that.

This question has been raised: "It is not so much that. It is a violation of the law."

I have seen situations very similar to this, mostly in the Middle East, where the very same charge could be made. It was never made. It should never have been made, and I would have never supported it.

When we are negotiating between countries and trying to help, we just cannot get ourselves in the position of trying to tell another country what to do with its internal affairs. It will not work. It has never worked.

Can we not give the Secretary of State until December 10 to negotiate and get things moving in that area? That is all I am asking. Why should we not just do that? That is what this argument is all about.

Mr. Chairman, I do not yield to anyone in my concern for the people of Greece, the Greek Cypriots on the island of Cyprus, and the Turkish people on the island of Cyprus, but if we are going to help them, we should get started. There is no other nation on earth that has the ability to do just that: To try to bring these forces together for some meaningful discussions.

So I am just asking the Members today to give the Secretary of State until December 10 to work on this very, very critical problem.

We have voted many times on this question. I hope that no one is going to be able to say that if Members vote against the Rosenthal amendment, somehow they are voting against the Greek position. Certainly they would not be. If

Members voted for it before, they have already established their position.

The Appropriations Committee language includes an amendment that has already been adopted by the Senate of the United States, and was narrowly defeated in the House. The only difference really is moving the date from December 15 to December 10. It seems a most reasonable position to take that we defeat the Rosenthal amendment, and that we pass this continuing resolution, and let the Secretary of State get on with negotiations.

Mr. CEDERBERG. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. ROSENTHAL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Sixty-seven Members are present, not a quorum.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred and two Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

When the Committee paused for a qourum call the gentleman from Illinois (Mr. DERWINSKI) had just been recognized for 3 minutes. The Chair now recognizes the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I think it is necessary to point out that, despite the intensity of this subject, at the time the quorum call was made there were less than 50 Members on the floor, and it took over 5 minutes for the necessary 100 Members to arrive. This leads me to say that we have reached a total impasse, not only in our positions but also in the interest of the Members.

It seems to me quite obvious that if any resolution we pass has language in it unacceptable to the President, and the President vetoes it, that the veto will be sustained. It also is obvious that in the House, at least, if not in the Senate, might insist on language that the President would veto. This standoff could go on forever, and I do not think that this is a practical situation at this point.

My concern last week when we were voting on the so-called Mansfield bill was that its passage by both the House and the Senate would be interpreted as a clear sign that the Congress would back down from a position. I think the vote last Friday, in which the House defeated the so-called Mansfield bill, was demonstration that the House position was solid, but it is equally evident that there are not anywhere near the votes in the House, or the Senate either, to overcome a veto.

Yet, since we are in the closing hours of this session, there really is not much more than we can do.

Yesterday I voted to override the President's veto on the continuing resolution. I previously voted for all of the amendments to cut off aid to Turkey. I voted Friday against the Mansfield bill. But the problem is, another vote of that kind may not produce anything, as I see it, but this continuing standoff.

I think the position and the record of the House is clear. We are insisting on compliance with the U.N. resolutions. We are insisting that Secretary Kissinger come to us when we return from our recess with results, and if substantial results are not achieved, we will have 6 full weeks to do something more about it.

I appreciate the fact that this is a tough issue. It is a tough issue, because of the proximity to the recess. It is a tough issue because of our concern for the plight of refugees. It is a tough issue because the House and Senate before this had taken a firm position against Turkish resumption of opium poppy production.

I think the only logical step to take at this point is to compromise the conflicting views.

Mr. MAHON. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Chairman, I appreciate the gentleman's yielding. I had not planned to speak further, but I take this time because I feel constrained to respond to some of the points that were earlier made.

I believe it was the statement of the distinguished chairman of the committee, the gentleman from Texas (Mr. MAHON) that if we make available military supplies to Turkey, through sales, the Turks can then do what they want with them. That view implicitly suggests that the provision in the Foreign Military Sales Act which outlaws continued U.S. military sales to a country which uses those military supplies for aggressive action against another country has somehow become inoperative. I do not here even address myself to grants under the Foreign Aid Act, where, I should note, the same prohibition applies.

But the suggestion of the gentlemen from Texas is simply not accurate, and if his interpretation were to be permitted to stand, it would mean that if the Turks were to buy military aircraft from the United States and then use that aircraft to bomb Vatican City, there would be not a thing the United States could do about it because after all, they bought the weapons. The interpretation of the gentleman from Texas is of course simply not accurate.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield briefly to the gentleman.

Mr. MAHON. I would state that my only point was that the weapons belong to the Turks after they have bought and paid for them. I certainly did not mean that they could use them without any regard to existing agreements that they have made with us.

Mr. BRADEMAS. I appreciate that clarification. That is very reassuring because the gentleman from Michigan (Mr. CEDERBERG) also made the point that we should not be interfering in the internal affairs of other countries. But when we ship American military assistance to another country or if under the Military Sales Act we sell military supplies to another country, that country is not free to use American military equipment to go out and bomb and wound and kill human beings in another country. That is simply unlawful. Yet that is precisely what Turkey has done on Cyprus with U.S. military supplies.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. Allow me to finish my comments and I will be glad to yield to the gentleman and maybe the gentleman will give me more time.

Mr. CEDERBERG. I will.

Mr. BRADEMAS. The second point the gentleman from Texas (Mr. MAHON) made is that we ought to keep this matter out of partisan politics, and I want to commend him for that attitude, even as I am aware that strong majorities of Republicans and Democrats have on numerous rollcalls supported the position that is being talked by the gentleman from New York (Mr. ROSENTHAL) and others.

It has also been said here that we want the friendship of the people of Turkey and of Greece but I would observe that the consequence of our policy so far has been to compel the Greeks to withdraw their military forces from NATO and has been to cause 200,000 refugees on the island of Cyprus, a country of less than 700,000 people—an analogous figure in our country would be 70 million American refugees.

We can see, Mr. Chairman, how the posture and policy of the Department of State in this respect because of the State Department memorandum reported this week given to our Ambassador Crawford on the island of Cyprus which said that relief aid "would offer Turkey an opportunity to improve its image and thereby strengthen its bargaining position both on the island and internationally."

Another point that I think has to be made is that, as I believe the gentleman from Arizona (Mr. RHODES) said, it is simply impossible until after the elections in both Greece and Turkey for the United States to deal with, to negotiate with these governments. But I talked to President Ford personally for 10 minutes at the White House on Saturday morning and the President of the United States assured me that we are already negotiating. We cannot have it both ways. We cannot say that the action represented by the gentleman from New York (Mr. ROSENTHAL) is preventing negotiation by the United States with the Governments of Greece and Turkey while on the other hand we are told that Mr. Kissinger is presently negotiating.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. If the gentleman will yield time to me I will be glad to yield to him.

Mr. CEDERBERG. I yield the gentleman 2 additional minutes.

Mr. BRADEMAS. I yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Chairman, if the gentleman will allow me I will just make two points. Using exactly the same example that we have here regarding the cutoff of military sales and the use of those sales as the gentleman has brought up, if we had applied that exact same example during the Six Day War in the Middle East we would never have been able to enter into any negotiation and Israel would have been doomed. We would not have had in the Middle East the kind of negotiations that took place.

Mr. BRADEMAS. That is a judgment that is going to have to be left to the historians and they can agree or disagree, but that is not really the issue here. The issue here I believe is this. And if the gentleman will allow me more time I will yield further to him, but the issue is simply this.

I want to give Secretary Kissinger time to negotiate on this, although he is not the only figure in this case. The Rosenthal amendment gives the President what he wants until the 10th of December, but on the other hand, a vote against the Rosenthal amendment means a vote to continue the shipment of U.S. supplies of military equipment to Turkey for use in the island of Cyprus.

I do not understand how for us to forbid Turkey to send U.S. arms to Cyprus can in any way hamper the capacity of the Secretary of State to negotiate with the Government of Greece and Turkey.

Mr. CEDERBERG. I would like to respond to that, if I may. The Secretary of State has personally told him it will and I suppose he ought to know if it would very definitely hamper him. The Rosenthal amendment will make it impossible for him.

Mr. BRADEMAS. I know that is his opinion, but he told me the same thing on the 15th of August at about 6 o'clock in the afternoon. That is about 63 days ago, and he has made absolutely no progress in negotiations during that period.

Now, you want him to go to the 10th of December. The Secretary of State has not been very effective in the last 60 days. Unless we do something to change the circumstances, it is not going to help to give him 60 more days.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CEDERBERG. Mr. Chairman, I yield the gentleman 2 more minutes.

I am not concerned about the 60 days, whether it is 60 or 90 more days. I want a solution. That is not the question.

We have had negotiations going on for years and come to a successful conclusion.

The gentleman says he talked to President Ford for 10 minutes and he said we are negotiating. That is exactly right and that is exactly why the President vetoed the continuing resolution, so the parties would continue their negotiations.

Mr. BRADEMAS. May I tell the gentleman what I responded to the President on that?

Mr. CEDERBERG. Let me just say this. If we pass the Rosenthal amendment and the question is very definite, there is no interest for the Turks in negotiating. The gentleman is right. The President is negotiating and so is the Secretary of State. If we are going to stop that, then adopt the Rosenthal amendment.

Mr. BRADEMAS. Well, when I responded to President Ford's assertion that if an amendment of this kind was passed that the Turks would not negotiate, I said that if something of this kind were not passed, the Greeks would not negotiate.

The President said that Secretary Kissinger was talking with Greek Foreign Minister Mavros in New York the week before. I replied that the reason Mr. Kissinger did so was to get a story in the New York Times to create illusion of negotiations, but that Mr. Mavros had publicly and explicitly stated that no negotiations were going on and, moreover, that Mr. Kissinger was not an acceptable negotiator. This is what I said to President Ford.

In all candor, I feel Mr. Kissinger may not have given a fully complete picture to President Ford of the Cyprus situation.

I also said to President Ford, to whom I expressed my appreciation for having allowed me to speak so frankly to him, that if Secretary Kissinger can be as imaginative and creative as I know it is within his talents to be, he can use the instrument of the Rosenthal amendment in order to begin some effective negotiations on the Cyprus question.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CEDERBERG. Mr. Chairman, I yield myself 30 seconds.

I just want to make this one point. I have not had anyone yet explain to me how the adoption of the Rosenthal amendment will be of any assistance to the Turks and Greeks and to the people of Cyprus in bringing about a solution. No one has been able to tell me how it would be helpful.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Texas.

Mr. MAHON. Is it not true that on such delicate questions, high level negotiations are somewhat difficult. Is it not also true there is an election in Greece on November 17 and the real conclusion of successful negotiations would have to come after the Greeks have a regular government as a result of the November 17 elections?

Mr. CEDERBERG. That is exactly correct. That is why we want to give the Secretary until December 10.

Mr. MAHON. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, at the very outset I wish to commend the chairman of the Appropriations Committee, our distinguished colleague Mr. MAHON, and the members of that committee in reporting a responsible compromise position on the Cyprus-Greece-Turkey issue.

During recent weeks we have debated the subject of aid to Turkey on four separate occasions.

I do not want to go over the ground that has been plowed before.

I would, however, like to focus on the long-term implications of the Cyprus issue.

Although I believe that a 60-day period to December 15, 1974 would be a more reasonable time in which negotiations and withdrawal of Turkish troops could be accomplished, the resolution before us in a compromise. The problem of getting negotiations underway between Greece and Turkey, and arriving at a fair political agreement between the parties to the dispute is of prime importance. Therefore I urge the adoption of the resolution as reported by the Appropriations Committee without any amendments.

It is no secret that Greece is not likely to engage in serious negotiations during the next 4 weeks, or longer.

Preparations for national elections are underway in Greece.

The elections will take place on November 17.

Until that time—until an elected government takes office in Greece—any meaningful agreement regarding Cyprus is unlikely. It is estimated that Greece would be in a position to negotiate by November 24.

In the meantime, should U.S. relations with Turkey be determined by the fact that the Greeks are not prepared to negotiate?

That does not seem very reasonable.

Neither, it seems to me, is it reasonable to expect Turkey to withdraw its forces from Cyprus unilaterally.

We would, of course, like to see that happen—and the Turks are well aware of our feelings.

On the other hand, we must remember that the Turkish invasion of Cyprus came in response to the coup which was not instigated by the Turks.

The invasion was based, in large part, on Turkey's concern for the safety and welfare of the Turkish Cypriot minority on Cyprus.

Until—and unless—a political solution is reached which provides for the security of Greek and Turkish Cypriots, it is unlikely that Turkey will withdraw all of its armed forces from the island and permit a peaceful solution to the problem.

I want to stress again, therefore, that time is needed to get those political discussions underway. Military assistance cutoff on November 30 allowing only 6 days for negotiations I submit is insufficient time.

There is a second issue to be considered: The future of NATO.

No matter what has been said on occasion about some of our individual allies, the fact remains that NATO makes a very important contribution to stability in the world.

In Europe, NATO has made détente

possible, resulting in serious discussions with the Soviets on arms control and military force reductions.

NATO has also helped to keep the lid on in the Middle East.

And, NATO provides the security framework in which we and our allies can try to resolve the international financial crisis which has resulted in large part from the energy problem.

But NATO without its southern flank is like a dike with a hole.

Greece—regrettably—has already decided to withdraw from NATO.

If Turkey now follows suit, there will be no southern flank to NATO.

I do not believe that it is in our long-range national interest—or the interest of Greece and Turkey—for this to come about.

I therefore again urge my colleagues to exercise restraint and patience in this very difficult situation.

Let me remind you that we have exercised such restraint for 7 years—at times at substantial cost to us internationally—by not demanding that Israel withdraw unilaterally from the territories occupied during the 1967 war.

We did this because we accepted Israel's need for firm assurances from her neighbors that her sovereignty and independence will be respected.

Israel and her Arab neighbors are moving in the direction of a negotiated settlement.

We have helped to make this possible by our restraint, our patience, and our constancy in supporting Israel's right to exist under conditions of security.

We should apply similar restraint in dealing with the situation at hand.

In conclusion, Mr. Chairman, I wish to say a word on the proposed Rosenthal amendment. It is stated among Members that the proposal which the gentleman from New York (Mr. ROSENTHAL) is going to make, is acceptable to the executive department. It is my understanding this is not true. The amendment concerning transshipment of U.S. military aid by Turkey to Cyprus on the face of the proposal appears desirable. However, if the prime goal is to get negotiations underway, the Rosenthal amendment, I submit, will undermine those efforts.

Why do I say that? Undoubtedly, the leadership in Turkey would consider this unnecessary interference with their internal affairs. We have learned in our efforts to get the Turks not to continue growing opium, how inept threats affected that situation.

We learned that the inept threats to cut off American aid if Turkey resumed poppy growing so incensed the Turkish leadership that U.S. efforts in that instance were rebuffed. If we adopt the Rosenthal amendment, the Turkish leadership may refuse to negotiate.

I hope, therefore, that we will adopt the continuing resolution as reported by the Appropriations Committee without amendments.

Mr. CEDERBERG. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I should like to commend the gentleman from Wisconsin for his remarks. It is because he spoke so wisely that I felt that I should speak briefly also.

With respect to the language in this continuing resolution, I have some misgivings about the possibility of successful, meaningful negotiations taking place as soon as December 10. I hope, however, that we do accept this language. It certainly is better than the restrictions that had previously been approved by the House.

I rise particularly to suggest that the Rosenthal amendment would be thoroughly mischievous. It is impracticable; it is unenforceable. It is aimed at a very small part of a big problem, and it almost surely would make the mood in Turkey one of reluctance to make concessions, and this is the only way we are going to have meaningful negotiations.

As the gentleman from Wisconsin said, it could only be interpreted by the Turks as a gross intervention in their own affairs, and an attempt to limit their ability to use their own equipment. Granted, this equipment in some cases may have come from this country, and because it came in the form of military assistance, it may be subject to some restrictions, and that means we have a very practical problem.

The gentleman from New York has said that this is a reasonable response to a problem. May I ask: A response to what problem? The gentleman from Indiana has said it is a responsible effort to resolve an impasse. What kind of an impasse?

I suppose we should be feeling happy that the proponents of restrictions have agreed to waive all restrictions until December 10. That impasse, thank God, is behind us. The only prohibition that they now want to apply is an entirely new proposition. They advocate an immediate prohibition should there be an actual transshipment of goods that may have come from this country from Turkey to Cyprus. I would suggest that their capitulation concerning restrictions is almost entire. The one thing they are trying to save now is a shred of dignity with respect to their own position. But this amendment would not resolve anything. If we could identify and forbid the transshipments, this would not result in the reduction of one Turkish troop from Cyprus, which has been the ostensible aim of the proponents of the Rosenthal way of conducting foreign policy. We could not possibly encourage any movement in the right direction; that is, toward negotiations if we were successful in finding some way to forbid, between now and the 10th of December, any further movement of military equipment.

The problem, in part, as the proponents of these restrictions have said, is that there are presently so many Turkish troops on Cyprus with so much equipment. You are not going to affect that position one iota by this kind of amendment.

Mr. SEBELIUS. Mr. Chairman, I would like to take this opportunity to associate myself with the remarks and the efforts of my distinguished colleagues, Representatives JOHN N. "HAPPY" CAMP and MANUEL LUJAN regarding amendments to strike the provision for $85 million for fertilizer for South Vietnam.

I am privileged to represent the Nation's largest wheat-producing district and the leading wheat-producing area in the world. We just finished planting wheat in western Kansas and farmers were short of fertilizer. It is in extreme short supply. Farmers were also plagued with skyrocketing prices for the fertilizer they could obtain and black market activity.

The important thing to stress, I think, is that the U.S. farmer is the most efficient food producer in the world. The American farmer can produce far greater yields with this product than anyone else. If necessary, we can use the raw product here at home and ship the finished product abroad. This will not only add to the world's food supply but will also be more beneficial to our farmers and the U.S. economy.

I support this legislative effort and ask my colleagues to join with me. It is in our national interest and I believe also in the best interests of South Vietnam.

Mr. STOKES. Mr. Chairman, I rise in support of this body's efforts to terminate military aid to Turkey.

I urge my colleagues to continue to pass this legislation, to override vetoes and to attach this arms limit to every germane piece of legislation, if necessary. The continuing resolution which was vetoed contained strong language concerning aid to Turkey.

I am considerably displeased to see arms provided by this country's taxpayers used by one supposed ally against another in violation of the understandings between us and Turkey.

Both the Foreign Assistance Act of 1961 and the Foreign Military Sales Act contain specific restrictions which prohibit the use of U.S. military equipment in the invasion of neutral nations.

There is no question that Turkey invaded the island of Cyprus on August 14 and that it has blatantly violated both the letter and spirit of the Foreign Aid Act and the foreign military sales program. Because of its ill-conceived military action against Cyprus, Turkey is simply ineligible for further assistance. There can be no qualifications or caveats and certainly no exceptions in the just and proper administration of these two programs.

In his veto statement Mr. Ford claimed that "an arms cutoff to Turkey could mean the indefinite postponement of meaningful negotiations." However, if there are to be any meaningful or productive negotiations there must be definite concessions made on the part of Turkey, particularly as that nation was clearly the aggressor. Why should this Nation compromise its basic principles or limit the full and proper execution of its laws just to appease a country which has contravened both international law and the provisions of bilateral agreements?

Mr. Speaker, this body has made its

position on the Turkish invasion of Cyprus and the Turks' violation of the foreign aid and military sales programs very clear. The Congress has no intention of undermining efforts to seek a prompt and equitable solution to the troublesome issue of Cyprus' territorial integrity and the removal of Turkish military forces. What we do seek, however, is the proper execution of the laws as we have enacted them. We must not be cajoled or intimidated by the administration into condoning and approving its failure to accurately implement the laws of the land. I, therefore, urge my colleagues to support the Rosenthal amendment.

Mr. DERWINSKI. Mr. Chairman, earlier I had addressed the House placing emphasis on the impasse that we faced and recognizing that while there was a majority vote in the House for language cutting off aid to Turkey, this was not necessarily so in the Senate, and the President's veto would most certainly be upheld.

In principle, I support the arguments advanced by my colleagues, Mr. SARBANES and Mr. BRADEMAS. I believe that there is a clear indication prevailing in the House this afternoon for the intent of the Rosenthal amendment that U.S. arms not be transshipped to Cyprus. But I am also disturbed over this impasse we have reached and whether or not the matter could be resolved by an understanding that if language in the resolution remain flexible, the President and Secretary of State would insist that in the interim the Turks not draw on NATO stocks and U.S. materials to build up their troops in Cyprus. Yet it is obvious that there is substantial doubt in the House as to whether negotiations will be fruitful.

My concern is twofold: First, that something immediate and effective be done to aid the refugees on the island and, more specifically, that they be allowed to return to their property and their homes, and second, that progress be developed in line with the U.S. resolution calling for withdrawal of all foreign troops from the island.

I recognize the need for the Secretary of State to have diplomatic flexibility, but I also must wonder if his position is strengthened when the record in Congress is clear. It is unfortunate that we do not have a more practical legislative vehicle before us. While I had earlier in the debate expressed an inclination to support the resolution as brought to the floor, the debate and a review of the entire issue places me in a position where I will, at this point, vote for the amendment.

Mr. MAHON. Mr. Chairman, I have no further requests for time.

Mr. CEDERBERG. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that the joint resolution be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The joint resolution is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) clause (c) of section 102 of the joint resolution of June 30, 1974 (Public Law 93–324), is hereby amended by striking out "September 30, 1974" and inserting in lieu thereof "sine die adjournment of the second session of the Ninety-third Congress".

(b) Clause (a) of such section is amended by inserting immediately after "joint resolution" the following: "or, in the case of the United States Information Agency, enactment of authorizations of appropriations for fiscal year 1975 for that Agency".

Sec. 2. Section 101(e) of such joint resolution is amended by striking out "first quarter" and inserting in lieu thereof "quarterly".

Sec. 3. The fourth unnumbered clause of section 101(b) of such joint resolution, relating to foreign assistance and related programs appropriations, is amended by striking out all that follows "as amended' and inserting in lieu thereof ": *Provided*, That in computing the current rate of operations of military assistance there shall be included the amount of obligations incurred in Department of Defense appropriations during the fiscal year 1974 for military assistance to Laos;".

Sec. 4. Such joint resolution is amended by adding at the end thereof the following new section:

"Sec. 112. Notwithstanding any other provision of this joint resolution or any other Act, the President is authorized to use funds made available for foreign assistance by this joint resolution but not to exceed $15,000,000, to provide, on such terms and conditions as he may determine, relief, rehabilitation, and reconstruction assistance in connection with the damage caused by floods in Honduras and Bangladesh and by civil strife in Cyprus.".

Sec. 5. Such joint resolution is amended by adding at the end thereof the following new section:

"Sec. 113. Notwithstanding any other provision of this joint resolution or any other Act, not to exceed $85,000,000 of the funds made available for foreign assistance by this joint resolution may be obligated to procure fertilizers for, and to provide fertilizers to, South Vietnam.".

Sec. 6. None of the funds herein made available shall be obligated or expended for military assistance, or for sales of defense articles and services (whether for cash or by credit, guaranty, or any other means) or for the transportation of any military equipment or supplies to Turkey until and unless the President certifies to the Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act, and any agreement entered into under such Acts, and that substantial progress toward agreement has been made regarding military forces in Cyprus: *Provided*, That the President is authorized to suspend the provisions of this section during the period beginning on the date of the enactment of this joint resolution and ending on December 10, 1974, if he determines that such suspension will further negotiations for a peaceful resolution of the Cyprus conflict.

AMENDMENT OFFERED BY MR. ROSENTHAL

Mr. ROSENTHAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROSENTHAL: On page 3, line 18, after "forces in Cyprus:", strike out all that follows through line 23 and insert in lieu thereof the following: "The provisions of the preceding sentence shall become effective on December 10, 1974; except that such provisions shall become effective before December 10, 1974, whenever any such defense articles or services, or other military equipment or supplies made avaliable at any time to the Government of Turkey, which are not in Cyprus on the date of enactment of this section, are transported to Cyrus."

Mr. ROSENTHAL. Mr. Chairman, the product of the Committee on Appropriations has been regularly called a compromise. That is absolutely not the case. The committee adopted intact the so-called Rosenthal-du Pont-Eagleton language, but it added a provision that the President can suspend that restrictive provision if he determines that such suspension will further negotiations for a peaceful resolution of the Cyprus conflict.

My guess is that the President would make that kind of a certification today because the arguments have been made by people who support his position that any involvement, any interference, any intervention by the Congress hurts the administration's negotiating position.

The fact of the matter is that this administration has no negotiation position in the situation vis-a-vis Greece and Turkey.

The fact of the matter is that the opponents of this amendment, by adopting the Mansfield approach, give 60 days to the Secretary of State, assigning him a new negotiating role, one which at least one of the parties—Greece—finds most unwelcome.

We really ought to step back and think of what we have done.

We began with the position, and almost everyone acknowledges this to be the case, that U.S. laws have been violated; that the Foreign Military Sales Act and the Foreign Assistance Act, in their declaration that military equipment granted or sold cannot be used other than for defensive or multinational purposes, were violated when Turkey invaded the independent country of Cyprus.

Mr. MANSFIELD acknowledged that. The President virtually acknowledged that when he merely asked for a delay in applying the law.

Therefore, what we are doing here today is deciding how and under what circumstances we can waive—if we have the authority to do that; I presume we do—the provisions of existing law governing the illegal use of U.S. military aid.

My own personal view is that I hesitate to waive any part of the law, for 45 days, 90 days, or even for 15 minutes. However, the situation we find ourselves in is that apparently a sufficient number of Members of this body and of the other body are impressed by the argument that negotiations are paramount and that concern should supersede what is legal.

Consequently, we are faced with the parliamentary situation in which, by my amendment, in section 6 of the bill, we declare that the President must suspend aid because of violations of the acts that I referred to, but he is authorized to delay that suspension until December 10, 1974.

However, if there is a transshipment of American military aid delivered, sold, or granted military assistance from mainland Turkey to Cyprus, then the period of delay is nullified, and there is, in fact, a prohibition of further military assistance to Turkey.

This is not the strongest position I would have liked. But, as my colleagues have suggested, it is a reasonable effort to solve a deep-seated dilemma that at least I have with the law in the period of time in which we find ourselves.

I would like to respond to the inquiry made by the gentleman from Michigan (Mr. CEDERBERG). How does this help the situation? If we want to assign to the Secretary of State the role of mediator in this situation, which I do not, frankly, but if we want, he can approach the Turkish Government and say, "We have a runaway Congress, strikingly enough, a Congress which wants to obey the law, so that I have 60 days to do some business with you. If I cannot get you to do something in terms of withdrawing troops from Cyprus, if I cannot strike a bargain with you about removing forces from Cyprus, then there will, in fact, be a suspension of military assistance."

Let me tell the Members what that means. There is available to Turkey as of June 30, 1974, $122,791,000 of American military assistance. It includes $20 million for aircraft; $6.5 million for spare parts for ships; $25 million for vehicles and weapons; and $6 million for ammunition.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. SARBANES. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Chairman, if we do not think that the threat of the cutoff of the $122 million in American military assistance is not a bargaining chip in resolving this difficulty, then we are absolutely blind to reality. There is no way to get a removal of Turkish forces by simply asking them to withdraw or by cajoling them to do so.

The only way is the threat of a cut-off of American military assistance, which is consistent with the law of the land. This is about the most expeditious and intelligent thing the Congress can do.

Mr. Chairman, I urge adoption of the amendment.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. SARBANES. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I rise in support of the amendment. I consider its passage to be vital if the Congress is to maintain our commitment to restoring peace to Cyprus.

We have arrived at this point today after a long and oftentimes bruising legislative battle. Yet, throughout our hagglings, the crisis on Cyprus has continued uninterrupted. The Turkish Army continues its illegal and ruthless control of more than one-third of Cyprus, using our military aid in open defiance of the Foreign Assistance Act, yet confident that the U.S. Government does not seem willing to do anything in response.

We have inevitably turned to compromise in our battle to pass some legislation to deal with the Cyprus crisis. Yet, the committee bill represents more concession than compromise. Therefore, it became incumbent that stronger language be added to this bill especially with respect to the future status of aid to Turkey. I commend my colleague from New York (Mr. ROSENTHAL), for his perseverance in this area. His amendment will at least restore some of the sentiments of Congress which were expressed in our earlier votes to cut off aid to Turkey.

The key provision in this amendment is the requirement that no U.S. military aid given to Turkey can be shipped to Cyprus after this resolution becomes law. Any violation of this provision would result in an immediate cutoff of aid to Turkey. This is a critically important amendment which must be passed if we are to prevent any future military aggression by Turkey on Cyprus.

I am most disturbed over the language in the bill which allows our Secretary of State until December 10 to work out a settlement of this crisis. It has almost been 3 months to the day since Turkey unleashed her forces in an illegal and immoral invasion of Cyprus. Yet, this action and subsequent actions by Turkey have gone virtually unnoticed by our Government. I have grave reservations that the Secretary can accomplish in 60 days what he has been unable to do for the previous 90, namely bring peace to Cyprus through negotiations. Again, I commend Mr. ROSENTHAL for seeking to strike an effective compromise by giving the Secretary only until November 30 to work out a satisfactory arrangement.

I would prefer to remove all responsibilities for solving the Cyprus crisis from the shoulder of Dr. Kissinger, for unless he demonstrates a complete reversal of his "Turkey tilting" policies of the past, his effectiveness as a mediator will be seriously if not irrevocably damaged.

The issue has now been reduced to several key considerations. The most important is getting the machinery in motion which will bring the two sides to the negotiation table. The second consideration is to demonstrate unequivocably to Turkey that continued violation of the Foreign Assistance Act concerning her use of military aid will no longer be tolerated.

This amendment should also bring home certain messages. To Dr. Kissinger and the administration it is saying that the Congress has grown weary of their feeble efforts on behalf of solving the Cyprus crisis. If they cannot make substantial progress in 45 days, then we must again resort to passing legislation to cut off Turkey's aid immediately. We are also telling the Greek Cypriot people that we have not abandoned their cause. Our efforts at compromise may not meet with the approval of the Greek American community, but they must understand as well that our overriding concern is to enact some legislation which can help bring peace and stability back to Cyprus.

This amendment may be the last chance we have to maintain our strong positions with respect to Turkey. Passage of this resolution as it is, will do nothing but prolong the crisis, and strengthen Turkey's control of the island. We must not forsake the people of Cyprus in their hour of need. I urge immediate approval of this amendment today.

Mr. SARBANES. Mr. Chairman, there have been some things said earlier in the debate on which I believe it is very important to comment. I find some of the assertions that have been made incredible, and if they remain in the record unchallenged as the position of this body with respect to certain very important matters, I think we are in for a very serious situation indeed.

The Foreign Assistance Act and the Foreign Military Sales Act contain in them the purposes for which American military equipment and supplies can be furnished, for example, self-defense, in support of U.N. resolution, and so forth. They also contain a requirement that any country which uses such equipment or supplies for purpose other than those legitimate purposes shall be immediately ineligible for assistance. The argument that has been advanced that the termination of aid constitutes an improper interference in the internal affairs of another country is pure poppycock. That aid is only made available in order to carry out expressly defined statutory purposes.

There is no real argument about this. Senator MANSFIELD acknowledged as much just the other day when he said:

> These laws as applied to the hostilities on Cyprus require a cut-off of aid to Turkey. The foundation of this judgment is incontrovertible. This is a Nation of laws and not of men and when the law is clear, it must be followed whether it seems expedient or not at the time.

Now, the amendment that is before us seeks to amend what was brought to the floor of the House by the Committee on Appropriations by attaching a condition which makes it very clear that no American military equipment or supplies furnished to Turkey shall be sent to Cyprus.

Mr. Chairman, I know of no one who contends that the Turkish action on Cyprus does not constitute aggression. Turkish forces have overrun 40 percent of the land area of the island, representing 75 percent of the island's economy. Thousands of people have been killed or injured. There are 200,000 refugees now on the island of Cyprus, and untold economic destruction has taken place.

What legitimate purpose is there for American military equipment and supplies to be sent to Cyprus? There is no such purpose.

Mr. Chairman, there are 40,000 Turkish troops on Cyprus. I find it incredible that some advocate their continued arming and supply with American materiel.

Mr. Chairman, those troops are there improperly. They are there as aggressors. The provision contained in this amendment offered by the gentleman from New York (Mr. ROSENTHAL) is an effort to insure that any American supplies to Turkey shall not be sent to Cyprus. It is an effort to the extent of the Cyprus situation, to remain consistent with American law.

Mr. Chairman, I believe the amendment is an exceedingly reasonable proposal and one which ought to be supported by this House. I urge its adoption.

Mr. SIKES. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a good time to ask ourselves: How many times are we going to travel this road? We have been this way before, and it was fruitless.

Let us get this problem resolved once and for all and get done with it. Do we want to stay in session and come back here next week and again try to pass a continuing resolution without harmful amendments, or do we want to finish the job today?

It is just as simple as that.

A number of departments of the Government cannot operate legally, and payrolls cannot be met, until the continuing resolution is passed and signed into law.

I doubt that this amendment would be accepted in the Senate, but if it were, it probably will not be signed into law. If it should be vetoed again, we would be right back where we are now with nothing gained and more time lost.

How many times must it be said here on the floor that the only way to help Greece is for us to be able to talk to Turkey?

How would those who support this amendment want the United States to react if any foreign nation were to tell us explicitly what courses of action we could or could not take?

We can offend the Turks to the point that they will not negotiate on Cyprus. We can set them in concrete. They do not have to talk. They have what they want in Cyprus, and they are there because of an ill-fated Grecian coup. We are asking them to reach a workable agreement with Greece. There is no way the House of Representatives of the U.S. Congress can help the Greek people other than helping the U.S. Government to persuade the Turks to negotiate reasonably on Cyprus and hopefully, to reach an understanding.

This is a very simple fact that anyone should be able to understand.

The Russians—hear this—the Russians would be very glad to reach an accommodation with Turkey. They would provide the Turks with all the military equipment they want. Nothing would benefit Russia more than an accommodation with Turkey because of the very strategic location which Turkey occupies. And this is why Turkey also is so very important to us, and to NATO, and to the defense of the free world.

The continuing resolution should, in the interest of good government and the hope of a fair settlement on Cyprus, be adopted as reported.

The amendment which has been offered is a crippling amendment, and we are told it could be ruinous to the efforts of our Government to bring about a peaceful settlement in Cyprus. Negotiations are in progress at the working level, but they cannot be finalized until new governments are organized. We must give our Government the working time that is provided for in this resolution, and I hope it will be enough time for a successful solution to the problem.

At least it gives our Government an opportunity to try. It does not tie the administration's hands. And we, the Congress, cannot afford to tie our own Government's hands if we want a solution on Cyprus.

Mr. WYMAN. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from New Hampshire.

Mr. WYMAN. I am just wondering about one thing the gentleman said. Why would it be ruinous to negotiations for peace on Cyprus between this country and Turkey to have a provision that if Turkey resumes the resupplying of military forces on Cyprus that this would take effect? I do not understand the gentleman.

Mr. SIKES. Surely my distinguished friend, the gentleman from New Hampshire, who is indeed a good friend, understands full well that if we tie the hands of our Government, or offend the Turks to the point that they will not talk with us, we will get nowhere in our efforts to resolve the problem on Cyprus; there may be no negotiations.

The amendment would be very offensive if it were directed to us. Obviously it will also be offensive to the Turks. We have not attempted to tie the hands of any other nation in this way. We should not do it now.

Mr. CEDERBERG. Mr. Chairman, if the gentleman will yield, I would be glad to go with the gentleman from New Hampshire and have a talk with Secretary of State Kissinger, because Secretary Kissinger is highly involved in these negotiations, and I know he would be delighted to explain it to the gentleman if the gentleman does not understand it.

Mr. WYMAN. If the gentleman will yield further, I will pursue this further on my own time.

Mr. FLYNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is the first time that I have risen to speak on this subject. I had not expected to today, but I feel that the issue here is so basic that I can no longer be content to remain silent.

When I used to practice law, there was an old saying among lawyers that hard cases make bad law. We are being told here that because of a particular set of circumstances that exist at this time, we should close our eyes to the language of the statute, that this military equipment has been made available to friendly nations for many years. Let me read that section. It is title 22 of the United States Code, section 2302, and that section provides:

> Defense articles and defense services to any country shall be furnished solely—

And I supply emphasis to the word "solely"—

> for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the charter of the United Nations, otherwise requested by the United Nations for the purpose of maintaining international peace and security, or—

To assist economic development of less developed countries.

Mr. Chairman, to me the language of that statute is just as clear as it can be. If any Member of this House or any member of the executive branch of Government, or if the Secretary of State or any member of the Department of State personnel wants to supply American-made and American-furnished military equipment for the purpose of one country waging war against its neighbor for the purpose of aggression, let him come in and change the law. But let us not, Mr. Chairman, blind ourselves to the existence of the fact that this equipment, which has already been used, has not been used solely for internal security and it has not been used for legitimate self-defense.

I am not defending, nor have I ever defended, the action of those Greek Nationalists who participated in the coup which overthrew Archbishop Makarios, and, Mr. Chairman, I do not think a single Member of this House does. But, Mr. Chairman, we cannot permit the use of equipment in violation of United States law and the Code I just read and quoted from. We cannot permit this to be done without making ourselves a laughingstock in the eyes of every country in the world, friend and foe alike.

If this is bad law, change the law, but do not waive it just because at this time we are experiencing what I referred to earlier as a hard case.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Michigan.

Mr. CEDERBERG. I thank the gentleman for yielding.

Does that mean the gentleman is going to vote against the Rosenthal amendment? The Rosenthal amendment does just what the gentleman says, so I assume he will be voting in opposition?

Mr. FLYNT. The gentleman said no such thing.

Mr. CEDERBERG. If the gentleman will yield further, that is a great argument about the law, and the law, as far as the law is concerned, is exactly the same as the Mansfield and the Rosenthal, so the gentleman cannot vote for either one of them.

Mr. FLYNT. I think the gentleman from Michigan knows full well that I am going to vote for the Rosenthal amendment.

Mr. CEDERBERG. Yes, but that is not the position the gentleman in the well has taken.

Mr. FLYNT. The position I am taking is to deny any country the right to use American-furnished military equipment for the purpose of aggression against any neighbor anywhere on earth.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Ohio.

Mr. HAYS. I thank the gentleman for yielding.

I must say I want to support the gentleman. I voted against suspension altogether, but as I read this amendment, it seems to me to be reasonable in the extreme. It gives the Secretary until the 10th of December, and it says only that such provisions shall become effective before December 10 whenever the Turks send anything more to Cyprus that is not already there. The Turks have 40,000 troops there, and they have, I am sure, adequate supplies.

I think this is reasonable. I think it is reasonable for everybody concerned and I think it is extremely reasonable for Turkey. I have many friends in the Turkish Parliament I have known over the years and I would not hesitate to defend this amendment to any of them.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(By unanimous consent, Mr. FLYNT was allowed to proceed for 2 additional minutes.)

Mr. FLYNT. Mr. Chairman, I thank the gentleman from Ohio for what he has said. I certainly think this, that all the gentleman from New York (Mr. ROSENTHAL), all that the gentleman from Georgia are attempting to do is to insist that the law be obeyed. I do not want to repeal the statute. I think it is good law, but I think as long as it remains law it ought to be adhered to.

Mr. GROSS. Mr. Chairman, can the gentleman cite the date of that statute?

Mr. FLYNT. That was 1961.

Mr. GROSS. That was the Foreign Assistance Act as amended in 1961?

Mr. FLYNT. Yes.

Mr. GROSS. I thank the gentleman.

Mr. FLYNT. Mr. Chairman, I urge support of the amendment.

Mr. WYMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I did not agree with the resolution as it came out of the Appropriation Committee. We had two votes in the committee and I voted against it. I would like to have seen the language which is proposed by the gentleman from New York added to the amendment.

I know and I recognize that Turkey occupies a strategic location, that it is important to NATO, that it has certain things that related to our defense of NATO, and also things that relate to the 6th Fleet. But what is involved here along the lines of what the gentleman from Georgia (Mr. FLYNT) just said is that apparently because of this we are willing to let the law continue to be violated, so that we will not offend an ally: that we cannot lose our fields in Turkey and so on.

I want to ask some questions, because I agree with what the gentleman from Ohio just said. What difference is it going to make, how is it going to get Turkey angry or obstruct relations with Turkey if we simply say that if they resupply the military operations in Cyprus this cutoff has to take effect?

Elections are going to be held in Greece on November 17. It is going to take time to inaugurate the new government and it is going to take a little time for negotiations to go on. Meantime, this being October 15, there will be 30 days, unless the amendment proposed by the gentleman from New York is adopted, for Turkey to build up anything it wishes on Cyprus. I do not think this House or this Congress wants to have any part of that kind of contingency.

I want to ask the gentleman from New York or anybody sponsoring the amendment who is in a position to have an answer—how are we going to know when a resupply operation is undertaken by Turkey? How will we know this? Can anyone answer that question?

Mr. SARBANES. Mr. Chairman, if the gentleman will yield, that point has been raised earlier. It is our position that knowledge of Turkish resupply of its forces on Cyprus would be part of normal intelligence work and we would be aware of that situation. There are U.N. forces on Cyprus, as the gentleman knows, which are also in a position to report on what has taken place.

Mr. WYMAN. Once that information is obtained, if the gentleman will continue to respond just a moment, how do we let the President of the United States know this or let the Congress know this, so that the cutoff would take effect under the language now proposed by the gentleman from New York?

Mr. SARBANES. I assume the President and the Congress, and especially the President, would be aware of it and the law at that point would require aid to Turkey to terminate.

Mr. WYMAN. How would that be initiated?

Mr. SARBANES. The law would require it.

Mr. WYMAN. I know. But how would it be initiated? What is to be done? Is it to be done by Presidential proclamation or judicial notice?

Mr. SARBANES. The provision is a limitation on the use of appropriations and restricts how money could be used. In the end I guess the gentleman is asking the question: Is it necessary to go to court to enforce the law? I want to say in that regard that serious thought should perhaps be given as to whether or not there should not now be a court action with respect to applying existing law.

Mr. WYMAN. I have difficulty with the triggering mechanism. I would like to ask the gentleman from Michigan: What harm does it do if we amend the Mansfield resolution by adding this language? Exactly what harm would it do? I asked the gentleman from Florida that question and I did not obtain a satisfactory response. I would like to ask the gentleman from Michigan this question now.

Mr. CEDERBERG. It makes negotiations with the Turkish Government almost impossible. The Secretary of State is going to have to carry out the negotiations. I talked to the Secretary of State today and he said very definitely that this would hamper his negotiations. I will take his word for it, and I think the House ought to take his word for it. What we want is a solution to Cyprus.

Now, no one has yet told me how this Rosenthal amendment will get one troop off Cyprus.

Mr. WYMAN. It is not designed to get troops off Cyprus, but it is designed to stop military assistance to aggressive operations on Cyprus during this interim period.

Mr. CEDERBERG. It may be designed for that, but what it will do is stop negotiations which are necessary to get the troops off Cyprus.

Mr. WYMAN. I must respectfully disagree with the statement of the gentleman. I do not understand how it would stop negotiations.

I know the Turkish people are proud people. I understand that, but for goodness sakes, how is it going to get them angry to say they cannot ship ammunition to their troops on Cyprus for 30 or 40 days pending the elections in Greece? The position of the gentleman does not make sense.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. I would think the gentleman would be naive to think the Turks would not be offended if we took the position not to allow them to supply Cyprus. Surely the gentleman could not conceivably mean that. A sure way not to get concessions is to set up a wall, barring Turkish supplies going to Cyprus, for a 30-day period or 60-day period.

Mr. CEDERBERG. The gentleman knows when we reported the Foreign Military Sales Act and other enabling legislation, the Turks knew what was in that.

Mr. FRELINGHUYSEN. I might say that if the gentleman from New Hampshire is supporting the present Rosenthal amendment, he is supporting a waiver of existing law until the 10th of December, so the gentleman is talking against that amendment.

Mr. SHIPLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time, because I feel this has been an area that has been overlooked and not mentioned.

I would like to ask the chairman of the full committee if he would go into the language on page 3 of the resolution whereby it says:

> "Notwithstanding any other provision of this joint resolution or any other Act, not to exceed $85,000,000 of the funds made available for foreign assistance by this joint resolution may be obligated to procure fertilizers for, and to provide fertilizers to, South Vietnam.".

Mr. MAHON. If the gentleman will yield, I would say I know of the gentleman's concern about this language. I share this concern. I have called upon the Secretary of State to look into this matter to see if it is possible to withhold the shipment of any fertilizer from this country to any foreign country in view of the tremendous shortages facing the American producers and all the implications involved.

Mr. SHIPLEY. As the gentleman knows, the farmers of America have been called to full production; but, on the other hand, fertilizer prices have doubled and quadrupled in the last few months and we do have a shortage of fertilizer in the country. I just believe that if there is some way that the Department of

State could look into this and maybe hold back this amount of fertilizer until we are positively sure that we have enough.

Mr. MAHON. I know of the commitment of the United States to South Vietnam. There is a requirement for fertilizer in Vietnam. I am very much concerned about the situation. I commend the gentleman for his interest and his efforts to help American agriculture. I see that the gentleman from Florida is on his feet in connection with this matter.

I am just hoping that there will be no further shipments abroad of U.S. fertilizer by the Government until the critical needs of U.S. agriculture are first met. I know the gentleman from Louisiana (Mr. PASSMAN) has been very much concerned with this matter, and I think that since he is more familiar with it than I am, I would like for him to discuss the subject.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, under the first continuing resolution the Agency for International Development could obligate at the rate of $120 million annually for fertilizer for South Vietnam. The Senate subsequently passed a restriction, and in conference insisted that we should place a limit of $85 million on fertilizer purchases to South Vietnam. The House conferees concurred in this, so that we have in fact reduced the level from $120 to $85 million so that more fertilizer would be available to the farmers of Israel, Bangladesh, and Africa.

I say further that under this continuing resolution, there can only be an additional $34 million worth of fertilizer obligated for South Vietnam.

Mr. SHIPLEY. I certainly do not oppose sending surplus commodities, whatever they may be, but I just want to be certain that this country is not sending something which is in short supply in our farm commodities.

Mr. PASSMAN. It is our understanding that the AID Agency would procure this fertilizer when demand is at its lowest in the United States. Also, as far as possible, the fertilizer will be purchased offshore.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I want to thank the gentleman from Illinois for bringing this very important subject to the attention of the committee. I was very pleased at the chairman's remarks that he was going to try to ship even less than this amount because, as the gentleman so ably pointed out, our farmers are in a very difficult situation in finding adequate supplies of fertilizer at prices they can afford to pay. It is extremely high priced.

I hope we are not shipping our fertilizer away in such a manner that it is going to cause higher food prices in the United States and inadequate supplies for our farmers. I thank the gentleman for bringing this up, and I hope this can be reduced in the operational stages in implementation of the bill.

Mr. SHIPLEY. Mr. Chairman, I agree with the gentleman.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield further?

Mr. SHIPLEY. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, I might also state that this year we are going to have less fertilizer going into South Vietnam, when considered on a tonnage basis.

Mr. ROUSH. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Indiana.

Mr. ROUSH. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Illinois.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. ROUSH. Mr. Chairman, I ask unanimous consent that the gentleman from Illinois be given 1 additional minute.

Thqe CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

Mr. RHODES. Mr. Chairman, I reserve the right to object.

PARLIAMENTARY INQUIRY

Mr. RHODES. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RHODES. Mr. Chairman, have we disposed of the Rosenthal amendment?

The CHAIRMAN. We have not.

Mr. RHODES. Then, I would suggest that the more orderly way to proceed would be to debate on the Rosenthal amendment and take up other matters which are dealt with in this resolution after that amendment is disposed of.

I certainly am not going to make the point of order, but it would be my suggestion so to proceed.

The CHAIRMAN. The Chair will state to the gentleman in response to his inquiry that the gentleman is correct. If he wished to make a point of order, the Chair would have ruled in his favor.

No point of order having been made, debate will continue.

Mr. RHODES. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ROUSH. Mr. Chairman, will the gentleman yield?

Mr. SHIPLEY. I yield to the gentleman from Indiana.

Mr. ROUSH. Mr. Chairman, again I would like to associate myself with the concern of the gentleman in the well. It seems to me that this particular section of this resolution is more than a limitation. What it amounts to is a call to spend up to $85 million of our taxpayers' money for fertilizer to be shipped to South Vietnam.

The farmers of Indiana have been short of fertilizer. If we had more than we could use, I would welcome the opportunity to sell it abroad, but we do not have. I think we should look at this, and look at it very carefully. I know that when the foreign aid bill comes before us and when the appropriations bill comes before the House, I am going to do what I can to see to it that the American farmer is taken care of first, rather than sending fertilizer abroad. There is no farmer in this world who can get more out of a pound of fertilizer and produce more than the American farmer.

Mr. SHIPLEY. Mr. Chairman, I thank the gentleman.

Mr. DU PONT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have listened to this debate with some interest today because we seem to have two issues very badly tangled in one another. I am rising in support of the Rosenthal amendment. I think it makes some sense. As a matter of fact, I do not know how anbody could vote against it and I do not understand how the administration could possibly veto it on its merits because it is a very fair amendment.

But let me ask again: What is the issue? The issue is not negotiation. We have agreed on that. We have accepted the December 10 date. That, to my way of thinking, is perhaps not the best date we could have picked, but we have accepted it, we have gone along with it. That question is over, and there is only one issue left here. That is the issue of American military hardware being shipped from this country to Turkey and ending up in Cyprus.

Two months ago almost to the day I sat in the Foreign Affairs Committee room, during the week of the 12th of August, and I listened to an Under Secretary in the State Department answer my question by saying, "No, we have no guarantee that American arms are not leaving the United States today and ending up in Cyprus tomorrow."

That was 60 days ago, and for all I know we are still sending hardware to Turkey and it is still ending up on the battlefields in Cyprus.

What are we sending? I do not know. The Department of State will not say. What is being transshipped from Turkey, if anything? Again I do not know. The Department of State will not say. But it seems to me that the issue is very clearly one of aggressive use of U.S. military equipment, and regardless of what one thinks of negotiation, regardless of what one's position on Turkey might be, it seems to me that we do not want our arms used for offensive purposes. Therefore, this amendment should be adopted to prevent that and let negotiations continue.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the distinguished minority leader.

Mr. RHODES. I thank the gentleman for yielding.

If the gentleman will remember, when the matter came up before, the gentleman from Wisconsin (Mr. ZABLOCKI), after having inquired of the Department of State, was told that there were apparently three ships en route, and I think two of them had trucks aboard and another one had materiel which might be military. I was assured by the Department of State and the gentleman from Wisconsin that there would be no new obligations made for any kind of aid to Turkey while this matter was pending. I would hope that the gentleman from Delaware would accept the word of the Department of State that that is the situation.

Mr. DU PONT. Mr. Chairman, I would say to the distinguished minority leader that in my conversation with the Department of State I have not been able to get any such assurance.

Let me pursue that point. Is it the position of the Department of State that there will, in effect, between now and December 10, be no deliveries of military equipment to Turkey?

Mr. RHODES. No, if the gentleman will yield.

My position was that the materiel which was in the pipeline, if it is to be delivered during that time, will be delivered; but there will be no new obligation of materiel to Turkey during this particular period of time. There will be no new additions to the pipeline.

Mr. DU PONT. Do we know what kind of hardware is in the pipeline?

Mr. RHODES. I would suggest that the gentleman yield to the gentleman from Wisconsin.

Mr. DU PONT. Let me yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. To clarify the matter, the question which was asked was if we postpone for 60 days, how much materiel, military materiel, will be shipped to Cyprus. The gentleman from Wisconsin got the answer that in that 60-day period there would be only three ships, two carrying trucks and one carrying merchandise and some ammunition, would be sent in that 60-day period to Turkey.

In addition, we were assured that no new contracts for military sales or grants to Turkey would be undertaken while this matter was pending.

Mr. SARBANES. Mr. Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the gentleman from Maryland.

Mr. SARBANES. I thank the gentleman from Delaware. He has made a very valuable contribution today in his analysis of this matter as he has throughout the consideration of this very important question.

The proposal before us provides for a suspension of existing statutory provisions for a limited period and would therefore allow shipments to continue to Turkey during that time period.

The important aspect of the Rosenthal amendment is to require an immediate cut-off of military aid to Turkey if any American military arms and equipment are shipped by Turkey to Cyprus.

Mr. CEDERBERG. Mr. Chairman, I rise in opposition to the amendment.

We have been having debate on this issue for a long time. I still have not been able to get an answer as to how the Rosenthal amendment helps the negotiations between Greece and Turkey. No one seems to be concerned about that. I want to know how to get a negotiation started.

My contention is that the Mansfield approach is the best approach.

Let me read to the Members a statement from the Senate debate on October 9, 1974, on page 34677 of the CONGRESSIONAL RECORD. I want to quote just one paragraph of what Senator MANSFIELD, the majority leader of the Senate, said on this subject. What we are talking about today is the Mansfield amendment which passed the Senate. The only change was from December 15 to December 10.

I quote:

> I approve of Dr. Kissinger's policy of noninterference and nonintervention in the Aegean. I hope that we will recognize what I think is the fact, that if we pass this resolution—and I am not at all sure we can—we will perhaps be giving the Greeks a chance to recoup, a chance to restore their prestige, a chance to take the pressures off Karamanlis, and a chance to get the Turks off the island of Cyprus. It is a simple matter. We can either make sure that the Turks will stay there and the Greeks and the Cypriots will suffer, or we can give our own Government, our own emissaries, a chance to see if they can work out some sort of solution.

What is unreasonable about that? Is anyone finding anything unreasonable about giving our emissary, the Secretary of State, a period of 60 days to negotiate?

These are the words of the Democratic majority leader of the U.S. Senate on this very issue, and that is what we are going to vote on today. I think that is a very reasonable approach.

I now yield to the gentleman from Maine (Mr. KYROS), and I would like to ask the gentleman if he does not think that that is a reasonable approach.

Mr. KYROS. I would say to the gentleman from Michigan that I certainly think everything he says is reasonable.

The very simple fact is that we did supply $200 million worth of weapons to the nation of Turkey—true, that may be a small amount to the gentleman but to that nation it is a large amount—so that down the line somewhere they will run out of bullets for their M-16's and spare parts for their tanks. When that time comes, they will begin to think of our friendship and make some conciliatory moves.

All we are saying to them is: "You are using these weapons illegally."

Therefore, this will actually strengthen Mr. Kissinger's hand since we can say privately: "The people of the United States believe very firmly, as they did in Vietnam and other places in the world, that our Government should act responsibly. Therefore, Mr. Prime Minister, do not tell us about your own national political problems." Or "Mr. Caramanlis, do not tell us about your internal political problems. We have to listen to the American people, and they want peace in Cyprus and friendship with both Greece and Turkey."

Mr. CEDERBERG. What the gentleman has said is exactly what we want to foster. We can only do it through negotiations.

Who are they going to shoot those bullets at, the Greeks and the Greek Cypriots?

Does that help them? Not at all. When they run out of bullets, they will also run out of Greek Cypriots.

Now, have we made any progress? I do not think we have made a bit of progress.

Mr. KYROS. Mr. Chairman, will the gentleman yield? May I reply to the gentleman?

Mr. CEDERBERG. In just a moment I will yield to the gentleman.

Personally, I do not think that will happen, but to insure that will not happen, let us give the Secretary of State an opportunity, until December 10, to negotiate. I pray that we will never get into the situation that the gentleman from Maine has pointed out.

Mr. KYROS. Mr. Chairman, may I reply to the gentleman?

Mr. CEDERBERG. I yield to the gentleman from Maine.

Mr. KYROS. Mr. Chairman, the fact is that 4 months ago this cruel situation began, and since that period of time Turkish troops have invaded Cyprus, and there have been no negotiations. The only negotiations that can take place are between Greek and Turkish negotiators, among Greek and Turkish and Cypriot forces. We are not even signatories to any negotiation or agreements.

What we should do by our acts is not to underwrite the initial Turkish invasion. If these people do not negotiate, what can we do? We have done nothing so far. The Rosenthal amendment is a concrete step toward negotiations.

Mr. CEDERBERG. Mr. Chairman, I will rest my case on what Senator MANSFIELD has said. We can either make sure that the Turks will stay there and the Greeks and the Cypriots will suffer, or we can give our own Government and our own emissaries a chance to see if they can work out some sort of a solution. We want to do just that, and I think that action helps the Greek Cypriots.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, what is going to be the gentleman's position if, on December 10, no solution has been arrived at? Is the gentleman going to come back and ask us for an additional extension?

Mr. CEDERBERG. Mr. Chairman, my position is that if by the December 10 deadline progress is being made, I would not quibble about another 10 days or about another 15 days. Perhaps the gentleman would if he would like to have the negotiations break down; I would not.

If we can see that any substantial progress is being made by that date, then probably we can work out a solution. I have talked with the Secretary of State, and I think that will be possible. I hope the gentleman does not think that is unreasonable.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CEDERBERG) has expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. CEDERBERG was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman I wish to ask the gentleman another question.

We have to assume also the other possible alternative, which is that at the end of 60 days there will still not be any progress. I, of course, would like to see progress, but what if there is no progress at all by the end of 60 days?

Mr. CEDERBERG. Mr. Chairman, I will ask the gentleman this: What is his option?

Mr. SEIBERLING. The option is to say to the Turks, "Until there is progress you are not going to get another bullet."

Mr. CEDERBERG. Is that going to remove any troops from Cyprus?

Mr. SEIBERLING. No, but it puts the pressure on Turkey, and there is not any pressure on them now.

Mr. CEDERBERG. What pressure? There would not be any more pressure on Turkey in that event.

Mr. KYROS. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Maine.

Mr. KYROS. Mr. Chairman, the gentleman has been talking here today about prior debates on other days when we voted on the original resolution, and the suggestion has been made by others that nothing has been accomplished. By a vote of 307 to 90 this House did act on this issue.

It was never a question of being friendly to Greek Cypriots or friendly to Turkey or to the Greeks or to the Turkish Cypriots.

It is our national policy, and in our own self-interest in the in the Mediterranean to sustain our relations and maintain friendship with all sides. Otherwise we will never meet our commitments in that region of the world.

Mr. CEDERBERG. Mr. Chairman, the House talked very loud at that time. That is what we want to try to reverse. That action made it impossible for our emissaries and for our Secretary of State to conduct negotiations. This is what we want to try to avoid. We want to avoid that very thing.

Mr. KYROS. What negotiations is the gentleman referring to?

Mr. CEDERBERG. I think it is incumbent upon the House to try to help in this situation and to help the Greeks, who are the ones that need it most.

Mr. KYROS. Mr. Chairman, if the gentleman will yield further, it is not an issue of helping the Greeks; they only want an opportunity to preserve the peace.

What negotiations does the gentleman from Michigan refer to? I will ask the gentleman to name them.

Mr. CEDERBERG. Mr. Chairman, there have been discussions going on, and there are discussions going on right now.

Mr. KYROS. There is not a single Turkish soldier who has budged from Cyprus for the past several months and they will not if this situation is maintained.

Mr. CEDERBERG. If we pass this resolution, they never will be removed.

Mr. KYROS. And if we fill Cyprus with American weapons and arms, they never will.

Mr. CEDERBERG. If we pass this resolution, they never will be removed.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from California.

Mr. BELL. Mr. Chairman, I think the gentleman fully recognizes that when we have two negotiating teams and they are negotiating, and when a proposal comes along like the Rosenthal amendment, all it does is irritate the situation. It is just like sticking your finger in the negotiator's eye.

I am sure that they do not like it. This Rosenthal amendment is certainly not by itself, going to coerce Turkey into unnecessarily capitulating. It is likely to hurt our negotiations, by irritating the Turkish Government.

Mr. CEDERBERG. The gentleman is absolutely correct.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I recognize there are problems on the part of all of us as to just how to vote on this particular matter. I think my voting record perhaps reflects that of some of the others. I supported the Rosenthal cutoff amendment on both occasions. I also supported the Mansfield proposal; voting to postpone the aid cutoff until the 15th of December. And on yesterday I voted to override the President's veto because if the veto had been sustained there would be no cutoff at all. But I believe now that the committee position should be affirmed.

I agree with the gentleman from Michigan (Mr. CEDERBERG), that the issue, as that the gentleman put it in quoting Senator MANSFIELD, is not whether we are going to enforce the provisions of the Foreign Assistance Act, but whether we are going to get peace on Cyprus and, even more importantly, whether we will save the future of our NATO alliance, which already has Greece out of it, and conceivably, if the Turks are unable to agree, may soon have put Turkey out, too.

I have been in Turkey, and I have seen the vital installations we have there. Some of these things cannot be discussed in public, but believe me, the elimination of Turkey from the NATO alliance would be a very devastating blow both to NATO and to our own defense.

Mr. KYROS. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. Not until I finish my statement.

I think the position of the committee represents a reasonable compromise. We have a Constitution. The House is not supreme. The Congress is not supreme, the President is not supreme. Both branches have to compromise and we are engaged in a confrontation. When one gets into a confrontation one has to make a compromise. We cannot get everything we want.

As I say, I supported the Rosenthal amendment; but because of the veto we cannot get it, so we have to compromise. The only dissent to this compromise is the sense of the new Rosenthal amendment that none of the equipment that we have supplied to Turkey, not just in the present pipeline, but which we may have supplied at any time, can be sent to Cyprus during this period.

That is a very plausible addition, and it has been argued, because of its plausibility, very eloquently. But I submit to the Members that there are two problems in this new amendment, one of them already identified by the distinguished gentleman from New Hampshire (Mr. WYMAN). As a practical matter we just cannot tell whether any U.S. material is being shipped to Cyprus during this period. Remember this amendment includes anything we have ever sent to Turkey such as a canteen, or some K-rations, or what-have-you. Of course, you could argue this thing in the courts—although I do not imagine we would go in the courts—and you could argue it in the newspapers. And the deadline would have expired before you could decide whether something really had been shipped or had not been shipped. This amendment is a statement that is designed to look good, but it really is not going to accomplish anything.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. Not until I have completed my statement.

Second, the question of whether anything is or is not sent to Cyprus during this period is really immaterial. The thing we really want to stop in Cyprus is any further military aggression. And if military aggression should start up again on Cyprus before the 10th of December, that is it. They would have had it. The Turks would thenceforth be out of all consideration, and we would just have to face up to the future without them. If the Turks are interested in getting any kind of assistance from the United States they are certainly not going to start any kind of military aggression. So what does it really matter if they get some K rations, or even some ammunition for their M-16's? If they do not start any new aggression we still must get substantial progress in getting those Turkish troops off of Cyprus before the 10th of December, or else the U.S. aid funds will be cut off anyway.

So, as a practical matter, our aid shipments are not going to lead to any new aggression between now and the 10th of December. And if real progress in withdrawing Turkish troops from Cyprus has not been made by the 10th of December our aid will be cut off anyway.

So all we are doing by supporting the committee is simply giving the President and the Secretary of State some needed time to achieve an agreement about Cyprus without throwing in the faces of the Turkish negotiators that obviously is going to annoy them, but which, as a practical matter, will be completely ineffective in advancing our basic goals and objectives in the eastern Mediterranean.

Mr. KYROS. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Maine.

Mr. KYROS. Mr. Chairman, first I would like to commend the gentleman from New York particularly for his interest in NATO and in the position of the U.S. Navy in the Mediterranean, and the effect on it if we lost both Turkey and Greece, particularly Greece. But first let me discuss a moment what the gentleman was talking about in respect to our shipment of military equipment around the world, particularly to countries such as Turkey, where the law provides that they cannot be used for offensive purposes, but that this might be a meaningless proposition because it cannot be monitored. Is that correct?

Mr. STRATTON. I said that we cannot really tell for certain whether anything goes from Turkey to Cyprus that might have been part of what we have delivered to them, between now and the 10th of December, in any way that we can determine.

The gentleman from New Hampshire (Mr. WYMAN) has already made the point, who is going to determine this fact. We have no triggering mechanism in the Rosenthal amendment. The President could say one thing; the Turks could say another. Who is going to decide? The President ultimately would have to decide and if some progress is being made in the negotiations the President would probably be tempted to delay any such determination.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope that the Rosenthal amendment will be defeated and that we will proceed as rapidly as possible to pass this joint resolution.

If we pass another continuing resolution that the President would find necessary to veto, we will have to come back to pass another continuing resolution. I do not think anybody really wants to do that; I know I do not. If we do not pass this joint resolution, there will be payless paydays for Federal employees, and I do not think any Federal employee faces that prospect with any great amount of pleasure. So we are not considering a legislative proposal involving only the subjects upon which we have been speaking; it is a broader subject; and it is an important subject. I hope that we will understand that as we continue our deliberations.

What we are really talking about here should be put in context. It seems that many of the speakers have assumed that the "black hats" are all from Turkey and the "white hats" are all from Greece. I think we now need to review the situation a little bit and understand that the problem on Cyprus occurred when the Makarios government was overthrown—it was overthrown, and I think admittedly—by the help of the Junta which was then in control of Greece.

I suppose if one wanted to apply the law uniformly, one could say that since Greek equipment furnished by us was probably involved, having been furnished to the Cypriot National Guard, we should also cut off aid to Greece under the law which the gentlemen have cited. I do not think that anybody really expects that that should be done.

I also would imagine that during the Six-Day War in 1967 Israel used some equipment which was procured under this law, and a strict interpretation, a strict application, of that law would require that aid be cut from Israel. I do not think anybody wants that result to happen. I am not saying that three wrongs make a right; all I am saying is that, if we are to apply justice evenhandedly, then we should do so and not pick and choose.

Actually, of course, we really talk about two things. One is the survival of NATO, and the second is the ability of the Secretary of State to quiet this very dangerous situation involving Greece, Turkey, and Cyprus. The two issues are intertwined. Without the southern flank of NATO being secured as it is now secured by the adherence of Turkey to the Alliance and, hopefully, Greece also, then we find ourselves in a very tough situation as far as maintaining the 6th Fleet is concerned. We do not need to look very far to see that the whole littoral of the Mediterranean Sea, which used to be very friendly to our side, is no longer anywhere near that friendly. The African shore is either unfriendly or neutral. On the European side, we have people and governments which are mainly friendly to us, but which are somewhat precarious insofar as the degree of military support is concerned. The really staunch ally we have is Spain, and, of course, as long as the present Spanish Government is in control, we will have Spanish friendship. But this is by no means the favorable situation we had after World War II.

I suggest to the Members that, should the 6th Fleet have to be withdrawn from the Mediterranean, it would not be long before both Greece and Turkey would find themselves hard pressed to resist the blandishments of the Communist powers by which they would be surrounded.

It is not a wise thing to do to play Russian roulette with the safety of that part of the world. If this type of congressional action, whereby we appear to be trying to take over the conduct of foreign policy, continues then I am very much worried about our foreign relations, not only in this part of the world but also in others.

I do not know any other legislative body which tries to conduct foreign affairs directly. In the parliamentary systems the people who conduct foreign affairs are members of those systems, but they do not do it on the floor of the Parliament. We should not conduct foreign relations on the floor of the House of Representatives or in the other body.

It seems to me the best thing we can do is to realize we have a great Secretary of State who has asked only until December 10 to negotiate this matter.

I say to my friends who are sponsors of this amendment, they have really won. They have won the battle. Now why do they not just pat themselves on the back and say, "We are way ahead, we have won." Because if the negotiations do not come to fruition by December 10, then the language of the Rosenthal amendment applies and further aid to Turkey is cut off. I ask that this leeway be given Secretary Kissinger.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hope we can rather quickly bring the consideration of this amendment and this resolution to a conclusion. I regret that more Members are not on the floor but we do have a number of Members here. I would appreciate the careful attention of the Members because I have something to say that I think is of interest and of considerable importance.

We must have a further continuing resolution. That is urgent. It is embarrassing that for 16 days a large portion of the Government has been without authority to incur obligation, and if this Congress is to maintain proper respectability it must do something about this situation. So we must have a continuing resolution.

The Congress passed a further continuing resolution and it was vetoed. We are now confronted with an amendment that is unworthy of support, if I may say so. Let me read it to the Members:

> The provisions of the preceding sentence shall become effective on December 10, 1974; except that such provisions shall become effective before December 10, 1974, whenever any—

And this is what I want the Members to know—

> such defense articles or services, or other military equipment or supplies made available at any time to the Government of Turkey, which are not in Cyprus on the date of enactment of this section, are transported to Cyprus."

In other words, as was pointed out by one of my colleagues, if Turkey sends one canteen or one item of any kind that could be construed to be of a military nature from Turkey to Cyprus which belongs to the Turks at this time and which was originally provided by the United States then this triggers a cutoff.

Some Members have said that they are opposed to the resupply of the 40,000 Turks on Cyprus. Now we know that with the 40,000 Turkish troops on Cyprus they are inevitably going to have to resupply those men with something. We might just as well abandon all military assistance to Turkey now if this amendment becomes the law. It would be impossible to enforce the provisions of the proposed amendment.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, that is the point I was trying to make. It says there "made available at any time" which means some chocolate bars they got maybe 10 years ago.

Mr. MAHON. It means any item. It is any one item. It is not just a matter of a large resupply operation. That seems to me to nail it for what it is, an impractical and capricious amendment from the standpoint of wise legislative process.

As the gentleman from Arizona says, the supporters of this amendment have already won a substantial battle. Let me explain why. What was the Rosenthal amendment when we had this continuing resolution before us originally on September 24?

Did the gentleman from New York at that time refer to any shipments from Turkey to Cyprus? Not at all. The gentleman's language did not relate to such shipments until after the veto and after he had achieved success with his September 24 amendment. Now he wants to go a little farther.

Let me read what he offered on the original continuing resolution and what many voted for. Here is what the gentleman said then. He did not mention anything about what is in the amendment today. This was apparently an afterthought following the veto. It says:

> None of the funds herein made available shall be obligated or expended for military assistance . . . to the government of Turkey until the President certifies to the Congress that substantial progress toward agreement has been made regarding military forces in Cyprus.

So that language, except a little stronger, is in the present continuing resolution. So he has won this battle. He has done more than win his battle. He has a stronger proviso than he had in the original continuing resolution. He has won his battle, except that the Mansfield proviso says it can be suspended until December 10. That, of course, is a matter for consideration; so the situation here simply is that it is impractical to accept the basic Rosenthal amendment and add on to that this additional amendment.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous consent request was agreed to will be recognized for one-third of a minute each, or 20 seconds.

The Chair recognizes the gentleman from New York (Mr. Stratton).

Mr. STRATTON. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Louisiana (Mr. Passman).

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Mr. Chairman, I object.

Mr. Chairman, I object on all of them.

The CHAIRMAN. The gentleman will be required to renew his objection if there are any further requests.

Objection is heard to the first request.

Mr. MARTIN of Nebraska. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Arizona (Mr. Rhodes).

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

Mr. ASHBROOK. Mr. Chairman, I reluctantly object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Illinois (Mr. Derwinski).

Mr. DERWINSKI. Mr. Chairman, I am awfully tired and would like to get home.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. Sarbanes.

Mr. SARBANES. Mr. Chairman, on the 14th of August the Government of Turkey broke off the peace talks being conducted in Geneva and committed clear aggression on the island of Cyprus. I do not believe any American military supplies ought now to go from Turkey to Cyprus in order to make possible any further outrages.

I urge a vote for the Rosenthal amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. Frelinghuysen).

Mr. FRELINGHUYSEN. Mr. Chairman, it is time to vote on the matter, and I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Chairman, the talk about Turkey abandoning NATO is just that—talk. Can anyone imagine Turkey ever going over to the other side and making cause with its traditional and hereditary enemy, Russia? Nonsense! Turkey is not in NATO because they like it or like us but because it is in their own national interest. And it will continue to be in their interest because the alternative would be disastrous, not put for us, but for Turkey. Yet to listen to the opponents of this amendment, one would think Turkey joined NATO solely as a favor to the United States.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. John L. Burton).

Mr. JOHN L. BURTON. Mr. Chairman, I would just like to say that the CIA, for whom we all have a great deal of respect, I am sure, will monitor the shipments. For those Members who did not hear Walter Harvey, there are 2,000 Cypriot virgins hiding in the mountains from the Turks. I would urge an "aye" vote on the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. Passman).

Mr. PASSMAN. Mr. Chairman, the voters back home are calling. Let us get through in a few minutes and go find out what they want.

The CHAIRMAN. The Chair recognizes the gentleman from Maine (Mr. Kyros).

Mr. KYROS. Mr. Chairman, I would like to yield my time to my colleague and good friend who made the most compelling arguments for the Rosenthal amendment, arguments which I think will bear weight in just a few moments—the gentleman from Michigan (Mr. Cederberg).

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. Ford).

Mr. FORD. Mr. Chairman, I rise in support of the Rosenthal amendment.

As one who vigorously supported the Rosenthal-du Pont amendment to cut off all economic and military aid to Turkey, I viewed with great disappointment the failure of this body to override President Ford's veto of that legislation.

Today we are again faced with a critical choice on this issue. The Appropriations Committee has deleted the Rosenthal amendment from the bill and has substituted a provision postponing the cutoff until December 10. This compromise is unacceptable because it flatly states that the laws which Turkey has violated by misusing American equipment to invade and occupy one third of Cyprus shall not apply until December 10, 1974.

I rise in support of the substitute amendment Mr. Rosenthal will offer today to the continuing resolution which:

First, limits the delay in applying the law to Turkey until November 30, 1974; and

Second, requires that no U.S. military equipment given to Turkey at any time can be shipped to Cyprus after the Continuing Resolution becomes law. A violation of this provision by Turkey would cause an immediate cutoff of all military aid to that country.

This substitute amendment has been carefully drafted to meet the overwhelming House and Senate positions—291 to 69, 62 to 16, respectively—that aid to an aggressor country renders that country ineligible for further aid while also giving the President 45 additional days of flexibility which he has sought.

The time is long overdue for the United States to exercise stiff pressure on the Government of Turkey to cease its aggression on the island of Cyprus. It is outrageous that American taxpayers should be supplying arms to Turkey that are used in attacks upon a friendly country in violation of NATO commitments, and the clear restrictions contained in our laws.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Bell).

Mr. BELL. Mr. Chairman, I yield to the distinguished minority leader, the gentleman from Arizona (Mr. Rhodes).

Mr. RHODES. Mr. Chairman, I thank the gentleman for yielding. I think we should all bear in mind that one of the things we are trying to accomplish definitely is to get 40,000 Turkish troops off Cyprus, and I do not know of any other way except through negotiation. The Secretary of State is negotiating. Let us not tie his hands.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, I rise in opposition to the Rosenthal amendment.

Mr. Chairman, the long, loud, and occasionally disorderly debate this afternoon has, in my judgment, illustrated the utter futility of attempting to conduct serious foreign policy on the floor of this House, as a sort of appendage to a bill dealing with miscellaneous appropriations.

Mr. Chairman, I have good Greek American friends, as I have Jewish friends, Italian-American friends, and many others. They are all good Americans, just as I am. None of them have told me that they want a pro-Greek policy, a pro-Israel policy, or a pro-anything policy—other than pro-American and pro-peace—and I do not think any of them are going to. They and I agree that the question here is, what is better for America? What is better for world peace?

Mr. Chairman, it may be that we ought to reconsider the whole subject of foreign arms aid and foreign arms sales—but we can hardly do that here today. When Israel raids the neutral country of Lebanon is that aggression and a violation of the foreign assistance and military sales acts, or is it self defense? Presumably Turkey would claim that tactical aggression in Cyprus is defensive in behalf of the Turkish minority on the island; but as long as we sell or give away arms we will have, from time to time, these embarrassing disputes between our allies.

Today the President and the Secretary of State requests us, by means of an act of Congress, to suspend, for a short time, certain other provisions of law so that they may, as they believe, better negotiate a peace between these two very important allies and friends of ours, Turkey and Greece.

Under our Constitution such questions of foreign policy very properly primarily belong to and rest with the Secretary and the President. Yet, because of partisan and political considerations, we set aside our own constitutional plan, and decide that 435 Members of this House, most of whom are absent from the debate, are better able to decide and to determine these vital questions of war, peace, and foreign policy.

This is a ridiculous and irresponsible performance, and, as far as I am concerned, I will have none of it.

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska (Mr. MARTIN).

Mr. MARTIN of Nebraska. Mr. Chairman, I oppose the Rosenthal amendment. Four hundred thirty-five Members of the House cannot conduct foreign policy. I urge a "no" vote.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. PRICE).

Mr. PRICE of Texas. Mr. Chairman, I noticed with interest the $85 million in this bill for fertilizer for South Vietnam. I think we ought to take care of our own farmers in this country before we look after the other nations.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, I ask for a "no" vote on the amendment offered by the gentleman from New York (Mr. ROSENTHAL).

The CHAIRMAN. The chair recognizes the gentleman from New York (Mr. KOCH).

Mr. KOCH. Mr. Chairman, during the course of the debate on the rule, Representative H. R. GROSS asked the question of where Members were in 1967 during the Israeli-Arab war and why they did not offer the Rosenthal amendment then to cut off arms to Israel because of what he alleges was Israeli aggression. I sat here, as I know a number of other Members did, wanting to respond. I remained silent, however, just as many of my colleagues did because of the fact that a dialog on this subject would simply confuse the question at hand—indeed exactly what some of those who oppose the Rosenthal amendment wanted to happen. We decided that to rise to debate a collateral issue would be destructive to our goal of preventing Turkey from using American arms in its aggression against Cyprus.

Mr. Speaker, it is a brutal misapplication of history to try to draw any comparison between the aggression of Turkish forces in Cyprus with Israel's self-defense against the Arabs in 1967. In 1967 Israel was responding to Arab aggression directly on her borders, including an Egyptian blockade of Israel's lifeline through the Straits of Tiran. Surely in 1974 Cyprus was not on the verge of invading Turkey and Cyprus, was not blockading Turkish ports.

Mr. Speaker, while I held my tongue when our colleague from Iowa spoke, I am not sure that such policy questions surrounding Israel, when raised, should go undebated. Mr. GROSS was not the only Member who raised the question of Israel's security interests with me today. Another Member on the Republican side came up to me before the debate and said:

> Mr. Koch, why do you support the Rosenthal amendment, when if we alienate Turkey and lose our bases there we will be damaging the defense of Israel?

And he went on to say:

> I have always supported Israel and will continue to do so.

On reflection, however, I think that this potential problem is far smaller than that which will evolve if we allow Turkish aggression against Cyprus to go on with American arms. For that indeed will diminish support for American aid for Israel, not only by those who are antithetical to Israel, but also by those who eventually may throw up their hands, saying they no longer can distinguish between the worthiness of the recipients of American aid, and want simply to end all aid.

Mr. Speaker, there are 12 Members of the House who are Jewish. Support of Israel by this body surely is not predicated on their votes. The United States has 6 million Jews, about 3 percent of its population. The overwhelming support that the U.S. public has given to Israel since its birth in 1948 surely is not predicated on the desires of its citizens of the Jewish faith.

I will support the cause of the democratic government in Cyprus and that of the Greek Cypriot refugees—and oppose the aggression of Turkey because I know I have a moral obligation to do so. I also know that despite the suggestions by some in the House to the contrary, the United States will not flag in its support of Israel because it is in our national interest to continue that support as well as a moral imperative.

Mr. Speaker, I shall vote for the Rosenthal amendment knowing that I am doing what every Member of this House has an obligation to do, casting a vote of conscience.

The CHAIRMAN. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN).

Mrs. GREEN of Oregon. Mr. Chairman, I oppose the Rosenthal amendment. I do not understand how in a highly charged partisan political atmosphere, 21 days before a partisan election, that we can expect 535 disparate voices in Congress to decide foreign policy questions that are in the best interests of the United States now that will contribute to peace as better understanding between long-time adversaries.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Chairman, I support the Rosenthal amendment. I think it is time that we show that our arms will not be used for murdering innocent people. They have been. We must put a stop to it

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, I rise in strong support of the Rosenthal amendment and urge the Members of the House to say no to further illegal actions on the part of this Government by permitting Turkey the use of American arms in Cyprus.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. CARTER.)

Mr. CARTER. Mr. Chairman, a few months ago National Guard officers from Greece instigated a revolution in Cyprus. President Makarios was forced to flee for his life.

Eighty percent of the population of the island of Cyprus is Greek and approximately 20 percent is Turk. When Makarios was overthrown, Turkey naturally was alarmed and in order to protect its Turkish Cypriots, invaded and now controls one-third of the island of Cyprus.

At the present time, the United States arms both Greece and Turkey. Turkey has the military power to win easily in Cyprus and, more than likely, in a war with Greece. If we cut off aid to Turkey precipitously, Turkey could still accomplish both purposes, control of Cyprus and control of Greece. In such an instance, the United States would have lost the friendship of the Greeks, the Cypriots, and the Turks.

The position in the Mediterranean of the U.S. 6th Fleet would be untenable.

Mr. Chairman, it seems wise to me that we permit Secretary Kissinger and the President to continue to negotiate a peaceful solution to the problems in Cyprus, rather than to precipitate a conflict which would make the Mediterranean untenable for our fleet.

Without our fleet in the Mediterranean, the little country of Israel would be beleaguered. For 27 years we have guaranteed its independence. Loss of the Mediterranean to U.S. forces means the loss of U.S. support to Israel. I would ask those who support cutting off aid to Turkey before December 10—to reconsider their positions.

I strongly urge that we support the resolution of the Appropriations Committee unamended.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman. I appreciate the gentleman's yielding. I intend to vote aye on the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. I thank the Chairman.

I would like to see this resolution approved without amendment, approved by the other body, and sent to the President.

The original Rosenthal amendment was attached to the continuing resolution when it passed the House on September 24. The essence of that language is included in the pending resolution. So that objective has been achieved.

I think that we are agreed that the effective date can be postponed until December 10.

Mr. Chairman, I urge the defeat of the present new Rosenthal amendment and I urge a vote for the resolution.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ROSENTHAL).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROSENTHAL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 194, noes 144, not voting 96, as follows:

[Roll No. 620]

AYES—194

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Armstrong
Ashbrook
Ashley
Badillo
Bafalis
Barrett
Bauman
Bennett
Bergland
Biaggi
Boggs
Brademas
Breckinridge
Brinkley
Brotzman
Broyhill, Va.
Buchanan
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Chisholm
Clark
Clausen, Don H.
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
Cronin
Daniel, Dan
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Delaney
Dellums
Dent
Derwinski
Diggs
Dingell
Donohue
Drinan
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Fascell
Fish
Flowers
Flynt
Foley
Ford
Forsythe
Fraser
Frenzel
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gray
Green, Pa.
Grover
Gude
Gunter
Haley
Hanley
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Holt
Holtzman
Horton
Howard
Hungate
Hunt
Johnson, Calif.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Kluczynski
Koch
Kyros
Lagomarsino
Leggett
Lehman
Lent
Long, Md.
Lujan
Luken
McCormack
McDade
McKay
McKinney
McSpadden
Macdonald
Madden
Matsunaga
Mazzoli
Meeds
Metcalfe
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
O'Neill
Parris
Patten
Pepper
Peyser
Pickle
Pike
Price, Ill.
Pritchard
Randall
Rangel
Rarick
Regula
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Seiberling
Shipley
Smith, Iowa
Spence
Staggers
Stanton, James V.
Stark
Stephens
Stokes
Stuckey
Studds
Sullivan
Symington
Thompson, N.J.
Towell, Nev.
Traxler
Treen
Van Deerlin
Vanik
Waldie
Whalen
Widnall
Wright
Wydler
Wylie
Wyman
Yates
Yatron
Young, Ga.
Young, Ill.
Walsh
Wampler
Ware
White
Whitten
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wyatt
Young, Fla.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NOES—144

Anderson, Ill.
Archer
Arends
Baker
Beard
Bell
Bevill
Biester
Bowen
Bray
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clawson, Del
Cleveland
Cochran
Cohen
Collier
de la Garza
Dellenback
Dennis
Devine
Dickinson
Downing
Dulski
Erlenborn
Eshleman
Fisher
Fountain
Frelinghuysen
Frey
Froehlich
Fuqua
Gettys
Gonzalez
Goodling
Green, Oreg.
Gross
Gubser
Guyer
Hamilton
Henderson
Hillis
Hinshaw
Hogan
Hosmer
Hutchinson
Ichord
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kuykendall
Latta
Lott
McClory
McCloskey
McEwen
McFall
Madigan
Mahon
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Michel
Milford
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Murtha
Myers
Nelsen
Nichols
Obey
O'Brien
Passman
Perkins
Pettis
Poage
Powell, Ohio
Preyer
Price, Tex.
Quie
Quillen
Railsback
Rees
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Stanton, J. William
Steed
Steiger, Wis.
Stratton
Stubblefield
Talcott
Taylor, N.C.
Thornton
Ullman
Vander Jagt
Waggonner

NOT VOTING—96

Abdnor
Andrews, N. Dak.
Aspin
Bingham
Blackburn
Blatnik
Boland
Bolling
Brasco
Breaux
Brooks
Brown, Calif.
Burke, Fla.
Carey, N.Y.
Carney, Ohio
Clancy
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Culver
Daniel, Robert W., Jr.
Davis, Wis.
Denholm
Dorn
Edwards, Ala.
Evans, Colo.
Evins, Tenn.
Findley
Flood
Fulton
Goldwater
Grasso
Griffiths
Hammerschmidt
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hébert
Holifield
Huber
Hudnut
Johnson, Colo.
King
Landgrebe
Landrum
Litton
Long, La.
McCollister
Mallary
Maraziti
Mayne
Melcher
Mills
Mollohan
Moorhead, Calif.
Moss
O'Hara
Owens
Patman
Podell
Reid
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rousselot
Roy
Ruppe
Ruth
Ryan
Schroeder
Snyder
Steele
Steelman
Steiger, Ariz.
Symms
Taylor, Mo.
Teague
Thomson, Wis.
Thone
Tiernan
Udall
Vander Veen
Veysey
Vigorito
Whitehurst
Winn
Wolff
Young, Alaska
Zion

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CAMP

Mr. CAMP. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CAMP: Strike out section 5 and renumber the sections.

Mr. CAMP. Mr. Chairman, I will not take the 5 minutes, I will just call to the Members' attention that this amendment strikes section 5 on line 1 of page 3 through line 7, which is the $85 million for fertilizer to Vietnam.

I just want my colleagues to know that my farmers in Oklahoma are just as important to me as their Turks and their Greeks in Turkey and Greece.

Mr. SCHERLE. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from Iowa.

Mr. SCHERLE. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment my colleague in the House and tell him I am in strong support of his amendment. There is no reason why, when this Nation is asked to produce to feed the world, we should send fertilizer overseas where they could not use it to their best advantage and we in this country could. We are more than happy to send them the food.

Mr. Chairman, I compliment my colleague for his amendment and ask the House to vote in strong support of it.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from Texas.

Mr. MAHON. I thank the gentleman for yielding.

The gentleman's amendment does not achieve the objectives which he seeks but I would be willing to accept it and try to work out a way to achieve the results he intended in the House-Senate conference. However, it is impossible at the moment to tell what the results would be.

Mr. MAHON. Mr. Chairman, I move that all debate on the amendment offered by the gentleman from Oklahoma and all amendments thereto close immediately.

The CHAIRMAN. The gentleman from Texas has offered a motion to cut off all debate on this amendment and all amendments thereto immediately. Is that the gentleman's motion?

Mr. MAHON. Mr. Chairman, I withdraw the motion and I ask unanimous consent that all debate on the amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. The gentleman from Texas has asked unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes. Is there objection to the request of the gentleman from Texas?

Mr. REUSS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAHON. Mr. Chairman, I move that all debate on the pending amendment offered by the gentleman from Oklahoma and all amendments thereto close in 10 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas that all debate on the amendment offered by the gentleman from Oklahoma and all amendments thereto close in 10 minutes.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. FLOWERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I strongly support the amendment offered by the gentleman from Oklahoma.

I compliment the gentleman on this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Chairman, I wish to associate myself with the objectives of the amendment of the gentleman from Oklahoma (Mr. CAMP).

All of us who represent the rural areas know the desperate plight of our farmers due to the shortage of fertilizer. It is well and good to devote a lot of rhetoric on what we are going to do for our hard-pressed farmers, but the time to prove our good intentions is, in the words of the gaming table, when the chips are down.

All the talk in the world is meaningless unless when the time comes for action something happens. That is where we are at this moment. The question may very properly be asked, why or how is it that such a precious commodity as fertilizer is allowed to leave the shores of this country? The answer is that while the Congress has expressed its good intentions, through various export control enactments, such are not effective against a foreign aid program which is a case not of a private corporation making the export but a government agency doing the exporting that is simply not subject to the export control law.

Mr. Chairman, I join in the spirit of the amendment of the gentleman from Oklahoma, but I must say that under the parliamentary situation it would be better to pass a substitute because as I understand the parliamentary situation, House Joint Resolution 1163, section 113 is in itself a limitation. The amount of $120 million was provided for fertilizer to South Vietnam, and limited by the resolution to $85 million. There should and must be a substitute that would put some nominal sum which would then under parliamentary acceptability accomplish the objective to eliminate fertilizer exports to South Vietnam.

Mr. Chairman, fertilizer leaves the shores of this country under our foreign assistance programs which is not subject to other export control limitations. The way to stop fertilizer going out of this country under a foreign assistance program is for the Congress to vote this limitation, and now is the time to do it.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. SHIPLEY).

Mr. SHIPLEY. Mr. Chairman, let me say I think this amendment on the surface is doing exactly the reverse of what the gentleman from Kansas wanted to do. As I understand, because there is not a limitation put on the dollar value, it will go back to $126 million.

I think this should be explained by someone here who has the facts, because I want to vote for the amendment if it is going to stop the shipment to South Vietnam, but I do not want to turn around and vote for this amendment thinking it is going to stop it when, in fact, it may escalate it to $126 million.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. Mr. Chairman, I am in the same dilemma that a number of others are. It is my understanding that if the gentleman from Oklahoma's amendment is adopted, we will revert to the original $120 million level for purchase of fertilizer for South Vietnam. If we adopt the proposed amendment by the gentleman from New Mexico, will we not provide more fertilizer for the American farmer who so desperately needs it as he attempts to produce more crops for America? If the chairman could indicate whether or not I am correct, it would be helpful.

I yield to the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I can shed some light and I thank the gentleman for yielding.

The language to which the gentleman from Oklahoma objects was not in the House version of the bill. It was added in the Senate. Many of us object to trying to write a foreign aid bill in a continuing resolution but we are now confronted with a reality.

It is correct to say that if the pending amendment were enacted in its present form it would not restrict exports of fertilizer to South Vietnam. The House must not be misled as to the situation. I regret the legislative tangle which has arisen and shall be glad to help improve the situation and seek to meet the fertilizer needs of the American farmer.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, I rise to advise the House that in the foreign handout bill that will come to the House floor after the recess there is some $50 million to $75 million worth of fertilizer for India.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ROUSH).

Mr. ROUSH. Mr. Chairman, I share the doubt of the Members of the House as to what this amendment will do; however, I take the point of view that this is not merely a limitation because of the language in this particular section which says that the $85 million may be obligated to procure fertilizer for and provide fertilizer to South Vietnam. Knowing the administration and knowing the attitude of those who operate this program, I think they will take that as an expression of this Congress that we should obligate that much money for fertilizer for South Vietnam.

The CHAIRMAN. The Chair recognizes the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Oklahoma.

Mr. Chairman, I yield to the gentleman from Texas half of my time.

Mr. PRICE of Texas. Mr. Chairman, I thank the gentleman.

Certainly I am in favor of this amendment. I think it should be limited to at least $1,000, so that it will not give an open-end to go ahead and spend the full $85 million sometime in the future.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, it is abundantly clear that adoption of this amendment will remove any limitation on the shipment of fertilizer to South Vietnam. This amendment, as I read it, explicitly is aimed at limiting shipments of fertilizer to South Vietnam to $85 million. If we strike this language, we have struck any limitation and under the regular Foreign Assistance Act, the administration can ship as much fertilizer to South Vietnam as they choose; so I am going to oppose the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Mr. Chairman, I subscribe totally to what the gentleman from Oklahoma is attempting to do here. However, I think we will accomplish the opposite by adopting his amendment as offered because it would remove any limitation whatsoever. Therefore, I intend to oppose this amendment, and ask others to oppose it on the same basis. Then we can apply a meaningful low limitation in lieu of the $85 million offered in the resolution. I understand the gentleman from New Mexico (Mr. LUJAN) will offer such an amendment and I intend to support it. In these times of shortages in this country, it seems ridiculous to me that we would even consider exporting through foreign aid so necessary a commodity as fertilizer. Have we learned nothing from the abortive grain deals of the last several years?

The CHAIRMAN. The Chair recognizes the gentleman from New Hampshire (Mr. WYMAN).

Mr. WYMAN. Mr. Chairman, I rise in support of the amendment. I raised the question of opposition to the amendment in the full Committee on Appropriations yesterday afternoon. I feel that the Senate provision was unwise, and I support the gentleman's amendment. We are both short of fertilizer and subject to high prices for this essential commodity right here in this country.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. MATHIS).

Mr. MATHIS of Georgia. Mr. Chairman, I have an amendment which I would have offered at this point which would have reduced the $85 million authorization down to $1 million. I understand the gentleman from New Mexico (Mr. LUJAN) has a similar amendment. I urge support of his amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman and Members, I totally support the concept of what the amendment that the gentleman from Oklahoma is attempting to do, but I will support the substitute for either $2.50 or $1,000 in order to put an end to limitation on this so that it just is not going to happen.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, we should vote "no" on this amendment. It removes the limit completely. If we pass this amendment, it says that shipments should go back to the last year's level which was much higher.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, the effect of these amendments is to prevent exportation of American fertilizer. In the past I have opposed such restrictions. As a practical matter, however, the President has now put export restrictions on grain and soybean producers. As long as this situation prevails, or the threat thereof, I intend to vigorously oppose the export of fertilizer produced in this country. The Lujan amendment therefore, should be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. The section the gentleman is proposing to eliminate is a restraining amendment. The original budget request for fertilizer for South Vietnam was $120 million and this was reduced to $85 million in the continuing resolution.

The amendment of the gentleman from Oklahoma would remove this ceiling of $85 million. I hope all amendments are voted down on this continuing resolution.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Chairman, I rise in support of this amendment. I would like to ask a question of the gentleman from Louisiana.

I ask the gentleman, Where does the fertilizer actually come from? I know the money comes from the appropriation, but where does the fertilizer come from?

Mr. PASSMAN. Most of it would come from this country but some would come from offshore procurement. Usually the orders are placed in the United States when demand is lowest and now during peak demand periods.

Mr. MYERS. I will support the good intent of this amendment, which is to deny that fertilizer go anywhere. Legally, there may be some question.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I urge rejection of this amendment.

If we want to send more fertilizer to South Vietnam, you vote for the amendment.

If we want to send less, we should vote against it.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. LATTA).

Mr. LATTA. I rise in support of the amendment, even though it is imperfect. I think the Members of the House are further aware a perfecting amendment will be offered of a limitation of not more than a dollar of fertilizer going to South Vietnam. The farmers in this country are now paying threefold what they did last year for fertilizer and they have a difficult time getting it at that price.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Chairman, I trust no one here is laboring under the illusion that this fertilizer will necessarily be procured in the United States. In its present form, let me say that I do not think it will accomplish the well-intended purpose of the author.

The CHAIRMAN. The Chair recognizes the gentleman from New Mexico (Mr. LUJAN).

PERFECTING AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. LUJAN: Page 3, line 4, strike out $85 million and insert $1,000.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from New Mexico (Mr. LUJAN).

The perfecting amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. CAMP).

PARLIAMENTARY INQUIRY

Mr. RANDALL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RANDALL. Mr. Chairman, can we construe this perfecting amendment to be a substitute? Otherwise, the parliamentary situation may be exactly as stated before.

The CHAIRMAN. A substitute is not in order for a motion to strike. A perfecting amendment to the section is in order and the chair so ruled it in order, and a perfecting amendment was offered and agreed to. The question now is on the motion to strike the section, offered by the gentleman from Oklahoma (Mr. CAMP).

PARLIAMENTARY INQUIRY

Mr. QUIE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. QUIE. Mr. Chairman, if a Member wants to have the Lujan amendment in place when we finish, he would vote "no" on the Camp amendment at this time; is that correct?

The CHAIRMAN. The gentleman has stated the situation correctly.

The question is on the amendment offered by the gentleman from Oklahoma (Mr. CAMP).

The amendment was rejected.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GROSS: Page 3, line 12, after the word "Turkey" insert "and Greece," and on page 3, line 14, strike the words "Government of Turkey is," and insert the words "Governments of Turkey and Greece are".

Mr. GROSS. Mr. Chairman, if we are going to deal even-handedly with foreign countries, this is the time to start.

We have heard much this afternoon about the Foreign Assistance Act of 1961, as amended, and the provision in that statute which provides, in part, that no shipments of U.S. military supplies shall be made to a nation which engages in aggression.

What happened in 1967? To that question, there is a strange silence here today, as there has been in previous debate on this subject. When Israel launched its war of aggression against the Arab world in 1967, why was the law not invoked? Israel still holds thousands of square miles of Arab territory.

Again when the Arabs launched a war last year against Israel, the law was not invoked. Why single out Turkey now for special treatment? What is going on here?

It may be said that no U.S. military equipment is presently going to Cyprus from Greece. But Greece could start the supply of arms to the Cypriots tonight if it has not already done so.

Since the United States is the supplier of arms to Greece what do you suppose those 600 Greek officers used when they were sent to the island of Cyprus? Were they bare-handed and expecting to fight the Turks without weapons?

If we are going to deal even-handedly and decently around the world, let us put them all, where they are warring against each other, in the same position. I urge the Members here this afternoon, if they are going to adopt this resolution, to put Greece under the same restraints with Turkey.

Mr. Chairman, I carry no torch for either Turkey or Greece. I do recall it was only a few months ago that many of those who now single out Turkey were highly vocal and bitter in their denunciation of the military dictatorship in Greece. What has happened to those voices?

This whole mess is but one more example of what happens when the United States and its leaders attempt to police and finance the rest of the world. It is one more demonstration that the spending of some $260 billion of our taxpayers' money-on so-called foreign aid has gotten us nothing but trouble.

There is a substantial amount of foreign aid provided in this continuing resolution and for that reason I will vote against it. However, I do urge that out of a sense of fair play and decency you vote for the amendment I have offered.

Mr. MAHON. Mr. Chairman, I move that all debate on the amendment and all amendments thereto close immediately.

The motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GROSS).

The question was taken; and on a division (demanded by Mr. GROSS), there were—ayes 60, noes 83.

RECORDED VOTE

Mr. GROSS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 84, noes 237, not voting 113, as follows:

[Roll No. 621]

AYES—84

Alexander
Arends
Armstrong
Bennett
Bevill
Bowen
Breckinridge
Brinkley
Burleson, Tex.
Byron
Carter
Chappell
Clawson, Del
Cochran
Devine
Dickinson
Duncan
Erlenborn
Fisher
Flowers
Flynt
Gettys
Gibbons
Ginn
Goodling
Green, Oreg.
Gross
Gubser
Guyer
Hamilton
Hechler, W. Va.
Hicks
Hosmer
Ichord
Jones, N.C.
Jones, Tenn.
Kuykendall
Latta
Leggett
Long, Md.
Lott
Lujan
McFall
McKay
McSpadden
Madigan
Mathis, Ga.
Mazzoli
Miller
Montgomery
Nelsen
Nichols
Passman
Pickle
Poage
Price, Tex.
Pritchard
Quie
Rarick
Robison, N.Y.
Runnels
Scherle
Sebelius
Shipley
Shuster
Sisk
Skubitz
Stephens
Stubblefield
Stuckey
Talcott
Teague
Thornton
Waldie
Wampler
Ware
White
Whitten
Wiggins
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wyatt
Young, Ga.
Zwach

NOES—237

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Archer
Ashbrook
Ashley
Badillo
Bafalis
Baker
Barrett
Bauman
Bell
Bergland
Biaggi
Biester
Boggs
Brademas
Bray
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Camp
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clark
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Cronin
Daniel, Dan
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Dennis
Dent
Derwinski
Dingell
Donohue
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Eshleman
Fascell
Foley
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Giaimo
Gilman
Gonzalez
Gray
Green, Pa.
Grover
Gude
Gunter
Haley
Hanley
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Hogan
Holt
Holtzman
Horton
Howard
Hungate
Hunt
Hutchinson
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Kluczynski
Koch
Kyros
Lagomarsino
Lehman
Lent
Luken
McClory
McCloskey
McCormack
McDade
McEwen
McKinney
Macdonald
Madden
Mahon
Mann
Martin, N.C.
Mathias, Calif.
Matsunaga
Meeds
Metcalfe
Mezvinsky
Michel
Milford
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nix
Obey
O'Brien
O'Neill
Parris
Patten
Pepper
Perkins
Pettis
Peyser
Pike
Preyer
Price, Ill.
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Seiberling
Shoup
Shriver
Sikes
Slack
Smith, Iowa
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thompson, N.J.
Towell, Nev.
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Walsh
Whalen
Williams
Wilson, Bob
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ill.
Young, Tex.
Zablocki

NOT VOTING—113

Abdnor
Andrews, N. Dak.
Aspin
Beard
Bingham
Blackburn
Blatnik
Boland
Bolling
Brasco
Breaux
Brooks
Brotzman
Brown, Calif.
Burke, Fla.
Carey, N.Y.
Carney, Ohio
Clancy
Collier
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Culver
Daniel, Robert W., Jr.
Davis, Wis.
Denholm
Diggs
Dorn
Edwards, Ala.
Evans, Colo.
Evins, Tenn.
Findley
Fish
Flood
Fulton
Goldwater
Grasso
Griffiths
Hammerschmidt
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hébert
Hillis
Holifield
Huber
Hudnut
Johnson, Colo.
Jones, Ala.
King
Landgrebe
Landrum
Litton
Long, La.
McCollister
Mallary
Maraziti
Martin, Nebr.
Mayne
Melcher
Mills
Minshall, Ohio
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Moss
O'Hara
Owens
Patman
Podell
Powell, Ohio
Reid
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rousselot
Roy
Ruppe
Ruth
Ryan
Schneebeli
Schroeder
Smith, N.Y.
Snyder
Steed
Steele
Steelman
Steiger, Ariz.
Symms
Taylor, Mo.
Thomson, Wis.
Thone
Tiernan
Udall
Vander Veen
Veysey
Vigorito
Whitehurst
Widnall
Winn
Wolff
Wright
Young, Alaska
Young, S.C.
Zion

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ADAMS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 1163) making further continuing appropriations for the fiscal year 1975, and for other purposes, pursuant to House Resolution 1448, had directed him to report the joint resolution back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the joint resolution as amended do pass.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MAHON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 287, noes 30, not voting 117, as follows:

[Roll No. 622]

AYES—287

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Arends
Armstrong
Ashley
Badillo
Bafalis
Baker
Barrett
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Boggs
Bowen
Brademas
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Daniel, Dan
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Fisher
Flowers
Foley
Ford
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gray

Green, Pa.
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hinshaw
Hogan
Holt
Holtzman
Horton
Howard
Hungate
Hunt
Hutchinson
Ichord
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Kluczynski
Koch
Kyros
Leggett
Lehman
Lent
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mann
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Morgan
Mosher
Murphy, Ill.
Murtha
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Neill
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson, N.J.
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Wilson, Bob
Wilson, Charles H., Calif.
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ill.
Young, Tex.
Zablocki

NOES—30

Archer
Ashbrook
Bauman
Burleson, Tex.
Camp
Collier
Duncan
Fascell
Frelinghuysen
Goodling
Green, Oreg.
Gross
Gubser
Hosmer
Jarman
Kuykendall
Lagomarsino
Latta
Mahon
Myers
Nelsen
Poage
Price, Tex.
Quillen
Rarick
Shuster
Whitten
Wiggins
Williams
Zwach

NOT VOTING—117

Abdnor
Andrews, N. Dak.
Aspin
Beard
Bingham
Blackburn
Blatnik
Boland
Bolling
Brasco
Breaux
Breckinridge
Brooks
Brown, Calif.
Burke, Fla.
Carey, N.Y.
Carney, Ohio
Clancy
Collins, Tex.
Conable
Conlan
Crane
Culver
Daniel, Robert W., Jr.
Davis, Wis.
Denholm
Diggs
Dorn
Edwards, Ala.
Evans, Colo.
Evins, Tenn.
Findley
Fish
Flood
Flynt
Fulton
Gettys
Goldwater
Grasso
Griffiths
Hammerschmidt
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hébert
Henderson
Hillis
Holifield
Huber
Hudnut
Johnson, Colo.
King
Landgrebe
Landrum
Litton
Long, La.
McCollister
Mallary
Maraziti
Martin, Nebr.
Mayne
Melcher
Mills
Minshall, Ohio
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, N.Y.
O'Hara
Owens
Patman
Podell
Powell, Ohio
Reid
Roberts
Roncalio, Wyo.

Roncallo, N.Y.
Rooney, N.Y.
Rousselot
Roy
Ruppe
Ruth
Ryan
Schneebeli
Schroeder
Snyder
Steed
Steele
Steelman
Steiger, Ariz.
Symms
Taylor, Mo.
Thomson, Wis.
Thone
Tiernan
Towell, Nev.
Udall
Vander Veen
Veysey
Vigorito
Whitehurst
Widnall
Wilson, Charles, Tex.
Winn
Wolff
Wright
Young, Alaska
Young, Ga.
Young, S.C.
Zion

So the joint resolution was passed.

The Clerk announced the following pairs:

On this vote:

Mr. McCollister for, with Mr. Landgrebe against.

Mr. Andrews of North Dakota for, with Mr. Rousselot against.

Mr. Widnall for, with Mr. Beard against.

Mr. King for, with Mr. Crane against.

Mr. Maraziti for, with Mr. Conlan against.

Mr. Steele for, with Mr. Symms against.

Until further notice:

Mr. Moss with Mr. Blatnik.

Mr. Flood with Mr. Culver.

Mr. Fulton with Mr. Dorn.

Mr. Boland with Mr. Gettys.

Mr. Mollohan with Mrs. Grasso.

Mr. Carney of Ohio with Mrs. Griffiths.

Mr. Melcher with Mr. Owens.

Mr. Bingham with Mr. Holifield.

Mr. Breaux with Mr. Hanna.

Mr. Brooks with Mr. Tiernan.

Mr. Denholm with Mrs. Hansen of Washington.

Mr. Evins of Tennessee with Mr. Mallary.

Mr. Flynt with Mr. Mills.

Mr. Harrington with Mr. Roy.

Mr. Evans of Colorado with Mr. Blackburn.

Mr. Diggs with Mr. Reid.

Mr. Aspin with Mr. Abdnor.

Mr. Breckinridge with Mr. Clancy.

Mr. Hawkins with Mr. Davis of Wisconsin.

Mr. Hays with Mr. Hansen of Idaho.

Mr. Udall with Mr. Huber.

Mr. Hébert with Mr. Landrum.

Mr. Vigorito with Mr. Martin of Nebraska.

Mr. Henderson with Mr. Minshall of Ohio.

Mr. Roberts with Mr. Powell of Ohio.

Mr. Ryan with Mr. Ruth.

Mrs. Schroeder with Mr. Young of Georgia.

Mr. Steed with Mr. Snyder.

Mr. Wolff with Mr. Steiger of Arizona.

Mr. Patman with Mr. Young of Alaska.

Mr. Moorhead of Pennsylvania with Mr. Zion.

Mr. Wright with Mr. Taylor of Missouri.

Mr. Vander Veen with Mr. Mayne.

Mr. Carey of New York with Mr. Collins of Texas.

Mr. Brown of California with Mr. Robert W. Daniel, Jr.

Mr. Litton with Mr. Goldwater.

Mr. Rooney of New York with Mr. Long of Louisiana.

Mr. Murphy of New York with Mr. Burke of Florida.

Mr. Hastings with Mr. Hammerschmidt.

Mr. Hillis with Mr. Findley.

Mr. O'Hara with Mr. Winn.

Mr. Roncalio of Wyoming with Mr. Young of South Carolina.

Mr. Thomson of Wisconsin with Mr. Ruppe.

Mr. Conable with Mr. Steelman.

Mr. Hanrahan with Mr. Schneebeli.

Mr. Hudnut with Mr. Thone.

Mr. Fish with Mr. Moorhead of California.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUEST FOR CONFERENCE ON H.R. 10701, HIGH SEAS OIL PORT ACT

Mr. HOWARD. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10701), to amend the act of October 27, 1965, relating to public works on rivers and harbors to provide for construction and operation of certain port facilities, with Senate amendments thereto, disagree with the Senate amendments, and request a conference with the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mrs. SULLIVAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PROIDING FOR ESTABLISHMENT OF SEVERAL NEW UNITS OF NATIONAL PARK SYSTEM

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 13157) to provide for the establishment of the Clara Barton National Historic Site, Md.; John Day Fossil Beds National Monument, Oreg.; Knife River Indian Villages National Historic Site, N. Dak.; Springfield Armory National Historic Site, Mass.; Tuskegee Institute National Historic Site, Ala.; and Martin Van Buren National Historic Site, N.Y.; and for other purposes, with Senate amendments thereto and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 1, line 3, strike out "That (a) unless" and insert "Sec. 101. (a) Unless".

Page 4, line 19, strike out "Sec. 2." and insert "Sec. 102."

Page 5, line 17, strike out "Sec. 3." and insert "Sec. 103."

Page 5, line 23, strike out "Sec. 4." and insert "Sec. 104."

Page 6, line 2, after "for" insert "acquisition of lands and interests in lands and for".

Page 6, line 8, strike out "$1,130,000" and insert "$2,268,000".

Page 6, after line 16, insert:

"TITLE II

"Sec. 201. In order to preserve for the benefit and inspiration of the people of the United States as a national historic site, the Sewall-Belmont House within the District of Columbia, the Secretary of the Interior is authorized to enter into a cooperative agreement to assist in the preservation and interpretation of such house.

"Sec. 202. The property subject to cooperative agreement pursuant to section 101 of this Act is hereby designated as the 'Sewall-Belmont House National Historic Site'.

"Sec. 203. The cooperative agreement shall contain, but shall not be limited to, provisions that the Secretary, through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such property and interpreting it to the public, that no changes or alterations shall be made in such property except by mutual agreement between the Secretary and the other parties to such agreement. The agreement may contain specific provisions which outline in detail the extent of the tion, preservation, and maintenance of the participation by the Secretary in the restoration, preservation, and maintenance of the historic site.

"Sec. 204. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not to exceed $500,000."

Amend the title so as to read: "An Act to provide for the establishment of the Clara Barton National Historic Site, Maryland; John Day Fossil Beds National Monument, Oregon; Knife River Indian Villages National Historic Site, North Dakota; Springfield Armory National Historic Site, Massachusetts; Tuskegee Institute National Historic Site, Alabama; Martin Van Buren National Historic Site, New York; and Sewall-Belmont House National Historic Site, Washington, District of Columbia; and for other purposes."

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. TAYLOR of North Carolina. Mr. Speaker, first, the first four amendments are merely changes in form and not changes in substance. The Senate changed the bill into two titles; thus a minor language change and some section numbers were changed.

Second, the fifth amendment permits a portion of the amount authorized to be appropriated for the Clara Barton House National Historic Site to be used to cover land acquisition costs. It is my understanding that the property is to be donated to the United States and that it is to be vacated prior to the acceptance of the donation so that the real property will transfer without being purchased and without the payment of relocation assistance. We are advised, however, that there will be some administrative costs attributable to the land transfer which should be paid from this authorization. For that reason, the Senate made this minor change in the bill.

Third, the sixth Senate amendment increases the authorization ceiling for development at the Knife River Indian Villages National Historic Site from $1,130,000 to $2,268,000. The reason for this increase, we understand, is that the original National Park Service estimates did not contemplate the development of the site as approved by both Houses of the Congress. In order to do the necessary archeological survey and recovery work and to properly develop the entire site for public use and enjoyment, this increase is considered necessary by the National Park Service.

Fourth, the last Senate amendment adds to the bill the Sewall-Belmont House National Historic Site in Washington, D.C. This area was the subject of public hearings by the National Parks and Recreation Subcommittee on August 2, 1974. At that time, support for the recognition of this site was widespread. The subcommittee would probably have recommended its inclusion in H.R. 13157 had it not already been ordered reported to the House. It is contemplated that the site will be administered under a cooperative agreement and that not more than $500,000 will be needed to do any necessary restoration or development work.

The significance of this structure is recognized by the fact that it was designated as a national historic landmark in May of this year. Although portions of the original structure date from before 1800, the greatest significance of the house is its association with the National Woman's Party and the cause of equal rights. The house is still the national headquarters of the party. Addition of the Sewall-Belmont House to the National Park System will provide a location where this aspect of our history can be interpreted in an appropriate setting.

Mr. Speaker, I recommend the adoption of the Senate amendments to H.R. 13157 at this time.

Mr. HOSMER. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from California.

Mr. HOSMER. Mr. Speaker, I concur with the statement of the gentleman from North Carolina (Mr. Taylor) in regard to acceptance of the Senate amendments to H.R. 13157.

Other than some technical changes by the Senate in the House bill, the Senate did make two substantive changes, which I find acceptable. One changes the appropriation authorization for the newly authorized Knife River Indian Villages National Historic Site from $1,130,000, to $2,268,000, as a result of updated cost information. The other substantive change authorizes the establishment of the Sewall-Belmont House National Historic Site, in the District of Columbia. The House Subcommittee on National Parks and Recreation recently held hearings on this proposal, but no further action has been taken. However, I find this Senate amendment to this bill acceptable.

Mr. Speaker, I concur in the acceptance of the Senate amendments to H.R. 13157, and urge the acceptance of the Senate amendments by the House.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR INCREASES IN APPROPRIATION CEILINGS AND BOUNDARY CHANGES IN NATIONAL PARK SYSTEM AND AUTHORIZING APPROPRIATIONS FOR ADDITIONAL COSTS OF LAND ACQUISITION FOR NATIONAL PARK SYSTEM

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 14217) to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes, with Senate amendments thereto and concur in Senate amendments Nos. 1, 2, 3, 4, and 5 and concur in Senate amendment No. 6 with an amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate amendments, as follows:

Page 3, line 17, strike out "and".

Page 3, line 21, strike out "'12,250,000'." and insert "'12,250,000';".

Page 3, after line 21, insert:

"(11) Apostle Islands National Lakeshore, Wisconsin: Section 8 of the Act of September 26, 1970 (84 Stat. 880) is amended by deleting '$4,250,000' and inserting in lieu thereof '$5,250,000';"

Page 3, after line 21, insert:

"(12) Lake Mead National Recreation Area, Arizona and Nevada: Section 10 of the Act of October 8, 1964 (78 Stat. 1039) is amended by deleting '$1,200,000' and inserting in lieu thereof '$7,100,000'; and ".

Page 3, after line 21, insert:

"(13) Sleeping Bear Dunes, Michigan: Section 15 of the Act of October 21, 1970 (84 Stat. 1075) is amended by deleting '$19,800,000' and inserting in lieu thereof '$57,753,000'."

Page 10, after line 5, insert:

"Sec. 406. The Act of March 10, 1966 (80 Stat. 33; 16 U.S.C. 459g) providing for the establishment of Cape Lookout National Seashore in the State of North Carolina is amended as follows:

"(1) Section 1 is amended by deleting 'Proposed Boundaries—Proposed Cape Lookout National Seashore', dated April 1964, and numbered NS-CL-7101-B," and substituting in lieu thereof '"Boundary Map, Cape Lookout National Seashore," dated March 1974, and numbered 623-20,009,' and by changing the colon to a period and deleting the remainder of the section.

"(2) Subsection 2(a) is amended by deleting the third sentence and inserting in lieu thereof the following: 'Lands owned by the State of North Carolina or any political subdivision thereof may be acquired only by donation, but the Secretary may, subject to the provisions of section 7 of this Act, acquire any other non-Federal lands, marshlands, waters, or interests therein which are located within the boundaries of the seashore by donation, purchase with donated or appropriated funds, or exchange. Notwithstanding any other provision of law, the Secretary may accept any lands donated by the State of North Carolina subject to a provision for reversion to the State conditioned upon continued use of the property for national seashore purposes.'.

"(3) Section 3 is amended by revising the first sentence to read as follows: 'When title to lands and interests in lands in an amount sufficient to constitute an efficiently administerable unit for the purposes of this Act is vested in the United States, the Secretary shall declare the establishment of the seashore by publication of notice thereof in the Federal Register.'

"(4) Section 7 is amended to read as follows:

"Sec. 7. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed $7,903,000 for acquisition of lands and interests therein, of which no more than $1,000,000 may be expended for acquisition of lands owned by Core Banks Club Properties, Incorporated. For development of essential public facilities there are authorized to be appropriated not more than $2,935,000. Within three years from the date of the enactment of this Act, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the seashore consistent with the preservation objectives of this Act, indicating:

"'(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

"'(2) the location and estimated cost of all facilities; and

"'(3) the projected need for any additional facilities within the seashore.'."

Mr. TAYLOR of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDMENT OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of North Carolina: Delete all of Senate amendment No. 6 and insert in lieu thereof the following:

Page 10, after line 5, insert:

SEC. 406. The Act of March 10, 1966 (80 Stat. 33; 16 U.S.C. 459g) providing for the establishment of Cape Lookout National Seashore in the State of North Carolina is amended as follows:

(1) Section 1 is amended by deleting " 'Proposed Boundaries—Proposed Cape Lookout National Seashore', dated April 1964, and numbered NS-CL-7101-B," and substituting in lieu thereof " 'Boundary Map, Cape Lookout National Seashore', dated March 1974, and numbered 623-20,000," and by changing the colon to a period and deleting the remainder of the section.

(2) Subsection 2(a) is amended by deleting the third sentence and inserting in lieu thereof the following "Lands owned by the State of North Carolina or any political subdivision thereof may be acquired only by donation, but the Secretary may, subject to the provisions of section 7 of this Act, acquire any other non-Federal lands, marshlands, waters, or interests therein which are located within the boundaries of the seashore by donation, purchase with donated or appropriated funds, or exchange. Notwithstanding any other provision of law, the Secretary may accept any lands donated by the State of North Carolina subject to a provision for reversion to the State conditioned upon continued use of the property for national seashore purposes.".

(3) Section 3 is amended by revising the first sentence to read as follows: "When title to lands and interests in lands in an amount sufficient to constitute an efficiently administerable unit for the purposes of this Act is vested in the United States, the Secretary shall declare the establishment of the seashore by publication of notice thereof in the Federal Register.".

(4) Section 7 is amended to read as follows:

"SEC. 7. On or before January 1, 1978, the Secretary shall review the area within the seashore and shall report to the President, in accordance with section 3(c) and (d) of the Wilderness Act (78 Stat. 891; U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the seashore for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with said subsections of the Wilderness Act."

(5) Add a new Section 8 to read as follows:

"SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed $7,903,000 for acquisition of lands and interests therein, of which no more than $1,000,000 may be expended for acquisition of lands owned by Core Banks Club Properties, Incorporated. For development of essential public facilities there are authorized to be appropriated not more than $2,935,000. On or before January 1, 1978, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the seashore consistent with the preservation objectives of this Act, indicating:

(1) the facilities needed to accommodate the health, safety and recreation needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the seashore."

Mr. TAYLOR of North Carolina. Mr. Speaker, the first two amendments are simply punctuation changes made by the Senate in order to add three additional paragraphs to section 101 of the bill.

The third amendment adds $1,000,000 to the authorization for land acquisition at Apostle Islands National Lakeshore in Wisconsin. The original authorization of $4,250,000 to acquire these islands and shoreline area along southern Lake Superior was based on a land cost estimate made in 1970. Escalation of land values in this area has since made the original figure inadequate. The increase made by the Senate will allow the completion of the land acquisition program in this area.

Senate amendment No. 4 makes an addition of $5,900,000 to the authorization for land acquisition at Lake Mead National Recreation Area in Arizona and Nevada. The existing authorization for this area is $1,200,000. A recent condemnation action on a parcel of some 995 acres within the area has resulted in an award of nearly $2.5 million. This single award exceeds the entire current authorization for Lake Mead. The National Park Service estimates that the additional authorization added by the Senate will be sufficient to complete the acquisition program planned for this area.

Senate amendment No. 5 makes an addition of $37,953,000 in the authorization for land acquisition at Sleeping Bear Dunes National Lakeshore in Michigan. The original authorization for this area was based on the inclusion in the original legislation of zones within the Lakeshore which would not have been acquired in fee. However, the act provided that landowners in these zones could request purchase of these properties if continued ownership would be a hardship for the private owners. This has resulted in numerous requests for purchases being received by the National Park Service. This increase in authorization, then, will allow the Park Service to honor these requests, and allow sufficient funds to be appropriated to fully acquire all remaining private lands within the authorized area.

Senate amendment No. 6 adds language amending the act which authorized the establishment of the Cape Lookout National Seashore in North Carolina. The Senate language is quite similar to legislation which was recently favorably reported by our committee for consideration by this body.

Our amendment to the Senate language makes two changes. One is simply to correct a reference which will direct a master planning study of the area to be completed by the National Park Service within 3 years.

Our other change authorizes a wilderness study of the national seashore to be conducted during this same time. This would allow the Congress to consider this area for possible wilderness designations at a future time.

The remainder of the Senate amendment is identical to the legislation as reported by our committee. The National Park Service would be authorized to accept the State donations of land already purchased, and to proceed with establishment of the area. Acquisition of the additional lands in the national seashore could then proceed. An additional 232 acres of land is also authorized to be added to the area, most of which will be donated by the State. The total authorization for Federal land acquisition in the area is set at $7,903,000, and the development authorization is left unchanged. The amendment in total will allow the establishment and operation of this national seashore after 8 years of waiting while the State land acquisition program in the area has proceeded.

Mr. HOSMER. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from California.

Mr. HOSMER. Mr. Speaker, I concur with the statement of the gentleman from North Carolina (Mr. TAYLOR) in regard to the acceptance of the Senate amendments to H.R. 14217, with House amendments.

The Senate has added to the House bill, appropriation ceiling increases for three areas. They are the Apostle Islands National Lakeshore, Wisconsin, the Lake Mead National Recreation Area, Arizona and Nevada, and the Sleeping Bear Dunes National Lakeshore, Michigan.

Mr. Speaker, I was rather concerned over the amount of authorization increase for the Sleeping Bear Dunes area, but upon the receipt of recent current background information from the National Park Service on these three areas added by the Senate, I can concur with these three Senate amendments. The accompanying table shows House bill authorizations, Senate additions by amendments and totals.

Mr. Speaker, the Senate has also added another amendment to the House bill which would amend the existing law relative to the Cape Lookout National Seashore, North Carolina. The House has been working on this same legislation with the expectation of bringing it to the House floor soon as a separate bill. I concur completely with this Senate amendment, and I also support the House amendment to the Senate amendment which will provide for a wilderness study to be conducted at Cape Lookout.

Mr. Speaker, I urge my colleagues to support the measure before us and to vote for its adoption.

H.R. 14217

	House bill	Senate amendments	Total new
Land acquisition	$37,219,240	$52,488,000	$82,072,240
Development	5,041,000	Same	Same
Study	140,000	Same	Same
Total	42,400,240	52,488,000	94,888,240

NEW MONEY

Apostle Islands, $1,000,000.

Lake Mead, $5,900,000.

Sleeping Bear Dunes, $37,953,000.

Cape Lookout, $7,635,000.

Mr. HOSMER. Mr. Speaker, I thank the gentleman for yielding.

The amendment was agreed to.

The Senate amendments, as amended, were concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING AND DIRECTING THE SERGEANT AT ARMS TO DELIVER THE MACE OF THE HOUSE OF REPRESENTATIVES TO THE SMITHSONIAN INSTITUTION FOR THE PURPOSE OF REPAIR

Mr. O'NEILL. Mr. Speaker, I offer a resolution (H. Res. 1449) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

Resolved, That the Sergeant at Arms of the House of Representatives is authorized and directed, on behalf of the House of Representatives, to deliver the mace of the House of Representatives, following the adjournment of the House, to the Smithsonian Institution only for the purpose of having necessary repairs made to the mace and under such circumstances as will assure that the mace is properly safeguarded: *Provided, however*, That the mace shall be returned to the House of Representatives before 12 o'clock antemeridian on the day before the House reconvenes or at any sooner time when so directed by the Speaker of the House of Representatives.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR THE REMAINDER OF THE DAY

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, there is no further business pending before the House. The continuing appropriations resolution that we just passed has gone to the Senate. There may well be amendments attached to the continuing resolution in the Senate or there may be articles of disagreement involved, for example, on the Greek-Turkish issue.

For that reason, we would ask the Members to stand by. The House will be in recess until approximately an hour from now. During this time, we will talk with the leadership in the other body and determine what the program for the remainder of the day will be.

As far as we are concerned, if the legislation that we have sent over is approved by the Senate, there is no further business to be considered here except the resolution for adjournment to a day certain.

Mr. HUNT. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from New Jersey.

Mr. HUNT. Mr. Speaker, will the gentleman tell us whether or not this 1-hour recess will hold in effect if it is determined in the Senate that the resolution is to come back here? Or is it possible it may come back at an earlier hour? Suppose they finish their consideration of this resolution over there and get through with it in a few minutes?

Mr. O'NEILL. Mr. Speaker, I will inform the gentleman that we will ring the bells 15 minutes before the time the House will be called back in session.

Mr. HUNT. Mr. Speaker, I thank the gentleman.

Mr. O'NEILL. We do anticipate that the House will be called back some time later on.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I was unavoidably out of the Chamber when the gentleman made his announcement.

Did the gentleman say we would be in recess for about an hour?

Mr. O'NEILL. For about an hour, yes.

Mr. GROSS. And then we would come back and perhaps be here the rest of the night?

Mr. O'NEILL. And I really do not know what is going to happen. The matter is before the Senate. Our schedule is clear for the remainder of this afternoon except the resolution for adjournment to a date certain, unless, of course, there is an amendment that is offered in the other body on the continuing appropriation resolution, and we have to have a conference. But other than that, that is the only matter pending at this time.

Mr. GROSS. Could the Member from Massachusetts make the recess a little bit longer than an hour so that I can go home and get my sleeping bag?

Mr. O'NEILL. I see that the gentleman from Iowa is going to be baiting me right down to the last minute, but I love him just the same.

RECESS

The SPEAKER. Pursuant to a previous order of the House, the Chair declares a recess subject to the call of the Chair.

The bells will be rung 15 minutes prior to the reconvening of the House.

Accordingly (at 4 o'clock and 20 minutes p.m.), the House stood in recess subject to the call of the Chair.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a joint and a concurrent resolution of the House of the following titles:

H.J. Res. 1163. Joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes; and

H. Con. Res. 84. Concurrent resolution accepting the gift of the centennial safe and expressing the thanks of the Congress to the late donor, Mrs. Charles F. Deihm, and authorizing its display in the Capitol to create interest in the forthcoming bicentennial.

The message also announced that the Senate having proceeded to reconsider the bill (H.R. 15301) entitled "An act to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes," returned by the President of the United States with his objections to the House of Representatives, in which it originated, it was resolved that the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3355) entitled "An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3007) entitled "An Act to authorize appropriations for the Indian Claims Commission for fiscal year 1975."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 13342. An act to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 6 o'clock and 30 minutes p.m.

AUTHORIZING CLERK TO RECEIVE MESSAGES AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED BY THE TWO HOUSES AND FOUND TRULY ENROLLED

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, November 18, 1974, the clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FURTHER LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, the continuing resolution that passed the House earlier today in the same manner in which it passed the House passed the Senate and consequently it has been sent to the White House. We understand the President of the United States is in Indiana at the time but we do receive notification that he will be back this evening and that he intends to veto the same continuing resolution.

In view of the fact that the continuing resolution will be vetoed later on this evening, the item will be before us tomorrow morning. It has to come to this body first.

HOUR OF MEETING TOMORROW

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 o'clock tomorrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. O'NEILL. Mr. Speaker, I have been asked why we do not make it 10 o'clock, but as we know the President of the United States has been called before the Committee on the Judiciary, the subcommittee chaired by the gentleman from Missouri (Mr. HUNGATE). I understand the President is due to appear there at 10 o'clock tomorrow morning, and if we came in at 10 o'clock it would bar the President from being a witness before that committee, and for that reason I ask that we come in at 11 o'clock.

Mr. GROSS. Mr. Speaker, reserving the right to object, does the President think he will have time to transact his business before the committee in an hour, or will we go into session at 11 o'clock and perhaps sit and wait for an hour or two?

Mr. O'NEILL. I would presume, if the gentleman would yield, that when we come into session at 11 o'clock the veto would immediately be before us and we would act on the veto, and subject to the action of the House, if we were to override, then the measure will go to the Senate. If not, if the President's veto is sustained, then the Appropriations Committee would have to go to the Rules Committee to bring up the matter again.

Mr. GROSS. Mr. Speaker, may I ask the distinguished majority leader if that will be the only business?

Mr. O'NEILL. That is the only business that is scheduled.

There is no further scheduling of business before the House except the resolution, of course, which will be before the House to adjourn to a day in November.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. DENNIS. Mr. Speaker, reserving the right to object, I happen to be a member of the subcommittee to which the majority leader refers. I do not happen to see either my chairman or the ranking minority member on the floor. I have no desire to delay anything around here and while I do not think the President will be there very long, I rather seriously doubt that we will be through by 11 o'clock, and I do want to vote on this matter when it comes before the House and I imagine other members of the subcommittee do.

I must say that I have some reservations about going in at 11 o'clock under those circumstances.

Mr. O'NEILL. In view of the fact that there are so many Members caught in the heat of the campaign and anxious to get home and have made reservations, having anticipated we were going to get through today, the circumstances are such that I have been asked by the great majority to make it 11 o'clock.

I do not see the gentleman from Missouri (Mr. HUNGATE) or the gentleman from New Jersey (Mr. RODINO) here; but I do not think there would be any objection if it is in order for the gentleman to ask unanimous consent for the committee to meet while we are in session.

Mr. DENNIS. Pardon me. I did not hear the gentleman.

Mr. O'NEILL. Well, I understand it is not in order.

Mr. DENNIS. May I ask the distinguished leader this? I do not think we are complicating this very far. Does the gentleman feel that the business of the House could be transacted if he perhaps made his unanimous-consent request for 11:30, instead of 11?

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11:30 a.m. on tomorrow.

Mr. DENNIS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR SPEAKER TO DECLARE RECESSES ON THURSDAY, OCTOBER 17, 1974

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that it be in order for the Speaker to declare recesses on Thursday, October 17, 1974, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

POLLUTION CONTROL ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HEINZ) is recognized for 10 minutes.

Mr. HEINZ. Mr. Speaker, today I am introducing my bill, the Pollution Control Act of 1974. The bill amends the Internal Revenue Code provisions relating to amortization of pollution-control facilities.

Evidence continues to mount of the pressing need to intensify our environmental cleanup drive. No one can deny any longer the critical danger to the public health posed by photochemical smog resulting from automobile pollution. But we are only now beginning to fully comprehend the deadly threat to people caused by industrial pollution, particularly sulfates, sulfur dioxides, and fine particulate matter. There is, therefore, no turning our backs on the Nation's commitment to a clean environment.

There also can be no denying the increasing difficulty American industry is experiencing in generating the huge capital funds necessary not only to fight pollution, but to build new inflation-curbing capacity as well. In 1969, Congress enacted the present law allowing 5-year amortization of pollution control expenditures. It was adopted as encouragement for business and industry to make the expenditures necessary to meet strict pollution control regulations. Congress did so, not only because it recognized the urgent need to protect and enhance the environment and guard the public health, but also because Congress fully realized that these necessarily tough regulations would generate tremendous, new demands for investment capital.

The 5-year amortization period, therefore, was intended as a device to encourage environmental clean-up while easing the heavy financial drain caused by that cleanup. Unfortunately, however, that congressional intent is not being carried out. At present, few if any businesses are claiming the 5-year pollution control amortization because in order to use that option, other more beneficial tax provisions—such as the 7 percent investment tax credit and accelerated depreciation range—must be set aside. Moreover, since the useful life of many pollution abatement facilities is rather short, and much uncertainty and delay is usually involved in certifying equipment for amortization, many corporations simply do not bother with special amortization. Rather they choose to depreciate these pollution control facilities on the same basis as other assets. The present law, therefore, pays mere lipservice to cleaning up the environment.

Mr. Speaker, my bill would assure realization of the original intent of Congress when we enact the special amortization provisions for pollution control expenditures. In brief summary, the bill would:

First, provide for amortization of pollution control expenditures over 3 years rather than 5 years;

Second, allow these expenditures to be eligible for both the pollution control facility amortization provision and the 7-percent investment tax credit;

Third, permit amortization to begin when pollution control expenditures are made rather than awaiting the actual commencement of operations by the facility; and

Fourth, allow amortization of certified

pollution treatment facilities used in connection with a plant or other property in operation before January 1, 1974—not January 1, 1969, as in present law.

Mr. Speaker, at a time of tight credit and rising prices, it is financially unrealistic and further inflationary to expect industry to make the needed but vast investments in pollution abatement equipment. If we want to protect people's health—and we must—we will have to change the present 5-year-old pollution control tax writeoff which actually penalizes those working to conform with the law. We can do this without weakening our environmental standards.

At the present time, the Ways and Means Committee is considering a comprehensive tax package. I sincerely hope that the Ways and Means Committee will consider my proposal for inclusion in this tax reform package.

Mr. Speaker, I include the text of my bill at this point in the Record:

H.R. 17396

A bill to amend the Internal Revenue Code of 1954 to extend and liberalize the amortization provisions for pollution control facilities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Pollution Control Act of 1974."

"Sec. 2 (a) Section 169 of the Internal Revenue Code of 1954 (relating to amortization of pollution control facilities) is amended to read as follows:

"Sec. 169. Amortization of Pollution Control Expenditures

"(a) Allowance of Deduction.—At the election of the taxpayer, made in accordance with regulations prescribed by the Secretary or his delegate, any certified pollution control expenditure (as defined in subsection (b)(1)) paid or incurred within the taxable year shall be allowable as a deduction ratably over a period of 36 months beginning—

"(1) with the first month of the following taxable year, or

"(2) if the new identifiable treatment facility with respect to which such expenditure has been paid or incurred has been placed in service by the taxpayer before the end of the taxable year, with the month following the month in which such facility is placed in service.

The deduction provided by this section with respect to any such expenditure shall be in lieu of any depreciation deduction otherwise allowable on account of such expenditure.

"(b) Definitions.—For purposes of this section—

"(1) Certified pollution control expenditure.—The term 'certified pollution control expenditure' means any amount paid or incurred by the taxpayer before January 1, 1980, for the construction, reconstruction, erection, or acquisition of a new identifiable treatment facility which is used in connection with a plant or other property in operation before January 1, 1974, to abate or control water or atmospheric pollution or contaminants by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat if—

"(A) the State certifying authority having jurisdiction with respect to such facility has certified to the Federal certifying authority that the construction, reconstruction, erection, or acquisition of such facility is in conformity with the State program or requirements for abatement or control of water or atmospheric pollution or contamination; and

"(B) the Federal certifying authority has certified to the Secretary or his delegate that the construction, reconstruction, erection, or acquisition of such facility (i) is in compliance with the applicable regulations of Federal agencies and (ii) is in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

"(2) State certifying authority.—The term 'State certifying authority' means, in the case of water pollution, the State water pollution control agency as defined in section 13(a) of the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in section 302(b) of the Clean Air Act. The term 'State certifying authority' includes any interstate agency authorized to act in place of a certifying authority of the State.

"(3) Federal certifying authority.—The term 'Federal certifying authority' means, in the case of water pollution, the Secretary of the Interior and, in the case of air pollution, the Secretary of Health, Education, and Welfare.

"(4) New identifiable treatment facility.—The term 'new identifiable treatment facility' includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in section 167, which is identifiable as a treatment facility, and which is property—

"(A) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1974, or

"(B) which is acquired after December 31, 1974, if the original use of the property commences with the taxpayer after such date.

"(c) Profitmaking Abatement Works, Etc.—The Federal certifying authority shall not certify the construction, reconstruction, erection, or acquisition of any new identifiable treatment facility under subsection (b)(1)(B) to the extent it appears that, by reason of profits derived through the recovery of wastes or otherwise in the operation of such facility, its costs will be recovered over its actual useful life.

"(d) Life Tenant and Remainderman.—In the case of property held by one person for life with the remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(e) Cross Reference.—

"For special rule with respect to gain derived from sale or exchange of property the adjusted basis of which is determined with regard to this section, see section 1245.".

(b) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 169 and inserting in lieu thereof the following:

"Sec. 169. Amortization of pollution control expenditures.".

(c) Paragraph (4) of section 57(a) of such Code (relating to items of tax preference) is amended—

(1) by striking out "pollution control facilities" in the heading and inserting in lieu thereof "pollution control expenditures"; and

(2) by striking out "pollution control facility" in the body and inserting in lieu thereof "pollution control expenditure".

(d) The amendments made by this section shall apply with respect to amounts paid or incurred after December 31, 1974, in taxable years ending after such date.

Sec. 3. (a) Paragraph (8) of section 48(a) of such Code (relating to amortized property) is amended to read as follows:

"(8) Amortized property.—Any property with respect to which an election under section 167(k), 184, 187, or 188 applies shall not be treated as section 38 property.".

(b) The amendment made by subsection (a) shall apply to property which is acquired by the taxpayer after December 31, 1974, or the construction, reconstruction, or erection of which is completed by the taxpayer after such date. If the construction, reconstruction, or erection of such property is begun on or before December 31, 1974, the amendment made by subsection (a) shall only apply with respect to that portion of the basis which is properly attributable to construction, reconstruction, or erection after such date.

THE LATE GERARD J. ADAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDade) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, I was saddened immeasurably to learn of the death of Mr. Gerard J. Adams last Sunday.

Rod was my friend.

He was the sort of friend who made you relaxed and comfortable when he was around. You knew when you saw him that you were going to feel better for the rest of the day, and you knew it would come from his effortless geniality. I shall miss him sorely.

He was a sportsman, and an outstanding sportsman, in a State where sportsmen are abundant. He knew that there was more genuine living in the woods or by the side of a stream than you could ever find in the cities of America. And so he worked to found sportsmen's clubs wherever he could, to help open up this wonderful world of healthy recreation to many others. Every sportsman who ever knew Rod Adams will feel a deep personal loss at his death.

Rod had a life that was varied indeed. At one time he operated a chain of theaters in Wayne and Susquehanna Counties. Later he worked for the Pennsylvania Turnpike Commission. Still later he served on the nine-member Pennsylvania Fish Commission.

I extend my deepest sympathy to his bereaved wife, Mildred, and to his children, Gerard, Jr., Mrs. George Murphy, and Mrs. James Cartwright. In this difficult time, it is my hope that they will be consoled by the thought that Rod was a man much loved by so many people. He did not live a life that was meaningless. He has left indelible memories for all who knew him as I knew him. He was a good man.

COUNCIL ON ENVIRONMENTAL QUALITY CALLS FOR HALT TO NEW CONSTRUCTION ON NORTH DAKOTA IRRIGATION PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Vanik) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, in 1965, the Congress authorized the construction of the "Garrison Diversion Unit" Bureau of Reclamation project in North Dakota. The project is a disaster. It was originally planned to cost $212 million. It is now expected to cost over $400 million. The project has been opposed for environmental reasons by EPA, the Council on Environmental Quality, and even by agencies within the Interior Department. The Canadian Government has consistently and strenuously objected to the project because it will degrade the quality of a major river flowing into Canada. The State Department has indicated its concern to the Interior Department about the impact of the Garrison Diversion Unit on Canadian-American relations. The project clearly violates the Canadian-American Boundary Waters Treaty of 1909.

It now appears that the project is encountering massive new cost overruns and engineering problems. On August 5, I wrote to the Bureau of Reclamation expressing concern about erosion or canal bank slumping problems plaguing the Garrison project. I requested the Bureau to halt construction until they determined what was causing the engineering failures.

On September 5, the Bureau replied, blaming the weather, reporting that repair work on nine slides along 2,300 feet of canal would cost $250,000 and that preventive action would be taken on other areas of the canal at an estimated cost of $500,000.

Since then, there has been another massive slump along 1,200 feet of deep cut. From aerial photographs, it would certainly seem that the cost of repairing this slump will be over $100,000.

Mr. Speaker, the C–5A and F–111 had cost overruns—but at least these planes fly. The Garrison Diversion Unit Canal is a giant cost overrun—and it does not even carry water.

At last, other agencies of the Government are becoming more critical of the Garrison project. As a result of the latest engineering fiasco, the Council on Environmental Quality has asked the Secretary of the Interior to "delay any new construction activity" until the many questions about Garrison are answered.

In a letter to Secretary Rogers Morton on October 9, the Chairman of the CEQ, Russell Peterson, points out that past letters from Federal agencies, Members of Congress, and the public have raised serious questions about future water quality, current wildlife migration measures, and environmental implications of the canal construction phase of this project.

The slumps have raised additional questions: One fundamental question is whether the design ratio of 2:1 for the McClusky Canal slopes will adequately achieve safe and additional design changes.

Obviously, the cost-benefit ratio of the Garrison project is being significantly and disastrously altered by the canal bank engineering failures. I personally do not believe that the true benefits of this project have ever exceeded its true costs. The recent slumps have simply added to the dimensions of this North Plains economic and environmental disaster.

In his letter Chairman Peterson also asked Secretary Morton—

First. What the volume of slumping has been;

Second. What additional land surface will be required to prevent future slumps;

Third. What these alterations will cost; and

Fourth. Whether the slumping indicates that aquifers have been cut, thus creating environmental problems in the surrounding areas.

Mr. Speaker, the CEQ is to be commended for its efforts to protect the environment and halt this project. Equal to the environmental waste caused by this project is the economic waste. I urge the Office of Management and Budget to protect the taxpayers from further construction contracts on the Garrison project.

Proceeding with this project makes as much sense as building a pyramid. It will be a monument to folly and bureaucratic inertia—to a system of water programs that once made sense in a few selected areas but which makes no sense in the Garrison Diversion Unit.

Following are the letters of August 5, September 5, and October 9 relating to the erosion and canal bank problems on the Garrison project:

August 5, 1974.

Hon. Gilbert G. Stamm,
Commissioner Bureau of Reclamation, Interior Building, Washington, D.C.

Dear Mr. Stamm: Recently, several newspapers have reported major erosion problems and slope collapse along portions of the newly constructed McClusky Canal in the Garrison Diversion Unit project. Since there is almost no water velocity through this canal at the present time, and since the canal has just been constructed, I am concerned as to the reasons for these major structural failures. The canal has been projected to last for decades—but it already is in need of repair and maintenance. It would seem to me that the canal's problems may well increase as the velocity of water flowing through the canal increases.

I urge the Bureau to call an immediate halt to further construction on the McClusky Canal until such time as the reasons for the current soil failures can be determined and corrected.

Could your office please provide me with an estimate of the number of miles adversely affected by soil failure, the estimated cost of repairing these portions of the canal, and the estimated cost of preventing such slope failures in the future.

Thank you for your immediate attention to this issue.

Sincerely yours,

Charles A. Vanik,
Member of Congress.

Bureau of Reclamation,
Washington, D.C. September 5, 1974.

Hon. Charles A. Vanik,
House of Representatives,
Washington, D.C.

Dear Mr. Vanik: This is in further response to your letter of August 5, 1974, which requested information on the slope problems on McClusky Canal, Garrison Diversion Unit, North Dakota.

McClusky Canal will be 76 miles long when completed. For construction purposes, it is divided into eight sections called reaches. Construction has been completed or is well underway on six of the eight reaches or approximately 87 percent of the total canal length. Bids were opened recently on a seventh reach.

Slope problems are not unusual during and immediately following construction of the type involved on McClusky Canal. The publicized slope problems encountered on McClusky Canal are considered both normal and temporary and should not result in unusual problems during operation of the canal.

Nine slides involving about 2,300 linear feet of canal bank have occurred to date affecting about 0.3 percent of the total canal length. The estimated cost of repairing the slope failures is $250,000.

The major slope problems were caused by conditions beyond the control of the Government or the construction contractor and not due to operation of the canal. Grass seeding done during the 1973 season did not germinate well because of inadequate moisture. This was followed by unusually heavy early spring rains in 1974 before the frost was completely out of the ground. These conditions caused excessive runoff in some areas and a buildup of hydrostatic pressure in other areas. Thus, the primary factors contributing to the slope problems were the lack of vegetation on the canal slopes followed by unusually wet conditions.

As a means of reducing or preventing additional slope failures, we are flattening existing canal slopes in those areas with apparent stability problems. Also, in those areas where seepage has developed, horizontal drilling to relieve any hydrostatic pressure has been initiated. This entails placing a plastic perforated pipe in the side slope to insure that ground water that might endanger bank stability is drained into the canal. The slope flattening and drain installation will cost approximately $500,000.

New specifications prepared for the last two reaches of the canal require the contractors to provide an additional berm on the side slopes for those portions of the canal located in deep cut. The specifications also require the contractors to make horizontal depressions (terracing) along the slopes to reduce the velocity of runoff which, in turn, would reduce the possibility of slope problems which may occur prior to establishing vegetative cover.

Filling the canal to the normal operating water surface will decrease the amount of canal bank exposed and, hence, reduce the possibility of slope problems occurring. The low velocity (approximately 1 foot per second) of the water in the canal when put into operation will not cause slope problems.

Please advise us if you should need additional information regarding this matter.

Sincerely yours,

E. F. Sullivan,
Acting Commissioner.

Council on Environmental Quality,
Washington, D.C., October 9, 1974.

Hon. Rogers C. B. Morton,
Secretary of the Interior,
Washington, D.C.

Dear Rog: The Council on Environmental Quality has maintained a continuous interest and concern about the large-scale environmental impacts of the Garrison Diversion Project of the Bureau of Reclamation. In the last several months we have received considerable correspondence from other Federal agencies, members of Congress, and the public regarding this project. In particular, these letters have raised serious questions about future water quality, current wildlife mitigation measures, and environmental implications of the canal construction phase of this project.

Most recently our attention has been called to incidents of soil erosion and repeated slumping of the banks along the

McClusky Canal. The enclosed photographs display one such event. A letter from Acting Commissioner Sullivan to Congressman Vanik on September 5, 1974 indicates that nine slides or slumps had occurred along the canal up to that time. Therefore, the slump of 19 September, on Reach 2, is apparently the tenth episode of its kind since canal construction began.

Given the generally favorable weather and soil conditions in this area such an extensive accident at this time of year evokes several environmental questions. One fundamental question is whether the design ratio of 2:1 for the McClusky Canal slopes will adequately achieve safe and reliable operation of the project without extensive additional design changes and their associated environmental effects.

In addition, a number of specific questions about this problem also arise which we believe should be answered.

1. What has been the full extent of slumping and erosion along the presently excavated portions of the McClusky Canal, measured in terms of soil volume as well as linear feet along the canal?

2. What, if any, additional land surface will be required by the project to repair these damages and to prevent their occurrence in the future?

3. What will be the cost of these actions? Is this money presently included in the project authorization and allocations and is it accounted for in the environmental impact statement?

4. Does the repeated slumping experienced to date indicate disruption of, or seepage from, existing aquifers being transected by the canal excavation, the effects of which have not previously been described in the environmental impact statement?

Because of these new environmental problems and the previously stated objections which EPA transmitted to the Council regarding water quality impacts of irrigation return flows and wildlife mitigation measures, we recommend that the Bureau delay any new construction activity until it has conducted an adequate assessment and explanation of these issues and until this information is submitted to the public and all Federal agencies as a supplement to the final environmental impact statement on the Garrison Project.

Sincerely,

RUSSELL W. PETERSON,
Chairman.

ATTACKING INFLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 5 minutes.

Mr. BINGHAM. Mr. Speaker, President Ford's October 8 address to the Congress on the Nation's economy laid out his diagnosis of our economic ills and a program to nurse our inflation-wracked economy back to good health. I would like to respond to some of the details of the President's proposals. The following comments are grouped in roughly the same categories which the President used in his address.

FOOD AND FUEL

Food and fuel are the two sectors of the economy most responsible for our present rate of inflation. Grocery shopping has become a daytime nightmare for all Americans. President Ford's economic advisers predict that food prices will increase another 10 percent in the next 18 months. To say the least, it is an intolerable strain on the already tight budgets of American households.

Mr. Ford has urged the Congress to remove acreage restrictions on the production of peanuts, cotton, and rice. I have supported the removal of all such artificial limits on agricultural production such as acreage restrictions for many years and artificial price supports, and I welcome these further steps. But the archaic system of Government interference in the farm sector, which cost the consumer $3.5 billion last year in payments to farmers for not growing crops, amounts to an intolerable economic burden on the consumer, and is a governmental inflation producer.

WORLD FOOD PROBLEM

The President also mentioned that there is a critical worldwide food shortage. The global nutrition predicament is caused by crop failures, drought, natural disasters, poor reserve planning, a burgeoning world population, and keener competition by emerging countries for available food exports. We are the world's No. 1 food exporter, and have traditionally assumed a major responsibility to prevent starvation in the rest of the world. But now, we must be mindful of the effect large export shipments have on domestic prices. When America held vast surpluses of food, it was easy to satisfy foreign demand without serious disruption of the domestic market. We no longer affect the domestic supply and cost of such items. Viewed in this light, President Ford's request for authority to ship food under the Food for Peace program regardless of the effect on domestic supply and demand must be given close scrutiny.

The President has instituted voluntary export controls as a solution to this problem, but I doubt whether a voluntary program will work—past experience with export controls suggests that mandatory controls may be necessary. Export controls, however, can have serious international repercussions since our trading partners may be inclined to retaliate.

The only solution to the world's food shortage lies in increasing the capability of countries which import large amounts of food to produce more themselves. This means that in addition to assisting them with advanced agricultural technologies and fertilizer, we must encourage those countries to establish and strengthen local institutions that contribute to increased small farm production, including distribution networks for supplies, technical assistance, credit-granting institutions, and market access. The 1975 foreign aid bill, just reported to the full House by the Foreign Affairs Committee on which I serve, contains authorization for a $470 million investment in increased food production overseas, so that foreign demand won't continue to drive up American prices in the years ahead.

CONTROLS STILL NEEDED

President Ford has again promised the business community that he will not impose wage and price controls. I believe this to be a serious error. Most businesses have already raised prices in anticipation of the next freeze. Rightly, organized labor is not only trying to keep workers' wages on a par with these price increases, but is also trying to catch up for wages lost at the hands of Richard Nixon's maladministered wage-price program.

In April of 1974, I proposed a new approach to economic controls. That approach, which I believe is still viable today, would: First, set inflation and unemployment targets—I felt 4 percent in 1975 would be acceptable; second, create a new independent Economic Stabilization Administration to administer the controls program; third, impose price controls where needed to meet the targets; fourth, only allow the imposition of wage controls as a last resort; fifth, control interest rates and rents, when inflationary; and sixth, have Congress exercise oversight over the controls program to prevent the kind of special interest treatment big business received from the Nixon administration.

ENERGY AND ENVIRONMENT

The President has called for a renewed effort to conserve energy—and I support that effort. But, as with most of the President's recommendations, they consist mainly of sweeping generalizations with little substance.

In his speech to the Congress, Mr. Ford said he supported strip mining legislation that would enable the United States to use its vast coal reserves without irrevocably destroying the usefulness of the land's surface. Such legislation emerged from the Interior Committee on which I served earlier this year, passed the House, and is now in a House-Senate conference committee. If the President really means to support environmentally sound strip mining legislation, I hope his commitment to this legislation will lead him to sign it and not veto it.

CLEAN AIR

Another proposal laid before the Congress concerns easing the standards set by the Clean Air Act. Just recently, the Congress did pass legislation to allow automakers extra time to comply with emission standards, and allow utilities to convert to and burn coal which under normal circumstances would be a violation of the Clean Air Act. Any further erosion of the Clean Air Act must be opposed except as a last resort—especially in areas like New York City which already have severe air quality problems—because it would constitute a serious national health hazard.

NATURAL GAS DEREGULATION

The price of natural gas has skyrocketed, even under FPC control, in the last 3 years. Now, the administration wants to deregulate natural gas to provide industry with an incentive to produce more. In my view, such deregulation would substantially contribute to inflation as consumers tried to outbid each other for supplies. Without doubt, FPC control of interstate gas sales has saved the consumer billions of dollars. Rather than free the price of gas to rise with demand inflated by panic buying, I believe we must do two things: we must, first, prevent suppliers from withholding natural gas from the market because this exacerbates any shortage situation; and second, extend natural gas regulation to the now unregulated intrastate natural gas market, to force more producers to sell more of their gas to the interstate market.

COAL RESEARCH AND DEVELOPMENT

Mr. Ford spoke of legislation to require the use of cleaner coal processes to expand available energy supplies. He put special emphasis on coal gasification—and this may well be one of the most promising energy technologies to meet U.S. energy needs 10 years from now.

The Interior Committee has already produced landmark legislation to begin a crash nonnuclear energy research and development program. I was a cosponsor of that bill, and have been named to the House conference committee which will meet with the Senate to work out the remaining differences between the House and Senate versions of the bill. H.R. 13565 would require the Government to engage in nonnuclear R. & D. that would produce reliable, economical, and environmentally acceptable energy from sources such as oil shale, solar energy, geothermal, and fusion energy—from the ocean—coal gasification and liquefaction. The bill would also call for R. & D. to improve energy conservation technologies, including productive use of waste materials; and improve energy use technologies to reduce waste.

Almost all of the energy R. & D. this legislation will support involves sophisticated precombustion or combustion technologies that are still several years away. Unfortunately, the President failed to include in his program the one proven technology that would enable us now to increase our use of coal in its natural state and without further degrading our air. Stack scrubbers, which chemically clean coal smoke of dangerous sulfur oxides and particulates, are, according to the EPA and my own research, now capable of commercial application to meet air quality standards. I urge the President to lend his full support to getting industry to install scrubbers so we can burn more coal—cleanly—until more sophisticated energy systems become available.

COAL ALLOCATION

Although the President mentioned his intention to allocate fuel, the sad fact is that he presently has, at best, quite dubious authority to control the distribution of coal in the event of a coal strike, which is generally considered to be likely. A strike would have a highly inflationary impact on coal prices, besides causing critical shortages at utilities, in industry, and in the retail market. Although the Federal Government must not interfere with the contract negotiations, I believe allocation and price controls will be absolutely necessary to protect the public and the economy if a strike occurs, and I have introduced legislation to grant such authority to the FEA, with guidelines for its application.

CARS AND MASS TRANSIT

One of the more disappointing aspects of the President's anti-inflation program was mass transit. Not a word about operating subsidies to hold the line on New York City's anti-inflationary 35-cent fare; not a word about the inflationary impact of allowing existing mass transit facilities to deteriorate; and not a word about encouraging more localities to build and operate mass transit services to get people out of their cars. The President's proposal to cajole or require the auto industry to increase Federal Energy Administration gas mileage by 40 percent over the next 5 years is wishful thinking with little force behind it. The Federal Energy Administration does not think the auto industry can improve auto fuel economy by even 20 percent in the next 6 years. I have sponsored several bills to increase mass transit use through a tax incentive for commuters, and a sliding tax on cars that increases as mileage efficiency decreases. I also intend to continue my 10-year fight for operating subsidies for New York's subway and bus systems.

NUCLEAR ENERGY

I have sought since 1969 to separate the licensing and promotional functions of the Atomic Energy Commission so that nuclear safety would not be sacrificed in the name of nuclear advancement. I was most pleased to see my suggestion become part of the energy R. & D. program the Congress has enacted. I have never opposed nuclear power—I have always opposed hasty Government action in the nuclear field and inadequate concern for nuclear safety because of the catastrophic consequences of any nuclear accident. If the leadtime necessary to bring a nuclear plant on line can be reduced from 9 or 10 years to 5, 7, or 8, I would favor such action, but only after being convinced that all necessary safety regulations and environmental standards can be met.

OUTER CONTINENTAL SHELF

We now face the prospect of the Government leasing 10 million acres of the Outer Continental Shelf, OCS, to the oil companies annually. This is five times the 2 million acres now under lease. The prospect of "big oil" controlling so much of the public's land and the effect on the consumers' wallet and our coastal and marine environment deeply disturbs me. Again, the President's program is shallow—it fails to measure the impact such a leasing program would have. I have been studying the whole OCS problem for many months now and have recently introduced a comprehensive reform of the OCS oil and gas leasing program to allow for increased leasing in a manner which would protect the public interest.

RESTRICTIVE PRACTICES

The President has promised to eliminate restrictive practices—governmental and private—that contribute to inflation. Many laws and regulations do contribute to hidden price increases for you and me. I support the President in this, but with an important caveat: if he was referring to agencies that protect the consumer from dangerous products and deceptive trade practices—Food and Drug Administration, Federal Trade Commission, Consumer Product Safety Commission—I will never support a move to restrict their authority. On the other hand, if Mr. Ford meant those bureaucracies which protect industry from the competitive marketplace and contribute to artificial price levels, then he can count on my help. For example, earlier this year an amendment I offered to the Northeast Rail Reorganization Act was enacted into law to force the Interstate Commerce Commission, ICC, to eliminate rate discrimination against recyclable and recycled commodities. This archaic ICC practice not only inflated transportation charges for many commodities, but also discouraged industry from recycling products for reuse which would contribute to increased supplies.

BIG BUSINESS BONUSES

For the most part, the business community would get what it wants under the President's economic proposals—an increase in the investment tax credit—if you spend $10 on capital equipment you can deduct $1 from your tax bill—liberalized capital gains tax treatment to encourage wealthier taxpayers to invest in business enterprises; and a deduction for certain types of dividends paid to shareholders. Each of these proposals is designed to increase capital investment in our productive capacity so that more goods will drive down prices. An increase in the investment tax credit, if it will expand production, is worth exploring, but the danger is that it will mean windfall profits for businesses without affecting their investment decisions.

BREAKS FOR THE AVERAGE TAXPAYER

The President did not propose any tax help for the average American. The working wage earner will bear the brunt of the fight against inflation if the President's proposals survive congressional scrutiny. In general, he would have the Congress impose a 5-percent surcharge on 1975 income. For a single person, all income above $7,500 would be affected; for a family, all income above $15,000. The tax surcharge would reap an extra $1 billion in 1975—about the amount the administration plans to give business through tax breaks.

The tax surcharge, as proposed, is an unconscionable burden on the American workingman. I propose, and will be introducing a bill to this effect immediately after the recess, that those who earn the most should pay the most. My bill would impose a tax surcharge on all income above $25,000. As income increases, the percentage of surcharge tax levied would also increase.

A tax surcharge is a temporary and unsatisfactory manner of raising revenue to finance Federal anti-inflation programs. Wholesale reform of the U.S. Federal tax structure has been urgently needed for years. Until such reform has been completed and tax loopholes closed, surcharges only increase present inequities. In January 1973, I joined with Representative HENRY REUSS to sponsor H.R. 967, the Tax Reform Act of 1973. Its major features are:

Reduce or eliminate capital gains tax shelters for corporations and individuals;

Tighten taxation of large estate and gift transfers, and on foreign corporations;

Eliminate oil tax breaks; and

Increase minimum income tax for the very wealthy. I hope the 93d Congress can take action on this legislation.

HELP FOR THE VICTIMS OF INFLATION

While meaningful tax reform would go a long way toward easing the burden of the poor, the elderly, and the middle class wage earner during this period of heightened inflation, more direct Government assistance is an essential ingredient to prevent our Nation's unemployment problem from pushing us into a grave recession. Unfortunately, the President's program for dealing with aggravated unemployment presents a Catch-22 problem. Unemployment is now running about 5.8 percent of the total work force. Should unemployment rise to 6 percent—putting another 400,000 out of work—the President proposes a Community Improvement Corporation, CIC, which would create 70,000 jobs. Why wait? If 5 million Americans are now out of work, why wait until there are 5½ million Americans out of work before providing public service jobs? The CIC program is also biased against youths and other new entrants in the labor market—two groups whose level of employment is closely tied to the state of the economy.

The CIC is even more restrictive in its coverage than the Comprehensive Employment and Training Act (CETA) passed by the Congress in 1973. But only recently has President Ford released the $1 billion appropriated by Congress for this program impounded by Richard Nixon. I supported CETA and I fought Nixon's impoundment of the funds, and I shall continue to advocate a broad, inclusive, and fair emergency unemployment program whose emphasis is on the retraining of displaced workers to enable them to successfully reenter the job market.

In addressing the President's proposal to cut the Federal budget, two questions are paramount: What programs are to be cut, and how much effect on inflation can such cuts make? We have seen these proposals before, and the reductions have usually come from social welfare and social services programs—programs which are able to bring direct aid to those hardest hit by our present economic crisis: The elderly, pensioners, the disabled, and the disadvantaged.

I do not agree with those economic conservatives who argue that by cutting Federal spending we can get a grip on inflation. Numerous studies have concluded that a $5 billion cut in Federal spending would shave only 0.1 percent or less off of the rate of inflation. I am willing to go along with Mr. Ford's request to pare the Federal budget—but only where there is fat. I cannot state strongly enough that I will not meekly stand by if the White House attempts to dismantle Federal social programs. Approximately one-third of the Federal budget is related to defense spending, and if we are going to start trimming some fat, let us start with the obese Pentagon budget.

DO HEW'S TITLE IX REGULATIONS LEGISLATE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

Mr. ALEXANDER. Mr. Speaker, I have become increasingly concerned in the past few weeks over reactions I have received from educators regarding proposed HEW guidelines under title IX of the Education Amendments of 1972.

I would like to share with my colleagues a letter and resolution from the president of a private university in Arkansas who feels his institution will be significantly affected by such guidelines.

As does Dr. Grant, I wonder if such intense Federal involvement in the minute details of administration of our Nation's educational institutions is necessary or warranted:

OUACHITA BAPTIST UNIVERSITY,
Arkadelphia, Ark., October 7, 1974.

Hon. BILL ALEXANDER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ALEXANDER: I realize you have heard from me on several occasions concerning matters of interest to higher education in Arkansas and the entire United States. I hope you will realize from the tone of my letter that I am very concerned about a current issue facing our education system in America. As an educator and a political scientist, I agree with the intent and spirit of the law for women's rights, but I seriously believe that the Department of Health, Education, and Welfare has taken the intent of your law and established guidelines that will decrease the authority, individuality, and uniqueness of the higher education institutions in our country. I believe that it is not the intent of Congress to set up a bureaucracy in Washington that will take over the administration of our colleges and universities.

I have enclosed a copy of a resolution adopted by the Association of Southern Baptist Colleges and Schools at our September 26, 1974, meeting. I hope you will share this resolution with your colleagues and contact us if we can help in any way to share our feelings about this issue. Specific items of interest to private education that would be affected by the proposed Title IX regulations include dormitory hours, dress code rules, courses of instruction, athletics, budget restrictions, dormitory occupancy of unwed pregnant girls, and abortion. I know you realize the problems we face with our constituency, the Arkansas Baptist State Convention, in these specific areas, but I want to again stress that I feel the major point is the federal involvement in such minute details of the administration of our educational institutions. I believe it would be tragic to assume that the Department of Health, Education, and Welfare can wisely make uniform rules for all colleges and universities in such matters, placing us all in the same mold. I hope we can change our past history of discrimination against women without seriously jeopardizing the diversified educational structure of higher education that has been such a vital part of the greatness of our nation.

I appreciate your continued interest in private higher education and hope you will have an opportunity to visit us in the near future.

Sincerely yours,

DANIEL R. GRANT.

RESOLUTION

Whereas, representatives of the 53 colleges and universities who are members of the Association of Southern Baptist Colleges and Schools, did meet in Nashville, Tennessee, on Thursday, September 26, 1974; and

Whereas, in session, serious consideration was given to the proposed regulations for the implementation of Title IX of the Education Amendments of 1972 relating to the prohibition of sex discrimination in federally assisted education programs; and

Whereas, it is the concept of these assembled representatives of the Association of Southern Baptist Colleges and Schools that the present regulations present problems with regard to educational policies; the terms "comparable," "equal," "reasonable," and "proportionate," all of which appear throughout the proposed regulations are open to varying interpretations; and

Whereas, these interpretations may differ anywhere from slightly to significantly, depending on whether the interpretation is made by the Department of Health, Education, and Welfare, by the college or university administrators, or by the students; and

Whereas, the possibility exists that unless the terms are clearly and specifically defined in the regulations, actions based upon such varying definitions may become arbitrary and even capricious; and

Whereas, it is the basic concept and conviction of the Association of Southern Baptist Colleges and Schools to honor and respect each of God's creations; and

Whereas, some provisions of the proposed regulations for the implementation of the provisions of Title IX of the Education Amendments of 1972 violate the spirit of positive Christian commitment thus creating moral and Christian conflict with the same, as it relates to the basic health, safety, honor, respect, and position of all persons; and

Whereas, the Higher Education Act of 1965 (Title 20, Chapter 28, Subchapter 7, Section 1144, United States Code) states that "nothing contained in this chapter shall be construed to authorize any department, agency, officer or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration or personnel of any educational institution . . ."; and Be it therefore

Resolved, that the proposed regulations be amended to provide that there be no undue or unwarranted interference with or intrusion into the internal operations of any private institution by members of government consistent with the guarantee of the original act; and Be it therefore

Resolved, that the proposed regulations be amended so as to permit interpretation consistent with the Christian and moral respect for the individual as taught in the Holy Bible, and as adhered to by the member institutions of this Association; and Be it also

Resolved, that the proposed regulations be amended to recognize the inherent human needs and constitutional rights of every individual among which are the right of privacy, the right of safety from harm or being placed in fear of bodily injury; and Be it further

Resolved, that the regulations be amended to allow for the orderly, proper and necessary protection of these and other God-given inalienable rights in the pursuit of happiness, and the enjoyment of the practice of religion, and peaceful existence.

It is *Resolved* on this the 26th day of the month of September, 1974, in session, by the representatives of the member institutions of the Association of Southern Baptist Colleges and Schools, with copies of this Resolution to be distributed to the Secretary of Health, Education and Welfare in Washington and to other appropriate offices, and a copy of this Resolution to be spread upon the Official Records of this Association.

This the 26th day of September, 1974.

CANAL ZONE SOVEREIGNTY AND PANAMA CANAL MAJOR MODERNIZATION: ACTION BY THE CONGRESS REQUIRED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the House Committee on Merchant Marine and Fisheries, in its annual report of January 2, 1973, summarized the remaining key Panama Canal issues to be resolved as follows:

> (a) Retention by the United States of its undiluted sovereign rights, power and authority over the Canal Zone, which is the absolutely necessary protective frame of the Canal; and
>
> (b) Major modernization of the existing Canal within the present Canal Zone which means that we do not necessarily need a new treaty with Panama.
>
> All other large Canal questions, however important, including the much discussed "sea level" proposal, are irrelevant and should not be allowed to confuse that of the Canal's major needs, i.e., its increase of capacity and operational improvement. (Report No. 92–1629, p. 36.)

Measures to effect both of the above objectives are now pending in the Congress: Senate and House resolutions opposing any dilution of U.S. sovereignty over the Canal Zone and Senate and House bills providing for the major modernization of the existing Canal. Of these issues, the question of sovereignty is the most vital and in 1974 three State legislatures adopted resolutions opposing its dilution: Virginia, South Carolina, and Maryland. The Maryland resolution was quoted in an address to the Senate by Senator BEALL in the CONGRESSIONAL RECORD of June 3, 1974, pages 17298–17306.

Notwithstanding the failure of most of the mass news media to present the Canal problem comprehensively and objectively, the subject is widely understood throughout the Nation as evidenced by thousands of letters from individuals and the adoption by many civic, fraternal, patriotic, professional, and veterans organizations of strongly expressed resolutions setting forth essential facts.

In this connection, attention is invited to my address before the International Platform Association on "Panama Canal: Jugular Vein of Interoceanic Commerce and Hemispheric Security," published in the CONGRESSIONAL RECORD of August 7, 1974, pages 27276–27280. That address quotes the texts of the identical Canal measures now before the Congress.

Because of their pertinence to the present situation, I shall include five resolutions as part of my remarks. The first three concern the question of sovereignty; the last two that of major Canal modernization by the Panama Canal Pilots Association and the national organization of the AFL–CIO.

The five indicated resolutions follow:

56TH NATIONAL CONVENTION OF THE AMERICAN LEGION HELD IN MIAMI BEACH, FLA., AUGUST 20, 21, 22, 1974

RESOLUTION NO. 85—THE PANAMA CANAL

Whereas, Under the 1903 Treaty with Panama, the United States obtained the grant in perpetuity of the use, occupation and control of the Canal Zone territory with all sovereign rights, power and authority to the entire exclusion of the exercise by Panama of any such sovereign rights, power, or authority as well as the ownership of all privately held land and property in the Zone by purchase from individual owners; and

Whereas, The United States has an overriding national security interest in maintaining undiluted control over the Canal Zone and its treaties with Great Britain and Colombia for the efficient operation of the Canal; and

Whereas, The United States Government is currently engaged in negotiations with the Government of Panama both in the Canal Zone and with respect to the Canal itself without authorization of the Congress, which will diminish, if not absolutely abrogate, the present United States treaty-based sovereignty and ownership of the Zone; and

Whereas, These negotiations are being utilized by the United States Government in an effort to persuade Panama to grant an option for the construction of a "sea-level" canal eventually to replace the present canal, and by the Panamanian government in an attempt to gain sovereign control and jurisdiction over the Canal Zone and effective control over the operation of the Canal itself; and

Whereas, Similar concessional negotiations by the United States in 1967 resulted in three draft treaties that were frustrated by the will of the Congress of the United States because they would have gravely weakened United States control over the Canal and the Canal Zone; and

Whereas, The American people have consistently opposed further concessions to any Panamanian government that would further weaken United States control over either the Canal Zone or Canal; and

Whereas, Many scientists have demonstrated the probability that the removal of natural ecological barriers between the Pacific and Atlantic oceans entailed in the opening of a sea-level canal could lead to ecological hazards which the advocates of the sea-level canal have ignored in their plans; and

Whereas, The American Legion believes that treaties are solemn obligations binding on the parties and has consistently opposed the abrogation, modification, or weakening of the Treaty of 1903; now, therefore, be it

Resolved by The American Legion in National Convention assembled in Miami Beach, Florida, August 20, 21, 22, 1974, that the United States must be vigilant against all efforts to surrender or erode any of the U.S. sovereignty or jurisdiction in the Panama Canal Zone or over the Panama Canal obtained under the 1903 Treaty with the Republic of Panama, as amended and revised in 1936, and 1955; and be it further

Resolved that The American Legion reaffirm and reiterate its traditional opposition to any new treaties or executive agreements with Panama that would in any way reduce our indispensable control over the U.S.-owned Canal or Canal Zone.

75TH NATIONAL CONVENTION OF VETERANS OF FOREIGN WARS, CHICAGO, ILLINOIS, AUGUST 16-23, 1974

RESOLUTION NO. 414—U.S. CONTROL OF THE PANAMA CANAL

Whereas, Article II of the 1903 Convention between Panama and the United States, as modified in part by the 1936 Treaty between the two Governments, states:

"ARTICLE II

"The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for construction, maintenance, operation, sanitation, and protection of said canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three miles from mean low water mark extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant . . .

"The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco;"

and

Whereas, the United States of America has fully met its obligations to Panama under existing treaty arrangements and, moreover, has efficiently and responsibly accommodated an ever-increasing number of transits and amount of tonnage through the canal; and

Whereas, the revolutionary government of Panama, a product of coup d'etat, has, since June 1971, under the guise of seeking new canal treaty arrangements, undertaken a bitter and sustained campaign of anti-American propaganda fueled in large part by Cuban and Soviet Communists; and

Whereas, given the emotionally irrational situation in Panama, a political/psychological "timebomb" is being consciously fabricated by the revolutionary government of Panama set to explode to the detriment of the United States and the world shipping community, as was the case in the abortive meeting of the UN Security Council in Panama and the subsequent threat to the U.S./UN Ambassador; and

Whereas, due largely to our clearcut V.F.W. position, nearly more than one-third of the U.S. Senate has gone on record in opposition to the unprincipled "Statement of Principles" signed by the Administration and the Panamanians; now, therefore be it

Resolved, by the 75th National Convention of the Veterans of Foreign Wars of the United States, that

(a) U.S. control and defense of the Panama Canal are non-negotiable;

(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty; and

(d) the foregoing position be again communicated to both the President and to the Congress.

WATER RESOURCES CONGRESS—1974 PLATFORM

MAINTENANCE OF U.S. CONTROL OVER PANAMA CANAL

The Water Resources Congress is concerned about proposed changes in Panama Canal control. We support continued management of the Canal under the existing treaty.

PANAMA CANAL PILOTS ASSOCIATION URGES MAJOR MODERNIZATION AS THE SOLUTION FOR THE CANAL PROBLEMS

PANAMA CANAL MAJOR MODERNIZATION—OCTOBER 15, 1973

Whereas, since 1914 the pilots of the Panama Canal have accumulated a vast knowledge concerning its marine operations through thousands of transits on all types of vessels; and

Whereas, during World War II executive studies in the Canal organization of marine operations conclusively established the location of the bottleneck at Pedro Miguel Locks in the south end of Gaillard Cut as the fundamental operational error in constructing the Canal; and

Whereas, as a result of those World War II studies, there was developed in the Canal organization and approved by a committee of our most distinguished senior pilots what is now known as the Terminal Lake-Third Locks Plan; and

Whereas, this plan has been consistently recognized by various responsible independent navigation interests as providing the best operational canal practicable of achievement; and

Whereas, more than $171,000,000, has been expended toward the major modernization of the Canal, $76,357,405 on the suspended Third Locks Project and some $95,000,000 on the enlargement of Gaillard Cut; and

Whereas, the several items in the 1969 Improvement Program for the Panama Canal, though important, are non-basic in character and no solution for the Canal's major marine operational problems; and

Whereas, the Thurmond-Flood bills for the major modernization of the Canal now before the Congress will provide increased lock capacity for larger vessels, greater transit capacity, and eliminate the Pedro Miguel bottleneck locks; and

Whereas, the plan provided for in these bills would preserve the existing fresh water barrier between the oceans and thus continue to protect them from the biological hazards feared by respected scientists in any sea level undertaking; and

Whereas, responsible organizations and informed experts oppose the construction of any sea level canal as needlessly expensive, diplomatically hazardous, ecologically dangerous and less satisfactory operationally than the existing canal; now therefore, be it

Resolved, by the Panama Canal Pilots Association that it supports the Terminal Lake-Third Lock solution as provided in the Thurmond-Flood bills; and

Resolved, that the Panama Canal Pilots Association urges the Governor of the Canal Zone to use the full force of his office to support prompt enactment of the pending legislation for major canal modernization; and

Resolved, that the Panama Canal Pilot Association opposes the construction of a new canal of so-called sea level design; and

Resolved, that the Panama Canal Pilot Association directs that copies of this resolution be sent to the following:

President of the United States.
Vice President of the United States.
Secretary of State.
Secretary of Defense.
Secretary of the Army.
Secretary of the Navy.
All Members of the Congress.
Leading Marine Organizations and Periodicals.
American Society of Civil Engineers.
Society of American Military Engineers.
American Legion.
Veterans of Foreign Wars.

Capt. W. H. VANTINE,
President,
Panama Canal Pilots Association.

AFL-CIO EXECUTIVE COUNCIL, 1974

RESOLUTION NO. 67—PANAMA CANAL

Whereas, The efficient maintenance, operation, sanitation, utilization and defense of the Panama Canal are of overriding importance to the American people, since a majority of ships transiting the canal carry cargo and passengers originating or terminating in American ports and it's a vital artery for U.S. defense, and

Whereas, The utilization of the Panama Canal is now increasingly limited by the failure to implement the Third Locks project set forth in the report of the Panama Canal dated February 24, 1939, and authorized by the act of August 11, 1939, and

Whereas, The increase in the size of ships transiting the Canal has resulted in navigational problems which can assume serious proportions unless the Canal is modernized, and

Whereas, Many of the operations of the Panama Canal Company, of the Panama Zone Government and of the military installations are carried out by many thousands of American and Panamanian citizens, all of whom have the status of federal employes. Without doubt the completion of the Third Locks project will be a great improvement to international commerce and provide for the job security and safer working conditions of federal employes; therefore, be it

Resolved: **The AFL-CIO pledges every effort to effectuate legislation authorizing the expenditure of federal funds to continue work on the Third Locks project of the Panama Canal.**

Referred to Committee on Resolutions.

Convention Action: Referred to Executive Council by AFL-CIO Convention.

Executive Council Action: Approved "as is".

(Resolution now is official policy of AFL-CIO.)

STATEMENT OF CONGRESSMAN JOHN M. MURPHY ON THE INTRODUCTION OF HIS BILL TO RAISE THE MAXIMUM INCOME LEVEL CEILING FOR VETERAN PENSION BENEFITS: OCTOBER 16, 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 5 minutes.

Mr. MURPHY of New York. Mr. Speaker, I have today introduced legislation which I believe will be of great significance to the veterans of this country. I hardly need mention to you, the Members of this great Chamber, the havoc that the spiraling cost of inflation is playing upon the citizens of this Nation. It is becoming increasingly difficult to meet the rising cost of living so you can well imagine the hardships forced upon a large number of our veterans who must live on either a fixed or limited income. These individuals barely maintain a minimal subsistence level.

The bill I am introducing today will redress the wrong that is being done to the veterans of this Nation. This legislation will amend title 38 of the United States Code to increase the maximum level at which certain veterans can remain eligible for pensions. Under the provisions of my bill, the maximum income level at which a widow will remain eligible for pension benefits will be increased from $2,600 to $5,000. The maximum income level at which retired veterans and widows with dependents can remain eligible for pension benefits will be increased from $3,800 to $7,500. This represents, respectively, a $2,400 and $3,700, or almost 50-percent, increase.

I realize that some of the Members will point out that the Veterans' Affairs Subcommittee on Compensation and Pension recently held hearings on legislation that would raise the income limitation ceiling by $500 thus allowing widows to earn $3,100 yearly and retired veterans and widows with dependents to earn $4,300 yearly. Indeed, I testified before that same subcommittee in support of an increase in World War I veterans pensions. I also realize that these same Members will argue that this $500 is a fair adjustment. The fact of the matter is, however, that the $500 adjustment is neither a "fair" one or even an adequate one.

In view of the spiraling rate of inflation in this country a $500 increase is really only a pittance. This increase will not afford the affected individuals the means to meet and cope with the increased prices they most certainly will face. This $500 increase will not help the widow with children meet the price of an increase in the cost of food. Neither will it help the aging World War I veteran pay his next rent bill or the recently returned Vietnam veteran meet the monetary demands of readjustment.

Obviously, what is called for is a realistic increase in the maximum limitation ceiling. Once the decision to support an increase has been made, that decision should be implemented in an equitable manner. I submit to you that the decision to support this increase has already been made. My colleagues on the Veterans' Affairs Committee have agreed that our veterans deserve an increase in the maximum income limitation ceiling. Now, what remains to be done is to implement that decision in such a way that it will have a meaningful effect on the people it is meant to help. The way to do this is clear. We must enact legislation that will give our veterans a chance to keep their heads above water and to meet the demands of rising costs.

Yesterday the House passed the Vietnam Era Veterans' Readjustment Assistance Act of 1974 with the second conference report provisions intact. The overwhelming 388 to 0 vote by the House indicates a widespread support of the needs of our veterans from the Vietnam and Korean wars. The GI education bill will make it possible for the Vietnam era veteran to meet the cost of a higher education. Since many of our Vietnam veterans did not have a chance to complete their schooling this bill will be of particular importance. But, as important as this bill is it must be supplemented by further action. The bill I have introduced today will not only help the Vietnam veteran but also the veterans of World War I and II and Korea.

The United States is a country which is founded upon the basic principle of providing opportunity for life, liberty, and the pursuit of happiness to all of its citizens. If we, the representatives of this great principle—the legislators of this basic American truth, ignore the plight of our veterans who, after serving and sacrificing for this country, are now in need of assistance then we have done ourselves a great disservice. I ask you therefore, to join with me in working to insure that the bill I have introduced today receives immediate attention.

VETERANS' UNCLAIMED U.S. SAVINGS BONDS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Ms. COLLINS) is recognized for 10 minutes.

Ms. COLLINS of Illinois. Mr. Speaker, on August 8, 1974, I introduced House Concurrent Resolution 588, expressing the sense of Congress that the Secretary of the Treasury direct the Commissioner of the Public Debt to make available to national veterans' organizations for publication in their periodicals, a list of names and serial numbers of veterans who own U.S. savings bonds that are being held by the Treasury Department for "safekeeping."

During hearings held on the morning and early afternoon of August 8, the General Accounting Office advised the House Legal and Monetary Affairs Subcommittee that the Department of the Treasury is holding more than 242,000 savings bonds with an estimated face value of $10 million for veterans of World War II, Korea, and Vietnam, and that these bonds—many of which reached maturity over 20 years ago still remain unclaimed. In its written report, "Unclaimed Savings Bonds Should Be Returned to Veterans and Other Individuals, B-179225, August 10, 1973," GAO recommended that the Treasury Department should "explore the potential of using veterans' publications when veterans cannot be located through the records of Government agencies."

GAO further reported that the Commissioner of the Public Debt had been able with the help of various Government agencies, to locate many owners of unclaimed bonds; but that many bonds would remain unclaimed simply because owner-veterans had either forgotten about them or their heirs were unaware of their existence. I believe that positive action must be taken to see that the bonds are returned to their rightful owners.

The Commissioner of the Public Debt, however, informed the subcommittee that the furnishing of the list of names to veterans' organizations for publication would be a violation of confidentiality as well as a violation of 5 U.S.C. 552 and 31 CFR 323.2.

Mr. Speaker, using these statutes and regulations as the basis for withholding the names and/or serial numbers from the various national veterans' organizations seems to stretch their meaning.

What we have here, Mr. Speaker, is a bureaucratic mess. First, we ask a citizen of this country to literally put his life on the line, so that this Nation can maintain its freedom. Then, we ask that same person to buy a U.S. savings bond to finance that freedom—saying that we will hold it for him or her in safekeeping until such time as he or her either comes home from the "front" or the rightful heir claims it. Then when the veteran, who in his or her eagerness to pick up the pieces of his or her life, forgets about these bonds, the U.S. Government says, "too bad, you should remember that we are holding your bonds for you."

I suggest that the Bureau of Public Debt, by refusing to remind our country's protectors of their assets, is being overzealous in the application of 5 U.S.C. 552. In the hope of locating either the owner-veterans or their rightful heirs, the national veterans' organizations have volunteered to publish the names and serial numbers of those veterans who have forgotten that they have bonds in safekeeping. Why not let them? I ask that the Ways and Means Committee look into this matter, and I hope that by this time next year a concerted effort will be underway to locate the proper owners of these unclaimed U.S. savings bonds.

I ask unanimous consent that the text of House Concurrent Resolution 588 be placed in the RECORD at this point:

H. CON. RES. 588

Whereas numerous members of this Nation's armed services since the start of World War II have agreed to purchase, and have purchased, United States savings bonds, and

Whereas when these bonds were purchased they were, in many instances, held for "safekeeping" by the United States Department of the Treasury, and

Whereas over two hundred and forty-two thousand United States savings bonds with an estimated face value of about $10,000,000 remain unclaimed by their owners who are World War II, Korean, and Vietnam veterans or their heirs, and

Whereas the Comptroller General recommended that the Department of the Treasury work with the Veterans' Administration in order to locate the bond owners and return to them the unclaimed bonds, and

Whereas the General Accounting Office recommended that the Department of the Treasury explore the potential of using veterans' publications when veterans cannot be located through the records of Government agencies, and

Whereas the Department of the Treasury contends that it cannot divulge the names of the owners of the unclaimed bonds, even though to do so would very likely aid in the locating of many of the one hundred thousand owner-veterans of these unclaimed bonds, and

Whereas the Comptroller General theorized that most of the owners of the bonds had forgotten that they purchased them: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the Secretary of the Treasury direct the Commissioner of the Public Debt to make available to national veterans' organizations, for publication in their periodicals, a list of names and serial numbers of veterans who own these bonds.

CHICAGO'S 1974 COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, October 14, the city of Chicago celebrated the discovery of America 482 years ago by Christopher Columbus with a gigantic parade on our great street—State Street. Over 750,000 people viewed the parade which was televised over WGN for 1½ hours.

Our esteemed colleague, the distinguished chairman of the U.S. House of Representatives Judiciary Committee, Hon. PETER W. RODINO, JR., was guest of honor at the great event.

Each year, Chicago celebrates Columbus Day with a series of specially planned events culminating in the spectacular parade on State Street. The theme for this year's parade was "Italian Contributions to Medicine." The parade not only honored Christopher Columbus as father of all immigrants, but it also emphasized the spirit of achievement and combined efforts of all ethnic groups which have made our city and Nation great.

The voyage of Christopher Columbus marked one of history's most challenging and rewarding explorations. He opened this continent to the migration of settlers who created an enduring Nation and the United States of America still carries forth his spirit of exploration as part of its national heritage.

Americans of the 20th century strive to follow the vision and unshakeable faith of Christopher Columbus by seeking to discover a "New World" of peace and cooperation.

Monday's Columbus Day celebration began with a concelebrated Mass at Our Lady of Pompeii Church at 9 a.m., Auxiliary Bishop Alfred L. Abramowicz, D.D. presided; and the concelebrants included Rev. Msgr. Edward Pellicore; Rev. Paul J. Asciolla, C.S.; Rev. Angelo Calandra, C.S.; Rev. Lawrence Cozzi, C.S.; Rev. August Feccia, C.S.; Rev. Angelo Garbin; Rev. Leonard H. Mattei; and the homily was given by Rev. Gino Dalpiaz.

Special wreath-laying ceremonies took place at 11 a.m. at the Columbus statue in Vernon Park, and at 3 pm., following the parade, the Order of Sons of Italy in America laid a wreath at the Columbus statue in Grand Park.

The main event of our celebration, Chicago's great Columbus Day parade, began at 1 p.m. on State Street and some 60 floats depicting the theme of the parade along with 80 marching units participated. Authentic native costumes of Italy were worn by women and children in the parade, in addition to the various school bands, corps of marchers, and drum and bugle corps which also participated. Christopher Columbus, the father of all immigrants, was portrayed by Joe Livingston, 1121 North Karlov, in Chicago.

Chairman PETER RODINO, as the guest of honor, along with Hon. Richard J. Daley, mayor of Chicago; Hon. Dan Walker, Governor of Illinois; Rudolph Leone, parade grand marshal; Pasquale M. DeMarco, the parade's 1974 general chairman; Anthony J. Fornelli, honorary parade co-chairman; Dr. Alvaro V. Beltrani, Chicago's Consul General of Italy; and many other political dignitaries, civic leaders, members of the judiciary, businessmen from the community, and labor leaders kicked off the parade.

Each year the Joint Civic Committee of Italian Americans, comprised of more than 40 Italo-American civic organizations in the Chicagoland area, sponsors the Columbus Day parade and other related activities. Many local groups cooperate with the joint civic committee in this community-wide tribute to Columbus, and both Anthony Sorrentino, consultant, and Dr. Frank Pellegrini, executive director of the Joint Civic Committee of Italian Americans, have helped to coordinate the various activities for many years.

One of the highlights of Chicago's Columbus Day celebration is the selection of the queen of the parade. This year, Mary Jane De Rosa, 2817 North Moody, of Chicago, was chosen to reign as queen of the Columbus Day parade.

Judged on her beauty, poise, and personality, Mary Jane De Rosa, as winner of the Columbus Day Queen Contest, won a round trip to Italy from Alitalia Airlines, a round trip to Las Vegas, a trophy, a bouquet of roses, and $100 from Dr. DeMarco, the parade's general chairman. She will also make TV appearances on the Louis Farina Show and the Mary Jan Hayes Program in Chicago.

The members of the Queen's Court were Kathleen A. Ingallinera, 3452 North Nottingham, Chicago; Tina Spitzzeri, 845 North St. Louis, Chicago; Diane Lizzio, 5940 South Kolmar, Chicago; and Cara Mia Cipolla, 3220 Techny Road, Northbrook, Ill.

Judges for the final Columbus Day Queen Contest were Fred Mazzei, chairman; Hon. Philip Romiti, judge of Cook County Circuit Court; Hon. John D'Arco, Jr., Illinois State Representative; Mr. Steve Fiorentino, assistant to the vice president of Banco di Roma; Miss Adrienne Levatino, research analyst; Mrs. Theresa Petrone; Mr. Carmen Fanzone, player for the Chicago Cubs; and Mr. Don Case, president of DAC enterprises.

A "Festa del Moda" was held this year on October 6. This is a fashion show held annually in conjunction with Columbus Day festivities. More than 150 persons participated in the show and wore traditional handmade costumes representing the culture native to various areas of the Italian peninsula. Dr. Mary Ellen Batinich, chairman, and her authentic Italian costumes subcommittee can be proud of their contribution to the success and beauty of our Columbus Day pageantry. Lawrence Spallitta and the float personnel subcommittee members can be proud of their outstanding contribution to the parade.

The colorful and distinctive costumes, worn by the people who made them by hand, are an enormous contribution to the parade's ethnic flavor and are always most appropriate for the occasion.

It is estimated, in addition to those who watched the parade personally, that over one million persons viewed the telecast of the parade which was sponsored by Anthony Paterno, of the Public Wine Co.; Dominick Di Matteo, of Dominick's Finer Foods; Frank Armanetti, of Armanetti Liquor Stores; Banco di Roma; Alitalia Airlines; and Bonnie Brook Ford. The telecast of the parade was narrated by Domenick Di Frisco and Vince Lloyd, and the reviewing stand commentators were Charles Porcelli and Lou Farina.

The massive Columbus Day celebration closed with a reception at the Chateau Royale in honor of all of the officers, subcommittee chairmen, and members who participated in making this grand event a success.

As honorary parade chairman on this fourth celebration of Columbus Day as a national legal holiday, I commend the members and officers of the Joint Civil Committee of Italian Americans for their dedication, careful planning, and hard work that went into the creation of a tremendous civic and patriotic event such as the Chicago Columbus Day parade. Our city and our people are proud of these outstanding citizens.

Mr. Speaker, the officers, and members of the 1974 Chicago Columbus Day Parade Committee are as follows:

Columbus Day Parade Committee

Pasquale M. De Marco, general chairman 1974.

Congressman Frank Annunzio, Honorary Parade Chairman.

Rudolph Leone, grand marshal.

HONORARY CHAIRMEN:

Honorable Richard J. Daley, Honorable Dan Walker.

HONORARY CO-CHAIRMEN:

Anthony J. Fornelli, President; Dr. James F. Greco, 1st Vice President; James E. Coli, 2nd Vice President; John C. Porcelli, 3rd Vice President; Joseph Tolitano, 4th Vice President; Jerome Zurla, 5th Vice President; Joseph DeLetto, Treasurer; Charles Carosella, Secretary.

PAST PARADE CHAIRMEN:

Martin Buccieri, Dr. Mario O. Rubinelli, Anthony Paterno, Frank Annunzio, Victor J. Failla, Nello Ferrara, Frank Armanetti, Fred Bartoli, Arthur Pullano,[1] Anthony Bottalla, Dominick Dimatteo, James E. Coli, Anthony Terlato, Congressman Frank Annunzio, John C. Porcelli, Rudolph Leone.

SUBCOMMITTEES

Chaplain: Reverend Armando Pierini, C.S.

Television and Radio Sponsors: Anthony Paterno, Chairman; Frank Armanetti, Dominick DiMatteo.

Finance and Souvenir Book: Joseph DeLetto, Chairman; Frank N. Catrambone, Sr., Co-Chairman; Sam Cerniglia, Co-Chairman; Mrs. Serafina Ferrara, Co-Chairman; Mathew J. Alagna, Anthony Apa, Charles Carosella, John D'Arco, Jr., Joseph Fusco, Peter Lavorata, Marino Mazzei, Michael R. Rosinia, George Salerno.

Religious Program and Organizations: Joseph DeSerto, Chairman; Louis Moretti, Co-Chairman; Michael R. Fortino, Michael J. Mento, John Spatuzza.

Bands, Marchers and Transportation: Louis H. Rago, Chairman; Dr. James F. Greco, Chairman Emeritus; Jordan Canzone, Frank Bottigliero, Hon. Lawrence DiPrima.

Program and Arrangements: Domenick DiFrisco, Co-Chairman; Louis Farina, Co-Chairman; Dr. Joseph H. DiLeonarde, Jerome Zurla, Anthony Sulla, Father Paul Asciolla.

Queen Contest: Fred Mazzei, Chairman; Mrs. Josephine Bianco, Co-Chairman; Anita Louise Bianco, Special Assistant; Domenick DiFrisco, Advisor; Sam Bruno, Photographer; Joseph Alagna, John Curielli, Stephen Fiorentino, Bob Gelsomino, Nick LaPonte, Joseph Lucania, Anthony Morizzo, Marie Palello, Robert Napoli, Jerome Zurla.

Business and Professional: Carl DeMoon, Chairman; Anthony Terlato, Co-Chairman; Vincent Lucania, Co-Chairman; Jack Cerone, James L. Coli, Dominic Chirchirillo, Charles P. DeVito, Dominick P. Dolci, Joseph Fontana, Peter Ingraffia, Albert Litterio, Vincent Lupo, Arthur Monaco, Dr. Frank Motto, Anthony Partipilo, John Paterno, Paul Paterno, Anthony Pellicano, Hon. Lawrence X. Pusateri, Judge Philip Romiti, Horatio Tocco, Dr. Joseph J. Sirchio, Peter Tatooles, Amedo Yelmini.

Parade Marshals: Marco DeStefano, Chairman; Alex Batinich, Louis Del Medico, Ettore Divito, Neil Francis, Michael Palese, Marshal Anthony Pilas, Vito Siciliano, Ronald Marra, Peter Tatooles, Frank J. Tomaso.

Floats: Tom Ardino, Chairman; Sam J. Coco, Co-Chairman; Edward S. Fusek, Joseph Pope, Joseph Rovetto, Frank Vechiola.

Float Personnel: Lawrence Spallita, Chairman; Nick Bianco, Russell Bonadonna, Carl DeFranco, Stephen Fiorentino, Michael Galgano, Barbara Inendino, Joseph Pantaleo, Mrs. Mary Spallita.

Authentic Italian Costumes: Dr. Mary Ellen (Mancina) Batinich, Chairman; Mrs. Tena Amico, Co-Chairman; Mrs. Maria DeSerto, Co-Chairman, Mrs. Elena Frigoletti, Co-Chairman; Mrs. Josephine Lavorata, Co-Chairman; Mrs. Norma Battisti, Mrs. Stella Boschelli, Mrs. Gene Bruno, Mrs. Mary Ann Cervi, Mrs. Judith Guzaldo, Miss Barbara Inendino, Mrs. Ann Menconi, Mrs. Ann Parisi, Mrs. Marie Pedi, Mrs. Annette Salvatore, Mrs. Mary Spallitta, Mrs. Ange Tufano, Mrs. Ann Yelmini.

Cuisine & Culture: Ann Sorrentino, Chairman; Ann Yelmini, Co-Chairman.

Labor: James E. Coli, Chairman; Thomas Sircusa, Edward Coco, John Serpico, Angelo Fosco, John Parise, Joseph Spingola.

Public Officials: Hon. Alexander Adduci, Co-Chairman; Hon. Frank Belmonte, Co-Chairman, Hon. Elmer Conti, Co-Chairman; Hon. John D'Arco, Co-Chairman; Hon. Louis Garippo, Co-Chairman; Hon. Frank Giglio, Co-Chairman; Hon. Anthony Laurino, Co-Chairman; Hon. Vito Marzullo, Co-Chairman; Hon. Lawrence Petta, Co-Chairman; Hon. Paul Ross, Co-Chairman.

COMMENTS OF CONGRESSMAN ROBERT F. DRINAN ON THE PROPOSED HEW REGULATIONS TO ELIMINATE SEX DISCRIMINATION IN EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, by letter dated October 15, 1974, I forwarded to HEW Secretary Weinberger my comments on the proposed regulations to eliminate sex discrimination in education. It has been 2 years since we passed title IX of the Education Amendments of 1972 which prohibited sex discrimination in federally assisted educational programs. It is indeed unfortunate that it has taken HEW 2 years to publish these draft regulations.

In general I believe the proposed rules are a good start toward removing the legacy of sex discrimination with which we are now confronted. The long history of discrimination against women in educational opportunities must come to an end. These regulations are designed to effectuate that goal. While their general contours are commendable, they do contain a number of deficiencies which should be corrected before they are promulgated in final form. I wish to share with my colleagues some of my thoughts on the subject:

Comments of Congressman Robert F. Drinan on the Proposed Regulations to Implement Title IX of the Education Amendments of 1972

The following analysis of the proposed regulations will be divided into two parts: the first section contains general comments on the nature and scope of these regulations, and the second contains a more detailed examination of the proposed rules.

GENERAL OBSERVATIONS

Title IX of the Education Amendments of 1972 states:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

The basic thrust of the proposed regulations is commendable because they provide a broad prohibition against sex discrimination in education. The generalized rules, however, give way to numerous limitations and exceptions which undermine the purpose of the 1972 amendments.

(1) The allowances for many categorical and specialized exemptions tends to contradict and dilute the plain meaning of Title IX. This is especially true in the areas of admissions policies, scholarships, and maternity

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[1] Deceased.

leave where numerous exemptions are permitted.

(2) The dissemination of knowledge through textbooks and curriculla has played a major role in the perpetuation of sex-biased stereotypes. The proposed regulations fail to consider the effect which sex-biased books and courses have on the education process. The proposed regulations not only fail to remedy this inequity but ignore the positive results which would flow from the use of non-biased books and curricula to dispel such myths.

(3) The proposed regulations are vague and non-specific as to what measures are to be taken to enforce the proscriptions against sex discrimination in education. Where past discrimination has been found in a particular area, the draft regulations fail to set forth strict measures for remedial action to take place within a detailed time frame. Written plans for affirmative action in admissions and recruitment policies are only voluntary, even where enrollment figures, for example, reflect a disproportionate concentration of one sex. Except in athletics, periodic evaluations are not required. Therefore any type of remedial or affirmative action will be delayed until a private citizen brings charges of sex discrimination and a formal complaint is issued by HEW. Even then plans for affirmative action are not mandatory.

DETAILED EXAMINATION

Having made these general observations about these proposed regulations, a more detailed analysis of those sections which merit closer examination will proceed.

(1) *Curriculum, testing materials and textbooks*. Section 86.34(c) states:

"(c) *Appraisal and counseling materials*. A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for different students on the basis of their sex or use materials which permit or require different treatment of students on such basis."

In other words, an institution receiving federal funds cannot use separate counseling materials for females and different materials for males. This principle is commendable. However, the goal of eliminating sex discrimination in counseling programs by equalizing the content of counseling materials and testing devices may be totally refuted when there is no mention of examination and evaluation of the kinds of materials being used. Although men and women may be using the same counseling materials, they could be subjected to sex biased literature and appraisals which may only reinforce and perpetuate the same sex biased stereotypes.

A mechanism must be devised to evaluate and review all printed materials and testing devices for sex bias in educational institutions covered by Title IX. The inclusion of all textbooks and curriculum material in this process is essential. HEW fails to mention course textbooks and curriculum in these proposed regulations. It is of utmost importance that this area be contained in the proposed regulations if the true intent of the law is to be carried out.

(2) *Affirmative and remedial action policies*. This examination of affirmative and remedial action policies will be concerned with three major areas: admissions, recruitment, and educational programs and activities.

(a) *Admissions*. Section 86.3(a) states:

"*Remedial action*. A recipient which has previously discriminated against persons on the basis of sex in an education program or activity, shall take such remedial action as necessary to overcome the effects of such previous discrimination."

The wording in this section is extremely vague as to whether a formal finding by HEW is necessary to order remedial action or whether a finding of discrimination through some other process will trigger the remedial action required by this section. For example, if an institution has been found guilty of sex discrimination through its internal grievance procedure, then the institution should be required to formulate a plan of remedial action.

Section 86.3(b) talks about affirmative action plans in regard to admissions. It states:

"*Affirmative action*. In the absence of prior discrimination on the basis of sex in an education program or activity, a recipient may take affirmative action to overcome the effects of conditions which resulted in limited participation therein by persons of a particular sex."

The clear implication of this section is that if there is no past finding of overt discrimination but there is limited participation of one sex in admission policies, then an institution *may* take voluntary steps toward affirmative action. Clearly Title IX is concerned with removing all vestiges of discrimination. Thus, even though an educational institution may not have been guilty of any overt discrimination previously, surely the consequences of limited participation of one sex indicates inequalities in opportunities. In light of the sweeping language of Title IX proscribing sex discrimination in any educational activity, the remedy must contain a *mandatory* plan for affirmative action.

Additionally, an evaluation procedure to determine what constitutes "limited participation" at a particular educational institution does not exist. A formal review and self-evaluation must be required for all institutions covered by Title IX, within 180 days of the enactment of these regulations. This self-evaluation should then be reviewed by HEW, and where limited participation of one sex is found in admissions policies, it should be mandatory that a written plan for affirmative action be ordered within 60 days of the HEW finding.

(b) *Recruitment*. Section 86.23(a) states:

"*Comparable recruitment*. A recipient to which this subpart applies shall make comparable efforts to recruit members of each sex, except that such recipient may be required to undertake additional recruitment efforts as remedial action pursuant to sec. 86.3(a) and may choose to undertake such efforts as affirmative action pursuant to sec. 86.3(b)."

My comments to the previous two sections would also apply here. To restate them, first an evaluation of recruitment must be required and where a disproportionate participation of one sex is found, an affirmative action plan *must* be required in writing. Where an institution has been found guilty of discrimination on the basis of sex previously, a written remedial plan must be required.

(c) *Education programs and activities*. Remedial or affirmative action plans in education programs and activities are excluded from sec. 86.31 (although there is an exception to this which will be discussed later in the section on athletics). The discussion of sections 86.3(a) and 86.3(b) applies here as well. There must be a mandatory evaluation procedure within a reasonable time span of the enactment of these regulations for all institutions. Where lack of participation of one sex is shown, written affirmative action plans must be required. Also remedial procedures must be instituted where a charge of sex discrimination has been found true, either by HEW or other procedures.

(3) *Part time employees*. Section 86.41 states that Title IX and the proposed regulations apply to part time employees as well as full time employees. Section 86.41(1)(a) further provides that part time employees are eligible for all fringe benefits as employees of an institution receiving federal funds. This section is critical and must be retained in the final regulations to insure that part time employees will not be discriminated against on the basis of their sex.

(4) *Services and benefits*. Section 86.36 of the proposed regulations concerning insurance and health benefits states:

"*Health insurance and benefits*. In providing a medical, hospital, accident or life insurance benefit, service, policy or plan to any of its students, a recipient shall not discriminate on the basis of sex, or provide such benefit service, policy or plan in a manner which would violate subpart E if it were provided to employees of the recipient. This section shall not prohibit a recipient from providing any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services."

Thus the language in this section does not require institutions to provide gynecological services. Clearly, equalized health benefits are not required by this section and persons are subject to inequitable treatment on the basis of sex. Such differential treatment cannot be defended, especially where women students have an urgent need for specialized healthcare. Gynecological services should be required to be a part of all health programs offered since these services are an indispensable factor in regular health care for women.

Section 86.46(b)(2) states that an institution shall not

"Administer, operate, offer or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex, *or* for equal contributions to the plan by such recipient for members of each sex;"

The wording of this section is clearly discriminatory because many pension plans require equal contributions from men and women but pays less benefits to women on an annual basis because of their longevity. This section should be changed to require fringe benefits plans to provide for "equal benefit for members of each sex *and* for equal contributions to the plan."

(5) *Pregnancy*. Section 86.47(e)(1) states that an employer shall not require an employee to:

"Begin leave related to pregnancy so long as the employee's physician certifies in writing that she is physically capable of performing her duties, provided that a pregnant employee shall notify her employer in writing of her expected date of delivery, at least 120 days prior to such date."

Section 86.47(e)(2) also provides that an employer shall not require an employee to:

"Return to employment after a leave related to pregnancy later than two weeks after the employee's physician certifies in writing that she is physically capable of performing her duties, or in the case of any employee in a teaching position, later than the beginning of the first full academic term commencing after such certification is made."

These sections contradict section 86.47(c) which states that,

"A recipient shall treat disabilities caused or contributed to by pregnancy as temporary disabilities for all job related purposes, . . ."

No other temporary illness requires such elaborate and stringent documentation from physicians and notification on the part of the employee. Also section 86.47(2)(e) imposes an extra hardship on those women of the teaching profession as they are unable to return to work until the following academic term. Sections 86.47(2)(e)(1) and (2) should be omitted from the final regulations to erase these inconsistencies and eliminate all vestiges of discrimination based on sex in educational institutions covered by Title IX.

(6) *Athletics*. Section 86.38(a) states:

"*General*. No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any physical education or athletic program separately on such basis: *Provided, however,* That a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill."

The exception which allows for separate teams where selection is based on competitive skills contradicts the first sentence in this subsection. Members of both sexes should be allowed to participate in all competitive sports if they meet the qualifications.

If there is sufficient interest still present among those persons who did not qualify for a team, then provisions should be made to organize teams on different competitive levels. For example, if there is interest among the men and women who do not qualify for a "varsity" team, then opportunity for participation should be provided at other levels of competitive play.

As part of an affirmative action plan, all institutions should be required to supply support services to women in the area of athletics, such as special coaching sessions, practices, and seminars designed to improve skills and encourage greater interest in particular sports.

Section 86.34(a) states that all courses should be integrated by both sexes, including physical education. This section should remain in the final regulations as integrated courses will further eradicate sex discrimination especially in the area of physical education, where women have long been neglected by most educational institutions.

In this regard, section 86.38(b) states:

"A recipient which operates or sponsors athletic activities shall determine at least annually, using a method to be selected by the recipient which is acceptable to the Director, in what sports members of each sex would desire to compete."

This survey is essential for past evaluation and should be utilized as one resource in planning affirmative action programs.

Section 36.38(f) states:

"*Expenditure.* Nothing in this section shall be interpreted to require equal aggregate expenditures for athletics for members of each sex."

This section nullifies the whole affect of any affirmative action in the area of athletics. This section is discriminatory and should be deleted from the final regulations. There should be no stipulations in the regulations for single sex teams, thus expenditures in athletics should be equal for both men and women.

However, where there exists any unequal amount of members of one sex on a team, the remainder of expenditures should be utilized in stimulating interest and improving skills in a particular sport for that sex which is under represented. In other words, if a particular team is all male because no women qualify competitively, then an equal amount of money should be spent to encourage women's participation in this particular sport through special workshops, seminars, training and other means.

(7) *Scholarships.* Section 86.35 forbids all types of financial assistance designated to students of a single sex. This paragraph is a welcome complement to the true intent of Title IX and should be retained in the final draft.

Section 86.35(a) (2) states however:

"This paragraph does not apply to assistance by a recipient in the administration of a scholarship, fellowship, or other financial assistance program which discriminates on the basis of sex and is established under a foreign will, trust, bequest, or similar legal instrument or by a foreign government."

The deletion of foreign financial assistance continues to perpetuate discriminatory activities on the basis of sex and should be omitted from the regulations.

Section 86.35(d) discusses athletic scholarships stating:

"*Assistance related to athletics.* Notwithstanding the provisions of this section, separate financial assistance for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with section 86.38."

There should be no special stipulations in the final regulations for single sex teams. The final regulations should specifically state that both men and women will have an equal opportunity in receiving athletic scholarships based on athletic ability.

In addition, as part of an affirmative action program, where the participation of one sex is lacking, special scholarships should be established for that sex to encourage participation. Equal expenditures on scholarships should be made for both men and women. If more men qualify for competitive scholarships, this inequality in expenditures can be rectified through special scholarships for women under an affirmative action program.

FORD ADMINISTRATION SAYS OIL PRICE INCREASES ARE ANTI-INFLATIONARY: WILL CONGRESS SAY "NO"?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Leggett) is recognized for 5 minutes.

Mr. LEGGETT. Mr. Speaker, I have introduced a measure today designed to help keep inflation under control. Along with a number of my colleagues, I have taken strong exception to President Ford's proposal to decontrol the price of domestic oil produced by secondary recovery methods as both unwarranted and inflationary. While it sounds fine for administration spokesmen to say that this is a device to encourage petroleum production, the facts are otherwise.

First. This proposal will divert at least $9.2 billion, and perhaps as much as $11.2 billion, straight from the pockets of consumers to the big oil producing companies. It is in fact a direct tax on gasoline, but the proceeds will not be going to Government.

Second. It will raise the price of gasoline at the pump a minimum of 3.8 cents per gallon, and perhaps as much as 4.6 cents per gallon. This is not as much as the 10-cent trial balloon sent up by the administration, but it is still far too much.

Third. It will actually inhibit exploration for new petroleum resources. If an oil businessman has a finite amount of capital and has the choice between using it for expensive and risky exploration or cheap but sure conversion to secondary recovery, there is no doubt in my mind that he will choose the latter. For an investment of only 35 cents to 50 cents per barrel, he can more than double the price he receives for his oil, from $5.25 to $11 per barrel. In fact, this proposal will encourage producers to shift wells now producing through primary recovery methods to secondary recovery methods for no pragmatic reason except to raise the price they get for the same oil.

Mr. Duke Ligon, Assistant Administrator of FEA, suggested this procedure publicly more than three weeks ago; unfortunately, few outside the oil industry noticed it then. At the time he made his remarks, I sent a letter warning him that the procedures he was suggesting were a clear violation of our intent in the Emergency Petroleum Allocation Act to control the price of oil in a reasonable fashion. I would like to insert that letter at this point in the Record.

House of Representatives,
Washington, D.C., September 24, 1974.

Hon. Duke R. Ligon,
Assistant Administrator, Federal Energy Administration, New Executive Office Building, Washington, D.C.

Dear Mr. Ligon: I have recently read your remarks to *The Oil Daily* newspaper of Thursday, September 19.

I am greatly distressed that your statements seem to indicate a turn of mind predisposed toward directing as much money as possible towards oil companies. In my estimation, you seem to be demonstrating for the writers of this publication how many ways there are to get around the obvious Congressional intent to limit oil prices. I find this talk of diverting money to oil companies as an incentive all the more distressing in light of Secretary Brinegar's recent remarks in which he stated that individual citizens would be "encouraged" to fly U.S. flag carriers without any mention being made of possible monetary benefit to them.

If the intent of your remarks was misconstrued by *The Oil Daily,* I would certainly appreciate your reassurance to that effect; if your intent was, in fact, accurately reported, I would appreciate a complete exposition of all policies under consideration at FEA which would result in increased profits to an oil industry which is already setting records for use of black ink on their profit and loss statements.

Your early reply would be greatly appreciated.

Very sincerely,
Robert L. Leggett,
Member of Congress.

The President has said, in effect, "I want to decontrol the price of about 4.4 million barrels of oil a day, I want the American public to pay for it, and I do not intend to consult with Congress about it." I and my colleagues who have cosponsored this bill believe this is wrong. I believe that the oil companies are already making more than enough to finance their operations; for us to be dealing simultaneously with a proposal to tax windfall profits on oil while the President generates a new windfall carrying $11 billion to big oil is the height of absurdity. After all, how many circuses and department stores can an oil company have use for? I believe that the American consumer is already strained to the limit paying the newly inflated price for gasoline; he is not in the mood nor should he be called on to make a 4 cents-a-gallon charitable contribution to big oil. And I believe that someone has got to point out to the administration the absurdity of Mr. Ligon's assertion that petroleum price increases are anti-inflationary in the long run. I am hopeful that these measures will receive prompt approval in the 93d Congress so that the President may have a clear picture of the congressional attitude toward "anti-inflationary" price increases.

SEEDS FOR HOME GARDENING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, Congressman RAY J. MADDEN, chairman of the powerful Rules Committee, today stated that one of the first pieces of legislation the Rules Committee will consider after the congressional recess is the bill filed by myself that provides for the free distribution of seeds for home gardening in America. I have been leading the fight for a "back to the soil movement" to promote the growing of home-grown vegetables in order to give the working families of America a chance to compete with rising food prices and predicted food shortages.

I praise Chairman MADDEN for his foresight in scheduling this bill for a hearing. The legislation was voted upon favorably by the Committee on Agriculture during the past week. The cost of the bill is $6 million and will produce up to $380 million in nutritious vegetables. This bill will encourage home gardening similar to the days of the victory gardens. It will result in thousands of Americans being put to work in the home gardening tool business, thousands of Americans getting jobs in the home preserve jar business, increase the seed business and provide for good healthy outdoor activity for our young, old, and middle-aged Americans.

This great land of ours has thousands of acres of good soil being wasted and not used. President Gerald Ford's speech last night called for more home gardening to fight inflation. I am pleased to learn that the President recognizes that home gardens is an area that the American people can help in the fight against high prices and food shortages.

GETTING OUR FOREIGN POLICY READY FOR THE BICENTENNIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, listen to this description and see if you can identify the part of the world I am referring to:

> An underpopulated, agricultural area, deficient in wealth, in industry, in military and naval power, without dependable revenues, without the power to coerce its constituent parts, in essence, by contemporary European standards, an underdeveloped land which impudently declared itself independent from its vastly superior mother country.

What African or Asian country am I referring to? None. Rather, the area and country I have been describing is the United States of America 200 years ago—a courageous, rebellious, tenuous confederation of 13 States seeking by revolution to establish a government of its own choosing, freed from tyranny of the old British regime.

Most of the established European powers viewed the obstreperous and upstart rebels with disdain mixed with alarm. These monarchies could hardly countenance rebellion and the institution of republican government. They were deeply apprehensive about the avowed experiment in democracy. Indeed, if the experiment were to be successful, it was felt that it might galvanize the people of Europe and ultimately topple the monarchs from their thrones.

Without substantial aid from outside powers, however, the chances for the success of the rebel forces against the established government looked very poor. It was, indeed, only with the aid of a powerful friendly government that the American War of Independence ended with independence. Ironically, the oldest and, and in many ways, most despotic monarchy of Europe made common cause with the rebels against a sister monarchy. The state which gave this indispensable aid to the rebelling American colonies was, as we all know, France.

Measured in the dollars of that time, France gave nearly $2,000,000 in subsidies and over $63,500,000 in loans to the American cause. In addition to this monetary aid, France gave the United States official recognition as an independent nation by signing in February 1778 a treaty of amity and commerce and a treaty of alliance. By the latter treaty France guaranteed "to the United States, their liberty, sovereignty, and independence absolute, and unlimited." By the terms of the treaty neither party was to make a separate peace with Great Britain, nor to lay down its arms until American independence was won. A French army under General Rochambeau was sent to America, and French fleets under Admirals d'Estaing and deGrasse operated off the American coast. The importance of this French aid can be seen in the final episode of the Revolutionary War, when Cornwallis' army was caught at Yorktown between a French fleet and an allied army, of which a large part was French.

Other States, too, gave more limited aid to the rebelling Americans. Spain gave $400,000 in subsidies and $250,000 in loans. In addition to loans of money, Holland provided its West Indian island of St. Eustatius as a neutral marketplace, where privateers and blockade runners could exchange American products for vital military supplies.

In addition to the aid given by foreign governments, the cause of the American colonies was taken up by large numbers of foreign volunteers, who provided useful military experience. The majority of these idealistic men served without pay. They came because of their love of liberty, human freedom, and their belief in the avowed ideals and aims of the rebels. A number of these freedom fighters came from Poland, which had just been decimated and divided up by the great powers of Eastern Europe. The Poles were moved by the struggle of a small nation to win its liberty against a much more powerful one. Tadeusz Kosciuszko, a military engineer, brilliantly distinguished himself in the Revolutionary War. He fortified Philadelphia, contributed to the victory of Saratoga, planned and built the fortress at West Point. For his services in 1783 he was given the thanks of Congress, along with the privilege of U.S. citizenship, an annual pension, lands, and the rank of brigadier general.

Another Pole who was to give his young life in the American struggle was cavalryman Casimir Pulaski who reportedly said on entering American service:

> I do not fear death. I fight for the liberty of oppressed peoples. That is a holy cause, and I fight in God's name.

A number of German-born military officers also came to the aid of the Americans. Johann de Kalb, a German-born French officer, died with his handful of Continental regulars on the battlefield at Camden. To an officer trying to console him as he lay dying, de Kalb reportedly replied:

> I thank you for your generous sympathy, but I die the death I always prayed for—the death of a soldier fighting for the rights of man.

Earlier at Valley Forge in 1778, de Kalb swore the following oath of allegiance before George Washington:

> I, John Baron de Kalb, Major General, do acknowledge the United States of America to be Free, Independent and Sovereign States, and declare that the people thereof owe no allegiance or obedience to him, and I do swear that I will to the utmost of my power, support, maintain and defend the said United States against the said George the Third, his heirs and successors and his or their abettors, assistants and adherents, and I will serve the said United States in the office of Major General, which I now hold, with fidelity according to the best of my skill and understanding.

Another German serving the American cause was the Prussian drillmaster officer, Baron von Steuben, who gave the Americans valuable technical training at Valley Forge. In his letter to Congress he explained his reasons for service in the American military:

> The honor of serving a respectable Nation, engaged in the noble enterprise of defending its right and liberty, is the only motive that brought me over to this Continent. I ask neither riches nor titles. I am come here from the remotest end of Germany at my own expense, and have given up an honorable and lucrative rank.

A large number of Frenchmen also volunteered to serve in America. The most well-known of these was, of course, the young Marquis de Lafayette—a wealthy young aristocrat, dedicated to the cause of liberty. He came to the United States in 1777 to serve in the army without pay. He served first on Washington's staff and later held an independent command in Virginia, and left an indelible mark of valor on the imagination of the American public. In describing his desire to serve in the American Army, Lafayette used the following words:

> The moment I heard of America I loved her; the moment I knew she was fighting for liberty I burnt with a desire of bleeding for her; and the moment I shall be able to serve her, at any time, or in any part of the world, will be the happiest of my life.

In a letter to his wife Lafayette described his desire to serve the American cause:

> As the defender of that liberty which I adore, free myself beyond all others, coming as a friend to offer my services in this most interesting republic, I bring with me nothing but my own free heart and my good will, no ambition to fulfill and no selfish interest to serve; if I am striving for my own glory, I am at the same time laboring for its welfare. I trust that for my sake you will become a good American; it is a sentiment for virtuous hearts. The happiness of America is intimate-

ly connected with the happiness of all mankind; she is destined to become the safe and venerable asylum of virtue, of honesty, of tolerance, and equality and of peaceful liberty.

In 1783, after years of struggle aided by foreign subsidies, loans, and official contingents of French military as well as the enthusiastic aid of volunteers from many countries, we did indeed attain independence. We had our revolution. We created our Nation. We formulated our ideologies of democracy and equality. We had our expansion, our territorial conquests, our manifest destiny. We established our spheres of influence and our hegemonies, and we did all these things without serious interference or hindrance from old established nations. We eventually prospered so much that nearly two centuries later the same small, agricultural, underdeveloped and underprivileged nation has grown into a powerful colossus.

How does this same country, from its lofty position of power, regard revolutionary movements in other countries? Does it aid and encourage aspirations toward freedom and democracy among small, underdeveloped nations?

In all too many cases the answer appears to be "no."

During the period when the Monroe Doctrine was enunciated and in later times, America identified itself with revolutionary causes abroad. In the mid-19th century, for example, American enthusiasm for European revolutionary causes nearly precipitated several diplomatic incidents between the United States and European governments.

This policy of support for revolutionary change has been succeeded by an intolerance of change. Indeed, the suppression of insurgent movements has become one of the prime targets of U.S. foreign policy. A great part of our foreign assistance funds has gone for civic-action teams, pacification programs, support for local police, and above all, military aid to the local army. Such expenditures are designed to strengthen the hand of the recognized government in putting down the challenges to its authority.

One of the most striking, costly, and unsuccessful examples of the U.S. policy of opposing political change in the developing world has been Vietnam. In other cases, with U.S. support, repressive governments in Paraguay, Nicaragua, and, until recently, in Greece have held down popular aspirations for social and economic change. With our support, reactionary governments in Latin America and elsewhere are preserving order at the expense of liberty.

For the United States, it is order purchased at the price of alining ourselves with corruption and reaction against aggrieved and indignant indigenous forces.

The United States has been untrue in recent years to its own historic commitment to democracy and human freedom. Our policymakers have in fact undermined democracy, supporting right-wing dictatorships in Asia, Latin America, and in other regions as part of America's containment strategy against communism. This policy is sometimes loftily described as a policy of defending freedom against totalitarianism. Yet, many of the governments that have received generous U.S. military aid, friendly nods from the U.S. embassy, or direct military intervention on their behalf are quite indifferent to civil liberties—Brazil, Paraguay, Taiwan, Korean, South Vietnam, Iran, and so on.

Military groups which seize power through coup d'etats from constitutional regimes are all too frequently recognized and supported by the United States. Some instances of such military takeovers unopposed—even perhaps welcomed—by the United States are the following: Argentina, 1955; Turkey, 1960; South Korea, 1961; Burma, 1962; Indonesia, 1966; Ghana, 1966; and most recently Chile, 1973.

It needs to be pointed out, also, that U.S. policy often turns a blind eye to those parts of the world where the freedom and democracy are most disregarded. In the areas under the direct control of the Soviet Union and China. U.S. involvement has been cautious and almost deferential. In seeking a trade agreement with the Soviet Union, the United States appears willing to ignore the blatant suppression of basic human freedoms in that country.

There is a traditional identification of the United States with the ideal of democratic rule. As the oldest functioning democracy in the world, the United States has properly championed the idea of political freedom. The Constitution has served as a model for new governments. The Bill of Rights, the writings and speeches of American leaders such as Jefferson, Lincoln, and Wilson, have had potent influence upon democratic movements elsewhere.

Despite this, however, the argument is often made that the people in countries ruled by oppressive regimes do not really want democracy. The falseness of this argument was clearly demonstrated in both Portugal and Greece, where the recent overthrow of dictatorial regimes was greeted by the public with jubilation.

For almost a half century, Portugal was ruled by men whose political philosophy was feudal, but who had at their disposal all the modern techniques of repression. The overwhelming majority of the Portuguese people were obliged to live in abject poverty, with no opportunity to join trade unions, political parties, or any other bodies concerned with human rights. They have been denied access to reliable information about the affairs of their own country and of the outside world. The legal system served only the interests of the governing elite, and the prisons were notorious for their barbaric forms of discipline. That it was possible to overthrow the regime responsible for all this in less than 12 hours, and with the loss of only a few lives, is certainly astonishing and clear proof that the dictatorial regime was not supported by the population.

The United States should have learned from the Portuguese events about the danger of associating too closely with ruling groups not based on popular support. But the United States has apparently not learned the diplomatic rule of staying in with the "outs," so that when they take over, America will not suffer a diplomatic setback.

The case of Greece is a notable example in this respect. Knowledgeable observers had been reporting for 7 years that the existing rulers were thoroughly disliked. A report by the House Foreign Affairs Committee of a study mission in Greece in January 1974, concluded:

First. Our principal conclusion on the situation in Greece is that the present Government cannot long endure.

Second. The second conclusion is that the democratic opposition in Greece is united as never before, while the Government is divided among three or four groups, each attempting to influence the present de facto leader.

Third. For the United States, the principal conclusion from our report is that we have pursued a faulty policy since 1967, from which we must now extricate ourselves.

Despite such reports, the U.S. Government continued to remain more tolerant of the Greek military regime than any other major Western power, placing priority interest on its arrangement for bases for the U.S. Sixth Fleet. Thus, when Greece rejoiced at the downfall of the military junta headed by General Ionnides, no Greek voices were raised in praise of the United States. Rather, the United States was seen as an ally of the forces of oppression and repression, and the result was a wave of bitter denunciation against the United States.

Thus, the kind of expediency which associated the United States so conspicuously with the military dictatorships in Portugal and Greece is in the long run not only unprincipled but, in fact, inexpedient. A government which is anachronistic or reactionary is stable only in the most superficial and temporary sense. The proper policy toward such governments should be what diplomats call "correctness," a businesslike relationship.

Since World War II, the revolutionary tide has continued to swell across Asia, Africa, and Latin America. With aid and arms we have helped delay, in many cases, the collapse of regimes whose very existence is an obstacle to social and political justice. Eventually, there seems little doubt, they will collapse, the more violently and with greater upheaval for having been perpetuated beyond their natural lifespans.

If, as appears in many parts of the world, ruling elites are unwilling or unable to exercise power effectively over large political organizations for the benefit of the members, and at the same time refuse to give up the personal rewards of power, then, sooner or later, rebellions against them will be attempted. If a government will not deal seriously with the economic and political conditions from which rebellion springs, the United States cannot for long successfully assist suppression of their discontented populations.

The present tendency in U.S. policy of preserving the status quo appears an extremely shortsighted one. In time, the forces of popular discontent are bound to break through the chains of repression. That is what past experience suggests. That is what we ourselves did in 1776. The history of Europe in the 19th century consists of the successful rebellion of nationalist movements—German, Italian, Belgian, Greek, and Slav—against the powerful European order forged by the Congress of Vienna in 1815. In the 20th century, similarly, we have seen the great European empires break up in the face of popular rebellion.

It is natural that, in its relationships with allies, the United States should prefer stability to instability. Of course the United States should not try to overthrow allied governments, even those of which it in principle disapproves. It is dangerous, however, for the United States to place reliance on governments merely because they seem "strong" or "stable", or because they grant U.S. military privileges.

When we speak of stability and order in the developing countries, we neglect to note that in most cases, the order secured with the help of our aid and our arms is one that forces millions of people to live under feudal conditions.

In addition to being shortsighted and immoral, our policy of buttressing the status quo has another flaw—it goes squarely aganst the American grain. Only by being true to our traditional values and our own best concept of ourselves can we hope to play a decent and constructive role in a changing world. Every time we suppress an indigenous revolution abroad, we risk subverting our own democratic principles at home.

Was the United States not established on the principle of the right of revolution—that is, the right to alter or abolish government and institute a new government? Was the United States not born of rebellion? Certainly the principles of the Declaration of Independence were explosive: All men are created equal; all have a right to life, liberty and happiness; the purpose of government is to secure these rights; men make government and can unmake it over again. Moreover, we adopted institutions and practices dangerously subversive to existing governments and rulers: No king, no aristocracy, no established church, and no military establishment. Our society was based on the principles of self-government, limited government, religious freedom, universal education, and a classless society.

If we sometimes think that the methods of others are violent, misguided and dangerous, we should remember that most of the world at the time of our revolution thought our methods violent, misguided, and dangerous.

Not only is it impossible in the long run for another nation to maintain governments in power in the face of revolution. It is not desirable from the standpoint of world peace or world development. If the United States were to renounce its policy of suppressing revolution, it would confront third world governments with a choice it now helps them to avoid: learn to govern effectively and justly, or face mounting insurgency. Prepare to transform traditional, feudal societies into nations, or give way to revolutionaries who can convince people that they can do better.

As we near our Bicentennial, let us rethink our foreign policy direction, and return to the principles on which this country was founded. In our foreign policy, let us support aspirations toward human freedom, be it in the Soviet Union or in the small, poor nations of the world. Let us give our aid to people desiring basic human rights and liberties as did the nations and foreign volunteers who helped this Nation achieve its independence.

STATEMENT OF CONGRESSMAN JOHN BRADEMAS ON SECURITY OF NIXON TAPES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, on Friday, October 4, the Senate passed S. 4016, a bill to preserve the tapes and other Presidential materials of Mr. Nixon.

The bill has been referred to the Subcommittee on Printing, which I chair, of the House Administration Committee. Because of the press of other urgent business before the House, our subcommittee was unable to act on this measure before the recess. However, it is my intention to bring this bill to the attention of the subcommittee the first week the House reconvenes in November.

Because I am concerned about the preservation and security of the tapes and other related materials during the period of recess, I have attempted to obtain adequate assurances that the tapes and related materials would not be destroyed, damaged or removed from Washington during that time.

Because of the objections raised by the Special Prosecutor to the agreement of September 6, 1974, between Mr. Nixon and Arthur Sampson, Administrator of the General Services Administration, with respect to the disposition of Mr. Nixon's Presidential materials, that agreement has not been implemented. Consequently, there is some confusion over who has responsibility for the preservation and security of the Nixon tapes and Watergate-related materials.

Mr. Speaker, I have been advised by officials of the General Services Administration that as long as the terms of this agreement are not being implemented, Mr. Sampson believes that he has no responsibility in the matter.

So, apparently, these materials are somewhere in the White House under the supervision and control of President Ford.

In an effort to ascertain the precise situation, the subcommittee counsel, at my direction, asked President Ford through his counsel, Philip Buchen, for a written assurance that the Nixon tapes and all Watergate-related materials were secure and they would continue to be secure until Congress returns in November to consider S. 4016.

More specifically, Mr. Buchen was asked what security arrangements were being implemented; who had access to the tapes and Watergate-related materials; if access were granted, under what circumstances; and what procedures were to be followed to insure that there were no tape erasures or destruction or removal of these materials. And, he was asked for an assurance that these procedures would remain in effect until the Congress reconvened in November.

Mr. Speaker, this request was initially made on Wednesday, October 9, 1974. Despite the urgency and the importance of this matter, I have yet to receive a response from the White House.

Under the opinion of Attorney General Saxbe of September 6, 1974, President Ford would clearly have the authority to retain custody of the tapes and Watergate-related materials. In that opinion, Attorney General Saxbe cites the "Map Room Papers" precedent, under which President Truman retained protective custody of certain documents of former President Roosevelt. Attorney General Saxbe found that this precedent demonstrated the authority of a President to retain possession of documents of a former President where "any need for continued use of certain documents in the process of Government" may exist.

I urge President Ford to retain custody of all the Nixon tapes and Watergate-related materials and to give Congress and the American people complete assurance that they are now secure and will remain secure until Congress has acted on S. 4016.

Mr. Speaker, this is a matter of great importance to all of us and I have written a letter to the distinguished chairman of the Subcommittee on Criminal Justice of the Committee on the Judiciary, Mr. HUNGATE, and asked that he raise this matter with President Ford during his appearance before the Subcommittee on Criminal Justice on Thursday, October 17, 1974.

PARDON, TAPES, PRESIDENT FORD, AND HOUSE ACTION: THINGS TO BE DONE

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from New York (Ms. ABZUG) is recognized for 20 minutes.

Ms. ABZUG. Mr. Speaker, many questions, contradictions, and mysteries still becloud the pardon of Richard M. Nixon. It is the responsibility of the Subcommittee on Criminal Justice of the House Committee on the Judiciary, before which President Ford is scheduled to testify October 17, to conduct a full inquiry into this highly controversial action and to call other witnesses so that the American people may know the whole truth.

It is all the more important that the House act on this matter because Special Prosecutor Leon Jaworski's resignation, announced October 13, may be the signal that the Ford administration is preparing to shut the book on further investigations and prosecutions stemming from the Nixon regime's corruption, including the inquiries into ITT, the milk lobby, and the possible misuse of campaign contributions.

When President Ford announced the pardon and the tapes agreement on September 8, I charged that this appeared to be "the worst coverup of all." The mischief created by that unprecedented and premature pardon becomes more evident every day. The mischief that would be created if the tapes agreement were allowed to be put into effect—and fortunately it has been suspended as a result of objections by the Senate and Mr. Jaworski—can only be estimated.

In a memo to Judge Sirica, Mr. Jaworski has expressed the view that the outcome of the major Watergate conspiracy trial now under way may be affected by the belief of some jurors that it is unfair to prosecute the five defendants while the ringleader of their alleged conspiracy is allowed to go unindicted and free.

The special prosecutor leaves with his job uncompleted, and there can be no assurance that the Ford administration will take the necessary steps to appoint a strong and independent prosecutor as Mr. Jaworski's succesor or to see that the work of the special prosecutor's office is continued vigorously. That assurance must come from the expressed determination of Congress and the American people that we not be subjected to another coverup.

There can be little doubt that President Ford would like to call a halt to all the Watergate investigations and prosecutions. That, I believe, was the meaning of his trial balloon reporting that he was considering a general pardon for all the Watergate figures as a followup to the Nixon pardon. Only an outcry from the American people forced him to shelve that plan, temporarily.

There is also no doubt that Mr. Ford remains an apologist for the man who appointed him and made it possible for him to become President. He continued to express his belief in Mr. Nixon's innocence almost to the eve of his resignation. Since becoming President, Mr. Ford has yet to state that he personally agrees that Mr. Nixon was guilty of anything.

He has described the House Judiciary Committee's impeachment report as "very persuasive evidence," without saying whether he was personally persuaded. He has said, "the acceptance of a pardon, I think, can be construed by many, if not all, as an admission of guilt," without saying how he construes it.

In fact, both he and his counsel, Philip Buchen, insist that no attempt was made to get a confession of guilt from Mr. Nixon before the pardon was issued. They almost convey the impression that Mr. Ford was more intent on giving Mr. Nixon a pardon than the former President was on receiving one.

From the transcripts of President Ford's and Mr. Buchen's press conferences, despite many discrepancies in their accounts, it appears that Mr. Ford was absolutely determined to let Mr. Nixon off the hook as quickly as possible, without even "negotiating" the pardon, without invoking the normal procedure on pardons or consulting with others on a matter so important to the American people and to our system of equal justice.

According to their accounts, President Ford did not even bother to ask Special Prosecutor Jaworski how a pardon of Mr. Nixon at that time would affect the pending Watergate conspiracy trial or pending investigations and other possible prosecutions. This is surely the strangest omission in a performance marked by many peculiarities and inexplicable about-faces.

Let us remember that when then Representative Gerald Ford appeared before the Senate Rules Committee at its confirmation hearings on his nomination as Vice President, Chairman Howard Cannon asked if he would use the pardoning power "to prevent or to terminate any investigation or criminal prosecution" of Mr. Nixon. After making his now famous statement that the public would not stand for it, Mr. Ford added that:

> The Attorney General, in my opinion, would be the controlling factor.

Does anyone think that Mr. Ford would have been confirmed, and thus put in a position to become President, if he had said then that he planned to pardon Richard Nixon before he was indicted or tried or confessed any guilt?

Despite his pledge at the confirmation hearings, President Ford did not consult with Attorney General Saxbe either on the pardon or on the agreement giving Mr. Nixon custody of the tapes and the right to destroy them. Why not?

In my testimony before the House Judiciary subcommittee on September 24, 1974, and in earlier letters to Attorney General Saxbe and to Special Prosecutor Jaworski, I called on the Special Prosecutor to proceed with an indictment of Mr. Nixon, if the facts so warranted, and pointed out that this would insure a court test of the legality of the pardon. Similar proposals for a court test have come from many eminent legal scholars.

In his letter of resignation to the Attorney General on October 13, Special Prosecutor Jaworski took note of these proposals for a court test of the pardon and explained that:

> For me to procure an indictment of Richard M. Nixon for the sole purpose of generating a purported court test on the legality of the pardon, would constitute a spurious proceeding in which I had no faith.

He reiterated his belief that the pardon was legal.

With all due respect for Mr. Jaworski, who has earned the gratitude of the Nation for his conduct as Special Prosecutor, I must take issue with him. It would indeed be spurious to frame a groundless indictment of Mr. Nixon for "the sole purpose" of seeking a court test of the legality of the pardon. But it is generally accepted that Mr. Nixon would have been indicted on very specific grounds if it were not for the pardon. His pending indictment was, in fact, one of the reasons for the pardon. Mr. Nixon was named by the Watergate grand jury as an unindicted coconspirator in the Watergate conspiracy trial. The jury failed to indict him only because Mr. Jaworski informed them that a President could not be indicted, another point which is open to some controversy. The implication was, and this is sustained by the language of the Constitution, that, once Mr. Nixon was no longer President, he could be indicted.

I still beileve that it is the responsibility of the Special Prosecutor to proceed with an indictment of Richard Nixon. If the former President should then wish to plead in court that he could not be indicted because of the pardon, it would be Mr. Nixon who would be initiating a test of the pardon's legality.

As I indicated earlier, without an indictment of Mr. Nixon, the Watergate trial that is now underway may well be placed in jeopardy, along with other investigations and prosecutions by the Special Prosecutor.

Accordingly, I have today introduced a resolution which states it to be the sense of the House that the Special Prosecutor should, notwithstanding the Presidential pardon, proceed to institute all appropriate legal actions with respect to the conduct of Richard Nixon during the period of his Presidency, including the issuance of indictments against Richard Nixon justified by evidence presented to a Federal grand jury.

My resolution also expresses the sense of the House that the Special Prosecutor should, at such time as he deems appropriate, but not later than 60 days after the conclusion of all criminal proceedings within his jurisdiction, issue a final report to the public encompassing all matters investigated and all evidence to which the Watergate Special Prosecution Force has had access.

I hope that the House Judiciary Committee will hold hearings on this resolution along with continued hearings on my resolution of inquiry, which, together with the resolution of inquiry introduced by Representative JOHN CONYERS, is the subject of the October 17 session to be attended by President Ford.

I also hope that the subcommittee will examine the question of why the issuance of the pardon was linked by the White House with an agreement signed by Richard Nixon and General Services Administrator Arthur Sampson giving Mr. Nixon custody of the White House tapes as well as the right to destroy them after 5 years or to have them destroyed immediately following his death.

In the immediate furor over the surprise pardon of Mr. Nixon, little attention was paid to the nature of the White House-initiated agreement on the tapes, but this agreement is as scandalous as the pardon itself and is clearly part of the intended coverup. It must be rescinded by the Congress by prompt approval of S. 4016, already passed by the other body.

Neither Mr. Ford nor Mr. Buchen has given any explanation of why they were so anxious to get the tapes agreement signed before the pardon was granted or why it was left to Mr. Nixon and his attorney, Herbert J. Miller, to draft the agreement on the tapes. Indeed, throughout this strange proceeding, Mr. Ford has acted as if he were the supplicant and Mr. Nixon held all the cards.

In the absence of any rational explanation for why the tapes agreement was negotiated so quickly, secretly, and without consultation with the Attorney General or the Special Prosecutor, speculation has arisen that Mr. Ford was trying to hide something.

Without a detailed inquiry by the House Judiciary Committee, we have no way of knowing the truth about the agreement on the tapes. One purely conjectural explanation has been advanced in an article in New York magazine—October 14 issue—by writers Frank Fox and Stephen Parker. The authors point out that:

> by the most conservative estimate, the White House tape recordings contain over twenty hours of candid conversation between Gerald Ford and Richard Nixon.

During Mr. Ford's confirmation hearings, they also point out, Mr. Ford admitted having discussed with President Nixon the Watergate break-in and also said that he may have had discussions both in person and by phone with Mr. Nixon on the question of support payments for the Watergate burglars.

During his confirmation hearings before the House Committee on the Judiciary last November, Mr. Ford admitted that at Mr. Nixon's request, he had sought to forestall a threatened investigation of the Watergate break-in by the House Committee on Banking and Currency, under the chairmanship of Representative WRIGHT PATMAN.

According to Fox and Parker, H. R. Haldeman, who kept a detailed personal log of the President's conversations, is the only one, apart from Mr. Nixon, who knows what portions of the 5,000 hours of tapes, excluding those already subpenaed, may contain damaging evidence about Mr. Nixon and others, including possibly Mr. Ford. They contend that Mr. Haldeman attempted to use this knowledge in an effort to negotiate a pardon for himself.

Fox and Parker continue:

> In order for Nixon to secure a full, free, and absolute pardon before he was indicted, without having to admit any criminal guilt, at a time when over 56 percent of the public was opposed to a pardon, and at a time when a pardon would gravely injure the Republican party in the coming November elections and severely handicap Ford's attempt to win a full term in 1976, Nixon and Haldeman would have had to possess an immensely powerful weapon. If such a weapon existed anywhere, it would exist in the White House tapes—conversations which could be politically fatal to Ford, or to other Republican and possibly even Democratic leaders.
>
> So, before a pardon could be or would be granted, it would be necessary for Ford and Nixon to reach an agreement on the disposition of the tapes which offered sufficient security to both Ford and Nixon. In fact, the tapes agreement was negotiated and accepted by both parties before the details of the pardon were settled. By Friday, August 6, (sic) the agreement was signed by Nixon. The negotiations were conducted by the same men who would settle the details surrounding the pardon: Becker (President Ford's personal attorney, Benton L. Becker, currently under investigation for income tax evasion), Miller, and (Ron) Ziegler.

The authors believe that the key to the tapes agreement is the provision in paragraph 10 that the administrator—GSA head Arthur Sampson—"may upon receipt of an appropriate written authorization from the counsel to the President provide for a temporary redeposit of certain of the materials to a location other than the existing facility."

In their view, "this provision, should Ford choose to exercise it, would give him effective control over any tapes and documents which would prove politically injurious to himself or to other public officials."

This may or may not be a valid interpretation of the motivation for the tapes agreement. It is one of several possible explanations of why Ford, acting on the unwarranted assumption that the tapes were the property of Richard Nixon rather than of the Government, rushed to negotiate the giveaway of the tapes.

President Ford's mere appearance before the House Judiciary subcommittee on October 17 should not be accepted as a substitute for a real investigation of the pardon and tapes agreement.

The questions in my resolution of inquiry deal primarily with the pardon and were intended as an introduction to a full inquiry into what appears to be a continuation of the Watergate coverup. One newspaper columnist has reported that the President's representative made as a condition for Mr. Ford's coming before the committee that there be "no questions from BELLA ABZUG." Since the President will be answering 10 questions in my privileged resolution, I assume that this means there should be no followup questions based on his replies.

There are, of course, many other questions that the subcommittee members could and should ask of President Ford and others involved in the pardon and tapes agreement. More important than my questions are the questions which are troubling most Americans. These are the questions which President Ford should be called upon to answer:

First. What circumstances caused President Ford suddenly to reverse his position, and grant Mr. Nixon a pardon before indictment or trial?

Second. Did President Ford consider, before granting Mr. Nixon an unconditional pardon, what effect that pardon would have on the remaining Watergate investigations and prosecutions? And if not, why not?

Third. What role did General Haig play in the days immediately preceding and following Mr. Nixon's resignation? If, as indicated, General Haig was instrumental in persuading Mr. Nixon to resign, what, if any, commitments did he make to Mr. Nixon in the course of such persuasion? Were such commitments made with the knowledge or approval of President Ford?

Fourth. What role did Mr. Buzhardt play in the days immediately preceding and following Mr. Nixon's resignation in the negotiation of the tapes agreement? Did Mr. Buzhardt make any commitments to Mr. Nixon prior to his resignation regarding the disposition of the Nixon tapes and were such commitments made with the knowledge or approval of President Ford?

Fifth. Why did President Ford send Mr. Benton Becker to San Clemente on Thursday, September 5? Was the purpose of Mr. Becker's mission to negotiate the tapes agreement or to work out the conditions of the pardon or both? Was there, in fact, a direct relation between the tapes agreement and the issuance of the pardon?

Sixth. In negotiating the tapes agreement, was President Ford attempting to preclude the revelation of portions of those tapes which may contain conversations between himself and Mr. Nixon?

Seventh. Most important, how will the American people ever learn the true facts underlying "Watergate" and all it encompasses if the pardon is allowed to preclude indictment and trial of Mr. Nixon; if the tapes agreement permits destruction of the tapes and documentary materials; and if Mr. Nixon's current "illness" will excuse him from testifying in Watergate-related proceedings?

One bitter result of the Watergate mess is that we can no longer simply rely on the word of a President. We have learned otherwise. I believe it is up to the members of the House Judiciary Committee to ask the tough questions and to verify what the President says by calling other witnesses so that we may get the whole truth about this new chapter in the continuing Watergate cover-up. I also hope that the House will give speedy consideration to the following resolution which I have introduced today:

H. RES. 1450

> *Resolved,* That it is the sense of the House of Representatives that the Special Prosecutor of the Watergate Special Prosecution Force—
>
> (1) should, notwithstanding the Presidential pardon issued to Richard M. Nixon on September 8, 1974, proceed to institute all appropriate legal actions with respect to the conduct of Richard M. Nixon from January 20, 1969, through August 9, 1974, including, but not limited to, the issuance of any indictment or indictments which may be justified by the evidence presented to or that may be presented to a Federal grand jury; and
>
> (2) should, at such time as deemed appropriate by the Special Prosecutor, but not later than sixty days after the conclusion of all criminal proceedings within the jurisdiction of the Watergate Special Prosecutor's Office, issue to the public a full and complete report concerning all the matters that the Watergate Special Prosecution Force has investigated since its establishment, including the conduct of Richard M. Nixon from January 20, 1969, through August 9, 1974. Such report shall include, but not be limited to, transcriptions of all tapes, and all documents and other evidentiary material available to the Special Prosecution Force since its establishment.
>
> SEC. 2. It is further the sense of the House of Representatives that the fundamental principle of equal justice under law will be damaged, not served, by the granting of Presidential pardons at this time to other individuals charged with or convicted of offenses against the United States with respect to the Watergate matter.

CONSUMERS AND FARMERS—THEIR PROBLEMS ARE INTERTWINED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, there is great distress today with consumers angry at farmers because of high prices, and farmers angry at consumers because they are not receiving what they consider fair prices for their products. This week some farmers chose to protest their economic plight by shooting young calves and throwing their carcasses into a pit to be eaten by lime. This at a time when the poor, and especially the poor elderly in this country go without meat because of the high cost of food, and have to buy cans of dog food to sustain themselves.

And in New York we have had a scandal unfold concerning one of the major milk producers, Dairylea Co-op Inc. which for 5½ years adulterated our milk. The State of New York has failed to date to hold those who committed these consumer frauds criminally liable.

I believe it is essential that hearings be held across the country by the House Agriculture Committee on two subjects which are intertwined.

First. The consumer frauds practiced by the food producers of which the Dairylea Milk adulteration case may be just the tip of the iceberg, and

Second. Why it is that the farmer receives such a small share of the high retail price.

Unless consumers and producers—in this case farmers—work together, both will be victimized by unscrupulous persons bent on extracting unconscionable prices without regard to either the consumer or the farmer.

FREEDOM FOR THE UKRAINIAN PEOPLE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on September 29, 1974, I marched with thousands of Ukrainian Americans and those who are not Ukrainian, such as myself in support of human rights for Ukrainians in the Soviet Union. Those of us who support human rights for any group support those rights for all groups. The Soviet Union is engaging in cultural genocide against many of the captive nations now in the U.S.S.R. It is also engaging in the physical destruction of those who dissent. Two Ukrainian intellectuals and dissenters, Valentyn Moroz and Leonid Plyushch are suffering in Soviet prisons. We in the United States who are free have an obligation to speak out against this oppression.

I should like to bring to our colleagues' attention resolutions issued by the executive committee of the National Manifestation in Defense of Human Rights in Ukraine:

RESOLUTIONS

(Adopted at the National Manifestation in Defense of Human Rights in Ukraine, held on Sunday, September 29, 1974, in Bryant Park, 42nd Street, between 5th Avenue and Avenue of the Americas, New York City:)

We, Americans of Ukrainian origin, assembled here to protest and express our concern over the unbridled persecution of the Ukrainian people, especially the barbarous treatment of Ukrainian political prisoners, by the Soviet regime in Ukraine, do hereby unanimously decide:

Whereas, the Soviet government has arrested in the last three years over 600 Ukrainian intellectuals who have been tried and sentenced to harsh terms of imprisonment for criticizing the police terror, the Russification of Ukraine and the gross violations of human rights as defined by the U.N. Universal Declaration of Human Rights, and for defending the inherent rights of the Ukrainian people to freedom and national independence; and

Whereas, two prominent Ukrainian intellectuals, *Valentyn Moroz*, 38-year-old historian, and *Leonid Plyushch*, 35-year-old mathematician, are reported to be "near death" from torture, starvation and the administration of dangerous drugs; and

Whereas, Valentyn Moroz has been on a hunger strike since July 1st and is now reportedly in the 91st day of his hunger strike, stating that he will refuse food "until death," unless he is transferred to a concentration camp,

Now, therefore, we unanimously resolve:

1. To appeal to President Ford and to Secretary of State Henry Kissinger to intervene with the Soviet government for the immediate release of Valentyn Moroz and Leonid Plyushch and allow them to leave the USSR for proper medical treatment abroad;
2. To appeal to the Hon. John Scali, U.S. Ambassador to the United Nations, to bring the matter of the inhuman treatment of Ukrainian political prisoners to the immediate attention of the U.N. Commission on Human Rights, and to seek the release of Valentyn Moroz and Leonid Plyushch forthwith;
3. To express our heartfelt gratitude to the Hon. Henry M. Jackson of Washington, for his direct appeal to Leonid Brezhnev for the release of Valentyn Moroz; to the Hon. Robert Taft, Jr. of Ohio, for his Senate Resolution No 392, calling for the release of Valentyn Moroz; to the Hon. Congressmen Daniel J. Flood (Pa.), Robert J. Huber (Mich.), James J. Delaney (N.Y.), Edward J. Derwinski (Ill.) and Edward I. Koch (D., N.Y.) for their H. Res. 649, calling for the immediate release of Valentyn Moroz, and to all other U.S. Senators and Congressmen supporting both measures; and
4. To urge the U.S. Congress to reject all trade and economic agreements with the Soviet Union until such time as the Soviet government ceases the persecution of the Ukrainian people, releases Ukrainian political prisoners condemned on spurious charges of "anti-Soviet agitation and propaganda," and acts according to the civilized code of international morality and justice; and
5. To appeal to the American press, TV and radio media to uphold our efforts to unmask the brutality and inhumanity of the Soviet Russian regime in Ukraine, and to support the aspirations of the Ukrainian people to freedom, self-determination and national independence.

NIGHT LETTER

(The following telegram was sent to Sen. Henry M. Jackson, Sen. Jacob K. Javits and Sen. Abraham Ribicoff:)

On behalf of 10,000 participants at the National Manifestation in Defense of Human Rights in Ukraine, held on Sunday, September 29, 1974 in New York City, we urge you, Sir, not to be part of or support any agreement between Secretary of State Henry Kissinger and Soviet Ambassador Anatoly Dobrynin regarding any liberalization of U.S. trade with the USSR, unless it contains specific clauses for the immediate release of Valentyn Moroz and Leonid Plyushch and for the free movement of Soviet citizens from and to the Soviet Union.

Hundreds of Ukrainian intellectuals are now incarcerated in Soviet jails, concentration camps and psychiatric wards for no other reason than for citicizing police terror, the unbridled Russification of Ukraine and the crass violations of human rights.

We appeal to you, Sir, to be guided by the principles of justice and humanity and not to fall into a Soviet Russian trap by agreeing to provide extensive trade concessions to the USSR in exchange for empty Russian promises.

EXECUTIVE BOARD,
Ukrainian Congress Committee of America.

OCTOBER 3, 1974.

THE PUBLIC DESERVES BETTER SERVICE FROM THE SOCIAL SECURITY ADMINISTRATION

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, as Members of the House of Representatives, I trust you will agree that one of the more important services we perform for our constituents is helping them resolve difficulties they may be having with agencies of the Federal Government. In this regard, I have been deeply distressed recently by the response, or shall I say the lack of response, which I have been receiving from the Social Security Administration in Baltimore. It is regrettable that individuals should be compelled to seek assistance from their elected representatives in regard to their dealings with the Social Security Administration. However, when taking into consideration the problems which I, as a Congressman, have had with the Social Security Administration in Baltimore, I can certainly appreciate the exasperation and frustration which private citizens must encounter in attempting to deal with this Agency.

During the 10 years I have served in Congress, I have had thousands of inquiries from constituents concerning disability, retirement, and survivors' benefits. For about the first 6 years I could expect prompt action from Baltimore, and my office would be immediately contacted by phone or telegram whenever a determination was made on a claim. However, about 4 years ago, the responses which I received from Baltimore began to deteriorate, and in the past year the situation has become deplorable. While determinations on disability claims were formerly made in 3 to a maximum of 6 months, the same process is now taking 6 months to a year, or even more.

For example, on October 20, 1973, I was contacted by an individual with several minor children concerning a claim which he had filed for disability benefits. Over a year later, in January 1974, his claim was allowed. This was his original claim, not a request for reconsideration. I cannot help but wonder how that individual and his family managed to buy food and pay for utilities and medical bills during that time.

It deeply concerns me that individuals with little or no income and high medical expenses, such as the disabled and retired, are suffering because of the Social Security Administration's lack of responsiveness. While my dealings at the district office level have been most satisfactory, it has gotten to the point where, if a claim cannot be handled at that level, I might as well forget about it as contact Baltimore. Practically all of my recent dealings with Commissioner Cardwell and his office in Baltimore have been unsatisfactory. However, there are several cases which I would like to cite as glaring examples of the inefficiency and ineptitude of that office.

My office contacted Baltimore on December 22, 1973, concerning a claim for a wife's benefits which was filed by a lady in her seventies. A determination establishing her eligibility for these benefits was made about 9 months later, on September 3, 1974. Fortunately, this lady had relatives who helped her out during that time, but not everyone has a family who is willing and able to help.

Another disability claim was promptly forwarded from the district office of the Social Security Administration to the State disability agency on March 1, 1974. Repeated phone inquiries from my office regarding the status of this case produced no responsive information until recently, when I received notice from Baltimore, on October 7, that the claim had been disallowed. Apparently, it is easier to get information from the CIA these days than to obtain status reports from the Social Security Administration.

On August 31, 1973, a disabilty claim which I had been working on was forwarded to the State disability agency. My office called Baltimore repeatedly inquiring about the status of this claim. These calls were either not acknowledged or were put off with a reply that "the case was pending further evaluation." No substantive information was received until June 19, 1974, when I was advised that the claim was approved on reconsideration. This was about 10 months after my original inquiry.

Bungling is also another Baltimore specialty. A medicare claim which I had been actively involved with from the reconsideration level in January 1973, through the final appeal in March 1974, had many inconsistencies which were never adequately explained. I personally wrote to Commissioner Cardwell on June 4, 1974, requesting his assistance in clearing up the discrepancies. On June 19, I received a routine acknowledgment of my inquiry, and on July 22, I received a letter from the Commissioner advising that he had contacted the Director of the Bureau of Health Insurance, who advised that the claimant's records were pending in the Bureau of Hearings and Appeals. The Commissioner stated he had asked the Director of that Bureau for a report and would contact me again as soon as it was received. On August 23, after no further word was received, my office contacted the Bureau of Health Insurance and was informed that they had no knowledge of the case. They suggested that the Bureau of Hearings and Appeals be contacted. From August 23 to September 18, several calls were made to the Bureau of Hearings and Appeals. These calls were either unanswered or referred to another individual who promised to call back and never did. Finally, the Bureau of Hearings and Appeals advised that they had no knowledge of the claim.

Subsequently, on September 18, the liaison office in Baltimore was called, and they replied that a final letter had been sent to me on September 9. Later that same day a call was received from another office in Baltimore apologizing for the fact that my inquiry was inadvertently filed and never responded to—a reply would be expedited to me in about a week. More time passed and nothing was received, so my office made some additional phone calls. As a result, photocopies of my original letter to Commissioner Cardwell were forwarded to the Bureau of Hearings and Appeals on September 30. This past Friday, October 11, I received a reply from the Bureau of Hearings and Appeals which completely ignores the questions posed in my original letter to the Commissioner.

Misinformation is another Baltimore specialty. A case which my office had been involved in for quite some time concerned a disability claim filed by a lady in her late fifties. This lady was single, lived alone, and had no outside source of income. On March 29, 1973, previous denials of her claim were overturned by the decision of an Administrative Law Judge. My office contacted Baltimore to ask that I be advised when an award was made on this lady's claim, and was advised that the claim would automatically be "flagged." When nothing further was heard, my office called Baltimore on May 15, and May 22. These inquiries were not responded to. Another inquiry was made on June 8, at which time Baltimore advised that they were still awaiting a determination on the award. Finally, on June 11, Baltimore called to advise that an award had been made on the claim, and a check had been mailed to the claimant at the end of May.

In one last instance, an individual whom I know personally filed a request for reconsideration on the denial of his disability claim. To me, this case appeared to be one of clear-cut disability, and I felt justified in writing a rather lengthy letter to Commissioner Cardwell on July 29, requesting his personal attention in making certain that the claim was handled as expeditiously as possible. My letter was acknowledged on August 15. When no further reports were received, a call was made to Baltimore on October 1. To date, there has been no response to that call.

Previously, complaints from my office to Commissioner Cardwell have produced no improvements in service, only rationalizations. Therefore, I urge each Member of Congress who has experienced similar difficulties to join me in personally taking the time to write or call Commissioner Cardwell to demand that immediate action be taken to correct the existing situation, and to establish the type of responsiveness and responsibility which the public deserves from the Social Security Administration.

LACK OF ACTION ON PRIVACY ACT IS REGRETTED

(Mr. MOORHEAD of Pennsylvania asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I deeply regret that it has not been possible to consider H.R. 16373, the Privacy Act of 1974 before our October recess. This important and timely legislation—the product of more than 2 years of bipartisan effort by our committee—will take a giant step in preserving the privacy of individual Americans from the threat of "big brother" tendencies of the executive bureaucracy. It will provide an individual access—in most cases—to records about him being held by Federal agencies and give him the right to correct misstatements of fact in those records. It will provide him with civil remedies against Government bureaucrats who abuse his rights of privacy. H.R. 16373 is truly landmark legislation for the protection of the individual in America and I intend to continue my efforts to press for action on this measure immediately following our return in November.

The bill was reported on a 39-to-0 rollcall vote by the House Government Operations Committee on September 24. The report (H. Rept. 93–1416) was filed and printed on October 2. Our request for a rule was heard by the Rules Committee on October 8 and an open rule was granted that date providing for 1 hour of general debate. It was scheduled for House floor action last week, but because of the hectic schedule and the great number of conference reports to be acted upon before our recess, it was not called up. A similar problem during our sessions this week has prevented its formal consideration.

Mr. Speaker, the privacy issue is of vital concern to many millions of Americans and cuts across party and ideological lines. So that Members may be better informed about the broad ramifications of this issue I include the text of an excellent article—"Justice Report/Protection of Citizens' Privacy Becomes Major Federal Concern"—by Richard E. Cohen, and which appears in the National Journal Reports of October 12, 1974. The article follows:

Justice Report/Protection of Citizens' Privacy Becomes Federal Concern

(By Richard E. Cohen)

A concern that government and business accumulate too much data on private citizens is making the protection of individual privacy an issue high on the priority list of scores of government policy makers.

While part of the rush to action is in response to abuses of government power documented in the Watergate scandals, it also is an inevitable result of the rapid growth of government record keeping made possible by the increasing sophisticated use of computers. A three-year study by the staff of the Senate Judiciary Constitutional Rights Subcommittee revealed the existence of 858 federal data banks containing 1.246 billion separate records of American citizens.

Under the leadership of a White House committee chaired by Gerald R. Ford when he was Vice President, government agencies have been strongly encouraged to deal with a broad variety of privacy invasions. The issues range from the use of medical and employment records to the implications of a "cashless society."

This review of the government's impact on privacy may bear results similar in scope to those generated five years ago by the concern for protecting the environment. And, as with the ecology boom, privacy may be an issue that is easy to support in general terms but raises complex policy and cost questions when the specifics are analyzed. Action also has been frustrated by bureaucratic inertia in many federal agencies.

One result has been a difficulty in securing agreement on legislation whose goals both congressional and executive branch officials say they support but whose provisions may affect a gamut of unrelated areas.

And some Members of Congress who have been in the forefront of the privacy movement have begun to question the motives of the Administration initiative, wondering whether it is designed primarily to serve the White House's political interests rather than to buckle down on agency abuses.

Background: Until about a year ago, privacy was an issue that drew scant public or congressional attention. A few Members of Congress used their committee leadership posts to hold hearings on subjects such as wiretapping and other electronic eavesdropping, consumer credit practices, and the use of lie detector tests. Widespread fear about the creation of a "national data bank" arose in the mid-1960s, but faded after the glare of publicity shined on the proposal.

Without any discussion of policy or attempt to set operating standards, the steady growth of federal data banks continued unabated. The only guidelines on federal computer use came from the Office of Management and Budget and the General Services Administration who were interested primarily in procurement practices.

The abuses of individual liberties documented by Watergate have dramatically changed that picture.

"Watergate has made it easier to get the interest and votes of other Members of Congress on privacy issues because they are concerned about the 'plumbers unit' and the use of Internal Revenue Service records, and are responding to it," said Rep. William S. Moorhead, D-Pa., chairman of the Foreign Operations and Government Information Subcommittee of the Government Operations Committee.

"There was a crisis for the past few years in communications and data collection. It took awhile for the counterforce to catch up, but, Watergate made people more receptive to the issue of what the government is collecting," said Henry Goldberg, general counsel for the White House Office of Telecommunications Policy.

Coincidentally, the Member of Congress with the longest and most active interest in privacy regulation is Sen. Sam J. Ervin Jr., D-N.C., chairman of the Senate Select Committee on Presidential Campaign Activities, which uncovered many of the Watergate abuses. As chairman of the Senate Government Operations Committee and the Judiciary Subcommittee on Constitutional Rights, he has been in a unique legislative position to secure privacy legislation prior to his retirement at the end of 1974.

Ervin's two principal bills are designed to regulate the use of criminal history information and provide rules for the gathering and disclosing of non-criminal information by government agencies. His position as a principal nemesis of the Nixon White House and Justice Department added political complications to the passage of those bills, but his staff has intensified efforts on each of them since the resignation of President Nixon.

FORD COMMITTEE

Acting to anticipate further danger to civil liberties posed by the pervasiveness of government has proved to be a task easier said than done. A few legislative and administrative steps already have been taken, with increased intensity since the Aug. 9 resignation of Nixon, but many problems will continue to be studied while a growing corps of government privacy experts attempts to set more definite standards for identifying privacy problems and providing solutions.

Until seven months ago, the executive branch lacked an identifiable individual or institutional leader to study privacy issues and coordinate proposed initiatives. Responding to the increasing public interest in privacy, President Nixon Feb. 23 created the Domestic Council Committee on the Right of Privacy and named then Vice President Ford as its chairman.

Geoffrey C. Shepard, associate director of the Domestic Council and the initial coordinator of the privacy committee concept, said following its creation that the committee "will not establish a broad philosophy but will produce a series of recommendations and actions that pursue the theme of restricting the government's demand of information from individuals."

Ford, who demonstrated little interest in the privacy issue during his 25 years in the House, seized the opportunity and appointed his own staff to run the committee. He soon had the committee studying more than a dozen areas and he made several speeches focusing on the need for government action to protect privacy.

In a June 26 speech to the National Broadcast Editorial Association, Vice President Ford said "the problem of insuring personal privacy in a computerized society which threatens to open the most personal affairs of each of us to anyone with access to computer-stored information" is one of the "most serious" and "least realized" problems facing the nation.

In the committee's early months, Ford succeeded in having President Nixon rescind an executive order permitting the Agriculture Department to review the income tax returns of farmers and strongly criticized a General Services Administration (GSA) plan to develop a data network with the capability of linking federal agencies. The GSA plan was subsequently shelved by Administrator Arthur F. Sampson. (*For background on the GSA "Fednet" proposal, see Vol. 6, No. 23, p. 856.*)

Committee operations: In addition to the Vice President, Nixon appointed six Cabinet members and four sub-Cabinet officials to the committee and asked the committee to give him "a series of direct, enforceable measures" within four months. The committee members included the Secretaries of Treasury, Defense, Commerce, Labor and HEW, the Attorney General, the chairman of the Civil Service Commission, and directors of the Office of Management and Budget, Office of Telecommunications Policy and Office of Consumer Affairs.

The committee held its first meeting at the White House Feb. 26, three days following Nixon's nationwide radio address. According to Shepard, Nixon attended 70 per cent of the two-hour meeting and told the group the government collects too much information that it has no reason to have and cannot use.

Initial activity—Ford appointed Philip W. Buchen, his close friend and former Grand Rapids law partner, as the committee's executive director. It was the first significant government post for Buchen, who Ford named his counsel shortly after he became President.

With the assistance of a staff of three professionals, Buchen supervised the selection of the committee's initial targets. Task forces were established containing representatives of the agencies involved in a specific problem area. The task forces were told to meet as often as possible in order to develop firm Administration policy in the 14 areas initially identified by the staff and endorsed by the committee.

Although the committee members did not meet again until July 10, and have not met since then, the committee's over-all progress is reviewed once every three or four weeks by a "liaison group" of assistants to the 11 committee members.

According to Carole W. Parsons, a committee staff member, the existence of the committee, its creation of task forces and the elevation of its first chairman to the presidency have caused "agencies all over the executive branch to take notice of the privacy issue and begin to address it." She estimated 200 to 300 persons are directly involved in committee projects.

Douglas W. Metz, deputy executive director of the committee and the principal staff officer since Buchen became counsel to the president, said the committee views its role as providing "leadership in the implementation and coordination of the initiatives which it has endorsed."

One agency official, who is familiar with the work of the committee, said it has been handicapped because its small staff has had to rely heavily on the agencies whose policies are being reviewed. "The big difficulty has been the lack of aggressive leadership from Mr. Ford, who has not had enough time, and Mr. Buchen who has been understandably cautious because he is not an expert on these issues."

OMB role—While the Domestic Council committee developed initiatives and supervised the task forces seeking to find solutions to the problems, the Office of Management and Budget played a key role in coordinating the increased executive branch activity on a number of privacy issues.

Robert H. Marik, OMB associate director for management and operations, played down the importance of Watergate as an explanation for the accelerated government interest in privacy regulation. He attributed the increased interest to a July 1973 report of the HEW Department's Advisory Committee on Automated Personal Data Systems.

That study, initiated in 1972 by HEW Secretary (1970–73) Elliot L. Richardson, was the first significant departmental review of the implications of government computer technology and it contained a number of recommendations designed to ensure personal privacy. (*For a review of the HEW report, see Vol. 5, No. 43, p. 1602.*)

According to Marik, who was HEW assistant secretary for administration and management before he joined OMB in February 1974, "We saw at HEW that it was not possible for only HEW to set privacy rules because we were only one part of the federal family, so we searched for a central government vehicle to which all federal agencies could relate, but we could not find it."

Nixon's establishment of the Domestic Council committee provided the vehicle for coordinating new policies. OMB's traditional role of serving as a clearinghouse for agency views on proposed legislative and administrative action, Mark said, "placed us in the position of reflecting the attitude that we walk before we run.

"We know some changes must be made in government use of information but the operation of the data systems is a very costly and sophisticated process. To impose on the process significant regulations is a major undertaking."

Walter W. Haase, OMB deputy associate director for information systems and a principal assistant to Marik, has participated actively in the development of many Domestic Council committee initiatives. He said the creation of the committee was an important step in providing an organization with lead responsibility for privacy concerns within the executive branch and a focal point to carry out President Ford's privacy interests.

He said OMB complements the committee's efforts in coordinating an Administration position by balancing the privacy concerns with other factors such as budgetary considerations and statutory obligations of the agencies.

New president—At its July 10 meeting the Domestic Council committee formally recommended action in 14 areas. Vice President Ford prepared a report for the President on the committee's proposals. Nixon did not discuss the matter with Ford in the next month and on Aug. 9, Ford found the recommendations still resting on "the president's desk." Since then, the committee has operated on the assumption that the 14 initiatives represent presidential policy.

When Ford announced Aug. 20 his nomination of Nelson A. Rockefeller as Vice President, he said that one of Rockefeller's duties, if confirmed by Congress, would be to serve as chairman of the privacy committee. Rockefeller would be expected to bring his own brand of leadership to the committee and perhaps modify some of its earlier actions.

Douglas Metz, currently the committee's operations director, said he favored a more formal structure for the committee outside the confines of the Domestic Council. Metz reviews the progress of the committee's work regularly with Geoffrey Shepard of the council and its executive director, Kenneth R. Cole, Jr. Metz said the committee also needed more resources and staff capability.

In the interim, the committee staff and task forces have been working actively on the implementation of the 14 initiatives, and have added eight new ones.

Early initiatives: Ford chaired the July 10 privacy committee meeting, which endorsed progress on eight intra-executive branch proposals. Although several of the proposals have been or are likely to be the subject of congressional concern, action on these initiatives is designed to lead only to administrative rather than statutory action.

Privacy impact statements—OMB is directing the preparation of a circular with criteria for agencies to use in developing or acquiring new data systems or capabilities. The objective of the initiative is to ensure that personal privacy rights receive "systematic consideration" in the planning of data systems, including the filing of "privacy impact statements" for public inspection 30 days before starting the design and procurement of the new system.

Haase said acceptance of the proposal would result in "an evaluation of the privacy implications of proposed systems at each stage of the development process." OMB has set November as a target for adoption of the circular throughout the executive branch.

A draft copy of the circular obtained by *NJR* includes a requirement that each federal agency establish an "office of record for privacy safeguard plans" which will determine whether proposed systems meet the applicable principles for data systems.

Confidentiality standards—The National Bureau of Standards is directing a study to develop standards for the use of sensitive data and will match these to the security safeguards and economics of computer technology. The study is scheduled to be completed in April 1975.

Although several legislative bills already have proposed a comparable set of standards, as have some executive branch proposals, the study is an attempt to bridge the gap between policy makers and the technicians who eventually will be responsible for ensuring the proper enforcement of new laws.

Consumer transactions—The Office of Consumer Affairs, directed by Virignia H. Knauer, has prepared a "fair information user code" for which it is seeking the voluntary endorsement of a cross section of businesses. The standards are designed to set principles for protecting in the marketplace the privacy of personal information.

Subscribers to the code would "pledge to be responsive" to seven principles, including:

To collect only necessary information;

To use only legitimate methods to obtain such information;

To take reasonable steps to assure that the information is reliable;

To inform the consumer what general uses may be made of the information.

S. John Byington, deputy director of the office, said there would be no enforcement power to the code, but "this does not mean the public or Congress or Federal Trade Commission can't ask a business what it has done to meet the code standards."

He said a draft of the code has been circulated among 15 major companies for their comments, and 10 to 12 of them dealing in retailing, credit reporting, insurance, consumer finance and credit cards have looked at the proposed code in an "agreeable way."

Cable television—The Cabinet Committee on Cable Communications recommended proposals in January 1974 for federal regulation of cable television. The legislation has been under study at the White House since then.

The privacy committee recommended that the Administration proposal include a section prohibiting cable operators from disclosing personally identifiable information about a cable subscriber without his consent or a court order.

Henry Goldberg, general counsel of the Office of Telecommunications Policy, said the draft bill includes comparable language. He added that the only agency holding up final action on the bill by the White House is the Federal Communications Commissions, but that he is hopeful a bill can be referred to Congress within a month.

Mailing lists—OMB is directing a study of the use of mailing lists by the federal government. Pending the conclusion of the study. Haase said OMB hopes to issue in the next month an interim policy giving citizens the option of preventing their names from being added to new federal mailing lists.

The Treasury Department recently won its appeal of a case in the U.S. Circuit Court of Appeals for the District of Columbia in which it challenged the right of a manufacturer of winemaking equipment to have access to a Treasury list of all businesses authorized to process 200 gallons of wine each year.

Tax returns—Increased concern about the confidentiality of tax returns, particularly following revelation of White House use of Internal Revenue Service files to attack its "enemies," led the Treasury Department to tighten its rules on records access.

A key step in this process was President Ford's Sept. 20 executive order permitting inspection of IRS records only by the President or his aides upon written request signed by the President. In addition, Treasury prepared legisaltion setting more formal rules for access to IRS returns by other government agencies.

Sen. Lowell P. Weicker, Jr., R-Conn., and Rep. Jerry Litton, D-Mo., authors of legislation (S 3982, HR 16602) to protect the confidentiality of tax returns, said presidential accessibility to tax returns "is better preserved by statute than left to the unpredictable course of an executive order." They also have indicated dissatisfaction with the proposed Treasury Department bill. "The Administration bill is full of loopholes," said Litton.

Public queries—OMB has prepared an executive order for President Ford setting agency procedures to assure citizens the right to discover what information the government is collecting about them. Broader legislation in this area has been approved by the House and Senate Government Operations Committees and should a bill be enacted this year, it would vitiate the initiative.

Electronic funds transfer—The Commerce Department, with assistance from banking agencies including the Federal Reserve Board, Federal Home Loan Bank Board and the Treasury Department and the Office of Telecommunications Policy, is studying the implications of movement in the financial community toward a "cashless society."

In the past, federal policy has encouraged experimentation with electronic funds transfer but there has been no study of the potentially significant impact this would have on privacy as a result of the accumulation of large centralized dossiers of personal financial data.

Legislative initiatives: Six of the privacy committee's original initiatives were in response to bills already introduced in Congress. The committee staff has served both to monitor congressional developments and stimulate federal agencies to prepare proposals responsive to the legislative concerns.

Privacy standards—The legislation that has attracted the most interest in both Congress and the executive branch is a proposal stating general guidelines for agencies on the collection and use of data and providing citizens with a number of rights to ensure the accuracy and confidentiality of the records.

Separate bills (HR 16373, S 3418) have been cleared by the House and Senate Government Operations Committee and floor action is considered likely on each prior to the final adjournment of Congress. Both the privacy committee and OMB staff have met formally and informally with congressional staffers in order to resolve conflicting views. They voice greater approval of the House committee bill, calling S 3418 a "drafting horror" and "over broad."

A staff lawyer on the Senate Government Operations Committee said that the committee has not received satisfactory assistance from the White House in the preparation of its bill. "We invited their participation all the way down the line, but they didn't think we were serious about the bill. As a result, their responses have not been comprehensive or the kind of in-depth analysis we would like to see," he said.

Military surveillance—The Senate Subcommittee on Constitutional Rights has reported to the Judiciary Committee S 2318, a bill prohibiting the armed forces from conducting surveillance of civilians. The privacy committee recommended passage of an "acceptable revision" of the bill.

The Defense Department, which had earlier submitted views in opposition to the bill, was designated as the agency to implement the initiative. A Pentagon attorney said "there has been some change in the position of both sides but no meeting of the minds."

Since the subcommittee held its hearings in 1971 on military surveillance practices, the Defense Department has issued department regulations ending its domestic intelligence operations, but the subcommittee believes permanent legislation is needed to forestall changes in executive policy.

Federal employees—The Civil Service Commission has been designated as the lead agency for preparing legislation to protect the privacy of civilian employees of the executive branch.

The matter has been the subject of legislation sponsored by Sen. Ervin and passed by the Senate on several occasions in the past decade but with no final House action. The bill's provisions have included a ban on the use of polygraph tests for federal employees and prohibition of practices forcing employees to buy bonds or disclose their assets. The most recent Senate action on the proposal was passage of S 1688 on March 7.

In the House, the Post Office and Civil Service Committee has had a comparable bill pending for several weeks. The House draft is weaker than the Senate bill because it would exempt additional agencies and remove the right of counsel.

Donald F. Terry, staff director and counsel for the Subcommittee on Retirement and Employee Benefits of the Post Office and Civil Service Committee said the Civil Service Commission has not softened its opposition to the tougher sections of the Senate bill in spite of the privacy committee's initiative. He said that Anthony L. Mondello, general counsel of the commission, and Douglas Metz of the privacy committee approached him a month ago with a draft bill outlining the Administration's position representing "no real change."

School records—The one legislative initiative that has been enacted is a provision calling for the protection of the privacy of school records. The committee annouced its support for an amendment to the 1974 elementary and secondary education bill sponsored by Sen. James L. Buckley, Con-R-N.Y. The provision requires schools and colleges obtaining federal funds to give parents and college students the right to inspect pupils' school records and to limit further disclosure.

As signed into law (88 Stat 484) by President Ford, the so-called Buckley amendment guarantees access to school records by parents and college students, and limits access by third parties that do not have parent or student consent. John D. Kwapisz, legislative assistant to Buckley, said the privacy committee "played no great role but lent moral support" to passage of the amendment. The HEW Department continued its strong opposition to the amendment in spite of the privacy committee's position.

Bank secrecy—The Treasury Department has been assigned the responsibility for drafting legislation to protect the confidentiality of bank transactions. It is not likely that the bill will be completed before the end of this Congress.

Sen. Alan Cranston, D-Calif., has proposed S 2200, which would impose a ban on most practices of financial institutions giving their customer records to federal agencies. The privacy committee announced its support of that "basic concept" but according to a staff member of the Senate Banking, Housing and Urban Affairs Committee, the provision is "violently opposed" by the Internal Revenue Service and FBI.

Fair credit reporting—Congress enacted in 1970 the Fair Credit Reporting Act (84 Stat 1128) regulating the activities of consumer reporting agencies. Sen. William Proxmire, D-Wis., the principal sponsor of the act, has filed S 2360, which would require additional disclosure of information by credit agencies and right of access by consumers. Following hearings last year, the bill was tabled 4–2 by the Senate Banking Subcommittee on Consumer Credit. However, Proxmire is expected to push for action again when he becomes banking committee chairman next year.

The privacy committee designated the Office of Consumer Affairs to develop an alternative to S 2360. A task force, headed by John Byington, has completed its report and sent it to the committee for further action. Among its recommendations are a modification of the current exemption for medical records.

New initiatives: Since the July 10 meeting, the privacy committee staff and liaisons have studied eight additional initiatives, many of which are still in the planning stages.

Social Security number—Increased use of the social security number as an identifier by both government and private agencies is one of the most controversial and publicly discussed privacy issues.

A task force has been established under the direction of the HEW Department to study possible limitations on its use. Two principal options of the task force are to permit use of the number if the agency has adopted a fair information practices code, and to authorize that an individual be penalized for not giving a number only where the requester has authority to use it.

David B. H. Martin, who was executive director of the earlier HEW advisory committee on privacy, is preparing a policy paper for proposed HEW action. Once the department adopts a position, it will be reviewed with other federal agencies.

Research data—OMB is supervising a study on the means to protect the confidentiality of data collected strictly for research purposes. According to Carole Parsons of the privacy committee staff, the proposal is designed to "insulate sensitive records from compulsory process." One unresolved question, she said, is the extent of research efforts that should be covered.

Health records—An HEW project has been established to review existing departmental practices on the use of health and medical records, including the keeping of records in compliance with the statutes dealing with medicare, medicaid, and the cost and quality of medical services.

National security—The Defense Department has initiated a study of the suitability investigations by federal agencies to determine whether individuals are qualified for employment, contracts and access to classified information of a national security character.

Social Security Administration—This study by Social Security officials is reviewing the agency's internal fair information practices on the use of Social Security records, not the use by others of the social security numbers.

Employers records—The Labor Department is supervising a study of personal data by private employers in hiring and promotion decisions. J. Michael Taylor, an attorney in the solicitor's office, said the committee will attempt to "balance the employee's right to be left alone with the employer's need to know if the employee is qualified and honest." Among the practices to be studied are use of arrest records, lie detector tests, insurance records and credit reports.

Information collection—The privacy committee staff is formulating a study of the amount and type of information that is collected by federal agencies. According to Ms. Parsons, "this is one of the most difficult issues to get a handle on, and we're not sure how to proceed."

The subject is of special interest to small businesses which have complained about excessive federal reporting procedures. The House Oct. 7 approved without dissent HR 16424, a bill to establish a Commission on Federal Paper Work to study similar problems.

Privacy R&D—The committee staff is also considering proposals to encourage research programs on privacy issues by federal agencies, and to designate a federal office to make known the government's interest in the subject to private researchers.

PRIVACY STANDARDS

The most significant action on privacy legislation by Congress this year is likely to be enactment of a bill setting general standards for federal use of citizens' records in its data banks. The legislation has been referred to as a federal "fair information practices code."

The principal features of the bill are likely to be guidelines requiring that, with respect to most federally operated data banks:

The information not be disseminated to another agency without the written consent of each individual whose record would be transferred;

The record be accurate, relevant and timely;

The individual know of the record, have access to it, and be permitted to request a correction when he claims there is a mistake, with an ultimate right of court review;

Civil penalties be available to the individual in case of government violation of the regulations.

Whether the 93rd Congress will enact a privacy bill will essentially be a question of time. Supporters of the proposal in each chamber attempted to have the House and Senate consider the separate bills prior to the scheduled Oct. 11 start of the election recess. The bills are sufficiently complicated and the differences between them are such that a conference committee will almost assuredly be necessary.

Assuming the congressional leadership adheres to its current plan of a post-election session, there probably would be enough time for the conferees to resolve the differences between the two chambers and send the agreement to President Ford prior to final adjournment. If Congress does not pass a bill, Ford's aides say he will issue an executive order containing many of the proposed actions.

House: The Government Operations Committee Sept. 24 approved without dissent HR 16373, the Privacy Act of 1974. The bill was drafted over a period of several months by the Foreign Operations and Government Information Subcommittee, chaired by Rep. Moorhead, with considerable assistance from the two ranking subcommittee Republicans, Reps. John N. Erlenborn of Illinois and Paul N. McCloskey Jr. of California.

The bill, which has as its principal aim the limitation of the use of personal records by the government, was drafted as an amendment to the Freedom of Information Act of 1966 (80 Stat. 383). Ironically, that law is designed to encourage the government to make public more information. Norman G. Cornish, the subcommittee's deputy staff director, explained that the drafting decision was made on the basis that the 1966 law is the only current federal law dealing with information practices.

According to the committee's report accompanying the bill, the legislation "recognizes the legitimate need of the federal government to collect, store, use and share among various agencies certain types of personal data" but provides safeguards to remedy misuse of the information and "reassert the fundamental rights of personal privacy of all Americans."

The keystone to the bill is that, with limited exceptions, a federal agency cannot divulge to another agency personal information about an individual without his consent. Among the exceptions are the activities of law enforcement agencies, the Census Bureau's official surveys, emergency situations and information needed by Congress for legislative and investigative reasons.

In an interview, Rep. Erlenborn said the bill is important because "technology has progressed to the point where a government agency can push a button and get a mass of information on almost anyone. There should be an assurance that the information is used only for the purpose for which it was collected." He added that while there have been some abuses in the past, passage of the bill is necessary primarily because of "a fear of the future."

Cornish said that "for the first time in the country's history, Americans will have some control over how the federal government utilizes information concerning them and can ensure that the information is used by the government only for the purpose for which it was knowingly submitted."

White House assistance—The drafting of HR 16373 was noteworthy for what all sides acknowledged was a substantial and generally amicable contribution by President Ford's privacy committee and the Office of Management and Budget.

Subcommittee Chairman Moorhead said: "We don't want to interfere with good management of government. The privacy committee staff and OMB were helpful to us and we resolved a number of issues with them." Erlenborn said he had "never seen better cooperation" between OMB and a congressional committee on the drafting of legislation.

OMB Associate Director Marik said there was a "magnificent working relationship" between the subcommittee and the White House, and that the subcommittee was "very responsive" to the points made by OMB. With the exception of one section, he said he supported enactment. Metz of the privacy committee expressed similar views.

Federal employees—The principal outstanding point of contention between the subcommittee and the White House is whether the bill should be applicable to the records of federal employees and whether, for example, they should be entitled to review their employment records.

During the committee debate, Erlenborn said that unless the exemption were adopted, "the bill will wipe out the confidentiality of the civil service system and compromise the commission's testing process." Rep. Dante B. Fascell, D-Fla., responded that "case after case has shown that you can't get to the root of why an individual employee is not qualified without access to his records." The committee rejected Erlenborn's amendment to add the federal employees exemption by an 11–22 vote.

One controversial section that was struck from the House subcommittee bill would have permitted court awarding of punitive damages against the government in case of a violation of the act. The bill's principal supporters conceded that such a provision would likely provide an unprecedented citizen remedy against the government but argued that it was a necessary "club" against the government.

Senate: The Senate Government Operations Committee Aug. 20 unanimously approved S 3418. Although much of the bill is structured similar to HR 16373, the drafting process has been considerably more strenuous and has lacked the cooperation with the Administration that marked the House action.

The committee's report is more critical of current government abuses of privacy than is the House committee report. "The lack of self-restraint" by some agencies "has demonstrated the potential throughout government for imposing coercive information burdens on citizens or for invading areas of thought, belief or personal life which should be beyond the reach of the federal data collector," the report said.

The bill, introduced by Chairman Ervin and co-sponsored by Sens. Edmund S. Muskie, D-Maine, and Charles H. Percy, R-Ill., had three days of hearings in June and the one committee markup session in August. In both cases, the House committee gave the bill significantly more lengthy attention.

Criticism—According to several Administration critics of the bill, this quick action reflected the bill's vagueness and inadequate attention to specifics. One White House aide said "there is a genuine commitment among Senators to the bill, but the problem is that the bill needs considerable tightening."

A private attorney who observed the committee's markup session and did not wish to speak for attribution said: "I had a strong feeling that the Senators and staff did not understand the bill and its implications." He said that he sympathized with the staff because of the "enormously complex problems" and suggested that legislation may not now be the answer to the privacy concern.

Lawrence M. Baskir, chief counsel and staff director of Ervin's Constitutional Rights Subcommittee, who participated in the drafting of the bill, disagreed that S. 3418 was more unusual or complex than other legislation approved by Congress. "All of the proposals in the bill have been discussed since at least 1970. Our staff is very familiar with them and has been working on privacy longer than anyone in the executive branch," he said.

He was particularly critical of what he called "last minute quibbling suggestions" from the White House. "The executive branch is good in suggesting changes but it still has not prepared its final position even though the bill has been pending for several months," he said Sept. 25.

A 35-page memo commenting on the bill was sent Sept. 16 to the Government Operations Committee staff by Metz. Two days later, the committee received a seven-page listing of "major concerns" from OMB Director Roy L. Ash.

Commission—A principal point of dispute in S. 3418 is its proposal to establish a Privacy Protection Commission as an independent agency. Its purpose would be two-fold—to adopt guidelines to assist government agencies in implementing the acts, and study federal data bank practices and recommend necessary changes to Congress and the President.

James Davidson, counsel to Muskie's intergovernmental relations subcommittee, said the commission is necessary because of both the need for a central point of expertise in implementing privacy rules and the fact that there has never been a full-fledged study of privacy problems in both the public and private sectors.

The White House response to the Senate committee is that the commission would be "another layer of bureaucracy" that would slow the initiation of the new regulations, and might also be "a handy excuse for delaying the implementation of some important privacy safeguards."

White House: In the event that the House and Senate do not reach agreement on a federal privacy standards bill before the 93rd Congress finishes its work, President Ford will issue an executive order modeled on the standards of the pending legislation.

Metz said the executive order would be "nearly identical" to the House committee bill. "We are committed to action—either executive or legislative—to show the good faith of the Administration to act."

Metz said there was no White House preference for an executive order instead of legislation and that Ford and his aides will continue to push for a bill until it is clear that there is "no opportunity for legislative action in this Congress."

Baskir, Ervin's chief aide on privacy legislation, criticized the White House for having an executive order ready to be issued in lieu of the legislation. He said this and the "last-minute criticisms" of S. 3418 led him and others in Congress to believe "the Administration position on privacy is to cooperate but still obstruct progress in order to prevent the bill from being passed."

The result, he said, would be that the Democratic Congress would pass no privacy legislation and the President could issue his own executive order and "steal the thunder."

Baskir's contention was denied by OMB's Marik who said Ford's intentions are "genuine."

ASSESSMENT

A review of privacy developments during the first nine months of 1974 demonstrates the involvement of a substantial number of executive and congressional officials in the struggle to develop regulations to deal with the real and potential threats to individual liberties posed by the growth of computer technology.

President Ford has several times since he became President referred to his abiding interest in the privacy issue and he gives every indication that he intends to keep the issue alive. Nelson Rockefeller may give new direction to the White House privacy committee but it is probably too late to move it in the direction of less activity rather than more.

Key questions remain, however, as to the extent to which the White House can and will attempt to budge the often recalcitrant agencies from their traditional positions of adhering to "tried and true" bureaucratic practices.

There is also the question as to the extent Ford is willing to share the privacy limelight with Congress.

Rep. Litton of Missouri, a principal supporter of greater confidentiality of tax returns, said Ford and Buchen were extremely interested in his proposal during the summer. This changed after Ford became President, Litton said.

"The more they looked at the issues, the more they realized it wasn't so easy as they thought, and the pressure from the agencies got to them," he said.

Norman Cornish of the House Government Operations Committee staff emphasized that OMB and the White House were cooperative with his committee in trying to work out legislative problems.

But he said "the Administration inclination to turn to executive orders is a bad omen" of a possible lack of full cooperation between the President and Congress.

Whichever way the initiatives and working relationships turn, officials at both ends of Pennsylvania Avenue agree that privacy will remain a live issue in the post-Watergate climate and that bureaucrats in every part of the government will have to adjust their practices on the handling of citizen records.

They also indicate that the results of the federal privacy regulation program will help dictate future regulation of privately operated data banks. OMB associate director Marik said "the privacy concerns on federal data systems are certainly applicable in the private sector," but added that the federal government should first "put its own house in order and determine the impact of the regulations so that the private sector is not impaired by costly or cumbersome proposals."

Supporters Find Drafting of Criminal Files Proposal a Path Filled With Bottlenecks and Complex Issues

Securing agreement on a bill to regulate the use of FBI criminal history records has consumed thousands of hours of attention from congressional, White House and Justice Department officials and staff. But most participants agree that they are no closer to passage of a meaningful bill than they were a year ago when they began the agonizing effort. They may even be farther apart as a result of the greater understanding of the issues which they have gained.

The drafting process also has been a victim of the Watergate scandal which brought a new Attorney General and Deputy Attorney General who did not feel themselves bound to the earlier Justice Department position on the key issues, consumed the time and attention of the Senator with the most ardent interest in the bill, and made it impossible for the House Judiciary Committee and its staff to consider the proposal during the past six months.

The legislation (S. 2963, S. 2964, H.R. 9783) is designed to set the first national rules on the use and dissemination of criminal justice information and impose restrictions on the exchange of criminal records between the Federal Bureau of Investigation (FBI) and thousands of police departments across the country. Interest in the bill was aroused by the absence of specific laws on the subject, leading many critics to cite a serious threat to personal privacy. (*For background on the controversy and details of the proposals, see Vol. 5, No. 43, p. 1599, and Vol. 6, No. 7, p. 246.*)

Negotiations: The effort to move ahead on the legislation has been marked by a continual series of meetings between congressional and Justice Department staff, attempts to put on paper what tentatively was agreed to orally, and renegotiations of supposedly final provisions.

"When the crunch comes, the Justice Department is not making decisions, and the

White House is not there to push it along. Either the Administration's concern for privacy is a 'paper tiger' or there is a calculated effort to stymie action. In either case, there would be the same result of Congress's inability to act," said Lawrence M. Baskir, chief counsel and staff director of the Senate Judiciary Subcommittee on Constitutional Rights, chaired by Sen. Sam J. Ervin Jr., D-N.C. (Baskir plans to resign soon and become general counsel of the Presidential Clemency Board.)

Deputy Attorney General Laurence H. Silberman, who has headed the Justice Department's review of the bill since his March confirmation by the Senate, disagreed with Baskir. "We have been working hard for the past month to reach an Administration position. With President Ford's accession to the presidency, the issue became of greater importance, and it became possible to get an administration position. That was difficult under President Nixon because an attempt was tried earlier and it failed."

Silberman was referring to the drafting last fall of the original Justice Department bill (S. 2964) under the direction of Associate Deputy Attorney General (1973–74) Martin B. Danziger. The bill was sent to Congress as a "Justice Department bill' because of the inability to resolve opposition of several agencies, including the Civil Service Commission and Defense and Treasury Departments. Silberman said that the recent review of the bill has resulted in a change in the Justice Department's position in S. 2964.

Staff meetings—The first extended discussions on the bill between congressional and Justice Department staff were 60 to 80 hours of meetings in May and June between Mark H. Gitenstein, counsel of the Senate subcommittee, and Mary C. Lawton, deputy assistant attorney general (Office of Legal Counsel).

They redrafted Ervin's bill, S. 2963, in order to make it more amendable to the Justice Department. However, when Ms. Lawton forwarded the proposed compromise to others at Justice, she found "parts of the department were not happy with the result." In an interview, Silberman said she was only giving the congressional aides "technical help" without indicating the Administration's position.

Several weeks later, a delegation of officials from the FBI, led by John B. Hotis, an FBI attorney who serves as its liaison for legislative issues, went to the Senate subcommittee staff with suggested changes on many of the issues that had been earlier discussed. "We were upset, as was Sen. Ervin," said Gitenstein.

Silberman meetings—In an Aug. 15 letter to Silberman, Sens. Ervin and Roman L. Hruska, ranking Republican on the Judiciary Committee, said the problems with S. 2963 "are not insurmountable" and added "it is incumbent upon the Department to come forward with proposals for changes in this markup." They suggested a task force be created to develop a compromise bill by the first week of September.

Three or four meetings were subsequently held in Silberman's office including representatives of the Senate and House Judiciary Committees, Justice Department, FBI and Douglas W. Metz, deputy executive director of the Domestic Council Committee on the Right of Privacy.

At the same time, Silberman chaired a series of meetings with representatives of federal agencies that opposed the bill. According to informed sources, some of the most vigorous opposition to the bill came from within the Justice Department, including Assistant Attorney General Henry E. Petersen of the Criminal Division.

Following those meetings, Silberman directed Lawton and Hotis to draft a bill reflecting the consensus of views exchanged at the working sessions. They finished that process Sept. 27 and their draft bill was circulated to several Justice Department officials. In the following two weeks, additional department and executive branch meetings were held to review the revised proposal.

Senate bill: At the same time that Justice Department and congressional negotiators were trying to find common ground on the many controversial issues in the legislation, staff members of the Senate Constitutional Rights Subcommittee met regularly to draft a bill acceptable to the subcommittee members.

Gitenstein and J. C. Argetsinger, subcommittee minority counsel, held a series of meetings resulting in a memorandum listing proposed changes, which was sent to Sens. Ervin and Hruska. The differences between Ervin and Hruska are reportedly narrower than those between Ervin and the Justice Department. As a result, there has been tentative staff agreement on a number of amendments to S 2963, the original Ervin bill, and the Senators are expected to meet and develop new plans for Senate passage this year.

Arrest records—A central issue has been whether police should be permitted to disseminate criminal records which show an arrest but no conviction. S 2963 would have permitted this practice only in limited circumstances or if the arrest had been pending less than one year. The latest draft of the bill permits use of arrest records if the local law enforcement agency adopts federal minimum standards. One standard permits use of arrest records or criminal histories not resulting in a conviction if the facts of the case "warrant the conclusion that the individual has committed or is about to commit a crime and that the information may be relevant in that act." The test is taken from the 1968 Supreme Court opinion in *Terry* v. *Ohio* permitting police to "stop and frisk" on the basis of "reasonable suspicion."

Dissemination—The original Ervin bill generally permitted non-criminal justice agencies to receive only conviction records. Under the revised bill, they may receive arrest records less than one year old if there has been an indictment and the charges are still actively pending. A report prepared at Ervin's request by the General Accounting Office showed that only 7 per cent of the requests to the FBI for criminal records are made by police prior to an arrest. Ervin said the report "confirms my suspicions" that FBI records are used primarily for licensing and employment in state and local government.

Gitenstein of the Senate subcommittee staff said the report shows the FBI runs the criminal records system but it is used primarily for non-police purposes, demonstrating the need for civilian, court, and prosecutorial agencies to be a part of the system's management. However, an FBI official said "I don't think most people are upset with the way we handle our records."

Enforcement—S. 2963 proposed a federal-state administrative system to enforce the bill, while the Justice Department strongly believes the FBI should continue to run the criminal records files. The subject reportedly is one of those causing the most debate. Silberman said the issue is "one of the most complicated subjects I have ever seen in legislation." Ervin has stressed that enforcement should reflect the "federal" nature of criminal records by ensuring the states a role in determining policy on their use. The most recent draft of his bill prohibits a federal agency from control of any records other than an index of the criminal files five years after the bill's enactment.

Sealing—The provision in S. 2963 requiring that all records be "sealed" seven years after their original entry to prohibit their further use has been changed to permit the use of an index of the sealed records. The sealed files could be used by police officials where an individual is subsequently charged with a more serious offense or as the result of a court order.

Intelligence files—Another controversial issue is dissemination of intelligence and investigative information, which includes confidential reports compiled by police officers. The revised Ervin bill has relaxed its previous proposal by permitting the exchange of such information among law enforcement agencies where a "need to know" or "right to know" has been demonstrated by the requestor, or if "rational inferences . . . warrant the conclusion that the individual has committed or is about to commit a criminal act and that the information may be relevant to that act."

House: While the House Judiciary Subcommittee on Civil Rights and Constitutional Rights held hearings on the subject last winter, its members and staff have been so preoccupied with the impeachment inquiry and the confirmation of Nelson A. Rockefeller as vice president that they have not had sufficient time to participate actively in efforts to reach a compromise.

Subcommittee Counsel Alan A. Parker said Chairman Don Edwards, D-Calif., still supports a less complicated bill such as H.R. 188, which he introduced, setting restrictions on use of arrest records.

Rep. Charles E. Wiggins, R-Calif., ranking Republican on the subcommittee, said privacy legislation is a "priority" item for the subcommittee but predicted there would not be time to act before the next Congress convenes. Wiggins has stressed that the bill should not endanger the policeman on the street by depriving him of needed information.

Outlook: Although there is practically no chance that congressional, Justice Department, and administration officials will be able to reach a final agreement this year on legislation to set standards for the use of criminal history records, their efforts this year have made more likely enactment of a proposal by the 94th Congress. Many of the participants in the drafting process privately voiced frustration with the pace of their toils but continued hope for long-term success.

Republicans Prepare Own Agenda

At the same time that the executive branch was studying initiatives to protect individual privacy, a task force on privacy of the House Republican Research Committee prepared its agenda for legislative action.

Task force Chairman Barry M. Goldwater Jr., R-Calif., said "privacy rights have become subservient to concerns of utility and pragmatism." The task force report was intended to increase public awareness of privacy concerns in the hope that specific reforms will be adopted, he said.

Some of the report's recommendations are similar to the initiatives that are being pursued under the direction of the Domestic Council Committee on the Right of Privacy. The similarities include support for greater protection of the privacy of bank records and consumer credit information, and scaling down of government information requirements.

On several issues, the GOP task force proposed steps that would go considerably beyond proposals now being studied by the White House committee:

The use of the social security number should be limited to the operation of old-age, survivors, disability insurance and other programs as required by federal law.

No surveillance or wiretapping of any citizen should be permitted without a court order.

Tougher steps should be taken to guarantee the confidentiality of Census Bureau information.

Juvenile court records should be disseminated only to officials directly connected with the child's welfare and rehabilitation.

No arrest records without a conviction may be used in a federally-supported computerized system.

A federal "privacy protection agency" should be established to enforce the proposed legislation.

FIELD OF CRIME

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on September 12 a nephew of my wife's graduated from the FBI National Academy is Quantico, Va., which my wife attended. On that occasion an outstanding address having to do with the whole field of crime was delivered by the police commissioner of the city of New York, Michael J. Codd. Having chaired the House Select Committee on Crime for 4 years, I have found the address of Commissioner Codd very enlightening and informative. He speaks out of broad experience with wide vision. I commend Commissioner Codd's address to my colleagues and to my fellow countrymen and ask that it appear in the body of the Record immediately following my remarks:

Address by Michael J. Codd

It is an honor and a privilege to have been chosen to address this 98th graduating class of the FBI National Academy. I myself was a member of the 69th class and, as it happens, I delivered the student address at that graduation ceremony.

My theme on that occasion was: "Eternal vigilance is the price of freedom." Not an original theme perhaps, but an enduring one—one that will always have relevance in a democratic society.

In considering the selection of a subject for this occasion I looked through several talks that were given here in the recent past and I was particularly struck by the fact that no matter what subject was being expounded—police professionalism, the importance of training, advances in police technology—almost every speaker linked his theme to the motto of the FBI National Academy, "Knowledge, Courage, Integrity." I decided to make those words the theme of my talk. I hope I can bring some special meaning to them that may prove helpful to you in your future operations.

To characteristically exhibit knowledge, courage, and integrity in one's private affairs does not necessarily coincide with exhibiting these same virtues in one's vocational affairs. For instance, it is entirely possible for a police officer to be a model citizen without being an effective public servant. It all depends on the *kind* of knowledge, courage, and integrity he possesses and, just as important, on the *way* he puts these attributes into practice.

A private individual is responsible to society for his actions only insofar as they may injure others. When prompted by religious belief or conscience or some benevolent feeling he may try to actively help others. But he is not required to do so; it is not his duty as a private citizen to do so. If, however, he becomes a police officer, he automatically assumes the responsibility of helping others, of providing police service simply as a matter of sworn obligation to the public.

Moreover, I believe that police officers have a higher duty even than other civil servants. We are society's guardians and protectors. We are the agency charged with enforcing the law, the strongest bond of a civilized society. The service we give is absolutely essential to its stability.

Never in our history has the police function been so important. For the past decade our social climate has been rapidly changing. A rancorous ill-will, often violent, has come to mark the conduct of even the most routine community affairs. Many of our citizens seem to have lost faith in the ability or willingness of established institutions to meet their basic needs. They see neglect and decay everywhere, and are convinced that they have been abandoned by public officials who, they claim, have to be practically coerced into providing even minimal public services. This is the environment in which today's police officers work, and it presents a great obstacle that we must work to overcome.

I am not for a moment suggesting that the police should become primary agents of social change or that we should attempt to cure social ills. Only the *people* can do that, the people acting through their elected representatives. Police officers are neither agents of, nor impediments to, social change but we must set an example for others to follow. We are duty bound to be neutral—and properly so. It is our job to step in where necessary to prevent public injury and to maintain public peace—and this includes protecting people in their right to dissent and to advocate and promote even the most unpopular causes. This kind of intervention does *not* affect the underlying conditions of society.

However, by performing our true functions in a professional manner—that is, by fighting crime, preserving order, and rendering aid—we are able to make a vitally important contribution toward improving the quality of community life. And this, I submit, forms the true basis of our indispensability as public servants.

All of which leads me back to the words "Knowledge, Courage, Integrity," and their special significance in police work. Let us consider knowledge, where it all begins.

Police work encompasses law enforcement, order-keeping, and non-enforcement services. A police officer must know the applicable laws, the powers and limitations of legal authority, and the rights of the individual. He must also know how to handle emergency matters, group events, interpersonal disputes, and miscellaneous requests for information and help.

But laws change, technology improves, communities grow and decline, new ways of policing are developed. In order to maintain competence in his increasingly complex job the police officer must keep abreast of all professional developments in the field. He must be open-minded and receptive to learning and to new experience. He must continue to study and keep sharpening his skills throughout his career.

In addition to *acquiring* knowledge and *applying* it, which every police officer must do, the superior officer has the continuing responsibility of *imparting* knowledge to his subordinates. In other words, training them. Most of you graduates here today are supervisors, commanders or chiefs—or you soon will be—and of all your supervisory or command responsibilities you will find that training always remains one of the most important. Training encompasses the direct instruction of subordinates in job content and the continuous monitoring of their performance to correct mistakes. It also involves acting as adviser and counselor in personal as well as vocational matter, if need be, in order to improve performance.

Thus, in the interests of the public and the law enforcement profession, all of us must view knowledge not as an end in itself, not as a stepping stone to career advancement, but as the sine qua non of quality police performance.

As for courage, every police officer is presumed to have physical courage. And I believe that every one of them does. In all my experience I have never found it otherwise. But I'm really talking about other kinds of courage—intellectual and moral courage.

I think each of us must from time to time do some soul-searching and ask himself, do I have the courage to take responsibility and face consequences; the courage to break with tradition; the courage to rally support for unpopular position; the courage to try something new and overcome resistance to change; the courage to stand on principle when it might be easier to capitulate to expedience. And then, perhaps the most difficult question of all, do I have the courage to speak out against a fellow officer known to be corrupt or brutal or derelict.

That brings us to the matter of integrity, which is often inseparable from courage. Integrity is easier to recognize than to define. Among the dictionary definitions are: "state or quality of being complete, undivided or unbroken"; "unimpaired or unmarred state"; "purity"; "moral soundness"; "honesty"; "freedom from corrupting influence or practice." In all, I think they add up to my own definition of integrity: voluntary and total compliance with a rigorous moral code.

It goes without saying that in fulfilling our police role integrity must be our watchword. It is our sworn duty to be honest and incorruptible. Right action—ethical conduct—is the very substance of a police officer's job. And integrity is more than just not taking graft, or not committing any other kind of malfeasance. Integrity is also doing an honest day's work for a day's pay—not shirking, not cutting corners on performance. Integrity is also not misusing physical force.

But our responsibility does not begin and end with our own behavior alone. In the matter of integrity we are our brother's keeper. We must refuse to countenance any form of corruption, from any quarter, any time it rears its ugly head. We must all stand ready to clean our own house. Painful as it may be, we must be willing to act against any officer who would befoul it, recognizing that he who would do so can no longer be deemed a colleague. He has become instead a criminal in a uniform. Therefore, the "code of silence" must be repudiated and to speak out against the wrongdoers in our midst must be considered an ethical imperative. This is a matter of integrity and, like all matters of integrity, it is in the immediate and ultimate best interests of the public and the police profession.

Everything I have been saying boils down to this: knowledge, courage and integrity are inseparable from the proper delivery of police service and the proper delivery of police service is essential for gaining, regaining, or maintaining public confidence and support. Good intentions and sincerity and exhortations are not enough. Consistently right actions are needed.

I think there is every reason to be optimistic. In police agencies throughout the country, much progress is being made toward increasing efficiency and improving the climate of integrity. Better educated than ever before, today's police leaders are becoming more expert managers of their departments' resources. An ever growing number of them—inspired and trained at institutions such as this one—are making the words of the FBI Academy motto a reality in the day-to-day work of their departments.

In closing let me say, I am confident that every graduate here today will take his rightful place among these leaders and carry on in what I earnestly believe will become a new tradition of professional police service. My congratulations to all of you.

SAXBE ASSESSES CRIME CONTROL

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, you will permit me to call to the attention of our colleagues and the readers of this Record a recent editorial in the Washington Post which deals with Attorney General William Saxbe's recent assessment of where we stand in America on crime control.

As chairman of the former House Select Committee of Crime I was deeply concerned with the problem of crime and the possibilities for bringing this social cancer under control. I regret that the Attorney General has not been able to give a more favorable reading on where we stand in our fight against crime, but I think it is vitally important that we face the fact that the crime problem is still a very serious challenge to our society.

I request permission therefore to include the Post editorial of September 1, 1974, in the Record at this point:

Mr. Saxbe and Crime Control

Before a group of police chiefs in Chicago the other day, Attorney General William Saxbe unburdened himself of some thoughts on the subject of crime, its causes and its potential consequences. On the whole, it was a more balanced and thoughtful presentation than you might have supposed from the passages of the speech that gained the greatest national attention. Mr. Saxbe said that crime was increasing at a frightening rate and that some dark—but unnamed—forces within our society might one day use the fact of increasing crime to push for the creation of a national police force, a force Mr. Saxbe warned would jeopardize our liberty.

Unfortunately, the Attorney General's theorizing on the possible need for a national police force made the biggest splash. This, together with his dire view of the crime statistics, was almost all the nation learned about his speech, and perhaps for understandable reasons; the notion of a national police force does tend to concentrate the mind. But a careful reading of his full text reveals much more that is useful as a measure of what the nation's chief law enforcement official really has on his mind. Indeed, the implications for national policy in what Mr. Saxbe said are far too important to ignore, especially in a new administration.

Mr. Saxbe spoke of a reported increase in serious crime of 5 per cent for this year over last year. He was speaking of such offenses as murder, rape and assault with a deadly weapon, and he said such an increase in these crimes was alarming to him. Now we all know that the manner in which local police forces tabulate those figures is far from uniformly accurate. Moreover, we have seen in the past how crime statistics can be manipulated, depending on the political exigencies of the moment. The Nixon administration, for example, would have had us believe the problem was under control many months ago—at the time of the last election.

So, even though the statistics are disturbing, they are probably less interesting, in terms of coming to grips with the crime problem, than some of the things Mr. Saxbe had to say about the causes of crime. He began and ended by confessing to a certain mystification with which we can all commiserate. He did, however, draw a direct connection between serious crime among young people and unemployment among the same age group, especially those in the central cities. He pointed out that three of every four persons arrested for serious crimes were under 25 years of age. Using the data of the Bureau of Labor Statistics, Mr. Saxbe told the police chiefs that unemployment among minority youths was "awesomely high" and that in some age groups in the inner city it was 33 per cent. It is important to note that if BLS says one in every three young blacks is out of a job, the figure is probably closer to half of the young black population. The reason is that BLS bases its figures for unemployment on those "actively seeking" work, and after a certain period large numbers of unemployed persons of all ages who have not acquired jobs are somewhat arbitrarily held to be no longer "actively" seeking work and therefore technically no longer unemployed.

"One lesson," Mr. Saxbe said, "is that we are not going to solve the crime problem among the young—especially in the cities—until they are brought into society's mainstream." And he added:

To do that, a basic step is to impart real education and employment skills and couple it with actual jobs. This is not only needed to help control crime. It is also the decent, the humanitarian, thing to do. This approach alone will not solve all crime problems related to poverty and discrimination. But unless we succeed in this, other efforts have little potential for lasting success.

Mr. Saxbe's observations on crime's relationship to unemployment are important because the Ford administration is in the midst of an internal debate about public works employment and its impact on the economy. Crime control would hardly be reason in itself to take such a step. And there are economic reasons for seriously considering it irrespective of its connection with crime control. But it logically follows that those with something to do have less reason to commit crimes and that those with a sense of a stake in their society are less likely to act in defiance of its rules.

Mr. Saxbe went on to take note of increasing white collar crime and crime among government officials at the state and local level, to say nothing of the federal level. He asked what sort of example the successful of the society were setting for the young: "The young learn from us and what they see and what they must be learning are sources of growing dismay."

He was constrained as well to mention the outpouring of violence on television and in films: ". . . the average 8-year-old has seen more violence on television than the average soldier encounters during a hitch in the army." He castigated the television industry for wrapping itself in the First Amendment when called to account for its practices, and he criticized parents for permitting their children to be exposed to "the unending deluge of such garbage."

From the Attorney General's viewpoint, then crime is a problem with many causes and few solutions. He described a pattern of national frustration about crime, and it was in this context that he expressed his fears that if "we go on as we are, there is every possibility that crime will inundate us. The nation would then be faced with the prospect of falling apart or devising a national police in one final effort to restore domestic order. We should never doubt for a moment that there are men and forces at work in this country eagerly awaiting an opportunity to devise such a program as a first step toward total control over our lives."

Mr. Saxbe distinctly warned against that notion: "Any nation can stop crime if it is willing to have an internal army of occupation," he said, "but there has never been a government which stopped crime by oppression that eventually did not live to regret it." He argued instead that those "that have survived and flourished have done so by developing an inner strength in their people and in their institutions."

It goes almost without saying that most persons would agree. We certainly do. And we also think Mr. Saxbe's speech, in its entirety, should be given serious attention by those within the Ford administration who will be dealing with such matters as public works employment, the control of handguns and the problem of television and motion picture violence. The control of crime has to be looked at in a larger context. President Ford has expressed himself as having the goal of trying to make us more of a nation of one people. We think that the manner in which he goes about that task may well assist in shedding light on the problem of what we do about rising crime.

INDUSTRIA TURISTICA

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, you know the vital importance of tourism to the Miami area, which I am privileged to represent. We are especially pleased to be able to serve as a gateway to the United States for many thousands of visitors from neighboring Latin American countries, and we are proud to have in the service of this Latin tourism the splendid Miami publication Industria Turistica. Recently, Miami's Mayor Maurice A. Ferre commended Industria Turistica and its publisher Mr. and Mrs. Walter Diamond for the contribution they are making to our area and to our country. I would like to share this commendation with our colleagues and I request permission to insert it in the Record at this point:

Commendation

Whereas: Tourism is the backbone of the economy of this area and its importance as well as productivity runs parallel with the effectiveness of the supporting industries, hotels, entertainment and promotional media, and

Whereas Industria Turistica, a tourist magazine published in Miami and widely distributed along Latin America, celebrates 17 years of uninterrupted publication, always enhancing Miami's tourism image and attracting visitors to our city, and

Whereas Walter and Hindi Diamond, editors of this praiseworthy publication, have traditionally made the February issue the Miami Special, carrying and supporting the motto Miami, the Gateway of the Americas in international trade conventions as well as to interested readers in all the Western Hemisphere;

Now, therefore, I, Maurice A. Ferre, Mayor of the City of Miami, Florida, do hereby commend Walter and Hindi Diamond for untiring and fruitful efforts in promoting tourism to our area, successfully advancing during 17 years in the field of travel journalism and opening new roads of mutual understanding among the nations of the Continent.

DEATH OF H. BRICE McDONALD

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on October 2 memorial services were held for a dear friend of my wife's and mine, National Air Lines' distinguished captain, H. Brice McDonald, of Miami. On that occasion a beautiful eulogy to the memory of Captain McDonald was delivered by one of his fellow pilots, Harris A. Coller. Captain Coller knew Captain McDonald intimately. He knew his skill as a pilot. He knew his dedication to his job. He knew his noble character. He knew his charming manner. He knew the quality of his friendship, his greatness as an American and, hence, he could speak out of his experience as well as out of his heart in his moving tribute to Captain McDonald.

My wife and I also for many years enjoyed the intimate and warm friendship of Captain McDonald and his lovely wife, Tony. There was never a finer man than Captain McDonald. There was never a finer gentleman than he. No man had a warmer heart than he possessed. No man loved people and helped them more than he. Wherever he walked with his warm smile he cast a glow of warmth and friendship, kindliness and integrity. So not only his beloved Tony and his countless friends but his community, his State and his country have lost a great man and a good man. His ashes, in the presence of his loving wife, were scattered over Biscayne Bay from a plane. So from the air he loved to the Earth he loved fell his ashes. He will always be a part of the Earth and sky to which he belonged and to which he contributed so much. He will always have a place imperishable in the hearts of all who knew him. My wife and I shall ever cherish his friendship and his memory. We send our heartfelt sympathy to his beloved widow, Tony,

I ask, Mr. Speaker, that Captain Coller's moving tribute to Captain McDonald appear in the Record immediately following these remarks:

Eulogy for H. Brice McDonald

For many years I have been privileged to call H. Brice McDonald my friend and to be numbered among his friends was a special place that I always cherished.

He was one of those rare people who made friends easily and just as easily held them. He was diligent in keeping up with people and he never let a friendship deteriorate. He made contact often enough to let you know he cared.

He did not choose his friends from only one walk of life—they came from every strata and all were important to him.

I have known Mac through good times and some that were not as good but he was always the same. He faced life with a calm assurance that all would be right in the end. He always greeted everyone with a cheerful grin and never aired his troubles.

Mac was a special breed of man . . . one who knew who he was and where he was going. Not too many people in this crazy mixed up world can make this claim. He was a "solid citizen," a self contained man . . . he was his own man until the last . . . warm, generous and honorable.

In the twenty-nine years he flew for National Airlines I have never heard him speak unkindly of any of his fellow workers and by the same token they all liked and respected him.

My life has been made richer for having known Mac all these years, and, having enjoyed his valuable friendship. Words cannot adequately express my sympathy for the loved ones he leaves behind but I am sure they realize that he has merely

"Crossed a bridge that leads beyond the world of time and space, through a green and peaceful valley, to a lovely dwelling place where he shall find true happiness and joys which never end . . . across the bridge that leads beyond the peaceful valley's bend."

PERSONAL EXPLANATION OF VOTE

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PICKLE. Mr. Speaker, on August 9, 1974, I am listed as not having voted on rollcall No. 471. This vote was on the rule providing for consideration of military construction authorization—H.R. 16136—and the vote was 327 for adoption of the rule, and I was shown as being opposed. Mr. Speaker, I voted "aye." One hundred and six Members were listed as not voting.

I ask unanimous consent that the record show that I did register my vote by electronic device here in the Chamber on vote No. 471, and I voted "yea."

URGENCY OF THE DEVELOPMENT AND UTILIZATION OF THE NATION'S WATER

(Mr. ROBERTS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ROBERTS. Mr. Speaker, at this point in the Record, I would like to place a letter from the Honorable John Simmons, president of the Water Resources Congress to the President of the United States. This letter emphasizes the urgency of the development and utilization of the Nation's water.

Thank you, Mr. Speaker.

The letter follows:

Water Resources Congress,
September 20, 1974.

The President,
The White House,
Washington, D.C.

Dear Mr. President: I had the privilege of attending the economic "mini-summit" meeting of the Natural Resources and Recreation Group in Dallas, Texas, on September 16, and I compliment you for your timely approach to the handling of our Nation's most serious problem—inflation. Secretary Morton conducted a most informative session and it is my hope that the reports of the meetings will be helpful to you.

One great concern to me, however, was the almost total lack of significant consideration of the most priceless of all of our natural resources—our Nation's water. As president of the Water Resources Congress, and on behalf of the Executive Committee, Advisory Board and the Regional Chairmen and Vice Chairmen who met in Memphis, Tennessee, on September 17 and 18, I respectfully and earnestly urge you to direct that a water resources development meeting similar to these "mini-summits" be arranged at the earliest possible time. Such a meeting will provide you with vital economic information dealing with the effect of water resources development on many facets of our economy—transportation, labor, agriculture, oil, coal, gas, electrical energy, and, most importantly, people.

I must repeat that I was disappointed at the lack of interest in Dallas of the urgent need to accelerate the development of our country's water resources. Such development would accommodate every segment of our economy and environment and would provide a worthwhile investment in our future. Knowledgeable water resources experts must be given the opportunity to provide their total input to your Administration's present and long-range planning.

For your information, I am enclosing the 1974 Platform of the Water Resources Congress and invite you to note those people who comprise our Executive Committee, Board of Directors, Advisory Board, and National and State Vice Presidents in all fifty States. Also enclosed is a copy of our statement presented to the Public Works Subcommittee on Appropriations in April of this year. The situation has not changed.

Water is a finite commodity. At times it is abundant or even destructive. At other times it is scarce. Only through careful planning and development can we be certain that there will be enough water to meet our Nation's constantly growing needs. If we are to become self-sufficient in the many areas proposed by your Administration, we indeed will require more water in the years to come.

I will attend and participate in the meeting in Washington on September 27th and 28th along with Mr. J. R. Barkley, President of the National Water Resources Association and the leaders of other major resources development groups with whom our Association works in the closest cooperation. Our organizations are ready and available to assist you in whatever way you feel is in our Nation's best interests. We await your instructions.

Faithfully yours,
John W. Simmons,
President.

LOWER PROPANE PRICES

(Mr. RANDALL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RANDALL. Mr. Speaker, as chairman of the Legal and Monetary Affairs Subcommittee of the Committee on Government Operations, our subcommittee has reviewed in detail the national propane supply-demand and pricing situation.

As we near the end of this session a summary of our work should be made, both as it relates to the competency of the Federal Energy Administration and as it relates to the American consumer. Such a summary is timely because we may be heading into another winter of confusion on propane, with conflicting reports on shortage or surplus, and on price and regulation.

To understand the present situation we should make a brief review of the market activity of propane gas since 1971. The price of propane at the refinery gate in 1971 was 5.4 cents.

Propane was then a cheap, clean fuel which at that time was in surplus supply. Natural gas processing plants and crude oil refineries were producing propane at a high level and were satisfied with the price which they were able to obtain for it in relation to other alternative uses to which the elements of propane could be applied.

It should be observed that two of the most common alternate uses for propane are simply leaving it in the natural gas stream to increase the Btu content of the stream and/or in the case of an oil refinery, leaving the propane in the "off-gas" or fuel gas streams to be burned under their own boilers as a refinery fuel.

Factors in the past which contributed to the problems in the propane market are diverse. First, of course, the Arab oil embargo limited the available supply of crude oil from which propane could be refined. It also caused a scramble for alternative fuels among those who had historically relied on petroleum fuels to meet their energy needs. Second, the domestic production of both crude oil and natural gas continued to decline, and that natural gas which was being produced was found to be "drier" than in the past, containing less of the natural gas liquids from which propane is stripped. Third, the price of natural gas which is transported in the interstate pipelines continued to be controlled by the Federal Power Commission at a price which discouraged looking for new supplies or sources. The processing of natural gas is the source of 70 percent of this Nation's propane. Fourth, as the supply of propane began to tighten up, the trading of propane on the open market and in the futures market became the playground of speculators. Some acted illegally, squeezing the price of propane upward.

The established facts are that the regulatory effort of the Federal Government was chaotic in regard to propane. The Cost of Living Council, under Dr. Dunlop, admitted quite frankly that it failed to take any, repeat any, action whatsoever to insure that the price of propane would be fair or to reflect actual market pressures. When on December 26, 1973, the responsibilities for regulation of propane prices were passed to the Federal Energy Office—FEO—under the direction of William Simon, practically the entire energy section of the defunct Cost of Living Council passed over to FEO.

Most unfortunately, there were no marked improvements in the propane picture after that transfer of authority.

The experience of the winter of 1973–74 is still fresh in our minds; it need not be repeated. Suffice it to say that there were severe market dislocations and personal discomforts in most sections of the country. The price of propane ballooned from the former retail level of 12 to 15 cents to as high as 40 cents in too many areas.

Subcommittee hearings which were called to explore this alarming trend identified an inequitable pricing practice *which was being* allowed and approved by the FEO to permit the "disproportionate loading" of increased crude oil costs on propane. Oil companies which were paying far more for their crude oil were being allowed to load much of these increased costs on propane even though most of the oil was, in fact, being refined into gasoline, home heating oil, and diesel fuel. All of the other "special order fuels" were being protected at the expense of propane.

As a result of our hearings and other efforts, on February 14, 1974, propane was added to the list of special order fuels and the disproportionate loading was reduced. We anticipated greater price relief than resulted. Actually, the price reduction was slight or minimal. But one good result was that propane ceased to rise. The upward climb of propane prices had been stopped.

One further pricing inequity remained, however. As indicated previously, 70 percent of the propane manufactured in this country comes from the processing of natural gas. Only 30 percent is refined from crude oil. Refiners, however, continued to load the propane they marketed—most of which was produced from natural gas—with all their increased crude oil costs which actually applied to only 30 percent of the product.

Then in the early part of July in concert with the gentleman from Missouri (Mr. Taylor) he and I coauthored a letter to the Federal Energy Office cosigned by about 70 of our colleagues, equally divided from each side of the political aisle, emphasizing the unfair formula for propane pricing. This letter, coupled with the hearings of our subcommittee and other pressures, resulted in the order of August 5 which eliminated the evil practice of disproportionate loading of propane with high oil prices. The current regulations which apply to propane appear to be equitable and hopefully have reestablished some normalcy in the market.

Where, then, do we find ourselves today? Certain facts seem inescapable. Plain talk is called for. Frankly, there may never again be really cheap propane, which means propane prices below the other major fuels in relative value. All forms of energy appear to be going to cost more in the future. There is, however, a limit to the increase in propane supply which can be effected by increases in price. If the FEA allows propane prices to soar unreasonably, producers will reap unjustified windfalls at the expense of the consumers. On the other hand, we must be fair and recognize that unreasonably low prices will sharply curtail the production of propane because it would be more economical for the producer to enrich the Btu content of his natural gas by leaving the propane in the gas. Another available alternative would be for the refiner to burn propane at the refinery under his own boilers. The problem to be solved is to find that price at which a reliable supply of propane is assured while costing the consumer only a fair and equitable price.

A second major concern is to try to locate a secure source for American refineries and processing plants to satisfy their raw material needs. New sources of natural gas are not being discovered fast enough. One major reason for this is the artificially low price for natural gas in interstate commerce. Deregulation of this price is necessary if investment in natural gas drilling and production are to be maintained on a comparable level with that of other energy sources.

All of us must guard against unrestrained optimism for propane price relief in the short run. To be fair we must acknowledge there is a long and less than easy job to be done. It will require the cooperation of the FEA, the energy producers, and the American citizen if it is to succeed. Conservation will be required from consumers to exercise moderation in the use of the available supply of propane.

The experiences of the winter of 1973–74 can be avoided in the future. However, new sources of natural gas must be discovered. Conservation must be practiced effectively, and Government regulation must be moderated. The long range goal of adequate propane at reasonable prices is something which cannot be achieved without continuous effort and determination, without a measure of conservation, and without a lot of American ingenuity.

RANDALL CALLS FOR PLAIN TALK ON THE ISSUE OF RELIGIOUS AND CHARITABLE CONTRIBUTIONS

(Mr. RANDALL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RANDALL. Mr. Speaker, during the past 2 years, I have received innumerable letters and countless telephone calls from constituents who are concerned over a provision of the so-called Tax Policy Review Act, H.R. 636 of the 93d Congress, and H.R. 15230 of the 92d Congress, which would terminate the tax deduction for religious and charitable contributions effective January 1, 1976.

It is not hard for me to understand why the prospect of such a termination would cause worry, concern, and even consternation among our people. We all know that voluntary contributions are the lifeblood of our churches, hospitals, colleges, and other charitable organizations of our Nation. The Federal Government has always encouraged the work of these organizations by providing a tax deduction for such contributions. There is little doubt that if the provision for deduction for religious and charitable contributions were either reduced or eliminated such action would seriously and critically affect the number of donors and the amount of their contributions.

Mr. Speaker, our churches and charitable institutions have played a historic role in the Nation's moral and spiritual development and in providing for its humanitarian needs. Religious and charitable organizations perform many worthwhile tasks ranging all the way from training the youth to be our future national leaders to distributing clothing to needy persons.

If these organizations did not fill these needs of our society, the Government would have to take over to provide the services. Private organizations have demonstrated from long experience that they can perform these tasks at less cost and more efficiently than the Government.

In my own mind I am puzzled why any Member of Congress would act to jeopardize the continued contribution of these worthwhile services to our society by eliminating the tax deduction for charitable contributions. Even the sponsors of the legislation in question have indicated it was not their intention to permanently terminate the special tax status of churches and charitable organizations. Why, then, do so many of our constituents perceive a real threat to this special status? I believe an answer to that question, Mr. Speaker, can be found by reviewing some of the history surrounding the so-called Tax Policy Review Act.

The legislation was originally introduced jointly as S. 3657 and H.R. 15230 in the 92d Congress by Senator Mansfield and Congressman Wilbur Mills on May 31, 1972. Its purpose, as alleged by Senator Mansfield, was to provide a systematic method for congressional review of all tax preferences granted piecemeal over the years. It provided for the termination of all tax preferences and exclusions over a 3-year period. In introducing the bill, Senator MANSFIELD categorically stated on page 19267 of the CONGRESSIONAL RECORD for May 31, 1972, that he wanted to make it clear that "by providing for the termination of a provision in this bill what he was doing is merely expressing the view that the provisions in this bill all deserve review by the Congress to see whether in the opinion of Congress they should be retained as they are, or modified or deleted from the tax law."

Well, Mr. Speaker, whatever Senator MANSFIELD and Chairman MILLS were attempting to do, in fairness to both, it is most noteworthy that neither Senator MANSFIELD nor Congressman MILLS reintroduced their bills in the present 93d Congress. However, the gentleman from Pennsylvania (Mr. HEINZ) did most unfortunately introduce his tax policy review act as H.R. 636. On March 27, 1973, Mr. HEINZ attempted to explain in the CONGRESSIONAL RECORD that H.R. 636 was "designed to focus attention on the need for comprehensive review of our unnecessarily complicated and totally inequitable Federal tax code." He found it necessary to add that the bill "did not discriminate against churches," but only "mandated a review of all tax preference over a 3-year period to force Congress to enact tax reform." He defended himself by stating: "Some have misinterpreted H.R. 636 as an assault on deductions for contributions to churches and religious groups," but quickly added "this is not the case at all."

The final chapter written by the gentleman from Pennsylvania (Mr. HEINZ) was to assure his constituents and all readers of the CONGRESSIONAL RECORD that he personally supports the continuation of tax deductions to socially necessary and desirable causes, and that in his mind contributions to religious, charitable, and educational institutions and organizations must have highest priority.

He went so far as to say:

> I am confident, that these important and beneficial deductions will never be abolished by Congress. Rather, comprehensive tax reform will likely strengthen these deductions, just as occurred in the 1969 tax reform law.

Perhaps the most significant portion of Mr. HEINZ' last made comments was when he revoked his support and "abandoned efforts on behalf of his own H.R. 636 in view of all the uncertainties its enactment might cause, and because of the misconstructions and misinterpretations to which it had been subjected."

Mr. Speaker, I am for tax reform, but I was most pleased to find that Mr. HEINZ has revoked his support of and abandoned his efforts for his own Tax Policy Review Act which was not true tax reform. He is right. His bill has been subject to misinterpretation but I might add justified criticism. Because of the several confusing and conflicting statements of other Members of Congress, I believe it is time that I speak out clearly and in plain language on this issue of deductions for religious and charitable purposes. As plainly as I can put it, I now reaffirm my support of our Nation's historic commitment to religious, charitable, and educational organizations by retaining and strengthening the present tax deductions for contributions to these worthwhile causes.

FREEDOM TO USE VITAMIN AND DIETARY SUPPLEMENTS

(Mr. RANDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RANDALL. Mr. Speaker, near the end of August, an important event occurred which went almost unnoticed by either Congress or the public. A respected member of the bench, Judge Henry J. Friendly of the second circuit, rendered a decision on a petition to review the vitamin and dietary supplement regulations proposed by the Food and Drug Administration.

Most of the Members of Congress should be familiar with the issues involved in the vitamin case. I say this because no other issue, not even Watergate, has engendered more mail to our office during the 93d Congress. Our constituents were and are justifiably concerned that their freedom to determine their own nutritional needs is being threatened by the arbitrary action of the FDA.

Mr. Speaker, I share the concern of these millions of Americans. I have personally used dietary supplements. I do not want to see my freedom curtailed by the arbitrary action of some faceless bureaucrats in the FDA.

To be sure, there have been a few abuses in the advertising of vitamins and dietary supplements. Some unsubstantiated claims have been made. We all agree this ought to be curbed. However, this problem can be dealt with effectively by requiring honest, accurate, full, and informative labeling. Only the use of harmful or toxic substances should be restricted by the FDA. In its current attempt to strictly regulate the sale of dietary supplements which have not been shown to be positively harmful, the FDA is unnecessarily encroaching on the personal freedom of every American. I believe consumers should be able to purchase any dietary supplement which is safe, without the necessity of a doctor's prescription.

The Second Circuit Court of Appeals decision provides hope for those of us who have resisted the encroachments of the FDA. Judge Friendly postponed the effective date of the proposed regulations and sent them back to the agency for rehearings. I am hopeful that the decision will encourage the FDA to see the light and moderate the excesses of its "holy crusade" against dietary supplement consumers. Its efforts have already cost the taxpayers millions of dollars during the 12 years of judicial proceedings and litigation.

If responsible officials in the FDA or their superiors in the Department of Health, Education, and Welfare do not moderate the excesses of their bureaucratic crusaders, then Congress must take legislative action. The record will reveal that I have supported congressional intervention in this dispute for several years. For the past several Congresses, I have introduced legislation which would prohibit the FDA from restricting the sale of safe vitamins and dietary supplements. In the present Congress, my bill is H.R. 11247.

The objectives of H.R. 11247 are similar to those of H.R. 643, the bill which many responsible consumer spokesmen have endorsed in this present Congress. I am proud to say I signed the discharge petition on the second line just below the author, Mr. HOSMER, which seeks to prod H.R. 643 out of the committee for floor consideration. Late last year, 1973, the committee did hold some hearings on H.R. 643 and on our H.R. 11247. I understand the committee may now be considering the deferral of legislative action on dietary supplement legislation in view of the decision of the Second Circuit Court of Appeals.

Mr. Speaker, in my judgment it is not advisable to further postpone congressional action on this important matter. The Interstate and Foreign Commerce Committee should proceed to report legislation before the end of this 2d session of the 93d Congress. This controversy has already been prolonged far too long. Congress rightfully should rightfully have intervened years ago to assure the full and complete freedom of choice to our constituents who consume vitamin and mineral supplements. Although the recent court decision does provide some hope, there is no way to be certain it will force FDA to come to its senses. More years of costly litigation might or could ensue unless Congress acts affirmatively and positively to stop these bureaucratic bushwhackers.

In advocating that the House act responsibly to bring this matter to a just solution, Mr. Speaker, let me make it plain and clear that I am in no way endorsing the legislation which at present appears to be under serious consideration by the Subcommittee on Public Health. I refer, of course, to H.R. 16317. This bill has been publicized as a "compromise" approach to the problem. Its supporters claim it would implement the concept that the consumer would have freedom of choice to purchase safe food supplement products, honestly labeled, without dictation as to their nutritional composition.

However, Mr. Speaker, a close analysis of H.R. 16317 will reveal that it falls far short of its purported objective. On the contrary, enactment of H.R. 16317 would greatly add to the power of FDA to restrict the distribution and sale of vitamins and dietary supplements under one guise or another. The bill would direct FDA to classify, then regulate, so-called safe combinations and potencies of vitamins and other food supplements as prescription-only drugs. It would require that certain wholesome food supplements be sold only in tablet, capsule, or liquid drop form. H.R. 16317 would also authorize the FDA to divide all products into either prescription-only or over-the-counter classifications solely on the basis of potency. It would give FDA unbridled power to restrict the combination or number of vitamin, mineral, or other food supplements if the product is represented for use by children or women who are pregnant or lactating women.

Perhaps the most objectionable portion of H.R. 16317 is the provision which would decimate the time-tested regulatory definition of "food for special dietary use" which is the heart of my bill and those introduced by Senator Proxmire and Congressman Craig Hosmer. Instead of the proven definition, H.R. 16217 substitutes an emasculated drug-oriented definition which would not allow food supplements to be sold to prevent any dietary deficiency condition. This definition would make every vitamin or mineral deficiency a "disease" treatable only under orthodox medical control and deny individual consumption of vitamin-mineral food supplements.

Mr. Speaker, the foregoing highlights only a few of the major deficiencies of H.R. 16317. There are many objectionable sections which are almost too numerous to mention. Suffice it to say that the best course and the only sensible course is for the committee to act promptly to report out a bill along the lines of our H.R. 11247 which would assure freedom of choice for persons to select among safe dietary supplements without unnecessarily expanding the FDA's bureaucratic power to restrict our personal freedoms.

FAMINE PREVENTION ACT COULD HELP WORLD'S POPULATION AVOID MASS STARVATION

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. McCLORY. Mr. Speaker, the dreadful specter of starvation threatens millions of people in the world today. Mass starvation is a stark reality right now in parts of Africa and India. Recent news reports indicate that in the Indian state of West Bengal alone more than 1,000 people have starved to death in the past 2 months.

We Americans can be proud of the role we have played over the years in alleviating hunger throughout the world through the distribution of surplus foods under the food for peace program.

However, at the present time, the Secretary of Agriculture can authorize donations for food for famine relief only if he finds that the commodity in question is in surplus supply. While in the past our stocks of surplus commodities in this country have enabled us to meet emergency calls when they occurred, shortages that have developed both in this country and elsewhere in the world in the past few years have so depleted our grain reserves that we are now unable to respond fully to the needs of the world's starving people.

The bill I am introducing today will correct that condition by establishing a dependable famine-relief grain reserve. The bill authorizes donations of grain for famine relief up to $300 million a year, regardless of whether the grain is in surplus. This measure was presented originally by my distinguished colleague from Illinois (Mr. Findley). I am proud to cosponsor this legislation today.

Mr. Speaker, the provisions to which I have referred are essentially short term in nature, in that they provide for meeting emergency situations as they occur.

But famine relief cannot be considered simply on an emergency basis. It is essential that we vastly improve the world's ability to produce enough food and fiber to meet the needs of our growing population and to make those nations now dependent upon others for an adequate food supply more nearly self-sufficient.

Mr. Speaker, the Famine Prevention Act proposes in addition to encourage our land-grant colleges to share their wealth of knowledge and experience in agricultural technology with other governments by providing Federal funds to encourage and promote education in the technology and science of agriculture.

As the gentleman from Illinois (Mr. Findley) said last week when he introduced his bill:

> We cannot do less than make these resources available to peoples all over the world to make it possible for them to help themselves, rather than to sink further into conditions of basic human desperation.

Mr. Speaker, this measure should equip us to assist the famine-stricken countries and enable them to help themselves in increasing their food supplies in order to feed their starving citizens.

I hope the Agriculture Committee and the Congress will take prompt action on this measure following the congressional recess.

THE 84TH BIRTHDAY OF DWIGHT D. EISENHOWER

(Mr. GOODLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GOODLING. Mr. Speaker, Monday, October 14, marked the 84th birthday anniversary of a great American, a man who was admired by more people throughout the entire world than any man in the history of our country. This man was Dwight David Eisenhower, a man I had the honor of representing from time of his retirement in January 1961, until his death, March 28, 1969.

The Dwight D. Eisenhower Society conducted suitable exercises at the monument erected in his honor on the campus of Gettysburg College.

Henry Scharf, president and one of the founders of the society, a longtime friend of the general, was master of ceremonies.

Mrs. Mamie Eisenhower and her daughter-in-law, Mrs. John Eisenhower, were present.

The speaker for the occasion was a former House Member and a friend of all who know him, a great historian and an authority on Lincoln history, Hon. Fred Schwengel.

I insert his remarks, "A Tribute to Greatness—Eisenhower," in the body of the Record:

A Tribute to Greatness—Eisenhower

Ladies and Gentlemen: This opportunity and introduction calls for humility and not pride. Thank you for this honor and this opportunity to speak again about a man I knew so well and loved so much. A man with Eisenhower's record of achievement measures high alongside any American who has served in public life.

It is indeed fitting and proper that we *here* do honor to greatness and to a great American. It is especially fitting and proper to do this in the shadow of a college. No man has surpassed his interest in education at all levels. Whenever and wherever he could, he encouraged people to attain higher goals by learning. Vast new and innovative programs were launched during his administration. Barriers to equality were dealt with more effectively by Mr. Eisenhower than any President since Lincoln. In private life he gave great leadership to higher education while he was President of Columbia University.

The establishment of Eisenhower College in New York testifies to his faith in higher education.

You good people in Gettysburg know of his great desire "to make other people wiser and better," as he could find or make opportunity to do so.

It is most fitting and proper that we pause on Ike's birthday to look back on, to learn anew and be inspired by a superb record of achievement for his fellowmen.

The phrase "I like Ike," coined in the campaign, opened the hearts and minds of every lover of liberty. Soon they were to learn that Ike's heart was as receptive to this spirit as their own. This gave to America a new lease on life and new faith in their Government.

In a tribute to another man identified with this community, because he talked here and gave to posterity the Gettysburg Address, Carl Sandburg, in a tribute to Lincoln on the 150th year of his birth, said, "How did Lincoln say he would like to be remembered?" Something of what he wanted is in occasions like this. In May of 1863, Lincoln's good friend Owen D. Lovejoy had died. Friends wrote Lincoln and he replied that the pressure of duties kept him from joining them in efforts for a marble monument for Lovejoy. The last sentence of his letter read: "Let him have the marble monument along with the well assured monument in the hearts of Liberty unselfishly for all mankind." This eloquent thought applies and is appropriate as we ponder the life and work of Eisenhower.

It should be noted that Eisenhower's contributions were more worldwide.

You see they liked him in Africa where the early efforts of the British were almost disastrous.

They liked him in Britain where gloom, fear and discouragement came upon the people after the retreat to Dunkirk.

They liked him in France where he captained the D. Day assault, which was to bring liberation to the French people.

They liked him everywhere on V.E. Day as people knelt in their churches and homes to utter prayers of thanksgiving.

They liked him even more in the war-torn areas as he sponsored and administered Aid programs to save nations from bankruptcy and people from starvation.

We in America liked Ike because he brought back confidence to the people, because of his intensely human touch, because of his deep instinct for doing the right and human thing, and because he was as ardent a crusader for peace as he was a leader in war.

Yes, the world liked Ike. It will continue to miss him even as we miss his warm smile, his compassionate heart, his zeal for causes which are right, and his dedication to his country and its future.

As the new President Ford once said, "He wielded with decision, and laid down with dignity, the most awesome power ever entrusted to a man and kept only the admiration and affection of all who loved freedom."

His record will forever be good to look back on, for here was a man, as has been said, "To hold against the world, to match the mountains and the sea."

From his record, for he was a man of action, he understood that "No doctrine, faith, or knowledge is a value to man except it bears fruit in action."

I was with Ike in the Statler Hilton on the evening on February, 1959, when we were beginning the celebration of Lincoln's 150th birthday. It was an evening that inspired Eisenhower to a rare eloquence. We heard him say, as he seemed almost to pray, "Let us always keep the spirit of Lincoln close at hand as we meet each successive challenge to freedom. This must always be the earnest hope of all Americans. Indeed it must be the hope of freedom sentinels wherever they stand. Pushing always ahead in our quest for a just peace and freedom for all men we can do no better than live by the Lincoln prescription: 'By the best cultivation of the physical world, beneath and around us; and the intellectual and moral world within us, we shall secure an individual, social, and political prosperity and happiness, whose course shall be onward and upward, and which, while the earth endures, shall not pass away.'"

So long as we heed the advice of Lincoln and follow the example of Eisenhower, we, and posterity, will enjoy the blessings of liberty.

HALE BOGGS AND NICK BEGICH REMEMBERED

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, 2 years ago today, my friend and closest colleague, Hale Boggs, was lost somewhere in Alaska. He went to Alaska typically to aid in the reelection of a young Democratic Member of Congress lost on the same plane, Nick Begich. Hale had an unlimited capacity to dedicate his energies and his talents for the betterment of others. He was vigorous and outspoken and he fought long and hard to make this country a fairer, more decent, and more humane place to live. He had a distinguished tenure as Member of Congress, majority whip, and majority leader. He was a tough-minded, constructive legislator. He moved boldly and effectively to shape public policy. His consuming interest in public affairs and human dignity and justice drove him to be involved in every critical issue confronting this Nation. He took courageous, prophetic, and often unpopular stands. He left to all of us a legacy of honesty, fairness, and integrity. He had that extra measure of compassion, sensitivity, and understanding. He symbolized all that is best in public life. He was a remarkable man. His untimely death was a great loss to his family, his associates, and to the country. He was my dearest friend and I miss him.

ELLEN MARIE DOMINO

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, this summer, The Postal Service Subcommittee was fortunate in having the services of Ellen Marie Domino, a senior at UCLA and a participant in that university's internship program. Ms. Domino also conducted studies for the Subcommittee on Retirement and Employee Benefits.

One of her assignments was to conduct a preliminary study of health programs conducted by the Postal Service for its employees. She conducted a series of interviews with postal and union officials, and medical employees at the Washington, D.C., Post Office. The major thrust of her recommendations is that the Postal Service appoint a medical administrator to coordinate and develop medical programs, and that the Postal Service expand its health related activities.

I commend the report to my colleagues and am forwarding it to the Postal Service for its consideration and action:

STAFF REPORT ON POSTAL SERVICE EMPLOYEE HEALTH PROGRAMS

(By Ms. Ellen M. Domino)

The purpose of this report is to stimulate interest and further study of Postal Service health services and to propose long range objectives consistent with sound economic, social, and public health practices.

This report was prepared from interviews with Washington, D.C. postal officials and headquarters personnel, document research, and inspection of District of Columbia postal health facilities.

At present, there is no medical administrator in the Postal Service. Data is very difficult to obtain. The Postal Service is rapidly developing a sophisticated occupational safety network with a computerized data reporting system, a safety staff/employee ratio, and an administrator, formally known as the Manager of the Accident Prevention Branch of the Environmental Services Division of the Employee Relations Department. This office was created in 1971 following the reorganization of the Post Office Department. It operates according to standards set in the Occupational Safety and Health Act of 1970, Sections 19 and 6 by voluntarily submitting to inspection by the Department of Labor, by conducting its own inspections, and by exchanging Postal Service inspection reports annually with the Department of Labor. However, it must be emphasized that the Postal Service was exempted from OSHA by the Postal Reorganization Act of 1970.

However, the Accident Prevention Branch has no data on the operations of medical units and does not consider the administration or evaluation of such as within the scope of its responsibilities.

Medical units are administered at a local level with funds budgeted through personnel offices at the local level. As such, they cannot be characterized individually for this report.

MEDICAL UNITS AS AN ECONOMIC ASSET

On site medical units can (1) treat minor occupational and non-occupational complaints quickly and return the employee to the job with minimal work loss, and (2) treat moderately severe occupational injuries at minimal expense to the Postal Service.

Figures from the Washington, D.C. (City), Post Office, which operates three shifts daily and is heavily mechanized, show that 46.8% of its cases are treated in its on site physician units and 38.7% are sent to emergency rooms in private hospitals. Only approximately 15% are treated by private physicians, at additional expense to the Postal Service, through the Office of Federal Employees Compensation or by the Public Health Service.

According to Headquarters figures, the Office of Employees Compensation paid out $17 million in 1973 for Postal Service compensation claims nationwide. A breakdown of that figure into dollars paid to employees for disability and dollars paid to medical providers for services was not known. However, the Accident Prevention Office sets the average number of Postal Service disability days per claim at a fairly low 1 to 3 days.

The private physician fees paid through the Office of Employees Compensation can be expected to be higher than the per case cost of treatment through Postal Service physician units. Postal Service physicians are salaried at $25,000 to $30,000 per year. Postal Service nurses receive from $11,000 to $14,000 per year.

The Public Health Service said that it did not have figures on its costs or even on the number of Postal Service employees treated at its facility.

OFFICE OF EMPLOYEES COMPENSATION

The Office of Employees Compensation has been characterized by some critics as highly inefficient:

(1) According to the Employee Relations Office of the Postal Service, payment delays average 56 days. H.R. 9118, introduced by Mr. Daniels, would improve this situation, but is still pending.

(2) Fraudulent collecting occurs as employees change jobs within the government and collect benefits on duplicate claims.

(3) According to the American Postal Workers Union, the Office of Employees Compensation has paid compensation on claims such as gonorrhea and asthma.

(4) According to the Accident Prevention Branch, the Office of Employees Compensation made it mandatory with all Federal agencies that the employees be given the option of choosing a private physician from a list supplied by the Civil Service Commission. This move initiated some question regarding the patient's influence on his family physician's recommendations for disability time and compensation.

PUBLIC HEALTH SERVICE

The Public Health Service is authorized by Congress to treat occupational injuries and illnesses from any Federal agency. From physician units, the Public Health Service receives cases which require specialists or which require treatment facilities not available at the unit, e.g. x-ray or physical therapy.

Public Health facilities are as complete as hospital emergency rooms. As noted, the City Post Office sends a relatively small percent of its cases to the Public Health Service. Most physician unit referrals are emergencies which the physician sends to a hospital. However, figures from the nurse unit at Postal Service Headquarters (where there are 2,291 office workers) show 30 of 48 referrals going to the Public Health Service with only 16 of 48 going to a hospital emergency room.

Statistics were unavailable comparing costs of Public Health Service facilities with private hospital facilities.

PHYSICIAN UNITS

Physician units would require a considerable build-up to expand their medical services beyond their present capabilities. In addition to limitations of staff and equipment, the physician unit as well as the nurse unit, has heavy extra-duty burdens. Required vision and hearing testing is one area, but this service is probably more economically carried out in the unit since minimal work time loss is required and since tests can be performed by non-medical personnel.

Fitness for duty exams make up the largest of extra duty functions performed daily by physician units. They may be requested by a supervisor anytime he feels that the employee's performance warrants it, especially when an employee returns from convalescence even if he brings a release from the attending physician. The physician may be called upon to make such examinations of employees from any facility in his district. The Postal Service physician's decision tends to be final, although the employee may appeal to the regional medical examiner and the Civil Service Commission and may bring suit with the support of his union.

The Postal Service physicians are often caught up in employee/employer/private physician disputes. Union complaints about fitness reviews have centered around several points:

(1) Postal Service physicians are not specialists.

(2) Their loyalties and competency may be questionable since there are no medical staff hiring standards in the Postal Service, and there is pressure on the Postal Service physician to return the employee to duty or recommend replacement.

(3) Examinations are oriented toward general physical conditions rather than toward the employee's current capacity to do a particular job.

(4) Physicians are influenced by employee's personnel file, nonmedical comments from superiors and prejudicial absentee records.

(5) Exams may be extremely cursory and without the benefit of complete treatment records.

RECOMMENDATIONS

1. Hire a medical administrator to organize medical units into a nationwide network with uniform operating procedures, local inspection system, and a reporting system.

2. Undertake feasibility studies on long range *costs of outside* treatment modes versus costs of building up existing medical units in order to reduce or eliminate Postal Service dependence on outside agencies.

3. Provide specific referral directives to all medical units pursuant to feasibility studies.

4. Give fitness for duty exams over to disinterested specialists, either privately or Federal-agency employed, in order to insure all parties concerned objective, expert opinion and to relieve the physician unit of this time-consuming and costly burden.

5. Establish that the choice of private physicians in occupational cases shall be with the approval of the Civil Service Commission and shall not be allowed on minor claims except in cases of compensation disputes or complaints of maltreatment.

QUALITY IN HEALTH UNITS

According to Headquarters, there is some fluctuation in the number of professional workers from time to time. At this date, there are employed nationwide about 54 physicians, not more than 8 of whom are part-time, and 312 nurses, 25% of whom are licensed.

The number of physician units nationwide is unknown, according to the Employee Relations Office. There are estimated to be between 91 and something "over 100" nurse units. The size of the unit varies and the number of physicians varies between 3, at New York City Post Office, and zero at Headquarters (which has a unit with dressing rooms and treatment rooms to accommodate a physician).

It is the nature of the office that the employee is the seeker of aid or advice and is subject to decisions that may affect his job. These factors may create an adversary situation which is counter-productive.

On the other hand, the very subjective factor of the personality and inclination of individual members of the medical staff has much to do with the general friendliness and openness in the unit. This is more important than the size of the unit, larger staffs being more conducive to impersonality or sterility of the environment.

Racial nonrepresentation, particularly, contributes to social distance between the medical unit and the employee population. In the D.C. City Post Office the physician, who is black, as are the great majority of employees, counsels employees privately, as time permits, and makes himself as visible as possible on the work floor. His nursing staff, which is all white, rarely leaves the unit. The D.C. physician feels that counseling is an important part of his job. This can be contrasted with the more clinical attitude of the nursing staff, e.g., the nurse mentioned a policy of discouraging referrals for drunkenness from supervisors.

The nurses at Headquarters are both white, but the majority of employees at Headquarters appear to be white. During the several hours that this interviewer spent in that unit, most of the employees who came in were white and all of those who came to discuss personal and family problems were white and female.

Headquarters indicated that it is unaware of any male nurses in Postal Service units and that only 2 of 54 doctors are women.

The distribution by race and sex within the various job categories in the Postal Service probably deserves some investigation in general with respect to being non-representative of the population of the Washington, D.C. area. However, the point to be made here is that racial non-representation is counterproductive to the function of a unit, which is to ascertain information in order to administer properly to the needs of the employee and the requirements of the unit and of the Postal Service.

RECOMMENDATIONS

1. Establish that the medical administrator, appointed as recommended in item 1 of the previous section, shall, in addition to the duties recommended previously, fix uniform hiring standards for medical personnel. Credentials shall be reviewed at district or sectional levels.

2. Establish channels leading to the medical administrator's office to investigate maltreatment complaints.

3. Fix and enforce a ratio of personnel to number of employees, taking into consideration the hazard level of the facility. Designate medical unit clerks by volume of employees served.

4. Establish that the Employee Relations Office in cooperation with the medical administrator shall develop programs for medical personnel to encourage openness, confidentiality, understanding of the social and economic position of employees, and visibility among employees.

5. Enforce anti-discriminatory hiring practices for medical personnel consistent with those of private industry.

6. Establish channels leading to the Employee Relations Office to investigate complaints related to discriminatory hiring practices or promotion of any employee or applicant.

EXTRA DUTY FUNCTIONS

Functions under this heading would include flu vaccinations and blood drives, which are presently conducted in D.C. units in cooperation with the union and the Red Cross, respectively. In addition, vision and hearing testing is presently given to employees who work in areas requiring such precautions, e.g. drivers and workers in high-noise areas in order to control compensation claims.

Periodic vision and hearing testing for all employees, as well as blood pressure and TB screening and other public health services are extra duty functions which could be performed quickly and easily by medical units for employees who might otherwise never be reached.

Units could be freed for more extra duty services by hiring clerks where indicated, streamlining paperwork (forms), removing the fitness for duty burden from physician units, and enforcing adequate staff/employee ratios.

The long range benefits of good public health practices are reduced absenteeism, better employee health, and a greater productivity through improved morale. Studies show that employees work better when assured that their employer cares about them. A dividend in better communication and more visibility of medical staff is also realized.

The social aspects of the total health picture with respect to the Postal Service have been largely assumed by the unions. The AFL/CIO sponsored Human Relations Committee, now only two or three years old in the D.C. area, elects members in the larger union locals to work voluntarily part-time. Guidelines of local chapters are loose and local pursuits are adopted locally with a certain amount of independence. Nationally, the Committee supports such activities as the Jerry Lewis Telethon for Muscular Distrophy.

The American Postal Workers Union in D.C. has a counseling program which deals with social concerns of employees such as child care, programs for the aged and veterans, drugs and alcoholism, housing, and voter registration.

There is also an Employee Recreation and Welfare Committee in the D.C. City Post Office facility which uses funds from employee vending machines to finance its activities. Every year, the union opposes action on long-proposed amendments to the Randolph-Shephard Act which would earmark all vending machine money for the blind.

The Postal Service management does not take part in any of these union sponsored activities.

The Program for Alcoholic Recovery and the Postal Employee Development Center are two very notable examples of Postal Service investments in social relations.

The Program for Alcoholic Recovery began late in 1968 through the efforts of Stanley Day, Employee Relations Department Manager of PAR. Mr. Day is a recovered alcoholic employee who sold the idea to the Postal Service management. PAR estimates that 8% of Postal Service employees are alcoholics. The program has a 75% to 83% recovery rate, slightly higher than that of Alcoholics Anonymous. Unlike AA, PAR's membership is limited to a defined, though not homogenous, population, and it uses job loss as leverage. It is highly organized and has full headquarters support, including cooperative suspension of disciplinary action and independent budgeting.

The cost benefits quoted by PAR are $12 million annually in absenteeism. "When the cost impact of accidents (Office of Employees Compensation), grievance and disciplinary actions, early retirement, turnover and training is added, we can safely say we are paying many of our employees a year's wages for 3 months work." (Quoted from PAR Progress Report, July 1, 1974, U.S.P.S.) One might add private medical expense for alcohol-related disease paid through Federal carriers at rising government premium costs. The savings in human misery is incalculable.

The obstacles, according to PAR, center around the fact that it is a management program, and there is employee resistance to Postal Service management. The PAR program is slowly changing that picture as grateful, recovered employees rise in numbers among the ranks.

The Postal Employees Development Center is an extension of the Postal Service Training and Development Institute based at Bethesda, Maryland. It offers courses in self improvement, such as reading, math, general science, electronics and typing. It also trains new or transferring employees for Postal Service jobs, such as retail sales clerking, financial transacting such as the sale of money orders, zip code sorting machine operation, and custodial maintenance.

The center uses modern audio-visual equipment and demonstration equipment. It is strictly voluntary, on the employee's own time, is self taught, and it enables the employee to proceed at her or his own pace. Participation is noted in the employee's personnel file.

The program is too new to provide realistic utilization data, at least in the D.C. area. Figures nationwide were not available for this report. However, the Postal Employees Development Center does provide important functions for the Postal Service. Other than job training, the Center is an excellent employee relations arm which, like the extra duty benefits proposed in this report, contributes to greater productivity.

OBSERVATIONS AND RECOMMENDATIONS

1. Extra duty activities pay off economically by reducing absenteeism and increasing productivity. The medical administrator should stimulate such activity through directives and instructional programming for medical unit personnel. Open communication and cooperation with union committees should be encouraged.

2. Historically, the Postal Service has been plagued with spit/patch remedies to operational problems. The 1970 Postal Reorganization Act represents a recognition of the need to restructure from the top down in order to produce any real change and improvement in the system. The success of the PAR program demonstrates, among other things, that health administration must originate from the highest level with full support of Headquarters, qualified professional leadership and its own budget.

3. It is the primary function and obligation of the United States Postal Service to provide the most efficient and economical mail delivery system possible for the people of the United States. Therefore, it is from an economic perspective that this report was prepared. The central issue of this report is that broad range health services through medical units (i.e. the availability of routine health screening and counseling as preventive medicine pays economic dividends in lower absenteeism and also in greater productivity through improved morale. Whether or not the Postal Service should be a "model employer" is secondary to the issue that it should be economical in operation in order to give the country the kind of optimum service it expects for the price it pays.

LIST OF REFERENCES

Occupational Safety and Health Act, Public Law 91–596, 91st Congress, S. 2193, December 29, 1970.

Annual Occupational Safety and Health Report, CY 1973, United States Postal Service, March 1974.

Occupational Safety and Health Program Evaluation, United States Postal Service, Findings and Actions, by Department of Labor, June 18–29, 1973.

H.R. 9118, 93rd Congress, 1st Session, by Honorable Dominick V. Daniels, June 29, 1973, referred to the Committee on Education and Labor.

Executive Order 11612, July 26, 1971.

Executive Memorandum, "Zero-In on Federal Safety" Program, November 15, 1972.

Hearing before the Subcommittee on Postal Facilities, Mail, and Labor Management, 93rd Congress, 1st Session, May 24, 1973, Serial No. 93–16.

United States Postal Service, Washington, D.C., PAR Progress Report, July 1, 1973.

Labor-Management Alcoholism Newsletter of the National Council on Alcoholism, September and October, 1972, Volume II, Number 2.

LIST OF PERSONS INTERVIEWED FOR THIS REPORT

Mr. Michael Popowski, III, Director, Office of Government Liaison, Government Relations Department, U.S.P.S.

Mr. Okey L. Gallagher, Manager, Accident Prevention Branch, Environmental Services Division, Employee Relations Department, U.S.P.S.

Mr. Stanley K. Day, former Manager of Program for Alcoholic Recovery, Employee Relations Department, U.S.P.S.

Mr. John W. Lynch, Jr., General Manager, Personnel Administration Division, Employee Relations Department, U.S.P.S.

Mrs. Helen K. Callar, RN, U.S.P.S. Headquarters, Washington, D.C.

Mrs. Florence L. McGee, RN, U.S.P.S. Headquarters, Washington, D.C.

Dr. Clive E. Jackson, M.D., Health Unit, Washington, D.C., City Post Office.

Mrs. Florence J. Saint, RN, Health Unit, Washington, D.C., City Post Office.

Mr. William M. Cornish, Director, Public Health Service, Out Patient Clinic.

Mr. Edward L. Bowley, Legislative Aid, American Postal Workers Union.

Mr. John A. Morgen, President, Clerk Craft, American Postal Workers Union.

THE SUPPLEMENTAL SECURITY INCOME PROGRAM

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, the supplemental security income program has been described as a blessing by some, and as a boondoggle by others. In some parts of the country, the State governments are better off than they were when they were administering their own programs for the aged, blind, and disabled. If you ask representatives from the governments of each of the 50 States, the Virgin Islands, and Puerto Rico to list their major complaint about the SSI program, the list would probably contain 52 different items. If you asked an SSI recipient in each of the 50 States, the Virgin Islands, and Puerto Rico to list the aspect of the SSI program which they dislike the most, that list would probably contain 52 different items as well.

However, one negative factor which would probably be listed by such government representative is the impact which the SSI program has had on medicaid. As a result of the implementation of the SSI program, many individuals who were ineligible for assistance under the States' programs because of their resources or income, became eligible for assistance under the more lenient income and resource limitations of the SSI program. In many States, these individuals automatically became eligible for medicaid. In all cases, the States are responsible for providing certain types of medical care for SSI recipients.

Consequently, the funds which the States thought they would save through the federally administered SSI program have been rechanneled into medicaid programs. In many States the increase in the cost of the medicaid programs, coupled with the States' share of the SSI program, means that their present expenditures for the aged, blind and disabled are greater than if the States were still administering their own assistance programs.

Today I have introduced legislation which would provide fiscal relief to those States which have experienced sizable increases in medicaid expenditures because of the enactment of SSI. Simply stated, the bill which I have introduced will provide for the Federal Government to reimburse any State for 50 percent of State expenditures above that State's 1972 expenditures for medicaid programs for the aged, blind and disabled.

In addition, the enactment of this legislation would release State funds which could be used for other needed purposes in connection with State assistance programs. For example, I would hope that the State of New York would utilize these funds to pass along the badly needed cost-of-living increases, as enacted by Congress, for SSI recipients.

While the entire problem of medicaid may be solved by the passage of a national health insurance program, it is doubtful that such legislation will be enacted for quite some time. Therefore, I believe that the legislation which I have introduced today is essential, and should be enacted as a workable interim solution to the States' medicaid problems. I urge the Ways and Means Committee to take up prompt consideration of this measure after Congress reconvenes in November, and urge my colleagues to support passage of this legislation as a much needed means of relief for the States and constituents whom they represent.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Sarasin) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 15 minutes, today.

Mr. Young of Illinois, for 10 minutes, today.

Mr. Heinz, for 10 minutes, today.

Mr. Miller, for 10 minutes, today.

Mrs. Heckler of Massachusetts, for 15 minutes, today.

Mr. McDade, for 5 minutes, today.

(The following Members (at the request of Mr. Ginn), to revise and extend their remarks, and to include extraneous matter:)

Mr. Rangel, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Bingham, for 5 minutes, today.

Mr. Alexander, for 15 minutes, today.

Mr. Flood, for 5 minutes, today.

Mr. Murphy of New York, for 5 minutes, today.

Mrs. Collins of Illinois, for 10 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Metcalfe, for 15 minutes, today.

Mr. Drinan, for 10 minutes, today.

Mr. Leggett, for 5 minutes, today.

Mr. Burke of Massachusetts, for 5 minutes, today.

Mr. Reuss, for 30 minutes, today.

Mr. Brademas, for 5 minutes, today.

Ms. Abzug, for 20 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Moorhead of Pennsylvania and to include extraneous matter notwithstanding the fact that it exceeds 2 pages of the Congressional Record and is estimated by the Public Printer to cost $1,320.50.

Mr. Conyers, and to include extraneous matter notwithstanding the fact that it exceeds 2½ pages of the Congressional Record and is estimated by the Public Printer to cost $1,182.

Mr. Mahon, to revise and extend immediately following the adoption of the Lujan amendment today.

Mr. Bennett in four instances.

Mr. Randall in two instances.

(The following Members (at the request of Mr. Sarasin) and to include extraneous material:)

Mr. Shoup.

Mr. Kemp in two instances.

Mr. Thone.

Mr. Myers in three instances.

Mr. Grover.

Mr. Gross.

Mr. Veysey in two instances.

Mr. Shriver.

Mr. Wyman in two instances.

Mr. Talcott in two instances.

Mr. Bray in four instances.

Mr. Hosmer in three instances.

Mr. Young of Illinois.

Mr. Biester.

Mr. Archer.

Mr. Spence.

Mr. Lagomarsino.

Mr. Derwinski in three instances.

Mr. Ketchum in two instances.

Mrs. Heckler of Massachusetts in two instances.

Mr. Ashbrook in three instances.

Mr. McDade.

Mr. Don H. Clausen in four instances.

Mr. Roncallo of New York.

Mr. Minshall of Ohio.

Mr. O'Brien in five instances.

Mrs. Holt.

Mr. Frenzel in three instances.

Mr. Bob Wilson.

Mr. Widnall.

Mr. Robison of New York.

Mr. Dennis.

Mr. Gubser.

(The following Members (at the request of Mr. Ginn) and to include extraneous matter:)

Mr. Vanik in three instances.

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Alexander in two instances.

Mr. Steed.

Mr. Casey of Texas in three instances.

Mr. Hamilton in two instances.

Mr. Fraser in three instances.

Mr. Boland.

Mr. Milford.

Mr. Harrington in four instances.

Mr. Ford in two instances.

Mr. Addabbo.

Mr. Thompson of New Jersey.

Mr. Symington.

Mr. Rogers in five instances.

Mrs. Collins of Illinois.

Mr. Madden.

Mr. Kyros in three instances.

Mr. Roe.

Mr. Ginn.

Mr. Leggett.

Mr. Rangel in two instances.

Mr. Fountain.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3173. An act to amend the Intercoastal Shipping Act, 1933; to the Committee on Merchant Marine and Fisheries.

ENROLLED BILLS SIGNED

Mr. **HAYS**, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6191. An act to amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty, and for other purposes;

H.R. 6642. An act to suspend the duties on certain bicycle parts and accessories until the close of December 31, 1976, and for other purposes;

H.R. 7780. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other purposes;

H.R. 11251. An act to amend the Tariff Schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel, and for other purposes;

H.R. 11452. An act to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes;

H.R. 11830. An act to suspend the duty on synthetic rutile until the close of June 30, 1977;

H.R. 12035. An act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes;

H.R. 13561. An act to amend the Intercoastal Shipping Act, 1933;

H.R. 13631. An act to suspend for a temporary period the import duty on certain horses, and for other purposes;

H.R. 14225. An act to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for 1 year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, to make certain technical and clarifying amendments, and for other purposes; to amend the Randolph-Sheppard Act for the blind: to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals;

H.R. 14597. An act to increase the limit on dues for U.S. membership in the International Criminal Police Organization; and

H.R. 15540. An act to extend for 1 year the authorization for appropriations to implement title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The **SPEAKER** announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 355. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for the fiscal years 1975 and 1976; to provide for the remedy of certain defective motor vehicles without charge to the owners thereof; to require that schoolbus safety standards be prescribed; to amend the Motor Vehicle Information and Cost Savings Act to provide for a special demonstration project; and for other purposes;

S. 628. An act to amend chapter 83 of title 5, United States Code, to eliminate the annuity reduction made, in order to provide a surviving spouse with an annuity, during periods when the annuitant is not married;

S. 1411. An act to authorize the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings in North Dakota and South Dakota, and for other purposes;

S. 1412. An act to declare that certain federally owned lands are held by the United States in trust for the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Indian Reservation in North and South Dakota;

S. 3007. An act to authorize appropriations for the Indian Claims Commission for fiscal year 1975;

S. 3355. An act to amend the Controlled Substances Act to extend for 3 fiscal years the authorizations of appropriations for the administration and enforcement of that act;

S. 3979. An act to increase on an emergency basis the availability of reasonably priced mortgage credit for housing;

S.J. Res. 236. A joint resolution to provide for the indemnification of the Metropolitan Musuem of New York for loss or damage suffered by objects in exhibition in the Union of Soviet Socialist Republics; and

S.J. Res. 251. A joint resolution to extend the authority of the Export-Import Bank of the United States.

ADJOURNMENT

Mr. GINN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 6 o'clock and 41 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, October 17, 1974, at 11:30 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV executive communications were taken from the Speaker's table and referred as follows:

2868. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to establish a procedure for achieving a spending level of $300 billion for fiscal year 1975; to the Committee on Appropriations.

2869. A letter from the Secretary of the Army, transmitting the annual report for fiscal year 1974 on Army contracts for military construction awarded without formal advertisement, pursuant to section 704 of Public Law 92-545; to the Committee on Armed Services.

2870. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed amendments to the regulations for the national direct student loan and college work-study programs and complete regulations for the supplemental educational opportunity grant program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2871. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to establish a special unemployment assistance program and a community improvement program, and for other purposes; to the Committee on Education and Labor.

2872. A letter from the Acting Secretary of the Interior, transmitting a proposed plan for the use and distribution of Warm Springs judgment funds awarded in Docket No. 198 before the Indian Claims Commission, pursuant to sections 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

2873. A letter from the Acting Director of Territorial Affairs, Department of the Interior, transmitting the annual report for fiscal year 1974 on activities under the Guam Development Fund Act of 1968, pursuant to section 6 of the act; to the Committee on Interior and Insular Affairs.

2874. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to establish a National Commission on Regulatory Reform; to the Committee on Interstate and Foreign Commerce.

2875. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a proposed amendment to H.R. 17063 to increase the fine for Sherman Act violations to $1 million for corporations and to $100,000 for individuals; to the Committee on the Judiciary.

Received From the Comptroller General

2876. A letter from the Comptroller General of the United States, transmitting his review of the proposed rescissions and deferrals of budget authority contained in the message from the President dated September 20, 1974, pursuant to section 1014(b) of Public Law 93-344; to the Committee on Appropriations. (H. Doc. 93-394). Ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE of Illinois: Joint Committee on Atomic Energy. House Joint Resolution 1161. Joint resolution assuring compensation for damages caused by nuclear incidents involving the nuclear reactor of a U.S. warship (Rept. No. 93-1467). Referred to the Committee of the Whole House on the State of the Union.

Mr. EVINS of Tennessee: Select Committee on Small Business. Report on the effects of the Postal Service's policies on small business (Rept. No. 93-1468). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture. H.R. 2933. A bill to improve the quality of unshelled filberts and shelled filberts for marketing in the United States (Rept. No. 93-1469). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADAMS:

H.R. 17387. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

H.R. 17388. A bill to prohibit the shipment in interstate commerce of dogs and other animals intended to be used to fight dogs or other animals for purposes of sport, wagering, or entertainment; to the Committee on the Judiciary.

H.R. 17389. A bill to amend title 38, United States Code, to extend the maximum entitlement to educational assistance for eligible veterans and eligible dependents from 36 to 45 months; to the Committee on Veterans' Affairs.

By Mr. BLATNIK (for himself and Mr. Jones of Alabama):

H.R. 17390. A bill to amend the Public Works and Economic Development Act of 1965; to the Committee on Public Works.

By Mr. BROYHILL of Virginia:

H.R. 17391. A bill to grant the consent of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact to authorize the Washington Metropolitan Area Transit Authority to establish and maintain a small business procurement program under regulations prescribed by the Board of Directors without regard to creed, sex, national origin, race, or color; to the Committee on the District of Columbia.

By Mr. DON H. CLAUSEN:

H.R. 17392. A bill to amend title II of the Social Security Act to increase the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder, and to revise the method for determining such amount; to the Committee on Ways and Means.

By Mr. DERWINSKI (for himself, Mr. Clancy, Mr. Lott, Mr. Madden, Mr. Rostenkowski, and Mr. Treen):

H.R. 17393. A bill to authorize the construction and maintenance of the General Draza Mihailovich Monument in Washington, D.C., in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II; to the Committee on House Administration.

By Mr. FROEHLICH:

H.R. 17394. A bill to amend the Internal Revenue Code of 1954 to remove the penalty for the underpayment of estimated tax in the case where the underpayment is due to income attributable to a new business started by the taxpayer during the taxable year; to the Committee on Ways and Means.

By Mr. HANLEY:

H.R. 17395. A bill to amend title XIX of the Social Security Act to provide for additional Federal payments to States to reflect the higher medicaid costs resulting from the enactment of the supplemental security income benefit program; to the Committee on Ways and Means.

By Mr. HEINZ:

H.R. 17396. A bill to amend the Internal Revenue Code of 1954 to extend and liberalize the amortization provisions for pollution control facilities; to the Committee on Ways and Means.

By Mr. LUKEN:

H.R. 17397. A bill to amend the Clayton Act to preserve and promote competition among corporations in the production of oil, natural gas, coal, oil shale, tar sands, uranium, geothermal steam, and solar energy; to the Committee on the Judiciary.

By Mr. McCLORY:

H.R. 17398. A bill to improve world food production; to the Committee on Agriculture.

By Mr. MURPHY of New York:

H.R. 17399. A bill to amend title 38 of the United States Code to increase the maximum income level at which certain veterans remain eligible for pensions; to the Committee on Veterans' Affairs.

By Mr. PERKINS (for himself, and Mr. Teague):

H.R. 17400. A bill to amend the National Science Foundation Act of 1950, as amended, to promote scientific research and development in the production of synthetic liquid fuels, and for other purposes; to the Committee on Science and Astronautics.

By Mr. RANDALL:

H.R. 17401. A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in, Huntington's disease; to the Committee on Interstate and Foreign Commerce.

By Mr. REUSS:

H.R. 17402. A bill to amend the Small Business Act to authorize Federal revenue sharing grants to States to develop model programs to demonstrate the effectiveness of the use of independent State and local small business enterprise centers to provide technical assistance and other useful and practical services to businesses, and for other purposes; to the Committee on Banking and Currency.

By Mr. ROYBAL:

H.R. 17403. A bill to provide for public ownership of all objects and materials prepared for or by the President or Vice President of the United States in connection with public business; to the Committee on House Administration.

By Mr. SEIBERLING (for himself, Ms. Abzug, Mr. Adams, Mr. de Lugo, Mr. Eilberg, Mr. Harrington, Mr. Mitchell of Maryland, and Mr. Charles Wilson of Texas):

H.R. 17404. A bill to provide for the preservation of public records received, held, prepared, or originated by or for the President or Vice President of the United States; to the Committee on House Administration.

By Mr. SHIPLEY:

H.R. 17405. A bill to amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from requiring an indirect source emission review as a part of any applicable implementation plan; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself, and Mr. Devine):

H.R. 17406. A bill to extend the educational broadcasting facilities program and to provide authority for the support of demonstrations in telecommunications technologies for the distribution of health, education, and social service information, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SYMINGTON:

H.R. 17407. A bill to further the purposes of the Wilderness Act by designating certain lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 17408. A bill to designate certain lands in the Mingo National Wildlife Refuge, Wayne and Stoddard Counties, Mo., as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. CONYERS (for himself, Mr. Cohen, Mr. Sarbanes, Mr. Fish, Mr. Rangel, Mr. Maraziti, Mr. Thornton, and Mr. Owens):

H.R. 17409. A bill to assist in reducing crime and the danger of recidivism by requiring speedy trials and by strengthening the supervision over persons released pending trial, and for other purposes; to the Committee on the Judiciary.

By Mr. CAREY of New York:

H.R. 17410. A bill to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DOMINICK V. DANIELS:

H.R. 17411. A bill to exclude from gross income the first $1,000 of interest received from savings account deposits in home lending institutions; to the Committee on Ways and Means.

By Mr. DELLENBACK:

H.R. 17412. A bill to provide for balanced protection, enhancement and development of the national forest lands through establishment of a national forest lands investment recovery fund, and for other purposes; to the Committee on Agriculture.

By Mr. FROEHLICH:

H.R. 17413. A bill to amend the Land and Water Conservation Fund of 1965 to require payments by States to local jurisdictions in lieu of taxes, to increase the authorization of appropriation for the Land and Water Conservation Fund, and for other purposes;

to the Committee on Interior and Insular Affairs.

By Mrs. HECKLER of Massachusetts:

H.R. 17414. A bill to amend the Comprehensive Employment and Training Act of 1973 to provide additional jobs for unemployed persons through programs of public service employment; to the Committee on Education and Labor.

H.R. 17415. A bill to provide financial assistance to regulated electric utilities to reduce the increases in electric utility rates caused by increases in the price of residual oil; to the Committee on Interstate and Foreign Commerce.

H.R. 17416. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. HORTON (by himself, Mr. Erlenborn and Mr. Wydler):

H.R. 17417. A bill to establish a National Commission on Regulatory Reform; to the Committee on Interstate and Foreign Commerce.

By Mr. HOSMER (for himself, Mr. Anderson of Illinois, Mr. Hansen of Idaho, and Mr. Lujan):

H.R. 17418. A bill to amend the Atomic Energy Act of 1954, as amended to establish the U.S. Enrichment Corporation, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. KING:

H.R. 17419. A bill to prohibit any increase in the price of certain consumer commodities by any retailer once a price is placed on any such commodity by such retailer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KYROS (for himself and Mr. Ginn):

H.R. 17420. A bill to provide for the establishment of a national advisory commission to develop a national plan for the control of epilepsy and its consequences; to the Committee on Interstate and Foreign Commerce.

By Mr. SEBELIUS:

H.R. 17421. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax, to increase the estate tax marital deduction, and to provide an alternate method of valuing certain real property for estate tax purposes; to the Committee on Ways and Means.

H.R. 17422. A bill to amend the Internal Revenue Code of 1954 to exempt certain farm vehicles from the highway use tax, and to require that evidence of payment of such tax be shown on highway motor vehicles subject to tax; to the Committee on Ways and Means.

By Mr. STUDDS (for himself, Mr. Meeds, and Mr. Riegle):

H.R. 17423. A bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FROEHLICH:

H. J. Res. 1164. Joint resolution proposing an amendment to the Constitution of the United States to provide 4-year staggered terms for Members of the House of Representatives, and limit such Members to three such terms; to the Committee on the Judiciary.

By Mrs. MINK (for herself, Mr. Dingell, Mr. Ford, Mr. Helstoski, Mr. Koch, Mr. Mitchell of Maryland, Mr. Nix, Mr. Rosenthal, Mr. Roybal, Mr. Stokes, and Mr. Charles H. Wilson of California):

H. J. Res. 1165. Joint resolution proposing an amendment to the Constitution of the United States to provide for an election for the Office of President and the Office of Vice President in the case of a vacancy both in the Office of President and the Office of Vice President, or in the case of a vacancy in the Office of President if the person serving as Vice President was chosen as provided by the 25th article of amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. STAGGERS (for himself, Mr. Macdonald, Mr. Jarman, Mr. Moss, Mr. Dingell, and Mr. Rogers):

H. J. Res. 1166. Joint resolution to establish a National Commission to study and report on the impact of the Federal Communications Commission, Federal Power Commission, Securities and Exchange Commission, Interstate Commerce Commission, Federal Trade Commission, Consumer Product Safety Commission, and the Civil Aeronautics Board upon commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. LEGGETT (for himself, Mr. Conyers, Mr. Eilberg, Mr. Holifield, Mr. Moss, Mr. Peyser, Mr. Roe, Mr. Stark, and Mr. Studds):

H. Con. Res. 677. Concurrent resolution expressing the sense of Congress with respect to decontrol of certain domestic crude oil; to the Committee on Interstate and Foreign Commerce.

By Ms. ABZUG:

H. Res. 1450. Resolution expressing the sense of the House in favor of continued legal action against Richard M. Nixon and the issuance of a final report of all investigations conducted by the Watergate Special Prosecutor and in opposition to further Presidential pardons in connection with Watergate-related offenses; to the Committee on the Judiciary.

By Mr. BINGHAM (for himself, Mr. Delaney, Mr. Addabbo, Mr. Koch, Mr. Rosenthal, Ms. Holtzman, and Ms. Abzug):

H. Res. 1451. Resolution disapproving proposed deferral of budget authority No. D75-9, relating to construction of waste treatment plants, as transmitted to the Congress in the President's message of September 23, 1974; to the Committee on Public Works.

By Mr. LEGGETT:

H. Res. 1452. Resolution directing the President to furnish certain information; to the Committee on Interstate and Foreign Commerce.

By Mr. LUKEN:

H. Res. 1453. Resolution proposing the establishment of national energy program; to the Committee on Interstate and Foreign Commerce.

By Mr. LUKEN (for himself, Mr. Eilberg, Mr. Roe, Ms. Abzug, Mr. Conyers, Mr. Conte, Mr. Fascell, Mr. Hechler of West Virginia, Mr. Hawkins, Mr. Badillo, Mr. Vanik, Mr. St Germain, Mr. Lehman, and Mr. Stark):

H. Res. 1454. Resolution expressing the sense of the House that ceiling prices on crude oil should not be increased; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE (for himself, Mr. Cotter, and Mr. Koch):

H. Res. 1455. Resolution concerning the safety and freedom of Valentyn Moroz, Ukrainian historian; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 17424. A bill for the relief of Cooley Berry; to the Committee on the Judiciary.

By Mr. REES:

H.R. 17425. A bill for the relief of Dolores H. Macapinlac; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

536. By the SPEAKER: Petition of the 1974 convention of the Lutheran Church in America, relative to disaster insurance; to the Committee on Banking and Currency.

537. Also, petition of the Grady County Chapter of the American Red Cross, Chickasha, Okla., relative to the status of servicemen missing in action; to the Committee on Foreign Affairs.

538. Also, petition of the Oklahoma Municipal League, Oklahoma City, relative to the tax-exempt status of municipal bonds; to the Committee on Government Operations.

539. Also, petition of Dr. Howard S. Zucker, Brooklyn, N.Y., relative to the Democratic primary in the 13th Congressional District of New York; to the Committee on House Administration.

540. Also, petition of the Oklahoma Municipal League, Oklahoma City, relative to land use decisionmaking; to the Committee on Interior and Insular Affairs.

541. Also, petition of the Oklahoma Municipal League, Oklahoma City, relative to implementation of the Clean Air Act; to the Committee on Interstate and Foreign Commerce.

542. Also, petition of the 25th Convention of the International Chemical Workers Union, relative to a constitutional amendment providing for Senate ratification of Presidential pardons; to the Committee on the Judiciary.

543. Also, petition of the Oklahoma Municipal League, Oklahoma City, relative to amending the Federal Water Pollution Control Act Amendments of 1972; to the Committee on Public Works.

544. Also, petition of the Oklahoma Municipal League, Oklahoma City, relative to general revenue sharing; to the Committee on Ways and Means.

SENATE—*Wednesday, October 16, 1974*

The Senate met at 10 a.m., and was called to order by Hon. J. Bennett Johnston, Jr., a Senator from the State of Louisiana.

PRAYER

The Reverend Dr. C. Ralston Smith, special assistant to the Reverend Billy Graham, offered the following prayer:

Almighty and ever-blessed God, we come again to Thee with gratitude for Thy continued goodness to us and to all the children of men. We recognize that Thy favors are not bestowed in response to our worthiness, for Thou makest Thy Sun to shine on the evil and the good, and sendest rain on the just and the unjust. Nevertheless, we believe that Thou art well pleased when we do that which is in accordance with Thy will and in the furtherance of Thy purposes. To that end help us to strive.

Give us a sense of the eternal, we beseech Thee, even as we march through this single day. Hone us until we are fit instruments in Thy hands to discriminate between the arresting right and the alluring wrong. Deliver us from that self-serving which makes even the good the enemy of the best.

Guide and guard the Members of this Senate, making them aware of Thy presence and protective care. Be their Counselor in all deliberations. Attend with Thy commendation those decisions which benefit our fellows; and correct by Thy sovereign spirit those errant steps which would be taken to the detriment of the peoples of our shrinking world.

These things we plead, together with mercy and forgiveness for our sins, in the name of Jesus Christ whom Thou didst send, not to be ministered unto, but to minister. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 16, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. J. BENNETT JOHNSTON, Jr., a Senator from the State of Louisiana, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. JOHNSTON thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, October 15, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HOW VIETNAM BROUGHT INFLATION

Mr. MANSFIELD. Mr. President, there are two reasons why this country is undergoing a recession and inflation at the same time. One of them has to do with the quadrupling of the price of oil imported and the other has to do with the ill-starred, tragic adventure which this country engaged in in Vietnam, Laos, and Cambodia.

I make that statement because a study has been conducted by the Bureau of the Census, a part of the Department of Justice, in 1972; and that study indicated that the cost of the Vietnam war, the Southeast Asian war, would be with us well into the latter part of the first half of the next century and would cost us something on the order of $350 billion before we got through paying for it.

Mr. President, I ask unanimous consent to have printed in the RECORD a commentary by Richard L. Strout, published in the Christian Science Monitor of October 11, 1974, entitled "How Vietnam Brought Inflation."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW VIETNAM BROUGHT INFLATION

(By Richard L. Strout)

WASHINGTON.—Halfway across the United States in a battered old Rambler in 1967, with the Vietnam war going on, this reporter was startled at the public mood. President Johnson, facing a $25 billion deficit, finally urged a $10 billion tax increase. It was concrete evidence that the war, which everybody had hoped would be cheap and short, was something else. Comment turned sour.

"President Johnson is in trouble—bad trouble," began a Monitor piece from Denver, Aug. 17, 1967. . . .

Mr. Johnson decided not to run again. But, inflation had started.

It wasn't as though politicians weren't warned. In an article entitled "A Time to Tax," MIT economist Paul A. Samuelson gave his appeal in February, 1966. Walter W. Heller, advisor to Presidents Kennedy and Johnson as chairman of the Council of Economic Advisers, 1961–64, boasted the record. There had been "seven years of unbroken expansion and the longest sustained economic advance in U.S. history," he said, and inflation was mild (only 2.8 percent in 1964). But now, he wrote in October, 1967, it was threatened: "Had a surtax been enacted . . . early in 1966 we could have eased inflationary pressures." Well, maybe. But many think now that that was already too late.

Mr. Johnson hesitated. He had wanted both the war and the Great Society. Finally he yielded on taxes and then Congress delayed. The fire engines didn't want to fight the fire.

Mr. Nixon took office in 1969 and was reelected in 1972. In October of the latter year Darryl R. Francis, president of the St. Louis Federal Reserve Bank, wrote: "I believe, along with many others, that the federal budget is virtually out of control." Was one tax rise enough? Brookings economist Alice M. Rivlin wrote in December, 1972, "It is clear that a federal tax increase will be required within the next few months."

Warnings spread to popular journals but the critical time was past. It should have been in 1964–65. Young people rebelled. Business tolerated the war which gave record profits. The will to accept war discipline, however, was absent. It was a war without bands or bunting that made the economic perils even harder to meet. Economists had foreseen them and now they became visible to others. Time magazine wrote "A long string of danger signals began to blink more insistently last week. The message: Like a runaway freight train, the economy is hurtling forward at an inflationary speed that could send it off the rails into recession next year." That was April 30, 1973.

Business Week bought a full page in the New York Times (May 11, 1973) to broadcast, block letters, "An Urgent Plea for New Economic Policy, Now!" It wanted an emergency surtax.

". . . The administration has lost its grip on the economy," it charged. "It is driving the U.S. into a superheated boom that inevitably will end with a paralyzing recession."

The origin of few economic disasters has been so specifically pinpointed. Other factors entered the stream, of course; high food prices, high oil prices and America's credit policies, which helped spread the inflation abroad. Trying recently to answer the question, "how the world economy got into this mess," Leonard Silk in the New York Times Sunday Magazine (July 28) noted increasing European concern in the '60's at "the recklessness of American military policy," particularly in Vietnam.

There were other war costs, too; in future years America must weigh the price it paid for what it got in return. Of some 3,000,000 men who served, 56,241 were killed in hostile or nonhostile action, and 303,616 were injured, Bucknell University economist Tom Riddell estimates.

Sen. Mike Mansfield (D) of Montana, in the Sept. 27, 1973 Congressional Record, cites Statistical Abstract of the U.S. issued by the U.S. Department of Commerce indicating that the total cost of the war in Indo-China would be "something in the order of $352 billion and will continue into the next century."

Ah, yes, says economist Riddell (whose article Mr. Mansfield also inserts in the Record) but this figure omits a lot of items like future veterans benefits, aid to Indo-China, and interest payments on the national debt. He comes up with the horrendous figure of $676 billions! Well, maybe. But this does not include the cost of war inflation.

"Our nation still is spending billions of dollars in Southeast Asia," Hubert Humphrey told the Senate, unhappily, Oct. 1.

When America is tempted to join another war, it might be well to consider this record.

THE NOMINATION OF NELSON A. ROCKEFELLER TO BE VICE PRESIDENT

Mr. HUGH SCOTT. Mr. President, I hope that the Senate Committee on Rules and Administration will meet promptly this week—some of us are ready to meet today—and that they will proceed with such additional hearings as they deem necessary in the matter of the confirmation of the nomination of the Vice President-designate.

What we are seeing now is an unacceptable development with regard to the 25th amendment. It was intended by Congress, when that amendment was adopted and ratified by the States, to be an expeditious means by which the country could be assured of the existence of the continuance of the Presidential succession—of a functioning President and a functioning Vice President.

What is evolving is a long and, in my judgment, unconscionable delay which began when the other body refused to hold joint hearings of its committee with the hearing of this body, which could have avoided needless duplication of testimony. It continued when more and more questions were asked of the Internal Revenue Service and the Department of the Treasury—perhaps quite properly; there is no means of knowing. But the request was stretched out over a considerable period of time, so that the failure to secure the necessary information resulted in the fact that the distinguished majority leader and I were not able to keep our assurances to the American people that the Senate would report the matter to the floor before recess, for debate on confirmation of the nomination.

The other body, of course, has done nothing except to demand first dozens and then scores—and presumably, soon, hundreds—of documents and items of information from the nominee and from others.

There are two ways this matter can be handled. One is to get all the information we can, meet as rapidly as we can, and avoid the hiatus of another 30 days' delay, past November 18, past Thanksgiving Day, past Christmas, from which will undoubtedly result some more-or-less sincere assurances that the nomination cannot be acted upon in this Congress and will have to go over and be resubmitted in the 94th Congress. It can be done, I submit, by getting to work and calling the witnesses and stop trying the Vice-President-designate through unsupported, selective leaks in the press; through attempts by those who have acquired a rather distorted view of what is right and what is wrong to convict the designee of generosity, which has become a new offense in this country; or to convict him on the basis of the dust jacket or the title of a book which nobody has read. None of those who questioned me have read it. I have not read it. The designee has not read it. Yet, we are asked to judge, sight unseen, a book which nobody has read.

Meanwhile, documents are appearing mysteriously which supposedly had been given only to this body and to the other body, and they are being published, without an opportunity to reply to them —a contemptible procedure, unfair to the designee.

We are told that nobody knows when the other body will start its hearings or when they will finish them or how many witnesses they want, or how long they will take. We are hearing from some people in the other body who are prejudging the matter, announcing how they are going to decide it, without any idea of what the evidence is.

It is a very tawdry proceeding all the way through. Granted, it is within the power of the Committee on Rules and Administration of this body and of the House Committee on the Judiciary to summon all the citizens of the State of New York, all 14 million of them, if they want to. It begins to look as if that is the sort of game that is going on in the other alley.

I think somebody has to stand up and protest these kinds of goings-on. There are legitimate witnesses to be called. We, in this committee, have sought to call them, and we thought we had, and that we had closed the hearings. Various statements are made in the papers that we shall call other witnesses; we shall try again to call witnesses and then close the hearings.

Meanwhile, the other body sits lethargically, takes its own sweet time and apparently is not moving at all to do anything about the designation. If this is the way the 25th amendment is going to be implemented, we should get rid of it. We should not engage in a farce in the hope of deceiving the American people.

We should either proceed with the clearance of a designee, or we should decide that the 25th amendment does not work. If it does not work, let us submit some other amendment to the people and try that and see who sabotages that; because I have no doubt that there are those who will try.

I am really alarmed that when we debate and pass a constitutional amendment and ask the States to ratify it and they do, then we find out how easy it is to sabotage that amendment. I think we ought to get down to cases.

There are 32 days involved here in which nobody plans to do anything except think up as many more demands as they can conceive of, secure as many documents as they can, leak as many of them as possible to selected sources, and then contend that the leaked documents show wrongdoing, without any opportunity for the designee to answer.

That is why I asked yesterday where the American Civil Liberties Union is. Are they, too, selective in their judgments, or do they believe that this kind of tactic is unfair? If so, let them extend to the well fixed in this country the same protection that they claim they extend to the underprivileged and to those who do not have the benefit of all of the protections which the ACLU thinks they should have. Let them make a judgment whether this kind of thing is fair.

If it were a campaign, it would not be a fair campaign practice. Let us find out whether or not we are going to make this amendment work.

We have acted in good faith here, and I hope that we shall meet right away—today, if possible—and schedule additional hearings. I wish that the people of this country would take a good, hard look at the committee in the other body and ask themselves, "What are they up to?" Why is it that they can do nothing for 32 days or even longer? Why are all of these rumors now appearing in the press that we cannot do this in the 93d Congress? There has to be a reason for it.

I say it is irresponsible, it is a reflection on Congress. It has the effect of sabotaging the 25th amendment, and those who are doing it ought to be thoroughly and completely ashamed of themselves.

Mr. GRIFFIN. Will the Senator from Pennsylvania yield to me for just one brief comment?

Mr. HUGH SCOTT. I am glad to yield.

Mr. GRIFFIN. I wish to take note of the fact that while all of the members of the other body are up for election and presumably would need to do some campaigning during the period ahead, insofar as our Committee on Rules is concerned—I think I am correct in saying that only two members of our Committee on Rules are up for election: The Senator from Alabama (Mr. ALLEN), who, I understand, would not have to do a lot of campaigning, and the Senator from Kentucky (Mr. COOK) are the two. So there would not be anything unusual about a committee meeting and holding hearings during a recess of the Senate.

Mr. HUGH SCOTT. I know of nothing that would be unusual about it. If necessary, I think they could meet this week, or they could meet at some other time. But the distinguished Senator from Alabama, I thought, did not have opposition. Maybe he does.

Mr. GRIFFIN. I do not know.

Mr. HUGH SCOTT. The Senator from Kentucky is necessarily absent part of the time. The rest of us are here. I hope that we shall get on with this business.

It is just not fair; that is what disturbs me. I have tried to be fair all my life. If I have not been, I would deserve criticism. I think that people who know me accept that I elevate the principle of fairness very high indeed, because my admiration for the fairness of the distinguished majority leader is so often made manifest here. I just plain think it is not fair.

It is not decent conduct to claim that one is moving expeditiously and to find little side routes and trails and bypaths in order to divert and delay the completion of a process which Congress intended in good faith should be a prompt and expeditious procedure.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, I shall not use 15 minutes. However, I wish to associate myself with the remarks made by the distinguished minority leader.

Congress, it seems to me, is on trial in this situation. There is no question that the people want and expect Congress to scrutinize carefully the qualifications of the former Governor of New York for the high office of Vice President. However, I am equally certain that the American people do not want or expect the Congress to play politics with this nomination or any other nomination for Vice President under the 25th amendment.

I still hope that Congress will acquit itself in this situation with some degree of responsibility and dignity, as it did with the nomination of the then Congressman Gerald Ford, who was the first nominee for Vice President under the 25th amendment.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. GRIFFIN. On my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the request for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I, too, am concerned at the stories, the allegations, the innuendoes, and the implications which are being raised in the minds of the people of the Nation in relation to the President's nomination of Nelson A. Rockefeller to be the Vice President under the 25th amendment to the Constitution. I think there is only one way that we can face up to all that has taken place at the moment, and that is to lay it all out on the table—all of it.

The only way we can do that is to start once again hearings before the appropriate committee of the Senate and, under the responsibility of the appropriate committee, in the other body at a time which it deems convenient.

I received a telephone call from Justice Arthur Goldberg last Thursday evening. He was disturbed about some pamphlet which had been written and directed against him during his campaign against Governor Rockefeller in New York State. He asked me to ask the chairman, Senator CANNON to allow him to appear before the Rules Committee so that the matter of that campaign booklet could be laid out and given adequate consideration.

On Friday I directed a letter to the chairman of the Rules Committee, Mr. CANNON, requesting that Justice Goldberg be allowed to appear before that committee, as he had requested me to do.

On that day the Senate undertook a brief recess. It is my understanding now that the chairman of the Senate Committee on Rules and Administration is polling the membership of the committee in an attempt to find out what it wishes to do. This is not the responsibility of the majority leader; it is the responsibility of the chairman of the Committee on Rules and Administration, and whatever action it takes will be satisfactory to me, because I know that Senator CANNON operates on high principle, good judgment, and sound responsibility. The fact that he is, if my information is correct, polling the members of his committee indicates that he is interested in something being done if a majority of the committee so decides, and I would assume at the earliest possible moment.

It is becoming a cause celebre. There are implications, allegations being made, stories being printed and televised and being heard over the radio. So, Mr. President, I would suggest most respectfully that the only way this matter can be cleared up is to accede to Governor Rockefeller's request to again appear before the committee, to accede to Justice Goldberg's request to appear before the committee, and at that time to lay everything out on the table for everyone to see, and hopefully in that manner to reach a conclusion which will be acceptable to all.

Mr. HUGH SCOTT. Mr. President, if the distinguished majority leader will yield, I did not know that Mr. Goldberg had made this request, because he did not send a copy to me as a member of the committee. I would wonder——

Mr. MANSFIELD. If the Senator will yield, I made the request at the request of Justice Goldberg to the chairman of the committee. I thought that was only fair at that time, not wanting to publicize the matter, because, recognizing that it was a Rules and Administration responsibility, I confined the letter only to the chairman of the committee.

Mr. HUGH SCOTT. That I understand fully. I was just making the point that we on the minority side of the Rules Committee had no way of knowing this was going on, and that also explains why we unanimously, on our side, requested yesterday that there be a meeting so we could find out what was going on.

What I am bound to wonder about our mutual friend Arthur is why, while he is generally regarded as having a rather short fuse, he was able to contain his wrath for 4 years and then have it suddenly sputter into activity a few days before the election.

I would assume that if this book had been libelous, the former justice of the Supreme Court would have protected himself. If it had been improper, he could have gone to the Fair Campaign Practices Committee. He could have made it an issue in the campaign. Presumably he has had a long time to get over it, whatever was said, and I do not know what was said. I have had a great many worse things said about me, I am sure, than anyone could say about Arthur, because I have been at it longer and have perhaps aroused more controversy. I am sorry that Arthur is thin-skinned. We ought to hear him. I am sorry that after 4 years he is suddenly aroused about something about which he appears to have well contained his wrath heretofore. I suspect that if we were not confronting an election, the matter would not assume such alleged importance as is now being given to it.

I think I know Arthur very well. He can whip himself up into a fine state of arousal, and I expect to see him with his head shaking, his voice trembling, and his anger refreshed and renewed, tnd that this will be an interesting meeting. But I wonder whether the same thing would have happened if all this had come out after election day.

ORDER OF BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I yield such time as the Senator from Utah may desire from the time of the Senator from West Virginia.

AUTOMOBILE EFFICIENCY TAX

Mr. MOSS. Mr. President, we Americans behave toward inflation like some behave toward a serious illness which requires major treatment. We recognize how sick we are, but we are so fearful of the treatment that we keep putting it off until the illness puts us flat on our back.

The high price of petroleum is definitely a major economic illness to our country. The plain fact is that there is no easy cure for the inflation being caused by that high priced foreign petroleum.

There seem to be three major approaches to the problem:

First. Consume less petroleum;

Second. Develop more of our own sources of energy;

Third. Get the Arabs to lower their price.

The Arabs have taught us not to rely on lower prices. We now know that as long as we are heavily dependent on Arab oil, we will be subject to their blackmail. And I might add, not only the Arabs, but other foreign oil that we must import is placed at this inordinately high price as well.

Development of our own, low-priced sources is the only sensible, long-range approach. We have the basic requirements such as coal, sunlight, shale oil, and geothermal sources. We have the technology to develop new sources. Unfortunately, we are moving so slowly that our resolve is open to question; but beyond a shadow of a doubt, we will eventually succeed.

This brings me to the main point of my discussion. Development of sufficient resources to reduce significantly our dependence on foreign energy sources will take many years, and for this reason we must cut back substantially on our spiraling demand for energy.

A study by the Office of Energy Conservation in the Federal Energy Administration dealt with this subject. The study, entitled "Energy Conservation—A White Paper," has not been endorsed by the administration. However, the study examined many alternatives for saving energy. These alternatives were then listed in order of energy saved. On the top of the FEA list is a heavy tax on gas —30 cents more per gallon.

Next in terms of saving was an excise tax on the purchase of new automobiles based on their fuel efficiency.

Over a year ago I introduced a bill, S. 2036, to create just such a tax. Although I received many letters of support, the measure was clearly controversial. Some people felt that it was unfair to penalize those who require or prefer larger cars. Others felt it would give an unfair advantage to foreign manufacturers who some feel are better at making small cars than we are. Still others felt that such a measure would be simply another case of the Federal Government meddling in their lives.

Whatever may be said of such a measure, one thing it would do is to avoid a lot of imported petroleum. The Federal Energy Administration study showed a savings by 1985 of well over 1 million barrels of crude oil per day by initiating a measure similar to S. 2036.

At this point I ask unanimous consent to insert into the RECORD the arguments used in support of S. 2036, since they are still basically valid.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

FACTSHEET ON THE FUEL ECONOMY TAX

REASONS FOR THE TAX

While the United States accounts for only 5.9% of the world's population, its citizens own 46.1% of the world's automobiles. There are 97.63 million cars circulating around our country each year, consuming 73,500 million gallons of gasoline each year—that is 14.3% of the total energy this nation consumes.

This situation will only worsen in the future. To accommodate the nation's expanding needs for transportation the total number of automobiles in use is expected to increase by nearly 50% between 1970 and 1985. There will also be a large increase in the number of licensed drivers. Population studies indicate the likelihood of more than 150 million drivers by 1985 compared with 111 million in 1970.

In recent years, the efficiency of the American automobile has seriously declined. In 1950, automobiles were averaging 14.95 miles per gallon. By 1972 this has dropped to 13.57.

EXPLANATION OF THE TAX

Beginning July 1, 1976, a fuel economy tax would be levied on new automobiles. The tax is based upon miles per gallon ratings developed by uniform testing procedure to be conducted by the Environmental Protection Agency.

Basically the tax would establish a national automobile standard of 20 miles per gallon. Cars getting that mileage or better would pay no excise tax. Less efficient cars would pay a tax proportional to their fuel consumption.

Because of differences in construction and operation, commercial vehicles and farm vehicles are exempt from the tax.

The tax would be imposed only once on the manufacturers or importers of new automobiles.

The tax would be enacted now but would not take effect until July 1, 1976 in order to allow the automobile industry sufficient advance lead time to design and produce a standard size car which, because of more efficient use of gasoline, would not be subject to the tax.

The tax applying to 1976 models would be only about one-third of the final tax, which would become effective on July 1, 1978. In this way, the manufacturers could observe the effect of the tax in changing consumer preference and plan their designs accordingly.

This amendment will give sufficient warning and lead time to the U.S. industry without giving a competitive advantage to foreign automobiles.

GOVERNMENTAL STUDIES SUPPORTING THE TAX

A recent Department of the Treasury staff study, which recommended a fuel economy tax, stated that "the (automobile) industry can produce large cars which yield close to 20 miles per gallon using existing technology without sacrificing comfort, styling, or exhaust emission standards."

It's mileage that counts, not size. Convincing evidence exists that Americans can have full sized automobiles which will get far better mileage. The average American vehicle converts only 25% of the energy supplied to it to useful work. Average American automobile mileage has been decreasing every year.

In September, 1972, a federal interagency research committee issued a summary technical report of the Transportation Energy R. and D. goals which said:

"In the near term, within the next few years, it appears possible to demonstrate as much as a 30% reduction in fuel consumption by standard automobiles with 1976 emission controls without substantially affecting performance or losing the gains made in controlling emissions. This reduction in fuel consumption would be accomplished by using existing technology and optimizing vehicle and engine designs for that purpose rather than for lowest first cost, as is now the industry practice."

The EPA study indicates clearly that lighter cars do make significant savings in gasoline. This test was made of six-hundred thirty 1973 vehicles. It shows that the mileage of the heaviest vehicle (5,500 lbs.) averaged 8.8 miles per gallon while that of the smallest vehicles (2,000 lbs.) averaged 25.5 miles per gallon.

FOREIGN COMPETITION

This proposal will not enable foreign cars to push American cars off the market. The effect will ultimately be the opposite. America is very strong technically, and with the right incentive will develop cars which not only give better mileage than foreign cars, but also will be safer and more comfortable. In the long run we can look towards increased sales of American cars in foreign countries. With high gas prices abroad, comfortable, safe American cars with good mileage will be a very competitive product.

RESULT

The tax should have the following effects: Through inducing manufacturers to produce more efficient cars and reducing automobile purchases of large cars, it would save increasing amounts of gasoline.

Using a tax schedule similar to the one proposed, the Treasury Department has estimated that 1 million barrels of gasoline per day could be saved by 1980—that is the equivalent to the projected output of the Alaska pipeline by 1980.

The revenue from the tax would be about two billion dollars the first year. Thereafter, it would rapidly decline as cars became more efficient and motorists increase their purchases of smaller cars. By 1980, the tax would raise about $600 million per year in revenues.

Mr. MOSS. There are differences in the estimated savings such a measure would produce. However, there seems to be agreement that it would save a whale of a lot of oil.

So where do we go from here? Do we allow our economy to be pulled down by high priced foreign oil or do we buckle down with a few tough conservation measures that will tide us over until we develop our own energy sources sufficiently?

May I suggest again that a tax incentive to produce more efficient engines and to swing away from the gas guzzelers is a sound and practical way to go. Already our car manufactures are making more cars which get more miles per gallon, but with the added incentive of S. 2036 the trend would be stimulated and our national consumption of petroleum would fall.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time? On the time of the Senator from West Virginia?

Mr. MOSS. On the time of the Senator from West Virginia.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is my understanding that some nominations were confirmed by the Senate over the past several days but that the President was not requested to be notified. If that is correct, I ask that all such nominations which have been approved by the Senate be referred to the President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

APPROVAL OF BILLS AND JOINT RESOLUTION

A message from the President of the United States stated that on October 11, 1974, he had approved and signed the following bills and joint resolution:

S. 1276. An act for the relief of Joe H. Morgan;

S. 2337. An act for the relief of Dulce Pilar Castin (Castin-Casas);

S 2382. An act for the relief of Caridad R. Balonan; and

S.J. Res. 192. A joint resolution to grant the status of permanent residence to Ivy May Glockner formerly Ivy May Richmond nee Pond.

The message also stated that on October 15, 1974, he had approved and signed the following bill:

S. 3044. An Act to impose overall limitations on campaign expenditures and political contributions; to provide that each candidate for Federal office shall designate a principal campaign committee; to provide for a single reporting responsibility with respect to receipts and expenditures by certain political committees; to change the times for the filing of reports regarding campaign expenditures and political contributions; to provide for public financing of Presidential nominating conventions and Presidential primary elections and for other purposes.

EXECUTIVE MESSAGE REFERRED

A message from the President of the United States submitting the nomination of Charles W. Robinson, of California, to be Under Secretary of State for Economic Affairs was referred to the Committee on Foreign Relations.

MESSAGES FROM THE HOUSE

MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT OF THE SENATE

A message from the House of Representatives received during the adjournment of the Senate, under the authority of the order of October 15, 1974, stated that the House has passed without amendment the following bill and joint resolutions:

S. 3979. An act to increase on an emergency basis the availability of reasonably priced mortgage credit for housing;

S.J. Res. 236. A joint resolution to provide for the indemnification of the Metropolitan Museum of New York for loss or damage suffered by objects in exhibition in the Union of Soviet Socialist Republics; and

S.J. Res. 251. A joint resolution to extend the authority of the Export-Import Bank of the United States.

The message also stated that the House has agreed to, without amendment, the following concurrent resolution:

S. Con. Res. 119. A concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 15427.

The message further stated that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3007) to authorize appropriations for the Indian Claims Commission for fiscal year 1975.

The message also stated that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 355) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to promote traffic safety by providing that defects and failures to comply with motor vehicle safety standards shall be remedied without charge to the owner, and for other purposes.

The message further stated that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 628) to amend chapter 83 of title 5, United States Code, to eliminate the annuity reduction made, in order to provide a surviving spouse with an annuity, during periods when the annuitant is not married.

The message also stated that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15427) to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes.

ENROLLED BILLS SIGNED

The message further stated that the Speaker has signed the following enrolled bills and joint resolution:

S. 2840. An act to authorize the Secretary of Commerce and the Secretary of the Treasury to conduct a study of foreign direct and portfolio investment in the United States, and for other purposes.

S. 3473. An act to authorize appropriations for the Department of State and the United States Information Agency, and for other purposes.

S. 3792. An act to amend and extend the Export Administration Act of 1969.

S. 3838. An act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes.

H.R. 6624. An act for the relief of Alvin V. Burt, Junior, Eileen Wallace Kennedy Pope, and David Douglas Kennedy, a minor.

H.R. 7768. An act for the relief of Nolan Sharp.

H.R. 12281. An act to continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, and for other purposes.

H.R. 15148. An act to extend the time limit for the award of certain military decorations.

H.R. 15643. An act to reorganize public postsecondary education in the District of Columbia, establish a Board of Trustees, authorize and direct the Board of Trustees to consolidate the existing local institutions of public postsecondary education into single Land-Grant University of the District of Columbia, direct the Board of Trustees to administer the University of the District of Columbia, and for other purposes.

H.R. 16857. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1974 in certain disaster areas in North Carolina.

H.R. 17027. An act to amend the National Visitor Center Facilities Act of 1968.

S.J. Res. 250. A joint resolution to extend the Regional Rail Reorganization Act's reporting date, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore, with the exception of H.R. 16857, which was signed by the Acting President pro tempore (Mr. JOHNSTON).

At 10:03 a.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3355) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis.

At 2:30 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14225) to amend and extend the Rehabilitation Act of 1973 for 1 additional year.

The message also announced that the House had passed the following bill and agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

H.R. 10827. An act for the relief of Kiyonao Okami; and

H. Con. Res. 84. A concurrent resolution accepting the gift of the centennial safe and expressing the thanks of the Congress to the late donor, Mrs. Charles F. Deihm, and authorizing its display in the Capitol to create interest in the forthcoming bicentennial.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 6191. An act to amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty, and for other purposes.

H.R. 6642. An act to suspend the duties on certain bicycle parts and accessories until the close of December 31, 1976, and for other purposes.

H.R. 7780. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other purposes.

H.R. 11251. An act to amend the Tariff Schedules of the United States to provide for duty-free entry of methanol imported for use as fuel, and for other purposes.

H.R. 11452. An act to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes.

H.R. 11830. An act to suspend the duty on synthetic rutile until the close of June 30, 1977.

H.R. 12035. An act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes.

H.R. 13631. An act to suspend for a temporary period the import duty on certain horses, and for other purposes.

H.R. 14597. An act to increase the limit on dues for U.S. membership in the International Criminal Police Organization.

H.R. 15540. An act to extend for 1 year the authorization for appropriations to implement title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

The enrolled bills were subsequently signed by the President pro tempore.

At 4:45 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House has passed the joint resolution (H.J. Res. 1163) making further continuing appropriations for the fiscal year 1975, and for other purposes, in which it requests the concurrence of the Senate.

The message also announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 355. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for the fiscal years 1975 and 1976; to provide for the remedy of certain defective motor vehicles without charge to the owners thereof; to require that schoolbus safety standards be prescribed; to amend the Motor Vehicle Information and Cost Savings Act to provide for a special demonstration project; and for other purposes.

S. 1411. An act to authorize the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings in North Dakota and South Dakota, and for other purposes.

S. 1412. An act to declare that certain federally owned lands are held by the United States in trust for the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Indian Reservation in North and South Dakota.

S. 3007. An act to authorize appropriations for the Indian Claims Commission for fiscal year 1975.

S. 3979. An act to increase on an emergency basis the availability of reasonably priced mortgage credit for housing.

H.R. 13561. An act to amend the Intercoastal Shipping Act, 1933.

H.R. 14225. An act to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for one year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, to make certain technical and clarifying amendments, and for other purposes; to amend the Randolph-Sheppard Act for the blind; to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals.

S.J. 236. A joint resolution to provide for the indemnification of the Metropolitan Museum of New York for loss or damage suffered by objects in exhibition in the Union of Soviet Socialist Republics.

S.J. Res. 251. A joint resolution to extend the authority of the Export-Import Bank of the United States.

S. 628. An act to amend chapter 83 of title 5, United States Code, to eliminate the annuity reduction made, in order to provide a surviving spouse with an annuity, during periods when the annuitant is not married.

The ACTING PRESIDENT pro tempore subsequently signed the enrolled bills and joint resolutions.

At 5:05 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate numbered 1, 2, 3, 4, and 5 to the bill (H.R. 14217) to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes; and that the House agrees to the amendment of the Senate numbered 6 to the aforesaid bill, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 13157) to provide for the establishment of the Clara Barton National Historic Site, Md.; John Day Fossil Beds National Monument, Oreg.; Knife River Indian Villages National Historic Site, N. Dak.; Springfield Armory National Historic Site, Mass.; Tuskegee Institute National Historic Site, Ala.; and Martin Van Buren National Historic Site, N.Y.; and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Johnston) laid before the Senate the following letters, which were referred as indicated:

Supplemental Estimate of Appropriations for the Department of Agriculture

A letter from the Director of the Office of Managemnt and Budget reporting, pursuant to law, the necessity for a supplemental estimate of appropriations to the Department of Agriculture for "Forest Protection and Utilization." Referred to the Committee on Appropriations.

Report of the Department of the Army

A letter from the Secretary of the Army transmitting, pursuant to law, a report of the Department of the Army on contracts for military construction awarded without formal advertisement (with an accompanying report). Referred to the Committee on Armed Services.

Financial Statement of the Legion of Valor

A letter from the corporation agent for the Legion of Valor, Inc., transmitting, pursuant to law, a financial statement of the fiscal year ending April 30, 1974 (with accompanying papers). Referred to the Committee on the Judiciary.

Report of the Civil Service Commission

A letter from the Chairman of the Civil Service Commission transmitting, pursuant to law, a report entitled "Employee Training in the Federal Service, Fiscal Year 1973" (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

Federal Office Building, Manchester, N.H.

A letter from the Administrator of General Services transmitting, pursuant to law, an amendment to the approved prospectus for the Federal Office Building at Manchester, New Hampshire (with accompanying papers). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Johnston):

A resolution adopted by the Medical Staff of Deaconess Hospital, of Cleveland, Ohio, relating to the position of the Department of Health, Education, and Welfare on PSRO. Referred to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PASTORE, from the Joint Committee on Atomic Energy, without amendment:

S.J. Res. 248. A joint resolution assuring compensation for damages caused by nuclear incidents involving the nuclear reactor of a U.S. warship (Rept. No. 93-1281).

EXECUTIVE ORDERS IN TIMES OF WAR AND NATIONAL EMERGENCY—REPORT OF A COMMITTEE (REPT. NO. 93-1280)

Mr. MANSFIELD (for Mr. Church) submitted a report entitled "Executive Orders in Times of War and National Emergency" of the Special Committee on National Emergencies and Delegated Emergency Powers, which was ordered to be printed.

HOUSE BILL REFERRED

The bill (H.R. 10827) for the relief of Kiyonao Okami, was read twice by its title and referred to the Committee on Foreign Relations.

ENROLLED BILLS SIGNED

The following enrolled bills having been previously signed by the Speaker of the House of Representatives were today signed by the President pro tempore:

S. 605. An act to amend the act of June 30, 1944, an act "To provide for the establishment of the Harpers Ferry National Monument," and for other purposes;

S. 1769. An act to reduce losses of life and property, through better fire prevention and control, and for other purposes;

S. 2348. An act to amend the Canal Zone Code to transfer the functions of the Clerk of the U.S. District Court for the District of the Canal Zone with respect to the issuance and recording of marriage licenses, and related activities, to the civil affairs director of the Canal Zone government, and for other purposes;

S. 3234. An act to authorize a vigorous Federal program of research, development, and demonstration to assure the utilization of solar energy as a viable source for our national energy needs, and for other purposes; and

S. 3698. An act to amend the Atomic Energy Act of 1954, as amended, to enable Congress to concur in or disapprove international agreements for cooperation in regard to certain nuclear technology;

H.R. 11221. An act to increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes;

H.R. 15427. An act to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BAYH:

S. 4142. A bill to broaden the income tax base, provide equity among taxpayers, and to otherwise reform the income tax provisions. Referred to the Committee on Finance.

By Mr. HUMPHREY:

S. 4143. A bill for the relief of Miss Raymonde van der Stok. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 4144. A bill for the relief of Maud Claudine Friedland. Referred to the Committee on the Judiciary.

By Mr. METCALF (for himself and Mr. Ervin) (by request):

S. 4145. A bill to establish a National Commission on Regulatory Reform. Referred to the Committee on Government Operations.

By Mr. INOUYE:

S. 4146. A bill to authorize the Secretary of the Army to make available to the State of Hawaii physical facilities not needed by the Army at Fort De Russy, Hawaii, for the purpose of establishing a mental health clinic in such facilities. Referred to the Committee on Armed Services.

By Mr. INOUYE (for himself and Mr. Cranston):

S. 4147. A bill to amend section 1003 of title 38, United States Code, relating to memorial areas and appropriate memorials to honor the memory of certain deceased members of the Armed Forces whose remains were buried at sea, have not been identified, or were nonrecoverable. Referred to the Committee on Armed Services.

By Mr. BENNETT:

S. 4148. A bill to amend the Atomic Energy Act of 1954, as amended, to establish the U.S. Enrichment Corporation, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. McCLURE:

S. 4149. A bill to amend section 4 of the Act of October 13, 1964, relating to the amortization of road costs in contracts for timber sales in national forests. Referred to the Committee on Agriculture and Forestry.

By Mr. JACKSON (for himself and Mr. Magnuson):

S. 4150. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Pacific Northwest Trail as a national scenic trail. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON:

S. 4151. A bill to establish a *Strategic* Energy Reserve Office in the Federal Energy Administration, to create a strategic energy reserve system to minimize the impact of interruptions or reductions of energy imports, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONTOYA:

S.J. Res. 254. A joint resolution to authorize the Administrator of the National Aeronautics and Space Administration to make a grant for the construction of facilities for the International Space Hall of Fame. Referred to the Committee on Aeronautical and Space Sciences.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAYH:

S. 4142. A bill to broaden the income tax base, provide equity among taxpayers, and to otherwise reform the income tax provisions. Referred to the Committee on Finance.

THE INFLATION CONTROL ACT OF 1974

Mr. BAYH. Mr. President, last week President Ford recommended passage of a 5-percent income tax surcharge, the greatest burden of which would fall on middle income Americans and small businessmen.

I am absolutely opposed to such an income tax surcharge. I am prepared to vote against any proposal that will increase the tax burden on the average Hoosier family which has been among the main victims of runaway inflation.

Yet it is true that we can—and should—raise additional Federal revenues as part of our fight against inflation. But we can do this fairly, without increasing the taxes of those Americans who are least able to take on this greater burden.

Since we do need to increase Federal revenues, and since the tax surcharge plan should not be enacted, responsible opponents of the surcharge have the obligation to offer constructive alternatives to the Republican surcharge proposal.

I have such an alternative—the Inflation Control Act of 1974—which I will outline below and which I shall introduce today for consideration as part of comprehensive tax reform when Congress reconvenes in mid-November. My Inflation Control Act, by closing expensive tax loopholes included the most coveted tax dodges of multinational oil companies, is such a workable alternative. It offers tax equity, not a tax surcharge. It will raise approximately $6 billion this year, and more in succeeding years, compared to the one-time receipts of $4.7 billion for the tax surcharge.

The Inflation Control Act of 1974 has six ingredients:

One—It would repeal the oil depletion allowance of foreign oil and on domestic oil produced by the large, integrated oil companies. There is no need to provide these companies, which now are reaping windfall profits, with a further incentive for exploration and drilling. The record high price of oil and the extensive capital resources they are amassing, provide sufficient incentive and financing for new oil drilling.

This provision of my bill would not repeal the depletion allowances for small, independent oil producers who have neither the profits nor capital for costly exploration in the absence of the depletion allowance.

It would repeal the depletion allowance on natural gas not under Federal Power Commission price regulation. For the present that would mean gas sold within the State in which it is produced, where it attracts many times what it does in interstate regulated sales. In the future, should some limited or complete deregulation of natural gas sold interstate be enacted then the depletion allowance would automatically be removed from that gas.

The revenue gain from this portion of my bill would be $1.4 billion in just the first year.

Two—The Inflation Control Act would end the intangible drilling cost tax benefit by which the oil companies are able to write off initial drilling costs in just 1 year, rather than depreciating these expenses over a period of years as other businesses do. By treating the giant oil companies like other businesses and industries in this country we can increase Federal revenues by $800 million a year.

Three—The bill would also stop the oil companies from taking a dollar for dollar credit against Federal income taxes for royalties paid to Arab Sheiks and other oil producers. Under the two-decade-old ruling of the Internal Revenue Service oil companies got this tax credit for payments to oil producers, rather than the regular deduction that other businesses get for similar expenses in foreign countries.

My bill would require that the oil companies get a tax credit up to the level of true taxes levied by the host country on other businesses. Additional payments to the host country would be treated as royalties should be, as a straight deduction under regular expenses.

By making this, and other changes in the foreign tax credit as it applies to the multinational oil companies, we can raise $1.75 billion a year.

Four—The Inflation Control Act would strengthen the existing minimum tax provisions of the law, a provision enacted some years ago to make certain the very wealthy pay minimal taxes, but a provision which has not worked because of loopholes written into the law at the last minute. By requiring those at the very top of the income ladder to pay a minimum of 10 percent in Federal income taxes we can increase revenues by $860 million a year.

Five—My bill would end the Asset Depreciation Range—ADR—system, enacted in 1971 when my amendment to stop this giveaway to big business was defeated by just two votes. This classic tax loophole, too complicated to be used by small businesses but a darling of giant conglomerates changes a time-honored tax practice—writing off assets over their true life. ADR permits accelerated write-offs of capital expenditures, something once justified as needed to encourage capital expansion. That always questionable argument has been finally destroyed by the President's proposal to encourage capital expansion by increasing the investment tax credit.

Ending ADR, something we could have done long ago, will raise $400 million this year and more in the future.

Six—Finally, my legislation would repeal a tax gimmick called Domestic International Sales Corporations—DISC—by which taxpayers are asked to subsidize large businesses that sell their products abroad. Fully 80 percent of the corporations that use this clever, but very expensive loophole, have assets of more than $100 million. DISC is a special tax advantage enjoyed by large, special interests, and its repeal will bring the treasury an additional $815 million a year.

The total to be raised by this tax reform package this year alone would be $6.025 billion. And let me emphasize that unlike the President's surcharge request, this is not a 1-year gain. Rather this is a permanent change in the tax code, ending six of the most glaring tax loopholes, stopping what can fairly be characterized as Government subsidies for the oil companies, other large corporations and the superrich, bringing us a needed measure of tax equity, and, quite importantly, providing a valuable and needed tool in our fight against inflation.

With an opportunity like this, to raise revenues and to close loopholes, it is abundantly clear that we can and should defeat the tax surcharge request.

I ask unanimous consent that a fact sheet further explaining the provisions of my proposal along with the full text of the bill be inserted in the Record at this point.

There being no objection, the fact sheet and bill were ordered to be printed in the Record, as follows:

Facts on the "Inflation Control Act of 1974"

REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS

Revenue Gain: $1.4 billion.

This provision would abolish the percentage depletion allowances as of January 1, 1974, for all oil extracted by the major, integrated oil companies and for all natural gas not under Federal price regulation and controlled under fixed price contracts. It follows the House Ways and Means Committee's recommendation and exempts small independents producing less than 3,000 barrels per day. That Committee found that it was necessary to exempt these small producers to avoid the lessening of competition which would be caused by sellouts of independents to the majors, and as necessary to retire existing debt obligations.

How depletion works

The percentage depletion option now permits 22 percent of the gross revenues from oil and gas extraction to go entirely free of Federal income taxes, up to one-half of the producer's before tax profits. For a successful well, percentage depletion can provide a total tax deduction much larger than the alternative of depreciating the investment in the well, as would be done by investors in other businesses.

Percentage depletion has been defended in the past as a necessary incentive to exploration and drilling. For this purpose, it has always been a very expensive form of subsidy. It is less effective per dollar than a subsidy or tax credit applied directly to the desired activities.

The new high prices of oil render percentage depletion much more expensive than before and, at the same time, remove any justification for it, because today's oil prices provide ample incentive for oil development without any subsidy. Development activity now is constrained *not* by any lack of incentive buy by the physical capacity of the industry and its equipment suppliers. The recent increase in oil prices, indeed, presents an opportunity to abolish this aspect of undue favoritism in the tax system without reducing the incomes of oil investors from last year's levels. On the contrary, oil incomes will go up anyway. Depletion should be abolished now before it again becomes embedded in the new income levels, the asset values, and the cost structure of the oil industry.

Windfall profits

Recent price increases have created tremendous windfall profits for oil companies. The size of the windfalls is so large the numbers are hard to grasp. The Joint Committee on Internal Revenue Taxation estimates that 1974 profits on domestic oil production alone will be $9 billion after taxes. These profits follow 1973 profits which were at the then record level of $4 billion after taxes. Yet because of the system of tax preferences which this industry enjoys, the major oil companies paid only about 6% of their income in federal taxes in 1972, the last year for which complete figures are available.

Repeal will not raise gas prices to consumers

The repeal of the depletion allowance will not cause an increase in the cost of gasoline to the American consumer. Depletion allowances provide additional profits to producers. But present prices are not determined by tax subsidies. They are determined by the price of Arab oil which is unaffected by the repeal of depletion. Average domestic prices are now about $6.50/barrel. In 1973 domestic prices were at $3.50/barrel. There has been no comparable increase in production costs.

Moreover, the mandatory allocation law, which does not expire until March 1, 1975 and which the Senate has already voted to extend to July 1, 1975, provides for price controls on so called "old oil." This controlled price of $5.25 a barrel applies to about 58% of domestic production, and the extension of this legislation would further guarantee that repeal of percentage depletion does not result in increased costs to consumers.

TERMINATION OF THE DEDUCTION FOR INTANGIBLE DRILLING COSTS

Revenue Gain: $800 million.

Under present law an oil company is allowed to deduct in the first year all the intangible drilling costs incurred in developing a new oil well. If any other company bought a new machine with an expected useful life of 10 years, for example, the company would be required to amortize its cost, and each year could deduct one-tenth of the total cost of the asset. An oil company can, however, deduct in the first year the costs of all the goods or services without lasting value which it uses in the exploration and development of a new well. These include such items as labor, equipment rentals, cost of building roads to a drilling site, and preparing the site. As a result, the oil company is able to show a paper loss for the first year of successful operation even though the well, in fact, operates at a profitable rate during the first year and for many years thereafter. The income tax savings which the company enjoys as a result during the well's first year of operation amounts, in effect, to an immediate, interest-free loan which no other business gets. It is estimated that this one provision alone cost the Treasury some $800 million in lost revenues in 1974.

Under this provision the oil companies will no longer be able to write-off all its intangible drilling costs in the first year. Rather, they will be treated like all other businesses and required to amortize these costs for the estimated useful life of the well.

LIMITING FOREIGN TAX CREDITS

Revenue Gain: $1.75 billion.

The concept of a foreign tax credit is a fair one to avoid double taxation of a company by both the United States and foreign governments.

But the American oil companies have grossly abused this right to foreign tax credits through several devices.

The royalty gimmick

The most important method used by the oil companies is to simply overstate the size of their so-called foreign tax bills. They do this by classifying royalties and other normal business expenses as income taxes. When a company pays a royalty or bonus to the United States for the right to drill oil on U.S. land it treats this as a business expense which it deducts from the earnings on which it must pay U.S. income taxes. But since the early 1950's, the oil companies have obtained a number of rulings from the Government permitting them to treat as an income tax payment, rather than a business expense, the payment to a foreign country of the exact same type of oil royalties or bonuses. Every time an oil company now pays $1 in royalties to an Arab sheik, the company subtracts $1 from the tax that it would otherwise have to pay to the United States on its foreign operations.

By calling a business expense a tax, the oil producing countries, in collaboration with the oil companies, thus divert money from the U.S. Treasury and into the already brimming coffers of the companies.

Because of the oil companies use of foreign tax credits, U.S. corporations earned $1,085,000,000 on mining and oil operations abroad in 1970, but paid not one penny in U.S. taxes on that income. It has been estimated that for fiscal year 1975, the taxes that the oil companies would pay to the United States, were it not for the tax credit, could be as high as $1.75 billion. Yet, because of the foreign tax credit, the companies will in all likelihood pay not 1 cent in taxes. Foreign credits from profitable overseas operations have, in fact, exceeded U.S. tax liabilities every year since 1962.

The legislation I am introducing specifically prohibits an oil company from including in its foreign tax credit the royalties, bonuses, or other payments made to a foreign country which are not bona fide income taxes. The provision provides that in determining what portion of an oil company's payments to a foreign country represents a bona fide income tax payment, the Secretary of the Treasury shall consider whether the payments claimed as foreign tax payments are roughly similar to the income taxes paid by other persons in the country who are not in the oil business. Such a comparison should prove a reliable way to judge whether the payments made to foreign countries are in fact bona fide taxes. It appears, for instance, that domestically owned corporations in Kuwait and Saudi Arabia that are unrelated to the oil business actually pay little or no income taxes.

This proposal will drastically reduce the size of the foreign tax credits that oil companies can use to avoid paying U.S. taxes on their overseas operations. It will not prohibit them, however, from claiming as an income tax credit any payments which can be shown to the satisfaction of the Government to be bona fide income tax payments. But royalties and other business expenses which are not true income taxes would be deductible by U.S. oil companies, just as in the case of similar payments made in this country.

Pyramiding the tax credits

In addition to treating business costs as taxes, some oil companies inflate the size of the foreign tax credit further by taking advantage of a law which allows companies operating in several countries to spread the foreign tax credit around from country to country to get advantage of as much of its foreign tax credit as possible.

For instance, an oil company operating in a foreign country with low income taxes might use all the foreign tax credit available to it from that country, and still be left with a U.S. tax liability of one-half a million dollars. But by calculating its foreign tax credits under the so-called overall limitation method, the oil company can in fact offset this tax by using a one-half million dollar excess foreign tax credit it earned from the payment of high foreign income taxes in another country. For example, some of the major international oil companies have large tanker fleets flying the flags of such countries as Panama, Liberia, and Honduras that require no corporate income taxes. Profits made on these operations, can be sheltered from U.S. taxes through use of some of the excess foreign tax credits generated in other countries such as Saudi Arabia.

Under this proposal an oil company would be required in most cases to limit its foreign tax credits in any foreign country to the income tax actually paid to that country. This is known as the per country limitation. If, however, because of losses on some operations, the oil company could reduce its U.S. Taxes more by using the per country limitation than by combining the credits earned in different foreign countries under the overall limitation, the company would then be forced to use the overall limitation. This could prevent the company from using the losses incurred in one country to reduce its U.S. taxes, while at the same time using the full amount of the foreign tax credits earned in other countries.

Ending the carry-over

Finally, the oil companies line their coffers by storing up their excess foreign tax credits over a number of years. Because they have been allowed to treat royalties as taxes, the oil companies have earned tax credits far in excess of what they could possibly use in the year the income was earned. Under the present law these excess credits are not, however, lost; for the oil companies are allowed to carryover their excess credits for up to 5 years. Even if oil companies are forced by this legislation to treat royalties as a deductible business expense when filling out their 1974 taxes, the companies could still avoid paying any significant amount of taxes on their foreign investment for a number of years because of the excess tax credits they still have from past years. It has been estimated that the five largest companies have stored up from past years more than $2 billion in foreign tax credits. Consequently, this bill prohibits an oil company from using a foreign tax credit earned in 1 year to offset U.S. taxes incurred in other years.

ELIMINATING THE ASSET DEPRECIATION RANGE SYSTEM

Revenue Gain: $400 million.

Current law

The ADR system permits a corporate taxpayer to depreciate capital assets within a range of up to 20% faster than the useful lives in 1971. Many people believed that the Treasury was exceeding its statutory authority in administratively changing the depreciation system. In part due to public and Congressional protest, the Administration submitted a modified version of ADR to Congress in the Revenue Act of 1971. On November 12, 1971, the Senate came within two votes of rejecting ADR on an amendment offered by Senator Bayh.

ADR abandons a concept which had been an integral part of the tax laws for 40 years—namely, that deductions for depreciation of capital assets must be based on the actual useful life of the asset. Once we depart from this concept and allow tax depreciation to exceed economic depreciation, the owners of property producing taxable income are in effect receiving subsidy payments from the Treasury. There is no mathematical difference between giving an individual or business a direct handout and forgiving him a like amount in taxes due.

In announcing the ADR in January of 1971, President Nixon stated that "a liberalization of depreciation allowances is essentially a change in the timing of a tax liability." This statement is mistaken and represents a confusion between the consequences of a "liberalization" in depreciation allowances for a single asset or assets of a single year or even a limited number of years and the permanent "liberalization" established by ADR. Experts in this field have estimated that by 1980 the ADR system will have resulted in up to a $30 billion *permanent* revenue loss to the Treasury. Thus, ADR is not simply a change in the timing of tax payments or reducing payments now in return for a tax liability in the future. It represents a repeating and accumulating loss in tax revenues year after year, a loss which will ultimately grow along with the general rate of growth of the economy and in particular the rate of growth in equipment subject to the tax depreciation.

ADR will not stimulate investment

The major rationale which has been put forward to justify ADR is that it will stimulate investment and therefore the economy generally. Many experts in this area, however, do not agree that this is the case. Professor Robert Eisner of Northwestern University, who has spent many years studying the subject of asset depreciation, earlier this year testified before the House Ways and

Means Committee that "there is little evidence that 'liberalization' of depreciation allowances of this type will have much effect on investment." He went on to note that "if the objective were to increase investment spending, economic analysis makes clear that a far more effective device, dollar for dollar of tax loss to the Treasury, would be some form of direct investment subsidy or tax credit." It should be noted that an investment tax credit to stimulate capital investment was also adopted as part of the Revenue Act of 1971 providing tax relief and investment incentives for corporations. President Ford has now asked the Congress to further increase the existing investment tax credit from 7 to 10 percent which eliminates the argument that we must continue ADR as an investment stimulus.

ADR will not improve U.S. competitive position

The other argument of the ADR proponents revolved around the competitive position of U.S. producers. As nearly all economists will agree, this is a spurious argument. There is no empirical evidence that those countries with the lowest taxes on capital have higher rates of economic growth. In fact, among the major industrial countries the converse appears to be true. If the goals were to stimulate capital formation, ADR is a very ineffective and costly stimulus. In part, this is reflected by the current data which show that business has moved very slowly in adopting ADR. If ADR has a strong investment incentive, why have firms not moved more quickly to adopt the new proposals? Its complexity also appears to be discriminating against the smaller business firms. The current Treasury data indicate that the system is being adopted by the large conglomerates but not the smaller proprietorships and partnerships. Apparently the complex provisions can only be interpreted by the larger firms. The future history of ADR is likely to follow that of accelerated depreciation after 1954—a very gradual adoption with no noticeable investment stimuli, but considerable hidden long-run revenue costs.

Estimated revenue loss due to ADR

1971—$300 million.
1972—$900 million.
1973—$1.2 billion.
1974—$1.4 billion.

Estimated revenue gains if ADR is repealed

1974—$400 million.
1975—$1.0 billion.
1976—$1.5 billion.
1977—$1.7 billion.
1978—$2.0 billion.

STRENGTHENING THE MINIMUM TAX

Revenue Gain: $860 million.

Current law

The minimum tax was enacted by Congress as part of the Tax Reform Act of 1969, in an effort to insure that persons with substantial amounts of untaxed income would pay at least a modest tax on such income. Under the present minimum tax, a person is taxed at the flat rate of 10% on the sum of his income from certain tax preferences, which include most, but not all, of the major preferences in the tax code: accelerated depreciation on real property, accelerated on personal property subject to a net lease, amortization of certified pollution control facilities, amortization of railroad rolling stock, stock options, reserves for losses on bad debts of financial institutions, depletion, capital gains and amortization of on-the-job training and child care facilities.

Before the minimum tax is applied, however, a taxpayer gets two important deductions from his preference income: *First,* an automatic $30,000 exclusion; *Second,* a deduction for the regular income tax he pays. These two deductions are largely responsible for the failure of the minimum tax to fulfill its promise, and this proposal would eliminate them.

Deductions for Other Taxes Paid

The deduction of other taxes paid allows substantial numbers of taxpayers to avoid the minimum tax completely, even though they have large amounts of income from tax preferences. In practice, the deduction is an "Executive Suite" loophole, since one of its principal effects is to allow highly paid executives to use the large amount of regular taxes they pay on their salaries as an offset against income they receive from tax preferences. The following example illustrates the point:

	A	B
Preference income	$100,000	$100,000
Regular tax on salary	100,000	0
Base for minimum tax	0	100,000
Minimum tax	0	10,000

Individual A, who has $100,000 in income from tax preferences but pays $100,000 in regular taxes on his salary, owes no minimum tax. Individual B, who has $100,000 in income from the same tax preferences, but who pays no regular taxes, owes a minimum tax of $10,000. The minimum tax should operate equally on individuals A and B, yet the deduction for taxes paid lets A escape the minimum tax altogether.

The $30,000 exclusion

The second part of the amendment would reduce the existing $30,000 exclusion to $10,000. The present level was set far too high by the 1969 Act. It enables wealthy taxpayers to enjoy their first $30,000 in tax loophole income, completely free of the minimum tax. This was the provision used by President Nixon to reduce his minimum tax to zero in 1971 and 1972, and to near-zero in 1970.

By reducing the level to $10,000, substantial amounts of income that are currently tax-free will become subject to the minimum tax. At the same time, the $10,000 level will be high enough to prevent any substantial deleterious impact on low and middle-income taxpayers with modest tax preference income such as a capital gain on the sale of a home. In addition, the $10,000 level will avoid any unnecessary inconvenience in the administration of the minimum tax, since it will not require the forms to be filed or the tax to be paid on modest amounts of tax preference income.

ELIMINATION OF "DISC" CORPORATIONS

Revenue gain: $815 million.

How DISC provisions work

Under existing law, a corporation may elect to be a DISC (A Domestic International Sales Corporation) if at least 95% of its gross receipts, and at least 95% of its assets, are export-related. DISCs are completely free from normal income taxes. Shareholders, however, are taxable on one-half of the DISC's income each year, or the amount distributed as dividends, whichever is greater. Thus, DISCs in effect allow indefinite tax deferral on one-half of export income.

In practice, DISCs are most often paper corporations established by other large corporations merely for the purpose of receiving tax benefits for exports. A DISC need not satisfy normal requirements of corporate capitalization, but need have only $2500 in assets. In 1972, 22% of the income received by all DISCs was earned by eight DISCs with gross receipts over $100 million, and over 80% of the 2,249 DISCs were owned by corporations with assets of over $100 million. These large corporations can channel their exports, on either a sale or commission basis, through DISCs they have created, and thus receive substantial tax benefits.

Revenue gain from termination of DISC benefits

Terminating DISC benefits under our amendment would gain an estimated $815 million in 1974. $740 million of this amount comes from revenue which would otherwise have been lost in 1974 under the DISC provisions. And $75 million comes from the estimated tax revenue which would be payable in 1974 on DISC income deferred in prior years.

DISC provisions have no demonstrable effect on increasing our export trade

There is no evidence that foreign trade is in any way increased due to the tax benefits provided under DISC. In fact, the GAO has reported that DISC "is not considered to have had much influence toward increasing U.S. exports to date. Neither has it resulted in exporters lowering their prices to meet competition." And a recent Treasury Department report prepared pursuant to the DISC statute gives no convincing evidence that the tax subsidy under DISC is having an effect on our exports or balance of trade. Although the Treasury analysis, which covers data from calendar year 1972, shows that selected firms utilizing DISCs increased their exports 14.1%, slightly more than the total U.S. export growth by 12.4% in that year, the Treasury makes no claim that these figures are statistically significant and admits that their conclusion is "highly tentative." The Treasury Report did show, however, that the 15% profit rate for exporters using DISCs has been about twice the 8% rate of return for those industries in which DISCs predominate, and that the revenue loss has been much higher than Congress expected when it enacted DISC in 1971. The revenue loss was an estimated $250 million in 1972 and $500 million in 1973, instead of the originally predicted $100 million in 1972 and $170 million in 1973.

This amendment would make DISC benefits unavailable for any taxable year beginning after December 31, 1973. Since DISCs are largely an accounting device, utilized by corporations at the end of their taxable years when export receipts, assets, and income are accounted for, terminating the DISC provisions as of this tax year would work no unfairness. Taxes on income previously deferred would be payable in equal assessments over ten years.

The total revenue gain from these proposals is $6.025 billion.

S. 4142

A bill to broaden the income tax base, provide equity among taxpayers, and to otherwise reform the income tax provisions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Inflation Control Act of 1974".

SEC. 1. REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS PRODUCTION—

(a) REPEAL OF OIL AND GAS DEPLETION.

(1) Section 613(b)(1)(A) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 613(b)(1)(A)), is amended by deleting the words "oil and gas wells" and by inserting in lieu thereof the words "certain gas wells as defined in subsection (e) of this section."

(2) Section 613(b)(7) of such Code is amended by

(A) deleting "or" at the end of subparagraph (A) thereof;

(B) by deleting the period at the end of subparagraph (B) thereof by inserting in lieu thereof "; or"; and

(C) by inserting the following new subparagraph after such subparagraph (B): "(C) oil and gas wells."

(b) CERTAIN GAS WELLS.—Section 613 of the Intern-' Revenue Code of 1954 (26 U.S.C. 693) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN GAS WELLS.

"(1) The gas wells referred to in section 613(b)(1)(A) are—

(A) wells producing regulated natural gas, to the extent of such production, and

(B) wells producing natural gas sold under a fixed contract to the extent of such production.

"(2) (A) The term 'natural gas sold under a fixed contract' means domestic natural gas sold by the producer under a contract, in effect on April 10, 1974, and all times thereafter before such sale, under which the price for such gas cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under this section by reason of the repeal of percentage depletion. Price increases subsequent to April 10, 1974 shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates the contrary by clear and convincing evidence.

"(B) The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

"(C) The term 'domestic' refers to petroleum from an oil or gas well located in the United States or in a possession of the United States.

"(D) The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(E) The term 'regulated natural gas' means domestic natural gas produced and sold by the producer, prior to January 1, 1976, subject to the jurisdiction of the Federal Power Commission, the price for which has not been adjusted to reflect to any extent the increase in liability of the seller for tax by reason of the repeal of percentage depletion. Price increases subsequent to April 10, 1974 shall be presumed to take increases in tax liability into account unless the taxpayer demonstrates the contrary by clear and convincing evidence.

"(c) 3,000 Barrel-a-Day Exemption.—

"(1) In General.—If the taxpayer elects the application of this subsection for the taxable year, then with respect to so much of his average daily production of domestic crude as does not exceed 3,000 barrels, the percentage referred to in section 613(a) shall be 15 percent in the case of gross income from the property before January 1, 1979.

"(2) Average daily production.—For purposes of paragraph (1), the taxpayer's average daily production of domestic crude oil shall be determined by dividing his aggregate production of domestic crude oil during the taxable year by the number of days in such taxable year.

"(3) Barrels within exemption to be determined on a proportionate basis.—If the taxpayer's average daily production of domestic crude oil exceeds 3,000 barrels, the barrels to which paragraph (1) applies shall be determined by taking from the production of each property a number of barrels which bears the same proportion to the total production of the taxpayer for such year from such property as 3,000 barrels bears to the aggregate number of barrels representing the average daily production of domestic crude oil of the taxpayer for such year.

"(4) Business under common control; members of the same family.—

"(A) Component members of controlled group treated as one taxpayer.—For purposes of this subsection, persons who are members of the same controlled group of corporations shall be treated as one taxpayer.

"(B) Aggregation of business entities under common control.—If 50 percent or more of the beneficial interest in two or more corporations, partnerships, trusts, estates, or other entities is owned by the same or related persons (taking into account only persons who own at least 5 percent of such beneficial interest), the 3,000 barrel per day exemption provided by this subsection shall be allocated among all such entities in proportion to the respective production of domestic crude oil during the period in question by such entities.

"(C) Allocation among members of the same family.—In the case of individuals who are members of the same family, the 3,000 barrel per-day exemption provided by this subsection shall be allocated among such individuals in proportion to the respective production of domestic crude oil during the period in question by such individuals.

"(D) Definition and special rules.—For purposes of this paragraph—

"(i) the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that section 1563(b) (2) shall not apply and except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a),

"(ii) a person is a related person to another person if such persons are members of the same controlled group of corporations or if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for this purpose the family of an individual includes only his spouse and minor children, and

"(iii) the family of an individual includes only his spouse and minor children.

(d) Effective Dates. The amendment made by subsections (a), (b), and (c) of this section shall apply to oil and gas produced on or after January 1, 1974.

Sec. 2 Deduction of Intangible Drilling Costs and Other Exploration and Development Expenditures.

(a) Part I of subchapter I of chapter 1 (relating to deductions with respect to natural resources) is amended by adding at the end thereof the following new section:

"Sec. 618. Exploration and development expenditures.

"(a) In General.—Except as provided in subsection (c), at the election of the taxpayer there shall be allowed as a deduction in computing taxable income expenditures paid or incurred during the taxable year for the exploration or development of any mineral property (incliding an oil or gas well). This section shall apply only with respect to amounts which, but for this section, would not be allowable as a deduction for the taxable year. This subsection shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation provided in section 167 but allowances for depreciation shall be considered, for purposes of this subsection, as expenditures paid or incurred.

"(b) Election of Taxpayer.—Any election under this section shall be made in such manner as the Secretary or his delegate may by regulations prescribe. The election may be made at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this chapter for the taxable year. The election may be made with respect to all expenditures described in subsection (a) paid or incurred by the taxpayer during the taxable year or for only so much of such expenditures as the taxpayer may designate.

"(c) Limitation on Aggregate Deduction.—The aggregate of the deductions allowable under subsection (a) for any taxable year shall not exceed the taxpayer's aggregate taxable income (within the meaning of section 613(a)) from all mineral properties located within the United States, computed without regard to the deductions allowable under subsection (a) and as if all the properties (whether or not in production) were a single property. Any amount disallowed as a deduction for the taxable year upon the application of the preceding sentence shall be treated as an amount expended in the following taxable year for exploration or development of mineral properties. In the case of a partnership, each partner shall, under regulations prescribed by the Secretary or his delegate, take into account separately his distributive share of the partnership's deductions under subsection (a) and his distributive share of the partnership's taxable income from mineral properties located within the United States."

(b) Section 263(c) (relating to intangible costs in the case of oil and gas wells) is amended by adding at the end thereof the following new sentences: "Section 618, and not the regulations prescribed pursuant to the preceding sentence, shall apply with respect to intangible drilling and development costs paid or incurred in any taxable year beginning after December 31, 1973. Such costs incurred in drilling a nonproductive well shall be deductible (to the extent not allowed in a prior taxable year as a deduction under section 618) as a loss under section 165(a) for the taxable year in which the well is completed and abandoned, whether or not there is an abandonment or the lease or property on which the well was drilled."

(c) Section 616 (relating to development expenditures in the case of a mine) is amended by adding at the end thereof the following new subsection:

"(d) Termination.—This section shall not apply to expenditures paid or incurred in any taxable year beginning after December 31, 1973."

(d) Section 617 (relating to deduction of mine exploration expenditures) is amended by adding at the end thereof the following new subsection:

"(i) Termination.—This section shall not apply to any expenditure paid or incurred in any taxable year beginning after December 31, 1973."

(e) The amendments made by this section shall apply to taxable years beginning after December 31, 1973.

Sec. 3. Limitations on Foreign Tax Credit.

(a) Definitions of Creditable Taxes.—Section 903 of the Internal Revenue Code of 1954 (relating to credit for taxes in lieu of income, etc., taxes) is amended to read as follows:

"Sec. 903. Definition of Creditable Taxes.

"(a) In General.—For purposes of this subpart and sections 164(a) and 275(a), the term 'income, war profits, and excess profits, taxes' means a tax paid in lieu of a tax on income, war profits, or excess profits otherwise generally imposed by any foreign country or by any foreign possession of the United States.

"(b) Bona Fide Foreign Income Taxes.—For purposes of this subpart, and sections 164(a) and 275(a), in the case of tax paid or accrued to any foreign country with respect to income derived from the extraction, production, transportation, or refining of oil or gas in such country, the term 'income, war profits, and excess profits tax' does not include any royalty, bonus, or other payment which does not constitute the payment of a bona fide Federal or National income tax, as determined by the Secretary or his delegate. In determining whether a payment is the payment of a bona fide Federal or National income tax, the Secretary or his delegate shall take into consideration whether the effective rate of tax, or the amount of tax, bears a reasonable relationship to any income, war profits, and excess profits taxes actualy collected by the foreign country from its citizens, or from business entities owned by its citizens, which are engaged in activities other than the extraction, production, transportation, or refining of oil or gas. The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provision of this subsection."

(b) Lesser of Overall or Per Country Limitation.—Section 904(b) of such Code (relating to election of overall limitation) is amended by adding at the end thereof the following new paragraph:

"(4) Election required or denied in certain cases.—A taxpayer who, for the taxable year, paid taxes for which a credit is allowable under this subpart on income from the extraction, production, transportation, or refining of oil or gas in more than one foreign country shall elect the limitation provided by subsection (a)(2) for that taxable year if the total amount of the taxes payable under this chapter, taking into account such election, is greater than the total amount of taxes which would be payable if the limitation imposed by subsection (a)(1) were elected. Such a taxpayer shall elect the limitation provided by subsection (a)(1) for that taxable year if the total amount of taxes payable under this chapter for such year, taking into account such election, is greater than the total amount of such taxes which would be payable if the limitation under subsection (a)(2) were elected."

(c) Termination of Carryover or Carryback.—Section 904(d) of such Code (relating to carryback and carryover of excess taxes paid) is further amended by inserting the following at the end of subsection (d): "The provisions of this subsection shall not apply in the case of taxes paid to any foreign country on income from the extraction, production, transportation, or refining of oil or gas in that country.".

(d) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1973.

Sec. 4. Termination of special tax treatment for domestic international sales corporations.

(a) Termination of Exemption Provisions.—Section 991 of the Internal Revenue Code of 1954 (relating to tax exemption of a DISC) is amended by adding at the end thereof the following: "This section shall not apply to any taxable year beginning after December 31, 1973."

(b) Termination of DISCs.—Section 992 (a) of the Internal Revenue Code of 1954 (relating to definition of a DISC) is amended by adding at the end thereof the following new paragraph:

"(4) Termination.—Notwithstanding any other provision of this part, no corporation shall be treated as a DISC or former DISC for any taxable year beginning after December 31, 1973."

(c) Distributions by DISCs Terminated.—Section 935(b) of the Internal Revenue Code of 1954 (relating to deemed distributions of DISC income) is amended by adding at the end thereof the following new paragraph:

"(3) Distributions upon termination.—

"(A) A shareholder of a corporation which was a DISC or former DISC for the taxable year beginning before January 1, 1974, shall be deemed to have received (at the time specified in subparagraph (B)) a distribution taxable as a dividend equal to his pro rata share of the DISC income of such corporation accumulated during the immediately preceding consecutive taxable years for which the corporation was a DISC.

"(B) Distributions described in subparagraph (A) shall be deemed to be received in equal installments on the last day of each of the 10 taxable years of the corporation following the taxable year ending before January 1, 1974."

Sec. 5. Termination of permitted class life variance.

(a) In General.—Section 167(m)(1) of the Internal Revenue Code of 1954 (relating to class life in general) is amended by striking out the last sentence.

(b) Effective Date.—The amendment made by this section applied with respect to property placed in service after the date of enactment of this Act.

Sec. 6. Minimum tax.

(a) In General.—Section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax prefeernces) is amended—

(1) by striking out subsection (c);

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) In General.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to income of every person, a tax equal to 10 per cent of the amount (if any) by which the sum of the items of tax preference exceeds the excludable amount."

(3) by striking out "$30,000" in subsection (b)(1)(B) and inserting in lieu thereof "$10,000"; and

(4) by inserting a new subsection (c) as follows:

"(c) For the purpose of subsection (a) of this subsection, the excludable amount shall be $10,000."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1973.

By Mr. METCALF (for himself and Mr. Ervin) (by request):

S. 4145. A bill to establish a National Commission on Regulatory Reform. Referred to the Committee on Government Operations.

Mr. METCALF. Mr. President, upon behalf of the chairman of the Government Operations Committee (Senator Ervin), I introduce for appropriate reference legislation requested by the President last week to establish the National Commission on Regulatory Reform as an independent instrumentality in the executive branch. I concur and ask to be included as a cosponsor.

My sponsorship of this legislation is not an endorsement of its provisions. Other Members and I who share the President's interest and concern will propose basic changes in his proposal. I do, however, believe that the President's proposal should be before the Congress, as submitted to it by him.

I am pleased to note now that the President requested examination of State and local governmental regulatory activities which interact with the Federal independent regulatory system. It was my privilege to conduct 23 days of hearings on this subject, before the Senate Committee on Government Operations, during the 91st and 92d Congresses. That committee has an extensive record on the subject in its hearings on S. 607 in those two Congresses, and now has before it S. 770, a revision of S. 607 based on those hearings, as well as S. 704, the Regulatory Agencies' Independence Act. A recent study by the Congressional Reference Service, at my request, showed that almost 90 percent of the $150 billion annual revenues collected by electric, telephone, telegraph, natural gas, and insurance companies are subject to State, rather than Federal, regulation. Therefore any study of regulatory reform which does not deal with the State commissions will fail to come up with answers that consumers need for everyday, pocketbook expenditures which have been escalating.

I note that Senate Joint Resolution 253, which was patterned on the President's proposal, deleted the President's crucially important proposal for examination of State and local regulatory activities.

By Mr. INOUYE:

S. 4146. A bill to authorize the Secretary of the Army to make available to the State of Hawaii physical facilities not needed by the Army at Fort DeRussy, Hawaii, for the purpose of establishing a mental health clinic in such facilities. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, the Division of Mental Health of the State of Hawaii operated a clinic in the Waikiki area of Honolulu. This location was ideal for reaching the many visitors to Waikiki as well as those who reside in the area, for, unfortunately, the reality of Waikiki does not equal the Utopian dreams which many have of this area. One of the unhappy truths of Waikiki is the high cost of living or operating a business there. These expenses forced the mental health clinic to close its doors.

In the heart of Waikiki is an Army post, Fort DeRussy, which would be an ideal location for a new mental health clinic. I have been informed that the Army has no objection to the use of certain office space on this installation by the State of Hawaii for the mental health clinic. The only obstacle to the clinic is a provision in the law that restricts the use of Fort DeRussy. I am, therefore, introducing a bill to authorize the Secretary of the Army to make available to the State of Hawaii certain physical facilities not needed by the Army at Fort DeRussy for the purpose of establishing a mental health clinic.

This clinic is a much needed facility which will greatly expand the services by the department of health to the people and visitors of Hawaii. I hope my colleagues will act with all due consideration to approve this measure.

By Mr. INOUYE (for himself and Mr. Cranston):

S. 4147. A bill to amend section 1003 of title 38, United States Code, relating to memorial areas and appropriate memorials to honor the memory of certain deceased members of the Armed Forces whose remains were buried at sea, have not been identified, or were nonrecoverable. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, it has long been our tradition to honor those who have served our Nation in time of war. We now have many cemeteries throughout the world where many of these men and women now lie in rest. For those whose bodies were never recovered, we have required that all national cemeteries have special plaques to honor the memory of these gallant men and women.

It has recently come to my attention, however, that there is a class of persons who deserve to be honored with other veterans, but who are presently excluded. These are persons who wish to continue to serve the people of our country after their death. I am referring to those veterans who are otherwise eligible for burial in a national cemetery, but who have donated their bodies for use in medical research or training. I believe that we should give these men and women the recognition they deserve. I am, therefore, introducing at this time, a bill to amend section 1003 of title 38, United States Code, relating to memorial areas and appropriate memorials to honor the memory of certain deceased members of the Armed Forces whose remains were buried at sea, have not been identified or were not recoverable.

I hope my colleagues will recognize the justice in such a bill, and will act with favor upon it.

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 4150. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Pacific Northwest Trail as a national scenic trail. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I am sending to the desk, for appropriate reference, legislation to authorize a study to determine the feasibility and desirability of designating the Pacific Northwest Trail as a national scenic trail.

The proposed trail would extend approximately 1,000 miles from the Continental Divide in Glacier National Park, Mont., to the Pacific Ocean beach of Olympic National Park, Wash. From Glacier to the North Cascades, this trail would encompass some of the most spectacular and precious scenery in the world. Snowy peaks, glaciers, alpine meadows with clear springs and brooks, small lakes and rushing rivers abound. The Cascades themselves form a distinct and identifiable change in environments. The tremendous precipitation and force of the storms which sweep off the ocean end at the Cascades. On the lee of the Cascades spectacular and rugged desert commands the attention of all who love the Northwest.

A great proportion of this trail is protected by inclusion in national park or national forest areas, but some of it is not.

Mr. President, I was privileged to serve on the Outdoor Recreation Resources Review Commission which recognized the importance of hiking and walking as recreational experiences. During the 90th Congress the National Trails System Act was enacted to provide for the designation, protection, development, and preservation of various trails throughout this Nation. This proposed trail would extend through many areas which I have fought to preserve—North Cascades National Park, Olympic National Park, Ross Lake National Recreation Area, Pasayten Wilderness Area, the Skagit River, and the list goes on.

These lands are dear to those of us who love the Northwest and enactment of this legislation will help assure that the vistas which we know will be available for others.

By Mr. JACKSON:

S. 4151. A bill to establish a Strategic Energy Reserve Office in the Federal Energy Administration, to create a strategic energy reserve system to minimize the impact of interruptions or reductions of energy imports, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I am introducing today new legislation to establish a system of strategic reserves to protect against interruptions in oil imports.

Today our dependence on oil imports is greater than ever before. Overall imports are up 15 percent over last year and crude and product imports account for almost 40 percent of domestic demand. And, of course, we have in the last year experienced the Arab oil embargo—the fourth interruption of oil imports for political reasons in the past-quarter century.

The lessons of the embargo and our growing dependence on oil imports are clear, and discussion of strategic reserves is no longer an academic exercise. The disappearance of our reserve production capacity and our ever-increasing dependence on foreign oil have made painfully clear the need for a reserve system. We must act now to protect the American economy from the disruptive impact of another embargo.

The need for a system of strategic reserves is now generally recognized. A report of the National Petroleum Council last month concluded:

> The United States should create a petroleum security storage system that, in combination with other available measures, will provide adequate time to react positively to a substantial, sudden interruption in petroleum imports. Objectives concerning the ultimate size and structure of such a program will undoubtedly change with time because of the constantly changing world political and economic environment. However, it is clear that a substantial volume of petroleum security storage is needed within the United States and that efforts to implement such a program should begin immediately because of the long construction lead times involved.

Furthermore, the development of adequate strategic reserves is an integral part of the cooperative arrangements the United States is seeking to make with other consuming countries. An agreement will likely be executed later this fall which will, in effect, commit the United States to greatly increase its reserve storage.

Against this background, it is hard to understand why the executive branch has not developed a strategic reserves program or why there was no mention of strategic reserves in the President's address to Congress last week.

The fact is that we have already lost too much time in launching a strategic reserve program. The legislation I am introducing today is a new attempt to achieve this goal.

The bill establishes a system of strategic reserves comprised of:

First, industry storage reserves:

Long term: Importers shall maintain reserves equivalent to 90 days of imports, and

Short term: Importers shall dedicate a specified percent of currently available inventories as strategic reserves until permanent reserves are established.

Second, utility storage reserves: Utilities shall maintain a reserve sufficient to meet normal demand for 90 days.

Third, national strategic reserves:

Strategic reserves will be created sufficient to compensate for 25 percent shortfall of petroleum imports for 90 days. Such reserves shall be created by dedicating up to 30 percent of U.S. royalty oil for this purpose, and

A national coal stockpile will be created consisting of Federal coal and Federal coal lands.

It should be clear, Mr. President, that the system of strategic reserves I am proposing is not the only element in a comprehensive program to deal with interruption of oil imports. It is absolutely essential that we also move forward with a program of contingency planning and standby conservation authority to deal effectively with future embargoes or disruption of needed imports for any reason.

By Mr. MONTOYA:

S.J. Res. 254. A joint resolution to authorize the Administrator of the National Aeronautics and Space Administration to make a grant for the construction of facilities for the International Space Hall of Fame. Referred to the Committee on Aeronautical and Space Sciences.

Mr. MONTOYA. Mr. President, today I introduce legislation to authorize the Administrator of the National Aeronautics and Space Administration to make a grant for the construction of facilities for the International Space Hall of Fame in Alamogordo, N. Mex.

American scientists and astronauts have made a unique achievement in the history of space science. They have contributed to the complex research programs and difficult missions which have helped to insure the U.S. leadership in aeronautics and space exploration. These scientists, who made sure we got there, and the astronauts, who went there, were men who dared to raise their heads above the mountaintops. They had unconceivable dreams, high hopes, and even greater courage. They used their knowledge gained through long years of research to turn their ideas into action and their dreams into reality. Men such as these are the true wealth of our country, not the gold reserves in Ft. Knox.

Our country has progressed because of the achievements of these space pioneers. Their deeds have not merely improved our past, but have accelerated us into the future. Never have we been projected into the future so swiftly and so dramatically as when we took our first step into space.

The future is certainly of utmost importance, yet our past is just as great. It is the motivation of our tomorrow. Today's science and art will become our traditions, and these traditions need to be preserved. These space pioneers deserve to be honored. Their monument should be built as a symbol of our present-day life—complex and challenging, yet very exciting.

During the troubled Vietnam and Watergate years, we certainly have had a shortage of real heroes—someone we could look up to and admire. The astronauts filled this vacuum. A hall of fame will be a place to honor these men; but more important, it will be a place which will honor the noble act which invoked the fame in the first place.

It is only fitting that this space institute be located at the site where the earliest phases of space travel experimentation was conceived and conducted. The State of New Mexico, and the Alamogordo area specifically, provide that historical setting.

Alamogordo is located in the Tularosa Basin, close to the White Sands Missile Range and Holloman AFB where pioneer work in missile development was conducted. Captured German V-2's were fired here; the first objects to escape the pull of gravity were fired here; the inertial guidance system was perfected here; and research in aero-med, which enabled man to live in space, was accomplished here. Doctor Goddard, the great rocket pioneer carried on his research at the nearby city of Roswell.

The city of Alamogordo has eagerly assumed the responsibility of establishing an International Space Hall of Fame. City officials have successfully presented the space institute concept to the State of New Mexico and to various space-related agencies and organizations. As a result of their endeavors, $3.04 million has already been contributed, $1.8 by the State of New Mexico and the remainder from private donations. Forty-five acres of land for the project have been donated by New Mexico State University, and $3 million worth of space artifacts and space hardware has been made available on a rotating basis to the Hall of Fame by the Smithsonian.

This project has also received the support and the endorsement of NASA, local U.S. Air Force and Army installations, and the International Academy of Astronautics—IAA. The latter organization is comprised of the world's top space scientists. The Academy, headed by Dr. Charles Draper of MIT, has agreed to select the nominees for the International Space Hall of Fame. IAA is also considering Alamogordo as the site for its 1976 conference, which is expected to attract 3,000 participants.

From its inception, the international aspect of this project has been emphasized. Space scientists and astronauts and cosmonauts from the United States, the U.S.S.R., England, France, Belgium, West Germany, Sweden, Italy, and 20 other countries will be honored side by side in the Hall of Fame. It will take an international effort of cooperation to see this project realized.

The space institute will be a scientific and educational project, with the objective of providing a center for exhibition, study and research in the field of space science. To achieve this aim, the facilities of the institute will consist of the Hall of Fame, an auditorium, an amphitheater, and a planetarium.

The Hall of Fame will serve as a museum to honor those who have contributed to man's advancements in space. The $3 million worth of space artifacts and space hardware on loan from the Smithsonian Institution will also be housed here. There will be displays of Moon rocks, satellites, rockets, space apparel, experiments, Moon vehicles, historical artifacts, Sun and Moon photos, and scientific exhibits related to space. Participation displays will consist of demonstrations of the principals of physics and other scientific disciplines. Because the space pioneers devoted most of their time to getting to and being in space, their busy schedules left them little opportunity to keep diaries and detailed accounts of their space experiments and adventures. In order to compensate for this gap in documentary material pertaining to their firsthand experiences, a remedial program is planned by the Hall of Fame to tape-record the personal recollections of the astronauts, cosmonauts, and space scientists.

The auditorium will be a major multipurpose facility for large groups. It will serve the function of accommodating large international scientific conferences as well as New Mexico State University student gatherings and drama productions.

The amphitheater will be used to explain to large groups the major elements and operation of our largest space rocket. It will also be used for an outdoor pageant, simulating the firing of a Saturn V.

And finally, the planetarium will provide an outstanding means of education in celestial mechanics. It will offer demonstrations of the real and apparent motions of celestial bodies as seen from Earth and as actually occuring. Special enrichment programs will provide a look at the constellations, the Moon and the planets. Stories of the planets drawn from ancient mythology will be contrasted with the knowledge gained in the past decade. New Mexico State University will have use of the facility, and will assist in seminars and symposiums on space-related sciences. The planetarium will be a great aid to teachers and to elementary, high school and college students in learning about astronomy and the world in which we live. All of the facilities of the space institue will enhance university graduate programs. The planetarium has the future potential of providing astronomy and space navigation training to the astronauts, as was the case with the Apollo crew who trained at the planetarium in Chapel Hill.

The planetarium will be a great asset to the entire southwestern part of our country. There are five planetariums of the highest precision type in the world installed and operated in the United States. However, all are located in the East—in Boston, New York, Rochester, Chicago, and Chapel Hill.

Once built, the space institute will be self-sustaining. It has the benefit of being located near many southwestern tourist attractions. Alamogordo is close to the White Sands National Monument which has 665,000 visitors annually and Carlsbad Caverns with 850,000 visitors a year. Also nearby are recreation areas which cater to hunters, campers, fishermen, and skiers. The Apache tribal ceremonies also attract many tourists to the near-by Mescalero Reservation. There are ample lodging facilities, and Alamogordo is located near Interstate 10, a major East-West route, and Interstate 25, a major North-South route.

The city of Alamogordo will need a grant in the neighborhood of $7 million in order to complete the construction of this project. They need a grant to match the $3.04 million contributed so far and an additional $4 million for the planetarium.

I ask unanimous consent that a copy of my joint resolution be included at this point in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 254

Whereas accomplishments in space and aeronautical exploration have highlighted man's achievements in the twentieth century;

Whereas there is a need to preserve and display the work of men and women who have contributed significantly to these achievements and to preserve and display the artifacts and space hardware which they have used, in a more educational, accessible and permanent manner;

Whereas such a display would unite all countries of the world in a cooperative effort to honor such achievements; and

Whereas Alamogordo, New Mexico has been a focal point in space and aeronautical exploration and research since Robert Goddard conducted his pioneering rocket experiments in the State: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) upon application by the International Space Hall of Fame, Incorporated, (hereinafter referred to as the "Corporation") of Alamogordo, New Mexico, the Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the "Administrator") is authorized to make a grant in an amount not to exceed the Federal share of the cost of constructing a museum and suitable facilities in Alamogordo, New Mexico, for the presentation and display of objects of historical or scientific significance in the space programs of the United States and other nations.

(b) For the purposes of this joint resolution the Federal share is 70 percent.

Sec. 2. No grant may be made under this joint resolution unless the Administrator determines that—

(1) the construction to be carried out under the application will be undertaken in a timely and economic manner and will not be of elaborate or extravagant design or materials; and

(2) the State of New Mexico and other sources will pay from non-Federal sources an amount not less than $3,040,000 toward the cost of such construction.

Sec. 3. There are authorized to be appropriated to the National Aeronautics and Space Administration not to exceed $7,040,000 to carry out the provisions of this joint resolution.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3908

At the request of Mr. Taft, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of S. 3908, a bill to revise and improve the program of supplemental security income established by title XVI of the Social Security Act, and for other purposes.

S. 3988

At the request of Mr. Biden, the Senator from Maine (Mr. Hathaway) and the Senator from Minnesota (Mr. Humphrey) were added as cosponsors of S. 3988, a bill to authorize Federal financial assistance to States for the preparation of energy conservation programs.

S. 4032

At the request of Mr. Dole, the Senator from Wisconsin (Mr. Proxmire), the Senator from Illinois (Mr. Percy), the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Fannin), the Senator from Utah (Mr. Bennett), the Senator from Wyoming (Mr. Hansen), the Senator from Louisiana (Mr. Johnston), and the Senator from North Carolina (Mr. Thurmond) were added as cosponsors of S. 4032, a bill to amend the Congressional Budget Act of 1974 to require the Congressional Budget Office to prepare inflationary impact statements in connection with legislation reported by Senate and House committees.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 426

At the request of Mr. Hollings, the Senator from Illinois (Mr. Stevenson), the Senator from Michigan (Mr. Hart), and the Senator from Connecticut (Mr. Weicker) were added as cosponsors of Senate Resolution 426, expressing the sense of the Senate with respect to the granting of certain oil and gas leases pursuant to the Outer Continental Shelf Lands Act.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 117

At the request of Mr. Roth, the Senator from Tennessee (Mr. Brock), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Arkansas (Mr. McClellan), the Senator from Illinois (Mr. Stevenson), and the Senator from Idaho (Mr. McClure) were added as cosponsors of Senate Concurrent Resolution 117, relating to inflationary impact of Federal expenditures.

AMENDMENTS SUBMITTED FOR PRINTING

SUPPLEMENTAL APPROPRIATIONS, 1975—H.R. 16900

AMENDMENTS NOS. 1977 AND 1978

(Ordered to be printed and to lie on the table.)

Mr. TAFT. Mr. President, the need for fiscal restraint at this time is obvious, and I have supported the considerable efforts to date to cut back nonessential expenditures. However, there are several aspects of the supplemental appropriations bill which I believe could truly be called penny wise and pound foolish, and I believe that those aspects ought to be addressed.

First, there is still no funding for the new disaster recovery program—title 8 of the Public Works and Economic Development Act of 1965—which became law last May. The Commerce Department and the Department of Housing and Urban Development still have not decided how to administer it. I gather that administration spokesmen have informed the Appropriations Committee that this problem will be addressed in the fiscal 1976 budget.

I previously testified in support of funding for this program and offered such an amendment to an earlier appropriations bill, which I withdrew after obtaining assurances that the matter would be pursued by the committee. I have sought immediate funding for this program because the need is now. Only a slight distance from my hometown of Cincinnati, the city of Xenia is still struggling with a tax base 20 to 25 percent destroyed and major unmet recovery needs as a result of last April's tornado. The new disaster recovery program could be of major assistance, particularly because it could provide funding to reduce Xenia's local share of all Federal-State matching fund programs from as much as 50 to 10 percent. Even though Xenia's estimated local share requirements are in the millions of dollars and the provisions were passed specifically in response to the tornadoes, in the 6 months since the tornado the administration has not submitted a request for funds or figured out which agency will run the program.

Second, the bill contains no additional funding for the section 312, 3-percent housing rehabilitation loan program. This program is extremely important in view of the administration's well-founded emphasis on preserving existing housing, the crucial role it can play in the preservation of our cities and at this time, the necessity to stimulate housing-related industries. In recognition of such facts, the House of Representatives included $70 million in the HUD appropriations bill for this program. That funding provision was deleted later, based solely upon the Senate Appropriations Committee's understanding that carryover and loan repayment funds for this fiscal year "will make possible a program level of up to nearly $70 million without any additional appropriation," in the words of the committee report.

I was concerned at the time that bill was considered that this was an overestimate of available funds and I expressed that concern on the floor. It now appears that my worst fears were correct. Rather than $70 million, it appears that the maximum program level for fiscal 1975 is closer to about $45 million. Almost half of this figure, $20 million, is not even new fiscal 1975 money. It is money which was allocated to the field in fiscal 1974, but not spent by last June 30.

Upon learning of these facts informally, the ranking member of the HUD Appropriations Subcommittee, Senator Mathias, Senator Cranston, and I wrote Secretary Lynn for a verification and details. As far as we know, our facts are correct. Yet this legislation does not contain even the funds necessary to return the fiscal 1975 program level to the level the committee expected when it made its initial decisions on program appropriations. The present funding level virtually undermines Congress' recent decision to continue this program despite the administration's suggestion that it be terminated.

Third, the slashing of the community development transitional fund to $10 million is simply not responsible legislating. It will lead to temporary discontinuation of various ongoing community development programs, with the predictable result of program delays and higher costs for accomplishing the same goals over a long period. The 500-percent slash will be particularly harsh on some of our large, problem-plagued cities most in need of viable community development programs as well as the small towns not receiving automatic program funding.

From my work on the authorizing legislation for community development, I am well aware that the "hold-harmless" and formula provisions provide totally insufficient fiscal 1975 funding for many cities and towns. In recognition of that fact, the Senate community development bill included far greater transition funding than the law. I recognize that some cutbacks were necessary in the interest of fiscal restraint, but this further cutback of even the meager amount finally authorized leaves a level of transition funding that is almost ludicrous. I agree with the administration that the $50 million appropriation in the House bill should be restored.

While that matter will be in conference, the other two will not unless the Senate accepts amendments. Accordingly, I am submitting amendments for an additional $25 million for section 312 and $15 million to commence the disaster recovery program.

ADDITIONAL STATEMENTS

FINANCIAL DISCLOSURE

Mr. STAFFORD. Mr. President, today, I place in the Congressional Record a statement of my financial holdings, along with a summary of my 1973 Federal income tax return.

The financial statement shows that my wife, Helen, and I had net assets of $297,000 as of May 6 of this year, when the evaluation of my holdings was made. Because of the decline of the stock market, there has been some reduction in the figure since then. The statement lists details of our holdings, including bank accounts, cash value of life insurance, real and personal property we own, and stocks and bonds.

The summary of our income tax return shows that my wife and I had a gross income last year of slightly more than $52,000. Of that total, $42,500 came from my salary as a U.S. Senator. My taxable income for the year was $39,000.

I paid $1[illegible],662 in Federal income taxes for the year, and more than $3,200 in Vermont State income taxes.

Details of my financial statement have been made available to newspapers, radio stations, and other news services in Vermont.

This information is being made part of the public record because I continue to be convinced that our Government, and those who serve in government, must be as open and as candid as possible with the public.

For some time, I have been concerned over the evidence of declining public confidence in government and in politics.

One of the major reasons the public is suspicious of government and politics, particularly at the national level, is that so much of our activity takes place away from the public view.

I am convinced public trust would increase if citizens were given more facts about their government and about the men and women who play major roles in government.

That is why I have sponsored three

bills designed to open the activities of government to public examination.

One of the bills would require the full disclosure of all congressional lobbying activities—including names, places, dates, and amounts of money spent in the course of efforts to influence legislation.

Another bill would require that virtually all meetings of Federal agencies and committees of Congress be open to the public. Closed doors breed suspicion.

The third measure would require full and public disclosure of the financial condition of government officials and employees who earn more than $15,000 annually. That, of course, includes Members of Congress.

Each of these proposals would increase public confidence in government by substituting fact for fiction. Full disclosure is the best way to satisfy public question about the activities of government and of the men and women who influence government.

All Americans, of course, have vested interests. Those who hold office in government are no exception.

The best way to enable Americans to judge whether their Government and their officials are acting properly is to provide full disclosure of all interests of government and of those who make decisions in government.

Thus, I invite all Vermonters—and all other Americans—who are interested to examine my financial holdings and to match those holdings with my record as an elected official.

Virtually all of the stocks and bonds held by my wife and me were owned by us before I entered upon a career in politics. Indeed, given inflation and the experience of the stock and bond markets, there has been little real change in our financial condition since I entered public life in Vermont 20 years ago.

I had hoped that, by this time, Congress would have passed legislation requiring financial disclosure by Members of Congress and others in government.

The fact that such legislation has not been enacted, however, does not relieve me of what I feel to be my responsibility to report our financial holdings to Vermonters.

I plan to make a similar financial report on the public record each year from now on during the remainder of my career in public office.

I ask unanimous consent that the financial statement and the Federal income tax return summary referred to above be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF FINANCIAL CONDITION OF SENATOR AND MRS. ROBERT T. STAFFORD AS OF MAY 6, 1974

SAVINGS ACCOUNTS

Bellows Falls Trust Co.	$5,000
Burlington Savings Bank	5,000
The Howard Bank	5,000
Rutland Savings Bank	5,000
Burlington Federal Savings and Loan	5,000
Total	25,000

CHECKING ACCOUNTS

Riggs National Bank, First Virginia Bank, and The Howard Bank, total	$4,996.02

LIFE INSURANCE

(Cash Value)

Travelers Insurance Co.	$1,080
MONY	4,390
NYLIC	1,237
NYLIC	1,237
NSLI	None
NYLIC	3,085
Connecticut General	3,125
Total	14,154

REAL ESTATE

64 Litchfield Avenue, Rutland, Vt.	$50,000
27 Howard Avenue, Rutland, Vt.	30,000
Total	80,000

STOCKS

Name	*Value*
The Howard Bank, 25 shares at $28	$700.00
The Howard Bank, 420 shares at $28	11,760.00
National Distillers, 20 shares at $16	320.00
Manufacturers Hanover Trust, 364 shares at $37¼	13,559.00
Manufacturers Hanover Trust, 64 shares at $37¼	2,384.00
Manufacturers Hanover Trust, 100 shares at $37¼	3,725.00
Manufacturers Hanover Trust, 100 shares at $37¼	3,725.00
Manufacturers Hanover Trust, 100 shares at $37¼	3,725.00
Monsanto, 40 shares at $63¼	2,530.00
Texaco, 40 shares at $27¾	1,110.00
NL Industries, 40 shares at $13¼	530.00
Book of the Month, 50 shares at $16½	825.00
American Finance System, 50 shares at $11⅞	593.75
Hayes Industries, Inc., 10 shares at $11⅛	111.25
Bellows Falls Trust Co., 80 shares at $60	4,800.00
Vendo Co., 10 shares at $6	60.00
Standard Brands, 10 shares at $54	540.00
EXXON, 10 shares at $78½	785.00
International Harvester, 20 shares at $26½	530.00
Greyhound Corp., 20 shares at $15¼	305.00
Outboard Marine, 20 shares at $17½	350.00
Hayes Albion Corp., 11 shares at $11⅛	122.38
Hayes Industries, 1 share at $11⅛	11.12
Cluett Peabody, 20 shares at $6	120.00
National Distillers, 20 shares at $16	320.00
Gillette Co., 20 shares at $34½	690.00
A.T. & T., 100 shares at $48⅛	4,812.50
Consolidated Edison of New York, 100 shares at $9⅝	962.50
Bankers Trust of New York, 16 shares at $48¾	780.00
Total	60,686.50

BONDS

Grace Line	$720.75
Grace Line	720.75
Total	1,441.50

ADDITIONAL PROPERTY

Real Estate—House, 3541 Devon Drive, Falls Church, Virginia	$55,000.00
Law Library and Office Furniture, 27 South Main Street, Rutland, Vermont	2,000.00
Contribution to Federal Retirement as of (4-30-74)	33,501.79
Boat, two cars	$14,000.00
Personal Property	20,000.00
Total	124,501.79

LIABILITIES

Eastern Liberty Federal Savings and Loan Association, Wash., D.C., first mortgage on house at 3541 Devon Dr., Falls Church, Va.	$13,871.76

RECAPITULATION

Total Assets	$310,779.31
Total Liabilities	13,871.76
Net Assets	296,908.05

SUMMARY OF 1973 JOINT FEDERAL INCOME TAX RETURN OF ROBERT T. AND HELEN K. STAFFORD

INCOME

Salary	$42,500.00
Dividends	3,116.41
Interest	1,247.09
Other	5,344.68
Total income	52,208.18

ADJUSTMENT TO INCOME

Allowable Congressional Expenses Not Reimbursed	$3,804.05
Total Adjustments to Income	3,804.05
Adjusted Gross Income	48,404.13

ITEMIZED DEDUCTIONS

Medical	$150.00
Taxes	5,800.01
Interest	1,385.92
Contributions	430.00
Miscellaneous	200.00
Total deductions	7,965.93
Exemptions Claimed (2)	$1,500.00
Taxable Income	38,938.20
Federal Income Tax Due and Paid	11,662.19

THE STRIP MINE BILL

Mr. HUGH SCOTT. Mr. President, the strip mine bill now in House-Senate conference is important legislation both for Pennsylvania and the country. The title IV reclamation fund is essential if we are to make a commitment to reclaim 2.5 million acres of abandoned mined land in 29 States.

But this reclamation fund should be achieved without taxing the consumer. This can be done, and my Pennsylvania colleague JOE MCDADE, has provided the method to do so. An excellent editorial from the respected Clearfield Progress comments on this. I recommend this editorial to all the conferees, and I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Clearfield (Pa.) Progress, Oct. 8, 1974]

DON'T TAX COAL FURTHER

Congressman Joseph M. McDade of Pennsylvania's 10th (Scranton) District is still fighting for his amendment to the federal strip mining bill now in a Senate-House Conference committee. We hope he wins.

Rep. McDade proposed in August that $200 million be earmarked from existing revenues from off-shore oil leases to fund reclamation of abandoned strip mines throughout the nation. This, he pointed out, would avoid a tax on coal to finance the necessary reclamation.

The House went along with Rep. McDade's proposal and included it in the bill it passed. The Senate-passed version included a 35-cent per ton tax on coal mined. The Conference committee which must iron out differences between the two bills apparently is going along with the Senate-imposed tax.

Congressman McDade and a bipartisan group of fellow congressmen last week issued a statement pointing out that a tax on coal would mean an increase in electric bills, since most of electricity is coal-generated and urged both Representatives and Senators to ask the Conference committee to back the House-passed version for funding of abandoned mine reclamation.

McDade's letter to his colleagues in both House and Senate said:

"Electrical bills are about to go up for your constituents—unless the House Conferees to the Strip Mining Bill stick with our version of Title IV.

"In August the House avoided placing a tax on coal to fund abandoned mine reclamation. The House adopted an approach which earmarked $200 million from existing revenues from off-shore oil leases to fund the needed mine reclamation. This simply tapped an energy dividend, it did not penalize a small class of consumers.

"Now the conferees have reverted to a 35-cent tax per ton tax on coal. This will be disastrous for consumers. Recognizing that the vast majority of our electricity is coal-generated, let's not make utility bills any higher than they already are.

"We urge you to talk to one of the House Conferees and ask them to remain solid behind the House-passed version for the funding of the abandoned mine reclamation, Title IV."

STATUS REPORT ON APPROPRIATIONS BILLS

Mr. McCLELLAN. Mr. President, in his economic address before a joint session of Congress last week, President Ford said:

> Our constituents want leadership. Our constituents want action.

I am indeed pleased to report that the Committee on Appropriations has been moving both forcefully and effectively in the handling of appropriations bills for the 1975 fiscal year—which should have significant effect in combating inflation.

We are taking action. We are providing leadership.

We have made a concentrated—and I believe encouraging—effort to reduce administration budget requests for the current fiscal year—efforts which will hopefully be of assistance in turning back the rising tide of inflation.

Twelve appropriations bills for fiscal year 1975 have come before the committee so far this year and 10 have been signed into public law.

Eight of these measures have been substantially and significantly reduced below the budget estimates submitted to the Committee on Appropriations, while only two have been increased above these levels.

We have, Mr. President, made a net reduction of $5,673,002,187 in new obligational authority.

The reductions made by Congress in the President's budget requests so far this year are:

Legislative, $14,196,735;
Public Works, $21,354,000;
State-Justice-Commerce, $162,642,500;
Transportation, $256,499,552;
Treasury-Post Office, $57,027,000;
HUD-Space-Science-Veterans, $221,001,000;
District of Columbia, $26,600,000; and
Defense, $4,961,200,000.

Increases made so far this year were:
Interior, $15,157,600; and
Special Energy, $32,361,000.

We also acted upon three supplemental appropriations bills for fiscal year 1974, reducing them by $1,799,555,679 below budget requests. Thus, Mr. President, we have reduced appropriations a total of $7,472,557,886 in the appropriations bills acted upon so far during this session.

Mr. President, this is clearly a record of which we can all be proud—and which we can take to our constituents as proof that the Congress is meeting the challenge imposed upon us by inflation.

I ask unanimous consent that a chart prepared by the staff of the Committee on Appropriations showing this information in detail be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

STATUS OF APPROPRIATIONS BILLS AS OF OCT. 15, 1974

		House			Senate			Public law	
Bill No.	Title	Budget estimates to House	Reported	Passed	Budget estimates to Senate	Reported	Passed	Amount	Compared with budget estimates (+) or (−)
H.R. 14012	Legislative	$609,099,265	$603,221,280	$603,221,280	$722,472,385	$718,387,105	$718,439,511	$708,275,650	−$14,196,735
H.R. 15155	Public Works	4,412,251,000	4,475,410,000	4,475,410,000	4,526,826,000	4,567,203,000	4,568,203,000	4,505,472,000	−21,354,000
H.R. 15404	State-Justice-Commerce	5,411,809,600	5,310,372,100	5,311,454,100	5,452,799,600	5,262,502,000	5,262,502,000	5,290,157,100	−162,642,500
H.R. 15404	Transportation	3,538,938,552	3,307,239,000	3,182,239,000	3,545,003,552	3,390,015,000	3,288,946,775	3,288,504,000	−256,499,552
H.R. 16901	Agriculture	13,432,863,100	13,379,183,000	13,379,183,000					
H.R. 15544	Treasury-Post Office	5,576,846,000	5,507,497,000	5,503,794,000	5,618,196,000	5,563,508,000	5,565,508,000	5,561,169,000	−57,027,000
H.R. 15572	HUD-Space-Science-Vets	20,887,851,000	20,846,332,000	20,846,332,000	21,436,813,000	21,210,718,420	21,210,718,420	21,215,812,000	−221,001,000
H.R. 15580	Labor-HEW	33,262,997,000	32,876,541,000	33,156,541,000	33,531,095,000	32,901,142,000	33,111,142,000		
H.R. 15581	District of Columbia	406,000,000	389,400,000	389,400,000	406,000,000	379,400,000	379,400,000	379,400,000	−26,600,000
H.R. 16027	Interior	$3,134,594,710	$3,153,515,310	$3,153,515,310	$3,154,004,710	$3,170,394,310	$3,170,394,310	$3,169,162,310	+$15,157,600
H.R. 16243	Defense	87,057,497,000	83,294,370,000	82,983,570,000	87,057,497,000	81,565,758,000	81,584,258,000	82,096,297,000	−4,961,200,000
H.R. 14434	Special Energy	2,203,728,000	2,269,828,000	2,269,828,000	2,203,728,000	2,209,216,000	2,219,716,000	2,236,089,000	+32,361,000
H.R. 14013	Second Supplemental for Fiscal Year 1974.	10,512,735,943	8,657,162,043	8,811,662,043	11,100,530,077	9,645,935,398	9,645,935,398	9,301,474,398	−1,799,055,679
H.R. 16900	Supplemental, 1975	8,128,761,162	8,206,822,162	8,359,751,562	8,262,641,178	8,648,242,678			
H.J. Res. 941	VA Urgent Supplemental	750,000,000	750,000,000	750,000,000	750,000,000	750,000,000	750,000,000	750,000,000	
H.J. Res. 1062	Continuing Appropriations								
H.J. Res. 1061	VA Urgent Supplemental	179,500,000	179,000,000	179,000,000	179,500,000	179,000,000	179,000,000	179,000,000	−500,000
H.J. Res. 1131	Continuing Appropriations								

Note: The military construction and foreign assistance appropriations bills for fiscal year 1975 have not been acted upon by the House of Representatives as of this date.

SENATOR RANDOLPH ADVOCATES STUDY OF IMPROVEMENTS TO BLACK LUNG BENEFITS ACT

Mr. RANDOLPH. Mr. President, I bring to the attention of my colleagues the introduction in the other body of H.R. 17178, the Black Lung Benefits Reform Act of 1974. This measure is sponsored by Representative JOHN DENT, chairman of the General Subcommittee on Labor of the House Committee on Education and Labor, and Representative CARL PERKINS, chairman of the full committee, and by Representatives FLOOD, CARNEY, SHIPLEY, BEVILL, McDADE, and MOLLOHAN.

The House bill is the product of a lengthy period of hearings and study by the House General Subcommittee on Labor. My understanding is that the subcommittee will consider the legislation soon after the return of Congress from the impending recess.

Mr. President, I am deeply concerned about the welfare of miners and their wives, widows, and children. The mining of coal is a major industry in our West Virginia, and that industry has a profound impact on the people and the economy of the State.

It is my intention to study the House bill, H.R. 17178, carefully during the recess period, to determine whether to sponsor a similar measure in the Senate. In this connection, I invite comments and recommendations from all interested parties.

PRESIDENT FORD PROPOSES INFLATIONARY POLICY IN THE NAME OF ANTI-INFLATION—NATURAL GAS DEREGULATION WOULD QUADRUPLE PRICE

Mr. PROXMIRE. Mr. President, President Ford's call for the deregulation of natural gas supplies is the most inflationary policy ever put forward by a President of the United States. In the name of anti-inflation he proposes a consumer rip-off which would raise the price of natural gas by 300 percent this year. It would transfer at least $16.5 billion from the pockets of the public to the oil and gas company coffers this year. It would further give the oil and gas companies a $180 billion windfall in the immediate increase in value of existing gas reserves—already discovered and paid for.

HOME HEATING WOULD COST MORE THAN $1,000 A YEAR

To put the size of this bonanza in concrete terms, it would raise the annual cost of heating and cooking with gas for the average residential home in Madison, Wis., from the present $260 a year to over $1,000 a year. The $180 billion windfall to the big gas and oil companies in the increased value of their reserves is more than enough to make millionaires out of each of the almost 180,000 residents of the cities of Racine and Kenosha, Wis.

As vice chairman of the Congressional Joint Economic Committee which is presently holding hearings and preparing an end-of-the-year report on inflation and the problems of the economy. I am especially interested in this proposal and alarmed by its inflationary effects.

If the President and the big oil and gas companies are successful in using the present emergency to turn the economic crisis into a multi-billion dollar bonanza, natural gas well-head prices would go up by at least fourfold, and could go up by 8 times or more. Here are the cold, hard, harsh facts.

OIL AND GAS COMPANIES WANT FUEL EQUIVALENT PRICES

What the gas and oil companies want and deregulation would provide is a natural gas price based on the fuel equivalent value of oil. Natural gas prices now average about 25 cents per thousand cubic feet—mcf. The fuel equivalent price of old oil is approximately $1 per mcf and $2 per mcf for new oil. With natural gas production of about 22 billion thousand cubic feet—mcf—a year, this means that consumers would pay at least $22 billion a year for gas that costs only $5.5 billion—an immediate 1-year bonanza to the oil and gas companies of $16.5 billion. Think what this means. Oil prices are now artificially high because of the Middle East Embargo. Now the domestic oil companies with President Ford's help, want to raise gas prices to the outrageous level of oil prices.

That is just the begining. The oil and gas industry claims it has an 11-year supply of proven recoverable reserves on hand. Most experts believe the reserves are much bigger and that in fact there is a 15- to 17-year supply on hand. Because the Federal Power Commission is little more than the hand maiden of the gas producers, the FPC merely accepts gas and oil company estimates and has never independently determined the facts.

Using the conservative figure of an 11 year supply, and the conservation figure of $1 per thousand cubic feet, deregulation means an immediate windfall bonanza to the gas companies of $181.5 billion in the value of their existing reserves.

If the wellhead prices of natural gas under deregulation rises to $2 per mcf, the fuel value equivalent of new oil, gas company wellhead prices would jump from $5.5 billion to $44 billion a year and the value of existing reserves would go up by over $400 billion.

NATURAL GAS IS A NATURAL MONOPOLY

Once the consumer has installed a gas stove, furnace, water heater, or other appliance, he has had it. He has no choice. His house is connected to the local public utility which in turn gets its gas from the pipeline which comes from the natural gas fields and the wellheads. It is a natural monopoly and must be regulated as a natural monopoly. Deregulation is nothing more than a license to exploit the consumer.

WHY SHOULDN'T OIL PRICES DROP TO FUEL EQUIVALENT VALUE OF NATURAL GAS?

In fact, if the oil and gas industry were truly competitive, one would expect the price of oil to drop to the fuel equivalent value of natural gas, or to the lowest competitive price, rather than the other way around as the oil propaganda suggests.

In his speech to the Congress and the Nation last week, President Ford urged that every new piece of major legislation should include an inflation impact statement similar to the environmental impact statement now required of bills. I call on the President to provide us with a detailed inflation impact statement for his proposal to deregulate natural gas.

But if President Ford has his way and natural gas is deregulated, he will go down in history as the biggest inflationist of them all.

The following table gives the calculations of the proposed bonanza:

Basis of pricing	Price per thousand cubic feet	Production	Annual total/wellhead revenue	Value of reserves (based on 11 yr estimate)
1974 average well head price.	$0.25	22 b mcf.	$5.5 b.	$60.5 b.
Fuel equivalent value of old oil.	1.00	22 b mcf.	$22.0 b.	$242.0 b.
Fuel equivalent value of new oil.	2.00	22 b mcf.	$44.0 b.	$484.0 b.

WASHINGTON STAR-NEWS ENDORSES SENATE HEALTH MANPOWER BILL

Mr. BEALL. Mr. President, the Senate recently overwhelmingly approved the health manpower legislation which I authored and was cosponsored by Senators TAFT and DOMINICK.

The Washington Star-News on October 14, 1974, editorially supported the Senate-passed bill. As the author of the successful substitute I have a great deal of interest in this matter, and I want to thank the Star-News for their support of this proposal. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DISTRIBUTING DOCTORS

The Senate chose the right course just recently, in passing a bill to help relieve the doctor shortage in rural and inner-city areas. Rejecting a committee recommendation of what amounted to a draft of young physicians for that purpose, the senators approved a scholarship incentive program, which includes pressure on medical schools to channel more graduates into under-served localities.

This is far preferable to a measure offered by the Labor and Public Welfare Committee, and sponsored by Senator Edward M. Kennedy. Under that bill, every medical student would have had to agree to at least two years' practice in a doctor-short area after graduation, whether or not he received federal assistance for his education. This raised, to say the least, serious questions about the degree of compulsion that government can rightfully—and even constitutionally—exercise over individuals to achieve social goals.

The substitute finally approved by the Senate isn't nearly so drastic, but still employs a good deal of muscle. It authorizes generous scholarships for students who agree to practice family medicine in needful places, and a double-repayment penalty if they fail to abide by the promise. Proponents of the plan figure it will draw 3,750 volunteers a year, and that can do a lot to relieve the maldistribution of medical manpower. The compulsion in this scheme is upon the medical colleges—they must guarantee that 25 percent of their incoming students will participate in the program. Hence they must become recruiters for service in areas that now are without doctors, and succeed at it, or lose federal assistance.

The colleges, needless to say, are not very happy about the plan, but this seems to be a responsibility they can fulfill with the federal scholarships as a lure. The House, we think, would do well to go along with this concept. As the Senate debate emphasized, there is growing public impatience with a system that leaves hundreds of communities without physicians, while too many medical graduates go into over-crowded specialties and cluster in the affluent suburbs.

GREAT AMERICAN AWARD

Mr. TALMADGE. Mr. President, each year, Dixie Business magazine makes a Great American Award in recognition of public service and leadership.

This year's Great American Award went to Mr. Robert W. Woodruff, chairman of the Finance Committee of the Coca-Cola Co. I know of no more deserving person, and I congratulate Mr. Woodruff on this award.

Mr. Woodruff has rendered dedicated service and leadership to the city of Atlanta and the State of Georgia for many years, and he has advanced medicine, education, culture, and recreation through unselfish philanthropy.

Dixie Business magazine sent me articles announcing the Great American Award, and I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Dixie Business magazine]

A GREAT AMERICAN

(By Sara Ivey)

ATLANTA, GA.—Robert W. Woodruff, who made Coca Cola a household name over the world and whose anonymous gifts have made him a great public benefactor, has been named the 20th "A Great American" (1974) by the editors of Dixie Business.

Hubert F. Lee, editor of Dixie Business for 45 years, said that the name of Robert W. Woodruff would add to the "Flowers for the Livinal honor group named since 1955.

Mr. Woodruff on July 11, 1974 was presented the "Shining Light" Award by W. L. Lee, president of Atlanta Gas Light Co. and Elmo Ellis, WSB Radio General Manager. Dr. E. Garland Hendon, Jr. told him "Thank God you came this way. . . .

Past Great Americans include:

Dr. Charles F. Kettering	1955
Cecille B. DeMille	1956
Helen Keller	1957
Tom D. Spies, M.D	1958
Sen. Lister Hill	1959
Oveta Culp Hobby	1960
R. Manton Wilson, M.D	1961
John H. Glenn, Jr	1962
Bernard M. Baruch	1963
Rep. Carl Vinson	1964
American Fighting Men	1965
E. K. Gaylord	1966
Donald Douglas, Sr	1967
Eddie Rickenbacker	1968
J. C. Penney	1969
Walter R. McDonald	1970
W. O. DuVall	1971
DeWitt and Lila Acheson Wallace	1972
Sen. Herman and Betty Talmadge	1973

SHINING LIGHT

Robert W. Woodruff, who has been a Shining Light for half a century, was honored in Atlanta July 11, 1974 with the Shining Light Award.

Woodruff was the "anonymous donor" who provided $9 million to purchase a block of land at downtown Five Points to develop what is now Central City Park.

W. L. Lee, president of Atlanta Gas Light Company, and Elmo Ellis General Manager of WSB, presented the Shining Light Award,

Dr. E. Garland Hendon, Jr. director of the Woodruff Medical Center at Emory University was one of the Atlanta leaders who praised Woodruff. "Thank God Almighty you came this way . . . Hendon declares. He was established an uncanny ability to look across the mountains and see the valleys beyond.

Dr. Philip Weltner cited Woodruffs interest in stimulating the growth and quality of the downtown area by his gifts for parks, the Atlanta Memorial center, and other projects.

Dixie Business named Woodruff one of the "South's 50 Foremost Leaders" in 1949.

Past honorees includes: Arch Avary, Ralph McGill, Ivan Allen, Sr., Dr. Rufus L. Clement, Dr. J. Elliott Scarborough, Jr., Mary Givens Bryan; Margaret Mitchell, H. O. Smith, Dr. George M. Sparks and Dr. Philip Weltner.

REJECTING "LIFEBOAT ETHICS": WORLD FOOD AND POPULATION

Mr. HATFIELD. Mr. President, the September issue of Psychology Today included an article by the noted biologist and human ecologist Dr. Garrett Hardin, author of a classic on ecology, "The Tragedy of the Commons." Dr. Hardin argues in "Lifeboat Ethics: The Case Against Helping the Poor," that efforts by the rich nations of the world to feed the world's poor are self-defeating, compounding the problems of the Malthusian food/population equation by keeping the poor alive to spawn more people, who in turn make increasing demands on the world food supply. Rather than continually trying to save the world's poor from starvation, he argues, we should tend to matters in our own "lifeboat," and let famine, floods, and pestilence keep the world's poor population under control.

As a congressional delegate to the World Food Conference, I feel a particular responsibility to respond to Dr. Hardin's arguments, which I consider unreasonable, inhumane, and immoral. He refuses to consider certain facts, misrepresents others, and in general evidences a contemptuous arrogance that rivals that of Dives at his banquet while Lazarus starves at the gate. I would prescribe for Dr. Hardin the same sort of medicine Dr. Norman Borlaug has suggested for those now involved in developing world food policy. Dr. Borlaug recommends the policymakers—

> Quit eating for 14 days before they are going to make their decision on policies on pricing for food and priorities for investments in agriculture, and then also during the last three days to go without water. Maybe they would not only learn something to their distress about the value of food from a biologic standpoint, but also something to their distress about the behavior of human beings under shortage of food and famine.

I suppose Dr. Hardin might dismiss any appeal for world food aid from Dr. Borlaug on the grounds that as the "father of the green revolution" he has a vested interest and is seeking fame and fortune. But even should he impute such motives to Borlaug, Dr. Hardin would be well advised to heed the warning about the kinds of behavior a continually empty stomach can provoke. He may reject humanitarian and altruistic arguments for world food aid, but it is in his own self-interest to realize that we cannot forever defend a citadel of affluence against the world's starving millions. Dr. Hardin's proposals would surely drive us into the "lifeboat," and we would be overwhelmed.

I ask unanimous consent that Dr. Hardin's article from Psychology Today and my letter to the editor in response be printed at the conclusion of my remarks. I should note that two elaborations have been added in this copy of my letter which were not in the original, but they do not alter the substance of my argument.

There being no objection, the article and letter were ordered to be printed in the RECORD, as follows:

[From Psychology Today (magazine), September 1974]

LIFEBOAT ETHICS—THE CASE AGAINST HELPING THE POOR

(By Garrett Hardin)

Environmentalists use the metaphor of the earth as a "spaceship" in trying to persuade countries, industries and people to stop wasting and polluting our natural resources. Since we all share life on this planet, they argue, no single person or institution has the right to destroy, waste, or use more than a fair share of its resources.

But does everyone on earth have an equal right to an equal share of its resources? The spaceship metaphor can be dangerous when used by misguided idealists to justify policies for sharing our resources through uncontrolled immigration and foreign aid. In their enthusiastic but unrealistic generosity, they confuse the ethics of a spaceship with those of a lifeboat.

A true spaceship would have to be under the control of a captain, since no ship could possibly survive if its course were determined by committee. Spaceship Earth certainly has no captain; the United Nations is merely a toothless tiger, with little power to enforce any policy upon its bickering members.

If we divide the world crudely into rich nations, two thirds of them are desperately poor, and only one third comparatively rich, with the United States the wealthiest of all. Metaphorically each rich nation can be seen as a lifeboat full of comparatively rich people. In the ocean outside each lifeboat swim the poor of the world, who would like to get in, or at least share some of the wealth. What should the lifeboat passengers do?

First, we must recognize the limited capacity of any lifeboat. For example, a nation's land has a limited capacity to support a population and as the current energy crisis has shown us, in some ways we have already exceeded the carrying capacity of our land.

ADRIFT IN A MORAL SEA

So here we sit, say 50 people in our lifeboat. To be generous, let us assume it has room for 10 more, making a total capacity of 60. Suppose the 50 of us in the lifeboat see 100 others swimming in the water outside, begging for admission to our boat or for handouts. We have several options: we may be tempted to try to live by the Christian ideal of being "our brother's keeper," or by the Marxist ideal of "to teach according to his needs." Since the needs of all in the water are the same, and since they can all be seen as "our brothers," we could take them all into our boat, making a total of 150 in a boat designed for 60. The boat swamps, everyone drowns. Complete justice, complete catastrophe.

Since the boat has an unused excess capacity of 10 more passengers, we could admit just 10 more to it. But which 10 do we let in? How do we choose? Do we pick the best 10, the neediest 10 "first come, first served"? And what do we say to the 90 we exclude? If we do let an extra 10 into our lifeboat, we will have lost our "safety factor," an engineering principle of critical importance. For example, if we don't leave room for excess capacity as a safety factor in our country's agriculture, a new plant disease or a bad change in the weather could have disastrous consequences.

Suppose we decide to preserve our small safety factor and admit no more to the lifeboat. Our survival is then possible, although we shall have to be constantly on guard against boarding parties.

While this last solution clearly offers the only means of our survival, it is morally abhorrent to many people. Some say they feel guilty about their good luck. My reply is simple: "Get out and yield your place to others." This may solve the problem of the guilt-ridden person's conscience, but it does not change the ethics of the lifeboat. The needy person to whom the guilt-ridden person yields his place will not himself feel guilty about his good luck. If he did, he would not climb aboard. The net result of conscience-stricken people giving up their unjustly held seats is the elimination of that sort of conscience from the lifeboat.

This is the basic metaphor within which we must work out our solutions. Let us now enrich the image, step by step, with substantive additions from the real world, a world that must solve real and pressing problems of overpopulation and hunger.

The harsh ethics of the lifeboat become even harsher when we consider the reproductive differences between the rich nations and the poor nations. The people inside the lifeboats are doubling in numbers every 87 years; those swimming around outside are doubling, on the average, every 35 years, more than twice as fast as the rich. And since the world's resources are dwindling, the difference in prosperity between the rich and the poor can only increase.

As of 1973, the U.S. had a population of 210 million people, who were increasing by 0.8 percent per year. Outside our lifeboat, let us imagine another 210 million people, (say the combined populations of Colombia, Ecuador, Venezuela, Morocco, Pakistan, Thailand and the Philippines) who are increasing at a rate of 3.3 percent per year. Put differently, the doubling time for this aggregate population is 21 years, compared to 87 years for the U.S.

MULTIPLYING THE RICH AND THE POOR

Now suppose the U.S. agreed to pool its resources with those seven countries, with everyone receiving an equal share. Initially the ratio of Americans to non-Americans in this model would be one-to-one. But consider what the ratio would be after 87 years, by which time the Americans would have doubled to a population of 420 million. By then, doubling every 21 years, the other group would have swollen to 354 billion. Each American would have to share the available resources with more than eight people.

But, one could argue, this discussion assumes that current population trends will continue, and they may not. Quite so. Most likely the rate of population increase will decline much faster in the U.S. than it will in the other countries, and there does not seem to be much we can do about it. In sharing with "each according to his needs," we must recognize that needs are determined by population size, which is determined by the rate of reproduction, which at present is regarded as a sovereign right of every nation, poor or not. This being so, the philanthropic load created by the sharing ethic of the spaceship can only increase.

THE TRAGEDY OF THE COMMONS

The fundamental error of spaceship ethics, and the sharing it requires, is that it leads to what I call "the tragedy of the commons." Under a system of private property, the men who own property recognize their responsibility to care for it, for if they don't they will eventually suffer. A farmer, for instance, will allow no more cattle in a pasture than its carrying capacity justifies. If he overloads it, erosion sets in, weeds take over, and he loses the use of the pasture.

If a pasture becomes a commons open to all, the right of each to use it may not be matched by a corresponding responsibility to protect it. Asking everyone to use it with discretion will hardly do, for the considerate herdsman who refrains from overloading the commons suffers more than a selfish one who says his needs are greater. If everyone would restrain himself, all would be well; but it takes only one less than everyone to ruin a system of voluntary restraint. In a crowded world of less than perfect human beings, mutual ruin is inevitable if there are no controls. This is the tragedy of the commons.

One of the major tasks of education today should be the creation of such an acute awareness of the dangers of the commons that people will recognize its many varieties. For example, the air and water have become polluted because they are treated as commons. Further growth in the population of per-capita conversion of natural resources into pollutants will only make the problem worse. The same holds true for the fish of the oceans. Fishing fleets have nearly disappeared in many parts of the world, technological improvements in the art of fishing are hastening the day of complete ruin. Only the replacement of the system of the commons with a responsible system of control will save the land, air, water and oceanic fisheries.

THE WORLD FOOD BANK

In recent years there has been a push to create a new commons called a World Food Bank, an international depository of food reserves to which nations would contribute according to their abilities and from which they would draw according to their needs. This humanitarian proposal has received support from many liberal international groups, and from such prominent citizens as Margaret Mead, U.N. Secretary General Kurt Waldheim, and Senators Edward Kennedy and George McGovern.

A world food bank appeals powerfully to our humanitarian impulses. But before we rush ahead with such a plan, let us recognize where the greatest political push comes from, lest we be disillusioned later. Our experience with the "Food for Peace program," or Public Law 480, gives us the answer. This program moved billions of dollars worth of U.S. surplus grain to food-short, population-long countries during the past two decades. But when P.L. 480 first became law, a headline in the business magazine *Forbes* revealed the real power behind it: "Feeding the World's Hungry Millions: How It Will Mean Billions for U.S. Business."

And indeed it did. In the years 1960 to 1970, U.S. taxpayers spent a total of $7.9 billion on the Food for Peace program. Between 1948 and 1970, they also paid an additional $50 billion for other economic-aid programs, some of which went for food and food-producing machinery and technology. Though all U.S. taxpayers were forced to contribute to the cost of P.L. 480, certain special interest groups gained handsomely under the program. Farmers did not have to contribute the grain; the Government, or rather the taxpayers, bought it from them at full market prices. The increased demand raised prices of farm products generally. The manufacturers of farm machinery, fertilizers and pesticides benefited by the farmers' extra efforts to grow more food. Grain elevators profited from storing the surplus until it could be shipped. Railroads made money hauling it to ports, and shipping lines profited from carrying it overseas. The implementation of P.L. 480 required the creation of a vast Government bureaucracy, which then acquired its own vested interest in continuing the program regardless of its merits.

EXTRACTING DOLLARS

Those who proposed and defended the Food for Peace program in public rarely mentioned its importance to any of these special interests. The public emphasis was always on its humanitarian effects. The combination of silent selfish interests and highly vocal humanitarian apologists made a powerful and successful lobby for extracting money from taxpayers. We can expect the same lobby to push now for the creation of a World Food Bank.

However great the potential benefit to selfish interests, it should not be a decisive argument against a truly humanitarian program. We must ask if such a program would actually do more good than harm, not only momentarily but also in the long run. Those who propose the food bank usually refer to a current "emergency" or "crisis" in terms of world food supply. But what is an emergency? Although they may be infrequent and sudden, everyone knows that emergencies will occur from time to time. A well-run family, company, organization or country prepares for the likelihood of accidents and emergencies. It expects them, it budgets for them, it saves for them.

LEARNING THE HARD WAY

What happens if some organizations or countries budget for accidents and others do not? If each country is solely responsible for its own well-being, poorly managed ones will suffer. But they can learn from experience. They may mend their ways, and learn to budget for infrequent but certain emergencies. For example, the weather varies from year to year, and periodic crop failures are certain. A wise and competent government saves out of the production of the good years in anticipation of bad years to come. Joseph taught this policy to Pharaoh in Egypt more than 2,000 years ago. Yet the great majority of the governments in the world today do not follow such a policy. They lack either the wisdom or the competence, or both. Should those nations that do manage to put something aside be forced to come to the rescue each time an emergency occurs among the poor nations?

"But it isn't their fault!" Some kind-hearted liberals argue. "How can we blame the poor people who are caught in an emergency? Why must they suffer for the sins of their governments?" The concept of blame is simply not relevant here. The real question is, what are the operational consequences of establishing a world food bank? If it is open to every country every time a need develops, slovely rulers will not be motivated to take Joseph's advice. Someone will always come to their aid. Some countries will deposit food in the world food bank, and others will withdraw it. There will be almost no overlap. As a result of such solutions to food shortage emergencies, the poor countries will not learn to mend their ways, and will suffer progressively greater emergencies as their populations grow.

POPULATION CONTROL THE CRUDE WAY

On the average, poor countries undergo a 2.5 percent increase in population each year; rich countries, about 0.8 percent. Only rich countries have anything in the way of food reserves set aside, and even they do not have as much as they should. Poor countries have none. If poor countries received no food from the outside, the rate of their population growth would be periodically checked by crop failures and famines. But if they can always draw on a world food bank in time of need, their population can continue to grow unchecked, and so will their "need" for aid. In the short run, a world food bank may diminish that need, but in the long run it actually increases the need without limit.

Without some system of worldwide food sharing, the proportion of people in the rich and poor nations might eventually stabilize. The overpopulated poor countries would decrease in numbers, while the rich countries that had room for more people would increase. But with a well-meaning system of sharing, such as a world food bank, the growth differential between the rich and the poor countries will not only persist, it will increase. Because of the higher rate of population growth in the poor countries of the world, 88 percent of today's children are born poor, and only 12 percent rich. Year by year the ratio becomes worse, as the fast-reproducing poor outnumber the slow-reproducing rich.

A world food bank is thus a commons in disguise. People will have more motivation to draw from it than to add to any common store. The less provident and less able will multiply at the expense of the abler and more provident, bringing eventual ruin upon all who share in the commons. Besides, any system of "sharing" that amounts to foreign aid from the rich nations to the poor nations will carry the taint of charity, which will contribute little to the world peace so devoutly desired by those who support the idea of a world food bank.

As past U.S. foreign-aid programs have amply and depressingly demonstrated, international charity frequently inspires mistrust and antagonism rather than gratitude on the part of the recipient nation [see "What Other Nations Hear When the Eagle Screams," by Kenneth J. and Mary M. Gergen, PT, June]

CHINESE FISH AND MIRACLE RICE

The modern approach to foreign aid stresses the export of technology and advice, rather than money and food. As an ancient Chinese proverb goes: "Give a man a fish and he will eat for a day; teach him how to fish and he will eat for the rest of his days." Acting on this advice, the Rockefeller and Ford Foundations have financed a number of programs for improving agriculture in the hungry nations. Known as the "Green Revolution," these programs have led to the development of "miracle rice" and "miracle wheat," new strains that offer bigger harvests and greater resistance to crop damage. Norman Borlaug, the Nobel Prize winning agronomist who, supported by the Rockefeller Foundation, developed "miracle wheat," is one of the most prominent advocates of a world food bank.

Whether or not the Green Revolution can increase food production as much as its champions claim is a debatable but possibly irrelevant point. Those who support this well-intended humanitarian effort should first consider some of the fundamentals of human ecology. Ironically, one man who did was the late Alan Gregg, a vice president of the Rockefeller Foundation. Two decades ago he expressed strong doubts about the wisdom of such attempts to increase food production. He likened the growth and spread of humanity over the surface of the earth to the spread of cancer in the human body, remarking that "cancerous growths demand food; but, as far as I know, they have never been cured by getting it."

OVERLOADING THE ENVIRONMENT

Every human born constitutes a draft on all aspects of the environment: food, air, water, forests, beaches, wildlife, scenery and solitude. Food can, perhaps, be significantly increased to meet a growing demand. But what about clean beaches, unspoiled forests, and solitude? If we satisfy a growing population's need for food, we necessarily decrease its per capita supply of the other resources needed by men.

India, for example, now has a population of 600 million, which increases by 15 million each year. This population already puts a huge load on a relatively impoverished environment. The country's forests are now only a small fraction of what they were three centuries ago, and floods and erosion continually destroy the insufficient farmland that remains. Every one of the 15 million new lives added to India's population puts an additional burden on the environment, and increases the economic and social costs of crowding. However humanitarian our intent, every Indian life saved through medical or nutritional assistance from abroad diminishes the quality of life for those who remain, and for subsequent generations. If rich countries make it possible, through foreign aid, for 600 million Indians to swell to 1.2 billion in a mere 28 years, as their current growth rate threatens, will future generations of Indians thank us for hastening the destruction of their environment? Will our good intentions be sufficient excuse for the consequences of our actions?

My final example of a commons in action is one for which the public has the least desire for rational discussion—immigration. Anyone who publicly questions the wisdom of current U.S. immigration policy is promptly charged with bigotry, prejudice, ethnocentrism, chauvinism, isolationism or selfishness. Rather than encounter such accusations, one would rather talk about other matters, leaving immigration policy to wallow in the crosscurrents of special interests that take no account of the good of the whole, or the interests of posterity.

Perhaps we still feel guilty about things we said in the past. Two generations ago the popular press frequently referred to Dagos, Wops, Polacks, Chinks and Krauts, in articles about how America was being "overrun" by foreigners of supposedly inferior stock [see "The Politics of Genetic Engineering: Who Decides Who's Defective?". PT, June]. But because the implied inferiority of foreigners was used then as justification for keeping them out, people now assume that restrictive policies could only be based on such misguided notions. There are other grounds.

A NATION OF IMMIGRANTS

Just consider the numbers involved. Our Government acknowledges a net inflow of 400,000 immigrants a year. While we have no hard data on the extent of illegal entries, educated guesses put the figure at about 600,000 a year. Since the natural increase (excess of births over deaths) of the resident population now runs about 1.7 million per year, the yearly gain from immigration amounts to at least 19 percent of the total annual increase, and may be as much as 37 percent if we include the estimate for illegal imigrants. Considering the growing use of birth control devices, the potential effect of educational campaigns by such organizations as Planned Parenthood Federation of America and Zero Population Growth, and the influence of inflation and the housing shortage, the fertility rate of American women may decline so much that immigration could account for all the yearly increase in population. Should we not at least ask if that is what we want?

For the sake of those who worry about whether the "quality" of the average immigrant compares favorably with the quality of the average resident, let us assume that immigrants and nativeborn citizens are of exactly equal quality, however one defines that term. We will focus here only on quantity; and since our conclusions will depend on nothing else, all charges of bigotry and chauvinism become irrelevant.

IMMIGRATION VS. FOOD SUPPLY

World food banks *move food to the people,* hastening the exhaustion of the environment of the poor countries. Unrestricted immigration, on the other hand, *moves people to the food,* thus speeding up the destruction of the environment of the rich countries. We can easily understand why poor people should want to make this latter transfer, but why should rich hosts encourage it?

As in the case of foreign-aid programs, immigration receives support from selfish interests and humanitarian impulses. The primary selfish interest in unimpeded immigration is the desire of employers for cheap labor, particularly in industries and trades that offer degrading work. In the past, one wave of foreigners after another was brought into the U.S. to work at wretched jobs for wretched wages. In recent years the Cubans, Puerto Ricans and Mexicans have had this dubious honor. The interests of the employers of cheap labor mesh well with the guilty silence of the country's liberal intelligentsia. White Anglo-Saxon Protestants are particularly reluctant to call for a closing of the doors to immigration for fear of being called bigots.

But not all countries have such reluctant leadership. Most educated Hawaiians, for example, are keenly aware of the limits of their environment, particularly in terms of population growth. There is only so much room on the islands, and the islanders know it. To Hawaiians, immigrants from the other 49 states present as great a threat as those from other nations. At a recent meeting of Hawaiian government officials in Honolulu, I had the ironic delight of hearing a speaker, who like most of his audience was of Japanese ancestry, ask how the country might practically and constitutionally close its doors to further immigration. One member of the audience countered: "How can we shut the doors now? We have many friends and relatives in Japan that we'd like to bring here some day so that they can enjoy Hawaii too." The Japanese-American speaker smiled sympathetically and answered: "Yes, but we have children now, and someday we'll have grandchildren too. We can bring more people here from Japan only by giving away some of the land that we hope to pass on to our grandchildren some day. What right do we have to do that?"

At this point, I can hear U.S. liberals asking: "How can you justify slamming the door once you're inside? You say that immigrants should be kept out. But aren't we all immigrants, or the descendants of immigrants? If we insist on staying, must we not admit all others?" Our craving for intellectual order leads us to seek and prefer symmetrical rules and morals: a single rule for me and everybody else; the same rule yesterday, today and tomorrow. Justice, we feel, should not change with time and place.

We Americans of non-Indian ancestry can look upon ourselves as the descendants of thieves who are guilty morally, if not legally, of stealing this land from its Indian owners. Should we then give back the land to the now living American descendants of those Indians? However morally or logically sound this proposal may be, I, for one, am unwilling to live by it and I know no one else who is. Besides, the logical consequence would be absurd. Suppose that, intoxicated with a sense of pure justice, we should decide to turn our land over to the Indians. Since all our other wealth has also been derived from the land, wouldn't we be morally obliged to give that back to the Indians too?

PURE JUSTICE VS. REALITY

Clearly, the concept of pure justice produces an infinite regression to absurdity. Centuries ago, wise men invented statutes of limitations to justify the rejection of such pure justice, in the interest of preventing continual disorder. The law zealously defends property rights, but only relatively recent property rights. Drawing a line after an arbitrary time has elapsed may be unjust, but the alternatives are worse.

We are all the descendants of thieves, and the world's resources are inequitably distributed. But we must begin the journey to tomorrow from the point where we are today. We cannot remake the past. We cannot safely divide the wealth equitably among all peoples so long as people reproduce at different rates. To do so would guarantee that our grandchildren, and everyone else's grandchildren, would have only a ruined world to inhabit.

To be generous with one's own possessions is quite different from being generous with those of posterity. We should call this point to the attention of those who, from a commendable love of justice and equality, would institute a system of the commons, either in the form of a world food bank, or of unrestricted immigration. We must convince them if we wish to save at least some parts of the world from environmental ruin.

Without a true world government to control reproduction and the use of available resources, the sharing ethic of the spaceship is impossible. For the foreseeable future, our survival demands that we govern our actions by the ethics of a lifeboat, harsh though they may be. Posterity will be satisfied with nothing less.

OCTOBER 15, 1974.

The EDITOR,
Psychology Today.
To the Editor:

An article by Dr. Garrett Hardin entitled "The Case Against Helping the Poor" appeared in the Stimulus/Response section of your September issue. As one who feels that the rich of the world must give aid to the hungry poor, not only to save them from starvation but ourselves from the consequences of ever-burgeoning population, I believe his arguments must be rebutted, as I have attempted to do in the following.

The concept of "lifeboat ethics" is simply not applicable to the world food situation. It is not a matter of all or nothing, nor do those who urge world food assistance demand an "equal share for all." If the rich of the world are living in a lifeboat, it is in fine style. In America, for example, we eat 117 pounds of meat per capita per year, a total of 12 million *tons*. We consume about a ton of grain per capita per year, eating 150 pounds of it directly in bread, cereal, and cakes, while the bulk of the remainder goes to feed animals to put meat on our tables. On the other hand, the poor of the world have about 400 pounds of grain per capita to eat each year, or about a pound a day. The rich, then, at least the American rich, can hardly assert that they are making a last-ditch stand in a lifeboat with barely enough C-rations to go around.

The lifeboat image also suggests that our capacity has already been reached, that there is no way of expanding it or altering survival styles to better utilize what is available, and so any population growth beyond present levels means inevitable starvation for the new additions. But there are many ways of changing consumption patterns to better utilize available resources and reduce wasteful consumption as well. Each of us eating the equivalent of one less quarter-pound hamburger a week could release 11 million tons of cereal grain for human consumption rather than for animal feed. That alone would be sufficient to feed 55 million poor people on their regular diet. Or, if we started cattle on grass and only used cereal grains to "finish" them, the conversion ration of feed to live weight would drop from 9:1 to 2:1 and free cereal grains for the world's poor.

Or we might stop wasting energy that could be used to make fertilizer, and put the fertilizer we have to better use. One billion people, it is estimated, are fed by the extra crop yields that fertilizers produce. The most important fertilizer is nitrogen, which is made primarily from natural gas and petroleum. The fertilizer shortage caused by the quadrupling of petroleum prices cost India, for example, as much as 10 million tons of grain this year. Meanwhile, various oil-producing nations are flaring 4.5 trillion cubic feet of natural gas each year, ten times more than the U.S. uses annually for fertilizer production, and enough to double current world fertilizer production. In addition, the U.S. uses three million tons of fertilizer for ornamental purposes. In a time of acute shortage, these non-essential uses of fertilizer have a direct impact upon the continued existence of the world's poor. A recent *New York Times* article observed that "India, for lack of a pound of fertilizer costing 15 cents, fails to grow 10 pounds of wheat that she must try to buy on the world market for at least $1."

This is not to say that these adaptations can go on forever—Dr. Hardin is certainly right in saying that we will eventually reach our "carrying capacity" in some areas, if we have not already. But these are adaptations we can make now, without new technologies which might provide even more efficient use of available food supplies, and with less environmental damage in the production process than presently. These adaptations can help us stabilize the world's population through somewhat more humane means than the crude methods of famine, pestilence, and natural disaster that Dr. Hardin lauds as our only hope.

He and I have no quarrel about the urgent need for a global effort to stabilize population. The impact of not quite 4 billion people upon our planet should be sufficient to persuade us—the spectre of 10 billion people by the end of the 21st century should only emphasize the peril of inaction. But as for the means to that end, Dr. Hardin and I emphatically disagree. He points out that the population of the United States, like that of other developed nations, has nearly stabilized at zero population growth. This has been accomplished without the aid of famine, or epidemics, or wholesale natural disaster. The developed world has been moving steadily toward a stabilized population with all the advantages of adequate food, disease control, remarkable good fortune with nature, and education. Apparently, then, these are no barriers to the control of population. Meanwhile, the poor of the world have suffered all these calamities, yet their population continues to grow.

In *The Lessons of History*, the companion volume to *The Story of Civilization*, Will and Ariel Durant join other scholars in observing that "a high birth rate has usually accompanied a culturally low civilization, and a low birth rate a civilization culturally high." It has long been known that with sufficient economic growth high birth rates fall sharply. Conversely, widespread poverty tends to sustain high birth rates. Lester Brown, a recognized expert on world food and population whose credentials in this area certainly match Dr. Hardin's, argues that these suicidally high birth rates continue "for the obvious reason that families living without adequate employment, education, or health care have little security for the future except for reliance on their children." Obviously, a starving population too weak to work, or suffering irreparable brain damage because of malnutrition, cannot hope to achieve even the basic elements of prosperity.

The "benign neglect" Dr. Hardin suggests will result in precisely what he wants to avoid. Refusal to feed the poor of the world will not stop their population growth—we have been refusing to do so for years and it has not done so—it will only put us in that "lifeboat," and I doubt that we could, even if we wanted to, defend our island of affluence in a hungry, improverished world.

Dr. Hardin's charges against current food aid programs also need to be refuted. If all those involved in the production, processing, and transportation of agricultural products can be called "special interests," then it is true that "special interests" have benefitted from purchases of American agricultural products for the P.L. 480 "Food for Peace" program. But Dr. Hardin misrepresents the case somewhat.

According to the Department of Agriculture, all the programs of P.L. 480, have cost $25 billion since the law's passage in 1954, about $1.25 billion a year, and not all of that amount has been spent on food. For example, in 1973 we sent about $25 million worth of tobacco to poor countries under the "Food for Peace" program. Even if all the average of $1.25 billion a year were spent exclusively on food aid, it would be a relatively insignificant amount. New York City alone spends in excess of $2.2 billion just on its annual welfare budget.

If Dr. Hardin wishes to deplore expenditures benefiting special interests at the expense of the taxpayer, he might turn his attention to U.S. military spending. Since the end of World War II, the U.S. alone has spent nearly a trillion dollars on "defense." A substantial portion of that sum has gone for weapons, the production of which puts a tremendous strain on our natural resources and pollutes our environment to a degree far exceeding that of agricultural production, while the economic benefits are enjoyed by relatively few. There might also be some question about Americans, 6% of the world's population, consuming 40% of the world's resources, a growing proportion of which have to be taken from foreign countries, and how that rate of consumption threatens our "clean beaches, unspoiled forests, and solitude."

Finally, Dr. Hardin asserts that if a world food reserve were created, the "slovenly rulers" who "lack either the wisdom or the competence, or both" to develop their nations' food supplies, will simply await the generosity of others to alleviate the suffering of their people. Given the historical reluctance of the rich to share their wealth, a reluctance Dr. Hardin amply exhibits, it would be a foolish leader indeed who based his rule and the prosperity of his people on the altruistic largesse of others. Any leader who attempted to do so would soon be deposed.

It is this sort of arrogant contempt, and not the poor's distaste for "charity," that creates antagonism towards the rich among the poor of the world. Comfortably ensconced by the accident of birth in an affluent, well-fed, highly-educated society whose fruits he has fully enjoyed (granted, not without effort on his part), Dr. Hardin shows little hestitation in condemning those not born into his "lifeboat" to a fate he has helped create for them with his overconsumption and refusal of aid, while he airily dismisses their suffering with earnest semons on how it is really for their own good.

Hardin's Law asserts that "you can never do merely one thing." The thing Dr. Hardin would do is keep us, the rich, from feeding the poor. In doing that one thing, what else would he do?

Sincerely,

Mark O. Hatfield,
United States Senator.

ALBERT SHANKER DISCUSSES EDUCATIONAL NEEDS

Mr. MONDALE. Mr. President, recently, Albert Shanker, president of the American Federation of Teachers, delivered a creative and thoughtful speech at the National Press Club covering the needs of education.

In it, Mr. Shanker recommended a three part program to improve educational opportunities for Americans of all ages by taking advantage of the increasing supply of qualified educators now available. He proposed an internship program for the training of teachers designed to assure that teachers, like doctors, have extensive on-the-job training and experience rather than stepping directly from college into a job.

He suggested encouraging lifelong educational opportunities, through the establishment of educational sabbaticals, perhaps every 7 years, to permit adults to continue or expand their educational experiences.

And he recommended a national program of early childhood education to help provide children with educational opportunities during the critical early years of life that can make the difference between success and failure in school.

Mr. President, as one who is vitally interested in expanding and improving educational opportunities for all Americans, and interested in preschool education and quality day care opportunities especially, I found Mr. Shanker's comments to be very interesting. I ask unanimous consent that a copy of his speech, and of a New York Times article describing his speech be printed in the Record.

There being no objection, the speech and article were ordered to be printed in the Record, as follows:

Speech by Albert Shanker

Mr. Chairman, ladies and gentlemen, I guess I should ask for an invitation back here, because I'm going to go ahead with my remarks, then I'd like to come back to respond to the introduction.

The last few weeks here in Washington the concentration has been on conferences and summits and mini-summits on questions of inflation and questions of unemployment. These are being explored by economists, labor leaders, experts in fields of health and education and welfare and I would like to spend the time that I have discussing some of the impact of the current problems with inflation and unemployment on the schools of our country, some of the . . . and then go to some of the proposals which the American Federation of Teachers and I are advancing as solutions to these problems and then to indicate what some of the implications are in terms of what is about to happen with teachers and their organizations and their activities as a result of these problems which they see and as a result of the programs which they are offering as solutions.

Now, I'd like to just pinpoint several of these problems of inflation and unemployment as they hit the world of education in particular. First, I'd like to point out that for the first time since the depression of the 1930s, we have what is a so-called "surplus" of teachers. Of course, during the '30s it was not unusual that many people, not being able to get jobs, spent a long time in college and then, we still have teachers in New York City who remember, for instance, that they waited 8 years before there was an opening in the school system and they waited during that period of time. As a matter of fact, there was a group in the 1930s called The Unemployed Teachers Association. It was one of the largest organized groups in the city. Well, we now have across the country over 250,000 people who have been educated and have been prepared to go into teaching careers and who now find they're unable to get into the profession for which they prepared.

Furthermore, Mr. Gallup took a poll recently and he found that at the present time, there are one and one-half million students enrolled in colleges who state that it is their intention to become teachers and that they are preparing for teaching as an occupation. I'm not talking about elementary and secondary teaching where there are now approximately two million teachers employed.

Now, the problem is complicated by a number of other factors. We have the usual turnover of teachers which has existed for many years with people coming into teaching and then finding that they would leave after 2 or 3 years. And the reason for that was that, first of all, there were other jobs to go to, and that's not true during this period of recession and depression. There's no other place for them to go so they're staying.

Then there is the impact of unionization on teachers. There is no longer the greater attractiveness of other jobs now that unions have improved salaries and working conditions within the school system. And we also have within the school system the fact that there is a declining birth rate and that in each year of the next 10 years we already know that there will be fewer and fewer students in school.

So that we have colleges producing a large number of teachers. We no longer have an exodus of teachers to other jobs. We have a declining number of students within a school, and to add to all these problems with the general recession outside and with also, as a result of relaxed international relations, at least as the government sees it, a shutdown of a large number of war industries; we have a large number of scientists, engineers, mathematicians, technicians who were previous in other industries who are now trying to come into the field of teaching. So that we have an employment problem—or an unemployment problem—for the first time. This is not the kind of problem which exists in other fields. When teachers are unemployed, they generally do not just stay home.

They don't collect unemployment insurance because for the most part they're not covered by it; but essentially what is happening is the teachers are accepting other jobs at lower level qualifications—middle management and other jobs in industry—and then the middle management people are accepting still other jobs, and the general result, of course, is the 5.4 . . . 5 to 6 percent unemployment. What happens is that each educated—more educated—group takes a position at a lower level resulting in a massive push-out of the people of lower skills at the bottom, and then you get your massive unemployment rates in some areas and in some age groups and in some ethnic groups of as high as 50 percent.

Now, the second point that I'd like to mention in terms of impact of the inflation and unemployment on the education role at the present time has to do with the money problem. The government's policy in terms of tight money and high interest rates. That is, of course, felt in the private sector and construction is practically stopped. It's almost impossible for any middle-income person to purchase a home these days, but the effect on city and state governments and the effect on school systems has been devastating.

You know that most school systems in this country do not receive state aid from the state authorities or federal aid from the United States government at exactly the time they need it. They don't start getting their money on Labor Day when school opens and they don't get it in convenient weekly or monthly installments. And if they are to utilize this money, and they're to have programs that last through an entire school year, they have to borrow the money at the beginning of the year and then pay back when the federal and state governments pay that money to the school districts.

Now, once upon a time—a year or two or three years ago—it used to be possible for school districts and for cities and for state governments to issue short-term notes at rates like 4 percent and 4½ percent and in the course of one single year as a result of the interest policies of our government that short-term money has gone from 4 to 8 percent. Now, I do not have a national figure on what that is costing school systems around the country, but I can tell you that one city in the United States—the city of New York—is spending this year alone, $170 million in interest on short-term money as a result of this increase in rates.

And, if you then move across the country, ask how much is in Philadelphia and in Chicago and in Los Angeles and in San Francisco and in St. Louis, in Milwaukee, the amount of money that could ordinarily be allocated for smaller class size, for early childhood education, for other programs within the schools, that is now being eaten up by interest, is staggering to the imagination.

Now, the third point that I'd like to make here is that the effect of this combination of inflation and unemployment is having, within the schools . . . one of the effects it is having is that is wiping out the effects of a large number of very good, valuable, affirmative-action programs which were started some years ago. And, again, I will cite just one of these. In 1966 and 1967, thousands of school para-professional teacher-helpers were employed in school districts throughout the country to work within classrooms to help to mark papers and to help hang coats up and to help children with reading problems in small groups. Almost all of these para-professionals were welfare mothers—unemployed, high school dropouts.

As a result of these programs, thousands—hundreds of thousands—across the country went back to school, received high school diplomas—in New York City, it's ten thousand—not only received high school diplomas but then, as a result of union negotiated contracts, were admitted into college and, at the present time, we have six thousand in the city of New York (para-professionals) enrolled in college programs and two thousand of them will be graduated from college this following year—ready to become teachers. Now, here's an outstanding program, mainly black and Puerto Rican, welfare mothers in 1966 and 1967 who have gone to college, who are about to graduate. There will be no teaching jobs for them and as a result of the fact that federal aid to education programs have not kept pace with inflation, thousands who are enrolled and who are on the way to becoming teachers in future years, are now threatened with unemployment and are threatened with layoffs.

Now, I could go on with a long list of how . . . of the kind of effect this has had. Now, this is a period in which this problem of so-called "unemployment" and surplus of personnel within the educational world tangles in two different directions. We can face, within our sector, this great unemployment and stagnation, or we can use this opportunity of the personnel available to change direction within our school system and to provide services which have always been needed but which we were never able to provide; and we were not able to provide them because from World War II until the present time, the problem that the public schools of America face—the fact that more and more students were entering school each year—we have to be concerned with raising money to build buildings and we had to literally snatch teachers from the college classrooms and bring them in before the children, to start teaching immediately because we needed enough bodies to stand in front of those classrooms because of the vast teacher shortage. Every one of our cities in the late 1940s and the 1950s and throughout the 1960s on the opening day of school, the headlines in each city were—300, 500, 800, 1,000, 2,000 More Teachers Needed—Failed to Show Up.

Now, the result of that shortage of teachers was very grave. It meant we were compelled to lower standards. It mean that we were compelled to employ people who had not been properly trained and educated. It meant that we were not able to reduce class size. It meant that we were not able to do many things and I now want to point to three top priority program items—things that we should have been doing a long time ago, which we will now be able to do because of the availability of both space and personnel.

First, is the development of a national program of early childhood education. We have within our country so many who are on welfare, so many who are unemployed, so many who are not skilled, so many who are illiterate. Why? Well, the answer to that is not a simple one. It is . . . These are problems faced by every nation on the face of the earth. The one thing that we generally do know is that the longer you wait and the older a person becomes the more difficult it is to intervene, the more difficult it is to bring about success and we know through the writings and research of Benjamin Bloom at the University of Chicago and others, that more than half of the intellectual development of children takes place between the ages of 2½ and 5, before children enter school, and if they have a rich, relatively rich, intellectual environment at home and in the community, those children make it and if they do not have such an intellectually and culturally and socially rich environment in the community and at home, they don't make it.

And so, we have an opportunity here to intervene, to enter the lives of children when they're learning words, at a time when they're learning numbers, at a time when concepts are developing. We have a time to intervene before it's too late. Now, this is a program which we have been pressing for for a long period of time, but until this moment it was not a realistic one because people would say, "How can you demand that we start educating 17 million youngsters who are under 5 years of age within this country when you can't even find enough teachers for the regular elementary, junior and senior high school programs that are in effect right now?"

Let me go on to a second point. A second characteristic of our school systems is that teachers, among all the professionals within our society, are probably unique in the one respect that they go immediately from a purely theoretical academic background within the college or university and are put right into the job without any real intensive on-the-job training and without what is the equivalent for doctors, let's say, of an internship program, where after receiving the theoretical knowledge in college, the person then spends one or two or three years working with experienced practitioners in the field in order to get the practical know-how within the classroom and within the school. Now, there is no question that everyone of us who has been a student in school, knows that there are teachers who have techniques and who have methods and who have ways; and that these ways can be learned, and can be picked up by other teachers provided that they have the time to share with those who are more experienced and so the second program that we are advocating is that in the future, no person becomes certified as a teacher or be given full charge of the classroom until they have gone through a program similar to what a medical student goes through at the end of medical school in terms of internship.

Now, a third program that I'd like to suggest here. Now that we have all these college-graduated, educated people waiting around, looking for positions in teaching and we also have within our society, thousands upon thousands of people who perhaps when they were in high school made a foolish mistake; they got in with a group of friends; they decided to drop out at a particular period of time and now they're not earning much money; they're unhappy with their jobs and they're saying to themselves, "if only I had an opportunity to go back and complete my high school and to do something in college or to get these particular technical skills which I could have gotten." If only I could do that I would be glad to do it. Why should we say that each individual within our society has only one chance in life to succeed and that if he makes a single mistake in high school or if he drops out early in college, that's the end and he can never go anywhere else?

And so, what I am suggesting is a program of lifelong education—the right of every worker within our society—maybe at the end of every 7 years—to enjoy a sabbatical. Yes. Sabbaticals that now are enjoyed by teachers and by college professors, that every worker who would want to leave the workplace and go back and improve his skills in education should, every 7 years, be able to go to some institution and should be subsidized for that and the education should be subsidized as well.

A silly idea? Well, we tried it once. It was called the G.I. Bill of Rights. Yes, maybe we did it for a wrong reason. We were afraid that bringing all these G.I.s back after World War II would result in a massive recession and unemployment. But the validity of the program stands on its own. Here were millions of men who had dropped out at some point in their educational careers, who had gone out into the world, who learned how difficult it was and then came back and they were the most mature generation of college students that this country has ever known. And not only were their individual lives enhanced as a result of the educations that they received, but think of where the country would be today. Think of where we would have gotten our doctors and our computer specialists and our engineers and our businesses in the 1940s and 1950s and 1960s, if the nation had not been wise enough to make that investment in the G.I. Bill of Rights at the end of World War II; and why should we not similarly allow others who later on have decided that they ought to go back.

Now, this is a program which is similar to Medicare in a sense. If we can have Medicare for the body, there is no reason why we should not have a program of Educare for the mind. A program which throughout a person's life says, "You have a right, at the time when you feel that you want to improve yourself, to return to improve your mind as you improve your health when you go to medical institutions."

Now, there is no reason why this should be limited to a worker on sabbatical. Is there any reason why we should not provide for every single person in an institution, whether it be a hospital, or whether it be senior citizens in homes, or whether it be prisons, any institution where a group of people are intrested in improving their skills and learning? Now these are programs which we believe we are now capable of because there is the space and there is the personnel.

Now what about budget? What about finance? Isn't this going to mean more spending? Isn't this going to mean greater inflation because we're spending money for these things instead of tightening our belts, instead of cutting back? How does this relate to the proposed cuts in budget and the $5 billion gap in the federal budget?

Well, as we sat there in the mini-summits, the thing that was very interesting about why we had to cut the federal budget back by $5 billion, is that almost an entire page that was given to us by the President's economic advisors was made up of budget items which are the result of our failure as a society to reach millions of people in time to give them the necessary skills to be able to work and to be productive. Billions of dollars, unemployment insurance, Medicaid, food stamps, welfare costs—over $25 billion in the federal budget—which represents money the taxpayers are paying and which also means that out there is a large and growing number of people, who, in terms of work and productivity, do not contribute—not because they don't want to contribute, but because they were not reached in time to be helped.

And so, the particular program that I am talking about must be viewed, yes, as an expenditure in the short run. But in the long run the way to reduce the federal budget is to start cutting down on the billions of dollars and the $25 billion that I've talked about, that goes to helping people who can't work. That $25 billion represents a small fraction of what is really spent because you've got to add to that the amount spent in state and local budgets which is in addition to the amount in the federal budget and so we suggest that the monies for the programs that we are talking about is essentially an investment which, in the future will enable us to balance the budget. It is both economical in the long run and certainly, from a point of view of being humane, and considering what happens to human beings in the future it is the only way to go.

Well, the question is, "Where is the money going to come from?" Now, the administration, the President, really has two choices. One of those is the choice that Nixon took, and that is maintain high interest rates and veto all the social legislation and impound funds and cut back on social programs. If President Ford follows in the footsteps of President Nixon with respect to those two programs, then we will continue to have the economic disaster that we have today and we will continue to have inflation and stagnation and unemployment and we will be heading for the greatest depression—largest depression—most devastating—that this nation has ever seen.

But that is not the only direction in which we can go. There is another direction. And that is that we can choose to raise the money through taxation for the social programs that are necessary. We can choose, through taxation, to subsidize interest rates so that we can begin home-building again and so that the cities of our country do not have to spend $170 million multiplied by other cities in order to borrow short-term funds. And we can at this moment in history, make use of the economic crisis before this country to enact many of the tax reforms that should have been enacted a long time ago. But maybe the arguments that were used by the labor movements and others weren't deemed to be important enough in the past.

Today, in order to finance programs like this, and if I were a speaker from another sector, I could give a speech on the need for national comprehensive health care along the same line in a number of other fields, the monies are there. And basically, what we need is a closing of loopholes with respect to the favored treatments of capital gains as against wage income, excess profits tax, the end of the oil depletion allowance, the end of investment credit taxation. The list is not a new one. It's there. The social needs are obvious. The choice is very clear. In the one case we can have an economic upswing and provide for human needs and in the other case, neglect human needs, increase human tragedy by increased unemployment and poverty.

Now what does all this mean for teachers? These problems are problems that teachers are confronting for the first time within many generations. Teachers have not seen unemployment since the depression. Teachers have also not seen the relationship between their own jobs and their own professions and politics as clearly as they do today. Every one of the things that I have talked about has a direct political connection. Now up until 2 or 3 years ago teachers were basically divorced from politics. When I used to come to teacher meetings and talk about making political contributions to support candidates, their answer was, "Keep education out of politics." Well, what we have now is the fact that teachers can see that universal early childhood education, federal funding for teacher training, Educare, lifelong education, a tax program which is equitable, the prevention of the reimposition of the unfair wage controls without price controls . . . all these are political actions and the result is that teachers across the country are amassing funds of millions of dollars and are involving themselves in politics as they never have before. That is one outcome of our current situation.

And the second outcome is that the teachers are, for the first time, seeing that the problem goes beyond what they can handle with their own school board or with their own superintendent or with their own community, that the answer to problems that teachers face at the local level is with the President of the United States, with the Congress and with the national administration. And teachers here see that even if they were all organized in a single organization, that they would not be strong enough to bring about the necessary reforms and so, as a result of these economic problems, and as a result of these proposals, we find that throughout the country teachers are moving toward affiliation with the AFL–CIO and there is progress at the present time, massive—organized drives because teachers have never been, never felt their vulnerability as they do now. Never have they seen the opportunities to present themselves to create so much good on the one hand and never have they so feared public education. So this is a turning point—a turning point which I believe will bring about massive teacher political involvement both with manpower and money and also a very rapid affiliation of teachers with the AFL–CIO.

Shanker Urges Wider Education

(By Damon Stetson)

Washington, Sept. 24.—Albert Shanker, the newly elected president of the American Federation of Teachers, proposed today a three-pronged program to improve educational services for young and old while helping to solve the problem of increasing unemployment among teachers.

Mr. Shanker suggested a national program for early childhood education, an internship program for the training of teachers and lifelong educational opportunities for older persons through educational sabbaticals, perhaps every seven years.

In emphasizing the importance of early childhood education, Mr. Shanker told the National Press Club that studies had shown the years from 2½ to 5 to be particularly important for intellectual development. With more teachers available, he said, the educational system has a chance to assist in this early development.

INTERNSHIPS STRESSED

Internships for teachers, he said, are needed because teachers are among the few professionals who go directly from college to jobs without extensive on-the-job training.

Mr. Shanker contended that workers or persons who had dropped out of school should have more than one chance for an education. It ought to be the right of everyone at the end of seven years, he said, to have a sabbatical and go to some institution where he or she would be subsidized while continuing or expanding his or her educational experience.

"If we can have Medicare for the body," Mr. Shanker said, "there's no reason why we can't have 'educare' for the mind."

SURPLUS OF TEACHERS

For the first time since the Depression of the thirties, Mr. Shanker said, there is a surplus of teachers, with 250,000 persons for teaching careers but unable to get jobs. In addition, he said, surveys have indicated that 1.5 million students in schools and colleges are preparing for teaching.

Mr. Shanker predicted that more teachers would be moving toward affiliation with the American Federation of Teachers and the A.F.L.-C.I.O. but he saw no immediate prospects for a merger with the National Education Association.

In a question period, Mr. Shanker said he did not aspire to succeed George Meany as president of the American Federation of Labor and Congress of Industrial Organizations. He said that he intended to continue as president of New York City's United Federation of Teachers as well as head of the national group. His salary for both jobs, he said, is $70,000 a year.

NUTRITION AND CANCER

Mr. HUMPHREY. Mr. President, the American Cancer Society estimates that 355,000 Americans will die of cancer in 1974. All of us hope and pray that somehow we can learn to prevent cancer and to help alleviate the pain and suffering of millions of people who are victims of this disease.

At this time I would like to pay tribute to Dr. Roger John Williams, a man who not only shares these concerns but who through the years has been responsible for major advances in the field of cancer research. One of the foremost nutritionists in this country, Dr. Williams received his Ph. D. from the University of Chicago in 1919, has been a professor at the University of Texas for numerous years and is the author of a plethora of books and articles including "The Nutritional Approach," "Nutrition in a Nutshell," "You Are Extraordinary," and "Nutrition Against Disease, Environmental Prevention."

In a recent presentation in Minnesota, entitled "The Neglect of Nutritional Science in Cancer Research," Dr. Williams states that cancer research is not comprehensive due to a lack of expertise in cellular nutrition. He explains why cellular nutrition is crucial in cancer research, claiming that cellular nutrients constitute a complex and most vital part of the environment of cells and possibly the growth of abnormal cancer cells. I think it is important that his conclusions reach as many Americans as possible. I commend his paper to my colleagues.

Mr. President, I ask unanimous consent that Dr. Williams' paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

THE NEGLECT OF NUTRITIONAL SCIENCE IN CANCER RESEARCH

(By Roger J. Williams)

1. Cancer Research Not Critically Hampered by Lack of Support or Dearth of Many Kinds of Competent Specialists.

The financial support of cancer research runs into hundreds of millions of dollars annually in this country and the public mood would justify much expansion of this support if promising progress were in sight. If cancer research is failing in any degree, the primary lack seems not to be supporting funds.

Neither do we believe that a primary lack is for competent specialists of many kinds. There are hundreds of highly competent specialists who are carrying out fundamental investigations related to cancer. These may include biochemists, biophysicists, molecular biologists, geneticists, cytologists, tissue culturists, virologists, microbiologists, immunologists, electron microscopists, statistical experts, endocrinologists, radiologists, epidemiologists, pathologists and surgeons. We do not believe that the general quality of these investigations or the general competence of the investigators to do what they undertake can be questioned. However, neither do we believe that increasing the number of these specialists or increasing their support would bring about any phenomenal improvement in the over-all progress in cancer research.

2. Cancer Research Not Comprehensive; Lack of Expertise in Cellular Nutrition.

In no public or private institute dealing with cancer research anywhere in the world, are there groups of real experts in cellular nutrition. By an expert in cellular nutrition I mean one who has a grasp, or at least seeks to have, of what is currently known about all the cell nutrients and how each enters nutritionally into cellular metabolism. Such experts, it may be taken for granted, would have a keen desire to explore for more insight into these processes. The entire gamut of all cell nutrients would be in the purview of such experts—the minerals, trace minerals, amino acids, purines, pyrimidines, sugars and all the vitamins which function in this way. If there are unrecognized missing links, these should be the cause of deep concern, because as long as there are "unknowns" among the cellular nutrients crucial gaps are present with respect to our knowledge of the whole process. No cell can be even passably nourished unless it gets some supply of every single needed item.

The current lack of expertise in the field of cellular nutrition is indicated by the fact that many elementary questions in this area are unanswerable on the basis of present knowledge and those who grow cells in tissue culture are often unconcerned about the exact chemical composition of their culture media. Some pertinent questions are: How do the nutritional requirements of different types of cells in the body differ from each other? Do most cells which are capable of becoming malignant have complex nutritional requirements comparable to the complete needs of the body as a whole? When healthy cells become malignant, how do their nutritional requirements change? Do carcinogens often act by disturbing cellular nutrition? If so, how? To what extent do the cells in our bodies normally or abnormally nourish each other? (There is strongly suggestive evidence that glutamine and perhaps inositol, lipoic acid and many other substances are produced by some somatic cells and are required nutritionally by other cells.[1] Yet definitive knowledge on this vast subject is lacking in spite of its extreme pertinence to the important question "Do endogenous carcinogens function to induce 'spontaneous' cancers?")

If there were groups of real experts in cellular nutrition in the cancer field, there would be numerous up-to-date books, articles and reviews dealing with the subject of how nutrition, and cellular nutrition in particular, are related to cancer. But these books, articles and reviews do not exist. In "Cancer Research," Cumulative Index for 1966–70, there are only 2 entries under Nutrition in contrast to 110 under Cell(s).

3. Why This Omission From Cancer Research?

The primary cause of lack of attention to cellular nutrition in cancer research lies in the neglect of nutritional science by medical schools and medical scientists in general [2,3,4] This has persisted for at least sixty years.

Somehow the idea seems to have become established in medical circles very early that those who dealt in nutrition, vitamins and the like were interlopers if not imposters and presumably in league with those who would advocate wholesale self-medication to replace professional medical care. Anyhow it seemed to the opinion makers that nutrition was not a subject which was worthy of the serious attention of true medical scientists. Later, when the existence and reality of vitamins were firmly established this attitude changed only slightly and Western medicine seemingly adopted the opinion: Yes, the vitamins are valuable in a limited way for the treatment of a few specific diseases, most of which, however, are of little interest today.

If there had been broader perspective, especially in the light of modern knowledge, it would have been recognized that vitamins (and all other nutrients) enter intimately into all metabolism, and that whenever metabolism is involved (which is *always*, in living things) nutrition is crucial and must be understood. In keeping with an anti-nutrition bias, however, physicians were sometimes taught not to "believe in vitamins", which is about as ridiculous as it would be not to believe in protein, amino acids, calcium or iodine.

The neglect of nutrition in medical schools became so obvious and compelling that Senator Schweiker of Pennsylvania introduced a bill into the U.S. Senate in 1973 providing for a substantial appropriation to insure that physicians would be taught something about nutrition.[5] It is unbelievable how far removed from nutrition the thinking of many medical scientists is.

4. Why Cellular Nutrition is Crucial in Cancer Research.

I see clearly the need for insight into cellular nutrition, partly because of my special interest in this field. I published my first paper dealing with cellular nutrition in 1919, and years later discovered pantothenic acid in pursuance of this initial interest. The scientific background on which this need rests is firm and can be stated simply if we accept as a basic problem the need to understand fully why and how cancers originate. Both of the two basic types of factors which enter into this problem, hereditary and environmental, must be explored fully in any comprehensive cancer research program, and the environmental factors cannot possibly be fully explored without serious attention to cellular nutrition. Cellular nutrients constitute a complex and most vital part of the environment of cells.

Cellular nutrition is most complicated and embraces the complete assortment of two or

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Footnotes at end of article.

three score of different constructive chemicals of great variety as well as the undesirable toxicants in foods[6] may interfere with nutrition—everything that cells encounter or take in from their external environment. These factors do not act singly but in conjunction with each other. Cells need for continued health not just a few environmental factors like a suitable ambient temperature, oxygen and water, but a complete gamut of a large number of chemical factors which are derived nutritionally from the blood. Whether cellular nutrition should be considered crucial to cancer research hinges on a question the answer to which seems obvious: Must we be thorough and conversant with the total environment of cells, or should we be content with a very limited and perhaps convenient part of the environment?

Certainly one of the reasons why cellular nutrition is so fundamentally important for comprehensive cancer research lies in the possibility that cells which are nourished at a high level of excellence may be able to resist successfully the action of carcinogens and the attack of cancer viruses.[7, 8] Because of a current lack of expertise in cellular nutrition no group in cancer research is able to affirm, deny, or adequately assess the value of this possibility. Because of this same deficiency in cancer research it has been very difficult or impossible to grasp fully and critically make use of or extend the ideas about cancer expressed by three Nobel Laureates, Otto Warburg,[9] Albert Szent-Gyorgi,[10] and Linus Pauling,[11] all of whom have implicitly thought in terms of cellular nutrition and metabolism.[9, 10, 11]

Because of lack of expertise in cellular nutrition scant attention has been paid to the problem of how human nutrition may be related to cancer incidence. We assume of course, that there is no easy way to prevent cancers by dieting or simple nutritional manipulation. What we do not know experts might help us find out: "Can cancers be prevented by expert manipulation of the total nutritional environment?" This possibility is greatly strengthened by the fact that the intake of various nutrients and nutrient mixtures in appropriate circumstances will most certainly help prevent the occurrence of carcinogen-induced cancers in animals.[8]

5. Three Nutritional Principles Must be Applied in the Field of Cancer Research

In a forthcoming book[12] there have been set forth, after extensive consultations, twelve principles which underlie nutritional science. These are all valid in the area of cancer research but three of them deserve special mention because they are particularly applicable:

I. Organisms, and cells, commonly if not universally subsist in nature on imperfect, sub-optimal nutrition—nutrition which could be improved if the environmental factors involved were more favorably adjusted.

II. Nutrients, as such, function only when they participate in teamwork with all other nutrients. They are like nuts, bolts, spindles, and gears in a complicated machine which cannot operate unless all parts are present.

III. Individuality in nutrition is of crucial importance. The facts (not theories) of biochemical individuality are sufficiently striking that they have to be taken into account in every study involving the etiology or progress of any disease.

These three principles are newly assimilated concepts and each has a direct bearing on cancer research. For example, if cells normally received optimal nutrition, then there would be no room for improving the nutritional environment and no chance of increasing the resistance of cells to unfavorable environmental agents. Consequently if we accept the first principle, listed above, we automatically see vast possibilities for improving the complex environment of cells. There was considerable interest in the 1940's in nutrition as it relates to cancer. There was hope at that time that some newly discovered vitamin or nutrient would serve to unlock, or partially unlock, the cancer problem.

The reason for failure now evident, in view of 2nd principle. If we accept the second principle listed above, we should not expect too much from any single nutrient; rather we would be concerned about the total nutritional environment including *all* nutrients. If cells are to be made resistant to cancer-inducing agents by nutritional means, this will be accomplished only by recognizing the teamwork principle. If, as seems certain, there are "unknowns" in cellular nutrition (otherwise all cells could be grown in chemically defined media) these unknowns must be recognized and provided for, before the participation of all the nutrients in teamwork can be assured. In our laboratories we successfully applied this teamwork principle to a test case—the prevention of galactose-induced cataracts in rats.[13] When we attempted to furnish rats with a complete team of nutrients, along with galactose, cataracts did not form—a result not hitherto attained or approached.

The principle of nutritional individuality crops up continually whenever nutrition is studied intensively. One of the specific lines of investigation which has been neglected, partly because of lack of attention to the individuality principle, has to do with the differences between the biochemical and nutritional patterns of cancer-resistant and cancer susceptible animals. When we are satisfied by merely stating that these differences are genetic, we are dodging many crucial problems. Twenty or more years ago there were available strains of mice with a very high incidence of "spontaneous" mammary cancer, and other strains with a very low incidence. It was never determined what the differences in the nutritional requirements of these strains might be or whether their susceptibility could be modified by nutritional means. The status of nutritional science is such that we still have limited knowledge of the detailed nutritional requirements of any strain of mice, or of mice generally, as compared with rats. Much less do we know, of course, about the nutritional requirements of individual animals, though we do know that even among members of closely inbred strains of rats and mice[14,15] and monozygous quadruplet armadillos,[16] striking biochemical differences exist. Among the members of the inbred strains of mice which were generally highly susceptible to mammary cancer, there were resistant individual animals, and among the cancer resistant mice there were susceptible individuals. All this is unexplained and probably will remain so until more attention in paid to individuality in nutrition. In this connection it should be stated that according to the genetotrophic principle,[17] hereditary differences and variation in nutritional needs go hand in hand. Inheritable weaknesses which are associated with unusual nutritional demands, can presumably be completely corrected by nutritional adjustments. Because a human being (or animal) is susceptible to cancer does not necessarily mean that he or she will be afflicted.

6. Prevention Requires Attention: There is Hope.

One does not have to be conversant with the details of cancer research to recognize that much attention is being paid to the possible development of curative measures, and that prevention is stressed comparatively little. If there are practical ways of preventing cancers from occurring, these should be of the utmost public interest. It is in the area of prevention that expertise in cellular nutrition offers the greatest promise and it can truthfully be said that because of a lack of this expertise, the scientific nutritional approach to the prevention of cancers has never been tried. It is but natural that lack of interest in nutrition would go hand in hand with a lack of attention to prevention.

The bolstering of cancer research by the inclusion of cellular nutrition can be brought about when the need is recognized. Many scientists have the background in biochemistry and related fields to train themselves in nutritional science once their interest is aroused.

Fundamentally, however, all medical scientists need to learn about nutrition, and this must be learned in medical schools if not earlier. While there is flagrant lack in medical schools we believe that nutrition education (not of the faddist variety) must be furnished to the entire population. Students graduating from high schools and colleges should already know more about nutrition than medical students now know when they graduate from medical schools. There is nothing that a teen-ager can learn in school which is more important than how to improve his sub-optimal nutritional environment and his own health and development by wise selection of food.

The advantages of becoming versed in nutritional science (including cellular nutrition) are not limited to the cancer problem. Research in heart disease, arthritis, mental disease, alcoholism and many other diseases would be greatly benefited if experts in cellular nutrition were to participate. Prevention of disease would then become far more dominant in medical science. "And perhaps someday the United States will have a true National Institutes of Health rather than the current National Institutes of this or that disease."

FOOTNOTES

[1] Williams, Roger J. (1961) "The Expanding Horizon in Nutrition", *Texas Reports in Biology and Medicine 19*, 245–258.

[2] Williams, Roger J. (1971) "How Can the Climate in Medical Education be Changed?", *Perspectives in Biology and Medicine 14*, 608–614.

[3] Williams, Roger J. (1971) "The Flaw in Medical Education" in *Nutrition Against Disease* (Pitman Publishing Corp., New York, N.Y.), pp. 3–19.

[4] Butterworth, Charles E. (1974) "The Skeleton in the Hospital Closet", *Nutrition Today 9*, 4–8.

[5] Schweiker, Richard S. (Senator) (1973) Bill S. 324 *Congressional Record*, January 11.

[6] National Research Council, Food and Nutrition Board (1973) *Toxicants Occurring Naturally in Foods*, Second Edition, Washington, D.C. (National Academy of Sciences Printing and Publishing Office.)

[7] Williams, Roger J. (1972) "'Supernutrition' as a Stategy for the Control of Disease", *Journal of Orthomolecular Psychiatry 1*, pp. 98–103.

[8] Williams, Roger J. (1971) "How is the Cancer Problem Related?" in *Nutrition Against Disease* (Pitman Publishing Corp., New York, N.Y.), pp. 176–184.

[9] Warburg, Otto.

[10] Szent-Gyorgi, Albert

[11] Pauling, Linus

[12] Williams, Roger J. (1974 in press) "Biochemical Individuality" in *Physicians' Nutrition Handbook* (Charles C. Thomas, Publ., Springfield, Illinois), pp. ?

[13] Heffley, James D., and Williams, Roger J. (1974) "The Nutritional Teamwork Approach: Prevention and Regression of Cataracts", *Proc. Nat. Acad. Sci. USA 71*, pp ?

[14] Williams, Roger J., Pelton, R. B., and Siegel, F. L. (1962) "Individuality as Exhibited by Inbred Animals: Its Implications for Human Behavior", *Proc. Nat. Acad. Sci. 48*, 1461.

[15] Williams, Roger J., and Pelton, Richard B. (1966) "Individuality in Nutrition: Effects of Vitamin A-Deficient and Other Defi-

cient Diets on Experimental Animals", *Proc. Nat. Acad. Sc. 55,* pp. 126–134.

[16] Storrs, E. E., and Williams, R. J. (1968) "A Study of Monozygous Quadruplet Armadillos in Relation to Mammalian Inheritance", Proc. Nat. Acad. Sci. 60, 910–914.

[17] Williams, R. J., Beerstecher, E., Berry, L. J. (Feb. 1950) "The Concept of Genetotrophic Disease", *The Lancet,* p. 287.

THE GENOCIDE TREATY: A CULMINATION OF AMERICAN PRINCIPLES OF HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, throughout the 200-year history of this country, our leaders have spoken out for individual human rights. Indeed, our country has often been pointed to by other nations as the stronghold of freedom and justice and used as an example as having a superb record on human rights.

Thomas Jefferson, one of our Founding Fathers, wrote in a letter to James Madison in 1787:

> Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse or rest on inference.

Shortly thereafter, in 1821, during a New York Convention on Universal Suffrage, Chancellor Kent offered praise for the American system:

> The tendency of universal suffrage, is to jeopardize the rights of property, and the principles of liberty. There is a constant tendency in human society, and the history of every age proves it; there is a tendency in the . . . majority to tyrannize over the minority, and trample down their rights; in the indolent and the profligate, to cast the whole burthens of society upon the industrious and the virtuous; and there is a tendency in ambitious and wicked men, to inflame these combustible materials. It requires a vigilant government, and a firm administration of justice to counteract that tendency.

Not until the issuance of the Genocide Treaty could these American ideals be questioned with any validity. Bound to the American refusal to ratify the document are various verbal attacks on the integrity of the American system. One country has gone so far as to claim that the United States is "hypocritical" in that we "resolutely refused to accept legal obligations" through the ratification of the Genocide Treaty.

The need for American ratification of this document is overwhelming. In a demonstration of the role we must play in the international scene, Chief Justice Earl Warren spoke of this country's high reputation:

> Our Bill of Rights, the most precious part of our legal heritage, is under subtle and pervasive attack. . . . In the struggle between our world and Communism, the temptation to imitate totalitarian security methods must be resisted day by day. . . . When the rights of any individual or group are chipped away, the freedom of all erodes.

Mr. President, in the interest of Thomas Jefferson's high ideals; the models set forth by the many conventions and assemblies affirming these principles; and in the interest of preserving our international integrity, I urge ratification of the Genocide Convention Accords of 1949 without further delay.

JEROME AND SHOSHANA CARDIN

Mr. MATHIAS. Mr. President, many ambitious governmental programs are debated and adopted in the Senate. But even the most enthusiastic and optimistic of the sponsors of such programs realize that Government programs alone cannot meet the tests, solve the problems, and satisfy the needs of America. There is still the constant requirement of a personal, individual initiative by men and women who give a portion of their lives to make life better for their friends and neighbors.

This is the kind of life that Jerry and Shoshana Cardin have elected to lead. They were honored last night by the Golden Eagle Square and Compass Club of Baltimore, Md. I submit a brief account of their contributions to the quality of life in Maryland and the entire Nation, and I ask unanimous consent that this account be printed in the RECORD along with an equally brief account of the charitable work of the Golden Eagle Square and Compass Club.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HONORED GUESTS

Jerome and Shoshana Cardin are a unique couple—worthy of being the first husband and wife team to be honored by the Golden Eagle Square and Compass Club.

Jerry has been an active Eagleite since 1954, and has served numerous times as the chairman of our annual testimonial dinners. By profession he is an attorney at law and Shoshana is a housewife-volunteer.

The uniqueness of this couple is that they both are dedicated and committed to philanthropic and community involvement—and serve together as well as individually. Their joint activities range from trustees on the board of the National Retinitis Pigmentosa Foundation, of which Jerry is Chairman of the Board, to the board of the Associated Jewish Charities and Welfare Fund.

We've selected just a few of their individual activities in an effort to describe the broad range of their interests.

Jerry is District Chairman, Boy Scouts of America; Director on the National Board of the Jewish National Fund and a member of the Council of College of Notre Dame of Maryland.

Shoshana is currently chairwoman of the Maryland Commission on the Status of Women, Board Member of the Voluntary Action Center of Central Maryland, and National Board Member of the Women's Division, United Jewish Appeal.

Jerry received the Humanitarian of the Year Award, 1972 from the American Cancer Society, Distinguished Citizenship Award, 1972 State of Maryland, and Outstanding Communty Service Award, 1969—Homebuilders Association of Maryland.

Shoshana received "Woman of the Year," Covenant Award in 1967—B'nai B'rith Women of Baltimore, "Civic Affairs Award"—1969, Morris I. Feld Lodge, B'nai B'rith and "Louise Waterman Wise Award"—1970, American Jewish Congress, Women's Division, Maryland Branch.

Both have been the recipients of many honors and awards, but their joy and pride are their children—Steven and Gitelle, Ilene and Bert, Nina and Sanford.

GOLDEN EAGLE ACTIVITIES

The Golden Eagle Square and Compass Club of Baltimore, an organization devoted to charity regardless of race, color or creed, received its Charter in 1946. From its very beginning "helping others" has been our motto. In addition to our many and varied charities, we undertook a project which became the "first of its kind" in Baltimore.

In 1950, our Welfare Chairman, Eagleite Ralph Steinbach, learned that many children went to school hungry through no fault of their own, if indeed they went to school at all. With the enthusiastic approval of the Board of Governors and Club Members, a new project was born, which was appropriately called "The School Breakfast Program," a name it has retained ever since. We now serve breakfast to well over 100,000 hungry, poor school children of this City each and every year. There are many thousands more who avail themselves of the opportunity to eat breakfast at their own expense, because Golden Eagle was instrumental in opening cafeterias for breakfast for the very first time. Reports from teachers and principals tell of the fine results of our program. Reduced truancy and a definite improvement in scholastic efficiency was noted. School authorities have endorsed this project as being the finest of its kind ever undertaken.

Although this is our main project, our welfare program is quite diversified. We have bought clothing, food, furniture, hospital equipment, hearing aids, a television set for a shut-in patient, contributed to the Cerebral Palsy Fund, arranged parties for our servicemen and women and supplied traditional food apropos to the occasion when they could not "go home" to observe their holiday. We have made substantial contributions to "Boys Town," Esther Leibowitz Memorial Fund, The Juvenile Court Fund established by us and administered by Judge Hammerman of the Supreme Bench of Baltimore City to help youngsters brought to the attention of the Court, and have established an annual "Murray Manson Scholarship Fund."

We contribute to the parochial school lunch programs for needy students in the Bais Yaakov School for Girls, the Talmudical Academy of Baltimore, and the Ner Israel Rabbinical College. We also contribute for a daily food treat to Children's Guild.

Golden Eagle contributed the Infirmary Building now in use at Camp Glyndon for Diabetic Children and we furnish orange juice for these children during their stay at the Camp. We sponsor annual summer picnics for the Glyndon campers and their families, complete with food and entertainment. This year we also helped financially to repair some of the damage perpetrated by vandals who wrecked the Camp.

All net proceeds from our charity fund raising activities are used exclusively for our charity programs.

There are eight general monthly dinner meetings during the year. Our Board of Governors meet each month of the year to help charter the course for Golden Eagle. We publish a monthly publication "The Lambskin" which apprises members of the club's activities.

This is but a capsule digest of our organization. We feel we can truly state we are meeting our obligations to this community by giving wherever and whenever the occasion arises and to the best of our ability.

ECONOMIC PROBLEMS LEFT UNSOLVED

Mr. HUMPHREY. Mr. President, there is an article from the October 13, 1974, Washington Post that I would like to share with my colleagues. It is titled, "The Economic Unmentionables," by Mr. J. W. Anderson. The article describes areas of the U.S. economy where clear Federal policies are urgently needed. These areas include bank stability, Arab investment in the Unted States, extensive arms sales to Arab countries, and international food policy.

These important areas were neglected in President Ford's economic message. Congress has neglected many of these areas also. We must be prepared to face future problems in these areas.

Investment of surplus Arab oil funds in America must be studied carefully. These funds amount to billions of dollars and could disrupt the entire free world economy. We must make sure that vital American industries are operated in America's interests.

Another area of concern is international food policy. There is no clear public policy to prevent future sudden mass sales of American food to other countries. Evidence of this lack of policy has become all too clear in recent days. This is not in the interest of the American consumer or farmer.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ECONOMIC UNMENTIONABLES

(By J. W. Anderson)

The major economic event of last week was not President Ford's address to Congress, but the failure of the Franklin National Bank in New York. The President's address was a loose collection of familiar proposals and good hopes. The bank failure was a fact.

The President was not speaking to the most urgent questions. There is no mystery about what these questions are; they are all too well known to the White House. There is also no mystery about why the President stayed away from them. Some are subjects that a President cannot discuss in public, like the health of the banking system, and some are issues to which the Ford administration does not yet have an answer. The result was a tepid and unfocused speech that was evidently designed to cheer up an increasingly apprehensive business and financial community without greatly annoying anyone else.

The real questions now are all very short-term, in this strange period of great turbulence. They are all going to be resolved one way or another within the next year or so—which will make it a very interesting year, if not necessarily a comfortable one. In some cases the administration's response will be a decision to do nothing and let the question resolve itself. Since the President did not get into the most crucial and immediate questions now confronting us, we offer for the reader's convenience the following brief list—with the warning that there is not much comfort in it, and not many answers.

1. How well will the nation's banking system hold up under the present tremendous strains?

It needs to be emphasized that the average citizen's deposits and savings are in no possible danger, since they are directly protected by the federal government. There is no chance of the kind of epidemic of collapses that the country went through in the 1930s. But there are new and significant dangers, and the President would have great difficulty talking about them without making them much worse.

Some banks learned during the fat years of the 1960s to live dangerously and like it. As the boom got underway, banks complained that they were being shut out of many kinds of profitable financial business by overly cautious restrictions. The Federal Reserve Board reduced some of those traditional prohibitions. Many banks—generally the big ones, not the small ones—began to tout their own stock as a hot investment with great growth potential. That put their managers under unprecedented pressure to show rising profits.

One perfectly legal way to pep up a bank's earnings is to play the international currency markets—one of the fastest gambling games in the world. Foreign exchange trading has been an element in several of the most spectacular bank failures and losses here and in Europe in recent months, and was a major cause in the death of Franklin National.

But the risks are by no means limited to the international operations. Early this month the Chase Manhattan Bank grimly announced that securities in its bond trading account had been overvalued by $34 million. An error of this magnitude casts a shadow on the whole management of a bank. It suggests, at the very least, that the push for profits has led some of the bank's executives into unacceptable risks. In a time of drastically falling securities markets and drastically high interest rates, those risks rise geometrically.

There is great dispute among specialists as to the extent of the present peril to the stability of the banking system. One relatively optimistic economist observes that American banks are very competently and solidly managed—but even he adds the caution that another big corporate bust like the Penn-Central bankruptcy could have very serious repercussions: "If, for instance, Pan Am . . ."

Pan American World Airways owes a lot of money to banks, and President Ford has refused it the subsidy that it needs to maintain its present operations. It may turn out that the best reason for keeping Pan Am alive is neither to provide air service or to save jobs, but to protect the banking system from a formidable shock.

On top of all these troubles, a new and larger uncertainty is being added to the banking business:

2. What will happen to the oil money—the money that industrial countries pay to oil exporting countries—over the next year?

Most of it will be invested in the industrial countries, but where and under what terms? At present it is piling up at a rate that the U.S. Treasury estimates at about $60 billion a year, mainly in American and British banks. The Arab countries in particular are holding their money very nervously, in short term deposits. This money is apparently moving in very large blocks and it belongs, of course, to governments with sharply defined political purposes.

Having used the oil weapon in last winter's embargo, would the Arabs be tempted to use the money weapon to disrupt the Western banks? Not many people think so but, come to think of it, not many people thought they would ever embargo oil either.

Some Americans have suggested trying to keep this money out of the country or, alternatively, locking it in. But the U.S. Treasury rejects these ideas in principle and, in practice, they would require a horrendous amount of regulation on a banking system that lives by its fast and flexible responses. No wonder President Ford chose not to take up that issue. Nor is the next oil-money question any easier:

3. How long do we keep selling high-powered arms to oil producing countries?

Here the most spectacular example is Iran. The Shah is building one of the world's best equipped armed forces. He has ordered 80 of the new American F–14 swing-wing fighters. He has nearly 150 F–4 Phantom jets, and has perhaps 40 more currently on order. His navy includes several destroyers and four frigates equipped with missiles. What do you suppose he intends to do with all of that firepower?

Consider for a minute who his immediate neighbors are. To the northwest lies Iran's old enemy Iraq, heavily armed by the Soviet Union. South of Iraq is Kuwait, pumping more than $20 million worth of oil a day and as defenseless as a goat tethered in the jungle. Across the Persian Gulf is Saudi Arabia, with its oil production running more than $80 million a day and the capacity to go much higher. The Saudis do not have much of an air force, although they, too, are now buying Phantoms.

Napoleon is alleged to have said that you can do anything with a bayonet but sit on it. The Iranians are a nation of rapidly rising ambitions. Why do we keep feeding that ambition with large sales of the world's most powerful and destructive fighter aircraft? The first answer is that if we don't someone else—that is, the French—certainly will. The second answer is that we have to sell whatever the Iranians want to buy in order to help pay for our oil.

One very good and altogether urgent reason for unhooking the industrial world from its dependence on Persian Gulf oil is the possibility of serious fighting there—fighting over oil wells, carried out with altogether modern weapons. If trouble of that sort were to start, it might be a very long time before tankers could get into the Gulf at all.

This possibility is the kind of thing that statesmen worry about in private but do not discuss in public. For an American government, there is nothing to say unless we are ready to stop selling arms and simultaneously to cut back hard on oil imports and oil consumption. The President has decided that he does not have enough public support to be able even to raise the tax on gasoline as a conservation measure.

But oil is only part of the international inflation. Another part is food:

4. What do we do about international food prices?

Under Presidents Nixon and Ford, the Agriculture Department has been working vigorously to maximize the foreign currency earnings of our food sales. It has succeeded all too well. We have now sold off our grain reserves, which in turn has made our markets wildly unstable. Our markets were organized to meet freely the needs of private traders. But increasingly they are being dominated by state trading companies backed by the massive resources of big countries—the Soviet Union, Japan and, increasingly, China. Japan is a model customer, buying steadily and fairly predictably. The others are not.

How do we come to terms with buyers who are not commercial operators but governments using money and diplomatic leverage to raise the living standards of their own people? President Ford didn't get into that one because it is very much a matter of deep division within his own administration. Government indecision here is accurately reflected in the administration's sudden decision a week ago to force two exporting companies, who had previously notified the Agriculture Department of their plans, to turn around and tear up the contracts they had signed with the Russians.

While the argument boils along over sales to the cash customers, evidence mounts of spreading famine in the poor countries. Death rates are going up in South Asia and parts of Africa. President Ford intends to raise the dollar value of our food aid, but prices are rising faster and the actual amounts of foodstuffs shipped will probably continue to drop. Perhaps there is not much that we can do about it since, unhappily, all of the most useful solutions take years to work out. They mainly involve helping the poor countries raise their own food production.

5. Meanwhile, unemployment here at home is rising and the present evidence suggests that it will go substantially higher than the administration says it expects. Walter W. Heller of the University of Minnesota and George L. Perry of the Brookings Institution—both critics of the administration, but both highly experienced forecasters—suggest

that the unemployment rate will approach 7 per cent by next summer if present policies continue. Long before the rate hits that level, jobs would replace prices as the country's main anxiety and principal political issue. Like every industrial society, this one has a much lower tolerance of unemployment than of inflation.

There are now some signs suggesting that all of us—the administration, Congress, businessmen and newspapermen—may have badly misread the indicators over the last eight months. It is possible that the enormous build-up of inventories since early this year may have distorted the economic signals, overemphasizing the strength of the inflation and underestimating the gathering momentum of a serious recession.

Some of the inventory accumulation was deliberate, as businessmen jumped to anticipate future shortages of, for example, oil. Some of it was inadvertent, when businessmen found themselves unable to sell at the expected rate. But nearly all of it was financed by borrowing, and as that wave of borrowing hit the banks the Federal Reserve Board, fearing that it meant another inflationary boom, took interest rates up to the highest levels in our history as a brake.

In retrospect, the wisdom of those high rates is becoming increasingly questionable. If the borrowing had been the result of an incipient boom high rates would have been the right remedy. But might not that surge of borrowing have been only the result of an inventory pile-up caused by declining sales?

That is another question that the President, in the midst of a crusade against inflation, hardly wants to discuss in an address to Congress.

For the answers to all of these questions, come back around this time next year. Then we'll all know—in the (way the) * * * * man going over Niagara Falls in a barrel finds out quickly and conclusively whether there is a safe landing at the bottom.

THE CONFLICTS OF INTEREST SYSTEM IN THE PENTAGON

Mr. PROXMIRE. Mr. President, during the week of September 23, 1974, Assistant Defense Secretary Arthur I. Mendolia spoke to the National Security Industries Association on how to improve relations between the Pentagon and its contractors. Mr. Mendolia's proposed solution of the problem is to cover it up.

It is amazing that in this post-Watergate era high Government officials remain insensitive to conflicts-of-interests situations. One would think that procurement officials like Mr. Mendolia would understand the necessity for keeping the defense contractor community at arms length from the Defense Department, that ways would be sought to disengage the Government from the unhealthy relationship with the defense community that has grown up over the years.

THE MENDOLIA-NATIONAL INDUSTRIES ASSOCIATION PLAN

Mr. Mendolia's objectives seem to be the opposite. Under the guise of wanting to cut redtape, the Assistant Secretary would accelerate payments of unjustified and inflated shipbuilding claims against the Navy, reduce audits of contractors' overhead costs, and eliminate or downgrade the Defense Contract Audit Agency

The National Security Industries Association is a high powered, blue chip lobby arm of the large defense contractors. To this lobby group Mr. Mendolia outlined his plan for carrying out their wishes:

Reduce Government audits of overhead costs in defense plants;

Reexamine profit policies;

Respond quickly to industry suggestions for reducing requirements, specifications, standards and technical provisions;

Settle shipbuilding claims promptly;

Evaluate the organizational structure of the Defense Contract Audit Agency;

Improve communications between the Pentagon and the defense industry on management procedures;

Reexamine regulatory statutes such as the Contract Work Hours and Safety Standards Act, Veterans Employment and Readjustment Act of 1972, the Copeland Antikickback Act and the Cost Accounting Standards Act to determine whether restrictive provisions can be eliminated.

TOP PRIORITY—REDUCE GOVERNMENT AUDITS, PAY INFLATED CLAIMS

I am informed that the Pentagon has given top priority to implementing two of the items on Mr. Mendolia's list: Reducing audits and doing away with the Defense Contract Audit Agency. Present plans call for combining the audit agency with another Pentagon group, the Defense Contract Administration Service.

This would place the auditors under the direct control and supervision of the procurement officials who deal with and have close relations with the defense contractors. The audit function would in all likelihood be badly compromised because the auditors would not have the independence they now enjoy to do their job. They would be under constant pressure from their superiors, the procurement officials, not to disturb or expose arrangements detrimental to taxpayers' interests which procurement officials often tolerate.

Defense contractors have long sought ways to neutralize or eliminate Government auditors. Mr. Mendolia, the highest procurement official in the Defense Department now seems ready to oblige them.

He would get rid of or at least hamstring the Government auditors whose job it is to make independent examinations of contractors' cost charging practices.

DEFENSE CONTRACT AUDIT AGENCY SHOULD BE PRESERVED

It needs to be understood that the Defense Contract Audit Agency, while an in-house Pentagon operation, is the only audit activity in the Federal Government in a position to audit defense contracts. This function was stripped away from the General Accounting Office—mistakenly in my judgment—years ago. GAO is not staffed to audit individual contracts and contractor operations. If Pentagon auditors do not do this job it simply will not be done.

Auditors employed by the Defense Contract Audit Agency have had considerable independence, up to now, and have been able to spotlight areas of irregularities, inefficiency, and waste. A number of improvements in procurement policies have been brought about through their efforts. The auditing function also serves as a deterrant to those in the defense contract community who might otherwise extract payments from the Government to which they are not entitled.

Yet top Pentagon officials such as Assistant Secretary Mendolia are now working hand in glove with lobby groups such as the National Security Industries Association to eliminate the independence of the Pentagon's audit agency.

SECRET LISTS OF INDIVIDUALS WHO NEED "CONVINCING"

I understand that secret lists of individuals in key positions, including Members of Congress, are being developed. These are lists of persons who need to be "convinced" of the plan to eliminate or reduce the effectiveness of defense audits and defense contractor regulations.

If this plan succeeds defense contractors would substantially increase their already great influence in the Defense Department. In my judgment the defense contractors already have too much influence in the Pentagon. There are too many contractor officials temporarily employed in the Pentagon who serve as industry spokemen. There are too many Pentagon officials including members of the military who look forward to high paid jobs in the defense industry after they retire from Government service.

DEFENSE INDUSTRY INFLUENCE TOO GREAT

Defense industry influence pervades all areas of defense procurement. It is evidenced by sweetheart contracts and bailouts, soft loans, settlement of shipbuilding claims for outrageous amounts, and continuous efforts to relax policies to make them more favorable to contractors, to eliminate safeguards, and to throw obstacles in the way of Government auditors.

It is unseemly for high Pentagon officials to take part in schemes to further the interests of the giant defense firms and to serve to undermine the efforts of those dedicated public servants who understand that their duty is to the public interest and not to private interests.

I strongly oppose the backstage efforts now going on and, if necessary, will propose legislation to block them.

THE BICENTENNIAL AND INTERNATIONAL UNDERSTANDING

Mr. BROOKE. Mr. President, Alan A. Reich, the distinguished Deputy Assistant Secretary of State for Educational and Cultural Affairs, recently addressed the Rotary Club of New York on the subject of the "Bicentennial Challenge—Strengthening International Mutual Understanding."

In his thoughtful remarks Mr. Reich discusses the meaning and importance of this Bicentennial, not only to the United States, but also to the rest of the world. To paraphrase one foreign cabinet minister, the "Spirit of '76" belongs to all democratic peoples.

Mr. Reich also points out that the Bicentennial offers us an opportunity to help make a very real contribution in helping build the "human foundations of the structure of peace."

Mr. President, because of the significance of Mr. Reich's address, I ask unanimous consent that the text of his remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

BICENTENNIAL CHALLENGE—STRENGTHENING INTERNATIONAL MUTUAL UNDERSTANDING

(Remarks of Deputy Assistant Secretary of State for Educational and Cultural Affairs Alan A. Reich, Rotary Club of New York, September 5, 1974)

INTRODUCTION

It is a pleasure and privilege to address again the New York Rotary Club and particularly on the subject of the "Bicentennial Challenge and Strengthening International Mutual Understanding." This Club has had over the years an international program with considerable radiating impact. New York City, since its founding, has lead in the development of the nation and of the American ideals to be commemorated in 1976. New York symbolizes for the United States and the world the internationalism and global concern required of Americans as we enter our third century.

The American Revolution Bicentennial Commemoration Is International

The American Revolution Bicentennial Administration has designated three themes—heritage, festival, and horizons—for the Commemoration. Each has important international implications. The heritage theme recalls the ethnic origins and diversity of America and the fact that our way of life owes much to other peoples of the world. Their contributions find rich expression throughout the United States. Reflecting together upon their heritage and its meaning will result in significant and constructive international dialogue.

Recently I somewhat mistakenly referred to "*our* Bicentennial" in a conversation with a cabinet minister of a nation making plans for the Commemoration. He interrupted and noted politely, "The Spirit of '76" belongs to us, too, you know!" His remark brought home to me the fact that others around the world share with us and hold dear the ideals and values associated with our Revolutionary period. Other nations have been guided by the American model in establishing their systems of governments. George Washington's words, "the basis of our political system is the right of people to make and to alter their constitutions of governments" have had world-wide meaning.

The festival theme suggests the opportunities international visitors will have to discover and get to know America and our people. Over a year ago, the President, through the Department of State and our embassies, officially invited other nations to participate in the Commemoration. It will be much more than a celebration, more than parades, and more than fireworks. There will be cultural, sports, arts, and other attractions both in the United States and abroad which will enhance the understanding of our respective achievements and societies.

Last month, appreciation of the American democratic system in surviving the Watergate problem was expressed by leaders and writers around the world. One Asian newspaper, traditionally anti-American, commented, "Never before have the ideals of freedom and democracy emerged more triumphant than from the trial and torment of Watergate. The whole world," the editorial added, "owes this land and people a solemn homage. . . ." Thomas Jefferson set the tone when he said, "Here we are not afraid to follow truth wherever it may lead, nor to tolerate any error as long as reason is left free to combat it." The United States is seen by peoples around the world as custodian of the ideals of democracy, and they wish to help ensure its continuation for the benefit of mankind.

The horizons theme of the Bicentenial is perhaps the most important to all of us because it looks to the future. John Adams put it succinctly when he said, "I like the dreams of the future better than the history of the past." The notion of the continuing revoluion and all it stands for is captured in the growing awareness that we are interdependent; if mankind is indeed to survive, we must cooperate. Problems which a few years ago were national, now are global. Our neighbors' problems are ours, and vice versa. Improving the quality of life is a world-wide challenge. Concerns with population, inflation, food, and resources require cooperative action. Strengthened informal relationships and people-to-people bonds help improve the climate for cooperation in solving these problems which know no national boundaries. The Commemoration will focus not only on the U.S. future, but also on goals and aspiration for mankind.

People-to-People Relations Further International Mutual Understanding and are Relevant to World Peace.

Why, you might ask, are people-to-people relations and informal communications activities of concern to the State Department? Formal diplomatic channels, of course, are crucial for the conduct of official business and the resolution of differences between nations. To an unprecedented degree, however, the problems nations confront, the means they choose to solve them, and even the perceptions people of one country have of another, evolve outside official channels. Diplomacy has gone public. Foreign affairs is no longer the exclusive domain of the professional diplomat. The tone and content of our international relations are set increasingly by the vastly expanding contacts which occur between Americans and other peoples of the world.

The geometric increase in citizen involvement in world affairs has special significance for the diplomat. Whom people-to-people bonds and networks for two-way communication are fully developed, there will be a greater readiness to seek accommodation, and to negotiate. When people know and understand each other and appreciate their differences, the likelihood of confrontation diminishes, and prospects for peaceful solutions are enhanced. This rationale governs the interest of the State Department in the furtherance of meaningful people-to-people interchange.

In the past few years, scholars increasingly have studied the relevance of informal, non-governmental communications activities to matters of war and peace. Social scientists are developing a more scientific base for such activities. Their research suggests that the existence of informal communications tends to reduce the level of tensions when conflicts of interest occur and contributes to a climate of opinion in which conflicts may be negotiated more effectively. Second, informal relationships create a greater openness in individual attitudes toward other nations, peoples, and cultures. These predispositions also lead to greater readiness to communicate and to resolve differences peaceably. Third, social scientists tell us that international cooperation and two-way exchange contribute to world-mindedness and to an internationalist perspective on what otherwise might be viewed as purely national problems. Finally, international people-to-people relationships help develop enduring networks of communication which cut across political boundaries and reduce the likelihood of polarization along nationalist lines. The Bicentennial Commemoration provides both the occasion and the opportunity for expanding and strengthening these people-to-people relationships.

Many Bicentennial International Activities are Underway.

As you know, the Bicentennial Commemoration has no single national focus. It is nationwide, involving all our states, communities and people. In addition to the American Revolution Bicentennial Administration in Washington and the ten regional offices, every state has its own commission. Many cities, including, of course, New York, have commissions and active programs.

Many other governments of the world, as well as private individuals and organizations of other nations have asked the Department of State and the American Revolution Bicentennial Administration for suggestions as to what they might do to commemorate the Bicentennial and in the process strengthen ties with the American people. Many exciting Bicentennial activities are being planned by governments and peoples of other nations. A sampling includes:

Chairs in American studies to be established in foreign universities.

Establishment of chairs for studies of foreign nations in American universities.

Symphony orchestra tours to the United States.

National folk group participation in the Smithsonian Folklife Festival and in community festivals throughout the United States.

Endowment of library collections of Americana.

Commissioning of a number of historical books, studies, and films about the American experience.

Historical and philosophical conferences abroad on American civilization.

Theatre and opera tours and traveling museum exhibits to the United States.

As other nations are developing their Bicentennial programs, Americans too are incorporating an international dimension in their planning. Many of the local programs being organized and carried out by state and community Bicentennial groups involve peoples of other nations. Here in New York, you have a number of exciting international projects. The International Salute will feature exhibits from other nations. The South Street Seaport Restoration Project in Lower Manhatten will recall New York's early maritime connections with the rest of the world. The Bicentennial Visitors Center and Council is organizing for reception of New York's visitors. Statue of Liberty events will feature the importance of immigration to the development of the United States.

Across the nation there are many programs aimed at providing international focus for the Bicentennial horizons program and at improving understanding over the long term. A few examples are:

Operation Sail '76 is a visit of tall-masted sailing vessels from around the world to come to New York City on July 4, 1976 and visit other world ports.

The World Theatre Festival, a non-profit foundation based in New York, will sponsor appearances of distinguished theatre companies from around the world.

The American Host Program, through its "Meet the Americans" project, is organizing home hospitality for foreign visitors.

Numerous international conferences are being planned such as the World Food Conference to be held at Iowa State University.

The California Bicentennial Commission is sponsoring a publications program on ethnic contributions to California history.

Binational, international exchange, and ethnic organizations are developing new exchange-of-persons programs.

The American Council of Polish Cultural Clubs is conducting a poster contest on Polish immigration to the United States.

The American Medical Association is inviting counterpart associations of other countries to attend their 1976 annual convention to review medical contributions to man's well-being over the past 200 years.

The American Association of Museums is organizing a program for American museums to exhibit foreign contributions to America's development.

Sister Cities International plans to increase from 1,100 at present to 1,976 by July 4, 1976 the number of U.S. and foreign cities affiliated in sister city relationships.

The American Historical Association is offering a prize to the author of the best historical work on the American Revolution written in a language other than English.

These few projects I have singled out are essentially international in character. There are, however, international dimensions in many programs which are primarily domestic in nature. The organizers have found ways to make them international as well. One of the most promising is the recently-announced American Issues Forum conceived by Walter Cronkite. The Forum is intended to effect a year-long nationwide dialogue by people in all walks of life and all levels of education concerning the values which have characterized our national development and their revelance to the future. One of the nine major issues to be discussed is "America's Role in the World, Past, Present and Future."

Community Service Organizations are a Potent Force for International Mutual Understanding

In government and in the private sector, there is much to be done. Service organizations, such as Rotary International through its people-to-people programs, are contributing a great deal to international mutual understanding. Rotary's international youth exchange, involving 700 youths throughout the world annually, is a model program with considerable impact.

The Rotary Club matching program, which links Rotary Clubs in 151 countries with counterpart clubs for direct Rotarian-to-Rotarian relationships and shared service projects is equally impressive. Rotary's world community service program has helped people throughout the world. Through Rotary's small business clinic program, many individuals in less-developed countries have been helped to self-sufficiency and community contribution.

The mere existence of some 15,000 Rotary Clubs joining 750,000 Rotarians in 151 countries is a potent force for world peace. Rotary is made up of leaders from all segments of society; these fraternal relationships—professional to professional, businessman to businessman and so on—generate two-way communication and further mutual understanding.

Another service which Rotary Clubs perform is the advancement of international person-to-person programs of other organizations in their communities. In my own travels throughout the United States, I have been impressed with the extent to which Rotary and other service clubs have initiated and developed, for example, sister city affiliations, professional and people-to-people exchanges, international hospitality programs, and international activities of local performing arts and sports groups. These activities contribute to strengthened bonds between participating local groups and their counterparts in other nations.

Can Community Service Organizations Do More?

Leaders of private organizations frequently ask us in the Bureau of Educational and Cultural Affairs what they might do to increase international understanding. I would only hope Rotary and other community service organizations in the United States would do more of the same—demonstrating so well the capacity for commitment of the American people to furthering world peace. The Bicentennial Commemoration provides the focus. Specifically, I urge community service organizations to undertake in whole or in part the following 12-point program:

1. Expand home hospitality and community orientation programs for international visitors (including doctors and other professionals, businessmen, diplomats and military and government leaders).
2. Develop programs for continuing ties with the international alumni of area universities and colleges.
3. Enlist the cooperation and support of U.S. corporations operating internationally for meaningful public service activities.
4. Expand and strengthen programs of art, sports, and cultural interchange.
5. Develop and improve community programs for foreign students to enhance their experience while in the United States.
6. Internationalize your community involvement by affiliating with an appropriate international organization in cooperation with the U.S. National Commission for UNESCO.
7. Support established people-to-people, youth, and binational exchange programs.
8. Strengthen relationships with professional counterpart organizations in other countries.
9. Expand programs of international interchange involving America's ethnic and racial minority groups, drawing upon their special sensitivity and competence in cross-cultural communication.
10. Form international institutional linkages affiliating universities, hospitals, schools, institutes, libraries, and museums for exchange relationships.
11. Establish university chairs of international studies.
12. Maximize the goodwill generated by ensuring public visibility for these activities both here and abroad.

The challenge, the Bicentennial challenge, is to develop durable mechanisms, which will continue beyond 1976 to contribute to international mutual understanding. While the Government can help, meeting this Bicentennial challenge will depend far more upon America's private sector strengths of initiative, diversity, and dynamism.

Such a Bicentennial commitment and program will be in our national interest as well as in mankind's interest of improving the climate for working together on our global problems. I thank the Rotary Club of New York and Rotary Clubs throughout the United States for your very real contribution in helping to build the "human foundations of the structure of peace."

SECRETARY OF HOUSING AND URBAN DEVELOPMENT LYNN SHOULD RESIGN

Mr. PROXMIRE. Mr. President, I rise today to call for the resignation of the Honorable James T. Lynn as Secretary of the Department of Housing and Urban Development—HUD.

As chairman of the Senate Appropriations Subcommittee with jurisdiction over HUD funds and the ranking Democrat on the Senate Banking, Housing and Urban Affairs Committee which writes housing legislation. I have watched Secretary Lynn's performance from the day he took office.

Secretary Lynn is a highly intelligent, personable, and able man. But so little has been accomplished since he became Secretary that his Department should be renamed the Department of "No" Housing and "No" Urban Development. Its initials should be changed from HUD to "DUD."

NO NEW HOUSING STARTS

This Department is spending $5 billion a year and has produced no new assisted housing starts since January of 1973. Its policies have blocked millions of families from buying the homes they need, resulted in a depression level 12-percent unemployment in construction, and literally bankrupted thousands of home building firms.

While Secretary Lynn is not responsible for the high interest rates and credit crunch which has brought a depression in conventional housing, he has done nothing significant to help it. And he is responsible for publicly assisted housing. Since he became Secretary those programs have been frozen, placed under moratorium, or ignored by HUD.

FAILURE TO SET AND MEET HOUSING GOALS

The Housing Act of 1968 calls for building 2.6 million housing units a year of which 600,000 publicly assisted units are under Secretary Lynn's jurisdiction. But here are the sad, cruel facts:

First. Not only has his Department failed to build 600,000 publicly assisted units a year during the last 2 years but even his annual report setting forth the annual housing goals required under the 1968 Housing Act is now 9 months overdue.

Second. The homeownership program under section 235 of the 1968 act has been frozen. Not only have no new units been committed since he came to office, but he has now asked that $264 million already appropriated and unspent be deferred. That is 206,000 needed units down the drain.

Third. The $115 million in unspent funds for the highly popular and highly successful 3 percent housing for the elderly program is frozen.

Fourth. Last year the Secretary proposed 118,000 starts for the new section 23—now section 8—program. Not one single unit was built.

Fifth. This fiscal year—July 1, 1974 to June 30, 1975—the Secretary proposed 400,000 additional units of section 23—now section 8—housing. After 3½ months not one unit has been started.

Sixth. Some $181 million already authorized and appropriated for section 236—the low interest rate rental program—is unused and sitting idle. That is another 120,000 units not being built.

Seventh. New starts for conventional public housing—a highly successful program with long waiting lines and low turnover rates—are under wraps.

Eighth. The section 312 program for loans to rehabilitate existing housing is in limbo with virtually no action taking place.

BUREAUCRATIC SPENDING

The present HUD annual budget is now $5 billion. But almost none of that money is being used for new housing starts. Instead the funds are being dribbled away in a bureaucratic morass of planning, demonstrations, research, and coordination. Almost none of it is being used to build the 600,000 new housing starts called for each year to meet the goals of the 1968 Housing

Act which is the law of the land. Since he came to office, Secretary Lynn has fallen short of the assisted housing goals by over 1 million units.

ASSISTED HOUSING COULD OFFSET PRIVATE HOUSING CRUNCH

During the 1970–71 recession and housing crunch the assisted housing starts under HUD programs offset the crunch in the private housing market and kept housing from become a basket case. But in 1973–74 the no housing starts policy of Secretary Lynn has merely made a bad situation worse and deepened the housing depression.

Conventional housing starts are down by over 1 million units. Yet Secretary Lynn persists in his policies of moratorium, freeze, and no assisted housing starts for the traditional housing assisted programs.

It is time the $5 billion in HUD outlays start getting some new housing starts. That can happen only under a new Secretary who believes in the programs and will carry out the law.

Secretary Lynn, for all his charm simply has not gotten results. He is like a football coach whose team cannot run, pass, block, or tackle, All they can do is lose. They have lost 10 straight. It is time for a new coach.

IMPLICATIONS OF THE RECENT U.S. CROP REPORTS

Mr. HUMPHREY. Mr. President, a recent staff report by the Senate Committee on Agriculture and Forestry analyzes the October 1 crop reports.

While the estimate for wheat is slightly above that for last year, the production of feedgrains and soybeans will be down by around 20 percent. This will likely mean continued short supplies and high prices for all grains.

It is expected that only for wheat and rice will the carryover be greater than 1 month's supply at the end of the 1974–75 marketing year.

The implications for our livestock producers are very serious, since they normally utilize about four-fifths of all feed grains. Already, hog, poultry, dairy, and beef producers have begun to reduce production.

Ultimately, the consumer will face shortages of livestock and poultry products, which will mean higher food prices.

The study also indicates that the situation could reverse itself in the coming year if we have a good crop of feedgrains. With reduced livestock numbers, the market for feedgrains could be seriously depressed. Our farmers are already concerned over this possibility.

Mr. President, I also would like to point out an October 14 Wall Street Journal article, "Down, But Not Out," the story of how one young Iowa farmer was affected by this summer's drought.

The lesson we should learn from the study and the article is that we have an extremely volatile agricultural market. While a young farmer such as Jim Chones was able to sustain a loss of $30,000 this year, he obviously would be hard pressed next year if he had a good corn crop and prices declined sharply.

Our Senate Committee on Agriculture and Forestry will be reviewing agriculture legislation, and one important concern will be the level of floor prices to give our farmers some basic level of security.

Mr. President, I ask unanimous consent that the study and the Wall Street Journal article by Gene Meyer be printed in the RECORD.

There being no objection, the study and article were ordered to be printed in the RECORD, as follows:

U.S. GRAIN SITUATION

The central problem of agriculture is the supply of feed grains and soybeans. Production estimates have been falling continuously since mid-year as the result of problems in planting last spring, widespread drought problems in the summer, and unusually early frosts this fall. The October 1 Crop Report indicates production of feed grains is down sharply—18 percent—from last year and soybean production is off almost a fifth from last year. Indicated carryout from the 1974–75 marketing year will be extremely low. Only wheat and rice carryout stocks will exceed a month's domestic demand at the end of the year.

U.S. GRAIN SUPPLY

[Million units]

	Production			Carryout		
	1974 [1]	1973	1968-72 [2]	1974	1973	1968-72 [2]
Corn (bushels)	4,718	5,643	4,910	325	428	1,017
Sorghum (bushels)	632	937	769	20	26	210
Feed grains (tons)	168	187	183	13.4	20.6	45.8
Rice (hundredweight)	114	93	90.2	23.5	7.9	8.1
Soybeans (bushels)	1,262	1,567	1,163	60	160	179
Wheat (bushels)	1,781	1,711	1,503	243	249	767

[1] Indicated levels, Oct. 1 crop report and Oct. 13 supply-demand estimate by USDA.

[2] Average.

The tight supply picture has resulted in significantly higher commodity prices. The price rise was temporarily reversed by the President's cancellation of a grain sale to the USSR, but the subsequent Crop Report again stimulated the market.

	Average price (dollar/unit)		
	1974 [1]	1973	1968-72
Corn (bushel)	3.79	2.38	1.24
Sorghum (hundredweight)	6.90	3.8	1.99
Rice (hundredweight)		13.80	5.44
Soybeans (bushel)	8.43	5.57	3.01
Wheat (bushel)	4.96	4.00	1.38

[1] Monday, Oct. 14, 1974, closing price at selected terminal markets.

The much higher prices have caused repeated downward adjustment of demand and utilization both for domestic and export markets. However, as noted above, even these lower estimates will leave the nation in a very tight supply position.

DISAPPEARANCE OF SELECTED CROPS

[Million units]

	Domestic		1968-72 [2]	Export		1968-72 [2]
	1974 [1]	1973		1974 [1]	1973	
Corn (bushels)	3,997	4,700	4,250	825	1,225	744
Sorghum (bushels)	NA	724	667	NA	225	137
Feed grains (tons)	147.7	157.1	146	27.8	39.5	24
Rice (hundred weight)	37.5	37	35	61	50	54
Soybeans (bushels)	874	912	709	500	542	410
Wheat (bushels)	788	754	782	1,000	1,148	740

[1] 1974 figures as indicated in Oct. 1 supply-demand estimate.

[2] Average.

WORLD SITUATION—SEPTEMBER

Wheat

Total world wheat production this year appears to be down only about 4 percent from last year and above the 1968–72 average. However, the Russian crop is expected to be down at least 18 percent from last year and it may be even lower. The Indian crop was projected to be off 11 percent from last year but all reports the past month suggest a much larger decline and Bangladesh is also expected to be deficit.

Net production increase this year among the four major exporters, Argentina, Australia, Canada and the U.S. was placed at about 7 million bushels. Frost damage to the Canadian crop, and lower U.S. estimates suggest no addition to Exportable stocks in the 4 major export countries.

Ending stocks could be below the low of 50 million tons recorded in 1972–73. Therefore, demand pressure and prices are expected to hold through next year at least.

Feedgrains

World stocks of feed grains are nearly depleted and consumption is expected to exceed production again this year reducing total carryout from 1974–75 to about a one month's supply.

Declines in the U.S. and Canadian crops are responsible for the tight position. Exportable world stocks of feed grains, because of the North American situation, are expected to be off at least a third. However, the Russian crop is projected to be up sharply. This would reduce Russian demand and could relieve some export demand pressure. Again stock positions will continue to be tight for at least another year with associated high feed grain prices.

Oils and oil seeds

The expected supply relief in the oil sector is now unlikely. Lower soybean production has offset the slightly larger beginning stocks of this year and carryout of U.S. beans will be below the 1973–74 level. Some expansion in Brazilian beans, African peanuts and palm oil is expected, but Peru has again stopped anchovy fishing and the oil seed crops in India and Canada are off significantly. Like the grains, the soybean-oil seed sector will continue in a tight demand position with high prices.

In view of the world situation, export demand is probably going to hold fairly high. This is reflected in the reported U.S. export sales (contracts but not yet shipped) and actual shipments.

1974-75 EXPORTS (AS OF SEPT. 22—MILLION UNITS)

	Shipments	Outstanding sales	Total
Wheat (bushels)	249.4	378.6	628.0
Corn (bushels)		1,061.5	1,061.5
Sorghum (bushels)		145.2	145.2
Feed grains (tons)	.2	31.7	31.9
Rice (hundredweight)	4.2	7.5	11.7
Soybeans (bushels)	19.3	590.1	609.4

For the commodities under most extensive pressure—soybeans and feed grains—the sum of shipments and contracts already exceed USDA estimates. The Department suggests these contracts do not necessarily mean shipment will occur, and that "buy backs", slowing demand due to economic problems abroad, and rising prices will result in much lower realized shipments. However, it should be noted that buy backs of contracts means higher prices for U.S. users and lower profits for U.S. producers, and would yield speculative profits to the contract holders.

RAMIFICATIONS

The higher grain prices would generally benefit crop farmers; however, this will not be universal. First, many crop farmers this year have lost all or a large part of their production. Where this has occurred, the higher prices for products are of little consequence. For a larger share, the higher prices will offset lower yields leaving net incomes only marginally higher if at all.

This is true not only because production has declined, but because all production costs are up sharply. At the middle of September, all production costs were up by about 50 percent from September 1972 and selected items such as fuel and fertilizer—prime inputs for *crops*—are up much more. Fertilizer prices are nearly double earlier levels.

The major impact, however, will be on the livestock sector. Traditionally, over 4/5's of all feed grains produced in the U.S. are used by the livestock sector. A major share of protein meal (soybeans) is also utilized by producers in livestock feeding, dairy and poultry. All sectors of the livestock industry is suffering accute cost-price pressures. For hogs, poultry and dairy, this problem extends over several years. For beef, it is of about a year in duration.

The impact is reduced livestock production, herd and flock culling and, in increasing numbers, total liquidation. In the short run, this will increase meat supply; but in the longer term, there will be sharp decreases and a fairly long period needed to recoup the foundation herd losses.

Hog and pig numbers are now at lowest level since 1965, the expected farrowing for next quarter is off from last year by 10 percent and pork supply next year will be off by at least as much.

Cattle feeding has been on the decline and is running at about 75 percent of year earlier levels. At this time and into 1975, beef supply is up because of sharply higher slaughter of grass fed cattle and calf slaughter. However, quality and yield will be on average lower plus ultimately the loss of cows and heifers will result in shortages. The beef problem is compounded by poor range and winter pasture conditions over much of the Great Plains.

The dairy herd has been reduced at a higher than average rate over the past two years. The smaller herd and reduced use of feed is beginning to show up significantly in lower milk production.

Layer flocks and egg production have trailed year earlier levels in every month since April 1972—the longest period of decline on record. Broiler placements are now declining due to lower broiler prices and high feed costs.

Ultimately, consumers will face shortages of livestock products and higher prices. This will have a very negative impact on food budgets because livestock products represent the bulk of consumer food purchases.

In addition, the demise of the livestock sector will sooner or later result in a depressed market for grains and soybeans. Demand will be reaching relatively low levels just when we can expect expanded production. It is possible that a complete reversal in prices could occur over the next 18 months—relative surpluses of grains and lower prices while livestock supplies will be short and higher average prices can be expected.

[From the Wall Street Journal, Oct. 14, 1974]

DOWN, BUT NOT OUT—A YOUNG FARMER, HIT HARD BY THE DROUGHT, SAYS, "I'LL PULL THROUGH"; JIM COMES, 27, COULD TAKE A $30,000 LOSS THIS YEAR, MAY TRY DIVERSIFICATION; "WE'RE GOING TO PAY FOR THIS"

(By Gene Meyer)

ATLANTIC, IOWA.—Jim Comes's corn crop began auspiciously this spring.

His three red tractors rumbled across the sunlit fields of his farm near here, as Mr. Comes and his hired help worked the soil in nearly ideal April and May weather. Mr. Comes listened to the reassuring steady click of the corn planter as it marked the placement of precisely measured combinations of hybrid seed, fertilizer, bug killer and weed killer in just the right spot for row after row after row.

"It was beautiful," he recalls. "I had so much hope for this crop."

But three months after the euphoria of spring, a state agriculture official looking over Mr. Comes' field told the young farmer he would probably be wiped out.

What happened in between was this summer's drought, the worst to hit the Corn Belt since the 1930s. Virtually no rain fell in the Atlantic area in southwest Iowa in May, June or July, the critical corn-growing months when normally more than 12 inches fall. The temperature climbed, first to the 90s and then to 100 and then to 110. Asphalt melted and trickled off nearby Interstate highway 80. The stoic people of Atlantic anxiously watched the sky for signs of rain. And Jim Comes' corn crop died of thirst.

The hot, dry summer is over now, and all but forgotten in the first chill of autumn. For Jim Comes and thousands of other Corn Belt farmers, however, the real story of the drought's impact is just unfolding. It is a story of financial loss, sacrifices and deferred dreams.

BILLIONS OF DOLLARS IN LOSSES

Agriculture experts are still toting up the damages, the full scope of which won't be known until the corn and soybean harvests are completed, probably in November. The total crop loss in the U.S. is likely to be in the billions of dollars. A recent estimate by Iowa officials is that the state's 132,000 farmers lost $1 billion—more than 20% of the total value of their corn and soybean crops—mostly to the drought, but some to planting-time floods and, most recently, to killing frosts that hit major sections of the Midwest.

Last week, the Agriculture Department estimated that the corn harvest could be 16% smaller than last year's and the soybean crop could be 19% smaller. Whatever the damages finally amount to, observers agree that all this will mean higher consumer prices for meat, milk, poultry and other foods whose production relies on corn and soybeans.

Jim Comes escaped the spring floods and the brunt of the September frosts, but he is nonetheless one of the losers.

Mr. Comes is a handsome, broad-shouldred 27-year-old who might be considered representative of the new breed of farmer: young, college-educated, and committed to large-scale, highly capitalized farming. He farms 900 acres, 80 of which he owns; he rents the rest from his father. His 900-acre operation doesn't make him a giant in Iowa agriculture, where some farms are as large as 3,000 acres. But his farm is larger than average, and it puts him in charge of more than $1 million of assets, a responsibility shouldered by few of his contemporaries in the business world.

His farm near here was designed more functionally than aesthetically, yet there is a pleasing symmetry about the rambling feedlots fanning outward and downward from hilltop sheds and tall silos, and row crops clinging to the rolling hills to keep the rich soil from washing away.

FROM A PROFIT TO A LOSS

Since he begin farming this soil five years ago, Mr. Comes has invested $100,000 in the farm and has built his sales volume to an average of $275,000 annually. Last year, his operations netted him a profit of $22,000. This year, he will lose about $30,000.

Mr. Comes is basically a livestock feeder. He makes most of his money buying calves that weigh between 600 and 700 pounds, feeding them until they weigh about 1,200 pounds and selling them. He also raises breeding hogs and feeds their young until they reach market weight of about 220 pounds.

A key element in this operation is corn. Farmers like Mr. Comes regard themselves as corn grows who sell their crop in livestock form. Mr. Comes raises 600 acres of corn. In this summer's drought, he lost two-thirds of it. He's got virtually nothing to feed his animals.

So he's not feeding many. Instead of fattening the 500 calves he'd planned to in the next 12 months, he will feed about 200. Instead of feeding the 350 pigs his 37 bred hogs would have given birth to, he will feed none; he sold the hogs.

In short, Mr. Comes has relatively little to sell to offset his production costs—for fuel, seed, insecticides, wages, overhead and other items—that he incurred when things looked good. Mr. Comes also usually makes some money by selling the 110 acres of soybeans he grows, but those, too, were hit hard by the drought.

"I can always salvage some silage (chopped-up immature corn plants fermented in silos and used as feed)," he says quietly as he watches his tractors pulling clumsy-looking forage choppers through the stunted corn plants. "And I still might get 30 to 40 bushels an acre from the corn that matures." That's small consolation, though. Last year, Mr. Comes' corn fields yielded 120 bushels an acre.

Not all of Mr. Comes' problems stem from the weather. Like a lot of other cattle feeders, he was heading for leaner times even before the drought hit. Shifts in consumer demand, government price controls, soaring costs and some old-fashioned bad guessing put a lot of cattlemen in the unhappy position of buying calves at high prices and selling fat cattle at low prices.

At the same time, inflation is hitting the Comeses as hard as it is other Americans. Like many farm families, they get meat from their own animals and vegetables from their garden. But they still have to buy such increasingly costly items as milk, sugar, eggs and flour. "I really don't buy that much," says Mrs. Comes' petite blonde wide, Connie, her ready smile fading for a moment. "But $20 just seems to vanish."

Production costs also are mounting. Fertilizer cost twice what it did a year ago and diesel fuel has risen nearly as much. A roll of fence wire costs $30 now, compared to $14 a year ago. Electricity, which pumps water and runs feeding machinery in addition to lighting the house, went up 18% this month.

And like businessmen everywhere, Mr. Comes has to pay higher interest rates—in his case, more than 9% versus 7½% to 8% last year. In good years, he borrows up to $120,000 a year in operating loans, most of which is used to buy feeder calves and is repaid when he sells the cattle. Because of his drought-forced cutback, he'll borrow less than half his usual amount this year, but his interest costs will decline by only 44% because of higher rates.

All this is taking its toll and, the young farmer admits, has dulled his appetite for the only life he has ever known or wanted. But this is temporary, he believes. "I still enjoy farming when I'm in a normal frame of mind," he says.

MORE CAUTIOUS BUYING

Mr. Comes by no means feels he is wiped out. "It may take me three years to do it," he says, settling into his favorite easy chair in the living room of his modest brick home. "But I'll pull through. What else can I do?"

Pulling through means changes, though. For one thing, Mr. Comes has become much more cautious in buying the few calves he will feed this year. He spent many evenings poring over livestock-auction listings from all over the Midwest. Then, after sweltering fruitlessly for several days in cigar smoke-filled sale barns, he finally took the plunge in Omaha and bought 73 calves one day.

One such unproductive search for reasonably priced calves took much longer than planned. It was the day on which he was to bring his wife and their newborn first child, Chad, home from the hospital; he was 12 hours late.

On another day, he drove his battered six-year-old Ford pickup into town to buy some lumber to build two new gates for his farmyard. But, when the lumberyard manager told him that it would cost more than $60, he changed his mind, "Maybe, I'll just patch up the old gates," he said and returned home.

The people of Atlantic, a county-seat town with a population of 7,300 know about Jim Comes' problems. Many of them are his friends; they've known him since he was a boy growing up on his father's farm just west of town. His wife taught some of their second graders before she was married three years ago.

MOVING INTO TOWN

And many of them realize that the problem Jim Comes is having is moving quickly to the flag-lined business district along Chestnut Street.

"Our local economy suffers a half-million dollar loss for every bushel we lose in the county's average corn yield," says Dan Merrick, the county extension director. "That hurts all the way from the implement dealer to the dime store."

"We're all going to be paying for this for a long time," Mr. Merrick continues. "You can see some differences already. Feed salesmen have to sell feed instead of simply ration it out like last year. The lumberyard isn't selling lumber for hog houses or new homes. The farmers just seem to be pulling back."

There are potentially broad implications in all this, Mr. Merrick adds, for the economy of Iowa and other farm states; for example, about 80% of Iowa's population directly or indirectly provides the $4 billion worth of goods and services bought by farmers last year. The implications for consumers are no less important, Mr. Merrick says: "If good capable and enthusiastic men like Jim Comes don't feed livestock, where's our meat going to come from?"

A FUTURE IN LIVESTOCK

That's a legitimate question, Mr. Comes agrees. "Right now I'm just waiting to see if there's any future in feeding livestock. I don't know if consumers want to buy meat for what it costs me to produce it."

Meanwhile, some of his dreams will have to wait, too, Chief among them is buying the rest of the farm from his father, a goal to which he has aspired since he was an agricultural business student at Northwest Missouri State College in Maryville. He still plans to buy this land, which at present prices would cost nearly $820,000, but he admits he won't be able to turn it into the grand operation that he dreamed about in college and on his weekend commutes home to help farm.

"I had a lot of big plans," he says softly. "A thousand-head feedlot, big concrete feed bunks, automated equipment, the works."

He will also delay buying a new pickup, and a new car that his wife can drive more easily that the 1970 stick-shift Buick he bought during his bachelor days. He hopes that his farm equipment, some of which needs replacing, holds out. He remembers too well when his combine broke down in mid-harvest two years ago and he had to buy a new one, paying $19,000 cash for it. He knows he can't easily shell out that kind of money now.

What Mr. Comes may do in the wake of this summer is diversify, exchanging the boom-or-bust vulnerability of his present operation for steadier, but smaller, profits. He might, for example, keep a 60-head cow herd and feed only their calves instead of buying large numbers of feeder calves. That would leave him with enough corn to get back into hog feeding, and would also free land for increasing his soybean acreage.

"It wouldn't be flashy," he admits. "But then I'm a farmer, not a gambler."

THE FACTS ABOUT SURFACE MINING

Mr. HANSEN. Mr. President, members of a Senate-House joint conference on surface mining are deadlocked over disagreement on the bill's controversial surface owner consent provision. Further consideration of the issue has been postponed until late November.

In view of demands on Western States to supply energy for the Nation, I still am hopeful Congress will pass a surface mining bill which will protect our environment, preserve our quality of life, and still allow for recovery of the resource. No land should be mined that cannot be reclaimed.

I am very much concerned about protecting rights of surface owners—particularly farmers and ranchers—whose land may be affected adversely by coal development. They have title to the surface, but the United States reserved all coal and other minerals together with the right to prospect for, mine, and remove such minerals. Thus, the rancher owns the surface, but the subsurface, in the case of coal, has been leased or is leasable pursuant to the Mineral Leasing Act of 1920.

Present law provides that the mineral lessee must obtain written consent or execute a good and sufficient bond to secure the payment to the surface owner for any damages to the crops or to improvements, as well as for any damages that might be caused to the value of the land by loss of grazing.

During Senate Interior Committee consideration of the surface mining bill, it was advocated that the bonding provision be deleted. This would have given surface owners the final say as to whether their land would be mined. Senator MIKE MANSFIELD intended initially to sponsor such an amendment. However, he recognized such an amendment might be unconstitutional. Accordingly, he altered his proposal to limit coal surface mining to Federal lands. His amendment, adopted by the Senate, would have prohibited surface mining of all coal deposits where the surface is privately owned and title to the minerals is owned by the United States.

Most surface owners who contacted me prior to the Senate debate on the bill had been led to believe that the Mansfield amendment would give the surface owner the exclusive right to determine whether the minerals could be mined. But the Mansfield floor amendment was quite different. It gave the surface owner no right of determination, and precluded surface mining regardless of the intent of the surface owner. Although the amendment would permit underground mining, most of the coal in the areas affected by the amendment is so close to the surface, and the seams so thick, that underground mining methods would be wholly impractical, and in most instances impossible. The amendment is, in effect, a prohibition. Many Members of the Senate who initially supported the Mansfield amendment subsequently reversed their positions. Only one Senator on the conference committee voted for the Mansfield amendment.

The original Melcher amendment, as passed by the House of Representatives, would have required surface owner consent before mining operations could commence in those instances where the mineral estate is owned by the Federal Government, and the surface rights are held pursuant to a patent.

Opponents of the Melcher amendment said it conferred a mining veto on the surface owner that could constitute unjust enrichment and would have led to anticompetitive practices. Senator MANSFIELD maintained in a letter to the surface mining conferees that the Melcher amendment was antiagriculture. He questioned its constitutionality. Following is a quote from his letter dated August 2, 1974:

> Some of the best legal minds have serious questions about the constitutionality of "surface owner consent" . . . Can the Congress give absolute control of the utilization of the subsurface to a single party? Owner consent encourages the surface owner to hold out for an excessively high price for title to his land. The only coal interests that can meet these offers are the large corporate giants, thus, excluding the smaller coal developing companies and contributes to monopolistic conditions. No one interested in farming or ranching will be able to buy property at these prices. . . .

Representative MORRIS UDALL, chairman of the conference committee, noted that:

> . . . conferring a mining veto on the surface owner will not stop mining; it will mean rather that mining will follow an irrational pattern dictated by the willingness of individual surface owners, rather than the systematic development of the coal deposits best suited to mining and reclamation.

A substantial majority of the Senate and House conferees now are on record in opposition to both the original Mansfield and Melcher amendments. They feel a compromise should be adopted to guarantee that: no surface owner receives any "windfall" profits; the coal reserved for the people of the United States will not be locked-up; and, surface owners will receive fair and just compensation if the coal underlying their surface is mined. But an impasse resulted from disagreement over definition.

To break the deadlock, several members of the committee proposed amendments. I will not attempt to describe all of the proposals but I am hopeful the following discussion will help you to understand how the conference committee is approaching the solution to the problem.

It was proposed that the Mansfield amendment be modified to "grandfather in"—exempt—existing coal leases. However, after date of enactment all Federal coal deposits would be withdrawn from surface mining. The Secretary of the Interior would have the authority to revoke this withdrawal on a case-by-case basis, after a detailed study were completed. No new mines could be opened unless they were contiguous to existing logical mining units. The Secretary's revocation of the withdrawal would be subject to congressional review.

Senator Haskell proposed that the coal lessee should obtain written consent or post a bond to secure the immediate payment equal to the fair market value of the land to be disturbed by the proposed operation, and to secure the subsequent payment to the surface owner of any loss of net income, and any reduction of the value of the surface caused by the mining operation.

Initially, I offered a compromise amendment which would entitle the surface owner to a 1 percent per ton royalty for all coal produced, as liquidated damages. I have never tied it to a specific price per ton, because I would not want to see ranchers locked into a fixed price in light of escalating costs and inflation. Members of the conference committee classified my proposal as a "windfall" for the surface owner, and rejected it because they said it would entitle the surface owners to excessive profits from minerals which belong to the people of the United States. Some surface owners, on the other hand, thought it would imply that the coal companies would have authority to commence condemnation proceedings. This certainly was not the intent of the amendment.

Another Senator's proposal would have required written consent. However, it would have subjected surface owners and coal lessees to criminal prosecution and imprisonment of 1 to 5 years if more than twice the fair market value of the land were paid in exchange for consent. The modified Mansfield amendment, which I previously described, also was included as a part of this proposal.

Congressman Melcher proposed that the original Melcher amendment be modified. According to him, it would require the following procedure:

> Appraisers, one of which is appointed by the landowner, would arrive at fair market value for the surface, improvements, loss of income, costs of relocation, and all other costs and damages. If the surface owner agreed to the price, the Secretary would then be able to make the lease. If the surface owner did not agree, the Secretary (of the the Interior) would make no lease.

I felt none of the proposals would have resolved the impasse satisfactorily. The rancher is entitled to a better deal than the modified Melcher amendment would give him. I did not want to see surface owners locked into a fixed formula without opportunity to closely scrutinize the alternatives. Accordingly, in order that passage of the deadlocked surface mining legislation could be achieved, I proposed in the last session of the conference that the controversial surface owner protection provision be deleted from the legislation in its entirety. It would be more appropriately addressed in the next session of Congress.

Since we were in the 11th hour of the session, I contended that the important thing to do was to pass the legislation to assure that reclamation is required, that the land and waters of the United States will not be damaged, and that the extraction of the coal needed to meet the Nation's energy requirements would not be blocked.

I do not believe that surface mining as it is practiced today was contemplated when the Federal Government reserved the mineral estates of much of the West. Generally, the coal was reserved pursuant to the Stock-Raising Homestead Act of December 29, 1916. It requires that all patents must contain a reservation to the United States of all coal and other minerals together with the right to prospect for, mine, and remove such minerals. The act did not specifically mention mining methods. After passage of the Stock-Raising Homestead Act, Congress did not address the issue of the surface owner rights until 1949. In that year, Congress passed a law which extended the liability for damages by strip or open pit mining methods to include the loss of the value of land by grazing. Previously, damages were limited only to crops or improvements and the courts had held that grass was not a crop. The legislation explicitly recognized the strip and open pit mining methods.

Although a bond could be posted in lieu of written consent, written consent has generally been obtained before mining commences. This presumably accounts for the fact that the rights of surface owners overlying Federal coal have not been litigated.

Authorities disagree as to whether the Federal Government, having reserved the coal, has the right to surface mine it. I submitted to the conferees that by dropping this section of the bill, we would neither deny existing rights of the surface owner nor grant new privileges.

To guarantee that existing rights, whatever they may be, are not affected, I proposed that a new section be added to the bill which would provide that:

> Nothing in this Act shall be construed as increasing or diminishing any property rights held by the United States or any other landowner.

There was considerable speculation that if the conference failed to reach agreement prior to the congressional recess, the odds for achieving passage of a surface mining bill this year would be diminished considerably. In view of that, the Senate conferees, unanimously voted to accept my amendment to delete the surface owner protection section. Several of the House conferees also voted in support of my amendment to delete, including my Wyoming colleague, Congressman Roncalio. His reports to the conference of recent surface sales would not indicate the present state of indecision is detrimental to the surface owner, another reason why I thought it made good sense to delete this section now.

Because the House delegation was unable to agree on a position, the House conferees will meet separately prior to resumption of the conference in late November to try to work up a new position.

There is special concern, which I share, that the surface owner protection alternatives last submitted never were subjected to Senate or House committee hearings. This section is especially far reaching and potentially could radically affect the way of life of many farm and ranch families of the West, who have been on the land for generations. This subject should not be incorporated into law without careful attention to all aspects and possible ramifications of the law.

Should the conference at its late November meeting again fail to reach compromise on this controversial section and determine to delete it, I believe that surface owner protection should be the subject of separate legislation with full benefit of the legislative process, including field hearings in Wyoming and other areas that stand to be affected by such major legislative decisions.

There is adequate time remaining to thoroughly study and carefully develop new Federal doctrine on surface owner protection. There is in effect now a moratorium on leasing of all Federal coal.

Certainly the people of the West who stand to be most affected by such legislation are entitled to the opportunity for input that field hearings in their own localities would provide.

UTAH SUPPORTS OPERATIONAL ERTS

Mr. MOSS. Mr. President, I have received another letter from Gov. Calvin L. Rampton reiterating Utah's support for an operational ERTS system. In fact, he says:

> ERTS-1 has proved itself through the technical research and development stage with applications far beyond expectations . . .

Mr. President, this letter discusses Utah's use of the ERTS system in greater detail and augments his previous letter to me in this regard. I ask unanimous consent that it be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of the Governor,
Salt Lake City, Utah, October 10, 1974.

Hon. Frank E. Moss,
Chairman, Committee on Aeronautical and Space Science, U.S. Senate, Washington, D.C.

Dear Ted: I am writing in support of an operational Earth Resources Technology Satellite (ERTS) system. Experience by Utah State agencies, especially those dealing with natural resource management, and Utah universities have found numerous applications of ERTS data and there has been a good deal of enthusiasm generated in favor of an ongoing operational system.

There have been several promising experimental and practical applications involving ERTS data in Utah since ERTS-1 was launched. The University of Utah has a center for remote sensing and cartography, and a good deal of ERTS related work is performed. They were co-sponsors, along with the State Department of Natural Resources and others, of a conference at the University on May 16-17, 1974 on the practical uses of the Earth Resources Technology Satellite system. The conference, in which you participated, served to demonstrate that satellite obtained images and data have utility for a wide range of earth resources applications: in mineral exploration, land use and water resource planning, flood control, forestry and agriculture. This conference also demonstrated that experts in Utah have taken the initiative in determining the applications of ERTS specifically for managing Utah resources.

We are studying the feasibility of creating a state-wide program to handle and make available earth resources information. Regarding this, there have been many (18) work meetings involving directors and technical people from Utah State and federal agencies with natural resource management and planning responsibilities. These meetings provided a common ground for productive discussion in terms of identifying need for cooperative investigation utilizing ERTS and related systems. A summary of these efforts is attached.

IRTS–1 has proved itself through the technical research and development stage with applications far beyond expectations, and the system was not specifically user oriented. Given this evidence, I support more launchings (i.e. ERTS–B and ERTS–C) thus assuring continuously available ERTS coverage. In addition a future ERTS system should have more sophisticated multi-spectral scanning capabilities that provide better resolution and thermal band capabilities. There is a real need for the system to provide ways to convert raw data into information for direct use by users thereby requiring less money and manpower for interpretation-application and requiring far less time. Many potential uses of ERTS data are now rendered ineffective given the long time required to obtain it after it is generated by ERTS.

Users of ERTS imagery and data in Utah and the West have been fortunate in being able to acquire it relatively rapidly through the United States Department of Agriculture's Aerial Photographic Laboratory located in Salt Lake City. Generally it has been much faster to obtain ERTS imagery through that office than through the Department of Interior EROS Data Center at Sioux Falls, South Dakota, the official outlet for ERTS information.

Finally Ted, I would like to mention that there is some concern in Utah regarding the possibility of having the U.S.D.A. Aerial Photographic Laboratory and Field Office removed from the State because of a reorganization. We in Utah would regard this as a serious loss since many individuals, agencies and institutions rely on the services, imagery and information they provide. The Field Office and Aerial Photographic Laboratory stand to make a continuing contribution to this State especially in relation to an ongoing operational ERTS system.

Sincerely,

CAL,
Governor.

FAVORABLE SUPREME COURT ACTION ON FOREIGN INTELLIGENCE WIRETAPPING

Mr. **HRUSKA.** Mr. President, the Subcommittee on Criminal Laws has been holding hearings on the power of the Federal Government to wiretap. One of the issues examined in these hearings is the power of the President to wiretap in foreign intelligence cases without the prior approval of a Federal judge.

Yesterday, the Supreme Court in the case of *Ivanov* v. *United States*, No. 73–1648, refused to review the decision of the Third Circuit Court of Appeals which upheld warrantless electronic surveillances for the purpose of gathering foreign intelligence information. Because of the interest of the Senate in this matter, I ask unanimous consent to have printed in the RECORD, following my remarks, a copy of the decision of the court of appeals and to discuss at this time the effect of the Supreme Court's decision.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. Mr. President, the *Ivanov* case presented a question unresolved by the Supreme Court in *United States* v. *U.S. District Court*, 407 U.S. 297 (1972)—commonly referred to as the Keith case. In that case, the Supreme Court ruled that wiretapping in domestic national security cases is prohibited without a judicially obtained warrant. The Court, however, clearly indicated that the decision applied only to domestic security wiretaps and did not extend to—and I quote—"the President's surveillance power with respect to the activities of foreign powers within or without this country." 407 U.S. at 308.

Mr. President, every court which has considered that issue has approved warrantless electronic surveillance for the gathering of foreign intelligence information as reasonable and constitutional within the meaning of the fifth circuit sustained the President's power in *United States* v. *Brown*, 484 F.2d 418, 425–27 cert. denied, March 4, 1974, No. 73–5[illegible]20 and in *United States* v. *Clay*, 430 F.2d 165, reversed on other grounds, 403 U.S. 698. And the District Court for the District of Columbia upheld the President's power in foreign intelligence cases in *Zweibon* v. *Mitchell*, 363 F.Supp. 936, 942–44 and *United States* v. *Hoffman*, 334 F.Supp. 504, 507–508. Mr. President, I ask unanimous consent that these decisions be placed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HRUSKA. Mr. President, this question was brought back to the Supreme Court this summer by a convicted Soviet spy, Igor A. Ivanov. He was convicted on espionage charges of obtaining secrets about the electronic command and control system of the Strategic Air Command. FBI agents had used five wiretaps—none approved by a Federal judge—in investigating Ivanov. The surveillances were expressly authorized by the Attorney General for the purpose of gathering foreign intelligence information.

The district court concluded that the surveillances, conducted without a warrant, constituted a reasonable exercise of the President's power to gather foreign intelligence information and, as such, did not violate the fourth amendment—318 F.Supp. 66, 69–72.

On appeal, in a rehearing en banc, the third circuit upheld Ivanov's conviction, ruling that the Constitution does not require the Government to obtain authorization for wiretapping in foreign intelligence cases.

In both of these cases, the Department of Justice maintained—and the courts upheld—the view that the President through his Attorney General may authorize electronic surveillance without prior judicial approval under his constitutional authority to conduct foreign relations and to protect our national security. The propriety of the President's exercise of this authority is not subject to prior judicial review. As the court of appeals pointed out in the *Ivanov* case:

> The importance of the President's responsibilities in the foreign affairs field requires the judicial branch to act with the utmost care when asked to place limitations on the President's powers in tha area. As Commander-in-Chief, the President must guard the country from foreign aggression, sabotage, and espionage. Obligated to conduct this nation's foreign affairs, he must be aware of the posture of foreign nations toward the United States, the intelligence activities of foreign countries aimed at uncovering American secrets, and the policy positions of foreign states on a broad range of international issues.
>
> To fulfill these responsibilities, the President must exercise an informed judgment. Decisions affecting the United States' relationships with other sovereign states are more likely to advance our national interests if the President is apprised of the intentions, capabilities and possible responses of other countries. Certainly one means of acquiring information of this sort is through electronic surveillance.

The constitutional responsibility of the President to maintain the national security of our Nation and to conduct our foreign relations free of approval by the judicial branch was also noted by the district judge in this case:

> It is obvious that in making a determination to use wiretapping in a particular case, the President or the Attorney General must make a judgment based on foreign policy considerations. It would be unrealistic to impose upon a judicial officer the burden of deciding what does or does not constitute a threat to our national security. That decision should be left with the executive branch of the Government, which alone possesses the necessary expertise and factual data to assess the reasonableness of electronic surveillances in any given case and the need therefor.

These statements on the exclusive responsibility of the executive branch appear to reiterate the decision of the Supreme Court over 25 years earlier in *C. & S. Airlines* v. *Waterman Corp.*, 333 U.S. 103 (1948):

> (T)he very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confided by our Constitution to the political departments of the government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry.

Mr. President, I think each of these statements is quite clear. As Commander in Chief and the organ of the Nation's foreign affairs, the President—and the President alone—is charged with the responsibility of making the delicate political judgments as to how to properly maintain our national security and conduct our foreign relations. By refusing to review the decision of the circuit court of appeals in Ivanov, the Supreme Court leaves intact the power to conduct warrantless wiretaps in foreign intelligence cases, the exercise of which power is necessary to maintain successfully our national defense.

Mr. President, we as Americans place a high value on our privacy. But every right is subject to a balance when other rights are on the other side of the scale. This balance is particularly acute here where we are dealing with the security of our Nation. For, "while the Constitution protects against invasions of individual rights, it is not a suicide pact." *Kennedy* v. *Mendoza-Martinez,* 372 U.S. 144, 160.

I want to point out, Mr. President, that the Subcommittee on Oversight of the FBI has received testimony in quite detail from the Director of the FBI concerning the nature and frequency of these wiretaps. Recently the Attorney General, in the referred to hearings before the Criminal Laws Subcommittee, described at some length the procedures which are utilized before he approves such warrantless wiretaps in foreign security cases. The Attorney General indicated that requests for these taps must be approved by several levels within the FBI and forwarded with detailed information to the Attorney General for his action. It is only after thorough consideration within the Department of Justice and approval by the Attorney General that such wiretaps may be utilized. This procedure limits the exercise of the power to one person—the Attorney General—in order to insure strict accountability. While the final responsibility is his, several levels of government are consulted for counsel and comment as noted above. Each has specific facts and expertise bearing on the issue, thus insuring a well-balanced, well-seasoned basis for the Attorney General's decision.

Mr. President, these procedures together with vigorous, periodic congressional oversight of these policies and procedures can insure that the power to conduct warrantless wiretaps in foreign intelligence cases, which the Supreme Court left intact by choosing not to review yesterday a decision upholding the constitutionality of the exercise of that power, is exercised stringently and without abuse.

EXHIBIT 1

[U.S. Court of Appeals, Third Circuit, Appeal of Igor A. Ivanov, No. 72–1741]

United States of America against John William Butenko and Igor A. Ivanov.

Argued March 20, 1973.

Reargued en banc Nov. 15, 1973.

Decided March 5, 1974.

As Amended April 9, 1974.

Defendant was convicted in the United States District Court for the District of New Jersey of conspiring to transmit to foreign government information relating to national defense of United States. The Court of Appeals for the Third Circuit, 384 F.2d 554, affirmed all except one conviction and certiorari was granted. On motion to modify order of remand on writs of certiorari the Supreme Court of the United States, 394 U.S. 165, 89 S.Ct. 961, 22 L.Ed.2d 176, vacated judgment and remanded case. The United States District Court for the District of New Jersey, Anthony T. Augelli, J., 318 F.Supp. 66, denied application for disclosure of communications and the defendant appealed. The Court of Appeals, Adams, Circuit Judge, held, inter alia, that there was presidential power to engage in warrantless surveillance to gather foreign intelligence information, that the overhearing of conversations by defendant during surveillance conducted and maintained solely for purpose of gathering foreign intelligence information did not violate defendant's Fourth Amendment rights and that the court did not abuse its discretion in refusing to order disclosure of records of such interceptions or to hold a hearing regarding them.

Affirmed.

Seitz, Chief Judge, filed a concurring and dissenting opinion in which Van Dusen, Circuit Judge, joined and Aldisert, Circuit Judge, joined in part, Aldisert, Circuit Judge, filed a concurring and dissenting opinion in which Van Dusen, Circuit Judge, joined, and Gibbons, Circuit Judge, filed a dissenting in part opinion.

1. Criminal Law—627.6(6)

Necessity of Government's disclosure to defense of records of electronic surveillance, in cases not involving illegal surveillance, depends on likelihood that accurate determinations of particular factual or legal issues in dispute are otherwise unobtainable.

2. Criminal Law—627.6(6)

Apart from ascertaining whether evidence derived from illegal surveillances tainted a conviction, it remains within trial judge's discretion to require or not to require disclosure of records of surveillances to facilitate resolution of questions surrounding electronic surveillance.

3. Telecommunications—493

Statute relating to prohibition against unauthorized interception of any communication and the divulging thereof prohibits divulgence of intercepted communications obtained by electronic surveillances that are deemed within the parameters of provision. Communications Act of 1934, § 605, 47 U.S.C.A. § 605.

4. Telecommunications—494, 495

Statute prohibiting persons from unauthorized interception and divulgence of communications extends to all of divulgences to any person of any surveillance within provision's ambit. U.S.C.A. Const. Amend. 4; Communications Act of 1934, § 605, 47 U.S.C.A. §605.

5. Telecommunications—495

Where electronic surveillances were conducted and maintained solely for purpose of gathering foreign intelligence information by Government, Communications Act generally prohibiting the unauthorized interception and divulgence of electronic communication does not render them, in and of themselves, accompanied by subsequent disclosure, unlawful. Communications Act of 1934, § 605, 47 U.S.C.A. § 605; U.S.C.A. Const. art. 2, § 2.

6. Searches and Seizures—7(1)

President, through his subordinates, cannot ignore admonitions of Fourth Amendment when investigating criminal activity unrelated to foreign affairs. U.S.C.A. Const. Amend. 4.

7. Searches and Seizures—7(1)

Fourth Amendment is applicable where President is acting pursuant to foreign affairs duties even though object of surveillance is not a domestic political organization. U.S.C.A. Const. Amend. 4.

8. Searches and Seizures—7(1)

Under Fourth Amendment all searches and seizures, even if authorized by warrant, must be reasonable which at a minimum means that some form of probable cause for search and seizure must exist and even a reasonable search may be unlawful if official fails to secure a warrant and makes no showing that exigencies of situation make that course imperative.

9. Telecommunications—496

Since the electronic surveillance by Government was conducted and maintained solely for purpose of gathering foreign intelligence information, prior judicial authorization of such surveillance was not required. Communications Act of 1934, § 605, 47 U.S.C.A. § 605; U.S.C.A.Const. Amend. 4.

10. Search and Seizures—7(1)

Foundation of any determination of reasonableness, which is the crucial test of legality under the Fourth Amendment, is the probable cause standard. U.S.C.A.Const. Amend. 4.

11. Searches and Seizures—7(1)

Search based on probable cause does not comport with Fourth Amendment if its scope is unreasonably broad. U.S.C.A. Const. Amend. 4.

12. Telecommunications—496

Since primary purposes of searches by means of electronic surveillance undertaken to acquire foreign intelligence information is to secure such information, judge, when reviewing particular search, must, above all, be assured that this was in fact its primary purpose and that the accumulation of evidence of criminal activity was incidental if the warrantless surveillance is to be upheld. U.S.C.A.Const. Amend. 4.

13. Searches and Seizures—7(1)

Since it was found that the second set of interceptions of conversations of defendant, found guilty of conspiring to transmit to foreign government information relating to national defense of the United States, were conducted solely for the purpose of gathering foreign intelligences information, the warrantless receptions, of defendant's conversations were reasonable under Fourth Amendment rights of defendant were not violated. Communications Act of 1934, § 605, 47 U.S.C.A. § 605; U.S.C.A.Const. Amend. 4.

14. Criminal Law—627.6(1)

Since question confronting trial court as to second set of intercepted conversations of defendant was the legality of the taps and not the existence of tainted evidence, it was within discretion of court to grant or deny defendant's request for a disclosure and the holding of a hearing and exercise of discretion were to be guided by an evaluation of complexity of factors to be considered by court and by likelihood that adversary presentation would substantially promote a more accurate decision. Communications Act of 1934, § 605, 47 U.S.C.A. § 605; U.S.C.A. Const. Amend. 4.

15. Criminal Law—627.6(6)

Where defendant, convicted of conspiring to transmit to foreign government information relating to national defense of United States, did not challenge finding of district court that with respect to the second set of intercepted conversations the surveillance was conducted and maintained solely for purpose of gathering foreign intelligence information, court's failure to order disclosure of records and to hold hearing regarding them did not constitute an abuse of discretion. U.S.C.A.Const. Amend. 4; Communications Act of 1934, § 605, 47 U.S.C.A. § 605.

Jonathan L. Goldstein, John J. Barry, Edward J. Dauber, Asst. U.S. Attys., Newark, N.J., A. William Olson, Asst. Atty. Gen., Robert Keuch, Internal Security Div., Dept. of Justice, Washington, D.C., Herbert J. Stern, U.S. Atty., for appellee.

Edward Bennett Williams, Vincent J. Fuller, Robert L. Weinberg, Williams, Connolly & Califano, Washington, D.C., for appellant.

Argued March 20, 1973 before Seitz, Chief Judge, and Aldisert and Adams, Circuit Judges.

Reargued en banc November 15, 1973, before Seitz, Chief Judge, and Van Dusen, Aldisert, Adams, Gibbons, Rosenn, Hunter, Weis and Garth, Circuit Judges.

OPINION OF THE COURT

Adams, Circuit Judge.

Among the more perplexing dilemmas faced by a democratic society is that of securing its territorial and institutional integrity, while at the same time, preserving intact the core of liberties essential to its existence as an association of truly free individuals.

The disposition of this appeal, which requires us to consider the relationship between the federal government's need to accumulate information concerning activities within the United States of foreign powers and the people's right of privacy as embodied in statute and the Fourth Amendment, represents, in effect, part of the federal judiciary's attempt to strike a proper balance between these two compelling, albeit not easily reconciled, interests.

The present appeal is the most recent episode in this provocative and protracted litigation.[1] At a trial concluded on December 2, 1964, appellant Igor A. Ivanov, a Soviet national, and John Butenko, an American by birth, were convicted of conspiring to violate the provisions of 18 U.S.C. § 794(a) and (c) and 18 U.S.C. § 951. These statutes, in essence, prohibit the transmission or communication to a foreign government of material or information relating to the national defense, and forbid a person from acting as a foreign agent absent prior notification to the Secretary of State. In a previous appeal, Ivanov and Butenko contended that the evidence offered by the government, which tended to implicate them in an attempt to purloin highly sensitive information concerning the Strategic Air Command, was insufficient to support the averments in the indictments and, hence, their convictions could not stand. This Court agreed with Ivanov's contention with respect to his conviction for violating § 951, but otherwise affirmed the judgment of the district court.[2]

Ivanov and Butenko then sought certiorari in the Supreme Court. While their petitions were pending, the government voluntarily revealed that it had overheard, by means of electronic surveillance, conversations of Ivanov and of Butenko. The Supreme Court thereupon granted certiorari, limited to questions of standing and the government's obligation to disclose the records of wiretaps determined to be illegal. In addition, the Court consolidated appeals of Ivanov and Butenko with another case involving similar issues.[3] After oral argument, the Supreme Court held that records of *illegal* surveillance must be disclosed to Ivanov and Butenko, and remanded the cases to the district court for a hearing findings, and conclusions (1) on the question of whether with respect to any petitioner there was electronic surveillance which violated his Fourth Amendment rights, and (2) if there was such surveillance with respect to any petitioner, on the nature and relevance to his conviction of any conversation which may have been overheard through that surveillance.[4]

On remand, the district court was presented with requests for disclosure of the records of two sets of interceptions. Pursuant to the Supreme Court's directive, the district court, after conducting a hearing, found that information contained in the first set of interceptions, conceded to be illegal by the government, had not tainted the convictions of Ivanov or Butenko.[5] After examining the records of a second set of interceptions *in camera*, the district court held that the electronic surveillance producing these records did not violate § 605 nor contravene the Fourth Amendment.[6] The district court, therefore, declined to order the government to disclose to Ivanov and his counsel the records of the second set of interceptions or to conduct further proceedings with respect thereto.[7] Accordingly, the district court directed that new judgments of conviction be entered.

Ivanov challenged the new judgment of conviction as to him. He asserted that the loss or destruction of some of the records dealing with the first set of interceptions prevented the government from sustaining its burden of demonstrating that his conviction was not tainted by these interceptions and may have deprived him of exculpatory evidence. Additionally, Ivanov contended that the district court erred in failing to require disclosure to him and his counsel of the records of the second set of interceptions, which he claimed violated § 605 of the Communications Act of 1934, or, if the Court found them to be permissible under § 605, his Fourth Amendment rights.

A panel of this Court, in an opinion filed June 21, 1973, unanimously declined to reverse the district court's finding of no taint as to the first set of interceptions. However, the panel concluded, by a 2–1 vote, that the second set of interceptions fell within the parameters of § 605 and that, therefore, the divulgence of the contents of that set of taps, for the purpose of trial, was illegal. Consequently, the panel remanded to the district court for disclosure to Ivanov and his counsel of the records of the second set of interceptions and for an evidentiary hearing to determine whether they tainted his conviction.

The government petitioned the Court in banc for a rehearing of that portion of the panel's decision ordering disclosure and an evidentiary hearing dealing with the second set of surveillances. Ivanoy filed a petition for rehearing, conditioned on the government's obtaining rehearing, contending that the panel was incorrect in concluding that the government had produced all the records previously ordered disclosed relating to the first set of interceptions. The full Court granted the government's petition for rehearing, but denied that of Ivanov.

Thus, the principal question before the Court in banc is whether it is sufficient that the records of the second set of interceptions be disclosed to the district court *in camera*, or whether the government must also disclose to Ivanov and his counsel the records of this set of interceptions.

I. THE DISCLOSURE REQUIREMENT

In Alderman v. United States,[8] the Supreme Court held that the government must disclose to Ivanov and the other defendants all records of *illegal* surveillances, without a prior *in camera* review by the trial judge, for the purpose of determining if the records contain material relevant to the government's case. The Supreme Court concluded that once the interceptions are ascertained to be illegal, "the task [of determined taint] is too complex, and the margin of error too great, to rely wholly on the *in camera* judgment of the trial court to identify those records which might have contributed to the Government's case." [9]

[1, 2] The Supreme Court made clear in Taglianetti v. United States [10] that the necessity of disclosure, in cases not involving *illegal* surveillance, depended upon the likelihood that accurate determinations of the particular factual or legal issues in dispute were otherwise unobtainable. *"Nothing in [Alderman, Ivanov, and Butenko] . . . requires an adversary proceeding and full disclosure for resolution of every issue raised by an electronic surveillance."* [11] (Emphasis added) Apart from ascertaining whether evidence derived from *illegal* surveillances tained a conviction, it remains within the trail judge's discretion to require or not to require disclosure of records of surveillances to facilitate resolution of questions surrounding electronic surveillance.[12]

Thus, if we are to require disclosure of the records of the second set of interceptions, we must conclude either (1) that the electronic surveillances producing such records were illegal or (2) that the trial judge abused his discretion in refusing disclosure.

In dealing with the former considerations—assessing the legality of the government's activities with regard to the second group of surveillances, we must first decide whether § 605 prohibits the surveillances at issue. If we should decide that the prohibitions of § 605 do not cover these surveillances, we must then proceed to determine whether Ivanov's Fourth Amendment rights have been transgressed.[13] Lastly, if we should hold that this set of surveillances were not illegal, we must, in accordance with the instructions of the Supreme Court, evaluate the trial judge's exercise of discretion in refusing disclosure.

We shall address these three issues seriatim.

II. SECTION 605 OF THE COMMUNICATIONS ACT OF 1934 DOES NOT PROHIBIT THE INTERCEPTION AND DIVULGENCE OF THE CONTENTS OF ELECTRONIC SURVEILLANCE IN THE FOREIGN AFFAIRS FIELD MADE PURSUANT TO EXECUTIVE ORDER

Section 605 of the Communications Act provides in relevant part that "no person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person." [14]

This section prompted considerable discussion as electronic surveillance became a more sophisticated and widely used device for the investigation of criminal activity. Much of the clamor for reform centered around the scope given to the section by the *Nardone* cases.[15] Petitioners in those cases were tried and convicted of smuggling alcohol. Over their objection, federal agents were permitted to testify to the substance of petitioners' telephone conversations that were wiretapped and overheard by the witnesses. In *Nardone* I, the Supreme Court held that, under § 605, " 'no person' comprehends federal agents, and the bar on communication to 'any person' bars testimony to the content of an intercepted message." [16]

On re-trial, the prosecution attempted to present evidence gathered as a result of the illegal taps instead of testimony as to the actual contents of the overheard conversations. The Court, in *Nardone II*, made clear that the "fruits" of the taps, as well as the intercepted materials themselves, were inadmissible.

In response to the ostensible debilitating threat to federal investigatory activities presented by the interpretation placed on § 605 by the *Nardone* cases, the Department of Justice adopted the position "that the mere interception of telephone communications is not prohibited by federal law." [17] The government, therefore, continued to wiretap after the *Nardone* cases even though aware that those cases, at least when the surveillances were conducted during the course of an investigation of domestic criminal activity, precluded the introduction of the records or fruits thereof into evidence. Meanwhile, the Department of Justice pressed for legislation lifting the evidentiary limitations erected on the foundation of § 605 by the *Nardone* cases. It did so on the obvious ground that the ability to use electronic surveilance to secure evidence in criminal convictions would make surveillance a more effective weapon against crime. The Department's efforts were finally successful with the enactment of the Omnibus Crime Control and State Streets Act of 1968, which specifically authorizes any electronic surveillance with prior judicial authorization.[18] To contend, as Judge Aldisert does, that these efforts by various Attorneys General constituted a concession that § 605 proscribed the introduction into evidence of

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Footnotes at end of article.

material seized as a result of such surveillance does not seem realistic.[19] The Attorneys General were advocating new legislation narrowing the potential ambit of § 605 and, in that context, suggesting that § 605 might be broad enough to reach situations like that presented in this case, no doubt represented sound strategy. In addition, the Supreme Court, in the *Nardone* cases, was dealing with the warrantless electronic surveillance of suspected domestic criminals during routine investigations by federal agents. In the present case, we are faced with the significant different situation of warrantless electronic surveillance pursuant to presidential directive in the sensitive area of foreign intelligence information gathering.

It, therefore would not seem appropriate to regard those cases as controlling here. Only one court of appeals has been faced with circumstances similar to those here and it dealt with the issue obliquely, if at all.[20] The Executive Branch's continuing assertion of the power to wiretap per se and the conclusion that the use of intercepted material as evidence was prohibited by § 605 [21] and, thus, that the provision had an incidental effect not unlike a rule of evidence, does not, as Judge Aldisert urges, inexorably lead to the proposition that the statutory proscription against divulgence represented an evidentiary rule.[22] The legislative history relating to § 605 is bereft of any suggestion that Congress intended to fashion a rule of evidence. On the contrary, the language of the statute seems to reach *any* divulgence, by the way of introduction into evidence *or otherwise*, of information obtained by way of wiretaps that would compromise the privacy of those whose conversations are overheard. Furthermore, the fact that the restrictions contained in § 605 have been enforced through the exclusion of evidence at a criminal trial should not obscure the broader aim of the statute—the discouragement of the interception of communications.[23]

[3] Thus, in our view, and apparently that of Judge Gibbons, who today dissents on other grounds, § 605 would appear to prohibit divulgence of intercepted communications obtained by electronic surveillances that are deemed within the parameters of the provision. Moreover, restricting any divulgence to members of the Executive Branch, as Judge Aldisert suggests, does not necessarily mean that the surveillance and such divulgence does not run afoul of § 605.[24] The proscriptions of § 605 are directed to surveillances generally, and the conjunction, "and," separating "interception" and "divulgence," does not seem intended to invite separate analysis. There is absolutely no indication that Congress contemplated situations where interceptions were unaccompanied by divulgences.

[4] However, the conclusion that § 605 extends to all divulgences to any person of any surveillances within the provision's ambit does not exhaust our inquiry into the lawfulness of the wiretaps in the case at hand. We still must determine whether § 605 reaches the type of surveillances producing the records that the district judge has refused to order disclosed to Ivanov and his counsel. Specifically, the question left unanswered is whether § 605 is to be construed to restrict the President's authority to gather foreign intelligence information and use such information to assist in securing criminal convictions.[25]

Keeping in mind that § 605 embodies a limitation on the power to engage in surveillance generally, we begin our analysis of the remaining question under the statute with the proposition that the President is charged with the duties to act as Commander-in-Chief of the Armed Forces [26] and to administer the nation's foreign affairs,[27] powers that will receive fuller treatment in subsequent portions of this opinion.[28] To fulfill these responsibilities, the President must exercise an informed judgment. Decisions affecting the United States relationships with other sovereign states are more likely to advance our national interests if the President is apprised of the intentions, capabilities and possible responses of other countries. Certainly one means of acquiring information of this sort is through electronic surveillance. And electronic surveillance may well be a competent tool for impeding the flow of sensitive information from the United States to other nations.

In enacting § 605, the Congress did not address the statute's possible bearing on the President's constitutional duties as Commander-in-Chief and as administrator of the nation's foreign affairs. The Senate and House reports suggest that the purpose of the Communications Act was to create a commission with regulatory power over all forms of electrical communications, whether by telephone, telegraph, cable or radio.[29] There appears to have been little or no discussion at all in Congress regarding § 605. Indeed, had Congress explored the question, it no doubt would have recognized, as Judge Gibbons' extensive discussion may well indicate, that any action by it that arguably would hamper—since as we have previously concluded § 605 is intended to prohibit surveillances generally—the President's effective performance of his duties in the foreign affairs field would have raised constitutional questions.

We do not intimate, at this time, any view whatsoever as to the proper resolution of the possible clash of the constitutional powers of the President and Congress. Instead, we merely note that the absence of legislative consideration of the issue does suggest that Congress may not have intended § 605 to reach the situation presented in the present case. In the absence of any indication that the legislators considered the possible effect of § 605 in the foreign affairs field, we should not lightly ascribe to Congress an intent that § 605 should reach electronic surveillance conducted by the President in furtherance of his foreign affairs responsibilities. This would seem to be far too important a subject to justify resort to unsupported assumptions.

[5] The Attorney General has certified, Ivanov does not deny, and the district court has found, that the surveillances at issue here "were conducted and maintained solely for the purpose of gathering foreign intelligence information." [30] Therefore § 605 does not render them, in and of themselves, accompanied by subsequent disclosure, unlawful.

Although decisions subsequent to United States v. Coplon [31] hold that § 605 does not limit the President's powers to gather foreign intelligence information,[32] we are aware that Coplon may be read to undercut the position urged here as well as in the other cases subsequent to *Coplon*. We do not, however, despite our high regard for the late Judge Learned Hand, give to that case the conclusive reading suggested by Judge Gibbons. There, the court did not consider in any detail whether wiretaps for the purpose of gathering foreign intelligence information fell within the ambit of § 605. A close reading of the briefs in *Coplon* indicates that the question was not raised. Instead, the court merely assumed that the surveillance and disclosure together were illegal under § 605.[33] In the absence of any reasoning undergirding this assumption, we do not consider it is entitled to any great precedential effect and decline to adopt it here.

III. IVANOV'S FOURTH AMENDMENT RIGHTS WERE NOT INFRINGED

Because of our conclusion that § 605 of the Communications Act neither prohibits the President from gathering foreign intelligence information nor limits the use to which material so obtained may be put, it becomes necessary to determine whether the surveillances producing the second set of records invaded Ivanov's Fourth Amendment rights. If the surveillances did violate Ivanov's constitutional rights, then disclosure of the records and a suppression hearing may be required under the mandate of the Supreme Court.[34]

1. The applicability of the fourth amendment to electronic surveillances conducted pursuant to the President's foreign affairs powers

The expansive language of United States v. Curtiss-Wright Export Corporation [35] provides support for the contention that the President is authorized to act unencumbered by the Fourth Amendment requirements of prior judicial approval and probable cause when he is dealing with national security matters.[36] The ramifications of *Curtiss-Wright*, however, remain somewhat enigmatic in this regard. To contend that customary Fourth Amendment analysis is to be abandoned whenever the President asserts that a particular search and seizure is incident to the conduct of foreign affairs activities is arguably uncongenial with a reasoned view of the relationship among the relevant constitutional provisions and the thrust of the Supreme Court decision in United States v. United States District Court.[37] We take no such position here.

[6] The President in his constitutionally designated role as Chief Executive [38] is charged with the duty to see that the laws of the United States are enforced and obeyed. Yet it is incontrovertible that the President, through his subordinates, cannot ignore the admonitions of the Fourth Amendment when investigating criminal activity unrelated to foreign affairs. Thus, evidence seized in the investigation of domestic crimes as a result of actions outside the bounds of the Amendment would not be admissible in a criminal prosecution.[39]

The President's authority to conduct foreign affairs similarly is implied, at least in part, from the language contained in Article II of the Constitution.[40] The Constitution contains no express provision authorizing the President to conduct surveillance, but it would appear that such power is similarly implied from his duty to conduct the nation's foreign affairs. Although direct threats to the existence of governmental institutions or to territorial integrity are of immeasurable gravity, there would seem to be nothing in the language of the Constitution to justify completely removing the Fourth Amendment's requirements in the foreign affairs field and, concurrently, imposing those requirements in all other situations.

In *United States District Court*, the Supreme Court refused to forego traditional Fourth Amendment analysis despite the government's claim that a warrantless surveillance of a domestic organization believed by the Executive to represent a threat to national security did not overstep the bounds of the Fourth Amendment. The Court implicitly rejected the contention that the existence of the Executive's belief that national security was involved somehow rendered the requirements of the Fourth Amendment inoperative. It went on to hold that the government must secure a warrant before conducting the type of surveillance at issue therein.[41]

[7] Thus, we conclude, as Judge Gibbons does, that the Fourth Amendment is also applicable where, as here, the President is acting pursuant to his foreign affairs duties even though the object of the surveillance is not a domestic political organization. Our differences with Judge Gibbons' opinion center primarily on the necessity for *prior* judicial authorization under the circumstances of this case.

Footnotes at end of article.

2. The Provisions of the Fourth Amendment

[8] Assuming then that the Fourth Amendment is applicable,[42] we must now examine the requirements of that provision. The Fourth Amendment provides as follows:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The two substantive clauses of the amendment possess independent significance. First, all searches and seizures, even if authorized by warrant, must be reasonable.[43] At a minimum, this means that some form of probable cause for the search and seizure must exist. Second, even a reasonable search may be unlawful if the official fails to secure a warrant. "We cannot . . . excuse the absence of a search warrant without a showing by those who seek exemption from the constitutional mandate that the exigencies of the situation made that course imperative." [44]

Here a search warrant was not secured prior to the surveillances. We must therefore, determine whether this fact, in and of itself, renders the wiretaps repugnant to the Fourth Amendment. Since, as will be shown, we are unable to conclude that the absence of a search warrant under these circumstances is fatal, we must then otherwise evaluate the reasonableness of the infringement of Ivanov's privacy.

a. The Warrant Requirement

The exceptions to the warrant requirement represent cautious reponses on the part of the Supreme Court to specific and exigent factual situations. Thus, an automobile may be searched without a warrant to prevent the transfer of contraband to another locality when there is insufficient opportunity to obtain a warrant.[45] An officer may search a person without a warrant incident to a lawful arrest or when he has probable cause to arrest in order to avert possible destruction of evidence or when there is a possibility of an attempt to use a concealed weapon to injure the officer or facilitate escape.[46] In other circumstances, even though probable cause to arrest may not exist, an officer may "frisk" a person he has properly detained for questioning if he believes that the person may be armed and dangerous.[47]

The Court has also narrowed the ambit of the Fourth Amendment warrant requirement where the intrusion is a "home visit" by a welfare worker.[48] Several considerations—the rehabilitative aspects of the visit, the noncriminal nature of the investigation, and the strong state interest in having an efficient administrative procedure whose object is to promote the welfare of the children of assistance recipients—combined to lead to the conclusion that the warrantless intrusion, if viewed as a search, is not subject to the warrant requirement.[49]

While we acknowledge that requiring prior approval of electronic surveillance in cases like the present one might have some salutary effects—a judge, for example, could assure that the Executive was not using the cloak of foreign intelligence information gathering to engage in indiscriminate surveillance of domestic political organizations [50]—on balance, the better course is to rely, at least in the first instance, on the good faith of the Executive and the sanctions for illegal surveillances incident to post-search criminal or civil litigation. One of the elements that prompted the Supreme Court to dispense with the warrant requirement in the "home visit" situation was the strong public interest involved. In the present case, too, a strong public interest exists: the efficient operation of the Executive's foreign policy-making apparatus depends on a continuous flow of information.[51] A court should be wary of interfering with this flow. It would be unfortunate indeed if, as Judge Gibbons seems to suggest, the President must act illegally to perform his constitutional duties. Yet, if the President must act secretly and quickly to investigate an attempt by a foreign agent to obtain important intelligence information, such a result may follow under Judge Gibbons' analysis. Also, foreign intelligence gathering is a clandestine and highly unstructured activity, and the need for electronic surveillance often cannot be anticipated in advance. Certainly occasions arise when officers, acting under the President's authority, are seeking foreign intelligence information, where exigent circumstances would excuse a warrant. To demand that such officers be so sensitive to the nuances of complex situations that they must interrupt their activities and rush to the nearest available magistrate to seek a warrant would seriously fetter the Executive in the performance of his foreign affairs duties.

[9] In sum, we hold that, in the circumstances of this case, prior judicial authorization was not required since the district court found that the surveillances of Ivanov were "conducted and maintained solely for the purpose of gathering foreign intelligence information."

b. The Probable Cause Requirement

Although, as we have held, a warrant prior to search is not an absolute prerequisite in the foreign intelligence field when the President has authorized surveillance, a judge will be called upon, in some instances, to ascertain the legality of a warrantless search already conducted.[52] The opportunity for post-search judicial review represents an important safeguard of Fourth Amendment rights and should deter abuses that might be caused by the necessary relaxation of the warrant requirement.

[10, 11] The foundation of any determination of reasonableness, the crucial test of legality under the Fourth Amendment, is the probable cause standard.[53] Although most often formulated in terms of an officer's probable cause to believe that criminal activity has or will take place, the standard may be modified when the government interest compels an intrusion based on something other than a reasonable belief of criminal activity, especially when the scope of the intrusion is limited.[54]

[1, 2] The government interest here—to acquire the information necessary to exercise an informed judgment in foreign affairs—is surely weighty. Moreover, officers conceivably undertake certain electronic surveillance with no suspicion that a criminal activity may be discovered. Thus, a demand that they show that before engaging in such surveillance they had a reasonable belief that criminal activity would be unearthed would be to ignore the overriding object of the intrusions. Since the primary purpose of these searches is to secure foreign intelligence information, a judge, when reviewing a particular search must, above all, be assured that this was in fact its primary purpose and that the accumulation of evidence of criminal activity was incidental.

If the court, for example, finds that members of a domestic political organization were the subjects of wiretaps or that the agents were looking for evidence of criminal conduct unrelated to the foreign affairs needs of a President, then he would undoubtedly hold the surveillances to be illegal and take appropriate measures.

[13] Since, we reiterate, the district court has found that the second set of interceptions of conversations of Ivanov were "solely for the purpose of gathering foreign intelligence information," they are reasonable under the Fourth Amendment. Because we have already concluded that a warrant was not required under the circumstances here, we, therefore, hold that Ivanov's Fourth Amendment rights were not violated.[55]

IV. IN CAMERA EXAMINATION

[14] The distinguished district court judge reviewed *in camera* the records of the wiretaps at issue here before holding the surveillances to be legal. If the surveillances had been found illegal, *Alderman,* of course, would have required disclosure of these records to Ivanov prior to an adversary hearing on the issue of taint. However, since the question confronting the district court as to the second set of interceptions was the legality of the taps, not the existence of tainted evidence, it was within his discretion to grant or to deny Ivanov's request for disclosure and a hearing. The exercise of this discretion is to be guided by an evaluation of the complexity of the factors to be considered by the court and by the likelihood that adversary presentation would substantially promote a more accurate decision.[56]

[15] As stated, Ivanov does not challenge the finding of the district court that the "surveillances were conducted and maintained solely for the purpose of gathering foreign intelligence information." Nor does he contend that he was the object of surveillance because of domestic political activity or because of conduct unrelated to his own espionage concerns.

Under these facts, we fail to see how disclosure of the records of the wiretaps and an evidentiary hearing would serve to shed further light on either the legal question involved in this appeal—whether the President has authority to conduct warrantless surveillances in the foreign affairs field—or its factual underpinnings—whether the surveillances at issue were, in fact, conducted pursuant to the President's foreign affairs authority.

Moreover, the nature of information contained in these records with respect to the relations of this nation with foreign powers counsels court-ordered disclosure only in the most compelling situations. Thus, we hold that the district court's failure to order disclosure of the records of the second set of interceptions or to hold a hearing regarding them did not constitute an abuse of discretion.

V. CONCLUSION

The present case raises issues concerning a clash of interests of highest concern to the vitality of this nation. As is typical under our system of government, the conundrum implicit in the controversy has been brought to the judiciary for authoritative resolution. Ivanov contends that the Communications Act should be construed to bear such surveillance and the use of material obtained thereby and that without prior judicial authorization the President and his counselors may not constitutionally intercept his telephone communications. The government asserts that the Communications Act should not be so construed and, with respect to the constitutional question, maintains that there is Presidential power to engage in warrantless surveillance to gather foreign intelligence information.

Principled adjudication of this knotty matter cannot properly be achieved by a doctrinaire preference for one interest or the other. Both executive authority in the foreign affairs area and society's interest in privacy are of significance, and are equally worthy of judicial concern.

Rarely, if ever, do the phrases of the Constitution themselves decide cases without at least some interpretative assistance from the judiciary. The Constitution speaks through the judges, but its phrases are seldom so cabined as to exclude all flexibility. Charged with the assignment to make a choice, a judge must be responsible for the choice he makes.

The importance of the President's responsibilities in the foreign affairs field requires the judicial branch to act with the utmost care when asked to place limitations on the President's powers in that area. As Com-

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mander-in-Chief, the President must guard the country from foreign aggression, sabotage, and espionage. Obligated to conduct this nation's foreign affairs, he must be aware of the posture of foreign nations toward the United States, the intelligence activities of foreign countries aimed at uncovering American secrets, and the policy positions of foreign states on a broad range of international issues.

To be sure, in the course of such wiretapping conversations of alien officials and agents, and perhaps of American citizens, will be overheard and to that extent, their privacy infringed. But the Fourth Amendment proscribes only "unreasonable" searches and seizures.[57]

And balanced against this country's self-defense needs, we cannot say that the district court erred in concluding that the electronic surveillance here did not trench upon Ivanov's Fourth Amendment rights.[58]

Accordingly, the judgment of the district court denying Ivanov's request for disclosure and an evidentiary hearing will be affirmed.

Seitz, Chief Judge (concurring and dissenting).

I concur in affirming the district court's disposition of questions respecting the first, concededly illegal, set of surveillances. My views in this matter are well stated in Part II of Judge Aldisert's opinion.

As to the second set of surveillances, the majority has found that these wiretaps and their use to procure evidence introduced against Ivanov, assuming such use was made of them, violated neither § 605 of the Communications Act nor the Fourth Amendment. Finding the wiretaps legal, the majority has held that the district court properly refused to order disclosure to Ivanov of the logs summarizing these surveillances and that the court below also properly refused to hold an evidentiary hearing on the issue of taint. Because I believe that these matters are settled by Supreme Court decisions and that the majority in effect is "overruling" Supreme Court decisions *sub silentio*, I dissent from the majority's affirmance of district court action respecting the second set of surveillances.

FOOTNOTES

[1] See Judge Aldisert's concurring and dissenting opinion herein for a fuller exposition of the factual background of this case.

[2] 384 F.2d 554 (3d Cir. 1967).

[3] Alderman v. United States, 394 U.S. 165, 89 S.Ct. 961, 22 L.Ed.2d 176 (1969).

[4] *Id.* at 186, 89 S.Ct. at 973.

[5] 342 F.Supp. 928 (D.N.J. 1972).

[6] 318 F.Supp. 66 (D.N.J. 1970).

[7] The government appears to have disclosed to Butenko's counsel *all* records of wiretapped conversations involving Butenko. *Id.* at 68 n. 2.

[8] 394 U.S. 165, 89 S.Ct. 961, 22 L.Ed.2d 176 (1969).

[9] *Id.* at 182, 89 S.Ct. at 971.

[10] 394 U.S. 316, 89 S.Ct. 1099, 22 L.Ed. 2d 302 (1969) (per curiam).

[11] *Id.* at 317, 89 S.Ct. at 1100.

[12] Note, The Supreme Court, 1968 Term, 83 Harv.L.Rev. 60, 175 (1969).

[13] Ivanov contends that the Solicitor General conceded at oral argument before the Supreme Court in *Alderman* that the second set of interceptions were unconstitutional. *See* Giordano v. United States, 394 U.S. 310, 313–314 n. 1, 89 S.Ct. 1163, 22 L.Ed.2d 297 (Stewart, J., concurring). Assuming arguendo that Ivanov is correct in this regard, it appears that the Supreme Court refused to accept any such concession and, instead, ordered the district court on remand to consider the question of the legality of these surveillances. Alderman v. United States, 394 U.S. 165, 186, 89 S.Ct. 961, 22 L.Ed.2d 176 (1969). *See* United States v. Butenko, 318 F.Supp. 66, 69 (D.N.J.1970).

[14] 47 U.S.C. § 605.

[15] Nardone v. United States, 302 U.S. 379, 58 S.Ct. 275, 82 L.Ed. 314 (1937) [*Nardone I*]; Nardone v. United States, 308 U.S. 328, 60 S.Ct. 266, 84 L.Ed. 307 (1939) [*Nardone II.*]

[16] 302 U.S. at 381, 58 S.Ct. at 276.

[17] Rogers, The Case for Fire Tapping, 63 Yale L.J. 792, 793 (1954); Brownell, Public Security and Wire Tapping, 39 Cornell L.Q. 193, 197–98 (1954).

[18] 18 U.S.C. §§ 2510–2520.

[19] During the period covered by the law review articles referred to in Judge Plusert's dissent, electronic surveillances in the field of foreign affairs were made without prior warrants. Indeed, in the instant case, the surveillances were made during the time the late Robert Kennedy was the Attorney General.

[20] *See* p. 605 *infra.*

[21] *See, e.g.,* Sablowsky v. United States, 101 F.2d 183 (3d Cir. 1938).

[22] *Cf.* Developments in the Law—The National Security Interest and Civil Liberties, 85. Harv.L.Rev. 1130, 1249 (1972). *But see* Sablowsky v. United States, 101 F.2d 183, 189 (3 Cir. 1938) where Judge Biggs stated that "the Nardone Case holds clearly that Section 605 creates a rule of evidence. . . ."

[23] If, for example, a civil suit were brought by a participant in the conversation, against persons who illegally overheard a conversation, the purpose of the statute—to deter surveillance—would be furthered by some disclosure, at least to the extent such disclosure is necessary to establish the claimed unlawful interception. *Cf.* Bivens v. Six Unknown Named Agents of FBI, 403 U.S. 388, 91 S.Ct. 1999, 29 L. Ed.2d 619 (1971).

[24] It might be contended, if the "any person" language of the statute were construed liberally, that a divulgence solely within the Executive Branch would not violate § 605. This construction of § 605 would seem to divide the permissible from the impermissible channels of communication for intercepted material along lines not susceptible to explanation in terms of effective governmental response to potentially unlawful activity or in terms of the privacy interests implicated by the statute. Under this interpretation, for example, the Attorney General could openly transmit the contents of intercepted messages through the labyrinthine federal bureaucracy with the attendant risk of substantial invasion of privacy unfetted by even the hortatory effects of § 605, while a discreet revelation of the same material to an officer of a state to aid the latter in fulfilling his law enforcement duties would be proscribed.

[25] With the passage of the Omnibus Crime Control and Safe Streets Act of 1968, it appears that the only limitations on the President's authority to engage in some forms of electronic surveillance are those set forth in the Constitution. Section 2511(3) provides as follows:

> Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1103; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the Government. The contents of any wire or oral communications intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial hearing or other proceeding only where such interception was reasonable, and shall not be otherwise used or disclosed except as is necessary to implement that power.

[26] U.S. Const. Art. II § 2.

[27] United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 319–322, 57 S.Ct. 216, 81 L.Ed. 255 (1936).

[28] *See* pp. 611, 612, 615 *infra.*

[29] *See* Sen. Rep. No. 781, 73d Cong., 2d Sess. 1 (1934), H.R. No. 1850, 73d Cong., 2d Sess. 3 (1934).

[30] 318 F. Supp. 66, 70–73.

[31] 185 F.2d 629 (2d Cir. 1950).

[32] United States v. Clay, 430 F.2d 165 (5th Cir. 1970), rev'd on other grounds, 400 U.S. 990, 91 S.Ct. 457, 27 L.Ed.2d 438 (1971); United States v. Hoffman, 334 F.Supp, 504 (D.D.C. 1971); United States v. Dellinger, Crim. No. 60 CR 180 (Mem. Op. N.D. Ill. Feb. 2, 1970), *rev'd on other grounds,* 472 F.2d 340 (7th Cir. 1972); United States v. Butenko, 318 F. Supp. 66 (DNJ 1970) (the present case in the district court); United States v. Brown, 317 F.Supp. 531 (1970), rev'd on other grounds, 456 F.2d 1112 (5th Cir. 1972); United States v. Stone, 305 F.Supp. 75 (D.D.C. 1969). *Compare* United States v. Smith, 321 F.Supp. 424 (D.C. Cal. 1971) (distinguishing domestic situation); United States v Sinclair, 321 F.Supp. 1074 (E.D. Mich. 1971) (same) *aff'd sub nom.,* United States v. United States District Court, 407 U.S. 297, 92 S.Ct. 2125, 32 L.Ed.2d 752 (1972).

[33] *Id.* 185 F.2d at 636.

[34] *See* pp. 598–599 *supra.*

[35] 299 U.S. 304, 57 S.Ct. 216, 81 L.Ed. 255 (1936). The Court in *Curtiss-Wright* held that the Congress' delegation to the President of the authority to prohibit the sale of weapons to certain countries engaged in hostilities with each other was not unconstitutional.

[36] "The broad statement that the federal government can exercise no powers except those specifically enumerated in the Constitution, and such implied powers as are necessary and proper to carry into effect the enumerated powers is categorically true only in respect of our internal affairs.

"Not only, as we have shown, is the federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation.

"[H]e, not Congress, has the better opportunity of knowing the conditions which prevail in foreign countries, and especially is this true in time of war. He has his confidential sources of information. He has his agents in the form of diplomatic, consular and other officials. Secrecy in respect of information gathered by them may be highly necessary, and the premature disclosure of it productive of harmful results." *Id.* at 315–320, 57 S.Ct. at 219.

[37] 407 U.S. 297, 92 S.Ct. 2125, 32 L.Ed.2d 752 (1972).

[38] U.S. Const. Art. II, § 1.

[39] The hypothetical postulated by Judge Gibbons, *see* p. 628 *infra,* may well fall within the ambit of United States v. United States District Court, 407 U.S. 297, 92 S.Ct. 2125, 32 L.Ed.2d 752 (1972). *See* p. 608 *infra.*

[40] Although, it seems that Justice Sutherland, the writer of the Supreme Court's opinion in *Curtiss-Wright,* did not agree that the foreign affairs power of the federal government was founded on a constitutional grant, Justice Sutherland's position has recently been challenged by Professor Lofgren on historical grounds. Professor Lofgren also contends that the Court has not yet read *Curtiss-Wright* as embodying the philosophy apparently espoused by Justice Sutherland.

See Lofgren, United States v. Curtiss-Wright Export Corporation: An Historical Reassessment, 83 Yale L.J. 1 (1973).

[41] In *United States District Court*, the Supreme Court specifically stated that the case did not present questions relating to the foreign affairs powers of the Executive: "Further, the instant case requires no judgment on the scope of the President's surveillance power with respect to the activities of foreign powers within or without this country." 407 U.S. at 308, 92 S. Ct. at 2132.

[42] The electronic surveillances at issue here occurred prior to the Supreme Court's decision in Katz v. United States, 389 U.S. 347, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967), but "the Government does not rely on pre-Katz law. . . ." 318 F. Supp. 66, 70 (1970), *Katz* overturned the earlier rule that the Fourth Amendment did not extend to electronic surveillance unless there was a technical trespass. *See, e.g.*, Olmstead v. United States, 277 U.S. 438, 48 S.Ct. 564, 72 L.Ed. 944 (1928). Thus, the government's posture obviates the need to review the procedure by which the surveillance devices were installed.

[43] Go-Bart Co. v. United States, 282 U.S. 344, 357, 51 S.Ct. 153, 75 L.Ed. 374 (1931). *See* Spritzer, Electronic Surveillance by leave of the Magistrate: The Case in Opposition, 118 U.Pa.L.Rev. 199, 181 (1969).

[44] McDonald v. United States, 335 U.S. 451, 456, 69 S.Ct. 191, 193, 93 L.Ed. 153 (1948). "The requirement of a warrant to seize imposes no inconvenience whatever, or at least none which is constitutionally cognizable in a legal system that regards warrantless searches as 'per se unreasonable.' in the absence of 'exigent circumstances.'" Coolidge v. New Hampshire, 403 U.S. 443, 470–471 (1971).

"[E]xcept in certain carefully defined classes of cases, a search of private property without proper consent is 'unreasonable' unless it has been authorized by a valid search warrant." Camara v. Municipal Court, 581 U.S. 523, 528–529, 87 S.Ct. 1727, 18 L.Ed. 930 (1967).

[45] *E. g.*, Carroll v. United States, 267 U.S. 132, 45 S.Ct. 280, 69 L.Ed. 543 (1925).

[46] *E. g.*, United States v. Robinson, 414 U.S. 218, 94 S.Ct. 467, 38 L.Ed.2d 427 (1973); Cupp v. Murphy, 412 U.S. 291, 93 843, 2000, 36 L.Ed.2d 900 (1973); Chimel v. California, 395 U.S. 752, 89 S.Ct. 2034, 23L.Ed.2d 685 (1969).

[47] Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968).

[48] Wyman v. James, 400 U.S. 309, 91 S.Ct. 381, 27 L.Ed.2d 408 (1971).

[49] *See also* United States v. Slocum, 464 F.2d 1180 (3d Cir. 1972) (warrantless use of magnometer and warrantless search of hand luggage of airline passenger in some circumstances are not unconstitutional).

[50] *See* United States v. United States District Court, 407 U.S. 297, 92 S.Ct. 2125, 32 L.Ed.2d 752 (1972).

[51] The surveillance in this case, of course, seems to have been designed to impair the escape to foreign powers of sensitive information concerning the foreign policy and military posture of the United States. We see no reason to distinguish this activity from the foreign intelligence gathering activity. *See* 18 U.S.C. § 2511(3).

[52] A court must examine the legality of a search, for example, when a defendant in a criminal case moves to suppress evidence produced by the search or when the plaintiff in a civil suit bases his request for damage relief against federal officers on the alleged illegality of a search of his person or home. *See* note 21 *supra*.

[53] Camara v. Municipal Court, 387 U.S. 523, 534, 87 S.Ct. 1727, 18 L.Ed.2d 930 (1967). However, a search based upon probable cause may not comport with the Fourth Amendment if, for example, its scope is unreasonably broad. *See* Terry v. Ohio, 392 U.S. 1, 18, 88 S.Ct. 868, 20 L.Ed.2d 889 (1968).

[54] Adams v. William, 407 U.S. 143, 92 S.Ct. 1921, 32 L.Ed.2d 612 (1972); Wyman v. James, 400 U.S. 309, 91 S.Ct. 381, 27 L.Ed. 2d 408 (1971); Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968); Camara v. Municipal Court, 387 U.S. 523, 87 S. Ct. 1727, 18 L.Ed.2d 930 (1967).

[55] 13 U.S.C. § 3504(a)(2), a portion of the Organized Crime Control Act of 1970, provides in relevant part as follows:

> (a) In any trial, hearing or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, or other authority of the United States—
>
> (2) disclosure of information for a determination if evidence is inadmissible because it is the primary product of an unlawful act occurring prior to June 19, 1968, or because it was obtained by the exploitation of an unlawful act occurring prior to June 19, 1968, shall not be required unless such information may be relevant to a pending claim of such inadmissibility; and
>
> (b) As used in this section "unlawful act" means any act the use of any electronic, mechanical, or other device (as defined in section 2510(5) of this title) in violation of the Constitution or laws of the United States or any regulation or standard promulgated pursuant thereto.

It would appear that this provision becomes operative when evidence has been gathered by unlawful means. Since we have determined the searches herein to be lawful, this provision appears inapposite. We need not, therefore, discuss the effect of the intervening enactment of this provision on the Supreme Court's mandate in *Alderman*. Since Chief Judge Seitz and Judge Gibbons conclude that these surveillances were illegal, they, of course, do deal with this issue.

[56] If we were to hold, as Judge Aldisert intimates, that under § 605 the surveillance is not illegal unless the interception, or the fruits thereof, has been introduced at trial, it would seem that disclosure would be required before a determination is made that the surveillance was, in fact, illegal. For the question whether the contents or the "fruits" of the interception had been divulged at trial appears quite similar to the question whether the contents or the "fruits" of an *illegal* surveillance have tainted a conviction. Ivanov would, undoubtedly, ask for disclosure of the records, claiming that he could not effectively probe, at the hearing, the issue whether the contents had been divulged. Under such an interpretation, the purport of *Alderman* would then seem to require that the district court grant Ivanov's request. Thus, under Judge Aldisert's construction of § 605, there would be disclosure of the records of the surveillances before such surveillances have been held to be illegal. *Cf.* Totten v. United States, 92 U.S. 105, 106–107, 23 L.Ed. 605 (1879).

[57] United States v. Slocum, 464 F.2d 1180, 1182 (3d Cir. 1972).

[58] Nearly 85 years ago, Mr. Justice Field, speaking for the Supreme Court, observed: "Tho preserve its independence, and give security against foreign aggression and encroachment, is the highest duty of every nation, and to attain these ends nearly all other considerations are to be subordinated." Chinese Exclusion Case, 130 U.S. 581, 606, 9 S.Ct. 623, 630, 32 L.Ed. 1068 (1889).

* * *

I. SECTION 605 OF THE COMMUNICATIONS ACT

As I read the majority opinion, two conclusions support its decision that § 605 of the Communications Act has not been violated here. First, in logical order, because wiretapping is "one means of acquiring information" that may make the President's decision regarding foreign affairs "more likely to advance our national interests," the majority presumes that Congress did not limit the President's ability to wiretap to obtain foreign intelligence information when it adopted § 605 without explicit discussion of this use of wiretaps. Second, the majority declares that "[t]here is absolutely no indication that Congress contemplated situations where interceptions were unaccompained by divulgences" and reasons that since Congress presumably did not intend to limit the President's use of wiretaps to stay informed regarding foreign affairs, § 605 is not violated by use of wiretap-derived evidence to secure espionage convictions. These conclusions, relied on for the majority's holding that § 605 has not been breached, do not follow from their premises and contradict Supreme Court precedent as well as the terms of § 605.

Initially, I think that insufficient attention has been paid to the section itself. Section 605 of the Communications Act, 47 U.S.C. § 605 (1970), contains four distinct prohibitions. The first prohibition is directed at employees of communications facilities and is not relevant here. Cf. Nardone v. United States, 302 U.S. 379, 331, 58 S.Ct. 275, 82 L.Ed. 314 (1937). The prohibition contained in the third clause of § 605 concerns unauthorized reception of communications; the second and fourth prohibitions concern interception. The Act does not define reception and interception, but, attributing to the drafters a desire that each statutory statement be meaningful and not merely repetitive, I would distinguish these terms by the point in time at which the unauthorized participant acquires access to a communication; reception would occur following transmission, while interception would occur during transmission to and preceding reception of the communication by someone other than the interceptor. The third clause of § 605, therefore, also is inapplicable here.

SECTION 605: CLAUSE 2, ELEMENT (1)

If the government has violated § 605, then, it must be by virtue of the section's second or fourth prohibition. The second part of § 605 forbids (1) any person not authorized by the sender (2) to intercept and (3) divulge or publish the communication's contents, meaning or existence (4) to any person.[1] This portion of § 605 was construed by the Supreme Court in Nardone v. United States, *supra*, which involved in-court testimony by federal agents as to the contents of communications intercepted by government wiretaps. The argument advanced by the government in *Nardone* bears a striking resemblance to the first argument accepted by the majority here. The government contended that the executive branch was charged to take care that the laws of the United States be faithfully executed, that Congress at the time it passed the Communications Act was aware of the government's use of wiretap evidence to faithfully execute federal criminal laws, that Congress did not mention this use of wiretaps in considering § 605 of the Communications Act, and that, therefore, Congress must be presumed to have excluded federal agents, acting in furtherance of their duty to enforce criminal laws, from those persons covered by § 605. *Id.* at 381–383, 58 S.Ct. 275.

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[1] Section 605 is written as a single sentence composed of four separable sentences joined by semi-colons and a proviso, not relevant here, modifying the entire section. For ease of discussion, I have numbered the separable sentences, each constituting a self-contained prohibition of different actions, in the order set forth in the statute and also assigned numbers to the elements required for violation of each prohibition. The second prohibition reads:

> . . . and no person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person; . . . . 47 U.S.C. § 605 (1970).

The Court in Nardone observed that not only was there no discussion in adoption of § 605 of the use federal agents made of wiretaps, but there was no record of any legislative discussion concerning adoption of § 605. The Court further noted that several bills designed explicitly to prohibit government wiretapping had failed shortly before passage of the Communications Act. These circumstances, however, were insufficient to overcome "the fact that the plain words of § 605 forbid anyone, unless authorized by the sender, to incept a telephone message, and direct in equally clear language that '*no person*' shall divulge or publish the message or its substance to '*any person.*' " *Id.* at 382, 58 S.Ct. at 276 [emphasis in original]. In explaining its refusal in the absence of legislative history to speculate that Congress intended to exclude federal agents from the strictures of § 605, the Court added:

> It is urged that a construction be given the section which would exclude federal agents since it is improbable that Congress intended to hamper and impede the activities of the government in the detection and punishment of crime. The answer is that . . . Congress may have thought it less important that some offenders go unwhipped of justice than that officers should resort to methods deemed inconsistent with ethical standards and destructive of personal liberty. *Id.* at 383, 58 S.Ct. at 276.

I am unable to see any difference between the argument rejected by the Supreme Court in *Nardone* and that accepted by the majority here. Both argue that the plain all-inclusive language of the statute covering any person should be construed not to apply to federal officers performing tasks assigned by the Constitution to the executive branch. Both rely on the absence of legislative history, and both would require explicit legislative consideration of a limitation on the executive's freedom of action before a statute could be read to restrict it. The canons of statutory construction considered by the Supreme Court in *Nardone, id.* at 383, 58 S.CT. 275, apply with equal force in both cases.

There is of course a distinction between this case and *Nardone*. The case before us, as cast by the majority, involves Presidential powers over foreign affairs, while *Nardone* concerned executive authority over domestic matters. This distinction, however, makes no legal difference. The only constitutional provision cited by the majority as authority for the executive decision-making that "foreign intelligence information" supposedly aids is Article II, section 2's declaration that "[t]he President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States . . ." This provision certainly cannot be said to be any more important that Article II, section 3's charge that the President "take care that the Laws be faithfully executed," nor can wiretapping be deemed any more crucial to accomplishment of the President's duties as Commander-in-Chief than to his faithful execution of the laws.

The majority, however, apparently attaches significance to the fact that the President has powers over foreign affairs that are not made express in the Constitution. The majority's principal authority as to this point is United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 57 S.Ct. 216, 81 L.Ed. 255 (1936), decided one year before *Nardone*. *Curtiss-Wright* stated that the federal government possessed certain powers over foreign affairs inherent in national sovereignty. *Id.* at 318, 57 S.Ct. 216. In upholding a statute permitting the President to make certain decisions bearing on foreign affairs against a charge of unconstitutional delegation of legislative power, the Court observed that power over foreign affairs was not legislative alone. *Id.* at 319–322, 57 S.Ct. 216. While rejecting the statement in Curtiss-Wright that certain foreign affairs powers inherent in national sovereignty, constitutional considerations aside, (see note 37 of the majority opinion), the majority here relies on *Curtiss-Wright* for the proposition that foreign affairs powers may be implied in the Constitution even if federal powers over domestic affairs must be express. Yet, the majority never explains why this nebulous federal implied power, even assuming that it is addressed solely to the executive, is entitled to greater deference than an express power of the executive such as *Nardone* involved.

Perhaps the majority has concluded that Congress could not limit the President's power to wiretap in order to obtain foreign intelligence information.[2] Without explicitly stating this conclusion, the majority indicates that "any action by [Congress] that arguably would hamper . . . the President's effective performance of his duties in the foreign affairs field would have raised constitutional questions." The majority does not cite any precedent supporting this statement, nor does it state what questions would be raised. As I read Articles I and II of the Constitution, the Congress as well as the President has powers in foreign affairs. Congress is empowered to regulate commerce with foreign nations, to define and punish crimes committed on the high seas and offenses against the law of nations, to declare war, to raise and support armies, provide and maintain a navy, to provide for calling forth the militia to repel invasions, and to make rules for governing the armed forces. The President's powers in the foreign affairs area, independent of legislative delegations, are far more limited: he is Commander-in-Chief of the armed forces and receives public ministers; he can make treaties, with the Senate's concurrence, and appoint ambassadors, again with Senate approval.

The President is certainly no "Lone Ranger" in the foreign affairs field, possessed as the majority intimates, of vast constitutional powers to be exercised independently of Congress. All of the federal government's powers, including foreign affairs powers, are subject to constitutional limitations, United States v. Curtiss-Wright Export Corp., *supra*, 299 U.S. at 320, 57 S.Ct. 216, and one such limitation on the President's power is the exercise of Congressional power.

"When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter. Courts can sustain exclusive Presidential control in such a case only by disabling the Congress from acting upon the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system." Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 637–638, 72 S.Ct. 863, 871, 96 L.Ed. 1153 (1952) (Jackson, J., concurring) [footnote omitted].

I cannot conceive of any power in the foreign affairs field that the President exercises exclusively and for which wiretapping is essential; I cannot perceive any legal basis for intimating that Congress could not constitutionally limit the President's power to wiretap to obtain "foreign intelligence information." Apparently, Judge Learned Hand was of the same view, as were the judges concurring in his opinion in United States v. Coplon, 185 F.2d 629 (2d Cir. 1950). *Coplon* was, like this case, an espionage case involving the possible use of wiretap fruits. As the majority notes, Judge Hand engaged in no lengthy discussion to distinguish foreign intelligence wiretaps from others. It is safe to assume that Judge Hand knew that "foreign intelligence" was probably sought in wiretapping that led to an espionage charge. One may also assume that the government did not argue that Congressional limitation of foreign affairs wiretapping was constitutionally different from limitation of other government wiretapping—indeed, the government has not raised the argument in this case. Instead of inquiring into the constitutionality of the law, which, if he had doubted the Act's constitutionality, he would have been required to do, Marbury v. Madison, 5 U.S. (1 Cranch) 137, 175–180, 2 L.Ed. 60 (1803), Judge Hand declared that the validity of the *Coplon* wiretap was covered by the ruling in *Nardone*. United States v. Coplon, *supra*, 185 F.2d at 636.

Like Judge Hand, I can see no basis for distinguishing *Coplon* from *Nardone*, nor can I distinguish this case from those. Thus, perceiving no difference between this case and *Nardone*, I would find that the federal agents involved here fall within the category of persons described in the first element of § 605's second clause.

SECTION 605: CLAUSE 2, ELEMENTS (3) AND (4)

The government does not dispute that it falls within the second element of § 605's second prohibition; federal agents did intercept communications involving Ivanov. The government contends, however, that federal agents did not divulge the communication's contents to any other person, the third and fourth elements required for violation of § 605, clause two. Of course, the agents who made the interception divulged the "existence, contents, substance, purport, effect, or meaning" of the intercepted communication to other agents. Perhaps, as Judge Aldisert implies, such divulgence does not violate § 605 because the federal officers are really acting as agents of the executive in making the interception and the relevant "person" to be viewed as interceptor is, thus, the executive; divulgence to other agents of the executive, who receive the information in such capacity, hence would not violate the statute because the "divulgees" would be part of the same "person" as the "divulgors." Cf. 47 U.S.C. § 153(i) (1970) (defining "person" to include, as well as individuals, partnerships, associations, trusts and corporations).

I do not think that question needs to be resolved here. Ivanov argues that the relevant divulgence occurred at trial when the government introduced evidence obtained by use of the wiretaps. The Supreme Court's first *Nardone* decision held that the government could not introduce testimony on the content of wiretaps. The second *Nardone* decision, Nardone v. United States, 308 U.S. 338, 60 S.Ct. 266, 84 L.Ed. 307 (1939), held that the fruits of the interception also could not be introduced. *Id.* at 340–341, 60 S.Ct. 266. Assuming that the Court was again dealing with the second prohibition contained in § 605, I would read *Nardone II* as holding that the use of a wiretap's fruits in court constituted a divulgence prohibited by § 605.

SECTION 605: CLAUSE 4

While the precise ground for the *Nardone II* decision is not clear to me, the illegality of any derivative evidentiary use of wiretaps is. This illegality becomes more apparent on examination of the final prohibition contained in § 605. The section's last clause forbids (1) any person who has received or become aware of the existence, meaning or contents of a communication (2) intercepted without the sender's authorization (3) from divulging, publishing *or using* such information (4) for his own benefit or the benefit of another unauthorized person.[3]

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[2] While the majority has added a disclaimer of this conclusion, the intimation that such a conclusion might fairly be reached is essential to the majority's position. If Congress can limit executive actions useful to foreign affairs operations, there is no basis for distinguishing *Nardone* from this case. *Nardone* certainly does not reflect fear of reading § 605 to mean what it says because such a reading would raise constitutional questions—yet the Court clearly allowed Congressional restriction of executive action.

This clause expressly prohibits the use of wiretap information.

The only remarks Supreme Court justices have made referring expressly to this clause are contained in the dissent to Goldstein v. United States, 316 U.S. 114, 62 S.Ct. 1000, 86 L.Ed. 1312 (1942). The majority in *Goldstein* decided that defendants who were not parties to the communication lacked standing to object to introduction of wiretap fruits against them. *Id.* at 121–122, 62 S.Ct. 1000. In dissent, Justice Murphy, joined by Chief Justice Stone, who voted with the majorities in *Nardone I* and *II*, and Justice Frankfurter, who authored *Nardone II*, disagreed with the Court on standing and thus reached the merits. The dissenters found this fourth part of § 605 to be "unequivocal and controlling." 316 U.S. at 125–126, 62 S.Ct. 1000. "In enacting § 605, Congress sought to protect society at large against the evils of wiretapping and kindred unauthorized intrusions into private intercourse conducted by means of the modern media of communication, telephone, telegraph, and radio.

"To that end the statute prohibits not only the interception and the divulgence of private messages without the consent of the sender, but also the use of information so acquired by any person not entitled to it." *Id.* at 125, 62 S.Ct. at 1006. I would, therefore, find that § 605 prohibits use of wiretap information to obtain any evidence for trial.

SECTION 605: HEARING & DISCLOSURE

Since the derivative use of wiretaps alleged by Ivanov is made illegal by § 605, the question of illegality becomes identical to the question of taint. The wiretap information must be disclosed to the defendant and a hearing must be held to resolve the issue of taint. Alderman v. United States, 394 U.S. 165, 183–185, 89 S.Ct. 961, 22 L.Sd.2d 176 (1969); Nardone v. United States, 308 U.S. 338, 341–342, 60 S.Ct. 266, 84 L. Ed. 307 (1939); United States v. Coplon, *supra*, 185 F.2d at 636–640.

Since the decision in *Alderman*, the Congress has purportedly changed the method for determining taint from government wiretapping. The Organized Crime Control Act of 1970 provides, in relevant part, that taint from surveillances prior to the effective date of the Omnibus Crime Control and Safe Streets Act of 1968 shall be determined by disclosure and hearing only if an *in camera* proceeding convinces the judge that the surveillances are arguably relevant, 18 U.S.C. § 3504(a)(2) (1970), and that courts shall not consider claims that such surveillances have tainted the evidence of a crime occurring more than five years after the surveillance, 18 U.S.C. § 3504(a)(3) (1970). The bar to consideration of taint is inapplicable here since the relevant wiretaps occurred within two years of the acts sought to be proved,[4] allegedly with wiretap fruits. The question is presented, however, whether the 1970 Act's procedure for determining taint governs this case and, if so, whether it is constitutional.

Congress specifically provided that the 1970 Act applies to all proceedings, whenever commenced, after its effective date. Organized Crime Control Act of 1970, ch. 223, 84 Stat. 935, § 703. Congress also clearly intended to alter the procedure set forth in *Alderman* for determining taint from pre-1968 wiretaps. H.R.Rep.No.91–1549, in 1970 U.S. Code Cong. & Admin. News, pp 4007, 4027. The precise question here, however, is whether Congress intended to change the rule of *Alderman* for the cases actually before the Court and as to evidence introduced, and to which objection was made, before passage of the 1970 Act.

The statute's wording would support restricting use of its procedure for determining taint to cases in which prospective admission of evidence was the subject of controversy; it applies "upon a claim by a party aggrieved that evidence is inadmissible. . . ." 18 U.S.C. § 3504(a)(1) (1970). Nothing I have found in the legislative history of the 1970 Act indicates that Congress intended the Act to apply to determinations, after its passage, on the propriety of the introduction of evidence before passage of the 1970 Act. While the statute as relevant here does not purport to change the propriety of admission of evidence, but rather changes only the method for determining admissibility, the *Alderman* Court recognized that the method of ascertaining taint may well determine whether evidence is admitted or excluded. See Alderman v. United States, *supra*, 394 U.S. at 183–185, 89 S.Ct. 961.

Not only do I find limitation of the 1970 Act to questions of introduction of evidence after the Act's effective date plausible, but also I find such construction necessary to avoid serious doubt as to the statute's constitutionality. I cannot dismiss United States v. Klein, 80 U.S. (13 Wall.) 128, 20 L.Ed. 519 (1872), as a case dealing solely with the Supreme Court's right to determine the effect of a presidential pardon. *Klein* involved three questions concerning the effect of Congressional enactments.

The first question was the effect of an 1867 statute on the President's pardon powers. *Id.* at 141–142. The second question was the effect of an 1870 statute on the Supreme Court's jurisdiction. *Id.* at 143–148. The final question was the effect of the 1870 act's provisions prescribing the evidence that could be relied upon for certain findings and the result required on the basis of other findings. *Id.* The Court of Claims had, in 1869, rendered a decision in Klein's favor, giving effect to the President's grant of pardon and amnesty and using evidence proscribed by the 1870 act. The Supreme Court held that the 1867 statute did not impair the President's pardon powers, and that the 1870 act neither divested the Supreme Court of jurisdiction acquired before the act's passage nor required the Court to reverse the Court of Claims decision in accordance with the statute's directive regarding the admission and effect of evidence. *Id.* I believe that *Klein* is apposite to and casts doubt upon the constitutionality of applying the 1970 Act to Ivanov. Because I feel that the intent of Congress that the 1970 Act apply here is not made clear by the statute's language or history and that the application of the statute to this case might not be constitutional, I would find that the 1970 Act is inapplicable to this proceeding.

II. SCOPE OF SUPREME COURT MANDATE

In suggesting disposition on § 605 grounds, I must comment on a point raised by the government for the first time in its petition for rehearing but not reached by the majority. When this case was before the Supreme Court, the Solicitor General revealed that conversations involving Ivanov had been overheard through wiretaps. The question of a possible § 605 violation was not raised at that time. The Supreme Court thus addressed the matter as if only a potential Fourth Amendment violation were involved. Consequently, in remanding the case to the district court, the Supreme Court directed that "[t]he District Court should confine the evidence presented by both sides to that which is material to the question of the possible violation of a petitioner's Fourth Amendment rights, to the content of conversations illegally overheard which violated those rights and to the relevance of such conversations to the petitioner's subsequent conviction."

Alderman v. United States, *supra*, 394 U.S. at 186, 89 S.Ct. at 973. After arguing before the district court the validity of government action under § 605, the government now urges that only Fourth Amendment questions could be reached on remand consistent with the Supreme Court's mandate.[5]

The Supreme Court has stated that "[w]hile a mandate is controlling as to matters within its compass, on the remand a lower court is free as to other issues." Sprague v. Ticonic National Bank, 307 U.S. 161, 168, 59 S.Ct. 777, 781, 83 L.Ed. 1184 (1939). Such matters are open unless their "disposition . . . by the mandate . . . was necessarily implied in the claim in the original suit, and [the party's failure to raise them constituted] an implied waiver." *Id.* Since the § 605 issue was not raised prior to the remand, it was not necessarily disposed of by the Supreme Court mandate; and since the possibility of § 605 violation was not known to Ivanov at the time of his petition to the Court, his failure to raise the issue prior to remand cannot be deemed implied waiver. The obvious intent of the Supreme Court in framing its mandate was to limit proceedings on remand to issues connected with the government's wiretapping. The legality of government action under § 605 is certainly such an issue.

Finding that the case should be disposed of on § 605 grounds, I would not reach the Fourth Amendment issues.

Judge Van Dusen joins in this opinion.

Judge Aldisert joins in this opinion except the discussion contained in the section headed "§ 605: Clause 2, Element (1)."

Aldisert, Circuit Judge (concurring and dissenting.)

I would reverse the final judgment of conviction and remand these proceedings to the district court for reconsideration. Assuming without conceding a constitutional prerogative of the Chief Executive to intercept, I am persuaded that the strictures of § 605 of the Communications Act of 1934, as interpreted by the Court in Nardone v. United States, 302 U.S. 379, 58 S.Ct. 275, 82 L.Ed. 314 (1937), prevents divulging or publishing the contents of the interception. My view coincides precisely with that taken by the Department of Justice under Attorneys General Tom C. Clark, J. Howard McGrath, Herbert Brownell, Jr., William P. Rogers and Robert F. Kennedy.

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[3] The fourth prohibition provides:

> . . . and no person having received such intercepted communication or having become acquainted with the contents, substance, purport, effect, or meaning of the same or any part thereof, knowing that such information was so obtained, shall divulge or publish the existence, contents, substance, purport, effect or meaning of the same or any part thereof, or use the same or any information contained therein for his own benefit or for the benefit of another not entitled thereto. 47 U.S.C. § 605 (1970).

[4] Letter of June 2, 1969 from Attorney General Mitchell.

[5] It appears that the government not only argued the § 605 question before the district court without indicating that this matter might be beyond the scope of the Supreme Court's mandate, but further, the government apparently raised the matter of legality under § 605. Even if this question were arguably beyond the scope of the Supreme Court's mandate, there is some question whether the government would be estopped from arguing this question here.

I

Before proceeding into a discussion of this issue in part III, *infra,* I am constrained to set forth additional obervations to present in detail the equally important issue upon which the panel of this court was not divided and upon which there appears to be unanimity in the full court: the district court's holding that the first set of logs, designated as "4001–S*" and "4002–S*" did not taint the conviction. To put these issues in proper perspective I find it necessary to set forth the facts.

Appellant Igor Ivanov, a Soviet national, was charged with having conspired with one John Butenko, an American, to violate the federal espionage statute, 18 U.S.C. § 794(a) and (c)[1] (Count I), from April to October in 1963, and with having conspired to violate the statutory prohibition against acting as an agent of a foreign government without prior notification to the Secretary of State, 18 U.S.C. § 951[2] (Count II). Following a jury verdict of guilty, appellant Ivanov was sentenced to twenty years' imprisonment on Count I and five years' imprisonment on Count II the sentences to run concurrently.

This court affirmed the judgment of conviction against him on Count I and directed his acquittal on Count II. United States v. Butenko, 384 F.2d 554 (3d Cir. 1967). Appellant then filed petitions for certiorari in the United States Supreme Court. While the cases were there pending, the Solicitor General revealed that the United States had engaged in certain electronic surveillances and that Butenko and Ivanov had been overheard. The Supreme Court ordered a remand to the district court for "a hearing, findings, and conclusions (1) on the question of whether with respect to any petitioner there was electronic surveillance which violated his Fourth Amendment rights, and (2) if there was such surveillance with respect to any petitioner, on the nature and relevance to his conviction of any conversations which may have been overheard through that surveillance."[3] Alderman v. United States, 394 U.S. 165, 186–187, 89 C.Ct. 961, 973, 22 L.Ed.2d 176 (1969).

On remand, the government conceded that one set of interceptions was illegal but convinced the district court that these did not taint the conviction. The district court found a second set of interceptions to have been properly authorized by virtue of the President's prerogative to obtain foreign intelligence information, denied appellant's application for disclosure, denied an evidentiary hearing pertaining thereto, and entered a new judgment of conviction. United States v. Ivanov, 342 F.Supp. 928 (D.N.J.1972). This appeal followed.

The precise nature of the espionage conspiracy was a scheme to transmit to the Union of Soviet Socialist Republics the plan of a command and control system of the Strategic Air Command (SAC). Given the name "465–L," the system was being produced by International Electronic Company, a subsidiary of International Telephone and Telegraph, and was an automatic electronic system which enabled the commander of SAC to alert and deploy his forces and provide him with an up to the minute status of the total force. Additional details on the nature of this project are summarized in our earlier opinion. 384 F.2d at 557. We found that "there was substantial evidence to buttress the conviction" of Butenko, then employed as a control administrator at the International Electronic Company, and that "sufficient evidence was offered by the government to show [Ivanov's] intimate involvement with the conspiracy." 384 F.2d at 563.

At trial the government proved that on October 29, 1963, appellant was observed in Englewood, New Jersey, with two other Soviet Nationals, Pavlov and Romanshin, in the vicinity of the Englewood railroad station parking lot. An automobile "driven by Butenko, drove into the railroad station lot, parked, turned off the headlights and turned on the parking lights and within a few minutes the Soviet automobile, now driven by Pavlov with Ivanov in the right front seat, came into the parking lot, signaled by turning off headlights and turning on parking lights. Here, there was a direct confrontation between Ivanov and Butenko and several minutes later, when the defendants were arrested, the briefcase of Butenko was found in the Soviet automobile." 384 F.2d at 563–564.

Two sets of logs reflecting electronic surveillances were introduced at the remand hearing and form the backdrop of this appeal. This first set covered the periods from May 15, 1963, to June 11, 1963, and from June 27, 1963, to August 13, 1963, and were designated as "4001–S*" and "4002–S*." These logs were disclosed to appellant. The government conceded that these logs represented illegal surveillances but contended that their use did not taint the conviction. The district court agreed. A second set of logs was not shown to appellant or his counsel but was examined by the court *in camera.* The government represented that these logs reflected intercepted converations of Ivanov, duly obtained by the Department of Justice in the exercise of the President's right to obtain foreign intelligence information. These sealed documents, government exhibits A–1, A–2, and A–3, were accompanied by an affidavit of Attorney General John N. Mitchell setting forth the circumstances of, and authority for, the surveillance. The court ruled that this second set of logs was lawully obtained under the theory set forth by the Attorney General and refused Ivanov the opportunity of examining them or an evidentiary hearing relating thereto.

Ivanov mounted separate arguments relating to each set of logs. He contended that the first set of logs was incomplete and, therefore, the court erred in its ruling that the use of these illegal surveillances did not taint the conviction. Secondly, he argued that the use of the surveillance evidence from the second set of logs was illegal. contravening Section 605 of the Communications Act of 1934,[4] or, alternatively, that use of this evidence by the prosecution violated Fourth Amendment protections guaranteed him as an alien. See Au Yi Lau v. United States Immigration and Naturalization Service, 144 U.S.App.D.C. 147, 445 F.2d 217, 223, cert. denied, 404 U.S. 864, 92 S.Ct. 64, 30 L.Ed.2d 108 (1971), stating that aliens in this country, like citizens, are protected by the Fourth Amendment. See generally Kwong Hai Chew v. Colding, 344 U.S. 590, 596–597, 73 S.Ct. 472, 97 L.Ed. 576 (1953).

II

Some factual background to the first set of logs is necessary. The actual tapes were not available; only logs reflecting a summary of their contents were presented. Government witnesses testified that it was standard practice to erase tapes which were not productive of meaningful evidence or leads, and because these surveillances were unproductive, the taped interceptions were not preserved. The court found as a fact: "Rarely did intelligible adult conversations come through, and no clear conversation of Ivanov was received over the equipment." 342 F.Supp. at 933. Using the test of United States v. Delerme, 457 F.2d 156 (3d Cir. 1972), I believe there is substantial evidence to support this finding.[5]

Typical of the testimony adduced at the hearing was that of Agent McWilliams who supervised the wiretapping. The district court reported: "McWilliams admitted that the electronic surveillance of Ivanov conducted under his supervision produced no evidence that would have warranted Ivanov's arrest for engaging in any unlawful activity." *Id.* Agents McWilliams, Martin, Conway and Manning testified that no use was made of the results of those surveillances and no reports were furnished pertaining to their contents. The Assistant United States Attorney who prosecuted the case and the two Department of Justice agents who assisted him testified that they were unaware of any electronic surveillance.

Indeed, the district court observed throughout its opinion:

The evidence adduced at the hearing conclusively shows that Ivanov's conviction was not in any way tainted by reason of the unlawful electronic surveillances conducted by the Government. 342 F.Supp. at 931.

There is no question in the Court's mind, based on personal knowledge of the trial, and a careful review of the evidence adduced at the taint hearing, that the arrest and subsequent conviction of Ivanov resulted from the Government's independent investigation of the case, in which electronic surveillances 4001–S* and 4002–S* played no part. 342 F.Supp. at 936.

The electronic surveillances in this case were ineffective and unsuccessful. What they produced was, at best, innocuous, even when viewed by the specially trained and experienced FBI Agents. An examination of the logs, reflecting summaries of the surveillance tapes, reveals nothing more than a history of small talk and unintelligible chatter of such obvious insignificance that the FBI discontinued its electronic surveillance of Ivanov on June 18, 1963, because of its demonstrated consistent showing of nonproductivity. 342 F.Supp. at 937.

The Court finds no specific evidence of taint in this case. Even assuming, *arguendo,* that some such evidence existed, the Court is satisfied beyond a reasonable doubt that in this case the Government has met its ultimate burden of showing that no substantial or measurable portion of the evidence used against Ivanov at his trial was tainted. 342 F.Supp. at 939.

Finally, Ivanov mounted a somewhat technical argument relating to the May 26 and May 27 surveillances. The government contended that the logs for these dates were before the district court. Appellant claimed that these were not the logs for May 26 and May 27, but rather, the logs for May 21 and May 22. The opinion of the court admits the date is unclear, and states concerning one log, it "could be either May 21 or May 26," and concerning the other, "the date appearing on C–6–2 could be read as either May 22, or May 27, 1963." 342 F.Supp. at 940.

From this Ivanov argued that the logs for May 26 and May 27 were destroyed or lost, and that these logs contained exculpatory or contradictory evidence. Additionally, he continued, if the logs for May 26 and May 27 were missing, there existed a possibility that evidence admitted at trial was the product of leads obtained from, and therefore tainted by, the illegal May 26 and May 27 surveillances; that is, because these logs were not before the court, there could be no finding that any of the government evidence was derived from legitimate independent sources.

As the district court's opinion demonstrates, these conclusions do not follow. One log was compiled for each day. There were ten days in May in the twenties—May 20 through May 29. There were ten logs for this period. "While there may be some question as to which log is which, the Court is satisfied that all logs covering the period May 20 through May 29, 1963, were in Court and in the possession of Ivanov's counsel, and further that no logs covering the period in question were missing, lost or destroyed." 342 F.Supp. 940. This is a finding of fact by the

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Footnotes at end of article.

district court and I will not disturb it. United States v. Delerme, *supra*.

Moreover, my own independent scrutiny of these logs permits me to be more specific in my findings concerning these exhibits. Preliminarily, I observe that this court may examine documents and exhibits, which were before the district court and make its own independent determinations concerning them. See, *e.g.*, Shiya v. National Committee of Gibran, 381 F.2d 602 (2d Cir. 1967), cert. denied, 389 U.S. 1048, 88 S.Ct. 778, 19 L.Ed.2d 842 (1968).

There is no dispute concerning the dating of the 400–S* logs. This set presents ten log sheets, one for each day from May 20 through May 29, 1963, all clearly dated. Also, there is only one log sheet for each day for each of the two surveillances. Because the log sheets for both surveillances were maintained by one agent, an entry on either log for the same date bears the same agent's initials. Of course, different agents were on duty at different times and on different dates.

With these facts as a basis, an examination of exhibits C–6–1 and C–6–2 reveals that appellant was correct in asserting that these two log sheets are for May 21 and May 22, respectively. Appellant introduced before the district court a full-page advertisement by NBC News in the May 21, 1963 issue of the *New York Times*, announcing that the documentary film "The Kremlin" would be shown on Channel 4 from 9:30 to 10:30 that night. A log entry on exhibit C–6–1 shows that a television program entitled "The Kremlin" was overheard by electronic surveillance at 9:55 p.m. on the date of the log. Also, appellant introduced a *New York Times* television schedule for May 26, 1963, showing that "The Kremlin" was not scheduled for viewing at any time on that date. Moreover, a comparison of the agent's initials on exhibits C–6–1 and C–6–2, the log sheets in controversy, with the initials on the 4001–S* log sheets for May 21 and May 22, reveals that the initials and entries are identical. However, when compared with the agents' initials and entries on the 4001–S* log sheets for May 26 and May 27, there is no similarity. It is clear that exhibits C–6–1 and C–6–2 are log sheets for May 21 and May 22, 1963, respectively.

From this, however, it does not follow that the 4002–S* surveillance log sheets for May 26 and May 27 have been lost or destroyed. On the contrary, examination of exhibits C–8–1 and C–8–2 reveals that these sheets are the logs of surveillance 4002–S* for May 26 and May 27, respectively. First, an examination of exhibit C–8–1, ostensibly dated "5/21/63", reveals that the date on the log sheet previously read "5/26/63". The "6" was erased at some point and replaced with a "1", yet the "6" remains clearly visible underneath. Secondly, a comparison of the agents' entries and initials on exhibit C–8–1 with the 4001–S* log for May 26, discloses that they are identical. Thus, exhibit C–8–1 is the log sheet of surveillance 4002–S* for May 26, 1963.

Examination of exhibit C–8–2 reveals a similar change. This would appear to be the log sheet for "5/22/63". Upon closer examination, however, a "tail" can be seen to have been added to what was originally the "7" and "27" so as to make it a "2". Following this alteration, what was "5/27/63", became "5/22/63". Secondly, comparison of exhibit C–8–2 with the 4001–S* log sheet for May 27 yields a complete identity of the agents' entries and initials. Yet, when exhibits C–8–1 and C–8–2 are compared with the 4001–S* log sheets for May 21 and May 22, there is no similarity.

I have no basis for ascribing a sinister motive to the erasures and alterations.

Thus, I conclude (1) that exhibits C–6–1 and C–6–2 are the log sheets of surveillance 4002–S* for May 21 and May 22 respectively, and (2) that exhibits C–8–1 and C–8–2 are the log sheets of surveillance 4002–S* for May 26 and May 27, respectively.

These findings in no way conflict with those of the district court. Rather, these findings make specific that which the district court left general, and, as such, make them more definite and sustainable.

I conclude, therefore, that as to the first set of logs the district court discharged its responsibility properly under the Supreme Court's mandate. Confronted with a government concession that these surveillances were illegal, it had but one responsibility: to determine whether "the conviction of [the] petitioner was not tainted by the use of evidence so obtained." The district court found no such taint from the first set of logs and I find no error in this determination.

III

The second set of logs forms the background of the major issue in this appeal: whether the government could properly utilize in a criminal prosecution the product of an electronic surveillance obtained in 1963 solely on the strength of the Attorney General's position as the representative of the President in gathering foreign intelligence information.

At the outset, it is important to emphasize what is not before us. We are not interpreting Title III of the Omnibus Crime Control and Safe Streets Act of 1968, Pub.L. 90–351, June 19, 1968, 82 Stat. 212, 18 U.S.C. § 2510 et seq. Both the government and appellant agree that the governing statute at the time of these interceptions was the Communications Act of 1934, 48 Stat. 1103; 47 U.S.C. § 605. Therefore, we are not called upon to consider the applicability of 18 U.S.C. § 2511(3).[6] Thus, I do not meet the issue reserved in United States Court, 407 U.S. 297, 308, 92 S.Ct. 2125, 2132, 32 L.Ed. 2d 752 (1972): "Further, the instant case requires no judgment on the scope of the President's surveillance power [under Title III of the 1968 Act] with respect to the activities of foreign powers, within or without this country." Indeed, we are not required to define the parameters of the President's surveillance power under § 605. The limited nature of our inquiry is simply this: assuming a constitutional power of the President to have ordered surveillance of foreign agents in 1963, was it permissible for the government, under § 605 of the Communications Act of 1934, to utilize the products of such surveillance in a criminal prosecution?

That I so frame the question indicates that I avoid the invitation to plunge into an evaluation of Fourth Amendment considerations. I am mindful of Justice White's admonition "to [stop and] inquire whether the challenged interception was illegal under the statute" rather than proceed "directly to the constitutional issue with adverting to the time-honored rule that courts should abjure constitutional issues except where necessary to decision of the case before them. Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 346–348, 56 S. Ct. 466, 482–483, 80 L.Ed. 688 (1936) (concurring opinion)." United States v. United States District Court, *supra*, 407 U.S. at 340, 92 S. Ct. at 2148 (concurring opinion). Also, that I so frame the question and assume the constitutional power of the President in order to meet the statutory issue should not be interpreted as an agreement with the sweep of Judge Adams' discourse in Part III of the majority opinion. I simply do not meet this question.

I accept the hypothesis suggested by appellant that "it must be assumed that the conversations of Ivanov overheard on the wiretaps led to evidence used at his criminal trial." For the issue of taint could not be resolved against Ivanov without an evidentiary hearing. Alderman v. United States, and Ivanov v. United States, *supra*, 394 U.S. 165, 89 S.Ct. 961, 22 L.Ed.2d 176; Kolod v. United States, 390 U.S. 136, 88 S.Ct. 752, 19 L.Ed.2d 962 (1968). Thus, I must assume "in the present posture of this case," as we did in In re Grand Jury Proceedings, Appeal of Sister Egan, 450 F.2d 199 (3d Cir. 1971), and as the Supreme Court did in Gelbard v. United States, and United States v. Egan, 408 U.S. 41, 92 S.Ct. 2357, 33 L. Ed.2d 179 (1972), that the government intercepted communications and utilized them in the proceedings against the appellant.

I am not without guidance in approaching this issue. The Supreme Court has ruled forcefully, specifically and in clear language free from any ambiguity, that § 605 was a complete and total bar to the admissibility of wiretap information obtained by federal agents in a smuggling prosecution. Interpreting the statutory language, "... 'no person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person,' " the Court said:

> Taken at face value the phrase "no person" comprehends federal agents, and the ban on communication to "any person" bars testimony to the content of an intercepted message. Nardone v. United States, 302 U.S. 379, 381, 58 S.Ct. 275, 276, 82 L.Ed. 314 (1937).

In the second *Nardone* case, 308 U.S. 338, 60 S.Ct. 266, 84 L.Ed. 307 (1939), the Court held that the statutory prohibition barred the evidentiary use of the fruits of the intercepted conversations, as well as the conversations themselves. The Supreme Court continued the absolutism of its pronouncements in review of a conviction for unlawful possession of alcoholic spirits in Benanti v. United States, 355 U.S. 96, 100, 78 S.Ct. 155, 157, 2 L.Ed.2d 126 (1957):

> The *Nardone* decisions laid down the underlying premises upon which is based all subsequent consideration of Section 605. The crux of those decisions is that the plain words of the statute created a prohibition against any persons violating the integrity of a system of telephonic communication and that evidence obtained in violation of this prohibition *may not be used to secure a federal conviction*. (Emphasis supplied.)

It is the government's contention that the President, acting through the Attorney General, may constitutionally authorize the use of electronic surveillance to obtain foreign intelligence information deemed essential to the security of the United States.[7] The government properly observes that Article II vests the President, as Chief Executive, with responsibility for the conduct of the nation's foreign affairs.

The district court accepted this contention, and solely for the purpose of this analysis, I shall assume that the district court did not err in this respect. However, accepting this contention does not put the matter to rest. The issue central to this case is not the constitutional power of the President to conduct such surveillances, but it is the less sophisticated question of admissibility of evidence in a criminal prosecution.

A review of the authorities relied upon by the government indicates that these cases failed to make the important distinction between the congressional power to forbid the disclosure of interceptions and the President's constitutional power to make interceptions.

It is beyond question that the President, as Chief Executive, possesses certain powers and responsibilities which are not dependent upon a specific legislative grant from Congress, but derive from the Constitution itself.[8] This principle was announced as early as Marbury v. Madison, 1 Cranch (5 U.S.) 137, 165–166 2 L.Ed. 60 (1803):

Footnotes at end of article.

By the Constitution of the United States the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country, in his political character, and to his own conscience. United States v. Belmont, 301 U.S. 324, 328, 57 S.Ct. 758, 759, 81 L.Ed. 1134 (1937), held that "the conduct of foreign relations was committed by the Constitution to the political departments of the government, and the propriety of what may be done in the exercise of this power [is] not subject to judicial inquiry or decision."[9]

It is also beyond cavil that Congress has the power to regulate the reception of evidence in federal courts. This was recently demonstrated when the President signed S. 583 under which the Rules of Evidence for United States Magistrates, amendments to the federal rules of civil and criminal procedure promulgated by the Supreme Court on November 20, 1972, will have no force or effect "except to the extent . . . as they may be expressly approved by Act of Congress." In Sablowsky v. United States, 101 F.2d 183, 189 (3d Cir. 1938), we said that *Nardone* "holds clearly that Section 605 creates a rule of evidence relating to the admission of intercepted wire communications sought to be divulged by officers of the United States in courts of the United States. No other interpretation can be placed upon this phase of the Nardone decision."[10] It remains only for us to determine whether it is consistent to assume that the President has the right to intercept and at the same time hold that the contents of the interception may not be divulged as evidence in a criminal prosecution. To resolve this we must turn to the language of the statute.

For my purposes the critical clause of § 605 is that which provides: "no person not being authorized by the sender shall intercept any communication *and* divulge or publish the existence, contents, substance, purport, efect, or meaning of such intercepted communication to any person." (Emphasis supplied.) I emphasize that the Act states that no person shall "intercept any communication *and* divulge or publish."

The conjunction "and" mandates the conclusion that two circumstances must occur for the bar of the statute to take effect: first, the interception, and, second, the divulging or publishing of the intercepted information "to any person." Thus, the Supreme Court has not construed this Act to make wiretapping an offense in all instances. Rather, it is the interception *and* disclosure of the contents of the message which constitute the crime. "Both acts are essential to complete the offense." United States v. Coplon, 91 F. Supp. 867, 871 (D.D.C. 1950), reversed on other grounds, 89 U.S. App. D.C. 103, 191 F.2d 749 (1951).

Under the theory of the presidential prerogative to gather foreign intelligence information, it is never contended that the President himself or his authorized Cabinet officer, performs the act of interception. This is done by special "agents" of a given department of the Executive Branch. Indeed, against the backdrop of the sophisticated interrelationships of a sprawling administrative bureaucracy, as required by the complexities of modern government, thousands of personnel within the Executive Branch are often considered as representatives of the person of the President. Five distinguished Attorneys General—with the scholarship and research at their command and a consummate desire to utilize the fruits of wiretaps as evidence in espionage prosecutions—concluded that Section 605 prevented the introduction of the evidence which is now permitted by the majority. The official representatives of three Presidents—Presidents Truman, Eisenhower, and Kennedy—introduced legislation and actively beseeched Congress to amend this statute so that the government could utilize the fruits of interception in espionage cases and cases involving national security. They uniformly represented that what the Act of 1934 expressly forbade was the *divulgence* of the information received by interception, that the problem was not so much the act of interception, but the divulging in court of that which was learned from interception.

Former Attorney General Herbert Brownell, Jr., observed that after passage of the 1934 Act, "[t]he question soon arose as to whether mere interception by federal agents of messages was forbidden by Section 605. The Attorney General at that time took the view that what the law prohibited was *both* interception *and* divulgence, and that mere report of the intercepted message to public officials by FBI or other federal agents did not constitute divulgence. . . . None of the decisions [*Nardone*] rendered by the Supreme Court held that wire tapping by federal officers in and of itself was illegal, absent divulgence." Brownell, "Public Security and Wire Tapping," 39 Cornell L.Q. 195, 197, 198 (1954).[11]

"[T]he President, both as Commander-in-Chief and as the Nation's organ for foreign affairs, has available intelligence services whose reports are not and ought not to be published to the world." Chicago & Southern Air Lines, Inc. v. Waterman S. S. Corp., *supra*, 333 U.S. 103, 111, 68 S.Ct. 431, 436, 92 L.Ed. 568 (1948). The growing complexity and sophistication of modern society have led to the recognition that sophisticated techniques are required for gathering intelligence information where national security is involved. As early as 1876, the Supreme Court recognized the presidential power to conduct intelligence operations in order to protect the security of the nation. Totten v. United States, 92 U.S. 105, 23 L.Ed. 605 (1876). In 1940, President Roosevelt, in a confidential memorandum to Attorney General Robert H. Jackson recognized the necessity of wiretapping in matters "involving the defense of the Nation." President Truman expressly approved this practice as have all Attorneys General since 1940.

When Secretary of State William P. Rogers was Deputy Attorney General he wrote a perceptive article which completely supports my analysis that there is a basic distinction under § 605 between the right to intercept and the right to use interceptions as evidence. Rogers, "The Case for Wire Tapping" 63 Yale L.J. 792 (1954): "It has long been the position of the Department of Justice that mere interception of telephone communications is not prohibited by federal law." 63 Yale L.J. at 793.

Mr. Rogers outlined the long struggle of Attorneys General to persuade Congress to enact legislation to permit the introduction into evidence of intercepted communications in criminal prosecutions. "Attorney General J. Howard McGrath submitted wire tap legislation for introduction in the 82d Congress. In doing so, he repeated [a plea of former] Attorney General Clark and indicated that such legislation would 'enable the prosecution of present, future, and past violations of laws endangering our internal security, not barred by the statute of limitations, which would otherwise go unpunished to the detriment of the Nation.' " 63 Yale L.J. at 795.

Mr. Rogers states that Attorney General McGrath reaffirmed the inability of his department to fulfill "its statutory duty of prosecuting," and that Attorney General Herbert Brownell complained to Congress that without wiretap legislation "the hands of prosecuting officers are tied and their efforts to maintain the security of the Nation are thwarted."[12] "Again, on November 17, 1953, Attorney General Brownell advised a congressional committee that the work of the Department of Justice *has clearly shown the need for legislation which would permit the use of wire tap evidence in espionage cases.* He advised that there are cases of espionage presently in the Department of Justice but that *since some of the important evidence was obtained by wire tapping,* such cases could not be brought to trial so long as the law remains in the present state." 63 Yale L.J. at 796. (Emphasis supplied.) Significantly, the "law" explicitly referred to by Mr. Rogers and Attorney General Brownell was the instruction contained in the *Nardone* cases, as amplified by Weiss v. United States, 308 U.S. 321, 60 S.Ct. 269, 84 L. Ed. 298 (1939), applying the doctrine to intrastate as well as interstate communications. 62 Yale L.J. 793 nn. 5, 6, and 7.

The efforts of the various Attorneys General came to fruition with the passage of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, *supra.* Unlike § 605, the present wiretap statute, 18 U.S.C. § 2511 (3), note 6, *supra,* contains a provision providing for the evidentiary use of intercepted communications: "The contents of any wire or oral communication intercepted by authority of the President in the exercise of . . . [his constitutional] powers may be received in evidence in any trial hearing. . . ."[13]

Attorney General Robert F. Kennedy testifying before Congress on May 22, 1962, in support of H.R. 10185, dramatically pinpointed the deficiencies in § 605:

Why do I say the existing situation is unsatisfactory?

The existing federal law on wiretapping is Section 605 of the Communications Act of 1934, which provides in part:

". . . no person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person . . ."

This law is unsatisfactory in two respects. It permits anyone to tap wires. Mere interception is not a crime; a crime is not commited until the intercepted information is divulged or published. (Another provision makes it a crime to use such information for one's own benefit.)

Thus even if we find an intercepting device attached to a telephone line, and find out who is doing the intercepting, we still cannot prosecute. We have to find that the information was divulged or published or used improperly. This means that no one's privacy is adequately protected. Anyone can listen in to your telephone conversations, and mine, without violating the federal law.

On the other hand, all divulgence is prohibited. *This means that it is against the law for law enforcement officials to disclose in court any of the words they overhear from wiretapping or the substance, purport, or effect of those words—even though what they overhear is clear evidence of a vicious crime.*

The Supreme Court so held with respect to federal officers in the *Nardone* case, decided in 1937. And it so held with respect to state officers in the *Benanti* case, decided in 1957. Indeed, the federal courts refuse to receive in evidence, not only the substance of the intercepted conversation, but any evidence obtained as a result of leads which that conversation gave. As a result, wiretapping cannot be used effectively by the federal government or the states to aid in law enforcement, even for the most serious crimes.

The strange paradox is that under this federal law a private individual is free to listen in to telephone conversations for the most improper motives, but law enforcement officials cannot use wiretapping effectively to protect society from major crimes. Hearings on Nominations of William H. Rehnquist and Lewis F. Powell Before the

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Footnotes at end of article.

Senate Committee on the Judiciary, 92nd Cong., 1st Sess., at 145 (1971). (Emphasis supplied.)

Attorney General Kennedy stated that the passage of the bill was needed for national security cases.

Wiretapping is an important tool in protecting the national security. In 1940, President Roosevelt authorized Attorney General Jackson to approve wiretapping in *national security cases*. Attorney General Clark, with President Truman's concurrence, extended this authorization to kidnapping cases.

As Congress has been advised each year by the Director of the Federal Bureau of Investigation, the practice has continued in a limited number of cases upon express permission from the Attorney General. But, as I have pointed out, the evidence received from these wiretaps or developed from leads resulting from these wiretaps cannot be used in court. It is an anomalous situation to receive information of a heinous crime and yet not be able to use that information in court.

And, of course, this applies not only in cases of *espionage and treason* but in pressing the fight against organized crime.

H.R. 10185 would authorize wiretapping and introduction of wiretap evidence in court for the following federal offenses:

Crimes affecting the national security: *Espionage, sabotage, treason, sedition,* subversive activities and unauthorized disclosure of atomic energy information;

I am persuaded, therefore, that the district court erred in equating an assumed presidentital power to intercept with the right to "divulge or publish" that which was intercepted. I would hold that assuming a constitutional prerogative of the Chief Executive to intercept, the doctrine of *Nardone* prevents under strictures of § 605, divulging or publishing the contents of the interception. In this context any use of the intercepted material beyond the confines of the Executive Branch would have been contrary to the statutory prohibition. I would remand these proceedings to the district court for reconsideration in accordance with the foregoing analysis.

On the present state of the record I would agree with the government's contention that additional overhearings of Ivanov's conversations following his conviction were not within the mandate for disclosure of "electronic surveillance which might have violated defendants Fourth Amendment rights and tainted ther convictions."

Judge Van Dusen joins in this opinion.

FOOTNOTES

[1] The relevant subsections of 18 U.S.C. § 794, "Gathering or delivering defense information to aid foreign government," read as follows:

(a) Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by death or by imprisonment for any term of years or for life.

(c) It two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

[2] Whoever, other than a diplomatic or consular officer or attaché, acts in the United States as an agent of a foreign government without prior notification to the Secretary of State, shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

[3] The Court also ordered:

The District Court should confine the evidence presented by both sides to that which is material to the question of the possible violation of a petitioner's Fourth Amendment rights, to the content of conversations illegally overheard by surveillance which violated those rights and to the relevance of such conversations to the petitioner's subsequent conviction. The District Court will make such findings of fact on those questions as may be appropriate in light of the further evidence and of the entire existing record. If the District Court decides on the basis of such findings (1) that there was electronic surveillance with respect to one or more petitioners but not any which violated the Fourth Amendment, or (2) that although there was a surveillance in violation of one or more of the petitioner's Fourth Amendment rights, the conviction of such petitioner was not tainted by the use of evidence so obtained, it will enter new final judgments of conviction based on the existing record as supplemented by its further findings, thereby preserving to all affected parties the right to seek further appropriate appellate review.

[4] 47 U.S.C. § 605. Unauthorized publication or use of communications

No person receiving or assisting in receiving, or transmitting, or assisting in transmitting, any interstate or foreign communication by wire or radio shall divulge or publish the existence, contents, substance, purport, effect, or meaning thereof, except through authorized channels of transmission or reception, to any person other than the addressee, his agent, or attorney, or to a person employed or authorized to forward such communication to its destination, or to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, or to the master of a ship under whom he is serving, or in response to a subpena (sic) issued by a court of competent jurisdiction, or on demand of other lawful authority; and no person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person; and no person not being entitled thereto shall receive or assist in receiving any interstate or foreign communication by wire or radio and use the same or any information therein contained for his own benefit or for the benefit of another not entitled thereto; and no person having received such intercepted communication or having become acquainted with the contents, substance, purport, effect, or meaning of the same or any part thereof, knowing that such information was so obtained, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of the same or any part thereof, or use the same or any information therein contained for his own benefit or for the benefit of another not entitled thereto: *Provided,* That this section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication broadcast, or transmitted by amateurs or others for the use of the general public, or relating to ships in distress. June 19, 1934, c. 652, Title VI, § 605, 48 Stat. 1103.

[5] In *Delerme,* we drew a distinction between review of historical or narrative facts in a criminal proceeding, and review of facts critical to the ultimate factual question of guilt. In the former case, this court will employ the clearly erroneous rule, while in the latter, we must determine whether there was substantial supportive evidence. Even applying the substantial evidence test, I would not disturb this finding.

[6] Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1103; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the Government. The contents of any wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial, hearing, or other proceeding only where such interception was reasonable, and shall not be otherwise used or disclosed except as is necessary to implement that power.

[7] The Government suggests our reliance upon United States v. Dellinger, Crim. No. 60 CR 180 (Memorandum Opinion N.D. Ill. February 20, 1970) reversed on other grounds, 472 F. 2d 340 (7th Cir. 1972); United States v. Clay, 430 F. 2d 165 (5th Cir. 1970), reversed on other grounds, 403 U.S. 698, 91 S. Ct. 2069, 29 L. Ed. 2d 810 (1971); United States v. Hoffman, 334 F. Supp. 504 (D. D. C. 1971); United States v. Enten, 329 F. Supp. 307, (D. D. C. 1971); United States v. Brown, 317 F. Supp. 531 (E. D. La. 1970).

[8] See also, Chicago & Southern Air Lines, Inc. v. Waterman S. S. Corp., 333 U. S. 103, 109, 68 S. Ct. 431, 92 L. Ed. 568 (1948); United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 319–320, 57 S. Ct. 216, 81 L. Ed. 255 (1936); Cafeteria & Restaurant Workers Union v. McElroy, 367 U.S. 886, 890, 81 S. Ct. 1743, 6 L. Ed. 2d 1230 (1961); In re Debs, 158 U.S. 564, 15 S. Ct. 900, 39 L. Ed. 1092 (1895).

[9] See also Oetjen v. Central Leather Co., 246 U.S. 297, 38 S.Ct. 309, 62 L.Ed. 726 (1918); United States v. Pink, 315 U.S. 203, 62 S.Ct. 552, 86 L.Ed. 796 (1942).

[10] The majority state that "§ 605 . . . does not, as Judge Aldisert urges, inexorably lead to the proposition that the statutory proscription against divulgence represented an evidentiary rule," thus creating the inference that I am urging a new theory in this court. Quite the contrary is true. I am relying on case law which has been settled in this circuit since December 8, 1938, when this court, speaking through Judge Biggs, said: "[T]he provisions of the second and fourth clauses of Section 605, which upon their face purport to relate to all persons, do not relate to the regulation of communication carriers *and therefore constitute a rule of evidence in the purest sense.*" Sablowsky v. United States, *supra,* 101 F.2d at 189. [My emphasis.]

[11] The debate on the Communications Act of 1934 did not discuss § 605. Mr. Brownell reports: "Not one word is said about making evidence obtained by wire tapping inadmissible in evidence or about prohibiting wire tapping." See 73 Cong. Rec. 4138, 8822–8837, 8842–8854, 10304–10332 (1934). 39 Cornell L. Q. at 197 n. 10.

[12] Letter of May 7, 1953, to the Speaker of the House of Representatives and the Vice President, transmitting a wiretap legislative proposal.

[13] I emphasize again that I do not meet the constitutional issue of the President's power under Title III of the Act of 1968 to wiretap without a court order to gather foreign

intelligence information, the question reserved in United States v. United States Dis-tritc Court, *supra*.

Section 605 does not appear to inhibit the Chief Executive from fully conducting the necessary operations within the framework of the Executive Branch, other than the use of the evidence in prosecutions. Thus, in the case at bar, Gleb Pavlov, Yuri Romashin, and Vladimir Olenev, who were named as *co-conspirators* but not defendants in the indictments, were accredited representatives of the Permanent Mission of the Union of Soviet Socialist Republic to the United Nations. They were declared *personna non grata* and departed the United States.

GIBBONS, CIRCUIT JUDGE, DISSENTING IN PART

I concur in the court's determination that the district court did not err in concluding that the evidence used at Ivanov's trial was not the tainted fruit of anything heard in the electronic surveillances the contents of which are preserved in the first set of logs. I dissent from the majority's conclusion that the tainted fruits of the electronic surveillances the contents of which are preserved in the second set of logs were admissible at his trial because the interceptions were lawful. While, I agree with much that Judge Aldisert says in part III of his opinion with respect to 47 U.S.C. § 605, I find it difficult to accept the construction which separates the prohibition against interception from the prohibition against disclosure and which treats the latter as a mere rule of evidence. I agree with Judge Adams that if the statute applies to the executive functioning in the field of foreign affairs intelligence by its plain language, it prohibits both interception and disclosure. His analysis suggests that if it prohibits the executive from intercepting foreign affairs intelligence, it may be beyond the power of Congress. Thus he adopts a construction making § 605 inapplicable to the executive when functioning in the field of foreign affairs intelligence. That construction is as strained as Judge Aldisert's construction.

> We . . . face the fact that the plain words of § 605 forbid anyone, unless authorized by the sender, to intercept a telephone message, and direct in equally clear language that "*no person*" shall divulge or publish the message or its substance to "*any person*." Nardone v. United States, 302 U.S. 379, 382, 58 S.Ct. 275, 276, 82 L. Ed. 314 (1937).

Judge Learned Hand had no difficulty in understanding the plain language of § 605 when in United States v. Coplan, 185 F.2d 629 (2d Cir. 1950), cert. denied, 342 U.S. 920, 72 S.Ct. 362, 96 L. Ed. 688 (1952), he applied it to interceptions for foreign affairs intelligence. Nor do I. As I read it, the statute by its plain language applied at the time of the interceptions here in issue to everyone including the President's agents gathering foreign affairs intelligence.

Obviously Congress thought as much when it amended § 605 by the enactment of § 2511 (3) of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. § 2511(3). This reading requires that I confront the constitutional limitation on congressional power postulated by Judge Adams as a reason for his interpretation. He writes:

> We do not intimate, at this time, any view whatsoever as to the proper resolution of the possible clash of the constitutional powers of the President and Congress. Instead, we merely note that the absence of legislative consideration of the issue does suggest that Congress may not have intended § 605 to reach the situation presented in the present case. In the absence of any indication that the legislators considered the possible effect of § 605 in the foreign affairs field, we should not lightly ascribe to Congress an intent that § 605 should reach electronic surveillance conducted by the President in furtherance of his foreign affairs responsibilities. This would seem to be far too important a subject to justify resort to unsupported assumptions. Majority Opinion at 601.

He suggests, in other words, that had it thought of the problem Congress would have recognized that there is an executive prerogative in the field of foreign affairs intelligence which is constitutionally beyond its power.[1] Thus, he reasons, we may write into § 605 an exception which is not there. I have no doubt that it was well within the power of Congress to forbid, as it did, the agents of the executive from intercepting electronic communications for any purpose, including foreign affairs intelligence. The only limitation on that power that occurs to me is the veto power of the President.

Judge Adams' interpretation of § 605 as exempting the executive's foreign affairs intelligence agents leads him inevitably to a decision as to the extent to which the fourth amendment applies to such agents.

He concludes that while the fourth amendment theoretically applies, the decisions of those agents as to what is a reasonable invasion of privacy is a matter beyond the scope of judicial review in an appropriate case. That conclusion as to the limits of the judicial power of the United States is premised upon the same executive prerogative which led him to find an exception to § 605 because of the prerogative's apparent limitation upon congressional power. I have no doubt about the power of the article III courts to subject the activities in the United States of the executive's foreign affairs intelligence agents to judicial review for compliance with the fourth amendment in an appropriate case. This is such a case, since on the present record we must assume that the executive is asking an article III court to make evidentiary use against an indicted defendant of the fruits of an invasion of privacy prohibited by that amendment.

Reinforcing my belief in the necessity for a separate expression of views is the fact that Judge Aldisert's dissenting opinion tacitly supports the position that there is an executive prerogative in the field of foreign affairs intelligence which may be beyond the reach of those checks and balances which in one way or another limit every other power of the central government.[2] A doctrine so out of keeping with our institutions of government, so potentially dangerous to the rights of privacy secured by the fourth amendment, and so capable of extension to other constitutional safeguards requires an explicit rejection.

Judicial review not only of reasonableness but even of the need for a warrant, according to the majority, is limited solely to a determination that the invasion of privacy was for the purpose of foreign affairs intelligence. The extent of the activities isolated from judicial review by the majority may be appreciated by an example not involving wiretapping. Today nothing would be more vital to the conduct of foreign affairs than accurate knowledge about which grain dealers were in touch with what foreign purchasers, or which oil companies were receiving supplies from what foreign sources.

If in pursuit of that information the executive agents burglarized the offices of an international grain dealer or an international oil company without the benefit of a warrant, and found evidence of a violation of the Sherman Antitrust Act, evidence obtained in the burglary could, under the majority interpretation of the fourth amendment, be used in a criminal prosecution under 15 U.S.C. §§ 1–3, 8. The court's role would be limited to a determination that the burglary was aimed at "the policy positions of foreign states on a broad range of international issues." Majority Opinion at 608.

The majority's awesome executive prerogative for gathering foreign affairs intelligence cannot be found in the text of the Constitution. Indeed, the majority opinion acknowledges as much by its rather gingerly embrace of United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 57 S.Ct. 216, 81 L.Ed. 255 (1936), and by paying lip service to the general applicability of the fourth amendment. But the holding on the fourth amendment issue, that the executive department's decision on reasonableness of the invasion of privacy is beyond the scope of judicial review, and the suggestion that § 605, if literally applied, might be beyond the power of Congress, are necessarily predicated upon the existence of a foreign affairs executive prerogative that is either implied from the Constitution or extraconstitutional. While in footnote 37 Judge Adams acknowledges recent scholarship casting doubt upon Justice Sutherland's thesis of an extraconstitutional foreign affairs prerogative or its acceptance by the Supreme Court, his opinion assumes at the very least that such a prerogative is implied from the Constitution. The result of that assumption is that what is a "reasonable" invasion of privacy for the purpose of foreign affairs intelligence is subject neither to congressional control nor to judicial review. While the result follows logically from the assumed premise, for the reasons which follow I reject the premise.

Before going to those reasons, consider some things not involved in this case. Since both § 605 and the fourth amendment operate only within the territory of the United States, we are not here concerned with the activities of the executive's foreign affairs intelligence agents operating outside that territory. But the foreign intelligence gathering activities of the executive provide a useful example negating any congressional belief that even outside the United States the President has a foreign affairs intelligence prerogative free from congressional control. In the National Security Act of 1947, ch. 343, 61 Stat. 497, and the Central Intelligence Agency Act of 1949, ch. 227, 63 Stat. 208, Congress enacted a scheme of regulation of the activities of foreign affairs intelligence agents. *See* 50 U.S.C. §§ 401–412. The congressional creation of the Central Intelligence Agency actually displaced an intelligence gathering agency, the Central Intelligence Group, which had been created by Executive Order. *See* S.Rep.No.239, 80th Cong., 1st Sess. (1947) (reprinted in U.S.Code Cong. & Ad.News 1494 (1947). These statutes do not deal with internal security and in present from exclude the agency from that area. 50 U.S.C. § 403 (d)(3). They assume congressional power to deal with intelligence gathering for external security. They were enacted after the *Nardone* Court interpreted § 605 to apply to federal agents and after its express rejection of a general governmental prerogative exemption to § 605.[3] Congress was aware of the *Nardone* interpretation of § 605 when it dealt with external security in the Central Intelligence Agency Act. While the statutes governing the Central Intelligence Agency are less comprehensive in regulating the extraterritorial activities of executive foreign affairs intelligence agents than many thoughtful persons might hope for, I have no doubt, and I hope the Congress has no doubt, that it is well within congressional competence to place greater limits upon even those activities.[4] That, however, is not the issue in this case. Here we are dealing with activities of intelligence agents within the United States. Another matter not involved in this case is any pretense that there is an executive prerogative beyond congressional control or judicial review in matters of internal security.

That pretense ended with United States v. United States District Court for the Eastern District of Michigan, 407 U.S. 297, 92 S. Ct. 2125, 32 L. Ed. 2d 752 (1972). According to

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Footnotes at end of article.

the Supreme Court a President in Lincoln's position, faced with an internal insurrection, remains subject to judicial review of his agents' compliance with the fourth amendment. But according to the majority, a peacetime President can decide, free of either congressional control or judicial review, what invasions of privacy are reasonable in the interest of his conduct of foreign affairs. The contrasting congressional and judicial treatment of these two matters not involved in the case—intelligence gathering outside the United States, and intelligence gathering for internal security purposes—illustrate the anomaly of the majority's constitutional position.

The only analytical support for the majority position that there is an executive prerogative in the field of foreign affairs intelligence beyond the reach of congressional control or judicial review is Justice Sutherland's opinion in United States v. Curtiss-Wright Export Corp., *supra*. While some of its sweeping language does lend such support, its holding does not.[5] Its holding involved congressional action in the field of foreign affairs; namely the constitutionality of the Joint Resolution of May 28, 1934, ch. 365, 48 Stat. 811 (1934), which provided:

> *Resolved* . . ., That if the President finds that the prohibition of the sale of arms and munitions of war in the United States to those countries now engaged in armed conflict in the Chaco may contribute to the reestablishment of peace between those countries, and if after consultation with the governments of other American Republics and with their cooperation, as well as that of such other governments as he may deem necessary, he makes proclamation to that effect, it shall be unlawful to sell, except under such limitations and exceptions as the President prescribes, any arms or munitions of war in any place in the United States to the countries now engaged in that armed conflict, or to any person, company, or association acting in the interest of either country, until otherwise ordered by the President or by Congress.
>
> Sec. 2. Whoever sells any arms or munitions of war in violation of section 1 shall, on conviction, be punished by a fine not exceeding $10,000 or by imprisonment not exceeding two years, or both.

Curtiss-Wright, indicted for conspiracy to violate that statute, moved to quash the indictment not on the ground that Congress had assumed too much in legislating upon the subject of foreign affairs, but on the ground that it had in § 1 delegated too much to the executive's discretion. The problem presented to the Supreme Court was how to get out from the corner into which it had painted itself in Panama Refining Co. v. Ryan, 293 U.S. 388, 55 S.Ct. 241, 79 L.Ed. 446 (1935) and Schechter Poultry Corp. v. United States, 295 U.S. 495, 55 S.Ct. 837, 79 L.Ed. 1570 (1935). Those cases, since largely repudiated, had held that in enacting domestic legislation Congress could not delegate legislative powers. It could only legislate in the manner set forth in the Constitution, because the Constitution was a limited surrender of sovereignty by the states. To get around *Panama* and *Schechter* Justice Sutherland concluded that while the domestic powers of the federal government were ceded to it from the states, it derived its foreign affairs powers directly from George III. Federal power over foreign affairs was plenary rather than derivative. Thus Congress could in the foreign affairs field make a delegation to the executive which in the domestic field would be unconstitutional. Professor Lofgren has amply demonstrated that the line of descent from George III to the federal government of 1934 was nowhere near as direct as Justice Sutherland suggested. Lofgren, United States v. Curtiss-Wright Corporation: An Historical Reassessment, 83 Yale L.J. 1 (1973). We can, however, for present purposes accept the proposition that federal sovereignty over foreign affairs is of an entirely different order of magnitude than over domestic affairs. But it is one thing to say that the federal government succeeded to the foreign affairs prerogatives of George III. It is quite another to say that those prerogatives have passed from George III to George Washington and in unbroken succession to Richard Nixon.

Even granting that the foreign affairs powers of the federal government are plenary rather than derivative from the states, both the text of the Constitution and the history of its adoption make clear that those powers are subject to the same kinds of checks and balances as are all other powers of the national government.

Prior to the Declaration of Independence the colonies had no competence in foreign affairs. That field was a matter of English sovereignty. Under English public law the conduct of foreign affairs was entrusted to the executive rather than shared with Parliament. Blackstone's Commentaries on the Laws of England, completed in 1769 and well known to the founding fathers, contains an extensive exposition of the English public as well as private law. Matters which today we would include in the general categories of foreign affairs and external security are dealt with in chapter seventh of the first book, entitled "Of the KING's PREROGATIVE." Blackstone lists five external[6] and five domestic prerogatives.[7] Reference to all of these prerogatives appears in some form or another in later American constitutional documents. As Blackstone makes clear,[8] and as contemporary English constitutional practice confirms,[9] these matters of the king's prerogative were not personal to the king, but to the executive branch of the government. The government could be removed by Parliament, but it exercised the king's prerogative while it continued in office, free from parliamentary interference. I will return to the specifics of the king's prerogatives listed by Blackstone hereafter.

In 1774 the Continental Congress came into existence and soon took the form of a national legislative assembly. Its status as a national legislative assembly was de facto until July 4, 1776. In that de facto period the First Continental Congress tacitly assumed that the colonies were still in union with England and were seeking nothing more than domestic law reform. *See, e. g.*, Declaration and Resolves of the First Continental Congress, October 14, 1774 in 1 Journals of the Continental Congress 63 (W. C. Ford ed. 1904). The battle of Lexington on April 19, 1775 of necessity introduced a new element into the deliberations of the Continental Congress. Actual war put that one legislative branch of the national government inevitably in a position, in which the British Parliament had never been, of conducting foreign affairs. *See, e. g.*, Address of the Continental Congress to the Inhabitants of Canada, May 29, 1775 in 2 Journals of the Continental Congress 68 (W. C. Ford ed. 1905). On June 7, 1776 Richard Henry Lee introduced a tripartite resolution (1) calling for independence for the United Colonies, (2) calling for effective measures for the forming of foreign alliances, and (3) calling for preparation of a plan of confederation. Resolution for Independence, June 7, 1776, in 5 Journals of the Continental Congress 425 (W. C. Ford ed. 1906). The first resolution produced the Declaration of Independence in which the United States explicitly assumed sovereignty in foreign affairs.[10] The third resolution produced the Articles of Confederation, approved by Congress on November 15, 1777 and finally ratified on March 1, 1781. Foreign affairs authority was conferred by article IX on the Congress. That the framers of the Articles of Confederation were dealing with the same foreign affairs authority that was a matter of the king's prerogative described by Blackstone, and with the same foreign affairs authority that in 1787 was distributed in the present Constitution, can be seen from a comparison of the three texts.

Blackstone's Commentaries Ch. VII	*Articles of Confederation Article IX*	*The Constitution of 1787*
	"The United States in congress assembled, shall have the sole and exclusive right and power":	
1. "[T]he king has the sole prerogative of making war and peace." p. 257.	"of determining on peace and war,"	"The Congress shall have Power . . . [t]o declare War." Art. I, § 8, cl. 11. The President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties." Art. II, § 2, ch. 2.
2. "The king . . . has the sole power of sending embassadors to foreign states, and receiving embassadors at home." p. 253.	"of sending and receiving ambassadors,"	The President "shall nominate, and by and with the Advice and Consent of the States, shall appoint Ambassadors, other public Ministers and Consuls." Art. II, § 2, cl. 2. The President "shall receive Ambassadors and other public Ministers." Art. II, § 3. "In all Cases affecting Ambassadors, other public Ministers and Consuls . . . the supreme Court shall have original Jurisdiction." Art. III, § 2, cl. 2.
3. "It is . . . the king's prerogative to make treaties, leagues, and alliances with foreign states and princes." p. 257.	"[of] entering into treaties and alliances,"	The President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties." Art. II, § 2, cl. 2.

Footnotes at end of article.

4.	"of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces ... shall be divided or appropriated,"	"The Congress shall have Power ... [t]o ... make Rules concerning Captures on Land and Water." Art. I, § 8, cl. 11. "The judicial Power shall extend ... to all Cases of admiralty and maritime Jurisdiction." Art. III, § 2, cl. 1.
5. "[O]ur laws have in some respect armed the subject with powers to impel the prerogative; by directing the ministers of the crown to issue letters of marque and reprisal upon due demand." p. 258.	"of granting letters of marque and reprisal in times of peace,"	"The Congress shall have Powers ... [t]o ... grant Letters of Marque and Reprisal." Art. I, § 8, cl. 11.
6.	"[of] appointing courts for the trial of piracies and felonies committed on the high seas,"	"The Congress shall have Power ... [t]o define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations." Art. I, § 8, cl. 10.
7. "In this capacity therefore, of general of the kingdom, the king has the sole power of raising and regulating fleets and armies." p. 262. "The king is likewise the fountain of honour, of office, and of privilege." p. 271.	"[of] appointing all officers of the land forces, in the service of the United States, excepting regimental officers—appointing all the officers of the naval force, and commissioning all officers whatever in the service of the United States,"	"The Congress shall have Power . . . [t]o provide for organizing . . . the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers." Art. I, § 8, cl. 16. The President "shall nominate and by and with the Advice and Consent of the Senate, shall appoint . . . all . . . Officers of the United States, whose Appointments are not herein otherwise provided for." Art. II, § 2, cl. 2. The President "shall Commission all of the Officers of the United States." Art. II, § 3.
8. "[T]he king has the sole power of raising and regulating . . . armies." He has "the prerogative of enlisting and of governing them." p 262.	"[of]making rules for the government and regulation of the . . . land and naval forces,"	"The Congress shall have Power . . . [t]o make Rules for the Government and Regulation of the land and naval Forces." Art. I, § 8, cl. 14.
9. "The king is . . . generalissimo, or the first in military command, within the kingdom." p. 262.	"[of] directing [the] operations" "of the said land and naval forces,"	"The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States." Art. II, § 2, cl. 1.
10. "[P]artly [because he is generalissimo], and partly . . . to secure marine revenue . . . the king has the prerogative of appointing *ports* and *havens* . . . for persons and merchandize to pass into and out of the realm, as he in his wisdom deems proper." p. 263–64.	"[of] entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to."	"The Congress shall have Power . . . [t]o regulate Commerce with foreign Nations." Art. I, § 8, cl. 3.
11. "[T]he king has the sole power of raising and regulating fleets." He has "the prerogative of enlisting and governing them." p. 262.	"The united states in congress assembled shall have authority . . . to build and equip a navy."	"The Congress shall have Power . . . [t]o provide and maintain a Navy." Art. I, § 8, cl. 14.
12. "[T]he king has the sole power of raising and regulating . . . armies." p. 262.	"The united states in congress assembled shall have authority . . . to agree upon the number of land forces."	"Congress shall have Power . . . [t]o raise and support Armies," Art. I, § 8, cl. 12, and "[t]o provide for calling forth the Militia," art. 1, § 8, cl. 15.

The twelve references in the right hand column above contain all the textual references in the Constitution even arguably bearing upon the existence of an executive prerogative in the matter of foreign affairs and external security. As can be seen in the middle column, every one of them was a matter of legislative prerogative in the Continental Congress. And almost every one of them was a matter of executive prerogative in Colonial times. Significance must be attached to the distribution of these powers in the Constitution of 1787. The most significant aspect of the distribution is that there are only two instances in which the framers resorted to the model of the British Constitution. One is article II, section 3 granting the President alone the power to receive ambassadors and other public ministers. The other is article II, section 2, clause 1 making the President commander-in-chief of the army and navy. In every other instance the former prerogatives of the Continental Congress were either retained for the national legislature or divided among the separate branches of the national government. That the Articles of Confederation and the Constitution of 1787 were dealing with the same foreign affairs and external security subject matters may be gleaned by a comparison of the virtually identical restrictions placed upon state governments by article VI of the Articles of Confederation and article I, section 10, clause 3 of the Constitution.[11]

The ratifying conventions must have been well aware that in Colonial times foreign affairs and external security were matters of executive prerogative and that the Congress had first assumed and then been granted these powers in their totality. The ratifying conventions must have been well aware, then, that the new constitution deliberately distributed those formerly legislative powers among the three branches of the federal government, thereby subjecting them to the system of checks and balances that was the central core of the 1787 compromise. What came back from the ratifying conventions was a series of proposals for a bill of rights which would limit the entire power of the central government, including its power in matters of foreign affairs and external security. That the bill of rights did not exempt these areas can be seen from the fact that the second amendment imposed a limitation upon congressional powers under article I, section 8, clause 16 and article I, section 10, clause 3. It can be seen, moreover, in the third amendment:

> No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

No reason suggests itself to me why the fourth amendment should be considered as applicable to the foreign affairs or external powers of the central government in any lesser or different manner than to all its other powers.

Since American prerogatives in foreign affairs and external security started as legislative powers, the provisions transferring some of those powers to the executive in 1787 should, it seems to me, be read narrowly rather than expansively. I cannot read into the commander-in-chief clause and the clause authorizing the President to receive (but not, without the advice and consent of the Senate, send) ambassadors any general exemption of congressional authority to interfere with the manner in which foreign affairs intelligence shall be gathered in the United States. Thus I have no question that Congress could, and did in § 605, prohibit anyone, including foreign affairs intelligence agents, from wiretapping. If a majority of the court were to accept that construction of § 605, we could end our inquiry at this point, leaving to another case the separate operation of the fourth amendment on such agents. Because the majority of the court does not so construe § 605, the fourth amendment issue must be decided.

The Constitution must, of course, be construed as a living document. Perhaps had the telephone been invented in 1789 the bill of rights would have dealt with it explicitly, as it dealt with quartering of soldiers and searches of houses. But while the document must today be construed in light of the events upon which it is contemporaneously brought to bear, the contemporaneous glare should not blind us to the clearly intended meaning of the text. Perhaps in the light of contemporary international power relationships the executive should be reinvested with

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Footnotes at end of article.

the foreign affairs prerogatives of George III, subject only to removal upon loss of confidence by a legislative majority. That could be accomplished by a constitutional amendment, a procedure the founding fathers provided for.

But the judiciary is powerless to provide the accountability to the legislature which in the British Constitution substitutes for our system of dispersal of power by virtue of checks and balances imposed by independent branches of government. The majority opinion removes the checks and balances upon executive power in the field of foreign affairs intelligence, of congressional initiatives and consultation and of judicial review, without restoring the alternative of accountability to the current majority in the legislature. If we must in our constitutional interpretations move with the times, let us not exchange more for less. Our political process allows for a change of the executive branch only quadrennially. As a substitute for contemporaneous political accountability the Constitution provides that the executive can act upon individuals only through the judicial power of the United States. Any time the federal executive proposes to exercise a criminal sanction against an individual it must submit to judicial review of its actions in a regular court in the regular manner. Ex parte Milligan, 71 U.S. (4 Wall.) 2, 18 L.Ed. 281 (1866). In such a court, when the defendant asserts defensively that federal agents, acting for a foreign affairs intelligence purpose or for any other purpose, violated the fourth amendment, the court must independently determine whether the challenged action complied with the amendment. It cannot defer that decision in whole or in part to the executive any more than it can defer the trial of the action to a military commission.

The government urges that the reasons for invasions of privacy for external security purposes are quite different from those relied upon in enforcement of the criminal law. From this, it is urged, any kind of a warrant requirement would be impracticable. For this reason it urges that post-invasion judicial review should also be denied. I see no such impracticability.[12] It would be perfectly feasible for the Congress or for the courts to develop criteria as to when an invasion of privacy for the purpose of gathering foreign affairs intelligence should be permitted.

In Camara v. Municipal Court, 387 U.S. 523, 87 S. Ct. 1727, 18 L.Ed.2d 930 (1967), for example, enforcement of the criminal law was not at stake and specific probable cause was not determinable, and yet the Supreme Court was able to develop special criteria for when privacy could be invaded for an administrative search. The task is no more formidable here. It would be perfectly feasible to centralize applications for such warrants in a central court at Washington or in a limited number of courts so as to minimize security problems. The criteria for permitting court authorized invasions of privacy in the name of external security need not be identical to those applicable to criminal law enforcement. Nor need the criteria for emergency exceptions be identical. In each of the intrusions upon less than traditional notions of probable cause which the Supreme Court has suggested or approved,[13] emphasis has been placed on the limited nature of the invasion. Thus a warrant might appropriately issue when the invasion was for eavesdropping rather than for a physical seizure or an intrusive trespatory search. But at a minimum the criteria chosen should protect persons from invasions of privacy when their possible relationship with any source of foreign affairs intelligence information is entirely fanciful, protect persons from invasions of privacy when the possible relationship of the information sought to a legitimate foreign affairs concern is entirely fanciful, and protect persons from invasions far in excess of the legitimate need.

There are, of course, invasions in which it is clear that the zone of privacy sought to be pierced will be highly likely to produce significant information, but which no court could legitimately order. These include, for example, violations of public international law by the entry of embassies. No doubt in some instances the executive operating on a principle of necessity will violate public international law, and the fourth amendment as well, by making such an invasion without a warrant. Probably the political process is the only effective limitation upon such perceived necessities. But if acting on some principle of necessity the executive commits such an invasion, then he must either forego the assistance of the courts in criminal law enforcement or submit to the full scope of judicial review that the fourth amendment requires. He cannot by causing the courts to use the fruits of his violation of public international law and of the fourth amendment make them his accomplice after the fact. The majority reacts:

> "It would be unfortunate indeed if, as Judge Gibbons seems to suggest, the President must act illegally to perform his constitutional duties. Yet, if the President must act secretly and quickly to investigate an attempt by a foreign agent to obtain important intelligence information, such a result may follow under Judge Gibbons' analysis." Majority Opinion at 605.

This is as gross a distortion of my position as it is of the Constitution. The majority expressly refrains from determining whether there was an emergency need for hasty action which might have excused the necessity for a warrant—a matter the Court ordinarily decides—and expressly refrains from deciding whether there was an overwhelming need for secrecy in this instance. It defers to the executive. I would subject the President's decision to judicial review. In most instances his agents could obtain a warrant. In some instances the decision to forego a warrant because of exigent time circumstances would be approved by the courts. The only instance where executive action could not be approved by the courts would be where there were no exigent circumstances or where no court could legally have issued a warrant. The majority finds a constitutional Presidential duty to act, nevertheless, in violation of public international law and of the fourth amendment. If there is such a duty it is not imposed by the Constitution. If the President acts in response to what he perceives to be some higher duty he must be vindicated elsewhere than in the article III courts.

On the present record at this stage we do not know whether any of the fruits of the second set of surveillances was used at the trial. Since I would hold that those surveillances violated both § 605 and the fourth amendment, I am confronted with a problem that both Judge Adams' opinion and Judge Aldisert's opinion find unnecessary to discuss. That problem is the effect, if any, in this case of 18 U.S.C. § 3504. When this case was before the Supreme Court, the government contended that the surveillance records should first be submitted to the trial judge, who in an ex parte in camera proceeding would first determine if any of the information obtained in the surveillance was "arguably relevant" to Ivanov's conviction. Only if the district court made a finding of "arguable relevancy" would the government be required to disclose the surveillance records to the defendant or his attorney. A majority of the Court rejected that result and ruled:

> Although this may appear a modest proposal, especially since the standard for disclosure would be "arguable" relevance, we conclude that surveillance records as to which any petitioner has standing to object should be turned over to him without being screened *in camera* by the trial judge. Alderman v. United States, 394 U.S. 165, 182, 89 S. Ct. 961, 971, 22 L. Ed. 2d 176 (1968).

Thereafter the district court complied with the Supreme Court's mandate with respect to what we have referred to as the first set of logs. But because it concluded that the second set of logs reflected legal surveillances, it did not allow inspection of these. While the case was pending Congress enacted Section 702 of the Organized Crime Control Act of 1970, Pub.L. No. 91–452, 84 Stat. 935 (codified at 18 U.S.C. § 3504). That statute provides:

> (a) In any trial, hearing, or other proceeding in or before any court . . .
>
> (2) disclosure of information for a determination if evidence is inadmissible because it is the primary product of an unlawful act occurring prior to June 19, 1968, or because it was obtained by the exploitation of an unlawful act occurring prior to June 19, 1968, shall not be required unless such information may be relevant to a pending claim of such inadmissibility . . .

Thus § 3504(a) (2) adopts, for unlawful interceptions which occurred prior to June 19, 1968, the position advanced by the government and rejected by the Supreme Court in this case that the trial judge may make an ex parte in camera determination of relevancy.[14] Section 703 of Pub. L. No. 91–452 makes § 3504(a) (2) applicable "to all proceedings, regardless of when commenced, occurring after the date of its enactment [October 15, 1970]."

Thus Congress intended § 3504(a) (2) to apply to proceedings in this case occurring after October 15, 1970. Since I would remand for determination of taint with respect to the second set of surveillance records, it is also necessary to decide whether that determination should be made in compliance with the statute or in compliance with the Supreme Court's mandate.

Absent the statute it is clear that a lower court must follow the law of the case announced by the Supreme Court. *E.g.*, United States v. Haley, 371 U.S. 18, 83 S.Ct. 11, 9 L.Ed.2d 1 (1962); Sibbald v. United States, 37 U.S. (12 Pet.) 488, 9 L.Ed. 1167 (1838); *cf.* Butcher & Sherrerd v. Welsh, 206 F.2d 259 (3d Cir. 1953), cert. denied, 346 U.S. 925, 74 S.Ct. 312, 98 L.Ed. 418 (1954). Thus the statute confronts us with the question whether Congress has the power to change the law of the case in a case remanded from the Supreme Court. It also confronts us with the question whether in rejecting the ex parte in camera determination of arguable relevancy the Supreme Court was announcing a rule of criminal procedure or a constitutional rule of due process. For whatever congressional power there may be over the law of the case, there is no congressional power to revise the Supreme Court's interpretation of the Constitution.

My research has uncovered no case in which the Supreme Court has ever considered whether Congress has the power to change the law of the case in a remanded case. Some guidance can be found in Pennsylvania v. Wheeling & Belmont Bridge Co., 54 U.S. (13 How.) 18, 14 L.Ed. 249 (1852), 59 U.S. (18 How.) 421, 15 L.Ed.425 (1855). *Belmont Bridge* was a case in the Supreme Court's original jurisdiction. It entered an injunction directing the dismantling of a bridge across the Ohio river as an obstruction of a navigable stream. Before the decree was carried out Congress passed a statute "[t]hat the bridges across the Ohio River . . . are hereby declared to be lawful structures in their present positions and elevations, and shall be so held and taken to be, anything in the law or laws of the United States to the contrary notwithstanding." 59 U.S. (18 How.) at 429. The Court determined that Congress had the constitutional power to pass a law permitting a bridge across a navigable stream.

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It vacated the injunction. The case recognizes that the Supreme Court will apply a law changing the law of the case in a case pending before it. In United States v. Klein, 80 U.S. (13 Wall.) 128, 20 L.Ed. 519 (1871), the court distinguished the *Belmont Bridge* case when it held unconstitutional a statute which purported to deprive it of jurisdiction to decide the effect to be given to a Presidential pardon any way except as directed in the statute. The Court in *Klein* said:

> We must think that Congress has inadvertently passed the limit which separates *the legislative from* the judicial power. 80 U.S. (13 Wall.) at 147.

I do not read *Klein* as laying down any prohibition against Congress legislating the law to be applied in a pending case. The problem was that it attempted to lay down a rule of decision on a question of constitutional law, in that case the effect to be given to a Presidential pardon. If, then, the Supreme Court's ruling that the Court may not make an ex parte determination of possible relevance is not a constitutional decision, it would seem that it would follow *Belmont Bridge* rather than *Klein* and apply § 3504(a)(2). Neither *Belmont Bridge* nor *Klein* enlightens on the question of a conflict between the Court's mandate to a lower court and a subsequent statute, since in both instances the effect to be given to the statute was determined in the highest Court.

> . . . Moreover, as the court below may have indicated, 243 F.Supp. [957] at 971, there may well be a constitutional objection to an application of the mandate here. The law of the case is not based on any constitutional authority but is only a doctrine of judicial administration based on the practice of the courts, Messenger v. Anderson, 225 U.S. 436, 32 S.Ct. 739, 56 L.Ed. 152 (1912); King v. State of West Virginia, 216 U.S. 92, 100, 30 S.Ct. 225, 54 L.Ed. 396 (1910). A federal statute, on the other hand, is an assertion of its constitutional power by Congress and is entitled to respect as the supreme law of the land. U.S. Const. art. VI, cl. 2. It is questionable whether the courts may frustrate such a statute by interposing a judge-made rule of practice.
>
> Thus we hold that Congress intended that the Hickenlooper Amendment should apply to cases pending at the time of its enactment, including this case. 383 F.2d at 178.

While no other case has considered the precise issue, a closely analogous issue is discussed in Lennig v. New York Life Ins. Co., 130 F.2d 580 (3d Cir. 1942). In a post-*Erie* diversity case it was contended on remand that an authoritative pronouncement of Pennsylvania law inconsistent with the mandate of the Third Circuit had been made by a Pennsylvania court. Judge Jones wrote:

> "If, as the learned trial judge apprehended, the later decision in the Whigham case [Whigham v. Metropolitan Life Ins. Co., 343 Pa. 149, 22 A. 2d 704] interpreted the law of Pennsylvania differently than we had perceived it to be in our earlier opinion, then the court below was quite right in applying to the retrial of this case the rule if and as made plain subsequently by binding state court decision. This is necessarily so. The duty resting upon a federal court, in appropriate circumstances, is to ascertain and apply local law and not to make it. But, where a federal court of appeals in a given case has ascertained and applied what it apprehends to be the pertinent state law, such ascertainment of the local law is binding upon the trial court at the retrial of the case unless it is clearly made to appear by subsequent statute, no more than declaratory, or by binding state court decision that the law of the state was other than what the federal appellate court had understood it to be." 130 F.2d at 581.

The quotation is dictum since this court found no inconsistency between the Pennsylvania case relied on and its earlier mandate. But it suggests that the rule in this circuit, as in the Second Circuit, is that the law of the case announced in an appellate court's mandate yields to a different pronouncement of law by a body having substantive lawmaking competence.

A partisan of judicial review is tempted to embrace the broader reading of United States v. Klein, *supra,* suggested in Judge Seitz' opinion. I resist that temptation, however, for the application of the *Klein* rule to nonconstitutional rules of decision would involve the same error with respect to the powers of the judicial branch as the majority commits with respect to the powers of the executive branch.

The statute involved in *Klein* was the last effort by the Radical Republicans in Congress to prevent the Court by a constitutional decision from interfering with congressional reconstruction. *Klein* must be read in conjunction with Ex parte McCardle, 74 U.S. (7 Wall.) 506, 19 L.Ed. 264 (1869) and Ex parte Yerger, 75 U.S. (8 Wall.) 85, 19 L.Ed. 332 (1869). By 1872 the fourteenth and fifteenth amendments had been ratified and it became feasible for the *Klein* Court to fence off the constitutional turf which it had surrendered in *McCardle* and reclaimed with inconclusive results, because the case was settled, in *Yerger*. The Court was on perfectly sound ground in asserting that it, not Congress, was the final arbiter of the meaning of the Constitution. It was on equally sound ground in asserting that the legislature could not dictate to a court what facts could be found.

The only case ever to consider such a conflict in a lower court context, so far as my research has been able to uncover, is Banco Nacional de Cuba v. Farr, 383 F.2d 166 (2d Cir. 1967), cert. denied, 390 U.S. 956, 88 S.Ct. 1038, 20 L.Ed.2d 1151 (1968). In Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398, 84 S.Ct. 923, 11 L.Ed.2d 804 (1964), the Supreme Court reversing the Second Circuit, held that the act of state doctrine applied to prevent the lower court from examining the validity under international law of an expropriation by the Cuban government. The case was remanded to the district court to hear and decide any litigable issues of fact and for proceedings consistent with its opinion. Before final judgment in the remanded case Congress passed the Hickenlooper Amendment to the Foreign Assistance Act of 1964, Pub.L. No. 88–633, § 301(d)(4), 78 Stat. 1013 (codified, as amended, at 22 U.S.C. § 2370 (e)), which provided:

> Notwithstanding any other provision of law, no court in the United States shall decline on the ground of the federal act of state doctrine to make a determination on the merits giving effect to the principles of international law in a case in which a claim of title or other right is asserted by any party including a foreign state (or a party claiming through such state) based upon (or traced through) a confiscation or other taking after January 1, 1959, by an act of that state in violation of the principles of international law. . . ."

The amendment in effect overruled the principle of the federal common law of international relations announced by the Supreme Court. The Second Circuit concluding that the amendment was intended to apply to pending litigation, was faced with the identical problem before us—a conflict between the Court's mandate and the statute. Judge Waterman wrote:

> "The Supreme Court mandate rule is nothing more than one specific application of a general doctrine appellate courts apply to their orders to lower courts, a doctrine commonly referred to as the law of the case, see Briggs v. Pennsylvania R.R., 334 U.S. 304, 306, 68 S.Ct. 1039, 92 L.Ed. 1403 (1948); Ex Parte Sibbald v. United States, 37 U.S. (12 Pet.) 488, 492, 9. L.Ed. 1167 (1838). Other courts in applying the law of the case rule have held that a lower court is not bound to follow the mandate of an appellate court if the candidate is, in the interim, affected by an authority superior to the court issuing the mandate, such as by a higher appellate court, either state or federal, see e.g., Higgins v. California Prune & Apricot Grower, Inc., 3 F.2d 896 (2 Cir. 1924); Zerulla v. Supreme Lodge O. of M.P., 223 Ill. 518, 79 N.E. 160 (1906); Jones v. Harmon, 122 Ohio St. 420, 172 N.E. 151 (1930); American R. Exp. Co. v. Davis, 158 Ark. 493, 250 S.W. 540 (1923); Orleans Dredging Co. v. Frazie, 179 Miss. 188, 173 So. 431 (1937) or by an *en banc* decision of the same court, Poe v. Illinois Cent. R. R., 339 Mo. 1025, 99 S.W.2d 82 (1936). This principle has also been applied when the mandate of the court is affected by intervening statutory enactment, Petty v. Clark, 113 Utah 205, 192 P.2d 589 (1948); Donaldson v. Chase Securities Corp., 216 Minn. 269, 13 N.W.2d 1 (1943), aff'd 325 U.S. 304, 65 S.Ct. 1137, 89 L.Ed. 1628 (1945); cf. Danforth v. Groton Water Co., 178 Mass. 472, 59 N.E. 1033 (1901); Albanese v. McGoldrick, 129 N.Y.S.2d 269 (Sup.Ct.1954). The same principle should apply here; any limiting language in the Supreme Court mandate should not preclude judicial application of the Amendment in this case for the rule of law expressed by the mandate has been affected by a subsequently enacted federal statute.

But an assertion that because a case is sub judice the legislature is deprived of legislative competence in a matter otherwise the proper subject of legislation is a violation of the principle of separation of powers. The judicial branch no less than the executive and the legislative, has limited powers under the Constitution.

Thus I conclude that unless the decision of the Supreme Court on the ex parte determination of arguable relevance is a decision of constitutional law, we should apply § 3504 (a)(2) rather than the mandate.

Examining that part of Justice White's opinion of the Court dealing wih the in camera examination issue does not suffice to determine whether the Court was laying down a due process requirement or a rule of criminal procedure. He speaks of the *superiority* of adversary proceedings as a means for obtaining justice in cases where an issue must be decided on the basis of a large volume of factual materials. 394 U.S. at 183–185, 89 S.Ct. 961. He carefully avoids any mention of fifth amendment due process or sixth amendment assistance of counsel. None of the other opinions in the case suggest that he rejected the ex parte in camera device on constitutional grounds. How much we can deduce from silence is problematical. But a good starting point for interpreting the opinion is the fact that the dispute over the electronic surveillances in no way affects the integrity of the factfinding process. The exclusionary rule involves the implementation of a judicial policy against becoming involved as accessories to the government's lawlessness and of deterring such lawlessness in the future. It excludes perfectly reliable evidence. Thus an error by the district judge in an ex parte in camera examination of the logs would in no way prejudice the defendant on the issue of his guilt or innocence. *Cf.* United States v. Matlock, —— U.S. ——, 94 S.Ct. 988, 39 L.Ed. 2d 242 (1974); Brinegar v. United States, 338 U.S. 160, 172–173, 69 S.Ct. 1302, 93 L.Ed. 1879 (1949). From this, and Justice White's silence, I conclude that he announced a rule of criminal procedure rather than a rule of constitutional law. This being so I would direct the district court on remand to make the taint determination in the first instance pursuant to 18 U.S.C. § 3504(a)(2), and to disclose only such part of the second set of surveillance records as it finds may be relevant to the evidence used at the trial.

FOOTNOTES

[1] Nardone v. United States, *supra,* expressly rejected any general governmental prerogative exemption to § 605. 302 U.S. at 383, 58 S.Ct. 275. *Compare* with 1 W. Black-

stone, Commentaries on the Laws of England 261 (5th ed. 1773), which explains that "the king is not bound by any act of parliament, unless he be named therein by special and particular words."

[2] Judge Aldisert writes, at 622–623,

It is beyond question that the President, as Chief Executive, possesses certain powers and responsibilities which are not dependent upon a specific legislative grant from Congress, but derive from the Constitution itself. This principle was announced as early as Marbury v. Madison, 1 Cranch (5 U.S.) 137, 165–166, 2 L.Ed. 60 (1803):

By the Constitution of the United States the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience.

United States v. Belmont, 301 U.S. 324, 328, 57 S.Ct. 758, 760, 81 L.Ed. 1134 (1937), held that "the conduct of foreign relations was committed by the Constitution to the political departments of the government, and the propriety of what may be done in the exercise of this power [is] not subject to judicial inquiry or decision." (footnotes omitted).

[3] *See* note 1 *supra*.

[4] *Cf.* War Powers Resolution, Pub.L. No. 93–148, 87 Stat. 555 (1973); International Agreements—Transmission to Congress, Pub.L. No. 92–403, 86 Stat. 619 (1972) (codified at 1 U.S.C. § 112b).

[5] "United States v. Curtiss-Wright Corp., 299 U.S. 304, [57 S.Ct. 216, 218, 81 L.Ed. 255,] involved, not the question of the President's power to act without congressional authority, but the question of his right to act under and in accord with an Act of Congress." Youngstown Steel & Tube Co. v. Sawyer 343 U.S. 579, 635 n. 2, 72 S.Ct. 863, 870, 96 L.Ed. 1153 (1951) (Jackson, J., concurring).

[6] 1 W. Blackstone, Commentaries on the Laws of England 253–61 (5th ed. 1773).

[7] *Id.* at 261–80.

[8] *E.g., id.* at 250, 333–35.

[9] *See* E. Wade & G. Phillips, Constitutional Law 160, 173–74 (6th ed. 1960).

[10] "[T]hese United Colonies . . . have full Power to levy War, conclude Peace, Contract Alliances . . . ." Declaration of Independence, July 4, 1776.

[11] An opinion is not the appropriate place to set forth all the evidence from the debates in the Convention of rejection of the British model of executive power. The remarks of James Wilson of Pennsylvania, later a Justice of the Supreme Court, are sufficiently typical. Madison quotes him:

"He did not consider the Prerogatives of the British monarch as a proper guide in defining the Executive powers. Some of these prerogatives were of a Legislative nature. Among others that of war & peace & c." 1 Farrand, The Records of the Federal Convention 65–66 (1911) (Madison's notes).

As the text makes clear, Wilson's view prevailed in the Convention.

[12] Carefully circumscribed relaxation of the traditional fourth amendment probable cause and reasonableness standards in response to strong governmental and public needs is not a novel task for the Supreme Court. When confronted with the need for municipal fire, health and safety inspections, the Court sanctioned issuance of warrants without a showing of probable cause that a particular dwelling contained a violation, but rather only upon satisfaction of reasonable legislative and administrative standards for conducting an inspection of the area in which the dwelling is located. The Court observed that such inspections are neither personal in nature nor aimed at discovery of evidence of a crime, and thus they involve a relatively limited invasion of privacy. Camara v. Municipal Court, 387 U.S. 523, 87 S.Ct. 1727, 18 L.Ed.2d 930 (1967); See v. City of Seattle, 387 U.S. 541, 87 S.Ct. 1737, 18 L.Ed.2d 943 (1967). In the "stop and frisk" cases, the Court again used a balancing test to justify an investigatory stop and a carefully limited search for weapons by a police officer on less than probable cause. Adams v. Williams, 407 U.S. 143, 92 S.Ct. 1921, 32 L.Ed.2d 612 (1972); Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968). The Court has also suggested that detentions for the sole purpose of fingerprinting, under narrowly defined circumstances, may "comply with the Fourth Amendment even though there is no probable cause in the traditional sense." The much less serious intrusion upon personal security, the need to be detained only once, the inherent reliability and reduced opportunity for abuse, and the nondestructibility of fingerprints which provides sufficient time to obtain a warrant, are all urged as justifications. Davis v. Mississippi, 394 U.S. 721, 89 S.Ct. 1394, 22 L.Ed.2d 676 (1969). In each of these situations, when confronted with a compelling public need to invade personal privacy, the Court did not choose to classify the challenged conduct as outside the scope of judicial review but rather chose to maintain judicial control over these necessary activities by devising specially tailored "probable cause" requirements.

[13] *See* cases cited in note 12 *supra*. *See also* United States v. Biswell, 406 U.S. 311, 92 S.Ct. 1593, 32 L.Ed.2d 87 (1972); Colonnade Catering Corp. v. United States, 397 U.S. 72, 90 S.Ct. 774, 25 L.Ed.2d 60 (1970).

[14] *See* H.R. Rep. No. 91–1549, 91st Cong. 2d Sess. (1970) (reprinted in 2 U.S. Code Cong. & Ad. News, 4027 (1970), explaining that an ex parte in camera procedure was intended.

EXHIBIT 2

United States of America, Plaintiff-Appellee, versus Hubert Geroid Brown, Defendant-Appellant.

[U.S. Court of Appeals, Fifth Circuit, No. 72–2181, Aug. 22, 1973]

Defendant was convicted of interstate transportation of a firearm while under indictment and he appealed. The Court of Appeals reversed and remanded. The District Court, 317 F. Supp. 531, ordered defendant to appear for sentencing but ultimately sentenced defendant in absentia. Appeal was taken. The Court of Appeals, 456 F.2d 1112, vacated the judgment and sentence and remanded with directions. Following remand, the defendant was convicted before the United States District Court for the Eastern District of Louisiana, Lansing L. Mitchell, J., of transporting of firearm while under indictment and he appealed. The Court of Appeals, Bell, Circuit Judge, held that the government's proof of defendant's actual knowledge of the pending Maryland indictment was sufficient for jury, the court's instructions on issue of actual knowledge were not contradictory, defendant was not entitled to change of venue because of security measures employed at his trial, the statute which prohibits a person under indictment from transporting firearms in interstate commerce was constitutional, the overhear of defendant's telephone conversation with his attorney did not violate his right to counsel and that the trial court did not err in refusing to hold adversary hearing on the relevance of materials obtained in warrantless wiretaps.

Affirmed.

Goldberg, Circuit Judge, specially concurred and filed opinion.

1. Weapons—17(2)

In order to prove violation of statute making it unlawful for any person who is under indictment to ship, transport or cause to be shipped or transported in interstate or foreign commerce any firearm or ammunition, it must be shown that the defendant actually had knowledge of a pending indictment while he transported a firearm in interstate commerce. Federal Firearms Act, § 2(e), 15 U.S.C.A. § 902(e).

2. Criminal Law—1159.5

In appealing jury's finding that defendant, charged with interstate transportation of a firearm while under indictment, had actual knowledge of the indictment must be sustained if there was substantial evidence, taking the view most favorable to the government, to support it. Federal Firearms Act, § 2(e), 15 U.S.C.A. § 902(e).

3. Weapon—17(4)

Evidence was sufficient to support jury's finding, implicit in its verdict of guilty, that defendant had actual knowledge of pending Maryland indictment at the time he transported a firearm in interstate commerce. Federal Firearm Act, § 2(e), 15 U.S.C.A. § 902(e).

4. Criminal Law—810

Jury's finding of not guilty on the count which involved transportation of the firearm from New York to New Orleans while finding defendant guilty of transporting firearm from New Orleans to New York, together with examination of the charge on issue of actual knowledge by defendant of pending indictment, established that trial court did not give contradictory instructions on issue of actual knowledge of indictment in prosecution for transportation of firearm in interstate commerce while under indictment. Federal Arms Act, § 2(e), 15 U.S.C.A. § 902(e).

5. Criminal Law—126(1), 633 (1)

Where there was no mob dominated atmosphere at the trial, nor publicity and defendant's right to fair trial was carefully guarded by the district court in the context of the security problem, the security measures employed at the trial did not reach such proportions as to deny defendant a fair trial and defendant was not entitled to change of venue.

6. Weapons—3

Statute which makes it unlawful for one under indictment to transport a firearm in interstate commerce was not unconstitutional on ground that it draws no distinction between indictment for crimes of violence and nonviolence or because it is undue restriction on presumption of innocence. Federal Firearms Act, § 2(e), 15 U.S.C.A. § 902(e).

7. Commerce—5

The Congress has broad power to regulate interstate activities under its commerce power.

8. Constitutional Law—48(6)

Reviewing court must uphold the constitutionality of statute prohibiting interstate commerce of a firearm by one under indictment unless it is determined that there was no rational basis for the congressional classification. Federal Firearms Act, § 2(e), 15 U.S.C.A. § 902(e).

9. Weapons—6

The offense of transportation of a firearm in interstate commerce while under indictment is complete when a firearm is carried in interstate commerce by a person then under indictment regardless of whether the indictment is later found invalid. Federal Firearms Act, § 2(e), 15 U.S.C.A. § 902 (e).

10. Criminal Law—913(1)

An undisclosed overhear by government of conversation between defendant and attorney, regardless of circumstances or relevancy, does not automatically require a new trial; the court must consider the circumstances which led to the overhear and the question of whether the overhear could have in any fashion tainted the conviction.

11. Criminal Law—913(1)

Where defendant's telephone conversations while incarcerated in state jail were not monitored by state officials for purposes of gaining information to use at trial but were monitored for security reasons and the surveillance was neither authorized nor approved by federal authorities, the overhear of telephone conversation between defendant and his attorney by state officials was not the type of governmental intrusion upon confidential attorney-client relationship which, without more, would require new trial on federal charge. U.S.C.A. Const. Amend. 6.

12. Criminal Law—641.12(1)

Overhear of telephone conversation between incarcerated defendant and his attorney by state officials, solely in discharge of their prison security responsibilities, did not taint defendant's federal conviction for transportation of firearm in interstate commerce while under indictment. Federal Firearms Act, § 2(e), 15 U.S.C.A. § 902(e); U.S.C.A. Const. Amend. 6.

13. Criminal Law—627.6(1)

Disclosure of existence of wiretaps in an adversary proceeding on relevancy is required only if the trial court determines that the government's electronic surveillance was unlawful.

14. Searches and Seizures—3.2 Telecommunications—496

President of the United States may not authorize in the area of domestic security electronic surveillance without some form of prior *judicial* approval but the President may constitutionally authorize warrantless wiretap for the purpose of gathering foreign intelligence. U.S.C.A. Const. Amend. 4; 18 U.S.C.A. §§ 2510–2520, 2511(3).

15. United States—28

Restrictions upon the President's power which are appropriate in cases of domestic security become artificial in the context of the international sphere.

16. Criminal Law—627.6(5), 627.8(5) Telecommunications—496

Where warrantless wiretaps authorized by the President of the United States were for the purpose of gathering foreign intelligence rather than domestic security, the wiretaps were lawful and the defendant was not entitled to disclosure of information obtained by the wiretaps or to adversary hearing on the relevancy of the information. U.S.C.A. Const. Amend. 4; U.S.C.A. §§ 2510–2520, 2511(3).

17. Criminal Law—627.6(5)

In camera examination by Court of Appeals of information concerning defendant obtained by warrantless wiretaps authorized by the President for purpose of gathering foreign intelligence established that the information disclosed by the wiretaps had no relevancy, either directly or indirectly, to defendant's offense of transportation of firearm in interstate commerce while under indictment. U.S.C.A. Const. Amend. 4; Federal Firearms Act, § 2(e), 15 U.S.C.A. § 902(e); 18 U.S.C.A. §§ 2510–2520.

William M. Kunstler, New York City, Edward Carl Broege, Newark, N.J., Murphy W. Bell, Baton Rouge, La., David J. Dennis, New Orleans, La., for defendant-appellant.

Gerald J. Gallinghouse, U.S. Atty., Mary Williams Cazales, Asst. U.S. Atty., New Orleans, La., for plaintiff-appellee; Louis C. LaCour, U.S. Atty., Horace P. Rowley, III, Gene S. Palmisano, Robert O. Homes, Jr., Harry F. Connick, Asst. U.S. Attys., on the brief.

Before Bell, Goldberg and Simpson, Circuit Judges.

Bell, Circuit Judge:

This appeal is from a judgment of conviction entered on a jury verdict finding defendant guilty of transporting a firearm from New Orleans to New York while a passenger on Delta Airlines flight 818 in violation of 15 U.S.C.A. § 902(e)[1] (The Federal Firearms Act). He was found not guilty on one additional count charging transportation of the same firearm from New York to New Orleans on a previous day. The gravamen of the offense was that he transported the firearm while under indictment. The contested fact issue was whether defendant knew at the time that he was under indictment in Maryland.

I

The somewhat contorted history of this case, with the long delay between conviction in 1968 and the present appeal, is the result of two prior appeals. On April 3, 1969, in accordance with the procedure followed in Alderman v. United States, 1969, 394 U.S. 165, 89 S. Ct. 461, 22 L. Ed. 2d 176, this court remanded the case to the district court for a hearing to consider the effect of certain evidence obtained by wiretapping. (Unreported order dated April 3, 1969, in Brown v. United States, No. 26,249).

Following an *Alderman* hearing and a camera inspection, the district court, 117 F. Supp. 531 (E.D. La. 1970), found that three of the four documents containing wiretapped conversations (Exhibits 1–1, 1–2, and 1–3), were obtained by electronic surveillance authorized by the Attorney General and made solely for the purpose of gathering foreign intelligence. As to these three foreign intelligence wiretaps, the court held (1) that they were legal, albeit warrantless, and (2) that the information contained therein was in no way related to the prosecutor's case. The district court therefore ordered that the contents of the wiretaps would not be disclosed to defendant.

The fourth document (Exhibit 1–4) contained information overheard by Louisiana state officials who monitored some of the telephone conversations of prisoners in their custody by listening on a telephone extension. The federal government used the state jail facilities in New Orleans for holding federal prisoners. After indictment and while incarcerated in the state facility, jail officials recorded some of defendant's conversations and passed one recording to New Orleans police. The substance of this recording was then divulged to an F.B.I. agent who incorporated it in a memorandum which is Exhibit 1–4.

The only part of Exhibit 1–4 which is related to defendant's case is the report of a conversation between defendant Brown and his attorney, William Kunstler, Esq., as follows:

At approximately 2:30 PM, on February 29, 1968, H. Rap Brown telephonically contacted his attorney William Kunstler in New York City. Brown advised Kunstler that New Orleans was "ready to go" as was Baton Rouge which was especially "hot" at Southern University in that city. Brown indicated that all that was necessary was mobilization of forces and he requested that Stokely Carmichael come to New Orleans on March 2, 1968. Kunstler stated he would attempt to make arrangements with Carmichael and that Carmichael would most likely also travel to Baton Rouge, Louisiana.

Kunstler advised Brown that he had obtained 30 minutes of time on three radio stations (location not indicated) and that a big press release had been prepared regarding Brown's cause. Kunstler indicated that Brown has the full cooperation of all Civil Rights organizations.

Kunstler advised that Ed Milbrook (phonetic) would be visiting Brown at the Orleans Parish Prison, New Orleans, Louisiana, where he is presently incarcerated. Kunstler stated that Brown could expect to remain in Orleans Parish Prison until March 20, 1968, at which time Kunstler would attempt to obtain his release for return to New York City.

While finding Exhibit 1–4 to be the product of illegal surveillance, the district court held that the information obtained in no way prejudiced defendant or tainted his conviction.

Following the district court's findings on the wiretap claims, this case was again appealed to this court. However, at some point in the proceedings Brown became a fugitive from justice. Consequently a panel of this court ordered the appeal stricken from the docket but on condition that it be reinstated if and when it should be made known to the court that Brown was subject to the court's jurisdiction. United States v. Brown, 5 Cir., 1972, 456 F.2d 1112. Finally, in June of 1972, Brown appeared before the district court and was re-sentenced to five years imprisonment and a fine of $2,000. This appeal followed. We affirm.

II.

There are seven assignments of error to be considered on this appeal:

(1) the government's proof of an essential element of the crime, actual knowledge of the Maryland indictment, was insufficient as a matter of law;

(2) the court's instructions on the issue of actual knowledge were contradictory and prejudicial;

(3) the court should have granted defendant's motion for a change of venue because the security measures employed at his trial denied him a fair trial;

(4) 15 U.S.C.A. § 902(e) is unconstitutional for the reasons that in prohibiting a person under indictment from carrying firearms, the statute imposes an arbitrary classification and also violates the individual's right to be presumed innocent;

(5) the alleged invalidity of the Maryland indictment necessitates a reversal;

(6) the overhear of counsel in the telephone conversation between defendant and his attorney (Exhibit 1–4, *supra*), violated defendant's right to counsel under the Sixth Amendment and mandates at least a new trial, and

(7) the court erred in refusing to hold an adversary hearing on the relevance of the materials contained in Exhibits 1–1, 1–2, and 1–3, discussed *supra*.

We will consider these assignments of error seriatim.

III.

[1] First, as to lack of proof, 15 U.S.C.A. § 902(e), under which defendant was convicted, provides that "[I]t shall be unlawful for any person who is under indictment . . . to ship, transport, or cause to be shipped or transported in interstate or foreign commerce any firearm or ammunition." To prove a violation of § 902(e) it must be shown that a defendant actually had knowledge of a pending indictment while he transported a firearm in interstate commerce. Cf. Costello v. United States, 8 Cir., 1958, 255 F.2d 389, 396.

[2] Defendant argues that the government's proof of his actual knowledge of the pending Maryland indictment was insufficient as a matter of law. On appeal the jury's finding of actual knowledge must be sustained if there is substantial evidence taking the view most favorable to the government to support it. Glasser v. United States, 1942, 315 U.S. 60, 80, 62 S.Ct. 457, 86 L.Ed. 680; United States v. Harper, 5 Cir., 1971, 450 F.2d 1032, 1040. While the government did not introduce any direct evidence to prove that the defendant actually knew of the Maryland indictment, there was a substantial body of circumstantial evidence on which the jury might have based its verdict. The evidence will be briefly summarized.

When the indictment was returned, about noon on August 14, 1967, Brown was in Los Angeles. Shortly thereafter he boarded a plane and returned to New York where he was met by a group of friends at the airport. The government proved that news of Brown's indictment was carried by all major news media in the New York area, as well as news media in New Orleans and Baton Rouge, Louisiana. For the next day and a half, Brown remained in New York visiting with friends including his attorney, William Kunstler, Esq. On the afternoon of August 16, Brown and his bodyguard, Frazier, flew to New Orleans carrying the weapon in question, an "M-1 carbine." Although traveling incognito, Brown was recognized, photographed, and interviewed by the press in New Orleans. He also talked with some of his supporters during his two hour stay. From New Orleans, Brown and Frazier left by bus for Baton Rouge where Brown's parents resided. While staying with Brown's parents in Baton Rouge, Brown received about fifty visitors. He also visited and talked with friends at a restaurant, a barber shop and a bar in Baton Rouge. It was also shown that the August 15 edition of the Baton Rouge State-Times was delivered to the home of Brown's parents on August 15. This edition of the newspaper carried on the front page, a headline entitled "Rap Brown Indicted for Arson."

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[1] It shall be unlawful for any person who is under indictment or who has been convicted of a crime punishable by imprisonment for a term exceeding one year . . . to ship, transport, or cause to be shipped or transported in interstate or foreign commerce any firearm or ammunition.

[3] Based on this evidence, the government argued that it would have been unreasonable to conclude that Brown was unaware of the indictment. The jury verdict implicitly included a finding that Brown did have actual knowledge of the indictment. It can be overturned only if we conclude that the jury must necessarily have had a reasonable doubt as to his actual knowledge. United States v. Warner, 5 Cir., 1971, 441 F.2d 821, 825. We cannot say, in light of the sum of this evidence, that the jury must necessarily have had reasonable doubt about his actual knowledge. We therefore hold that the evidence was legally sufficient to sustain the verdict.

[4] Second, defendant urges that the district court gave contradictory instructions on the issue of actual knowledge. We have carefully examined the charge and find no merit in this contention.

Some evidence of the care with which the jury followed the instructions on the necessity of knowledge of the indictment and proof by circumstantial evidence will be seen in the finding of not guilty on the count involving transportation of the firearm from New York to New Orleans. The additional proof of the headline in the Baton Rouge newspaper was substantial and could well have been the factor which caused the guilty verdict on the count which related to transporting the firearm thereafter.

[5] We likewise find without merit the claim asserted in the third assignment of error, that defendant's motion for a change of venue should have been granted. We are unable to conclude that the security measures employed at the trial reached such proportions as to deny defendant a fair trial. There was no mob dominated atmosphere as in Moore v. Dempsey, 1923, 261 U.S. 86, 43 S.Ct. 265, 67 L.Ed. 543; nor publicity or television problems of the kind involved, respectively, in Sheppard v. Maxwell, 1966, 384 U.S. 333, 86 S.St. 1507, 16 L.Ed.2d 600; and Estes v. Texas, 1965, 381 U.S. 532, 85 S.Ct. 1628, 14 L.Ed.2d 543. The transcript of the trial discloses that defendant's right to a fair trial was carefully guarded by the district court in the context of the security problem obtaining at the time.

[6] Four, we find no merit in the claim that § 902(e) is unconstitutional for the alleged reason that it draws no distinction between indictment for crimes of violence and non-violence, or because it is an undue restriction on the presumption of innocence.

[7, 8] We note that Congress has broad power to regulate interstate activities under its commerce power. See Heart of Atlanta Motel v. United States, 1964, 379 U.S. 241, 85 S.Ct. 348, 13 L. Ed.2d 258; Katzenbach v. McClung, 1964, 379 U.S. 294, 85 S.Ct. 377, 13 L. Ed.2d 290. We must uphold the constitutionality of the regulation involved here unless we determine that there is no rational basis for the congressional classification. See Heart of Atlanta Motel, *supra,* 379 U.S. at 258, 85 S.Ct. 348. 15 U.S.C.A. § 902(e) prohibits the interstate carriage of firearms by a person who is under indictment for an offense punishable by imprisonment for more than a year. We are unable to conclude that this classification is without rational basis. The differentiation of the statute among indicted persons according to the seriousness of the crimes with which they are charged is, without more, sufficient in our judgment. See United States v. De Pugh, W. D. Missouri, 1967, 266 F.Supp. 453, aff'd 8 Cir., 393 F.2d 367.

Nor do we find merit in the contention that § 902(e) violates the presumption of innocence. Persons under indictment are often subject to restraints on their freedom and the restriction here is not of such weight as to offend the presumption.

[9] Five, defendant contends that the invalidity of the Maryland indictment necessitates a reversal of his Louisiana conviction. Even assuming *arguendo* that the underlying indictment is later found invalid, the crime under § 902(e) is complete when a firearm is carried in interstate commerce by a person then under indictment. United States v. Quiroz, 9 Cir., 1971, 449 F.2d 583, 584–585; United States v. De Pugh, *supra.* Thus this contention is also without merit.

IV.

With respect to Exhibit 1–4 defendant urges that a new trial is required because (1) the unlawful wiretap and subsequent overhear invaded his Sixth Amendment right to counsel, and (2) the contents of the invasion were not disclosed until after conviction. This contention is discussed at some length in the opinion of the district court. United States v. Brown, E.D.La., 1970, 317 F. Supp. 531.

This argument is premised on the proposition that any undisclosed government overhear of an attorney-client conversation requires a new trial irrespective of whether the information obtained is relevant. Defendant maintains that the per curiam decisions in Black v. United States, 1966, 385 U.S. 26, 87 S. Ct. 190, 17 L.Ed.2d 26, and O'Brien v. United States, 1967, 386 U.S. 345, 87 S. Ct. 1158, 18 L.Ed.2d 94, require this conclusion. We cannot agree.

In Hoffa v. United States, 1967, 385 U.S. 293, 87 S. Ct. 408, 17 L.Ed.2d 374, a case involving an alleged overhear of Hoffa's counsel in person by a government informer, and decided after *Black* and before *O'Brien,* the Supreme Court examined in more detail the problem of governmental intrusion upon the attorney-client relationship. Two cases decided by the District of Columbia Circuit, holding that a surreptitious invasion by a government agent into the legal camp of the defense violates the protection of the Sixth Amendment, were cited with approval in *Hoffa.* Caldwell v. United States, 1953, 92 U.S. App. D.C. 355, 205 F.2d 879; Coplon v. United States, 1951, 89 U.S. App. D.C. 103, 191 F.2d 749. However, the Court carefully noted that both *Caldwell* and *Coplon* "dealt with government intrusion of the grossest kind upon the confidential relationship between the defendant and his counsel." *Hoffa, supra,* 385 U.S. at 306, 87 S. Ct. at 416.

[10] In light of the discussion in *Hoffa* with regard to "intrusion of the grossest kind", and the fact that neither *Black* nor *O'Brien* expressly states that any undisclosed overhear, regardless of circumstances or relevancy, violates the Sixth Amendment, we decline to adopt such a rule. Instead, we proceed to consider the circumstances which led to the overhear and the question of whether the overhear could have in any fashion tainted the conviction.

[11] The overhear involved in the instant case resulted from the actions of the state officials. There is no indication that defendant's telephone conversations were monitored for the purpose of gaining information to use at his trial, a practice we would immediately proscribe with appropriate remedy. Instead, testimony adduced at an adversary hearing on the question disclosed that state prison officials followed a practice of monitoring some of the telephone conversations of prisoners in their custody for security reasons. The surveillance was neither authorized nor approved by federal authorities. Indeed, there was no evidence that the Federal authorities were aware of the state practice.[2] We therefore conclude that the facts presented do not demonstrate the type of governmental intrusion upon the confidential relationship between defendant and his counsel which would, without more, require a new trial.

[12] Concluding that neither the type of overhear, standing alone, nor the circumstances surrounding it resulted in a violation of the right to counsel, the question remains whether the overhear tainted defendant's conviction. The substance of the only conversation between defendant and his counsel, Kunstler, is quoted *supra.* p. 421. Defendant does not seriously contend and we cannot conclude that this conversation in any way tainted defendant's conviction. Cf. In Re Tierney, 5 Cir., 1972, 465 F.2d 806, 813.

V.

We turn now to Exhibits 1–1, 1–2, and 1–3, warrantless wiretaps authorized by the then Attorney General acting for the President, prior to January 19, 1968, the date of the wiretaps. The district judge examined these exhibits as well as the authorization *in camera* and concluded (1) that they were legal wiretaps made for the purpose of gathering foreign intelligence and (2) that they contained nothing which would be even arguably relevant to defendant's case. In fact, the involvement of defendant in the wiretaps was happenstance at the most. On appeal, defendant argues that the wiretaps were illegal and therefore under *Alderman* he is entitled to disclosure and an adversary hearing on relevancy.

[13] *Alderman* requires disclosure and an adversary proceeding only if the trial court determines that the government's electronic surveillance was unlawful. *Alderman, supra,* 394 U.S. at 170 n. 3, 89 S.Ct. 961; Giordano v. United States, 1969, 394 U.S. 310, 312–313, 89 S.Ct. 1163, 22 L.Ed.2d 297. Thus the issue presented to us is whether the trial court correctly determined that the wiretaps were lawful. This issue requires us to decide a question which was expressly reserved by the Supreme Court in United States v. United States District Court, 1972, 407 U.S. 297, 92 S.Ct. 2125, 32 L.Ed.2d 752; that is, whether the President, acting through the Attorney General, has the constitutional power to conduct warrantless electronic surveillance for the purpose of obtaining foreign intelligence.

In *United States District Court,* the Supreme Court held that the President did not have the power to authorize electronic surveillance in internal security matters without prior judicial approval. However, the Court was at pains to distinguish between surveillance of domestic organizations deemed threats to national security and surveillance involving the activities of foreign powers or their agents. 407 U.S. at 308 and at 321–322, 92 S.Ct. 2125.

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[2] This question is to be distinguished from "silver platter" problems arising from state originated evidence being made available to federal prosecutions. Elkins v. United States, 1960, 364 U.S. 206, 80 S.Ct. 1437, 4 L.Ed.2d 1669. We do not here deal with whether to admit evidence, harmful to the appellant, which was gathered by state authorities in violation of constitutional rights. Rather, we are concerned with the circumstances and scope of the intrusion on the attorney-client privilege. Our question is whether the intrusion, by either state or federal officers, is so gross as to justify a new trial regardless of the relevancy of the information obtained. In our opinion it is relevant to this issue that the overhear was by state officials, solely in the discharge of their prison security responsibilities, rather than by federal officials seeking to facilitate their prosecution of the appellant.

While the Court carefully reserved the question of presidential power with respect to foreign threats to national security, reference was made in a footnote to the view of others that warrantless surveillance may be constitutional where foreign powers are involved even though impermissible in domestic security cases. 407 U.S. at 322 n. 20, 92 S. Ct. 2125. (Citing United States v. Smith, C.D. Cal., 1971, 321 F. Supp. 424; United States v. Clay, 5 Cir., 1970, 430 F. 2d 165; ABA Crmininal Justice Project, Standards Relating to Electronic Surveillance, Feb. 1971, pp. 11 120, 121).

In United States v. Clay, 5 Cir., 1970, 430 F. 2d 165, 170–172, rev'd on other grounds, 1971, 403 U.S. 698, 91 S. Ct. 2068, 29 L. Ed. 2d 810, the case referred to in the Supreme Court's footnote 20, we concluded that the President had such authority over and above the Warrant Clause of the Fourth Amendment.

We found that authority in the inherent power of the President with respect to conducting foreign affairs. We took our text from Chicago & Southern Air Lines v. Waterman S.S. Corp., 1948, 333 U.S. 103, 111, 68 S. Ct. 431, 92 L. Ed 568, where the Supreme Court stated:

> [T]he President, both as Commander-in-Chief and as the Nation's organ for foreign affairs, has available intelligence services whose reports are not and ought not to be published to the world. It would be intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret. 333 U.S. at 111, 68 S Ct. at 436.

See also United States v. Belmont, 1937, 301 U.S. 324 at 328, 57 S.Ct. 758, 81 L. Ed. 1134.

The constitutional power of the President is adverted to, although not conferred, by Congress in Title III of the Omnibus Crime Control and Safe Streets Act of 1968. 18 U.S.C.A. §§ 2510–2520. 18 U.S.C.A § 2511(3) of that Act provides as follows:

"Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1103; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. . . ."

[14, 15] As *United States District Court* teaches, in the area of domestic security, the President may not authorize electronic surveillance without some form of prior judicial approval. However, because of the President's constitutional duty to act for the United States in the field of foreign relations, and his inherent power to protect national security in the context of foreign affairs, we reaffirm what we held in United States v. Clay, *supra*, that the President may constitutionally authorize warrantless wiretaps for the purpose of gathering foreign intelligence. Accord, Zweibon v. Mitchell, D.D.C.1973, 363 F.Supp. 936; United States v. Butenko, D.N.J., 1970, 318 F.Supp. 66. Restrictions upon the President's power which are appropriate in cases of domestic security become artificial in the context of the international sphere. United States v. Smith, *supra*, 321 F.Supp. at 430 (dicta).

Our holding in *Clay* is buttressed by a thread which runs through the Federalist Papers: that the President must take care to safeguard the nation from possible foreign encroachment, whether in its existence as a nation or in its intercourse with other nations. See e.g., The Federalist No. 64, at 434–36 (Jay); The Federalist No. 70, at 471 (Hamilton); The Federalist No. 74 at 500 (Hamilton) (J. Cooke ed. 1961).

[16, 17] We thus conclude that the wiretaps involved in Exhibits 1–1, 1–2, and 1–3 were lawful and that their disclosure was not required. *Alderman, supra,* 394 U.S. at 170 n. 3, 89 S.Ct. 961. Moreover, we hold, after *in camera* examination, that the information disclosed by the wiretaps had no relevancy whatever to the crime here in question, either directly or indirectly.

In sum, we agree with the following statement of the District Court which is couched in the precise terms of our decision in United States v. Clay, *supra*, 430 F.2d at 170.

From an *in camera* examination of Exhibits 1–1, 1–2, and 1–3, we find that these logs were authorized by the then Attorney General in writing; they were not made pursuant to a surveillance of defendant but rather of others, and the premises were identified; that they were made in connection with obtaining foreign intelligence information; that the Executive Branch of the Government has properly and reasonably requested these exhibits not be disclosed to the defendant or the public because "it would prejudice the national interest to disclose the particular facts concerning this surveillance other than to the Court in camera" and its contents do not in any manner bear upon the issues involved in this case, and in no way have these wiretaps prejudiced defendant, helped build a case against him, or assisted in bringing about his conviction.

We thus find no merit in the assignments of error.

Affirmed.

Goldberg, Circuit Judge (specially concurring):

I concur not only in the affirmance of this conviction, but also in the opinion of the Court. My words of special concurrence relate only to Part V and are intended merely to make explicit what is now implicit in the excellent opinion of my Brother Bell.

There can be no quibble or quarrel with the findings and conclusions that the wiretap under consideration here had its origin and complete implementation in the field of foreign intelligence. This Court and the able district judge have conducted inescapably independent reviews of the action of the then Attorney General in authorizing this warrantless electronic surveillance. All agree in the determination that the wiretap was indeed directly related to legitimate foreign intelligence gathering activities for national security purposes; and that it was, therefore, a legal wiretap and not within the ambit of Alderman v. United States, 1969, 394 U.S. 165, 89 S.Ct. 961, 22 L.Ed.2d 176. This case in no way involved the spurious use of national security as a cover for warrantless electronic surveillance of accused and potential criminal defendants, domestic radicals, or political dissenters; and the panel opinion narrowly barricades warrantless wiretaps within the confines of legitimate foreign intelligence surveillance.

It is unfortunate for the development of the law in this area of foreign intelligence wiretapping that the essential information on which the legality of executive action turns—the subject, location, scope, and duration of the surveillance—cannot be revealed. This circumstance places tremendous responsibility for both national security and cherished constitutional rights in the hands of individual judges, acting largely in ignorance of the related decisions of their colleagues and permanently insulated from the helpful criticisms and suggestions that result from the adversary process and the publication of explanatory opinions. Nevertheless, it remains the difficult but essential burden of the courts to be ever vigilant, so that foreign intelligence never becomes a *pro forma* justification for any degree of intrusion into zones of privacy guaranteed by the Fourth Amendment. Courts must insure that there be no future tidal wave of warrantless wiretaps and that the floodgates controlling their use not be opened for domestic intelligence purposes. The judiciary must not be astigmatic in the presence of warrantless surveillance; rather judges must microscopically examine the wiretaps in order to determine whether they had their origin in foreign intelligence or were merely camouflaged domestic intrusions. The serious step of recognizing the legality of a warrantless wiretap can be justified only when, as in the case before us, the foreign and sensitive nature of the government surveillance is crystal clear.

We must not trespass into the field of foreign intelligence and frustrate the executive in the pursuance of its obligations to conduct our foreign affairs. The Fourth Amendment, however, is no less a part of our Constitution than Article II, and its great protection against unreasonable invasions of privacy must remain inviolate. The fact that we develop the law of national security wiretaps largely *in camera* can never be allowed to lessen our zeal in the protection of fundamental rights. Indeed, the very secrecy surrounding our decisions requires that we give the closest scrutiny to executive assertions of national security interest.

United States of America, Appellee, versus Bobby Lee Williams, Appellant.

U.S. Court of Appeals, Eighth Circuit,
No. 73–1014

Submitted June 14, 1973.

Decided Aug. 16, 1973.

On remand, 464 F. 2d 927, the United States District Court for the Eastern District of Missouri, H. Kenneth Wangelin, J., found defendant guilty of making false statement on application to purchase firearm and defendant appealed. The Court of Appeals, Ross, Circuit Judge, held that fact that defendant's state court conviction which formed essential element of charge was reversed on appeal did not preclude its use to support charge, but that it was reversible error to refuse to permit defendant to show reversal in order to mitigate damage to credibility created by such conviction.

Reversed and remanded.

Matthes, Senior Circuit Judge, filed dissenting opinion.

1. Weapons—4.

Fact that state court conviction was reversed on appeal did not preclude use of such conviction as basis for subsequent charge relating to making false statement on application to purchase firearm when, at the time of application, conviction had not yet been reversed but was merely pending on appeal. 18 U.S.C.A. §§ 922(a)(6), 924(a).

2. Criminal Law—1170½(1) Witnesses—361(2).

Where there was direct conflict in testimony relating to whether defendant charged with making false statements in purchase of firearm told salesman of his state court conviction which was essential part of charge, fact that state court conviction was reversed on appeal should have been admitted, under proper instructions, to mitigate damage to defendant's credibility resulting from such conviction and refusal to permit defendant to make such showing constituted reversible error. 18 U.S.C.A. §§ 922(a)(6), 924(a).

3. Witnesses—344(2).

Witness' acts of misconduct are not admissible to impeach his credibility unless acts resulted in conviction.

4. Criminal Law—1043(1) Witnesses—361(2).

Where there was direct conflict in essential testimony, and defendants' prior conviction had been reversed on appeal, failure to permit defendant to how such reversal in order to mitigate effect of such conviction on credibility deprived defendant of fair trial and could not be disposed of on technical basis of counsel's failure to properly specify reason for objection. Fed. Rules Crim. Proc. rule 52(b), 18 U.S.C.A.

United States of America, Plaintiff-Appellee, versus Cassius Marsellus Clay, Jr., Defendant-Appellant.

[U.S. Court of Appeals, Fifth Circuit, July 6, 1970, No. 28252]

Rehearing Denied and Rehearing En Banc Denied Aug. 19, 1970.

Defendant was convicted in the United States District Court for the Southern District of Texas, Joe M. Ingraham, J., for refusing to report for and submit to induction into the armed forces, and the Court of Appeals, 397 F. 2d 901, affirmed. On petition for writ of certiorari, the Supreme Court, 394 U.S. 310, 89 S.Ct. 1163, 22 L.Ed.2d 297, vacated judgment and remanded to district court for determination whether conviction was affected by illegal wiretaps. On appeal after remand, the Court of Appeals, Ainsworth. Circuit Judge, held that wiretaps of telephone conversations which were made in connection with surveillance of persons other than defendant resulted in no prejudice and had no bearing on defendant's conviction on theory that recommendation by Department of Justice to deny conscientious objector claim was based upon illegally obtained evidence.

Affirmed.

1. Criminal Law—1169(1)

Illegal wiretaps of telephone conversations which were made in connection with surveillance of persons other than defendant resulted in no prejudice and had no bearing on defendant's conviction for failing to submit to induction on theory that recommendation by Department of Justice to deny conscientious objector claim was based upon illegally obtained evidence. Military Selective Service Act of 1967, § 12, 50 U.S.C.A. App. § 462.

2. Criminal Law—627.6(6)

Defendant convicted for refusing to submit to induction and who complained of illegal wiretaps by government and who was permitted to inspect all logs of recorded conversations except for wiretaps which pertained to foreign information gathering had no right to see records or logs of conversations to which he was not a party, nor to rummage in government's files. Military Selective Service Act of 1967, § 12, 50 U.S.C.A. App. § 462.

3. Criminal Law—627.8(5)

Where in camera examination of log of wiretap disclosed that contents of wiretap were not germane to any issue in defendant's conviction for refusing to submit to induction, and wiretap was obtained in foreign intelligence surveillance, rights of defendant were properly safeguarded and publication of log to defendant was unwarranted. Military Selective Service Act of 1967, § 12, 50 U.S.C.A. App. § 462.

4. Constitutional Law—73

Courts should not review and nullify actions of the executive branch taken on information properly held secret.

5. Telecommunications—496

Statute prohibiting publication or use of communications obtained by wiretapping does not forbid President, or his representative, from ordering wiretap surveillance to obtain foreign intelligence in the national interest. Communications Act of 1934, § 605, 47 U.S.C.A. § 605.

6. Criminal Law—1180

Decision on original appeal from conviction for refusing to submit for induction was the law of the case on issues decided, and, on appeal after remand to the district court by the United States Supreme Court, the Court of Appeals would not reconsider issues decided in the original appeal.

Charles Morgan, Jr., Reber F. Boult, Jr., Atlanta, Ga., Chauncey Eskridge, Chicago, Ill., M. W. Plummer, Houston, Tex., for defendant-appellant; Melvin L. Wulf, Eleanor Holmes Norton, New York City, of counsel.

Anthony J. P. Farris, U.S Atty., James R. Gough, Asst. U.S. Atty, Houston, Tex, for plaintiff-appellee; Joseph J. Connolly, Michael T. Epstein, Attys., Dept. of Justice, of counsel.

Jack Greenberg, James M. Nabrit, III, Jonathan Shapiro, Elizabeth B. DuBois, New York City, amicus curiae.

Before Wisdom, Ainsworth and Clark, Circuit Judges.

Ainsworth, Circuit Judge.

This Selective Service case involves the conviction by a jury on June 20, 1967 of Cassius Marsellus Clay, Jr., also known as Muhammad Ali, former professional heavyweight boxing champion of the world, for wilfully refusing to be inducted into the Armed Forces of the United States, in violation of 50 U.S.C. App. § 462, and is before us for the second time.[1] We affirmed the conviction on May 6, 1968, and rehearing en banc was denied June 6, 1968. See Clay v. United States, 5 Cir., 1968, 397 F.2d 901.

The defendant then petitioned the Supreme Court for certiorari, and while the petition was pending before that court, the Government revealed that there had been five telephone conversations participated in by defendant which were overheard by the Federal Bureau of Investigation by electronic wiretapping. Accordingly, the Supreme Court granted certiorari, *sub nom.* Giordano v. United States, 394 U.S. 310, 89 S.Ct. 1163, 22 L.Ed.2d 297 (1969), and remanded this case to the District Court for further proceedings in conformity with Alderman v. United States, 394 U.S. 165, 89 S.Ct. 961, 22 L.Ed.2d 176 (1969), to determine whether the conviction was affected by the wiretaps.

Pursuant to the Supreme Court's grant of certiorari, a lengthy hearing was then held before District Judge Joe Ingraham on June 2, 4, 5, and 6, 1969, in Houston, Texas, at which time the Court considered the FBI logs of the five wiretapped telephone conversations delivered to it in advance of the hearing by the Government. The Court then ordered that the logs of wiretapped conversations 1, 2, 3, and 4 be received in evidence and their contents fully disclosed to the defendant. As to these four logs of wiretapped telephone conversations, the Court held that the defendant had standing to assert the illegality of the surveillance and that the illegality was not challenged by the Government. The fifth log of a wiretapped conversation in which defendant participated was considered in camera by the District Judge, with related exhibits, and held to be a lawful surveillance by the FBI pursuant to the Attorney General's authorization of a wiretap for the purpose of gathering foreign intelligence.

The District Court concluded that the first four logs did not bear on the issues involved in defendant's conviction; that the defendant failed to show any relevancy of these logs to the conviction; and that the conviction must stand. The fifth wiretapped conversation which related to the gathering of foreign intelligence was held to be lawful surveillance, reasonable and necessary to the protection of the national interest.

As we have stated, logs 1, 2, 3, and 4 were made available to defendant to afford him an opportunity to show the relevance of any of these wiretapped conversations to his Selective Service law conviction. (The logs are all of the evidence which the FBI possesses of the wiretapped conversations, the tapes on which the conversations were originally recorded having been erased when the logs were typed.) The five telephone conversations were not tapped in an electronic surveillance of defendant Clay but were made in connection with surveillance of others, the defendant not having been the subject of the surveillance.

Log 1 pertained to a telephone conversation on April 22, 1965, when the telephone of Elijah Muhammad was tapped in Phoenix, Arizona. A person named Herbert called the defendant, Clay, asking him about his physical condition, prospective fights, and personal details relative to the family.[2]

Log 2 referred to another wiretap of a telephone conversation of the telephone of Elijah Muhammad on March 24, 1964. Elijah called defendant Clay, telling him that he wanted to see him about making a minister out of him when "he quit thinking of fighting all the time" and that Clay would make a better minister than a fighter.[3]

Log 3 was another log of a wiretap of the Phoenix, Arizona, telephone of Elijah Muhammad of a telephone conversation on October 22, 1964, when a man believed to be John Ali talked to a person believed to be the defendant, Clay, giving his a message from Elijah about holding up "those TV people," who were apparently about to interview Clay.[4]

Log 4 was taken on September 4, 1964, in Atlanta, in connection with surveillance of the telephone of Dr. Martin Luther King, Jr. MLK (ostensibly Dr. King) exchanged greetings with defendant Clay, wished him well on his recent marriage, and in turn was invited to attend defendant's next championship fight. Clay also told MLK to take care of himself, that he is known world wide, and admonished him that he "should watch out for them whities," etc [5]

[1] The Trial Judge held that "the logs are so totally innocuous that they could not have had any bearing on the defendant's conviction under any circumstances." The District Judge's reasons in this regard, ably expressed, with which we agree, are reproduced in pertinent part in the margin.[6]

[2] There was likewise no error committed by the District Court in rejecting the broad and sweeping demands for discovery by defendant's counsel of FBI files, documents, wiretapping information and tapes and transcriptions, relating to persons and conversations not participated in by defendant. All of the logs of recorded conversations of defendant were produced for his inspection except the fifth wiretap which pertained to foreign information gathering and which we will discuss later. The defendant had no right to see records or logs of conversations to which he was not a party, nor to rummage in Government files. Alderman v. United States, 394 U.S. 165, 185, 89 S.Ct. 961, 973, 22 L.Ed.2d 176 (1969); Taglianetti v. United States, 394 U.S. 316, 317, 89 S.Ct. 1099, 1100, 22 L.Ed.2d 302 (1969). It is clear from uncontradicted testimony that none of the information obtained in the five wiretapped telephone conversations was used in the FBI investigation of defendant's conscientious objector claim, or in the preparation of the adverse Department of Justice recommendation made in connection with defendant's original request for conscientious objector classification.[7] In our view the Trial Court exercised "informed discretion, good sense, and fairness," *Alderman, supra*, 394 U.S. at 185, 89 S.Ct. at 973, in denying defendant's discovery demands and we perceive no sound reason for interfering with his decision.[8]

The fifth wiretap was not disclosed to defendant because the District Court found that the surveillance was lawful, having been authorized by the Attorney General, for the purpose of obtaining foreign intelligence information. The Supreme Court has not yet decided whether electronic surveillance for the purpose of gathering foreign intelligence information is constitutionally permissible, Giordano v. United States, *supra*, 394 U.S. at 314, 89 S.Ct. at 1165, 1166, 22 L.Ed.2d 297

Footnotes at end of article

(1969), though Mr. Justice White has expressed the view that such surveillance does not violate the Fourth Amendment. *See* Katz v. United States, 389 U.S. 347, 364, 88 S.Ct. 507, 517, 19 L.Ed.2d 576 (1967).

Moreover, in *Giordano, supra*, 394 U.S. at 314, 89 S.Ct. at 1165, Mr. Justice Stewart in a concurring opinion stated the following in regard to the mandate of *Alderman, supra*, for further *hearing* and the procedure to be followed in a criminal case where wiretapping information relative to a defendant had been obtained.

"We have nowhere indicated that this determination cannot appropriately be made in *ex parte, in camera* proceedings. 'Nothing in Alderman v. United States, Ivanov v. United States, or Butenko v. United States, 394 U.S. 165, 89 S.Ct. 961, 22 L.Ed.2d 176, requires an adversary proceeding and full disclosure for resolution of every issue raised by an electronic surveillance.' Taglianetti v. United States, 394 U.S. 316, 89 S.Ct. 1099, 22 L.Ed.2d 302."

An in camera examination of the fifth log and a description of the premises which were the subject of the surveillance, together with the *Attorney* General's express authorization to the FBI to make the surveillance, was accordingly made by the Trial Judge. It has also been made by the three judges of this panel. From this examination we agree that the log of the fifth wiretapped telephone conversation (1) was authorized by the Attorney General in writing to the FBI; (2) that it was not made pursuant to a surveillance of defendant but rather of others, and the premises were identified; (3) that it was made in connection with obtaining foreign intelligence information; (4) that the Executive Branch of the Government has properly and reasonably requested that the log not be published or disclosed to the defendant or the public because "it would prejudice the national interest to disclose the particular facts concerning this surveillance other than to the court *in camera*" (see affidavit of Attorney General Mitchell); and (5) its contents do not in any manner bear upon the issues involved in defendant's draft law violation case, and in no way has this wiretap prejudiced defendant, helped build a case against him, or assisted in bringing about his conviction.

Defendant and amicus contend that the Supreme Court's decision in *Alderman, supra*, requires an adversary hearing and mandates that all wiretapped information of defendant's conversations be furnished to him, including the fifth log pertaining to foreign intelligence gathering; that the District Court erred in failing to disclose the fifth log to him and in not holding a hearing thereon to determine if the wiretap tainted defendant's conviction; that full disclosure is required by the Constitution and the Bill of Rights, and that section 605 of the Federal Communications Act of 1934, 47 U.S.C. § 605, bars any use of wiretap in a criminal prosecution.

[3] Under the circumstances here, publication of the fifth log to defendant is unwarranted and would be contrary to the national interest, having been obtained in foreign intelligence surveillance. The Court's in camera examination of the fifth log establishes to our satisfaction that the contents of the wiretap were not germane to any issue in this criminal prosecution and conviction. There has been no use against defendant of the information gained by the Government by the fifth wiretap and the information there obtained would not have been of assistance to the prosecutor in constructing a case against defendant. There is no indication that the information was or could be used in any way against defendant.

[4] Determination of this case requires that we balance the rights of the defendant and the national interest. The Attorney General, who acts here for the President and Commander-in-Chief, has submitted his affidavit that the fifth wiretap was maintained "for the purpose of gathering foreign intelligence information" and the Attorney General opposed disclosure at the hearing because "it would prejudice the national interest to disclose particular facts concerning this surveillance other than to the court." The fifth log was submitted by the Government for an in camera examination by the Court, which has been made both here and in the District Court. The rights of defendant and the national interest have thus been properly safeguarded. Further judicial inquiry would be improper and should not occur. It would be "intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret." Chicago & Southern Air Lines v. Waterman S.S. Corp., 333 U.S. 103, 111, 68 S. Ct. 431, 436, 92 L.Ed. 568 (1949). We, therefore, discern no constitutional prohibition against the fifth wiretap.

[5] Section 605 of Title 47, U.S.C., is a general prohibition against publication or use of communications obtained by wiretapping, but we do not read the section as forbidding the President, or his representative, from ordering wiretap surveillance to obtain foreign intelligence in the national interest. When Congress enacted Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. § 2511(3) thereof, it specifically denied any section 605 limitation, as follows:

"(3) Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1143: 47 U.S.C. 605) shall limit the constitutional power of the Persident to take such measure as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the Government. The contents of any wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial hearing, or other proceeding only where such interception was reasonable and shall not be otherwise used or disclosed except as is necessary to implement that power."

This is a clear statement by Congress itself relative to the scope of the section 605 provisions which are not to limit the President's constitutional prerogative to obtain foreign intelligence information.

We reiterate that no use of the fifth log was made in this case against defendant. It played no part in his conviction and our in camera scrutiny thereof thoroughly convinces us that defendant was not prejudiced thereby. As the Supreme Court said in Taglianetti v. United States, 394 U.S. 316, 317, 318, 89 S.Ct. 1099, 1101, 22 L.Ed.2d. 302 (1969), "Under the circumstances presented here, we cannot hold that 'the task is too complex, and the margin for error too great, to rely wholly on the *in camera* judgment of the trial court.' Alderman v. United States, *supra*, 394 U.S., at 182, 89 S.Ct., at 971, 22 L.Ed., 2d 176." No one would seriously doubt in this time of serious international insecurity and peril that there is an imperative necessity for obtaining foreign intelligence information, and we do not believe such gathering is forbidden by the Constitution or by statutory provision, including 47 U.S.C. § 605.

[6] We are urged to reconsider the issues decided by us in our original decision in this case, 397 F.2d 901, but we decline to do so.[9] We declined en banc reconsideration of our original decision and further refused en banc consideration of this second hearing in this case. Our prior decision is the law of the case on the issues decided there, unless they are affected by the wiretapped telephone conversations.[10] In our view, the defendant's conviction was not so affected and accordingly the judgment of conviction should be Affirmed.[11]

On petition for rehearing and petition for rehearing en banc.

Per Curiam:

The Petition for Rehearing is denied and the Court having been polled at the request of one of the members of the Court and a majority of the Circuit Judges who are in regular active service not having voted in favor of it, (Rule 35 Federal Rules of Appellate Procedure; Local Fifth Circuit Rule 12) the Petition for Rehearing En Banc is also denied.

FOOTNOTES

[1] Defendant's request that this case, now on its second time before the Court, be heard en banc, was denied on February 10, 1970. 422 F.2d 1330 (5 Cir.).

[2] Log 1 is reproduced in full as follows: "Herbert called, via operator, to 305-635-8893 in Miami and asked to speak to Cassius Clay. Herbert told Clay he was here in Arizona and asked how Clay was. Clay said he was fine and was down to 213 pounds. Herbert told him not to overdo it. Herbert asked him if he was going to Boston soon and he said yes, about a week and a half. Herbert said he would be down there to see him fight with his brother. Clay told him to call two days before. Clay mentioned that one boy backed out. He asked Herbert how long he was going to be out here and Herbert said he might leave tomorrow. Herbert asked how everything else was and Clay said fine. Herbert asked how his brothers were and Clay mentioned that James got put out of the temple for being out all night with women. Herbert said Clay knew what to do with a case like that, to get him a ticket and send him back where he came from. Herbert asked about * * * (probably his wife) and Clay said she had gone to Jackson with a lady friend. Herbert said he would probably call him tomorrow, to take it easy and if there was anything he could do to let him know. Clay mentioned something about having Herbert check his car when he, Herbert, got to Chicago. /Recorded/."

[3] Log 2 is reproduced in full as follows: "Elijah took call from C. Clay. Elijah asked the time there and then said it was only 1 hr. faster than here. Elijah said he wanted to see Clay as he was going to make a minister out of him when he quite (sic) thinking of fighting all the time. Elijah said he would make a better minister than a fighter anyhow. Elijah then said he would contact him when he had time to talk to him. Elijah also told him to keep quiet."

[4] Log 3 is reproduced in full as follows: "Man believed to be John Ali is heard dialing out on Albert's phone for a long distance call via direct dial. He then talks to person believed to be Muhammad Ali (Clay) and says he has just talked with the Messenger and the Messenger would like for him to hold up those TV people a while since they are going to be here Saturday and he will see what they want so that he (Elijah) will know what (Clay) is going to be asked to say. John mentions that he will probably be coming there when he leaves Phoenix and should be there for Saturday and Sunday. He then gives the Muslim closing."

[5] Log 4 is reproduced in full as follows: "Chauncey to MLK, said he is in Miami with Cassius, MLK spoke to Cassius, they exchanged greetings, MLK wished him well on his recent marriage, C invited MLK to be his guest at his next championship fight, MLK said he would like to attend. C said

that he is keeping up with MLK that MLK is his brother, and with him 100% but can't take any chances, and that MLK should take care of himself, that MLK is known world wide and should watch out for them whities, said that people in Nigeria, Egypt and Ghani asked about MLK."

[6] The Trial Judge said: "Turning to the significance of the logs, the only manner in which the foregoing conversations were argued relevant to the defendant's conviction centered around the rejection of the defendant's conscientious objector claim. This was a plausible argument, for if the recommendation by the Department of Justice to deny the claim was based upon illegally obtained evidence, the 'basis in fact' which this court found for his classification would have been defective. Without such a 'basis of fact', the defendant could effectively challenge the jurisdiction of the draft board which classified him and ordered him to report for induction.

"The specific relevancy sought between the defendant's classification and the overheard conversations involves the statement in the Department of Justice's recommendation that 'registrant's objections to participation in war insofar as they are based upon the teachings of the Nation of Islam "rest on grounds which are primarily political and racial. These constitute objections to only certain types of war in certain circumstances, rather than a general scruple against participation in war in any form."' Clay v. United States, 397 F. 2d 901 (5 C.A. 1968). The defendant attempted to show first, that because Log 2 reflects Elijah's wish that Clay become a minister, and because Log 4 reflects Clay's reference to 'them whities', the logs would have a bearing on the Department's conclusion that the defendant's beliefs were political and racial, rather than religious. He secondly attempted to demonstrate how this information was transmitted upward through F.B.I. channels, through the Department of Justice and into the recommendation, and back to the draft appeals board.

"As to the second argument, that the information was used by the Department of Justice in making its recommendation, there was positive testimony that the logs were not used at all in the preparation of the report. Only the most strained construction of the cross-examination testimony would support a contrary finding. But the court need not reach this question, for it believes, and so holds, that the logs are so totally innocuous they could not have had any bearing on the defendant's conviction under any circumstances. This is because, first, as regards Log 2, the Department of Justice's duty was to submit a recommendation concerning the defendant's status as a conscientious objector, not a minister. It is obvious that the Department could have, had it believed it was warranted, recommended that the defendant be granted a conscientious objector deferment despite the fact that he was not a minister of his religion. Moreover, even if this issue had been before the Department, it is clear that the evidence that he was not a minister up to at least March 19, 1966, is overwhelming. See discussion in Clay v. United States, *supra* at 915–918. Thus examining this log in a light most likely to demonstrate prejudice to the defendant, there is more than enough evidence to dispel possible taint. The conclusion that the defendant should not have been entitled to a ministerial exemption springs clearly from an 'independent origin'. Nardone v. United States, 308 U.S. 338, 60 S. Ct. 266, 84 L. Ed. 307 (1939).

"Defendant's attempt to link Log 4 to his conviction must similarly fail. To construe a passing reference to 'them whities' as being the Department's basis, or even perhaps more extensive discovery would have been in order. But the defendant should not be permitted such broad discovery to attempt to prove transmittal of the information if he cannot first show that the information could have been, even in part, relevant to his conviction.

"It might be added that Taglianetti v. United States, supra, intimates that the district court could, in some circumstances, make the determination that wiretap evidence is innocuous in an in camera inspection. This is, the court believes, such a case. Nevertheless, an adequate opportunity was given the defendant to prove relevance in an adversary proceeding. The proceeding was as extensive as Alderman requires. He failed to show the requisite relevancy, and the conviction must stand."

In Alderman v. United States, supra, the Court said that "(n)one of this means that any petitioner will have an unlimited license to rummage in the files of the Department of Justice. Armed with the specific records of overheard conversations and with the right to cross examine the appropriate officials in regard to the connection between those records and the case made against him, a petitioner may need or be entitled to nothing else. Whether this is the case or not must be left to the informed discretion, good sense, and fairness of the trial judge." Id. at 185, 89 S.Ct. at 961. And in Taglianetti v. United States, 394 U.S. 316, 89 S.Ct. 1099, 22 L.Ed.2d 302 (1969), the Court said that "(n)othing in Alderman v. United States, Ivanov v. United States, or Butenko v. United States, ante, p. 165, requires an adversary proceeding and full disclosure for every issue raised by an electronic surveillance. * * * Here the defendant was entitled to see a transcript of his own conversations and nothing else. He had no right to rummage in government files." Id. at 317, 89 S. Ct. 1099. Despite the foregoing, the defendant's counsel insistently requested what would be, in essence, a full-scale inquiry into F.B.I. practices. The court does not believe that anything was shown which would warrant such an inquiry. Defendant had ample opportunity to demonstrate first, that the logs contained prejudicial material, and second, that the material was communicated to and was used by the Department of Justice in making its recommendation. Had he established the first, partial reason, for holding the defendant's beliefs to be political and racial is completely untenable. The conversation was not a theological discussion. The common slang reference was not within a context which could have had any bearing on the defendant's beliefs. A Negro not a member of the Nation of Islam would be as likely to say the same thing. In addition, if it had been in such a context, and it could be construed to be even viciously derogatory, again there was ample evidence from an independent origin before the Department to conclude that the Muslim religion holds the white race in contempt. See Clay v. United States, *supra* 397 F.2d at 919 n. 16.

"As regards Logs 1 and 3, they are so totally innocuous even defendant's counsel could not point to any specific language which could bear on the defendant's conviction. The thrust of defendant's argument concerning these logs, as well as Logs 2 and 4 was that there must have been other matters discussed by the parties which were relayed to the Department of Justice. The court does not credit this argument. The testimony was clear that the original tapes were erased immediately after the logs were typed, and that the logs received in evidence were the only ones prepared. The individuals who monitored the conversations in Phoenix testified that they communicated no other information to anyone."

[7] Defendant was mailed a copy of the adverse recommendation on November 29, 1966. *See* 397 F.2d at 906.

[8] The District Judge, in his memorandum opinion, said in this regard:

[9] We have, however, examined the recent holding of the Supreme Court in Welsh v. United States, 398 U.S. 333, 90 S.Ct. 1792, 26 L.Ed.2d 308 (1970), to determine if that decision affects the present case. In our view, it does not. The Supreme Court granted Welsh a conscientious objector status because of "deeply and sincerely" held ethical or moral beliefs which imposed on Welsh "a duty of conscience to refrain from participating in any war at any time." The Court found that Welsh's beliefs functioned "as a religion in his life," thereby entitling him to a "religious" conscientious objector exemption under Section 6(j) of the Universal Military Training and Service Act (50 U.S.C. App. § 456(j)), 398 U.S. at 335, 90 S.Ct. at 1795. Section 6(j) grants an exemption from service in the Armed Forces to a registrant "who, by reason of religious training and belief, is conscientiously opposed to participation in *war in any form.*" (Emphasis supplied.) As we pointed out in our original opinion in this case, the Department of Justice recommendation (made in connection with the conscientious objector investigation), to the Kentucky Board of Appeals, stated that Clay's beliefs insofar as they are based upon the teachings of the Nation of Islam "rest on grounds which are primarily political and racial. These constitute objections *to only certain types of war in certain circumstances, rather than a general scruple against participation in war in any form.*" (Emphasis supplied.) *See* 397 F.2d at 918–919. The Kentucky Board of Appeals thereafter continued the I–A classification of Clay. That there was also a "basis in fact" for the numerous local board, state appeal boards (Kentucky and Texas) and Presidential Appeal Board I–A classifications of Clay, thereby including an adverse determination of the question of Clay's basic sincerity, is amply shown and detailed in our original opinion and in the record to which reference is made. *See* 397 F.2d at 918–921.

[10] Defendant has cited the Presbyterian Church in United States v. Mary E. B. Hull Mem. Pres. Ch., 393 U.S. 440, 89 S.Ct. 601, 21 L.Ed.2d 658 (1969), in support of its contention that the Department of Justice's analysis that the teachings of the Nation of Islam are primarily political and racial and that this interpretation violates the establishment clause of the First Amendment. We reject this argument for reasons which we have discussed in full in our original opinion in this case relative to Muslim tenets. *See* 397 F.2d at 918–921.

[11] We have carefully considered all of the additional contentions of defendant, but find them to be without merit, and accordingly they are rejected.

Bertram ZWEIBON et al., Plaintiffs, v. John N. MITCHELL et al., Defendants.

[U.S. District Court, District of Columbia, Civ. A. No. 2025–71, July 20, 1973]

Action by members of organization which was demonstrating against Soviet policy against the Attorney General and special agents or special employees of the Federal Bureau of Investigation to recover damages allegedly sustained as result of alleged unlawful electronic surveillance of the organization's New York headquarters. On motions and cross motion for summary judgment, the District Court, John H. Pratt, J., held that evidence established that the activities of the organization posed a threat to the continuance of peaceful foreign relations with the Soviet Union and subjected American citizens living in Moscow to harm by retaliation, that no prior authorization from a court was necessary where the electronic surveillance related to foreign aspects of national security, that it was within the constitutional power of the President acting through the Attorney General to gather intelligence by authorizing electronic surveillance relating to foreign affairs, that the damages provisions of the Omnibus Crime Control and Safe Streets Act did not apply to electronic surveillance conducted pursuant to the President's national security powers and that the electronic surveillance installed in the organization's headquarters under the constitutional authority of the President in foreign relations and his inherent power to protect national security, without prior judicial authorization, were reasonable within the meaning of the Fourth Amendment and were lawful.

Order in accordance with opinion.

1. Telecommunications—496

Electronic surveillance of New York headquarters of organization which was demonstrating against Soviet policy, during the month of October, 1970, and from January 5, 1971, to July 1, 1971, was proper exercise of the President's constitutional authority to conduct the nation's foreign relations and his power to protect the national security. 18 U.S.C.A. §§ 2510–2520, 2511(3).

2. Telecommunications—496

Provisions of the Omnibus Crime Control and Safe Streets Act pertaining to circumstances under which electronic surveillance might be conducted had no application and could not be invoked with respect to electronic surveillances conducted pursuant to the President's national security powers. 18 U.S.C.A. §§ 2510–2520.

3. Telecommunications—498

Where wiretap of telephone of organization which was demonstrating against Soviet policy was conducted pursuant to the President's national security powers and authorized by the Attorney General, the organization and its members were not entitled to recover damages from the United States under the Omnibus Crime Control and Safe Streets Act for the surveillance. 18 U.S.C.A. §§ 2510–2520.

4. Telecommunications—496

Evidence established that activities of organization which was demonstrating against Soviet policy posed threat to the continuance of peaceful foreign relations with the Soviet Union and subjected American citizens living in Moscow to harm by retaliation and that the Attorney General was entitled to authorize electronic surveillance of the organization's headquarters. 18 U.S.C.A. §§ 2510–2520.

5. Telecommunications—496

Where evidence established that activities of organization which was demonstrating against Soviet policy posed threat to continuance of peaceful foreign relations with Soviet Union and subjected American citizens living in Moscow to harm by retaliation, there was clear threat to the United States' foreign relations and it was for the executive and not the judiciary to determine whether electronic surveillance required prior judicial authorization. 18 U.S.C.A. §§ 2510–2520.

6. Telecommunications—496

No prior authorization by a court for electronic surveillance is necessary where the electronic surveillance relates to the foreign aspects of our national security. 18 U.S.C.A. §§ 2510–2520.

7. Telecommunications—496

It is within the constitutional power of the President, acting through the Attorney General, to gather intelligence by authorizing electronic surveillance relating to foreign affairs and deemed essential to protect the country against hostile acts of a foreign power. 18 U.S.C.A. §§ 2510–2520.

8. Searches and Seizures—7(10)

Where electronic surveillance was installed in New York headquarters of organization demonstrating against Soviet policy under the constitutional authority of the President over conduct of foreign affairs and his inherent power to protect the national security and the activities of the organization constituted clear threat to foreign relations, the electronic surveillance, without prior judicial authorization, was reasonable within the meaning of the Fourth Amendment and was lawful. U.S.C.A. Const. Amend. 4; 18 U.S.C.A. §§ 2510–2520.

Nathan Lewin, Washington, D.C., for plaintiffs.

Earl Kaplan, Edward S. Christenbury, Kevin T. Maroney, Benjamin C. Flannagan, Dept. of Justice, for defendants.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

John H. Pratt, District Judge.

Upon consideration of plaintiffs' motion for partial summary judgment and the cross-motion by the defendants for summary judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure, the affidavits and exhibits of record, and the Court being fully advised, finds the facts and states the conclusions of law as follows:

Findings of Fact

1. The sixteen plaintiffs during the period of time covered by this section were members of or associated with the Jewish Defense League (JDL), an organization with headquarters in New York City.

2. The defendant John N. Mitchell served as the Attorney General of the United States during the years 1969–1972, which encompasses the period of the acts complained of. The defendants Malcolm J. Barrett, Alfred E. Camire, H. F. Doherty, Anthony T. Drabik, A. M. Gansky, Gerald C. Holland, R. W. Patterson, Eddie A. Sodolak and W. R. Sweeney are special agents or special employees of the Federal Bureau of Investigation (FBI).

3. This action is brought under Title 18, U.S. Code §§ 2510–2520 for damages imposed by that statute resulting from alleged unlawful electronic surveillance overhearings of plaintiffs' telephone conversations during the month of October, 1970 and from January 5, 1971 through June 30, 1971.

4. The defendant special agents and employees of the FBI, acting under the direction of the Attorney General, summarized the overhearings of the plaintiffs' conversations during the period the telephone at the JDL headquarters was surveilled. The summaries or logs of plaintiffs' conversations have been made available to the plaintiffs by the defendants.

5. This action grows out of the admission by the Government, in open court in the consolidated cases of United States v. Bieber et al., 71 CR 479 (E.D. N.Y.) and United States v. Joffe et al., 71 CR 480 (E.D.N.Y.) on July 6, 1971, that conversations of certain defendants in the foregoing cases, all members of the JDL, had been overheard during the course of a national security electronic surveillance.

6. In a memorandum for the Attorney General dated September 14, 1970, the Director of the FBI requested that a surveillance of the telephone of the JDL headquarters be authorized during the month of October, 1970 on the occasion of the 25th session of the General Assembly of the United Nations. In the memorandum the Director advised the Attorney General that the JDL has demonstrated a proclivity for demonstrations and violence in the form of attacks on Soviet and Arab diplomatic installations in this country, as well as by participation in demonstrations in New York City, which resulted in injury to private citizens and law enforcement officers. The Director pointed out the concern of the White House that utmost security be afforded to foreign dignitaries visiting New York City and that a surveillance of the telephone of JDL headquarters could provide advance knowledge of any activities of JDL causing international embarrassment to this country. This first authorization was approved by the Attorney General, defendant John N. Mitchell, on September 15, 1970.

7. On January 4, 1971 the Director of the FBI advised the Attorney General that activities by members of the JDL have taken the form of demonstrations targeted against Soviet diplomatic installations, protesting the treatment by the Soviet Government of the Jewish population in Russia; that the demonstrations have been the subject of numerous official protests by the Soviet Government alleging harassment of Soviet personnel and failure on the part of the United States Government to provide adequate protection and security for members of the Soviet diplomatic community in this country; that the renewed tensions in the Middle East and recent decisions by Soviet Courts directed against Soviet Jews have resulted in increased demonstrations against Soviet diplomatic installations throughout the world; and that a surveillance of the telephone of JDL headquarters could be expected to provide advance knowledge of activities of the group directed against diplomatic establishments, which could cause international embarrassment to the United States. This second authorization to conduct a surveillance was approved by the Attorney General on January 4, 1971.

8. On March 31, 1971, the Attorney General approved the continuation of the previously authorized electronic surveillance of the telephone of the headquarters of the JDL for a three-month period effective April 4, 1971 upon the representation of the Director of the FBI that:

During the past three months, the authorized surveillance has continued to reveal details of plans by the Jewish Defense League (JDL) to continue its program of harassment of Soviet and Arab bloc diplomats in New York City and Washington, D.C. In each instance the installation furnished otherwise unobtainable information well in advance of public statements by the JDL, thereby allowing for adequate counter-measures to be taken by appropriate police and security forces.

9. Prior to his first authorization on September 15, 1970 for the electronic surveillance of the telephone at JDL headquarters, the Attorney General had conversations with the Director of the FBI as well as a number of other people in the National Security Council and the Department of State concerning the impact of JDL activities on the foreign policy of this country based on JDL actions in 1969 and 1970. The Attorney General was aware of the representations made by the Soviet Government to this country that the United States had failed to provide adequate protection to the diplomatic instalations of the Soviet Government in this country and that there was a possibility of retaliation against American diplomats in Moscow as a result of the activities of this JDL.

10. In authorizing the electronic surveillance, the Attorney General relied on the total knowledge received from the Department of State and the National Security Council and from meetings with the Director of the FBI prior to the first authorization of electronic surveillance on September 15, 1970, and these conversations with officials of the above-named agencies continued off and on until approximately March, 1971.

11. Further evidence of the impact which the activities of the members of the JDL had on the foreign relations between this country and the Soviet Union is documented by the following telegrams and memoranda, copies of which were attached as exhibits to defendants' motion for summary judgment.

(a) December 30, 1969, United States Mission to the United Nations (USUN) advises Secretary of State of protest by Ambassador Malir of demonstrations against the Soviet Mission and other incidents and alleged complicity by the United States Government and JDL to sabotage four-power talks. Exhibit B–3(1).

(b) December 30, 1969, Secretary of State advises American Embassy, Moscow, concerning protest by Ambassador Dobrynin of property damage to Aeroflot and Tass offices. Dobrynin "alluded to possible adverse repercussions on United States-Soviet relations." The incidents of damage were described by Soviets as part of a series organized by JDL. In the telegram the State Department concluded that "fact of high-level protest increases possibility of retaliation." Exhibit B–4(1).

(c) December 31, 1969, American Embassy, Moscow, forwards to Secretary of State translation of Soviet protest of JDL activities. Included in the translation is the following statement: "The above-mentioned hostile actions against Soviet Mission to the United Nations and other Soviet diplomatic institutions in New York can have serious consequences, the responsibility of which rest fully on the United States Government." Exhibits B–5(1) and B–2(1).

(d) June 4, 1970, American Embassy, Moscow, relates to Secretary of State oral protest by Soviets of May 20 involving incident at Soviet Mission to the United Nations (SMUN) and hinting at retaliation in Moscow as harassment by Zionist organizations continues in New York. Exhibit B–3(3).

(e) June 23, 1970, Secretary of State advises American Embassy, Moscow, of protest by Ambassador Dobrynin to Assistant Secretary Hillenbrand regarding the June 23 break-in by JDL at Amtorg offices in New York. The telegram states: "in closing Dobrynin noted previous Soviet protest on June 4 regarding anti-Soviet activities of Jewish militants in New York. Went on to say that, as Department is aware, Soviet Government had kept these incidents from knowledge of Soviet people. Dobrynin added, however, he was not sure security could be maintained and that he felt 'unpredictable consequences' if Soviet public opinion became aware of fact and aroused by anti-Soviet actions of Jewish militants in U.S." Exhibit B–4(3).

(f) On June 30, 1970 the Department of State in a memorandum to the Federal Bureau of Investigation referred to a recent raid by the JDL and requested the assistance of the Federal Bureau of Investigation in taking appropriate action. Attached to the memorandum is an internal State Department memorandum from the Soviet desk advising that "Jewish Defense League activity is beginning to have a negative effect on the conduct of our relations with the USSR * * *. In addition, the JDL's resort to physical violence during its raid on the Amtorg office raises the possibility of Soviet retaliation against United States Embassy personnel in Moscow." Exhibits B–1(1)(2).

(g) July 21, 1970, Secretary of State advises American Embassy, Moscow, of strong protests from SMUN concerning JDL incident at Soviet residences at Glen Cove, Long Island. Exhibit B–4(4).

(h) October 1, 1970, American Embassy, Moscow, to Secretary of State submits text of USSR protest on anti-Soviet campaign in United States by JDL. The protest note indicates that the continued provocations will have unfavorable consequences for the relations between the United States and Soviet Union which according to the Soviet Government do not meet the interests either of the Soviet or the American people. Exhibits B-1(3)(4).

(i) December 2, 1970, American Embassy, Moscow, advises Secretary of State that oral statement was delivered by a Soviet Ministry official to an Embassy officer reciting incidents of November 20 involving Tass in Washington, November 22 "outrage" at SMUN, November 24–25 explosion at Aeroflot-Intourist office, and JDL press conferences taking responsibility for the acts. The statement concludes with a warning that United States should not count on patience of "legitimately aroused" Soviet society lasting indefinitely. Exhibit B–3(4).

(j) December 11, 1970, American Embassy, Moscow, to Secretary of State sets forth text of statement from Soviet foreign ministry cancelling the 1971 Bolshoi Ballet and Opera Tour, USA because of hostile activities of JDL. Exhibit B–5(3).

(k) December 31, 1970, Secretary of State to USUN, FBI and Secret Service—Department of State advises "that further incidents of violence would have damaging impact on our overall relations with USSR and possibly trigger reaction against Americans in Soviet Union." Exhibit B–4(6).

(l) January 5, 1971, Secretary of State to American Embassy, Moscow, advises of receipt of note from Soviet Union calling attention to continued "hostile campaign" against Soviet Mission and institutions in the United States and accusing United States of conniving in these criminal acts. The note concludes by stating "that because of its failure to ensure normal conditions for the activities of Soviet institutions in the United States that the United States Government cannot, therefore, count on such conditions being ensured for American institutions in the Soviet Union." The State Department concludes by indicating that the Soviets now raise the threat of officially inspired retaliation. Exhibit B–4(7).

(m) January 7, 1971, Secretary of State advises American Embassy, Moscow, of meeting between Dobrynin and Hillenbrand. Dobrynin condemned activities of JDL and said the Soviets did not want to create an anti-United States feeling in the USSR but there are definite limitations to what one can bear. Exhibit B–4(8).

(n) January 6, 1970, American Embassy, Moscow, advises Secretary of State that Soviet Embassy statement of January 5, 1971 was carried in Moscow papers and includes threat of possible retaliation against United States establishments in USSR. Embassy advises of flock of Soviet telegrams to Embassy expressing indignation of Zionist activities and recites one incident of verbal harassment of a foreign service officer. Embassy also advises of friction in their contacts outside ministry of foreign affairs. Exhibit B–5(5).

(o) January 9, 1971, Secretary of State advises American Embassy, Moscow, regarding receipt of Soviet protests concerning January 8, 1971 explosion at Embassy in Washington. The Soviet protest note refers to JDL's announced intentions to make attempts on the lives of employees in Soviet establishments in the United States. State Department official expressed shock of implied threat of retaliation on Soviet side. Soviet official warned that Soviet authority would have trouble controlling "feelings of our people" in USSR should incidents continue unabated. Exhibit B–3(6).

(p) January 10, 1971, American Embassy, Moscow, advises Secretary of State regarding article in Izvestiya on January 9 concerning JDL acts of terrorism. On evening of January 9 an act of vandalism occurred to the car of AP correspondent in Moscow as well as a separate act of harassment to an Embassy officer. Protest letters to American Embassy continue with threats to sack Embassy and damage American automobiles. Exhibit B–3(7).

(q) January 11, 1971, Secretary of State advises American Embassy, Moscow, of State Department protest of Soviet harassment of Americans in Moscow, Exhibit B–3(8). On January 12, 1971, American Embassy reports to Secretary of State on American protest to Soviet Government for acts of vandalism which reveal "unmistakable signs of retaliation." Exhibit B–3(10).

(r) January 12, 1971, USUN to Secretary of State regarding news report that JDL leader Kahane is forming teams to "follow, question and harass" Soviet diplomats in New York City. SMUN official complained to USUN officials of Kahane's latest threat. Exhibit B–3(9).

(s) January 14, 1971, USUN advises Secretary of State of receipt of protest note from Soviet Mission listing various hostile acts against Soviet institutions by JDL. Exhibit B–3(11).

(t) February 17, 1971, USUN advises Secretary of State of note from SMUN protesting anti-Soviet demonstration by JDL at SMUN and campaign of harassment against Soviet personnel. Exhibit B–3(12).

(u) March 18, 1971, Secretary of State advises American Embassy, Moscow, that Dobrynin lodged a formal protest regarding violation of diplomatic premises in Washington by JDL and of JDL campaign to disrupt normal functioning of Soviet offices by tying up telephone lines. Exhibit B–4(10).

(v) March 24, 1971, Secretary of State advises American Embassy, Moscow, of receipt of protest note by Soviets regarding JDL activities. Exhibit B–3(13).

(w) April 23 and 24, 1971, series of telegrams between Secretary of State and American Embassy and USUN regarding protests from the Soviet Government regarding the bombing of the Amtorg offices on April 22. The Soviet Embassy advised the State Department that the American explosion was the third explosion organized by the league in recent times agaist Soviet organizations. Exhibit B–4(12). Protest note received by the American Embassy in Moscow refers to the unbridled campaign hostile to the USSR being conducted in the United States by the JDL "which has proclaimed as its goal the creation of intolerable conditions for the work of Soviet establishments in the United States and which is using for this, methods of vandalism and terror. * * * The United States Government is deluding itself if it believes that the Soviet public will not react to the provocative acts of the American Zionists." Exhibits B–5(8) and (9). See also Exhibits B–5(6), B–4(12) and B–3(14). The foregoing are but a few of numerous other telegrams and memoranda during the same period between the same parties and concerning the same subject matter.

12. The surveillances in question were authorized by the Attorney General after a determination was made by him that the activities of the JDL were obviously detrimental to the continued peaceful relations between the United States and the Soviet Union and threatened the President's ability and constitutional authority to conduct the foreign relations of this country.

Conclusions of Law

[1] 1. The electronic surveillances of JDL headquarters in New York City during the month of October, 1970 and from January 5, 1971 to July 1, 1971 were a proper exercise of the President's constitutional authority to conduct the nation's foreign relations and his power to protect the national security.

2. Section 2511(3) of Title 18, United States Code, specifies certain conduct by the President which is outside of the ambit of the prohibitions and penalties set forth in Title III of the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. §§ 2510–2520. The pertinent part of Section 2511(3) provides:

> "Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1103; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to

protect national security information against foreign intelligence activities. * * * The contents of any wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial, hearing, or other proceeding only where such interception was reasonable, and shall not be otherwise used or disclosed except as is necessary *to implement* that power."

3. Congress through Section 2511(3) disclaimed any attempt to legislate either affirmatively or negatively with respect to the national security powers of the President and specifically referred to the authority of the President to conduct electronic surveillance pursuant to his national security powers.

4. The Supreme Court in United States v. United States District Court for the Eastern District of Michigan and the Honorable Damon J. Keith, 407 U.S. 297, 92 S.Ct. 2125, 32 L.Ed.2d 752 (1972) concluded that Title III of the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. §§ 2510–2520, did not apply to national security surveillances by the Executive. Specifically, the Court concluded in its discussion of this provision that while Section 2511(3) constitutes ". . . an implicit recognition that the President does have certain powers in the specified areas" (407 U.S. at 303, 92 S.Ct. at 2130) * * * "[w]e . . . think the conclusion inescapable that Congress only intended to make clear that the Act (18 U.S.C. §§ 2510–2520) simply did not legislate with respect to national security surveillances." *Id.* at 306, 92 S.Ct. at 2131.

[2, 3] 5. It is concluded therefore that 18 U.S.C. §§ 2510–2520 has no application and cannot be invoked with respect to electronic surveillances conducted pursuant to the President's national security powers. Plaintiff's complaint and claim for damages pursuant to 18 U.S.C. §2520 have no basis in the statute relied upon.

6. In deciding the issue of lawfulness of the surveillance in question, it is noted that the Supreme Court in *Keith* expressly reserved the question as to the scope of the President's surveillance power with respect to the foreign aspects of a national security surveillance. The Supreme Court in *Keith* said:

"*It is* important at the outset to emphasize the limited nature of the question before the Court . . . [T]he instant case requires no judgment on the scope of the President's surveillance power with respect to the activities of foreign powers, within or without the country . . . [for] there is no evidence [in this case] of any involvement, directly or indirectly, of a foreign power.[1]

And, in its conclusion, the Court reiterated the scope of its decision by stating that:

"We emphasize, before concluding this opinion, the scope of our decision. As stated at the outset, this case involves only the domestic aspects of national security. We have not addressed, and express no opinion as to, the issues which may be involved with respect to activities of foreign powers or their agents." 407 U.S. at 321–322, 92 S.Ct. at 2139.

[4, 5] 7. The activities of the JDL posed a threat to the continuance of our peaceful foreign relations with the Soviet Union and subjected American citizens living in Moscow to harm by retaliation. Under the facts of this case, which show a clear threat to this country's foreign relations, it is the executive and not the judiciary, which should determine whether or not an electronic surveillance requires prior judicial authorization.

[6] 8. No prior authorization from a Court is necessary where, as in this case, electronic surveillance relate to the foreign aspects of our national security. The *Keith* case, dealing only with the domestic aspects of our national security, is clearly distinguishable. *Keith, supra,* 407 U.S. 297, 321–322, 92 S. Ct. 2125, 32 L.Ed.2d 752.

[7] 9. It is within the constitutional power of the President acting through the Attorney General to gather intelligence by authorizing electronic surveillance relating to foreign affairs and deemed essential to protect this nation and its citizens against hostile acts of a foreign power.

[8] 10. The electronic surveillances were installed in this case under the constitutional authority of the President over the conduct of foreign relations and his inherent power to protect our national security. Based on the facts of this case the surveillances, without prior judicial authorization, were reasonable within the meaning of the Fourth Amendment and were therefore lawful.

11. In view of the foregoing conclusion of lawfulness of the acts complained of, the remaining defenses asserted by the defendants of executive and sovereign immunity are not reached.

An order consistent with the foregoing has been entered this day.

Margo Seaman, on behalf of herself and all others similarly situated, Plaintiff, v. Spring Lake Park Independent School District No. 16 et al., Defendants.

[U.S. District Court, D. Minnesota, Fourth Division, No. 4–73–Civ. 23, Jan. 22, 1973]

Seven months pregnant teacher whom school sought to put on an immediate semester's leave of absence, contrary to her wishes to continue to teach up until her confinement and to return to teach three weeks after giving birth, brought action for injunctive relief for herself and the class she claimed to represent. The District Court, Larson, J., held that in view of the fact that the only apparent reason for action of school board was the unalterable biological sex-related function which did not impair her ability to teach preliminary injunctive relief would be granted.

Injunction granted.

1. Injunction—151

Request for preliminary injunctive relief involves balancing of equities on the knowledge at hand pending full exploration of factual details and/or further development of legal theories by parties.

2. Injunction—151

Considerations on motion for preliminary injunction include plaintiff's eventual likelihood of success on merits, whether or not plaintiff will be irreparably damaged if court does not grant relief sought, extent of injury to defendant if injunction issues and the public interest.

3. Civil Rights—13.2(4)

On consideration of circumstances, court would grant preliminary injunction in civil rights case against school district's attempt to force seven months pregnant teacher to take an immediate semester's leave of absence contrary to her wishes to continue her team teaching until confinement and to return to teaching three weeks after having given birth, since the only apparent reason for school district action was the unalterable biological sex-related function which did not impair her ability to teach. U.S.C.A. Const. Amend. 14; Fed. Rules Civ. Proc. rule 52, 28 U.S.C.A.; 42 U.S.C.A. § 1983; M.S.A. § 125.12, subd. 7.

Ellen Dresselhuis, Minneapolis, Minn., for plaintiff.

United States versus Abbott Hoffman, also known as Abbie Hoffman.

[U.S. District Court, District of Columbia, Crim. No. 973–71, Nov. 23, 1971]

Proceeding on motion for disclosure of records of electronic surveillance and on motion to dismiss indictment. The District Court, John Lewis Smith, Jr., J., held that defendant's conversations, which were intercepted during electronic surveillances conducted on domestic organizations and expressly authorized by President without judicial approval, were intercepted illegally, and their disclosure was required, but that defendant's conversations, which were intercepted during electronic surveillance conducted for purpose of gaining foreign intelligence information and expressly authorized by President without judicial approval, were not intercepted illegally, and disclosure was not required. The court further held that statutes making it unlawful to travel interstate with intent to organize, promote, encourage and participate in a riot and to obstruct, impede and interfere with law enforcement officers during commission of a civil disorder are not violative of constitutional guarantees of free speech and assembly, nor are they unconstitutional exercise of the commerce power.

Decree accordingly.

1. Criminal Law—394.5(2)

Defendant, who was a party to overheard conversations, had standing to object to use of any of electronic surveillances which court might find to be illegal.

2. Criminal Law—627.7(2) Telecommunications—496

Defendant's conversations, which were intercepted during electronic surveillances conducted on domestic organizations and expressly authorized by President without judicial approval, were intercepted illegally, and their disclosure was required. 18 U.S.C.A. §§ 2510 et seq., 2511(3); U.S.C.A.Const. Amend. 4; Communications Act of 1934, § 605, 47 U.S.C.A. § 605.

3. Criminal Law—627.7(2) Telecommunications—496

Defendant's conversations, which were intercepted during electronic surveillance conducted for purpose of gaining foreign intelligence information and expressly authorized by President without judicial approval, were not intercepted illegally, and disclosure was not required. 18 U.S.C.A. §§ 2510 et seq., 2511(3); U.S.C.A. Const. Amend. 4; Communications Act of 1934, § 605, 47 U.S.C.A. § 605.

On Motion to Dismiss Indictment

4. Commerce—82 Constitutional Law—90, 91, Obstructing Justice—2, Riot—1

Statutes making it unlawful to travel interstate with intent to organize, promote, encourage and participate in a riot and to obstruct, impede and interfere with law enforcement officers during commission of a civil disorder are not violative of constitutional guarantees of free speech and assembly, nor are they unconstitutional exercises of the commerce power. 18 U.S.C.A. §§ 231(a) (3), 2101.

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[1] "Section 2511(3) refers to 'the constitutional power of the President' in two types of situations: (i) where necessary to protect against attack, other hostile acts or intelligence activities of a 'foreign power'; or (ii) where necessary to protect against the overthrow of the Government or other clear and present danger to the structure or existence of the Government. Although both of the specified situations are sometimes referred to as 'national security' threats, the term 'national security' is used only in the first sentence of § 2511(3) with respect to the activities of foreign powers. *This case involves only the second sentence of § 2511(3), with the threat emanating—according to the Attorney General's affidavit—from 'domestic organizations.'* Although we attempt no precise definition, we use the term 'domestic organization' in this opinion to mean a group or organization (whether formally or informally constituted) composed of citizens of the United States and which has no significant connection with a foreign power, its agents or agencies. No doubt there are cases where it will be difficult to distinguish between 'domestic' and 'foreign' unlawful activities directed against the Government of the United States where there is collaboration in varying degrees between domestic groups or organizations and agents or agencies of foreign powers. *But this is not such a case.*" 407 U.S. at 308–309, 92 S.Ct. at 2132. (Emphasis supplied.)

5. Constitutional Law—83(1) Riot—1

Statute making it unlawful to travel interstate with intent to organize, promote, encourage and participate in a riot does not violate right of freedom to travel throughout the union. 18 U.S.C.A. § 2101.

6. Constitutional Law—258 Riot—1

Statute making it unlawful to travel interstate with intent to organize, promote, encourage and participate in a riot, when viewed with indictment in case, did not violate due process by authorizing conviction where unlawful intent and prohibited act did not coincide, nor was it an attempt to perpetuate status of inferiority imposed upon blacks by system of slavery. 18 U.S.C.A. § 2101.

Joseph J. Tafe, Department of Justice, Washington, D. C., for plaintiff.

Gerald B. Lecourt, New York City, Philip Hirschkop, Alexandria, Va., for defendant.

ORDER

John Lewis Smith, Jr., District Judge.

On May 13, 1971 the defendant was indicted for violations of 18 U.S.C. §§ 231(a) (3) and 2101. On June 30, 1971 he moved pursuant to Rules 16 and 41, F.R. Crim.P., and the Fourth, Fifth and Sixth Amendments to the Constitution, for disclosure of all records of electronic surveillance of any communications to which he was a party or which were conducted at his premises. He also requests such records for any premises in which he had an interest; of any surveillance conducted for the purpose of gathering leads or evidence against him; any such surveillance conducted at a place where he was present; any such surveillance during which he was referred to; any such surveillance in which any party is unidentified; and any such surveillance involving his attorneys.

Defendant also seeks an evidentiary hearing prior to trial to determine whether the government has fully complied with all of his requests, to determine his standing to raise the issue of the legality of such surveillance, and to determine the extent to which such surveillance has tainted the evidence upon which the indictment is based.

In opposition to that motion the government states that Hoffman has never been the subject of direct electronic surveillance but that conversations believed to be his have been overheard during five surveillances conducted without prior judicial approval but authorized by the President to obtain foreign intelligence information or safeguard the national security. The government has, in a sealed exhibit, submitted the records of those five surveillances as they pertain to the defendant and requested that the Court examine those records *in camera*. On July 21, 1971 this motion was extensively argued by counsel.

[1] In Alderman v. United States, 394 U.S. 165, 89 S.Ct 96, 22 L. Ed. 2d 176 (1969), the Supreme Court held that the government must disclose to the defendant any conversations participated in by him or occurring on his premises, provided those conversations were overheard during the course of an illegal electronic surveillance. Disclosure is required so that the defendant may determine whether any evidence against him is based on illegal surveillance. Hoffman has standing to object to the use of any of the five surveillances which this Court finds to be illegal because he was a party to the overheard conversations. Alderman v. United States, *supra*. The government contends that disclosure of these surveillance records is not required by *Alderman* because they were not illegal, in spite of being initiated and conducted without prior warrant. A finding by this Court that the surveillances in this case were lawful would make disclosure and further proceedings unnecessary. Giordano v. United States, 394 U.S. 310, 89 S.Ct. 1163, L.Ed.2d 297 (1969).

As Justice Stewart pointed out in his concurring opinion in *Giordano, Alderman* did not specify the procedures to be followed by the district court in making the preliminary determination of whether the surveillance violates the Fourth Amendment.

Neither does *Alderman* require an adversary hearing and full disclosure for resolution of every issue raised by an electronic surveillance or give the defendant the right to rummage through government files. Taglianetti v. United States, 394 U.S. 316, 89 S.Ct. 1099, 22 L.Ed.2d 302 (1969). Upon examination, *in camera*, of the documents submitted in the sealed exhibit, the Court deems it appropriate to make the required preliminary determination of whether any of the conversations of the defendant were overheard in violation of his Fourth Amendment rights. An evidentiary hearing is not required to make that determination.

The surveillance records submitted by the government clearly indicate that they were not directed against the defendant nor at his premises. Those five surveillances were expressly authorized by the President, acting through the Attorney General, without judicial approval, and deemed necessary to protect national security.

The government contends that the President has the inherent power to gather intelligence information through electronic surveillance, upon his determination that it is necessary to protect the national security, without securing a prior warrant. Reliance for this authority is grounded upon the presidential power in the field of foreign affairs, a thirty-year history of authorizations by President's recognizing the necessity for such surveillance where national defense is involved, and the congressional recognition of that power by the enactment of 18 U.S.C. § 2511(3). It is contended that the power to authorize surveillance deemed necessary to protect national security is closely related to the power to obtain foreign intelligence information.

The government maintains that the protection of national security could not be adequately achieved within the context of a warrant procedure because of the wide range of factors which bear on the decision, the secrecy of some of those factors, and the possibility of leaks. It claims that even without the warrant requirement, the Presidential prerogative is not without restraints. For instance, only the President and his sole delegate, the Attorney General, may exercise the power; the President must apply the strict standard of "national security" involvement; such surveillance is subject to *in camera* judicial review, such as is suggested here; and the President is subject to the will of the electorate if his exercise of the power is not approved by a majority.

The government position in likening the foreign intelligence justification to situations where the President determines that the national security warrants it is especially pertinent in this case where four of the five surveillances were of domestic organizations and were instituted for the express purpose of gaining information regarding the activities of those organizations, obtaining evidence of violations of federal law, or both, and the fifth surveillance was for the purpose of gathering foreign intelligence information which was deemed necessary in the conduct of foreign affairs. This Court must, therefore, determine the legality of both the "foreign" and the "domestic" surveillances.

The government contends that foreign and domestic affairs are inextricably intertwined and that any attempt to legally distinguish the impact of foreign affairs from the matters of internal subversive activities is an exercise in futility. That argument is not compelling, however, after an examination by the Court of the five surveillance authorizations involved in this case. Further, in view of the important individual rights protected by the Fourth Amendment, any such difficulty in separating foreign and domestic situations should be resolved in favor of interposing the prior warrant requirement. The government has apparently chosen to deal with dissident domestic organizations in the same manner as it does with hostile foreign powers.

The same arguments presented by the government here have recently been considered by several district courts and at least one circuit. United States v. United States District Court for Eastern Dis. of Mich., So.Div., 444 F.2d 651 (6th Cir., 1971), cert. granted, 403 U.S. 930, 91 S. Ct. 2255, 29 L.Ed.2d 708 (1971); United States v. Donghi, Cr. No. 1970–81 (W.D.N.Y., May 14, 1971); United States v. Hilliard, Cr. No. 69–141 (N.D.Cal., May 4, 1971); United States v. Smith, 321 F.Supp. 424 (C.D.Cal., 1971); United States v. O'Neal, Cr. No. KC–CR–1204 (D.C.Kan., September 1, 1970); and United States v. Dellinger, Cr. No. 180 (N.D.Ill., February 20, 1970). All of those cases appear to involve the surveillance of domestic organizations to protect national security rather than the gathering of foreign intelligence information. The clear weight of those authorities is that disclosure is required by *Alderman* where the surveillance was directed at domestic organizations although recognizing that the constitutional limitations which are reasonable and proper when solely domestic subversion is involved may not apply to the conduct of foreign affairs.

The legality of electronic surveillance for the gathering of foreign intelligence information deemed necessary for the conduct of foreign affairs and the protection from espionage and sabotage is still an open question. Giordano v. United States, Id. at 313, 89 S.Ct. 1163 (Stewart, J., concurring); Katz v. United States, 389 U.S. 347, 364, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967). (White, J., concurring). *Alderman*, however, would require disclosure even where national security interests are at stake if it is determined that the surveillance was illegal.

The Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. § 2510, *et seq.*, recognizes that its provisions or the provisions of the Communications Act of 1934, 47 U.S.C. § 605, are not deemed to limit the constitutional power of the President to gather essential foreign intelligence information and protect against the overthrow of the government by force or other unlawful means. However, the contents of any communications intercepted by authority of the President under those powers may only be received in evidence where such interception is reasonable. 18 U.S.C. § 2511 (3).

There is no constitutional provision authorizing the President to conduct warrantless searches in domestic situations although authorization may impliedly exist where necessary in the conduct of foreign affairs. The government contention that where electronic surveillance has been deemed necessary by the President to safeguard national security there has been a determination of reasonableness would eliminate the warrant requirement of the Fourth Amendment. This prior warrant requirement is subject only to narrow, well-recognized exceptions, Chimel v. California, 395 U.S. 752, 89 S.Ct. 2034, L.Ed.2d 685 (1969), even where the facts disclose later that probable cause did exist. Katz v. United States, *Id.* Claims of inherent Presidential powers, where such powers have invaded constitutionally protected individual rights, have been rejected by the Supreme Court. New York Times Co. v. United States, 403 U.S. 713, 91 S. Ct. 2140, 29 L.Ed.2d 822 (1971); Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 72 S. Ct. 863, 96 L.Ed. 1153 (1952).

United States v. Clay, 430 F.2d 165 (5th Cir. 1970), rev'd on other grounds, 403 U.S. 698, 91 S.Ct. 2068, 29 L.Ed.2d 810 (1971), involved a strikingly similar situation in that the fifth of five electronic surveillances, records of which the defendant sought to obtain, has been instituted for the purpose of gathering foreign intelligence information. The fifth log was considered *in camera* after which it was held that the surveillance was lawful, reasonable and necessary to protect the government's interest. The Court balanced the rights of the defendant with the national interest and found that his rights were properly safeguarded by the *in camera* examination of the fifth log. A similar result was rejected, however, where the rights of the defendant were balanced with the national interest in conducting warrantless surveillances in domestic security situations. United States v. Keith, *Id.*

The *Court, in Clay,* also recognized that 18 U.S.C. § 2511(3) is a clear statement by Congress not to limit the prerogative of the President to obtain foreign intelligence information. This issue was presented to the Supreme Court in the application for writ of certiorari. The writ was granted, however, only on the issue of conscientious objector status. 400 U.S. 990, 91 S.Ct. 457, 27 L.Ed.2d 438 (1971).

In *Katz,* the Supreme Court explicitly discarded the property concept in search and seizure cases and held the Fourth Amendment fully applicable to electronic eavesdropping. All of the interceptions involved in this case were made after the decision in *Katz* and that ruling is fully applicable.

Weeks v. United States, 232 U.S. 383, 34 S. Ct. 341, 58 L.Ed. 652 (1914), and Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1284, 6 L.Ed.2d 1081 (1961), have established that any products of a search conducted in violation of the Fourth Amendment shall not be admitted against the defendant at his trial. In Silverthorne Lumber Co. v. United States 251 U.S. 385, 40 S.Ct. 182, 64 L.Ed. 319 (1920) the exclusionary rule of *Weeks* was expanded to prohibit the admission of any fruits derived from illegally seized evidence.

[2] This Court finds that the defendant's conversations intercepted during the four electronic surveillances conducted on the domestic organizations were intercepted illegally and that *Alderman* mandates their disclosure.

[3] This Court also finds that the defendant's conversations intercepted during the fifth electronic surveillance, conducted the the purpose of gaining foreign intelligence information, was not intercepted illegally.

The interceptions of Hoffman's conversations through the four domestic surveillances involve six separate, brief conversations occurring during a period of almost two years, the most recent being at least a month prior to the date of the indictment. It appears to the Court that none of those interceptions are related to the subject matter of that indictment. Those surveillance records, however, may have impeachment value or may relate, in some way not readily apparent, to the evidence presented during the trial of this case. The defendant's contention that the evidence upon which the indictment is based is illegal is without merit. Further, because of the apparently unrelated nature of the interceptions to the subject matter of the indictment, the interest of neither the defendant nor the government would be best served by a pretrial hearing to determine whether the evidence to be presented during the trial has been tainted. The proper course appears to the Court to be one ordering disclosure of the domestic surveillance records to the defendant just prior to trial and under a protective order prohibiting further disclosure.

A determination of the extent of taint, if any, may be appropriate at the conclusion of the trial. Neither Rule 41(e), R.F.Crim.P., nor Battle v. United States, 120 U.S.App.D.C. 221, 345, 345 F.2d 438 (1965), require a pretrial hearing where, as here, the legality of the interceptions has been determined.

Accordingly, it is this 23rd day of November 1971

Ordered that the records of the five surveillances submitted by the government and examined *in camera* will be sealed by this Court and returned to the Department of Justice to be so retained subject to any further orders of this Court or any other court of competent jurisdiction, and it is further

Ordered that at least two (2) days prior to the trial of this case the government make full disclosure to defendant Hoffman of his conversations overheard during the four electronic surveillances of the domestic organizations herein involved, and it is further

Ordered that the existence, nature and contents of any material disclosed pursuant to this Order shall be made available only to counsel of record for the defendant, and that the existence, nature and contents of any material disclosed pursuant to this Order shall not be revealed to any other person unless pursuant to further order of this Court or any other court of competent jurisdiction and it is further

Ordered that the defendant's other requests be and they hereby are denied.

On Motion to Dismiss Indictment

The defendant was indicted for interstate travel with intent to organize, promote, encourage and participate in a riot, 18 U.S.C. § 2101, and for obstructing, impeding and interfering with a law enforcement officer during the commission of a civil disorder, 18 U.S.C. § 231(a)(3).

Specifically, Count I of that two count indictment charges that on or about April 29, 1971 Hoffman did travel in interstate commerce from outside the District of Columbia to the District of Columbia with intent to organize, promote, encourage, participate in and carry on a riot and he thereafter on or about May 3, 1971, in the District of Columbia participated in a riot, to wit, Hoffman, being a part of an assemblage of more than three persons, erected a barricade in a public thoroughfare for the purpose of organizing, promoting, encouraging, participating in and carrying on a riot (§ 2101). Count II charges that on or about May 3, 1971, within the District of Columbia, Hoffman did commit and attempt to commit an act to obstruct, impede and interfere with a member of the Metropolitan Police Department, Washington, D.C., then lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder, which disorder obstructed, delayed and adversely affected commerce, etc., and the conduct and performance of a federally protected function.

On June 30, 1971 the defendant filed a motion to dismiss the indictment for the unconstitutionality of 18 U.S.C. §§ 2101 and 231(a)(3), setting forth examples of legislative history and hypothetical situations which defendant contends would result in unconstitutional applications of those criminal provisions.

[4–6] In consideration of defendant's motion, points and authorities in support thereof, the government's opposition to that motion, and particularly the cases of Brandenburg v. Ohio, 395 U.S. 444, 89 S.Ct. 1827, 23 L.Ed.2d 430 (1969); United States v. Matthews, 136 U.S.App.D.C. 196, 419 F.2d 1177 (1969); National Mobilization Committee to End the War in Viet Nam v. Foran, 411 F.2d 934 (7th Cir. 1969); and In re Shead, 302 F.Supp. 560 (N.D.Cal.1969), aff'd, Carter v. United States, 417 F.2d 384 (9th Cir. 1969), the Court concludes that 18 U.S.C. §§ 2101 and 231(a)(3) are not violative of constitutional guarantees of free speech and assembly nor are they unconstitutional exercises of the commerce power. The Court also concludes that 18 U.S.C. § 2101 does not violate the right of freedom to travel throughout the Union; that § 2101, when viewed with the indictment in this case, does not violate due process by authorizing conviction where the unlawful intent and the prohibited act do not coincide, nor is it an attempt to perpetuate the status of inferiority imposed upon blacks by the system of slavery.

Accordingly, it is this 23rd day of November 1971

Ordered that the defendant's motion to dismiss the indictment for unconstitutionality of 18 U.S.C. §§ 2101 and 231(a)(3) be and it hereby is denied.

IMPROVING COMMUNICATION BETWEEN CONGRESS AND STATE GOVERNMENT

Mr. MOSS. Mr. President, last June I addressed the National Governors' Conference on the need to improve the working relationship between Congress and State government. I suggested two ideas to the Governors.

First, I said that each of the 50 State governments needs to have a Federal presence in Washington, in order to stay abreast of developing legislation which affects the State and in order to have sufficient advance notice of such legislation to make a significant contribution to its formulation.

Second, I said it is imperative that we have an institution, not for fostering each State's parochial interests, but rather for bringing to Washington and to the Congress the best thinking of State officials who have distinguished themselves as problem solvers in their States. I suggested that the States, through the National Governors' Conference, undertake the task of creating a "think-tank" manned by State officials on sabbatical, to be a resource of new ideas coupled with the States' perspectives on problems which the Congress is, or ought to be, addressing.

I am pleased that the Governors' Conference has taken a step toward implementing these suggestions, through a reorganization of its Washington office. I ask unanimous consent that a letter from Calvin Rampton, the distinguished Governor of Utah and chairman of the National Governors' Conference, describing the steps the conference has taken to improve relations between Congress and State governments, be printed in the Record. I also ask that a news release from the National Governors' Conference be similarly included.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATE OF UTAH,
OFFICE OF THE GOVERNOR,
Salt Lake City, Utah, October 8, 1974.

Hon. FRANK E. MOSS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOSS: The reorganization of the National Governors' Conference as announced in the attached press release represents a major new commitment by the Governors to improve relations with the Congress. During my ten years as Governor of Utah, it has been my belief that the States and the federal government could and should better coordinate their actions toward solving national problems.

One of the major difficulties we have faced over the years has been the tendency of the federal government to address solutions to domestic problems in ways which do not fully recognize the capabilities and on-going activities of States in the same areas. I believe a major cause of this phenomenon has been the lack of timely, accurate information on what States are doing, how well they are doing it, and what federal approaches would best mesh with and encourage state programs.

It is a goal of our Conference's reorganization to close this information gap, and we believe that a key element of the new National Governors' Conference operation is the assignment of members of our staff to provide continuous liaison with the House of Representatives and the Senate.

Ed Rovner, our Special Assistant for Congressional Relations, has been assigned to the Senate, and will be available as a full-time resource to you on issues of concern to both the Nation's Governors and the Congress.

It is my intention that Mr. Rovner's new role should have a dual purpose—to provide information to you regarding the views of the Governors, and to help you assess the impact of legislative initiatives on the States.

I genuinely hope you will make full use of this new arrangement. Mr. Rovner and other staff members of the National Governors' Conference are located in our headquarters offices at 1150–17th Street, N.W. (telephone 785–5600), and are prepared to undertake their new responsibilities immediately.

Sincerely,

CALVIN L. RAMPTON,
Governor of Utah.

NATIONAL GOVERNORS' CONFERENCE NEWS RELEASE

Governor Calvin L. Rampton, Chairman of the National Governors' Conference, today announced major reorganization of the Conference. The Utah Chief Executive explained that the reorganization is intended to strengthen the National Governors' Conference's ability to present to Congress and to the Administration its views on matters affecting the States.

In conjunction with the Governors' announcement, Charles A. Byrley, Executive Director of the Conference, described a new staffing plan aimed at implementing additional responsibilities mandated by the Governors. Key elements in the new staff organization are a Congressional Affairs unit, and a Center for Policy Research and Analysis.

The Congressional Affairs Division, to be directed by James L. Martin, Deputy Director, will provide continuous liaison with the Congress on all matters of concern to the Nation's Governors. In addition to Mr. Martin, the unit will be staffed by Edmond Rovner and Terry Smith, Special Assistants for Congressional Affairs, and is expected to begin operation by mid-October.

The new Center for Policy Research and Analysis will be directed by Dr. Thad L. Beyle, former Director of Graduate Studies at the University of North Carolina. Dr. Beyle served as research assistant to former North Carolina Governor Terry Sanford. The Center will provide the Conference with a source of continuous research and analysis on state-federal issues.

In announcing the reorganization, Governor Rampton stated that the new staff structure is expected to provide Congress with better information on the potential impact of proposed legislation on the States, as well as to provide Governors better information on developments in Washington.

COST OF LIVING COUNCIL—INTERACTION OF GOVERNMENT AND THE ECONOMY

Mr. MATHIAS. Mr. President, last October, I chaired hearings in the Subcommittee on Separation of Powers on the operation of the Cost of Living Council. My concern then was that the wage/price program was being administered in a fashion that bred inequities, inefficiency, unfairness, and possibly inflation. Focusing on the procedures used by the Cost of Living Council to administer the program, these hearings disclosed widespread dissatisfaction with the lack of procedure and an appalling lack of standards. The Council was found to be executive discretion in the extreme. The Council itself undermined the program, certainly in the lack of confidence it gave, perhaps in other ways.

I think that it is important that we understand what happened with the Council. It is important as a part of our overall knowledge of the interaction of Government and the economy and I do not need to remind anyone of the importance of such interaction in times of economic hardship such as these.

I believe that the hearings which we held were a contribution to such knowledge. I would like to call the Senate's attention to another contribution to this knowledge. A study of some of these procedural aspects of the Cost of Living Council has recently been published in the Georgetown Law Journal, July 1974, issue. Entitled, "Phase V: The Cost of Living Council Reconsidered," and written by Richard P. Carr and Robert P. Dutcher, this article makes extensive use of the hearings, provides some commentary on the Council, and has some things to suggest to the Congress as it considers future delegations of power to administrative agencies. I ask unanimous consent that this article and its footnotes be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PHASE V: THE COST OF LIVING COUNCIL RECONSIDERED

From 1971 to 1974 the United States experienced the first peacetime controls on wages and prices, imposed under the Economic Stabilization Act of 1970.[1] The Cost of Living Council (COLC), to which the President delegated the authority granted him in the Economic Stabilization Act (1970 Act), administered these wage and price controls.[2] When authority is delegated to an agency, explicit statutory standards and administrative procedures protect against arbitrary action and abuse of power by the agency.[3] The COLC, however, received vast power with few congressional guidelines or limitations upon the use of that power.[4] Statutory standards were general,[5] and Congress exempted the COLC from most of the provisions of the Administrative Procedure Act (APA).[6] Broad, discretionary agency power and public uncertainty about the limits and direction of the stabilization program resulted. The discretion also effectively precluded close scrutiny by the courts of COLC actions.[7]

Although the formal stabilization program has terminated, the nature of cost-push inflation may force the continuation of governmental supervision and control of wages and prices for several decades.[8] The decline of the COLC coincided with the establishment of the Federal Energy Office,[9] another powerful, emergency economic-intervention agency. The President's Advisory Council on Executive Organization has advanced, as the solution to the burdens placed on independent regulatory bodies by cumbersome and overjudicialized procedures, an agency model similar to the COLC and the Federal Energy Office.[10] Without specific statutory standards and strict administrative procedures, future large economic-intervention agencies may encounter and create the same substantive and procedural problems that troubled the COLC's operations.

STATUTORY AND ADMINISTRATIVE STANDARDS UNDER THE ECONOMIC STABILIZATION ACT

Initially the President and some members of Congress opposed the stabilization legislation's conferral of broad economic authority without any statutory restrictions.[11] The opposition challenged the power granted by the legislation as almost unlimited and criticized the delegation of authority to the President as a total abdication of legislative responsibility.[12] Critics admitted that courts previously had validated similar wage and price control authority,[13] but noted that Congress had circumscribed the validated authority with strict guidelines and directions for implementation [14] and had granted the authority in order to meet the national emergencies caused by war.[15]

In *Amalgamated Meat Cutters & Butcher Workmen v. Connally* [16] the United States District Court for the District of Columbia upheld the constitutionality of the 1970 Act's delegation of power.[17] The court ruled that the statute provided minimum standards [18] and an opportunity for judicial review [19] and that agency actions had to meet the requirements of fairness and equity implicit in the 1970 Act.[20] In addition, the court required the COLC to develop explicit administrative standards to limit the latitude and discretion of subsequent actions taken to implement the 1970 Act.[21]

Shortly after the decision in *Amalgamated Meat Cutters,* Congress legislated clearer guidelines for the economic stabilization program in the Economic Stabilization Act Amendments of 1971 (1971 Amendments).[22] The COLC, however, still retained authority to implement the broad congressional mandate to stabilize the national economy; the most far-reaching actions could be justified if deemed appropriate to curb inflation.[23] Even though they were constitutionally sufficient, the standards of the 1971 Amendments placed few restrictions on agency authority under the 1970 Act, and furnished minimal guidelines to courts for determining whether particular COLC actions and regulations complied with the congressional intent underlying the 1970 Act. Whether established by Congress or by the agency, specific standards are essential for the establishment of boundaries that agency discretion cannot transgress and for the provision of definite measures against which to assess agency action.[24] As the branch of government charged with formulating national policy, Congress bears the primary responsibility for developing such standards.[25] Legislation embodies political, representative choices among competing values and goals and should provide guidance through legislative findings and explicit standards to administrators who must implement these goals.[26]

Congress, however, cannot always delineate standards for agencies. In some policy matters, such as particular areas of stabilization authority entrusted to the COLC,[27] fixed legislative requirements are inappropriate because the agency possesses superior technical expertise and because the conditions under which decisions must be made change

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Footnotes at end of article.

constantly.[28] In these cases the agency itself must articulate standards and define the scope of its authority and the criteria used in its decisionmaking.[29] Regardless of which body fashions the standards governing agency action, the standards need to be sufficiently definite to direct agency action, to assure agency predictability, and to enable reviewing courts to provide an independent institutional check against excesses.

Examination of suits challenging the COLC's performance under the 1970 Act illustrates the practical problems faced by reviewing courts when Congress delegates broad power to an agency with few restrictions and guidelines for the use of the power. Where Congress enacted specific standards to guide COLC administration of the 1970 Act and where the agency developed clear guidelines to limit its own discretion, courts profited from a clear analytical framework within which to evaluate the propriety of COLC action.[30] Where congressional standards were vague or nonexistent and the COLC failed to develop standards in advance of acting, courts lacked sufficient guidance to determine whether the COLC had acted within the scope of a delimited zone of authority.

Vague standards hampered judicial review in *Mass Retailing Institute* v. *COLC*,[31] in which the Temporary Emergency Court of Appeals considered whether the COLC, in granting a general exemption from price controls to the Post Office Department, had exceeded its statutory power. By express provision of the 1971 Amendments, the COLC could grant general exemptions if necessary to prevent gross inequities and hardships within the national economy.[32] The statutory description of the circumstances justifying a general exemption only vaguely defined a valid exemption, and the COLC had neither promulgated specific criteria defining the justifications for a grant of exemption nor provided a rationale for the exemption granted to the postal department. The federal district court that initially heard the challenge to the Post Office Department's exemption criticized the COLC for insufficient explanation of the grant of the exemption but, nevertheless, sustained the grant.[33] The lack of precise legislative and administrative guidelines for analyzing the ostensible justification for the exemption precluded meaningful appellate review. Without explanation of its conclusion, the Temporary Emergency Court of Appeals decided that the record adequately showed the consonance of the exemption with the standards of the 1970 Act.[34] This decision, and the COLC's unexplained action, gave the business community and the general public no guidance in predicting the factual circumstances and relationships that would justify the granting of general exemptions from price controls.

In *University of Southern California v. COLC*[35] the Temporary Emergency Court of Appeals again faced the problem of determining the propriety of a COLC decision reached in the absence of congressional standards or administrative guidelines. In this case the authority of the COLC to impose price controls depended on whether the sale of university athletic tickets constituted a service, as that term was used in an executive order implementing the 1970 Act.[36] The Temporary Emergency Court of Appeals expressly recognized the difficulty, created by the absence of a definition of "service," in determining whether the COLC's price controls were valid. The court, however, decided that the COLC's imposition of controls on the university presupposed a definition of service reasonably consistent with the executive order and upheld the controls.[37] By explicitly defining the disputed term in advance of the imposition of controls on the university, the COLC could have avoided this litigation, and both the courts and the COLC could have benefited from a more efficient allocation of time and energy.

The 1971 Amendments mandated that reviewing courts find COLC regulations to be arbitrary or capricious before enjoining or invalidating them.[38] The arbitrary or capricious standard is the criterion for review of most federal administrative regulations under section 10(e) of the APA.[39] Proving a regulation to be arbitrary or capricious requires showing that the regulation lacks a rational basis,[40] a demanding burden which most challengers of COLC regulations could not sustain.[41] The nebulous standards of the 1970 Act, which neither prescribed nor proscribed methods the COLC could use to control inflation, encumbered judicial determination of the propriety of particular actions. Where no legislative standards precluded a particular action of the COLC, a court could only scrutinize whether COLC officials believed that they had acted in the public interest and then determine whether there was a rational factual and theoretical basis for that belief.[42]

While courts were not well equipped to evaluate the wisdom of particular COLC regulations, judicial review did provide an effective remedy when the COLC established inconsistent standards. In *United States v. Jefferson Parish School Board*[43] a federal district court declined to enforce an interpretative circular issued by the Office of Emergency Preparedness, a delegate of the COLC. The circular contradicted the interpretation of a COLC regulation enunciated in other Office of Emergency Preparedness circulars. While recognizing the practical difficulties facing the agencies in administering the 1970 Act, the court reasoned that the contradictory interpretations should not be raised to the level of enforceable law.[44]

The judiciary's attempts to review the COLC's conduct demonstrate the importance of specific legislative guidelines. Effective agency performance requires a balancing of the need for prompt agency decisionmaking based on specialized expertise against the public's need for protection from agency actions that violate procedural due process, statutory mandates, or an agency's own regulations. Lacking concrete statutory guidelines, the court that judged actions of the COLC were not able to balance these interests evenhandedly, but instead exhibited a pronounced deference to agency expertise.[45]

Although the standards established by Congress to govern most of the COLC's actions were broad and open ended, in some areas Congress sought to establish precise standards for the implementation of the COLC's authority.[46] By curtailing or removing agency discretion, Congress attempted to achieve through direct legislative means a desired goal that the agency might not have pursued if left to exercise its authority unrestricted. When Congress employs mandatory standards, the language and intent of the legislation must be sufficiently clear to preclude agency misinterpretation.[47] The vague and inclusive statutory language and legislative history of one such provision, the substandard wage exemption,[48] resulted in two lawsuits and a congressional rewriting before Congress's intent was effectuated.

Congress originally intended the substandard wage provision to exempt from controls the wages of all persons whose earnings were at or below levels necessary for adequate food, shelter, and clothing as determined by the Bureau of Labor Statistics.[49] In promulgating regulations to implement the statute, the COLC divided the Bureau of Labor Statistics minimum budget figures by the average number of wage earners in a family to determine the individual exemption ceiling.[50] The plaintiffs in *Jennings v. Connally*[51] challenged the regulations, and the district court found that the COLC's exemption ceiling, computed on the basis of the national average number of wage earners per family rather than on the basis of the lower average number of wage earners in poor families, was without a rational basis and frustrated the intent of Congress.[52] After the COLC revised the regulations to increase the exemption figure,[53] the *Jennings* plaintiffs again brought suit, claiming that the exemption ceiling was still too low. In *Jennings v. Shultz*[54] the district court upheld the new regulations and declared that Congress could provide more specific legislation if it believed the COLC's exemption figure to be too low.[55]

In the Economic Stabilization Act Amendments of 1973 (1973 Amendments), Congress established a specific figure for the COLC's use in substandard wage exemption regulations.[56] The Senate report on the 1973 Amendments, emphasizing that the substandard exemption had been intended for individuals rather than for families,[57] sharply criticized the COLC for its abuse of authority and its defiance of both Congress and the courts in calculating the exemption.[58] Arguably, though, Congress was equally at fault for failing to express its intent with sufficient clarity in the original legislation. No specific figure for the exemption had been suggested in either the congressional reports or the floor debate,[59] and the COLC, in basing its calculations on data from the Bureau of Labor Statistics, had complied with the terms of the original statute.

Another specific legislative standard, the public disclosure amendment,[60] exemplifies a more successful utilization of statutory mandates to limit COLC discretion and to achieve legislative goals in spite of apparent agency resistance. Designed to assist the public in monitoring business compliance with the stabilization program,[61] the disclosure provision required certain business enterprises to disclose publicly data concerning product line sales and profits whenever the firm increased the price of a substantial product by amounts specified in the statute.[62] The statute exempted proprietary information,[63] but no company could exclude from disclosure data required to be filed annually with the Securities and Exchange Commission (SEC).[64]

The COLC used the proprietary information exception to exempt firms entirely from disclosing information on annual sales, operating income, net sales, and sales by product line or service line.[65] In *Consumers Union of United States, Inc. v. COLC*,[66] a suit challenging the regulations allowing nondisclosure of such a broad range of information, the agency argued that the information exempted as proprietary was not the type required by the SEC since the definitions of net sales and operating revenue used on COLC reporting forms differed from the definitions used by the SEC.[67] Further, the COLC noted that as government officers, its officials were subject to potential criminal penalties for unauthorized disclosure.[68] Rejecting the COLC's position, the Temporary Emergency Court of Appeals found the definitional distinction employed by COLC to lack real substance and to contravene the spirit of the statute, which favored extensive disclosure with only limited exceptions.[69] Consequently, the court ordered the COLC to promulgate full-disclosure regulations in compliance with the congressional mandate.[70]

CONGRESSIONAL MONITORING OF AGENCY ACTION

Congress can limit agency discretion not only by legislating precise standards but also by overseeing and reviewing the agency's administrative program.[71] When Congress delegates broad power to an economic-intervention agency, as it did to the COLC, it must carefully supervise the ongoing course of administration to assure that the agency is carrying out legislative policy.[72] Periodic congressional hearings provide an opportunity to discover agency operating problems and to advise the agency on policies and implementation actions.[73] Amending legislation

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Footnotes at end of article.

can be developed and more definite standards supplied in response to agency experience and needs. The power of the purse affords two appropriations committees and Congress as a whole the leverage to secure both agency compliance with congressional mandates and accountability for procedures.[74] Although efforts at congressional oversight can degenerate into intimidation and interference,[75] the need for agency responsiveness to Congress and to the public outweighs the risk of occasional abuses.

Committees frequently questioned COLC officials,[76] but systeamtic legislative oversight hearings generally coincided with annual deadlines for the extension of the 1970 Act.[77] Shorter, semi-annual extensions of the 1970 Act would have compelled the House and Senate oversight committees to keep tighter reins on this powerful agency and to monitor its operations more effectively.[78] The congressional intent behind the substandard wage exemption and public disclosure provisions explored in the *Jennings* and *Consumers Union* cases might have been settled in congressional deliberations rather than in protracted litigation if congressional hearings had been held more frequently.

The infrequency of congressional hearings did not represent, however, the main shortcoming of congressional supervision of the COLC; the committees did not thoroughly examine the COLC's compliance with the standards and procedures in the 1970 Act in most of the hearings that were held. After the enactment of the 1971 Amendments, economic issues relevant to the COLC's efforts to curb inflation dominated committee hearings and attention.[79] Only one two-day Senate subcommittee hearing was devoted to the COLC's compliance with statutory standards and procedures and to the adequacy of the 1970 Act's provisions for assuring due process to the regulated public.[80] Such inadequate review of administrative performance exacerbated the problems caused by the lack of statutory limitations on the COLC's broad authority and reflected a serious congressional failure to explore adequately the complaints raised in the subcommittee hearings, which revealed a unanimity among consumer and business spokesmen about administrative deficiencies in the COLC's operations.[81]

PROCEDURAL REQUIREMENTS UNDER THE 1970 ACT

Although significant for guidance purposes, congressional standards have inherent limitations as means of controlling agency action. Agencies must draw on special expertise to regulate the complicated matters within their jurisdictions, and they must be able to exercise freely reasonable discretion in order to respond to complex, quickly changing situations.[82] Thus, statutory standards cannot at all times control agency action. In addition, agencies can circumvent congressional mandates or indefinitely delay their effect.[83] The most effective and necessary limits that Congress can place upon agencies with wide-ranging authority over the national economy are provisions for administrative procedures.[84] By requiring that an agency exercise its authority in accordance with regularized procedures, Congress can establish safeguards that assure public input and that curtail excessive agency discretion. When an agency must comply with requirements of public participation in rulemaking, satisfy petitioners' rights to a hearing and to administrative remedies, and undergo judicial review of final determinations, those who are regulated receive due process protections that go beyond the substantive controls found in an agency's enabling legislation.[85]

The Administrative Procedure Act [86] is a detailed expression of procedural rights and requirements in administrative law.[87] The COLC, however, was not subject to the full provisions of the APA.[88] Legislation submitted by the Administration would have exempted the COLC from all but one of the APA's requirements.[89] Claiming that the APA's procedures would generate unacceptable burdens and delays and relying on the tradition of exemption of emergency agencies from APA requirements, administration representatives argued at committee hearings that the emergency economic agency should be permitted to devise and to follow flexible, streamlined procedures and that petitioners' rights would be protected adequately by judicial review.[90] Congress agreed that the emergency agencies under the 1970 Act should be free of the "cumbersome and dilatory" full procedures of the APA [91] but did subject the agencies to the APA's nonadjudicatory provisions.[92] Until its termination the COLC operated under these limited procedural requirements.

Among the procedural provisions imposed on the COLC by the 1971 Amendments, section four of the APA [93] requires federal administrative agencies to publish notice of proposed regulations in the *Federal Register* and to invite interested persons to submit written comments.[94] The agency can dispense with the notice requirement only if the agency publishes with the regulations a finding that to invite comments is impracticable, unnecessary, or against the public interest.[95] The requirement that agencies notice rules for comment facilitates intelligent agency decisionmaking and encourages responsiveness to public needs.[96] However, on 203 of the 235 days on which the COLC published rules in the *Federal Register*, the agency bypassed normal rulemaking procedures by invoking the impracticability exception and thereby precluded advance participation of many interested parties in COLC rulemaking.[97] In using the impracticability exception, the COLC usually concluded its preamble to issued regulations with a boilerplate clause stating without explanation that it was impracticable and unnecessary to follow APA rulemaking procedures. Articulation of the circumstances that necessitated the COLC's dispensation with notice was conspicuously absent.[98] Although section four of the APA requires that the basis for use of the impracticability exception be expressed in the issued rules,[99] suits challenging the COLC's use of boilerplate claims of impracticability were unsuccessful.[100]

In only one case, *Kelly* v. *Department of Interior*,[101] has a court construed section four's impracticability exception to require articulation of specific grounds for its use.[102] The court reasoned that contemporaneous, detailed written justification facilitates judicial review [103] and encourages agencies to dispense with notice of rulemaking sparingly.[104] Had courts considering challenges of COLC regulations adhered to this interpretation of the exception, they could have set aside the COLC regulations containing boilerplate claims of impracticability for failure to meet the requirements of selection four. Only when the staff of an emergency economic-intervention agency is insufficient to digest anticipated comments and to carry out its other responsibilities simultaneously [105] or when advance notice of regulations is likely to stimulate regulation-avoidance behavior by affected parties [106] should an agency be permitted to utilize the impracticability exception to the APA's notice requirements. By condoning the use of the impracticability exception when the proper conditions do not exist, courts afford agencies an opportunity to escape their public responsibilities and to ignore the congressional intent behind section four of the APA.

Responding to these policy considerations, an American Bar Association committee recommended that Congress require emergency economic-intervention agencies like the COLC to give advance notice of their regulations unless published findings of fact clearly and specifically explain the necessity of dispensing with notice and opportunity for public comment.[107] Under an earlier proposal, rules issued without advance notice could be effective only for six months and could be extended only in compliance with APA's provisions for notice and opportunity for comment.[108] These proposals implicitly recognized that some actions of economic-intervention agencies must be executed without delay for public comment but recommended that public participation be preserved in such emergencies by subsequent opportunity for public review and comment.[109]

Another procedural safeguard imposed by Congress on the COLC was section 6(d) of the APA, requiring a brief statement on the grounds for denial of federal administrative agency action requested by a party unless the denial affirms a prior denial or is self-explanatory.[110] In theory, articulation of the grounds for denying requested agency action would have facilitated judicial review of COLC action [111] and would have made COLC decisionmaking more predictable. Unfortunately, the COLC took the same attitude toward section 6(d) that the agency displayed toward section four and often justified orders by general conclusory explanations, without stating the findings and rationales supporting particular decisions.[112]

Lacking the guidance of published criteria for denials of exceptions, regulated parties complained that those who requested exceptions could not predict how the COLC would rule on their requests.[113] The need for such information became so great that some accounting and legal firms informally compiled manuals containing standards, derived by the firms from experience and conjecture, used by the COLC in disposing of exception requests.[114] Although regulations issued in response to rapidly changing economic conditions are necessarily broad and consequently sometimes inequitable in effect,[115] publication of exceptions decisions accompanied by statements of precise findings and reasoning would have assisted regulated parties in planning the conduct of their businesses and would have facilitated consistency of decision by COLC officials without forcing adherence to strict rules.[116]

Failure to articulate the grounds for agency action not only creates uncertainty as to the conditions and factors considered by the agency, but also precludes intelligent decisionmaking by parties seeking review of unfavorable agency action. Procedural regulations governing the COLC permitted a person aggrieved by an agency decision to request reconsideration of the decision by the agency,[117] and also allowed summary dismissal of the request unless the petitioner made a prima facie showing that the decision was based on an error of fact or law.[118] Since the orders of the COLC and of delegatee agencies frequently did not specify facts or reasons for denial of requested action, petitioners obviously could not have sustained the burden of showing errors of fact or law for the purpose of requesting administrative reconsideration.[119]

Even if the agency articulates the basis for a denial, nondisclosure of the identity of the agency decisionmaker may preclude informed determinations to seek administrative review. Receiving notice of the denial of its request for recission of a price increase through an unsigned decision list issued by the Price Commission, the plaintiff in *Baldwin County Electrical Membership Corporation v. Price Commission*[120] did not know that a subordinate of a Price Commission delegatee, rather than the Commission itself, had made the challenged decision.[121] The plaintiff, believing that the request had been denied by the Commission, could reasonably have considered it futile to request the Commission to reconsider the denial.[122]

Footnotes at end of article.

A final provision of the APA that Congress applied to the COLC, section three of the APA, or the Freedom of Information Act,[123] governs public disclosure of information held by federal administrative agencies.[124] No suits specifically challenged the COLC's compliance with the Freedom of Information Act, but the COLC frequently was criticized for the lack of openness that marked its operations.[125] Further, one of the COLC's practices conflicted with Freedom of Information Act provisions applicable to the agency through the Federal Advisory Committee Act,[126] which regulates the establishment, procedure, and duration of committees furnishing ideas and advice to federal administrative agencies and limits closed advisory committee meetings.[127]

In *Nader* v. *Dunlop* [128] the plaintiff charged that the COLC had violated the Federal Advisory Committee Act by closing COLC advisory committee meetings to the public.[129] In its decision the federal district court criticized the COLC for developing matters of crucial public policy behind closed doors and held that advisory committee meetings should not be secret unless the COLC made a finding supported by detailed analysis that the meeting would involve discussion of documents specifically exempt from public disclosure under the Freedom of Information Act.[130] In *Consumers Union of United States, Inc. v. COLC*[131] the COLC's advocacy of a restrictive view of its public disclosure obligations met with failure; the Temporary Emergency Court of Appeals ordered the COLC to rewrite its regulations to implement congressional policy fostering public disclosure.[132]

In criticizing the COLC consumers were not alone but were joined occasionally by corporate representatives, who complained about the COLC's lack of openness, exclusion of the public, and reluctance to provide information about agency policy.[133] Undoubtedly, some situations justified the failure to invite the public to participate in agency proceedings; however, when secrecy and public exclusion consistently supersede public access, both the agency and the public suffer. The success of an emergency agency's program depends on the public's perception of the program's fairness, and compliance with agency regulations is facilitated by openness and public access to agency decisionmaking.[134]

While the COLC's actions in the areas governed by specific legislation illustrated the need for procedural safeguards, the agency's conduct in areas not controlled by legislative guidelines points out the need with even greater clarity. In these unmonitored areas, the COLC used a number of questionable *informal* procedures in administering the economic stabilization program. Critics charged that ex parte contacts with businesses were routine,[135] that the agency used adverse publicity to force compliance with agency regulations,[136] and that announcement by press release of rules and orders sometimes replaced orderly rulemaking and adjudication procedures.[137] The COLC, the Price Commission, and the Internal Revenue Service also assessed treble damage penalties, under doubtful authority, against suspected profit margin violators.[138] Ironically, these shortcut procedures, prompted by administrative expediency, resulted in inefficient deployment of agency staff by necessitating the devotion of resources to the defense of suits challenging these very procedures.[139]

CONCLUSION

The limited procedural requirements of the APA that Congress imposed upon the COLC failed to assure either public participation in COLC decisionmaking or a sense of fairness among the regulated. The failure of the COLC to comply with even limited procedural requirements perhaps was attributable to the temporary nature of the economic stabilization program and to the need for quick, expedited decisions. These temporary and emergency qualities did not justify, however, shortcut procedures and public exclusion one or more years after the COLC's establishment.[140] Stringent procedural safeguards are crucial when Congress creates a powerful agency like the COLC. If the provisions of the APA are inappropriate because of considerations of expediency and confidentiality, other procedural safeguards must be devised and applied in order to give the regulated public due process protections equivalent to those afforded by the APA.[141]

Accomplishment of the prodigious task delegated to the COLC under the 1970 Act was perhaps impossible,[142] and the statutory limitations and administrative procedures imposed may have seemed unnecessary burdens in the accomplishment of the task. Standards and procedural safeguards, however, are essential to assure fairness to the regulated and may be as important to the agency's success as the subtantive elements of the economic program.[143] An agency will not retain, or deserve, popular support if its policies and decisions are not formulated through processes that are open, consistent, and rational.[144]

In the future, Congress may continue to delegate great power to economic-intervention agencies; but to assure accountability and responsible exercise of power, Congress should establish clear statutory standards with strict procedural requirements and should periodically review agency performance. Courts should require intelligible standards from Congress and from agencies and should demand close compliance with administrative procedures to ensure due process. Economic-intervention agencies should not treat procedural requirements as over-judicialized constraints but rather should treat them as a means of encouraging public participation in crucial economic measures. Increased congressional, judicial, and administrative attention to standards and procedures can make broad, delegated economic power both more manageable for the agency and more acceptable to the public.

FOOTNOTES

[1] Economic Stabilization Act of 1970, Pub. L. No. 91–379, 84 Stat. 799, *as amended*, Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, 85 Stat. 743, *as amended*, Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27.

[2] The President was authorized under the Economic Stabilization Act of 1970 (1970 Act) to issue such orders and regulations as he deemed appropriate to stabilize rents, prices, wages, and salaries. *See id.* § 202. The 1970 Act permitted the President to delegate any of his authority to appropriate officers, departments, and agencies. *Id.* § 203. One year after the enactment of the 1970 Act, President Nixon delegated all the powers conferred upon him in the 1970 Act to the Cost of Living Council (COLC). *See* Exec. Order No. 11615, 36 Fed. Reg. 15727 (1971), *as amended*, Exec. Order No. 11695, 3 C.F.R. 353, 355 (1974). Although other delegates such as the Office of Emergency Preparedness, the Pay Board, and the Price Commission implemented the stabilization program during the first two phases, the COLC remained the agency responsible for establishing goals and policies throughout the program. *See id.*

The stabilization program initially was viewed as temporary. *See* H.R. Rep. No. 1330, 91st Cong., 2d Sess. 9 (1970); 7 W'kly Compilation of Pres. Doc. 1168, 1170 (1971). Nevertheless, the program continued through four phases. Phase I, the 90-day freeze period, lasted from August 15 to November 13, 1971. *See* S. Rep. No. 63, 93d Cong., 1st Sess. 1–2 (1973). Phase II, from November 14, 1971, to January 10, 1973, entailed flexible wage-price restraints and authorized certain exemptions and adjustments when required to prevent inequities. *Id.* at 2. Phase III, from January 11 to June 12, 1973, relied upon self-administered standards within stated limits. *Id.* Freeze II followed Phase III and imposed a 60-day freeze on prices from June 13 to August 11, 1973. *See* Cost of Living Council, Economic Stabilization Program Quarterly Report 1 (Apr. 1–June 30, 1973). Phase IV, from August 12, 1973, to April 30, 1974, was a period during which controls were gradually lifted from all industries. See *Hearings on Renewal and Suggested Modification of the Economic Stabilization Act Before the Subcomm. on Production and Stabilization of the Senate Comm. on Banking, Housing, and Urban Affairs*, 93d Cong., 2d Sess. 413–14, 455–56 (1974) (statements of George Shultz, Secretary, Department of the Treasury, and John Dunlop, Director, COLC). *See generally id.* at 543–48 (comparison of Phases II, III, and IV).

The 1970 Act expired on April 30, 1974, but President Nixon continued certain of the COLC's functions through December 31, 1974. *See* Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, § 8, 87 Stat. 27, *amending* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, 85 Stat. 743; Exec. Order No. 11788, 39 Fed. Reg. 22113, 22114–15 (1974) (providing for an orderly termination of economic stabilization activities); Exec. Order No. 11781, 39 Fed. Reg. 15749, 15750–51 (1974); 39 Fed. Reg. 24522 (1974) (establishment of the Office of Economic Stabilization in the Dept. of the Treasury). President Ford, upon assuming office, urged the establishment of a small economic monitoring agency somewhat resembling the COLC, but lacking wage and price control authority. *See* 120 Cong. Rec. H. 8160, 8161 (daily ed. Aug. 12, 1974) (presidential address to joint session of Congress).

[3] *See generally* H. Friendly, The Federal Administrative Agencies: The Need for Better Definition of Standards 13–14, 21–22 (1962); Wright, Book Review, 71 Yale, L.J. 575, 581–87 (1972). *See also* 1 K. Davis, Administrative Law Treatise § 2.00–5 (Supp. 1970) (need for administrative agencies to develop own standards and safeguards).

[4] The 1970 Act authorized the President to stabilize prices, rents, and wages "at levels not less than those prevailing on May 25, 1970," and permited "such adjustments as may be necessary to prevent gross inequities." Pub. L. No. 91–379, § 202, 84 Stat. 799 (1970). The Economic Stabilization Act Amendments of 1971 (1971 Amendments) and the Economic Stabilization Act Amendments of 1973 (1973 Amendments) provided more definite guidelines but continued the broad mandate to regulate the entire national economy. *See* Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27; Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 203(a), 85 Stat. 743.

[5] *See* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, §§ 203(b)-(c), 85 Stat. 743, *as amended*, Economic Stabilization Act Amendments of 1973, Pub. L. No. 92–28, 87 Stat. 27.

[6] *Id.* § 207(a); *see* Administrative Procedure Act, 5 U.S.C. §§ 551–59, 701–06 (1970).

[7] *See* notes 30–45 *infra* and accompanying text.

[8] *See Hearings on Congressional Oversight of Administrative Agencies (The Cost of Living Council) Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 93d Cong., 1st Sess., vol. 1, at 137–38 (1973) (citation from speech of John Dunlop, Director, COLC) [hereinafter cited as 1973 *Subcomm. Hearings*]. Cost-push inflation, a rather recent economic phenomenon, is characterized by inflationary wage and price trends accompanied by fairly stable demand, substantial unemployment, and unused industrial capacity. *See* Slawson, *Price Controls for a Peacetime Economy*, 84

Harv. L. Rev. 1090, 1090–91 & n.8 (1971); Comment, *Administration and Judicial Review of Economic Controls*, 39 U. Chi. L. Rev. 566, 574–76 (1972) (characteristics of cost-push inflation).

[9] *See* Exec. Order No. 11748, 3 C.F.R. (1974). The President established the Federal Energy Office under the authority of the 1970 Act and the Emergecy Petroleum Allocation Act of 1973. Id.; *see* Emergency Petroleum Allocation Act of 1973, § 5(b), 15 U.S.C. § 754(b) (Supp. III, 1973). Replacing the COLC in the areas of petroleum product and fuel oil allocation and of energy conservation and development, the Federal Energy Office was bound only by the same few provisions of the Administrative Procedure Act (APA) that Congress had imposed on the COLC. *See id.* § 5(a)(1)(A), 15 U.S.C. § 754(a)(1)(A) (Supp. III, 1973); Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 207(a), 85 Stat. 743, *as amended*, Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27. The Federal Energy Office, like the COLC, was created to meet a supposed national crisis and received broad and largely unlimited power, also like the COLC, the Federal Energy Office was sharply criticized for some of its procedural deficiencies. *See* Federal Trade Commission, An Evaluation of the Mandatory Allocation Program (Jan. 15-Feb. 28, 1974) ch. 3, at III–1 to –36 (1974) (Federal Energy Office administrative deficiencies posing problems for public confidence and industry cooperation); note 81 *infra*. Five months after creation of the Federal Energy Office by excutive order, Congress replaced the Office with the Federal Energy Administration, subject to the full rulemaking and adjudicatory provisions of the APA. *See* Federal Energy Administration Act of 1974, Pub. L. No. 93–275, § 7(i)(1)(A), 88 Stat. 96.

[10] *See* The President's Advisory Council on Executive Organization, A New Regulatory Framework: Report on Selected Independent Regulatory Agencies (1971) (the "Ash Council" report). The Ash Council report concluded that a single administrator less rigorous administrative procedures, and a separate administrative court would be preferable for handling the problems confronting current independent regulatory agencies. *Id.* at 31–56. Commentators criticized the report's structural, managerial approach to agency reform. *See e.g.*, Lazarus & Onek, *The Regulators and the People*, 57 Va. L. Rev. 1069 (1971) (unresponsiveness to public is central problem of agencies, nor lack of accountability to Executive); Robinson, *On Reorganizing the Independent Regulatory Agencies*, 57 Va. L. Rev. 947 (1971) (Ash Council's findings unsupported by substantial evidence; organizational reforms inadeto deal policy programs of agencies); *Proceedings of the National Institute on New Techniques in Regulating Business: The Ash Council's Recommendations*, 23 Ad. L. Rev. 321, 445–51 (1971) (agency concern for consumer and environmental problems more important than revamping structures to regulate businesses more efficiently); *Comments of the Antitrust Division of the Department of Justice on the "Ash Council" Report*, 57 Va. L. Rev. 933 (1971) (agency deficiencies result from inflexibility and protectionism toward regulated industries, rather than from slowness or overjudicialization).

[11] *See* H.R. Rep. No. 1330, *supra* note 2, at 15–20 (minority views expressing opposition to delegation of stabilization authority to President); *Hearings to Extend the Defense Production Act of 1950 Before the House Comm. on Banking & Currency*, 91st Cong., 2d Sess. 83 (1970) (Administration adverse to imposing economic controls); 116 Cong. Rec. 26797, 26839 (1971) (remarks of Representative Gross); *id* at 26803 (remarks of Representative Sullivan); *id.* at 26812–13 (remarks of Representatives Brown); *id.* at 26813–14 (remarks of Representative Wylie); *id.* at 26818–19 (remarks of Representative Crane).

[12] *See* H.R. Rep. No. 1330, *supra* note 2, at 19 (minority views).

[13] *See, e.g.*, Allen v. Grand Cent. Aircraft Co., 347 U.S. 535, 541–42 (1954) (administrative enforcement of wage stabilization provisions of Defense Production Act of 1950 held valid); Bowles v. Willingham, 321 U.S. 503, 512–16 (1944) (legislative standards for rent control orders under Emergency Price Control Act of 1942 held constitutionally sufficient); Yakus v. United States, 321 U.S. 414, 423–27 (1944) (Emergency Price Control Act of 1942 not an unconstitutional delegation of congressional power to stabilization agency).

[14] *See* H.R. Rep. No. 1330, *supra* note 2, at 20 (minority views). The previous wartime stabilization legislation contained lengthy congressional declarations of purpose, restrictions on agency authority, and explicit provisions for administration and enforcement. *Compare* Emergency Price Control Act of 1942, ch. 26, 56 Stat. 23 *and* Defense Production Act of 1950, ch. 932, tit. IV, 64 Stat. 803 *with* Economic Stabilization Act of 1970, Pub. L. No. 91–379, 84 Stat. 799 *and* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, 85 Stat. 743. *See generally* Nathanson, *Price Control Standards and Judicial Review—an Historical Perspective*, 18 Prac. Law., Feb. 1972, at 59, 64–70 (comparison of 1970 Act's standards with those of World War II and Korean War legislation).

[15] *See* 116 Cong. Rec. 26813–14 (1971) (remarks of Representative Wylie); *id.* at 26814–15 (remarks of Representative Williams). *But see* Yakus v. United States, 321 U.S. 414, 462–63 (1944) (Rutledge, J., dissenting) (wartime legislation before the Court did not exceed limits allowed by peacetime precedents). *See also* Grossman, *Wage and Price Controls During the American Revolution*, 96 Monthly Lab. Rev., Sept. 1973, at 3, *reprinted in 1973, Subcomm. Hearings, supra* note 8, at 361.

[16] 337 F. Supp. 737 (D.D.C. 1971).

[17] *Id.* at 745–47. Courts summarily dismissed subsequent challenges to the 1970 Act's constitutionality and to the regulations issued under the 1970 Act on the authority of *Amalgamated Meat Cutters. See, e.g.*, Local 11, Int'l Bhd. of Elec. Workers v. Boldt, 481 F.2d 1392, 1395 (Temp. Emer. Ct. App.), *cert. denied*, 414 U.S. 1092 (1973); Sony Corp. v. Best Products, Inc., 354 F. Supp. 561, 567 (D. Md. 1972); United States v. Futura, Inc., 339 F. Supp. 162, 164 (N.D. Fla. 1972); United States v. Intone Corp., 334 F. Supp. 905, 908 (N.D. Tex. 1971). *See generally* Heimann, *Issues and Alternatives in Economic Stabilization*, 18 Prac. Law., Jan. 1972, at 39, 45–49 (critical analysis of *Amalgamated Meat Cutters* decision).

[18] 337 F. Supp. at 747–49. In finding sufficient standards in the 1970 Act, the court relied strongly on the reasoning of *Yakus v. United States. Id.; see* 321 U.S. 414 (1944). In *Yakus*, cited by the *Amalgamated Meat Cutters* court as involving perhaps the broadest congressional delegation of power yet sustained, the Supreme Court upheld the congressional delegation and legislative standards of the Emergency Price Control Act of 1942. *Id.; see* 337 F. Supp. at 747; Emergency Price Control Act of 1942, ch. 23, 56 Stat. 26.

[19] 337 F. Supp. at 759–60.

[20] *Id.* at 756–58.

[21] *Id.* at 758–59. Probably no future decision will invalidate federal legislation for delegating too much authority to an agency or for failing to specify standards. *See* 1 K. Davis, *supra* note 3, § 2.01 (1958). *See generally* W. Gellhorn & C. Byse, Administrative Law: Cases and Comments 47–68 (1970) (history and decline of the nondelegation doctrine). The *Schechter Poultry Corp.* and *Panama Refining Co.* decisions, in which the Supreme Court invalidated congressional delegations under the National Industrial Recovery Act of 1933, now are believed to be limited to their peculiar facts and to be relics of constitutional history. *See* Schechter Poultry Corp. v. United States, 295 U.S. 495 (1935); Panama Refining Co. v. Ryan, 293 U.S. 368 (1935); National Industrial Recovery Act of 1933, ch. 90, 48 Stat. 195; I. K. Davis, *supra* at § 2.06; L. Jaffe, Judicial Control of Administrative Action 71 (1965). Courts have upheld vague and general standards for numerous agencies. *See, e.g.*, Yakus v. United States, 321 U.S. 414, 423–27 (1944) ("generally fair and equitable" standard for Office of Price Administration); National Broadcasting Co. v. United States, 319 U.S. 190, 225–26 (1933) ("public interest, convenience, and necessity" standard for Federal Communications Commission); Tagg Bros. & Moorhead v. United States, 280 U.S. 420, 435–36 (1930) ("just and reasonable" standard for Secretary of Agriculture under Packers and Stockyards Act). One leading commentator has noted that courts could utilize the effectively moribund nondelegation doctrine to assure due process and administrative fairness, rather than simply to guarantee separation of powers. *See* K. Davis, Administrative Law Text § 2.09 (3d ed. 1972).

[22] Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, 85 Stat. 743. The 1971 Amendments delineated presidential authority and enunciated standards for administrative regulations issued to control wages, prices, rents, interest rates, and corporate dividends. *Id.* §§ 203(a)–(i). The 1971 Amendments also required regulations issued under the authority of the 1970 Act to be equitable, to permit exceptions necessary to foster orderly economic growth, to take into account changes in productivity and the cost of living, to provide for reductions in prices and rents whenever warranted, and to call for comparable sacrifices by all segments of the economy. *Id.* § 203(b).

[23] *See id.* § 203(a).

[24] *See* H. Friendly, *supra* note 3, at 13–14, 21–22; Wright, *supra* note 3, at 581–87.

[25] *See* Wright, *supra* note 3, at 581–87. *See also* United States v. Robel, 389 U.S. 258, 272–82 (1967) (Brennan, J., concurring) (formulation of policy is legislature's primary responsibility, entrusted to it by the electorate); Arizona v. California, 373 U.S. 546, 626 (1963) (Harlan, J., dissenting) (fundamental policy decisions of society should be made by the body immediately responsible to the people); 1 K. Davis, *supra* note 3, at § 2.16 (1958).

[26] *See* Wright, *supra* note 3, at 584–86.

[27] *See, e.g.*, Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 203(b), 85 Stat. 743, *as amended*, Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27 (development of guides for determining levels of wages, prices, and rents consistent with orderly economic growth); *id.* § 203(c) (administration of wage agreements consummated before the freeze); *id.* § 203(e) (stabilization of interest rates and finance charges upon specific determinations).

[28] *See* Report of the Comm. on Administrative Procedure, Appointed by the Attorney General: Administrative Procedure in Government Agencies, S. Doc. No. 8, 77th Cong., 1st Sess. 11–24 (1942) (reasons for resort to administrative process); K. Davis, Discretionary Justice: A Preliminary Inquiry 56 (1959) (legislators ill-equipped to plan detailed administrative programs). *But see* Jaffe. *The Illusion of the Ideal Administration*, 86 Harv. L. Rev. 1183, 1183–91 (1973) (critique of the broad delegation model of administrative agencies).

[29] *See* K. Davis, *supra* note 28, at 58–59, 65–68. *See also* Sofaer, *Judicial Control of Informal Discretionary Adjudication and Enforcement*, 72 Colum. L. Rev. 1293, 1308–12, 1331–33 (1972).

[30] *See* Associated Gen'l Contractors v. Laborers Int'l Local 612, 476 F.2d 1388, 1399–

1400 (Temp. Emer. Ct. App. 1973) (standards used to deny wage increase conflicted with agency regulations); *cf.* Manning v University of Notre Dame du Lac, 484 F.2d 501, 503–04 (Temp. Emer. Ct. App. 1973) (statutory language and legislative history elucidated proper application of scienter provision of 1970 Act in private overcharge refund suits).

[31] 468 F.2d 948 (Temp. Emer. Ct. App. 1973), *aff'g per curiam* [1973 Transfer Binder] CCH Eco. Controls Rep. ¶ 9895 (D.D.C. 1972).

[32] Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 203(b)(2), 85 Stat. 743, *as amended*, Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27.

[33] *See* Mass Retailing Institute v. COLC, [1973 Transfer Binder] CCH Eco. Controls Rep. ¶ 9895, at 9521–22 (D.D.C. 1972) (judicial review of unexplained agency action difficult or impossible; COLC advised to justify future actions).

[34] 468. F. 2d at 949.

[35] 472 F.2d 1065 (Temp. Emer. Ct. App. 1972), *cert. denied*, 410 U.S. 928 (1973).

[36] "Service" was not defined by the executive order, the 1970 Act, COLC regulations, or COLC interpretative circulars. *Id.* at 1072 n.12.

[37] *See id.* at 1071-72 & n.12. Several other cases involving increases in prices of 1971 season football tickets subsequently came before the Temporary Emergency Court of Appeals, and the court, relying on *University of Southern California*, ordered refunds paid to customers who had purchased tickets at higher prices before the August 1971 freeze. *See* Oakland Raiders v. Office of Emergency Preparedness, —— F.2d —— (Temp. Emer. Ct. App. July 10, 1974) (Civ. No. 9–11) (order of affirmance); DeRieux v. The Five Smiths, Inc., 499 F.2d 1321 (Temp. Emer. Ct. App. June 20, 1974) (Civ. Nos. 5–6, 5–7, 5–8), *petition for cert. filed*, 43 U.S.L.W. 3021 (U.S. July 30, 1974) (No. 73–2046).

[38] Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 211(d)(1), 85 Stat. 743, *as amended*, Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27.

[39] Administrative Procedure Act § 10(e), 5 U.S.C. § 706(2)(a) (1970).

[40] *See* American Nursing Home Ass'n v. Dunlop, 497 F.2d 909, 913–14 & n.5 (Temp. *Emer. Ct. App.* 1974), *rev'g* 368 F. Supp. 490 (D.D.C. 1973). *See generally* Wright, *The Courts and the Rulemaking Process: The Limits of Judicial Review*, 59 Cornell L. Rev. 375, 392–94 (1974) (rulemaking meets rational basis standard so long as it is based on reason rather than whim).

[41] *See, e.g.*, American Nursing Home Ass'n v. Dunlop, 497 F.2d 909, 913–15 (Temp. Emer. Ct. App. 1974), *rev'g* 368 F. Supp. 490 (D.D.C. 1973) (failure of plaintiff to prove lack of inflation in nursing home field plus indirect evidence of inflation in nursing home field as well as in overall health industry justified finding that health industry regulations had rational basis); League of Voluntary Hosps. & Homes v. Drug & Hosp. Local 1199, 490 F.2d 1398, 1402 (Temp. Emer. Ct. App. 1973) (regulations upheld as rational because evidence showed they were designed to reduce inflation in a particularly inflationary sector of the economy); Schirtzinger v. Dunlop, 489 F.2d 1307, 1309–10 (Temp. Emer. Ct. App. 1973) (discriminatory petroleum cost pass through rules had a rational basis because designed to stimulate expansion of petroleum supply); Western States Meat Packers Ass'n v. Dunlop, 482 F.2d 1401, 1403, 1405–06 (Temp. Emer. Ct. App. 1973) (COLC decision to keep ceiling on beef prices rational in view of decision in *Pacific Coast Meat Jobbers Association v. COLC*); Pacific Coast Meat Jobbers Ass'n v. COLC, 481 F.2d 1388, 1390–2 (Temp. Emer. Ct. App. 1973) (COLC decision to maintain ceiling on beef prices longer than on other meats rational in view of evidence that beef prices were rising faster than other meat prices); United States v. Lieb, 462 F.2d 1161, 1166–68 (Temp Emer. Ct. App. 1972) (agency decision to limit rent ceiling of apartments with rental history to actual rent charged during base period rational because it provided most accurate measure of highest rent received during base period. *See generally* Sofaer, *supra* note 29, at 1348–50 (1972).

[42] *See* Minden Beef Co. v. COLC, 362 F. Supp. 298, 301–04 (D. Neb. 1973) (beef price regulations upheld because the COLC presented reasonable economic justification for the regulations' goals and content). In suits throughout the United States, the meat ceiling price regulations were upheld as rationally based. *See, e.g.*, Western States Meat Packers Ass'n v. Dunlop, 482 F.2d 1401, 1403, 1405–06 (Temp. Emer. Ct. App. 1973); Pacific Coast Meat Jobers Ass'n v. COLC, 481 F.2d 1388, 1390–92 (Temp. Emer. Ct. App. 1973); Salsburg's Meats, Inc. v. Shultz, 363 F. Supp. 269, 272–74 (E.D. Pa. 1973). *See generally* Hyman & Nathanson, *Judicial Review of Price Controls: The Battle of the Meat Regulations*, 42 Ill. L. Rev. 584 (1947) (analysis of economic, political, and legal controversy surrounding meat regulations imposed during World War II controls program).

[43] 333 F. Supp. 418 (E.D. La. 1971).

[44] *Id.* at 423–24.

[45] *See, e.g.*, United States v. Ohio 487 F. 2d 936, 941 (Temp. Emer. Ct. App. 1973), *cert. granted sub nom.* Fry v. United States, 415 U.S. 912 (1974) (No. 73–822); Murphy v. O'Brien, 485 F. 2d 671, 674 (Temp. Emer. Ct. App. 1973); Pacific Coast Meat Jobbers Ass'n v. COLC, 481 F. 2d 1388, 1392 (Temp. Emer. Ct. App. 1973); Baldwin County Elec. Membership Corp. v. Price Comm'n, 481 F. 2d 920, 923 (Temp. Emer. Ct. App.), *cert. denied*, 414 U.S. 909 (1973); United States v. Local 11, Int'l Bhd. of Elec. Workers, 475 F. 2d 1204, 1209 (Temp. Emer. Ct. App. 1973); City of N.Y. v. New York Tel. Co., 468 F. 2d 1401, 1402–03 (Temp. Emer. Ct. App. 1972); *cf.* Mandel v. Simon, 493 F. 2d 1239, 1240 (Temp. Emer. Ct. App. 1974) (per curiam) (judgment of Federal Energy Office merits deference at least in formative stages of agency's operations); 1 K. Davis, *supra* note 3, at § 2.07 (1958); Wright, *supra* note 40, at 393. *But see* Consumers Union of United States, Inc. v. COLC, 491 F. 2d 1396, 1401–03 (Temp. Emer. Ct. App.), *cert. denied*, 416 U.S. 984 (1974) (deference inapplicable where agency interpretation inconsistent with statutory language and legislative history); Associated Gen'l Contractors v. Laborers Int'l Local 612, 476 F. 2d 1388, 1399–1400 (Temp. Emer. Ct. App. 1973) (deference not applicable to agency interpretation exceeding delegated authority); United States v. Jefferson Parish School Bd., 333 F. Supp. 418, 423–24 (E.D. La. 1971) (deference inapplicable where agency's interpretation are contradictory). *See generally* Overton Park v. Volpe, 401 U.S. 402, 416 (1971) (court may not substitute its judgment for agency's).

[46] *See, e.g.*, Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 203(f), 85 Stat. 743, *as amended*, Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27 (specified wage increases exempt from controls), *Id.* § 203(h) (states not exempt from 1970 Act's rent provisions even though they have own rent control laws); *Id.* § 215 (mass transportation businesses required to obtain approval for fare increases).

[47] *See* H. Friendly, *supra* note 3, at 6 & nn. 26–27.

[48] Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 203(d), 85 Stat. 743, *as amended*, Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, § 3, 87 Stat. 27.

[49] *See* H.R. Rep. No. 714, 92d Cong., 1st Sess. 5 (1971) (legislative intent of House Committee on Banking and Currency). The Senate bill had provided the substandard wage exemption for persons whose income placed them below the poverty level determined by the Office of Management and Budget. S. 2891, § 203(d), 92d Cong., 1st Sess. (1971). The Conference Committee accepted the House version. *See* S. Rep. No. 579, 92d Cong., 1st Sess. 17–18 (1971). The provision as enacted read: "[T]his title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is a member of the working poor not be limited in any manner." Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 203(d), 85 Stat. 743, *as amended*, Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, § 3, 87 Stat. 27.

[50] *See* Jennings v. Connally, 347 F. Supp. 409, 415–16 (D.D.C. 1972). The COLC established $1.90 per hour as the wage at which the exemption should begin. 37 Fed. Reg. 3913 (1972).

[51] 347 F. Supp. 409 (D.D.C. 1972).

[52] *Id.* at 416–18.

[53] *See* 37 Fed. Reg. 14998 (1972). The COLC established a figure of $2.75 per hour for the substandard wage exemption. *Id.*

[54] 355 F. Supp. 1198 (D.D.C. 1973).

[55] *Id.* at 1205–08, 1208 n.11.

[56] *See* Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, § 3, 87 Stat. 27, *amending* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 203(d), 85 Stat. 743 ($3.50 per hour ceiling); 38 Fed. Reg. 20461 (1973) (COLC low wage regulation).

[57] *See* S. Rep. No. 63 *supra* note 2, at 5.

[58] *Id.*

[59] *See* H.R. Rep. No. 714, *supra* note 49, at 5; S. Rep. No. 579, *supra* note 49, at 17–18. During the debate on the legislation containing the original exemption provision, Representative Ryan, the only member of Congress to address himself to the exemption provision, had stated that the exemption should allow a $6,960 annual income to a family of four and had compared the low-paid worker exemptions of World War II and the Korean War to the substandard wage exemption provision. *See* 117 Cong. Rec. 46018–20 (1971).

[60] Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, § 6, 87 Stat. 27, *amending* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, 85 Stat. 743.

[61] *See* S. Rep. No. 63, *supra* note 2, at 8. *See* Cong. Rec. vol. 119, pt. 7, p. 8456–7 (remarks of Senator Hathaway, sponsor of the disclosure provision).

[62] *See* Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, § 6(b)(1), 87 Stat. 27, *amending* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, 85 Stat. 743. The statute required disclosure by businesses subject to reporting requirements under COLC regulations in effect on January 11, 1973, the beginning of Phase III. *Id.* The Phase III regulations to which the disclosure provision was tied were superseded, however, in Phase IV by new regulations that expanded the class of businesses subject to COLC reporting requirements. *See* 38 Fed. Reg. 21972 (1973). Although the COLC observed that a strict reading of the statute would have rendered the disclosure provision void in Phase IV, the agency concluded from the legislative history that the disclosure requirements were to apply to reporting forms in Phase IV that succeeded the Phase III reporting forms. *Id.* at 21972–73.

[63] Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, § 6(b)(2), 87 Stat. 27, *amending* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, 85 Stat. 743. *See* Cong. Rec. vol. 119, pt. 7, p. 8456–7 (remarks of Senator Tower, sponsor of amendment to exclude proprietary information). The COLC subsequently published regulations defining proprietary information. *See* 38 Fed. Reg. 16023, 16024 (1973).

[64] *See* Economic Stabilization Act Amend-

ments of 1973, Pub. L. No. 93–28, § 6(b)(3), 87 Stat. 27, *amending* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, 85 Stat. 743. *See* Cong. Rec. vol. 119, pt. 7, p. 8842–3 (remarks of Senator Hathaway, sponsor of amendment to require disclosure of information in Securities and Exchange Commission reports).

[65] *See* 38 Fed. Reg. 21972, 21975–77 (1973).

[66] 491 F.2d 1396 (Tmep. Emer. Ct. App. 1974), *cert. denied,* 416 U.S. 984 (1974).

[67] *See id.* at 1401–02.

[68] *Id.* at 1402.

[69] *Id* at 1402–04. Contrary to plaintiffs' contentions, however, the court found that Congress intended the disclosure provisions to apply only to those firms required to report to the COLC in Phase III, rather than to the larger number of firms required to report in Phase IV. *Id* at 1400–01; *see* note 62 *supra.*

[70] 491 F.2d at 1404. The continuation of litigation delayed the issuance of new public disclosure regulations, however. After the decision, the intervenor in the case filed a petition for writ of certiorari in the Supreme Court, which the Supreme Court subsequently denied. 416 U.S. 984 (1974). Under the terms of the 1970 Act the effectiveness of the final judgment of the Temporary Emergency Court of Appeals was postponed until final disposition of the action by the Supreme Court. *See* Economic Stabilization Act of 1970, Pub. L. No. 92–210, § 211(g), 85 Stat. 743 (1971), *as amended,* Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27. Several months after the 1970 Act had expired, after the denial of the petition and after the intervenor entered and withdrew a challenge to the decision of the Temporary Emergency Court of Appeals as moot, the COLC issued public disclosure regulations on product line sales and profits. *See* 39 Fed. Reg. 27445 (1974) (regulations for public access to records).

[71] Section 118 of the Legislative Reorganization Act of 1970 obligates each standing committee in the House and Senate to review continually the application, administration, and execution of those laws that fall within the committee's subject matter jurisdiction, 2 U.S.C. § 190d(a) (Supp. III, 1973).

[72] *See* L. JAFFE, *supra* note 21, at 41; Jones, *Oversight Function of Congressional Standing Committees,* 34 A.B.A.J. 1018, 1018–19 (1948) (congressional committees' responsibility to maintain surveillance over the exercise of delegated powers). *See generally* H. FRIENDLY, *supra* note 3, at 169–73.

[73] *See* E. KEFAUVER & J. LEVIN, A TWENTIETH CENTURY CONGRESS 151 (1947) (proposal that congressional committees systematically review administrative agencies); J. SALOMA, CONGRESS AND THE NEW POLITICS 130–33, 151–58 (1969) (committee role in controlling and directing bureaucratic action).

[74] *See generally* W. GELLHORN & C. BYSE, *supra* note 21, at 83–85; Macmahon, *Congressional Oversight of Administration: The Power of the Purse,* pts. 1, 2, 58 POL. SCI. Q. 161, 380 (1943).

[75] *See* L. JAFFE, *supra* note 21, at 47–48 ("unless supervision is employed circumspectly, it can easily lead to a reign of terror"). *See generally* Burt & Kennedy, *Congressional Review of Price Controls,* 101 U. PA. L. REV. 333 (1952) (analysis of effectiveness of congressional review of Korean War price controls and recommendations for improvement).

[76] *See, e.g., Hearings on Treasury, Postal Service, and General Government Appropriations for Fiscal Year 1974 Before the House Comm. on Appropriations,* 93d Cong., 1st Sess., pt. 3, at 639–710 (1973) (economic stabilization activities); *Hearings on the Price Freeze and its Effects on Agriculture Before the House Comm. on Agriculture,* 93d Cong., 1st Sess. (1973); *Hearings on Price and Wage Control, an Evaluation of Current Policies, Before the Joint Economic Comm.,* 92d Cong., 2d Sess., pts. 1, 2 (1972).

[77] *See, e.g., Hearings on Renewal and Suggested Modification of the Economic Stabilization Act, supra* note 2; *Hearings on H.R. 13206 Before the House Comm. on Banking & Currency,* 93d Cong., 2d Sess. (1974); *Hearings on the Economic Stabilization Act Before the House Comm. on Banking & Currency,* 93d Cong., 1st Sess. (1973).

[78] Arthur Burns, Chairman of the Federal Reserve Board, asserted that the "virtually dictatorial power" granted the President in the 1970 Act should be reviewed by the Congress at three- or six-month intervals. *See Hearings on S. 1201 and H.R. 4246 Before the Subcomm. on Financial Institutions of the Senate Comm. on Banking, Housing, and Urban Affairs,* 92d Cong., 1st Sess. 33 (1971). Senator Proxmire agreed that the power of the 1970 Act should be held "under a short leash" and reviewed every six months. *See hearings on S. 2712, a Bill to Extend and Amend the Economic Stabilization Act of 1970, as Amended Before the Senate Comm. on Banking, Housing, and Urban Affairs,* 92d Cong., 1st Sess. 106–08 (1971). Ironically, during the first eight months after the enactment of the 1970 Act, before a stabilization program existed, Congress extended the Act for short periods; after the COLC was established, Congress granted extensions of the Act's authority for a year or longer. *Compare* Economic Stabilization Act of 1970, Pub. L. No. 91–379, § 206, 84 Stat. 799 (expiration of 1970 Act's authority in six and one-half months) *and* Act of Dec. 17, 1970, Pub. L. No. 91–588, § 201, 84 Stat. 1468 (one month extension) *and* Interest Equalization Tax Extension Act of 1971, Pub. L. No. 92–8, § 2, 85 Stat. 13 (one month extension) *with* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 218, 85 Stat. 743 (one year extension) *and* Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, § 8, 87 Stat. 27 (one year extension).

[79] *See generally* note 77 *supra.*

[80] *See 1973 Subcomm. Hearings, supra* note 8.

[81] *See id.* at 87–89. Senator Mathias, who chaired the subcommittee hearings, noted that a corporate lawyer, consumer group representatives, and a trade association spokesman had all agreed on the deficiencies in the COLC's operations. These groups complained that the public lacked benchmarks upon which to guide business behavior, faced difficulty in securing information from the COLC, lacked adequate access to the COLC's proceedings, and had insufficient opportunity to register its views. *Id.* at 87. By contrast to the COLC, the Federal Energy Office received close congressional attention during its first months. The Federal Energy Office enabling legislation authorized the Federal Trade Commission to monitor the agency's program during the initial 45 days of operation and to report to Congress on the agency's effectiveness. *See* Emergency Petroleum Allocation Act of 1973, § 7(a), 15 U.S.C. § 756(a) (Supp. III, 1973). The Federal Trade Commission submitted a report, a comprehensive 1000 page document compiled from interviews with regional energy officials, industry representatives, and consumers and from 6000 individual case studies. *See* FEDERAL TRADE COMMISSION, *supra* note 9. The report criticized the administrative measures of the program but expressed optimism based on the demonstrated willingness of the Federal Energy Office "to rethink and redesign fundamental aspects of the program." *Id.* at S–32.

[82] *See* S. Doc. No. 8, *supra* note 28, at 11–24. *See generally* K. DAVIS, *supra* note 28, at 56.

[83] *See, e.g.,* Consumers Union of United States, Inc. v. COLC, 491 F.2d 1396 (Temp. Emer. Ct. App.), *cert. denied,* 416 U.S. 984 (1974); Jennings v. Shultz, 355 F. Supp. 1198 (D.D.C. 1973); Jennings v. Connally, 347 F. Supp. 409 (D.D.C. 1972); note 70 *supra.*

[84] *See* K. DAVIS, ADMINISTRATIVE LAW TEXT § 209 (3d ed. 1972); Nutting *Congressional Delegations Since the Schecter Case,* 14 Miss. L.J. 350, 353–67 (1942) (procedural devices necessary to insure a proper respect by agencies for individual interests). *See also* Joint Anti-Facist Refugee Comm. v. McGrath, 341 U.S. 123, 179 (1950) (Douglas, J., concurring). "It is not without significance that most of the provisions of the Bill of Rights are procedural. It is procedure that spells much of the difference between rule by law and rule by whim or caprice. Steadfast adherence to strict procedures is our main assurance that there will be equal justice under the law." *Id.*

[85] *See* Wright, *supra* note 3, at 588–91. *See also* Comment, *supra* note 8, at 567 & n.12.

[86] 5 U.S.C. §§ 551–59, 701–06 (1970).

[87] *See 1973 Subcomm. Hearings, supra* note 8, at 40–41 (testimony of Ernest Gellhorn, professor of law, University of Virginia). *See also* ADMINISTRATIVE PROCEDURE ACT, LEGISLATIVE HISTORY, 1944–46, S. Doc. No. 248, 79th Cong., 2d Sess. iii, 295–306 (1946) (statements of Senator McCarran, Chairman, Senate Judiciary Committee).

[88] *See* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 207(a), 85 Stat. 743, *as amended,* Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27.

[89] *See* S. 2971, 92d Cong., 1st Sess. § 207 (1971). Only the Freedom of Information Act, relating to the public's acquisition of agency information, would have applied to agencies acting under this version of the 1970 Act. *Id.; see* 5 U.S.C. § 552 (1970).

[90] *See Hearings on S. 2712, supra* note 78, at 19, 91–94 (William N. Walker, COLC General Counsel, and L. Patrick Gray, Assistant Attorney General).

[91] *See* S. REP. No. 507, 92d Cong., 1st Sess. 8 (1971).

[92] *See* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 207(a), 85 Stat. 743, *as amended,* Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27 (agency functions exempted from the provisions of the APA, except for the requirements of sections 552, 553, and 555(c) of 5 U.S.C). Agencies established under the 1970 Act also were to develop their own procedures for interpretations, modifications, and exemptions from rules and regulations and to provide for agency review of such decisions. Further, agencies were required to hold formal hearings on agency measures having a significant impact on the national economy. *See id.* §§ 207(b)–(c).

[93] Administrative Procedure Act § 4, 5 U.S.C. § 553 (1970); *see* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 207(a), 85 Stat. 743, *as amended,* Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27.

[94] Administrative Procedure Act § 4, 5 U.S.C. § 553 (1970).

[95] *Id.* § 4(a), 5 U.S.C. § 553(b)(B) (1970). The agency must have a good cause for issuing the finding and must state its basis in the rules issued. *Id.* The legislative history of the APA supports a narrow construction of the impracticability exception. Proponents of the APA argued that as written the exception could be used only after the agency made a good faith determination that good cause justified its use. *See* STAFF OF SENATE COMM. ON JUDICIARY, 79TH CONG., 2D SESS., REPORT ON ADMINISTRATIVE PROCEDURE ACT 9 (Comm. Print 1946). To prevent abuse Congress intended that the agency make a valid and substantiated finding of necessity or emergency and publish the finding with the rule. *See* S. REP. No. 752, 79th Cong., 1st Sess. 14 (1945); H.R. REP. No. 1980, 79th Cong., 2d Sess. (1946). The exception was to encompass only situa-

tions in which agency functioning would be unavoidably crippled by undertaking formal rulemaking or situations involving minor, technical amendments in which the public probably would not be interested. *See* S. Rep. No. 752, *supra;* H.R. Rep. No. 1980, *supra. See generally* Note, *The Judicial Role in Defining Procedural Requirements for Agency Rulemaking,* 87 Harv. L. Rev. 782, 782–83 & n.7 (1974).

[90] *See* Kelly v. Department of the Interior, 339 F. Supp. 1095, 1101–02 (E.D. Cal. 1972). *See also* 1 CCH Eco. Controls Rep., Bull. No. 142, at 5 (Aug. 14, 1973) (comments helpful in developing final Phase IV regulations). The final Phase IV regulations were altered significantly as a result of 1000 comments which the COLC received on the proposed regulations. *1973 Subcomm. Hearings, supra* note 8, at 72, 80 (statement of William N. Walker, COLC General Counsel). Embarrassing errors can be avoided if the agency invites public comment on proposed regulations. *See id.* at 15–18 (statement of Edward Dunkelberger, attorney).

[97] *See* Empirical Study of Federal Register Announcements of COLC Rulemaking (on file at the *Georgetown Law Journal*). The study covers the period from November 13, 1971 to April 30, 1974. On the 32 days when the COLC gave advance notice, the public was allowed an average of 15 days in which to submit comments. *See id.* From April 18, 1972, the COLC often invoked the impracticability exception and made regulations effective immediately but, solicited comments from the public on the already effective regulations. *See e.g.,* 37 Fed. Reg. 7616 (1972); 37 Fed. Reg. 7795 (1972); 37 Fed. Reg. 9457 (1972).

[98] *See, e.g.,* 36 Fed. Reg. 21761 (1971); *id.* at 21788; *id.* at 21790–91.

[99] Administrative Procedure Act § 4(a), 5 U.S.C. § 553(b)(B) (1970); *see* note 95 *supra.*

[100] The courts that considered the issue rejected without analysis challenges to the COLC's compliance with the purpose of the APA. *See* Minden Beef Co. v. COLC, 362 F. Supp. 298, 305 (D. Neb. 1973) (COLC's boilerplate statement of impracticability sufficient under APA); United States v. Great Atlantic & Pacific Tea Co., 342 F. Supp. 272, 277 (D. Md. 1972) (uninformative assertion of impracticability by delegate of COLC satisfies requirements of APA); *cf.* Appalachian Power Co. v. EPA, 477 F.2d 495, 502–03 (4th Cir. 1973) (uninformative statement by EPA of impracticability sufficient where it follows legislative intent that notice was not required under the circumstances of the case); Harry H. Price & Son v. Hardin, 299 F. Supp. 557, 559–60 (N.D. Tex. 1969), *vacated on other grounds,* 425 F.2d 1137, 1139 (5th Cir. 1970), *cert. denied,* 400 U.S. 1009 (1971) (mere assertion of impracticability by Secretary of Agriculture sufficient); Allegheny Airlines, Inc. v. Cedarhurst, 132 F. Supp. 871, 884 (E.D.N.Y. 1955), *aff'd,* 238 F.2d 812 (2d Cir. 1956) (conclusory statement by Civil Aeronautics Board of finding of impracticability sufficient); Reallocation of Certain Frequency Bands, 8 Ad., L.2d 385, 386–87 (FCC 1958) (unexplained claim of impracticability by Federal Communications Commission does not justify invalidating regulation).

[101] 339 F. Supp. 1095 (E.D. Cal. 1972).

[102] *Id.* at 1101–02.

[103] *Id.* at 1101. *See generally* Arizona Dep't of Pub. Welfare v. HEW, 449 F.2d 456, 481 (9th Cir. 1971), *cert. denied,* 405 U.S. 919 (1972) (by implication) (statement of impracticability was sufficiently detailed to show reviewing court basis for use of exception); Durkin v. Edward S. Wagner Co., 115 F. Supp. 118, 121–22 (E.D.N.Y. 1953), *aff'd,* 217 F.2d 303 (2d Cir. 1954), *cert. denied,* 348 U.S. 964 (1955) (by implication) (detailed statement of findings and reasons sufficient to permit meaningful review). In *Kelly* the bare assertion of impracticability did not provide the court with any basis for determining whether the circumstances justified use of the exception. *See* 339 F. Supp. at 1101. Assuming interested parties would not submit nor the agency seriously consider comments after the rules had become effective, the court reasoned that upholding the regulation would emasculate the purpose of the APA. *Id.*

[104] *See* 339 F. Supp. at 1102. However, the Temporary Emergency Court of Appeals held in *DeRieux v. The Five Smiths, Inc.* that Congress did not intend courts to set aside agency regulations for technical violations of section four of the APA where the reason for exempting the agency's action from the APA notice requirement is obvious and compelling. 499 F.2d 1321, —— (Temp. Emer. Ct. App. June 20, 1974) (Civ. Nos. 5–6, 5–7, 5–8, at 27), *petition for cert. filed,* 43 U.S.L.W. 3021 (U.S. July 30, 1974) (No. 73–2046). The court held that where a regulation is issued without advance notice of rulemaking, a court should not set aside the regulation if it determines that the agency in fact had good cause to bypass the notice requirement. *Id.* at 25.

[105] President Nixon in his original message initiating the economic stabilization program promised that a large bureaucracy would not be established. *See* 7 W'kly Compilation of Pres. Doc. 1168, 1170–72 (1971) (President Nixon's remarks on nationwide radio and television on August 15, 1971). Critics charged, however, that the COLC was inadequately staffed and that the inadequate staffing was a cause of insufficient opportunity for public input into COLC rulemaking. *See* 1973 *Subcomm. Hearings, supra* note 8, at 14 (statement of Edward Dunkelberger, attorney); *id.* at 65 (testimony of Peter J. Petkas, member, Corporate Accountability Research Group). *See also Hearings on S. 2712, supra* note 78, at 124 (testimony of David Ginsburg, attorney) (need for substantial bureaucracy to establish general wage and price controls).

[106] *See generally Answers to Questions in Writing Propounded by Senator Mathias to William Walker, COLC General Counsel, cited in 1973 Subcomm. Hearings, supra* note 8, at 128 (advance notice of regulations often sets off price increases and higher wage demands resulting in market distortions that exacerbate the inflationary conditions the regulations were intended to correct).

[107] *See* Report of the Economic Stabilization Comm. of the ABA Section of Administrative Law, in Minutes of the Spring Meeting of the Council 23 (May 1–13, 1973). The committee determined that there had been little or no adherence to the rulemaking procedures required by section four of the APA. *Id.* The committee's proposal was approved by the American Bar Association Administrative Law Section and set forth in a letter to the Director of the COLC. The committee received no direct reply but noted that Phase IV COLC regulations did provide increased opportunity for public comment. *See* Report by the Chairman, Wage and Price Stabilization Comm., on ABA Section of Administrative Law Recommendations Made to COLC 1–3 (undated). *See also* S. 2954, 93d Cong., 2d Sess. (1974) (bill establishing procedures to assure due process under the 1970 Act).

[108] *Landmarks Along the Way,* 24 Ad. L. Rev. 418–21, 45–46 (1972) (collection of proposed legislative revisions of APA). The comprehensive *Code of Federal Administrative Procedure,* proposed in 1972, incorporated this proposal. *See* Kennedy, *Foreward: A Personal Perspective,* 24 Ad. L. Rev. 371, 372–74 (1972). A bill similar to the proposal had passed the Senate in 1966 but had died in the House Judiciary Committee. *See* S. 136, 89th Cong., 2d Sess. § 4(d) (1965) (six months for emergency rules adopted without compliance with APA notice requirements); 12 Cong. Rec. 13975 (1966) (Senate passage).

[109] *See Landmarks along the Way, supra* note 108, at 455–56.

[110] Administrative Procedure Act § 6(d), 5 U.S.C. § 555(e) (1970); *see* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210, § 207(a), 85 Stat. 743, *as amended,* Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27. Congress contemplated that the statement required by section 6(d) would be simplier than the findings and reasons normally given in support of orders made pursuant to section eight, the formal adjudicatory provision of the APA. Administrative Procedure Act § 8, 5 U.S.C. § 577(c) (1970); *see* S. Rep. No. 752, *supra* note 95, at 41 (appendix to statement of Tom C. Clark, Attorney General). Section 6(d) was intended to ensure that notice of denial would be accompanied by a statement sufficient to explain why the requested action was refused. *See id.* at 20; H.R. Rep. No. 1980, *supra* note 95, at 33–34.

[111] *See* J. Freedman, *Summary Action by Administrative Agencies,* 40 U. Chi. L. Rev. 1, 47 (1972) (statement of reasons refines exercise of administrative discretion and facilitates judicial review of agency action). *See generally* Kaufman, *Judicial Review of Agency Action. A Judge's Unburdening,* 45 N.Y.U.L. Rev. 201, 205 (1970) (requiring agencies to reduce decisions to writing encourages rational agency decisionmaking and facilitates rational judicial review).

[112] *See 1973 Subcomm. Hearings, supra* note 8, at 62 (testimony of Peter J. Petkas, member, Corporate Accountability Research Group). *But see id.* at 92 (testimony of William N. Walker, COLC General Counsel) (more informative rationales for denials of exceptions requests were given by the COLC during Phase IV). The COLC's failure to explicate the reasons for its discretionary actions led to much litigation. *See* League of Voluntary Hosps. & Homes v. Drug & Hosp. Local 1199, 490 F.2d 1398, 1401–02 (Temp. Emer. Ct. App. 1973) (regulations failing to include explication of their basis challenged); Chrysler Corp. v. Dunlop, 490 F.2d 985, 987–88 (Temp. Emer. Ct. App. 1973) (per curiam) (deferral of consideration of proposed price increase challenged); Pacific Coast Meat Jobbers Ass'n v. COLC, 481 F.2d 1388, 1390–91 (Temp. Emer. Ct. App. 1973) (denial of request for public hearings challenged); Baldwin County Elec. Membership Corp. v. Price Comm'n, 481 F.2d 920, 921–23 (Temp. Emer. Ct. App.), *cert. denied,* 414 U.S. 909 (1973) (denial of request for rescission of prior grant of price increase challenged); Plumbers Local 519 v. Construction Indus. Stabilization Comm., 479 F.2d 1052, 1053–56 (Temp. Emer. Ct. App. 1973) (denial of wage increase challenged); Nader v. Dunlop, 370 F. Supp. 177, 178 (D.D.C. 1973) (unexplained denial of requests for public access to COLC advisory committee meetings challenged); Mass Retailing Institute, Inc. v. COLC [1973 Transfer Binder] CCH Eco. Controls Rep. ¶ 9895, at 9521–23 (D.D.C. 1972) *aff'd per curiam,* 468 F.2d 948, 949 (Temp. Emer. Ct. App. 1972) (unexplained denial of requests for public hearings and grant of general exemption from price controls challenged).

[113] *See 1973 Subcomm. Hearings, supra* note 8, at 62 (testimony of Peter J. Petkas, member, Corporate Accountability Research Group); *id.* at 132–34 (statement of Laurence Silberman, attorney).

[114] *See id.* at 107 (testimony of Gregory Moses, Director of Exceptions and Health Division, COLC).

[115] *Id.* at 79 (statement of William N. Walker, COLC General Counsel); *id.* at 131–32 (statement of Laurence Silberman, attorney). One witness at a Senate subcommittee hearing suggested that since regulated parties shift their behavior once they

understand the implications of a new phase of economic controls, "controllers historically have to present a moving target." *Id.* at 132.

[116] *See id.* at 91–92 (testimony of William N. Walker, COLC General Counsel).

[117] Requests for Reconsideration, 38 Fed. Reg. 21986 (1973).

[118] *Id.*

[119] *See* Baldwin County Elec. Membership Corp. v. Price Comm'n, 481 F.2d 920, 928 (Temp. Emer. Ct. App. 1973) (Hastie, J., dissenting). The dissenting opinion in *Baldwin County* pointed out that the decision involved in that case supplied no guidance to a party contemplating administrative review. *Id.* Further, the orders in *Chrysler Corporation v. Dunlop* and *Plumbers Local 519 v. Construction Industrial Stabilization Committee* merely restated the vague standards that the agencies were required to apply in evaluating price and wage increases. *See* Chrysler Corp. v. Dunlop, 490 F.2d 985, 987 (Temp. Emer. Ct. App. 1973) (per curiam); Plumbers Local 519 v. Construction Indus. Stabilization Comm., 479 F.2d 1052, 1055 (Temp. Emer. Ct. App. 1973).

[120] 481 F.2d 920 (Temp. Emer. Ct. App. 1973).

[121] *Id.* at 925–28.

[122] *Id.* at 928.

[123] Freedom of Information Act of 1970, 5 U.S.C. § 552 (1970); *see* Economic Stabilization Act of 1970, Pub. L. No. 92–210, § 207(a), 85 Stat. 743, *as amended,* Economic Stabilization Act Amendments of 1973, Pub. L. No. 93–28, 87 Stat. 27. In compliance with the Freedom of Information Act, the COLC issued regulations governing public access to agency records. *See* 37 Fed. Reg. 2478 (1972), *as amended,* 38 Fed. Reg. 21973 (1973), *as amended,* 39 Fed. Reg. 27445 (1974).

[124] *See* 5 U.S.C. § 552 (1970).

[125] *See 1973 Subcomm. Hearings, supra* note 8, at 20 (statement of Edward Dunkelberger, attorney); *id.* at 56, 61–63 (statement of Peter J. Petkas, member, Corporate Accountability Research Group). *See generally* Breckenfeld, *Professor Dunlop's Unseen War on Inflation,* 88 FORTUNE, Aug. 1973, at 86.

[126] 5 U.S.C. App. I, §§ 1–15 (Supp. III, 1973).

[127] *Id. See generally* Comment, *The Federal Advisory Committee Act,* 10 HARV. J. LEGIS. 217 (1973) The Federal Advisory Committee Act authorizes closed advisory committee meetings only if the agency head determines that the meetings would involve matters exempted from public disclosure and issues a written statement explaining the determination. *Id.* § 10(d) 5 U.S.C. App. I, § 10(d) (Supp. III, 1973). *See generally* Lazarus & Onek, *supra* note 10, at 1106–08.

[128] 370 F. Supp. 177 (D.D.C. 1973).

[129] *Id.* at 178.

[130] *Id.* at 178–80. After the decision was announced, the COLC sought from Congress an exemption from the Federal Advisory Committee Act. *See Hearings on Renewal and Suggested Modification of the Economic Stabilization Act, supra* note 2, at 505–07 (statement of John Dunlop, COLC Director).

[131] 491 F.2d 1396 (Temp. Emer. Ct. App.), *cert. denied,* 416 U.S. 984 (1974).

[132] *See id.* at 1401–03; notes 60–70 *supra* and accompanying text.

[133] *See 1973 Subcomm. Hearings, supra* note 8, at 13–25 (statement of Edward Dunkelberger, attorney); *id.* at 139–150 (statement of Clarence Adamy, president, National Association of Food Chains); *Recent Developments in Practice and Procedure Under the Economic Stabilization Program,* 29 BUS. LAW. 525, 553–59 (1974) (American Bar Association panel discussion of procedural and substantive aspects of COLC economic controls program). A trade association president complained about both the agency's overuse of the impracticability exception of section four of the APA and the use of unclear, inconsistent, and ambiguous administrative rulings and regulations. *1973 Subcomm. Hearings, supra* at 140–42 (statement of Clarence Adamy, president, National Association of Food Chains).

[134] *See Hearings on H.R. 13206, supra* note 77, at 390 (public perception of fair and equitable administrative process would improve cooperation of regulated parties and thus enhance success of control program).

In its report on the early operations of the Federal Energy Office, the Federal Trade Commission concluded that public good will and cooperation are essential to the success of an emergency administrative program that is inadequately staffed and lacks powerful compliance mechanisms and that voluntary cooperation suffers if the public does not have access to decisionmaking processes of an emergency agency. FEDERAL TRADE COMMISSION, supra note 9, at S–31, III–28 to 29.

[135] *See 1973 Subcomm. Hearings, supra* note 8, at 56, 62 (statement and testimony of Peter J. Petkas, member, Corporate Accountability Research Group). One witness suggested that the sole method of obtaining action on some problems was to make an off-the-record attempt to persuade the COLC staff member assigned to the case to make the desired decision. *Id.* at 62. The same witness charged that the major oil companies but not the independent oil companies, received drafts of proposed Phase IV petroleum regulations prior to publication in the *Federal Register. Id.* at 56.

[136] *See id.* at 48–50 (testimony of Ernest Gellhorn, professor of law, University of Virginia); *id.* at 143 (testimony of Clarence Adamy, president, National Association of Food Chains); E. Gellhorn, *Adverse Publicity by Administrative Agencies,* 86 HARV. L. REV. 1380, 1403–06 (1973).

[137] *See* Report of the Economic Stabilization Comm. of the ABA, *supra* note 107, at 25. The American Bar Association committee charged that rules and orders sometimes were announced in press releases purporting to be official documents but having no legal effect and often misleading the public. *Id.*

[138] *See 1973 Subcomm. Hearings, supra* note 8, at 19–20 (statement of Edward Dunkelberger, attorney); *Hearings on H.R. 13206, supra* note 77, at 388 (1974) (statement of James B. Minor, chairman, American Bar Association Wage-Price Stabilization Committee). The COLC delegated to the Internal Revenue Service the responsibility for administering the service and compliance functions under the economic controls program. COLC Order No. 5, 36 Fed. Reg. 21798 (1971), *as amended,* COLC Order No. 37, 38 Fed. Reg. 21836 (1973). *See generally 1973 Subcomm. Hearings, supra* note 8, at 73–76 (statement of William N. Walker, COLC General Counsel); *id.* at 91–93 (testimony of Charles Emley, COLC Associate Director of Operations).

[139] See Chrysler Corp. 1. Dunlop, 490 F. 2d 985, 987 (Temp. Emer. Ct. App. 1973) (per curiam) (agency decision to postpone and consolidate decisions on automakers' proposed price increases for sake of expediency resulted in suit).

[140] *See 1973 Subcomm. Hearings, supra* note 8, at 130 (statement of Laurence Silberman, attorney).

[141] *See generally* Boyer, *Alternatives to Administrative Trial-Type Hearings for Resolving Complex Scientific, Economic and Social Issues,* 71 MICH. L. REV. 111, 150–68 (1971) (alternatives to agency adjudication methods); Hamilton, *Procedures for the Adoption of Rules of General Applicability: The Need for Procedural Innovation in Administrative Rulemaking,* 60 CALIF. L. REV. 1276, 1330–37 (1972) (suggestions for variety of types of agency rulemaking); Robinson, *The Making of Administrative Policy: Another Look at Rulemaking and Adjudication and Administrative Procedural Reform,* 118 U. PA. L. REV. 485, 536 (1970) (agency flexibility necessary in adapting rulemaking and adjudicatory procedures to needs of agency and interests of regulated); *The 12 ABA Recommendations for Improved Procedures for Federal Agencies,* 24 AD. L. REV. 389, 405–06 (1972) (informal procedures necessary for some agency matters).

The concept of a consumer advocate for rulemaking and adjudicatory proceedings may have particular relevance for economic-intervention agencies. *See generally* Cramton, *The Why, Where, and How of Broadened Public Participation in the Administrative Process,* 60 GEO. L. J. 525, 545–46 (1972); E. Gellhorn, *Public Participation in Administrative Proceedings,* 81 YALE L. J. 359, 397–98 (1972); Lazarus & Onek, *supra* note 10, at 1103–06; Williams, *An Evaluation of Public Participation,* 24 AD. L. REV. 49, 61–62 (1972). A consumer advocate who would respond to economic-intervention agencies' solicitations for comments and would testify at hearings on behalf of consumers would help to remedy the lack of public representation and participation that marked COLC decisionmaking. The advocate also would possess the resources, expertise, and time to garner information and articulate the consumer point of view more effectively than could the average consumer. *Cf. 1973 Subcomm. Hearings, supra* note 8, at 108–09 (testimony of William N. Walker, COLC General Counsel); Lev, *Economic Control Regulations: A Descriptive Commentary,* 13 B.C. IND. & COM. L. REV. 1277, 1283–98 (1972) (difficulty of comprehending COLC's intricate regulations). Moreover, the consumer advocate could challenge waivers or violations of procedural requirements by the agency. Each House has accepted at least one consumer advocate proposal. *See* H.R. REP. No. 962, 93d Cong., 2d Sess. 3 (1974); 120 CONG. REC. H 2563–64 (daily ed. Apr. 3, 1974) (House passage of House bill 13163, establishing consumer protection agency and authorizing administrator to intervene in federal agency proceedings). *See also* S. 707, § 7, 93d Cong., 2d Sess. (1974) (reported Senate counterpart measure to H.R. 13163).

[142] Even at the end of the economic stabilization program, critics and supporters were sharply divided as to the success and effectiveness of the program in stemming inflation. *See* Wash. Post, May 1, 1974, § A, at 1, col. 1; N.Y. Times, Apr. 28, 1974, § 1, at 1 at 1, col. 6.

[143] *See 1973 Subcomm. Hearings, supra* note 8, at 130. Laurence Silberman, who, as Under Secretary of Labor from 1970 to 1973, helped formulate the economic stabilization policy, criticized the COLC: "You cannot use Government regulatory powers in our society without accepting the restraints on that power inherent in our democracy. At least you cannot do so without sacrificing traditional institutional interests which may in the long run be more critical than policies directed at temporary wage-price stability." *Id.*

[144] *See id.* at 3 (statement of Senator Mathias).

CARPOOLING TO CONSERVE ENERGY

Mr. HUMPHREY. Mr. President, as the author of the original carpool amendment to S. 2589, the Energy Emergency Act, I am very concerned that we establish a national carpooling program as soon as possible as a major energy conservation effort.

On November 19, 1973, the Senate passed my amendment at a $25 million level. The House adopted the same amendment and same level of authorization in committee. Unfortunately, the funding was cut to $1 million on the House floor without discussion as the clock approached midnight and the membership pushed toward final passage. The compromise level of $5 million for 2 years was, in my judgment, inadequate. It was not a significant stimulus to States and local governments to push carpooling, but that criticism is academic since the President's veto of S. 2589 was sustained by the Senate on March 6, 1974.

Mr. President, I believe that the Federal Government can play an important promotional role in energy conservation by providing the initial technical and financial help communities need to get carpooling moving.

The energy savings, commuter time savings, and air pollution savings that result from carpooling are certainly substantial enough to warrant a $25 million, 2-year investment.

Mr. President, when we consider that we now spend an average of $5.2 million on each mile of urban interstate highway we build in this country, the expenditure of $25 million over 2 years to promote carpooling—less than the cost of 5 miles of urban highway—seems very reasonable indeed.

Mr. President, I want to give advance notice at this time of my intention to call up this amendment, when appropriate legislation is before the Senate. I ask unanimous consent the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

S. —

SEC. —. The Secretary of Transportation (hereafter referred to as "the Secretary") shall encourage the creation and expansion of the use of car pools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of car-pool participation in America.

The Secretary is directed to establish within the Department of Transportation an "Office of Car Pool Promotion" whose purpose and responsibilities will include—

Responding to any and all requests for information and technical assistance on car pooling and car pooling systems from units of State and local governments and private groups and employees;

Promoting greater participation in car pooling through public information and the preparation of such materials for use by State and local governments;

Encouraging and promoting private organizations to organize and operate car-pool systems for employees;

Promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of car-pool systems; and

Other such measures that the Secretary determines appropriate to achieve the goal of this section.

The Secretary shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll reductions and other incentives as may be found beneficial to the furtherance of car-pool ridership.

The Secretary is directed to allocate the funds appropriated pursuant to this section according to the following distribution between the Federal and State or local units of government:

(a) The initial planning process: up to 100% Federal.

(b) The systems design process; up to 100% Federal.

(c) The initial start-up and operation of a given system: 60% Federal and 40% State or local with the Federal portion not to exceed one year.

Within twelve months of enactment of this legislation the Secretary shall make a report to Congress of all activities and expenditures pursuant to this section. This shall include any recommendations as to future legislation concerning car-pooling.

The sum of $25 million is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for two years.

THE PITFALLS OF DEVALUATION

Mr. GOLDWATER. Mr. President, C. Northcote Parkinson, who is the author of "Parkinson's Law," had an article in the Illustrated London News of November 25, 1967, that I think should be read by every Member of Congress and by every economist interested in the plight of our country.

Although he was writing it about the problems of the English pound, it could very well be applied to the problems of the American dollar today, because all of the things that were working to the detriment of the pound at that time; namely, the British Government, are now working against the American dollar in this country and we the Members of the Congress are the culprits.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POOR MAN'S GUIDE TO DEVALUATION

(By C. Northcote Parkinson, Author of "Parkinson's Law")

The British are living beyond their income. When an individual does this he goes bankrupt. When a country does it its citizens import goods to a greater value than they export, making up the deficiency with armfuls of a paper currency which must become more worthless every day. One remedy for this is to do as we have now done and devalue our currency, frankly recognizing its diminished value in comparison with that of countries which are in a sounder financial position. Instead of asking 2.80 dollars for each pound sterling we will now ask 2.40.

The immediate result of this maneuvre is that our goods, as priced in pounds, become more competitive, while goods from abroad have to be marked up in price, becoming to that extent less attractive. The balance of trade tips in our favour, we hope, and we can all congratulate each other on our escape from a tricky situation. As from that moment we shall all, we trust, live happily ever after.

It is a question, however, whether these tactics are quite as clever as some people choose to imagine. In reducing the value of sterling we have lowered our salaries and wages and with them the cost price of all that we manufacture. But these wages will no longer purchase the same quality of imported food. Our bread and butter must cost us more and so must our bacon and eggs. For a time, it is true, we may pay less for our television sets and motor scooters, but the workers must soon realize that they are being cheated. A rising cost of living will justify them in demanding a higher wage. By a series of strikes or threatened strikes they will bring their wage level back to the point at which their wives can again afford bacon and eggs. The rising wages will then add to the price of all that we manufacture, bringing us back to where we began.

It might be argued that the respite will have been worth while, allowing us to regain markets which we were in danger of losing. This is only true, however, on the assumption that other countries refuse to copy our example. But in point of fact a devaluation of the pound may well lead to the rapid devaluation of other currencies—as has happened to a certain extent—a process which will thwart our intention from the start. The older term for devaluation is debasement of the coinage, and we first hear of it being done nationally during the later years of King Henry VIII. With his debasement of the currency went, too, a general debasement of values.

Why is a government tempted into a course of action which might be thought at once dishonest and ineffective? The answer is that the government borrows money and that devaluation is one obvious way of cheating its creditors. The gold sovereign which it borrows is finally repaid with a note worth ten shillings, five shillings, two shillings or nothing. The special merit of this transaction lies in the fact that a government's creditors are seldom of any political importance, being the veterans and the disabled, the widows and orphans. No man of wealth or influence will lend money to the government if he can possibly help it, for this, he can see, is a game in which the Treasury holds all the cards.

The public creditors are folk, therefore, who have come to their country's aid in its moment of peril; the purchasers of war bonds or the recipients of wound pensions, persons of no consequence at all. Added to them are the citizens who have been compelled to lend whether they like it or not, the contributors to pension funds and the recipients of postwar credit. There is no earthly reason why people of this sort should receive more than a fraction of the sums to which they think themselves entitled. They should normally be thought lucky to recover anything and ministers are naturally inclined to ignore them altogether. From the government's angle there is always a case for devaluation and it is based securely on the fact that the victims of this manoeuvre are not the folk from whom we have anything further to expect. They are, in fact, merely those who have already given most of what they had to give and are therefore, by definition, expendable.

So there is always an official case for devaluation. As against that, the objection to it (sentimentality apart) is that it leaves the situation unchanged. We come back, sooner or later (but probably sooner), to the basic fact that we are exporting too little and importing too much. The possible remedies are and have always been two in number: we can export more or we can import less. The obstacles to either policy are more political than economic, but are less formidable, perhaps, where imports are concerned. Here the first and obvious remedy is to deny credit facilities to the importer.

If the banks are told to refuse overdrafts to importers who are themselves told to pay for all imports within thirty days of clearing customs, the flood of incoming goods would begin to dwindle. If further action were required it might centre upon the importation of rubbish and poison. The rubbish to be excluded might comprise all motion pictures except those of artistic or educational merit. The poisons to be banned would include all tobacco from outside the sterling area; a first step toward the abolition of the whole traffic in dangerous drugs.

To promote our export business is admittedly more difficult. According to the socialist doctrines we have been taught to accept, the making of a profit is immoral. The wicked capitalist, like the selfish inventor and advertiser, is the enemy (as we all know) of the working class. So far from deserving encouragement, the businessman is to be overtaxed and pestered, controlled and despised. The not unnatural result has been that our most enterprising men have mostly left the country and joined up with our overseas rivals. There has been a rather pointless outcry over the emigration of engineers and medical men, but these are merely the persons we happen to be able to count. Of far greater importance is the migration overseas of the men who might have added to our real prosperity. Their numbers cannot be shown statistically—for who can tell what a businessman might have done had he been given the chance?—but any one of them could be worth 100 men with a medical degree.

The men of enterprise have gone or are going and we discover, to our astonishment, that our exports are tending to dwindle. But what in heaven's name did we expect? What were our dynamic adventurers supposed to do? Were we to assume that they would sit round London applying for permits and listening to socialist diatribes against their selfishness? Were we to picture them grovelling to civil servants and filling in imbecile questionnaires? There are people who will do that, but these are not the men upon whom our export business depends. Those we drive out are precisely those we need.

Behind all our talk of the nation's economy is the basic fallacy that our troubles are economic. Our weakness is actually political. We have produced no political theory, no science of government, no credible leadership, no workable system. Concentrating all power in the hands of the cabinet or its inner controlling group, we have come to expect from its members all the dignity, inspiration, wisdom, and courage which were once provided by king and peerage, church and squire. If we are disappointed in the result it can be no matter for surprise. Nothing in our system ensures that our ministers have even an average ability, and the task that we have set them is, in any case, impossible.

When compared with the failure of our public administration, the weakness of our economy is a trifling matter. The balance of payments could be righted by any competent statesman in a matter of weeks, if not of hours. But how are we to recognize competence when we see it? There is one infallable sign by which the good workman can be recognized; he is one who begins by putting his tools in order. We are currently in the position of motorists arguing by the roadside as to whether we should take the next turning to the left or right. What we have failed to notice is that our car has broken down.

NUTRITIONAL BENEFITS TO BE DERIVED FROM NEW BEEF GRADING STANDARDS

Mr. **HUMPHREY**. Mr. President, I would like to bring to the attention of my colleagues an article by Marian Burros which appeared in the Washington Post on October 9, entitled "Consumers' Beef: USDA Meat Standards."

There is a raging controversy among consumers regarding the USDA's proposed changes in beef standards. Under the Department's proposal, some lower grade beef would be reclassified at a higher grade, which would result in substantial savings in production costs. In order to receive the "prime" classification, for example, beef would require less marbling, and thus cattle fed on less of the costly feedgrains could achieve the higher grade.

Consumers are concerned about whether or not the savings in production costs would be passed on to them. Many are also concerned over the lack of nutritional standards considered in grading beef.

While "prime" beef is the most expensive and is considered to achieve the highest degree of juiciness, tenderness, and flavor, it is also the highest in fat and calorie content. Ironically, "utility" grade beef, the least expensive, is the leanest and least caloric grade of beef and has the higher protein content.

It is my sincere hope that this new grading system will offer some relief to the livestock producer who has suffered from soaring feed costs, and that some of the savings will also be passed on to consumers. In addition, the USDA should establish a new labeling system which would provide nutritional information. The consumer should be made aware of the nutritional benefits to be derived from eating leaner beef.

Mr. President, I ask unanimous consent that the article by Marian Burros be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONSUMERS' BEEF: USDA MEAT STANDARDS

(By Marian Burros)

What started out yesterday as an informational briefing by the United States Department of Agriculture (USDA) on proposed changes in beef standards to raise some lower grades of beef to the top classifications of "choice" and "prime," ended up like the Tower of Babel. Everyone was talking a different language.

John Pierce, director of the department's livestock division, kept referring to the flavor, tenderness and juiciness of beef as the determining factors in quality.

The consumers, who made up about half the audience of 50, persisted in asking why nutritional standards were not being considered.

Among cattle industry representatives, the question of nutrition is apparently seldom considered. Bill McMillan, executive vice president of the American National Cattlemen's Association, said yesterday that he didn't himself know the difference in nutritive value between lean and fat beef "because I never looked into the question." The industry as a whole, he says, reflects the same attitude.

USDA's Handbook 8, which lists the nutritive values of all foods, is the chief reference source for nutritionists. Its tables show that as the quality of beef goes from the highest grade, "prime," which has the most fat and the most calories, to the lowest grade, "utility", which has the least fat and the least calories, the protein content increases.

The new grading standards proposed by USDA would, for example, permit leaner beef once graded as "good" to qualify for the "choice" grade which most shoppers buy.

Beef is graded, on a voluntary basis, according to the amount of marbling (flecks of fat within the meat) and outside, or trimmable, fat. The more marbling, the higher the grade and cost. The amount of marbling determines juiciness, tenderness and flavor.

The new USDA proposals would permit some of the less marbled beef to move up a grade. This would result in lower costs to producers, because the cattle could achieve a higher grade while being fed less of the costly grains, such as corn. According to the American National Cattlemen's Association, the difference in cost could be as much as $22 a head. But no one will say if the savings would be passed on to consumers.

Naomi Kulakow of the Maryland Citizens Consumer Council spoke for many of her colleagues when she said: "What makes me mad is they're going to pass the 'good' into the 'choice' grade and charge you 'choice' prices."

Consumer spokesmen also object to the present quality grading, which does not address itself to nutritional value. Kulakow told an Agriculture Department spokesman: "You need to inform the public of the nutritional quality. You are helping the producer only."

"Why does the quality grade depend on this litany of flavor, juiciness and tenderness?" one man wanted to know. Was it some kind of tablet found on a mountaintop with those words chiseled in it?"

But the consumer representatives reserved most of their anger for a film which apparently epitomized the department's lack of credibility in their eyes.

The movie, it was said, shows a typical "male chauvinist pig" stereotype—the smug, all-knowing butcher (male), explaining to the helpless simpering shopper (female) about beef grades. To emphasize this point, thanks to the marvels of camera magic, the shopper was shown as about two-thirds the size of the butcher. "Insulting, condescending," "disappointing," were among the words used by the consumer advocates.

Nancy Steorts, consumer adviser to the Secretary of Agriculture, listening to these opinions, said in a stage whisper: I told them that.

After the two hour briefing was over, one consumer participant summed it up this way: "I don't believe the Department of Agriculture knows what it's talking about. They don't know what consumers want."

Another offered some pretty strong medicine as a solution: "The Agriculture Department has to be turned upside down before anything can happen."

TIME FOR A GLOBAL "ADELA"

Mr. **JAVITS**. Mr. President, on October 7 and 8, 1974, the ADELA 10th Anniversary Committee, chaired by Mr. Emilio G. Collado, in cooperation with the Center for Inter-American Relations in New York, held a seminar on private investment in Latin American economic development. Mr. Howard C. Peterson, chairman of the board of Fidelity Bank, and former chairman of ADELA, chaired the seminar, which brought together a large number of distinguished participants. Dr. Antonio Ortiz-Mena, Chairman of the Inter-American Development Bank, was the luncheon speaker on October 7. I had the pleasure of addressing the luncheon group on October 8 on the subject of a global ADELA.

The concept of ADELA, a private multinational investment company, was put forth at a meeting of NATO Parliamentarians in 1962, which I chaired. Although the concept was originally conceived of as a bilateral United States-German effort, later discussions with a broad array of European and Japanese representatives expanded the concept to a multinational approach. A significant point of evolution for ADELA was a Paris meeting in January 1964, in which I participated, and which included a large number of representatives from business, international organizations and legislatures. At these meetings, I strongly advocated an acceleration of social and economic development in the developing countries, which required more than public sector aid from the industrialized countries—the more active involvement of private enterprise with its entrepreneurial approach, initiative and effectiveness.

The origin of the ADELA concept goes

back to the early part of the first development decade, a time when industrialized nations, and international institutions had become acutely aware of the growing gap between industrialized and developing countries. ADELA was one of those initiatives to improve the economic and social conditions of citizens of the developing world. At the same time, multinational corporations operating in developing countries realized that their efforts must expand beyond their limited concerns with markets, resources and profits. ADELA represented a means of encouraging private enterprise through minority participation and the recycling of successful investments to local owners in the developing countries.

Since that time, the gap between the industrialized countries and the developing countries has widened. The plight of many of the developing countries has worsened in recent years, especially as a result of the enormous increase in oil prices. It must be recognized that many of the aid concepts popular at the beginning of the sixties were ill-conceived and doomed to failure from the start. They ignored the conditions and the base from which the developing countries were starting, assumed that lack of capital was the major impediment to development, and had significant political and economic strings attached. Many developing countries misunderstood these initiatives or lacked the capacity to take full advantage of them. These problems have culminated in an enormous decline in public support for aid efforts, and an urgent need to restructure our thinking on assistance to the developing countries.

ADELA is a significant exception to this record of failure. In the private sector it is a rare exception and stands almost alone. ADELA has demonstrated in Latin America the value and the validity *of the private* enterprise concept and its contribution has been significant in Latin American development. ADELA has been guided by the twin principles of commitment to economic development and obtaining a reasonable return on its investment. Its achievements can be measured by its completion as of June 30 last year of over 400 feasible investment projects in virtually every sector of economic activity. Total direct investment developed, sponsored, or participated in by ADELA is estimated to be in excess of $5 billion dollars. While ADELA's average capital has been roughly $47.6 million, its total disbursements have exceeded $1 billion in long-term investments and medium term loans, over 20 times its average capital.

This outstanding record provides the basis for the ADELA concept to be expanded on a worldwide scale. This effort assumes even greater importance considering the crushing burdens of the developing countries. Therefore, I have proposed a globalization of the ADELA concept and have called on the oil producing countries to share in this effort. Mr. President, I ask unanimous consent that the full text of my speech to the ADELA group be printed in the Record, together with articles on the speech from Business Week and the Journal of Commerce.

There being no objection, the material was ordered to be printed in the Record, as follows:

TIME FOR A GLOBAL ADELA

(By Senator Javits)

The tenth anniversary of ADELA is an appropriate moment to measure how much ADELA and the ADELA concept have contributed to economic growth in Latin America, and how far we have to go in dealing with the almost overwhelming problems of the developing countries. In the various seminars of the past two days, you have heard a great deal about ADELA's achievements. These are outstanding, and deserve the highest praise for producing solid growth in a difficult area. ADELA's founders persevered when almost no one thought we would succeed.

As this seminar closes, I would like to focus our attention on the future and the possible contributions that the ADELA concept can make it the very difficult decade ahead. For this coming decade will be that of the Third World and it is an appropriate time to reassess their problems and ours with them and to re-examine our methods of dealing with these problems. I have some hard and unpleasant facts to tell you, which will not necessarily be new to you, but bear repeating.

The traditional aid mechanisms of the past have not worked satisfactorily and are not working now. Many of the methods have been rejected by the developing countries themselves, which are now being swamped in any case by the tidal wave of world oil prices. Let me illustrate this point by quoting from the World Bank's Annual Report of 1974:

"Barely a year ago, the prospects were that the developing countries, taken together, would be able to achieve an annual rate of growth of GNP in real terms somewhat higher than 6%, in line with the target set for the Second Development Decade. The indications are that, in the aggregate, the target was in fact reached between 1968 and 1972. However, it is now expected that although some petroleum—and mineral-exporting countries may exceed the target, GNP growth in many other developing countries will fall below 6% per year over the rest of this decade. The rate of growth in the poorest of countries, including the most populous, will be so low that per capita incomes will either stagnate or rise very little between now and 1980."

It is estimated that the increase in the cost of oil to developing countries which are not oil producers will hit at least $10 billion in 1974. This must be added to the existing current account deficit of oil importing developing countries, about $13 or $14 billion in 1973. Since the total amount of grants and net public capital flows to these developing countries in 1973 amounted only to some $8 to $8.5 billion the increase in oil prices alone effectively wipes out all benefits derived from public aid programs. Certain developing countries, either those with oil, other commodities in great demand, or a substantially diversified economy, can shield themselves from the worst effects of this crisis. Mexico, Brazil, Nigeria and Indonesia are examples of countries in this category.

For others however, the blow is crushing and may, in some cases, prove fatal. These countries can only pay for these increased costs through borrowing, attempts to increase exports, or through increased public and private capital flows. One of the major threats to world prosperity is a new boost to economic nationalism in the form of "beggar thy neighbor" protectionist measures. The developing countries, which might pay for some of their increased oil costs through manufactured and semi-manufactured exports, are in the front line of such an attack from the developed countries.

At the same time, let us be honest enough to face the extremely unpleasant fact that the oil cartel has done more for the prosperity and self-confidence of the oil producing countries than all the foreign aid efforts since World War II. The OPEC cartel thus far shows no desire to reduce its oil prices, is extremely reluctant to assume responsibility for the havoc its policies have wrought, and seems for the moment to be beyond the normal reach of the governmental policy measures of others—except the most extreme and clearly unacceptable measures of force. The lesson is not lost on the developing countries which, although more victims than perpetrators, are anxious to develop their own cartel arrangements. Unfortunately, OPEC's success has produced a sharp rise in economic nationalism, rather than convincing nations of its madness.

I think it is also fair to say that the oil cartel could sound the death knell of traditional foreign aid programs. The politicization of the U.S. aid program during the decade of assistance in Indochina has already warped that program. This is true in spite of the substantial reforms of the aid program carried out in the foreign assistance act last year and its increasing emphasis on agricultural production, population planning, health and education. U.S. aid to Vietnam has effectively impaired public support for aid, even in deserving countries. As an example, the Food for Peace program, long used to support the Vietnam military forces, might be as to Vietnam, more aptly called Food for War.

This process of deterioration is clearly evident in the recent Senate action on foreign aid legislation, which became a Christmas tree of measures to limit aid to various nations, including Turkey, Chile and the oil producing countries. While some of these may be well intentioned, even necessary in some cases, their overall effect is to further politicize the aid program and make it the ultimate whipping boy for every Senator with a foreign policy cause. The result has been a predictable shambles.

If there have been massive changes in public aid programs, there likewise have been highly significant, if less dramatic, changes in the climate for foreign private investment. The developing countries are clearly determined to control—well nigh to their own detriment to over control—their economic destiny. In a world of the most enormous economic disparity, it is hardly surprising that developing countries use political means to exact economic concessions. Thus economic arguments by spokesmen of the developed countries often fall on deaf political ears in developing countries. This mutual incomprehension is often at the root of disagreements over the role of private foreign investment in the developing countries.

As an example, I cite the work of the United Nations Group of Eminent Persons which studied the multinational corporation over the period of a year. This Group, of which I was a member, made a major contribution to the understanding of the highly complex role of the multinational corporation in the development process, but basic differences were evident between views of developing countries' representatives, who desired much greater governmental intervention in the affairs of multinational corporations, and the views of some developed countries' representatives who saw as the basic role of multinational corporations, to maximize world welfare without strict regard to national boundaries. What is clear is that the day of wholly owned subsidiaries and foreign control over natural resources is over, and that new patterns of ownership and cooperation must emerge if multinational corporations are not to be evicted en masse from developing countries, to the detriment of all concerned.

It is worth noting that ADELA was singled out for favorable comment in the U.N. Report as showing a sensitivity and a highly beneficial pattern which could be followed by other companies and organizations.

In view of these enormous and highly disturbing changes occurring in the world's economy, a number of which promise to result in a catastrophic situation for the majority of developing countries, we must act urgently. ADELA represents a major resource which we can re-fashion to help to meet the present crisis.

I have already mentioned the current account deficit of oil importing developing countries which will increase from $13 or $14 billion in 1973, to about $24 billion in 1974. We can't expect this amount to be made up from public aid programs which are expected to total just less than $12 billion in 1974. This makes it even more important that increased private funds be channeled into developing nations.

It is private foreign investment, for example, which is making up for Brazil's tremendous increase in petroleum product imports. Without it that country would have serious balance of payments problems. Other developing countries could at least partially overcome their deficits if they could attract more private foreign investment.

ADELA was conceived with the objective of encouraging a more auspicious climate for private enterprise in development in Latin America. It was meant to serve as a model for developing countries in other regions. Although its objective was to take positions in locally held enterprises, its founders believed and continue to believe that by strengthening local business the climate for foreign business improves too.

There is not a doubt, at least in my mind, that the need to attract greater private resources in developing countries is more urgent now than ever before. This is true in spite of the increasingly strident rhetoric we have heard both here and abroad about the menace of the multinational corporation.

To encourage further the productive movement of private capital to the developing world, I would like to propose here today that the ADELA concept, which was originally proposed for Latin America and developed primarily there, be applied on a global scale.

ADELA already has two off-spring—the Private Investment Company of Asia (PICA) and the Investment Company for Africa (SIFIDA). I would propose that the directors of these three companies consider working together to strengthen private enterprise in their respective areas and to ease the role for protective and mutually beneficially foreign private investment which is so desperately needed to overcome both the difficult problems of internal economic development and large balance of payments deficits.

I am indebted to Ernst Keller for his wise suggestions as to the possibilities of cooperation. He has outlined three basic possibilities to me. The first is for a series of joint services—financial-technical and administrative. The second is to establish jointly owned and operated subsidiaries, especially a joint consortium bank and a joint investment fund. The third possibility is to merge the existing companies into a new holding company with the present continental companies as autonomous subsidiaries. The new holding company would permit all the advantages of centralization while the autonomous operating subsidiaries would allow the innovation possible from smaller scale regional operations.

The combination of the three companies would strengthen the management and expertise available, especially in Africa and Asia, which would benefit from ADELA's greater strength and experience gained in Latin American operations. This new strength would permit investment in areas and countries which have not previously benefitted from the ADELA model. Finally, and most importantly, such a new organization would improve the possibility of raising massive amounts of capital so urgently needed by the developing countries. It is obviously essential that this new organization draw on the capital of the oil producing states. In fact, an expanded ADELA represents an ideal channel for the recycling of oil dollars, and is precisely the sort of new institution whose establishment has been repeatedly urged by those concerned with the problem of recycling oil revenues. Its particular appeal to them is that it offers both dedication to economic development and to principles of profitability.

These three sets of proposals are not necessarily mutually exclusive and I would recommend very strongly that if a global ADELA is to be established, there should be established, simultaneously, as subsidiaries, a new consortium bank and an investment fund to serve as channels for new flows of money. There is every reason to aim for $2 or $3 billion of new capital. A balance will need to be struck between the new investors' desire for profitability and their responsibilities to the developing world, without excessive politicization of investment decisions. I am confident that these problems can be worked out.

Finally, I would make one additional suggestion for the expanded operation of ADELA on a global scale: that is, that agribusiness be given the highest priority. We know that the food needs of the developing countries are critical, and that in the long term they must meet their own needs. This will require huge new inputs for agricultural production, for the development of fertilizer factories, research units, marketing organizations and other local projects.

I leave to your further discussions the shape and structure of a global ADELA. I urge the organization of a working group to begin this process. I stress the urgency of the need and the lateness of the hour. We have little time left if we are to prevent the disintegration of the international monetary system or the wholesale destruction of the hopes and aspirations of millions of our fellow human beings around the globe.

[From Business Week, Oct. 12, 1974]

GROWTH PLAN FOR ADELA

ADELA Investment Co., the Lima-based multinational venture that has helped organize and finance hundreds of businesses in Latin America, would extend its operations around the globe under a plan proposed by Senator Jacob K. Javits (R-N.Y.), an ADELA founder. One aim would be to open a new channel for recycling "petrodollars" from oil exporting nations into profit-making ventures in developing countries. Javits proposes a target of $2-billion to $3-billion of new capital.

[From Journal of Commerce, Oct. 9, 1974]

GLOBAL UNIT LIKE ADELA UNDER WAY

(By George F. W. Telfer)

Preparations are under way here this week for a global private enterprise, designed to recycle petrodollars and channel private investment to developing countries, and to be organized along the lines of Adela which has been investing in Latin America, it was learned here yesterday.

Sen. Jacob K. Javits formally proposed yesterday that a "global Adela" be established which would give "the highest priority" to agribusiness, because the food needs of the developing countries are so critical. The work already is under way, a source close to Adela told this newspaper.

A new consortium bank and an investment fund to serve as channels for new flows of money should be established simultaneously as subsidiaries of the new global enterprise. Senator Javits told a seminar on Latin American private investment on the occasion of Adela's tenth anniversary.

The Cuban Government wishes to diversify its trade to include the United States and other traditional partners, and to reduce its dependence on other Communist countries, Mr. Javits said.

He visited Cuba recently with Sen. Claiborne Pell, D-R.I. The Republican senator from New York said yesterday that the way had been opened for a dialogue between the United States and Cuba through the Organization of American States.

This could result in a lifting of the OAS trade embargo against Cuba, or in not lifting it, Mr. Javits said in an obviously cautious approach to this touchy situation.

Many issues would have to be resolved, including expropriated U.S. properties.

Discussing the proposed global Adela, Mr. Javits told the gathering, "It is obviously essential that this new organization draw on the capital of the oil-producing states.

"In fact, an expanded Adela represents an ideal channel for the recycling of oil dollars."

A two-tier market for United States grains, with higher prices for foreign buyers than those in the U. S., is the likely result of the cancellation of the grain sales to the Soviet Union last weekend, according to a leading food-industry executive.

An auctioning system will emerge, leading to the two-tier market, and this will have "absolutely devastating consequences for developing countries—you won't see Bangladesh at the front of the queue," said Anthony J. F. O'Reilly, president of H. J. Heinz Co.

Some observers in the grain trade doubt that it would come to this, pointing out that the U. S. would likely allocate exports based on historic patterns, so that all foreign buyers would be assured of a share of the country's exports.

PROMISING SOURCE

The most promising source of food for Latin America is soybeans, and Brazil now is the third largest producer, Mr. O'Reilly told the seminar.

The seminar was held Monday and Tuesday at the Center for Inter-American Relations here.

In a wide-ranging discussion of prospects for the countries of Latin America and the Caribbean, other participants pointed out that some of the Andean Common Market countries had relaxed restrictions on foreign banking activity. Colombia, for example, had opted not to invoke all the clauses of the banking regulations of the region.

As a result, foreign banks already operating in the Ancom countries will not have to cut back on their existing activities.

Despite this sign of flexibility among Ancom members, "there is a clear trend toward limiting the activities of foreign banks" in Latin America, noted James R. Greene, senior vice president, Manufacturers Hanover Trust Co.

"Essentially, we are effectively being excluded from participating in the development and growth of capital markets and in helping to construct the new financial institutions needed as Latin American economies become more mature and complex."

Therefore, banks are turning elsewhere abroad for growth, he said.

"While the short and long-term claims of U. S. banks on Latin America are large and increasing . . . the ratio of bank exposure in the Western Hemisphere as compared with other parts of the world, is being reduced relatively."

He added, "We expect to continue an active and important correspondent banking business in Latin America, and we expect that the share of our profits that we earn there will continue to be important, but they probably will decline in relative importance for us."

COMMISSIONER ON THE FIRST AMENDMENT

Mr. PROXMIRE. Mr. President, in researching the subject of governmental control of broadcasters in preparation for introduction of a bill to eliminate the fairness doctrine, an article in the Minnesota Law Review came to my attention.

It was in the November 1967 issue and entitled, "The FCC and the First Amendment: Observations on 40 Years of Radio and *Television* Regulation."

The author, then an associate professor of law at the University of Minnesota, was Glen O. Robinson. Mr. Robinson was recently sworn as a member of the Federal Communications Commission.

Mr. Robinson tells my office that, privately, he still agrees with what he wrote some 7 years ago.

What he wrote then in some 97 well-documented pages is an argument to do away with the fairness doctrine, the equal time rule, and to treat the electronic media the same as other communications media under the first amendment.

Mr. Robinson answers every argument propounded by those advocating Government regulation of broadcasting, going so far as to anticipate the recent Supreme Court decision in the Miami Herald case.

Mr. President, I would like today to review Mr. Robinson's article.

CASE LAW IS FOUNDATION

The law professor turned FCC Commissioner begins his article with a brief history of regulated broadcasting and important case law. It is the foundation for his arguments. One of the cases he cites is National Broadcasting Co. against United States decided in 1943. Justice Felix Frankfurter, the distinguished jurist, wrote that opinion. Writes Robinson:

> At the heart of Frankfurter's reasoning is the classic cliche: "Unlike other modes of expression, radio inherently is not available to all. That is its unique characteristic, and that is why, unlike other modes of expression, it is subject to governmental regulation."
>
> This argument, which has been assiduously trotted out on every appropriate occasion, has several major defects. First, contrary to common assumption, the radio broadcast spectrum is not now, and may never be, saturated. While the technical limitations on entry into broadcasting are real enough, the economic limitations are probably more restrictive. The economic barriers to entry into radio broadcasting are, however, far less restrictive than in the case of media such as newspapers, which lie essentially beyond public control. Second, there are more competitive outlets for expression in radio and television than there are in the newspaper media—or probably in all major publications media combined. This disparity between the number of different radio and television outlets and the number of newsprint media is increasing. Third, the mere fact that there are barriers to entry into the communications media, be it newspapers or radio and television, does not in itself resolve the problem of the kinds of control that are permissible and how narrow the focus on restraint of free speech may be.

ADVERTISING CURBS LEGAL

Later, we will find that Mr. Robinson believes those restraints should be equal for all forms of communication, and that they are no more restrictive than they are now . . . for all media save radio and television.

I have said in past speeches that with the advent of cable television, there can be no excuse for continued governmental control over broadcasting. Robinson says much the same thing:

> Following Justice Frankfurter's scarcity argument to its logical conclusion, it must be seen that abandonment of CATV regulation and the supplanting of broadcasting with CATV and other forms of wire communications would do away with the entire problem of spectrum scarcity and with it the entire ostensible basis for the regulatory scheme established by the Communications Act of 1934.

After noting that curbs on false and fraudulent advertising are clearly constitutional—and I agree with that, also—Robinson gets into general program standards. He writes:

> The Commission's regulation of programing is, of course, by no means confined to direct proscription of undesirable programs. More often the nature of the FCC's action is indirect, tending to influence the broadcast of certain programing by imposition of general standards or through informal oversight of the licensee's programing policies. While the Commission's actions in the area of direct restraint have been relatively circumspect to date, its indirect influence on program policies evidences a greater control of program choice and this poses far greater constitutional problems.

ONLY A SLIGHT TWIST

It is important to note that Mr. Robinson is not talking about the fairness doctrine here. Although I have been concentrating my attack on that doctrine, it is not the only means the FCC has used to interfere with the first amendment rights of broadcasters, no matter how well intentioned that interference has been.

Rather Robinson is referring to requirements for programing balance and programing in the public interest. He cites a requirement in license applications, something we in the Senate dealt with just recently when passing a bill on the presumption for license renewal based on past experience. That new proposal is really but a slight twist on what has been FCC policy for a long time. Robinson writes:

> Part IV, "Statement of Program Service," of the broadcast applications required for new stations, major changes in facilities, transfer of control, and assignment or renewal of license, is the heart of the Commission's direct regulatory oversight of programing. A detailed statement as to the amount and percentage of *proposed* programing is required and, in cases of renewal or assignment and transfer, a detailed statement supported by station program logs showing the *past* programing in each of the specified program categories is mandatory. (Italics are his.)

This shows, of course, that despite the Communications Act's section 326 which calls for no restraints on free speech, the FCC does control the types of programs put on the air.

FCC CONTROLS PROGRAMING

Surprisingly, this regard for the public interest when it comes to individual station applications for licenses dates back only about 13 years. The public interest criteria when two or more applicants are competing for the same license is older.

The fact remains, the FCC does control, indirectly to be sure, but it does control programing.

And it does this forcibly through the renewal process—through terror. Robinson is more polite. He uses Latin, calling it "in terrorem control"—

> The effectiveness of the renewal process in influencing a licensee's operations, including his program operations, arises from two facts. First, the *licensee* has the burden of coming forth, in a formal application, to show compliance with Commission standards and fulfillment of prior promises; second, this process is routine and relatively frequent, thereby eliminating any doubt that the Commission will scrutinize the actual performance of the station in relation to the performance promised.

Robinson goes on to point out that this power to control is really effective when the FCC defers action on a renewal application until it gets answers to its questions.

BLANDNESS IS EFFECT

In this series of speeches on the fairness doctrine, I have repeatedly said that governmental control of broadcasters has the effect of causing blandness with a tendency to make all broadcasting seem alike. Robinson wrote in 1967:

> The Commission's insistence on the licensee's preventing "balanced" programing, although done in the name of promoting diversity, has had largely the opposite effect. Notwithstanding repeated criticism by various commissioners of the undeniable sameness of programming among broadcasters, the Commission's own policies do little to encourage diversity or originality either in the style or content of individual programs or in the overall format of a station's program operations. Indeed, its policies have, if anything, added to the inherent tendency of broadcasters to conform to safe, established patterns of operation and programming.

Robinson sees inconsistencies in the way the FCC carries out the congressional mandate to give equal time to all candidates for the same political office if one candidate is given or buys time. He notes:

> There is no specific obligation on the station to carry political broadcasts in the first instance, although a refusal to carry any political broadcasting may be considered against the licensee at renewal time when the Commission decides whether the station has been operated in the public interest.

Also, he notes, the Commission has made some broad interpretations of the equal time requirement for political appearances other than on bona fide news shows, which are clearly exempt from the requirement. He says:

> This interpretation is based on the rather tenuous theory that any exposure of a candidate over radio or television ultimately accrues to the candidate's benefit or that, in any event, the licensee should not be permitted to judge whether the candidate has benefited from the appearance.

TOO MUCH POWER IMPUTED

Robinson, in my view, is absolutely correct. I believe that the FCC and others impute too much power of influence to the electronic media. Later in his Law Review article, Robinson had this to say:

> Implicit in many, if not most, of the arguments advanced for a greater governmental

> interference with broadcast speech than is permitted for other types of communications media is the usually unarticulated assumption that broadcasting is uniquely influential and powerful as a medium of communication.

I will not dwell on this point now, for I have made another speech on that subject, but I do wish to make a few observations.

Some candidates for public office, it seems reasonable to assume, lose votes by appearing on television. The candidate who spends the most on TV time does not always win.

Also, if the so-called Eastern Establishment, elite TV newsmen were actually in conspiracy against Richard Nixon in 1972, as some have charged, would not George McGovern have carried every State but Massachusetts and the District of Columbia?

Let us be rational. Television is not just that influential. Why is it that few challenge the unspoken thesis that all who watch the tube will be led by the nose by what they see and hear?

The latest FCC Fairness Report makes that implication. It is not spelled out. It does not have to be because that is the inference that must be drawn.

But it is just not true.

FAIRNESS MORAL OBLIGATION

In his specific discussion of the fairness doctrine, Mr. Robinson sees fairness as a moral obligation rather than something that should be a legal one. His words are:

> While a general obligation to be fair in presenting opposing viewpoints on controversial issues may be inherent in the broadcaster's duty to serve the public interest, there is an important difference between a general moral responsibility—enforceable, if at all, only by self-regulation—and a specific legal requirement enforceable by Commission sanction.

It was not until 1940 in the Mayflower Broadcasting Co. case, says Robinson, that the FCC approached "something like the fairness doctrine."

Interestingly, in that opinion the FCC banned broadcast editorials as being inherently unfair. Currently, broadcasters are permitted to editorialize. Some, in fact, brag about it as a public service. And they brag, of course, to make a record for renewal time.

Robinson points out:

> When editorializing was not permitted, little effort was made by the Commission to clarify the scope of the licensee's obligation to be fair or to set forth any guidelines as to what would be deemed controversial or what was required in order to be fair.
>
> In fact, the Commission quite evidently did not really know what fairness meant.

Robinson denies that Congress ratified the fairness doctrine in 1959 when it amended section 315, an action I had something to do with.

UNCERTAIN GUIDELINE

The legislative history, he said, seems to show that "Congress intended neither approval nor disapproval of it, but merely intended to insure that section 315 would not interfere with the fairness doctrine."

Referring to the "Fairness Primer," Robinson writes:

> The Commission's ad hoc rulings are at best an uncertain guideline.

Robinson also notes that the fairness doctrine, unlike the equal time requirement for political candidate's broadcasts, does not—and still does not—require a station to grant equal time to all opposing viewpoints. He explains:

> If the station's programming is such that fairness is accorded to all sides *over a reasonable period of time,* then the station's obligations are at least theoretically met. (Italics is his.)

I am especially intrigued by this. Why was it that the FCC ignored its own guidelines when it attacked NBC for not giving an opposing viewpoint in "Pensions: The Broken Promise" documentary? Sure, the FCC order, overturned by the court of appeals, to NBC was to provide time later for more proprivate pension system viewpoints. Logically time could only be provided at a later time because complaints could only be made after the program was aired. But, also, logically, the FCC could only consider complaints because of the nature of the original program. To me, that means that this "over a reasonable time" requirement of the fairness doctrine is both illogical in its concept and impractical in its implementation. That is especially true since it was brought out in the court case that both sides of the pensions issue were in fact covered.

Getting back to Robinson: he notes that the exception to the reasonable time provision in the fairness doctrine deals with the personal attack corollary. That includes specific rules for reply—

TWO BIG DIFFERENCES

> These rules reflect an evolving crystallization, if not rigidification, of the fairness doctrine from a general obligation or responsibility into fixed regulations prescribing specific licensee duties. The wisdom of such regulatory policy is certainly open to question.

Robinson sees two big differences between the equal time requirement and the fairness doctrine. Program content under the equal time requirement is not examined by the FCC to see if its standards are met. Robinson does not say so, but what he means is that the political candidate has full free speech rights even though the broadcaster does not.

Not so under the fairness doctrine. It is predicated, he says:

> On just such an examination, evaluation, and judgment by the Commission of specific program content. . . . This aspect of the fairness doctrine is crucial from a first amendment viewpoint since the restraint on free speech grows directly out of examination and judgment by the Commission of program content.

The second big difference is that while the equal time requirement has a narrow scope—it applies only to announced candidates for the same office during campaigns—

> The scope of the general fairness doctrine is sweepingly broad . . . the fairness doctrine is always applicable . . . the fairness doctrine affects all programming which involves controversial public issues.

Then Robinson says that even if a broadcaster does not judge an issue to be controversial, it may give rise to an obligation to provide time to opposing viewpoints—

> The problem will not arise just once or twice, but may arise on hundreds of occasions. . . . The most conscientious broadcaster may well have very substantial qualms about presenting controversial public issues when he is required to be fair by someone else's standards, particularly if the someone else happens to be the government.

WHAT IS CONTROVERSY

The NBC pensions case, though in the courts only this year, fits the situation Robinson described 7 years ago. NBC said that private pensions were not a controversial issue. The FCC said they were. The court sided with NBC. The Congress passed legislation dealing with the very problems NBC's program dealt with.

What is a controversy, anyway?

Robinson says that—

> It is not surprising that many broadcasters forego controversial public issue programming, being content to play it safe with planned, noncontroversial subjects of the "mother-and-home" variety. But even this alternative may not avoid troubles since the Commission takes the position that the presentation of controversial public issues programming is an affirmative duty of every licensee.

This, it seems to me, is a perfect Catch-22 situation. The broadcaster cannot win no matter what he does. But, and this is important, the listener and viewer does not win either. The listener-viewer can either be deprived of programs dealing with significant issues or he can get bland, so-what programs on significant issues.

It is worthwhile to note Robinson's metaphor about "mother and home." Today that is controversial in itself or can be to some persons. With women's liberation—which I support—one must be careful in ordinary speech not to offend others. It is both good manners and good politics. But just a few years ago, when Robinson wrote, who would have ever believed that motherhood could become controversial?

STANDARDS DO CHANGE

That demonstrates, I think, the dangers inherent in a governmental agency setting standards. Standards do change. Standards themselves become controversial. There is no person alive, especially any bureaucrat, wise enough to look ahead and set standards that are everlasting.

The only set of standards that meet that test is the Ten Commandments. And I could get an argument on that.

The public interest is the rationale for the FCC's requirement for balanced programing. Robinson says there is an assumption that—

> The licensee has something of a monopoly. On this assumption, the Commission generally refuses to acknowledge any of the significant first amendment implications posed by its regulation of programming.

He contends:

> The FCC has refused to consider whether or not, on a given issue, the public has received such a balanced presentation from all

> the various public media taken as a whole. It has ruled that each licensee must present all sides of a public issue irrespective of what other media and other radio and television stations present. If the right of the public to receive diverse and balanced viewpoints is the decisive desideratum, it is curious, to say the least, that the Commission purposely insists on ignoring the question of whether the public is in fact receiving diverse and balanced presentations from existing communications media as a whole.

MINDS OF OUR OWN

That is good commonsense. The FCC assumes, erroneously, that all of us have but one radio or one TV set and that its tuning knob is soldered to one spot on the dial. It assumes that we do not read newspapers or magazines. That we do not buy books or borrow them from the library. That we do not go to movies or lectures or to meetings. The FCC assumes that we are all automatons without minds of our own.

The next statement from Robinson that I will quote is one I wish to underscore. He says:

> Those who oppose the Commission's fairness doctrine are not arguing for the rights of the licensee to be unfair or to use licensed facilities for a purely personal cause or aim. The question is who should have the responsibility; whose concept of fairness should be applied? If it is "unfair" for an advocate to put forward his own views without giving full and unbiased exposure to other opposing views, one may wonder whether any true advocacy is or can ever be "fair."

Just the other day I receive a letter from a constituent claiming that broadcasters in Wisconsin were pressuring me to take a stand against the fairness doctrine. That is simply not true. I am taking this stand because I believe that the fairness doctrine is unfair. I am quoting Mr. Robinson at length because his arguments are sound.

TURNING DIALS POSSIBLE

If anything, removal of the fairness doctrine would put much more of a burden on the broadcasters. They would have to answer to the public direct without going through an intermediary. Pressure groups could and would be formed to influence broadcasters. These citizens would use their free speech rights to get certain types of programing. And turning dials, you know, affects ratings, which affects advertising revenues.

But that is assuming the worst case of bias against broadcasters. I believe firmly that just as professionalism has improved newspapers, bringing greater degrees of fairness in news coverage now than a generation ago, professionalism will keep broadcasters fair. In fact, greater freedom will improve that fairness.

Robinson's Law Review article next takes on the Red Lion case. His article was published before the Supreme Court handed down its decision which upheld the court of appeals in this important case in communications law. It is the Supreme Court opinion on which everyone supporting the fairness doctrine hangs his argument. The Supreme Court upheld the constitutionality of the doctrine.

However, what Robinson says about Red Lion in the lower court is still true.

Red Lion Broadcasting Co. challenged the constitutionality of the fairness doctrine on four grounds, losing in the lower court on all four.

Robinson does not brush aside the first three arguments, yet he concentrates on the fourth: that the fairness doctrine violates the first amendment.

RESTRAINT IS CLEAR

He says:

> The court's evident conclusion that because there is no direct control and no prior restraint of programming, there is no restraint resulting from the Commission's fairness doctrine is unrealistic and legally erroneous. Because of the threat of a penalty from the FCC, there is clear restraint.

The restraint is no less real by reason of its being reviewable by a court, Robinson says, and no less substantial because it is not arbitrarily imposed.

Robinson questions the very foundation for regulation of broadcasting, which, by definition, means sending out a signal intended to be heard by anybody with a device for listening. That foundation is the so-called uniqueness of radio and television. He lists the four points on which that argument is based: The means of communication are publicly owned; the use of the airways is a privilege granted so long as they are used in the public interest; radio and TV are uniquely influential and powerful; and there are physical and technical limitations imposed on access to and the use of radio and television media.

Says Robinson:

> Without question, each of these notions contains some germ of truth. The problem is that they have become more than just arguments to be analyzed and critically evaluated. They have become ideologies which have taken the place of thoughtful reasoning.
>
> One of the most persistent of modern shibboleths used in support of virtually every form of FCC regulation has been the proposition that the airways and broadcast spectrum are owned by the public, that is, they are "public domain" administered in trust for the public by the FCC.

CONVENIENT SHORTHAND

> . . . Little effort has ever been made to look beneath the superficiality of the concept of public ownership of the broadcast spectrum to determine whether it has any practical logic or meaning. Logically the concept is meaningless. To say that the airways or spectrum can be owned by anyone is simply to indulge in fantasy. . . . In actuality, "airways" is merely convenient shorthand, an abstraction for a phenomenon created as a result of the use of privately owned transmission facilities. The "spectrum" is a purely artificial construct of the Commission itself. To give this construct an independent nature and then attempt to justify the regulation itself in those terms is entirely circular. It is like saying that the Commission owns the frequencies because it has the power to regulate their use, and that it has the power to regulate their use because it owns them.

Robinson draws a parallel, citing a Supreme Court case that held that because the public owns postal facilities that does not justify the censorship of the content of mail.

He is right that little has been done to determine the meaning of public ownership of the airwaves. My office asked the Library of Congress to do some research on the subject. What was sent back was the Red Lion case.

BUT NOT OWNERSHIP

When one reads the Communications Act of 1934, only brief phrases can be found on ownership, and these are negative. Those are in section 301, which says that the purpose of the chapter is to maintain the control of the United States over channels of interstate and foreign radio transmission; "and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time," under licenses granted by the Federal authority "and no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license."

As I read that, the Government did not even stake a very clear claim on ownership, although that can be read into it by indirection.

Back to Robinson:

> While few would dispute that broadcasting is affected with a public interest, this fact does not justify any intrusion on free speech which would not otherwise be permissible. . . . The Supreme Court has made it emphatically clear that the right to license does not carry with it the right to place unconstitutional limitations or conditions on the license and particularly that it confers no authority to censor or interfere with free speech, whether or not the license be characterized as a mere privilege. Indeed, far from expanding an agency's powers with respect to first amendment freedoms, the authority to license is a basis for even closer scrutiny of the agency's actions in this respect. Recognizing that a degree of censorship may be an inherent tendency in the exercise of administrative licensing powers, the Court has indicated it will scrutinize such licensing activities with particular care to ensure that they are not used to override first amendment guarantees.

ONLY TWO PARTIES

Robinson is referring to three Supreme Court Cases, one in 1939, another in 1948, and the third in 1948 to back up this argument. I will not get into those cases.

It seems clear, however, that if the Congress does not clear up the murky waters surrounding first amendment rights and broadcasting that the courts may just do it. The jump from newspapers in the decision in the Miami Herald case to broadcasting might not be as broad as some people who would continue control of broadcasting might suppose.

Often the argument is heard that there are not enough networks, that the three commercial networks do not provide enough voices. Robinson says that if commercial television stations are broken down into headings, there are four groups: One for each of the three networks and those independent stations.

He asks:

> Is it constitutionally necessary, in short to have at least a possibility of more than four distinct voices on all subjects? We have only two national political parties which, based on the same theory which leads us to believe that there are only four potentially distinct broadcast voices, give us only two political viewpoints. Does this warrant some form of government interference with political speech or perhaps government subsidization of a third party point of view? In all but a handful of American cities there are, at the most, two daily newspapers and thus, in theory, only two distinct and potentially dif-

> ferent viewpoints from the daily press. Does this perhaps warrant government interference through subsidizing more local newspapers or controlling the content of those newspapers which do exist.

The answer to Robinson's rhetorical question is no. He makes that clear by citing another Supreme Court decision involving motion pictures in which Justice William Douglas in a concurring opinion, says—

> The First Amendment draws no distinction between the various methods of communicating ideas.

TEST IS DISAGREEMENT

Robinson has an opinion in this context which, to me, seems profound. He says he doubts whether the Supreme Court "would ever hold that the application of the first amendment's protection of free speech depends on any subtle and tenuous evaluation of the influence of the speaker."

If the ability of a speaker to persuade were the measure of free speech, then there would be no rational reason for the first amendment. No one would want to shut up a person with whom one agrees. The test of this principle arises when one listens and evaluates what is said by one with whom there is disagreement.

If one disagrees, one should be able to try to change minds in turn. If one cannot, then freedom means nothing.

If the courts were to hold that a successful candidate for office should be shut up because he was capable of persuading voters, then there would be no reason in the world for elections.

Free speech is one of the basics of a democracy. A free press goes hand in hand because it takes the product of free speech and spreads it beyond the reach of the voice.

EASY TO FORGET

That, admittedly, is elementary. But it is too easy to forget simple principles when subjects become complex. How often does an advanced mathematician think about the fact that addition is merely a variation of counting when he is solving a complex calculus problem?

Scarcity of space on the electromagnetic spectrum is one of the prime arguments used by those supporting governmental regulation of the content of broadcasting. Robinson hits this argument hard in his article.

He notes that—

> The fact remains that radio and television stations are more numerous than any of the competing mass communications media.

He cites figures, showing that the disparity continues. If his figures are updated, as I have done in a previous speech, it can be seen that he was right 7 years ago and remains correct.

And what of the argument that says, "Anyone with money can start a newspaper, but anyone cannot begin broadcasting." He says:

> It is often said that the limitations on access to and use of the newspaper medium is an economic limitation, not a technical one. The distinction, however, is entirely specious.

The technical limitation with broadcasting that is always cited is the spectrum. Robinson says that the spectrum is not saturated, there is room for other radio and television stations.

That still is true, albeit more radio and television stations are now on the air. But, there are other ways of allocating spectrum space. And there are other ways, for example, of reducing the width of channels to accommodate new stations. Admittedly, those are not easy to accomplish, but it is possible.

BARRIERS TO ENTRY

But Robinson does not have to rely on the technical aspects of broadcasting to back up his argument. There is the economic argument. He says:

> In almost all radio and television markets economic barriers to entry will come into play before the technical barriers. The economic inability of the area to support an additional station and the unavailability of sources of programming different from that which is already being provided by existing stations. This situation then is identical to the situation in all large mass communications media. It is impossible, therefore, to distinguish radio and television from newspapers, movie theaters, or magazines and book publishers on this basis.

Put another way, Robinson might have said that there are just so many advertising dollars available. Radio and television, like newspapers, are dependent upon advertising revenue. The real reason there has been a decline in the number of metropolitan newspapers in this country has been the inability to attract enough advertising dollars to pick up the publishing tab. The same is true with magazines.

Some magazines, the Saturday Evening Post and Life, stopped publishing as frequently as formerly because of advertising revenue, not because of circulation. They tried cutting back circulation to control the audience, seeking more affluent readers so as to attract advertisers seeking to sell products and services to those with money to buy.

ECONOMIC AND TECHNICAL

Robinson is saying that the same thing can happen in broadcasting. And indeed it has. Advertisers are now using products to the age and wealth groups attracted by the programing of individual stations.

Tying economic and technical factors together, Robinson says:

> If barriers to entry and limitations on access to the use of mass communications media are to be relied on as a basis for imposing regulation of free speech which would not otherwise be justified, such regulation should not discriminate against radio and television but should extend to all communications media.

But, of course, he rejects the idea of such an extension of regulation.

Getting back to first principles, Robinson is not afraid of free speech. He notes:

> One major justification for free speech is, of course, the benefit which the public at large derives from hearing a diversity of viewpoints and ideas. But if the sole or even the paramount aim of the first amendment is merely to ensure that the public is able to hear a Babel of voices, the first amendment is not the great libertarian principle it has been thought to be. Freedom of speech is a justifiable aim in itself insofar as it helps to create the individual freedom and security essential to a free society. It need not be buttressed by any apologies that it will assure the dissemination of a diversity of viewpoints, that it will ensure a free marketplace for ideas, or that it is a surer means of advancing truth.

The next logical step is attacking the argument that if broadcasters are loosed from their governmental bonds they, not the Government, become a censor.

PUBLIC SHOULD JUDGE

Robinson says that is greatly exaggerated. He notes that in our way of life we have developed controls on the abuses of free speech "such as prohibition of defamatory speech, obscenity, fraud, and otherwise patently harmful or socially disrupting speech."

And he adds:

> There is no tradition of establishing, for example, standards of "fairness, diversity, or balance." These are judgments which, for better or worse, have been left to the admittedly sometimes quixotic judgment of the public, unguided by their "enlightened" cultural, social, or political leaders.

So, what about censorship by unregulated broadcasters?

Robinson says:

> There may be little reason to trust the judgment of broadcasters or the managers of other mass communications media, but is there any more reason to have an abiding faith in the judgment of the FCC or any other governmental agency? The probability of the mass media's being responsible to public needs is, I think, as great, if not greater than the probability that the FCC's judgment will adequately reflect those needs. And ultimately, the danger to a free society from a reliance on the judgment of private broadcasters is less than from a reliance on the judgment of the FCC.

How should the Government treat broadcasters?

Just like any other business.

> Radio and television are certainly not constitutionally exempt from general social and economic regulation merely because their business is the business of communication.

Robinson says:

LIMITATIONS NOT UNIQUE

> Thus radio and television, like newspapers, are subject to the general laws which bind all persons, institutions, and businesses, such as the antitrust laws, labor laws, and laws governing libel, slander, fraud, and other socially disruptive conduct and speech. Concededly there are first amendment limitations on the application of such laws, but the limitations are not unique to radio and television. They extend as well to newspapers, movie theaters, or soap box orators.
>
> Moreover, it does not necessarily follow that because the Commission may not constitutionally impose its own standards of orthodox programming or its own standards of balance, fairness, and diversity that it may not in general insist that a licensee investigate and be responsive to demonstrated needs of his community. The first amendment does not require that a licensee must be permitted to operate a radio facility purely in his private and selfish interest with no concern for public needs and interests. The first amendment comes into play, however, when the Commission, in the name of reviewing a licensee's responsiveness, begins to concern itself with programming or program operations to the point of establishing standards of acceptable and nonacceptable pro-

gramming. It has reached and gone beyond this point.

Robinson concludes that—

> It is doubtful that the Republic will falter should the Commission's thus far unfettered powers in this area be curbed to conform to the first amendmenat as interpreted for and applied to other communications media.

Mr. President, I have quoted from Mr. Robinson's article at length because I believe that it is entirely reasonable and is entirely sound in its legal and constitutional judgments. I believe it shows that my proposal to introduce legislation to eliminate programing controls, epitomized by the fairness doctrine and the equal time requirement, is not radical. Rather, the bill will be a reasoned attempt to conform to our Constitution.

MORE WORK FOR VETERANS

Mr. McGOVERN. Mr. President, for several years I have been urging structural changes in the current GI bill to eliminate inequities and assure that all veterans could have the help they need.

Now the Congress has completed action on H.R. 12628, a new Vietnam-era GI bill.

The legislation provides vitally needed subsistence increases for veterans who are already enrolled in educational and training programs. Those increases may well open the doors to a few more who could not previously handle the cost.

But for all we have done, we have not yet dealt with the inequities which still plague millions of veterans who are unable to take advantage of the program at all.

Educationally-disadvantaged veterans, veterans in States with high cost schools, the 5 million veterans with families to support, veterans who are unsuited or unqualified for a 4-year college program—those young men are still denied the help they need and deserve.

So regardless of whether President Ford signs H.R. 12626—and I have joined in urging him to do so—I suggest that we still cannot say our job is finished.

Certainly we cannot say our commitment is fulfilled if we simply help veterans who are already in school, while denying help to veterans who cannot get into school because tuition costs are too high.

We cannot say our obligation is paid if we restrict the use of the program to 4-year undergraduate schools, when the Nation so badly needs trade and technical specialists trained in 2-year programs and community colleges.

And we cannot say we have been fair when we limit the extension of benefits to 4-year programs, when so many veterans began their schooling on their own before they went into the service and are now looking forward to advanced degrees.

Mr. President, I ask unanimous consent that there be printed in the RECORD materials which demonstrate how much of our challenge on veterans legislation still lies ahead.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

SERVICEMEN'S READJUSTMENT ACT OF 1944

TITLE II

Chapter IV—Education of veterans[1]

SEC. 400. (a) Subsection (f) of section 1, title 1, Public Law Numbered 2, Seventy-third Congress, added by the Act of March 24, 1943 (Public Law Numbered 16, Seventy-eighth Congress), is hereby amended to read as follows:

"(f) Any person who served in the active military or naval forces on or after September 16, 1940, and prior to the termination of hostilities in the present war[2] shall be entitled to vocational rehabilitation subject to the provisions and limitations of Veterans Regulation Numbered 1(a), as amended, part VII,[3] or to education or training subject to the provisions and limitations of part VIII."

(b) Veterans Regulation Numbered 1(a), is hereby amended by adding a new part VIII as follows:

"Part VIII[4]

"1. Any person who served in the active military or naval service on or after September 16, 1940, and prior to the termination of the present war,[2] and who shall have been discharged or released therefrom under conditions other than dishonorable, and who either shall have served ninety days or more, exclusive of any period he was assigned for a course of education or training under the Army specialized training program or the Navy college training program, which course was a continuation of his civilian course and was pursued to completion, or as a cadet or midshipman at one of the service academies, or shall have been discharged or released from active service by reason of an actual service-incurred injury or disability, shall be eligible for and entitled to receive education or training under this part: *Provided,* That such course shall be initiated not later than four years after either the date of his discharge or the termination of the present war,[2] whichever is the later: *Provided further,* That no such education or training shall be aforded beyond nine years after the termination of the present war.[2]

"2. Any such eligible person shall be entitled to education or training at an approved educational or training institution for a period of one year plus the time such person was in the active service on or after September 16, 1940, and before the termination of the war,[2] exclusive of any period he was assigned for a course of education or training under the Army specialized training program or the Navy college training program, which course was a continuation of his civilian course and was pursued to completion, or as a cadet or midshipman at one of the service academies, but in no event shall the total period of education or training exceed four years: *Provided,* That his work continues to be satisfactory throughout the period, according to the regularly prescribed standards and practices of the institution: *Provided further,* That wherever the period of eligibility ends during a quarter or semester and after a major part of such quarter or semester has expired, such period shall be extended to the termination of such unexpired quarter or semester.

"3. (a) Such person shall be eligible for and entitled to such course of education or training, full time or the equivalent thereof in part-time training, as he may elect, and at any approved educational or training institution at which he chooses to enroll, whether or not located in the State in which he resides, which will accept or retain him as a student or trainee in any field or branch of knowledge which such institution finds him qualified to undertake or pursue: *Provided,* That, for reasons satisfactory to the Administrator, he may change a course of instruction: *And provided further,* That any such course of education or training may be discontinued at any time, if it is found by the Administrator that, according to the regularly prescribed standards and practices of the institution, the conduct or progress of such person is unsatisfactory.

"(b) Any such eligible person may apply for a short, intensive postgraduate, or training course of less than thirty weeks: *Provided,* That the Administrator shall have the authority to contract with approved institutions for such courses if he finds that the agreed cost of such courses is reasonable and fair: *Provided further,* That (1) the limitation of paragraph 5 shall not prevent the payment of such agreed rates, but there shall be charged against the veteran's period of eligibility the proportion of an ordinary school year which the cost of the course bears to $500, and (2) not in excess of $500 shall be paid for any such course.

"(c) Any such eligible person may apply for a course of instruction by correspondence without any subsistence allowance: *Provided,* That the Administrator shall have authority to contract with approved institutions for such courses if he finds that the agreed cost of such courses is reasonable and fair: *Provided further,* (1) That the provisions of paragraph 5 shall not apply to correspondence courses; (2) that one-fourth of the elapsed time in following such course shall be charged against the veteran's period of eligibility; and (3) that the total amount payable for a correspondence course or courses for any veteran shall not exceed $500: *And provided further,* That nothing herein shall be construed to preclude the use of approved correspondence courses as a part of institutional or job training, subject to regulations prescribed by the Administrator.

"4. From time to time the Administrator shall secure from the appropriate agency of each State a list of the educational and training institutions (including industrial establishments), within such jurisdiction, which are qualified and equipped to furnish education or training (including apprenticeship, refresher or retraining and institutional on-farm training), which institutions, together with such additional ones as may be recognized and approved by the Administrator, shall be deemed qualified and approved to furnish education or training to such persons as shall enroll under this part: *Provided,* That wherever there are established State apprenticeship agencies expressly charged by State laws to administer apprentice training, whenever possible, the Administrator shall utilize such existing facilities and services in training on the job when such training is of one year's duration or more.

"5. The Administrator shall pay to the educational or training institution (including the institution offering institutional on-farm training), for each person enrolled in full time or part time course of education or training, the customary cost of tuition, and such laboratory, library, health, infirmary, and other similar fees as are customarily charged, and may pay for books, supplies, equipment, and other necessary expenses, exclusive of board, lodging, other living expenses, and travel, as are generally required for the successful pursuit and completion of the course by other students in the institution: *Provided,* That in no event shall such payments, with respect to any person, exceed $500 for an ordinary school year unless the veteran elects to have such customary charges paid in excess of such limitation, in which event there shall be charged against his period of eligibility the proportion of an ordinary school year which such excess bears to $500: *Provided further,* That no payments shall be made to institutions, business or other establishments furnishing apprentice training on the job: *And*

Footnotes at end of article.

provided further, That any institution may apply to the Administrator for an adjustment of tuition and the Administrator, if he finds that the customary tuition charges are insufficient to permit the institution to furnish education or training to eligible veterans, or inadequate compensation therefor, may provide for the payment of such fair and reasonable compensation as will not exceed the estimated cost of teaching personnel and supplies for instruction; and may in like manner readjust such payments from time to time.

"6. While enrolled in and pursuing a course under this part, (including an institutional on-farm training course) such person, upon application to the Administrator, shall be paid a subsistence allowance of $65 per month, if without a dependent or dependents, or $90 per month, if he has a dependent or dependents, including regular holidays and leave not exceeding thirty days in a calendar year: Except, That (1) while so enrolled and pursuing a course of full-time institutional training, such person shall be paid a subsistence allowance of $75 per month, if without a dependent or dependents, or $105 per month if he has one dependent or $120 per month if he has more than one dependent, and (2) while so enrolled and pursuing a course of part-time institutional training, including a course of institutional on-farm training, or other combination course, such person shall be paid, subject to the limitations of this paragraph, additional subsistence allowance in an amount bearing the same relation to the difference between the basic rates and the increased rates provided in (1) hereof as the institutional training part of such course bears to a course of full-time institutional training. Such person attending a course on a part-time basis, and such person receiving compensation for productive labor whether performed as part of his apprentice or other training on the job at institutions, business or other establishments, or otherwise, shall be entitled to receive such lesser sums, if any, as subsistence or dependency allowances as may be determined by the Administrator: *Provided,* That in no event shall the rate of such allowance plus the compensation received exceed $210 per month for a veteran without a dependent, or $270 per month for a veteran with one dependent, or $290 for a veteran with two or more dependents: *Provided further,* That only so much of the compensation as is derived from productive labor based on the standard workweek for the particular trade or industry, exclusive of overtime, shall be considered in computing the rate of allowances payable under this paragraph.[5]

"7. Any such person eligible for the benefits of this part, who is also eligible for the benefit of part VII, may elect either benefit or may be provided an approved combination of such courses: *Provided,* That the total period of any such combined courses shall not exceed the maximum period or limitations under the part affording the greater period of eligibility.

"8. No department, agency, or officer of the United States, in carrying out the provisions of this part, shall exercise any supervision or control, whatsoever, over any State educational agency, or State apprenticeship agency, or any educational or training institution: *Provided,* That nothing in this section shall be deemed to prevent any department, agency, or officer of the United States from exercising any supervision or control which such department, agency, or officer is authorized, by existing provisions of law, to exercise over any Federal educational or training institution, or to prevent the furnishing of education or training under this part in any institution over which supervision or control is exercised by such other department, agency, or officer under authority of existing provisions of law.

"9. The Administrator of Veterans' Affairs is authorized and empowered to administer this title, and, insofar as he deems practicable, shall utilize existing facilities and services of Federal and State departments and agencies on the basis of mutual agreements with them. Consistent with and subject to the provisions and limitations set forth in this title, the Administrator shall, from time to time, prescribe and promulgate such rules and regulations as may be necessary to carry out its purposes and provisions.

"10. The Administrator may arrange for educational and vocational guidance to persons eligible for education and training under this part. At such intervals as he deems necessary, he shall make available infomation respecting the need for general education and for trained personnel in the various crafts, trades, and professions: *Provided,* That facilities of other Federal agencies collecting such information shall be utilized to the extend he deems practicable.

"11. (a) As used in this part, the term 'educational or training institutions' shall include all public or private elementary, secondary, and other schools furnishing education for adults, business schools and colleges, scientific and technical institutions, colleges, vocational schools, junior colleges, teachers colleges, normal schools, professional schools, universities, and other educational institutions, and shall also include business or other establishments providing apprentice or other training on the job, including those under the supervision of an approved college or university or any State department of education, or any State apprenticeship agency or State board of vocational education, or any State apprenticeship council or the Federal Apprentice Training Service established in accordance with Public Law Numbered 308, Seventy-fifth Congress, or any agency in the executive branch of the Federal Government authorized under other laws to supervise such training.

"(b) As used in this part the term 'Other training on the job' shall include courses offered by establishments approved by the appropriate agency of the State or the Administrator whenever such courses of training on the job are furnished in accordance with the following provisions:

"1. Any establishment desiring to undertake an on-the-job training program will be required to submit to the appropriate State approving agency a written application setting forth the course of training for each job for which a veteran is to be trained. The written application covering the training program will include the following:

"a. Title and description of the specific job objective for which the veteran is to be trained.

"b. Length of the training period.

"c. Schedule listing various operations for major kinds of work or tasks to be learned and showing for each, job operations or work, tasks to be performed, and the approximate length of time to be spent on each operation or task.

"d. Wage or salary to be paid at the beginning of the training program, at each successive step in the program, and at the completion of training.

"e. Entrance wage or salary paid by the establishment to employees already trained in the kind of work for which the veteran is to be trained.

"f. Number of hours of supplemental instructions required.

"2. The appropriate approving agency of the State or the Administrator may approve the application of the establishment when such establishment is found upon investigation to have met or made provision for meeting the following criteria:

"a. The training content of the program is adequate to qualify the veteran for appointment to the job for which he is to be trained.

"b. There is reasonable certainty that the job for which the veteran is to be trained will be available to him at the end of the training period.

"c. The job is one in which progression and appointment to the next higher classification are based upon skills learned through organized training on the job and not on such factors as length of service and normal turnover.

"d. The wages to be paid the veteran for each successive period of training are not less than those customarily paid in the establishment and the community to a learner in the same job and who is not a veteran and are in conformity with State and Federal laws and applicable bargaining agreements.

"e. The job customarily requires a period of training of not less than three months and not more than two years of full-time training.

"f. The length of the training period is no longer than that customarily required by the establishment and other establishments in the community to provide the trainee with the required skills, arrange for the acquiring of job knowledge, technical information, and other facts which the trainee will need to learn in order to become competent on the job for which he is being trained.

"g. Provision is made for related instruction for the individual veteran who may need it.

"h. There is in the establishment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

"i. Adequate records are kept to show the progress made by the veteran toward his job objective and a periodic report showing the conduct and progress made in the course of training on the job will be provided for the Veterans' Administration.

"j. Appropriate credit is given the veteran for previous job experience, whether in the military service or elsewhere, his beginning wage adjusted to the level to which such credit advances him and his training period shortened accordingly. No course of training will be considered bona fide if given to a veteran who is already qualified by training and experience for the job objective.

"k. A copy of the training program as approved by the State agency is provided to the veteran and to the Veterans' Administration by the employer.

"l. Upon completion of the training the veteran is given a certificate by the employer indicating the length and type of training provided and that the veteran has completed the course of training on the job satisfactorily.

"3. The Veterans' Administration is not authorized to award the benefits under this part, if it is found by the Administrator that the course of apprentice training or other training on the job fails to meet the requirements of this paragraph.

"(c) As used in this part the term 'institutional on-farm training' shall include any course of instruction approved by the appropriate agency of the State or the Administrator. Such course shall be considered a full-time course when it combines (1) organized group instruction in agricultural and related subjects of at least two hundred hours per year (and of at least eight hours each month) at an educational or training institution, with (2) supervised work experience on a farm or other agricultural establishment. To be approved, such a course shall be developed with due consideration to the size and character of the farm on which the veteran is to receive his supervised work experience and to the need of the veteran, in the type of farming for which he is training, for proficiency in planning, producing, marketing, farm mechanics, conservation of resources, food conservation, farm financing, farm management, and the keeping of farm and home accounts. Such a course shall in addition, satisfy the requirements of either of the following:

"1. If the veteran performs part of his course on a farm under his own control—

"a. he shall receive not less than one hundred hours of individual instruction per year, not less than fifty hours of which shall be on such farm (with at least two visits by the instructor to such farm each month). Such individual instruction shall be given by the instructor responsible for the veteran's institutional instruction and shall include instruction and home-study assignments in the preparation of budgets, inventories, and statements showing the production, use on the farm, and sale of crops, livestock, and livestock products;

"b. he shall be assured of control of such farm (whether by ownership, lease, management agreement, or other tenure arrangement) until the completion of his course; and

"c. such farm shall be of a size and character which (1) together with the group instruction part of the course, will occupy the full time of the veteran, (2) will permit instruction in all aspects of the management of a farm of the type for which the veteran is being trained, and (3) if the veteran intends to continue operating such farm at the close of his course, will assure him a satisfactory income under normal conditions.

"2. If the veteran performs part of his course as the employee of another—

"a. he shall receive, on his employer's farm, not less than fifty hours of individual instruction per year (with at least one visit by the instructor to such farm each month). Such individual instruction shall be given by the instructor responsible for the veteran's institutional instruction;

"b. his employer's farm shall be of a size and character which (1) together with the group instruction part of the course, will occupy *the full* time of the veteran, and (2) will permit instruction in all aspects of the management of a farm of the type for which the veteran is being trained;

"c. his employer shall agree to instruct him in various aspects of farm management in accordance with the training schedule developed for the veteran by his instructor, working in cooperation with his employer. If it is found by the Administrator of Veterans' Affairs or the State approving agency that any approved course of institutional on-farm training has ceased to meet the requirements of this Act, the Veterans' Administration shall cut off all benefits under this part as of the date of such withdrawal of approval. Where it has been found that a *variation* in the proportion of hours of group instruction and individual instruction on the farm will better serve the conditions in a certain area, any program acceptable to the State approving agency which meets the total number of training hours called for in this Act (including assembled instruction, individual instruction, and assigned and supervised related home study and supervision in operational skills by the farmer trainer under the direction of the institution) shall be recognized as complying with the requirements of this Act; and

"d. The Administrator of Veterans' Affairs is authorized to contract with approved institutions for such courses where the Administrator finds that the agreed cost is reasonable and fair.

"12. For the purposes of this part, the present war shall not be considered as terminating, in the case of any individual, before the termination of such individual's first period of enlistment or reenlistment contracted within one year after the date of the enactment of the Armed Forces Voluntary Recruitment Act of 1945." [6]

SEC. 401. Section 3, Public Law Numbered 16, Seventy-eighth Congress, is hereby amended to read as follows:

"SEC. 3. The appropriation for the Veterans' Administration, 'Salaries and expenses, medical and hospital, and compensation and pensions,' shall be available for necessary expenses under part VII, as amended, or part VIII of Veterans Regulation Numbered 1(a), and there is hereby authorized to be appropriated such additional amount or amounts as may be necessary to accomplish the purposes thereof. Such expenses may include, subject to regulations issued by the Administrator and in addition to medical care, treatment, hospitalization, and prosthesis, otherwise authorized, such care, treatment, and supplies as may be necessary to accomplish the purposes of part VII,[7] as amended, or part VIII of Veterans Regulation Numbered 1(a). Any such appropriation shall also be available for use by the Administrator in reimbursing State and local agencies for reasonable expenses incurred by them in (1) rendering necessary services in ascertaining the qualifications of industrial establishments for furnishing on-the-job training to veterans under the provisions of part VIII of such regulation, and in the supervision of industrial establishments furnishing such training, or (2) furnishing, at the request of the Administrator, any other services of facilities in connection with the administration of programs for training on the job under such provisions, or (3) furnishing, at the request of the Administrator, information concerning educational opportunities available in schools and colleges."

SEC. 402. Public Law Numbered 16, Seventy-eighth Congress, is hereby amended by adding thereto a new section 4 to read as follows:

"SEC. 4. Any books, supplies, or equipment furnished a trainee or student under part VII or part VIII of Veterans Regulation Numbered 1(a) shall be deemed released to him: *Provided*, That if he fails, because of fault on his part to complete the course of training or education afforded thereunder, he may be required, in the discretion of the Administrator, to return any or all of such books, supplies, or equipment not actually expended or to repay the reasonable value thereof: *Provided further*, That returned books, supplies, or equipment may be turned in to educational or training institutions for credit under such terms as may be approved by the Administrator, or disposed of in such other manner as may be approved by the Administrator."

SEC. 403. Paragraph 1, part VII, Veterans Regulation Numbered 1(a) (Public Law Numbered 16, Seventy-eighth Congress), is hereby amended by inserting after the word "time" the words "on or" and deleting the date "December 6, 1941" and substituting therefor the date "September 16, 1940". [8]

FOOTNOTES

[1] See Public Law 697, 79th Cong., August 8, 1946, re educational facilities to institutions furnishing courses under Title II. (See Appendix.)

[2] Termination of the war fixed at July 25, 1947, by Public Law 239, 80th Cong., July 25, 1947.

[3] Vocational rehabilitations for service-connected disability under Public Law 16, 78th Cong.

[4] The following was included in the Supplemental Independent Offices Appropriation Act, 1949, Public Law 862, 80th Cong., June 30, 1948: "* * * *Provided*, That no part of this appropriation for education and training under title II of the Servicemen's Readjustment Act, as amended, shall be expended for tuition, fees, or other charges, or for subsistence allowance, for any course elected or commenced by a veteran on or subsequent to July 1, 1948, and which is determined by the Administrator to be avocational or recreational in character. For the purpose of this proviso, education or training for the purpose of teaching a veteran to fly or related aviation courses in connection with his present or contemplated business or occupation shall not be considered avocational or recreational."

[5] Sec. 3 of Public Law 512, 80th Cong., provides that this Act shall take effect April 1, 1948.

[6] Subparagraph 12 excepted from Public Law 239, 80th Cong., July 25, 1947, establishing date of termination of the war for certain purposes.

[7] Public Law 660, 80th Cong., June 16, 1948, authorizes commutation of travel expenses on a mileage basis in connection with vocational rehabilitation. (See Appendix.)

[8] Sec 7(a), Public Law 268, 79th Cong., further amended par. 1, pt. VII, and sec. 7(b) amended par. 3, pt. VII. See text of Public Law 16, 78th Cong., as amended.

THE VIETNAM ERA VETERANS COMPREHENSIVE EDUCATION AND TRAINING ACT

The present GI Bill system violates the intent of Congress and denies education and training to millions of needy Vietnam era veterans. The use of the present GI Bill is often inverse to the need for education, training, and readjustment assistance.

Today's GI Bill:

Discriminates against poor, minority and educationally disadvantaged veterans.

Discriminates against veterans with families to support.

Discriminates against veterans who live in states with high-cost public education.

Severely restricts the effective use of a veteran's total benefits.

Severely limits the number and types of educational and training programs available to veterans.

These are the conclusions of the congressionally commissioned Veterans Administration study conducted by the Educational Testing Service of Princeton, New Jersey. These conclusions are verified and supported by Veterans Administration statistics, hearings and studies conducted by the National League of Cities, U.S. Conference of Mayors, the American Association of Community and Junior Colleges, the New York City Mayor's Office of Veterans Action, and by the personal experiences and testaments of Vietnam era veterans.

This paper will:

Summarize the history of the GI Bill.

Compare the provisions of the World War II GI Bill and the Vietnam Era GI Bill.

Analyze the inadequacies of the present GI Bill.

Analyze Veterans' Administration statistics and claims.

Analyze legislation currently before Congress.

Analyze the provisions of the Vietnam Era Veterans Comprehensive Education and Training Act, including:

a. Legislative language.
b. Explanation of provisions.
c. Justification of provisions.
d. Safeguards against abuses.
e. Cost.

HISTORY OF THE GI BILL

"The World War II GI Bill was one of the most important and effective pieces of social legislation ever enacted. It profoundly affected the fortunes of veterans and post-war society and it transformed the Nation's higher education system."—Report of the Educational Testing Service on Educational Assistance Programs for Veterans.

The World War II GI Bill extended education and training opportunities to World War II veterans, assisted their readjustment to society, and eased the impact of 17 million returning veterans on employment. This bill produced:

450,000 engineers.
180,000 doctors, dentists, and nurses.
360,000 teachers.
150,000 scientists.
107,000 lawyers.
233,000 accountants.
36,000 ministers.
380,000 metal workers.
138,000 electricians.
83,000 policemen and firemen.
700,000 businessmen.
17,000 writers and journalists.

Sixty-five members of the House of Representatives and twenty Senators trained under the World War II GI Bill.

The "GI Bill of Rights" was directly responsible for a 200% increase in the number of undergraduate, graduate and doctoral degrees conferred by institutions of higher learning—from 160,000 in 1946 to over half a million in 1950. GI Bill dollars enabled public colleges and universities to expand their facilities, academic resources and develop faculties to the extent that a college education became possible for the average American.

The massive scientific, medical, technological, cultural, political, economic, vocational, industrial and social contributions of World War II veterans, and others who owe their education to the World War II GI Bill, cannot be estimated, but the economic contributions of what the Veterans Administration called the "best investment in American history" can be. The Internal Revenue Service estimates the 14 billion dollars invested in the World War II GI Bill was returned six times over by veterans in increased tax revenues. If the Government's 62.5 billion dollar profit were to include revenues from nonveterans who benefited from the GI Bill's expansion of the educational system, it could reach over 150 billion dollars.

Despite the enormous benefit to both veterans and the Nation, the World War II GI Bill was subject to abuses and administrative problems. In 1952, a special Congressional investigating committee, headed by Congressman Olin Teague, concluded:

"In view of the waste, abuse, and inefficiency which occurred during the World War II program, it would be grossly unfair to veterans of the Korean conflict and to the Nation as a whole, to extend the present program without corrective action. Veterans of the Korean conflict are no less entitled to readjustment benefits than veterans of World War II. The scholarship allowance should be sufficient to maintain a veteran-student under reasonable and normal circumstances in a reliable institution with customary charges for nonveteran students used as a guide."

The resulting action was the abandonment of the separate tuition payment and monthly subsistence allowance system and the adoption of the present one-payment system of a monthly allowance payment for the purpose of covering both educational and subsistence expenses.

The present GI benefit system was adopted to prevent abuses, but has instead unintentionally denied educational and training benefits to the most needy of Vietnam era veterans.

COMPARISON OF THE WORLD WAR II GI BILL AND THE VIETNAM ERA GI BILL

I. Tuition assistance

A. World War II: The World War II GI Bill paid a monthly subsistence allowance and the full cost of tuition, books and fees at almost every public and private college, university, vocational, professional, and technical institution in America. By paying tuition, the World War II GI Bill accorded all veterans an equal opportunity to enter education and training programs. In the few schools where tuition, books and fees exceeded the $500 a school year ceiling, any veteran could accelerate the consumption of his 48-month entitlement to cover the difference. In current buying power, the World War II direct tuition payment is equivalent to $2,629 (per nine month school year).

B. Vietnam Era: The Vietnam Era GI Bill provides no direct payment for tuition, books and fees. It pays only a monthly subsistence allowance to veterans enrolled in education and training programs. Vietnam era veterans unable to pay the "educational" costs necessary to enter education and training programs receive none of the educational and training benefits they are entitled to. The financial resources available under today's GI Bill limits veterans without supplemental resources to education and training programs at low-cost public institutions.

II. Monthly Subsistence Allowance

A. World War II: The World War II GI Bill paid a monthly subsistence allowance equal to one-third the average national monthly earning. Since the GI Bill paid for tuition, books and fees, all of the veterans' subsistence allowance could be devoted to "living expenses".

B. Vietnam Era: The Vietnam Era GI Bill pays only a monthly subsistence allowance to veterans enrolled in school. Since the Vietnam veteran must pay the cost of tuition, books and fees from his monthly subsistence allowance, the portion of his subsistence allowance that can be devoted to "living expenses" depends upon the amount of subsistence allowance that is left after "educational expenses".

All World War II veterans were assured of paid "educational expenses" and of receiving an equal monthly subsistence allowance for their "living expenses". The amount of a Vietnam veteran's monthly subsistence allowance that can be devoted to living expenses after educational expenses are paid varies greatly from veteran to veteran, school to school, and state to state.

III. Cost of basic living essentials—food, shelter and transportation

A. World War II: The World War II GI Bill went a long way toward providing the basic living essentials. Food and transportation were not expensive, and low-cost housing was available. Government housing was provided to World War II veteran students by converting existing military and federal facilities into student housing; furnishings, beds and equipment were provided at government expense; public war housing projects were converted into low-rent student housing facilities, and government surplus housing (quonset huts, barracks, etc.) were transported to and erected at government expense on college sites.

B. Vietnam Era: The Vietnam Era Veteran must cover not only the cost of living, but the cost of tuition, books and fees with his monthly GI Bill subsistance allowance. The cost of living has increased over 200% since World War II. Government subsidized housing is no longer available and housing near schools, especially for married veterans, is limited and expensive. The cost of food has increased 14% in the last year and the energy crisis has inordinantly increased housing and transportation expenses.

IV. Part-time Employment

A. World War II: Part-time employment was readily available after World War II and most veterans required little or no supplementation of their GI benefits.

B. Vietnam Era: The Vietnam Era GI Bill requires substantial supplementation for veterans in private institutions in states with high cost public education and veterans with families to support. Part-time employment is scarce and Vietnam era veterans must compete with many other needy students for available jobs. The energy crisis is reducing the employment market and the number of part-time public service employment positions available to veteran students.

V. Financial Aid

A. World War II: The World War II GI Bill required little or no supplemental financial aid since it paid the veteran's tuition, books and fees at almost every public and private school in America. Veterans received as much as $300 in "mustering out" pay, which could supplement their educational financial needs.

B. Vietnam Era: The Vietnam Era GI Bill requires substantial supplemental assistance for veterans desiring to attend private school, out-of-state public schools, or schools in states with high cost public education. Despite the great need for financial assistance, Vietnam veterans are often discriminated against by financial officers who refuse veterans scholarships because they are receiving "aid" from the GI Bill. The influx of many minority and economically disadvantaged persons into the educational system has put a substantial demand upon student financial assistance that might otherwise be available to veterans.

Vietnam era veterans do have the Work Study and Cost of Instruction programs which were not available to veterans of World War II. Presently these programs amount to $3 a month per veteran in training.

VI. Period of Entitlement

A. World War II: The World War II veteran was entitled to a total of 48 months of benefits which could be accelerated to cover "educational expenses" in excess of $500 a school year.

B. Vietnam Era: The Vietnam era veteran is entitled to a total of 36 months of benefits which he must use over a period of 36 months or longer.

VII. Special Programs

A. World War II:

Mustering Out Pay.—World War II and Korean War veterans received $300 in "mustering out" pay if they served at least 60 days including service outside of the U.S., $200 if they served wholly within the U.S., and $100 if they served less than 60 days. "Mustering out" money could be used however the veteran chose, including supplementing his education and training needs.

52–20 Program.—The 52–20 Program, a Federal unemployment insurance payment, provided the unemployed World War II veteran with $20 a week for 52 weeks.

48-Month Entitlement.—There were no "special programs" for "educationally disadvantaged" World War II veterans (veterans with less than a high school education). 28.3% of World War II veterans had 8 years or less education, and 26.3% had 1–3 years of high school, which made 54.6% of the World War II veterans "educationally disadvantaged" by today's standards. The 48 month entitlement period, however, did enable World War II veterans to take 12 months of remedial or preparatory work and still have sufficient benefits to pursue a normal 4 year college education.

Under the World War II GI Bill there were thousands of institutions that provided "educationally disadvantaged" veterans with technical, vocational, educational and professional skills and opportunities they would not otherwise have been able to obtain.

B. Vietnam Era:

Remedial and Preparatory Programs.—There are three special programs for "educationally disadvantaged" Vietnam era veterans with remedial or preparatory needs that provide the same opportunities as the additional 12 months of education and training entitlement that were available to World War II veterans. They are:

Free entitlement. Free entitlement assists veterans with academic deficiencies in attaining a high school diploma, General Educational Development certificate, or refresher or preparatory courses needed to qualify for enrollment in a post secondary program, without charge to a veteran's 36 month entitlement period.

Predischarge Education Program. This is the inservice "free entitlement" program. It enables veterans to prepare (without charge to their entitlement) for their future education, training or vocational programs through programs of education or training while in the service.

Tutorial Assistance. Tutorial assistance programs provide special help to veterans in overcoming difficulties in a subject required for the satisfactory pursuit of an educational objective. In addition to his educational subsistence allowance, a veteran may receive an additional $50 a month for a maximum of 9 months or until a total of $450 has been used.

Other Special Programs.—

Work Study Program. The work-study program provides an allowance to veterans pursuing full time programs in exchange for services such as outreach activities, paper processing, school liaison and telephone staffing. The program is currently limited to a maximum $250 allowance for which the veteran must work 100 hours during an enrollment period. The work study program is also restricted to 4 million dollars during a fiscal year.

Cost of Instruction Payment Program.— The veterans' Cost of Instruction programs provides funds to schools who offer specific services and incentives to attract and assist Vietnam era veterans. The program is funded at 24 million dollars. The Administration has requested the discontinuation of the Cost of Instruction program in its Fiscal '75 budget.

INADEQUACIES OF THE VIETNAM ERA GI BILL

Congressional Declaration of intent of the Veterans Educational Assistance Program:

"The Congress of the United States hereby declares that the purpose of the educational program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the armed forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might otherwise be unable to afford such an education (3) providing vocational readjustment and restoring lost educational opportunities to those servicemen and women whose careers have been interrupted or impeded by military service and (4) aiding such persons in attaining the vocational and educational status they might normally have aspired to and obtained had they not served their country."

The present Veterans Educational Assistance Program violates the intent of Congress by denying education and training opportunities to millions of needy and deserving Vietnam era Veterans. The use of the present GI Bill is inverse to the need for education, training and readjustment assistance.

Vietnam era veterans most able to use the present GI Bill:

1. *Single veterans.* 1 in 2.6 single veterans is currently using his GI benefits for education and training, compared to only 1 in 7.5 veterans with dependents.

2. *Veterans in states with low-cost public education.* "There is a marked difference (35–60%) in participation rates between states in the eastern section of the nation and the western section of the nation. This may be due in part to low tuition costs, and greater access to public institutions (particularly junior colleges) in the West."—Department of Veterans Benefits, Veterans Administration, Information Bulletin, April 1973.

Veterans least able to use the present GI Bill:

1. *Married Veterans.* 2 out of every 3 Vietnam era veterans are married, yet only 1 in 7.5 married veterans is currently using his education and training benefits. Out of 4,700,000 married Vietnam veterans, only 630,000 are using the GI Bill. (42% married vs. 58% single veterans *currently* using the GI Bill.)

2. *Black Veterans.* The participation rate for black veterans under the Korean War GI Bill was 53%. It is less than 25% for black Vietnamese era veterans.

3. *Educationally Disadvantaged Veterans.* The participation rate for educationally disadvantaged veterans (veterans with less than a high school education) is less than 30% compared to 50% for non-educationally disadvantaged veterans.

4. *Veterans desiring to attend private schools.* 18% of all Vietnam veterans using their benefits for college level programs are enrolled in private institutions with 50% of all World War II veterans enrolled in college level programs at private institutions.

INADEQUACIES OF THE PRESENT GI BILL

A. Discrimination against married veterans and veterans with dependents

Two thirds of all Vietnam era veterans are married, yet only one in 7.5 (13.8%) married Vietnam veterans is currently using his education and training benefits. (See Appendix A)

The subsistence allowance paid to veterans with dependents goes only half as far in meeting their "living expenses" as does the subsistence allowance paid a single veteran. (See Appendix B.) Discounting "educational expenses" (which are constant regardless of the marital status of a veteran) subsistence allowances (as approved by the House of Representatives in H.R. 12628) of: $250 for a single veteran is 1.6% less than the average amount needed for "living expenses", $297 for a veteran with one dependent is 46% less than the average amount needed for "living expenses", and the $339 for a veteran with two or more dependents is 58% less than the average amount needed to meet "living expenses".

On the average a single Vietnam era veteran is 50% better off in meeting his living expenses under the GI bill than is the married veteran.

Married veterans have the difficult burden of pursuing an education and supporting a family. The scarcity of part time employment to supplement GI benefits make it impossible for many married veterans to ever use their benefits. Often, veterans pursuing an education and supporting a family through part-time or full-time employment find that the dual responsibilities place an unacceptable burden on family and academic life. The 1972 Harris survey on veterans readjustment found that 60% of married veterans not in school would use their educational and training benefits if they were provided with adequate financial assistance.

B. Restriction on the type & number of institutions available to veterans for education and training

1. Public v. private institutions.

The World War II GI Bill paid the full cost of "education expenses" at almost every public and private educational, technical, vocational or professional institution in America. Regardless of his lack of funds, or place of residence, a World War II veteran needed only meet the admissions requirements of an educational or training institution, and the GI Bill would meet the financial requirements up to $500 a school year, the equivalent of $2,629 in today's buying power. In the few institutions where educational expenses exceeded $500 a school year, the veteran could accelerate the consumption of his 48 month entitlement. The World War II GI Bill provided veterans an equal opportunity to attend the educational or training program of their choice. Under the present GI Bill system, many of the colleges, universities, technical and vocational institutions that were open to World War II veterans are closed to Vietnam era veterans who cannot pay their "educational expenses".

The present educational assistance system pays only a monthly subsistence allowance to veterans enrolled in school. If a Vietnam veteran cannot pay the "educational expenses" needed to enter an education or training institution, he will receive none of the benefits that he is entitled to.

"Educational expenses" were not a significant factor in a World War II veteran's choice of educational and training programs and institutions because the GI Bill paid "educational expenses".

"Educational expenses" are a major factor in a Vietnam era veteran's choice of educational and training programs and institutions because the veteran must pay for "educational expenses".

"Educational expenses" determine not only if a Vietnam era veteran will be able to use his benefits at all, but substantially limit the type of educational and training programs and the number of educational and training institutions available to Vietnam era veterans.

Under the World War II GI Bill 50% of the veterans in college level programs attended private colleges and universities. The average cost of "educational expenses" at private college level institutions under the World War II GI Bill was $446 for an ordinary school year (nine months), $54 under the $500 a school year limit.

The 1974 cost of "educational expenses" at a private college level institution is $2.245 a school year, $265 more than a single veteran's entitlement for a school year. This completely rules out a private education for Vietnam veterans without substantial supplemental resources. Less than 20% of the Vietnam era veterans in college level programs are attending private institutions.

C. Discrimination against veterans in states with high cost public education

"The accessibility of postsecondary education for the Vietnam conflict veteran is a function not only of his military service but also his particular state or residence. The effectiveness of the benefits is directly related to the availability of low cost readily accessible public institutions. The current veteran seeking to use his educational benefits finds that equal military service does not provide equal readjustment opportunities with respect to attendance at post secondary schools."

"It appears that the states are subsidizing the cost of education for veterans of the Vietnam conflict as compared with earlier subsidization by the Veterans Administration. Since higher costs of education appear to reduce participation, this is a significant factor in determining whether the veteran in a particular state will participate in education."—Report of the Educational Testing Service, September 19, 1973.

"There is a marked difference in participation rates between states in the eastern section of the nation and the western section of the nation. This may be due in part to low tuition costs, and greater access to public institutions (particularly junior colleges) in the west".—The Veterans Administration, DVB Information Bulletin, April 1973.

Analysis of participation rates by state (see Appendix C and Appendix D) indicate a direct correlation between participation and the availability of low cost easily accessible institutions of higher learning.

39% of veterans participating in college level programs attend community colleges compared to 29% for non veterans.

D. Restriction to four-year programs of instruction

Under the present educational assistance system, a veteran with two or more years of honorable military service is entitled to $2430 in benefits if he is single, $2889 if he has one dependent, and $3294 if he has two dependents. However, he is restricted to using those benefits at a maximum rate of $270 a month (single), $321 a month (one dependent), and $366 a month (two dependents), over a period of 36 months or longer. The 36 month restriction on a veteran's use of his benefits is the most serious shortcoming of the Veterans Educational Assistance system. The 36 month limitation makes the Veterans Educational Assistance Program ineffective except for single veterans attending low cost institutions. This restriction makes it impossible for the two thirds of all Vietnam era veterans to effectively use their GI Bill benefits without substantial supplementation even though they are rightfully entitled to total benefits that would enable many to fulfill their educational or training objectives.

Congress established the GI Bill "to provide vocational readjustment and restore lost educational opportunities to those service men and women whose careers have been interrupted or impeded by active military service". Married veterans often suffer the severest interruption in their family lives, and the greatest impediments to their careers, yet they are denied effective readjustment assistance by the present GI Bill.

Denying veterans access to educational assistance that would enable them to attend two year technical, vocational, or professional institutions, and to complete their education at private institutions or attend graduate, medical or law school, defeats the purpose of the GI Bill.

The Office of Education estimates that only one in five jobs will require a college degree in the next six years. Because the present GI Bill restricts veterans' access to many technical and vocational programs, it is denying large numbers of veterans the alternative of gainful employment in secure and productive careers where college degrees are unnecessary.

The average educational level for all Vietnam era veterans is 12.5 years. Over 1 million Vietnam era veterans have completed one or more years of college prior to or during their military service. If they were attending a private institution, or are married, the current GI Bill does little to restore their lost educational opportunities.

The World War II GI Bill had a provision which enabled veterans to accelerate their benefits if their yearly "educational expenses" exceeded the $500 ceiling. This acceleration provision assured that every World War II veteran had the opportunity and the flexibility to attend the institution and pursue the education and training program of his choice.

ANALYSIS OF VETERANS ADMINISTRATION CLAIMS AND STATISTICS

The Veterans Administration's statistics and claims often convey the impression that the Vietnam era veteran is as well off, or better off, than the World War II veteran. Some of the most frequent VA claims are

Claim

"Nearly 4.5 million veterans and servicemen have trained under the current GI Bill since it went into effect in June 1966" and ". . . the participation rates for Vietnam veterans have now exceeded those of World War II and Korean veterans."—The Veterans Administration, Profile of the Vietnam Veteran, March 1974.

Reality

The "Veterans Administration has used participation rates only as an indicator of what percentage of eligible veterans use their entitlement, and not as a measure of whether the GI Bill educational programs were serving their intended purpose."

"While the Veterans Administration does now collect and report data on degree and vocational objectives, there is little data currently available on completion rates in such programs. Without this information it is difficult to determine the ultimate effectiveness of the GI Bill use.

"We have been of the view that the assessment of the effectiveness or quality of education and training has not been explicitly committed to the VA by the Congress. We believe this is a matter which should be considered further."—The Veterans Administration, September 1973.

The Veterans Administration participation rate statistics measures only the number of veterans who have received some benefits and not 1) the number of veterans who have completed educational and training programs, 2) the number of veterans forced to terminate programs and their reasons for termination, 3) the amount of time the veterans participated under the GI Bill, and 4) whether the GI Bill is fulfilling the intent of Congress and meeting its objectives.

Claim

"The average Vietnam veteran attending a 4 year public or a 2 year public institution has educational benefits slightly higher than his World War II counterpart when adjustments for changes in the Consumer Price Index are made. 'In terms of buying power, the educational assistance for Vietnam era veterans is comparable to that available to World War II veterans.' " "The Vietnam era veteran actually has $292 (per nine month school year) more in buying power than did the World War II veteran!"—The Veterans Administration, September 1973.

Reality

According to the Department of Veterans Benefits of the Veterans Administration, the $500 paid for tuition, books, and fees and supplies under the World War II Bill is currently equivalent to $2,629 in today's buying power. The current dollar value of the World War II subsistence allowance for a nine month school year is $1422 for no dependents, $1989 for one dependent, and $2268 for two or more dependents. By adding the current buying power of the World War II tuition payment and subsistence allowance for a school year and comparing the total to the total a Vietnam Veteran receives from today's GI Bill for a school year ($1621 for a veteran with no dependents, $1729 for a veteran with one dependent, and $1603 for a veteran with two dependents), it is apparent that the Vietnam era veteran actually has $1651 per nine month school year) less in buying power than did the World War II veteran!

A. Limitations of the House and Senate Veterans Affairs Committee Legislation HR 12628

The Veterans Affairs Committee legislation, with the exception of the loan provision in HR 12628, does little to alleviate the shortcomings of the present GI Bill system. In order to meet the needs of veterans unable to use benefits under the present Veterans Readjustment Program, a monthly subsistence allowance increase of such massive proportions would be required that it would be totally unrealistic.

The use of the loan provision will probably be inverse to need. Economically disadvantaged veterans and veterans with financial obligations to their families would be reluctant to incur the liability of repaying educational loans.

APPENDIX A

AVERAGE MONTHLY LIVING EXPENSES FOR VIETNAM ERA VETERANS ATTENDING SCHOOL,[1] SEPTEMBER 1974

	Single veteran	Married veteran	Married with children
Rent	$90	$170	$200
Food	70	140	200
Clothing, cleaning and laundry	22	40	48
Transportation	50	52	55
Medical	10	28	35
Child care			27
Miscellaneous	30	55	49
Total monthly expenses	272	485	594
Total monthly GI bill subsistence payment, H.R. 12628 (includes 23 percent increase)	270	321	366
Supplemental income needed to meet monthly living expenses	2	164	228
Percent difference between subsistence allowance and veterans average living expenses	0.07	51	62

[1] Source: Educational testing service report (excluding educational expenses and adjusted to August 1974 consumer price index).

APPENDIX B

GI BILL PARTICIPATION BY DEPENDENCY STATUS

	Number	Percentage
A. Dependency status of Vietnam era veterans:		
Total Vietnam era veterans	7,000,000	100.0
Total Vietname era veterans without dependents	2,300,000	33.0
Total Vietnam era veterans with dependents	4,700,000	67.0
B. Dependency status of Vietnam era veterans currently using GI bill benefits:		
Total Vietnam era veterans currently using GI bill	1,500,000	100.0
Total Vietnam era veterans without dependents using GI bill	870,000	58.2
Total Vietnam era veterans with dependents using GI bill	630,000	41.8
	Percentage	Ratio
C. Comparison of Vietnam era veterans currently using GI bill benefits to all Vietnam era veterans by dependency status:		
All Vietnam era veterans currently using GI bill to all Vietnam era veterans	21.4	1 in 5.
All Vietnam era veterans without dependents using GI bill to all Vietnam era veterans without dependents	37.8	1 in 2.6.
All Vietnam era veterans with dependents using GI bill to all Vietnam era veterans with dependents	13.4	1 in 7.5.

Note: Dependent denotes eligible veteran with child, parent or wife to support.

Conclusion: Veterans without dependents are currently using GI bill benefits at a rate of 288 percent greater (3 to 1) than veterans with dependents.

APPENDIX C

TABLE A.—RESIDENT AND NONRESIDENT UNDERGRADUATE TUITION RATES AT STATE COLLEGES AND UNIVERSITIES, 1973–74 ACADEMIC YEAR. (WHERE DIFFERENT, 1972–73 TUITION RATES IN PARENTHESIS)

	Undergraduate tuition and/or required fees	
	Resident	Nonresident
ALABAMA		
Ala. A&M U	$280(270)	$630(520)
Auburn U	525(450)	1,050(900)
U. of Alabama	510	1,020
Alabama State U	405(345)	630(570)
Florence State U	470(450)	470(450)
Livingston University	439(430)	612(603)
U. of Ala.—Huntsville	525	1,050
U. of Montevallo	360	570
U. of South Alabama	579	867
ALASKA		
U. of Alaska	472(402)	1,072(1,002)
ARIZONA		
Ariz. State U	320	1,210
U. of Arizona	411	1,301
Northern Arizona U	330(304)	995(969)
ARKANSAS		
U. of Arkansas, Fayetteville	400	930
U. of Arkansas, Pine Bluff	400	1,000
Arkansas Polytechnic College	410	940
Arkansas State U	400	700
Henderson State College	400	800
Southern State College	410	680
State College of Arkansas	410	920
CALIFORNIA		
U. of California, System	644	2,144
Cal. Maritime Academy	1,380(1,080)	1,680(1,380)
Cal. St. Polytechnic U.:		
Pomona	163	1,156
San Luis Obispo	165	1,300(1,100)
California St. Colleges:		
Bakersfield	39	1,100
Dominguez Hills	146(143)	1,256(1,253)
San Bernadino	157	1,270
Sonoma	140	1,345(1,250)
Cal. St. Universities:		
Chico	166(160)	1,276(1,270)
Fresno	168	1,278
Fullerton	160	1,270
Humboldt	163	1,399(1,273)
Long Beach	164	1,369(1,274)
Los Angeles	165	1,236(1,110)
Northridge	164	1,145
Sacramento	160	1,110
San Diego	161	716
San Francisco	164	1,110
COLORADO		
Colorado State U	778(570)	2,069(1,759)
U. of Colorado, Boulder	593(576)	1,959(1,895)
Adams State College	471(456)	1,446(1,431)
Fort Lewis College	433(418)	1,337(1,283)
Metropolitan St. College	330(333)	1,080(1,062)
Southern Colo. St. Coll	474(450)	1,489(1,389)
U. of Northern Colo	427(402)	1,303(1,200)
Western St. Coll. of Colo	358(349)	1,003(1,315)
CONNECTICUT		
U. of Connecticut	715(655)	1,715(1,555)
Central Conn. St. Coll	570	1,410
Southern Conn. St. Coll	524	1,424
Western Conn. St. Coll	450	1,350
DELAWARE		
Delaware St. C.	355(345)	930(920)
U. of Delaware	585(475)	1,560(1,350)
DISTRICT OF COLUMBIA		
District of Columbia Teachers Coll	70	1,082
Federal City College	132	852
FLORIDA		
Fla. A&M U	570	1,620
Florida State U	570	1,620
U. of Florida	570	1,620
Florida Atlantic U	570	1,620
Florida Technological U	570	1,620
U. of North Florida	570	1,620
U. of South Florida	570	1,620
U. of West Florida	570	1,620
GEORGIA		
Fort Valley St. C	387(382)	927(922)
Georgia Inst. of Tech	534	1,419
U. of Georgia	539(519)	1,259(1,239)
Albany State College	435	975
Armstrong State College	$405(390)	$945(930)
Augusta College	400(390)	940(930)
Columbus College	396	936
Georgia College	423	963
Georgia Southern Coll	367(361)	787(781)
Valdosta State College	429(387)	969(792)
West Georgia College	417	957
HAWAII		
U. of Hawaii	223(233)	733(743)
IDAHO		
U. of Idaho	380(356)	1,280(1,156)
Boise State College	356	1,296
Idaho State U	276(373)	1,126(1,123)
Lewis-Clark St. College	240	840
ILLINOIS		
Southern Illinois U	579	1,437
U. of Ill., Chicago Circle	636	1,626
U. of Illinois, Urbana-Champaign	686	1,676
Eastern Illinois U	599(691)	1,445(1,437)
Governors State U	585	1,650
Illinois State U	611(585)	1,272(1,246)
Northeastern Illinois U	476(520)	1,322(1,366)
Northern Illinois U	603(574)	647(617)
Sangamon State U	472(447)	1,133(1,110)
Southern Illinois U. at Edwardsville	589(584)	1,447(1,442)
Western Illinois U	561(558)	1,407(1,404)
INDIANA		
Indiana U	682(650)	1,560(1,490)
Purdue U	700	1,600
Ball State U	630	1,260
Indiana State U	660(600)	1,260(1,110)
IOWA		
Iowa State U	600	1,332(1,230)
U. of Iowa	620	1,350(1,250)
U. of Northern Iowa	600	1,100(1,000)
KANSAS		
Kansas State U	526(746)	1,316(1,066)
U. of Kansas	544(486)	1,334(1,076)
Fort Hays Kansas St. Coll	475(407)	970(802)
Kan. St. Coll. of Pittsburg	390	885(785)
Kansas St. Teachers Coll	394(386)	889(781)
Wichita State U	536(459)	1,327(1,060)
KENTUCKY		
Kentucky State U	455(395)	985(911)
U. of Kentucky	480(405)	1,210(1,120)
Eastern Kentucky U	420(360)	950(875)
Morehead State U	420(380)	950(896)
Murray State U	425(365)	955(881)
North'n Kentucky St. Coll	420(360)	950(876)
Western Kentucky U	420(360)	950(876)
LOUISIANA		
La. St. U	320	950
Southern U	284	914
Grambling College	332	782
Louisiana Tech U	334(318)	964(948)
McNeese State U	290(285)	530(525)
Nicholls State U	302	932
Northeast Louisiana U	292(270)	922(900)
Northwestern State U	302(294)	932(924)
Southeastern Louisiana U	165	480
MAINE		
Maine Maritime Academy	600	1,350(1,200)
U. of Maine:		
Augusta	400	1,400
Farmington	400	1,400
Fort Kent	430	1,430
Machias	400	1,300
Presque Isle	400	1,400
MARYLAND		
U. of Maryland, College Park	698(639)	1,698(1,439)
U. of Md., Eastern Shore	345(320)	695(620)
Bowie State College	570(450)	1,020(655)
Coppin State College	520(335)	970(685)
Frostburg State College	636(420)	1,086(770)
Morgan State College	651(460)	1,051(835)
St. Mary's Coll. of Md	470(460)	720(710)
Salisbury State College	721	1,179(954)
Towson State College	546(436)	996(886)
U. of Md., Baltimore City	560(500)	1,560(1,300)
MASSACHUSETTS		
U. of Mass	520(469)	1,320(1,069)
Boston St. College	369(318)	669
Fitchburg St. College	$300(250)	$600
Framingham St. College	300(250)	600
Massachusetts Coll. of Art	405(353)	705(703)
North Adams St. College	357(302)	652
Salem St. College	400(350)	800(700)
Southeastern Mass. U	420(370)	700(650)
Westfield St. College	300(250)	600
Worcester St. College	395(345)	695(645)
MICHIGAN		
Mich. St. U	720(675)	1,620(1,530)
U. of Michigan:		
Freshman-Soph	800(696)	2,600(2,260)
Junior-Senior	904(696)	2,800(2,260)
Wayne St. U	704(668)	1,893(1,857)
Central Michigan U	550(510)	1,240(1,110)
Eastern Michigan U	565	1,353
Grand Valley St. College	517(480)	1,305(1,224)
Northern Michigan U	495	1,260
Oakland U	602(557)	1,562(1,502)
Saginaw Valley College	510(450)	1,290(1,200)
Western Michigan U	540	1,140
MINNESOTA		
U. of Minn	592(550)	1,522(1,456)
Bemidji St. College	453(416)	827 (788)
Mankato St. College	333(307)	580 (555)
Moorhead St. College	333(307)	508 (555)
St. Cloud St. College	330(308)	578 (555)
Southwest Minn. St. Coll	453(416)	824 (787)
Winona St. College	477(438)	873 (834)
MISSISSIPPI		
Alcorn A&M C	400	1,000
Mississippi State U	506	1,106
U. of Miss	516	1,116
Alcorn A & M College	400	1,000
Delta St. College	434(428)	1,034(1,028)
Miss. St. Coll. for Women	474(465)	1,074(1,065)
Miss. Valley St. College	400	1,000
U. of Southern Mississippi	320	920
MISSOURI		
Lincoln U	370(350)	640(620)
U. of Missouri	540	1,540
Central Missouri St. U	315(300)	915(900)
Harris Teachers College	205	NA
Missouri Southern St. Coll	300	710
Missouri Western St. Coll	340	720
Northeast Missouri St. U	280	760
Northwest Missouri St. U	310(300)	600(800)
Southwest Missouri St. U	300	900
MONTANA		
Mont. State U	476(471)	1,376(1,318)
U. of Montana	487(471)	1,387(1,318)
Eastern Montana Coll	450(445)	1,350(1,292)
Montana Coll. of Mineral Science and Technology	378(375)	1,278(1,223)
Northern Montana Coll	430(413)	1,330(1,260)
Western Montana Coll	434(432)	1,334(1,280)
NEBRASKA		
U. of Nebraska	484	1,210
Kearney State Coll	505(403)	865(711)
U. of Neb. at Omaha	600(492)	1,508(1,218)
Wayne State College	555(443)	915(751)
NEVADA		
U. of Nevada	519	1,719
NEW HAMPSHIRE		
U. of New Hampshire	983(1,033)	2,233
Keene State College	617	1,450
Plymouth St. Coll. of the U. of New Hampshire	714	1,547
NEW JERSEY		
Rutgers U	725	1,310
College of Medicine and Dentistry of New Jersey:		
New Jersey Dental Sch	1,188	1,838
New Jersey Med. Sch	1,135(1,125)	1,775
Rutgers Medical Sch	1,200(1,250)	1,850(1,900)
Graduate Sch. of Biomedical Sci	635	805
Glassboro St. College	535	1,070
Jersey City St. Coll	636	1,171
Montclair St. Coll	679	1,339
Newark Coll. of Engineer	632	1,216
Ramapo Coll. of N.J	674	1,209
Stockton St. College	666	1,201
Trenton State College	640	1,175
NEW MEXICO		
New Mexico State U	466	1,296
U. of New Mexico	456	1,284
Western New Mexico U	333	900

TABLE A.—RESIDENT AND NONRESIDENT UNDERGRADUATE TUITION RATES AT STATE COLLEGES AND UNIVERSITIES, 1973–74 ACADEMIC YEAR, (WHERE DIFFERENT, 1972–73 TUITION RATES IN PARENTHESIS)

	Undergraduate tuition and/or required fees	
	Resident	Nonresident
NEW YORK		
City U. of New York	$70	$620
Cornell U. (statutory)	1,350(1,200)	1,950(1,800)
State U. of New York:		
Fresh-Soph	750(740)	1,175(1,165)
Junior-Senior	900(890)	1,400(1,390)
Queens College of City U. of New York	138	1,338(1,038)
State U. of New York:		
Empire State College	900(786)	1,468(1,234)
Maritime College	800[600]	1,300,900]
St. U. of N.Y. Colleges:		
Brockport	890[740]	1,390[1,165]
Buffalo	887[737]	1,387[1,162]
Fredonia	800[650]	1,300[1,075]
Geneseo	800[650]	1,300[1,075]
New Paltz	875[725]	1,375[1,150]
Old Westbury	800[650]	1,300[1,075]
Oneonta	800[650]	1,300[1,075]
Oswego	800[650]	1,300[1,075]
Plattsburgh	800[650]	1,300[1,075]
Potsdam	895[885]	1,395[1,385]
	[745(735)]	[1,170(1,160)]
Purchase	650	1,075
Utica/Rome	800	1,300
NORTH CAROLINA		
N.C. A&T U	542(525)	2,075(2,074)
N.C. State U	474(427)	2,034(2,002)
U. of North Carolina	439(422)	1,997
Appalachian St. U	485(467)	2,070(2,067)
East Carolina U	438(423)	2,004
North Carolina Central U	443(421)	2,043(2,021)
Pembroke St. U	389(390)	1,730
U. of N.C. at Wilmington	368(396)	1,923(1,936)
Western Carolina U	169(166)	691(699)
Winston-Salem St. U	490(472)	1,875(1,872)
NORTH DAKOTA		
N. Dak. St. U	435	1,164
U. of N. Dak	456	1,184
Dickinson S. College	415(406)	952(943)
Mayville St. College	305	852
Minot St. College	400	937
Valley City St. College	405(396)	942(933)
OHIO		
Kent St. U	804	2,004
Miami U	780	1,980
Ohio State U	750	1,800
Bowling Green St. U	780	1,179(1,143)
Central St. U	663(648)	1,188(1,173)
U. of Akron	705	1,605
U. of Toledo	780	1,935
Wright St. U	780(750)	1,680(1,650)
Youngstown St. U	630(570)	1,200(1,050)
OKLAHOMA		
Langston U	337	832
Oklahoma State U	456	1,236
U. of Okla	448	1,200
Central St. U	340	835
East Central St. College	348	843
Northeastern St. College	352(345)	847(840)
Northwestern St. College	332(327)	827(822)
Oklahoma College of Liberal Arts	335	830
Southeastern St. College	355	835
Southwestern St. College	330	825
OREGON		
Oreg. St. U	451(425)	1,633(1,484)
U. of Oregon	566(534)	1,748(1,593)
Eastern Oregon St. College	549(519)	1,392(1,239)
Southern Oregon College	549(513)	1,392(1,233)
PENNSYLVANIA		
Pennsylvania St. U	900(885)	2,100(1,986)
Temple U	1,050(970)	1,950(1,870)
U. of Pgh	1,012(982)	2,002(1,972)
Bloomsburg St. Coll	750(700)	1,500(1,400)
California State College	820(770)	1,570(1,470)
Cheyney State College	415(780)	1,576(1,470)
Clarion State College	750(700)	1,380
East Stroudsburg St. Coll	840(790)	1,470
Edinboro State College	750(700)	1,380
Indiana U. of Pennsylvania	750(700)	1,500(1,400)
Kutztown State College	750(700)	1,380
Lincoln U	1,018(1,418)	1,718(1,418)
Lockhaven State College	750(700)	1,380
Mansfield State College	NA(760)	NA(1,450)
Millersville State College	750(700)	1,500(1,380)
Slippery Rock State Coll	750(700)	1,500(1,380)
RHODE ISLAND		
U. of Rhode Island	$761	$1,661
Rhode Island College	490	1,175
SOUTH CAROLINA		
Clemson U	$640	$1,340
S.C. State C	480	960
U. of South Carolina	570	1,280
Francis Marion College	410	910
Winthrop College	560(470)	1,220(1,130)
SOUTH DAKOTA		
S. Dak. St. U	596(510)	1,337(1,132)
U. of S. Dak	554(500)	1,259(1,076)
Black Hills State College	525(455)	1,058(874)
Dakota State College	550(488)	1,017(936)
Northern State College	397(345)	390(765)
U. of South Dakota at Springfield	492(436)	1,024(856)
TENNESSEE		
Tennessee State U	351	1,161(1,071)
Austin Peay State U	318	1,128(1,038)
East Tennessee State U	378	1,188(1,113)
Memphis State U	348	1,068(948)
Middle Tennessee State U	358	1,168(1,078)
U. of Tennessee:		
Chattanooga	416(396)	1,226(1,116)
Martin	414(390)	1,224(1,110)
TEXAS		
Prairie View A&M U	198	1,422
Texas A&M U	288(279)	1,368(1,359)
Texas Southern U	346(284)	1,422(1,364)
Texas Tech. U	292(290)	1,444(1,442)
U. of Houston	266(256)	1,346(1,336)
U. of Texas, Austin	378(267)	1,458(1,347)
Angelo St. U	300(280)	1,380(1,360)
East Texas St. U	322(250)	1,402(1,330)
Midwestern U	120	1,200
North Texas St. U	170(152)	710(692)
Sam Houston St. U	276	1,356
Southwest Texas St. U	270(218)	1,350(1,298)
Stephen F. Austin St. U	280	1,360
Texas A&I U. Kingsville	270(190)	1,350(1,270)
West Texas St. U	280	1,360
UTAH		
U. of Utah	480	1,155
Utah St. U	4 3(438)	963(948)
Weber State College	405	810
VERMONT		
U. of Vermont	1,088(1,086)	2,688(2,536)
Castleton St. College	720	1,850
Johnson St. College	720	1,850
Lyndon St. College	720	1,850
VIRGINIA		
U. of Virginia	622(597)	1,447(1,372)
Virginia Poly Inst. & State U	627	1,227
Virginia State C	690	1,150(950)
George Mason College	690(640)	1,410(1,360)
Longwood College	585(500)	935(850)
Madison College	652(647)	1,077(1,072)
Mary Washington Coll	792(762)	1,547(1,517)
Old Dominion U	470	870
Radford College	480(462)	879(861)
Virginia Commonwealth U	590(540)	1,190(1,080)
WASHINGTON		
U. of Washington	564	1,581
Washington St. U	564	1,581
Central Washington St. Coll	495	1,359
E. Washington St. Coll	495	1,359
Evergreen St. Coll	495	1,359
W Washington St. Coll	495	1,359
WEST VIRGINIA		
W. Virginia U	310	1,140
Bluefield State College	242(240)	992(990)
Concord College	240	990
Fairmont State College	242(232)	992(982)
Marshall U	282	1,082
Shepherd College	280	1,030
West Liberty State College	270(250)	1,020(1,000)
W.Va. Institute of Tech	277(260)	1,027(1,010)
West Virginia State Coll	250	1,000
WISCONSIN		
U. of Wisconsin—Madison:		
Freshman-Soph	573(558)	1,906
Junior-Senior	628(558)	2,006(1,906)
U. of Wisconsin:		
Eau Claire	$604(528)	$1,846(1,673)
La Crosse	611(535)	1,853(1,680)
Oshkosh	602(526)	1,844(1,671)
Platteville	620(544)	1,862(1,689)
River Falls	627(537)	1,869(1,680)
Stevens Point	519(518)	1,717(1,663)
Stout	604(528)	1,846(1,673)
Superior	610(534)	1,852(1,679)
Whitewater	607(531)	1,849(1,676)
WYOMING		
U. of Wyoming	411	1,377

Sources: National Association of State Universities and Land-grant Colleges and American Association of State Colleges and Universities.

APPENDIX E

The comprehensive bill would pay veterans attending institutions tuition expenses in excess of $400 up to $1,000 ($600 maximum per 9-month school year).

PUBLIC SCHOOLS

TUITION EQUALIZER AND 36-MO. ENTITLEMENT

	S.	M.	M. & D.
Monthly:			
Living expenses	$254	$433	$534
Plus educational expenses	45	45	45
Total	299	478	579
Minus subsistence allowance	250	297	339
Supplemental income needed	49	181	240
Percent supplemental income needed	20	61	71

TUITION EQUALIZER AND 24-MONTH ACCELERATED ENTITLEMENT

Monthly:			
Living expenses	$254	$433	$534
Plus educational expenses	45	45	45
Total	299	478	579
Minus subsistence allowance	375	445	508
Supplemental income needed	—76	33	71
Percent supplemental income needed	0	7	14

PRIVATE SCHOOLS

TUITION EQUALIZER AND 36-MO. ENTITLEMENT

	S.	M.	M. & D.
Monthly:			
Living expenses	$254	$433	$534
Plus educational expenses	180	180	180
Total	434	613	714
Minus subsistence allowance	250	297	339
Supplemental income needed	184	316	375
Percent supplemental income needed	74	106	111

TUITION EQUALIZER AND 24-MO. ACCELERATED ENTITLEMENT

Monthly:			
Living expenses	$254	$433	$534
Plus educational expenses	180	180	180
Total	434	613	714
Minus subsistence allowance	375	445	508
Supplemental income needed	59	168	206
Percent supplemental income needed	16	38	41

APPENDIX E—Continued

TUITION EQUALIZER AND 18-MO. ACCELERATED ENTITLEMENT

	S.	M.	M. & D.
Monthly:			
Living expenses	254	433	534
Plus educational expenses	180	180	180
Total	434	613	714
Minus subsistence allowance	500	594	678
Supplemental income needed	—66	19	36
Percent supplemental income needed		3	5

Note: Educational expenses are Veterans' Administration estimates.

APPENDIX F

ESTIMATE OF CURRENT DOLLAR VALUE OF THE WORLD WAR II FINANCIAL ASSISTANCE FOR TRAINEES UNDER THE GI BILL

I.—SUBSISTENCE ALLOWANCE (FULL TIME SCHOOL TRAINEE)

	Monthly rates		
		World War II	
	Current GI bill	Actual	Current dollar value (August 1977)
No dependents	$270	$75	$158
1 dependent	321	105	221
2 dependents	366	120	252
More than 2 dependents (each)	22	None	

Note: Consumer Price Index: (CPI: 1967=100.) (1948 average 72.1) (150.2÷72.1=2.0832).

II.—CURRENT EQUIVALENT OF THE $500 LIMIT ON PAYMENT OF TUITION, FEES, BOOKS, SUPPLIES, AND EQUIPMENT (MORE COULD BE PAID BUT THIS WOULD EXHAUST ENTITLEMENT AT A GREATER RATE)

	School year	
	1948–49 (WWII)	1974–75 (Current GI bill)
Estimated cost of private college (tuition and fees)	$396	$2,195
Estimated cost of books and supplies	50	150
Total	446	2,345
Ratio of current to WWII ($2,345÷$446)		5.258
Estimated current equivalent ($500 × 5.258)		2,629

Source: Veterans Administration Statistics, Dept. of Veterans Benefits, Oct. 10, 1974.

APPENDIX G

CURRENT BUYING POWER[1] OF THE VIETNAM ERA GI BILL CONFERENCE REPORT (H.R. 12628) COMPARED TO THE WORLD WAR II GI BILL

	World War II GI bill (1948)				Vietnam era GI bill (1974)			
	Monthly SA[2]	Period of entitlement (months)	Tuition	Yearly buying power	Monthly SA[2]	Period of entitlement (months)	Tuition	Yearly buying power
No dependents	$158	9	$2,629	$4,051	$270	9	0	$2,430
1 dependent	221	9	2,629	4,618	321	9	0	2,889
2 dependents	252	9	2,629	4,897	366	9	0	3,294

DIFFERENCE IN BUYING POWER

	World War II GI bill	Vietnam GI bill	Yearly difference	Monthly difference
No dependents	$4,051	$2,430	$1,621	$180
1 dependent	4,618	2,889	1,729	192
2 dependents	4,897	3,294	1,603	178

[1] Per 9 mo school year.

[2] Subsistence allowance.

Note: Figures taken from Veterans Administration statistics, Department of Veterans Benefits Oct. 9, 1974.

Conclusion: The Vietnam era veteran actually has $1,651 a year, or $183 a month, less than did his World War II veteran counterpart.

THE ACCELERATED ENTITLEMENT PROVISION

The present GI Bill system, by restricting an eligible veteran to using his entitled benefits over a 36 month period, and by effectively denying that a majority of Vietnam veterans have an opportunity to use their benefits, defeats the purpose of the GI Bill and violates the intent of Congress.

It is the intent of Congress that the GI Bill:

Extend the benefits of a higher education to qualified and deserving young persons who might otherwise be unable to afford such an education.

Provide vocational readjustment and restore lost educational opportunities to those servicemen and women whose careers have been interrupted by military service.

Aid such persons in attending the vocational and educational programs they might normally have aspired to, and obtained, had they not served their country.

The Educational Testing Service Report on Educational Assistance Programs for Veterans, the hearings conducted by the National League of Cities, U.S. Conference of Mayors, the American Association of Community and Junior Colleges, the Mayor's Office of Veterans Action of the City of New York, and Veterans Administration statistics contained in this document clearly demonstrate that the present GI Bill is violating the intent of Congress and its benefits are inaccessible to all those except single veterans in low cost public institutions.

If the intent of Congress is to be realistically fulfilled, and all eligible Vietnam era veterans are to be given an equal opportunity to use the benefits they are rightfully entitled to, the 36-month restriction must be removed.

OPPORTUNITIES FOR EDUCATIONAL AND TRAINING PROGRAMS EXTENDED BY THE ACCELERATED ENTITLEMENT PROVISION

Technical and vocational opportunities

"At the very heart of our problem is a natural attitude that says vocational education is designed for somebody else's children . . . We have promoted the idea that the only good education is an education capped by four years of college. This idea, transmitted by our values, our aspirations, and our silent support, is snobbish, undemocratic and a revelation of why schools fail so many students. The attitude infects federal government which invests $14 in the nation's universities for every $1 it invests in the nations vocational-education programs . . . The attitude must change. The number of jobs which the unskilled can fill is declining rapidly. The number requiring a liberal arts college education, while growing, is increasing far less rapidly than the number demanding a technical skill."—The National Advisory Council of Vocational Education.

"Henry Adams once wrote: 'Nothing in education is so astonishing as the amount of ignorance it accumulates in the form of inert facts'.

"Whatever prompted Adams' remark, he could not have been talking about trade and technical schools because the tools of that business are lively facts, facts that can be put to good use.

"I have long been a critic of our nation's public schools because I have never felt that they were achieving even a reasonable degree of their potential.

"One reason is a philosophy of education which insists upon treating every student as though he were college material and tends to hold the blue collar worker in contempt.

"I personally see the private trade and technical schools as a great resource for training millions of Americans, both the disadvantaged and others.

"I believe that those educators and public officials who ignore the private trade and technical schools simply are not aware of the high quality of schooling offered by accredited proprietory schools and the unique ability they have to meet special educational needs.

"It seems quite obvious that vocational education should be assigned greater importance in our scale of spending priorities at all levels of government.

"It also appears quite clear that the role of the proprietory trade and technical school is vital to the success of the individual in a rapidly changing society.

"I personally believe trade and technical schools should be given a far greater role in government training programs.

"If equality of educational opportunity is not to be written off as a myth, we must expand the scope of vocational education and make full use of private vocational schools for training disadvantaged.

"People are this country's greatest resource. Whatever we do to develop our people to their fullest potential benefits the entire Nation. Every time we save an individual from the human scrap heap the lives of all of us will be enriched."

GERALD R. FORD.

The scientific and technical revolution is creating career opportunities literally by the millions. The demand for veterans with technical skills is growing twice as fast as the demand for veterans with college degrees. The energy crisis and recession threaten to cost many veterans their jobs. The veteran hardest hit will be the married veteran who never had an opportunity to use his GI benefits because he was forced to take a job immediately after leaving the service to support his family.

The accelerated entitlement provision would enable these veterans to enter training programs, acquire meaningful, productive, and secure employment, and ease the impact of the energy crisis on the job market.

The Department of Labor and the Office of Education estimates that only one in five jobs will require a four year college education by 1980, while there will be over a million job openings in technical and vocational fields by 1975.

Most veterans have had extensive training and direct experience in complex and challenging vocational and technical fields by virtue of their military service. The Department of Defense reports that over fifty percent of military skills are related to civilian technical and vocational skills.

The following are major technical and vocational fields that have a substantial growth and employment potential:

Aeronautical and Aerospace.
Air Conditioning and Refrigeration.
Agricultural.
Architectural and Construction.
Automotive.
Chemical.
Civil Engineering.
Commercial Pilot.
Electrical and Electronic.
Electromechanical.
Electronic Data Processing
Fire Protection.
Forestry.
Health Service.
Industrial Production.
Metallurgical.
Nuclear and Radiological.
Oceanography.
Office Specialists.
Police Science.
Sanitation and Environmental Control.

Under the provisions of the acceleration amendment, a veteran with two or more dependents could receive sufficient funds from his total entitlement to attend school at almost any 2 year public or private technical or vocational school in America. Under the current GI Bill the Vietnam veteran receives less money per year than the average yearly tuition at a private vocational or technical institution.

The Comprehensive Bill would not limit any veteran's choice of education and training to a 2-year technical or vocational program the way the present GI Bill limits opportunities to single veterans in low cost public institutions, but would insure that every veteran who sought a technical or vocational education has a realistic opportunity to pursue it.

PUBLIC COLLEGE AND UNIVERSITY OPPORTUNITIES

The greatest fallacy of the 36-month restriction on the use of benefits in the present GI Bill system, in relation to a college education, is that it presupposes that every veteran wishing to attend college requires four school years of education. The average Vietnam veteran has little less than one year of college at the time of his discharge from the service. 20% of all Vietnam era veterans have one or more years of college education at the time of their separation from the service.

A tuition equalizer provision would enable a veteran with no dependents to attend almost any four year public institution for a full four year education. Comprehensive bill, with the tuition equalizer provision (the payment of tuition expenses over $400 up to a $1,000) and acceleration of entitlement to 24 months would enable almost every veteran with dependents to attend 3 school years at a public institution.

Veterans with dependents desiring a four year public education could supplement their income through the Work Study program, receive the equivalent of a year or more of college education through testing advance placement, evaluation of inservice training and experience.

For those veterans with dependents and families who are reluctant to pursue four year educational programs which would delay the pursuit of their careers, the Comprehensive Bill would be flexible to the point of allowing veterans to pursue their education and training at a rate compatible with their personal career and family needs.

PRIVATE COLLEGES, UNIVERSITIES, AND GRADUATE PROGRAMS

The education at a private college or university that was available to all World War II veterans is completely out of reach for all Vietnam era veterans who must depend upon today's GI Bill for their financial support. The World War II GI Bill paid for an education at Harvard and Yale. In 1948 60% of the student body at the nation's most prestigious universities were veterans. Today, veterans represent less than 2% of the student bodies at these same universities. To provide the Vietnam era veteran the same opportunity to attend private institutions that was available to the World War II veteran, a monthly subsistence allowance of $600 would be required.

The Comprehensive Bill recognizes that this is unfeasible. However, it does provide opportunities for all Vietnam era veterans to complete the last two years of their education at a private institution or pursue two year graduate programs. This would enable many veterans who were drafted while in school or upon graduation to use their benefits to complete their educations at private institutions or take graduate courses to augment their careers. The acceleration entitlement provision would reaffirm and restore the intent of Congress to "restore lost educational opportunities to those servicemen and women whose careers have been interrupted or impeded by military service."

SAFEGUARDS ON THE ACCELERATED ENTITLEMENT PROVISION

The Comprehensive Bill requires that any veteran using the accelerated entitlement provision must be enrolled in a program of instruction that will lead to a recognized and predetermined vocational, educational, technical, or professional objective before his total benefits are expended. The completion stipulation of the accelerated entitlements provision not only insures that veterans will not use their benefits solely to obtain extra money, but provides the first reasonable assurance that the GI Bill is fulfilling the intent of Congress, actually providing veterans with readjust assistance that will lead to a "vocational and educational status."

The Veterans Administration admits that "there is little data available on completion rates in such (education and training programs). Without this information it is difficult to determine the ultimate effectiveness of GI Bill use." With no way of assessing the completion, effectiveness or quality of education and training programs veterans are receiving under the GI Bill, there is little way the Veterans Administration can judge how the present GI Bill is being abused. The Comprehensive Bill would provide substantially more assurance than the current system that the GI Bill was fulfilling its intended function.

It is possible that income limitation such as those on the World War II GI Bill could be applied to veterans using the accelerated entitlement provision. A realistic ceiling (comparable to the World War II GI Bill) on earned income after payment of educational expenses would be $350 for a veteran with no dependents, $500 for a veteran with one dependent, and $600 for a veteran with two dependents, with an additional $50 for each additional dependent, per month.

COST OF THE ACCELERATED ENTITLEMENT PROVISION

The accelerated entitlement provision would add no additional cost to the benefits all eligible veterans are entitled to today. However, by enabling the millions of veterans currently unable to use their benefits to use them for the first time, the Comprehensive Bill would incur the cost of veterans entering these education and training programs.

SUPPLEMENT SECTION

VIETNAM ERA VETERANS COMMUNICATION CENTER AND VIETNAM ERA VETERANS ADVISORY COMMITTEE

The Comprehensive Bill will establish a Vietnam Era Veterans Communication Center to insure that the perspective, experience, knowledge, needs and advice of Vietnam era veterans will be an integral part of the coordination, planning and implementation of all federal government programs affecting Vietnam era veterans. The Communications Center will serve as a voice at the highest level of government for all Vietnam era veterans, including the alienated, the disadvantaged, the poor, the radicalized, the "silent majority", as well as those veterans with less than honorable discharges.

"If we are to be successful in our endeavors, we must first examine our attitudes and our reactions toward our Vietnam era veterans. We must do so for the very simple reason that most of us in VA have not had the opportunity to serve young veterans their age for a generation or more. Not since World War II or the Korean conflict, when some of the veterans we served were our contemporaries, have we thought young and acted young and reacted young. We can learn from youth and they from us. And we can profit in the process, especially if the drive and idealism of our Vietnam era veterans can rekindle the drive and idealism that once made our lives so exciting and promising.

"I would be the last to suggest that I have even the faintest concept of the kind of war our Vietnam veterans have had to fight, a war in which it is virtually impossible to tell friend from foe, a war in which there are no front lines, and no lasting, final battlefield triumphs in the traditional, tactical sense.

"More than 54,000 of our fellow Americans have died in Vietnam and nearly 200,000 have been hospitalized for wounds. Thousands more still carry the psychological scars of their combat experience. Having paid this price they return home to what? To brass bands and parades and a hero's welcome? Perhaps a few have. For most, however, their return has been distinguished by indifference and even hostility. By the expectation on the part of their fellow citizens that they will get jobs, pick up the pieces of their lives, and be good citizens. But what about those who haven't? Have we bothered to ask ourselves why? Is it because in this difficult transition from a wartime to a peacetime economy jobs are scarce? Do they no longer 'belong' because their old friends have scattered or they have found new friends to replace them? Or have they found it hard to be a 'good citizen' in a society rampant with stress, polarized by racial tensions, and even hostile to young people whose manner of dress and lifestyle are at variance with the views of their elders? Or is it all of these reasons and more?

"Whatever the answer we must ask ourselves and answer at least one more question. What do we owe our Vietnam era veterans? I say that we owe them a sincere effort to understand them and the impact their military experiences and return to civilian life *has had*. We owe them a critical self-examination of everything that we do and the manner in which we do it. We owe them the honest recognition of the fact that many of our programs conducted primarily by employees much older than they are not fully attuned to their needs, their lifestyle, and their problems. And we owe them the responsibility to do something about it now."

"We must understand what we must do to meet their needs in a positive, individual and responsive way. It is not good enough to count 'contacts', and to provide information and assistance in a formal, mechanical style or to treat their medical problems in our hospitals and clinics while ignoring their human needs. There is no better way to honor these courageous young veterans than to listen, think, discuss, and then, to act."

"We are agreed I am certain that there is a serious crisis of confidence on the part of many young people with regard to the willingness of public and private institutions of all kinds to be responsive to new needs and to be adaptable to contemporary society. And I might add that many older persons as well can express genuine concern when needed changes are not effected. VA has the opportunity to demonstrate that it can be responsive and adaptable."

DONALD JOHNSON,
Former Administrator,
Veterans' Administration.

The Vietnam Veterans Communications Center will provide a voice for Vietnam era veterans within the federal government. The Advisory Committee will be located within the Veterans Administration for administrative purposes only, and its scope shall cover programs pertaining, but not limited to:

1. Veterans educational and vocational training programs.
2. Veterans outreach programs.
3. Veterans medical programs (including drug treatment and psychological readjustment).
4. Armed Forces educational programs.
5. Project Transition.
6. The Veterans Employment Service.
7. The Pre-Discharge Education Program.
8. Office of Education veterans programs.
9. Department of Health, Education & Welfare veterans programs.
10. The Jobs for Veterans and the National Alliance of Businessmen's veterans programs.

The Vietnam Era Veterans Communication Center will have an Executive Director and four Assistant Directors all appointed by the President. All directors will be Vietnam era veterans and at least three must be less than thirty years old at the time of their appointment. No more than two directors can be employees of the Federal Government at the time of their appointment.

It is the intention of the Comprehensive Bill that the veterans appointed to the Communications Center owe their allegiance to Vietnam era veterans, and that they be responsive and receptive to the needs and problems of Vietnam era veterans as well as the agencies that they are working with. The members of the Communication Center should represent the many diverse economic, social, racial, educational, and political spectrums that comprise 6.8 million Vietnam era veterans. Additional employees may be appointed to the Communications Center to assist in carrying out its functions.

In working cooperation with the Communications Center in Washington, there shall be a Vietnam veteran in each of the following:

Veterans Administration Hospital, drug out-patient clinic.

United States Veterans Assistance Center.

Veterans Administration Regional Office.

Veterans Employment Service Office.

All other federal agencies which administer programs for or have substantial effect on Vietnam era veterans.

It is not the intent of the Comprehensive Bill to circumvent the normal organizational structure of the Veterans Administration, but to insure that Vietnam era veterans have communication and input at all levels of government on programs that directly affect them.

VIETNAM ERA VETERANS ADVISORY COMMITTEE

The Vietnam Era Veterans Advisory Committee shall assist the Communications Center in insuring that the Vietnam veteran's voice is heard and his experience and input are recognized. The membership of the Advisory Committee shall include the Veterans Administrator, the Secretary of Defense, the Secretary of Health, Education and Welfare, the Secretary of Labor, the Secretary of Commerce, persons who represent the major veterans organizations, and persons appointed by the President who are eminent in the fields of labor, management, education, State and local government, the medical profession, and others whose expertise would be useful to the Advisory Committee in carrying out its functions.

FUNCTIONS OF THE VIETNAM ERA VETERANS COMMUNICATION CENTER

The Center shall evaluate and report to Congress the effectiveness of veteran outreach services and make recommendations for establishing new, and improving existing, methods and procedures for insuring that all Vietnam veterans are informed of and are assisted in applying for all benefits and services they are entitled to.

The Center will advise, assist, consult and participate in the coordination, development, planning and administration of all Federal programs pertaining to Vietnam era veterans. The Communications Center, in close cooperation with the Advisory Committee, shall:

(1) Promote and encourage, in cooperation and conjunction with the Jobs for Veterans Program and the National Alliance of Businessmen, publicize the skills, experience, training, maturity and leadership abilities of veterans, and assist in the development and procurement of employment opportunities consistent with veterans' abilities;

(2) Encourage, with the assistance of all departments and agencies of the Government concerned, the incorporation of relevant military training skills and experience into Union apprenticeship and training programs;

(3) Advise and assist in the development of transition training programs and courses instituted by the Armed Forces to augment the military training of active duty personnel in order to meet employment or union apprenticeship standards after their release from active duty;

(4) Develop programs, in cooperation with business management to recognize and utilize in management positions, the leadership, discipline, responsibility and other assets acquired by veterans in military service.

(5) Work and consult with educational and training institutions to evaluate (and where possible, grant academic accreditation for) the special education and training given to members of the Armed Forces, including but not limited to, training received under the General Educational Development program, the College Level Examination Program, and courses of the United States Armed Forces Institute;

(6) Assist in the revision, expansion, improvement and the effective promotion and utilization of the "Guide to the Evaluation of Educational Experience in the Armed Forces" and in the development of an information system to enhance the transfer of military skills, training and experience to civilian terms.

(7) Promote and develop programs under which employers and employment agencies will evaluate and give appropriate recognition to military occupational specialties of veterans.

(8) Assist in the development of programs and facilities that encourage and provide employment, training, education, housing, and other needed services for disabled Vietnam era veterans; including a compilation of schools, institutions, training programs, employers and housing that offer special services, facilities, or programs for disabled or handicapped persons, and a description of the nature of such services and programs.

(9) Perform other duties and functions that might be required.

THE STATE OF THE ECONOMY: A CONGRESSIONAL VIEW

Mr. HARTKE. Mr. President, yesterday the distinguished majority leader of the Senate responded on nationwide television to President Ford's recommendations regarding the Nation's economic crises. So aptly, he pointed out that this administration's policies and programs bear far too close a resemblance to those of the previous administration. Their record of failure is already well established and no slogans or words however contrived will deceive the public into beliving now that there is a difference.

In contrast, may I say, the able Democratic leader has provided the American people with a credible plan of action designed to meet inflation and mitigate the recession that now engulf the Nation. In characteristic fashion, MIKE MANSFIELD has set forth with candor and honesty an equitable set of proposals that call for sharing the burdens fairly and without discrimination against the poor, the aged, and the powerless on whom the onus falls most heavily now.

I commend this statement and set of recommendations to the attention of the Senate and of all who are interested in meeting the current twin crises of the Nation. They have been offered by a man of great wisdom, integrity, and foresight—qualities that have assured his service as the leader of this institution longer than that of any other individual in history.

I ask unanimous consent that "The State of the Economy: A Congressional View" be printed at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MIKE MANSFIELD, OCTOBER 15, 1974

THE STATE OF THE ECONOMY: A CONGRESSIONAL VIEW

MY FELLOW CITIZENS: The Economic Summit is behind the nation. The President's recommendations are now before us. I regret to say, notwithstanding, that the twin crises for the nation remain—and loom larger than ever. They include an unrelenting and intolerable rate of inflation and a deepening recession. As for the international economic community, its prospects are shrouded in gloom.

The foremost economists in the country—in and out of government—have told us what the inflation and recession are all about—in a hundred versions. The talk has been of micro-economics, macro-economics, econometrics and what not. Of these things, of importance to economists, awareness is not widespread. Of inflation, the public knows a great deal. Of recession, the public is learning more and more each day. The people know, too, that little has been done to stem the inflation or to halt the march of recession, anywhere by anyone.

To "Whip Inflation Now"—W-I-N, as the slogan goes—will require action, action that encompasses something more and different than a ten-point program which begins by imposing greater tax burdens on families with annual incomes of $15,000; more than increased acreage allotments for peanuts, cotton and rice production. What has been advanced as a remedy for our situation by this Administration bears too close a resemblance to the fiscal and monetary policies of the previous Administration, policies which have long since proved to be inadequate to meet the emergency.

Petroleum is one of the main sources of the problems which confront us. Yet, today, we are importing 40% of our petroleum needs as compared to 35% a year ago. The price of crude has sky-rocketed and the end is not in sight. In 1972, $4.7 billion was spent on imports; $8.2 billion in 1973; $27 billion plus in 1974. The trend is up, up, up.

For America and many other countries, a major source of inflation lies in these figures, in the manipulated spigot of international petroleum flow. As far as the United States is concerned, the other factor is Viet Nam. Viet Nam is water under the bridge only in the sense that we cannot undo what has already been done. Its terrible cost will extend far into the first half of the next century. It will be paid by the sacrifices of several generations.

Inflation has turned the world of the past two decades upside down. Things that are going up should be coming down and they are not. Retail prices are up by 47% annually. Unemployment is up to nearly 6%. Interest rates are up. Medical costs are up by 36% and food by 51%.

Things that are coming down should be going up and they are not. The stock market is down—$500 billion in values have been lost and 31 million people are affected. Real income is down. Our international trade balances have hit a record low. Auto sales are down 22% from a year ago. Unemployment in Michigan stands at 9.3%, compared to nearly 6% overall. Housing is down 45% and yet in some places, construction wages have been increased by 20%. How can more houses be built and sold when prices are higher, interest rates are higher and construction wages are higher?

I am not an economist and make no pretenses. What is clear to me, however, is that the time for words—micro, macro or whatever—is at the end. Words and slogans will no longer satisfy the nation. Inflation is social dynamite; walk through any food market in any suburb and take note of the comments. Recession is social dynamite; walk through areas of high unemployment in any city and ask what lies ahead in terms of crime and unrest. The divisions among people, among societies, among nations, are on the rise. They will not wait for the "self-adjusting mechanisms" of the economy to self-adjust.

What is the answer? Mostly, we hear talk about the need for a tight Federal budget and tight money. Of course, we need to keep rein on government expenditures, in good times and bad, and especially on the extravagant and the irrelevant. At best, however, the Federal budget is only a fragment of the answer to our difficulties.

It is said, too, the fault lies with the American consumer. Tell that to the grocery-shopper who feeds a family on inflation-eroded wages or a fixed income. Tell it to the home-owner who uses oil to keep out the cold and the worker who uses gasoline to get to work. The fact is that the laissez faire application of the laws of demand and supply no longer correct the economic ills of a society already bound in by a massive complex of intervention built up over decades. The clock cannot be turned back to Adam Smith's Eighteenth Century England.

The nation is in an economic emergency. I think you, the people, expect government to confront that emergency decisively and to act on it in the general interests of the people. We have not done so and even now, seem to lack the capacity to do so.

Take the problem of energy-supply as an example. A year ago, we talked of crash programs to increase our own production and to develop substitutes to reduce the dependency on imported oil. Congress has appropriated vast funds and stands ready to appropriate more for this purpose. But what have we really achieved with this year of grace? What have we really done? We have allowed the self-adjusting mechanisms of the economy to operate quite freely in petroleum. We have let prices find their own level. In a society grown universally dependent on petroleum, that is the cruelest form of rationing. The burden falls heaviest on those with the least income. To compound the problem, Congress has been asked for more de-control on energy which can mean only higher and higher prices and more and more inflation.

The need is for a new action—equitable action—by this Administration in cooperation with the Congress. It exists not only with regard to petroleum but in many other matters. As the President has already been informed, the Congressional majority believes that integrated action in at least seven fields is needed to curb inflation and to halt the recession.

These fields include: (1) budget reductions, (2) wage, prices and profit control, (3) selective monetary credit easement, (4) tax adjustments, (5) positive action to deal with shortages and supplies, (6) development of new employment, and (7) readjustment of international policies.

Credit curbs alone are not enough. Budget cutting alone is not enough. Indeed, the budget has already been cut by Congress and will be cut further. But how much inflation can really be squeezed out of the economy by this method and at what price? How much will it cost in lost jobs, lost output, lost public services and business failures?

As for the international economic situation, particularly as it involves petroleum, the Congress and all Americans welcome the call for increased cooperation among consuming nations; and, indeed, there is no reason not to extend the call to the producing nations. We welcome joint policies designed to assure international distribution of essential commodities. The answer will not be found in confrontation with other nations but in cooperation by our own people with others. Some countries like Italy and the United Kingdom face bankruptcy. A whole corridor of humanity spanning the African Continent is starving. Along with petroleum, these and countless other specific situations are all parts of a world-wide whole. International petroleum problems must be dealt with in that context.

There are many areas that must be addressed in regard to our economic predicament. We must address them candidly and act on their dictates within the framework of this nation's basic tenets. In short, I do not think we are going to come to grips with the mounting problems of the economy unless we begin to move in the direction of:

1. Establishing, as needed, mandatory wage, price, rent and profit controls;

2. Reviving the Reconstruction Finance Corporation to deal with the credit needs of ailing businesses such as Penn Central, Lockheed and Grumman, Pan American, TWA and many more headed in the same direction; Congress is not the proper forum for specific decisions involving government bail-outs;

3. Restoring Regulation W to require larger downpayments on credit purchases and shorter periods for repayment and allocating credit on a priority basis in the light of the nation's critical needs;

4. Beginning an equitable rationing system for energy and other scarce materials to the end that dependency on foreign sources of petroleum can be reduced and beginning, too, a stringent conservation system including measures to enforce the speed limit and to bring about a reduction of wastage in the utility and other industrial fields;

5. Developing a broader system of indexing to the end that the real incomes of wage earners can be tied to real living costs;

6. Moving without delay to establish a Commission on Supplies and Shortages, legislation for which has already passed the Congress;

7. Curbing excessive profits and controlling the flow of investments abroad through the taxing power while conversely, cutting taxes on Americans hardest hit by inflation, those in low and moderate income categories and those on modest fixed incomes;

8. Creating, without delay, a job-program which puts people to work in public services and elsewhere as necessary, to keep down the level of unemployment;

9. Working with all nations prepared to work with us to deal with cartel-created shortages in petroleum or other commodities, recognizing that petroleum is only one aspect of the larger question of the inter-relationship of the economic well-being of all nations and the stability of the world.

Self-seeking and self-serving have got to stop. Sacrifices are needed across the board if the nation's economy is to be restored. In my judgment, the people of this nation are prepared to make those sacrifices. We will do whatever must be done, so long as the burdens are borne equitably. That is the job of the President and the Congress—to insure that the sacrifices are fairly distributed. It is time to put aside the evasions and the circumlocutions. The bell is tolling. There is no need to send to find out for whom. It is tolling for all of us.

THE PRESIDENT'S NATURAL GAS PROPOSAL

Mr. BUCKLEY. Mr. President, on Monday, the senior Senator from Wisconsin (Mr. PROXMIRE) made a statement criticizing President Ford's call for the deregulation of certain natural gas supplies.

I understand that the Senator's criticism was also given publicity in the media.

Today, I, therefore, ask unanimous consent to have replies issued by the White House, and by the Administrator of the Federal Energy Administration, printed in the RECORD immediately following these remarks.

There being no objection, the replies were ordered to be printed in the RECORD, as follows:

COMMENTS ON SENATOR PROXMIRE'S ATTACK ON THE PRESIDENT'S NATURAL GAS PROPOSAL

This morning, there have been stories of an attack by Senator Proxmire on the President's natural gas proposal.

Unfortunately, Senator Proxmire has misinterpreted the President's proposal—with the result that all the Senator's calculations and statements about it are incorrect.

The President asked the Congress for legislation to remove new natural gas from regulation by the Federal Power Commission

(FPC). He stated this request in a September 12 message to the Congress and has repeated it several times since. The legislative proposal to accomplish the change was submitted to the Congress in April 1973.

The past 20 plus years of FPC price regulation has kept prices for natural gas artificially low—resulting in greatly increased demand, inefficient use, and a declining incentive for exploration, development and production of new domestic supplies. This regulation is widely recognized as the root cause of our current shortage of natural gas and a major cause of our National energy problem. The natural gas shortage is critical and will continue growing unless the Congress acts soon.

Deregulation of new natural gas supplies, as the President has requested, would lead to a gradual impact on consumer prices as new supplies begin to come into the market and are averaged in with old supplies—which will continue under FPC price controls.

However, when looking at this gradual price increase, two points are important:

1. The increase will be very small compared to the higher price that consumers will have to pay for alternative fuels—such as expensive foreign oil—when natural gas from domestic sources is not available.

2. A low price is useful to no one if the product is not available at that low price.

Both points can be confirmed quickly by those homeowners who have been unable to get gas service for their new homes and by industrial and other users faced with curtailments this winter because supplies are not available.

The Federal Energy Administration can provide information on the impact of the President's proposal and show the wide disparity between this and the Senator's incorrect understanding and calculations.

Federal Energy Administration
Communication and Public Affairs,
Washington, D.C., October 12, 1974.

FEA EXPLAINS ADMINISTRATION'S NATURAL GAS POSITION

Federal Energy Administrator John C. Sawhill said today that Senator William Proxmire's statement on the President's natural gas deregulation proposal shows a "total misunderstanding of (1) the Administration's position; (2) energy economics; (3) the nature of the shortage; and (4) the cost of alternatives to the President's proposal."

"First, as President Ford stated in his September 12 message to the Congress, the only viable solution to the natural gas supply problem is to deregulate *new* gas field *prices.* The Administration has neither supported nor introduced legislation to remove Federal controls on *all* gas On the contrary, the Administration's proposal has been carefully designed to protect consumers while gradually overcoming the supply problem.

"Senator Proxmire's calculation of consumer cost increases are meaningless in that they do not even address the President's proposed legislation. Senator Proxmire has claimed that a homeowner's gas costs would rise by more than $700 in one year. Any comparable increase under the President's program would average about $25—less than 1/20 of Senator Proxmire's estimate.

"Third," Sawhill continued, "Senator Proxmire does not appear to have any idea of the economic impact of the escalating shortage; where alternative fuels cannot be used, the immediate impact will be industrial production cutbacks and unemployment. For instance, in New Jersey, it is estimated that more than 12,000 jobs are threatened directly as a result of pipeline curtailments. The seriousness of the shortage is apparent in that FPC estimates indicate that gas shortages are expected to be 81% greater than last winter's."

"Equally important," Sawhill added, "the cost of alternatives, imported gas and oil, will be higher to the Nation and natural gas consumers. The Administration believes that a low price is useful to no one if the product is not available at that low price. The key point is that gradually increasing prices will make more domestic natural gas available.

"One final point," Sawhill stated, "since field markets are workably competitive, field price regulation is not needed to 'protect' consumers. History has proven that such regulation reduces supply; passage of new gas deregulation legislation is essential to the goals of Project Independence and to the well-being of natural gas consumers, particularly in the interstate market."

SPEEDY TRIAL ACT OF 1974

Mr. HART. Mr. President, the Senate has recently passed S. 754, the Speedy Trial Act of 1974, and it is now being considered by the House Judiciary Committee's Subcommittee on Crime, under the able leadership of Representative Conyers.

This bill would implement the basic aims of the sixth amendment, first, to prevent undue and oppressive incarceration prior to trial; second, to minimize anxiety and concern accompanying public accusation; and third, to limit the possibilities that long delay will impair the ability of the accused to defend himself. (*United States* v. *Ewell,* 383 U.S. 116, 120.)

One dangerous tendency in a free society is to dismiss these concerns for the defendant's rights as marginal in comparison to the general interest of public safety—to downgrade them as hamstringing "legalisms." But if 180 years on constitutional history have taught us anything, it is the clear lesson that our constitutional liberties must be preserved for each of us if they are to be preserved for any of us.

We should also remember that a revitalized sixth amendment right to speedy trial will not only protect the rights of the accused, it will also serve society's interest in effective law enforcement—and in the long run, serve it better than either pretrial detention or unduly long pretrial release.

All experts agree that it is this assurance of prompt trial and punishment which is essential to the deterrence of crime.

Thus, in several ways, this Speedy Trial Act can both breathe life into the sixth amendment and strengthen our system of crime prevention.

The excellent remarks by Senator Ervin, who shepherded this important legislation through the Senate, and those of Chairman Rodino, of the House committee, are important statements which deserve the attention of Congress and the public. I ask unanimous consent that they be printed in the Record at the conclusion of these remarks.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Testimony of Senator Sam J. Ervin, Jr., Before the House Judiciary Committee, Subcommittee on Crime, September 12, 1974

Mr. Chairman, Members of the Subcommittee on Crime, it is a great honor for me to appear before you today to discuss with you legislation which is near and dear to my heart—S. 754, the Speedy Trial Act of 1974. As you are no doubt aware, we in the Senate have been working on speedy trial legislation for over four years. S. 754 is a product of that work.

However, this legislation belongs in a larger context. During the past decade, state legislatures as well as the Congress have concentrated their energies upon reform of the nation's criminal justice systems; state, federal and local. The federal government alone has expended over $3 billion in this effort as a result of the Safe Streets Act of 1968. Thousands of criminal justice reform laws and tough new crime bills have passed the Congress and the state legislatures. Despite all of this effort, the crime rate continues to rise and our criminal justice systems, in particular our criminal courts, are still in an essentially dilapidated state. Legislators, the general public, and the criminal element know that swift punishment for criminal activity is unlikely, if not impossible, in most of this nation. And they know that without swift justice, our entire effort to control crime is useless.

Since the FBI released its most recent crime figures indicating a dramatic new increase in crime, there has been a great deal of breastbeating and fingerpointing. Some even talk of the possibility of creating a national police force. Scare tactics will not stop crime—preventive detention, no-knock and minimum mandatory sentences did not affect the crime rate and neither will talk of a national police force. I say again that we will not begin to deal with crime until we begin to make our criminal justice system—in particular our courts—more efficient. Speedy trial legislation attempts to achieve that goal. It is no panacea but it is a beginning. Furthermore, we in the Congress must not simply point with horror at the state and local criminal courts. We should begin at home in the federal criminal justice system.

Our federal criminal justice system sets a very poor example for its sisters on the state and local level. A study by the Federal Judicial Center on delay in federal criminal cases suggests that there is a speedy trial crisis in the federal courts. It found that the average delay between arrest and indictment in the busier federal courts was over 100 days and between indictment and trial over 250 days. This suggests that delay between arrest and trial may be as long as 350 days. Another study by the Center involving many of these same federal courts suggest that the situation has not improved over the past two years. While during fiscal year 1970 fifty-seven percent of all cases were over 3 months old at disposition, in fiscal year 1972 fifty-nine percent of all cases were over 3 months old at disposition. Unfortunately, the study only measured the time between indictment and disposition and did not include the time between arrest and disposition. If those figures were included, the situation would look much worse.

A one year delay in the trial of many federal criminal cases is simply unacceptable. It takes no great insight into the crime problem to know that when suspects are arrested, but not tried for months or years, there is no deterrent to continued criminal activity. A study by the National Bureau of Standards in 1970 found that most defendants commit crime on bail after they have been on pretrial release more than 60 days. Furthermore, when those defendants are finally brought to justice they know that the overworked prosecutor and court will have to accept their offer to bargain for a lesser sentence. This kind of plea bargaining is known as "giving away the courthouse for the sake of the calendar." The criminal always wins and society always loses in this bargain. The speedy trial crisis has made a mockery of the criminal laws enacted by Congress and of the Justice Department's attempt to enforce those laws.

There is no question in my mind that speedy trial will never be a reality until Congress makes clear to all that it will no longer tolerate delay. Unfortunately, while it is in the public interest to have speedy trials, the parties involved in the criminal process do not feel any pressure to go to trial. The court, defendant, his attorney, and the prosecutor may have different reasons not to push for trial, but they all have some reason. The overworked courts, prosecutors, and defense attorneys depend on delay in order to cope with their heavy caseloads. The end of one trial only means the start of another. To them, there is little incentive to move quickly in what they see as an unending series of cases. The defendant, of course, is in no hurry for trial, because he wishes to delay his day of reckoning as long as possible.

I believe, after years of studying this problem, that S. 754 can begin to end this seemingly hopeless morass. The bill is based upon the premise that the courts, undermanned, starved for funds, and utilizing 18th Century management techniques, simply cannot cope with burgeoning caseloads. The consequence is delay and plea bargaining. The solution is to create initiative within the system to utilize modern management techniques and to provide additional resources to the courts where careful planning so indicates.

S. 754 would create that initiative within the federal system by enacting time limit requirements for the initial stages in the criminal process. The time limits would be enforced by judges empowered to sanction prosecutors for delay by dismissing the indictment if trial does not occur within the limits and empowered to sanction defense counsel who engage in deliberate dilatory tactics. The time limits plus sanctions system is related to the appropriations process in the Congress so that each court could count on sufficient resources to achieve the goals set out in the time limits by Congress.

The bill requires each federal district court, in cooperation with the United States Attorney and attorneys active in the defense of criminal cases in that district, to establish a plan for trying criminal cases within 90 days of arrest or receipt of summons. The bill takes effect over a seven-year period so that the goals of a 30-day limit on the period between arrest and indictment and a 60-day limit on the period between indictment and commencement of trial will not be in force until the seventh year after enactment.

Starting the seventh year after enactment the 30-day arrest to indictment and 60-day indictment to trial time limits will be enforced by a mandatory dismissal without prejudice. Although the government will be able to reinstitute charges after such a dismissal it could do so only after it is able to demonstrate "exceptional circumstances." In the first six years after enactment, the time limits are phased-in beginning with a 60-day arrest to indictment and 180 day indictment to trial limit in the second year after enactment. Every few years the time limits are shortened and the sanctions for failure to meet the time limits increase. During these intervening years a planning process for the district courts will be established to enable the districts to determine what additional resources, personnel, and facilities will be required to comply with the progressive time limitations. District plans which will detail these needs will be required at specified times during the seven-year phasing in of time limits. This, in turn, will enable Congress to consider the needs of each individual district, and of the whole Federal criminal justice system.

Along with its provision for speedy trials, S. 754 also authorizes the creation of demonstration "Pretrial Services Agencies" in 10 Federal districts, excluding the District of Columbia which is already served by the District of Columbia Bail Agency, performing many of the same functions. These agencies will make bail recommendations, supervise persons on bail, and assist them with employment, medical, and other services designed to reduce crime on bail. This provision will greatly enhance the operations of the Bail Reform Act of 1966.

In conclusion, I would like to anticipate and respond to an argument which has been made against this legislation. It is an argument which I am sure you will hear as you take testimony on this legislation. I have heard it for almost three years and I firmly believe that it must be rejected. In essence the argument is that the courts can handle the speedy trial problem themselves. Proponents of this position, usually federal judges, point to the Supreme Court's promulgation in 1972 of rule 50(b) of the Federal Rules of Criminal Procedure.

As a former judge and as a United States Senator with great respect for the federal judiciary, I have attempted to keep in perspective testimony by judges who adamantly oppose speedy trial legislation. Any man who has spent one day as a judge in a criminal court knows that delay is built into the criminal justice system because the major legal requirement mandating speed, the Sixth Amendment, has been too leniently construed by the courts. Although many judges know this fundamental truth, few are willing to admit it. I suppose this is understandable, for one of the components of the criminal justice system, the courts, is as overworked, understaffed, and as responsible for delay as the other components. In the end we simply cannot expect judges to place tough speedy trial constraints upon themselves.

I think the story of rule 50(b) manifests this inability of the courts acting alone to solve the speedy trial crisis. Rule 50(b) provides in essence that each district court adopt a plan for speedy trial. Soon after the rule's promulgation, the Federal Judicial Center, the research arm of the federal courts, developed a model plan. Some variation of that model plan has been adopted in almost every federal district court.

The courts have not imposed strict time limits upon themselves in Rule 50(b). The model rules would require trial within approximately six months for released defendants. That is hardly "speedy trial" in my view. What is more, that 180 day period is measured from indictment and not from arrest. The Federal Judicial Center statistics mentioned earlier show that there may be months additional delay between arrest and indictment in a majority of Federal criminal cases. Thus the 50(b) model plan promises little improvement in overall delay. The model plan does provide for much shorter time limits for defendants in custody. But in the Federal system, most defendants are required to be released prior to trial pursuant to the Bail Reform Act.

The report also compared the time limits adopted in the 20 busiest federal district court processing time in those districts. The report found a high correlation—the longer the time lag the longer the time limits adopted in that district. It also analyzed the time periods between arraignment and trial for defendants in custody where such time limits are enforced by release from custody for violation of the time limits. The study found that the larger the number of defendants in custody in a district the longer the time limit between arraignment and trial. The basic conclusion one has to draw from this study and other data available from the Administrative Office is that Rule 50(b) cannot and has not substantially decreased delay in these districts but simply tends to preserve the status quo.

I agree with Justice Douglas who dissented from the promulgation of Rule 50(b). The Court was legislating when it issued rule 50(b) and was acting beyond its power under the Rules Enabling Act. But most importantly it legislated poorly and ineffectively. The explanation is simple. The Courts do not and should not have the authority to impose speedy trial upon the other components of the criminal justice system and cannot provide the additional resources to understaffed courts, prosecutors, and public defender agencies by adopting rules of procedure.

Let us not fool ourselves; only Congress, not the courts, or for that matter the Justice Department, can make the Sixth Amendment work within the federal criminal justice system. Only Congress can impose upon the criminal justice system, courts, prosecutors, and defense counsel alike, self-enforcing scheme for speedy trial. Only Congress can create a mechanism which will mandate speedy trial and at the same time tie that mandate into the appropriations process so that additional resources may be applied to that goal.

I would like to make one final point. When S. 754 was introduced, it provided for dismissal with prejudice for violation of the time limits. Both of its predecessors in the prior Congresses had contained such a provision. Most opposition to the legislation centered around this provision. Opponents contended that dismissal with prejudice was too harsh a sanction for failure to comply with the time limits. However, those of us who were working on the legislation realized that without some sanction the time limits would be unenforceable. The dismissal with prejudice sanction was part of the original proposal for speedy trial time limits contained in the American Bar Association's Speedy Trial Standards which were the prototype for this legislation. The commentary to the Speedy Trial Standards explained the reasons for the dismissal with prejudice provision as follows:

"The position taken here is that the only effective remedy for denial of speedy trial is absolute and complete discharge. If, following undue delay in going to trial, the prosecution is free to commence prosecution again for the same offense, subject only to the running of the statute of limitations, the right to speedy trial is largely meaningless. Prosecutors who are free to commence another prosecution later have not been deterred from undue delay."

However, on the Senate side opposition to this dismissal with prejudice provision was so intense that passage would have been impossible with such a provision. Therefore members of the Subcommittee on Constitutional Rights decided to preserve mandatory dismissal but permit reprosecution in "exceptional circumstances." In filing new charges the government would have to convince the court that the circumstances are not only "exceptional" but ones that neither the prosecution nor the court could have foreseen. I think that this provision preserves the principle advocated by the American Bar Association—that there must be an effective sanction for delay. Yet at the same time, it recognizes the possibility of unforeseeable delays. I can see that the House Committee might decide otherwise and might conclude that mandatory dismissal with prejudice should be preserved without the exceptional circumstances provision. However, I felt you should be aware of the history of this provision in the Senate bill.

Your Subcommittee must study this legislation carefully. I realize that it is exceedingly complex and that the Senate can hardly be accused of speedy legislating on S. 754. But those who must live with this bill, the federal judges, defense counsel and the Justice Department, have had over four years to study it and its predecessors. We have almost 1500 pages of hearing record on speedy trial before the Constitutional Rights Subcommittee. I hope you will see fit to act on this legislation before the Congress adjourns.

Thank you for this privilege. I would be happy to answer any questions you might have. My office and staff at the Subcommittee on Constitutional Rights are at your disposal on this matter at any time in these last few months of the 93rd Congress.

Statement of the Honorable Peter W. Rodino, Jr., Chairman of the House Committee on the Judiciary, Before the Subcommittee on Crime, Hearings on the Speedy Trial Act of 1974, September 19, 1974

Mr. Chairman and members of the Subcommittee on Crime: You are to be commended for expeditiously scheduling hearings on recently Senate-passed legislation, S. 754, and related House bills to make the words of the Sixth Amendment, requiring the courts of the United States to provide a forum for the speedy disposition of criminal cases, a reality. There are few rights in the Constitution which could be more important to the continuation of our society as a peaceful and just place for present and future generations to prosper. Respect for the laws of the Nation depend so much more on how laws are administered than on vague pronouncements of democratic principle. The way in which our criminal justice system goes about its tasks of enforcing the laws and meting out justice will to a large measure be the determining factor in how much respect and, in turn, how much obedience that system will command.

A system which tolerates and, indeed, encourages delay in the determination of the guilt or innocence of the criminally accused is begging for a breakdown. It is also building into that system the kind of disrespect which strains credibility and causes the American people to question the fundamental fairness of the judicial process. Under those circumstances, how can we begin to deal with a rising crime rate? I submit that we cannot begin to reduce crime and its debilitating effects on our society until we begin the process of reforming the criminal justice system itself, so it can command the respect and confidence of our citizens.

The process of reforming the criminal justice system cannot be left exclusively to the components of the system itself; the Congress has a major role to play as well. It is a leadership role which can recognize fundamental problems, not only in the Federal system but the state system as well. Reform is not always an easy notion to swallow, especially if it is coupled with new and greater responsibilities which require us to tread on ground which has not yet proven its strength. We here in the Congress, though, must be the final arbiters of what legislatively is good for the system of justice. Of course, we must seek the advice and counsel of those who are responsible for the system; but in the last analysis the will of the Congress must be supreme.

The current picture in our courts, which is probably apparent to you, is one in which not the concept of speedy trial, but the reality of enforcing that mandate is embroiled in controversy among those who would have the responsibility for carrying out the law. This controversy is to be expected; however, what the subcommittee should recognize is that it should not serve as an excuse for backing away from this legislation, but a reason for pursuing it with all the wisdom and knowledge that you can muster. I should not analogize the process that you are now going through as a father trying to find a solution for a disobedient child, but I will for lack of a better example. Everyone knows that no one is going to agree on the kind of restraints which would be placed on his discretion although he would agree that something should be done. As in the analogy, we have a system which recognizes its shortcomings but refuses to accept the most effective remedy.

During the subcommittee's first hearing the Department of Justice and the Administrative Office of the United States Courts provided their shared view that the "Model Plan" promulgated pursuant to Rule 50(b) of the Federal Rules of Criminal Procedure should be given an opportunity to run its course before the Congress adopts speedy trial legislation. On its face this does not appear to be an unreasonable request; however, what is needed is a more effective remedy. There is no question in my mind that both the Department and the Administrative Office recognize the need for speeding up the Federal criminal process as do our Federal judges, but they are somewhat reluctant to endorse the stronger approach contained in S. 754. It should be noted that the Senate speedy trial bill has already undergone a four year mellowing process which the Constitutional Rights Subcommittee had hoped would make it acceptable to the Department and the Administrative Office.

My concern with Rule 50(b) is that the system cannot afford to spend the time awaiting results which will probably prove unspectacular. It is not that I think S. 754 provides a spectacular remedy, but that it provides a viable vehicle for achieving the kind of change that we know is necessary. Unless a spur is applied to the prosecutors, the courts and the defense, they are not likely to function on a par which is commensurate with the problem. Rule 50(b) provides no sanctions beyond release from custody of an incarcerated defendant for delaying the time limitations contained in the speedy trial plans; therefore, no price is to be paid for delay. The "Model Plan" under Rule 50(b) specifically states that the failure to conform with time limits "shall not require the dismissal of the prosecution."

A second weakness of this rule is the computation of time limits from arraignment. The Senate report on S. 754 clearly points out that the period between arrest and indictment is a source of almost half the delay between arrest and trial. A third weakness of Rule 50(b) is its provision for granting to the courts, through the "Model Plan," broad discretion with regard to allowing extensions of time limits. Speedy trial plans which are shot full of holes for extensions of time cannot provide the measure of assurance to criminal defendants that their cases will be promptly processed; more importantly, it will not provide the peace of mind to the public that potential criminals will not be permitted to walk the streets longer than is required. A fourth criticism of Rule 50(b) is that the districts adopting time limitations did so in almost a direct correlation to the amount of time it took to process the cases prior to the enactment of their speedy trial plans. This means that what Rule 50(b) may be doing is merely maintaining the status quo, and little more.

In its statement before the subcommittee last week, the Administrative Office pointed with pride to the reduction in criminal cases pending on the dockets of the district courts, concluding that substantial progress under Rule 50(b) had been achieved. Their statistics show that pending criminal cases dropped from 25,490 on January 1, 1973, to 22,644 pending on June 30, 1974. However, in hearings on the appropriations request of the judiciary before a subcommittee of the House Appropriations Committee this year, the chairman of the Budget Committee of the Judicial Conference, the Honorable Carl A. Weinman, said of fiscal year 1973; "In the district courts there was an increase in civil filings, but for the first time in many years a reduction in the number of criminal cases. This reduction, in large measure, was due to a decline in immigration law violations and prosecution under the Selective Service Act." Figures released by the Administrative Office in its report on fiscal year 1973 bear Judge Weinman out; during the period July 1, 1972–June 30, 1973, cases filed by the government for violations of the immigration and Selective Service laws were down 62.6% and 40.8%, respectively, from fiscal 1972. The differences in total case filings between the two years are similarly illuminating: In 1972, a total of 11,046 cases were filed in those two categories while in 1973, only 5,251 were filed—a difference of 5,795; in 1973, total cases filed for all offenses dropped by 6,676. From these, it is apparent that a number of factors commingled to produce the decline in pending criminal cases in June, 1974. In this context Rule 50(b) alone cannot be credited for the decline in pending criminal cases; in fact, it could be argued that it is almost impossible to gauge its affect at this point. All of this leads me to the conclusion that this Rule, although its goals are laudatory and its advocates sincere, has not demonstrated either by its operation or in its provisions that it is capable of providing the necessary impetus for expediting criminal case loads.

Perhaps the most significant feature of S. 754 and related House bills is their recognition of the fact that planning and increased Federal funding for the Judiciary is an essential element of a successful speedy trial plan. The Judicial Conference of the United States and the Administrative Office have consistently complained that the resources granted them by the Congress are inadequate to fulfill their prescribed functions. When it is considered that the Federal government spends more on one nuclear-powered guided missile frigate than it does to allow courts, prosecutors and counsel to protect Americans from criminals, this complaint has merit. In general terms, it is hard for me to understand why representatives of the Conference and the Administrative Office have opposed a bill that would for the first time supply to them the legislative tools they need to demand their fair share of the Federal budget. S. 754 specifically creates and authorizes appropriations for five pilot districts wherein the initial phases of planning and experimentation may begin to determine how best to meet the requirements of the eventual fixed time limitations, well in advance of the seventh year after enactment. This mechanism will permit the federal judiciary to evaluate their capabilities and needs, within the framework of a legislative mandate, and subsequently advise the Congress as to necessary changes in the original speedy trial design and resources to effect its ends. The "Model Plan" promulgated by the Conference early last year contains no suggestion of how the 180-day limitation is to be best achieved, let alone a vehicle to encourage planning, uniformity or best use of resources. Indeed, if a lack of resources is the principal cause of delay in criminal cases as the Conference and the Administrative Office contend, such a vehicle is needed and money should have been requested specifically for the rapid implementation of Rule 50(b) in the judiciary's proposed budgets for the previous and current fiscal years.

An argument which has been propounded by both the Department of Justice and the Administration in support of their position that Rule 50(b) is superior to the legislative approach to speedy trial is that rural districts would be unable to meet the same time limitations because, among other things, grand juries often meet only twice a year and judges travel from division to division in some cases rather infrequently. I am sure that a number of other arguments to this legislation could be developed stating that it does not take into consideration various local conditions. However, one must realize that few legislative proposals are ever perfect; but in the case of S. 754 more than enough flexibility is provided to avoid the kind of harsh results which the opponents of the bill have predicted will occur.

In this respect, S. 754 provides for a gradual phase-in of time limitations beginning in the second year after enactment. Those time limits are 60 days between arrest and indictment and 180 days between indictment and trial. During the third and fourth years, these limits are reduced to 45 days between arrest and indictment and 120 days between indictment and trial. It is not until the fifth year after enactment that the time limits reach the ultimate goal of this legislation: indictment within 30 days of arrest and trial within 60 days of indictment. During the time that the provisions of the bill are being phased in, each district court is provided the opportunity to submit detailed plans for achieving the goal of speedy trials to the Administrative Office of the United States Courts.

The Senate has provided that plans be submitted prior to each reduction in the time limitations so that the first such plan would be submitted prior to the second year, the second plan prior to the third year, and the third plan prior to the fifth year. It must be noted that during this entire period of time both the Administrative Office and the Congress will be in constant communication concerning the ability of the various districts to meet the legislatively imposed time limits. The Administrative Office is required to summarize and send to Congress all district plans together with "any legislative proposals and appropriations necessary to achieve compliance with the time limitations."

Now, some of the witnesses have expressed reservations concerning the danger of Congress not providing the resources to make the provisions of S. 754 a reality. Their concern is a genuine one, because nobody wants the courts to be faced with the mass dismissal of criminal cases. This is of course a possibility, but a very remote one, indeed. S. 754 has provided for this contingency while at the same time recognizing the inherent danger of leaving too much discretion to those who would admister the program to render the legislation ineffective by suspending time limitations for reasons of court congestion. Rather, the legislation provides for comprehensive reporting procedures, which would spot any significant problems which the courts as a whole or any individual district might run into as the time limits are gradually phased in. Also, the experience of the various states which have speedy trial statutes coupled with time limitations have shown no instance of mass dismissals. Is there anyone here who would contend that the Congress would permit the loosing of potential criminals upon the public rather than fund a program which it is committed to? I do not think that the American people, who have the final check on the operation of this legislation, would send an incumbent back to office who could be pinned with this label.

While the Administrative Office contends that the time limits under S. 754 could not be met in rural districts, statistics show that in the case of the period between indictment and trial, many of these districts are already meeting time requirements of the bill under Rule 50(b) plans. For instance, the District of Colorado, which was represented by its U.S. Attorney during this subcommittee's first hearing, has a maximum time limitation of 85 days between indictment and trial in cases where a defendant is in custody. No time limitation is provided in the tables for defendants not in custody, however. In the case of the Northern District of Mississippi, which was also represented during these hearings by its U.S. Attorney, the time limitations imposed under its Rule 50(b) plan for defendants in custody is 110 days between indictment and trial; and for defendants not in custody the time limit is 210 days.

In order to put these remarks in perspective, let me return to a point which I made earlier that S. 754 provides a seven year phase-in period. It is not until the end of the fourth year from the date of enactment that the time limitations in this legislation go significantly below the existing time limits in the two rural districts already discussed and this pattern of time limits seem to be the same in other rural districts as well. In fact, for defendants in custody under Rule 50(b) the time limits are uniformly lower than those under the first four years of S. 754. In the case of defendants not in custody the time limits for the first four years under S. 754 exceed those of Rule 50(b) plans by a maximum of 90 days. An exception to this, for example, is the Southern District of Georgia which has a 45-day period from indictment to trial in the case of defendants in custody and 60 days in the case of defendants not in custody.

To add all of this up, the evidence is convincing to me that no real hardships would be experienced by rural districts in meeting the time requirements of S. 754, since they are in many cases already operating under similar time requirements and the provisions for planning would be adequate to bring those districts' resources up to the level which would permit them to conform to the time limits contained in the legislation.

There are just a few additional points which I would like to raise before concluding my remarks. The original version of the Senate bill contained a provision for the dismissal of cases with prejudice for failure to meet the speedy trial provisions of the legislation. At the insistence of the Department of Justice, the effect of this provision was lessened by removing dismissal with prejudice and replacing it with language which would permit reprosecution after dismissal upon the government's showing of exceptional circumstances. It should be pointed out that at least two distinguished bodies which considered the speedy trial concept strongly supported the dismissal with prejudice sanction as the only effective deterrent for delay in bringing a criminal defendant to trial. The American Bar Association, in its 1968 Standards relating to the Administration of Justice states:

"If a defendant is not brought to trial before the running of the time for trial, as extended by excluded periods, the consequences should be absolute discharge. Such discharge should forever bar prosecution for the offense charged and for any other offense required to be joined with that offense."

Further, the House Select Committee on Crime, whose distinguished chairman is participating in these hearings, supported in its final report, *Street Crime: Reduction through Positive Criminal Justice Responses*, the adoption of a speedy trial statute requiring that all proceedings be initiated within a 60–90 day period, under the threat of dismissal with prejudice. I might add that although it did not take a position on the sanctions for the denial of a speedy trial, the recent *Courts* report filed by the National Advisory Commission on Criminal Justice Standards and Goals recommended that: "The period between the beginning of trial of a felony prosecution generally should not be longer than 60 days."

As I pointed out earlier, a critical shortcoming of Rule 50(b) is its failure to provide an effective sanction for noncompliance with time limitations. The only sanction which the "Model Plan" provides is the release of a defendant from custody. Now, my colleagues: how can you have an effective program to encourage the speedy disposition of cases when there is no incentive for achieving the goal beyond the consensus opinion that it is a good idea? Well, in the real world—and we legislators must function in that world—you cannot depend upon the good intentions of those to whom the law is directed; you must make provision for punishing the failure to comply with the law; this is the only way you are going to have a directive that is more than a publicity piece.

Further, let me point out that in the 1973 decision *Strunk* v. *United States*, the Supreme Court held that dismissal was the only sanction for the Constitutional denial of a speedy trial. The Court rejected the contention that the remedy of an incarcerated defendant who was denied a speedy trial could be limited to the crediting of time toward reducing his sentence. It should be clear, by this case, that the remedy provided by Rule 50(b) is constitutionally defective. Even Judge Feikens, who indicated in his testimony yesterday that he would prefer the court rule approach to speedy trial, said in strong language that:

"[I]f the Speedy Trial Act was really to accomplish its purposes, the dismissals of cases in meeting the time limits should be 'with prejudice.' The dismissal 'without prejudice' I fear may be abused too readily."

The lack of an effective sanction in Rule 50(b), in my opinion, renders this noble attempt by the courts to police themselves nothing more than a guideline, and not a spur to make speedy trial a reality. It is incapable of stopping the laxity in the system, which Judge Feikens points out ought to be stopped.

There are a number of reforms to be made in the criminal justice system that I would hope the Congress will consider over the course of the next seven years as the provisions of S. 754 are phased in, if it is the wisdom of my colleagues to enact this legislation. Some of these reforms are contained in section 3165(c) of the legislation, another is contained in section 3161(h)(2) which gives a defendant the opportunity to demonstrate his good conduct before trial. This provision provides the courts and the government authority to divert certain defendants from the criminal process. This, of course, would help to clear from the courts' dockets those cases involving minor offenses which probably should never have been initiated in the first place. As you know, the Senate passed legislation to provide for pretrial diversion in the Federal system; and I am the sponsor of legislation in the House.

A legislative proposal which is pending before this subcommittee, the Community Anticrime Assistance Act, of which the chairman, Mr. Fish and I are sponsors could play an important role in the scheme of things as the provisions of S. 754 become effective. Federal Public Defender James Roberts, in his statement yesterday, mentioned the fine volunteer work which a Catholic priest is performing as a kind of pre-trial services and pre-trial diversion officer. This individual also is assisted by local community groups in his efforts. The Community Anticrime Assistance Act would provide funding to stimulate the further development of these kinds of endeavors. It is a very worthwhile proposal to pursue in order to get citizens involved in constructive programs. This could save the taxpayers money in the long run.

Mr. Chairman, I would like to re-emphasize a point which you made in your opening statement to these hearings concerning recently released statistics showing a 16 percent increase in crime during the first quarter of 1974. Certainly, as we here today anticipate a total 6 percent increase in crime during 1973 over 1972, can this subcommittee afford to neglect the urgent need to provide the resources to modernize and speed up the criminal justice process? I realize that S. 754 may not be the ultimate answer to the crime problem itself; but it does represent an important step in the direction of increasing the ability of our court system to deal with criminal cases. In this regard, the National Advisory Commission on Criminal Justice Standards and Goals summed up the issue well in its *Courts* report stating:

"Fast and efficient criminal processing would both increase the deterrent effect of the criminal law and ease the task of rehabilitation of offenders and reduce crime."

This is what the subcommittee must consider as an important consequence of whatever you decide to do with this legislation.

CHILD EVANGELISM DAY

Mr. GRIFFIN. Mr. President, Americans are known for their countless acts of voluntary service to others. I am proud to recognize in this regard the wonderful work of the Child Evangelism Fellowship of Grand Rapids, Mich.

This is an interdenominational organization of dedicated men and women who provide religious instruction to young children who would not otherwise receive *it. The* fellowship holds Bible study classes called "good news clubs" and invites children into homes to learn Bible stories and gospel songs.

Teaching children about religion in a way they can enjoy and appreciate is a good investment in the moral and spiritual strength of our society.

October 20 of this year is Child Evangelism Sunday, and I would like to take this occasion to commend the members of this fellowship and wish them continued success in their very worthwhile endeavors.

ENERGY CONSERVATION

Mr. BIDEN. Mr. President, on September 11, I introduced S. 3988, a bill to provide Federal financial assistance to State governments for the preparation of energy conservation programs. At that time I was still hopeful that the near future might bring strong, affirmative proposals for energy conservation. That has not happened. It is more imperative now to adopt legislation such as that embodied in S. 3988 than it was a month ago.

At the time I introduced S. 3988, I felt that strong emphasis on energy conservation was essential to any sensible national energy policy. I also believed that State and local governments had demonstrated great ability to deal with such programs and that we should make greater use of their expertise. Nothing has happened to change my mind about these things.

Unfortunately, nothing else has happened in that month either, except that we are a month closer to winter. The energy conservation proposals transmitted to the Congress by the President are most disappointing. The cornerstone of those proposals seems to be to raise the price of energy. Of energy conservation—except that forced by high prices—we hear little.

It is imperative that the Congress take the lead in formulating strong national energy policies. The Senate has already passed much legislation in the field. I hope we can improve on existing proposals by acting on S. 3988, to strengthen our conservation efforts at the grassroots.

THE LILLIPUTIAN ANSWER TO WORLD FAMINE

Mr. HATFIELD. Mr. President, I wish to commend to my colleagues' attention to an article on the world food situation from the Sunday, October 13 issue of the Washington Post. Mr. Edgar Owens of the Agency for International Development argues in this piece that the answer to world food shortages, if indeed there can be an "answer," does not ultimately rely on ever increasing amounts of direct food aid from the rich countries to the poor, but in improving the yields and production capacity of the poor nations' small farms, so the poor will not need to depend on the largesse of the rich.

Mr. Owens' argument makes excellent sense, if only because the poor would be foolish indeed to stake their existence on the generosity of the rich. Selflessness is an uncommon occurrence in this world, and its tenure is far too short to be relied upon for any length of time. But aside from this limitation of fallen human nature, there is also the bald fact that American farmers cannot increase their yields forever to a sufficient degree to keep up with world food demands. As the last few months illustrate, we will not always have the incredible good luck with the weather we have enjoyed for nearly 20 years. Furthermore, we are getting diminishing returns for our labors; it takes more fertilizer to raise corn yield per acre from 90 to 100 bushels than it did to raise it from 40 to 50 bushels.

For similar reasons, efforts to improve yield and increase production in Third World countries should not be limited to transplanting the technology of American agribusiness. In fact, we should insist on aid that is geared to the small farm, as Mr. Owens suggests. Soaring energy prices have already made it very difficult for the developing nations to obtain fertilizer. There is little sense, therefore, in helping them develop a method of agriculture which requires even more inputs of energy and equipment.

A critical part of Mr. Owens' article is his emphasis upon the relationship of prosperous small farms to family size. Dr. Garrett Hardin argued in the September issue of Psychology Today that food aid or production assistance only compounds the problem, keeping the poor alive to spawn more poor who make more demands for food. I have attempted to rebut his rehash of Parson Malthus' theory by arguing that prosperity is the best contraceptive, and prosperity cannot be achieved when the first and only concern is to get some scrap of food. Mr. Owens apparently agrees with this latter approach, and speaks specifically of how small farms offer the best method of achieving both increased food production and reduced birth rates.

Several of us in this body will be attending the World Food Conference in Rome next month. While I am not too sanguine about the Conference resulting in any significant change in world food policies, especially given the ambiguity of the U.S. position and the failure to consult the congressional delegation, I do hope we will be able to present some innovative, feasible, and commonsense ideas on how we can feed the world's poor and stabilize our population. Mr. Owens' suggestions are most helpful in this area, and I hope his article will be widely read. I ask unanimous consent that it be printed in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. Mr. President, one brief and final point: On the front page of Tuesday's issue of the Washington Post are articles on widespread starvation in India and the expenditure of some $20 million for a building in California to be used to store General Services Administration records. There is something obscene in the national priorities illustrated by these two articles. Twenty million dollars is not much, relatively speaking, and I have no doubt that there are more glaring examples of money poorly spent. But surely this $20 million could be more humanely spent, to buy the food starving Indians cannot buy for themselves, or supply the tools necessary to boost the productivity of their farms. When we buy what amounts to a huge filing cabinet while fellow human beings die in the dirt for lack of a few pennies, it is no wonder that foreign nations are rather underwhelmed at the charity we do offer.

Exhibit I

World's Lilliputs Hold the Answer to Famine Threat

(By Edgar Owens)

"Since the developed countries are better off both economically and technologically, and since the consumption patterns stemming from our affluence contribute significantly to the pressure on limited world food supplies, we must take primary responsibility for relieving present and guarding against future scarcity, even to the point of limiting our own escalating standards of living."—Herbert Waters, chairman, World Hunger Action Coalition.

"Within the last decade there are those who have advocated that the scientifically advanced and affluent nations could and should supply the food needs of nations with deficits. Today that notion has been shelved. Requirements would become so vast, and the free food programs so costly, that this approach would be beyond the combined means of all possible suppliers, probably within a decade. Moreover, massive free food shipments, if they result in low consumer prices in the recipient country, remove the incentive for the nation's own producers to increase production."—Dr. Sterling Wortman, Rockefeller Foundation.

While Waters reflects the traditional American sense of humanitarianism, to follow his advice will almost certainly guarantee the worst famine in all of history before this century ends.

America's wonderfully productive farmers cannot feed the developing world's poor indefinitely simply because their numbers are increasing so rapidly, some 50 million per year. In a decade or two there will be more hungry people in the shanty towns and villages of the poor countries than can be fed even from America's bountiful granary.

The world food problem cannot be solved in the American Midwest. The problem can only be solved by doubling and trebling the pitifully low per acreage yields on the 150 million small farms of the developing world.

Those who blame the food shortage on the high living standards and the alleged self-indulgence of the American people are also filling the American press with dire prophecies. The Malthusian apocalypse, we are told, is almost upon us—too many people on too little land. No solution is said to be in sight unless the poor countries somehow reduce their birth rates substantially and quickly.

VISION OF GLOOM

The "Doomsday Lobby" is how one Washington journalist describes those whose vision of the future is gloom and disaster. The Lobby is not analyzing but prophesying and thereby is obscuring rather than illuminating the real nature of the world food problem.

The problem is specifically a shortage of foodgrains—wheat, rice and corn are the most familiar to Americans. For the pitifully poor, the foodgrain of their area is two-thirds or three-fourths of their diet. Just a single food represents the difference between hunger and satisfaction for literally hundreds of millions of people. Countries can increase their production of foodgrains only by increasing yields per acre because nearly all the arable land in developing countries is already being cultivated. For this reason, foodgrain productivity is the key indicator of a country's ability to grow enough food to feed its own people.

If we recognize the overwhelming importance of foodgrains and then analyze rather than prophesy we learn that:

There are a small number of crowded developing countries in which there is no food problem. Output per acre of the basic foodgrains in Egypt (3,515 pounds per acre) and Taiwan (3,320 pounds) is as high as in the rich countries in general and actually a little higher than in the United States (3,185 pounds).

If India's agriculture were organized so that her farmers could be as productive as farmers in Egypt, instead of producing a mere 1,010 pounds of foodgrains per acre, India's foodgrain surplus available for export would be double total worldwide trade in foodgrains in 1972. International and national officials would then frantically be trying to prevent the collapse of the world foodgrain market rather than trying to prevent hunger.

If certain medium-sized countries, such as Nigeria, Mexico and Pakistan, could double their foodgrain productivity overnight, the U.N. estimated gap in the worldwide supply of foodgrains, 9 million to 12 million tons, would disappear. Yet, even after this doubling of productivity, per acreage yields in these three countries would still be a good deal lower than in Egypt and Taiwan.

Finally, as the London Economist pointed out recently, if the arable land of our planet were cultivated as efficiently as farms in Holland, the planet could feed 67 billion people, or 17 times as many people as are now alive (which statement is not, of course, intended to be an endorsement of continued runaway population growth).

The world is not yet confronted with the Malthusian apocalypse. Rather, in the words of one of the analysts, Dr. Wortman, "The only approach to the world food problem that makes sense is to get farm productivity up as fast as possible."

THE SMALL FARMS

This emphasis on yields per acre is relatively recent. Through 5,000 years of history, food production has been increased primarily by opening new lands for cultivation as populations gradually expanded. In recent decades, countries have begun to exhaust their supply of land. Fortunately for the world's peoples, this exhaustion happened to coincide with the explosion of agricultural science. The "biochemical agricultural revolution"—improved seeds, fertilizer, disease and pest control—has become the route to more food through higher yields per acre.

This shift from "extensive" to "intensive" farming, which began in Japan around the turn of the century, became widespread in the West during the period of World War II. During the 1930s, foodgrain yields in rich and poor countries alike were low. Since the Second World War, however, yields in the rich lands have bounded upwards so rapidly that today they are 2½ times higher than in the poor countries 2,264 pounds per acre as compared to 1,135 pounds).

Because the population of the developing lands has risen faster than their farm productivity, the countries have shifted from being foodgrain exporters to foodgrain importers. Before World War II, the poor countries exported 12 million tons of foodgrains annually, mostly to Western Europe. In 1972, these countries imported 44 million tons of foodgrains, mostly from the United States and Canada.

This static is the kind of information used by the Doomsday Lobby to spread gloom. However, it conceals a most important point. Because of the bounty of the North American prairies and the ease with which food can now be shipped all over the world, people may well be better fed today than at any time in the past. According to a recent study of the Food and Agriculture Organization of the U.N., in all the countries of the world, average per-person consumption of calories today is more than in France at the time of the French Revolution.

Thus, further analysis tells us that the world is not yet on the brink of starvation. There is still time to resolve the world food problem—if it is correctly identified.

For years many experts have thought that highly mechanized, large farms are necessary for high productivity agriculture, that small farms must become big if they are to be efficient. Such a belief is simply a projection of our farming system. It ignores such facts as this: At the starting point of Japan's modernization, the Meiji Restoration in 1868, the average size farm was 2 acres; a century later the average farm in Japan is still 2 acres. On such tiny plots Japan has created one of the world's most productive farming systems.

To Americans, accustomed to multi-hundred-acre farms, big tractors and a constant decline in the number of farmers, viewing the farm economy of developing countries must seem like Gulliver in the Land of Lilliput. Four-fifths of the farms in poor nations are less than 12 acres. In the very crowded countries, such as Egypt, Taiwan, Bangeladesh, Indonesia, as well as rich Japan, the average farm is as little as 2 or 3 acres, hardly a cabbage patch to an American farmer. Clearly the big tractors and combines which, to Gulliver, are synonymous with modern agriculture in his own country do not fit the Lilliputian farms of the developing world.

Further, there are seemingly endless numbers of farmers cultivating these tiny plots. In relative terms, the poor countries have 50 or 75, even as many as 100 times as many farmers as the United States. Is it possible to organize a high productivity agriculture in Lilliput?

COMPLEX PROBLEM

We know from Egypt and Taiwan, as well as Japan, that the Lilliputs of this world can be no less productive than the Gullivers. Hopefully, we have also learned from practically all other developing countries that there are no simplistic solutions to sustained agriculture advance, such as the so-called "miracle seeds" of the "Green Revolution."

Rather, multiplying productivity on these overcrowded cabbage patch farms of the developing world is quite possibly the most complex problem ever deliberately faced by mankind. It involves the design of production systems for every crop, every season, every region in every nation. This means adopting the biological components of agricultural technology—seeds, disease and insect control measures, water and soil management practices, fertilizer usage—to hundreds of farming environments. Difficult as this may seem, expanding the science base essential for high productivity agriculture in the mostly tropical poor countries is the easy part of the solution.

The harder part of the solution involves the creation of a legal and institutional structure through which the mass of small farmers can become active participants in a productive rural society. Equitable land tenure, savings and credit systems, cooperatives, laws relating to contracts, property and liability, a high level of integrity in government administration and the handling of money—these and many other laws, institutions and systems are just as necessary for high productivity farming as better seeds and more fertilizer. Such reforms are essentially political. They involve a sharing of power and the opportunity for a better life by the privileged few with the millions of small freeholders, tenants and sharecroppers who have been left out of development thus far.

The world food problem is really a problem of political will, or rather the lack of it, in all but a handful of developing countries. In most developing countries, agricultural advance has been concentrated on their own Gullivers. In Mexico, for example, only 3 per cent of the farms—large, mechanized and irrigated—account for four-fifths of the increase in agricultural production. The one-sixth of Mexico's farmers who cultivate them are prospering, but half of Mexico's farmers actually have less money today than in 1950. These poor farmers also continue to have a baby a year, for among the pitifully poor there still lingers the notion that more hands mean more work—and therefore more food.

Mexico's "dual farm economy," a handful of Gullivers and a multitude of rapidly multiplying Lilliputians, is alas, the common pattern throughout the developing world. The Gullivers often are as productive as farmers in the rich countries. But the combination of the two groups adds up to mediocre national performance—Mexico's foodgrain yields are only two-fifths the level of Egypt and Taiwan—and the threat of hunger.

MISSING THE POINT

Because the state of agriculture is unsatisfactory and governments are reluctant to reform, there are those who seek to escape in religioideological contentions, such as:

The notion, now frequently heard around the world, that the Chinese have found a universal solution in communism (a contention that ignores entirely the point that the China with the truly remarkable record in agriculture is Taiwan, not the mainland).

The notion that the world food problem can be solved if Americans eat fewer hamburgers (it takes 8 pounds of foodgrain to produce one pound of beef). Foodgrain not used to feed our animals could then be shipped overseas.

But this is missing the point. The place to look is Japan, Egypt, Taiwan and, to a lesser extent, South Korea, the four countries that have found a way to combine microscopic farms and a superabundance of farmers with a modern science-based agriculture in which both the productivity and incomes of 2-acre farmers rise.

Such a system is known as "small-farm, labor-intensive" agriculture.

As compared to American farming, small farm systems rely relatively much more on agricultural chemicals, such as fertilizer, as the means of increasing output and on farming techniques, or "cultural practices," many of them carried out by hand. The reason the small Egyptian or Taiwanese farms can usually outcompete the American farmer on a per-acre basis is that the farmer on a small farm works harder and longer on each of his acres.

The improbable feature of small farm systems to Americans is the use of small-sized farm machinery and tools to supplement human effort, not replace it, to increase the amount of work farmers can do rather than drive them off the land. It is this concept of mechanization which explains the extraordinary number of hard-working farmers on the tiny plots of Egypt and Taiwan.

Egypt and Taiwan have combined this unusual use of farm machinery with land reform, protection of their tenant farmers, cooperatives that work, high taxes to finance the cost of rural public investment, integrity in public administration and the accounting of farmers' funds and other activities which make up what the experts call "rural development."

It is this emphasis on the non-technological issues of agricultural advance that separate Egypt and Taiwan from other developing countries. These are precisely the issues that are politically sensitive. But experience tells us that without legal protection and strong local institutions there can be neither equity nor high productivity in agricultural development. Without legal protection, small farmers will continue to be exploited in traditional ways by the Gullivers of their country. Without strong local institutions, 2-acre farmers will not get their 2-acre share of credit and fertilizer and access to the market to sell the increased production which fertilizer makes possible.

FARMS AND CONTRACEPTIVES

Further, the modern 2-acre farm may prove a more essential answer to the celebrated "population explosion" than all the efforts to merchandise birth control devices. Among development experts there is now an "incentive school" which believes that parents have fewer children as a result of healthier living conditions and personal motivations for limiting family size, not because contraceptives are becoming as common as aspirin. Citing the decline in birth rates in the West and Japan and Taiwan long before the advent of "family planning" programs, they argue that contraceptives are used mostly by parents who have already decided to have fewer children.

For Americans who believe we should use our food surpluses to help solve the world food/population problem, the significance of political will in development creates a painful perplexity.

Where governments are determined to bring about an agricultural revolution, as in Egypt and Taiwan, the United States can help develop farming systems which fit the culture and physical environment, the farm size and other unique characteristics of each country. However, if we use our surpluses to prevent starvation, but governments do not act to involve their small farmers, we may simply postpone the day that there are more hungry people than the United States can feed. We must recognize that humanitarianism plus enthusiasm are neither a policy nor a solution, that the United States cannot insist that developing countries adopt small farm policies that we favor, that we cannot supply the needed political will.

The complex problem of small farm development, and whether and how the United States might be able to help, was clearly recognized a year ago by the House Foreign Affairs Committee.

With remarkably little notice by the press and the public, the committee initiated, and the Congress passed, the most significant policy change in the history of the always controversial "foreign aid" program. Future foreign aid, said the Congress, is to be aimed directly at the people Congress described as the "poorest majority," the hundreds of millions of villagers and urban slum dwellers whom Americans have always wanted to be the beneficiaries of American help. Most of the "poorest majority," more than half the total population of the developing countries, are small farmers. The Congress disdained Gulliver-like "made in America" solutions to the problems of Lilliput and endorsed the concentration of American help in those countries, and there are some, where the problems of the "poorest majority" are being recognized.

The November World Food Conference in Rome provides an excellent opportunity to show that we are trying to understand the food/population problem and wants others to understand it, too.

Such an approach may not be popular. It is easier to pretend the food/population problem results from the self-indulgence of the rich, or to offer more money for "agricultural development" as if money, not small farmers, were the solution.

After all, governments around the world delight in getting money, and surplus food, from the United States for a host of different reasons. But popularity is a non-solution and an impossible objective. Higher productivity is a solution. It is also an objective in which American people can take pride and which the developing countries can respect.

COMMENTS ON THE DRAFT 1974 NATIONAL GROWTH REPORT BY SENATOR HUBERT H. HUMPHREY

Mr. HUMPHREY. Mr. President, I would like to call to the attention of the Senate the failure of the administration to submit to the Congress the 1974 report on national growth. Public Law 91–609 requires that the President submit the report to the Congress in February of each even-numbered year. The report is now long past due.

At a time when problems of growth and development are becoming more and more pressing, at a time when our deteriorating economic situation requires us as a nation to make some hard and basic choices about national priorities and about the future growth and development of the country and its diverse regions, at a time when it is essential that we mount a major national effort to set goals and to design and evaluate alternative courses of action to achieve those goals, the delay of the administration to release the 1974 growth report for congressional and public scrutiny is little short of alarming.

Let me explain why I feel a sense of alarm. As I am sure you know, Mr. President, I have a longstanding concern for balanced growth and development in this country. I believe the quality of American life depends upon a more rational approach to making important public policy choices and to formulating national goals, priorities, and policies for balanced national growth. I believe that continued failure to develop a mechanism for designing and coordinating policies for balanced national growth and development will result in a serious decline in the quality of life of our Nation's citizens. Indeed, the present rampant inflation, the falling national economic product, and recurring shortages and threats of shortages suggest that such a decline may already be underway.

Having long believed, Mr. President, that there is a national need for a mechanism to establish balanced national growth and development policy, I introduced in February of this year—the month in which the 1974 growth report was due—the "Balanced National Growth and Development Act of 1974" (S. 3050), which would create an Office of Balanced National Growth and Development, a Congressional Office of Policy and Planning, and a Joint Committee on National Growth and Development, and other organizational entities as elements in a comprehensive system for formulating national growth and development policy. The bill proposes major institutional innovations because the problems we face are of such importance and of such complexity that institutional innovation is essential. The existing institutional framework has proved that in spite of its basic strengths it has its weaknesses. My proposal would embrace existing institutions in the many places where they are strong, and it would innovate where they are weak.

The biennial report on national growth, required by Public Law 91–609, could be a tool for strengthening our capacities to deal with growth and development problems. Unhappily, the first growth report, submitted in February of 1972, was a disappointment. The administration properly recognized that although the report was to focus on urban growth, urbanization was only one manifestation of broader growth phenomena and that growth and development must be considered in a wider perspective. But the administration refused to carry the ball forward. The 1972 national growth report advocated a "no-policy" approach. Unfortunately such a no-policy approach is a policy of neglect—neglect that has proved not to be as benign as might have been hoped by those who formulated it.

Mr. President, I am alarmed, because the failure of the administration to submit the 1974 growth report indicates that neglect is continuing.

Although the 1974 growth report has been in preparation and review for a considerable period of time, and although a draft has been prepared, the Congress and the public have not seen it. I believe it is time that we and they have an opportunity to see it. I believe that the American public has the right to know what it does and does not say.

The draft report discusses briefly earlier growth oriented documents—the report of the national goals research staff and 1972 report on growth—quality of life as the central goal of growth, the role of the private sector in growth decisions; and it sets forth current growth trends and some of the issues associated with those trends. The draft goes on to discuss the types of influences the Federal Government can have on growth and development, experience at the State and local level in planning for growth, and it concludes with "Recommendations and Initiatives" at the Federal, multistate, State, substate, and local levels. The draft provides as well several supplements which give additional information on housing, urban and rural community development, transportation, the equity implications of growth policy, manpower, economic adjustment, natural resources, and energy.

Mr. President, as I read through the

draft report it become clear to me that there is still a long way to go before the biennial growth report becomes a useful tool for formulating national growth and development policy. I would like to share with you—and President Ford—my reasons for this conclusion and my reactions to various parts of the draft report as I read through it. I hope President Ford and his policy advisers will carefully review my reactions to this draft report and will consider them before finalizing this document for submission to the Congress.

URBAN AND RURAL COMMUNITY DEVELOPMENT

Mr. President, the ultimate purpose of balanced national growth and development is to assure that the citizens of this great country will have access to a rich and satisfying life in the community of their choice, whether this be a small farming town in Minnesota or one of the great cities of the east coast. Individuals identify socially and physically with their community, and seek to develop and retain special qualities in their surroundings which represent a desirable life. As the draft report notes:

> This attitude generates, in particular, public demands for a better environment, such as clean air and water, open space, and convenient travel, and more community facilities and services. It fosters citizen participation and intimates a strong role for local government in formulating goals and setting priorities for the benefit of the community.

I would agree with this, but I could also stress the need for the assumption by the Federal Government of a strong role in formulating national goals and priorities for community development.

Mr. President, the administration raises a number of issues in the draft growth report with regard to urban and rural development which I think are worth mentioning at this point:

How will broad changes in economic activity affect the comparative position of older cities?

What is needed to overcome the isolation of minorities in the inner-city and suburban pockets, leading to continual loss of human talent and social estrangement?

What is the relationship of the need for a balanced transportation system to local and areawide growth-related actions?

What kind of neighborhood preservation strategies are needed in the central cities to make these areas more viable residential areas?

With regard to rural development strategies, the report asks:

At the local scale, what types of community preservation or adjustment strategies are needed in nonmetropolitan areas?

What types of State and local actions are needed to resolve issues of increasing land use competition at the metropolitan fringe?

What impact would income transfer strategies have on rural area?

What is the potential impact of an increased demand for vacation homes or resorts in rural areas?

I find these questions interesting and stimulating. I just wish the administration had thought to recommend some mechanism through which these and other questions related to urban and rural community development could be answered. The institutional arrangements provided for in S. 3050, while not guaranteed to provide us with instant answers, would at least provide us with the capability to seek the answers in an organized way.

URBAN COMMUNITY DEVELOPMENT

The administration's sole recommendation for the Federal level with regard to community development is the enactment of legislation which would convert categorical community development grants into a block grant for community development. The Congress has enacted such legislation, with modifications. I supported the Housing and Community Development Act of 1974, with some reservations over the new direction in community development programs. However, I have been assured that the intention of Congress that money made available by this program will be used to eliminate blight and slums and to benefit low- and moderate-income persons will be honored.

The administration argued that making funds available to local communities with no strings attached would allow localities to assume the responsibility for putting together community development strategies geared to the particular need of the community. According to the report, these strategies would begin at the neighborhood level and would include a program for housing, a program for upgraded neighborhood facilities and services, a permanent organization to carry out the strategy, and an adequate and certain financing stream. The report also envisions strategies for whole metropolitan areas which would include programs to diffuse poverty concentrations among city and suburban areas, preservation of inner- and middle-city areas, redevelopment or rehabilitation of areas beyond preservation, maintenance of sound but aging suburban areas, attraction of small size, middle-income, young households to middle- and inner-city neighborhoods, and growth management policies to provide for more orderly development of metropolitan areas.

This is an excellent agenda, but I am not sure that all of these goals would be carried out without some Federal participation. This applies particularly to programs aimed at breaking up the concentration of poor minority groups in the inner-cities. How many suburban jurisdictions would be willing to accept their "fair share" of such citizens without a Federal carrot or stick? Attracting young, middle-income families back to central cities would be good for the cities, but what will happen to the low-income families that they are replacing?

I do not believe that the Federal Government can or should abdicate responsibility in these matters. For that reason, I am particularly glad that the Congress prevailed in its insistence that communities cannot receive the community development funds to which they are entitled unless they submit an adequate annual application and a 3-year summary plan. Communities must also develop a housing assistance plan assessing housing needs, especially for lower-income persons, establishing local housing goals, and indirecting the general location of proposed housing for lower-income persons. Thus, for the first time, housing and community development will be linked in a coordinated planning process. The extent to which national goals such as equal opportunity for all citizens are met under this program will depend to a great extent on the care with which the Department of Housing and Urban Development reviews these plans. The Congress included in the legislation a requirement that the Secretary of Housing and Urban Development make an annual report to Congress concerning the progress made in accomplishing program objectives and use of funds during the preceding year.

I was disappointed, Mr. President, in the provisions of the formula through which community development funds will be allocated. I am especially concerned over the phasing out of funds to older central cities where the needs are greatest. As I said in my letter to the conferees on this legislation, in which I was joined by 18 other Senators:

> Those cities that have participated effectively in Community Development programs in the past should have those efforts continued with the full support of the Federal government. These cities should not be penalized by congressional adoption of an arbitrary distribution formula, one that allocates funds without regard to need or demonstrated capacity.

In my own State of Minnesota, for example, there would be a precipitious decline in funding for the central areas of three cities from the first to the fifth year of the program: Duluth will go from $3.5 to $1.5 million; Minneapolis will go from $16.7 to $6.3 million; and St. Paul will go from $18.8 to $4 million.

RURAL COMMUNITY DEVELOPMENT

Mr. President, the purpose of encouraging and supporting rural development in the context of a national growth and development policy, is to provide healthy rural communities which can serve as alternatives for the masses of people who have moved to increasingly overcrowded urban areas in search of a better life.

In 1972, the Congress enacted a Rural Development Act which I authored and hailed at the time as the Magna Carta of rural America. Since this law was enacted, the Subcommittee on Rural Development, under the chairmanship of Senator DICK CLARK, has held periodic hearings on the implementation of the various programs provided for in the legislation.

The administration's draft growth report stresses the importance of this act in stimulating a broad and comprehensive approach to problems which account for lagging development of many communities in rural America. The report states that "The administration places a high priority on Federal action in support of the Nation's rural areas," primarily through the Rural Development Act. But the proof of the pudding in this type of legislation is in the funding of the programs. I think the administration's commitment to rural America can be illustrated by its request for funding grants to rural communities for industrial development projects. They requested $10 million to fund this program for the entire country. As I said during the floor debate on agricultural appropriations, this request is really insulting.

The administration's report also emphasizes its interim housing policy which emphasizes rehabilitation of existing housing rather than the construction of new housing. I have questioned the wisdom of this emphasis before, and I shall do it again. Mr. President, one of the national goals which has been articulated by the Congress is the provision of a decent home in a suitable environment for all citizens.

There is far more substandard housing in rural areas than in the cities. I agree with the administration that rehabilitation of existing housing is an important goal, but I do not think that it should be done at the expense of loans for new houses. I also question the ability of the Farmer's Home Administration to implement the rehabilitation programs. In fiscal year 1974, the USDA made only $4,400,000 in rural rehabilitation home loans, while $10 million was authorized. Therefore, while telling farmers and rural residents to "repair your old house rather than build a new one," they used only about 40 percent of the funds available for repair and rehabilitation.

Perhaps the most telling indicator of the administration's concern for rural America was the veto of the bill to appropriate funds for agricultural programs for fiscal 1975. I do not think that programs to revitalize rural America are too expensive, but the administration does.

HOUSING

The draft report's chapter entitled "Recommendations and Initiatives" contains a discussion of national housing problems and proposals for solutions. Many of the proposals contained in the report are now out of date, because of the passage of the Housing and Community Development Act of 1974. This act was signed into law on August 22, 1974.

The recommendations section of the draft report states that current administration initiatives have focused on the problem areas of, first, improving prospects for potential middle-income home owners through expansion of mortgage credit; and second, developing a new approach to the housing needs of lower-income families. It is further stated that the still experimental housing allowance or direct cash payment approach to housing assistance "may be the most cost-effective means to broaden the range of housing choice for lower-income families."

Specific legislative recommendations contained in the draft report include increases in the permissible mortgage amounts of FHA loans, permission for homebuyers to pay market interest rates on FHA and VA insured or guaranteed mortgages, permission for FHA insurance to be written on a coinsurance basis, and authorization on an experimental basis for more flexible repayment plans in FHA insured mortgages. Also endorsed is housing assistance for lower-income families via a new leasing program.

The Housing and Community Development Act of 1974, among other things, increases basic single-family home mortgage limits by about 36 percent—from $33,000 to $45,000—and basic multifamily per unit mortgage limits, about 30 percent.

The 1974 act also deleted in conference a Senate provision that would have authorized the HUD Secretary, on an experimental basis, to insure mortgages under certain sections of a Revised National Housing Act at whatever interest rate was negotiated by the mortgagor, provided no discounts were collected. The advantage of such a provision is that it would have reduced a home buyer's initial outlays by eliminating discounts—or "points"—he might pay indirectly through the purchase price. A disadvantage might have been that higher monthly housing payments may have resulted in situations where market mortgage interest rates exceeded the HUD-set rate. The 1974 Act continued the HUD Secretary's authority to set maximum HUD interest rates.

Section 307 of the 1974 act establishes an experimental coinsurance program stipulating that a mortgagee may request to share at least 10 percent of any loss arising from a mortgage default. If the mortgagee exercises this option, he shares the insurance premium with FHA on a "sound actuarial basis, and is responsible for the establishment of mortgage reserves, manner of calculating insurance benefits, conditions with respect to foreclosure—and other similar matters as the Secretary may prescribe pursuant to regulations." The aggregate dollar amount of coinsured mortgages and loans insured in any 1 year may not exceed 20 percent of the total dollar amount of all mortgages and loans made both for homes and multifamily mortgages.

With respect to flexible repayment plans, the 1974 act authorizes an experimental financing provision allowing for uneven amortization of insured loans. These loans, which are limited to less than 1 percent of the outstanding mortgages insured during the fiscal year, allow lower payments in the beginning of the term than in later years. The intent of this provision is to allow young potential homeowners who anticipate greater future income to purchase sooner than would otherwise be possible.

The 1974 act establishes a new low-income housing assistance program to replace the existing public housing authority for assistance with respect to low-income housing in private accommodations—section 23 leasing. In the program the HUD Secretary will make assistance payment contracts directly with owners or prospective owners for existing, new, or rehabilitated housing. One of the requirements of the new program is that at least 30 percent of families assisted with annual contract authority allocations must be families with gross incomes not in excess of 50 percent of the area's median income, subject to adjustment by the HUD Secretary.

The housing allowance or direct cash payment approach that the report characterizes as promising was continued by the 1974 act, but not adopted as a major housing assistance vehicle. The major housing assistance program adopted by the act is the new leasing program, described above, along with continuation of the interest subsidy and conventional public housing programs. The HUD Secretary is required to make a report to Congress on his findings with respect to housing allowances no later than 18 months after the enactment of this important 1974 act.

Mr. President, I would hope that the final growth report for 1974 examines the implications of this new legislation on national growth patterns. The draft report goes no farther than to mention that there was major housing legislation proposed for 1974.

STATE AND LOCAL EXPERIENCE IN PLANNING FOR GROWTH AND QUALITY OF LIFE

Mr. President, this report places great stress on the accomplishments and initiatives achieved by State and local governments as they have responded to the pressures created by growth. In recent years, partly because of the vacuum created by the lack of national leadership, States and local communities have created new institutions and strengthened old ones; they have developed new techniques for guiding and managing growth; and they have undertaken new programs in housing, economic development, health services, and other functions related to improving the quality of life for their residents. I am gratified at the manner in which these governments have responded to the demands of modern life. I am somewhat chagrined, however, that the Federal Government in many important ways is lagging behind the State and local governments in this area. I am also concerned that far from making it easier for them to meet the challenges of growth we at the national level may be making their lives more difficult.

FEDERAL IMPACT ON STATE AND LOCAL GROWTH AND DEVELOPMENT

In many cases, State and local problems have been exacerbated, as the report states, by "Federal activities—which—having no conscious orchestration behind them, fall on the States and localities in a haphazard fashion, sometimes beneficially, sometimes not." The report further states that the cumulative impact of diverse Federal influences on States and localities is extremely difficult for these governments to monitor, much less anticipate. The report goes on to acknowledge that—

> Present pressures on states and localities to deal with growth and development make it imperative to begin determining the appropriate public sector roles to influence growth and development, if only to avoid uncoordinated and conflicting Federal actions which undercut state and local efforts.

In describing the development of State growth policies, the report notes that—

> Historically, the evolution of state growth policies has been diffused by the lack of national consensus on the form and content of an intergovernmental process for policy development. There has persisted rather constant confusion over objectives, inability of

technical experts to provide information and social indicators needed to develop such policy, and a fragmentation of legislative and executive authorities needed to properly address growth issues.

Mr. President, I could not agree more with these findings and conclusions. But when I look to see what recommendations are offered to help alleviate the inadvertent growth effects of various Federal actions, or to provide a policy framework within which these activities should be taken, or to develop institutions at the Federal level which would see to it that Federal actions at the very least do not prove to be harmful to State and local growth control activities I find—nothing.

Mr. President, my proposed Balanced Growth and Development Act of 1974 would make it possible to monitor and anticipate at the Federal level those Federal activities which will impact on State and local governments. We cannot expect State and local governments to undertake this responsibility; it is our responsibility to analyze the likely impact of Federal decisions to locate or close defense installations, or to procure services, or to construct public works. Furthermore, the legislation would create new institutional capabilities in both the executive and the legislative branches which can develop, with input from State and local governments, a national policy for balanced growth and development, so that such decisions can be made in a rational way.

Mr. President, the administration offers State and local and officials sympathy as they struggle to deal with the haphazard effects of Federal decisions and activities which affect their growth and development. My proposed Balanced Growth and Development Act offers them a Federal commitment to accept the responsibilities of monitoring and guiding Federal actions so that they will be a help, rather than a hindrance, to State and local growth and development activities.

MULTISTATE REGIONS

Mr. President, the report has a great deal to say about the value of the various federally initiated and State-initiated multistate regional organizations which currently exist in different parts of the country. It describes several functions which such institutions are well suited to perform in formulating growth policy at the interstate level. Drawing on a membership which might include Federal, State, local, and private representatives, they can coordinate individual State plans and programs which affect the quality of life throughout the region; they can develop consensus and information exchange between levels of Government; they can implement strategies for location of major new developments that have impact beyond the local or State level; they can coordinate plans and programs for investments to be made by large private and public investors; and they can regulate such functional areas as water resources and environmental quality.

The report clearly recognizes the value of such activities and implicitly endorses the concept of multistate regional agencies. And yet, when I look at the recommendations regarding the multistate level, there is no commitment whatsoever to a Federal interest in or responsibility for the development and support of such institutions. Instead, the administration directs its attention at the multistate level to the strengthening of the 10 Federal regional councils to serve as program coordination centers. They would also play a lead role in continuing efforts to unify Federal planning and management programs, streamline the administration of planning requirements, and provide requested technical assistance to State and local governments.

Mr. President, there is nothing wrong with this recommendation, as far as it goes. It just does not go far enough. Furthermore, responsibility for streamlining and unifying Federal planning and management programs belongs in Washington, not in 10 Federal regions. Under the provisions of S. 3050, these activities would be the responsibility of the Office of Balanced National Growth and Development.

Mr. President, I can find in the report no quarrel with the findings in S. 3050 with regard to multistate regional planning and development commissions. In fact, I find tacit support for "effective and equitable use of Federal resources in assisting the States and localities with their economic, social, and environmental need requires a framework of policies for their growth, development, and stabilization which is consistent, realistic, and attainable." And, further, that "continuing and systematic consultation and joint decisionmaking among the Federal, State, and local governments is necessary to establish an appropriate policy framework and to keep it up to date, and that no administrative channels exist through which such continuing and systematic consultation and joint decisionmaking can take place." The difference is that my proposed Balanced National Growth and Development Act would establish and fund multistate regional institutions which would give life to the concepts expressed in the report and in the findings of the bill. The report provides us with rhetoric, the legislation would provide us the means for action.

Mr. President, this report documents the impressive agenda which the States have set and followed as they have attempted to help shape their future growth and development. The States have reason to be proud as they are fulfilling their historic function as laboratories for testing new governmental institutions and programs, and they are teaching a lesson which the Federal Government would do well to heed.

Many of these State experiments provide us with a base of experience for some of the undertakings that I have proposed in S. 3050. For example, 21 States have established commissions on goals which involve public officials and private citizens in attempts to articulate goals for future development. My own State of Minnesota has established such an agency, the Commission on Minnesota's Future. These commissions are analogous to the National Citizen's Council on the American Future, which would serve the same purpose at the national level.

Several States, such as Utah, are experimenting with "alternative futures assessment" designed to analyze the potential future impact of current trends in population, economic conditions, energy, and other factors. This analysis will be the basis for governmental planning for the future, and other factors. This analysis will be the basis for governmental planning for the future, so that problems will be anticipated and planned for—perhaps prevented, rather than recognized and coped with. In S. 3050, I propose the establishment of a Foundation on the American Future, which would perform the same function at the national level.

Many States, recognizing that once goals are defined and plans for the future are formulated an organizational structure must be developed to implement these goals and plan, have been reorganizing their executive and legislative branches to that end. Several States have developed staff and organizational capabilities in the Governor's office to deal with comprehensive State development policies. Can we at the Federal level do less?

The Office of Balanced National Growth and Development could provide this capability in the executive branch. The Joint Congressional Committee on Balanced National Growth and Development, supported by the Congressional Office on Policy and Planning would provide the Congress with the means to cope with national development policies in a more rational way.

Mr. President, there may be those who will ask why the Federal Government should become involved if the States are doing such a good job. There are two answers to this question. One is that there are certain things outside the control of the States which nevertheless greatly influence their growth and development. For example, national economic conditions such as the current inflation, and the actions taken by the Federal Government to deal with these conditions will influence the public and private economies of each State. The current crisis in the housing industry, caused partly by Federal fiscal policies, affect a State's ability to provide decent housing for its residents. The current energy crisis is yet another. The States cannot control these events. But the Federal Government, in dealing with these national conditions, should at least be aware of their possible impact at the State level. The various institutions which I propose in S. 3050 would provide a mechanism for monitoring the consequences of such actions, and for alerting and possibly assisting the States in dealing with them.

The second answer is that the Federal Government needs to monitor its own policies and programs at all times to be certain that State growth and development policies are not being impeded as a result of Federal activities. Again, this can only be done in a rational way through the institutions that would be created by the enactment of S. 3050.

The Balanced National Growth and

Development Act also recognizes that active State participation in the unified Federal-State-local comprehensive planning system provided for in the act will place additional burdens on their planning agencies and on their general legislative and administrative decisionmaking processes. Therefore, it provides for an expanded comprehensive planning assistance program, administered by the office, to help fund these activities.

All in all, Mr. President, the aim of S. 3050 is not to usurp State responsibilities but to help the States to continue their fine record in dealing with growth and development. Above all, it would make Federal impacts on State growth and development conscious rather than unconscious thereby making the State's jobs easier, not harder.

LOCAL EXPERIMENTS IN MANAGING GROWTH

Mr. President, many of the adverse effects of unmanaged growth are felt most strongly at the local level, and many local officials have been responding to the rise of public concern for the quality of life and for better control over growth and development. Local governments are experimenting with various techniques, mainly through exercise of police powers, to slow down land development activities, to modify economic growth, and to guide or constrain development so as to minimize its adverse side effects. The report describes these experiments, and then raises a significant issue with regard to their consequences: As more communities seek to guide growth, what balance will be struck between individual rights and community rights? What are the areawide impacts of local actions to control growth? Local growth controls may restrict the basic constitutional right of citizens to make a reasonable choice of housing and job locations. How can we reconcile these national goals with local desires to preserve the quality of their towns and neighborhoods?

Mr. President, I do not have any easy answers to these questions. I do not think, however, that if S. 3050 were enacted we would modify and create institutions that would be able to give continuing attention to these and other issues involved in controlling growth. These local experiments are clear indications that the citizens of the United States are deeply concerned about the quality of their lives, and the effects of growth on that quality. Surely, it is time for us at the Federal level to gear ourselves up to respond to that concern.

TRANSPORTATION

Mr. President, the draft 1974 growth report reviews a number of developments in the transportation field and lists transportation facilities that affect growth. The draft report's recommendations on transportation urge the passage of the administration's proposals for a unified transportation assistance program which the administration says would give communities flexibility to provide balanced transportation suitable to their respective needs and requirements. The recommendations also urge passage of the administration's Transportation Improvement Act, which they assert would help restore the Nation's railroads to "a proper place in the national transportation system."

The draft report avoids any indepth discussion of transportation issues, apparently awaiting findings of the 1974 national transportation study. I would hope, Mr. President, that the report of the 1974 transportation study gives us something more substantial than 1974 draft growth report. I also hope that the 1974 transportation study addresses "rural" as well as "urban" transportation issues. I am disappointed that the growth report does not make a contribution to a better understanding of the relationships between transportation policy and growth.

HEALTH

The statement regarding growth in health expenditures as a percentage of GNP fails to mention the fact that inflation in the health industry has contributed substantially to the dollar growth factor without an appreciable increase in the actual amount of health services provided to consumers. It is fair to say that recent growth in health spending in terms of the GNP is in large part a reflection of increased costs, rather than increased services. HEW itself has conceded that about half of the increases in total health expenditures in recent years was accounted for by price increases. Yet no mention is made in this text about spiraling health prices and the serious effects of such price increases on the ability of individuals and families to obtain needed services.

Even before the introduction of medicare and medicaid, prices for medical care were rising faster than prices for other services. As early as the period from 1950 to 1960, the medical care component of the Consumer Price Index was rising faster than the overall cost of living—3.9 percent for medical care versus 2.1 percent for CPI. Medical care price inflation, however, accelerated between 1969–71, when the general economy began to suffer severe inflationary pressures.

Between 1969–71, when the overall cost of living was rising at an annual rate of 5.6 percent, the price of medical care rose at a rate of 6.7 percent. Physician fees rose at a rate of 7.4 percent and hospital room rates increased at a rate of 13 percent. But examination of the CPI and its components does not tell the whole story, particularly for hospitals. The hospital components of the CPI measure increases in daily room charges and various ancillary charges. In an environment where the number and nomenclature of patient services are changing, unit price measurements reflect only a portion of total cost increases incurred by the patient or his paying agent. Two other measures of cost, though, the total cost expense per patient day and the total cost per admission, better reflect the total input made to patient care than unit prices.

The total expense of a day in the hospital, which had been rising at an annual rate of 8 percent immediately before medicare, rose to 14 percent per year between 1969–71. The rate of increase in the total cost of an average hospital admission was 16 percent annually between 1966–69. Beginning in 1968, with reductions in hospital length of stay, the cost per admission rose less rapidly than the increases in expense per day, reaching a level of 11.2 percent in 1969–71. Some of these cost increases reflected increases in the general economy, and wage increases in this traditionally low-wage sector. An equal share, however, represented increases in the intensity of services—the number and kinds of services performed.

In August of this year, we learned that in the absence of controls imposed during the economic stabilization program, doctors' bills and hospital charges are once again fueling the Nation's inflation, increasing at a rate 50 percent faster than the rest of the CPI for the 3 months since controls were lifted. The Labor Department's Bureau of Labor Statistics released figures in late August showing that medical care costs increased 1.3 percent from June to July 1974, compared to 0.8 percent for the CPI as a whole. Hospital service charges and physicians' fees rose 1.5 percent. Recognizing that this period represented the third straight month of above-average increases in hospital charges, some Government health economists have estimated that hospital charges are now increasing at an annual rate of 17.7 percent as compared to 12.5 percent for the CPI as a whole, with doctors' charges increasing at the even higher rate of 19.1 percent a year. The report ignores these appalling facts.

Price increases in the health industry tell only one part of the sad story of growth in terms of dollars but not in terms of output. Health spending expressed as part of the overall GNP does not give an adequate picture of the accessibility, effectiveness, and quality of services provided to consumers. Admittedly, it is easier to count up dollars than to add up services. Cynics may be justified in saying that we may be spending a lot but getting not much more per dollar investment in returns. It might even be said that uncontrolled, undirected growth in the health industry may be worse than no growth at all, since it merely contributes to increased costs without any assurances of increased "needed" services for consumers. This may be particularly true in the area of capital investments for health resources, with scores of additional hospital beds, sophisticated equipment and facilities, being imposed onto the system without appropriate regard for the efficiency or economy of the total health operation.

It has often been said that in the health system, marketplace competition simply does not exist and that the analogy with the economy as a whole is unapplicable. Greater numbers of beds do not lead to a lower per bed cost passed on to the consumer. Indeed, just the reverse is true. Whether used or idle, the hospital bed involves constant upkeep expense and maintenance, expense which must be met in some way, even in the absence of consumer use and payment therefor.

One of the long-run factors contributing to the health care cost inflation is the tendency of a predominantly nonprofit hospital industry to increase its capacity without regard to the demand for hospital services. Since 1963, the number of community hospitals has increased by about 3 percent, to 5,891 in 1973. The number of beds, however, has increased almost 30 percent. Although utilization of hospital services has steadily increased over time, the increase in the number of beds has more than kept pace. Following the introduction of medicare, the average length of a hospital stay rose from 7.9 to 8.4 days, with an increase in hospital occupancy rates from 76.5 to 78.2 percent. Following this initial reaction, both indices began to decline reaching levels of 7.8 days and 75.4 percent by 1973. While reductions in average length of stay are desirable in that patients are treated and released faster, they can lead in the short-run to lower hospital occupancy and higher total costs for the fewer patients being served. The long-run issue is whether the health system is flexible enough to adjust capacity to changing needs. The report says nothing about the mismanagement of our scarce and costly health resources.

The very nature of the health system and the cost inflation associated with its operation brings us to a further criticism of the report; namely, its failure to respond to criticisms of the administration's national health insurance proposal detailed in hearings before the House Ways and Means Committee in the spring and summer of this year. The report mentions that the administration has developed a "major new initiative to improve the quality of health of all Americans," through a program "designed to assure that no American will be denied access to high quality medical care because of an inability to pay." However, the administration's proposed approach to the expansion of private health insurance protection has been criticized for its complexity, confusion, inefficiency, and inequity. It has been charged that the voluntary nature of the proposed plan would leave millions of Americans without insurance protection. Small, marginal and low-wage employers might find that, if the employee has a family and elects to be covered, the mandated premium expense would lead to a significant increase in costs. There surely can be little doubt what kinds of workers such employers would prefer—employees who elect to do without coverage, ineligible part-time rather than full-time workers, single individuals rather than heads of families, and temporary rather than permanent help.

The plan is also regressive, since a premium that is a fixed dollar amount is a higher percentage of low incomes than of high. Furthermore, the administration's proposal utilizes an involved system of patient cost sharing, deductibles, coinsurance, maximum liabilities, all of which would have a greater impact on low- or moderate-income families than on persons with larger financial resources. Medical care would continue to be better for those with higher incomes. Cost sharing would discourage many from using preventive and early detection care. This is a necessary consequence of the administration's desire to have the payment system stay outside the Federal budget and remain voluntary and private. It is a consequence of the desire to erect a system that reflects the administration's assessment that the issue is financial protection against high expenditures rather than a system that reflects the need to remove economic barriers to care at all levels.

The administration's report also fails to mention criticisms leveled at its national health insurance legislation from the area of cost and quality controls. The bill itself pays only lipservice to cost controls. The bill would perpetuate the present self-regulation of the medical profession, a system which has driven up costs, reduced standards, and limited availability of health services, especially to the poor.

EDUCATION

The education recommendations are a rerun of the Nixon administration education agenda from 1970–71 which has been now outdated by events.

The 93d Congress worked for nearly 2 years on major revisions of the Elementary and Secondary Education Act—ESEA, and other legislation affecting public and private schools. The Education Amendments of 1974 (Public Law 93–380) include a viable consolidation of a number of major formula grant Federal aid to education programs. A new Special Projects Act similarly consolidates both selected new and existing project grant programs under one authority.

The question of a more equitable distribution of Federal funds for the education of disadvantaged children was thoroughly considered the past 2 years by both Houses of Congress. The resulting new law not only makes significant changes in the ESEA title I formula but also mandates a study on the whole question of poverty measures for the distribution of title I funds.

The Education Amendments of 1974 contain also perhaps the most substantive reform of the Public Law 81–874 impact aid program since its inception in 1950.

All in all, the Education Amendments of 1974 offer more potential for decisionmaking by local and State educational agencies than possibly any elementary and secondary legislation in recent years. In short, in all areas of concern in the growth report, the Congress has acted and improved the legislation providing Federal aid to education.

MANPOWER

Mr. President, I am profoundly distressed that the brief statements on manpower in the report reveal no awareness of the critical unemployment problems faced by the Nation. They merely recount history and repeat the administration's budget request. With the consensus that unemployment will climb well over 6 percent by the beginning of next year, manpower policy must be used as an active agent to combat unemployment.

Together with Senator JAVITS, I recently introduced legislation to provide funds for an immediate expansion of the public service jobs program—the "PEP" assistance under the Emergency Employment Act and the 1973 Comprehensive Employment and Training Act. With 5.4 million Americans unemployed right now, the need for a rapid and effective Federal response is urgent.

It must be recognized that Federal Government policy must be directed, at the present time, toward both combating inflation and preventing a further descent into recession. But this policy would be far more effective if Federal assistance resulted in the provision of employment opportunities in important work that needs to be done in our communities, rather than in a further nonreturnable public cost for welfare aid.

Beyond this immediate step, however, we must have a comprehensive manpower policy to fulfill every American's right to useful job opportunities at fair rates of compensation. The Equal Opportunity and Full Employment Act of 1976, S. 3947, which I recently introduced, backs up these rights by explicit executive, legislative, and judicial machinery.

An effective national growth and development policy must address the pervasive social problems where large groups of people have been told, in effect, that they are not needed. We must create labor supply analysis and planning mechanisms at all levels of Government, as well as further direct job creation programs, to assure the fullest opportunity for our people to use their abilities in gainful employment.

SELECTED HUMAN CONCERNS: EQUITY AND GROWTH POLICY

This section of the report is concerned almost exclusively with the aged. Generally the report contains a good discussion of the problems of the aged. Particularly worth noting in this respect are the discussions related to:

First. The standard of living of social security beneficiaries and how the income of these persons is falling behind that of workers even with cost-of-living benefit increases; and

Second. Retirement age policies, taking into consideration the phenomenon of increased life expectancy with reduced work life expectancy.

Unfortunately, the subsection on Federal response does not address itself to these issues.

Not discussed in the problem section is the subject of income adequacy—for persons receiving supplemental security income, for example. For these beneficiaries, the income problem is not just a relative one, but an absolute one of how to purchase necessities and make ends meet with very little income. A large number of elderly including those depending on SSI are living on incomes below the poverty threshold.

One of the major proposals set forth in this report is an overhaul of income maintenance and social service programs to obtain a system which "* * * promotes equal treatment regardless of residence, encourages self-support for those capable of it, is as simple as possible to administer, is based on objective criteria, and does not require an increased tax burden." Unfortunately, the problems section does not discuss the reasons for such a proposal, nor is there any discussion as to how such a goal might be realized. In addition, although this may be a worthwhile goal to deal with the maze of programs now attempting to solve problems related to needed income and services, immediate questions can be raised with regard to the adequacy level of the programs—as shown above. The concept of "equal treatment regardless of residence," is also debatable. Social security benefits operate this way, but SSI, by providing for State supplementary payments, takes into account the differences in living costs among the States. Good arguments have been made for each approach.

The discussion in the report of dependency is interesting, but it does not go far enough. Table 1 on page S-13 shows that while the dependency ratio of elderly to workers is projected to increase over the next 50 years, this is more than compensated by the reduction in dependency ratios of nonworkers aged zero to 17. In fact, the dependency ratio of all nonworkers is projected to decrease from 77.2 in 1970 to 63.8 in 2020. This would appear to make it possible to increase income maintenance programs for older persons, perhaps to provide for basic adequacy of income, without putting an additional strain on the working population. Policy implications of these projections with a discussion of possible shifts in programs from the younger to the older population should be developed.

The discussion of income maintenance for no apparent reason is limited solely to problems of the aged. There is no mention of AFDC, food stamps, or social service programs for, or problems or, other population groups.

ECONOMIC ADJUSTMENT

The recommendations on economic adjustment in the draft growth report are the same as those contained in the February 1, 1974, report of the Office of Management and Budget and the Department of Commerce entitled "Report to the Congress on the Proposal for an Economic Adjustment Program." These were later embodied in S. 3041, the Economic Adjustment Act of 1974. The recommendations would promote economic adjustment through a program of block grants to the States. These could be used for a variety of purposes to prevent persistent unemployment, underutilization of resources, deterioration of communities, and alleviation of economic distress in areas already suffering from persistent and substantial unemployment.

The basis for the economic adjustment recommendations was the report by OMB and Commerce. The growth study referred to this study. It concluded that—

> Current programs do not provide the basis for effective efforts to promote economic growth and adjust to structural changes. The programs are primarily focused on aiding distressed areas after damage is done and there is not adequate emphasis on avoiding creation of new distressed areas.

The emphasis of the administration recommendations was on two aspects of adjustment. One was to increase the ability of States and local governments to direct assistance where they thought it was needed. The second was to bring in new tools and criteria for providing assistance to promote economic adjustment. Funds under the administration program would go to the States, which would then distribute them to substate areas. State eligibility for funds would require the submission and approval of a State plan describing how the funds would be used. The logic behind this emphasis on State and substate areas is that States and local jurisdictions know what their problems are and how best to handle them. The OMB-Commerce report felt that a strong Federal role in determining the eligibility of areas was "* * * entirely unacceptable because it would continue to give Federal civil servants the primary power in determining the use of the funds."

This emphasis on State and local people determining their needs can be countered by the argument that without Federal guidance many States would have to go through the process of creating a staff to decide on the use of development funds. Many could go through the same unsuccessful experiences that were encountered by the development programs they were meant to replace.

One of the basic purposes of the administration's economic adjustment proposal was to make it possible for localities to move quickly and provide early adjustment assistance when needed. This would provide aid to areas suffering structural unemployment before they became places of high unemployment.

The desire to overcome structural problems in an area before they result in high unemployment is not a new or unique idea. It has been a primary objective of past economic development proposals and legislation. The difficulty with the administration proposal is that it gives no guidelines on how this should be done. It sets up no monitoring system to identify areas which might suffer high structural unemployment.

The administration proposal would permit and perhaps even encourage States to spend money in places which are not depressed. In the OMB-Commerce view assistance might not always go to areas suffering high unemployment due to structural changes if it was not possible or practical to bring in new industry. In many areas of this type the report felt "* * * assistance efforts should focus on bringing about an orderly adjustment to a lower base of economic activity."

There is no guarantee that a place suffering high structural unemployment would receive any assistance. This set of priorities is at odds with present economic development programs which are geared to help depressed areas.

The problems inherent in the administration proposal and the congressional adherence to the goals and philosophy of past development policy resulted in congressional revision of the administration's legislative package. Some of the administration proposals have been incorporated into the 1974 amendments to the Public Works and Economic Development Act, particularly in the new title IX. This title permits the Secretary of Commerce to make grants to States and localities which have or expect to have economic adjustment problems, and which have submitted a plan to meet these problems. These grants can be used for a wide variety of purposes including public facilities, public services, unemployment compensation, mortgage payment assistance, and planning research. The amendments, however, continue the work of the Economic Development Administration and the title V regional commissions, which the administration recommendations would have done away with.

ENVIRONMENTAL QUALITY

The significance of the environment as a determinant of the "quality of life" is scarcely noted in the report. This may reflect the misconception that "environmental" matters involve only the hinterlands and not urban America. In reality, the urban environment affects the largest number of Americans; and the poor environmental quality of urban America strikes most intensely at the minorities and poor of the city. It is these people who suffer most from air pollution, inadequate sanitary services, deteriorating transportation systems, lack of parks and recreational facilities. Their suffering includes both adverse health effects and loss of amenities.

The Council on Environmental Quality's annual report for 1971 substantiated the inner-city's "inferior environment," termed the problem "acute," and discussed how "special attention—should be given to the inner-city where many of our most severe environmental problems interact with social and economic conditions which the Nation is also seeking to improve." The 1973 report portrays a broader and updated view of the urban environment. Chapters in both reports concluded that the urban environmental problems are serious and that more attention and careful planning must be devoted to their solution.

This report on growth does not appear to address these realities of environmental degradation. This failure seems particularly poignant since these are the human problems most closely associated with the changes that occur with growth and development—an association which makes it especially regrettable that this report fails to analyze the underlying assumptions of its first finding that improvements of American's quality of life derives from growth. How does growth improve the quality of life? What kind of growth is most beneficial? What are the costs, and who must bear them?

The following environmental quality considerations deserve specific attention:

First. Regulatory strategies. The report ignores the substantive implications of long-range growth for regulatory protection of the environment. It appears that insofar as at least some pollution is a necessary byproduct of human activities, at some future point growth of human activities will result in unacceptable levels of environmental deterioration regardless of regulatory controls. Is this true? What strategies of pollution control will over the long run permit reasonable growth?

These are critical questions. The Federal Water Pollution Control Act Amendments of 1972 completely revised control strategies for water pollution on the grounds that only virtually complete water recycling—forced by the zero discharge goal—can avoid the consequences of continual growth. Is this a valid presumption? Would the strategy be appropriate for combatting air pollution, too?

Second. Toxic substances control legislation has been passed in differing forms in each Chamber of the Congress. Growth and development are leading to increased environmental burdens of, and human exposure to, toxic substances. For many of these substances the lethal or injurious long-term environmental dosages are still unknown.

Third. Safe drinking water legislation has passed the Senate, but has not been enacted. Pollution and growth of demand mean more and more people must depend on supplies of public drinking water, but surveys have documented the inadequacies of many systems—inadequacies that may pose significant health hazards. The lack of adequate capacity in the event of drought in many urban areas is serious, with the Capital region a perfect example. Again, this would appear a high priority item.

Fourth. Urban runoff and storm sewer discharges have been found to be major pollution problems. Recent reports have shown that these sources of water pollution are often the primary cause of water pollution and that construction of sewage treatment plants alone will not end the problem. Moreover, the impoundment of funds for construction of sewers and treatment plants will delay water quality improvement. And authorized funds—$18 billion—will not be adequate for total needs now estimated at over $200 billion. Whether future growth can be planned to avoid these problems of urban runoff needs careful study and the weighing of alternatives.

Fifth. Environmental impact assessment in planning is a critical need, especially as growth strains remaining resources—not only of land and minerals, but also of clean air and water. S. 3050 provides for the protection of environmental values—section 103 (2)—with specific requirements that all Federal planning programs, and policies be evaluated in terms of their environmental effects—see 901(2). Despite this critical need for assessment, however, we are faced with the fact that the recent Housing and Community Development Act, providing grants for urban programs, exempted the programs from the impact statements required by the National Environmental Policy Act. It must be recognized that growth and environmental quality must be made to work together—a proposition S. 3050 is designed to implement.

LAND RESOURCES AND LAND USE

The report fails to deal with many of the central issues involved in current efforts to reform the land use decision-making process, a reform which many people feel has the potential to guide and direct new growth and development, and which may, in the long run, provide a vehicle for implementing national growth policies.

First of all, the report does not concern itself with many of the land use problems of the day. For example, given the growing world demand for American food products, should consideration be given to limiting development of prime agricultural lands? Or is it appropriate for local communities to have veto powers over regionally needed power facilities, sewage treatment plants, or housing?

Second, the report only briefly mentions new State level land use programs, which are, in essence, experiments in implementing land use and growth policies on a statewide basis. They deserve much more attention.

Third, the report fails to recognize the enormous impact of the over 100 Federal programs that directly or indirectly affect land use on non-Federal lands, and does not discuss in detail the often competing or duplicating functions of these programs.

Finally, the report does not mention a number of other factors, such as the role of taxes, which contribute to land use patterns, nor many of the recent experimental techniques to guide land use and growth such as land banking, and transfer of development rights.

The report's single recommendation on land use simply calls for enactment of national land use policy and planning legislation to be carried out by State or local governments, without interference by the Federal Government in individual land use decisions. Similar legislation passed the Senate in 1973 (S. 268), but the House voted not to debate its counterpart (H.R. 10294) in 1974.

AGRICULTURE

This report includes an eight page statement dealing with major aspects of the domestic agricultural economy with some references to the benefits of increasing agricultural exports.

The statement summarized recent developments in the agricultural sector in a broad general manner.

For example, it was pointed out correctly, under short-term issues and problems, that uncertainties associated with the current increase in farm exports, decline in commodity stocks, high farm prices, costs, and incomes, high food prices, the energy crisis, environmental concerns, and changes in world monetary and trade policies, pose challenges to agriculture's ability to continue to produce abundant, low-cost food and fiber. It further pointed out that new directions in farm policy toward a market oriented agriculture and growing domestic and world food demand provide a basis for increasing agriculture's contribution to national growth, although problems such as the energy crisis may constrain agricultural growth.

The report, however, fails to include recommendations to deal with the major problems suggested.

Under new directions in farm policy, the report correctly states that after 40 years of rigid price support and supply management programs the Agricultural Act of 1973 furthers the movement toward a market oriented agriculture. It states that the new act focuses on the marketplace as a means to achieve farm income objectives by using target prices and deficiency payments rather than fixed-income transfers and CCC purchases of surplus commodities.

However, it fails to point out that the provisions of the new act with respect to target prices apply to only three major products, wheat, corn, and cotton. The price for grain sorghum—and barley, if included in the program—will be set in proportion to corn. Former programs remain in effect for other price-support commodities with some modifications for dairy products.

Currently there are no restrictions on production of major crops in order that increasing domestic and export demands can be met. However, under the 1973 act, if yields return to normal both in the United States and throughout the world under more favorable weather conditions than prevailed during the past 2 years, it is conceivable that agricultural production could again exceed outlets at fair prices to farmers. Under such conditions market prices could drop below current target prices, requiring Government payments to producers.

In that event payments would be made for specific crops—not on total production—produced at the normal yield for the producer's allotment.

With production costs constantly increasing, the farmer may experience a serious cost-price squeeze. This situation would tend to discourage production and to force people out of farming.

At present there is a strong feeling in the agricultural sector that target prices and loan levels are too low to provide an incentive for continued all-out production. I share this view, and have introduced legislation to accomplish such an objective. The legislation to which I refer—amendment No. 1348 to S. 2005—also provides for a system of national food and fiber reserves and short supply management mechanisms—issues which the growth report ignores.

Reference is made in the report to the fact that the effects of the energy shortage on supplies of fuel and fertilizers, on transportation cost and availability, and on world economic growth could alter world agricultural trade and appreciably change production patterns, acreage under cultivation and productivity, but offers no recommendations for a solution to these serious potential problems.

Similar generalities are stated with respect to land use, water needs, and capital requirements. Many problem areas are pointed out, but no recommendations offered.

There appear to be some rather serious shortcomings in the section entitled "The Agricultural Base." These arise from a failure on the part of the report to be current, to be specific, to be reasonably well versed in the problems which face the U.S. agricultural plant, and in some cases to be factually correct.

The sector's period of reference seems to have ended, for most topics, in 1972. Because, in the case of agriculture, events of recent months have created difficult new situations, use of current information and current statistics was absolutely essential. This failure to be up to date led the author down the primrose path in several instances.

First is the failure to mention current demands on U.S. agriculture caused by severe world food shortages and rising world prices in the past 2 years.

Second is the failure to describe recent domestic policies directed at relaxation of acreage controls and all-out production, and the resulting loss of the traditional cushion of additional, idled, production acres.

Third, the writers failed to look at current information and trends in productivity. If they had, they would have found that the rise in the productivity index has slowed, and that many experts are deeply troubled by current inability to surmount many serious barriers to increased production.

Treatment of such issues as the world food situation and the energy crisis is characteristically generalized and shallow. The report mentions "recent removals of price ceilings on fertilizers," an event which occurred a year ago, as an action which dampened export incentives and eased the domestic supply situation. Here, as elsewhere, a failure to research current information has led the author to an unrealistic generalization. Supplies of fertilizers, along with fuels and other agricultural inputs, have been and are expected to continue tight. Prices will continue high and rising, and shortages will undoubtedly continue as something more than the "spot" situation so optimistically described. Certainly the energy crisis is something few others would list under a heading of "Short-Term Issues and Problems."

The treatment of conflicting demands for land is confusing, and in some instances, completely off base. The report begins by discussing the dire consequences of losing valuable agricultural land to urban growth, and ends up by *arguing that* "agriculture functions are better near urban industrial centers because information is better, there is less uncertainty, and producers are better geared to change and economic development." Few others would support that line of thought.

The recommendations section neglects agriculture; however, there are several policy issues kicking around which should have been addressed. The report covers pasture and rangeland; with little extra effort it might well have touched on the question of policy to increase grass *feeding of* cattle to produce less expensive red meat, and release crop acreage for more food grains. The report completely omitted mention of a strategic reserve for cereal grains; this issue, along with debate over whether or not to increase food aid, is perhaps the biggest agricultural policy issue before us at the present time and should have been discussed.

FOREST RESOURCES

Mr. President, the brief one page discussion on forest resources is presented only in the most general terms and in a way that ignores the totality of resources on forested land. The importance of land for water resources is totally ignored, and there is no quantification or qualification even to timber, the only resource of the forest that is partially defined. The report correctly states that projections show that demands may double by the year 2000 with supplies not increasing. Price is forecast to increase, imports to rise and substitution of other material to increase. No mention is made of current softwood log exports.

The report glibly says that adverse consequences of this increasing demand are not inevitable. Intensive management is listed as providing the key to doubling the current volume of timber produced. However, the report ignores the fact that much of the timber that will be usable in the year 2000 is already in place and the significant amounts of undone work have not been encouraged. No prescriptions for translating dreams into reality are given; no clues are given as to the measures that need to be taken. No indication is given as to the requirements and possibilities on the private land holdings, and in particular on the farm and other nonindustrial private holdings which are the major block of forested land and far exceed both industrial and public forest combined.

In addition, in contrast to the enactment of Public Law 93-378, The Forest and Rangeland Renewable Resources Planning Act of 1974—of which I was the chief sponsor—the report notably avoids any mention of rangeland resources. The total of rangeland equals that of forest land and in combination these lands represent 1.2 billion acres in the United States, with vital values of soil, water, grass and tree cover, and fish and wildlife resources.

MINERAL RESOURCES

The discussion of mineral resources is, in the main, well done, being based largely on the 1973 report of the National Commission on Materials Policy and the 1973 Annual Report of the Secretary of the Interior on Mining and Minerals Policy.

ISSUES

The five major issues are accurately identified. However, three major issues are not cited—inadequate manpower, inadequate transportation, and insufficient energy to meet the needs for the projected increased economic growth.

In one issue cited, foreign events are said to partially hinder the development of economically sound and stable domestic mining and minerals industries; actually, the effect of such events may also enhance domestic develpoment.

In the discussion of another issue, mineral resources on the public lands, the report notes that Indian reservations are closed to mining; actually, the Indian tribes negotiate leases and other contracts with mining and exploration companies.

FEDERAL RESPONSE TO THESE ISSUES

This response is described as consisting of recommendations contained in the two reports cited above. It might have noted the absence of response to date to implement most of these recommendations, although legislation is being considered by the 93d Congress which would implement some of them.

Federal programs have been funded for research and demonstration in several mineral resource areas, especially those related to the energy fuels. This was not mentioned.

WATER RESOURCES

The general insight of this section appears rather shallow; it starts out by saying water resource availability to mineral resource availability. There are fundamental differences, however. Unlike minerals, which are stock resources of finite availability, water is a flow resource. There is so much precipitation in any region in any given year. That water can be utilized in various ways, or allowed to run its natural course back to the ocean or atmosphere. There will be a similar amount of precipitation the next year; the same volume of water may be used several times and for several purposes before it reaches the sea. The only withdrawal of substantial amounts of water is irrigation agriculture.

A very important distinction between water and minerals is that because of its low price, water is seldom worth transporting great distances. Consequently water supply and demand must always be analyzed from a regional viewpoint.

The report states that—

> Economic growth in agricultural and industrial use has and will require more efficient use of water such as recycling.

In critically water-short areas of the Southwest, there will be pressure for less consumptive use of water in irrigation and in industrial processes. The primary incentive for recycling, though, is water quality. In most parts of the country, more important than the amount of water consumed is that return flows to the stream system do not contaminate that system to reduce its utility for other purposes, instream as well as withdrawals. Enforcement of the Federal Water Pollution Control Act Amendments of 1972 should primarily encourage recycling and more efficient use of other materials which traditionally have been considered as wastes and released to the Nation's lakes and streams.

The paper rightly suggests that increased foreign demand for U.S. agricultural products and development of Western fossil fuel resources could place strong demands on water resources. If, however, the purpose of the paper is to discuss effects on national growth this deserves greater attention.

Water supply is short in many areas of the West where fossil fuel developments are planned. Since energy development can afford a much higher price for water, they may preempt water which has, or would have been, used for agriculture. The total effect on U.S. food fiber production will not be that great, but secondary effects on local economies may be quite significant. For example, if energy production buys away water from half the irrigation operations in a local area and they cease production, the various agricultural service industries in the area might not be able to survive with only half the business.

The section on water resources might be somewhat misleading in that it treats the subject almost entirely in terms of water supply. The Federal Government spends over $2 billion per year on water resources development for a variety of purposes: Flood control, navigation, shoreline protection, hydroelectric power, recreation, and so forth, as well as water supply. All of these have some effect on growth patterns. As stated, the National Water Commission has made recommendations relating to cost-sharing for water resource development. If pursued, the philosophy of these recommendations could become an issue of major importance. They essentially call for major reduction, if not termination, of Federal water resource development programs, particularly that of the Bureau of Reclamation.

WATER QUALITY

The "water quality" segment of the 1974 growth report does an adequate job in summarizing the major goals and objectives of the current water pollution control legislation, but fails to elaborate on many important facets of the water pollution control versus growth policy controversy.

By far the major oversight of the draft report is its failure to mention the $9 billion impoundment of water pollution funds under the grant program for municipal waste treatment facilities. The importance of this omission is emphasized by the recent survey of "needs" conducted by the Environmental Protection Agency, which indicates that $350 billion is needed to finance municipal facilities to control water pollution; yet, the administration has chosen to impound half of the authorized funds for water pollution control—$9 billion.

The draft report discusses sewer construction bans or restrictions when municipal facilities are in violation of permit requirements, adding that planning and management of growth are "distinctly local responsibilities" and require provision for adequate treatment of public wastes. Yet, the impoundment of water pollution control funds has caused delays in construction, placing many communities in difficult situations. According to a planner in Washington, D.C.:

> If delays are indefinite, moratorium communities will be faced with severe policy issues concerning future actions: should they permit further construction, violate the standards, or establish interim measures relying on package systems as a compromise.

Two of the basic features of the Federal Water Pollution Control Act Amendments of 1972 are the planning processes under section 208 and 303 of the act. The draft report, while briefly summarizing key elements of the section, fails to identify and analyze the effects of these planning requirements on future growth policies.

The draft report suggests that "rural areas experiencing severe pollution problems also would be taken into account in State priority lists" for funding water pollution control projects. Experience with the grant program thus far, however, has shown that less than 20 percent of total funds allocated for waste treatment have gone to rural areas under 10,000.

AIR RESOURCES

In addressing the continuing serious problem of poor and unhealthy air quality in most densely populated urban centers, the report is guilty of omission rather than commission. Its general observations about the impact of the unrelieved hazards of major identified air pollutants on healthy growth and development are valid. However, it omits recent findings of unusually high levels of some of these pollutants in less than fully developed, rural areas, and of equally high levels of air pollutants which, because they have not yet been classified as "major" are not yet subject to standards. Yet they are equally dangerous to public health and property in developed as well as undeveloped regions. That such findings are the result of special investigations rather than of a continuous, systematic measuring system points to the considerable deficiencies of the current measuring and monitoring systems, which are thus far incapable of producing adequate data for an accurate assessment of present and projected ambient air quality in all too many areas of the country.

The potential results of conversion to coal by major powerplants and industrial complexes, coupled with suspensions of control requirements and the further delay of full compliance with automobile emission standards, all mandated by the recently enacted Energy Supply and Environmental Coordination Act, are inadequately treated in this report. Also unmentioned are the likely results on the States' ability to enforce their own air pollution control programs, tailored to their individual growth needs, of the Federal preemption clauses which may be used whenever State and local programs threaten to interfere with the purposes of the act.

In citing various elements of Federal air quality regulatory programs, the report does not distinguish between proposed and promulgated regulations. Control of indirect sources and of significant deterioration of the ambient air are but two examples of proposed, but not yet promulgated, regulatory efforts. State and local governments which oppose Federal intervention in their land use and zoning ordinances may well be taken aback by the report's assumption that Federal regulations are preempting the continued exercise of these rights.

Along similar lines, the report implies that favorable natural dispersion characteristics of certain areas will influence industrial siting. The question of substituting emission dispersion for emission control remains unresolved. Congressional and EPA investigations have accumulated considerable information about the potential dangers of loading the atmosphere with pollutants from industrial stacks and of the resulting poisoning of the ambient air with sulfates and acid mist.

Lastly, in this context, the recitation of anticipated effects of transportation control plans omits mention of the fact that one of the elements of these plans—the parking surcharge—has been specifically forbidden by the Energy Supply and Environmental Coordination Act as too stringent from economic and social standpoints. Nor does the report adequately treat the problem of reducing vehicle miles traveled while adequate, rapid and affordable alternate mass transportation remains unavailable.

In sum, the report's most serious discrepancy in the area of air quality is that it largely overlooks the close interrelationship which must always exist between desirable air quality, and growth and development. A recitation of the state of the ambient air and of various items of the Federal control program is a hollow exercise if it is not coupled with a thoughtful assessment of the interlocking elements which will make or break the program.

RECREATION

Recreation is recognized as being of considerable importance in both economic terms and in fulfilling the development of the individual. The likelihood of increased leisure time is mentioned as one reason for the need to expand available recreational opportunities.

The recreation issue is not discussed in depth in the draft copy available for review. Thus, several important current topics of interest—such as the increasing concern with recreational opportunities in and near urban areas, and the impact of reduced energy supplies on recreation use and trends—are left unclarified.

The proposals for 84 million acres of park and recreation lands in Alaska have already been introduced in the Senate as S. 2917. The specific recommendations have been met with counter proposals by conservation or Alaska Native groups in such bills as S. 2918 and S. 3599.

Although a national Federal document on outdoor recreation was issued in December 1973—Outdoor Recreation: A Legacy for America—the matter is deserving of more extensive consideration as a part of any evaluation of national growth.

ENERGY

The energy section appears to be a rather shallow summary of the Nation—an energy problem as it has been stated in numerous other publications. The effort to relate this problem to the potential impact on national growth is minimal at best. Changing patterns of electricity availability are flippantly described as allowing industries depending on electric energy to become "more footloose, over time." The information content of that statement is elusive indeed. In the same paragraph, the report states that the optimum location for a nuclear powerplant would be a sparsely settled area near a large urban center. That may be the optimum but in reality such locations do not exist. Sparsely settled areas are not found adjacent to large urban centers; if they ever existed, they were developed long ago. Such statements do not contribute to the value of the report and, in fact, indicate a generl lack of understanding of national growth problems exhibited. It provides little in the way of new information and is a gross oversimplification of our serious energy problems and their potentially serious impacts. It is also disturbing to note the presumption that Project Independence will be successful in all its aspects by the Mid-1980's. One may earnestly hope that the project is that successful, but there are many obstacles that may place some energy goals beyond reach. Such a possibility, however, is not even considered in the report.

The energy recommendations are not recommendations at all, but are merely a brief restatement of administration proposals that have already been seriously considered by the Congress. No new proposals were offered. The implied energy recommendation is to do everything the administration wants under Project Independence, regardless of the consequences.

TELECOMMUNICATIONS

The draft growth report makes no mention of the role that telecommunications can contribute to national growth and development policy.

Telecommunications can be defined and discussed in many ways—in terms of its physical characteristic as a segment of the electromagnetic spectrum; in terms of its message content, be it entertainment or propaganda; or in terms of its industrial and financial implications. But basically telecommunications is a medium for transferring information. As such it is a tool—a potentially powerful tool of national growth and development policy.

The 1974 national growth report of the President largely overlooks the use of telecommunications as a factor in a national program of balanced growth and development. This is surprising since the recently published—January 14, 1974—report to the President by the Cabinet Committee on Cable Communications[1] made a specific recommendation in this area. This recommendation is the following:[2]

> Recommendation 11: Governmental authorities should assure that basic cable or other broadband communications are available to residents of rural areas and to the poor.

Even though a majority of the homes in the United States may be wired for cable and cable may be providing programing and other information services in addition to retransmission of broadcast signals, many residents of outlying rural areas may not have the option of subscribing to cable. While it may eventually become economical for cable operators to extend facilities to these areas, this may be an instance in which sole reliance on the free market incentives of cable operators may not be adequate to meet certain national policy objectives, such as the widespread availability of information.

If this becomes a significant problem in the future, the Government should take affirmative action to assure a basic level of broadband communications service for residents of outlying rural areas. We recommend that the Secretary of Housing and Urban Development and the Secretary of Agriculture be directed to follow the development of cable in rural areas and make recommendations for such Government action as they deem appropriate.

There has also been concern expressed regarding the availability of cable to the poor in urban and rural areas. Cable operators may attempt to delay or refuse to offer their service to areas where there is a high proportion of poor households. To meet this difficulty, franchising authorities should require extension of service to all portions of the franchise areas. While this may be viewed by some as a subsidy of the poor by the rich, it is not a subsidy that is unusual or very burdensome, and it could avoid the emergence of a class of citizens cut off from what could well become the information mainstream of the future. Furthermore, many governmental services directed to the poor may be provided inexpensively and most effectively by cable. Vocational training, adult education, preschool instruction, and public health information are examples of services that might be provided over cable with State or, in some instances, Federal funding. We recommend that the Secretary of Health, Education, and Welfare be directed to examine the feasibility and cost of using cable to assist in the delivery of such services, to make such information available to the State and local governments, and to include use of cable channel capacity in federally funded programs when appropriate.

The Cabinet committee report goes on to recommend a demonstration program to aid in the development of many desirable public service uses of cable, and lists a number of services that could be provided by these technologies, including:[3]

> Adult education courses and university extension instruction could be provided to individuals in their homes at times most convenient to them and in a manner tailored to their particular needs. These could include cable distribution of high school equivalency programs, vocational training, and college course work offered in conjunction with particular colleges and universities.
>
> A broad range of medical and public health information and services could be delivered to people in their homes, and channels could be used to enhance the professional training of doctors and paramedical personnel.
>
> State and local agencies could use the demonstration program to develop improved services for the collection, storage, and retrieval of a wide variety of local government information, including office hours, where-to-go for various services, and municipal code enforcement.
>
> Similarly, environmental agencies could experiment with cable in improving the effectiveness of their activities, including the monitoring, control and enforcement of air pollution standards, pollution health warnings for people with special sensitivities, and similar activities.
>
> Various businesses may wish to use facilities to test the feasibility of offering such services as use of the cable subscriber's home terminal to select and order goods from department store catalogues; to order tickets for transportation, entertainment, and cultural events; for home use of computer processing networks; for banking transactions; for files and record maintenance; and for electronic mail delivery.

The existence of the Cabinet committee cable report to the President suggests that there is, in the executive branch, an awareness of the great potential benefits that could be derived from a forceful and dynamic application of telecommunications technologies to the problems of achieving balanced national growth and development in all sectors, and particularly in the nonurban sector, of the Nation's economic and social structure.

The Departments of Housing and Urban Development, Agriculture, and Health, Education, and Welfare, and the Federal Communications Commission are already supporting activities to evaluate the usefulness of telecommunications technologies to the Nation's growth and development. For example, these agencies are supporting the work of Dr. Peter Goldmark in attempting to apply telecommunications to help create and sustain a New Rural Society—NRS. The principal purposes of NRS are, first, to reinvigorate rural America through economic, social, and cultural development stimulated by the widespread use of all forms of telecommunications to, for example, extend medical services, replace much vehicular travel, and bring the cultural, economic, and educational attractions of large cities to rural areas; second, thereby to reduce, relieve, and perhaps reverse the growing pressures on urban America caused by the steady influx of persons from rural areas; and third, thereby also to alleviate some, and perhaps a significant portion, of the energy problems caused by the Nation's high level of commuting transportation.

If demonstration and other projects of this type are successful, and the application of telecommunications technologies becomes more widely recognized as a potentially powerful instrument of national development policy, the Federal Government will need to formulate specific national goals for the use of these technologies. Such goals may well include the reorganization of the Federal telecommunications establishment along lines consistent with the broad goals of balanced national growth and development. It is not too soon to make telecommunications policy a major component of national growth policy. On the other hand, after vast investments have been made in broadband and other telecommunications systems, and after institutional relationships have become fixed, it could then be too late to use telecommunications as an effective instrument of national development policy. It appears that now is the time for the Federal Government to take the lead in evaluating the potentialities of telecommunications as an adjunct to national growth and development policy.

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[1] While the subject of the report was "cable," the report was considered by its authors to be applicable to a wide range of telecommunications technologies:

Coaxial cable, however, is only one type of broadband communications technology. Others, such as multi-channel microwave, may become available soon, while still others, such as fiber optics and laser communications, are further down the road. However, the substance of this report is applicable to the electronic distribution functions of such technologies, rather than to coaxial cable alone. We believe that our policies are sufficiently broad and flexible to accommodate developments in the emerging communications technologies. The policies are, by design, not overly sensitive to the technology employed, since the potential for abusive monopoly control of multi-channel distribution systems are inherent in the technologies that we foresee being used for mass communications purposes.

The Cabinet Committee on Cable Communications. Cable: Report to the President. Washington, U.S. Govt. Print. Off., 1974: 9.

[2] Ibid., p. 46–47.

[3] Ibid., p. 61.

SUMMARY

In closing, Mr. President, I would like to mention two additional issue areas that are critical in any consideration of national growth and development, but which almost entirely fall through the cracks of the 1974 draft growth report. These are the issues of tax policy and inflation. I mention them at this point because of their centrality in any discussion of national growth and development policy in the seventies.

The structure and function of our tax system at the Federal, State and local levels of government are widely recognized as major influences on the magnitude and distribution of growth and development. Nevertheless the draft report offers only the briefest mention of tax matters. The chapter on "State and Local Experience in Planning for Growth and Quality of Life" mentions that States "use tax incentives in one form or another" to stimulate economic development, and in other places it points out that local tax structure and policy have an impact on growth. The chapter entitled "Federal Influence on Growth and the Quality of Life" devotes only 18 lines to a discussion of tax structure and functioning. This is hardly what could be called sophisticated analysis. It seems to me a great shame, Mr. President, that the analytical resources of the executive branch were not more in evidence in the draft report's treatment of taxation and national growth.

The second issue that falls through the cracks in the draft report is that of inflation. I would hope that when the final version of the 1974 growth report appears it will reflect this most dominant of our national concerns. Inflation and the tools to fight inflation will have a direct influence on growth and development in this country. A national growth report that does not reflect this fundamental reality will be of questionable utility as an aid for formulating national growth policy or as a device for improving our understanding of national growth and development.

As I said in a statement to this body on October 9, I think the President did a very good job of defining our Nation's economic disease in his October 8 message on inflation. Although I think the President's economic program is too weak to cure our ailing economy, his diagnosis—his analysis—of the problem was good; and I would hope that a similarly thoughtful analysis of the relationship between inflation and growth will appear in the final version of the 1974 report on national growth. It is simply too important to ignore.

Mr. President, in summarizing the strengths and weaknesses of the draft 1974 growth report I believe it fair to say that although the report does begin to identify some of the important issues we as a Nation have to face, it indicates by its hesitancy to make other than the most timid of recommendations that the administration is not yet ready to come to grips with growth and development problems in this country.

Mr. President, I am confident that we as Americans have the capacity to meet the difficulties our great Nation faces; but we must not merely announce blandly, as does the draft 1974 growth report, that "the shaping of substantive policies for growth involves—creation of appropriate institutional machinery—and continuing debate about substantive issues and goals." We must come forth with tangible proposals offered for public and congressional scrutiny. I am convinced that S. 3050 is a proposal that warrants careful consideration, and I offer it for the scrutiny of my colleagues and my fellow citizens.

S. 3050 proposes just the sort of institutional machinery the draft report recommends. It proposes the creation of an Office of Balanced National Growth and Development in the Executive Office of the President. Among the functions of the office would be—

First, to provide the policy direction and coordination of all Federal and federally assisted programs for planning and land use development, programs designed to improve human resources, programs designed to allocate resources, and programs designed to develop, allocate, or conserve energy resources, within the various departments and agencies of the Government;

Second, to prepare of an annual report, to be known as the Annual Report on Balanced National Growth and Development;

Third, to national needs, goals, and priorities;

Fourth, to evaluate of effects of present and proposed Federal tax incentives and State and local government tax policies upon the private industrial mix and location in the context of balanced national growth;

Fifth, to evaluate of all present and proposed Federal credit programs; of the effects of fiscal and monetary policy and such other economic stabilization tools as may be adopted upon employment, changes in income, and the composition of economic production in the Nation and its regions; of regional resources and human resources in relation to projected development or stabilization; and of available renewable and nonrenewable national resources and management and conservation efforts relating to them;

Sixth, to analyze of tradeoffs in adoption of alternative national growth policies;

Seventh, to assign of goals, plans, and programs to departments and agencies generally;

Eighth, in coordination with the Office of Management and Budget, to develop 3-, 5-, and 10-year planned program projections;

Ninth, to establish multistate regional offices of the office in order to obtain regional and State implementation and input regarding national goals and policies affecting the allocation of resources, the development of human resources, and environmental protection;

Tenth, to establish, for purpose of coordinated planning and development, representative multistate regional bodies, and to encourage the formation of representative multijurisdictions within States;

Eleventh, to establish, within the goals of balanced economic growth cooperative mechanisms, including appropriate taxation policies, grants, and other incentives, to achieve maximum participation of private industry;

Twelfth, to establish national growth policies, approved by the President, which would require the office to participate in the review of agency and departmental budgets after they are submitted to the President or the Office of Management and Budget, but before they are submitted to Congress; and

Thirteenth, to establish a nationally coordinated, multijurisdictional, comprehensive planning process.

S. 3050 would transfer certain growth and development functions from OMB to the office; and it would create a nationwide network of multistate regional planning and development commissions, which would provide for consultation and joint decisionmaking among Federal, State, and local governments. To strengthen the capacities of State and local governments to fully participate in growth and development decisions the bill would provide comprehensive planning assistance to State and local governments in coordination with the existing 701 planning program. The bill would provide for uniform planning requirements for the various Federal grant-in-aid programs. It would establish a National Citizens Council on the American Future to advise the Office of Balanced National Growth and Development as well as the Congress in the formulation, evaluation, and implementation of national growth policies. S. 3050 would create a Joint Congressional Committee on Balanced National Growth and Development and a Congressional Office on Policy and Planning, which would work closely with the Library of Congress, the Office of Technology Assessment, and other organizations on matters related to national growth and development. Finally, among its other provisions, the bill would require thorough analysis of the growth implications of major Federal governmental actions when they are proposed.

Mr. President, I believe that S. 3050 speaks directly to the need acknowledged in the draft 1974 growth report for appropriate institutional machinery for shaping national growth and development policies. I would welcome alternative proposals from others in the Congress, and I would welcome alternative proposals from the administration as well. Unhappily, the administration has chosen to avoid making specific proposals, as demonstrated by the draft 1974 growth report.

THE RETIREMENT OF AMBASSADOR ANNENBERG

Mr. HUGH SCOTT. Mr. President, my good friend, Walter Annenberg, is preparing to leave his post as U.S. Ambassador to the Court of St. James's. He has been a great asset to our country in that important post, so my feelings are mixed in welcoming him home. We will be delighted to have him back in the United States, but saddened that his tenure as Ambassador must come to an end. He and his delightful wife, Lee, have truly distinguished themselves and the United States during their 5 year's service, for Lee has served the United States well also.

An editorial in today's Philadelphia Inquirer sums it up nicely, quoting one British Foreign Officer as having paid tribute to Ambassador Annenberg by saying,

> More than any recent ambassador he has recognized that London is not Britain.

I ask unanimous consent that this editorial be printed in its entirety in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From The Philadelphia Inquirer, Oct. 16, 1974]

WELL DONE, MR. AMBASSADOR

For the second time this year, Walter Annenberg is engaged in a round of farewells in London as he prepares to leave his post as U.S. ambassador to the Court of St. James's. After the first time around—last July—he was asked by then President Nixon to stay on a while longer. Now he is scheduled to come home Oct. 30, and though a successor still has not been named it appears that this time his goodbyes are for real.

Thus this Philadelphian nears the end of a new career which he undertook five and a half years ago amid substantial controversy over his qualifications. Since he had no diplomatic experience, his appointment was widely attributed to his wealth and friendship with Mr. Nixon and raised eyebrows on both sides of the Atlantic.

It was a tough assignment, for the post is the most prestigious in the American foreign service and Mr. Annenberg was called on to succeed one of the most skilled and respected of all U.S. diplomats, David Bruce. Not surprisingly, therefore, the novice ambassador got off to a bit of a bumpy start when he took up his place in early 1969.

As Philadelphians who knew him as head of a communications empire which once included this newspaper are aware, however, Walter Annenberg is a complicated and determined man. He took his lumps, did his homework, practiced imaginative generosity and set about winning friends and influencing people from Buckingham Palace to the often-neglected provinces.

By mid-June of 1970, Fortune magazine quoted a British Foreign Office deskman as paying this tribute to Mr. Annenberg: "More than any recent ambassador he has recognized that London is not Britain."

And by early 1972, our files show, a London correspondent reported in The Inquirer that he "has been one of the most popular ambassadors in what is perhaps Washington's most important—certainly one of its busiest—embassies and at a particularly difficult time . . . Whatever course future relations might take, Annenberg has earned the United States new respect and goodwill with the British."

For that accomplishment in difficult circumstances, we congratulate Ambassador Annenberg and wish him well as he finally achieves his goal of relinquishing the post to return home.

THE NOMINATION OF PETER FLANIGAN AS AMBASSADOR TO SPAIN

Mr. EAGLETON. Mr. President, the Foreign Relations Committee has reportedly tabled the nomination of Mr. Peter Flanigan as Ambassador to Spain. Because of the Senate rule requiring the resubmittal of nominations if Congress has been in recess for 30 days, Mr. Flanigan's nomination will apparently become null and void over the recess. Indications are that President Ford will not resubmit Mr. Flanigan's name and, if the President has in fact made that decision, I commend him for recognizing a very serious mistake.

I would like today to insert in the RECORD two articles concerning the Flanigan nomination which should be considered carefully by my colleagues in the event that this nomination is resubmitted. It is my belief that these articles contain information which is pertinent to the inquiry of the Foreign Relations Committee.

One sentence in particular struck me in the article by Mr. Walter Pincus entitled "The Case of Peter Flanigan." Mr. Pincus asked:

> What has Congress learned from the Watergate affair?

I would answer Mr. Pincus by stating that I believe that Congress has learned that individuals such as Peter M. Flanigan should not be confirmed as an Ambassador of the United States. I would only hope that the President of the United States has learned that same lesson.

Mr. President, I ask unanimous consent that the article by Mr. Pincus which was printed in the October 19, 1974, edition of The New Republic, and an article by Mr. Richard Dudman which appeared in the October 11 edition of the St. Louis Post-Dispatch, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE CASE OF PETER FLANIGAN

(By Walter Pincus)

On October 2 the Senate Foreign Relations Committee held a public hearing on former White House aide Peter Flanigan's nomination by President Ford to be U.S. ambassador to Spain. Even before it was officially announced the Flanigan nomination had stirred up opposition among Senate Democrats such as Majority Whip Robert Byrd and Thomas Eagleton. Byrd was bothered by Flanigan's role in the unusual settlement of the ITT antitrust case, and Eagleton had encountered Flanigan while investigating White House pressures on the Environmental Protection Agency. But the senators who should have been most interested in Flanigan—the members of the Foreign Relations Committee—were not. And that is odd, since these same senators have been complaining for three years about big Nixon contributors being rewarded with diplomatic posts. And Flanigan was the man in the White House who had passed along those names to Mr. Nixon in the first place. It was Flanigan to whom Nixon Finance Chairman Maurice Stans had given the list of embassy-seeking big donors after the 1968 election.

One might have thought that the committee members would at least have been keenly interested in the role Flanigan played in the appointment of Ruth Farkas as our ambassador to Luxembourg. In March 1973 before the Watergate cover-up collapsed, Mrs. Farkas had told the Foreign Relations Committee that a $300,000 contribution she and her husband made to the Nixon reelection effort in the winter of 1972–73 "had absolutely nothing to do with whether I was getting an ambassadorship or not. . . ." Rep. Louis Wyman of New Hampshire, a booster of Mrs. Farkas, sent a letter to the committee supporting that statement. The senators accepted it and approved the nomination.

In July 1974, however, Mr. Nixon's former personal lawyer and fund-raiser, Herbert Kalmbach, testified under oath before the House Judiciary Committee's impeachment inquiry and told a substantially different story. Kalmbach recalled that White House aide Flanigan had telephoned him in July or August 1971: "Peter said, 'Herb we would like to have you contact a Dr. Ruth Farkas in New York. She is interested in giving $250,000 for Costa Rica.'" Kalmbach then met with Mrs. Farkas, and she had said "words to the following effect: she said, 'well, you know, I am interested in Europe, I think and isn't $250,000 an awful lot of money for Costa Rica?'" So if Kalmbach is to be believed Mrs. Farkas had been less than forthcoming in her testimony a year earlier before the Foreign Relations Committee.

Senate confirmation hearings offer an opportunity to question a nominee such as Flanigan on any and all matters that may relate to his suitability for the position he is to assume. The hearing becomes onesided, however, if the senators asking the questions are unprepared and thus unable to judge how accurately or completely the witness is answering. The confirmation process becomes meaningless when the witness realizes the senators are ill-informed, that his answers will not later be checked, that he runs little risk of being caught if he sidesteps the truth. When Mr. Flanigan came before Sen. Fulbright's committee on October 2, he knew it had not followed up on Mrs. Farkas' incomplete if not false earlier testimony. Flanigan may or may not have known that the committee staff had pulled together only the skimpiest background material on him. A chronology of the Farkas nomination was there, but Flanigan's name hardly appeared. All the committee members really had was the incriminating Kalmbach testimony.

Chairman Fullbright had earlier turned over to Eagleton—who is not a member of the committee—responsibility for making the case against Flanigan. Fulbright did not do the job himself because, as he had told Eagleton and others, he was tired of being the lone critic of these nominations. But since Eagleton was busily engaged in a Senate floor debate on cutting off military aid to Turkey, his staff did not have time to intensively examine Flanigan's past—and no one on the Foreign Relations Committee staff was put on the job. A "shotgun" approach was therefore adopted. The Library of Congress was asked to supply copies of all recent news stories about Flanigan. These were reviewed and Eagleton's case was made primarily from them.

One additional step was taken. Eagleton asked Special Prosecutor Jaworski for a report on Flanigan's situation with regard to the ongoing investigation into selling ambassadorships. Jaworski replied that Flanigan was not facing charges based on evidence then in the prosecutor's possession. He then added that the White House, when *it* had asked about Flanigan—prior to sending up his name in nomination—had been told to read Kalmbach's testimony to the House Judiciary Committee. The second of these points ought to have been a red alert to the committee.

After Eagleton had finished his presentation, Flanigan quickly ticked off responses to the various allegations that had been made. They were familiar to him. Some he had been fending off for years. Flanigan then turned to the Farkas contribution and the Jaworski letter. He said that the special prosecutor had "thoroughly investigated" the matter and had questioned others than Kalmbach. He said Jaworski had told the White House there was "no reason not to send [Flanigan's] nomination forward." He then called on Sen. Hugh Scott, a member of the committee, who told his colleagues that *he* had talked to Jaworski and had been told by the special prosecutor that they knew "the whole story" and it did not involve Flanigan.

Within hours Jaworski's spokesmen were disputing both Flanigan's and Scott's statements. The special prosecutor was so disturbed at how he was being used that he told his staff that in the future all such questions had to be answered by letter and not over the phone.

When Flanigan was asked about the Kalmbach statement, he said that "my recollection is that [Kalmbach] asked me did I have any ideas as to people whom he should go to solicit campaign contributions. I told him that President Nixon had had" Mrs. Farkas in mind for Costa Rica. In short Flanigan had not called Kalmbach, Kalmbach had called him.

Since Rep. Wyman had set up the Farkas-Kalmbach 1971 meeting, Flanigan was asked by the committee what he had said to Wyman. Flanigan could not recall the details of that conversation. Flanigan did suggest, however, that Kalmbach's confession to the crime of selling ambassadorial posts "was in exchange for no further investigation or no further action on some other matters." He also suggested that speculation about his own role in the Farkas nomination "grows only from this one piece of testimony from Mr. Kalmbach." In fact the information that ties Flanigan closest to the Farkas case is in a file turned over to the special prosecutor by Rep. Wyman and subsequently made available to the press in New Hampshire, where Wyman is running for the Senate.

The Wyman file as well as the Kalmbach testimony and other public records show that Flanigan first became involved in the Farkas nomination in March 1969, when Wyman met with Flanigan. The congressman had been told that Mrs. Farkas' past contributions to Republican politicians such as Sen. Javits and John Lindsay would earn her no brownie points with Mr. Nixon. But Wyman was a long-time Nixon supporter, and in April 1969 he sent a personal request to President Nixon on behalf of Mrs. Farkas. In June 1969 Flanigan called Wyman to say there was no hope of a European post but that Mrs. Farkas might get Costa Rica. That same month the State Department sent the Foreign Relations Committee a letter of intent to nominate Mrs. Farkas for Costa Rica, pending FBI clearance. Ironically the committee did not know it had that letter when Mrs. Farkas first appeared before it.

One week after the letter of intent was delivered, the committee was informed the nomination was being held up. A grand jury investigation was underway in New York City involving an alleged political contribution by Alexander's, Inc., the Farkas corporation. In February 1970—with the nomination still in abeyance—Wyman was told by Flanigan that the grand jury was causing the delay. Wyman also made note of the fact that Flanigan said there were 15 other candidates for four embassy posts, all of whom were six-figure contributors to the Nixon campaign. As of that time Mrs. Farkas had apparently given the Nixon campaign nothing. Wyman's records also show that in July 1971 he was called by Flanigan who wanted Kalmbach to interview Mrs. Farkas. Their discussion covered the fact that the Farkas family had money and that she wanted to be an ambassador.

On October 20, 1971 the New York federal grand jury indicted Judge Bernard Klieger on charges of campaign fund fraud. Alexander's was named a coconspirator. The Farkas nomination was back on ice. Seven months later a jury found Klieger not guilty. Thirteen days later Mrs. Farkas accompanied by Rep. Wyman, met with Maurice Stans. According to Kalmbach Mrs. Farkas had been listed as a potential $250,000 contributor—a figure he says was given to him by Flanigan. On August 15, 1972 another letter of intent to name Mrs. Farkas ambassador, this time to Luxembourg, was received by the Foreign Relations Committee. Again an FBI investigation was begun. On September 20, 1972 Flanigan telephoned Wyman to say that President Nixon had approved the nomination. It was agreed, however, that her name would not be sent up immediately, because the White House did not "want to fuel fires . . . before the first of the year." Eight days after the Flanigan phone call Mrs. Farkas met again with Finance Chairman Stans and within a week a $300,000 contribution began to flow into the Nixon treasury from the Farkas family. The final Farkas check, for $5000, was received on February 21, 1973. Six days later her nomination went to the Senate.

What has Congress learned from the Watergate affair? Unless committees such as Foreign Relations begin to take their responsibilities more seriously, the answer must be "not much." It would be relatively simple, after all, for the committee to ask Rep. Wyman about his file and to ask Flanigan to return and explain his role not only in the Farkas nomination, but in the nominations of others who gave six-figure contributions to the Nixon campaign. The committee should not leave Flanigan and the public "twisting in the wind" by allowing the nomination to lapse without action. It should complete the record.

ELDER FLANIGAN'S BANK PRO-FRANCO

(By Richard Dudman)

WASHINGTON, Oct. 11.—A new complication has arisen in the already stalled nomination of Peter M. Flanigan as Ambassador to Spain.

Flanigan's father, Horace C. Flanigan, for many years headed a New York bank that is known in banking circles as one of the earliest and best friends of Gen. Francisco Franco, Spain's dictator for the past 35 years.

The Manufacturers Trust Co., now Manufacturers Hanover Trust Co., made a loan to Franco in the 1930s, when he was engaged in his three-year civil war in which he eventually overthrew the Republican government of Spain.

The same bank is said to have accepted for deposit the funds of Franco's National Movement only a few months after Franco landed in Spain from Morocco and began the civil war. The account is said to have become a depository for private funds contributed to Franco by American individuals and institutions, as well as funds from abroad including possibly money from Nazi Germany and Fascist Italy.

Other U.S. banks are said to have refused at that time to give Franco's provisional government this mark of financial legitimacy.

Some international bankers who know this bit of history consider the nomination of Peter Flanigan particularly appropriate and see nothing wrong with it.

Other bankers and some U.S. officials who deal with foreign affairs consider the connection unfortunate. They believe that the Flanigan nomination might be taken in Spain as a signal that the United States will be siding with Franco's Falange party in the coming struggle for succession to the 81-year-old dictator and hostile to more moderate and democratic elements.

The elder Flanigan became a vice president and director of the Manufacturers Trust Co., in 1931 and was president from 1951 to 1956 and chairman of the board from 1956 to 1961. He is credited by fellow bankers with having led in transforming a neighborhood bank into a major institution with an international business.

When Manufacturers Trust merged with the Hanover Trust Co. to form Manufacturers Hanover Trust in 1961, Horace Flanigan was chairman of its executive committee until 1962 and still maintains an office there.

Horace Flanigan has told the Post-Dispatch in a telephone interview that the bank made a loan to Franco's provisional government during the civil war. He said he had nothing to do with the transaction personally and did not know the amount.

That loan, as well as later loans after Franco came to power, were arranged, he said, by another vice president of the bank, the late G. Butler Sherwell. He described Sherwell as "the best front man I've ever known" for Latin America and Portugal and Spain.

"Sherwell was pretty astute and saw that Franco was going to win," the elder Flanigan said.

He said he could not confirm a report from another source that Manufacturers Trust also became a depository for the funds of Franco's provisional government during the civil war. But he said he would not want to deny the report, since the bank always had been in the business of seeking deposits.

Private bankers in present-day Spain are known to be familiar with the important role of Manufacturers Trust in assisting the Franco regime in its early years. They recall the bank as the chief American lender, the first to make loans to the regime, and Sherwell as a "good friend of Spain" and one who anticipated the victory of Franco.

A banking source familiar with the affairs of the bank has told the Post-Dispatch about the reported early role of Manufacturers Trust as a depository for Franco movement funds.

He described the reported action as a "very real favor" to the Franco movement at a time when it had been unable to persuade other New York banks to accept its deposits.

The source said that money from "other countries' CIAs" also probably found its way into the New York account. He said that he referred to funds intended to help Franco without being traceable. He said some such funds might have come from Germany and Italy, which also were helping Franco with weapons and troops.

The movement of such funds, however, would have been concealed through some sort of "laundering" operation like that used in the Nixon Administration's Watergate scandal, he said.

The source said he knew that the deposits in the 1930s amounted to $20,000,000 to $25,000,000.

Horace Flanigan said he was sure that any Franco deposits would not have been nearly that large or he would have known about them.

Until now, the controversy over Peter Flanigan's nomination has involved chiefly charges that he took a leading part as a White House official in the selling of ambassadorships and granting other government favors in return for political contributions.

The Senate Foreign Relations Committee postponed action on the nomination this week. Under Senate rules, it will die if the approaching pre-election recess lasts more than 30 days. Senator Robert P. Griffin of Michigan, the assistant Republican Senate leader, has urged publicly that it not be resubmitted.

URANIUM TAILINGS DISPOSAL

Mr. MOSS. Mr. President, earlier this year I introduced a bill to provide Federal assistance in rendering harmless large piles of uranium tailings spread over approximately 150 acres of land in the center of populous Salt Lake County, Utah. Scientists and public health officials, who are experts on such things as the effects of gamma rays and half-lives of radon daughters, agree the tailings are a serious health hazard, and that they should and must be removed at once.

Last year I introduced a bill to provide Federal assistance to removing these tailings, or to render them harmless. Hearings were held in March on the bill by the Joint Committee on Atomic Energy. A full case was made at that time as to Federal responsibility in the matter. Briefly it is this: The tailings were left by the Vitro Chemical Plant, which, between 1949 and 1964, produced uranium concentrate under contract with the Atomic Energy Commission. The site at which Vitro operated—a World War II defense plant facility—was made available to the Vitro company, and the company was encouraged by the Federal Government to conduct its milling operations there. AEC had regulatory control over the tailing piles during the period of the license, and was responsible for safety regulations. At no time was Vitro given to believe a hazardous health situation was in the making. Vitro met all of the AEC requirements, and acted in good faith. It was not part of their contract to remove the tailings, and to require them to do so now would cost about $4 million. This would be patently unfair. It is the unquestioned responsibility of the Federal Government to remove the health hazard it has created.

Thus far the Atomic Energy Committee has taken no further action on my bill. The Atomic Energy Commission, I am told, is still studying the situation. Meanwhile some 500,000 people in Salt Lake Valley continue to be subjected to the uncertain effects of the tailings, while those people who live or work near to them unquestionably are subjected to a serious health hazard every day.

The continued concern of the people of Salt Lake City and County over this "hot stuff," and their impatience at the lack of Federal action, was expressed in an editorial which appeared in the October 7 edition of the Salt Lake Tribune. It is entitled, "Haul 'em, Bill the AEC", and it is as heated in its way as the tailings themselves. I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

HAUL 'EM, BILL THE AEC

If a muskrat living along the banks of the Jordan River, about a mile and a quarter from the old Vitro uranium plant site, is being exposed to radiation levels high enough to be a threat to the bones of human beings, it doesn't take much thought to realize that people working closer to the site are in even greater health danger.

In fact, Dr. Robert C. Pendleton, director of radiological health and professor of biology at the University of Utah, says, "People working in the sewage treatment plant (Salt Lake City Suburban Sanitary District No. 1 on part of the old plant grounds) receive more radiation" than the Atomic Energy Commission permits its workers to be exposed to.

There are two ways to remove the danger to these workers, and any other people working close to the tailings pile left from the Vitro Chemical Co.'s operation of the plant. One, prohibit all human activity in the area. Two, remove the tailings to some other spot.

The latter course is preferable. The former would mean the sewage plant would have to be abandoned and located elsewhere, several businesses located nearby would have to be closed, a number of homes vacated and, in general, a relatively large chunk of Salt Lake County declared unfit for long-term human occupation.

Removal of the tailings is obviously the most practical. It wouldn't be done cheaply, but, the cost would be considerably less than declaring the area "off limits" to people.

Dr. Pendleton wants the tailings removed from the area, utilizing an existing railroad spur. He says the tailings could be encased in plastic, then hauled by rail to deep depressions near the Great Salt Lake, where there is no drainage, no ground water and virtually no possibility the land will ever be used.

He wants the State of Utah to remove the tailings and send the bill to the Federal government. He's right and the bill ought to be addressed to the Atomic Energy Commission. The federal government, through the AEC, created the health hazard, it ought to pay to remove it.

The AEC contracted with the Vitro company to refine uranium ore to produce uranium for nuclear weapons. This left that pile of "hot stuff" lying close by 33rd South. Vitro was, in truth, a defense contractor from the late 1940's until the plant shut down in the '60s.

Thus removal of the hazard to American citizens, created in the name of national defense, is an obligation of the U.S. government.

SOVIET REPRESSION

Mr. METZENBAUM. Mr. President, I have today sent a letter to Ambassador Dobrynin of the Soviet Union expressing my concern about the plight of Valentyn Moroz and Leonid Plyushch, two distinguished Ukrainian intellectuals who have been jailed in the Soviet Union for advocating free speech and the right of the Ukrainian people to preserve their rich and distinctive cultural tradition.

Mr. Moroz, a leading Ukrainian historian, has already served 4 years of a 14-year sentence imposed upon him for alleged "anti-Soviet agitation." His "crime" was simply to speak out for Ukrainian national rights, rights which are guaranteed under the Soviet constitution. According to recent press reports, Mr. Moroz is in a weakened physical condition after having gone on a long hunger strike to protest the manner in which he was treated by the Soviet authorities.

As I stated in my letter to Ambassador Dobrynin, it is difficult for me to believe that a great and powerful country like the Soviet Union cannot permit its own citizens to express dissenting views.

I ask unanimous consent that my letter to the Soviet Ambassador be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., October 16, 1974.

His Excellency Anatoly F. Dobrynin,
Ambassador of the U.S.S.R., Embassy of the U.S.S.R., Washington, D.C.

Dear Mr. Ambassador: I write to you in order to express my concern about reports which have come to my attention regarding the distinguished Ukrainian intellectuals, Valentyn Moroz and Leonid Plyushch.

According to Americans of Ukrainian descent with whom I have conversed as well as to reports which have appeared in the American press, Messrs. Moroz and Plyushch have been incarcerated in your country under inhumane conditions. Further, their alleged offenses seem to me questionable under the Soviet constitution, which, as I have always understood it, guarantees that national minorities may express and preserve their distinctive cultural traditions.

I find it hard to believe that a great and powerful nation like the Soviet Union cannot permit its own citizens to express dissenting opinions freely.

I urge you to convey my views on this matter to your Government and I assure you that my concerns are shared by thousands of other Americans.

Sincerely,

Howard M. Metzenbaum,
U.S. Senator.

EARLY WARNING OF POSSIBLE WORLD FOOD LOSS

Mr. MOSS. Mr. President, I bring to the attention of the Senate another of the many uses of the Earth Resources Technology Satellite—ERTS. The satellite has already shown that it can find new water sources and that it could help establish a water use management program, both of which would be essential in any serious drought condition. It can also help determine where we can make the best use of agricultural land and help survey the planted crops on that land to detect blight or disease in its early stages. With the threat of colder climate, ERTS can become invaluable by measuring ice and water movements. ERTS may become one of the advanced space technology projects upon which we will have to depend for survival.

In August and September, the Committee on Aeronautical and Space Sciences held hearings on ERTS systems. On August 6, we heard testimony from scientists that the temperature of the earth is steadily decreasing. While any small decline which is taking place may seem minimal to most of us, its effects could surely be disastrous. Recently Alexander King, president-elect of the National Federation of Institutes for Advanced Study, discussed this temperature drop.

Mr. President, I think it is important that we note the trend of natural phenomena as it affects our general existence, and particularly as it may affect future world food supplies. In that regard I would urge all of my colleagues to read the statement of Mr. King and ask that the statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Signs of the Onset of a New Climate Are Many

(By Alexander King)

The evidence is imperfect but nonetheless convincing that our new climate will develop problems very soon that will dwarf most—perhaps all—others. Signs of the onset of a new climate are many. Most important, perhaps, has been the steady cooling of average surface temperatures during the past thirty years. The total magnitude seems small—a drop of only about 0.3° C. in the earth's annual average since the nineteen forties. Even that slight cooling, however, has trimmed about a week or ten days from the growing season in middle latitude where most food is grown. More serious, a cooler climate, for complicated technical reasons, means a more variable climate. Extremes of cold and hot, wet and dry weather become more likely. We have already seen a pattern of extremes developing since about 1960, marked, for instance, in the current, tragically prolonged drought in the Sahel region of Africa; in the repeated droughts in India, unprecedented in their frequency and impact in this century; in the hot, dry summer of 1972 in the Soviet wheat fields; in the "unusual" spells of weather including droughts and floods both of which were suffered, for instance, in parts of Africa, Australia, Latin America, and in the Indian sub-continent.

Such deviations or "anomalies" will recur. At this moment the world is unprepared to cope with them. Grain reserves which used to be abundant in some regions are no longer sufficient to serve as insurance against disaster and by some estimates have dropped to such low levels that they can suffice to supply the world needs for less than one month at present consumption rates. At the same time, wasteful and excessive consumption by the affluent, along with increasing numbers of mouths to feed, strains the capacity of farmers to deliver enough food even from the best of harvests It becomes ever more difficult, expensive, and risky to open up new arable land, and at least as difficult to limit the use of marginal lands highly vulnerable to erosion and worsening of climate.

In short, the current food production system now has little flexibility with which to meet emergencies. What we have hitherto regarded as occasional emergencies, moreover, can no longer rationally be so regarded.

The facts of present climate change are such that the most optimistic experts would assign near certainty to major crop failures within a decade. If national and international policies do not take these near certain failures into account, they will result in mass deaths by starvation and probably in anarchy and violence that could exact a still more terrible toll. It would be irresponsible in those circumstances to continue passively in our present condition of helplessness: without food reserves or alternative technologies to produce food and without adequate means to redistribute food from the more favored nations or more favored groups within nations to the less favored in time of urgent need.

The most obvious and immediately practicable steps to reduce that helplessness are to encourage the production and storage of food in excess of current consumption. This should be the policy not only of the breadbasket nations but so far as possible of those most vulnerable themselves to climatic catastrophes. At best, even modest reserves will need some years of grace in good growing weather to accumulate. For the longer run (remembering that what we face is not a temporary aberration in a normally benign climate but a *new norm*) there must be intensified research into the causes of climatic change and intensified research on new sources of food.

In view of the importance of climate to all mankind, we urge the dedication of the climatic system to peaceful purposes. In recent years, there have been efforts to try to develop techniques to change weather and climate conditions. We need to take the necessary measures to insure that such techniques, if developed, are not used for hostile purposes. Moreover, with the present lack of flexibility any change of climate, natural or induced by man deliberately or inadvertently, is very likely to involve stress and suffering in various regions of the earth before the human economy becomes adjusted to the new conditions.

In issuing, this statement, we are aware of differences among experts as to the cause-and-effect relationships of observed climatic facts, and consequently as to the most likely prognoses. Professionally the differences are important, but they do not—and should not be allowed to—obscure the larger consensus that the observed changes are neither trivial nor ephemeral. Extreme variations in climate inevitably entail disasters where people are locked into expectations that the climate will not materially change. Moreover, the facts on which we have grounded this statement are only those which are generally agreed.

We conclude by urging that while scientists continue to seek more perfect understanding leading, among other things, to an improved ability to predict climate, those directly charged with making policy in national capitals and in international organizations do not wait but begin to act now. Among research needs we note that insufficient effort has so far been made to improve our knowledge of the past record of climate by collaboration of meteorological, archaeological, and historical research, and further that transdisciplinary research on the implications of climatic change needs to be encouraged.

SENATOR RANDOLPH CONTINUES HIS DILIGENT EFFORTS TO AID THE BLIND—THE SUNDAY GAZETTE-MAIL, CHARLESTON, W. VA., COMMENDS HIS LEADERSHIP—HOUSE OF REPRESENTATIVES ACTS AFFIRMATIVELY TO AID BLIND VENDORS

Mr. HUMPHREY. Mr. President, on Sunday, October 6, the Gazette-Mail in Charleston, W. Va., published an editorial, "Blind Need Help Now," emphasizing the diligent efforts of the able Senator from West Virginia (Mr. RANDOLPH). This commendation is timely recognition of his labors to refine and expand the humanitarian program under which blind persons operate vending facilities. The editorial writer correctly points out that since 1969 our colleague has been leading the fight for legislation to improve the Randolph-Sheppard Act to provide increased employment opportunities for this productive segment of our population.

Senator RANDOLPH was the author of this act in 1936 when he served in the House of Representatives and last year because of his leadership, 3,650 blind persons were provided gainful employment. Their average earnings were $7,452. However, as the Senator has consistently stressed, through his new legislation this number can, hopefully, be doubled within the next 5 years.

Nevertheless, as the Gazette-Mail editorial outlined, Senator RANDOLPH has been confronted with almost insurmountable opposition from Postal and Government employee unions in his efforts to secure enactment of this worthwhile and realistic proposal. Although the Senate approved his measures in 1970 and 1972, there was inaction in the House of Representatives presumably in large part because of these unreasonable pressures.

It is noteworthy that today the House of Representatives approved the conference report on H.R. 14225 by a vote of 334 to 0 after the Senate's unanimous approval of the same report on October 10. As Senators know, this measure, in addition to the amendments to the Rehabilitation Act of 1973, includes the blind vendor legislation sponsored by the persevering Senator. Shortly after the House action, Senator RANDOLPH issued the following statement:

> I am gratified by prompt Congressional action on the Conference Report on H.R. 14225, and particularly by today's House vote favoring the bill by 334 to 0.
>
> I am hopeful that the President quickly will sign this measure into law. With respect to the Randolph-Sheppard Act Amendments in the bill, the President's signature will mean a doubling of blind vendors in five years.

I reinforce the hope expressed by our colleague that the President will approve this important measure to provide substantial jobs for more blind persons. It will mean significant advancement in the cause of equal rights for the handicapped—a goal which Senator RANDOLPH has pursued effectively for many many years.

Mr. President, it is my privilege to recognize this special area of endeavor in which the Senator from West Virginia has worked on behalf of the handicapped citizens of our Nation.

I ask unanimous consent that the Gazette-Mail editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD as follows:

[From The Charleston (W. Va.) Sunday Gazette-Mail, Oct. 6, 1974]

Blind Need Help Now

One would think that if there is anything Congress can do expeditiously and with a minimum of effort, it would be to pass a law to prevent greedy government employes from stealing from both the United States government and the blind.

Not so.

Since 1969, West Virginia's Sen. Jennings Randolph has been leading the fight for legislation to accomplish just such purpose. His bill passed the Senate on Sept. 28, 1970—but died in a House subcommittee.

In 1971 Randolph reintroduced his bill—but it got nowhere after a House committee sent word that it "couldn't touch the bill in an election year."

Again this year it's the same story: Sen. Randolph got his bill through the Senate without a dissenting vote on June 20, but it's in trouble in the House of Representatives.

Why? A simple combination of greed and political cowardice: government employe unions demanding profits from vending machines in public buildings to finance the frivolities of their "recreation associations," and spineless congressmen shaking in their boots in fear of offending postal workers and others in their home districts.

At the mercy of this incredible situation, and also jeopardy, is the Blind Vendors Program which was initiated in 1936 under the sponsorship of Randolph, then a young congressman representing the state's Second District.

Over the years, the program has been fantastically successful, costing almost nothing in public funds and giving thousands of blind persons the dignity of being productive, self-sustaining citizens instead of wards of the government on welfare rolls.

At the present time in Charleston, for example, concession stands are operated by blind vendors in five government buildings—fortunately without apparent threat of coercive or illegal competition.

It's a different story, however in the nation as a whole. By the '60s blind vendors were earning average incomes of $6,000 a year—so government employes, backed by their unions, started muscling in by installing vending machines in public buildings to finance "employee recreation associations" for support of entertainment ranging from bowling leagues to office picnics, even swimming pools and tennis courts, and to pay for such incidentals as flowers for sick employes, wedding gifts and going away presents.

This was actually illegal because, except for the Blind Vendors Program which is covered by a specific act of Congress, federal law provides that any revenue from vending machines in a federal building belongs to the building's owners, meaning the U.S. government and the taxpayers. But the employe unions proved themselves too powerful even for the comptroller general in his efforts to enforce the law.

During the last fiscal year, the Blind Vendors Program netted about $25 million on gross sales of $120 million, representing average annual earnings of $7,428 for 3,636 participating blind operators. But this was peanuts: a spot check by the General Accounting Office at Randolph's request showed, for example, that employe associations were taking in $2.8 million at 291 post offices surveyed, while six of the 10 blind vendors audited in those same offices were making less than $3,000 annually.

Sen. Randolph has reason to believe that, with passage of his legislation, the number of blind participants could be more than doubled in less than five years, with many blind Vietnam veterans benefiting. Certainly they should be given more consideration by Congress than well-paid government employes looking only to their own comforts.

Not all government employes are greedy and callous. Vincent Connery, president of the Treasury Department union, testified in support of Randolph's bill, saying "We find it unconscionable that any union or group of federal or postal employes would deny the blind the opportunity to earn a decent living simply to provide themselves with such frivolities as turkeys, gifts and trophies."

It is time for members of the House of Representatives to show similar compassion and courage by standing up and voting for what is clearly right: the Randolph bill for the blind.

RECESS UNTIL 11:30 A.M.

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess until the hour of 11:30 a.m.

The motion was agreed to, and, at 10:35 a.m., the Senate recessed until 11:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Mansfield).

RECESS UNTIL 12:30 P.M.

The PRESIDING OFFICER (Mr. Mansfield). Without objection, the Senate will stand in recess until the hour of 12:30 p.m.

There being no objection, the Senate, at 11:31 a.m., recessed until 12:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. McIntyre).

A PALESTINIAN STATE

Mr. McCLURE. Mr. President, after a quarter of a century of bitter struggle, with tragedy and injustice on both sides, we can see the foundations emerging for a Palestinian State in the Middle East. These developments should be welcomed by both Israelis and Arabs, for without justice for the Palestinian people, there can be no true Middle East peace. And, justice demands a homeland for the Palestinians, who have for so long had to live as refugees. It is time to begin the legal structuring and negotiations leading to a new Palestine.

The recent United Nations decisions concerning the Palestinians give us both encouragement and a warning as this task proceeds. The affirmative vote by Jordan—for recognition of the Palestinian people—implies further support for creation of a new state from the Israeli-occupied lands on the west bank. But, if press reports are accurate, the threats of Prof. Nabeel Shaath must be answered firmly—the United States will not allow the destruction of the State of Israel. Palestinians and Israelis must make their peace, if they are to create and keep independent states, free from the threats of Communist-inspired aggression.

Mr. President, I believe that a recent article by Mr. Milton Viorst can give us accurate insight into the problems which will surround the creation of a new State of Palestine—if that, indeed, is to be what the Palestinian people decide to name it. In my personal meetings with Palestinians—in Lebanon, in Saudi Arabia, in Kuwait, and in Jordan—I found it difficult to truly understand the frustration and desire for independence which can result from being denied a homeland. Mr. Viorst has, I believe, captured those feelings, and I ask unanimous consent that his article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, Oct. 14, 1974]

Israeli Intransigence

(By Milton Viorst)

If one can judge from a position paper being circulated by the Israeli embassy in Washington, Secretary Kissinger's prospects in Jerusalem for making headway on the Palestinian question are virtually nil.

Throughout the Arab world, and in Israel, too, the realization has grown in recent years that no Middle East settlement is possible without satisfying the Palestinians' yearning for their own national state.

Yet Israel insists on supporting the rule over Palestinian areas of Jordan's King Hussein, whose esteem is diminishing in other Arab capitals. It rejects hints from within the Palestinian camp that suggest possible compromise.

The embassy position paper conveys painfully that Israelis—so many of whose minds have been closed by decades of anger—have learned from their own tumultuous history little about the psychology, aspirations and strategies of oppressed peoples.

The paper treats Palestinian nationalist sentiment as a negligible consideration, because it appeared so recently.

Jewish nationalism, called Zionism, grew out of European roots—and Israel would not exist today had Jews not taken a lesson from Italians, Germans, Poles and Slavs who preceded them in fighting to establish national states.

To be sure, Israelis are outraged at the terror tactics of the Palestinians, as well they might be. But freedom traditionally has grown out of acts of terror—Vietnam, Ireland, Algeria, even the United States of America.

In the years preceding 1948, the British in the Palestine mandate were outraged at Jewish terrorism—and though conventional Israeli mythology now belittles the acts of the assassins and bomb-throwers, most analysts believe that without the terrorists, the British never would have left.

The fact is that, in a struggle of the weak against the strong, terrorism works—and Israel's disproportionate military response to it has kept the Palestinian issue alive.

Finally, the position paper complains that the militants want still another partition of Palestine, to add to those of the British in 1922 and the U.N. in 1947. But why should outsiders have divided Palestine? Surely, it should be divided by and for those who live there—Arabs and Jews.

Economically, the paper says, the Palestinians would be better off living under King Hussein's Jordan—but does that matter to people who want their independence? Maybe India would be richer under Britain, or Cuba under the United States.

Of course, the Israelis have a right to be apprehensive about a Palestinian state. Of course, there are dangers. But the current system of permanent tension, mixed with increasingly frequent wars, is hardly a status quo worth preserving.

In bitterly opposing a Palestinian state, the Israeli government is isolating itself from its neighbors, from the world—and, I think, from the irreversible currents of history. More and more, a Palestinian state looks like a gamble worth taking.

THANKSGIVING DAY RECESS

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Republican leader, the Senator from Pennsylvania (Mr. Hugh Scott), and myself, I wish to make the following announcement. The joint leadership wishes to announce that the Thanksgiving Day recess period is as follows: from the conclusion of business Wednesday, November 27, until noon Monday, December 2.

RECESS UNTIL 2 P.M.

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess until the hour of 2 o'clock.

The motion was agreed to, and at 12:34 p.m., the Senate recessed until 2 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. Bennett).

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDIAN CLAIMS COMMISSION AUTHORIZATION, 1975—CONFERENCE REPORT

Mr. ABOUREZK. Mr. President, I submit a report of the committee of conference on S. 3007, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BENNETT). The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3007) to authorize appropriations for the Indian Claims Commission for fiscal year 1975, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 8, 1974, at page 34470.)

Mr. ABOUREZK. Mr. President, the House of Representatives has receded from its amendment to S. 3007, and therefore I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VETO OF H.R. 15301, INCREASE IN RAILROAD RETIREMENT ANNUITIES

Mr. HANSEN. Mr. President, the veto of the Railroad Retirement Act was a mistake—a mistake that Congress must correct for the sake of those whose present pensions and future retirement hopes depend upon it.

If this legislation is not enacted, benefits now being paid to more than one million individuals will be drastically reduced—cut in half in many cases. This would inflict great hardships on some of the most vulnerable individuals in the American economy—those on fixed incomes.

If this legislation is not enacted, the threat of bankruptcy will loom larger for the railroad retirement system—and with it the threat of grave injustice to the more than half million working railroaders who have paid into the system in good faith.

This legislation is designed to make the railroad retirement fund solvent and a bailout. The Federal expenditure provided by the measure is to finance the costs of phasing out so-called duel benefits. These benefits were made possible—over the objections of railroads and unions alike—through legislative decisions made 2 decades ago. The Railroad Retirement Act eliminates dual benefits in the future, but to protect those now receiving those benefits and those who have become vested under the present law, they must be phased out. Assumption by the Federal Government of the extra costs associated with these benefits represents a belated recognition of responsibility for the financial consequences of governmental action and if the manifest justice of this position is not compelling enough, consider the fact that any other method of raising the funds to pay these benefits during the phaseout period would be more inflationary than the mode provided by the legislation. For example, if the railroad industry were to attempt to meet the cost by passing them along in the form of a rate increase, the effect would be new increases in the costs of a wide range of consumer goods. Furthermore, the uncertainty that would be engendered by the failure of this legislation would surely have an adverse effect on upcoming national wage negotiations in the railroad industry—raising the specter of labor trouble—in one of the Nation's most essential basic industries.

This legislation was reported by the committee as the best possible solution for the railroad retirement fund and passed by both Houses of this Congress. However, if the administration can devise a more workable plan, more equitable to all concerned, I would support such a measure. Realistically, however, there is no chance—I repeat, Mr. President, there is no chance—of such legislation being prepared and passed by Congress prior to adjournment.

Consequently, as a matter of justice, as a matter of pure economic practicality, we have no alternative but to override the veto of the Railroad Retirement Act.

QUORUM CALL

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection it is so ordered.

INCREASE IN RAILROAD RETIREMENT ANNUITIES—VETO

The PRESIDING OFFICER (Mr. BENNETT) laid before the Senate a message from the House of Representatives, which was read, as follows:

> The House of Representatives having proceeded to reconsider the bill (H.R. 15301) entitled "An Act to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was
>
> *Resolved*, That the said bill pass, two thirds of the House of Representatives agreeing to pass the same.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objection of the President of the United States to the contrary notwithstanding?

Mr. HATHAWAY. Mr. President, I ask unanimous consent that Joseph Crowley have the privilege of the floor during debate and vote on this measure.

The PRESIDING OFFICER (Mr. WEICKER). Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I was greatly disappointed by the President's veto of H.R. 15301, the Railroad Retirement Act of 1974. This is an extremely important piece of legislation which has been developed over almost 2 years of negotiations within the rail industry and consideration by both Houses of Congress. This legislation is important because it finally rationalizes the railroad retirement benefit structure and places the system on a financially sound basis.

Contrary to the implications of the veto message, this goal is accomplished through a combination of actions which includes sacrifices on the part of the industry and Federal participation. The Federal contribution called for in the bill, while substantial, represents only one-third of the cost of putting the system right. The remaining two-thirds is coming from within the industry, principally from reductions in future benefits. The carriers, for their part, are assuming the full future cost of the system and are committed to covering any future increases in benefits.

The key provision of the legislation is the one which ends the accrual of so-called "dual benefits", the qualification for separate annuities under both railroad retirement and social security. But the bill does preserve these dual benefit rights for those who are already retired and receiving them as well as those not yet retired who are "vested" under both systems—social security, and the Railroad Retirement System—as of the end of this year. It is the cost of paying these benefits to this limited class of persons that would be borne by the Treasury under the bill.

Obviously, the question is why the future dual benefit cost should be carried by the general revenues. In order to explain how this situation arose and to justify the general revenue appropriations authorized in this bill, it is necessary to go back to the interrelationship between the railroad retirement and social security systems and trace the roles of the carriers, railway labor, and the Congress.

In 1951, Congress created what is called the financial interchange, under which the railroad retirement system was reinsured with the social security system. Under this program, the railroad retirement system pays to the social security system each year an amount equal to the taxes which would have been paid by all railroad employees, and by the *railroads*, if railroad service were service covered under the Social Security Act. The social security system, on the other hand, transfers to the railroad retirement system each year an amount equal to the total of social security benefits which would have been paid to all retired railroad employees, their dependents and survivors if all railroad service of the employees since 1936 had been covered under the Social Security Act. The net result of the financial interchange program has been a transfer over the years of $8.2 billion from the social security system to the railroad retirement system.

The Social Security Act prohibits payment of multiple benefits to any individual under that act.

For this reason, whenever an individual receiving railroad retirement benefits also qualifies for social security benefits, the amounts paid to the railroad retirement system under the financial interchange on account of that individual are reduced by the total of the social security benefits which that individual receives. The lost reimbursement to the railroad retirement system over the years arising out of this situation is in excess of $4 billion, and it is estimated that the present value of the future lost reimbursement which will arise out of the provisions of the bill continuing payment of both railroad retirement and social security benefits to certain individuals is an additional $4½ billion.

A principal factor leading to this $8½ billion loss to the railroad retirement account—$4 billion in the past and $4½ billion in the future—arises out of the manner in which benefits are computed under the Social Security Act. That act grants proportionately greater benefits to persons with relatively short periods of covered service and relatively low wages. In computing the amounts to be transferred to the railroad retirement system under the financial interchange arising out of the service of any individual employee, the amounts to be transferred are computed on the basis of both his railroad employment and his nonrailroad employment.

When that individual then begins to draw benefits from the social security system based upon his nonrailroad employment, the amounts by which the financial interchange reimbursement are reduced are disproportionate to the individual's total employment, railroad and nonrailroad. In other words, a person working 40 years for the railroads would get a smaller social security benefit than someone working 20 years for the railroad and 20 years from someone else. And therein lies the dual benefit problem.

H.R. 15301 eliminates this situation for the future by providing for the computation of railroad retirement tier I benefits under the social security formula based on both railroad and nonrailroad service.

So the question we were confronted with was who should bear the cost, estimated to be 3.64 percent of taxable payroll, of continuing these benefits to persons already retired and those with vested rights protected under the bill.

The Office of Management and Budget has suggested that this cost can be met by simply cutting benefits under this bill. This suggestion was rejected for three reasons: First, cutting off the benefits of those already receiving or legally entitled to them would clearly be inequitable. These individuals have a right to receive those benefits the law had led them to rely upon or expect. Second, as I have mentioned, more than half of the long-range cost of putting the overall system in actuarial balance under this bill is accomplished through significant reductions in benefits payable to future retirees.

These reductions include the prohibition of future dual benefits as well as changes in the benefit formula. Finally, since accrual of future dual benefit rights is prohibited under the bill, it seems unfair to assign this cost to people who will never be able to collect such benefits.

The question then becomes whether these costs should be assigned to the carriers. Aside from the obvious questions as to whether the carriers, particularly those in the Northeast, can afford this additional burden, it was decided that to place the cost on them would be inequitable.

In the first place, the railroads had no part in the creation of this dual benefit situation. The lost reimbursement to the railroad retirement system arising out of individuals becoming entitled to social security benefits arises out of nonrailroad employment performed by these individuals—employment which has not benefited the railroad industry in any fashion. A further factor leading to lost reimbursement arises in part out of provisions contained in the Social Security Act, and the formula for the computation of benefits thereunder—again matters over which the railroad industry has no control. With respect to legislation enacted repealing restrictions on dual benefits, the railroads have consistently opposed such legislation.

The problem of dual beneficiaries has not occurred overnight. In 1953, when the problem was discussed in the report of the Joint Committee on Railroad Retirement, established under Senate Concurrent Resolution 51, 82d Congress, approximately 15 percent of railroad retirement beneficiaries were also entitled to social security benefits. The report stated:

> With regard to persons with ten years or more of service the problem of dual benefits is not now serious, and if this ever should become a problem in the future, it could be solved by amendment to the Railroad Retirement Act, or the Social Security Act, without integration. (S. Rept. 6, Part I, 83rd Congress, 1st session, page 6).

Today approximately 40 percent of railroad retirement beneficiaries are also entitled to social security benefits. This has resulted from liberalizations in eligibility requirements for social security benefits being enacted, and from acts repealing restrictions on railroad retirement benefits for persons also receiving social security benefits.

A detailed study of the legislative history of the various congressional actions with regard to the development of the dual benefit problem clearly indicates that this increase in dual beneficiaries from 15 percent of railroad retirees to 40 percent is, in large measure, attributable to acts of Congress which have made it possible for individuals to qualify under both acts. And, as I mentioned before, the rail carriers in each instance are on record as being firmly opposed to these various actions. Each year the problem has grown just a bit greater than it was the year before, but it was not until the Commission on Railroad Retirement submitted its report in 1972 that the full dimensions of the problem became apparent. It hardly seems fair for the Federal Government to have created, maintained, and even expanded a discriminatory and irrational pension structure which in no way benefits the railroad industry and then turn around and thrust its enormous costs onto that industry.

I should point out to my colleagues that there is precedent for the approach taken in this bill. I refer here to the appropriations made from the general revenues each year to cover the cost of allowing social security and railroad retirement credits for military service. Providing these payments represents a policy decision by the Congress that it would be inequitable not to provide them—and we do pay the cost out of general revenue. By the same token, the decision which we are making in this bill—and with which few of my colleagues would quarrel—is that it would be fundamentally unfair to cut off these dual benefits to those already receiving them and those with a legally vested expectation of receiving them. And by making this decision, we assume a Federal responsibility. Just as we would not impose the social security cost on the worker's last premilitary employer, so we should not impose this dual benefit cost on the railroad industry.

Before concluding on this point, I should say a word about the effect of this bill on the present troubled state of the national economy.

The President has argued that the cost associated with this bill—by adding to the size of the Federal budget—will aggravate our already chronic inflation. A strong case can be made that exactly the opposite will happen—that a tax increase on the carriers instead of the public financing provisions of the bill would actually lead to more inflation which will hit quicker than any generated by the present bill. A simple look at the economics of the transportation industry, shows why.

The railroads, by and large, simply cannot afford to absorb the costs associated with this bill. In the industry in general these costs would sop up almost one-half of net income. And they would simply put many roads that much more in the hole. So if this cost cannot be absorbed, what happens to it? It gets passed on to shippers—and then to consumers obviously—in the form of a rate increase. And that is direct, measurable inflation in the price of every good shipped by rail, from coal to automobiles, from chemicals to wheat.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HATHAWAY. I am happy to yield to my friend and fellow supporter of this legislation, the Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, just 3 weeks ago the Senate overwhelmingly passed the Railroad Retirement Act of 1974, a bill designed to bring financial stability to the railroad retirement system and retirement security to more than 1 million current employees and retirees of the Nation's railroads. Now the President says no. He has vetoed the bill on grounds that I consider totally unwarranted, throwing into doubt the carefully considered bill that we on the Labor and Public Welfare Committee adopted with the full support of representatives of railroad labor and of management. I see no reasonable and practical alternative to this bill and urge my colleagues today to vote to override the President's veto.

The necessity of drawing upon general revenues to resolve the financial crisis of the railroad retirement system, which is the principal objection raised by the President in his veto message, represents the most equitable solution to this critical problem. What should be emphasized here is the fact that this general revenue financing is not a permanent underwriting of railroad retirement benefits. It is, rather, the one-time cost, to be paid over a period of years, of phasing out what is called the "dual benefits" problem. When this has been accomplished the railroad retirement system will be placed on a sound financial basis for the foreseeable future. It should be recognized that one of the great achievements of this bill is to eliminate the dual benefits problem once and for all, stopping the drain on the fund that threatens its bankruptcy in just the next 6 to 7 years; all other costs of the system, including any future increases, can be fully borne by the railroad industry itself.

Dual benefits have created so much difficulty because of previous congressional amendments to the Railroad Retirement Act which have allowed persons with vested benefit rights under both the Social Security Act and the Railroad Retirement Act to receive a larger combined benefit than they would have received under either system alone. Of course, the cost aspects of this bill would be reduced if we were simply to cut off dual benefits immediately. But this would clearly be inequitable to those retirees and existing employees who have already qualified for dual benefits under existing law and who have a rightful claim to them.

Another alternative, as indicated by the President, would be to put the whole phaseout cost on the carriers themselves. This, too, would be inequitable. The railroads were not a party to the relaxation of dual benefit rights and should not be penalized for actions they were not a party to nor received any benefit from. Moreover, it would have the effect of causing a substantial rise in rail transportation rates, thereby exacerbating inflation and hindering the competitive position of railroads as against other transportation modes.

Mr. President, this bill is the product of labor-management negotiations directed by the Congress itself. After long, hard, and statesmanlike bargaining, with concessions made on both sides, the bill they recommended is substantially the same as that embodied in the act we passed 3 weeks ago. I congratulate the parties for their effort as another example of the harmonious labor-management relations developing in the railroad industry.

With no feasible alternative in sight, we should vote to override the veto of the bill.

Mr. HATHAWAY. Mr. President, in short, we have isolated and ended the source of railroad retirement's difficulties—the continuation and growth of the dual benefit problem. This process has required sacrifices from both railway management and railway labor, and, we feel, requires participation by the Federal Government. Although we do not relish the necessity of this participation, it is a finite cost which seems justified by the long-range solution agreed upon in this bill.

I urge my colleagues to join me in opposing this veto and voting to settle this problem once and for all.

THE RAILROAD RETIREMENT ACT—A MOST THOUGHTLESS VETO

Mr. HUMPHREY. Mr. President, the Senate must overwhelmingly reject the President's veto of the Railroad Retirement Act, H.R. 15301. During recent years we have seen the veto power used arrogantly and callously many times, but I do not believe that it was ever used more thoughtlessly than it has been on the legislation before us today.

The President's veto message is seriously off the mark. He implies that under this bill the Railroad Retirement System would simply be bailed out by Federal spending. This is simply not true and, I fear, the President has been poorly counseled.

Except for the $285 million annual Federal cost to phase out the "dual benefit" system, the entire cost of restructuring the system will be borne by railway workers and their employers.

When one recalls that the "dual benefit" provision was created by Federal law and that the railroad retirement trust fund has been used by the Treasury as a continuing source of low-cost capital, the Federal responsibility for assuming a small portion of the cost of returning the system to financial health is obvious.

Mr. President, the Railroad Retirement Act must be enacted. It is sound legislation, carefully drafted after intensive study.

Today, more than 1.1 million retired railroad workers and their families depend on the railroad retirement system for their economic survival. In my own State, 26,900 retired Minnesota railway workers and their families depend on the continued health of the railroad retirement system for their economic security. These families cannot survive without the estimated $75 million in benefits they will receive from the system this year.

Mr. President, the railway workers of Minnesota have worked hard for their country and contributed to this pension fund as a major investment in their future. We simply must override the thoughtless veto and protect the meager pensions purchased by our railroad workers over a lifetime through their own sweat, toil, and sacrifice.

Again, I urge all of my colleagues to join me in unanimously rejecting the President's veto of the Railroad Retirement Act.

Mr. SCHWEIKER. Mr. President, as ranking Republican on the Railroad Retirement Subcommittee I strongly urge my colleagues to vote in support of this legislation, despite the Presidential veto.

H.R. 15301 passed the Senate on September 26 by a vote of 86–1. It represents the culmination of months of hard work, starting from the time when rail labor and management representatives sat down and hammered out an understanding fair to both sides. After that both the House and Senate committees went to work; we held hearings and we took testimony and we had markups and floor debate and finally both Houses passed H.R. 15301, by overwhelming majorities.

I regret that President Ford vetoed this legislation. I believe it is good legislation, insuring that our Nation's thousands of railway workers will have retirement incomes commensurate with their payments into the railroad retirement fund over a lifetime of service.

Mr. President, this bill is not a giveaway; the railroad retirement fund was created solely from private contributions, by the rail workers themselves, and the only reason any legislation is necessary now is because the Government has mismanaged this fund. If this fund had been privately invested, even conservative estimates agree that the fund would be worth approximately $4 billion more than it now is. But the fund was not privately invested; instead, the Federal Government had the benefit of the fund, and so the return was far below what it could have been and would have been on the private market, and that is why we need this bill today.

Finally, I do not think we should fight inflation by taking away legally vested benefits for which American taxpayers have contributed over a period of years. Not only is this unfair, but it is a policy which will rapidly undermine all public confidence in Government.

If the public is going to regain confidence in Government, the Government must keep its promises. H.R. 15301 keeps the promise which our Government has made to railroad workers over a period of years, and I urge my colleagues to support it.

Mr. MOSS. Mr. President, I ask unanimous consent to have printed in the RECORD the following statement on behalf of the Senator from Wyoming (Mr. MCGEE) in support of the vote this afternoon to override the Presidential veto of H.R. 15301, the railroad retirement bill. He is necessarily absent and unable to be here because of prior commitments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator McGee

The Presidential veto of H.R. 15301, the railroad retirement bill, which was overwhelmingly approved by both Houses of Congress, cannot be justified, and I, therefore, urge that the veto be overridden by Congress. Yesterday the House of Representatives, by *a vote of 360 to* 12, voted to override, and I am hopeful that the Senate will follow suit.

This legislation to reform the Railroad Retirement System has been under extensive study since 1970, first by the Commission on Railroad Retirement, as mandated by Congress, and, subsequently, by the Joint Labor-Management Railroad Retirement Negotiating Committee. In addition, extensive work has gone into this much needed reform legislation by the appropriate House and Senate Committees. It is generally recognized by all who have labored with this problem that a restructuring of the Railroad Retirement System is necessary. The railroads, the railroad unions, the Congressional Committees, and the Congress itself by an almost unanimous vote in both Houses have recognized that H.R. 15301 would accomplish this reform in a fair and equitable manner. The Administration, on the other hand, has not suggested any feasible alternative.

The consequences of our failure to override the veto must be considered. If this effort fails, legislation temporarily increasing the level of benefits by a cumulative 52 per cent will expire on January 1, 1975. Such a drastic reduction in retirement benefits, especially during this time of rampant inflation, is unthinkable. On the other hand, another temporary extension of those benefit increases, without adopting also the restructured benefit system which H.R. 15301 proposes, would simply compound the problems which we currently face and push the Retirement System closer to the brink of bankruptcy. The windfall dual benefit problem would continue unchecked as more and more employees qualified for such benefits. The deficit in the Railroad Retirement Account today is increasing at the unbelievable rate of $30 million per month, or $360 million per year. This continuing deficit exceeds by $75 million the annual cost of phasing out the dual benefit provisions of existing law over the next 25 years. It would, therefore, be false economy to delay further this reform legislation. Moreover, additional time cannot be expected to produce a new and more satisfactory solution.

I am convinced that all alternatives have been thoroughly considered and that H.R. 15301 represents the most practical and equitable solution to this broad and very complex problem which has been created for the most part by a series of legislative decisions made long ago. The Federal Government clearly has a responsibility to assist in resolving these financial problems which it helped to create and to phase out the windfall dual benefit in an equitable manner over a period of years. Those who have acquired a vested interest in the present system through employee contributions must, in all fairness, be protected.

Aside from the cost of eliminating dual benefits, the veto message sent to Congress implies that the financial crisis of the Railroad Retirement System would be solved mainly through Federal funding under H.R. 15301. This is not the case. Future benefits would be paid through employment taxes and the existing actuarial deficit in the Railroad Retirement Account would be eliminated through equitable adjustments in future benefits and the elimination of future dual benefits. The railroads pay railroad retirement taxes amounting to about 17.15 per cent of taxable payroll, as compared to the social security tax on employers of 5.85 per cent of taxable payroll. In addition, railroad employees pay railroad retirement taxes of 5.85 per cent of taxable wages, as do employees covered under social security. Therefore, as I understand it, the actuarial deficit which currently exists would be met through benefit adjustments and railroad retirement taxes paid by the railroad industry and employee payroll deductions.

It is imperative that we act now to assure a restructuring of the Railroad Retirement System so as to put it on a firm financial basis and to assure equity to railroad employees who have retired and who will retire in the future. I urge that the Senate vote to override the Presidential veto.

Mr. BAYH. Mr. President, as a strong supporter of H.R. 15301, the Railroad Retirement Act, I was keenly disappointed when the President chose the unwise course of vetoing the bill. Under the provisions of H.R. 15301, the railroad retirement system would be put on a financially sound basis for the first time in many years. Indeed, the enactment of this legislation would clearly eliminate a very real threat to the solvency of the existing system which is currently operating at an actuarial deficit of approximately $530 million a year.

The Senate Labor and Public Welfare Committee and the House Interstate and Foreign Commerce Committee spent a great deal of time deliberating over this legislation, trying to find a way to insure that railroad retirees and their families would not lose the benefits they have paid into the fund over the years, while at the same time, placing the system on a financially sound, noninflationary basis.

Both labor and management assisted in the development of this legislation, and gave their strong support to the final committee version. The Senate gave its overwhelming approval to these efforts by a vote of 86 to 1. In the House, the legislation received similar broad support with an initial vote of 343 to 10 and an override vote of 360 to 12. How could the President reject a major piece of legislation which had such clear-cut, substantial, and bipartisan support?

In his veto message, the President called the measure "inflationary." Well, we are all concerned with inflation during these economically troubled times, but does this measure really represent an inflationary threat? Let us examine it more closely.

According to the Senate Committee on Labor and Public Welfare, if the present law were left unchanged, railroad taxes would have to be increased to avoid the economic collapse of a system which is operating with an annual deficit of $530 million a year. The increase in railroad taxes would produce a consequent increase in the costs of rail services for the average user. Once again, we see the creation of an inflationary pattern which hits hardest at those that can afford it least—the average consumer.

On the other hand, the legislation—supported by overwhelming majorities in both Houses of the Congress, finances a retirement system for railroad workers without increasing railroad taxes. Under the provisions of H.R. 15301, no one presently on the rolls would suffer any reduction in the level of benefits he is receiving. Current railroad employees would be provided a guarantee of their vested retirement annuities and social security benefits. Because these benefits require some means of funding, this measure would authorize $285 million to meet these costs.

Mr. President, this bill represents months and years of hard work and careful thought by labor, management, and both Houses of the Congress. I am confident that the Senate will override the President's ill-timed and unreasoned veto of the railroad retirement bill with the same justifiable conviction it expressed on the initial passage of the bill.

In voting to override this veto, we are saying to those who rely on the railroad retirement system that they will receive the benefits to which they are entitled, and at the same time, provide American consumers and businessmen with the needed assurance that railroad taxes will not have to be increased. The vote to override this ill-advised veto is a vote for fairness and security for retired railroad workers, their dependents and surviving spouses. It is also a vote against inflation, something the President's short-sighted veto of the bill failed to recognize.

Mr. DOLE. Mr. President, I rise to announce my intention to vote an override of President Ford's veto of the legislation now before the Senate, H.R. 15301, restructuring the railroad retirement system.

Last year the Congress acted to temporarily deal with problems encountered in the railroad retirement system. Public Law 93-69 included a provision which enabled an employee to retire at age 60 with 30 years service. That legislation was only a temporary measure. During consideration in both Houses, the Congress made its intention clear to devise during this session a working and lasting plan to restructure the railroad retirement system and put it on a sound financial basis. Passage of H.R. 15301 represented the fulfillment of that Congressional commitment.

It is a commitment Congress made to thousands of retirees across the country. My interest in the bill as passed by the Senate in September of this year was rooted in my own responsibility to the 26,000 beneficiaries of the railroad retirement system who reside in Kansas and to the thousands elsewhere who deserve the security of knowing that their pension fund is secure.

While there may be some controversy over the propriety of authorizing funds from the General Treasury to pay for the phaseout, I think the committee aptly explained that it was the only acceptable and workable alternative available. That is, no justification could be made for requiring the social security system to bear the burden of any deficit—thereby necessitating further payroll tax increases.

This bill will thus authorize appropriations of $285 million annually through the year 2000 to accomplish the intended transition. No one will dispute that the price tag is substantial, but the long-range rewards in the form of stability for a very worthwhile and deserving program are even greater.

I have spent a great deal of time in recent weeks in my home State of Kansas and have talked to thousands of my constituents. There is no doubt about it, inflation and the general unsettled state of our economy is uppermost in their minds. There is no doubt about it, they are generally agreed that we must keep Federal spending to responsible limits.

Through my own votes in this session of Congress and throughout my terms in both the Senate and the House, I have sought to further the goal of fiscal responsibility for the Federal Government.

I certainly support President Ford's renewed efforts to achieve Federal fiscal responsibility and to encourage people across this country to practice inflation-fighting methods in their own household budget.

Within that overall framework of agreement with President Ford, however, I have taken exception to some specifics in his anti-inflation program, and to some specific actions he has taken in furtherance of it. The veto of this bill now before us is one such item. While the bill does involve large sums from the general fund, it also, and more importantly, assures equity for thousands of retired citizens who have a large and vital stake in the future stability of this railroad retirement fund.

Accordingly, Mr. President, I will join with those of my colleagues voting to override the Presidential veto of this important legislation.

Mr. CHURCH. Mr. President, it is with a sense of urgency that I vote to override the President's veto of H.R. 15301, a bill which would restructure the railroad retirement system and place it on a sound financial basis.

The President's veto, to my way of thinking, is based upon specious reasoning.

Moreover, his veto message ignores the sound and sensible recommendations submitted by a joint labor-management committee as prescribed in the 1973 Railroad Retirement Amendments.

Today, more than 1 million persons receive retirement and disability benefits under the railroad retirement program. And, they must be assured that this system is built upon a solid and equitable foundation.

The bill before us, which was approved by a vote of 86 to 1 in September, would help to implement these essential goals.

First, it would restructure the railroad retirement benefit into two components. One would reflect a basic social security benefit—calculated on the basis of social security covered employment and railroad service. The second tier would be a pension based on a formula applicable only to railroad service.

Second, the bill would eliminate dual benefit rights for future beneficiaries. This is largely responsible for the current deficit for the railroad system. However, persons who already have vested railroad retirement will be permitted to receive benefits computed under both systems.

The administration's solution, to reduce benefits for retirees or saddle the financially hard-pressed railroads and employees with additional taxes, it seems to me, is not only unworkable but also unfair.

Under H.R. 15301, the responsibility for funding the entire future cost of the railroad retirement system would be borne by the carriers and workers, with one exception. General revenues will be used for phasing out the dual benefit system.

The agreement reached by labor and management, I believe, is a reasonable and workable solution for the railroad retirement system.

Quite clearly, the administration's proposal to cut off benefits for railroad retirees already receiving benefits would be inequitable. It would also be especially harsh during this period of rampant inflation.

Second, the bill prohibits accrual of future dual benefits. Consequently, it would be unfair to assign this cost to persons who will never be able to collect these benefits.

The House and Senate decided that it would also be unfair to make this railroad industry shoulder the additional cost of phasing out the dual benefit—especially since the railroads had no part in creating this situation.

Finally, it should be pointed out that there is precedent for the well-timed and well-conceived use of general revenues for public retirement programs. General revenues are used, for example, to finance in part credits for military service under social security.

Mr. President, it is critically important that the railroad retirement system be placed on a sound actuarial basis.

The bill before us, which is based upon a compromise reached by labor and management, would help to achieve this goal. Like most compromises, it does not satisfy everyone in every respect. But it does represent a reasonable and effective solution to a very serious problem.

For these reasons, I shall vote to override the President's veto of H.R. 15301.

Mr. WILLIAMS. Mr. President, it is important that the Senate vote to override the President's veto of H.R. 15301, the Railroad Retirement Act of 1974 in order to maintain the credibility of the legislative process as a measure of keeping faith with the more than 1 million American workers whose pensions come from the railroad retirement system.

The reasons for the President's veto are unfounded and represent a simplistic view of the longstanding problems faced by the railroad retirement system. These reasons also reflect a complete and total disregard of the efforts of the unions, carriers, and the Congress in fashioning a reasonable, long-term financial solution to place the system on a sound footing.

Throughout the consideration of this measure, the best solution offered by the administration was to suggest that either benefits to workers be reduced, or that the railroads and employees assume an extra heavy burden of taxation to correct the system's financial imbalance.

I, for one, am not prepared to support an approach that would cut back existing benefits, nor can I support a program that would place an unreasonable tax burden on the employees or employees involved.

The approach in this bill is a fair balance of interests in resolving the problems faced by the retirement system.

This bill restructures the Railroad Retirement Act of 1937, and places it on a sound financial basis. Railroad retirement benefits will hereafter consist of two components—the first tier will be a benefit computed under the Social Security Act, counting all railroad employment as social security covered employment, and combining that service with all social security-covered employment; and a second tier of benefits based on railroad service alone computed under the Railroad Retirement Act.

This new technique of computing benefits will bring about more adequate coordination between the Railroad Retirement Act and the Social Security Act, thereby preventing future excess costs to the railroad retirement system which threaten the existing system with bankruptcy.

Persons in receipt of both railroad retirement and social security benefits as of December 31, 1974, will continue to receive benefits under both systems without any reduction in those benefits. Persons who already have vested rights under both the railroad retirement and the social security systems will in the future be permitted to receive benefits computed under both systems similarly to existing law. The excess costs of paying benefits to persons described in this paragraph will be met through appropriations estimated at $285 million per year through the year 2000.

The measure closely follows the recommendations of the Commission on Railroad Retirement that a new railroad retirement benefit formula be adopted.

The bill also makes permanent three increases in the level of railroad retirement benefits under the 1937 act which Congress, commencing in 1970, put into effect on a temporary basis pending a restructuring of the railroad retirement system. Those temporary increases, which were respectively 15 percent, 10 percent, and 20 percent of then existing benefits, would otherwise expire at the end of this year.

The main thrust of the new approach of this act is not to create a federally funded retirement system as suggested by the veto message. To the contrary, under H.R. 15301, with one exception, the cost of retirement benefits would be paid through employment taxes and the existing actuarial deficit in the railroad retirement account would be eliminated through restrictions upon future benefits that otherwise would be payable.

This one exception to Federal funding is an annual $285 million payment to be used for phasing out the dual benefit system.

The financial and actuarial soundness of the system cannot be improved by a narrowminded determination by the administration that the parties themselves must bear the cost of correction. This system was allowed to deteriorate over many years with the Government bearing a large measure of the responsibility for the problems, and it is reasonable for the general revenues to assume a part of the cost of correction.

Mr. President, when this problem first became known, Congress created a Commission to study the system. Based on the Commission's report, the Congress and Executive agreed to an approach which had the industry try and reach an equitable agreement. H.R. 15301 represents the culmination of that effort. Like most compromises, it does not satisfy everyone, but it is a reasonable approach to a definite problem and therefore warrants enactment into law by this vote today as it warranted passage by the Senate last month by the 86–1 vote.

Mr. HATHAWAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Weicker). Without objection, it is so ordered.

Under the previous unanimous-consent request, the hour of 2:30 having passed, the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The yeas and the nays are required under the Constitution, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN (when his name was called). Mr. President, on this vote I have a live pair with the Senator from Kentucky (Mr. Cook) and the Senator from Oregon (Mr. Packwood). If they were present and voting, they would vote "Yea."

If I were permitted to vote, I would vote "Nay."

Therefore, I withhold my vote.

Mr. BENNETT (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Tennessee (Mr. Baker) and the Senator from Colorado (Mr. Dominick). If they were present and voting, they would vote "Yea"; if I were at liberty to vote, I would vote "Nay." I, therefore, withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Bible), the Senator from North Carolina (Mr. Ervin), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Wyoming (Mr. McGee), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Ervin) would vote "nay."

I further announce that, if present and voting, the Senator from Alaska (Mr. Gravel), the Senator from Wyoming (Mr. McGee), and the Senator from California (Mr. Tunney) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from Kentucky (Mr. Cook), the Senator from New Hampshire (Mr. Cotton), the Senator from Nebraska (Mr. Curtis), the Senator from New Mexico (Mr. Domenici), the Senator from Colorado (Mr. Dominick), the Senator from Florida (Mr. Gurney), the Senator from North Carolina (Mr. Helms), the Senator from Oregon (Mr. Packwood), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. Fong), the Senator from Kansas (Mr. Pearson), and the Senator from Illinois (Mr. Percy) are absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. Percy) would vote "yea."

The yeas and nays resulted—yeas 72, nays 1, as follows:

[No. 479 Leg.]

YEAS—72

Abourezk
Aiken
Allen
Bartlett
Bayh
Beall
Biden
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Dole
Eagleton
Eastland
Fannin
Fulbright
Goldwater
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Magnuson
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pastore
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Weicker
Williams
Young

NAYS—1

Scott, William L.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Bennett, against
Griffin, against

NOT VOTING—25

Baker
Bellmon
Bentsen
Bible
Brock
Cook
Cotton
Curtis
Domenici
Dominick
Ervin
Fong
Gravel
Gurney
Helms
Kennedy
Long
McGee
Packwood
Pearson
Pell
Percy
Sparkman
Tower
Tunney

The PRESIDING OFFICER. On this vote the yeas are 72 and the nays, 1. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

Mr. NUNN. Mr. President, I voted to override the President's veto of H.R. 15301, but this vote was cast with an attitude of frustration—not certainty.

To be forced to choose between adding an additional 285 million dollars cost per year to the taxpayers or possibly to see hard-earned retirement benefits of railroad retirees reduced by as much as 52 percent beginning next year is, indeed, a choice of the lesser of evils.

We hear pleas that the bankrupt retirement system is not the fault of the railroads, nor of the unions, and that the legislation creating this failure was a "mistake of Congress" legislated in 1954.

Not being a part of this body in 1954, this is a difficult argument to rebut, but this "legislative error" is going to cost the taxpayers 4 billion dollars before the turn of the century.

To those well-meaning people who believe the Federal Government should run everything, I suggest they carefully study this colossal failure by the Government to compute the funding requirements for the actuarial soundness of this retirement system, and to correct this apparent problem.

Mr. President, this example is further evidence that our Federal Government is trying to do so much in so many fields that we are approaching the point where we are doing nothing well.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President——

The PRESIDING OFFICER. The Senate is not in order. The Senate will not proceed until it is in order.

The Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I rise in an attempt to satisfy the curiosity of our colleagues, knowing that there is an uncertain situation in the other body. Can the distinguished majority leader give us some sort of reading on what may happen the rest of the day?

Mr. MANSFIELD. I can only make a guess. It is my understanding that the continuing resolution was reported out under an open rule, which means that amendments ad infinitum can be offered as the day wears on. It is my understanding that at the present time a vote is being taken on the so-called Rosenthal amendment. There will be at least one other amendment that I am aware of, maybe two, perhaps three.

So after we would get through with some of the bits and pieces, odds and ends, which are noncontroversial, it would be the intention of the joint leadership to recess until a time certain, that time being decided, and that time to be dependent, upon the action of the House.

I would hope that we could conclude the disposition of the continuing resolution today, and in a manner which would permit the signature of the President.

If we do not complete it today, or if a resolution is passed which is vetoed, then I would suggest that the Senate and the Congress ought to bunker down and be prepared for a stay covering possibly the rest of the week.

Mr. HUGH SCOTT. I thank the distinguished majority leader.

Has the majority leader yet announced the time that he expects the recess to end, when we will invite Senators to return?

Mr. MANSFIELD. No; but I am glad the distinguished Republican leader made that comment. Instead of coming back the 13th, as planned, had we gone out on the 11th as anticipated, the Senate, instead, will return on Monday, November 18.

Mr. HUGH SCOTT. I thank the distinguished majority leader. I note that that is 33 days from now. Some Senators may not have been present this morning during an earlier colloquy at which time I indicated that I felt very strongly that hearings should be held on the confirmation of the Vice President-designate to give him and other witnesses a chance to appear and answer questions.

The distinguished majority leader was good enough to indicate that he also hoped that hearings could be held. I think it would be a very melancholy situation for the Congress if we let 33 days elapse in which nothing whatever is done.

Mr. MANSFIELD. Mr. President, in addition, I wish to announce again on behalf of the joint leadership that the Thanksgiving Day recess will begin at the conclusion of business on Wednesday, November 27, and the Senate will then return at noon on Monday, December 2.

Mr. HUGH SCOTT. Does the distinguished majority leader have any plans for the Christmas recess?

Mr. MANSFIELD. Not yet.

Mr. HUGH SCOTT. I thank the distinguished majority leader, I think.

HOUSE CONCURRENT RESOLUTION 84—ACCEPTING THE GIFT OF THE CENTENNIAL SAFE AND EXPRESSING THE THANKS OF THE CONGRESS TO THE LATE DONOR, MRS. CHARLES F. DEIHM

Mr. MANSFIELD. Mr. President, I send to the desk a message from the House of Representatives on House Concurrent Resolution 84, and I ask that it be laid before the Senate.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House of Representatives, which the clerk will state.

The assistant legislative clerk read as follows:

> House Concurrent Resolution 84, accepting the gift of the centennial safe and expressing the thanks of the Congress to the late donor, Mrs. Charles P. Deihm, and authorizing its display in the Capitol to create interest in the forthcoming bicentennial.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 84) was agreed to.

FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS OF 1974

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 13342.

The PRESIDING OFFICER (Mr. Weicker) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 13342) entitled "An Act to amend the Farm Labor Contractor Registration Act of 1963" by extending its coverage and effectuating its enforcement, which was:

In lieu of the matter proposed to be inserted by the said amendment, insert:

That (a) this Act may be cited as the "Farm Labor Contractor Registration Act Amendments of 1974".

(b) Unless the context otherwise requires, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision the reference shall be considered to be made to a section or other provision of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2041).

Sec. 2. Section 3 of the Act is amended by striking out the word "interstate" each place where it appears therein. The first sentence of section 3(b) is amended to delete therefrom the phrase "ten or more" and the phrase "at any one time in any calendar year". The second sentence of section 3(b) is amended to read as follows: "Such term shall not include—

"(1) any nonprofit charitable organization, public or nonprofit private educational institution, or similar organization;

"(2) any farmer, processor, canner, ginner, packing shed operator, or nurseryman who personally engages in any such activity for the purpose of supplying migrant workers solely for his own operation;

"(3) any full-time or regular employee of any entity referred to in (1) or (2) above who engages in such activity solely for his employer on no more than an incidental basis;

"(4) any person who engages in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States if the employment is subject to—

"(A) an agreement between the United States and such foreign nation; or

"(B) an arrangement with the government of any foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for through the United States by an instrumentality of such foreign nation;

"(5) any full-time or regular employee of any person holding a certificate of registration under this Act; or

"(6) any common carrier or any full-time regular employee thereof engaged solely in the transportation of migrant workers."

Sec. 3. Section 3(d) of the Act is amended to read as follows:

"(d) The term 'agricultural employment' means employment in any service or activity included within the provisions of section 3 (f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.".

Sec. 4. Section 4 of the Act is amended by adding at the end thereof the following new subsections:

"(c) No person shall engage the services of any farm labor contractor to supply farm laborers unless he first observes in the immediate possession of the farm labor contractor a certificate from the Secretary that is in full force and effect at the time he contracts with the farm labor contractor.

"(d) Upon determination by the Secretary that any person knowingly has engaged the services of any farm labor contractor who does not possess such certificate as required by subsection (c) of this section, the Secretary is authorized to deny such person the facilities and services authorized by the Act of June 6, 1933 (48 Stat. 113; 29 U.S.C. 49 et seq.), commonly referred to as the Wagner-Peyser Act, for a period of up to three years.".

Sec. 5. Section 5(a) is amended by—

(1) striking the word "and" after paragraph (2),

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon, and

(3) adding the following new paragraphs:

"(4) has filed, under such terms as the Secretary may prescribe, a statement identifying each vehicle to be used by the applicant for the transportation of migrant workers, and all real property to be used by the applicant for the housing of migrant workers, during the period for which registration is sought, along with proof that every such vehicle and all such housing currently conform to all applicable Federal and State safety and health standards to the extent that such vehicle and all such housing are under the applicant's ownership or control; and

"(5) has consented to designation of the Secretary as the agent available to accept service of summons in any action against such farm labor contractor at any and all times during which such farm labor contractor has departed from the jurisdiction in which such action is commenced or otherwise has become unavailable to accept service, under such terms and conditions as are set by the court in which such action has been commenced.".

Sec. 6. (a) Section 5(a)(2) is amended by striking the second sentence and inserting in lieu thereof the following: "In no event shall the amount of such insurance be less than the amounts currently applicable to vehicles used in the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, or amounts offering comparable protection to persons or property from damages arising out of the applicant's ownership of, operation of, or his causing to be operated any vehicle as provided herewith: *Provided*, That the Secretary shall have the discretion to issue regulations requiring insurance in the highest amounts feasible which are less than the amounts currently applicable to vehicles used in the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, if the Secretary, after due and careful consideration, determines that the insurance coverage in such amounts is not available to farm labor contractors in the same manner and in the same amounts as such coverage is available to other carriers used to transport passengers in interstate commerce;".

Sec. 7. Section 5(b) is amended by—

(1) striking "or" at the end of paragraph (9);

(2) striking the period at the end of paragraph (10) and inserting a semicolon in lieu thereof; and

(3) adding after paragraph (10) the following new paragraphs:

"(11) is not in fact the real party in interest in any such application or certificate of registration and that the real party in interest is a person, firm, partnership, association, or corporation who previously has been denied a certificate of registration, has had a certificate of registration suspended or revoked, or who does not presently qualify for a certificate of registration; or

"(12) has used a vehicle for the transportation of migrant workers, or has used real property for the housing of migrant workers, while such vehicle or real property failed to conform to all applicable Federal and State safety and health standards, to the extent of any such vehicle or real property coming within the ownership or control of such farm labor contractor."

(4) adding at the end of paragraph (7) the following: "prostitution or peonage; where the date of the judgment of conviction of any crime as specified herein has been entered within a period of five years preceding the action of the Secretary under this subsection;"

(5) striking all after the word "of" in paragraph (6) and inserting in lieu thereof the following: "any person, who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment;".

SEC. 8. Section 5 is amended by adding at the end thereof the following new subsection:

"(d) Persons issued a certificate of registration under this section shall provide to the Secretary a notice of each and every address change within 10 days after such change. The Secretary shall maintain a public central registry of all persons issued certificates of registration under this section. Persons issued a certificate of registration under this section shall provide to the Secretary documentation required under section 5(a)(5) of the Act applicable to any vehicle which the applicant obtains for use in the transportation of migrant workers and any real property which the applicant obtains or learns will be used for the housing of migrant workers during the period for which the certificate of registration is issued, within ten days after he obtains or learns of the intended use of such vehicle or real property, to the extent that such vehicle or such real property is under the ownership or control of such persons who have been issued certificates of registration.".

SEC. 9. Section 6(a) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: "and shall be denied the facilities and services authorized by the Act of June 6, 1933 (29 U.S.C. 49), upon refusal or failure to exhibit the same".

SEC. 10. Section 6(b) of the Act is amended by striking the word "and" before paragraph (5), and by striking the semicolon at the end of paragraph (5) and adding at the end thereof the following: "(6) the period of employment, (7) the existence of a strike or other concerted stoppage, slowdown, or interruption of operations by employees at a place of contracted employment, and (8) the existence of any arrangements with any owner, proprietor, or agent of any commercial or retail establishment in the area of employment under which he is to receive a commission or any other benefit resulting from any sales provided to such commercial or retail establishment from the migrant workers whom he recruits. The disclosure required under this subsection shall be in writing in a language in which the worker is fluent, and written in a manner understandable by such workers on such forms and under such terms and conditions as the Secretary shall prescribe."

SEC. 11. (a) Section 6 is amended by—

(1) striking "and" after paragraph (d),

(2) striking the period at the end of paragraph (e) and inserting in lieu thereof a semicolon, and

(3) adding at the end thereof the following new paragraphs:

"(f) refrain from recruiting, employing, or utilizing, with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment;

"(g) promptly pay or contribute when due to the individuals entitled thereto all moneys or other things of value entrusted to the farm labor contractor by any farm operator for such purposes; and

"(h) refrain from requiring any worker to purchase any goods solely from such farm labor contractor or any other person."

(b) Section 6(e) of the Act is amended by striking "interstate" each time it appears.

(c) Section 6(e) of the Act is further amended by striking the last sentence and substituting the following: "He shall additionally provide to the person to whom any migrant worker is furnished all information and records required to be kept by such contractor under this subsection, and all information required to be provided to any migrant worker under this subsection. The Secretary may prescribe appropriate forms for the recording of information required by this subsection;".

(d) Section 2(b) of the Act is amended by striking the word "interstate" the second time it appears.

Sec. 12. Section 7 is amended by adding at the end thereof the following: "The Secretary may issue subpenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths and affirmations, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this chapter, the provisions of sections 9 and 10 of the Federal Trade Commission Act of September 16, 1914 (15 U.S.C. 49, 50) (relating to the attendance of witnesses and the production of books, papers, and documents), are made applicable to the jurisdiction, powers, and duties of the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary with respect to which the Secretary commences an investigation. The Secretary shall monitor and investigate activities of farm labor contractors in such manner as is necessary to enforce the provisions of this Act.".

SEC. 13. Section 9 of the Act is amended by inserting the subsection designation "(a)" at the beginning thereof; by striking out "or any regulation prescribed hereunder"; and by striking the period at the end thereof and adding the following: ", sentenced to a prison term not to exceed one year, or both, and, upon conviction for any subsequent violation of this Act, shall be punishable by a fine not to exceed $10,000 or sentenced to a prison term not to exceed three years, or both. The Secretary shall report on enforcement of the provisions of this Act in the annual report of the Secretary required pursuant to section 9 of the Act entitled "An Act to create a Department of Labor", approved March 4, 1913 (37 Stat. 738, 29 U.S.C.). The reporting hereunder shall include, but shall not be limited to, a description of efforts to monitor and investigate the activities of farm labor contractors, the number of persons to whom certificates of registration have been issued, the number of complaints of violation received by the Secretary and their disposition, and the number and nature of any sanctions imposed.

"(b)(1) Any person who commits a violation of any regulations promulgated under this Act, may be assessed a civil money penalty of not more than $1,000 for each violation. The penalty shall be assessed by the Secretary upon written notice, under the procedures set forth herein.

"(2) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order subject to review only as provided in paragraph (3). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(3) Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(4) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(5) All penalties collected under authority of this section shall be paid into the Treasury of the United States."

(d) Notwithstanding subsection (a) of this section, any farm labor contractor who commits a violation of subsection 6 (f) of the Act or any regulations promulgated thereunder shall upon conviction be fined not to exceed $10,000 or sentenced to a prison term not to exceed three years, or both, if the person committing such violation has failed to obtain a certificate of registration pursuant to this Act or is one whose certificate has been suspended or revoked by the Secretary.

SEC. 14 (a) The Farm Labor Contractor Registration Act of 1963 is amended by redesignating sections 12, 13, and 14 thereof as sections 15, 16, and 17, respectively, and by inserting after section 11 the following:

"CIVIL RELIEF

"SEC. 12. (a) Any person claiming to be aggrieved by the violation of any provision of this Act or any regulation prescribed hereunder may file suit in any district court of the United States having jurisdiction of the parties without respect to the amount in controversy or without regard to citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

"(b) Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action. If the court finds that the respondent has intentionally violated any provision of this Act or any regulation prescribed hereunder, it may award damages up to and including an amount equal to the amount of actual damages, or $500 for each violation, or other equitable relief. Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

"(c) If upon investigation the Secretary determines that the provisions of this Act have been violated, he may petition any appropriate district court of the United States for temporary or permanent injunctive relief.

"(d) Except as provided in section 518(a) of title 28 relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this chapter but all such litigation shall be subject to the direction and control of the Attorney General.

"DISCRIMINATION PROHIBITED

"SEC. 13. (a) No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any farmworker because such worker has, with just cause, filed any complaint or instituted or cause to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceedings or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this Act.

"(b) Any worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within thirty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown, to restrain violation of paragraph (a) and order all appropriate relief including rehiring or reinstatement of the worker or damages up to and including $1,000 for each and every violation.

"SEC. 14. Any person who is furnished any migrant worker by a farm labor contractor shall maintain all payroll records required to be kept by such person under Federal law, and with respect to migrant workers paid by a farm labor contractor such person shall also obtain from the contractor and maintain records containing the information required to be provided to him by the contractor under section 6(e) of the Act."

SEC. 15. The Act is amended by addition at the end thereof of the following new sections:

"WAIVER OF RIGHTS

"SEC. 18. Any agreement by an employee purporting to waive or to modify his rights hereunder shall be void as contrary to public policy, except a waiver or modification of rights or obligations hereunder in favor of the Secretary shall be valid for purposes of enforcement of the provisions of the Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 19. There are authorized to be appropriated to carry out the purposes of this Act, such sums as may be necessary for the effective enforcement of this Act for the fiscal year ending June 30, 1975, and for each fiscal year thereafter."

SEC. 16. Section 17 of the Act (as redesignated by this Act) is amended by striking "of sections 4, 5, 6, and 8".

SEC. 17. (a) Section 10(d) of the Longshoremen and Harbor Workers' Compensation Act (33 U.S.C. 901) as amended, is further amended by adding after the words "under the Act" the following: "including any amendment or extension thereto,".

(b) Persons appointed by the Secretary of Labor after December 30, 1969, and before September 1, 1974, for the purposes of conducting hearings under title IV of the Act of December 30, 1969 (Public Law 91–173), shall for such purposes only, and not for the purposes of subsection (c) of this section and until they vacate their position, be deemed qualified hearing examiners within the meaning of section 19(d) of the Longshoremen and Harbor Worker's Compensation Act.

(c) All positions, within the Department of Labor, for hearing examiners qualified under section 3105 of title 5, United States Code, and appointed by the Secretary for the purposes of conducting hearings in accordance with section 554 of that title with respect to this Act and any law in effect on the date of enactment of this Act, shall be compensated at not less than the rate prescribed for GS–16 under section 5332 of title 5, United States Code. This subsection shall not require any individual who holds such a position at less than a grade GS–16 within the Department of Labor on the date of enactment of this Act and who does not qualify for a grade GS–16 under applicable law to be compensated at the rate prescribed under this subsection, nor shall it affect the eligibility of such persons to continue to exercise the duties of the position which they hold on the date of enactment of this Act, nor does it require such individuals who do not qualify for grade GS–16 to be removed or vacate the positions which they hold on the date of enactment. Notwithstanding any other law, the Secretary, in addition to petitions within grades GS–16, GS–17, and GS–18 allotted or assigned to the Department of Labor in accordance with law, is authorized such additional positions within grade GS–16 as may be necessary to effectuate the purposes of this subsection and subsection (d) of this section. The Secretary may appoint to such positions only hearing examiners qualified under section 3105 of title 5, United States Code, and employed by the Department of Labor at grade GS–15 on the date of enactment of this Act, and who have been appointed for the purposes of conducting hearings in accordance with section 554 of title 5, United States Code, with respect to any law in effect on the date of enactment of this Act.

(d) Notwithstanding any other law, the members of the Benefit Review Board established under the Longshoremen and Harbor Worker's Compensation Act shall be placed in positions not less than grade GS–16.

The PRESIDING OFFICER. The Senate will proceed with its immediate consideration.

The Senator from Wisconsin.

Mr. NELSON. Mr. President, the House of Representatives accepted most of the provisions of the Senate substitute version of the Farm Labor Contract Registration Act Amendments of 1973 (H.R. 13342). No conference was declared necessary on the legislation. However, Senator JAVITS, the ranking minority leader of the Labor and Public Welfare Committee, and I have had extensive discussions concerning the final version of the bill with the distinguished Senator from Oregon (Mr. HATFIELD), the distinguished Senator from Florida (Mr. CHILES) and the distinguished Senator from Washington (Mr. MAGNUSON). We have agreed upon a colloquy to clarify a specific provision which the Senate had in its version but which the House of Representatives deleted from the final version.

I understand that the distinguished Senator from Oregon has a question he would like to propound so that we can make the record clear as to the intent of this legislation.

Mr. HATFIELD. Mr. President, I thank the Senator from Wisconsin for yielding at this point to clarify the intent of the proposed legislation.

As the Senator from Wisconsin knows, out in the Pacific Northwest we have a number of row crops and berries which lean heavily upon the use of student labor for harvest of such crops. This is usually under the leadership of school teachers or other public education employees who take the responsibility of acting as crew leaders for these students. Also, during vacation periods there are parents who also will recruit students in the neighborhood to go to the fields for such harvest. Such mothers and fathers give leadership for this opportunity for employment of their youngsters.

The question I have to ask the Senator from Wisconsin is this: In the light of the action of the House of Representatives in deleting what had been a very specific exemption by the Senate committee of a 25-mile zone and a 13-week period of exemption, does the bill, as now amended and reoffered to the Senate, include or does it exempt such cases as I have indicated—namely, teachers and public education employees and parents who act as crew leaders?

Also, a second question. Does it include the permanent employee of the farmer who may hire people in the local community? I am not talking about the "day haul" people who go out and recruit employees from the streets. I am not including in this the person who may be an incidental employee of the farmer to recruit only for a short period of time. I am talking about a permanent employee of a farmer and the farmer, himself, recruiting people in the neighborhood or the local community. Does it exempt or include these three categories of workers and those relating to those workers?

Mr. NELSON. The intent is to exempt the categories of workers to which the Senator from Oregon refers.

I appreciate the Senator raising this issue so that it could be clarified for the record, and for the Department of Labor which is responsible for administering this act. It is correct that we have substantially broadened coverage of this act. We have removed the exemption for intrastate activity, have broadened the definition of "farm labor contractor" and have made other changes in the statute. In order to assure that incidental recruitment activity would not be caught up in the sweep of these amendments, the Senate version of the bill provided several exemptions. One of these was an exemption for recruitment:

> (A) solely within a 25-mile intra-state radius of his permanent place of residence and, (B) for not more than 13 weeks per year.

This amendment was deleted by the House last week when it took up the Senate amendment to the House-passed bill. I understand that Members of the House felt that the Senate language raised some concern that certain "day-haul" recruitment operations—which should definitely be covered by the protections of this act—would inadvertently be exempted. However, it was never our intention, nor, I understand, was it the intention of Members of the House, to include the type of operation, particularly affecting the States of Washington and Oregon, which the Senator has described. I therefore believe that the Senator need not be concerned. The Department, in enforcing this act, is not to consider this type of activity, about which the Senator from Oregon has expressed concern, to be subject to regulation under the act.

Mr. HATFIELD. I thank the Senator from Wisconsin.

On behalf of the Senator from Washington (Mr. MAGNUSON) and my other colleagues from the Northwest, I should like to say that we have supported the basic thrust of this bill, in terms of trying to protect migrant laborers from abuse of crew leaders and other contractors, as we have seen in evidence provided by the Senate Labor and Public Welfare Committee. Also, our basic concern was to address that bill and its regulation specifically to that area of the farm labor picture. It was not to incorporate the incidental employees who are recruited by schoolteachers or parents, or employees of public school systems, including the farmer, himself, or any employee of the farmer who is recruiting people from the local community.

I also want to support the basic thrust of including "day haul" labor to be brought under the jurisdiction of this bill.

I commend the committee for this legislation, especially now that we have the qualification that it does not include the groups I indicated earlier.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. NELSON. I yield the floor, if the Senator desires.

Mr. MAGNUSON. Mr. President, I rise to associate myself with the remarks of the Senator from Oregon and to express my appreciation, too, to the committee and the Senator from Wisconsin for having looked carefully at this matter in Washington and Oregon. This is a very practical and important matter in my State. Consequently, I am very pleased to hear the comments of the Senator from Wisconsin.

We are not at all against the thrust of the bill, but we do have the specific, but very important, problem described by the Senator from Oregon. When you deal with some of the crops, particularly the berry crops, in my State you sometimes find that only 4 or 5 days are required to get them in. It may even be shorter. Sometimes the berry crops are here and the strawberries here, and you cannot get the people.

Also, the situation with which we are concerned is much different from the kinds of situations that exist in other areas.

We have many occasions in which a teacher, on a given day, knowing the situation, will excuse the class and take the whole class out to help with the berry crop. It does not prevail with respect to a tree-fruit crop, because that involves a longer period of time.

As the Senator from Oregon mentioned, we are not trying to do anything about day hauling. We think that belongs in the bill.

I hope that this colloquy will clear up the matter with respect to our special problem in Washington and Oregon so there won't be any doubt later when the bill is implemented.

Mr. NELSON. It was not the intention of the committee to cover, with the provisions of this bill, the kind of activity that the Senator from Washington and the Senator from Oregon have just described.

Mr. MAGNUSON. We appreciate that very much.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. CHILES. Many of the growers in my State and I have a concern with a particular section of this bill. Under the provision for exemption of fulltime or regular employees of farmers, processors, canners, ginners, packing shed operators, or nurserymen who are exempt, the bill specifies that the exemption will apply if the recruitment activity is solely for his employer on no more than an incidental basis. I can understand that registration should be required of the individual whose sole job is to hire and recruit migrant labor. To do otherwise would allow for a circumvention of the purposes of the bill.

However, my concern is with the term "incidental." I do not think the committee report adequately explains what is meant by incidental duty of employment. I do not feel that the committee intended that regular employees who may perform some duties for their employer relative to securing migrant labor are to be required to register. It is my understanding that the bill aims at those who on a full-time basis hire or recruit migrant labor. I would appreciate if the distinguished Senator from Wisconsin would clarify this point for me.

Mr. NELSON. Mr. President, the purpose of this provision is to prevent farm labor contractors from avoiding registration by becoming the employee of each and every grower for whom they recruit and hire migrant workers, while at the same time providing an exemption under the act for the regular employee of a grower whose duties may include recruiting and hiring solely for his employer. The intent is stated on page 7 of the Senate report (S. Rept. No. 93-1206) on H.R. 13342, which reads as follows:

> In addition, there is a new exemption for his full-time or regular employees if their recruitment activity constitutes only an incidental duty of employment and is performed solely for him.

So I think that the committee report and this colloquy make it clear.

Mr. CHILES. To qualify that a little, the fact that he, being a permanent employee, has this activity as one of his responsibilities would not cause him to have to register, so long as he had some basis of showing that he was a permanent employee, had been, and had other duties. Even though this duty might be considered to be an important aspect of his job responsibility by his employer, the employer might say, "It is your job to do this a portion of the year," if he were a permanent employee and continued to have other duties, he would not be considered to have to register.

Mr. NELSON. The Senator is absolutely correct in the manner in which he has stated it.

Mr. CHILES. I thank the distinguished Senator from Wisconsin.

Mr. WILLIAMS. Mr. President, I urge the Senate today to pass H.R. 13342, the Farm Labor Contractor Registration Act Amendments of 1974. This bill has received widespread recognition from both agricultural employers and farm labor representatives as a necessary measure for greater economic stability in harvesting the Nation's food crops.

The House of Representatives unanimously passed H.R. 13342 this session, and the bill, with significant strengthening amendments, was passed unanimously by the Senate on October 3, 1974. The House of Representatives then unanimously passed the stronger subsequent version, with modifications, on October 11, 1974. This bill is before us today. In my estimation the present version contains all of the substantive protections for farmworkers contained in the original Senate version of the bill, and its changes reflect only procedural aspects of registration and enforcement of the act.

The present bill eliminates from the earlier Senate version an exception from the act's coverage for contractors who recruit less than 13 weeks a year within a 25-mile intrastate radius, as an unnecessary loophole to effective enforcement. It eliminates a requirement that each registrant post a $5,000 bond upon registration, and also permits the Secretary of Labor to accept liability insurance in amounts less than that required by the Interstate Commerce Commission in extraordinary situations where the Secretary, after a special determination, finds that insurance coverage applicable to owners of other vehicles subject to Interstate Commerce Commission regulations is unavailable as to vehicles of farm labor contractors on a comparable basis.

The bill revises penalty provisions under the act to provide that criminal penalties shall apply to violations of the act itself, whereas civil money penalties, imposed through the Secretary, shall apply to violations of regulations promulgated under the act, subject, however, to two variations: first, a contractor who violates section 6(f) of the act, or regulations thereunder, by the knowing employment of illegal aliens, upon conviction may be fined not to exceed $10,000 or sentenced to a prison term not to exceed 3 years or both, wherever the contractor is not duly registered under the act; second, the use by another person of an unregistered farm labor contractor may result in the denial to that person of employment service facilities under the Wagner-Peyser Act. These two sanctions exist in addition to any criminal or civil liability otherwise provided.

The compromise bill retains the section creating a private Federal remedy for violations of the act or regulations by any person. If a court finds that the respondent has committed an intentional violation it may award damages and any other equitable relief it deems appropriate. This bill deletes language from earlier versions which permitted a court to award a reasonable sum for attorney's fees and court costs to the prevailing party. It is my belief, and that of other managers of the legislation, that such language is unnecessary because existing court rules and decisional law permit courts to award attorneys fees and court costs wherever appropriate. H.R. 13342 retains the prohibition on retaliation against a person who exercises a right under the act, but eliminates earlier language creating a presumption of retaliation in certain situations. No other change is effected in either the scope of civil liability or in the nature of available remedies.

H.R. 13342 demonstrates a commendable, bipartisan effort by the managers of this legislation in both the Senate and the House to provide the maximum scope of protections and remedies to workers subjected to farm labor contractor recruitment. I urge its unanimous passage today.

Mr. President, there are also attached to this bill several amendments which relate to the administrative procedures to be followed under the Longshoremen and Harbor Workers' Compensation Act. The purpose of these amendments is to make clear what I believe to be the congressional intent when the Longshoremen and Harbor Workers' Compensation Act was amended in 1972.

The first amendment makes clear that any hearing held under that act includes amendments or extensions such as those involving black lung benefits. This means that such hearings are to be conducted in accordance with the Administrative Procedures Act by duly appointed hearing examiners. This amendment will bring proceedings of the Black Lung Benefits Act of 1972—Public Law 92-303—into conformance with similar proceedings under the Longshoremen and Harbor Workers' Compensation Act, which was clearly our original intention.

Since the Department of Labor had previously appointed persons to conduct hearings under the black lung program who might not be qualified to be administrative law judges, this provision authorizes these individuals to continue to conduct hearings under the black lung program only, notwithstanding the amendment to which I have just referred. However, we do intend that the Administrative Procedures Act requirements be followed by these individuals in all other respects.

A third amendment will require that all hearing examiner positions conducting proceedings in accordance with the Administrative Procedures Act, with respect to all laws in effect on the date of the Farm Labor Contractors Registration Act amendments of 1974 and including the Farm Labor Contractors Registration Act, are to be conducted by administrative law judges at the GS-16 level. It is intended by this amendment that the anomaly of the Department's hearings being conducted by personnel who occupy positions which vary in both classification and grade be eliminated. In this connection, the amendment provides that anyone in a position less than grade GS-16 within the Department at the time of enactment of the Farm Labor Contractors Registration Act who does not qualify for the GS-16 administrative law judge position will not be required to be given the higher grade level. However, those persons would also be allowed to continue to serve in their position at the lower grade.

Finally, there is an amendment which adjusts the grade levels of the Benefits Review Board established by the Longshoremen and Harbor Workers' Compensation Act so that every member, including the incumbents, will be compensated at a rate prescribed at least that of a GS-16. This amendment is designed to apply to this Board the established and accepted procedures of having decisions reviewed by persons of at least equal grade to those making the initial determination.

Mr. NELSON. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The PRESIDING OFFICER (Mr. William L. Scott). The question is on agreeing to the motion of the Senator from Wisconsin.

The motion was agreed to.

QUORUM CALL

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE DRUG ABUSE CONTROL ACT—CONFERENCE REPORT

Mr. BAYH. Mr. President, I submit a report of the committee of conference on S. 3355, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two houses on the amendment of the House to the bill (S. 3355) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of October 8, 1974 at page 34445.)

Mr. BAYH. Mr. President, the conference report on S. 3355, the Controlled Substances Act Extension of 1974, authorizes appropriations for the Drug Enforcement Administration—DEA—for 3 years 1975 through 1977. This bill will provide authorization for appropriations in the following amounts: $105 million for fiscal year 1975; $175 million for fiscal year 1976; and $200 million for fiscal year 1977. The House bill authorized $480 million for these 3 years. The Senate bill authorized $875 million for 5 years, including $450 for the first 3 years. The additional $30 million provided by the House was thought necessary to meet the changes made by the 1973 reorganization of our Federal drug abuse enforcement efforts, which resulted in incorporation of functions previously performed by the Bureau of Narcotics and Dangerous Drugs into the recently established Drug Enforcement Administration. The conference report adopts the House provisions.

The Senate bill contained a provision which was not included in the House bill which was intended to ban economic and military assistance to any nation which the Congress found by adoption of a concurrent resolution was not effectively banning the growing of opium poppies or preventing opium or its derivatives from being diverted into illicit markets. Although, I voted to retain this provision, a majority of my fellow conferees on this side and all of the House conferees insisted that the provision be deleted.

The conferees agreed that Congress should take action in response to the Turkish Government's decision to again permit the cultivation of the opium poppy. They were of the view, however, that a resolution such as House Concurrent Resolution 507, which passed the House on August 5, 1974, calling on the President to suspend aid to Turkey if that country fails to take steps to assure that opium is not diverted or amendments to the pending foreign assistance legislation would be a more appropriate vehicle for expressing the concern of Congress about a matter with such grave foreign policy ramifications.

Both the House and Senate bills repealed the no-knock provisions of the Controlled Substances Act. The House, however, did not repeal the no-knock provision of the District of Columbia Code. We insisted on the Senate version. Thus, the conference report adopts the repeal of both the Federal and D.C. no-knock provisions.

The conference report also adopted a provision introduced by the distinguished Congressman from Minnesota (Mr. Ancher Nelsen). This measure makes the general parole provisions of section 4202 of title 18, United States Code, specifically available to persons prosecuted before the enactment of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Finally, the conference report adopted my amendment to the Senate bill which extends the protections of section 1114 of title 18, United States Code, making it a Federal offense to assault a Federal officer, to agents of the DEA acting within the lawful course of their duties.

I would like to commend my distinguished colleague from North Carolina (Mr. Sam Ervin) for his dedication and special assistance in the conference which assured the repeal of the no-knock statutes. These provisions were not at all necessary to the rigorous enforcement of the Federal drug laws or District of Columbia criminal laws. The fact that the provisions were rarely used is in part due to the experience of many officers who believe that the use of no-knock can increase the possibility of injuries both to police and occupants and that from a safety viewpoint it is more effective to announce identity and purpose.

Additionally, the marginal utility of the no-knock provisions is outweighed by the grave dangers which they pose to the fundamental and constitutionally guaranteed right to privacy. Recent reports have documented how Government agents have broken into the homes of, and terrorized, unsuspecting and even innocent individuals. These reports have also documented how the mere existence of the no-knock authority can breed an attitude which leads to Government agents placing themselves above the law.

The no-knock provisions, and the official state of mind which they foster, are clearly at odds with the fourth amendment. That amendment—which protects individuals against unreasonable searches and seizure by the Government—requires that Government agents identify themselves and their purposes before executing any search.

By repealing the no-knock provisions, our report would leave intact the constitutional and common law principles concerning Government searches. Under those principles, as noted above, the no-knock searches would be permitted but only when exigent circumstances become known to Government agents immediately prior to their contemplated search.

Mr. President, the DEA's primary responsibility is to control the accessibility of narcotics and dangerous drugs to traffickers and abusers throughout the United States. As chairman of the Subcommittee to Investigate Juvenile Delinquency I have monitored the implementation of the 1970 Drug Act and sought to assure that the Federal agencies responsible for its enforcement acted appropriately to curb illegal importation, manufacture, distribution, and improper use of controlled drugs. We have made considerable progress in the last several years. We have obtained a drastic, but necessary reduction in amphetamine production, and have secured more appropriate control over the production and distribution of other drugs with high abuse potential, including the barbiturates and methaqualone. And this year we enacted the Methadone Diversion Act, S. 1115, which provides DEA with the additional tools necessary to curb the traffic and abuse of methadone.

However, much remains to be done. According to June 1974 DEA reports, drug deaths have increased substantially at the national level in the last two quarters of fiscal year 1974, with the major increases being made in the heroin/morphine and methadone categories. Geographically, heroin deaths have climbed in the Northeast, Central, and Western sections of the United States. Most methadone deaths reported have occurred in New York City. Mexico is becoming a significant supplier of the heroin reaching U.S. markets for illicit distribution. DEA statistics show that in the year ending June 30, 1972, 8 percent of the heroin seized in the United States was Mexican. By June 30, 1973, the amount of seized heroin from Mexico had more than quadrupled and accounted for 37.2 percent of all heroin seized in the United States. Within the past few months DEA estimates that 70 percent of the heroin reaching the United States today comes from Mexican poppies.

Last week Federal officials announced that all the indicators of heroin abuse are up again for the last 6 months. Estimates abound that the number of heroin addicts may be between 600,000 and 800,000. Dr. Robert Dupont, of the White House SAODAP Office, said:

> So we have a genuinely new situation and a worrisome one. We can no longer talk about turning the corner on heroin.

We have made some progress, but we must be forever vigilant that rhetoric about "turning the corner" on any problem not delude us into believing that we have actually accomplished our objectives.

Whether the concern is heroin or nonopiate drugs—whose youthful abusers outnumber heroin 17 to 1—the report under consideration today, S. 3355 will assist narcotic law enforcement officers in all-out effort to curb traffic and abuse and prevent legitimately produced drugs from being used for illegal nonmedical purposes. As chairman of the subcommittee, I will persist in my efforts to assure that these goals are being met.

Mr. President, I am gratified that the House and Senate conferees and their respective staffs were able to have a meeting of the minds and that we are thus able to present this conference report to the Senate today. I ask that my colleagues take immediate consideration to approve this report and clear the measure for the signature of the President.

Mr. BAYH. Mr. President, I move adoption of the conference report.

The motion was agreed to.

ORDER EXTENDING TIME FOR REPORT ON S. 1988 BY THE COMMITTEE ON ARMED SERVICES

Mr. STENNIS. Mr. President, recently, S. 1988 introduced by Mr. MAGNUSON and others, was referred to the Committee on Armed Services for a report back by November 15. We have held hearings on that bill, but the reconvening date has been exchanged to beyond November 15. I, therefore, ask unanimous consent that the time for the report back by the Committee on Armed Services be extended from November 15 to November 22.

This has been cleared by the leaders for both sides and by the Senator from Washington.

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from Virginia, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I renew my request as to S. 1988, that the reporting date by the Committee on Armed Services be changed to November 22 next.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 433—AUTHORIZATION TO TRANSMIT MATERIALS IN FILES OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO THE ATTORNEY GENERAL OF THE UNITED STATES

Mr. MANSFIELD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

> *Resolved*, That the Committee on Interior and Insular Affairs is authorized to transmit materials in the Committees files and possession relevant to this investigation to the Attorney General of the United States.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Interior and Insular Affairs.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

> Whereas, the Committee on Interior and Insular Affairs has had underway an investigation concerning a concessionaire contract between the National Park Service, Department of the Interior, and Park Reservation System, Inc., and
>
> Whereas, the Committee has completed its investigation and has concluded that the transcripts of hearings records, subpoened materials, and all other materials relevant to the investigation should be transmitted to the Attorney General of the United States for his review and appropriate action.
>
> Now therefore be it *Resolved*, That by the privilege of the Senate and by rule XXX thereof, no Member or Senate employee is authorized to produce Senate documentary evidence but by order of the Senate, and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate; and be it further
>
> *Resolved*, That the Committee on Interior and Insular Affairs is authorized to transmit materials in the Committees files and possession relevant to this investigation to the Attorney General of the United States.

RECESS UNTIL 4 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 3:19 p.m., the Senate took a recess until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. NUNN).

QUORUM CALL

The PRESIDING OFFICER. The Senate will come to order.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENS). Without objection, it is so ordered.

RECESS UNTIL 4:45 P.M.

Mr. GRIFFIN. Mr. President, with the authority of the distinguished majority leader, I ask unanimous consent that the Senate stand in recess until the hour of 4:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 4:15 p.m., the Senate took a recess until 4:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENS).

FURTHER CONTINUING APPROPRIATIONS, 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of House Joint Resolution 1163, which will be considered as having been read twice, and which the clerk will state by title.

The legislative clerk read as follows:

> A resolution (H.J. Res. 1163) making further continuing appropriations for the fiscal year 1975, and for other purposes.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE OIL AND GAS PERCENTAGE DEPLETION ALLOWANCE

Mr. BARTLETT. Mr. President, the practical effect of eliminating or phasing out the oil and gas percentage depletion allowance is to make available less oil and gas at eventually higher prices and to further delay self-sufficiency of energy.

It is shortsighted to decrease the capital available to oil companies for exploration of oil and gas at a time when our domestic production continues to decrease and our shortages and negative balance of payments increase.

The President recognized the need to attract more capital to stimulate industrial expansion and efficiency by recommending an increase in the investment tax credit to 10 percent and asking for tax legislation to permit the deduction of cash dividends on preferred stock.

It is as senseless as it is inconsistent to remove capital from the energy industry—the one industry which is now more important than all the others to our economy, national security, and general welfare.

The American people should not have to risk a continuing inadequate supply of energy. They do not want a foreign policy influenced by political and economic blackmail. They want and deserve energy independence.

Although the present oil and gas depletion allowance has encouraged exploration for oil and gas, it has not generated unduly large profits or unfairly low taxes for the oil industry.

During the last 10 years, net income as a percent of net worth for the domestic production and refining industry averaged 12.3 percent as compared with 12.6 percent for all other manufacturing industries and during 1973, eight other industry groups had a greater profitability than the petroleum industry. The lumber industry and the drug industry had the highest profitabilities in 1973 with the net incomes equal to 20.6 percent of net worth. Yet, no one is proposing an increase in the taxes of the drug and lumber industries.

The direct tax burden of the petroleum industry is higher than the average for other mining, manufacturing, and business corporations. Direct taxes paid as a percent of gross revenue averaged about 6 percent over the last 5 years for the petroleum industry, while the same number for other corporations was about 5 percent.

Phasing out the oil depletion discourages growth of oil and gas exploration at a time when we are trying to figure out ways to increase it.

There is no grassroots clamor from the people to transfer capital from energy exploration to the Treasury of the Federal Government for bigger Government spending.

It is noteworthy that there is no effort to phase out the depletion allowance for the many other extractive industries such as coal, limestone, sand, gravel, copper, and so forth. In addition to oil and gas, there are approximately 40 other mineral deposits with a percentage depletion of 22 percent.

This means that there is no challenge to the principle of depletion for the extractive industries. The depletion allowance has two functions. One is—a tax incentive to increase capital for exploration and development—to encourage people to take the exploration risk for oil and gas, coal, and other minerals.

The other recognizes that in the extractive industries, gross income is a complex mixture of return of capital and ordinary income. This has been recognized from the beginning in 1913 when the income tax was initiated.

In 1918, Senator Penrose of Pennsylvania, expressed this concept—

> Part of what apparently is income is in reality a mere return of the capital of the enterprise. When, for example, a ton of coal is sold, the excess of what is received from the cost of mining that ton of coal is by no means all income; part of that excess must be treated as a repayment of what was invested in the mine from which the coal was taken.

It is obvious that the oil depletion allowance has not resulted in the discovery of too much oil and gas.

If, by any chance, which I do not foresee, our energy reserves increase too rapidly, we can consider appropriate action at a later time.

Today, we should make every effort to encourage investment in oil and gas exploration and development.

It makes sense to raise the depletion allowance, not lower it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS, 1975

The Senate continued with the consideration of the joint resolution (H.J. Res. 1163) making further continuing appropriations for the fiscal year 1975, and for other purposes.

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Republican leader (Mr. HUGH SCOTT) and myself, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 3, line 18, strike out all after the word Cyprus and insert:
>
> *Provided*, That the President is authorized to suspend the provisions of this section during the period beginning on the date of the enactment of this joint resolution and ending on December 10, 1974, if he determines that such suspension will further negotiations for a peaceful resolution of the Cyprus conflict.

Mr. MANSFIELD. Mr. President, I have discussed the unanimous-consent request I am about to make with the distinguished chairman of the Appropriations Committee (Mr. MCCLELLAN), the distinguished Senator from Missouri (Mr. EAGLETON), the distinguished Republican leader (Mr. HUGH SCOTT), and others; and I ask unanimous consent that there be a 20-minute time limitation on the pending amendment, 12 minutes to the distinguished Senator from Missouri and 4 minutes each to the Republican leader and the Senator from Montana now speaking.

The PRESIDING OFFICER (Mr. HART). Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield myself 3 minutes. We made it very clear on October 9 during the discussion of House Joint Resolution 1131 that the distinguished Senator from Missouri was on solid legal ground so far as the law was concerned. The Congress and only the Congress can change a law. It has been our design to offer to the Congress the opportunity to change the law to best represent the interests of this Nation.

The Senator from Missouri agreed fully that if any changes in the law were to be made, they were not to be made downtown, but they were to be made by Congress, which initiated and inaugurated the law in the first place.

Everyone knows, Mr. President, that I am one of the most stubborn opponents of our foreign aid programs. Some people seem to think I am against NATO, because I have been advocating a graduated withdrawal of U.S. troops and military personnel from Western Europe and around the world over the past several years. But I have always made it plain that I believe in NATO, which in my opinion is our first line of defense, and that two of the most sturdy links in that chain of defense happened to be Turkey and Greece.

At the present time, Greece has stated that it is out of NATO. If the continuing resolution as passed by the House goes into effect there is a possibility of adverse interpretation that could lead to a fourfold danger, as I see it, to our defense posture:

First. A tilt toward the Soviet Union on the part of Turkey, which has a 1,000-mile common frontier with the Soviet Union;

Second. Turkey might become a more active participant in the affairs of the Middle East, which it has been standing aloof from up to the present time;

Third. It might worsen the situation between Greece and Turkey, hindering negotiations rather than hastening them; and

Fourth. It would do the Republic of Cyprus no good, because the Turks have 40,000 troops there, they occupy about one-half the land there, they have control of all the communications, and any inducement to Turkey either partially or completely to withdraw from the island might evaporate. Because of these possibilities, I propose the language as a substitute for the House language.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. EAGLETON. Mr. President, we are now in this posture—in what parenthetically seems to be an almost interminable debate—with respect to the proper American policy vis-a-vis the island of Cyprus and the intervention of the Government of Turkey thereon:

For weeks now, beginning with a sense of the Congress resolution and by subsequent legislative action in both bodies, we have been going back and forth, trying to achieve some methodology for bringing this matter to its rightful and ultimate conclusion.

It has been my position and the position of a majority of the Senate—on most occasions—that under the law further military aid to the Government of Turkey should be forthwith terminated. The Foreign Military Sales Act and the Foreign Assistance Act require such action. From time to time I have cited the precedents under those laws, when a previous President of the United States, Lyndon B. Johnson, saw fit to apply those laws, both in 1964 and 1967. By applying those laws, he forestalled a precipitous invasion of Cyprus by the Government of Turkey.

The distinguished majority leader, on an earlier occasion, offered an amendment which I take it is identical to the one he is now reoffering. By a fairly narrow vote, that language passed the Senate by a vote of 40 to 35.

It then went to the House of Representatives, and it was rejected by the House. The House earlier today once again debated, for at least the third and perhaps the fourth time, the question of Turkey's intervention in Cyprus. The House adopted an amendment drafted by myself, Representative ROSENTHAL, Representative BRADEMAS, and Representative SARBANES. The language was drafted by us in a conference a day or so ago. The vote on the adoption of that amendment in the House of Representatives was 194 to 144.

So here, in the waning hours of our session, prior to a recess that we were scheduled to have taken last Friday, we now have yet another attempt to, in my judgment, to circumvent what has been the well-established policy of both Houses of Congress.

I am no more enchanted now, at 5:25 p.m. on October 16, with the distinguished majority leader's amendment than I was when it was originally offered. Under his amendment, there is a cutoff of aid to Turkey after 60 days, on December 10.

But under his amendment, since it is written in such broadly gaged language, during the intervening period between now and the cutoff date, the United States would be permitted to send an avalanche of weaponry from every military warehouse in the continental limits of the United States and in Western Europe—where $53 million worth of military equipment is situated—to Turkey. That is point one.

Point two: that equipment, under the wording of the Mansfield amendment, could be transshipped to the island of Cyprus, further fortifying Turkey's military force on Cyprus, and in my judgment making even more permanent the stay of those military forces on that sovereign island.

Mr. President, Turkey should not have been on Cyprus in the first place, and we should not, even with a cutoff date of December 10, leave the door open for the further resupply of those Turkish forces. By no stretch of the imagination can such a policy be deemed to be in aid of the citizens of Cyprus, who are being subjugated by the invading Turkish force. And in no way can the transfer of such equipment to the Government of Turkey be considered to be in aid of the Karamanlis government in Greece.

Imagine with me, Mr. President, if you will, Premier Karamanlis addressing his constituents at the Olympic Stadium in Athens, before 80,000 people; and, if we carry the logic of the majority leader to its ultimate, here are Karamanlis' words:

> My fellow Greeks, our Government is being nobly assisted by the United States of America. They are really for us, the United States of America. Let me tell you, my fellow Greeks, how they are helping us. They are helping us because they are sending lots of military equipment to Turkey, and they are sending that equipment to Turkey so it can be transshipped to Cyprus.
>
> Let me tell you, my fellow citizens, that this is good policy, and this is helping my regime stay in power so that Greece does not swing violently to the left or violently to the right.

Consider, if you will, Mr. Presdent, the acclaim that Prime Minister Karamanlis would receive from his citizens after he spoke those words paying tribute to this policy that ostensibly, would help him. It goes without saying that if Mr. Karamanlis spoke those truthful words because they would be reflecting what we are doing in this amendment, permitting the transfer of more equipment to insure the prolonged stay of Turkey on Cyprus—that he would not leave the stadium except under the most guarded of police escorts and, perhaps, his next leave-taking would be from Greece itself, as he was forced to do once before.

If we are interested in humanity insofar as what is going on in Cyprus, we should have that aid terminated. We should remove the invading armada by drying up their ability to stay through additional munitions, armaments, bullets, and the like; and if we are truly interested in seeing that the Karamanlis regime has one chance of surviving under the pressures they are under, both left and right, we should enforce the law that is on the books.

There is only one surprise, Mr. President, about this whole debate on Greece, Turkey, and Cyprus. That is that the Government of Turkey is surprised that we have not enforced the law. They know this law. Lyndon Johnson told them what the law was in 1964, and Lyndon Johnson told them what the law was in 1967. The most surprised people in the world are the officials of the Turkish Government. They cannot understand why, when we were willing to enforce the law twice before, we are so cowardly in enforcing the law now.

And, as I said before, and I repeat again, sound American foreign policy can never be predicated on ignoring the law. Sound American foreign policy can never be predicated on breaking the law. Conversely, sound American foreign policy can only succeed and can only be useful if, indeed, it is based on the rule of law.

Now, here is where we are procedurally. If this Mansfield amendment is to be adopted once again, this matter, I take it, will go to conference, and knowing what happened in conference once before, we will probably come out even worse. They will probably put a postscript on this bill in conference and say, "Send Turkey some atomic bombs and some bombers and some missiles so they can really devastate Cyprus," and that is probably what will come out of conference because at the last conference, Mr. President, you will recall both sides went in with language that would cut off aid to Turkey, and we came out with a testimonial tribute to the policy of Turkey.

If that happens again I want to say, Mr. President, that we will have to come back to this floor at some time, and I am prepared, and some others of us are prepared, in the words of my beloved colleague, the Senator from Alabama, to engage in extended debate. I am not as artful at it as are some in this Chamber, but the rules prescribe it; it is used by some on occasions when it suits their convenience, and it will be used by me and some others on this occasion because this suits our convenience.

The convenience we are talking about, Mr. President, is not the question of whether we go home on a vacation or whether we go back to the campaign hustings. The convenience that we are talking about is world peace. The convenience that we are talking about is the rule of law. The convenience that we are talking about is the subjugation of an innocent neutral power, Cyprus, having been invaded by Turkey. That is too important to me, it is too important to many of my colleagues, to have it go by default.

So I will vote against the Mansfield amendment, as I have done before. I hope and pray this body does likewise so that we can accept the House language, language which is a meaningful compromise. It has a terminal date, but the key difference is that it prohibits the transfer of enormous amounts of military equipment that we would send to mainland Turkey from being transshipped to Cyprus.

I can say, Mr. President, at this time the facts are fairly well-known. The Turkish forces on Cyprus are running out of weaponry and ammunition, and the best way to get them off that island, where they do not belong, is not to resupply them, not to refortify them——

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. EAGLETON. And under the House language, as it was drafted by myself, Congressman ROSENTHAL and others, we would not prevent the shipment of supplies to Turkey for NATO use, we would prevent the shipment of supplies from Turkey to Cyprus.

The PRESIDING OFFICER (Mr. HART). The time of the Senator from Missouri has expired.

Mr. EAGLETON. I would be pleased to yield to the Senator from Rhode Island.

Mr. PASTORE. In other words, the Senator is in favor of the Rosenthal amendment?

Mr. EAGLETON. I am in favor of it, I participated in its drafting. I will dot all the "i's," cross all the "t's," and we can all go home.

Mr. HUGH SCOTT. Mr. President, I yield myself a half minute.

The President is expected home, expected at the White House, tonight at about midnight. If the bill should go to him, if this amendment fails and the bill goes to him, tonight, I understand that he is prepared to veto it tonight or early tomorrow morning, to accommodate Congress.

If the amendment passes, of course, it would be my expectation that it would go to conference, and I hope we could work out a compromise fair to all parties.

I now yield the remainder of my time to the distinguished Senator from Vermont (Mr. AIKEN).

Mr. AIKEN. I will not use much time. If I wanted to insure the downfall of the present Greek Government I would support the Senator from Missouri. If I wanted to jeopardize the prospects of peace between Israel and Syria I would support the Senator from Missouri. If I wanted to make sure that manufacturers of warplanes and other war materials would get substantially larger orders I would support the Senator from Missouri.

And if I wanted to be sure that no peaceful agreement could be reached regarding Cyprus among the three parties concerned, England, Turkey, and Greece, an agreement which is already partially agreed to and is simply waiting until after the Greek election before they meet to complete, if I wanted to make sure there would be no peaceful agreement on Cyprus I would support the Senator from from Missouri.

But I do not like those things. I do not want—we do not know what a war started in that area would lead to. It certainly would lead to larger countries being involved, including the United States.

Therefore, I support our majority leader and his proposal, and I am unalterably opposed to the proposition of the Senator from Missouri. I simply cannot understand it.

Mr. STEVENSON. Mr. President, the amendment passed by the House to the continuing resolution is little enough. It compromises an uncompromisable issue. It halfway rewards Turkish aggression in Cyprus, and it halfway enforces the law. The amendment prohibits U.S. military assistance for Turkey after December 10, 1974, unless "substantial progress" has been made with regard to withdrawal of troops from Cyprus, and provides that if Turkey trans-ships U.S. military supplies to its armed forces on Cyprus the prohibition will take effect immediately. So, it compromises a professed adherence to the rule of law at home and in the world. To prohibit the trans-shipment to Cyprus of arms is merely to reiterate a prohibition contained in the agreements upon which Turkey has obtained aid from the United States. That prohibition has been ignored before and may be again.

I cannot be very optimistic that this administration would closely monitor shipments of military equipment from Turkey to Cyprus. I cannot be optimistic that it would act upon or report any violations it did detect. The administration's predelictions for the aggressors and repressors of the world is too clear. Bangladesh, Chile, Portugal, South Vietnam, the U.S.S.R., the Greek junta—it is a long and ugly story of intervention against innocent people and against our own best principles. And always the story is the same. The United States is overwhelmed by forces it set loose itself 200 years ago. It becomes the apparition Mr. Nixon most feared—a pitiful, helpless giant, no longer mankind's last, best hope. Now the Greeks are out of NATO; the Turks are in Cyprus. And, as in South Asia, Southeast Asia, Africa, Latin America—even in Europe and Japan, the U.S. Government is viewed with dismay, if not contempt. The real politik of Richard Nixon and Henry Kissinger is a failure in the Eastern Mediterrean—and in the world. Even the friends on our borders turn their backs our way. Mexico, it now is reported, will sell its oil to Cuba before the United States. The tragedy in the Eastern Mediterranean is larger than Cyprus. It is a tragedy of 5 years of misrule—of bombing, bribing, bluffing, and bullying.

On four occasions the Senate declared that the laws governing military assistance must be obeyed. The House of Representatives expressed its will by a vote of 291 to 69.

These laws, the Foreign Assistance Act and the Foreign Military Sales Act, state that a nation which violates the conditions upon which the United States provides military assistance "shall be immediately ineligible for further assistance." Those conditions have been violated by Turkey's armed aggression in Cyprus.

The President vetoed the will of Congress, as expressed in the continuing resolution. He chose not to enforce the law and instead to rearm the Turkish invaders. And the House of Representatives was unable to override his veto, so we are faced with this compromise. It is the best the Congress can do in the face of the Nixon-Ford administrations' intransigence. We cannot fail to pass a continuing resolution and permit agencies of the Government to grind to a halt.

I cannot be very optimistic about the outcome of this compromise. Turkey invades Cyprus with scarcely a protest from the United States. It now controls almost 40 percent of that country. Tens of thousands of Cypriot citizens are homeless and hungry. Relations between the United States and Greece are strained. Greece's withdrawal of troops from NATO leaves NATO's southern flank exposed. And the peace talks heralded by the President and Secretary of State have not materialized. I cannot be optimistic that the architects of this tragedy will undo it, nor that the intransigence of the Turks will be softened by rearming them.

Our interest, as authors of the Eagleton-Stevenson amendment, is not vindictive. Turkey accepted U.S. aid upon the condition that it would not be used for aggressive purposes. The cutoff of aid by law was not triggered by the Congress, but by Turkey's own aggressive actions, its invasion of Cyprus. The result should have been automatic—an instantaneous termination of U.S. assistance for Turkey. Instead, the executive branch concentrated its efforts on evading the law.

Yesterday and today, the President and Secretary of State won small victories by thwarting the Congress in its efforts to enforce the Foreign Assistance Act and the Foreign Military Sales Act. Small victories which, if sustained by the Mansfield-Scott motion, could encourage other military aid recipients to defy the United States and breach the conditions upon which they, too, accept U.S. aid. They could be led to expect impunity, too, or perhaps more aid for their transgressions.

The behavior of the administration should not be permitted to signal that the United States condones the use of U.S.-supplied military equipment for aggressive purposes. One branch of the Government, at least, should not. Let us, instead, send a warning to Turkey and to all others.

I urge my colleagues to vote against the Mansfield-Scott motion. We can hope that with the Rosenthal compromise a settlement will emerge which permits the refugees in Cyprus to return to their homes and President Makarios to his rightful position of authority in Cyprus. If so, it will be, I dare say, because of the message sent by Congress, like President *Johnson's* in 1964, to the Turkish Government. Let us hope that by approving this compromise, disapproving the Mansfield-Scott motion, we can also signal to the people of Cyprus and to the new Government of Greece, the desire of the Congress and the people whom it represents, to restore peace and independence to Cyprus and friendly relations between Greece and the United States.

Mr. HUGH SCOTT. Mr. President, I yield back my time. If all time is yielded back——

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays.

Mr. HUGH SCOTT. I demand the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Montana yield back the remainder of his time?

Mr. MANSFIELD. Mr. President, I yield back my minute remaining.

The PRESIDING OFFICER. All time has been yielded back; the yeas and nays have been ordered, and the clerk will call the roll. The question is on agreeing to the Mansfield amendment.

The assistant legislative clerk called the roll.

Mr. HUGHES (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Mississippi (Mr. Eastland). If he were present and voting, he would vote "Yea." Having already voted "Nay," I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Bible), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Ervin), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Louisiana (Mr. Johnston), the Senator from Louisiana (Mr. Long), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. Hartke), the Senator from New Hampshire (Mr. McIntyre), and the Senator from Rhode Island (Mr. Pell) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from Kentucky (Mr. Cook), the Senator from New Hampshire (Mr. Cotton), the Senator from New Mexico (Mr. Domenici), the Senator from Colorado (Mr. Dominick), the Senator from Florida (Mr. Gurney), the Senator from New York (Mr. Javits), the Senator from Maryland (Mr. Mathias), the Senator from Oregon (Mr. Packwood), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. Fong), the Senator from Kansas (Mr. Pearson), and the Senator from Illinois (Mr. Percy) are absent on official business.

I further announce that, if present and voting, the Senator from Maryland (Mr. Mathias) would vote "nay."

The result was announced—yeas 27, nays 40, as follows:

[No. 480 Leg.]

YEAS—27

Aiken
Bartlett
Bennett
Brooke
Case
Curtis
Fannin
Griffin
Hansen
Haskell
Helms
Hruska
Inouye
Mansfield
McClellan
McClure
Metcalf
Metzenbaum
Nunn
Scott, Hugh
Stafford
Stennis
Stevens
Taft
Talmadge
Thurmond
Young

NAYS—40

Abourezk
Allen
Biden
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cranston
Dole
Eagleton
Fulbright
Goldwater
Hart
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Kennedy
Magnuson
Montoya
Moss
Muskie
Nelson
Pastore
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, William L.
Stevenson
Symington
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Hughes, against

NOT VOTING—32

Baker
Bayh
Beall
Bellmon
Bentsen
Bible
Brock
Cook
Cotton
Domenici
Dominick
Eastland
Ervin
Fong
Gravel
Gurney
Hartke
Javits
Johnston
Long
Mathias
McGee
McGovern
McIntyre
Mondale
Packwood
Pearson
Pell
Percy
Sparkman
Tower
Tunney

So Mr. Mansfield's amendment was not agreed to.

The PRESIDING OFFICER. Are there any further amendments?

Mr. HUGH SCOTT. Third reading.

Mr. EAGLETON. Mr. President, may I have the indulgence of the Senate for 2 minutes?

The PRESIDING OFFICER. The Senator will suspend to a third reading? The question is on the third reading of the joint resolution.

The joint resolution was read the third time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, so that the record is complete, I would like to speak for about 2 minutes.

Mr. President, I am pleased that the House has adopted language which I proposed to Congressman Rosenthal which would stop the transshipment of American military equipment from Turkey to the island of Cyprus. The adoption of this language by Congress would be a very significant accomplishment in light of the strong proclivity of the executive branch to "tilt" toward the nation of Turkey in the Cyprus matter.

The message that Congress will send today to citizens of Greece and the citizens of Turkey is unmistakable: The aggression of Turkey is being repudiated by the American people. On December 10, if Turkish troops have not totally withdrawn from the island of Cyprus, military assistance to that nation will be terminated.

What we are accomplishing today is a reaffirmation of the 1960 bilateral agreement with Turkey which specifically states that that nation cannot use American arms on Cyprus. On July 20 of this year Turkey violated that agreement and the President should have declared that nation immediately ineligible for any further military assistance. As we know, the President and the Secretary of State have seen fit to ignore the law on this matter and Congress was pushed to muster a two-thirds majority to override a Presidential veto in order to assure the implementation of an existing statute.

The proposal before us calls for a suspension of the prohibition of military aid to Turkey for a limited time. Under the House floor amendment, no American weapons can be transported from Turkey to Cyprus.

The President and the Secretary of State have argued that military aid must continue to Turkey because that nation is vital to NATO. It logically follows that if Turkey needs American weapons on its mainland to continue to be a viable NATO partner, then there certainly should be no objection to restricting Turkey from transshipping such American weapons to Cyprus.

During the next 55 days, we can hopefully make a beginning toward resolving the Cyprus situation, but we cannot make that beginning if the United States pours arms and ammunition into Cyprus. If that were to occur, the Turkish Government would become totally intransigent.

Turkish forces are reportedly running out of ammunition on Cyprus. We must assure that those forces are not rearmed by the United States.

We expect nothing less from the executive branch than that it use all intelligence means available to assure that the prohibition on shipping our arms from Turkey to Cyprus is strictly adhered to. There is already considerable cynicism over the failure of the President to implement current law. I sincerely hope that the experience of the past month will inspire the administration to carry out this proposal in good faith.

Mr. President, the Subcommittee on Refugees has released an outstanding report on the refugee problem in Cyprus. The chairman of that subcommittee, Senator Kennedy, has charged that American tax dollars are being used to support policies which prolong the Greek refugee problem as well as the Turkish occupation of Cyprus.

We have in fact engaged in a policy of silent neglect toward the suffering people of Cyprus. As winter approaches that land, it is all the more vital that we step up our efforts to bring relief by urging Turkish forces to return to their own homeland.

It is in that context that I ask my colleagues to support the continuing resolution as it comes to us from the House. The adoption of the House amendment will represent an alternative to the policy advanced by Dr. Kissinger of an open-ended "tilt" toward Turkey. Turkey will be put on notice that it must negotiate and that it can no longer interminably use American arms for aggressive purposes. In that sense, Congress will have put its imprint on America's Cyprus policy. In that sense, Congress will have seen to it that the violation of our military assistance laws was as limited as was possible in this situation.

Mr. President, I would like to state that I understand that $122,791,000 has been obligated for MAP assistance for Turkey and that $11,992,000 in foreign military sales credits have been obligated for that country. As the author of the section restricting the transportation of any military equipment or supplies to Turkey, I would like to state for the record that these two categories of assistance would be encompassed by the pending provisions and that no assistance of any type shall go to Turkey when this prohibition takes effect.

The PRESIDING OFFICER. The question is on agreeing to the joint resolution.

Mr. MANSFIELD. Yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

On this vote, the Senator from Rhode Island (Mr. PELL) is paired with the Senator from Mississippi (Mr. EASTLAND). If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from Mississippi would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. DOMINICK), the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator form Oregon (Mr. PACKWOOD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG), the Senator from Kansas (Mr. PEARSON), and the Senator from Illinois (Mr. PERCY) are absent on official business.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "nay."

The result was announced—yeas 45, nays 23, as follows:

[No. 481 Leg.]

YEAS—45

Abourezk
Allen
Biden
Buckley
Byrd, Harry F., Jr.
Cannon
Chiles
Clark
Cranston
Dole
Eagleton
Fannin
Goldwater
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Kennedy
Magnuson
Metzenbaum
Montoya
Moss
Muskie
Nelson
Pastore
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Weicker
Williams

NAYS—23

Aiken
Bartlett
Bennett
Brooke
Burdick
Byrd, Robert C.
Case
Church
Curtis
Fulbright
Griffin
Hansen
Helms
Hruska
Mansfield
McClellan
McClure
Metcalf
Nunn
Scott, William L.
Stennis
Thurmond
Young

NOT VOTING—32

Baker
Bayh
Beall
Bellmon
Bentsen
Bible
Cotton
Brock
Dominick
Domenici
Cook
Eastland
Ervin
Fong
Gravel
Gurney
Hartke
Javits
Johnston
Long
Mathias
McGee
McGovern
McIntyre
Mondale
Packwood
Pearson
Pell
Percy
Sparkman
Tower
Tunney

So the joint resolution (H.J. Res. 1163) was passed.

INCREASE IN APPROPRIATION CEILINGS IN CERTAIN UNITS OF THE NATIONAL PARK SYSTEM

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 14217.

The PRESIDING OFFICER (Mr. HART) laid before the Senate a message from the House of Representatives announcing its action on certain amendments of the Senate to House bill 14217, which was read as follows:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, and 5 to the bill (H.R. 14217) entitled "An Act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes."

Resolved, That the House agree to the amendment of the Senate numbered 6 to the aforesaid bill, with the following amendment:

In lieu of the matter proposed by said Senate amendment, insert:

SEC. 406. The Act of March 10, 1966 (80 Stat. 33; 16 U.S.C. 459g) providing for the establishment of Cape Lookout National Seashore in the State of North Carolina is amended as follows:

(1) Section 1 is amended by deleting "'Proposed Boundaries—Proposed Cape Lookout National Seashore', dated April 1964, and numbered NS–CL–7101–B," and substituting in lieu thereof "'Boundary Map, Cape Lookout National Seashore', dated March 1974, and numbered 623–20,009," and by changing the colon to a period and deleting the remainder of the section.

(2) Subsection 2(a) is amended by deleting the third sentence and inserting in lieu thereof the following "Lands owned by the State of North Carolina or any political subdivision thereof may be acquired only by donation, but the Secretary may, subject to the provisions of section 7 of this Act, acquire any other non-Federal lands, marshlands, waters, or interests therein which are located within the boundaries of the seashore by donation, purchase with donated or appropriated funds, or exchange. Notwithstanding any other provision of law, the Secretary may accept any lands donated by the State of North Carolina subject to a provision for reversion to the State conditioned upon continued use of the property for national seashore purposes.".

(3) Section 3 is amended by revising the first sentence to read as follows: "When title to lands and interests in lands in an amount sufficient to constitute an efficiently administerable unit for the purposes of this Act is vested in the United States, the Secretary shall declare the establishment of the seashore by publication of notice thereof in the Federal Register.".

(4) Section 7 is amended to read as follows:

"SEC. 7. On or before January 1, 1978, the Secretary shall review the area within the seashore and shall report to the President, in accordance with section 3(c) and (d) of the Wilderness Act (78 Stat. 891; U.S.C. 1132(c) and (d), his recommendations as to the suitability or nonsuitability of any area within the seashore for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with said subsections of the Wilderness Act."

(5) Add a new section 8 to read as follows:

"SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed $7,903,000 for acquisition of lands and interests therein, of which no more than $1,000,000 may be expended for acquisition of lands owned by Core Banks Club Properties, Incorporated. For development of essential public facilities there are authorized to be appropriated not more than $2,935,000. On or before January 1, 1978, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the seashore consistent with the preservation objectives of this Act, indicating:

(1) the facilities needed to accommodate the health, safety and recreation needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the seashore."

Mr. MANSFIELD. Mr. President, H.R. 14217 is a bill which was passed by the House of Representatives earlier this session and was passed by the Senate on October 8, 1974, with amendments. Mr. President, the House has concurred in all the amendments of the Senate with some further amendments which consist of some changes to the Senate amendment relating to Cape Lookout National Seashore in North Carolina.

Mr. President, except for one, these amendments are strictly technical in nature and do not change the substance of the Senate language. One amendment which is not technical authorizes a wilderness review of the area. This authority is already contained in the basic Wilderness Act, and therefore the Senate should accept this amendment. All of the House amendments are acceptable to the distinguished Senators from North Carolina (Mr. ERVIN and Mr. HELMS) and also to the members of the Committee on Interior and Insular Affairs on both sides of the aisle. Therefore, Mr. President, I move that the Senate concur in the amendment of the House to H.R. 14217.

The PRESIDING OFFICER. The question is on agreeing to the House amendment to H.R. 14217.

The amendment was agreed to.

LITTLE NOTICED OIL SPILL, OVERDUE FOR ATTENTION, IS GOING TO GET IT

Mr. NELSON. Mr. President, on August 9, 1974, in the Straits of Magellan at the tip of South America, a tragic event occurred, with grim implications for the future.

The event was the first major pollution incident involving a supertanker, that new breed of enormous ships which, although accounting for only 10 percent of the world fleet of 4,366 tankers, already carry almost 40 percent of the world's crude cargoes.

The ship was the very large crude carrier—VLCC—*Metula*. At 10:20 p.m. she ran aground near "Satellite Patch" at the western end of Primera Angustera, the straits' first narrows. The *Metula* was carrying about 1.5 million barrels of Persian light crude worth over $15 million. This single cargo equaled about one-tenth of the daily consumption of oil by the United States.

She was going 14.5 knots when she grounded and stopped in her own length. Her normal stopping distance at that speed is 5 miles. The shock and subsequent tidal action ruptured 7 of her 15 tanks. Approximately 385,000 barrels of oil spilled into the straits forming an oil slick over 1,000 square miles of water and covering an estimated 75 miles of Chilean and Tierra del Fuegan coastline.

This was the second largest oil spill in history. Only the *Torrey Canyon* sinking in 1967 spilled more oil into the sea. The *Metula* disaster was many times more serious, in quantity, than the Santa Barbara oil spill in 1969 or the Gulf of Mexico spill in 1970. Those involved offshore oilwells of Union Oil and Chevron respectively.

Astonishingly, this great sea disaster, followed by some heroic assistance work by the U.S. Coast Guard, has received almost no attention in the popular press. A major environmental calamity occurred more than 2 months ago, and almost no one is aware of it.

The Coast Guard knew about this accident 3 days after it happened; it sent an observer to the scene within 10 days and an 8-man ADAPTS—Air Deliverable Antipollution Transfer Systems—team within 2 weeks. Yet the first Coast Guard press conference was held on September 17, more than a month after the spill and 6 days after the first brief news item about it had appeared, on September 11, in the Wall Street Journal.

The Smithsonian Institution's Center for Short-Lived Phenomena, which circulates notice of such events to scientists worldwide, put out its first notice of the *Metula* spill on September 24, noting a Time magazine reporter as its own source for the report. Yet Time, to this day, has carried no story on this event.

This accident occurred during the pendency in the Congress of the Deepwater Ports Act. How many Senators knew of the *Metula* incident when they voted on that bill on October 9? I did not, and I suspect most did not. Perhaps knowledge of the incident and careful study of its details would have changed no votes; but it is strange, and somewhat ominous, that so few did know.

No doubt the remoteness of the site and its distance from any habitation—the nearest town was Puenta Arenas, Chile, 75 miles away—hindered the media in coverage; but that factor alone can hardly account for the dearth of publicity the *Metula* has received in the United States.

The *Metula* is a single-screw, single-hull supertanker. Both of these attributes have been in the center of controversy over supertankers. Perhaps that is why Royal-Dutch Shell, which owns the *Metula* through a subsidiary company, has yet to issue its first press release on the grounding in the Straits.

There are so many puzzling, unanswered questions about this matter.

Why did the U.S. Coast Guard wait so long to announce the accident and its own efforts to assist—and announce them so quietly that no one noticed?

The reporting source for the first report of this incident to the Smithsonian Institution data bank on "short-lived phenomena", on September 24, 1974, was Gerald Hannifin, who is a reporter for Time magazine. Yet Time has carried no story on the incident. Why?

Who is paying, and through what channels, for the Coast Guard's participation in the massive transfer of salvaged oil from the grounded supertanker to smaller tankers?

Will any efforts be made—so far none have been—to clean up the spill?

It would appear that the statutes which cover reporting of such incidents by both shipowners and the Coast Guard need to be strengthened. If we cannot get satisfactory answers to the questions raised congressional hearings are necessary and desirable and will be conducted by the monopoly subcommittee of the Small Business Committee.

Mr. President, I should like the RECORD to show, in chronological order, every account of this incident that the Library of Congress, the U.S. Coast Guard, the Smithsonian Institution and others have thus far provided my office. I ask unanimous consent that the material referred to hereinafter may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. The oldest item in the file is an incident report card which was apparently filed in its own files by the National Response Center on August 13, 1974. The National Response Center—NRC—is an intergovernmental information network on environmental occurrences. It operates out of Coast Guard headquarters but is not strictly a branch of the Coast Guard. The NRC August 13 card entry reads as follows:

AUGUST 13, 1974.

Special interest case.
Chile.
Crude Oil.
9 August 1974.
Straits of Magellan.
Major (Coastal).
Chilean Navy.
N/A

The Chilean Navy has temporarily suspended passage of tankers exceeding 80,000 tons through the straits until the cause of the grounding is determined. The on-scene weather is reported to be calm and the slick is said to now stretch for 40 kilometers. It apparently has not reached the shoreline yet.

Case pends.

Also on August 13 the NRC circulated to other agencies and departments of the Government—but apparently not to the public—a "Pollution Incident Report," the text of which reads, in full, as follows:

POLLUTION INCIDENT REPORT FROM THE NATIONAL RESPONSE CENTER

Date: 13 August, 1974.
Time: 1300.

NASSIF BUILDING
400 7TH ST., S.W.
WASHINGTON, D.C. 20590
G–NRC/74
202/426–1830

VLCC METALU GROUNDING—STRAITS OF MAGELLAN

In a report received from the American Embassy in Caracas, the National Response Center learned of a pollution incident which could have a large impact on the Marine Pollution as well as the Shipbuilding fields. A Shell Oil Co VLCC (Very Large Cargo Carrier) *Metula* carrying 195,000 tons (approximately 64 million gallons) of crude oil grounded in the Straits of Magellan on Friday 9 August. Thus far over 6000 tons (1.9 million gallons) of the oil has been discharged and the VLCC is in danger of breaking up. The Government of Chile representatives at the LOS Conference approached the U.S. Delegates at the conference for assistance in abatement and salvage. The U.S. Delegates suggested that the Chilean Embassy in Washington raise the question with the U.S. State Department who is expected to confer with the U.S. Navy and the Coast Guard on possible solutions. It is also expected that the Chilean delegation will also raise the problem at the Conference shortly.

Copies to: EPA, DOI, DOD, DOC, DOS HEW, FDAA, GA, GB, GD, GE, GH, GK, GL, GM, GO, GP, GR, GW (all divis.), GC, GCV, GCC, GCCS, GMHM, GDET–1, S–1, S–2, S–80. TES–24, G–FP, G–WEP (all branches).

Mr. President, I think it is interesting that this "in house" government memorandum describes this "pollution incident" as one "which could have a large impact on the marine pollution as well as the shipbuilding fields." Despite that opinion on the impact, the matter was not at that time made public by the NRC.

Another card entry from the NRC's file, the second that I have, is dated August 16. Here is the text:

NRC No.—34–75 *Special Interest Case.*
Location—Chile.
Pollutant—Crude Oil.
Occurrence Date—9 Aug. 1974.
Body of Water—Straits of Magellan.
Severity—Major (Coastal-Chile).
OSC—Chilean Navy.
Latest *Polrep*—N/A.

Remarks—The tanker's owner has chartered a DC–8 which was scheduled to arrive at Punta Arenas on 15 Aug. with ten salvage experts and 14 tons of salvage equipment. Current speculation is that the ship will be refloated during an unusually high tide on 18 August. Revised estimates of the quantity of pollutant discharged is now as high as 6,720,000 gal. Case pends.

The next item in the NRC cardfile is dated August 19 and reports that a U.S. Coast Guard representative had been sent to the scene of the grounding and the oil spill as an observer. The text follows:

AUGUST 19, 1974.

34–75 Special Interest Case.
Chile.
Crude Oil.
9 August, 1974.
Straits of Magellan.
Major (Coastal-Chile).
Chilean Navy.
N/A.

A representative of the USCG has been sent to the scene of the grounding to provide interested parties with information on possible U.S. assistance if needed and to gain knowledge of salvage and cleanup operations. Case pends.

May I observe that at this point, August 19—10 days after the grounding, with a U.S. Coast Guard observer on the scene—there was still no word on this in the American press, or any other public press that has thus far come to my attention. The Shell Oil Co., owner of the tanker, had not on that date put out any press release on the incident, and it has still not done so.

The next card in the NRC cardfile is dated August 22, 1974. It reports that on that date, 13 days after the grounding, three Coast Guard strike teams were making preparations to go to the scene "when formally requested by the Chilean Government." The text of the card follows:

AUG 22 1974.

34–75.
Chile.
Crude Oil.
9 August 1974.
Straits of Magellan.
Major (Coastal-Chile).
Chilean Navy.
N/A.

All three Strike Teams are making preparations for deployment of eight personnel and four ADAPTS systems when formally requested by the Chilean government. The Chilean Navy reports 7 of the 15 oil cargo tanks to be ruptured and the hull bottom in the bow section to be ruptured. Plans are being made to lighten the *Metula* by transferring oil to another tanker. Approximately 20 percent of Felipe Bay is covered with oil slicks. The temperature range is from about 45 degrees Fahrenheit to near freezing. Case Pends.

On August 23, the formal request from the Chilean Government was received and the U.S. Coast Guard, like the U.S. Marines of song and legend, was off to the rescue. There was no word of this excitement in the public prints, but the NRC preserved this cardfile memento:

August 23 1974.

34–75.
Chile.
Crude Oil.
9 August 1974.
Straits of Magellan.
Major (Coastal-Chile).
Chilean Navy.
N/A.

Friday, 23 August the Government of Chile formally requested U.S. assistance in offloading and salvage operations of the stricken VLCC *Metula*. A Coast Guard C–130 aircraft with ADAPTS Systems and Strike Team members aboard is enroute Santiago Chile and is expected to arrive there late this afternoon. 40,000 tons (260,000 bbls.) of crude oil is believed to have been lost according to the latest tank soundings by the salvors. The pollution appears to have dissipated somewhat along the southern shores of Bahia Felipe and the Primura Angustura. Case Pends.

There were daily additions to the NRC's cardfile on August 27, 28, and 29, and the texts of those cards are all of interest, revealing energetic activity by our Coast Guard ADAPTS team. The three cards follow:

AUGUST 27, 1974.

34–75.
Chile.
Crude oil.
9 August 1974.
Straits of Magellan.
Major (Coastal-Chile).
Chilean Navy.
N/A.

The Coast Guard C–130 aircraft arrived in Santiago, Chile yesterday and will make the final transit to Punta Arenas this morning to deliver four Adapts systems and members of the three Strike Teams. Case Pends.

(NRC form 1d–3/19/74).
Page VI.
Date 28 August 1974.
NRC Daily Summary of Pollution Incidents.

II CONTINUING INCIDENTS

NRC No.—34–75.
Location—Chile special interest case.
Pollutant—Crude Oil.
Occurrence date—9 Aug 1974.
Body of water—Strait of Magellan.
Severity—Major—Chile.
OSC: Chilean Navy.
Latest *POLREP*: Na.

Remarks: The advance party from the National Strike Force has been on scene since 25 August to arrange for the arrival of the other team members and their equipment which is scheduled to arrive this morning. General salvage plans are to offload the cargo of crude from *Metula* into smaller tankers. Present situation reported as "optimistic". Case Pends.

AUGUST 29, 1974.

NRC No.—34–75.
Location—Chile Special interest case.
Pollutant—Crude Oil.
Occurrence date—9 August 1974.
Body of water—Straits of Magellan.
Severity—Major—Chile.
OSC—Chilean Navy.
Latest *POLREP*—NA.

Remarks—Six members of the National Strike Force departed Punta Arenas on 28 Aug. with one Adapts enroute *Metula*. After reepated difficulties due to excessive wind the tanker *Harvella* was moved alongside *Metula* and offloading operations are believed to have commenced. Exact date of refloating of *Metula* is unknown and will depend upon the time required for a round trip by *Harvella*. The oil coating the shoreline is heaviest in the higher portion of the beach as the result of spring tides. Case Pends.

The first account of the incident that the Library of Congress has found in any public journal appeared in the British publication New Scientist, the issue dated August 29, 1974, and read as follows:

TECHNOLOGY REVIEW: COULD "UNACCEPTABLE RISK" RESULT IN BIGGEST OIL SPILL EVER?

An oil spill bigger than the Torney Canyon's looks likely in the Straits of Magellan. On 9 August the 210,000 ton deadweight tanker "Metula", owned by a Shell associate and carrying 195,673 tons of crude oil, ran aground on the Satellite Patch in the Straits. Already, 25,000 tons of crude have been spilt, creating a slick 115 km in length, according to the Chilean Navy.

Reports in Lloyds list suggest that insurance underwriters by now consider the ship and its cargo (together wórth £15 million) to be almost a total loss. Fierce weather in the Straits and delays caused by the scarcity of specialised salvage equipment in the area make the chances of rescue at this stage look slim. A loss of more than 118,000 tons of oil would make the grounding of the Metula the worst oil spill ever from a tanker and the biggest single marine insurance loss in history. Hydrographers and underwriters are asking why the ship was running through the Straits of Magellan in the first place—particularly in winter.

The Metula was on passage between Ras Tanura in the Persian Gulf to Quintero Bay in Chile when she ran aground. The cause of the incident is not clear. Informed sources say that the tanker grounded while steaming at about 17 knots against a current of 8 knots and stopped in her own length (her normal stopping distance is 5 miles). The same sources say that she was using a navigational chart that had not been corrected since 1869, when inaccurate lead sinker hydrography was the only surveying technique possible. However, the Satellite Patch is clearly shown on the chart. Metula's laden draught was 58 ft. according to Shell, and she was running in a channel marked as 62 ft. deep, although her forward ballast tanks are reported to now rest on only 42 ft. of water.

Whatever the cause of the grounding, it resulted in four tanks being holed—the forepeak, No. 1 starboard, and No. 1 centre tanks (all filled with crude), and the forward ballast tank. Initially some 6,000 tons of crude seeped from the vessel.

On 18 August, Shell reported that the vessel could not be refloated for two weeks—until the high tides of 2 September. John Wardley Smith, the man who was largely responsible for cleaning up the Torrey Canyon spill, has flown to Chile to advise the government, who are now owners of Metula's cargo and stand to gain $10 million from a tanker owner's federation to pay for the clean-up operation. The crew was evacuated, but the seepage of crude oil was reported to have ceased.

Last week Shell reported: "There is some cause for concern that the vessel may be sustaining a certain amount of structural damage" and that two further cargo tanks (No. 2 centre and No. 2 starboard) may have been holed. By then some 20–25,000 tons of crude had leaked from the vessel. The extent of the "structural damage" is unclear but such a statement from Shell must have produced some pessimism among insurance underwriters.

The possibility of simply refloating *Metula* has also receded. It now looks as if she will have to be lightened by offloading some of her cargo. Two tankers (of 19,000 and 90,000 tons deadweight) are standing by but do not have the specialized equipment (huge fenders and so on) needed to get close enough to Metula to transfer the cargo. A salvage tug is also standing by and two others are steaming to help the refloating. Shell says that it hopes to begin lightening this weekend when the necessary equipment will have been flown out to Chile.

Whatever the final outcome of the efforts to salvage the ship and its £4 million cargo, there is some controversy about the route Metula took. Shell says that it has already run three other tankers through the Straits of Magellan this year (in the summer), and that a Chilean pilot was aboard Metula on its passage through the Straits. Critics claim that a winter passage through the Straits of Magellan is an "unacceptable risk", taken perhaps to save the minimal extra mileage needed to round Cape Horn. This was denied vigorously by a Shell spokesman.

The argument against the route through the Straits is that in bad weather it is better to be running in clear waters rather than through narrow straits bounded by shallow water. And in any case conditions in the Straits of Magellan are far from pretty—currents of up to 8 knots and sudden snow storms that blow up in less than three hours are not uncommon in winter.

Shell is non-commital about the chances of refloating the Metula, and refuses to speculate about the cause of the grounding. It *is firm, however,* that the decision to travel through the Straits of Magellan was taken on good grounds.

Despite the surfacing of the incident in the public prints of Britain in late August, it was still some days before it was to be noticed in any American publication of general or even special circulation. Meanwhile, the cards piled up in the unnoticed files of the National Response Center. Following are the daily notations of the NRC for August 30 and September 3, 5, 8, 9, and 10:

AUGUST 30, 1974.

34–75.
Chile Special Interest Case.
Crude Oil.
9 August 1974.
Strait of Magellan.
Major—Chile.
Chilean Navy.

USCG SITREP Eight, 3 September; POLREP One, 3 September 11,898 long tons of cargo were removed from the VLCC *Metula* during the first offloading operation. The present plan for refloating, now optimally planned for 22 September, includes removal of a total of 46,000 tons of oil. Salvors have requested Shell consider the offloading of all cargo prior to attempting to refloat the vessel, though, due to adverse factors which include cross currents, short slack water period, large tidal ranges, the condition of the *Metula*, and towing uncertainties due to damage, draft, and loose rudder. Total removal of the cargo would take an estimated two months. Salvors have requested the remaining two Adapts pumps due to the effectiveness of the first. Six of the Strike Force personnel are now either on the *Metula* or aboard a Chilean Navy tug awaiting favorable weather (slackening of the present 40–50 knot winds) for transfer. On an overflight yesterday, little oil was observed in the water, but a 6–10 foot wide strip of oil along the extreme high water mark was observed along 18 miles of the southern shoreline of Primera Angostura and eastern Bahia Felipe. Case Pends.

SEPTEMBER 3, 1974.

34–75.
Chile Special Interest Case.
Crude Oil.
9 August 1974.
Strait of Magellan.
Major—Chile.
Chilean Navy.
N/A.

The first offloading operation from the VLCC *Metula* by the tanker *Harvella* has been completed. Due to spring tides, the second offloading is planned for 5 September. The first refloating attempt is expected around 10 September, probably after the third offloading operation. Severe weather continues with a heavy snowstorm on 31 August. Case Pends.

SEPTEMBER 5, 1974.

NRC—34–75.
Location—Chile Special Interest Case.
Pollutant—Crude Oil.
Occurrence Date—9 August 1974.
Body of Water—Strait of Magellan.
Severity—Major—Chile.
OSC—Chilean Navy.

Latest POLREP—USCG SITREP Nine, 4 September; POLREP One, 3 September.

Remarks—Six National Strike Force personnel and all three Adapts pumps are now aboard the *Metula*. The M/V *Harvella* completed transferring its first load of oil to the M/V *Bergeland* for transport to Quintero Bay, Chile. Case pends.

SEPTEMBER 8, 1974.

NRC—34–75.
Location—Chile Special Interest Case.
Pollutant—Crude Oil.
Occurrence Date—9 August 1974.
Body of Water—Strait of Magellan.
Severity—Major—Chile.
OSC—Chilean Navy.

Latest POLREP—USCG SITREP Ten, 5 Sept, POLREP One 3 Sept.

Remarks—The Tanker *Harvella* will begin the second offloading operation from the *Metula* today. There is rising concern over the anticipated migration of tens of thousands of penguins through the polluted area beginning sometime between the middle of September and early October. To date only approximately 40 penguins and 150 Cormorants have been found dead from the effects of the pollution. Case ends.

SEPTEMBER 9, 1974.

NRC—34–75.
Location—Chile—Special Interest.
Pollutant—Crude Oil.
Occurrence Date—9 August 1974.
Body of Water—Strait of Magellan.
Severity—Major—Chile.
OSC—Chilean Navy.

Latest POLREP—USCG SITREP Eleven, POLREP Two, 6 Sept 1974.

Remarks—The tanker *Harvella* commenced taking on a second load of cargo from *Metula* on 5 Sept. A third transfer is planned prior to a refloating effort about 16 Sept. All National Strike Force personnel are on board *Metula* operating three ADAPTS to transfer cargo and to ballast. *Metula* apparently suffered further damage causing more pollution. Case pends.

SEPTEMBER 10, 1974.

NRC—34–75.
Location—Chile—Special Interest.
Pollutant—Crude Oil.
Occurrence Date—9 August 1974.
Body of Water—Strait of Magellan.
Severity—Major—Chile.
OSC—Chilean Navy.

Latest POLREP—USCG SITREP Twelve, POLREP Three, 9 Sept 1974.

Remarks—*Harvella* has completed the second offloading and will transfer this cargo (13,000 tons) to *Bergland*. Weather conditions are preventing the natural dispersal of the pollutant. Oil pollution is increasing. Future weather is predicted to be more favorable for dispersal. The third offloading operation is delayed due to 50 knot winds. The refloating attempt is planned for 22/24 Sept. Salvage costs after that date will exceed insurance coverage. Case pends.

The clipping file provided to my office by the Library of Congress has no news item from any U.S. publication bearing an earlier date than September 11. On that Wednesday—after everything reported above had occurred—the Wall Street Journal carried, on page 3, under an unassuming one-column headline, the following account:

TANKER THAT SPILLED MILLIONS OF GALLONS OF OIL STILL STRANDED

NEW YORK.—An oil tanker, known to have leaked at least nine million gallons of oil, remains stranded in the stormy Strait of Magellan at the top of South America.

The oil spillage from the mishap "potentially is bigger" than what occurred when the Torrey Canyon oil tanker broke up and later was sunk off the coast of England in March 1967, according to a consultant to the U.S. Coast Guard. He has just returned from the site of the grounded tanker.

A spokesman for a unit of the Royal Dutch-Shell Group said that nine million to 11 million gallons of oil have leaked from the 206,000-ton tanker Metula, owned by a Curacao, Netherlands Antilles, subsidiary of Shell Transport & Trading Co., London, England. But U.S. Coast Guard sources allege that by latest count about 14.3 million gallons of oil have been spilled from the ruptured Metula.

The Shell spokesman here said that the spillage has occurred in a "virtually uninhabited area" and that Shell's prime concern is to prevent pollution of the area. The $25 million Metula was stranded in the strait Aug. 9 about 75 miles from the nearest town, Punta Arenas, Chile.

Shell says it has many pollution-control experts at the site and a special environmental reoprt will be made by Shell International Marine Ltd. A Shell tanker, the 18,989-ton Harvella, has unloaded part of the oil from the Metula and another tanker, the 90,000-ton Bergeland chartered by Shell, has more recently began similar operations.

But snowstorms and 50-knot winds have hampered them. The captain and eight key crew members have remained aboard the Metula but the rest of the crew was removed from the stricken vessel and flown back to the Netherlands weeks ago.

A special eight-member pollution control "strike force" from the U.S. Coast Guard has been on the scene for several weeks. They brought with them, by C–130 cargo jetplane, special high-speed pumps that were taken to the Metula by tugboats.

A shell spokesman believes the Metula can be salvaged. One observer said about half the Metula's 15 cargo tanks and four fuel oil tanks "have problems." She was hauling 190,000 tons of crude oil.

There are three Chilean Navy tugs assisting in the operations plus three salvage company tugs that hope to tow the Metula free.

If anyone else in the American press noticed the Wall Street Journal's story, they did not think enough of it to print anything. For the next few days, our only annals are the cards entered into the files of the National Response Center. Following are the entries for September 12, 13, and 17:

NRC Daily Summary of Pollution Incidents.

NRC #—34–75.
Location—Chile—Special Interest.
Pollutant—Crude Oil.
Occurrence Date—9 August, 1974.
Body of Water—Straits of Magellan.
Severity—Major—Chile.
OSC—Chilean Navy.

Latest *Polrep*—Sitrep Fourteen, Polrep Three.

Remarks—Observation flight revealed that there has been a decrease in the amount of pollution in the water; however, the pollution to the shoreline is without change. Dr. Jenny Baker of the Patagonian Institute arrived to investigate the ecological damage. The third lightering operation was completed with the Harvella receiving 13,000 tons. A fourth transfer is being contemplated before the refloating operation which is scheduled for between 22 and 24 Sept. Case Pends.

NRC #—34–75.
Location—Chile—Special Interest case.
Pollutant—Crude Oil.
Occurrence Date—9 August, 1974.
Body of Water—Straits of Magellan.
Severity—Major—Chile.
OSC—Chilean Navy.

Latest *Polrep*—Sitrep 15, Polrey 4, 12 September.

Remarks—The Metula leaked some additional oil but it was quickly dissipated due to winds of over sixty knots. Dr. Baker will inspect the area of pollution on Saturday. The Harvella is commencing the transfer to the Bergeland. A fourth lightering operation is being planned before the refloating operation which is scheduled to begin on 21 September but which could be delayed until the 25th of September. Case pends.

On September 16 the Washington Letter of Oceanography, a newsletter, carried an item on the *Metula*, describing it as a case "kissed off by popular press." The text follows:

Biggest tanker grounding, oil, spillage kissed off by popular press. On August 9 the Very Large Crude Carrier (VLCC) *Metula*, 195,000 deadweight ton supertanker of Shell Oil Company, had threaded the needle at the eastern end of the Strait of Magellan and was proceeding at 14½ knots toward Punta Arenas. Some 70 miles northeast, at 52°33'8" S., 69°43'W., her mass ground to a halt on submerged rocks. She immediately began leaking part of her cargo of 194,000 tons (64,000,000 gallons) of crude. Her engine rooms were disabled.

Chile, in whose waters the grounding occurred, and for whom the cargo was destined, asked the U.S. government for help. As a consequence, the Coast Guard flew four of its Air Deliverable Anti-Pollution Transfer Systems (ADAPTS) to Punta Arenas with eight members of the National Pollution Strike Force. As Washington Letter went to press, the units were still pumping into another, smaller, tanker, the Chilean *Havello*, that has taken three loads of 4.3 million gallons each. Prospects for pulling the VLCC off were pessimistic, for she could well sink with her bottom ripped open. Compounding the difficulties is the winter weather of the area, often presenting winds of 50 knots. Standing by are three tugs of Smith International Salvage and Towing Co., and three other Chilean vessels.

Strangely, the first spill of a supertanker has drawn little attention in the popular press. The ecological effects in the virgin straits area are incalculable, possibly outstripping the *Torrey Canyon* tragedy.

NRC DAILY SUMMARY OF POLLUTION INCIDENTS

NRC—34-75.
Location—Chile—Special interest case.
Pollutant—Crude oil.
Occurrence date—9 August 1974.
Body of water—Strait of Magellan.
Severity—Major—Chile.
OSC—Chilean Navy.
Latest *Polrep*—SITREP 17, POLREP 5, 16 September 1974.

Remarks—Approximately 16 million gallons of cargo have been offloaded from the VLCC Metula by the tanker Harvella in four separate lightering operations. About 28 million gallons remain on board the Metula. All sound tanks have a minimum 30-foot water seal from tank bottom to oil/water interface. Adapts has been completely integrated into all phases of pollution prevention and salvage operations. An estimated 15.8 gallons of oil have been discharged into the water to date. Scientific investigation continues as to the extent and effects of this pollution. The refloating attempt is planned on or about 20 September. Case pends.

On September 17, a very quiet, low-key press conference was convened by the Marine Environmental Protection Division at U.S. Coast Guard Headquarters in the Department of Transportation. It seems that no particular effort was made to have the press attend in large numbers. My file includes the following undated items, which I believe were used as "handouts" at the September 17 press conference, although I am ready to stand corrected on that point. The items follow:

Metula—Fact Sheet

(Prepared by: Public Affairs Division, U.S. Coast Guard Headquarters, Washington, D.C.)

Name—Metula—classified as a VLCC (Very Large Crude Carrier).

Size—206,000 Dead Weight Tons, 1,067 feet long.

Owner—Curacao Scheepvaart Maatschappij (a company of the Royal Dutch/Shell Group), and managed by Shell Tankers BV of Rotterdam.

Cargo—1.58 million barrels of crude oil.

Location—Strait of Magellan.

Date of Accident—9 August 1974—Metula went aground. Carrying a cargo of oil from the Persian Gulf port of Ras Tanura to the Chilean National Oil Company at the Chilean port of Quintero. Chilean government requested U.S. assistance.

Coast Guard Assistance—Eight-man Coast Guard team from the National Pollution Strike Force and three ADAPTS (Air Deliverable Anti-Pollution Transfer Systems) were sent to assist in pollution control operations.

Status—Approximately 3 hundred thousand barrels of oil have leaked from Metula, contaminating about 40 miles of coastline.

Salvage Firm—Shell Tankers BV has engaged Smit International Ocean Towage and Salvage Company of Rotterdam to conduct refloating operations.

Salvage Attempts—Attempts to refloat the Metula are being made via lightering operations involving the transfer of oil to two smaller tank vessels, the Argentine "Harvella" and the "Bergeland". Oil is transferred from Metula to the "Harvella" (19,000 D.W.T.) which in turn transfers the cargo to the "Bergeland" (90,000 D.W.T.). Refloating operations are being hampered by gale force winds and strong currents in the area.

CGHQ Contact—Ensign Brian Norris (202) 426-1587.

The National Pollution Strike Force must be ready to travel within two hours of notice of a spill within the United States or her possessions.

Three Coast Guard strike teams, stationed on the Atlantic, Gulf, and Pacific coasts, respond to the directions of an on-scene coordinator (OSC), who is responsible for the clean-up operations. Each team of approximately 18 officers and men furnishes equipment, communications support, advice, and assistance for petroleum and hazardous substances control.

Timely response by the National Strike Force depends upon coordination between the commanding officer of the team and the on-scene coordinator. The OSC at coastal ports and on the Great Lakes is usually a Coast Guard officer. However, if the pollution spill is on inland waterways, the OSC may be an official of the Environmental Protection Agency.

Members of the Coast Guard teams are fully trained in the use of pollution control and recovery equipment that is transported by aircraft. The various pollution control systems, some weighing up to 25,000 pounds, may be carried in a Coast Guard C-130 Hercules aircraft.

When a pollution containment system is deployed at the spill site, it is designed to be efficient in five-foot waves buffeted by 20 knot winds and two-knot currents. The high seas containment barrier surrounding a spill will remain intact in 10-foot waves and 40 knot winds.

A high seas skimmer, which is used with the barrier to remove the entrapped polluting substance, is now being tested. Two designs are being evaluated by the Coast Guard.

The Atlantic Strike Team is headquartered at the Coast Guard Air Station, Elizabeth City, N.C. Commanding officer is LCDR Hugh D. Williams, a chemical engineer. The office telephone is (919) 338 1100.

Commander of the Gulf Strike Team is LCDR W. Parks, a graduate of the Coast Guard Academy and the Naval War College. Its headquarters is at the Mississippi Test Facility, Bay St. Louis, Miss. Phone (601) 688-2380).

The Pacific Strike Team is commanded by LCDR John Weichert, a former enlisted man. Headquarters are located on Yerba Buena Island, San Francisco. Phone (415) 556-0729.

These teams undergo training at various service schools and participate in industry training. Team members must maintain skills in handling hazardous materials, ship salvage, petroleum handling and storage, and diving and damage control operations. Each strike team is divided into watch sections usually headed by an officer.

When not deployed at a pollution disaster scene, strike teams train other Coast Guard units in how to respond quickly to pollution spills. They also test new equipment, which may include a jet-drive boat for use on open bays or the modification of a high seas oil containment barrier.

The response of the working press to the Coast Guard press conference was less than overwhelming. My file thus far includes only three news clippings that seem related. The first is a wire dispatch that was provided to me by Dr. Roy Hann of Texas A. & M.'s environmental engineering department, who went to Chile with the Coast Guard as a consultant. This seems to have gone out over the State wires of the AP in Texas. It is dated September 19. The second is an article from the September 19 issue of Texas A. & M.'s campus paper, the Battalion. The third is an item from the September 20 issue of Ocean Science News, a newsletter. The texts of these three items follow:

OIL SPILL

COLLEGE STATION, TEX.—Officials, working with a tanker which is aground and spilling oil in the Strait of Magellan, have an added worry—what about the approaching penguins—says a Texas A&M professor.

Rough seas, high winds and high tides have made salvage operations slow and difficult and have spread the thick crude on Chilean beaches, said Dr. Roy Hahn, chairman of A&M's environmental engineering department.

"Right now, their biggest worry is what will happen to the tens of thousands of penguins expected to pass through the area in the next few weeks in their annual migration to three islands nearby," says Dr. Hann. The islands are their nesting grounds.

Dr. Hann, recently returned from the far south region, went there as scientific adviser for the U.S. Coast Guard National Strike Force providing help to Chilean authorities in trying to free the tanker Metula.

The Royal Dutch Shell tanker went aground Aug. 9 shortly after it entered the strait loaded with 194,000 tons of Saudi Arabian crude oil intended for Chile.

Dr. Hann said the oil spilled so far covers more than 75 miles of coastline on Chile's mainland and on Tierra del Fuego. He said it was greater than any spill on U.S. shores.

"The coating of oil ranges from one to three inches in thickness and from a few to 75 feet in width," Hann said.

Chilean officials hope most of the heavy oil will be carried deep into the Atlantic by the strong winds and will not represent further danger to the mainland.

Dr. Hann noted that the oil already spilled will affect marine life and will have an impact on the environment.

He said one of the reasons he went to Chile is because of construction of superports, and the use of supertankers are being considered in Texas.

"This is one of the new large tankers," Hann said. "It is the first time one of this kind runs aground and spills oil."

The Coast Guard team was established to attack oil spills. It took special equipment to Chile which was needed to transfer some of the Metula cargo to other ships.

[From the Battalion, Sept. 19, 1974]

Aggie Advises on 50,000-Ton Oil Spill Off Chilean Coast

A Royal Dutch Shell tanker, aground near the Strait of Magellan, has spilled more than 50,000 tons of crude oil on Chilean beaches threatening marine life in the area, a Texas A&M University environmental engineer said Wednesday.

"It is bigger than the Santa Barbara, Calif., oil spill of some years ago and it has the potential to be larger than the Torrey Canyon disaster," said Dr. Roy Hann, chairman of the university's environmental engineering department. The two spills in recent years caused considerable damage to marine life and to the overall environment.

Dr. Hann went to Chile as scientific advisor to the team of the U.S. Coast Guard National Strike Force which is providing assistance to Chilean authorities in trying to free the tanker Metula. The tanker ran aground Aug. 9 shortly after it entered the Straits of Magellan loaded with 194,000 tons of Saudi Arabian crude oil intended for Chile.

Rough seas, high winds and high tides have hampered salvage operations and helped the spread of the thick crude on Chilean beaches, Dr. Hann said.

"Right now, their biggest worry is what will happen to the tens of thousands of penguins expected to pass through the area in the next few weeks in their annual migration to three islands nearby," Dr. Hann said.

The islands are Chilean national parks and nesting grounds for the penguins.

Dr. Hann said the oil spilled so far covers more than 75 miles of coastline on Chile's mainland and on Tierra del Fuego.

"The coating of oil ranges from one to three inches in thickness and from a few to 75 feet width," he added.

"The beaches are not recreational areas as we know them because of the cold weather," he said. "It is mostly grazing land and the closest city is Punta Arenas about 70 miles to the west."

Dr. Hann said Chilean officials hope most of the heavy oil slicks will be carried deep into the Atlantic by the strong winds and will not represent a danger to the mainland.

But he noted that the oil already spilled on the coastline will affect marine life and will have an impact on the environment.

He said one of the reasons he went to Chile with the U.S. team was to study the situation first hand and learn from it at a time when construction of superports and the use of supertankers are being considered in Texas.

Ocean Science News, September 20, 1974

She's twice as big as the *Torrey Canyon,* and aground in the Strait of Magellan—the first, and surely not the last, of the VLCC's (Very Large Crude Carrier) to get into such trouble. Approaching the first narrows of the strait from the east on 9 Aug. at a speed of 14.5 knots, the *Metula,* with a Chilean pilot aboard, and carrying 1.5 million barrels of oil, grounded at 10:20 P.M. The 1,000-ft. long, 206,000-ton, single screw, single bottom tanker hasn't moved since. The Chilean government has halted all traffic of such vessels through the strait and ordered a full investigation.

Over 1,000 square miles of water and 40 miles of the coastline in the strait have been polluted with crude oil—a telling signal, to a world hungry for energy, of things to come as the tankers get bigger, and the seaways more crowded, and the straits, figuratively speaking, more narrow. Ironically, the first serious VLCC accident in an international strait occurred while over 130 nations deliberated at the other end of the continent about new laws of the sea. Indeed, the Chilean delegation approached the U.S. delegation to the U.N. Law of the Sea Conference in Caracas and asked for aid in cleaning up the oil spill and preventing further damage to the environment.

In Caracas, the U.S. delegation forwarded the Chilean request to Washington, and the U.S. Coast Guard got the assignment. One of three National Pollution Strike Force units was alerted to proceed to the (almost) southernmost point of the western hemisphere. A C–130 aircraft was loaded with the USCG's ADAPTS gear (Air Deliverable Anti-Pollution Transfer System)—in essence a pumping system—and sent to remove the oil from the VLCC. The Coast Guard added an environmentalist to the team (Roy Hand of the U. of Texas) to report in detail on the environmental damage. The Shell-owned tanker can probably be refloated, but gale force winds and the normal 5–8-knot current are hampering the salvage operations. Meanwhile, some 300,000 barrels of oil have leaked into the water.

Commander James A. Atkinson, asst. chief, USCG Marine Environmental Protection Div., was in charge of the strike force on the site. He reports the *Metula* spill was the Coast Guard's biggest opportunity yet to try out its ADAPT system, which was designed (after *Torrey Canyon*) for just such a contingency. The system itself, and the response time of the strike force, didn't come off perfectly, but it worked well enough to encourage the Coast Guard to continue its existing readiness program.

Indeed, the whole *Metula* affair seems to have come off rather well in that it provided a lot of people with their first major VLCC spill experience in a strait, which by virtue of its geography was as good a place as any to test out contingency plans. The USCG's actions in this case could well become a model for some international anti-pollution strike force of the future. Possibly the only really bad side to the incident has been the reluctance of the oil company in question to come forward quickly after the accident and make the facts known to everyone, including the press. Thanks to this week's USCG press conference on its role in the clean-up, the full story of the *Metula* affair will become known.

At about this time—around the 20th or 21st of September—a wire story appears to have out over the wires of the UPI. The following clipping is in my file, I believe furnished, without identification of the newspaper or the date, by Dr. Hann of Texas A. & M. It is interesting principally because it indicates that at least a State wire of the UPI carried the story at some point:

Grim Hazards Stalk Tanker Refloating Try

Punta Arenas, Chile.—Salvage crews waged a grim battle in the cold, windswept Strait of Magellan Wednesday to keep the wreck of the giant oil tanker Metula from turning into an ecological and financial disaster.

The Dutch Shell supertanker ran aground Aug. 9 on a rocky shelf near the Atlantic entrance to the narrow passage at the southern tip of South America. It was carrying 196,000 tons of oil from the Persian Gulf to Chile.

Crews are working to transfer nearly 60,000 tons of the oil to another tanker to lighten the Metula before trying to refloat it, a task already postponed twice and now scheduled for around Sept. 22.

On Sept. 23, the following press release was issued by Texas A. & M. University's information department:

[Texas A&M University]

Press Release

College Station.—Refloating operations have begun on the supertanker *Metula* which is aground in the Strait of Magellan spilling its $15,000,000 cargo of crude oil.

Dr. Roy Hann, head of the Texas A&M University environmental engineering division, went as an advisor with a Coast Guard strike team to Chile to survey the oil spill.

"The 62-foot draft tanker ran aground on a shoal 40 feet below the surface rupturing four of the 15 oil tanks on Aug. 9," explained Hann. "The initial loss was about 6,000 tons of crude oil.

"Strong tides swung the *Metula* around into the shoal flooding the engine room and punctured two more tanks as well as the fuel bunkers by the first week of September," he added.

This is the first time a super-tanker classified as a Very Large Crude Carrier (VLCC) has run aground.

"This emphasizes the problems of accident in remote areas," Hann pointed out. "There is the money to clean up the spill, but not everywhere in the world can you turn it into men and machines to clean it up. Everything has to be brought in by air or by sea.

So far, according to field and aerial surveys, the Coast Guard reports the oil has covered more than 75 miles of coastline on Chile's mainland and on Tierra del Fuego and the coating of oil ranges from one to three inches in thickness and up to 75 feet in width.

Environmental impact to date appears to include the damage to the broad intertidal beach zone exposed by the area's 20 foot tides and the damage to local waterfowl.

Even in the remote area there is a serious environmental danger. Three islands in the Strait which are the Chilean "Los Pinguinas" National Park serve as a major nest-ground for tens of thousands of penguins who are scheduled to start their migration any day.

The crude oil interferes with the natural oil coating in the penguin's feathers leaving the penguin unable to float and allowing it to die of exposure. Hann observed the bodies of around 200 dead waterfowl and about 50 penguins over 25 miles of beachline.

"Even a modest amount of crude oil appears to destroy the weather proofing and buoyancy of the penguins," Hann said.

The 1,067 foot *Metula* is owned by the Royal Dutch/Shell Group. The Coast Guard said so far approximately 300,000 barrels of oil have leaked from the *Metula* although the leak slowed this week.

A Coast Guard report noted, "Attempts to refloat the *Metula* are being made via lightering operations involving the transfer of oil to two smaller tank vessels, the Argentine *Harvella* which in turn transfers the cargo to the *Bergeland.* Refloating operations are being hampered by gale force winds and strong currents in the area.

Our next items are, once again, from the daily or almost daily entries into the card file records of the National Response Center. The entries from that file for September 23 and 24 follow:

Records of National Response Center

SEPTEMBER 23, 1974

NRC No. 34–75.
Location: Chile—Special interest case.
Pollutant: Crude Oil.
Occurrence date: 9 August 1974.

Body of water: Strait of Magellan.

Severity: Major—Chile.

OSC: Chilean Navy.

Latest POLREP: SITREP Eighteen, POLREP Six, 20 Sept. 1974.

Remarks: Pollution seepage is decreasing. Last report advises that a refloating attempt will be made on 21 Sept. The National Strike Force will remain on scene to assist in removal of the remainder of the cargo after refloating. Case pends.

SEPTEMBER 24, 1974

NRC No. 34–75.

Location: Chile—Special interest case.

Pollutant: Crude Oil.

Occurrence date: 9 August, 1974.

Body of water: Strait of Magellan.

Severity: Major—Chile.

OSC: Chilean Navy.

Latest POLREP: SITREP Nineteen; POLREP Seven 23 September.

Remarks: Refloat efforts have been postponed until the morning of 24 September due to the tides and winds. The *Metula* will be refloated just before low tide and then towed to a safe anchorage near Bahia Felipe. The earliest release date of the Coast Guard National Strike Force personnel on scene is Oct. 1. Water fowl damage is becoming quite serious with the finding of 300 Cormorans, 50 penguins and 20 seagulls dead. In addition, the shellfish in the area are beginning to have an oily taste which is evidence that they are slowly dying due to a lack of Micro Plankton, their natural food. Case Pends.

It was also on September 24 that the Smithsonian Institution's Center for Short-Lived Phenomena issued its first report on the *Metula* incident. These reports, printed on 3-by-5 cards, are mailed to subscribers, mostly scientists, around the world. It is interesting to note that the "reporting source" for this first report by the Smithsonian was Time reporter Gerald Hannifin—although Time has yet to carry its first word on the incident and the dramatic Coast Guard efforts that followed.

The Smithsonian's report follows:

[Event 121–74]

"METULA" OIL SPILL, SEPTEMBER 24, 1974

EVENT NOTIFICATION REPORT

Type of event—Biological.

Dated of occurrence—9 August, 1974.

Location of event—Straits of Magellan, Chile.

"Satellite Patch" (impact at 52°33′ S, 69° 43′ W).

Reporting source—Gerald Hannifin, Time Magazine.

Washington D.C., source contact—Lt. Wilkins, Duty Officer, National Response Center, U.S. Coast Guard Headquarters, GWEP, Washington, D.C. 20590.

On 9 August 1974, the supertanker *Metula* grounded in the Straits of Magellan near "Satellite Patch" at the western end of Primera Angustura, the Straits' first narrows. The tanker was carrying about 64 million gallons of Persian Gulf crude oil, a light weight crude oil in comparison to American crude. By 24 August, 13 million gallons of the oil had spilled into the water. Additional seepage has occurred since that date, but the figures are not presently available.

When the tanker grounded, she was only about 1–2 miles off-shore. At one time, up to 40 miles of shoreline were affected, but the amount of contaminated shoreline changes rapidly. The tanker is arranged with five tanks longitudinally and three tanks across. The initial damage extended from the bow of the ship back through the first series of tanks. Since the grounding, tidal action has caused additional damage.

There are some reports of shellfish damage due to the lack of micro-organisms caused by the oil pollution. Also, a large spring penguin migration is expected through the area shortly.

Clean-up operations are being conducted by commercial companies contracted by Shell International and Royal Dutch Shell, the responsible parties. At the request of the Chilean government, the U.S. Coast Guard Strike Force is on scene and is assisting in an attempt to off-load and re-float the tanker.

On September 24, Texas A. & M.'s campus paper, the Battalion, carried another story on the *Metula*, along with a picture of Dr. Hann taken on the beach in Chile. The caption of the photo reads:

Death by exposure is a sure thing for the penguin being watched by Dr. Roy Hann, TAMU environmental engineer. The bird is covered with oil which strips it of natural protection. (Photo courtesy of University information.)

The text of the September 24 article from the Battalion follows:

REFLOATING BEGINS ON OIL TANKER

Refloating operations have begun on the supertanker "Metula."

The tanker is aground in the Strait of Magellan, spilling a $15,000,000 cargo of crude oil.

Dr. Roy Hann, head of the Texas A&M University environmental engineering division, went as an advisor with a Coast Guard strike team to Chile to survey the oil spill.

For the first time a super-tanker, classified as a Very Large Crude Carrier (VLCC), has run aground.

"The 62-foot draft tanker ran aground on a shoal 40 feet below the surface, rupturing four of the 15 oil tanks Aug. 9," said Hann. "The initial loss was about 6,000 tons of crude oil.

"Strong tides swung the 'Metula' around into the shoal flooding the engine room and punctured two more tanks as well as the fuel bunkers by the first week of September," he continued.

"This emphasizes the problems of accidents in remote areas," Hann said. "There is the money to clean up the spill, but not everywhere in the world can you turn it into men and machines to clean it up. Everything has to be brought in by air or by sea."

The Coast Guard reports field and aerial surveys show the oil covered over 75 miles of coastline on Chile's mainland and on Tierra del Fuego. The coating of oil ranges from one to three inches deep and up to 75 feet wide.

Environmental impact includes damage to the broad intertidal beach zone exposed by the area's 20 foot tides and the damage to local waterfowl.

Even in the remote area there is a serious environmental danger. Three islands in the Strait, the Chilean "Los Pinguinas" National Park, serve as a major nesting ground for tens of thousands of penguins who are scheduled to start their migration any day.

The crude oil interferes with natural oil coating in penguins' feathers. This leaves the penguin unable to float and allows it to die of exposure. Hann observed the bodies of around 200 dead waterfowl and about 50 penguins over 25 miles of beachline.

"Even a modest amount of crude oil appears to destroy the weather proofing and buoyancy of the penguins," Hann said.

The 1,067 foot "Metula" is owned by the Roybal Dutch/Shell Group. The Coast Guard said so far approximately 300,000 barrels of oil have leaked from the "Metula" although the leak slowed this week.

A Coast Guard report said, "Attempts to refloat the 'Metula' are being made via lightering operations involving the transfer of oil to two smaller tank vessels, the Argentine 'Harvella' which in turn transfers the cargo to the 'Bergeland.'

"Refloating operations are being hampered by gale force winds and strong currents in the area," said the report.

On September 26, 1974, the Institute for Short-Lived Phenomena issued a second report, this one covering two of its 3- by 5-inch report card forms. The text of that report follows:

METULA OIL SPILL

Event information report: 1A.

Type of event: Biological.

Date of occurrence: August 9, 1974.

Location of event: Straits of Magellan, Chile.

Reporting source: U.S. Coast Guard headquarters.

GWEP, Washington, D.C., U.S.A.

Source contact: Dr. Roy W. Hann, Jr., Texas A&M. Environmental Engineering. College Station, Texas.

An estimated 50,000 tons (15,000,000 gallons) of Persian crude oil has covered beaches along the Straits of Magellan near the first narrows. The source of the oil is Royal Dutch Shell's supertanker Metula which grounded in the area on 9 August. Since it was the insurance company's optimistic opinion that the oil would be carried out to sea, crews concentrated on salvaging the tanker, and on off-loading the oil that had not spilled. Consequently, clean-up of the spilled oil was not as effective as it might have been and winds blew most of the oil onto the shore.

A field survey was conducted along the shorelines affected by the spill during late August and early September. At the time the survey began, aerial surveillance showed that about 40–50 miles of shoreline were coated with oil. It was estimated that 75 miles of beach were affected at the time of the survey team's departure in September.

The survey was conducted by Dr. Roy W. Hann, Jr., an Environmental Engineer with Texas A & M; Jon Wonham of the Warren Springs Laboratory in England; and three scientists from the Instituto de la Patagonia in Chile: Claudio Vnedas, a biologist, Jean Texera, an ornithologist, and William Texera, a mammologist.

On 4 and 5 September, the survey team walked 25 miles of beach in order to determine the effects of the oil on birdlife. Within that area approximately 250 dead birds were found.

This number included over 100 dead cormorants, 40 dead penguins, a few gulls, an albatrous, and some other sea birds. Spot checks were also carried out and dead birds were found at the top of 50 foot cliffs as far as ½ mile inland. Dead birds were also found on the mainland shores (north side) where there was no oil on the beaches. It was thus estimated that there were 4–5 times as many birds killed as were seen.

There was special concern because the spring penguin migration was expected from the South Atlantic to three islands in the middle of the Straits. Tens of thousands of penguins are involved in this migration. During most of the year the penguins live out in the ocean. However, they pass through the Straits, particularly the two narrows (one of which is where the tanker grounded) to the islands where they nest, lay their eggs, and rear their young. The penguins that were already found dead were thought to be either forerunners or stragglers from the previous year.

A report was received 25 September from the Instituto de la Patagonia that the penguins have completed their migration and are apparently unaffected by the oil.

The National Response Center entry on September 26 contained the happy news that the *Metula* had been refloated the day before. The text follows:

DAILY SUMMARY OF POLLUTION INCIDENTS

NRC—34–75.
Location—Chile—Special interest case.
Pollutant—Crude oil.
Occurrence date—9 August, 1974.
Body of water—Straits of Magellan.
Severity—Major (Chile).
OSC—Chilean Navy.
Latest Polrep—Sitrep twenty; polrep eight.
Remarks—The Metula was refloated at 0230 local time on 25 Sept. and is now safely anchored in Bahia Felipe. Case pends.

The New York Times, according to a Library of Congress abstract, carried a brief item on the *Metula* on September 26, in one edition—an edition that the Library does not receive. The Library's computerized abstract of the Times item follows:

Chilean Navy reports Dutch tanker *Metula,* stranded on rocks in Straits of Magellan since Aug. 9, was freed at high tide by tugs after some of its oil cargo was pumped into smaller tankers; vessel leaked 60,000 tons of oil after running aground.

For the date of September 30, 1974, my file thus far contains another NRC file card and an item from the Washington Letter of Oceanography, a newsletter. Those two items, in the order mentioned, follow:

NRC—34–75.
Location—Chile—Special interest case.
Pollutant—Crude oil.
Occurrence date—9 August 1974.
Body of water—Straits of Magellan.
Severity—Major (Chile).
OSC—Chilean Navy.
Latest *Polrep*—Polrep 9, Sitrep 22.
Remarks—Some slight additional pollution was reported during refloat operations on the 25th. Winds varying from 30 to 60 knots hampered the attempts. ADAPTS pumps were used to discharge clean ballast in large volumes in order to refloat the *Metula* at low tide. The ADAPTS Systems are presently being used to transfer cargo from the damaged tanks to sound ones. Plans call for the M/V *Bergland* to return on the 1st of October to receive the remainder of *Metula's* cargo. The National Strike Force expects to be released by the 15th of October. Case Pends.

METULA FLOATED OFF ROCKS

Victim of a grounding Aug. 9 in the Strait of Magellan, the Very Large Crude Carrier (VLCC) Metula, 107,000 deadweight ton supertanker, was refloated at 2:30 a.m. local time last Wednesday, Sept. 25. With a substantial portion of the 1.58 million barrel (64 million gallons) load pumped out by four U.S. Coast Guard Air Deliverable Anti-Pollution Transfer Systems (ADAPTS), the huge vessel was refloated and taken in tow by four tugs to Bahia Félipe, one of many bays near the western end of the strait, where she will be pumped out. From there she will be towed to an undesignated yard in Japan. (Details in WL Sept. 16) During their stint, that began Aug. 31, the Coast Guard Strike Force personnel pumped out the cargo into a smaller tanker, which took it to Punta Arenas in many trips. A major oil spill bigger than that of the Torrey Canyon resulted from the grounding at 14½ knots and stop in 80 meters.

EPA INTERESTED IN STRAIT OF MAGELLAN

The big spill (above) has aroused the interest of the Environmental Protection Agency (EPA). Because of the environmental impact possibilities on the port of Valdez, Alaska and Prince Williams Sound, the advent of the trans-Alaska pipeline, EPA officials want to see what happened in a similar geographic and climatic location which suffered a major crude oil spill. An EPA team will make the trip soon. What they will see will be dead and dying cormorants and penguins and four inch thick muck that is a colloidal mixture of crude oil, sand, earth and 30% water. Because of the slow oxidation processes in the cold climate, it will be decades before traces of the oil will have disappeard. An immediate concern of Chilean conservationists is the upcoming migration of penguins. The flocks stop over in the grounding area.

On October 1, this entry was made in the NRC cardfile:

NRC—34–75.
Location—Chile-Special Interest Case.
Pollutant—Crude Oil.
Occurrence date—9 August 1974.
Body of water—Straits of Magellan.
Severity—Major (Chile).
OSC—Chilean Navy.
Latest Polrep—Polrep 9, Sitrep 23.
Remarks—100 knot winds caused the *Metula* to drag anchor for ¾ths of a mile on the 27th of September. She appears to be holding well now. It is estimated that offloading the remaining cargo to the M/V *Bergland* will take about two weeks with National Strike Force members ready to depart on the 15th. A Tierra del Fuego Pollution Inspection team is conducting a survey of beaches and coastal waters in the vicinity. Case Pends.

Next to last but far from least in this chronology of clippings is an article from the New Orleans States-Item of October 5. The *Metula* case first came to my attention when a member of my staff, visiting in New Orleans, happened to see this article:

LITTLE-PUBLICIZED ACCIDENT DUMPS OIL OFF CHILE COAST

A little-publicized supertanker accident nearly a month ago in the Strait of Magellan dumped 300,000 barrels of crude oil into Chilean coastal waters.

The Royal Dutch-Shell tanker Metula ran aground Aug. 9, rupturing six of its 15 oil tanks and pouring 54,000 tons of oil into the water before the vessel was refloated Sept. 25.

A spokesman for the U.S. Coast Guard, which was called in for assistance by the Chilean government, said he knew of no efforts to recover the spilled oil, but the remainder of the Metula's $15 million cargo was transferred to another ship.

An environmental engineer from Texas A&M University who accompanied the Coast Guard team to Chile said the tanker, which has a 62-foot draft, ran aground on a shoal 40 feet underwater.

Dr. Roy Hann said the spill, which ranks as one of the largest on record, "emphasizes the problems of accidents in remote areas. There is the money to clean up the spill, but not everywhere in the world can you turn it into men and machines to clean it up. Everything has to be brought in by air or sea."

Meanwhile, a New Orleans environmentalist charged that the news of the massive spill has been suppressed.

"It is inconceivable to me," said Mrs. Mary Kell, chairman of the New Orleans Area Section of the Marine Technology Society, "that Shell Oil, the Coast Guard and Chile have conspired to prevent news of this oil spill from being made public, though we all know that super oil ports to serve supertankers are in the planning and development stages for offshore Louisiana and Texas."

The 1,067-foot Metula was reportedly the first supertanker of the Very Large Crude Carrier class to run aground.

Coast Guard reports said 75 miles of the coastline of Chile and Tierra del Fuego were covered with oil from one to three inches thick. Hann said he observed 25 miles of beachline and counted 50 dead penguins and 200 dead waterfowl.

He said serious damage had been done to the intertidal beach zone exposed by the strait's 20-foot tides, and there was concern for three islands in the strait which provide nesting grounds for tens of thousands of penguins. The oil destroys the penguins' weather proofing and ability to float, causing them to die of exposure, said Hann.

Mrs. Kell said the 300,000-barrel spill dwarfs the 1970 Chevron accident in the Gulf of Mexico, in which 16,000 barrels spewed into the water, and the 1969 Santa Barbara incident in which 5,000 to 6,000 barrels of crude were dumped into the Pacific Ocean.

The last NRC cardfile entry of which I have thus far obtained a copy is dated October 7, 1974. It is noted, as all previous cards are, that the "Case Pends." The card follows:

NRC No.—34–75.
Location—Chile—Special interest case.
Pollutant—Crude oil.
Occurrence date—9 August, 1974.
Body of water—Straits of Magellan.
Severity—Major (Chile).
OSC—Chilean Navy.
Latest Polrep—Polrep 10, Sitrep 24 4 October, 1974.
Remarks—The Bergland has commenced offloading operations and divers have commenced hull investigation. Dead fowl count has been completed with 408 cormorants, 66 penguins, 23 ducks and 84 seagulls found. The Salvor made a request to purchase the ADAPTS systems on board the Metula but the Coast Guard declined due to the long lead time for purchase. Estimated return date of the strike force is 15 Oct. Case Pends.

Mr. President, that is my file on this matter to date, and I am glad to share it with the Senate. I hope others will follow the matter from here on out with as much interest as I expect to.

ACCOMPLISHMENTS OF THE 93D CONGRESS

Mr. MANSFIELD. Mr. President, before recessing I would like to say a few words about the accomplishments of the 93d Congress. Despite Watergate and the public focus on it, the people's representatives in the Congress have worked with greater concentration on their responsibilities than I have seen in many years. The 93d Congress has come up with legislative responses to problems which have been facing the American public for a number of years. It has worked out solutions in areas which many previous Congresses have been unable to accomplish. It has enacted landmark legislation on:

Budget reform and impoundment control, establishing a mechanism for resuming the control over Federal spending which the Constitution gives the Congress;

War powers authority reasserting the role of Congress regarding waging war;

Private pension plan reform giving American workers greater security of retirement benefits;

Elementary and secondary education programs revising Federal aid to State and local educational agencies;

National emergencies clarifying the authority of the President to declare a national emergency and terminating states of emergencies which are legally still in force. This measure passed the Senate last week and will require House action after the recess.

Housing assistance making major revisions in Federal assistance to housing programs.

These are no small achievements, and I want to take this opportunity to thank all Senators for their cooperation with the leadership in making this record possible.

We will return in November to a full legislative schedule. Of primary concern will be whatever legislation may be necessary to deal with the serious state of the economy. We have already cleared for the President's signature a bill increasing the availability of home mortgage money. Other economic legislation will be considered.

Also outstanding are five appropriations bills—agriculture, labor-HEW, military construction, foreign aid, and supplemental appropriations. Military construction and foreign aid appropriations await action in the House Appropriations Committee.

The trade reform bill will be high on the agenda along with tax reform legislation on which the House must act first. A list of legislation which the Senate Democratic Conference gave priority last January outlines needed action on several other important bills. I ask unanimous consent that this list and a comparison of Senate progress in 1973 and 1974 be printed in the RECORD at this point along with the report and index prepared by the Staff of the Democratic Policy Committee on Senate legislative activity.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 16, 1974.

STATUS OF LEGISLATION GIVEN PRIORITY BY THE SENATE DEMOCRATIC CONFERENCE IN JANUARY, 1973 AND 1974

ENACTED (7)

Budget Reform and Impoundment Control—Public Law 93-344.

Campaign Financing—Public Law 93- .

Elementary and Secondary Education—Public Law 93- .

Housing—Public Law 93-383.

Minimum Wage Increase—Public Law 93-296.

Pension Reform—Public Law 93-406.

War Powers—Public Law 93- .

IN CONFERENCE (2)

Strip Mining Controls.

Welfare Reform.

PASSED SENATE ONLY (2)

Land Use Planning—House voted against considering.

No-Fault Auto Insurance—House Committee hearings completed.

PASSED HOUSE ONLY (2)

Consumer Protection Agency—Tabled.

Trade—Expected to be reported in November.

HOUSE MUST ACT FIRST (2)

National Health Insurance—Ways and Means markup not finished.

Tax Reform—Ways and Means marking up.

Comparison of Senate Progress in 1973 and 1974

(As of October 16)

	1973	1974
Days in session	146	145
Hours in session	858:06	907:44
Total measures passed	509	644
Public laws	123	199
Private laws	5	45
Treaties	16	5
Record votes	454	459

SENATE LEGISLATIVE ACTIVITY INDEX, 93D CONGRESS, 2D SESSION

(By Senate Democratic Policy Committee)

AGRICULTURE

*Animal Health Research (H.R. 11873).

Commodity Futures Trading Commission (H.R. 13113).

Egg Research and Consumer Information (H.R. 1200).

Farm Credit Administration (S. 3801).

Fertilizer (S. Res. 289).

Food Assistance Programs (S. 3458).

Food Marketing Margin Investigation (S. Res. 351).

Food Stamps (H.R. 15124).

Forest and Rangeland Management (S. 2296).

Forest Pest Control (S. 3371).

Guam Agricultural Assistance (H.R. 13267).

Livestock Credit (S. 3679).

Milk Price Supports (S. 418).

Perishable Agricultural Commodities (H.R. 14364).

Poultry Indemnity Payments (S. 3231).

President's Committee on Food—Farm Inputs (S. Res. 391).

REAP and RECP Programs Extension (S. 3943).

Rice Allotment Transfers (S. 3075).

Rural Development Loans—GNMA Guarantee (H.R. 14723).

Tobacco Allotment Transfer, No. Carolina (H.R. 16857).

Tobacco Marketing Quota Provisions (H.R. 6485).

Top Level Positions in the Department of Agriculture (S. 3031).

Wheat Supplies (S. Con. Res. 70).

Wool Act Payments (S. 3056).

APPROPRIATIONS

1974:

Supplemental (H.R. 14013).

Veterans' Administration Supplemental (H.J. Res. 941).

Veterans' Administration Urgent Supplemental (H.J. Res. 1061).

1975:

*Agriculture—Environmental and Consumer Protection (H.R. 15472).

Continuing (H.J. Res. 1062), *(H.J. Res. 1131), (H.J. Res. 1163).

Defense (H.R. 16243).

District of Columbia (H.R. 15581).

Energy Research and Development (H.R. 14434).

HUD (H.R. 15572).

Interior (H.R. 16027).

Labor-HEW (H.R. 15580).

Legislative (H.R. 14012).

Public Works—Atomic Energy Commission (H.R. 15155).

State—Justice—Commerce (H.R. 15404).

Transportation (H.R. 15405).

Treasury—Postal Service (H.R. 15544).

ATOMIC ENERGY

Atomic Energy Commission Authorization (S. 3292).

Atomic Energy Commission Omnibus Legislation (S. 3669).

Nuclear Agreements (S. 3698).

*Nuclear Incidents—Insurance (H.R. 15323).

Nuclear Information Report (S. 3802).

CONGRESS

Adjournment (H. Con. Res. 568).

Budget Reform—Impoundment Control (H.R. 7130).

Congressional Office Equipment and Furnishings (H.R. 9075).

Congressional Record Postal Rates (S. 3373).

First Continental Congress 200th Anniversary (S. Res. 415).

Impeachment Inquiry (S. Res. 370).

National Emergencies (S. 3957).

Office of Management and Budget (S. 37).

Select Committee on Standards and Conduct (S. Res. 368).

Senate Committee Employees Pay—Franked Mail (S. 2315).

Tourism Study (S. Res. 347).

CONSUMER AFFAIRS

Consumer Food Act (S. 2373).

Consumer Product Warranties (S. 356).

Motor Vehicle Defect Remedies (S. 355).

CRIME-JUDICIARY

Bilingual Court Proceedings (S. 1724).

Canal Zone Marriage Licenses (S. 2348).

Commission on Revision of the Federal Appellate System (S. 3052).

"Coolie Trade" Laws (S. 2220).

Copyright Laws (S. 1361), (S. 3976).

Federal Rules of Criminal Procedure (H.R. 15461).

Florida Judicial District (S. 3021).

Jurors Fees (S. 3265).

Juvenile Justice and Delinquency Prevention (S. 821).

Legal Services Corporation (H.R. 7824).

Mandatory Death Penalty (S. 1401).

Narcotic Treatment (S. 1115).

Speedy Trials (S. 754).

DEFENSE

Air Force Colonels Promotions (H.R. 14402).

Air Force Unit Command (S. 3906).

Army Officers Involuntary Discharge (S. 3191).

Aviation Crew Incentive Pay (H.R. 12670).

Coast Guard Authorization (H.R. 13595).

Coast Guard Icebreaking Operations (S. 3308).

Coast Guard Laws (H.R. 9293).

Coast Guard Reserve Benefits (S. 2149).

Coast Guard Safety Standards (H.R. 10309).

Defense Production Act Extension—National Commission on Supplies and Shortages (S. 3270).

Defense Production Act Extensions (H.J. Res. 1056), (S.J. Res. 228).

Enlistment and Reenlistment Bonuses (S. 2771).

Enlistment Qualifications (H.R. 3418).

Grumman Aerospace Corporation (S. Res. 380).

Medical Officers' Pay (S. 2770), (H.R. 15936).

Military Claims (H.R. 9800).

Military Construction Authorization (H.R. 16136).

Military Pay Adjustment (H.R. 15406).

Military Procurement Authorization (H.R. 14592).

Military Procurement Supplemental Authorization [H.R. 12565 (S. 2999)].

Naval Sea Cadet Corps (S. 3204).

Service Academy Appointments (S.J. Res. 206).

DISTRICT OF COLUMBIA

Advisory Neighborhood Councils (H.R. 12109).

American University, Inc. (S. 3389).

Campaign Finance Reform (H.R. 15074).

Educational Personnel—Psychologists—Unemployment Compensation (H.R. 342).

Executive Protective Service (S. 3124).

Home Rule Amendments (H.R. 15791).

Indigent Defense (S. 3703).

Insurance Holding Company Regulations (H.R. 7218).

Land-Grant University (H.R. 15643).

Law Revision Commission (H.R. 12832).

Marriage Licenses (S. 3476).

Medical and Dental Manpower (H.R. 11108).

National Visitor Center (H.R. 17027).

Pennsylvania Avenue Development Corporation (S. 3301).

Policemen, Firemen, and Teachers Pay Increase (H.R. 15842).

Sewall-Belmont House (S. 3188).

Smallpox Vaccination (H.R. 8747).

Taxability of Certain Dividends—D.C. Election (H.R. 6186).

Transportation Subsidies for Schoolchildren (S. 3477).

Unemployment Compensation (S. 3474).

ECONOMY-FINANCE

Abandoned Money Orders and Traveler's Checks (S. 2705).

Bow and Arrow Excise Tax (H.R. 10972).

Check Forgery Insurance (H.R. 6274).

Council on International Economic Policy (H.R. 13839).

Domestic Summit on the Economy (S. Res. 363).

Duty Exemptions—SSI Payments—Unemployment Compensation (H.R. 8217).

Duty Suspensions:

Bicycle Parts—Tax Amendments (H.R. 6642).

Cellulose Salts—Tax Amendments (H.R. 12035).

Copper—Corporate Liquidation Judgments (H.R. 12281).

Crude Feathers and Downs—Tax Amendments (H.R. 11452).

Horses—Medicare Provider Provisions—SSI (H.R. 13631).

Menthanol—DISC Qualifications—Depreciation Allowances (H.R. 11251).

Shoe Lathes (H.R. 8215).

Silk—Trona Ore—Gaming Operations (H.R. 7780).

Synthetic Rutile (H.R. 11830).

Zinc—Disaster Loss Claims (H.R. 6191).

Economic Development (H.R. 14883).

Export Administration Act Extensions (H.J. Res. 1057), (H.J. Res. 1104).

Export Control (S. 3792).

Export Expansion (S. 1486).

Export Import Bank Act Extension (H.R. 15977).

Export-Import Bank Act Extensions (S.J. Res. 218), (S.J. Res. 229), (S.J. Res. 244), (S.J. Res. 251).

FDIC Insurance (H.R. 11221).

Foreign Investment in the United States Study (S. 2840).

Holding Companies (S. 3838).

Inflation Policy Study (S. Con. Res. 93).

Interest Rates—State Usury Ceilings (S. 3817).

Municipal Securities (S. 2474).

National Commission on Supplies and Shortages (S. 3523).

National Securities Market System (S. 2519).

Penny Composition—Eisenhower College (H.R. 16032).

Pension Reform (H.R. 2 [H.R. 4200]).

Public Debt Limit (H.R. 14832).

Pyramid Sales Act (S. 1939).

*Railroad Retirement Financing (H.R. 15301).

Renegotiation Act—Unemployment Compensation (H.R. 14833).

Securities and Exchange Commission Enforcement Actions (S. 2904).

Securities and Exchange Commission (SEC) Paperwork Reduction (S. Res. 173).

Supplemental Security Income—Unemployment Compensation (H.R. 13025).

Wage and Price Stability Council (S. 3919).

EDUCATION

Educational Funding and Guaranteed Student Loans (H.R. 12253).

Elementary and Secondary Education (H.R. 69).

Environmental Education (S. 1647).

Health Professions Student Loans (S. 3782).

Legal Education Assistance (H.R. 15296).

ELECTION REFORM

Campaign Reform (S. 3044).

Overseas Citizens Voting Rights (S. 2102).

Watergate Committee (S. Res. 287), (S. Res. 288), (S. Res. 286), (S. Res. 327), (S. Res. 328), (S. Res. 396).

Watergate Documents Access (S. Res. 399).

Watergate Tapes Preservation (S. 4016).

ENERGY

Coal Leases (S. 3528).

Coal Slurry Pipeline (S. 3879).

Daylight Saving Time (H.R. 16102).

Eenergy Allocation for Tourism Industry (S. Res. 281).

*Energy Emergency (S. 2589).

Energy Reorganization (ERDA) (H.R. 11510).

Energy Research and Development Policy (S. 1283).

Energy Supply—Clean Air (H.R. 14368).

Energy Transportation Security (H.R. 8193).

Federal Energy Administration (H.R. 11793 [S. 2776]).

Federal Energy Report (S. 3871).

Geothermal Energy (H.R. 14920).

Natural Gas Pipeline Safety Authorization (S. 3620), (H.R. 15205).

Oil Price Increase (S. Res. 249).

Oil Shale Funds (S. 3009).

Outer Continental Shelf Energy (S. 3221).

Petroleum Allocation—Mandatory (S. 3717).

Petroleum Products Fair Marketing (S. 1694).

Solar Energy Research (S. 3234).

Solar Heating and Cooling (H.R. 11864).

Truck Fuel Prices (S.J. Res. 185).

Washington Energy Conference (S. Res. 279).

ENVIRONMENT

Environmental Data Centers (S. 1865).

Ocean Dumping (H.R. 5450), (H.R. 15540).

Oil Pollution (S. 1070).

Strip Mining Control (S. 425).

Water Pollution Control Act Extensions (S. 4073).

Weather Modification (S. 3320).

Woodsy Owl—Smokey Bear (S. 1585).

GENERAL GOVERNMENT

Alaska Records (S.J. Res. 234).

Amateur Athletics (S. 3500).

Blind and Handicapped Products Authorization (H.R. 11143).

Blind Vendor Operations (S. 2581).

Chester Bridge (S. 3546).

Commission on Productivity (S. 1752).

Disaster Relief (S. 3062).

Eniwetok Atoll (S. 3812).

FBI Director, Ten Year Term for (S. 2106).

Federal Grants and Cooperative Agreements (S. 3514).

Federal Policy Formulation (S. Res. 427).

Federal Procurement (S. 3311).

Federal Procurement Policy (S. 2510).

Fire Prevention and Control (S. 1769).

Flood Damage Claims—Louisiana (S. 2201).

Freedom of Information (H.R. 12471).

GSA Leases (S. 2785).

Historical and Archeological Data (S. 514).

Idaho Admission Act (S. 939).

Law Enforcement Officers' and Firefighters' Retirement (H.R. 9281).

NASA Authorization (H.R. 13998).

National Science Policy (S. 32).

National Science Foundation Authorization (H.R. 13999).

No-Fault Motor Vehicle Insurance (S. 354).

Postal Rate Adjustments (S. 411).

Presidential Pardons (S. Res. 401).

Small Business Administration (S.J. Res. 223).

Small Business Administration Authority (S. 3331).

Small Business Emergency Relief (S. 3619).

Smithsonian Institution Authorization (S. 2137).

Smithsonian Museum Support Facilities (S. 857).

Submerged Lands (H.R. 11559).

Tourist Travel (S. 3942).

Vice Presidential Residence (S.J. Res. 202).

White House Personnel Authorization (H.R. 14715).

Youth Conservation Corps (S. 1871).

GOVERNMENT EMPLOYEES

Civil Service Retirement Annuities (S. 1866).

Civil Service Survivor Annuities (S. 628).

Civil Service Survivors Eligibility (S. 2174).

*Deputy U.S. Marshals (H.R. 5094).

Executive, Legislative and Judicial Salaries Increase (S. Res. 293).

Federal Employees Compensation (H.R. 13871).

Federal Employees' Pay Raise (S. Res. 394).

Foreign Service Retirement (S. 1791).

Personal Property Claims (H.R. 7135).

Postal Service Retirement Fund (H.R. 29).

Privacy and Rights of Federal Employees (S. 1688).

Psychologists and Optometrists (H.R. 9440 [S. 2619]).

Travel Expenses (S. 3341).

USDA Employees' and Dependents Training (S. 2189).

Withholding Taxes (H.R. 8660).

HEALTH

Alcohol Abuse and Alcoholism Prevention (S. 1125).

Alcohol and Drug Abuse Education (H.R. 9456).

Biomedical Research (H.R. 7724).

Diabetes Mellitus (S. 2830).

Drug Abuse Prevention (S. 3355).

Health Professions Educational Assistance (S. 3585).

Health Services (H.R. 11385).

Health Services—Revenue Sharing (H.R. 14214).

Medical Devices (S. 2368).

National Arthritis Act (S. 2854).

National Cancer Program (S. 2893).

National Institute on Aging (S. 775).

Older Americans (H.R. 11105).

School Lunch and Child Nutrition (H.R. 14354).

Sudden Infant Death Syndrome (S. 1745).

HOUSING

Home Mortgage Assistance (S. 3979).

Housing and Community Development (S. 3066).

Real Estate Settlement Costs (S. 3164).

INDIANS

Absentee Shawnee Tribe, Oklahoma (S. 3358).

American Indian Policy (S. Con. Res. 37).

Assistant Secretary for Indian Affairs (S. 2777).

Bridgeport Indian Colony, California (S. 283).

Cheyenne-Arapaho Tribes, Oklahoma (S. 521).

Chippewa Cree Tribe, Montana (H.R. 5525).

Citizen Band of Potawatomi Indians Oklahoma (S. 3359).

Constitutional Rights of Indians (S. 969).

Indian Claims Commission (S. 3007).

Indian Financing (S. 1341).

Indian Self-Determination (S. 1017).

Kootenai Tribe, Idaho (S. 634).

San Carlos Indian Tribe, Arizona (H.R. 7730).

Sisseton and Wahpeton Sioux Tribe, No. and So. Dakota (S. 1411), (S. 1412).

Spokane Tribe, Washington (H.R. 5035).

INTERNATIONAL

African Development Fund (S. 2354).

American Hospital of Paris, Inc. (S. 1836).

Arms Control and Disarmament Agency (H.R. 12799).

Asian Development Bank (S. 2193).

Board for International Broadcasting (S. 3190).

China Indemnification Agreement (S. 3304).

Colorado River Basin Salinity Control (H.R. 12165).

Customs and Immigration Border Facilities (H.R. 10044).

Foreign Disaster Assistance (H.R. 12412).

Foreign Service Buildings (H.R. 12465).

IDA—Gold Ownership (S. 2665).

International Court of Justice (S. Res. 74), (S. Res. 75), (S. Res. 76), (S. Res. 77), (S. Res. 78).

International Criminal Police Organization (H.R. 14597).

International Monetary Fund and World Bank Meeting (S. Res. 416).

International Ocean Exposition '75 (S. 2662).

International Wheat Agreement Conference (S. Res. 340).

Japan-United States Cultural Exchange (S. 649).

Metropolitan Museum of New York Indemnification (S.J. Res. 236).

Middle East Terrorists (S. Res. 324).

Migratory Birds (H.R. 10942).

Military Assistance to Greece (S. 2745).

Missing in Indochina (S. Con. Res. 81).

Missing Newsmen (S. Res. 291).

National Olympic Commission (S. 1018).

Northwest Atlantic Fisheries (H.R. 14291).

Overseas Private Investment Corporation (OPIC) (S. 2957).

Passport Application Fees (H.R. 15172).

Peace Corps Authorization (H.R. 12920).

State Department Supplemental Authorization (H.R. 12466).

State Department—USIA Authorizations (S. 3473).

Treaties:

Customs Convention on the International Transit of Goods (Ex. P, 93d–1st).

Czechoslovak Consular Convention (Ex. A, 93rd–2d).

Extradition Treaty with Denmark (Ex. U, 93d–1st).

Protocol to the Convention for the International Council for Exploration of the Sea (Ex. V, 93d–1st).

Protocols for the Extension of the International Wheat Agreement, 1971 (Ex. C, 93d–2d).

Turkey Foreign Aid (S. Res. 247).

U.S.-Hungarian Claims (H.R. 13261).

Vietnam War Claims (S. 1728).

1980 Winter Olympic Games (S. Con. Res. 72).

World Food Resolution (S. Res. 329).

LABOR

Developmental Disabled Assistance (H.R. 14215).

Farm Labor Contractor Registration (H.R. 13342).

Minimum Wage Increase (S. 2747).

Nonprofit Hospital Employees (S. 3203).

Rehabilitation Act Amendments (H.R. 14225).

West Coast Dock Strike (S. 1566).

MEMORIALS, TRIBUTES AND MEDALS

Al Kaline (S. Res. 414).

Aleksandr I. Solzhenitsyn (S.J. Res. 188).

Betty Ford (S. Res. 413).

B. Everett Jordan, Death of (S. Res. 298).

Cable Can Medals—International Exposition on the Environment Medals (S. 4037).

Chautaugua Institution (S.J. Res. 230).

Church of Jesus Christ of Latter Day Saints (S. Res. 366).

Clara Barton House (S. 3700).

Earl Warren (S.J. Res. 123). (S. Con. Res. 101).

Georges Pompidou, Death of (S. Res. 304).

Gerald R. Ford (S. Con. Res. 108).

Hank Aaron Home Run Record (S. Res. 303), (S. Res. 305).

Harry S. Truman Memorial Scholarship (S. 3548).

Herbert Hoover (S. Con. Res. 79).

International House 50th Anniversary (S. Res. 421).

J. Allen Frear Building (S. 3518).

J. Edgar Hoover Medals (H.R. 1817).

Lyndon B. Johnson Conservation Corps Center and Lyndon B. Johnson National Grasslands (S. 2835).

Monument to 1st Infantry Division (S.J. Res. 66).

University of Nevada Centennial (S. Con. Res. 87).

Smokey Bear Memorial (H. Con. Res. 564).

Southeast Asia Military Decorations Time Limitation (H.R. 15148).

University of Nevada Centennial (S. Con. Res. 87).

Veterans Day (S. 4081).

William Jennings Bryan Statue (H.R. 5507).

NATURAL RESOURCES

Anadromous Fish Conservation (H.R. 11295).

Arapaho National Forest (S. 3615).

Big Cypress National Preserve, Florida (H.R. 10088).

Big Thicket National Preserve, Texas (H.R. 11546).

Boston National Historic Park (S. 210).

Cascade Head Scenic-Research Area, Oregon (H.R. 8352).

Chlorine Allocation (S. 2846).

Conservation on Military and Other Federal Lands (H.R. 11537).

Eastern Wilderness (S. 3433).

Egmont Key National Wildlife Refuge (H.R. 8977).

Fish and Wildlife Service (H.R. 13542).

Golden Gate National Recreational Area (H.R. 10834).

Grand Canyon National Park (S. 1296).

Harpers Ferry National Monument (S. 605).

Hells Canyon Recreational Area (S. 2233).

Indoor Recreation Facilities (S. 2661).

Kaniksu National Forest, Washington (S. 3289).

Lone Rock Lake Project (S. 1961).

National Historic Sites (H.R. 13157).

National Ocean Policy Study (S. Res. 222).

National Park System Acquisitions (H.R. 14217).

National Resource Lands Management (S. 424).

National Wilderness Areas (H.R. 12884).

Pacific Northwest Power (S. 3362).

Piscataway Park (H.R. 4681).

Reclamation Development Projects (H.R. 15736).

Recreation Use Fees (S. 2844).

Rivers and Harbors—Public Works (H.R. 10203 [S. 2798]).

Rocky Mountain National Park, Colorado (S. 2394).

Saline Water Conversion Authorization (H.R. 13221).

Snake River Bridge (S. 3563).

Sumner Dam and Lake (S. 2001).

Teton National Forest (S. 3489).

Wild and Scenic Rivers—Chattooga River (H.R. 9492 [S. 921]).

Wild and Scenic Rivers—New River (S. 2439).

Wild and Scenic Rivers—St. Croix River (S. 3022).

Wilderness Areas:

Farallon Wilderness—Point Reyes National Seashore (H.R. 11013).

Great Dismal Swamp (H.R. 3620)

Okefenokee Wilderness (H.R. 6395).

Snow Mountain Wilderness (S. 114).

Weminuche Wilderness (S. 1863).

Wildlife Refuge Rights-of-Way (H.R. 11541).

Willow Creek Dam, Oregon (S. 3537).

NOMINATIONS (ACTION BY ROLL CALL VOTE)

Brig. Gen. Charles A. Gabriel to Maj. Gen., USAF.

John C. Sawhill to be Administrator of the Federal Energy Administration.

Maj. Gen. Alton D. Slay to Maj. Gen., USAF.

PROCLAMATIONS

American Business Day (S.J. Res. 195).

First Continental Congress Anniversary (S. Con. Res. 85).

Good Neighbor Day (S.J. Res. 235).

Honor America (H. Con. Res. 537).

Johnny Horizon '76 Clean Up America Month (H.J. Res. 1070).

Meals-on-Wheels Week (S. Res. 409).

National Agriculture Week (S.J. Res. 163).

National Amateur Radio Week (S.J. Res. 197).

National DeMolay Week (S.J. Res. 238).

National Historic Preservation Week (S.J. Res. 175).

National Hunting and Fishing Day (H.J. Res. 910).

National Legal Secretaries Court Observance Week (H.J. Res. 898).

National Volunteer Week (S.J. Res. 179).

United States Space Week (H. Con Res. 223).

Women's Equality Day (H.J. Res. 11105).

TRANSPORTATION-COMMUNICATIONS

Aircraft Hijacking (S. 39).

Aircraft Piracy (S. 872).

Alien Radio Station Licenses (S. 2457).

Amtrak Authorization (H.R. 15427).

Broadcast License Renewal (H.R. 12993).

Communications Common Carrier Charges (S. 1227).

Communications Common Carrier Service Applications (S. 1479).

Cumbres and Toltec Scenic Railroad (S. 2362).

Deepwater Ports (H.R. 10701).

Federal-Aid Highway Amendments (S. 3934).

FM Radios (S. 585).

Forest Highway Funds (S. 3490).

Intercoastal Shipping (H.R. 13516 [S. 3173]).

International Air Transit (Pan Am) (S. 3481).

Maritime Supplemental Authorization (H.R. 12925).

Regional Rail Reorganization Report Extension (S.J. Res. 250).

SS "Guam Bear" and SS "Hawaii Bear" (H.R. 11223).

SS "Independence" (H.R. 8586).

Tariffs and Freight Rates (S. 1488).

Transportation Safety—Hazardous Materials (S. 4057).

Urban Mass Transit (S. 386).

Vessel Tonnage Deductions (S. 1353).

VETERANS

American Legion, Inc. (S. 4013).

American War Mothers, Inc. (S. 2441).

Disability Compensation and Survivor Benefits (S. 3072).

GI Bill Benefits (S. 3398) (S. 3705).

Life Insurance (H.R. 6574).

POW Families, Funeral Transprotation for (S. 3228).

U.S. Flag Presentation (H.R. 5621).

Veterans' and Servicemen's Automobile and Adaptive Equipment (S. 2363).

Veterans and Survivors Pension Adjustment (S. 4040).

Vienam Veterans Education (H.R. 12628 [S. 2784]).

SENATE LEGISLATIVE ACTIVITY (93D CONGRESS 2D SESSION)

(By Senate Democratic Policy Committee)

Days in session	145
Hours in session	907:44
Total measures passed	644
Private laws	45
Public laws	199
Treaties	5
Confirmations	53.462
Record votes	459
Vetoes	8

Symbols: P/H—Passed House; P/S—Passed Senate; *—Vetoed 1974; (VV)—Passed by Voice Vote; numbers in parenthesis indicate number of record vote on passage, conference report, or reconsideration.

AGRICULTURE

Animal health research.—Authorizes $47 million annually to support continuing programs for animal health research at colleges of veterinary medicine, or, at institutions where there are no such colleges, the State agricultural experiment stations conducting animal health research; sets a formula for distribution of funds based on the value of and income generated by livestock and poultry in each State and on the animal health research capacity at the eligible institutions; provides for additional grants for research on specific national or regional animal health problems; and establishes an Advisory Board appointed by the Secretary of Agriculture to make recommendations on matters related to the administration of the Act. H.R. 11873. Vetoed Aug. 14, 1974 (VV)

Commodity Futures Trading Commission.—Creates an independent regulatory commission, the Commodity Futures Trading Commission, consisting of a Chairman and four Commissioners to be appointed by the President with the advice and consent of the Senate and transfers to it all existing authority under the Commodity Exchange Act which is presently vested in the Secretary of Agriculture and the Commodity Exchange Commission; requires the Department of Agriculture to appoint a staff person to maintain liaison between the Commission and the Department; deletes certain language in the Commodity Exchange Act to assure that Federal law will preempt State law; gives the Commission broad authority to regulate all futures trading and exchange activities and imposes certain registration requirements in order to insure fair practice and honest dealing on the commodity exchanges and provide a measure of control over these forms of speculative dealing; authorizes a customer's reparation procedure for handling complaints arising from violations of the Act subject to judicial review; imposes administrative and criminal penalties for violations of the Act; authorizes the Commission to regulate transactions for the delivery of silver and gold bullion, bulk silver and gold coins pursuant to standardized margin or leverage account contracts; makes it a felony for any employee of the Commission to acquire and use insider information for futures trading, options trading and trading in actual commodation; provides that the Commission's annual report to Congress include information on registration of futures associations; requires a report to Congress within 2 years on the need for legislation providing insurance against losses caused by financial failure of futures commission merchants; and contains other provisions. H.R. 13113. Public Law 93-___, approved ________, 1974. (VV)

Egg research and consumer information.—Authorizes the Secretary of Agriculture to issue a national order providing for the establishment of an Egg Board which would develop, subject to the Secretary's approval, a program of research, producer and consumer education, and promotion to improve and develop markets for eggs, egg products, spent fowl (laying hens removed for slaughter), and products of spent fowl; requires approval by referendum among commercial egg producers with laying flocks of over 3,000 before the order can become effective, and, if the order is approved, provides for payment of administrative costs through assessment of producers at a rate not to exceed 5 cents per case of commercial eggs. H.R. 1200. Public Law 93–428, approved Oct. 1, 1974. (VV)

Farm Credit Administration.—Authorizes the Federal Farm Credit Board to establish the salary level of the Governor and the Deputy Governors of the Farm Credit Administration. S. 3801. P/S Aug. 19, 1974. (VV)

Fertilizer.—Expresses a sense of the Senate that: all Federal agencies should give the highest priority to the U.S. fertilizer industry in establishing allocation priorities for distribution; the U.S. fertilizer industry should distribute fertilizer supplies among farmers in a timely and equitable manner, and at reasonable prices; the Federal Power Commission, and appropriate State regulatory agencies, should establish priorities for the allocation of natural gas to nitrogen fertilizer producers sufficient to insure them of supply levels required to maintain maximum production levels; the Federal Energy Office should give the highest priority allocation to the fertilizer industry's needs for gasoline, middle-distillates, and other liquid fuels utilized in the production, distribution, and application of fertilizer; the Cost of Living Council and the Departments of Agriculture and Commerce should continue their monitoring and reporting of fertilizer supply availabilities, wholesale and retail prices, and export shipments; and the Cost of Living Council should establish a monitoring and investigatory program through the office of the IRS to determine the factual basis of any alleged price gouging involving either fertilizer wholesalers or retailers. S. Res. 289. Senate adopted Feb. 27, 1974. (VV)

Food assistance programs.—Makes mandatory for a 3 year period the authority of the Secretary of Agriculture under Public Law 93–86 to purchase agricultural commodities that are not in surplus supply for donation to certain food programs; authorizes the Secretary to pay each State agency 50 percent of all costs in administering the Food Stamp Program instead of, as at present, 62.5 percent of only certain designated administrative costs; requires that States report from time to time at the request of the Secretary on the effectiveness of the administration of the Food Stamp Program; amends section 3 of the Child Nutrition Act of 1966 to establish a 5-cent minimum rate of reimbursement for each half-pint of milk served in the special milk program, with annual adjustment beginning with the 1976 fiscal year to reflect changes in costs; and contains other provisions. S. 3458. Public Law 93–347, approved July 12, 1974. (VV)

Food marketing margin investigation.—Expresses the sense of the Senate that the Federal Trade Commission undertake an investigation of margins that exist between farm prices of livestock, dairy products, poultry, and eggs and their retail prices to determine: (a) the past and present margins for these commodities; (b) the changes in the relative values of the items that comprise the margin; (c) whether these margins fully reflect appropriate farm price changes; (d) whether any important level in the food marketing chain experienced any losses since August of 1973; (e) profits of each important level in the food marketing chain; and (f) whether market power concentration exists to the extent that it impedes competitive forces. S. Res. 351. Senate adopted Aug. 2, 1974. (VV)

Food stamps.—Extends for 1 year, until July 1, 1975, the period of eligibility wherein supplemental security income recipients may receive food stamps. H.R. 15124. Public Law 93–335, approved July 8, 1974. (VV)

Forest and rangeland management.—Requires the Secretary of Agriculture to prepare a Forest and Related Resources Assessment, limited to programs administered by the Forest Service, by December 31, 1975; requires comprehensive surveys of the resources of the forest and rangelands of the United States and authorizes therefor not to exceed $20 million in any fiscal year; requires the Secretary to prepare and transmit to the President a recommended Renewable Resource Program, which may include alternatives, by December 31, 1975, covering the four year period 1976–1980; requires that land and resource management plans be coordinated with those of State and local governments and other Federal agencies; provides that the Secretary may utilize the Assessment, resource surveys and Program to assist States and other planning organizations; requires the President to submit a Statement of Policy to Congress which shall go into effect unless either House adopts a disapproval resolution within 60 days, and provides that Congress may revise or modify the Statement to be used in framing budget requests; provides that amounts appropriated to carry out policies approved under the bill shall be expended in accordance with the Budget and Impoundment Control Act of 1974; provides that the financing of forest development roads by forest product purchasers shall be deemed "budget authority" and "budget outlays" as defined in the Congressional Budget and Impoundment Control Act of 1974 and effective for any fiscal year only to such extent or in such amounts as are provided in appropriations acts; and requires the Secretary, in carrying out provisions of the bill, to use data available from other Federal, State, and private organizations, and avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies. S. 2296. Public Law 93–378, approved Aug. 17, 1974. (VV)

Forest pest control—Amends the Forest Pest Control Act to provide that funds appropriated to carry out the program of eradication and control of forest insect pests and diseases are to remain available until expended. S. 3371. P/S May 7, 1974. (VV)

Guam agricultural assistance—Authorizes the Secretary of Agriculture to provide financial and technical assistance to Guam to improve fire control, watershed protection, and reforestation programs. H.R. 13267. Public Law 93–421, approved Sept. 19, 1974. (VV)

Livestock credit—Requires the Secretary of Agriculture to establish a temporary 1 year guaranteed loan program to assist farmers and ranchers who are primarily engaged in agricultural production for the purpose of breeding, raising, fattening, or marketing beef cattle, dairy cattle, swine, sheep, goats, chickens, and turkeys; provides that guaranteed loans may be extended to a corporation or partnership only when the majority interest is held by stockholders or partners who are primarily engaged in such agricultural production; requires the Secretary of Agriculture to guarantee up to 80 percent of loans made by an approved lender at an interest rate to be determined, with a $250,000 limit to any individual, and sets at $2 billion the total amount of loan guarantees that may be outstanding at any one time; requires that the borrower must be unable to obtain financing without the guarantee; requires repayment in not more than 3 years with a possible renewal for not more than 2 additional years; and provides for a 6 month extension of the program if the Secretary so determines. S. 3679. Public Law 93–357, approved July 25, 1974. (VV)

Milk price supports—Requests the Secretary of Agriculture to increase the support price for manufacturing milk to at least 80 percent of the September 1974 parity for the remainder of this marketing year. S. Res. 418. Senate adopted Oct. 4, 1974. (VV)

Perishable agricultural commodities.—Amends the Perishable Agricultural Act to allow the imposition of a monetary penalty, not to exceed $2,000, on those who violate the law by misbranding, or misrepresenting fruits and vegetables shipped, sold, or offered for sale in interstate or foreign commerce in lieu of a formal proceeding for the suspension or revocation of the violator's license. H.R. 14364. Public Law 93-369, approved Aug. 10, 1974. (VV)

Poultry indemnity payments—Authorizes the Secretary of Agriculture until December 31, 1974, to pay compensation for contaminated poultry, eggs, and poultry and egg products, including the costs of disposing of such items, to producers, growers, and processors who have been advised after January 1, 1974, that their products contained unsafe residues of the pesticide dieldrin or other chemicals registered and approved for use by the Federal Government at the time of such use, and to compensate their employees for wages lost as a result of this condition, and to investigate and report to Congress within a year on the circumstances, which resulted in the economic loss. S. 3231. P/S Apr. 23, 1974. (141)

President's Committee on Food, Farm inputs.—Expresses the sense of the Senate that: The President's Committee on Food may in no way assume or displace any responsibilities delegated by law to the Secretary of Agriculture or other government officials; the committee consider increased farm costs and shortages of essential farm inputs in any actions or recommendations it may make; all agencies of the Federal Government having any responsibility for the establishment of allocation priorities considered essential farm inputs, including the Federal Power Commission in its allocation of natural gas supplies, give priority to agriculture and its related industries; the President expand the scope and responsibility of the Inter-Governmental Agency Task Force on Fertilizer to include all essential farm inputs; and the Federal Energy Administration consult and maintain a close liaison with the Senate Committee on Agriculture and Forestry with respect to any proposals that may affect the current priority status that agriculture and its related industries now enjoy under Federal mandatory fuel and propane allocation regulations. S. Res. 391. Senate adopted Sept. 9, 1974. (VV)

REAP and RECP programs extension.—Extends to December 31, 1975, the time for using the funds authorized in fiscal years 1973 and 1974 for the Rural Environmental Assistance Program (REAP) and the Rural Environmental Conservation Program (RECP). S. 3943. P/S Oct. 8, 1974. (VV)

Rice allotment transfers.—Permits rice growers who are unable to plant part or all of their farm acreage allotments because of floods or other natural disasters to transfer their allotments to other farms in the same or a near county on which they will have an interest in the particular commodity. S. 3075. P/S Mar. 13, 1974 (VV)

Rural development loans, GNMA guarantee.—Amends the Agriculture Act of 1970, as amended, to authorize the Government National Mortgage Association (GNMA) to guarantee payments on securities based or backed on loan participations guaranteed or insured under the Rural Electrification Act of 1936, as amended, or the Consolidated Farm and Rural Development Act provided that the Administrator shall use the funds created under both of these acts to reimburse GNMA for any disbursements they may make as a result of any guarantee and changes from September 1 to May 1 of each fiscal year the date on which the President is to report to the Congress on the availability of government or government-assisted services to rural areas. H.R. 14723. P/H July 1, 1974; P/S amended Aug. 2, 1974 (VV)

Tobacco allotment transfer, North Carolina.—Permits lease and transfer of tobacco allotments on 1974 quotas in certain disaster areas in North Carolina. H.R. 16857. Public Law 93- , approved 1974 (VV)

Tobacco marketing quota provisions.—Provides, effective with the 1975 crop, that any kind of tobacco for which marketing quotas are not in effect which is produced in an area where a quota kind is traditionally produced shall be subject to the quota if it possesses any of the distinguishable characteristics of the quota tobacco. H.R. 6485. Public Law 93-411, approved Sept. 3, 1974 (VV)

Top level positions in the Department of Agriculture—Upgrades the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; establishes two new positions of Assistant Secretary of Agriculture; changes the position of Administrator, Animal and Plant Health Inspection Service, from GS-18 to Executive Level V; increases the membership of the Board of Directors of the Commodity Credit Corporation from six to seven, in addition to the Secretary; and abolishes four existing positions. S. 3031. P/S May 8, 1974. (VV)

Wheat supplies—States a sense of the Senate that the Secretary of Agriculture should: immediately conduct a survey of all wheat milling firms and bakeries to determine their position with regard to wheat supplies and requirements during the remainder of the 1973-74 marketing year; conduct a county-by-county survey to determine the amount of uncommitted wheat stocks remaining in the ownership of all grain dealers and farmers; and work with the Interstate Commerce Commission to expedite transportation of existing wheat stocks to the millers and bakers in need of additional supplies. S. Con. Res. 70. Senate adopted Feb. 25, 1974. (VV)

Wool Act payments—Authorizes the Secretary of Agriculture to amend retroactively the regulations governing the computation of price support payments under the National Wool Act of 1954 for the marketing years 1969 through 1972 to permit the making of Wool Act payments to certain farmers and ranchers who failed to receive the full proceeds from their sale of wool because of defaults in payment by their marketing agency, such payments to be computed on the basis of the lesser of (1) the net sales proceeds based on the price the farmer or rancher would have received had there been no default of payment or (2) the fair market value of the wool at the time of sale. S. 3056. P/S July 31, 1974. (VV)

APPROPRIATIONS

1974:

Supplemental.—Appropriates $9,301,474,398 to provide additional funding for the various departments and agencies for fiscal year 1974; includes: for the Department of Agriculture, $500 million for the Food Stamp Program, and $23,661,000 for watershed and flood prevention programs; $2,139,312,000 for the Department of Defense, Military, to be considered as an "advance" on fiscal year 1975 appropriations; $133 million (termed "Middle East Payback") for replacement in the U.S. defense inventory of equipment sold to Israel which must be replaced at a current price higher than that received at the time of transfer to Israel; for foreign operations, $49 million for Indochina postwar reconstruction assistance; $250,000 for migration and refugee assistance upon enactment of authorizing legislation; reallocates funds appropriated under disaster relief, originally allocated for the Sahel region, for use in all the drought stricken nations of Africa; includes an additional $36.2 million for disaster relief in the United States caused by tornados during the spring; $2,265,584,000 for manpower assistance programs; $20 million for elementary and secondary education; $12.5 million for the Office of Economic Opportunity; $2 million to alleviate the present crisis in the District of Columbia criminal justice system caused by lack of funds to pay court-appointed counsel; $47 million for Amtrak for expansion and acquisition of stock; $3,874,791,595 to meet increased costs in Federal salaries and expenses; and contains other provisions. H.R. 14013. Public Law 93-305, approved June 8, 1974. (174)

Veterans' Administration supplemental—Appropriates $750 million to the Veterans' Administration to insure the availability of funds for financing Readjustment Benefits of the Nation's post-Korean conflict veterans, their sons and daughters, and their wives and widows. H.J. Res. 941. Public Law 93-261, approved Apr. 11, 1974. (VV)

Veterans' Administration urgent supplemental—Appropriates a total of $179 million for the Veterans' Administration to cover the increased rates of disability, dependency, and indemnity compensation for disabled veterans and their survivors as provided for in Public Law 93-295, which became effective May 1, 1974, and the 30 day extension of education benefits under the GI bill, as well as for general operating expenses. H.J. Res. 1061. Public Law 93-321, approved June 30, 1974. (268)

1975: Agriculture-Environmental and Consumer Protection*—Appropriates $13,571,395,000 for agriculture-environmental and consumer protection programs for fiscal year 1975, of which $6,282,815,000 is for agricultural programs, $831,341,000 is for rural development programs, $1,311,191,000 is for environmental programs, and $5,146,048,000 is for consumer programs. H.R. 15472. Vetoed Aug. 7, 1974. (310, 322)

Continuing.—Provides funds for continuing governmental functions to September 30, 1974, for programs for which fiscal year 1975 funds have not been appropriated at either its current operational level or the lesser level passed by either House, or if applicable legislation has passed neither House, at either the budget estimate or the current level, whichever is lower; includes provisions to guard against the reduction or termination of any specific Labor-HEW program; provides for distribution of title I funds of the Elementary and Secondary Education Act as contained in H.R. 69, as passed the Senate; provides an annual rate of $1 billion for continued support of South Vietnamese military forces; and contains other provisions. H.J. Res. 1062. Public Law 93-324, approved June 30, 1974. (266)

Extends until sine die adjournment the current continuing resolution (Public Law 93-324) for programs for which 1975 appropriations have not been enacted (Military Construction Foreign Assistance, Agriculture, and Labor-HEW); prohibits military assistance to Turkey until the President certifies to Congress that Turkey is in compliance with the Foreign Assistance Act of 1961 and the Foreign Military Sales Act provides that this prohibition shall become effective on December 10, 1974 or before if military equipment made available to Turkey, which are not in Cyprus on the date of enactment of this section, is transported to Cyprus and authorizes the President to suspend this prohibition until December 10, 1974, if he determines such suspension will further negotiations for a peaceful resolution of the Cyprus conflict; and limits to $1,000 fertilizer shipments to South Vietnam. H.J. Res. 1163. Public Law 93- ——, approved 1974. (459)

Defense.—Appropriates $82,096,297,000 in new budget obligational authority plus an additional $480,000,000 in previous year transfer authority for a total of $82,576,297,000 for fiscal year 1975 for the Department of Defense. H.R. 16243. Public Law 93–437, approved Oct. 8, 1974. (358)

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*Extends until sine die adjournment the current continuing resolution (Public Law 93-324) for programs for which 1975 appropriations have not been enacted (Military Construction, Foreign Assistance, Agriculture, and Labor-HEW); prohibits the use of funds for military assistance or for sales of defense articles and services or their transportation to Turkey unless the President certifies to Congress that Turkey is in compliance with the Foreign Assistance Act of 1961, and the Foreign Military Sales Act; authorizes the use of $15 million for relief assistance in connection with damage caused by the floods in Honduras and Bangladesh and by the civil strife in Cyprus; prohibits future procurement of fertilizers for South Vietnam; and contains other provisions. H.J. Res. 1131. Vetoed Oct. 14, 1974. House sustained veto Oct. 15, 1974. (418)

District of Columbia.—Appropriates for the District of Columbia for fiscal year 1975 a total of $1,453,042,900 of which $379,400,000 is the Federal payment to the District and $1,073,642,900 is District of Columbia funds. H.R. 15581. Public Law 93–405, approved Sept. 2, 1974. (VV)

Energy research and development.—Appropriates $2,236,089,000 to accelerate the Federal program of energy research and development, particularly in the fields of atomic energy and coal gasification and liquefactions, including funds for the Atomic Energy Commission; Interior Department; National Science Foundation; Environmental Protection Agency; National Oceanic and Atmospheric Administration; Federal Energy Office; National Aeronautics and Space Administration; and Department of Transportation. H.R. 14434. Public Law 93–322, approved June 30, 1974. (244)

HUD.—Appropriates $21,215,812,000 to the Department of Housing and Urban Development, the President for disaster relief, the American Battle Monuments Commission, Army Cemeterial Expenses, the Federal Communications Commission, the National Aeronautics and Space Administration, the National Science Foundation, the Renegotiation Board, the Securities and Exchange Commission, the Selective Service System, and the Veterans' Administration. H.R. 15572. Public Law 93–414, approved Sept. 6, 1974. (349)

Interior—Appropriates a total of $3,712,328,310 for the programs and activities of the Department of the Interior (except for certain agencies and programs which are funded under the Public Works Appropriations bill) and related agencies. H.R. 16027. Public Law 93–404, approved Aug. 31, 1974. (339)

Labor-HEW—Appropriates $33,111,142,000 for programs of the Departments of Labor, and Health, Education, and Welfare, and related agencies for fiscal year 1975, including manpower assistance, community service employment for older Americans, maternal and child health, biomedical research, mental health, alcoholism, educational broadcasting, vocational education, student assistance, library and equipment programs, rehabilitation services, and programs for the aging; prohibits use of funds under this act for the busing of schoolchildren; limits use of funds for Social Security Administration payment of medicare administrative costs to insurance carriers for their administrative costs such as audit or data processing to the amount the service would cost if provided under a subcontract of at least 1-year under fixed price competitive bidding; and prohibits use of funds under this act for abortions unless necessary to save the life of a mother. H.R. 15580. P/H June 27, 1974; P/S amended Sept. 18, 1974; In conference. (387)

Legislative—Appropriates $708,275,650 for the legislative branch for fiscal year 1975; increases the salaries of the Senate's highest officials, the top position in each Senator's office and the two highest levels on all Senate committees; expands the service activities of the Sergeant at Arms by providing a developmental capability for the computer center, the establishment of a microfilm center, and additional Capitol Police; authorizes the Secretary of the Senate to withhold State income tax; authorizes 66 additional positions for the Library of Congress and 85 for the Congressional Research Service; authorizes payment of witness fees for persons appearing before the Senate Majority and Minority Policy Committees; requires that an annual accounting of travel expenses incurred by members of Congress and staff traveling abroad on official business be filed with the Secretary of the Senate and The Clerk of the House of Representatives; and contains other provisions. H.R. 14012. Public Law 93–371, approved Aug. 13, 1974. (259)

Public Works—Atomic Energy Commission—Appropriates $4,505,472,000 for fiscal year 1975 for Public Works for Water and Power Development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and power agencies of the Department of the Interior, the Appalachian Regional Development Commission, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions. H.R. 15155. Public Law 93–394, approved Aug. 29, 1974. (332)

State-Justice-Commerce—Appropriates a total of $5,290,157,100 in new budget obligational authority for fiscal year 1975 for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies. H.R. 15404. Public Law 93–433, approved Oct. 5, 1974. (359)

Transportation—Appropriates $3,288,504,000 for fiscal year 1975, of which $2,998,152,000 is for the Department of Transportation (including the Coast Guard, the Federal Aviation Administration, the Federal Highway Administration, the National Highway Traffic Safety Administration, and the Urban Mass Transportation Administration) and $290,352,000 is for related agencies (including the National Transportation Safety Board, the Civil Aeronautics Board, the Interstate Commerce Commission, the Panama Canal Zone Government, the U.S. Railway Association and the Washington Metropolitan Area Transit Authority). H.R. 15405. Public Law 93–391, approved Aug. 28, 1974. (334)

Treasury—Postal Service—Appropriates a total of $5,561,169,000, of which $2,286,165,000 is for the Treasury Department, $1.55 billion is for the Postal Service, $76,837,000 is for the Executive Office of the President, and $1,648,167,000 is for Independent Agencies. H.R. 15544. Public Law 93–381, approved Aug. 21, 1974. (325)

ATOMIC ENERGY

Atomic Energy Commission authorization.—Authorizes $3,677,433,000 for the Atomic Energy Commission for fiscal year 1975 of which $2,551,533,000 is for operating expenses and $1,125,900,000 is for plant and capital equipment. S. 3292. Public Law 93–276, approved May 10, 1974. (VV)

Atomic Energy Commission omnibus legislation.—Amends the Atomic Rewards Act of 1955 to authorize rewards for furnishing of information with respect to the attempted or actual introduction, manufacture, or acquire a special nuclear material or an atomic weapon; places the determination of entitlement to a reward in the Attorney General, in consultation with the AEC, rather than an Awards Board; changes the title of the act to "Atomic Weapons and Special Nuclear Materials Act"; amends the Atomic Energy Act of 1954, as amended, to provide Congressional review of proposed increases in the amounts of special nuclear material authorized for distribution to the International Atomic Energy Agency or other groups of nations, and proposed changes in the duration of agreements for such distribution whereby all such proposals would be submitted to Congress for a 60-day period and referred to the Joint Committee on Atomic Energy who, within the first 30 days, must report its views and recommendations to the Congress together with a proposed concurrent resolution favoring, or not favoring the proposal and gives to a concurrent resolution of disfavor the legal effect of barring the execution of the proposed increase or change in duration; permits the AEC to exempt minimal quantities of special nuclear materials from licensing requirements; extends for 5 years, to fiscal 1979, the compulsory licensing provisions of the act; and clarifies the AEC's statutory authority to institute a materials access approval program for safeguard purposes. S. 3669. Public Law 93–377, approved Aug. 17, 1974. (VV)

Nuclear agreements.—Amends the Atomic Energy Act of 1954, as amended, to require that proposed international agreements for peaceful cooperation in nuclear energy which deal with nuclear reactors capable of producing more than 5 megawatts of heat and fuel be submitted to the Congress under the procedure for military agreements for a period of 60 days of continuous session during which Congress may disapprove the agreement by passage of a concurrent resolution; directs that such agreements be referred to the Joint Committee on Atomic Energy who, within the first 30-day period, must report its views and recommendations together with a proposed concurrent resolution stating that the Congress does or does not favor the agreement of cooperation; and provides that any concurrent resolution so reported shall become the pending business of the House in question within 25 days and voted on within 5 calendar days thereafter unless otherwise determined; and provides that the Act shall apply to all proposed agreements and amendments thereto submitted to Congress after its enactment. S. 3698. Public Law 93–   , approved
1974. Note: (Comparable provisions for distribution of special nuclear material are contained in S. 3666, the Atomic Energy Commission Omnibus Legislation.) (283)

Nuclear incidents—insurance.—Amends and further extends for five years from August 1, 1977, to August 1, 1982, the Price-Anderson indemnity provisions of the Atomic Energy Act which were designed to protect the public and the emerging nuclear industry by assuring the availability of funds for the payment of claims in the event of a nuclear incident up to a total amount of $560 million, which represents the sum of Government indemnity fixed at $500 million by the Congress and the then-existing (1957) maximum available private liability insurance of $60 million (which has currently risen to $110 million);

Provides that the provisions of this bill shall not come into effect until 30 days after the Rasmussen Study on reactor safety and the probability of accidents has been completed and the Joint Committee on Atomic Energy has reported to the Congress its evaluation of the results of such study unless Congress within 30 days thereafter adopts a concurrent resolution of disapproval of extension of the Price-Anderson Act;

Amends the act to phase out Government indemnity for the nuclear industry; authorizes the Atomic Energy Commission (AEC) to establish the terms and conditions of the financial protection required of nuclear licensees and provides a deferred premium system whereby in the event of a nuclear incident resulting in damages exceeding the base layer of insurance each licensee would be assessed a deferred premium which would be a prorated share of the excess damages; sets the level of the standard maximum deferred premium at no less than $2 million per facility and an upper level for the premium of $5 million per facility; retains the present $560 million limit on total liability until the total of primary insurance and assessable retrospective premiums reaches the level necessary to completely replace the Government indemnity; places no ultimate limitation on the level to which this coverage could rise and has a projected level, which, at a premium level of $3 million per reactor, is $1 billion about 1987 and $1,346,000,000 in 1990;

Extends the coverage of the act (which is presently limited to the occurrence of a nuclear incident within the United States or involving the nuclear ship Savannah and to nuclear incidents involving activities under contract to the United States) to include occurrences outside the territorial limits of the United States and all other nations involving ocean shipments of fuel during transit from one AEC licensee to another and a nuclear facility such as an AEC licensed floating nuclear powerplant, and any occurrences resulting from theft;

And contains other provisions. H.R. 15323. Vetoed Oct. 12, 1974. (VV)

Nuclear information report.—Amends section 202 of the Atomic Energy Act of 1954, as amended, to establish a requirement for an annual report by the Joint Committee membership to their respective Houses on the development, use and control of nuclear energy for the common defense and security and for peaceful purposes in order to provide Members of Congress with factual information concerning nuclear energy, weapons and policy. S. 3802. P/S Oct. 9, 1974. (VV)

CONGRESS

Adjournment.—Provided that neither House of Congress shall adjourn for a period in excess of three days or *sine die*, until both Houses have adopted a concurrent resolution for either an adjournment until a date certain or for adjournment *sine die*. H. Con. Res. 568. House adopted July 24, 1974; Senate adopted July 25, 1974. (VV)

Budget reform—impoundment control.—Establishes a new congressional budget process;

Establishes Senate and House Committees on the Budget and also, a Congressional Budget Office (COB) which shall (1) provide the Budget and other committees of both Houses with information and assistance regarding matters relating to the budget, appropriation bills, other bills authorizing or providing budget authority, revenue, receipts, estimated future revenues and receipts, changing revenue conditions, and such other information as the committees may request; (2) issue a report as soon as possible after the beginning of the fiscal year which projects for 5 fiscal years total new budget authority and total budget outlays for each of the fiscal years, revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each of the fiscal years, (3) report by April 1 of each year to the Budget Committees, addressed to fiscal policy and national budget priorities, which will discuss the impact of alternative levels or revenues and outlays for the coming fiscal year on national growth and development;

Changes the Federal fiscal year from July 1–June 30 to October 1–September 30 beginning in 1976, with provisions for an interim transition period from July 1, 1976, to September 30, 1976, and establishes the following timetable for the budget process:

By November 10.—The President submits the current services budget (a document showing programs and funding levels for the year just past), thus giving the Congress line-item information with which to begin analysis and preparation of the budget for the coming fiscal year prior to receipt of the President's budget;

Fifteen days after Congress meets.—The President submits his budget;

By March 15.—Committees and joint committees submit reports to the Budget Committees;

By April 1.—COB submits report to Budget Committees;

By April 15.—The Budget Committees report the first concurrent resolution on the budget to their Houses, setting forth (1) appropriate levels of total budget authority and outlays; (2) an estimate of budget outlays and an appropriate level of new budget authority for each major functional category, including contingencies and for undistributed intragovernment transactions; (3) appropriate surplus or deficit, recommended level of Federal revenues and any recommended aggregate revenue-increase or decrease; (5) appropriate level of any recommended changes, if any, in the public debt, and (6) such other matters relating to the budget as may be appropriate;

By May 15.—The appropriate committees report bills and resolutions authorizing new budget authority (with the exception of entitlement authority or omnibus social security legislation);

By May 15.—Completion of all action on the first concurrent budget resolution:

Seventh Day After Labor Day.—Completion of action on bills and resolutions providing new budget authority and new spending authority;

By September 15.—Completion of all action on the second required concurrent budget resolution;

By September 25.—Completion of action on reconciliation bill or resolution containing provisions necessary to accomplish any change or changes in budget authority, revenues, or the statutory public debt directed by the second required budget resolution;

October 1.—The fiscal year begins;

Provides that the first concurrent budget resolution must be adopted before any measures providing for new budget authority, entitlement authority, and changes in revenues or the public debt limit are to be considered on the floor, with the exception of advance appropriations or advance revenue changes; contains a procedure for waiver of the prohibition in the Senate;

Authorizes additional budget resolutions;

Requires that proposed legislation providing contract or borrowing authority must provide that such new spending authority is to be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation acts, thus subjecting such legislation to the appropriations process, with the exception of such authority now in effect and all existing social security trust funds, 90 percent self-financed trust funds, general revenue sharing (to the extent provided in the legislation), outlays of government corporations, and gifts to the United States;

Makes entitlement authority (entitles persons or governments who meet the requirements to receive payments from the Federal Government) subject to the reconciliation process, with social security and 90 percent self-financed trust funds and government corporations not subject to the referral process for amounts exceeding the budget allocation;

Provides that after the budget process for a fiscal year has been completed it shall not be in order to consider any new budget authority or entitlement measure for that year which would cause the level of budget authority or outlay to be exceeded or reduced;

Contemplates that in the future that authorization bills will be enacted a year or more in advance of the period for which appropriations are to be made;

Provides in title X, the Impoundment Control Act of 1974, that if the President determines that certain budget authority is not required to meet the obectives of a program or should be rescinded for fiscal purposes, or whenever all or part of budget authority provided for only one fiscal year is to be reserved from obligation for such fiscal year, he shall transmit a special message requesting a recission of the budget authority, and, unless both Houses complete action on a recission bill within 45 days, the budget authority shall be made available for obligation; also provides for a second type of message concerning deferral, which includes any withholding or delaying the availability for obligation of budget authority, and requires the President to obligate the funds if either House passes an "impoundment resolution" disapproving the proposed deferral at any time after receipt of the special message; amends the Anti-deficiency Act regarding the placing of funds in reserve by deleting an "other developments" clause, permitting reserves solely to provide for contingencies, or effect savings where possible by change in requirements or greater efficiency;

And contains other provisions. H.R. 7130. Public Law 93-344, approved July 12, 1974. (81,261)

Congressional office equipment and furnishings.—Permits a United States Senator or a Member of, Delegate to, or Resident Commissioner in the House of Representatives, upon his leaving office (except by expulsion), to purchase the office equipment and furnishings provided by the General Services Administration for use in his State or district office. H.R. 9075. Public Law 93–, approved 1974. (VV)

Congressional Records postal rates.—Provides that the Congressional Record be entitled to be mailed at the same rates of postage at which any newspaper or other periodical publication, with a legitimate list of paid subscribers, is entitled to be mailed. S. 3373. Public Law 93-314, approved June 8, 1974. (VV)

First Continental Congress 200th anniversary.—Authorizes expenses to be paid from the contingent fund of the Senate for such officials and staff designated by the Majority and Minority Leaders to attend the 200th anniversary of the First Continental Congress pursuant to S. Con. Res. 85. S. Res. 415. Senate adopted Sept. 2, 1974. (VV)

Impeachment inquiry.—Directs the Senate Committee on Rules and Administration, in executive session, to review any and all existing rules and precedents that apply to impeachment trials and to recommend any necessary revisions which may be required if the Senate is called upon to conduct a trial, such report to be submitted no later than September 1, 1974, or earlier if so designated by the Majority and Minority Leaders. S. Res. 370. Senate adopted July 29, 1974. (VV)

National emergencies.—Terminates, within 1 year of enactment, the states of national emergencies now in force with the exception of 6 statutes (including Trading with the Enemy Act, a Ready Reserve provision, and purchasing contract lease and claims authorities) which will continue in force until such time as Congress acts to repeal or modify them pursuant to recommendations made by standing committees having jurisdiction over these provisions who will have 9 months to study and report thereon; establishes a procedure for the future use of delegated emergency power whereby the President, by public proclamation, could declare a national emergency citing specific statutory powers required and provides that a state of national emergency can be terminated either by the Congress by passage of a concurrent resolution or by Presidential proclamation; provides 6-month Congressional review periods to determine whether a state of national emergency should continue; provides a means of accountability for actions taken pursuant to emergency power statutes in any future emergency; and requires an accounting of expenditures incurred under the authority of emergency powers statutes. S. 3957. P/S Oct. 7, 1974. (VV)

Office of Management and Budget.—Amends the Budget and Accounting Act 1921, to require Senate confirmation of future appointments to the offices of Director and Deputy Director of the Office of Management and Budget, effective in each case, immediately after the individual holding that office on the date of enactment ceases to hold the office and, effective immediately in the case of a vacancy in either position on the date of enacement. S. 37. Public Law 93-250, approved Mar. 2, 1974. (VV)

Select Committee on Standards and Conduct.—Amends rule XXV of the Standing Rules of the Senate to provide that a Senator serving as Chairman of a Standing, Select or Special Committee of the Senate or a Joint Committee of the Congress may also serve as Chairman of the Select Committee on Standards and Conduct. S. Res. 368. Senate adopted July 25, 1974. (VV)

Senate Committee employees pay—franked mail.—Eliminates the statutory minimum rate of compensation for Senate committee employees and eliminates the requirement that the words "Postage paid by Congress" be printed on franked mail. S. 2315. Public Law 93-255, approved Mar. 27, 1974. (VV)

Tourism study.—Authorizes the Senate Commerce Committee to undertake necessary research and study to formulate legislative proposals establishing a national tourism policy and role for the Federal Government. S. Res. 347. Senate adopted Oct. 10, 1974. (VV)

CONSUMER AFFAIRS

Consumer Food Act.—Amends the Federal Food, Drug and Cosmetic Act to provide consumer with greater assurance that food is safe and wholesome; includes provisions for industry-developed safety assurance procedures, authority for the Secretary of Health, Education, and Welfare to set standards for procedures found to be inadequate, and calls for the development of a comprehensive Food and Drug Administration (FDA) food safety plan including a mandate for at least annual inspections of food processing establishments; expands FDA's factory inspection authority to include access to records relating to misbranding; provides for administrative civil penalties and provides authority for citizen civil suits in Federal district courts; directs the Secretary to cooperate with the Small Business Administration for financial assistance to small volume processors who would suffer severe financial burdens in complying with the new requirements; requires food processors to register once every two years in order to maintain a national directory of food processors for inspection purposes; exempts retail grocery stores and restaurants from the safety assurance criteria and registration requirements; confirms FDA's authority to order that certain foods be date-labeled, that certain ingredients be quantitatively listed by percentage of the ingredient in such food, and that certain foods provide nutritional information in a specified format; requires that colorings be listed individually and that certain sensitizing spices and flavorings be listed by name; and provides that State and local food labeling laws which are inconsistent with the Federal laws are to be superseded by Federal regulation. S. 2373. P/S July 11, 1974. (VV)

Consumer product warranties.—Sets forth, in title I, disclosure and designation standards for written warranties on each consumer product that costs the consumer more than $5; defines Federal contents standards for full warranties: provides meaningful consumer remedies for the breach of written warranty and written service contract obligations; in title II, improves the Federal Trade Commission's ability to deal the unfair consumer acts and practices affecting interstate commerce by granting the Commission the power to: (1) seek preliminary or permanent injunctions, (2) initiate actions in district courts seeking specific redress for consumers injured by unfair or deceptive practices, and (3) secure civil penalties for knowing violations of the FTC Act; in title III, requires the Board of Governors of the Federal Reserve System to issue regulations similar to those the FTC proscribing unfair acts or practices of financial institutions unless the Board disagrees that such acts are unfair, and publishes its findings in the Federal Register; and, in title IV, makes specific provisions for used car warranties. S. 356. P/S Sept. 12, 1973; P/H amended Sept. 19, 1974; In conference.

Motor vehicle defect remedies.—Amends the National Traffic and Motor Vehicle Safety Act by empowering the Secretary of Transportation to require that the manufacturer of motor vehicles, motor vehicle equipment, and tires which contain safety related defects, or which fail to comply with motor vehicle safety standards to remedy such defect, or failure to comply, without charge to the consumer; requires the Secretary to set mandatory federal safety standards for school buses; contains provisions requiring safer types of fuel tanks; increases the regulatory and enforcement authority of the Secretary; increases the maximum civil penalty to $400,000; authorizes $55 million for fiscal year 1975 and $60 million for fiscal year 1976; and contains other provisions. S. 355. Public Law 93– , approved 1974. (VV)

CRIME-JUDICIARY

Bilingual court proceedings.—Amends title 28, U.S.C., by adding a new section specifying the circumstances when an interpreter must be furnished to translate all or part of the court proceedings for the benefit of a non-English-speaking party or when a witness does not speak English and imposes administrative duties upon the Administrative Office of the U.S. Courts in relation to certification and use of interpreters. S. 1724. P/S Sept. 30, 1974. (VV)

Canal Zone marriage licenses.—Transfers the duties for issuing and recording marriage licenses and related activities, from the United States District Court of the Canal Zone to the civil affairs director of the Canal Zone Government. S. 2348. Public Law 93– , approved 1974. (VV)

Commission on revision of the Federal appellate system.—Extends the date for the final report of the Commission on Revision of the Federal Court Appellate System from September 21, 1974, to June 21, 1975, and increases its authorization from $270,000 to $606,000. S. 3052. Public Law 93-420, approved Sept. 19, 1974. (VV)

"Cooly Trade" laws.—Repeals the "Cooly Trade" laws which prohibit the procuring, transportation, disposition, sale, or transfer of Oriental persons as servants or apprentices, or to be held to service or labor. S. 2220. Public Law 93– , approved 1974. (VV)

Copyright laws.—Provides, in title I, for a general revision of the United States Copyright Law (title 17, U.S.C.); extends, with certain exceptions, copyright protection to include the creator's lifetime plus 50 years which conforms with general international standards; establishes a copyright liability for carrying broadcast signals by cable television (CATV); creates a Copyright Royalty Tribunal to adjust royalty rates; removes the present exemption for juke box operators by requiring an annual royalty fee of $8 per box;

Establishes, in title II, a 3-year National Commission on New Technological Uses of Copyrighted Works, within the Library of Congress, to study and compile data on the reproduction and use of copyrighted works of authorship (1) in automatic systems capable of storing, processing, retrieving, and transferring information, and by various forms of machine reproduction, and (2) the creation of new works by the application or intervention of automatic systems of machine reproduction;

Establishes, in title III, a form of protection for original ornamental designs of useful articles by protecting such designs for a limited time against unauthorized copying;

And contains other provisions. S. 1361. P/S Sept. 9, 1974. Note: (General extensions are contained in S. 1361.) (369)

Copyright laws.—Makes permanent the grant of copyright protection of records and tapes which would expire on December 31, 1974, and imposes stronger criminal penalties for willfull infringement of such copyrights; extends all expiring copyrights for 2 years and establishes a National Commission on New Technological Uses of Copyrighted works, within the Library of Congress, to study the reproduction, use and creation of copyrighted works of authorship in conjunction with automatic systems and directs the Commission to submit a preliminary report of its findings to the President and Congress within 1 year and a final report within 3 years after enactment after which the Commission shall be terminated within 60 days. S. 3976. P/S Sept. 9, 1974. (VV)

Federal rules of criminal procedure.—Postpones for one year, until August 1, 1975, the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure which were promulgated by the Supreme Court and transmitted to Congress under an order of the Supreme Court dated April 22, 1974, to allow Congress sufficient time to study these proposed amendments. H.R. 15461. Public Law 93-361, approved July 30, 1974. (VV)

Florida judicial district.—Redefines the middle and northern judicial districts of Florida by transferring Madison County from the middle judicial district to the northern judicial district, thus reducing the average travel distance to court by approximately 45 miles for Madison County residents. S. 3021. P/S Sept. 30, 1974. (VV)

Jurors fees.—Revises the fee section of the Jury Selection and Service Act of 1968, as amended, to mandate a $25.00 per day juror attendance fee, establish minimal criteria for judicial certification of additional fees for extended service by grand and petit jurors, authorize procedures for determining the amounts to be expended for juror travel allowances and expenses including tolls and parking charges, authorize procedures for determining amounts to be expended for juror subsistence allowances when necessitated by long travel distances or sequestration, and establish basic job protection for persons serving on Federal juries. S. 3265. P/S Oct. 2, 1974. (VV)

Juvenile justice and delinquency prevention.—Establishes a new Juvenile Justice and Delinquency Prevention program within the Department of Justice, Law Enforcement Assistance Administration (LEAA), to improve the quality of juvenile justice and to provide a comprehensive coordinated approach to the problems of juvenile delinquency;

Creates an Office of Juvenile Justice and Delinquency Prevention within the LEAA, to be directed by an Assistant Administrator appointed by the President and confirmed by the Senate who shall implement all Federal juvenile delinquency programs and policies;

Authorizes grants to States, local governments, and public and private agencies through existing mechanisms of the LEAA to encourage the development of comprehensive programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile system, and to provide community-based alternatives to traditional detention and correctional facilities used for the confinement of juveniles; provides a minimum allocation of $200,000 to each State with 10 percent to be matched by State and local governments; provides that two-thirds of funds to State and local government be spent through local governments;

Creates a National Institute for Delinquency Prevention and Juvenile Justice within the LEAA's National Institute of Law Enforcement and Criminal Justice to serve as a center for national efforts in juvenile delinquency evaluation, data collection and dissemination, research and training;

Amends the Federal Juvenile Delinquency Act to provide basic procedural rights for juveniles who come under Federal jurisdiction and to bring Federal procedures up to the standards set by various model acts, many state codes and court decisions; and

Creates a National Institute of Corrections to serve as a center of correctional knowledge for Federal, State and local correctional agencies and programs to develop national policies, educational and training programs and provide research, evaluation and technical assistance; and provides authorization for fiscal years 1975, 1976, and 1977 at $75, $125 and $150 million. S. 821. Public Law 93-415, approved Sept. 7, 1974. (317)

Legal Services Corporation.—Establishes a private nonprofit Legal Services Corporation—to which is transferred the duties and responsibilities of the legal services program in the Office of Economic Opportunity—for the purpose of providing financial support for legal assistance in noncriminal proceedings to those unable to afford legal assistance; places the administration of the Corporation in a Board of Directors consisting of 11 members appointed by the President with the advice and consent of the Senate and provides that not more than 6 shall be of the same political party, that a majority be members of the bar of the highest court of any State, and that none be full-time employees of the United States; provides that the Chairman shall be selected from the Board members by the President for a 3-year term and thereafter the Board shall elect annually the Chairman from its members; provides that within 6 months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a 9-member advisory council for the State which shall be charged with notifying the Corporation of any alleged violation of this act;

Authorizes the Board to appoint a President of the Corporation, who shall be a member of the bar of the highest court of any State, and any other corporate officers; provides that no officer of the Corporation may receive any compensation from any source other than the Corporation during employment by the Corporation except as authorized by the Board; prohibits the use of political tests or qualifications in appointing or promoting employees of the Corporation or in selecting recipients;

Provides that all officers and employees of the Corporation are to be treated as private employees except for certain rights and benefits of employees of the Federal Government (work injuries, retirement, and health and life insurance); further provides that the Corporation shall be considered a private nonprofit entity for all statutory purposes, including those concerning labor relations, except as otherwise specified;

Authorizes the Corporation to make grants and contracts with individuals, partnerships, firms, and nonprofit organizations and corporations for the purpose of providing legal assistance to eligible clients; authorizes the Corporation to undertake directly and not by grant or contract, to provide research, training, and technical assistance and to serve as a clearinghouse for information relating to the delivery of legal assistance; authorizes the Corporation to insure that clients and employees comply with the law, rules, regulations and guidelines under which the recipients of assistance, grants or contracts will operate; provides that the Canons of Ethics or the Disciplinary Rules of the Code of Professional Responsibility would be fully applicable to the actions and responsibilities of attorneys in the legal services program; prohibits an attorney from receiving compensation for providing legal assistance under this act unless he or she is admitted to practice in the jurisdiction where such assistance is initiated; prohibits employees of the Corporation or any recipient from engaging in or encouraging any public demonstration or picketing, boycott, or strike; makes special provision for bilingual legal assistance; prohibits the Corporation from influencing the passage or defeat of any legislation by the Congress or any State or local legislature; prohibits contribution of funds, equipment, or personnel to any political party or campaign or for use in influencing any ballot measures or referendums;

Provides that the Corporation, in consultation with the Director of the Office of Management and Budget and with the Governors of the States, establish maximum income levels (taking into account family size, urban and rural differences, and substantial cost-of-living variations) for individuals eligible for legal assistance and establishes guidelines and priorities to insure eligibility of clients; prohibits the use of funds for legal assistance with respect to a criminal proceeding, or to make grants to, or contracts with, any law firm which expends 50 percent or more of its resources litigating issues in the broad interests of a majority of the public; makes special provisions for legal assistance to persons 18 years of age; authorizes $90 million for fiscal year 1975, $100 million for fiscal year 1976, and such sums as may be necessary for fiscal year 1977;

And contains other provisions. H.R. 7824. Public Law 93-355, approved July 25, 1974. (28,302)

Mandatory death penalty.—Imposes by statute a mandatory death penalty for offenses for which the death penalty is available because death resulted, as follows where: (1) the offense involves flight by a prisoner from the custody of an officer or from an institution, gathering or delivering defense information to aid a foreign government, transportation of explosives in interstate commerce, destruction of government property, destruction of property in interstate commerce, kidnaping, treason, and aircraft piracy; (2) the defendant has been convicted of another offense, State or Federal, for which a sentence of life imprisonment or death was authorized by statute; (3) the defendant has previously been convicted of two or more offenses, State or Federal, which carried a penalty of more than 1 year's imprisonment and which involved the "infliction of serious bodily injury upon another person"; (4) the defendant knowingly created a grave risk of death to another person in the commission of the offense; (5) the offense was committed in an especially heinous, cruel, or depraved manner; (6) the defendant procured commission of the offense by payment or promise of payment; (7) the offense was committed for money or anything of pecuniary value; and (8) the offense was committed against the President, Vice President, President or Vice President elect, or if no Vice President, the officer next in order of succession, a chief of state of a foreign nation, certain foreign officials in the United States because of official duties, a Justice of the Supreme Court, a Federal law enforcement officer or an employee of a Federal prison;

Also provides in regard to offenses concerning defense information or treason that the sentence of death shall be imposed in cases where (a) the defendant has been convicted of another previous offense concerning defense information or treason, for which a sentence of life imprisonment or death was authorized by statute; or (b) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security and it is found that the offense directly concerned nuclear weaponry, or other major weapons system or major element of defense strategy; or (c) in the commission of the offense the defendant knowingly created a grave risk of death to another person;

Makes the following exceptions to the imposition of the death sentence where, at the time of the offense, (1) the defendant was under 18 years of age; (2) his or her capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired but not so much as to constitute a defense for prosecution; (3) he or she was under unusual and substantial duress, although not such as to constitute a defense for prosecution; (4) he or she was a principal in the offense, which was committed by another, but the participation was relatively minor, though not so minor as to constitute a defense; (5) he or she could not reasonably have forseen that his conduct in the course of the commission of the offense which resulted in the death for which he or she was convicted would cause, or would create a grave risk of causing, death to any person; or (6) as allowed by the court when hostages have been released by the defendant on the assurance of the Attorney General that their release would be a factor mitigating the application of the mandatory death sentence;

Establishes a procedure whereby a hearing shall be held after conviction or plea of guilty for the purposes of determining whether any of the exceptions apply; contains provisions concerning appeal from a sentence of death under this procedure; and contains other provisions. S. 1401. P/S Mar. 13, 1974. (69)

Narcotic treatment.—Amends the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, commonly called the Controlled Substances Act, to provide new authority for the regulation of the use of narcotic drugs in the treatment of narcotic addicts; provides definitions of "maintenance treatment" to enable the Attorney General to establish more specific and comprehensive regulatory control over the handling of narcotic drugs used in the treatment of narcotic addicts; requires practitioners who dispense or administer narcotic drugs in the treatment of narcotic addicts to obtain a special registration predicated on the approval of treatment standards by the Secretary of Health, Education, and Welfare and the approval of security standards by the Attorney General; enables the Attorney General to deny, revoke, or suspend the special registration for failure to comply with the new standards; makes the full range of civil remedies and felony penalties available under the Controlled Substances Act applicable to practitioners who provide narcotic drugs without obtaining the special registration, in violation of the registration, or after revocation of the registration; and requires the special registered practitioners to keep complete records of narcotic drugs directly administered to patients in their presence. S. 1115. Public Law 93-281, approved May 14, 1974.

Speedy trials.—Makes effective the sixth amendment right to a speedy trial in Federal criminal cases by requiring that each Federal district court, in cooperation with the United States Attorney, establish a plan for trying criminal cases within 90 days of arrest or receipt of summons; provides a 7-year phasing-in period so that the goals of a 30-day limit between arrest and indictment and the 60-day limit between indictment and commencement of trial will not be in force until the seventh year to be phased in beginning in the second year after enactment as follows: during the 2d year—a 60-day arrest-to-indictment time limit and a 180-day indictment-to-trial time, during the 3d and 4th years—a 45-day arrest-to-indictment time limit and a 120-day indictment-to-trial time, during the 5th and 6th years—a 30-day arrest-to-indictment time limit and a 60-day indictment-to-trial time; requires that failure to comply with the phasing-in time limit schedule be reported to the Administrative Office of the United States Courts; provides a dismissal without prejudice sanction if a case extends beyond the specified time limits and provides that beginning the seventh year after enactment a prosecution can only be recommenced following such a dismissal if the government can show "exceptional circumstances"; defines what is expected from the district courts, the United States Attorneys, and defense counsel in terms of planning for the implementation of speedy trials and provides reporting requirements so that the progress of implementation and its resource needs can be easily monitored; specifies that a judge should use a balancing test in order to determine whether to grant an exclusion from the speedy trial time limits; authorizes the creation of demonstration "pretrial Services Agencies" in 10 Federal districts to make *bail recommend*ations, supervise persons on bail and assist them with employment, medical, and other services designed to reduce crime on bail; and contains other provisions. S. 754. P/S July 23, 1974. (VV)

DEFENSE

Air Force colonels promotions.—Extends for 2 years Public Law 89-606, as amended, which authorizes an increase in the number of Air Force colonels and lieutenant colonels, with the number reduced by 3 percent and 2 percent respectively, above the number provided in permanent law. H.R. 14402. Public Law 93-397, approved Aug. 29, 1974. (VV)

Air Force unit command.—Removes the provision from law that commanders of Air Force flying units must be commissioned officers having aeronautical ratings as pilots. S. 3906, P/S Aug. 16, 1974. (VV)

Army officers involuntary discharge.—Amends title 10, U.S.C., to authorize the Secretary of the Army to involuntarily discharge or retire, with certain exceptions, commissioned Army officers in regular grades below major whenever there is a reduction in officer *strength* force; provides that each discharged officer with 5 to 18 years of continuous active duty would receive readjustment pay at the rate of two months' basic pay times the number of years of active duty service with a maximum payment ceiling of $15,000; and provides a 3-year expiration date for the authority contained herein. S. 3191. P/S Oct. 8, 1974. (VV)

Aviation crew incentive pay.—Restructures the flight-pay system of the uniformed services in order to achieve a more equitable distribution of flight pay and to increase the ability of the uniformed services to attract and retain officer aviator crew-members in an all volunteer environment. H.R. 12670. Public Law 93-294, approved May 31, 1974. (VV)

Coast Guard authorization.—Authorizes $122,200,000 to the Coast Guard for fiscal year 1975 for the procurement of vessels and aircraft and construction of shore and offshore establishments and bridge alterations; authorizes the end-year strength for active duty personnel and average military student loads; provides for certain schooling of Coast Guard dependents outside the United States; exempts certain fisheries vessels from load line and vessel inspection laws; and authorizes a study of new techniques to be used for fisheries jurisdiction enforcement. H.R. 13595. Public Law 93-430, approved Oct. 1, 1974. (VV)

Coast Guard icebreaking operations.—Provides the authority for the Coast Guard icebreaking operations in waters other than the high seas or waters subject to the jurisdiction of the United States when those operations are undertaken pursuant to international agreement. S. 3308. P/S Aug. 15, 1974. (VV)

Coast Guard laws.—Changes the Coast Guard's authority relating to aids of navigation by extending its jurisdiction to additional water areas within and beyond the territorial waters of the United States and to non-navigable waters covered by the Federal Boat Safety Act of 1971; provides the authority necessary to carry funds over until the completion of projects for which funds were originally appropriated and provides continuing authorization for the payment of certain confidential investigative expenses; authorizes funds to provide for primary and secondary education for dependents of Coast Guard personnel stationed outside the continental United States whenever schools in the locality are unable to meet their educational needs; and makes changes in certain Coast Guard laws pertaining to personnel matters in the Coast Guard Auxiliary. H.R. 9293. Public Law 93-283, approved May 14, 1974. (VV)

Coast Guard Reserve benefits.—Amends title 10, United States Code, in order to ensure that Coast Guard Reservists have the same retention obligations and benefits as do the Reservists of the other armed forces. S. 2149. P/S Aug. 15, 1974. (VV)

Coast Guard safety standards.—Amends the Act of June 13, 1933, to provide greater flexibility in the safety standards applicable to boilers and pressure vessels by allowing the Coast Guard, through the regulatory process, to set more realistic standards consistent with current technology. H.R. 10309. Public Law 93-370, approved Aug. 10, 1974. (VV)

Defense Production Act extension—National Commission on Supplies and Shortages.—Extends the Defense Production Act of 1950 for 1 year, from June 30, 1974, to June 30, 1975; changes the method by which stockpile materials are purchased from Treasury Department loans to regular congressional appropriations in order to guarantee uninterrupted defense production when necessary;

Establishes an independent national commission to report to the President and Congress by March 31, 1975, specific recommendations with respect to institutional adjustments, including the advisability of establishing an independent agency, to provide for a comprehensive data collection and storage system to aid in the examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world and authorizes $500,000 therefor; provides for the appointment of 13 members—4 from the Executive branch, 4 from the Congress and 5 from the private sector; authorizes $75,000 for the establishment of an advisory committee to recommend possible policy-making processes and structure within the executive and legislative branches to coordinate efforts with appropriate multi-State, regional and State governmental jurisdictions; and provides that the Commission make other reports and recommendations to the President and Congress.

S. 3270. Public Law 93-426, approved Sept. 30, 1974 (VV)

Defense Production Act extensions.—Extends the Defense Production Act of 1950, which would expire on June 30, 1974, for an additional 30 days. H.J. Res. 1056. Public Law 93-323, approved June 30, 1974. (VV)

Extends the Defense Production Act for 60 days, until September 30, 1974. (S.J. Res. 228. Public Law 93-367, approved Aug. 7, 1974. (VV)

Enlistment and reenlistment bonuses.—Revises the special pay bonus structure relating to members of the Armed Forces to provide enlistment and reenlistment incentives designed to ensure adequate manning in an all-volunteer environment; provides, through June 20, 1977, for a maximum reenlistment bonus of $15,000 with the understanding that this maximum would be limited to the nuclear field only; and provides a bonus of up to $3,000 for an enlistment of at least 4 years in any critical skill area in any service. S. 2771. Public Law 93-277, approved May 10, 1974. (VV)

Enlistment qualifications. — Establishes uniform enlistment qualifications with regard to age, parental consent, and time of enlistment options for male and female persons in the armed services retaining however, the discretionary authority of the Secretary to set as a matter of policy a higher minimum age than seventeen or a lower maximum age than thirty-five for accepting enlistments. H.R. 3418. Public Law 93-290, approved May 24, 1974. (VV)

Grumman Aerospace Corporation.—Disapproves the restated and amended advance payment pool agreement between the Department of the Navy and Grumman Aerospace Corp. dated July 29, 1974, under which advanced payments in an aggregate amount not in excess of $100 million may be made to Grumman in connection with a contract for the purchase of F-14 and other military aircraft. S. Res. 380. Senate adopted disapproval resolution Aug. 13, 1974. (345)

Medical officers' pay.—Increases the special pay bonus for physicians (including physicians of the Public Health Services) for each year's extension of active duty to reduce the gap between the incomes of civilian military physicians to ensure a level of staffing in an all-volunteer environment, limits the new bonuses to officers in the pay grade 0-6 (colonel) and below; provides a maximum bonus of $13,500 per year excluding those undergoing initial residency training and the first 4 years of obligated service; and contains other provisions. S. 2770. Public Law 93-274, approved May 6, 1974. (VV)

Permits medical officers of the uniformed services to draw continuation pay (up to 4 months basic pay) during initial residency training. H.R. 15936. Public Law 93-394, approved Aug. 29, 1974. (VV)

Military claims.—Increases from $15,000 to $25,000 the limit for administrative settlement of claims against the United States arising from noncombat activity of the Armed Forces, and increases from $2,500 to $5,000 the limit for the delegation of authority to settle claims. H.R. 9800. Public Law 93-336, approved July 8, 1974. (VV)

Military construction authorization.—Authorizes a total of $3,083,351,060 ($3,031,625,060 in new obligational authority) for fiscal year 1975 for construction and other related authority for the military departments and defense agencies, within and outside the United States, including construction of military family housing, facilities for the reserve components, medical facilities and initial funding of the first increment for the Uniformed Services University of Health Sciences to be located near the National Naval Medical Center at Bethesda, Md., NATO infrastructure program, pollution abatement, and the Trident submarine site at Bangor, Wash.; authorizes the necessary construction at the service academies for the admittance of women; prohibits the expenditure of the $18,102,000 authorized to expand the naval station at Diego Garcia in the Indian Ocean until the President advises Congress in writing that he has evaluated all military and foreign policy implications regarding the need for these facilities, certifies that this construction is essential to the national interest, and such action is approved by both Houses of Congress by passage of a joint resolution; and contains other provisions. H.R. 16136. P/H Aug. 9, 1974; P/S amended Sept. 11, 1974; In conference. (371)

Military pay adjustment.—Provides that pay increases for active-duty members of the uniformed services shall be distributed among basic pay, quarters allowance, and subsistence allowance instead of the present method whereby increases go entirely into basic pay. H.R. 15406. Public Law 93-419, approved Sept. 19, 1974. (VV)

Military procurement authorization.—Authorizes a total of $22,195,037,000 for fiscal year 1975 for military procurement, research and development, active duty, Selected Reserve and civilian personnel strengths, and student loans, of which $35,673,000 will come from reimbursements for foreign military sales;

Includes $13,258,000,000 for procurement of aircraft, naval shipbuilding and conversion, tracked combat vehicles, torpedoes, and other weapons, and $8,936,977,000 for research and development;

Authorizes a year-end strength of 2,098,100 for active duty personnel; reduces by 18,000 personnel stationed in Europe, based on the June 30, 1974, level, with one-third of the reduction to be completed by June 30, 1975, and the full reduction completed by June 30, 1976, and authorizes the Secretary to increase the combat component strength of U.S. forces in Europe by the same amount of the reduction made in noncombat personnel; prohibits an increase in the total number of U.S. tactical nuclear warheads in Europe except in the event of hostilities;

Authorizes a total average strength of 936,712 for the Selected Reserve components including the Coast Guard and a year-end strength of 995,000 for civilian personnel within the various military departments and agencies;

Authorizes $1 billion, including $263,860,000 for procurement of aircraft, missiles, tracked combat vehicles and other weapons to support South Vietnamese military forces; prohibits the use of any of these funds to provide military assistance to Cambodia or Laos and prohibits the obligation of any other funds for fiscal year 1975 for such assistance to South Vietnam;

Requires statutory authorization for selling, or otherwise disposing of naval vessels, larger than 2,000 tons or less than 20 years old;

Prohibits the use of dogs in research for the purpose of developing biological or chemical weapons;

Prohibits flight testing of the Minuteman missile from any place within the United States except Vandenberg Air Force Base;

Requires the Secretary of Defense to make recommendations on licensing export of goods, technology, and industrial techniques resulting directly or indirectly from Defense Department research and development or procurement programs with Communist countries to the President, and provides that Congress could deny the export by passing a concurrent resolution within 60 days;

And contains other provisions. H.R. 14592. Public Law 93-365, approved Aug. 5, 1974. (239.319)

Military procurement supplemental authorization.—Authorizes $769,049,000 in supplemental appropriations for fiscal year 1974 for procurement including replacement of and support items for aircraft and synthetic flight trainer simulators, naval vessels, missiles, tracked combat vehicles, and other weapons for the armed forces; provides, under the military family housing program, the necessary funding authority to cover pay increases already approved by law; reaffirms the $1.126 billion statutory ceiling enacted in 1974 for military aid to South Vietnam and provides that this amount shall not be circumvented by accounting adjustments; prohibits denial of enlistment to a volunteer on the basis of not having a high school diploma; and contains other provisions. H.R. 12565 (S. 2999). Public Law 93–307, approved June 8, 1974. (VV)

Naval Sea Cadet Corps.—Amends the act of September 10, 1962 (76 Stat. 530) to permit young ladies to be eligible for membership in the Naval Sea Cadet Corps. S. 3204. P/S Oct. 2, 1974.

Service academy appointments.—Authorizes the Secretary of the Army to permit one citizen of Laos to attend the United States Military Academy at no expense to the U.S. Government. S.J. Res. 206. Public Law 93–317, approved June 22, 1974. (VV)

DISTRICT OF COLUMBIA

Advisory neighborhood councils.—Amends the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93–198) to make clear that only a majority of voters voting on the issues in the May 7th referendum are needed to ratify the Advisory Neighborhood Council. H.R. 12109. Public Law 93–272, approved Apr. 24, 1974. (VV)

American University, Inc.—Amends the act of incorporation of American University to clarify the relationship of the university to the United Methodist Church, under whose auspices and control the university has existed. S. 3389. P/S June 21, 1974. (VV)

Campaign finance reform.—Replaces the present Board of Elections with the Board of Elections and Ethics which will assume the duties for the conduct of campaigns within the District of Columbia and gives the Board compliance authority including civil penalties; provides for the appointment of the Director of the Board by the Mayor with Senate confirmation until January 2, 1975, and Council confirmation thereafter; sets maximum limitations on contributions and expenditures for and on behalf of a particular candidate; provides that surplus funds shall be used for political purposes of a political party, for retiring proper debts of the candidate's political committee, or shall be returned to the donor within six months after the election; provides for registration and reporting by persons engaged for pay in lobbying for passage or defeat of legislation by the Council and limits its operation to lobbyists being paid over $500 per year for this purpose; prohibits a public official of the District from using his office to obtain financial gain, accept gifts for taking official action, or disclose confidential information resulting in financial gain and prohibits an official from accepting membership on a committee or an assignment of responsibility which creates a conflict of interest; requires candidates and District office holders to file a report with the Board disclosing income, business transactions, property purchases or sales and taxes paid each year; and contains other provisions. H.R. 15074. Public Law 93–376, approved Aug. 14, 1974. (VV).

Educational personnel—psychologists—unemployment compensation.—Authorizes the District of Columbia to enter into Interstate Agreement on Qualification of Educational Personnel; amends the Practice of Psychology Act to allow review of decisions by the Commissioner by the District Court of Appeals and to allow certain persons to obtain licenses who met District qualifications and were engaged in practice prior to the enactment of the Practice of Psychology Act in 1971; and amends the District of Columbia Unemployment Compensation Act to allow review of the determinations of the Unemployment Compensation Board in the District Court of Appeals. H.R. 342. P/H Apr. 9, 1973; P/S amended Aug. 12, 1974. (VV)

Executive protective service.—Increases the authorized size of the Executive Protective Service from 850 to 1,200 in order to expand protection for embassies and other diplomatic facilities in the D.C. area. S. 3124. P/S May 6, 1974. (VV)

Home rule amendments.—Amends the District of Columbia Self-Government and Governmental Reorganization Act to place employees of the D.C. Manpower Administration on an equal basis as other employees being transferred on July 1, 1974, from Federal agencies to the District Government; changes the District to the new Federal fiscal year of October 1 to September 30, and makes July 1, 1974, rather than January 2, 1975, the effective date for several sections of the act; simplifies the procedure for general obligation bonds; fills Board of Education vacancies at the next general election; and authorizes the City Council to impose a moratorium on condominium projects. H.R. 15791. Public Law 93–395, approved Aug. 29, 1974. (VV)

Indigent defense.—Makes the Federal Criminal Justice Act applicable to the District of Columbia and provides for a court-appointed counsel to represent defendants who are financially unable to obtain an adequate defense in criminal cases. S. 3703. Public Law 93–412, approved Sept. 3, 1974. (VV)

Insurance Holding Company regulations.—Provides a framework for the control of insurance holding company activities through registration of the insurance company with the District of Columbia and regulation by the District of the insurers' transactions with the other members of the holding company system; vests responsibility exclusively in the District to avoid conflicting or multiple state regulation; requires registration only of domestic insurers and those foreign insurers whose states do not have similar legislation; requires the reporting of all significant transactions between an insurer and its parent subsidiaries and sister companies according to specified standards and provides that the Commissioner may direct the insurer to provide any necessary records of other members of the holding company system: permits insurers to invest additional amounts in subsidiaries if remaining surplus is adequate to protect policyholder interests; requires disclosure to the Commissioner of any attempt to take control of, or to merge with, an insurer; and provides that the Commissioner may disapprove any such attempted takeover if specific standards designed to protect the interest of policyholders are not satisfied. H.R. 7218. Public Law 93–388, approved Aug. 24, 1974. (VV)

Land-grant University.—Establishes a 15 member Board of Trustees to consolidate the existing local institutions of public higher education within the District of Columbia into a Land-Grant University which shall be an independent agency subject to the policy directives of the Mayor. H.R. 15643. Public Law 93–____, approved ______, 1974. (VV)

Law Revision Commission.—Creates a Law Revision Commission for the District of Columbia to examine the law relating to the District, to receive suggestions thereon and to recommend changes and reforms to the Congress and the District Council which would remedy defects and anachronisms in the law and bring both civil and criminal law into harmony with modern conditions, and creates a municipal code so that all enacted laws will be in a codified form to facilitate their use. H.R. 12832. Public Law 93–378, approved Aug. 21, 1974. (VV)

Marriage licenses.—Repeals provisions of present law requiring that the color of the applicants be included on the application for a marriage license. S. 3476. P/S June 19, 1974. (VV)

Medical and dental manpower.—Extends for two years, through fiscal year 1976, the District of Columbia Medical and Dental Manpower Act of 1970 which provides Federal assistance to private nonprofit medical and dental schools in the District. H.R. 11108. Public Law 93–389, approved Aug. 24, 1974. (VV)

National Visitor Center.—Increases the authorization for the National Visitor Center from $8.68 million to $21.58 million to supplement the construction work undertaken by the private owners of Union Station with respect to the circulation ramps, parking facilities and interpretive elements of the Center and provides that the Secretary of the Interior can commence rent (on behalf of the United States for a 25-year period) for the facilities built with the $16 million authorized under the original act when the money is expended even though the facilities are not yet available for public use. H.R. 17027. Public Law 93– , approved 1974. (VV)

Pennsylvania Avenue Development Corporation.—Amends the Pennsylvania Avenue

Development Corporation's enabling act to enhance its capabilities to plan and redevelop the north side of Pennsylvania Avenue between the Capitol and the White House; provides limited authority for noncompetitive hiring of experts and consultants for specified periods of time without regard for advertising and at rates not in excess of the rate in effect for GS-18; reinstates the expired moratorium on construction within the development area through December 31, 1974, and increases the authorization therefor from $1 million to $1.75 million. S. 3301. Public Law 93-427, approved Oct. 1, 1974. (VV)

Policemen, firemen, and teachers pay increases.—Provides for a 16 percent increase in salary for policemen and firemen in the District of Columbia, and increases the salary of teachers by 10 percent effective September 1, 1974, with an additional 3 percent increase January 1, 1975, to compensate for the 16.8 percent increase in the cost of living in the D.C. metropolitan area between May of 1972 and July of 1974 and to maintain rates of pay for D.C. policemen and firemen in a favorable competitive position with those in major cities in the eastern half of the United States, and revises the real property tax to increase District revenue to cover these pay increases. H.R. 15842. Public Law 93-407, approved Sept. 3, 1974. (VV)

Sewell-Belmont House.—Designates the Sewell-Belmont House at 114 Constitution Avenue, N.E., in Washington, D.C. which is now the headquarters for the National Women's Party, as a national historic site and authorizes the Secretary of Interior to proceed cooperatively with its restoration. S. 3188. P/S June 19, 1974. *NOTE:* (Provisions contained in H.R. 13157, the National Historic Sites bill.) (VV)

Smallpox vaccination.—Repeals provisions in *present* law requiring compulsory vaccination against smallpox for public school students. H.R. 8747. Public Law 93-334, approved July 8, 1974. (VV)

Taxability of certain dividends.—D.C. election: Amends the existing District of Columbia tax laws to provide with respect to all taxable years ending after December 31, 1973, that dividends and interest received by a corporation from an insurance company, bank, and other savings institutions subject to the 2 percent net premium tax imposed under present law shall not, when paid to the parent corporation, be considered as income from sources within the District, and thus shall not be subject to the District of Columbia income tax; provides that, upon ratification of the Charter by D.C. residents on May 7, 1974, employees shall be permitted to be candidates in the first elections for the offices of Mayor, Chairman or member of the Council; provides that employees who are duly qualified candidates may take an active part in political management or political campaigns for such elections; and exempts the Mayor, and members of the city council or the Chairman of the Council from prohibitions against active participation in political management and political campaigns contained in the Hatch Act. H.R. 6186. Public Law 93-268, approved Apr. 17, 1974.

Transportation subsidies for school children.—Extends for 3 years, to fiscal year 1977, the provisions subsidizing common carriers in order to provide reduced-rate transportation for schoolchildren to and from D.C. schools and provides that nothing in this act shall limit the authority of the D.C. Council to act on this matter after January 2, 1975. S. 3477. Public Law 93-375, approved Aug. 14, 1974. (VV)

Unemployment compensation.—Amends the District of Columbia Unemployment Compensation Act to remove the maximum limitation of 2.7 percent of his payroll that an employer may make. S. 3474. P/S June 19, 1974. (VV)

ECONOMY-FINANCE

Abandoned money orders and traveler's checks.—Permits the State in which a money order or traveler's check was purchased to claim the money in the event the money order or traveler's check becomes abandoned unless that State's law does not provide for escheat or there is no record of place of purchase, in which case the State in which the obligor has its principal place of business may claim the moneys. S. 2705. P/S Feb. 28, 1974. NOTE: (Comparable provisions are contained in H.R. 11221, the FDIC Insurance bill which became Public Law 93- , approved —— 1974.) (VV)

Bow and arrow excise tax.—Delays for six months the date on which the new 11 percent excise tax on bows and arrows would be imposed by manufacturers and importers such tax to provide additional funds for certain wildlife restoration projects. H.R. 10972. Public Law 93-313, approved June 8, 1974. (VV)

Check forgery insurance.—Extends the availability of Check Forgery Insurance Fund to permit payment to payees and special indorsees on forged checks drawn on United States dollars or foreign currencies on depositaries designated by the Secretary of the Treasury in the United States or abroad, by Government disbursing officers. H.R. 6274. P/H Sept. 17, 1973; P/S amended Mar. 25, 1974; House disagreed to Senate amendment Sept. 19, 1974. (VV)

Council on International Economic Policy.—Authorizes $1.8 million for fiscal year 1975 for the Council on International Economic Policy, H.R. 13839. Public Law 93-315, approved June 22, 1974. (VV)

Domestic summit on the economy.—States the sense of the Senate that a domestic summit be convened forthwith comprised of the President, the majority and minority leadership of both the House and Senate, the chairmen and ranking minority members of the Senate Finance Committee and the House Ways and Means Committee and the Chairman of the Federal Reserve Board, together with leaders of labor and business, and such other participants as they may agree upon, to decide upon a plan of action to restore stability and growth to the American economy and confidence and prosperity to the American people. S. Res. 363. Senate adopted July 23, 1974. (312)

Duty exemptions—SSI payments—unemployment compensation.—Exempts from duty certain equipment and repairs for vessels operated by or for any agency of the United States where the entries were made in connection with vessels arriving before January 5, 1971; amends the Social Security Act to provide reimbursement to State and local governments for any interim payments they make to an aged, blind, or disabled individual, applying for Supplemental Security Income (SSI) benefits whose claim has been delayed through processing, by authorizing the Social Security Administration, upon authorization by the individual, to withhold from his first SSI check an amount sufficient to reimburse the State for any interim payment; provides for an automatic cost-of-living increase for SSI benefits at the same time and by the same percentage as social security benefits are increased; extends until April 30, 1975, the benefits under the Federal-State unemployment insurance program to provide an additional 13 weeks of unemployment benefits and continues the present temporary waiver of the requirement that a State's insured unemployment must be increasing by 20 percent over the past 2 years; extends until July 1, 1977, payments to States under medicaid plans for compensation or training of inspectors of long-term care institutions; extends until July 1, 1976, the study by the National Science Foundation on supervisory positions in teaching hospitals; continues the discretionary authority of States to impose a premium on the medically needy (persons with too much income to qualify for cash assistance but not enough to pay for their medical care); directs the Committee on Internal Revenue Taxation to study the renegotiations Act to determine if it should be extended beyond fiscal year 1975; and clarifies the way in which certain farm rental income is treated for social security purposes. H.R. 8217. Public Law 93-368, approved Aug. 7, 1974. (VV)

Duty suspensions

Bicycle parts — tax amendments. — Continues from January 1, 1974, through December 31, 1976, the suspension of duties on certain bicycle parts and accessories; extends for 1 year, to January 1, 1976, the moratorium with respect to the application of the moving expense provisions for members of the armed forces that are contained in the Tax Reform Act of 1969; repeals the tax and other regulatory provisions on filled cheese contained in the Internal Revenue Code and now enforced by the Food and Drug Administration; permits certain private foundations whose assets are largely invested in the stock of a multi-state regulated company to exclude the value of the stock in computing the amount of their required charitable distributions under the private foundations provisions; directs the Secretary of Health, Education, and Welfare to study the feasibility of combined social security tax reporting on an annual basis and the effect of such a system on social security beneficiaries, on costs to the employers and to the social security administration, and on the administration of such a program and submit a report thereon to the House Ways and Means Committee and the Senate Finance Committee by December 31, 1974; and increases the amount of carbon dioxide that may be contained in still wines from 0.277 to 0.392 gram per 100 milliliters of wine to improve the shelf life of wines with low alcoholic content. H.R. 6642. Public Law 93- , approved ——, 1974. (VV)

Cellulose salts—tax amendments.—Suspends, until June 30, 1975, the duty on certain cellulose salts used in making permanent press clothing materials; extends to December 31, 1975, the transitional time for charitable remainder trusts on wills executed before September 21, 1974, to conform to the requirements in the Tax Reform Act of 1969 for purposes of an estate tax deduction; amends the Internal Revenue Code to permit companies writing guarantee insurance and insurance on obligations, the interest of which is excludable from gross income under section 103, to take the special deduction and income amount under section 832(e) of the Code for taxable years beginning after December 31, 1970; excludes from taxable gross income, funds received by an individual under the Armed Forces Health Professions Scholarship Program and similar programs as well as forgiven student loans received through programs operated by Federal, State or local governments which are conditioned upon future employment; and allows penalties for premature withdrawal of funds from time savings accounts or deposits to be deducted from gross income. H.R. 12035. Public Law 93- , approved ——, 1974. (VV)

Copper—corporate liquidation judgments.—Continues until July 1, 1975, the duty suspension on certain forms of copper with a "peril point" level of $0.51 per pound, and permits a corporation in a limited type of situation to deduct as a loss, its payment of a judgment against it as the successor to the business of a liquidated corporation when the liquidation occurred before July 1, 1957. H.R. 12281. Public Law 93- , approved —— 1974. (VV)

Crude feathers and downs—tax amendments.—Suspends until June 30, 1979, the duty on certain water fowl feathers and downs which are principally from ducks and geese; provides that, beginning with taxable years after December 31, 1973, the dividends received by members of a consolidated group of corporations from a life insurance company who is not a member of the affiliated group will not be treated as personal holding company income; and postpones for 1 year, from January 1, 1975, to January 1, 1976, the requirement in present law that the Federal employee health program be properly coordinated with the medicare program. H.R. 11452. Public Law 93- , approved —— 1974. (VV)

Horses—medicare provider provisions—SSI.—Suspends until June 30, 1976, the duty on horses other than for immediate slaughter; revises Medicare provisions to extend to providers of services for accounting periods ending on or after June 30, 1973, the right of judicial review of a decision by the Provider Reimbursement Review Board as well as any subsequent affirmations, modifications or reversals by the Secretary with the amount in controversy to be subject to annual interest beginning 6 months after the determination; and amends the Social Security Act to provide that support and maintenance furnished to an individual in a nonprofit retirement home or institution will not be considered as income for purposes of reducing SSI payments if the cost of such maintenance is paid by the home or another nonprofit organization. H.R. 13631. Public Law 93- , approved —— 1974. (VV)

Methanol — disc qualifications — depreciation allowances.—Suspends the duty on methanol when imported for use in producing synthetic natural gas or for direct use as a fuel; allows a financing corporation to qualify as a DISC if it holds accounts receivable or evidences of indebtedness which arise by reason of the export-related transactions of a related DISC; and extends section 167(k) of the Internal Revenue Code which provides tax depreciation for rehabilitation expenditures on low- and moderate-income housing to expenditures made under a binding contract entered into before December 31, 1974. H.R. 11251. Public Law 93- , approved 1974. (VV)

Shoe lathes.—Continues to June 30, 1976, the suspension of duty on copying shoe lathes used for making rough or finished shoe lasts from models of shoe lasts and capable of producing more than one sized shoe from a single model of shoe last. H.R. 8215. Public Law 93-310, approved June 8, 1974. (VV)

Silk—trona ore—gaming operations.—Continues from November 8, 1973, through November 7, 1975, the suspension of duties on certain classifications of yarns of silk; provides that the treatment process to achieve the decarbonation of trona ore into soda ash shall be treated as part of its mining in computing the percentage depletion allowance for trona; reduces the Federal excise tax, levied on wagers (licensed bookmakers of legal gaming operations) from 10 percent to 2 percent and increases the annual occupational tax imposed on persons liable for the tax on wagers and on persons engaged in receiving wagers from $50 to $500, effective December 1, 1974; prohibits any Treasury Department official or employee from disclosing any document relating to wagering taxes supplied by a taxpayer or any information obtained therefrom; and provides that such documents may not be used against the taxpayer in any criminal proceeding except in connection with administration or enforcement of internal revenue taxes. H.R. 7780. Public Law 93- , approved 1974. (VV)

Synthetic rutile.—Suspends until June 30, 1977, the duty on synthetic rutile which is used in the manufacture of white paint and pigments. H.R. 11830. Public Law 93- , approved 1974. (VV)

Zinc—disaster loss claims.—Suspends until June 30, 1977, the duty on zinc-bearing ores and certain other zinc-bearing materials including zinc waste and scrap; allows taxpayers with certain disaster losses, to reduce the basis of damaged or replacement property by the amount of compensation they received up to a maximum of $5,000 of tax benefits with excess benefits to be included in the taxpayers' income over a five-year period; and provides that if a disaster loan is cancelled in whole or in part, a taxpayer whose adjusted gross income is not more than $15,000 for the year in which the loss occurred is not required to reduce the amount of his casualty loss deduction by the amount of the cancelled loan or to include that amount in income, and a taxpayer whose adjusted gross income is over $15,000 in the year in which the loss occurred is permitted to disregard a percentage of the amount cancelled that is equal to the percentage which $15,000 is of his adjusted gross income. H.R. 6191. Public Law 93- , approved 1974. (VV)

Economic development.—Extends for two years to June 30, 1976, the Public Works and Economic Development Act which, through the Economic Development Administration (EDA), provides Federal assistance, in cooperation with the States and localities, to enable areas and regions suffering from economic distress to help themselves develop the planning and financial capability for long-lasting economic improvement and the creation of permanent jobs;

Amends the act to permit areas designated under the substantial unemployment criteria of title I (grants for public works and development facilities), many of which are older, developed urban places in need of incentives to attract and hold business and industry, to be eligible for the title II business loan program; provides that not less than 10 percent of appropriations made under title I shall be spent for the Public Works Impact Program (PWIP) in redevelopment areas—urban areas with a large concentration of low-income persons or substantial unemployment or rural areas with substantial outmigration or actual or threatened rise in unemployment due to the closing or curtailing of a major source of employment; broadens the title II business loan program to permit eligible borrowers to now receive direct working capital loans and to permit the guarantee of loans and of rental payments of leases for buildings and equipment up to 90 percent of the outstanding unpaid loan balance or of the remaining rental payments;

Adds a new planning effort to title III (technical assistance, planning and State grant supplements) by authorizing direct planning grants to States, and to cities, political subdivisions, or sub-State planning and development organizations (including economic development districts) with the State to establish a continuing comprehensive planning process in cooperation with sub-State bodies, and, in conjunction with this assistance, also provides a program of grants for Governors to fund or supplement projects; amends title IV to provide a separate authorization of $25 million to Indians for alleviation of economic distress in addition to other assistance to which they may be entitled;

Makes minor amendments to title V (Regional Action Planning Commissions) to improve the coordination between the commissions and the Secretary of Commerce and with the activities of other Federal, State, local, and sub-State planning agencies in the regions; adds new provisions to title V relating to the use of excess Federal property for economic development in the regions which authorize Federal co-chairpersons to acquire such property without cost and to give or loan it in their respective regions to States or their political divisions and other specified groups;

Adds a new title IX (Special Economic Development and Adjustment Assistance) to help meet economic dislocation problems increasingly encountered by local economies resulting from a variety of causes, including actual or planned Federal actions such as the closing of Federal installations, or energy allotments, weather, or environmental requirements, by permitting, in addition to the present authorized limited assistance for such disruptions, early action to assist areas or regions to adjust to alternative economic activities; authorizes grants to be made for this purpose to redevelopment areas, economic development districts, Indian tribes, States, cities or other political subdivisions which may be used for public facilities, public services, business development, planning, unemployment compensation, rent supplements, mortgage assistance, research, technical assistance, training, relocation of individuals and other appropriate assistance;

And contains other provisions. H.R. 14883. Public Law 93-423, approved Sept. 27, 1974. (VV)

Export Administration Act extensions.—Extends the Export Administration Act of 1969, as amended, which would expire on June 30, 1974, for an additional 30 days. H.J. Res. 1057. Public Law 93-327, approved June 30, 1974. (VV)

Amends the Export Administration Act of 1969, as amended, to extend the expiration date for an additional 62 days, until September 30, 1974. H.J. Res. 1104. Public Law 93-372, approved Aug. 14, 1974. (VV)

Export control.—Amends the Export Administration Act of 1969 to improve United States capacity to respond to rapidly changing international economic conditions, and extends the act from July 30, 1974, to September 30, 1976;

Amends section 3(2)(A) of the act which sets forth congressional policy on the use of export controls in situations of short domestic supply to delete the word "abnormal" in relation to foreign demand, so that it will no longer be necessary that foreign demand for products be "abnormal" before export controls may be imposed;

Provides that it is the policy of the United States to use export controls to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have had or may have a serious domestic inflationary impact, cause a serious domestic shortage, or have a serious adverse effect on employment in the United States, or where such restrictions have been imposed for purposes of influencing the foreign policy of the United States; establishes United States policy firmly in opposition to unreasonable restrictions on access to supplies, and firmly in favor of international cooperation to combat such restrictions;

Requires the Secretary of Commerce to monitor exports and contracts for exports (other than commodities) when such exports contribute or may contribute to domestic price increases or shortages which could have an adverse effect on the domestic economy;

Requires that license applications to export goods and technology subject to national security export controls must be processed within 90 days in order to alleviate delay; requires the Secretary to give interested parties an opportunity to comment when export controls are imposed for short supply purposes; provides statutory hardship relief under prescribed circumstances for persons who have historically exported materials made subject to export controls;

Adds provisions to establish review procedures for exports of goods and technology to "controlled countries" (the Soviet Union, Poland, Romania, Hungary, Bulgaria, Czechoslovakia, East Germany, and such other countries as may be designated by the Secretary of Defense); requires that the Secretary of Defense be notified of all requests for licenses for exports to such countries to insure full consideration of the military and national security implications of exports to Communist countries;

Gives the President permissive authority to use license fees as a means of export control;

Requires a study by the President of laws and regulations governing the export and re-export of materials and information relating to any nuclear facility or part thereof and of domestic and international nuclear safeguards, and to make a report within 6 months to Congress on the adequacy of the regulations to prevent the proliferation of the nuclear capability for nonpeaceful purposes, the adequacy of the safeguards, and the efforts by the United States and other countries to strengthen safeguards in anticipation of the Conference on the Review of the Nuclear Proliferation Treaty scheduled for February 1975;

And contains other provisions. S. 3792. Public Law 93- , approved 1974. (327)

Export expansion: Establishes new export expansion programs to facilitate the entry of more American firms into export trade and to encourage certain American companies already exporting to increase their exports by: (1) authorizing a categorical grant program to States, regions, and municipalities for export promotion projects; (2) authorizing export training programs to be conducted under the aegis of the Department of Commerce; (3) authorizing establishment of regional export assistance centers; (4) authorizing a program for the simplification of documentation, to be conducted by the Secretary of Transportation; (5) establishing a Federal Export Agency, with two export expansion programs, within the Department of Commerce; (6) requiring Federal agencies to prepare international economic assessment impact statements on any Federal action or proposal which would significantly affect the international economic relations, balance of payments, or balance of trade of the United States; (7) amending the Export Trade Act of 1918 to include within the scope of the Act the export of firms wishing to participate in export trade associations; and (8) establishing an international trade specialist program within the Department of Commerce to implement the purposes of this act. S. 1486. P/S June 13, 1974. (VV)

Export-Import Bank Act extension.—Extends the life of the Export-Import Bank for 4 years;

Permits issuance of guaranties and insurance to the full extent of the Bank's obligational authority and increases that authority from $20 to $25 billion;

Makes the Bank's authority to meet foreign credit competition permissive instead of mandatory; provides that Bank financing should be provided only to the extent that private financing is unavailable in order to clarify Congressional intent that private capital should play the major role in export financing; requires the Bank to give due consideration to the Small Business Act policy of aiding and protecting the interests of small business concerns;

Adds a new policy provision that the Bank should not assist an export which may have serious adverse effects on the competitive position of U.S. industries, the availability of materials which are in short domestic supply, or on net U.S. employment;

Requires that guarantees, insurance, or loans of $40 million or more, separately or in the aggregate, to a Communist country must be determined by the President to be in our national interest and reported to Congress within 30 days; provides that such a transaction may not be determined to be in the national interest if it might result in the U.S. becoming dependent upon any Communist country for essential materials which are or may become in short supply;

Prohibits any Bank assistance without a Presidential certification that the country does not practice slavery or involuntary servitude;

Requires congressional notification of proposed loans or guarantees, or combinations thereof, of $60 million or more at least 30 days prior to final approval by the Bank;

Limits the Bank's authority to make new commitments to the Soviet Union to $30 million; extends the Bank's authority to provide assistance to Communist countries excluding Romania and Yugoslavia for 2 years only;

Prohibits Bank assistance to any foreign country in connection with the lease or purchase of any product necessary for the production, refining or transportation of oil or gas which is in short supply unless determined necessary by the President; requires Congressional approval of assistance to a Communist country involving research, exploration or production of fossil fuel energy resources;

Prohibits further assistance to Russia until H.R. 10710, the Trade Reform Act, becomes public law;

Prohibits Bank assistance for sales of defense articles or services;

Prohibits the lending of funds by the Treasury to the Bank at a rate below the cost of borrowing by the Treasury; permits national banks to exclude borrowings from the Bank from the limitations on their aggregate indebtedness under the National Bank Act in order to provide additional private funds for exports; puts the Bank back under Federal budgetary procedures; requires the Bank to include a description of transactions involving energy resources in its semiannual report;

Adds the provisions of S. 3838 (which passed the Senate by voice vote on September 10 and the House, amended, on September 11) and which authorizes Federal Reserve regulation of interest on certain bank holding company obligations; exempts business loans from State usury laws for a limited period to relieve emergency situations in certain States, authorizes, effective in 18 months, commercial banks to underwrite revenue bonds, and provides for the return of abandoned checks and money orders to the States of origin;

And contains other provisions. H.R. 15977. P/H Aug. 21, 1974; P/S amended Sept. 19, 1974; Conference report filed. (399)

Export-Import Bank Act extensions.—Extends the Export-Import Bank Act of 1945 for 30 days, until July 30, 1974. S.J. Res. 218. Public Law 93-331, approved July 4, 1974. (VV)

Extends the Export-Import Bank Act of 1945 for an additional 60 days, until September 30, 1974. S.J. Res. 229. Public Law 93-374, approved Aug. 14, 1974. (VV)

Extends the Export-Import Bank Act of 1945 for an additional 15 days from September 30 until October 15, 1974. S.J. Res. 244. Public Law 93-425, approved Sept. 30, 1974. (VV)

Extends the Export-Import Bank Act of 1945, as amended, until November 30, 1974, and prohibits the Bank from offering any financial assistance to the Soviet Socialist Republics during this period. S.J. Res. 251. Public Law 93- , approved , 1974. (VV)

FDIC insurance.—Increases Federal deposit insurance from the present rate of $20,000 to $40,000; provides full insurance for public unit deposits of $100,000 per account; extends until June 30, 1976, the moratorium on conversion of savings and loan associations from mutual to stock form of ownership with certain exceptions; extends until June 30, 1976, a moratorium on conversion of mutual savings banks to commercial banks; extends until December 31, 1975, the authority of financial regulatory agencies under Regulation Q to set flexible interest or dividend rate maximums on time or savings deposits; increases the present limitation on Federal Reserve Branch bank building construction authority from $60 to $140 million; extends until October 31, 1975, the authority of the Federal Reserve banks to purchase directly from the Treasury public debt obligations up to a limit of $5 million; extends and expands existing law to provide the Federal Reserve Board and the Federal Home Loan Bank Board with additional cease-and-desist powers over the operations of parent holding companies of bank and savings and loan holding companies; provides that no Government official may require the Securities and Exchange Commission or the independent banking regulatory agencies to submit for prior approval or review their legislative recommendations, testimony, or comments to Congress; increases by $2 billion the conditional authority of the Secretary of the Treasury to purchase Federal Home Loan Bank obligations; expands the authority of the Federal Home Loan Mortgage Corporation to purchase residential mortgages from State-insured institutions in certain cases; establishes a National Commission on Electronic Fund Transfers; provides for the equitable disposition of abandoned money orders and traveler's checks as contained in S. 2705; and adds a fair credit billing title to protect consumers against inaccurate and unfair billing practices, to prohibit credit card fraud and to prohibit discrimination in all credit transactions on account of sex or marital status. H.R. 11221. P/H Feb. 5, 1974; P/S amended June 13, 1974; Conference report filed. Senate adopted conference report Oct. 10, 1974. (246)

Foreign investment in the United States study.—Authorizes the Secretaries of Commerce and Treasury to undertake a comprehensive study of foreign direct and portfolio investment in the United States; gives the Secretaries specific authority to collect information for use in the study; provides enforcement powers and levies civil penalties against those who refuse to comply with requests for information; requires an interim report to Congress within 12 months and a final report within 18 months; and authorizes therefor $3 million. S. 2840. Public Law 93- , approved 1974. (VV)

Holding companies.—Amends section 19 (a) of the Federal Reserve Act to authorize the Federal Reserve Board to regulate debt obligations of a parent holding company or an affiliate of a member bank, regardless of the use of the proceeds within the holding company; exempts from this authority any bank holding company which has filed prior to the date of enactment an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all its banks under section 4 of the Bank Holding Company Act; grants similar authority to the Board of Directors of the Federal Deposit Insurance Corporation and the Home Loan Bank Board with respect to parent holding companies and affiliates of insured non-member banks; exempts from the authority granted the regulatory agencies those debt obligations exempted under section 3(a)(3) of the Securities Act of 1933 from SEC registration and prospectus requirements (such as commercial paper issued by holding companies and their non-bank subsidiaries characteristically sold only to institutional investors in large denominations);

Amends the National Banking Act, the Federal Deposit Insurance Act and the National Housing Act to alleviate situations primarily in Arkansas, Tennessee, and Montana which have a 10 percent ceiling on business loans by permitting national banks and Federally-insured savings and loan associations and savings banks to charge interest on business or agricultural loans in the amount of $25,000 or more, at a rate of not more than 5 percent more than the Federal Reserve discount rate on 90-day commercial paper notwithstanding any State law; specifies that these provisions shall not apply to any loan made after July 1, 1977, or after the effective date of any law enacted by a State which prohibits the charging of interest at the rates provided herein; contains similar provisions applicable to small business investment companies' (SBIC's) loans;

Exempts borrowings of bank holding companies and bank deposits over $100,000 from State usury laws until July 1, 1977, or earlier if the State legislates otherwise, which would primarily affect California, Arkansas, Oklahoma, and Montana. S. 3838. P/S Sept. 10, 1974; P/H amended Sept. 11 1974; Senate agreed to conference report Oct. 9, 1974. (VV)

Inflation policy study.—Directs the Joint Economic Committee to undertake an emergency study of the current state of the economy, with special reference to current inflation, and to provide Congress with specific legislative recommendations to improve the performance of the economy; authorizes $100,000 for the six-month period July 1, through December 31, 1974; and directs the Committee to submit to Congress a report of its findings and any recommendations by December 31, 1974. S. Con. Res. 93. Senate adopted July 9, 1974; House adopted amended July 31, 1974; Senate agreed to House amendment Aug. 7, 1974. (VV)

Interest rates—State usuary ceilings.—Amends the National Banking Act, the Federal Deposit Insurance Act and the National Housing Act to permit national banks, Federally-insured state-chartered banks, savings and loan associations, savings banks and small business investment companies, to charge interest on business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, at a rate of not more than 5 percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located; and amends the Federal Reserve Act, the Federal Deposit Insurance Act, and the Federal Home Loan Bank Act to exempt borrowings of bank holding companies and bank deposits over $100,000 from State usury laws for three years, except that if a state so chooses, it may pass a law to the effect that it does not desire to be covered under these provisions. S. 3817. P/S Sept. 25, 1974; reconsidered and P/S amended Oct. 2, 1974. Note.—(Comparable provisions are contained in H.R. 15977, the Export Import Bank Act Amendments and S. 3838, the Bank Holding Companies bill.) (VV)

Municipal securities.—Extends Federal regulation to bonds and securities dealers who trade in tax-exempt state and local bonds thus removing the exemption municipal securities now have under the provisions of the Exchange Act; vests the ultimate authority and responsibilities for the regulation of the municipal securities industry in the Securities and Exchange Commission with the rulemaking responsibilities vested in a new self-regulatory agency, the Municipal Securities Rulemaking Board, and the primary enforcement responsibility in the National Association of Securities Dealers and the federal bank regulatory agencies; and contains other provisions. S. 2474. P/S Sept. 16, 1974. (VV)

National Commission on Supplies and Shortages.—Establishes a one-year independent national commission to report to the President and Congress within 6 months specific recommendations with respect to institutional adjustments, including the advisability of establishing an independent agency, to provide for a comprehensive data collection and storage system to aid in the examination and analysis of the supplies and shortages in the economy of the United States and in relation to the rest of the world; provides for the appointment of 13 members—4 from the Executive branch, 4 from the Congress and 5 from the private sector; authorizes $75,000 for the establishment of an advisory committee to recommend possible policy-making processes and structure within the executive and legislative branches to coordinate efforts with appropriate multi-State, regional and State governmental jurisdictions; provides that the Commission make other reports and recommendations to the President and Congress by June 30, 1975; and authorizes therefor $500,000 for fiscal year 1975. S. 3523. P/S June 12, 1974. *NOTE:* (These provisions are contained in S. 3270, the Defense Production Act Extension, Public Law 93–426, approved Sept. 30, 1974.) (VV)

National securities market system.—Amends the Securities Exchange Act of 1934, as amended, to facilitate the development of a national securities market system for buying and selling stock in order to provide greater investor protection and maintain a strong capital raising and allocating system through the establishment of a uniform standard encompassing the various facets of the securities industry; vests in the Securities and Exchange Commission (SEC) the responsibility to take the steps necessary to establish a national securities system and broadens SEC regulatory authority over securities information processors; consolidates and expands SEC oversight powers with respect to self-regulatory organizations, their members, and officers; confers upon the District courts the jurisdiction to command compliance with this act; clarifies the rulemaking powers of SEC; and provides for judicial review of SEC actions in an appropriate court of appeals. S. 2519. P/S May 28, 1974. (VV)

Penny composition—Eisenhower College.—Permits the Secretary of the Treasury to reduce the copper content of the penny if copper prices rise to levels which would make the penny more valuable for its copper content than as a coin and further permits the Secretary to produce pennies of other metallic content if copper prices rise to such an extent to make a reduced amount of copper impracticable as the major ingredient of the coin provided consideration is given to coin-operated devices and Congress is given a 60-day notice as to the alternative materials to be used authorizes up to $10 million for Eisenhower College, Seneca Falls, New York, the official memorial to Dwight D. Eisenhower, which represents one-tenth of the gross receipts to the Treasury from the sale of proof silver dollars authorized by the Coinage Act Amendments of 1970; and provides that 10 percent of the authorization for Eisenhower College received from the Treasury sale of the proof coins shall be transferred to the Samuel Rayburn Library, Bonham, Texas, the memorial to the late speaker of the House of Representatives, H.R. 16032. Public Law 93–441, approved Oct. 11, 1974. (VV)

Pension reform.—Seeks to protect the interests of participants in employee benefits plans by requiring disclosure and reporting, by requiring employers to vest the accrued benefits of employees with significant periods of service and to meet minimum standards of funding, and by requiring plan termination insurance;

Reporting and disclosure.—Requires the administrator of each employee plan to furnish, in writing, to each participant a description of his rights and obligations under the plan; requires an annual audit and a report to be filed with the Secretary of Labor on certain financial and actuarial data;

Participation and coverage.—Sets minimum standards for participation and coverage in pension plans by employees, requires coverage of an employee who is at least 25 years old and has 1 year of service; requires credit up to 3 years of service prior to age 25; may require employees to be age 25 with 3 years service if the plan provides full and immediate vesting; exempts governmental plans (including Railroad Retirement plans) church plans (unless they elect coverage) and certain other plans;

Vesting.—Sets minimum standards for vesting of benefit rights derived from employer contribution by requiring vesting of employee pension credit according to one of three optional formulas: (1) *grading vesting:* 25 percent vesting after 25 years increased by 5 percent yearly through the 10th year and by 10 percent thereafter until the 15th year when 100 percent vesting is reached, (2) *full vesting:* 100 percent vesting after 10 years and (3) *modified rule of 45:* 50 percent vesting after 5 years when the sum of age and service total 45, increasing 10 percent each year thereafter and requiring 50 percent vesting for any employee with 10 years service regardless of age;

Funding.—Sets minimum standards for funding of plans to assure that pension plans will have sufficient funds to pay their obligations to participants and beneficiaries when they come due; provides for amortizing past service liability over no more than 30 or 40 years; authorizes waiver of minimum funding requirements upon a showing of substantial business hardship with the waived amounts to be amortized over no more than 15 years and prohibiting more than 5 such waivers within 15 years;

Portability.—Provides a voluntary portability system under which participating plans and employees can agree to transfer vested benefits from one plan to another through a central clearinghouse; facilitates portability by providing that an employee can transfer his vested benefits, upon changing employment, to an individual retirement account on a tax-free basis;

Plan termination insurance.—Provides a plan termination insurance program to be managed by a newly established Pension Benefit Guaranty Corporation within the Department of Labor and funded by an annual tax of $1.00 per participant for single employer plans and 50 cents per participant for multi-employer plans, with vested pension benefits insured up to a benefit of $750 per month;

Fiduciary standards.—Imposes strict fiduciary obligations on those who have the discretion or responsibility for managing pension and welfare plan assets; applied the "prudent man" rule to the conduct of fiduciaries; prohibits transactions involving the transfer of assets between the plan and parties in interest with certain exceptions;

Individual retirement accounts.—Provides that individuals not covered by a pension plan may take a tax deduction for contributions to an individual retirement plan in the amount of up to 15 percent of earned income or $1,000, whichever is less;

Limitation on employee contributions.—Limits the employer contribution tax deduction to an amount which would produce an annual pension of $75,000 for any one employee;

Enforcement.—Enforcement of standards to be provided by the Department of Labor, and the Internal Revenue Service with, in general, the IRS enforcing the tax qualification requirements and the Labor Department enforcing violations of standards which result in denial of employee pension rights; and contains other provisions. H.R. 2 (H.R. 4200). Public Law 93–406, approved Sept. 2, 1974. (360)

Public debt limit.—Increases, until March 31, 1975, the temporary debt limit to $95 billion, thereby providing for a $495 billion overall debt limit instead of the current $475.7 billion limit. H.R. 14832. Public Law 93–325, approved June 30, 1974. (270)

Pyramid sales act.—Makes the knowing, selling, offering, or attempt to sell, of a participation or the right to participate in a pyramid sales scheme, a criminal offense with penalties of a fine of not more than $25,000 or imprisonment for not more than 5 years, or both; defines a pyramid sales scheme as a plan or operation which includes a means for increasing the participation in the plan or operation and with respect to which a participant pays a valuable consideration for the opportunity (a) to receive compensation for introducing any other person into participation in such plan or operation; or (b) to receive compensation when a person introduced by the participant introduces any other person into participation with the same rights; provides that the fact the number of persons who may participate may be limited, or that conditions may be imposed with respect to eligibility shall not be construed to change the identity of any plan or operation that is a pyramid sales scheme; and contains other provisions. S. 1939. P/S Aug. 22, 1974. (VV)

*Railroad retirement financing.—Restructures the Railroad Retirement system to place it on a sound financial basis; replaces, in title I, the Railroad Retirement Act of 1937 with a new Railroad Retirement Act of 1974, which provides all retirement and survivor benefits for employees with ten years or more of railroad service, retiring after December 31, 1974; prevents future accrual of dual benefit rights—payment of separate social security and railroad retirement benefits—and breaks the retirement benefit into two components, one tier reflecting a basic social security benefit—calculated on the basis of both railroad and nonrailroad service—and a second tier related strictly to railroad service; protects the dual benefits of those already retired as well as present railroad employees who are vested under both systems as of January 1, 1975; liberalizes benefits whereby (1) persons retiring at age 60 with 30 years of service could receive supplemental annuities at age 60 rather than at age 65, (2) the spouse of a person who retires at age 60 with 30 years service could qualify for a spouse annuity at age 60 rather than at age 65, and (3) the benefits generally payable to a survivor would be increased from 110 percent of the comparable social security benefit to 130 percent of the comparable benefit; and contains other provisions. H.R. 15301. Vetoed Oct. 12, 1974. House overrode veto Oct. 15, 1974; Senate overrode veto Oct. 16, 1974. Public Law 93 – ,without approval Oct. 16, 1974. (404, 457)

Renegotiation Act—Unemployment compensation.—Extends the Renegotiation Act of 1951, as amended, which authorizes the Government to recapture excessive profits on certain Government contracts and subcontracts, for 12 months, until June 30, 1975, and extends for 30 days the benefits under the Federal-State unemployment insurance program to provide an additional period of unemployment benefits. H.R. 14833. Public Law 93–329, approved June 30, 1974. (VV)

Securities and Exchange Commission enforcement actions.—Exempts law enforcement actions brought by the Securities and Exchange Commission under the Federal securities laws as well as actions arising under the antitrust laws in which the United States is a complainant. S. 2904. P/S Oct. 4, 1974. (VV)

Securities and Exchange Commission (SEC) paperwork reduction.—States as a sense of the Senate that the SEC should immediately proceed to evaluate the role of the small broker-dealer in the U.S. securities markets and determine if their survival is being jeopardized by unnecessary, overlapping, and duplicative reporting requirements and urges the SEC to examine the paperwork burden of the small broker-dealer consistent with SEC's statutory mandate to protect the investor and, where possible, reduce and consolidate duplicative and excessive reporting requirements. S. Res. 173. Senate adopted Feb. 7, 1974. (VV).

Supplemental security income—unemployment compensation.—Authorizes payment of supplemental security income (SSI) benefits on the basis of presumptive disability, for up to 12 months, to otherwise eligible individuals who were formerly on the rolls of State programs of aid to the blind and disabled in order to allow benefits to continue while the Social Security Administration, which administers SSI, completes its eligibility review; extends a temporary provision in Public Law 93–233, amending the Social Security Act, whereby a State can elect to come under the extended unemployment compensation program which provides for 13 weeks of extended benefits beyond the expiration of regular unemployment benefits, if the insured unemployment rate in the State is at least 4 percent without meeting the permanent law requirement that the rate also has increased by 20 percent over the prior 2 years; and provides a 1-year delay for the repayment by a State of funds it has received from the Federal government to pay unemployment compensation benefits. H.R. 13025. Public Law 93–256, approved Mar. 28, 1974. (70)

Wage and Price Stability Council.—Authorizes $1 million to the President to establish, within the Executive Office of the President, a Council on Wage and Price Stability, consisting of 8 members and 4 adviser-members to be appointed by the President; directs the Council to monitor the economy and review government programs with regard to inflation; and provides that the Act shall terminate on August 15, 1975. S. 3919. Public Law 93-387, approved Aug. 24, 1975. (353)

EDUCATION

Educational funding and guaranteed student loans.—Provides that funds appropriated for fiscal years 1973 and 1974 for any program to which the General Education Act applies shall remain available for obligation and expenditure until June 30, 1975, and amends the Higher Education Act of 1965 to clarify congressional intent concerning the Guaranteed Student Loan Program so that students whose family incomes are less than $15,000 per year will be eligible for a $2,000 subsidized loan without a needs test and an additional $500 if they qualify under a need test which is required for students whose family incomes are $15,000 or more to receive a subsidized loan up to $2,500. H.R. 12253. Public Law 93–269, approved Apr. 18, 1974. (VV)

Elementary and secondary education.—Revises and extends various educational programs through fiscal year 1978; authorizes the President to call and conduct a White House Conference on Education in 1977 to stimulate a national assessment of educational conditions, needs, and goals;

Changes the formula under title I of the Elementary and Secondary Education Act for allocation of Federal funds through the States to local educational agencies for special programs and projects for educationally deprived children so that grants to a local agency shall be determined by multiplying the number of eligible children by 40 percent of the State's average expenditure per pupil with the stipulation that no State will receive less than 80 percent or more than 120 percent of the national average expenditure, with the number of eligible children ages 5–17 to be counted as follows: (1) all children from families below the poverty level, as defined by the Orshansky Index of poverty—which allows variations for family size, sex of head of household, and whether the family is farm or non-farm; (2) two-thirds of the children from families receiving AFDC (Aid to Families with Dependent Children) payments bringing them above the Orshansky poverty level; and (3) children who live in institutions for delinquent or neglected children; requires an analysis of the measures of poverty used by the Federal government; authorizes use of $50 million from title I funds for part B incentive grants to States whose local financial support of schools is higher than the national average; authorizes $75 million for fiscal year 1975 for part C grants to local educational agencies having a high concentration of disadvantaged children and repeals part C effective July 1, 1975;

Makes three different consolidations: (1) *an administrative consolidation* allowing a State to make one comprehensive application for Federal funds (under programs administered by the Commissioner of Education) which are to be administered through the State educational agency; (2) a consolidation of *categorical assistance programs* under the Elementary and Secondary Education Act—titles II (libraries), III (innovation) and V (strengthening of education) and sections 807 (dropout prevention) and 808 (health and nutrition) and the National Defense Education Act—title III (equipment, other than section 305, loans to schools); and (3) a consolidation of *federally operated education programs* administered by the Commissioner under discretionary authority, with the Cooperative Research Act rewritten and retitled as the Special Projects Act to authorize the Commissioner to carry out special projects to experiment with new methods, techniques and practices for education and administration, and provide for the creation of seven new programs for education in the use of the metric system, for gifted children, community schools, career education, consumers' education, women's equity in education, and arts in education;

Extends and makes certain revisions in the impacted areas programs whereby local school districts are reimbursed proportionally for the number of pupils whose parents live and/or work on Federal property to make up for revenues lost on tax-exempt Federal property, including a revision of the present categories of A, B, and C to A and B, and makes certain changes in the rates of reimbursement payments;

Includes the authorization of a new national reading improvement program, an extensive revision of the Bilingual Education Act, and an expansion of programs under the Education for the Handicapped Act; contains provisions for the protection of the rights and privacy of parents and pupils, which include inspection of school records and requiring their consent for release of records;

Includes busing provisions, entitled the Equal Education Opportunities Act of 1974, stating that equal educational opportunities may not be denied on the basis of race, color, sex, or national origin; gives the findings of Congress that standards for busing have not been clear and uniform and that it is necessary and proper for the Congress, pursuant to its powers under the Constitution, to specify what are appropriate remedies for the elimination of the vestiges of dual school systems, except that these provisions are not intended to modify or diminish the authority of the courts to enforce fully the requirements of the 5th and 14th amendments to the Constitution regarding the elimination of such vestiges; provides that failure to attain a numerical balance of students on the basis of race, color, sex or national origin does not constitute denial of equal educational opportunity, that no court, department or agency of the United States shall order busing of any student to a school other than the school closest to home, and that school district lines may not be ignored or altered unless they were drawn for, and had the effect of, segregating school children; provides that a parent or guardian of a child being bused under court order may seek to reopen or intervene in the future implementation of the court order if the busing is a risk to the child's health or significantly impinges on the child's educational process; and extends the expiration date of present law prohibiting implementation of a court order until appeals or the time for appeals is ended from January 1, 1974, to June 30, 1978;

And contains other provisions. H.R. 69. Public Law 93–380, approved Aug. 21, 1974. (204, 315)

Environmental education.—Extends to July 1, 1977, the Environmental Education Act and reestablishes the Advisory Council on Environmental Education (which was terminated on May 17, 1973, when the Commissioner on Education published his intent to abolish the Council and Congress did not, within 90 days, disapprove of this action); authorizes therefor $5 million, $10 million, and $15 million for fiscal years 1975, 1976, and 1977 respectively; and permits the Commissioner to abolish the Council only after such intent is published in the Commissioner's annual report to Congress and only if either of Congress does not disapprove of this action. S. 1647. Public Law 93–278, approved May 10, 1974. (VV).

Health professions student loans.—Amends the Public Health Service Act to extend for 1 year, to June 30, 1975, the authorization for Federal capital contributions into the scholarship program for the National Health Service Corps and the loan program for health professions students. S. 3782. Public Law 93–385, approved Aug. 23, 1974. (VV)

Legal education assistance.—Authorizes the Commissioner of Education to carry out a program to assist persons from disadvantaged backgrounds to undertake training for the legal profession. H.R. 15296. Public Law 93–343, approved July 10, 1974. (VV)

ELECTION REFORM

Campaign reform.—Amends the Federal Election Campaign Act of 1971 and certain other laws relating to the financing and conduct of Federal election campaigns; provides for strict limits on contributions and expenditures; provides public financing of Presidential nominating conventions, Presidential primaries, and general elections, effective January 1, 1976; establishes a Federal Election Commission to administer and enforce provisions of the Act;

Candidate contribution limits.—Limits individual contributions to $1,000 to a candidate for each primary, run-off or general election; limits to $25,000 per year the total contributions an individual may make to all candidates; limits to $5,000 the amount a political committee may give a candidate or his campaign committee; permits a principal campaign committee designated by the candidate to contribute up to the full spending limit; prohibits cash contributions over $100 and bars contributions by foreign nationals; limits candidate contributions to own campaign for entire campaign as follows: President—$50,000, Senate—$35,000, and House—$25,000;

Spending limit.—Limits a Presidential candidate to $10 million total for all primaries; limits a Presidential nominee to $20 million in the general election; sets the following limits: Presidential nominating conventions—$2 million each major political party with lesser amounts for minor parties; Senate primaries—$100,000 or 8 cents per eligible voter, whichever is greater; House primaries—$70,000 or 12 cents per eligible voter, whichever is greater; Senate general elections—$150,000 or 12 cents per eligible voter, whichever is greater; House primaries—$70,000; House general elections—$70,000; provides that Senate limits apply to House candidates who represent a whole state; makes all spending limits subject to cost-of-living increases using 1974 as the base year;

Political Party Spending Limits.—Permits a national political committee and also a State political party to spend $20,000 or 2 cents per eligible voter for each Senate candidate in the general election and $10,000 or 2 cents per eligible voter for each House candidate in the general election; permits a national political committee to spend 2 cents per total eligible voters in the United States for their Presidential nominee;

Exemptions.—Exempts from contribution and spending limits fund-raising costs of up to 20 percent of the candidate's spending limit and certain other costs up to $500 for food and beverages;

Public Financing of Presidential Campaigns.—Provides public financing from the Presidential Election Campaign Fund (funded by the dollar checkoff); as follows: *General Elections:* provides that nominees of the major parties are eligible to receive the full $20 million spending limit in public funds in which case private contributions are prohibited or they may elect to receive only private funds under the constraints of the contribution limits of $1,000 and $5,000 for individual and organizational contributions respectively; *Nominating Conventions:* provides $2 million optional funding to major party conventions and proportional funding for minor party nominating conventions to defray costs; *Presidential Primaries:* provides Federal matching of contributions of $250 or less to candidates in Presidential primaries after the candidate has qualified by raising $100,000 (of which $5,000 must be collected from each of 20 or more States) in matchable contributions; provides that the candidates of any one party may receive no more than 45 percent of the total amount available in the Fund, and that no single candidate may receive more than 25 percent of the total available;

Enforcement and Penalties.—Establishes a 6-member Federal Election Commission to administer election law and the public financing program; provides that the Secretary of the Senate and the Clerk of the House shall serve as non-voting members; provides that the President, the Speaker of the House and President pro tempore of the Senate each shall appoint two members who shall be subject to confirmation by both Houses of Congress, with the Chairman to be elected by the members and to be rotated every year; authorizes the Board to issue subpenas to require testimony and the production of evidence; vests the Board with power to bring civil actions in Federal district courts; charges the Commission with receiving campaign reports, making rules and regulations (subject to review by Congress within 30 days) and serving as a clearinghouse for election information; increases the existing fine to a maximum of $50,000 for violating spending limits and specifies penalties for other violations;

Other Provisions.—Prohibits an elected or appointed official from accepting an honorarium of more than $1,000 for a speech or article or $15,000 total per year; permits use of excess campaign funds to defray expenses of holding Federal office; prohibits solicitation of contributions by franked mail;

And contains other provisions. S. 3044. Public Law 93-443, approved Oct. 15, 1974. (138,444)

Overseas citizens voting rights.—Guarantees the right of otherwise qualified private U.S. citizens residing outside the United States to vote in Federal elections in the State of their last voting domicile; requires a citizen, voting under the bill, to state his intent to retain his prior State as his voting residence and domicile if he has not registered to vote and is not voting in any other State, territory or possession of the United States; adopts a uniform absentee registration and voting procedure including the requirement that election officials mail out balloting material as promptly as possible after receipt of a properly completed application; recommends that the States adopt an alternate version of the Federal post card application; assures that Federal and State governments could not seek to impose taxes on a citizen which would cause him to lose any tax exemption solely on the basis of having exercised his right to register and vote absentee; and imposes a $100,000 fine and 5 years imprisonment for willful violations of the act. S. 2102. P/S July 18, 1974. (VV)

Watergate Committee.—Extends for 3 months, from February 28, 1974, to May 28, 1974, the date for the Select Committee on Presidential Election Campaign Activities to make its final report to the Senate of the results of the investigation and study conducted by it together with its findings and recommendations for new legislation. S. Res. 287. Senate adopted Feb. 19, 1974. (VV)

Authorizes the Committee to make available to the Internal Revenue Service (IRS) such information requested by that agency and to investigate, receive, and inspect any data, documents, or other information held by the IRS directly related to the investigation being conducted by the IRS and the Committee. S. Res. 288. Senate adopted Feb. 21, 1974. (VV)

Increases the authorization for expenses of the Committee through May 28, 1974, from $1.5 million to $1.8 million, of which not to exceed $70,000 shall be available for the procurement of the services of individual consultants or organizations. S. Res. 286. Senate adopted Mar. 1, 1974. (VV)

Extends from May 28, 1974, to June 30, 1974, the date for the Committee to make its final report to the Senate of the results of the investigation and study conducted by it together with its findings and recommendations for new legislation and provides that the Committee may submit any interim reports it considers appropriate; terminates the Committee three months after the submission of its report provided however that if the judicial action brought by the Committee against the President for certain specified taped recordings of conversations between the President and his former counsel, John W. Dean, is not adjudicated, the Committee shall remain in existence until 30 days subsequent to a judicial determination; and empowers the Committee to report to the Senate an addendum to its final report based on what the taped recordings disclose in the event they are received pursuant to the final adjudication. S. Res. 327. Senate adopted May 22, 1974. (VV)

Increases the authorization for expenses of the Committee from $1.8 million to $2 million of which not to exceed $70,000 shall be available for the procurement of the services of individual consultants or organizations. S. Res. 328. Senate adopted May 28, 1974. (VV)

Watergate documents access.—Urges President Ford to take all steps necessary to assure full public access to all facts and investigations relating to Watergate including all papers, documents, memoranda, tapes, and transcripts during the period January 20, 1969, through August 9, 1974, except for those matters which are vital to national security interests. S. Res. 399. Senate adopted Oct. 3, 1974. (VV)

Watergate tapes preservation.—Directs the General Services Administrator to obtain complete possession and control of all tape recordings, transcripts, and other materials recorded or prepared at the White House or other residences during the Presidency of Richard M. Nixon; prohibits the destruction of such material without Congressional approval; provides that such material will be available to the Watergate Special Prosecutor and for use in judicial proceedings; gives Richard M. Nixon, or his written designee, access to the material; directs the GSA Administrator to formulate regulations, within 90 days, with regard to their preservation and public access to them; and authorizes such sums as necessary to carry out the act. S. 4016. P/S Oct. 4, 1974. (432)

ENERGY

Coal leases.—Amends the Mineral Leasing Act of 1920 relating to development of Federal coal resources as follows: (1) requires that leases be issued by competitive bidding only; (2) requires that leases be issued after adoption of comprehensive land use plans prepared in consultation with State and local governments and with ample opportunity for public review; (3) eliminates prospecting permits and preference right leases; (4) directs that leases will be for a 20 year term and as long thereafter as coal is produced; (5) requires the lessee to submit a development and reclamation plan 1 year after obtaining a lease; and (6) broadens the purposes for which States can use their share of coal leasing revenues. S. 3528. P/S July 9, 1974. (VV)

Coal slurey pipelines.—Amends the Mineral Leasing Act of 1920 as amended by the Trans-Alaska Pipeline Act, to make the law governing the issuance of rights-of-way over Federal lands for oil and gas pipelines also include coal pipelines; amends the Interstate Commerce Act to require Commission certification of public convenience and necessity before a coal common carrier may exercise its power of eminent domain granted under the Coal Pipeline Act of 1974 in extending, constructing, acquiring or operating coal pipelines or in abandoning any part of a pipeline certified under this Act; and defines application procedures and Commission powers in granting or denying a request for a certificate. S. 3879. P/S Sept. 18, 1974. (VV)

Daylight saving time.—Amends the Emergency Daylight Saving Time Energy Conservation Act of 1973 (Public Law 93–182) to put the entire nation on non-advanced time for the winter months beginning at 2:00 a.m., October 27, 1974, until 2:00 a.m., February 23, 1975, and changes from June 30, 1975, to July 31, 1974, the date by which the Secretary of Transportation must submit to the Congress his final report on the effects of advanced time in winter months. H.R. 16102. Public Law 93–434, approved Oct. 5, 1974. (VV)

Energy allocation for tourism industry.—Expresses the sense of the Senate that in any allocation of energy supplies or other actions by Federal departments and agencies to alleviate the energy shortage, proper consideration should be given to the provision of adequate supplies of energy to all segments of the tourism industry. S. Res. 281. Senate adopted Apr. 29, 1974. (VV)

*Energy emergency.—Declares that current and imminent fuel shortages have created a nationwide energy emergency; calls for proposals for energy emergency rationing and conservation measures and authorizes specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met;

Establishes a Federal Energy Emergency Administration (FEEA) until May 15, 1975, to be headed by an Administrator who will be appointed by the President with the advice and consent of the Senate; transfers certain powers and duties of the President under the Emergency Petroleum Allocation Act of 1973 to the FEEA Administrator; authorizes the promulgation of a rule to order priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment of rights entitling certain users to obtain products in precedence to others; requires the President to provide procedures by which any user may petition for review of priorities and entitlements;

Authorizes the FEEA Administrator to promulgate by regulation energy conservation plans to reduce energy consumption to a level which can be supplied by available energy resources through transportation controls, including highway speed limits, or other necessary and reasonable restrictions on the public or private use of energy, including limitations on energy consumption by businesses; provides that no energy conservation plan promulgated by regulation under this authority may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax; terminates any such energy conservation plan on May 15, 1975; requires transmission of any plan to each House of Congress, and makes any plan which would become effective before March 15, 1974, subject to congressional disapproval; provides that any energy plan which would become effective on March 15, 1974, and before September 1, 1974, shall go into effect 15 days after its transmission to Congress if neither House disapproves; provides that any energy plan which would become effective on or after September 1, 1974, must be approved by act of Congress; provides procedures for Congressional review of the plans;

Directs the Administrator, to the extent practicable, to prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment, has the capability and necessary plant equipment to burn coal;

Directs the Administrator, within 30 days after enactment, to propose a contingency plan for allocation of supplies of materials and equipment for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities, implementation of such a plan to be subject to congressional approval by a means similar to that for any energy conservation plan;

Authorizes the Administrator, in order to supplement domestic energy supplies, to require production of oilfields to be designated by the Secretary of the Interior or the Secretary of the Navy at the maximum efficient rate of production and, in certain cases, in excess of the maximum rate;

Requires the President to specify equitable prices for domestic crude oil, all residual oil, and all refined petroleum products; provides that within 30 days of enactment the ceiling price for all crude oil be the price for that grade of oil in that field at 6:00 a.m., May 15, 1973, plus $1.35, making the average basic price $5.25 per barrel with savings from a price rollback to be passed on to consumers on a dollar-for-dollar basis; provides that the President may establish a higher ceiling price up to $7.09 per barrel, upon proper justification to Congress, that a higher price is necessary for a recovery of costs as in the case of crude oil produced from stripper wells or by secondary or tertiary recovery;

Contains provisions for the protection of franchised dealers; provides, in relation to antitrust provisions, for procedures to achieve the goals of this act while retaining the integrity of the antitrust laws; authorizes the appropriate agencies to take action for conserving energy consumption by regulated carriers; authorizes certain restrictions on exports; provides for employment impact and unemployment assistance to those adversely affected by the energy emergency; directs the Secretary of Transportation to encourage the use of carpools; prohibits the use of limousines by Federal officials in the executive branch below the level of a Cabinet officer except for the Federal Bureau of Investigation and the Department of State for diplomatic assignment; prohibits the use of funds for furnishing a chauffeur for individual use to any Federal official; provides for administrative procedures and judicial review; and contains enforcement provisions; authorizes to FEEA to carry out its functions and to make grants to States $75 million annually for fiscal years 1974 and 1975, with an additional $50 million for 1974 and $75 million for 1975 grants to States to carry out conservation measures and $500 million for fiscal year 1974 for grants to States for unemployment assistance;

Amends the Clean Air Act to permit the Administrator of the Environmental Protection Agency to suspend, until November 1, 1974, any stationary source fuel or emission limitation; provides for implementation plan revisions; extends the interim standards for motor vehicle emissions to 1977;

And contains other provisions. S. 2589. Vetoed Mar. 6, 1974. Senate sustained veto Mar. 6, 1974. (34,53)

Energy Reorganization (ERDA).—Consolidates the Federal government's fragmented and uncoordinated energy research and development functions by establishing the Energy Research and Development Administration (ERDA), an independent agency formed from the transfer of the technical staff and national laboratories of the Atomic Energy Commission (AEC)—which is abolished by this Act—and certain research and development programs from the Department of Interior, the Environmental Protection Agency, and the National Science Foundation; provides that ERDA will be headed by a single Administrator, appointed by the President and confirmed by the Senate, who will exercise broad functions to explore and develop all possible sources of energy—both nuclear and non-nuclear; provides safeguards against unwarranted priority being given to any single energy technology; establishes an Energy Resources Council to coordinate energy programs in the Federal agencies and to advise the President on energy matters;

Requires the President to report to Congress by June 30, 1975, additional recommendations for the organization of energy and related functions in the Federal government, including the advisability of creating a Department of Energy and Natural Resources;

Establishes the Nuclear Regulatory Commission, an independent bipartisan regulatory commission which is based upon the Regulatory Division of the AEC but with a revised internal organization and broadens the licensing and regulatory authority transferred to it from the AEC; requires Senate confirmation of the 4-member commission and chairman who are charged with protecting the nation's health and environment by ensuring the safety and the security of the nuclear industry and the weapons-grade and other radioactive materials used to fuel it; provides for three coequal directors, each with direct and independent access to the Commission, and each responsible for separate operations relating to nuclear reactor safety, nuclear materials security, and nuclear safety research; establishes civil and criminal penalties for noncompliance with regulations or failure to report potentially hazardous defects; requires the Commission to make quarterly reports to Congress on details of abnormal occurrences at licensed nuclear facilities and to widely disseminate initial information to the public within 15 days of learning of each abnormal occurrence which it determines is significant enough to be reported;

And contains other provisions. H.R. 11510. Public Law 93–438, approved Oct. 11, 1974. (VV)

Energy research and development policy.—Authorizes $20 billion over the next 10 years to seek to develop the capability for the United States to become energy self-sufficient through the use of domestic energy resources by socially and environmentally acceptable means.

Establishes an interagency Energy Research Management Project headed by an independent chairman appointed by the President and assisted by representatives from Federal agencies involved in energy research (Department of Interior, Atomic Energy Commission, Federal Power Commission, National Science Foundation, Environmental Protection Agency, National Aeronautical and Space Administration, and National Bureau of Standards) to undertake an aggressive start on a comprehensive research strategy pending completion of presently proposed Government reorganization for energy matters;

Provides for immediate research activities (through 1980) on the development of the following energy technologies: production of low sulfur boiler fuel, production of synthetic gas (as from coal gasification), production of syncrude and coal liquefaction, demonstration of geothermal technologies, development of oil shale, improved methods for extraction of petroleum and coal resources, demonstrations of solar energy for residential and commercial applications, improvement of environmental control systems, investigation of tidal power for electrical energy, and demonstration of energy conservation technologies; provides for midterm research (1980–2000), a continuation of the short term undertakings, plus improved transportation and storage by electricity, demonstration of the viability of hydrogen as a primary energy supply, demonstration of power generation from fuel cells, and development of synthetic energy supplies from agricultural products and wastes; provides for long term research (beyond 2000) including demonstration of fusion power and commercial application of previously demonstrated technologies;

Requires the chairman of the research project to recommend to Congress specific proposals for Federal assistance for the demonstration of new energy technologies; authorizes the chairman to select an appropriate mechanism for Federal assistance including: contractual arrangements with non-Federal entities, construction of federally owned facilities, Federal purchases or guaranteed prices of demonstration products, and Federal loans and loan guarantees; provides that if the chairman proposes the establishment of a joint Federal-industry corporation, such a proposal must be submitted to Congress for approval on a case-by-case basis; authorizes for the project $2 million for fiscal year 1974 and $10 million each in fiscal years 1975 and 1976;

In Title II, "Geothermal Energy Act of 1973," authorizes the Secretary of the Interior to guarantee loans (up to 75 percent of the cost of the project) made by financial institutions to qualified borrowers for the purpose of geothermal energy development and provides that a Geothermal Resources Development Fund be established in the Treasury for the loan guarantee program; authorizes the Atomic Energy Commission, in cooperation with industry, to undertake a research and development program for the utilization of all forms of geothermal energy; authorizes for fiscal years 1974 through 1976 as follows: $10 million annually to the Secretary of the Interior, $35 million annually to the Atomic Energy Commission, and such amounts as required to NASA;

And contains other provisions. S. 1283. P/S Dec. 7, 1973; P/H amended Sept. 11, 1974; In conference.

Energy supply—clean air.—Directs the Federal Energy Administration (FEA) to prohibit an electric power plant from burning petroleum or natural gas if it has the capability to burn coal and authorizes, but does not require such prohibitions with respect to other major fuel-burning facilities aside from powerplants unless coal or coal transportation are not available or electrical service would be impaired; authorizes FEA to require that powerplants be designed to burn coal as well as other fuels; authorizes FEA to allocate coal to any facility that is prohibited from burning oil or natural gas;

Permits the Environmental Protection Agency (EPA) to suspend until June 30, 1975, any stationary source fuel or emission limitation as it applies to the Clean Air Act if (1) there is an unavailability of fuels to meet the act's requirements, (2) a plant converted to coal between September 15, 1973, and March 15, 1974, or was ordered to convert to coal by FEA, or (3) the suspensions would result in emissions that exceed the primary air quality standard for a particular region; permits EPA to delay a plant's compliance schedule until January 1, 1979, if (1) emission limits to maintain primary air quality standards could be met, (2) the suspension would not result in emissions that would exceed the primary standards in an air pollution control region, or (3) EPA approved an interim compliance plan; prohibits EPA from using parking surcharges to control air pollution;

Continues emission standards established for 1975 model year automobiles during the 1976 model year and delays until September 30, 1977, final automobile emission standards for carbon monoxide and hydrocarbons and until September 30, 1978, final standards for nitrogen oxides; provides that after January 1, 1975, an automobile manufacturer may seek a 1-year suspension of the statutory standards for hydro-carbons and carbon monoxide applicable to the 1977 model year and requires EPA to establish interim standards for such a suspension; provides for allocation of low sulfur fuel to minimize adverse effects on the public health; clarifies the relationship between the National Environmental Policy Act and the Clean Air Act; extends the Clean Air Act authorizations for 1 year; and provides criminal penalties for willful violations of the act. H.R. 14368. Public Law 93–319, approved June 22, 1974. (VV)

Energy transportation security—Requires that 20 percent initially, 25 percent beginning after June 30, 1975, and 30 percent beginning after June 30, 1977, of oil for import into the United States shall be transported on U.S.-flag vessels to the extent that such vessels are available at fair and reasonable rates; authorizes the President to waive these requirements for a period up to 180 days if he determines that an emergency exists; applies the requirements to direct shipments from the original point of production and to and from any intermediate points used for storage, refining, processing, packaging, unloading, or reloading of oil; exempts refiners whose total refinery capacity does not exceed 30,000 barrels a day provided that the total quantity of oil imported by or for such refiner does not in any year exceed the rated refining capacity of such refiner; permits reduction of license fees for imports of oil by 15 cents per barrel of oil other than residual fuel oil and by 42 cents per barrel for residual fuel oil if the oil is carried on privately owned U.S.-flag commercial vessels and the amount of the license fee reduction is passed on to the ultimate consumer.

Requires that not less than 10 percent of funds appropriated or otherwise made available for the foreign-trade requirements of the United States shall be allocated to each of the Atlantic, Gulf, Great Lakes, and Pacific range of ports;

And contains other provisions. H.R. 8193. P/H May 8, 1974; P/S amended Sept. 5, 1974; Conference report filed. (366)

Federal Energy Administration—Establishes the Federal Energy Administration (FEA) as an independent executive agency, to be headed by an Administrator to be appointed by the President with the advice and consent of the Senate; transfers to the Administration four existing agencies now in the Interior Department—the Offices of Petroleum Allocation, Energy Conservation, Energy Data and Analysis, and Oil and Gas; transfers the Energy Division of the Cost of Living Council into the new Administration; requires policy coordination with the Environmental Protection Agency; authorizes the Comptroller General to monitor FEA operations and make public its reports; authorizes the Government Accounting Office to issue subpenas to obtain information from companies engaged in any phase of energy supply or major consumption of energy; creates an Office of Private Redress and Grievances to handle complaints; requires the Administrator to prepare a comprehensive energy plan mapping out the Administration's proposed course of action for the next two years; and contains other provisions. H.R. 11793 (S. 2776). Public Law 93–275, approved May 7, 1974. (VV)

Federal energy report.—Clarifies the provisions of the Federal Energy Administration Act regarding the timing, methodology and content of the Administrator's annual report to Congress on the Nation's energy needs. S. 3871. P/S Oct. 10, 1974. (VV)

Geothermal energy.—Establishes a Geothermal Energy Coordination and Management project composed of the Federal Energy Administration, the National Science Foundation, the Department of the Interior, the National Aeronautics and Space Administration, and the Atomic Energy Commission, which will be headed by an Administrator to be appointed by the President, and shall have overall management responsibility for geothermal resource inventory, research and development inventory programs; directs the National Aeronautics and Space Administration (NASA) to carry out geothermal energy technology research and development programs assigned to it by the Project, including the establishment of an inventory and assessment program and requires the Administrator to carry out a comprehensive program definition with respect to the development of geothermal energy with an interim report to be submitted by November 30, 1974, and the final report by August 31, 1975; authorizes the Project to initiate a research and development program with respect to commercial utilization of geothermal resources and to enter into cooperative agreements with non-Federal entities for the construction, operation, and maintenance of demonstration developments for the production of electric or heat energy from geothermal resources; authorizes the Chairman of the Project to designate the head of a Federal agency to guarantee loans (up to 75 percent of cost) for projects involving geothermal energy development and provides that such loans shall not exceed $25,000,000 for a single project or $500,000,000 to a single borrower; limits the life of the loan guarantee program to 10 years; requires the Chairman of the Project to submit annual reports to the President and Congress; and authorizes therefor for fiscal years 1976 through 1980 such sums as may be appropriated following enactment of the Act plus $2.5 million to NASA for fiscal year 1975 to fund the preparation of the required Program definitions and $50 million annually for the loan guarantee program. H.R. 14920. Public Law 93–410, approved Sept. 3, 1974. (VV)

Natural gas pipeline safety authorization.—Authorizes $2 million for fiscal year 1975 to carry out the purposes of the Natural Gas Pipeline Safety Act of 1968 which provides for Federal safety standards for those facilities in or affecting interstate or foreign commerce utilized in the transportation by pipeline and storage of natural and other gases, and authorizes $1.2 million for the Federal grant-in-aid programs which, under the act, provides States with the opportunity to assume responsibility for enforcing safety standards for intrastate facilities or assist in the enforcement of Federal Safety standards. S. 3620. P/S Aug. 19, 1974. Note: (Provisions contained in H.R. 15205). (VV)

Authorizes $2 million for fiscal year 1975 and $2.85 million for fiscal year 1976 to carry out the provisions of the Natural Gas Pipeline Safety Act of 1968 and authorizes $1.8 million for fiscal year 1975 and $2.5 million for fiscal year 1976 for the Federal grant-in-aid program for which States would receive compensation of up to 50 percent of their costs in carrying out pipeline safety activities. H.R. 15205. Public Law 93–403, approved Aug. 30, 1974. (VV)

Oil price increase.—States a sense of the Senate the urgent matter of communicating to the governments of Canada, Venezuela, and the Arab oil producing countries that the United States views with the utmost concern the recent oil price increases as detri*mental to* prices, real income and employment in the United States and that such actions should not be taken by these countries without regard for these effects on the life of the American people and for the possibility of reciprocal economic action by the United States which might adversely affect the economies of these countries. S. Res. 249. Senate adopted Jan. 29, 1974. (VV)

Oil shale funds.—Amends the Mineral Leasing Act of 1920 to permit each State to use its share of oil shale revenues for purposes other than public roads and schools. S. 3009. P/S May 9, 1974. (VV)

Outer Continental Shelf energy.—Amends the 1953 Outer Continental Shelf Lands Act by setting guidelines for the Secretary of Interior to follow in the exercise of his broad authority under the 1953 Act to provide for the orderly and environmentally safe development of energy on the Outer Continental Shelf (OCS);

Leasing Program.—Directs the Secretary to prepare a comprehensive 10-year leasing program by January 1, 1978 for all lands geologically favorable for oil and gas development without undue environmental damage; establishes procedures for a governor to delay issuance of leasing permits; directs the Secretary to conduct a survey of oil and gas resources of the OCS as a basis for the development and revision of the leasing program which requires annual review and approval; includes protection of confidential and proprietary information supplied by each lease or permit holder or applicant;

Research and Development.—Directs the Secretary to carry out a research and development program to improve technology of offshore oil operations if such research is not done by private industry;

Oil Spill Liability.—Puts into law the existing Departmental regulation that an OCS lessee is liable for the total cost of control and removal of spilled oil, regardless of fault; creates a new strict liability rule for damages from OCS oil spills patterned after the Trans-Alaska Pipeline Authorization Act of 1973; sets a $100 million limit for damages from any one incident with the lessee liable for the first $7 million and the Offshore Oil Pollution Settlement Fund liable for the balance; finances the settlement Fund by a fee of 2½¢ on each barrel of oil produced from the OCS;

Coastal States Fund.—Establishes a Coastal States Fund in the Treasury; provides that 10% of the Federal OCS revenues but not to exceed $200 million per year will be available for grants to assist Coastal States in ameliorating adverse environmental impacts and controlling secondary economic and social impacts stemming from the development of onshore support facilities for OCS development; provides that grant eligibility will be determined by the Secretary of Commerce with the Secretary of Interior managing the program so that the activities under this act will be coordinated with those under the Coastal Zone Management Act of 1972;

Enforcement and Safety Regulations.—Provides civil and criminal penalties for violations of the act and provides for citizen suits; requires annual on-site inspections to insure compliance with safety and environmental regulations;

Revised Bidding Systems.—Revises the way offshore oil and gas resources are leased; eliminates the royalty rate bid for exploration rights with a fixed cash payment on profits; retains the present cash bid system for exploration rights with a fixed royalty of at least 12½% of the gross revenues from the lease; authorizes lease sales under which net profits from the seas are shared with the U.S. Treasury; requires a National Strategic Energy Reserve to be set aside as part of the leasing program;

And contains other provisions. S. 3221. P/S Sept. 18, 1974. (393)

Petroleum allocation—mandatory.—Extends the Emergency Petroleum Allocation Act of 1973 which would expire on February 28, 1975, until June 30, 1975. S. 3717. P/S Aug. 12, 1974. (VV)

Petroleum products fair marketing.—Prohibits suppliers from terminating, cancelling, or failing to renew a franchise unless the affected distributor or retailer fails to comply substantially with any essential and reasonable requirement of the franchise, fails to act in good faith in carrying out the terms of the franchise, or unless the supplier goes out of business. S. 1694. P/S Aug. 7, 1974. (VV)

Solar energy research.—Establishes an interagency Solar Energy Coordination and Management Project to coordinate and administer the Federal program of research and development of solar energy; directs the chairman of the Project to initiate a solar resource determination and assessment program and a research and development program to facilitate commercial utilization of solar energy; requires the Chairman to initiate a program to construct demonstration facilities or powerplants for the development and use of solar energy; requires the establishment of a Solar Energy Information Data Bank to collect and disseminate information with respect to solar energy technologies; directs the Chairman to cooperate with other nations on solar energy research and projects; delinates the following as the advanced solar energy technologies covered by the Act: (1) solar heat for industrial purposes, (2) thermal energy conversion for electric powerplant generation, (3) conversion of organic materials to energy, (4) photovoltaic conversion, (5) sea thermal power conversion, (6) windpower conversion, (7) solar heating and cooling of housing and of commercial and public buildings, and (8) energy storage; provides that the Chairman may proceed with the construction of any small scale demonstration plant not in excess of $20 million; authorizes $75 million for fiscal year 1976 and such amounts as may be necessary for construction of demonstration projects; establishes a Solar Energy Research Institute to carry out any research, development or related functions assigned to it by the Chairman of the Project; and contains other provisions. S. 3234. Public Law 93_ , approved ______1974. (VV)

Solar heating and cooling.—Authorizes $5 million to NASA for fiscal year 1975, $5 million to HUD for fiscal year 1975 to be used to reimburse the Department of Defense, the National Bureau of Standards, and the General Services Administration for expenses incurred by them in carrying out their respective functions, and an additional $50 million for fiscal years 1976 through 1979 for further development and testing for large scale commercial use of solar systems in heating and cooling residential and commercial buildings. H.R. 11864. Public Law 93–409, approved Sept. 3, 1974. (VV)

Truck fuel prices.—Provides that the Interstate Commerce Commission shall issue its final order in Docket No. MC 43 (Sub. No. 2) as soon as possible which shall become effective not later than February 15, 1974, in order to alleviate the threat of a national transportation crisis caused by the requirement that carriers reimburse their owner-operators for all increases in the price of fuel over the base period May 15, 1973. S.J. Res. 185. Public Law 93–249, approved Feb. 8, 1974. (VV)

Washington Energy Conference.—States as the sense of the Senate that the Washington Energy Conference, called by the President to provide a forum for the discussion of the common problems faced by the oil consuming nations, should consider (1) conservation measures necessary to reduce demand; (2) procedures for the emergency sharing of oil resources; (3) guidelines for bilateral agreements between oil consuming and oil producing countries; (4) coordination of research efforts in developing conservation practices and alternative sources of energy; (5) the responsibility for and the means to help to alleviate the plight of the developing countries in the oil crisis; and (6) closer coordination of fiscal and monetary policies; and further states that the United States should continue to bring about conditions of peace and stability in the Middle East S. Res. 279. Senate adopted Feb. 6, 1974; Reconsidered and adopted by Senate amended, Feb. 7, 1974. (VV)

ENVIRONMENT

Environmental data centers.—Authorizes the Administrator of the Environmental Protection Agency to provide financial assistance for the establishment of a qualified environmental research and education center at a university in each State or, at the option of participating States, to establish one regional center to serve a group of States; requires that each center conduct research, training, and environmental activities utilizing the interdisciplinary and interinstitutional capabilities in its area and, where desirable, arrange for a consortium of institutions to conduct these activities; recommends that each center coordinate environmental activities in nonregulatory areas; and provides Federal funding on a State-by-State basis with additional funds available on a matching basis. S. 1865. P/S June 12, 1974. (VV)

Ocean dumping.—Amends Public Law 92–352, relating to ocean dumping, in order to implement the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, signed by the United States on December 29, 1972, and ratified by the Senate on August 3, 1973; extends U.S. law to include regulation of the carriage and dumping of foreign-source waste material by U.S. vessels and aircraft; expands the definition of "material" to include oil taken on board a vessel or aircraft for the purpose of dumping at sea; seeks to give guidance to those administering the Act in instances where the standards of the Act differ from those of the Convention, particularly where the requirements of domestic law are stricter than those of the Convention; and contains other provisions of a technical or conforming nature. H.R. 5450. Public Law 93–254, approved Mar. 22, 1974. (VV)

Extends the Marine Protection Research and Sanctuaries Act of 1972 for 1 year, through fiscal year 1975, and authorizes therefor $5.5 million to carry out the provisions of title I of the act which provides for the control and regulation of the dumping of land-generated wastes at sea. H.R. 15540. Public Law 93– , approved , 1974. (VV)

Oil pollution.—Incorporates into statutory law the rights, duties, and responsibilities of the United States under the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, signed November 29, 1969, at Brussels, which permits a coastal nation to take whatever action it deems necessary to prevent, mitigate, or eliminate a threat of oil pollution resulting from a maritime accident beyond that coastal nation's territorial limits by vesting such authority in the Secretary of the Department in which the Coast Guard is operating; gives the Secretary the authority to determine the extent of danger resulting from a collision, stranding, or other disablement of a vessel carrying oil, and to remove and, if necessary, destroy the ship and cargo which is the source of the danger; incorporates general guidelines for determining the permissible scope of intervention actions; authorizes actions against the United States in the Federal courts by persons claiming compensation; creates a mechanism for settling controversies between signatory nations, or between such nations and claimants relating to compensation for excessive measures; authorizes the Secretary to issue rules and regulations to carry out the purposes of this Act; imposes criminal penalties to insure full compliance with the legislation; and extends the right of intervention now inherent in the Federal Government for vessel incidents in territorial waters to incidents on the high seas involving potential oil pollution damage. S. 1070. Public Law 93-248, approved Feb. 5, 1974.

Strip mining control.—Establishes a nationwide program to prevent the adverse effect to society and the environment resulting from surface mining; places the authority for the administration of the Act with the Secretary of Interior who shall prepare and publish within 6 months regulations concerning coal surface mining and reclamation operations and a detailed description of actions to be taken by a State to develop an acceptable State program to regulate such operations; establishes the Office of Reclamation and Enforcement in the Department of the Interior which will be headed by a Director to be named by the President, with the advice and consent of the Senate; establishes the prerequisites for any State to continue to obtain financial assistance and to assume full responsibility for all regulation of surface mining and reclamation within the State, and provides for Federal regulation of strip mining and reclamation in any State which proves unwilling or unable to do so itself; establishes an interim surface mining permit program which is in effect until the deadline for approval of a State program; sets requirements for performance bonds which must be filed before a surface mining permit is issued, such bond to satisfy the costs for reclamation of the land mined; sets criteria to be met by all surface mining and reclamation operations under a State program, a Federal program, and Federal Lands Program or the State or Federal interim permit; provides for civil and criminal penalties for certain violations of the act; provides for citizen suits against persons violating the act or against the responsible regulatory authority; sets guidelines for the establishment of a process for designation of areas as unsuitable for surface mining; applies the requirements of the Act to public corporations, agencies, and utilities, including the Tennessee Valley Authority, which engage in surface mining; authorizes $100 million to create an "Abandoned Mine Reclamation Fund" to be used to reclaim abandoned land which has been subjected to the worst ravages of past mining activities; authorizes $4 million for studies concerning: (1) surface mining for minerals other than coal, open pit mining, and reclamation standards, (2) the impact of Federal control on contour surface mining, (3) the means to maximize resource recovery and minimize environmental impacts, and (4) the regulation of surface mining on Indian lands; authorizes for administration and Federal State matching grants $10 million for fiscal year 1973 and $20 million for the following two years; authorizes the President to suspend any of the provisions of the Act under emergency conditions; provides that where the surface owner is not the owner of the mineral rights, written consent or waiver by the owner must be obtained, or the surface miner must execute a bond to secure payment to the surface owner of any damage in addition to the performance bond required except where the owner of the mineral rights is the Federal Government in which case surface and pit mining is prohibited; authorizes $100,000 (which is increased to $250,000 in the fourth and subsequent years) to be used on a matching basis for the establishment of mining and mineral research centers at one college or university in each State; directs the Cost of Living Council to grant increases in coal prices to offset whatever additional production costs may result from the implementation of the Act; authorizes grants to States to assist persons who become unemployed as a result of the administration and enforcement of the Act; and contains other provisions. S. 425. P/S Oct 9, 1973; P/H amended July 25, 1974; In conference.

Water Pollution Control Act extension.—Extends until June 30, 1975, those sections of the Federal Water Pollution Control Act, as amended, for which authorizations expired at the end of fiscal year 1974. S. 4073. P/S Oct. 4, 1974. (VV)

Weather modification.—Extends the provisions of Public Law 92-205, which provides for the reporting of weather modification activities to the Federal Government, for an additional 3 years, to fiscal year 1977, at the yearly authorization of $200,000. S. 3320. Public Law 93-436, approved Oct. 5, 1974. (VV)

Woodsey Owl—Smokey Bear.—Authorizes the Secretary of Agriculture to license appropriate private use of "Woodsey Owl" and the associated slogan "Give a Hoot, Don't Pollute", originated by the Forest Service to improve environmental quality, in return for royalty fees, and creates criminal misdemeanor liability for the unauthorized use of "Smokey Bear", "Woodsey Owl", or "Give a Hoot, Don't Pollute". S. 1585, Public Law 93-318, approved June 22, 1974.

GENERAL GOVERNMENT

Alaska records.—Transfers to the State of Alaska the official archives and records of the Territorial Governors of Alaska, 1884 to 1958, when provisions have been made for their safekeeping, repair, and preservation in fireproof, air-conditioned storage space and directs the Administrator of the General Services Administration not to release these documents until these conditions have been met. S.J. Res. 234. P/S Oct. 1, 1974. (VV)

Amateur athletics.—Establishes an Amateur Sports Board to coordinate amateur athletic competition and a National Sports Development Foundation to support and encourage athletic activity and physical fitness; provides that the 5-member board shall be appointed by the President with the Senate's approval with at least one member an amateur athlete and with the chairman to be appointed by the members of the Board; charges the Board with the primary function of issuing charters designating private non-profit amateur sports organizations as chartered sports associations so that within two years, no unrestricted amateur athletic competition can take place without the sanction of an association; defines "unrestricted competition" to characterize amateur competition among teams representing different nations, or domestic competition among members of more than one sports organization for the purpose of qualifying athletes for international competition involving only sports on the Olympic program; establishes basic requirements for eligibility to receive a charter and gives the Board the authority to revoke charters for specified reasons; defines six basic functions to be performed by a chartered sports association; specifies the conditions under which an association shall sanction a competition; provides for binding mandatory arbitration of disputes involving sports organizations, associations and amateur athletes; and authorizes $1.1 million for each of the next 6 fiscal years for the Board and for administrative costs of the National Sports Development Foundation. S. 3500. P/S July 9, 1974. (279)

Blind and handicapped products authorization.—Extends the authorization for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped; changes the name of the statutory committee to "Committee for Purchases from the Blind and Other Severely Handicapped"; increases committee membership from fourteen to fifteen in order to include a member who is knowledgeable about employment problems of other severely handicapped individuals; and clarifies the term "direct labor" so that it also includes work relating to the performance of a service. H.R. 11143. Public Law 93-358, approved July 25, 1974. (VV)

Blind vendor operations.—Amends the Randolph-Sheppard Act in order to strengthen the provisions for the establishment and protection of blind vending operations on Federal property; requires the Secretary of Health, Education, and Welfare to prescribe regulations to assure the establishment of one or more blind vending facility on all Federal property, including work areas; establishes a grievance resolution procedure for blind licensees and State agencies; provides that vending machine income shall accrue first, to the blind licensee operating a vending facility and second, where there is no blind vendor, to the State agency in the State where the property is located, such income to be used for retirement, health, and leave purposes for blind licensees; and contains other provisions. S. 2581. P/S June 10, 1974. NOTE: (The provisions of this bill are contained in H.R. 14225, The Rehabilitation Act Amendments which became Public Law 93- , approved 1974.) (VV)

Chester Bridge.—Extends for 1 year, to June 1, 1975, the time available for the States of Illinois and Missouri to negotiate an agreement with the city of Chester, Illinois to take over joint operation of the Chester Bridge which connects the two States and has operated as a toll facility over the 30 year maximum set for such operations. S. 3546. P/S June 4, 1974. (VV)

Commission on Productivity.—Renames the President's National Commission on Productivity as the National Commission on Productivity and Work Quality; sets the promotion of the productivity of the American economy and improvement of worker morale and work quality as objectives of the Commission and defines its functions; requires the Commission, by July 1, 1974, to transmit to the President and Congress a report of its activities during fiscal year 1974; and authorizes not to exceed $2.5 million for fiscal year 1975. S. 1752. Public Law 93-311, approved June 8, 1974.

Disaster relief.—Continues and expands the basic programs and mechanism established in the Disaster Relief Act of 1970; amends the definition of major disaster to create a new "emergency" category to make it more practicable to extend help during lesser emergencies which the President has not declared a major disaster (at present the President must declare an area a "major disaster" to "trigger" all benefits authorized by Federal disaster legislation); authorizes a one-time grant of $250,000 to each State to assist them in developing comprehensive plans and programs to combat major disasters; stipulates that publicly owned facilities must obtain insurance adequate to protect against future loss for any disaster-damaged property which has been replaced, restored repaired or constructed with Federal disaster funds; provides for a fine of not more than $10,000 or 1 year's imprisonment, or both, for persons who willfully make fraudulent claims; provides that assistance for damaged or destroyed public facilities, including park and recreational facilities, can be provided under one of two plans: direct grants not to exceed 100 percent of cost for repair or reconstruction on a project-by-project basis or a Federal contribution based on 90 percent of the total estimated cost of restoring all damaged public facilities within its jurisdic*tion; authorizes* the expenditue for "mini-repairs" to make a damaged home habitable as a substitute for other temporary housing which the Federal Government might otherwise provide; authorizes grants to States on a 75 percent Federal-25 percent State matching basis of the actual cost of providing direct financial assistance to persons adversely affected by a major disaster to meet extraordinary disaster-related expenses up to $5,000 per family to be retroactive to April 20, 1973; authorizes the President to provide disaster unemployment compensation through agreements with States which, in his judgment, have adequate systems for administering the program; authorizes the President to provide professional counseling services to help relieve mental health problems caused by a disaster; provides loans to local governments suffering a substantial loss of tax and other revenues because of a major disaster for up to 25 percent of its annual operating budget and includes forgiveness provisions in specified situations; amends the Public Works and Economic Development Act of 1965 by adding a new title VII—Economic Recovery for Disaster Areas regarding long-range recovery; and contains other provisions. S. 3062. Public Law 93-288, approved May 22, 1974. (125)

Eniwetok Atoll.—Authorizes $12 million to fulfill the U.S. commitment to rehabilitate Eniwetok Atoll in the Trust Territory of the Pacific Islands which after the war, in 1947, the U.S. used for its atomic weapons testing program between 1948 and 1958 making the Atoll uninhabitable. S. 3812. P/S Sept. 25, 1975. (VV)

FBI Director, ten year term for.—Amends the Omnibus Crime Control and Safe Streets Act of 1968 to provide for a ten-year term for the appointment of the Director of the Federal Bureau of Investigation; limits the appointment of a Director to one 10-year term; and provides that the law regarding Federal mandatory retirement at age 70 shall apply to this appointment. S. 2106. P/S Oct. 7, 1974. (436)

Federal grants and cooperative agreements.—Sets forth distinctions between Federal assistance relationships and Federal procurement relationships and, on this basis, authorizes agencies to use contract, grants agreements and cooperative agreements to executive Federal/non-Federal transactions in acquiring property and services and furnishing assistance; establishes criteria for selecting the appropriate class of legal instruments to achieve uniform terminology and use by executive agencies. S. 3514. P/S Oct. 9, 1974. (VV)

Federal policy formulation.—States as the sense of the Senate that the President should utilize every means and opportunity to insure the meaningful participation of State and local governments in the development of all major programs and policies of the Federal Government particularly those designed to combat inflation and that every major Federal department and agency provide for such participation at a high level, and further states that Congress should establish mechanisms to afford State and local governments the opportunity to participate in the legislative process. S. Res. 427. Senate adopted Oct. 10, 1974. (VV)

Federal procurement.—Amends section 3709 of the Revised Statutes of the United States, Federal Property and Administrative Services Act of 1949, Armed Services Procurement Act of 1947, Legislative Branch Appropriations Act of 1966, and the Tennessee Valley Authority Act of 1933 to permit the award of small procurements, without formal advertising, up to $10,000 instead of the $2,500 ceiling (in one case $500) presently required by law. S. 3311. Public Law 93-356, approved July 25, 1974. (VV)

Federal procurement policy.—Establishes an Office of Federal Procurement Policy within the Office of Management and Budget to provide overall leadership and direction for the development of procurement policies and regulations for executive agencies in accordance with applicable laws in order to promote economy, efficiency and effectiveness in the procurement of goods, services, and facilities, S. 2510. Public Law 93-400, approved Aug. 30, 1974. (VV)

Fire prevention and control.—Authorizes $45.5 million for 2 years for programs to reduce the nation's losses caused by fire through better fire prevention and control; establishes within the Department of Commerce an agency named the National Fire Prevention and Control Administration to administer the program; expands the Fire Research Center at the Bureau of Standards which performs research on all aspects of fire; establishes a National Academy for Fire Prevention and Control modeled on the FBI Academy to serve as a focal point for the professional training of fire officers; authorizes the Secretary of Commerce to review, evaluate, and suggest improvements in State and Local fire prevention building codes, and fire services; expands the program of research on burns, their treatment and the rehabilitation of victims of fire within the National Institutes of Health; and contains other provisions. S. 1769. Public Law 93- , approved —— 1974. (VV)

Flood damage claims.—Louisiana: Provides for the relief of Louisiana oyster fishermen for damages which occurred when certain spillways were opened to avoid flooding populated areas in the spring of 1973. S. 2201. P/S June 18, 1974. (VV)

Freedom of information.—Amends the Freedom of Information Act as follows: requires each agency of the Federal Government to maintain and publish quarterly or make available for public inspection upon request current indexes providing information pertaining to matters issued, adopted, or promulgated after July 4, 1967; requires the agency, upon a request that reasonably describes the records, to make such records available unless they are subject to the present exemptions; provides that investigatory records compiled for law enforcement purposes must be disclosed unless disclosure would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source, (5) disclose investigative techniques or procedures, or (6) endanger the life or physical safety of law enforcement personnnel; authorizes in camera Federal court examination of withheld agency documents and records to determine whether such records may properly be withheld under any of the exemptions, including that for classified infomation, under the act; provides that the burden of proof rests with the agency; permits the assessment of attorney fees and litigation costs against the United States in cases where the claimant has substantially prevailed; provides that in cases where the court finds that agency personnel acted arbitrarily or capriciously in withholding records the Civil Service Commission must determine whether disciplinary action is warranted against the responsible officer or employee and that the agency must take prompt action to carry out the Commission's recommendations for disciplinary action when made; requires agencies to respond to requests for records within 10 days and provides a 20-day time limit on administrative appeals; requires the release of segregable nonexempt portions of a requested file after deletion of exempt portions; requires agencies to submit annual reports to Congress concerning their operation under this act; and sets the effective date at 90 days following the date of enactment. H.R. 12471. Public Law 93- , approved 1974. (213)

GSA leases.—Amends section 111 of the Federal Property and Administrative Services Act of 1949, to permit the Administrator of the General Services Administration to enter into multiyear leases (not to exceed 10 years) of automatic data processing equipment at amounts in excess of what is available in the fund, provided the amount of unfunded obligations authorized is not needed and the balances of the fund are maintained in such amounts as are necessary at any time for cash disbursements and clarifies the authority to enter into multiyear leases of automatic data processing equipment including collateral maintenance, software and other kinds of supplies and services normally associated with such equipment. S. 2785. P/S Sept. 19, 1974. (VV)

Historical and archeological data.—Amends a 1960 law under which the Secretary of the Interior, through the National Park Service, conducts archeological salvage programs at reservoir construction to broaden the scope of activity to include all Federal or federally assisted or authorized construction projects which result in alteration of the terrain; authorizes the Secretary to conduct a survey and salvage program upon notification not only by the instigation agency but also by any other Federal or State agency or responsible private organizations or individuals except where recovery would impede a Federal or Federally assisted project undertaken as a result of an emergency in anticipation of, or as a result of, a natural disaster; authorizes construction agencies to use or transfer up to one percent of funds appropriated for a project to the Secretary for survey and salvage work; provides that the costs incurred in connection with public works projects for archeological work under this act would become non-reimbursable project costs; and contains other provisions. S. 514. Public Law 93-291, approved May 24, 1974.

Idaho Admission Act.—Amends section 5 of the Admission Act for the State of Idaho to permit the State to exchange lands granted to it for educational purposes for other public or private lands of approximate value, or if the land values are equalized by payment of money; ratifies exchanges already made with the United States involving land granted for educational purposes; and adds exploration for and production of geothermal resources and byproducts to the purposes for which the educational lands may be leased by the State for more than ten years. S. 939. P/S Mar. 26, 1974. (VV)

Law enforcement officers' and firefighters' retirement.—Amends present law to make mandatory retirement of eligible law enforcement officials at age 55 or after 20 years of service, whichever occurs first, with certain exemptions; removes provisions which require that a retiree must have his employing agency's recommendation and be approved by the Civil Service Commission; increases the computation factor from 2 to 2½ percent multiplied by the first 20 years plus 2 percent for all years over 20; provides for a $50,000 payment to the survivor of a covered individual who is killed in the line of duty; includes premium pay received for uncontrollable overtime as part of the base pay for retirement purposes; and increases the employee's deduction and the matching agency contribution from 7 to 7½ percent of both regular and premium pay. H.R. 9281. Public Law 93-350, approved July 12, 1974. (VV)

NASA authorization.—Authorizes $3,266,929,000 to the National Aeronautics and Space Administration for fiscal year 1975 as follows: $2,372,815,000 for research and development including continued funding of the space shuttle and space station programs; $144,490,000 for construction of facilities; and $749,624,000 for research and program management. H.R. 13998. Public Law 93-316, approved June 22, 1974. (VV)

National Science Foundation authorization.—Authorizes $807,500,000 to the National Science Foundation for fiscal year 1975 and an additional $5 million in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States. H.R. 13999. Public Law 93-413, approved Sept. 14, 1974. (VV)

National science policy.—Establishes a White House Council of Advisers on Science and Technology to advise the President and Congress with respect to Federal policies, plans, and programs in science and technology and requires the Council to make annual recommendations regarding the level of Federal investment and allocation priorities among major programs in this area; authorizes the Council to contract with the National Academy of Sciences for a comprehensive 10-month study of the Federal organization for civilian science and technology; redesignates the Federal Council for Science and Technology as the Federal Coordinating Committee for Science and Technology and gives it the statutory authority to coordinate all Federal plans and programs in science and technology; requires the National Science Foundation to aid in the development of national policies and to clarify the policymaking role of the National Science Board and broaden its membership; establishes an Intergovernmental Science and Technology Advisory Committee to advise the Foundation and the States on the application of science and technology throughout the Nation and make grants of up to $100,000 to any State for the establishment of a State Office of Science and Technology; and authorizes therefor $8 million for fiscal year 1975 and $14 million for fiscal year 1976. S. 32. P/S Oct. 11, 1974. (VV)

No-fault motor vehicle insurance.—Establishes a system of nationwide insurance for medical expenses and loss of wages of victims of motor vehicle accidents regardless of fault; supersedes present State law to the extent of the bill by the enactment of a no-fault plan in title III of the bill which applies unless a State adopts a non-fault plan which meets, at a minimum, the standards of the no-fault plan in title II of the bill;

Requires, under the title II plan, insurance which provides unlimited coverage for "allowable expenses" professional medical treatment and care, emergency medical services, and medical and vocational rehabilitation services, coverage for funeral expenses not to exceed $1,000, for work loss—income and reasonable expenses for hiring a substitute to perform self-employment services—with minimum coverage of the lessor of a monthly amount equal to $1,000 multiplied by State average per capita income over nationwide average per capita income or actual monthly earned income up to a total of $25,000 multiplied by the same formula or such total amount as may be determined by the State but not less than $15,000, and for replacement services and survivor's loss subject to reasonable limits and exclusions, and permits a deductible of not over $100 per individual and a maximum 1-week waiting period; permits the offering of greater basic work loss benefits or added benefits for work loss or for noneconomic detriment; requires that the no-fault insurer offer added insurance for collision and upset damage;

Sets other requirements that a State must meet which include making insurance available to all, and the authorizing of the State insurance commissioner to provide an accountability program for medical and vocational rehabilitation services and to take steps to assure the availability of emergency health services and medical and vocational rehabilitation services in the State; permits in section 204(f) entities providing benefits other than no-fault on account of an injury to coordinate such benefits with benefits payable by a no-fault insurer on account of the same injury if this would result in lower cost to the purchaser of such other benefits; makes health insurance the primary coverage for "allowable expenses" (by subtracting health insurance benefits from total loss for "allowable expenses" under no-fault insurance) if it provides unlimited coverage and meets the same obligations unless the State determines with the approval of the Secretary of Transportation that this would affect adversely or unreasonably discriminate against the interests of persons required to provide security covering motor vehicles in the State;

Requires, except as provided in the section on assigned claims, subtraction from net loss of any benefits and advantages from social security, workmen's compensation, any State-required temporary, nonoccupational disability insurance, and all other benefits except the proceeds of life insurance available from any government unless the law providing them makes them excess or secondary to the benefits under this act, and provides for subtraction of up to 15 percent of income tax saving in calculating net work loss where benefits are not taxable income;

Abolishes tort liability for injury under the title II no-fault plan with the following exceptions: (1) uninsured motorist; (2) manufacturer's products liability; (3) intentional injury to self or others; (4) for work loss over the maximum coverage for amounts excluded from work loss for replacement services loss or for survivor's loss; (5) for noneconomic detriment—pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage recoverable under the applicable tort law—if the accident results in (a) death, serious and permanent disfigurement, or other serious and permanent injury or (b) more than 90 continuous days of total disability; (6) a person or government if such injury was caused or not corrected by an act or omission not connected with the maintenance or use of a motor vehicle; does not immunize an individual from liability to pay a fine on the basis of fault, and prohibits payment of any such fine by an insurer; permits the State to treat auto damage on a fault basis as it is presently done, or place it under a no-fault system;

Provides greater benefits in the title III plan, which places no limitation on the total benefits payable for allowable expenses, contains the same formula for monthly payments for work loss benefits but does not limit the total amount payable in all; provides benefits for replacement services loss and survivor's loss subject to a $200 per week ceiling, and abolishes tort liability for injury, including liability for non-economic detriment, except with regard to an uninsured motorist, manufacturer's products liability and intentional injury to self or others;

And contains other provisions. S. 354. P/S May 1, 1974. (156)

Postal rate adjustments.—Increases the number of years before users of certain classes of mail have to pay higher postage rates as follows: (1) second-class regular (magazines and newspapers), special or book-rate fourth class (books or records), and controlled circulation publications phasing to be increased from the present five years to eight; (2) preferred second-class, non-profit class (circulars from charitable organizations), and the special fourth-class library rates phasing to be increased from the present 10 years to 16. (Under the Postal Reorganization Act, Public Law 91-375, all classes of mail are required to pay postal rates established by the Governors of the Postal Service. For those classes of mail which formerly received reduced or preferential rates by law or practice, the impact of the rate increases is amortized—or phased—over a 5-year period which provides that Congress is to appropriate the revenue foregone by the Postal Service—the difference between the rate actually paid and the rate which would have been paid except for the phasing.) S. 411. Public Law 93-328, approved June 30, 1974. (178)

Presidential pardons.—States the sense of the Senate that the President not grant a pardon hereafter to any individual accused of any criminal offense arising out of the 1972 Presidential campaign and election prior to the indictment and trial of such individual. S. Res. 401. Senate adopted Sept. 12, 1974. (376)

Small Business Administration.—Extends the authorization of the Small Business Administration from June 30, 1974, to August 16, 1974. S.J. Res. 223. P/S June 27, 1974. (VV)

Small Business Administration authority.—Transfers to the Small Business Act the complete authority to provide financial assistance to socially or economically disadvantaged persons previously authorized under title IV of the Economic Opportunity Act of 1964, the economic opportunity loan program and the 406 management and technical assistance programs; amends the Small Business Act to increase the total amount of loans, guarantees, and other obligations or commitments outstanding by SBA as follows: (1) increases from $4.875 billion to $6 billion the amount which may be outstanding from the business loan and investment funds at any one time for direct, immediate participation and guaranteed loans under displaced business loans, trade adjustment loan program prime contract authority program, and economic opportunity loans, (2) increases from $556.25 million to $725 million SBA commitment authority to Small Business Investment companies, and (3) increases from $381.25 million to $540 million SBA commitment authority for loans to low-income individuals and for businesses located in areas of high unemployment or low income areas; provides loan assistance, refinancing, and deferred payments, if need can be shown, to small businessmen adjusting to the new requirements imposed by the energy crisis; authorizes SBA to increase its loan ceilings so that it may spend funds that it will obtain through the appropriation process or through repayment of prior loans; revises the interest rate language directing participatiing lenders to charge a legal and reasonable rate of interest as they do on all other loan programs; requires SBA to make $400 million in direct loans available before the end of the current fiscal year; and elevates the position of Assistant Administrator for Minority Enterprise to that of an Associate Administrator. S. 3331. Public Law 93-386, approved Aug. 23, 1974. (VVI)

Small business emergency relief.—Provides relief to small business concerns caught in the economic squeeze between fixed-price Federal contract commitments and soaring costs of material, supplies and energy by granting executive agencies the latitude to terminate for the convenience of the government any fixed-price contract between that agency and a small business concern upon a finding that (1) during the performance of the contract, the concern has experienced or is experiencing significant unanticipated cost increases directly related to the contract; and (2) the conditions which have caused or are causing such cost increases were, or are being, experienced generally by other small business concerns in the market at the same time and are not caused by negligence, underbidding, or other special management factors peculiar to that small business concern. S. 3619. P/S Oct. 9, 1974. (VV)

Smithsonian institution authorization.—Authorizes not to exceed $1 million for each of fiscal years 1975, 1976 and 1977 to the Smithsonian Institution for carrying out the purposes of the National Museum Act of 1966 and strengthens the Smithsonian's program in museum conservation techniques and training. S. 2137. Public Law 93-345, approved July 12, 1974. (VV)

Smithsonian Museum support facilities.—Authorizes $690,000 for the Smithsonian Institution to plan museum support facilities within the District of Columbia. S. 857. P/S Aug. 1, 1974. (VV)

Submerged lands (Guam, Virgin Islands, and American Samoa).—Conveys title and control of submerged lands on the coastlines of Guam, the Virgin Islands, and American Samoa, with specific exceptions, from the Federal Government to the governments of the respective territories; turns over to the Virgin Islands Government title to properties, including Government buildings, which were placed under control of the Virgin Islands Government by the 1937 Virgin Islands Organic Act, except National Park Service properties; and retains existing law providing that "nothing in this Act shall affect the right of the President to establish naval defense sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense." H.R. 11559. Public Law 93-435, approved Oct. 5, 1974. (VV)

Tourist travel.—Authorizes appropriations of $2.5 million for each of fiscal years 1975–1977 to the Secretary of Commerce for the promotion of tourist travel in the United States. S. 3942. P/S Aug. 22, 1974. (VV)

Vice Presidential residence.—Designates the premises occupied by the Chief of Naval Operations, consisting of approximately 12 acres located on the grounds of the Naval Observatory in the District of Columbia, as the official temporary residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations; places the responsibility for the custody, control and maintenance of the residence and grounds with the Secretary of the Navy subject to the supervision and control of the Vice President; and contains other provisions. S.J. Res. 202. Public Law 93-346, approved July 12, 1974 (VV)

White House personnel authorization.—Authorizes through fiscal year 1978 the President to appoint White House employees under the following ceilings: 15 employees at the Executive level II ($42,500 per year), 25 employees at Executive level III ($40,000), and 35 employees at the GS-18 level ($36,000); authorizes the Vice President to employ one person at the Executive level II ($42,500), 6 persons at the Executive level III $40,000), and 7 at the GS-18 grade level ($36,000); sets a $1 million annual ceiling for appointment of personnel to meet unexpected personnel needs; requires a yearly report to Congress on expenditures for White House office personnel including the names, titles, job descriptions and salaries of both White House office employees and those detailed to the White House from other agencies; requires that the White House reimburse an agency in full for the pay of an employee detailed to the White House and that such an employee may not be so detailed for longer than 1 year; increases the present $40,000 annual authorization for the President's travel expenses to $100,000; requires that White House travel and entertainment expenditures be subject to an audit by the General Accounting Office; and limits access to income tax returns only to the President personally upon written request or to Treasury and Justice Department personnel who are involved with the filing or auditing of the return. H.R. 14715. P/H June 25, 1974; P/S amended July 18, 1974; House agreed to conference report Aug. 6, 1974; Senate tabled conference report Aug. 7, 1974; Senate requested conference Aug. 8, 1974; House agreed to Senate amendments with amendments Aug. 12, 1974. (303,340)

Youth Conservation Corps.—Authorizes the expansion of the Youth Conservation Corps Program and established on a permanent basis to be administered by the Departments of Interior and Agriculture at an annual authorization of $60 million; permits the establishment of a new program of Federal support to States in their administration of Youth Conservation Corps to utilize surplus and/or unused Federal property; and makes available for off-season use by local educational institutions Youth Conservation Corps facilities. S. 1871. Public Law 93-408, approved Sept. 3, 1974.

GOVERNMENT EMPLOYEES

Civil service retirement annuities.—Establishes a minimum civil service retirement annuity equal to the social security minimum primary insurance amount including any cost of living increase; provides minimum amounts to a surviving child in an amount not less than the minimum monthly amount allowed under social security or three times such as divided by the number of surviving children, whichever is lesser; excludes any individual who receives Social Security benefits from receiving payments under a military or civilian retirement system; increases annuity payments to former Federal employees who retired prior to October 20, 1969, by $240 to an annuitant and $132 to the surviving spouse of an annuitant (resulting in monthly increases of $20 and $11 respectively); and contains other provisions. S. 1866. Public Law 93-273, approved April 26, 1974.

Civil service survivor annuities.—Amends chapter 83, title 5, U.S.C. by eliminating the reduction in annuity that a retiree takes to provide survivor benefits for his spouse during months when the survivor has not remarried. S. 628. Public Law 93- , approved 1974.

Civil service survivors eligibility.—Amends the Civil Service Retirement Act to change the 2 year marriage requirement regarding eligibility for survivor benefits under the Federal retirement system to a 1 year requirement. S. 2174. Public Law 93-260, approved Apr. 9, 1974.

*Deputy U.S. marshals.—Reclassifies the positions of nonsupervisory deputy U.S. marshals to GS-5, GS-7, GS-9, or GS-11 and provides that the GS-5 grade shall be used for trainees only; provides for initial conversion to the new grades and contains conversion provisions for those who were as the result of new classification standards approved June 15, 1973; provides that the employee will not be required to begin a new waiting period for his next step increase as the result of a reclassification accomplished under the conversion provision; provides that service performed by employee immediately before the effective date of the conversion shall count toward only a one-step increase under the time-in-step provisions; provides that no rate of basic pay in effect immediately before the effective date shall be reduced by reason the enactment of this bill; and sets the effective date of the bill at the first applicable pay period beginning after enactment. H.R. 5094. Vetoed Aug. 12, 1974. (VV)

Executive, legislative, and judicial salaries increase.—Disapproves, in its entirety, the President's recommendations for pay raises of 7½ percent per year for 1974, 1975, and 1976, for Members of Congress, Supreme Court Justices, Federal judges, cabinet and subcabinet officers, agency heads, and other officials in the executive, legislative, and judicial branches. S. Res. 293. Senate adopted disapproval resolution Mar. 6, 1974. (52)

Federal employees' compensation.—Amends chapter 81 of subpart G of title 5, U.S.C. relating to compensation for work injuries; provides for a continuation of full pay up to 45 days in undisputed claims relating to traumatic injury; guarantees the right to return to a former or equivalent position within 1 year; allows compensation of up to 312 weeks for an impaired external or internal organ not specified by the statutory schedule; adjusts the Consumer Price Index computation to make it more responsive to cost of living increases; makes certain groups, previously excluded, eligible for cost of living compensation increases; reallocates additional benefits to surviving spouses by increasing their share generally by 5 percent; allows freedom of choice of either private physician and hospital, or Federal medical personnel and facilities; permits a partially disabled worker to enter vocational rehabilitation program without loss in benefits; provides additional compensation for wives with dependent husbands; increases the monthly allowance for the service of attendants for disabled workers from $300 to $500; eliminates the requirement for Federal review of benefit levels where participants reach age 70; permits employees or survivors to receive benefits from both VA and FECA as long as the claim is not for the same injury; reduces from 21 to 14 days the minimum length of disability required to waive the exclusion of compensation for the first 3 days of disability; lengthens the time for notice of injury from 48 hours to 30 days; permits Federal agencies to obtain claims forms directly from the Government Printing Office rather than the Department of Labor; extends the statute of limitations from 1 to 3 years; expedites procedures for the recovery of benefits by the Federal Government in case of third party liability; permits death benefits to exceed the monthly pay of the deceased employee of the excess is created by authorized cost-of-living adjustments; provides $200 to the representative of the deceased employee to cover administrative costs necessary to terminate the decendent's status as a Federal employee; permits the Secretary to discharge compensation liability by lump sum payment if the monthly payment is under the $50; provides for the use of improved actuarial tables; requires the U.S. Postal Services to contribute to the employees' compensation fund with respect to administrative costs; expands coverage to include Federal employees serving as grand and petit jurors; increases the compensation rate for head of household Peace Corps volunteers to that of volunteer leaders; adds a provision to enable employees to be compensated for damaged prosthetic appliances and devices; redefines the term "physician" and "medical services" to include podiatrists, dentists, clinical psychologists, optometrists, and specified service of chiropractors; and requires the Secretary of Labor to study and report to Congress on the Federal Employees Compensation Program. H.R. 13871. Public Law 93-416, approved Sept. 7, 1974. (VV)

Federal employees' pay raise.—Disapproves the President's request, of September 11, 1974, to defer for 90 days, until January 1, 1975, the pay increase for Federal employees which becomes effective October 1, 1974, as provided under the Federal Pay Comparability Act of 1970. S. Res. 394. Senate adopted Sept. 19, 1974. (394)

Foreign service retirement.—Amends the Foreign Service Act of 1946, as amended, to improve the Foreign Service Retirement Disability System and bring it into closer conformity with the Civil Service Retirement System; authorizes an annual transfer of funds to the Foreign Service Retirement Fund to meet the portion of Foreign Service "normal cost" not met by current contributions; increases the unfunded liability incurred as a result of this legislation; increases annuity payments for surviving spouses, children, or other designated beneficiaries; provides retirement credit for all types of services, absences and separations including participation in the armed forces during a national emergency; authorizes the Secretary to recall retired Foreign Service reserve and staff officers with an adjustment of annuities for processing retirement contributions during their employment and eliminates the loss of cost of living adjustments received prior to the recall; changes the effective date of cost of living increases to correspond to Civil Service and those affecting children's annuities to be determined according to the Civil Service formula; eliminates the 10-year waiting period that Foreign Service personnel had to complete before becoming participants in the retirement system; reduces the retirement age for career ministers from 65 to 60 years unless they are serving in a position requiring a presidential appointment and Senate confirmation; makes the Foreign Service eligible for the benefits enacted for the Civil Service on October 18, 1973, which would provide Foreign Service employees, who retire after the effective date of a cost of living increase, with an annuity at least equal to that which they would have received if they had retired just prior to the effective date of the increase; allows retirees over 50 and eligible for an immediate annuity and their spouses free routine annual physical examinations at government installations; enables retirees employed in another government agency to receive a salary and an annuity which together equal the salary currently paid the class and step they held upon retirement; permits former employees of binational cultural centers and language instructors of the Foreign Service Institute credit for prior service performed under nonpersonal service contracts before stipulated dates; restores the minimum annuity of $2,400 to be paid a surviving spouse of a participant who dies in service; and contains other provisions. S. 1791. P/S July 17, 1974. (VV)

Personal property claims.—Amends section 3 of the Military Personnel and Civilian Employees' Claims Act of 1964 to increase the limit on payments for losses of personal property incident to Federal service from $10,000 to $15,000. H.R. 7135. Public Law 93- , approved 1974. (VV)

Postal Service retirement fund.—Requires the Postal Service to amortize, in thirty equal installments, any unfunded liability in the Civil Service Retirement Fund caused by collective bargaining agreements or administrative action since July 1, 1971, with the exceptions of the payments due as of June 30, 1972, June 30, 1973, and June 30, 1974, which would be made subject to appropriation by Congress; requires the Postal Service to assume responsibility for past and future installments, other than those made contingent on appropriations, resulting from the first and second employee-management agreements made under title 39 as it was reenacted in Public Law 91-375; provides that the Postal Service will not be responsible for unfunded liabilities created by Act of Congress; and repeals the requirement which results in dual payment for the costs of administration of the retirement program. H.R. 29. Public Law 93-349, approved July 12, 1974. (VV)

Privacy and rights of Federal employees.—Prohibits indiscriminate executive branch requirements that employees and, in certain instances, applicants for Government employment: disclose their race, religion, or national origin; attend Government-sponsored meeting and lectures or participate in outside activities unrelated to their employment; report on their outside activities or undertakings unrelated to their work; submit to questioning about their moral beliefs, personal relationships or sexual attitudes through interviews, psychological tests, or polygraphs; or support political candidates or attend political meetings; makes it illegal to coerce an employee to buy bonds or make charitable contributions; prohibits officials from requiring an employee to disclose his own personal assets, liabilities, or expenditures, or those of any member of his family unless, in the case of certain specified employees, such items would tend to show a conflict of interest; provides a right to have counsel or other person present at an interview which may lead to disciplinary proceedings; accords the right to a civil action in a Federal court for violation or threatened violation of the Act; and establishes a Board on Employees' Rights to receive and conduct hearings on complaints of violations of the Act and to determine and administer remedies and penalties. S. 1688. P/S Mar. 7, 1974. (VV)

Psychologists and optometrists.—Amends the Federal employee health benefits provision to make it mandatory that when a contract provides for payment or reimbursement for services performed by a licensed or certified clinical psychologist or optometrist, the participants under that health benefits contract will have direct access to the clinical psychologist or optometrist without referral by a physician. H.R. 9440 (S. 2619). Public Law 93-363, approved July 30, 1974. (VV)

Travel expenses.—Amends title 5, U.S.C., to increase the per diem allowance and authorized reimbursement payment which may be paid to regular employees of the Federal Government and to experts and consultants employed intermittently, who are traveling on official business as follows: *Per Diem*—within the continental U.S. from $40 to $50 minimum, *Authorized Reimbursement Payment*—within the continental U.S. from $40 to $50 minimum and for foreign travel from $18 to $23 minimum; amends the Legislative Branch Appropriations Act, 1957 (2 USC 68b) to increase from $25 to $35 the reimbursement payment for Senate members and committee employees traveling within the continental U.S.; increases the mileage rates for the use of privately owned vehicles used while on official business as follows: *Motorcycles* from 8 cents to 9 cents, *automobiles* from 12 cents to 16 cents, and *airplanes* from 12 cents to 20 cents; establishes a procedure to adjust on a periodic basis the mileage reimbursement figures for employees who use privately owned vehicles; and provides that travel expenses and mileage allowances for veterans with a service connected disability shall be the same as those set forth in this bill. S. 3341. P/S Sept. 18, 1974; P/H amended Oct. 7, 1974; Senate requested conference Oct. 8, 1974. (VV)

USDA employees' and dependents training.—Authorizes the Secretary of Agriculture to use available appropriations to provide orientation and language training to families and employees of the Department of Agriculture in anticipation of an assignment abroad, or while abroad, and directs that the Foreign Service Institute or other Government facilities be utilized where practicable. S. 2189. P/S Aug. 2, 1974. (VV)

Withholding taxes.—Requires the Secretary of the Treasury to enter into agreements with city governments in which 500 or more persons are Federally employed for the withholding of city wage or employment taxes, with voluntary coverage for employees residing outside the State in which the city is located. H.R. 8660. Public Law 93-340, approved July 10, 1974. (VV)

HEALTH

Alcohol abuse and alcoholism prevention.—Extends for 2 years, through fiscal year 1976, the State formula grant program originally authorized by the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, Public Law 91-616, maintaining the annual authorization level at $80 million; extends the contract and project grant authority of the Act of 1970 for an additional 3 years, through fiscal year 1976, and authorizes therefor appropriations of $90 million for fiscal year 1974, $100 million for fiscal year 1975, and $110 million for fiscal year 1976; adds a new special grant authority providing an additional allotment of $100,000 plus 10 percent of its formula allotment for each State which adopts the Uniform Alcoholism and Intoxication Treatment Act, or legislation substantially similar to that Act, which requires intoxication to be treated as a responsibility of the community's public health and social service agencies rather than of its criminal justice system; prohibits public or private general hospitals receiving funds from Federal agency sources from discriminating in their admissions or treatment policies against any person solely because of his alcohol abuse or alcoholism; deletes the language of the Act of 1970 placing the National Institute on Alcohol Abuse and Alcoholism within the National Institute of Mental Health and substitutes language placing it within the Department of Health, Education, and Welfare, thereby permitting, not requiring, the Secretary to place the Institute elsewhere within the Department; gives the National Institute on Alcohol Abuse and Alcoholism authority for eleven top level positions; places alcoholism project and contract authority under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act; eliminates duplication by deleting section 247 of the Community Mental Health Centers Act; and contains other provisions. S. 1125. Public Law 93-282, approved May 14, 1974.

Alcohol and drug abuse education.—Extends through fiscal year 1977 the grant and contract authorities of the Drug Abuse Education Act of 1970, Public Law 91-527, and authorizes therefor $26 million, $30 million, and $34 million for fiscal years 1975, 1976, and 1977 respectively; amends the Act to include education on alcohol abuse emphasizing the need for prevention and early intervention programs and broadens the activities which would be eligible for funding; permits up to 10 percent of the funds appropriated yearly for grants to State educational agencies for assisting local educational agencies to carry out drug and alcohol abuse education programs; gives grant priority to school-based programs and projects and earmarks 60 percent of the appropriated funds for drug and alcohol abuse education programs in elementary and secondary schools; authorizes the Commissioner of Education to expend up to 1 percent of the funds appropriated yearly for program analysis and evaluation; and directs the Commissioner to submit an annual report to the Senate and House Appropriations Committees stating specific program objectives and legislative recommendations. H.R. 9456. Public Law 93-422, approved Sept. 21, 1974. (VV)

Diabetes mellitus.—Requires the Director of the National Institute of Health (NIH) to establish a National Commission on Diabetes to formulate, within 9 months, a long-range plan to combat diabetes mellitus including a coordinated biomedical research program, evaluation of drug therapies, and treatment approaches and authorizes therefor $1 million; adds diabetes mellitus to the list of diseases for which prevention and control programs are supported under the Public Health Service Act; requires the establishment by HEW of diabetes research and training centers and authorizes therefor $9 million, $12 million, and $20 million for fiscal years 1975, 1976, and 1977 respectively; requires the establishment of a Diabetes Mellitus Coordinating Committee to coordinate all research activities within NIH and other Federal agencies which relate to diabetes mellitus; and authorizes, but does not require, the Secretary of HEW to estab*lish the position* of Associate Director for Diabetes within the National Institute of Arthritis, Metabolism and Digestive Disease who would be responsible for conducting the diabetes programs. S. 2830. Public Law 93–354, approved July 23, 1974. (284)

Drug abuse prevention.—Authorizes appropriations for the Drug Enforcement Administration for 5 years as follows: $105 million for fiscal year 1975, $175 million for fiscal year 1976, and $200 million for fiscal year 1977;

Repeals the District of Columbia and Federal no-knock statutes enacted by Congress in 1970, which permit judges to insert a special clause into search warrants in narcotics cases which allow the police to execute the warrants without first knocking or announcing authority and purpose before entering private homes;

Terminates all economic and military aid effective January 1, 1975, to any country permitting the production of opium poppies unless the President determines that a ban on the growing of the poppies is in effect or certifies to Congress that the country has effective safeguards to prevent diversion of opium or its derivatives into illicit markets; and contains other provisions. S. 3355. Public Law 93– , approved 1974. (289)

Health professions educational assistance.—Authorizes $607.5 million for fiscal year 1975, $704.65 million for fiscal year 1976, and $767.7 million for fiscal year 1977, for a total of $2,080,050,000 including construction of teaching facilities, student assistance, specialized training, community based programs, and training programs for allied health personnel in order to attract needed personnel into medically underserved areas; conditions capitation assistance to the health professional schools by requiring them to reserve 25 percent of the freshman class for persons who, in return for agreeing to serve in shortage areas would be entitled to a Federal scholarship; requires that alien physicians applying for immigrant status based on their occupational qualifications must satisfy certain requirements including passing the same examination American medical students must take and demonstrating competency in oral and written English; and contains other provisions. S. 3585. P/S Sept. 24, 1974. (403)

Health services.—Provides authorizations for health services research and development of $65.2 million for fiscal year 1975 and $80 million for fiscal year 1976, for health statistical activities of $30 million each for fiscal years 1975 and 1976, and for the medical libraries programs of $17.5 million for fiscal years 1975 and $20 million for fiscal year 1976, with provision for an automatic 1-year extension for fiscal 1977 at the authorized level for fiscal 1976; gives a statutory status to both the National Center for Health Services Research (NCHSR) and to the national Center for Health Statistics within the Department of Health, Education, and Welfare; gives broad legislative authority to NCHSR to design and conduct research aimed at the stimulation of an aggressive pursuit of activities in this area and consolidates and broadens present authorities for the collection, analysis, and publication of health statistics over a broad range of contemporary health topics; requires that applications for grants or contracts in excess of $35,000 for health services research, evaluation, or demonstration projects be reviewed for scientific merit and sets at 20 the aggregate number of grants for any one aspect or contract and at $5 million the aggregate amount that may be made or obligated in any fiscal year respecting a particular means of delivery or another aspect of health service; requires the establishment and operation of at least six independent health services research centers, one of which is to be a Health Care Technology Center, to focus on technology, including computers and electronic devices, and its applications in health care delivery, and the other a Health Care Management Center to focus on the improvement of management and/or organization in the health field, the training of health administrators, and the development of leaders, planners, and policy analysts in the field; directs the National Center for Health Statistics to furnish upon request, statistical compilations and surveys to the Appropriations Committees of the Senate and House, the Senate Labor and Public Welfare Committee, and the House Interstate and Foreign Commerce Committee; and contains other provisions, H.R. 11385. Public Law 93–353, approved July 23, 1974. (170)

Health services—Revenue sharing.—Amends the Public Health Services Act to extend and modify the Community Health Centers program, the Migrant Health Centers program and the Community Mental Health Centers program and provides authorizations therefor through fiscal year 1978;

Extends for 1 year existing revenue sharing provisions of the Act and authorizes grants for screening, detection, diagnosis and treatment of hypertension; extends for 1 year section 317 of the Act which is expanded to provide support for control of other diseases as well as communicable diseases;

Establishes a program of start up grants to home health agencies for grants for training personnel to provide home health services;

Establishes a Presidential Commission on Mental Health and Illness of the Elderly for a 5 year period to review the mental health needs of the elderly and recommend a national policy for the care and treatment of mentally ill aged persons;

Establishes a new center within the National Institute for Mental Health to study the causes, control and treatment of rape and to establish a clearinghouse of information on these subjects; provides support for demonstration projects in the prevention and control of rape;

Establishes a temporary Commission appointed by the Secretary of HEW to advise Congress and the President on a comprehensive national plan for the control of Epilepsy including the roles of State and Federal government in research and the identification, treatment and rehabilitation of persons with Epilepsy;

Establishes a new hemophilia diagnosis and treatment program; provides grants to establish and expand blood separation centers to provide blood products needed for the treatment of hemophilia, and entitles every hemophiliac to comprehensive treatment and rehabilitation for the disease with certain copayment requirements above specified income levels;

Establishes a program of grants to provide for screening, counseling and treatment for Huntington's diseases;

And contains other provisions. H.R. 14214. P/H Aug. 12, 1974; P/S amended Sept. 10, 1974; In conference. (VV)

Medical devices.—Authorizes the Food and Drug Administration to regulate the development and marketing of medical devices; requires that medical devices used in life-supporting situations, such as heart valves or pacemakers, shall be subject to premarket scientific testing; authorizes the Secretary of Health, Education, and Welfare to establish protocols for testing medical devices and requires that test data be submitted to HEW when a manufacturer seeks approval of a life-supporting medical device for marketing; provides that medical devices for which experts agreed standard-setting is sufficient to protect the public health and safety need only meet performance standards; provides that the third classification of devices which are generally safe when used in accordance with their instructions, such as tongue depressors, are exempted from either procedure; and contains other provisions. S. 2368. P/S Feb. 1, 1974. (VV)

National Arthritis Act.—Expands the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis; directs the Secretary of Health, Education, and Welfare to establish, within 60 days of enactment, a National Task Force on Arthritis to formulate a long-range plant to combat arthritis and related musculosketal and related diseases; requires the Director of the Institute to establish arthritis screening, early detection, prevention, and control programs and to establish and support research and demonstration centers in cooperation with other Federal, State and local health agencies; and establishes administrative mechanisms to ensure the interaction and coordination of all programs related to arthritis. S. 2854. P/S Oct. 11, 1974. (VV)

National cancer program.—Authorizes the extension of the National Cancer Act of 1971 with increased funding for the research program at $750 million, $830 million, and $985 million for fiscal years 1975, 1976, and 1977 respectively; requires that the national cancer program collect, analyze, and disseminate "information" useful to cancer and include information on nutrition programs for cancer patients and the relationship between nutrition programs for cancer patients and cancer; requires that cancer programs provides appropriate trials of routine tests conducted for the diagnosis of uterine cancer and authorizes therefor $3.5 million for each fiscal year; requires the Director of the National Cancer Institute (NCI) to contract for programs to disseminate and interpret new and existing information respecting the cause, prevention, diagnosis and treatment of cancer or other related health problems; requires scientific peer review of research grants and contracts of all institutes within the National Institutes of Health (NIH); requires Senate confirmation of the appointment of the Director of NIH; provides for the obligation and expenditure of appropriated funds until the end of each fiscal year; and requires the establishment of a President's Biomedical Research Panel to review and make recommendations on the organization and operation of biomedical and behavioral research conducted and supported under the programs of the various institutes of NIH and to submit a report of its findings to the President and Congress. S. 2893. Public Law 93–352, approved July 23, 1974. (82)

National Institute on Aging.—Amends title IV of the Public Health Service Act to provide for the establishment by the Secretary of Health, Education, and Welfare (HEW) of a National Institute on Aging (NIA) in the National Institutes of Health (NIH) for the conduct and support of biomedical, social, and behavioral research and training related to the aging process and the diseases and other special problems and needs of the aged, as authorized under section 301 of the Public Health Service Act and presently focused in the National Institute of Child Health and Human Development; provides that the Director of NIH shall assign functions to NIA or another institute when the activities overlap; directs the Secretary of HEW to (1) conduct scientific studies, through the Institute, for the purpose of measuring the impact on the biological, medical, and psychological aspects of aging, of all programs conducted or assisted by HEW to meet the needs of the aging in order to obtain data for assessment of the programs by the Institute, (2) carry out public information and education programs to disseminate information developed by the Institute which may aid in dealing with, and understanding, the problems associated with aging, and (3) prepare a comprehensive aging research plan within 1 year after enactment for presentation to the Congress and the President, along with a statement of the staffing and funding requirements necessary to implement the plan; and contains other provisions. S. 775. Public Law 93-296, approved May 31, 1974.

Older Americans.—Extends for 3 additional years the nutrition programs for the elderly by authorizing $150 million for fiscal year 1975, $200 million for fiscal year 1976, and $250 million for fiscal year 1977; restricts the Commissioner on Aging from delegating his functions to the Health, Education, and Welfare regional directors; authorizes $35 million for a new transportation program for the elderly; and imposes restrictions on the establishment of local share requirements for the retired senior volunteer program (RSVP) conducted by the ACTION Agency. H.R. 11105. Public Law 93-351, approved July 12, 1974. (250)

School lunch and child nutrition.—Requires the Secretary of Agriculture during fiscal year 1975, to use funds available under section 32 of Public Law 74-230 and the Commodity Credit Corporation to purchase agriculture commodities for donation to maintain the $290 million programmed level of assistance for programs authorized under the Child Nutrition Act and title VII of the Older Americans Act; requires a minimum 10 cent per meal level of donated food assistance for the school lunch program for fiscal year 1975 and subsequent fiscal years, or cash payments in lieu thereof; makes permanent the authority of States to serve reduced price school lunches to children from families with incomes up to 75 percent above those in the Secretary's income poverty guidelines; increases the authorization for school food service equipment assistance funding from $20 million to $40 million for fiscal year 1975 and for succeeding years; and increases the required expenditure for the special supplemental food program for women, infants, and children from $40 million to $100 million for fiscal year 1975 and provides that in addition to the $100 million authorized, any part of the fiscal 1974 amount not expended shall be carried over to fiscal 1975. H.R. 14354. Public Law 93-326, approved June 30, 1974. (VV)

Sudden infant death syndrome.—Directs the National Institute of Child Health and Human Development at the National Institutes of Health to carry out a research program to identify the causes and preventive measures needed to eliminate Sudden Infant Death Syndrome and provides for public information and counseling services to families affected by Sudden Infant Death Syndrome and to personnel who come in contact with the victims or their families. S. 1745. Public Law 93-270, approved Apr. 22, 1974.

HOUSING

Home mortgage assistance.—Increases the availability of reasonably priced mortgage credit for home purchases by authorizing the Secretary of Housing and Urban Development, after certain determinations, to direct the Government National Mortgage Association (GNMA) to make commitments to purchase and to purchase mortgages; finances such purchases through a housing trust fund to be established in the GNMA and to be financed by borrowings of up to $10 billion per year from the Secretary of the Treasury; imposes a limit of $42,000 on the purchase price of homes purchased with such mortgages (or $55,000 in Alaska, Hawaii and Guam) with mortgage interest rates at 8¼ percent; and contains other provisions. S. 3979. Public Law 93 , approved 1974. (452)

Housing and community development—Consumer home mortgage assistance.—Omnibus bill which consolidates and simplifies various existing programs, authorizes the development of several new programs, authorizes appropriations therefor in the total amount of $11,258,250,000 for fiscal years 1975–1977;

In title I, *community development*, contains a new consolidated development program for communities which replaces present programs for public facilities loans, open space grants, public works planning advances, water and sewer, neighborhood facilities, advance acquisition of land, urban renewal grants, and the model cities programs with a block grant program effective January 1, 1975; provides for a summary plan covering a 3-year period with a single one-year application for funds which must specify the program to be carried out and must include proposals for a program of activities to eliminate or prevent slums and blight where such conditions or needs exist, plans for improvement and upgrading of community facilities and supporting health, social and similar services where necessary; makes an exception from these requirements in regard to slum improvement and upgrading facilities for communities of under 25,000 population which initially apply for community development assistance for certain single-purpose activities; requires an 80–20 allocation of funds between metropolitan and non-metropolitan areas; establishes a dual system of entitlement grants using both a formula approach which is based on population, poverty (counted twice), and housing over-crowding, and a hold-harmless amount based on past funding which phases out in 6 years; provides for a study of this method of funding and its effects within 3 years by the Secretary of Housing and Urban Development (HUD) who is to make a report to Congress not later than March 1, 1977, with his recommendations regarding any modifications in the method of funding; authorizes for this program $2.5 billion in fiscal year 1975, which may be increased to an aggregate of $5.45 billion prior to the close of fiscal year 1976, and to an aggregate of $8.4 billion prior to the close of fiscal year 1977, and prohibits discrimination under any program or activity funded under this title on the grounds of race, color, national origin, or sex;

Includes in title II, *assisted housing*, a new section 23 low-rent public housing program for both new and substantially rehabilitated housing and for existing housing to become effective within 18 months after enactment on such date as may be set by the Secretary within that time; a requirement that assistance payments be made for some or all of the units in projects for the elderly or handicapped financed under the section 202 direct loan program, new minimum rents for public housing, and provisions allowing local objections to be made concerning use of housing assistance funds subject to final determination by HUD; provides legislative direction, for the first time, as to distribution of housing subsidy funds with not less than 20 percent nor more than 25 percent to be allocated to non-metropolitan areas; continues the section 235 homeownership assistance program and the section 236 rental assistance program at a reduced level of funding until June 30, 1976, as a complement to the newly established section 23 rental program;

In title III, *mortgage credit assistance*, contains amendments to present law which include an extension of the Secretary's authority to establish interest rates under various FHA (Federal Housing Administration) authority until June 30, 1977, the raising of FHA mortgage limits by varying amounts, and an expansion of the compensation for defects provisions of existing law;

In title IV, *comprehensive planning*, revises the present program; designates as grantees eligible for comprehensive planning assistance (1) a State for planning assistance to local governments, (2) States for State and interstate activities, (3) cities of 50,000 or more, (4) counties of 50,000 or more, (5) areawide organizations, (6) Indian tribal groups or bodies, and (7) other governmental units or agencies having special planning needs; provides that each grant recipient carry out an outgoing planning process with biennial review and authorizes funds for a comprehensive planning program to be used jointly with other Federal assistance funds subject to regulations prescribed by the President;

In title V, *rural housing*, extends and amends various programs administered by the FHA, and in title VI, *mobile home construction and safety standards*, requires HUD to establish national standards for this purpose;

In title VII, *the Consumer Home Mortgage Assistance Act of 1974*, revises and expands the real estate lending powers of Federal savings and loan associations and national banks, and the lending powers of Federal credit unions;

In title VIII, *miscellaneous*, includes provisions which establish a National Institute of Building Sciences to evaluate and promulgate criteria for housing and building regulations; provide for expansion of the experimental housing allowance program to include direct cash assistance for rental housing and homeownership and for HUD to determine the feasibility of a national direct cash assistance policy and to report to Congress within 18 months; direct HUD and the Treasury Department to study the feasibility of direct loans and other methods of financing assisted multifamily housing, including direct loans from the Federal Financing Bank; add a new guarantee program for State housing finance and development agencies obligations and a Federal interest subsidy to enable them to make mortgage loans at below market interest rates in regard to low, moderate, and middle income family housing and to slum revitalization; prohibit discrimination on account of sex in extension of mortgage assistance; and amend the Federal-Aid Highway Act of 1973 and the Urban Mass Transportation Assistance Act to remove the existing prohibition against Federal assistance to bus companies unless the applicant agrees not to engage in certain types of charter bus service, and instead require companies to enter into agreements with the Department of Transportation to insure that competing private companies are not foreclosed from their charter service by firms receiving Federal aid;

And contains other provisions. S. 3066. Public Law 93-383, approved Aug. 22, 1974. (59,347)

Real estate settlement costs.—Directs the Secretary of Housing and Urban Development (HUD), the Administrator of Veterans' Affairs, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board to develop a standard real estate settlement form to be used in all transactions in the United States which involve federally related mortgage loans which clearly itemizes all charges imposed upon the borrower and the seller; retains the authority of the Secretary of HUD and the Administrator of the Veterans' Administration to set amounts allowable for settlement costs in connection with FHA-insured and VA-guaranteed mortgages; directs the Secretary of HUD to prepare and distribute booklets explaining the nature and purpose of closing costs and escrow accounts and giving other pertinent information; requires that at least 15 days in advance a lender must supply the prospective borrower with an itemized disclosure in writing of each charge in connection with settlement; prohibits kickbacks for referral services; places a limitation on the requirement for advance deposit to escrow accounts; provides for the demonstration of a model system for the recordation of land title information in order to simplify land sales and mortgage transactions and to reduce the costs involved with a view to the possible development of a nationally uniform system of land parcel recordation; requires the Secretary of HUD to report to Congress after three years on the need for further legislation; and prohibits lenders from imposing a charge for preparing disclosure statements called for by this act. S. 3164. P/S July 24, 1974; P/H amended Aug. 14, 1974; In Conference. (VV)

INDIANS

Absentee Shawnee Tribe, Oklahoma.—Authorizes the tribal officials of the Absentee Shawnee Tribe of Oklahoma to convey a tract of land (approximately 33 acres) to the United States to be held in trust for the tribe. S. 3358. P/S May 28, 1974. (VV)

American Indian policy.—Replaces the national Indian policy set forth in H. Con. Res. 108, approved by the 83d Congress on August 1, 1953; embraces the principles of maximum Indian control and self-determination and seeks to strengthen and improve the delivery of services to Indian people wherever they may reside; places in the Federal Government the responsibility to assure that Indians receive their entitled share and participate fully in all Federal, State, and local social and economic development programs; and broadens the definition of "American Indian" or "Indian" to include "Alaska Natives". S. Con. Res. 37. Senate adopted May 29, 1974. (VV)

Assistant Secretary for Indian Affairs.—Establishes an Assistant Secretary of the Interior who will be an additional Assistant Secretary only for Indian Affairs, and establishes, by amending the Alaska Native Claims Settlement, a thirteenth region for Alaska Natives who are not residents of Alaska. S. 2777. P/S Feb. 4, 1974. (VV)

Bridgeport Indian Colony, California.—Declares that 40 acres of land in Mono County, California are to be held in trust for the Bridgeport Indian Colony subject to an easement to the Bridgeport Public Utility District for a sewer main. S. 283. Public Law 93– , approved 1974. (VV)

Cheyenne-Arapaho Tribes, Oklahoma.—Conveys to the Cheyenne-Arapaho Tribe of Oklahoma 5 acres of land to be held in trust by the United States. S. 521. P/S May 28, 1974. (VV)

Chippewa Cree Tribe, Montana.—Declares that certain mineral interests are held by the United States in trust for the Chippewa Cree Tribe of the Rocky Boy's Reservation, Montana. H.R. 5525. Public Law 93–285, approved May 21, 1974. (VV)

Citizen Band of Potawatomi Indians, Oklahoma.—Authorizes the elected officials of the Citizen Band of Potawatomi Indians of Oklahoma to convey seven tracts of land (approximately 280 acres) to the United States to be held in trust for the tribe. S. 3359. P/S May 28, 1974. (VV)

Constitutional Rights of Indians.—Amends section 701(c) of title VII of the Civil Rights Act of 1968 to authorize the appropriation of funds for the printing of certain legal materials relating to the constitutional rights of American Indians. S. 969. Public Law 93–265, approved Apr. 12, 1974.

Indian Claims Commission.—Authorizes such sums as may be necessary for fiscal year 1975 to continue the program of the Indian Claims Commissions and provides that any expenditures for food, rations, or provisions may not be offset against any award of the Commission to any Indian tribe or other claimant. S. 3007. Public Law 93– , approved 1974. (VV)

Indian financing.—Provides capital to Indian organizations and individual Indians in the form of loans and grants that is needed to promote their economic development; authorizes a $50 million increase for the Revolving Loan Fund; provides a Loan Guarantee and Insurance Program which could generate as much as $200 million in new private capital; authorizes an Interest Subsidy Program; and provides an Indian Business Development Grant Program. S. 1341. Public Law 93–262, approved Apr. 12, 1974.

Indian self-determination.—Declares that a major goal shall be to provide the quantity and quality of educational services and opportunities which will permit Indian children and adults to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being; provides basic authority for the Secretaries of the Interior and Health, Education, and Welfare to enter into contracts with tribal organizations; amends the Intergovernmental Service Act of 1970 to bring "tribal governments" within the definition of "local government," to enable civil service personnel to be assigned to tribal organizations; exempts tribal contracts from Federal Procurement regulations which have served as obstacles to such contracting in the past; provides for a study of the Johnson-O'Malley Act (enrolling Indian children in public schools under contract) to be transmitted to Congress not later than October 1, 1974; amends the Johnson-O'Malley Act to provide criteria governing contracts between the Secretary of Interior and prospective contractors to assure that educational needs of Indian student beneficiaries of such contracts are met; provides criteria for the establishment of parental committees to insure funds expended in public school districts are in accordance with programs and plans developed by the Indian community; authorizes $65 million for each of the fiscal years 1975 and 1976 for education of Indians under the Johnson-O'Malley Act; and authorizes $35 million for assistance in the construction of school facilities serving Federally-recognized Indian children on or near reservations. S. 1017. P/S Apr. 1, 1974. (VV)

Kootenai Tribe, Idaho.—Transfers 12.5 ares of Federal land into trust status for the Kootenai Tribe of Idaho. S. 634. Public Law 93– , approved 1974. (VV)

San Carlos Apache Indian Tribe, Arizona.—Directs the Secretary of the Interior to purchase all privately owned real property within the San Carlos Mineral Strip in Arizona to be held in trust for the San Carlos Apache Indian Tribe. H.R. 7730. P/H Dec. 18, 1973; P/S amended Oct. 8, 1974; House agreed to Senate amendment with an amendment Oct. 11, 1974. (VV)

Sisseton and Wahpeton Sioux Tribe, North and South Dakota.—Authorizes the Sisseton and Wahpeton Tribe of North and South Dakota to acquire additional trust lands within its Lake Traverse Reservation, and enables the tribe to mortgage its land, subpect to approval of the Secretary of the Interior, in order to consolidate land holdings, alleviate the problem of fractionated heirship of allotted lands, and acquire lands for tribal programs. S. 1411. Public Law 93– , approved 1974. (VV)

Declares that all right of the United States to certain lands in the Lake Traverse Reservation is to be held in trust for the Sisseton and Wahpeton Sioux Tribes, subject to all valid rights-of-way and subject to a condition that two tracts be utilized by the Secretary of the Interior for operating day schools. S. 1412. Public Law 93– , approved 1974. (VV)

Spokane Tribe, Washington.—Deletes the provision of present law which requires that the value of nontrust lands acquired by the Spokane Indian Reservation in any year shall not exceed the value of lands passed from trust status to tax free status in order to enable the Spokane Tribe to consolidate its land base. H.R. 5035. Public Law 93–286, approved May 21, 1974. (VV)

INTERNATIONAL

African development Fund.—Authorizes $15 million in three annual installments of $5 million each as the U.S. contribution to the African Development Fund; authorizes U.S. participation in the Fund and the appointment by the President (subject to Senate confirmation) of a U.S. Governor and Director who is directed to vote against loans to any nation which has (1) nationalized or expropriated properties 50 percent or more owned by Americans, (2) repudiated contracts to companies 50 percent owned by Americans, or (3) imposed discriminatory taxes or regulations on them, unless the President certifies to Congress that these provisions should be waived because of national interests. S. 2354. P/S July 30, 1974. (VV)

American Hospital of Paris, Inc.—Amends the Act incorporating the American Hospital of Paris by eliminating the maximum 20 member limitation on the Board of Governors. S. 1836. Public Law 93–266, approved Apr. 12, 1974.

Arms Control and Disarmament Agency.—Authorizes $10.1 million for fiscal year 1975 to finance the operations of the Arms Control and Disarmament Agency, and changes the per diem limitation for the payment of consultants and experts from $100 a day to a maximum of $138 per day and extends their fiscal year employment limitation from 100 days to 130 days. H.R. 12799. Public Law 93–332, approved July 8, 1974. (VV)

Asian Development Bank.—Amends the Asian Development Bank Act of 1966, as amended, to authorize the U.S. Governor of the Asian Bank to subscribe to thirty thousand additional shares of the Bank's capital stock and to contribute an additional $50 million to the Bank's Special Funds on behalf of the United States and authorizes therefor a total of $411,904,726 over a three year period. S. 2193. P/S Aug. 1, 1974. (VV)

Board for International Broadcasting.—Authorizes $49,990,000 for fiscal year 1975 (of which $150,000 shall be available for the initiation of Radio Liberty Programing in the Latvian and Estonian languages) for grants to Radio Free Europe and Radio Liberty, and for the operating expenses of the Board for International Broadcasting which administers the grants and monitors and evaluates the radios' activities. S. 3190. Public Law 93–392, approved Aug. 28, 1974. (VV)

China indemnification agreement.—Authorizes the Secretary of State to conclude an agreement with the Government of the People's Republic of China for indemnification for any loss or damage suffered by objects in the "Exhibition of the Archeological Finds of the People's Republic of China" while in the possession of the United States. S. 3304. Public Law 93–287, approved May 21, 1974. (VV)

Colorado River Basin salinity control.—Implements the agreement of August 30, 1973, with Mexico and authorizes the construction, operation, and maintenance of certain desalinization works in the Colorado River Basin to control the salinity of water delivery to users in the United States and Mexico. H.R. 12165. Public Law 93–320, approved June 24, 1974. (VV)

Customs and immigration border facilities.—Increases from $100,000 to $200,000 the limitation on the amount of funds that may be expended to provide facilities for the enforcement of the customs and immigration laws along outland borders. H.R. 10044. Public Law 93–396, approved Aug. 29, 1974. (VV)

Foreign disaster assistance.—Authorizes $150 million for disaster relief and emergency recovery needs in Pakistan, Nicaragua, and the drought-stricken regions of Africa as follows: $65 million to Pakistan and Nicaragua, and $85 million to the African nations, of which not to exceed $10 million may be used for assistance to Ethiopia. H.R. 12412. Public Law 93–333, approved July 8, 1974. (VV)

Foreign Service Buildings.—Authorizes additional appropriations for Foreign Service Buildings of $2,732,000 for fiscal years 1974 and 1975, made necessary in inflation and devaluation of the dollar. H.R. 12465. Public Law 93–263, approved Apr. 12, 1974. (VV)

IDA—Gold ownership.—Authorizes $1.5 billion (in four annual installments of $375 million each) as the U.S. contribution to the fourth replenishment of the resources of the International Development Association; amends Public Law 93–110 to make the provisions which legalized the private ownership of gold effective December 31, 1974, or prior to that time if the President finds and reports to Congress that the elimination of this requirement would not adversely affect the U.S. international monetary position; and directs the United States Governor to vote against any loan or other utilization of IDA funds that would benefit a country which develops a nuclear explosive device unless the country is or becomes a party to the treaty on the Non-Proliferation of Nuclear Weapons. S. 2665. Public Law 93–373, approved Aug. 14, 1974. (VV)

International Court of Justice.—Calls on the Secretary of State to submit to the Court any outstanding territorial disputes involving the United States which cannot be resolved by negotiations, and specifically to consider submitting 28 such disputes over desolate and largely uninhabited islands in the Caribbean Sea and the Pacific Ocean. S. Res. 74. Senate adopted May 20, 1974. (VV)

Recommends the inclusion in all future treaties and other international agreements of clauses providing that any dispute arising from the interpretation or application of their provisions, not otherwise settled by agreement between the parties, shall be subject to the jurisdiction of the Court or other appropriate body. S. Res. 75. Senate adopted May 20, 1974. (VV)

Declares that the Secretary of State should give favorable consideration to making use of the various chambers of the Court; calls on the President to take all appropriate measures to attempt to expand the range of international bodies eligible to request advisory opinions of the Court; urges the President to seek to improve the process by which judges are nominated and elected; and advises the President to encourage the Court to exercise its functions outside of the Hague from time to time. S. Res. 76. Senate adopted May 20, 1974. (VV)

Urges the President to direct the Secretary of State to encourage the maximum use of the procedures for the specific settlement of international disputes as outlined in Chapter VI of the Charter of the United Nations, particularly those procedures providing for the reference of legal disputes to the Court. S. Res. 77. Senate adopted May 20, 1974. (VV)

Calls on the Secretary of State to undertake a study examining the various ways of granting direct and indirect access to the Court and other international tribunals to individuals, corporations, non-governmental organizations, intergovernmental organizations, regional organizations, and other natural or legal persons, including the feasibility of establishing a special committee of the United Nations General Assembly with authority to request from the Court advisory opinions on behalf of these groups. S. Res. 78. Senate adopted May 20, 1974. (VV)

International Criminal Police Organization.—Raises to $120,000 the present statutory ceiling of $80,000 on the total annual dues authorized to be paid for United States membership in the International Criminal Police Organization (INTERPOL) and authorizes payment of $30,000 to meet the unpaid balance of the existing ceiling. H.R. 14597. Public Law 93– , approved 1974. (VV)

International Monetary Fund and World Bank annual meeting.—States as a sense of the Senate that the International Monetary Fund be supported in its efforts to discourage unilateral economic actions which could adversely affect other nations' economic situations and that the annual meeting of the Board of Governors of the International Monetary Fund and the World Bank consider the adequacy of present and proposed international facilities for providing necessary financing to oil importing nations, recognize the emergency needs of the poorest oil importing nations, and pursue other types of international cooperation to help alleviate the present economic situation. S. Res. 416. Senate adopted Sept 3, 1974. (VV)

International Ocean Exposition '75.—Authorizes a supplemental appropriation to the United States Information Agency of $5.6 million, without fiscal year limitation, to fund U.S. participation in the International Ocean Exposition to be held in Okinawa, Japan in 1975. S. 2662. Public Law 93–304, approved June 8, 1974. (VV)

International Wheat Agreement Conference.—Expresses the sense of the Senate that the President should call upon the International Wheat Council to request the Secretary-General of the United Nations Conference on Trade and Development to convene a negotiating conference on provisions relating to the prices of wheat and to the rights and obligations of members with respect to international trade in wheat. S. Res. 340. Senate adopted June 21, 1974. (VV)

Japan-United States cultural exchange.—Creates a Japan-United States Friendship Trust Fund to promote scholarly, cultural, and artistic activities between Japan and the United States; authorizes therefor the transfer of $32 million from the proceeds of the Okinawa Reversion Agreement of which the interest and up to 5 percent of the principal may be spent annually to support these activities; and establishes a commission to administer the programs. S. 649. P/S June 7, 1974. (VV)

Metropolitan Museum of New York indemnification.—Provides for the indemnification of the Metropolitan Museum of New York for loss or damage suffered by objects in exhibition in the Soviet Union. S.J. Res. 236. Public Law 93– , approved 1974. (VV)

Middle East terrorists.—Condemns the terrorist threat made against the lives of 90 Israeli school children as well as all acts of terrorist and urges the President and the Secretary of State to call upon all governments to condemn this inhuman act of violence against innocent victims, and the countries where these groups and individuals are found to take appropriate action to rid their countries of those who subvert the peace through terrorism and senseless violence. S. Res. 324. Senate adopted May 15, 1974. (VV)

Migratory birds.—Implements the Convention with Japan concerning migratory birds (Ex. R, 92d–2d) which provides for the protection of certain species of birds common to both countries or which migrate between them; prohibits the taking, sale, purchase or exchange of migratory birds, their eggs or products thereof with certain exceptions including special provisions for Eskimos, Indians, or inhabitants of the Trust Territory of the Pacific Islands; and requires each country to control the exportation or importation of migratory birds, and products thereof, to encourage their conservation, and to preserve and enhance their environment H.R. 10942. Public Law 93–300, approved June 1, 1974. (VV)

Military assistance to Greece.—Prohibits all military grant assistance, sales, credit sales, and guaranties to Greece until (1) the Executive Branch completes a review of United States policy toward Greece with specific attention to whether the Government of Greece is in a position to fulfill its political obligations under the preamble to the North Atlantic Treaty which states "The Parties to this Treaty * * * are determined to safe-guard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and rule of law."; (2) reports the results of such review to the Congress; and (3) the President finds that Greece is in full compliance with its obligations under NATO, except that the President may extend assistance to Greece if he finds that such action would be in the overriding national interest and gives Congress 30 days' advance notice. S. 2745. P/S Jan. 23, 1974. (VV)

Missing in Indochina.—States as a sense of the Congress that new efforts should be made by the United States to persuade North and South Vietnam and Laos to comply with their obligations with respect to an accounting to personnel captured, killed or missing during the Vietnam conflict, and further states that every effort should be made to obtain the cooperation of the various parties in the conflict in Cambodia to provide information with respect to missing personnel. S. Con. Res. 81. Senate adopted Apr. 10, 1974; House adopted amended June 3, 1974; In conference. (VV)

Missing newsmen.—States as the sense of the Senate that the President should make every possible diplomatic effort through the Department of State and other relevant agencies to ascertain the truth of the present, whereabouts or fate of United States newsmen missing in Southeast Asia, and obtain the release of those still alive and an accounting of those who may be dead. S. Res. 291. Senate adopted Feb. 26, 1974. (VV)

National Olympic Commission.—Establishes a National Commission on the Olympic Games composed of nine members appointed by the President; directs the Commission to (1) review continued U.S. participation in the quadrennial world Olympic Games, (2) conduct a review and oversight of the past performance of the United States Olympic Committee (USOC) in managing U.S. involvement in the Games, (3) examine ways to improve the management of U.S. involvement in the Games, and (4) submit a report of its recommendations to the President and Congress not later than December 31, 1974, or 180 days after the appointment of the ninth member of the Commission, whichever is later; and authorizes therefor $750,000. S. 1018. P/S May 20, 1974. (VV)

Northwest Atlantic Fisheries.—Permits U.S. participation in international enforcement of fish conservation in additional geographic areas pursuant to the International Convention for the Northwest Atlantic Fisheries of 1949; requires payment for travel expenses and per diem incident to attendance at meetings of the International Commission for the Northwest Atlantic Fisheries for not more than five members of the industry advisory commission; and requires the Secretary of State to submit an annual report to Congress on the costs incurred to reimburse advisor's expenses. H.R. 14291. Public Law 93–339, approved July 10, 1974. (VV)

Overseas Private Investment Corporation (OPIC).—Extends until December 31, 1977, the authority of the Overseas Private Investment Corporation to issue political risk insurance to protect private overseas investments against war, expropriation of property and inconvertibility of currency; seeks to promote the transference of OPIC's insurance functions to private insurance companies and multinational organizations by requiring

OPIC to cease writing expropriation and inconvertibility insurance after December 31, 1979, and war risk insurance after December 31, 1980, and by authorizing OPIC to assume the role of reinsurer after these dates; and contains other provisions. S. 2957. Public Law 93–390, approved Aug. 27, 1974. (40)

Passport application fees.—Authorizes the Secretary of State to prescribe the amount of the fee for executing a passport application and makes parmanent the authority of the Secretary to transfer to the Postal Service the execution fee for each application which they accept. H.R. 15172. Public Law *93–417, approved* Sept. 17, 1974. (VV)

Peace Corps authorization.—Authorizes $82,256,000 to finance operations of the Peace Corps during fiscal year 1975; authorizes an additional $1 million for increases in salary, retirement and other employee benefits; authorizes the transfer of $315,000 from any sums appropriated to the Peace Corps for fiscal year 1975 to ACTION's readjustment allowance account at the Department of Treasury; and authorizes the waiver of claims resulting from the erroneous payments of readjustment allowances to Peace Corps volunteers between March 1, 1961, and February 28, 1973, and relieves the disbursing officers involved from liability for such erroneous payments. H.R. 12920. Public Law 93–302, approved June 1, 1974. (164)

State Department supplemental authorization.—Increases the authorization level of the State Department Authorization Act of 1973 in three categories: administration of foreign affairs, international organizations and conferences, and pay raises; reduces the authorization level in four categories: international commissions, educational exchange, devaluation costs, and antiterrorism measures; and increases the permanent authorization for annual contributions to the International Committee of the Red Cross, from $50,000 to $500,000. H.R. 12466. Public Law 93–312, approved June 8, 1974. (VV)

Senate Department—USIA authorizations.—Authorizes $741,901,000 to the Department of State and $239,538,000 to the United States Information Agency for fiscal year 1975 plus any additional funds that may be required for salary and employee benefit increases; places into law a delineation of the authority and responsibilities of ambassadors; requires publication in the Congressionl Record of political contributions of all ambassadorial nominees; places all civilian personnel stationed abroad under the jurisdiction of American ambassadors and requires certain reductions in such personnel; requires that the Administration submit to Congress a detailed plan for future U.S. economic and military assistance to South Vietnam within 6 months; states a sense of the Congress that there be establishing a new International Materials Bureau within the Department of State; establishes the requirement that 50 Foreign Service Officers per year be assigned for one year to non-State Department service in a state or local government, public schools, or other public organizations; authorizes the payment of one-year's salary to dependents of Foreign Service employees killed in the line of duty abroad; repeals the Formosa Resolution of 1955 which authorizes the President to use the Armed Forces for the protection of Formosa and the Pescadores Islands; authorizes expenditures for an annual trip to and from schools in the United States for dependents of State Department, AID and USIA employees assigned abroad; requires enactment of the annual authorization of State Department appropriations before funds may be expended; provides, effective in fiscal year 1976, for the consolidation of authorizations for the Departments of State and USIA, the Peace Corps, the Arms Control and Disarmament Agency, Radio Free Europe and Radio Liberty, foreign service buildings and foreign economic and military assistance into 3 annual bills—foreign affairs, foreign economic assistance and foreign military assistance; and contains other provisions. S. 3473. Public Law 93– , approved 1974. (VV)

Treaties

Customs Convention on the International Transit of goods.—Provides simplified customs control mechanisms and uniform documentation procedures for transport by bonded trailers, railway cars, vessels, and large containers, such carriers to have the option to use the International Transit of Goods procedures or another system if more advantageous. Ex. P, 93d–1st. Resolution of ratification agreed to Jan. 21, 1974. (2)

Czechoslovak Consular Convention.—Establishes consular relations between the United States and Czechoslovakia, including the issuance of passports and visas, performance of notarial services, and representation of the interests of the sending state in estate matters; assures that consuls, whose nations have been detained will be notified within 3 days and will have the right to visit them and provide legal assistance; and contains other provisions. Ex. A, 93d–2d. Resolution of ratification agreed to Sept. 30, 1974. (406)

Extradition Treaty with Denmark.—Provides for the extradition of fugitives charged with any of 28 specific offenses, including offenses relating to narcotics and aircraft hijacking, as well as conspiracy to commit any of the specified offenses; defines territorial application to include territorial waters and airspace as well as registered aircraft in flight; provides for extradition for offenses committed outside the territory of either party if the offense is punishable under the laws of both parties; provides discretionary power to either party to extradite its own nationals, with the requested state to try the individual when the offense is punishable under its own laws; and permits refusal of extradition unless assurances are received that the death penalty will not be imposed for an offense not punishable by death in the country from which extradition is requested. Ex. U, 93d–1st. Resolution of ratification agreed to Mar. 29, 1974. (92)

Protocol to the Convention for the International Council for Exploration of the Sea.—Amends the Convention for the International Council for the Exploration of the Sea to require a ⅔rds majority vote of members of the Council to approve its annual budget rather than a simple majority vote as now required. Ex. V, 93d-1st. Resolution of ratification agreed to Sept. 4, 1974. (361)

Protocols for the Extension of the International Wheat Agreement, 1971.—Extends to June 30, 1975, the provisions of the International Wheat Agreement, 1971 constituting (1) the Wheat Trade Convention which provides for the continued operation of the International Wheat Council, an administrative body established for the purpose of providing a mechanism for international cooperation in matters relating to the production and sale of wheat, and (2) the Food Aid Convention which commits its parties to provide minimum annual quantities of food to developing countries. Ex. C, 93d-2d. Resolution of ratification agreed to June 21, 1974. (260)

Turkey foreign aid.—Authorizes the President to suspend provisions of the Foreign Assistance Act of 1961, the Foreign Military Sales Act and H.J. Res. 1131, the Continuing resolution (which require a cut-off of military aid to Turkey because of hostilities on Cyprus) until December 15, 1974, if such a suspension will further negotiations for a peaceful resolution of the Cyprus conflict. S.J. Res. 247. P/S Oct. 9, 1974; House failed to pass Oct. 11, 1974. (449)

U.S.-Hungarian claims.—Amends the International Claims Settlement Act of 1949, as amended, to implement the provisions of the claims agreement between the United States and Hungary, signed on March 6, 1973, which provides for the payment of $18.9 million (in 20 equal installments of $945,000) by the Hungarian Government "in full and final settlement" of all claims of American nationals against Hungary for war damage, nationalization, expropriation and other taking of property. H.R. 13261. Public Law 93– , approved ———, 1974. (VV)

Vietnam war claims.—Increases the rate of detention benefits under the War Claims Act of 1948, as amended, to civilian American citizens held as prisoners in Southeast Asia, from $60 per month to $150 per month. S. 1728. P/S Oct. 8, 1973; P/H amended Aug. 12, 1974.

1980 Winter Olympic games.—Extends an invitation to the International Olympic Committee to hold the 1980 winter games at Lake Placid, New York; expresses the hope that the United States will be selected as the site for these games; and pledges cooperation and support in their successful fulfillment provided that Olympic activities and plans fit within present State laws and plans respecting the Adirondack Park. S. Con. Res. 72. Senate adopted Apr. 8, 1974; House adopted amended Aug. 5, 1974; Senate agreed to House amendment Aug. 21, 1974. (VV)

World Food resolution.—States as a sense of the Senate that the United States should take the lead in a cooperative international effort to meet the production of adequate quantities of food; calls upon the President and the Secretaries of State and Agriculture to give priority to the expansion of American food aid by restoring sales and grants under Public Law 480 to their 1972 commodity levels and taking additional steps to transfer food on concessional and donation terms to those nations most severely affected by the recent price rises and shortages in energy, fertilizer, and food and to undertake negotiations to obtain the participation of other food-exporting countries in an expanded food aid effort and financial assistance from the oil-exporting countries for those nations most affected by current shortages and rising prices; states the need for international efforts to increase world fertilizer production; and calls upon the President to encourage domestic conservation of fertilizer by a reduction in non-food producing uses. S. Res. 329. Senate adopted Aug. 7, 1974. (VV)

LABOR

Developmentally disabled assistance.—Extends and improves the programs initiated under the Developmental Disabilities Services and Facilities Construction Act (Public Law 91–517) for 5 years, through June 30, 1979; adds a new program to facilitate the achievement of standards by residential and community facilities in order to protect the rights of mentally retarded and other developmental disabled persons; improves care in residential facilities; and contains other provisions. H.R. 14215. P/H July 11, 1974; P/S amended Oct. 1, 1974. (VV)

Farm Labor Contractor Registration.—Amends and extends the Farm Labor Contractor Registration Act of 1963 through fiscal year 1979; deletes the limitation of coverage by including intrastate as well as interstate transactions; broadens the information requirement that the farm labor contractor must provide migrant workers with regard to the nature of the worker's prospective employment and requires that such information be in a prescribed written form and a language in which the worker is fluent; requires farm labor contractors to establish proof that their vehicles and property comply with Federal and State health and safety standards; increases the maximum amounts for vehicle insurance to that applicable to vehicles operating under the Interstate Commerce Act unless otherwise set by the Secretary of Labor; creates a Federal civil remedy for persons aggrieved by violations of the Act; provides the Secretary of Labor with powers of subpoena and examination similar to that provided under the Fair Labor Standards Act; increases civil penalties and sets criminal penalties for violations of the act; and contains other provisions. H.R. 13342. Public Law 93– , approved 1974. (VV)

Minimum Wage Increase.—Provides a statutory minimum wage of $2.30 an hour for all covered workers according to the following time schedule:

For those covered prior to 1966, $2.00 on the effective date of this act, $2.10 effective January 1, 1975, and $2.30 effective January 1, 1976;

For nonagricultural employees first covered by the 1966 and 1974 amendments, $1.90 on the effective date of this act, $2.00 effective January 1, 1975, $2.20 effective January 1, 1976, and $2.30 effective January 1, 1977;

For agricultural employees, $1.60 on the effective date of this act, $1.80 effective January 1, 1975, $2.00 effective January 1, 1976, $2.20 effective January 1, 1977, and $2.30 effective January 1, 1978;

Extension of Coverage.—Extends coverage of the act to employees of individual retail and service establishments (except "Mom and Pop" stores) which are part of enterprises with gross annual receipts of more than $250,000 (thus including individual establishments with gross receipts of less than $250,000 if they are part of a chain with annual receipts over $250,000) with the $250,000 establishment test for smaller stores of large covered chains to be phased out by July 1, 1976;

Brings under the minimum wage and overtime provisions of the Act all employees in private household domestic service earning "wages" ($50 per quarter) for purposes of the Social Security Act, but retains a minimum wage and overtime exemption for casual babysitters and companions and an overtime exemption for live-in domestic service employees;

Extends coverage of Federal employees to most employees including wage board employees, non-appropriated fund employees, certain employees in the Canal Zone and any other civilian employee working for the armed services; and extends coverage of State and local government employees;

Retains the present basis for coverage of agricultural employees, which requires at least 500 man-days (one man-day being any day during which an employee performs any agricultural labor for not less than one hour) during the peak quarter of the preceding year, but alters the computation of man-days by adding to the definition of "employee" the previously excluded group of all local, seasonal hand-harvest laborers, with such employees and farmworkers under 16 working with a parent continuing to be exempt from the minimum wage if they are paid the adult piece rate;

Child Farm Labor.—Amends the Fair Labor Standards Act by prohibiting the employment in agriculture of all children under the age of 12, except those working on farms owned or operated by their parents, or on farms not covered by the act under the 500 man-day test, or on conglomerate farms, with parental consent required for children on noncovered farms; permits children ages 12 through 15 to work only during hours school is not in session, provided that all 12 and 13 year olds must either receive written parental consent or work only on farms where their parents are employed;

Puerto Rico and the Virgin Islands.—Provides for the gradual achievement of minimum wage parity for workers in Puerto Rico and the Virgin Islands with workers on the mainland as follows:

For certain hotel, motel, restaurant and food-service employees, as well as employees of the Federal and Virgin Islands Governments, the same as the minimum wage for counter-part mainland empolyees on the effective date;

For other covered workers, effective on the effective date of the legislation, presently covered employees are to receive: (A) an increase of 12 cents an hour if their wage order rates are less than $1.40 an hour, and (B) an increase of 15 cents an hour if their wage order rates are $1.40 an hour or higher;

For newly covered employees (including commonwealth and municipal employees), wage rates to be set by special industry committees which may not be less than 60 percent of the otherwise applicable rate under section 6(b) or $1.00 an hour, whichever is greater;

For all employees (other than commonwealth and municipal employees), yearly increases beginning one year after the effective date of this legislation as follows: (A) 12 cents an hour yearly if their wage order rates are less than $1.40 and (B) 15 cents an hour yearly if their wage order rates are $1.40 an hour, whichever is greater;

Exemptions.—Repeals or modifies a number of present exemptions, including some of the complete minimum wage and overtime exemptions as well as some which apply only to the overtime standard, in relation to: motion picture theaters, small logging crews, shade-grown tobacco, agricultural processing industries, railroads, and pipelines, seafood processing, local transit, hotels, motels, and restaurants, tip allowance, nursing homes, salesmen, partsmen, and mechanics, cotton gining and sugar processing, catering and food service employees, telegraphic message operations, bowling establishments, and house parents for orphans; sets a certain overtime exemption for police;

Youth Differential.—Permits a lower minimum wage for full-time students as follows:

In retail and service establishments of not less than 85 percent of the applicable minimum wage of $1.60, whichever is higher for a period of up to 20 hours per week, and permits the hiring of up to 4 students without the need for the traditional precertification procedure;

In agriculture, the higher of 85 percent of the applicable rate or $1.30 an hour for the same period, and up to 4 students without certification;

And in higher education institutions, 85 percent of the applicable rate of $1.60 for the same period;

Provides that the Secretary of Labor, to the extent necessary to prevent curtailment of opportunities for employment, shall by regulation or orders provide for the employment of learners, apprentices, and for messengers employed primarily in delivering letters and messages, under special certificates at lower wages;

Age Discrimination.—Amends the Age Discrimination in Employment Act of 1967 to include within its coverage Federal, State and local government employees (other than elected officials and certain aides not covered by civil service), and to expand coverage from employers with 25 or more employees to employers with 20 or more employees;

And contains other provisions. S. 2747. Public Law 93–259, approved Apr. 8, 1974. (58, 85)

Nonprofit Hospital Employees.—Extends coverage under the National Labor Relations Act to employees of private nonprofit hospitals; establishes certain new procedures governing labor relations in health care institutions (which is defined to include hospitals, nursing homes, health maintenance organizations, extended care facilities, health and medical clinics and other similar institutions caring for the sick, infirm or aged); exempts health care institution employees who object to joining labor organizations on religious grounds from union membership if they make comparable payments to a nonreligious charitable fund; and contains several provisions designed to facilitate collective bargaining settlement and to provide advance notice of any strike or picketing involving a health care institution by requiring: (1) a 90-day notice of termination or expiration of a contract; (2) a 60-day notice to the Federal Mediation and Conciliation Service (FMCS) of such termination or expiration; (3) a 30-day notice of a dispute to FMCS in initial contract negotiations; (4) the health care institution and labor organization to participate in mediation at the direction of the FMCS; and (5) a 10-day notice to the health care institution before any picketing or strike (whether or not related to bargaining) can take place; and by permitting the FMCS (within 30 days after the notice of a contract expiration or within 10 days after the notice of new contract negotiations) to convene an impartial board of inquiry to help settle a potential or existing labor dispute and to report thereon within 15 days. S. 3203. Public Law 93–360, approved July 26, 1974. (177,280)

Rehabilitation Act Amendments.—Amends the Rehabilitation Act of 1973 to extend for 1 year the authorizations throughout the Act; transfers the Rehabilitation Services Administration (RSA) from the Social and Rehabilitation Service into the Office of the Secretary of Health, Education and Welfare; requires that the RSA Commissioner be confirmed by the Senate and that he report directly to the Secretary, Under Secretary or an appropriate assistant Secretary; prohibits the delegation of programs and administrative functions vested in the Commissioner to any officer not directly responsible to him;

Makes certain clarifying amendments to more effectively express the original Congressional intent that the nondiscrimination provisions of section 504 were not limited to employment but are of general application and the provisions of both section 504 and of section 503, affirmative action, were not limited to the individual's potential benefit from vocational rehabilitation services;

Eliminates fiscal year 1976 and 1977 funding restrictions for client assistance projects; extends to June 30, 1975, the date on which the Secretary is to submit a report on the study of service needs for individuals with the most severe handicaps; authorizes grants for demonstrations of architectural and engineering designs for handicapped individuals; assigns the Office of the Handicapped (renamed the Office for Handicapped Individuals) to the Office of the Secretary or Under Secretary of HEW;

Adds the Department of Defense as a member of the Architectural and Transportation Barriers Compliance Board and makes the Secretary of HEW the Chairman of the Board; requires a Consumer Advisory Panel composed of a majority of handicapped individuals; authorizes the Board to carry out its functions by grant or contract; makes a Board order binding on any Federal agency; authorizes the withholding of funds for buildings not in compliance;

Amends the Randolph-Sheppard Act in order to strengthen the provisions for the establishment and protection of blind vending operations on Federal property;

Calls upon the President to convene a White House Conference on the Handicapped to make recommendations for further research and action in the field of the handicapped;

And contains other provisions. H.R. 14225. Public Law 93– , approved 1974. NOTE: (This bill contains the provisions of S. 2581 which passed the Senate on June 20, 1974, and S.J. Res. 118 which passed the Senate on July 18, 1974.) (VV)

West Coast Dock Strike.—Provides that no strike or lockout in the longshore or maritime industry in the States of Washington, Oregon, or California shall be permitted to interrupt normal shipping, for a period of 160 days beginning on the first day of the strike or lockout, from any port on the West Coast to Hawaii, the Trust Territory of the Pacific Islands, Guam, or American Samoa, or from Hawaii or any U.S. Pacific Island to any port on the West Coast; permits employers or labor organizations who are parties to labor disputes, or the chief executive officers of the island governments, to petition any U.S. District Court with jurisdiction to issue an injunction or temporary *restraining order* to enforce the 160-day prohibition which would be in addition to any 80-day "cooling off" period which might be invoked under Title II of the Labor Management Relations (Taft-Hartley) Act, thus providing a possible total of 240 days postponement of any disruption of West Coast-Hawaii waterborne commerce; and provides that the wage rates established in the agreement settling the dispute be made retroactive to cover work done during the 160-day moratorium. S. 1566. P/S July 17, 1974. (298)

MEMORIALS, TRIBUTES AND MEDALS

Al Kaline.—Congratulates Albert William Kaline of the Detroit Tigers for achieveing his career goal of 3,000 hits. S. Res. 414. Senate adopted Sept. 30, 1974. (VV)

Aleksandr I. Solzhenitzyn.—Declares by proclamation Aleksandr I. Solzhenitsyn an honorary citizen of the United States. S.J. Res. 188. P/S Oct. 4, 1974. (VV)

B. Everett Jordan, death of.—Expresses the sorrow of the Senate in respect to the death of former Senator B. Everett Jordan (D., N.C.). S. Res. 298. Senate adopted Mar. 22, 1974. (VV)

Betty Ford.—Extends to Mrs. Ford the Senate's best wishes for a full, complete, and speedy recovery and return to her activities as First Lady. S. Res. 413. Senate adopted Sept. 30, 1974. (VV)

Cable Car Medals—International Exposition on the Environment Medals.—Amends Public Law 93–114 to extend for 2 years until December 31, 1976, the authorization for the striking of medals commemorating the 100th anniversary of the invention of the cable car, and amends Public Law 93–221 to extend until March 31, 1975, the authorization for the striking of medals commemorating the International Exposition on the Environment at Spokane, Washington in 1975. S. 4037. P/S Sept. 30, 1974. (VV)

Chautaugua Institution.—Salutes Chautaugua Institution, in western New York, on the hundredth anniversary of its founding. S.J. Res. 230. P/S Aug. 1, 1974. (VV)

Church of Jesus Christ of Latter Day Saints.—Commends the members of the Church of Jesus Christ of Latter Day Saints on July 24, the day commemorating the settling of the Great Salt Lake Valley, for their many achievements as a major religion and a humanitarian people. S. Res. 366. Senate adopted July 24, 1974. (VV)

Clara Barton House.—Authorizes the Secretary of the Interior to acquire, by donation only, from its present owners the former house of Clara Barton located in Glen Echo, Maryland, which served as the home of Clara Barton, founder of the American Red Cross and as the first headquarters for the American Red Cross. S. 3700. P/S July 22, 1974: *Note:* (Provisions contained in H.R. 13157, the National Historic Sites bill.) (VV)

Earl Warren.—Authorizes $25,000 for an oil portrait and a marble bust of former Chief Justice Earl Warren to be placed in the United States Supreme Court Building. S.J. Res. 123. Public Law 93– , approved 1974. (VV)

Directs the Architect of the Capitol to transfer to the custody of the Chief Justice of the United States the catafalque to be used in the Supreme Court Building in connection with services to be conducted there for the late Honorable Earl Warren, former Chief Justice of the United States. S. Con. Res. 101. Senate adopted July 10, 1974; House adopted July 10, 1974. (VV)

Georges Pompidou, Death of.—Expresses the sorrow of the Senate in respect to the death of Georges Pompidou, President of the Republic of France. S. Res. 304. Senate adopted Apr. 4, 1974. (VV)

Gerald R. Ford.—Extends best wishes to Gerald R. Ford upon his assumption to the Presidency and the assurance of Congressional cooperation. S. Con. Res. 108. Senate adopted Aug. 9, 1974. (VV)

Hank Aaron home run record.—Expresses the congratulations of the Senate to Hank Aaron, of the Atlanta Braves baseball team, on hitting home run number 714 on April 4, 1974, thereby tying the home run record of Babe Ruth. S. Res. 303. Senate adopted Apr. 4, 1974. (VV)

Expresses the congratulations of the Senate to Hank Aaron on hitting his 715th home run on the night of April 8, 1974, thereby surpassing the home run record set by Babe Ruth in 1935. S. Res. 305. Senate adopted Apr. 9, 1974. (VV)

Harry S. Truman Memorial Scholarship.—Establishes, as a living memorial to former President Harry S. Truman, a scholarship program for young people preparing for careers in public service at all levels of government; authorizes $30 million to fund the annual award of four-year undergraduate scholarships to young Americans from each of the 50 States and the District of Columbia who will be known as Truman Scholars; establishes the Harry S. Truman Scholarship Foundation in the executive branch to supervise the program and make arrangements with the State Governors for the selection of the scholarship winner on a statewide competitive basis; provides that a Truman Scholar may attend the school of his or her choice provided it meets with criteria established by the Foundation; provides the opportunity for the scholars to participate in a special year-in-Washington program; and establishes the amount of the scholarships as the cost to each student of tuition, fees, books, and room and board with no annual individual grant exceeding $5,000. S. 3548. P/S Aug. 7, 1974. (VV)

Herbert Hoover.—Calls upon the Secretary of the Interior and the Administrator of General Services to conduct appropriate ceremonies in celebration of the one-hundredth anniversary of the birth of Herbert Hoover on August 10, 1974. S. Con. Res. 79. Senate adopted July 11, 1974; House adopted Aug. 6, 1974. (VV)

International House 50th Anniversary.—Commends International House in New York City on the service which it performs on behalf of international understanding and world peace and extends congratulations on the occasion of its golden jubilee anniversary. S. Res. 421. Senate adopted Oct. 7, 1974. (VV)

J. Allen Frear Building.—Designates the Federal office building located in Dover, Delaware as the "J. Allen Frear Building" in honor of Senator J. Allen Frear. S. 3815. P/S Aug. 21, 1974. (VV)

J. Edgar Hoover Medals.—Directs the Secretary of the Treasury to strike and furnish to the general public national medals honoring the late J. Edgar Hoover who, for 48 years, served as Director of the Federal Bureau of Investigation. H.R. 1817. Public Law 93–309, approved June 8, 1974. (VV)

Lyndon B. Johnson Conservation Corps Center and Lyndon B. Johnson National Grasslands.—Renames the Arrowood Civilian Conservation Corps Center, near Franklin, North Carolina, and the Cross Timber National Grasslands, in Wise and Montague Counties, Texas, in honor of Lyndon B. Johnson. S. 2835. Public Law 93–298, approved June 1, 1974. (VV)

Monument to 1st Infantry Division.—Authorizes the erection in the District of Columbia, of a monument to the dead of the First Infantry Division, United States Forces in Vietnam. S.J. Res. 66. Public Law 93–384, approved Aug. 23, 1974.

Smokey Bear Memorial.—States the sense of the Congress that Smokey Bear shall be returned upon his death to his place of birth, Capitan, New Mexico for burial and a permanent memorial. H. Con. Res. 564. House adopted Aug. 5, 1974; Senate adopted Sept. 5, 1974. (VV)

Southeast Asia military decorations time limitation.—Extends the statutory time limit within which the recommendation for, and actual award of, certain military decorations must occur for acts, achievements or service performed during the hostilities in Southeast Asia between July 1, 1958, and March 28, 1973. H.R. 15148. Public Law 93– , approved 1974. (VV)

University of Nevada Centennial.—Extends the congratulations of the Congress upon the occasion of the centennial anniversary of the University of Nevada. S. Con. Res. 87. Senate adopted Sept. 12, 1974. (VV)

Veterans Day.—Redesignates November 11 of each year as Veterans Day and makes such day a legal public holiday. S. 4081. P/S Oct. 10, 1974. (453)

William Jennings Bryan Statue.—Directs the Secretary of the Interior to donate the statue of William Jennings Bryan which was originally erected in the District of Columbia by the William Jennings Bryan Memorial Association to the city of Salem, Illinois, the place of his birth. H.R. 5507. Public Law 93–432, approved Oct. 4, 1974. (VV)

NATURAL RESOURCES

Anadromous Fish Conservation.—Amends the Anadromous Fish Conservation Act to extend the program for conservation of fish which migrate upstream to spawn in the Great Lakes an additional 5 years, to June 30, 1979; broadens the act to allow for the control of the sea lamprey; increases Federal participation in cooperative projects undertaken by two or more States from 60 to 66⅔rds percent; and authorizes therefor $20 million for each of fiscal years 1975–1979. H.R. 11295. Public Law 93–362, approved July 30, 1974. (VV)

Arapaho National Forest.—Extends the boundaries of the Arapaho National Forest and authorizes the transfers of approximately 14,000 acres of public lands from the Secretary of the Interior to the Secretary of Agriculture. S. 3615. P/S Aug. 21, 1974. (VV)

Big Cypress National Preserve, Florida.—Establishes the Big Cypress National Preserve in the State of Florida to protect a large portion of the Big Cypress Watershed which is critical to the survival of the subtropical environment within the Everglades National Park. H.R. 10088. Public Law 93–440, approved Oct. 11, 1974. (VV)

Big Thicket National Preserve, Texas.—Authorizes the Secretary of the Interior to acquire such lands, waters, and interest on a specified section of land in the state of Texas for the establishment of the Big Thicket National Preserve. H.R. 11546. Public Law 93–439, approved Oct. 11, 1974. (VV)

Boston National Historical Park.—Authorizes the Secretary of the Interior to acquire by purchase or donation the following areas of historical importance located in Boston, Massachusetts: Faneuil Hall; the Paul Revere House; the Old State House; Bunker Hill; the Old South Meeting House; the Old North Church; and the Charlestown Navy Yard, and authorizes $2,740,000 for land acquisition, $12,818,000 for development costs and an additional $11,500,000 for the Charlestown Navy Yard. S. 210. Public Law 93–431, approved Oct. 1, 1974. (VV)

Cascade Head Scenic-Research Area, Oregon.—Establishes the Cascade Head Scenic-Research Area in Oregon consisting of approximately 8,910 acres adjacent to the Siuslaw National Forest. H.R. 8352. P/H Aug. 5, 1974; P/S amended Aug. 16, 1974. (VV)

Chlorine allocation.—Gives the Secretary of Commerce stand-by allocation authority, on a case-by-case basis, to require producers to supply chlorine to meet priority uses of drinking water, waste water treatment systems, food processing and other public health purposes in order to prevent the possibility of a public health disaster caused by an inadequate supply; provides that an authorized applicant with an inadequate supply may apply to the Environmental Protection Agency for a prompt determination of need for chlorine and requires the Secretary, upon a favorable determination, to order that a specified amount of chlorine be supplied to the applicant; requires the Secretary to distribute such order equitably; and provides civil and criminal penalties for violations. S. 2846. P/S June 4, 1974. (VV)

Conservation on military and other Federal Lands.—Extends through fiscal year 1978 the game conservation and rehabilitation programs carried out on military reservations and provides new authority for carrying out such programs on certain other Federally owned lands; authorizes $1.5 million per year to the Secretary of Defense and $2 million per year to the Secretary of the Interior to carry out the programs on military reservations; authorizes $10 million per year to the Secretary of Agriculture and $10 million per year to the Secretary of the Interior to carry out the programs on certain lands of the Department of the Interior, and its responsibilities with respect to lands of the Atomic Energy Commission and lands of the National Aeronautics and Space Administration; maintains existing Indian rights to hunting and fishing on these lands; requires that hunting, fishing and trapping be in accordance with applicable State laws; requires that comprehensive plans and cooperative agreements for wildlife management adequately protect endangered fish and wildlife; and contains other provisions. H.R. 11537. Public Law 93- , approved 1974. (290)

Eastern wilderness.—Designates 19 areas in 15 eastern states as wilderness areas within the National Wilderness Preservation System under the management of the Secretary of Agriculture; designates 40 areas in 18 States and Puerto Rico for study by the Secretary for possible inclusion in the wilderness system; amends the Wilderness Act of 1964 to facilitate the administration of the National Wilderness Preservation System, and promote uniformity of management of wilderness areas in the East and West. S. 3433. P/S May 31, 1974. (VV)

Egmont Key National Wildlife Refuge.—Designates all of the land on Egmont Key, Florida, except for those lands under the jurisdiction of the Coast Guard and Hillsborough County, as the Egmont Key National Wildlife Refuge. H.R. 8977. Public Law 93-341, approved July 10, 1974. (VV)

Fish and Wildlife Service.—Abolishes, within the Department of the Interior, the position of Commissioner of Fish and Wildlife, the Bureau of Sport Fisheries and Wildlife and its Office of Director and vests all such duties and responsibilities in the redesignated United States Fish and Wildlife Service to be headed by a Director at an increased level of pay. H.R. 13542. Public Law 93-271, approved Apr. 22, 1974. (VV)

Golden Gate National Recreation Area.—Amends Public Law 92-589 which established the Golden Gate National Recreation Area in San Francisco and Marin Counties, California, to include certain parcels of land omitted from the original boundaries or subsequently deemed suitable for inclusion within the area. H.R. 10834. P/H Feb. 19, 1974; P/S amended Oct. 2, 1974. (VV)

Grand Canyon National Park.—Provides greater protection to the Grand Canyon of Arizona by creating an enlarged Grand Canyon National Park consisting of 272.5 miles of the Grand Canyon which will be managed as a single natural area by the National Park Service. S. 1296. P/S Sept. 24, 1973; P/H amended Oct. 10, 1974.

Harpers Ferry National Monument.—Authorizes $1.3 million for the acquisition of land to increase the size of the Harpers Ferry National Park and provide shuttle transportation service within the park and places a $8,690,000 limit on development funds for the area. S. 605. Public Law 93- , approved 1974. (VV)

Hell's Canyon Recreational Area.—Establishes the Hell's Canyon National Recreation Area along the Snake River within the States of Idaho, Oregon, and Washington consisting of approximately 700,000 acres plus an additional 270,000 acres of wilderness, and deauthorizes the Asotin Dam which was authorized under the provisions of the Flood Control Act of 1962. S. 2233. P/S Sept. 26, 1974. (VV)

Indoor recreation facilities.—Amend the Land and Water Conservation Fund Act by adding new authority which permits a State to use not more than 25 percent of its total annual allocation from the Fund for the planning and development of sheltered recreational facilities within specified areas thus permitting the enclosure of swimming pools, ice skating rinks, tennis courts, and similar outdoor facilities for year-round use where climate now controls the season or where there is a shortage of available land. S. 2661. P/S May 30, 1974. (VV)

Kaniksu National Forest, Washington.—Authorizes the Secretary of Agriculture to enter into land exchange agreements for non-Federal lands for inclusion in the Kaniksu National Forest in Washington. S. 3289. P/S Aug. 16, 1974. (VV)

Lone Rock Lake project.—Provides for deauthorization of the Lone Rock Lake project on the Buffalo River, Ark., as a modification of the flood control program for the White River Basin, Missouri and Arkansas. S. 1961. P/S Jan. 23, 1974. (VV)

National historic sites.—Authorizes the establishment of the Clara Barton National Historic Site, Md.; John Day Fossil Beds National Monument, Oreg.; Knife River Indian Villages National Historic Site, Mass.; Tuskegee Institute National Historic Site, Ala.; Martin Van Buren National Historic Site, N.Y.; and the Sewall-Belmont House National Historic Site, Washington, D.C. H.R. 13157. Public Law 93- , approved 1974, (VV)

National Ocean Policy Study.—Authorizes the Committee on Commerce to make a full and complete National Ocean Policy Study to be undertaken with representative ex officio membership from other standing Committees of the Senate having a jurisdictional interest over the elements of the Study as well as six members from Coastal States to be selected by the President Pro Tempore without regard to Committee membership (such study to include, but not limited to, a thorough examination of the issues involved in the following areas: marine fisheries and other living resources; mineral resources of the seabed and subsoil; coastal zone management; ocean transportation; research and technology; law of the sea, government organization; pollution; Federal budget; and education), and to submit a report of its findings together with any legislative recommendations to the Senate. S. Res. 222. Senate adopted Feb. 19, 1974. (VV)

National Park System acquisition.—Increases the appropriations ceilings and makes boundary changes in the following units of the National Park System: Biscayne National Monument, Fla.; Channel Islands National Monument, Calif.; Colonial National Historical Park, Va.; Cumberland Gap National Historical Park, Ky. and Tenn.; Fort Necessity National Battlefield, Pa.; Independence National Historical Park, Pa.; Indiana Dunes National Lakeshore, Ind.; International Peace Garden, N. Dak.; Lava Beds National Monument, Calif.; Moores Creek National Military Park, N.C.; Morristown National Historical Park, N.J.; Ohio and Erie Canal, Ohio; Rocky Mountain National Park, Colo.; San Juan National Historic Site, P.R.; and Virgin Islands National Park, V.I.; and authorizes appropriations for additional costs of land acquisition. H.R. 14217. Public Law 93, approved 1974. (VV)

National Resource Lands Management.—Provides for the management, protection, and development of 451 million acres of federally owned lands administered by the Secretary of the Interior through the Bureau of Land Management and designated "national resource lands" in order to signify their importance; establishes the policy that, except where disposal is consistent with the conditions of the act, national resource lands will be retained in Federal ownership; directs the Secretary of the Interior to prepare and maintain an inventory of the national resource lands, review those lands for potential wilderness areas, develop land use plans, and manage the lands in accordance with the plans;

Provides the basic authority and guidelines for both conveying and acquiring national resource lands or interest in lands; requires, with certain exceptions, that lands be disposed of at fair market value, under competitive bidding, and with the mineral interest retained in Federal ownership; provides a number of specific management and enforcement authorities and establishes a working capital fund;

Authorizes the Secretary to grant rights-of-way on national resource lands for such purposes as roads, trails, canals, and powerlines but does not provide new authority to grant rights-of-ways for oil and gas pipelines which is contained in the Alaska pipeline act; repeals or amends numerous laws relating to Federal lands; provides that States may use revenues received from oil shale development for general governmental purposes rather than exclusively for public roads and school buildings;

And contains other provisions. S. 424. P/S July 8, 1974. (273)

National Wilderness Areas.—Designates six wilderness areas totalling approximately 999,088 acres in national forests in the States of California, Colorado, and Montana—the Agua Tibia Wilderness in the Cleveland National Forest, California, the Emigrant Wilderness in the Stanislaus National Forest, California, the Flat Tops Wilderness in the Routt and White River National Forests, Colorado, the Eagles Nest Wilderness in the Arapaho and White River National Forests, Colorado, the Weiminuche Wilderness in the Rio Grande and San Juan National Forests, Colorado and the Mission Mountains Wilderness in the Flathead National, Montana. H.R. 12884, P/H May 6, 1974; P/S amended Aug. 1, 1974. (VV)

Pacific Northwest Power.—Establishes a Bonneville Power Administration Fund in the U.S. Treasury to receive revenues from electric power sales, appropriations made by the Congress, receipts from the sales of bonds, and miscellaneous other receipts of the Bonneville Power Administration; and authorizes the Bonneville Power Administrator to issue bonds and sell them to the Secretary of the Treasury to assist in financing the construction, acquisition, and replacement of the Bonneville electric power transmission system. S. 3362. Public Law 93- , approved 1974. (VV).

Piscataway Park.—Authorizes the acquisition of certain lands in Maryland, including the Marshall Hall Amusement Park, across the Potomac River from Mount Vernon in order to preserve the view from the home of the Nation's first President. H.R. 4681. Public Law 93-443, approved Oct. 15, 1974. (VV).

Reclamation development projects.—Authorizes, enlarges, and repairs the following Federal reclamation projects: (1) incorporation of Page, Arizona; (2) Cibola dam and reservoir project, Texas; (3) Mountain Park water project, Oklahoma, (4) Casitas Reservoir Open Space, California; (5) Klamath Project Right-of-Way, Oregon; (6) Solano Project Recreational Facilities, California; (7) miscellaneous drainage construction in Utah; (8) Belle Fourche Dam Rehabilitation, So. Dakota; (9) Glendo Unit road reconstruction, Wyoming; (10) Elephant Butte Recreation Pool, New Mexico; (11) Nueces River Project, Texas; (12) Fryingpan-Arkansas project, Colorado; (13) Savage Rapids Fish Way, Oregon; and (14) feasibility investigations for water resource development projects for the following: Water Management Plan—Solano County, California; Municipal Water Supply Delivery System, Yuma, Arizona; and Apple Creek Project, No. Dakota. H.R. 15736. Public Law 93- , approved 1974. (VV).

Recreation use fees.—Amends the Land and Water Conservation Fund Act to detail those facilities on Federal recreation lands for which no use fee may be charged and retains general criteria for fee requirements for all other locations. S. 2844. Public Law 93-303, approved June 7, 1974. (VV)

Rivers and Harbors—Public Works.—Authorizes, in title I, water resources development projects; and authorizes, in title II, the River Basin Monetary Authorization Act of 1974, a monetary increase for certain comprehensive river basin plans previously authorized by Congress, at an approximate cost of $1.33 billion, of which $550 million is for title I projects and $780 million is for title II river basins;

Establishes a new procedure for authorization of major water resources development projects of the Corps of Engineers which authorizes the Secretary of the Army, acting through the Chief of Engineers, to undertake the Phase I design memorandum stage of advanced engineering and design of certain named major water resources development projects, substantially in accordance with, and subject to conditions recommended by the Chief of Engineers, and authorizes the Secretary of the Army to undertake advanced engineering and design for the projects after completion of the Phase I stage only upon a finding by the Chief of Engineers, transmitted to the Committees on Public Works of the House and the Senate, that the project is without substantial controversy, is substantially in accordance with the conditions recommended by the Chief of Engineers or the Secretary of the Army, respectively, and that the advanced engineering and design will be compatible with any project modifications which may be under construction;

Provides for deauthorization of projects through the Chief of Engineers, and submission to Congress of a list of those authorized projects which have been authorized for at least 8 years without any congressional appropriations within the last 8 years and which he determines should no longer be authorized, which then become deauthorized unless either the House or Senate Committee on Public Works, within a certain time, adopts a resolution stating that the project shall continue to be an authorized project;

Enacts into law the discount rate of 5⅝ percent approved by the President May 29, 1962, as amended and published in the Federal Register December 24, 1968, and the pre-1968 discount rate for projects authorized prior to 1969 which have assurances as to non-Federal payment of project costs;

Authorizes a streambank erosion control demonstration program and a national shoreline erosion control development and demonstration program;

And contains other provisions. H.R. 10203 (S. 2798). Public Law 93-251, approved Mar. 7, 1974. (7, 35)

Rocky Mountain National Park, Colorado.—Revises the western boundary of the Rocky Mountain National Park in the State of Colorado to include an additional 1,556.21 acres, consisting of several parcels in the Kawuneeche Valley. S. 2394. P/S Feb. 25, 1974. Note: (Provisions contained in H.R. 14217, the National Park System bill.) (VV)

Saline Water Conversion Authorization.—Authorizes $3,029,000 for fiscal year 1975 and maintains the 1974 activity level for the saline water conversion program conducted by the Secretary of the Interior. H.R. 13221. Public Law 93-342, approved July 10, 1974. (VV)

Snake River Bridge.—Authorizes construction of an additional highway bridge across the Snake River at the Washington-Idaho border between Clarkston, Washington and Lewiston, Idaho. S. 3563. P/S Oct. 10, 1974. (VV)

Sumner Dam and Lake.—Renames the Alamorgordo Dam and Reservoir on the Pecos River, New Mexico, as the Sumner Dam and Lake Sumner respectively. S. 2001. Public Law 93- , approved , 1974. (VV)

Teton National Forest.—Extends the general exchange authority of the Forest Service to include certain land adjacent to the Teton National Forest, and to facilitate an exchange of land between the town of Jackson, Wyoming and the Forest Service as part of the Teton National Forest. S. 3489. P/S Aug. 5, 1974. (VV)

Wild and Scenic Rivers—Chattooga River.—Extends for 5 years, to October 2, 1978, the protection period for water resource projects for the 27 rivers now under study for possible inclusion in the national wild and scenic rivers system; increases the funding authorization from $17 million to $37.6 million to permit completion of acquisitions for seven of the eight rivers designated as the first components of the system and establishes a deadline of June 30, 1979, for expenditure of authorized funds; authorizes the Secretaries of the Interior and Agriculture to acquire State land within the river corridors for components of the system not only by donation but also by exchange of Federal land in other areas; removes the authority of either Secretary, without ever reporting to Congress, to terminate a study of, and remove protection for, any river which Congress has designated for study; requires the President to report to Congress on each river study; designates a section of the Chattooga River, North Carolina, South Carolina and Georgia, as a part of the national Wild and Scenic River System and authorizes therefor $2 million for acquisition of lands and interests and $809,000 for development; and contains other provisions. NOTE: (The general amendments to the Wild and Scenic Rivers were contained in S. 921 which passed the Senate Sept. 24, 1973.) H.R. 9492. Public Law 93-279, approved May 10, 1974. (VV)

Wild and Scenic Rivers—New River.—Amends the Wild and Scenic Rivers Act to designate an approximate 70 mile segment of the New River (which according to geologists is the oldest river in the United States and the only remaining segment of the North American continent's original prehistoric watershed) located in North Carolina and Virginia for study for possible inclusion in the national wild and scenic rivers system, such study not to extend beyond 2 years from the date of enactment of this act. S. 2439. P/S May 29, 1974. (208)

Wild and Scenic Rivers—St. Croix River.—Amends the Wild and Scenic Rivers Act, as amended, to designate segments of the following 23 rivers in 10 States for study for possible inclusion in the national wild and scenic rivers system: 1) Au Sable, Michigan; 2) Mainistee, Michigan; 3) Wisconsin, Wisconsin; 4) West Fork of the Sipsey Fork, Alabama; 5) Cahaba, Alabama; 6) Kettle, Minnesota; 7) Upper Mississippi, Minnesota; 8) American, California; 9) Tuolumne, California; 10) Illinois, Arkansas and Oklahoma; 11) Shepaug, Connecticut; 12) Colorado, Colorado and Utah; 13) Gunnison, Colorado; 14) Los Pinos, Colorado; 15) Big Thompson, Colorado; 16) Green, Colorado; 17) Conejos, Colorado; 18) Elk, Colorado; 19) Cache La Poudre, Colorado; 20) Piedra, Colorado; 21) Encampment, Colorado; 22) Yampa, Colorado; and 23) Dolores, Colorado; provides a 5-year period for completion of the studies with October 2, 1979, as the deadline for all the studies except the Dolores River in Colorado which shall be completed by October 2, 1975; and amends the Lower Saint Croix River Act of 1972 to increase from $7,275,000 to $19 million the authorization for the acquisition and development of land. S. 3022. P/S Oct. 3, 1974. (VV)

WILDERNESS AREA

Farallon Wilderness—Point Reyes National Seashore.—Designates as wilderness approximately 141 acres within the Farallon National Wildlife Refuge, California and adds certain lands to the Point Reyes National Seashore, California. H.R. 11013. P/H May 7, 1974; P/S amended Oct. 4, 1974. (VV)

Great Dismal Swamp.—Establishes the Great Dismal Swamp national wildlife refuge in the States of Virginia and North Carolina and authorizes for this purpose $1 million for fiscal year 1975, and $3 million each for fiscal years 1976 and 1977. H.R. 3620. Public Law 93-402, approved Aug. 30, 1974. (VV)

Okefenokee Wilderness.—Designates approximately 343,850 acres located within the Okefenokee Wildlife Refuge in the State of Georgia as wilderness. H.R. 6395. Public Law 93-429, approved Oct. 1, 1974. (VV)

Snow Mountain Wilderness.—Designates certain lands in the Mendocino National Forest, Calif., as the Snow Mountain Wilderness. S. 114. P/S Oct. 11, 1974. (VV)

Weminuche Wilderness.—Designates approximately 433,745 acres in the Rio Grande and San Juan National Forests, in Colorado, as the "Feminuche Wilderness". S. 1863. P/S Feb. 7, 1974. (VV)

Wildlife refuge rights-of-way.—Requires that the fair market value payment of rights-of-way, easements, or reservations in, over, across, or through lands within the National Wildlife Refuge System be used for additional land acquisition for the purpose of replacing such lands; adds legislation whereby the Secretary of the Interior may permit the use of any area within the System for powerlines, telephone lines, canals, ditches, pipelines or roads only if it is found to be the most feasible alternative for such purpose after all reasonable alternatives have been reviewed; and requires that national wildlife refuge revenues be used for the acquisition of refuge areas. H.R. 11541. Public Law 93-___, approved 1974. (VV)

Willow Creek Dam, Oregon.—Provides for reformulation and construction of the Willow Creek Dam project for purposes of flood control, recreation, fish and wildlife, and future irrigation use and authorizes advance Federal participation with the city of Heppner in the design and construction of those elements of the water system which must be relocated as a result of construction. S. 3537. P/S Aug. 2, 1974. (VV)

NOMINATIONS

(Action by Roll Call Vote)

Brig. Gen. Charles A. Gabriel to the temporary rank of Maj. Gen., USAF.—Nomination confirmed Apr. 24, 1974. (143)

John C. Sawhill, of Maryland, to be Administrator of the Federal Energy Administration.—Nomination confirmed June 18, 1974. (248)

Maj. Gen. Alton D. Slay to the permanent rank of Maj. Gen., USAF.—Nomination confirmed Apr. 24, 1974. (142)

PROCLAMATIONS

American Business Day.—Designates May 13, 1974, as "American Business Day." S.J. Res. 195. P/S May 2, 1974. (VV)

First Continental Congress anniversary.—Proclaims October 14, 1974, a day of national observance for the two hundredth anniversary of the First Continental Congress. S. Con. Res. 85. Senate adopted May 14, 1974; House adopted May 16, 1974. (VV)

Good Neighbor Day.—Designates the fourth Sunday of each year as "Good Neighbor Day." S.J. Res. 235. P/S Sept. 19, 1974. (VV)

Honor America.—Declares the twenty-one days from Flag Day, June 14, 1974, to Independence Day, July 4, 1974, as a period to honor America. H. Con. Res. 537. House adopted June 13, 1974; Senate adopted June 17, 1974. (VV)

Johnny Horizon '76 Clean Up America Month.—Designates the period of September 15, 1974, through October 15, 1974, as "Johnny Horizon '76 Clean Up America Month." H.J. Res. 1070. Public Law 93-418, approved Sept. 18, 1974. (VV)

Meals-on-Wheels Week.—Designates the week of September 23 through September 27, 1974, as "Meals-on-Wheels Week." S. Res. 409. Senate adopted September 24, 1974. (VV)

National Agriculture Week.—Designates the last full week of March of each year as "National Agriculture Week." S.J. Res. 163. P/S Mar. 19, 1974. (VV)

National Amateur Radio Week.—Designates the week beginning June 17, 1974, as "National Amateur Radio Week". S.J. Res. 197. P/S May 2, 1974. (VV)

National DeMolay Week.—Designates the period from March 16 to March 23, 1975, as "National DeMolay Week". S.J. Res. 238. P/S Sept. 4, 1974. (VV)

National Historic Preservation Week.—Designates the week beginning May 6, 1974, as "National Historic Preservation Week". S.J. Res. 175. P/S May 2, 1974. (VV)

National Hunting and Fishing Day.—Designates the fourth Saturday of September 1974, as "National Hunting and Fishing Day". H.J. Res. 910. Public Law 93-424, approved Sept. 27, 1974. (VV)

National Legal Secretaries Court Observance Week.—Designates the second full week in October 1974 as "National Legal Secretaries Court Observance Week". H.J. Res. 898. Public Law 93-442, approved Oct. 14, 1974. (VV)

National Volunteer Week.—Designates the week of April 21–27 as "National Volunteer Week". S.J. Res. 179. P/S Mar. 19, 1974. (VV)

United States Space Week.—Designates the seven day period of July 15 through 21, 1974, as "United States Space Week". H. Con. Res. 223. House adopted June 28, 1974; Senate adopted amended July 11, 1974; House agreed to Senate amendment July 16, 1974. (VV)

Women's Equality Day.—Designates August 26, 1974, as "Women's Equality Day" in commemoration of that day in 1920 on which women were first guaranteed the right to vote. H.J. Res. 11105. Public Law 93-382, approved Aug. 22, 1974. (VV)

TRANSPORTATION-COMMUNICATIONS

Aircraft hijacking.—Amends the Federal Aviation Act of 1958 to provide a more effective program to prevent aircraft piracy on both the international and domestic levels; implements, in Title I, the Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention—Ex. A [92d-1st]) to which the United States is a party and which came into effect on October 4, 1971; broadens jurisdictional definitions covering aircraft piracy and for the offense of aircraft piracy imposes the penalty of imprisonment of not less than 20 years with the death penalty to be imposed subject to specific procedural requirements; provides the President the authority to suspend air service between the United States and any foreign nation he determines is not acting consistently with the provisions of the Hague Convention; permits the Secretary of Transportation, with the approval of the Secretary of State, to restrict, limit, or revoke the operating authority of any foreign air carrier failing to afford necessary security safeguards to the traveling public and provides a civil penalty of not to exceed $1,000 per day for violations; provides, in Title II, for the screening of all passengers and carry on baggage by weapons detecting devices prior to their being boarded on the aircraft; establishes under the Administrator of the Federal Aviation Administration an Air Transportation Security Force to provide a Federal law enforcement presence at the nation's major airports; and contains other provisions. S. 39. Public Law 93-366, approved Aug. 5, 1974.

Aircraft piracy.—Amends the Federal Aviation Act of 1958 to establish specific offenses for imparting or conveying threats to do certain proscribed acts and make more explicit the requisite intent for these felony sanctions; distinguishes "threats" from "false information" prosecutions; broadens current law by making it a Federal crime for a person to knowingly carry aboard or place aboard an aircraft in air transportation a concealed explosive or other dangerous substance except for law officers and certain other purposes; and contains other provisions, S. 872. P/S Mar. 12, 1974. (VV)

Alien radio station licenses.—Amends the Communications Act of 1934, as amended, to permit direct licensing of aliens and corporations with certain alien officers, directors, or stockholders rather than licensing them indirectly as a subsidiary corporation and deletes the requirement that the FCC follow certain prescribed procedures to make an intra-government security check on aliens who apply for permission to operate their amateur radio stations in the United States pursuant to a bilateral agreement extending such privileges to United States citizens on a reciprocal basis. S. 2457. P/S May 2, 1974. (VV)

Amtrak authorization.—Authorizes funds for the National Railroad Passenger Corporation (Amtrak) for 1975; increases the maximum amount of loans to the Corporation which may be guaranteed at any one time by the Secretary of Transportation from $500 million to $900 million; increases the amounts of Federal grants authorized for the Corporation by $200 million; prohibits any one railroad or person from voting any shares which it owns in excess of one-third of the total number of Amtrak common shares held; requires Amtrak to institute rail passenger service beyond the basic system requested by a State or local agency which agrees to pay two-thirds of the cost; freezes until July 1, 1975, existing route services; contains provisions relating to the enforcement power and regulatory authority of the Interstate Commerce Commission; directs Amtrak to perform maintenance, repair and rehabilitation of its equipment; directs the Secretary of Transportation to facilitate customs inspection procedures on Amtrak trains operating in international intercity service; requires a thorough and comprehensive study of the future transportation needs of the entire west coast as contained in S. 1328, the West Coast Corridor Feasibility Study Act of 1974; requires the Secretary to plan and construct a model intermodal transportation terminal at Union Station in the District of Columbia; and contains other provisions. H.R. 15427. Public Law 93- , approved , 1974. (344)

Broadcast license renewal.—Amends the Communications Act of 1934 to provide for the renewal of licenses for the operation of broadcasting stations for a five year term; directs the Federal Communications Commission to establish by rule procedures for broadcast licensees to follow throughout the terms of their licenses to ascertain the needs of the residents of their service areas for purposes of program services prescribing different procedures for different classes of broadcast stations; directs the FCC at renewal time to consider whether the licensee followed the applicable ascertaining procedures and met the ascertained needs of the residents, and whether the operation of the station was not otherwise characterized by serious deficiencies; requires the Commission to study how it might expedite the elimination of those regulations of broadcast licensees required by the Communications Act which do not serve the public interest, and to make annual reports thereon to the House and Senate Commerce Committees; directs the FCC to complete Docket 18110 (Multiple Ownership) by December 31, 1974; and contains other provisions. H.R. 12993. P/H May, 1974; P/S amended Oct. 8, 1974.(442)

Communications common carrier charges.—Amends the Communications Act of 1934, as amended, to extend from one to two years the period of limitations applicable to proceedings against communications common carriers for the recovery of overcharges or damages not based on overcharges and for actions at law by such carriers for recovery of their lawful charges. S. 1227. P/S May 2, 1974. (VV)

Communications common carrier service applications.—Amends the Communications Act of 1934, as amended, to designate (in addition to the Secretary of State) the Secretary of Defense, rather than the Secretaries of the Army and Navy, as the person entitled to receive the required official notice whenever a communications common carrier files an application with the Federal Communications Commission for permission to extend its lines, discontinue or curtail existing services or effect certain mergers or consolidations and designates the Secretaries of Defense and State as the persons to whom such notices should be directed with respect to applications involving service to foreign points. S. 1479. P/S May 2, 1974. (VV)

Cumbres and Toltec Scenic Railroad.—Grants consent to the Cumbres and Toltec Scenic Railroad Compact between the States of Colorado and New Mexico to provide for the joint operation of an interstate narrow gauge scenic railroad which will preserve as a living museum a mode of transportation that helped in the development of the territories and states. S. 2362. Public Law 93- , approved 1974. (VV)

Deepwater ports.—Establishes a licensing and regulatory program governing offshore deepwater port development beyond the territorial limits and off the coast of the United States for use to transfer oil and natural gas transported by tanker to and from States of the United States; authorizes the Secretary of the Department in which the Coast Guard is operating (currently the Department of Transportation) to issue licenses to own, construct and operate deepwater ports; requires the Secretary to exercise this authorization in consultation with other Federal agencies (Interior, State, EPA and the Corps of Engineers) and with the approval of the governor of the adjacent coastal state; requires the Federal Trade Commission and the Attorney General to comment on whether issuance of a license would adversely affect competition, restrain trade or promote monopolization; grants the Environmental Protection Agency the right to veto the issuance of a license if such deepwater development would result in violation of the Clean Air Act, the Federal Water Pollution Control Act, or the Marine Protection Research and Sanctuaries Act; requires a detailed environment impact statement to satisfy the requirements of the National Environmental Policy Act; creates levels of liability for damages for oil spills and a $100 million Deepwater Port Liability Fund which is financed by a charge of 2 cents per barrel of oil flowing through any licensed deepwater port; and contains other provisions. H.R. 10701 (S. 4076). P/H June 6, 1974; P/S amended Oct. 9, 1974. (448)

Federal-aid highway amendments.—Authorizes funds for certain highway construction programs for 1975 and 1976; makes the temporary 55 miles per hour nationwide speed limit permanent; permits modest increases in allowable weights of trucks on Interstate highways; extends the Highway Beautification Act for 3 years with added funds and includes provisions to allow alternative information systems along highways which do not conflict with the thrust of the original act; allows the termination of highway contracts under conditions where the materials necessary are not available from the expected supplier because of Federal actions; provides additional authorizations for the rural bus demonstration program; allows the Alaska Ferry to stop in Canada; allows funds for Indian reservation roads and trails to be used on Federal-aid highways on or leading to Indian lands and increases the authorizations therefore by $25 million; provides $20 million, half from the Highway Trust Fund, for bikeway facilities in urban areas; *increases by $150* million the authorization for the special bridge replacement program with an additional authorization for the repair of bridges on the overseas highway leading to Key West, Fla.; authorizes all parkways to be financed out of the Highway Trust Fund; authorizes funding for a new program on access roads to Federal reservoirs; assures that public transportation facilities assisted with Federal-aid funds are accessible to the handicapped; extend the carpool demonstration program for 1 year and authorizes $15 million therefor; and contains other provisions. S. 3934. P/S Sept. 11, 1974. (375)

FM radios.—Authorizes the Federal Communications Commission to require that all AM and FM radios, retailing for $15 or more and being shipped in interstate commerce or imported into the United States, be capable of adequately receiving both AM and FM signals. S. 585. P/S June 13, 1974. (247)

Forest highway funds.—Provides that the 1972 apportionments to States for forest highways not yet obligated, which would otherwise lapse on June 30, 1974, shall remain available until expended. S. 3490. Public Law 93–338, approved July 10, 1974. (VV)

Intercoastal shipping.—Deletes section 6 of the Intercoastal Shipping Act, 1933, as amended, which permits the carriage of government and charitable cargo at free or reduced rates. H.R. 13516 (S. 3173). Public Law 93– , approved
1974. (VV)

International air transit (Pan Am).—Directs all responsible agencies and departments to request the legislative authorization necessary to deal with discrimination or unfair practices affecting the U.S.-flag air carriers and requires comprehensive annual reports from the Department of State and the Civil Aeronautics Board (CAB) on the efforts to eliminate discriminatory and unfair competitive practices in this area;

Requires the Secretary of Transportation to impose retalitory or compensating charges on foreign airlines in certain circumstances in response to discriminatory treatment of U.S. airlines and sets up a mechanism for determining when such compensatory charges are necessary;

Amends the Federal Aviation Act of 1958 to require the Secretary of State and the Postmaster General to take all steps necessary to assure that the rates paid for the transportation of mail pursuant to the Universal Postal Union Convention not exceed the actual cost of transportation, including a reasonable rate of return on investment; requires the CAB to act expeditiously on proposed rate changes for the transportation of mail in foreign air transportation; requires that preference be given to U.S.-flag air carriers when the United States Government arranges for the movement of people or goods to or between foreign ports; authorizes the Comptroller General to approve payment to other carriers only when there is a showing that it was necessary to engage their services in the particular instance; and

Amends the International Travel Act of 1961 to direct the Secretary of Commerce to promote and encourage travel to and from the United States on U.S.-flag air carriers. S. 3481. P/S Oct. 10, 1974. (452)

Maritime supplemental authorization.—Authorizes $23 million in supplemental appropriations for the operating differential subsidy program of the Maritime Administration for fiscal year 1974. H.R. 12925. Public Law 93–308, approved June 8, 1974. (VV)

Regional Rail Reorganization Report Extension.—Extends for an additional 120 days the reporting dates for the preliminary and final system plans required under the Rail Reorganization Act of 1973 and increases the authorization therefor from $26 million to $40 million. S.J. Res. 250. Public Law 93– approved 1974. (VV)

SS "*Guam Bear*" and SS "*Hawaii Bear*".—Authorizes the Secretary of Commerce through the Maritime Administration to remove all contracts made under the authority of Public Law 91–195 to permit the Pacific East Line, Inc. to sell the vessels SS *Guam Bear* and SS *Hawaii Bear* to a purchaser other than its successor in the trade between the West Coast and Guam, or to operate the vessels in some other trade. H.R. 1223. Public Law 93-306, approved June 8, 1974. (VV)

SS "*Independence*".—Permits the foreign sale of the laid-up United States-flag passenger vessel SS *Independence* and requires that the existing government mortgage on the ship be paid off in full and the net proceeds of the sale deposited in the owner's capital construction or reserve fund. H.R. 8586. Public Law 93–330, approved June 30, 1974. (VV)

Tariffs and freight rates.—Improves the ability of the Federal Maritime Commission to deal with freight rate disparities which discriminate against American shippers in the foreign trade of the United States by (1) requiring the Commission to develop and adopt a system of uniform commodity descriptions and codes to be used by all common carriers by water and all conferences of such carriers when filing any rate, charge, or tariff and (2) prohibiting common carriers and conferences from filing or maintaining an outbound or inbound rate or charge without including a statement of the applicable reciprocal rate or charge of the identical commodity between the same two points and gives the Commission the power to reject rate filings without the required statement and to suspend for no more than 180 days a filing which is being investigated. S. 1488. P/S Apr. 23, 1974. (VV)

Transportation safety—hazardous materials.—Increases the regulatory authority and enforcement powers and duties of the Secretary of Transportation with respect to the movement in commerce of hazardous materials and extremely hazardous materials; increases the effectiveness of existing rail safety laws; and reorganizes the National Transportation Safety Board to assure its independence, to broaden its accident investigation and analysis mission and capability, and to make it an advocate of safety in transportation. H.R. 15223. P/S Oct. 7, 1974. (433)

Urban mass transit.—Authorizes not to exceed $800 million ($400 million for fiscal year 1974, and an aggregate of not to exceed $800 million for fiscal year 1975) for fiscal years 1974 and 1975 for the Secretary of Transportation, on such terms and conditions as he may prescribe, to make grants or loans to State or local public bodies in order to assist them in maintaining adequate transportation services in urban areas by providing financial assistance (requiring one-third local contribution) to pay operating expenses incurred as a result of providing such services; provides for the establishment of a reasonable fare srtucture for each area according to its particular local needs; authorizes an additional $20 million for each of fiscal years 1974 and 1975 for research and development, establishment, and operation of demonstration projects to determine the feasibility of fare-free urban mass transportation systems; and contains other provisions. S. 386. P/S Sept. 10, 1973; P/H amended Oct. 3, 1973; Conference report filed.

Vessel tonnage deductions.—Amends the present vessel admeasurement laws to allow as deductions from gross tonnage, in determining net or register tonnage, certain nonrevenue earning spaces which are used in collecting, processing or carrying shipboard-generated waste materials. S. 1353. P/S Mar. 13, 1974. (VV)

VETERANS

American Legion, Inc.—Amends the Act incorporating the American Legion to make eligible for membership those veterans of the Vietnam era who served honorably in the military or naval forces of the United States or its allies during the period August 5, 1964, to August 15, 1973. S. 4013. P/S Oct. 4, 1974. (VV)

American War Mothers, Inc.—Amends the Act incorporating the American War Mothers, Inc. to permit certain stepmothers and adoptive mothers to be members of that organization. S. 2441. Public Law 93–267, approved Apr. 12, 1974.

Disability compensation and survivor benefits.—Provides cost-of-living increases in the rates of disability compensation for service-connected disabled veterans ranging from 15 to 18 percent; provides a 15-percent cost-of-living increase in the rates of additional compensation for dependents for veterans whose disability is rated 50 percent or more; provides a 17-percent cost-of-living increase in the rate payable for dependency and indemnity compensation (DIC), for widows and children, and for additional allowances for those in receipt of DIC and death compensation in need of aid and attendance; extends longstanding presumption of service-connection for wartime veterans to those veterans who served between the end of World War II, December 31, 1946, and before June 25, 1950, the beginning of the Korean conflict thus according to Veterans of this period the same wartime presumption of service-connection; provides for the equalization of the rates of death compensation to the survivors of veterans of peacetime and wartime service where death occurred prior to January 1, 1957, thereby eliminating the distinction between the two periods of service; authorizes a study to be conducted by the Veterans' Administration and submitted to the Congress at the beginning of the 94th Congress of applications for DIC by widows of veterans who had a total and permanent disability at time of death; authorizes the Administrator to make monetary benefit payments to the beneficary upon the determination that the interest of the beneficiary would be served thereby, notwithstanding that a fiduciary has been appointed and regardless of any legal disability on the part of the beneficiary; and provides that the increases in disability, dependency and indemnity compensation shall be retroactive to May 1, 1974. S. 3072. Public Law 93–295, approved May 31, 1974. (VV)

GI bill benefits.—Extends for 30 days the 8 year delimiting date for which an eligible veteran discharged or released from active duty between January 31, 1955, and September 1, 1966, may utilize his educational assistance benefits. S. 3398. Public Law 93–293, approved May 31, 1974. (184)

Extends from 8 to 10 years the period of time following discharge or release from military service within which an eligible veteran may utilize his educational assistance benefits; excludes, in computing the delimiting date for those veteran-civilians held as prisoners of war, the period of time they were hospitalized immediately subsequent to their release; extends from 8 to 10 years the period for wives or widows to utilize their educational benefits under the GI bill; and amends the Vietnam Veterans Readjustment Assistance Act of 1972 (Public Law 92-540), to extend from 8 to 10 years the delimiting period for wives and widows eligible under the GI bill to utilize benefits first granted by the 1972 act. S. 3705. Public Law 93-337, approved July 10, 1974. (VV)

Life insurance.—Provides full time coverage under Servicemen's Group Life Insurance (SGLI) for all members of the Ready Reserve, National Guard, and certain members of the Retired Reserves who are under 60 years of age and have completed at least 20 years of service; provides for the automatic conversion of SGLI to a non-renewable 5-year term policy, the Veterans' Group Life Insurance (VGLI), effective the day coverage under SGLI expires for the veteran (120 days after discharge) and provides coverage under VGLI for any person whose coverage under SGLI terminated less than four years prior to the date the VGLI program became effective for a period equal to five years less the time elapsing between the two policies; increases the maximum amount of coverage under both programs from $15,000 to $20,000; authorizes the return of excess premiums paid by Korean conflict veterans for Veterans' Special Term Life Insurance as a dividend to the insured; allows the Secretaries of the Army and Air Force to permit allotments from the pay of members of the Air Force, who are not on active duty, to make payment for group life insurance premiums of programs sponsored by the State military department or State associations of the National Guard; and contains other provisions. H.R. 6574. Public Law 93-289, approved May 24, 1974. (117)

POW families, funeral transportation for.—Authorizes the Secretary of Defense to pay funeral transportation and living expenses for the families of prisoners of war who died while listed as a POW or MIA in Southeast Asia during the Vietnam conflict. S. 3228. Public Law 93-257, approved Mar. 29, 1974. (VV)

U.S. flag presentation.—Authorizes the presentation of a flag to the person designated to direct the disposition of the remains of any member who dies under honorable conditions who was in a Ready Reserve status or who had completed all of their requirements for Reserve retirement but who were not eligible to receive retired pay because they had not reached age 60. H.R. 5621. Public Law 93-292, approved May 28, 1974. (VV)

Veterans' and servicemen's automobile and adaptive equipment.—Amends chapter 39, title 38, U.S.C., to raise from $2,800 to $3,300 the maximum allowance for the purchase of specially equipped automobiles for eligible disabled veterans and servicemen; extends benefits under this chapter to veterans who served during the "peace time" periods between January 1, 1947, to June 26, 1950, and February 1, 1955, to August 4, 1964; improves a number of aspects of the program relating to the definition and provision of adaptive equipment; allows the VA Administrator to contract for driver training and arrange for areawide sharing of driver training personnel and necessary adaptive equipment needed when training is completed; urges the VA to request and expend all the funds necessary to achieve compliance with Public Law 91-666 which directed the VA to establish adaptive equipment safety standards; and authorizes the VA to carry out an expanded program of research and development in coordination with the Rehabilitation Services Administration in the Department of Health, Education and Welfare to carry out an expanded program of research and development in the field of adaptive equipment, adapted conveyances, and rehabilitation devices to help handicapped veterans become as independent as possible. S. 2363. P/S Oct. 11, 1974. (VV)

Veterans and survivors pension adjustment.—Amends title 38, U.S.C. to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation; increases the maximum annual income limitations for eligible veterans and their survivors receiving pension by $400 and provides an average 12 percent increase in the rates of pension; increases the maximum annual income limitations of "old law" pensioners by $400; increases the maximum annual income limitations by $400 for parents receiving dependency and indemnity compensation (DIC) and provides an average 12 percent increase in the rates for DIC; increases the allowances payable for those in receipt of pension in need of aid and attendance or who are deemed to be housebound by 12 percent; provides pension benefits for widows and children of certain veterans whose death occurred not in the line of duty but who had previous "honorable service"; authorizes a study by the Veterans' Administration of the economic situation in terms of income and needs of veterans age 72 or older to be submitted to the Congress not later than 120 days after the beginning of the 94th Congress; and provides that the Act will become effective on January 1, 1975. P/S Oct. 7, 1974. (VV)

Vietnam veterans education.—Liberalizes eligibility requirements for disabled Vietnam and post-Korean conflict veterans to receive training under the vocational rehabilitation program to equalize them with those in effect for veterans of World War II and the Korean conflict by increasing the monthly educational assistance allowances by 22.7 percent (an increase for the single veteran with no dependents from $220 to $270 for full-time institutional study) and increasing the monthly vocational rehabilitation subsistence and training assistance allowances by 18.2 percent; directs a study by the Veterans Administration of the desirability of a tuition assistance allowance program and a report to the President and Congress within 12 months; liberalizes the circumstances under which service-connected disabled Veterans training under the vocational rehabilitation program may qualify for individualized tutorial assistance by extending the maximum assistance period from 9 to 12 months and increasing the maximum assistance allowance from $50 to $60; provides up to 9 months additional entitlement to educational assistance for eligible veterans pursuing a standard undergraduate degree; authorizes up to 6 months of refresher training for veterans with current GI bill eligibility in order to update knowledge and skills in their fields of employment; liberalizes the veteran student service programs by raising the maximum work-study allowance from $250 to $500 to $625, increasing the maximum hours a Veteran-student may work from 100 to 250, removing any statutory ceiling on the number of veterans permitted to participate in this program, and limiting to $250 the amount of the work-study program which a veteran may receive in advance; establishes a veterans representative program to station a full time VA employee at each education institution where at least 500 veterans are enrolled; authorizes direct VA loans of up to $600 a year utilizing the same entitlement as applies to the VA loan guarantee revolving fund under section 1824 of title 38 U.S.C. to cover educational costs not otherwise provided for; extends chapter 41 benefits (job counseling, training, and placement services) to wives and widows eligible for educational assistance; and contains other provisions. H.R. 12628 (S. 2784). Public Law 93- , approved 1974. (252)

ORDER FOR ADJOURNMENT UNTIL 12 NOON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order on tomorrow, Mr. Scott of Virginia be recognized for not to exceed 15 minutes; that he be followed by the majority leader for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of Mr. Scott, and prior to the order for the recognition of Mr. Mansfield on tomorrow, Mr. Stevens be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the order for the recognition of Senators on tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE PRESIDENT PRO TEMPORE AND THE ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President pro tempore and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions during the adjournment of the Senate over to 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES DURING ADJOURNMENT

Mr. ROBERT C. BYRD. I ask unanimous consent that the Secretary of the Senate be authorized to received messages from the House of Representatives during the adjournment of the Senate over to 12 noon tomorrow.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 noon tomorrow. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Mr. *WILLIAM L. SCOTT*, Mr. STEVENS, and Mr. MANSFIELD.

There will then be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

If the President signs the continuing resolution, which has been dispatched rather expeditiously a little while ago, the Senate will meet tomorrow, have its speeches by Senators who are being recognized under the orders entered, and we will have morning business and then adopt the concurrent resolution adjourning the Senate and the House over until November 18.

If the President vetoes the continuing resolution, that resolution will be returned to the House of Representatives, in which it originated, and the House will attempt to override. If the House overrides the President's veto, the Senate will then attempt to override the veto.

In the event that either House fails to override the President's veto, the House of Representatives, presumably, would then begin work on another continuing resolution, in which event rollcall votes probably would occur in the Senate.

So, Mr. President, prospects for rollcall votes in the Senate tomorrow are good in the event the President vetoes the continuing resolution. In the event he signs it, I would not anticipate any rollcall votes.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 noon tomorrow.

The motion was agreed to; and at 6:22 p.m. the Senate adjourned until tomorrow, Thursday, October 17, 1974, at 12 noon.

NOMINATION

Executive nomination received by the Senate October 16, 1974:

DEPARTMENT OF STATE

Charles W. Robinson, of California to be Under Secretary of State for Economic Affairs, vice William J. Casey.

EXTENSIONS OF REMARKS

THE "FOOL" ADJUSTMENT CLAUSE

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, October 15, 1974

Mr. METCALF. Mr. President, reports of abuse of fuel adjustment clauses by electric utilities are increasing. Customers are being taken by utilities which use the clauses to gouge out extra overcharges. Administration and utility spokesmen continue to laud the fuel clauses. They even advocate expansion of automatic clauses to other operating costs as well.

The trend should be the other way. Automatic clauses remove basic issues from ratemaking. They encourage waste and profligacy—why economize on a cost if it can be automatically passed on?

The utilities can logically reason that if the public and the regulators are foolish enough to let them use automatic clauses, they—the utilities—will make the most of it. And they have, most recently in Connecticut.

There, Fred A. Gardiner and Senator George L. Gunther have calculated that the use of an obsolete efficiency factor by United Illuminating cost Connecticut consumers some $7 million last year. The utility admitted the obsolescence of its fuel clause, contending righteously that it was up to the regulatory commission to notice and adjust the outdated data. But Connecticut's commission chairman does not know if the commission has the responsibility for adjustment. In other States questions have also arisen regarding the authority of State commissions in relation to automatic clauses. In some States the ratemaking authority may actually have been delegated to the utilities.

A thoughtful and informative study, "Automatic Adjustment Clauses Revisited," has been issued recently by the National Association of Regulatory Utility Commissioners. This paper represents the consensus of the NARUC Subcommittee of Staff Experts on Economics. The story of how United Illuminating profits from its "fool adjustment clause" appeared in the September 13, October 2, and October 3, 1974, issues of the Bridgeport, Conn., Post. A third article, entitled "Abusing the Rate System," appeared in the October 1974 issue of the Elements, a new Washington-based monthly edited by James Ridgeway.

I ask unanimous consent that these articles appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AUTOMATIC ADJUSTMENT CLAUSES REVISED

(By Subcommittee of Staff Experts on Economics) [1]

(This paper represents the consensus of the NARUC Subcommittee of Staff Experts on Economics. The opinions and conclusions, however, do not necessarily reflect the views of each individual member or the views of the several State and Federal regulatory Commissions with staff representation on the Subcommittee. The paper has not been submitted to, or approved by, the NARUC Committee on Accounts.)

In the past several months, fuel prices have escalated dramatically. As they have risen so, in many instances, have electric rates, as a consequence of an automatic pass-through of fuel costs permitted by most states. The sudden rise in electric bills have aroused a storm of protest around the automatic adjustment clause. The Subcommittee, therefore, has revised and updated its earlier paper on the subject for the information of NARUC members.[2]

An automatic adjustment clause (AAC) is a provision in a utility company's tariff by which a change in a selected cost item will automatically change rates charged consumers. The most common forms of adjustment clauses are based on fuel costs in the cast of electric utilities and purchased gas cost in the case of gas utilities. Automatic clauses have also been utilized for wages, taxes, and other such easily identifiable cost items. This paper is not concerned with automatic rate increases that may occur for other reasons—such as an increase in telephone calling scope, or with rate changes that are supported by full cost-of-service presentations, or that require Commission approval before they become effective.

AUTOMATIC ADJUSTMENT CLAUSE ADVANTAGES

1. During a period of inflation automatic clauses protect a company's rate of return from the impact of a rapidly changing cost item by reducing the time lag between changes in cost and the collection of compensating rates. The reduced "regulatory lag" can be important in protecting the bond rating of utility companies and thus their ability to raise capital.

2. During a period of declining costs, AAC may help to prevent an unreasonable enhancement of the company's rate of return pending formal commission action requiring rate reductions or voluntary filings of lower rates by the company.

3. These clauses ease the administrative burden on the regulatory body and reduce the cost of regulation assessable to the utility, as well as the utility's own regulatory expense, by eliminating repetitive tariff petition filings over a short time period. These adjustments also replace the need for full scale hearings by an automatic procedure that allows tariff changes to compensate for known and easily audited changes in specific cost items.

AUTOMATIC ADJUSTMENT CLAUSE DISADVANTAGES

1. Automatic adjustment clauses give undue weight to a single cost item while ignoring other cost items thus possibly distorting the overall relationship of rates to costs. That is automatic clauses may conflict with the goal of holding rates to a just and reasonable level unless the change in the item selected for adjustment parallels the change in the total cost of service.

2. These clauses pass on to the consumer increased costs without allowing for compensating economies that may accrue from economies of scale, improved technology, or other sources of higher operating efficiency. For example, in the case of fuel adjustment clauses, fuel costs may rise, but may be more than balanced by operating economies accruing from greater labor productivity.[3] Despite these cost offsets the consumer would be required to pay higher rates. Thus, AAC

Footnotes at end of article.

may generate excess earnings for those companies able to achieve cost reductions through enhanced labor and plant productivity. At the present moment, under inflationary conditions, compensating economies are not a problem, but could be over the long term, as they have beer in the past.

3. When cost increases can be passed on to the consumer quickly and easily, there is a tendency to dampen the company's incentive to seek a lower cost supplier or bargain for a better fuel price or better wage settlement, etc. As a consequence, the clauses may result in avoidable price escalation for the adjustable item.

4. A profusion of automatic adjustment clauses will rob the utility of its incentive to operate efficiently and may in fact become a subsidy for inefficiency. In an instance where a company is permitted to adjust for fuel costs, wages, taxes, and possibly other items, the utility in effect is operating under a kind of "cost plus contract". The company has no need to be efficient since the costs of inefficiency can be passed on to the consumer quickly and without regulatory interference. This is not true when a single item such as fuel is covered under an automatic adjustment clause.

5. In a period of rapidly rising costs, AAC's may bias the selection of fuels or production methods in favor of those costs covered by the clauses.

FUEL ADJUSTMENT CLAUSES

As an example of automatic clauses we can consider those used for fuel cost adjustments. Such clauses tend to put great emphasis on changes in fuel cost while minimizing the importance in changes in administrative, interest, and maintenance costs, as well as changes in capital or rate of return. Many automatic adjustment fuel clauses do not take account of changes in the heat content per ton of fuel with consequent changes in cost per Btu, nor of changes in technical efficiency or economies of scale which might tend to offset fuel cost increases. Quite often these clauses will also ignore mitigating cost circumstances that may result from use of more than one method of electric power generation (e.g., hydro, nuclear, fossil fuel) with consequently different fuel efficiencies. As a consequence, even though a given fuel price may rise, total fuel costs may not reflect an equivalent increase. In addition, automatic fuel cost adjustments may bias the selection of alternate production methods, such as nuclear plants, or equipment decisions requiring evaluation of a trade-off between fuel and capital costs.

There is presently a great diversity of automatic fuel adjustment clauses with some states allowing rate adjustments for specific customer classes only, such as industrial consumers, and others applying the change uniformly. The merits of this type of selectivity deserves careful study. The true impact is likely to be felt by the ultimate consumer rather than the AAC selected customer.

In 1974, 39 states have such clauses in effect. It is our understanding that only Alabama, Alaska, Connecticut, Idaho, Nebraska, North Dakota, Oregon, Utah, Vermont, Washington, and Wyoming do not permit fuel adjustment clauses. In addition, one state (North Carolina) has permitted the adjustment on a temporary basis subject to hearing.

An FPC survey as of January 1, 1974 showed that 65% of the larger privately owned utilities had fuel adjustment clauses in their residential schedules, 77% had such clauses in their commercial schedules, and 83% in their industrial schedules. This compares with 35%, 58% and 72% in January 1970.

Aside from electric utilities, truckers and railroads have, in some instances, been permitted to add a surcharge to existing tariffs in order to cover increased fuel costs. These are not true AAC's. The CAB has permitted the airlines to pass through fuel costs with respect to military rates, but requires the filing of exceptions from tariffs for commercial rates.

All clauses, however, should take account not only of fuel price, but also fuel heat content, the trend of company heat rate, the proportion of purchased power, the generating mix, and all other operating conditions affecting the company's use of fuel. It may also be appropriate to permit the recovery of only a limited portion (say, 90%) of increased cost. Such a limitation has the advantage of preserving the utility's incentive to bargain for cost reductions.

The importance of this incentive is indicated by Table 1. Close to 23% of revenue collected from consumers is attributable to fuel costs. This represents a substantial increase from 18% in 1968, and clearly shows the impact of escalating fuel costs on the consumer, and the potential danger of permitting an automatic pass-through without careful regulatory surveillance.

TABLE 1.—PERCENTAGE OF FUEL COST FOR VARIOUS CLASSES OF ULTIMATE CONSUMERS AS A PROPORTION OF REVENUE FOR THOSE CLASSES OF CONSUMERS

	1972	1971	1970	1969	1968
Residential	17.5	17.5	15.6	13.5	12.8
Commercial	18.4	18.4	16.6	14.5	13.9
Industrial	36.5	36.8	34.0	30.5	29.6
Miscellaneous	21.6	20.9	18.9	17.3	16.5
Total	22.8	22.8	20.7	18.3	17.6

Possible legal problems

In a recent case by an electric power company before a state commission requesting approval to utilize a fuel clause adjustment as a means of coping with rising fuel costs the question arose as to the legality of a state regulatory agency having the authority to approve a fuel clause adjustment. Many states have permitted a fuel clause adjustment and under some state regulatory statutes the authority may be specifically granted the regulatory agency to delegate its rate making authority *via* the automatic adjustment clause vehicle. However, in lieu of specific statutory authority the legality of an automatic adjustment clause of any kind becomes an important factor for the regulatory agency to consider when confronted with a request for the approval of these type clauses.

In the case of a recent power company's request to a state commission for authority to invoke an automatic fuel clause adjustment the argument against the agency having the legal authority to grant the request by the power company ran thusly:

"The effective result of the proposed filing, if granted by the commission, would be to delegate solely to the power company and its suppliers of fuel who enter into private contracts with the power company, the power and authority to determine the level of charges to be made by the power company for electric service sold and distributed to, the using and consuming public, and various state agencies which purchase said electric service from the power company.

"In support of the foregoing, the Attorney General argued that the power to fix and regulate the reasonable rates and charges to be made for such service is vested solely in the commission. It was further contended that this rate-making power is a delegable power and duty which has been delegated solely to the commission by the state General Assembly, in the exercise of the states' police powers and no further delegation of the rate-making power of the state is authorized; and that the using and consuming public would be deprived of the money it pays for electricity by a state franchised monopoly without due process of law."

Aside from the economic disadvantages enumerated previously, all regulatory agencies should also carefully consider the legality of automatic adjustment clauses when deciding whether or not to permit their implementation.

CONSERVATION ADJUSTMENTS

A more recent automatic adjustment request has dealt with the subject of conservation. In the main, requests for additional revenue to compensate for reduced earnings because of decreased usage have been filed within the context of traditional rate cases. Thus such requests will be subject to the adversary process and not automatically passed through to consumers.

In January 1974, however, New England Power Co. requested the FPC to establish an AAC to compensate for the effect of energy conservation on its earnings. This request was denied in February 1974.

In this paper we will deal solely with the propriety of using AAC to compensate for conservation losses rather than with the overall issue of compensation for such losses.

Any effort to use AAC as a vehicle to compensate for conservation must recognize the extreme difficulty of separating the conservation component from the impact of milder weather and reduced business activity. It should be kept in mind that a prime qualification for AAC is the ability to easily determine the change in cost and to easily audit such changes. This quality is lacking from the conservation issue.

Aside from this mechanical problem is the issue of whether the consumer should be automatically assessed for doing what he has been asked to do at some inconvenience and discomfort to himself. On the other hand, some method of recouping fixed costs is required if the financial health of the industry is to be maintained.

The conservation phenomena, however, is of recent history. We, therefore, are unable to judge the extent and duration of the problem. To apply an automatic adjustment to a cost element that may be of short duration is to confuse the issue. Better to determine who shall pay the bill for the consumers cooperation, and how much, within the context of a rate case. In that way all of the evidence can be carefully weighed and the basic issues resolved in an equitable fashion.

RECOMMENDATION

It is recommended, therefore, that adjustment clauses, when believed advantageous to a commission, should be weighted to reflect the relative importance of the particular item in the company cost structure, and should include provisions compensating for economies that may accrue from improved managerial efficiency, technological innovation, or economies of scale. In addition, it is advisable for an adjustment clause to include other safeguards, such as a requirement for periodic cost-of-service submissions for commission review, in order to minimize the risk of the companies having excess earnings for an extended period.

Automatic clauses should also be operable in two directions. That is, AAC should be permitted to track increases during periods of rising costs and decreases during periods of declining costs, rather than be used solely during inflationary periods.

In view of the technical problems involved in designing an appropriate fuel adjustment clause, it would be desirable for NARUC to prepare a model fuel clause for adoption by regulatory commissions.

Automatic adjustment clauses should be sanctioned only after careful consideration of all relevant factors from the standpoint of the commission's regulatory responsibilities.

[From the Bridgeport (Conn.) Post, Sept. 13, 1974]

Says Utility, U.S. Agency Differ on Levy Formula—$7 Million Fuel Cost Overcharge by UI Seen by Oil Consultant

An oil industrial consultant with more than 30 years of business experience said today that a study he has made indicates the United Illuminating company overcharged its customers by about $7 million on the fuel cost adjustment charge during 1973.

In a prepared address Fred A. Gardiner, formerly an oil company executive told members of the Bridgeport Exchange club at its meeting in the Stratfield Motor hotel that "less oil was used in the generation of electricity by the UI company than was charged for in the fuel adjustment charge."

He said that figures supplied to him by the Federal Power Commission and the UI company on the number of heat units needed to generate one kilowatt hour of electricity shows a discrepancy, with the FPC figures showing a lower number of units needed than those figures provided by UI.

"Now, the question is, who is right? UI or the FPC," Mr. Gardiner asked.

Mr. Gardiner said that the fuel cost adjustment charge "has been going on for some two and one-half years."

Taking the year 1973 as an example, the oil consultant said: "UI charges each kilowatt hour with 12,400 units of oil, due to their claim that it takes this number of heat units to make this kilowatt hour.

"I have a letter from the Federal Power Commission on the efficiency of UI's generation. The Table of Generating Plant Statistics that was sent to me indicates that the efficiency of the UI operation is 11,433 heat units to a kilowatt hour.

"This is 967 heat units less per kilowatt hour than we have been charged for under the UI formula," Mr. Gardiner added.

"This 967 heat units per kilowatt hour is a sizable item; 967 heat units multiplied by the 4,381,100,000 kilowatt hours produced amounts to a lot of barrels of oil and a lot of money."

He said what it all amounts to is "706,087 barrels of oil and, at $10 a barrel, about $7,060,870."

"If the FPC's figures are correct then it is fair to assume there has been a sizable overcharge" to UI's customers for the year 1973.

The oil industry consultant said that "the UI fuel adjustment is three times higher than the fuel adjustment of the other two Connecticut utilities, Helco and Connecticut Light and Power company."

Mr. Gardiner said his study shows that UI claims it pays more for oil than Helco and CL&P and that they use more oil in generating electricity.

He said that the 12,400 heat units of oil for each kilowatt hour claimed by UI "is very high, and in fact in the New England Statistical Bulletin, which shows the efficiencies for the past ten years in Connecticut and gives averages, there are no figures as high as 12,400.

"The 12,400 seems a lot of heat units to be used to make one kilowatt hour, but that is what UI states it takes and that is what your fuel adjustment figure is predicated on," Mr. Gardiner added.

Mr. Gardiner said that his study will be turned over to state legislators and the state Public Utilities Commission.

"I make no charges; what I am giving you here is the facts of the situation I uncovered by studying available data," the oil industry consultant added.

Another issue raised by Mr. Gardiner in his talks was the question of how efficient electric heating is compared to home oil heating.

"Angus Gordon, chairman of the board of the UI company before the Public Utilities commission during his giving of testimony in an effort to get a rate increase for UI, stated that from a conservation point of view the use of oil for home heating was unsound and should cease.

"Now, Mr. Gordon with his salary from UI of $73,500 per year might be able to afford electric heat, I would like to ask Mr. Gordon just what heat he would recommend for the American homeowner, the commercial building or even industry."

Mr. Gardiner said: "If he doesn't know, from a conservation point the electrical utilities waste over 60 per cent of the heating oil that they have been using for generation, if he is concerned with Conservation (of energy) perhaps he will recommend that using oil for on-site home heating is the most dependable, safest and by far the most economical type of heat commercially offered today."

Continuing, Mr. Gardiner said: "With low and middle income families being forced to watch their budgets during this inflationary period, I must wonder what type of fuel he would recommend they use for home heating. His statement, made by a man holding such an influential position in business, is not only surprising, it is ridiculous.

"Electric heat was, is, and will continue to be anywhere from three to six times as expensive as on-site oil heat. He knows that on-site oil heat will net 80 per cent efficiency at the boiler or furnace while the best generating plants in the country are under 38 per cent and UI here in Bridgeport is only 27.5 per cent efficient."

Mr. Gardiner said that "Mr. Gordon knows the best way to conserve oil is to start with utility waste. The electric utilities should be mandated immediately to stop the installation or sale of any new electric heat. This is a waste of natural resources we cannot afford. Electric heat uses exactly 2,543 times the oil that on-site oil heating would take."

"Also, in the generation of electricity over 300,000 barrels of oil a day are consumed, which is more than the on-site oil heated home is asked to conserve."

Commenting on the overall "energy crisis" in the area, Mr. Gardiner said: "In January, 1970, when the long overdue clean air laws were enacted, controlling the emission from the utilities' stacks, it was fair to expect that the utilities would take steps to modernize and coninue to burn coal as they were then doing, but under controlled conditions to control the emission.

"This could be accomplished by installing so-called scrubbers in their stacks and taking other modernization measures. But what happened? With much haste the coal-handling equipment was dismantled and they turned to buying of low sulphur or home heating oil to generate their electricity, and received permission from the public utilities commission to pass along any cost over a low base price to the consumer in the form of fuel adjustment.

"The higher cost method of generating electricity did not affect the utilities themselves, it only affected the cost to the consumer," Mr. Gardiner added.

PUC Aware "for Several Weeks" of Possible Utility Overcharges

As the state Public Utilities commission prepared for a detailed review into the accuracy of electricity fuel adjustment charges (FAC) during a public hearing here tonight, Commissioner Richard R. Stewart admitted for the first time that the PUC has been aware "for several weeks" of possible overcharges by the state's utilities.

Commissioner Stewart will preside at the hearing tonight at 6:30 o'clock in the Common Council chamber.

Stewart made the statement on the heels of a claim by Mrs. Ella T. Grasso, the Democratic gubernatorial candidate, the overcharges amounted to $15 million in three years the adjustment has been computed.

Stewart said the formula used to determine the adjustments has been under study, and the PUC is considering removing from it the factor that caused the alleged overcharges.

He said that when questioned as to the efficiency factor during previous hearings, officials of the United Illuminating company claimed that the PUC had permitted the utility to use a lower efficiency factor "as an incentive to strive for better efficiency in its generating plants" and to absorb any additional revenue which might result.

This would mean that any additional fuel adjustment income would be absorbed by UI instead of resulting in lower FAC for its customers.

Stewart said that, if what the UI officials claim is true, it brings up an important legal question—whether the PUC can order the utility to refund any overcharges.

"At this point," the commissioner said, "I can hardly discuss how any overcharges might be refunded before it has been substantiated as to whether any overcharges were made, or whether—if there were overcharges—they were done with the permission of the Public Utilities commission."

"These are the things which must be carefully explored tonight," the commissioner said, "and we also will be considering the removal from the formula for computing FAC the factor which might have caused the alleged overcharges."

Mrs. Grasso, echoing charges that were first made some weeks ago by Fred A. Gardiner, of Fairfield, a veteran oil industry consultant and State Sen. George L. Gunther, R-Stratford, said that a private study she has made shows that all three power companies (UI, Connecticut Light and Power company and the Hartford Electric company) have improved their efficiency by a minimum of 7.3 per cent in the past year.

She estimated that UI has overcharged customers in computing FAC with the lower efficiency factor by $3,711,980; Connecticut Light and Power by $4,070,239; and Hartford Electric by $3,151,194, all in the past year.

Mrs. Grasso estimated overcharges for all three power companies was $11 million in the last six months of 1973 and the first half of 1974.

At Tumultuous 4-Hour Session—PUC Told UI Aware a Year of Oil Billing Discrepancy

(By Jeffrey T. Williamson and John S. Schwing)

A top United Illuminating company official conceded under questioning last night at a public hearing in City Hall that UI has been aware for more than a year that it was using less oil to generate electricity than the amount for which customers were billed under the present fuel cost adjustment charge.

Leon A. Morgan, UI vice president for power plant operations, told state Public Utilities Commissioner Richard R. Stewart that the company's generating efficiency had increased since the fuel cost adjustment charge was computed in 1971.

"Did you at any time inform the PUC of this discrepancy?" asked Commissioner Stewart.

"Not to my knowledge," Mr. Morgan said.

Both Aware of Discrepancy a Year Ago—PUC's Duty to Have Corrected Overcharges, UI Official Says

In the wake of a stormy public hearing last night in City Hall here on the accuracy of fuel adjustment charges (FAC), Howard E. Hausman, chairman of the state Public Utilities commission, admitted today that the commission was aware for more than a year that improved generating efficiency by the United Illuminating company was resulting in overcharges to the utility's 270,000 customers.

During cross examination at the hearing, a UI official said the company also was aware the FAC charges were being computed on an obsolete efficiency factor, but he contended it was the PUC's responsibility to rectify overcharges on the basis of UI's monthly reports to the commission.

However, Mr. Hausman said it was a question whether it was the PUC's duty to correct UI's monthly formula.

He said the PUC "probably would lose no time" in deciding where the responsibility rests as soon as hearings have been completed. It can then be decided, he said, whether the UI can be required to make refunds.

Another public hearing on the FAC of the Connecticut Light and Power company is scheduled tonight in Waterbury and another session is slated for next week on the Hartford Electric charges.

During the hearing here last night, presided over by Commissioner Richard R. Stewart, Leon A. Morgan, UI vice president for power plant operations, said the company's generating efficiency had increased since the fuel cost adjustment charge was computed in 1971.

"Did you at any time inform the PUC of this discrepancy?," Commissioner Stewart asked.

"Not to my knowledge," Mr. Morgan said.

UI president John D. Fassett said, however, that under the terms of the FAC the utility was not required to give the PUC a running update to account for changes in operating efficiency.

He said the PUC staff, through examination of monthly fuel reports, was aware of the company's increase in generating efficiency and had done nothing to recompute the FAC.

Although three PUC commissioners had been assigned to conduct the UI-FAC hearing, only Commissioner Stewart attended.

A PUC spokesman said today Commissioner Gerald J. McCann was on an extended vacation, and he did not know why Commissioner Raymond S. Thatcher was not present last night. Mr. Thatcher could not be contacted.

A statistical report was submitted by letter at the hearing by State Sen. George Gunther, R-Stratford.

Senator Gunther, using UI efficiency generation figures researched by Fred A. Gardiner of Fairfield, a veteran oil industry consultant, offered the same evidence of UI overcharges at the utility's rate hike and FAC hearings months ago.

The PUC took no action at those times.

Senator Gunther offered the same statistical evidence by letter at the hearing last night.

U.S. Rep. Ella Grasso has asked for the abolition of the PUC because "it has not protected the public interest." She has charged that Connecticut's three utilities have overcharged customers by $11 million in a year ending last June 30 and $15 million over a three-year period.

Last night a spokesman for Mrs. Grasso, appearing at the hearing, called on UI to indicate whether it was willing to return an estimated $5.7 million which she said it has overcharged in the last three years.

Commissioner Stewart had said earlier in the day that the commission could not discuss whether refunds must be made by utilities for overcharges until it can be determined whether overcharges had been made.

The UI president, Mr. Fassett, said last night that UI is only required to update the adjustment charge when it applies for a general rate hike. This, he said, the company has done in connection with its current $11.6 million rate hike, now before the PUC.

Senator Gunther's statistical data, spelled out in detail the discrepancy between the generating efficiency factor given to the PUC by UI originally and a figure given for the same year by UI to the Federal Power Commission (FPC). The latter figure indicated a much higher efficiency.

Using figures researched by Mr. Gardiner, Senator Gunther, in his latter report, showed that UI reported to the PUC a factor of 12,400 heat units (BTUs) to produce each kilowatt hour of electricity when, in fact, it was using only 11,800 BTU's to generate a kilowatt hour of electricity—a difference of 600.

Senator Gunther wrote that in a test year, this difference resulted in an overcharge of 458,381 barrels of fuel oil, which at an average cost of $10 a barrel, would have resulted in a money overcharge of $4,583,810 to UI customers.

The senator's letter also cited in detail the comparison of UI's basic efficiency reports with other utilities, statewide and nationwide, indicating that it had reported efficiencies substantially lower than all other New England utilities and lower than the average of all of the nation's power companies.

Throughout the hearing, Commissioner Stewart was criticized for the way the session was being run, from people who wanted the opportunity to deliver prepared statements, from those seeking to cross examine UI officials and from others who complained they had not been properly notified of the session.

Although the hearing was originally planned for cross examination of UI witnesses only, Commissioner Stewart eventually acceded to demands of several political candidates and area citizens and opened the session for public statements.

The result was that the cross examination period lasted less than a half-hour, during which the PUC staff members and Commissioner Stewart were repeatedly interruped by members of the crowd, some of whom had filed to cross-examine and others who had not.

Commissioner Stewart, who is one of the two new men appointed by Governor Meskill in June when the PUC was expanded from three to five members, agreed before the hearing was over to schedule another session, but he did not specify when or where.

In the hotly disputed matter of scheduling another public hearing on the fuel cost charges, PUC Consumer Counsel David Silverstone indicated he would file a motion with the PUC, requesting the session be conducted at nighttime somewhere "within the service area" of the UI.

He added, however, he would probably not request Bridgeport specifically as the hearing site in his motion to the commission. Therefore, if the commission accepts the Silverstone motion, it could conduct the meeting in New Haven.

Last night's session was a continuation of the fuel cost hearings that opened in July in New Haven. That session was devoted to public comment.

Commissioner Stewart drew noisy criticism on his decision to open last night's hearing to general public comment.

Announcing the action after the one-half hour cross-examination, the commissioner explained his decision, saying, "people didn't leave their homes to listen to a lot of mumbo jumbo."

Among those protesting the commissioner's action most strongly were Louis Cantafio, of Milford, and Dr. Edward J. Deak, of Stratford, Democratic candidate for the state Senate in the 21st district.

Both charged Mr. Stewart "deceived" intervenors and "cheated" them of the opportunity to question UI officials.

In later remarks, Dr. Deak described the hearing as "a circus" and said he was "outraged" at Mr. Stewart for allowing the session "to degenerate into a public forum."

State Sen. J. Edward Caldwell, D-Bridgeport, candidate for state comptroller on the Democratic ticket this November, was the first of about 15 speakers in the open portion of the meeting.

Senator Caldwell delivered a prepared statement from Congresswoman Ella T. Grasso, the Democratic gubernatorial nominee, in which Mrs. Grasso charged that UI had overcharged customers $5.7 million since 1971, when the current fuel cost adjustment was computed.

State Rep. Samuel Liskov, D-Bridgeport, renewed his request that utility company funds be held in escrow until the fight over the fuel adjustment formula and charges of utility overbilling are resolved.

Otherwise, he asked, "what guarantee will the public have that these charges, that may have been illegally imposed, won't be returned?"

Allan E. Berwin, alderman in the 135th district, and Republican candidate for state representative in the 131st Assembly district against Rep. Liskov, called for the election of future members of the PUC.

Two representatives of the Taxpayers Association of Bridgeport, Daniel Domogala and Arthur DelMonte, critized UI's spending policies, charging the utility with extravagant executive salaries and deliberately confusing the formula for assessing the fuel cost charges.

They joined other speakers who called for a public audit of the UI financial records.

Former Democratic mayoral candidate William E. Mullane said his anti-fuel cost remarks were aimed at putting him "on record against the apparent illegal profit" which he claimed utilities have earned through the billing formula.

LEGISLATOR BACKS ASSEMBLY CALL ON OVERCHARGES AND REBATES

(By Alan E. Schoenhaus)

HARTFORD.—House Majority Leader Gerald F. Stevens, R-Milford, said today he will support an effort to get an immediate special session of the legislature to investigate possible fuel cost adjustment overcharges by utilities and mandate refunds if necessary.

Rep. Stevens said that if the PUC confirms the validity of recent news articles concerning the overcharges, and if the PUC does not order customer rebates or credits, he will request a special session to "rectify" the problem.

His statement comes in the wake of recent news stories in The Bridgeport Post and elsewhere indicating that one of the factors used by major utilities in computing the FAC, does not properly reflect improved efficiencies in the generating of electricity that have lowered the amount of oil needed to generate a unit of power.

Congresswoman Ella T. Grasso, the Democratic gubernatorial candidate claimed Tuesday that the state's three major utilities have been overcharging their customers by some $15 million over a three-year period, as a result of the use of an obsolete efficiency factor.

Rep. Stevens said today, "the fuel cost adjustment has had a serious credibility gap with the public right along and these latest and very serious charges have understandably shaken whatever confidence the public has had in the utility companies and even in the PUC.

"I think it mandatory that the elected officials of this state act to restore that credibility and to show the consumers that, while mistakes may be made, their government stands ready to make it right," the Milford Republican said.

Congressman Robert H. Steele, the GOP gubernatorial candidate, said today that he favors the establishment of an immediate program to deal with the fuel cost adjustment problem, but expressed doubt that proposals advanced by his Democratic opponent are adequate to resolve the situation.

Congresswoman Grasso has suggested, among other things, that the PUC be abolished, and replaced with a regulator agency "more responsive" to the need of the public.

UTILITIES—ABUSING THE RATE SYSTEM

Fuel adjustment clauses are among the worst features of utility regulation. Several companies have found ways of charging nonexistent costs to their customers through these clauses. For example, one company—Massachusetts Electric—which bills its customers every other month has been charging February's fuel costs on January's bills. Other companies have been able to charge increasing coal costs in rates for power generated by nuclear plants. Virginia Electric Power Co. is an example. Utilities which own coal mines can charge themselves higher prices for the coal, then pass along the profits through the fuel adjustment clause to the coal operation.

Most important, the fuel adjustment clause has eliminated the power companies' incentives to bargain for lower fuel prices. Thus, the coal and oil industries have been able to double and triple fuel prices with virtually no resistance from the power industry.

Adjustment clauses for other expenses also have been abused by utilities. For example, many utilities have been plagued by operating difficulties in nuclear plants and have been forced to purchase power from other utilities. Some utilities are able to pass on the cost of purchased power through an adjustment clause. Thus, the unwilling customer is forced to pay for a utility's mistakes with no review by the regulatory commission.

Utilities should be permitted to increase rates to cover increased costs of providing electricity. However, all cost increases should be subject to regulation to insure that they are valid.

Many utilities are requesting new regulatory procedures which would help them to increase rates. Normally a company's rates are based on its actual costs during the year preceding its request for a rate increase. But recently several commissions have allowed rate requests to be based on a "future test year." Thus, the utility is allowed to claim expenses which have never been verified. Consumers fear that this type of regulation will result in self fulfilling prophesies of higher electric rates.

Other utilities have been allowed to include "construction work in progress" in their rate bases. The Georgia Power Company is an oft-cited example. This permits the utility to earn a return on equipment which is not in use. Instead the utility should calculate the cost of its capital tied up in construction (allowance for funds used during construction) and place this sum in the rate base when the plant goes into service. Otherwise, the utility would be able to charge present customers for future power plants.

The percentage of electric utility taxes going to federal income taxes declined from about 13 percent in 1956 to 2.6 percent in 1973. This was made possible by frequent new tax loopholes such as accelerated depreciation and investment tax credits. By last year, 39 power companies paid no federal income tax at all. However, 22 of these companies continued to charge their customers for federal income tax. These revenues, totaling $119 million, will accrue to the benefit of the stockholders. Heading the list of evaders was Georgia Power, which paid more than $30 million in "taxes" to its stockholders. Other companies allocating large amounts of money that ought to have gone as taxes to stockholders included Northern States Power, Carolina Power & Light, and Public Service Electric & Gas.

The tax gimmick is perfectly legal and called "normalized" accounting. It involves keeping two sets of books—one for the state utilities commission and the other for the Internal Revenue Service. This way a utility can take federal tax credits without passing them on to the customer.

Any utility commission can put a stop to normalized accounting. You can attempt to persuade your state commission with detailed information on your local utility. The list of actual tax payments (or credits) is available from the Senate Budgeting Subcommittee, 161 Russell Senate Office Building, Washington, DC, 20510. The federal income taxes charged to customers is on page 114 of the Federal Power Commission's Form 1, the annual report filed by each utility. It is the sum of lines 12, 14, 15 and 16.

CITIZENS RATES

Citizens in Wisconsin recently won another major victory in the battle to reform electric utility rate structures. On August 8, 1974, after two years and some 3,000 pages of testimony, the Capitol Community Citizens and the Environmental Defense Fund (CCC–EDF) succeeded in wresting a favorable and significant decision from the Wisconsin Public Service Commission on the Madison Gas & Electric (MG&E) Company's rate structure. The Commission ordered essentially flat rates for MG&E's residential customers, and instituted a rate differential between summer and winter designed to discourage summer air conditioning use for all customers. In adopting flat rates, the Commission rejected traditional declining block rates, whereby large users pay less per unit for their electricity than do small users. With flat rates, customers pay a fixed charge to cover customer costs and a single rate for all units of electricity consumed. Calling the MG&E battle a "national test case on electric rate design," the Commission's Chairman declared that "rate differentials which benefit large-volume users . . . are generally not justified; and in the future it will be incumbent upon those utilities advocating retention of such rate design features to clearly demonstrate their cost justification." Commercial and industrial rates were also flattened substantially, while revenue responsibility was generally shifted from commercial customers to industrial users.

Perhaps the real significance of the MG&E case lies in the Commission's adoption of the principles of long-run incremental cost and incremental cost pricing as the "touchstones" of its ratemaking policy. Long-run incremental cost [LRIC] is the additional cost of building new plants and providing electricity over the next several years. LRIC-based pricing schemes are designed to discourage wasteful energy use and to promote the most efficient allocation of resources by insuring that those uses placing the greatest demands on the system will pay the true costs of such consumption. Those who push the system to expand will pay more for their electricity, because today it costs a utility much more to provide service if it has to build and operate extra capacity.

The Wisconsin Commission found the best approximation of the LRIC pricing concept in use to be a peak load pricing system such as time-of-day pricing. Taking flattened rates and summer/winter rate differentials as a point of departure, the Commission hopes to institute a time-of-day metering system. Under such a system, rates could vary with the time of day so that customers using electricity at peak hours would pay the higher costs associated with meeting peak demand. Conversely, customers would be rewarded with lower rates for shifting their use to off-peak times.

Other states have also been very active in reforming electric utility rates. To date, promotional rates have already been attacked with some success in at least 20 states, and citizens continue to press for further restructuring in these and many other states. Probably the most significant precedents came from New York and Michigan last fall. The New York Commission ordered flat rates for Consolidated Edison's residential and certain commercial customers. (See Case No. 26309, Opinion No. 73–31, Sept. 6, 1973.] The Michigan Commission has also flattened rates completely for many of the state's residential users of electricity and gas. [For example, see Re Detroit Edison, Case No. U–4257, Jan. 4, 1974.]

Support for rate structure reform also continues to build at the federal level. The Federal Power Commission is considering revision of wholesale electric rate designs, and the Commission's Chairman John Nassikas recently called for flattening of utility rate structures and urged experimentation with time-of-day metering and peak load pricing. John Sawhill, head of the Federal Energy Administration, also recently endorsed peak load pricing as a way of lowering capital costs and consumer rates.

For the latest information on the Wisconsin Public Service Commission's rate design policy, request copies of the orders and related opinions in Madison Gas & Electric cases 2–U–7423 and 2–U–7952, dated Aug. 8 and 29, respectively, from 432 Hill Farms State Office Building, Madison, WI 53702. The Environmental Defense Fund, which played a vital role in the MG&E case, has announced that it is willing to share its data, computer programs and expertise on rate structures with anyone interested. For further information, contact Dr. Ernest Habicht, Director of EDF's Energy Program, at (516) 751–5191 (O) or (516) 473–7388 (H). And for a good discussion of peak load pricing, see "Electricity Price Regulation: Critical Crossroads or New Group Participation Sport," by Dr. Charles Cicchetti in the Aug. 29, 1974 issue of Public Utilities Fortnightly.

BRIEFS

An upstate New York conference of utility organizers and researchers is scheduled at Ithaca in late October or early November. Contact Jim Schmidt, Human Affairs Program, Cornell University, Ithaca. . . . Citizens in Massachusetts are collecting signatures for a referendum which could establish a Massachusetts Power Authority. The agency would be responsible for operating and building all major power plants and power lines in the state. . . . Residents of Portland, Oregon, will vote in November whether to have the public take over facilities of Pacific Power & Light. . . . A coalition of citizens groups in Rhode Island successfully opposed a power cost adjustment for the Blackstone Valley Electric Company. The Consumers against the Power Cost Adjustment convinced the Rhode Island Department of Business Regulation that it should continue to regulate power costs . . . Proponents of Lifeline Service were surprised and pleased to learn that John Sawhill apparently endorses the concept. Speaking at the FEA's second electric utilities conference in Washington, Sawhill announced that "there is no room in this nation's energy policy for abusing the consumer," and he said the poor and elderly "must not bear the brunt of recent price increases."

(Utilities—The utilities section is edited by Rick Morgan and Sandy Jerabek of the Environmental Action Foundation, Room 720 DuPont Circle Building, Washington, DC. 20036. For more information write or call them at 202-659-9682.)

FOOTNOTES

[1] Original draft by Alvin Kaufman, Director, Office of Economic Research, New York State Public Service Commission, June 26, 1974.

[2] Economic Paper No. 1.

[3] See the Subcommittee's Economic Paper No. 5, "Productivity in Public Utility Regulation", for a more complete discussion of this subject.

FACING THE COLD REALITIES TODAY OR THE BITTER CONSEQUENCES TOMORROW

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. COLLIER. Mr. Speaker, millions of Americans now appear to be in full accord on one issue—that inflation has become this Nation's public enemy No. 1. Unless there is a new and sincere effort toward self-discipline in the Congress as well as back home, we may well face economic catastrophe which will take years to overcome and leave scars on both our economic and political systems of an ugly and permanent nature.

The inflation that we are experiencing in the United States is nothing new—it has been going on for more than four decades. According to the Consumer Price Index, the purchasing power of the dollar has dropped 80 cents since 1933.

The dollar that I am using as the standard is the 1937 to 1939 dollar, which was worth 100 cents during that 3-year period—98 cents in 1937, $1 in 1938, and $1.02 in 1939.

The following table shows how the Roosevelt dollar shrunk in purchasing power from $1.09 to 29 cents, the former figure being the peak of its post-World War I value:

1933	$1.09
1934	1.05
1935	1.03
1936	1.02
1937	.98
1938	1.00
1939	1.02
1940	1.01
1941	.96
1942	.87
1943	.81
1944	.80
1945	.78
1946	.72
1947	.63
1948	.59
1949	.59
1950	.59
1951	.54
1952	.53
1953	.53
1954	.53
1955	.53
1956	.52
1957	.50
1958	.49
1959	.48
1960	.48
1961	.47
1962	.47
1963	.46
1964	.45
1965	.45
1966	.43
1967	.42
1968	.41
1969	.39
1970	.36
1971	.35
1972	.34
1973	.31
1974 (est.)	.29

Who is to blame for this continuing erosion of our money? Some people blame big business. Others blame big labor. Still others say that we are all to blame, which is another way of saying that nobody is to blame.

The real culprit is neither the businessman nor the workingman. If his prices are set too high, the merchant will price himself out of the market. If his wage demands get too high, the laborer will likewise price himself out of the market. The real culprit is big government.

It is high time that we told big government that it is pricing itself out of the market. When I say big government, I mean the politicians who vote for more and more spending and bigger and bigger deficits and the bureaucrats who keep demanding more and more spending without regard for the consequences.

The following figures show how spending has increased during the last four decades, more than 40 years in the fiscal wilderness:

[Amounts in millions]

Fiscal:	
1933	$4,598
1934	6,645
1935	6,497
1936	8,422
1937	7,733
1938	6,765
1939	8,841
1940	9,589
1941	13,980
1942	34,500
1943	78,909
1944	93,956
1945	95,184
1946	61,738
1947	36,931
1948	40,401
1949	40,570
1950	43,147
1951	45,797
1952	67,962
1953	76,769
1954	70,890
1955	68,509
1956	70,460
1957	76,741
1958	82,575
1959	92,104
1960	92,223
1961	97,795
1962	106,813
1963	111,311
1964	118,684
1965	118,430
1966	134,652
1967	158,254
1968	178,833
1969	184,548
1970	196,588
1971	211,425
1972	231,876
1973	246,526
1974 (est.)	269,546
1975 (est.)	305,439

The following table shows that 34 deficits have resulted because of the increase in spending from $4,598,000,000 in fiscal 1933 to an estimated $305,439,000,000 in fiscal 1975. Only nine surpluses have interrupted the flow of red ink:

[Amounts in millions of dollars]

	Surpluses	Deficits
Fiscal—		
1933		2,602
1934		3,630
1935		2,791
1936		4,425
1937		2,777
1938		1,177
1939		3,862
1940		2,710
1941		4,778
1942		19,396
1943		53,812
1944		46,138
1945		45,022
1946		18,201
1947	6,600	
1948	8,864	
1949	1,006	
1950		2,207
1951	7,593	
1952	49	
1953		5,274
1954		1,170
1955		3,041
1956	4,087	
1957	3,249	
1958		2,939
1959		12,855
1960	269	
	Surpluses	Deficits
1961		3,406
1962		7,137
1963		4,751
1964		5,922
1965		1,596
1966		3,796
1967		8,702
1968		25,161
1969	3,236	
1970		2,845
1971		23,033
1972		23,227
1973		14,301
1974 (estimated)		3,546
1975 (estimated)		11,400

All of this deficit spending has brought about an increase in the Federal debt from $22,539,000,000 at the end of fiscal 1933 to $476,657,000,000 as of October 3, 1974. Interest on the debt now exceeds $30,000,000,000 annually. Ten cents of every dollar paid in income tax goes for interest on the national debt.

Earlier in my remarks I stated that big government is the real culprit that must bear the blame for inflation. Who has been in charge of the National Government for the last four decades? Democratic Presidents, Roosevelt, Truman, Kennedy, and Johnson, have headed the executive branch for 28 of the last 41 years, while Republicans, Eisenhower and Nixon, have served as Chief Executives for 13. Democrats have been at the helm twice as long as Republicans.

This, however, does not tell the whole story. Of the 21 Congresses that have served from 1933 until now, only 2 have been Republican. In the 80th Congress, which met from 1947 to 1949, the Republicans had a 246 to 188 edge in seats in the House of Representatives, with 1 seat held by a minor party, and a 51 to 45 margin in the Senate. A Democrat was in the White House during that period. In the 83d Congress, which sat from 1953 to 1955, the Republicans had a 221 to 213 edge in the House, with 1 minor party seat. This was but 3 seats above a bare majority. Neither major party had a majority in the Senate, there being 48 Republicans, 47 Democrats, and 1 Independent.

Here are the figures:

Congress	Opening years	House: Republican	House: Democrat	House: Minor	Senate: Republican	Senate: Democrat	Senate: Minor
73d	1933	117	313	5	36	59	1
74th	1935	103	322	10	25	69	2
75th	1937	89	333	13	17	75	4
76th	1939	169	262	4	23	69	4
77th	1941	162	267	6	28	66	2
78th	1943	209	222	4	38	57	1
79th	1945	190	243	2	38	57	1
80th	1947	246	188	1	51	45	
81st	1949	171	263	1	42	54	
82d	1951	199	234	2	47	48	1
83d	1953	221	213	1	48	47	1
84th	1955	203	231	(1)	47	48	1
85th	1957	200	233	(1)	47	49	
86th	1959	153	283		34	64	
87th	1961	174	263		35	65	
88th	1963	177	258		33	67	
89th	1965	140	295		32	68	
90th	1967	187	247	(1)	36	64	
91st	1969	192	243		43	57	
92d	1971	180	254	(1)	45	55	
93d	1973	187	248		42	58	

[1] 1 or 2 vacancies.

Mr. Speaker, if we do not stop unconstitutional, unnecessary, and irresponsible spending, the inflationary balloon will continue to expand until it eventually and inevitably bursts. We will then have an economic catastrophe that will make the Great Depression of 1929–40 look like a boom.

When the stock market collapsed in 1929, signaling the beginning of a decade of hard times, the national debt was slightly more than $16 billion. It is now almost 30 times that much and will soon exceed half a trillion dollars.

We cannot afford another depression, especially with such a heavy load of debt at high-interest rates. The only way to prevent another economic disaster is to cut Federal spending by many billions, balance the national budget, and reduce the astronomical public debt. Let us give serious consideration to the President's proposals for fighting inflation and implement them with constructive ideas of our own.

SECOND ANNUAL REPORT ON CONGRESSIONAL OPINION POLL RESULTS

HON. EDWARD G. BIESTER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. BIESTER. Mr. Speaker, while Gallup, Harris, and other national polling organizations perform an important educational function in periodically measuring public opinion on major issues, constituent questionnaires mailed at the congressional district level by Members of Congress deal more closely with many of the specific issues before this body. These surveys also contribute to a better understanding of what the public is thinking. Although Members do not always ask the same questions or phrase them identically, there is usually sufficient similarity that a composite of the results does present an interesting sample of public opinion. Tying together the responses from several congressional questionnaires can help provide insights into the nature of patterns in thinking in various sections of the country.

A year ago Mr. Towell of Nevada shared with us a summary of congressional opinion poll results based on constituent surveys undertaken by several Members of the House. I would like to insert for the benefit of my colleagues the second such summary to have been compiled:

Second Annual Report on Congressional Opinion Poll Results

(By Dr. W. P. Cortelyou)

(Editorial Note.—The introduction to this report is prepared in the form of personal instructions to the reader because that format seems to make it easier for the reader to learn to use the new type of tables involved. Last year's summary may be found in the Congressional Record, October 4, 1973, page 33076–33077.)

Percentages of Respondents Who Say "Spend More, or Same, or Less"—Exhibit 1: In the first statistical table in this report you will find the returns from a new type of question that congressmen now use more and more frequently to ask their constituents in which problem areas we ought to spend more money, or the same, or less. Congress is beginning to take more interest in the budget-making process, which has been dominated by the Executive Branch. These questions help them to establish budget priorities.

Sixteen Congressmen reported their findings from the use of this kind of question. In the following table you will find their reports summarized, in alphabetical order, using the postal abbreviations of the states. The complete table is divided into three sections, each of which gives information on attitudes toward seven different problem areas, making twenty-one in all. Note that on each line, under each problem area, there are three percentages. The first one shows the percentage of the respondents who think "more" money should be spent in that problem area. The second figure shows the percentage of the respondents who think the "same" amount should be spent there, and the third figure shows the percentage who want "less" money spent in that area. For instance in CA 24 61% of the respondents want "more" money spent on Crime Control while only 8% want less money spent there. The response from other districts is not much different.

Where the congressman did not ask his constituents for a recommendation on spending money in one of the listed problem areas the corresponding space is filled with hyphens to make the table easier to read.

For more information on the Congressional Districts referred to, on the Congressmen who represent them, and the dates of his poll reports see Exhibit 3.

TABLE 1.—PERCENTAGES OF RESPONDENTS WHO RECOMMENDED MORE, OR THE SAME, OR LESS MONEY IN EACH OF THE 21 AREAS LISTED

State district	Agriculture			Consumers			Crime control			Defense			Drug control			Education			Elderly		
	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less
California, 24				33	41	26	61	31	8	29	33	28				29	37	34	42	41	17
California, 36	13	25	62							18	34	48	48	37	15	42	42	16	69	26	5
Georgia, 1	49	33	18							41	38	21				53	31	16			
Iowa, 1							50	36	14	9	24	67				56	31	13			
Iowa, 2	33	51	16	52	39	9	68	29	3	8	35	57	49	43	8	45	45	10			
Idaho, 1	15	22	63	30	33	37				29	41	30				26	32	41			
Kansas, 5							66	20	14							44	37	19			
Michigan, 6				47	39	14	68	29	3	13	41	46	57	32	11	37	47	16			
Michigan, 11										11	51	37									
North Carolina, 6	18	42	40							10	43	47				46	40	14			
Ohio, 1										43	31	26				42	35	23			
Ohio, 19				63	31	6				12	34	54				52	27	21			
Oregon, 2	26	29	45							13	32	55				42	37	21			
Pennsylvania 13										9	35	56									
Vermont, al	27	45	28							14	31	55				39	45	16			
Wisconsin, 7	38	29	33				54	40	6	6	32	62				38	50	12			

State district	Energy research			Foreign aid			Health			Highways			Housing			Job training			Mass transit		
	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less
California, 24				1	7	92	21	33	46				27	13	60				49	25	26
California, 36				4	9	87	48	34	18				17	41	42				59	29	20
Georgia, 1	76	17	7	2	11	87	51	32	17												
Iowa, 1				5	17	78	63	26	11	21	35	44	42	32	26				68	17	15
Iowa, 2				3	24	73	57	37	6				30	49	26				59	34	7

	Energy research			Foreign aid			Health			Highways			Housing			Job training			Mass transit		
	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less
Idaho, 1				1	5	94	38	33	29				13	30	57						
Kansas, 5				1	15	84							21	38	41				43	28	29
Michigan, 6				1	11	88										43	36	21			
Michigan, 11							56	14	30	31	22	47	46	22	32						
North Carolina, 6				3	26	71	52	40	8	20	59	21	16	46	38						
Ohio, 1	78	9	13	4	12	84	44	36	20	25	34	41	34	26	40	31	39	30			
Ohio, 19				2	11	87	59	29	12				27	34	39	35	41	24	48	29	23
Oregon, 2				2	9	89	62	28	10				35	42	23				63	16	21
Pennsylvania, 13				1	13	86	52	38	10										63	27	10
Vermont, al	79	16	5																68	20	12
Wisconsin, 7	52	38	10	2	12	86	63	36	2										39	40	21

	Pollution control			Poverty			Public works			Revenue sharing			Social security			Space research			Welfare		
	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less	More	Same	Less
California, 24	42	33	25	26	13	61										17	44	39	21	33	46
California, 36				29	36	35	20	39	41							16	32	52			
Georgia, 1																			6	11	83
Iowa 1	61	28	11													14	29	57			
Iowa, 2	37	44	19										40	50	10	8	27	65			
Idaho, 1																10	32	58	11	22	67
Kansas, 5																11	23	66	51	30	19
Michigan, 6	44	44	15	21	31	48															
Michigan, 11				23	47	30															
North Carolina, 6							16	61	23				35	50	15	12	38	50	11	27	62
Ohio, 1	32	31	37																		
Ohio, 19	58	32	10	38	30	42										12	22	66			
Oregon, 2	54	31	15							27	36	37	53	40	7	9	28	63	14	25	61
Pennsylvania, 13	58	33	9	28	46	26															
Vermont, al										17	51	32							11	29	60
Wisconsin, 7	47	45	9	35	35	30							50	41	9	2	20	78			

Comparisons of Recent Congressional Polls—Exhibit 2: (Dates of the poll reports used are given under Exhibit 3).

Note that the "Yes%" in the response to "ABORTION: Do you agree with the Supreme Court ruling on this problem?" runs from 35% up to 70%.

(Read down the left-hand list and back up the right-hand.) Statisticians like to divide summaries of this kind into "quartiles". The "folded" format introduced here simplifies that job. Note the dotted line connecting 44% and 61%. This line separates the rest of the table into four equal parts, each of which contains reports from four congressmen. The difference between these two percentages, 17 in this case, is known as the Interquartile Range (IQR).

Finding the IQR is not just an academic exercise. It is a good way to measure the *variation* in opinion across the country. A low value for the IQR on a given question means that throughout the country the answers to that question are in close agreement. Likewise a high IQR means much disagreement.

The *median* is the middle value in a list of increasing values, if that list contains an odd number of items. If the list contains an even number of items the median is the average of the two middle values. In either case the folded format used here makes the median show up at the bottom of that section of the table.

The meaning of parenthetical notes: See the entry, "Gude, (1/4)". This means that Mr. Gude in his poll offered agreement with the Supreme Court as one of four alternative answers that the respondent might have chosen. This tends to lower the "Yes%" in comparison with asking the question by itself, but I felt it would be better to include such values in the table and mark them as being somewhat unorthodox.

It is remarkable how often the median for 1974 is close to the median for 1973, when the question was repeated in 1974. This says very strongly that Congressional polls are by no means trivial. When they can be given the publicity they deserve they will become a topic of frequent discussion in the media and will make a big contribution toward public education in public affairs.

TABLE 2.—COMPARISONS OF RECENT CONGRESSIONAL POLLS (PERCENTS OF RESPONDENTS WHO ANSWERED YES)

Congressman	(Memo)	State	District	Party	Yes (percent)	IQR/Median	Yes (percent)	Party	State	District	Congressman	(Memo)
ABORTION: DO YOU AGREE WITH THE SUPREME COURT RULING ON THIS PROBLEM?												
Steiger		AZ	3	R	35		70	R	NH	2	Cleveland	
Froehlich		WI	8	R	38		69	R	MS	4	Cochran	
Gude	(1/4A)	MD	8	R	41		68	R	VT	al	Mallary	
Snyder		KY	4	R	46		62	R	OH	17	Ashbrook	
Taylor		MO	7	R	44	IQR=17	61	R	PA	3	Coughlin	
Latta		OH	5	R	46		60	R	IL	14	Erlenborn	
Biester	(1/3A)	PA	8	R	50		58	R	NJ	8	Roe	
Murphy		IL	2	D	52		56	D	NJ	9	Helstoski	
Wilson	(1/4A)	CA	31	D	53	Median[2]	53	R	IL	20	Findley	
ABORTION: SHOULD WE AMEND THE CONSTITUTION AND THUS FORBID ABORTIONS?												
Wilson	(1/4A)	CA	31	D	8		46	R	OH	16	Regula	
Gude	(1/4A)	MD	8	R	11		40	D	IL	11	Annunzio	
Biester	(1/3A)	PA	8	R	14		40	R	NY	2	Grover	
Fish		NY	25	R	21	IQR=17	38	R	PA	18	Heinz	
Cronin		MA	5	R	21		38	R	KS	4	Shriver	
Studds		MA	12	D	23		37	R	AZ	3	Steiger	
Minish		NJ	11	D	24		35	D	NJ	8	Roe	
Frenzel		MN	3	R	24	Median[1]						
AMNESTY, CONDITIONAL: AMNESTY FOR THOSE WHO GIVE EQUIVALENT PUBLIC SERVICE?												
Ketchum	(1/4A)	CA	36	R	30		59	R	OH	17	Ashbrook	(1).
Green		OR	3	D	30		45	R	IN	10	Dennis	
Skubitz		KS	5	R	36	IQR=9[4]	45	R	NY	25	Fish	
Shriver		KS	4	R	37		43	D	NJ	8	Roe	(2).
Martin	(3)	NC	9	R	38		40	R	OR	1	Wyatt	
Stanton		OH	11	R	38	Median	40	R	WI	8	Froehlich	

[1] Reported 7/73. Most of the entries in this table that are so dated were taken from an Abortion Summary by Dellums, ConRec, 1973, p. 899.

[2] The median reported last year was 55, in close agreement.

[1] The median reported last year was 22.

[1] "if several years of public service."

[2] "some public service."

[3] "if . . . public service . . . two years."

[4] **Note** the very low IQR, showing close agreement across the country.

TABLE 2.—COMPARISONS OF RECENT CONGRESSIONAL POLLS (PERCENTS OF RESPONDENTS WHO ANSWERED YES)—Continued

Congressman	(Memo)	State	District	Party	Yes (percent)	IQR/Median	Yes (percent)	Party	State	District	Congressman	(Memo)
AMNESTY, UNCONDITIONAL?												
Skubitz		KS	5	R	7		34	R	NY	4	Lent	
Ashbrook		OH	OH	17	R		26	R	NY	2	Grover	
Dennis		IN	10	R	12	IQR=11	24	R	FL	10	Bafalis	
Roe		NJ	8	D	13		23	R	CT	5	Sarasin	
Ketchum	(1/4A)	CA	36	R	14		21	D	OR	3	Green	
Hunt		NJ	1	R	17	Median	18	R	NY	25	Fish	
CONSUMER PROTECTION: ESTABLISH A NATIONAL CONSUMER PROTECTION AGENCY?												
Chamberlain		MI	6	R	44		78	D	NJ	9	Helstoski	
Culver		IA	2	D	52	IQR=21	73	R	OH	6	Harsha	
Hudnut		IN	11	R	55	Median=58	62	R	OR	1	Wyatt	
DAYLIGHT SAVINGS TIME: CONTINUE ITS USE THE YEAR AROUND (TO SAVE ENERGY)?												
Baker		TN	3	R	26		78	R	IN	11	Hudnut	
Winn		KS	3	R	26		70	R	NH	2	Cleveland	
Shriver		KS	4	R	33		55	R	NY	4	Lent	
Jones		OK	1	D	38	IQR=15	53	D	NJ	9	Helstoski	
Eilberg		Pa	4	D	39		52	D	NJ	11	Minish	
Carney		OH	19	D	43		47	D	NC	6	Preyer	
Archer		TX	7	R	45		46	R	PA	8	Biester	
Stanton		OH	11	R	46	Median						
ELECTION REFORM: LIMIT THE TOTAL AMOUNT A CANDIDATE CAN SPEND?												
Carney	(1/4A)	OH	19	D	69	IQR=20	94	D	IA	2	Culver	
Dellenback		OR	4	R	78	Median=78	93	R	PA	8	Biester	
ELECTION REFORM: LIMIT THE AMOUNT ONE PERSON CAN GIVE TO ONE CANDIDATE?												
Dellenback		OR	4	R	60	IQR=25	92	R	MN	1	Quie	
Carney		OH	19	D	69		88	D	IA	2	Culver	
Mallary		VT	al	R	87	Median						
ELECTION REFORM: USE PUBLIC MONEY TO PAY ALL EXPENSES IN FEDERAL CAMPAIGNS?												
Preyer		NC	6	D	15		59	D	NJ	9	Helstoski	
Quie		MN	1	R	16		56	R	NY	31	Mitchell	
Hudnut		IN	11	R	25		52	D	NJ	11	Minish	
Ginn		GA	1	D	26	IQR=25	49	D	IL	11	Annunzio	
Bray		IN	6	R	27		41	R	MA	5	Cronin	
Bingham		NY	22	D	31		40	R	PA	8	Biester	
Froehlich		WI	8	R	37	Median						
ELECTION REFORM: USE PUBLIC MONEY TO HELP PAY FOR FEDERAL CAMPAIGNS?												
Baker	(1)	TN	3	R	18		62	R	PA	8	Biester	(2).
Culver	(3)	IA	2	D	20		58	D	NJ	8	Roe	(4).
Dellums		CA	7	D	21		52	R	NY	25	Fish	
Martin		NC	9	R	26		48	R	NY	4	Lent	
Regula		OH	16	R	26		46	D	IA	1	Mezvinsky	
Bauman		MD	1	D	26		41	R	NY	36	Smith	(7).
Bingham		NY	22	D	27	IQR=13	40	R	KS	3	Winn	(9).
Chamberlain		MI	6	R	31		40	R	OR	1	Wyatt	(10).
Mallary		VT	al	R	32		39	D	OK	1	Jones	
Shriver	(5)	KS	4	R	32		37	R	OH	15	Wylie	
Archer	(6)	TX	7	R	33		36	R	NY	36	Smith	(8).
Preyer		NC	6	D	33		35	R	NY	5	Wydler	
Hutchinson		MI	4	R	34	Median	34	R	CA	43	Veysey	

[1] "use taxes."
[2] "partial public, limited private."
[3] "match private gifts."
[4] "prohibit large private donations."
[5] "by matching private funds."
[6] "use tax dollars."
[7] "in Congressional elections."
[8] "in Presidential elections."
[9] "partial public, limited private."
[10] "President and Congress."

Congressman	(Memo)	State	District	Party	Yes (percent)	IQR/Median	Yes (percent)	Party	State	District	Congressman	(Memo)
ENERGY SHORTAGE: RELAX ANTI-POLLUTION STANDARDS WHILE THE CRISIS LASTS?												
Ford, Wm. D		MI	15	D	34		68	R	MI	6	Chamberlain	
Eilberg		PA	4	D	34		64	D	MD	1	Bauman	
Biester		PA	8	R	36		63	D	MA	12	Studds	
Culver		IA	2	D	41		63	R	KS	4	Shriver	
Minish		NJ	11	D	42		63	D	UT	2	Owens	
Wyatt		OR	1	R	50	IOR=17	62	R	OH	15	Wylie	
Quie		MN	1	R	52		58	R	OH	5	Latta	
Veysey		CA	43	R	51		58	D	IL	11	Annunzio	
Regula		OH	16	R	53		56	R	TX	7	Archer	
Helstoski		NJ	9	D	54	Median	54	R	MA	5	Cronin	
ENERGY SHORTAGE: TAX ANY EXCESS PROFITS OF THE FUEL PRODUCERS?												
Martin		NC	9	R	51		90	D	IA	2	Culver	
Wyatt		OR	1	R	78	Median						

TABLE 2.—COMPARISONS OF RECENT CONGRESSIONAL POLLS (PERCENTS OF RESPONDENTS WHO ANSWERED YES)—Continued

Congressman	(Memo)	State	District	Party	Yes (percent)	IQR/Median	Yes (percent)	Party	State	District	Congressman	(Memo)
FOREIGN POLICY: INCREASE TRADE WITH SOVIET RUSSIA AND RED CHINA?												
Hudnut		IN	11	R	51		78	R	NJ	1	Hunt	
Owens		UT	2	D	52		70	D	PA	6	Yatron	
Mezvinsky		IA	1	D	58	IQR=10	68	D	CA	29	Danielson	
Shriver		KS	4	R	58		64	R	OH	17	Ashbrook	
Winn		KS	3	R	59	Median						
HEALTH: SET UP A TAX-SUPPORTED HEALTH INSURANCE SYSTEM FOR ALL?												
Archer		TX	7	R	25		76	D	NJ	8	Roe	
Ashbrook	(1/3A)	OH	17	R	26		76	D	CA	39	Danielson	
Baker		TN	3	R	30		74	D	GA	1	Ginn	
Jones		OK	1	D	33		72	D	IL	11	Annunzio	
Bauman		MD	1	D	37		69	D	NJ	11	Minish	
Biester		PA	8	R	40		67	R	CT	5	Sarasin	
Ullman		OR	2	D	42	IQR=21	66	R	NY	25	Fish	
Tiernan	(1/4A)	RI	2	D	43		64	R	NY	31	Mitchell	
Helstoski		NJ	9	D	46		61	R	NY	5	Wydler	
Wylie		OH	15	R	50		60	D	OR	3	Green	
Wyatt		OR	1	R	50		60	R	MA	5	Cronin	
Shriver		KS	4	R	52		57	D	PA	6	Yatron	
Froehlich		WI	8	R	52		55	R	MI	11	Ruppe	
Regula		OH	16	R	55	Median						
PRESIDENT NIXON: SHOULD THE HOUSE OF REPRESENTATIVES IMPEACH HIM?												
Baker		TN	3	R	8		66	D	MI	15	Ford, Wm. D	
Wyatt	(1/4A)	OR	1	R	13		58	D	NJ	11	Minish	
Bauman		MD	1	R	28		55	D	MD	2	Long	
Hutchinson		MI	4	R	29		55	R	MA	5	Cronin	
Lent	(1/4A)	NY	4	R	30		54	D	CA	29	Danielson	
Archer		TX	7	R	31		49	D	NJ	9	Helstoski	
Martin		NC	9	R	32		48	D	NJ	8	Roe	
Chamberlain		MI	6	R	33	IQR=15	48	R	NY	36	Smith	
Ginn		GA	1	D	35		46	D	OH	19	Carney	(1/4A).
Wydler		NY	5	R	36		45	D	NY	22	Bingham	
Wylie		OH	15	R	38		42	D	WI	7	Obey	(1/3A).
Veysey		CA	43	R	38		42	R	MN	1	Quie	
Fish	(1/3A)	NY	25	R	39		41	R	KS	4	Shriver	
Biester		PA	8	R	40		40	D	AZ	2	Udall	(1/3A).
Grover		NY	2	R	40	Median	40	R	IN	11	Hudnut	
PRESIDENT NIXON: SHOULD HE RESIGN?												
Baker		TN	3	R	8		61	D	MI	15	Ford Wm, D	
Wyatt	(1/4A)	OR	1	R	16		50	D	AZ	2	Udall	(1/3A).
Biester		PA	8	R	16		43	R	NY	2	Grover	
Fish	(1/3A)	NY	25	R	24	IQR=17	41	D	MD	2	Long	
Carney	(1/4A)	OH	19	D	27		40	D	NY	22	Bingham	
Hutchinson		MI	4	R	30		38	R	CA	43	Veysey	
Chamberlain		MI	6	R	34	Median=36	38	R	MN	1	Quie	

[(D) in parentheses denotes "Democratic" and (R) denotes "Republican"]

EXHIBIT 3

CONGRESSMEN WHOSE POLLS ARE INCLUDED IN THE CURRENT TABULATION

State and district	Location or area	Name and party	Report date (month and year)	State and district	Location or area	Name and party	Report date (month and year)
Arizona, 2	Tucson + 5 co	Udall (D)	March 1974.	North Carolina, 9	Charlotte + N sbrbs	Martin (R)	April 1974.
Arizona, 3	W + NW (1/3 of State)	Steiger (R)	August 1973.	New Hampshire, 2	W + N (⅔ of State)	Cleveland (R)	May 1974.
California, 7	San Francisco	Dellums (D)	January 1974.	New Jersey, 1	Camden + 2 co	Hunt (R)	August 1973.
California, 24	N of LA, 1 co	Rousselot (R)	August 1973.	New Jersey, 8	Patterson + 1 co	Roe (D)	June 1974.
California, 29	LA + E sbrbs	Danielson (D)	November 1973.	New Jersey, 9	NE, urban	Helstoski (D)	May 1974.
California, 31	Los Angeles	Wilson (D)	September 1973.	New Jersey, 11	Sbrbn, W of Newark	Minish (D)	April 1974.
California, 36	Bakersfield + 2 co	Ketchum (R)	October 1973.	New York, 2	S Central Long Isl	Grover (R)	Do.
California, 43	S, 3 co	Veysey (R)	April 1974.	New York, 4	Sbrbn Long Island	Lent (R)	March 1974.
Connecticut, 5	SW, 2 co	Sarasin (R)	(?) 1973.	New York, 5	Sbrbn Long Island	Wydler (R)	May 1974.
Florida, 10	Palm Beach	Bafalis (R)	(?) 1973.	New York, 22	The Bronx	Bingham (D)	November 1973.
Georgia, 1	SE, 20 co	Ginn (D)	April 1974.	New York, 29	Troy + 4 co	King (R)	
Iowa, 1	SE, 13 co	Mezvinsky (D)	November 1973.	New York, 25	SE, 3 co	Fish (R)	April 1974.
Iowa, 2	NE, 11 co	Culver (D)	March 1974.	New York, 31	Mohawk River Valley	Mitchell (R)	August 1973.
Idaho, 1	N + W (1/3 of State)	Symms (R)	October 1973.	New York, 36	NW, 3 co	Smith (R)	May 1974.
Illinois, 2	Chicago, S Side	Murphy (D)	(?) 1973.	Ohio, 5	NW, 11 co	Latta (R)	(?) 1973.
Illinois, 11	Chicago, NW Side	Annunzio (D)	(?) 1973.	Ohio, 6	Southern rural	Harsha (R)	(?) 1973.
Illinois, 14	Sbrbn, W of Chicago	Erlenborn (R)	(?) 1973.	Ohio, 11	NW, 5 co	Stanton (R)	August 1973.
Illinois, 20	Springfield + 10 co	Findley (R)	(?) 1973.	Ohio, 15	Columbus + W sbrbs	Wylie (R)	March 1974.
Indiana, 6	Indianapolis	Bray (R)	April 1974.	Ohio, 16	Canton + 2 co	Regula (R)	(?) 1973.
Indiana, 10	Muncie + 10 co	Dennis (R)	(?) 1973.	Ohio, 17	North Central	Ashbrook (R)	April 1974.
Indiana, 11	Indianapolis	Hudnut (R)	June 1974.	Ohio, 19	Youngstown	Carney (D)	March 1974.
Kansas, 3	Kansas City + 4 co	Winn (R)	November 1973.	Oklahoma, 1	Tulsa	Jones (D)	Do.
Kansas, 4	Central, 6 co	Shriver (R)	April 1974.	Oregon, 1	NW, 9 co	Wyatt (R)	Do.
Kansas, 5	SE, 25 co	Skubitz (R)	September 1973.	Oregon, 2	N + E (¾ of State)	Ullman (D)	(?) 1973.
Kentucky, 4	N, 6 co	Snyder (R)	November 1973.	Oregon, 3	Portland	Green (D)	November 1973.
Massachusetts, 5	NE, Middlesex Co	Cronin (R)	August 1974.	Oregon, 4	SW, 7 co	Dellenback (R)	February 1974.
Massachusetts, 12	SE, 5 co	Studds (D)	Do.	Pennsylvania, 4	Philadelphia	Eilberg (D)	August 1974.
Maryland, 1	Chesapeake Bay	Bauman (R)	March 1974.	Pennsylvania, 6	Reading + 2 co	Yatron (D)	October 1973.
Maryland, 2	Sbrbn, Baltimore Co	Long (D)	June 1974.	Pennsylvania, 8	Bucks Co + NE Mont. Co	Biester (R)	April 1974.
Maryland, 8	Montgomery Co	Gude (R)	(?) 1973.	Pennsylvania, 13	NW Phil. + E Mont. Co	Coughlin (R)	August 1973.
Michigan, 4	S, 6 co	Hutchinson (R)	March 1974.	Pennsylvania, 18	Sbrbn, N of Pittsburgh	Heinz (R)	Do.
Michigan, 6	Lansing + E Lansing	Chamberlain (R)	February 1974.	Rhode Island, 2	W (⅔ of State)	Tiernan (D)	Do.
Michigan, 11	N, 27 co	Ruppe (R)	August 1973.	Tennessee, 3	Chattanooga	Baker (R)	March 1974.
Michigan, 15	Sbrbn, W of Detroit	Ford, Wm. D. (D)	May 1974.	Texas, 7	Houston, W Side	Archer (R)	April 1974.
Missouri, 7	SW, 18 co	Taylor (R)	September 1973.	Utah, 2	Salt Lake Cy + 10 co	Owens (D)	Do.
Minnesota, 1	SE, 10 co	Quie (R)	April 1974.	Vermont, al	(At large)	Mallary (R)	February 1974.
Minnesota, 3	Minneapolis, W Side	Frenzel (R)	August 1973.	Wisconsin, 7	NW, 17 co	Obey (D)	August 1973.
Mississippi, 4	Jackson + SW 12 co	Cochran (R)	(?) 1973.	Wisconsin, 8	NE, 13 co	Froehlich (R)	Do.
North Carolina, 6	Greensboro + 5 co	Preyer (D)	September 1973.				

THE SPEEDY TRIAL ACT OF 1974

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. CONYERS. Mr. Speaker, today I am pleased to introduce, on behalf of the membership of the Subcommittee on Crime, H.R. 17409, the Speedy Trial Act of 1974. This legislation, which was adopted last Thursday by the subcommittee after arduous study and discussion and literally years of work in the other body, has one vital purpose: to assist in reducing crime and the danger of recidivism by requiring speedy trials and by strengthening the supervision over persons released pending trial.

Society, which is the ultimate beneficiary or victim of how fairly constitutional rights are interpreted and implemented, can only lose when the various elements of the criminal justice system, whose cooperation is so vital to the efficient but even-handed administration of criminal cases, are unwilling or unable to meet their responsibilities. Delay in processing those accused of Federal crimes is just as prejudicial, if not more so, to the community as it is to the individual whose right is violated; such delay leads to indefinite incarceration in inadequate facilities and poor supervision during the critical pretrial release period, which in turn lead to increases in recidivism and an upsurge in crimes committed pending trial. It is a disturbing fact that over half of all serious Federal crimes are committed by persons released following arrest and awaiting trial.

The subcommittee supports this bill, because our own hearings and the massive record compiled by the Senate Subcommittee on Constitutional Rights make it clear that the time for uniform guidelines for the speedy disposition of Federal criminal cases is long overdue. The Supreme Court has chosen not to promulgate concrete and useful standards that courts can uniformly follow to measure whether a defendant's right to a speedy judgment of guilt or innocence has been violated. This vacuity of standards has led to gross inconsistencies: one circuit court has held that a delay in trial of over 1 year is prima facie evidence of a denial of the right, while another found no abuse of this sixth amendment guarantee, in spite of an 18-year span between arrest and trial.

Testimony received by the subcommittee made it clear that the independent components of the Federal criminal justice system are yet worlds apart on an agreeable solution to the problem—judges found fault with prosecutors' pleadings, U.S. attorneys blamed the courts, defense lawyers criticized prosecutors' pretrial tactics and vice versa, and so on. The governing body of the Federal judiciary, the Judicial Conference of the United States, opposed the legislation on the grounds that the model plan they promulgated under Federal Rule of Criminal Procedure 50(b), which all 94 Federal districts have adopted in some form, is a better approach to the speedy trial problem, but the evidence studied by the subcommittee makes it apparent, to me at least, that the model plan approach is deficient in several respects. First, no procedures are set forth to assure uniform adoption of time limitations on how long an accused must await indictment and trial after arrest; indeed, the suggested time limitations fail to cover the time that elapses between arrest and arraignment. Second, there is no built-in deterrent against delaying tactics practiced by either prosecution or defense, because no meaningful sanctions are imposed for failure to meet whatever time limits are adopted. Third, the model plan provides no guidance as far as planning, experimentation, and efficient management of criminal calendars are concerned. Finally, and most importantly, no means of evaluation is suggested whereby it can be determined what additional resources might be needed to insure a consistent application of time limitations.

Prosecutors caught in the vice of rising crime and increasingly burdensome caseloads, naturally resist any change in routine that might seem to make increased demands upon their already tightly budgeted time. The defense bar is primarily interested in whatever serves the best interests of their clients—and rightly so, given the fact that the odds are against them when the great wheels of the criminal justice system begin their inexorable revolutions.

Mr. Speaker, no history of speedy trial legislation would be complete unless it acknowledged the tireless advocacy of the distinguished Senator from North Carolina, the Honorable SAM J. ERVIN, JR., who pioneered the idea of uniform Federal standards extending the sixth amendment and has worked for over 6 years to bring a speedy trial bill to the House. Nothing could be more appropriate than for Senator ERVIN to see his labor on his crucial legislation bear fruit in the twilight of his long and illustrious career. On September 12, he opened 3 days of subcommittee hearings on his bill, S. 754, and related House bills by acknowledging that the Senate's approach "is exceedingly complex and that the Senate can hardly be accused of speedy legislating on S. 754. But those who must live with this bill, the Federal judges, defense counsel, and the Justice Department, have had over 4 years to study it and its predecessors. We have almost 1,500 pages of hearing record on speedy trial before the Constitutional Rights Subcommittee. I hope you will see fit to act on this legislation before the Congress adjourns."

Impressed with the Senator's dedication and urgency of his message, this subcommittee studied the Senate approach and heard arguments supporting and objecting to it. The Department of Justice, which spawned the prototype of speedy trial legislation in 1968 and whose representatives made many helpful suggestions during the course of the Senate's deliberations, again offered constructive comments and criticism. The Administrative Office of the U.S. Courts, the executive arm of the Federal judiciary, contributed data on the dimensions of the speedy trial problem and their interpretive and administrative expertise in an effort to help the subcommittee understand the mechanical problems that would arise as a result of the imposition of uniform national standards. Using these principal resources, the subcommittee undertook to resolve differences and inconsistencies, the final product of which is the bill I introduce today, which reflects many of the most significant proposals of the Department and the Administrative Office.

Briefly, H.R. 17409 addresses the interrelated problems of delay in the commencement of Federal criminal trials and the increasing number of crimes committed by persons released from custody and awaiting trial, in the following ways:

Title I, which inserts a new chapter 208 into title 18 of the United States Code and is intended to supplement the provisions of chapter 207 as amended by the Bail Reform Act of 1966, sets fixed time limitations on the periods between arrest and indictment and indictment and trial for persons accused of Federal crimes. These limits are graduated over a period of 4 years from the time of enactment to allow for an adequate adjustment period. The progressive time limits, which will not begin to apply until 12 months after enactment, are:

First, 60 days between arrest and indictment or information and 180 days between indictment or information and trial during the first effective 12-month period, or the 2d year after enactment;

Second, 45 days between arrest and indictment or information and 120 days between indictment or information and trial during the second effective 12-month period, or the 3d year after enactment;

Third, 35 days between arrest and indictment or information and 80 days between indictment or information and trial during the third effective 12-month period, or the 4th year after enactment; and

Fourth, 30 days between arrest and indictment or information and 60 days between indictment or information and trial beginning at the outset of the fourth effective 12-month period or 5th year after enactment, and continuing in effect therafter.

In this respect, the subcommittee's bill differs from the Senate version. S. 754 provides for a phase-in period of 7 years, which means that, were it enacted today, charges against the defendant denied his right to a speedy trial could not be dismissed except by time-consuming conventional means until October 15, 1982. For the first 4 years following enactment, the Federal courts would be allowed 8 months from the time of arrest to process a criminal defendant.

The Senate bill did not originally allow for such a protracted period; the Department of Justice did not feel that a 3-year changeover period was long enough. The subcommittee heard conflicting testimony on this point from ostensibly the same source. The Administrative Office of the U.S. Courts, the executory arm of the Judicial Conference, claimed that not all Federal courts would be able to meet the eventual time limits under that original deadline. Judge Alfonso Zirpoli, of the northern district of California, chairman of the Conference's committee on the administration of the criminal law, testified that in many respects the plans adopted by the district courts to give effect to rule 50(b) were more stringent than the provisions of S. 754, and would probably result in the adoption of similar time limits at an earlier time. Preliminary statistics presented by the Administrative Office as exhibits to their testimony indicate that the courts seem to be reducing the median time for disposition of criminal cases slightly, but they also show that filings were down significantly for the first time in 10 years. In any event, as mentioned above, there are no guidelines promulgated by the Conference's model plan that set forth procedures for uniform adoption and implementation of limitations.

Recognizing as the Senate did that there are situations where delay on the path toward trial is inevitable, the subcommittee adopted a number of exceptions to the running of the fixed-time limitations. For example, if a defendant changes his plea to guilty or nolo contendere sometime after return of an indictment or information but before he comes to trial, the time limit during which he must be tried begins to run afresh. More importantly, there are times when the court, in its discretion, must balance the interests of the defendant in speedy disposition against the ends of justice; the bill provides that when the latter outweighs the former the court may extend the time limits. If the prosecution has difficulty locating the defendant after diligent search or a witness is unavailable, to cite two other examples, the resulting delay will not be counted as part of the time period in question.

Testimony before the subcommittee, and evidence introduced in support thereof, indicated that it may be impractical in some Federal districts that do not convene grand juries regularly to expect those jurisdictions to return an indictment in all cases within the prescribed period. Accordingly H.R. 17409 grants an additional 30 days for return of indictment in districts where no grand jury is in session at the time of arrest, with the stipulation that in no case shall any individual be incarcerated for a period to exceed 30 days after the date of his arrest.

S. 754, as currently drafted, contains no dismissal with prejudice sanction; rather, it allows the U.S. attorney or his agent to reinstitute charges after defendant's motion for dismissal is granted upon demonstrating to the court's satisfaction that the delay that triggered dismissal was caused by exceptional—that is, wholly unforseeable—circumstances. It is important to point out that S. 754's predecessor incorporated a strict dismissal sanction which was included on the strength of a statement of the American Bar Association, whose Special Committee on Minimum Standards for the Administration of Criminal Justice in many ways started the speedy trial ball rolling in 1968. That committee said:

> The position taken here is that the only effective remedy for denial of speedy trial is absolute and complete discharge. If, following undue delay in going to trial, the prosecution is free to commence prosecution again for the same offense, subject only to the running of the statute of limitations, the right to speedy trial is largely meaningless. Prosecutors who are free to commence another prosecution later have not been deterred from undue delay.

The association's most recent revision of their speedy trial standards and the testimony of Mr. Ben Miller, chairman of their Section on Criminal Law, affirm this position. It must also be mentioned that, in its most recent pronouncement on this aspect of sixth amendment rights, the Supreme Court in Strunk against the United States reconfirmed its earlier holding that dismissal, even though severe, is the only appropriate remedy when it is clear that an accused has been denied his or her right under the clause.

The stricter dismissal sanction was dropped at the request of the Department of Justice, who fear wholesale dismissals in jurisdictions with overloaded criminal calendars, despite the fact that the first 4 years of operation under the act are exempted from application of the dismissal sanction to allow maximum flexibility as far as courts and prosecutors are concerned during the adjustment period. The subcommittee, mindful of the merits of this proposition, restored the dismissal with prejudice sanction, because it has fashioned a provision to take judicial emergencies into account that it feels would vitiate this potential problem, and solve others as well. Under this new section 3172, the Judicial Conference would be empowered, after the 5th year of operation, to suspend the eventual time limits for a period of up to 1 year if it found that the status of a particular district's calendar, coupled with a total lack of proper resources to correct a sudden overload, absolutely prevents its compliance. Thereafter, the conference would report to the Congress, which would be required to analyze that particular district's dilemma and determine if additional time or resources are necessary. The subcommittee feels that this is an innovative and proper approach to the problem of future emergencies, particularly because it assures that Congress and the judiciary will cooperate closely in the future to safeguard the sixth amendment to a speedy trial.

The essence of the Speedy Trial Act, in terms of insuring that cooperative efforts to implement the ultimate time limitations efficiently are maximized, is contained within the title I planning provisions. Each Federal judicial district is required to organize within 2 months after enactment planning groups which will submit plans outlining procedures for the implementation of the time limitations at each stage of the phase-in period; these groups will include representatives of all segments of the criminal justice community affected by the legislation: the judges themselves, prosecutors, defense counsel, Federal probation officers, court administrators, and persons skilled in criminal justice research and administration. These plans will be forwarded to the Administrative Office of the U.S. Courts through judicial reviewing panels, which will in turn summarize them in reports to the Congress within a specified time following their submission. These groups are given express guidelines to follow in preparing their implementation plans and are encouraged to identify rule changes, statutory amendments, and appropriations needed to improve the disposition of criminal cases in their particular districts. To complement this initiative, detailed reports on matters affecting criminal cases are required to be filed by each district on an ongoing basis to effectuate close monitoring on a national scale of progress toward the eventual legislative goal.

The subcommittee thought it inconsistent to center speedy trial experimentation in five pilot districts to be chosen independently, particularly since the planning groups were to convene and begin operations at least 210 days before the pilot districts were to be selected and funded initially. The better approach, it was determined, is to grant a smaller authorization to every Federal district and thus enable them to begin the implementation and experimentation process on a swifter and more uniform footing. A broader base of data collection and evaluation will thus be available and a better representation of the multiplicity of district sizes, workloads, and attendant problems will result for comparative study.

Finally, title II provides for the creation of pretrial service agencies to provide supervision and supportive services to defendants released under the provisions of the Bail Reform Act, to which this part of the bill adds four new sections. Ten demonstration districts will be established by the Director of the Administrative Office, five under the direct control of the Division of Probation of the Office and five under the independent supervision of a Board of Trustees selected by the chief judge of the district for that purpose according to the terms of the bill. This approach differs slightly from that of S. 754, which contemplated all independent districts; at the suggestion of the Administrative Office and given the experimental nature of the program, the subcommittee opted to allow simultaneous management, essentially to create a better "laboratory" for comparison. In both cases, these agencies are intended to draw upon a broad base of expertise within the communities in which they will operate, a goal encouraged by the National Advisory Commission on Criminal Justice Standards and Goals in its report, "A National Strategy To Reduce Crime." They will provide the releasee with the assistance and supervision needed to meet release requirements and insure in a positive way appearance at trial, thus reducing the incidence of pretrial crime.

The Supreme Court, in attempting to clarify its pronouncements on the sixth amendment guarantee to a speedy trial in Barker against Wingo, reiterated its need to approach the interpretation of the right cautiously due to the prohibition against Court rulemaking. Implicit in the pages of that decision is the conclusion that only Congress can appropriately decide what kind of delay in Federal criminal cases is not constitutionally permissible. I would add only that the necessity for Congress to make such an independent and informed judgment has never been more apparent.

Mr. Speaker, the text of the bill which I have introduced will be available for the information of the Members as soon as the print is obtainable.

THE SPEEDY TRIAL ACT OF 1974

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. COHEN. Mr. Speaker, I am pleased to join with the Honorable John Conyers, Jr., of Michigan, distinguished chairman of the Subcommittee on Crime of the Committee on the Judiciary, in introducing the Speedy Trial Act of 1974, which the Subcommittee on Crime yesterday ordered reported, as amended to the full Judiciary Committee.

This act is of enormous significance. One of the greatest problems facing our Federal court system today is the extensive delays frequently encountered in the hearing of cases. While we are fortunate in Maine, which I have the honor of representing, to have only limited problems of this type in our Federal court, the testimony received by the subcommittee during the last several weeks, makes it clear that many of the Federal district courts in this country are experiencing extreme court congestion and other problems which result in cases being continued for months and even years. Such situations do a great disservice not only to those directly involved in our court system but to society as a whole. Pretrial delays not only jeopardize a defendant's constitutional right to a speedy trial, but also reduce, if not entirely eliminate the effectiveness of our criminal justice system in deterring crime and rehabilitating criminal offenders.

The Speedy Trial Act of 1974 proposes to end pretrial delay in the Federal criminal justice system by requiring that defendants be tried within 90 days of their arrest. The act provides that, after a phase-in period of 5 years, the time between arrest and indictment will be limited to 30 days, and the time between indictment and trial will be restricted to 60 days. Extending these time limits will only be possible in certain specified situations, such as cases in which there are pretrial proceedings.

The imposition of time limits is aided by a comprehensive planning and study process, the real heart of the speedy trial legislation. Under this process representatives of the major participants in the criminal justice system of each Federal judicial district; that is, the district judge, the U.S. attorney, an experienced defense counsel, the clerk, and the magistrate—will meet together to determine the causes of pretrial delay in their own district and the best means of solving these problems in order to meet the time limits imposed by the act. Procedural and substantive plans will be formulated by this group and then forwarded to the Federal Judicial Conference, which will review and summarize them for a report to be submitted to Congress.

It should be pointed out that the report submitted to Congress is a vital part of the effort to eliminate pretrial delays. For while the Federal judiciary will determine the ways of achieving speedy trials, it must still look to the Congress to provide it with the means. The Speedy Trial Act of 1974 is not only a planning, but a resources measure which anticipates a continuing congressional commitment to providing our judicial branch with the additional judges and staff and the improved management systems it needs to meet the goals established in the legislation. The act thus establishes a working relationship between the Congress and the judiciary. It is only by such cooperative efforts that the Federal Government as a whole can assure that all those accused of Federal crimes will enjoy their right to a speedy trial.

The act, of course, will have far-reaching effects on the Federal criminal justice system. In addition, however, it is expected that the act will favorably affect the administration of the civil dockets of the Federal courts. Presently, in both Federal and State judicial systems, civil cases are subordinated to criminal prosecutions. Because those courts are unable to adequately and efficiently handle the criminal caseload, the civil docket must necessarily suffer. Intolerable delays are, therefore, created in the disposition of civil cases. I and the other members of the Subcommittee on Crime anticipate that the Speedy Trial Act of 1974, by requiring the courts to grapple with pretrial delay problems in criminal cases, will remedy pretrial delay in other areas as well and will serve as a model for our State judicial systems.

Mr. Speaker, I would like to commend the chairman of the Subcommittee on Crime for his efforts to insure an expeditious handling of this important legislation. During the past several weeks, the subcommittee has heard considerable testimony and has given much hard work and thoughtful consideration to the issues contained in the bill. While questions remain on a few provisions of the bill, questions that will be considered further by the full committee, I am convinced that the bill will provide an effective means of dealing with a very serious problem in the administration of justice at the Federal level. It is my sincere hope that the Judiciary Committee will be able to give favorable consideration to the measure immediately after the recess so that the House may take final action on it before the Congress adjourns. I urge my colleagues on the Judiciary Committee and in the House to give their support to this measure.

HUNGARIAN PATRIOT COLONEL DE KOVATS

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, October 16, 1974

Mr. SCHWEIKER. Mr. President, as we begin our preparations for the 1976 Bicentennial, it is important for us to remember the many patriots from abroad who served in the American Revolutionary War, and who made significant contributions to the winning of our Nation's freedom.

One such man was the commander of the Pulaski Legion, a courageous officer from Hungary, Col. Michael de Kovats. Colonel de Kovats heard of the American struggle, and wrote to the American Ambassador in Paris, Benjamin Franklin, to offer his services to the colonies. The original of this historic document is today in the Philadelphia Library of the American Philosophical Society.

Later Colonel de Kovats arrived in America where he joined Count Casimir Pulaski, who had already distinguished himself in the Revolutionary Army. As commander of the Pulaski Legion, Colonel de Kovats recruited troops from the Easton, Pa., area. After numerous encounters with British troops, Colonel de Kovats was killed in battle on May 11, 1779.

Colonel de Kovats was a credit to the Hungarian people, and served America in our days of need during the Revolutionary War.

REVIEW BIG GRAIN DEALS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. DERWINSKI. Mr. Speaker, personally, I am concerned over the revival of negotiations over the grain deal with the Soviet Union that the President worked to cancel 3 weeks ago.

Certainly we must establish a more practical disposition of U.S. surplus grain overseas, especially at a time when allocations of surplus food is a matter of international concern.

The lead editorial in the Chicago Sun-Times of Tuesday, October 8, makes a number of practical recommendations that I believe the Congress should follow:

> Review Big Grain Deals
>
> President Ford acted sensibly last week to abort a massive deal under which two U.S. firms would have sold 125 million bushels of corn and wheat to the Soviet Union. Many Chicago housewives already are coughing up 50 cents or more every time they buy a loaf of bread for their families. If the deal had gone through they might have wound up paying even more. The need now is to devise an effective means of governmental review so that other mammoth deals don't become mammoth consumer burdens.
>
> The U.S. consumer already has some bitter experience in this field. The great grain sale of 1972, in which $1.14 billion in wheat was sold to the Soviet Union, depleted U.S. grain reserves and helped drive food prices to their present merciless levels. The situation now is similar. Wheat and corn stocks in the United States are depleted, and a wet spring, dry summer and early frost have cut into the current corn harvest.
>
> By contrast, the Soviet Union's grain reserves are at their highest levels in three years. Within a month, the Russians are expected to bring in the second-largest grain crop in their history.
>
> No one is contesting the right of private firms to do business with the Soviet Union

or any other country. At the same time, no businessman has a right to profit at the expense of his countrymen. The imposition of government reviews of private business transactions to prevent such profiteering is a distasteful procedure in a world where free trade is a desirable goal. But a permanent, automatic system of co-operation and reporting is needed in giant food transactions. The administration announced such a tentative plan Monday. If it can be made to work, it is one that private firms ought to co-operate with.

DEBT RESCHEDULING FOR INDIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. HAMILTON. Mr. Speaker, the subject of debt rescheduling for states of South Asia has become an unfortunate economic fact of life in recent years. Now, it seems, regular annual requests for debt relief are being made.

A new request of the Indian Government for debt rescheduling is pending, At a June meeting of the Aid Consortium for India, the World Bank proposed a level of debt relief for India which the United States considered too high. More recently, the United States had advised the World Bank that it is prepared to reschedule up to a maximum of $45 million, far short of the $64 million original World Bank proposal for the U.S. share. The World Bank is still apparently revising its debt relief proposal for India.

It is hoped that a compromise can be worked out and that a healthier economic climate in India will exist next year so that extensive rescheduling will not be necessary.

Two letters from the State Department describing the state of debt rescheduling proposals for India follow:

Department of State,
Washington, D.C., July 31, 1974.

Hon. Lee H. Hamilton,
Chairman, Subcommittee on Near East and South Asia, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: The Secretary has asked me to inform you of the status of discussions on debt taking place in the Aid-to-India Consortium, an organization of thirteen creditor countries chaired by the World Bank. Although there have been no new United States bilateral loan commitments to India since 1971, the United States has continued to participate in Consortium-sponsored debt rescheduling exercises begun six years ago. Last year the United States rescheduled $29 million of the total $179 million rescheduled by the Consortium creditors. However, India still paid debt service totalling $115 million to the United States.

At the two meetings of the Consortium held this year, attention has focused on India's debt and aid needs in the light of the country's economic problems. These problems are dominated by needs for petroleum, fertilizer, and foodgrains and for measures to meet balance of payments problems resulting from the sharply higher costs of these essential imports. I shall refer shortly to another aspect of the Indian economic situation, that of its nuclear development program.

Of course, India's long run development depends mainly on India's own efforts to mobilize its resources in the most efficient manner possible. For the present year, however, members of the Consortium agreed that 1974 will be particularly difficult for the Indian economy and people. In view of India's economic difficulties, most Consortium members have already scheduled increases in their economic assistance programs to India.

In addition, the World Bank proposed at a Consortium meeting on June 13–14 that the thirteen Consortium creditors reschedule 45 percent of the roughly $550 million in Indian debt payments due them this Indian fiscal year, ending March 31, 1975. The proposal would provide total debt relief of $248 million. Since debt falling due to the United States from India this year is just over $145 million, the United States share of relief under the Bank's proposal would have amounted to approximately $64 million.

Most members accepted the Bank proposal but the United States did not. The United States stated a willingness to reschedule at a level well below the Bank's suggested share for us, with a pledge to review India's situation later in the year if such was warranted by economic conditions.

During the Consortium discussions with the Indian delegation most of the creditors, including the United States, referred to India's nuclear explosion. The general views were that the explosion had raised questions of India's economic priorities for the future, and that its economic implications would have to be carefully examined. In our judgment, no significant transfer of Indian economic resources is involved in its nuclear explosion. India's annual budget is about $12 billion. Total expenditures for nuclear development in FY-1973 were $91 million, the vast bulk of which was used on nuclear power development, to provide electricity badly needed for the Indian development effort. The total cost of the nuclear explosion, including prior research and development, was less than one-tenth of one percent of India's budget.

At the present time, the World Bank is reportedly attempting to revise its debt relief proposal in a manner that would be acceptable to all Consortium creditors. I will be happy to provide any additional information on this subject, and will keep you informed of any further developments.

Cordially,

Linwood Holton,
Assistant Secretary for Congressional Relations.

Department of State,
Washington, D.C., October 10, 1974.

Hon. Lee H. Hamilton,
Chairman, Subcommittee on Near East and South Asia, Committee on Foreign Affairs, House of Representatives, Washington, D.C

Dear Mr. Chairman: The Secretary has asked me to inform you of current developments with respect to a rescheduling of India's debt to the United States. As I noted in my letter of July 31, the United States was not able to accept a World Bank proposal requesting the thirteen creditors of the Aid-to-India Consortium to reschedule 45 percent of the Indian debt service falling due this Indian fiscal year. Under this proposal, the United States share of relief would have amounted to $64 million.

After careful consideration of India's current economic problems and the serious balance of payments difficulties that she confronts, the United States has advised the World Bank that it is willing to reschedule up to a maximum of $45 million. It is our hope that this offer will facilitate early agreement by creditors on a rescheduling for India within the Consortium. Even though this represents about 31 percent of Indian debt service falling due to the United States, the World Bank is hopeful that most of the other creditors will participate at the 45 percent rate requested in the original Bank proposal.

Pursuant to the provisions of Section 4 of the Foreign Assistance Act of 1974, the text of any bilateral rescheduling agreement negotiated with India will be transmitted to the Chairman of the Senate Foreign Relations Committee and to the Speaker of the House of Representatives at least 30 days before its entry into force.

I will be happy to provide any additional information on this subject.

Cordially,

Linwood Holton,
Assistant Secretary for Congressional Relations.

DR. LEROY WALKER

HON. IKE F. ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ANDREWS of North Carolina. Mr. Speaker, in recent years Durham, N.C., which I am privileged to represent, has become a center for national and international track meets.

The U.S.-Pan Africa meet in 1971, the Martin Luther King games in 1973, and the U.S.S.R.-U.S.A. meet earlier this year have merited widespread news coverage, and, more importantly, I am sure, have done much to boost our relations with other countries.

These track meets have succeeded through a joint effort on the part of many at Duke University, North Carolina Central University, and in the community who have tirelessly contributed their time and talents.

One of the leaders in this effort has been Dr. Leroy Walker at North Carolina Central University.

Dr. Walker was recently elected, on the first ballot, as the U.S. men's track and field coach for the 1976 Olympic Games, and in recognition of this well-deserved honor, I am pleased to insert in the Record copies of the October 7 news story and the October 9 editorial from the Durham Morning Herald.

I have the privilege of knowing Dr. Walker personally, and I also know of his abilities as a coach. I am confident that he and his team will be a credit to our Nation.

The articles follow:

Walker Reaches "Pinnacle"

(By Bob Davis)

Dr. Leroy Walker, whose achievements as North Carolina Central track coach are legion, Sunday was accorded his "supreme moment," first-ballot election as U.S. men's track and field coach for the 1976 Olympic Games.

"If there's a utopia in coaching," said Walker on his return from Chicago and the balloting by the U.S. Olympic Committee, "this has to be it."

"It's not just coaching your national team, it's coaching your national team in the Olympic Games. There's a difference."

Walker said he was not surprised that he was selected, "considering the international coaching experience of others nominated. But I was surprised—and flattered—that the decision came so quickly."

Walker, who will remain as advisory head of the Central track program, has coached national teams before, including those from the U.S., Israel, Ethiopia and several other foreign countries. This was a "career-capper," he said, "the pinnacle."

He passed the commissionership of the Mid-Eastern Athletic Conference to his assistant, Earl Mason, who has been acting commissioner for the past few months.

Walker said he would begin immediately to plot organization for his Olympic coaching staff, which includes one of his former Central athletes, Lee Calhoun of Yale University. Calhoun won two Olympic gold medals in the high hurdles.

Other assistants selected Sunday are Jimmy Carnes of Florida, Stan Huntsman of Tennessee, Sam Bell of Indiana and Carl "Berny" Wagner of Oregon State. Carnes was head coach of the victorious U.S. men's team in last July's USSR-USA meet in Durham, one of several major international meets engineered by Walker.

Although the staff was selected in areas of specialty, Walker said the head coach "is at liberty to make changes" according to coaching needs.

"It's a great staff," he said. "It has great range. But we'll approach our planning with a 'team coaching' concept.

"One of the important jobs we'll have is to look at prospective athletes. This is the earliest before the Games an Olympic coach has ever been selected, you know. This will give us time to make some changes."

Minnesota coach Roy Griak was named U.S. coach for next spring's Pan American Games in Sao Paulo, Brazil. His assistants include Dr. Joe Vigil of Adams State, Colo.; Frank Sabasteanski, Bowdoin College, Maine; and Hoover Wright, Prairie View A&M, Tex.

A FITTING HONOR

The United States Olympic Committee has chosen well in selecting Dr. Leroy Walker, track coach at North Carolina Central University, as coach of the U.S. men's track and field team in the 1976 Olympic Games. And the fact that he was the first-ballot choice reflects all the more the high esteem in which he is held in track coaching circles.

"If there's a Utopia in coaching, this has to be it," as Dr. Walker has said. The high honor, the pinnacle of his coaching career, is richly deserved. It has been earned through superior performance as a coach and through leadership and initiative displayed in such things as bringing the U.S.-Pan Africa track meet to Durham in 1971 and the U.S.S.R.-U.SA. meet here this year.

In short, Dr. Walker is a man who gets things done. We wish him every success in his challenging new assignment, and, at the same time, we're pleased that he will remain as advisory head of N.C. Central's track program.

PERSONAL STATEMENT

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. GINN. Mr. Speaker, due to unavoidable circumstances I was unable to be present in the House Chamber yesterday during the first portion of the day's activities. My late arrival in Washington was caused by the fact that my airline flight from Augusta, Ga., was delayed for several hours as a result of inclement weather.

Had I been present during the entire day, I would have voted to override the President's veto of House Joint Resolution 1131, making further continuing appropriations for the fiscal year 1975.

In addition, I would have voted to override the President's veto of H.R. 15301, a bill to amend the Railroad Retirement Act of 1973 to revise the retirement system for employees of employers covered thereunder.

PERSONAL FINANCIAL STATEMENT OF HON. JOHN CONYERS, JR., FOR 1973

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. CONYERS. Mr. Speaker, public confidence in the personal integrity of Government officials has been severely strained during the past few years. Too many public servants have adopted the attitude that holding a position of public trust is their right rather than an honor and privilege. Instead, a proper appreciation of public service includes a recognition that Congressmen are fully accountable to their constituents and must earn their confidence and continued support. At the very least, every elected official has a personal responsibility to satisfy the electorate that he is not receiving unreasonable personal benefits by virtue of his public service.

In the light of recent disclosures, there is little need to belabor the pernicious impact of money on American politics and especially on political campaigns. The campaign finance reform legislation recently approved by the Congress is a major step in the right direction. But the job will remain only half done until congressional, as well as presidential campaigns, no longer have to depend on being wealthy or having access to great wealth.

Personal financial disclosure requirements are also inadequate. I support full public disclosure and shall continue to work to make it mandatory. Meanwhile, I shall voluntarily make full public disclosure of my own personal finances, including the following statement for 1973.

My income for the year consisted of my congressional salary of $42,500, income from my ownership interest in the Conyers Ford Dealership of $10,530, and my income from speaking honorariums of $1,626. My total income was $54,656 and my adjusted gross income was $50,806. I paid Federal income taxes amounting to $19,980, Michigan State taxes amounting to $2,192 and city of Detroit taxes amounting to $1,161.

My net worth is $161,607. This figure is computed from $100 worth of shares owned in the First Independence National Bank of Detroit, the cash value of my Government Life Insurance policy which is $4,400, my home in Detroit which is worth approximately $37,000, personal property valued at approximately $5,000, net ownership interest in the Conyers Dealership of $86,940, and vested interest in the congressional retirement system of $28,167; this has accumulated over the course of five terms in the House of Representatives, commencing in January 1965. My current indebtedness in loans owed is $4,696.

THE PROBLEM OF BUSING

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. HARRINGTON. Mr. Speaker, for the past 5 weeks, the city of Boston has been embroiled in violence triggered by a recent court decision upholding the racial imbalance law. In the emotional furor surrounding the issue, there has been a lack of focus on what I feel is the heart of the matter—economic and social immobility within the working class. An article which appeared in the October 15 issue of the Boston Globe elaborates on this point in a perceptive fashion and I request that it be inserted in the RECORD at this point for the information of my colleagues.

The text follows:

BUSING PUTS BURDEN ON WORKING CLASS, BLACK AND WHITE

(By Mike Barnicle)

Robert Coles is 45 now. He was born and raised in Boston. He lives with the memories of Blue Hill avenue and Hyde Park and of neighborhoods and a time when people helped one another.

His head took him to the Boston Latin School and to Harvard and to the Columbia University School of Medicine where he earned a degree in psychiatry. And his heart took him to the streets of this country called America where he has spent his life talking with the people who form its backbone.

He spent a couple of years riding a school bus with small black children from Roxbury to the suburbs. He spent a couple more years living and learning from the policeman and fireman and postal worker in Roslindale and Dorchester. His eyes hold the memory of small children in the Mississippi Delta, bellies swollen with hunger.

His books have won prizes and they tell the tale of the people that Robert Coles likes best; Indians in New Mexico, steelworkers in Pittsburgh, ironworkers in Chicago, dock workers in Boston. He lives in Concord now with fame, money, prestige, honor and a sense of who he is and where he came from.

Boston is nearly 350 years old now. It has been through the tortured process of revolution and the newer tests of immigration. It has a history steeped in the tradition of democracy, a reputation based on the fundamentals of justice and free speeches and law. And now it is being confronted with the ultimate in social confrontation—busing, with all of its built-in fears and flaws.

It is a situation that Robert Coles has spent a lifetime studying.

"I think that there's a sense of vulnerability and fragility in South Boston with all of this," Coles says.

"The people remember how they were treated for so long by the Yankees who ran the state and ran the city. They are very conscious of who is running things.

"You don't have to go to Harvard and major in sociology to figure out what's what. They feel the news is slanted and that there's no real effort to report how they feel. The stories are covered from the intellectual liberal community viewpoint. I think their perceptions are not totally crazy. There's an element of truth in what they say."

In the very early morning, the lights go on in the homes off of Broadway and Dorchester avenue. Men and women walk quietly about in rooms where there are families to take care of and jobs to go to.

"People in the suburbs," Coles says, "They're keeping their hands clean . . . which is a privilege that people have. And that's a vested interest that only certain people can afford.

"Their lives are clean and their minds are clean and their hands are clean. And they can afford this long, charitable, calm view. And if people don't know that this is a class privilege then, by golly, they don't know anything."

The husbands and wives move slowly through the house. They dress for work and start the breakfast. They talk quietly about things like cars that don't work and bills that must be paid. And kids who are not going to school.

"I think the busing is a scandal," says Robert Coles. "I do not think that busing should be imposed like this on working class people exclusively. It should cross these lines and people in the suburbs should share it. And if the people in the suburbs can't share it then there should be legislation to make that possible.

"To try and put this burden on working class people—black and white—who are in jeopardy like this and who are frightened isn't the answer.

"All of these people in the suburban towns, myself included," Coles says, "they have to be brought into this. And if they can't be brought into it then there ought to be legislation. And if the people of this state vote it down then we know where they stand. But these people out there have never been held to account."

The husband is reading the sports page of the morning paper and the wife is brewing coffee wondering what to do to keep her children out of trouble for one more day as the city and the courts and the cops wrestle with the awful reality of rocks being thrown at buses.

"People in the suburbs are protected behind a wall that is around the city of Boston. It's not fair. I don't think I should be left off the hook and I don't think that all of these experts . . . these various social scientists and those in favor of integration like myself should be in the position of delivering sermons to the people of Boston . . . of any kind . . . until we have been made a part of all of this.

"To compare this to the South is not the issue," Coles says. "Those children in the South were going to school as part of a larger effort to get into restaurants, to vote. This kind of busing in the inner cities of the North is a different phenomenon and it's got to be looked at in the context of who is being asked to carry this burden."

The man has finished the paper. The wife is drinking her coffee. There is a coat hanging over a chair by the door. It is a heavy, woolen coat and the man's name is printed in yellow on the front. He is a worker.

"You have a division here between the middle class, privileged, well-to-do, well educated," Robert Coles says. "People whose jobs are not in jeopardy, who have good stocks—even if the market is off—people who have plenty of money in the bank, who have summer homes down on the Cape, who have air conditioning . . . all the things that make life more enjoyable.

"They can afford to go on a spree now and then. They're in favor of ecology and of cutting the defense budget. When to a guy in a factory, ecology might mean he's going to lose his job."

"We're not getting any solutions to busing from the people who are in favor of clean air or the people who want to cut the defense budget.

"If the suburbs won't share in the problem of busing then let them carry the moral burden. Let's have some studies of these suburban people. Let's see what they're like and what their emotions are and what their prejudices are. No one's looking at them or trying to understand what gives these people such protection from all the accusations that are being leveled at the people who live in Roslindale, Hyde Park, South Boston and Roxbury.

"It's money," Coles says. "It's power and money. And with increasing amounts of both there are all kinds of hypocrisies. Look at Vietnam. Who got deferred left and right? Who was totally immune from the draft? And meanwhile, down the road, whose sons were being brought home in coffins?"

When the husband leaves the house, the streets are just beginning to fill up with police. The motorcycles and squad cars ring neighborhoods used to quiet.

"The policemen might often be in sympathy with those people," Coles says. "But their loyalty to their ethic as policeman is higher. There are a lot of people in South Boston capable of making racial slurs. But they have other ideals, too.

"They have contradictory and conflicting emotions. There is an identification with people who suffer and there is a sense of fear, too. These are contradictory and inconsistent emotions that no damn psychiatrist or sociologist is going to make sense out of. It's just a part of the craziness of life today."

The man looks at the police. Some of them he knows—from drinking beer at night in neighborhood bars, from church, from living his life. He looks back at his house and heads toward the job thinking about his mortgage and the kids behind him, sleeping, not going to school.

"These people are frightened," says Robert Coles. "They are afraid that desegregation is the beginning. That, soon it will result in attempts to move into the neighborhood. And then the neighborhood will topple and they will be stranded.

"They will either get out or they can't get out in time. They think that an increase in numbers of blacks will bring violence and a deterioration in their housing. It becomes an irrational fantasy, all-embracing. They think that this is the end. They're trying to flee. But where can they go? How can they go?"

At the end of the block, the man passes the church and then heads across the street toward the MBTA station. He stops to talk with one of the helmeted cops, his brother-in-law. And he ends up borrowing $5 because it's the end of his week and there is very little money left in the budget.

"These people can't afford to move to Milton or Quincy. There isn't any mortgage money available. Many of them don't want to move anyway.

"But they have this feeling of being betrayed . . . by everybody. They grew up in one kind of life when the nuns and priests and the Pilot all spoke one way. There was no civil rights stuff in the church. No anti-war stuff. All of that is very fine if you're a writer for the New York Review of Books or the New Republic.

"But after experiencing week-in and week-out religious loyalty and listening to sermons that were always the same, what starts happening? The priests are all marching. The nuns are marching all over the place. The Pilot is different. The Cardinal isn't 'one of you' and now the church is telling you that you can't send your kids to a parochial school. And others are asking all kinds of things of you."

The cop watches his brother-in-law disappear into the crowd with his $5 and his job to go to. Others are coming up from the subway and the streets are starting to get busy with the noise of early morning.

"Being a cop right now in South Boston is a tremendous test. You have these loyalties. It creates substantial tension. But often the violence of the mob helps convert you. They're horrified at the violence. The distance between thoughts and prejudices that one feels and the kind of action on the streets is frightening to anyone. And the police have to be converted to the absolute necessity of keeping that under control and wiping it out."

He has his helmet with the heavy plastic face mask under one arm and a coffee in the other. He stands there at the corner watching his neighborhood move into the day.

"It's not an easy job being a cop or a fireman or a teacher. They're not exactly living the life of Riley financially. They don't have huge amounts of money socked away like lawyers and doctors.

"And now they're in conflict with their own beliefs and values. How many people in America would be willing to do that? For not very much money and for hazardous duty, to take on the front line of the whole of society's problems? To be picking up the cards for every foulup, for everything that's been done wrong . . . they're not historians but they know they're on the front line of this," Coles states.

"They're doing the work for the bankers, for the politicians, for the ministers and priests . . . for all the holier than thou sermons that have been delivered in Boston for the last 100 years. And for every bit of hypocrisy and phoniness . . . there they are. On the firing line. And it's no joke."

The cop moves down the block, telling a few kids to either go to school or go home but get off the street. He stands in front of a tavern that will not open. He leans against a board where a window was in place two weeks ago.

"It's pretty damn uncomfortable," Cole says. "It's nerve wracking. They feel constantly misunderstood. These are people who are being called pigs now by their own. They have been called fascists by the liberal and radical ideologues; ignorant and uncouth on general principle by all the suburban people who come into the city and now their own community feels that they are betraying them.

"Well, what are they supposed to do?

"Where does their salary get them?" Coles asks. "Apart from that, in their training they get these criminologists and sociologists from Harvard who tell them that they must be this and they must be that. They have to understand urban sociology and crowd behavior. They have to know this and know that, take sensitivity sessions . . . What is left for them?"

Back in the kitchen of the small home with the still large mortgage, the mother and her children are eating breakfast and watching the TV. Their decisions are about such things as how much will hamburg cost today and what can be done to get through one more afternoon without books or homework.

"Everyone knows that the violence has to be put down, by whatever means. And the kids have to start learning and going to school.

"But there has to be an effort to understand the social history and the class tensions of all of this, to put these problems into the context of other areas of the city and of the state.

"We have to look at the differences in the lives of people in South Boston and Hyde Park and Roxbury against those living in Lincoln or Concord or Marblehead.

"And all of that has to be systematically brought out into the open . . . by comparing what it's like to be a policeman in South Boston or a man who works in a factory in Lynn; to make the public—all of these people on both sides—understand that it isn't just a matter of hate here and goodness and light in all the other places.

"The people in the suburbs have to be confronted with the assumptions of what their lives are," Coles says. "And what enables them to have those assumptions. Busing and education and integration have to become an open issue. And this kind of social change cannot just occur in one area while everyone else is let off the hook."

The kids are dressed and gone and the woman tries to split up her day so that she can get things done before it is time for her to leave for work at the hospital late that afternoon.

"These people sense that they have no control over the destiny of their lives. It's not like living in Concord. People here have control," Coles says.

"No one is shouting at them. If they show up one minute late for work from South Boston, they're docked. Out here, people are the bosses.

"They come home at night and they have terrain . . . acres of it. They have autonomy over their lives, their mind, their soul, their body, their circumstances.

"You live in South Boston or Roslindale or Roxbury and it isn't just a matter of the blacks. People are up early. They have to show up at their jobs. Who is over them? Who is watching them? Who is running their lives, signing their checks? How much are they getting? Do the wives have second jobs? Is the mortgage still high? Is there any money in the bank?

"What is it all about from their point of view?" Robert Coles asks. "They're afraid. Why shouldn't a guy who lives in a house near Carson Beach, a house that he's trying to pay for, working a job that he's afraid of losing . . . why shouldn't he be afraid when they tell him that his kid is going to be bused? Why shouldn't he be afraid?"

At the end of the day, the man will be back from the job. The wife will have gone to hers. The kids will sit and talk with their father. And the father will sit and wait for his wife. And he will think . . . about money, about school, about his family, about the future.

"The ultimate reality," Coles states, "is the reality of class. And it's around this issue of having and not having—and social and economic vulnerability versus social and economic power—that's where the real issue is.

"That's the real struggle that's going on," Coles says. "And to talk about it only in terms of racism is to miss the point. It's working class people who happen to be white and working class people who happen to be black . . . poor people . . . both of whom are very hard pressed; neither of whom have got much leverage on anything. They are both competing for a very limited piece of pie, the limits of which are being set by the larger limits of class which allow them damn little if anything."

The homes are quiet now. The streets are quiet. The people sleep. The police cars patrol the intersections and disappear into neighborhoods where they have seldom been needed.

"So what the hell have all these people got to contend with," Robert Coles asks. "They've all gotten a raw deal, white and black.

"Both groups have been ignored. Both of them are looked down upon by the well-to-do white people who pick up the pieces. Because all the laws are being written for the wealthy and the powerful.

"The tax laws, the zoning laws, the laws that have to do with protecting their housing and their education . . . all of this is protected," Coles says.

"And no one has been taking anything away from them."

WHARTON HOCH ENTERS KANSAS NEWSPAPER HALL OF FAME

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. SHRIVER. Mr. Speaker, one of the highest honors which can be accorded a Kansas newspaperman is selection into the Kansas Newspaper Hall of Fame at the William Allen White School of Journalism at the University of Kansas in Lawrence. Such high honor was given to the late Wharton Hoch, of Marion, on Saturday, October 5, 1974.

Wharton Hoch served as editor of the Marion County Record from 1944 until his untimely death in July 1967. It was my privilege to know Wharton and to count him as a good friend and supporter. His father, Homer Hoch, had served as Congressman from the Kansas Fourth Congressional District.

We in Kansas are fortunate to have a large number of outstanding weekly community newspapers. They represent a constructive force for good in these communities and for our State and Nation. Wharton Hoch was one of the giants among the editors of Kansas weeklies. He has indeed joined with good company in the Kansas Newspaper Hall of Fame, and has earned his own place among Kansas' distinguished editors.

Mr. Speaker, under leave to extend my remarks in the RECORD, I wish to include the text of the speech made by Dr. Calder M. Pickett, professor of journalism at the University of Kansas, which was reprinted by Mr. Bill Meyer, editor of the Marion County Record, following the recognition of Wharton Hoch:

WHARTON HOCH SELECTED FOR KANSAS EDITORS HALL OF FAME

(By Calder M. Pickett)

Kansas is a state of small towns. One of its best novelists, Paul Wellman, wrote of the fictional Jericho. Its most notable painter, John Steuart Curry, showed the towns and the countryside in his work. Its famous playwright, William Inge, had his characters act out their destinies—in plays like "Picnic" and "Bus Stop"—in the small towns of the state.

It is no accident that its best-known editors, national figures like Ed Howe and William Allen White, were small-town people, and that they choose to be small-town dwellers. And along with the small town another theme has been the land, for from the beginning, back into territorial days, Kansans found that great contrasts of heat and cold would contribute, somehow, to the character of the state and the character of its people.

It is a small-town editor who is the subject of this commentary, a small-town editor whose name is being added to the Kansas Newspaper Editors Hall of Fame in the William Allen White School of Journalism. His picture, too, for he will join that gallery of men—and only one woman so far—whose faces are in our Hall of Fame room.

This editor's name is Wharton Hoch, and a number of you by now must have guessed his identity, because of certain people who are in the room, people to whom we will get later on. But first I want to quote Wharton Hoch, whose paper was the Marion County Record—words he wrote for his paper back in October 1945.

"Some people misunderstand the function of a community newspaper. They seem to think that it is the duty of the press to correct all wrongs, to make over the people and control their desires, to solve social and civic and religious and financial problems. Others would have their paper support everything and criticize nothing—they would see only the good and close their eyes to the bad.

"All these people exaggerate the so-called Power of the Press. The community newspaper editor is neither a policeman, a reformist, nor a libertine. Editorially, we can and will applaud, encourage and support every good and worthwhile event or effort that comes this way. We can point out what in our opinion are evils and shortcomings and things that need to be done for the good of everyone.

"But if there is any power to the community press it lies in a continual effort to truthfully report all the news in a friendly way, so that all may know the everyday events in the life of Marion and her neighbors. We have greatly appreciated the interested cooperation of many friends, and again reiterate our main purpose—to put out a good, complete newspaper, and to do what we can to help make Marion a better place in which to live."

In his paper he sometimes assumed the identity of one Ed Stiltz, a character who showed up in Hoch's column, "Around Town." And there were little passages like this:

"Ed Stiltz, who lives down by the city dump, says he has given up his deep-breathing exercises since the wind changed to the south."

That kind of comment put him, of course, clearly in the Kansas tradition of paragraphing—the art of Ed Howe and Bertha Shore.

Wharton Hoch came from one of the truly distinguished families of Kansas, but from all accounts he was not a pretentious sort. His father, Homer Hoch, was a representative to Congress until the Roosevelt landslide struck, and he then was appointed a justice of the Kansas Supreme Court. His grandfather was E. W. Hoch, governor of Kansas from 1905 to 1909. And Wharton Hoch was born, as a matter of fact, in the old Governor's Mansion in Topeka, while his grandfather was chief executive of the state. The Marion County Record lists him as the only baby ever born in the mansion.

His date of birth was June 23, 1908, and his mother was the former Edna Wharton. He was educated in Marion schools, except for a short period in Washington, D.C., while his father was a Fourth District Congressman. He graduated from Marion high school in 1926 and from the Medill School of Journalism, Northwestern University, in Evanston, Ill., in 1931. He worked on Chicago newspapers while a student at Medill, and he became a member of Delta Tau Delta social fraternity and Sigma Delta Chi, the journalism society.

Wharton Hoch spent time in Europe, in banking houses in both London and Parson. He was a salesman for Western Newspaper Union, working out of Wichita, and was a foreman of a printing concern in Cleveland.

His days on the Marion Record began in 1944, when he purchased the paper from his uncle, Wallis Hoch, and merged the paper with the Marion Review, which was owned by Mr. and Mrs. John Riddle. In 1948 he purchased the Riddle interest and became sole publisher of the newpaper. On Nov. 10, 1946, he married Nadine Noll, who survives him and who is with us today. There also are four sons, Richard of Nebraska City, Neb., a lawyer; Robert of Wichita, a printer at the Wichita Eagle; Jim, a junior at Marion High School, and Bill, in the eighth grade. There is one daughter, Beverly, Mrs. Steve Campbell of Oklahoma City. He has a sister, the former Jean Hoch, wife of Dr. L. L. Saylor in Topeka.

The Marion County Record is one of the old-timers of Kansas journalism; just last week it celebrated its 105th anniversary. Like a lot of Kansas papers it has a rather complicated genealogical chart: first it was the Western News, from September 1869 to April 1871. Then it was the Western Giant, from April 1871 to September of that year. It became the Marion County Record in September 1871 and kept that name until April 1881; E. W. Hoch became editor in October 1874 and was there until 1909—through another name change. In April 1882 it became the Marion Record and kept that name until March 1944, and a variety of Hochs were associated with it: E. W., Homer and Wallis. From March 1944 to October 1957 it was the Marion Record-Review, and it became the Marion County Record again—an early-day name—in October 1957. That's still the name. I hope you got that down, because you'll be asked about it on the next exam.

It is now Bill Meyer of Marion who runs the paper, and he helped me pull together material for this tribute. It seems to me that his words convey pretty well the sense of one person—and I'd gather the sense of others as well—about the editor whom we are honoring. Bill wrote the Wharton Hoch obituary for the July 27, 1967, Marion County Record, Hoch died on the 22nd. Bill wrote that he was "a bit flustered and emotional when I wrote the obit, for I had worked alongside Wharton for 19 years and respected and admired him above all others."

Note that he says "alongside": he writes that "you didn't work 'for' Wharton Hoch, you worked 'with' him." He was "a soft-spoken man," says Bill, "kind and compassionate, and seldom showed any trait of temper. But when Wharton took on a cause, he gave it his all. Perhaps the most crusading editorial campaign he engaged in was when, during World War II, a German POW camp at Peabody was letting the prisoners run free—Wharton stirred up so much attention that the policy of the camp had to be changed.

I also have a moving editorial tribute from Don McNeal of Council Grove, who described Hoch as "fine in professional ability and practice and one of the finest gentlemen. Wharton, without a doubt in the minds of many, could have been elected to high office, but he chose to serve his fellow man on a more local and personal basis. He had been referred to as Mr. Marion, and this we can understand. It was a title of respect and a well-deserved one because to him that community and its people were surpassed in importance only by the members of his family. One of the finest compliments a man can have is to be highly regarded in his own profession. In the eyes of his fellow editors, Wharton was right up at the top of the list among newspapermen and 'grand people' in Kansas."

The public service list of our honoree is an extensive one. He was a past president of the Marion Board of Education, past president of the Marion Kiwanis Club, past president of the Kansas Press Association and a trustee of the William Allen White Foundation, which is associated with our school. He was on the official board of the Marion Methodist Church and a member of the board of trustees of that church. He had been active in the Chamber of Commerce, the Country Club, the Athletic Association, the Red Cross and the March of Dimes. And, as a good Kansas editor—and a typical one, I submit—he had been active in the Republican party, serving as both county chairman and secretary of the Republican Central Committee.

"He was a friend to all," Bill Meyer's editorial tribute said in 1967, "and never too busy to give his time and understanding nature to anyone. It mattered not how high or low a position a person held in life, Wharton Hoch always managed to give his undivided attention and talents to other people's problems."

He added that "he never was a man to seek personal glory or great fortune. His family, his church and his town of Marion were more important than money or ego."

Wharton Hoch was a familiar face and figure here at the University of Kansas, at occasions like this one, and on our February day honoring William Allen White. As I noted at the beginning, he was, like White, a man of the small town, and it is fitting and proper that we add his name to our Hall of Fame.

PURSE SNATCHER'S NEMESIS MAY GO DOWN IN HISTORY

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. SYMINGTON. Mr. Speaker, we often hear about the help that never came, the impassive bystander, the person who "did not want to get involved." At a time when the Nation needs, as never before, the citizen who is willing to think and act in his neighbor's interest, it is encouraging to find positive examples of such stoutheartedness; particularly so when the example is close to home. For this reason, Mr. Speaker, I am entering in this day's RECORD a newsstory from the St. Louis Globe-Democrat regarding the timely intervention of a young St. Louisan in a purse-snatching far from his and the victim's native State of Missouri:

[From the St. Louis Globe-Democrat, Sept. 11, 1974]

PURSE SNATCHER'S NEMESIS MAY GO DOWN IN HISTORY

A college student formerly from St. Louis who successfully went to the aid of a purse-snatching victim in Boston may find his name entered in the Congressional Record.

The purse belonged to Mrs. Sylvia Symington, wife of Missouri Rep. James W. Symington (Dem.), St. Louis County. Symington said the student's courageous act deserves a place in history.

Mrs. Symington was in Boston Monday to meet her son, Jeremy, 17, who was returning from an Outward Bound camping trip on Hurricane Island near Cape Cod.

The 5-foot-2, 103-pound Mrs. Symington was returning from dinner with friends about 8 p.m. near the Ritz Hotel when three youths grabbed her purse and ran.

Mrs. Symington chased the youths for nearly a block yelling "stop" and "help" until she tripped and fell to the sidewalk.

"She said it was the kind of fall you see in a Keystone Cop movie," Symington said. "A real belly flop."

Lawrence Ray Deyton, son of Mrs. Dorothy Deyton and the late Dr. John W. Deyton, formerly of Webster Groves, heard Mrs. Symington's scream and took off after the purse snatchers. He retrieved the purse in a scuffle with one of the youths.

Mrs. Symington said she was attending to her skinned knee when she saw Deyton walking toward her with the purse slung over his shoulder.

"You must be the lady who had her purse stolen," Deyton said as he handed it to Mrs. Symington.

Noting that Mrs. Symington and Deyton were both from St. Louis, a Boston police officer said: "You midwesterners sure stick together, this is the first time I've seen a purse returned."

"Courage of that kind is hard to find," Symington said Tuesday before leaving St. Louis to meet his wife and son in Washington.

Symington said he hopes Deyton will telephone his office in Washington so he can personally thank him. Police said Deyton, who now attends college in Boston, has no telephone.

Symington said he intends to cite Deyton for his courage in the Congressional Record.

After learning the young gentleman's address I wrote him, and herewith follows both that letter and his gracious response:

SEPTEMBER 13, 1974.

Mr. LAWRENCE DEYTON,
308 Washington Street,
Brighton, Mass.

DEAR LAWRENCE: Your presence of mind, resolve, and obvious agility saved my wife a good deal of inconvenience. We seem to live on credit cards and licenses these days so her capacity to cope with today's world was pretty much contained in that purse. More than that, a loss by force is always a demoralizing experience. Conversely the morale of an individual and for that matter a nation is lifted measurably by such actions as yours. And, assuming you would not object, I intend to note your good Samaritanship in the Congressional Record. Perhaps you could let me know where and what you are studying and any other pertinent information.

Finally, if there's anything I can do to be of assistance to you, please let me know.

With kind regards,

Sincerely,

JAMES W. SYMINGTON.

BRIGHTON, MASS.,
September 25, 1974.

Mr. SYMINGTON: Thank-you for your kind letter, I was pleased to be of assistance to your wife and am glad that neither she nor I were hurt physically or mentally in the purse-snatching incident. I would hope that anyone in a similar situation would respond in a similar manner. Your praise and note in the Congressional Record are honors to me and I thank you. Our similar background of St. Louis is also interesting; as the Boston policeman said, we mid-westerners really do stick together!

I have just moved to Boston and am doing graduate work at the Harvard School of Public Health. I am involved in a special masters program in Health Policy and Management. I have been studying health care delivery, economics, policy, and politics for a while and have followed the activities of the subcommittee on Public Health and Environment, of which you are a member. Thus, your kind offer to be of assistance to me is welcomed and I will feel free to contact you or your staff with questions which might arise. I hope it will not be an imposition.

I have friends in D.C. and plan to visit them in the near future. So, if I get to D.C. I would like to meet and talk with you. I will contact you at your office about that when appropriate.

Again, thank you for your kindness and please give my kindest regards to your wife.

Very truly yours,

LAWRENCE DEYTON.

I bring the matter to the attention of the House in this way, Mr. Speaker, confident that the Members would agree with me that it is the Lawrence Deytons of America who will see the country through the perilous period ahead.

THE INCREDIBLE DELAY IN IMPLEMENTATION OF THE NONDISCRIMINATION SECTION OF THE VOCATIONAL REHABILITATION ACT OF 1973

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. VANIK. Mr. Speaker, today, we are considering the conference report to H.R. 14225, amendments to extend the Vocational Rehabilitation Act of 1973.

Mr. Speaker, I am especially happy to see that the conference committee, in its report (H. Rept. No. 93–1457), gives a long and detailed explanation of their expectations for section 504 of the act. That section, now referred to as the nondiscrimination clause of Public Law 93–112, is described in the conference report:

> Section 504 was patterned after, and is almost identical to, the anti-discrimination language of section 601 of the Civil Rights Act of 1964, 42 USC 2000d–1 (relating to race, color, or national origin), and section 901 of the Education amendments of 1972, 42 USC 1683 (relating to sex). The section therefore constitutes the establishment of a broad government policy that programs receiving Federal financial assistance shall be operated without discrimination on the basis of handicap. It does not specifically require the issuance of regulations or expressly provide for enforcement procedures, but it is clearly mandatory in form, and such regulations and enforcement are intended.

The report goes on to say:

> The language of section 504, in following the above cited Acts, further envisions the implementation of a compliance program which is similar to those Acts, including promulgation of regulations providing for investigation and review of recipients of Federal financial assistance, attempts to bring non-complying recipients into voluntary compliance through informal efforts such as negotiation, and the imposition of sanctions against recipients who continue to discriminate against otherwise qualified handicapped persons on the basis of handicap. Such sanctions would include, where appropriate, the termination of Federal financial assistance to the recipient or other means otherwise authorized by law.

In response to my letters to the Department of Health, Education, and Welfare, I learned that the Department had finally determined that its Office of Civil Rights would be responsible for implementing section 504.

The Director of the Office of Civil Rights, Mr. Peter Holmes, told me in a letter of June 11—already over 9 months after the Vocational Rehabilitation Act's enactment—that his office foresaw fiscal year 1975 "essentially as a tooling up and developmental period" only. He went on to say that full implementation would not be attained until fiscal year 1976.

Mr. Speaker, this schedule is incredible. Why must it take 22 months to accomplish implementation?

The conference report on the Rehabilitation Act extension addresses this delay:

> The Secretary of the Department of Health, Education, and Welfare, because of that Department's experience in dealing with handicapped persons and with the elimination of discrimination in other areas, should assume responsibility for coordinating the section 504 enforcement effort and for establishing a coordinating mechanism with the Secretary of the Department of Labor to ensure a consistent approach to the implementation of sections 503 and 504. The conferees fully expect that HEW's section 504 regulations should be completed by the close of this year. Delay beyond this point would be most unfortunate since the Act (P.L. 93–112) was enacted over one year ago—September 26, 1973.

Mr. Speaker, I hope that officials of the Department of Health, Education, and Welfare will take note of the conferees' expectation that section 504 "should be completed by the close of this year," and act promptly to do exactly that. We simply cannot tolerate this completely unreasonable delay of regulations that would assure equal treatment of the handicapped.

ANOTHER CALL FOR GUN CONTROL

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. HARRINGTON. Mr. Speaker, I wish to call to the attention of my colleagues, four tragic killings which took place over the past weekend. These murders represent only four of the approximately 10,000 which will likely be committed by handguns before the end of 1974.

Between 1967 and 1972, the number of murders in this country rose 53 percent and at the same time, the production of handguns rose 50 percent. These numbers only represent statistics and fail to show the anguish and pain that the families of the victims in these four cases experienced because of these senseless murders. The continuing rise in handgun murders must be immediately curbed and it is up to Congress to take action now.

Mr. Speaker, I have continually called for stricter gun control laws. This session I introduced H.R. 9136, legislation designed to prohibit the possession of handguns except for police, military, licensed security guards, licensed pistol clubs and antique gun dealers. H.R. 9136 is pending in the House Judiciary Committee, and unfortunately it is not likely that any action will be taken on it this session. I intend to reintroduce this handgun legislation at the beginning of the 94th Congress, at which time I will again call upon my colleagues for support.

The articles describing the four recent shootings follow:

YOUTH SHOT DEAD IN FIGHT

(By Donnel Nunes)

A 16-year-old Falls Church High School student was shot to death yesterday by a fellow student and neighbor who repeatedly fired a .45 caliber pistol as he chased the youth through yards and over at least three fences near the two youths' homes, police and witnesses said.

Shocked neighbors watched in disbelief, some thinking the boys were acting, as three to five shots rang out at about 2:50 p.m. in the tidy, middle-class Westlawn section of the county.

Alan L. Shelor, of 6926 Kenfig Dr., was dead on arrival at Fairfax Hospital of multiple gunshot wounds, a hospital spokesman said.

Police said a 17-year-old Westlawn youth, taken into custody after the incident, was being detained in the county jail last night pending a juvenile court hearing today. At the hearing, a judge will determine whether the youth will be charged formally as a juvenile or an adult, police said.

According to witnesses, the youths had been arguing on Kenfig Drive near Shelor's home when the 17-year-old suddenly pulled the pistol and fired. Shelor whirled about and sprinted for a neighbor's back yard, leaping a fence as his attacker fired, they said.

"Alan jumped the fence and I ran," said John Mehalie, 15, who stood near Shelor when the 17-year-old pulled the pistol. "When we saw that gun we stepped back. All but Alan. He just froze. And then the guy began firing."

One witness, Ethel Robinson, said she heard shots from her house two doors down from the site of the shooting. When she looked out her back door, she saw the two youths racing through the back of a neighbor's yard, one youth firing what she thought was a cap pistol at the other.

She said the two didn't shout and there was no sound except for the "popping" of the gun. Mrs. Robinson said she had never heard a gun before and it wasn't until police cars and an ambulance arrived that she discovered the significance of what she had seen.

She said that the last she saw of the incident "was Alan trying to open a shed in the backyard there. But he couldn't get the door open so he turned and jumped their back fence."

Shelor apparently stumbled a dozen yards from the fence and then collapsed behind another home, said Mehalic, a sophomore at Falls Church High, who described himself as Shelor's best friend.

Police said the slain youth had been shot at least three times when rescue units arrived a few minutes later.

"I saw him lying there and this lady was screaming," Mehalic said. "I ran to get his sister."

According to Mehalic, the argument with the 17-year-old began in school Monday. "He (the assailant) lives a few blocks away," he said. "We all teased him (the assailant). He was teased all the time. But not anything enough to need a gun."

Mehalic said that the argument continued until finally today both youths decided to fight after school. "Alan walked home today," he said. "But (the 17-year-old) drove home. He had his own car.

"The guy stopped and talked to Alan over there," he said, pointing to a fence near Shelor's home. "Then he got in his car and drove to his house. When he came back he had a baseball bat."

As Shelor, Mehalic, and two other youths watched, the 17-year-old pulled the pistol from his pocket, Mehalic said.

"He knew what he was doing," Mehalic said. "He knew how to shoot that gun."

Mehalic said that following the shooting the 17-year-old boy returned to his car and drove to his home. "I think he called the police and told them he shot someone," he said.

According to Ralph Waller, Shelor's uncle, the dead youth was carrying some sticks at the time the shooting began. "I guess they were going to fight it out," he said.

In the fading sunlight yesterday knots of disbelieving friends and neighbors gathered in the curving tree-lined street, which is lined with tidy white frame houses. The neighbors talked softly or stared at the hip-high chain-link fence over which young Shelor had leaped. A half-dozen teen-age friends of the dead youths sat on a curb and sobbed.

"He wasn't interested in sports," mused Shelor's uncle. "He was just a young boy, you know. I don't think he was mean. We were going fishing Saturday. I think he looked forward to it."

Police Charge Dorchester Men in Shooting

Two Boston police officers reported they were shot at when they happened upon a fight near Edward Everett Square in Dorchester last night. Three men later were arrested and charged with firing at the officers.

Police said Patrolmen Paul Wosney and Frank McDonough drove up E. Cottage street and saw a group of whites and a Hispanic group in an apparent confrontation.

One of the Hispanics fired a shot into the other crowd, according to police, and the whites fled.

The same man, then turned and fired a shot at Wosney and McDonough. The shot shattered a window of a nearby car.

Police said the gunman drove away with two other men, eluding a police chase.

At 10:30 p.m., motorcycle patrolmen Phillip Dion and Everett Blais stopped a car at Dorchester avenue and Columbia road and arrested the three occupants.

They were identified by police as Alcides Ortiz, 26, Ernesto Pinet, 18, and Jose Fuentes, all of Dorchester. The three men were charged with assault and battery with a dangerous weapon and will be arraigned today in Roxbury District Court.

There were no reports of injuries from the first shot fired, police said. The revolver used in the shooting was not found in the car in which the three suspects were riding.

Man, 36, Dies of Gun Wound

A 36-year-old Northwest Washington man who was shot at a car wash Friday died yesterday. Police have charged the car wash owner with homicide in the case.

Clifton O. Bryant of 51 Randolph St. died at Freedmans Hospital where he was being treated for a gunshot wound in the abdomen.

William Costello Clark, 49, owner of the Sparkle Carwash, at 933 Florida Ave. NW, was charged in the shooting and held last night pending arraignment today.

According to police reports, about 6:20 Friday night, Bryant repeatedly demanded that his windshield be rewashed. After a few minutes the man with who Bryant argued left the car wash, returned with a handgun and shot Bryant.

Police said that after the shooting, Clark was arrested on a charge of assault with a deadly weapon. He posted bond that evening and was released. Yesterday, after Bryant died, Clark was rearrested on the homicide charge.

Man Slain as He Sits in His Car

A 34-year-old Southeast man was fatally shot as he sat in his car last night, homicide detectives said.

Thomas Walker Jr. of 702 Chesapeake St. was killed almost instantly by a wound in the chest. His body was removed from the parking lot of the Southern Hills Apartments at 4219 4th St. SE to the medical examiner's office for an autopsy.

According to police and witnesses, Walker, a truck driver for the Metropolitan Poultry Co., was sitting in his car about 8:10 p.m.

A witness, who asked not to be identified, said he heard two shots and then saw two women running from the parking lot toward 3rd Street. Police theorized that the women and Walker were sitting in the car when someone approached and fired two shots.

No motive has been determined, police said.

TORRANCE, CALIF., CITY COUNCIL ENDORSES LONG-RANGE FEDERAL MASS TRANSIT PROPOSAL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ANDERSON of California. Mr. Speaker, when the Congress returns after the November election, we face a critical choice in mass transit legislation. We can either adopt a long-term, multi-billion program, such as H.R. 12859, which has passed the House of Representatives, or we can adopt a short-range, 2-year proposal, such as that which was first suggested by the House-Senate conference on S. 386.

We can emphasize funding the construction and upgrading of transit systems, as proposed by H.R. 12859. Or we can emphasize funding the operation of existing systems, as was originally proposed in S. 386.

Representing a part of Los Angeles County and knowing our need to construct an efficient, effective mass transit network, I have worked for the passage of a long-term measure which would provide the funding necessary to begin the construction of such a system in our area, and I have endorsed H.R. 12859. In addition, I have worked with the House-Senate conferees to expand their original proposal into a 6-year, $11.8 billion measure, which I support.

Now, it is up to the Senate to follow through and approve legislation such as that which has passed the House, or to endorse the compromise most recently approved by the conferees to S. 386. Anything less would not be acceptable.

The City Council of Torrance, Calif., representing the third largest city in Los Angeles County, also endorses the long-range proposal and, at this point, I insert in the RECORD the resolution adopted unanimously by the Torrance City Council:

RESOLUTION NO. 74-230—A RESOLUTION OF THE CITY OF TORRANCE ENDORSING AND URGING THE PASSAGE OF THE FEDERAL MASS TRANSPORTATION ACT OF 1974 (H.R. 12859)

Whereas, the number one problem of Torrance and many other areas of Southern California continues to be transportation—the ever-increasing traffic volume, congestion and attendant pollution and depletion of energy; and

Whereas, the nation, and particularly in Southern California with its lack of rapid transportation facilities, faces serious transportation and economic problems resulting from energy depletion and dependence on foreign oil; and

Whereas, the City Council of Torrance has many times endorsed the concept and need for increased mass public transportation in Southern California; and

Whereas, the Torrance City Council, on September 10, 1974, passed a resolution endorsing Proposition A (Transit financing on the November, 1974 ballot) a measure which will provide over $200 million each year in local money to improve transit systems and which would guarantee the sincerity of our area in wanting to improve public transportation by providing matching funds for large amounts of Federal money; and

Whereas, the Congress of the United States is presently considering two proposals which would aid in the construction, purchase and operation of public transportation systems; and

Whereas, one proposal, S. 386, is a short-term measure allocating, in its present form only $600 million over a two-year period to the needs of the entire country; and, under the distribution formula of this measure, the Los Angeles metropolitan area would receive only $48 million, an insignificant amount compared to what is required; and

Whereas, the other proposal, H.R. 12859, is a six-year commitment, authorizing $11.6 billion, of which the Los Angeles urbanized area, which includes parts of Los Angeles, Orange and San Bernardino counties, would qualify to receive approximately $321 million over the first two years, provided that state and local officials could guarantee a significant local share in financing needed transit improvements; and

Whereas, S.386, the short-term measure, would not provide the funds necessary to purchase or construct the transit system needed in the Los Angeles Metropolitan area, while H.R. 12859 would provide enough money to, at least, start an effective, viable mass rapid transit system;

Now, therefore, the City Council of the City of Torrance hereby resolves that it supports and endorses the passage of the Federal Mass Transportation Act of 1974 (H.R. 12859) by the Congress of the United States; and it is further resolved that the City Clerk of the City of Torrance is directed to transmit this resolution to our elected representatives in the Congress of the United States.

Introducd, approved and adopted this 8th day of October, 1974.

TIME TO QUESTION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. DERWINSKI. Mr. Speaker, one of the actions of this session of Congress that I believe demonstrates the responsibility of the majority of the House Members was the rejection of the land-use bill.

However, since this issue is bound to be raised again by its proponents, the defects inherent in land-use legislation deserve reemphasis. Therefore, I am especially pleased that the Press Publications, serving west Cook County and Dupage County, Ill., commented on this question in a very timely and effective editorial in their issue of October 3. The editorial follows:

Time To Question

Today no one can build a home without suffering an inquisitorial interview with land-use planners. The most basic property rights can be abrogated by what amounts to no more than a local clique "serving" behind the shield of state or federal law.

The former president of the American Medical Association has commented that a major problem facing medicine is the political effort to convert medicine into a public utility. The doctor was referring to "a host of bills" before Congress which would establish statewide public utility commissions. These commissions would have broad powers to regulate the physicians, control construction of new health facilities, decide what medical schools teach, and control the intern and residency training programs.

As the medical spokesman said, "It is potentially very dangerous to turn over medicine to political domination."

In many areas, constructive activity of every sort is being brought to a halt. More and more time is devoted to paper work and groveling before small people who happen to hold virtually life and death power over fellow citizens whose only offense is seeking to exercise their Constitutional liberties. It is time to question the judgment of those who seem more interested in applying a mountain of regulations than in keeping the country *moving.*

COUNT BASIE PROCLAMATION—AT 70 STILL ROLLING ON

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ADDABBO. Mr. Speaker, recently Count Basie celebrated his 70th birthday. People from all walks of life, from working men and women to royalty enjoyed the performance of Count Basie for more than 50 years.

Last month the Governor of the State of New York, the Honorable Malcolm Wilson, issued a proclamation designating September 22, 1974, as Count Basie Day. The proclamation sets forth in abbreviated form the reasons so many applaud "the Count" as a unique and talented American who gives his talent to the world for all generations to enjoy. I place the text of the proclamation in the RECORD at this point, together with an article appearing in today's Washington Post by Hollie I. West.

PROCLAMATION

For five decades, music lovers of the world have enjoyed the performances of one of the great band leaders and musicians of our time—Count Basie.

His outstanding career began in the early 1920's and he still ranks among the most popular entertainers extant.

The familiar figure of Count Basie seated at the piano and leading his famous band has been seen in motion pictures, hotels, theaters, nightclubs and Carnegie Hall. His audiences have included the Queen of England, at a command performance, the President of the United States, leaders of other big name bands and jazz music lovers from every walk of life.

Count Basie and his band have won some of the highest honors in the music world through their rhythmic and dynamic style.

On the occasion of his 70th birthday, Count Basie will be honored at a Royal Salute by many leaders of our society. The event will be held on Sunday, September 22, 1974, at the Waldorf Astoria Hotel in New York City.

It is fitting that special recognition be given on this occasion to "The Count," who holds a special place in the hearts of music lovers everywhere.

Now, therefore, I, Malcolm Wilson, Governor of the State of New York, do hereby proclaim September 22, 1974, as "Count Basie Day," in New York State.

Given under my hand and the Privy Seal of the State at the Capitol in the City of Albany this twentieth day of September in the year of our Lord one thousand nine hundred and seventy-four.

[From the Washington Post, Oct. 16, 1974]

COUNT BASIE AT 70: STILL ROLLING ON

(By Hollie I. West)

Count Basie may well be the most enigmatic of all great jazz figures. For two generations people have wondered what lies behind that perennially inscrutable face. It's been said that no member of the jazz pantheon smiles so much and says so little.

The question is who knows Basie? Probably no one except members of his immediate family and Freddie Green, his guitarist of 38 years. So because Basie has been so self-effacing, the general public has remained unaware of his significant musical accomplishments. Many people merely recognize him as a band leader—and that's it.

Basie, the man, is a particularly relaxed individual. His favorite pastime is playing the horses. "You know who got me hooked on horses—Catherine," he says pointing to his wife. "She's better at it than I am."

He also spends a lot of time watching westerns on TV. He likes Glenn Ford and Clint Eastwood. Says Basie: "My man, Frank (Sinatra), is a good old cowboy when he wants to be." The two have worked and recorded together frequently.

Basie says he unwinds most when he's home at Freeport, Grand Bahama. "I like the weather and I get a chance to do some boating, about every other day," he says wistfully. His longtime clothing trademark has been a yachting cap, even before he moved from St. Albans, Queens, to Freeport in 1971. He and his wife of 32 years live there.

Catherine Basie is well known in her own right. A brisk, energetic clubwoman, she has the reputation of being a tireless fundraiser. Mrs. Basie headed the group organizing the $100-a-plate benefit birthday dinner-dance held for her husband at the Waldorf-Astoria on Sept. 22. A colleague said of her: "About two weeks before the party we'd sold only about 50 tickets. Kathy came in and got on the phone and sold some tickets." About 700 persons attended the dinner.

When Basie celebrated his 70th birthday at the Waldorf, the tributes were plentiful, but none summed up his musical importance.

Most people don't realize that the Basie orchestras, particularly the ones of the late '30s and early '40s, played the principal role in developing the musical approach used by many contemporary big bands: open, swinging arrangements with plenty of space for solos, all bolstered by a vibrant, featherweight rhythm section that glided rather than plodded as most previous rhythm teams had.

Also, in those bands were instrumentalists—Lester Young and Jo Jones in particular—who had a direct influence on the new jazz that was to emerge in the mid-'40s.

Basie's role was two-fold: He was the organizer of this powerhouse outfit and a pianist who, though not a major force, helped emphasize the melodic vocabulary of the keyboard and demonstrated how the piano could be a more integral rhythm instrument in jazz by encouraging and propelling soloists. Moreover, he performed with a distinctive light touch which scores of pianists have imitated.

The Basie magic has operated almost continuously for nearly two decades. In that time the orchestra has been both a stellar dance band and jazz ensemble. It has gone through two different phases: the early period between 1936 and 1950 when the band was at its artistic height, chock full of outstanding soloists and capable of playing with great fire on any night; then the second period covering 1952 to the present when the band became a well-oiled dynamo, its arrangements more refined and its soloists less innovative. In short, the band had lost its creative lead among jazz orchestras.

The string of well-known pieces from both periods is impressive: "One o'clock Jump," "Moten Swing," "Sent for You Yesterday," "Blue and Sentimental," "Jumping at the Woodside," "Jive at Five," "Taxi War Dance," "Lester Leaps In," "Rusty Dusty Blues," "Harvard Blues," "April in Paris," "Everyday I Have the Blues," "Shiny Stockings," "Li'l Darling."

The Basie band rolls on, still playing one-nighters—concerts and dances—all over the country. In his 70th year, Basie says he'll begin taking more time off starting in 1975. He wants to spend more time at home.

The Basie saga started in Red Bank, N.J., where he was born William James Basie Jr., Aug. 21, 1904 to a father who was a gardener and mother who was a domestic. He recalls his mother fondly. "She was with me all the way, all the way," he recalls. "She used to take me to dances, so I could play and listen to music. She used to play a little piano."

Basie started playing at resorts in Asbury Park and later became part of the active piano scene in Harlem. Following that he hooked up with the Gonzel White traveling show and toured the country in 1929, winding up in Kansas City, where he remained.

He joined the Blue Devils, a small ensemble based in Oklahoma City, and performed with them until about 1930. After a short stint of playing piano in a theater in Kansas City, he joined the Bennie Moten Orchestra, which was the forerunner of the Basie group in the late '30s.

Following Moten's death in 1935, Basie formed a nine-piece ensemble. John Hammond, the record producer and talent scout, heard the group on a radio broadcast and immediatley made efforts to export the band to New York.

"If there had been no one like John Hammond, things would have been very different," says Basie. " I probably would've stayed in Kansas City if John hadn't kept talking about me going to New York."

So the Basie band, enlarged from nine to 13 pieces to appeal more to agents booking ballrooms, made the trek to New York. At first, nothing happened. Dancers and listeners didnt' understand the band's light, propulsive touch. The break came when it was booked into The Famous Door, a midtown Manhattan jazz club and the group's reputation began to grow.

It quickly became one of the country's top orchestras, turning out hit after hit.

When the big band business declined after World War II, Basie was deeply affected. He broke up his band and formed a septet. But, he was back with a large group in 1952 and has had one since.

Some people criticize the current band for not playing new compositions. Says Basie: "Why do people say that? The band is always playing new things. We've got a whole book of new charts."

Some of his former sidemen have accused Basie of paying low salaries and that he had to be taken before a Musicians Union board occasionally on these grounds.

Basie says: "I may pay too late but never too little. There's a little misunderstanding about a lot of things. I don't think I pay too little. Sometimes I think I pay too much. I think everybody else is getting rich and I'm getting poor. Everybody's riding around in beautiful cars and I'm walking.

"I don't think anybody can come up to me and say they've been treated badly. I dare them.

"People forget a lot of things. They don't think about the past. You always have to remember how you got here. If there's anything in the world I hate, it's taking a hammer and putting a nail in someone.

"I like everybody. So why walk up and take a bat and knock me down. God bless them all. I think there's enough out here for everybody."

THE SPRINGFIELD REPUBLICAN, FOUNDED BY SAMUEL BOWLES IN 1824, OBSERVES 150TH ANNIVERSARY OF DISTINCTIVE AMERICAN JOURNALISM, UNDER PUBLISHER SIDNEY R. COOK AND EDITOR JOSEPH W. MOONEY

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. BOLAND. Mr. Speaker, a milestone in excellent American journalism is now being observed with the celebration of the founding of the Springfield Republican 150 years ago.

It was late in the month of September in 1824, a period during which the New England autumn foliage is reaching the peak of splendor, that Samuel Bowles mounted some furniture and his handpress on a flatboat at Hartford and poled northward up the Connecticut River to the town of Springfield where he founded a new weekly, the Springfield Republican.

The Springfield Republican was to become a daily and Sunday newspaper that would be renowned and respected throughout America and the world for its perception, independence, and incisive editorials.

The first Samuel Bowles, for there were to be three who would bear that name, said upon founding the Springfield Republican that he saw no particular reason to support a further succession of "Virginia Aristocrats" who, with the exception of the second President, John Adams of Massachusetts, controlled the Federal Government from this country's inception.

BOWLES LEGACY

While anti-federalist in nature, no journal of Bowles would fix invariably on a single approach to public problems. It is this independence of editorial thought that became the Bowles legacy to the current Springfield newspapers, the Springfield Sunday Republican, the Springfield Daily News, and the Springfield Union.

In 1836, when the Whigs, the party the paper had supported, won a victory in New York State in the first returns of the national election, Bowles ran an extra edition to report the results, an extraordinary event for a small community.

SAMUEL BOWLES, JR.

With the weekly Springfield Republican firmly established, Sam Bowles, Jr., a man who would in a few years eclipse his father's accomplishments and make the newspaper nationally famous, cajoled the elder Bowles into attempting daily publication. The father would eventually witness the success his malady-ridden son made of the enterprise by dint of hard work and long hours of perseverance. The Springfield Republican under his editorship became one of the most widely quoted journals in America.

One of the most serious threats to the newspaper, Samuel Bowles, Jr. said in later years, was a battle he and his father fought against a rival paper, utilized by opponents of a stand the Republican took on the appointment of Major Ripley to the commandant's post at the Federal Armory in Springfield, founded by President George Washington in 1794.

Bowles and his father called for the appointment of a civilian to the post. The faction supporting Ripley's appointment tried to put the Republican out of business, but failed.

The elder Bowles died in 1851. In the next 27 years before his own death, Samuel Bowles, Jr., made the Republican noted for national and international coverage, while developing local news in a way that provided a model for newspapers in larger communities.

The Springfield Republican became a legend in the American newspaper world, training many young journalists who later carved niches in the field of American journalism. Among those who embarked on their careers at the Springfield Republican were Charles R. Miller, who became editor of the New York Times, and Charles Dow, one of the originators of the Wall Street Journal.

The travels of the younger Bowles brought him a wealth of acquaintances in both political and literary circles, and provided him with a view of the world few journalists on either side of the Atlantic Ocean at that time could claim.

SAMUEL BOWLES III

The third Samuel Bowles, who took over the paper on his father's death in 1878, introduced the Sunday edition of the Republican. An innovation for its time, the Sunday edition maintains the largest circulation of the three Springfield newspapers today.

SHERMAN BOWLES

The fourth generation of Bowles, Sherman Bowles, succeeded his father after World War I and was responsible for the acquisition of the city's two rival newspapers, the Springfield Daily News, and the Springfield Union. One of the founding brothers of the Springfield Daily News was Edward Bellamy, who wrote the famous novel, "Looking Backward." He and his brother, Charles Bellamy, established the newspaper as the Penny News on February 24, 1880.

SIDNEY R. COOK, PUBLISHER

Sherman Bowles died in 1952 and the Newhouse organization came into ownership of the Springfield Sunday Republican, the Daily News, and the Union in 1966, assuring their roles as separate and distinct journals. Sidney R. Cook, publisher and treasurer of the Sunday Republican, has devoted his lifetime to the high ideals of American journalism on the Springfield newspapers, first under the tutelage of the Bowles family, and now with the Newhouse organization.

NEWHOUSE ORGANIZATION—JOSEPH W. MOONEY, EDITOR

Mr. Speaker, on this momentous occasion of the 150th anniversary of the founding of the Springfield Republican by Samuel Bowles in 1824, I would like to pay tribute to this newspaper for a century and a half of contributions to the noblest of American institutions, a free press. May I also extend my best wishes to Publisher Cook and Editor Joseph W. Mooney for many more years of success with the Springfield Sunday Republican.

TRIBUTE TO THE REPUBLIC OF CHINA

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ARCHER. Mr. Speaker, China is one of the world's oldest nations and the Chinese people have one of the richest cultural heritages in the history of the world. On October 10, 1911, 63 years ago, China as a modern nation emerged on the world scene. During that historic time, the Chinese people overthrew the imperial regime of the Manchu Dynasty and sought to establish a Chinese republic combining outstanding principles of the Chinese heritage with concepts borrowed from Western democratic nations.

The struggle was not an easy one for the Chinese people. Divisions within the leadership, problems of adjustment to a new and almost alien system of government, warlordism, intervention of outside nations, the attack by Japan and the resulting war, and the conquest of the Chinese Mainland by the Communists in 1949 placed enormous strains on the Chinese experiment in democracy and republicanism. Despite these great difficulties, the Republic of China continues its existence on the island of Taiwan. The Chinese Government on Taiwan represents the hopes and aspirations of the Chinese people which became manifest in the October 10, 1911, upheaval.

The record of the Chinese on Taiwan has been an amazing story of courage and determination. When the Communists took over the Mainland in 1949, the so-called "China experts" predicted the fall of Taiwan within 2 or 3 years. These individuals did not fully understand the Chinese spirit. Taiwan has not only survived as an independent entity free of Communist control but this island nation prospered in a program of agricultural and industrial development which has become the model for the underdeveloped nations of the world. After Japan, Taiwan now ranks as the most important trade market in free Asia.

After the Republic of China lost it position in the United Nations and was replaced by the delegation from Communist China, it appeared to be a depressing picture for Taiwan as more and more nations switched their diplomatic delegations from Taipei to Peking. So-called "experts" again predicted the immediate demise of Taiwan and again the Chinese proved the prophets of doom mistaken. Mr. Don Oberdorfer, overseas correspondent for the Washington Post, recently noted that despite the loss of its seat in the U.N. and the loss of diplomatic relations with many major nations, Taiwan presently trades with 126 nations and has "unofficial offices" in 70 countries.

Taiwan's foreign trade for 1973, a total of $8.2 billion, compares favorably with the foreign trade of the much larger population and size of Mainland China, whose foreign trade totaled $9.3 billion in 1973. The Republic of China continues to expand in the field of foreign trade. Economic experts predict that Taiwan's foreign trade will increase from the $8.2 billion of 1973 to about $13 billion in 1974.

Taiwan has become a model in other areas as well. The population on the island enjoys a rising standard of living. More and more of the young people are benefitting from educational opportunity. The defenses of this area are strong. The spirit of freedom and hope remains a strong factor in the hearts of the Chinese people on Taiwan. The Republic of China deserves a great tribute on its "Double Ten" day commemorating the events of October 10, 1911.

TAIWAN DEFENSE TREATY NEEDS AMENDMENT

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. KYROS. Mr. Speaker, by voice vote on Thursday last this body repealed the Formosa resolution of 1955. Statements by my distinguished colleagues, Mr. Hays and Mr. Sikes, made during this short debate clearly expressed the opinion that repeal of the resolution would not impair, change, or weaken any commitment of the United States to Formosa.

We were told that this action would not repeal any covenants existing between the United States and Formosa. I would like to make clear for the record that while our intent is to continue our commitments to Formosa, we have in fact by repeal of the resolution reduced our obligations to our friends and allies on Formosa. We have cited the mutual defense treaty as the basis of our commitment and have removed the Formosa resolution as a basis of policy.

Since the defense treaty specifically omits the islands of Quemoy and Matsu from coverage, unless the treaty is amended by mutual agreement, we have in effect placed the offshore islands outside the U.S. defense commitment in the Taiwan area.

I do not believe this was our intent and I propose that we consider an amendment to the treaty to cover the overlooked islands.

Mr. Speaker, if for no other reason than to keep faith and reassure our good friends on Taiwan, we should put our understanding down on paper in clear and concise language for all to see and comprehend. It would surely be senseless for us to flirt with the possibility of having to make a quick decision at some later date to help defend these islands, when on a strict technicality we would be in violation of our own international agreements.

CITY COUNCIL OF MANHATTAN BEACH, CALIF., URGES APPROVAL OF LONG-RANGE MASS TRANSIT PROGRAM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ANDERSON of California. Mr. Speaker, in order to construct a mass transit network in an area such as Los Angeles, a long-range Federal commitment is necessary. Otherwise, an area could not adequately plan a program which covered several years, not knowing the level of Federal funding that would be expected.

The House of Representatives has passed H.R. 12859, a long-term, 6-year mass transit proposal which would allocate $11.6 billion to the cities.

The Senate, however, has failed to act on a long-term measure, and has, instead, passed a short-term bill.

After the congressional recess, the Senate should consider the long-range mass transit proposal similar to H.R. 12859.

The City Council of Manhattan Beach, Calif., has adopted a resolution in support of H.R. 12859, and I place the resolution in the Record:

A Resolution of the City Council of the City of Manhattan Beach, California, Supporting H.R. 12859 Funding the Long Range Mass Transit Program

Whereas, public transportation is desperately needed in our urban areas in order to curb air pollution, conserve energy, and decrease our dependence on foreign oil; and

Whereas, the Congress of the United States is presently considering two proposals which would aid in the construction, purchase, and operation of public transportation systems; and

Whereas, one proposal, S. 386, is a short-term measure, allocating $1.6 billion over two years, according to a formula involving population and other factors; and

Whereas, under the provisions of S. 386, using an area's relative population and density as the factors for allocating Federal funds, the Los Angeles metropolitan area would receive approximately eight percent of the funds, or $128 million over the two-year period; and

Whereas, if the formula for allocating funds authorized by S. 386 is based on population, transit vehicle miles traveled, and work-trips using public transportation, the Los Angeles metropolitan area would receive only five percent of the funds, or $80.1 million over the two-year period; and

Whereas, the other major proposal, H.R. 12859, is a six-year commitment, authorizing $11.6 billion, which would allocate a fixed amount of the funds to each urbanized area on the basis of population, and the remainder of available funds on the basis of need; and

Whereas, under the provisions of this measure the Los Angeles urbanized area, which includes parts of Los Angeles, Orange, and San Bernardino Counties, would receive approximately $321 million over the first two years of the program, provided that state and local officials could guarantee the share necessary to attract Federal transit money; and

Whereas, S. 386, the short-term measure would not provide the funds necessary to purchase or construct the transit system needed in the Los Angeles metropolitan area, while H.R. 12859 would provide the funds to at least start an effective, viable rapid transit system;

Now, therefore, *be it resolved*, that the City Council of the City of Manhattan Beach, California, hereby resolves that the enactment into law of the bill H.R. 12859, which has passed the House of Representatives, is in the best interests of the citizens of Manhattan Beach, and the Los Angeles metropolitan area, in that its level of funding and method of allocating money would benefit areas, such as Manhattan Beach, which presently are not adequately served by public transportation.

Be it further resolved that a copy of this resolution be sent to Congressman Alphonzo Bell, Glenn M. Anderson, Charles H. Wilson, James C. Corman and D. M. Clawson of California; to Congressman John A. Blatnick, Chairman of the House Public Works Committee; to California Senators Alan Cranston and John V. Tunney; and to Senator Warren Magnuson, Chairman of the Senate Commerce Committee and Senator Vance Hartke, Chairman of the Senate Sub-Committee on Surface Transportation; together with a covering letter expressing our concern that this legislation be passed before the present Congress adjourns.

SUBCOMMITTEE ON CRIME TO HOLD HEARINGS ON AMENDMENTS TO TITLE 28, UNITED STATES CODE, REGARDING JUDICIAL REVIEW OF DECISIONS OF THE INTERSTATE COMMERCE COMMISSION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. CONYERS. Mr. Speaker, I am pleased to announce that the Subcommittee on Crime of the House Committee on the Judiciary has scheduled hearings on H.R. 785, introduced by my colleague on the committee, Representative Wiley Mayne. Also under consideration is S. 663, which passed the other body last year. These bills would improve and streamline the judicial machinery by making orders of the Interstate Commerce Commission reviewable by a single Federal district judge and the circuit court of appeals, with final appeal to the Supreme Court of the United States by petition for a writ of certiorari. Under present practice, such orders are reviewed by a specially convened three-judge panel, with direct review by the Supreme Court on an expedited basis.

The hearing will be held on Thursday, November 14, in the Rayburn House Office Building. Those wishing to testify or to submit a statement for the record should address their requests to the House Committee on the Judiciary, Rayburn House Office Building, Washington, D.C. 20515.

THE STRATEGIC LIMITS OF PROXY WAR

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. BOB WILSON. Mr. Speaker, Lt. Gen. Victor H. Krulak was appointed to the U.S. Naval Academy from Colorado in 1930 and commissioned in the U.S. Marine Corps in 1934. He served with the 4th Marines in Shanghai in the mid-thirties. He took paratroop training and participated in the operations in the Solomon Islands during World War II before returning to duty in Marine Headquarters in 1944. He then joined the 6th Marine Division for the invasion of Okinawa and went to China with that unit. During the Korean war, he served as Chief of Staff of the 1st Marine Division. He returned to the United States in 1951 to serve as secretary of the General Staff at Headquarters, U.S. Marine Corps. In February 1962, General Krulak was called from command of the Marine Corps Recruit Depot, San Diego, to serve as special assistant for Counterinsurgency and Special Activities to the Chairman of the Joint Chiefs of Staff. From 1964 to 1968, General Krulak served as Commanding General, Fleet Marine Force, Pacific. He is now director of editorial and news policy of the Copley newspapers and president of the Copley News Service, San Diego, Calif.

I include a recent article by General Krulak in the RECORD:

THE STRATEGIC LIMITS OF PROXY WAR

(By Lt. Gen. Victor H. Krulak, USMC, ret.)

IN BRIEF

After a difficult war, conflicting appraisals abound. In Vietnam, the United States did achieve worthy goals, though at heavy cost after serious mistakes of strategic judgment. Our policy violated ancient precepts of war long ago enunciated by Sun Tzu and validated by the record of history. When the Soviet Union launched a satellite war, the United States, instead of operating at the Great Power level to create a climate for the success of its ally, intervened with its own forces and became bogged down in the conflict. It allowed the advantage of sanctuary to the enemy. It depended heavily on conventional warfare, neglecting the morale of its ally and the vital role of the people in wars of insurgency. Proxy war will come to us again. Let us be more mindful of its strictures.

It is in the nature of warfare that the end of each conflict, large or small, is attended by a backwash of short-term analysts who, having seen the battle from afar or not at all, declare that all is not as it appears, that the presumed victor is in fact the vanquished, that the tactics are bad, the strategy worse, the generals pusillanimous and the politicians capricious.

And they are usually right, but only in part; their wrongness exceeding their rightness to the degree that they had better not have spoken at all.

That is the way it has been with Vietnam. Vicarious and uninvolved observers, speaking without the levelling experience of the battlefield, are anxious to tell the world, in oversimplified terms, that America with all its industrial might was defeated by a tiny land of 17 million agrarian illiterates; driven home across the sea in disarray by an emotionally committed people, so the story goes, by a people whose faith transcended bomb and bullet.

The whole débâcle, the scenario concludes, was nourished and made inevitable by our own weakness, irresolution and moral decay.

The only acceptable conclusion thereafter is that, having been floored by a midget, we are scarcely a thinkable match for a full grown nation—much less a giant.

The truth is, any fair analysis must conclude that Vietnam was a victory for the Free World; a limited victory, but a victory nonetheless.

In 1962, the Republic of Vietnam was tottering; beset by a foreign-controlled insurgent enemy that had the upper hand everywhere. Her armed forces were inconsequential, her institutions weak, her leadership remote from the people, her economy in disarray and her citizenry torn apart by religious strife. The chances of sheer survival were less than slender.

Today the Republic of Vietnam is alive. It has a reasonably stable economy in Asian terms, a healthy sense of nationalism, a government that gives evidence of considering seriously the wants of the people, a growing foreign trade and a military establishment that is able to acquit itself respectably in the field.

In short, the country whose future was so heavily discounted a decade ago now has a decent chance for survival as a free and independent land; this despite the fact that the North Vietnamese are plainly determined to keep today's shaky truce from maturing into a peace.

For the preservation of the spark of freedom in South Vietnam, for offering some hope to 17 million souls, the United States of America is largely responsible. American training, hardware and supplies; American dollars and, most significantly, American courage and American blood turned the trick. The survival of the Republic of Vietnam, the rebuff to the concept of insurgent warfare—a Free World victory—was indeed largely an American generated affair.

Having said this, however, it would be idle further to declare that the American participation in the long and trying conflict was without its warts. Indeed, we succeeded in many respects despite ourselves, finding our greatest strength in our resolution, while falling woefully behind in the areas of imagination and organization.

To begin with, we went to Indochina with little conception of the awesome constraints of proxy war; and we learned all too slowly.

Sun Tzu, the great Chinese military philosopher of pre-Confucian times, said "The wise general learns first the nature of the battle, the character of the enemy and of the ground. He who fails to do these things is likely to become carrion."

We, in truth, made little attempt to apply this counsel to the peculiar circumstances of Indochina. We had no real understanding of the nature of the battle, of the peculiar character of proxy war, where a great nation of vast resource acting as puppeteer, is limited by the adaptability of the puppet, by the nature of the terrain, by the constraints of world mortality, by the intrigue of international diplomacy and by the vagaries of politics at home.

Sun Tzu would, at the outset, have forecast a long and bitter time for the Americans. We failed from the start to meet his simple though timeless criteria. It was not only that we neglected to ascertain the true nature of the battle; we had a poor knowledge of the enemy and little appreciation of the terrain. We were only sure, in 1962, when we entered the conflict in earnest, that we were there because it was right. Our purpose, so we declared, was to help an ally in distress, at his request. Just exactly how we planned to help, with what, where and with whom was left to *ad hoc* decision. In short, we had no national conception of the character of the "war of national liberation" in which we were about to be involved.

It is interesting now to reflect on the results of the mission of General Taylor to Vietnam in 1961. Grounded upon strong—and generally practical—convictions about the importance of succoring our friends, powerful in its conclusions as to the need for internal support, advice and economic aid, the mission's report still gave us no real clue as to the strategic limitations under which we would labor if we elected to dive into the Indochina jungle. But dive we did; head first; eyes shut.

The principles we failed to perceive in 1962, and failed—with only minor variations—to respect until the very last American was gone, are a simple application of Sun Tzu to this currently popular form of combat. They are these:

The battle of the puppets is for puppets to fight. A puppeteer enters the active conflict only at his peril.

The battle of the puppeteers is conducted in the halls of international power diplomacy, far remote from the active theater of war.

The privileged sanctuary confers great advantages on the antagonist who enjoys it and multiplies the problems of the antagonist not so blest.

Insurgent war is fought among the people, who are at once the battlefield and the contesting forces. It is not a war of classic style or dimensions and victory is not the product of a clash of sophisticated arms.

In one way or another we failed to respect each of these firm principles and, while the military shared in the guilt, the record shows that by far the major responsibility for our failures must burden the shoulders of our political leadership.

The battle of the puppets is for puppets to fight. A puppeteer enters the active conflict only at his peril.

The first 17,000 Americans who went to Vietnam were reasonably clear in their purpose. It was to convey our hardware to the Vietnamese and teach them how to use it. They were not intended to fight; their sole combatant concern being their own security and the local security of the logistic installations that were essential to their function. This was understood, and up to this point there was no grave violation of the first constraint of proxy war.

Then came Tonkin Gulf, the Tonkin Gulf Resolution of August 1964, and the responsive commitment of combatant units to the Danang area in March of 1965. Here, again, the principles were largely respected at the start. Our forces were initially confined to protecting the airfield which was the terminus of the Vietnamese lifeline in the northern part of the country.

But the principle of avoiding physical involvement soon was disregarded. A combination of American impatience, a failure on our part to understand the nature of insurgent war and a not unreasonable fear that our ally was nearing collapse caused us to take the plunge into the ground shooting battle.

Even the Vietnamese were apprehensive that our assumption of a full combatant role was ill-advised, and they said so. President Diem had insisted on excluding Americans from the battlefield and, in September of 1965. General Thi, the Vietnamese commander in the northern sector of the country warned us. "You will do better just to protect the airfield, man your antiaircraft missiles and stay out of the countryside. You do not understand the complexity of this war."

We did not heed the Vietnamese advice and, as early as 1965, American men were locked in a death struggle with the Communist enemy of the South Vietnamese. It could be that this was inevitable; that we having done too little at the outset to help our client, there now was no choice other than to move onto the battlefield. The writer does not accept this fatalism, believing rather that the same puppet-puppeteer relationship that worked in North Vietnam would work south of the 17th parallel too.

In any case, the fat was now in the fire. A million Americans would see action; 50,000 would die, while not a Russian or Chinese life would be at hazard.

What an inspiration this was for our enemies! Chen Yi, the Red Chinese Defense Minister, was so encouraged by our behavior as to see in it the wave of the future—a formula which would involve both the treasure and the blood of Americans for years to come. "Yes," he acknowledged, "we are helping the North Vietnamese. And we will help in other wars of national liberation anywhere in the world we can."

Whatever else we did in Vietnam; however well we did it, we were destined never completely to recover from becoming actively and extensively involved in the shooting battle on the ground. Indeed, that single fateful act was to change the attitude and the behavior of our land. It was to set American against American to be the architect of divisiveness and violence at home. Its scars will remain, raw and ugly, for a generation. In this one case the guilt must be shared equally by politician and soldier because both—in general terms—were agreed on its wisdom. While many military leaders had grave reservations about involvement in the ground war, they did not unite in combined opposition at the topmost level.

Against the sober backdrop of our violation of the principle of avoiding physical involvement, the other three principles may seem somewhat less critical, but we violated them too, to our despair.

The battle of the puppeteers is conducted in the halls of international power diplomacy, far remote from the active theater of war.

A major political task of the puppeteer is to create a favorable international climate for his client. However, while the United States certainly did not eschew international political dealings, both open and secret for this purpose, there seemed to be a far greater fascination for the politicians in both the strategy and the tactics of the Vietnam fighting.

Where strategy was concerned, their basic failing was to ignore history.

The nature, length and intensity of past wars have largely been functions of the capabilities of the antagonists. Both sides did everything they could to win, using all the ingenuity and all the resources at their disposal. In the Vietnam war, this was not the case. Each adversary puppeteer had the capability to do more than he was doing, and the length and nature of the war was heavily influenced by national judgments as to what type and intensity of action best suited their purposes.

It was this unused capability that made it so difficult to estimate the nature of the war even a few months in the future. The opponents exhibited this fact by matching bets time and again, and each time the result was a state of equilibrium at a higher level of intensity.

Equilibrium, as a matter of fact, was one of the dominant characteristics of the war. Either the new actions of one contestant, or the counter-actions of his adversary, created a succession of military plateaus. The plateaus were the basis for miscalculations, sometimes giving the illusion of progress when actually no absolute progress was being attained. Examples of U.S. decisions leading to plateau changes were the initial commitment of ground combat forces, the initiation of air attacks against North Vietnam, the use of Strategic Air Command aircraft, and anti-infiltration ground and air action in Laos. Examples of enemy decisions which generated plateaus at higher levels were attacks against U.S. shipping, growth in infiltration, the increased use of USSR munitions and advisors in North Vietnam, and the attacks of U.S. aircraft by MIGs.

In the main, the enemy decided the plateau on which we fought, and this is the key point. He held the initiative because we relinquished it. Our political leadership caused ours to be largely a relative role. It was their concept to hope for the enemy to come to terms at the current level of conflict, while making plans to punish him more intensely in case he did not. In settling for a reactive philosophy, we guaranteed that the battle would be unduly protracted, to the frustration of the soldiers who knew well that initiative is the handmaiden of victory.

Beyond committing us to the miseries of a reactive strategy, our civilian leadership often exercised direction of our actual battlefield conduct. In far too many cases they literally ordered the day-to-day shooting war.

How many, how very many of our principal military officers of the Lyndon Johnson era will recall their frustration at the fact that the President himself—amply buttressed and supported by a political entourage—actually decided where the weight of our air effort for today or this week should be; actually considered, approved and vetoed minor tactical operations, actually decided where aircraft carriers should be positioned, even selected individual bombing targets for our air campaign—and all of this while the professionals stood by—overruled and frustrated.

And, as an example of political cosmetics getting mixed up with a serious war, who can forget Christmas of 1962 when the conflict was scarcely begun? Our politicians regarded the time as ripe to persuade the American people that our Vietnam involvement was nearing an end. Incredible as it may now seem in retrospect, and without any real relation to the war itself, they directed the withdrawal of 1,000 American men—in organized units—prior to Christmas, on the announced basis that the South Vietnamese were doing so well that our disengagement might properly commence.

And it actually happened! Over the objection of the Joint Chiefs of Staff, who could see no light at the end of any tunnel—and said so— it still happened.

The privileged sanctuary confers great advantages on the antagonist who enjoys it and multiplies the problems of the antagonist not so blest.

There was a laboratory-like concept among our politicians that the Vietnam war could somehow be artifically isolated, fought in sort of a cockpit called South Vietnam while the neighboring states—North Vietnam, Laos and Cambodia could be excluded by an arbitrary *cordon sanitaire*. The soldiers pleaded the simple case that the privileged sanctuaries were a major ally of the enemy. They sought continually the authority to conduct air and ground operations in the sanctuaries and were turned down more often than they were approved, for political reasons that history has exhibited to be unsound.

There seemed to be an almost paranoid fear of what "they" (the Russians or Chinese) might do if we ventured into the privileged areas to disrupt the enemy's logistic arrangements. Yet, on these occasions when we did so—most notably President Nixon's decision to send forces into Cambodia—the rewards were very great.

And the classic story certainly has to be the almost interminable dialog regarding the closure of the privileged port of Haiphong. How many times responsible military men preached the simple tactical gospel to President Johnson that Haiphong was the enemy's jugular. How many times he and his political counsellors found some reason to set aside the single greatest operational contribution that the United States could make to winning the battle on the ground.

If war, at large, as Clemenceau said, is too important to be entrusted to the hands of generals, it is generally true the politician fared poorly as tacticians in Vietnam. In this case, the politicians argued that attack of the Haiphong sanctuary was a political and a strategic matter. They contended that dire consequences were to be anticipated as a result of such imprudent action. The specter of a hail of Soviet ICBMs was raised repeatedly, a convenient dilettante's straw man that won all too much credence and protracted the war unduly. Subsequently, we having bombed and mined the place, the act emerges as having been just another sound tactical decision to deny a privileged sanctuary—a decision taken four years and thousands of white crosses too late.

There was not a high military commander in the conflict who would not applaud the words of General Lucius Aemilius Paullus in 168 B.C.—'Commanders should be counseled chiefly by persons of known talent, by those who have made the art of war their particular study and whose knowledge is derived from experience; by those who are present at the scene of action . . ."

Our conduct in terms of the fourth principle was equally questionable.

Insurgent war is fought among the people, who are at once the battlefield and the contesting forces. It is not a war of classic style or dimensions and victory is not the product of a clash of sophisticated arms.

Sun Tzu told us this very thing and Mao Tse-tung popularized the thought twenty-five centuries later—"The people are the sea and the revolutionaries are the fish that swim in it."—but we gave their wise words little more than lip service.

The truth is, the gut of the whole Vietnam conflict was in the tiny hamlets and villages, where the attitude, the loyalty, of the peasant was all-important. The expression "win the hearts and minds of the people"—threadbare, overused, misused—was still the true name of the game but we never really took it seriously. The opportunities to capture the confidence of the peasant were legion. They were sick, oppressed, hungry, overtaxed, and justifiably frightened of the nighttime stealth and terror that had been their lot for more than a generation. They wanted peace—and hope—almost more than anything else.

The related American projects to help these miserable people were impressive—on paper; crop improvement, hospitals, wells, communications, education, paramedical training, road building, irrigation, schools—but few of them had any genuine durability. Coordination was weak and results were meager. The Agency for International Development went its way, the CIA went its way and the military did the same. Mostly their hearts were not in it. There just is no romance in improving the breed of hogs or digging a well, and the whole matter was rendered even more frustrating by the protection the insurgents found in the privileged sanctuaries.

As a result, very little enduring benefit accrued to the pitiable hamlet dweller. He still paid taxes to the government and to the Vietcong as well. He still could not sell his rice, his sons were still fair game for Vietcong seduction or kidnapping, his teeth still hurt, he still suffered from yaws, the world looked understandably bad and he had no visible reason to believe, trust in or help us. And mostly he didn't.

The truth is, with only a few very respectable exceptions, notably in the northern provinces, as a nation we never took seriously Sun Tzu's injunction that the great battle was indeed among the people. What a terrible error this was, and how very much it cost us.

In place of this short and practical route to the core of our problem, we chose alternatively to try and recreate a conflict that existed in our own text books.

"It is not a war of classic style or dimensions, and victory is not the product of a clash of sophisticated arms," goes the principle, but we elected to try and make it one.

Infiltration is an example. There is no doubt that the Communists saw the 17th parallel demilitarized zone as a highway—not a barrier. For the most part our military commanders had no problem perceiving this but the reaction of the Pentagon civilian leadership was to see it as an exotic problem, responsive to exotic measures. Their solution was to emplace a literal forest of costly electronic sensors and airdropped radio transmitters to detect enemy movement in the area, to utilize airborne television, to denude the earth with massive ploughs, in brief, to supplant the incomparable intelligence-gathering capability of the South Vietnamese people with the dubious and costly characteristics of mechanical and electronic experiments.

The hope, of course, was that it would then be unnecessary to bomb or otherwise attack North Vietnam and thus artificially to confine the battle to South Vietnam—the privileged sanctuary again. Nobody will ever know how much that so-called McNamara Line cost, but everybody knows it was a failure.

In short, we did a lot of things wrong—and that is the melancholy truth. We violated many of the basic rules of warfare, we were wasteful and improvident. We lacked in vision and we lacked in imagination.

But, in the same breath we can say—with much satisfaction—that the American troops, once they were committed to a battle they did not seek, stayed with it, overcame their own errors—and the errors of the politicians. By sheer determination they sublimated their own doubts, behaved with inspiring valor and drove the enemy to the bargaining table where our political representatives could fashion an end to the fighting.

In the overall, the achievement, however, was not of such dimensions as to dissuade our enemies from further adventures in proxy war. Of that we may be certain.

Proxy war will come to us again and, when it does, we must not ignore the strategic limitations it brings in its train. Let us hope we will find the wisdom not again to be entrapped into commitment of our own manpower in the proxy battle, not again to be disrespectful of the decisive character of the privileged sanctuary, never again to turn the tactical battle over to politicians.

Pray God, in short, that we will heed the words of Sun Tzu and, before leaping, "learn first the nature of the battle."

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. LEHMAN. Mr. Speaker, due to traffic problems on the way to the airport yesterday, I missed my flight which would have arrived in Washington in time for me to cast my votes on the two veto overrides which the House considered yesterday.

Had I been present, I would have voted to override the veto of the continuing resolution, and to override the veto of the railroad retirement system reform.

PERSECUTION OF RELIGIOUS FREEDOMS IN SLOVAKIA

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ROE. Mr. Speaker, I call to the attention of you and our colleagues here in the Congress that the constituents of my district are deeply concerned about the religious freedoms of the people of Slovakia in the Soviet Union where religion is persecuted as reported in a recent article published in the Falcon, official organ of the Slovak Catholic Sokol, leading American Slovak fraternal organization whose headquarters are located in Passaic, N.J., of my Eighth Congressional District.

The distinguished editor, the Honorable John C. Sciranka, president of the Slovak Newspapermen's Association of America and esteemed historian, is also president of the eastern region of the Slovak Catholic Federation of America and a member of the Passaic Historical Commission. It is of historic significance to note that at his suggestion the month of October has been observed as the Slovak Press Month since 1926, in tribute to the first Slovak newspapermen who founded the first Slovak publication in America on October 21, 1886.

Mr. Sciranka's most comprehensive, historically noteworthy review and report as it appeared in the Falcon on October 2, 1974 is as follows:

[From the Falcon, Oct. 2, 1974]

REVIEW OF PERSECUTION OF CATHOLIC CHURCH IN SLOVAKIA UNDER COMMUNIST RULE

Persecution of the Church in Slovakia began before the end of World War II.

Communist agents parachuted into the state during the Summer of 1944, set up a pro-Communist National Slovak Council through which they mounted an early offensive against bishops, priests and religious, many of whom were hindered in the performance of their duties, and a number of whom were killed.

On April 16, 1945, church schools were nationalized on the basis of an order issued by the Council the previous Sept. 7. Thus, the regime seized elementary schools, secondary schools and colleges. By the end of the month the confiscation of all church property was ordered.

On April 25, 1945 Catholic youth organizations were disbanded and their property taken over. Severe restrictions were placed on the availability of Catholic books, and the Catholic press. The training of students for the priesthood was crippled.

In 1947, a year following elections in which more than 60 percent of Slovak voters opposed Communist state, all church property was confiscated. In December, Msgr. Jozef Tiso, president of the Slovak Republic, went on trial for "treason"; he was executed the following April.

BISHOPS, PRIESTS AND PEOPLE JAILED

Between April and June, 1945, some 20,000 persons were confined to concentration camps. Two bishops—John Vojtaššák of Spiš and Michael Buzalka, Auxiliary of Trnava and 170 priests were jailed. Between 1945 and 1947, it is estimated that 130,000 Slovaks spent time in jail. During the first year following the coup of Feb. 25, 1948, between 120,000 to 150,000 were imprisoned. Between 1945 and 1949, approximately 10 percent of the Slovak Population spent some time in jail or a concentration camp.

In the Summer of 1948, in what might be called the last dramatic public demonstration by Catholics in the country, Slovak peasants rose to the defense of priests and religious, clashing with police and other government agents seeking to enforce restrictive measures against them.

On February 26, 1948, orders were issued for the prohibition and restriction of Catholic publications. More than 53 of them were suppressed by the following January.

In the same year, church-run hospitals and ecclesiastical real estate were nationalized. All primary and secondary schools and junior seminaries were placed under state administration. Within a year, Catholic schools were forced out of existence. The Catholic Action organization was liquidated in November, 1948, in a preliminary step toward the formation in June, 1948, of a puppet organization designed to infiltrate the Church.

DIPLOMATIC RELATIONS WITH VATICAN

The regime took the first steps toward ending diplomatic relations with the Vatican in April, 1948, and completed this action by March 16, 1950, eight months after the Holy See condemned active and willing membership in the Communist Party. A state bureau of Ecclesiastical Affairs was set up under a law passed on October 1949, for the purpose of tightening control over the Church.

BYZANTINE CHURCH DISSOLVED

Between April and May, 1950, the Eastern Rite Diocese of Presov in Slovakia was dissolved, and pressure was applied to 341 priests and 327,000 faithful to make them an Orthodox Diocese.

All religious houses were taken over between March 14, 1950, and the end of 1951. Men and women religious were expelled, assigned to work brigades and camps, or detained in concentration monasteries under government surveillance. In 1951, about 3,000 priests were deprived of their liberty as the government attempted to force "patriot" priests on the people.

TRIALS OF BISHOPS AND PRIESTS

A number of theatrical trials of bishops and priests were held in 1950. In the following year, in Slovakia, three bishops were tried and sentenced to prisons: Vojtassak, 24 years; Buzalka, life, and Paul Gojdic, Byzantine Rite of Presov, life.

In 1958 from 450 to 500 priests were in jail; an undisclosed number of religious and Byzantine Rite priests had been deported; two bishops released from prison in 1956 were under house arrest; one bishop was imprisoned at Leopoldov and two at the Mirov reformatory.

In 1960, a new Constitution gives no recognition to the Church and implicitly aims at the suppression of any traces of religious freedom.

Until now, Mr. Gustav Husak had remained silent in the latest crisis. He was the leader of the Slovak Communist Party and in 1968 the Soviet troops were stationed in Czecho-Slovakia.

Despite the Communist government's claims that it is tolerant of religion, over the past few years a consistent campaign has been mounted against religious freedom.

Demands by the bishops to be allowed to carry out their religious functions in freedom to run their seminaries without state control and to enjoy the right of giving instruction freely, have been interpreted as examples of their anti-socialist, anti-communist attitudes.

In the early 70's public officials moved in on the Catholic Church to restrict freedom. The Slovak Socialist Republic made it a requirement that priests get government permission to celebrate even a private Mass. Such is life of Catholic Church in our dear but enslaved Slovakia.

PRESERVING THE OLD POST OFFICE AND THE WILLARD HOTEL ON PENNSYLVANIA AVENUE

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. THOMPSON of New Jersey. Mr. Speaker, I would like to call the attention of my colleagues to an editorial in yesterday's Washington Post urging Federal action to preserve and renovate two Washington landmarks, the Old Post Office and the Willard Hotel on Pennsylvania Avenue. Earlier this year, my colleague Kenneth Gray of Illinois and I introduced legislation which would rescue the Old Post Office and turn it into a home for the National Endowment for the Arts. I think the Post's suggestion that the Willard Hotel be preserved as well is an excellent one and is fully in harmony with the upcoming Bicentennial celebration. A text of the editorial follows:

New Life for Two Old Buildings

Restoring life and dignity to those great landmarks, the old Willard Hotel and the Old Post Office, will do more to restore life and dignity to Pennsylvania Avenue than all the grand proposals made in a decade of elaborate planning studies and dazzling models. In fact, it now seems clear in retrospect that the grand Pennsylvania Avenue plans of the past were doomed as long as the planners doomed these two buildings. The Old Post Office, you will remember, was to be demolished so that the Federal Triangle could be completed with additional offices for the Internal Revenue Service. The Willard Hotel was to be bulldozed to make way for an enormous pavement, to be called the National Square. The proposed destruction of two of our most beloved historic buildings did not endear the grand plan to the local citizenry. Nor did it make much urban sense. How much life and, for that matter, dignity, could we expect to see pulsating between the tax collectors and an empty square?

There are now new planning studies, prepared by independent and competent private firms. They show that the desirable is also feasible. The feasibility study for the renovation of the Old Post Office was made for the National Endowment for the Arts, which hopes to occupy office space in the grand granite pile. The renovation proposal would also yield beautiful new offices for other federal and District of Columbia government agencies. But more important, it would convert the majestic but now inaccesible inner court of the building into an exciting tourist attraction. It would be a place for shops, restaurants, arts and craft exhibits and public celebration.

The Willard Hotel feasibility study was prepared for the National Trust for Historic Preservation. After careful consideration of other possibilities, the study concludes that the best and most profitable use for the historic, once graceful hotel would be to turn it again into a historic, graceful hotel. The restored old charm would be enhanced by a swimming pool and health club, an elegant shopping mall and duplex apartments in place of the top floor ballroom.

Both these renovations should promptly be undertaken. Both require public money. The $30 million remodeling of the Old Post Office can profitably be started with a $7 million appropriation. The $20 million private investment for rehabilitating the Willard requires one-time $4 million federal subsidy to get the project started. In asking Congress for these funds, the city and the various agencies concerned can now muster a number of impressive arguments.

"Recycling" the Old Post Office, to begin with, would yield federal office space for less money than new buildings would cost. It would demonstrate that government offices and shops can happily co-exist in the same building. (Such mixed use, as the Canadians have found, keeps the buildings and the city alive with the offices close and brings the government rent income to boot.) Turning the Old Post Office into a lively activity center would in addition, help Pennsylvania Avenue and the downtown business district. It would also be a great help to the tourists on the Mall who now lack the convenience the Post Office would offer.

Restoring the Willard, which has stood empty since 1968, would first of all meet the demand for more hotel rooms downtown. It would bring income and elegance to a somewhat seamy area close to the White House. And both projects together would go far toward solving the foremost problem all the Pennsylvania Avenue proposals have failed to solve: They would attract people at all hours. Both projects furthermore, would set federal examples of creative new use of old buildings and show that it makes financial sense to respect our architectural heritage.

NEW YORK CITY BAR ISSUES UNANIMOUS STATEMENT ON NIXON PARDON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. RANGEL. Mr. Speaker, on September 11, Cyrus R. Vance, president of the Association of the Bar of the City of New York issued a statement, adopted unanimously by the executive committee of the association, denouncing President Ford's "premature and unwise" pardon of Richard Nixon. This pardon constitutes a denial of equality of justice in the United States. The association's eloquent statement deserves our attention.

The statement of the Association of the Bar of the City of New York follows:

Statement by Association of the Bar of the City of New York

Our Government is founded on the principle of equal justice for all. Lawyers have a special commitment to that principle. Ordinarily the power of pardon has been exercised only if there has been a finding of guilt, and after a full, fair and open trial. The power to pardon is a sacred trust to be used only in the rare circumstance that full justice requires that it be tempered by mercy. On the basis of the facts now available, the Association believes that President Ford acted prematurely and unwisely in issuing an unconditional pardon to Richard M. Nixon.

Any further use of that power in connection with the Watergate affair at this time, whatever its motive, would have the effect of keeping hidden the facts which justice and, therefore, the welfare of the nation demand be revealed. We strongly urge the President to permit the administration of justice to proceed without further hindrance and to join with the organized Bar in its efforts to regain public confidence in the principle of equal justice under law.

HOUSING IN MINNESOTA IS IN BAD SHAPE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. FRENZEL. Mr. Speaker, yesterday in the debate on the rule for the bill extending the powers of GNMA, Ginny Mae, I observed the evil effects of the usury law in my State of Minnesota. Bills like the GNMA legislation which will stimulate housing in this country would not do a thing for Minnesota, because our usury law forbids conventional mortgages at over 8 percent interest.

The State does not mind letting its people borrowing from small loan companies at 33 percent, nor from commercial loan companies at 18 percent. It lets its people borrow from commercial banks at rates up to 14 percent to buy cars. But, the one possession that the State would not let a Minnesotan borrow at more than 8 percent for, is the one thing Minnesotans want and need most—a home.

The State usury law has effected "protected" Minnesotans from buying or owning homes. It "protects" our construction workers from enjoying their jobs.

Because of its obsolete usury, Minnesota usually is unaffected by attempts to stimulate the housing industry, or to provide more dwelling units for the people of this country.

In the future, I shall try to amend this sort of bill so that it will work in my State. If we really believe housing is a national problem as I do, we cannot let obsolete State usury rates reduce the impact of national legislation to improve housing.

Attached for the Record are are two letters typical of those I have received on the subject of State usury laws. The first is from the Minnesota State Builders Association describing the "financial strangulation" caused by Minnesota's usury law. The second is a thoughtful letter from the Chairman of the Federal Reserve in response to my query indicating the FRB opposition to arbitrary usury ceilings.

The letters follow:

Minnesota State
Builders Association,
Minneapolis, Minn., October 4, 1974.

Hon. William E. Frenzel,
House of Representatives,
Washington, D.C.

Dear Mr. Frenzel: The housing industry in Minnesota is in serious straits.

New housing production is down significantly from 1972, and down from 1973. As a consequence a number of building companies are in or approaching financial trouble, there is heavy unemployment among building tradesmen, and the capacity of the industry with expertise to provide the housing our growing population needs is being eroded.

The archaic 8% interest limitation (usury) law in Minnesota brought financial strangulation to Minnesota months in advance of the onset of monetary restraint problems of other states. And, this old law will keep Minnesota families from needed housing until after people in other states have been freed from the shackles of "tight money." But even worse, during the interim while new housing is so entirely dependent on Federal forward programs, the Minnesota usury law will prevent some programs from helping Minnesotans.

For example, the recent FHLMC three billion dollar offering reportedly would have brought a desperately needed infusion of mortgage money to Minnesota. But, because of Minnesota's law, no money came here. Recent "Parades of Homes" in the Twin Cities and outstate have confirmed what we've known to be true. The turnout of families that want and need new housing was at record levels, but their ability to buy is nil.

We urge you to look favorably on the proposals of the National Association of Home Builders for reforms and programs to mitigate the problems that plague this important industry and its important customers.

Please make an especially critical appraisal of programs moving through Congress to determine whether they offer relief to Minnesotans or whether Minnesota's share will be divided among the other states.

Finally, we ask that you use your good offices to assist our state's legislative and executive branches of government to understand the consequences of their inaction and narrow perspective on mortgage interest rates.

Sincerely yours,

KENNETH M. REINHARDT,
President.

FEDERAL RESERVE SYSTEM,
Washington, D.C., September 10, 1974.

Hon. BILL FRENZEL,
House of Representatives,
Washington, D.C.

DEAR MR. FRENZEL: I am pleased to respond to your letter of August 26 in which you raised a number of questions concerning State usury laws that currently restrict the availability of home mortgage financing.

Eliminating State usury ceilings—or raising them to levels at which they would no longer impede the flow of funds into mortgages—would undoubtedly help the housing market at this time. In many States usury ceilings currently are below market rates, and individuals cannot compete effectively for conventional home mortgage funds. Some ceilings may even prevent an appreciable volume of lending on conventional mortgages under the special interest subsidy programs announced by the Administration earlier this year. These programs relate to certain advances from the Federal Home Loan Bank System and to certain loans purchased by the Federal Home Loan Mortgage Corporation. In some States these restrictive usury ceilings apply also to FHA-insured or VA-guaranteed home loans, and they may therefore limit the effectiveness of GNMA's special Tandem Plan as well.

In addition, some States have usury ceilings which apply to loans to corporate borrowers as well as to unincorporated businesses and individual borrowers. At least a dozen States currently have rate ceilings low enough to restrict lending to builders of residential construction. In the open market, such loans generally carry rates several percentage points above the bank prime rate.

The Federal Reserve Board has for some time urged that the restraints imposed on the mortgage market by arbitrary usury ceilings be removed. Preferably, such remedial action should be taken at the State level. However, in some States this step apparently involves constitutional problems which may require a long time to resolve. Under such conditions, emergency measures at the national level may be needed. In this regard, the Federal Reserve Board has expressed general support for legislation recently introduced in the Senate which would permit lenders to set interest rates for loans to business above State usury ceilings. The legislation currently pending would be a temporary measure and the States concerned would be allowed to supersede the provision by positive action. Similar legislation applicable to conventional home mortgage loans to individuals could, of course, be introduced.

Insofar as FHA/VA loans are concerned, exemption from usury law constraints in all States would not only permit potential borrowers to compete more effectively for funds in local markets, but would enhance the effectiveness of the national mortgage market where loans underwritten by the Government are actively traded. Such exemptions might also encourage State governments to take similar action with respect to conventional home mortgage loans. You may wish to explore with the Department of Housing and Urban Development and the Veterans Administration whether or not amendments to existing legislation would be required to provide the FHA/VA exemptions on a national basis.

As you indicated, national banks may currently lend at rates exceeding State usury ceilings. Specifically, such banks are allowed by statute (12 U.S.C. 85) to charge one percentage point above the discount rate on 90-day commercial paper in effect at the district Federal Reserve Bank. This statute could, of course, be amended by Congress to provide for a larger margin, although it would be more appropriate to tie the maximum loan rates which banks can charge to a market-determined interest rate. Since such amendments would place other types of mortgage lenders at a greater competitive disadvantage, legislation exempting all federally-insured institutions from State usury laws would appear preferable.

I hope these comments will be helpful to you.

Sincerely yours,

ARTHUR F. BURNS.

A SALUTE TO VOLUNTEER FIREMEN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. DERWINSKI. Mr. Speaker, too often we take for granted the dedication and services that volunteers in all areas willingly provide. As I represent a suburban area, many of the local fire departments are manned by volunteer firefighters who not only sacrifice their time but their lives.

I believe that the lead editorial in the October 10 Worth-Palos Reporter very properly salutes these dedicated volunteer firemen. The editorial follows:

A SALUTE TO VOLUNTEER FIREMEN

(By Pat Bouchard)

This is National Fire Prevention Week and, following REPORTER tradition, we dedicate this week's issue of our newspaper to local volunteer firemen.

These volunteers are committed to continually learning about the latest in firefighting techniques and to updating their equipment. The lowering insurance rates in the area are testimony to the effectiveness of their efforts. See section two of this edition for reports on each of the local departments.

In our eagerness to salute these men we sometimes forget to also honor their wives and families who willingly sacrifice time spent with the husbands and fathers busy at the firehouse training and caring for equipment.

Let's not forget how much we owe to the firemen who not only perform at fires, but who answer other calls from persons in distress. Midnight calls for the ambulance to aid heart attack victims are not uncommon. In addition, many traffic accident victims owe their lives to the prompt response of local fire department ambulances.

We repeat, remember the services rendered by the volunteer firefighters when they call upon you to help when they sponsor fund raising events in the community. Much of the money raised through these events is used to improve service and equipment which may someday save the life of a loved one.

UNEMPLOYMENT

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mrs. HECKLER of Massachusetts. Mr. Speaker, unemployment rates of recent months require that the Congress act—and act now—to stem rising joblessness. The willingness of the present Administration to initiate a public service jobs program is encouraging. However, the current economic situation demands more effective, meaningful action.

Mr. Speaker, I am today introducing legislation which would provide additional public service jobs as the need for them is triggered by rising unemployment rates. The program goes into effect with $1 billion of Federal funds when the unemployment rate averages 4.5 percent or more for 3 consecutive months. As unemployment increases, so does funding for the program. The legislation has the potential of providing $4 billion for a public service jobs program if the unemployment rate averages 6 percent or more.

The distribution formula would be especially helpful to hard-hit areas. Half of the funds to prime sponsors would be apportioned according to the total number of unemployed; the other half of the funds would be distributed on the basis of the number of unemployed over a 4½-percent rate. This formula would be particularly beneficial to areas like Fall River, Mass., in my district. In recent months the unemployment rate there has ranged between 8 to 10 percent. With half of the distributed funds based on the unemployment rate areas of 4½ percent and over. Fall River and areas like it would be the rightful recipients of this desperately needed Federal assistance.

Funds for the public service jobs would be distributed under existing Comprehensive Employment and Training Act programs thus putting massive Federal support behind a program that has been well received in many areas.

In the case of Fall River, Mass., there is genuine interest in the CETA program but sufficient Federal support coupled with a well-administered program does not now exist. This legislation could very well be the key to an effective jobs program.

Mr. Speaker, we are all aware of the thousands of eager, hardworking men and women who have lost their jobs in recent months as a result of economic dislocations. These are often the family breadwinners whose check is an absolute necessity to the family's existence. This program will enable many of these workers to enter the ranks of the employed once again.

This legislation is designed to attack the unemployment problem where it is severest while maintaining the self-respect of those involved. I urge its speedy enactment.

A SALUTE TO VOLUNTEER FIREMEN

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. BRAY. Mr. Speaker, last Sunday, October 13, 1974, I had the pleasure of speaking at the dedication of a new station for Company No. 9, the Wayne Township, Marion County, Ind., Volunteer Fire Department's larger and better-equipped quarters.

Wayne Township has the distinction of being the world's largest volunteer fire department, under one chief, with close to 400 men in nine fire companies. The State of Indiana itself has a total of 50,000 volunteer firemen, with around 500 departments.

The history of volunteer fire departments in this country goes back over 200 years, to Colonial times. In fact, not until after the Civil War were professional, full-time fire departments established. Before then, all firefighters in the American Republic were volunteers.

Historians say that it really began, on a major scale, with good organization, in Benjamin Franklin's Philadelphia. Heavy losses from fire were frequent. Public-spirited citizens made mutual pledges to stop whatever they were doing when the fire alarm rang—and it was sounded from either the townhall or the meetinghouse—and, organized into squads with specific duties, to go to the scene of the fire.

Before long, volunteer departments began to import what were, according to our standards today, somewhat primitive fire engines from England, which had hoses, and water tanks; pressure was supplied by hand pumps. These replaced, to a degree, the old bucket brigade—which is still in use in emergency situations.

Unfortunately, they were not too effective, these old hand-pumpers. New York City had one in the 1850's, called Big Six; it was the most powerful in the country, yet could only throw a stream of water 30 feet in the air.

The system, as it was, may have had its faults, but, again, historians say it was incomparably better than nothing. The volunteer firemen concept turned, to quote one leading historian, J. C. Furnas, into a "national institution." Mr. Furnas, in his best-selling "The Americans: A Social History of the United States—1587–1914," elaborates:

> Membership was by invitation; the members chose their captain by vote as much for his personal popularity or prestige as for his fire-fighting skill; the building where the engine and hose carts were stored became an informal clubhouse, as enjoyable to hang out in as the livery stable or the back room of the tavern. Except that they are better equipped and trained, all this remains true of the volunteer fire companies that still provide fire protection in many small American communities—

Until 1865, in New York City, Volunteer organizations did not like this very much, even when employment offers were made to the higher trained volunteer firemen. Neither did they like the newly developed steam-powered and horse-drawn water pumpers—the old ones were pulled by hand, by the volunteers. Furnas, again:

> When Cincinnati bought such a steam engine, it was taken for granted that to turn it over to a volunteer company would mean its swift destruction. A local iron founder, a rough-and-ready hero of the volunteers, was persuaded to recruit a paid company to handle it. But even he, personally driving it to his first fire, thought it necessary to augment his force by the toughest of his own foundrymen and a battalion of 250 heavy-fisted Irish borrowed from a local ward heeler to protect the operation—and sure enough this small army barely sufficed to best the mob of volunteers bent on riot and sabotage.

The volunteer groups were terribly proud of their organizations. Furnas:

> Salomon de Rothschild, scion of the great European banking house, accustomed to lavishness, was amazed at the extravagance of the parade of 6,000 volunteer firemen of New York City honoring the visiting Prince of Wales in 1860. Each carried a torch in one hand and with the other grasping a rope hauling along "Engines (of) all shapes . . . (and) colossal size . . . a foreman spends everything he can to decorate (them) with jewels, paintings, and gold and silver ornaments. . . ." When the end came, instead of letting the old machine rot and rust away, one of the superseded New York volunteer companies, violent to the last, made one final run and wheeled her to a watery death in the river.

Interestingly enough, today, in Indiana, the State Fire Marshal William Goodwin is the first former volunteer fireman to hold this post for the State.

There is no rivalry between volunteer fire departments and the regulars today. They work together in any emergency—fire rescue, or ambulance service. At a recent major fire on East Washington Street in downtown Indianapolis, volunteer fire companies from suburbia and the rural areas joined the Indianapolis fire department and performed yeomen service in assisting to bring this fire under control.

These men are a valuable and very important part of every community. They are carrying on a long and proud tradition—spiritual descendants of men like George Washington, who, himself, was once a volunteer fireman. They have—and always will have—great importance, and this importance is increasing.

Today the volunteer firemen perform valuable services for their communities in many other fields, as well as firefighting. They are active in assisting their fellowmen in all types of emergencies to an increasing degree, in performing ambulance service, rescue, and first-aid service. The volunteer firemen along with the civil defense volunteers are fast becoming the minutemen of today. Sometimes their dedication and valor is forgotten, but it is there, ready to serve their community. And that is what really counts.

Go to any volunteer fire department and you will find a cross-section of public-spirited citizens: doctors, lawyers, professional men, factory workers, farmers, mechanics, truckdrivers. They give their time in the best American tradition: voluntary action, for the community in which they live. We should never forget them.

SLOVENIAN DAY

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mrs. COLLINS of Illinois. Mr. Speaker, on behalf of the hundreds of Sloven-Americans living in the Seventh Congressional District of Illinois, it gives me great pleasure to announce traditional Slovenian Day in Chicago.

By proclamation of the Honorable Richard J. Daley, our mayor, November 2 will be recognized as Slovenian Day. Throughout their 1,000 years of history, valiant Slovenians have maintained their national identity, despite the enroaching tide of peoples surrounding their country. On Saturday, November 2, polkas and folksongs will ring from St. Stephen's Center at 1835 West 22d Place, Chicago, in celebration of the 56th anniversary of Slovenian Independence from the Austro-Hungarian Empire.

Festivals such as Slovenian Day enrich the ethnic cultures of our city. Slovenians have retained their ancestor's spirit and pride in Chicago, as in Slovenia. Guests of Slovenian descent will attend the festival dressed in native costumes. They will feast on home-style sausage—Slovenian "klobase"—and "potica"—Slovenian nutbread. This gala affair will attract over 1,500 people from various States and Canada.

Since 1946, Slovenia has been one of the six people's republics of Yugoslavia. It has a territory of nearly 8,000 miles and a population of over 1,725,000. Today, Slovenia's chief products are textile, steel and wood.

Throughout their long history, Slovenians have contributed much to America and the world. Their intellectual attainments include printing the first book in any Slavic language in the year 1550. One hundred and fifty years later, a

Slovenian named Mark Kappus informed Europe of his important discovery that California was not an island, as was commonly believed.

The 18-century Slovenian mathematician Georg Vega developed 10-place logarithm tables which are still published throughout the world, and Lovrenc Kosir originated the postage stamp.

They have aided the world's spiritual as well as intellectual growth. Bishop Frederic Baraga who came to this country in 1830 to devote his life to the Indians of the Upper Great Lakes was so revered that he was known as the "Apostle of the Lakelands" or "Apostle of the Chippewas." While converting the Indians to Christianity, Father Baraga wrote the first dictionary and grammar books in the Chippewa Indian language.

Of the more than 400,000 Americans of Slovenian origin who reside in the United States today, many have made admirable contributions to the advancement of our country. Among these distinguished Sloven-Americans are the Honorable JOHN A. BLATNIK, Congressman from the Eighth District of Minnesota, and chairman of the Public Works Committee, on which I have the privilege of serving; the Honorable PHILIP E. RUPPE from the 11th District of Michigan; the Honorable JOE SKUBITZ of the Fifth District of Kansas; the Honorable Ludwig J. Andolsek, Commissioner of the U.S. Civil Service Commission; and the Honorable Frank J. Lausche, former five-term Governor of Ohio, and U.S. Senator.

There is another group of Sloven-Americans who deserve to be recognized. I refer to the members of the Slovenian American Radio Club. On November 2, in conjunction with the Slovenian Festival, the radio club will celebrate its 24th anniversary of consecutive broadcasting. I congratulate and commend the Slovenian American Radio Club and their very able president, Ludwig A. Leskovar.

Mr. Speaker, I ask that the names of all the officers of this notable radio club be included in the RECORD. The names of the officers follow:

OFFICERS OF THE SLOVENIAN AMERICAN RADIO CLUB

Executive Officers: Dr. Ludwig A. Leskovar, President; Stanley Simrayh, Vice-President; Mary Foys Lauretig, Secretary; Alma Helder; Treasurer; Stephanie Osterman, Recording Secretary; Roman Possedi, Sr., Sergeant at Arms.

Auditors: Otmar Tasner, Michael Fleischhacker, Minka Grasich.

Cultural Narrator: Frank A. Schonta.

Director of Special Events: Corinne Leskovar.

Directors: Frank Mikec, John Blatnick, Joseph Osterman, Fred Orehek, Anna Tasner, Frank Karner, Frances Maxwell, Anton Skamperle, Ludvik Jelenc, Jerome Soukal, Ursula Krzisnik, John Oblak, Frank Dolenc, Mike Kores, Peter Gorenc, Dr. Leopold Humar, John Amon, Stefan Turk, Daniel Posega, Frank Augustine.

Slovenian Program Staff: Ludwig A. Leskovar, Director; Corinne Leskovar, Announcer; Tony Gaber, Assistant Announcer.

In closing, I extend my sincere best wishes and congratulations to the Slovenian community in Chicago on the 56th anniversary of their independence.

AN OPEN LETTER TO PRESIDENT FORD

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. YOUNG of Georgia. Mr. Speaker, during and since the economic summit there has been much talk of biting bullets and making hard decisions, but so far the administration has merely continued the Nixonomic policy of "old time religion"—cut the Federal budget and keep interest rates high—with a bit of volunteerism and jawboning added.

I would like to insert into the CONGRESSIONAL RECORD two thoughtful articles by Dr. Walter W. Heller, regent's professor of economics at the University of Minnesota. In the first, appearing in the Wall Street Journal on August 12, 1974, he points out the complex nature of our current inflation, particularly the effect of fuel and food prices. Any serious proposal to fight inflation will have to deal realistically with these problems. I suggest that the President's proposals to date have not done this. The second article, also in the Wall Street Journal, deals with the myths surrounding that cornerstone of "old time religion"—cutting the Federal budget. If we are to cut the budget, it is important to know what it can and cannot accomplish and this discussion by Dr. Heller is useful in shedding light on a foggy subject. I believe budget cuts should be made, but will not blindly accept the target figure of $300 billion set by the administration's economists who got us where we are now—double digit inflation and an unemployment rate expected to soon hit 6 percent.

The articles follow:

AN OPEN LETTER TO PRESIDENT FORD

(By Walter W. Heller)

As you enter the presidency, the No. 1 problem on your domestic docket is inflation. In tackling it you have an opportunity that has come only once in the lifetime of this republic, one that enables you to make a good beginning, backed by the will, the support and the hopes of the vast majority of Americans.

It's an odds-on bet the present corps of economic advisers—Mesers. Rush, Simon, Greenspan and Ash—will recommend that you use that priceless opportunity to maintain unflinching adherence to the "old-time religion," to the catharsis of tight money and budget cutting.

But before you accept that counsel and that appealing Rock of Gibraltar image it implies, you should take a fresh hard look at the inflation problem, bearing in mind that new options open up to restore credibility and integrity to the White House. No one expects you to find a quick, magic cure for inflation—there are none. But people rightfully expect you to ask the tough, searching questions that will reveal the true risks and rewards of present policies and point the way to a broader and better balanced anti-inflation program.

A nagging question pops up at the outset: Why should the economic game plan that failed so miserably in 1968–71 work in 1974–75? Tightening the fiscal and then the monetary screws generated 6% unemployment and the depression of 1970, yet failed to subdue inflation. But, you will be told, that's because "we failed to stay the long course."

At that point, it's fair to ask how deep a valley of disinflation lies ahead of us under present policy. What the President, the Congress and the public need is a candid calculation—free of self-delusion and false optimism—of the projected benefits and costs of monetary-fiscal austerity:

—How much inflation will it squeeze out of the economy, and by when?

—How much will it cost in lost jobs, output and profits and in business and financial failures?

A PARTIAL, CHILLING ANSWER

Careful econometric studies by James Tobin (in the latest Brookings papers) and by Otto Eckstein of Data Resources provide a partial and chilling answer. They agree that the cost of simply adhering to severe monetary and fiscal restraint to check inflation will be sustained and heavy unemployment. Mr. Eckstein calculates that it would take at least two years of 8% unemployment to beat inflation back to a 4% rate. I think you will agree with him, Mr. President, this would be "overkill" and that the financial system would collapse before we cracked inflation.

That raises a closely allied question: Given the kind of inflation we are suffering today, are demand-suppressing measures enough? Are they the right medicine for this inflation? I don't mean to say that understanding how the inflation genie got out of the bottle necessarily tells us how to get it back in. But surely the medicine—and the dosage—should be different if inflation is merely a lingering legacy of demand-pull forces than if specific supply crunches and cost push forces are the villains.

The plain fact is that 1974 inflation, born of 1973's combinations of excessive demand and commodity crunches, is rapidly maturing into a new spiral of wages chasing prices and prices chasing wages—into a self-propelling price-wage spiral all too reminiscent of 1969–70 and all too resistant to a monetary-fiscal squeeze. The result? Further turns of the monetary and fiscal screws will wring less and less inflation and more and more life blood out of our economic recovery.

This is becoming painfully evident as the first-half slide turns into second-half torpor. Every day new cracks are appearing in the facade of economic strength behind which the ordained optimists have been hiding. A first step toward more realistic policy must be to recognize the 1974 slump for what it is. Not merely an "energy spasm," "a shortages economy" or a pause that refreshes, but a costly stagnation arising out of a shortfall in aggregate demand.

Let's drop the debate over whether it deserves the label "recession" and redirect our attentions to the real problems: How far below our output and employment potential are we prepared to drive the economy by policies to cut demand? And in view of the limits of demand management policy in subduing the new inflation, what measures to curb cost-push pressures and to improve supply management should now be considered?

Here, above all, Mr. President, you are in a unique position to de-escalate the inflationary spiral. Labor, justifiably aggrieved about the erosion of its real earnings, is stepping up its demands. Business, also pointing to inflation inroads and citing huge capital needs, is pushing up prices and profit margins. Now is the time, backed by a floodtide of goodwill, to practice not just the politics but the economics of reconciliation. Now is the time to bring business and labor together in a dialog, leading under your guidance to economic detente for the benefit of the American consumer.

That will mean reaching out to bring labor into the fold. It will require evidence that the strong pro-business bias of recent White House economics will become not a pro-labor but a pro-public bias. And it will also require a liberal (or even conservative) dash of "reasoning together" and "ask not . . ." spirit that seems to underlie your early words and actions as President.

NOT AN EASY TASK

Translating this new mood into specific initiatives to defuse the price-wage spiral won't be easy, especially after the unfortunate discrediting of wage-price controls under the inept freezes and phases of recent history. But without some kind of a wage-*price watchdog* and a new set of even-handed wage price guides—backed not just by powers of suspension (and in outrageous cases even by rollbacks) the outlook for inserting a circuit-breaker in the new round of cost-push inflation will remain bleak. Building on the base of the Bentsen-Nixon proposals for a wage price monitoring agency, the White House and Congress can forge this missing link in the anti-inflation chain.

This may go against your free-market instincts, Mr. President. But it shouldn't. Monitoring would be focused on those powerful unions and business units that wield excessive market power, those areas of the economy where competition is a poor policeman; in other words, government presence would be a stand-in for the forces of competition.

For the longer pull, much of the relief from stubborn inflation must come from the supply side. An intensive review of government policy to enlarge critical supply capacities, increase productivity, and monitor emerging supply crunches is long overdue.

In light of our traumatic experience with shortages in the last couple of years, you should call for a thorough exploration of the potentials for supply management. This should range all the way from better information devices like shortage alerts and prompt export reports or even licensing to the use of special financial aids (without building new tax shelters) and the milder forms of credit rationing.

Rationing of credit by price alone is channeling too much of our limited financial resources into speculative investment in land, inventories and foreign exchange to the detriment of investment in productive capital. And, as always, super-tight credit is squeezing small business, housing and municipal borrowers. To curb such inequities and channel more credit into productive uses, Federal Reserve policy could, where feasible, apply more selective methods of supplying credit.

And a gradual phaseout of the Regulation Q ceiling that shortchanged small savers and distorts the flow of financial resources is clearly in order. These moves facilitate a gradual retreat from excessive tightness that is needed to permit a moderate economic expansion.

A government that is dead serious about fighting inflation ought also, at long last, under your leadership, to put an end to the laws, regulations and practices that make government an accomplice in many cost and price-propping actions, running from over-regulation of transportation rates and under-enforcement of antitrust laws to fair trade laws and the Davis-Bacon Act—not to mention maritime subsidies, import quotas and the Buy America Act. Such actions will step on the toes of articulate well-heeled pressure groups—but now is the time, under your leadership, to take those political risks.

SUPPLY SIDE OF EQUATION

While dealing with the supply side of the equation, let me emphasize how important it is not to undermine some of our natural defenses against inflation by stopping expansion dead in its tracks. For if we do, we would deny ourselves the short-run productivity offsets to rising costs that we normally reap from a rising volume of sales and output. The longer we stunt productivity by choking off recovery, the more likely it is that lower productivity growth and hence higher unit costs will be built into conventional markups.

Further, remember that investment, innovation and risk-taking thrive in an atmosphere of expansion and wither in an atmosphere of stagnation. Super-tight credit undermines the health of equity markets, pushes money costs skyward, and threatens profits and financial stability. In the face of a policy of calculated stagnation, no program of tax gimmicks or special incentives will be able to induce the increases in capital spending the nation needs to boost productivity, expand supplies and ease price pressures.

Finally, Mr. President, in formulating your anti-inflationary program, be sure to take it out of the narrow context of economic gains and losses into the broader perspective of its social impact and consider the inequities and unfairness that it could generate. Out of these inequities grow a sense of grievance and alienation, an undermining of morale and social cohesion that may be inflation's greatest cost.

A telling reason why so many segments of our society have rejected current policies—have indeed felt they add up to an anti-them instead of an anti-inflation program—is that they are its victims rather than its beneficiaries.

Monetary policy boosts their housing costs. Budget policy has been squeezing social programs while enlarging defense outlays. And tax policy has thus far shown too little concern for those who are being short-changed by inflation.

DISTRIBUTING BENEFITS AND BURDENS

A truly balanced attack on inflation would couple the restraints of fiscal and monetary policy with measures to redress the grievances of skyrocketing fuel and food prices. I urge you to consider as an integral part of a compassionate anti-inflation program not only more generous unemployment benefits, food stamps and housing allowances but relief from payroll taxes for the working poor and increases in personal income tax exemptions and low income allowances. Distributing the benefits and burdens of economic policy more fairly will facilitate a more sustained battle against inflation.

If we simply declare total war against inflation without weighing the resulting manifestations of the human and financial landscape, experience tells us that we will invite an eventual public backlash. This is a plea, not to be soft on inflation, but to strike a sensible balance between benefits and costs in your anti-inflationary program, thereby staying between the bounds of economic and political tolerance rather than risking repudiation of the battle before it is won.

Just one final thought, I realize that if you follow the foregoing counsels, it will enhance the prospects of your continuation in the presidency after 1976. But in the belief that partisanship stops at inflation's edge, that's a risk I'll have to take.

Budget Cutting and Inflation

(By Walter W. Heller)

As the month of economic summitry draws to a close and the White House draws from it some guidelines for presidential action, budget-chopping seems to be high on the agenda. But before Mr. Ford and the Congress conclude that the budget is the taproot of today's inflation and decide on budget-cutting as their chosen path out of the inflationary wilderness, they should take a hard look at the "facts" and arguments on which the budget hard-liners rely to make their case. A realistic reappraisal will surely assign budget cuts a more modest role in the battle against inflation.

Under the somewhat incendiary heading of "myths," let me examine some of the misapprehensions, dubious assumptions and questionable assertions that seem to underlie the zeal of the budget-cutters. To them, the term "myth" may be a red flag. But it saves space and may serve to organize the mind.

Myth No. 1: Profligate budget expansion has plunged us into this inflation.

Part of the answer to this myth is well known: skyrocketing food, fuel, and commodity prices, coupled with excessive dollar devaluation, accounted for the great bulk of our 1973–74 inflation. Though excess demand compounded the problem in 1973, inflation even then was as much a supply-squeeze and cost-push phenomenon as it was a product of demand-pull. Today, it is rapidly maturing into a self-propelling price-wage spiral.

Less well known, perhaps, is that recent real budget increases are being held to modest levels: the real volume of total federal spending (in constant dollars) is somewhat lower today than it was at the end of 1972.

Two perspectives on the "huge" $30 billion spending increase (to $305 billion) in the current year's budget also cut it down to size:

—In high-employment terms, revenues are rising $33 billion this year. Indeed, with normal economic growth plus inflation of only 5% a year, federal revenue increases between now and 1980 would average $44 billion a year, according to Brookings projections.

—Of the $30 billion budget increase this year, $19 billion is mandated under open-ended programs, and another $7 billion is earmarked for boosts in defense and federal pay, leaving only $4 billion for "relatively discretionary domestic programs." Only a 2% increase, far less than the rates of inflation, is projected for social grant programs.

Myth No. 2: Huge federal deficits have poured fuel on the fires of inflation.

That surely was a valid view in the Vietnam inflation, but just as surely is not the case in the 1973–74 inflation.

On the contrary. After being very stimulative in 1972, the budget came hard about in 1973–74. Measured in terms of a high-employment economy (and regardless of the requiems being sung for the high-employment budget concept, it remains the best shorthand measure of the budget's economic impact) the budget turned from a $2 billion deficit in fiscal 1973 to a $10 billion surplus in fiscal 1974. And it's heading for a surplus of over $15 billion (annual rate) in the first half of calendar 1975. Even if one prefers to use 4½% unemployment rather than 4% as a measure of high employment, the *shift* toward restraint—and it's the *shift* that counts most in the impact on aggregate demand—would still be over $15 billion.

On a national income accounts basis, the *actual* federal budget deficit has also been shrinking steadily: from $20 billion in fiscal 1972, to $15 billion in 1973, to less than $2 billion in fiscal 1974. Indeed, the NIA budget was in balance by mid-1974.

Granted, a surplus last year would have been even better. But the key point is that even after adjusting for the revenue-boosting impact of inflation, federal fiscal policy *has* been leaning against the inflationary wind.

Myth No. 3: When you add back into the budget the net borrowings of "de-budgeted" agencies (federally sponsored agencies like Fannie Mae and the Home Loan Banks and wholly owned agencies like the Ex-Im Bank and the Postal Service), the "total" federal deficit last year was not $3.5 billion but $21 billion.

But that surely mixes oranges with apples. The Commerce Department quite rightly excludes the credit operations even of the on-budget agencies from its national income account calculations of the federal budget. Why? Because they represent the trading of one asset (cash) for another asset (debt obligations) rather than the purchase of goods and services or transfers of purchasing power.

Federal off-budget credit operations are an important part of total U.S. financial flows—federal agency securities represented 31% of the net increase in all money and capital market securities in 1973. It is obviously desirable to coordinate their borrowing and lending activities with Federal Reserve policy. And the net impact of their credit operations—along with those of thrift institutions and others—must be weighed in formulating U.S. fiscal policy.

But in effect to single out one set of lenders like FNMA and FHLB and imply that *their* net lending should be matched with increased taxes runs counter to economic logic. Would the advocates of this position have us boost taxes by, say, $15 billion to match their net lending this year and then, if there were a net repayment of $10 billion next year, cut taxes by $25 billion at that time?

Indeed, if one is going to play the budget consolidation game, it would be a good deal less illogical to combine state-local budgets with the federal budget. This consolidated budget shows an *actual* surplus of nearly $4 billion in 1973. I say "less illogical," because recent state-local surpluses are directly related to rapidly growing federal grants that help generate federal deficits. But I do not press the point.

Myth No. 4: Cutting the budget offers us so much anti-inflationary clout that we should move ahead on it and make fiscal policy more restrictive than it is.

A variety of econometric studies have all come to the same conclusion on this subject: short of brutal budget-slashing, budget cuts do not offer much in the way of relief from inflation. The University of Michigan, IBM and Data Resources models—as well as studies cited by OMB director Roy Ash last June—all conclude that cutting federal spending by $5 billion would shave only 0.1% or less off of the rate of inflation. In exchange for this negligible benefit, the cost would be in the range of 100,000 to 200,000 jobs.

Myth No. 5: Since budget-cutting would give the economy a psychological uplift, it would cost far less in lost jobs and lost output than the computer models indicate.

Nothing we know on the basis of common-sense economic analysis or past evidence supports the assertion that cutting the budget will generate a sudden surge of confidence in the stock market and other financial markets, and that the resulting contagion will invigorate rather than subdue the economy. What a budget cut *may* do is to free funds for use in credit-hungry private markets. That indirect effect, not any psychological impact, might provide some offset to the direct demand-weakening effect of the cut.

Myth No. 6: In the face of raging inflation, budgt policy has to be a one-way street, namely, cut, cut cut. The main contribution the federal government can make to the battle against inflation is to tighten its own belt.

This view fails to recognize that a comprehensive budget policy for "fighting inflation" has to embrace measures to compensate the low and moderate income groups who are bearing the brunt of both inflation and recession. This requires bigger outlays for public service jobs, unemployment compensation, job training, food stamps, housing allowances, and the like. It calls for payroll and income tax relief for the working poor and those of moderate incomes.

In other words, the resources freed by pruning unneeded or wasteful expenditures from the budget—and of removing oil and other tax shelters—can find ready and responsible outlets in redressing the grievances of those groups (and industries like housing) that have been ground under the hobnailed boots of inflation and monetary-fiscal austerity.

In passing, one should note that a number of summiteers, especially in the business and financial community, seem to support a different version of budget offsets. They wave the balanced-budget banner and urge expenditure cuts, yet in the next breath press for larger "tax expenditures" in the form of tax cuts on investment income, capital gains, savings, capital spending, and so on. Economic summitry is hardly synonymous with economic symmetry.

Myth No. 7: Surely, out of this year's $305 billion budget, one can readily find savings of $5 billion to $10 billion, a mere 2% or 3% cut.

Granted, many programs are marbled with fat that makes them juicier and tastier without making them more nourishing. Granted also, some savings can be achieved in the process of shifting budget priorities. But even with its improved procedures and staff, Congress will find this a slow and painstaking job.

Quite apart from its depressing effect on a sagging economy, a crash program to cut the current budget "below $300 billion" when we are already one-quarter into the fiscal year is likely to be disruptive and inefficient. It will focus on those programs that the government can get its hands on quickly rather than those that are wasteful and of low priority. Equity and efficiency will be poorly served.

Myth No. 8: Nonetheless, since we must balance the budget in fiscal 1976 and develop surpluses thereafter, it is imperative to get started on budget-cutting now.

A balanced budget *could* be the right economic policy for fiscal 1976 if (a) the economy is well on its way to full employment by then and (b) the Federal Reserve can be relied upon to balance overly tight fiscal policy with an easing of monetary policy. But if these conditions are not satisfied, a balanced Bicentennial budget will be a will-o'-the wisp—budget cuts that retard recovery and the expansion of tax revenues that goes with it would prove to be self-defeating.

But what of the federal surpluses we will need later in the 1970s to irrigate the capital markets, to help finance the huge capital outlays we will need to meet our energy needs, expand capacity, and apply the latest technology? The requisites of non-inflationary capital spending, as now projected, clearly call for those surpluses. But they do not, of themselves, call for budget cuts.

The Brookings projections already cited indicate that revenues will grow so rapidly that, even with only moderate restraint on the expenditure side, the federal budget will generate large surpluses. Given present budget initiatives and only 3% inflation, these projections show a $39 billion net high-employment surplus by 1980.

Myth No. 9: When all is said and done, the fact is that the 1969–71 "economic game plan"—the lineal ancestor of today's "old-time religion"—was subduing inflation even before Mr. Nixon slapped on the wage-price freeze. Inflation had already receded from the 6%-plus level in 1970 "to the 3½–4% zone by the first half of 1971."

Neither the conclusion nor the numbers stand up under close analysis. Since the alleged effectiveness of fiscal-monetary restraints in 1971 is so central to the argument for budgetary austerity today, it is important to demonstrate how misleading it is:

Although the rise in the CPI slowed down from 6% in 1969–70 to 4½% by mid-1971, two-thirds of that improvement was simply a swing in mortgage interest rates, up 10% in 1969–70 and down 11% by mid-1971. Commodities other than food kept rising at about a 4% rate throughout the period.

The wholesale price index showed little change, rising 3.7% from 1969 to 1970 and 3.5% from mid-1970 to mid-1971. The consumption component of the GNP deflator rose 4.8% in 1969–70 and 4.4% from spring 1970 to spring 1971, with prices of consumer services and durable goods actually rising.

The "chain price index for gross private product," perhaps the best comprehensive index of quarterly price movements, rose 4.8% (annual rate) during the second quarter of 1971, actually a bit more than the 1969–70 increase.

The weight of the evidence led Arthur Burns to conclude in his statement to the Joint Economic Committee in July, 1971, that substantial progress had not been made in checking inflation.

The foregoing effort to separate fact from fiction on the budget is not designed to shield the budget from its fair share of belt-tightening and waste-cutting in the face of virulent inflation. Rather, it seems to reduce the twin danger that we will vent our inflationary frustrations in unwise and unwarranted budget cuts and let the zeal for fiscal restraint block the tax and budget relief so urgently needed to temper the wind to the shorn lambs.

A FABLE THAT'S MORE FACT THAN FICTION

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ALEXANDER. Mr. Speaker, the longer I am in Washington the more I realize that it is the people back home who best articulate the problems that confront our Nation. I would like to share with my colleagues a fable sent to me by one of my good constituents from the first district, White Shaver of Wynne. I recommend it to my colleagues as a pretty fair assessment of the American economy:

A FABLE

In time of old there was a man traveling thru the country in a buggy called the Man of Plenty.

He had a great horn in his buggy full of gold.

He drove up in front of Mr. Greedy's house in the country and called him and his wife. He told Mrs. Greedy to bring Mr. Greedy's hat. She did.

"Now, Mr. Greedy and Mrs. Greedy, I have all the gold that you will ever need, but remember when I fill your hat, all that goes on the ground will immediately turn back to dirt."

Now here is the picture. Mr. Greedy is holding one side of the hat, Mrs. Greedy the other. Mr. Greedy said just a little more; Mrs. Greedy said just a little more.

That went on for several minutes, finally a few coins fell on the ground, and the gold turned back to dirt immediately.

Finally they kept saying just a little bit more and the top fell out of the hat.

The climax. We cannot keep calling for more and more and more in our economy without the top falling out of the hat.—Selected.

SUICIDE: A SIN OR A RIGHT?

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. FRASER. Mr. Speaker, Helen Epstein, a free lance writer and NYU faculty member, has written a fascinating essay on suicide, "A Sin or a Right?" published in the September 8, 1974, New York Times magazine.

Suicide is today the second leading cause of death among young people. Black suicides are increasing in number and the suicide rate among women is approaching that of men. Writes Ms. Epstein:

> Each year twice as many Americans kill themselves as kill each other.

Dr. Herbert Hendin writes:

> Problems of the suicidal group tell in exaggerated form what's bothering everyone in a culture.

The suicide rate is indicative of social tension.

Mr. Speaker, I suspect suicide is a subject that is seldom treated in the pages of our RECORD. I certainly do not suggest, by placing Ms. Epstein's essay in the RECORD, that there is a Federal solution to this issue. A. Alvarez is quoted in the article as writing that suicide is "as much beyond social or psychic prophylaxis as it is beyond morality * * * ." But the facts surrounding suicides in our Nation are another social indicator we legislators ought not ignore. I believe the Epstein article is a very brief, but very good summary of what is known about suicide:

A SIN OR A RIGHT?

(By Helen Epstein)

About once an hour, the telephone rings at New York's Save-A-Life League. The caller may start talking or burst into tears, or say nothing at all. Sometimes there is a challenge: *"I've got these pills here and I'm going to take them unless you tell me why I should live."* Or questions: *"How much Valium is lethal? How long does it take the gas to work?"* Other times there is awkwardness and embarrassment: *"I've never called you before; how do I start?"*

The calls come from men and women, old and young, black and white, homosexual and heterosexual, rich and poor. Six thousand people each year call Save-A-Life; 10,000 call the Los Angeles Suicide Prevention Center; 20,000 call San Francisco Suicide Prevention—and these are only three of nearly 200 such facilities in the United States. "Six of every 10 callers we get will go on and try to commit suicide," says Harry Warren, director of Save-A-Life, whose Baptist minister father founded the organization in 1906.

Over the last few years, the Holiday Inn motel chain has been engaging chaplains to be on call in the event their guests try to kill themselves; universities and church have established crisis-intervention centers; and radio stations have broadcast community alerts to the problems of suicide. In San Francisco, where over 510 people have jumped to death from the Golden Gate Bridge, the "right to suicide" has become a political issue. Researchers grind out over 500 studies each year correlating suicide to factors so varied as poverty, pregnancy, homosexuality and Pacific tidal patterns, yet the phenomenon continues to elude scientific comprehension.

In the last decade, however, suicide rates throughout the world have undergone a change. Youth rates are rising and, in America, suicide now takes second place only to accidents as the leading cause of death among young people. The gap between male and female rates is narrowing and black suicide is rising. Puerto Ricans in jails, Vietnam War veterans, students and women doctors have especially high rates. Lawyers commit suicide five times as often as the general populace; dentists and physicians, six times as often; psychiatrists 10 times as often. It should be noted, however, that professional organizations take pride in procuring figures like these; no one knows how many cleaning women or sanitation workers do or do not kill themselves.

Each year twice as many Americans kill themselves as kill each other. Experts estimate the number of suicides in America from 25,000 to 60,000 yearly and at least 200,000 more people in this country try to kill themselves and fail. It is on the basis of these statistics that the World Health Organization places the United States far behind world suicide leaders Hungary, Austria, Czechoslovakia, Sweden, Denmark and West Germany, but it qualifies this placement by noting that these countries may simply be keeping the most unbiased and accurate records.

"Suicide is a personal event that takes place in a socio-cultural framework," says Norman Farberow, co-director of the Los Angeles Suicide Prevention Center. "In most Anglo-Saxon cultures, killing oneself is strictly taboo. Self-destructive events are therefore denied both by the perpetrator and those around him. This denial extends not only to the family and survivors but through all levels of society, including the official entrusted with the responsibility of making accurate certification."

In Czechoslovakia (which has twice the American suicide rate) the law states that all self-inflicted fatal injuries must be classified as suicide. No such blanket rule exists here and certification of death, when it occurs outside a hospital or in the absence of a physician, is made by a coroner or medical examiner. In some counties, this may be a political appointee; in others, a person whose background is law, public administration or medicine.

This is important because the statistics that researchers must depend on are actually the cumulative judgments of several thousand coroners ill-equipped to draw the line between accident and intent. The growing coincidence of alcohol, drugs, and death complicates the coroner's task, as do traffic accidents. The vagaries of circumstance, combined with cultural stigma and possible financial problems for the surviving family, lead many coroners to classify a probable suicide as an accident or a death of indeterminate cause.

Statistics on attempted suicides are even less reliable. Most people who try to kill themselves are rescued by friends and treated by the family doctor, if at all. They return to their routines hoping to avoid the public record—with good reason. Suicide is still a crime in eight states; and the religious still regard taking one's life as a sin against God; and whether or not suicide can occur among mentally healthy persons is still a debate within the medical profession. "We know that we do not have to let people kill themselves even if they say they want to," concldues a Public Affairs Committee pamphlet endorsed by the National Institute of Mental Health. With the exception of maverick Thomac Szasz and a small group of less vocal scientists, it would appear that the medical profession has assumed the paternalistic role held until now by the church.

This is a peculiar thing, given that two million living Americans have tried to commit suicide and several of our more prominent figures have succeeded. George Eastman (who founded Eastman Kodak) killed himself, as did poets Hart Crane, Sylvia Plath and John Berryman; painter Mark Rothko; Arthur Chevrolet (designer of the first Chevvy); writer Ernest Hemingway; Dr. Benjamin Sieve (developer of the birth control pill); former Senator William F. Knowland, and Secretary of Defense James Forrestal.

The traditional profile of the American suicide has been less spectacular than any of the aforementioned. He has been a relatively successful, white, middle-aged man with a wife and children whose chances of killing himself rose gradually through middle age and then precipitously after the age of 60. This kind of man committed suicide in droves in 1933 and set the all-time American record. But, like all composites, the profile obscured a more complex reality. The incidence of suicide has always been greatest among people of any sex, age or racial group who have made previous attempts on their lives. Women (using drugs, poisons, gas) have traditionally attempted suicide three times as often as men. Men (using violent means like hanging, jumping, or shooting) have actually died by suicide three times as often as women. Traditional explanations for the 3 to 1 ratio of male to female suicide have centered around the theme of men being both more decisive and more efficient than women. The highest-risk age group has been the elderly, who account for about 25 per cent of all suicides in the United States. Among ethnic groups, the American Indian has led all others with a rate that is twice the national average and, on some reservations, five or six times that.

These trends have not been difficult for researchers to explain. Suicide among the elderly has been attributed to decline in status, income, power, health and mobility in a culture which glorifies all these qualities. The desire to end a serious illness, or to die before succumbing to one, swells the ranks of elderly suicides.

Suicide among the 827,091 (1970 census) Indians in the United States has been described as the result of geographic isolation on reservations (or else displacement, physically and psychologically), the conflict of cultural transition, low self-esteem and the absence of role models. Government paternalism and generalized social discrimination exacerbate these problems and result in an extremely high rate of alcoholism and homicide, as well as suicide.

"The trouble is that suicide is a multivaried phenomenon," complains Dr. Ari Kiev, who heads the suicide unit at New York's Payne Whitney Psychiatric Clinic. "All the statistics—history of attempted suicides, a recent major stress, an illness, family tradition of suicide, correlation of age and sex—all these are worth nothing because they don't tell you why some of the people in a given group are killing themselves while most of them are not. They don't give you any information about the simultaneous operation of factors."

All of Kiev's patients have made previous suicide attempts and he lists his high-risks as: the middle-aged male recently separated from his wife and/or unemployed; the alcoholic female; the young drug abuser; and the isolated elderly person. Unlike some specialists who view drug use and alcoholism as slow surrogates for suicide, Kiev believes they are attempts at self-medication which are addictive and may lead to accidental deaths. The illness addicts are trying to cure, he says, is clinical depression, and he estimates that half the Americans who commit suicide are suffering from it.

"Some of my patients have had clinical depression for considerable periods of time," he says, "but it's only when they begin to find it difficult to function that they come in for help. They are not aware that they have a treatable condition because the symptoms are so common among the general population."

The kind of chemotherapy Kiev administers has been available for the last 15 years, and the psychiatrist feels it has not been used sufficiently to alleviate the symptoms of depression that mark a potential suicide.

"I don't think doctors should decide if someone should take his life or not: religions have been set up for that," Kiev contends. "But I think my obligation as a physician is to point out the fact that one's perspective may be colored by a temporary condition, and the decision to commit suicide should be postponed until treatment is completed."

Dr. Herbert Hendin, author of "Black Suicide" and "Suicide and Scandinavia," represents a different school of thought. As a psychoanalyst, his role is essentially passive and noninterventionist. Hendin's research on suicide among ghetto blacks was published in 1967, and it was the first major study in that area. Previously, researchers had assumed that the phenomenon associated with blacks was violence, and because classic psychiatric theory held that suicidal people were nonviolent, no one bothered to check the statistics. When Hendin did so, he found that suicide among black men between 20 and 35 was twice as frequent as among white men of the same age group. Moreover, he found that black homicide and suicide reached their peak during that same period.

"Suicide is a barometer of social tension," he says. "The problems of the suicidal group tell you in exaggerated form what's bothering everyone else in the culture. Black suicides in this country hold up an enlarged mirror to the frustration and anger of the black ghetto. It is not a problem in the black middle class, which puts more controls on rage."

Frustration and rage are thought to be basic to all suicidal groups, although they can be masked by ostensible tranquillity and deadness. This Hendin found particularly true of suicidal students at Columbia and Barnard Colleges, whom he has been studying for the the last five years. "Student suicide has traditionally been attributed to a concern with achievement, and in America the theory has been that parents pressured their children to perform," he says. "But, in the students I saw, this pressure was not a crucial factor in their being suicidal. Rather, the child's relationship with his family involved developing an emotional deadness as a kind of protection against life. Their parents wanted quiescent children; they were fairly egocentric—and I think that's true of the whole culture.

"Another thing is that students have enormous difficulty relating to the opposite sex. Women are afraid to be victims; men are afraid to be victimizers—and this results in extreme polarization. When I was growing up, social scientists were concerned with alienation. Now it's far beyond that. These young people often don't want to be in touch. They conceive of a life lived in tune with their emotions as extremely painful and dangerous. They almost envy machines for their efficiency. This is a society that puts function above feeling, and I think that's particularly true of young people."

The study of suicide among various groups in America has not been systematic and research regarding women had not received much coverage until the women's movement (and glorification of suicides Virginia Woolf and Sylvia Plath) attracted sufficient attention. In California last year, a state study (conducted by a woman) found that the male-female suicide ratio had narrowed to less than 2 to 1 for the first time in that state's history, with the highest increase attributed to black women between the ages of 20 and 24. In New York City, another study confirmed these findings but experts are reluctant to speculate on their significance.

"In general, the rate for men is still higher than the rate for women," says Norman Farberow. "Although the change in the suicide rate for women has occurred concurrently with the development of women's lib, it is inappropriate at the moment to correlate the two. Suicide is far too complex a phenomenon, although women's lib may be contributing to feelings of loneliness, lack of security and the changing nature of formerly stable social elements."

"I'd say the same factors apply to women as apply to blacks," says Dr. Howard Bogard, a psychologist who trains people in crisis intervention. "Many women have begun to redefine their roles in Western culture. The role redefinition leads to confrontations; result in frustration; frustration leads to anger, rage, depression, and suicide. *If* the statistics are correct about women. It may be that coroners have traditionally been chauvinistic and simply did not accept that women were capable of committing suicide. Or maybe they've suddenly gone the other way. The coroner may now think: I'll fix them. I'll treat them the same way I do men. They're suicides."

Everyone who researches suicide, says Bogard, does so in terms of his own personal and professional needs, and it is often more enlightening to read poets like John Donne, statesmen like Thomas Masaryk, novelists like Albert Camus or critics like A. Alvarez for insights into the subject. Philosophers, clerics and other wise people were pondering suicide for centuries before sociologist Emile Durkheim wrote what is considered to be the classic "scientific" work on the subject, in 1897. He saw suicide as a factor of social deprivation; Freud attributed it to the death instinct; for Jung, it was an expression of longing for rebirth. Current theory attempts to synthesize the sociological and psychological approaches in the manner of Dr. Ari Kiev.

"The suicide rate reflects the stimulus overload in our society," he says. "We have a high degree of freedom and a multiplicity of choices to make. At the same time, traditional mechanisms like religion and custom—which served to screen out the stimuli—have been lost and the individual has no framework within which to make choices.

"The stimulus overload makes it difficult for *anyone* to make decisions. The depressed person has great difficulties in saying no to the pressures placed on him, in disappointing other people's expectations. When he does so, he feels guilty, worthless, confused and even more indecisive. Suicide can seem a way of asserting control over one's life."

This is a view grounded in current affairs, an explanation with geographic and social limits. The phenomenon of suicide is clearly too old and too mysterious to yield quickly to a generation of scientists impatient for definitive answers. A. Alvarez, a failed suicide whose book "The Savage God" deserves to be placed alongside Durkheim's classic, concludes his discussion of suicide this way:

"The sociologists and psychologists who talk of it as a disease puzzle me now as much as the Catholics and Moslems who call it the most deadly of mortal sins. It seems to me to be somehow as much beyond social or psychic prophylaxis as it is beyond morality, a terrible but utterly natural reaction to the necessities we sometimes create for ourselves. And it is not for me. Perhaps I am no longer optimistic enough. I assume now that death, when it finally comes, will probably be nastier than suicide, and certainly a great deal less convenient."

RICE BILL INTRODUCED IN SENATE

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ALEXANDER. Mr. Speaker, on Thursday last, Senator JOHN MCCLELLAN introduced S. 4121, a companion bill to H.R. 15263, the Rice Act of 1974. The Senator has expressed deep concern about the need for this legislation in the coming years of economic uncertainty. Assurance has been given me that a major effort will be made to bring this bill to the Senate floor this session.

Both S. 4121 and H.R. 15263 are in harmony with President Ford's request to remove acreage controls on rice. They extend to all farmers the opportunity to grow rice, and they will instill again the notion of competition in agriculture. The old program limits our rice economy, and now we must formulate new policies instead of remaining with old ones which served a bygone era of surplus.

I commend the Senator from Arkansas and the cosponsors of this bill for their leadership and their action. I give my assurance to the Senate and the House that I will continue to urge the Rules Committee of the House to report to the floor H.R. 15263 in order that the House be given the choice of either accepting or rejecting this important part of the President's economic proposals. I feel this is a significant first step in rebuilding the confidence of the American people and regaining the economic stability which has so rapidly diminished in recent years.

AID TO TURKEY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. FORD. Mr. Speaker, as one who vigorously supported the Rosenthal-du Pont amendment to cut off all economic and military aid to Turkey, I viewed with great disappointment the failure of this body to override President Ford's veto of that legislation.

Today we are again faced with a critical choice on this issue. The Appropriations Committee has deleted the Rosenthal amendment from the bill and has substituted a provision postponing the cutoff until December 10. This compromise is unacceptable because it flatly states that the laws which Turkey has violated by misusing American equipment to invade and occupy one third of Cyprus shall not apply until December 10, 1974.

I rise in support of the substitute amendment Mr. Rosenthal will offer today to the continuing resolution which:

First, limits the delay in applying the law to Turkey until November 30, 1974;

Second, requires that no U.S. military equipment given to Turkey at any time can be shipped to Cyprus after the continuing resolution becomes law. A violation of this provision by Turkey would cause an immediate cutoff of all military aid to that country.

This substitute amendment has been carefully drafted to meet the overwhelming House and Senate positions—291 to 69, 62 to 16, respectively—that aid to an aggressor country renders that country ineligible for further aid while also giving the President 45 additional days of flexibility which he has sought.

The time is long overdue for the United States to exercise stiff pressure on the Government of Turkey to cease its aggression on the island of Cyprus. It is outrageous that American taxpayers should be supplying arms to Turkey that are used in attacks upon a friendly country in violation of NATO commitments.

ANTI-INFLATION PROGRAMS

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. KETCHUM. Mr. Speaker, earlier, I inserted in the CONGRESSIONAL RECORD, part I of an editorial which was aired by KERO-TV of Bakersfield on inflation. In his second editorial, Mr. McKinley outlined some specific anti-inflation programs that we should consider carefully in forming our economic policy. I know my colleagues will enjoy reading Mr. McKinley's perceptive comments:

PART II—A SOLUTION: A WORKABLE PROGRAM TO COMBAT INFLATION

Yesterday, I discussed the root causes of our current inflationary economy, and a Federal Reserve Board policy of tight money and high interest rates that can only be judged a dismal failure. What, then, can be done about inflation? I suggest the following six-point, anti-inflation program.

The first step, and one which should be put into effect immediately, is easier money and lower interest rates. Tight money has reduced output and raised costs. An easing in monetary policy will increase output, restore order to the financial markets, halt the rising tide of business failures, and put people to work again. Higher production is the best way to beat inflation.

The second step is a cut in government spending. There is fat and waste in the Federal budget and this unnecessary spending can and must be eliminated. Federal officials *smugly advise* the American public to pull in their belts and suffer patiently while the economy stagnates. I suggest that it is the bureaucrats who should pull in their belts so that the private sector can have the resources necessary to expand production and jobs.

The third step is to increase incentives to the business community to encourage expansion of factories and modernization of machinery. This can be done with a more liberal investment tax credit; depreciation allowances adjusted to reflect inflation; and other forms of tax relief necessary to spur plant and equipment expenditures. Modern plants mean larger, more efficient output which is the way to bring down prices.

The fourth step is the establishment of a national commodity reserve. Substantial stocks of raw materials and basic commodities would be accumulated in this reservoir through government purchase when supply is ample and prices weak. These reserves would be released on the market only when prices rose more than, for example, 10 per cent. This would effectively stabilize prices, and equally important, would make this country less dependent on foreign sources.

Fifth, Congress should establish, immediately, an agricultural production bonus program. Government bonuses would be paid for production above the base period. The increased farm production would bring food prices down, and the bonus payments would keep farm income high. No greater blow could be leveled against inflation than a drop in food prices.

Finally, Congress should establish a national commission on free market prices. The commission would be charged with carefully reviewing the many existing laws and regulations which inhibit price competition. The commission would then recommend to Congress solutions designed to repeal these laws.

All the steps in this program follow one central theme—what this country needs to bring down prices is more production, more employment, more plant capacity. Inflation can be beaten if we discard restrictive monetary policies and concentrate our efforts on increasing output.

KAY MAGENHEIMER RETIRES

HON. JAMES R. GROVER, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. GROVER. Mr. Speaker, Gov. Malcolm Wilson and the Honorable Robert Moses were among those who paid tribute to Kay Magenheimer upon her retirement, October 3, from the Long Island State Park and Recreation Commission upon her completion of 25 years in State service in addition to 22 years in private industry.

An internationally known poet and active in religious and community affairs, Miss Magenheimer was the first woman in the history of the commission to advance to head account clerk. Starting on October 1, 1949, with the New York State Department of Transportation—known then as the Department of Public Works—she was transferred to Jones Beach on a promotion in 1956; then in 1958, to the administration headquarters of the commission in Babylon where she remained until her retirement.

Kay Magenheimer is listed in the "International Who's Who in Poetry" and the forthcoming "Dictionary of International Biography." She is also a nominee for the forthcoming "Who's Who of American Women." She is the author of the 1963 prize-winning book of poems "Love's Stigmata" and the forthcoming "Ah, Camelot."

She is deeply involved in religious and community work having been cofounder, with Msgr. Eugene J. Crawford—former spiritual director of the Sisters of St. Dominic, Amityville, and now pastor of Holy Redeemer Church, Freeport—of the Amityville Chapter of the Third Order of St. Dominic, Secular, now known as the Dominican Laity; and, for almost a decade, a member of the board of directors of Our Lady of Consolation Home for the Aged in Amityville; and a member of the New York State Regional Committees for the 1960 and 1971 White House Conferences on Aging.

The retirement Luncheon, held at La Grange Inn, West Islip, and attended by close to 150 of her coworkers, family and friends, was highlighted by the presentation to the Honorable Robert Moses of an engrossment of her 1964 poem entitled "Robert Moses." The engrossment, executed by the well-known artist and calligrapher, John Erhardt Miller of Lindenhurst, "was my personal contribution to the celebration of the 50th Jubilee, this year, of the founding by Mr. Moses of the parks and parkways system of the State with the establishment of the commission in 1924," said the poet.

Jan Anderson, widely-known in stage, radio and newspaper work, rendered a heart-stirring interpretation of the poem which embodies in a few verses the true personality and genius of Robert Moses.

Speakers at the event included New York State Senator Owen H. Johnson—fourth district; Judge Anne Mead, former deputy county executive of Suffolk County and the first woman to be appointed to the bench in Suffolk County; Harthon Bill, general manager of the commission; Miss Margaret Bunk, administrative officer and personal emissary of Austin Emery, director of the Long Island Region of the Department of Transportation; Howard P. Krais, secretary of the commission; Jan Anderson; Salvatore Lepore, vice-president of Marine Midland-Tinker National Bank; Rev. Robert C. Kirwin, former chaplain of St. John the Baptist High School, West Islip, and founder and present pastor of St. Thomas More Church in Hauppauge, who gave the invocation; Rev. Michael Guinan, long-time former assistant pastor of St. Joseph's Church in Babylon, and now pastor of St. Ignatius Martyr Church in Long Beach, who gave the benediction.

A dozen members of the Business and Professional Women's Clubs of Bay Shore and of Babylon had a prominent table; and congratulations were offered the retiree on behalf of the district as well as the local clubs by Mrs. Jeanette Dolny, assistant district director.

Greetings from her family were extended by Miss Magenheimer's nephew, William M. Bennison, Jr.

Copy of the telegram received by Miss Magenheimer from Governor Wilson follows:

> Dear Miss Magenheimer: It is a pleasure to add my good wishes to those of your many friends who are honoring you today. Your contributions to literature, government and your concern for the aging, and indeed for all our citizens, are most commendable. Personally, and on behalf of all of the people of the State, I extend warm best wishes for a most enjoyable and productive retirement. Sincerely, s/Malcolm Wilson.

In addition to the messages from the Governor and Robert Moses, telegrams were received from Congressman JAMES R. GROVER, JR.; the Honorable Alexander Aldrich, commissioner of the New York State Department of Parks and Recreation; the Honorable A. Holly Patterson, chairman of the Long Island State Park and Recreation Commission; the Honorable Rhea M. Eckel Clark, director of the New York State Office of the Aging; and from Florida, from Vincent Leitch, retired administrative finance officer of the commission with whom Miss Magenheimer worked for many years.

During her own speech, Miss Magenheimer gave some personal, heart-warming examples of the humanity of Mr. Moses; and then surprised her coworkers and the officials of the commission by expressing her thanks for her long association with them in the form of a poem: "From This Time On."

Miss Magenheimer's family settled in Babylon 54 years ago. She is a graduate of Babylon High School, class of 1925, after which she studied at what is now the State University at Albany, and Hunter College in New York City. Having recently sold her property in Hauppauge, where she lived since 1965, she now lives in West Babylon. The poet has returned home for her retirement years and will now devote her full time to writing.

Her retirement poem follows:

FROM THIS TIME ON

(By Kay Magenheimer)

I shall tarry
With this shining memory.
But, more—
And evermore—

I shall recall
Friendship's windfall over the years:
Yours and mine,
By accident or design.

Nor shall I forget
The debt
Owed each of you:
For there were *entre nous*
Our *Good Morning! Good Night!*
May your holidays be bright!
Hi, Cherubs! Be good!
(And, to the boss)
I'm glad you understood . . .

Beyond that,

I thank you
For your eyes shined with dew
Over your wedding albums;
For the triumphant look of your bridegrooms.

I thank you
For the strength of working fathers;
The stamina of working mothers.
For their sacrifice, their fortitude,
Their dreams for their broods . . .

To every new grandchild
Who beguiled
Its grandmother (and the office force),
My memory will have recourse.

To my young co-workers, a grace-cup
For being fed up
With sham and dishonesty.
We spoke . . . *I* am *your* legatee.

All of you joyed me with your happiness;
Pained me when you were comfortless.
No matter: Your names,
In prayer, were flames.

To the Commission
Entrusted so long with my ambition,
I say: You were my home
Away from home.

You were my bread;
The arrow-head
That delivered me
From my enemy.

But, more—
And forevermore—

I am mindful,
And grateful,
That—from this time on—
You also provide the anchorage
To steady the ship of this, my greatest age.

DEBATE ON CONFERENCE REPORT ON S. 3007

HON. LLOYD MEEDS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 15, 1974

Mr. MEEDS. Mr. Speaker, during the consideration of the conference report on S. 3007, authorizing appropriations for the Indian Claims Commission for fiscal year 1975. The press of time and other business necessarily precluded a detailed explanation of the matters involved.

Because of the importance of the matter and the necessity that a clear record be made on this issue, I feel that such a complete explanation of the issue and the conference consideration must be made. Therefore, I want to take this opportunity to make that record.

I insert the following legislative history at this point:

LEGISLATIVE HISTORY AND BACKGROUND INFORMATION ON H.R. 16170, PROVIDING FOR THE AMENDMENT OF THE INDIAN CLAIMS COMMISSION ACT

LEGISLATIVE ACTION

In order to provide an authorization for the appropriation of funds for the expenses of the Indian Claims Commission for fiscal year 1975, the Administration submitted draft legislation to the Congress which was introduced as H.R. 12356 and S. 3007.

The Senate completed action on its bill, S. 3007, prior to House action on the House bill. The Senate bill passed the Senate on May 28, 1974, which provided that not to exceed $1,450,000 be authorized to be appropriated for the Commission for FY 1975. In addition, the Senate added a new section 2 which amended the Indian Claims Commission Act of 1946, as hereinafter explained.

The House bill, H.R. 12356, was reported favorably by the Interior Committee on June 5, 1974. The bill was taken up on the suspension calendar on June 17, 1974, and passed. As passed, the bill was identical to section 1 of the Senate passed bill. The House vacated action on the House bill and took up the Senate bill by amending with the language of the House bill. This, in effect, amended the Senate bill by striking the provision amending the Indian Claims Commission Act.

On June 18, 1974, the Senate disagreed to the House amendment and requested a conference.

CONFERENCE COMMITTEE ON S. 3007

House and Senate conferees were appointed and went to conference on July 25, 1974. The only point in disagreement was section 2 of the Senate passed bill, providing for the amendment of the Indian Claims Commission Act of 1946, which was stricken by the House.

After initial discussion of the proposed Senate amendment of the Indian Claims Commission Act, the House conferees refused to accept the amendment on the grounds that (1) there had been no House hearings on the proposal; (2) the Full House Committee on Interior and Insular Affairs had not had an opportunity to express its will on the proposal; and (3) it would be inappropriate to ask the House to consider a proposal which might represent several million dollars in cost to the Government without such a record.

The conferees agreed to recess the conference with the understanding that a House bill, containing the language of section 2 of S. 3007, would be introduced, hearings held with markup by the Subcommittee on Indian Affairs, and a vote thereon by the Full Interior Committee.

It was understood that once the Full Committee had voted on the legislation, the House conferees would return to the conference guided by the action of the Committee.

H.R. 16107

On July 30, 1974, Congressman Meeds introduced, for himself, Mr. Regula, Mr. Lujan, Mr. Abdnor, and Mr. Thone, the bill H.R. 16170 which contained the exact language of section 2 of the Senate-passed bill, S. 3007.

That bill amends section 2 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1050; 25 U.S.C. 70 et seq.) by providing that "expenditures for food, rations, or provisions shall not be considered as payments on the claim."

When the Indian Claims Commission renders a judgment against the United States in favor of an Indian claimant, the United States is entitled to appropriate deductions for all payments made by the U.S. on the claim and other legal offsets. In addition, the Commission may, in its discretion, offset certain gratuitous payments made by the United States.

The proposed amendment to the ICC Act contained in H.R. 16170 and the Senate-passed S. 3007 provides that the cost of any expenditures the United States made on behalf of the Indian claimant for food, rations, or other provisions could not be offset against any award as payments on the claim.

While couched in general terms which will be applicable to all pending claims before the Indian Claims Commission, the intent of the proposed amendment is directed toward the claim of the Teton or Western Sioux tribes in Indian Claims Commission Docket 74-B, the so-called Black Hills Claim.

HISTORY OF THE BLACK HILLS CLAIM

The claim of the Sioux for compensation for the taking of the Black Hills in 1877 has been before Federal tribunals for over 50 years. It was first filed before the Court of Claims in 1923 under a special 1920 jurisdictional statute and, after dismissal therefrom, before the Indian Claims Commission in 1946.

Prior to 1851, the Western Sioux traditionally and aboriginally had a hunting range which covered a vast area in the northern Great Plains which extended into seven existing states.

Primarily because of the discovery of gold in California in 1849, droves of gold-seekers and other travelers began to flow on overland trails cutting across the hunting grounds of the Sioux and other Great Plains Indian tribes. In order to secure these overland trails, the United States entered into the 1851 Treaty of Fort Laramie with the Sioux and six other Indian nations. The treaty provided for the safe passage of white emigrants through the lands of the Sioux and the other tribes and it also attempted to define the respective borders of the seven tribes to secure peace among them, which the United States greatly desired. This treaty constituted recognition of title in the Sioux to over 60,000,000 acres of land west and south of the Missouri River.

Again, because of the discovery of gold in Colorado in 1859 and in Montana in 1861, greater numbers of white emigrants began to pour over these overland trails, disrupting and destroying the hunting capacity of the Indian tribes and leading to conflict between the Sioux and the white travelers.

In 1865, the United States signed peace treaties with individual bands of the Western Sioux, but these failed to maintain the peace, leading to the eruption of the so-called Powder River War of 1866-67.

In 1868, the United States signed the 1868 Fort Laramie Treaty with the Sioux. The treaty provided that:

1. The United States agreed to abandon all its forts along the Powder River;
2. The United States confirmed in the Sioux recognized title to a tract of land which constituted essentially all of the present state of South Dakota west of the Missouri River, known as the Great Sioux Reservation:
3. The Sioux surrendered all of their rights to permamently occupy lands outside of the Great Sioux Reservation, except that they retained the right to hunt in a large area which constituted their former aboriginal hunting area;
4. The lands within the Great Sioux Reservation were set aside for the "absolute and undisturbed use and occupancy" of the Sioux and the United States "solemnly" agreed that it would not permit anyone, not otherwise authorized by law, to pass over, settle, or reside on the reservation; and
5. No further lands of the Sioux would ever be ceded without three-fourths consent of the adult male population.

Even prior to the 1868 treaty, it was known that the Black Hills area of the Great Sioux Reservation was valuable for gold. There had been various official and non-official explorations of the area. After 1868, the Army attempted to keep the gold-seekers out, but was largely ineffectual, notwithstanding the promise in the treaty.

In 1874, Lt. Colonel George A. Custer conducted an official exploration of the Black Hills area and confirmed the existence of gold.

Responding to public pressure to open the gold fields to non-Indian exploration and settlement in spite of the treaty provision, the Secretary of the Interior sent a Commission to the Sioux to negotiate a sale, but failed. This Commission was negotiating at the same time Custer was exploring.

In 1875, President Grant and the Secretary of the Interior determined that they could no longer fulfill their treaty commitment to keep whites out of the Sioux country and decided to buy the land. In 1875, the Allison Commission was sent to the Sioux for this purpose, but again the Sioux refused to sell.

In November of 1875, the Administration decided to cease all efforts to keep unauthorized persons out of Sioux country and withdrew the Army. It also began to assert pressure against the Congress to unilaterally take the Black Hills area. The Congress refused to do so.

Without waiting for congressional action, the Administration, in the words of the Indian Claims Commission, decided to precipitate the situation into a crisis.

In December of 1875, the Secretary of the Interior instructed his agents to order the Sioux, who were off the Great Sioux Reservation hunting—as they had a right to do and with the permission of the agents—that if they did not return to the reservation by January 31, they would be declared hostile and treated accordingly by the Army.

Because of the severe winter, they could not possibly comply with the deadline and they also needed to conduct their spring hunt.

Upon their failure to return by the deadline, the Secretary turned them over to the Army. In the Spring of 1876, the Army mounted a massive campaign to round up the Sioux. As a result of this campaign, General Custer met the Sioux at Little Big Horn and was severely defeated.

The defeat of Custer so incensed the general public and the pressure was so great on the Congress that they attached a rider to the Appropriations Act of 1876 which provided that unless the Sioux agreed to sell the Black Hills area, all food and rations would be cut off and, in the words of the Indian Claims Commission, they would be allowed to starve.

Pursuant to this rider, a Commission was sent out to the Sioux to secure their agreement. Notwithstanding the provision of the 1868 treaty requiring three-fourths consent of the adult male population to further cessions of Sioux land, the Commission obtained less than 10% of such consent to the 1877 agreement.

This agreement was ratified by the Congress as the Act of February 28, 1877. This Act unilaterally took the Black Hills area from the Great Sioux Reservation amounting to approximately 7,300,000 acres; obtained the rights to three rights-of-way across Sioux lands to the Black Hills area from the Missouri River; and free navigation of the River. In return, the Act reiterated certain promises of the 1868 treaty for rations and made new promises to supply food, rations, and other provisions.

DOCKET 74-B

Docket 74-B of the Indian Claims Commission is the Sioux claim for the taking of the Black Hills area and for gold taken from there. To date, it is estimated that over $2 billion worth of gold has been taken from the area.

After an earlier decision of the Commission that the Sioux had recognized title to the area taken by the 1877 Act, the Commission, on February 14, 1974, decided that the 1877 value of the land taken was $17,100,000 and that the value of the gold taken between 1868 and 1877 was $450,000.

However, they also found that this was a unilateral taking by the United States in violation of the 5th Amendment to the Constitution. Therefore, the United States is liable for the payment of 5% simple interest annually on the total amount of the award. If there were no offsets against this amount, the Sioux would be entitled to an award of approximately $104,000,000.

However, the Commission determined that the United States was entitled to prove, at a later hearing, and offset any expenditures it made on behalf of the Sioux under the 1877 agreement as a payment on the claim. These expenditures were almost all in the form of food, rations, and other subsistence provisions. Additionally, these offsets would be applied under a formula which offsets them on a year-by-year basis with a portion applied to the principal amount of the award and a portion to the interest. The net effect of this is that the award would be totally wiped out.

LEGISLATIVE ALTERNATIVES

1. The Congress could reject any amendment of the Indian Claims Commission Act. This would result in no award to the Sioux.
2. The Congress could accept the provisions of H.R. 16170 and the bill S. 3007 as passed by the Senate. This would totally disallow the United States to offset any expenditures for food, rations and other provisions as payments on the claim. This would mean that all the appropriations under the 1877 Act would be disallowed. The United States could prove and offset any other compensation and, in the discretion of the Commission, prove and offset any gratuitous expenditures. This would mean that the Sioux would recover a major portion of their award. It would also mean that the enormous cost to the Government of researching and proving these items as payments would be avoided.
3. The Congress could accept a modified version of the Senate language which would permit the Commission, in its discretion, to permit or disallow these expenditures for food, rations, and other provisions as payments on the claim. Here, the Commission, as with respect to gratuitous expenditure, could allow the offset if it found that the United States had conducted itself honorably in dealing with the tribe. Any amount it did allow as payments on the claim would be offset under the formula on a year-by-year basis. The cost of research and proof would still be present.

COMMITTEE ACTION ON H.R. 16170

The Subcommittee on Indian Affairs held hearings on the bill, H.R. 16170, on August 8, 1974, at which time Administration and public witnesses were heard. The Subcommittee marked up the bill on September 12, 1974, and referred the bill favorably to the Full Committee without amendment.

The Committee on Interior and Insular Affairs considered the bill on September 25 and October 3, 1974. After thorough discussion and debate on the proposal, the Committee, by a roll call vote of 31 ayes and 3 nays, adopted the proposal. By unanimous consent, the Committee agreed to table the bill H.R. 16170 without further action and instructed the House conferees on S. 3007 to return to the conference with the Senate guided by the action of the Full Committee.

Pursuant to the direction of the Committee, the House conferees on S. 3007 returned to the conference with the Senate on October 7, 1974. The House agreed to recede from its amendment and concur in the language of the Senate bill, after which a conference report was filed with the House.

CLIFFORD G. McINTIRE

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ARENDS. Mr. Speaker, those of us who were privileged to know our former colleague, Clifford G. McIntire, were deeply saddened to learn of his untimely passing recently.

Cliff served in these Halls for seven terms as Representative from the Second District of Maine from 1951 to 1965. He came from an important farming region of the Nation and was formerly general manager of the Maine Potato Growers, Inc. Thus, he brought valuable experience to the House Committee on Agriculture where he served for so long. His contributions to our Nation's agricultural policy are widely recognized—and even after he left the House, he continued his efforts in behalf of the American farmer as director of legislation for the American Farm Bureau Federation. In addition, he served on the President's Task Force on Rural Development and the Public Land Law Review Commission.

Cliff was one of the most conscientious and diligent Members I have ever known, and he was completely dedicated to the cause of good government. His service here reflected his hardy New England heritage and his respect for individual freedom and our free enterprise system. His patience, his gentlemanly demeanor, and his personal integrity won him countless friends on both sides of the aisle.

Cliff always gave so generously of his time and talents. The fatal accident which brought such an early end to a well-earned retirement brings sorrow to all of us. Betty joins me in extending our heartfelt sympathy to Cliff's lovely wife, Wilda, and their children.

VETO ON CONTINUING APPROPRIATION, HOUSE JOINT RESOLUTION 1131—THE FOLLY AND ERROR OF AMERICAN MILITARY AID TO TURKEY

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 15, 1974

Mr. OWENS. Mr. Speaker, the failure of this body to override President Ford's veto of the continuing appropriations bill represents an unfortunate day for American foreign policy. I returned from Utah for the express purpose of joining in this congressional effort to override this veto and to act to restore compassion and evenhandedness to our policy in Cyprus. I deeply regret the failure of that effort; and I deplore the continued use of American tax dollars at this time to finance the purchase of tanks, bullets, and other military hardware for the armies of Turkey.

The resolution on the Turkish question passed by this body was not a rigid or thoughtless usurpation of Executive prerogative in matter of foreign affairs. Instead, it represented what many of us felt was a forceful expression of our conviction that American foreign aid funds are to be used for preparedness for progress and for peacemaking. Can a resolution requiring evidence that American foreign aid laws are being complied with and that progress toward peace is being made really jeopardize the possibilities for a Cyprus settlement? Is such a resolution inconsistent with the highest principles of American foreign policy? I think not.

As we are now forced to stand mute on this question of continued military aid to Turkey, we should be reminded of the role we as a nation and our tax dollars have already played in the bloody and senseless tragedy of Cyprus. American weapons armed the Turkish troops that invaded Cyprus. The American taxpayers provided $148.6 million in total military aid to Turkey in 1973. Our foreign policy leaders have played an active role in the failure thus far to provide the evenhanded leadership that could have helped to resolve the disputes. We are hardly a passive onlooker to the tragedy of Cyprus. We are and have been closely involved in that matter. We cannot afford the luxury of refusing at this point to take a position that would help to restore evenhandedness to our foreign policy in Cyprus.

In August, I cosponsored a resolution that called for the cutoff of all military aid, economic assistance, and all military sales to Turkey until all of Turkey's Armed Forces were withdrawn from Cyprus. My vote to override the President's veto was based on the same concerns I had then. I believe we should respect the sovereignty and self-determination of the people of Cyprus. I believe that the power and prestige of the United States should be used to advance peace and evenhanded justice, not conquest and occupation. I believe that the Turkish resolution passed by this body was an important step in the direction of correcting a misguided and inhumane foreign policy. While I am saddened by the veto of that resolution and the failure of this body to correct the error of that veto, I remain firm in my conviction that American policy with respect to Turkey, Greece, and Cyprus, must and will change. I pledge my efforts to continue wherever and however I can, to fight for that change.

JACK COHN: SOLUTION TO INFLATION

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. MADDEN. Mr. Speaker, most of the economists have submitted their analysis of the Nation's inflationary problems and very few seem to assert in simple terms any one major step that our Government could follow in an effort to restore prosperity, reduce living costs, and place our Nation back on a normal economic equilibrium. This morning, I received a letter from Jack Cohn, a highly successful retired retailer, formerly of my congressional district, who now lives in Miami Beach, Fla.

A survey of Mr. Cohn's recommendations seems to present some sound advice on a couple of issues that would be a major step in reducing inflation.

Had he added to his comments the fact that the immediate reduction of interest rates and the closing of some of our fabulous and in many cases fraudulent tax loopholes to large conglomerates, including big oil, his solution to our inflation menace would be almost complete.

I include with my remarks Mr. Cohn's brief letter on the inflation problem:

MIAMI BEACH, FLA.

Dear Ray: After listening to and reading about inflation, it surprises me that none of the experts touch upon the growth of our population.

Our country is growing at the rate of about 35,000 people per week. Imagine a new city each week with this population. The services, housing, utilities and food needed to sustain them. I think we need more production in all lines.

When in central Illinois this summer all the farmers were complaining about crop failure on account of the wet and cold spring. My thoughts were that if crops are smaller and damaged to any extent prices will go up. You have the results today of higher corn and soy bean prices. So you can control prices if you have over production. Expand farming, industry and services to take care of more population.

Another point of trouble is the taking of farm acreage out of production. All over our country new shopping areas, new housing subdivisions and new highways are taking thousands of farm acreage out of production, while food demands rise.

So you in Washington had better work on production and more production in all lines. Excess inventory will level prices.

Respectfully yours,

JACK COHN.

FAIRBURY CHAMBER AGRIBUSINESS BANQUET

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. THONE. Mr. Speaker, Monday evening, October 14, I had the pleasure of attending the 25th annual Agri Business banquet at Fairbury, Nebr.

It was well attended, well organized, and the guest speaker was James R. Craig of Springfield, a most skilled and inspiring speaker.

The president of the Fairbury Chamber, Sam Ellis, and banquet chairman Ed Hall were in charge of this business salute to Nebraska's basic industry of agriculture. Responding for some 4,501 area guest-farmers was Marvin Schultis, an outstanding area farmer from the Diller area. His response reflects the trials and tribulations of farming and some down-to-earth commonsense philosophy. It follows:

FAIRBURY CHAMBER AGRIBUSINESS BANQUET

We in production agriculture in the Fairbury area can be mighty glad that there are businessmen here in town who are concerned about us and we appreciate these banquets that they have hosted for so many years.

One significant problem for the farmer and everyone else this year as the weather—as everyone is well aware. I thought I might relate to you in a little more detail what the weatherman did at my place in less than a 6 month period of time. For a 3 week period starting April 28th we had 7.65'' of rain (and this was supposed to be planting time.) The rains continued and we got small amounts of field work done between them. When we finally got the last milo planted it quit raining and we suffered from drought and severe heat. Around the middle of August we started getting some hopeful rains. Then on Aug. 17th we were severely damaged with a hail and a tornado took 2 large grain bins. In September we had an early frost to take care of what the hail didn't and it was very dry during this time. Lately we have had a rain which makes us hopeful that more will come.

Things have changed for us in Agriculture and I know tremendous changes have taken place in your businesses as well. The shortages that we have experienced have been a big problem for both the farmer and the businessman. We have seen our inputs soar to an all-time high which really creates a problem for all of us. I think it is necessary that we understand one another's problems more fully as our problems become your problems and vice-versa.

At the same time, we also benefits from each other's successes. I don't mean to give the impression from my response so far that everything that has happened this year has been bad. (Those things are just easier to think of.) We have many, many things to be thankful for which we should never forget. Prices are very good in some areas and, of course, many of our blessings are not always materialistic in nature.

We need you businessmen here in Fairbury and I know you need the farmers in this agricultural community. I'm sure there is much to be done in the way of public relations between agriculture and the public. This means of breaking bread together this evening is one small way of breaking a barrier between businessmen and we in production agriculture. Certainly, we appreciate what you are offering for us in the way of goods and services, and we do want to thank you for being our hosts at your 25th annual banquet.

MORE DISTRICT OF COLUMBIA FRAUD

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. GROSS. Mr. Speaker, the growing problem of documentation fraud is apparently nowhere more rampant than in Washington, D.C.

Like so many other things in this mismanaged city, the District of Columbia's welfare department, which has charge of the vital records section, has made another incredible mess.

A recent article in the Washington Star-News outlines the prevalent misuse and abuse of birth and death records in Washington and should be required reading for all those who think this city is ready for so-called "home rule."

I include the article for insertion in the RECORD at this point.

[From the Washington Star-News, Oct. 3, 1974]

PEOPLE OF ALL AGES USING PHONY BIRTH CERTIFICATES

(By Robert Pear)

Federal and D.C. officials are investigating the growing use of fraudulent birth certificates, which one city official says has become a "frightening" problem.

The certificates are used for a variety of purposes—by drug traffickers to conceal their identity, by aliens who purport to be American-born, by persons who claim nonexistent dependents in order to fatten their welfare checks and even by athletes who falsify their age to compete in a particular class.

Welfare investigators from the D.C. Department of Human Resources are reported to have been spending two nights a week examining records in the department's vital records section on the first floor of the police headquarters building.

"You can buy a blank birth certificate on the streets of D.C. for $25 and use it to get welfare," a knowledgeable source in the department said yesterday. "Even if they catch you after 10 or 11 months, they cut off your welfare but they don't throw you into jail or take you to court."

Contributing to the potential for abuse, city officials say, is the fact that the office of vital records does not use erase-proof paper or pre-number its blank forms, as federal authorities recommend. Thus, the officials say, it is difficult to trace stolen forms.

In addition, rigorous identification is not required to get a copy of a birth record. "We just require you sign an application," said a vital records officer. "You don't have to give proof you are who you say you are."

John H. Crandall, chief of the vital records section, says the staff has been cut back at a time when the demand for birth and death records has more than doubled. There were 17 employes in 1966 when the office issued 56,000 copies, he says, compared with 14 this year, expected to provide more than 120,000 copies.

He attributes part of the new demand to devotees of astrology, concerned about their natal hour. "No two ways about it," he says, "They've increased our business."

Meanwhile, on the national level, the U.S. State Department has stepped up efforts to detect the use of fraudulent birth certificates in passport applications.

"Documentation fraud is rampant in this country," Frances G. Knight, the outspoken director of the passport office, said in recent testimony before the Senate internal security subcommittee, "not only in those documents which are submitted with passport applications, but those submitted for Social Security, for health benefits, for pensions, for almost any service or financial profit which can be chiseled out of the federal government."

She says the cost of document fraud to the U.S. government, by a conservative estimate, is $1.5 billion.

William E. Duggan, chief of the legal division, has worked in the passport office for 34 years, and according to an admiring colleague, "He knows more ways to cheat on legal documents than anybody else."

Duggan says one of the more difficult ploys to detect is the use of birth certificates of deceased children. Several such cases have occurred in D.C., he says.

The technique involves getting a birth certificate of an infant who died shortly after birth—a child who, if it had lived, would be about the same age as the impostor pretending to his identity. The names of such children apparently are obtained from graveyards, from newspaper files and even from vital records offices by persons pretending to do genealogical research.

In one case of another type, recalled by officials of the human resources department, a group of men under the age of 40 formed a basketball team to compete in a league for men over 40, with the idea of winning television sets and money offered as prizes.

One of them snatched a blank birth certificate from a woman in the vital records office while talking to her. He took it to a printer who made a dozen facsimiles, which the men filled out.

They won the championship, but eventually were tracked down and had to apologize to the league. It could not be determined whether any legal action was taken against them.

In another case, a woman changed the year of birth on her son's certificate so that he could qualify as one of the top 10 tennis players in the country in a certain age bracket. The altered document "looks great, especially when you have to change only one digit," an official said.

City officials who expressed concern about these abuses asked to remain anonymous because of a policy in the human resources department requiring employes to clear press contacts with a public relations person.

As an indication of the need for tighter controls, officials report that a cook apparently walked off with some blank birth documents from a print shop at D.C. General Hospital, where they were stored.

The fraud problem has reached such proportions that the Justice Department is expected to announce soon the formation of a federal advisory committee on false identification, with representatives from the Passport Office, the Immigration and Naturalization Service, the Department of Health, Education and Welfare, the FBI, the Social Security Administration and other agencies.

Law enforcement authorities say they often have found blank certificates in the automobiles or residences of persons arrested on serious charges. "False identification is to a criminal what burglar tools are to a burglar," Duggan says. He describes the problem as "the mystery of identification in our present open society."

The problem comes at a time when demands for personal identification—whether in connection with school, job or credit applications—are growing. The trend is reflected in the fact that 60 percent of the copies now issued by the District are birth records, whereas the majority used to be death records.

Since last autumn, the city has been requiring new applicants for driver's licenses to identify themselves by means of birth certificates. Likewise, parents registering a child for kindergarten need to show a birth certificate.

A person who phones the D.C. government and asks about birth records often is referred to a tape-recorded message. "If you prefer to shop by mail" rather than come in person, it says, "please give us date of birth, mother's maiden name, father's name, child's name." The cost is $1, plus a self-addressed, stamped envelope. The recording says nothing about who may request a certificate.

Russell E. Booker Jr., chief of registration services in Virginia, favors national legislation on the subject, complaining that "each state does its own thing." He says the United States is one of the few developed countries without a national policy on registration.

Arguments against a nationwide system of birth and death registration have been made on the ground of states' rights.

Loren E. Chancellor, an expert in registration techniques at the National Center for Health Statistics, says the problem is directly related to the number of local record offices across the country, which he estimates at 2,000 to 3,000. If other states controlled the issuance of certificates through one central office, as Maryland and Virginia do, there would be less opportunity for fraud, he says.

In Maryland, according to Vernon R. Randall, chief of the vital records division, applicants must state the reason they need a copy of a birth certificate. Fraud has not been a serious problem, Randall says. The charge, as in Virginia, is $2 a copy.

From time to time in Virginia, people complain that the bureau has issued a copy of their certificate to someone else. "If we cannot identify the applicant or his relation to the registrant," Booker says, "we send a form letter and ask him to identify himself." Only the registrant, his immediate family and his attorney are entitled to copies.

SUBCOMMITTEE ON CRIME TO HOLD HEARINGS ON AMENDMENTS TO THE ORGANIZED CRIME CONTROL ACT CONCERNING BLACK POWDER

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. CONYERS. Mr. Speaker, I am pleased to announce that the Subcommittee on Crime of the House Committee on the Judiciary has scheduled hearings on H.R. 14549 and H.R. 14018, introduced by my colleagues on the subcommittee, Representatives WILLIAM S. COHEN and HAMILTON FISH, JR. Also under consideration are 11 similar House bills and S. 1083, which passed the other body last year. These bills would exempt commercially manufactured black powder and certain igniters used in antique weapons from the regulatory provisions of title XI of the Organized Crime Control Act of 1970.

The hearing will be held on Thursday, November 14, in the Rayburn House Office Building. Those wishing to testify or to submit a statement for the record should address their requests to the House Committee on the Judiciary, Rayburn House Office Building, Washington, D.C. 20515.

TRIBUTE TO GEN. CASIMIR PULASKI

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. McDADE. Mr. Speaker, there stands in Courthouse Square in the city of Scranton a beautiful monument to a man whose name will live as long as this Nation lives, Gen. Casimir Pulaski. He came from his native Poland to give his life for American freedom, and will be loved as long as freedom is loved.

Last Sunday the General Pulaski Memorial Committee of Lackawanna County held its 17th annual Pulaski Day Dinner. Rev. A. B. Bocianski, pastor of Saints Peter and Paul Church in west Scranton gave the invocation, and Rev. V. R. Pelvyak, pastor of Sacred Hearts Church of Mayfield gave the benediction. The opening remarks were given by the general chairman and president, Mr. George Yavorek, and the welcome by Mayor Eugene Peters. Janet Wagner, accompanied by Miss Kathy Kanavy, entertained the guests with songs, and Mr. Frank Baranowski, Jr. acted as toastmaster for the evening.

The highlight of the evening was, of course, the address given by Attorney Stanley J. Glod, of Washington, D.C. Mr. Glod has had an outstanding career. He is a graduate of John Carroll University of Cleveland, magna cum laude, and a graduate of Georgetown Law School. He has served in the intelligence section of the U.S. Army, and is today a lieutenant colonel in the Reserves. He has studied abroad, and is fluent in Polish, German, and several Slavic languages, and has specialized in international trade and diplomatic-consular affairs.

His address was, I believe, a significant contribution not only to the guests who were present, but to all who might read or hear it. With this in mind, I am taking the liberty of appending the text of his remarks, so that my colleagues here in the House might have the benefit of these fine thoughts:

ADDRESS OF STANLEY J. GLOD

Mr. Chairman, Mr. Mayor, Reverend Fathers, distinguished jurists, distinguished editors and representatives of our media, distinguished guests, ladies and gentlemen, I am truly honored to be invited to speak before you on this memorable occasion.

If I may digress, permit me to briefly address a few remarks to the gathered assembly in our native Polish language.

(Brief remarks by the speaker in the Polish language.)

I cannot help but feel somewhat out of place appearing before you to-day, sandwiched between two dates commemorating such stalwart figures in our American history as Christopher Columbus and General Casimir Pulaski. On the other hand, this occasion is most fitting since, without the efforts and leadership of these brave men, we might not be here to-day. Being true ethnics from Italian and Polish backgrounds, Columbus and Pulaski provide a natural entree for my remarks, which I would simply entitle: "The ethnic in the mosaic of American life—his impact for the future."

I am personally proud and gratified in returning once again to my home State of Pennsylvania, where the seeds of ethnicity gave birth to our Nation nearly two hundred years ago, have developed and grown since that time, and will flourish for years to come in the bright future that lies ahead.

The recent surge of ethnicity in our country has produced some most interesting rhetoric, advanced noteworthy causes, promoted national legislation and spurred countless politicians in attempts to give the ethnic his "place in the sun." Suddenly, the ethnic has become the most wanted person in any group or organization, or simply chic to just have as one's friend. However, to be satisfied with such conclusions would not tell the whole story, for some of what I have said is true, with much of it being false or, at least, misleading. Let us briefly examine the plight of the ethnic to this point in our Nation's history, with a greater emphasis being given to where he should be headed in the future.

As a rather cursory glance at the past, perhaps some of the most encompassing comments came from educators and historians who are currently involved in a furor over the proposed bi-lingual education in our public schools, as authorized and funded by the 1974 Education Act. One commentator succinctly and accurately defined the place of the ethnic in American history by stating:

"That when a country is established by European settlers on the land of indigenous residents, built through the work of slaves imported from Africa, and then populated and developed by immigrants from all over the world, its 'inheritance' is precisely that of world history and culture."

Indeed, how could it be otherwise in a nation born out of many nations, a country founded and inhabited by emigrants from all parts of the globe, whose dedication was to build a new land on the time-tested stones of their heritage.

Yet, this same "charter group," so to speak, encounters problems today, the likes of which they neither created nor contemplated. It is perhaps enlightening to note that the basic foundation stones of our Nation, as conceived by our forefathers and embodied in the creative documents such as the Bill of Rights and Constitution, provide an ample basis for equality between persons of varying races, creeds and colors. By and large, the clear and simple language of those precious words rang hollow, as though paying only lip service to an otherwise sound framework of government. Through the years of maturation, education and experience within the ethnic and minority communities of our country, the value and benefit of the simple concepts created by our forefathers began to assume life and identifiable form. One could conceivably argue whether progress indeed has been made, or to what degree. However, the essential consideration is that movement is evident despite its degree or pace. Change has always been a painful process in any civilization and we are no exception. Change at the upper strata, therefore, would prove to be even more gradual and painful.

It is not my purpose to argue the merits or speed of the swing toward the ethnic community, but rather to extoll the fact that a change is indeed taking place. The past is prologue and ours is to recognize the change for what it is—the greatest challenge to our talent and fiber, to be seized and exploited, not shunned and equivocated.

Just a few years ago, a whole past trend of inequity, distrust and suspicion toward ethnics from the national majority surfaced explosively and much to the surprise of the usually quiet, industrious ethnic. Provoked partly by the awakening of America's blacks, ethnic identity became a point of insistence in practically all walks of life. Astute politicians were quick to grasp the potential involved on both the local and national levels. They appealed to ethnic groups for support and thus discovered a handy vehicle for conveying the newly-generated interest to influence Government action at the national level. Thus, as an initial token of this resurgence, an ethnic heritage studies bill was passed by Congress in June, 1972.

The bill, although still far from accomplishing its original purpose and caught in the tightening vice of shrinking budgets, nevertheless signalled a turning point in ethnic life in America. For the first time perhaps in our nation's history, ethnics banned together with a regenerated fury that had not been exercised since the first days of this Republic. The ethnic cause was now one, with a family spirit that exhibited a capability of transcending any adversity or obstacle.

At this point, ethnics today stand and search for proper directions in which to exercise their newly-won influence for the future. They, perhaps more than anyone, realize and appreciate that the path leading to the present crossroads has not been an easy one. They certainly know where they have been—now the question is where are they headed in the future?

Some problem areas merit our close scrutiny. I would personally characterize in one word the substance of the problem in America as "tokenism." Webster defines it as "having only the semblance of." I would describe it as "too little, too late," or even "too cheap a price for so great a sacrifice."

Caught in the chasm of multiple immigrations and comprised to a large extent of disadvantaged peoples from many nations, ethnics formed the basic "working class," or, in some cases, a source of servitude. For many ethnics, entry into high political office and top level management positions in both government and industry has been for a long time a closed door. A far-off dream attainable by only the certain few from the "blue blood" stream of Americans.

On the other hand, involvement in politics is not new for the ethnic. We currently enjoy a smattering of Congressmen and Senators—again a mere token for our numbers and strength. The same is true within other top levels of Government and in the executive business suites of our larger corporations across the Nation. Where does the fault lie? Is it a form of inherited inertia or squeamishness? If it indeed was a lack of speaking out or being heard—because of some mythical, self-imbued sense of inferiority—it is time to "stop." Let us be introspective and self-critical, looking inside ourselves for a reason in not bettering our lot.

It was only within the past five to six years that the ethnics formed a substantial power block within one of our major political parties. The formation of the Heritage Groups Council within the Republican National Committee during the 1968 Presidential campaign was a first of its kind in national politics. The more recent formation of a similar group within the Democratic National Committee was a welcome event. The formation of influential heritage groups within our two major parties is a necessary prerequisite for an effective and viable participation of ethnics in the political process of Government. More and more will these groups become effective spokesmen for the ethnic community in making its policies and positions known and heeded at the national party levels. If effectively operated and, perhaps more importantly, participated in, the ethnics can, for the first time in the history of our political annals, propose qualified candidates from their own ranks to run in important State and national elections, or to be considered high level appointments within the Government. However, it must be remembered that this is at times a slow and tedious process requiring our utmost patience and best efforts.

Above all, it must be remembered that a total ethnic participation in our two-party system, long overdue as it is, is a necessary prerequisite to the implementation of the many programs and policies with which we ethnics are so vitally concerned. By way of example, a more effective ethnic voice could have produced better and far-ranging heritage studies legislation than the current bill, with a guaranteed form of funding being predicated upon a strong quid pro quo from legislators and officials charged with that responsibility.

All of these measures are positive action *programs*. However, no flexing of arms by the ethnic community is advisable, or even possible, without a renewed and thorough involvement of our youth. For too long, have we continually voiced our concern with our youth and their evident absence from our councils of decision-making. Where are they, we ask? Why don't they care to participate with us in the strengthening and propagating of our many fine ethnic traditions?

In June of this year, I had the privilege of chairing a "Polnia press conference," sponsored by "perspectives," a Polish-American cultural and educational quarterly, published in Washington, D.C.

The conference, believed to be the first of its kind, provided a forum for open and frank discussions of problems relating to the present posture and future direction for ethnics of Polish-American heritage. An in-depth examination of our history, media and inter-ethnic relations was highlighted most significantly by the participation and contribution of our Polish-American youth in the workshop on "ethnic youth, education and leadership." A deep sense of pride in our culture, coupled with a dedication toward an "action" oriented theme pervaded their discussions and resolutions.

Backed by a series of concrete community-oriented accomplishments in the areas of theater, dancing, study group trips to Poland, and substantial area rehabilitation programs, the Polish-American youth group has given the lie to the archaic approach that they are either "too young, inexperienced" or otherwise "unable" to successfully venture forth into various walks of life so thoroughly dominated by an Anglo-Saxonized society. Unlike some of their predecessors and those who merely pay lip service to their activities, this "new breed generation" has already proven that they have sufficient brains and brawn to overcome the squeamishness of old and provide the caliber of leadership for the future direction of Polonia that is both refreshing and admirable.

To their efforts, I say "Bravo," for our future is truly in their capable and willing hands. We must not extinguish this zeal by our indifference or callousness to their needs. This would amount to a gross violation of a sacred trust reposed in us.

This serves as but one glowing example of effective action. Again, I repeat, why have we not accomplished greater successes and victories? Why have our young people removed themselves from our midst? Why have we not used our strength and numbers to greater political advantage, or to gain positions of influence and leadership throughout the network of our society? These are all questions which we must openly and honestly ask ourselves.

Upon a thorough examination of conscience, I feel confident that you will arrive at the same conclusions as I did. In my opinion, the blame lies within us. Our divisiveness, petty jealousies, back-biting and lack of a true unity, such as that achieved by our black and Jewish brethren, lie at the core of our problem.

These bad qualities, when coupled with the uncompromising rule by certain segments within our various organizations who would advocate a return of eastern European motherlands to pre-World War I, or even monarchical posture, combine to render our most prestigious organs sterile, powerless, and in some instances, the laughing stock of those who wish to keep us divided. Although the sensitivities and background of those who adhere to such constricting views must be understood, they should not be blindly submitted to. The advocacy of these archaic policies is not only impractical, but also not in consonance with the established precepts of international law. We must learn to accept the world, with its member nations and their problems at a point where we find them, and go forward in a spirit of peaceful cooperation and harmony among nations. Anything less than this is totally unrealistic in the context of the 21st century and its fearsome technology.

Thus, there is no small wander that our youth, being uninterested in pursuing old-world politics which tend to divide and confuse, are alienated and "turned off." They look to concepts, ideas and leadership which relate more to the present world. They no longer accept blind obedience, unquestioned loyalties or, more recently, questionable wars with peoples whom they have never seen or been associated. They seek to expand their relationships with their peers in this country and the youth of other countries on a one-to-one basis, unfettered by a past which they neither created nor controlled. Detente to them is a live concept, requiring understanding and compromise on both sides of the Atlantic. It is a fresh start that they seek with other nations, and not a binding allegiance to ancient themes or mythical ideologies. Their lead should be ours as well.

Organizations tied to such old-line concepts have become totally unresponsive to present needs and thus will never rally our youth to their meeting tables. What is perhaps worse is that such concepts are reflective of a certain segment which has consistently stifled any progress or expansion of horizons. The majority, which thus far has been too silent, must stop "the tail wagging the dog." Kielbasa, ham and golabki are no longer our only common traits or characteristics. Our youth have gone into the world and successfully competed among their peers, without any assistance from a polonia racked by petty jealousies and divisiveness. It should not come as any surprise that they no longer need us. Conversely, we need them—their vitality, leadership and fresh concepts in order to keep polonia, or any ethnicity alive. The time for such a partnership is now.

In reflection, the ethnic has truly come of age, but in a transfigured form. Indeed, our country wouldn't be what it is without the ethnic, old or new. The new breed ethnic, however, no longer need be blindly obedient, squeamish nor submissive to the dictates of the majority. Thanks to the unswerving dedication of hard-working, immigrant parents, the new ethnic has proven himself a highly intelligent, industrious and capable leader in every sector of our American life. The legacy and traditions given by our parents are sacred. Their work is done. It is now our responsibility to carry out the mission for which we have been so well prepared.

Ethnics now are not without clout. It is accurate to say that, when united, ethnics control the majority voting power in all of our large cities across the Nation. The power of such a voting bloc upon State and national issues and interests is truly staggering. Unfortunately, up to now, we have failed to capitalize on this strength. The persistent divisiveness in our midst has to be, without doubt, the prime culprit. A unification of our voice on any issue would serve as a strong ultimatum to any political candidate for high office. Without us, when united, they cannot win. Astute politicians readily understand power politics and are, therefore, so very eager to court us. However, we must not succumb to the temptation by accepting the mere "bread crumbs" and "tokenism" that they have thus far meted out simply to keep us silent or content in a state of false security.

The direction of our future now becomes quite clear. These times demand a strong two-party system which we should actively construct and support. This time, however, the "tree of politics", Democrat or Republican, should blossom with many ethnic branches. Let this truly become the age of the "ethnic inflation" throughout every strand of our American life. What better way to achieve these goals than to make our impact felt in time for our Nation's bicentennial just as it was felt in those first trying days two hundred years ago. It is equally as vital now as it was then.

In closing, permit me to leave you with several thoughts.

First: If we are to survive, a reunification of spirit in our group thinking and action is vital to combat the killer disease of divisiveness and jealousy.

Second: We must purge ourselves of unquestioned loyalties to the archaic notions advocated by a dying and largely unsuccessful segment within our ranks.

Third: A rededication and opening of our ruling councils to our youth is already dangerously overdue.

Fourth: A pooling of our combined strength and talents within the political arena is essential for the preservation of a healthy two-party system, and the continuing propagation of the familiar customs and traditions which served as the building blocks of this Nation.

Fifth: Our list of grievances, demands and accompanying ultimatums to Government leaders, legislators, and political candidates should be reasonable, clear and forthright.

All that I have said represents but a modest beginning. The future now, as was the case in the past, will largely depend on our hard work in acquiring the necessary skills, education and qualifications leading to positions of leadership and influence. Such a future can never be built upon complaints, comparisons, equivocations, excuses, apathy or complacency. We certainly have our wounds to bind and heal in the process of building a healthy, unified body of policy and action. The challenge and choice for a better tomorrow is ours today. Therefore, in the recent words of our President when assuming office: "Let's get on with it."

Thank you.

DOLLAR POLLUTION

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. BENNETT. Mr. Speaker, under the leave to extend my remarks in the Record, I include the following:

Mr. Speaker: H. K. "Bud" Smith, executive vice president of the Jno. H. Swisher Cigar Co., also a member of the Democratic Executive Committee and an outstanding conservative in the Democratic Party in Florida, wrote me recently the following thought provoking and helpful letter, which I think makes a lot of sense:

> Dear Charlie: President Ford described the enemy "Inflation" and the destruction it brings as worse than an invading army. Yet, to the layman words like "Inflation, Recession, Devaluation", etc., are still a bit difficult.
>
> Mr. Meany came up with "Veto Proof Congress" and the President responded this week

with "Inflation Proof Congress" (originated by U.S. Chamber).

Here's a phrase for national use from your friend Bud that I hope you'll get to the White House and to the Congress.

For some years the words "Air Pollution" and "Water Pollution" have had household use—everyone understands them. Now I suggest that our great enemy be labeled "Dollar Pollution"!

Three examples easily understood by all:

(1) "Featherbedding" causes Dollar Pollution—we must call for productivity on the part of Labor.

(2) Monopolies, price fixing, and cartels like the Arab Oil Countries cause Dollar Pollution—we must call for stopping them and keeping free enterprises competition on the part of Business.

(3) Government Deficits—printing phony money—is Dollar Pollution. We must have elimination of waste, give-aways, and a balanced budget for years on the part of Government.

Charlie, take it from here—"Dollar Pollution" is your contribution to win!

Warmest regards,

H. K. SMITH,
Executive Vice President.

P.S. We must achieve greater productivity of machines, men, and money.

CASE WESTERN RESERVE LAW SCHOOL ON THE PARDON OF RICHARD NIXON

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. VANIK. Mr. Speaker, along with most of the Members of this body, I am still receiving public reaction to President Ford's hasty pardon of former President Nixon.

I have just received a statement passed by the boards of governors of the Student Bar Association at the Franklin T. Backus School of Law, Case Western Reserve University of Cleveland, Ohio.

This resolution succinctly and eloquently states a protest which deserves the attention of every Member of this body.

The statement follows:

CASE WESTERN RESERVE UNIVERSITY,
Cleveland, Ohio.

This statement was passed by the Board of Governors of the Student Bar Association at the Franklin T. Backus School of Law, Case Western Reserve University, on September 24, 1974. A vote of 18–6 was recorded.

Somewhere in our legal education or before it, we gain an appreciation of the idea that our government is one of laws and not people; where equal justice is guaranteed. Later, we realize that such absolutes can never be satisfied, so we hone our appreciation of the difference between right and wrong. In the end, to be able to recognize those differences is what justice is all about. These differences have been blurred by President Ford's pardon of former President Nixon. The judicial process, as the even handed finder of facts, was the correct vehicle to determine truth or lies, guilt or innocence, right or wrong. To the extent that President Ford's pardon will obscure the final finding of truth, it will have harmed the nation. Our society's fundamental consideration of ethics created the judicial process. To frustrate that process with a swift decree is not fair to the history which has created it.

To forgive for crimes not yet charged, to show mercy where there is not yet punishment, to be swift and sudden where there once was prudence—these are some considerations now to be weighed by our nation.

NATIONAL CONFERENCE ON HOUSING AND THE HANDICAPPED

HON. WILLIAM B. WIDNALL

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. WIDNALL. Mr. Speaker, last month, the Goodwill Industries of America, sponsored by grants from HUD and HEW, convened an historical First National Conference on Housing and the Handicapped. I was unable to meet my commitment to address the conference because of an intervening call to participate in the President's Economic Summit Seminar on Housing and Construction which was held in Atlanta at about the same time.

However, I was able to provide staff representation at the conference and I have now received a summary report of the conference proceedings and resolutions of future actions in support of handicapped persons. I want to share the pertinent facts with my colleagues because this signal event offers the long sought promise of a new beginning, a new awareness and a positive effort in support for our population of handicapped persons.

The statement of purpose and the summary report of the conference are being provided at this point so that others may be fully informed and may hopefully join in sustaining this most needed effort:

NATIONAL CONFERENCE ON HOUSING AND THE HANDICAPPED

STATEMENT OF PURPOSE

The importance of providing housing for the handicapped is being increasingly recognized in the United States. National voluntary and governmental agencies are taking action to meet the housing needs of handicapped persons. The current increased emphasis on rehabilitation services for severely disabled persons, the impact for deinstitutionalization programs, and the prevention of re-institutionalization when housing facilities are not available, has increased the awareness of the need for housing.

A national program of community based housing specifically designed to meet the needs of physically and mentally handicapped persons is essential if rehabilitation, education and social services are to be successful in improving the quality of life for these citizens in our society.

It is the purpose of the Conference to bring together selected persons knowledgeable about the needs of housing for the handicapped and current efforts being made to increase and improve such housing in the United States.

The Planning Committee for the Conference has set forth the following objectives:

(1) Focus attention on the critical lack of housing for the handicapped and disabled in most communities;

(2) Identify the range and nature of housing needed for handicapped, including community services to support non-institutional living arrangements;

(3) Review currently available financing systems on Federal, State and local levels;

(4) Exchange information on present housing programs that might be adapted or used in other communities;

(5) Assess the impact of national deinstitutionalization programs on increased need for community housing for the handicapped;

(6) Develop a national program of housing for the handicapped, including recommendations for future action and legislation to provide community based housing responsive to the needs of handicapped;

(7) Explore strategies for implementing such recommendations through unified efforts.

SUMMARY REPORT

More than 150 representatives of government and volunteer groups from across the United States participated in the September 10–12 conference in Houston, convened by Goodwill Industries of America.

In his opening remarks to the Conference delegates, Dean Phillips, President of Goodwill Industries of America, stressed the importance of providing adequate housing for the handicapped to enable them to leave institutions.

"If we are not careful in our planning," he warned, "we will merely replace the old institutions with new segregated housing that will increase our problems in the future. The lack of adequate community services is a barrier to the reintegration of the mentally and socially handicapped in our society. Careful planning is needed to avoid developing many small institutions with inadequate services that will become new ghettos for the handicapped".

Dr. Andrew S. Adams, Commissioner of the Rehabilitation Services Administration, Department of Health, Education and Welfare, addressed the Conference and praised the group's conclusions to continue their strong efforts in behalf of housing for the handicapped.

Other Conference speakers were Mercer L. Jackson, Minority Staff Member, Housing Sub-Committee, Banking and Currency Committee, and U.S. of Representatives; Edward H. Noakes, Chairman, Task Force on Barrier-Free Design, American Institute of Architects; Philip Roos, Executive Director, National Association for Retarded Citizens; and Jayne Shover, Executive Director, National Easter Seal Society for Crippled Children and Adults.

Organization assisting Goodwill in conducting the conference included:

American Occupational Therapy Association.

American Physical Therapy Association.

Council of State Administrators of Vocational Rehabilitation.

Department of Health, Education and Welfare.

Department of Housing and Urban Development.

Epilepsy Foundation of America.

International Association of Rehabilitation Facilities.

National Association of Private Residential Facilities for the Mentally Retarded.

National Rehabilitation Association.

Paralyzed Veterans of America.

President's Committee for Employment of the Handicapped.

United Cerebral Palsy Associations.

Veterans Administration.

Youngs Men's Christian Association.

Following the recommendations adopted at the first National Conference on Housing and the Handicapped, a permanent coalition is now being formed to bring together all interests working to improve environmental and living arrangements for the mentally and physically handicapped.

The Planning Committee for the Conference, at the request of the delegates in a recommendation adopted at the closing session, is now initiating formation of the proposed coalition to carry out the groups recommendations for action.

Immediate action was called for by Conference delegates to assess State and local needs for housing for the handicapped under the community development provisions of the new Housing and Community Development Act of 1974. Conferees were alerted to the need for incorporated statements setting forth housing needs for the handicapped *into State* and local housing plans.

Significant long-term recommendations adopted, to be undertaken by the coalition, included the following:

Develop a data information and referral system to collect, analyze and disseminate information to developers, members of the proposed coalition and users of the housing;

Establish an awareness program to sensitize the entire housing market, including builders, developers, lenders and the government;

Support research into, and evaluation of, existing housing for the handicapped, with analysis of costs, benefits, flexibility, adaptability and other factors;

Educate handicapped and disabled persons to be aware and to exercise their civil rights;

Develop a compliance mechanism to ensure enforcement of design codes relating to accessibility;

Seek better coordination of all service programs for handicapped and disabled persons;

Support national health insurance legislation that would include, but not be limited to, attendant care for personal needs, prosthetics, prescriptive medication, psychological treatment, and dental, eye and orthopedic care and equipment.

FINE ARTS PARK; BLENDING OLD AND NEW DREAMS IN MINNEAPOLIS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. FRASER. Mr. Speaker, this month has marked the opening of two important new arts facilities in the United States: the Hishhorn Museum here in Washington and the new Fine Arts Park in Minneapolis.

A graceful 1915 classic revival building designed by McKim, Mead and White for the Minneapolis Institute of Arts in 1915 provides the core around which the new arts complex in Minneapolis has been built.

Fine Arts Park is now the home for the Institute of Arts and for two other local cultural institutions, the Minneapolis College of Art and Design and the Children's Theater Company and Theater School. This new facility, which brings together the visual and performing arts, was opened to the public October 6. It was designed by the noted Japanese architect Kenzo Tange in association with the Minneapolis firm of Parker/Klein Associates.

In his first completed work in the United States, Tange has skillfully blended a contemporary structure with the classical facade of the original McKim, Mead and White building. William Marlin, writing in the Christian Science Monitor, says that—

> The new structure achieves a communion with the urban context, creating a sense of cultural invitation that will have people running through Washburn Park, every which way, in droves.

I would like to take this opportunity to insert Marlin's article, reprinted in the October 13 Minneapolis Tribune, in the RECORD:

[From the Minneapolis Tribune, Oct. 13, 1974]

FINE ARTS PARK BLENDS OLD AND NEW DREAMS

(By William Marlin)

Once there was a 12-year-old boy living here in Minneapolis who knew something about art.

The something he knew was, simply, that he wanted, maybe even needed, to know more. This is why, for a couple of summers, it had been arranged for him to take courses at the Minneapolis Institute of Art.

Doing so, he found out about the famous New York architects, McKim, Mead, and White, who, about 1915, had created the institute's classic-revival building, a mile or so south of the center of town, its dignified, columned entrance looking out on Washburn Fair Oaks Park.

Those columns, which then seemed so-o-o big, became a compulsive presence.

For the 12-year-old boy, for reasons he still can't quite comprehend, couldn't keep away from them, couldn't stop walking around them, and refused to enter the institute any other way.

There were even days when, to take in the full effect, he would first walk all the way to the other side of Washburn Park, around which big old houses were ranged, and just stand there looking at the columns through the trees.

There is a very personal and, for me, poignant reason for telling you about the new Fine Arts Park which has been created around McKim, Mead, and White's old institute building.

The Fine Arts Park, which officially opened last Sunday, achieves a communion, by way of architecture, between the programs and people of the three organizations that make up the Minneapolis Society of Fine Arts—the Institute of Arts, the Minneapolis College of Art and Design and the Children's Theatre Company and Theater School.

Designed by Kenzo Tange of Japan, in association with the Minneapolis firm of Parker/Klein Associates, the new structure achieves a communion with the urban context, creating a sense of cultural invitation that will have people running through Washburn Park, every which way, in droves. In his first completed work in the United States, Tange has skillfully compressed his sweeping sensitivity to urban and regional form into a composite of functional, deftly detailed buildings which, while preserving the identity and serving the distinct needs of the three organizations housed here, also established a closewoven, convenient proximity.

Planes of structure, volumes of space, both obedient to an over-all coordinate system, slide in and out, up and down one another—thus setting up sensory as well as physical inter-action.

This expresses the essential purpose of this architecture as, more than material object, an integrative process. For the reality and validity of a work—be it a single structure or, consistent with Tange's personal priority, the structure of whole cities—are determined by depth of human response, the extent of use, the meaning people draw from being proximate to the process.

I think back to those columns of the old classic facade of the institute, now restored and set off by the quiet, clean new surfaces of white glazed brick—those columns, too, needed comprehension to be complete.

Emotion, experience, encounter—these unweighables weigh the columns of the material world. And to the extent that they are given room to do the work, culture evolves.

Aptly, the Fine Arts Park is such a room, a metaphorical enclosure for a wide variety of individual and cooperative pursuits.

The tactile, textured and leafy grain of the surrounding neighborhood is enhanced, not eroded, by the simplicity of the new structures.

There is contrast without clash, beginning with the old facade itself, which is set off on either side by glass-enclosed interior spaces acting as gentle gestures of transition between classic and contemporary components.

The original institute, carefully remodeled, has been extended southward with two new wings, doubling its space; inside, subtle interior design and exhibition features by Massimo and Elena Vignelli, masters of minimalist splendor, bear quiet, functional witness to the older order, serving expanded needs.

Immediately south of the institute's new eastern flank is a bridgelike link in the form of a lobby to the innovative children's theater and school. It is a link between both to the internalized, outdoor courtyard and, with a restaurant upstairs on the third and fourth levels, still another dimension of use is introduced.

Across the courtyard, just to the southwest, the College of Art and Design, completed earlier and in operation about a year, contains four levels of studio space—a virtual poem to integrative process in which a lot of lively reading goes on between space structural lines.

The unique demands of each discipline are fully and flexibly served but from almost every vantage point of the college, space moves, vision is drawn into parts of the building, outside and, again, inside of the institute and, again, through it to the north for glimpses of the neighborhood and downtown beyond.

Concepts are thus modulated as space is, with a momentum toward understanding the elements that connect, rather than divide, human life.

DISAGREEMENT WITH PROPOSED WAGE, PRICE, AND PROFIT CONTROLS

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mrs. HOLT. Mr. Speaker, Senator MIKE MANSFIELD has proposed an omnibus economic program that is a blueprint for total Federal domination of the lives of the American people.

MANSFIELD proposed wage, price, and profit controls, but that is not all. He wants Government control of credit, rationing of all energy, control of raw materials, redistribution of income by taxation, and a public service employment program.

Instead of allowing the economic mechanisms of a free society to work, the Mansfield plan would create monstrous bureaucracies in Washington to control all the major economic decisions affecting our lives. He ignores the fact that the Federal Government caused our economic problems with wild spending that exceeds revenues by many billions of dollars every year.

The answer to inflation is not more Government, as MANSFIELD suggests. The answer lies in less Government and more activity by the private, productive sector of the economy. The American people should never be made slaves to a central bureaucracy managing the economy.

That is the sure road to bungling inefficiency, poverty for all, and the end of freedom in these United States.

WHO'S NEXT?—BOSTON BURNS WHILE CONGRESS FIDDLES

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. MILFORD. Mr. Speaker, in today's edition of the Dallas Morning News, Editorial Writer David Hawkins posed a very important question. Since his question was asked of Congress, I would like it placed in the CONGRESSIONAL RECORD. Perhaps some of our Members can answer his question.

The article follows:

WHO'S NEXT?—BOSTON BURNS WHILE CONGRESS FIDDLES

(By David Hawkins)

"No single tradition in public education is more deeply rooted than local control over the operation of schools."—U.S. Supreme Court, July 25, 1974.

Boston is busing and burning as the Supreme Court starts its fall session, but busing and the violence it breeds isn't on the docket. The court halted a few buses last summer when it gave a qualified quietus to interdistrict busing, but it gave only a nod to the neighborhood school and waved the intradistrict buses on.

Boston and Denver didn't benefit. They have plain busing—and the court, which blessed that nastiness five years ago when it made Charlotte the test example, has nothing to add to that decision—no words to ward off the violence.

Charlotte still has flareups. Dallas' Tri-Ethnic Committee is suddenly worried about revivification of our own mummified busing order which, like a chancery suit in a Dickens novel, has been lost in the Fifth Circuit Court of Appeals for three years. The Dallas committee fears violence if the court says, bus—and the plaintiffs have moved for judgment in the case.

No TV cameramen are watching Dallas because Boston, not the South, has the camera eye. And what does the eye see?

Sen. Edward Kennedy being almost mobbed for remonstrating in the early days of the Boston boycott with the most liberal constituency in the U.S.—the only one that went for McGovern.

Then there was NAACP Director Roy Wilkins saying, "And they call this the cradle of the abolitionist movement," and the New York Times reporting a white crowd chorusing, "There's one—get him."

And all the violence since. Boston could outdo Little Rock, New Orleans, Birmingham—maybe Paris during The Terror—but with one difference from the days when the Kennedys held the Capital: No official threats to compel obedience to law, no rephrasing of the question, raised by a predecessor of Atty. Gen. William Saxbe of whether Alabama was "another country." It is a question worth asking about Boston.

The talk of marshals and the Guard or troops is all local. The federal government won't help though police patrol the halls of South Boston high schools (putting down fights and conducting weapon searches), as other officers face bareknuckled mobs and escort the buses in, and as the Irish rebels welcome the help of the Ku Klux Klan.

President Ford, moreover—though he deplores the violence—says that busing Boston is wrong. So does the Klan.

Boston is it, the Klan says—stop busing here and it will stop period. And it's hard not to see that that's true. The fact that it is Boston may explain the fascinated silence. Boston is the antithesis of things Southern—a center of the Bicentennial, as of the hypocritical integrationist blather of recent decades. Yet it is acting just like Birmingham.

But even as we smile at Boston's reaction to the bus, we grudgingly back Boston in its revolt. We agree with Kennedy that Bostonians are not bigots—and we welcome them to the club.

For now that the Southern segregationist wrapping is stripped from busing by Northern reaction, do we not agree that Yankee antibusing crowds represent a fight for freedom after all? Southerners couldn't say that—but Yankees, with their practiced moral fervor and their habit of making street issues of freedom, can convince where we cannot. Who has more moral credibility than a Bostonian?

Not that the country needs much of a conversion to the Boston view. Casper Weinberger, secretary of HEW, says busing isn't the answer to the imperatives of integration even as he marvels at Northern resistance. President Ford is no buser either and, at heart, neither is a Congress that has legislated at least three times against busing for racial balance.

And neither, most of all, are the three-fourth of adult Americans who have made it plain for so very long that what is banned in Boston is hated elsewhere, too. Yet, we seem to be as completely out of effective remedies for stopping busing as we are out of any real resolution to enforce it by force.

Congress has failed in innumerable efforts to give us an antibusing constitutional amendment with which to override the court. Congress is our new champion against the imperial presidency—but it and the White House both are so far deaf to the demands of three Americans out of four.

Do we make the constitutional amendment a must issue—assert our own ultimate authority—or do Boston, Denver and perhaps even Dallas go on burning while Congress fiddles?

HON. JOHN F. SHELLEY

HON. BOB CASEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 7, 1974

Mr. CASEY of Texas. Mr. Speaker, the death of John Shelley is a cause for sadness not only among those of us who had the privilege to know him and to serve with him, but for all those who believe in justice and equality for all men.

As I worked closely with him while we served together on the Committee on Merchant Marine and Fisheries, I came to have a deep respect for his sincerity, his dedication, and his ability to work untiringly for those things in which he believed.

I know that any Member of the Congress who knew Jack, recalls him as I do—a man with whom you might disagree on issues, but never fail to like and respect. We have truly lost not only a friend, but a great American.

MONTANA BEEF PRODUCERS

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. SHOUP. Mr. Speaker, Montana beef producers cannot continue to survive under the administration of the present Secretary of Agriculture.

The reason is simple. He does nothing. Beef prices at the producer level have been halved. During the same time period of this drastic price drop, retail price level of beef cuts of all kinds have increased in price, and are rising.

In August of 1973, calves sold by the hundredweight at $68.20; today the sales price is $25.

In August of last year retail beef cost on the average $1.41 a pound; today the price is $.43, and rising.

Beef is backing up in feed lots in Montana. Beef import quotas remain suspended, and grass fed beef imports more likely than not will become unmanageable in our market places, as foreign producers take advantage of our plight.

Producers of other food products are equally disadvantaged and equally baffled.

Earl Butz, the Secretary of Agriculture, issues periodic "Butz-backed" manifestos or advises the President of the United States to issue them, generally urging farmers and beef producers to greater production levels.

What for, Mr. Speaker? Who is going to buy the production at today's retail price levels, except to avoid total starvation?

We help foreign nations who hate us, with nonrepayable loans and giddy gifts and experimental boondoggles which produce nothing but requests for more grants.

Why, in God's name, Mr. Speaker, cannot we do something that will stabilize our own marketplaces, reduce inflation, and get this country progressing again?

Every day, Mr. Speaker, day after day, I plead, cajole, and demand action from downtown Federal agencies.

Every hour, Mr. Speaker, day after day, the situation worsens.

I suggest, Mr. Speaker, that the time has come for this Congress to take a look at the needs of our middle-ground Americans who supply the bulk of our taxes, the majority of our brains and an overwhelming amount of our national faith in hoping to keep this country a work state instead of a welfare state.

I include our farmers, our home builders, our wheatgrowers, our people, all of them, who go about their jobs daily, educate their children and pray in their churches each Sunday. They are praying for us, Mr. Speaker, as well as for their families and their country. I hope their prayers are answered soon, Mr. Speaker.

INFLATION

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. KETCHUM. Mr. Speaker, as the Congress continues to grapple with the problem of inflation, we need all the constructive advice we can get. Recently, station KERO–TV of Bakersfield, Calif., aired a two part editorial by Mr. Gordon W. McKinley, senior vice president of McGraw-Hill, Inc., which contains some excellent insights on the cause of today's inflation, and helpful suggestions on how to deal with it. Today, I want to share the first part of the editorial with my colleagues and commend it to their attention:

EDITORIAL

I am sure that each and every one of you has felt the impact of inflation in one way or another. It is the most serious economic problem we face today. Yet—tragically—our Government has no effective program to solve the problem. The Federal Reserve Board's solution is to restrict the supply of money and force interest rates to the highest levels in this century. McGraw-Hill Broadcasting Company believes that this tight-money, high-interest rate policy is mistaken. The policy has failed miserably thus far, and will only make inflation worse if it is continued. We call for a prompt move to easier money and lower interest rates.

We do not doubt the sincerity of the Federal Reserve Board. We are convinced, however, that the board has badly misjudged the true nature of the inflation virus that now grips the American economy. The board apparently believes that we are in a classic kind of "demand-pull" inflation. They picture the economy as fully employed, with consumer demand very strong and with prices rising simply because we are unable to turn out goods fast enough. Under these conditions, the solution is clear: restrict the money supply so that we do not have too much money chasing too few goods.

Unfortunately, a close look at the real economy of our country does not look at all like the classic case envisioned by the Federal Reserve Board. For one thing, the economy today is not fully employed in any meaningful sense of that term. For another, Government statistics show that our manufacturing industries taken as a group are operating at just 80 per cent of capacity—a rate of ultilization which in the past twenty-five years has occurred only during periods of recession. And, in the first quarter of this year, our real gross national product fell by a larger amount than in any other quarter in the past sixteen years. Unemployment is rising, and business failures are multiplying. Industrial production today is actually below that of a year ago. These are not the signs of a fully employed economy.

The fact of the matter is that today's inflation is not at all the demand-pull situation I mentioned earlier. Instead, it is a new cost-push inflation, stemming from a worldwide shortage of basic commodities. Look at the record. The first symptom showed up in a sharp rise in the price of grains and other foods, followed by a staggering jump in petroleum prices. Then, in dramatic succession, price increases developed in other raw materials and foods, from bauxite to bananas. Steel, paper, cement, chemicals and many others joined the list—all booming at the same time that broad areas of the economy are declining. The distinguishing characteristic of today's inflation is that prices are being forced up by rising costs despite a complete absence of vigorous consumer demand.

Now the question: What happens when a Federal Reserve policy of tight money and high interest rates is used in an attempt to halt this new type of cost-push inflation? The answer is all too clear: The whole economy is dragged down in a futile effort to reduce the prices of raw materials and basic commodities. The home construction industry is crippled and vital plant and equipment expenditures are discouraged. The loss of 600,000 homes and apartments this year will unquestionably mean higher home prices in the future. And curbing plant expenditures now will directly affect our ability to raise productivity and lower costs in the future. To the extent that tight money is curbing the output of housing and new plant and equipment in 1974, it is depriving us of our most effective means of combating inflation in the future.

The net effect of the current high interest rate, tight money policy has been to reduce output, not prices. And, even if tight money is pushed to the point of a severe recession, it will not be successful in curing today's inflation. Deliberately provoked recessions are not the cure for inflation. Following the 1970 recession, inflation accelerated so rapidly that an administration committed to the free market was forced to accept direct wage and price controls.

There are ways of curing today's inflation without infringing on free markets, and in our editorial tomorrow I will outline an anti-inflation program which we believe is practical and workable.

WHERE ARE OUR POLITICAL GIANTS?

HON. DAVID W. DENNIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. DENNIS. Mr. Speaker, I was most interested to see in the Washington Post of Friday, October 11, 1974, a column by Mr. Joseph Alsop entitled "Where Are Our Political Giants?" which states that—

> If Senator Taft walked into the present Senate, it would have almost the effect of Gulliver's arrival in Lilliput.

Permit me to say that I sadly agree with Mr. Alsop's assessment not only of the other body, but, also, I am sorry to say, to a considerable extent with his equally unflattering references to the performance of the House of Representatives. Mr. Alsop is probably unfair to us as individuals, but there is entirely too much truth to his uncomplimentary assessment of our overall performance.

I insert in the RECORD at this point the article by Mr. Alsop:

WHERE ARE OUR POLITICAL GIANTS?

(By Joseph Alsop)

"Yet, if Sen. Taft walked into the present Senate, it would have almost the effect of Gulliver's arrival in Lilliput."

"We are up to our knees in pygmies!" This anguished cry came from the doomed heroine of a pseudo-Congolese romance a century ago. And if you survey the Western political scene today, you cannot help but feel the pygmies are gaining on us fast.

This may be no more than jaundice resulting from antiquity. This reporter is about to leave on his last working trip abroad—a brief one to see the aftermath of the British election, but still the end of a series that began much more than a quarter of a century ago.

In those very different days just after World War II, Clement Atlee and Ernest Bevin led the British government, and Winston Churchill led the opposition. In Germany. Konrad Adenauer was the man to watch. In Italy, it was Alcide de Gasperi. In France the great post-de Gaulle triumvirate, Jean Monnet-Robert Schuman-Maurice Petsch, was already taking shape for the future.

As to the United States, our President was Harry S. Truman, that doughty hero, and you could hardly look around you without spotting another hero. Acheson, Forrestal, Marshall, McCloy, Patterson, Lovett, Cohen, Vinson—but the list is too long to complete!

Then there were giants in the land.

We have, I think, some giants now. The United States has never had a more able public servant than Henry A. Kissinger, as far as this reporter has been able to judge. We also have an extremely decent, rather Truman-like President, who could turn out to be a hero if he could be given half a chance.

The trouble is that he is most unlikely to be given half a chance. If President Truman had not been given half a chance, he would also have been remembered as a pygmy. Most people thought he was a pygmy in 1946–1947—more shame to them, including this reporter! The same rules will work with President Ford.

He has inherited brilliant public servants, as noted already; but he has not inherited a government *team* as President Truman did. He has not brought a single good manager into the White House, as President Truman brought Clark Clifford. He has brought chaos to the White House, although he has now wisely chosen Donald Rumsfeld to tidy up the chaos.

Yet President Ford's real bad luck, as compared with President Truman, is quite elsewhere in Washington. The worst of his bad luck rather obviously centers on Capitol Hill. In President Truman's day, after all, it was the fashion—again joined by this reporter, alas—to denigrate the "isolationist" Robert A. Taft.

Yet, if Sen. Taft walked into the present Senate, it would have almost the effect of Gulliver's arrival in Lilliput. One can see the new isolationists of the Foreign Relations Committee staring at Taft with minuscule but envious wonder, as the Lilliputians stared at Gulliver.

When President Truman inherited, moreover, and through Taft's time later on as well, the people who dominated the Senate and the House were men of different views, like Sen. Arthur H. Vandenberg. They were men who understood the necessary role of the United States in the world. They were men who could be immensely courageous about that role, as when they voted the Marshall Plan.

Comb the Senate and the House today to find a single Arthur Vandenberg or Christian A. Herter. What you will mostly find instead should not be forthrightly described in any family newspaper.

The truth of the matter is that President Ford's task is immeasurably more difficult than President Truman's task. President Truman inherited the leadership of a victorious nation with immense self confidence, overwhelming power and incomparable wealth. President Ford has inherited the leadership of a nation in great albeit invisible danger, with waning power and deep economic problems.

President Truman had a Congress that "put the country first when they really had to"—as old Sen. Charles McNary used to say of the few politicians he liked and admired. President Ford has a Congress overwhelmingly dominated by the other party, and worse still, overwhelmingly composed of persons who put themselves first and the rest nowhere.

After the election next month, everything will no doubt be much worse. **But it is already** high time to place the blame for our troubles where it mainly belongs—on the Congress.

WILLIAM SUMMERS JOHNSON

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. STEED. Mr. Speaker, a respected former professional staff member of the House, William Summers Johnson, died September 19 in Hawaii, where he had made his home the last 9 years.

An expert economist, he served from 1955 to 1959 as chief economist of the House Select Committee on Small Business. During this period I was carrying out a number of hearings and had frequent occasion to observe his expertise. He made a solid contribution to a sound outlook for our economy, and his expertise will be missed.

The Honolulu Advertiser on September 20 summarized his career briefly in the following article:

> EX-FINANCE DIRECTOR DIES
>
> William Summers Johnson, former City finance director and former State economist, died yesterday in the Honolulu Convalescent Home. He was 61.
>
> The family home is at 240 Makee Road.
>
> Private services, by invitation, will be held over the ashes tomorrow in Waimanalo. The ashes will be scattered at sea afterward.
>
> The family suggests that, instead of flowers, contribution be made to the American Cancer Society or the Heart Fund.
>
> A doctor said Mr. Johnson died of complications resulting from a stroke in August 1972. Mr. Johnson had never fully recovered form the stroke.
>
> Mayor Frank F. Fasi, who appointed Mr. Johnson finance director when he took office in 1969, said "The people of Honolulu have lost one of their quiet champions—a man who worked vigorously and effectively behind the scenes on their behalf."
>
> Fasi said Mr. Johnson "will be sorely missed and warmly remembered."
>
> Mr. Johnson was a highly respected and sometimes controversial economist.
>
> He came to Hawaii in 1965 after serving in Washington. After working with the War Production Board during World War II and the Federal Trade Commission, he served as chief economist of the House Select Committee on Small Business from 1955 to 1960.
>
> He also served as a staff director of the House Committee on Banking and Currency and during 1961 and 1962 was the executive director of the House-Senate Joint Economic Committee.
>
> When he was named State economist for Hawaii in 1965, he was described by one State official as "one of the real pros in the business. He is knowledgeable, competent, experienced and personable.
>
> Mr. Johnson's cautious view of Hawaii's tourist growth, however, made him an occasional center of controversy.
>
> In the 1968 Legislature, he charged that the Hawaii Visitors Bureau was constantly underestimating the visitor industry boom and its effects on the Islands' economy. His criticism of HVB testimony drew an angry demand for his resignation from then Sen. William E. Fernandes, who was chairman of the Committee on Economic Development, Tourism and Transportation.
>
> In recent years Mr. Johnson had advocated a hotel tax to support Waikiki improvements.
>
> "We can turn tourists away and still have them running out of our ears," he told legislators. He added that tourists "are not paying their fair share of taxes."
>
> In January 1969, Mr. Johnson accepted appointment as City Finance Director.
>
> In May 1971, Mr. Johnson became indirectly involved when it was learned that H.I.C. box office manager Elroy Runnels was $65,000 short of the amount owed to promoters.
>
> Immediately after the H.I.C. incident, Mr. Johnson's relationship with the City Administration and especially the corporation counsel became increasingly strained.
>
> During a misunderstanding involving personnel assignments in his department in June 1971, he resigned. But after conferring with Fasi the next day, he decided to remain on the job.
>
> Johnson is survived by his wife, Ruth F.; mother, Eleanor S. of Georgia; brothers, Albert of Raleigh, N.C., Frank of Cordele, La., and Joseph of Alexandria, Va.

KING CAUCUS AND THE RED BOOK

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ANDERSON of Illinois. Mr. Speaker, yesterday a curious little red-bound pamphlet crossed my desk bearing the title, "Summary of Major Changes in Rules X and XI of the Rules of the House of Representatives." The pamphlet was dated October 10, 1974, and had been printed by the Government Printing Office. Turning the page I learned that this was a committee print, of sorts, in that it bore the name of the Committee on Organization, Study and Review, below which was the name of "JULIA BUTLER HANSEN, Washington, Chairman," and 10 other committee members, all of whom happen to be Democrats.

Mr. Speaker, I say all this is quite curious because there is no standing or select committee of the House named the Committee on Organization, Study and Review; nor are there any House committees to my knowledge which are comprised solely of Democrats. I think most Members will recognize that although this publication is disguised as a House committee print, it is in fact the product of the so-called reform committee of the Democratic Caucus, a purely partisan organ. Since it was that very same caucus task force which successfully delayed House consideration of committee reform for 6 months and then brought forward such a watered-down version that the House nearly drowned in attempting to salvage anything resembling reform, it is not surprising that the preface of the red book contains the following deceptive piece of hyperbole:

> (The rules changes) provide new and better ways to meet future legislative challenges and again marked the 93rd Congress as responsive to needed reform . . . strengthen the legislative process and improve Congress' ability to solve the Nation's problems.

The preface goes on to note that a changing society demands dynamic leadership, the House has never been a static institution, and the new reforms "are a ringing confirmation of this historical fact and a significant watershed in its continuing evolution."

Mr. Speaker, anyone remotely familiar with the actual contents of House Resolution 988 as finally adopted, anyone who is aware of the successful efforts of the caucus task force to block House consideration of meaningful reform by the device of its substitute, knows just how misleading those statements are. I can understand the caucus committee wanting to put the best face possible on its status quo power product. But I simply cannot understand by what authority it can commandeer House funds, not caucus funds, and the Government Printing Office, for the purpose of peddling this partisan pap.

Presumably this whole publication process was initiated through what is called a "clerk's requisition" which indeed can be used for printing informational materials for the membership. Such a requisition was ordered in the case of the red book, though no one seems to know who made the request. This allowed for the printing of 1,000 copies. Then, another peculiar thing happened. A request for an additional 4,000 copies was made through the Joint Committee on Printing and approved. Again, no one seems to know from whom this request originated. It is clear that the original order of 1,000 was more than enough to suit the needs of the membership. It is also clear that the extra 4,000 copies were delivered to the chairman of the Caucus Committee to be distributed as she, not the House, sees fit. Again it should be pointed out that the cost for all 5,000 copies is being borne not by the Democratic Caucus but by the House as an institution, even though this is not an official House print. And the total cost, according to a GPO estimate, is around $900.

Mr. Speaker, one hears a great deal in this body about "pride in authorship" and one can understand the enthusiasm of the caucus task force in wanting to put its imprint on House Resolution 988 through an official-looking red-bound brochure. But ripping off House funds for this purpose is another matter, especially when one considers that our official Select Committee on Committees, which has been allocated $1.5 million for its 2-year study will soon be publishing an official and authoritative version of House Resolution 988 as adopted by the House. One is tempted to call this a duplication of effort, though the fact that the red book contains at least a dozen glaring errors will insure that the products will not be exact duplicates. A more accurate description of the red book is that it is a duplicitous effort.

Mr. Speaker, perhaps some Members may be tired of hearing me harp about the reemergence of "King Caucus" in the House, but this is but one more example of a caucus attempt to set itself up as a super-legislative committee. The misrepresentation of our actual accomplishments in the "committee reform amendments," the misuse of House funds to publish and peddle this "King Caucus" red book, not only to House Members but to 4,000 other mysterious donees, the mysterious authorization of this publication—all are typical machinations of the secretive and powerful "King Caucus."

Mr. Speaker, I am asking today that a full accounting be made of the authorization of this publication as well as of the intended recipients of the additional 4,000 copies which have been printed. Have these red books been properly authorized according to the provision of title 44, chapter 7 of the United States Code? Are they being used strictly for the informational needs of the House or are they being distributed by the caucus for the needs of the caucus? These are important questions which must be answered.

EARL BUTZ—CHAMPION OF FARMERS

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. MYERS. Mr. Speaker, I would like to call attention to a front-page article in the Washington Star-News of Sunday, October 13, written by John Fialka about my fellow Hoosier, Secretary of Agriculture Earl L. Butz.

It has been my privilege to work with Earl Butz for many years. We have been on the campaign trail together. I feel I know and appreciate this hard-working public servant better than most.

Earl Butz is friend and champion of farmers, scourge of wasteful spenders of tax dollars, and a college professor who puts erudite and complex economic issues into basic English everyone can understand.

Mr. Fialka has captured in his article the essence of Earl Butz. I commend this delightful article to my fellow Members as a true picture of the hard working, witty, highly effective Cabinet member from Indiana.

Butz is straightforward. Fialka reports:

> He didn't come to Washington to be popular. He came here to turn the nation's farming system around.

Even the Secretary's worst enemies will admit the revolution in agriculture has occurred.

Fialka notes that Butz is proud of helping farmers earn more money. He quotes the Secretary:

> When farmers were a political problem, when they were kicked around, on the public pap and all that, they thought of themselves as second-class citizens. They alibied for being farmers. I think that is gone. Now they take the same pride in their profession that the banker does or the lawyer does in his profession.

Fialka's article is replete with examples of the famous Butz humor—sometimes biting, always making a point, but never malicious. Members will find the article interesting, no matter on which side of the aisle they sit.

I am placing the full text of Mr. Fialka's perceptive piece in the RECORD for the information of my colleagues:

NO IFS OR ANDS FOR BUTZ

(By John Fialka)

Scene: It is 7 a.m. at Dulles Airport. You are bleary-eyed, groping your way off a plane after an all night flight from San Francisco.

The government agency you head has just mismanaged $500 million worth of grain trades with the Russians. The President is concerned, the secretary of the Treasury is anxious, the secretary of State is upset.

You knew more than most people about signs the deal was coming and during the most crucial moments of the transaction you were out on the West Coast giving speeches to personnel executives and fertilizer salesmen.

Now you are summoned to a meeting at the White House.

For most Washington bureaucrats, this scene would probably be the end. For Earl L. Butz, Secretary of Agriculture, who lived this scenario a week ago Saturday, it may have been just another day on the job.

For perhaps unlike any secretary of Agriculture before him, with the possible exception of Henry Wallace, Earl Butz is a power in his own right. He is like the new breed of flashlight battery, always bouncing back.

On Monday it was a hostile press. Clark Mollenhoff of the Des Moines Register, who can summon up more hostility than most reporters, was delivering a short tirade.

Why couldn't Butz deal more harshly with the big grain companies? Why couldn't he put some "teeth" in a new voluntary program just announced to require advance reporting of big grain trades?

"Well, Clark," the secretary replied after a moment of thought, "for you maybe we could put in an upper plate."

On Tuesday it was a hostile Senate permanent investigations subcommittee. Sen. Henry M. Jackson, D-Wash., began by bereating Butz for staging a repeat of the disastrous Russian wheat deal of 1972, which wasn't detected for four weeks after a Russian buying team had snapped up half of the U.S. wheat crop.

That wasn't the case at all, replied Butz. A new reporting system had "caught" the latest trade in time and Secretary of the Treasury William Simon would soon be flying to Moscow to help patch it up with the Russians.

At the end of the committee hearing, the senators were all smiles. What could have been a roasting for Butz had fizzled. Jackson smiled and thanked him for what had been a "good session."

"I'll bet you were smiling over the weekend too, when you called for my resignation," said Butz, smiling.

By the end of the week, much of the dust had settled and Butz, seemingly relaxed during an interview, was being asked whether he liked his job.

"I never had a job I didn't like. It's got its ups and downs, but you've got to roll with the punches in a job like this. No secretary of Agriculture was ever universally popular, I knew that when I came in. I didn't come for that reason."

No. Butz did not come to Washington to be popular. He came here to turn the nation's farming system around and even his worst enemies on the Hill will admit that the revolution that has occurred in agriculture in the past three years has been, in part, engineered by a determined man pulling the switches in the gray building at 14th and Independence.

If he leaves Washington soon—and there have been rumors to that effect since he came in November 1971—he probably will leave a more lasting mark on the U.S. domestic scene than any other Nixon Cabinet member.

For example, on the day he was sworn in, Nov. 11, 1971, he summed up in one phrase the major solution to government controls and major surpluses that were deviling the farmers out in the Midwest: "The price of corn is too low."

That day, corn was selling for $1.15 a bushel. Today the price is hovering close to $4. It hasn't been all attributable to Butz, but he certainly had a hand in it.

He helped Congress dismantle major subsidy programs and did away with a set-aside program that encouraged farmers not to plant full acreages.

In 1973, the first year of full crop production for the big money crops like corn, wheat and soybeans, farmers made more money than they had ever seen before. If there is one thing of which he is proudest, it is probably that.

"When farmers were a political problem, when they were kicked around on the public pap and all that, they kind of thought of themselves as second-class citizens. They alibied for being farmers. I think that is gone. Now they take the same pride in their profession that the banker does or the lawyer does in his profession," he asserted.

This year was another full production year. If it hadn't been, Butz points out, the queer combination of drought, rains and frost that caused severe crop damage would have been "an out and out disaster."

But the benefits of Butz's free market ideology have not endeared him to consumers who have had to pay the high prices. Point that out to him and Butz will deliver a practical soliloquy about there is only a nickel's worth of wheat in a pound of bread and about how the real price increases occur after the goods leave the farm. The real villain is always somewhere else in our complicated food marketing system.

And it is the complexity of the system that often helps him sell his message to Congress. One veteran Hill staffer, who has been watching secretaries of Agriculture come and go for a generation, pointed out that when most senators and congressmen have become glassy-eyed over the intricate details of some legislative nuance in agriculture, Butz is still in there, pounding away with facts and figures.

"There is no question that this guy is a remarkable personal operator who comes time after time up to the Hill and has taken hearings away from senators and literally put himself in charge," he noted.

Until Butz came along, there was one item in the arcane world of agricultural politics on the Hill that secretaries of agriculture automatically stayed away from—peanuts.

Meddling with the subsidy program for peanuts instantly produces an awesome gallery of enemies, each of whom comes from a major peanut production area. First there is Rep. W. R. (Bob) Poage, D-Tex., chairman of the House Agriculture Committee.

Then there is Sen. Herman E. Talmadge, D-Ga., chairman of the Senate Agriculture Committee. And if that isn't enough, there's House Speaker Carl Albert of Oklahoma to deal with.

That has not stopped Butz from going after the peanut subsidy program, hammer and tongs, at every conceivable opportunity. Peanuts, he argues, should be no exception to the benefits of the free market.

"Besides," he adds, "I couldn't live with myself if I wasn't consistent."

Butz's consistency, plus his frequent road trips to cultivate farm groups and agribusinessmen, have given him added clout on the Hill, even a grudging friendship with many of his frequent adversaries.

According to an oft-told story, Butz once took one of his aides who had been meddling with the peanut program to see Talmadge.

Butz asked for the senator's support in giving the man's promotion.

"Aw, come on, Herman, I know you're opposed to me, but . . ." began Butz, before Talmadge cut him off.

"Listen, I voted against you at your confirmation, but I am not opposed to you," Talmadge is supposed to have interjected. "If I was opposed to you, you wouldn't be here."

It has not been an easy life, overhauling agriculture. People have repeatedly attacked him for his close ties to the big business interests in the raising and marketing of food.

Agribusiness, Butz admits, is part of his clientele. "Indeed it is, and I make no apology for it. That's been demagogued a great deal. They drag that thing across the trail just like last Tuesday when one of the senators (Sen. Richard C. Clark, D-Iowa.) asked me about hiring people from the grain trade.

"My answer was I wanted somebody down here who knows the grain trade and the best way to do that is to get somebody who's been in it. If you get somebody out of the Senate or out of the classroom to do that you get somebody who doesn't understand it."

Having an answer for almost everything takes long hours. Butz comes to his office on a normal day at around 8 a.m. and leaves at 6:30 p.m. with an envelope full of papers to attend to in the evening.

After supper and a brief swim in the pool at his apartment complex in Southwest Washington, he explains, "I sit down there at my desk and my wife sits there and looks at the back of my head until about bed time."

As a University of Purdue professor, he learned about agriculture. As a member of his college debating team, he found out how to handle himself on his feet. As a former assistant secretary of agriculture in the Eisenhower administration, he learned how to master the political ropes in Washington.

That is why, even when another Russian grain deal comes along, there are few men in Washington who manage to land a glove on Earl Butz.

Perhaps the only man who can do it with any consistency is Sen. Hubert Humphrey, D-Minn., who can rattle off farm statistics with any man living.

But Butz and Humphrey appreciate this. On Tuesday, during his appearance before the Senate subcommittee, Butz was suddenly reminded of a story about the country preacher who used to pop a cough drop in his mouth and timed his sermons by how long it lasted.

"Then one day he popped a button in his mouth by mistake." added Butz, looking in Humphrey's direction.

"And what Cabinet post did he get?" Humphrey shot back.

"MUST THE CIA IMITATE EVIL IN ORDER TO STOP IT?"

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. SEIBERLING. Mr. Speaker, we owe a debt of gratitude to our colleague, MICHAEL HARRINGTON, for bringing to the attention of the Congress the shocking facts about the CIA's activities which helped subvert the lawfully elected Government of Chile. Surely, the Congress can no longer avoid the issue as to whether to allow the CIA to continue to conduct in foreign countries subversive activities which it would be illegal for them to carry out in this country. I am not referring to the CIA's intelligence-gathering activities, but to the so-called covert operations more colloquially known as the CIA's "department of dirty tricks."

Unquestionably, the House of Representatives and the Senate need to tighten up their oversight of the CIA. Surely, the revelations of Watergate indicate the dangers of allowing any portion of the executive branch to operate without full accountability to the people's elected representatives.

But beyond this lies the question as to whether any amount of oversight can justify a continuation of a secret branch of Government whose activities violate our traditional respect of the rights of people to choose and operate their own form of government. Such activities are not only a threat to American institutions and America's reputation, but tend to run counter to our national objective of a stable world living under the rule of law.

The distinguished editor of Saturday Review-World, Norman Cousins, in an article published in the Cleveland Plain Dealer for Monday, October 14, poses this question in a most cogent way. He points out that strengthening the United Nations, rather than terror and subversion, gives us the best chance to serve the national interest and the human interest in building a peaceful world. Mr. Cousins' article follows these remarks:

Must the CIA Imitate Evil in Order To Stop It?

(By Norman Cousins)

NEW YORK.—Two men named Joseph played powerful roles in the birth and growth of the CIA. One was Joseph McCarthy, who gave the government jitters about anything that smacked of "softness" on communism. The other was Joseph Stalin, who regarded Communist parties throughout the world as indispensable instruments for advancing Soviet foreign policy.

The CIA from its inception has had two broad purposes. One has been development of information useful to our foreign policy planners, especially in matters of national security. The other has been direct-action programs, all the way from secretly underwriting cultural activities to undercover operations, some of which have not stopped short of seeking the overthrow of other governments.

In its information activities, the consensus among people who have seen CIA reports is that they are of a high order. On several occasions, when I have had government assignment and have had access to CIA analyses of background papers, I have found them extraordinarily valuable and authoritative.

I refer not to cloak-and-dagger material but rather to data and analyses concerned with economic, political and intellectual matters. I know of few academic or professional journals, in fact, that publish articles as scholarly and incisive as exist in the background materials produced by the CIA.

When we deal with the direct-action program of the CIA, however, we are dealing with an entirely separate matter. The questions raised by these activities are basic to our conception of the institutions of American society.

The first question has to do with the fact that the agency is separated from the constiutional process. Vast sums of money running into the billions have been spent by the CIA. The appropriations have not been publicly discussed or debated. This fact in itself would probably not pass constitutional scrutiny.

Haldeman and Ehrlichman, in the Watergate revelations, were shown to have turned to the CIA as a possible way of getting large sums of money quickly for their clandestine operations. They were acting on the fact that it is possible for the agency to use money without needing to account for it publicly. Only the integrity of CIA officials prevented the CIA from becoming drawn into the Watergate miasma.

The point is not that the CIA resisted top White House officials, but that top officials should have seen the CIA as a device for accomplishing illegal purposes. It should also be pointed out that top officials have the power to replace the CIA's leaders with men of their choosing.

The declared position of the United States historically, politically, ideologically—is complete respect for the right of other people to choose and operate their own form of government. This right was not respected in Laos or in the CIA's action in Chile, an intervention, paradoxically, that resulted in the strengthening of the Communist party, as the present action of the Christian Democratic party in making common cause with the Chilean Communists may indicate.

The ultimate question about such activities, of course, is whether they are subversive of American institutions. It is nonsense to say we have to imitate evil in order to deal with it. What happens instead is that we become part of the evil we think we are trying to fight.

If we want to create a stable world society in which all peoples can enjoy the right of self-determination, we are not without resources or options.

The most important and sensible thing we can do toward that goal is to help build a world rule of law. The strengthening of the United Nations, rather than terror and subversion, gives us our best chance to serve both the national interest and the human interest.

CONGRESSMAN CONYERS STATES OPINION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. CONYERS. Mr. Speaker, the House attempts at overriding two regrettable Presidential vetoes were, unfortunately, held while I was returning to Washington from my home district, and I was thus unable to vote "aye" on each.

The immediate ban on military aid to Turkey, a sensible means of condemning Turkey's invasion of Cyprus and violations of our aid agreements, was not sustained. However, the solvency of the railroad retirement system is now nearly assured thanks to this legislation being maintained over President Ford's objections.

Hopefully, we can avoid the too-familiar problems of the congressional will being continually opposed by a misguided administration.

CONDEMNING U.N. DECISION ALLOWING THE PALESTINE LIBERATION ORGANIZATION TO PARTICIPATE IN U.N. DEBATE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. BIAGGI. Mr. Speaker, I was shocked and horrified to learn of yesterday's decision by the United Nations General Assembly to invite the Palestine Liberation Organization to participate in the upcoming U.N. debate on the creation of a Palestine State.

This action is particularly shocking when one realizes that it was done in clear violation of the U.N.'s own charter which governs participation by countries in U.N. affairs. The expressed national covenant of the PLO, namely the destruction of the sovereign State of Israel is a virtual denunciation of the principles which have governed the U.N. for more than a quarter century.

The decision to debate the issue of an establishment of a Palestine State had already angered the Israeli Government. This action compounded their anger, and justifiably so. Throughout her 26-year history, the beleaguered, yet courageous, nation of Israel has been besieged by constant threats to her security and survival by such external enemies as the PLO. She has been forced to fight two major wars on her soil in the last 7 years, and as she enters her second generation, peace remains but an elusive dream for her people. Our memory does not have to stretch back too far to remember one of the PLO's most recent acts of terrorism directed against a group of Israeli innocent schoolchildren.

What was particularly distressing was the overwhelming vote in favor of extending this invitation to the PLO. Out of the 105 nations who voted affirmatively, almost one-half of these nations maintain diplomatic ties with Israel. There was some solace for Israel in the fact that the U.S. delegation chose not to go along with this travesty and voted against the resolution.

The decision to invite the PLO will most certainly damage if not permanently scar the reputation of the United Nations. At the least, she stands to lose the support of one of her most steadfast supporters, Israel. In a world organization dedicated to preserving peace in the world, it is totally contradictory and incomprehensible that the U.N. was willing to foresake her standards by allowing the PLO, an organization bent on forcing their will through violence, into her esteemed halls.

This is indeed a sad day in the history of the United Nations. It is a day which *all* men of peace and good will mourn. It is only my wish that the U.N. members who voted for this resolution would have had the opportunity to read the following material which outlines the terrorist acts of the PLO and other groups since 1970:

Earlier Acts of Terrorism

A list follows of major Arab terrorist activities since Feb. 10, 1970, when an attack on an El Al Israel Airlines plane at Munich killed one passenger and wounded eight. An Egyptian and two Jordanians were arrested but they were later set free.

July 22, 1970—Six Palestinians hijacked an Olympic Airways plane. None was brought to justice.

Sept. 6, 1970—Pan Americans, Trans World Airlines and Swissair planes were hijacked by Arabs. All were eventually blown up. None of the terrorists was arrested.

Sept. 6, 1970—A woman terrorist was wounded and her male companion killed in an attempt to hijack an El Al plane. The woman was later released.

July 28, 1971—An attempt to blow up an El Al plane with booby-trapped luggage given to a woman by a male Arab friend did not succeed.

Sept. 20, 1970—A similar attempt to blow up another El Al plane failed.

Nov. 29, 1971—Wasfi Tal, Premier of Jordan, was assassinated by four Palestinian guerrillas while entering his hotel in Cairo. Suspects were taken into custody but no prosecutions have been reported.

Feb. 22, 1972—A Lufthansa airliner was hijacked to Aden where the hijackers were paid $5-million for its release, The hijackers went free.

May 8, 1972—Terrorists hijacked a Belgian Sabena airliner to Lydda, where two men were killed by Israeli security guards. Two women were subsequently sentenced to life imprisonment.

May 30, 1972—Three Japanese gunmen belonging to the Popular Front for the Liberation of Palestine killed 26 persons at Lydda Airport.

August 16, 1972—A bobby-trapped tape-recorder exploded in the luggage compartment of an El Al plane, causing slight damage. Two Arabs were released by Italian authorities after a short detention.

Sept. 5, 1972—Members of an Arab guerrilla organization attacked the quarters of Israeli athletes in the Olympic Village in Munich. Eleven members of the Israeli Olympic Team were slain. Five of the terrorists were killed. Three others were later freed.

Oct. 29, 1972—A Lufthansa plane was hijacked to Zagreb, Yugoslavia, where it was released after Arab terrorists responsible for the attack on the Israeli athletes at Munich had been set free. The hijackers were never brought to justice.

March 2, 1973—Eight guerrillas invaded the Saudi Arabian Embassy in Khartoum, the Sudan, and killed three diplomats. The terrorists were taken into custody and are reportedly awaiting trial.

April 4, 1973—Two Arabs made an unsuccessful attempt to attack passengers of an El Al plane in Rome. They were arrested but later released and sent to Lebanon.

April 9, 1973—Arab terrorists attempted to attack an Israeli plane at Nicosia, Cyprus. Eight were arrested and sentenced to seven years' imprisonment. They were quietly released later.

April 27, 1973—An Italian was killed in the Rome office of El Al by a Palestinian Arab who was later placed under psychiatric observation.

July 24, 1973—A Japan Air Lines jumbo jet was hijacked and blown up in Tripoli, Libya. None of the five terrorists was brought to trial.

Aug. 4, 1973—Two Arab terrorists killed five persons and wounded 45 in a machine-gun attack on passengers in the Athens airport lounge. Last week the terrorists were freed by the Greek government and given safe passage to Libya.

Sept. 28, 1973—Three Jewish immigrants from the Soviet Union were taken hostage aboard a train for Vienna. Austrian authorities arrested two Palestinians who were then freed and flown to an Arab country.

Nov. 25, 1973— Three Arabs hijacked a KLM jumbo jet and flew it to Abu Dhabi. There is no record of an arrest by Abu Dhabi authorities.

April 11, 1974—Three Arab guerrillas killed a total of men, women and children in the northern Israeli border town of Qiryat Shemona before dying themselves in the explosion of their dynamite charges while under siege by Israeli security forces.

THE LAW OF THE SEA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. FRASER. Mr. Speaker, the U.N. Law of the Sea Conference is probably the biggest international conference ever held, with more than 140 nations participating. Its task is to reach agreement on practically all uses of the oceans, including the breadth of territorial sea, economic resource jurisdiction, fisheries, commercial and naval navigation, deep seabed mining, marine environment and scientific research. The large number of participants and the complexity and wide range of the issues make it extremely difficult to reach agreement on a treaty quickly. Three years of preparatory meetings were held before the Conference was convened. After an organizational session in New York in December 1973, a substantive negotiating meeting was held in Caracas this past summer and another session is planned for Geneva in March of 1975.

Every nation in the world has an interest in the creation of a workable system of orderly use of the oceans. The alternative to such a system is international chaos with conflicting national claims leading to seizure of fishing vessels and other sharp disputes among nations. It is therefore, in the interest of our country, as well as others, to exercise restraint over temptations to make unilateral claims before the ocean treaty is concluded. This is especially true here in the U.S. Congress where passage of the 200-mile fishing bill and the deep seabed mining bill could seriously endanger the chances for concluding the kind of treaty that would protect our country's wide-ranging maritime interests.

On October 15, the Washington Post published an editorial which makes a reasonable and convincing case for congressional restraint on law of the sea. I insert it to be printed in the Record:

[From the Washington Post, Oct. 15, 1974]

Congress and the Law of the Sea

The years-long international effort to bring the order of law to the world's oceans could tip now into failure or success according to the judgment shown by Congress. The reason is simple. In the first session of the United Nations' Law of the Sea Conference in Venezuela last summer, a broad consensus was formed but not formalized on a number of key issues. The task of final assembly into a treaty package was put off until a second session, due to take place in Geneva next spring. Meanwhile, however, certain fishing and mining interests in the United States, impatient at the pace of negotiations and anxious about their outcome, have brought their considerable weight to bear on the Congress. They wish the Congress to act unilaterally and solely in the American interest (as they see it), on matters which the administration has promised to settle in negotiation with other nations. If Congress does so act, there is little doubt that other nations will also act on their own. This will destroy the Law of the Sea Conference and it will end, for all practical purposes forever, the possibility of carrying the rule of law to sea. A greater guarantee of endless international strife is hard to imagine.

The fishing interests have grouped behind a bill sponsored by Sen. Warren Magnuson (D-Wash.). It would extend the U.S. fishing jurisdiction out to 200 miles in order to prevent more efficient foreign fishing fleets, especially those of Russia and Japan, from further depleting stocks of haddock and other species off American shores. The aroused American fishermen unquestionably have a legitimate grievance. The issue is how it should be treated. The Commerce Committee, of which Magnuson is chairman, would enact a 200-mile rule promptly. The Foreign Relations Committee, more sensitive to the foreign-policy damage which unilateral action would do, voted against the bill 9 to 8. It is now in the Armed Services Committee, where a more sympathetic hearing can be expected for the administration argument that a unilateral American move on the fishing front could trigger moves by others to, say, restrict American naval passage through various straits and coastal waters. As a major sea power with a worldwide commercial and strategic reach, the United States has a larger interest than any other country in avoiding steps off its own coast that will provoke other states to impose limits off theirs.

The play of commercial, political and strategic factors is no less intense over the issue of mining the deep seabed in international waters. It has become a firm expectation on the part of the world community, especially of poor countries and of countries with little or no access to the sea, that the mineral resources of the deep seabed are part of a "common heritage" and should not be exploited only by the few states with the means to go after them. This expectation has grown even as embargoes and threatened scarcities have made the developed states ever more determined to go at seabed resources themselves. The issue of what kind of international "regime" should be set up to do the job remains a disputed matter at the Law of the Sea talks.

Meanwhile, American mining interests have launched a bill, sponsored by Sen. Lee Metcalf (D-Mont.) which would set up the United States government alone to regulate deep seabed mining until an acceptable international authority comes along. The Interior Committee, which is understandably responsive to mining interests, has reported out the bill favorably. The Foreign Relations Committee, which has another perspective, is considering the bill now. The spectacle of the Congress passing a law which arrogates to the United States alone authority to regulate the mining of the "common heritage" would be incredibly inflammatory and would without doubt produce anarchy, if not open conflict, on the high seas. The legitimate American interest in deep seabed mining must be carried forward in a framework of international agreement.

In the few years in which nations have been considering a treaty of the seas, a widely shared craving for resources that are under national control has produced all but final agreement on the concept of a 200-mile economic zone. Such a zone would give a coastal nation economic jurisdiction out to 200 miles. Since it would remove from the "common heritage" a large part of the resources that were originally supposed to fall within it, and since it conceivably could tempt nations to vie for isolated islands in order to win the 200-mile zone around them, the new concept has been widely criticized, especially by the landlocked and the poor. In any event, the hardening of the zone concept makes it all the more important to ensure that the resources of the deep seabed "common heritage" are fairly exploited and that all of the other issues of the seas—fisheries management, environmental controls, navigation, research and the like—be worked out on the basis of agreed international rules. The role of congressional restraint in making this possible is absolutely critical.

MADRONA MARSH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ANDERSON of California. Mr. Speaker, all of us can fondly remember the home town of our youth and the places we used to frequent for adventure, for play, and for enjoyment. And our values today reflect those experiences which were largely comprised of entertaining ourselves outdoors, inventing games, exploring, and especially in southern California, enjoying the fresh air and sunshine.

But, today, in the name of "progress" much of the landscape has been transformed from meadows and ponds into concrete playgrounds, highrise buildings, or factories. And the youth of today, instead of enjoying the natural setting, is forced to play in the shadow of an apartment building, dodging cars while exploring a parking lot.

To protect and preserve a segment of the quickly vanishing environment, I have introduced H.R. 14463, a bill to establish a national wildlife refuge in Madrona Marsh—a marsh supporting numerous species of wildlife, located only a stone's throw from the highly commercialized area of the Del Amo shopping and financial center in Torrance, Calif.

Mr. Speaker, this proposal and others like it are necessary to preserve the natural setting in our urban areas so that we, our children, and our children's children, can know and understand the history of the land, the importance of nature, and the wildlife which is rapidly disappearing.

These thoughts are eloquently and emotionally transcribed by Michael Thomas, a resident who grew up in the South Bay area, and who is now raising a family in the Torrance area. As his words are far more expressive than my own, I place in the RECORD a letter from Mr. Thomas detailing his concern for Madrona Marsh and the need to preserve this small natural setting:

JULY 15, 1974.

To: Torrance City Council, 3031 Torrance Boulevard, Torrance, Calif.

Attention: Mayor Ken Miller; Councilmen Jim Armstrong, George Brewster, Katy Geissert, George Surber, Bill Uerkwitz, Don Wilson.

Subject: Madronna Marsh.

GENTLEMEN: Quite a few years ago when I returned home after serving in the Asian Theater, I went down to the local beach in Redondo, where I had done so much of my youthful frolicking, and with genuine alarm and surprise noticed a large and hideous building "rising" out of the water. It's called the Portofino Inn. I was really outraged at this intruder that had wantonly consumed so much of "my" beach.

At a quickened pace I marched over to the pier and did several "takes" at the facelifting the wharf was getting. I stood with hands on hip, getting more upset with each passing second. And then I suddenly laughed at myself because for a brief moment the thought raced through my mind, "I didn't give anyone permission to change things around like this."

I shook my head and returned slowly to my car. Thinking, looking back, I concluded that I was more upset that someone had "defaced" a fond memory than made changes without my approval.

I'm not one who is usually given to public protest, for I've always let the ballot box do my talking for me. I've only recently realized that maybe I've taken my heritage a little too much for granted. You see, I come from a very old California family. I'm seventh generation Californian and my two sons and daughter are eighth. My family rode with General Fremont, worked the Mother Lode, and have fought in every war that Californians were ever called upon for participation. Today, we're in education, military, law enforcement and social welfare. I'm sort of the black sheep of the family. I've built a very successful business career. And for the last ten years while doing this, I've turned my back on my own community.

A couple of years ago, I bought a home in Marble Estates, just a few blocks from Madronna Marsh. I settled in Torrance because as long as I can remember Torrance to me was a real community. I even met the girl I married when she was a nurse at the old Torrance Memorial Hospital. I thought Torrance would be a great place to raise my children. And I could think that without qualification because as a kid I enjoyed many days in my old stomping grounds, Madronna Marsh. Madronna and the seashore were the best places for a kid to be a kid. And that's exactly what I wanted for my own.

I shared my experience with you about the changing of "my" beach earlier in this missive because I'm beginning to feel the same way about Madronna. But this time I'm not away fighting some myopic minded politician's war. I'm here this time. And I just couldn't think very highly of myself if I sat back and watched you people cover up Madronna Marsh with cement! I just can't imagine why Torrance needs to destroy Madronna.

Have you taken a good look around you, lately? Our town is no longer a town. It's on the verge of becoming a clumsy metropolis. We have more shopping centers than we know what to do with; more restaurants with badly prepared food and lousy service; more theaters that require the showing of "X" and "R" rated features to survive; more traffic congestion as a result of the foregoing. And in more abundance, short sighted politicians that think progress means a fiscal government and endless construction.

Don't look now but Torrance is turning into another Pasadena. How long before we have our own raids on massage parlors?

Haven't you people lost sight of something? Progress doesn't mean building and changing and razing and building and so forth and so forth. How well have you progressed in preserving the community? Haven't you noticed that when people in Torrance want to relax and enjoy recreational activities they *leave* Torrance. In short, Torrance is becoming a place where people do not *live*. They reside, eat, sleep, pay taxes and get the hell out when they have the first chance.

The disposition of Madronna Marsh is the first opportunity where the people of Torrance can restore that dwindling element of community pride. The Marsh can be improved upon in many ways to the extent of making it a valuable wilderness area as has been proposed by so many groups. But in addition, the surrounding area should be dedicated to the people of Torrance as a really worthwhile recreational area. Tennis *courts*, indoor pools, horseback riding and even an arcade where folks of common attitude can assemble to promote the development of common interests, hobbies, and skills.

Remember when we were all in public schools and were given opportunities to develop in school facilities those interests or hobbies not normally provided for under the regular school curriculum? Remember the Chess Club, the Thespians, the Auto Clubs? And what about hobbies! A place for hobbiests to meet and develop new friendships and pursue the activities that tax their interests and curiousity instead of their pocket books. How many people have old stamp and coin collections gathering dust somewhere for want of a place to share with people of common interests? How about those shell collections and model collections covered with cobwebs out in the garage?

Well, I think you get the picture. Torrance is in need of leadership that really cares about the needs of its people. Torrance must be made to be a place where people can LIVE, again. And improvements upon and preservation of Madronna Marsh is the best place to start.

I think it is also wise to note that the last election did not focus upon Madronna, nor very few real needs of the people of Torrance. You can bet your boots that the next election will!

Sincerely,

MICHAEL D. THOMAS.

TORRANCE, CALIF.

PATENTS RESOLUTION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. LAGOMARSINO. Mr. Speaker, I would like to call to the attention of my colleagues the following patents resolution which was adopted on October 8 by the board of directors of Inventors' Workshop International. The resolution was drafted by one of my constituents, Mr. Floyd B. Quigg, of Ventura, Calif., whose long-time interest in inventors and our patent system is well known to me:

"Whereas, the United States Constitution empowered the Congress to set up and maintain the Armed Services with all necessary facilities appurtenant to their duties to be paid for by all the taxpayers, in order to protect this Nation from invasion; and

"Whereas, the Constitution also empowered the Congress to set up and maintain the Patent Office and Copyright Office with all facilities necessary and appurtenant to their respective duties to be paid for by all the taxpayers in the same manner, in order to protect this Nation from stagnation; now **be it**

"*Resolved*, by the membership of Inventors Workshop International, that the Congress be urged and petitioned to apply this principle forthwith, in all legislation now **and** hereafter enacted concerning the Patent Office and the Copyright Office, in behalf of the entire Nation."

MARRIAGE AND DIVORCE IN THE SOVIET UNION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

LOVE, MARRIAGE . . . DIVORCE

(By Robert G. Kaiser)

MOSCOW.—Volodya and Luba, both 19, are children of working class families in Moscow. Volodya's family is a little more prosperous than most, so it took responsibility for their wedding.

The expenses were considerable and in the end there had to be some economics. The new suit they wanted to buy for the groom was skipped. (It would have cost about 100 rubles, or nearly two-thirds of his mother's monthly salary.) They thought about having a wedding party in a Moscow cafe, but at 10 rubles per guest this idea too had to be dropped.

They decided to hold the party in the two rooms of a communal apartment that Volodya, his parents and sister had shared for 15 years.

There was so much work on the day of the wedding, preparing food for the party and getting both families ready, that Volodya's mother skipped the wedding ceremony.

While she stayed in the kitchen, preparing salads and plates of cold hors d'oeuvres, the young people, their friends and a few representatives of the older generation set off for the Palace of Weddings on Griboyedova Street.

Volodya and Luba had gone there three months earlier to apply to marry. With other nervous, giggling young couples, they sat at one of the small wooden tables and filled out the form.

By law they had to wait a month before their marriage could be registered. But they wanted to come to the Palace of Weddings on a Saturday. Although nearly 50 couples can be married there every day, there was a three-month wait for a Saturday wedding. (There is no wait at most neighborhood registry offices, where marriages are accomplished by shuffling and signing papers, without ceremony.

Finally, their turn had come. They arrived in taxis which Volodya's father had reserved for the morning through a friend of his, a taxi driver. Two of the cars were decorated with streamers and balloons. The lead car had a baby doll attached to the front grill—a good luck symbol that would have cost more than 10 rubles, had Volodya's mother not found that a friend of hers still had a doll from her daughter's wedding. They borrowed it. A teddybear was similarly fastened on the second car.

The wedding palace was bustling. The young couple left their coats in the cloakroom and found a seat in the corner of a waiting room. Luba was nervous about her long white gown, custom-made by a state tailor shop for 90 rubles. They waited with four other young couples, each surrounded by a group of friends and relations.

Every 10 minutes or so another party was called by name. A woman lined them up behind the bride and groom in the hallway. Then she threw open big double doors and invited them into a brightly lit room with high ceilings, elaborate mouldings, a red carpet and a large statue of V. I. Lenin. (The place was a wealthy merchant's house before the Bolshevik Revolution.)

Two women conducted the ceremony, which took only a few minutes. The young people signed a document and were told their marriage was now officially registered.

One of the officials handed them their internal passports, now amended to show their new marital status. Then they were declared man and wife.

Their friends and relatives gathered around; many gave Luba a flower. They went into an anteroom for a glass of champagne. Volodya and Luba had decided against spending 21 rubles to have a movie taken of their wedding, but a friend took snapshots. In keeping with the atmosphere of the Palace of Weddings, the party's mood was restrained. Everyone looked a little self-conscious. Strangers kept staring at them.

After several minutes another woman official of the palace asked them to move along, their time was up.

From the wedding palace the group drove to Red Square, where Volodya and Luba laid a bouquet of flowers at Lenin's mausoleum. (This is an officially encouraged custom that is now popular, especially among working-class young people.) Then home for the beginning of two days of celebrations.

The crowd included school friends, relatives and their parents closest friends. For many years Volodya's family had been living in their communal flat with four other families—sharing kitchen and bath with them, seeing them every day. But after some discussion, they decided that they really didn't want to invite any of the neighbors to the party.

Volodya's sister agreed to spend that night with their aunt, so the bride and groom had a room to themselves for their wedding night. Later they planned to move in with the same aunt. She had a two-room flat, but lived alone, so there was room for them.

Married life. Love, struggles, surprises, and often a sad ending. Almost one in three Soviet marriages now ends in divorce—nearly one in two in Moscow and Leningrad. The successes and failures of Soviet marriages are often attributable to the most universal of reasons, but this society also gives marriage a special quality.

Young people like Volodya and Luba (whose story is really a composite of several Moscow weddings begin their married lives in difficult circumstances. They face immediate practical problems—finding a place to live is the most important—as well as a new way of life for which they are often ill-prepared.

A young married couple cannot expect to have an apartment of their own for years. They may get a room in a relative's flat, or if they can afford it, try to rent a room on the "free" market. The rent on a two-room apartment is about 15 rubles a month, but a room in Moscow—rented from someone with "extra" space—costs 30 to 50 rubles a month. Most likely, they will spend the first years of their marriage living with his parents or hers.

Even crowded together this way, the young couple will be entitled to privacy. Some young people acknowledge that this is a strong stimulus to marriage. It is difficult to find a place to make love in this country, and marriage at least solves that problem. (Not that it is otherwise insurmountable; an unpublished poll of 22-year-old Leningrad University students found that less than 5 per cent of them were virgins.)

Early marriages are now common, but Soviet social scientists don't approve of them. Alevtina Suvorova, an associate of the state's Institute of the General Problems of Upbringing, revealed in a recent article that in more than half the marriages in Moscow, the bride and groom are 18 to 20 years old.

"Accelerated sexual development," she wrote, "does not run parallel with social development. Young people do not have sufficient psychological maturity. As a result there are early marriages; ill-considered alliances doomed in many cases to a short existence."

Surveys of betrothed couples and newlyweds reveal that these young people are confident in advance of their ability to raise children, Suvorova wrote. But, "when a baby is born, optimism and faith in one's abilities to teach and raise it disappear. In the striking majority of cases, parents turn out to be absolutely helpless . . ."

In Soviet society, marriage is also challenged by the extraordinary strains of everyday existence. A new family that sets up housekeeping independently is thrown into "a whole new way of life," one Muscovite who survived it recently recalled. "Our young people are spoiled—they don't know self-reliance."

Ms. Suvorova wrote: "Our children . . . are not properly prepared for marriage." She was referring to the most practical matters. For instance, young couples on the eve of marriage "haven't yet encountered questions of the family budget, housekeeping or a husband's role in domestic duties."

Subsequent surveys of the same couples soon after their weddings showed that: "Husbands who used to worry about their girl friend's cooking abilities soon understand that those abilities may perish in oblivion if they don't learn how to balance income and expenses. But alas, it turns out that only 17 per cent of newlyweds know how to plan a family budget."

In the Soviet Union, keeping a household afloat and organized is no easy matter. Budgets are tight, especially in young families. Official statistics reveal that in a typical family, the husband's wages represent just more than half the family income. Thus, economic necessity compels many wives to work.

Shopping is time consuming and difficult. Few people have cars and 55 per cent of all families do not have refrigerators so it is normal to do some shopping every day. Shops do not always have what one needs in stock, so a woman must often try several stores (It usually is the woman, sociologists confirm.) It may take several hours to track down a good piece of meat for a special occasion. Fresh fruits and vegetables are most easily found in the markets where farmers sell the produce of their legal private plots, but a trip to the market is an expedition for most people.

Moscow shops are comparatively well-supplied, but the same isn't true in provincial towns and cities. In many places the stores are out of bread by late afternoon. In some towns, especially in winter, fresh milk rarely appears, and causes a small sensation when it does. In Novosibirsk, a city of over a million inhabitants in western Siberia, the state stores had no fresh meat all winter. It was available only in the farmer's markets—for high prices.

All this may sound pretty awful to a Westerner, but Russians are used to it. Shopping is simply part of their day, every day. Many men and most women carry a string bag with them at all times, in case they see something good on their daily rounds.

There are some things that a young couple will simply do without. Rugs, for instance, are extremely difficult to find. This winter a crowd of at least 10,000 people stood in line, some for 12 to 18 hours, to sign up to buy a rug during the next year. This happened in southwest Moscow, and Moscow has priority for such consumer products. Bare wooden floors are common in Russian apartments.

Housework is difficult. Labor saving devices are not yet common, and are often poorly made. Slightly more than half of all Soviet families have a small washing machine, but it is not very efficient. Thirteen households in 100 have a vacuum cleaner. There is no such thing as a dryer or a dishwasher in the Soviet Union. Nor is there a good dishwashing detergent. Many women do the family laundry by hand every day, in the kitchen sink or bathtub.

Westerners spoiled by the abundance of their wealth may find it hard to believe that Russians can live this way, but they do, millions of them happily.

Russians don't compare their lives to Americans' or West Germans', but to the Russian past. By that standard the vast majority seems to believe they are doing very well. Before the 1950s almost no one in Moscow outside the ruling elite could think of living in his own apartment; now two-thirds of the population do. Consumer goods and food products are almost all more abundant than 10 or 15 years ago. Life is improving—by fits and starts, but inexorably.

The burdens of daily life fall most heavily on women in Soviet society. They fulfill the historic woman's role as cook, cleaner and shopper, they hold full-time jobs, and they serve on the front line of the struggle with Soviet shortages and merchandising. Women initiate the majority of divorce proceedings in this country—two-thirds of those in the city of Leningrad, for example.

Marriages collapse in the Soviet Union almost as regularly as in the divorce happy United States. Thirty per cent of all divorces involve "young" couples—presumably those under 30. Most of them already have children.

The principal cause of Soviet divorces is not one of the sociological factors mentioned earlier in this article, but drunkenness. A. M. Chechot, a sociologist, polled 1,000 men and women (500 couples) who were divorcing in Leningrad. Of the 500 women polled, 210 said they left their husband because they were drunks. A third of the 500 women said their men had beaten them.

In the same sample, 104 of the women and 140 of the men said their spouses had been unfaithful.

Chechot also found that the strains of everyday life contributed substantially to divorce. Twenty-two per cent of his sample blamed arguments with parents, (presumably largely in-laws) for their divorces, a hint of the consequences when generations are forced to live together in close quarters.

The shortage of living space was cited as a ground for divorce by 11.5 per cent of those questioned.

Under Soviet law every citizen has a right to divorce. When a marriage turns sour, the partners can dissolve it almost as easily as they originally made it.

When there are no children, the couple can make a joint application for divorce to their neighborhood records office, wait three months, pay 50 rubles each and receive a piece of paper solemnizing the dissolution of their union. It is simply a matter of paperwork.

If there are children the procedure is slightly more complicated. The parents must appear before a counselor who makes an attempt, usually a pro forma attempt, to persuade them not to divorce. If they persist, the paperwork goes forward.

If one of the spouses is reluctant to divorce, or if there is a dispute over custody or the distribuiton of joint property, a court fight is possible. They are rare. A reluctant partner can only postpone, not prevent the divorce. Except in extraordinary circumstances, mothers get custody of the children.

"I went into the record office on Tuesday, it was noon. I looked at the clock," one recent divorcee recounted.

"I had a letter from Yuri [her ex-husband] agreeing to everything. I gave the man the papers. He said, 'Do you have any questions for me?' I shrugged—no. He said, 'You can pick up your document in the clerk's office.' That's all there was to it. I walked out a free woman. It was four minutes past twelve, I looked at the clock."

ISRAEL MUST NOT GIVE UP LAND WITHOUT AGREEMENTS

HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. RONCALLO of New York. Mr. Speaker, although I am pleased and grateful that Secretary of State Kissinger has again traveled to the Middle East in pursuit of a lasting and just peace, I am deeply concerned by returning reports of U.S. pressure on Israel for unilateral withdrawal and concessions without concrete assurances that Israel's integrity will be maintained.

My colleagues know well that Israel, now as in the past, is prepared to welcome peace and longs for this opportunity. If possible, she is openly willing to settle the entire matter with one bold step. Yet, if a just and lasting settlement can only be pursued through a series of gradual withdrawal stages, this too is openly welcome. However, I gravely fear that in our efforts to halt hostilities and appease the Arab States we will disregard the horrible history of broken Arab promises and aggression. It must be clear to all of us that only real and binding agreement can protect the State of Israel from threatened annihilation. Past U.N. intervention and buffer zones have crumpled at the will and convenience of Arab aggression, with little world protest.

The world nations care little for the survival of the democratic State of Israel. In the face of worldwide silence during the unprovoked Arab attack to achieve Israel's destruction 1 year ago, this lesson, at a price of 2,600 Israeli dead, must surely be evident. Indeed, the U.N. has continuously illustrated world hypocrisy with its onesided condemnation of Israel while refusing to make mention of Arab terrorism. In this light, we should not really be surprised by the total disregard of morality and decency illustrated by Monday's—October 14—U.N. agreement to grant a voice to the Palestine Liberation Organization. This group, headed by Yasir Arafat represents not the Palestinian's but only the 10,000 or so murderers trained and paid for the slaughter of innocent human beings. Mr. Arafat continues to serve as head of the FATA Black September murder group linked to the killings before all the world of the Israeli athletes at the Olympics in Munich in 1972 and other terrorist actions. As Yosef Tokoah, Israeli's representative to the U.N. noted, can there be a stigma more degrading for the United Nations than to become a forum open to bearers of barbarism.

True negotiations must provide for concessions on both sides. If we are to advocate further negotiations in the Middle East, I implore my colleagues not to force or permit Israel to give up any land on a unilateral basis. Concessions on both sides are imperative, specifically agreements of the most binding nature that the integrity and survival of the people and State of Israel are assured. Then and only then can we hope for a just and lasting peace in the Middle East.

CAYCE-WEST COLUMBIA WORLD CHAMPION

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. SPENCE. Mr. Speaker, I am proud to say that my home county of Lexington *is well known* for producing fine athletes and good sportsmen. This is partly because young people in Lexington County who express interest in athletics are given all necessary support and encouragement from their parents, and from the community as a whole. Teams of all types from my area of South Carolina have distinguished themselves throughout the years on the national level, but today I want to pay special tribute to our latest athletic nonpareils:

In late August, the Cayce-West Columbia Colt League All Stars impressed all comers by winning four straight games against the best teams in the world to sweep the Colt League World Series in Lafayette, Ind. Among the teams defeated by Cayce-West Columbia during the series were the Gil Hodges All Stars, Venezuela, Lafayette, and Puerto Rico. In winning the series so impressively, the Lexington County boys also swept all available honors from the competition, including the batting trophy which goes annually to the highest batting average in the tournament.

It is important to note that, while most teams depended upon a few team "stars" to offer leadership and win their games, the Cayce-West Columbia All Stars played all 15 players on the team, and everyone of them made substantial contributions to the series victory.

As proud as I am of their victory, Mr. Speaker, I was even more gratified by these excerpts from the press coverage:

> The Cayce-West Columbia All Star team which won the world championship last week in Lafayette, Indiana, were the class of the eight-team field, off the field as well as on.
>
> Representatives of the National Office of Boys Baseball, Inc. said the obvious in post-tourney ceremonies, praising the fifteen players, coaches, and fans for their sportsmanship and courtesy throughout their ten day stay in the Northland.
>
> Their hustling style of play and never-say-die attitude enabled them to leave with many, many more fans than when they began.

These qualities do not arise by accident. They are due in part of the outstanding leadership exhibited by their coach, Billy Whitten, and by my good friend W. B. McDowell, who has managed this team for many years. Coach McDowell's teams have always been successful, and can usually be found at championship levels. But his greatest achievement is the moral caliber of his teams.

Mr. Speaker, this is what is really important to the families and friends of these boys in Lexington County—and this is why the community is so proud of its team. I want to take this occasion to thank the members of the Cayce-West Columbia Colt League All-Stars for the recognition they have brought to South Carolina. Their names are as follows:

CAYCE-WEST COLUMBIA WORLD CHAMPIONS TEAM

Johnny Epps, 411 9th Street, West Columbia, S.C. 29169.

Woody Newton, 770 Rambling Road, West Cola., S.C. 29169.

Billy Hayes, 1733 Terrace View Drive, West Cola., S.C. 29169.

Mike Jeffcoat, 808 Pinedale Road, West Cola., S.C. 29169.

Ernest Watford, 1718 Wadeworth, Cayce, S.C. 29033.

Mr. Eric Warren, 2511 Rainbow Drive, West Cola., S.C. 29169.

Mr. Mike Medders, 1101 "O" Avenue, Cayce, S.C. 29033.

Roger Rallent, 3131 Trail Stream Road, West Cola., S.C. 29169.

Jeff Twitty, 1731 "C" Avenue, West Cola., S.C. 26169.

William Olawsky, 3011 Leapheart Road, West Cola., S.C. 29169.

John Nabors, 2233 Baxter Street, Cayce, S.C. 29033.

Jeff Hipp, 1408 Cardinal Drive, West Cola., S.C. 29169.

Phil Carter, 208 Pine Lane, Cayce, S.C. 29033.

Bobby Burton, 1354 Wilma Drive, West Cola., S.C. 29169.

Ken Cain, 1544 Sewanne Drive, West Cola., S.C. 29169.

Mr. W. B. McDowell—Manager, 616 Railroad Avenue, Cayce, S.C. 29033.

Billy Whitten—Coach, 3017 Hopedale Drive, West Cola., S.C. 29169.

Lester Newton—Business Manager, 770 Rambling Road, West Cola., S.C. 29169.

Mr. Speaker, these boys and their families are not only constituents—they are also personal friends of mine. I am grateful for this opportunity to brag on them.

SAM SOLINS

HON. KEN HECHLER

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. HECHLER of West Virginia. Mr. Speaker, West Virginia lost a great citizen Sunday in the passing of Sam Solins of Welch, W. Va. Sam Solins was a great patriot, a friend of the high and mighty and a helper of everyone. Perhaps his closest friendship was with President Harry Truman, whom he persuaded to come to Welch in 1941 when he was a U.S. Senator, and again in 1957 after he left the White House. Sam Solins regularly corresponded with President Truman, and always hosted his visits to West Virginia.

There follows an account of Sam Solins' life and influence, along with an editorial from the Welch Daily News of October 14, 1974:

LOCAL ATTORNEY DIES SUNDAY

> Samuel Solins, a distinguished Welch attorney and civic leader, died Sunday night in Stevens Clinic Hospital following a long illness. He was 84 years old.
>
> A veteran of World War I, Solins was one of the founders of the American Legion. He was one of twelve delegates from West Virginia who attended the St. Louis Caucas in 1919 which originally organized the American Legion.
>
> Solins was a charter member of the McDowell County Post No. 8 in Welch and had served as its Commander. He was also a First Vice-Department Commander of West Virginia.
>
> As chairman of the Post 8 Speakers Bureau, he succeeded in obtaining many nationally prominent personalities for the annual Veteran's Day observance in Welch each year.
>
> Mr. Solins secured former President Truman, then a senator, as the speaker for the 1941 celebration which led to their friendship. Due to Mr. Solins' efforts the former President accepted a second invitation to return to Welch in 1957.
>
> Born in Baltimore, Md., on July 26, 1890, Samuel Solins was a son of Charles and Jennie Solins. He and his family moved to Kimball when he was a young child. He attended McDowell County Public schools and was a member of the Temple Emanuel in Welch.
>
> Solins graduated from the College of Law at West Virginia University in 1911. He was said to have worked in a shoe store at Morgantown after school and on Saturdays to put himself through school.
>
> Upon his graduation from law school, Solins was first associated with Judge E. C. Marshall. He later established his own practice, which has continued to the present date. He served as Assistant Prosecuting Attorney in McDowell County for one term and was the first Divorce Commissioner appointed in the county.
>
> Mr. Solins was a member of the American Bar Association, West Virginia Bar, State Bar Association, McDowell County Bar and the Virginia State Bar Association.
>
> Solins entered the service in August, 1917, and served at Camp Greenleaf, Ga. He attended Officers' Candidate School at Fort Benjamin Harrison and had obtained the rank of captain when he was discharged.
>
> He was a member of the Officers Reserve Corps and served in the West Virginia National Guard for more than 30 years. He also served in the State Guard during World War II.
>
> Samuel Solins was also active in the Welch Rotary Club for many years. He served as the President of the Welch Rotary Club and the State Rotary Foundation Fellowship committee. He was a member of the Welch Rotary Community Service Committee at one time.
>
> Mr. Solins served as president of the McDowell Public Library for more than 20 years. He was president of the McDowell County Library Association during which time he secured financial support for the then failing library through appropriations and private contributions.
>
> Samuel Solins served on the District Executive Board of Boy Scouts and the Appalachian Council of Boy Scouts of America. He was a member of the Masonic Lodge No. 12, A.F. & A.M., Beni Kedem Shrine, and served as the Chef de Gare of the 40 & 8.
>
> Solins was also instrumental in promoting the first World War Memorial Building in the United States, which still stands in Welch. He was a member of the Executive Board of the Welch Swimming Pool, when it was being constructed, and helped organize a Welch Tennis Club. He was known to have played each day during the 1930s.
>
> Survivors include his widow Bertha Ballard (Jimmy) Solins; a sister, Mrs. Rebecca Solins Robinson of Honolulu, Hawaii; four nieces. Mrs. Fannye Hinchee and Mrs. Helen Bloom, both of Greensboro, N.C., Mrs. Charlotte Samet of Hickory, N.C., Mrs. Estelle Golding of Rochester, N.Y.; and two nephews, Harold Robinson and U.S. Navy Capt. Jack Warren of San Diego, Calif.
>
> The family requests that contributions be made to the Temple Emanuel or the McDowell County Public Library.
>
> Funeral arrangements are not expected to be completed until later this week at the Douglas Mortuary in Welch.

SAM SOLINS—A GENTLE MAN

> Sam Solins is dead. Sometime Sunday night his physical body, worn by 84 years of life, failed him.

Yet, those who knew and loved Sam Solins know that his spirit was indomitable.

It is as if one of the largest and staunchest trees in the forest has been felled, leaving a void that will never be filled.

Sam was everything that this country used to consider important. His life was dominated by patriotism, fair play and a common, decent life that represented old and cherished values.

His two-mile walks before lunch became something of a local legend. He could, at times, exhibit a rapier wit but the cutting edge was too blunted by his own softness and basic kindness.

Without question, he was the most persistent mortal who ever lived. When Sam Solins set his mind to do something or get something done, there was no logical way you could refuse him.

Through his direct efforts, this community has been graced with national dignitaries of every level—from President on down. Or we would rather say, Presidents on down.

Sam Solins was kind and generous. He was gentleman and gentle man. This community will miss him dearly.

1973 FOOD SUPPLEMENT REGULATIONS

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. KYROS. Mr. Speaker, the depth of concern nationwide over the FDA's controversial 1973 food supplement regulations is matched only by the extent of confusion and misunderstanding that still surrounds this emotional, but very important issue.

As legislators, I believe it is our responsibility to bring some rationality back into the discussion, even if that means standing up to the high-powered organized-mail effort by the health foods industry which has sought—and has succeeded to a remarkable extent—to simplify, distort, and emotionalize this serious and complex issue.

Certainly, there is need for legislation in this area. A majority of both Houses of Congress, including myself, have sponsored one bill or another based on the so-called Hosmer bill, H.R. 643, or the so-called Proxmire bill, S. 2801. But the simple fact of the matter is that the industry-written and supported Hosmer-Proxmire bill is a manufacturers' bill. The bill reported by the Public Health and Environment Subcommittee, H.R. 16317, is the true consumers' bill—designed not only to guarantee his freedom of choice—which it emphatically does—but to see that he is adequately protected.

The defects of the Hosmer-Proxmire bill and its dangerous, if unintentional, "side effects" are set forth in the "Dear Colleague" letter I drafted last week. This letter also states, in clear and understandable terms, why the subcommittee's bill is a more responsible, consumer-oriented measure.

In view of the fact that congressional offices continue to be literally bombarded with industry-initiated form letters and post cards in support of the poorly drafted Proxmire bill, I ask my colleagues to consider the arguments set forth in my letter. After four exhaustive markup sessions in which we considered all aspects of this matter, I can assure you that this is a complex and instricate legislative issue. We must not allow it to be distorted or overly simplified, no matter how easy or politically popular that might be. To do so would hardly be in the best interests of our constituents.

The letter follows:

WASHINGTON, D.C., *October 10, 1974.*

DEAR COLLEAGUE: Controversy surrounding the Food and Drug Administration's right to limit the combinations and potencies of safe food supplements has raged for more than a decade now. We can bring this controversy to an end this session with the passage of responsible legislation which would clearly set forth FDA's rightful jurisdiction—or lack thereof—in this area. In doing so, however, I think we want to be very sure that we are not limiting FDA's legitimate and productive efforts to monitor other areas of the food and drug industries.

Unfortunately, S. 2801 (the Proxmire bill, which is patterned after the Hosmer bills, H.R. 643 and H.R. 10093) would do just that. Since you are no doubt still receiving hundreds of form letters in its behalf, I think several points should be brought to your attention. In the first place, I do not want to imply that this is not a well-intentioned piece of legislation. A majority of Senators and more than 200 Members of the House—including myself—have sponsored this or similar bills. However, I firmly believe that in doing so, we were indicating our concern over this issue and our desire to see some sort of legislative remedy enacted. We were not, I think, indicating our unwavering support for any specific language. I believe just as strongly that, however well-intentioned, the Proxmire-Hosmer approach contains several defects which would make it unacceptable to most Members of Congress:

1. The Proxmire-Hosmer bill removes FDA's regulatory authority over *all* "special dietary foods," not just food supplements. "Special dietary foods" include infant foods, foods with artificial sweeteners, hypoallergenic foods and low sodium foods. Do we want to limit inadvertently FDA's authority over all of these food categories in order to assure the availability of vitamin and mineral supplements?

2. The Proxmire-Hosmer bill prohibits FDA from limiting the potencies or combinations of *any ingredient* in all "special dietary foods." Would this action nullify FDA's recent decision to uphold the ban on cyclamates? Would it allow possibly unsafe levels of vitamin D to be added to infant formulas? Since the intent of the legislation is presumably to safeguard dietary supplements, it seems both unnecessary and dangerous to make it applicable to *all* ingredients in *all* special dietary foods.

3. Under the Proxmire-Hosmer bill, FDA is allowed to place limits on ingredients only if the product is "ordinarily injurious to health." This means that people—substantial numbers of people—must actually be harmed by the product before it can be restricted in any way. This provision, which puts the burden of proof on the FDA, clearly undermines the trend toward greater rather than lesser consumer protection. This is especially disturbing in that it applies to all special dietary foods, including infant foods. Can we really endorse any bill containing a provision which would make every consumer a human guinea pig?

4. Perhaps the refrain we have all heard most often is that the FDA must be prevented from classifying vitamins as drugs, but the Proxmire-Hosmer bill contains no provision doing that. The bill says that FDA cannot limit the potencies and combinations of ingredients in special dietary foods, but that would not prevent FDA from declaring that a high-potency vitamin is a drug and *not* a special dietary food, as they did in their 1973 regulations. Since the recent Court of Appeals decision overturned this specific part of the regulations, this is now a somewhat academic flaw, but it does seem to raise legitimate questions about the skill employed in drafting the bill.

5. The Proxmire-Hosmer bill contains a paragraph stating that nothing shall prevent the FDA from applying Section 403(g)—the standard-making provision—or Chapter V—the drug chapter—of the Food, Drug and Cosmetic Act. In their testimony before the Public Health Subcommittee last October, the FDA pointed out that this paragraph appeared to nullify the entire effect of the bill. They argued that under the Proxmire-Hosmer bill, therefore, they would be able to issue the very same regulations they issued last year.

For these reasons, I feel that the Proxmire-Hosmer bill is a classic example of that type of well-intentioned legislation that has been used as a rallying-point for years, during which time no one has ever examined it very closely. And I would suggest, too, that we not be overwhelmed by the recent 81–10 passage of the Proxmire bill by the Senate. This bill was brought to the floor as an amendment to the health manpower act after only two days of subcommittee hearings. It was never marked-up and reported.

I feel just as strongly that the approach taken by the Subcommittee on Public Health and Environment in H.R. 16317 is the proper one. H.R. 16317, as you may know, is the food supplement bill reported by the Subcommittee following a four day mark-up in which all aspects of the problem were carefully considered. This bill gives consumers what they have been asking for in the way of limiting FDA's authority over conventional food supplements. At the same time, it provides added consumer protection and does not remove FDA's legitimate authority over other areas of the food and drug industries.

Along with me, the sponsors of the Subcommittee bill are Representatives Paul G. Rogers (Chairman of the Subcommittee), David E. Satterfield III, Richardson Preyer, James W. Symington, William R. Roy, Ancher Nelsen, James F. Hastings, H. John Heinz III, and William H. Hudnut III.

As you are undoubtedly beginning to receive new form letters from the National Health Federation in opposition to H.R. 16317, I would like to respond to the eight points they make. I am enclosing a copy of their letter for easy reference:

1. FDA already has authority to classify high-potency, potentially toxic vitamins as prescription drugs, as they have done in the case of vitamins A and D. The Subcommittee bill grants them no additional authority. Whether or not the FDA has used this authority properly is a matter for the courts to decide (Federal district and appellate courts have already upheld the vitamin A and D regulations), but it is not affected either way by our bill. It is also important to note that if this authority were rescinded, the FDA could still remove potentially toxic preparations from the market, but there would then be no legal way to make them available for use under medical supervision by those people with vitamin deficiencies and other pathologies.

2. While it is true that the Subcommittee bill protects only supplements in "tablet, capsule, or liquid-suspension form", such products constitute the vast majority of the dietary supplement products currently sold. However, if the definition were expanded to include such preparations as flakes and powders, FDA's regulatory authority over conventional foods which may contain additives or which may be fortified

with vitamins and minerals would be rescinded. It was, therefore, necessary to distinguish those specific types of products to be covered. I would stress that crystalline and powdered forms of vitamins can still be sold in bulk, as they are now. The sale of these products is not affected either by the FDA's current regulations or by our bill.

3. As stated above, the Subcommittee bill would not give FDA any new power to classify vitamins at potentially toxic doses as prescription drugs, but neither would it remove any of the Agency's current authority. The bill simply re-affirms that it is not intended to interfere with current authority in that field. The bill does, indeed, retain FDA's authority to regulate potencies and combinations of all products specifically represented for use by children or by pregnant or lactating women, because the Subcommittee felt that special protection was needed for these vulnerable consumer groups.

4. The definition of "foods for special dietary uses" in the Subcommittee bill (which is the same definition as in the regulations the bill addresses) is not significantly different from the old 1941 definition. The omission of the words "pathological" and "conditions of disease" is a clarification, but it makes no practical difference, as it has never been possible to make therapeutic claims for vitamins except when they are sold as drugs. This will still be true—not because of our definition, but because of the drug definitions of the Food, Drug and Cosmetic Act, which are unchanged.

5. The bill does not "make possible" the classification of vitamins as food additives. It merely affirms that, where the FDA already regulates some vitamins or minerals as food additives (for example, iodine and *folic acid*), those regulations are not meant to be affected by the bill. Obviously, this safety provision applies only to vitamins and minerals when actually added to food. It would in no way affect commonly marketed vitamin and mineral supplements.

6. H.R. 16317 covers "vitamins, minerals, and other ingredients of food." It does not arbitrarily exclude "essential nutrients such as protein, various amino acids, unsaturated fatty acids, and the like." The bill in no way, then, is more restrictive than the recent U.S. Court of Appeals decision.

7. The FDA regulations would prohibit entirely the inclusion in dietary supplements of the so-called "non-essential" nutrients, such as the bioflavonoids, PABA, and inositol. The Subcommittee bill would allow the inclusion of these nutrients; however, manufacturers would be prohibited from promoting their products on the basis of these "non-essential" ingredients. Thus, the consumer's freedom-of-choice in the purchase of these safe products is protected, but misleading promotion is prevented.

8. The Subcommittee's decision to grant FDA concurrent authority with the FTC over the labeling and advertising of dietary supplements was a carefully considered one. Our hearings and mark-up sessions demonstrated that the major legitimate complaint against the industry was that in the past food supplements have been, and in some cases still are, promoted fraudulently to the consumer, taking advantage of one's natural concern about food and health. FDA sought to combat this by limiting the availability of the products themselves. It seemed to us much more reasonable to allow free choice among those products which are safe, but to take steps at the same time to ensure that they are properly promoted. Certainly, reputable manufacturers and publishers need have no fear of prosecution if they avoid false or misleading statements in their promotional material. Our Subcommittee intends to watch closely FDA activities in this area to ensure that this new power is in no way misused, as some seem to fear.

In short, I feel that the Subcommittee's carefully drafted bill, H.R. 16317, strikes a reasonable balance between the consumer's right to purchase safe food supplements in any potency and combination with the government's responsibility to ensure that these products are properly promoted. I believe it would be a great mistake for the House to consider passing instead a Proxmire-Hosmer type bill, which may have great public support, but which also has serious defects of which the public is not yet aware.

Sincerely yours,

PETER N. KYROS,
Member of Congress.

———— 19—.

The Honorable ————,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: H.R. 16317, if enacted, could prove worse than the oppressive Food and Drug Administration's vitamin regulations it is intended to correct:

I strongly oppose H.R. 16317, and redouble my support for the Proxmire-Owens type Bills, (S. 2801 or HR 10195) for the following reasons:

1. H.R. 16317 would wrongfully permit FDA to classify, then regulate, combinations and potencies of vitamins and other food supplements as "dangerous" prescription-only drugs. (See p. 1, lines 7–8; p. 3, lines 14–19 and 24–25; p. 4, lines 1–11 of the Bill.)

2. H.R. 16317 discriminatorily would permit continued sale of nutritionless "junk foods" in all forms, such as powders, flakes, crystals, liquid beverages, creams, pastes, wafers, biscuits, chips, etc., while nutritious food supplements would be covered by the Bill only in tablets, capsules, or liquid drop forms: (See p. 2, lines 1–5 and 9–22; p. 3 lines 1–2; and p. 5, lines 15–19 of the Bill.) Dr. Linus Pauling and other authorities have noted that dietary supplements in crystals, powders, and other bulk forms, in addition to being more economical, are better for the individual than tablet or capsule forms because they eliminate unnecessary additive binders, fillers, and coatings otherwise needed to keep pills intact, and which may also interfere with assimilating the contents.

3. H.R. 16317 would give FDA power it now lacks to classify vitamins and minerals as prescription-only drugs based primarily on potency and would needlessly give FDA power to bar vitamin or other food supplements now available for use by children or pregnant or lactating women. (See p. 3, lines 14–16 and 20–23; and p. 2 lines 6–15 of the Bill.)

4. H.R. 16317 drastically decimates FDA's own long-standing (since 1941) definition of "foods for special dietary use" (and which is a key provision of all the Proxmire-Owens type Bills), substituting a "watered-down" verison which would make possible barring special dietary foods for the aged, for nutrition-related pathological conditions, and nutrition-related disease situations, among others.) See p. 4, lines 12–26; p. 5 line 1 of the Bill.)

5. H.R. 16317 would make possible classification of vitamins and minerals as "food additives", although they are and always have been foods. Various products could thus be banned as "unapproved" food additives. (See p. 3, lines 8–13 of Bill.)

6. In effect, the scope of H.R. 16317 is limited to vitamins and minerals, thus excluding other essential nutrients such as protein, various amino acids, unsaturated fatty acids, and the like. This arbitrary exclusion of nutrients would even negate the recent (August 15, 1974) judicial ruling of the U.S. Court of Appeals for the Second Circuit, wherein the Court specified that a dietary supplement could include *all essential nutrients*. (See p. 2, lines 1–8 of the Bill.)

7. H.R. 16317 would facilitate discrimination against various natural dietary supplements currently available to the consumer, by unnecessarily requiring labeling and advertising to preclude prominence or emphasis to any unique qualities of ingredients. Thus, a true statement as to the superiority of a natural factor could be barred, for example. (See p. 2, lines 21–25; p. 3, lines 1–7 of the Bill.)

8. H.R. 16317 would give FDA, for the first time in history, control over advertising of food supplements while continuing Federal Trade Commission powers over the same subject matter. The Bill would bring about absolute criminal liability as to advertising without intent as a factor. Seizure and injunctive powers would also be vested in FDA as to advertising of dietary supplements. On the other hand, advertising of over-the-counter drugs and thousands of foods would be exempt from these FDA powers. (See p. 2, line 8; p. 3 lines 1–7; p. 5 lines 8–25; p. 6 lines 1–9.)

Please oppose H.R. 16317. Please support a Proxmire-Owens type bill (S. 2801 or H.R. 10195) for immediate enactment. The Proxmire bill, S. 2801, passed the Senate as an amendment to the Senate manpower bill with a vote of 81 yeas–10 nays, on Sept. 24, 1974.

Sincerely yours,

———— (Signature).

P.S.—Please forward this letter to Rep. Harley O. Staggers, chairman of the House Committee on Interstate and Foreign Commerce with a supporting letter of your own.

SOCIAL SECURITY BENEFITS

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. TALCOTT. Mr. Speaker, many concerns and responsibilities of the Congress are brushed aside or avoided.

The Wall Street Journal has quite properly opened some long-needed dialog concerning the soundness of the social security system.

Its editorial, together with a letter to the editor from Mr. Bert Seidman, director of the Department of Social Security, AFL–CIO, vividly point up the urgent need for an in-depth examination of the social security program.

We owe it to our children and our children's children to undertake the examination immediately.

We have a habit of glorifying all the increases in social security benefits and claiming credit for our so-called "generosity" to the beneficiaries. We neglect, however, to inform our constituents of the additional costs to them and their employers. We neglect to discuss the increasing future costs to future participants and future employers. We neglect to advise present and future beneficiaries of the condition of the social security trust funds. We neglect to warn them about the consequences of insolvency.

Every trust fund is in jeopardy if the trustees neglect to pay attention to the current and long-range actuarial and economic conditions.

Presently, the producers are paying for the benefits to the nonproducers. The reliability and soundness of the fund is questionable. A deficit is growing. We cannot continue our present trend much longer.

We have already observed, to our regret and an extraordinary cost to the general taxpayer and consumer, what can happen to the railroad retirement system by neglect and unwise management.

I insert an editorial from the Wall Street Journal of August 15, 1974, as well as the letter to the editor from Mr. Seidman:

[From the Wall Street Journal, Oct. 15, 1974]

A Letter From the AFL-CIO

We print elsewhere on this page a letter from the AFL-CIO and urge that it be read. We hope that it constitutes the opening of a continuing discussion on the soundness of the Social Security system between organized labor, The Wall Street Journal, and others who wish to participate.

This forum has become necessary because the usual one, on Capitol Hill, has become closed to this sensitive issue. Even those politicians who are disturbed about the condition of the system are wary about bringing it up, fearing they will be identified as enemies of the elderly. Yet the questions are there and are, in our opinion, of immediate and critical importance.

In our previous comments, we have attempted to define two distinct problems. One is actuarial. The other is economic. Bert Seidman, director of the AFL-CIO's Social Security department, has responded to the actuarial issue. We hope to elicit a response to the economic one, for the two are bound together.

As noted earlier, the net unfunded liability of the system as of June 30, 1973, amounted to $2.1 trillion, a figure Treasury reports has now grown to $2.4 trillion as of June 30, 1974. Mr. Seidman quite rightly observes that the Social Security Administration does not publish this number; it is not required to do so. But by law, Treasury must do so. And while it may be meaningless to an SSA actuary, it cannot be dismissed by an economist. The number represents the difference between what current participants have been promised over the next 75 years and what they will contribute to the system. That difference of $2.4 trillion, which was computed by SSA, is also discounted to its present value—meaning it would take that much today earning interest to support benefit levels.

Mr. Seidman is also right that the number does not take into account future participants, including those not yet born, who will be required to pay this $2.4 trillion plus interest to the current participants with their future contributions to the system. The question is how much future participants will have to cough up to meet current promises, and that the answer is $2.4 trillion plus interest seems to us not irrelevant. Indeed it seems to us that the SSA doth protest too much.

The deficit Mr. Seidman prefers to address is the official SSA figure that assumes a steady stream of entrants, which is based on a set of SSA projections into the future and amounts to 3% of payroll—that is, a mere 3% of all payrolls of all U.S. companies for the next 75 years.

Under this comforting method of accounting, the deficit amounts to a trifling $1.3 trillion, also discounted to present value. Even Mr. Seidman might get some hint of our concern by observing that this deficit increased to the present $1.3 trillion from $176 billion over the 12 months between the last two calculations.

Between the calculations, the SSA took a look at the 1970 census and adjusted its assumptions about how many future participants there will be to pay the $2.4 trillion, how much they will earn and what the inflation rate will be. For even the $1.3 trillion to hold up, the current SSA assumptions will have to come true. That is, women of childbearing age will have to have 2.1 births; not the current 1.9 and falling. Annual real wage increases will have to average 2%, which they have not done for 20 years. And the rate of inflation in the Consumer Price Index in the long run must average no more than 3%.

Mr. Seidman believes these actuarial assumptions can be met through the insistence of the American people that they be met. But there is the economic problem. The economy can grow only through the formation of capital, the deferral of current consumption in order to produce future goods and services (including that $2.4 trillion, which in the economic problem is the appropriate number to look at). The Social Security system, operated on a pay-as-you-go basis, forms no capital. It simply transfers current consumption from producers to nonproducers.

Closing the deficit through general revenues compounds the problem. Assume all the SSA projections are met. Assume Congress henceforth does not add new benefits. Then the low deficit of $1.3 trillion, made up out of general revenues over 75 years, would require tens of billions per annum. Taxing the private sector by this additional amount, none of which goes into capital formation, makes it impossible to achieve the required economic growth to sustain the system. And of course the deficit will rise next year and the years after that so long as the three crucial SSA projections are not met, with ever increasing demands on general revenues.

Mr. Seidman asks what should be done. There are in general only three possibilities. Cut benefit levels drastically and do nothing about capital formation. Or, leave benefit levels alone and design policies that build the amount of capital required. Or, something in between.

But really the first thing that has to be done is the broadening of understanding that something has to be done. At least the letter from the AFL-CIO moves us in that direction.

[From the Wall Street Journal, Oct. 15, 1974]

Social Security Benefits

Editor, The Wall Street Journal:

The shrill cry of alarm about the fiscal soundness of Social Security in your editorial "No Kidding, Mr. Meany" (Aug. 23) is completely unwarranted.

The editorial zeroes in on the charge that on June 30, 1973, "the net unfunded liability of the system was $2.1 trillion." It then goes on to declare: "What this means is that current members of the system, working and retired, have been promised $2.1 trillion more—in constant dollars—than they will henceforth pay into the system."

We asked the Social Security Administration's actuaries about that $2.1 trillion. They told us it is a figure they never publish because it is absolutely meaningless. It is meaningless because it is based on the ridiculous assumption that those currently in the system will continue to pay taxes and draw benefits but there will be no new entrants into the system.

This makes no sense because by law practically all employes and the self-employed too must be covered by Social Security. Compulsory coverage is a feature of social security systems all over the world and nobody in his right mind is proposing to change it. Incidentally, SSA tells people who insist on having the $2.1 trillion statistic that it is meaningless. If the Wall Street Journal was so informed by SSA, it concealed this fact from its readers.

Contrary to the impression your editorial creates, we in the AFL-CIO do not believe that the Social Security System is perfect or that it couldn't stand any improvement. Of course it can. For one thing, its benefits should be improved—not necessarily across-the-board, except automatically as prices increase but for certain groups like the disabled and early retirees—and its financing should be made more equitable.

Although your editorial doesn't mention it, there is also a possible long-term fiscal problem which may need attention down the road. Under certain assumptions (unforseen because they relate mainly to the recent decline in the birthrate) there could be an actuarial deficit over the next 75 years amounting to 3% of payroll. If this is a problem, it should not be a cause for undue concern because it can be readily met—by payments to the system from general revenues as in social security systems throughout the world. Labor force adjustments involving what can be expected anyway if our economy can be kept healthy—more women and elderly persons in the labor force—will also help to balance the lower birthrate.

We just don't share your exaggerated fears about the American economy. We don't expect permanent 10%-plus inflation or flat real wages. We think the American people will insist on a growing economy with reasonably stable prices which will fully support an adequate level of Social Security payments.

But your editorial leaves us in the dark as to what you think ought to be done. Would you join the Secretary of the Treasury in proposing to cut Social Security benefits in this period when raging inflation has forced many of the elderly to scrounge garbage cans and subsist on pet food? Or perhaps you would just abolish Social Security and turn everyone over to the tender mercies of the private insurance companies.

As for us, we are working to improve every aspect of the system—benefits as well as financing. And to allay anyone's fears, we haven't the slightest doubt that "the money will actually be available to pay the Social Security benefits union members have been promised when they retire."

Bert Seidman,
Director, Department of Social Security, AFL-CIO.

Washington.

WHY ARE WE IN JOHANNESBURG?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. RANGEL. Mr. Speaker, the United States, in the past few years, has been in the process of military contingency planning for South Africa. This change in policy and support of a nation with a firm policy of apartheid is not justifiable. An article, written for Esquire which will appear this month, eloquently outlines the details of this situation. This action should not be allowed to go by unnoticed. The United States must not be allowed to continue to interfere in the governments of other nations.

The article written for this months issue of Esquire follows:

Why Are We in Johannesburg?

(By Tad Szulc)

For well over a year, the North Atlantic Treaty Organization and the United States have been engaged in top secret contingency planning to extend their air and naval operational responsibilities to the vast strategic vacuum stretching from the South Atlantic to the Indian Ocean, covering the sea-lanes around South Africa's Cape of Good Hope and the approaches to the oil-rich Persian Gulf.

Steadily growing Soviet naval power in the area and the consequent need to protect vital tanker routes around the Cape are among the justifications for what may become in time, if it is pursued, the greatest shift in N.A.T.O.'s strategic objectives since its creation in 1949 as a deterrent to the Soviet threat in Europe.

But, as much as anything, the American interest—perhaps even more than N.A.T.O.'s—appears to relate to the security of southern Africa in the context of mounting dangers posed to "white supremacy" regimes by black liberation movements.

United States policy, as it quietly evolved under the Nixon Administration since 1970, was a "tilt" in favor of the Republic of South Africa, Rhodesia and the Portuguese territories of Angola and Mozambique—away from strong traditional support for self-determination by black populations. However, given the sensitivities of the black American community and church and liberal groups, the new policy was carefully concealed.

A secret White House document, a copy of which was obtained by Esquire, spells out the policy for southern Africa approved by the President in February, 1970. The key section of this document, a National Security Council Decision Memorandum (NISDOM), is based on the so-called Option 2 for African policy prepared by the N.S.C.'s Interdepartmental Group for Africa. After its adoption, Option 2 acquired the name "Tar Baby" in bureaucratic colloquial usage. This policy, known among White House and State Department officials as one of "communication" with South Africa, provides the rationale for the current military contingency planning for the defense of southern Africa. These plans follow earlier unpublicized decisions to relax unilaterally the long-standing United Nations arms embargo against South Africa and the United States embargo against Portugal in Africa, and other steps designed to help the white regimes preserve the status quo.

The guiding principles of American policy are: political stability and concurrent containment of Communist influences in Africa's southern cone; continued use of air and naval facilities in South Africa and the Portuguese colonies in support of United States naval presence in the Indian Ocean and other activities; easy access to South Africa's raw materials, notably uranium; and concern with orderly trading in her gold.

The United States maintains in South Africa a guided-missile tracking station and a N.A.S.A. spacetracking station. It enjoys overflight and aircraft-landing rights to support these stations and for general purposes. The Central Intelligence Agency and the South African secret services cooperate closely under the terms of a secret intelligence agreement, similar to United States intelligence accords with N.A.T.O. governments. The United States also has about one billion dollars in private investments in South Africa.

It is interesting to observe how startlingly wrong, in the light of subsequent events, was the premise upon which Tar Baby was constructed by Henry Kissinger's N.S.C. staff and recommended by him to Nixon. The following is the fundamental assumption of the 1970 NISDOM:

"The whites are here to stay and the only way that constructive change can come about is through them. There is no hope for the blacks to gain the political rights they seek through violence, which will only lead to chaos and increased opportunities for the Communists. We can, by selective relaxation of our stance toward the white regimes, encourage some modification of their current racial and colonial policies and through more substantial economic assistance to the black states [a total of about five million dollars annually in technical assistance to the black states] to help to draw the two groups together and exert some influence on both for peaceful change. Our tangible interests form a basis for our contacts in the region, and these can be maintained at an acceptable political cost."

The Portuguese military coup last April overthrew the dictatorship at home when the leadership of the armed forces finally concluded that the thirteen-year colonial war against nationalist guerrillas in Africa could not be won and that Lisbon had to grant the rebels self-determination if not outright independence.

This, of course, was a complete victory for the nationalists and it demolished the Kissinger assumption that "there is no hope for the blacks to gain the political rights they seek through violence." It also could presage anti-American sentiment among these blacks.

Independence in Angola and Mozambique may mean, whenever it comes, the denial of their deepwater ports to the United States fleet. It may mean the loss of oil concessions held by American companies off the shore of Angola. And it certainly means the encirclement of South Africa and Rhodesia by a bloc of black states—most of which are likely to serve as a base for cross-border guerrilla operations in the two "white supremacy" countries. Until last April, Angola and Mozambique were a protective belt around South Africa and Rhodesia.

The central question arising at this time is whether the totally unexpected events in Portugal will hasten or deter military contingency planning for southern Africa by N.A.T.O. and the United States. South Africa and Rhodesia have obviously become more vulnerable to black pressure.

What is unclear is how Washington and/or N.A.T.O. interpret the new situation, although the military are known to believe that the "loss" of the Portuguese colonies is a strategic threat to the West. South Africa has been increasingly pressing for some form of defense alliance with the West; the decision facing the United States and its allies is whether to be drawn into possible military adventures in southern Africa after our experience in Vietnam.

The secret contingency planning for southern Africa and the Indian Ocean—being conducted by the Norfolk, Virginia, headquarters of SACLANT, the acronym for Supreme Allied Commander, Atlantic—concentrates on the development of air-naval task forces to operate in that immense maritime area. In a sense, it aims at finding a new role for N.A.T.O., whose statutory southern boundary is the Tropic of Cancer, at a time when the European situation is fairly stabilized.

The need to counteract the rising Soviet naval penetration in the Indian Ocean (including warship movements and access to bases in Somalia and Aden at the lower end of the Red Sea) and to protect the southern entrance to the Persian Gulf, as well as the sea routes used by the huge tankers serving European and American ports, is the justification for the SACLANT planning.

These studies parallel the United States' desire to establish a major air-and-naval base on the tiny British island of Diego Garcia, a speck of land in the Indian Ocean, to support the fleet there after the Navy's base rights for its small Middle East force in Bahrein in the Persian Gulf are phased out. If ports in Angola and Mozambique are closed to us in the future (they are too small for aircraft carriers, but adequate for smaller warships), the Navy will have no land-support points between the North Atlantic in the West and the Philippines in the East—a strategic nightmare. Except for aircraft from an occasional United States carrier plying these waters there are no facilities for aerial surveillance of Soviet ships.

For this reason the United States has been negotiating for Diego Garcia with Britain and eyeing with mounting interest the excellent South African naval bases, particularly Simonstown. Up to now, Washington has refused South African offers of its naval facilities because of the military embargo the United States still ostensibly maintains against the Pretoria regime and because black American sailors coming ashore are subject to South African racial-segregation laws. Except for medical emergencies, no United States warship has docked in South Africa since 1967, when shore leave for the crew of the aircraft carrier *F.D.R.* was canceled because of discriminatory practices.

But changed conditions may bring new decisions in Washington as well as in N.A.T.O. This is presumably why N.A.T.O.'s Defense Planning Committee issued a secret instruction in June, 1973, to SACLANT to undertake the contingency planning for the southern African region and why pressures are growing for military coordination with the South Africans. SACLANT was authorized to plan "outside the N.A.T.O. area."

The French navy conducted joint exercises with South African warships in April, 1974—thus far a purely, bilateral affairs—and it is known that one of the variants in SACLANT's secret planning contemplates joint air-naval task forces with South Africa for whatever emergency may arise in the future.

In June, 1974, the N.A.T.O. Ministerial Council, holding its annual meeting, took a major step toward the expansion of its interests beyond the region of its original responsibilities as defined in 1949. Under the old definition, N.A.T.O. was concerned with Europe, North America, the North Atlantic and the North Sea. N.A.T.O. fleets operated in the Mediterranean (Greece and Turkey, as well as Italy and France, belong to N.A.T.O.), but the Middle East was out-of-bounds as was everything south of the Tropic of Cancer.

But the Ottawa Declaration of June 19 introduced a whole new concept for N.A.T.O. planning. Its Article 11 said: "The allies . . . are finally resolved to keep each other fully informed and to strengthen the practice of frank and timely consultations by all means which may be appropriate on matters relating to their common interests as members of the alliance, bearing in mind that these interests can be affected by events in other areas of the world."

This, of course, is a carte blanche for N.A.T.O. to become involved wherever it wishes. It may mean the Middle East, or the Indian Ocean—or southern Africa. The uncertainty is whether the United States and some of its allies, encouraged by the license issued in Ottawa, may choose to regard South Africa's internal security in the face of black pressures as a justification for direct air or naval support, using SACLANT's contingency planning.

In such an event, Washington's Tar Baby, already at best an ambiguous policy, would be transformed into clear support for the white regimes as proposed in Option 1 (there were five options) of the N.S.C. study. Option 1, rejected by Kissinger as too extreme and politically untenable at home, recommended that since "the whites are in control and insurgent violence will not seriously threaten that control," the United States' "economic, scientific and strategic interests in the region . . . are worth preserving and expanding. The political costs of closer relations with the white states will not be excessive."

Among the "Operational Examples" in this option were the following: "Relax arms embargo against South Africa with liberal treatment of equipment which could serve either military or civilian purposes or which could serve the common defense"; "Authorize routine naval visits and use of airfields"; "Relax enforcement of sanctions against Rhodesia"; "Relax the unilateral U.S. embargo on the Portuguese territories to permit export of dual-purpose equipment" (dual purpose means use in metropolitan Portugal in the N.A.T.O. context as well as in Africa against the guerrillas); "Limit economic aid to the black states to regional and multi-donor programs"; and "Publicly discourage insurgent movements."

Tar Baby, the second option, as it developed in practice, achieved many of the notions incorporated in Option 1 of the N.S.C. Study Memorandum No. 39 (known bureaucratically as NISSOM-39). This policy's somewhat naive concept was that through the "selective relaxation of our stance toward the white regimes," the racist regimes would start treating their blacks more humanly. The idea was that if the U.S. persisted in this approach, it would work.

And this is how the Nixon-Kissinger policy acquired its name: the Tar Baby, of course, is the character in the "Uncle Remus" stories who by his stickiness catches Br'er Rabbit.

In hindsight, it can probably be argued that Tar Baby's stickiness may turn against its creators. It may well alienate the new independent regimes when they come into being in Angola and Mozambique as well as much of black Africa, where the basic policy has been to defuse Communist influence. And it is likely to find little favor with blacks and liberals at home.

A senior State Department official, thoroughly familiar with the African situation and personally opposed to Tar Baby, commented privately not long ago that the Nixon Administration's policy was "hypocritical and immoral" and "gave us the worst of both worlds."

He wistfully recalled the words of the late Adlai Stevenson addressing the U.N. Security Council on August 2, 1963: "All of us sitting here today know the melancholy truth about the racial policies of the government of South Africa. Our task now is to consider what further steps we can take to induce that government to remove the evil business of apartheid, not only from our agenda, but from the continent of Africa.... In the absence of an indication of change, the United States [will] not cooperate in matters which would lend support to South Africa's present racial policies.... The United States has adopted and is enforcing the policy of forbidding the sale to the South African government of arms and military equipment, whether from government or commercial sources, which could be used by that government to enforce apartheid either in South Africa or in the administration of South-West Africa...."

But seven years later, in 1970, the whole moral and practical tone of American policy was changed. This is how the secret Option 2 states the "General Posture":

"We would maintain public opposition to racial repression but relax political isolation and economic restrictions on the white states. We would begin by modest indications of this relaxation, broadening the scope of our relations and contacts gradually and to some degree in response to tangible—albeit small and gradual—moderation of white policies. Without openly taking a position undermining the United Kingdom and the U.N. on Rhodesia, we would be more flexible in our attitude toward the Smith regime. We would take present Portuguese policies as suggesting further changes in the Portuguese territories. At the same time, we would take diplomatic steps to convince the black states of the area that their current liberation and majority-rule aspirations in the south are not attainable by violence and that their only hope for a peaceful and prosperous future lies in closer relations with white-dominated states. We would emphasize our belief that closer relations will help to bring change in the white states....

"This option accepts, at least over a three-to-five-year period, the prospect of unrequited U.S. initiatives toward the whites and some opposition from the blacks in order to develop an atmosphere conducive to change in white attitudes through persuasion and erosion. To encourage this change in white attitudes, we would indicate our willingness to accept political arrangements short of guaranteed progress toward majority rule, provided that they assured broadened political participation in some form by the whole population."

The document then recommends these "Operational Examples":

"Enforce arms embargo against South Africa but with liberal treatment of equipment which could serve either military or civilian purposes." (This wording differs from the "extreme" first option, but permits considerable latitude in providing a variety of useful military items.)

"Permit U.S. naval calls in South Africa with arrangements for non-discrimination toward U.S. personnel in organized activity ashore; authorize routine use of airfields."

"Conduct selected exchange programs with South Africa in all categories, including military."

"Without changing the U.S. legal position that South African occupancy of South-West Africa is illegal, we would play down the issue and encourage accommodation between South Africa and the U.N." (This is a reference to a U.N. decision that South Africa's mandate over South-West Africa, first granted by the League of Nations, has lapsed and that the territory should be given independence.)

"On Rhodesia, retain consulate; gradually relax sanctions (e.g., hardship exceptions for chrome) and consider eventual recognition." (American companies owning chrome mines in Rhodesia pressed the Administration to grant them an exception from the U.N. sanctions against Rhodesia following her 1965 Unilateral Declaration of Independence—U.D.I.—and imposition of minority white rule.)

"Continue arms embargo on Portuguese territories, but give more liberal treatment to exports of dual-purpose equipment."

"Toward African insurgent movements take public position that U.S. opposes use of force in racial confrontations. Continue humanitarian assistance to refugees."

Under this option, advantages accruing to the United States would preserve its "economic, scientific and strategic interests in the white states and would expand opportunities for profitable trade and investment."

The secret paper further observes that "U.S. diplomatic support and economic aid offer the black states an alternative to the recognized risks of mounting Communist influence."

It also notes that the proposed policy "would reduce a major irritant in our relations with Portugal, and afford the Caetano government opportunity for liberalization." Indeed, the Nixon policy did remove the "irritant"—Portugal bitterly complained in the past about the African policies of Presidents Kennedy and Johnson—but Premier Marcello Caetano was ousted by his own antiwar military commanders last April and chances are that Nixon's "tilt" will produce a wholly different irritant in Lisbon.

Curiously, however, the N.S.C. study also warned that Tar Baby could have negative consequences as well. It said:

"Relaxation of the U.S. stance toward white states could be taken by the whites as a vindication of their policies. Many black states, led by Zambia and Tanzania, probably would charge us with subordinating our professed ideals to material interests and tolerating white-regime policies.

"There is a serious question whether pro-Western leaders of the black states could continue to justify their stance to their populations if the U.S. officially declared its opposition to current liberation efforts. Radical and Communist states would be the beneficiaries.

"Unilateral U.S. relaxation of sanctions against Rhodesia would be a highly visible violation of our international obligations and would be damaging both to the U.S. and to the U.N.

"The current thrust of South African domestic policy does not involve any basic change in the racial-segregation system, which is anathema to the black states. There is virtually no evidence that change might be forthcoming in these South African policies as a result of any approach on our part.

"Requires extensive diplomatic and economic involvement in a situation in which the solution is extremely long-range and the outcome doubtful at best."

Despite these caveats, the Nixon Administration accepted most of the N.S.C. recommendations in Option 2 and, in some cases, even went beyond them. The paper containing the five options was presented by Kissinger to Nixon and the full National Security Council on December 19, 1969. In February, 1970, after consulting with Nixon, he ordered the drawing up of the NISDOM document—the Decision Memorandum—which was known as Tar Baby.

In the case of South Africa, the United States gave a most "liberal" interpretation to the relaxation of the arms embargo. In all the "grey areas," the benefit of the doubt was given the South Africans. Thus they were allowed to buy Bell helicopters here with the full knowledge in the United States Government that they would be used in police military operations along with choppers bought from France, which does not observe the U.N. embargo. The same thing occurred with twin-engined executive Learjets, which can be outfitted for reconnaissance and even certain combat or suppression missions. Herbicides and defoliants of the type used in Vietnam were also sold to South Africa.

Portugal benefited in the same manner. TAP, the Portuguese airline, was able to buy in the United States a number of Boeing 707 jet airliners. Although a commitment was signed that the jets would not be used for military purposes, TAP, which flies a regular route between Lisbon and Angola and Mozambique, regularly transported combat troops to Africa, according to C.I.A. reports.

Portuguese officers were trained in counter-insurgency at the U.S. Army's jungle-warfare school at Fort Gulick in the Panama Canal Zone and at Fort Benning, Georgia. Portuguese jet pilots received training in West Germany, the headquarters of the U.S. Air Force in Europe.

In the case of Rhodesia, the United States finally closed down its consulate in Salisbury only after Prime Minister Harold Wilson requested it in a sharply worded note to Nixon. The consulate was accredited to the British Crown. At the December, 1969, N.S.C. meeting, Richard Helms, then C.I.A. director, had urged strongly that the consulate remain open because it served a crucial intelligence function. Later, William P. Rogers, then Secretary of State, claimed credit for the closing of the consulate as a gesture against white supremacists.

Economic aid to the black states rose at the same time in a less than spectacular manner. From a total of $155,000,000 in the fiscal year 1970, for all the black countries, it rose to $176,000,000 in 1971, dropped to $135,000,000 in 1974, and is planned to go up to $169,000,000 in 1975.

What is likely to happen next in United States and N.A.T.O. relations with South Africa and Rhodesia, now that Angola and Mozambique (where Rhodesian and South African units supported the Portuguese against the guerrillas) are gone as the protective buffer for the white regimes?

My own impression from Washington conversations is that SACLANT and the Pentagon planners will proceed with their contingency planning, perhaps with even greater urgency than before. Instability in the Persian Gulf, the Soviet naval activities in the Indian Ocean and the new "soft underbelly" in southern Africa (Angola and Mozambique) obviously provide a rationale for further strategic planning on a wide scale.

N.A.T.O. as a whole is unlikely to authorize a formal expansion below the Tropic of Cancer because of assured opposition by the British Labour government, now back in power (previously, the Conservative government strongly favored a move to the south), as well as by the Scandinavian, Dutch and Belgian governments. Even the new Portuguese regime (Portugal belongs to N.A.T.O. and is headquarters of the IBERLANT Command) may have second thoughts about it.

But, significantly, a N.A.T.O. spokesman in Brussels said last May, in confirming that SACLANT was studying contingency plans for the Indian Ocean and the South Atlantic, that this imposed no commitment on any member nation to become engaged there.

In other words, this left the United States and any other interested N.A.T.O. member free not only to use SACLANT's plans but to become involved in whatever operations it deems necessary under its own flag. N.A.T.O., indeed, can be quite flexible, what with its operational traditions in the Mediterranean and the membership of Greece and Turkey, hardly North Atlantic powers.

Meanwhile, contacts between South Africa and the United States have intensified during 1974. Connie P. Mulder, Interior and Information Minister (and possibly the next Prime Minister), spent five days in Washintgon in January, conferring with Vice-President Ford, Congressional leaders and Vice Admiral Ray Peet, a top Pentagon planner whose responsibilities include the Indian Ocean.

In May, Admiral Hugo H. Biermann, chief of the South African Defense Forces, came to Washington after Secretary of State Kissinger overruled his African Bureau's recommendation to deny the Admiral his visa under the military-embargo policy. Biermann, an outspoken advocate of close defense ties with the United States, met with the Acting Secretary of the Navy, J. William Middendorf, and dined with seventeen admirals at the home of a Maryland Republican congressman. It was all part of South Africa's vigorous lobbying for a defense arrangement with the United States—and other N.A.T.O. members—in the name of Indian Ocean security.

An ambassador from a friendly black African country, hearing about these frantic activities, asked an American friend: "Do you Americans really want another Vietnam—in Africa?"

MINORITIES FOR MANAGEMENT

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. **VEYSEY**. Mr. Speaker, an article was recently called to my attention regarding a 2-day orientation session held at the Harvard Business School to encourage more Mexican-Americans to apply to HBS. I would like to share the article with my colleagues:

Minorities for Management

(By Dean W. Currie and Thomas E. Hitchcock)

Today the need for members of minority groups with management capabilities is felt by most segments of American society. Business and public organizations alike are seeking more minority management personnel. Minority communities themselves want skilled business leadership. The Harvard Business School is working to meet this need by attracting outstanding individuals from minority groups to the MBA Program.

A key element in attracting anyone to the MBA Program is personal contact with someone who is aware of the issues and opportunities in graduate management education. A recent poll of first-year HBS students conducted by the Admissions Office revealed that more than 65% of the successful applicants to the School had spoken to an HBS alumnus about the School prior to applying.

Generally speaking, minorities remain disadvantaged in this process. Societal forces of long duration have severely limited the involvement of minorities in the business of managing our country's institutions. As a result, there are few minority role models to provide inspiration, information, and advice regarding managerial career opportunities.

Accordingly, HBS alumni—individually and through College Relations Committees (as previously reported by John Gladney in the *HBS Bulletin* of Sep/Oct 1973)—are working actively to provide the personal contact, information, and encouragement that are so crucial to a minority individual's decision actually to seek a Harvard MBA. Coupled with that alumni work, another effort, undertaken this spring by the Admissions Office, sought to expand the base of individuals knowledgeable about the MBA Program.

HELP FROM UMAS

Working closely with the United Mexican-American Students (UMAS) at the School, the MBA Administration set out to identify a handful of individuals who, because of their positions, personal attributes, and concern for people, seem to attract large numbers of Chicanos and other students seeking guidance on graduate education and career opportunities. We invited several such people to the School. Once here, they were given first-hand experience of the educational process and opportunities to discuss in depth the variety of management career opportunities available to HBS graduates. With this kind and quality of information, we felt the participants could then return to their communities better able to encourage outstanding Chicanos to look to Harvard for graduate management education.

In identifying people to invite, we focused initially on educational institutions with substantial enrollments of Mexican-Americans. Subsequently, however, we also found an opportunity to link up with National Education Service Centers (NESC). This organization comprises ten Centers which are federally funded extensions of the League of United Latin American Citizens (LULAC) and whose aim is to increase the number of Spanish-surnamed students attending U.S. colleges and universities. The fit was ideal, not only in view of NESC's objective, but also because its Director of Field Operations, Rodolfo H. Castro, is an HBS alumnus (MBA '73).

Thus, last April, seven people came to Soldiers Field at our invitation to participate in two days of orientation to the School. We were especially fortunate in the diversity within the group. It included the Director of Mexican-American Studies at the University of Houston, the Resident Poet and Associate Professor of English at New Mexico State University, the Assistant Dean of Students at the University of Texas, and four NESC Field Directors from Phoenix, Albuquerque, Topeka, and Colorado Springs.

ORIENTATION AND DIALOGUE

In planning the two-day activities, we established two objectives. One was to provide a first-hand introduction to the MBA Program's educational objectives and teaching philosophy. The first evening of the visit was devoted entirely to small-group dinner discussions between the visitors and HBS professors whose classes they would attend the next morning. In this intimate setting, each instructor was able to relate the particular case and teaching objectives of the next day's class to the educational philosophy and goals of the overall MBA experience. The guests were given copies of the cases to read that evening to help them appreciate more fully the class discussions. Then, after attending classes the next morning, they joined the Chicano students for lunch and had an opportunity to exchange ideas about the HBS approach to education for management.

Our second objective was to engage in substantive dialogue with our guests on the issues involved in attracting capable Mexican-Americans to graduate management education in general and to the Harvard Business School in particular. As a prelude to these discussions, however, we felt it would be helpful to convey something of the expectations and opportunities of our MBAs as they complete the two-year program.

Hence, part of an afternoon was devoted to a meeting with Professor Wickham Skinner, Chairman of the Production and Operations Management teaching area. He had been spending a substantial portion of his time during the 1973–74 academic year studying the relationships in the ongoing work of some 20 individuals at the School in the areas of career counseling, career development, and placement.

The visitors then met with Ms. Beverly Splane, Director of MBA Career Development Projects. Her assignment has been to develop both information and contacts in increasingly popular but poorly understood career markets, such as small business and the nonprofit sector, in order to provide better access to those markets for HBS graduates. An essential element in these conversations—as in all phases of this project—was the active participation of Chicanos currently at the School. Their contribution provided perspective within which the discussions of career opportunities took on particular relevance.

The remainder of the afternoon focused directly on a detailed discussion of the recruiting and selection processes, financial aid, and the issues involved in attracting outstanding Chicanos to the MBA Program. Having based this project on the premise that highly respected individuals and role models are key elements in encouraging Mexican-Americans (and, indeed, most others) to attend the Harvard Business School, our aim here was twofold: first, to provide our guests with a thorough understanding of both the selection process and criteria; second, to learn as much as we could from our guests about the weaknesses in our own concepts and assumptions about the people we are trying to recruit.

The time spent in the first day and a half of the project proved its usefulness. Our guests were able to apply their understandings of the MBA educational and career opportunities to a rigorous questioning of the admissions process and financial aid programs. The result was exactly the kind of learning experience, on both sides, which we had hoped for. Our guests gained a much clearer impression of the type of person the School hopes to attract and some ideas on how to identify such people.

For our part, the concerns expressed by the visitors crystallized the ways in which the School is regarded by Chicanos. The discussion also emphasized the need for the very type of first-hand information the project was designed to provide.

The close of the two very full days was marked by cocktails and dinner at the University Faculty Club—an affair which nobody seemed to want to end. In fact, it didn't. Unbeknownst to any but themselves, the members of UMAS had reserved a room at a nearby restaurant, where we retired for a relaxed and fraternal conclusion to an experience from which we'd all learned a lot.

EXPANDING OPPORTUNITY

One fact remains eminently clear, however. The task of expanding opportunity for graduate management education to more Mexican-Americans is one that the Harvard Business School can effect in only a limited way. We shall, of course, do all we can and demonstrate to others our commitment to the task. But the challenge is overlaid with long-standing societal forces which cannot be overcome with a wave of the hand.

Our hope for this experiment, therefore, remains modest. By increasing the sources of first-hand information within environments where the School has heretofore had little influence, we hope to expand awareness and interest in professional management education. We hope also that in the future the Harvard MBA Program will increasingly be perceived by outstanding Mexican-Americans as attractive, meaningful, and worthy of their serious consideration.

A PARDON IS NOT JUST A BEAUTIFUL DOCUMENT TO FRAME AND HANG ON THE WALL

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. ROBISON of New York. Mr. Speaker, what I have termed our lingering "obsession" with Richard Nixon—although he is now a private citizen—helped make President Ford's pardon of the former President such a controversial and, for the new President, at least a temporarily politically hurtful action.

I have previously outlined here on this floor or elsewhere my own attitude toward the pardon—my questions about its timing, or about the apparent fact that it was granted without consultation on President Ford's part with such as the special prosecutor, the Attorney General, or the congressional leadership, but ending up with my own conclusion that President Ford took the unexpected action he did, and when he did, out of his sincere desire to help this Nation and its people shift their focus from Watergate and Nixon to the great problems facing them and the world.

The fact that President Ford did not achieve—or, at least, has not yet achieved—his ambitions in that latter regard is already political history; and I regret for us all, as well as for him, that such has been the case even as I hope that, when the President appears tomorrow as now planned before the Hungate subcommittee of the Judiciary Committee to further "explain" the facts behind his decision to grant the pardon, he will be able to clear up some of the supersuspicions—what else could one call them?—that, in the aftermath of Watergate, some people hold about his true motives.

One area for such suspicions—certainly one location where, so to speak, the suspicious wished to look under the rug—was in regard to the impact of the pardon upon the pending Watergate trial proceedings, as just now begun, and the attitude toward the pardon of Special Prosecutor Leon Jaworski who, many critics just naturally assumed, had to be both affronted and discouraged by the fact of the pardon.

Mr. Jaworski has, as we now know, resigned his job and returned to private law practice. In doing so, he is fully entitled—and has earned—the plaudits being directed toward him for a task well and competently performed, under some of the most difficult circumstances imaginable. I too, would wish to congratulate Mr. Jaworski—and to thank him—for a job well done.

However, the contrasting treatment by two of our national newspapers, today, toward the effect of the Nixon pardon upon Mr. Jaworski's work, and upon his attitude toward the pardon is worth noting.

The "New York Times" intoned, editorially today, that:

> The questions to be put to Mr. Ford (during the Hungate hearings) should not skirt the issue of the Presidential pardon itself. There is, for instance, the matter of possible conflict between the pardon and the charter granted the special Watergate prosecutor—an issue disposed of much too cavalierly by Leon Jaworski in his letter of resignation last week.

By contrast, the Wall Street Journal thought to inquire of Mr. Jaworski for his more specific views upon the pardon—something the editors of the Times rather cavalierly overlooked, one might say. In any event, the result of the Journal's reportorial research is contained in a front page article in its today's edition, by Karen J. Elliott.

Ms. Elliott's report is revealing and, I think, useful enough under the immediate circumstances to be called to the attention of my colleagues. I will insert the full article, but I would like to highlight at least these portions: That Mr. Jaworski denies that the pardon prompted his resignation; that he has kept silent about it up to now because he wished, first, to have the Watergate jury chosen and sequestered; that he considers he has completed his primary task—that of outlining Mr. Nixon's role in the coverup; that, in this regard, the evidence to be now presented in the Watergate trials is the "best prepared case I have been associated with" and that the "evidence will show he is guilty, just as much as a guilty plea."

As to some of that, Mr. Speaker, we shall just have to wait and see what the outcome of the trials may be. But what is clearly pertinent to the public debate that has been carried on ever since that Sunday morning the pardon was granted, is Mr. Jaworski's belief—which happens to be one I have shared and presented all along—that the offering of the pardon and Mr. Nixon's acceptance of it clearly signifies the former President's guilt of at least the obstruction of justice charge which was incorporated into Article I of the Judiciary Committee's impeachment resolution.

Listen, my colleagues, to what Mr. Jaworski states in this regard:

> A pardon isn't just a beautiful document to frame and hang on the wall. You are offered a pardon only because it is believed you can be charged and convicted. You accept it only if you want to be cleared.

Mr. Speaker, in this, as in those other ways already commented upon, Leon Jaworski has performed a public service by helping to set the record straight. The full Journal article is now set forth:

THE PARDON OF NIXON WAS TIMELY, LEGAL, JAWORSKI BELIEVES

(By Karen J. Elliott)

WASHINGTON—Special Watergate Prosecutor Leon Jaworski sees nothing wrong with President Ford's decision last month to pardon Richard Nixon.

Mr. Jaworski, talking publicly about the controversy for the first time, concedes that the pardon prevented an indictment and trial of Mr. Nixon. But he believes that sufficient evidence has, or soon will, become public to show conclusively that the former President was guilty of obstruction of justice.

"The evidence will show he's guilty, just as much as a guilty plea," the special prosecutor declared during an interview yesterday in his sparsely furnished office here. Next week, Mr. Jaworski is leaving the job he has held for 11 months and is returning to Houston to resume the practice of law.

The special prosecutor believes, furthermore, that both the offering of a pardon and Mr. Nixon's acceptance of it clearly signify his guilt:

"A pardon isn't just a beautiful document to frame and hang on the wall. You are offered a pardon only because it is believed you can be charged and convicted. You accept it only if you want to be cleared."

AN ALL-OUT DEFENSE

Mr. Jaworski's attitude about the pardon has been a subject of intense speculation here for weeks. Many have assumed that the special prosecutor, who has gained a reputation in Washington for toughness and integrity, objected to the decision. It even has been suggested in recent days that his supposed anger over the pardon is what prompted him to resign his post.

In fact, his statements yesterday amount to an all-out defense of the most controversial aspect of the pardon: its timing prior to a Nixon indictment and trial. Thus, the Jaworski position could have significant political benefit for President Ford, whose popularity with the public has dropped dramatically since he granted the pardon.

The special prosecutor said he has kept silent on the pardon and on Mr. Nixon's role in the Watergate cover-up for two reasons: He wanted to wait until a jury was chosen and sequestered for the trial of five of Mr. Nixon's former top aides, and he wanted to wait until he had announced his resignation. All that has happened, and now Mr. Jaworski is talking: There will be more newspaper interviews, and on Sunday he is scheduled to appear on NBC's "Meet the Press" program.

Mr. Jaworski denies that the pardon prompted his resignation. He said in the interview yesterday that he decided three weeks ago to resign because he has completed what he has always considered to be his primary task—outlining Mr. Nixon's role in the cover-up.

His own departure, he said, won't slow the investigations that the prosecutor's office is conducting into the milk-fund scandal and into illegal political contributions by corporations. Action is expected soon against other companies, he said.

"THE BEST-PREPARED CASE"

The special prosecutor said that evidence to be presented during the current Watergate trial will further enmesh the former President in the cover-up. Mr. Jaworski, who won't be participating in the prosecution, called it "the best-prepared case I've been associated with."

Mr. Jaworski's attitude about the controversial pardon rests on the assumption drawn from an early Ford news conference that *President Ford* always intended to pardon Mr. Nixon eventually. Thus, to Mr. Jaworski, all that is at issue is the timing of the pardon.

Mr. Jaworski insists that if Mr. Nixon's case had been allowed to proceed to indictment and trial, the public would have learned nothing more about the former President's role than will come out in the trial of his former aides. "It's a mistake to believe there would have been more evidence for the public if he had been tried," the special prosecutor said.

"If he had been pardoned after indictment, the public would have no new information. If he had gone to trial, he could have invoked his Fifth Amendment guarantees against self-incrimination, pleaded nolo contendere, or even pleaded guilty, and we wouldn't have learned any new details," Mr. Jaworski said.

The special prosecutor wouldn't say whether he would have prosecuted the former President if Mr. Ford hadn't pardoned him. "Nothing is served by talking about hypothetical situations now," he declared.

But Mr. Jaworski said that if the former President had been charged, his trial wouldn't have come for many months. "We gave no consideration to doing anything with the former President until after the cover-up jury was sequestered," he said.

A major task still facing the special prosecution force is a report to Congress on the Nixon investigation and on other aspects of the Watergate case. That report will exclude much evidence against the former President unless Congress specifically authorizes its inclusion. Without such authority, Mr. Jaworski believes, a prosecutor can't ethically disclose evidence against a man who hasn't been charged; Mr. Jaworski has asked Congress for authority to include such material in the report.

"We can paint a very full picture of Mr. Nixon's role in obstructing justice, but the difficulty arises in other areas where we didn't bring charges," he said. The Watergate grand jury named Mr. Nixon as an unindicted coconspirator in the obstruction of justice for which his former aides are being tried.

Mr. Jaworski is turning philosophical as he prepares to leave for a rest at his Texas ranch, where he will "watch the deer and birds and think about something besides Watergate for the first time in a year." Watergate, he believes, has shown that the American governmental system works. "Here are top men in government who haven't been spared from investigation, exposure and conviction," he said.

But he isn't sorry to be leaving. "The whole thing is a tragedy," he said. "And I don't get any satisfaction from being involved in a national tragedy."

SEAPOWER STILL KEY TO NATION'S DEFENSE

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. KYROS. Mr. Speaker, I would like to commend to the attention of my colleagues in the House of Representatives the very fine remarks of the Navy's new Chief of Naval Operations Adm. James L. Holloway III as they appeared in the Washington Post of October 15.

Our new CNO places great importance on maintaining the offensive firepower and flexibility of the Navy's surface ships. Maintaining a swift, mobile and efficient Navy is not only important to us now because it means we can get the most out of our defense dollars, but also because the Soviet Union is continuing its efforts to complete an integrated fishing, merchant marine, and naval fleet.

Admiral Holloway cogently describes some of the Navy's recent technological advances, builds a strong case for its increased economy and effectiveness, and at the same time outlines some of the room for improvement.

I think all Americans should be pleased with his objectives as outlined in the interview and included at this time in the RECORD:

NAVY SEEKS MORE FIREPOWER

(By Michael Getler)

A major increase in the offensive firepower and flexibility of the Navy's surface ships is the primary goal of the Navy's new boss, Chief of Naval Operations Adm. James L. Holloway III.

To get that extra striking power, the admiral, in an interview last week in his Pentagon office, said he plans to speed up development of the Navy's new Harpoon ship-killing missile and expand both the number of ships that will carry this new weapon and the number of missile-firing batteries on each vessel.

Harpoon is designed to hit enemy vessels as much as 60 miles away, far beyond the range of Navy guns. Wide deployment of this missile, Holloway feels, will also bring with it much of the new flexibility the fleet needs.

It would, for example, allow many vessels now equipped primarily from air attack to operate more independently of the carriers and contribute more to offensive rather than purely defensive operations.

With the price of ships soaring, and the size of the U.S. fleet reduced from almost 900 vessels five years ago to just over 500 today, Holloway says the Navy must get more out of each ship. The service, he said, "simply can't afford to build new ships only to protect carriers" from air or sea attack.

The Navy has been criticized by many observers in recent years for putting too much emphasis on very expensive vessels such as nuclear-powered frigates that are laden mostly with antiaircraft missiles to defend the carriers.

Holloway, in effect, indicated that he will move away from that concept. He feels that the Navy's new carrier-based F-14 fighter has "three times the capability" of the current F-4 fighter to protect carriers from air attack. And, he pointed out, the era of long-range antishipping missiles—already in the hands of the Soviet navy and air force—has made obsolete the idea of carriers operating with tight screens of escorts.

Task forces now are dispersed dozens of miles apart, so that a nuclear-tipped missile exploding near one ship will not destroy others.

"We really want to drop the term 'escort,'" Holloway said. "Carriers don't need a ring of ships around them anymore. The threat is so much faster now. The attack range of submarine-launched [antishipping] missiles is 25 miles or so. In a conflict, the fleet disposition is dispersed over many miles of ocean, linked by radio communications, not visual."

It is in those widely dispersed formations that Holloway believes U.S. surface ships must be able to do more offensively—especially attacking enemy surface ships—than they now are equipped to handle. Aides to Holloway say the admiral does not want the Navy to repeat what many officers consider to be a serious mistake in putting so little armament on the new 1052-class of detroyer escorts and 963-class of destroyers now in production.

Holloway is clearly looking to Harpoon—which can also be fired from planes and submarines—to give U.S. ships more punch quickly.

We plan to "exploit Harpoon," the admiral said, deploying it not only as planned on new patrol frigates and missile gunboats not yet in full production but "increasing the number of installations on all surface combatants—cruisers, (large) frigates, destroyers and escorts."

"There will be a big retrofit program also," Holloway said, referring to plans to put the new missile on some older vessels as well.

Ironically, when Harpoon gets to the fleet late next year, the U.S. Navy will become about the last major navy in the world to recognize the potential of long-range antishipping missiles.

The Soviets have had such weapons for years, and it was the sinking of an Israeli destroyer in 1967 by a Soviet-equipped Egyptian missile boat that first sent shock waves through the U.S. Navy high command. The navies of France, Israel and many other countries developed these weapons well ahead of the U.S.

Harpoon, however, may be one of the best, longest-range, and most expensive (upwards of $250,000 apiece) of the antishipping missiles.

The missile carries a radar set in its nose and, once fired in the general direction of the target, uses that radar to home in on the target.

Now some three months into his new job as CNO, Holloway says that while he, of course, "inherits the hardware" from his predecessors, his main hope and "the most important thing is that our ships should be multipurpose, flexible and stress an offensive capability."

Holloway says the Navy is also reviewing its plans for another "sea control ship" the service wants badly but which Congress has vetoed.

That ship is a new mini-aircraft carrier to carry helicopters and vertical take-off jets for convoy duty and submarine-hunting. Holloway says the Navy is now looking at giving such ships expanded roles, including mine-sweeping, carrying Marine assault helicopters and even carrying Army helicopter gunships.

Holloway, at 52, moved into the job last July when Adm. Elmo R. Zumwalt retired. Like his predecessor, Holloway has no illusions about the growing power of the Soviet navy and, in particular, its submarine forces, which make it difficult for the United States to keep the Atlantic sea lanes open in wartime.

The Navy says it is currently $2 billion in the red on new ships already authorized by Congress, strictly due to inflation. The overhaul of 15 older ships, also approved on Capitol Hill, has been deferred along with aircraft and base maintenance which the Navy claims is essential but which is being postponed because of rising prices.

All of this, Holloway says, will at some point lead to a deterioration in fleet readiness which must somehow be dealt with by the Navy, Congress and the public. In the case of vessels under construction, the Navy can either ask for more money from Congress, request a redistribution of money from future programs to keep current projects going in the hope of recouping in later years or simply build fewer ships.

For the maintenance account, the Navy is faced with the choice of either spreading money thinly to keep the 500-ship fleet operating, or dropping to a smaller but better maintained Navy.

Holloway, in effect, expressed a fear that decisions concerning the relative size and strength of U.S. armed forces will be made almost unwittingly by factors other than national policy.

"We've got to keep in front of our people at all times what the purpose of the Navy is," he said. "It is to carry out the assigned tasks of national strategy. So the number of ships the Navy maintains and where they are should depend on national strategy; not where the CNO says they should be or just because we've done things a certain way before."

On personnel matters, Holloway had praise for the efforts of Zumwalt to ease many burdens of military life for enlisted men.

But Holloway, as expected, said he now wants to "slow down the rate of change a little and consolidate our position." He added that he wants to "emphasize and strengthen those (Zumwalt-style reforms) that have given a good payoff" and discard some others.

The admiral said he hadn't decided yet what would be discarded, but that his review would take into account "changing world conditions." He did not deny that such changes might involve shifts in some of the overseas homeporting arrangements set in motion by Zumwalt. This could mean an eventual change in plans for the U.S. Navy homeport arrangement in Greece, where six destroyers are based and where anti-American sentiment has risen sharply in recent months.

DEVELOPMENT OF ALTERNATE SOURCES OF ENERGY

HON. BOB CASEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. CASEY of Texas. Mr. Speaker, this Congress has given a great deal of attention to providing new ways and means of developing alternate sources of energy.

I know that our efforts will pay dividends for all Americans as we decrease our dependence on foreign sources of energy and find new low-cost domestic power sources.

One of the most obvious energy sources is the Sun and we have already authorized a large-scale effort to develop the technology necessary to utilize solar energy for heating and cooling purposes.

Today I would like to bring to the attention of my colleagues some of the research that has already been done in the field and some cost analysis projections that I believe we can all accept with a great deal of optimism.

The findings are from a paper presented by Prof. A. F. Hildebrandt of the College of Natural Science and Mathematics at the University of Houston while appearing before the Federal Energy Administration Project Independence hearings at Houston on September 19, 1974.

The University of Houston is already providing considerable leadership in the energy research field, as is demonstrated in the report, entitled "Large Scale Solar Thermal Conversion." The report follows:

Large Scale Solar Thermal Conversion

(By Prof. A. F. Hildebrandt)

It has been realized that a sizable fraction of our energy requirements could be supplied within the continental United States from solar energy if developed. The NSF/RANN Program has initiated a broad vigorous program in solar home heating and cooling, photovoltaic or solar cell conversion, ocean thermal gradients and wind power. Because these studies could provide pollution-free energy for the distant future from within the United States, I believe the studies should be fully supported.

The major portion of my presentation here is concerned with solar thermal conversion and more specifically on the potential of utilizing the solar tower concept for large scale conversion of solar energy. [1] This concept is currently under study by Dr. Lorin L. Vant-Hull and the author at the University of Houston in conjunction with McDonnell Douglas Astronautics Corporation and now several other groups under NSF/RANN grants. The concept consists of redirecting solar energy from a square mile area (2.6 km^2) via individually controlled flat mirrors or heliostats as shown in Figure 1. The solar radiation is reflected onto a central receiver or boiler atop a 1500 foot tower. The absorbed heat can then either be converted to steam for electric power generation or used for the production of chemical fuels. As depicted in the insert, the size of the heliostats varies from 4–6 meters dimensions as determined by economics, and indirectly introduces a lower bound for the tower height. The temperatures obtainable with such a point focus concentrator is readily in the range of 800–1200°K.

The amount of energy that can be collected with a square mile unit in the desert southwest with 40 percent of the ground covered with mirrors is 500 megawatts Thermal or 200 megawatts Electric for five hours in the winter and somewhat more energy for ten hours in the summer. Because of the point focus requirement clear sunny days are required. Ideal locations for initial development exist several hundred miles west of San Antonio, Texas out to the Mojave desert in California for a width of several hundred miles.

The cost of heat produced via a solar concentrator once developed (after the tenth plant construction) is shown in Table 1. The capital costs include the heat collection costs but do not include electric generating facilities. The estimate of $8/bbl of oil equivalent is competitive with present fuel costs. Capital costs are equivalent to $100/kW Thermal.

The intermittent nature of solar energy needs to be addressed but there are power grids where studies have shown definite peak power requirements to be related to direct solar radiation. This would mean no storage or backup would be required. For night operation and some cloudiness thermal storage in the earth strata, using wells appears very attractive. Also pumped hydro storage is being studied for suitable areas. Another backup for a solar plant is to use low cost gas turbine peaking plants. Such peaking units are somewhat inefficient and require expensive fuels but if the yearly operating time is small compared to that of a solar plant, the combination of a solar plant with a peaking unit is an attractive one.

For a deeper penetration into the energy market chemical production and transmission is required. One chemical process most often discussed is the electrolysis of water into hydrogen and oxygen. Electrolysis may prove attractive in certain circumstances but lacks in overall efficiency with thermochemical means. The electrolysis process is 70 percent efficient and is preceded usually by a 30–40% electric-conversion cycle.

Thermo-chemical processes have been proposed by DeBeni for the breakdown of water into hydrogen and oxygen and, for the temperature possible with the point focus concentrator, efficiences are estimated at 60–70 percent.[2] The DeBeni process however is multi-step and has not been thoroughly proven. An attractive alternative to this would be to decompose methane and water reversibly, over a catalyst at high temperature and pressure into H_2 and CO.[3] These chemicals would be transmitted as gases in a pipeline to a distant user and reformed into methane and water over a catalyst with the production of heat. The methane and water would be returned to a nuclear reactor or solar plant as the case may be via a second pipeline, the overall system being closed. Such a chemical transmission line would be more expensive than conventional transmission systems and have a smaller economic radius than for burning methane.

On the other hand the production of a chemical compound is estimated as 60–70 percent efficient compared to 30–40 percent for electric power generation and permits storage of solar energy in gas wells, gas storage facilities and as liquids. The most ideal location for initial solar development is in the southwest where direct radiation is high. The thermal transmission costs will tend to pull developments closer to the regional end use.

In summary, solar energy will be an acceptable form of energy once converted into electrons, molecules and heat as delivered by utilities. Utilities have the distribution system and customers to make an impact.

There are no scientific feasibility questions remaining for solar such as for fusion and there are no really new technology requirements although some modifications are required to integrate solar into utility structures. The process outlined is energy economic and building plants can be bootstrapped. Also, there are sufficient resources to produce such plants. Further, there is no air pollution and virtually no thermal pollution. Although water tower cooling for the electric plants is visualized, later plants could well incorporate dry air towers with a few points loss in efficiency.

To show the potential of solar thermal conversion let us consider the energy requirements of the United States in the year 2000 estimated to be in the range of 10^{17} BTU's. This is equivalent to about one cubic mile of oil. An equivalent amount of thermal energy could be collected from a square of land 175 miles on the side in the southwest, 40 percent covered with mirrors, and would require 1.5 trillion dollars for capital. Although somewhat more than this amount of solar energy would be required because of delivery processes it does demonstrate the magnitude of the potential and the magnitude of the problem. It would seem reasonable that an appreciable fraction of our requirements could be met with solar. Advantages are that solar is non-depletable and within our continental boundaries. In particular solar development could explicitly and implicitly affect our balance of payments favorably.

The NSF/RANN program has requested some 288 million for solar thermal for the next five years. This is to produce a ten megawatt plant. Pending favorable results a full square mile plant may be possible by 1981–85. Since it probably will take three to five years to build a plant after development it probably will be near 2000 before a significant impact could be made. In order to show a significant impact (10%) prior to 2000 would require an accelerated national program similar to that of our completed lunar program. Full-scale plants could certainly be developed in less than ten years. A billion dollars a year could result in a full-scale plant in 5–6 years. This would require a coordinated effort of Government, Industry, and Universities. Full scale plant production could take place by ten years or less.

REFERENCES

1. Hildebrandt, A. F., Haas, G. M., Jenkins, W. R., and Colaco, J. P., "Large Scale Concentration and Conversion of Solar Energy," EOS Transactions of American Geophysical Union, 53, 7 (1972) pp. 684–692.

Hildebrandt, A. F., and Vant-Hull, L. L., "A Tower Top Point Focus Solar Energy Collector," Proceedings of University of Miami Theme Conference, March 1974.

Vant-Hull, L. L. and Co-workers, NSF/RANN Progress Report No. 1, GI-39456.

Hildebrandt, A. F., and Vant-Hull, L. L., "A Tower Top Focus Solar Energy Collector," Mechanical Engineering, September 1974.

Vant-Hull, L. L., and Hildebrandt, A. F., "Solar Thermal Power System, Based on Optical Transmission," International Solar Energy Conference (Proceedings to be published), Fort Collins, Colorado, August 1974.

2. DeBeni, G., and Marchetti, C., "Hydrogen, Key to the Energy Market," Eurospectra, Vol. IX, No. 2, 46 (1970).

3. Häfele, Wolf, "Energy Choices that Europe Faces: A European View of Energy," Science, Vol. 84, No. 4134, pp. 364, April 19, 1974.

TABLE 1.—*Estimated Costs*

450 m tower, receiver, and heat exchangers (slip cast concrete	$10,000,000
2.6 km^2 mirror field (45% coverage at $30/m^2)	35,000,000
Total Capital Investment	45,000,000
Depreciation: straight line for 20 years	2,250,000
Local Taxes and Interest (6%)	2,700,000
Maintenance of mirror field (30 men at $10,000/year)	300,000
Operation of tower faciliti_s (4 men at $12,500/year)	50,000
Materials, supervision, and overhead	350,000
Net cost	5,650,000
Return on average investment at 10%/year	2,250,000
Total cost (including return)	7,900,000

Cost per kw-hr-Thermal

This solar furnace will produce 1731 x 10^6 kw-hr-T/year (avg. of 1480 kw-hr-Tm^2 of mirror absorbed per year by the boiler).

Net cost per kw-hr-T	0.31
Total cost (including return)	0.46
Equivalent cost of natural gas per thousand cubic feet	1.35
Equivalent cost per barrel of oil (*6 x 10^6 BTU/Barrel*)	8.00

STUDENT LOAN TAX CASE SHOWS HOW SYSTEM WORKS

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. FOUNTAIN. Mr. Speaker, earlier this year a great many young North Carolinians were startled to receive taxdue notices from the Greensboro, N.C. office of the Internal Revenue Service.

The IRS was assessing them retroactively on the basis of a relatively new tax policy, which held that educational loans containing the forgiveness repayment provision represented taxable income. Affected were doctors, dentists, medical technologists, X-ray technicians, teachers, nurses, and others.

Upon learning about this situation—with young professionals trained in critical specialties being assessed taxes as high as $1,000—my distinguished colleague, Congressman IKE ANDREWS, immediately asked the IRS to correct this inequity administratively.

When that proved initially fruitless, he introduced legislation, H.R. 14392, on April 25, which I cosponsored, providing that those who had been assessed and who had paid retroactive taxes covering the past 3 years would be eligible to file for and obtain refunds.

During the summer and early fall, 143 other Members of Congress agreed to cosponsor Congressman ANDREWS' bill. This legislation was also endorsed by some 19 national health and education groups. Even so, he persisted in his efforts to correct this problem administratively.

His efforts have succeeded, as is explained to some degree in an editorial contained in the Raleigh, N.C., Times on Monday, October 14. The IRS has made a wise revaluation of its original decision. I commend my able colleague, Mr. ANDREWS, for his fine work and am pleased to insert at this point in the RECORD this editorial, "Student Loan Tax Case Shows How System Works."

The editorial follows:

[From the Raleigh (N.C.) Times, Oct. 14, 1974]

STUDENT LOAN TAX CASE SHOWS HOW SYSTEM WORKS

In April, shortly after the floodlight of publicity had illuminated President Nixon's tax problems, the IRS, in a prime case of ever-kill, lowered the boom on some 3,000 young North Carolinans.

They were young professionals who had taken advantage of the state's loan-scholarship programs while in college, agreeing to pay off loans with service after graduation. Some are serving in health care areas. Teachers are teaching in North Carolina for every year they received financial aid.

Suddenly, the IRS began mailing out unexpected tax bills to these students, giving them only 15 days to pay. IRS had ruled that the loans were income and while the student could pay back the state with service it had to pay IRS in coin.

Many of the young workers, hard pressed by unexpected tax bills as they were just launching their careers, took their cases to Fourth District Congresman Ike Andrews who introduced a bill that would have eliminated the three years retroactive clause of the bill. As a result, IRS last month suspended collections until Dec. 1975 or until it handed down a policy.

Now, IRS has issued that policy. Tax on such loans issued before June 11, 1973 are forgiven.

While the concession is one for which we can be grateful, IRS needs to go further. The students loan program is a good one. It enables many young people to go to college. It enables the state to retain teachers, doctors and other professionals within its boundaries.

This case, which led to the revaluation by IRS, offers an encouraging example of how the over system should work. Citizens, feeling wronged, turn to their elected representatives for relief. Time passes but the input pays off.

It is a process, however, that requires constant use. Now, the public and Rep Andrews need to keep prodding IRS until this needless, nitpicking tax is removed altogether.

THE LATE "VAL" MONETTE

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. FISHER. Mr. Speaker, funeral services were held on yesterday, October 15, in Smithfield, Va., for the late and lamented Valmore Monette. Affectionately known as "Val," he was a widely recognized patriot and philanthropist. As an example, he contributed liberally to many different churches, as well as many other worthy causes.

Mr. Monette was a self-made man. He managed to accumulate considerable wealth through good management, expert planning, and his ability to choose and retain highly competent employees. In addition, he was a hard worker who took understandable pride in his achievements.

Above all, "Val" was a patriotic American who devoted his talents and his resources to the cause of good government. He was a fervent defender of the American concept of competitive free enterprise, and he was an active and proud defender of the American heritage.

Many of us who knew Mr. Monette thought of him as a personal friend. He and his charming wife always enjoyed their rather frequent visits to Washington where he was welcomed by scores of people who knew him.

In many respects "Val" was a most remarkable man. This Nation, if it is to survive, needs more people of his caliber to speak out and support its preservation. He never wavered in his devotion.

To his wife, Pamela, and other members of the family I extend my profound sympathy in their bereavement.

Under leave to extend my remarks, I include an article which appeared in the Richmond Times-Dispatch. It follows:

VALMORE MONETTE, CONTRIBUTOR, DIES

SMITHFIELD.—Valmore H. Monette, a wealthy Smithfield businessman who headed a worldwide operation as a manufacturers' representative to the commissaries and post exchanges of the U.S. armed services, died Friday afternoon in Portsmouth General Hospital. He was 71.

A spokesman for the family said the cause of death was apparently a heart attack.

Mr. Monette was also a substantial contributor to politicians who shared what he called his "American and patriotic view."

He traveled and wrote extensively to state and federal politicians in addition to contributing thousands of dollars to them, including influential members of the House Armed Services Committee.

From his 400-acre farm near here, Mr. Monette supervised Army supermarket accounts for a wide range of manufacturers, among them Hershey Foods, Rath Meats, Chef Boy-Ar-Dee, Woolite, Smuckers Jellies, Helene Curtis, Reynolds Metals Co., Sara Lee, Geritol and Morton Salt.

In 1973, a congressional committee investigating charges that Mr. Monette had made illegal contributions cleared him of the charge. They found that he had made contributions from a personal checking account. They also found that Mr. Monette had neither a personal nor a corporate contract with the federal government because V. H. Monette and Co. acted only as an intermediary for manufacturers dealing with the armed forces.

Mr. Monette, a native of Florida, Mass., was the son of a blue-collar worker. Despite dropping out of school at age 14, he founded a multimillion-dollar business by being an intermediary between the commissary marketing business and the manufacturer.

He is survived by his wife, Mrs. Pamela McCreary Monette; two daughters, Miss Ann Monette and Miss Marcy G. Monette of San Rafael, Calif.; three sons, David G. Monette of Portsmouth, Richard W. Monette of San Antonio, and Alan V. Monette of El Paso; two sisters, and five brothers.

A funeral service will be held at 2 p.m. Tuesday at Colonial Funeral Home here, with burial in St. Luke's Memorial Park.

HOUSE OF REPRESENTATIVES—*Thursday, October 17, 1974*

The House met at 11:30 o'clock a.m.

The Reverend Jack P. Lowndes, pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

In all thy ways acknowledge Him, and He shall direct thy paths.—Proverbs 3: 6.

Our sight is short, our wills are vain, and sometimes our purposes are uncertain. Steady us, O God, that we may walk a straight path and reach the goal Thou hast for us.

Grateful for women and men who serve here in the House of Representatives, we pray that the Speaker and those who serve with him will have Thy strength, guidance, and protection.

We confess our sins and pray for forgiveness. May Thy mercy and grace continue with us today and until we meet again. In Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On October 11, 1974:

H.R. 10088. An act to establish the Big Cypress National Preserve in the State of Florida, and for other purposes;

H.R. 11510. An act to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a new Nuclear Regulatory Commission in order to promote more efficient management of such functions;

H.R. 11546. An act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes; and

H.R. 16032. An act to authorize the Secretary of the Treasury to change the alloy and weight of the 1-cent piece and to amend the Bank Holding Act Amendments of 1970 to authorize grants to Eisenhower College, Seneca Falls, N.Y.

On October 14, 1974:

H.J. Res. 898. Joint resolution authorizing the President to proclaim the second full week in October 1974 as "National Legal Secretaries' Court Observance Week."

On October 15, 1974:

H.R. 4861. An act to amend the act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Md., and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 65 a bill of the Senate of the following title:

H.R. 14217. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Wednesday, October 16, 1974, he did on that day sign an enrolled joint resolution of the House as follows:

H.J. Res. 1163. Joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes.

PROPOSED REVIEW OF MILITARY ASSISTANCE AND MILITARY SALES PROVISIONS

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZABLOCKI. Mr. Speaker, during the past month, there has been serious debate in the House about violations of our laws governing the provision of military assistance—and military sales.

I believe that laws which are on our statute books should be applied evenhandedly—or repealed.

For that reason, I intend to move in our Committee on Foreign Affairs for a thorough review of how the laws on military assistance have been applied in the past.

This means, also, that the Congress should review the exact provisions of the various agreements under which we have provided military aid, and military sales, to different countries.

I believe the Congress must determine whether there are flaws in the law—and whether the intent of the law has been circumvented on occasion by the terms of executive agreements.

I believe it will be informative for all of us to have the full facts in this matter—and then to make a fresh judgment about what should be done about the law as it stands today.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I will be delighted to yield to the gentleman.

Mr. GROSS. Mr. Speaker, I want to commend the gentleman for the statement he has just made, and I sincerely hope that when the recess ends, the gentleman will lose no time in starting hearings on this most vital subject.

Mr. ZABLOCKI. The gentleman from Wisconsin intends to do just that.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON MERCHANT MARINE AND FISHERIES—DEPOSITIONS IN MATTER OF KONIAG, INC., ET AL. VERSUS ROGERS C. B. MORTON

The SPEAKER laid before the House the following communication from the chairman of the Committee on Merchant Marine and Fisheries:

Committee on Merchant
Marine and Fisheries,
Washington, D.C., October 16, 1974.

Hon. Carl Albert,
Speaker, House of Representatives, Washington, D.C.

Dear Mr. Speaker: On October 15, 1974, notices of taking of deposition issued by Duncan, Brown, Weinberg & Palmer were delivered to Ned P. Everett, an employee of the House Committee on Merchant Marine and Fisheries, and to Peter Stockton, a former investigator for this Committee, notifying them that their depositions would be taken at the offices of Duncan, Brown, Weinberg & Palmer on Monday, October 21, 1974, in the matter of Koniag, Inc., et al, v. Rogers C. B. Morton.

I previously wrote you on October 7, forwarding copies of similar notices delivered to Frank M. Potter, Jr., who has since received an amended notice calling for his deposition to take place on Tuesday, October 22, 1974. Copies of my previous letter and all of the notices involved are attached for your information.

It is believed that the subject matter of all of these depositions relates to hearings held before my Committee earlier this year.

This material is presented for such action as the House in its wisdom wishes to take.

Sincerely,

Leonor K. Sullivan,
Chairman.

[In the U.S. District Court for the District of Columbia—Civil Action No. 74–1061]

NOTICE OF TAKING OF DEPOSITION OF NED P. EVERETT

Koniag, Inc., et al., plaintiffs, *v.* Rogers C. B. Morton, Defendant

Defendant is hereby notified that on Monday, October 21, 1974, the plaintiffs will take the deposition upon oral examination, pursuant to Rule 30, F.R.Civ.P., of Ned P. Everett, Counsel to the Committee on Merchant Marine and Fisheries of the United States House of Representatives, at the offices of Duncan, Brown, Weinberg, & Palmer, Suite 777, 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20006, beginning at 9:30 a.m. and continuing until completed.

DUNCAN, BROWN, WEINBERG & PALMER.
WASHINGTON, D.C.
By FREDERICK L. MILLER, Jr.,
Attorney for Plaintiffs.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Taking of Deposition of Ned P. Everett was served by first class mail on this 11th day of October, 1974, on the following:

Herbert Pittle, Esquire, Room 2140, Department of Justice, Washington, D.C. 20530.

Ned P. Everett, Esquire, Counsel, House Committee on Merchant Marine & Fisheries, 1334 Longworth House Office Building, Washington, D.C. 20515.

DUNCAN, BROWN, WEINBERG & PALMER.
WASHINGTON, D.C.
By FREDERICK L. MILLER, Jr.
Attorney for Plaintiffs.

[In the U.S. District Court for the District of Columbia—Civil Action No. 74–1061]

NOTICE OF TAKING OF DEPOSITION OF PETER STOCKTON

Koniag, Inc., et al., plaintiffs, *v.* Rogers C. B. Morton, defendant

Defendant is hereby notified that on Monday, October 21, 1974, the plaintiffs will take the deposition upon oral examination, pursuant to Rule 30, F.R.Civ.P., of Peter Stockton, formerly Counsel to the Committee on Merchant Marine and Fisheries of the United States House of Representatives, at the offices of Duncan, Brown, Weinberg & Palmer, Suite 777, 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20006 beginning at 11:00 a.m. and continuing until completed.

DUNCAN, BROWN, WEINBERG & PALMER.
Washington, D.C.
By FREDERICK L. MILLER, Jr.,
Attorney for Plaintiffs.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Taking of Deposition of Peter Stockton was served by first class mail, postage prepaid, on this 11th day of October, 1974 on the following:

Mr. Peter Stockton, 3909 Woodbine Street, Chevy Chase, Maryland 20015.

Herbert Pittle, Esquire, Room 2140, Department of Justice, Washington, D.C. 20530.

DUNCAN, BROWN, WEINBERG & PALMER.
Washington, D.C.
By FREDERICK L. MILLER, Jr.,
Attorney for Plaintiffs.

[In the U.S. District Court for the District of Columbia—Civil Action No. 74–1061]

AMENDED NOTICE OF TAKING OF DEPOSITION OF FRANK M. POTTER, JR.

Koniag, Inc., et al., plaintiffs, *v.* Rogers C. B. Morton, defendant

On October 1, 1974 plaintiffs noticed the deposition of Frank M. Potter, Jr., Counsel to the Committee on Merchant Marine and Fisheries of the United States House of Representatives for Thursday, October 17, 1974 at 2:00 p.m. In order to accommodate deponent's schedule, that deposition is hereby noticed for 9:30 a.m., Tuesday, October 22, 1974 at the offices of Duncan, Brown, Weinberg & Palmer, Suite 777, 1700 Pennsylvania Avenue, N.W., Washington, D.C.

DUNCAN, BROWN, WEINBERG & PALMER.
WASHINGTON, D.C.
By FREDERICK L. MILLER, Jr.,
Attorney for Plaintiffs.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Amended Notice of Taking of Deposition of Frank M. Potter, Jr., was served by first class mail on this 11th day of October, 1974 on the following:

Herbert Pittle, Esquire, Room 2140, Department of Justice, Washington, D.C. 20530.

Frank M. Potter, Jr., Esquire, Counsel, House Committee on Merchant Marine & Fisheries, 1334 Longworth House Office Building, Washington, D.C. 20515.

DUNCAN, BROWN, WEINBERG & PALMER.
WASHINGTON, D.C.
By FREDERICK L. MILLER, Jr.,
Attorney for Plaintiffs.

RECESS

The SPEAKER. Pursuant to the authority previously granted the Chair, the Chair declares a recess, subject to the call of the Chair. Bells will be sounded 15 minutes before the House reconvenes.

Accordingly (at 11 o'clock and 36 minutes a.m.) the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 12 minutes p.m.

FURTHER CONTINUING APPROPRIATIONS, 1975, VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–374)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I greatly regret that for the second time I must return without my approval the Continuing Resolution granting funds for the operation of several departments and agencies and for the temporary continuation of our foreign aid programs, H.J. Res. 1163.

My previous veto message and my public statements on this matter have clearly expressed our objectives with respect to the resolution of the Cyprus dispute as well as the dangers posed by legislative restrictions destroying our ability to assist the parties involved. The Congress, despite the best efforts of the bipartisan leaders of both Houses, has for the second time refused to recognize the realities of the situation.

While the language of this new bill is different, its effect is similar to the earlier Continuing Resolution which required my veto on October 14. I need not reiterate the extensive comments which I made at that time and which again compel a veto. The provisions of this bill as they would apply to Turkey would do nothing to bring an end to the suffering of the Cypriot people, would do nothing to encourage the two sides to resolve the dispute peacefully, and would bring a further deterioration of the posture of the NATO alliance in the crucial Eastern Mediterranean. It is for these reasons and those previously stated that I must reluctantly veto the bill before me.

In addition, I am compelled to point out again that should this measure become law, the United States would have lost the ability to play a useful role in this dispute and would in effect have to withdraw from the negotiations. Should the Congress force such an action, it must do so in the clear knowledge that it assumes full responsibility for the situation which would then prevail.

I ask that the Congress not choose that path but that it reconsider its action and provide a bill which will permit the continued execution of United States foreign policy in a constructive and responsible manner.

GERALD R. FORD.

THE WHITE HOUSE, *October 17, 1974.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and without objection the message and joint resolution will be printed as a House document.

There was no objection.

The SPEAKER. The question is, Will the House, on reconsideration, pass the joint resolution, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, a vote of yea is a vote to override the President's veto. A vote of nay, of course, is to sustain the veto.

I shall vote to sustain the veto, as I did on the previous occasion. I think we have debated this issue at sufficient length, and further debate would be unproductive. It is in keeping with the wishes of the leadership in the House on both sides of the aisle, and the Members of the House on both sides of the aisle, that we now vote on the issue.

Therefore, Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the joint resolution, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 161, nays 83, not voting 190, as follows:

[Roll No. 623]

YEAS—161

Abzug
Adams
Addabbo
Andrews, N.C.
Annunzio
Ashley
Badillo
Bafalis
Barrett
Bauman
Bennett
Biaggi
Blatnik
Brademas
Breckinridge
Brinkley
Broyhill, Va.
Buchanan
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Chisholm
Clark
Collins, Ill.
Conyers
Corman
Coughlin
Cronin
Daniels, Dominick V.
Davis, S.C.
Delaney

Dellums
Dent
Diggs
Donohue
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Fascell
Fish
Flood
Flowers
Forsythe
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gray
Green, Pa.
Gude
Gunter
Haley
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Holt
Holtzman
Hungate
Jones, Ala.
Jordan
Karth
Kastenmeier
Kazen
Ketchum
Kluczynski
Koch
Kyros
Lagomarsino
Leggett
Lehman
Lent
Long, Md.
Lujan
Luken
McDade
McFall
McKinney
McSpadden
Madden
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Moakley
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
O'Brien
O'Neill
Parris
Patten
Pepper
Perkins
Pickle
Pike
Price, Ill.
Randall
Rangel
Regula
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Roush
Roybal
Sandman
Sarasin
Sarbanes
Satterfield
Seiberling
Shoup
Sisk
Smith, Iowa
Spence
Staggers
Stanton, James V.
Stark
Steele
Steiger, Wis.
Stokes
Studds
Sullivan
Symington
Teague
Thompson, N.J.
Van Deerlin
Vanik
Waldie
Whalen
Wilson, Charles H., Calif.
Wyman
Yates
Yatron
Young, Tex.

NAYS—83

Archer
Arends
Bell
Bevill
Biester
Bray
Breaux
Broomfield
Brown, Ohio
Burleson, Tex.
Butler
Camp
Casey, Tex.
Cederberg
Chamberlain
Chappell
Cleveland
Cohen
Collier
Daniel, Dan
de la Garza
Dennis
Dulski
Erlenborn
Eshleman
Fisher
Fountain
Frelinghuysen
Frey
Goodling
Green, Oreg.
Gross
Gubser
Guyer
Hamilton
Harsha
Henderson
Hillis
Hogan
Hosmer
Hutchinson
Jarman
Jones, Tenn.
Landgrebe
Lott
McClory
McEwen
Mahon
Mann
Martin, N.C.
Michel
Milford
Mizell
Myers
Nelsen
Obey
Passman
Poage
Preyer
Pritchard
Quie
Rarick
Rhodes
Robinson, Va.
Robison, N.Y.
Runnels
Sebelius
Shriver
Shuster
Sikes
Slack
Smith, N.Y.
Stanton, J. William
Steed
Stubblefield
Taylor, N.C.
Thornton
White
Whitten
Williams
Wyatt
Young, Fla.
Zablocki

NOT VOTING—190

Abdnor
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Armstrong
Ashbrook
Aspin
Baker
Beard
Bergland
Bingham
Blackburn
Boggs
Boland
Bolling
Bowen
Brasco
Brooks
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Burgener
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Carey, N.Y.
Carney, Ohio
Carter
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cochran
Collins, Tex.
Conable
Conlan
Conte
Cotter
Crane
Culver
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Davis, Wis.
Dellenback
Denholm
Derwinski
Devine
Dickinson
Dingell
Dorn
Edwards, Ala.
Esch
Evans, Colo.
Evins, Tenn.
Findley
Flynt
Foley
Ford
Froehlich
Fulton
Gettys
Grasso
Griffiths
Grover
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hébert
Helstoski
Hicks
Hinshaw
Holifield
Horton
Howard
Huber
Hudnut
Hunt
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kemp
King
Kuykendall
Landrum
Latta
Litton
Long, La.
McCloskey
McCollister
McCormack
McKay
Macdonald
Madigan
Mallary
Maraziti
Martin, Nebr.
Mathias, Calif.
Melcher
Metcalfe
Mills
Minshall, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Nichols
Nix
O'Hara
Owens
Patman
Pettis
Peyser
Podell
Powell, Ohio
Price, Tex.
Quillen
Railsback
Rees
Reid
Roberts
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rostenkowski
Rousselot
Roy
Ruppe
Ruth
Ryan
St Germain
Scherle
Schneebeli
Schroeder
Shipley
Skubitz
Snyder
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Symms
Talcott
Taylor, Mo.
Thomson, Wis.
Thone
Tiernan
Towell, Nev.
Traxler
Treen
Udall
Ullman
Vander Jagt
Vander Veen
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
Whitehurst
Widnall
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Young, Alaska
Young, Ga.
Young, Ill.
Young, S.C.
Zion
Zwach

So, two-thirds not having voted in favor thereof, the veto of the President was sustained, and the joint resolution was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Carey of New York and Mrs. Boggs for, with Mr. Hébert against.

Mr. Hawkins and Mr. Bingham for, with Mr. Gettys against.

Mr. Boland and Mr. Brooks for, with Mr. Hanna against.

Mrs. Burke of California and Mrs. Grasso for, with Mr. Ichord against.

Mr. Hanley and Mr. Harrington for, with Mr. Jones of North Carolina against.

Mr. Andrews of North Dakota and Mr. Roncallo of New York for, with Mr. Landrum against.

Mr. Del Clawson and Mr. Huber for, with Mr. Melcher against.

Mr. Roncalio of Wyoming and Mr. Rostenkowski for, with Mr. Walsh against.

Mr. Cotter and Mr. Culver for, with Mr. Talcott against.

Mr. Clay and Mr. Dingell for, with Mr. Nichols against.

Mr. Macdonald and Mr. Metcalfe for, with Mr. Ryan against.

Mr. Moss and Mr. Reid for, with Mr. Waggonner against.

Mr. Blackburn and Mr. Hunt for, with Mr. Charles Wilson of Texas against.

Mr. Don H. Clausen and Mr. Railsback for, with Mr. Bowen against.

Mr. Whitehurst and Mr. Conte for, with Mr. Anderson of Illinois against.

Mr. Danielson and Mr. Howard for, with Mr. Devine against.

Mr. Wylie and Mr. Steelman for, with Mr. Hinshaw against.

Mr. Young of Georgia and Mr. Wolff for, with Mr. Johnson of Pennsylvania against.

Mr. Mathias of California and Mr. Hudnut for, with Mr. Martin of Nebraska against.

Mr. Maraziti and Mr. Peyser for, with Mr. Powell of Ohio against.

Mr. Ashbrook and Mr. Towell of Nevada for, with Mr. Rees against.

Mr. Nix and Mr. O'Hara for, with Mr. Ware against.

Mr. Widnall and Mr. Young of Illinois for, with Mr. Steiger of Arizona against.

Mr. Horton and Mr. Edwards of Alabama for, with Mr. Zwach against.

Mr. Stratton and Mr. Alexander for, with Mr. Montgomery against.

Mr. Vigorito and Mr. Helstoski for, with Mr. Ullman against.

Mr. Derwinski and Mr. Brown of Michigan for, with Mr. Baker against.

Mr. Brotzman and Mr. Clancy for, with Mr. Beard against.

Mr. Anderson of California and Mr. Hicks for, with Mr. Kemp against.

Mr. Bergland and Mr. Brown of California for, with Mr. Latta against.

Mr. Burlison of Missouri and Mr. Denholm for, with Mr. McCloskey against.

Mr. Evans of Colorado and Mr. Foley for, with Mr. Minshall of Ohio against.

Mr. Flynt and Mr. Fulton for, with Mr. Quillen against.

Mr. McCormack and Mr. McKay for, with Mr. Price of Texas against.

Mr. Mollohan and Mr. Moorhead of Pennsylvania for, with Mr. Scherle against.

Mr. Roberts and Mr. Shipley for, with Mr. Symms against.

Mr. Aspin and Mr. Holifield for, with Mr. Evins of Tennessee against.

Mr. St Germain and Mr. Tiernan for, with Mr. Schneebeli against.

Mr. Stephens and Mr. Vander Veen for, with Mr. Wiggins against.

Mrs. Schroeder and Mr. Ford for, with Mr. Taylor of Missouri against.

Mr. Johnson of California and Mr. Carney of Ohio for, with Mr. Thomson of Wisconsin against.

Until further notice:

Mr. Davis of Georgia with Mr. Abdnor.

Mr. Dorn with Mrs. Griffiths.

Mrs. Hansen of Washington with Mr. Jones of Oklahoma.

Mr. Long of Louisiana with Mr. Mills.

Mr. Patman with Mr. Owens.

Mr. Rooney of New York with Mr. Roy.

Mr. Stuckey with Mr. Traxler.

Mr. Udall with Mr. Wright.

Mr. Burke of Florida with Mr. Broyhill of North Carolina.

Mr. Collins of Texas with Mr. Carter.

Mr. Conable with Mr. Cochran.

Mr. Crane with Mr. Conlan.

Mr. Davis of Wisconsin with Mr. Robert W. Daniel, Jr.

Mr. Froehlich with Mr. Dellenback.

Mr. Hammerschmidt with Mr. Dickinson.

Mr. Esch with Mr. Hanrahan.

Mr. Grover with Mr. Findley.

Mr. Hansen of Idaho with Mr. Kuykendall.

Mr. King with Mr. Hastings.

Mr. Litton with Mr. Madigan.

Mr. Pettis with Mr. Mallary.

Mr. Ruppe with Mr. Rousselot.

Mr. Moorhead of California with Mr. Ruth.

Mr. Skubitz with Mr. Mitchell of New York.

Mr. Vander Jagt with Mr. Thone.

Mr. Snyder with Mr. Treen.

Mr. Wampler with Mr. Bob Wilson.

Mr. Young of Alaska with Mr. Winn.

Mr. Zion with Mr. Young of South Carolina.

The result of the vote was announced as above recorded.

The SPEAKER. The message and the joint resolution are referred to the Committee on Appropriations.

The Clerk will notify the Senate of the action of the House.

RECESS

The SPEAKER. The chair declares the House in recess, subject to the call of the Chair.

Accordingly (at 12 o'clock and 33 minutes p.m.) the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 3 o'clock and 7 minutes p.m.

FURTHER CONTINUING APPROPRIATIONS, 1975

Mr. **YOUNG** of Texas, from the Committee on Rules, reported the following privileged resolution (H. Res. 1456, Rept. No. 93–1470) which was referred to the House Calendar and ordered to be printed:

H. RES. 1456

Resolved, That immediately upon the adoption of this resolution the House shall consider the joint resolution (H.J. Res. 1167) making further continuing appropriations for the fiscal year 1975, and for other purposes. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

Mr. **YOUNG** of Texas. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 1456 and ask for its immediate consideration.

The **SPEAKER**. The Clerk will report the resolution.

The Clerk read the resolution.

The **SPEAKER**. The question is, Will the House now consider House Resolution 1456?

PARLIAMENTARY INQUIRIES

Mr. **GROSS**. Mr. Speaker, a parliamentary inquiry.

The **SPEAKER**. The gentleman will state his parliamentary inquiry.

Mr. **GROSS**. Mr. Speaker, does not consideration of this rule require unanimous consent?

The **SPEAKER**. The Chair will state to the gentleman from Iowa that it requires a two-thirds vote to consider the resolution. The Chair was about to put the question.

Mr. **HAYS**. Mr. Speaker, a further parliamentary inquiry.

The **SPEAKER**. The gentleman will state his parliamentary inquiry.

Mr. **HAYS**. Mr. Speaker, I am a little curious as to how this resolution got out of the Committee on Appropriations, since I understand the committee did not meet. How did it get before the Committee on Rules?

The **SPEAKER**. The Chair will state that a request was made that the Committee on Rules consider a rule on the introduced version.

Mr. **HAYS**. But how did it get before the Committee on Rules?

The **SPEAKER**. Because House Resolution 1456 was reported by the Committee on Rules, and the Committee on Rules has authority to report as privileged a resolution discharging another committee from a measure referred to that committee.

PARLIAMENTARY INQUIRY

Mr. **MATHIS** of Georgia. I have a parliamentary inquiry, Mr. Speaker.

The **SPEAKER**. The gentleman will state it.

Mr. **MATHIS** of Georgia. Mr. Speaker, if this resolution is agreed to, no amendments would be in order to the continuing resolution; would they?

The **SPEAKER**. The Chair is not in a position to answer that question conclusively at this point. In the form of the resolution now, the answer would be "no." The Chair is only going to put the question: Shall the House consider the resolution? That is the question the Chair now puts. Shall the House consider the resolution?

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. **HAYS**. I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 210, nays 14, not voting 210, as follows:

[Roll No. 624]

YEAS—210

Adams
Addabbo
Andrews, N.C.
Annunzio
Arends
Ashley
Aspin
Badillo
Bafalis
Barrett
Bell
Bennett
Bevill
Biaggi
Biester
Blatnik
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Butler
Byron
Camp
Casey, Tex.
Cederberg
Chappell
Chisholm
Clark
Cleveland
Cohen
Collier
Collins, Ill.
Conyers
Corman
Coughlin
Cronin
Daniel, Dan
Daniels, Dominick V.
de la Garza
Delaney
Dellums
Dennis
Dent
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eshleman
Fascell
Fish
Fisher
Flood
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Goldwater
Goodling
Gray
Green, Oreg.
Green, Pa.
Gude
Gunter
Haley
Hamilton
Harrington
Harsha
Hechler, W. Va.
Heckler, Mass.
Heinz
Hillis
Hogan
Holt
Holtzman
Hosmer
Hungate
Hutchinson
Jarman
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Ketchum
Kluczynski
Koch
Kyros
Lagomarsino
Leggett
Lehman
Lent
Long, Md.
Lott
Luken
McClory
McDade
McEwen
McFall
McKinney
McSpadden
Madden
Mahon
Mann
Martin, N.C.
Matsunaga
Mayne
Mazzoli
Meeds
Mezvinsky
Michel
Milford
Miller
Minish
Mitchell, Md.
Mizell
Moakley
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nelsen
Obey
O'Brien
O'Neill
Parris
Passman
Patten
Pepper
Perkins
Pickle
Pike
Poage
Preyer
Price, Ill.
Pritchard
Quie
Randall
Rangel
Regula
Reuss
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Roush
Roybal
Sandman
Sarasin
Sarbanes
Satterfield
Sebelius
Seiberling
Shoup
Shriver
Shuster
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stubblefield
Studds
Symington
Taylor, N.C.
Teague
Thornton
Van Deerlin
Vanik
Whitten
Williams
Wilson, Charles H., Calif.
Wyatt
Wyman
Yates
Young, Tex.
Zablocki

NAYS—14

Archer
Bauman
Davis, S.C.
Ginn
Gonzalez
Gross
Gubser
Hays
Landgrebe
Lujan
Mathis, Ga.
Rarick
Runnels
Young, Fla.

NOT VOTING—210

Abdnor
Abzug
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Armstrong
Ashbrook
Baker
Beard
Bergland
Bingham
Blackburn
Boggs
Boland
Bolling
Bowen
Brasco
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Burgener
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Carey, N.Y.
Carney, Ohio
Carter
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cochran
Collins, Tex.
Conable
Conlan
Conte
Cotter
Crane
Culver
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Davis, Wis.
Dellenback
Denholm
Derwinski
Devine
Dickinson
Diggs
Dingell
Dorn
Edwards, Ala.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Findley
Flowers
Flynt
Foley
Ford
Frey
Froehlich
Fulton
Gettys
Grasso
Griffiths
Grover
Guyer
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Hastings
Hawkins
Hébert
Helstoski
Henderson
Hicks
Hinshaw
Holifield
Horton
Howard
Huber
Hudnut
Hunt
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kemp
King
Kuykendall
Landrum
Latta
Litton
Long, La.
McCloskey
McCollister
McCormack
McKay
Macdonald
Madigan
Mallary
Maraziti
Martin, Nebr.
Mathias, Calif.
Melcher
Metcalfe
Mills
Mink
Minshall, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Nichols
Nix
O'Hara
Owens
Patman
Pettis
Peyser
Podell
Powell, Ohio
Price, Tex.
Quillen
Railsback
Rees
Reid
Rhodes
Riegle
Rinaldo
Roberts
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rostenkowski
Rousselot
Roy
Ruppe
Ruth
Ryan
St Germain
Scherle
Schneebeli
Schroeder
Shipley
Skubitz
Snyder
Steele
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Towell, Nev.
Traxler
Treen
Udall
Ullman
Vander Jagt
Vander Veen
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Young, S.C
Zion
Zwach

So (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 1456.

The Clerk announced the following pairs:

The result of the vote was announced as above recorded.

The **SPEAKER**. The gentleman from Texas (Mr. YOUNG), is recognized for 1 hour.

Mr. **YOUNG** of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CED-

ERBERG), pending which I yield myself such time as I may require.

Mr. YOUNG of Texas. Mr. Speaker, the rule provides that immediately upon adoption of the rule, the House shall consider the joint resolution making further continuing appropriations for the fiscal year 1975.

The rule provides that after general debate, which shall be limited to 1 hour, the previous question shall be considered as ordered on the rule.

The applicable part of section 6 of the joint resolution reads as follows: *Provided*, That the President is authorized to suspend the provisions of this section and said acts if he determines that such suspension will further negotiations for a peaceful solution of the Cyprus conflict. Any such suspension shall be effective only until December 10, 1974, and only if, during that time, Turkey shall observe the cease-fire and shall neither increase its forces on Cyprus nor transfer to Cyprus any U.S. supplied implements of war.

Mr. Speaker, I urge the adoption of the rule in order that we may consider and discuss the joint resolution.

Mr. CEDERBERG. Mr. Speaker, I have absolutely no requests for time. I am not going to take any time.

Mr. YOUNG of Texas. Mr. Speaker, I yield such time as he may consume to the distiguished chairman of the Appropriations Committee, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I am as surprised as the Members are to be presenting a continuing resolution here without having cleared it through the Appropriations Committee.

There was a meeting of the leadership from both sides of the aisle in the Speaker's office which I attended together with the ranking minority member of the committee, Mr. CEDERBERG. The Speaker and the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL) felt that we were threatened with the loss of a quorum, and of course that was true. In the meeting I agreed to expedite this legislative matter as rapidly as possible.

When we met I suggested some compromise language with regard to the Greek-Turkey situation. This language was not accepted by the proponents of the proviso which precipitated the Presidential veto. Additional language was added on to the language which I had suggested and the language I had suggested was altered otherwise.

After considerable discussion, we called the President and read the language to him. He opposed the language on the ground that it prohibited transfers and could be interpreted as an intrusion into the internal affairs of Turkey, a sovereign nation, and a friend of the United States. Nevertheless, the President stated to all of us in the course of telephone conversation while he was not satisfied with the action proposed, he would not veto the bill. He very reluctantly agreed to withhold a veto. So this is the way in which the pending business was expedited.

I had always thought we would call the Committee on Appropriations together and secure approval in an instance of this kind, but I was requested by the leadership to bring the measure immediately before the Committee on Rules. The Committee on Rules convened immediately, in fact before I could get there with the resolution.

I hope no one is offended at the chairman of the Committee on Appropriations or the distinguished majority leader or the Speaker. I want the Members to understand how this situation developed. The matter will be before the Members very quickly.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Clerk will read the joint resolution.

The Clerk read as follows:

H.J. RES. 1167

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) clause (c) of section 102 of the joint resolution of June 30, 1974 (Public Law 93-324), is hereby amended by striking out "September 30, 1974" and inserting in lieu thereof "sine die adjournment of the second session of the Ninety-third Congress".

(b) Clause (a) of such section is amended by inserting immediately after "joint resolution" the following: "or, in the case of the United States Information Agency, enactment of authorizations of appropriations for fiscal year 1975 for that Agency".

SEC. 2. Section 101(e) of such joint resolution is amended by striking out "first quarter" and inserting in lieu thereof "quarterly".

SEC. 3. The fourth unnumbered clause of section 101(b) of such joint resolution, relating to foreign assistance and related programs appropriations, is amended by striking out all that follows "as amended" and inserting in lieu thereof ": *Provided*, That in computing the current rate of operations of military assistance there shall be included the amount of obligations incurred in Department of Defense appropriations during the fiscal year 1974 for military assistance to Laos;".

SEC. 4. Such joint resolution is amended by adding at the end thereof the following new section:

"SEC. 112. Notwithstanding any other provision of this joint resolution or any other Act, the President is authorized to use funds made available for foreign assistance by this joint resolution but not to exceed $15,000,000, to provide, on such terms and conditions as he may determine, relief, rehabilitation, and reconstruction assistance in connection with the damage caused by floods in Honduras Bangladesh and by civil strife in Cyprus.".

SEC. 5. Such joint resolution is amended by adding at the end thereof the following new section:

SEC. 113. None of the funds made available for foreign assistance by this joint resolution may be used to purchase fertilizer in the United States for export to South Vietnam.

SEC. 6. None of the funds herein made available shall be obligated or expended for military assistance, or for sales of defense articles and services (whether for cash or by credit, guaranty, or any other means) or for the transportation of any military equipment or supplies to Turkey until and unless the President certifies to the Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act, and any agreement entered into under such Acts, and that substantial progress toward agreement has has been made regarding military forces in Cyprus: *Provided*, That the President is authorized to suspend the provisions of this section and said acts if he determines that such suspension will further negotiations for a peaceful solution on the Cyprus conflict. Any such suspension shall be effective only until December 10, 1974, and only if, during that time, Turkey shall observe the ceasefire and shall neither increase its forces on Cyprus nor transfer to Cyprus any U.S. supplied implements of war.

The SPEAKER. The gentleman from Texas (Mr. MAHON) is recognized for 1 hour.

Mr. MAHON. Mr. Speaker, I will not take the entire hour allowed, but the House should know what is before it.

Members of the House are well aware that we have been struggling with the continuing resolution since prior to September 30, and we have had two vetoes of a proposed new continuing resolution. Therefore, we had to do something in order to rectify the situation where several major departments of the Government have been without authority to incur obligation since midnight, September 20.

Mr. Speaker, this is basically the same resolution that has been approved before in two instances. There is a little change with respect to the fertilizer issue, and that change involves new language as follows:

> None of the funds made available for foreign assistance by this joint resolution may be used to purchase fertilizer in the United States for export to South Vietnam.

This was the modification which was added to the resolution now before the House.

The only other change in the vetoed measure was that which relates to the Turkish-Cyprus-Greece issue. The House has repeatedly supported what is known as the Rosenthal amendment, and this is the provision which brought about a veto on two occasions. The present resolution before us includes substantially the Rosenthal amendment. It is substantially what has been approved by the House and Senate before, and I add that this was without my support. It is substantially what has been vetoed by the President on two occasions. I agree that some changes were made but not the thrust of the amendment.

Consequently, under these circumstances, the President was contacted today in regard to the problem. I first talked with him along with my colleague on the Committee on Appropriations, Mr. CEDERBERG. Thereafter we joined the leadership in further conversations with the President.

While the President is not in support of this proposal with respect to Cyprus, he has agreed to approve reluctantly the resolution in view of the fact that the business of Government must go on and that the approval of the continuing resolution is long overdue. Neither the President nor Congress can afford to see large segments of the Government come to a grinding halt.

This is generally the information

which I think the Members desire to know in determining how they may want to vote on the pending issue.

Copies of this resolution are available here at the desk and elsewhere in the Chamber.

Mr. Speaker, I yield for debate only to the gentleman from Michigan (Mr. CEDERBERG).

Mr. CEDERBERG. Mr. Speaker, I concur with the statement of the distinguished chairman of the Committee on Appropriations.

We have spent a long morning in difficult negotiations with those on both sides of this question. We have reached this compromise. It is a compromise not entirely satisfactory to the President, but he recognizes the practicalities of the situation. My own personal opinion is that it is better than what we had before, though worse than what I might have hoped for.

At this time I plan to take no further time whatsoever. I think we ought to get the matter settled.

Mr. MATHIS of Georgia. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I will yield to the gentleman for a question.

Mr. MATHIS of Georgia. I appreciate the chairman's explanation of the situation involving Turkey and Greece, but I note that the chairman did not mention anything involving the fertilizer. Would the chairman expound on that?

Mr. MAHON. Yes. I have already expounded on the matter involving fertilizer and explained what the language is and that it prohibits the shipment of any fertilizer from the United States to South Vietnam.

Mr. MATHIS of Georgia. Did the committee restore the $85 million that was in the resolution yesterday?

Mr. MAHON. The committee only added what I have read to the House with respect to it.

Mr. MATHIS of Georgia. Mr. Speaker, I thank the gentleman.

Mr. MAHON. I would like to say, Mr. Speaker, that I think we are taking dangerous action here and I am very disturbed about it. I do not know what effect this action may have on the Middle East.

I do not know how offended Turkey may become. I do not know whether we will jeopardize our continued use of those military bases, and I do not know how this will affect our stature and influence in the Middle East. I do not know to what extent this imperils the security of Greece or Israel.

Nobody can foresee the effect of this resolution, but this was the best that could be done under all the difficult circumstances. The President has agreed to approve the continuing resolution with the new language that is contained in it.

Under leave to extend my remarks let me make further reference to our Middle East problems.

It is unfortunate that this continuing resolution has been used as a vehicle for conducting foreign policy of the United States.

I would warn my colleagues of the dangers involved. We are intruding into the internal affairs of the sovereign nation of Turkey. We are jeopardizing our historic friendship with this country and are imperiling the vital military agreements we have with Turkey.

I would like to point out for the record that I am torn as to what action to take in regard to the final vote on this resolution. I have opposed the Rosenthal amendment throughout this controversy and I will continue to oppose it and I also oppose the modified Rosenthal amendment which is included in the continuing resolution now before us.

On the other hand, as chairman of the Committee on Appropriations, it is my responsibility to help see that the Government is not prostrated and made ineffective and incapable of carrying on the business of the Nation. The continuing resolution provides vital funds for the Departments of Agriculture; Labor; Health, Education, and Welfare; and it provides funds for military construction and for certain activities for the Department of State. While I regret to see the modified Rosenthal amendment incorporated into the resolution, it is absolutely necessary that a continuing resolution be passed and that the business of government be allowed to continue.

Mr. Speaker, I cannot predict the future, of course, but based upon the information available to me I am of the opinion that the Rosenthal amendment will damage the capability of the United States to be a meaningful peace negotiator in the Middle East. It will be damaging in our efforts to be of assistance to Greece and to Israel. Indeed, it may seriously weaken this Nation's ability to be of assistance to Israel in the event of a military crisis. It could tend to weaken our position in the eastern Mediterranean and make much more difficult the continued operation of the 6th Fleet in the Mediterranean.

We have fought these issues out in the House of Representatives over a period of weeks now and my position has not been sustained, but the business of government must go on and the House will undoubtedly approve this resolution.

I do hope, Mr. Speaker, that the Government of Turkey and our Turkish friends—and there is, of course, an excellent relationship between the people of Turkey and the people of the United States—realize that in our own domestic controversy over the Cyprus situation that we did not in any way mean to indicate or show a lessening of our friendship and high regard for Turkey.

Historically, Turkey and the United States have long been allies. The House of Representatives, I believe, does not intend in any way that this relationship should diminish.

So, Mr. Speaker, it seems to me that this is adequate debate on the issue, and I yield back the balance of my time.

Mr. SKUBITZ. Mr. Speaker, I rise in support of the pending resolution providing continuing funding for various Government agencies as well as the compromise language pertaining to the prohibition of military aid to Turkey through December 10.

I feel that the language described in the resolution is such that the President and the Executive Establishment can adequately carry on the difficult task of finding and securing a formula for peace in Cyprus while at the same time the Congress has made clear its strong position regarding this country's part in the Cyprus matter.

Mr. MATHIS of Georgia. Mr. Speaker, I am extremely disappointed that I was not allowed, either during debate on the rule for this continuing resolution, or on this resolution itself, to express my opinions on this item relating to fertilizer for South Vietnam. Yesterday, an amendment was adopted by a voice vote in this House that would have limited funds appropriated in this resolution for purchasing fertilizer for South Vietnam to $1,000. The resolution that is being railroaded here today contains no limitation even resembling the one we adopted here yesterday. The rule under which we are operating allows no amendment to be offered, so there is no opportunity to rectify this blatant wrong. Mr. Speaker, certain Members have tried, in good faith I am sure, to allay my fears, and those of others, by inserting language in this continuing resolution that says, in essence, no money in this resolution may be used to purchase fertilizers in the United States for export to South Vietnam. I appreciate the efforts of the committee members in that direction, but I fear that such language will, as a practical matter, have absolutely no effect on the fertilizer to be exported. Let me cite a hypothetical case—the XYZ Fertilizer Co.—Savannah, Ga., is approached about selling $10 million worth of fertilizer to South Vietnam. XYZ tells the South Vietnamese "I am sorry, we cannot sell to you, but why don't you contact the ABC brokerage firm in Mexico City." ABC then purchases the $10 million worth of fertilizer, sells it directly to the South Vietnamese, and ships it from Savannah. The only thing we have done is to give some foreign broker a commission to handle the sale of the fertilizer, and put a little smokescreen in front of the taxpayers, and the farmers of the Nation. Mr. Speaker, what we should have done is to consider this continuing resolution under an open rule, and amended this section to buy fertilizer for South Vietnam. It is unthinkable that we would even consided spending $85 million to buy fertilizer for South Vietnam, when American farmers do not even know that they can purchase fertilizer adequate for their needs next year; but they do know they are going to pay exorbitant prices.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GROSS. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 33, not voting 210, as follows:

[Roll No. 625]

AYES—191

Adams
Addabbo
Annunzio
Arends
Ashley
Aspin
Badillo
Bafalis
Barrett
Bell
Bennett
Biaggi
Biester
Blatnik
Brademas
Bray
Breaux
Breckinridge
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Byron
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clark
Cleveland
Cohen
Collier
Collins, Ill.
Conyers
Corman
Coughlin
Cronin
Daniels, Dominick V.
de la Garza
Delaney
Dellums
Dennis
Dent
Donohue
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eshleman
Fascell
Fish
Flood
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Green, Pa.
Gude
Gunter
Haley
Hamilton
Harrington
Harsha
Hays
Hechler, W. Va.
Heckler, Mass.
Hillis
Hogan
Holt
Holtzman
Hungate
Hutchinson
Jones, Ala.
Jordan
Karth
Kastenmeier
Kazen
Ketchum
Kluczynski
Koch
Kyros
Lagomarsino
Leggett
Lehman
Lent
Long, Md.
Lott
Luken
McClory
McDade
McEwen
McFall
McKinney
Madden
Mahon
Mann
Martin, N.C.
Matsunaga
Mayne
Mazzoli
Meeds
Mezvinsky
Milford
Miller
Minish
Mitchell, Md.
Mizell
Moakley
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nelsen
Obey
O'Brien
O'Neill
Parris
Passman
Patten
Pepper
Perkins
Pickle
Pike
Preyer
Price, Ill.
Pritchard
Quie
Randall
Rangel
Regula
Reuss
Robinson, Va.
Rodino
Roe
Rogers
Rooney, Pa.
Rosenthal
Roush
Roybal
Sandman
Sarasin
Sarbanes
Sebelius
Seiberling
Shoup
Shriver
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Studds
Symington
Taylor, N.C.
Teague
Thompson, N.J.
Ullman
Van Deerlin
Vanik
Williams
Wilson, Charles H., Calif.
Wyatt
Wyman
Yates
Young, Fla.
Young, Tex.
Zablocki

NOES—33

Andrews, N.C.
Archer
Bauman
Bevill
Brinkley
Burleson, Tex.
Camp
Chappell
Daniel, Dan
Davis, S.C.
Fisher
Frelinghuysen
Ginn
Gross
Gubser
Hosmer
Jarman
Jones, Tenn.
Landgrebe
Lujan
McSpadden
Mathis, Ga.
Poage
Rarick
Robison, N.Y.
Rose
Runnels
Satterfield
Shuster
Sikes
Stubblefield
Thornton
Whitten

NOT VOTING—210

Abdnor
Abzug
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Armstrong
Ashbrook
Baker
Beard
Bergland
Bingham
Blackburn
Boggs
Boland
Bolling
Bowen
Brasco
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Burgener
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Carey, N.Y.
Carney, Ohio
Carter
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cochran
Collins, Tex.
Conable
Conlan
Conte
Cotter
Crane
Culver
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Davis, Wis.
Dellenback
Denholm
Derwinski
Devine
Dickinson
Diggs
Dingell
Dorn
Dulski
Edwards, Ala.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Findley
Flowers
Flynt
Foley
Ford
Frey
Froehlich
Fulton
Gettys
Grasso
Griffiths
Grover
Guyer
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Hastings
Hawkins
Hébert
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Holifield
Horton
Howard
Huber
Hudnut
Hunt
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kemp
King
Kuykendall
Landrum
Latta
Litton
Long, La.
McCloskey
McCollister
McCormack
McKay
Macdonald
Madigan
Mallary
Maraziti
Martin, Nebr.
Mathias, Calif.
Melcher
Metcalfe
Michel
Mills
Mink
Minshall, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Nichols
Nix
O'Hara
Owens
Patman
Pettis
Peyser
Podell
Powell, Ohio
Price, Tex.
Quillen
Railsback
Rees
Reid
Rhodes
Riegle
Rinaldo
Roberts
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rostenkowski
Rousselot
Roy
Ruppe
Ruth
Ryan
St Germain
Scherle
Schneebeli
Schroeder
Shipley
Sisk
Skubitz
Snyder
Steele
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Thomson, Wis.
Thone
Tiernan
Towell, Nev.
Traxler
Treen
Udall
Vander Jagt
Vander Veen
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Young, S.C.
Zion
Zwach

So the joint resolution was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Culver.
Mr. Rhodes with Mr. Davis of Georgia.
Mr. Rooney of New York with Mr. Dorn.
Mr. Stratton with Mr. Gettys.
Mr. Henderson with Mrs. Griffiths.
Ms. Abzug with Mr. Dulski.
Mr. Moorhead of Pennsylvania with Mr. Hanna.
Mr. Nichols with Mrs. Hansen of Washington.
Mr. Diggs with Mrs. Grasso.
Mr. Denholm with Mr. Holifield.
Mr. Carey of New York with Mr. Martin of Nebraska.
Mr. Ford with Mr. Minshall of Ohio.
Mr. Johnson of California with Mr. Owens.
Mr. Montgomery with Mr. Powell of Ohio.
Mr. Roncalio of Wyoming with Mr. Reid.
Mr. Nix with Mr. Mills.
Mr. O'Hara with Mr. Roy.
Mr. Hicks with Mr. Steele.
Mr. Clay with Mr. Tiernan.
Mr. Carney of Ohio with Mr. Hansen of Idaho.
Mr. Burlison of Missouri with Mr. Brotzman.
Mrs. Burke of California with Mr. Del Clawson.
Mr. Evins of Tennessee with Mr. Abdnor.
Mr. Eilberg with Mr. Johnson of Pennsylvania.
Mr. Dingell with Mr. Ashbrook.
Mr. Jones of North Carolina with Mr. Hinshaw.
Mr. Macdonald with Mr. Brown of Michigan.
Mr. Long of Louisiana with Mr. Baker.
Mrs. Boggs with Mr. Waldie.
Mr. Bingham with Mr. Davis of Wisconsin.
Mr. Alexander with Mr. Beard.
Mr. Cotter with Mr. Ware.
Mr. Danielson with Mr. Zwach.
Mr. Howard with Mr. Blackburn.
Mrs. Sullivan with Mr. Wylie.
Mr. Shipley with Mr. Broomfield.
Mr. Ichord with Mr. Melcher.
Mr. Fulton with Mr. Brooks.
Mr. Flynt with Mr. Burke of Florida.
Mr. Metcalfe with Mr. Mollohan.
Mr. Helstoski with Mr. Robert W. Daniel, Jr.
Mr. Roberts with Mr. Clancy.
Mr. Rostenkowski with Mr. Roncallo of New York.
Mrs. Schroeder with Mr. Stuckey.
Mr. Sisk with Mr. Skubitz.
Mr. Wolff with Mr. Ruth.
Mr. Yatron with Mr. Carter.
Mr. Young of Georgia with Mr. Udall.
Mr. Wright with Mr. Crane.
Mr. Vander Veen with Mr. Schneebeli.
Mr. St Germain with Mr. Ryan.
Mr. Evans of Colorado with Mr. Don H. Clausen.
Mr. Flowers with Mr. Dellenback.
Mr. Litton with Mr. Conable.
Mr. Landrum with Mr. Ruppe.
Mr. Foley with Mr. Snyder.
Mr. Hawkins with Mrs. Mink.
Mr. Rees with Mr. Jones of Oklahoma.
Mr. Moss with Mr. Conte.
Mr. McCormack with Mr. Scherle.
Mr. Riegle with Mr. Coughlin.
Mr. Stephens with Mr. King.
Mr. Traxler with Mr. Rousselot.
Mr. Vigorito with Mr. Latta.
Mr. Waggonner with Mr. Derwinski.
Mr. White with Mr. Madigan.
Mr. Anderson of California with Mr. Collins of Texas.
Mr. Bergland with Mr. Kuykendall.
Mr. Boland with Mr. Rinaldo.
Mr. Bowen with Mr. Kemp.
Mr. Brown of California with Mr. Mallary.
Mr. McKay with Mr. Conlan.
Mr. Anderson of Illinois with Mr. Zion.
Mr. Walsh with Mr. Steelman.
Mr. Railsback with Mr. Quillen.
Mr. Hunt with Mr. Steiger of Arizona.
Mr. Andrews of North Dakota with Mr. Vander Jagt.
Mr. Hudnut with Mr. Symms.
Mr. Whitehurst with Mr. Thone.
Mr. Talcott with Mr. Wiggins.
Mr. Winn with Mr. Price of Texas.
Mr. Peyser with Mr. Huber.
Mr. Horton with Mr. Taylor of Missouri.
Mr. Thomson of Wisconsin with Mr. Patman.
Mr. Widnall with Mr. Pettis.
Mr. Heinz with Mr. Treen.
Mr. Hastings with Mr. Devine.
Mr. Towell of Nevada with Mr. Erlenborn.
Mr. Mathias of California with Mr. Dickinson.
Mr. Edwards of Alabama with Mr. Findley.
Mr. Maraziti with Mr. Frey.
Mr. Esch with Mr. Froehlich.
Mr. McCloskey with Mr. Moorhead of California.
Mr. Grover with Mr. Guyer.
Mr. Mitchell of New York with Mr. Young of South Carolina.
Mr. Whalen with Mr. Hanrahan.
Mr. Wydler with Mr. Bob Wilson.
Mr. Young of Illinois with Mr. Charles Wilson of Texas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the joint resolution (H.J. Res. 1167) just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AUTHORIZING PRINTING BY THE CLERK OF REPORTS FILED BY COMMITTEES AUTHORIZED TO CONDUCT INVESTIGATIONS

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that reports filed with the Clerk of the House until November 18, 1974, by committees authorized by the House to conduct investigations may be printed by the Clerk as reports of the 93d Congress.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS AUTHORIZED BY LAW OR BY THE HOUSE

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until November 18, 1974, the Speaker be authorized to accept resignations and to appoint commissions, boards, and committees authorized by law or by the House.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, NOVEMBER 20, 1974

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the calendar Wednesday rule on Wednesday, November 20, 1974, may be dispensed with.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION TO REVISE AND EXTEND NOTWITHSTANDING ADJOURNMENT OF THE HOUSE

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until November 18, 1974, all Members of the House shall have the privilege to extend and revise their own remarks in the Congressional Record on more than one subject, if they so desire, and also to include therein such short quotations as may be necessary to explain or complete such extension of remarks, but this order shall not apply to any subject matter which may have occurred or to any speech delivered subsequent to the adjournment of the House.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. **ARENDS** asked and was given permission to address the House for 1 minute.)

Mr. ARENDS. Mr. Speaker, I would like to ask at this time if the distinguished majority leader, the gentleman from Massachusetts (Mr. O'Neill) will give us the program for the House of Representatives for the week of November 18, 1974.

Mr. O'NEILL. Mr. Speaker, will the distinguished minority leader yield?

Mr. ARENDS. I am happy to yield to the distinguished majority leader, the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, the program for the House of Representatives for the week of November 18, 1974, is as follows:

On Monday, November 18, 1974, we will call the Consent Calendar, and we will consider bills under suspension as follows:

H.R. 14349, additional Army Deputy Chief of Staff;

H.R. 871, awards for reservists' suggestions;

H.R. 1959, disposal of excess property to Indians;

H.R. 16225, Joint Funding Simplification Act;

H.R. 14791, wild and scenic rivers;

H.R. 10510, congressional approval of economic census questionnaires;

H.R. 13340, census data for State legislatures;

H.R. 8864, Little League baseball for girls and boys;

H.R. 13054, Naval Sea Cadets Corps for girls and boys;

H. Res. 1399, world food situation;

H.R. 16982, U.S. payment for U.N. peacekeeping forces; and,

S. 1064, judicial disqualification.

On Tuesday, November 19, we will call the Private Calendar, and we will consider bills under suspension as follows:

H.R. 15229, tort claims for Canal Zone;

S. 1227, FCC rulemaking procedures for overcharges;

S. 1479, notifying Secretary of Defense by FCC; and,

S. 2457, alien radio operators licenses.

On Wednesday, November 20, and the balance of the week we will consider the following:

H.R. 16373, Privacy Act, with an open rule, and 1 hour of debate;

H. Res. 1387, place for amendments in Congressional Record;

S.J. Res. 40, White House Conference on Libraries, with an open rule, and 1 hour of debate;

S. 3906, Nonpilots commanding flying units, with an open rule, and 1 hour of debate;

H.R. 16074, Nuclear information for Congress, subject to a rule being granted;

H.R. 16609, AEC supplemental authorization, subject to a rule being granted; and

H.R. 8266, requiring radios to receive AM and FM, subject to a rule being granted.

Conference reports may be brought up at anytime, and any further program will be announced at a later date.

That is the program for the week of November 18 when we return. Other items that we will compelled to handle during the period of time when we come back will be Labor-HEW conference appropriations, Agriculture conference appropriations, military construction conference appropriations, supplemental conference appropriations and foreign aid.

Then, we also, of course, have a foreign aid authorization, Rhodesian chrome, strip mining conference. Then, we have the nomination of a gentleman by the name of Rockefeller pending before the Judiciary Committee.

We have the lottery bill, the Offshore Terminals Conference, the Federal-Highway Act, the Urban Mass Transit Conference, which is still before the Rules Committee.

We anticipate a trade conference and whatever other conferences would come along. There is a bill on airline discrimination.

I have read for the most part the complete schedule which we have planned by the time we return. I would anticipate that we would be back the 18th, work through the week of the 18th; be back on the following Monday and what would be agreed to by the leadership with the approval of the House as to whether we would leave on Tuesday or Wednesday to go home for Thanksgiving. Then, we would come back the following week, or as soon as we can complete the schedule we have which, as the gentleman knows, under the rules of reorganization, the matters concerning the 94th session are to be taken up. The committee assignments and whatever caucuses both sides of the aisle are supposed to have will be taken up sometime between the 1st and the 20th.

May I say for the gentleman's information that the Democrats are going to meet December 6, 7, and 8 at Kansas City for a little soiree, in which we make plans for 1976.

Mr. ARENDS. Mr. Speaker, I would like to say to the gentleman that on the 6th, 7th, and 8th of December, I hope he has a merry time. Also, considering all the items the gentleman says we are going to do, would he care to give us an educated guess as to whether we will get out in time for Christmas?

Mr. O'NEILL. There is no question about that. I assume we will be out before Christmas.

THREAT TO NATIONAL SECURITY

(Mr. **YOUNG** of Florida asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. YOUNG of Florida. Mr. Speaker, I rise to express my grave concern over a news report that the FBI does not have enough agents to keep track of the growing number of foreign spies in the United States.

In an informal meeting with members of the news media yesterday, FBI Director Clarence M. Kelley said that he was considering asking Congress for 250 additional agents to work just on internal security. According to Kelley, the FBI is now undertaking an internal readjustment to increase the number of agents working on internal security, but if this readjustment does not supply the necessary manpower, he will have to ask Congress for assistance.

Mr. Speaker, it is a sad commentary on our priorities that foreign agents are able to roam this Nation at will, and at the same time continual leaks of top secret information make the spies' job even easier. I know of no other Nation in the world where an individual can make public top secret information and go unpunished.

On top of this continual sapping from within, we now find that there are so many foreign agents entering our Nation that the FBI is unable to adequately keep track of them all. This is a truly dangerous situation, and one which should not be allowed to continue. We have maintained our position as defender of freedom and arbiter of world peace only through our position as the No. 1 power in the world, and we can allow no situation which will threaten that supremacy. The continued and unmonitored presence of large numbers of foreign espionage agents in our country clearly threatens our national security.

The Congress must take corrective action immediately. We must set legislative goals which put America first, which tighten up our security, and which punish those who make classified information available to unauthorized persons. We must give the FBI the manpower and funds necessary to protect our national security and monitor those who would disrupt our society. Freedom of speech and press under the Constitution are imperative guarantees, but I do not believe our forefathers meant them to be carried to such extremes as to threaten the very foundations of our national security and give aid and comfort to our enemies.

Mr. Speaker, following is the news report of Mr. Kelley's remarks to which I have referred:

FBI Director Wants More Antispy Agents

(By Bob Kuttner)

FBI Director Clarence M. Kelley yesterday warned that the FBI doesn't have enough agents to keep track of the growing number of foreign spies in the United States, and said he is considering asking for 250 new agents to work just on internal security.

Kelley's comments came at a luncheon for reporters who regularly cover the Justice Department. It was the second such gathering this year.

Covering a wide variety of topics, Kelley told reporters:

The FBI should play a greater coordinating role in local law enforcement by serving as a clearinghouse, but not to the extent of becoming a national police force. He disclosed that the FBI's data banks now have reports on some 60,000 local police projects to exchange among police departments.

The FBI has no explanation for the 16 per cent jump in serious crimes reported during the first half of 1974, but he is certain that the decline reported during 1972 was not an election-year statistical manipulation.

He opposes privacy legislation that would permit federal employees to see comments in their files obtained from informants during pre-employment investigations. He also rejects proposals to expunge arrest records where no conviction resulted, because frequently "the arrest in itself was a good arrest."

The FBI has no new information on kidnaped heiress Patricia Hearst. "I'd like to say 'Patty, come on in,'" Kelley said, gesturing at the doorway.

He still supports efforts to permit the FBI to wiretap without warrants in "domestic subversion" cases, and opposes pending legislation to require court approval for national security wiretaps, which are now allowed without a warrant.

The FBI found no links between the Symbionese Liberation Army and any foreign power, Kelley said. "Had there been any we might have gotten warrantless tapping."

He said his speech last week to the American Legion warning about increased espionage was prompted in part by concern about new restrictions on wiretapping.

Kelley told reporters there is a growing gap in the ratio of FBI agents to Communist diplomats and visitors all of whom he called "potential agents gathering information."

The best system would be "one FBI agent for each espionage agent," Kelley said, but "our budget doesn't allow it." He declined to say whether Communist diplomatic representation should be reduced, terming that a subject "in the area of detente."

As part of the FBI's stated new policy of openness with the public and the press, Kelley invited reporters to interview any of the bureau's assistant directors, and to visit the FBI Academy at Quantico, Va.

CONGRESSMAN JACK KEMP INTRODUCES THE PROPOSED MEDICAL RECORDS PRIVACY ACT OF 1974

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, that Government's involvement in our daily lives stands as a threat to the sanctity and security of the individual cannot any longer be questioned.

Virtually every Federal agency today maintains extensive records about individuals, records which can be retrieved and used in a manner which identifies specific information with a particular person. This information is often exchanged between agencies. And, if there is outdated, erroneous, or irrelevant information contained in the original record, its exchange duplicates and spreads that information, making it difficult—if not next to impossible—for the individual to correct.

And, it is most discouraging when the Federal Government surfaces a proposal, as it recently did, one to construct and operate a combined automated data system for the entire Federal Government, one to be known as FedNet. That proposal would have taken the data systems now held separately by the many Federal agencies and have combined them into one mammoth system. This program apparently rested on the assumption that the best way to protect the privacy of records was to create some sort of 1984-ish master computer network, housed in one place, around which would be Federal guards to assure the privacy of records maintained therein. This assumption has one major flaw: it fails to recognize Government itself as one of the principal threats to the right of privacy. After all, "Big Brother" is synonymous with "Big Government."

PROTECTION OF THE PRIVACY OF MEDICAL INFORMATION

One of the traditional, classic confidential relationships recognized at common law, by modern statutes, and through contemporary rules of evidence and procedure is the confidential relationship between a doctor and his patient. It stands on the same par as that privileged relationship between a lawyer and his client, between a priest and the penitent.

At a time when there are efforts to create new rights of confidentiality—as between a newsman and his source—the confidentiality of those health related matters discussed and dealt with between a doctor and his patient has been recognized for centuries.

This right is the right of the patient to assert—a right precluding with full force of law a doctor either releasing information or testifying in court without the consent of the patient. It is not the doctors' right. And, as such, it is a right personal to that patient.

The right of privacy as to medical information and records—in this sense of an individual patient working with an individual doctor—is fairly easy to protect.

As a matter of practice, these manual records are usually kept under lock and key and are accessible only to the physician and his immediate medical staff. Information is not released from those records except with the consent of the patient—usually written consent so as to protect the doctor, the receiver of the information, and the patient himself. This is true even when the patient is seeking to obtain a benefit through the release of that information—such as health insurance payments for services and medications.

In addition, there are adequate remedies at law for violations of this right—this principle—ranging from disciplinary actions against the doctor to actual and punitive damages.

This confidential relationship is being tested—circumvented—through the proliferation of computerized, automated data networks of medical information.

During the past year I have had the benefit of the views of my colleagues, the professional community, patients, and a special medical privacy task force in my congressional district—the Joint Task Group on Ethical Health Data Centers, chaired by E R. Gabrieli, M.D., on the appropriateness and content of medical privacy legislation.

On October 11, I introduced a bill, H.R. 17323, the proposed Medical Records Privacy Act of 1974. That bill is designed to establish greater safeguards and protections of the right of privacy as it relates to personal medical information—information being held by Federal agencies and computerized and automated medical information held by non-Federal entities, public and private.

The need for this legislation is readily accessible to anyone who examines the volumes now compiled on the interface between data banks and constitutional rights.

As to data banks maintained by Federal agencies, the Subcommittee on Constitutional Rights, chaired by Senator Sam J. Ervin, Jr., of North Carolina, of the Senate Committee on the Judiciary, has recently published an extensive study entitled, "Federal Data Banks and Constitutional Rights: A Study of Data Systems on Individuals Maintained by

Agencies of the United States Government."

This study details the nature of those data banks acknowledged to exist by 54 Federal agencies. The subcommittee feels that not all data banks were acknowledged by the agencies.

According to this study, there are an acknowledged 858 data banks consisting of "countless files and dossiers on individuals." The 765 data banks for which information about the number of records is available contain 1.245 billion—1,245,699,494 records—on individuals. Over 86 percent of the reported data banks are computerized.

With respect to this computerization of records, the subcommittee's study observes:

> It is interesting to note that many of the more sensitive dossiers which pose the most serious dangers to individuals are kept in manual files, perhaps because the information is thought to be too sensitive to be entrusted to computers. Nevertheless, the trend appears to be toward more and more computerization of all types of government files in the future.

Under what authority were these data banks compiled and maintained? The study observes:

> It is highly troubling, therefore, to find that 84 percent of the 544 data bank responses analyzed are unable to cite specific statutory authority. Fully 18 percent cite no statutory authority whatsoever.

As an example of the kinds of files maintained—relating to medical information—the Social Security Administration stores well over 25 million patient files. The personnel files of the agencies typically contain medical information as it relates to potential or actual employment. The disability files of the Civil Service Commission and the millions of partial and permanent disability files maintained by the Armed Forces contain extensive medical information.

As to non-Federal data banks, Blue Cross/Blue Shield has a similar volume of data in retrievable form. And, the Medical Information Bureau, an information clearinghouse for the life and health insurance industry, acknowledges the existence of over 25 million patient files, but their maintenance of health records obtained through employer-labor health programs is believed, by some, to push that figure to a more realistic 60 to 75 million files.

A recent article in the Washington Post disclosed that the State of Maryland has been collecting and computerizing records on everyone who has had an abortion—and the issue here is not abortions, it is the propriety of a government maintaining records on that medical practice—and also on others who have received psychiatric care in the State. Records on medical matters relating to drug and alcohol abuse and the handicapped are also being maintained in that system.

The Board of Health of the State of Missouri has instituted an extensive health information system which many believe runs counter to the need to further assure protection in this area. Through a ruling this year, the board is requiring all licensed hospitals in the State to submit minimum basic data on each patient discharged from the hospital. The data is to be sent to the Missouri Health Department. The data must include the street address, down the hundreth of the block, which in many cases will actually identify the person, especially in suburban and rural areas.

Perhaps, one of the most interesting abuses—in a computerized network—was revealed by the gentleman from New York, my friend and colleague, ED KOCH. Here is the example he cited during our proceedings of July 9:

> When I was a younger man, I made an application for life insurance, and it was rejected. I could not understand why because I felt pretty healthy, and the company did not give me the reason why. Because I pressed and pressed, I finally was able to secure an off-the-record statement from the individual who had solicited the account. He said, "Well, we have information in our records that 10 years ago you had cancer." I said, "Well, that is very interesting, but I am not aware of it." I asked what the nature of this cancer was. The records showed it was leukemia. I asked, "Where did you get that information." The company indicated they had obtained it from a neighbor.
>
> The truth is, I did not have cancer and, of course, would have been dead a long time ago had I had it. Had I not pressed on that matter, I would not have known and I would not have been given an insurance policy. I brought this matter to the company's attention, and demanded that they analyze their file again and finally they agreed that the information that had been provided them had been given maliciously.

Now that there has been press coverage given to my work on medical privacy, my mail is bringing to me many examples of these kinds of problems.

What we are dealing with here is the necessity of attaining a proper balance between the legitimate needs of public and private agencies which maintain records to gather information essential to the delivery of services and the payment of claims on the one hand, and the rights of the individual to assure the privacy and accuracy of that information on the other.

MEDICAL RECORDS PRIVACY ACT OF 1974

The proposed Medical Records Privacy Act is designed to establish greater safeguards and protections of the right of privacy as it relates to personal medical information—information held by Federal agencies and information held by non-Federal public and private entities in computerized or otherwise automated format.

The bill is the product of literally months of work on this issue.

This is a grave, deeply complex issue, requiring the careful attention of the Congress and its committees. I hope that the Committee on the Judiciary, to whom has been referred the bill, will make this matter a top priority as it moves more decisively into the subject area of privacy—as to wiretapping, as to arrest records involving no subsequent convictions, and as to other forms of surveillance.

For the benefit of my colleagues, and because there have been many requests this week for the full text of the proposed Medical Records Privacy Act, I include at this point a sectional outline and the text of that bill:

SECTIONAL OUTLINE OF THE MEDICAL RECORDS PRIVACY ACT OF 1974

Sec. 1. Short title
Sec. 2. Findings and purposes
Sec. 3. Definitions
  (1) Medical information
  (2) Personal medical record
  (3) Board
  (4) State
  (5) Disseminate
  (6) Non-Federal personal medical records
  (7) Data subject
  (8) Federal agency

TITLE I—THE FEDERAL MEDICAL PRIVACY BOARD

Sec. 101. Establishment of the Board
Sec. 102. Membership of the Board
Sec. 103. Administration of the Board
Sec. 104. Powers of the Board
Sec. 105. Technical Amendment to Title 5
Sec. 106. Annual Report

TITLE II—FEDERAL AGENCY MEDICAL PRIVACY REQUIREMENTS

Sec. 201. Establishment of Federal Agency Requirements
Sec. 202. Federal Agency Compliance
Sec. 203. Enforcement

TITLE III—STATE MEDICAL PRIVACY PROGRAMS

Sec. 301. Authorization for Grants to States
Sec. 302. Requirements for Certification
Sec. 303. Certification of a State Program
Sec. 304. Grants to States

THE PROPOSED MEDICAL RECORDS PRIVACY ACT OF 1974

To establish a Federal Medical Privacy Board with responsibility for promoting protection of the right of privacy as it relates to personal medical information

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Medical Records Privacy Act of 1974".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) privacy is a fundamental individual right of increasing importance in modern society;

(2) the collection, maintenance, use, and dissemination of various types of information about an individual, although often necessary for legitimate purposes, can pose a serious threat to personal privacy;

(3) medical information about an individual is particularly sensitive and should be kept highly confidential;

(4) the increased use of computers and other forms of sophisticated information technology by insurance companies and others associated with the provision of health care services has greatly magnified the potential for invasions of personal privacy;

(5) adequate legal protection does not now exist for personal medical records maintained by Federal agencies; and

(6) although primary responsibility for protecting the right to privacy as it pertains to non-Federal personal medical records rests with the States, the Federal Government should take the initiative in encouraging States to develop comprehensive medical privacy programs.

(b) It is the purpose of this Act to promote the protection of individual privacy by (1) providing for the development of safeguards to insure the confidentiality of medical information contained in personal medical records; (2) establishing a Federal Medical Privacy Board which will be directly responsible for overseeing all Federal activities that involve the use of personal medical records; and (3) encouraging States to develop comprehensive medical privacy programs of their own.

DEFINITIONS

SEC. 3. As used in this Act:

(1) The term "medical information" means—

(A) any diagnostic, prognostic, or other medical analysis of an individual;

(B) any medical history of an individual;

(C) any account of medical treatment received by or recommended or prescribed for an individual;

(D) the results of any tests, studies, examinations, or interviews conducted in conjunction with the medical treatment of an individual; and

(E) such other information pertaining to the medical condition of an individual as the Board may, by regulation, designate.

(2) The term "personal medical record" means any record, file, or other collection or grouping of information, whether maintained in writing or in a computer or in other electronic form, which contains—

(A) medical information about an individual; and

(B) information identifying such individual. For purposes of this paragraph, information which identifies an individual includes his name, address, social security number, and such other personal information as the Board may, by regulation, designate.

(3) The term "Board" means the Federal Medical Privacy Board established by this Act.

(4) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(5) The term "disseminate" means release, transfer, or otherwise communicate information orally, in writing, by electronic means, or by any other means.

(6) The term "non-Federal personal medical records" means any personal medical records maintained by any individual or entity other than a Federal agency.

(7) The term "data subject" means the individual who is the subject of the medical information and of the identifying information contained in a personal medical record.

(8) The term "Federal agency" means any agency as defined in section 552(e) of title 5, United States Code.

TITLE I—THE FEDERAL MEDICAL PRIVACY BOARD

ESTABLISHMENT OF THE BOARD

SEC. 101. There is established an independent executive agency to be known as the Federal Medical Privacy Board.

MEMBERSHIP OF THE BOARD

SEC. 102. (a) The Board shall consist of five members, any three of whom shall constitute a quorum. The Board shall conduct business only through the action of a quorum. A vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board.

(b) The members of the Board shall be appointed by the President, by and with the advice and consent of the Senate. No more than three members may be of the same political party.

(c)(1) Except as provided in paragraph (2), members shall be appointed for a term of five years. Upon the expiration of his term, a member may continue to serve until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his terms would otherwise expire.

(2)(A) Of the first five members appointed—

(i) one shall be appointed for a term of one year;

(ii) one shall be appointed for a term of two years;

(iii) one shall be appointed for a term of three years;

(iv) one shall be appointed for a term of fours years; and

(v) one shall be appointed for a term of five years.

(B) If a member resigns, dies, or otherwise vacates his position prior to the expiration of his term, the President shall appoint, by and with the advice and consent of the Senate, a successor to serve the remainder of such term.

(3) No member shall serve more than two terms. For purposes of this paragraph, service as a member for a period of less than three years shall not constitute a term.

(d) No member shall engage in any other business, vocation, or employment.

(e) The President shall designate a member of the Board to serve as Chairman. The Chairman, or a member designated by the Chairman to act in his stead, shall preside at all meetings of the Board.

ADMINISTRATION OF THE BOARD

SEC. 103. (a) The Board may make such rules and regulations as it deems necessary to carry out its duties under this Act.

(b) The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(c) The Board may appoint such staff personnel as it deems necessary. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) The Board may procure temporary or intermittent services of experts or consultants in accordance with section 3109 of title 5, United States Code.

POWERS OF THE BOARD

SEC. 104. (a) The Board, or any member of the Board designated to act in its behalf, may hold such hearings and sit and act at such times and places, and take such testimony, as the Board deems necessary for purposes of carrying out its functions under this Act. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board or before such member.

(b)(1) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter within the jurisdiction of the Board. The attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) If a person issued a subpena under paragraph (1) refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules for Civil Procedure for the United States district courts.

(4) All process of any court to which application may be made under this section may be served in the judicial district wherein the person required to be served resides or may be found.

(5) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to a subpena, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

TECHNICAL AMENDMENT

SEC. 105. Section 5316 of title 5, United States Code (relating to positions to which level V of the Executive Schedule applies), is amended by adding at the end thereof the following new paragraph:

"(134) Members, Federal Medical Privacy Board."

REPORT

SEC. 106. The Board shall, as soon as practicable after the end of each fiscal year, submit to the President and to the Congress a written report on the activities of the Board during such fiscal year.

TITLE II—FEDERAL AGENCY MEDICAL PRIVACY REQUIREMENTS

ESTABLISHMENT OF FEDERAL AGENCY REQUIREMENTS

SEC. 201. (a) The Board, after consultation with the heads of appropriate Federal agencies, shall by regulation establish medical privacy requirements designed to protect, to the maximum extent feasible, the confidentiality of the medical information contained in personal medical records maintained by Federal agencies. Such requirements shall include requirements that any Federal agency which maintains personal medical records shall—

(1) maintain only such personal medical records as are necessary for carrying out legitimate functions of the agency;

(2) disseminate medical information from such personal medical records only when the recipient of such information has a legitimate need for such information and only when such steps as the Board may require have been taken to protect the privacy of the data subject to whom the information so disseminated pertains;

(3) establish procedures to insure that access to such personal medical records is limited to those individuals who have a specific need for such access in the performance of their duties;

(4) maintain such records as the Board may require of access to, and dissemination of, such personal medical records;

(5) establish procedures for the periodic removal from such personal medical records of medical information which is no longer necessary for carrying out legitimate functions of the agency;

(6) upon request by a data subject—

(A) inform such data subject of the existence and nature of any such personal medical records which pertains to him;

(B) permit such data subject reasonable opportunity to examine and copy the medical information which pertains to him contained in any such record other than medical information the receipt of which the Board has determined by regulation would have an adverse effect upon the data subject;

(C) provide such data subject with an explanation, in terms comprehensible to a layman, of the medical information contained in such record other than medical information exempted under subparagraph (B);

(D) permit such data subject to insert in such record a statement of correction or explanation of any medical information contained in such record which such data subject believes is not accurate, relevant, timely, or complete; and

(E) inform such data subject of (i) who has or has had access to any such record and the reasons for such access, and (ii) any disseminations outside the agency of medical information from such record and the reasons for each such dissemination;

(7) submit to the Board such reports of information pertaining to its maintenance of such personal medical records as the Board may request; and

(8) establish appropriate rules of conduct for all individuals having access to such personal medical records and establish procedures to insure that any individual having access to any such records which are being maintained or processed in any computerized or automated data processing or information retrieval system possesses—

(A) technical competence,

(B) personal integrity, and

(C) an understanding of the legal and ethical bases of personal privacy.

Rights granted pursuant to paragraph (6) to a data subject who is legally incompetent or who otherwise lacks capacity to act in his own behalf because of age, or mental or other disability, may be exercised on his behalf by his guardian or other legal representative, or, in the case of a minor, by a parent.

(b) The Board, after consultation with the heads of appropriate Federal agencies, shall by regulation establish medical access requirements applicable to Federal agencies which have access to non-Federal personal medical records. Such requirements shall be designed to protect to the maximum extent feasible, the confidentiality of information contained in such records and shall include requirements that—

(1) Federal agencies which have access to non-Federal personal medical records file with the Board such reports as the Board may require with regard to—

(A) the authority for such access;

(B) the specific reasons why such access is necessary for carrying out the agency's legal responsibilities; and

(C) how the information obtained from the inspection of such records is used;

(2) employees and agents of Federal agencies inspect non-Federal personal medical records only when and only to the extent that inspection is necessary for a legitimate agency function; and

(3) Federal agencies adopt such procedures as the Board may prescribe to insure that the confidentiality of medical information contained in any non-Federal personal medical records to which the agency has access is protected and that the medical information obtained by such agency from such records is used only for a legitimate agency purpose.

FEDERAL AGENCY COMPLIANCE

SEC. 202. (a) Except as provided in subsection (c), any Federal agency maintaining personal medical records shall comply with the medical privacy requirements established under section 201(a).

(b) Except as provided in subsection (c), any Federal agency having access to non-Federal personal medical records shall comply with medical records access requirements established under section 201(b).

(c) The Board may grant to a Federal agency an exemption from any requirement established under section 201 as it applies to certain personal medical records if the Board determines that compliance with such requirement with regard to such records would be inconsistent with law enforcement or intelligence gathering responsibilities of such agency.

ENFORCEMENT

SEC. 203. (a) Upon its own motion or upon a charge of noncompliance filed under subsection (b)(1), the Board shall commence investigatory proceeding with regard to the issues, raised by such motion or charge, of agency compliance with the requirements established under section 201. If on the basis of such investigatory proceedings the Board finds that there is reasonable cause to believe that the agency is not in compliance, the Board shall institute adjudicatory proceedings in accordance with section 554 of title 5, United States Code. If on the basis of such adjudicatory proceedings the Board determines that the agency is not in compliance, the Board shall issue an order directing agency compliance. The Board may enforce any such order in a civil action in an appropriate United States court of appeals. Any Federal agency to whom any such order is directed may obtain review of such order in an appropriate United States court of appeals. Judicial review of any such order, including review for purposes of enforcement, shall be in accordance with chapter 7 of title 5, United States Code. If at any time after the filing of a charge of noncompliance the Board determines that the agency charged with noncompliance is in compliance, the Board shall issue an order dismissing the charge and terminating any proceedings instituted as the result of such charge. The Board shall take final action on any charge of noncompliance within 90 days after the filing of such charge.

(b)(1) Any data subject aggrieved by the failure of a Federal agency to comply with any requirement established under section 201 as it applies with regard to a personal medical record which pertains to such data subject may file with such agency a complaint, containing such specific information as the Board may by regulation require, requesting compliance. Any Federal agency with whom a complaint is filed shall submit a copy of such complaint to the Board. If, at the end of the 30-day period beginning on the date on which such compliant was filed, the data subject filing such complaint is not satisfied that the agency is in compliance, he may file a charge of noncompliance with the Board. Charges so filed shall contain such information and be in such form as the Board may require.

(2) Any data subject who, having filed a charge of noncompliance with the Board, is aggrieved by Board action with regard to such charge is entitled to judicial review of such action in accordance with chapter 7 of title 5, United States Code, in an appropriate United States court of appeals.

(c) Any data subject who sustains injury as the result of the failure of a Federal agency to comply with any requirement established under section 201 as it applies with regard to a personal medical record which pertains to such data subject may bring an action for damages against such agency in an appropriate United States district court, without regard to the amount in controversy. In any such action in which the court determines that the agency has failed to comply, the individual bringing such action shall be awarded actual damages plus the costs of the action plus reasonable attorneys' fees as determined by the court. If in any such action the court determines that the agency's failure to comply was willful, arbitrary, or capricious, it shall award punitive damages in such amount as it deems appropriate.

(d) If a data subject is deceased, such next-of-kin as the Board may by regulation designate shall have the rights granted under this title to such data subject to the extent that the medical information which pertains to such data subject is such that, as determined under regulation promulgated by the Board, (A) it relates directly to the medical condition of such next-of-kin, or (B) its disclosure would cause serious embarrassment or humiliation to such next-of-kin.

TITLE III—STATE MEDICAL PRIVACY PROGRAMS

AUTHORIZATION FOR GRANTS TO STATES

SEC. 301. The Board is authorized to make grants in accordance with section 304 to States having a medical privacy program which has been certified under this title. Grants shall be for the twelve month period covered by such certification.

REQUIREMENTS FOR CERTIFICATION

SEC. 302. The Board shall certify the medical privacy program of a State if such program provides adequate safeguards to protect the right of personal privacy with regard to all personal medical records maintained in such State other than (1) personal medical records maintained by a Federal agency and (2) such personal medical records maintained by such State and local law enforcement agencies as the Board may designate. Such safeguards shall include—

(1) appropriate private remedies for violations of the right to privacy as it applies to medical information;

(2) a requirement that all individuals licensed by or registered with the State to engage in the delivery of health care services possess an adequate understanding of the legal and ethical bases of personal privacy and of the requirements of the State's medical privacy program;

(3) enforceable requirements that any person, including any agency of State or local government, responsible for the operation of any computerized or automated data processing or information retrieval system in which personal medical records are maintained or processed—

(A) incorporate into such system technological safeguards which will prevent unauthorized access to, or accidental loss or alteration of such records;

(B) established appropriate procedures to insure that any individual having access to the personal medical records in such system possesses—

(i) technical competence;

(ii) personal integrity; and

(iii) an understanding of the legal and ethical bases of personal privacy; and

(C) keep accurate and complete records of who has access to the personal medical records in such system and the reason for such access;

(4) enforceable requirements that any person, including any agency of State or local government, responsible for personal medical records which are maintained or processed in any computerized or automated data processing or information retrieval system—

(A) established appropriate procedures to insure that such personal records include only personal medical records for which a

(B) establish appropriate procedures to insure that medical information from such insure that medical information from such records is disseminated only when there is a legitimate need for such dissemination and only when adequate steps have been taken to protect the privacy of the individual to whom the information so disseminated pertains;

(C) establish appropriate procedures for the periodic removal from such records of medical information which is outdated, inaccurate, or unnecessary;

(D) inform a data subject, upon request, of (i) who has access or has had access to any such personal medical record which pertain to him, and (ii) the reason for such access;

(E) whenever feasible and appropriate, obtain a data subject's informed, written consent to the inclusion in any such record of medical information which pertains to him, and to the dissemination or the alteration of medical information contained in any such record which pertains to him; and

(F) provide a data subject with reasonable opportunities to (i) be informed of the existence of any such personal medical record which pertains to him, (ii) inspect such record, and (iii) where appropriate, insert additional medical information and explanatory statements in such record; and

(5) establishment by the State of adequate procedures to insure compliance with the requirements described in paragraphs (3) and (4).

The Board shall not certify any medical privacy program which fails to provide protection for the right of privacy of minors and other individuals who are legally incompetent or who otherwise lack legal capacity to act on their own behalf.

CERTIFICATION OF A STATE PROGRAM

SEC. 303. (a) A State may file with the Board a request for certification of its medical privacy program, together with such detailed description of the program and such supporting information as the Board may require, at any time unless there is a certification in effect with regard to the medical privacy program of such State, in which case the State may apply for certification with regard to a subsequent period at any time within the six-month period ending on the expiration of the existing certification.

(b) Upon the filing of a request for certification of a medical privacy program, the Board shall publish a general notice in the Federal Register explaining how a description of such program can be obtained and inviting the submission by any interested person of written data, views, or arguments with regard to whether such program meets the requirements for certification. If the Board determines, on the basis of such submissions or of its own examination and investigation, that there exists a significant question on whether such program meets the requirements for certification, the Board shall conduct an adjudicatory hearing in accordance with section 554 of title 5, United States Code. Within 90 days after the filing of a request for certification, the Board shall issue an order either granting or denying certification. An order denying certification may be appealed to the United States Court of Appeals for the District of Columbia by the State which filed the request for certification. Certification of a medical privacy program shall be effective for a twelve-month period beginning on such date as the Board may designate.

GRANTS TO STATES

SEC. 304. (a) Upon issuance of an order certifying a State's medical privacy program the Board shall make a grant to such State for the twelve month period covered by the certification in an amount equal to the sum of—

(1)(A) an amount equal to one percent of the amount to which the State government of such State is entitled under section 107 of the State and Local Fiscal Assistance Act of 1972 for the entitlement period which includes the date on which the period of certification begins, or

(B) $200,000,

whichever is greater; and

(2) if the Board determines that disproportionately large costs will be associated with the administration of such medical privacy program because of the number or nature of the computerized or automated data processing or information retrieval systems covered by such medical privacy program, such additional amount as the Board deems appropriate.

(b)(1) Except as provided in paragraph (2), all funds from a grant made to a State pursuant to subsection (a) shall be used by such State for expenditures associated with the administration of the State's medical privacy program.

(2) If the funds available under a grant exceed the costs of administering such program, the excess funds shall be used by the State for an education program on the right of privacy to be conducted in institutions of higher education in the State.

(3) Any request for certification shall include such assurances as the Board may require that any funds made available to the State upon certification will be used only for the purposes specified in this subsection.

Mr. Speaker, this is an initial bill. I have no pretense that it is in the final form from which it might either emerge from a committee's deliberations or from sessions with my colleagues.

This bill, H.R. 17323, ought, however, to serve as the important vehicle for the expression of comments—for, against, and clarifying—from all interested parties—patients, physicians, surgeons and nurses, medical health data administrators, associations, insurance and data processing companies, educators, attorneys, agencies, and legislators.

I ask the Committee on the Judiciary to which this bill has been referred, not to request official comments of the Federal departments and agencies on this particular bill, deferring those requests until a revised, "clean" bill can be introduced after receipt and review of the comments which I am here inviting.

A revised draft should be available for reintroduction following the October recess.

We have an almost unique opportunity before us: An opportunity for the Congress to deter a problem before it gets out of control. We should avail ourselves of that opportunity.

ENERGY COST PARITY ACT OF 1974 INTRODUCED

The SPEAKER. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 15 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, consumers on the east coast, in New England, and particularly in my own State of Massachusetts have borne the brunt of this year's fearsome electric utility price hikes. New England's heavy dependence on largely imported heavy oil for electric power generation has brought hardship to many, and near disaster to some families in our area. The aged and poor whose incomes have not risen nearly enough to meet the mounting electric bills have been the most severely hit.

It is because of this consumer price squeeze—the squeeze between mounting electric bills and fixed or only slowly rising incomes—that I am introducing the Energy Cost Parity Act of 1974. My objective is to provide meaningful relief to the hardest hit victims of higher electric bills. The legislation I am proposing does this by giving assistance to electric utilities which are then required to pass on every penny of this assistance to their customers through lower electric bills.

My bill would give assistance to utilities using residual oil to generate electricity only so long as residual oil costs are above $7.50 a barrel. Such relief is long overdue.

Between October 1973 and March 1974 the Federal Power Commission shows that residual oil prices rose 176.1 percent, while the fuel costs of utilities using coal or natural gas rose by much less. FPC data show that coal and gas prices rose by 56 percent and 33 percent, respectively, from March 1973 to March 1974. In other words, the fuel cost burden of homeowners on the east coast, where most utilities use residual oil, has gone up 3 to 5 times more than burdens of consumers in other areas and it is this inequity which my legislation would correct.

In dollar and cents terms, oil prices hit Massachusetts consumers so hard through their electric bills because oil prices have risen from about $4 a barrel or less a year ago, to $12 or more at this time. This $8 rise costs New England electric users about $600 million a year despite an estimated 8.5 percent reduction in heavy oil consumption by utilities in 1974 as opposed to 1973. For 12 million New Englanders, this is a cost burden of almost exactly $50 per person per year.

Let me give you a specific example. In Fall River, Mass., in my district, the fuel adjustment charge has jumped from less than 1 cent per kilowatt hour in October, 1973 to about 2.8 cents a kilowatt in August—a near 200-percent increase. This reflects an increase in residual oil costs which jumped from $3.80 to $11.79 per barrel over the same period.

The effect on homeowners can be devastating. The average fuel adjustment increase in Fall River, Taunton, and Attleboro has been staggering. In Fall River the fuel adjustment increase alone—apart from food price and other inflationary increases—costs a single retired worker one-third of the 11 percent social security increase which Congress voted this year. The bite for a retired couple is 22 percent of their small social security raise. My legislation aims to roll this burden back so that the impact of New Englanders will be more comparable to the increase in other regions of the country.

Based on present $12-per-barrel oil prices this proposal will bring prices in New England down $3 or to about $9 per barrel. This will trim away 38 percent of the recent fuel adjustment increase and reduce the vastly disproportionate burden which has fallen on our region's electric consumers. However, it will not make New England fuel and electricity prices lower than those in other areas—in fact our costs will remain higher. So strong incentives will remain to cut costs and fuel use, and where appropriate, to shift to other forms of electric generation.

In addition to this legislation which I am introducing today, I am strongly supporting the effort of the 25-member bipartisan New England congressional caucus and others to bring down energy prices by pressing for product price equalization. The proposals which all 25 New England Congressmen and 12 Senators have supported in this area would lower the region's electric bills, and the two approaches are not inconsistent. They are consistent and they both signify my continuing concern—my basic commitment to a fairer deal for New England consumers.

THE PARTICIPATION OF THE PALESTINIAN LIBERATION ORGANIZATION—PLO—IN THE U.N. GENERAL ASSEMBLY CAN BRING NEW DISASTERS FOR ISRAEL

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. Drinan) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, the recognition by the General Assembly of the United Nations of the Palestinian Liberation Organization, PLO, to be an observer and participant in a forthcoming meeting at the United Nations constitutes a totally indefensible legitimizing of the PLO.

Despite the rollcall vote of 105 to 4 with 20 abstentions, the United States remained firm in its alliance of friendship with Israel. Israel stood alone with only three allies—the United States, Bolivia, and the Dominican Republic.

Among the major nations that abstained in this vote were Britain, Belgium, Denmark, Luxembourg, the Netherlands, West Germany, Australia, Burma, Canada, Iceland, and several Latin American states.

The contention of the PLO that it is the exclusive legitimate representative of nearly 2 million Palestinians is challenged by King Hussein of Jordan and his government.

Mr. Speaker, the vote to allow participation in the debate of the General Assembly of the United Nations by people who do not represent a member country is entirely without precedent in the annals of the U.N.

Mr. Speaker, I am distressed that the family of nations has taken what clearly appears to be another step away from peace between Israel and her neighbors. No one can support with any evidence the contention that the PLO represents the Palestinians or the Arabs in the several states surrounding Israel. One could urge, in fact, that the contention of the PLO that it represents the Palestinians is just as absurd as would be the contention by the Black Panthers in America that they represent more than 20 million black people in the United States.

WHAT IS THE PLO?

Before the representatives of the PLO begin to argue their case at the United Nations on November 4, 1974, it is important that people in America and throughout the world recognize the PLO for what it is. The PLO, founded in 1964, embraces most of the guerrilla organizations, all of whom have as one of their central objectives the destruction of the state of Israel.

It is most significant that article 9 of the official charter of the PLO, adopted in 1968, reads as follows:

> Armed struggle is the only way to liberate Palestine. Thus it is the overall strategy, not merely a tactical phase. The Palestinian Arab people assert their absolute determination and firm resolution to continue their armed struggle and to work for an armed popular revolution for the liberation of their country and their return to it. . . .

Article 10 of the same charter reads as follows:

> Commando action constitutes the nucleus of the Palestinian popular liberation war. This requires its escalation, comprehensiveness, and the mobilization of all the Palestinian popular and educational efforts and their organization and involvement in the armed Palestinian revolution.

The chairman of the PLO, Yasser Arafat, is also the founder of al-Fatah.

The PLO is committed to the liquidation of Israel and the present Government of Jordan. Consequently, the recognition of the PLO as a participant in the forthcoming meeting of the General Assembly of the U.N. appears to violate the basic principles of the U.N. General Assembly which on October 24, 1970, adopted a resolution which states that—

> No state organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed toward the violent overthrow of the regime of another state or interfere in civil strife in another state.

DANGER OF MISREPRESENTATION

It is disconcerting to think that in the weeks to come the press and people of America will be presented with the suggestion that the PLO is a moderate group seeking only to bring justice to the Palestinian refugees. The fact is that this organization represents only the approximately 10,000 terrorists who have been trained by the PLO. The highest officials of the PLO, now to be greeted as dignitaries at the United Nations, are the same individuals responsible for the killing of Israeli athletes at the Olympics in Munich, the massacre at the Lod Airport in Israel and the mass murder of children at Ma'alot.

The Arab terrorist operations which have afflicted the citizens of Israel over the past several years are not isolated events that emanate from the minds of deranged extremists. These acts have been the result of a deliberate strategy, the responsibility for which must be attributed to the highest leaders of Egypt, Syria, Lebanon, Libya, and other Arab countries.

TERRORISM MUST CEASE

All experience has demonstrated that when Arab governments so decide, they can put an effective end to terrorist operations. This has been done by Jordan since September 1970. In the same year Egypt demonstrated, at least for a brief period, that it could effectively limit the scope of terrorist activities. Lebanon appears to be the nation which has allowed itself to become a free zone for terrorist operations. To be sure, it may be that Lebanon has almost been victimized in this regard because Egypt and Syria are in a position to insist that terrorist operations for which they are ultimately accountable should take place away from the territory of Egypt and Syria.

It is incumbent upon all Members of Congress and on all leaders of opinion in the United States to insist that the PLO during its participation in the debate at the United Nations does not assume a respectability totally unjustified by anything in the history of this organization. It is incumbent also on all of us to emphasize the fact that Israel, in collaboration with the "Family of Nations" and with all of the countries surrounding Israel, desires profoundly to bring justice and equity to those thousands of refugees who have been victimized by the PLO, and now, it is to be feared, possibly exploited by the United Nations itself.

TAX PROPOSALS BY PRESIDENT, HOUSE WAYS AND MEANS COMMITTEE WOULD CREATE NEW LOOPHOLE, AGGRAVATE RECESSION

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, in a Washington Post column today, October 17, Hobart Rowen pointed out that the comprehensive income tax reform bill now in the House Ways and Means Committee would not reform our loophole-ridden tax system in any meaningful sense, but would instead create new tax loopholes, primarily for business and the wealthy, with the blessings of the administration:

Creating New Tax Loopholes

(By Hobart Rowen)

By endorsing the House Ways and Means Committee tax "reform" bill, President Ford has focused attention—no doubt unintentionally—on what could be one of the major tax giveaways in U.S. history.

As it now stands, the bill is not a tax "reform" bill at all, although it does reduce or eliminate a few special privileges, notably the oil depletion allowance.

But the main thrust of the proposed legislation is to create $3 billion to $4 billion worth of new loopholes for businessmen, and those wealthy individuals whose income is largely derived from capital gains rather than wages.

Thus, although the bill contains $1.6 billion in tax relief for the working poor (not enough to compensate for inflation), it is on balance a bad piece of legislation which benefits upper income brackets in too many ways while leaving what Rep. Henry Reuss (D-Wis.) calls "the old established loopholes" very much alone.

Take the capital gains proposal, which has most true tax-reformers up in arms. At present, 50 percent of a capital gain—say on securities—is excluded from any tax if held six months. The generous Ways and Means Committee would exclude 1 percent in addition for each year the asset is held over five years, but not over 25 years.

That neat trick would increase the exclusion to a potential 70 per cent and presumably make stocks more attractive to buy—as well as persuade those holding stocks over a long period of years and said to be "locked-in" by potential tax liabilities to take their profits (with a minimum tax bite) and buy new stocks.

Economists Roger Brinner and Alicia Munnell point out: "While a declining inclusion ratio would not solve either the inflation nor lock-in problem, such a change would significantly reduced the tax rate on capital gains." For individuals in the 70 per cent top bracket, their tax on capital assets held 25 years would be cut from 35 per cent to 21 per cent.

The Committee's proposal, if it worked to solve the lock-in problem, might be a shot in the arm for the ailing brokerage business. But it would cost the Treasury at least $1 billion a year, while the biggest capital gains loophole of all—the nontaxation of capital gains at death—remains untouched.

The surest way of tackling the lock-in problem, as Brinner and Munnell point out, is to provide a tax on capital gains transferred at death. Tax expert Joseph A. Pechman of the Brookings Institution estimates the current cost of that loophole, which allows wealth and power to be transferred from generation to generation, at $3 billion a year.

Other bonanzas created by the bill:

Industrial Development Bonds—Presently, private industry has a nice little racket under which it can finance up to $5 million of an expansion in a six-year period at public expense. This is done through issuance of tax-exempt bonds by a state or local government to finance a new facility. Not only does this system provide tax-exempt investment possibilities for high income individuals, but the companies lease the plants at low rents because the construction borrowing costs are less than normal due to the tax-exempt gimmick. But now the committee proposes to take off the $5 million ceiling. With the sky the limit, the potential tax loss is another $1 billion.

Savings Account Interest—The bill would exempt the first $500 of interest in savings accounts ($1,000 per couple) in an effort to help thrift institutions keep deposits, and thus aid the housing industry. Whether new savings would be encouraged is debatable. But what is clear is that high-income families would benefit most (a family would need nearly $20,000 in a 5.25 percent passbook account to accumulate $1,000 in interest), and the Treasury would be out an estimated $1.8 billion.

Tax Simplification—Many deductions presently itemized would be replaced by a lump sum deduction up to $650 whether or not a taxpayer had actually qualified for any. The net result: taxpayers with many and varied expenses which are now deductible would be short-changed, while others would get what amounts to a tax cut from Uncle Sam. Net estimated cost: $400 million.

As mentioned earlier, there are some worthwhile things in the bill, including a heftier minimum tax, a reduction in real estate shelter possibilities, a limitation on tax-free junkets for doctors, lawyers, and other professional groups, and tightening of taxes on salaries earned abroad.

But such welcome steps are as nothing alongside the new loopholes and old ones such as tax-free bond interest, the existing capital gains benefits, and the "DISC" giveaway that allows corporations to avoid taxes on export sales. Better no bill at all than this one!

In testimony yesterday before the Joint Economic Committee, Joseph A. Pechman, director of economic studies at the Brookings Institution, held that President Ford's proposed 5-percent income tax surcharge and the tax changes proposed by the House Ways and Means Committee would not curb inflation but, instead, would aggravate our current recession and reduce even more the rapidly vanishing progressivity of our tax system:

POLICIES TO COMBAT STAGFLATION

(By Joseph A. Pechman)

STATEMENT BEFORE THE JOINT ECONOMIC COMMITTEE, OCTOBER 16, 1974

Tight monetary and fiscal policies have taken their toll in the economy. Assuming Congress does not alter the policies proposed by the President, the real gross national product will decline during the next six months and perhaps even longer. At the same time, inflation will continue at a high rate. The administration's fiscal program will not have a significant effect on inflation, and will aggravate the recession. The proposed tax measures, particularly the surtax on individuals, should not be enacted without substantial modifications.

ECONOMIC CONDITIONS

All categories of demand, except for fixed business investment, are either declining or are growing slowly. Residential construction is in a slump that will not end until long-term interest rates ease; retail sales are not keeping pace with rising prices; inventory investment is falling; net exports are declining as a result of the increases in the cost of oil imports; federal and state-local expenditures are rising, but at a slow pace. Business investment is the only component of the gross national product that is not declining in real terms, and even this component is likely to fall as aggregate demand continues to fall.

These developments indicate that conditions are much more serious than a temporary oil induced recession. Unemployment increased slowly so far this year, because businesses expected the decline in output to be brief and moderate. Now that there is widespread recognition that the recession will be protracted, layoffs will increase as business attempts to cut costs. Estimates of unemployment for mid-1975 are in the neighborhood of 7 percent of the labor force.

Corporate profits have been rising despite declining demand. This is partly a reflection of the attempt to increase profit margins following the termination of price controls. However, much of the increase in profits is due to the large profits made on inventories that will have to be replaced at higher prices. In real terms, corporate profits are still low by comparison with historical trends. Unless the business situation improves, corporate profits will begin to decline soon, even in money terms. Thus, business as well as labor has been hurt by the recession.

Although the economy has been in a recession, prices have risen at double-digit rates throughout 1974. This was due primarily to the diffusion of the increased cost of oil through the price structure and to continued bad luck in agriculture, but some of it could have been avoided if price and wage controls had not been abandoned in the spring. Some easing of the inflation may occur as world commodity prices decline in response to weakened world-wide demand. But this will not be enough to reduce the rate of price increases to satisfactory levels in this country, because the cessation of controls has generated a price-wage spiral that will continue to raise costs and prices even in the face of declining demand.

It should be emphasized that labor cannot be blamed for initiating this spiral. Wage settlements did not reach the 10-percent range until the prices of the products they produce began rising at double-digit rates after price controls expired earlier this year. Now that it is in process, the spiral will not be broken in a reasonable length of time without direct government action. The right policy would be to compensate labor for moderating its wage demands by reducing taxes and to reinstate controls over prices in noncompetitive sectors of the economy. Although labor officially opposes price and wage controls, I believe that it will respond to a genuine effort by the government to establish such a social contract.

However, the administration continues to be adamant in its opposition to government intervention in price and wage decisions. Instead, it is relying on continued restraint of demand to moderate price and wage increases. Inflation must be stopped, but it will not be stopped fast enough by present policies. In my judgment, these policies would work only after great damage has been done to the workers and business enterprises of this country.

THE TAX PROPOSALS

The administration has proposed a fiscal package of tax changes that would roughly balance in 1975 and a cut in expenditures of $5 billion or more during this fiscal year. The economic effect of this package would be to aggravate the recession, with only a minor impact on prices. Congress should cut expenditures only if it finds them to be inefficient, wasteful, or undesirable on social grounds. If any cuts are made from presently projected levels, these cuts should be used to finance other expenditures or to add to the tax reductions. This is a time to loosen the fiscal restraints, not to tighten them.

Aside from the unfortunate fiscal effects, major elements of the administration's tax program are questionable on equity grounds. First, primary reliance for low income tax relief is placed on the increase in the low-income allowance proposed by the House Ways and Means Committee from $1,300 to $1,400 for single persons and $1,500 for married couples. In addition, the standard deduction would be raised from 15 to 17 percent, with an increase in the maximum from $2,000 to $2,500. When the present personal exemptions and the low-income allowance were established in 1972, Congress intended to remove from the tax rolls individuals and families with incomes below the poverty levels. Since prices have risen sharply, the levels of income at which taxes begin to apply are now substantially below the poverty lines and will fall even farther behind next year as prices continue to increase. It would be necessary to increase the per capita exemption from $750 to $900 and the low-income allowance from $1,300 to $1,800 to approximate the presently-projected poverty lines for 1975. As Tables 1 and 2 indicate, the Ways and Means Committee proposal is wholly inadequate on the basis of this criterion: the minimum taxable levels would be 10 to 20 percent below the 1975 poverty lines (Table 1) and the amount of tax relief would be about one-fifth of the amount needed to correct for the erosion of the per capita exemption and the low-income allowance due to the inflation (Table 2).

Second, the administration seems to be embracing all the revisions now in the Ways and Means Committee bill, except for the recent decision to exempt the first $1,000 of interest per couple ($500 for single persons) on savings accounts. There are a number of desirable revisions in this bill, but on balance it will make the tax system less, rather than more, equitable. Perhaps the worst feature is the tax reduction for capital gains from the sale of assets held more than one year, a provision that would increase the preferential treatment accorded to capital gains which accrue mainly to high-income taxpayers.

Third, the administration is proposing to increase the investment credit from 7 to 10 percent in the interest of increasing investment incentives. There would be no lack of investment incentive if demand were not being restrained by fiscal and monetary measures. (The ratio of investment to GNP has remained close to peak levels in 1973 and 1974.) Nevertheless, it would be appropriate to tilt the tax system in favor of more investment, provided the cost is not borne by the general taxpayer but by business, so as to maintain the progressivity of the tax system. The 5 percent surtax on corporations would not have this effect, because it would apply only to a single year—1975—while the increase in the investment credit would be permanent. Thus, over the long run, the role of the corporate tax would be further eroded and the progressivity of the federal tax system would be reduced if the administration's proposal were adopted. The investment credit should not be increased unless the cost is financed by permanent reforms of the corporate tax or by a permanent increase in the corporate tax rate.

Fourth, the 5 percent surtax on individuals with incomes above $7,500 and families with incomes above $15,000 should be rejected for two reasons: As noted earlier, in the economic conditions now foreseen for 1975, the revenue from the surtax is not necessary. With unemployment rising and profits falling, there is no reason to pay lip-service to the balanced budget philosophy. Higher taxes would further reduce demand, without doing anything very much about the price-wage spiral. Moreover, if additional revenues are needed for the long run, a surtax on those who already pay taxes would be paid by the wrong people. It is true that the surtax itself would be a progressive tax change, but there are numerous tax reforms that could raise the same revenue from people who now avoid paying their fair share of the tax burden. For example, almost the same amount of revenue could be raised by taxing capital gains transferred by gift or at death under present capital gains rates and revising the minimum tax (to eliminate the deduction for taxes paid, to reduce the exemption from $30,000 to $5,000, and to raise the tax rate to one-half the ordinary rates). Yet, 40 percent of the revenues from the surtax would come from taxpayers with incomes above $50,000, while about 80 percent of the revenue from the capital gains and minimum tax reform would come from these income levels. Many other urgently needed tax reforms would have similar distributional effects.

I conclude that the administration's programs will not improve our chances to combat the inflation currently in prospect; that it will aggravate the recession and thus increase unemployment and reduce corporate profits and business incentives; and that it will increase, rather than reduce, the inequities in the federal tax system. The first order of business for the Congress should be to restore the President's authority to intervene in price and wage decisions. It should then turn its attention to real tax reform, which is already long overdue.

TABLE 1.—MINIMUM TAXABLE LEVELS UNDER THE WAYS AND MEANS COMMITTEE BILL AND ALTERNATIVE TO APPROXIMATE ESTIMATED POVERTY LEVELS IN 1975

Family size	Projected poverty level [1]	Ways and Means Committee bill [2]		Alternative to approximate poverty levels [3]	
		Income level	Difference	Income level	Difference
1	[4] $2,747	$2,150	—$597	$2,700	—$47
2	[4] 3,540	3,000	—540	3,600	+60
3	4,206	3,750	—456	4,500	+294
4	5,384	4,500	—884	5,400	+16
5	6,350	5,250	—1,100	6,350	0
6	7,134	6,000	—1,134	7,200	+66

[1] Projected from the official poverty line for 1973, assuming increases of 11 percent for 1973–74 and 7.5 percent for 1974–75.

[2] $750 per capita exemption; low income allowance of $1,400 for single persons and $1,500 for married couples; standard deduction of 17 percent, with a maximum of $2,500.

[3] $900 per capita exemption; low income allowance of $1,800.

[4] Assumes members of the family are under 65 yrs of age.

TABLE 2.—TAX REDUCTION UNDER THE WAYS AND MEANS COMMITTEE PROPOSAL FOR LOW INCOME RELIEF AND PROPOSAL TO RAISE THE MINIMUM TAXABLE LEVELS TO APPROXIMATE ESTIMATED POVERTY LEVELS, BY ADJUSTED GROSS INCOME CLASSES, 1975

[Dollars in billions]

Adjusted gross income classes	Ways and Means Committee bill [1]		Alternative to approximate poverty levels [2]	
	Tax reduction	Percent distribution	Tax reduction	Percent distribution
Under $5,000	—$167	10	—$881	11
$5,000 to $10,000	—366	23	—2,290	28
$10,000 to $15,000	—201	13	—1,427	18
$15,000 to $20,000	—541	34	—1,276	16
$20,000 to $25,000	—193	12	—889	11
$25,000 to $50,000	—125	8	—1,058	13
$50,000 and over	—5	(3)	—315	4
All classes	—1,598	100	—8,136	100

[1] $750 per capita exemption; low-income allowance of $1,400 for single persons and $1,500 for married couples; standard deduction of 17 percent, with a maximum of $2,000.

[2] $900 per capita exemption; low-income allowance of $1,800.

[3] Less than ½ of 1 percent.

Sources: Based on Brookings 1970 tax file projected to 1975. Figures are rounded and will not necessarily add to totals.

VISIT OF FIRST SECRETARY EDWARD GIEREK OF POLAND

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. DULSKI) is recognized for 10 minutes.

Mr. DULSKI. Mr. Speaker, First Secretary Edward Gierek, of the Polish People's Republic, made his first trip to the United States last week. This was also the first occasion of an official visit to the United States by a ruling Polish leader, and the first time President Ford has met with such a party leader since taking office as President.

It seems to have been a mutually advantageous visit for our two nations, with progress on political and trade agreements as evidence of further détente.

During his time in Washington, Mr. Gierek met with President Ford, the Foreign Affairs Committee, many Members of Congress, and with other public officials and private individuals. As part of my remarks, I would like to insert the exchange of remarks between the President and the First Secretary at the welcoming ceremony October 8:

VISIT OF FIRST SECRETARY EDWARD GIEREK OF POLAND

(Exchange of Remarks Between the President and the First Secretary at the Welcoming Ceremony on the South Lawn at the White House. October 8, 1974:)

The PRESIDENT. Mr. First Secretary, it is a very distinct pleasure for me to welcome you and Mrs. Gierek to the United States. As you know, Mr. First Secretary, the family ties that bind our two peoples together in a very special way are very, very old, indeed older actually than the United States itself.

You have already visited Jamestown, Virginia, where the first Poles arrived in 1608, only one year after it was first settled. From that day to this day, large numbers of your countrymen have helped to build this country and to mold our great American traditions.

America treasures these contributions to our growth, to our culture, and to our history. During your stay in this country, Mr. First Secretary, you and Mrs. Gierek will be able to see for yourself the character of our country and the role that men and women from Poland have played in America's history.

Our two nations have thus a fine foundation upon which to build. I have watched with very great interest the substantial growth of our bilateral trade in the last 2 years since the establishment of the joint Polish-American Trade Commission. And continuing expansion of contacts between officials and private citizens, in the fields of such activities as science, technology, and the arts is another evidence of the dynamic development of Polish-American relations.

You, Mr. First Secretary, will surely agree with me that we must not allow our satisfaction with past progress to slow our pace or slacken our efforts in the future. We must use the opportunity your visit affords to seek new avenues of bilateral cooperation in many, many fields, including energy and environmental areas.

In many other areas of common interest, for example, our participation in the Conference on Security and Cooperation in Europe and our participation in the force reduction talks, we are engaged in common endeavors for peace.

Today, economic problems almost everywhere are very, very severe. The stability of the world is in danger, and almost everywhere it develops, as well as in developing countries, the welfare of people on a global basis unfortunately is actually threatened.

Mr. First Secretary, Poland knows too well, perhaps better than any other nation, the fearful experience of war and its very painful consequences. A thorough review of all the dangers to peace for ourselves and the world must surely be a matter of highest priority.

We seek a peaceful world and a more prosperous world. Poland is a world leader in coal production and coal research. Poland has a very major role, a role to play in contributing solutions to the world energy problem, and you, Mr. First Secretary, with a lifetime of expertise, are able to make a very important personal contribution in this specific area. I look forward to exchanging views with you on the energy problem.

Mr. First Secretary, we, all of us in America, are pleased that you and Mrs. Gierek are here. I am confident, Mr. First Secretary, that our meetings will deepen the friendship of our two peoples and broaden the cooperation of our two nations.

Thank you very much.

First Secretary GIEREK. Mr. President, Mr. Secretary of State, ladies and gentlemen:

I wish to thank you for your words of cordiality which you, Mr. President, have addressed to me, to Mrs. Gierek, and to members of my delegation. I take these words of yours as being directed to the people of Poland and to the Polish State on behalf of which and upon your invitation I am visiting the United States.

I am pleased to have made this visit, as it adds new testimony to the friendly ties that have linked our two nations since the times of George Washington and Tadeusz Kosciuszko.

I rest assured that it is the desire of both our peoples not only to preserve these traditional relations but also to strengthen them through closer and broader cooperation in the world today.

Indeed, Socialist Poland, dynamically developing her new potential and creating as she does new living conditions for her people is vitally interested in this. I trust that the talks we shall hold and agreements we shall conclude will greatly contribute towards this end, that they will open up broader prospects for cooperation between our countries.

I am pleased to have made this visit, also, because it represents yet another reaffirmation of international détente which my country views as extremely significant and to which we try to make our utmost contribution.

That process which originates from the very essence of the contemporary world, from the need for and necessity of peaceful coexistence among states with differing political systems has been considerably enhanced in recent years.

We of Poland can only welcome it in our profound conviction that it is in the interest of all nations to make that process further extend universal and irreversible. Precisely for this reason there is wide appreciation today that it is you, Mr. President, who is steering the United States policy towards this direction.

I am pleased to have made this visit, as it will enable me to get to know the United States, to acquaint myself with the outstanding accomplishments of the progress of civilization of the American people, whose history and achievements have since the very outset been and continue to be so much enriched by the Americans of Polish extraction.

Mr. President, I am profoundly convinced of the propitious conditions today and the right time for expansion of Polish-American cooperation in its new dimensions and in all fields of endeavor.

Mine is also a firm belief that we can work closer together for the great cause of peace. That is the purpose of my visit here, and I am happy that you too share these aspirations of ours.

Please accept, Mr. President, the best wishes from Poland to the United States, from the Polish people to the American people.

(NOTE.—The President spoke at 10:43 a.m. on the South Lawn at the White House where Edward Gierek, First Secretary of the Central Committee of the Polish United Workers' Party, was given a formal welcome with full military honors. First Secretary Gierek spoke in Polish, and his remarks were translated by an interpreter.)

On the evening of October 8, my wife and I were privileged to be among the guests at a White House dinner honoring Mr. Gierek. I would like to share with you the exchange of toasts at that time:

VISIT OF FIRST SECRETARY EDWARD GIEREK OF POLAND

(Exchange of Toasts Between the President and First Secretary Gierek at a Dinner Honoring the First Secretary, October 8, 1974:)

The PRESIDENT. Mr. First Secretary, and Mrs. Gierek, our wonderful guests:

It is a great privilege and pleasure to have you and Mrs. Gierek here with us this evening. We have had a very delightful dinner, and we had a very helpful and constructive discussion during the day, and I am looking forward to further discussions tomorrow.

Mr. First Secretary, I come from a part of our country where we have roughly 30,000 people with a Polish heritage or background. And as I grew up, Mr. First Secretary, I had many wonderful personal experiences with families that had a Polish background, families that had the same great family strength, families that had a tremendous religious dedication, individuals with a Polish heritage that became leaders in our community, outstanding scholars, athletes, public servants.

And so I had a great exposure to the finest, the best, with individuals who had come from your country to ours.

And then in 1958 or '59, I had the opportunity to go to Poland, and I wondered as I went to Poland whether there would be so many comparable, wonderful people in Poland as I had known in my hometown in Michigan in the United States.

And I found, Mr. First Secretary, that instead of 30,000, there were 30 million. And all of them had the same warmth, friendship, family dedication, deep conviction, and all of them wanted to uplift their community, their state, and make their country a better and finer place in which to live.

So it seemed to me, Mr. First Secretary, that it was very easy for Poland and our country to start building a foundation some years ago which has now developed into a great relationship, a relationship predicated on understanding, a relationship that has a far broader vision.

We want to help one another and we do. But we want to build from our relationship a broader effort to improve world relations between countries that did not understand one another, but who now hopefully will, blocs that did not understand one another, but hopefully will. And the net result is that because of our citizens who came from Poland, settled here, and have become so strong and vital in our society and yours, who are so strong and so vital in Europe, I hope and trust that we can move together in cooperation and economic matters, cultural matters, educational matters, environmental matters, and set an example for all nations because we do understand one another and we can, by history, work together.

And so I ask all of our guests here tonight to rise and join with me in offering a toast to the First Secretary and to Mrs. Gierek and offer them the best from all of us in the United States to the First Secretary, to the Polish people.

First Secretary GIEREK. Dear Mr. President, ladies and gentlemen:

I thank you, Mr. President, for your kind and friendly words. I thank you for the hospitality you have shown us, which both Mrs. Gierek and I greatly appreciate and sincerely hope to heartily reciprocate.

From the outset of our sojourn on the American soil, we have been accompanied by a good, matter-of-fact, and friendly atmosphere. This gladdens us and reaffirms our profound conviction that my visit here will prove fruitful.

Our conversations with you, Mr. President, have above all reassured me in this. We have exchanged, in their course, views on the most important issues of Polish-American relations and on the further development of the process of international détente.

We have reached important conclusions which will be set down on our joint documents. I am confident that the results of our meetings will open up a new stage in the mutual relations between both our countries and nations.

I highly value, Mr. President, this direct contact with you, with the leader of the United States, who, by his own deep understanding of and positive approach to issues of the present-day cooperation between our two nations, confirms the willingness to develop it further in the friendly attitude toward Poland.

I am also satisfied over my meetings with the Secretary of State, Dr. Henry Kissinger, and with all eminent associates of yours.

It is my conviction, Mr. President, that there exist very favorable conditions to a significant expansion of Polish-U.S. cooperation which is the common concern of ours. These conditions, as you have pointed out a moment ago, stem from our longstanding tradition of friendly, mutual bonds, dating back to the times of the founding of the United States begun by the participation of Tadeusz Kosciuszko, Pulaski, and other sons of the Polish people who struggled for the independence of the United States.

These bonds were subsequently strengthened by the sympathy toward and interest of the democratic forces of the American Nation in the cause of Polish independence. And they were amply reaffirmed in our joint struggle for freedom, greatest in history, as it were, conducted by the great anti-Fascist coalition in the years of World War II.

These traditions have remained alive although their early postwar phase has fortunately become a closed historical chapter.

As a result of its own heroic struggle and its cooperation with all other freedom-loving forces, the people of Poland found its road to durable independence, to enviable security, to dynamic development.

The people of Poland found it in its new Socialist homeland, in its consciously chosen alliance with the USSR and other Socialist countries, in its active foreign policy of international security and peaceful cooperation.

Modern Poland, Mr. President, with a more than 1,000-year history and great traditions of love for freedom and progress, is proud of the great historic achievements of the past three decades which have essentially altered the course of our nation's tragic past and verily transformed the country, elevating it onto a new place in Europe and the world at large.

The Poland of today, one of the world's top ten industrial producers, is a country of a dynamic economy, of high cultural and scientific standards, and constantly growing standards of living.

In recent years we have endowed her development with a still greater dynamism and higher quality. We still have much to accomplish. But the decisive stage is behind us and Poland could now enter the phase of accelerated growth of her economy. And the aspirations of my people are indeed in keeping with these vital needs and aspirations of all.

It is from this position and for this purpose that we also desire to eject new impetus and quality to our cooperation with other countries of the world. We are delighted to see considerable progress achieved in Polish-American relations, particularly in recent years. But we take it only as a harbinger of a much broader cooperation.

We therefore attach special importance to development of economic cooperation which establishes most durable of bonds and provides for a material base of cooperation in all other fields.

We conceive of the United States as one of our principal partners in the West. There exist all opportunities that it be so. The essential thing is to create conditions that would make us seize of all those opportunities.

I strongly believe that arrangements we are now adopting and the agreements we are concluding will be a decisive contribution towards this end. In the overall framework of relations between our two countries, a major positive role can no doubt be played by the multi-million strong group of Americans of Polish ancestry as good citizens of the United States and at the same time retaining their emotional ties with their old land.

They have always been one of the important factors of mutual rapprochement between our two nations, and they can further make a substantial contribution to their friendly cooperation.

Mr. President, ladies and gentlemen: Our thoughts constantly turn to the great and common cause of all mankind, the cause of peace.

The Polish nation which paid the highest price for its freedom and is fully cognizant of the value of peace, attaches great importance to the process of détente which has been developing in recent years. We see in it a true road toward the strengthening of international security and development of cooperation among nations on the basis of peaceful coexistence of states with different political systems. This is the prime need and necessity of our time.

Let me say, Mr. President, that Poland fully appreciates the far-reaching and all-round significance of Soviet-American agreements for the cause of world peace and general improvement of international relations.

It was with greatest satisfaction that we welcomed progress already achieved here, and together with other countries we have noted with great appreciation the promise that these propitious trends will be continued.

It is only natural that Poland should attach particular significance to progress of détente and to consolidation of the facts of nearly three decades of peace in Europe. We have been actively cooperating to insure the success of the Conference on Security and Cooperation in Europe. We believe that there exist very realistic conditions for its successful conclusion in the months to come.

We shall continue to make our constructive contribution to the Vienna talks on troops and arms reduction in Central Europe.

We are convinced that the United States is also vitally interested in a lasting peace on our continent and can indeed make a substantial and constructive contribution to that cause. We rest assured of the indivisibility of and the universal need for peace and of the desire common to all nations for security, justice, and a better morale.

I trust that also in the strivings to achieve these great objectives closer cooperation between both our countries is possible and necessary.

My first day in Washington, and above all, the talks I had with you, Mr. President, reaffirm me in my conviction that together we can open up new, broader prospects for the development of Polish-U.S. cooperation. I am reassured in this also by the good climate in which all our meetings are held and which is typical of the friendly relations obtaining between our two peoples.

Mr. President, I should like to propose a toast. To your very good health and all success in steering the affairs of the great United States, for the speediest recovery of Mrs. Ford, to your good health, ladies and gentlemen, to the development of friendly cooperation between our peoples and states, to world peace.

(NOTE.—The President spoke at 10:12 p.m. in the State Dining Room at the White House. First Secretary Gierek spoke in Polish, and his remarks were translated by an interpreter.)

On October 9, Mr. Gierek addressed Members of Congress at the Foreign Affairs Committee. I believe his remarks are of wide interest, and would like to include them at this point:

ADDRESS OF FIRST SECRETARY EDWARD GIEREK ON THE OCCASION OF HIS VISIT TO CONGRESS, OCTOBER 9, 1974

Mr. Chairman, Gentlemen: I thank you most sincerely, Mr. Chairman, for your warm words of welcome. I accept them with gratitude as an expression of your friendly attitude to my country, to the Polish nation and to the objectives of my visit to the United States.

It is a great honor for me to be able to meet with you gentlemen who here in Congress formulate the law and exert a great influence on the development of the United States and on its international policy. I greatly appreciate this opportunity to talk with you.

As you know, Gentlemen, the principal goal of my visit to the United States is to consolidate the progress we have achieved in recent years and to further expand Polish-US relations. I am pleased to note that the talks we have had with President Ford confirmed the existence of identical attitudes on your side as well as the existence of good conditions for their realization. I am convinced that the joint statements that the President and I are going to sign today, as well as the currently concluded important agreements concerning different spheres of life, will open virtually new prospects for cooperation between the two countries and invest it with greater impetus.

We attach particular importance to the expansion of economic relations. They are mutually beneficial, create the most durable of bonds and provide the material basis for broader cooperation in all other domains. Throughout most of the post-war period Poland has been in first place among America's East European economic partners. In recent years trade between our two countries has trebled and next year it should achieve a level of one billion dollars. We are satisfied with that growth, although it does not fully reflect the existing possibilities. On the part of the United States, with its enormous economic potential, they are virtually unlimited. Today Poland has a new potential as well as one of the world's highest rates of economic growth. We are interested in a basic expansion of trade. Over the next five years it should achieve a level of at least two billion dollars. We have developed a large-scale program of purchasing entire industrial plants, licenses, technologies, machinery and equipment. We also wish to continue purchasing from the United States on appropriately convenient terms agricultural surpluses. In this respect, Poland has been traditionally one of the most stable partners and I trust that that fact will enable her to count on a favorable attitude towards her postulates.

I do not wish to make a secret of the fact the realization of these objectives and the growth of economic cooperation with the United States in general—just like with other countries—is of essential significance to us. It is closely related to the development strategy we have been implementing for several years now, whose over-riding aim is to provide our nation with improved material conditions and a higher standard of living. Much of the work is still ahead of us and we intend to continue that strategy consistently.

In general, we believe that there exist conditions for the United States to become Poland's major western economic partner in the near future. I know that a similar interest exists in the United States, especially among your country's industrial and financial circles with which numerous contacts have been established. The further expansion of economic contacts will certainly prove equally beneficial to both sides.

We have also discussed with President Ford the expansion of cooperation in science and technology, health, and protection of the natural environment. New and important agreements have been concluded yesterday in these and other domains. We also desire to create better conditions for contacts between our two societies, between people. All those things should contribute to the all-around development of Polish-American relations.

I believe, Gentlemen, that there exists a favorable climate for the development of cooperation between our two countries. It is backed by a long tradition of friendly relations between our two nations, which we wish to cultivate and further enrich with closer present-day cooperation. I trust also that it will be welcomed by the millions of Americans of Polish descent who, whilst being good citizens of the United States, continue to retain emotional ties with the old Homeland.

I trust, Gentlemen, that this continued development of Polish-American relations will meet with a favorable attitude on the part of the US Congress. Such an attitude of Congress has on more than one occasion in the past played a significant role in ensuring the hitherto progress. For that I wish to express my appreciation also to your colleagues in both houses of Congress.

In recent years I have had the opportunity to meet with many of you in Poland. I have remembered those meetings. On behalf of our Seym and on behalf of Polish authorities in general, I should like to invite you to visit our country more often. Direct contacts produce better mutual understanding and are always useful.

Permit me, Gentlemen, to draw your attention to one additional matter. My visit in the United States, as well as all the progress achieved in Polish-American relations in recent years are one of the results of the process of international détente. Poland attaches great importance to that process and is actively involved in its intensification and consolidation. This stems from a recollection of our nation's tragic experiences, from the needs of the country's present, dynamic, socialist development, and from all its vital interests.

The already well-advanced improvement of American-Soviet relations has produced particularly beneficial effects on the entire international situation. I emphasize this fact because we can see its essential significance for protecting mankind from a new world war, extinguishing and containing local conflicts, achieving progress in European détente and in general in terms of the favorable development of relations among all countries of East and West. Together with the USSR and other allies we unreservedly declare our support for the continuation of détente and making it an irreversible process.

We have also discussed these matters with President Ford and the Secretary of State, Dr. Kissinger. It was with satisfaction that I learned of the United States' intention to continue its policy of détente. I am convinced that in this process it can play a great and positive role, whilst—through its peace efforts—strengthening its authority throughout the world at the same time.

Mr. Chairman, Gentleman: With all due respect I wanted to tell you, Gentleman, about the matters which I consider the most important. Permit me to once again express my satisfaction at being able to meet with you, to which fact I attach great value.

Before leaving Washington for other scheduling in the United States, Mr. Gierek appeared with President Ford to announce the signing of agreements between our nations. The documents are most significant, and should pave the way for future cooperation and profitable arrangements. I commend to my colleagues the President's statement and Mr. Gierek's response, and I am including the text of the statements:

VISIT OF FIRST SECRETARY EDWARD GIEREK OF POLAND

(Exchange of Remarks Between the President and First Secretary Gierek Upon Signing Joint Statements. October 9, 1974:)

The PRESIDENT. Mr. First Secretary, we have just put our signatures on landmark documents.

The first, on principles of bilateral relations, recognizes the friendly state of those relations. It underlines our joint determination to not only continue this cooperation, but to further expand it for mutual benefit. We will make a joint contribution to peace and security throughout the world.

The second document is more specifically directed to economic, industrial, and technological cooperation. If it is to succeed, cooperation requires the careful and continuing attention of nations, as I am sure you will agree.

Over the past few years, we have made important advances in our economic and trade relations. We have now pledged our countries to even further advances toward realization of the full potential for cooperation that we both see and we desire. Our peoples will benefit and the economic international community will likewise benefit.

These documents should be reassuring to our friends and associates throughout the world. We discriminate against no one, nor do we prejudice any commitments we have already made to others. Indeed, the respect we show for each other and the cooperation that we seek is part of the international spirit we see emerging. This new spirit seeks to solve problems, not to make new tensions.

Mr. First Secretary, my signature on these documents is yet another expression of the deep interest of the people of the United States in the well-being of your nation and its deserved place in the international community. We welcome these documents for the contributions they will make to the spirit of cooperation and peaceful endeavor throughout the world.

The FIRST SECRETARY. Mr. President, ladies and gentlemen:

I do share, Mr. President, your appraisal of the weight of the documents we have just signed, the fruitful nature of our talks, and the importance of the agreements we have concluded. I greatly appreciate what you have said and wish to express my profound satisfaction over the headway we made and results we achieved during my visit to Washington. I especially enjoyed meeting with you, Mr. President, which I shall cherish in my memories as an important, sincere, and friendly encounter.

We are opening together a new chapter in relations between the Polish People's Republic and the United States of America. As of now, these new annals will be recording the future of our relations as well as our broader, closer, and more extensive cooperation. We are opening up that new chapter aware of the entire tradition of the friendly mutual relations between the Polish and American peoples, in the desire of tightening the bonds which we have inherited from the past and continue to maintain at present.

In enhancing the progress made in our bilateral relations in recent years, we are likewise creating a groundwork for expanded economic, scientific, and technical cooperation, for cultural exchanges, and various contacts between our respective peoples. Particularly important in this regard is expansion of reciprocally beneficial economic ties, which form the most durable basis for all other mutual relationships.

I firmly believe that the inauguration of a future-oriented phase of Polish-American relations concurs with the interests and wishes of our two peoples. We are doing it in accordance both with the principles and the spirit of peaceful coexistence among states with different systems. For the United States and modern, socialist Poland are precisely such states. Poland, for 30 years, has been shaping new conditions of life and development of her people. She remains faithful to her alliances and, in the best of her tradition, she is actively involved in striving for progress and peace.

I trust, Mr. President, that the results of our meeting will also contribute to the strengthening of international détente. This latter process, in particular fortified by the improvement of Soviet-American relations which are of exceptional significance to world peace, has already brought about many favorable changes in the international situation; it has reduced dangerous tensions and provided new vistas for constructive cooperation.

We can particularly sense this in Europe where the process has been advanced most. Yet, even there, a great deal still remains to be done in order to ensure peace for the entire future to come. May we all move further along that road to free mankind completely from the nuclear threat, to give the world of today and all its nations a feeling of lasting security, and to resolve successfully the great socio-economic and civilization problems which confront us now and are likely to emerge in near future.

I am happy, Mr. President, that, as has been reflected in our joint statement, we are in agreement as to the need for further action at making irreversible the progress achieved in peaceful relations among states with different socio-economic systems.

Mr. President, ladies and gentlemen, tomorrow I shall be leaving Washington to visit other centers of your great and beautiful country. On behalf of Mrs. Gierek and persons accompanying me, as well as in my own name, I wish to thank you, Mr. President, for the friendly reception and hospitality accorded to us. Permit me at the same time to reiterate my very cordial invitation for you and Mrs. Ford, whom we wish a very speedy recovery, to pay a visit to Poland. With the fresh memories of our Washington encounter, I shall be looking forward to meeting you again, this time in our capital, the city of Warsaw.

I would also like to say once more how happy I was to have met the prominent Representatives of the U.S. Congress. My meeting with them has reaffirmed me of the congressional favorable attitude towards matters concerning further development of Polish-American cooperation.

I take this opportunity to thank the Secretary of State, as well as your other collaborators, for their contribution to the fruitful results of my visit to Washington. I thank all who helped make this visit a success.

Through you, Mr. President, I wish to convey to the American Nation my heartfelt greetings and best wishes which I am bringing from the people of Poland.

The PRESIDENT. Thank you very, very much, Mr. First Secretary. I have enjoyed meeting you, becoming well acquainted with you, and I look forward to the opportunity of visiting Poland.

I told Mrs. Ford on the telephone today of your kind invitation, and she remembers vividly our visit to Poland some years ago. She, as well as I, are looking forward to a return to your nation and to meet again the wonderful Polish people.

I can assure you, Mr. First Secretary, that as you travel around the rest of the United States—and I wish you could stay longer and visit more places—that you will find a great warmth on the part of the American people for the people of Poland, and you will be welcome wherever you go. I know the warmth of the welcome here will be equal wherever you visit in our country.

We hope you will come back. I look forward to seeing you in the future.

The FIRST SECRETARY. I wish to thank you most heartily, Mr. President, and we are expecting you in Warsaw, and Mrs. Ford. We shall be trying to greet you, Mr. President and Mrs. Ford, according to the Polish tradition and our saying, "My home is your home."

The PRESIDENT. Thank you, sir.

(NOTE.—The President spoke at 3:31 p.m. in the Cabinet Room at the White House. First Secretary Gierek spoke in Polish, and his remarks were translated by an interpreter.)

For the texts of the joint statements, see the following two items:

VISIT OF FIRST SECRETARY EDWARD GIEREK OF POLAND

(Joint Statement of Principles by President Ford and First Secretary Gierek. October 9, 1974:)

The President of the United States of America, Gerald R. Ford, and the First Secretary of the Central Committee of the Polish United Workers' Party, Edward Gierek—

Having met in a cordial, businesslike and constructive atmosphere, which provided the opportunity for a useful and comprehensive exchange of views;

Mindful of the long-standing and rich traditions of relations between their two peoples and the feelings of friendship and respect toward each other; and

Being convinced that further development of American-Polish relations and the expansion of mutual cooperation serves the interests of both nations and contributes to peace and security in the world,

agreed on a statement of principles of friendly relations and cooperation between the United States of America and the Polish People's Republic.

I

The President and the First Secretary reaffirmed that bilateral relations between the United States of America and the Polish People's Republic are founded on the purposes and principles of the United Nations Charter and international law, and in particular the following inter-related principles:

Sovereign equality;

Refraining from the threat or use of force;

Inviolability of frontiers;

Territorial integrity of states;

Peaceful settlement of disputes;

Non-intervention in internal affairs;

Respect for human rights and fundamental freedoms;

Equal rights and self-determination of peoples;

Cooperation among States;

Fulfillment in good faith of obligations under international law.

II

The President and the First Secretary expressed their determination to develop relations of the two countries in a spirit of cooperation and mutual respect.

They resolved to expand and encourage as appropriate the long range development of commercial, economic, cultural, scientific and technical cooperation of the two countries under conditions of reciprocity of advantages and obligations, in particular in agriculture, industry, transportation, health and environment.

They also resolved to continue to support the development of cooperation through the Joint American-Polish Trade Commission, between organizations, institutions and firms, as set forth in the "Joint Statement on the Expansion of Economic, Industrial and Technological Cooperation between the United States of America and the Polish People's Republic" signed on October 9, 1974. They affirmed that mutually beneficial economic relations are conducive to good political relations.

They will facilitate and support, through all appropriate means, agreements concerning exchange of experts, students, and other persons as well as exchanges in the fields of science, culture, the arts, education, and other fields, between their two governments or directly between research organizations, institutions and firms as well as people.

Being aware of the importance of cultural and scientific cooperation as a means of promoting mutual understanding and trust, they resolve to promote the development of cultural relations providing opportunities for the citizens of both nations to learn the language of each other and to acquire a better knowledge of their respective achievements and values.

They will support the expansion of contacts between citizens of the two countries, including tourism, as well as contacts between representatives of federal and local authorities and youth and vocational organizations.

They reaffirmed their commitment to develop further relations between the two countries through frequent consultations at various levels, on matters pertaining to their mutual relations, including implementation of the principles contained herein, as well as important international issues of mutual interest.

III

The President and the First Secretary welcome the progress in recent years toward the general relaxation of tension and the development of peaceful relations between countries of different socio-economic systems. In this connection they stressed the importance of making that progress irreversible. They are determined to continue efforts aimed at strengthening these positive changes to which all countries, irrespective of their size and potential, can and should contribute in the interest of peace and security of all nations.

They will continue to work toward strengthening European security, in particular by contributing to the success of the Conference on Security and Cooperation in Europe and the negotiations on Mutual Reduction of Forces and Armaments and Associated Measures in Central Europe.

They stressed the importance of achieving effective measures of disarmament conducive to strengthening peace and security in the world.

They expressed their willingness to cooperate on various international matters concerning the consolidation of peace, international security and economic, social and cultural progress, with a view to making their own contribution to the settlement of important international problems in the spirit of good will and mutual trust.

They recognized the necessity of strengthening the effectiveness of the United Nations in the maintenance and consolidation of international peace, and in developing cooperation among all nations on the basis of the United Nations Charter.

They acknowledged that this Joint Statement does not infringe upon the obligations of the United States of America and the Polish People's Republic with respect to other states.

WASHINGTON, *October 9, 1974.*

For the United States of America: Gerald R. Ford, President of the United States of America.

For the Polish People's Republic: Edward Gierek, First Secretary of the Central Committee of the Polish United Workers' Party.

(NOTE—The joint statement was signed in a ceremony in the Cabinet Room at the White House. For remarks at the ceremony, see the preceding item.)

VISIT OF FIRST SECRETARY EDWARD GIEREK OF POLAND

(Joint Statement on Economic, Industrial, and Technological Cooperation Between the United States of America and the Polish People's Republic. October 9, 1974:)

The President of the United States of America, Gerald R. Ford, and the First Secretary of the Central Committee of the Polish United Workers' Party, Edward Gierek—

Having held talks on the present state and further development of economic, industrial and technological cooperation between the United States of America and the Polish People's Republic,

agreed on the following statement:

I

The President and the First Secretary expressed gratification with the results achieved in their mutual economic and trade relations in recent years. They endorsed the guidelines for their further development that are set forth in this Joint Statement, and affirmed the positive role of these guidelines for the further development of mutual economic, industrial, and technological cooperation between the United States of America and the Polish People's Republic.

Recognizing further growth of international trade as fundamental to economic development and improved standards of living, and guided by the provisions contained in the Joint Statement on Principles of United States-Polish Relations, they reaffirmed their determination to seek continued expansion of economic and trade relations pursuant to a liberal export and import policy consistent with the legal requirements of each country and with the principles of the General Agreement on Tariffs and Trade, including most-favored-nation treatment. They also expressed confidence that their two countries' bilateral trade relations would be strengthened by the participation of their countries in the multilateral trade negotiations.

They recognize the existence of favorable prospects for further rapid development of bilateral trade in the coming years. They anticipate that their trade may reach $1 billion in 1976 and grow to $2 billion by 1980. They will seek to ensure the existence of proper conditions for economic relations in order that these goals may be achieved. Fields offering particular opportunities for the development of their economic relations include various light industries, food-processing, chemical and petrochemical industry, construction and transportation equipment, machinery, electronic and electrical equipment industries, coal mining and utilization and nonferrous metallurgy.

II

Considering industrial cooperation as a particularly important factor in the development of trade and the diversification of its structure, the President and the First Secretary will facilitate cooperation between American firms and Polish enterprises and economic organizations consistent with applicable laws and regulations of each of the two countries, including long-term understandings in production; construction of new industrial facilities, as well as expansion and modernization of existing facilities; technological cooperation and research including exchanges of know-how, licenses and patents; training and exchange of technicians and specialists; organization of exhibits and conferences; and market and management research; in both countries and in third countries.

They affirmed that favorable consideration should also be given to new forms and methods of industrial cooperation suggested by interested firms and organizations. With a view to the development of economic cooperation, they will examine ways and means for the application of customs and fiscal facilitation for goods assigned to, and resulting from, cooperation projects within the provisions of customs legislation in force in the two countries.

III

Positively evaluating the development to date of scientific and technological cooperation between the United States and Poland, including cooperative projects undertaken in accordance with the United States-Polish Agreement on Science and Technology, the President and the First Secretary expressed the view that further cooperation of this kind in fields of interest to both countries should be pursued.

With a view toward the facilitation of projects for industrial and agricultural development, they, by mutual agreement, will exchange information concerning various fields in which the expansion of industrial and technological cooperation is desirable, and, on the basis of such exchange, will examine areas appropriate for consideration.

They positively evaluated the development to date of mutual financial and credit relations, especially the cooperation between the Export-Import Bank of the United States and the Bank Handlowy in Warsaw, which contributed to the rapid rise of trade and economic cooperation, and pledged continued cooperation in the development of these relations.

Attaching great meaning to the progress achieved in creating reciprocal trade facilities, they will examine ways of resolving administrative, tax, visa, and customs problems which may rise, and will facilitate as appropriate access to information concerning actual and potential markets, operation of business offices, trade promotion and other endeavors which contribute to the development of trade and economic cooperation.

Evaluating positively the work to date of the Joint American-Polish Trade Commission in developing and coordinating action in the area of mutual economic and trade relations, they will continue to work through the Commission to promote economic cooperation and resolve problems arising in the course of their economic, industrial and technological cooperation.

In issuing this Joint Statement, they express the hope that it will become an important practical contribution to utilization of the potential for development of economic, industrial, and scientific and technological cooperation between the United States of America and the Polish People's Republic.

Washington, October 9, 1974.

For the United States of America: Gerald R. Ford, President of the United States of America.

For the Polish People's Republic: Edward Gierek, First Secretary of the Central Committee of the Polish United Workers' Party.

NOTE.—The joint statement was signed in a ceremony in the Cabinet Room at the White House.

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. CARNEY) is recognized for 10 minutes.

Mr. CARNEY of Ohio. Mr. Speaker, I would like the RECORD to show that if I had been voting, I would have voted for the Rosenthal amendment to the continuing resolution which would: First, limit the delay in applying the law to Turkey until November 30, 1974; second, require that no U.S. military equipment given to Turkey at any time can be shipped to Cyprus after the continuing resolution becomes law. A violation of this provision by Turkey would cause an immediate cutoff of all military aid to that country.

Mr. Speaker, had I been voting, I would have voted to override the President's veto the continuing resolution containing the Rosenthal amendment.

RHODESIAN CHROME

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 15 minutes.

Mr. MOAKLEY. Mr. Speaker, I would like to express my disappointment that we are recessing without having acted on S. 1868, amending the United Nations Participation Act to ban the importation of Rhodesian chrome.

I urge that this bill be considered a major priority upon our return next month.

In passing this legislation, we can reaffirm our commitment to the right of the Rhodesian people to self-determination and bring an immediate close to our sad position as violators of international sanctions we helped impose.

I wish to commend the gentleman from Minnesota (Mr. FRASER) and the members of the distinguished Committee on Foreign Affairs for their tireless efforts, in the words of the original bill "to restore the United States to its position as a law-abiding member of the international community."

I think it is important to realize that opponents of this measure are not acting in opposition to the intention of the original ban. I doubt any of our colleagues disagree with the importance of bringing the United States into conformity with international law. Surely none disagree that we should firmly withhold our support from the racist regime that holds 96 percent of Rhodesia's population in virtual slavery.

Those who oppose this measure do so in the belief that a reimposition of the ban would place us in a position of reliance on the Soviet Union for our supply of chromium ore, would increase the price of chromium to a point that would endanger U.S. jobs in the specialty steel industry and undermine our defense posture.

After carefully studying this matter, I am convinced that this legislation will do none of these things.

What it will do is knock out one of the important props by which a regime representing only 4 percent of Rhodesia's population denies the basic human rights and aspirations of Rhodesia's 5.5 million blacks.

It will also, hopefully, end the legitimate resentment now focused on our Government by all free African nations and millions of our own citizens.

NATIONAL SECURITY

Many people are troubled over the prospect of U.S. dependence on the Soviet Union for its supply of chromium ore. While I am sympathetic to this concern, our experience as an importer of Rhodesian chrome does not indicate that the lifting of this ban in any way has lessened this dependence. Since we began importing chrome from Rhodesia, our imports from the Soviet Union have actually increased.

The Department of Defense has provided Congress with estimates that make it clear our present stockpile could meet our defense needs for a war lasting decades. In fact DoD is so certain of the long-term availability of chromium that congressional consent was sought for the disposal of a substantial portion of our current holdings.

In the event of war, the Department of Defense has estimated that the first year of fighting would consume only 2.3 percent of our current reserve of metallurgical grade chromite. Additional supplies would presumably remain available from South Africa, Finland, Brazil, Norway, Sweden, and Turkey.

Not only could we replace Soviet sources from materials on hand but such a cutoff is highly unlikely. The Soviet Union is, in turn, dependent on many U.S. products, particularly aluminum oxides, and it is doubtful they would risk a cutoff under any but the most serious circumstances.

U.S. ECONOMY

The charge has been made that U.S. jobs are placed in danger because we will have to pay significantly more for chromium ores if we reimpose sanctions against Rhodesia.

Yet a close examination of the situation does not bear out this charge. At the end of the first quarter of this year, Rhodesian chrome ore was costing the United States $74 per ton as opposed to $43 per ton for Soviet imports. In addition, only 11 percent of our ore imports now come from Rhodesia. Turning to other sources will not significantly alter the market situation.

On the question of jobs, I. W. Abel, president of the United Steelworkers of America, has clearly pointed out that the reimposition of the embargo would not jeopardize U.S. jobs. Quite the opposite, the lifting of sanctions 3 years ago has cost American jobs. As Mr. Abel said in a letter to the gentlemen from Minnesota:

> You and other members of Congress must decide for yourselves whether to allow continued importation of Rhodesian chrome in violation of the embargo . . . Do not, however, make your decision under the misimpression that American steelworkers will suffer if the United Nations sanctions are enforced. The reverse is true.

For the plain and shocking fact, Mr. Chairman, is that U.S. specialty steel workers who were employed during the embargo are now on unemployment lines while exploited black workers in Rhodesia do their job.

LONG-TERM SUPPLIES

It has been pointed out that the Defense Department stockpiles to be released for public use could meet our entire national need for chromium ore for 6 years even if all other international sources were closed off.

Realizing that our other international sources will not be curtailed, our needs can reasonably be expected to be met for years to come.

The only argument raised against this is that Rhodesia has 67 percent of the world's known reserves of chromium ore. To reimpose economic sanctions against Rhodesia will, at some distant future date, cut us off from this source of supply.

I readily admit that the day may come in the far future when we will desperately need Rhodesian chrome. I think recognition of this requires that we do reimpose economic sanctions against Rhodesia.

At the present time the government of Prime Minister Ian Smith is branded before the community of nations as an outlaw government. One of that regime's few economic props is the U.S. chromium trade which provides Rhodesia with its largest single source of foreign exchange—$43 million. The United States is the only nation beside Portugal and South Africa to openly violate United Nations sanctions against Rhodesia.

And this is the central issue related to our long-range supply of chromium ore. The Smith regime is not the legitimate government of Rhodesia and it certainly is not the permanent one. This government exists solely to exploit a nation of more than 5.5 million people for the political and economic benefit of a quarter of a million whites. Such a government cannot endure for long.

To put it quite bluntly, our chromium supplies are likely to last much longer than the current Government of Rhodesia.

And we would do well to ponder how we would fare at that future date, when we may actually need this supply, if we went, hat in hand, to the future government we had helped the Smith regime suppress.

INTERNATIONAL TRADE

Of equal importance to our future dealings with the legitimate black government of Rhodesia is our current relationship with more than two dozen African nations already free of colonial rule.

In supporting the legislation before us today, Secretary of State Henry Kissinger has pointed to the example of Nigeria. We have investments of more than a $1 billion in this nation, which is an important source of supply for low-sulphur petroleum. I think the evidence makes it clear that we should be far more concerned about jeopardizing our relations with Nigeria than the current regime in Rhodesia.

And, of course, this pattern continues across the continent. Our unique position as a violator of the U.N. imposed embargo—which we supported—has placed our foreign policy on unsure footing throughout free Africa. As Secretary Kissinger explained:

> I am personally convinced that the Byrd Provision is not essential to our national security, brings us no real economic advantages, and is costly to the national interest of the United States in our conduct of foreign relations.

In view of the vital interest at stake in Africa, I believe we should support the Secretary in his efforts to restore respect for the United States by removing ourselves from our uncomfortable position in breach of international law.

SUMMARY

Dozens of people in my district have written to me in opposition to reimposing economic sanctions against Rhodesia. All of the letters have been reasonable and fair, based on honest patriotic concerns. Since my conscience has required me to cosponsor the legislation offered by the gentlemen from Minnesota and to stand in firm support of it, I feel compelled to offer a full explanation of position. I feel I owe it to the people I represent to openly address the issues they have raised. I have considered all the reasons to vote against this legislation but they all fade to insignificance beside the enormous moral question of our continued alinement with the present Rhodesian Government.

EXPLANATION OF PROCEDURE ON ADJOURNMENT RESOLUTION

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. The reason for the delay at the present time is that we understand that the resolution is to originate in the Senate concerning adjournment, and they had notified us as soon as the continuing resolution was received by the Senate they would send it over. We understand it is on its way and we are just waiting until such time as the resolution comes over.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding. Is there some reason why we cannot send the adjournment resolution over to the Senate and adopt it here, and go home or wherever we want to go?

Mr. O'NEILL. I see no reason why we cannot.

Mr. GROSS. Why should we always be waiting on the other body to send the resolution over here?

Mr. O'NEILL. I am merely explaining to the gentleman what the situation is at the present time. The Speaker has been talking to the Senate leaders and we are simply waiting here for the resolution to come over.

Mr. MATHIS of Georgia. Mr. Speaker, would the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Georgia.

Mr. MATHIS of Georgia. Mr. Speaker, perhaps it would help the gentleman from Massachusetts if he would like us to take up 15 minutes and make a point of order that a quorum is not present so that we could occupy the time.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 120. Concurrent resolution providing for a conditional adjournment of the Congress from October 17, 1974 until November 18, 1974.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE TWO HOUSES FROM OCTOBER 17, 1974, UNTIL NOVEMBER 18, 1974

The SPEAKER laid before the House the Senate concurrent resolution (S. Con. Res. 120) providing for a conditional adjournment of the two Houses from October 17, 1974, until November 18, 1974.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 120

Resolved by the Senate (the House of Representatives concurring), That when the two Houses adjourn on Thursday, October 17, 1974, they stand adjourned until 12 o'clock noon on Monday, November 18, 1974, or until 12 o'clock noon on the second day after their respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

Sec. 2. The Speaker of the House of Representatives and the President pro tempore of the Senate shall notify the Members of the House and the Senate, respectively, to reassemble whenever in their opinion the public interest shall warrant it or whenever the majority leader of the House and the majority leader of the Senate, acting jointly, or the minority leader of the House and the minority leader of the Senate, acting jointly, file a written request with the Clerk of the House and the Secretary of the Senate that the Congress reassemble for the consideration of legislation.

Sec. 3. Ordered, That during the adjournment of both Houses of Congress as provided in Sec. 1, the Secretary of the Senate and the Clerk of the House, respectively, be authorized to receive messages including veto messages from the President of the United States.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid upon the table.

COMMODITY SET-ASIDE ACT OF 1974

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous mater.)

Mr. ALBERT. Mr. Speaker, recently the gentleman from Utah, (Mr. OWENS) introduced legislation providing for the establishment of a new commodity set-aside program. As I understand it, the bill would provide for gradually accumulating certain commodities over the course of the next 3 years, which would then be available for human consumption and seed purposes in the event of some catastrophic depletion of our basic food reserves.

Under the gentleman's bill, the program would begin in 1976. The commodity reserves, consisting of a 1 year's supply of wheat, feed grains, and dried milk products, or nutritionally equivalent substitutes, would only be released when production and imports fall below a minimum level essential to survival, and their release would only be triggered by massive crop failures or some other extraordinary natural disaster.

I applaud the gentleman's attempt to insure that our Nation will be adequately prepared for an extraordinary reduction of our basic food supply. As I understand it, this bill is intended to be a form of disaster insurance, in the best tradition of American self-reliance and preparedness and it is not intended to be a price-support or price-maintenance system.

In introducing his bill, the gentleman from Utah (Mr. OWENS) spoke of the responsibility of the legislature today to provide assurance against the specter of hunger in this Nation. I agree with him that the Government must recognize that our vast agricultural capacity is not immune to natural disaster and must take the necessary steps to assure that hunger caused by agricultural disaster will not devastate this Nation. Mr. OWENS' proposals alert us to the need for preparedness. I congratulate him for his efforts to meet this need.

HEALTH RIGHTS AND COMMUNITY HEALTH SERVICES

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, the question of how to provide adequate health care to all persons obviously will be one of the most critical issues confronting the 94th Congress.

Already there are a number of various proposals pending in Congress calling for various approaches to this key question. I have studied those bills, and in general, I find them lacking what I would endorse as a comprehensive strategy for providing health care.

Recently I received a new proposal—or rather, the basic outline of an overall proposal—that takes a new direction in providing quality health care. Instead of focusing on the intricacies of financing health delivery schemes, this proposal deals with the actual delivery of health services, and it would bring about major changes in the complete health care system as we now know it.

This proposal was put together by a special working group of health workers—the Coalition for Health Rights and Community Health Services, some of whom are members of the Medical Committee for Human Rights. And while at this point, the proposal represents the coalition's ideas and concepts, I see this proposal as the framework upon which future legislation can be drafted.

Yet, there still remains much to be done. Because this proposal builds upon a community-based approach to health delivery, I deem it critical that there be additional input from both communities and health groups throughout the Nation. Only through such a broad, coalition effort will it be possible to draw together the best and most creative ideas into a truly progressive legislative package.

I intend to submit this proposal into the RECORD because I believe that my colleagues in Congress and the many interested persons and groups throughout the country should have this opportunity to comment on it and to offer their suggestions and recommendations about it:

[From the Coalition for Health Rights and Community Health Services]

THE NATIONAL HEALTH RIGHTS AND COMMUNITY HEALTH SERVICES ACT

Following is a summary of a proposal which would restructure the health care system of the United States to provide for the delivery of community-directed health care services. This proposal is based upon these concepts:

1. An optimal level of health enhances the quality of life by promoting an individual's well-being, dignity and human potential.
2. Health care, which contributes to attaining an optimal level of health, is a human right.
3. It is the responsibility of the national government to implement a community-based national health care system to guarantee this right.
4. Provision of health care should not be dependent upon profit-making.

In order to implement these concepts, comprehensive health care will be offered without charge in facilities under the direction of Community and Regional Health Councils. The delivery of health care services will be restructured to ensure equitable distribution of health care to both rural and inner-city areas, and there will be equal access to these services. There also will be equal access to educational preparation for health workers. Services and educational preparation will be available without regard to race, sex, religion, income, national origin or citizenship. In addition, health care services will be available in all work and institutional settings—including prisons. In these settings, as well as in all health care facilities, utilization of preventive health services will be encouraged.

Restructuring of health care delivery in this manner will require that all public and private resources related to the provision of health care be reorganized so that these resources are under the cooperative direction of all health workers and are ultimately accountable to the public.

ELIGIBILITY

All persons within the United States and its territories will be entitled to receive the health services provided in this proposal without regard to race, sex, age, religion, income, national origin or citizenship.

BENEFITS

1. Comprehensive health care including services for the prevention, diagnosis, treatment and rehabilitation of health problems, all medical supplies and drugs approved by the National Pharmacy and Medical Supplies Formulary Administrative Board, and all services rendered by clinics, hospitals, long-term facilities and other health institutions under the control of Community and Regional Health Councils.
2. All persons will be entitled to the rights enumerated in the Health Care Bill of Rights presented later in this proposal.
3. Health services will be offered in occupational settings as determined by Community Health Councils.

4. Child care services will be offered without charge to health workers during working hours, and to recipients of health care services during the time services are being provided.

5. Transportation services will be provided for recipients of health services to and from community and regional health facilities.

6. Comprehensive health services, as enumerated in this proposal, will be provided for all persons within local, state and federal residential and penal institutions.

COMMUNITY HEALTH SERVICES

A community will be an area which provides a suitable organizational base and possesses the commonality of interest needed to support and maintain a community health services program as described in this proposal. In general, a community should be no larger than 50,000 persons.

Community Health Council

Each designated community will elect a Community Health Council. The Community Health Council will have one representative for each 4,000 residents of the Community, but no Community Health Council will have less than 3 members. The members will serve limited terms.

Functions of the Community Health Council will be:

A. Health Planning and Evaluation—

1. Determine policies for health facilities in the community.

2. Determine location and number of community health facilities.

3. Determine the need for health workers in the community.

4. Plan for additional health programs to meet community needs.

5. Evaluate results of utilization and quality-of-care reviews.

6. Evaluate adherence of facilities to the "Health Care Bill of Rights."

B. Oversight—

1. Oversee activities between health facilities.

2. Provide and inspect health programs in working places and in community institutions.

3. Develop and implement preventive health programs.

4. Develop and implement health education programs.

5. Collect health statistics for the community.

C. Personnel—

1. Determine personnel policies for community health facilities.

2. Serve as hiring authority for all health workers in the community.

3. Hire administrative staff to manage these functions.

D. Financial—

1. Distribute funds to community and regional facilities.

2. Serve as contracting authority for all services, supplies and equipment.

Community Health Clinics

Each designated community will provide health care services through community health clinics. Residents of the community may choose the clinic they wish to attend. The internal policy of the clinic will be determined by workers in that clinic with all workers having an equal voice in decision-making.

Each community health clinic must provide the following in addition to general health care services:

1. Maternal health services, including abortion services;

2. Family planning services;

3. Mental health services;

4. Dental health services;

5. Health education and nutrition counseling;

6. Basic rehabilitative services;

7. Emergency services available 24 hours a day;

8. Home health services;

9. Quality-of-care and utilization reviews;

10. Referral services to other health facilities and community resources;

11. Access to legal services;

12. Maintenance of health records and statistics;

13. On-the-job training programs and a program of upward-job-mobility;

14. Transportation services for persons who attend clinics;

15. Child care services for health workers in the clinic and for persons who attend clinics.

Community Advisory Board

Each community health clinic will have a Community Advisory Board to ensure that the clinic is providing all health services enumerated in this proposal. The Community Health Council will appoint residents served by the clinic to become members of the Community Advisory Board, and these appointees will compose one-third of the total Community Advisory Board membership. The health workers in the clinic will select the remaining representatives proportionately from all types of health workers in the clinic. The Community Advisory Board will:

1. Submit regular reports and recommendations pertaining to clinic policy and administration. All such reports will be available to the general public and will be submitted to the Community Health Council and to the residents served by the clinic.

2. Hold regular meetings open to the public.

3. Hear complaints from residents of the community who attend the clinic and from workers.

REGIONAL HEALTH SERVICES

A region will be an area containing a number of communities and which provides a suitable organizational base and possesses the commonality of interest for regional health programs as described in this proposal. In general, a region would cover between one to ten million persons. Regional health facilities will be all hospitals, specialized medical care and rehabilitation centers and health worker schools within the region.

Regional Health Councils

Each region will have a Regional Health Council. The Council will be composed of one representative from each Community Health Council. Each Community Health Council will have one vote on the Regional Health Council. Primary functions of the Regional Health Council will be to oversee regional health facilities and health worker education and to facilitate community health programs. Specific functions of the Regional Health Council will be:

A. Health Planning and Evaluation—

(1) Insure availability and adequacy of regional facilities.

(2) Determine the need and budget for development of new facilities.

(3) Determine the need for health workers in the region.

(4) Conduct quality-of-care and utilization review for regional health facilities.

(5) Collect, analyze and report on health statistics for the region.

(6) Coordinate regional environmental programs.

B. Personnel—

(1) Serve as contracting authority for all services, supplies and equipment at the regional level.

(2) Set regional wage/salary levels for health workers.

(3) Hire administrative staff.

C. Educational—

(1) Ensure that national standards for heath worker schools are met.

Regional Health Facilities

In addition to their specialized service, each regional health facility will provide the following services:

1. Health education;

2. Quality-of-care and utilization reviews;

3. Referral services to other health facilities and regional resources;

4. Access to legal services;

5. Maintenance of records and statistics;

6. On the job training programs and upward job mobility;

7. Transportation services for those who visit the facility;

8. Child care services for health workers in the facility and for those who use the facility.

Regional Advisory Board

Each regional health facility will establish a Regional Advisory Board to insure that the regional facility is providing the health services enumerated in this proposal. The Regional Health Council will appoint residents of the region to comprise one-third of the members of the Regional Advisory Board. The remaining two-thirds will be representatives of health workers in the regional facility. The Regional Advisory Board will:

1. Submit regular reports and recommendations pertaining to facility policy and administration. All such reports will be available to the general public and will be submitted to the Regional Health Council.

2. Hold regular meetings open to the public.

3. Hear complaints from residents of the region who use the facility and from workers in the facility.

PROVISIONAL NATIONAL HEALTH COMMISSION

A Provisional National Health Commission will be appointed by the President and approved by Congress to oversee and manage a transition period. The Commission will be composed of consumers, health workers and union representatives with equitable representation of women and minorities. Terms of office of Commission members will be limited and one member will be chosen by the Commission to be chairperson.

The Commission will be responsible for establishing community and regional boundaries and for overseeing the elections of community, regional and national representatives within given time limitations. While Community, Regional and National councils are being established, existing health delivery mechanisms will remain intact. However, upon completion of this transition all health functions will be assumed by the national health service outlined in this proposal. The Provisional National Health Commission will be dissolved upon the election of the permanent National Health Commission.

NATIONAL HEALTH COMMISSION

The National Health Commission will insure that objectives of this proposal are implemented in all communities and regions. The Commission will develop minimum standards to assist communities and regions with implementing this proposal. Each region will have one vote on the National Health Commission. Members will serve limited terms which will be staggered.

Functions of the National Health Commission include:

A. Health planning and evaluation—

(1) Compile health data from community and regional levels to determine the number of health workers needed throughout the country.

(2) Coordinate health research.

(3) Establish minimum national standards for:

(a) Quality control programs;

(b) Community and regional facility maintenance;

(c) Prison and institutional health programs;

(d) Environmental health quality programs;

(4) Maintain national health statistics.

(5) Prepare an annual health report to the nation containing evaluation of delivery services and future plans.

B. Personnel policy—Hire National Health Commission administrative staff.

C. Financial responsibility—Project health needs and costs for long and short term periods.

D. Educational responsibilities—

(1) Recommend minimum national standards for health worker schools.

(2) Develop a national clearinghouse which makes information available to community and regional levels and would encourage information sharing between regions and communities.

E. Appointment functions—

(1) Appoint members of the Board of Trustees of the National Health Care Trust Fund.

(2) Appoint members of the National Pharmacy and Medical Supplies Formulary Administrative Board.

(3) Appoint members of the National Health Legal Rights Commission.

OCCUPATIONAL HEALTH

All duties and responsibilities of the Occupational Safety and Health Act of 1970 will be assumed by the Occupational Safety and Health Committee of the National Health Commission. This Committee will assure the performance of the duties of functions currently implemented by the Occupational Safety and Health Administration of the Labor Department and shall continue the activities of the National Institute of Occupational Safety and Health.

The Committee shall be composed of the National Health Commission with an equal number of health/scientific workers and worker representatives.

The basic function of the Committee will be as stated in the preamble of the OSHA Act—

"To assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing research, information, education and training in the field of occupational safety and health. . ."

FINANCING

Health services, facilities and programs will be centrally and collectively financed. There will be no third parties, no claims-filing activities. Health revenues will be generated by a series of health surtaxes consisting of:

1. Taxes on personal income;
2. Taxes on personal wealth;
3. Taxes on corporations and other business enterprises based upon excess profits calculations.

A probable cost of the *full* program outlined in this proposal may be estimated from approximately $100-$110-billion in its first year. This sum is an aggregate of these components which are based upon data from the Department of Health, Education, and Welfare and from estimates compiled by the authors of this proposal: $34-$40-billion=current private sector outlays; $36-$40-billion=current total government expenditures; $30-$40-billion=induced costs of new system, including increased demand for health services, new facility costs, first year costs for assumption of private sector facility assets (including hospitals and schools), administrative costs, and receivership costs.

Even so, only approximately between $5-$10-billion may be needed in additional tax revenues to finance this proposal because elimination of (1) the current fee-for-services system and (2) health insurance costs would free approximately $64-$68-billion of resources which would then become additional personal income and corporate revenues. Health taxes would be established so as to transfer *all* those resources (less whatever excess costs are contained within the current system) to government, and whatever new taxes would be set would make up the difference between estimated program costs, and (1) transferred resources and (2) current government expenditures.

NATIONAL HEALTH CARE TRUST FUND

Funds for the health care system will be maintained by a special trust fund established within the Treasury of the United States. A Board of Trustees, named by the National Health Commission, will adminster the Fund, with the majority of the Board members to be chosen from the general public and from among those persons with low-or-middle incomes.

Based upon studies and proposals by its staff, the Trustees will provide:

1. Estimates of health system costs to the National Health Commission;
2. Recommendations for changes in health taxes to the Congress;
3. Recommendations for changes in health fund allocation formulae to the National Health Commission.

The transfer of funds from the Trust Fund to communities and regions will be based upon demographic data, including per capita income, with priority given to those areas with the greatest needs as shown by a series of social and economic indicators.

NATIONAL PHARMACY AND MEDICAL SUPPLY FORMULARY

A National Pharmacy and Medical Supply Formulary will have the following functions:

1. Determination of standards and regulations regarding quality, price and distribution of all drugs, medical appliances and equipment produced, imported or exported from the United States;
2. Certification of drugs, equipment and suplies to be used by the health facilities in this proposal;
3. Recommendation of legal sanctions to be taken against unauthorized manufacture, distribution, import, export and use of drugs equipment and supplies. Such sanctions will include the possibility of government seizure and receivership of such violaters.

National Formulary Administrative Board

This Board will be selected by the National Health Commission to carry out the objectives listed above. A majority of Board members will be chosen from the general public, with approximately half of the non-public representatives being health workers, and one-half representatives of manufacturers, distributors and/or importers of drugs, equipment and supplies and of elected employee representatives of those industries. The Board shall select professional and managerial staff for the Formulary.

All funds for the Formulary shall be allocated by the National Health Commission.

HEALTH WORKER ORGANIZATION

The goal of this section is to restructure the present heirarchical organization of health services into one which distributes technical discretionary and care-giving (nursing) tasks among all health workers, in which activities are democratically planned and critiqued by collective worker effort, and in which new workers are selected by the community. This goal will be implemented by:

1. Encouraging all workers to expand and exercise discretionary expertise, so that no workers are limited to nursing or technical tasks without participating in patient evaluation and decision-making, and no health workers monopolize the decision-making to be carried out by others.
2. Encouraging physicians, dentists and other doctoral level personnel to take increased responsibility for care-giving and technical tasks, particularly in patient and community health education.
3. Encouraging experimentation with new health workers' roles.
4. Organizing regular health worker meetings in each ward, clinic or other division, to democratically discuss, plan and critique patient care, task allocation and worker relationships.
5. Working toward a salary ratio not greater than 1:3 between the lowest and highest paid workers.

HEALTH WORKER EDUCATION

The goal of this section is to integrate and decentralize health worker education, to increase its responsibility for regional and community needs by provisions of services during and after education, and to increase the community's role in educational decisions concerning recruitment, selection and curriculum for health workers.

Schools of medicine, dentistry and other doctoral levels will be integrated with schools for middle level personnel in nursing, technical, non-physician practitioner and other fields. These units shall be referred to as health worker schools, and placed under the guidance of the Regional Health Council. Joint classes, clinical and community experiences will be actively encouraged.

Health worker schools will be responsible for developing continuing education programs for all presonnel in their community or region. They shall also assist Community and Regional Health Councils in planning educational programs for their members as well as for interested community persons. Further, they will help communities to develop materials and programs for use in health education.

Each health worker school will be responsible for the direct delivery of health services to a defined regional population.

Teaching in health worker schools will be done by multi-disciplinary teams of student, faculty, health workers and community representatives, who would work collectively to plan courses and field experiences. The classes and field work will be open to all categories of students and health workers.

The financing for health worker education, including faculty salaries, will come exclusively from the National Health Care Trust Fund.

LEGAL SERVICES

Any consumer of health services rendered under this proposal, or any community group having a demonstrated interest in health care, shall have the right to commence a proceeding for redress before the Community Health Council in the community where alleged violations have occurred. All parties shall have the right to counsel. Any party shall have the right to appeal an unfavorable decision to the Regional Health Council for the region where the proceeding originated, and to appeal an unfavorable Regional Health Council decision to the United States District Court for the district in which the proceeding originated.

National Health Legal Rights Commission

The NHLRC will be responsible for provision of legal services, and will be named by the National Health Commission. NHLRC membership will be composed of health workers, attorneys and the general public, with its composition reflecting the race, sex, and economic characteristics of the overall population.

The Commission will establish legal services centers for each region, and will hire a director for each such center. The center director shall then hire the legal services workers for the region, so as to provide representation for consumers and community groups empowered to commence proceedings.

The Commission will also establish special task forces at regional levels to deal with alleged acts of discrimination or expressed attitudes of prejudice. These task forces may institute actions following requests from consumers or they can act independently without a complaining party.

In addition, the Commission will set up a national health law reform program. This program will examine existing and proposed health laws to determine if such laws are consistent with principles in this proposal.

All funds for the operation of health legal services shall be appropriated by the Congress from the general revenues.

HEALTH CARE BILL OF RIGHTS

All persons will have the following rights:

1. To be treated with dignity and respect at all times.

2. To receive all benefits proposed in this Act.

3. To have unrestricted access to a copy of their complete health record at any time, without charge.

4. To have unrestricted access to any and all libraries containing health related materials.

5. To have a personal copy of a comprehensive dictionary of terms used in health records and services. This reference shall explain terms related to symptoms, signs, diagnosis, etiologic agents and conditions, diagnostic procedures, and the treatment, prevention and rehabilitation of illness. It shall also extensively cite lay and professional sources of additional information.

6. To receive—prior to any treatment—procedure or admission, a careful and intelligible explanation of the indications, the likelihood of benefit and risk and the nature of possible side effects or risks.

7. To refuse any treatment, procedure, admission, or continued hospitalization whenever such refusal does not directly endanger the physical health of others.

8. To receive a prompt and intelligible answer to any question about their health, available health services and resources, and health conditions in their community and workplace.

9. To receive translation of all communications into their native language.

10. To have complete confidentiality of information regarding their health. No written or verbal information which discloses any person's identity may be released without their voluntary, written consent.

11. To confer with any person or group, at any time, including family friends, persons of similar interest, and legal counsel.

12. To have legal recourse as presented in this proposal for negligent conduct by any person. The use of forms which request release from liability for negligent conduct will be prohibited.

13. To be informed of all the above rights at the time of any institutional admission and when receiving health services. In case of a life-threatening emergency—or loss of consciousness, a family member or accompanying adult must be so informed.

14. To full exercise of any and all of the above rights, by means of a prompt, effective complaint mechanism and full recourse to legal assistance as described in this proposal without loss of service.

Health Care Rights For Mental Patients, The Aged and Retarded

Mental patients, the aged and retarded will be accorded all the above rights. Because of past violations of Constitutional rights of these groups, the following rights, which apply equally to all other persons are explicitly stated:

1. No one can be institutionalized against their will.

2. To have all protections guaranteed by the Constitution.

3. To have an alternative to hospitalization offered and to have a choice of hospitals.

4. To have facilities which are clean comfortable, adequately heated, cooled and ventilated, adequately staffed, and which provide sufficient opportunity for creative activity and recreation.

5. To have a social and sexual life according to their sexual preference while under institutional care.

6. To have the opportunity to freely communicate by phone, letter and in person.

7. To retain private property without threat of confiscation.

8. To refuse compulsory work, to chose the type and extent of work, and to receive at least the minimum wage for such work while in hospital care.

9. To not be subject to regimentation of activities or dress.

10. To not be subject to physical abuse or any form of physical or psychological harassment.

11. To not be physically restrained except when such action is decided by patient representatives to be required for physical safety.

12. To decline treatment and medication at any time, and to receive full explanation of benefits, risks, and side effects of any therapy.

13. To decline participation in any experiment or teaching experience.

14. To complete confidentiality of records and to see any personal health record at any time.

15. To full participation, personally and through a patient council, in any decisions involving patient well-being.

16. To exercise all of the above rights, and to have access to legal counsel and full recourse at any time for the violation of these rights.

It is recommended that a program of community/patient advocacy be established in which community persons acquire basic legal knowledge and skills and then have the opportunity to work in each health facility with patients, community persons and health personnel to ensure the realization of health care rights.

In addition, health personnel in each facility will become familiar with the "Health Care Bill of Rights" and will regularly meet with advocates and the Community Health Council and other community persons to discuss ways of ensuring these rights through activities of that facility. It will be the responsibility of all health facilities to ensure that personnel are adequately informed of this "Health Care Bill of Rights."

ARTICLES BY JAMES McCARTNEY ON LIFE IN CUBA UNDER CASTRO

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, James McCartney, of the Knight Newspapers Washington Bureau, has recently returned from a rare 6-day visit to Cuba. He has written a series of articles based on his impressions of life in the island nation under Castro. His observations are astute and incisive and I commend them to the attention of our colleagues:

Hint of Fear—Castro Building New Society of Marxist Zealots

(By James McCartney)

Havana.—Fidel Castro has built his own brand of Marxist socialism into the very fabric of Cuban society—the schools, the textbooks, the newspapers, even the social life.

And there are many signs around Havana to suggest that it is here to stay.

The evidence now is that he has made it. He has consolidated his power, with no serious opposition from within.

But he also has desperate problems, particularly with food. And there are questions about what would happen if the Soviet Union should decide to make him stand on his own feet, although that does not appear to be a likely possibility.

In 15 years since his 1959 revolution, Castro has turned this country upside down.

On the drawing boards, his new Cuba is a Cuba of collective farms, more modern and more imaginative than those pioneered in the Soviet Union—farmers in model cities, living in sleek apartment buildings.

It is a Cuba with planned cities, designed for as many as 150,000 persons, with every kind of modern convenience—hospitals, schools, day-care centers. Some are already built.

But Castro's new Cuba is already a Cuba of fear:

A Havana University student ran after me for 100 yards, to beg with me not to use his name in a story, after he had blurted out a criticism of Castro.

A 60-year-old woman said she could not run the risk of being seen riding in a car with a reporter.

"Of course they are following you," she said. "They will know everybody you have talked to. I don't want to get in trouble."

In six days in Cuba I did not hear a Cuban official so much as mention a concern about civil liberties.

What's happening in education illustrates the depth of the Communist penetration.

A modern, new, rural school 25 miles west of Havana has a faculty of which 39 are members of the Communist Party.

Of a student body of 526 between the ages of 11 and 15, about 90 are already members of the Young Communists, and others are eager to join.

The history textbook used in the school is a basic Russian history book, written in Moscow, translated into Spanish. A picture on the front of the book shows V. I. Lenin, the founder of Soviet communism, in a sympathetic pose.

One chapter in the book is entitled "The Aggressive Foreign Policy of the United States." Another is headed "Imperialism and the Revolution of the Proletariat."

An illustration in the book shows a bloated pig, labeled "Capitalism," being slain by a small man, labeled "the workers," carrying a sword, which is labeled "collective ownership."

Benito Urra, who teaches the ninth grade, says a major objective of the school is to teach students their role in a socialist society.

In order to have maximum political impact on the student, the school is designed as a boarding school. Students live with their teachers and fellow students Monday through Friday, and go home only on weekends.

One reason, officials explained, was to separate students from "reactionary" ideas they might get from their parents.

And the new government has involved itself deeply in social life as well, particularly through the Committees for the Defense of the Revolution, block organizations to which almost all adults belong.

The CDRs originally were created as spying mechanisms to watch for counter-revolutionaries. Today they do good works—like seeing that children get vaccinations. They also throw parties to celebrate important anniversaries of Castro's revolution.

You get the idea that if a person wants to get along in life, without trouble, he'd better show up at CDR functions.

Says a Cuban who has watched the CDR's role evolve over the years:

"Anybody who doesn't belong to the CDR has a tough time getting things done. You have to do 'voluntary' work to remain in good graces politically.

"The CDR knows, intimately, where everybody is, how they live, whether they eat well. They know everything."

A government official confirmed that observation, perhaps unwittingly, when asked how he could be sure that burglary rates were down in Havana, when the controlled press does not report crime news.

He looked me squarely in the eye and said: "We know everything."

Those functions in domestic spying that are not carried on by the CDRs are assigned to what everyone in Cuba calls the "G2"—the Ministry of the Interior.

The designation "G2" has been stolen from U.S. military parlance, where it refers to intelligence functions.

"The G2 is the only thing in Cuba that is magnificently organized," says a long-time student of such matters.

The new Cuba is run by the Communist Party. A Senate Foreign Relations Committee report has estimated that it has fewer than 200,000 members, and its function, officially, is "to direct" the government.

Members are elected by their co-workers, in unions and in other organizations formed by workers.

It is a social honor to be a member. Membership automatically brings certain kinds of privileges, such as the right to own a car.

I asked one bright young man in the Foreign Ministry if he aspired to membership and he said, "Of course." But he said he doubted if he was worthy of the honor.

"I don't think I work hard enough," he said.

And of course membership in the party means power in a society in which wealth is far more evenly distributed than in the *United* States.

Modern Cuba is highly dependent upon the Soviet Union for its very existence. The Soviets have poured billions of rubles into Cuba to keep it running. The current rate of Soviet spending has been authoritatively estimated at between $550 and $600 million a year.

Soviet trucks, tractors and other equipment are everywhere. So are Soviet technicians, although nobody seems quite sure how many technicians there are.

But they live well. The restaurant on the top of a modern apartment building in downtown Havana that houses Soviet technicians is one of the best in town. A reporter paid $71 to take three friends to lunch there last week.

The liquor store in the apartment house was far more elegantly stocked than the liquor store in the Havana Libre Hotel, which houses visiting Americans, as well as many Cuban honeymooners.

The Marxist orientation of Cuban Communism is visible on streets of Havana, in posters and banners, and in photos hung in buildings, lobbies and offices.

It is not unusual to see pictures of Lenin. He is often quoted.

There is, however, no Castro cult—although Castro clearly dominates the government as a living legend.

If there is a Cuban Communist hero for whom a cult has developed it is the legendary Che Guevara, who was slain in 1967 while seeking to export Cuban socialism to Bolivia.

Guevara's photograph is exhibited far more often around Havana than Castro's. Three huge photos of Guevara greet VIP visitors in the first reception room they enter on arrival at Havana airport.

But Castro and Cuba have developed their own peculiar and distinctive brand of Communism. Although it is Marxist, it is not the same as what one finds in the Soviet Union, although there are chilling similarities. Nor is it quite the same as in the Communist-bloc states of Eastern Europe.

This reporter has visited the Soviet Union twice.

The Cuban system, as it has evolved to date, appears more egalitarian than either the Soviet system or the systems of Eastern Europe.

Wealth appears to be more evenly spread around, with a far less rigid caste system than in the Soviet Union.

Fewer special privileges seem to be accorded to those in power.

In Cuba, almost everyone appears to be equally impoverished in a kind of shared shabbiness. There are no rich, and few poor. Almost everyone suffers with the same poor diet, the same tough rationing system for food and clothing.

You do not see big black limousines at all in Havana.

And a truly well-dressed person, of either sex, is not just a rarity; it is non-existent.

What is common among the Cubans is zealots—the enthusiasm for Marxism of the newly converted. They exhibit shining eyes, pounding fists, and bitter hatreds of those who have seen the promised land of anti-imperialism, and adopted it as their religion.

They display the kind of a zealotry rarely seen nowadays in the Soviet Union, or in eastern Europe—and will lecture you about it for hours.

It could be that the limited exposures of a six-day trip were misleading on this point, and that it was only accident that this reporter encountered so many Marxist enthusiasts. But the schools have been turned into factories to produce zealots, if they can.

And the serious expressions of 10th and 11th graders, as they stood rigidly at attention, in their neat blue school uniforms, in Havana and in the countryside, produced memories not easily forgotten.

At the very least, the depth of penetration of Marxist ideology in Cuba raises questions about the future of U.S.-Cuban relations.

It has become a widely accepted notion that if the United States can produce "detente" with the Soviet Union, and a relaxation of tensions with China, it should also be able to effect a "normalization" of relations with Cuba.

That now looms as one of the major questions in Cuba's immediate future.

Can United States Accept Castro Based on His Terms?

(By James McCartney)

HAVANA.—The date was June 5, 1958, and Fidel Castro, Cuban guerrilla leader, was in the Sierra Maestra.

He had just seen a friend's home blown up by rockets he believed to be American, smuggled into Cuba through the U.S. Guantanamo Naval Base.

"I have sworn to myself that the Americans are going to pay very dear for what they are doing," he wrote to a woman friend Ceilia Sanchez, who is active today as a minister in the Cuban government.

"When the war is over, a much longer and bigger war will begin for me, the war which I am going to wage against them (the Americans). I realize that is going to be my true destiny."

The scrawled original letter hangs today on a wall here in a new "Museum of the Revolution," once a palace for Cuban presidents.

It raises a basic question about whether new talk of "normalization" of relations between the United States and Cuba should be taken seriously, and what it means.

Can Kissinger and Castro kiss and make up?

There is, in fact, little reason to believe that Castro, in 16 years, has changed his vision of his true destiny.

But that doesn't mean that he wouldn't like to see changes in the U.S.-Cuban relationship, a relationship of total estrangement since the Organization of American States, under fierce U.S. pressure, voted an economic embargo against Cuba in 1964.

And there are signs that the United States is willing to toy with the idea of changes, too.

Change, in fact, is in the air in U.S.-Cuban relations.

As matters now stand, the embargo against Cuba will, in all probability, be lifted in November, when OAS foreign ministers meet in Quito, Ecuador. Renewed trade between the United States and Cuba could follow.

Nevertheless, most of the signs are that trade will develop slowly, and that other changes of importance will also be slow in coming.

Sen. Jacob Javits (R., N.Y.), who visited Havana last week with Sen. Claiborne Pell (D., R.I.), declared at the close of the visit that "the ice clearly has been broken."

A more accurate metaphor would be that a few cracks have developed in the ice.

Sen. Pell was publicly enthusiastic, along with Javits, while in Havana, at the end of the visit. But after returning to Washington he lost some of his enthusiasm.

"We came away from our meeting with the view that there will be no abrupt return to normal relations between our countries," he said in Washington.

What is actually happening is that Cuban officials are privately, and not so subtly hinting that Cuba is ready to listen if the United States wants to make a first move.

And Secretary of State Kissinger is actually reluctant to make a first move, but is being dragged along by pressures from Latin American countries. Kissinger doesn't want to appear to be the perpetual Latin American dragon.

What's important are the fundamental issues separating the two countries. They are deep.

It is often said by those promoting improvements in U.S. relations with Cuba that if the United States can relax tensions with China, and build "détente" with the Soviet Union, it ought to be able to "normalize" relations with Cuba.

But the comparison is imprecise. Cuba is neither the Soviet Union nor China, and is not in the same position as either on the world scene.

The Soviets, for example, have wanted to improve relations with the United States primarily because their economic system has failed and they want access to western technology.

The Chinese undoubtedly have been looking to the United States as a potential ally in their continuing big-power confrontation with the Soviets.

Cuba fits into neither of these roles.

Cuba had a brisk trade with the United States before Castro's revolution in 1959. In those days the United States was Cuba's only trading partner.

The Cuban revolution was in part a revolution to divorce Cuba from that trade, and that dependency, as characteristic of American "imperialism."

Today Castro's independence-seeking Cubans are almost as dependent on the Soviet Union as they were dependent on the hated U.S. "imperialists" before 1959.

In 1974, for example, Cuba-Soviet trade is expected to reach $1.6 billion.

The Cubans are totally dependent on the Soviets for precious oil, and their accumulated deficits in trade with the Soviets are believed to run more than $5 billion.

They also have relied on the Soviets for armaments—estimated to add up to something like $3 billion by Morris Rothenberg of the University of Miami.

Castro undoubtedly prefers to survive. But he can hardly be expected to enjoy the prospect of dependence of this sort indefinitely.

It is in trade that the self interests of the United States and the Cubans may coincide.

As matters now stand, U.S. policy has all but forced Castro into the hands of the Russians.

The United States might well wish to lessen Cuban dependence on the Soviets. And at the same time, there is pressure from some U.S. businessmen eager to find new markets in Cuba, which has a population of some 9.5 million and a shortage of consumer goods.

But Castro will be wary. He showed his hand during the visit by Sens. Javits and Pell when he seized the occasion to deliver a diatribe against the United States.

He was seeking to convey a diplomatic message. Translated, it was: "I may accept an improvement in relations, but it's going to be on my terms."

Castro, obviously will not want to become heavily dependent on the United States once again. Nor is he likely to abandon his efforts to line up Latin America against the United States.

But he may very well find it handy to open up the gates to trade a little bit.

That would help to solve problems in his economy, and could help him to work his way back toward better relations with Latin American countries.

As for the United States, it is in danger of becoming isolated in Latin America itself, if it does not relax its policies toward Cuba.

The United States still does not cherish the thought of a Marxist state, heavily armed, across 90 miles of the Florida Straits.

Nor does the United States wish to go so far as to help Marxism survive and flourish in Cuba, to create a success story for Marxism that could be copied elsewhere in the hemisphere.

Cuba needs all the help it can get to solve some of its economic problems, particularly the problem of food.

Castro would profit almost immediately if spare parts started flowing into Cuba to operate cars, machines and even toilets from the pre-revolutionary era.

Diplomatic relations? Not likely soon.

Visits to Cuba by exiles in Miami? That is probably one of the last things, at this point, that Catsro would like to see. His system flourishes best behind closed doors.

FERTILE CUBA'S MOST SERIOUS PROBLEM—FOOD

(By James McCartney)

HAVANA.—Fidel Castro's most serious problem is food.

Consider this unforgettable scene:

It is 10:30 on a soft Sunday night in the park opposite the old Havana Hilton Hotel, now the Havana Libre, and thousands of Cubans are standing in line.

They stand patiently for one, two and sometimes as long as three hours to buy ice cream at a government-operated stand, popularly called a "copelia."

There are six long lines, none with fewer than five or six hundred persons. Couples, or whole families, edge forward, slowly, under the trees, to buy an ice cream cone, or sundae, or just a dish of ice cream.

"They are hungry," a long-time Havana resident explains. "They don't get enough to eat. They come from all over the city, by bus, and they wait, because they are empty inside."

Cuba is a land so fertile that nearly anything will grow, and grow fast. But after 15 years in power, Castro still has his hands full in trying to feed his growing population, and the end of his problem is not in sight:

You can't buy an orange in a grocery store, in an ideal climate for growing citrus fruits.

All basic foods are rationed.

There is an active black market.

Grocery stores have a sterile, warehouse look as bleak as anything in the Soviet Union. There are long waiting lines, unattractive displays of unattractive foods, and many counters that are simply empty.

The weekly meat ration for adults is less than the amount of beef in two good-sized U.S. hamburgers.

One restaurant in old Havana charged $7.20 for two medium-sized hamburger patties.

And even loyal government officials are all but willing to openly admit that the handling of the food problem has been botched.

"The revolution has had, and is still having, many difficulties in distribution" of food and other basic items, says Arnaldo Vega, a rationing official whose title is director of sales systems for the ministry of internal trade.

In a sense, the handling of the food problem dramatizes the kinds of successes the government has had, as well as the kinds of failures.

Through rigid rationing, the government has eliminated starvation as a threat. That is no mean achievement in Latin America.

But no one would describe the resulting national diet as appetizing.

For most Americans, a visit to a Cuban grocery store, or supermarket, would be a depressing, even shocking, experience.

From the outside, a supermarket in a vast model housing project called Alamar, east of Havana, looked modern and attractive.

Inside, it looked like a warehouse. More than 50 persons were waiting in a ration-ticket line on a mid-week afternoon. There were other lines of 50 or so at each of several checkout counters.

Meat counters at the back of the store, modern in design, were empty. A clerk explained that meat was delivered only once a week, on Thursdays.

There were no fresh vegetables in the store, and only two kinds of fruit. There was a pile of tiny, green beat-up bananas, which did not look edible. And there were green lemons.

Even sugar, the major agricultural product of Cuba, is rationed. Each person is permitted four pounds a month.

Each person is also permitted six pounds of rice a month, 1½ pounds of fat, and 15 eggs.

An adult is entitled to three quarters of a pound of meat every nine days. That used to be the ration for seven days, but it became the ration for nine days last May—indicating that meat is getting scarcer.

Food prices for rationed items, however, are low.

Rice is only 19 cents a pound—a price fixed by law in 1962, and unchanged since, even though the price of rice has gone up sharply in world markets.

Beef costs only about 50 cents a pound.

Most Cubans exist on a diet of rice and beans, as they have traditionally. Anything beyond a very basic diet is likely to be very expensive, indeed.

In the Alamar supermarket a one-pound tin of rather ordinary crackers—an unrationed item—was priced at about $4.50.

But the great question in Cuba is, why, so many years after the Castro revolution, are food problems so serious?

When rationing was imposed in 1962 the government said it was a temporary expedient, and would soon end.

But Arnaldo Vega, the rationing official, acknowledges that he can't see an end to rationing. He declines to predict a time when it might end, or to predict that it ever will.

The government is now attempting to boost production of citrus fruits, for example, for Cuban consumption.

But a farm manager for a major new collective farm predicted that it would be about three years before fruit would be available on a regular basis in stores.

The food problem is dramatically visible in the exorbitant prices in restaurants. In addition, a complex reservation system is in force, which makes it almost necessary to have friends in high places to get a seat in a restaurant.

Visiting journalists found it necessary to go through the Cuban Foreign Ministry to make restaurant reservations. Sometimes, the Foreign Ministry didn't have enough influence.

A pedestrian lunch in a downtown Havana restaurant can easily cost $7 to $10 and an equally pedestrian dinner $12 to $15, or more.

Yet almost all restaurants in downtown Havana can be spotted by long waiting lines, any night of the week.

"Working families will save their money carefully so that they can have one good meal in a restaurant a month," one Cuban explained.

The man in the street in Cuba is convinced that the government has mismanaged the food problem if a random sampling of opinion on the subject is correct.

The government exports much of the food that is produced in Cuba to get hard currency to support other parts of the economy. But it has not been a popular program.

Government officials insist that many of their food problems are a result of the U.S. blockade against Cuba and the fact that the population has grown by more than three million since Castro took power.

A leading Cuban intellectual, the poet Roberto Fernandez Retamar, was asked whether Cubans joked about food, as they tend to joke about many of their problems.

"No," he said, "that is not a matter for humor in Cuba. That is reality."

HAVANA RUSTS AND MOLDERS—EVEN "HILTON'S" ROOF LEAKS

(By James McCartney)

HAVANA.—Fifteen years after Fidel Castro's Marxist revolution, Havana is a city that doesn't quite work.

Along the famed Prado, a main street of Old Havana, drinking water frequently has to be delivered in big, green Russian-built trucks.

Housewives line up with buckets and tin cans to carry it up to their apartments.

Telephones are free in Castro's socialist state, but often when you pick up the receiver to make a call nothing happens. No dial tone, no operator, no nothing.

There are few automobiles and, as a result, almost the entire population depends on bus transportation.

But buses are often so crowded that they pass you by, unable to accept more passengers and are often behind schedule.

Long queues for buses are a familiar sight any time of the day.

The socialist planners of this country decided some years ago to abolish bank checking accounts for individual citizens.

This makes it necessary for everyone to pay electric light bills in person—which means getting on a bus and going to the proper government office to pay.

Many Cubans believe that this requirement alone has contributed to overloading the bus system.

Bus transportation may be shoddy and slow, but there is at least a system. The same cannot be said for taxis, which are almost nonexistent.

Thus people stay put, sticking to their own neighborhoods. There are few ways to get out of them.

A visitor from outside the country is dependent on the government for transportation. He can go where the government wants to take him—or he can walk.

Over-all, the life of a Cuban today is almost totally regulated by the government. The government controls where he can live, what he can buy, where and how he is going to work.

And there are major problems for individuals trying to make a go of it in each of these areas.

Salaries, of course, are carefully controlled by the state. Almost all basic food is rationed, and so is all basic clothing.

Housing is still tight, with many families of eight or 10, or even more, crowded into a single room, or few rooms.

You do not see the kinds of tin-roofed slum shacks clearly visible in many other Latin American cities—Caracas or Rio, for example—along main thoroughfares in Havana.

But housing is so scarce that the government is continuing to permit operation of "posadas"—hotels that rent rooms to couples, no questions asked, on an hourly basis.

The official reason for permitting "posadas" is to allow husbands to make love to their wives, when so many have to share rooms with children and other relatives.

The rental rate for use of a "posada" in Havana: 2.40 pesos for three hours, or about $3.

The rationing systems for food and clothing impose major limitations on everyone's life.

Each family, for example, is assigned the grocery store from which it must buy food. You buy at that store or you don't buy.

If you move to a new neighborhood, you must go through a complex procedure to get permission to buy from the grocery store in the new neighborhood.

Rules are different for buying clothes. Clothing-ration tickets may be used at any clothing store where they have the clothes to sell.

As one woman explained the rationing system:

"You have a number and you watch for your number to be published in the paper. This will tell you that the stores will have, let's say, shoes for you (your number) on a certain day.

"Sometimes people will stay up all night standing in line to try to be sure that they'll be able to get what they want.

"But then you may find after you get to the front of the line that they don't have your size, or a style that you want."

This same woman said that she had given up wearing nylons altogether "because it was just too much trouble."

"I found I was spending half my life waiting in lines. I'd rather not wear stockings at all."

Nor is the quality of clothing something to write home about.

In one downtown store I visited in Old Havana, male buyers had a choice of the kind of dress shirts—blue, Polish-made shirts, for about $10 each, and white Cuban-made shirts, for about $4.50 each. The Polish shirts would have sold for about $4 in the United States. The Cuban shirts wouldn't have sold at all. The material was visibly inferior.

Each male in Cuba has been permitted to buy two dress shirts in the last 13 months.

As in any other socialist state, there is one good thing to say about the job situation—there is no unemployment. The government guarantees everyone a job.

Some complain, however, that the government constantly shifts people from one job to another to prevent the forming of strong friendships—a means of trying to guarantee government "security."

Says a Cuban with long experience who is in a position to study the government carefully:

"They have sacrificed everything to security. They shift people who work in shops and stores and factories to prevent them from making friends and to try to prevent the black market.

"They don't want people to be friends. The first consideration is always security."

One of the major reasons that Havana doesn't quite work is that so many things are wearing out.

Before the Castro revolution Cuban traded exclusively with the United States, and almost everything in the country was made in the United States.

But all those things stopped coming in after the revolution and after the Organization of American States imposed a diplomatic economic embargo on Cuba in 1964.

The result is that a visit to Cuba today for an American is in many ways a kind of adventure in nostalgia—a trip back into the 1950s.

Many of the cars on the streets are models from the 1950s, still miraculously running. There are even many models from the 1940s and 1930s.

But it's not just the cars.

Cuba is a country of old fashioned narrow neckties, relatively short haircuts, shirts with old-fashioned collars and suits with narrow lapels.

For women, slacks still haven't caught on.

The miniskirt has made it in Havana, apparently in part because socialist planners appreciate its economy of material.

Nevertheless, women in Havana are not dressed nearly as stylishly as women in most other major cities of the world. They appear rather dowdy.

The Havana Hilton hotel, now called the Havana Libre (Free Havana), is a case study of a building that is wearing out.

It was once one of the splashiest hotels in the hemisphere, with broad lobbies, thick carpets, elegant furnishings.

Today the roof of the lobby leaks when it rains, the carpets are so moldy that the hotel literally stinks, and the furnishings are showing notable signs of wear.

Mirrors are chipped, toilet seats gone, plumbing fixtures corroded.

Many of Havana's troubles can be traced either directly or indirectly to the breaking of trade relations with the United States and the economic embargo.

The water system in old Havana, for example, was built with American materials. The Soviet Union, Castro's great friend and loyal supporter, doesn't have the spare parts to keep water flowing. Only the United States does.

Replacement items for the Havana Libre would also have to come from the United States.

So would parts to keep U.S.-built cars running.

But not all of Havana's troubles are caused by a need for replacement parts.

Other troubles are simply a result of socialism at work—situations caused by a government that has had to make tough choices, and has opted to spread a little a long way.

A result is that there is probably more equality in Cuba today than in any other nation of the Western Hemisphere—equality in salary, in standard of living, and in some ways an equality of semipoverty.

No one is really well off by American middle-class standards. But then, no one is starving, either.

You could say that Castro has done well enough to survive and to entrench himself in power. But Havana has a long way to go.

DO-IT-YOURSELF HOUSING WORKING

(By James McCartney)

HAVANA.—Fidel Castro's Marxist society has produced success stories as well as failures—and no success is more striking than Cuba's experiments with housing.

Fidel, as everyone calls him, has got Cubans building their own apartments and homes.

Nuclear scientists, food processors, shoe factory employes—even newspapermen—are given time off from their regular jobs to build homes for themselves.

At first blush, it sounds like a nutty idea, and you wonder when roofs might start caving in.

But it's working in Cuba in a way that is fascinating other governments throughout Latin America because it is providing modern, attractive low-cost housing to thousands of Cubans who were jammed into slums.

The most massive project in the country—a showcase for the socialist government—is the so-called "Alamar" project, 10 miles east of Havana, on the sea.

It is a completely planned, integrated city designed to house 150,000 when completed in 1980. Enough of it is already finished to show that the plan is working.

The construction boss for the project, Maximo Andion, 34 a metal technician educated in Poland with no previous construction experience says with a smile.

"It sounds crazy but when we came in here, none of us had any experience in building. But look around you, the buildings aren't falling down."

He is right.

In fact, the buildings in the project are modern and attractive, prefabricated concrete, and sometimes brick—white, trimmed with bright yellows, greens and oranges.

At this point 139 buildings have been completed, housing about 15,000 persons.

Most are apartments, but carefully interspersed among them are schools, hospitals, health centers, day-care centers—everything necessary to make a city.

Construction at Alamar first began in 1960 after Castro's revolution. But the idea of having workers build their own homes didn't evolve until the early 1970s.

The idea was to form small brigades—called "micro brigades" of workers.

They are given a year or two, and sometimes more, off from their regular jobs and are actually housed during the period at Alamar.

The designs of the buildings are kept deliberately simple, so that those unfamiliar with building techniques can master them.

Andion, who has been construction boss for three years, says: "We started with simple things, and learned as we went along. As time has gone on, we've become more expert."

There are four basic apartment-building designs in the project, with 13 to 16 apartments per building.

Each of the apartments is identical, with identical furnishings, provided by the government.

Antonio Sanchez de Castro, 42, a shoe factory worker, lives in a first-floor apartment in an attractive, green and white building he helped to build.

He said he joined a micro brigade formed in his factory and worked on the apartment he lives in, and other buildings, for three years.

Previously he and his family of four lived in a wooden shack in Havana. "This is a palace," he said with a wide grin, compared to the faimly's earlier home.

A small group of American reporters visiting the project chose the de Castros' apartment at random and asked if they could see it.

De Castro, a small, mustached man, invited them in and willingly answered questions.

He said he made 120 pesos a month (about $151) in his shoe factory job, and paid six per cent of his salary ($9 a month) in rent.

He is a stronger supporter of Castro and the revolution. "The revolution gave me a chance to study," he said.

The three-bedroom apartment was neat and spotless, maintained by his wife, who works in a texile factory in the project.

The apartment was furnished with a small gas stove, but had no refrigerator and no television. De Castro said he was saving for both.

A refrigerator will cost 600 pesos ($720) and a Russian-built 21-inch black-and-white TV set will cost 650 pesos ($780).

The De Castros' building was started in 1971 and completed in 1972.

About 2,600 workers are involved in building in Alamar today.

It would be impossible for an outsider to assess, on the basis of a brief visit, whether life is pleasant for those who live in Alamar—but it looks as though it would be. Certainly conditions are far more comfortable in the project than they are for most Cubans on the outside.

Successes in Cuba Carry a Price Tag

(By James McCartney)

Havana.—Over-all, Fidel Castro's Cuba today is a mixed bag of showcase and shoddy.

Ten miles to the west of Havana, in the open countryside, you come upon a cluster of clean-lined, attractive, four-story buildings—the multimillion-dollar V. I. Lenin Institute.

Financed by the Soviet Union, it is a high school for some 4,000 specially chosen Cuban youths.

Two years ago the land here was scrub growth.

Fifteen miles farther out in the country and to the south is the headquarters of the "Plan Ceiba"—a collective farm of 17,600 acres.

Some 346 farm families, who have lived there for generations, have "joined" the farm.

A new town of about 700 buildings is under construction to house them in modern apartments, with television, radio and other conveniences.

More than 100 buildings have been completed, and families are expected to start moving in in October.

According to Gusavo Cruz, the farm's manager, it will be the first time most of the families will have been exposed to much of modern civilization.

On the outskirts of Havana stands the Havana Psychiatric Hospital, a model for its thoughtfulness in patient care that compares favorably with some of the better U.S. mental institutions.

All these represent success stories in Castro's 15-year-old Marxist Revolution, showcases proudly displayed to foreign visitors.

And there are other aspects of success, too, in such fields as education and medicine.

At the time of the Cuban Revolution the illiteracy rate among adults was 23 per cent—more than a million illiterates.

Today, according to United Nations figures, the rate has dropped to less than 4 per cent.

In 1962, according to Dr. Francisco Rojas Ochao, professor of preventive medicine at Havana University, the number of "medical consultations" in Cuba was about 16 million—meaning meetings between patients and doctors.

That figure, says Dr. Rojas, has risen to 40 million by last year.

The number of children in school has more than tripled in Cuba since the revolution.

The number of students in universities increased from about 2,000 in 1958 to more than 55,000 today.

Health care of all kinds is free for everyone. Unemployment has been virtually wiped out. Notable improvements have been made in relations between the races.

Marxism socialism has not failed here. It may even have taken firm root. The experiment is certainly being watched carefully elsewhere in Latin America.

As Castro said earlier this year: "The fact remains that today nobody has any doubts about the reality and irreversibility of the Cuban Revolution. The only thing that can possibly happen now is for the revolution to become even stronger . . ."

That may or may not be true, but it is certainly widely accepted as gospel in Cuban officialdom.

And it is the essential view of those in the U.S. Senate Foreign Relations Committee who are arguing for "normalization" of relations with Cuba.

But however one wishes to evaluate Cuba's successes, there can be little doubt that they have been purchased at a high price.

For Cuba today is a totalitarian state, a rigid Marxist dictatorship with chilling resemblances to the Soviet Union.

The country is riddled with fear and with spies.

Castro has paid lip service to the desirability of elections, but there is no reason to believe authentic national elections are in the cards at any point in the foreseeable future.

There are political prisoners in the thousands—no outsider knows how many. The government does not deny they exist.

Government officials and intellectuals here believe Cubans traded a phony kind of freedom, in a country dominated by U.S. "imperialists" before 1959, for a new kind of Marxist state.

Many appear happy with the trade.

Nor has the rigid dictatorship produced notable prosperity.

The Castro government has improved the distribution of wealth, but almost all basic commodities—food, clothing, fuel—are rigidly rationed in systems that leave little individual choice. It is not inaccurate to say that there is a kind of equality of impoverishment.

Havana is shoddy from outward appearances, and so are most of its people.

Thus the picture here is not black and white; it is a mixture of accomplishment and failure.

But over almost all issues here hang larger questions about Cuba's present-day role in the worldwide competition of political systems between the United States and the Soviet Union, Marxism and modern capitalism.

The Soviet Union is underwriting the Cuban experiment as part of this competition.

The total size of the investment is unknown but it has been estimated currently at between $550 million and $600 million a year.

Cuba clearly would be in deep trouble without it.

For the United States the immediate issue is whether continuations of an economic boycott against Cuba is helping, or hurting, in the larger struggle.

THE LATE HONORABLE JOHN SHELLEY

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, those of us who knew and served with John Francis Shelley were saddened a few weeks ago when word came of his death in his home State of California.

John Shelley came to this Chamber, as I did, during the 81st Congress—a class of which only 10 Members now remain. During the 15 years of his service here, we all came to know him for his leadership, his ability, and his fine personal character.

He loved California and Californians, and he never lost sight of the people who sent him to Washington to represent them. Their problems were his problems, and his interest in those problems never flagged, no matter what the national and international concerns were at any given moment.

It is fitting that when he left this Chamber, it was to go back home to be mayor of his home city of San Francisco, to take an even more active role in the administration of his people's affairs.

John Shelley was a good congressman, a good mayor, and a good man.

Those of us who were privileged to know him and work with him were enriched by the experience. And I am very sorry indeed that this House will know him no more.

ADMIRAL HOLLOWAY DEFINES THE NAVY'S FOUR MAJOR TASKS; DISCUSSES THEIR ACCOMPLISHMENT IN THE FACE OF FUTURE GLOBAL REALITIES

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, I would like to commend to the attention of my colleagues in the House of Representatives the very fine remarks of the Navy's new Chief of Naval Operations, Adm. James L. Holloway III, to the New Orleans Council of the Navy League Navy Day Luncheon last Friday, October 11.

Speaking before a record Navy Day Luncheon audience, Admiral Holloway stressed the Navy's continued mission to contribute to deterrence of strategic war, to keep our sea lines of communication open, to be able to protect U.S. power ashore to protect our vital interests, and maintain an overseas presence. He went on to provide his assessment of future global realities and the operational environment in which the Navy would strive to accomplish its tasks. Keying on the challenge posed by the rapid growth of the Soviet Navy, Admiral Holloway concluded calling for the Nation to face its responsibilities squarely, to do more with less, and to devise a strategy which will extract every ounce of potential from each ship, each aircraft, and each person in the Navy.

I think all Americans should be cognizant of the tasks, realities, and recommendations outlined in his address which follows:

Remarks by Adm. James L. Holloway III

About two thousand years ago, the Greek philosopher Seneca noted that, "If a man does not know to what port he is steering, no wind is favorable."

As we meet here today to celebrate the 199th birthday of the Navy, we can do one of two things.

We can view this ceremony as a pleasant ritual, of form but no substance . . .

Or we can use this moment to review our past and gain some insight into our future. To choose our ports wisely and our paths with care.

I hope you will select the latter course, despite the fact it will mean facing some difficult realities.

Today, we face a world whose power balance is changing—no longer do the rigid bipolar assumptions meet the needs of the day.

Today, we must realize we are not a country of endless spaces and limitless resources—no industrialized nation enjoys independence from the rest of the world.

Today, we face great pressures to reduce military expenditures—mistakes are beyond our means; we must plan with the clearest vision.

Today, even the physical seas our ships sail are undergoing change—the very definition of "high seas" is being redefined.

What effect will these realities have on our Navy? The answer lies in what our Navy is expected to do.

In my estimation, the Navy will have four major tasks in the future:

First, in this age of nuclear weapons, it must contribute to deterrence of strategic war. In the time ahead, as enemy weapons become more accurate, our sea-based missile systems will continue to increase in importance as a part of our nation's arsenal.

Second, our Navy must be able, in event of war, to control the areas of the sea that we wish to use—in short, to keep our sea lines of communication open. To do this, sea control forces are composed of a complex of weapons systems, including submarines, patrol aircraft, aircraft carriers and surface combatants.

Third, when it is our national policy to do so, the Navy must be able to project U.S. power ashore to protect our vital interests. These forces include aircraft carriers with planes capable of moving hundreds of miles inland and amphibious ships with their ability to land Marines on distant shores.

Fourth, perhaps the most important mission of the Navy for the era of peace we seek, is that of overseas presence. The existence of our Navy demonstrates to those who would deny us free use of the seas that hostile challenges to our interests, or those of our Allies, may result in a confrontation with U.S. armed force.

With these tasks before us, let us now look at the world of the future in which our Navy will most likely be operating—it is not a comforting scene.

Even in a period of growing detente, it is clear that uncertainty and change are hallmarks of the international situation. We see no diminution in the strength of Soviet armed might. The fragile truce between the Arabs and Israelis continues the Middle East as a source of deep concern. Greece has announced it will withdraw militarily from NATO. Italy's vast economic problems threaten the stability of her political structure.

In spite of the cease fire in Viet Nam, the fighting rages there at the highest levels in more than two years. The battles go on in Cambodia. Finally, Communist China continues to expand her Navy and appears to be building a nuclear arsenal.

If you will reflect briefly on this catalogue of problem areas, you will realize that this is virtually the same array of trouble spots that we have reacted to with regularity since World War II.

But, for the future, for the Navy, there are two new and significant differences. With a decline in our overseas base structure, the Navy must be prepared to shoulder a larger share of the responsibility in responding to our national interests in these areas.

For example, we are in the process of renegotiating our base rights with both Spain and Portugal. And in Southeast Asia, there has been a steady decrease of U.S. forces based in Thailand.

The second significant element affecting the Navy's role in the future is the continued growth of the Soviet maritime capability. The Russian Navy is demonstrating on a day-to-day basis a new and growing ability to operate powerful naval forces in open ocean areas far away from their home bases.

Last month, a Soviet task force cruised around one of these United States—Hawaii—and then steamed home along the Alaskan coastline. Today, not more than 500 miles from this very room a Soviet task force of missile equipped cruisers, escorted by submarines, operates in Caribbean waters.

It is in the face of this expanding Soviet naval threat that the U.S. Navy must be prepared to meet an undiminished scope of worldwide commitments. How well prepared are we?

This year, the Navy consisted of 508 ships, a number which becomes more meaningful when you consider that six years ago we could boast of a 976 ship Navy.

It is clear that our challenge is formidable. What is the answer? First, we must increase our force levels and acquire new ships at a greater rate.

But numbers alone is not the answer. We must have capable ships which can defeat our enemies.

With the shipbuilding programs endorsed by the Department of Defense, and with the approval of Congress, we are in the process of building up the balanced forces of carriers, submarines, surface combatants, amphibious ships, and support vessels we require to carry out our maritime tasks in response to a complex of possible contingencies spread across the varied geography of the globe.

But as force levels shrink, as we wait for the shipyards to produce, we cannot call "time out" and ask the Russians and world affairs to wait for us.

We must face our responsibilities squarely.

We must find a way to do more with less.

We must devise a strategy which will extract every ounce of potential from each ship, each aircraft, and each person in the Navy.

Our strategy will rely on flexibility such as we will achieve in the multi-purpose carrier concept, which enables a carrier to serve in an anti-submarine or strike warfare role by carefully tailoring the complement of embarked aircraft.

Our strategy will emphasize an increased offensive capability for all units. With the reduction of carrier force levels, the surface combatants will carry a larger share of the sea control mission in independent operations; a new offensive potential made possible by the fleet introduction of the Harpoon anti-ship missile and the development of another long range tactical cruise missile.

Our basic force composition in high threat areas, however, will remain the integrated task force in which carriers, surface combatants and submarines will operate in mutual support with the common mission of conducting offensive operations to destroy hostile forces which threaten the security of sea areas vital to our national interests.

In spite of new strategies and renewed efforts, however, we still need ships to be a Navy. And we must have new ships, of the proper kinds and in the correct balance of numbers and types if we are to carry out our undiminished level of commitments against the threat of a steadily expanding Soviet Navy. We have been decommissioning ships faster than we have been building new ones. And although today we can accomplish the naval tasks of our national strategy, in some areas it is only at the barest margin of success. As Soviet maritime capabilities continue to increase, it is clear to me, as it must be apparant to you that it is necessary to reverse the declining trend of the force levels of the U.S. Navy.

With the shipbuilding plans we now have programmed, we can reverse that downward trend.

But the key to the success of any strategy is the human element. No matter how new the ships, how modern the aircraft, how sophisticated the weapons systems, we cannot realize their full potential unless we have a dedicated corps of true professionals to maintain and operate them.

Although we ask the Navy League for help, need the support of the Department of Defense, and require Congressional approval to build our forces, the responsibility for making a navy out of hardware rests squarely on our shoulders, for it is people alone who can make the hardware work.

It is in recognition of the people factor in our formula for success that I have put my initial emphasis and greatest stress on personnel programs—and this includes Reserves. And paramount among our efforts in this areas is a concentration on our leadership.

We must return to fundamentals.

Technology is expanding at a mind boggling rate, reducing weapons systems to obsolescence virtually as they leave the drawing board. But those human qualities of dedication, loyalty, integrity and compassion have not lost one shred of their basic value since the dawn of history, and it is upon continued recognition of the part these human values play in any military organization that we must focus our attention.

I have tended to range widely today in my remarks, from international politics to human ethics, from hardware to geography, but I can sum up the substance of our policy for the charting of the Navy's course through these immediate years of trial and concern in a single phrase: fleet readiness.

Fleet readiness is our primary objective. For no matter how tough the task, how severe the threat, and how sparse the resources, the United States Navy must—and will—always be ready to carry out that mission upon which the security of the American people so profoundly depends.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. Jones of North Carolina (at the request of Mr. O'Neill), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Martin of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 15 minutes, today.

Mrs. Heckler of Massachusetts, for 15 minutes, today.

Mr. Miller, for 15 minutes, today.

(The following Members (at the request of Mr. Thornton) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Drinan, for 5 minutes, today.

Mr. Reuss, for 20 minutes, today.

Mr. Dulski, for 10 minutes, today.

Ms. Holtzman, for 10 minutes, today.

Mr. Carney of Ohio, for 10 minutes, today.

Mr. Moakley, for 15 minutes, today.

Mr. Koch, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Dellums, and to include extraneous matter notwithstanding the fact that it exceeds 2 pages of the Congressional Record and is estimated by the Public Printer to cost $903.50.

Mr. Fascell, and to include extraneous matter notwithstanding the fact that it exceeds 2 pages of the Congressional Record and is estimated by the Public Printer to cost $1,112.

(The following Members (at the request of Mr. Martin of North Carolina) and to include extraneous material:)

Mr. Wyman in two instances.

Mr. Hosmer in three instances.

Mr. Shriver in two instances.

Mr. O'Brien.

Mr. Steiger of Wisconsin in two instances.

Mr. Parris in two instances.

Mr. Rhodes.

Mr. Kemp in two instances.

Mr. Robison of New York.

Mrs. HECKLER of Massachusetts.

Mr. BUCHANAN in two instances.

Mr. BRAY in three instances.

(The following Members (at the request of Mr. THORNTON) and to include extraneous material:)

Mr. FOLEY in three instances.

Mr. ANDERSON of California in four instances.

Mr. RARICK in three instances.

Mr. GONZALEZ in three instances.

Mr. MOORHEAD of Pennsylvania.

Mr. FISHER.

Mr. LONG of Maryland.

Mr. MATHIS of Georgia in two instances.

Mr. JONES of Tennessee.

Mr. FRASER in five instances.

Mr. HARRINGTON in five instances.

Mr. FLOOD.

Mr. LEGGETT.

Mr. HAMILTON in two instances.

Mr. MOAKLEY.

Mr. VANIK.

Mr. MADDEN.

Mr. ZABLOCKI in three instances.

ENROLLED BILLS AND A JOINT RESOLUTION SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 13157. An act to provide for the establishment of the Clara Barton National Historic Site, Md.; John Day Fossil Beds National Monument, Oreg.; Knife River Indian Villages National Historic Site, Mass.; Tuskegee Institute National Historic Site, Ala.; Martin Van Buren National Historic Site, N.Y.; and Sewall-Belmont House National Historic Site, Washington, District of Columbia; and for other purposes;

H.R. 15736. An act to authorize, enlarge, and repair various Federal reclamation projects and programs, and for other purposes; and

H.J. Res. 1163. Joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On October 16, 1974:

H.J. Res. 163. Joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes.

On October 17, 1974:

H.R. 6624. An act for the relief of Alvin V. Burt, Jr., Eileen Wallace Kennedy Pope, and David Douglas Kennedy, a minor;

H.R. 6642. An act to suspend the duties on certain bicycle parts and accessories until the close of December 31, 1976, and for other purposes;

H.R. 7768. An act for the relief of Nolan Sharp;

H.R. 7780. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other purposes;

H.R. 11221. An act to increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes;

H.R. 11251. An act to amend the Tariff Schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel, and for other purposes.

H.R. 11452. An act to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes;

H.R. 11830. An act to suspend the duty on synthetic rutile until the close of June 30, 1977;

H.R. 12035. An act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes;

H.R. 12281. An act to continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, and for other purposes;

H.R. 13561. An act to amend the Intercoastal Shipping Act, 1933;

H.R. 13631. An act suspend for a temporary period the import duty on certain horses, and for other purposes;

H.R. 14225. An act to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for 1 year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, to make certain technical and clarifying amendments, and for other purposes; to amend the Randolph-Sheppard Act for the blind; to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals;

H.R. 14597. An act to increase the limit on dues for United States membership in the International Criminal Police Organization;

H.R. 15148. An act to extend the time limit for the award of certain military decorations;

H.R. 15427. An act to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes;

H.R. 15540. An act to extend for 1 year the authorization for appropriations to implement title I of the Marine Protection, Research, and Sanctuaries Act of 1972;

H.R. 15643. An act to reorganize public postsecondary education in the District of Columbia, establish a Board of Trustees, authorize and direct the Board of Trustees to consolidate the existing local institutions of public postsecondary education into single Land-Grant University of the District of Columbia, direct the Board of Trustees to administer the University of the District of Columbia, and for other purposes;

H.R. 16857. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1974 in certain disaster areas in North Carolina; and

H.R. 17027. An act to amend the National Visitor Center Facilities Act of 1968.

ADJOURNMENT

Mr. THORNTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. In accordance with Senate Concurrent Resolution 120, the Chair declares the House adjourned until 12 o'clock noon on November 18 next.

Thereupon (at 4 o'clock and 15 minutes p.m.), pursuant to Senate Concurrent Resolution 120, the House adjourned until Monday, November 18, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2877. A letter from the Corporation Agent, Legion of Valor of the United States of America, Inc., transmitting the financial statement of the Legion of Valor for the fiscal year ending April 30, 1974, pursuant to section 14(b) of Public Law 224, 84th Congress; to the Committee on the Judiciary.

2878. A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to make advances of money to chiefs of field parties; to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1456. Resolution providing for the consideration of House Joint Resolution 1167. Joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes (Report No. 93–1470). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRINKLEY:

H.R. 17426. A bill to provide for the establishment of a national advisory commission to develop a national plan for the control of epilepsy and its consequences; to the Committee on Interstate and Foreign Commerce.

By Mr. FORSYTHE:

H.R. 17427. A bill to prohibit any increase in the price of certain consumer commodities by any retailer once a price is placed on any such commodity by such retailer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. McKINNEY:

H.R. 17428. A bill to provide financial assistance to regulated electric utilities to reduce the increases in electric utility rates caused by increases in the price of residual oil; to the Committee on Interstate and Foreign Commerce.

By Mr. MOSHER (for himself, Mr. MOORHEAD of California, and Mr. O'BRIEN):

H.R. 17429. A bill to require in all cases court orders for the interception of communications by electronic and other devices, for the entering of any residence, for the opening of any mail, for the inspection or procurement of certain records, and for other purposes; to the Committee on the Judiciary.

By Mr. SPENCE:

H.R. 17430. A bill to amend the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to make loan guarantee and interest subsidy payments to certain governmental units to assist them in carrying out projects for the generation of energy from solid wastes; to the Committee on Interstate and Foreign Commerce.

By Mr. ULLMAN:

H.R. 17431. A bill to suspend until the close of June 30, 1976, the duties on poly-vinyl chloride resins; to the Committee on Ways and Means.

By Mr. MAHON:

H.J. Res. 1167. Joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes; to the Committee on Appropriations.

By Mr. QUIE:

H.J. Res. 1168. Joint resolution to require the Watergate Special Prosecution Force to make available to the public a report on all information it has concerning Richard M. Nixon in offenses against the United States; to the Committee on the Judiciary.

By Mr. LEGGETT (for himself, Mr. JOHN L. BURTON, Mr. HECHLER of West Virginia, and Mrs. SULLIVAN):

H. Con. Res. 678. Concurrent resolution expressing the sense of Congress with respect to decontrol of certain domestic crude oil; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JARMAN:

H.R. 17432. A bill for the relief of Ammeneh Amir-Bagheri; to the Committee on the Judiciary.

By Mr. CHARLES WILSON of Texas:

H.R. 17433. A bill for the relief of Jung Shin Yu; to the Committee on the Judiciary.

SENATE—*Thursday, October 17, 1974*

The Senate met at 12 o'clock noon and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

Rev. Dr. C. Ralston Smith, Washington, D.C., special assistant to Rev. Billy Graham, offered the following prayer:

Before we pray let us hear the words of the prophet Jeremiah:

It is of the Lord's mercies that we are not consumed, because His compassions fail not. They are new every morning, great is Thy faithfulness. The Lord is my portion, saith my soul; therefore will I hope in Him.—Lamentations 3: 22–24.

Let us pray. Thus, our Gracious Heavenly Father, we are reminded of the generous and constant care You extend to each of us. When we pause to consider our state, we recognize that we depend upon Thee for life itself, mercifully measured out to us breath by breath. Help us carefully to husband this treasure. May its strength be consecrated to the furthering of things of eternal value. Deliver us from squandering life upon those things which fade with the passing of a day.

Now we commit to Thee all within these walls. Senators and secretaries; Presiding Officer and pages; visitors and those who guide them; and all others who here have the opportunity to serve Thee with gladness. May each of us have the spiritual sensitivity to know Thy will, and the moral courage to do it. In the name of the Saviour Jesus Christ. Amen.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, October 16, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE STATUS QUO

Mr. HUGH SCOTT. Mr. President, first, I congratulate the Presiding Officer and myself on being present.

Second, I wonder who else is.

Third, I am afraid to count. [Laughter.]

Fourth, there may be a quorum.

Fifth, as the late General Eisenhower used to say, the obvious we confuse immediately. The crystal clear takes a little longer. [Laughter.]

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. WILLIAM L. SCOTT) is recognized for not to exceed 15 minutes.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. MOSS. I ask unanimous consent that the time not be charged to Senator WILLIAM L. SCOTT's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Virginia is recognized for not to exceed 15 minutes.

THE NOMINATION OF NELSON A. ROCKEFELLER TO BE VICE PRESIDENT

Mr. WILLIAM L. SCOTT. Mr. President, some days ago I reported to the Senate on the mail our office was receiving regarding the nomination of former Gov. Nelson Rockefeller to be Vice President of the United States. Pursuant to a request for the views of constituents in a newsletter sent throughout Virginia, 85 percent of the citizens responding indicated that they opposed his confirmation for a variety of reasons. Many of these letters were quoted in a floor statement on October 3, 1974, and I ask unanimous consent that this statement be printed in the RECORD at the conclusion of my remarks so that colleagues may know the great variety of reasons for this opposition.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WILLIAM L. SCOTT. Mail has continued to come in with substantially the same degree of opposition since that date and other information has come to light regarding gifts to public officials and friends and alleged "dirty tricks" practiced in his latest campaign for Governor. In view of the opinions expressed by my own constituents and the additional information which has been brought to our attention, I wrote to the President on October 15, reiterated my highest personal regard and affection for him but expressed the opinion that the Rockefeller nomination could revive much of the Watergate atmosphere and suggested that it be withdrawn from consideration by the Congress. I believe the elevation of Jerry Ford to the Presidency restored a high degree of confidence in the White House and believe it would be a mistake to push for the confirmation of someone when questions have arisen regarding his moral and ethical standards.

To me, many questions have arisen which cast doubt upon the competence of Mr. Rockefeller to be Vice President. One of which, of course, is his ability to deal with our serious economic problems in view of his own record as Governor of New York State. Two is his own personal moral standards. Three is his rejection by the people of the country of his candidacy for the Presidency on past occasions. Four is his own controversial nature which would tend to divide the country at a crucial time when unity is very much needed. These are questions that are not raised by me for the first time but have been raised by constituents and others in the past. I not only intend to vote against his confirmation based upon the known evidence but would hope and urge that others in Congress will carefully examine his overall background, experience, and personal character before voting on this nomination.

Shortly after President Ford indicated his preference for Governor Rockefeller, the Congressional Quarterly published a statement entitled "Rockefeller's 15-Year Quest for the Presidency," and reviewed his personal and political life. I ask unanimous consent, Mr. President, that this article from the August 24 edition of the Congressional Quarterly be printed at this point in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

Rockefeller's 15-Year Quest for the Presidency

Ford's choice for Vice President had turned down the job twice, in 1960 and 1968. Rockefeller's goal since boyhood had been the White House, and when he was mentioned as a vice presidential possibility in 1968, he had rejected the office as "standby equipment" and had proclaimed, "I don't think I'm cut out to be a number two type of guy."

But, over a public career spanning more than 30 years, Rockefeller had earned a reputation of being, above all other things, a pragmatist. Reversals of position were not uncommon to him. Accused of shifting rightward on social issues during the last years of his record 15-year tenure as governor of New York, he had this answer to his critics: "What I have done is a reflection not a shift in my political spectrum, but it is a shift in public thinking in relation to their concerns."

Ford's selection of Rockefeller won widespread praise both from Republicans and Democrats. But not all reactions to the Rockefeller nomination were enthusiastic. Over the years as governor and presidential aspirant, he had become anathema to a large share of the conservatives in his party. Republican Sen. Barry Goldwater of Arizona, whom Rockefeller refused to support for president in 1964, said he could support the nomination and described Rockefeller as "very well qualified." But he went on to say: "The problem I have as a conservative Republican is going out before the Republicans of this country and extolling him," and he said he did not want the New Yorker on the Republican ticket in 1976.

The reaction of Goldwater and other conservative leaders—many of whom favored Goldwater for the vice presidency—underscored a paradox in Rockefeller's political career. He had been an unparalleled success in scoring an upset victory for the New York governorship in 1958 and in winning four terms. But he had been a rather spectacular failure in his stumbling tries for the presidency in 1960, 1964 and 1968.

Despite his 66 years, Rockefeller appeared, before his vice presidential nomination, to be readying himself for a fourth attempt at the White House. He resigned from the governorship in December 1973, one year short of completing his fourth term, and organized the Commission on Critical Choices for Americans for the purpose of developing national policy proposals.

Rockefeller denied repeatedly that the commission was a launching pad for the presidency. But political observers were quick to note that his action freed him from a possibly unsuccessful run for a fifth term in Albany. And the commission would deal with the kind of broad policy issues on which he could build a candidacy.

PRESIDENTIAL CAMPAIGNS

"You want something and work for something and you can't win it. Then you make up your mind you're not going to have it, you relax about it—and then it comes up again." So said Rockefeller in a 1967 newspaper interview.

Few persons knew exactly how relaxed he was about the presidency in the summer of 1974, when Ford tapped him for the vice presidency.

The 1960 campaign

As the newly elected governor of the country's then largest state, Rockefeller became the immediate subject of presidential speculation after he took office in 1959. His opponent for the nomination would have been Richard M. Nixon, then the Vice President.

In November 1958, Rockefeller dismissed the speculation as "pure fantasy." His denials continued into 1959. But later that year, he traveled widely around the country to collect what he called a "cumulative series of impressions" on which to base a decision on whether or not to run.

In December 1959, Rockefeller said he had reached a "definite and final decision" not to seek the nomination. His travels had shown, he said, "that the great majority of those who will control the Republican convention stand opposed to any contest for the nomination."

Rockefeller declined an offer to be one of the key officers of the 1960 Republican national convention and said he was not sure he would even attend. Nixon said on May 15, 1960, that Rockefeller's decision "should be respected and is consistent with his attitude, since he has made it clear that he does not want to be considered for vice president."

Rockefeller's attitude toward Nixon's candidacy was cool. He did not endorse him before the convention. Late in May, he said he would accept a draft for the nomination. In June he called upon Nixon to tell the public his program and policies, and he criticized the Eisenhower administration's defense and foreign policies. "We are all just completely baffled by what he is up to," commented Republican National Chairman Thruston B. Morton.

The 1960 convention opened up the first break between Rockefeller and Goldwater. Rockefeller let it be known that if the convention's Platform Committee ignored his program, he would take the fight to the convention floor. He emerged as the unofficial spokesman for party liberals. Goldwater spoke for the conservatives.

Nixon, assured of the nomination but anxious to avoid a floor fight, agreed to meet with Rockefeller at Rockefeller's New York City apartment. They reached agreement on 14 platform positions, most of them liberal in nature, that were labeled "the compact of 5th Avenue." Goldwater referred to the meeting as "the Munich of the Republican Party." After the platform, containing many provisions of the compact, had been adopted, Rockefeller threw the New York delegation behind Nixon.

The 1964 campaign

After Nixon's narrow defeat to John F. Kennedy in 1960, Goldwater said he did not want Rockefeller to be the Republican presidential candidate in 1964. But Rockefeller emerged as the clear favorite after his reelection as governor in 1962. His popularity declined in public opinion polls in 1963 after his divorce and remarriage.

On Nov. 7, 1963, Rockefeller announced his candidacy for the Republican presidential nomination. "I believe that vital principles are at stake," he said. He campaigned hard against Goldwater in the primaries, charging him with offering "impetuous answers to the most senstitive and complex issues." He exhorted the voters to choose a candidate who "will represent a consensus of a great segment of the American people who believe in progress, in moderation and in responsibility" rather than "a militant minority, mesmerized by a mythical yesterday and devoid of programs for today's and tomorrow's problems."

Thirteen days after he had lost the California primary to Goldwater, Rockefeller withdrew. He gave his support to William W. Scranton, then the governor of Pennsylvania, who had become a last-minute "stop Goldwater" candidate.

Goldwater swept on to a first-ballot victory for the nomination—and suffered a stinging defeat in November. Rockefeller's efforts to have the convention adopt a moderate platform were shouted down by Goldwater's conservative supporters, who were in tight control of the convention. Rockefeller spoke for an amendment condemning extremist groups, which he called "a radical, high-financed, disciplined minority . . . wholly alien to the middle course." His words were all but drowned out by booing from the floor.

The 1968 campaign

Rockefeller's third run for the presidency resulted in failure caused at least partly by his appearance of indecisiveness. At the beginning of 1968, he was a supporter of George Romney, then the governor of Michigan. Romney withdrew Feb. 28 in the backlash of his famous "brainwashing" statement after a trip to Vietnam.

Less than a month later, Rockefeller announced that he would not be a candidate for the nomination. "Quite frankly," he said, "I want it clear . . . that the majority of [Republican] leaders want the candidacy of Richard Nixon at this time. It would therefore be illogical and unreasonable that I would try to arouse their support."

Rockefeller said he would accept a convention draft if ordered, but he said he did not expect one to materialize. Once again he would concentrate on national and foreign policy issues for the Republican platform.

But 40 days later, on April 30, Rockefeller announced that he had changed his mind and would become an active candidate because of "the gravity of the crisis that we face as a people." He said, "I frankly find that to comment from the sidelines is not an effective way to present the alternatives."

The Rockefeller announcement came after the last filing deadline for presidential primaries had passed. It coincided with his surprise write-in victory in the Massachusetts Republican primary.

Rockefeller never recovered from the party response to his apparent vacillation. Despite an expensive advertising campaign and personal appearances in 42 states, he did not seriously weaken Nixon's hold on a majority of national convention delegates. Nixon easily won the nomination on the first ballot. But Rockefeller could take some comfort from the moderate tone of the party platform adopted that year, reflecting some of his views.

CAMPAIGNS FOR GOVERNOR

Rockefeller's public career began in 1940, when he held a succession of appointive jobs under Presidents Roosevelt, Truman and Eisenhower.

At age 50, in 1958, he turned toward elective office after Eisenhower's plan to make him under secretary (and later secretary) of defense came apart because of conservative opposition within the cabinet.

The 1958 campaign

Although the public-opinion polls early in 1958 showed Rockefeller losing to incumbent Averell Harriman (D 1955–59), Rockefeller nevertheless launched a campaign for the New York governorship. As in all of his campaigns, he spent vast sums from his personal fortune.

After a hard primary campaign, Rockefeller's chief rival for the Republican nomination, former Republican National Chairman Leonard W. Hall, withdrew. Rockefeller was nominated by the state party convention.

Starting as an underdog, he launched a tireless campaign of handshaking and blintz-eating. He visited every one of New York's 62 counties and pledged to end bossism in state government. He took liberal positions on welfare issues.

Personal politicking came naturally to the plain-spoken, gravel-voiced millionaire. In a year of Democratic landslides elsewhere in the nation, he defeated Harriman with nearly 55 per cent of the vote.

The 1962 campaign

Rockefeller was nominated for a second term in 1962 by acclamation of the state Republican convention. His opponent that year was Robert M. Morgenthau, U.S. attorney for southern New York, who had the nominations of both the Democratic and Liberal Parties.

Morgenthau charged Rockefeller with secretly planning to raise taxes the next year. Rockefeller called the charge "utterly false and malicious" and campaigned vigorously on his "pay-as-you-go" fiscal policy, the improved economic climate of the state and advances in state aid to education.

His plurality over Morgenthau was 53.1 per cent, a slight decrease from that of his first victory.

The 1966 campaign

New York Republicans nominated Rockefeller for a third four-year term, again by acclamation, at their 1966 convention. That year he had opposition from three parties: Democrat Frank D. O'Connor, New York City Council president; Liberal Franklin D. Roosevelt, Jr., and Conservative Paul L. Adams.

Rockefeller was rated an underdog at the start of the campaign, largely because of state tax increases in 1959, 1963 and 1965—the 1963 increase after his 1962 campaign promise not to raise taxes the next year.

Rockefeller responded by charging Democratic bossism and by pointing to increased aid to local schools and improvements in the state university system, which had been made possible by his tax increases. He won easily with a plurality of 44.6 per cent.

The 1970 campaign

Rockefeller's principal opponent in his campaign for a fourth term in 1970 was Arthur J. Goldberg, a former secretary of labor, U.S. Supreme Court justice and ambassador to the United Nations. Running against a Jewish candidate who had been active in liberal circles, Rockefeller turned to the right and went after the votes of alienated blue-collar Democrats.

He supported President Nixon's Indochina policies and sided with construction unions against black militants seeking to halt some construction projects until their demands for new jobs were met. He moved to clamp down on welfare spending. The conservative thrusts won Rockefeller the endorsement of some groups, such as trade unions and fraternal organizations of policemen and firemen, that had not supported him before.

His plurality over Goldberg, the Liberal-Democratic nominee, Conservative Paul Adams and three others was 52.4 per cent.

CHRONOLOGY OF ROCKEFELLER CAREER

Following are highlights of the 44-year business, political and public service career of Nelson A. Rockefeller, nominee for Vice President:

1930

After graduation from Dartmouth, Rockefeller is named to the board of directors of Rockefeller Center, becoming president in 1938. Despite the Depression, he holds positions in various family businesses.

1940

Aug. 16—President Roosevelt names Rockefeller coordinator of inter-American affairs. In the post, he conducts a cultural and economic program aimed at Latin America. He resigns in December 1944 to accept a State Department post.

1944

Dec. 20—Rockefeller is sworn in as assistant secretary of state for American republic affairs. During his tenure the Act of Chapultepec is formulated. A reciprocal nonaggression pact among the nations of the Americas, it is a forerunner of the North Atlantic Treaty Organization (NATO) and other regional alliances. He resigns Aug. 25, 1945, to return to private business.

1946

July—The Rockefeller brothers establish the American International Association for Economic and Social Development, a philanthropic organization intended to work with local governments in South America in the fields of agriculture and nutrition.

1947

January—The International Basic Economy Corporation is formed by the Rockefeller brothers as a profit-making organization to encourage private investment in underdeveloped areas. Nelson Rockefeller serves as president until 1958.

1950

Nov. 24—President Truman appoints Rockefeller chairman of the International Development Advisory Board, which reviews the U.S. "Point Four" program of technical assistance abroad. He resigns Nov. 5, 1951, to return to private business.

1952

Nov. 30—President Eisenhower appoints Rockefeller chairman of the President's Advisory Committee on Government Organization. Among 14 reorganization plans submitted by the committee are proposals for a new Department of Health, Education and Welfare, and a U.S. Information Agency, as well as changes at Defense, Justice and Agriculture. He remains chairman until Dec. 29, 1958.

1953

June 11—Rockefeller is sworn in as under secretary in the new Department of Health, Education, and Welfare. He resigns in late 1954 to accept a White House position.

1954

Dec. 16—Rockefeller becomes Eisenhower's special assistant for foreign affairs. He resigns Dec. 31, 1955, to return to private business.

1956

Returning to New York, Rockefeller is appointed to the Temporary State Commission on the Constitutional Convention, which subsequently makes recommendations for changes in the New York constitution. The state's voters later reject convening a special constitutional convention.

1958

Nov. 4—Rockefeller defeats Averell Harriman for the governorship of New York state with 54.7 per cent of the vote. It is a year of Democratic landslides and Rockefeller takes liberal positions on welfare and other issues.

1959

Jan. 1—Rockefeller is sworn in as governor of New York. He holds that office until Dec. 18, 1973.

1960

July 27—After reaching agreement of key platform issues with rival presidential contender Richard Nixon, Rockefeller throws his New York delegate strength at the Republican National Convention to Nixon, who becomes the party's nominee.

1962

Nov. 6—Rockefeller wins his second gubernatorial campaign with 53.1 per cent of the vote, while stressing New York's improved economic climate and advances in state aid to education.

1963

Nov. 7—Rockefeller announces his candidacy for the 1964 Republican presidential nomination.

1964

Campaigning vigorously for the presidency, Rockefeller wins the West Virginia and Oregon primaries, but loses the important California primary to Sen. Barry Goldwater (R Ariz.). On June 15 he withdraws from the race, throwing his support to Pennsylvania Gov. William W. Scranton.

1966

Nov. 8—Rockefeller is re-elected for a third term as governor of New York with 44.6 per cent of the vote.

1968

April 30—Rockefeller announces his candidacy for President. After losing the nomination to Richard Nixon Aug. 8, he supports Nixon in the fall campaign, appearing with him in New York.

1969

March 20—Rockefeller is one of nine appointees to President Nixon's Foreign Intelligence Advisory Board.

Feb. 17—The Nixon administration announces that Rockefeller will travel to Latin America for consultation with leaders.

Nov. 10—Rockefeller's report to Nixon on his violence-marred Latin American fact-finding mission is released. The report recommends increased military aid to Latin America, renegotiation of foreign debts, and major trade and aid concessions.

1970

April 11—Rockefeller signs into law a controversial abortion reform law that would allow a woman and her physician to terminate a pregnancy for any reason up to the 24th week. The measure is one of the most liberal in the country.

Nov. 3—Rockefeller is re-elected to an unprecedented fourth four-year term as governor of New York by 52.4 per cent of the vote.

1971

Jan. 3—Insisting he will not consider a vice-presidential bid from Nixon, Rockefeller says, "I have had that opportunity on various occasions."

Aug. 18—Rockefeller calls Nixon's new economic policy "the most significant and exciting . . . in the history of our country."

Sept. 13—With the approval of Rockefeller, police storm the New York state prison at Attica where inmates are holding hostages. Nine of the hostages die.

Dec. 30—Rockefeller says he is seriously considering running for a fifth term as governor, ". . . because I've invested 13 years in trying to make the state a better place to work and live . . . ."

1972

May 13—Rockefeller vetoes a bill to repeal New York's liberal abortion law.

Aug. 22—Renominating Nixon at the Republican national convention, Rockefeller says, "We need this man of action, this man of experience, this man of courage."

Sept. 12—An official New York state report on the Attica uprising criticizes Rockefeller for not visiting the prison before ordering the armed assault.

1973

July 17—Rockefeller tells the State Broadcasters Association he is not surprised that Nixon taped his conversations—"I've assumed that always with every President."

Sept. 5—Speaking to the American Political Science Association, Rockefeller says the country's "agony" shows Americans want "government leadership that will place enduring moral principle over immediate political advantage."

Sept. 28—After a round-about answer to a question about Nixon's Phase 4 economic controls, Rockefeller tells Chicago businessmen, "That's not a very good answer, but it's not a very good program either."

Oct. 7—Rockefeller defends Nixon's impoundment of federal funds, saying, "I don't see he had any choice."

Oct. 21—Rockefeller urges Congress to "move quickly" and appropriate the $2.2-billion in military aid to Israel requested by Nixon.

Oct. 30—Denying he is "moving to the right" to please Republicans, Rockefeller claims that "I'm just dealing with problems as they come up."

Dec. 18—Rockefeller resigns as governor of New York after 15 years, to devote his time to two commissions of which he is chairman—the Commission on Critical Choices for Americans and the National Commission on Water Quality. Though critics charge he is leaving the governorship to have a better presidential campaign base in 1976, Rockefeller insists, "This is not a gimmick . . . or a political trick." (The Critical Choices Commission was begun by Rockefeller in 1972 as a New York state effort, but was announced on May 14, 1973, to be expanded into a national commission at Nixon's request. It intends to study the quality of life in America and major national goals and trends for the next 30 years.)

1974

Feb. 11—After stating, "I don't defend Watergate. I deplore Watergate," Rockefeller is asked if he favors impeachment proceedings against Nixon. His answer: "I think at this point it's the only thing that's going to satisfy the American people."

Aug. 9—Rockefeller praises the new President, Gerald R. Ford, as a man of "integrity, dedication and abiding faith in America."

Aug. 20—President Ford nominates Rockefeller as Vice President.

Nelson Rockefeller: A Political Profile

Profession: Businessman, philanthropist, government official.

Born: July 8, 1908, Bar Harbor, Maine.

Home: Pocantico Hills, North Tarrytown, New York.

Religion: Baptist.

Education: Lincoln School of Columbia University Teachers College, 1917–26; Dartmouth College, A.B., 1930.

Offices: Coordinator of Inter-American Affairs for President Franklin D. Roosevelt, 1940–44; Assistant Secretary of State for American Republic Affairs, 1944–45; Chairman of President Truman's International Development Advisory Board, 1950–51; Under Secretary of Health, Education and Welfare, 1953–54; Chairman of President Eisenhower's Commission on Government Organization, 1953–58; Special Assistant to President Eisenhower, 1954–55; Governor of New York, 1959–73; members of the Advisory Commission on Intergovernmental Relations, 1965–69; Chairman of the Governors Conference Committee on Human Resources, 1967–72; personal representative of President Nixon to Latin America, 1969; member of President Nixon's Foreign Intelligence Advisory Board, 1969–1974.

Affiliations: Trustee, Museum of Modern Art, Museum of Primitive Art, Rockefeller Brothers Fund Inc.; director, University of the Andes Inc.; director, American International Association for Economic and Social Development; Psi Epsilon; Phi Beta Kappa; Order of Merit of Chile; National Order of the Southern Cross (Brazil); Order of the Aztec Eagle (Mexico).

Author: *The Future of Federalism*, 1962; *Unity, Freedom and Peace*, 1968; *Our Environment Can be Saved*, 1970.

Family: Married Mary Todhunter Clark, June 23, 1930; five children; divorced in 1962; married Mrs. Margaretta Fitler Murphy, May 4, 1963; two children.

Career Highlights: The grandson of Standard Oil Company founder John D. Rockefeller Sr., Nelson Rockefeller served his business "apprenticeship," as he called it, with the Chase National Bank. Shortly after his graduation from college, he became a director of the new Rockefeller Center, serving on the Board and as an officer until he was elected governor of New York in 1958.

In 1935, he made a substantial investment in a Venezuelan subsidiary of Standard Oil, and a subsequent business tour to the area led to a lifelong interest in Latin American problems. He and his brothers founded the American International Association for Economic and Social Development in 1946, a philanthropic organization to help local governments, particularly in Venezuela and Brazil, in agriculture and nutrition. The next year, the Rockefeller brothers founded a profitmaking organization to foster private investment in underdeveloped countries.

Rockefeller began his government career in 1940, when President Roosevelt named him to the newly created post of Coordinator of Inter-American Affairs. He was responsible for coordinating government activities involving hemisphere defense, as well as cultural and commercial programs. He held the position until 1944, when Roosevelt appointed him Assistant Secretary of State for American Republic Affairs. In that capacity he helped formulate the Act of Chapultepec, a mutual defense pact of the American nations declaring that an attack against one was an attack against all.

Rockefeller left the government that year but returned in 1950 to chair President Truman's International Development Advisory Board. The board reviewed the U.S. "point four" program for technical assistance abroad.

In 1953, President Eisenhower named Rockefeller chairman of the President's Advisory Committee on Government Organization. The board recommended 14 reorganization plans, including those for a new Department of Health, Education and Welfare and the U.S. Information Agency and changes in the departments of Defense, Justice and Agriculture. Rockefeller remained on the board until 1958 and personally helped implement some plans, serving twice on Defense Department reorganization projects. In 1953, he also was appointed by Eisenhower as Under Secretary of the new Department of HEW. There he helped develop broader Social Security coverage and vocational rehabilitation programs.

During the 1940s and 1950s, Rockefeller was active in New York city and state government, particularly as an adviser on state constitutional revision. In 1958, he made his first run for elective office, challenging incumbent Democrat Averell Harriman for the governor's office. He staked out a liberal position on welfare, and, without soliciting help from President Eisenhower or Vice President Nixon, he defeated Harriman.

LATIN AMERICAN CONNECTION

Vice President-designate Nelson Rockefeller has long had a special interest in Latin American affairs.

In 1935, he made a substantial investment in the Creole Petroleum Co., a Venezuelan subsidiary of Standard Oil. He undertook an extensive business tour of Latin America in 1937, which resulted in a lasting interest in the problems and potentials of that region.

In July 1946, he and his brothers founded the American International Association for Economic and Social Development, a nonprofit philanthropic organization that works with local governments, primarily Venezuela and Brazil, in agriculture and nutrition. Six months later, the Rockefellers created the International Basic Economy Corp. (IBEC), a profit-making organization designed to foster private investment in underdeveloped areas.

Rockefeller's political career began with Latin America. In 1940, President Franklin D. Roosevelt established the Office of Coordinator of Inter-American Affairs (CIAA) and named the 32-year-old Rockefeller, who had done a study of the area's economic problems, as coordinator.

Mr. WILLIAM L. SCOTT. I know, Mr. President, that the Republican leadership, Senator Hugh Scott of Pennsylvania, and Senator Griffin of Michigan, have requested prompt hearings on the additional information that has been brought to the public attention within the last few weeks and I believe the distinguished majority leader, Mr. Mansfield, has also urged the prompt resumption of hearings. However, in my opinion, the Senator from Nevada (Mr. Cannon), the chairman of the Committee on Rules and Administration is very wise to obtain a complete audit of the tax records of the nominee and to have an investigation made of any other pertinent matter before hearings are resumed.

We must remember that only a short time ago we considered a Congressman from Michigan to be Vice President of the United States, just as we now have Nelson Rockefeller under consideration for the Vice Presidency. Mr. Ford, elected only by the people of one congressional district of Michigan, became President of all of the people of the country and Mr. Rockefeller, if confirmed, would be only a heartbeat away from assuming this same high office without his name being submitted to the electorate as is the usual case.

Therefore, in my opinion, it is incumbent on each Member of the House and Senate to ascertain as many facts as possible and to then exercise his best judgment as to whether the nominee is the proper person to be President of the United States. In my opinion, the one requirement most desired by people throughout the country is unquestioned integrity and honesty. This to me is the key to restoring confidence in public officials. If there is doubt in the mind of a Member of Congress, I believe he should vote against confirmation of the nominee.

This does not mean that any of us should assume a pious or holier-than-thou attitude. But after the revelations of the last 2 years I believe that a careful review should be made of financial holdings, tax records, and personal as well as official life of a nominee.

Let us look at some of the information which has been brought to public attention and which I believe should be investigated very thoroughly by our own Rules Committee and the Judiciary Committee of the House.

According to the October 21 issue of Time magazine, in an article entitled "A Little Help for His Friends," Nelson Rockefeller gave $176,389 to Edward J. Logue; $50,000 to Henry Kissinger, then an assistant of his but now our Secretary of State; $625,000 to William J. Ronan; and $86,313 to L. Judson Morhouse.

These were not campaign contributions but funds to be used for personal purposes. I believe the committee should inquire as to each of these gifts from Mr. Rockefeller himself and from the recipients of the gifts, as well as to make an independent investigation of why the gifts were made. Of course every Member of this Senate has received political contributions usually made to a committee, and most of us attempt to separate even the knowledge of political contributions from our private and public life insofar as possible.

The Rockefeller gifts were of a different nature. They were made so that the recipient could use them for personal purposes to increase his standard of living, to purchase some of the material possessions most human beings like to acquire.

I ask unanimous consent, Mr. President, that this item from the October 21, 1974, issue of Time magazine be printed in its entirety at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Little Help for His Friends

For a politician as wealthy as Nelson Rockefeller, money can be a curse as well as a blessing. His millions have convinced some people that because he has everything, he is incorruptible; but those same millions inevitably arouse suspicion among other people that he may be buying political support or unduly influencing public policy for his family's benefit. There is no evidence that the vast Rockefeller family fortune has been so used; nor is Rocky's confirmation as Vice President yet in serious trouble. Nevertheless, the normally chipper and confident Rockefeller was embarrassed and distressed when news of his lavish gifts to a variety of people leaked out last week.

Several gifts seemed wholly innocent acts of compassion, such as covering medical expenses or easing the financial problems of retiring aides. At least one gift came perilously close to violating New York State's conflict-of-interest laws, however, and others raised questions of propriety. Hugh Morrow, Rockefeller's chief press spokesman for 15 years, said that most of the gifts went to longtime employees. "Many of these friends have been in public service where the pay is not always commensurate with what these people could earn elsewhere," said Morrow. A Senate aide described the practice more picturesquely: "It's like the old lords of the manor giving Christmas purses to the retainers." The circumstances surrounding Rocky's gifts varied widely:

Henry Kissinger, $50,000. While a member of the Harvard faculty, Kissinger worked for Rockefeller and advised him on world and national issues for 13 years. On Jan. 17 1969, as Kissinger was about to become President Nixon's top national security adviser, Rockefeller told him in a letter that he was arranging a $50,000 gift "as a token of my friendship and my appreciation for the work you have done in service to the people of this country. It comes from Happy and me, with our warmest best wishes." Kissinger consulted White House attorneys, who made no objection to his accepting the money, then put the funds into a trust account for his two children. Rockefeller paid a gift tax on the money,* Kissinger paid a tax on the trust. Still, North Carolina's Republican Senator Jesse Helms complained in the Senate: "Even if it is legal, there is a question of whether or not it is proper to induce a sense of substantial obligation in a man who is about to become a senior public official."

William P. Ronan, $625,000. While serving in high transportation posts during Rockefeller's 14-year governorship, Ronan borrowed heavily from his boss. Neither Rockefeller nor Ronan would detail the purposes of the loans and gifts further than vaguely citing real estate purchases and financial responsibilities. Ronan in 1968 became the $75,000-a-year chairman of New York's Metropolitan Transportation Authority, which owns and operates the New York City area public transit system. He quit last May when Rocky was no longer Governor. Apparently in the few days before Ronan was appointed by the Governors of New York and New Jersey as the unsalaried head of the Port Authority of those two states, Rockefeller canceled the Ronan loans, which then totaled $510,000, and paid a gift tax of $331,000 on this debt cancellation. Both the Transit Authority and the Port Authority, which operates more than 20 bridges, tunnels, airports and freight terminals, do multimillion-dollar business with New York banks including Chase Manhattan, headed by David Rockefeller. Asked what, if anything he did in return for the gift, Ronan jauntly told reporters: "I said thank you."

The Ronan gift was clearly troublesome. It is illegal in New York State for anyone to give or for a state employee to accept any "gratuities . . . for having engaged in official conduct which he was required or authorized to perform and for which he was not entitled to any special or additional compensation." New York State Attorney General Louis Lefkowitz, a Republican in a difficult race for reelection, said he was investigating the Ronan gift.

L. Judson Morhouse, $86,313. Long one of Rockefeller's closest political associates, Morhouse had served for eight years as the unsalaried New York Republican Party Chairman. In 1960 he borrowed $100,000 from Rockefeller to acquire commercial real estate on Long Island. Six years later, Morhouse was convicted of bribery in a liquor license scandal. Rockefeller commuted the sentence for Morhouse, then ill of cancer, in 1970. By then the loan had been reduced to $86,313, which Rockefeller canceled. Senate Rules Committee Chairman Howard Cannon, a Democrat, said that he was bothered by such a gift to "a convicted felon."

Edward J. Logue, $176,389. A top urban planner. Logue was lured to New York in 1968 by Rockefeller to organize and direct the New York State Urban Development Corp., which oversees urban renewal and low-income housing in the state. One incentive was a $31,389 gift. In 1969 Rocky also loaned Logue $145,000 to buy a cooperative apartment. Logue has since repaid $45,000 of this loan and said he intends to pay it all. The cash apparently was given before Logue went on the New York State payroll.

At week's end, in a letter responding to a request for more information from Senator Cannon, Rockefeller named other recipients of his generosity and placed the total funds given to 18 present or former public officials and staff members since 1957 at $1,1778,878. Rockefeller paid about $840,000 in taxes on those gifts. Another $326,790 was bestowed on nongovernmental associates, including $155,000 to Emmet John Hughes, an author, journalist and former adviser to President Eisenhower.

Among the state officials who benefited: Alton G. Marshall, Rockefeller's executive officer and secretary when Rocky was Governor, and later president of Rockefeller Center in Manhattan, $306,867; James W. Gaynor, whom Rockefeller attracted to New York from Colorado to become state commissioner of housing and community renewal, $107,000; Henry L. Diamond, a conservation and ecology expert, head of the Department of Environmental Conservation under Rocky and now executive director of his Commission on Critical Choices for Americans, $100,006; Victor Borella, a special assistant on labor issues in Rockefeller's administration, $100,000; Hugh Morrow, $135,000; and Mr. Anne Whitman, onetime secretary to President Eisenhower and assistant to Rockefeller, $48,000 in gifts and loans.

In the case of all the state officials, Rockefeller said in his letter, "We had identical objectives, there was no conflict of interest involved, and there was nothing illegal or immoral about either the loans or gifts."

CURIOUS GIFT

Rocky's largess was also demonstrated in smaller ways. When Meade Esposito, a Brooklyn Democratic leader, admired a Picasso lithograph in Rockefeller's offices in Albany, Rocky sent one to him as a gift. It was "only worth about $2,000," Esposito recalled, and when he hung it at home, his wife complained: "Christ, you're spoiling my color scheme!"

It was also revealed that the Rockefeller family has given campaign contributions to at least 22 members of the House and Senate since 1968, including $28,750 to New York's Republican Senator Jacob Javits. The contributions were completely legal. Curiously, Rockefeller's letter listed one donation of $139,090 to a trust "for the benefit of a longtime personal friend and associate on private affairs"—the only gift whose recipient he declined to identify.

Most of Rockefeller's gifts appear to have been motivated by his praiseworthy desire to keep able men in government. Nonetheless, private financial support of public officials is obviously open to wide abuse and to the appearance, if not the fact, of improper influence. Rockefeller will undoubtedly face stern questioning when the House Judiciary Committee holds confirmation hearings and when as seems likely, the Senate Rules Committee recalls him for further testimony.

Rockefeller will be grilled, too, about a matter that smacks more directly of questionable political tactics. In 1970 his brother Laurance put up $60,000 to produce a critical biography of former Supreme Court Justice Arthur Goldberg, who was running against Rocky for Governor at the time. It was written by Political Hatchet Man Victor Lasky, who had previously collected and pasted together every anti-Kennedy rumor he could find in his 1963 book, JFK: The Man and the Myth.

West Virginia Democrat Robert Byrd, when asked about the financing of the Goldberg book, said it was "reminiscent of the dirty tricks of the Nixon era." Rocky contends unconvincingly that he had known nothing about his brother's investment in the book until FBI agents raised questions about it during their confirmation investigation. Disingenuously, he adds that it was purely a money-making venture and that Brother Laurance lost about $62,000 in the ill-conceived project. Actually, copies of the book never received general distribution, and even the author claims that the book was used only by the Rockefeller campaign committee.

In a deftly worded wire to Goldberg, Rocky apologized, accepted "full responsibility for the whole regrettable episode" and termed it "utterly alien to and incompatible with the standards I have always tried to observe in my political life." Rockefeller said that he should have stopped the book project as soon as he learned about it but did not say when that was.

Mr. WILLIAM L. SCOTT. It might be of interest for the committee to inquire as to whether Mr. Kissinger who received $50,000 as a personal gift made any recommendation to the President regarding the Rockefeller nomination; whether General Haig, the protege of Mr. Kissinger who rose very fast from a colonel to a four-star general as an assistant to Mr. Kissinger, made any recommendation favorable to Mr. Rockefeller.

Inquiry might be made as to any possible conflict of interest between the Governor of New York making a gift of $625,000 to a man who became chairman of the New York Metropolitan Transportation Authority which did business with the Chase Manhattan Bank, headed by David Rockefeller. I ask unanimous consent to have printed at this point in the Record an article from the New York magazine regarding one trust account it holds for Nelson Rockefeller, valued at more than $126 million.

There being no objection, the article was ordered to be printed in the Record, as follows:

Inside Chase Manhattan: First Look at Rocky's Net Worth

(By Dan Dorfman)

New York Magazine has come into the possession of recent documents detailing the

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*The donor, rather than the recipient, in excess of $3,000.
must in most cases, pay a federal tax on gifts

assets held by the Chase Manhattan Bank for the "Nelson A. Rockefeller Trust." With the Senate settling down this week to pass on Rockefeller's nomination as the next vice president of the United States, the material makes for interesting, and obviously timely, reading.

The documents, actual bank statements, don't conclusively show "how much Rocky is worth." It is possible, for example, that Nelson A. is not the sole beneficiary of this trust. But the documents do provide solid evidence, in close detail (see next page), for the beginnings of a good guess. If you were surprised by the modest estimate of Rockefeller's net worth leaked to the press earlier this month—a mere $33-million—you had every right to be. Counting just the assets in this account alone, the Nelson A. Rockefeller Trust was worth, as of June 28, 1974, at least $126,776,331.

Rocky is obviously worth more than that, much more. The "Nelson A. Rockefeller Trust" is, we're told, only one of two trusts administered for him by Chase Manhattan. The second trust is said to be not so diversified in the number of holdings but larger in the total value of assets managed. If so, that would tend to confirm my earlier report ("The Botom Line," September 2) estimating Rocky's net worth at some $300 million. And to these portfolios must be added, of course, Rockefeller's interests in various family trusts, other substantial food and oil interests, still other investments in closely held venture capital prospects, plus real estate in Venezuela, Maine, and Westchester County.

It is for Congress to decide whether a man's holding of 308,200 shares of Exxon would get in the way of his faithfully executing the duties of the vice-president. I had my hands full just wondering whether holding a big chunk of any international oil company made *investment* sense for anyone these days. How well, in short, had Rockefeller's money managers been doing by the man and his millions?

Well, the first thing that's clear is that the trust has done tolerably well over the years. Judging by the bargain prices paid for some of the securities held, we'd guess that the Nelson A. Rockefeller Trust was set up in the late thirties or early forties. As of June 28, 1974, there was an indicated paper profit of over $75 million on securities acquired for $51 million. However, with the stock market having tumbled a sickening 22 percent in the last three months, Rockefeller—like everybody else—has taken a beating. In its eight largest equity holdings alone, assuming they're still intact, the trust had shrunk by more than $13 million between the end of June and mid-September.

Eighty-six percent of the trust assets were in common stocks. The biggest loss in this period came in Rockefeller's substantial holdings in International Business Machines—over $5 million. But Rocky had no reason to panic. The 83,922 I.B.M. shares he held on June 28 had been acquired at an average purchase price of $15.62 a share. I.B.M. common traded last week at 152—a paper profit of almost $11.5-million.

Rockefeller also lost over $4 million on his Eastman Kodak holdings in the last three months. But sitting on 130,300 shares at an average cost of slightly over $8 a share, he's still got a handsome profit on the stock—over $8 million. (Eastman Kodak sold last week at about 71.)

Things being what they are on Wall Street, I got to wondering about what a disinterested observer at Chase might think of the general look and the specific shape of the assets in Rocky's trust.

So, I put some questions last week to a Chase portfolio manager. I didn't tell him the portfolio I had in mind was Rockefeller's. Nor did I mention that it was in Chase's care. I simply told the manager that the trust belonged to an extremely wealthy individual who had almost 25 per cent of his holdings in just two international oil stocks—Exxon Corp. and Standard Oil of California. I also said that another 17 per cent of the equity base was in just one stock, I.B.M., followed by nearly 12½ per cent in Kodak.

Rocky might not have liked the response. "An absurd portfolio for this day and age," the money manager told me. "You'll never ever find a portfolio like that at Chase. I can only assume the man whose portfolio it is must be out of touch with the outside world . . . or, maybe, that's what I should say about the people running it. It must be run by First National City."

My man at Chase called attention to the international oil holdings. "A 25 per cent holding is ridiculous," he said. "Exxon's a great company, but the international oils face some big problems. You've got Congress raising the roof about windfall profits. There's possible tax problems for the industry. And you have the continuing threat of confiscation of foreign properties by the Middle East countries."

The Chase portfolio manager was deeply critical, too, of the 17 per cent equity position in I.B.M. "Here, you also have a great company, and its price is way down," he said. "But there's the overhanging threat of antitrust problems, the stock looks like it's in a technical downtrend with lots of sellers, and it could go nowhere for the next six months. On any rally, I'd cut down on that 17 per cent drastically—at least in half for starters." He also thought "Kodak should be reduced hard." His reasoning: "You're entering a recessionary period, people are going to spend less on 'extras,' and Kodak could easily have flat earnings for the next year or two."

Rockefeller would obviously run into hefty capital gains headaches, considering his income, if he decided to be an aggressive seller of equities. Nevertheless, the Chase official was by no means alone in his dim view of the portfolio. The chief criticism I heard was that the equity holdings weren't diversified enough. Another was that the weighting was too heavily in favor of growth stocks at a time when securities such as I.B.M. and Kodak are under great pressure and when the investment tide appears to be turning decidedly in favor of companies in basic industries, like U.S. Steel, Alcoa, and International Paper.

"A typical bank list of dull, high quality blue chips that shows no imagination in investing," said one leading money manager, in describing the Rockefeller portfolio. "It's fine when everything is wonderful. But when it's not, the guy owning it will lose his ass, and in this case, he undoubtedly has. . . ."

He's right. From their highs of only last year, Rockefeller's four largest holdings in the growth stock sector—I.B.M., Minnesota Mining & Manufacturing, Kodak, and Merck—had, as of September 13, plummeted more than $34 million in market value. And Rockefeller's largest holding. Exxon, is down more than $12 million from its high of a year ago. (As of last June 28, however, Rockefeller was still way ahead on Exxon. His 308,200 shares, with a market value of $21.6 million, sported a paper profit of more than $19.5 million.)

So, although Rockefeller's portfolio strategy may well be second-guessed, no one capable of taking a long view can argue about results. His advisers, presumably at Chase itself, were obviously investing for the long term and it has paid off big. However, a a Chase source tells me that even the managers of the Rockefeller portfolio, becoming concerned about so much of the total assets in so few securities, have lately done some selling.

This Rockefeller trust, which was generating income at midyear at the rate of just under $4 million a year, has like the rest of us, gone on speculative binges. Two noteworthy examples are the purchases of $400,000 in notes of Farrington Manufacturing Co. and another $400,000 in notes of Photon, Inc., These companies were what Wall Street liked to characterize in the late sixties as "hot technology plays." Alas, neither turned out to be another Xerox and the stocks of both companies collapsed. So too, did Rocky's investment in them, which is carried in the trust portfolio at a $700,000 loss.

Another lemon, at least right now, is Rocky's investment in International Basic Economy Corp., a venture capital firm headed by his son Rodman, designed to set up programs to help underdeveloped countries. Rockefeller's original investment in IBEC of nearly $3.7 million was recently worth $1.2 million.

Just about every city dweller is a familiar with Rockefeller Center, an it was almost automatically assumed that Rocky owned a big chunk of it. Well, this trust does—325,000 shares, to be exact, recently worth $32,175,000. The June 28 market price reflected a near $14 million profit on Rockefeller's purchase price of $18.5 million. That may seem a very small reward for an investment that may be 40 years old. But because the stock is closely held, the current market value may be greatly understated.

About 11.2 per cent of the trust is in fixed-income state and municipal bonds, which are exempted from federal income taxes. Such investments, currently yielding income of close to $1 million, seem to be of recent vintage, with the market value ($14.2 million) pretty close to the face value ($14.7 million). In light of the drubbing the bond market has taken in recent years, Rocky is lucky the trust's purchases were made later, rather than sooner.

There is no way of knowing how closely Rockefeller himself follows this trust and how it's managed. But quarterly statements are sent to all trust accounts advising them of the amount of income received and portfolio changes in the period.

Whether Rockefeller himself thinks that Chase is managing the portfolio effectively is anybody's guess. But there are, I imagine, a fair number of fund managers out there eager to persuade him otherwise. Indeed, the Chase portfolio manager I spoke to had a piece of blunt advice for that unidentified rich man whose portfolio I told him about: "Take it away from the boobs running it before the guy goes broke."

A First Look at Rocky's Portfolio

The stocks and bonds reprinted on these pages are taken from an "asset report" for the "Nelson A. Rockefeller Trust" rendered by the Chase Manhattan Bank's trust department and dated June 28, 1974. The descriptions of the securities, abbreviations, punctuation, and format follow Chase usage.

Despite a somewhat forbidding appearance, the list is really self-explanatory. Where a bond is listed, the first column notes the face amount in dollars. Where a stock is listed, it's the number of shares. The "market price" shows what the security was worth, and the "market value" shows its total value in the portfolio, on June 28, 1974. The "accounting value" is the acquisition cost. The "estimated annual income" shows what each security earns for the portfolio.

Some compulsive reader may discover that the column titled "market value" doesn't add up. We show there a total of $126,776,331, which is the total reported by Chase Manhattan's computer. However, one of our researchers added that column using a Bowmar Brain and came up with a slightly different total, $126,776,335—a four-dollar discrepancy. It may be that the mistake is ours; some of the numbers in our material were hard to read. But if I were Nelson Rockefeller, I wouldn't tell Chase Manhattan about it. It's their lookout.

Description	Amount or shares	Market price	Market value	Accounting value	Estimated annual income
FIXED INCOME SECURITIES					
State and municipal bonds:					
Metro Water Dst, Southern California—D Mar. 1, 1984, due Mar. 1, 2020	700,000	93.000	686,000	700,000	41,300
Sacramento Munic Utility District, California—electric revenue series A OPT, Feb. 1, 1982, due Feb. 1, 2011	150,000	89.500	134,250	144,000	[1] 8,250
Florida Turnpike Department of Transportation—RV November 1975, due Nov. 1, 2010	750,000	102.000	765,000	771,977	[1] 53,250
Florida Turnpike Authority—REV OPT November 1975, due Nov. 1, 2010	1,750,000	102.000	1,785,000	1,761,408	[1] 124,250
Hartford, Conn.—Pha 4th, due Jan. 1, 2006	185,000	89.890	166,297	180,271	[1] 9,481
Hartford, Conn.—Pha 4th, due Jan. 1, 2007	200,000	89.510	179,020	194,824	[1] 10,250
Hartford, Conn.—Pha 4th, due Jan. 1, 2008	205,000	89.270	183,004	199,633	[1] 10,506
Hartford, Conn.—Pha Jth, due Jan. 1, 2009	215,000	88.900	191,135	209,309	[1] 11,019.
Helena, Mont.—Pha 1st, due July 1, 2003	100,000	90.450	90,450	98,260	[1] 5,125
Helena, Mont.—Pha 1st, due July 1, 2004	110,000	84.250	92,675	108,057	[1] 5,638
Helena, Mont.—Pha 1st, Opt July 1, 1988, due July 1, 2005	110,000	89.810	98,791	108,030	[1] 5,638
New Jersey Highway Authority Pky—Improvement revenue opt Jan. 1, 1982, due Jan. 1, 2011	1,000,000	99.000	990,000	1,000,000	65,000
New York State Housing Finance Agency—Hosp and nursing home proj antic note issues 130-1-115, due Dec. 16, 1974	600,000	98.709	592,254		[1] 29,400
New York State Housing Finance Agency—Urban rental pros amt W-20, due Dec. 16, 1974	100,000	99.620	99,620	1,001,860	[1] 4,900
New York State Housing Finance Agency—Nonprofit housing project antic note issues 74-1-81, due Dec. 16, 1974	300,000	99.620	298,860		[1] 14,700
Poplar Bluff, Mo.—Pha 10th, due July 1, 2003	145,000	84.435	122,431	142,477	[1] 7,431
Poplar Bluff, Mo.—Pha, due July 1, 2004	145,000	90.190	130,776	142,477	[1] 7,431
Poplar Bluff, Mo.—Pha 10th APT, due July 1, 2005	155,000	89.810	139,206	152,224	[1] 7,944
New York State Power Authority—Rev A-1-81, due Jan. 1, 2010	3,200,000	101.000	3,232,000	3,320,792	[1] 220,000
New York State Housing Finance Agency—Hospital and nursing home proj A, Nov. 1, 1987, due Nov. 1, 2012	900,000	88.550	796,950	885,375	[1] 52,875
New York State Housing Finance Agency—Hospital and nursing home project A, Nov. 1, 1986, due Nov. 1, 2013	900,000	73.130	658,170	777,375	[1] 45,000
Port of New York Authority-Cons 35th, August 1980—due Aug. 1, 2005	1,000,000	86.000	960,000	1,017,742	[1] 66,250
Puerto Rico Water Resources Authority—Electric rev series 1971, opt Jan. 1, 1981, due Jan. 1, 2001	1,750,000	103.830	1,817,025	1,750,000	118,125
Total			14,208,912	14,666,091	923,763
EQUITY AND EQUIVALENTS					
Corporate bonds convertible:					
Farrington mfg. conv sub note fr op, due Oct. 1, 1983	400,000	5.000	20,000	400,000	
Photon, Inc., conv, prom note fr 6.25 rate, due Sept. 1, 1983	400,000	20.000	80,000	400,000	
Total			100,000	800,000	
Preferred stocks convertible: Allis Chalmers Corp.—Cuml conv A pfd investment letter	22,500	40.000	900,000	2,250,000	90,000
Common stocks:					
Chemicals: E. I. DuPont de nemours & Co.—Common	4,100	161.750	663,175	285,189	23,575
Electrical and electronics: General Electric Co.—Common	72,598	49.250	3,575,452	1,972,042	116,157
Financial service: Investment letter, Realty Growth Investors Bene Int	7,500			750,000	
Fuels:					
Exxon Corp.—capital	308,200	70.125	21,612,525	2,090,521	1,402,310
Standard Oil Co. of California—Common	206,350	26.750	5,519,863	495,547	412,700
Total			27,132,388	2,586,068	1,815,010
Health and personal care: Merck & Co. Inc.—Com 2 7/9 cts par	93,000	78.500	7,300,500	332,317	130,200
Leisure and education: Eastman Kodak Co.—Common	130,300	103.875	13,534,913	1,065,902	285,357
Machinery: Caterpillar Tractor Co.—Common	67,392	58.750	3,959,280	273,605	107,827
Office equipment:					
International Business Machines—Cap	83,922	212.750	17,854,406	1,311,267	429,681
Minnesota Mining & Mfg. Co.—Common	21,600	73.500	1,587,600	102,619	27,000
Total			19,442,006	1,413,886	456,681
Miscellaneous:					
International Basic Economy Corp.—Common	409,900	3.000	1,229,700	3,689,100	
Rockefeller Center, Inc.—Common	325,000	99.000	32,175,000	18,454,279	
Total			33,404,700	22,143,379	
SHORT-TERM INVESTMENTS					
U.S. Treasury bills, due Dec. 1, 1974	500,000		476,290	476,290	[1] 23,710
U.S. Treasury bills, Jan. 17, 1974, due July 18, 1974	1,150,000		1,139,790	1,139,790	[1] 10,210
U.S. Treasury bills, Jan. 31, 1974, due Aug. 1, 1974	465,000		460,996	460,996	[1] 4,004
U.S. Treasury bills, Feb. 7 1974, due Aug. 8, 1974	465,000		460,071	460,071	4,929
Total			2,537,148	2,537,148	42,852
Principal cash			17,860	17,860	
Grand total			126,776,331	51,093,487	3,991,422

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[1] If the asset was purchased for more than the face value, a portion of the income may be considered a return of principal.

THE CHASE MANHATTAN BANK, N.A. (NELSON A ROCKFELLER TRUST)

	Market value	Approximate percent of total	Estimated annual income	Return on market
Fixed income:				
State and municipal bonds	14,208,912	11.2	923,763	6.5
Total fixed income	14,208,912	11.2	923,763	6.5
Equity and equivalents:				
Corporate bonds, convertible	100,000	.1		
Preferred stock, convertible	900,000	.7	90,000	10.0
Common stocks	109,012,412	86.0	2,934,807	2.6
Total equity and equivalents	110,012,412	36.8	3,024,807	2.7
Total permanently invested funds	124,221,324	98.0	3,948,569	3.2
Short term investments	2,537,148	2.0	42,852	
Principal cash	17,860	0		
Total fund	126,776,331	100.0	3,991,422	

Short form: This print-out summarizes the state of 1 of Rocky's trusts last June. The itemized list covered 4 more pages.

Mr. WILLIAM L. SCOTT. The Rules Committee might also make inquiry regarding the details of the gift of $86,313 to the New York Republican Party chairman who, the Times article indicates, was convicted of bribery at a later date.

Inquiry might also be made of the gift of $176,389 to the organizer and director of the New York State Urban Development Corp.

I believe, Mr. President, a thorough investigation should be made regarding any and all other gifts given by this nominee to public and private individuals which the committee feels may have a bearing on his fitness to serve as Vice President of the United States. Many others are mentioned in the Times article, but I am sure committees of Congress can make a more complete investigation than a reporter for a news magazine.

I doubt that any Member of the Senate had any advance knowledge of the matters identified under the heading of Watergate but here we are put on notice of questionable action by a man now under consideration for the high office of Vice President of the United States. If we do not make a thorough check of his background before casting our vote, in my opinion, we will not be performing the duties of our office.

The New York Times, in another article dated October 10, compared the Rockefeller gift to William J. Ronan with real or imaginary gifts made by other public officials and raised a question as to whether the use of money by a very rich person should be considered differently from use by some not so rich.

I ask unanimous consent, Mr. President, that this item entitled "The Best and the Richest," be printed at this point for the information of the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 10, 1974]

THE BEST AND RICHEST

(By Anthony Lewis)

WASHINGTON, October 9.—Suppose President Johnson had made personal loans totaling $550,000 to an associate in public life, then appointed him chairman of a Federal regulatory agency and written off the loans. When the facts became known, would leading Senators and other weighty voices have said that there was nothing wrong in the arrangement—that it was just a way to keep a man of modest means in the public service?

Or suppose it were discovered that the Transport Workers Union had secretly given half a million dollars to the head of a public agency dealing with transportation. Or that General Motors had. Or an oil company. Would such Republican "liberals" as Jacob Javits and Hugh Scott rush to their defense? Would that crusty conservative, Senator Jess Helms of North Carolina, be the only outspoken critic?

The immunity of Nelson Rockefeller from criticism or even serious scrutiny is an amazing phenomenon. He can do things that would cause an explosion if done by anyone else, and still keep Establishment opinion purring.

There must be an implicit assumption that a man as rich as Mr. Rockefeller, with so impressive a history of family philanthrophy, will use his money in the public interest. We take him on trust.

That notion is staggeringly naive. It smacks of the misplaced faith in great men that got us into Vietnam, only in this case it is faith in the Best and the Richest. Nelson Rockefeller has many achievements to his credit. But to take him on trust is dangerous nonsense.

Consider those huge loans to William J. Ronan, chairman of the New York-New Jersey Port Authority. Even if we grit our teeth and assume that the money was meant as mere kindly largesse, it surely had an effect. Do human beings receive $550,000 without feeling some special relationship to the source? Even generousity creates obligations.

And Mr. Ronan is in a much more powerful position than most Federal agency heads. The Port Authority makes its decisions largely in secret, with little by way of democratic control. It plays a crucial role in the planning and economics of the New York area—specifically including the financial interests of the Rockefellers.

The cover is just starting to come off the Rockefeller largesse and its real effects in the political world. It was only a gesture when he gave a Picasso to a Democrat who helped with necessary votes in the Legislature, but who else can make such gestures? The salaries and loans and investments for his staff are generous, but they also are likely to buy lifelong loyalty in a way others can't afford.

As Governor, Mr. Rockefeller was equally adept in using state money to serve his interests. His great concrete elephant, the Albany Mall, provided jobs for his friends the building workers. It just happened, too, that the Democratic leader of Albany, Dan O'Connell, and Mayor Erastus Corning wrote the insurance on those buildings. When the ill-planned World Trade Center encouraged by David Rockefeller proved a commercial flop, Nelson ordered state agencies in as tenants.

Why does almost no one pay any attention to these things, or ask hard questions? Where are the journalistic bloodhounds who tracked down every scent in the career of Richard Nixon? Where are the voices that thundered at a $100,000 gift from Howard Hughes or use of campaign money to buy jewelry for Pat Nixon?

Nor is it the use of money alone that seems to escape probing curiosity. Consider the massacre at Attica.

When Edward Kennedy seemed headed toward the Democratic nomination in 1976, various newspapers and magazines began new investigations of his role in the death at Chappaquiddick, and properly so. But there were 39 deaths at Attica, and Mr. Rockefeller's responsibility is right there, waiting to be scrutinized.

He refused to go to the prison when a visit by the Governor might have averted tragedy. And then, when state police killed prisoners and hostages by shooting into the crowd, Mr. Rockefeller had nothing to say—except to try to obscure what had happened. He has not yet acknowledged, much less criticized, the horror.

Of course prison rioters do not evoke much public sympathy. Nor should officials have to sympathize with them. But cold-blooded murder is something else. When a politician by his silence condones official murder, the calculation or cowardice that led him to that position must say something about his values. Is no one interested?

There are many other questions. Does no one care about his far-out advocacy of military power, or his opposition to the nuclear test-ban treaty? Why has he never said a critical word about the war in Vietnam? How many fall-out shelters has he built for himself?

President Ford, asked at his press conference about the gifts, suggested that Mr. Rockefeller had to be considered in a different way from other men because he is so very rich. Are editors and politicians and other shapers of opinion going to accept that dangerous doctrine, and go on suspending their natural disbelief in the case of Nelson Rockefeller?

Mr. WILLIAM L. SCOTT. Another article in the New York Times, dated October 13, entitled "Rockefeller's Largesse," relates to a scurrilous biography of former Justice Arthur J. Goldberg, Rockefeller's opponent for the Governorship of New York which I ask unanimous consent to have printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 13, 1974]

ROCKEFELLER'S LARGESSE

The Rockefeller family's prestige as patrons of arts and letters has not been enhanced by the disclosure that Rockefeller money financed a scurrilous biography of Arthur J. Goldberg, brought out in 1970 when the former Supreme Court Justice was unsuccessfully campaigning against Nelson A. Rockefeller for Governor of New York.

Even graver damage is done to respect for the family's candor by the effort of Nelson Rockefeller and his brother, Laurance, to pretend that the latter underwrote publication of this book in the hope of making a business profit. The "biography" was an attempt at personal defamation of a kind familiar in political campaign before and since; and Laurence Rockefeller evidently recognized the point by his failure to claim his reputed $52,000 loss for tax purposes.

More disturbing still, in the light of Nelson Rockefeller's designation as Vice President, are authoritative reports that the whole deal was handled by funneling laundered funds from Rockfeller family accounts through a dummy corporation, a device that preceded similar dirty tricks by the Nixon Administration in the 1972 Presidential campaign. The Rockefeller apology to Mr. Goldberg does not erase the outrageousness of these tactics.

Mr. Rockefeller would do well to clear up all the obscurities about the book's inspiration and financing in exactly the same manner he has now wisely decided to do about his lavish gifts and loans to close associates in high public office. His detailed list of some $2-million in benefactions to a score of present and former aides will not still the controversy over the appropriateness of such princely supplementation of governmental salaries, but it does have the healthy effect of bringing the facts into the open.

Mr. Rockefeller's basic explanation is that, in line with his upbringing as heir to a great fortune, he was helping friends meet pressing family problems and that no conflict of interest was involved because all were his personal appointees and all operated in a framework of policy established by him as Governor. There is no suggestion of any element of narrow gain for either himself or the farflung Rockefeller interests in such largesse; but state law is extremely explicit in prohibiting any "unlawful gratuities" to public employes. This ban is defined as applying to any benefits over and beyond normal compensation. Another prohibition rules out any gift valued at $25 or more as a reward for past official actions or as an attempt to influence future actions. These legal mandates bring into obvious question the substantial donations Mr. Rockefeller made as inducements to help bring several of his commissioners into state service. The fact that all were men of outstanding competence does not dispose of the legal questions.

These questions are no less serious when an official as close to Mr. Rockefeller as William J. Ronan—exercising enormous power, first as the Governor's secretary, then as chairman of the Metropolitan Transportation Authority and now as head of the New York-New Jersey Port Authority—takes $625,000 in gifts and loans beyond his salary. The impropriety becomes especially glaring when Dr. Ronan cites, as a basis for believing that there was nothing "immoral or illegal" about his taking the money, the fact that the final $550,000 in Rockefeller loans was converted into an outright present during a two-week period last May when the Port Authority chief was technically off any state payroll.

Rockefeller benefactions to Federal officials and to newspaper and magazine writers are aspects of "private government" more appropriate to Florence in the days of Lorenzo the Magnificent than to democratic America.

Mr. Rockefeller still seems only dimly aware of the potential dangers that lurk in the inevitable overlaps in the interests of government and of private interests as far-reaching as those of the Rockefellers.

Mr. WILLIAM L. SCOTT. It seems obvious to me, Mr. President, that there can be some overlapping between personal and private interests of an extremely wealthy American family. I do not suggest for a moment that the Office of the Presidency or the Vice Presidency should be denied to a rich person any more than to someone springing from humble beginnings and yet Scripture tells us that it is easier for a camel to get through the eye of a needle than it is for a rich man to enter into heaven, and I wonder if this cannot serve as a warning of the many opportunities for good and for bad that are placed in the pathway of the extremely rich.

I suppose, Mr. President, that when, in addition to his personal wealth, an individual is a member of one of the richest families of the country, conflicts of interest are bound to appear. Such conflicts should be subjected to close scrutiny by our Rules Committee and the *Judiciary* Committee of the House. Frankly, Mr. President, I do not believe the country can afford Mr. Rockefeller as Vice President or as President of the United States. I do not believe the confidence needed to be the Chief Executive of our country, or the second in command, should be in a person where questions are raised almost daily regarding whether his private holdings are in conflict with his duties and responsibilities to the Federal Government.

Therefore, I have no hesitancy even at this time to publicly state my intention to vote against the confirmation of Nelson Rockefeller but I would urge those Members of the Senate who have not made up their minds to consider these and other matters and the committee to make a thorough investigation of the nominee and his fitness for office. If there is another Watergate, the blame could well be placed at our feet if we do not proceed with extreme caution.

EXHIBIT 1

[From the CONGRESSIONAL RECORD, Oct. 3, 1974]

Senate

NOMINATION OF NELSON ROCKEFELLER TO BE VICE PRESIDENT

Mr. WILLIAM L. SCOTT. Mr. President, I take this time to discuss the nomination of Nelson Rockefeller to be Vice President. I understand from the report of the chairman of the Committee on Rules and Administration (Mr. CANNON), that we will be voting on this sometime after recess, probably in November.

Mr. President, immediately after the President stated his intention to nominate former Governor Rockefeller for the office of Vice President, constituents started calling our office indicating their disapproval.

Within a few days, we were receiving mail almost wholly in opposition. It occurred to me that this initial response by telephone and letter might be generated; that it might represent the thinking of only a small portion of the people of Virginia.

To resolve this question, I solicited the views of constituents in a newsletter mailed about 10 days ago. It seemed the best way to obtain a fair sampling of the thinking of Virginia citizens.

There is no doubt that this nomination is different from a person nominated to serve in the President's Cabinet, or even the more studied nominations to fill vacancies in other executive or judicial posts. Under the 25th amendment, in this instance we act for the people of the country in electing a Vice President.

Our newsletter, of course, goes to all parts of Virginia.

I asked that responses be furnished as soon as possible to assist in deciding how to vote on this important nomination.

Of the responses we have received to date from all sections of Virginia, 85 percent of those responding oppose Mr. Rockefeller's confirmation as Vice President.

Mr. President, let me share with you some of the representative letters from around our State indicating the reasons for this opposition. This is just a fraction of those received in my office.

A resident of Alexandria let me know how she felt in this manner:

"This letter is to register my vote against confirmation of Mr. Nelson Rockefeller as Vice President. I shall watch closely how well you represent me when Congress completes its investigation of Mr. Rockefeller. It has been said Mr. Rockefeller cannot be "bought," but how he can 'buy' in many subtle ways. We need no more of that in high office."

Another lady from Clifton Forge had different reasons:

"Rockefeller's appointment to the vice presidency has concerned me deeply. I do not believe that a man with the awesome financial power that he has held will be good for the country.

"Neither do I believe that his personal life has entitled him to the position. His divorce and subsequent remarriage to a woman who lost custody for her children is a poor example for Americans, especially the youth, and I can see little chance of our nation getting back to a path under God (as President Ford said he desires) with a man such as Rockefeller in the second highest post.

"I also object to his fiscal irresponsibility in New York as well as his support of liberal abortion in that state.

"I find the man totally unacceptable and I urge you to vote against his confirmation."

One from Barboursville enumerated her reasoning as follows:

"It is my earnest hope that you will vote against the confirmation of Nelson Rockefeller for the vice presidency, for the following reasons:

"1. His vast inherited wealth has involved him in special interest *outside* of the United States.

"2. He has always belonged to the far-out, liberal wing of the Republican party—even refusing to support Barry Goldwater, the party's nominee in 1964.

"3. His private life—deserting his wife of over thirty years—is hardly conduct Americans can admire.

"4. His brother David's connections in financial circles—national and international—might have undue weight with him in making decisions.

"5. Lastly, I am a fourth generation New Yorker, and have seen the Rockefeller family "in action" for many years and believe they have wielded more influence and power than is good for a healthy democratic government."

A constituent from Portsmouth indicated he expected me to represent him by my vote:

"I am writing this letter to you to let you know my feelings concerning the nomination of Mr. Rockefeller for vice president. I voted for you in the last election in hopes that you would vote the way I thought. I do not think Mr. Rockefeller has mine and your best interest at heart. I hope you will vote against his appointment."

A president of a taxpayer organization from Covington had this to say:

"We of the Virginia Taxpayers Liberty Association, ostensible oppose affirmation of Nelson A. Rockefeller as Vice President, of the United States. We know what Rockefeller stands for and his past activities. We have had too much Socialism already!

"We beseech you for the good of America to vote against the affirmation of Rockefeller as Vice President of the United States!

"Enclosed is just a portion of what Rockefeller stands for and his acts in New York as Governor."

A couple from Leesburg were concerned about abortion:

"We firmly oppose the confirmation of Rockefeller as Vice President. He is well known for his anti-life stand. His advocating of abortion sends chills down our spines."

A Richmond physician expressed concern regarding taxes and spending.

"Without question, Nelson Rockefeller has had vast experience in controlling New York State. However, I do not believe we need a man with his socialistic philosophy of administration. Look at his 15 years record as Governor of New York State:

"The budget was quadrupled from $1.9 billion to $9 billion. Individual state income taxes were increased from seven percent to fifteen percent.

"State gasoline tax was raised from four to eight cents per gallon.

"A four percent sales tax was put into effect.

"New taxes were imposed and old taxes increased in eight of the fifteen years.

"The total state tax burden on the citizens of New York had quintupled during his 15 years as Governor.

"This man's philosophy is higher taxes and more government spending. Do we need such a man as this to be our Vice President, only a heart beat away from being President?

"Inflation is ruining our country and for the people trying to live on Social Security or the small pensions they receive, it is an impossible situation.

"Please, therefore, vote against this man for Vice President."

From Waynesboro discussing Rockefeller's past history:

"Just a line in regard to Nelson Rockefeller.

"Hope you will see your way clear to vote against him when he comes up for election.

"I don't think he is the man for the job. Because of his past history as governor of New York, and because of his close ties with the leftists including Alger Hiss and many other reasons."

A Lynchburg lady opposed Rockefeller's philosophy:

"Please vote against the confirmation of Gov. Rockefeller.

"I am sure you know his past record on Taxes in New York State; his Liberalism; and all the other facts about him. We need men like you and Senator Byrd to oppose him."

A Chatham lawyer indicated no one in his area approved of the nomination:

"I am unfavorably impressed with the record of former Governor Nelson Rockefeller in public life. I have talked with a number of people about the confirmation of him for Vice President. I have not found a single person who has voluntarily approved of the confirmation. However, I have found a number of people who have been neutral on the question.

"Therefore, I hope that you may disapprove of the confirmation since there is always a remote possibility of a Vice President becoming President."

A lady from The Plains indicated that since the citizens did not have a right to choose they would depend on their elected representatives:

"Since the American people have not had a chance to elect the Vice President they choose, then writing to our Congressmen is the only voice we have at this time. Certainly Mr. Rockefeller is not the choice when it should be remembered that his party never wanted him in previous years. Why should he be railroaded down our throats now? There are too many wealthy leaders in this country today who know nothing about poverty and surely Mr. Rockefeller would only have the interests of the rich in any decision he would make. It is time to have leaders who think of the low, and middle-income taxpayers who are truly concerned about this country."

A Vienna lady spoke of moral pollution:

"I do not approve of Mr. Rockefeller becoming Vice-President. I do not think the majority of American people can take divorce and the abortion issue so casually—this leads others to follow in his footsteps, then what do we have as a nation?

"The moral pollution is a pathetic enough situation with leaders who will do nothing about it. Now we are to condone leaders who act immorally?"

A pharmacist wrote his views on a prescription pad:

"I am opposed to the confirmation of Nelson Rockefeller as Vice-President of the United States."

A veterinarian from Staunton was concise with his views:

"I am not in favor of the confirmation of Mr. Rockefeller for the Vice-Presidency."

A Richmond lawyer felt that Mr. Rockefeller had not been sufficiently concerned about the taxpayers' money while he was Governor of New York.

"Thank you for your September-October 1974, report. I would like to express to you that I do not feel Nelson Rockefeller should be approved for the Vice Presidency of the United States. His record would lead one to believe that he is more concerned with social problems than with social financial policy, and I feel that since he would be only a heartbeat away from the Presidency of the United States, we should have someone in that office who is more practical and whose views concerning the business and welfare of the country are more in line with the views of the citizens of the United States."

A Falls Church lawyer indicated Rockefeller was too far to the left.

"I certainly would be disappointed to know that Nelson A. Rockefeller, who has courted every leftist anti-American with whom this Country has had to contend and at the same time became even more wealthy furnishing both raw and refined materials to our enemies which were used to kill American servicemen in two major wars, would be confirmed by a Senator from Virginia, as Vice President of the United States."

A Portsmouth lady states he is unprincipled:

"I urge you to vote against the confirmation of Nelson Rockefeller for Vice President, as he is definitely not the man we need in so vital a position. He is unprincipled—didn't support the Republican candidate for President in 1964—in fact, did everything he could to hinder the election of Goldwater. Does he think the people have forgotten? I also am aware of his having attended Bilderberger meetings, and is also a member of the CFR (Council on Foreign Relations) which is supporting and working for a one-world government. How can someone belonging to organizations with this goal, swear to uphold our constitution, that is, with a clear conscience? I feel that Rockefeller is a very dangerous man, and hope and pray that you will vote NO on his confirmation."

A husband and wife from Farmville had a number of reasons for opposing the nomination:

"We have nothing personal against Nelson Rockefeller; however, to have him as Vice President of our United States might well result in a virtual disaster to the U.S. This could conceivably result in his becoming President in case of the death of President Ford as a result of illness, accident, or assassination.

"Nelson Rockefeller, a notorious spendthrift, master-minded the most lavish state government in the history of this Country.

"During the 15 years as Governor, New York's taxes quintupled from $94 per capita to $460. New York's debt catapulted from $1 billion to nearly $10 billion. New York's taxes are 12% higher than the next top state and 50% above the U.S. average.

"He failed to carry N.Y. State for Mr. Nixon in 1960. He refused to support Barry Goldwater in 1964. He didn't support Mr. Nixon in 1968. He is loyal to only one person, namely, Nelson Rockefeller.

"Rockefeller's main support is derived from the Eastern Liberal Republican Establishment and the Ripon Society, but very little from the National Republican electorate.

"Do we want such a man to be put in a position where he could, by the accident of death, become President of the U.S.? We say No. A thousand times NO!!"

Now Mr. President, I do not say that all of these letters are accurate, but right or wrong, they represent the feeling of the people of Virginia and I feel that they may be useful to other Members of the Senate as representing the grass roots thinking of our citizens. Let me share the thinking of a lady from Norfolk:

"My husband just received your September-October 1974 'Bill Scott Reports' and I felt that I should let you know what we thought and how we feel on the nomination of Nelson Rockefeller for the office of Vice President of the United States.

"We are both against Nelson Rockefeller ever being our Vice President, and hope you do what is in your power to prevent this from taking place.

"I believe President Ford has already done enough things that will hurt our Country, without this taking place, and I am sure that there are better men from this great nation, that will do a much better job than Rockefeller will do as being the Vice President of the United States.

"If President Ford, is not stopped in this act, by the Senate and Congress, then there is no telling what road they will lead this nation down, that will lead to the downfall of this great nation."

An Arlington couple refers to him as a "dangerous man":

"I am asking you to please commit yourself now to oppose Mr. Rockefeller as Vice President. His background is such that we feel he is, and would be, a most undesirable man for such a high office.

"He tried twice to be elected as President—and was turned down by a wide margin, and his ambition to head this nation as President makes him a dangerous man to be so close to the Presidency—anything could happen. There are other men more needed, qualified, than this liberal, dangerous person. The nation can well do without him!

"We have had enough scandal and the Republican Party needs a man we can depend on for leadership and strength.

"Please, for the good of the country Say No!"

A Newport News lady indicates that my vote will influence her when it is time to determine whether or not I should be returned to the Senate:

"I am writing to you in regards to the upcoming confirmation of Nelson Rockefeller as Vice President of the United States. Due to his vetoeing of New York's 1972 Abortion Repeal Law, he has allowed millions of unborn to be condemned to death.

"I am asking you to vote 'nay' on his confirmation as my representative in Congress. Your actions in this matter will definitely influence me when it is time for you to return to Congress. Thank you very much."

An Alexandria engineer refers to Rockefeller's performance as Governor of New York:

"I hope you will vote against Nelson Rockefeller for Vice President for the following two reasons:

"1. We cannot afford him based on his performance in New York State.

"2. There is a basic Conflict of Interest. His fifteen family controlled tax-free foundations and twenty-one corporations plus many interlocking directorates cannot be expunged from his influence. He and most of his foundations appear to favor Internationalist/Socialist projects not in the interests of the people of the United States.

"Based on his performance alone he is not potential presidential material.

"P.S. I voted for him when I lived in New York State to my regret."

A Galax couple is concerned about his internationalism and trade with the communists:

"The contemptible and ironic nomination of Nelson Rockefeller for Vice President, by President Ford, has brought to my attention the morbid facts that Mr. Rockefeller's dealings with the Communists may well bring forces to promote trade with the Communist rule.

"I urge you to take a strong stand in opposing Mr. Rockefeller's confirmation for the Vice-Presidency. Our political representatives cannot ignore the facts which prove Nelson Rockefeller incompetent for this position—a 'heartbeat away' from the Presidency.

"Nelson Rockefeller is of the super-rich clique and an internationalist. In 1967, Cyrus S. Eaton, Sr. and Mr. Rockefeller joined forces to promote trade with the Communist world. Combining the power of politics and the control of money forbodes a calamity far worse than Watergate. We frankly don't trust him to uphold the Constitution of the United States and the well-being of its citizens were he to become President.

"I believe many Americans sense the dire consequences awaiting us because of past political experiences. Therefore, we urge you again to use your influence against confirmation of Mr. Rockefeller."

Quite a few of these letters appear to be from women, with a Colonial Heights lady indicating that the rank and file within the Republican Party do not support him:

"When the time comes to vote for or against the confirmation of Nelson Rockefeller as the vice-president of this great nation, please take this into consideration:

"This nation needs leaders that are supported by the people. Nelson Rockefeller has been defeated by the rank and file members of his party in his bid for the office of President. This should be sufficient in your determination on his acceptability as presidential material.

"After he was rejected by the delegates at the convention he did not support the party's nominee Barry Goldwater. I supported Mr. Goldwater.

"I wish more people had paid less attention to the press. This country needed a man like

Goldwater rather than a Johnson or a Rockefeller.

"This country needs a man that has fiscal responsibility. Nelson Rockefeller's record in New York shows the one thing he ain't is a conservative or even a moderate.

"This country doesn't need Nelson Rockefeller as vice-president. The people have said no on several occasions. Cast a nay vote for us, please."

The chairman of the Lynchburg Chapter of the Society for Human Life is disappointed with his stand on abortion:

"The nomination of Nelson Rockefeller for the Vice Presidency was a sad disappointment. Mr. Rockefeller is perhaps the single most influential abortion advocate in public life. Prior to the Supreme Court abortion decision of January 2, 1973 New York State had a State law which permitted abortion on demand. This law had been passed by one vote in 1970. Two years later, in 1972, a new State legislature repealed the permissive law, again greatly restricting the practice of abortion. Governor Nelson Rockefeller vetoed this law, thereby returning the State back to the practice of abortion on demand.

"The Lynchburg Chapter of Virginia Society for Human Life opposes the Rockefeller nomination and asks that you do the same. The best interests of this country would be better served by someone more supportive of the right to life—the most basic of all rights."

An Arlington lady does not feel he should be forced upon the American people:

"I want to let you know that I am opposed to the confirmation of Rockefeller as Vice President. The American people do not want him, and I do not think that Congress should force him on the American people. He is not going to help the American people, and he certainly is not going to stop inflation. We need a conservative as Vice President to offset those liberals that Ford is appointing to office.

"I hope and pray that you will act wisely and vote no for his confirmation. You know that he is lying about his finances."

A Harrisonburg doctor considers him "unfit":

"I have reviewed the record of Nelson Rockefeller in New York State and consider him unfit to become Vice President of the U.S. I hope you will vote against his confirmation."

A Lincoln couple speaks of his help to Communists:

"Mrs. Vermilye and I feel very strongly about the nomination of Nelson Rockefeller for Vice President of the United States. We are against it.

"Nelson Rockefeller is for international trade whether it is in the interests of the United States or not. His International Basic Economy Corp. with its affiliated Tower Corp of Cyrus Eaton are very actively promoting the exporting of our technological know-how to the Soviet Union under the guise of detente. This is a one-way exchange of ideas. Who will benefit from this exchange? The Rockefellers and the Eatons financially. The Soviets will use this information and highly sophisticated "tools" to "bury us" economically.

"Will we ever learn? I have lived a lot longer than you, Senator and have seen it happen.

"Please in the interest of long range planning, do not vote for this man."

A lady from Great Falls says the good of the country would be served by his rejection:

"I urge you to vote against the confirmation of Nelson Rockefeller as Vice-President of the United States. In times such as these the good of our country should be considered before party politics."

An Alexandria lady indicates she cannot vote for anyone who votes for Rockefeller:

"This is to express my deep opposition to the confirmation of Nelson Rockefeller for vice-president.

"My feeling is based on two points: He controls too much money to be placed in a position of such potential power; According to newspaper reports he divorced his wife of many years to marry, a younger woman. If he will treat his wife so selfishly what will he do to us taxpayers? I do not feel he has set an appropriate example for the rest of the country; as a leader this counts.

"I have always voted for you but in the future I do not feel I could vote for anyone who votes for Rockefeller."

An Amherst gentleman indicates his past record is not good:

"I received your news-letter a few days ago and thank you for sending it. In regard to the Rockefeller nomination, I am against his being confirmed as Vice President. His past record is not good and I don't think that he will do the country any good as Vice President. I am surprised that he accepted second place."

A couple from McLean objects to his connection with the oil monopoly:

"As registered Virginia voters, we urge you to vote against confirmation of Nelson A. Rockefeller as vice-president of the United States.

"In our opinion, much of the blame for the present troubled state of the economy and the country must be assumed by those who have allowed big business to control our political system. We heartily oppose awarding the vice presidency to a man whose very name is synonymous with big business.

"We particularly object to Mr. Rockefeller's connections with the oil monopoly—an industry that has held the White House and much of Congress in the palm of its hand for the past six years. We think it is time that they relinquish the excessive power they have to control our lives, political and otherwise, and that we citizens take it back. This can't happen if one of their very own is second in command of the country.

"In another light, we abhorred Mr. Rockefeller's handling of the now almost forgotten Attica Riots. His inept, tragic fumbling caused unnecessary bloodshed and heartache to many and demonstrated his inability to deal with social problems as well as pointing out the extent to which he is out of touch with real people.

"As you make your decision on confirmation of Mr. Rockefeller, we urge you to take these and other opposing viewpoints into serious account. Big business has had your ear for a long time—its *our* turn!"

A Portsmouth constituent is just against him:

"Being a qualified voter in the state of Virginia, I feel I must inform you of my disapproval of Nelson Rockefeller as the Vice-President of the United States. Please vote against his appointment."

A history professor feels that he represents the leftist element:

"Please allow me, as one of your most energetic supporters on this University's faculty, to urge that you cast your vote against confirmation of Nelson A. Rockefeller as Vice-President, when the Senate turns to consideration of Mr. Ford's nomination of the former New York governor.

"Mr. Rockefeller represents a leftish element in the Republican Party seldom accepted (nationwide) by the public, and in Mr. Rockefeller's case always repudiated by the national party at large during the ex-Governor's bids for the Presidency.

"I sincerely consider President Ford's nomination of Mr. Rockefeller to be a step toward national disaster and earnestly hope that you and Senator Byrd will refuse to vote to confirm this wretched and shocking White House choice."

A Norfolk gentleman refers to the moral issue:

"Irresponsible or negligent rationalization, especially on moral issues, is one of the most destructive of the sacredness of the values inherent in our constitution, and thus of our Nation.

"Nelson Rockefeller, in 1972 as Governor of New York, blatantly demonstrated this irresponsibility by his veto of that State's Abortion Repeal Law. I am unalterably opposed to his confirmation as vice president!"

An Alexandria constituent states that his long range views are not in the best interests of the Nation:

"I have just read your Bill Scott Reports, and my views are very strong AGAINST the nomination of Mr. Rockefeller as Vice President. This man's actions through his political career and private life have shown me that his true long-range desires ARE NOT in the best interests for this REPUBLIC!"

And a Hot Springs couple indicates Rockefeller has hurt the economy and taxpayers in New York State:

"As a taxpayer of Virginia I would like to request that you vote against the confirmation of Rockefeller as Vice President. It is no secret how Rockefeller has hurt the economy and the taxpayers of New York State. Do you want to see his policies to further boost the inflation that is destroying us today?

"How long will it take the Senate to confirm him if they investigate the 300 corporations that he owns?

"Also—the fact that he paid only $600.00 income tax in 1972. Less than a man making $6,000.00 a year.

"So you can see what a man like that would do to our National economy.

"Please, for the sake of all the people in these United States—'Look Before You Vote.'"

Mr. President, I took this time and read samples of some of the mail we are receiving to let the Senate know the thinking of the people of Virginia regarding the Rockefeller nomination. I am sure most Senators have received mail for and against confirmation. The reason for reading such a large sampling of my mail is because of the overwhelming nature of it—85 percent against confirmation. This may well indicate how my vote will be cast.

ORDER OF BUSINESS

Mr. MOSS. Mr. President, I ask unanimous consent to make a unanimous-consent request, without the time being charged to the time of the Senator from Alaska, who is to be recognized next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY FROM EXECUTIVE J, 93D CONGRESS, 2D SESSION, AND EXECUTIVE K, 93D CONGRESS, 2D SESSION, AND ORDER FOR REFERRAL TO THE COMMITTEE ON FOREIGN RELATIONS

Mr. MOSS. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the International Telecommunication Convention reached at Malaga-Torremolinos on October 25, 1973 (Executive J, 93d Cong., 2d sess.); and amendments to the International Convention for the Safety of Life at Sea, adopted on November 20, 1973, by the Assembly of the Inter-Governmental Maritime Consultative Organization at its eighth session (Executive K, 93d Cong., 2d sess.), both of which were transmitted to the Senate by the President of the United States today.

The ACTING PRESIDENT pro tempore (Mr. METCALF). Without objection, it is so ordered.

Mr. MOSS. I also ask unanimous consent that the treaties be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's messages be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The messages are as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate, amendments to seven regulations contained in Chapters II, III, IV and V of the International Convention for the Safety of Life at Sea, 1960, and an amendment replacing and superseding the regulations in Chapter VI of that Convention, all of which were adopted on November 20, 1973, by the Assembly of the Inter-Governmental Maritime Consultative Organization (IMCO) at its eighth session.

The amendments to Chapters II, III, IV and V are directed toward the improvement of safety of navigation and were recommended by the Maritime Safety Committee of IMCO at its 24th through 27th sessions. The amendment to Chapter VI, Carriage of Grain, will replace and supersede the existing Chapter VI in its entirety. It is directed toward the improvement of safety requirements for the carriage of grain in bulk, and was recommended by the Maritime Safety Committee at its 27th session.

The United States Delegation to the IMCO Assembly actively supported the amendments, some of which had been formulated at United States initiative. The enclosed report of the Department of State provides additional information concerning the amendments.

The amendments represent significant improvements in the standards for ship safety. I recommend that the Senate give its advice and consent to acceptance of the amendments by the United States.

GERALD R. FORD.

THE WHITE HOUSE, *October 17, 1974.*

To the Senate of the United States:

For advice and consent to ratification, International Telecommunication Convention reached at Malaga-Torremolinos on October 25, 1973. This transmittal also includes the Annexes and Final Protocol to the Convention, as well as a report by the Department of State.

This new Convention will abrogate and replace the International Telecommunication Convention of 1965. It generally follows the provisions of the 1965 Convention with a considerable number of minor improvements and a few major modifications to take account of technical developments in the field and developments in international organizations.

One notable change from the 1965 Convention is the deletion of the separate membership of the territories of the several member States, including the United States. Although this change will deprive the United States of its vote on behalf of the territories, the redistribution of financial obligations which accompany this change will result in a relatively lower financial contribution from this country.

The International Telecommunication Convention constitutes the procedural and organizational framework for the orderly conduct of international telecommunications, and it is in the public and commercial interest of the United States to continue to play an active role within this framework. I recommend that the Senate give early and favorable consideration to this new Convention, and subject to a reservation noted in the Senate Department report, give its advice and consent to ratification.

GERALD R. FORD.

THE WHITE HOUSE, *October 17, 1974.*

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alaska (Mr. STEVENS) is recognized for not to exceed 15 minutes.

MILITARY RECREATIONAL FACILITIES IN ALASKA

Mr. STEVENS. Mr. President, a disturbing matter has been brought to my attention which I believe must be aired in this forum. It is a matter disturbing mostly because it has arisen out of insufficient knowledge and misinformation. It goes without saying that each area of this vast country of ours has its unique problems, situations and characteristics, and that each section must be dealt with on an individual basis. Yet, recent statements by the Senator from Wisconsin (Mr. PROXMIRE) indicate that he has used the measuring stick applicable to the Midwest to judge matters in Alaska. It is to my distinguished colleague's recent statements concerning recreational facilities for the military that I address my remarks.

The Senator from Wisconsin (Mr. PROXMIRE) recently criticized the use of military funds and personnel to provide recreational facilities for enlisted and officer personnel in Alaska, and asked the General Accounting Office for statistics on the fishing and recreational camps. Let me provide some statistics for my colleague:

The mission of the military in my State—which is one-fifth the size of the entire continental United States, requires that the troops be widely disbursed. A portion of these troops are alone, with no civilian community nearby; generally, the locations are land-locked, some without even road connection to other towns, or the outside world. The climate of Alaska is infamous for its harshness—its cold, darkness in the long winters, and a very short outdoor summer season.

Recreational opportunities nearby the military installations in Alaska are sparse at best—and nonexistent in many cases. We have climate and terrain that requires a lot of knowledge of outdoors activities—one simply cannot go walking off into the Alaska wilds for an outing with no preparation and improper equipment. One cannot simply get into a rowboat for a weekend of fishing—our tides and storms create high risks and lack of safety and observation devices increase those risks even further. Given these conditions, it is essential that proper, safe, and enjoyable recreational facilities be available to our military personnel in Alaska.

Military regulations charge the branches of the service with responsibility for maintaining the welfare of their members—mental health and outlook come under this responsibility, and so the military all over the world maintains recreational areas for its personnel. Taking into account the conditions in Alaska—which as I have said, are vastly different from those in the Midwest I hope my colleague would agree that Alaska is one of the harshest proving grounds in the world—yet we turn out some of the best military troops for our country. These personnel deserve their rest and relaxation. They must look forward to that brief respite from the grueling rigors of a simple existence in our outposts in Alaska, and work in Alaska's harsh climate and throughout our rural country with the thought of this recreation ahead of them.

My colleague talks about the fish camps as though they are luxury establishments for the military brass and their VIP guests. I want to set the record straight with some statistics on that.

First, there is a total of four recreation camps in the entire State—to serve some 24,000 military personnel plus all of their dependents. Only 31 out-of-State people, only 2 of those civilians, visited the camps last year.

There is no discrimination between officers and enlisted men when it comes to going to the camps. All have to sign up on the waiting lists—in fact, the post commander at Fort Wainwright, one of our largest installations in the State, could not go to the Seward Fishing Camp last year, because he did not get his name in in time. There are no cabins maintained specifically for officers or VIP guests—they come under the same rules that apply to every other person.

With the enlisted person's take-home pay, there is very little left over for recreation, and without the recreation camps, there would be few places—taking into account the great distances to be traveled in my State—where the enlisted person and family could vacation. This is a particularly acute situation after a winter in the North, where for 5 months there is little daylight, intense cold, and few recreation outlets.

So let me talk a little bit about these camps themselves. As I have said, they are hardly luxury installations. Take the camp at Seward—there are actually two camps, one operated by the Army and one by the Air Force. Seward is located 135 miles from our large military bases—the Air Force base at Elmendorf and the Army base at Fort Richardson. There are other camps at Naknek-King Salmon in western Alaska, 260 miles from Elmendorf and Fort Richardson, and at Birch Lake, 38 miles from the Air Force base at Eielson near Fairbanks in the interior of Alaska.

At Seward, there are small cabins, small boats and little else. R. & R. here means getting away from base and post and that is about all—and it is no widely equipped facility.

The camps are operated predominantly by part-time personnel, mostly civilian and temporary duty military people.

The average length of stay at the camps is 3 days—and at the Seward camp, for instance, a person is allowed to have a boat for 1 of the 3 days. Commanding generals are allowed the boat for just 1 of their 3 days just like any other military person. These boats are just the barest shells. They are not large boats. They are boats adequate for the situation there and Resurrection Bay and Seward. They are seaworthy and equipped for the waters of Resurrection Bay but they are not fancy boats.

In Seward, for example, it costs $6.50 a night to stay in a cabin. The dorm space would cost $4. Trailer spaces would be $1 a night, and you would have to pay $1 for a package of fish bait. It is a great place to fish, I have fished there often myself.

The camps are open for only a short summer season, from June until the first week of September, and there are long lists waiting for the opportunity to go to this camp. Less than one-tenth of those who attended the Seward Camp last year were officers.

The Army is projecting an additional 400 combat troops for Alaska next year. These men will be in the lower enlisted ranks and would be unable to seek R. & R. anywhere else if these camps were not available.

In Seward let me give a rundown of this past summer's attendance at just the Army camp. From the troop units there were 1,665 personnel; enlisted 375; enlisted dependents—that is, the dependents of enlisted personnel—1,488. There were 276 officers, and 1,104 officers' dependents. There were 56 retired military and 224 retired military dependents.

The military people in Alaska—both enlisted and the officers—inform me that the esprit de corps has increased dramatically since this program of taking entire squads to the fishing camps began this summer.

This is essential, I feel, to the smooth functioning of the activities of the military through the long winter months to know that this R. & R. will be available.

The facilities for R. & R. are vital to a continuous, smooth operation of our people in Alaska, and it has been recognized even by our new company, the Alyeska Pipeline Co., the consortium of oil companies which is building the largest project ever undertaken by private industry in the world, our Alaska pipeline. Alyeska has recognized the need for recreational facilities, and it is providing similar R. & R. camps for its workers.

Mr. President, I feel that it is most unfortunate that our military recreation camps are attacked by people who have not been either to the camps or to the military installations in Alaska from where these personnel come to take their R. & R. at the fishing camps.

I cannot recall, Mr. President, having ever received a single complaint from a long-time Alaskan about the operation of these camps for the military personnel in Alaska.

I hope my remarks will help to correct some of the misconceptions being generated by my colleague from Wisconsin. The mental health and well-being of our military are something about which I am most concerned and, given the conditions found at the military installations in Alaska, I feel the troops who serve there, serve the United States as a whole as well as defend our State of Alaska, deserve this small amount of R. & R. that these recreation camps have afforded in the past and I, for one, shall continue to support them in the future.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Alaska has 7 minutes remaining.

THE SLAUGHTER OF CALVES

Mr. STEVENS. Mr. President, on an unrelated matter, and in view of the interest of my good friend, the Senator from Wisconsin, in the activities in Alaska, I wish to inform the Senate that I have asked the General Accounting Office to undertake an investigation for me. I have asked the General Accounting Office to find out whether any of those people in Wisconsin who have callously murdered so many of those calves, the beef that was slaughtered the other day, to make an example to the country about beef prices, whether any of them received any Federal assistance of any type in the past. I think we should know whether these people, who are committing acts like that, have received assistance from our Federal programs in the past because I, for one, intend to do what I can to stop such programs if these people insist upon destroying the protein represented by those calves, the baby beef. In particular, I would just like my friend, the Senator from Wisconsin, to know that we in Alaska intend to take a little bit of a look at what is going on up there.

There was a great deal of publicity throughout the Nation about that activity in Wisconsin, and I shall report to the Senate the result of the GAO invesitgation if that agency agrees to make one.

I am informed there was a substantial amount of subsidy money that went into Wisconsin in the last 3 or 4 years under some of the soil conservation and other programs, and I would like to know if these people who slaughtered those beef cattle received any of that money because, it seems to me, that is the kind of thing that, perhaps, the Senator from Wisconsin would examine as he looks to the concept of whether or not the R. & R. provided to our military personnel in Alaska is truly a waste.

I yield the remainder of my time to the Senator from Illinois.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. MOSS. Mr. President, I am authorized by the majority leader to yield to the Senator from Illinois such time as is allotted to the majority leader under the special order, as he may wish to use and, therefore, no additional time is needed beyond the remainder of the order for the Senator from Alaska to yield.

The ACTING PRESIDENT pro tempore. Very well. The Senator from Montana reserved 15 minutes, and the Senator from Illinois has the remaining time of the Senator from Alaska plus 15 minutes from the Senator from Montana.

Mr. PERCY. I thank my distinguished colleagues, the Senator from Alaska and also the acting majority leader, for their generosity.

Before the distinguished Senator from Alaska leaves the Chamber, I would like to express my own appreciation to him, from his own firsthand knowledge, for clarifying the situation regarding recreation facilities in Alaska. I think he has rendered a service to all of us in reporting from his own experience what the situation is so as to put it in proper prospective.

Second, as a delegate to the United Nations, I have been struck by the feeling of revulsion that I have witnessed on the part of people who are visiting the U.N., delegates to the U.N. from various countries, as they have seen this needless slaughter of cattle on our television.

We are dealing in a world that is hungry; we are dealing in a world where hundreds of millions of people may die this year. The action taken by cattle growers in slaughtering animals in order to increase prices must, in effect, signal a lack of concern about the needy in our own country, about the very high prices we are paying for food, and further seem to signal utter disdain for the dismaying fact that this slaughter of animals must take place in a world where people are starving.

I have recently returned from the subcontinent where I have seen people who are existing on just one meager meal a day.

Again, I think the distinguished Senator from Alaska has rendered a service by asking GAO to study and investigate this matter, and I hope all of us will see fit to study what can be done to prevent such needless actions taking place in the future.

I thank my distinguished colleague.

Mr. President, I shall speak on three separate subjects this morning.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

THE FLOODS IN BANGLADESH

Mr. PERCY. Mr. President, this fall, I am serving as a member of the U.S. delegation to the 29th U.N. General Assembly together with my distinguished colleague, the Senator from Missouri (Mr. SYMINGTON). I have already found that the experience has added new dimensions to my own understanding of the complex problems that face us all on this planet.

I mention this because last week I had the opportunity to spend time with Sheikh Mujibur Rahman, the impressive Prime Minister of the People's Republic of Bangladesh. As a national leader he is beset with massive problems. Bangladesh is a poor nation. Its population is massive compared to its resource base. It has been scarred by civil war and devastated by recent floods.

July and August 1974 brought the worst floods in memory to the people of

Bangladesh. More than 20 thousand square miles of countryside were submerged. Nearly 30 million people were affected. More than 1 million tons of crops have been destroyed, a large number of houses, schools, and roads have been washed away. But, reports the Prime Minister, the spirit which has sustained the people each time a natural calamity struck them is visible once again. The people and the government are using all available resources to repair flood damage. The international community has come forward with offers of assistance. The United Nations agencies, friendly governments, including our own, and the International Red Cross have donated money, food, and medicines which are being distributed among the flood victims under the strict supervision of government officials to avoid past mismanagement.

The floods have made the task of quick economic recovery more difficult. But the Prime Minister says that simultaneously with flood protection and relief, the government is moving forward to mobilize necessary resources for correcting existing imbalances and to implement high-priority development programs in the agricultural and industrial sectors.

This is a difficult period for our own country, and the challenges before us in the Congress are great. But our problems pale before those confronting the courageous people of Bangladesh and their dedicated leader. They need and deserve all the help that we and other countries and people of the world can offer to them at this time of great need. Our hearts go out to those who are suffering so greatly.

PRESIDENT FORD'S APPEARANCE BEFORE THE HOUSE

Mr. PERCY. Mr. President, the remarkable fact that President Ford came voluntarily before the House subcommittee this morning was a very helpful step toward achieving the "domestic tranquillity" that he and all of us seek.

The President's detailed explanation of the pardon of Mr. Nixon did a great deal to clear the air. It reflected the kind of openness and candor that we so badly need to restore public confidence in government.

Though many of us may still have reservations about the timing of the pardon, we can fully accept the President's flat statement that "no deal was made" and respect his belief that he was acting in the public interest.

ROCKEFELLER NOMINATION

Mr. PERCY. Mr. President, I am deeply disturbed by the continuing delays in the confirmation process as it relates to Vice-President-designate Nelson Rockefeller.

It has been 8 weeks since President Ford nominated Governor Rockefeller to be Vice President—a nomination which was greeted with widespread, bipartisan praise. Both in Congress and throughout the country, most of us recognized that few, if any, Americans are better qualified to hold national office than the former four-term Governor of New York.

But now almost 2 months have passed, and we still have not been able to vote on this critical nomination. The House Judiciary Committee has not even commenced its hearings, and we learned only yesterday that our own Rules Committee does not intend to reopen its hearings until after the coming elections, themselves still almost 3 weeks away. And most distressing, the United States remains without a Vice President, day after day, week after week, month after month. Considering the history of the past 11 years, when twice Vice Presidents have been suddenly called upon to assume the Presidency, it seems to me imperative that the Congress act on this pending nomination with the greatest possible dispatch.

I do not for a moment suggest that we bypass a thorough investigation of this nominee's background; to do so would be to bypass our constitutional responsibilities in this matter.

I do, however, suggest that 8 weeks should have been ample time in which to conduct such an investigation and subsequently to move on to final confirmation hearings.

After all, there has been complete disclosure by the Vice-Presidential nominee and submission to the respective committees of everything that they have asked for. He has appeared in personal testimony before the Senate, and has stood ready at any time to appear and testify before the House committee; and certainly a man who has been in public life as long as Nelson Rockefeller, for the most part, his words, his deeds, his actions, his thoughts, are public knowledge.

In recent days, information has been made public which troubles many Members of Congress—information dealing with Governor Rockefeller's financial gifts to political associates, as well as with a campaign biography of Arthur Goldberg which was financed by the Governor's brother.

Both the gifts and the book are legitimate subjects for further inquiry by Congress. Mr. Rockefeller understands this, and has requested an immediate reopening of his Vice Presidential confirmation hearings so that he may answer any and all questions concerning these subjects. To me, this seems an entirely appropriate and reasonable request, and I would respectfully urge Chairman CANNON to reconsider his decision on the timing of additional hearings.

Can they be held as soon as all preliminary investigative work has been done?

It would seem to the Senator from Illinois that the urgency of the situation would require such a decision by the committee.

Let us be completely honest with ourselves about this: if the majority congressional leadership wishes to do so, it undoubtedly can delay the confirmation process ad infinitum, until at last the Rockefeller nomination withers and dies, whence we would begin the process all over again, quite possibly with a less highly qualified nominee. I hope that will not happen, because I believe that the Ford administration and the country need the talents and experience of Nelson Rockefeller in high public office, and we need those talents and that experience at the earliest possible moment.

Let us not gloss over his mistakes and misjudgments; like all of us, he has compiled his full share of them, and would be the first to admit it. But let us not nitpick this outstanding nomination to death, either. Let us give Governor Rockefeller an early opportunity to answer whatever questions we may have, and then let us vote his nomination up or down. Our country needs a constitutionally selected successor to the President. Six weeks ago, President Ford met his responsibility in this regard, and met it well. Now it is time that we meet ours.

ENERGY CRISIS AND AMERICA'S RESPONSE

Mr. PERCY. Mr. President, for the past year the oil-consuming nations of the world, developed as well as developing, have floundered in a sea of financial and economic uncertainty. A simultaneous downturn in the economies of these nations heightened fears of rising unemployment and zero or declining rates of growth. Raging global inflation continues, even threatens to accelerate. There are growing shortages in worldwide food supplies. Commodity prices have skyrocketed.

The fourfold increase in the price of crude oil engineered by the Organization of Petroleum Exporting Nations—OPEC—is, without question, what has contributed most to international economic instability. The international payment imbalances generated by this cartel administered price of the world's most important energy source were immediate and increasingly ruinous. More than anything else the precipitous nature of this enormous price rise prevented an orderly financial adjustment by the effected nations.

In 1972 the OPEC nations earned $15 billion from their export of crude oil. The earnings grew to $25 billion in 1973. In 1974 their estimated receipts will be roughly $80 billion. The United States alone will pay $22.5 billion for oil imports from the OPEC nations in 1974, up from $3.6 billion in 1972 and $6.7 billion in 1973.

The staggering price rises constitute an enormous "excise" tax on oil-consuming nations, rich and poor alike. Some painful adjustments have been made to the new economic and financial realities imposed by OPEC. Worldwide consumption of petroleum has declined slightly in 1974, rather than increasing at a 7- to 10-percent rate as anticipated. Resulting shortages of certain key products such as fertilizers and petrochemicals have worked a real hardship in many underdeveloped nations. Meanwhile, the fires of inflation have been further fueled. And major adjustments have been made in the international financial structure to facilitate the "recycling" of the bulk of the surplus OPEC funds—approximately $55 billion this year alone—back into the hands of oil consumers in order to finance further petroleum purchases.

The immediate shock of the OPEC action has been absorbed. Financial markets in Europe and the United States, as well as special lending facilities established by the International Monetary Fund, have been successful in insuring that the short-term deposits of the OPEC nations are rechanneled in the form of long-term loans to most of those nations in need. But we must not be lulled into inaction by this short-term resiliency. In the end, the overburdened world financial system may crumble. One by one, countries could collapse economically with resulting international bankruptcy. This would hardly be beneficial to the oil producers who are desirous of industrialization, diversification, and trade.

The oil-consuming nations cannot survive by merely coping with the present situation. The stated subject of these hearings, recycling petrodollars, can only probably provide a temporary answer at best. Whatever means are developed, they can only deal with the problem over a short period. Instead we need a coherent, long-term strategy to reduce oil prices and lessen the impact of higher prices. The dangers of inaction are clear. The tools for achieving this strategy are few and call for sacrifice by us all.

Withholding industrtial and technological goods and services from the oil producing countries, or dramatically raising the prices for such goods and services in retaliation for the OPEC cartel policies invites confrontation that should be avoided.

Vague public threats of political, even military action, if the oil prices menace the fundamental health of the economies of the oil consuming nations are not the answer. Political or military action risk bringing about unforeseen results, and are inconsistent with our objective to find peaceful solutions to the world's problems.

Thus far the American response has been to seek coordination with our European allies in formulating stockpiling and distribution programs in the event of another oil boycott. At the same time, long-term programs designed to expand domestic energy supplies and decrease our dependence on energy imports have been initiated. These are hopeful moves. Nonetheless, it is clear to me that little has been done to fashion a tough and coherent domestic energy policy which should have a desirable effect on the OPEC oil prices.

A cornerstone of our domestic energy policy must be energy conservation. To date, oil conservation efforts have been undertaken mainly in response to higher prices. American demand for oil dropped 5 percent during the first 8 months of 1974. But there are unmistakable signs that oil consumers are returning to their profligate ways. Thus far token pledges have been substituted for changes in our basic consumption pattern.

While I am all for voluntary conservation whenever possible, it is my own judgment exhortations about saving 1 million barrels of oil per day or driving 5 percent less are not enough. What is needed most is a firm display of national resolve to reduce our oil needs and a program appropriate to the crisis we face.

The best way to accomplish this goal, most consistent with the statements of the OPEC leaders, is to take decisive action to reduce dramatically petroleum consumption in this country. In that way, we would make it unmistakably clear that the United States, for one, means business about reducing imports. And we must do so now.

I simply do not feel that a voluntary program is going to work; nor do I think the crisis that we face allows us the time to hope that it will work and then take corrective action if it does not work.

We cannot risk that; there must be a uniformity of sacrifice that is made, and that can really only be done by a program enunciated by our national leadership.

Examples of what must now be considered include:

First. Must increase taxes on gasoline with appropriate tax rebates to relieve hardships. These taxes should be at least sufficient to balance the Federal budget and hopefully reduce gasoline consumption;

Second. A month by month mandatory, steady reduction in petroleum imports so as to reduce by 1976, present levels imported by 30 percent.

That would mean that by 1976 we would have reduced our imports by 2 million barrels per day.

Third. Develop mandatory reductions in gasoline consumption such as imposing at the manufacturers' levels stiff taxes based on automobile mileage, strict enforcement of the 55 mile-per-hour speed limit, and mandatory "no drive" day, or days, for every American automobile.

Fourth. Mandatory conservation measures, such as restrictions on commercial and home heating, cooling, and lighting and adoption of insulation standards for all new construction.

Each of these presents some inequities and risks unintended distortions in the economy. But if the United States assumes leadership among the major oil importing nations by sharply reducing its oil imports it will be clear to the OPEC countries that we view oil prices as our number one inflation problem and one which we are committed to solve. It will also encourage the development of alternative nonpetroleum types of energy.

Mr. President, inasmuch as the majority leader is in the Chamber, I should like to ask the majority leader (Mr. MANSFIELD) if it would be possible for us to have a colloquy on where we stand with respect to the $300 billion limitation on spending, or ceiling on spending, asked for by the President.

I feel the Congress would overwhelmingly support that, in view of the fact that we have already passed three resolutions cutting spending to $295 billion. At this time, 3½ months after the beginning of the fiscal year, it would be unrealistic for us to assume we can turn the clock back and cut back to that extent.

But we still do have time to reduce expenditures to $300 billion.

While the Senate and the House are in recess, I would hope that we could in some way signal to the President that we would like that period of recess used by the Director of the Office of Management and Budget, OMB, to develop and send to the Congress on our return a budget for 1975 fiscal year reduced to the level of $300 billion, showing the areas where the administration would recommend we cut.

That would not preclude the administration, knowing that many Senators feel that it should be cut to $295 billion, from showing where further cuts could be made. At least we would get underway the procedure of having an official resubmission of the 1975 fiscal year budget to the Congress so that we could begin work on it in the month that we would have remaining in the session before we adjourn.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. MANSFIELD. I would agree with the latter part of the Senator's statement, but I am sure he knows more about the question he asked me insofar as the former part of his question is concerned.

As far as this side is concerned, we are prepared to vote for a $300 billion ceiling, but, unfortunately, there is a very strong hold on the Senator's side which indicates that a certain Senator would be opposed to taking up this resolution at this time because he wants to set the figure at $295 billion.

As the Senator knows, we have, on four occasions in this body, passed legislation calling for a ceiling of from $295 billion to $300 billion. There is nothing more that the joint leadership can do as long as the Senator on the other side indicates a hold on this legislation, which the Senator from Illinois introduced seeking to set a limit of $300 billion. Therefore, the Senate is stymied.

Mr. PERCY. I thank the distinguished leader for his explanation. As he has indicated, the Senator from Illinois is well aware of the procedural problem that we now face in the Senate.

Mr. MANSFIELD. Plus the fact that the Senator from Illinois does have a resolution on the calendar—it has been on the calendar since the 15th—to establish a ceiling on fiscal year 1975 expenditures, which I think calls for a $300 billion figure.

Mr. PERCY. That is right, consistent with what the President has asked for in the spirit of wanting to cooperate with the Congress and get something rather than nothing.

It is the understanding and knowledge of the Senator from Illinois that unanimous consent would be required. Even though the distinguished Senator from Delaware is not in the Chamber, as a colleague and friend I would want to honor and respect his verbal indication to me that he would ask for a hold on this and not want it considered.

However, I put a practical question to the distinguished majority leader. The

President has asked that the Congress adopt a ceiling. The House has already passed the $300 billion ceiling, and it is at the desk of the Senate. The Senate has passed on three occasions a $295 billion ceiling, and there is no question, in the judgment of the Senator from Illinois, that the Senate wants to see a cut. It is just a question as to how much. The maximum ceiling would be $300 billion, considering that we have already adopted three times before, by an overwhelming vote, the $295 billion figure.

So I ask this question: Would it not then be wise for the executive branch of Government, rather than waiting for a formal piece of paper, to take into account that the House has acted, the Senate has previously acted, and the $300 billion would be the maximum budget figure that the Senate would like to see, and the indications would be that there would only be a fight to reduce that figure again to $295 billion?

Would it not be well, then, for the Director of OMB to use this period of the congressional recess to make up as a minimum and resubmit it to the Congress a budget based on $300 billion maximum spending, to take out of that budget every single dollar of additional money in good conscience that he can recommend, taking into account the lateness of the period that they could actually effect in that budget? At least as a bare minimum they should resubmit for our consideration on our return a $300 billion figure.

The ACTING PRESIDENT pro tempore. The time of the Senator from Illinois has expired.

Mr. MANSFIELD. Mr. President, I seek recognition under the morning hour.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes.

The Senator from Montana is recognized.

THE BUDGET

Mr. MANSFIELD. Continuing the colloquy with the distinguished Senator from Illinois (Mr. PERCY) I would agree completely, but I would point out that there are some pitfalls facing the budget for next year.

We find, for example, that the Defense Department is complaining already about inflation, and talking about a 15-percent increase in their budget. I would suggest most respectfully to the Office of Management and Budget that drastic cuts could be made in the defense establishment, in NASA, in foreign aid, and in the military aspects of the Atomic Energy Commission. But those seem to be sacred cows. Nobody wants to touch them downtown.

I would hope that if they do not do that downtown, then we would do it up here.

Mr. PERCY. I will join with the distinguished majority leader in saying I think there can be no sacred cows, either on the part of the Congress or the Executive, that we must cut, and we must cut in almost every area of spending.

I would also hope that the Director of OMB would strongly recommend new revenue, because there are new expenditures that we face—in unemployment compensation, in public service employment. We ought to present a balanced budget to fight the battle of inflation. New revenue is going to be required.

I have suggested on previous occasions a number of areas where I think new revenue can be gained. I trust that Congress will work closely with the executive branch in not only cutting expenses but also recognizing that we need to bring in new revenue. Certainly, the number one priority should be taxation of our oil companies, which can well afford now to pay substantially more in Federal income taxes than they have. Members of that industry have admitted to me that they were absolutely astounded that Congress has not already acted in this matter. There is revenue that can be picked up, that should be picked up, and Congress and the executive branch must work together in meeting this situation today.

I thank my distinguished colleague.

MESSAGES FROM THE HOUSE

MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT OF THE SENATE—ENROLLED BILLS SIGNED

A message from the House of Representatives received during the adjournment of the Senate, under the authority of the order of October 16, 1974, stated that the Speaker has signed the following enrolled bill and joint resolution:

S. 3355. An Act to amend the Controlled Substances Act to extend for three fiscal years the authorizations of appropriations for the administration and enforcement of that Act; and

H.J. Res. 1163. A joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes.

The enrolled bill and joint resolution were subsequently signed by the Acting President pro tempore (Mr. METCALF).

At 1 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that, on reconsideration, and two-thirds of the House of Representatives not having voted in the affirmative, the joint resolution (H.J. Res. 1163) making further continuing appropriations for the fiscal year 1975, and for other purposes, returned by the President of the United States with his objections, was not passed.

At 4:18 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House has passed the joint resolution (H.J. Res. 1167) making further continuing appropriations for the fiscal year ending June 30, 1975, and for other purposes, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 13157. An act to provide for the establishment of the Clara Barton National Historic Site, Maryland; John Day Fossil Beds National Monument, Oregon; Knife River Indian Villages National Historic Site, Massachusetts; Tuskegee Institute National Historic Site, Alabama; Martin Van Buren National Historic Site, New York; and Sewall-Belmont House National Historic Site, Washington, District of Columbia; and for other purposes.

H.R. 15736. An act to authorize, enlarge, and repair various Federal reclamation projects and programs, and for other purposes.

The ACTING PRESIDENT pro tempore subsequently signed the enrolled bills.

At 5:13 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House has agreed to, without amendment, the concurrent resolution (S. Con. Res. 120) providing for a conditional adjournment of the Congress from October 17, 1974, until November 18, 1974.

At 5:33 p.m., a message from the House of Representatives by Mr. Hackney announced that the Speaker had signed the following enrolled bills and joint resolution:

H.R. 13342. An act to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement.

H.R. 14217. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes.

H.J. Res. 1167. Joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. METCALF).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MANSFIELD (for Mr. MAGNUSON) from the Committee on Commerce, with an amendment:

S. 2093. A bill to amend the Horse Protection Act of 1970 to better effectuate its purposes (Rept. No. 93-1282).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. MANSFIELD (for Mr. WILLIAMS), from the Committee on Labor and Public Welfare:

Bert A. Gallegos, of Colorado, to be Director of the Office of Economic Opportunity.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that today, October 17, 1974, he presented to the President of the United States the following enrolled bills and joint resolutions:

S. 355. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for the fiscal years 1975 and 1976; to provide for the remedy of certain defective motor vehicles without charge to the owners thereof; to require that schoolbus safety standards be prescribed; to amend the Motor Vehicle Information and Cost Savings Act to provide for a special demonstration project; and for other purposes.

S. 605. An act to amend the Act of June 30, 1944, an Act "To provide for the establishment of the Harpers Ferry National Monument", and for other purposes.

S. 628. An act to amend chapter 83 of title 5, United States Code, to eliminate the annuity reduction made, in order to provide a surviving spouse with an annuity, during periods when the annuitant is not married.

S. 1411. An act to authorize the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings in North Dakota and South Dakota, and for other purposes.

S. 1412. An act to declare that certain federally owned lands are held by the United States in trust for the Sisseton-Wahpeton Tribe of the Lake Traverse Indian Reservation in North and South Dakota.

S. 1769. An act to reduce losses of life and property, through better fire prevention and control, and for other purposes.

S. 2348. An Act to amend the Canal Zone Code to transfer the functions of the Clerk of the United States District Court for the District of the Canal Zone with respect to the issuance and recording of marriage licenses, and related activities, to the civil affairs director of the Canal Zone Government, and for other purposes.

S. 2840. An Act to authorize the Secretary of Commerce and the Secretary of the Treasury to conduct a study of foreign direct and portfolio investment in the United States, and for other purposes.

S. 3007. An Act to authorize appropriations for the Indian Claims Commission for fiscal year 1975.

S. 3234. An Act to authorize a vigorous Federal program of research, development, and demonstration to assure the utilization of solar energy as a viable source for our national energy needs, and for other purposes.

S. 3473. An Act to authorize appropriations for the Department of State and the United States Informtaion Agency, and for other purposes.

S. 3698. An Act to amend the Atomic Energy Act of 1954, as amended, to enable Congress to concur in or disapprove international agreements for cooperation in regard to certain nuclear technology.

S. 3792. An Act to amend and extend the Export Administration Act of 1969.

S. 3838. An Act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes.

S. 3979. An Act to increase on an emergency basis the availability of reasonably priced mortgage credit for housing.

S.J. Res. 236. A Joint Resolution to provide for the indemnification of the Metropolitan Museum of New York for loss or damage suffered by objects in exhibition in the Union of Soviet Socialist Republics.

S.J. Res. 250. A Joint Resolution to extend the Regional Rail Reorganization Act's reporting date, and for other purposes.

S.J. Res. 251. A Joint Resolution to extend the authority of the Export-Import Bank of the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McCLURE:

S. 4152. A bill to amend the Act of October 13, 1964, to authorize the transfer of earned purchaser credits between national forests timber sale contracts. Referred to the Committee on Public Works.

By Mr. NUNN:

S. 4153. A bill to establish a Council on Judicial Tenure in the judicial branch of Government, to establish a procedure in addition to impeachment for the retirement of disabled justices and judges of the United States, and the removal of justices and judges whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MANSFIELD (for Mr. MAGNUSON and Mr. JACKSON):

S. 4154. A bill to amend the Act of December 27, 1950. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NUNN:

S. 4153. A bill to establish a Council on Judicial Tenure in the judicial branch of the Government, to establish a procedure in addition to impeachment for the retirement of disabled justices and judges of the United States, and the removal of justices and judges whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution, and for other purposes. Referred to the Committee on the Judiciary.

JUDICIAL TENURE ACT

Mr. NUNN. Mr. President, many lessons can be learned from the recent experiences of the Watergate era. We have been reminded that power can intoxicate its holders and can be abused by our highest governmental officials. We also saw, despite the severe strains that were placed on our system of government, that the system did in fact work and the abuses of power have been or are being dealt with. Nevertheless, public confidence in Government has been eroded to dangerously low levels.

I believe that all governmental officials must act to restore and maintain the public trust. In no branch of Government is this public confidence and support more necessary than in the judiciary. Our appointed Federal judges have a high degree of independence and do not have to answer to the people in the periodic elections faced by the President and Members of Congress.

We are fortunate to have the finest judicial system in the world. This fact has been reemphasized by the impartial justice exhibited to date during the numerous complex and difficult cases relating to the Watergate matter.

However, we must remember that experience has also vividly shown that no man or group of men can be assumed perfect. Abuse of power, corruption, and disability occur in all branches of Government. It is a simple fact that despite the overall high quality and integrity of our Federal bench an occasional judge misbehaves or becomes physically or mentally disabled and continues on the bench. The action or inaction of one such judge can erode or destroy public confidence, respect, and support for the efforts of 100 good judges.

When a Federal judge misbehaves, impeachment is the only formal mechanism presently available for removing him from office. Impeachment, however, is a complex, slow and cumbersome process.

In practical terms, the effect of this burdensome procedure is that many cases of misbehavior are not dealt with by the Congress since impeachment forces the legislative process to a halt. The heavier the legislative load becomes each year, the less likely we are to see impeachment used to remove Federal judges. In our Nation's history, only nine Federal judges have been impeached by the House and only four convicted by the Senate. The process in the House has generally been quite lengthy. Senate impeachment trials have lasted up to 6 weeks with the average impeachment trial lasting approximately 16 days. The last impeachment trial was in 1936, but I know of no one familiar with the judiciary system who would contend that since 1936 our judges have all met the constitutional criteria of good behavior.

In reporting a bill to establish an alternative removal procedure in 1940 the House Judiciary Committee pointed out that impeachment was not a practical means to remove judges:

> It is a governmental absurdity that the cumbersome machinery of impeachment must be resorted to in order to procure the ouster of a district or circuit judge.
>
> There must be a logical relationship between the importance and power of the respondent and the taking up of the time of the whole Senate in order to try him. Stability is essential, but there is nothing more ridiculous than the picture of a whole Senate sitting for 10 days to determine whether or not a district judge ought to be removed.

The need for a bill such as this is clear. Not only is impeachment a cumbersome and unrealistic check on the judicial branch today, it also fails to provide a fair and humane response in the case of a judge who has a permanent mental or physical disability. Such a judge is not consciously guilty of bad behavior, but he is still not capable of performing the critical duties of his office. The needs of the public demand that such a judge be replaced, but impeachment, with the humiliation and loss of benefits it entails, is too harsh a remedy.

Mr. President, our Nation's legislative affairs must be carried forward without undue interruption. Furthermore, the independence of our judiciary, so dependent upon public confidence, and so vital to our system of government, requires that any nonfrivolous charge of judicial misbehavior or disability be dealt with in a thorough, efficient, and impartial manner.

Commonsense dictates that we establish an effective alternative to impeachment for removing misbehaving or disabled Federal judges from office. The mere existence of such a procedure would be a powerful deterrent to help prevent judicial misconduct and encourage voluntary disability retirement. Even more importantly, by having an effective procedure to deal with misbehavior, public confidence will be maintained and enhanced in our judicial process and govermental system.

Mr. President, today I am introducing legislation to provide an alternative removal procedure. This does not in any way take the place of Congress right to impeach judges under the Constitution. It simply provides another removal mechanism. The judiciary, as an independent branch of Government holding all Federal judicial power under the Constitution, has the inherent power to enforce the standard of conduct required of its members. What is needed is effective machinery to implement this power. This bill provides such machinery.

My bill would establish a Council on Judicial Tenure within the judicial branch. The Council would be composed of judges elected by their fellow judges from each circuit, the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court. A panel of the Council would receive and investigate any written claims of misconduct or disability of a judge, including a Supreme Court Justice. The panel could either dismiss the complaint or report it to the Judicial Conference of the United States along with its recommendations.

The Judicial Conference is already established pursuant to section 331 of title 28 of the United States Code. It consists of the Chief Justice of the United States and the chief judge of each judicial circuit, the chief judge of the Court of Claims, the chief judge of the Court of Customs and Patent Appeals, and a district judge from each judicial circuit.

The Judicial Conference or one of its committees would then sit as a Federal court to decade the case. The Chief Justice would be precluded from taking part in the Conference's consideration of the case.

The council would act as an advocate for its recommendations in the proceedings before the Judicial Conference. The Conference could dismiss the complaint, censure, or remove the judge from office for misbehavior. In addition, a judge could be involuntarily retired if a mental or physical disability was seriously interfering with the performance of one or more of the critical duties of his office.

Experience has also shown that some method is needed to suspend the judicial powers of a judge until the conclusion of an inquiry where there is a substantial question as to that judge's fitness for office. This is essential for keeping the public trust.

This bill would give the Judicial Conference of the United States the discretion to suspend temporarily the judicial powers of a judge after it received a recommendation from the Council of Judicial Tenure that he be censured, removed, or retired from office.

All rights of due process would be accorded the judge. He could appear before the council and present a statement in his own behalf. At any hearing before the Judicial Conference the judge could be present, introduce evidence, be represented by counsel, and confront and cross-examine witnesses. If the Conference voted to remove the judge, he would have the right of appeal to the Supreme Court. Only after all these procedures are completed would the judge be removed from office and a successor appointed. It is important to note that a judge involuntarily retired under this bill would have an enforceable right to be assigned such work as he is willing and able to perform.

The idea for a judicial reform and for an alternative to impeachment has a long history. Professor Shartel stimulated much debate on the subject in the 1930's with his article on the supervision and removal of Federal judges. More recently, in the 1960's Joseph Borkin has documented many of the abuses of judicial power in his book entitled, "The Corrupt Judge." Donald Jackson's new book entitled, "Judges" also shows that problems exist within the judiciary. Numerous bills have been introduced to establish an alternative removal procedure. In 1940, the House passed such a bill introduced by Representative Hatton Summers, then chairman of the House Judiciary Committee. Over one-half of the States have established procedures within their respective governments for the removal of misbehaving or disabled State judges in addition to impeachment.

A great amount of credit is also due to former Senator Tydings who introduced legislation, modeled after California's procedure, to establish a commission with power to remove or retire Federal judges. House Judiciary chairman PETER RODINO also actively supported the Tydings bill and introduced parallel legislation in the House.

Senator Tydings' bill received impressive support from such respected people as Chief Justice Burger, Justice Rehnquist, and numerous Federal judges. The American Bar Association strongly endorsed the Tydings bill.

This is not to say that there has not been criticism of this important area of judicial reform. I have tried to respond fairly to the criticisms by correcting weaknesses of former bills. The bill I am introducing today is a refinement and modification of the Tydings concept.

In order to insure an accused judge due process, several changes have been made. The judicial council is more representative of the lower courts than the Commission under previous bills. Furthermore, the investigatory and judicial functions have been separated. An automatic right of appeal to the Supreme Court is provided for instead of relying on the right to file a writ of certiorari if the judge is ordered removed from office. The Chief Justice's role in the removal process has been limited to participation in Supreme Court review on appeal.

Another change from the Tydings proposal is in designating the judicial conference as a court of the United States when it acts in accordance with this act. This insures that the conference has the necessary powers to perform its duties, and that a decision of the conference will be a final one so as to insure the proper jurisdiction of the Supreme Court for review.

Any bill of this type raises immediate constitutional questions. However, I believe there is more than adequate support for its constitutionality. The Subcommittee on Improvements in Judicial Machinery held extensive hearings concerning the constitutionality from various sectors.

Chief Justice Burger, Justice Rehnquist, the American Bar Association, eminent impeachment expert Raol Berger, numerous Federal judges, and various law professors and law review articles have expressed the belief that such an approach is constitutional.

In conclusion, it is important to reemphasize that this bill would not encroach on the independence of the judiciary. Every procedure provided for in this bill would take place entirely within the judicial branch. The bill only provides enabling legislation which would assist the judiciary in exercising its inherent powers under the Constitution.

I believe that this new procedure would be effective for dealing with questions of judicial fitness. Members of the judiciary have a strong self-interest in insuring that the integrity of the courts is beyond question and that each judge is able to maintain his workload unimpaired by mental or physical disability.

Mr. President, I urge that this legislation be given careful consideration by my colleagues, and I am hopeful that after timely hearings this legislation will receive the approval of Congress.

Mr. President, I have concluded my remarks and ask unanimous consent that a brief summary of the Judicial Tenure Act of 1974 and the complete text of the bill be printed in the RECORD.

There being no objection, the summary and bill were ordered to be printed in the RECORD, as follows:

THE JUDICIAL TENURE ACT OF 1974

SUMMARY

The Judicial Tenure Act of 1974 establishes a Council on Judicial Tenure and a procedure, in addition to impeachment, for the retirement of disabled justices and judges of the United States. It further provides a procedure for the removal of justices and judges whose conduct is or has been inconsistent with the good behavior required by Article III, Section 1 of the Constitution.

The Act requires that the Council on Judicial Tenure be established in the judicial branch of Government and be composed of one member from each circuit, one member from the Court of Claims, one member from the Court of Customs and Patent Appeals and one member from the Customs Court.

The duty of the Judicial Tenure Council will be to receive and investigate each written complaint by any person concerning a justice or judge of the United States and to determine whether the grounds exist for removal, or retirement from office, or censure.

The complaint may either be dismissed or reported to the Judicial Conference of the

United States along with the Council's recommendations.

The Judicial Conference or one of its committees would then sit as a Federal court to decide the case. The Council on Judicial Tenure will appear and present materials and testimony in support of the recommendation of the Council.

All rights of due process and confidentiality will be accorded the accused justice or judge.

The Conference shall have the power in all cases brought before it, by majority vote to order the censure of any justice or judge; order the removal of any such justice or judge; order the involuntary retirement of any justice or judge; or to dismiss or remand to the Council any such case.

Procedures for involuntary retirement are included in this Act to give the power to the Judicial Conference to remove a justice or judge that is unable to efficiently discharge one or more of his critical duties by reason of a permanent mental or physical disability.

The Act provides for a review of the order of the Judicial Conference by the Supreme Court if it is requested by a judge under the order for removal, or a justice under the order of removal, retirement or censure.

S. 4153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Judicial Tenure Act".

PROCEDURES FOR REMOVAL AND INVOLUNTARY RETIREMENT

SEC. 2. (a) Chapter 17 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

"§ 377. Council on Judicial Tenure; establishment

"(a) There is established in the judicial branch of Government a Council on Judicial Tenure to further the honest, impartial, and efficient administration of justice in the courts of the United States in accordance with the duties imposed upon it by law.

"(b) The Council shall be composed of one member from each circuit, one member from the Court of Claims, one member from the Court of Custom and Patent Appeals, and one member from the Customs Court. Each member shall be a judge who is in regular active service. The member from each circuit shall be elected by the circuit and district judges of each circuit at a Judicial Conference of each circuit held pursuant to section 333 of this title. The members from the Court of Claims, Court of Customs and Patent Appeals, and Customs Court shall be elected by the judges of their respective courts. A judge who is a member of the Judicial Conference of the United States may not serve simultaneously as a member of the Council on Judicial Tenure. The members of the Council shall elect one of the members as Chairman of the Council.

"(c)(1) The term of each member of the Council shall be three years except that a member elected to fill a vacancy shall serve for the remainder of the term for which his predecessor was elected. A judge may serve on the Council for not more than two full terms except that a judge who fills a term that has been vacated may be reelected to the Council for one full term only.

"(2) The term of a member of the Council shall become vacant automatically when such member (A) resigns, retires or is permanently separated from regular active service as a judicial officer, (B) becomes a member of the Judicial Conference of the United States, or (C) becomes a justice of the United States.

"(d) Performance of duties as a member of the Council shall constitute the transaction of official business within the meaning of section 456 of this title.

"§ 378. Council on Judicial Tenure; duties and powers

"(a) It shall be the duty of the Council to receive and investigate each written complaint by any person concerning a justice or judge of the United States and to determine whether the grounds specified in section 372a of this title for removal of a justice or judge from office or censure or, in section 372 of this title for involuntary retirement of a justice or judge, exist. If, after a preliminary inquiry by the chairman, any such complaint is found to be frivolous, unwarranted, or insufficient in law or fact, the Council may dismiss such complaint. If such complaint is not dismissed, a panel appointed under subsection (b) shall conduct a hearing with respect to the fitness of such justice or judge.

"(b)(1) In carrying out its duties under this section the chairman of the Council shall appoint such panels, consisting of 5 members of the Council, at least 4 of whom are representatives of the circuit or district courts, as may be necessary in order that each complaint not dismissed under subsection (a) may be considered by such a panel.

"(2) For the purpose of the transaction of any business a quorum of any panel appointed under paragraph (1) shall be 3 members. A panel shall act upon the concurrence of any 3 of its members, except that the concurrence of 4 members is required to effect a recommendation to the Judicial Conference of the United States that any of the grounds specified in section 372 or 372a of this title for the involuntary retirement, removal of a justice or judge from office, or censure exist.

"(c) Whenever the Council orders an investigation or hearing with respect to the fitness of any justice or judge to continue in office, it shall provide not less than 30 days notice to such justice or judge of the date on which any hearing is to be conducted. Any justice or judge who is the subject of such an investigation has the right to appear at any such hearing, and make a statement in his own behalf. The Council shall maintain a record of any such hearing.

"(d) The panel shall make findings of fact and a determination regarding the fitness of such justice or judge not later than 90 days after the conclusion of any proceedings conducted pursuant to this section. Such findings and determination shall be entered on the record of such proceedings and shall be transmitted, together with any recommendation thereon, directly to the Judicial Conference of the United States, to the justice or judge under inquiry, and the complainant.

"(e)(1) The Council, or any panel designated by it, in carrying out its duties under this section may sit and act at such times and places, hold such hearings, take such testimony, require by subpena the attendance of such witnesses and the production of such books, records, papers, accounts, and documents, administer such oaths and issue such other orders as may be necessary. Subpenas and other orders shall be issued under the signature of the chairman or the member of a panel designated by the chairman. Any member of the Council or panel may administer oaths or affirmations to witnesses.

"(2) No person except the justice or judge who is the subject of an inquiry under this chapter shall be excused from attending and testifying or producing anything ordered to be produced by the Council or panel on the ground that the testimony or material required to be produced may tend to incriminate such person or subject such person to penalty or forfeiture. No such person shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce, after having claimed his privilege against self-incrimination, except that such person shall not be exempt from prosecution and punishment for perjury committed while so testifying.

"(3) In case of disobeyance to a subpena or other order issued under paragraph (1) of this subsection, the Council or panel may invoke the aid of any district court of the United States in requiring compliance with such subpena or order. Any district court of the United States within the jurisdiction in which the person is found or transacts business may, in case of contumacy or refusal to obey a subpena or order issued by the Council or panel, issue an order to issue such person to appear and testify, to produce such books, records, papers, accounts, and documents, and any failure to obey the order of the court shall be punished by the court as contempt thereof.

"(f) The Council is authorized to appoint and fix the compensation of an executive director and a permanent staff of attorneys and such other personnel as may be necessary to carry out its duties under this section.

"§ 379. Duties of the Judicial Conference relating to proceedings with respect to removal, censure, and involuntary retirement

"(a)(1) It shall be the duty of the Judicial Conference of the United States to elect, at its annual meeting, one member of the Conference to be the presiding officer on any matter concerning the removal, censure, or involuntary retirement of a justice or judge of the United States. The Chief Justice shall not participate in any activity or action, including the election of a presiding officer, by the Conference concerning the removal, censure, or involuntary retirement of any justice or judge of the United States.

"(2) The Conference, or, with the concurrence of a majority of its members, a committee of nine judges, appointed by the presiding officer elected under paragraph (1), (one of whom shall be the presiding officer elected under paragraph (1)), shall sit as a court to hear any cause relating to the removal, censure, or involuntary retirement of a justice or judge of the United States, or any proceeding under section 380 of this title. When so sitting, the Conference or committee shall be a court of the United States within the meaning or section 451 of this title and may exercise all appropriate judicial powers. Upon receipt of a recommendation from the Council on Judical Tenure that a justice or judge be removed, censured, or involuntarily retired, the presiding officer shall convene the Conference or committee designated under this paragraph to hear and determine the recommendation of the Council.

"(b) A proceeding under this section shall be de novo, and shall be conducted on the record. The Council on Judicial Tenure, or representatives from the Council, shall appear and present materials and testimony in support of the recommendation of the Council. Any justice or judge whose conduct is the subject of any such inquiry shall be given adequate notice of any hearing, shall be admitted to any such hearing, may be represented by counsel, offer evidence in his own behalf, and confront and cross-examine any witness against him.

"(c) During the pendency of any proceeding under this section the Conference or committee may order any judge of the United States who is the subject of such inquiry to cease the exercise of any judicial powers or perogatives pending disposition of the inquiry. Such an order shall be issued over the signature of the presiding officer. Upon issuing such an order the Conference or committee shall, after consultation with that authority within the court of the judge affected by such order who is responsible for the assigning of business to judges, formulate such orders regarding the business pending before such judge as it may deem appropriate.

"(d) The Conference or committee shall have the power in all cases brought before it, by majority vote—

"(1) to order the censure of any justice or justice or judge whose conduct is found to be inconsistent with the good behavior required by the Constitution;

"(2) to order the removal of any such justice or judge from office;

"(3) to order the involuntary retirement of any justice or judge in accordance with section 372 (b) of this title; and

"(4) to dismiss or remand (to the Council) any such case.

All orders of the Conference or committee shall be in writing and any justice or judge affected by any such order shall be so notified in writing.

"(e) No person except the justice or judge who is the subject of an inquiry under this chapter shall be excused from attending and testifying or producing anything ordered to be produced by the Conference or committee on the ground that the testimony or material required to be produced may tend to incriminate such person or subject such person to penalty or forfeiture. No such person shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce, after having claimed his privilege against self-incrimination, except that such person shall not be exempt from prosecution and punishment for perjury committed while so testifying.

"(f) (1) The Conference or committee shall stay (A) any order of removal of a judge and (B) any order of removal, censure, or involuntary retirement of any justice pending final disposition of the case by the Supreme Court. Any such stay shall expire on the day after the day on which the time for seeking review has passed without the filing of an appeal. Upon affirmance by the Supreme Court of the order of the Conference directing removal, censure, or involuntary retirement of a justice or removal of a judge or upon the expiration of the time for seeking review of any such order without the filing of an appeal, the order of the Conference shall become final and the judge shall be removed from office or, in a case affecting a justice, the justice shall be censured, involuntarily retired, or removed from office according to the order of the Conference.

"(2) In any case in which a justice or judge is removed or involuntarily retired under this chapter, the Conference shall certify, at the time its order becomes final, notice to the President that a vacancy exists in the office from which the justice or judge has been removed or involuntarily retired. The President shall appoint, by and with the advice and consent of the Senate, a successor to fill any vacancy caused by the removal of a justice or judge under this section.

"(g) The Conference or committee shall notify any justice or judge of its determination that the conduct or fitness of such justice or judge does not warrant removal, censure, or involuntary retirement. The justice or judge shall be informed that, upon receipt of his written request, the Conference shall make information regarding the nature of its investigation, its hearings, findings, and such other matters regarding its proceedings in his case as are not confidential, privileged under law, or otherwise prejudicial to the rights of any individual available to the public. Upon receipt of such request the Conference shall make such information available to the public.

"(h) The Conference is authorized to employ such permanent staff assistance as may be necessary to carry out its duties under this chapter. The Conference may employ on a temporary basis such other personnel as may be necessary to carry out its duties under this chapter in any particular case. The Conference may arrange for and compensate medical and other experts and reporters, and arrange for the attendance of witnesses including witnesses not subject to subpena.

"§ 380. Failure to assign judicial duties

"(a) The Council on Judicial Tenure shall designate a panel from among its members to hear any claim by a judge involuntarily retired under section 372 (b) of this title that he is not being assigned such judicial duties within his court as he is willing and able to undertake. Whenever any such claim is substantiated to the satisfaction of a majority of such panel, it shall promptly report its finding to the Judicial Conference of the United States, together with a recommendation that the Conference issue an order to the appropriate authority responsible for the assignment of judicial duties to such judge. Upon receipt of such recommendation the presiding officer of the Conference (elected under section 379(a)(1) of this title) shall refer the matter to the Conference, or the committee designated to hear such matters, and the Conference or committee shall, at the earliest reasonable opportunity, consider the recommendation and resolve the claim of the retired judge. Action on any such matter shall be by majority vote. Upon resolution of any such matter, the presiding officer of the Conference shall transmit an appropriate order to the authority responsible for the assignment of judicial duties to such judge.

"§ 381. Disqualification of judges

"(a) A judge who is a member of the Council on Judicial Tenure or the Judicial Conference of the United States shall not participate in any proceeding of either such body when it inquires into his own conduct, fitness, or claim. No judge of the same court or circuit as the judge whose conduct, fitness, or claim is the subject of any inquiry by the Council or the Conference shall participate in such inquiry or in the determination by such body thereof.

"§ 382. Confidentiality of proceedings

"Notwithstanding any other provision of law, all matters filed with and all testimony given before a panel of the Council on Judicial Tenure or the Judicial Conference of the United States or its committee in connection with the removal or censure of a justice or judge under section 372a of this title or the involuntary retirement of a justice or a judge under section 372(b) of this title shall be privileged. Unless otherwise authorized by the justice or judge whose conduct, fitness, or claim is the subject of such a proceeding under this chapter, or otherwise authorized by this section, all such matters shall be confidential, except that the taking of an appeal to the Supreme Court, under section 1259 of this title, shall render public all such matters to the extent that they are required for the disposition of the claim and for the conduct of any subsequent proceedings.".

(b) The analysis of chapter 17 of title 28, United States Code, is amended by adding at the end thereof the following new items:

"377. Council on Judicial Tenure; establishment.
"378. Council on Judicial Tenure; duties and powers.
"379. Duties and powers of the Judicial Conference relating to proceedings with respect to removal, censure, and involuntary retirement.
"380. Failure to assign judicial duties.
"381. Disqualification of judges.
"382. Confidentiality of proceedings."

GROUNDS FOR REMOVAL AND INVOLUNTARY RETIREMENT

Sec. 3. (a) (1) Chapter 17, of title 28, United States Code, is further amended by inserting after section 372 the following new section:

"§ 372a. Removal of judges

"A justice or judge of the United States may be removed from office or censured in accordance with the procedures established under this chapter upon a finding by the Judicial Conference of the United States that the conduct of such justice or judge is or has been inconsistent with the good behavior required by Article III Section 1 of the Constitution."

(2) The analysis of such chapter is amended by inserting immediately below item 372 the following new item:

"372a. Removal of justices and judges.".

(b) Section 372(b) of such title is amended to read as follows:

"(b) Whenever any justice or judge of the United States appointed to hold office during good behavior who is eligible to retire under this section does not do so and a majority of the Judicial Conference of the United States finds, subject to the requirements of section 379 of this title, that such justice or judge is unable to discharge efficiently one or more of the critical duties of his office by reason of a permanent mental or physical disability, the Conference shall certify the disability of such justice or judge and issue an order removing such justice or judge from active service. Habitual intemperance that seriously interferes with the performance of any one of the critical duties of a justice or judge shall be deemed to be a permanent disability for the purposes of this subsection. Such justice or judge shall then be involuntarily retired from regular active service and the Conference shall send notice of its action to the President.

"(c) The President shall, by and with the advice and consent of the Senate, appoint a successor to any justice or judge retired involuntarily under the provisions of subsection (b) of this section. Whenever such successor shall have been appointed, the vacancy subsequently caused by the death or resignation of the justice or judge involuntarily retired shall not be filled.".

SUPREME COURT REVIEW

Sec. 4. (a) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Judicial Conference of the United States; appeal

"Upon the petition of the aggrieved justice or judge the Supreme Court shall review the order of the Judicial Conference of the United States, pursuant to chapter 17 of this title, that such justice be censured, involuntarily retired, or removed from office or that such judge be removed from office for conduct inconsistent with the good behavior required by Article III of the Constitution. Review under this section shall not be had unless such petition if filed within 10 days after written notice of the determination of the Conference is received by such justice or judge.".

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"1259. Judicial Conference of the United States; appeal.".

DISABILITY RETIREMENT

Sec. 5. (a) Section 294(a) of title 28, United States Code, is amended by striking out "retired" and by inserting immediately after "Court" the following: "retired voluntarily or involuntarily".

(b) Section 294(b) of such title is amended by inserting immediately after "title" the following: ", or who has been involuntarily retired under section 372(b) of this title"

(c) Section 294(c) of title 28, United States Code, is amended—

(1) by striking out in the first sentence thereof "Any retired circuit or district judge may" and inserting in lieu thereof the following: "A circuit or district judge retired voluntarily under section 371(b) or 372(a)

of this title or involuntarily under section 372(b) of this title may"; and

(2) by adding at the end thereof the following new sentence: "A judge of the United States retired involuntarily under section 372(b) of this title may be designated and assigned by the chief judge of his court to perform such judicial duties in such court as such judge is willing and able to undertake.".

FEES

Sec. 6. Section 604 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The Director shall pay necessary expenses incurred by the Judicial Conference of the United States and the Council on Judicial Tenure under chapter 17 of this title including mileage allowance and witness fees at the same rate as provided in section 1821 of this title."

ASSISTANCE OF UNITED STATES MARSHALS

Sec. 7. Section 569(b) of title 28, United States Code, is amended immediately after "Canal Zone" by inserting "and of the Judicial Conference of the United States and the Council on Judicial Tenure under chapter 17 of this title".

MISCELLANEOUS

Sec. 8. (a) Within 180 days after the date *of enactment of* this Act, the judges of each circuit, the Court of Claims, the Court of Custom and Patent Appeals, and the Customs Court shall elect one member from each such circuit and such courts to serve on the Council on Judicial Tenure in accordance with section 377(b) of title 28, United States Code (as added by section 2(a) of this Act).

(b) Within one year after the date of enactment of this Act, the Council on Judicial *Tenure shall pro*mulgate rules for the conduct of its activities.

(c) Within one year after the date of enactment of this Act, the Judicial Conference of the United States shall promulgate rules of evidence for use in proceedings required under chapter 17 of title 28, United States Code.

(d) All rules promulgated pursuant to subsections (b) and (c), and amendments thereto, shall be matter of public record, and shall be effective upon promulgation.

AUTHORIZATION OF APPROPRIATIONS

Sec. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3869

At the request of Mr. Hartke, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of S. 3869, a bill to provide advance notification to employees when a Federal installation is to be closed.

S. 3985

At the request of Mr. Williams, the Senator from Wisconsin (Mr. Nelson), the Senator from California (Mr. Cranston), and the Senator from Maryland (Mr. Beall) were added as cosponsors of S. 3985, the Anti-Dog-Fighting Act.

S. 4060

At the request of Mr. Hansen, the Senator from Pennsylvania (Mr. Hugh Scott) was added as a cosponsor of S. 4060, a bill to amend the Federal Water Pollution Control Act Amendments of 1972.

S. 4145

At the request of Mr. Metcalf, the Senator from Tennessee (Mr. Brock) was added as a cosponsor of S. 4145, a bill to establish a National Commission on Regulatory Reform.

NOTICE OF HEARINGS OF THE SENATE SUBCOMMITTEE ON FOUNDATIONS

Mr. HARTKE. Mr. President, late last month there were reports in the newspapers that the Ford Foundation had experienced a major reduction in its assets due to the economic conditions of our time and that it might be forced to reduce its grants by a substantial percentage. Because the Ford Foundation is the largest private foundation in the United States, that report aroused substantial interest in both Government and the private sector.

I have subsequently learned that the Ford Foundation may be better off in facing the economic crunch than many other foundations, but I remain concerned about the impact which the economy is having on foundations and their activities.

Accordingly as chairman of the Senate Subcommittee on Foundations, I have set aside 2 days of hearings to hear public witnesses on the impact which the economy has had—or is likely to have—on private foundations and on the recipients of foundation grants. Those hearings will be held on Monday and Tuesday, November 25 and 26, beginning on each day at 9:30 a.m. Anyone who desires to appear before the subcommittee or to submit a written statement should contact Michael Stern, chief counsel of the Senate Finance Committee, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510 not later than November 11.

Mr. President, I ask unanimous consent that an article describing the Ford Foundation financial picture and a letter which I sent to Mr. McGeorge Bundy, president of the Ford Foundation, be printed in the Record.

There being no objection, the article and letter were ordered to be printed in the Record, as follows:

September 23, 1974.

McGeorge Bundy,
President, the Ford Foundation,
New York, N.Y.

Dear President Bundy: I was deeply concerned to note wire service stories which appeared in newspapers yesterday and today concerning the reduction in the Ford Foundation's assets.

As you are aware, the Senate Subcommittee on Foundations, of which I am Chairman, has been studying the role of private foundations in American society. From the time of our first hearing, nearly a year ago, I have been impressed by the many worthwhile projects which responsible and innovative foundations such as yours have funded. These have been people oriented programs which have concerned themselves with the many difficult social problems facing our Nation today.

Foundations serve as an important alternative to government initiative. As such, they have the freedom and the financial resources to act when government is reluctant to act, to probe into subjects which have not attracted the interest of government officials, and to question ideas and values which government refuses to question. Most important of all, they depend on a voluntary effort.

At a time when the recession in our economy and rampant inflation are causing some leaders of our government to suggest cutbacks in programs which affect people directly, we cannot afford to have one of the major alternatives to government support forced to reduce its involvement in those very areas of social concern.

There are presently more than 28,000 private foundations in the United States, holding some $28 to $30 billion in assets. Together, these foundations made more than $2 billion in grants in 1972. If the experience of these other foundations is anything like yours, they can expect their assets to be diminished to $19 to $20 billion and the public can expect as much as $1 billion less in foundation grants. Clearly, this will be a tragedy for the cause of social and economic justice at a time when the need is for more—not less—financial support.

Because of my concern about the impact which the current economic situation is having on private foundations and the activities they support, I would greatly appreciate any information which you may be able to supply about the causes of the Ford Foundation's present financial status. It is possible that the Subcommittee on Foundations will hold hearings on the impact of the current economic crisis on private foundations, and your contributions will be most welcome.

With my best wishes, I am,

Sincerely,

Vance Hartke,
Chairman, Subcommittee on Foundations.

[From the New York Times, Sept. 22, 1974]

Ford Foundation Weighs Reducing Grants by 50 Percent; Falling Security Market and Inflation Are Cited—Dissolution Possible

(By M. A. Farber)

The Ford Foundation, squeezed like most private philanthropies by falling stock and bond markets and mounting inflation, is considering a reduction of as much as 50 per cent in its annual grants.

McGeorge Bundy, the president of the foundation, which is the wealthiest in the country, said that a cut of 50 per cent in Ford's $220-million-a-year program budget was one of several alternatives that he had presented to the trustees of the foundation for review at their quarterly meeting this week.

"HARD LOOK" NEEDED

Mr. Bundy said in an interview that the other options included smaller reductions or dissolving the foundation by distributing its assets, which have fallen from $3-billion to $2-billion in market value in the last year.

Ford's trustees rejected the idea of dissolution in 1967, when the foundation began reducing its grants from a level of more than $300-million annually. Mr. Bundy declined to comment on the likelihood of the trustees' voting the foundation out of business, but few trustees are believed to favor dissolution.

"We need to take a hard look at our situation," the Ford executive said. "The question is how much action to take now. If we continue to spend at our present rate and things don't get better fast, we're in trouble."

Mr. Bundy said it was uncertain which program areas might be hardest hit. Under any circumstances, he said, the foundation will honor all its current commitments.

Dr. Alexander Heard, chairman of the foundation's board of trustees, said the financial problems facing the foundation were similar to the problems confronting privately endowed universities, hospitals and other institutions.

Dr. Heard, who is chancellor of Vanderbilt University, said the review by Ford's trustees would reflect the gravity of "the general state of the economy and of the stock market."

"But no decisions have been reached," he said, "and we ought to guard against pushing the panic button too hard or too soon."

A major reduction in financing by the Ford Foundation—particularly at a time when many other foundations are contemplating or beginning cutbacks—could have a significant psychological as well as financial impact on philanthropy. It could also increase pressures for additional public funds for innovation in education, the environment, the arts and many other areas.

"HANDWRITING ON WALL"

A number of philanthropic leaders said that a severe cutback by the Ford Foundation might "shock" grant-seekers; but that a reduction of some kind had long been expected in foundation circles.

"The handwriting was on the wall," one foundation manager remarked. "Ford isn't exempt from the problems plaguing us all."

Ford, which finances research and subsidizes hundreds of experimental programs around the world, is by far the wealthiest American foundation.

The second wealthiest is the Robert Wood Johnson Foundation, which specializes in the health field. The market value of the Johnson Foundation assets fell from $1.5-billion to $1.3 billion between 1972 and 1973, according to the Foundation Center, an association of philanthropic organizations, but a current figure was not available yesterday. Officials of the center said the value of the assets of most of the major foundations had declined dramatically in recent years, often by more than 25 per cent.

The Ford Foundation has consistently given away twice the amount it earned through dividends and interest on its investments and substantially more than the amount required under the Tax Reform Act of 1969.

TOLL IS GROWING

In the last year "total returns" on the foundation's diversified investment portfolio—dividends and interest plus capital gain or loss—were somewhat higher than Standard and Poor's 500-stock index, according to Mr. Bundy. But he cited an observation by Roger G. Kennedy, Ford's vice president for finance, that "you can't eat relative performance."

Mr. Bundy said that inflation had had an especially acute effect on Ford and other foundations because the activities they financed generally used to pay for wages and salaries. In 1973, inflation led to a net loss of more than $400-million in Ford's "purchasing power," he said, and the toll is even higher this year.

A decade ago Ford's assets were valued at $4-billion. The value of the portfolio has fluctuated markedly since then, but it had stabilized at about $3–billion in the several years prior to 1974. Most of the investments are in stocks, with recent diversification into real estate, bonds and cash equivalents. Early this year the foundation completed its gradual divestiture of stock in the Ford Motor Company.

ABOUT $4.6 BILLION GIVEN

The foundation—once described by Dwight Macdonald, the writer, as "a large body of money completely surrounded by people who want some"—was started as a small family trust in Michigan in 1938. It emerged as an international philanthropy in 1950, after the death of Henry Ford and his son, Edsel, who bequeathed to it 88 per cent of the non-voting stock in the Ford Motor Company.

About $4.6 billion has been donated by the foundation to nonprofit enterprises. Each year Ford receives more than 30,000 applications for grants and gives out about 1,100. Few other foundations give away even one-fourth the amount of money that Ford does annually.

Before Mr. Bundy, a former national security adviser to Presidents John F. Kennedy and Lyndon B. Johnson, became president of the Ford Foundation in 1966, the foundation was renowned for its vast if somewhat passive contributions to higher education, hospitals and medical schools.

Under Mr. Bundy—and not without criticism for influencing social revolution—the foundation has taken on the massive problems of poverty, race, and the quality of urban life. Abroad, the foundation has concentrated on alleviation of food shortages and on population growth and family planning.

CUTS INDICATED EARLIER

Ford operates on a two-year cycle, with the present budget period ending Sept. 30, 1975. The current budget allocates about $5-million a year to $15-million a year for programs than in the years just before 1973.

But the first real indication that larger cuts were probably in store came last March in a Ford publication. The publication noted that the trustees "have begun planning, subject to review as economic and other circumstances change, for an important reduction in the level of regular program support" starting with the 1975–77 budget.

Assuming that the foundation continues to operate, Mr. Bundy said yesterday, there are likely to be "course corrections along the way," regardless of the stipulated amount of any reduction in program financing. The alternatives to a 50 percent cut in the program budget, he said, "fall along a spectrum" that includes only relatively minor reductions.

When the cuts could occur would depend in part on the size of the reduction, Mr. Bundy said. He also noted that the foundation always had some grant commitments that extended over a period of years. However some sources close to the foundation said that cuts of up to 50 percent could be ordered by 1977.

STAFF REDUCTION SEEN

Mr. Bundy said that a reduction in the size of the foundation's professional staff—now about 600 people in the United States and "parallel" the scope of any program cut. But he said that a "gradual" withdrawal of support for certain programs would not involve quick broad reductions in staff.

The idea of dissolving the foundation has been discussed by Ford trustees from time to time, but it has never been as closely scrutinized as it may be this year. In 1967 the foundation asserted that the "need for an independent agency like Ford in the future was not apt to be less than at that time or in the past.

Under Federal law the foundation's assets would have to be distributed to qualified charities, and the process would probably take years to complete. The trustees would also have to decide whether large sums were to be given to a small number of recipients, or relatively small sums to many.

Mr. Bundy said it was unlikely that the trustees would make a final decision on budget cuts or dissolution at their meeting on Tuesday and Wednesday at the foundation's headquarters at 320 East 43d Street, and they might not act until next spring.

Among the businessmen, bankers, judges, lawyers and educators on the board of trustees are Robert S. McNamara, president of the International Bank for Reconstruction and Development (the World Bank); Henry Ford 2d, chairman of the Ford Motor Company, and Dr. Kermit Gordon, president of the Brookings Institution.

ADDITIONAL STATEMENTS

THE IMPORTATION OF STRATEGIC MATERIAL

Mr. HARRY F. BYRD, JR. Mr. President, pending before Congress is legislation which would repeal the Byrd amendment, an amendment which provides that there can be no ban on the importation of a strategic material from a free world country if the same commodity is being imported from a Communist country.

Repeal of the Byrd amendment would, in the view of a Chicago business leader, give to Russia tremendous leverage "of a basic commodity that we need for our economic growth."

I ask unanimous consent to have printed in the Record, this timely commentary from the American Metal Market Daily of September 11, 1974.

There being no objection, the article was ordered to be printed in the Record, as follows:

Interlake Exec Says Rhodesia Chrome Ban Would Put Soviets in Powerful Market Spot

Chicago.—Passage of Senate Bill 1868, which would prevent the importation of Rhodesian chrome into the United States, would "give the Soviet Union tremendous leverage as to the quality, quantity and price of a basic commodity that we need for our economic growth."

That was the warning contained in an appeal by Reynold C. Macdonald, Chairman of Interlake Inc., here, to Chicago business leaders to oppose the proposed embargo. He reported on the chrome situation to the Board of Directors of the Chicago Association of Commerce and Industry.

During prior sanctions against Rhodesian chrome, he noted, "The Soviet Union was our principal source of high quality chromite. Russia took advantage of our dependence upon it in two respects—the quality of the ore exported to the United States steadily deteriorated, and, Russian prices dramatically increased," until sanctions were lifted in 1971, he said.

Other industrialized countries, notably Japan, have signed long-term contracts with Turkish producers or have provided financial support for production of the ore as in Brazil, he said. "In any case, the output of these alternate sources is limited and their production is eagerly sought by other chrome-consuming nations."

"The primary excuse for the sanctions against Rhodesia was the disapproval of the policies of its government, but we hardly approve of the policies of the Soviet Union, either," Macdonald said.

"We cannot afford to have our economic strength used as a pawn in political and social contests for the United States, nor should we interfere with the internal problems of another country and thereby be restricted of access to essential raw material," he asserted.

Macdonald expressed regret that President Ford decided two weeks ago to support the embargo against Rhodesian chrome. "This is an unfortunate position which makes our effort doubly difficult," Macdonald said.

ROCKEFELLER HEARINGS

Mr. HUGH SCOTT. Mr. President, as a member of the Senate Committee on Rules and Administration, I have personally urged that further hearings on the nomination of Nelson Rockefeller be held promptly in the cause of fairness to Governor Rockefeller and to the country. My urging has been for naught. The chairman (Mr. Cannon) and the majority members of the committee have decided to postpone further hearings until after the election. This is a great disservice to the Nation.

The New York Times, in an editorial today urges the committee to hold full hearings as soon as the completed tax audit is available. I heartily concur. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ROCKEFELLER HEARINGS

Nelson A. Rockefeller is justified in urging that Senate and House committees proceed with all possible speed to hold open hearings at which the questions raised about his nomination to the Vice-Presidency can be fully explored.

Current indications are that neither the Senate Rules Committee nor the House Judiciary Committee will act until at least a week after the Nov. 5 Congressional elections. In the meantime, dribs and drabs of information about Mr. Rockefeller and the Rockefeller family—much of it distorted—will keep filtering into newspapers, magazines and television programs, feeding the public's legitimate interest in the qualifications of a man appointed to a post that would put him in *direct line* of possible succession to the Presidency.

If Mr. Rockefeller were proposing a cover-up aimed at closing off public access to the facts about him and his record, his request for speedy hearing would be entitled to no standing. But the Vice President-designate is asking just the opposite—full exposure before the bodies officially charged with the initial duty of assessing his fitness.

It is in the public's interest, as well as his, to move ahead promptly. Chairman Cannon of the Senate Rules Committee reports that the audit of the Rockefeller tax returns will be completed early next week. Once that information is at hand, we see every reason to proceed expeditiously with full public hearings.

THE ST. LOUIS AIRPORT DILEMMA

Mr. PERCY. Mr. President, the October issue of Air Line Pilot magazine includes an excellent article entitled "The St. Louis Airport Dilemme." This article clearly documents the long battle over the question of where to put a new airport which can serve the needs of the St. Louis metropolitan area in the 21st century.

Almost 30 years ago, in 1945, a study of this problem was made. Unfortunately, that was only the first of many studies, studies which have cost over $2 million. The conclusion of study after study was that the facilities of Lambert Field in St. Louis were taxed to the maximum, and that they could not be safely and adequately expanded due to the commercial, industrial, and residential community which now hems in Lambert Field. The recommendation of study after study was that a new site had to be selected, and the site recommended is across the Mississippi in Illinois, near the Waterloo, Columbia area.

Yet, despite the massive body of evidence which has been compiled on the need for this new site in Illinois, no decision has been made. The result is that the lives of airline passengers may be put in jeopardy while the politicians and bureaucrats continue their bickering over where to put the new airport. The highly professional Air Line Pilots Association is justifiably disturbed over the inexcusable delays which have marked this entire effort.

For 4 years I have urged the White House, the Domestic Council, the Federal Aviation Administration, and the Department of Transportation to make a decision on the new airport. In short, I have urged every official who has had this political football. For 4 years no decision has been made. Even further delays may now be in store. Such delays are in the best interests of neither the Nation nor the people of this large metropolitan area. Each time a decision nears, the political pressures increase, and all we see is more bureaucratic delay, indecision, and evasion. This is intolerable and inexcusable.

Anyone who searches the record of this epic struggle finds compelling evidence that the enlargement of Lambert Field is not feasible due, very simply, to a lack of land and the prohibitively high cost of such a venture. Moreover, such an enlargement would quickly prove to be obsolete. The record is clear that the Waterloo site, based on environmental, engineering, and other studies, is the most appropriate site for the critically needed new airport. It is time that a decision is made. The people who live in this area, and the millions who will be traveling to this area in the coming years, cannot afford any more delays.

Mr. President, I ask unanimous consent that the article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ST. LOUIS AIRPORT DILEMMA

Shortly after the first of next year, the Department of Transportation will give a clear signal of how it views the future of commercial aviation.

The sign will come in a decision by Secretary of Transportation Claude S. Brinegar on an application to build a new 18,650-acre airport to serve St. Louis. Although no one will say so officially, it is generally conceded that the application already has been OK'd by FAA.

Indeed, FAA has long listed St. Louis as an area in need of a new major airport. In the National Airport System Plan submitted to Congress in mid-1973, FAA classed St. Louis as one of only two cities in the U.S. (the other is Atlanta) where new airports should be started at once.

Back in 1968, the St. Louis Airport Commission (the St. Louis municipal agency that runs Lambert) had moved to get a green light for the start of a new airport. A $70-million package for land acquisition and initial development was included in a $200-million airport bond issue submitted to St. Louis voters in November 1968. Most of the rest of the bonds were slated for use on Lambert improvements.

During the campaign, the commission said it envisioned an airport of 15,000-plus acres and that 10 to 15 years woud be required for development. Several possible locations, including some in Illinois, were under consideration, the commission told the voters.

The bond issue attracted broad support throughout St. Louis, including the two major daily papers: the *Globe-Democrat* and the *Post-Dispatch*. The people responded with approval by a margin of nearly 5 to 1. Of the 124,190 votes cast, 101,485 were in favor.

At the time, the outcome was taken to reflect that St. Louisians realized that Lambert simply could not serve the future needs of the jet age and that a new airport should be built at the best site possible.

A pilot's-eye view of Lambert gives some clues as to why the bonds for a new airport got such resounding citizen support. The St. Louis airport covers only 1,350 acres in a heavily built-up commercial, industrial and residential area in suburban St. Louis County. It was wide open, rural land at the time it first came into use in the barnstorming days of the 1920s.

ALPA has strongly endorsed the prompt development of a new airport for St. Louis. The Association set forth its position at a public hearing in 1971 on the application now before Secretary Brinegar.

In testimony presented for the hearing record, Captain Calvin E. Ettel (OZA), ALPA safety chairman for the St. Louis area, stated: "We in ALPA wholeheartedly support and endorse the construction of a new airport to service the St. Louis area." He pointed out that it was not the function of ALPA to endorse a specific site, but emphasized that "the need for a new airport is all too clearly evident to those of us who use the existing facility many, many times a day, every day of every year, in every weather condition imaginable."

Captain Ettel stated that Lambert Field, in its present configuration, "is at the limits of its operational capabilities, and without the acquisition of a considerable amount of adjacent land cannot provide the space for new runways, taxiways, clear zones and the like, which are essential for increased traffic flow without compromising safety."

There simply is no workable way to get the land needed to add these vital operational features. Suburban and industrial growth gobbled up all land around Lambert well before the dawn of the jet age. The result is an airport without Category II capabilities, with no capacity for simultaneous IFR use of its main parallel runway (which is only 1,300 feet from the main runway) or its cross wind runway (both the main runway and the parallel runway intersect the crosswind runway), with too few runway turnouts, limited holding aprons and constricted passenger terminal aprons and taxiways. Lambert is not only used by the air carriers and general aviation, but is headquarters for Ozark Airlines, the Missouri Air National Guard and McDonnell Douglas Corp.

Just as suburban growth came too soon for site expansion, the development of the Lambert area came before modern access roads could be provided. The airport is served by one six-lane expressway and some local roads. The expressway and the adjoining roads rank among the St. Louis area's most congested with virtually no possibility of meaningful expansion.

With approval of the 1968 bond issue, the City of St. Louis sponsored a study to pick the best site. Horner & Shifrin, a St. Louis-based consulting firm with aviation expertise, was engaged to conduct the survey.

After examining 12 sites in both Missouri and Illinois, Horner & Shifrin recommended a still-rural location on the Illinois side of the St. Louis Metropolitan Area, 19 miles southeast of downtown St. Louis.

Now St. Louis officials had to face the problem of how to build the new airport at the best possible site when that location happened to be in another state.

St. Louis Mayor Alfonso J. Cervantes, a Democrat, decided to discuss the problem with Illinois Governor Richard B. Ogilvie, a Republican.

A number of coincidental factors helped spark Oglivie's interest. He was preparing to seek approval of a transportation bond issue, which could include the local funds needed to assure federal dollars. Moreover, initial inquiry showed that during a previous Illinois administration (Democratic), a study had indicated that Illinois might prove to be the logical site for a new St. Louis airport.

Since about three-fourths of the people of Metropolitan St. Louis live in Missouri, Ogilvie wanted his own independent reassurance that a new airport in Illinois would truly be in the best interests of Missouri as well as Illinois residents.

A contract was awarded to the aviation consulting firm of R. Dixon Speas and Associates Inc. The Speas firm studied 18 locations, nine in each state, and came to the same conclusion as the St. Louis consultants—that the Illinois site, near the towns of Columbia and Waterloo, was best.

The Illinois General Assembly moved to set up an agency to proceed with development of the airport. The agency, called the St. Louis Metropolitan Area Airport Authority, was empowered to work with Missouri governmental units and to become bistate in composition when appropriate action was taken by Missouri lawmakers.

Financed with a $1.5-million appropriation for operating expenses, the authority began the task of preparing an application for federal approval of the Columbia-Waterloo site and a tentative funding allocation from the Airport and Airways Trust Fund.

Meanwhile, apprehension began to develop among certain Missouri politicians and some business and labor interests. A major new airport, possibly in Illinois, which in 1968 had been a magnet for overwhelming support by St. Louis civic leadership, was suddenly looked on with concern by some members of those very same circles.

The State of Missouri, which previously had let St. Louis handle its own airport problems, engaged the Northrop Airport Development Corp., at a cost of $125,000, to perform a "site survey study for the new St. Louis Regional Airport."

Three sites were recommended by Northrop for further consideration—two in Missouri, and the Columbia-Waterloo, Illinois location. The State of Missouri ordered follow-up studies of the two Missouri sites by independent consultants, who found that there were numerous environmental and other problems, and that neither site was feasible.

Meanwhile, the St. Louis Metropolitan Area Airport Authority had engaged Arthur D. Little Inc. to review the environmental feasibility of the same two Missouri sites and a third one farther west of St. Louis. The firm reported that none of the sites was a viable location.

In May 1971, the Illinois Authority filed a request with FAA for airspace clearance for the Columbia-Waterloo site. And in January 1972, the authority submitted to FAA an extensive environmental impact study. With the study, the authority asked for site approval and an allocation of federal funds toward land acquisition.

The following month, the State of Missouri formally created a new agency, the Missouri-St. Louis Metropolitan Airport Authority, with a mission of keeping in Missouri any major airport for the St. Louis region. Among the authority's first moves was the release of a Systems Analysis and Research Corp. study that, although forecasting future passenger loads at Lambert equal to Chicago-O'Hare's present load, asserted that Lambert, with only minor changes, could suffice as the St. Louis area's major airport.

The next move by Missouri was to conduct a referendum among voters in St. Louis and five nearby Missouri counties. The ballot asked citizens to indicate their preference between keeping Lambert as long as possible and then building a new airport in Missouri on the one hand or the "immediate" construction of an Illinois airport on the other.

A month before the Nov. 7, 1972 election date, the new Missouri authority unveiled what it called the Lambert 2000 Plan, which contradicted the findings of the SARC study about Lambert's adequacy. For $370 million, the Missouri agency said, Lambert could be expanded by some 1,000 acres and made to serve into the 21st century. The price tag was within the same range as the $354 million figure for the new airport in Illinois.

Also in the same range were the Missouri authority's estimates that sometime before 1990 St. Louis would need an airport that could handle a load roughly equal to the current usage at Chicago's O'Hare.

But the Lambert 2000 Plan made no mention of the Northrop study for the State of Missouri, a year earlier, which had ruled out Lambert expansion.

A committee led by August A. Busch Jr., head of the Anheuser-Busch brewing company, pushed the advantages of Lambert 2000. In their drive the Lambert 2000 proponents group took advantage of an ill-advised moment of campaign rhetoric by Illinois Governor Ogilvie, who was in a tough battle for reelection (which he lost). At a small, private meeting he remarked on the success of his administration, saying that Illinois was "stealing" Missouri's airport. The "steal" line became a rallying cry in the referendum drive.

In the eyes of a St. Louis observer quoted in the *Wall Street Journal*, the 2000 Plan and the "steal" charge made the Missouri vs. Illinois choice, as worded on the referendum ballot, about the same as "asking a man whether he'd like Raquel Welch or a case of the measles."

The "keep Lambert as long as possible" proposition won in the referendum by a 91% margin—an outcome that apparently surprised no one.

As the dust settled after the election, the St. Louis Airport Commission, which still has the burden of operating Lambert but which did not take part in the Lambert 2000 Plan, hired the international consulting firm of Tippetts-Abbett-McCarthy-Stratton (planner of the behemoth Dallas-Fort Worth airport) to review Lambert 2000. TAMS set the price tag for the plan at $515 million, said that it was financially and environmentally infeasible and that even if the 2000 plan could be implemented, it would, at best, extend Lambert's life only to 1990.

The Missouri authority disputed the findings, but quit talking about Lambert 2000. Instead it focused its efforts on heavy legal and political activity in Washington to hold up approval of the Illinois site until a master plan on the "ultimate potential" of Lambert could be carried out.

In the meantime, James S. McDonnell, chairman of McDonnell Douglas, said that expansion of Lambert would so restrict the activities of the corporation that perhaps 18,000 jobs would be moved from the St. Louis region.

After a year of negotiations the Missouri agency agreed in July of this year with Secretary of Transportation Brinegar for a six-month study of Lambert's potential with only minor land acquisition beyond its 1,850 acres.

Such a minimal expansion is in drastic contrast with what ALPA feels is necessary. Speaking to the Missouri authority in 1972, a few weeks prior to the unveiling of the Lambert 2000 concept, Captain W. T. Alford (BNF), chairman of ALPA's Airport Committee, called for safety and operational improvements to bring Lambert up to standards that, he told newsmen, could require as much as 15,000 additional acres. Obviously, he said, the possibility of such expansion at the Lambert site was highly unlikely in an area of heavy industrial, commercial and residential development.

Besides the six-month study, Brinegar has ordered for his own use an independent updating of the forecasts for St. Louis and the impact of the changed energy picture. Also to be examined are such potential advances as STOL aircraft, which have been mentioned strongly by those trying to stop the new airport as the kind of development that will make a larger airport unnecessary.

Will the anti-new-airport element accept the results if the two latest studies go against it? There is some reason to believe that it will become increasingly difficult to mount an effective campaign against the Illinois site.

A major regional leader in government, Lawrence K. Roos, who retires this year as supervisor (a position corresponding to mayor) of St. Louis County, in which Lambert is located, is saying that the new airport should be built at the Illinois site if the present studies show that Lambert cannot serve the area's long-term needs as the major airport.

August Busch has indicated his push was to prevent Lambert's abandonment, which will not happen.

The St. Louis Globe-Democrat, which backed the 1968 bond issue for a start on a new airport and then in 1972 swung over to the other camp, has said the battle was to assure a comprehensive look at the future of Lambert before final federal action was taken on the application for the Illinois site. The Globe-Democrat has cautioned its readers editorially that there is no assurance that the six-month study will show Lambert to be adequate to St. Louis' future aviation needs.

And supporters of the Illinois site are prepared to press Secretary Brinegar for prompt action when the six-month study is completed early in 1975. They point out the high price of delay in terms of construction costs and emphasize that the Illinois site lies in the path of urbanization and will not be available indefinitely.

A ruling against the Illinois location could signal a possible federal policy shift toward a commercial aviation future based in large part on the potential capacity of present airports. On the other hand, a green light to get started on a new airport for St. Louis would indicate that commercial aviation has a fundamental place in the nation's future transportation systems and will not be constricted by the long-term limitations of existing facilities.

Approval would also signal an important role for ALPA. The Columbia-Waterloo authority has emphasized that the Association's views will be sought at every step of the master planning and design stages.

SUSAN B. ANTHONY'S BIRTHDAY SHOULD BE A NATIONAL HOLIDAY

Mr. STEVENS. Mr. President, Susan B. Anthony, 1820–1906, was a lifelong crusader for women's rights. Not only the issue of equal rights for women and blacks to which she devoted her life, but also the inspiration that her fight for freedom yields to women and men of all time has led me to cosponsor S. 3984, a bill to make Susan B. Anthony's birthday a national holiday.

Largely through the efforts of Ms. Anthony and a few other determined individuals, women were elevated from the status of chattels who could not own property, money, take possession of children, divorce an unworthy husband, or vote, to the position of a U.S. citizen.

While it is difficult for a person of our time to picture the enormity of the suffragists' struggle, it is nevertheless important to the liberation of women that we recognize through a national holiday a truly outstanding person such as Ms. Anthony who has been called a great emancipator by the public. Though basic civil rights have been accorded to the female sex only since the suffragists' time, the struggle is as germane today as ever before.

Variously called "the apostle of freedom," an individual who "changed the mind of a nation," Susan B. Anthony authored the 19th amendment to the Constitution and fought for its passage for approximately half a century. After the 14th amendment was passed and blacks were granted the right to vote, Ms. Anthony pointed out that—

> Still another form of slavery remains to be disposed of. The old idea still prevails that woman is owned and possessed of man to be clothed and fed and cared for by his generosity. The present agitation rises from the demand of the soul of woman for the right to own and possess herself.

As the leader of the National Woman Suffrage Association from its inception in 1869, Susan B. Anthony was convinced that Federal legislation was the key to women's suffrage. Even while attending every session of Congress to represent her cause, Ms. Anthony made long and difficult journeys across the country to aid in State campaigns for women's suffrage. For instance, in 1871, Ms. Anthony traveled 13,000 miles and made 171 lectures, a trek which any person can appreciate even in our day of jet travel.

Starting with an audience who received her argument with catcalls and jeers, Ms. Anthony did not give up her goal "to see better conditions, better surroundings, better circumstances for women," until she had won the respect of many people for the cause of women's suffrage. Not without wit, Ms. Anthony had an impeccable moral character. She worked with other women, organizing and preparing for the additional responsibility which the right to vote would bring.

As a response to Horace Greeley's statement—

> Miss Anthony, you know the ballot and the bullet go together. If you vote, are you ready to fight?

Ms. Anthony said:

> Yes, Mr. Greeley, just as you fought in the late war—at the point of a goose quill.

Ms. Anthony and a small group of women, putting their convictions on the line, dared to vote in the 1872 Presidential election, claiming to be included in the provision of the 14th amendment granting suffrage to citizens. Susan was arrested, convicted by a judge who claimed that women were less than persons, tried without a jury, and was fined $100. However, Ms. Anthony told the judge:

> May it please your Honor, I will never pay a dollar of your unjust penalty.

And she never did.

By 1883, Susan B. Anthony had organized the International Council of Women with participants from 58 nations. "To give women a realizing sense of the power of combination," a meeting of the International Council of Women convened in Washington 5 years later. The meeting brought about a growing sense by the participants not only to forget the differences which had divided women's rights groups at home and abroad but also to make a concentrated effort to end the repressive conditions under which women lived.

Toward the end of her life, Susan B. Anthony was recognized as "a great woman statesman." As Mrs. Gaffney, then president of the National Women's Council, said:

> Our great leader has taught us the sisterhood of women, and that the privileges of one class cannot eradicate the wrongs of another.

Written 50 years before her death, the 19th amendment would not be passed until 1920, granting women citizens the right to vote.

On her 86th and last birthday, Ms. Anthony declared:

> I have been striving for 60 years for just a little bit of justice, and yet I must die without obtaining it.

Yet, her sadness was offset by determination which she summed up in a statement from her last speech, "Failure is impossible."

I strongly urge that Members of Congress vote to make Susan B. Anthony's birthday a national holiday. In our own time, with only five States holding out on the ratification of the equal rights amendment, women still are fighting for "a little bit of justice" which the commemoration of this truly oustanding woman could provide.

THE U.S. FOREIGN SERVICE

Mr. HARRY F. BYRD, JR. Mr. President, as one who through the years has been in many foreign nations, I am happy in this 50th anniversary year of the creation of the career Foreign Service of the United States, to salute the men and women who assist in carrying out our foreign relations.

As chairman of the International Finance and Resources Subcommittee of the Senate Finance Committee, and as a member of the Armed Services Committee—and previously as a newspaper correspondent—I have met many of our representatives of the Foreign Service.

During visits abroad I have also seen firsthand their work, which they perform with great dedication.

We Virginians are proud of those who serve the Nation. We are proud that a Virginian, Thomas Jefferson, was the first Secretary of State. Over the years many Virginians have served the Department of State and the Foreign Service.

But today I pay tribute to all who serve the Foreign Service.

These men and women represent all States and all sections of our Nation. They come from hundreds of colleges and universities, and from many diverse backgrounds.

On November 15, hundreds of these dedicated public servants—both active and retired—will gather in the Department of State for their annual Foreign Service Day, or "homecoming." It is fitting that these members of the Foreign Service—many with 30 and 40 years of devoted service to the Nation—should gather to discuss current issues, to renew friendships, and to honor their colleagues.

For nearly 200 years, men and women of the Foreign Service have stood ready to sacrifice their interests, their comforts, and their lives for the United States. Many have served—and are serving—in distant lands, daily facing hardship and disease. They have stuck to their posts, in the face of terrorism, revolutions, and natural disasters.

Duty is a watchword with them.

There are two bronze plaques in the Diplomatic Lobby of the Department of State Building. On these plaques are engraved the names of more than 100 members of the U.S. Foreign Service "who, while on active duty, lost their lives under heroic or tragic circumstances." The first name is that of William Palfry—"lost at sea, 1780." The last two are those of the American Ambassadors, Cleo A. Noel, Jr., U.S. Envoy to the Sudan, and Deputy Chief of Mission George Curtis Moore, who were murdered by Black September Palestinian guerrillas at the Saudi Arabian Embassy in Khartoum on March 2, 1973.

Soon to be added are the names of a young Vice Consul, John S. Patterson, and a veteran diplomat, Ambassador Rodger P. Davies.

Mr. Patterson was serving on his first overseas assignment, as economic/commercial officer at the U.S. Consulate in Hermosillo, Mexico. His body was found near that city on July 8 of this year. A note found at the Consulate General said that he had been kidnaped and demanded delivery of a ransom.

Ambassador Davies was killed on August 19 when rioting Greek Cypriots attacked the U.S. Embassy in Nicosia. Once again the Nation mourned a professional Foreign Service officer who was struck down at the height of his distinguished career.

In all, there are some 8,500 men and women in the Service now. They are helping the country and advancing the principles upon which our national and international life are based. At this critical time, Foreign Service people are in a position to work effectively for peace and freedom.

These men and women are responsible for conducting our relations with the nations of the world, for safeguarding American lives and property abroad, for helping American businessmen in their dealings overseas, and for representing our country and its policies to the governments and citizens of foreign countries in such a way as to win their sympathy and support.

Work in the Foreign Service today is so varied that it is impossible to describe it completely. An officer can help negotiate treaties or cultural exchanges; or, as a commercial officer, assist American businessmen in locating business opportunities abroad. He or she may be assigned to the staff of the U.S. delegation to one of many international organizations such as the United Nations, North Atlantic Treaty Organization, and Organization of American States.

The Foreign Service officer must report accurately to the Department of State on a multitude of activities of interest to the United States, including politics and economics, trade and tariff policies, public opinion and social conditions.

The Rogers Act of 1924, which established the modern Foreign Service, was sound. But today the Foreign Service goes beyond the traditional diplomatic duties of negotiating, reporting, representing.

Today members of the Foreign Service also seek solutions to such complex problems as those relating to energy population and the environment. They seek new ways to limit and control armaments and new treaties to deal with the oceans and outer space.

It is vital that in their work, the men and women of the Foreign Service keep uppermost in their minds the true national interest of the United States. In that way, they will play a crucial role in advancing the cause of peace and freedom.

As the Foreign Service marks its first 50 years, it must look to the future. I am confident that the Foreign Service will continue to serve us well.

AGRICULTURE'S DILEMMA

Mr. McCLURE. Mr. President, I am sure that all my colleagues here in the Senate are acutely aware of the severe problems plaguing our American farmers today.

As America's most basic and most important industry, agriculture must carry the burden of providing food for both domestic consumption and for export. Yet in attempting to meet this responsibility, our farmers are encountering short supplies, spiraling production costs, and declining prices for their products. It has been said that the farmer is the only businessman who buys everything at retail, sells everything at wholesale, and pays the freight both ways.

Because of the desperate situation in which many farmers now find themselves, there has been a constantly increasing volume of mail arriving at congressional offices, outlining the problems and asking for immediate action.

Well, when we start hearing the chants loud and clear from back home, most of us figure we had better get moving and do something—or we will not be around to hear them the next time. But before the instinct for political survival prompts us to scurry off in search of solutions, we should take a hard look at what the problems really are. And equally important, we must look at the costs and limitations of the potential solutions.

Of course, it would be nice if passing laws and creating programs would bring instant relief. Then we could simply outlaw inflation.

But we cannot repeal the law of supply and demand, and we cannot solve economic problems by legislative fiat. And since a large part of the blame for the present economic mess can be traced to previous Government "remedies," I believe it is essential that we exercise great caution in attempting to find governmental solutions to our problems. We must avoid going so far in correcting past mistakes that we create a whole new cycle of Government-sponsored market distortions.

Certainly, we may be able to provide some help through governmental action—such as the modification of meat grading standards, for example. But the root of the farm problem today is economic—inflation fueled over the last several years by excessive Government spending and interference.

The farmer, like the rest of us, has almost always had to live with some inflation. But until the last few years farm prices have not risen as fast as most other prices. One major reason for this is technology—better machinery, better fertilizers, pesticides, and herbicides, improved methods of cultivation, improved plant varieties, and so forth.

This so-called green revolution has increased productivity so rapidly that it has, to a large extent, kept pace with inflation. Thus, American agriculture has been able to absorb a great deal of inflationary pressure, in effect subsidizing the American consumer.

In most developed countries today, as in this country several years ago, food costs from one-third to one-half of the average family's income. In the United States today, the cost is about 16 percent—one-sixth of the average family's income. And we are eating more and better food than most of those other people. In addition, while the cost of food has been declining relative to our total budgets, the quality has been constantly increasing. How many other products can we say that about?

But now the relative decline in food prices has virtually stopped. In fact, some of them seem to be regaining lost ground. Last year they were only 15 percent of our average family's budget. Why?

Clearly, part of the answer is that our farms are highly efficient now. Increased costs are no longer matched by increasing yields per acre or per head. Consequently, these increased costs must be passed on if the farmer is to survive. This, quite naturally, upsets the consumer.

It seems, therefore, that the battle lines are forming again between the producers and consumers. The farmers must have some minimum price to keep producing, and housewives will balk if the prices get too high, although they must still eat something, and should be aware of the long-term consequences of consumer boycotts. However, this is a classic example of how the market system is supposed to work. But the adjustments will be painful, and sometimes downright bitter—and there is little, short of a totally managed economy, that the Government can do about it.

I believe that the Government's role in this adjustment should be limited to facilitating the operation of the market system—that is, aiding the transition to a price level that the farmers and consumers can both live with. We should not tell the farmers how much to produce, and we should not tell consumers how much to buy—the market should do that.

We can help by not pitting producers and consumers against each other for political reasons. Too many people still believe that legislation which helps the farmer hurts the consumer and vice versa. We should be the first to recognize that it is in the best interests of consumers over the long term for the farmers to obtain a fair return. And this, of course, applies to middlemen as well.

But there are some hard realities we must face in determining how we can aid both groups. The dairy industry is a good example of the problems we face. Our small dairy farmers are in dire straits. Operators with approximately 150 head or less are going broke—literally by the thousands—while milk prices are as high as they have ever been.

Consumers do not want the price to go any higher. But there appears to be little chance of dairymen's costs going down this year; and without higher prices we stand to lose a great deal of our productive capacity. This would naturally reduce the available supply and drive prices up further. This would not be so bad under a totally flexible market system, where the increased prices would encourage expanded production and lead us toward stability. But this is not an industry which can expand rapidly. Some of the most productive herds have required generations of breeding, and they are not easily replaced.

Because of this "imperfection" in the market system created by such a lag in response time, Government action may be in order to moderate—not eliminate—fluctuations in productive capacity, and thus in supply and price. This essentially requires that we not depart very far from the existing market situation. If we come up with sweeping programs, we are going to create substantial distortions.

We are not going to make everybody happy—not because we do not want to—especially this time of year—but because we simply cannot. This does not, of course, mean we should sit by and do nothing. The market system is not perfect, and it does not always function smoothly despite—or because of—our efforts here.

But when we enact legislation, and we will, in response to this crisis, let us try to aid the functioning of the market system—and not overcome it or substitute for it.

By and large, the American people are not going to be satisfied with what we are able to do here. We would all like to be able to do more for our friends at home and around the world. But there is only so much we can and should do. We and the people back home will be better equipped to deal with our problems if we can provide sensible leadership, tempered with the restraint which comes from a realistic assessment of both our capabilities and our limitations.

"PUSH" EXPO '74

Mr. PERCY. Mr. President, on September 28 I once again enjoyed visiting the PUSH Expo in Chicago, Ill. I toured this business and cultural exposition—which features the accomplishments of blacks and other minorities—with Chicago Alderman and Attorney Anna Langford. We were highly impressed with this year's exhibits.

Operation PUSH, headed by the Reverend Jesse Jackson, began this annual Expo in 1967. It has since grown from a small business trade fair to a major event attended by thousands.

"Save the Worker" was chosen as Expo '74's theme in order to underscore the unrecognized role of working class Americans in our Nation's economic growth.

The Chicago Tribune featured a series of articles on this 5-day event and I ask unanimous consent that they be printed in the Record.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, September 22, 1974]

Expo Will Focus on Black Worker

(By Barbara Reynolds)

We would know them by their absence—the fix-it men, the floorsweepers, the farmers, cooks, and crane operators. All are faceless and invisible until things go wrong. Yet their hands and their sweat provide the fuel that makes the country run.

PUSH Expo '74, opening Wednesday in the International Amphitheater with the theme, "Save the Worker," will magnify the contributions and problems of the working class, both white and black, according to Thomas N. Todd, chief consultant on the largest minority business and cultural exposition in the United States.

Comparing the thrust with an inverted pyramid, Todd, an attorney, said, "This country is top-oriented. We forget those individuals at the base, who, without them, there would be nothing at the top to run. This year's Expo will focus on the foundation. We are just turning the production pyramid upside down."

Specific worker-oriented issues to be explored thru seminars, exhibitions and luncheons are: an unemployment rate of 45 per cent in Chicago's predominantly black West Side; the impact of double-digit inflation on the working poor; and the need for redirecting economic priorities by closing tax loopholes.

Todd said, "We intend to set the record straight. Blacks are not making economic progress in the country. In fact, they are slipping behind."

Arguing that images of blacks arriving in the middle-class income group are delusions, Todd said, "In 1970 black income was 61 per cent that of whites. In 1973, the gap had broadened to where blacks only earned 58 per cent of the income earned by whites."

The Rev. Jesse Jackson, national president of Operation PUSH [People United to Save Humanity], said Expo will be the focal point for pushing for redress for black Viet Nam veterans with less than honorable discharge who are being denied bank loans, jobs, and GI rights such as education grants, a situation he says "underscores the basically racist character of the American military establishment."

Begun in 1967 at the Chicago Theological Seminary where the Rev. Mr. Jackson was a student, Expo has blossomed from a business-trade fair, attracting little more than 100 onlookers, to an extravaganza which last year drew more than 500,000 spectators from 21 states, according to PUSH estimates.

Altho Expo remains a PUSH fund-raising affair and a tactic for boosting the profits of black businessmen, it also is lauded as an educational forum, and an entertainment stage of black America.

Providing the cultural phase of the five-day event are entertainers, such as Bill Cosby, Richard Pryor, Nancy Wilson, Roberta Flack, and Quincy Jones.

In keeping with its theme, a Worker of the Year award will be presented on Saturday to a housewife, welfare mother, or laborer whose contributions ordinarily would go unrecognized.

This year's Dr. Martin Luther King, Jr. Award will be presented to the Rev. Leon Sullivan, president of Opportunities Industrialization Centers based in Philadelphia, manpower training programs operated in 40 states and three foreign countries.

The Rev. Mr. Sullivan, the opening day keynote speaker, is credited with introducing the Operation Breadbasket economic boycott concept to Dr. King, who began Breadbasket in the South in 1962 as an arm of the Southern Christian Leadership Conference. In 1971 the Rev. Mr. Jackson broke from the SCLC and the Breadbasket organizations became Operation PUSH.

[From the Chicago Tribune, Sept. 25, 1974]

PUSH Expo To Focus on Plight of Workers

(By Barbara Reynolds)

For five days, beginning Wednesday, the International Amphitheater will * * * the black Main Street, U.S.A., a street bazaar of accomplishments from business to workmanship to art.

PUSH Expo '74 is the largest minority business and cultural exposition in the United States. The theme of this year's Expo is "Save the Worker," magnifying the contributions and problems of the working class, both white and black.

Wednesday's festivities will begin with a breakfast address in the Saddle and Sirloin Room of the Stock Yard Inn by the Rev. Leon Sullivan, the first black board member of General Motors.

The Rev. Mr. Sullivan, founder of Opportunities Industrialization Centers, will be presented the Dr. Martin Luther King Jr. Award. Also receiving awards will be Norman Houston and George Beavers, founders of black-owned Golden State Mutual Life Insurance Co.

At 10 a.m., the exposition hall opens, with almost 600 business, government, and community service exhibits. For the first time, a cultural display will highlight successful black women, such as Rosa Parks, who triggered the Montgomery, Ala., bus boycott in 1955.

After ribbon-cutting ceremonies at 10:30, Chicago junior college students will be entertained by the Main Ingredients and the Sons of Slum, musical groups. A voter registration card is required for admittance. Vote registration applications are available at Expo.

At noon, Robert Johnston, regional director of the United Auto Workers, and Charles Hayes, international vice president of the Amalgamated Meatcutters Union, will be chairman of a labor leaders' luncheon in the Stockyard Inn.

Evening entertainment begins at 7:30, featuring Nancy Wilson, Marvin Gaye, the Graham Central Station, and Kool and the Gang. Admission runs from $5.50 to $7.50.

Thursday's special events include a political breakfast panel of the three black candidates for Chicago Mayor: Edward Allen, E. Duke McNeil, and State Sen. Richard Newhouse [D., Chicago].

Evening entertainment will be headlined by Isaac Hayes, the Dramatics, and the Blue Magic.

During the day, children will be entertained free by a multiethnic theatrical production starring children from black, Latino, and suburban schools.

In conjunction with Expo, PUSH Tuesday held an all-day seminar to examine the new federal Community Development and Housing Act as it applies to the poor.

H. R. Crawford, assistant secretary of the United States Department of Housing and Urban Development, urged black housing professionals in attendance to rehabilitate abandoned inner-city buildings to provide housing for low and moderate income families. Chicago has 5,000 abandoned buildings, most of which can be rehabilitated, he said.

Several participants in the seminar, however, criticized the new federal housing act for failing to provide for a significant amount of new housing construction as well as rehabilitated housing in black neighborhoods.

The Rev. Jesse Jackson, national president of PUSH, said the organization has created an agency to stimulate the building and rehabilitation of housing in black communities with federal assistance.

[From the Chicago Tribune, Sept. 26, 1974]

Expo '74 Opens With Call for Jobs

(By Barbara Reynolds)

Two of the nation's leading black civil rights leaders told business and political figures at a PUSH Expo '74 breakfast Wednesday that "militant pressure" is needed to keep inflation from striking hardest at the unemployed and workers at the bottom of the economic scale.

The creation of at least a million jobs to aid minorities, both black and white, was urged by the speakers—the Rev. Jesse Jackson, national president of PUSH, and the Rev. Leon Sullivan, founder of Opportunities Industrialization Centers.

More than 1,000 business and political leaders attended the event, which began the five-day PUSH Expo '74 in the International Amphitheater, the largest minority business and cultural exposition in the United States.

The Rev. Mr. Sullivan warned that, economically, America is "heading toward an iceberg," and like the ill-fated Titanic will end in disaster unless "the ship [America] is turned around."

He said the iceberg is made up of 75 million Americans on three levels of poverty—25 million who have an income of $3,000 or less a year; 25 million with $6,000 or less, and 25 million with $9,000 or less.

In a talk later before a group of labor leaders, the Rev. Mr. Jackson said he will take action to "preoccupy the nation with shame" over the unemployment problems.

"We're going to line up all the unemployed in Chicago and march them to the unemployment lines to dramatize the issue," he said.

[From the Chicago Tribune, Sept. 27, 1974]

Black Unity in Politics a Must: Jesse

(By Barbara Reynolds)

The city's top black political leaders should unite if they are to take over the decision-making functions of government and the mayor's post in 1975, the Rev. Jesse Jackson, national president of Operation PUSH, said Thursday.

He appealed for a bipartisan effort to accomplish four goals of Operation PUSH: Feeding the hungry, federal action to provide jobs, quality education, and unbiased hiring in the police and fire departments.

The Rev. Mr. Jackson made his call for political unity at PUSH Expo's Save the Worker breakfast, which was attended by the three black candidates for mayor and a cross section of black Democrats, Republicans, and independents.

They included Robert Holloway, the only black Republican in the state legislature; Ald. Wilson Frost, president pro tempore of the City Council; and Rep. Peggy Smith Martin (D., Chicago), the only black independent in the House.

The Rev. Mr. Jackson said Mayor Daley has three options in the upcoming mayoral race in Chicago.

He said Mayor Daley could resign now or decide not to run for another term. The mayor could try to appoint a successor, or the mayor could run again, win, and then insure the appointment of a successor if he does not complete his term.

All three black mayoral candidates spoke at the breakfast meeting.

Atty. E. Duke McNeil, the former president of The Woodlawn Organization, said that if he were elected mayor he would challenge industry to return to Chicago. He said he would push industrial leaders to educate and train blacks and whites for existing jobs.

State Sen. Richard Newhouse, (D., Chicago), said he already has been active in cutting off funds for training schools which have inadequately engaged in training programs for blacks.

"There are jobs in the city to ease the

soaring unemployment rates, but they are held by people who live outside of Chicago," Newhouse said.

Edward Allen, president of the West Side Development Corp., said he was confident that he would be successful in his bid for the mayoral post.

[From the Chicago Tribune, Sept 28, 1974]

Jesse Announces Coalition To Fight U.S. Stagnation

(By James Robison)

Blacks will "go back to the streets with direct nonviolent action" unless America provides one million jobs for the country's poor in the immediate future, said the Rev. Jesse Jackson, president of Operation PUSH, at the close of a four-hour private meeting of black church leaders here Friday.

He said President Ford's proposals for 85,000 public works jobs is not enough "to alleviate what for many may be a very cold winter."

The Rev. Mr. Jackson spoke in behalf of more than 80 black church leaders who met at Johnson Publishing Co., Inc., 820 S. Michigan Av., to form what he called "a new coalition to break the country's economic stagnation."

The Rev. Mr. Jackson characterized the Friday summit here as being in the same league with the meetings of black church leaders before major civil rights moves of the past—the Montgomery bus boycott, the Birmingham campaign for open public accommodations, and the Selma, Ala., march resulting in passage of the federal voting rights act.

"Black churches now need a new dimension of aggressive leadership that has been absent since the assassination of Dr. Martin Luther King, Jr.," he said.

"After Dr. King died, there was no spiritual axis around which men and women could rally," he added, noting that Friday's meetings "are to be seen as a reestablishment of that old coalition."

Asked if he saw himself as that "new spiritual axis," the Rev. Mr. Jackson said he is "just a country preacher" and "only a participant" in the new coalition.

He said among the other leaders are the Rev. C. T. Vivian, dean of students at Shaw University, Durham, N.C., and a long-time aide to Dr. King; the Rev. Leon Sullivan, Philadelphia, founder of Opportunities Industrialization Centers and the first black member of the board of directors of General Motors Corp.; and Bishop D. Ward Nichols of Denver, senior bishop of the 1.2 million-member African Methodist Episcopal Church.

The Rev. Mr. Jackson was quick to try to broaden the base of support for the coalition. He said that the "ideas raised here today are not limited to the black ghettos," and that he looked for a new working partnership among Jews, Arabs, Latinos, and poor whites.

He called for a second summit conference of black clergy for Dec. 3 to 5 to evaluate government efforts to meet the coalition's demands.

He said there "was unanimous disagreement" among the churchmen with Ford's proposals to break inflation by reducing expenditures in health, education, and welfare. He said cuts should come in military spending.

THE CASTRO REGIME IN CUBA

Mr. McCLURE. Mr. President, the question which much be squarely faced as we consider whether to relax our sanctions against the Castro regime in Cuba is whether such action serves the interests of the United States.

As I evaluate the various points made thus far by those advocating a change of policy, I remain unconvinced of the merits of their case. Numerous explanations or rationalizations have been presented in the last several months. Basically they are predicated upon a pair of assumptions which are erroneous: First, that our previous policy has failed, or in the favorite simplification, is "an anachronism" and, therefore, we must "normalize" relations with Cuba; or second, that the Cubans, ourselves, and indeed the whole hemisphere will be better off if Castro rejoins the regional family.

Only when we carefully recall what was the objective of our policy of isolating Castro's regime can we proceed with an intelligent verdict on the results. At least since the 1962 missile crisis our policy has not been one of attempting to overthrow the Communist dictatorship in Cuba and establish a friendly democratic government. We initially erred through our disastrous indecisiveness at the Bay of Pigs and our unwillingness at that time to remove this base of subversion in the hemisphere. Perhaps as a condition of Khrushchev's removal of the Russian missiles from Cuba, we decided not to support further efforts to overthrow Castro's government. In fact, on numerous occasions in the past decade, we have prevented exiles from Cuba from fomenting counterrevolution in Cuba.

Actually in the last decade our goal has consisted primarily of preventing the Communists in Cuba from exporting their revolution to other Latin American nations. This policy has succeeded. No other government in the hemisphere has succumbed to Castro's brand of revolution. Whenever Castro has attempted to foment guerrilla warfare against governments in Latin America, such as Bolivia, his agents have been defeated. In one instance Castro attempted to work with the constitutionally elected Marxist government of Salvador Allende. Here, however, as Allende abused executive power and allowed Castro's agents to train illegal paramilitary groups, the people of Chile strongly supported a coup led by the armed forces against the minority Marxist government. The situation in Chile 13 months ago should remain an object lesson that Castro remains committed to the subversion of governments in the hemisphere. Castro criticized Allende for not acting firmly enough against his opponents. Nonetheless, through illegal military training centers, including one at his country residence, the Chilean President appeared to be attempting to implement much of Castro's advice. After the coup in Chile, a number of weapons were discovered sufficient to equip a 20,000-man army. Most of this material had been smuggled in from Cuba. Either a Communist coup d'etat or extensive civil war appeared near as the military took control of the government on September 11, 1973. With this setback in Chile, Castro may be willing to alter his tactics or at least his rhetoric now, but should we alter our policy to suit his needs? Through our present policy, we have succeeded in isolating communism in the hemisphere and, therefore, a change of policy would probably only enhance the growth of Castro's influence rather than diminish it.

We have, therefore, successfully isolated the growth of communism in the Western Hemisphere. But some then contend that other nations in the hemisphere no longer support such a policy and we should change to "conform to the realities of the region." Even if other nations no longer support the isolation of Cuba, it does not logically follow that our own policy is in error. If other nations make an erroneous decision regarding recognition of Cuba, we only compound their error by unthinkingly following them. If other nations wish to extend trade privileges and diplomatic recognition to Cuba that is their prerogative. We must, at least, make our own decisions in our own interest. And, as the largest and most powerful nation in the hemisphere, we should be exercising leadership rather than followership in the formation of policy.

The Organization of American States remains about evenly divided over the issue of the readmission of Cuba. Some nations, such as Argentina, have reopened trade with Cuba. But other important nations, such as Brazil, Colombia, and Chile remain hostile to any unconditional overtures to Castro. Thus the position which the United States takes in the meeting next month in Quito, Ecuador, could be of decisive importance. Therefore, we should discuss what conditions should be met before we advocate any change in the present embargo.

Certainly, the first prerequisite for any change in policy should be some assurance that Castro will forsake his support for revolutionary movements throughout Latin America. All available evidence, and Castro's own speech in Havana 2 weeks ago, indicate that he has not abandoned his goal of disrupting the internal affairs of his neighbors. Similarly, we should have some demonstration that Castro actually wants to rejoin the OAS and conduct his affairs of state on a level of political maturity. Instead, in his Havana address, he called for the creation of a new OAS without the presence of the United States. Rather than making any overtures to the United States, Castro developed a thesis of rigid polarity with the following words:

> The United States on the one hand and the Latin American and Caribbean countries on the other are two worlds as different as Europe and Africa. There is no room for both in the same community. The Strait of Gibraltar, which is a miniscule sea, separates them there. Here we are separated by the Rio Grande and the Florida Strait.

Castro's notion of unity in the hemisphere means an alliance of antagonism against the United States and other so-called imperialist or Facist nations. As Castro continues to flay away at us, we must not masochistically ignore this and even tacitly acknowledge the validity of his tirades by extending him a hand of friendship.

Lastly, we should not support any relaxation of our embargo of Cuba as long as its government remains a great showcase of tyranny in the hemisphere. Many Members of this body have in the past year expressed their genuine feelings of concern about the plight of persons throughout the world being persecuted by governments, because of their political beliefs. In the history of the hemisphere probably no other government has violated the standards of justice and decency more than Fidel Castro's. Over 800,000 people have fled their homes in Cuba, usually with nothing more than the clothes on their backs. Over 14 years after the revolution we have reliable reports that thousands of men remain in jail for opposing the regime. Before we are willing to reopen any trade with the government of Castro, and thereby extend to his regime a form of economic support, we should have some evidence that this does not simply reinforce an oppressive tyranny.

STRENGTHENING THE SCIENCE AND TECHNOLOGY POLICY APPARATUS OF THE EXECUTIVE BRANCH

Mr. MOSS. Mr. President, in passing S. 32 in this session, the Senate took an important step toward reinvigorating and strengthening the science and technology policy apparatus of the executive branch. Since the provisions of S. 2495, which Senator MAGNUSON, Senator TUNNEY, and I introduced last year, have been incorporated into S. 32, I want to review the history of that bill briefly.

During its consideration by the Committees on Aeronautical and Space Sciences and Commerce, S. 2495 had evolved into a bill to create a Council of Advisers on Science and Technology, thus closely paralleling the recommendations of the National Academy of Sciences. The Academy report, "Science and Technology in Presidential Policymaking," released last June, reflects the sincere and considered belief in the scientific and technological community that existing mechanisms for formulating science and technology policy in the executive branch are simply inadequate. I very much agree. On the basis of this report, and of the testimony of the many distinguished witnesses who appeared before the two committees, we jointly and unanimously reported S. 2495 last month. Pursuant to a previous agreement, the bill was then rereferred to the Committee on Labor and Public Welfare.

As the joint report of our committee, Report No. 93–1155, makes clear, we concluded that there were four basic needs which S. 2495 could serve:

First. A permanent, continuing, high-level body to provide long-range planning and policy assistance on science and technology policy matters;

Second. Objective, credible policy assistance on science and technology;

Third. Long-range policy implications of scientific and technological developments needs to be discussed in an open forum; and

Fourth. More effective coordination of existing Federal research and development efforts.

S. 2495 was accordingly amended to meet those needs in the following ways:

First. S. 2495 establishes a Council of Advisers on Science and Technology to serve as a source of scientific and technological analysis and judgment for the President with respect to major science and technology policies and plans of the Federal Government;

Second. S. 2495 provides for high-level, objective policy advice and assistance to the President;

Third. S. 2495 establishes a Council of Advisers on Science and Technology which will be accountable and whose efforts will be subject to public scrutiny; and

Fourth. S. 2495 strengthens the existing mechanisms for coordinating Federal research and development programs.

I believe that the distinguished Senator from Massachusetts further strengthened this legislation. He and his colleagues on the ad hoc subcommittee on the National Science Foundation are to be commended for their prompt and favorable consideration of S. 2495. Although we are late in the session, I hope that the House will be able to act on this important legislation this year.

SENATOR PERCY OPPOSES RAILROAD RETIREMENT VETO

Mr. PERCY. Mr. President, unfortunately bad weather and airplane mechanical trouble prevented me from voting yesterday on the override of President Ford's veto of the railroad retirement bill. I can understand the President's objections to the bill; it will be expensive and it will mean that millions of American taxpayers will be paying for a retirement system from which they will not reap direct benefits. However, I do not feel these objections are valid reasons to uphold the veto and had I been here I would have voted to override the veto.

As we are all well aware, the railroad retirement system is on the brink of bankruptcy. Last year, Congress passed and President Nixon signed Public Law 93–69, establishing a Railroad-Union Joint Committee to recommend a method of saving the railroad retirement system. That committee, after months of negotiation, proposed the plan contained in this bill. The appropriate committees in both Houses of Congress gave careful consideration to this proposal and we ultimately gave the bill overwhelming approval, voting 343 to 10 in the House and 86 to 1 in the Senate. I believe that this concurrence among railroad labor and management and Congress is a good indication of the soundness of the proposal.

The administration has suggested that the financial stability of the railroad retirement fund be improved by cutting railroad retirement benefits and by raising the retirement tax on railroad employers. This proposal met with opposition in Congress for two entirely valid reasons. First, cutting the retirement benefits of railroad retirees, who worked hard and earned the benefits they now receive, cannot be considered an equitable move. Second, increased railroad employer taxes would inevitably be passed on to the consumer and thus be inflationary. This proposal, that was formulated by the Nixon administration, is clearly not an acceptable solution.

I believe it to be absolutely imperative that this legislation become law as it has. Defeat of this bill would not have meant just a decrease in railroad retirement benefits; defeat of this bill would have meant an end to those benefits altogether, and probably within the next 10 years.

It is not the fault of the railroad employees and retirees that their retirement system has been badly handled by the Federal Government. It was Congress who refrained from increasing railroad employer-employee retirement taxes while providing sizable benefit increases aimed at keeping railroad retirement even with social security. Nor is it the fault of the railroad employees and retirees that Congress belated attempts to reform the system come at a time when the Federal Government least desires to pay the bill and when the taxpayers can least afford an additional burden.

To be sure, this issue is not a pleasant one, but it is a simple one. We could have voted to deny to a million railroad retirees their rightful benefits for which they have worked and of which they are desperately in need for mere survival in these inflationary times. Or we could have voted to insist on the only acceptable alternative currently available—temporary subsidization by the general treasury of the railroad retirement system. I cannot believe that any one of us would choose the former course. I certainly will not.

I do wish to point out that if the administration or any other group can suggest an acceptable alternative to the proposal now before us, we can easily study it and, if warranted, replace the plan we now consider with the more acceptable one. Overriding this veto does not necessarily lock us into the new system. However, I do believe that it is time Congress stopped tinkering with railroad retirement and put in place a sound financial system railroad retirees can have confidence in. I doubt very much that we will have a more propitious time than the present to make these necessary reforms.

I regret I must oppose President Ford's reasoning, but I believe sincerely that at this time and under current circumstances we have no choice. Our only truly responsible alternative was to override the veto. The livelihood of a million Americans who have worked hard for their retirement benefits is at stake.

MUNICIPAL POWER ON THE MOVE

Mr. METCALF. Mr. President, one of the heartening consequences of mounting electric bills has been a reawakening of interest in locally owned and locally controlled power systems.

Public power provides more power at lower cost. Municipal power customers can more readily participate in decisions regarding municipal power rates and service—if they choose to exercise their opportunity—than can customers of investor-owned utilities.

The current issue of Ramparts carries a comprehensive article on the subject, written by Thomas Brom and Edward Kirshner. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUYING POWER TOWARD A PUBLIC UTILITY NETWORK

(By Thomas Brom and Edward Kirshner)

("Public power by itself isn't likely to transform America. But it is a concrete, workable example of community control and public ownership that might lead to wider political programs.")

The April 1973 ballot in Berkeley, California, presented voters with some unusual choices. Four radicals were running for city council. One of the several initiatives on the ballot called for legalizing marijuana in the city. But the item that seemed to generate the most opposition was an initiative innocuously referred to as "Measure 8."

Measure 8 called for municipal takeover of Pacific Gas and Electric's power distribution facilities in Berekely. Put on the ballot by a strong consumer action group called RIOT (Refusers of Illegal and Oppressive Taxes), it drew the combined wrath of the Chamber of Commerce, the *Berkeley Daily Gazette*, the League of Women Voters, two of the incumbent council members running for reelection, and, of course, Pacific Gas and Electric itself. Masquerading as the "Berkeley No on 8 Committee," PG&E used its own meter readers as election canvassers. It coordinated tens of thousands of dollars' worth of newspaper ads, radio spots, and voter mailings.

On April 17, Measure 8 lost by close to a three-two margin. Proponents of municipalization had been outspent by more than twenty to one. PG&E and such financial backers as the Southern Pacific Land Company, three California banks and a dozen other large corporations had poured nearly $100,000 into the campaign. This amounted to roughly five dollars for every "no" vote.

Supporters of public power in Berkeley, though defeated in 1973, carried forward a long history of sporadic local struggle for public municipal utilities in America. There were four isolated municipal power plants in 1882. Today, there are more than 2,800 public power systems, of which 1,775 are municipally owned.[1] But these public utilities, which include more than 90 percent of the nation's electric systems, generate and distribute only one-quarter of America's power.

Municipal power systems are usually quite small. About a third of them are in five states—Nebraska, Kansas, Iowa, Minnesota, and Ohio—each with over 100 municipal plants. Public power began in the 1880s in small towns. With a few exceptions, it has remained there. When electricity was introduced, privately owned utilities developed the dense, profitable urban markets first. Rural America never did get electricity until the federal government began the Rural Electrification Administration in 1935. In between were the small towns, where people wanted electricity and had enough population density to make the job financially feasible.

The subsequent growth of public power, however, was never peaceable. The private utility industry—the "power trust," as it was known in the late 19th century—was notorious for corruption, rate manipulation, and profiteering. Public power was its enemy. On the other side, radical populists organized against the utility monopolists. Public ownership planks appeared in the People's Party platform in the 1890s, in the labor-populist alliances in the Midwest during the same period, and in local reform platforms from 1896 onward.

Later, though agrarian radicals continued to support public power, the issue began to lose its ideological overtones. Some of the largest public power systems were built around the turn of the century, sponsored not by radicals but by "good government" urban reformers. These included Tacoma (1893), Jacksonville (1895), and Seattle (1902). By 1910, the number of public systems had reached 1,534. Cleveland began municipal power operation in 1914; Los Angeles and Springfield, Illinois, in 1916.

Sixty years later, the "investor-owned utilities" (IOUs) are regulated, respectable, and not nearly so unpopular. But there is still no peace between them and the public power systems. Bitterly fought takeover attempts by private utilities are frequent and often successful. The American Public Power Association (APPA) claims that it is good business for cities to operate local power distribution. Unfortunately, it is also good business for private corporations to do so. Many of the strongest surviving public power cities lie near federal dams, protected from private utility incursion by a steady source of cheap energy. These systems are the heirs of the New Deal, which produced TVA, Boulder Dam, the Bonneville Project, and hundreds of smaller power plants. But many of the other municipal systems, scattered across the Midwest and down the Pacific Coast, are more vulnerable. While they have favorable economies and a record of long public service to sustain them, solid political support has virtually evaporated. And in the past the difference between them and the IOUs has been measured in popular support, not simply in the superiority of the public systems' cash-flow charts.

Today, of course, the superiority of the cash-flow charts may take on renewed importance. Consumers hard presed by inflation may welcome the cheaper electricity customarily provided by municipal power. To be sure, energy shortages have put the squeeze on public power systems. Long-standing ties between large private utilities and the major energy companies put public power at a great disadvantage in the scramble for generator fuels. However, public power may find opportunities as well as difficulties in the "energy crisis." Oil shortages, power curtailments, and the possibility of rationing have all been met with a good deal of anger and suspicion. For the first time since the New Deal, public demands are fostering proposals in Congress and state legislatures for government intervention in the energy industry. Electric utilities regularly find their requests for rate increases challenged.

If the role of public enterprise in energy is to be expanded, public power systems offer a useful model. They work. And they bring a variety of benefits to their customers.

PAYING LESS FOR MORE

The economics of public vs. private power are straightforward. Public power systems yield cheaper rates. Comparative statistics compiled over the past century show that this holds true for cities of all sizes. Recent Federal Power Commission reports are equally convincing. FPC figures for public and private utilities in 1971 show lower costs per kilowatt-hour (kwh) in virtually every aspect of the public systems' operation. The savings are even more remarkable considering the typically smaller scale at which publicly owned utilities operate.[2]

Where do these savings come from? Exclusive of retained earnings, municipal utilities show an average of 30 percent lower costs per kwh delivered than private utilities (see Table). Of that total savings, 10 percent is due to municipal operating and maintenance efficiencies. Public systems spend less on advertising, less for public relations, less for lobbying, less for local political donations, less for accounting and collections, less for executive salaries, and less for internal bureaucracy. Also, public systems both produce and purchase their power more cheaply (5 percent of the savings). They are exempt from income taxes (20 percent). Their other taxes are lower too, though payments made in lieu of taxes reduce the savings from this item to 9 percent of the total. As public agencies, they can borrow money at cheaper interest rates (9 percent of the savings). Public systems have less-expensive plants for an equivalent number of customers and also sell more electricity per customer. This reduces the costs of depreciation and amortization per kwh delivered (8 percent of the savings). And finally, the absence of dividend payments to investors accounts for 39 percent of savings.

Public power systems, since they don't have investors to attract or pay off, retain more than twice the percentage of revenues that private utilities retain. In either system, these reinvested earnings increase the net value of the system. But in the case of private utilities, such an increase in value is reflected only in higher stockholder equity; each share of stock is in principle worth more. For public utilities, the increase in value benefits the municipality or the customers. Rates can remain low. The utility can finance its own development without resorting to borrowing.

The Edison Electric Institute, an organization sponsored by the private companies, makes much of the fact that public systems pay no taxes and are able to borrow through low-interest, tax-exempt bonds. According to the companies, public systems can sell cheaper power for these reasons alone. But the comparisons reveal that tax and interest benefits account for only a little more than one-third of the difference between public and private systems. The predominant factors remain dividend payments and efficiency.

Total taxes per kwh paid by private utilities do exceed those of municipal power systems. But these corporate taxes are paid to federal, state, and a variety of regional and local agencies. Municipal power systems pay virtually all of their contributions in lieu of taxes directly to the city's general fund. California public power cities, for example, receive about ten times more money per kwh in in-lieu payments than IOU-served cities receive in taxes. Thus local communities (though not other governmental units) benefit doubly from publicly owned power. Lower utility rates are combined with higher net revenues flowing to the city. The Pasadena municipal power system contributes 16 percent of its gross revenues, by city charter, to the general fund. The public system in Glendale contributes 15 percent; Burbank, 7 percent; and Los Angeles, with the country's largest city-owned power system, 5 percent, or $11.5 million annually. All four of these systems in the Los Angeles basin have lower rates for average residential use than the regional private utility, Southern California Edison.

Far from "missing" private utility tax payments, public power cities also enjoy lower property tax rates than comparable cities served by private companies. In public-power Alameda, California, the city tax rate per $100 assessed valuation is $2.16, compared to $3.47 in PG&E-served Berkeley. In Burbank and Glendale, it's $1.59 and $1.20, compared to $2.25 in nearby private-power Santa Monica. In Palo Alto, it's $.74 compared to $1.34 in PG&E-served Mountain View.

Certainly there are factors in these comparisons that are unrelated to utility system ownership. But in each case payments to the city by the municipal systems are higher per kwh than tax payments by the IOUs to private-power cities. Moreover, even if most of a public system's savings take the form of lower rates rather than in-lieu payments, the effect on taxes may be beneficial. Low electric rates attract businesses, and a healthy local economy helps keep property tax levies down.

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[1] Of the others, 26 are operated by federal agencies; 112 by state, county, or district agencies; and 932 by rural cooperatives. There are 244 privately owned systems in the United States.

[2] The average municipal system has about 15,000 customers; private systems average about 250,000 customers.

Both property tax rates and electric power rates—public as well as private—are generally regressive. Usually, however, there is a net progressive benefit for residential customers in public power cities if both property taxes and utility rates are lower than those in surrounding communities. Most municipal system have achieved both lower power rates and lower taxes. Anaheim even mandates lower rates than the surrounding private utility territory in its city charter. Burbank and Glendale are taking the first steps toward equalized power rates (rather than reduced rates for large users), which would add to the progressivity of the system.

GUARANTEED WASTE

A look at the special position of "regulated" private utilities helps explain why the comparison between them and public systems turns out as it does. The private power companies are, of course, owned by stockholders who demand a return on their investment. But since the 1930s, the IOUs are also government-recognized monopolies that are subject to regulation in return for a guaranteed rate of profit. The regulated "rate of return" allowed by the Federal Power Commission and state public utility commissioners currently ranges between 7 and 10 percent. Although these figures appear low, the percentages are deceptive.

For one thing, investor-owned utilities routinely exceed their regulated rate of return on private capital investments unrelated to utility operation. Many IOUs reinvest interest and earnings outside of the utility system, thus producing an unregulated secondary income for the benefit of their stockholders. Average return to stockholders' equity for the IOUs, after taxes, has equaled that for all manufacturing corporations since the mid-1950s. It has actually been higher in recent years. Most private utility return figures are currently between 10 and 15 percent, but Citizens Utility of Arizona and other IOUs have sometimes reached 25 percent levels.

Hidden investments by utilities are only part of the strange world of regulated monopoly economics. The phrase "rate of return" in investment analysis usually means return to owners' equity. But in the special language of the IOUs, "rate of return" essentially means total return on the company's entire investment, both debt and equity.

By using the entire investment as the IOUs' rate base, the regulating agencies offer a premium on overinvestment. The higher the capital investment in land, buildings, equipment, etc., the higher the resulting dollar amount of profit allowed by the regulating agencies. If the allowable rate of return remains higher than the cost of borrowing money for new investment, the utility can increase its effective rate of return by investing more capital and increasing the rate base.

The 1971 FPC comparative statistics on utility plant size and power cost per kwh suggest the IOUs' overcapitalization. Municipal power plants have 10 percent less net electric plant per customer than the IOUs, but they deliver 12.2 percent more kwh per customer. The public power systems thus deliver more electricity per customer from less plant than the private utilities. This is a good indication of the difference in capital efficiency.

The irony of governmental regulation is that by guaranteeing a rate of return based on total investment, the regulators have destroyed any incentive for the IOUs to hold down capital costs. In fact, as we have seen, the IOUs have a disincentive for building cheaper, more efficient plants. Moreover, the companies can set their rates to cover all their operating expenses *before* the rate of return is calculated, and can pass on all fuel increases. They thus have no incentive to locate cheaper sources of energy or introduce less costly operating and maintenance policies.

POWER TO THE PEOPLE

Municipally owned power systems are not regulated by other government agencies, although they do supply complete figures on plant operation to the Federal Power Commission. Cost per kwh and utility rates over the past 90 years show how good the public systems' financial performance has been. Their average costs, and the electric rates that reflect them, would be even lower if roughly half the systems did not have to buy their power wholesale from private utilities. (The American Public Power Association reports that 912 municipal systems buy supplies from private utilities. Most are too small to construct and run their own power plants and are unable to purchase from public supplies.)

Until the Otter Tail Power Company decision was upheld by the Supreme Court in 1973, private utilities routinely refused to "wheel" power from alternative suppliers across their lines to municipal systems. As a result, many public power cities were totally dependent upon local private generating companies for their power.

Now, since they can combine and interconnect their systems across existing power lines, many of the municipals are constructing regional generation and transmission facilities. Wisconsin's Dairyland Power Cooperative, serving farms in Minnesota, Wisconsin, and Iowa, is building a large steam generating plant for use as a power pool. To get the economies of scale, Dairyland is building a larger unit than it needs. It plans to sell the excess to private utilities.

In the Pacific Northwest, the emphasis is on planning a "hydro-thermal" program to augment the power of the Bonneville Dams with large-scale steam generation. In the Missouri basin, the existence of the cooperative Missouri Basin Systems Group made possible an REA loan to Basin Electric Power Co-op for a 400,000-kilowatt coal-burning unit. And the 11 public power cities of the Northern California Power Agency plan a geothermal operation near the town of Geyserville. Generating power from steam produced deep within the earth's crust, the cooperative project is slated for completion by 1977.

In Southern California, the municipal utilities have intervened in Edison's licensing and rate proceedings to demand limited participation in major Edison plant construction. By threatening antitrust action and delaying crucial plant expansion, the small public utilities have encouraged the formation of joint-venture projects with private utilities. With a minimum of capital, formerly small public utility departments and wholesale buyers have thereby gained entrance to huge coal-fired and nuclear plants they could never have built on their own. The result has been continued lower rates for public power cities surrounded by the Southern California Edison Company.

Right now, simple economics may be the strongest argument for local public power. But another argument has to do with the advantages of local control. Public power facilities are commonly operated by city governments, local district agencies, or consumer cooperatives. These structures may be just as bureaucratic and unresponsive as any corporation. But at least they can be changed when the need arises. Local ownership means local jobs. It means local control of management decisions, such as plant location rate of expansion, placement of power lines, type of power generation, and of course electricity rates. In a more general sense, local ownership means the possibility of community decision making and a feeling of responsibility to the public.

The recent fuel crisis in the Los Angeles basin showed how responsive public power agencies can be. With 48 percent of their low-sulfur generating oil cut off by the Arab embargo, the public power systems of Los Angeles, Burbank, Glendale, and Pasedena acted immediately to curtail power consumption and coordinate emergency fuel purchases. Each of the cities enacted legislation mandating cutbacks of 10 to 15 percent for residential customers and 20 percent for commercial power users. The smaller municipal agencies in Burbank, Glendale, and Pasedena pooled their fuel purchases and storage capacity. Receiving only minimal help from the Southern California Edison Company, the four public systems managed to secure needed fuel supplies while cutting power consumption by nearly 17 percent.

BITTER COMBAT

With all the benefits of public power, the question remains: why aren't there more community-owned systems? The answer to that lies with the private utilities and the carefully nutured relationships they maintain with state legislatures and Congress.

Coordinated national public relations, lobbying, and utility acquisition campaigns have been a hallmark of the private utilities since the days of the Samuel Insull power trust in the 1920s. During those years the National Electric Light Association (NELA) sought to discredit the growing public power movement with furious red-baiting tactics. NELA helped defeat the California Water and Power Act in 1922, a bill that would have created a state-owned power system patterned after the famous Ontario hydroelectric power system in Canada. It attacked Pennsylvania Governor Gifford Pinchot and New York Governor Alfred E. Smith, both of whom supported a national "superpower" grid of public systems. Any congressmen who supported plans for the construction of federal dams on the Tennessee or Colorado rivers became NELA's enemies as well.

Organizations that sought to coordinate the small municipal systems were special targets. These included the Public Ownership League of America, the National Popular Government League, North Dakota's Non-Partisan League, state Municipal Ownership Leagues, and the Socialist Party of America. But the exposure of Insull power corruption during Federal Trade Commission hearings in the late 1920s discredited the NELA. Several years later it was disbanded, only to be replaced with four specialized groups: the Edison Electric Institute, the Electric Companies Advertising Program, the Electric Companies Public Information Program, and the National Association of Electric Companies.

Much of the conflict between private and public utilities now is fought by proxy in state legislatures. Where the private utilities are especially powerful, the laws governing municipal authority are a maze of restrictions.

In many states, a municipality may not set up a utility to compete with an established private utility except after receiving a certificate of convenience and necessity from a state commission. Commissions typically issue such certificates only if the municipality can show that existing service is inadequate or otherwise deficient. California and Illinois are notable exceptions to this practice. In Wisconsin, there has been a long and as-yet-unsuccessful campaign to permit municipal utilities to extend their lines without state permission. Legislative control of public utility territories has tended to keep them small, preventing any economies of scale and protecting neighboring IOUs from rate competition. Elsewhere, the most widespread legislative tactic is severe limitations on municipal bonding. These limitations include a low public debt limit for general obligation bonds and a requirement that the state approve the issuance of revenue bonds. Virtually all of these restrictions grew out of the IOU's efforts.

Since the 1920s, private utilities have been lobbying to end government tax-exempt bonding entirely in the hopes of shutting off lower-interest money for public systems. The Public Ownership League of America fought virtually the same proposed legislation in 1922 that the American Public Power Association opposes today, this time in a form put forward by the late Nixon Administration. The Nixon tax proposal would substitute a system of government interest subsidies for tax-exempt bonding. This would give the federal government de facto veto power over specific projects.

Tax-exempt bonds, of course, are hardly an equitable tax policy. They provide a convenient repository for corporate and individual wealth that can generate interest without incurring federal taxation. But while the policy exists, communities and utility districts should be able to make use of the bonds for the widest possible development. Municipal bonding that finances public power facilities is one of the few instances of public benefit in a sea of private benefits supported by the tax laws.

The most direct and effective method of private utility attack is still the takeover move. It is usually coordinated with support from a regional utility association. *Public Power* magazine reported such takeover campaigns in the upper Midwest, throughout Ohio, and in Virginia during the period from March to August 1970. The magazine also revealed an Edison Electric Institute document establishing the policy. A typical campaign involves an attempt to influence the city council, construction of a "citizen's group," and large media expenditures. The particulars, catalogued year after year by the APPA magazine, are distinguished only by the IOUs' willingness to use whatever will work. Red-baiting is employed if the community is receptive to it, keying on such slogans as "socializing America." The takeover campaigns don't always succeed, but the IOUs are patient. They continue to erode the number of public power cities.

On the other side, fighting intermittent but deadly skirmishes with the private utilities, are the more than 2,800 municipal, state, district, federal, and cooperative power systems. Many of these systems are members of either the American Public Power Association or the National Rural Electric Cooperative Association. Although both organizations lobby from headquarters in Washington, neither has taken an aggressive role in promoting public power. Public power systems in general tend to be cautious and unwilling to take stands that might be unpopular with industry.

For example, the crush of energy-intensive industries such as aluminum and atomic fuel production in the Tennessee Valley has forced TVA away from its original hydroelectric power network. Once a paragon of concern for the public interest, TVA is now the largest single purchaser of strip-mined coal in the world. The coal fires the boilers of steam power plants that are now necessary to satisfy a huge industrial, military, and Atomic Energy Commission demand.

Public power agencies in the Southwest exhibit similarly narrow practices. Despite their usual responsiveness to local environmental concern in plant construction and air pollution standards, many public systems have joined in the Western Energy Supply and Transmission consortium to augment their power capacity. This group of 23 private and public utilities is building a power grid of six massive coal-fired plants in the desert of the Colorado Plateau. Several of the plants use strip-mined coal from leases on Navajo and Hopi land. The Four Corners plant, the first built and the largest to date in the system, is the greatest industrial polluter in the country.

In their defense, public power systems are bound by the present limits of energy production technology. They have not been the most strident promoters of coal-fired or nuclear plants. The difficult decisions of rate structure, load growth, boiler fuel, and environmental standards are relevant to all electric utilities. Consideration of public opinion and response to local customers are still higher among the publicly owned systems than among the IOUs.

THE BIG PUSH

Despite the obvious difficulties of building publicly-owned and controlled industries in the U.S. economy, the public power movement has two things going for it: a history of practical success, and a wave of public resentment against private energy corporations. Coalitions of new populists, consumer groups, community control organizations, urban planners, and liberal politicians are joining together in many communities to seek alternatives to private energy exploitation. The existing public power systems don't quite know what to make of this new attention. But they have often assisted consumer groups with the technical and legal problems involved in municipal power feasibility studies and condemnation proceedings. Many general managers of public systems have weathered criticism from the business community for years, and are not eager to be smeared for advocating public ownership. But others are overjoyed at the prospect of renewed public support, which has largely been lacking since the late 1930s.

On the national and state levels, public demands for control of the giant energy corporations have led to Senate proposals for a federal oil and gas corporation. (See "What the country needs is . . . ." **Ramparts, May 1974.**) There are proposals for state energy corporations as well. The TVA-modeled state corporations would develop oil, natural gas, coal, geothermal, nuclear, and hydro resources on public lands, competing with private industry in the market. The scale of the public enterprises could be massive: 50 percent of U.S. oil and gas reserves, 40 percent of coal and uranium, 80 percent of oil shale, and 60 percent of geothermal resources lie under public lands. Distribution of energy could remain local, retailed by public and cooperative utilities and gasoline stations.

An initiative for this kind of energy development and wholesale power corporation in Maine narrowly failed in the November 1973 election. The new governor of Vermont, Thomas Salmon, has directed the legislature to draft proposals for state energy development, graduated rate structures, and minimal "lifeline" energy service for all state residents regardless of ability to pay. The impetus for his action came from a Nader-supported research group, some unions, low-income and senior-citizen associations, and the Welfare Rights Organization.

The broad issue of community ownership and control has fostered local coalitions in many states. The Georgia Power Project in Atlanta has begun organizing around utility rate increases, making alliances with the Atlanta Labor Council, the Welfare Rights Organization, and the Tenants Council. Through its intervention with the state public service commission, the coalition gained a platform for attacking a variety of corrupt practices of the Georgia Power Company, and for presenting alternative rate and power distribution plans.

In San Francisco, the push for public power has been led by the *San Francisco Bay Guardian* and a group called Power to the People. Municipal ownership of PG&E's facilities in the city has been an issue since 1912 when the Raker Act mandated public power as a trade-off for federal construction of the Hetch Hetchy water and power complex in Yosemite park. Through the years, PG&E has defeated eight separate attempts to issue municipal bonds for the system. The company bilks San Francisco out of $30 million a year by re-routing Hetch Hetchy public power over its lines, then selling privately generated electricity to the city. In December 1973, a San Francisco grand jury issued a report to the Superior Court finding that PG&E was distributing electricity illegally in the city. Although the state public utilities commission promises to reply in defense of the present arrangement the report has given new life and added leverage to public power groups.

E&GP (Electricity and Gas for the People—Turn PG&E Around) has coordinated demands in the San Francisco Bay Area for lower utility rates and an end to virtually automatic PG&E profit and rate increases. Seeking to focus public anger at higher utility bills that parallel higher corporate profits, E&GP concentrates its attack directly on the private utility. Meanwhile, members of E&GP, Power to the People, and RIOT have revived the move for municipalization in both San Francisco and Berkeley. And this time they are armed with recently enacted campaign spending limitation ordinances to curtail massive PG&E corporate intrusion.

The benefits of a new public power movement, in the spirit of the radical populists who began municipal systems in the 1880s, would be both real and symbolic. First, public power works, and its electricity costs less. Second, municipal power systems prove that public enterprises can be efficient and profitable for the public, even within the present economy. They give the lie to the alleged superiority of private corporate organization. Moreover, public systems established during the current mood of disgust with energy monopolies would be expressions of community power and proof of the vulnerability of the corporate giants. Despite the difficulties of condemnation proceedings, over 30 public power systems have been formed since 1960. And this May, the people in the upstate New York town of Massena voted overwhelmingly for a $5 million bond issue to buy back their electric system.

By itself, public power isn't likely to transform America. It is not a widespread concern now, and because of the technical questions involved and the complications of power system condemnation proceedings, it is not likely to become one soon. But it is a concrete, workable example of community control and public ownership that can be an important adjunct to wider political programs. It's a beginning step toward revitalizing public energy as an alternative to continued corporate abuse.

THE JUVENILE JUSTICE PLAN

Mr. MATHIAS. Mr. President, as a member of the Subcommittee on Juvenile Delinquency of the Committee on the Judiciary, I have been concerned with the development of an effective and sustained national commitment to the control and reduction of juvenile crime. Such crime is not only a serious blight on this great Nation, but involves a personal tragedy for both the victim and the juvenile, because the future course of both of their lives may be shaped by a senseless act.

I believe that we are making progress in this area. I view the passage of S. 821, a bill which I cosponsored, as a major step in the right direction. This is not only because it will direct needed funds and attention to the problem of juvenile justice, but because its passage shows that some of that needed attention is already present.

Mr. President, I ask unanimous consent that an article from the newsletter of the Governor's Commission on Law Enforcement and the Administration of Justice of my own State of Maryland, dealing with the subject of juvenile justice and entitled "Commission Implements Juvenile Justice Plan," be printed in the RECORD at the close of my remarks. The Governor's commission is our Maryland State Planning Agency, designated under the LEAA program established by Congress. I am pleased to see the commission make the problem of juvenile justice the subject of their lead article in this newsletter. I think it shows an awareness that juvenile justice is one of our leading law-and-order problems.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Commission Implements Juvenile Justice Plan

In recent years there has been increasing national concern with the problem of juvenile delinquency. As criminal justice planners have begun to focus more closely on crime patterns and have developed offender profiles, it has become clear that juvenile delinquency is a national problem of serious proportions.

The National Advisory Commission on Criminal Justice Standards and Goals recently reported that in 1971, persons under the age of 18 accounted for 25.8 percent of all arrests—50.8 percent of all arrests for crimes against property and 22.8 percent of all arrests for violent crimes against persons. In Maryland in 1973, juveniles accounted for 39 percent of all arrests.

The growing juvenile delinquency problem has been comprehensively addressed in Maryland in recent years and efforts are now beginning to pull together an integrated system for the prevention and treatment of juvenile problems.

Five years ago, in 1969, there were few programs in Maryland aimed at reducing crime through prevention, aside from a few minor activities largely aimed at recreation. In addition, there were no organized movements under way to implement such a system.

The juvenile treatment system had just been unified by the State, but programs had not begun to be designed and fully developed. The system basically relied on training schools and understaffed probation and aftercare offices.

There were no formal staff training programs and no significant resources to make such training possible. In addition, there were no long range detailed plans for developing a fully operational treatment-oriented system.

Since that time, considerable progress has been made. The Governor's Commission has provided substantial funding support to the Department of Juvenile Services (DJS) and numerous Maryland localities for programs designed both to prevent juvenile delinquency and to provide appropriate treatment for delinquent youths. In the years of 1970, 1971, 1972 and 1973, DJS received more than $1.6 million in Commission grants. Approximately $5.4 million was awarded during this same period to local jurisdictions for juvenile programs.

PREVENTION

The major thrust of the State's prevention efforts has been the implementation of a network of youth service bureaus throughout Maryland. With increasingly close ties to the juvenile justice system, these bureaus provide a non-desidential setting where troubled youths can receive various types of counseling services. As of late 1973, the Commission was funding 15 such bureaus providing services to areas in eight counties and Baltimore City.

DIAGNOSIS AND DIVISION

In many instances, the formal juvenile justice process is not the most effective way to deal with juvenile problems. This fact, coupled with the administrative difficulties associated with processing large numbers of youths through the courts, is a major reason why a variety of diagnosis and diversion programs have been developed in several areas of the State.

One such program funded by the Commission in Baltimore City is the Pre-Trial Intervention Project (PTI), which provides intensive screening of juvenile offenders and placement into planned programs designed to meet individual counseling, educational, training and employment needs. PTI's primary goal is to take a youth charged with an offense prior to his trial, develop a rehabilitation program for him, implement that program and assist the youth in obtaining a dismissal of charges if program completion is satisfactory.

Another program, operating in Anne Arundel County, is designed to divert youths who have committed misdemeanors away from the court process and into community work or treatment programs. This Community Arbitration Program involves the efforts of DJS, the police and the community itself in developing programs to rehabilitate youths in the community rather than formally processing them through the juvenile justice system.

In addition, the Commission awarded three separate grants to DJS in 1973 for expanded diagnostic capabilities in Baltimore and Prince George's Counties and in DJS Regions I and II (Eastern Shore). This capability along with the availability of other State resources for diagnostic services to be delivered outside a central residential facility is alleviating difficulties brought about by the need for transportation and other problems associated with unnecessary detention.

DETENTION

A youth is arrested and charged with an offense and it is often not in the youth's or society's best interests to release him into the custody of his parents. The dilemma in this type of solution is: what do you do with the child? Most authorities agree that placement in a jail or local lock-up with their possible criminalizing effects is not the answer when the youth is not a threat to the community.

The problem is now being addressed on a substantial scale through the emergency shelter care concept. Commission grants have enabled DJS to contract for services with homes in various parts of the State which provide short term (usually less than 30 days) care for children who require care pending initial or further court action.

Under one recent grant, DJS was able—during an 11-month period—to provide over 2,000 days of emergency shelter care at a cost considerably below the cost of institutional care.

Another project titled House Detention operating in Baltimore City under a grant to DJS offers a unique non-institutional detention alternative. Utilizing the principle of intensive supervision, the project handles adjudicated offenders whose cases are awaiting final disposition. These children are placed in their own or surrogate homes under the close supervision (multiple visits daily) of case workers. They are maintained in some type of activity, such as school, work or a recreation program.

Community-Based Treatment

Not every adjudicated delinquent needs to be placed in a juvenile institution. In fact, the trend in Maryland is toward treating delinquents and Children in Need of Supervision in the community where they can take advantage of local services. Youths chosen for participation in these community-based programs are those who it is believed pose no threat to themselves or the community by being placed in such a setting.

The local point of community-based treatment in Maryland is the group home. Commission grants have been made to localities throughout the State as well as to DJS for group home projects. Over the last three years, a total of 21 group homes have been funded by the Commission.

One of these homes is Kent Youth, which serves Kent County on the Eastern Shore. The home combines the efforts of a professional staff with strong citizen involvement provided by a board of directors composed of leading local citizens.

The goal of the program at Kent Youth is to provide the academic, social, self care or pre-vocational skills needed to insure a youth's successful reintegration into society.

The home is managed on a day-to-day basis by resident teaching house parents, trained in group home management and operations. They are responsible for the administration of the total program and normal household duties associated with group home living. Also on the staff is a social worker who works with the youth's family in the home setting. It is the social worker's responsibility to assess the family's situation as it relates to the youth's problems, to render appropriate counseling services, or refer the youth to the appropriate agency to address his problems.

Another aspect of community treatment is the utilization of volunteering services. A recent Commission grant to DJS provides for eight regional volunteer coordinators who handle volunteer services throughout the State. Volunteers are used in such capacities as intake, probation and after-care aides and tutors. They also assist in providing needed transportation services. During the project's first nine months of operation 269 volunteers provided over 16,000 hours of service.

INSTITUTIONAL TREATMENT

For those youths who require institutionalization either for their own good or for society's protection, efforts are being made to expand educational and training programs offered in juvenile institutions so that these facilities can offer more than mere custody.

One such program at the Maryland Training School for Boys provides vocational skills for those students who, it is believed, will not return to the public school system. Students receive training at the school and on the job in area businesses and industries in such skills as small engine repair, electrical repair and welding. The project has also involved members of local communities.

The welding shop makes bookshelves for other area institutions and community residents bring electrical appliances needing repair to the school. Project officials note that they have received excellent cooperation and support for the project from local residents.

Besides assisting in the development of academic and vocational education training programs for institutions, emphasis has also been placed on drug training programs for institutionalized youth. Now in its third year of funding, the drug training program at the Montrose School involves not only the youths in residence, but also their parents, institutional and after-care staff. The curriculum deals with the nature and extent of the drug abuse problem and explores, in depth, methods and resources available to deal with the problem. The program involves training sessions including lectures, discussion, programmed instruction and continuous interaction and involvement among the participating groups.

At the Maryland Training School for Boys, the Automated Drug Program is an individualized, self-paced student response program presented to each student for three 45-minutes class periods per week for six weeks. The program is presented through a series of slides and tapes and includes workbooks with quizzes, pre- and post-test questionnaires, simulated drug identification kits and instructional guides.

OTHER PRIORITIES

The area of program evaluation has been an important concern in recent years. A Commission grant to DJS now in its third year of funding has provided the Department with an evaluation methodology and project staff are now conducting a broad evaluation program in three training schools, the forestry camps, and the Baltimore City Youth Services Center. The goal of the program is to determine if an attitudinal change has taken place in a youth and if this change is the result of his participation in a particular program.

In this area of program development, a Commission grant to DJS provided for three delinquency prevention specialists to work in Baltimore City, Baltimore and Prince George's Counties. These specialists are responsible for coordinating the various delinquency prevention and treatment alternatives available in their respective jurisdictions; in addition, the specialists consult with community groups, police departments, schools, and social services personnel to solicit their participation in assessing needs and recommending methods to fill identified gaps in service. Project officials note that a final responsibility of the specialists will be the production of a master plan for delinquency prevention in each of the three jurisdictions.

In the area of training and staff development, the Commission has provided DJS with over $250,000 in management and supervisory training programs and training of line workers and youth supervisors, those employed by DJS, various community programs, group homes and youth service bureaus.

REPORT OUTLINES PROGRESS IN NATION'S CRIME CONTROL PROGRAM

A report released by the National Conference of State Criminal Justice Planning Administrators shows that significant progress is being made by all states in improving their systems of criminal justice and in developing crime reduction programs.

The report, State of the States on Crime and Justice 1974, also calls on Congress to continue to support and to increase appropriations levels for the Crime Control Act of 1973.

Richard C. Wertz, Executive Director of the Governor's Commission and Chairman of the National Conference of State Criminal Justice Planning Administrators which represents State criminal justice planning agency (SPA) directors in the 55 states and territories, said that the report demonstrates both the abilities of the states to develop and implement criminal justice programs, as well as the need for increased appropriations.

Five major findings are cited in the report.

1. The SPAs have set crime reduction and criminal justice system improvement priorities and are utilizing their resources to meet them. They are:

The upgrading of prosecutor and public defender capabilities and the improvement of courts administration.

Increasing and improving training for police officers and reducing robbery, burglary, drug abuse and larceny.

Preventing and controlling juvenile delinquency through implementation of community-based facilities and services.

Establishing and upgrading state-wide adult community-based correctional facilities and services.

2. Although the SPAs have made significant progress toward achieving their goals, the pace has been slowed by relatively constant levels of appropriations during fiscal years 1973, 1974 and 1975. Increased appropriations are needed.

"Between 1968 and 1973, Congress committed increasing appropriations to the Crime Control program, and as funds grew, SPA capabilities improved, programs expanded and the criminal justice system responded rapidly. Today, many SPAs have been slowed in their efforts because program appropriations have not increased appreciably above FY 1973 levels," the report says.

3. The SPAs are providing, for the first time, a coordinated and comprehensive approach to meeting the criminal justice needs for their states.

"The SPAs are in unique positions within their state criminal justice systems," the report says, "because they are able to approach its problems from a system viewpoint. SPA efforts are aimed at coordinating, to the extent possible, the activities of police, courts and corrections—the system's component parts."

4. During the last five years, SPAs have grown in size and skill to meet increasingly complex needs and responsibilities within their states.

The report says that when the program began five years ago, there were few, if any, professional criminal justice planners or state-wide agencies having the sole responsibility for comprehensive criminal justice planning. Since that time, it is noted, the SPAs have begun to integrate themselves more fully into their state criminal justice systems and at the same time have increased in size to meet the challenges of program growth.

"This expanding capability has been accompanied in the SPAs by change in staffing patterns reflecting increasing emphasis on auditing and program evaluation," the report notes.

5. As the first federal funding program under the block grant concept, the Crime Control program has proven that the states (SPAs) and the federal Law Enforcement Assistance Administration (LEAA) can work together productively to achieve common goals.

"The SPA/LEAA relationship has experienced growing pains over the years, but is now emerging as a true partnership of federal and state government," according to the report.

It is noted that this has been the result of two factors. First, LEAA's recognition of state abilities to administer their individual programs and second, the formation of the National Conference of State Criminal Justice Planning Administrators to provide the states with a collective and unified voice on issues of mutual SPA/LEAA concern.

RELEASE ON RECOGNIZANCE STUDY SHOWS FEW FAIL TO APPEAR FOR TRIAL

"Any defendant charged with an offense not punishable by death shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance unless the officer determines that such a release will not reasonably assure the appearance of the defendant as required."—Excerpted from Maryland District Rule 777

The operation of Maryland's release-on-recognizance system is the subject of a study completed recently in Baltimore City and Baltimore and Prince George's Counties by the National Council on Crime and Delinquency which shows that only about four percent of the defendants who are released under Rule 777 fail to appear for trial.

[The "failure-to-appear" rate represents the percentage of defendants released on their own recognizance who did not appear as scheduled in court. Those whose cases did not reach court because they were nol prossed or for some other reason, were counted as having appeared for trial.]

The study, which was coordinated through the Administrative Office of the Courts under a grant from the Governor's Commission, also shows that less than two percent (for Baltimore City, 0.4 percent) of the defendants released under the Rule are arrested for new offenses between the time they were first released and their trial for that arrest.

The three jurisdictions selected for the study were responsible, according to the District Court's 1972–73 annual report, for two-thirds of the criminal defendants tried in the State. Arrestees who were traced were followed either to disposition or until they left the jurisdiction of the District Court by being indicted for a felony and bound over for trial in the Circuit Court.

In addressing issues surrounding pretrial release, the study notes that the judicial decision whether to release or detain a person arrested and charged, but not yet tried, for a crime has always been difficult.

"One of the major defects of the traditional bail system," it is pointed out, "is that it detains too many people." This, the study says, is bad for the detained defendant because he becomes separated from his family and the community, because he is exposed to the criminalizing effects of jail and because he may be confined for something he did not do.

The study also emphasizes that the costs of detention range into the millions annually with communities spending as much as $10 per day to house, feed and guard each jailed defendant, including the defendant who is in jail "solely because he cannot afford the bail premium."

Another key issue surrounding pretrial release, according to the study, is that the monetary bail system operates against the poor by taking the release decision out of the hands of judicial officials and putting it into the hands of the bail bondsman. "Where the accused is unable to make bail or raise the bondsman's premium the effect is to make poverty a crime," the study says.

Finally, it is argued in the study that both the judgment and the sentence are prejudiced by release/detention status. Citing statistics from the Manhattan Bail Project, the study notes that only 17 percent of 374 defendants studied who made bail received prison sentences, while 64 percent who were continuously held in jail were sentenced to prison.

"The investigators questioned whether this startling difference was due to the fact that more serious offenders were detained without bail and were thus more likely to receive prison sentences, or whether the mere fact of detention predisposed the person to the less desirable sentence. They found that the evidence supported the latter conclusion," the study says.

MAJOR FINDINGS

Failure to appear

The overall failure-to-appear rate for the total population studied was 3.9 percent. It was slightly lower for defendants in Baltimore City and slightly higher for defendants in Baltimore County and Prince George's County: 3.6 percent, 4.7 percent and 4.7 percent, respectively. Further data indicates that failure-to-appear rates may be related to the average time from arrest to trial. In Baltimore City, here the rate was lowest, the average time from arrest to trial was 11.5 days. Average time from arrest to trial increased to 46.8 days in Baltimore County and 62.4 days in Prince George's County, both of which had higher failure-to-appear rates.

Race and sex

On the basis of race and sex, there is little variation in failure-to-appear rates, except that the rates for white females are significantly lower than the others. The total rate for non-white females was 4.1 percent; for non-white males, 4.0 percent; for white females, 1.8 percent, and for white males, 3.9 percent.

Age

Defendants were categorized into three age groups; 20 years or less, 21 to 29 years and 30 years or older. Defendants who were 20 years of age or younger had a slightly higher failure-to-appear rate than the older defendants; 4.5 percent as opposed to 2.9 percent in the 21 to 29 years group and 3.6 percent in the 30 years and older group.

Seriousness of charge

Baltimore City data was analyzed to observe whether there may be a relationship between the seriousness of the charge against the defendant and the likelihood of appearance at trial. Differences were found to exist among the misdemeanor charges. The failure-to-appear rate was 3.2 percent for minor misdemeanors (such as gambling, liquor law violations, disturbing the peace) and 4.2 percent for serious misdemeanors (such as assault and battery, marijuana possession, vandalism). A low failure-to-appear rate was reported for felony charges (3.1 percent), but there was a higher rate of detention for suspected felons and thus those defendants were not subject to the same risk of non-appearance."

Criminal activity between release and trial

Of the target population, 16 persons (0.4 percent) of the 3,686 under the jurisdiction of Baltimore City committed new offenses between the time they were first released and their trial for that arrest in Baltimore County there were seven new arrests (1.4 percent) and in Prince George's County there were twelve news arrests (1.8 percent).

The study also examined the role of District Court commissioners who, as judicial officers, are generally the first contact the offender has with the criminal justice system in Maryland. A duty of the commissioner is determining a defendant's eligibility for pretrial release under Rule 777.

The study points out that although any arrestee detained as a result of a commissioner's decision gets a bail review hearing before a District Court judge, "from a practical standpoint it is the commissioners who are making the pretrial release decisions."

Three major needs were pointed out insofar as the commissioner system is concerned. First, there is a need for more clearly articulated guidelines to be followed in making release decisions. Second, more information about the defendant is needed to assist in the decision-making process. Third, a formalized training program for commissioners should be developed which would provide both pre-service and in-service training.

A REPORT OF THE NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS

This article highlights the major recommendations made by the Task Force on Corrections of the National Advisory Commission on Criminal Justice Standards and Goals. The Task Force—one of five surveying problems and needs in all areas of the criminal justice system—was chaired by Judge Joe Frazier Brown, former executive director of the Texas Criminal Justice Council.

The National Advisory Commission studied the criminal justice system for two years under a grant from the Law Enforcement Assistance Administration (LEAA). Its findings were made public in a final report consisting of a summary volume, "A National Strategy to Reduce Crime," and five individual Task Force Reports: "Police," "Courts," "Corrections," "Community Crime Prevention," and "The Criminal Justice System."

LEAA officials have emphasized that the Standards and Goals recommendations are advisory in nature and that the federal government does not intend to impose them on states and local units of government.

The Standards and Goals recommendations are among material currently being reviewed by a number of subcommittees of the Governor's Commission, which have begun the planning process aimed at further defining criminal justice standards and goals for Maryland agencies.

Emphasizing that a "new view" of corrections is needed, the Corrections Task Force stated that a fundamental objective of corrections must be to secure for the offender contacts, experiences and opportunities that provide a means and stimulus for pursuing a lawful style of living in the community.

"With this thrust," their report says, "reintegration of the offender into the community comes to the fore as a major purpose of corrections." It is further noted that "the failure of major institutions to reduce crime is incontestable. . . . The mystery is that they have not contributed even more to increasing crime."

The report deals substantively with seven major areas: sentencing, institutions, rights of offenders, protection against personal abuse, ombudsmen, juvenile delinquency and diversion.

Sentencing

The report says a study of sentences and actual time served by first releasees indicates that in many states a substantial portion of offenders released in 1970 had been sentenced to five years or more but a relatively small percentage had actually served more than five years. A very small percentage had served 10 years or more.

It was recommended that prison terms be set at not more than five years unless it is determined that the defendant is a persistent felony offender, a professional criminal or a dangerous offender. Under these circumstances, a 25 year sentence would be given. This would not apply in the case of murder.

Among the recommended sentencing alternatives were unconditional release, conditional release, a fine, release under community supervision, sentence to a halfway house or other community-based facility or sentence to partial confinement with liberty to work or participate in training and education during all but leisure time.

Institutions

The Task Force recommended that all local detention and correctional facilities, both pre- and post-conviction, should be incorporated under state systems by 1982.

"States should also," the report said, "develop community-based resources and coordinate planning for community-based correction services on a state and regional basis."

In addition, it was recommended that there be a 10-year moratorium on the construction of correctional institutions except when an "analysis of the total criminal justice and adult corrections systems produces a clear finding that no alternative is possible."

(The long range—10–15 year—plans of the Governor's Commission call for a system of community-based correctional facilities and services to be implemented in Maryland. The cornerstone of this capability would be expanded parole and probation services and the development of a system of community correctional centers throughout the State.

Three types of jurisdictional centers would be established. *Regional* centers would be located in less populated combined counties. *Single County* centers would be located in several highly urbanized counties. *Multiple* centers would be located within urbanized areas—counties or cities—having a large number of incarcerated persons.)

Rights of offenders

Stating that the strategy of correctional reform must be built on a foundation of nondiscriminatory and just action, the Task Force concluded that "convicted offenders should retain all rights that citizens in general have except those rights that must be limited in order to carry out the criminal sanction or to administer a correctional facility or agency."

Until recently, the report said, an offender was deemed as a matter of law to have forfeited virtually all rights upon his conviction and to have retained only such rights as were expressly granted to him by statute or correctional authority.

It was further noted that the issue of offenders' rights has been increasingly before the courts in recent years; therefore, the Task Force recommended that each correctional agency immediately develop and implement policies and procedures to assure that persons under correctional supervision have access to the courts to present any issue.

Protection against personal abuse

The report said each correctional agency should immediately formulate policies and procedures that would assure that the following are prohibited:

Corporal punishment.

The use of physical force by correctional staff except when absolutely necessary.

Solitary or segregated confinement except as a last resort, and then not to last more than 10 days.

Any deprivation of clothing, bed and bedding, light, ventilation, heat, exercise, balanced diet or hygienic necessities.

Any act or lack of care that injures or significantly impairs the health of an offender.

Ombudsmen

The Task Force called on every correctional agency to have a designated ombudsman who is trained, compensated and organizationally experienced. "He would hear complaints of employees and inmates who feel aggrieved by the organization or its management, or (in the case of offenders) who feel aggrieved by employees or conditions of their incarceration," the report said.

Juvenile delinquency

In its standards on juvenile delinquency proceedings, the report recommended that the delinquency jurisdiction of the courts be more clearly defined and called on the states to adopt legislation by 1975 to achieve that goal.

The legislation also should include provisions governing the detention of juveniles accused of delinquent conduct, the report said. It suggested a prohibition against detaining juveniles in jails, lockups or other facilities used for housing adults, criteria for detention prior to the adjudication of delinquency matters; a maximum of overnight detention for juveniles prior to their first juvenile hearing; and courts, not law enforcement officers, deciding whether a juvenile should be detained.

(Maryland statutes provide that, after January 1, 1975, children who are alleged either delinquent or in need of supervision shall not be detained in facilities which are being used to detain adults or to which delinquents have been committed.)

"Use of state institutions for juveniles and youths should be discouraged. The emerging trend in treatment of young defenders is diversion from the criminal justice system. When diversion is not possible, the focus should be on community programs," the report said.

(The Commission's long range plans, similarly, call for a strong court services component within the Department of Juvenile Services which would provide diagnosis, screening and diversion. The goal in this area is that only 10 per cent of all juveniles first reaching intake would go through the formal adjudication process.)

Diversion

The report said each local jurisdiction should develop and implement by 1975 formally organized programs for diversion that can be applied in the criminal justice process from the time an illegal act occurs to the moment of adjudication.

Factors to be considered in determining whether an offender is to be selected for diversion include: the arrest has already served as the desired deterrant, the needs and interests of the victim and society are better served by diversion than by official processing, the offender does not present a substantial danger to others, the offender voluntarily accepts the offered alternative to further criminal justice system process, or the facts of the case do not sufficiently establish that the defendant committed the alleged act.

(The Governor's Commission has provided substantial funding support to a diversion project in Baltimore City, Project F.O.U.N.D. (First Offenders Under New Direction). The project is designed to divert from the court process young adult first offenders charged with certain misdemeanors. It offers a combination of counseling, educational, vocational and supportive services as an alternative to criminal adjudication.)

FREEDOM OF INFORMATION ACT

Mr. MUSKIE. Mr. President, the Senate and House have sent to the President a bill to insure greater openness and public knowledge about the way our Government is run. The amendments to the Freedom of Information Act of 1966 are a most significant product of this post-Watergate period because they will bring the people closer to the materials, facts and documents on which officials in the Government base their decisions and policies.

That legislation may be in jeopardy. While it was sent to the President on October 9, we must still await a decision whether he will sign the measure into law or return it to the Congress with a veto. Unfortunately, should the Congress recess before midnight Saturday, President Ford could simply let the bill sit on his desk to die by the pocket veto.

This would be a serious blow to our Government as we attempt to restore public confidence through more open processes.

Congress cannot override a pocket veto. Instead we would have to wait until next session and begin again with a new bill.

We must not delay the people's opportunity to know more about their Government. Already that right has been eroded by too little candor and too much secrecy.

It would be a regrettable irony if a decision to deny the people greater access to their Government is decided without further debate behind closed doors of the White House by a new administration, only recently pledged to openness and candor.

I want to take this opportunity to extend my congratulations and appreciation to my friend and able colleague the senior Senator from Massachusetts (Mr. KENNEDY) for the dedicated contribution he has made to these important improvements of the Freedom of Information Act.

No one can underestimate the dilligence and concern with which he, the other members of the Committee on the Judiciary, and the Senate and House conferees have worked to insure that the changes made in the 1967 act will, in fact, further the vital work of making Government records readily available for public scrutiny and making the conduct of the public business a subject for informed public comment.

This has been a very rare and important opportunity to correct the defects we discovered in the administration of the act during joint hearings I conducted with Senator KENNEDY and Senator ERVIN last year. In many important procedural areas the conference report on H.R. 12471 will close loopholes through which agencies were evading their duties to the public right to know.

The price of a court suit has too long been a deterrent to legitimate citizen contests of Government secrecy claims. This legislation will enable courts to award costs and attorneys' fees to plaintiffs who successfully contest agency withholding of information. Additionally, these changes will require agencies to respond promptly to requests for access to information. They will help bar the stalling tactics which too many agencies have used to frustrate requests for material until the material loses its timeliness to an issue under public debate. And they provide long-overdue assurance that agencies will report to the Congress on their policies and actions in handling Freedom of Information Act cases.

In one major respect this legislation responds to a weakness in the existing law which was illustrated in the case of Environmental Protection Agency against Patsy T. Mink, and others, decided by the Supreme Court on January 22, 1973.

In that case, 32 Members of Congress, bringing suit as private citizens, sought access to information dealing with the atomic test on Amchitka Island in Alaska.

A U.S. court of appeals directed the Federal district judge trying the case to review the documents in camera to determine which, if any, should be released. This seemed an appropriate step since the act now provides for court determination of the validity of any executive branch withholdings.

The Supreme Court was asked to review that order and reached a decision in that case which was somewhat tortuous. The Court held that in camera review of material classified for national defense or foreign policy reasons was not permitted by the act. The basis of this decision was the exemption of the act which permits withholding of matters authorized by Executive order to be kept secret in the interests of national defense or foreign policy.

The Supreme Court decided that once the executive had shown that documents were so classified, the judiciary could not intrude. Thus, the mere rubberstamping of a document as "secret" could forever immunize it from disclosure. All the Court could determine was whether it was so stamped.

The measure before the President would specifically overrule that holding. And it is that provision which seems to cause him the greatest difficulty.

When the Freedom of Information Act amendments were considered by the Senate, I offered a change which would authorize the courts to conduct in camera a review of documents classified by the Government to determine if the public interest would be better served by keeping the information in question secret or making it available to the public.

My amendment was a response to the increased tendency of former administrations to use national security to shield errors in judgment or controversial decisions.

It was a response as well to the mounting evidence, more recently confirmed in tapes of Presidential conversations, that national security reasons were deliberately used to block investigations of White House involvement in Watergate.

Finally that amendment reflects confidence in the Federal judiciary to review determinations to classify secret documents and to decide whether the greater public interest rests with public disclosure or continued protection.

I cannot understand why we should trust a Federal judge to sort out valid from invalid claims of executive privilege in litigation involving criminal conduct, but not trust him or his colleagues to make the same unfettered judgments in matters allegedly connected to the conduct of national defense or foreign policy.

As a practical matter, I cannot imagine that any Federal judge would throw open the gates of the Nation's classified secrets, or that they would substitute their judgment for the head of an agency without carefully weighing all the evidence in the arguments presented by both sides. It is doubtful that there is any Federal judge in the country that would not give weight to an affidavit from the head of an agency which argues the merits for classifying a particular document without giving that affidavit a special status.

If we construct the manner in which courts may perform this vital review function, we make the classifiers privileged officials, almost immune from the accountability we insist on from their colleagues.

An editorial in the New York Times today refers to reservations the President reportedly has expressed about this legislation on national security grounds.

I believe as the editorial states that the Congress has "made an extraordinary legislative effort to balance the public's right to information with the Government's need to protect its legitimate secrets," and I would strongly urge the President to sign this important bill into law.

If he cannot sign it, he should so state his reasons and offer the Congress an opportunity to accept or reject the veto by a two-thirds vote in both Houses.

I ask unanimous consent that the October 17, 1974, New York Times editorial, "More Open Government," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 17, 1974]

MORE OPEN GOVERNMENT

The Freedom of Information Act was passed by Congress in 1966 on the assumption that the public should have broad right of access to information about the workings of its Government. The act hasn't functioned particularly well since it went into effect because of the Federal Government's use of a variety of obstructionist tactics ranging from forcing those seeking information into long and costly litigation to plain old bureaucratic foot-dragging.

Congress has now passed and sent to the White House a number of amendments designed to make the law work more effectively, including a provision that would subject to judicial review decisions on the classification of information. Other amendments would open up noncriminal investigatory files for the first time and would award attorney's fees to successful public litigant.

The Department of Justice is reported to have recommended that President Ford veto this legislation. The President himself has reportedly expressed reservations about the bill on national security grounds.

Mr. Ford's concern appears misplaced. Congress, in developing the new amendments, made an extraordinary legislative effort to balance the public's right to information with the Government's need to protect its legitimate secrets. Unless the President feels that the Federal judiciary is insensitive to national security or is incapable of handling such issues appropriately, he can have no justifiable fears about the law's adequacy to protect legitimate national secrets.

The ability to preserve free and responsive government depends in large measure on the preservation of open government to the greatest possible degree. That is the principle that animated the Congress in passing the amendments. It is the motivation that should lead the President to sign them into law.

FARM-RETAIL PRICE SPREADS FOR RED MEAT

Mr. McCLURE. Mr. President, the past year has not been a good one for either farmers or consumers. We have seen store prices going up while farm prices were going down. Consumers have boycotted, because they could not afford to buy, while farmers have destroyed animals they could not afford to raise.

While there are a number of factors which have led to this paradoxical situation, one of the major ones is the increasing farm-retail price spreads. And the reaction has been just what we would expect—increasing criticism of the so-called middleman. But before we start allocating blame, we should attempt to get all the facts. In June, I joined with a number of my colleagues in calling on the President to investigate the increasing beef price spread, but as yet we have not received the administration's report.

However, while we are waiting for that report, there are some other sources of information which may prove helpful. A USDA Task Force prepared a report in August which partially explains the farm-retail price spreads for pork and choice beef.

This report not only shows how much the price spreads have increased—approximately 50 percent since 1968—but explains in general terms those factors which have been primarily responsible for this increase. It is interesting to note, for example, that since 1963, more than 90 percent of the farm-retail spread for beef has occurred in the carcass-retail segment of the spread.

While the report is rather general in most of its data and comments, it does provide a rather useful summary, as well as some suggestions on improving meat marketing performance in order to reduce the spread.

I, therefore, ask unanimous consent to have this report printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

FARM-RETAIL PRICE SPREADS FOR RED MEAT

(Report of a Special Task Force to Earl L. Butz, Secretary of Agriculture, August 1974)

The farm-retail spread, or margin, for beef or pork is the difference between a monthly average composite price per pound of selected cuts at retail and the farm value of the equivalent quantity of live animals less the value of byproducts.

Thus, the farm-retail spread is a measure of the charges for all marketing, processing and distribution activities that occur between the "farm gate" and consumer purchase of the product at retail.

Spreads, or margins, for meat, then, include charges for such activities as transporting animals to packing plants, slaughtering animals and processing products, packaging of product and shipping meat and products to major consuming areas. Each activity involves expenditures for labor, energy, capital, taxes and depreciation of fixed assets.

All such costs, plus profits earned by firms, are included in the price spread or margin reported by USDA. By the way, the price spread gives no indication of whether the industry is efficient or inefficient, or whether costs for marketing, processing and distribution are reasonable or excessive.

WHAT HAS HAPPENED SINCE 1963?

Price spreads for beef and pork have widened substantially in the past 10 years, particularly since 1968. Between 1963 and 1968 the spread for beef hovered between 28 and 30 cents per pound. Then it increased sharply and persistently to 45 cents per pound in 1973—a jump of about 50 percent.

Margins for pork have followed similar patterns but with greater year-to-year changes—ranging between 29 and 32 cents per pound in 1963–69, then widening to 38 cents per pound in 1973—an increase of about one-third.

Several factors contributed to the trend toward wider margins for red meat. Most important have been the sharp increases in costs of labor and other services and supplies required by marketing firms. Hourly earnings of workers in meat packing and processing are three-fourths higher than earnings in 1963. In the food retailing sector hourly wage earnings are about 80 percent higher than in 1963.

Despite labor saving technology and increased labor productivity total labor costs have risen substantially and account for about half of the farm-retail spread for beef and pork.

Prices of containers, packaging, energy and rail freight rates have undergone similar dramatic increases, particularly since 1969.

In a very real sense, marketing margins for meat are the result of the strong inflationary pressures in the American economy since 1969.

In addition, the meat marketing system, like other parts of the food system, now provides additional services in the form of further processing which requires relatively large inputs of labor. Costs of providing such services plus those for advertising, promotion and convenience of store location, exert pressure for widening margins for many foods, including red meat.

BEEF SPREAD SEGMENTS

Since 1963 more than 90 percent of the increase in the farm-retail spread for beef has occurred in the carcass-retail segment of the spread (Figure 1). This spread includes costs of activities such as carcass-breaking, local delivery, and retail cutting, packaging and selling.

The other segment, the farm-carcass spread, includes approximate costs of marketing, slaughtering and processing beef animals and transportation to consuming centers. Until the fourth quarter of 1973, when this spread nearly doubled, the farm-carcass spread had been remarkably stable since 1963.

It should be noted that these spreads are not synonomous with packer or retailer margins. The farm-carcass spread includes assembly and transportation of live animals to packing plants and meat to consuming center in addition to costs of slaughter at the packing plant. The carcass-retail spread includes wholesaling, local delivery costs, and some fabricating activities as well as costs of retailing.

Both packers and retailers do some breaking of carcasses but in the USDA price spreads all such activities are accounted for in the carcass-retail spread.

PORK SPREAD SEGMENTS

Changes in the farm-wholesale and wholesale-retail spreads for pork have shown somewhat different patterns from beef spreads.

Since packers do much more processing of pork than beef, the farm-wholesale spread for pork is substantially wider and more closely approximates packer margins than does the farm-carcass spread for beef.

The farm-wholesale spread for pork in 1973 averaged 15.3 cents per pound, about the same as in 1963. Again the major cause of the increase in farm-retail margins was centered in the wholesale-retail segment where margins in 1973 averaged 62 percent above 1963 and 26 percent above 1972.

PROFITS

Throughout much of the period since 1960, profits as a percentage of stockholder equity ranged between 10 and 13 percent for 15 major retail food chains as a group. As a percentage of sales, profits ranged between 1.1 and 1.3 through most of the period. Profit rates by both measures fell substantially in 1972 and 1973 and they were well below profit rates for other industry groups throughout the period 1960–73. Only recently have retailers' profits risen to their levels of the 1960's.

Meat packer profits were more unstable but ran somewhat higher relative to sales than those of food retailers.

Overall, profits in meat packing and food retailing have not been excessive relative to all manufacturing industries in the country.

RECENT CHANGES IN PRICE SPREADS

Meat price margins exploded late in the third quarter of 1973. They rose to record high levels in late winter and early spring of 1974 while market prices for cattle and hogs dropped sharply and losses mounted for livestock feeders. Both livestock producers and meat consumers vented their frustrations against what they considered to be an unresponsive, profiteering, meat marketing system.

Farm-retail price spreads for beef peaked in March 1974 at about 56 cents per pound, dropped slightly in April and May and then rebounded to 54 cents in June. Only in the final quarter of 1973 had the farm-retail beef spread reached such lofty heights during the past 10 years.

The situation was much the same for pork margins, but with some differences in timing. At the peak in May 1974 the farm-retail margin totaled 54.5 cents per pound, well above even the high levels of late 1973 and early 1974.

Preliminary data for July signal a turnabout. Market prices for Choice steers strengthened by better than $6 per cwt over June; hog prices in July rose nearly $13 above their June low. Retail prices of beef in June were down significantly from early year levels and they held nearly steady in July. Preliminary data indicate the farm-retail spread declined substantially in July for both beef and pork.

To some extent the surge in margins in late 1973 and early 1974 was caused by the same set of factors that widened margins since 1968. Inflation was at very high rates in the fall of 1973 and the first half of 1974.

Between the third quarter of 1973 and the second quarter of 1974, prices of some marketing inputs rose sharply—energy up 48 percent; containers and packaging, 18 percent; and services, 7 percent. In the first quarter of 1974 hourly earnings of food marketing employees average $3.85, a 7 percent increase relative to the first quarter of 1973.

But inflation of prices of inputs used by marketing firms cannot alone explain the surge in meat margins.

CEILINGS AND PROFITS

The imposition of price ceilings on meat in March 1973 created serious disruptions in the normal flow of livestock. Live animal prices increased during the summer of 1973 when retail meat prices were frozen, which pinched marketing margins in the third quarter.

When ceilings were removed in late summer of 1973 pent-up cost increases passed through the system to consumers. Marketing firms attempted to recoup their losses or improve upon relatively low earnings experienced earlier in the year.

In the first three quarters of 1973 profits of 15 retail food chains ranged between 0.4 and 0.7 percent of sales—well below their historical levels of 1.1 to 1.3 percent. But in the fourth quarter of 1973 retailers' profit rates rose to 1.0 percent of sales. Preliminary data for 10 retail chains indicate that profit rates averaged 0.9 percent of sales in the first two quarters of 1974.

Meatpacker profits also rose in the fourth quarter of 1973 to 1.5 percent from about 1.0 percent of sales in the first three quarters of that year. Preliminary data suggest packers' profits ranged between 1.1 and 1.4 percent in the first two quarters of 1973 (Table 2).

Although packers and retailers improved their profit positions in late 1973 and early 1974 relative to their earlier positions in 1973, those higher rates were not out of line with longer term rates in the industry.

Profit rates, of course, vary substantially from quarter to quarter and among retail food firms. For example, returns for 15 retail food firms in the first quarter of 1974 ranged between a loss of 4.1 to a profit of 2.4 percent of sales. Among the same 15 firms eight had increased profit rates, six had reduced profit rates and one firm's rate was unchanged between the fourth quarter of 1973 and the first quarter of 1974.

But the foregoing profit data are for firms or groups of firms. Since many have multiple product lines or departments, a firm's profit rates do not necessarily indicate profit rates of individual product lines or departments. In any given short period of time, one department may incur losses while others return profits. Pricing policies of retail food chains focus upon returning profits to the firm or store as a whole and not necessarily upon profits in each department at all times.

When price spreads increase sharply in a short time span—as in the case of beef and pork in late 1973 and early 1974—we can expect that it is more profitable to handle those products. Prices of most inputs used in marketing—therefore, most costs of the department or firm—generally change more evenly.

We don't have data on the profit rates for departments of retail food stores. However, the changes in meat price spreads and general marketing costs suggests that the profits for retailing meat increased sharply during the first half of 1974. Based on this circumstantial evidence, it appears that the recent increase in meat price spreads was caused partially by food retailers changing their pricing policies to increase profits in their meat departments. On the other hand, higher profits for meat may have been offset partially by lower profits in other product lines and profits for the entire firm may have risen less steeply than in the meat department.

Based upon the preliminary data now available, it appears that the major factors contributing to wide spreads were inflation coupled with seriously distorted market relationships and higher profit rates in meat processing and retailing.

IMPROVING PERFORMANCE IN MEAT MARKETING

One way to dampen increases in price spreads is to improve efficiency and productivity in the marketing system. In a competitive industry such improvements tend to be passed backward to producers in the form of higher prices, or forward to consumers in the form of lower retail prices, or in some combination of the two.

An efficient, competitive industry also will reflect promptly and accurately the changes in supply, demand and prices as they occur. Earlier research and such reports as those of the National Commission on Productivity and the National Commission on Food Marketing point to important opportunities for improved performance in meat marketing.

Several examples follow.

1. Box beef and central meat cutting

A further shift to box beef and central meat cutting would lower marketing costs. Box beef is beef that has been cut up into retail cuts and packaged before being shipped to the retailer. When packers convert beef carcasses to box beef there are at least three immediate cost reductions:

(1) Assembly line meat cutting is more efficient in output per man hour;

(2) Wage rates per hour are generally lower in packing plants than in retail stores; and

(3) Fat and bone trimmed off reduce the total weight to be transported to the retail marketing area. Also, the larger concentration of fat and bone trimming allows alternative use of these products at higher value.

2. Frozen beef

Producing more frozen beef would extend the economies of box beef and central cutting. This would remove almost all packaging from the retail store, extend shelf life, reduce the number of deliveries to stores, and almost completely eliminate shrink and spoilage losses.

3. Transportation

Meat transportation costs can be reduced in several ways. Improved scheduling would decrease transportation costs. Box beef shipments would decrease weight and transportation costs. Backhauls could be increased to more fully utilize capacity. Meat transportation costs could be reduced by allowing trucks to pull two trailers on all interstate highways. The number of deliveries required per week at the retail level could be reduced.

4. Labor contract restrictions

Labor-management obstacles in some areas have slowed the move to box beef and centralized cutting. This includes the retail meat cutters' fear that there would be fewer jobs if meat cutting were relocated from the store to a central cutting warehouse in the same city. In addition, the union fears more jobs would be lost in consumption areas than would be gained at the packer-processor level if we moved to box beef.

Some labor contracts require a minimum number of personnel per retail outlet, and the contracts so narrowly define tasks that efficiency cannot be gained by flexible use of labor. Productivity in transporting meat is hindered by labor contract restrictions on loading and unloading trucks and contract terms which limit number of stops and the number of drivers.

We estimate that a minimum of five cents per retail pound could be saved from complete adoption of box beef and central cutting, conversion to frozen beef, elimination of trucks returning empty, and changes in labor-management obstacles.

5. Grade standards for beef

Uniform grade standards—universally understood and accepted—contribute to efficient marketing and lower marketing costs. Most of the beef sold at retail in recent years has been U.S. Choice. Recently there has been an increase in the percentage of Good grade beef produced, most of which has been sold ungraded since the use of Federal grades is optional. Federal grade standards for beef have undergone major revisions through the years—changes were made in 1939, 1941, 1949, 1950, 1956, 1965 and 1973.

To perform effectively as a language of the trade, grades must reflect characteristics which are significant in the marketplace. Existing quality grades for beef (Prime, Choice, Good, etc.) are designed primarily to measure eating quality—tenderness, juiciness, flavor. Yield grades (1 through 5) indicate the yield of closely trimmed retail cuts that can be derived from carcasses or wholesale cuts, and they directly reflect the degree of muscling and quantity of trimmable fat.

The USDA believes that grades should be revised as marketing conditions change. Recently, the Department has received divergent recommendations for further changes in the beef grade standards from five major segments of the cattle and beef industry and from consumer interest groups. Proposals concern the relative emphasis on marbling and maturity in determining quality grades.

USDA standardization specialists are evaluating these proposals and other alternatives. They are developing information to provide additional precision in yield grades. Real potential exists for reducing excess fat on beef through greater use of an accurate yield grading system.

6. USDA price spread measures

Although one large retail chain measures price spreads for beef and pork sold in its stores in seven cities, USDA is the only public source of such data on an industrywide basis. USDA price spread data have proven generally reliable indicators of both short- and longer-run changes in meat price spreads. USDA price spread data have served well as a basis for monitoring overall pricing performance. If kept abreast of changing practices in the sector those data should continue to serve well the public interest in a responsive and efficient marketing system.

7. Communication among producers, consumers, and marketing firms

Despite a wealth of information, there is a serious lack of public understanding concerning the organization and performance of the food industry. A classic example is the recent misunderstanding concerning causes and consequences of widening price spreads for red meat. As a public agency the USDA has a responsibility to improve public understanding of the food industry by making available a free flow of timely, reliable information to all concerned.

RECOMMENDATIONS

Numerous opportunities exist for improved performance in meat marketing. We *single out only* a few which, if implemented, would result in substantial improvements in efficiency and productivity.

1. Suggestions for increasing efficiency and productivity in meat marketing:

Encourage packers and retailers to shift further to box beef and central meat cutting.

Increase USDA research and educational efforts to assist the meat industry and food retailers in identifying cost savings through box beef and central meat cutting.

Encourage the National Livestock and Meat Board to promote consumer acceptance of frozen beef.

Work with the Department of Transportation, the Interstate Commerce Commission and other appropriate Federal government agencies to develop (1) a better U.S. rail car information system to assist in improving rail car scheduling and (2) a companion system for trucks.

Allow truck tractors to pull two trailers on interstate highways.

Provide assistance and information for labor-management negotiations to encourage productivity related changes.

Encourage retailers, wholesalers and packers to reflect more quickly price changes that occur elsewhere in the system, particularly at the farm level.

Undertake a concerted, systematic program of research that better identifies (1) obstacles to increased efficiency in the livestock-meat sector and (2) means to remove such obstacles.

These recommendations, if implemented, could bring a substantial reduction in farm-retail meat price spreads, and prices would more accurately reflect current market conditions.

2. Assess needs for revision of grade standards for beef:

Expedite research to get more information on factors that affect consumer acceptance of beef, particularly lean and frozen beef.

Evaluate proposals to revise beef grade standards and initiate action to obtain appropriate changes through public rulemaking procedures.

3. Expand and improve information on prices and price spreads:

Request the Bureau of Labor Statistics (BLS) to collect and report weekly retail food prices.

Request BLS to substantially reduce the 6–7 week lag now existing in reporting retail food prices.

Develop and publish weekly farm-retail price spread reports for beef and pork.

Expedite research now underway in the USDA to insure that USDA price spread data accurately reflect current practices in meat marketing. Research should (1) update transportation costs, (2) develop a primal value for beef for possible inclusion as a price level in the price spread series between carcass value and retail price, and (3) determine if revisions are needed in current procedures for handling retail "specials" for meat.

Expand USDA weekly livestock price reports to include live cattle and wholesale beef prices on a yield as well as a quality grade basis.

Encourage the Federal Trade Commission to provide additional information on the food industry on a "product line" basis.

4. Enhance communication and understanding concerning the marketing of livestock and meat:

Continue to draw public attention to changes in price spreads and their underlying causes.

Ensure that timely, reliable information on meat price spreads is made publicly available upon issuance of USDA reports by working closely with food editors, consumer reporters and other mass media.

Expand to regional locations the recently established seminars on marketing margins in which USDA, consumers, retailers and processors participate, seminars up to now held only in Washington, D.C.

TASK FORCE

Don Pariberg, Chairman, Director of Agricultural Economics.

John C. Blum, Associate Administrator, Agricultural Marketing Service.

Kenneth R. Farrell, Deputy Administrator, Economic Research Service.

Fred J. Fullerton, Deputy Administrator, Animal and Plant Health Inspection Service.

Nancy Steorts, Assistant to the Secretary.

REPORT ON THE CRISIS ON CYPRUS

Mr. KENNEDY. Mr. President, this week the Subcommittee on Refugees, which I serve as chairman, released a report of the findings of a special Study Mission to Cyprus. Their report is especially timely, given the current congressional effort to speak its will regarding American policy toward the Cyprus issue, and continued military assistance to Turkey.

Reviewing the Study Mission's findings there is an appalling series of omissions in our country's policy and diplomacy toward Cyprus. In analyzing U.S. policy, the report states, in part:

> Evidence available to the Study Mission, including conversations with American officials, suggest that some of the policy considerations, in giving humanitarian aid to Greek refugees, includes the need to improve the political/diplomatic climate. It includes the need to show the Greek and Cypriot Governments that we are following a balanced policy. It includes the need to keep the refugees contained, so as to buy time to assist Ankara in consolidating its position on the island. Indeed, it is intended as well to help refurbish Turkey's international image, thereby strengthening its bargaining position in pursuing its bi-regional objectives on Cyprus.

Mr. President, the record is clear that the United States bears some heavy responsibility for the mess in Cyprus, and the human and political tragedy of the Cypriot people. It is also clear that our country, along with others, has a humanitarian obligation to support the relief and rehabilitation of the Cypriot refugees and others in need.

But to do this in the context of promoting Turkish interests, rather than in pursuing a resolution of the crisis which will permit the return of refugees to their homes, is a sad commentary on our Government's concern for people. Moreover, like the President's business-as-usual attitude toward military shipments to Turkey, our policy toward refugees only encourages Ankara's intransigence in negotiations, and needlessly feeds frustrations on Cyprus and among our friends in neighboring Greece.

Mr. President, I believe the report of the Refugee Subcommitte's Study Mission to Cyprus helps to refocus the issue of Cyprus on the central issue before us: The plight of nearly half the Cypriot people, who are refugees or in need of relief assistance, and the need for them to be able to return to their homes.

I ask unanimous consent that a summary of the Study Mission's findings and its recommendations, be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[A Study Mission Report to the Subcommittee on Refugees, U.S. Senate, October 14, 1974]

SUMMARY OF FINDINGS

The longer the time required to achieve a resolution of the crisis on Cyprus, the greater will be the suffering of the people of the island. And it is the tragedy of Cyprus today that time is not on the side of peace.

It is the peculiar tragedy of Cyprus that its fate, now, as in the past, rests less upon solutions to be found among the Cypriots themselves—Turks and Greeks—than it does upon a resolution of outside forces and factors. It is to this extent that the tragedy of Cyprus will now be compounded by the the current political instability in Greece and Turkey. No final solution to Cyprus can be anticipated until both Greece and Turkey are able to put their houses in order, to hold elections, and to establish governments with firm political foundations. This, it appears, cannot be expected until the end of 1974.

Meanwhile, the situation on Cyprus festers. And, as in the past, such frustrations will undoubtedly spawn more violence and even greater human suffering, with no end in sight.

I. Seeds of conflict

1. Communal tensions began to build in modern Cyprus history during the British rule, as the majority Greek Cypriot community organized guerrilla war to violently end British colonialism on the island. To the Turkish Cypriot minority the spectre of an end to British rule under these circumstances would threaten a union of Cyprus with the Greek motherland—an ancient objective of the Greek Cypriots. The Turkish Cypriots sided with the British and organized themselves into a counter political force, which they remain today.

2. The establishment of an independent Republic of Cyprus in 1960, with constitutional guarantees for the minority, and international guarantees for the integrity of the island, was intended to end the threat of enosis and reduce communal polarization. Through the 1960's, communal tensions mounted, however, as the constitutional provisions designed to minimize conflict between the two communities achieved the opposite: governmental dualism and further ethnic separatism between Greek and Turkish Cypriots.

3. The communal conflict of 1963–64 brought United Nations intervention, and the formation of the U.N. Peace-Keeping Forces (UNFICYP) on the island. A second major crisis in 1967 ended in a humiliating defeat for the Greek colonels and the withdrawal of 9,000 Greek troops from Cyprus. In both crises the United States played an active and helpful diplomatic role vis-a-vis Greece and Turkey, and the preservation of Cypriot independence.

4. Communal tensions continued after 1967, but under U.N. auspices a series of communal talks began in 1968 between Clerides and Denktash, representing the Greek and Turkish communities respectively. Moderate, but frustrating, progress was made.

II. Cyprus, 1974: Scenario for tragedy

5. A growing strain in relations between Athens and President Makarios over the presence of 650 Greek mainland officers, and the underlying issue of enosis with Greece, culminated in a violent coup against Makarios on July 15, 1974.

6. The U.S. learned of the coup in advance, warned Makarios of it, but it was not taken seriously—although the CIA in Athens must have known better. Makarios escaped death and was evacuated to London by the British. American policy appeared to place in the best light events in Nicosia and the intervention of the Greek junta; no official statement was made condemning the coup.

7. Turkey appears to have interpreted U.S. policy at that time as a signal of tacit acceptance by the U.S. of the Nikos Sampson military clique. Ankara perhaps felt it had no alternative (as well as a great opportunity) to take the military option it had long planned ostensibly in behalf of the Turkish Cypriots whose security they felt threatened. Thus, on July 20, five days later, Turkey invaded Cyprus, and within two days established a firm beachhead in Kyrenia before the first of several ceasefires were announced.

8. The Turkish invasion and the ensuing possibility of war with Greece, undermined what credibility the Athens junta had, and it was forced to recall civilian leadership. On the same day, July 23rd, Clerides replaced Sampson as acting President of Cyprus.

9. The restoration of democracy in Greece and the return of constitutional government in Cyprus, raised hopes that a negotiated settlement might be achieved. The guarantor powers met in Geneva on July 26, and negotiations began. They reached an impasse two weeks later when the Turkish proposals for a federal system under which Turkish Cypriots would have a separate administrative area in 38% of the island, and a second proposal for a contonal system, were received coolly by the Greeks. A 36-hour Greek request to study the proposals was met by the launching of the second phase of the Turkish invasion—achieving on the battlefield what they had not been given at the negotiating table.

III. Consequences of the invasion

10. Within a week, 40,000 Turkish troops swept across and occupied over 40% of Cyprus. In the process, some 282,000 Cypriots—both Greeks and Turks—became refugees, detainees, prisoners of war, or cut-off and in need of relief assistance.

11. The humanitarian problems in Cyprus can be listed under the following categories:

I. *Refugees*—	
1. *In Government-controlled areas:*	
Greek Cypriot refugees	194, 000
Post-cease-fire refugees (from Athna and other areas along cease-fire line)	20, 000
Turkish Cypriots displaced or cut off	34, 000
2. *In Turkish occupied areas:*	
Greek Cypriots displaced or cut off	20, 000
Turkish Cypriot refugees	8, 000
II. *Prisoners and detainees,* both sides	6, 000
Total	282, 000

12. With the exception of the area around the first Turkish landing in the Kyrenia-Nicosia enclave, there is minimal bomb or structural damage. However, widespread looting has occurred.

13. The impact of the invasion upon the Cyprus economy has been more devastating. The Government estimates that some $4.5 million is lost each day in production. Agriculture, which comprises half the island's economy, is dying—both crops and animals. The vast citrus crop rots on the trees.

14. The political impact of the invasion was to destroy the constitutional and political framework of the Government of Cyprus as it was established in 1960. The future of Cyprus will be a future governed by a new and different governmental and political structure. There are currently a number of options; most frequently mentioned in Ankara and Washington, is some form of territorial separation of the two communities. Whatever name is used, it is tantamount to partition.

15. Arranging some form of "bi-regionalism," or "zonal" division or "federal" structure on Cyprus, may seem to outsiders as only a question of where the line will finally be drawn. But it is questionable whether a Greek Cypriot government can be found which would accept such solutions under the current threat of arms. Subject to negotiations, the current stalemate risks *de facto* partition—double enosis—of an administrative and economic union of the two separate parts of Cyprus with Greece and Turkey. A drift in this direction is already apparent on the Turkish occupied side, with the introduction of mainland Turkish currency, Turkish supplies, Turkish labor, etc. If this is allowed to continue for long, Cyprus will cease to exist.

16. The impact of partition along the Turkish Attila line, which Turkey has demanded, will have serious human and economic consequences. It will require moving and resettling half the population in order to create majority Turkish Cypriot areas above the line. It could involve moving 40,000 families and it would significantly alter the population density and characteristics of the island. Impact upon land ownership would be equally severe and extremely difficult to divide equitably. Impact upon the island's homogeneous economy would be to cut it in an inequitable half, with most of the foreign exchange earning portions of the economy left on the Turkish side.

17. The costs to Turkey from its military activity on Cyprus has been considerable. The actual costs of the invasion—military equipment lost, supplies, etc.—when added to the growing costs of military occupation, suggests that the cost to Turkey will total $1 billion by the end of the year.

IV. Humanitarian needs and international assistance

18. Massive humanitarian relief needs were created by the Turkish invasion. Within a month, some 40% of the Greek Cypriot population was rendered homeless, and the need for shelter, blankets, medicine, food, and other supplies, was immediate and serious. The Government of Cyprus estimates that to establish refugee camp sites for all those who are now in need of shelter, will cost over $22 million.

19. The Cypriot administration has demonstrated a commendable capacity to undertake relief programs and to absorb outside relief assistance. A "Special Services for the Relief and Rehabilitation of Displaced Persons" was established in late July, and has—under the most difficult circumstances—provided emergency relief aid, as well as longer-term assistance.

20. Although there was a commendable and early response from many nations to the plight of Cyprus—especially the International Committee of the Red Cross, Greece, European Economic Community, and the United States—the appeals of both the ICRC and the U.N. High Commissioner for Refugees have only received token amounts to date. Of the UNHCR appeal for $22 million for relief to the end of the year, only $6.2 million has been received or pledged from all sources—less than a thrid of the sum required.

21. The United States has allocated, as of October 10, $4.6 million for Cyprus relief, with another $1.6 million pledged to the UNHCR in the coming weeks.

22. The needs of the refugees of Cyprus will escalate until a negotiated settlement is achieved, even as the initial enthusiasm and support for Cyprus relief within the international community now threatens to dry up. Massive relief needs remain to be met.

23. The role of the United Nations on Cyprus remains crucial. The UNFICYP forces, although restricted in their movement in the Turkish occupied areas, play an important humanitarian role. The newly augmented 4,292-man UNFICYP force is attempting to generate a feeling of confidence and to obtain information concerning the local situation, particularly in areas where humanitarian and relief measures including the security of population, are required. They provide logistical support to the UNHCR, which has become the focal point for international relief assistance.

24. The work of the UNHCR has been constrained to primarily the Greek Cypriot refugees in the southern part of the island, in part because they form the bulk of the refugee problem, but also because the UNHCR has not been granted free and unrestricted access to Turkish occupied areas.

V. United States policy

25. Although flatly denied in all quarters of the Administration, the evidence in the field suggests a perceptible "tilt" in American policy toward Turkey during the Cyprus crisis. In the early days, U.S. policy seems to have been one of hasty improvisation, coldly calculated to minimize disturbances within NATO. This not only achieved the opposite result, but, in the end, it failed the defenseless people of Cyprus.

26. The substance of the American "tilt" towards Turkey can be seen in the long list of omissions in United States diplomacy—in our apparent approval of, and "understanding" over, the Turkish invasion; in our tacit recognition of a Turkish *fait accompli* through the force of arms; in our clear association with the fundamentals of the Turkish negotiating position; and in our cynical use of humanitarian aid for Greek Cypriot refugees to further our political and diplomatic ends.

27. Available evidence suggests that some of the policy considerations in giving humanitarian aid to Greek refugees included the need to improve the political/diplomatic climate, to show the Greek and Cypriot governments that we were following a "balanced" policy, to keep the refugees contained, so as to buy time to assist Ankara in consolidating its position, and to help refurbish Turkey's international image, thereby strengthening its bargaining position. All this evidence confirms the worst fears of Congress and many Americans over the "tilt" towards Turkey and over the failure of American efforts to help bring peace and relief to the people of Cyprus.

RECOMMENDATIONS

Over the coming weeks and months—as they have since the beginning of the Cyprus crisis—the Chairman and members of the Subcommittee will continue to be as tenacious in their concern and suggestions for action as they feel the important situation on Cyprus warrants.

For the purposes of this report, however, the Chairman and the Study Mission make the following recommendations, relating to diplomatic and political problems and humanitarian needs.

1. *Reaffirmation and Restoration of the Full Independence and Sovereignty, and Territorial Integrity of Cyprus.*

Communal, conflict between Greeks and Turks on Cyprus has led in the past and, if unchecked, will lead inexorably in the future to confrontation between Greece and Turkey. Britain, as a guarantor power, is also immediately involved. All this in turn, gives rise to problems within the western alliance (NATO) and automatically draws the United States into the picture. Intense U.S. and NATO activity in the eastern Mediterranean tends to bring about the reaction of the Soviet Union and the issue thus reaches the level of world politics involving the stakes of war and peace. Finally, Cyprus' membership in the United Nations and her ties with the non-aligned nations bring an additional factor to bear on the power equation around this small island. This, in fact, has been the general pattern and complexity of international crises over Cyprus in 1963–64, in 1967, and now, in 1974.

Considering this extremely complex network of conflicting interest involving Greece, Turkey, Britain, the United States, NATO, the Soviet Union, the United Nations, and, most important of all, the divided people of Cyprus—the only way of reconciling most of these interests is to maintain and preserve a truly independent, democratic Cyprus. Viewed in this perspective, the Greek junta's engineered coup in Cyprus last July was a clear attempt to impose an unacceptable solution. So too, however, was the military intervention of Turkey, which now threatens partition of the island.

Our government should turn its full energies to the end of restoring the full independence, sovereignty and territorial integrity of Cyprus. Active diplomatic approaches in this regard, minus a "tilt" toward any party, should be made to Greece and Turkey, since the United States is the only power that can move both. New guarantees for the future independence and political integrity of Cyprus will be needed, and these must be achieved through the resumption of the Geneva negotiations or alternative arrangements. Many elements of an agreement already exist in the series of U.N. Security Council Resolutions passed during the current crisis.

2. *Implementation of U.N. Resolutions on Phased Withdrawal of Troops.*

Our government should support the unanimous calls repeatedly made by the United Nations—which also have been agreed to by Greece and Turkey in the Geneva Resolution of July 30—for the phased withdrawal of all foreign troops from Cyprus. There can never be a lasting solution to the Cyprus tragedy that is imposed by force of arms. Observers are particularly concerned about the possibility of the outbreak of guerrilla warfare that would probably turn the entire island into a battlefield once again. Steps must be taken now to disarm Cyprus.

3. *Return of the Refugees to Their Homes—A Gesture of Goodwill.*

There can be no viable solution to the Cyprus crisis unless and until most of the refugees are permitted to return safely to their lands and their homes. Some movement and transfer of population may be necessary, and indeed desirable, under a final solution.

But no plan that perpetuates the present division of Cyprus can long survive the humanitarian, economic and political consequences of de facto partition, which are, as noted above, catastrophic for Cyprus.

In this regard, the United States should use its vast influence and good offices with Turkey to persuade it to allow the return of a substantial number of Greek Cypriot refugees to their homes, as a first step—a "gesture of goodwill"—which most observers in the field believe will break the deadlock over the resumption of negotiations. Such a gesture by Turkey—to allow, for example, the return of Greek Cypriot refugees to the once populous and prosperous Famagusta and Morphou areas, all overwhelmingly Greek populated areas—would be meaningful first steps toward a negotiated settlement of the Cyprus problem.

4. *Provision of Greater Autonomy and Security for the Turkish Cypriot Community.*

There is no longer any question but that the Turkish invasion has forever destroyed the present constitutional framework and political structure of the Government of Cyprus. The future of Cyprus will clearly be a future governed by new and different governmental and political structures; there is no turning back the clock.

It is equally clear that any new structure will have to provide the Turkish Cypriot community on Cyprus with an enhanced degree of security, autonomy, and participation in the economic life of the country. Their grievances over the past decade were, in the main, legitimate and serious. If there is to be any peace on Cyprus, these grievances must be answered.

Proposals aimed at achieving greater autonomy and security for the Turkish Cypriots were already well advanced in the inter-communal talks before the latest crisis. And there was substantial recognition of this during the Geneva talks after the Turkish invasion. These proposals must now be reactivated, and worked out in practical and useable form for immediate and permanent application. If the Turkish invasion serves to side-track this process, it will have defeated its own stated goals.

5. *Support for the Current Inter-communal Talks of Acting President Clerides and Vice-President Denktash.*

The weekly talks now taking place under the auspices of the United Nations between Acting President Clerides and Vice President Denktash, the respective leaders of the Greek and Turkish Cypriot communities, are crucial and must be more actively supported. In the final analysis, it will be the Cypriots themselves who will be most likely to work the hardest in restoring a relationship of trust and harmony which can help rescue their island from the tragedy that has overtaken it. They must be given the time and a chance to succeed, in a climate of peace, rather than military tension under an army of occupation.

6. *Cyprus is a Crucial Test for the United Nations.*

Previous crises on Cyprus have involved and brought forth constructive responses from the United Nations. And over the past decade the U.N. Peace-Keeping Force on Cyprus has played a useful and important role. But there can be little doubt today that the current Cyprus crisis has called into question the effectiveness of the United Nations. As Secretary General Kurt Waldheim has warned the Secretary Council, the situation on Cyprus raises questions about "the very essence of the United Nations Charter, weighing upon the credibility of the organization and its future effectiveness."

In part, the failure of the U.N. on Cyprus is due to the severe limitations of the UNFICYP mandate, which is outdated and unrelated to the current situation—the presence of a foreign occupying army. The United States should now make every effort to strengthen and broaden the mandate of UNFICYP, so it can perform its peace-keeping mission more satisfactorily. The U.S. should use its good offices with Turkey in suggesting to Ankara that a strengthened, more active, and unrestricted United Nations presence on the island would be to Turkey's own interests, reducing its own security burden and providing greater protection for the Turkish Cypriot community. For Turkey to oppose a new United Nations mandate, and free access by the U.N. to all areas of Cyprus, would be to raise serious questions about the intent and purposes of Turkey's policies and actions on the island.

7. *The United States must escalate humanitarian aid to Cyprus.*

Our government—both the Executive Branch and the Congress—should escalate its concern and efforts on behalf of relief and rehabilitation programs among the refugees and others in need on Cyprus.

It has been more than two months since the first International Committee of the Red Cross appeal, and over a month since the appeal by the U.N. High Commissioner for Refugees and his determination that some $22 million will be needed for relief assistance on Cyprus through the end of this year. To date, however, less than one third of this has been received or pledged from all sources. The United States contribution has been token—$3.2 million to the ICRC, and $1.4 million to the UNUHCR, with another $1.6 million pledged. This is small compared to what we can and should do. Tokenism must be replaced with generosity and compassion.

An increased obligation of up to $10 million—now, not later—to the UNHCR's program would be consonant with our general contribution to relief efforts, and would immediately encourage other nations to respond more generously as well.

8. *Diplomatic support to break relief bottlenecks.*

In addition to the requirement of providing diplomatic and financial support for the program of the UNHCR, there are two specific humanitarian relief bottlenecks that some greater measure of United States diplomatic concern might help to break.

Since the second phase of the Turkish invasion, the island's only major airport in Nicosia has been closed, due to bomb damage but more importantly to diplomatic deadlock. The Turkish army attempted to take the airport during the invasion, but was stymied by the stiff resistance of the Greek Cypriots. Turkish forces now surround the airport on three sides, with the other side held by the Government. UNFICYP forces hold the airport proper. All sides, except Turkey, have agreed to the speedy restoration and opening of the Nicosia airport under United Nations control. Among other things, all agree that it would greatly facilitate international relief operations, which now must use the over-taxed British air field in the south. However, Turkey has insisted on some form of joint operation of the airport, and a deadlock has developed as the relief effort on the island—for both Greeks and Turks—takes a backseat to narrow diplomatic objectives and squabbling.

Similarly, the Government of Turkey has unilaterally declared the sea lanes surrounding Cyprus to be "dangerous" due to a state of war. The result has been the cessation of regular sea shipments to Cyprus, in part because of prohibitive insurance costs. This has also had a severe impact upon relief shipments, both discouraging ship owners to allow the use of their vessels for Cyprus, as well as adding greatly to the costs of those relief ships which do travel to the island.

Both these restraints on the international relief effort for Cyprus—the close Nicosia Airport and the restricted sea lanes—must be items high on the diplomatic agenda and the United States should be doing considerably more in trying to remove these restraints. Progress towards peace and relief on Cyprus will be undertaken in steps, and there can be no better steps than removing these two bottlenecks to humanitarian relief.

9. *Immediate Relief Problems.*

The United States must actively support initiatives to meet two immediate relief needs on Cyprus—needs that will escalate with time until a solution to the crisis is found. The first is continued provision of food supplies, and the second is programs for unemployment and economic relief.

As noted in the report, the Turkish invasion turned Cyprus upside down, both in terms of its people and its economy. Even as people have been dislocated, so, too, has the economy; as idle refugees swell the unemployment roles, Cyprus stagnates economically.

The United States can support, hopefully through international channels, a variety of programs that can help meet these needs. For example, the provision of P.L. 480 "food for work" and related food programs, can help meet both food and employment problems. The American Embassy in Nicosia has recommended such programs, and they should be accepted in Washington.

THE PRESIDENT'S NATURAL GAS PROPOSAL

Mr. FANNIN. Mr. President, the senior Senator from Wisconsin (Mr. PROXMIRE) has isssued a statement criticizing the President's natural gas proposals. I understand this criticism has received some publicity.

Today, I, therefore, request unanimous consent to have replies issued by the White House and by the Administrator of the Federal Energy Administration included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMENTS ON SENATOR PROXMIRE'S ATTACK ON THE PRESIDENT'S NATURAL GAS PROPOSAL

[This morning] There have been stories of an attack by Senator Proxmire on the President's natural gas proposal.

Unfortunately, Senator Proxmire has misinterpreted the President's proposal—with the result that all of the Senator's calculations and statements about it are incorrect.

The President asked the Congress for legislation to remove *new* natural gas from regulation by the Federal Power Commission (FPC). He stated this request in a September 12 message to the Congress and has repeated it several times since. The legislative proposal to accomplish the change was submitted to the Congress in April 1973.

The past 20 plus years of FPC price regulation has kept prices for natural gas artificially low—resulting in greatly increased demand, inefficient use, and a declining incentive for exploration, development and production of new domestic supplies. This regulation is widely recognized as the root cause of our current shortage of natural gas and a major cause of our National energy problem. The natural gas shortage is critical and will continue growing unless the Congress acts soon.

Deregulation of new natural gas supplies, as the President has requested, would lead to a gradual impact in consumer prices as new supplies begin to come into the market and are averaged in with old supplies—which will coninue under FPC price controls.

However, when looking at this gradual price increase, two points are important:

1. The increase will be very small compared to the higer price that consumers will have to pay for alternative fuels—such as expensive foreign oil—when natural gas from domestic sources is not available.

2. A low price is useful to no one if the product is not available at that low price.

Both points can be confirmed quickly by those homeowners who have been unable to get gas service for their new homes and by industrial and other users faced with curtailments this winter because supplies are not available.

The Federal Energy Administration can provide information on the impact of the President's proposal and show the wide disparity between this and the Senator's incorrect understanding and calculations.

FEA EXPLAINS ADMINISTRATION'S NATURAL GAS POSITION

Federal Energy Administrator John C. Sawhill said today that Senator William Proxmire's statement on the President's natural gas deregulation proposal shows a "total misunderstanding of (1) the Administration's position; (2) energy economics; (3) the nature of the shortage; and (4) the cost of alternatives to the President's proposal."

"First, as President Ford stated in his September 12 message to the Congress, the only viable solution to the natural gas supply problem is to deregulate *new* gas field prices. The Administration has neither supported nor introduced legislation to remove Federal controls on *all* gas. On the contrary, the Administration's proposal has been carefully designed to protect consumers while gradually overcoming the supply problem.

"Senator Proxmire's calculation of consumer cost increases are meaningless in that they do not even address the President's proposed legislation. Senator Proxmire has claimed that a homeowner's gas costs would rise by more than $700 in one year. Any comparable increase under the President's program would average about $25—less than 1/20 of Senator Proxmire's estimate.

"Third," Sawhill continued, "Senator Proxmire does not appear to have any idea of the economic impact of the escalating shortage; where alternative fuels cannot be used, the immediate impact will be industrial production cutbacks and unemployment. For instance, in New Jersey, it is estimated that more than 12,000 jobs are threatened directly as a result of pipeline curtailments. The seriousness of the shortage is apparent in that FPC estimates indicate that gas shortages are expected to be 81% greater than last winter's."

"Equally important," Sawhill added, "the cost of alternatives, imported gas and oil, will be higher to the Nation and natural gas consumers. The Administration believes that a low price is useful to no one if the product is not available at that low price. The key point is that gradually increasing prices will make more domestic natural gas available.

"One final point," Sawhill stated, "since field markets are workably competitive, field price regulation is not needed to 'protect' consumers. History has proven that such regulation reduces supply; passage of new gas deregulation legislation is essential to the goals of Project Independence and to the well-being of natural gas consumers, particularly in the interstate market."

SENATOR RANDOLPH CONTINUES EFFORTS FOR AIR TRANSPORTATION FOR THE HANDICAPPED

Mr. RANDOLPH. Mr. President, the Subcommittee on the Handicapped has been endeavoring to help establish programs to insure the right of handicapped persons to air transportation. As Senators know, persons whose handicaps are visible have encountered discrimination in this area and many cases of citizens being denied passage because they are motor-impaired have been publicized during recent months.

Unfortunately, some air carriers have used section 1111 of the Federal Aviation Act as an excuse for not transporting handicapped persons on the grounds that they are a danger to the safety of the flight. It is clear that Congress, through this section of the act, intended to protect carriers against dangerous or unstable persons who have preplanned intentions of inflicting harm or passengers and the aircraft. It was not designed to restrict the travel of the handicapped.

In an attempt to cope with the problem, the Federal Aviation Administration recently proposed regulations on the air transportation of handicapped persons. This would have been a step in the right direction except that the FAA imposed the major burden of "safe" passage on individual handicapped citizens, instead of on the airlines. Regrettably FAA has developed a wide-open definition of "handicapped person," requirements for renewable medical certificates, restrictive seating arrangements, and restrictive quotas. It would have been better if the FAA had placed more emphasis on efforts to insure equal rights for the handicapped and on the obligations of Government and private industry to achieve this goal.

In the past I have consistently called attention to the fact that the media is providing more coverage to the concerns of handicapped citizens. They are giving leadership and support to this cause, and informing citizens that the concern of equal rights for handicapped persons is a critical problem which our society must confront and resolve.

Mr. President, Ray White of WTOP recently broadcast an excellent editorial on this situation. I ask unanimous consent that it be printed in the RECORD, together with a letter to FAA signed by members of the Subcommittee on the Handicapped and the Committee on Aging, and the FAA reply.

There being no objection, the editorial and letters were ordered to be printed in the RECORD, as follows:

HANDICAPPED HAVE A RIGHT TO AIR TRAVEL

Nobody knows precisely how often handicapped people are denied passage on commercial airline flights. But over the past few months such occasions have made the news with increasing frequency.

One response to the problem has come from the Federal Aviation Administration, the agency responsible for setting safety standards for air travel. The FAA has proposed new regulations regarding transportation of the handicapped. However, the proposal would not make it easier for the disabled to travel by air.

A group of U.S. senators has charged that the regulations would only "legitimize the current discriminatory practices of airlines toward the handicapped. We think the senators are correct.

The regulations define a handicapped person as one who needs the assistance of another person to move expeditiously to an exit in case of emergency. Yet this definition might include babies, old people, and countless others whose disability is not physically apparent.

Furthermore, a bad accident is likely to be a terrible equalizer in regard to this capacity.

The FAA proposal also would require of the handicapped medical certification, updated every six months, or an attendant capable of assisting him.

There's more, but the effect of it all is to restrict, not broaden, the possibilities of air travel by the handicapped. The rights of the handicapped and the safety of all passengers would be better served, we think, by regulations requiring changes in aircraft design and in training of airlines personnel.

The handicapped make up only one more group in our society increasingly aggressive about demanding their civil rights and liberties. By the Department of Transportation's reckoning, there are more than 13 million handicapped people in the United States. That's more than six percent of the nation's population.

They, too, pay the taxes that increasingly are subsidizing the airlines and other forms of travel in this country. They deserve a seat.

We urge the FAA to see they get one.

This was a WTOP Editorial . . . Ray White speaking for WTOP.

Committee on Labor and Public
Welfare,
Washington, D.C., August 9, 1974.
Hon. Alexander P. Butterfield,
Administrator,
Federal Aviation Administration,
Washington, D.C.

Dear Mr. Butterfield: We have studied, and are deeply disturbed by, the Notice of Proposed Rule Making concerning the air transportation of handicapped persons which the Federal Aviation Administration published in the *Federal Register* on July 5, 1974, Docket No. 12881.

In our opinion, the proposed regulations are not satisfactory and would do little to eliminate the existing restrictions on a handicapped individual's freedom to travel by commercial air carrier.

As you know, section 404(b) of the Federal Aviation Act prohibits an air carrier from subjecting any person to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever. We emphatically reaffirm that statement in this context.

Rather than imposing on the air carrier the responsibility of showing that an individual cannot be carried safely, the proposed regulations establish restrictive quotas and seating arrangements.

We are aware of, and deeply distressed by, the fact that air carriers have used section 1111 of the Federal Aviation Act to refuse to carry handicapped persons on the grounds that such individuals pose a threat to the safety of flight. Such an interpretation is wholly unjustified, since section 1111 was enacted for the purpose of modifying the right of all citizens to air travel only to the extent that carriers had to be protected against unstable or dangerous persons, particularly those who might hijack an aircraft or similarly endanger passengers and crew. We therefore strongly oppose the use of section 1111 as a device to discriminate against disabled persons.

In conclusion, we are not at all satisfied that there is legitimate justification for imposing such restrictions based on safety considerations on the right of handicapped individuals to travel by air carriers certificated by the Federal Aviation Administration. Further institutionalization of such restrictions through the adoption of these proposed regulations is unacceptable.

We strongly urge you to promptly revise your proposed regulations so that no further time is lost to this rule-making proceeding. We look forward to your response to the points raised in this letter as soon as possible.

Very truly yours,
Jennings Randolph, Harrison A. Williams, Edward M. Kennedy, Robert Taft, Jr., Glenn J. Beall, John V. Tunney, Charles H. Percy, Alan Cranston, Claiborne Pell, Walter F. Mondale, Robert T. Stafford, Richard S. Schweiker, Frank Church.

Department of Transportation,
Federal Aviation Administration,
Washington, D.C., August 28, 1974.
Hon. Jennings Randolph,
U.S. Senate,
Washington, D.C.

Dear Jennings: Thank you for your comments concerning our Notice of Proposed Rule Making (NPRM) on the air transportation of handicapped persons. I can assure you there is no intention on our part to discriminate against the handicapped. To the contrary, our notice specifically proposes that an air carrier may not refuse to carry a person on the basis that he or she is handicapped and, thus, should rectify the present practice of determinations by the air carriers on an individual and nonuniform basis.

Many of the regulations issued by the FAA impose limitations and restrictions on some segment of the aviation industry as well as on the fare-paying passenger and, as such, might be considered discriminatory. The NPRM is an effort to change the current situation and, at the same time, establish regulations that would allow the carriage of handicapped persons while maintaining an acceptable level of safety.

Prior to issuing the NPRM, our safety experts spent several thousand man-hours conducting research and participating in meetings with associations and groups representing the handicapped. On May 30, 1973, we issued an Advance Notice of Proposed Rule Making (ANPRM) to solicit comments and ideas from the public on the formulation of an acceptable set of rules for the carriage of the handicapped. Subsequently, we conducted six public hearings at strategic locations throughout the country. We received a large number of comments in response to the ANPRM, and many statements were presented at the six hearings by handicapped persons and associations representing them. We very carefully considered these comments and recommendations which form the basis of the proposals contained in our notice. You may be interested in knowing that in our many contacts with handicapped persons and in reading their comments, we became convinced that the blind and deaf are not handicapped for the purpose of air transportation; thus, the notice proposes that an air carrier may not refuse transportation to these persons.

Following a survivable accident in Denver in July of 1961, it was determined that many of the passengers perished simply because the airplane was not evacuated soon enough. This led to the establishment of rules requiring the airlines to demonstrate that each particular type aircraft could be evacuated within two minutes (later changed to 90 seconds). We also established emergency training requirements for each flight and cabin crewmember. This is still an on-going program which has been refined throughout the years consistent with technological improvements, such as automatically inflatable evacuation slides. The successful evacuation of an airplane in a survivable accident is directly related to the flow rate through the emergency exists. I believe you will agree that, to assure an acceptable flow rate, we must limit the number of handicapped persons on board so as not to jeopardize their safety or the safety of those who are able to use the exits without assistance from others. This is really the crux of the problem and one which perhaps is not clearly understood by some of the associations representing the handicapped.

In conclusion, the NPRM appeared to us to embody a reasonable approach from a regulatory standpoint. As part of the rulemaking process, we will carefully consider all comments received on the NPRM. Your letter has been placed in the rules docket and will, of course, receive full consideration before final action is taken on the NPRM.

I very much appreciate receiving your comments. I can assure you that we will continue to study the problem even after completing action on the NPRM. To the extent that future aircraft design improvements permit, they will be considered to determine whether any regulation adopted can be improved, consistent with safety, to minimize or eliminate the restrictions the handicapped have faced in traveling by commercial air carrier.

Sincerely,
Alexander P. Butterfield,
Administrator.

TAXES, HOME CONSTRUCTION, AND INFLATION

Mr. MATHIAS. Mr. President, many distinguished economists have recommended that immediate steps be taken to lower home mortgage costs, help families find quality housing, and aid the housing industry which now experiences depression-level unemployment. Many of the proposals for action have been focused at the Federal level, but there are obviously actions that can be taken at the State and local level as well.

Recently, State Senator John J. Bishop, Jr., of Maryland, proposed that the interest on saving accounts in the State of Maryland be exempted from State income tax. As Senator Bishop pointed out, this proposal would encourage greater savings which could make more mortgage money available at lower interest rates.

I believe Senator Bishop's proposal merits the attention of a wider audience, and I ask unanimous consent that it be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Maryland Can Do Something About Taxes, Home Construction, and Inflation: An Anti-Inflation Measure

State Senator John J. Bishop, Jr., 10th Baltimore County, issued a position paper on anti-inflation and tax reduction legislation that will stimulate the construction and purchase of homes in Maryland. His bill will exempt from State income tax the interest paid on all savings accounts and discourage Maryland banks from investing so much of their funds outside the State of Maryland.

"In this way," Senator Bishop said, "we will provide the incentive necessary to encourage Marylanders to do what most Americans realize must be done if we are to reverse today's tremendously serious inflation—tax-free interest on savings will make saving more profitable and encourage the postponement of non-essential purchases."

Senator Bishop notes even a minimum increase in our banking reserves, reduced by a staggering $55 million during July and August this year alone, can lessen inflation by providing a larger pool of funds for housing through the stimulation of home building, home purchasing, and employment among building suppliers and in the construction trades, where a projected 15–16% will be unemployed by the end of 1974.

Senator Bishop pointed out tax-free interest on savings is one thing that can be done on a statewide basis to begin combatting inflation. He also announced he is requesting Maryland's Senators, Mathias and Beall, to introduce a similar measure into Congress so the problem can be met on a national basis as well.

Position Paper I: Inflation and Construction

(By John J. Bishop, Jr.)

The inflationary problems currently being experienced in the United States reflect a world-wide economic crisis that has adversely affected the well-being of all industrialized nations. By virtue of the fact that the international economic system has fostered broad-scale interdependence among the industrialized nations of the world, inflation tends to have a snowballing effect, and the possibility of successfully insulating one nation from the general debacle simply does not exist. Thus, the American economy in a sense is hostage to world inflationary pressure, and certainly to the extent that the U.S. is dependent on ever more costly foreign resources (for example, oil), a purely domestic attack on the inflationary spiral cannot hope to stem the tide which threatens to lead us from inflation to depression.

In attempting to cope with the danger of inflation, the State of Maryland stands in relation to the United States as the United States stands in relation to the industrialized world: no purely local solutions can be relied upon exclusively because the problem is nation-wide, and no methods are available to insulate the economy of Maryland from the general inflationary processes that effect all parts of the United States. This is not to say that the State of Maryland is completely powerless to protect the economic well-being of its citizens. There is some evidence that the economy of Maryland could do more for Marylanders than it has, and especially in the sensitive areas of mortgage money availability. During the last two years, Maryland has witnessed the flight of the savings of its citizens to outside money markets where a higher rate of return was available. The victims of this flight have been Marylanders seeking decent housing who could not find mortgage money to finance their purchases; Maryland builders who could find no funds for construction loans and who have been forced to cancel or delay planned projects; and construction workers, who already faced with the uncertainties of seasonal employment and the cyclical nature of the building industry, now are confronted with underemployment and lay-offs. According to recently published statistics, housing starts have fallen off nationally from 2.5 million in late 1972 to 1.3 million this summer; locally, in Baltimore and the five surrounding counties, they have decreased from 11,497 in the first 6 months of 1973 to 5,919 in the first six months of this year. Unemployment among construction workers threatens to rise to 15% and beyond later this year and with the decrease in new construction; demand-pull inflation is driving up the cost of existing housing to astronomical heights. This vicious cycle can only be broken by increasing the availability of money for local construction, and the Legislature is in a position to contribute materially to this desirable end.

A three-pronged attack on the problem promises positive results: a) encouraging increased deposits by Maryland savers into Maryland banks through favorable State tax treatment on the returns of these savings; b) gaining the commitment of Maryland's Congressional delegation to push for exemption from federal income tax on interest paid on savings accounts; and c) preventing the flight of Maryland savings into other areas by providing tax incentives for financing local construction and providing mortgage money for Marylanders wishing to purchase homes.

1. In July and August of this year, an alarming trend developed in the Maryland banking and savings and loan industry, in that withdrawals began to exceed deposits, thus reducing the net amount of funds available for loans by $50 to $55 million in these 2 months alone. In large measure, the flight of these savings was due to the availability of higher rates of return than Maryland banks and savings and loan associations could offer. To offset the current trend to withdraw savings and to protect the availability of these savings for local investment, the Legislature must offer tax incentives to Maryland savers that would encourage them to deposit their savings locally. There are between 975,000 and one million Maryland depositors, and of these about ⅔ (666,000) hold balances under $20,000. For the typical depositor who might earn $1200 per annum return on his savings, an exemption of the state income tax on these earnings would represent a saving of $60.00 per annum. It would induce the saver to keep his funds on deposit locally, thus increasing the availability of funds, for construction loans and mortgages. It would encourage the saver to increase his savings, thus further increasing the availability of loan funds, and also deferring the purchase of nonessential goods. The net effect would be to increase the supply of money for construction and mortgages while reducing the pressure of cost-push and demand-pull inflation in the other sectors of the economy.

2. A rather broad consensus is developing in financial circles that Congress must provide some form of tax relief for savers if the socially and economically desirable objectives of increased savings are to be achieved. James T. Lynn, Secretary of Housing and Urban Development recently testified at a meeting of the Federal Home Loan Bank at Atlanta that the key to solving the crisis in housing rests on granting a $1,000 federal income tax exemption from income derived on interest from savings in thrift institutions. The New York State Savings and Loan Association and the Maryland Savings and Loan League similarly are on record favoring such Federal tax exemptions. At the recent economic "summit" meeting, national leaders representing lenders, builders, and housing buyers argued in favor of tax exemptions on personal savings and tax credits for money lent on residential mortgages. The rationale for these proposals rests on the central theme that since both the Federal and the State governments have favored home ownership as a socially and economically desirable end by exempting mortgage interest payments from income taxes, so it is now necessary to provide tax incentives for the equally desirable ends of encouraging individual savings.

The countervailing argument that such tax incentives would only favor the lending industry is not convincing in light of the decreasing earnings of banks and savings and loan organizations and of the recent failures of such institutions. Neither is the argument that the housing industry should not and cannot be insulated from its intrinsic cyclical flows. The construction of home is as socially and economically essential as the production of food and other agricultural products. A mild intervention in the form of tax relief and tax credits is the least disturbing to the economic system and represents the most even-handed method of coping with the critical housing situation.

3. By imposing interest ceilings on mortgages, the Maryland Legislature has assumed a special responsibility to assure the existence of sufficient moneys to meet the needs of Marylanders shopping for residential mortgages, because these interest ceiling encourage lending institutions to allocate their funds in areas where their rate of return is not so restricted. The alternative to lifting the interest rate ceilings on mortgages (which would be undesirable in that it would further inflate the cost of housing to the consumer) is the inducement of tax credits on loans for local construction and local residential mortgages. The resulting tax loss would be more than compensated by the increased income taxes from employment, increased property taxes from additional residences and the greater business activity generated by the use of Maryland money in Maryland. It need hardly be argued here that to deny the opportunities of home ownership to the young who are just now setting up homes and beginning their families, is not only inequitable but also socially undesirable. To propose such tax credits for Maryland lenders is *not* to argue favorable treatment for a special interest; the funds that Maryland lending institutions have available for loans are scarce and very much in demand; tax credits and tax incentives such as proposed will assure Maryland home buyers and apartment residents a fair opportunity of obtaining the housing they need without being saddled with usurious interest rates.

The proposed three-fold attack on the problem of housing and mortgages has the advantage of representing actions that can be undertaken promptly. It further is to be favored in that it focuses on local solutions to local problems, thus eschewing the creation of vast national bureaucracies which are not sensitive to local problems and local demand. And, finally and most important, it is the only solution to the housing and mortgage crisis which is non-inflationary in nature.

ICC IMPROVES STATISTICAL REPORTING

Mr. METCALF. Mr. President, I am pleased to call attention to a recent improvement in data reporting by the Interstate Commerce Commission. Preliminary statistical data for 1973 is now available on microfilm. The ICC has a better track record in this regard than some other independent regulatory commissions, which shall be nameless for the time being.

Inasmuch as Members of the Congress and the public, including trade associations and parties to proceedings before the ICC, may wish to avail themselves of this data, I ask unaimous consent to print in the Record the ICC's August 30 press release on the subject.

There being no objection, the press release was ordered to be printed in the Record, as follows:

Preliminary Statistical Data on Railroads To Be Available to the Public on Microfilm

As part of the Interstate Commerce Commission's continuing effort to make meaningful data on carrier operations available to the public in a timely fashion, the Commission, as a pilot project, is now prepared to release on microfilm preliminary summary tables of Part 1, *Transport Statistics in the United States*, 1973—*Railroads*. These tables being released are Nos. 158 through 166, which are abstracts of various statistical data by districts, Class I line-haul railroads.

The data will be available on reels and microfiche. Copies can be obtained at reproduction cost by addressing a request in writing to: James H. Bayne, Chief, Section of Reports, Bureau of Accounts, Room 6417, Interstate Commerce Commission, Washington, D.C. 20423.

Please specify the format desired—reel or microfiche copy.

A microfilm copy of the data will also be available for viewing in the Commission's Public Reference Room (Room 6114), 12th Street and Constitution Avenue, N.W., Washington, D.C.

This procedure is being initiated to determine its acceptability to the users of the financial and statistical data published by the Commission. Comparable data in printed form will be available through the Superintendent of Documents in about 90 days.

The data has been subjected to a limited verification process in order to make it available at this time. A more comprehensive verification process will be applied to the tables, together with similar data on individual railroads, prior to release in printed form.

If this procedure finds general acceptability among the users of the Commission's statistical information, it will be expanded to other publications.

HILL SYMPOSIUM ON POPULATION

Mr. PERCY. Mr. President, I have spoken many times in this Chamber about the importance of the issue of world population growth. As you know, the United Nations also recognizes the critical nature of the problem of unrestrained growth, declaring 1974 to be World Population Year and sponsoring the recent World Population Conference in Bucharest.

These events have provided an excellent beginning for cooperative international efforts to develop approaches to population problems and to accelerate economic and social development in those countries where population growth rates are highest. But it is imperative that we all recognize that we have only just begun and that our efforts to understand and deal with population problems must continue.

It has been my experience that too few Members of Congress are aware of the importance of global population growth rates or of the effect of these rates on current critical problems such as energy shortages, food shortages, global pollution, and environmental degradation.

Mr. President, the United Nations Association of the United States has designated October 24, United Nations Day, as World Population Day. A variety of events are planned across the country to inform and educate Americans about the population issue. One of the most important of these events will be held here on Capitol Hill for the benefit of Members of Congress and their staffs. The World Population Society is sponsoring an all-day symposium in room 2167 of the Rayburn House Office Building. The society has enlisted the aid of several notable experts and personalities, and I know the meeting will be extremely worthwhile. Each congressional office will receive an invitation and a program for this population symposium, and I urge each Member of Congress to send at least one staff person to attend all or part of the day's activities.

I wish to commend the World Population Society for sponsoring the World Population Day Symposium on Capitol Hill. The society's activities to inform and educate Congress are greatly needed, and I welcome its efforts.

The schedule for the October 24 symposium is as follows:

8:30–9:00—Coffee and Registration.

9:00–9:15—Introduction—Otto Schaler, Chief, Population and Health Branch, Office of International Training, Agency for International Development.

9:15–10:00—Film: "Sahel: Border of Hell" This award-winning WTOP documentary, narrated by Carl Rowan and J. C. Hayward, deals with the complex problems of the current drought in the Sahel region of Africa.

10:00–10:50—Speaker and discussion: "Famine in Africa: The World Next?" Dr. Howard Cottam, consultant to FAO, former head of the North American delegation to FAO, and Dr. Joseph Kennedy, Director of International Programs for Africare.

10:50–11:10—Film: "Tilt".

11:10–12:00—Speaker and discussion: "The World Food Problem: What Can We Do to Help?" Martin McLaughlin, Executive Secretary, World Hunger Action Coalition.

12:00–2:00—Luncheon: Senator Joseph Tydings, Co-Chairperson, World Population Day. Rayburn Building 338.

2:00–2:30—Film. "Sorry, No Vacancy".

2:30–3:30—Speaker and discussion: "World Population: Where Do We Go From Bucharest?" Dr. Ward Allen, Executive Secretary, World Population Society, Dr. Phyllis Piotrow Director, Population Information Program, George Washington University, members of U.S. Population Conference Delegation.

3:30–4:00—Film: "Population and Food," recent FAO release.

4:00–5:00—Speaker and discussion: "American Participation in the World Food Conference," Ambassador Edwin Martin, U.S. Coordinator for World Food Conference.

GROUND TRANSPORTATION PROBLEMS AND NEEDS

Mr. KENNEDY. Mr. President, I call to the attention of my colleagues an open letter to President Ford from Helen Leavitt, editor, Rational Transportation, calling upon the administration to devote their attention toward ground transportation problems and needs.

America needs an effective mass transit system. In addition to meeting our basic transportation goals, mass transit would create jobs and would be a strong weapon in our current battle with the energy crisis. Mrs. Leavitt also points out the value of this program during our current economic crisis.

Virtually all highway trust funds are narrowly "earmarked." I join Mrs. Leavitt, as I have proposed in the past, in urging that all highway trust funds be treated as general revenue for the operation, maintenance, and construction of mass transportation systems, including rail transit. This flexibility is needed if we are to achieve our goals.

I ask unanimous consent that Mrs. Leavitt's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AN OPEN LETTER TO PRESIDENT FORD

DEAR MR. PRESIDENT:

All America welcomes the high priority you have placed on our number one domestic issue, inflation. We commend your efforts to reduce spending at the federal level as a means of reducing the inflationary trend that has gripped our economy.

Now that you have convened an economic summit meeting to search for ideas to deal with inflation, we urge that you devote considerable attention to the nation's ground transportation problems and needs in your efforts to adjust national spending priorities.

As you know, federal participation in our ground transportation programs has for many years been limited primarily to the area of highway construction since inception of the Highway Trust Fund in 1956. Over the past 18 years, federal taxes on motor fuel and oil have been specially earmarked for roadbuilding through the Highway Trust Fund which now provides matching funds in the ratio of 90 percent federal to 10 percent state and local for Interstate Highway construction, and 75 percent federal and 25 percent state and local for primary and rural highways.

As a result, American taxpayers have spent $275 billion of federal, state and local taxes on highway construction since 1956. Currently, we earmark $6 billion federal and $19 billion state and local dollars for a total of $25 billion annually on our highway program.

In this same 18 year period we have spent a total of $37 billion on all other forms of transportation. During the period of this massive infusion of federal "seed" money into highway construction, coupled with virtually total neglect of our public transportation systems, we have lost more than 7 billion transit riders annually while the automobile population has risen from 54 million in 1956 to 100 million vehicles today. Concomitantly, we have experienced a rise in highway deaths from 39,000 in 1956 to 55,000 annually while approximately four million Americans are maimed on our highways.

A meaningful but small effort has been made over the past three years to restore public transportation with $1 billion in annual appropriations from the general fund. However, the $3 billion that has been spent so far under the Mass Transit Assistance Act of 1970 has had little impact on restoring public transportation to its former level of popularity. Fully one-third of this amount has been spent to bail out city bus systems either by helping municipalities purchase their bus systems outright or to beef up with new buses, or both. The remainder of the funding has been applied to existing subway systems or other fixed rail systems in just six large cities.

Meanwhile, the Environmental Protection Agency has determined that despite these efforts to aid public transit, the ubiquity and predominance of the automobile-highway transportation complex has so laden our air with poisonous carbon monoxide that at least 37 urban areas must curtail auto use and improve public transit in order to protect public health. The affected cities are: Birmingham, Mobile, Phoenix-Tucson, Los Angeles, San Francisco, San Diego, Fresno, Sacramento, Denver, Washington, D.C., Chicago, Indianapolis, Baton Rouge, Baltimore, Boston, Springfield, Mass., Minneapolis-St. Paul, Kansas City, Mo., New York City, Rochester, N.Y., Syracuse, Cincinnati, Dayton, Portland, O., Pittsburgh, Philadelphia, Houston-Galveston, Dallas-Ft. Worth, San Antonio, Beaumont, Austin-Waco, El Paso, Corpus-Christi, Salt Lake City, Seattle, Spokane.

Each of these cities has an extensive highway network. None has an adequate public transit system. Continued highway construction, with its attendant urban sprawl, shopping centers and thirst for land, undermines any efforts to help the taxpayer find and use public transit service . . . and this occurs in a country where the average trip is no more than nine miles in length and auto occupancy is less than 1.5 persons per vehicle.

Heavy emphasis on highway construction has also encouraged more use of trucks for shipping freight at the very time many of our railroads are faltering. Interstate rail passenger service was barely rescued from oblivion recently with the establishment of AMTRAK.

The success of this venture attests to the stamina of the American rail passenger, for the service has proven very popular where made available despite the fact that much of its 26,000 miles of track are unsuitable for use and it operates on a limited budget that includes no more than $200 million in federal aid annually. (This is less than the cost of completing 9.6 miles of I-66 between the Capital Beltway and the Potomac River.)

Railroad experts agree it will take at least a $1 billion investment in capital improvements for AMTRAK to attain first-class rail passenger service. We need only look back to World War II to assess the role railroads can play in our economy . . . almost 90 percent of all interstate freight and passenger service was carried by America's railroads . . . because we had an "energy crisis" then, too.

Our present energy crisis—OPEC countries are determined to keep oil prices high—calls for no less an effort to economize our natural resources. According to the National Science Foundation, transportation accounted for an increase of 166 percent in energy consumption in the 20 years between 1950 and 1970, mostly the result of the massive shift to the automobile and truck. A breakdown of energy consumption by mode of transportation reveals why.

Mode	Passenger miles per gallon	Mode	Ton miles per gallon
Bus	125	Pipeline	300.0
Railroad	80	Waterway	250.0
Auto	32	Railroad	200.0
Airplane	14	Truck	58.0
		Airplane	3.7

As you know, the federal government is subsidizing airport development through a trust fund established in 1970 similar to the Highway Trust Fund. It has collected a total of $3.8 billion for air travel since its inception. Thus, the federal government provides generous, automatic subsidies for the two least efficient modes of transportation . . . highways and airways.

While at the federal level we are spending $1 billion annually on mass ground transportation, we continue at the same time to earmark $6 billion each year for additional highway construction. City and state politicians insist they need both. As long as they are offered each, there is little hope for establishing a rational transportation system or a priority-oriented budget.

Last month, the House of Representatives passed a Mass Transit Aid Bill providing $11 billion of federal aid over the next six years. The lion's share of this money would aid nine large cities as they upgrade their fixed-rail systems for the daily commuter. The remainder would help smaller cities improve bus service. Some money would be available to stabilize fares. This bill originally carried a price tag of $21 billion but was cut in half when you warned that you would veto a bill providing such a large amount on grounds it would be inflationary.

At $21 billion over six years, it would have meant approximately $3.5 billion in federal aid for public transit each year compared with $6 billion each year for highways. Now the bill has been reduced to $11 billion, or $1.8 billion per year. This amount, coupled with the $1.5 billion available from the Urban Mass Transit Administration for 1975 only, provides, at most, $3.3 billion for public transportation over the next year. Funding for future UMTA programs is unclear . . . but may revert to the single $1.8 billion per year as provided in the House bill. We recommend that you reduce the highway construction program for the clear reason that it is six times as inflationary as the current mass transit program, since funding is now approximately at the ratio of 6 to 1 at the federal level alone.

The Federal Highway Administration last month announced that highway construction costs have risen 201.4 percent over 1967 costs. During the second quarter of 1974 alone, highway construction costs jumped 7.4 percent.

While there is validity to the claim that cutting federal spending can create unemployment, studies to date indicate that the job-creating effects of highway construction are exaggerated. Three-fourths of highway construction outlays are for profit, overhead, heavy equipment, real estate and materials. Only one-fourth of these costs are for actual payroll. Indeed, as much as half of the costs of many urban highways may go for land acquisition. Most of the remainder of the money helps to inflate the costs of basic materials such as steel, pipe, cement and petroleum.

Mass transit, on the other hand, is a labor-intensive industry and is capable of creating millions of permanent jobs as the sector of our transportation network grows. Simply weaning ourselves from highway construction and applying the money to higher-priority needs at the same time we steadily improve public transit would serve three needs . . . ease unemployment, end wasteful and counterproductive spending on further highway construction, and encourage the blossoming of public transportation.

A recent study of the effects of shifting highway construction dollars to railroad bed construction revealed that energy required for such construction would be reduced by 62 percent and employment would be increased by 3.2 percent. Dollar savings from the transfer of passengers from car to railroad, if ploughed into railroad construction, would save 2.98 billion gallons of gasoline each year and create 1.2 million jobs.

Thus, we advocate treating all highway and airport trust funds as general revenue rather than as earmarked or sacrosanct monies. We are aware that there is a widely held position among your former colleagues on Capitol Hill that highway trust funds are spent only for highway construction, since the law establishing the fund states that the money will be used to fulfill highway needs. Highway engineers define those needs as insatiable. But you are aware that even before 1970, all money designated for the highway trust fund that was not authorized for highway construction, essentially "surplus trust money," has been treated as general revenue.

This year alone, outlays from the highway trust fund will equal $4.9 billion while receipts are expected to total $6.3 billion, creating a $1.4 billion "surplus." These surpluses have, over the years, accumulated to a total of $8.685 billion, according to the Bureau of the Budget.[1]

More interestingly, the U.S. Treasury[1] treats these taxes as general revenue, along with surpluses from other programs such as Social Security and veterans insurance payments. The past two administrations have simply applied them to the national deficit each year.

Thus, in 1974, the national deficit, which you are properly attempting to reduce, was actually $17.9 billion.[2,3] When all trust fund surpluses were applied, this deficit magically became $9.4 billion. The U.S. Treasury simply tucked an I. O. U. for the $8.4 billion difference into our collective federal sock.[4]

Thus it can be seen that for years now, the federal government has treated trust fund surpluses as general revenue to finance the Vietnam War, our space, defense, and other programs. There is nothing sacrosanct about the Highway Trust Fund. It can be spent on any program both you and the Congress deem essential to the well being of the nation.

Therefore, we urge that all highway and airport trust funds, not just the surpluses, be treated as general revenue so we may get on with the job of solving our spiraling inflation problem and reordering our priorities in the critical areas of energy demand and transportation.

Sincerely,

HELEN LEAVITT,
Editor, Rational Transportation.

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[1] Special Analyses Budget of the United States Government, fiscal year 1975, page 29. The Budget of the United States Government, fiscal year 1975, page 30.

[2] The Budget of the United States Government, fiscal 1975, pages 29 and 30.

[3] Ibid, page 3.

[4] Special Analyses Budget of the United States Government, fiscal 1975, page 25.

THE BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 1975 P. 3

[In billions of dollars]

The Budget At A Glance	1973	1974	1975
Receipts	232.2	270.0	295.0
Outlays	246.5	274.7	304.4
Deficit (−)	−14.3	−4.7	−9.4

THE BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 1975 P. 30

[In billions of dollars]

Budget surplus or deficit (−) by fund group	Amount
Federal funds:	
Transactions with the public	5.3
Transactions with trust funds	−23.2
Total	[1] −17.9
Trust funds:	
Transactions with the public	−14.8
Transactions with Federal funds	23.2
Total	[2] 8.4
Budget total:	
Federal funds	[1] −17.9
Trust funds	[2] 8.4
Total	[1] −9.4

[1] Deficit.

[2] Surpluses.

THE RIPPLE EFFECT OF THE HOUSING CONSTRUCTION SLUMP

Mr. HATFIELD. Mr. President, last week the Senate passed legislation aimed at helping the sagging housing industry. Much has been said about the immediate impact of this slowdown from the lack of new construction starts and the related areas of the home construction industry.

As a Senator representing the State which produces much of the lumber used in construction of these new homes, I have addressed comments in the past of the effect of this slump has had in my State, as mill after mill has cut back production and laid off workers.

Mr. President, a further example of the ripple effect of this housing slowdown has created was pointed out in a recent newspaper article from the Central Oregonian, published in Prineville. I want to share some of its contents with my colleagues.

The city of Prineville received an income from operating a city railroad. City budgets are calculated using forecasts from income for logging and mill operations in that part of the State.

Because of the cutback in the demand for lumber, the railroad is not hauling as much lumber as it had been, and city revenues have fallen.

As the Federal Reserve Board meets here in Washington, with its charts and graphs, far away from the hurly-burly, I wish they could realize the impact of the whip they crack with their high interest rates. Out at the tip of that whip are lots of small areas such as Prineville. Their plights are not well known, but the impact is the same in the community as lots of the larger, better publicized situations elsewhere in the country.

I ask unanimous consent that this

article from the October 3 Central Oregonian be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LOSS OF RAILROAD REVENUE TO CAUSE BUDGET PROBLEMS

The City of Prineville is faced with a possible deficit in the 1975–76 budget due to the loss of revenue to the City of Prineville Railway.

It was revealed at a Tuesday Finance Committee meeting that the railroad lost $3,500 in the first month of the fiscal year (July) and due to the down-turn in the economy, revenues are off for the year.

Reed Johnson, city of Prineville Railway Manager, stated that the normal car shipping average per shift runs between 25 and 28 cars. Presently the averages are 13.4 and just over 17 cars on the two shifts.

The loss of revenues to the railroad reflects the cut back in the forest products industry and could result in a substantial cut in the annual payment to the city for their operational budget.

The city annually budgets $150,000 from the City of Prineville Railway for the budget which has held the city property taxes at their present low level.

The news of the decrease of revenue from the railroad could result in a loss of $40,000 to the city's general fund for the 1975–76 budgeting period. The 1974–75 money is already in the present budget and is paid ahead of the budget period.

The railroad has already made some adjustment in the number of employees, with the lay-off of two breakmen and one fireman until there is an increase in the number of cars being moved by the railroad.

City Administrator Jim Watson stated Tuesday evening, "at this point in time the city is attempting to underexpend on this year's budget in an attempt to stay ahead of the problem."

Watson went on to state that the city is analyzing their capital expenditures for possible cuts to ease the pain on next year's budget.

Watson stated that a normal month in a real good year the railroad would show a net profit of between $19,000 and $20,000.

In other business, the finance committee authorized Mayor Riley Allen to sign a contract with North American contractors of Portland for the repair and completion of the city sewer system.

Received a final report from Tennison Engineering on the proposed industrial site development on Lamonta Road.

Approved the letting of an animal shelter construction contract for the amount of $22,500 of Charlie Moore of Prineville.

Approved Ordinance No. 737 with minor changes. The ordinance is designed to wave the building permit fees for senior citizens and the low income.

JULIAN GOODMAN SPEAKS ON THE FUTURE OF BROADCASTING

Mr. HARTKE. Mr. President, recently Julian Goodman, chairman of the board of the National Broadcasting Co., gave a most interesting speech before the Asian Broadcasting Union meeting in Tokyo, Japan.

Mr. President, I ask unanimous consent that the text of Mr. Goodman's remarks be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY JULIAN GOODMAN, OCTOBER 7, 1974

I appreciate the honor you pay me, my company, and my country in asking me to speak here today. I appreciate also the gracious words of introduction. The experience of hearing one's own biography reported in public is always—for me at least—a time for reflecting on what these past years have brought us and what the future holds for us.

That future must surely be one of continuing growth of broadcasting—improvements in its technology, and growth in the numbers of people all over the world who depend upon radio and television for entertainment, education, and thorough, accurate and objective coverage of news and public affairs.

I am proud to have participated in that growth—both in number of viewers and in their trust of what we say—during my nearly 30 years with NBC (as a journalist, and then as chief executive) in what I like to think was affirmation that journalism is fully as important to American commercial television as entertainment.

In the United States, we have long admired the work you have done in the A.B.U.—and that of our colleagues in the E.B.U.—as well as your bringing together in a single unit the multiple problems of broadcasters in different countries, and speaking with a single voice. It has often been suggested that we should have a similar organization representing all the broadcasting companies on the North American Continent. We have not done that for reasons that I will explain later in these remarks.

Many of the countries represented here have roots in the past that are beyond memory.

My country is less than 200 years old, a mark we plan to celebrate fully in 1976, but it brought forward a new idea among nations. It was devised on the novel proposition that men could meet equally, and by reasoning together, form a nation. The United States has been a nation that from the beginning encouraged its citizens to talk among themselves, in order to govern themselves better.

That is why communications have played such a large role in American history. To make the original concept work, we had to find ways to exchange ideas across a large continent. The telegraph and telephone, radio and television, have been enormously vital to the development of American democracy.

And just as Americans have always believed they could achieve unity by reasoning together, they have long held a hope that all nations could do the same. Men like Benjamin Franklin and Thomas Jefferson believed strongly in universal reason. President Woodrow Wilson put forward the concept of a League of Nations, and we have lived to see this dream take hold in the United Nations.

But it has not been so much the noble dreams of idealists that have tied nations together. It has been technical change, and particularly electronic communications. Many of you in this hall have played a part in that.

It is significant that the oldest international organization still in existence is the International Telecommunications Union, which brought to life the idea of world cooperation 54 years before the founding of the League of Nations. Such an organization was needed in 1865 to make national telegraphic systems able to work with one another.

It is good to know that with organizations like A.B.U.—international cooperation has improved with age.

For those who believe as I do in the power of communications to make a world community, these are exciting times. We are in the space age, the age of the satellite. Images can be transmitted around the world in seconds. A global television audience of 600 million shared the moment man first set foot on the moon. The vast populations of the Soviet Union and the United States simultaneously heard and saw messages of friendship delivered by their respective heads of state from each other's country. The whole planet can now look in on itself. And we have witnessed remarkable progress in every form of globe-spanning satellite communications.

The Intelsat system of long-range international communications is now a partnership of 86 countries using five powerful satellite relays, nearly 80 earth stations, and more than 6,000 full-time circuits.

Distribution satellites serving single nations are now a reality in several countries. Canada and the Soviet Union have pioneered in creating these domestic systems. America's RCA Corporation early this year launched the first domestic-satellite communications service in the United States. The system now uses a Canadian satellite but it will be sending up RCA's own satellites next year. Western Union has followed with Westar-1, a satellite built to relay commercial communications in the United States. And I note that Japan will launch a distribution satellite in 1976 as part of its very exciting new program of space technology.

These are dramatic advances, representing great speed and savings for our established television systems. But the future isn't only in the sky. New advances in broadcasting facilities and refinements in program distribution are coming in a steady stream, and from many countries.

Small, highly mobile electronic television camera/recorder systems with microwave transmitters have begun to appear—and to make possible live and rapid coverage of all kinds of events. In American television I know that this capability is going to increase the amount of attention devoted to news and special events. It will also influence the technique of many entertainment programs. And this has already started.

Many American sports telecasts are now being supplemented with pictures taken close to the action by hand-held electronic cameras. An NBC children's program called "GO" has been using a small electronic camera and portable tape editing equipment to take its audiences practically anywhere imagination leads—up in an aerial balloon, behind the wheel of a fire truck, to historic locations around America. This actuality technique has been very successful, and more and more of our programs—following the advances in portable equipment—will be leaving the artificial confines of the broadcast studio to range the American continent for interesting locations and subject matter. And there is no reason to stop when we reach an ocean.

Today, virtually no spot on earth is too remote for a live television transmission. We've been using international satellite pickups for news and sports for a long time now. And I believe that live, on-location remotes from around the world will be worked into the format of regular entertainment programs within the next few years.

Within the next few years also, video disk recordings should be on the market providing an economical way for the viewer to play pre-recorded material through his TV set. With this system, and with the increased use of video cassettes, we will have a new way of national and worldwide program distribution. And along the same line, cable television systems linked by communications satellites should be able to extend the use of existing television to distant areas of the world.

The direct broadcast satellite is another method of transmission, and experimental projects are being planned by a number of nations. In some countries like the United States, with already well-developed program distribution systems, the direct broadcast satellite would probably never be more than a supplementary service, broadcasting specialized material not provided by networks and local stations. But the day when satellites will be equipped to broadcast direct to home television sets without costly augment-ing devices is probably at least 10 years away. Admittedly there is some controversy and there are questions of national sovereignty connected with direct broadcast. And I suggest that now is the time for the proper legal bodies and broadcasting organizations involved to start work on the possibilities, test the difficulties, and try out solutions—before the developments that satellites can bring are needlessly restricted by government or United Nations action.

The encouraging thing is that many problems posed by communications satellites are being worked on successfully by various international agencies.

For example, a convention was signed this year in Brussels by representatives of many nations that would prevent piracy of programs carried on satellites. On another level, the ITU's World Administrative Radio Conference for Space Telecommunications last year awarded new frequency bands for satellite broadcasting and defined orbital positions. This group is now studying better ways to control satellite transmissions from spilling over into areas where they are not wanted.

While most of this is healthy progress, I believe we need more than a purely technical approach to the broadcast satellite. It must not be put into a technological strait jacket or restricted too closely by over-regulation. Investigations by some nations into shaping the beam projected by the satellite, shielding out signals, coding and jamming, will only reduce what should be an international medium into a purely national one.

The answer to this does not lie in sweeping political prohibitions nor in technological fences and restrictions. I believe the answer rests where it always has—in cooperation. Cooperation among governments and certainly among professional broadcasting organizations.

Professional broadcasters understand each other and understand the needs of large, complicated audiences. We know how to accommodate the political and cultural differences within a mass audience because we're experienced at this. We *have* witnessed achievements in cooperative programming among international associations of broadcasters, like Eurovision in western Europe, and Intervision in East Europe. For nearly a decade those associations—operating under widely differing political systems—have been exchanging television programs with little or no objection from the governments involved. The Program Committee of the A.B.U. can cite many instances of similar cooperation among the broadcasters represented here.

We have a further example of international cooperation in a newsfilm service like Visnews, for which NBC provides the United States coverage. It is owned jointly by various broadcasting entities of the British Commonwealth, including the Australian and New Zealand Broadcasting Companies. But it is a truly international cooperative, working without profit and serving more than 175 television organizations in nearly 100 nations. Its subscribers represent every political, cultural and religious shading. Yet Visnews manages to provide a news report that is generally acceptable to all.

Broadcasters, with experience helping each other across national frontiers must take the initiative in this problem area of broadcast satellites. If we do not, there is the danger that other international forums will. And their policies could easily be based on fear and ignorance.

We saw this two years ago in an unfortunate UNESCO resolution that favored heavy satellite controls. And I am glad to see the A.B.U. now giving consideration to a Code of Conduct on the use of direct broadcast satellites that was drawn up in Madrid last January by an inter-union working group of the World Conference of Broadcasting Organizations.

The E.B.U., the broadcasting organizations of Canada, and my own organization, the National Broadcasting Company, have already given their backing to the Madrid Code. I hope that the A.B.U. and the other regional broadcasting associations will approve it as well. It represents a commitment to responsible cooperation.

I have been urging joint action by professional broadcasting groups which are in fact regional organizations—the E.B.U., the A.B.U., the A.I.R., the O.T.I. and others. I know some of you are wondering about American cooperation on a regional basis, asking why the North American broadcasters do not form their own regional organization to speak with a single voice on matters of common interest.

We have been asked that question in different ways. My friend Sir Charles Curran, Director-General of the British Broadcasting Corporation, recently wanted to know why the American networks couldn't put aside their practice of competitive bidding for broadcast rights to the Olympic Games in the interest of holding down the price of these rights worldwide.

The explanation is simply that broadcasting in the United States has certain traditions, structure and legal constraints that effectively inhibit American broadcasters from joining their competitors in any joint bidding or common commercial enterprise, at home or abroad.

The broadcasting scene in the United States is shared by some 700 commercial television stations and more than 6,000 commercial radio stations. There are four major national radio networks and three major national television networks, a number of regional and specialized networks, and a very large non-commercial radio and television system. Beyond this we have a national trade association to which all of the networks and some of the stations belong; and separate regional associations and craft groups.

With such diversity and independence, a collective voice for American broadcasting simply does not emerge. Competition is a fact of life, as it is throughout American business. But it is more than tradition; it is the law. And the United States has very strict antitrust laws forbidding any joint action by businesses that might restrain trade. Unfortunately, these laws have been so interpreted that any sort of collaboration by commercial corporations that tends to inhibit competition is fraught with risk. And such joint action outside the United States is risky, too, for the courts have ruled this illegal if it results in any later competitive restraint affecting United States domestic or foreign commerce.

For American broadcasters, the antitrust inhibitions are even greater because American television and radio stations are licensed and regulated by the government. Any violation of the antitrust statutes could be grounds for a loss of a license. And each of the major American networks, as you may know, derives a good part of its income from the stations they own.

I recognize the potential value of a regional organization through which North American broadcast interests could speak. But, given the realities I've described, we would have a hard time devising a single voice for American broadcasters. We are still studying the matter, but even if a way could be found, we would have to ask ourselves whether it would be worth the government restrictions that might come with it.

Certainly our traditional cooperation with all the broadcasting organizations of the world will continue. With or without a North American union, American broadcasters will enter into as many ventures with overseas partners as are feasible. NBC itself has television program exchange agreements with both the BBC and the Soviet television. We have had the very encouraging experience of an American-Chinese agreement for setting up a satellite ground station in Peking. And I personally recall many occasions of fruitful cooperation between my company and Asian broadcasters, many of you in this audience today.

Communications are, after all, more than a matter of machinery. More than the workings of satellites, or secretaries, or study groups. This is a matter of spirit, the spirit of reasonable and responsible cooperation. And I know from experience that the broadcasters of the world have this in abundance.

ALBANY, OREG. AND AMTRAK

Mr. HATFIELD. Mr. President, one of the towns in the Willamette Valley, Albany, Oreg., has sought an Amtrak stop. In addition to the immediate surrounding area, only a few miles away is Corvallis, with over 15,000 students. Unfortunately, the requests of Albany and requests for consideration I made have not resulted in this new stop being granted. At one point I suggested a "use it or lose it" stop giving the local area a chance to generate interest in using Amtrak facilities, since their tax dollars are going to its support. I was told that Amtrak does not want to add any new stops because it detracts from the long-haul aspects of their service from San Francisco to Portland.

Imagine, therefore, my surprise to read that a new stop had been created in Orland, Calif., which I understand has a population of some 3,000 people.

An editorial in the Albany Democrat Herald of October 5 brought this to my attention. A member of my staff contacted the Oregon Department of Transportation to seek further information. I am contacting Roger Lewis, president of Amtrak, to request a full explanation of why one area was able to convince Amtrak to add this service, while another area was unable to do so.

I ask unanimous consent that the editorial and the reply from DOT administrator George Baldwin be printed in the Record.

There being no objection, the editorial and letter were ordered to be printed in the Record, as follows:

AMTRAK APPLIES POLICIES WITH AN UNEVEN HAND

Question: What area of about 150,000 population, with a state institution of higher education, used a combination of local and outside interests to petition successfully for an Amtrak stop this year?

The key word, of course, is "successfully." The Linn-Benton area fits those requirements (and has a population nearer to 160,000). And, when the idea of an Albany Amtrak stop was broached, local officials and U.S. Sen. Mark Hatfield went after one.

They were unsuccessful. Amtrak said this market did not merit a stop. There was some indication at the time that Amtrak failed to put together a good market study—which included all of Linn County, Corvallis, Oregon State University and Benton County—before making its decision.

One place that did receive an experimental stop, though, was Orland, Calif., population 2,884. The stop is supposed to serve a four-county area around Orland that includes the city of Chico and Chico State College. The population of that area is about 151,000.

Service to Orland began Sept. 15. If it doesn't pan out, service will be dropped in six months, according to the Orland District Chamber of Commerce.

A chamber official in Orland said the drive for the Orland stop began in 1973, with efforts from local officials, newspaper editorialists and state and national legislators.

It all sounds so similar to what happened here that it is hard to understand where the difference lies between the two situations.

Oregon Department of Transportation officials wondered about that, too. They wondered, especially, whether Amtrak had been guaranteed business or a subsidy from the Orland area. Their intention was to duplicate such efforts in the mid-valley, if possible. On Sept. 16, DOT administrator George Baldwin wrote Amtrak to ask about it.

The response, from Amtrak vice president for state and local affairs, David A. Watts Jr., was uninformative and apparently inaccurate. Watts said that the Orland stop had been committed before Amtrak had changed policies to eliminate milk run stops in favor of faster long-range service.

Amtrak has said that its policy all along was to do that. That was the stated reason for phasing out a passenger service to Albany in 1971. If Amtrak was telling the truth in the first place, then Watts' answer cannot possibly be true.

Watts' letter went on to say that a mid-valley stop could be arranged if the state agreed to underwrite two-thirds of its possible losses. That knowledge has been available to state and local officials for more than a year.

Amtrak appears to be treating the valley's needs with an attitude of benign neglect. We could have gotten that when the passenger trains were in private hands. When people complain about the spotty, unfair responsiveness of the federal bureaucracy, they need only to look to Amtrak for a perfect example.

State of Oregon,
Department of Transportation,
Salem, Oreg., October 10, 1974.
Hon. Mark O. Hatfield,
U.S. Senator,
Washington, D.C.

Dear Senator Hatfield: In response to a request from Walt Evans, this letter will give you a report on our efforts in regard to Albany-Corvallis Amtrak service.

Since the inception of Amtrak, we have understood that the elimination of rail passenger service to the Albany-Corvallis area had been part of a consistent and logical plan to serve only the largest population centers. Inquiries about Albany-Corvallis service were turned away with that statement as recently as August. During that month, plans were being completed by Amtrak for service to the small California farm town of Orland, which had not been served by the pre-Amtrak *Cascade*. Additional stops were inserted in Amtrak schedules at Martinez, California, and East Olympia, Washington, at the same time.

We wrote to David Watt's, Amtrak's Director of State and Local Government Affairs, trying to learn what criteria were used to justify Orland and not Albany-Corvallis. Mr. Watts replied that now a policy against additional stops has been adopted, but that the Orland stop was already committed. He did not notice our offer to work with his staff in reaching a solution to the Albany-Corvallis question.

We could have pointed out to Amtrak that Albany-Corvallis had a 1973 estimated population of 61,190, a greater number than Orland and any combination of nearby cities can produce. In addition, both Albany and Corvallis have local transit systems which can act as feeders. They have no air service, yet the influx of former Californians to the area is creating a business and family connection perfect for the overnight Bay Area service offered by the *Coast Starlight*. In contrast, the *Starlight* passes through Orland in the morning before 6:00, which Amtrak Vice-President Robert Moot stated to you was not a "convenient hour" for departure at another West Coast city.

Corvallis, the home of Oregon State University, was linked to Albany train service by connecting buses in the period before Amtrak was established, but this service was not well coordinated and failed to tap the potential of both the city of Corvallis and the over 15,000 OSU students. Approximately 17 percent of the OSU student body comes from out of state. Last fall 1,001 of these were Californians. Many more were Washington residents.

Albany, a light metals and timber processing center, has been an area of rapid economic growth, generating business trips north to timber centers and south to the space age industries of California. Airport location problems have made air service impractical and distorted past air usage statistics for the area.

The presence of an interstate freeway leading from Albany to Salem and Eugene might have led Amtrak officials to believe that residents of Albany-Corvallis would drive to Amtrak stations at those cities. While this occurs, they should not seriously consider loading further traffic into stations which already are overloaded during peak periods. The Eugene station is "standing room only" with average traffic levels. Even during severe weather, passengers will wait outside due to the crowding. In addition, since no other form of transportation requires an initial auto trip to Eugene, the people of Albany-Corvallis do not see their area as a natural tributary of their neighbor 45 miles away. Even air service is reached by a limousine from Albany-Corvallis.

Our concern is that we need to know what Amtrak's requirements are. We have staff members working with a variety of transportation modes, publicly and privately owned systems are cooperating. This requires two-way communication. Your efforts in encouraging this flow of information are appreciated.

Beyond the above situation, yet still closely related, we would most appreciate receiving information as it becomes available on both the proposed Amtrak service between Portland and Boise as well as on the proposed West Coast High Speed Corridor Study.

Sincerely,

George M. Baldwin,
Director of Transportation.

THE SOVIET UNION'S EMIGRATION POLICIES

Mr. KENNEDY. Mr. President, as we look toward a new period in our relations with the Soviet Union, many Americans are increasingly concerned with humanitarian issues—in particular, with the Soviet Union's policies regarding the emigration of its citizens.

Earlier this year, one of the leading Jewish activists in Moscow, Mr. Victor Polsky, was involved in an automobile accident. Today, he is scheduled to be brought to trial for a motoring offense in connection with this accident, although witnesses have said that Mr. Polsky was not to blame. There is a strong presumption that Mr. Polsky's trial is more directly related to his political activities.

Mr. President, when I was in Moscow last April, I met with a group of Soviet Jews—including Mr. Polsky. I was impressed with their courage and dedication—and with their gentleness. During the same trip, I called upon the Soviet leaders to take a "magnanimous action" on the question of emigration—an action to which the American people could respond. The Polsky case is an area in which such an action would symbolize the possibilities for resolving the current impasse in trade relations and emigration policies.

On this subject, a group of Soviet Jews have cabled the President and the Congress, asking our assistance. I ask unanimous consent that the cable be printed in the Record.

There being no objection, the cable was ordered to be printed in the Record, as follows:

Translated From Russian to the President of the United States, Mr. Gerald R. Ford and to the Congress of the United States

Our appeal to you is caused by our anxiety for the fate of our friend, the well-known Jewish activist Victor Polsky. He is being threatened with a judicial reprisal for a crime which he never committed.

Some time ago a girl who tried to commit suicide flung herself under the car driven by Victor Polsky and although thanks to V. Polsky's driving experience she suffered almost no harm the case was transferred to the court. Now Polsky is threatened by imprisonment for a period of up to 3 years despite the absence of any guilt on his part.

The materials of the investigation in the Polsky case are well known to many jurists and political leaders of the USA and other public figures of the USA and the other countries of the West. The real reason for the opening of this court case against Victor Polsky is the revenge of the authorities for his active participation, since 1970, in the struggles of the Soviet Jews for their right to emigrate to Israel.

It is already 5 years that Victor Polsky is living in conditions of complete ruthlessness, in conditions of constant threats, surveillance, searches, and preventive arrests. And although the Soviet authorities make declarations addressed to the Government and to the Congress of the USA about the alleged reduction of the emigration restrictions which they intend to introduce, they are still using tyranny in regard to the Jews who have been applying for emigration for a long time, thus trying to scare off the other Jews and to prevent them from submitting their applications for emigration.

The cruel revenge which is now being prepared against polsky is an expression of such practice of intimidating the Jews. It is, most probably, also meant to press the American congressmen to come to a compromise on the present talks between the U.S.S.R. and the United States.

We have already witnessed fabricated cases opened against Jews desiring to emigrate to Israel. It is sufficient to refer to the case of Feldman in Kiev and to the case of Lubarsky in Rostov. Mr. President, we appeal to you for the first time as to a head of a state who defends freedom and civil rights of men and we hope that you will be able to use your influence in order to prevent this new judicial reprisal.

We presume that no real relaxation of tension is possible at the time when such tyranny is being committed. At the same time we are confident that there exist real conditions which could be favourable to such a humanist step on your part.

SIGNATURES

Moscow.—Agursky, Abramovich, Balashinskaya, Prestin, Lerner, Perelman, Lerner, Slepak, Prestin, Maria Slepak, Aleksanor

Siepak, Koshevoy, Mikhailova, Polotsk, Galperin, Galperina, Lipapsky, Tsitlenok, Shepelev, Tolchinsky, Shcheransky, Toker, Sirotenko, Novikov, Inditsky, Rubin, Akselrod, Akselbrod, Veksler, Lapidus, Pevzner, Lapidus, Shpolyanskaya, Gorbatov, Lidia Korenfeld, Ludmila and Ilya Korenfeld, Ass. Karnovskaya, Shein, Zisman, Belopolsky, Gorelik, Fishkin, Davidov, Goldfarb, Marienberg.

Tuvin, Polishchuk, Tsatskin, Beilina and Bbilin, Suslov, Ramm, Palatnik, Targunsky, Dulchin, Dulchina, Dimshits, Binenboim, Feldman, Efim Feldman, Vladimir Feldman, Gusman, Kremen, Rakhlenko-Drapkina, Drapkin, Druk, Aleksandr and Ludmia, Lunts, Vagner, Andursky, Sikiryansky, Tesker, Gindin, Fain, Vaisblit, Baras, Liberman, Kosharovsky, Begun, Rozenshtein, Rozenshtein, Priven, Nashpets, Golberg, Brailovsky, Goldblat, Esses, Shtiglik.

Kiev.—Kislid, Raslin, Tsatskes.

Minsk.—Olshansky, Uvsishcher, Davidovich.

Tbilisi.—Pekarsky, Goldshtein, Goldshtein, Gelman, Kipnis.

Novosibirsk.—Poltinniskov, Berenshtein, Poltinnikova.

THE PUBLIC BROADCASTING SERVICE PROGRAM—"DRINK, DRANK, DRUNK"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Iowa (Mr. HUGHES) relating to a program to be shown on Monday, October 21, at 8 p.m., by the Public Broadcasting Service on the subject of alcoholism and also a release from the Public Broadcasting Service, and a letter to Mr. Hartford N. Gunn, president of the Public Broadcasting Service, from Mr. David Hale, president of the U.S. Jaycees.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUGHES

Mr. President, on Monday, October 21, at 8:00 p.m., Channel 26 here in Washington and other television channels throughout the country will carry an excellent program on the subject of alcoholism, which has been produced by WQED/Pittsburgh for the Public Broadcasting Service. The program was financed with a grant from the 3–M Company, and it was developed in consultation with the National Institute on Alcohol Abuse and Alcoholism, Al-Anon Family Groups, and other service organizations concerned with the individual and social consequences of this tragic illness.

With Carol Burnett as hostess and performances by E. G. Marshall, Larry Blyden, and other well-known actors, "Drink, Drank, Drunk" seeks, through the medium of television entertainment, to bring understanding and help to alcoholics and their families.

To enhance the impact and value of the program the Public Broadcasting Service is encouraging local stations to work with other communications media, alcoholism groups, educational institutions, and civic organizations in their own communities to provide information on local services available to the problem drinker and to his or her family. Among the organizations cooperating in this effort are local chapters of the United States Jaycees.

In my view, Mr. President, this program is a fine example of television in the public interest. I commend it not only to those who are personally concerned with the problem of alcoholism but also to those who enjoy seeing television used creatively to educate, to entertain, and to serve the community.

CAROL BURNETT HOSTS TELEVISION HOUR FOR THE FAMILIES OF ALCOHOLICS

Carol Burnett hosts a public television special with hope and help for the families of alcoholics, Oct. 21, 1974 at 8 P.M. on WETA–TV over the Public Broadcasting Service. (PBS—October 21, 1974, 8 PM ET)

The special, Drink, Drank, Drunk, produced by WQED/Pittsburgh with a grant from the 3M Company, also features E. G. Marshall, Larry Blyden, and Renee Taylor and Joe Bologna in dramatic readings and vignettes, comedy sketches, music and discussions targeted at the estimated 35 million Americans who live and work with alcoholics.

Burnett sets the frank tone for the hour special, confiding that her own parents died of alcoholism at age 46, and urging anyone who lives with an alcoholic to admit the problem and get help. She points out that alcoholism is a disease which can hit any "average American," and frequently does.

Elsewhere in the hour, E. G. Marshall reads a poem about a young boy's encounter with his drunken father, and hosts a quiz for the audience. Larry Blyden stars in a dramatic vignette as the husband of an alcoholic, we learn to "detach with love." The minidrama was written by Jack Weiner, the author of "The Morning After," a recent television movie starring Dick Van Dyke.

Renee Taylor and Joe Bologna contribute a comedy sketch/game show "You Waste Your Life" written and acted by them to show the cycles of nagging, pleading and suffering common to life with a drunk. The game pits alcoholic Bill Froth against his non-drinking wife Mary in a witty display of psychological one-upsmanship.

During the program, Burnett also introduces the audience to both alcoholics and the families of alcoholics, and points to a successful industrial alcoholism treatment program.

Other features in the program include Blues singer Linda Hopkins in a moving rendition of the normally merry drinking song "There's A Tavern in the Town," and Morgan Freeman, The Electric Company's "Easy Reader" with "Fast Facts" about alcoholism.

Drink, Drank, Drunk was produced by Charlie Hauck and directed by Jack Kuney, written by John Boni and Charlie Hauck. Tom Skinner is executive producer and Mary Sweenie is associate producer.

The program was developed in consultation with Al-Anon Family Groups; the National Council on Alcoholism; the National Institute on Alcohol Abuse and Alcoholism; the Alcoholism Committee of United Mental Health; the Dept. of Community Services, Pittsburgh Child Guidance Center; and Rev. Joseph L. Kellermann, Director of the Charlotte (North Carolina) Council on Alcoholism.

THE UNITED STATES JAYCEES,
Tulsa, Okla., October 10, 1974.

Mr. HARTFORD N. GUNN,
President, Public Broadcasting Service,
Washington, D.C.

DEAR MR. GUNN: In behalf of 325,000 Jaycees in 7,000 chapters, I wish to thank you and the Public Broadcasting Service for airing the TV special "Drink, Drank, Drunk" to focus the nation's attention on alcohol abuse and alcoholism, and more especially to provide information and help for the families, friends, and employers of America's problem drinkers. WQED–TV and the 3–M Company have initiated a program that undoubtedly will have wide impact.

I am also pleased that our Jaycees responsible drinking education program called "Operation THRESHOLD" is supporting "Drink, Drank, Drunk" by encouraging Jaycees at the local grassroots level to undertake various activities in its behalf, and promoting the program in our national, state and local publications.

Dr. Morris E. Chafetz, Director, National Institute on Alcohol Abuse and Alcoholism, recently said, "Alcoholism and alcohol abuse is one of the most serious health problems. Although the use of alcoholic beverages is harmless to most people and apparently beneficial for some, alcoholism is an illness that plagues some 9 million Americans directly and many times that number when one considers the effects on families and others."

Again, I thank you for another example of excellent programming made available through the Public Broadcasting Service. The American people, and particularly those who may have an active alcoholic in the home, will have a better understanding of what they can do in coming to grips with this most devastating disease.

Sincerely,

DAVID HALE, *President.*

CYPRUS

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Pennsylvania (Mr. SCHWEIKER) relating to the grave concern of church leaders over the course of events in Cyprus over the past several weeks and the text of the statement by the officers of the Metropolitan Christian Council of Philadelphia and the chief executives of member denominations of the council.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR SCHWEIKER

Fourteen Protestant and Greek Orthodox church leaders who are all directors of the Metropolitan Christian Council of Philadelphia, recently spoke of their "grave concern about the painful course of events in Cyprus over the past several weeks."

While disapproving of the intervention of foreign military forces and condemning noncompliance with the United Nations ceasefire resolution, the statement urges a negotiated settlement by representatives of all factions. "The aim must be that the people of this island, Cypriots, Turks, and Armenians and Greeks alike should be able to decide their own future and govern themselves without any foreign intervention whatsoever."

The full text of the statement and a list of signatories is attached.

SEPTEMBER 19, 1974.

STATEMENT ON CYPRUS

(By the Officers of the Metropolitan Christian Council of Philadelphia and the Chief Executives of Member Denominations of the Council)

We have followed with grave concern the painful course of events in Cyprus over the past several weeks, while recognizing the complexity of the long standing difficulties on the island.

We strongly disapprove the intervention of foreign military forces which has resulted in death to many persons, deep suffering among the civilian population an the uprooting of thousands of people from their homes.

We condemn the non-compliance with the United Nations Security Council resolution which called for cease fire and negotiations.

We urge full and continuing adherence to the cease fire by the parties involved and the settlement of their differences around the negotiating table.

We call for the full representation of the people of Cyprus in these negotiations. The aim must be that the people of this island, Cypriots, Turks, Armenians and Greeks alike, should be able to decide their own future and govern themselves without any foreign intervention.

We urge the Government of the United States to use its diplomatic offices to restrain the aggressive acts of foreign military forces in Cyprus, to cooperate with other major powers in cultivating a political climate conducive to the maintenance of peace and to support all efforts through the United Nations to bring about the peaceful settlement of differences.

Persons endorsing the statement include the following:

Francis G. Brown, Chairman, Metropolitan Christian Council of Philadelphia; General Secretary, Philadelphia Yearly Meeting of the Religious Society of Friends.

The Rev. William J. Shaw, President, Metropolitan Christian Council of Philadelphia.

The Rev. Dr. Rufus Cornelsen, Executive Director, Metropolitan Christian Council of Philadelphia.

The Rt. Rev. James M. Ault, Bishop, Eastern Pennsylvania Conference, United Methodist Church.

The Rev. William J. Brown, Executive Presbyter, *Donegal* Presbytery, United Presbyterian Church in the USA.

The Rt. Rev. E. L. Hickman, Bishop, First Episcopal District, African Methodist Episcopal Church.

The Rev. Dr. William A. Janson, Jr., President, Southeastern Pennsylvania Synod, Lutheran Church in America.

The Rev. William L. Johnston, Executive Minister, Philadelphia Baptist Association, American Baptist Churches in the USA.

The Rev. Carl M. Kleis, Moderator, Philadelphia Classis, Reformed Church in America.

The Rev. Father John A. Limberakis, Archpriest, Greek Orthodox Community of Philadelphia.

The Rt. Rev. Lyman C. Ogilby, Bishop, Diocese of Pennsylvania, Episcopal Church.

The Rev. Dr. John C. Shetler, Conference Minister, Pennsylvania Southeast Conference, United Church of Christ.

The Rev. Dr. Frank H. Stroup, Executive Secretary, Philadelphia Presbytery, United Presbyterian Church in the USA.

The Rev. Harrison J. Trapp, Moderator, Pennsylvania Baptist Association.

SHIP TRANSFERS

Mr. HARRY F. BYRD, JR. Mr. President, when the Congress recently passed the military procurement authorization bill for fiscal year 1975, a provision pertaining to the transfer of U.S. ships to foreign countries was included in the legislation, section 702.

Previously, Congress established specific terms and conditions of ship loan actions by the Navy.

Soon after the enactment of such legislation, the executive branch policy was changed to selling the vessels, in lieu of leasing and loaning. While it is true that this change in policy was within the existing statutes, it was difficult to escape the conclusion that this change in policy was a circumvention of congressional intent and control. Congress consequently included section 702 in the recently passed military procurement authorization bill for fiscal year 1975, to include sales as well as loans.

Section 702 of the legislation requires statutory approval of U.S. ship transfers to foreign countries in excess of 2,000 tons or less than 20 years of age.

The section further provides that the disposal of any other ships that are not covered by this section be subject to notification of the Committee on Armed Services for 30 days of continuous session of Congress prior to the proposed disposition.

The Navy, at my request, has prepared a complete listing of Navy ships that have been transferred to foreign countries since October 1972.

Since the enactment of Public Law 92-270, 122 ships were transferred to 20 different countries.

When one considers the large number of ships that have been transferred and the cost of this program to the American taxpayers, I think the need for congressional oversight becomes clear. The recently enacted legislation should restore a balanced approach to the disposal of naval vessels.

I ask unanimous consent to print at this point in the RECORD a list of such transfers.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SHIP TRANSFERS SINCE OCTOBER 1972

Ship	Country	Authority [1]	Date	Remarks [2]	Service date	Tonnage
Bang SS-385	Spain	Loan, Public Law 92-270, TIAS 7488.	October 1972		December 1943	1, 480
Picuda SS-382	do	do	do		October 1943	1, 480
YTM-767	Greece	Lease	do		November 1945	260
Sandlance SS-381	Brazil	FMS	do	Previously on loan	October 1943	1, 480
LCM-6 No. 36824	Uruguay	Lease	do		December 1965	28
LCM-6 No. 6551	do	do	do		August 1966	28
Lloyd Thomas DD-764	Republic of China	FMS	do		March 1947	2, 340
Kiowa ATF-72	Dominican Republic	Lease	do		June 1943	1, 240
E. F. Larson DD-830	Korea	Loan, Public Law 92-270, TIAS 7536.	do		April 1945	2, 370
Sioux ATF-75	Turkey	Lease	do	Sold, FMS August 1973	December 1942	1, 240
APL-47	do	do	December 1972		June 1945	1, 300
Cabot AVT-3	Spain	FMS	do	Previously on loan	July 1943	1, 120
Capp DD-550	do	FMS	do	do	June 1943	2, 120
D. W. Taylor DD-551	do	FMS	do	do	September 1943	2, 120
Converse DD-509	do	FMS	do	do	November 1942	2, 120
Jarvis DD-799	do	FMS	do	do	June 1944	2, 120
McGowan DD-678	do	FMS	do	do	December 1943	2, 120
Grant Cty LST-1174	Brazil	Lease	January 1973		December 1957	3, 560
Perkins DD-877	Argentina	FMS	do		April 1945	2, 370
ST-277	Chile	FMS	February 1973		October 1943	1, 625
Bergall SS-320	Turkey	FMS	do	Previously on loan	June 1944	1, 500
Bronson DD-668	do	FMS	do	do	June 1943	2, 120
Van Valkenburg DD-656	do	FMS	do	do	August 1944	2, 120
MSF-64	Mexico	FMS	do		December 1942	890
MSF-120	do	FMS	do		July 1943	890
MSF-124	do	FMS	do		March 1943	890
MSF-128	do	FMS	do		April 1943	890
MSF-315	do	FMS	do		October 1943	890
MSF-379	do	FMS	do		February 1945	890
John R. Perry DE-1034	Indonesia	FMS	do		May 1959	1, 370
Surprise PG-97	Turkey	Loan, FAA	do		October 1969	180
Sea Leopard SS-483	Brazil	FMS	March 1973		June 1945	1, 500
MSF-101	Mexico	FMS	April 1973		March 1942	890
MSF-104	do	FMS	do		February 1943	890
MSF-111	do	FMS	do		August 1943	890
MSF-306	do	FMS	do		August 1944	890
Irwin DD-794	Brazil	FMS	do	Previously on loan	February 1944	2, 120
Hancock DD-675	do	FMS	do	do	September 1943	2, 120
Cutlass SS-478	China	FMS	do		March 1945	1, 500
Hanson DD-832	do	FMS	do		May 1945	2, 375
Shelton DD-790	do	FMS	do		June 1946	2, 375
J. E. Kyes DD-787	do	FMS	do		February 1946	2, 375
Warrington DD-843	do	FMS	do	LOGSUP	December 1945	2, 375
Grenadier SS-525	Venezuela	FMS	May 1973		February 1951	1, 480
Windham City LST-1170	Turkey	Loan, FAA	June 1973		December 1954	2, 590
Defiance PG-95	do	do	do		September 1969	180
Vernon Cty LST-1161	Venezuela	do	do		May 1953	2, 590
Skylark ASR-20	Brazil	FMS	do		March 1951	1, 310
Plaice SS-390	do	FMS	do	Previously on loan	February 1944	1, 480
Trigger SS-564	Italy	FMS	July 1973		March 1952	1, 550
Rupertus DD-851	Greece	Loan, Public Law 92-270	do		March 1946	2, 375
Eversole DD-789	Turkey	FMS	do		May 1946	2, 375

Footnotes at end of table.

SHIP TRANSFERS SINCE OCTOBER 1972—Continued

Ship	Country	Authority [1]	Date	Remarks [2]	Service date	Tonnage
Buck DD-761	Brazil	FMS	do		June 1946	2,350
J. C. Owens DD-776	do	FMS	do		February 1945	2,350
Guest DD-472	do	FMS	August 1973	Previously on loan	December 1942	2,120
Bennett DD-473	do	FMS	do	do	February 1943	2,120
Cushing DD-797	do	FMS	do	do	January 1944	2,120
Hailey DD-556	do	FMS	do	do	September 1943	2,120
Mapiro SS-376	Turkey	FMS	do	do	April 1945	1,500
Merd SS-378	do	FMS	do	do	August 1945	1,510
ARD-25	Chile	FMS	do		May 1944	5,200
LST-1066	do	FMS	do		March 1945	1,780
LST-1067	do	FMS	do		do	1,780
C. H. Roan DD-853	Turkey	FMS	September 1973		September 1946	2,750
Hurst DE-250	Mexico	FMS	October 1973		August 1943	1,120
Megara ARVA-6	do	FMS	do		June 1945	2,100
Trumpetfish SS-425	Brazil	FMS	do		January 1946	1,800
Amberjack SS-522	do	FMS	do		March 1946	1,450
Tusk SS-426	China	FMS	do		April 1946	1,480
T. J. Gary DER-326	Tunisia	FMS	do		November 1943	1,120
Lowry DD-770	Brazil	FMS	do		July 1944	2,350
Remora SS-487	Greece	FMS	do		January 1946	1,500
Waldron DD-699	Colombia	FMS	do		Jrne 1944	2,850
Strong DD-758	Brazil	FMS	do		March 1945	2,350
Huntington DD-781	Venezuela	FMS	do		do	2,370
NOA DD-841	Spain	Loan, Public Law 92-270	do		November, May 1945	2,352
Leary DD-879	do	do	do		November 1945	2,375
O'Hare DD-889	do	do	do		do	3,375
Corporal SS-346	Turkey	FMS	November 1973		do	1,800
Cobbler SS-344	do	FMS	do		August 1945	1,800
Tucker DD-875	Brazil	FMS	December 1973		March 1945	2,370
Bass DD-887	do	FMS	do		October 1945	2,375
Isbell DD-869	Greece	Loan, Public Law 92-270	do		January 1946	2,375
Lind DD-703	Korea	FMS	do		September 1944	2,350
Dehaven DD-727	do	FMS	do		March 1944	2,350
Greenfish SS-351	Brazil	FMS	do		June 1946	1,800
D. H. Fox DD-779	Chile	FMS	January 1974		December 1944	2,350
Sperry DD-697	do	FMS	do		May 1944	2,350
Benham DD-796	Peru	FMS	do	Previously on loan	December 1943	2,120
Isherwood DD-520	do	FMS	do	do	April 1943	2,120
Kimberley DD-521	China	FMS	do	do	May 1943	2,120
Yarnall DD-541	do	FMS	do	do	December 1943	2,120
Riley DE-579	do	FMS	do	do	March 1944	1,320
Berry DE-1035	Indonesia	FMS	do		November 1959	1,370
Cadmus AR-14	China	FMS	do		April 1946	8,800
Eltanin T-AGOR-8	Argentina	Lease	February 1974		October 1957	2,022
Harder SS-568	Italy	FMS	do		August 1952	1,540
Whitley AKA-91	do	FMS	do	Previously on lease	September 1944	7,360
Ruddy MSF-380	Peru	FMS	March 1974	do	April 1945	890
YTL-567	Paraguay	Loan, FAA	April 1974		October 1945	70
Swenson DD-729	China	FMS	May 1974	LOGSUP	May 1944	2,350
Taussig DD-746	do	FMS	do	LOGSUP	do	2,350
Bole DD-755	do	FMS	do	LOGSUP	March 1945	2,350
Lofberg DD-759	do	FMS	do	LOGSUP	April 1945	2,350
Thomason DD-760	do	FMS	do	LOGSUP	October 1945	2,350
Thomas DD-833	do	FMS	do	LOGSUP	May 1945	2,370
Badger DD-657	do	FMS	do	LOGSUP	July 1943	2,120
Mansfield DD-728	Argentina	FMS	June 1974	LOGSUP	April 1944	2,350
Collett DD-730	do	FMS	do	LOGSUP	May 1944	2,350
ARD-11	Mexico	FMS	do		October 1943	4,200
Jallao SS-368	Spain	FMS	do		July 1944	1,150
AFDL-25	Cambodia	Loan, FAA	do		February 1944	800
Sea Poacher SS-406	Peru	FMS	July 1974		July 1944	1,480
Sands T-AGOR-6	Brazil	Lease	do		October 1964	950
Atule SS-403	Peru	FMS	do		June 1944	1,480
Norris 859	Turkey	FMS	do	LOGSUP	March 1946	2,370
Bailey DD-713	Iran	FMS	do	LOGSUP	July 1945	2,370
Becuna SS-319	Venezuela	FMS	do	LOGSUP	May 1944	1,500
Lavalette DD-448	Peru	FMS	do	LOGSUP	August 1942	2,120
Zerry DD-513	do	FMS	do	LOGSUP	January 1943	2,120
Goodrich DD-831	Venezuela	FMS	do	LOGSUP	April 1945	2,370
Westchester Cty LST-1167	Turkey	Loan, FAA	August 1974		March 1954	2,590

[1] Loan—each loan is on government-to-government basis in accordance with the public law indicated or sec. 503 of the Foreign Assistance Act of 1961 as amended. Lease—leases are on a Navy to Navy basis under 10 USC 2667. FMS—Sales under the Foreign Military Sales Act of 1968 as amended.

[2] LOGSUP—Logistic Support, to be used for spare parts only.

ECONOMIC GOOD SENSE

Mr. **HELMS**. Mr. President, there seems to be little disagreement that inflation is the greatest problem that we face today. Its causes and its cures, however, are a subject of widespread debate. Business leaders offer one solution, and labor leaders another. Members of Congress speak in a multitude of conflicting voices, and even the economists themselves are unable to reach a consensus. We seem to be floundering in a state of confusion.

In our continuing effort to defeat inflation, a return to basic principles and plain commonsense would seem to be our most reliable course of action. In an excellent letter to President Ford, a distinguished lady of my State, Mrs. Vivian S. Wright, County Commissioner of New Hanover County, N.C., has provided us with a realistic chart and compass.

Mr. President, I urge every Member of the Senate to read her letter with care and attention, for it reflects a keen understanding of our economic distress. Moreover, Mrs. Wright has demonstrated a firm grasp of economics, and the suggestions that she offers to lift us out of our plight are most worthy of our serious consideration.

Mr. President, I ask unanimous consent that the letter from Mrs. Wright to President Gerald Ford be printed in entirety at the conclusion of my remarks in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NEW HANOVER COUNTY,
Wilmington, N.C., September 30, 1974.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Two things have prompted the writing of this letter. One is your request for suggestions from the public on how to fight inflation. The other is a news report in the local daily paper this morning quoting a "White House Source" on proposals to tax gasoline 10 cents a gallon more and to place heavy taxes on "excessive" use of other fuels to achieve the "twin goal of diverting consumers' inflationary income from the economy and of controlling the use of energy."

With all due respect, Mr. President, I must ask what "inflationary income"? I have watched news reports of your economic summit meetings and have made mental note of all the prestigious economists who were present to offer their comments. Conspicuous by their absence have been the ordinary housewives and wage-earners of this Country. I fully believe the latter two groups mentioned hold the answers to your questions and your search for advice should center therein.

I write in the dual capacity of a housewife who happens to hold elective office. Most respectfully I offer the following comments and suggestions.

When an economist talks of "inflationary income," I believe he betrays his abysmal ignorance of the true situation. Any housewife could tell you, for example, that electricity bills have jumped from $35 to $56, water and sewer bills have gone from $28 to $46, gasoline has gone from 39.9¢ per gallon to 59.9¢ per gallon—all in less than a year. Add those to the jar of syrup which sold for 79¢ and now is $1.09, the bag of sugar which was 89¢ and now is $2.09, the 1-lb. bag of dry beans which was 19¢ and now is 71¢—now you have a picture of where that elusive "inflationary income" has gone as wages have not kept pace with rapid rises in costs. To the average housewife or factory worker, such cost increases mean that there is no "inflationary income" left to tax. It means that doctor appointments have to be postponed, the children do not have extra money for a Saturday afternoon movie, the house repairs are delayed, the ancient automobile, which serves as family transportation, must keep chugging along. And now some economist thinks we should be taxed more to control our "inflationary income" and our use of excess energy—how ridiculous! The cost alone has already taken care of those things.

I sincerely believe that our Country's Economic problems will only be solved when we return to a reliance on the free enterprise system which made this Country great. In other words, the government must learn to keep its "cotton-pickin hands" out of things and let business have a chance to work. There was a time when a man could open a small business, reinvest his earnings, gradually expand his operations and eventually manage to have a good standard of living for his family and put aside something for their future security. Now what do we see? Many small businesses are failing or are finding it unfeasible to expand because of concern for the future. Large corporations can no longer hire good workers to do a day's work, but they are forced by bureaucratic intervention and federal controls to hire someone off the street with no technical knowledge, simply because his face is the right color to fill a quota. Because of this, the quality of work goes down and forces the cost of doing business up, the stockholders are effectively cheated, and long-term employees are discouraged from continuing their hard work as they see non-producers receiving raises and promotions simply because of the color of their skin or the fact that they carry a name indicating their ethnic extraction.

Business should be left alone to be just that, business, and not be expected to be a social agency. Profit should not be treated as a dirty word. Profit is where you find your money to reinvest and improve and to pay a deserved dividend to those who have invested their money in your business. Government should be cut to the bone. Bureaucratic paper-shufflers produce nothing but trouble. We need more people employed in private industry who produce something needed by the public. Private enterprise—the law of supply and demand—all work when left alone; they only fail when upset by governmental planners and regulators, many of whom never have known what it meant to run a business and have to make a profit or go bankrupt.

Our State of North Carolina has wisely seen fit to require local governments to adopt balanced budgets. What a pity that the federal government has not done likewise with its budget. There are many ways in which the federal budget could be cut. Take the matter of Revenue Sharing (or Deficit Sharing as it should properly be called) for an example. Some local governments may use this money for non-recurring expenses, but others use it for a variety of recurring-type expenses and are only postponing the day of reckoning when they have to face up to their real situation. It really makes no sense to send this money to Washington in taxes, pay a host of bureaucrats to keep records of it and then send a part of it back to the local communities which sent it to Washington in the first place.

Another example where cuts could be made is the Manpower Program. When I was appointed some months ago to serve on the Ancillary Manpower Planning Board for this area, I was appalled at some things I found. For instance, it makes no sense at all to use $2,000 in tax money to train someone to be a cashier when any grocery store manager can train an employee to do that in a week's time. Our area has been blessed with a relatively low rate of unemployment in recent years, but still the manpower expenses have rolled along—why? Because they are geared not to the unemployed but to the so-called "underemployed." What this means in actuality is that a farm-worker, for instance, is actively solicited by some governmental or poverty agency employee and encouraged to become dissatisfied with his work; then he is paid to train for some so-called "more suitable" work for which he may or may not be qualified to do and for which there may or may not be openings. In the meantime, the local strawberry farms can find no workers to pick crops and the local operators of bulb farms have to destroy a crop of flowers because there are no workers to pick them.

Another prime area to cut would be in the vast welfare programs which encourage dependency on government. No decent person would want to deny help to those who are handicapped or to those who can no longer help themselves because of age or infirmity; but in the arbitrary setting of poverty levels, etc., we really help no one. Let me mention just a couple of examples known to me from experience. One woman called me wanting help to obtain more aid for her mother (who was already receiving much) and actually made the statement that she shouldn't have to help her mother because "there are programs for that"! Another case is the woman who was receiving food stamps and medical assistance who bought a $5,000 car for her son. I secured a copy of the bill of sale for the car and turned it over to the local welfare department. The medical assistance was cut off, but due to the insistence of the recipient and denials which had to be investigated, the food stamps continued for several months while case workers investigated. Finally, the woman herself requested to be taken off the food stamp program. Even then, regulations required that she be given another 15 days notice before being cut off.

Another area which should receive vast cuts is foreign aid. Many people are planting small gardens because of high food costs. Why should they pay $3.49 for fertilizer which only cost 99¢ a couple of years ago when our government is announcing plans to send more fertilizer to India, for example, which is so busy building a nuclear bomb that it cannot see its way clear to build a fertilizer plant to help its own people! Why should this country increase its national debt by sending vast sums at little or no interest to a great number of countries when many of our businesses are failing because they cannot afford the high interest rates to borrow needed money? I have been informed that there are approximately 300 homes on the market in this community alone which remain unsold because there is not enough mortgage money available at reasonable rates which buyers can afford. The government simply must stop draining off available money supplies.

I sincerely believe that our government's leaders must realize that they are in office to represent America. They were not elected to represent the world. Their actions must be those which benefit the Americans who elected them (and who pay their bills!). Our leaders have no moral right to base their decisions or actions on any basis other than what is best for the people who elected them. Our forefathers built a great country, and it can remain great only if we return to the fundamental principles which helped build it—private enterprise; reliance on individual initiative; limited national government and emphasis on local government; a strong dependence on God; the right of an individual to own a piece of land and to use it for his own best interest, to work hard and to better himself, to have pride in his efforts.

Mr. President, the last time I wrote a President, my letter never got anywhere near him. Instead, I received a polite acknowledgment letter from some unknown bureaucrat in one of those vast Washington departments, and he wrote only to say that he had forwarded the letter to another of those vast departments. I sincerely hope this letter will suffer a better fate than that and that it will reach you. My belief is that you can do a good job only if you know what the average American is thinking.

In closing, may I express my hope that your wife will have a complete recovery from her illness.

Very respectfully yours,
VIVIAN S. WRIGHT,
County Commissioner.

ADDRESS OF GEN. FRED C. WEYAND

Mr. THURMOND. Mr. President, on October 15, 1974, Gen. Fred C. Weyand, Chief of Staff, U.S. Army, addressed the Association of the U.S. Army, at the Sheraton-Park Hotel, Washington, D.C.

As we all know, General Weyand was confirmed by the Senate on October 3, 1974 as the Chief of Staff of the U.S. Army, following the untimely death of Gen. Creighton W. Abrams. Since this is General Weyand's first major address as the Army's new Chief of Staff, I believe it is important that the text of his address be made available to the Members of the Senate. I am especially pleased to note that General Weyand has indicated he intends to continue those programs initiated under the guidance and leadership of General Abrams.

Mr. President, I ask unanimous consent that the entire text of General Weyand's address be printed in the RECORD at the conclusion of my remarks.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY GEN. FRED C. WEYAND

This a great time to be in the Army. This is not the culmination of 200 years of service—it is only the beginning. It is an era of momentum and opportunity—momentum toward a better Army—opportunity for renewed assurance and professionalism; for increased strength and effectiveness; for service that is essential to the continued survival of this Nation just as it was essential to its birth 200 years ago.

The opportunities at hand are not accidents. They didn't arise automatically as a result of the return of our forces from Vietnam. They're not the inevitable consequence of the end of the draft authority, either.

They didn't originate with any particular set of events or circumstances.

It takes people—leaders—to take the sand of circumstances and the gravel of events and to fuse them by the cement of leadership into a firm foundation for building and for growth. This is what Abe did and now all we have to do is to follow the path he charted for us.

Our Army and our country—all of us—were blessed in having General Abrams as Chief of Staff for the past two years. He was one of a kind. And although he's gone, in a sense he'll be the Chief of Staff for a long time to come because his objective of a better Army—better for the Nation—and for those who serve it—will be our objective for a long time to come.

Abe's first and unwavering goal, as you well know, was readiness. Last year, at this luncheon gathering—the only AUSA convention he addressed as Chief of Staff—he said, "I don't need or want any more war . . ."

Our mission is to deter war. To be successful, we must be strong, and must clearly demonstrate that we have the capability to stand up to aggression. We have to make the prospects of adventurism too risky and too costly to be an easy choice for any potential enemy.

Our strength does not cause war, nor does it incite others to war. Quite the contrary. If we lack credible strength, then the option of war becomes much more attractive to a potential enemy, whereas our clear strength causes him to hold back, to seek other solutions. Strength supports peace. In today's world, as in the past, it is weakness, not strength, that encourages adventurism.

Our watchword is readiness—real, visible readiness—mental readiness as well as physical readiness. In seeking readiness, we are putting the country's best interests in the forefront of the Army's consciousness.

We also recognize clearly that if we are to achieve our goal—a ready volunteer Army—we have to remember that people are important. Our people need to be proud of themselves and of their Army. They have to feel self-respect, and understand the importance of their mission. They need to be contributing members—not just present for duty—in the difficult job of manning an Army in peacetime.

The cement of Abe's leadership bound circumstances, events and people into a firm foundation for the Army. And we're going to build on that foundation. Abe left us the legacy of a sense of purpose—a vision if you will—for the Army—not an impossible dream, but an achievable vision of:

An Army of young men and women who serve because they want to serve—and who, along with other Americans, see in the Army a worthwhile environment for service.

A ready Army—capable, strong, responsive.

A stable Army, in which professionalism and motivation reach new levels, and in which people achieve a full sense of belonging.

An Army that gives meaning and substance to our Nation's goal of a generation of peace and contributes to the three pillars of strength, partnership, and negotiation that support that goal.

An Army that draws a great measure of its strength from the people and units that make up its Reserve Components—the National Guard and the Army Reserve—the true Total Force.

An Army that, in concert with the Air Force, Navy, Marines and Coast Guard, provides a force worthy of this great Nation—a force capable of sustaining a generation of peace.

An Army that represents the ideals of equality and justice that our Nation stands for.

An Army whose presence is reassuring to our friends, but not provocative to our potential enemies.

An Army that recognizes its responsibility to protect and conserve our economic strength and our Nation's resources—especially those resources provided for the Army's use.

In short, an Army of which every person in this Nation can be proud.

This is our vision and we are transforming it into reality.

Our Army is made up of young men and women who freely chose to serve.

It is a ready Army—more ready now than at any other time in our peacetime history.

The Army is stabilizing after a long decade of turbulence and wrenching change.

We are building a strong Army—and we are adding to its combat strength. Together with the other Services we are a credible force for peace.

Our Army does provide opportunity for all on the basis of individual ability and desire.

Our deployed and backup forces do reassure our friends without in any way threatening those whom we hope to deter from aggression.

The Army is providing essential strength at a cost this Nation can afford, and our attention is focussed on drawing greater value from the resources provided to us.

It is an Army of which our Nation can be proud.

These are realities, not hollow wishes, or empty dreams.

But we will do more.

Our Secretary of Defense has done two things for us that are unique in the Army's peacetime experience. Insofar as it is within his power to do so, he will permit us to stabilize our strength at 785,000 men and women and, most importantly, he will permit us to keep the savings from less essential functions so long as we plow them back into increased combat readiness.

Given a stable strength budgeted at a reasonable level, we believe we can produce additional combat capability equivalent to at least three divisions. That is the commitment which we have made and which we hope the Congress will not deny us.

Stability will permit not only more effective use of our Active resources but also an opportunity to make fuller use of our ready National Guard and Army Reserve, to a degree never achieved before.

Our most urgent need in all of this is stability. When an organization is forced to expand and contract rapidly and repeatedly, there is turbulence and inefficiency—and with turbulence: lost energy, lost momentum, reduced effectiveness. But when the organization is stabilized, and able to concentrate on the operational mission, rather than reacting to imposed changes, it can be highly effective and efficient. That's the kind of Army that a stable environment can provide.

Stability not only affects the Army's use of resources. It is also a matter that affects the Army's people—not as resources, but as human beings. In an Army that alternately expands and contracts, it is its people who pay the price.

Besides a constant end strength, the Army needs stable funding, if we are to achieve the minimum levels of effectiveness we seek. There is no doubt that our country's economic health depends upon all of us doing our level best to avoid waste and extravagence. For the Army, this means that our dollars must be spent wisely. At the same time, our country's economic health depends in large measure on its strength in the eyes of others in the world. So weakness brought about by insufficient defense is no solution to our economic problems.

Stability in our strength and in our funding will sustain the visible capability and readiness that will move us closer to the ultimate goal of peace. Stability will permit us to make the vision of a more effective, professsional Army a convincing reality. It is within range.

We have not deluded ourselves into believing we can achieve these things alone. We must have the support of the Congress and the people.

One of the great strengths of our Army has always been that it is "of the people." It must always remain "of the people." With proper leadership, with an environment of stability, we can insure that the Army remains the kind that Americans can be proud to serve in, and to support.

In our Army of 200 years ago it was a different story. When General Washington was at Valley Forge in December of 1777, he commanded an Army in despair. In a letter to the President of the Congress, he detailed his problems. A desperate shortage of provisions; lack of clothing and blankets; deaths from exposure. Mutiny. He wrote movingly of his inability to alleviate his soldiers' misery, and he spoke out about the poor support he was receiving.

But the most striking thing about the letter was his closing. He wrote:

". . . upon the ground of safety and policy, I am obliged to conceal the true State of the Army from Public view and thereby expose myself to detraction and Calumny."

Today we are an Army of the people in every sense. We will not conceal the true state of the Army from public view. On the contrary, our strength and effectiveness depend upon the people seeing it as it is. They must know and understand their Army—so they can be proud of it and support it. Individually and collectively, you are one of the main links between the Army and the rest of the American people. With your continued help, the people can know their Army better. And together, we will make the Army's vision become a reality. As Abe used to say: "Let's get on with it!"

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that, on reconsideration, the joint resolution (H.J. Res. 1163) making further continuing appropriations for the fiscal year ending June 30, 1975, and for other purposes, returned by the President of the United States with his objections, and two-thirds of the House of Representatives not having voted in the affirmative, was not passed.

RECESS UNTIL 2 P.M.

Mr. MANSFIELD. Mr. President, on that sad note, I move that the Senate stand in recess until 2 p.m. today.

The motion was agreed to; and at 1:01 p.m. the Senate took a recess until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ALLEN).

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

RECESS UNTIL 3 P.M. TODAY

Mr. GRIFFIN. Mr. President, with the authority of the majority leader, I move that the Senate stand in recess until 3 p.m. today.

The motion was agreed to; and at 2:01 p.m., the Senate took a recess until 3 p.m.; whereupon, the Senate reassembled, when called to order by the Presiding Officer (Mr. NUNN).

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and at 3:01 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 3:20 p.m. when called to order by the Presiding Officer (Mr. MANSFIELD).

SENATE CONCURRENT RESOLUTION 120—PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE CONGRESS FROM OCTOBER 17, 1974, UNTIL NOVEMBER 18, 1974

Mr. GRIFFIN. Mr. President, I send to the desk a concurrent resolution, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MANSFIELD). The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

S. CON. RES. 120

Resolved by the Senate (the House of Representatives concurring), That when the two Houses adjourn on Thursday, October 17, 1974, they stand adjourned until 12 o'clock noon on Monday November 18, 1974, or until 12 o'clock noon on the second day after their respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

SEC. 2. The Speaker of the House of Representatives and the President pro tempore of the Senate shall notify the Members of the House and the Senate, respectively, to reassemble whenever in their opinion the public interest shall warrant it or whenever the majority leader of the House and the majority leader of the Senate, acting jointly, or the minority leader of the House and the minority leader of the Senate, acting jointly, file a written request with the Clerk of the House and the Secretary of the Senate that the Congress reassemble for the consideration of legislation.

SEC. 3. Ordered, That during the adjournment of both Houses of Congress as provided in Sec. 1, the Secretary of the Senate and the Clerk of the House, respectively, be authorized to receive messages including veto messages from the President of the United States.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR WAIVER OF RULE XXXVIII OF THE STANDING RULES OF THE SENATE REGARDING A NOMINATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that rule XXXVIII of the Standing Rules of the Senate be waived with respect to the nomination of Donald D. Alsop of Minnesota, to be U.S. district judge for the district of Minnesota, vice Philip Neville, deceased.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. GRIFFIN. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and at 3:22 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 4:11 p.m., when called to order by the Presiding Officer (Mr. MOSS).

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS TO THE FEDERAL ELECTION COMMISSION

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Republican leader and myself, in accordance with Public Law 93-443, section 310, I submit recommendations for appointment to the Federal Election Commission.

The PRESIDING OFFICER. The clerk will state the recommendations:

The assistant legislative clerk read as follows:

In accordance with P.L. 93-443, Section 310, the following recommendations for appointment to the above Commission are submitted:

Joseph F. Meglen.
Joan D. Aikens.

The PRESIDING OFFICER. The recommendations will be received.

Mr. MANSFIELD. I submit these recommendations on behalf of the distinguished Republican leader and myself because of the Federal Election Campaign Act Amendments of 1974, which states on page 90 of the conference report that:

> Of the other members two are appointed by the President pro tempore of the Senate, two are appointed by the Speaker of the House of Representatives, and two are appointed by the President, all six are subject to confirmation by both Houses of the Congress.

These two appointments are on behalf of the President pro tempore. The new law clearly envisioned that all appointments to this newly created commission will require not only Senate Confirmation but House confirmation as well. The same procedure that is required under the 25th amendment was embraced for these nominees. The nominees will be referred to the Rules and Administration Committee of the Senate and the Rules Committee of the House as intended in the law.

This is the first law of this type with this kind of designation that has come to the attention of the joint leadership. Therefore, to comply with the intent of the conference committee and the law these nominations will be referred to the appropriate committees of each House.

Both these nominations are exemplary in the opinion of the joint leadership. We are confident that their appointments will be expeditiously considered and recommended by the respective committees.

I ask unanimous consent, Mr. President, that these two names be submitted to the appropriate committees concerned.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. May I say for the further information of the Senate that the name of Mrs. Joan Aikens, of Pennsylvania, is being submitted for the 1-year term, and the name of Mr. Joseph Meglen, of Montana, is being submitted for the 3-year term.

FURTHER CONTINUING APPROPRIATIONS, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the message from the House of Representatives on House Joint Resolution 1167.

The PRESIDING OFFICER (Mr. MOSS) laid before the Senate House Joint Resolution 1167, making further continuing appropriations for the fiscal year ending June 30, 1975, and for other purposes, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, the House of Representatives has just passed and sent over House Joint Resolution 1167, making further continuing appropriations for fiscal year 1975, and for other purposes.

This joint resolution is the same as the previous continuing resolutions that have been before this body, particularly with respect to the last one that was voted on yesterday, with this exception: section 113 of the joint resolution as passed by the House provides that none of the funds made available for foreign assistance by this joint resolution may be used to purchase fertilizer in the United States for export to South Vietnam; and the other differences, as I observe them, are in the proviso in section 6, which has been changed to read as follows:

> *Provided*, That the President is authorized to suspend the provisions of this section and said Acts if he determines that such suspension will further negotiations for a peaceful solution of the Cyprus conflict. Any such suspension shall be effective only until December 10, 1974 and only if, during that time, Turkey shall observe the ceasefire and shall neither increase its forces on Cyprus nor transfer to Cyprus any United States supplied implements of war.

Mr. President, that is where the crux of the controversy has been, in this proviso. I hear rumor, though I cannot state that this proviso would be acceptable to him. It is also, I understand, acceptable to those who have been sponsoring the proviso in this section of the bill.

Mr. EAGLETON. Mr. President, will the Senator yield on that point?

Mr. McCLELLAN. I yield.

Mr. EAGLETON. I think the statement of the President, as I have heard it, is that the President will accept it with grave reluctance and begrudgingly.

Mr. McCLELLAN. I am very glad to have the qualifications supplied by the distinguished Senator from Missouri. I have only entered the Chamber, and the action has been so rapid-fire that it is very hard to keep up with what anyone has said—the President or anyone else. So I am glad to have these qualifications made a matter of record in this brief discussion.

I imagine that is exactly the way the President feels about it, Mr. President. I shall not belabor the matter. The question is whether the Senate wants to accept the joint resolution in its present form. If it does, the joint resolution will be passed, and if it is acceptable to those who have sponsored this provision with reference to Turkey, then, if the President accepts, whether with grave reluctance or not, if he will accept it we can very promptly dispatch the business here, get it passed, and go home.

The PRESIDING OFFICER. The joint resolution is open to amendment.

Mr. EAGLETON. Mr. President, may I address one question to the distinguished majority leader?

Am I correct in understanding that it is the position of the distinguished majority leader that this permission to ship military equipment to Turkey, under the restrictions as provided in the amendment, is a one-time and one-time-only permission?

Mr. MANSFIELD. Yes.

CONGRESS CHANGES U.S. CYPRUS POLICY

Mr. EAGLETON. Mr. President, it appears that the long debate on this subject is drawing to an end. I do not feel it is an exaggeration to state that Congress has won a very significant victory. It must now be said that the Congress of the United States is placing its imprint on America's Cyprus policy.

As I said in debate yesterday, Congress should not allow any American supplied weapon of war to go to the island of Cyprus. If we allow that to occur, the United States would be actively participating in the occupation of that island by rearming the Turkish forces there. Under the language adopted by the House colleagues this morning—no implement of war will be allowed to be transshipped from Turkey to the Island of Cyprus.

As author of the prohibition on the transfer of "any U.S. supplied implements of war" to Cyprus, I would like to state for the record the meaning of that phrase. As my colleagues know, the term "implement of war" is a term of art which is meant to include any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war. By "any other implement of war" we mean any defense article which, with another defense article or ammunition, is used to kill, wound, or destroy.

This phrase—implement of war—would, therefore, not include such items as jeeps, military trucks, ambulances, first aid equipment, or canteens. Parenthetically, this item was brought up in debate yesterday in the House. In other words, any article which is not commonly used to kill, wound, or destroy would be excluded under this phrase. My colleagues can refer to section 644 of the Foreign Assistance Act of 1961 in its entirety for an understanding of the meaning of this legislation, and for more complete understanding of the meaning of the term "implements of war."

Let me illustrate further what I mean. Assume the Government of Turkey were to ship a boatload of hand grenades without firing pins to Cyprus on a Monday. Assume further the Government of Turkey were to ship a boatload of firing pins to Cyprus on a Tuesday. Under the definitions as found in section 644 of the Foreign Assistance Act of 1961 as now embodied in this resolution, each of these shipments would be prohibited.

Or, by way of example, suppose Turkey shipped over to Cyprus 10 jet planes without wheels and then later shipped over 10 sets of wheels to Cyprus. Each of these shipments would be prohibited under this resolution.

Mr. President, in conclusion I would like to reiterate that this unfortunate confrontation with the Executive has ended with a very significant accomplishment. It is not only an accomplishment of the Congress of thhe United States, it is an accomplishment for our system of government. The message that Congress will send today to Greece and Turkey alike is unmistakable: the aggression of Turkey is being repudiated by the American people. And the message we send to the American people is that no man is above the law.

On December 10, if Turkish troops have not totally withdrawn from the island of Cyprus, the President would not be within the intent of Congress were he to certify that Turkey was in compliance with the law. Military assistance to that nation would then be terminated. That point has been made clear by the authors of this prohibition in both Houses. After December 10, 1974, no military equipment or supplies can be transported to Turkey by any means, directly or indirectly, unless and until the President makes the two determinations and certifications required by this section.

The result of our action today is that from now on, the U.S. policy in the Cyprus matter will no longer be tilted toward Turkey. I am hopeful that in the period between now and December 10, our diplomats will be able to influence the parties to this tragic affair to negotiate. I am confident that those who are negotiating for the United States will be in a much stronger position to act as a mediator between the parties.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. Moss). The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading.

The joint resolution was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass? (Putting the question.)

The joint resolution (H.J. Res. 1167) was passed.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE DURING ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be permitted to receive messages from the House during the adjournment period.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE PRESIDENT PRO TEMPORE AND THE ACTING PRESIDENT PRO TEMPORE TO SIGN ALL NECESSARY DOCUMENTS DURING ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President pro tempore and the Acting President pro tempore be authorized to sign all necessary documents during the adjournment period.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MANSFIELD. Mr. President, as long as we are waiting for only one other item of business I ask unanimous consent that the Senate stand in recess subject to the call of the Chair or until that item of business arrives.

There being no objection, the Senate at 5:37 p.m. recessed subject to the call of the Chair; whereupon, at 5:40 p.m. the Senate reassembled when called to order by the Presiding Officer (Mr. GRIFFIN).

ADJOURNMENT UNTIL MONDAY, NOVEMBER 18, 1974

Mr. MANSFIELD. Mr. President, I move, in accordance with Senate Concurrent Resolution 120, that the Senate stand in adjournment until 12 o'clock noon, on Monday, November 18, 1974.

The motion was agreed to; and, at 5:41 p.m. the Senate adjourned until Monday, November 18, 1974, at 12 o'clock noon.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

Pursuant to the provisions of Public Law 93-443, section 310, the following were appointed to the Federal Election Commission:

Joseph F. Meglen, of Montana, for a term of 3 years.

Joan D. Aikens, of Pennsylvania, for a term of 1 year.

EXTENSIONS OF REMARKS

THE FARMER'S SIDE OF THE STORY

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. GUBSER. Mr. Speaker, in these days of escalating prices at the supermarket, many people find it all too easy to blame the farmer for the prices they must pay.

Recently Mr. Stephen D'Arrigo, Jr. wrote a letter to the Public Forum of the San Jose Mercury which gives another side to this story. I commend Mr. D'Arrigo's letter to both farmers and consumers. His letter follows:

SALINAS, CALIF., *October 10, 1974.*

PUBLIC FORUM,
San Jose Mercury, San Jose, Calif.

GENTLEMEN: This is a reply to "Oust Butz" Public Forum of October 10, 1974. There are a few considerations overlooked by Mr. Walton and I present them here.

Basically, Mr. Walton, the taxpayer has a choice, namely government subsidies or higher food cost. He can't have simultaneously low cost food and no subsidy. There is no law, moral or legal, that requires a farmer to produce wheat or any other crop and sell at a loss in order to provide the citizens of this country with the lowest food budget as a percent of the consumer dollar in the world.

For forty years the Government has maintained artificially high surpluses for a mixed bag of reasons—mostly bureaucratic and political. Naturally, this lowers prices below production costs and requires a bureaucratic agency to administer the "program". They, therefore, have a stake in the program"—their jobs. The politician can go home and brag about the lowest food cost in the world. Everyone is happy except the taxpayer who foots the bill and the farmer who no longer enjoys the fruits of the free enterprise system, which happens to include the benefits of a supply and demand economy.

Because the surpluses are the lowest since 1948 does not mean that this artificial surplus was the "magic" level or the wise economic surplus level. We presently have a surplus and it is a healthy surplus. Until the breaking of the export contracts, the farmers were holding back in excess of 70% of the 1974 crop, and we are still in an adequate grain situation. The "shortage" is political hokum. The 1975 acreage is committed to planting or in the process of being planted.

While the public may complain about the "high" price of wheat, they also complain about the subsidies. You will either have to accept the higher prices and get the Government out of the farming business through its controls and subsidies; or support the controls and subsidies in return for lower wheat prices. You can't have both.

I hold no brief for Mr. Butz, but it does appear he is the first Secretary of Agriculture that has done what you, the taxpayer, have been demanding the past 40 years and now you don't like the alternative. You have enjoyed a food bill as low as 15 cents of the consumer dollar for decades. At the present 19 or 20 cents, it is still the lowest of any nation in the world—the next lowest being in excess of 26 cents.

It is strange indeed that we do not hear the same complaints about paying $1,000 more for a 1975 auto or more every year for cigarettes, t.v., clothes, boats, sports, etc. But, apparently, the farmer is expected to subsidize the U.S. citizen's dinner table.

Sincerely,

STEPHEN D'ARRIGO, Jr.

CALLS FOR CONGRESSIONAL INQUIRY INTO POLITICAL HEARINGS

HON. THOMAS F. EAGLETON

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Thursday, October 17, 1974

Mr. EAGLETON. Mr. President, a recent series of articles by Robert Adams, Washington correspondent of the St. Louis Post-Dispatch, alleges numerous instances of political influence being used to secure positions with the Federal Government, positions which the law says should be awarded strictly on a merit basis.

These are disturbing reports and I believe the relevant committees of the Congress should begin an immediate inquiry into the situation and, if the facts are as charged, conduct full public hearings.

Mr. President, I know of no one who is not anxious to put Watergate and all it represented behind us. But we would have sadly missed the lessons of that national trauma if we fail to correct the corruption that was revealed before we close the book.

No offense of the Watergate period was more shocking or more threatening to our system of Government than the political manipulation of Government agencies. Congress has an obligation to root out these abuses and to see that they never happen again.

Mr. President, I ask unanimous consent that the articles I referred to and an editorial from the September 29, 1974 edition of the St. Louis Post-Dispatch be printed at this point in my remarks.

There being no objection, the articles and editorial were ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch, September 25, 1974]

CIVIL SERVICE HEAD HELPED GET GSA JOB FOR POLITICIAN'S COUSIN

(By Robert Adams)

WASHINGTON, September 25.—The cousin of a Texas Representative was given a federal career job after Robert E. Hampton, chairman of the Civil Service Commission, personally told the No. 2 man in a Government agency of a desire "to help" the Representative, the Post-Dispatch learned today.

According to documents in the hands of Government investigators, Hampton made his desire known in a Dec. 8, 1970, letter to Rod Kreger, then deputy administrator of the General Services Administration.

The letter concerned job possibilities for Dwight W. Jones, a first cousin of Representative Robert Price (Rep.), Texas. It noted that Jones had passed the Civil Service examination and added: "If at all possible, I would like to help Congressman Price."

The documents indicate that Jones was quickly considered a "must case" by GSA staff and later received a mid-level career job in the Kansas City regional office of the GSA.

The documents include a Jan. 26, 1971, letter over the name of Robert L. Kunzig, who was then administrator of GSA, to Hampton saying that a position had been "established" for Jones—although Jones heatedly denied today that any job had been set up just for him. Jones said his post as Customer Service Director for the Kansas City regional office of GSA's Federal Supply Service had existed long before he was hired.

The Civil Service Commission has been investigating alleged patronage rings in GSA and other agencies since at least last year. But today's disclosure was the first public indication that the commission's chairman had ever passed along a desire to help a political figure in connection with a federal job.

It was also the first time that the name of Kunzig, who is now a judge in the United States Court of Claims, had been connected with attempts to find a job for a person indirectly referred by a political patron.

In an interview, Hampton said he did not consider his action improper, but, "I probably wouldn't do it again."

Kunzig, through a law clerk, refused to comment.

According to federal regulations, Civil Service jobs such as Jones's are supposed to be filed on merit under a competitive system. No special favoritism is to be shown to any candidate.

Sources familiar with Civil Service rules told the Post-Dispatch that although Hampton's action did not appear to be illegal, it raised serious questions about propriety.

One congressional source said it might appear inconsistent for Hampton to be the chief guardian of the nation's merit system, while at the same time making a referral of his own based on a desire to do a favor for a political figure.

"That letter, coming from the chairman of the Civil Service Commission, would carry an awful lot of weight going into a department or agency," the source said.

"A guy would have to be very naive to believe that this would be treated as just another character reference."

The source noted also that Hampton was among those who might ultimately sit in judgment on the question of disciplining the eight or more GSA staff members who have been charged with violating the Civil Service rules. "He'll be sitting on a case in which he himself seems to have been involved in one matter," the source said.

"It would seem that the man in charge of upholding the Civil Service rules should have no part in referring people for Civil Service jobs."

In another development, the chairman of the House Post Office and Civil Service Committee said a subcommittee of his panel would hold hearings on the alleged violations of the Civil Service laws.

The announcement was made in a joint statement by Representatives Thaddeus J. Dulski (Dem.), New York, the chairman, and David W. Henderson (Dem.), North Carolina, vice chairman.

In the statement, the two praised President Gerald R. Ford's recent directive that agencies and departments must keep the merit system free from politics. They said, however, that they were upset about what they considered "inordinate delays" by GSA in taking disciplinary action against eight staff members accused in a still-secret Civil Service Commission report.

Dulski and Henderson said their committee had been conducting its own investigation into allegations that Civil Service violations had become widespread under the Nixon Administration, and said the investigation would go on.

Hampton's Dec. 8, 1970, letter to Kreger was typed on Civil Service Commission stationary. Using a "Dear Rod" salutation, it said:

"Attached is a copy of Mr. Dwight W. Jones' resume, which I mentioned to you on Sunday.

"On Oct. 12, 1970, he was rated eligible in our Senior Level Positions examination for grades GS-13 and 14 (mid-level career jobs).

"Is he someone whose services you could use in your organization in view of his sales and purchasing background? If at all possible, I would like to help Congressman Price and would appreciate your letting me know what his chances are for employment."

The letter was signed "Bob," with Hampton's full name underneath.

According to the documents obtained by the Post-Dispatch, Kreger then wrote a "Memorandum to the Administrator" in which he said:

"Bob Hampton has referred an applicant, Dwight W. Jones of Livermore, Calif., to us for a GS-13 or 14 position in the Federal Supply Service. Jones is related to Robert Price, a cousin of the Congressman from Texas, and Bob Hampton would like to help the Congressman.

"I told Bob Hampton that I knew you would want to do everything possible to help." The GSA's administrator at the time was Kunzig.

The memorandum went on to say that Kreger had given the papers to a staff member "and asked that he give this matter urgent priority."

A "note to file," which bears no signature, told of two phone calls made in regard to a job of Jones. It said that Jones "is a must case."

A Jan. 26, 1971, letter bearing Kunzig's signature, and addressed to Hampton, said:

"Just a note to let you know that we have established a GS-13 Special Assistant to the Regional Director of the Federal Supply position in Kansas City for Dwight Jones.

"We will be requesting his name certification from your St. Louis regional office next week.

"I am glad that we could be of assistance to you in this matter."

In an interview, Hampton acknowledged that he wouldn't make such a referral today, although he denied any impropriety.

He said he had personally sent letters about individuals to agencies on other occasions since being named chairman by then President Richard M. Nixon in 1969. He put the total number at "not more than 30," and said that most were referred to him from nonpolitical sources.

Except for Jones, he said, "to the best of my knowledge not one of them ever got a job." He said he referred Jones to GSA because Price was a personal friend of his.

"I didn't look upon my letter to them as a request to do anything improper," Hampton said, "and I don't think I can be held responsible for what they (the GSA) might have done."

In looking at the documents, he said, "It's quite obvious that they were trying to please me."

Hampton said he felt that the tone of his letter "anticipated the possibility of a negative reply. It was not something where I said: Go out and do this because I want it."

Hampton noted that he was currently in a bureaucratic dispute with GSA over whether the Civil Service Commission has the power to order that GSA staff members be disciplined. He voiced a suspicion that some in GSA might be attempting to smear him because he had attacked the "patronage ring" considered friendly to the Nixon Administration.

Hampton noted that the commission was also investigating a number of other agencies, including the Department of Housing and Urban Development, the Small Business Administration, the Law Enforcement Assistance Administration, the Social Rehabilitation Service in the Department of Health, Education, and Welfare, and the National Highway Safety Administration.

"There are lots of political people who aren't happy with what I'm doing," he said.

Others, however, have questioned whether the commission has moved decisively enough in breaking up what Hampton views as perhaps the greatest threat to the merit system in its 90-year history.

It was noted that Frederic V. Malek, a former White House aid, told the Senate Watergate committee earlier this year that he "consulted with Mr. Hampton, chairman of the Civil Service Commission, on a lot of things."

Malek was the author of the controversial "Responsiveness Program" in the 1972 presidential campaign. Its purpose was to use the grant-making and other powers of the Federal Government to help Nixon with re-election.

In addition, Malek was involved in job recruitment at the Nixon White House and has acknowledged helping to refer persons friendly to the Administration to various agencies for political and career jobs. Malek, however, said he placed no pressure on any agency to hire someone for a specific Civil Service job, even though the White House used a four-level rating system with "must place" at the top.

In response, Hampton told the Post-Dispatch that he consulted with Malek only on legitimate topics, such as what positions could be properly exempted from Civil Service.

Hampton said he had no idea until earlier this year that a Nixon Administration personnel aid named Alan May had written a document called a "Federal Political Personnel Manual." In the manual, May discusses ways of "getting around" the Civil Service laws and removing career government employes who were not loyal to the Nixon Administration.

Hampton said he was "utterly shocked" by the manual. He said it displayed a tone of contempt for the Civil Service system.

Hampton said he had gone to the White House three times in the Nixon Administration to ask for a directive similar to the one President Ford issued this month. The Nixon White House never issued such a directive, he noted.

Hampton served as a personnel specialist in the Air Force and in the White House under Presidents Dwight D. Eisenhower and John F. Kennedy before being named a member of the Civil Service Commission in 1961. He was named chairman in 1969 and was reappointed in 1973.

Neither Price nor Kreger could be reached for comment about the Jones case.

Jones, however, defended his appointment to the job he now holds in the Kansas City regional GSA office. He gave the name of his predecessor, who confirmed Jones's contention that the post had existed before Jones came.

Jones noted that the GSA was the agency responsible for managing the Federal Government's buildings and procuring its supplies.

"I'm not some used-car salesman who was unqualified for the job but was brought in as a favor to somebody," Jones said. "I took the Civil Service exam and passed it. I've had 20 years in the furniture business. They needed somebody with that experience."

Jones said he had no idea that his name had been discussed in high places at GSA and the Civil Service Commission before he got the job. "I guess I'm flattered," he said.

Jones said his mother and Representative Price's mother were sisters, making him and Price first cousins. He refused to go into detail about his discussions with Price about a federal job, but said:

"Maybe I'm naive about this, but if you're qualified for a job, it doesn't seem like such a no-no to call on somebody for help. If you were dating the President's daughter, maybe he could help you out."

[From the St. Louis-Dispatch, Sept. 26, 1974]

GSA Obliged Ford and Scott on Job Referrals, Files Show

(By Robert Adams)

Washington, September 26.—Officials of the General Services Administration discussed—and sometimes apparently carried out—plans to create special jobs for persons referred by powerful political figures including then Representative Gerald R. Ford and Senate Republican minority leader Hugh Scott, confidential documents showed today.

An effort to circumvent the usual Civil Service procedures to help a man referred by Mr. Ford, before he became President, is discussed in a March 25, 1971, memorandum attributed to Rod Kreger, who then the No. 2 man at GSA.

In a "Memorandum to the Administrator," who was then Robert L. Kunzig. Kreger discussed the possibility of creating a special job for a 65-year-old building maintenance man from Grand Rapids, Mich., Mr. Ford's home town.

At one time Kunzig was Scott's administrative assistant.

"As we have not had the opportunity to do too many favors for Gerry Ford, this may be a chance to help out," the memo said.

Other documents obtained by the Post-Dispatch show a belief by Government investigators that at least some persons referred to GSA by Scott, of Pennsylvania were given preferential treatment in violation of Civil Service regulations.

The documents include a 54-page report by the Civil Service Commission which has been a closely held secret since it was compiled in October 1973.

One GSA personnel officer, Arthur G. Palman, whose complaints prompted the Civil Service Commission's investigation, told the Post-Dispatch he believed the reported special treatment for Scott's referrals was "an outrage—it's as rotten as it can be."

Both the White House and Scott's office strongly denied that either Mr. Ford or Scott had been involved in improper activities.

Spokesmen for both men noted that it was entirely proper for Representatives or Senators to refer job applicants to federal agencies. They said that no special treatment was ever requested and that Mr. Ford and Scott *would have* condemned any violations of Civil Service procedures if they had known about them.

Today's disclosures came amid what appeared to be a widening scandal involving alleged attempts to subvert the Civil Service system. Under the law, federal career jobs are supposed to be filled on merit, without regard to political or other connections.

The Post-Dispatch disclosed yesterday that Robert E. Hampton, the chairman of the Civil Service Commission, had himself referred an applicant to GSA in 1970 on behalf of Texas Republican Representative Robert Price with the notation: "If at all possible, I would like to help Congressman Price." The applicant was later given a federal job after being treated as a "must case" by GSA staff.

In the March 25, 1971, memo mentioning Mr. Ford, Kreger wrote: "Congressman Gerry Ford has referred a Mr. Emil Gaide to us." The memo said that Gaide, Grand Rapids, wanted a job working on the construction of a new federal building there.

The memo said that one division of GSA was prepared to take Gaide; "however, in doing so they will have to create a position for him. We would also have to qualify him on a Civil Service register and obtain a certification. Another complication is that Mr. Gaide is 65 years of age."

The memo ends with the reference to doing a favor for Ford. Mr. Ford was then House Republican minority leader and represented a Michigan Congressional district that included Grand Rapids.

A June 8, 1971, "Note to file" on Gaide said that no jobs had been found in Grand Rapids, but that he had been offered a $4.97-an-hour job as a plumber at Battle Creek or Detroit. Gaide declined the offers, it said.

"Mike Norton told me, this date, that we had fulfilled our obligation to Congressman Ford's office," the undersigned memo said.

Norton, who now runs GSA's regional office in Denver, said he didn't recall the case. Norton was Congressional liaison for GSA, which is the agency responsible for managing federal building and obtaining supplies for the Federal Government, at the time.

Asked about the purported "obligation" to Mr. Ford, Norton said: "I don't believe I would have made such a remark." He said he felt no obligation to do any such favors for Congressmen.

Norton said he had no knowledge of the "special referral units" said to exist within GSA and a number of other agencies. Federal investigators have said evidence points to widespread attempts to place Republican and friends of Nixon Administration figures in career jobs through the units, which purportedly operated outside the regular Civil Service system.

Paul Miltish, a spokesman for President Ford, noted that the documents did not indicate any improper requests on Mr. Ford's part. He noted also that Mr. Ford had issued a directive earlier this month calling on agency heads to stick to the merit system.

Emil Gaide died in October 1971. His wife said in a telephone interview that he had been offered a GSA job outside Grand Rapids, but declined. She said she did not know whether her husband had taken a Civil Service test.

"We had some friends who are very good friends of the Fords, and that probably helped a lot," Mrs. Gaide said.

On the Scott referrals, the Post-Dispatch learned that federal investigators found a special file at GSA for Scott referrals and special file for referrals from Pennsylvanians in general.

At least 34 persons were said to have been placed at GSA after being referred by Scott's office. The White House personnel office was said to have sponsored 69 successful applicants at GSA.

It was noted that several present and former high GSA officials are from Pennsylvania. They include Kunzig, the former head of the agency, and Arthur Sampson, the current administrator.

"Scott virtually ran that agency," one source told the Post-Dispatch. "Even other Senators when they wanted something done there went to Scott."

Investigators reported also that Martin Hamberger, Scott's administrative assistant, and others on his staff were often consulted by GSA on personnel matters.

In its still-secret 54-page report, a copy of which was obtained by the Post-Dispatch, the Civil Service Commission concluded that preferential treatment existed in GSA in apparent violation of Civil Service rules.

The report said the evidence was "clear and conclusive" that "through the special referral system, GSA officials gave improper preferential treatment to candidates referred from nominally political sources."

The investigation showed "very serious disregard of personnel laws in the General Services Administration. These violations of merit principles require immediate and strong action," the report said.

The report cited at least three cases in which men referred by Scott's office were given jobs in apparent circumvention of normal procedures.

It quoted also a memo from a GSA operative dated June 1972 to Palman, instructing him:

"Please do not publicly announce these instructions: keep the list of all vacancies, GS–1 through GS–15 in the State of Pennsylvania current. I will get the OK for filling these jobs from the sixth floor and pass it back to you."

Palman, who works in the GSA regional office that includes Pennsylvania, is quoted as replying something like: "have they no shame?"

One case cited in the report is that of J. Ronald Smith, a former administrative assistant to the late Representative Robert Corbett. His application was referred by Scott.

Smith, of Pittsburgh, had wanted a job as assistant buildings manager but did not qualify, the report said.

A new position, that of administrative officer, was set up for Smith, the report states. Such a job in a regional office as small as Pittsburgh's "was and continues to be unique," the report said.

The report quoted two GSA officials, Joseph Salerno and Jerry Vallery, as saying the job was set up especially for Smith. "The entire process was a direct result of the operation of the special referral system, giving preferential treatment to certain applicants," the report said.

"Mr. Smith was appointed at a premium pay rate . . . into a position created especially for him." The report added, however, that Smith appeared qualified for the job he held.

In a related document obtained by the Post-Dispatch, a GSA personnel operative told a colleague: "We are ready to go on the two must referrals that you gave me from Senator Scott's office." One of the two was Smith, who was recommended for the newly created post at a salary of $16,404 a year, only $600 below that of a supervisor.

The report cites also the case of Joseph Newman, who was given a 700-hour appointment to a custodial labor job in Wilkes-Barre, Pa., after being referred by Scott.

Though Newman could not be certified under Civil Service for a fulltime permanent job, he was given a 700-hour temporary job under circumstances that the report calls "highly unusual."

A third case was that of Harold D. Kitchen, who was also referred by Scott. The report said Kitchen was given a $10,470 job as assistant buildings manager at Wilkes-Barre after failing to score high enough on the Civil Service register for another job.

The report quotes one GSA official as saying the job apparently "was set up for Mr. Kitchen."

Hamberger, Scott's assistant, denied in a telephone interview that Scott's office had ever asked any special favors. He said he had no knowledge of the memo asking that Pennsylvania openings be kept track of at GSA.

When asked about the allegations that Pennsylvania got special treatment, he replied: "I think it's logical to assume that Pennsylvanians will work as hard for Pennsylvanians as Texans will for Texans and Californians will for Californians."

But Hamberger said Senator Scott fully supported the merit system and would not have wanted it violated on his behalf.

"I'm unaware that we ever were in a position where we asked for anything other than proper consideration," Hamberger said. "In fact, 'proper consideration' is a code phrase that I insisted be put in my letter."

Scott's letter on Smith, however, contained no such phrase. It said Scott recommended Smith "mostly highly" for the job of building manager, and said, "I would be most grateful if you would favorably consider this appointment." The letter, dated May 6, 1971, was sent directly to Kanzig. Kanzig, now a judge in the U.S. Court of Claims, has refused to comment on the GSA situation.

Hamberger said he and others on Scott's staff were consulted by GSA principally in reference to names the Senator's office had sent over. He said he had not known about the separate "Pennsylvania file" and "Scott file" at GSA.

He noted also that the question of whether jobs were created for specific individuals was still in dispute between the Civil Service Commission and GSA officials. On the Kitchen case, he said Kitchen had been dismissed from a state job in Pennsylvania when a Democratic governor took over and thus needed other employment."

"I think the political referral system represents an infinitesimal portion of the federal work force," Hamberger said. He said he thought that political favoritism was far less a threat to the merit system than what he called "the personal back-scratching system" among federal employes.

"I think all federal employes would welcome a strengthening of the Civil Service System," he said. "But its chief failure is the failure of its internal procedures to work properly."

Kitchen and Newman could not be reached for comment. Smith declined to comment on his referral by Senator Scott when questioned by the Post-Dispatch.

Others who reportedly have received jobs through favoritism, however, have pointed out that often things were done by GSA or other agencies without their knowledge. They noted that an applicant might have no way of knowing that he was given a job because of political pull rather than a high grade on a Civil Service exam.

[From the St. Louis Post-Dispatch, Sept. 29, 1974]

REPORTS FAVOR FOR SHULTZ' SON

(By Robert Adams)

WASHINGTON, September 28. — George Shultz' son and drivers for John N. Mitchell and Jeb Stuart Magruder in the 1972 Nixon campaign apparently received special treatment in getting jobs at the General Services Administration, a confidential investigative report showed Saturday.

The document, a copy of which was obtained by the Post-Dispatch, was part of a study by the U.S. Civil Service Commission of alleged abuses of the merit system of GSA and elsewhere.

The report cites a number of specific cases in which individuals appeared to get preferred treatment through GSA's "special referral unit" because of high-level connections or because they were referred by political figures or others.

Shultz's son was given preferential treatment "as a result of high-level interest in his candidacy," the report declared. It said the hiring of Mitchell's driver "illustrates the extremes to which GSA officials would go to appoint high priority candidates."

Magruder's driver received "special treatment completely out of normal staffing channels," the report said.

The document gave no indication however, that either Shultz, Mitchell or Magruder had exerted pressure on behalf of their friends or relatives. Nor was there evidence that those who got the jobs knew, at the time, what was being done for them. It said that Magruder's driver "appears to have been an unwitting party to the preferential treatment" he allegedly received.

Today's development marked the latest in a series of disclosures about alleged violations of Civil Service rules. The Post-Dispatch reported last week that GSA officials took pains to find or create jobs for persons referred by powerful political figures, including Senate Republican minority leader Hugh Scott of Pennsylvania and President Gerald R. Ford when he was House Republican leader.

The Post-Dispatch disclosed also that a cousin of Representative Robert D. Price (Rep.), Texas, got a career job in GSA after Robert E. Hampton, chairman of the Civil Service Commission, refered the cousin to GSA with the notation: "If at all possible, I would like to help Congressman Price."

Under the law, career jobs in the Federal Government are to be awarded on merit. Special consideration because of high connections or political pull are forbidden.

In the Shultz case the confidential Civil Service Commission report told of how Peter Schultz—who is now a 22-year-old music student at a junior college in California—was given a job as a carpenter's helper.

It quotes Arthur Palman, who worked in a regional GSA personnel office, as saying his superior told him that Peter "was the son of George Shultz and that we were to take immediate action to pick him up."

George Shultz held several high posts in the Nixon Administration, including Secretary of Labor and Secretary of the Treasury.

The commission said Peter Shultz was given a part-time job as a custodial laborer on Jan. 27, 1972. He was promoted later to carpenter's helper at a higher pay level.

But the commission said that wasn't the proper way to fill the carpenter's helper slot. Names for that job, the commission said, should have been taken from the Trade Helper register—which had been closed since June 15, 1971, "because of the surplus of candidates."

It said also that Shultz was working as a carpenter's helper when he was officially listed as a custodial laborer.

"As a result of high-level interest in his candidacy, a number of personnel actions were made to fall quickly into place for Mr. Shultz by means of a fast temporary appointment, use of an inappropriate Civil Service Register, and misassignment to carpenter helper duties while employed as a custodial laborer," the commission said .

The report said Palman's comment made it clear that the special treatment "stemmed from the fact that Peter was known to be the son of George Shultz."

The commission required that Shultz's position be "regularized," or that he be dismissed. Shultz quit his job Nov. 13, 1973 after refusing to take a job two pay grades lower.

Young Shultz told the Post-Dispatch that he had not known anything about the alleged special treatment until the commission's investigation.

Shultz said he had never asked for any favors because of his father—nor had his father on his behalf. He said he believed he was a victim, rather than a beneficiary, in the episode.

"The GSA said in effect, 'We made a mistake, but you have to pay for it,'" Shultz said. "They wanted to make me a janitor after I'd been working as a carpenter's helper. Finally, I just quit.

"The application form has a place where you have to list your father's name, and what he does," he observed. "I wasn't asking for anything because of him. But I guess you have to watch it on your own.

Mitchell's driver, Tom Wince, was hired on Jan. 16, 1973. He had been Mitchell's driver while Mitchell was running former President Richard M. Nixon's re-election campaign in 1972. Mitchell, a former Attorney General, is a defendant in the Watergate cover-up trial set to begin Tuesday.

The commission's report said Wince was given a job as "Confidential Assistant" in GSA headquarters after being referred by the White House. A week later, he was given a "Veteran's Readjustment Appointment" as a federal protective officer, a Civil Service job.

The report said Wince was apparently hired despite a hiring freeze on federal protective officer jobs at the time. It said also that his "Veterans' Readjustment" appointment "was not legal," because those appointments were supposed to be made within a year after a veteran leaves the service. Wince had left the Army more than 14 months before the appointment.

"In spite of the hiring freezes, the okay to hire him came straight from the White House," a source familiar with the case told the Post-Dispatch.

In evaluating the matter, the commission said that "this case illustrates the extremes to which GSA officials would go to appoint high priority candidates through the special referral system." Wince could not be reached for comment.

The report said Carl Foster, who was Magruder's driver during the 1972 campaign, was given a job as a forklift operator at GSA's supply facility in Franconia, Va., on July 9, 1973.

Magruder, who was the deputy director of the Nixon campaign, has since gone to prison for his role in the Watergate cover-up case.

According to the commission, Alan Kaupinen, a GSA official who also worked on the Nixon re-election campaign, contacted a regional administrator to ask about vacancies that Foster might fill. Another high-level GSA official also helped, the report said, and ultimately Foster got the job.

One GSA personnel worker was quoted as saying he regarded one inquiry about Foster as tantamount to an order to hire him. The report said also that James Stewart, manager of the supply facility at Franconia, was simply told that Foster would be showing up for work. Normally, Stewart would have interviewed him and reviewed his qualifications before a vacancy was filled, the report said.

"Mr. Foster's application was given special treatment completely out of normal staffing channels," the report said.

It noted the involvement of such high officials as Kaupinen, and declared: "Normally they would not be involved in any way in the hiring of a WG-5 forklift operator. Their participation in this case, and in providing such extraordinary preferential treatment, is difficult to understand."

It said, however, that because the procedures followed were technically correct and Foster was well qualified for the job, no corrective action was required. The report said Foster seemed to have been "an unwilling party to the preferential treatment he received."

Eight persons in GSA were charged by the commission with Civil Service violations as a result of the investigation.

In its own response to the commission's findings, the GSA admitted that "inexcusible" abuses had apparently occurred, but contended that the report painted an unfair picture of the GSA as a patronage-ravaged operation.

In its 31-page confidential reply, which, like the commission's report, has never been made public, the GSA cited also accomplishments in placing blacks, women and young persons in GSA jobs.

The GSA said also that the "special referral unit" had been set up originally for a legitimate purpose—that of responding promptly to members of Congress and others who made inquiries, and searching for talent to rejuvenate the agency.

It said also that there was "little evidence of intentional violation of personnel laws or merit system principles." The GSA reply said that the disciplinary action recommended by the commission against GSA staff members was inappropriate.

The GSA is the Federal Government's housekeeping agency. It runs the buildings that the Government owns and buys supplies for them.

Other agencies also have been the target of investigations by the Civil Service Commission or by others for alleged preferrential treatment through "special referral units." These include the Department of Housing and Urban Development, the Small Business Administration, the Law Enforcement Assistance Administration, the volunteer agency Action, and the Social Rehabilitation Service of the Department of Health, Education and Welfare.

In another development today, it was learned that the commission's attempt to discipline the eight GSA employees may soon be challenged in federal court.

[From the St. Louis Post-Dispatch, Oct. 2, 1974]

PRESSED FOR JOB FOR GOP FRIEND

(By Robert Adams)

WASHINGTON, October 2.—The General Services Administration made "all kinds of special efforts" to find a career job for a Pennsylvanian after his Republican Representative asked for the help, the U.S. Civil Service Commission has concluded.

Confidential documents obtained by the Post-Dispatch indicate that the late Republic Representative John P. Saylor (Rep.), Pennsylvania, apparently wrote GSA a biting letter in 1971 asking why a fellow Pennsylvanian, James R. Nesbit, had not been hired as a federal protective officer.

A Dec. 1, 1971, letter from Saylor to William Casselman, the general counsel of GSA, *asked for* "some immediate assistance from this Republican Administration of which I am and have been asked to be a part, documents in the hands of Civil Service Commission investigators show.

A Commission report on an alleged "patronage ring" in GSA said efforts to employ Nesbit resumed after Saylor's letter and included a special 200-mile trip by a GSA personnel officer to Nesbit's home in Pennsylvania.

Casselman is now a counsel to President Gerald R. Ford. It could not be learned whether Casselman passed along Saylor's partisan complaint to GSA personnel officers. Casselman could not be reached for comment last night.

Under federal law, career jobs are supposed *to be filed on merit*. Partisan political considerations are expressedly ruled out by Civil Service regulations.

The commission described also two instances in which a GSA personnel officer said he deliberately wrote a job description to match the background of a prospective employee.

"I used his SF-171 (resume form) and my imagination as to what might be his duties," John P. Joynt, a GSA personnel officer, said in a statement about the establishment of a job for a man referred by Senator Charles M. Mathias (Rep.), Maryland.

The incidents were detailed by the commission as a part of a still-secret report on allegations that a "special referral unit" within GSA did special favors for some applicants referred by prominent Republicans and others.

The controversy over the special referral units has already moved to a federal court. Earlier this week, two GSA staff members challenged the Civil Service Commission's right to discipline them and asked a United States District Court to block any such action.

The suit charged, among other things, that at least one of the three Civil Service commissioners—Robert E. Hampton, its chairman—was involved in the special referral system.

The Post-Dispatch reported last week that that Hampton had sent a letter in 1970 to a high GSA official expressing a desire "to help" a Republican Representative whose cousin wanted a job. The cousin later got a career job with GSA.

The Post-Dispatch reported also that the GSA, whose present and former administrators are Pennsylvanians, appeared to pay special attention to referrals from Pennsylvania.

On the Nesbit case, the Civil Service Commission said Nesbit had applied for a low-level job as a federal protective officer.

Nesbit, who apparently was eligible for such a post in West Virginia, was reported to have turned down offers in Wheeling and Martinsburg there.

Soon after, on Nov. 1, 1971, Saylor wrote his letter to Casselman. The letter, commission investigators said, indicated a desire for an explanation as to why Nesbit had not been hired.

Whether Casselman took any action was not specified. But a commission account said that "efforts to employ Mr. Nesbit were then resumed."

A problem apparently developed, however, over what kinds of jobs Nesbit would be eligible for. Arthur G. Palman, a personnel officer with the GSA regional office that includes Pennsylvania, is quoted as suggesting that Nesbit come to Washington to discuss it. But Palman said he was told by a superior that the GSA should go to Nesbit.

The result, the commission said, was an extraordinary trip by a GSA staffer from Washington 200 miles to Nesbit's home in a small Pennsylvania town northeast of Pittsburgh.

The commission said the interviewer later reported that Nesbit was qualified in GSA only for the jobs of federal protective officer, guard and custodial laborer. The matter was eventually dropped.

"Mr. Palman estimated that the Nesbit case cost him and his staff at least one man-month as well as some travel money," the commission said.

"The evidence is clear that all kinds of special efforts were made in this case, apparently because of the strong interest of Congressman Saylor, Mr. Nesbit received a high degree of preferential treatment in GSA's apparent attempt to be 'responsive' to the Congressman," it said.

It said the fact that Nesbit was not given a job "does not detract from the fact that in this case the special referral system permitted partisan political influence to seriously disrupt personnel operations" in that GSA region, Nesbit could not be reached for comment.

One of the cases in which Joynt said he tailor-made a job description to fit a candidate involved that of Paul Caggiano, who was referred by Senator Mathias.

Joynt told commission investigators that in June 1971, he was asked to develop job description for a special assistant to the regional GSA administrator. The job was to pay about $20,000 a year.

"This job was to be for a Paul J. Caggiano and I used his SF-171 and my imagination as to what might be his duties in developing the description of the job," Joynt said. He said he believed that the job was not really needed, and that it seemed that "we were making a job for someone with political pull."

Caggiano soon landed the job. The commission concluded that "the facts indicate that a position was tailored to meet Mr. Caggiano's personnel qualifications rather than the needs of the service . . . violation of the merit principle of open competition is evident."

The commission noted, however, that Caggiano had moved to another post in the office of federal management and policy at GSA, and that he was qualified for the job.

Reached by the Post-Dispatch, Caggiano said he had no idea such efforts were being made for him.

"Good night," he exclaimed, "It's really amazing. That's just amazing to me."

Caggiano stressed his background in data processing and said he thought he had been hired because he was qualified.

"I guess everybody likes to think, as you go through life, that you got where you are on the merits," he said. "It gives you a funny feeling to hear all this."

A spokesman for Mathias also denied knowledge of, or asking for, any special favors. "The letters are routine buck-slips," the spokesman said. "The Senator doesn't even recall knowing him. Looks like somebody pushed the panic button."

Joynt said he had used his imagination also in making a job for John Grosnick as assistant chief of the Federal Protective Service Division. The commission said Grosnick was not believed to have been referred by a political source. It noted, however, that when Grosnick applied, the division chief was a man he had previously worked for in the Pennsylvania State Police.

The commission said "personal favoritism" was believed to be behind the action. "It appears that no other candidates were considered and the merit principle of open competition was violated," the commission concluded. Grosnick was reported to be traveling in Europe and could not be reached for comment.

Another instance of alleged favoritism involved Gary Scarpelli, the son-in-law of Jacob G. Kassab, Pennsylvania's secretary of transportation. Both are Democrats.

Scarpelli was given a temporary, 700-hour appointment as a building manager in Pittsburgh after first failing, and later passing, a Civil Service exam. The commission quotes his supervisor as saying he had not asked that the job be filled. I did not know about Scarpelli until he was told of his hiring and did not have a chance to consider other applicants.

Palman is quoted as saying the case was described to him as a "Sampson-Roush" referral of the highest priority. Arthur F. Sampson is the current head of GSA, and Larry F. Roush is commissioner of the public buildings service for GSA. Both are from Pennsylvania.

"The pressures to appoint Mr. Scarpelli resulted in special handling of his application at every step," the commission said. In telephone interviews, both Scarpelli and Kassab denied knowing of the alleged favoritism.

In another case, then representative Richard C. Poff of Virginia, now a justice on the Virginia Supreme Court, was reported to have called the GSA in 1970 about a job for Douglas Spradling as traffic management specialist.

One GSA official is quoted by a GSA staff member as saying that Spradling was being "crammed down his throat" by the central office. In July 1970, 12 employees of GSA submitted a petition protesting the hiring of Spradling, saying they had not been given a chance to compete.

"The evidence suggests but does not show conclusively that political considerations were involved in the decision," the Civil Service Commission said.

Defenders of the GSA say the commission's portrait is overdrawn. They cite figures indicating that of about 300,000 applications processed by GSA during the period covered by the investigation, only 3600 went through the referral system. Of the 40,000 persons hired, only about 300 went through the referral system, and roughly half of these were non-career jobs that do not fall under the merit system.

In its investigation, the commission noted also allegations that some appointments—even to career jobs—required political clearance by the Nixon White House. Such clearance would violate the non-partisan promise of the merit system.

The commission quotes an affidavit from G. C. Gardner, Jr., assistant administrator of the GSA, as saying: "I was shown a political clearance form with my name on it which I was told was prepared on me prior to my return to GSA in August of 1971."

Gardner, the commission noted, is "a career executive for whom political clearance was not appropriate." Gardner told the Post-Dispatch, however, that he never determined for certain whether the form was filled out by mistake, or whether he really had to be cleared.

"Obviously I'd resent it if it happened," Gardner said. "But I had to chuckle a little about it. I vote, but I'm not registered with either party. They'd have a heck of a time trying to check me out."

[From the St. Louis Post-Dispatch, Oct. 3, 1974]

SPECIAL EFFORT MADE BY GSA TO FIND JOB FOR REPUBLICAN

(By Robert Adams)

WASHINGTON.—Personnel officers at the General Services Administration took "a personal interest" in a job candidate referred by Robert E. Hampton, chairman of the U.S. Civil Service Commission, and so told Hampton's office, the Post-Dispatch learned today.

Confidential documents indicate that the candidate, who was also referred by two prominent Republicans, eventually was given a career job as a specifications writer at GSA in 1970.

An internal GSA memo indicates that Lyle Emory Hutchison, who received the job, was listed as a "must case" after letters of referral were sent to GSA by Hampton; Robert G. McCune, executive director of former President Richard M. Nixon's inaugural committee in 1969; and Harry S. Flemming, who was then head of the White House personnel office.

Today's disclosure marked the second case in which Hampton personally referred a job-seeker who later appeared to get special treatment at GSA.

The Post-Dispatch disclosed last week that Dwight W. Jones, the first cousin of Representative Robert Price (Rep.), Texas, got a Civil Service job at the GSA after Hampton referred him and wrote: "If at all possible, I would like to help Congressman Price." Jones was rated a "must case" by GSA staff.

In the Hutchison case, Jack Lemay, a GSA personnel officer who was later one of eight persons charged by the Civil Service Commission with violating Civil Service rules in the operation of a "special referral unit," wrote a note for the file indicating that he had called Hampton's secretary and told her "we are taking a personal interest and will try to do something."

Hampton's office did not attempt to deny the authenticity of the documents or the facts contained in them.

Anthony Mondello, general counsel to the Civil Service Commission, was reluctant to discuss the matter because the commission's attempt to discipline the GSA employees has now been challenged in court.

But Mondello told the Post-Dispatch that Hampton "was certainly aware of the Hutchison case" when he and the other two commissioners unanimously rejected a contention by some of the GSA staffers that the commission's impartiality had been tainted.

The rejection mentioned the Jones case—in which Robert L. Kunzig, then head of GSA, wrote to Hampton that a job had been "established" for Jones—and said the commissioners found no impropriety.

"The commissioners specifically reject any inference or contention that this or any other referral to GSA by them was made in the knowledge that the referral would be treated in any manner contrary to applicable law, rules and regulations," the commission said in a Sept. 23 decision.

Mondello said he did not know, however, whether the other two commissioners were aware of Hampton's role in the Hutchinson case at that time.

Mondello said it could safely be assumed that if Hampton had any reason to challenge the accuracy of the documents on Hutchinson's placement, he would do so. The documents were not challenged.

The note about the call to Hampton's secretary was construed by some persons familiar with Civil Service rules as putting Hampton on "constructive notice" that special efforts were being made for Hutchinson.

Under the law, career jobs like Hutchinson's in the Federal Government are supposed to be filled on merit. Political or personal favors are prohibited.

But today's disclosure that Hampton personally referred Hutchinson to GSA, and apparently knew that "a personal interest" was being taken in the case, appeared certain to raise fresh questions about the propriety of Hampton's involvement.

Some observers contended that it is ironic for Hampton—the chief guardian of the nation's merit system—to be involved in an attempt "to help" a member of Congress by getting his cousin a job, or to knowingly sit by while "a personal interest" was taken in another of Hampton's referrals.

Documents obtained by the Post-Dispatch show that Hutchinson was first referred to GSA on Oct. 6, 1969 by McCune. McCune was then on leave as director of United States government programs for Lockheed Aircraft.

In a "Dear Bob" letter to Kunzig, then head of GSA, McCune wrote:

"I am pleased to send along to you the resume of a good Republican friend of mine, Mr. L. Emory Hutchinson (Hutchison), on the possibility that there might be an 'in the ranks' position that he could qualify for at GSA." McCune said he believed Hutchison was "planning to discuss a Government procurement position with Bob Hampton."

On Oct. 8, Hampton wrote to Rod Kreger, who was then assistant administrator of GSA, which is the Government's housekeeping agency:

"I am forwarding Mr. Hutchison's resume to you for consideration. Is there any chance that GSA can use his services?" The letter said.

On Oct. 29, Flemming wrote to Kunzig: "Mr. L. Emory Hutchinson (Hutchison), a staunch Republican, has had long and varied experience as indicated by the enclosed resume. He is interested in a procument type position with GSA; I'm sure he would be a valuable addition to your offices.

"I would appreciate whatever you can do on behalf of Mr. Hutchinson."

A handwritten postscript at the bottom says: "P.S. I am interested in this one."

A resume in Hutchinson's file at GSA contained the note that he is a "registered Republican in Maryland." It added that he had done "precinct work."

The resume is a personally prepared document, rather than the official Government Standard Form 171. It was not immediately apparent whether the resume was the one sent by Hampton, or McCune, or Flemming—or whether all three sent the same resume.

Under civil service regulations, party affiliation is to be ignored in filling career jobs.

Asked about the propriety of mentioning that Hutchinson was "a good Republican" in a reference for an "in the ranks" job, McCune told the Post-Dispatch:

"Had this been a Democratic Administration, and had he been a Democrat, and qualified for the job, I probably would have mentioned that fact. This has been part of the system for a long time.

"I wish it didn't have to be that way, quite frankly. But I've been in Washington for 20 years, and that's the way the system works. I guess it's like going to Notre Dame and saying you're a good Catholic."

Asked how he felt about having Hutchinson treated as a "must case," with an apparently large expenditure of staff time on his placement, McCune commented: "I guess I'm surprised I had that much clout."

McCune maintained, however, that he had not tried to subvert the merit system. He said some "in the ranks" jobs could conceivably have been "Schedule A" or "Schedule C" jobs that are exempted from Civil Service because of their proximity to policy-making positions.

McCune said he was a family friend of Hutchinson's, and believed Hutchinson's many years in the furniture business qualified him for a job at GSA, where functions included buying and maintaining furniture for government buildings.

A note to LeMay on Oct. 30 asks him to call Flemming's office "and keep them informed of status" on Hutchinson. A handwritten note by LeMay indicates that he called Hutchinson, called the White House personnel office, and called Hampton's office.

A Nov. 3, 1969, handwritten note to Kunzig signed "Bruce" observed that Hutchinson had been "recommended by Bob Hampton (in letter to Rod Kreger) and Bob McCune (exec director of inaugural committee)."

It contained also an unflattering evaluation of Hutchinson by another GSA staffer.

A staff memo Dec. 22 discusses the limited number of jobs available in GSA's federal supply service and asks the unnamed recipient: "Is this a must case or not???"

A note farther down on the page says that "Mr. Kreger said that this was not a must case—up to Mr. LeMay, wait until he gets back. Mr. Kreger does not see any reason to go further with it."

By March 25, 1970, however, Hutchison apparently had been elevated to a "must case." A memo from Kreger to Kunzig dated March 25 stated:

"We have completed the processing and are in a position to pick up Lyle E. Hutchison as a GS-13 (mid-level) specification writer in the federal supply office. He was a must case sponsored by Harry Flemming, Bob Hampton, and Bob McCune.

"I have attached letters for your signature to Flemming and McCune. I thought perhaps you would want to call Bob Hampton or mention it to him the next time you see him."

The word "fine," with Kunzig's initials, is handwritten at the bottom of the memo.

Reached by the Post-Dispatch, Hutchison said he had not realized that so much effort was being expended on his behalf.

He said if "a personal interest" was taken in his placement, "it was probably because of my background and my experience." He noted that he had run a furniture store before going with GSA, and had been in the business more than 20 years.

Hutchison acknowledged asking McCune to write a letter of reference, but noted that reference letters are often required for government jobs. He said also he called Hampton.

"From my point of view, I took the tests, became eligible, and then got the job," he said. "I walked over hell's half acre looking for one. I talked to the personnel people in all the agencies. But at the time, there was a freeze on. They would tell me they couldn't hire me."

Asked about any special treatment, Hutchison said: "You're telling me something that's new to me. I didn't know I was that important."

Questions about the propriety of Hampton's sitting in judgment on the GSA staffers who have been charged by the Civil Service Commission were raised in court this week by two of the defendants.

The defendants, Larry Roush and Ann Powell, said it was "bureaucratic hypocrisy for Hampton to discipline GSA staffers for their purported work on a "special referral unit" when Hampton himself made referrals.

[From the St. Louis Post-Dispatch, Oct. 8, 1974]

Ford Aid Linked to Favoritism Case

(By Robert Adams)

WASHINGTON, October 8.—William E. Casselman II, who is now a counsel to President Gerald R. Ford, knew about and may have played a role in extraordinary efforts to place a Republican House member's constituent in a federal career job in 1971 and 1972, the Post-Dispatch learned today.

The United States Civil Service Commission later cited that case as one in which preferential treatment was allegedly given to a candidate for a civil service job in apparent violation of merit principles.

The incident took place while Casselman was general counsel for the General Services Administration. The Civil Service Commission has charged eight GSA staff members with allegedly giving preferential treatment to certain job candidates.

Documents obtained by the Post-Dispatch confirm a report last Wednesday of Casselman's possible involvement. It marked the first indication that a member of Mr. Ford's staff had been linked to an incident involving possible violation of Civil Service rules while at another agency.

Less than three weeks ago, President Ford issued a directive to all heads of federal agencies and departments urging them to comply with the Civil Service laws. He called on the officials to respect the merit system and keep political considerations out of career jobs.

Casselman, through an aid, refused to comment.

The aid, Barry Roth, said Casselman "feels it would be inappropriate for him to comment on this or any other matter that is or might be the subject of litigation." Two of the eight GSA staff members have gone to court to challenge the Civil Service Commission's charges.

The case in question involved what the commission later called "all kinds of special efforts" to place James R. Nesbit, a factory worker from Reynoldsville, Pa., as a protective officer with GSA. Nesbitt had been referred to GSA by the late John P. Saylor, a Republican Representative from Pennsylvania.

In a Jan. 17, 1972 letter to Saylor, Casselman detailed some of the efforts GSA was making to place Nesbit. A copy of the letter was obtained by the Post-Dispatch.

The letter indicates Casselman's awareness of an apparent willingness on GSA's part to hire Nesbit despite a Government-wide hiring freeze then in effect.

It shows also that Casselman knew about an extraordinary, 200-mile trip made by a GSA personnel officer to Nesbit's home in rural Pennsylvania. Knowledgeable sources said it was the only time in memory that a GSA staff member had journeyed to the home of a person seeking a job as a building guard for the purpose of interviewing him. Normally, such low-paying jobs are filled through routine Civil Service channels.

Another document, an internal staff memorandum dated Nov. 19, 1971, referred to a conversation in which Casselman was said to have told Saylor that GSA would take action to recruit Nesbit for the protective officer's job.

"Casselman's interest was known by everybody there," one source familiar with the case told the Post-Dispatch. "If there had been a one-plus priority, this would have been it."

According to a confidential Civil Service report on the "special referral unit" in GSA, Nesbit was offered two jobs as a protective officer but apparently declined both.

Documents and interviews with various sources indicate that the attempts to place Nesbit apparently began with a referral letter from Saylor, dated Aug. 20, 1971. The letter, addressed to Robert Kunzig, then administrator of GSA, noted that Nesbit had qualified for a GS-4 (entry-level) job as federal protective officer and was interested in such a post.

The Civil Service Commission report quotes an affidavit from Arthur G. Palman, a personnel officer in the GSA regional office that covers Pennsylvania, as saying that Palman received a call about job prospects for Nesbit in early September 1971. Palman is quoted as saying the call came from Jack LeMay, who was later charged by the commission with allegedly violating the merit system.

"Some confusion developed about where Mr. Nesbit would accept employment," the commission's report noted. It said he was offered jobs in Wheeling, W. Va., and Martinsburg, W. Va., but declined both offers.

Nesbit, however, contended he had actually wanted the Wheeling job and had not declined it.

In a biting Nov. 1, 1971 letter to Casselman, Saylor referred to a phone call Casselman purportedly made to Saylor's office on Sept. 30 regarding Nesbit.

"I was under the impression that this young man would be given 'top' priority for the vacancy in West Virginia and all that was necessary was to receive his acceptance," Saylor wrote.

But Saylor added that this apparently was not the case, and told Casselman:

"I believe I am due an explanation and some immediate assistance to avoid another embarassing situation from this Republican Administration of which I am and have been asked to be a part."

A Nov. 19, 1971 memorandum bearing the signature of A. W. Innamorati, who was then assistant commissioner for buildings management at GSA, continues the story. It was addressed to John F. Galuardi, who was then a regional GSA administrator.

It said a copy of Saylor's letter to Casselman was being attached. It then referred to Richard Fanske, who worked in the central office of the Public Building Service.

"Rick Fanske called and advised me that Mr. Casselman talked to Congressman Saylor, personally, and informed him that GSA would take action to recruit Mr. Nesbit for this position in Wheeling, W. Va.," the memo said.

"On this basis, there will be no written reply to Congressman Saylor and you should proceed to take action to recruit Mr. Nesbit."

Galuardi refused to comment on the memorandum. Fanske said he did not recall the Nesbit case. Innamorati told the Post-Dispatch that "I know Casselman had indicated an interest," but said that the phrase "take action" could simply mean checking to see where Nesbit was placed on the civil service register.

But another source told the Post-Dispatch, "The words 'take action' meant exactly what you'd expect them to mean in that context. They meant to do what was necessary to bring him on board."

A handwritten note between two other GSA staff members, with no dates, quotes another staff member as saying he understood "that there has been discussion perhaps between PHS and Mr. Casselman of setting up another position for Nesbit in Wheeling."

The commission's report says that efforts to employ Nesbit were resumed in the fall of 1971, but Nesbit could not place high enough on the list of eligible candidates. It quoted Palman as suggesting that Nesbit might come to Washington to see if he might be qualified for some other type of job. But Palman is quoted as saying that Le May refused, saying that GSA should see Nesbit instead.

On Dec. 15, Robert Hayas, a personnel officer with GSA, traveled to Nesbit's home in rural Pennsylvania. The trip was described as unique by sources.

"I've been in personnel 18 years, and I know of another one," said George Harrod, who was with GSA's personnel office at the time and is now deputy director of personnel for the Washington, D.C., city government.

"My philosophy is, They want the job. They're supposed to approach us. If it were a high-level position requiring unusual qualifications, and the man applying for it were ill or something, then maybe I could see it."

"What ticked people off," one source said, "is that they were beating their brains out to find a job for this guy (Nesbit)—and then he turned them down.

"The whole question is: Why would Casselman's office get involved anyway? He was the legal counsel. He's not supposed to be involved in hiring a guard. The personnel people do that."

A letter from Casselman to Saylor date-stamped Jan. 17, 1972, referred to Saylor's Nov. 1 letter and to "my subsequent telephone conversation" with two members of Saylor's staff.

"I thought a summary of our activity in trying to place Mr. James R. Nesbit of Reynoldsville, Pa., as a federal protective office would be of interest to you," Casselman wrote.

He then noted that the GSA was recruiting protective officers in Wheeling in September. Although Nesbit ranked eighth on the civil service register, there were three vacancies and was certified as eligible. But, Casselman said, in October, Nesbit declined an offer in Wheeling and another in Martinsburg.

Casselman wrote that he understood that Nesbit had objected to the working hours at Wheeling, and to the cost of living at Martinsburg.

"Since then it has been determined that Mr. Nesbit is still interested in the position in Wheeling," Casselman wrote. But he noted that other applicants for the job had placed him too far down on the civil service register, "even though GSA was willing to make an exception to the general hiring restriction and offer to hire him."

"To further assist us in trying to place Mr. Nesbit," Casselman went on, "one of the personnel technicians in our Region 3 office visited with Mr. Nesbit at his home in Reynoldsville, Pa., on Dec. 15, 1971, to obtain additional details concerning his previous employment experience to see if he could qualify for some other type position.

"His background is such that the best job prospect is that of a federal protective officer," Casselman said. He told Saylor the GSA was "still exploring the possibilities" of having him certified for such a job.

Casselman closed by promising to keep Saylor informed if any additional information were developed.

"The evidence is clear that all kinds of special efforts were made in this case, apparently because of the strong interest of Congressman Saylor," the Civil Service Commission concluded in its 54-page report on GSA. "Mr. Nesbit received a high degree of preferential treatment in GSA's apparent attempt to be 'responsive' to the Congressman.

"The fact that Mr. Nesbit was not appointed does not detract from the fact that in this case the special referral system permitted partisan political influence to seriously disrupt personnel operations in Region 3, in an apparent attempt to secure a job for Mr. Nesbit in violation of merit principles."

The report quotes Palman as saying that the Nesbit case cost him and his staff at least one man-month in time, as well as travel money. Hayas was quoted as saying that he alone spent several weeks on the case.

Reached at his home, Nesbit acknowledged writing to Saylor and said: "He's the one, I think, who set me up for that job." But he noted that he had gone through the civil service system and had been qualified, and "I didn't think they treated me any different from anybody else."

Nesbit said that Hayas, on his visit to Reynoldsville, had indicated that he might be able to get a GSA job if he came to Washington. But Nesbit said he preferred to live in a smaller city, so he kept his assembly-line job at a factory in Reynoldsville.

Casselman, 33 years old, was a legislative assistant to Representative Robert McClory (Rep.), Illinois, from 1965 to 1969.

In 1969 he was named deputy special assistant to then President Richard M. Nixon for congressional relations. He served as GSA's general counsel from 1971 to 1973, and became counsel to Mr. Ford as vice president on Dec. 12, 1973.

Casselman was named to his present job after Mr. Ford became President. He is one of three attorneys with the title of counsel to the President. Philip Buchen is President Ford's counsel with Cabinet rank.

[From the St. Louis Post-Dispatch, Oct. 10, 1974]

GSA HEAD, JOB SEEKER LINKED

(By Robert Adams)

WASHINGTON, October 10.—Arthur F. Sampson, head of the General Service Administration, told a Republican Senator in 1972 that the GSA was continuing to try to find a career job for a constituent "because of your deep interest," it was learned today.

The comment was made by Sampson in a Sept. 1, 1972 letter to Senator Charles M. Mathias Jr. of Maryland.

The letter concerned efforts to place Walter P. Mulhall of suburban Washington, who eventually was given a job under conditions that the Civil Service Commission said involved violations of the merit system.

Today's disclosure marked the first incident in which the name of Sampson, whose title is Administrator of GSA, had been linked in a case in which the Civil Service Commission found improper activity.

After the placement, Sampson apparently made a personal phone call to Mathias's office to tell him about Mulhall's new job. A letter from Mathias to Mulhall wishing him "the best of luck in your new position" referred to the call from Sampson.

When told by the Post-Dispatch about the Civil Service Commission's findings. Mathias' office immediately made the correspondence file on Mulhall available. Mathias is seeking re-election. An aid said that no special favors had been asked for, or known about, by the Senator's office.

Mulhall was apparently brought to Mathias's attention by Herbert J. (Jack) Miller Jr., a prominent Washington lawyer who now represents former President Richard M. Nixon. Notations on some of the letters from Mathias's office indicate that a copy was to be sent to Miller.

Mulhall, who said he did not believe he was granted any special favors, told the Post-Dispatch he knows Miller and may have mentioned his interest in a government job to him in 1972. Mulhall said he went to Mathias's office seeking assistance, but did not meet the senator.

"You surprise me so much I can't get over it," he said when the letters were read to him.

But Mulhall maintained his belief that he had received his GS–14 (mid-level) job in GSA's Automated Data and Telecommunications Service on merit, pointing to his 26 years experience in marketing and his certification by the Civil Service Commission.

The aid to Mathias repeated a statement made by the Senator after the Post-Dispatch disclosed last week that the Senator had been cited as the man who referred Paul J. Caggiano for a job that the Civil Service Commission also said involved merit violations.

"I want to get an explanation of why a government official felt he should bend the rules in a case when he certainly had not been urged to do so by me," Mathias's statement said.

The aid said Mathias planned also to send a letter to President Gerald R. Ford urging him to go beyond his recent reaffirmation of merit principles and take "affirmative action to deal with those involved" in improper activities.

Mathias's correspondence file on Mulhall begins with a June 20, 1972, letter from the Senator's office to Ken Duberstein, who was congressional liaison officer for GSA. Worded routinely, it asked the GSA to give "every proper consideration" to Mulhall.

On June 30, Sampson, who was then acting administrator, wrote back. He told Mathias that Mulhall's application had been referred "to key officials in several of our services" and that the departments were asked "to review all available and anticipated vacancies in an attempt to match his qualifications with a position."

On Aug. 15, Mathias wrote a letter repeating his hope that Mulhall would be "properly considered for a position" and thanking Sampson for the GSA's efforts.

On Sept. 1, Sampson wrote to Mathias that Mulhall had had interviews with various GSA officials on Aug. 11. Because of "personnel ceiling limitations and lack of vacancies in his field," Sampson said, no job had been found so far.

"Because of your deep interest, however, we are still pursuing other avenues and will advise you further within the next two weeks," Sampson said.

On Dec. 13, Mathias wrote Mulhall that "I was very pleased to have been telephoned by Arthur Sampson, Administrator, General Services Administration and advised that you have been accepted at a GS–14 rating with GSA."

Asked some time ago about Mulhall, Sampson told the Post-Dispatch that he did not recall the case. But he said it would not necessarily be unusual for the head of an agency such as GSA to be in personal contact with a senator's office about the filling of a civil service job.

One source familiar with the case, however, told the Post-Dispatch: "Sampson certainly had to know what was going on."

The Civil Service Commission, without naming either Sampson or Mathias, concluded that the hiring had been done improperly. "Based on the special interest shown in his appointment by the Senator, Mr. Mulhall was appointed to a position for which open competition had been improperly restricted and for which preferential consideration was given to Mr. Mulhall to the systematic exclusion of all other potential candidates," the commission said.

The commission's conclusions were contained in a "supplemental report" on its earlier 54-page study of an alleged patronage ring in GSA. The new report, which cites 24 additional cases of alleged merit-system violations, was made public today by the manpower and Civil Service subcommittee of the House Committee on Post Office and Civil Service.

Although the report does not name the political and other sources of the referrals to GSA, the Post-Dispatch learned that Mathias had been the Senator involved in the Mulhall case.

Reliable sources said that other political figures who made referrals in cases mentioned in the report included Republican Senators Hugh Scott of Pennsylvania, John C. Tower of Texas, Hiram L. Fong of Hawaii, and Norris Cotton of New Hampshire, and former Republican Representative Fred Schwengel of Iowa.

The report says that in 24 of the 25 additional cases studied, preferential treatment was given through GSA's "special referral system."

It indicates also that Robert Kunzig, former head of GSA and now a judge in the U.S. Court of Claims, apparently acquiesced in the alleged improper use of 700-hour "temporary appointments" in two cases.

It quotes Kunzig as telling one member of Congress that a woman he recommended was being given a temporary appointment, and adding: "During her 700-hour temporary appointment, we plan to initiate proceedings to obtain her permanent appointment to this position."

But the commission said that such use of a "temporary" appointment as a wedge for a permanent job "was improper under commission requirements."

One case cited by the commission involved a man named Richard Lee Finnerty, who was given a GSA job after being referred by a member of Congress. The Commission said that a special job of administrative aid was set up for Finnerty in the Kansas City regional office of GSA in violation of merit rules.

It quoted letters from the unnamed Congress member to GSA officials saying it was important to him that "absolutely everything be done on Mr. Finnerty's behalf," and that getting a job for Finnerty would be helpful to public officials, "especially those who think along our lines."

Investigative sources told the Post-Dispatch that the member of Congress in this 1971 case was Schwengel, who is now president of the U.S. Capital Historical Commission.

Reached by the Post-Dispatch, Schwengel said he knew Finnerty, whose daughter had worked in his Congressional office. He said he had referred Finnerty, who then was a constituent living in Keokuk, Ia., for government jobs. But he said he could not imagine having written letters with such language in them.

"I never demanded a job for anybody," Schwengel said. "There was no pressure. That's so uncharacteristic of anything I've ever done, that I just can't imagine it."

The commission, in its supplemental report recommended that the GSA review the necessity of the administrative aid post to which Finnerty was named.

The report noted that it had found no evidence of fraud or misrepresentation on the part of those who had been given the jobs. Sources familiar with the investigation said that such job seekers often were the unwitting beneficiaries of favors for which they had not asked.

The sources noted also that there was nothing improper in a referral, as such, from a Senator or a Representative. They indicated that the political figures who referred the job seekers may well have been unaware of the alleged preferential treatment.

In its supplemental report, the Civil Service Commission cited some of the techniques allegedly used to "get around" the merit system. It said one job seeker was described by a GSA staffer as "a very hot case." Others were referred to as "must cases" or "must placements."

In one instance, a GSA staffer was quoted as saying he was told by two GSA officials to "move fast" in finding a job.

In another, an applicant was purportedly told to rewrite her resume to conform to a job description. When even that failed, she was given a "confidential assistant job"—but is exempt from the career service.

One grateful applicant told a GSA staffer allegedly involved in the agency's special referral unit that her efforts were "essential to my securing employment," according to the report.

Representative David N. Henderson (Dem.) North Carolina, is chairman of the manpower and Civil Service subcommittee, which released the supplemental report today along with the commission's earlier 54 page study.

[From the St. Louis Post-Dispatch, Sept. 28, 1974]

Uncurbed Patronage Rings

Robert E. Hampton, chairman of the Civil Service Commission, says he was "utterly shocked" to learn that the White House under President Nixon had prepared a document detailing ways to circumvent the civil service system. His shock has not been translated into much reform.

The document was prepared as part of a deliberate program to place Nixon loyalists in key positions throughout the Government so that federal programs could be manipulated in order to help re-elect the President in 1972. This so-called "Responsiveness Program" and mounting evidence of wide-spread political influence peddling in several federal agencies which are supposedly to be staffed on a nonpolitical basis constitute, in Mr. Hampton's view, perhaps the greatest threat to the federal merit system in its 90-year history.

Yet a measure of how pervasive threats to the merit system have become is that Mr. Hampton himself has admittedly used his personal influence to help about 30 persons find jobs, including one candidate placed as a favor to a Texas congressman.

As disclosed by Washington correspondent Robert Adams, government investigators are looking into so-called "patronage rings" in several agencies and have already uncovered "clear and conclusive" evidence that "a special referral system" in the General Services Administration "gave improper and preferential treatment to candidates referred from nominally political sources."

Among those who received such treatment for job candidates were Gerald Ford, when he was Republican minority leader in the House, and Hugh Scott, the Republican minority leader in the Senate. The GSA, the agency charged with buying and maintaining federal property, allegedly gave candidates from Mr. Scott's home state of Pennsylvania preferential treatment and kept referrals from the Senator's office in a special file.

The irregularities in the GSA have been known to Civil Service investigators for almost a year now, and the question is what has been done to put the GSA house in order. A still-secret report called for "immediate and strong action," yet there have been inordinate delays in disciplining the employes singled out as participants in the GSA patronage ring.

Perhaps Civil Service Chairman Hampton, who defends his efforts to do a favor for a congressman—but concedes he "probably wouldn't do it again"—is not the best man to carry out a vigorous effort to defend the merit system from persistent political attack.

H.R. 16373—PRIVACY ACT OF 1974

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, soon after the House reconvenes next month, Members will have the opportunity to vote on H.R. 16373, the Privacy Act of 1974 (H. Rept. 93–1416). The bipartisan measure was unanimously reported by the Government Operations Committee by a 39 to 0 rollcall vote on September 24 and an open rule was granted by the House Rules Committee on October 8 calling for 1 hour of general debate. The crowded legislative schedule of the past several days unfortunately has prevented action on this important legislation before the October recess.

H.R. 16373 will provide an individual access to records about him being held by Federal agencies and give him the right to correct misstatements of fact in those records, in most cases. The bill has the "enthusiastic support" of President Ford, as I indicated in my remarks in the RECORD of October 9, 1974, at page 34838 inserting the full text of his statement on H.R. 16373.

Mr. Speaker, to better acquaint Members with the background on this legislation, I insert at this point the text of an article from the September 28, 1974, issue of Congressional Quarterly entitled "Privacy: Congress Expected to Vote Controls."

The article follows:

Privacy: Congress Expected To Vote Controls

Privacy: The claim of individuals, groups or institutions to determine for themselves, when, how and to what extent information about themselves is communicated to others."—Dr. Alan Westin, Privacy and Freedom.

With a coalition of liberals and conservatives in and out of government leading the way, Congress is expected before adjournment to complete work on privacy legislation that for the first time would clamp controls on the federal government's collection and dissemination of personal information about individual citizens.

But federal agencies and the White House, while supporting the privacy concepts in the legislation, are lobbying against one proposal that would set up a watchdog panel to see that the agencies follow strict procedures and are seeking amendments that would prevent federal employees and applicants from obtaining their examination and employment investigation results.

The outcome could determine whether President Ford signs a final bill, according to William Phillips, staff director of the House Government Operations Subcommittee on Government Information, which has worked with executive branch officials on the privacy legislation.

Another Government Operations Committee staff source, however, said the panel could report "the most outrageous privacy bill, and in the moment of truth, everyone would go along with it so they wouldn't be on the record in opposition to privacy."

TRANSCENDING PARTISANSHIP

House and Senate privacy legislation, which would give Americans access to many of their records maintained by federal agencies, has drawn such diverse proponents as the Domestic Council Committee on the Right of Privacy, headed by President Ford; the American Civil Liberties Union (ACLU); the House Republican Research Committee; Representatives Barry M. Goldwater Jr. (R Calif) and Edward I. Koch (D N.Y.) and Senators Sam J. Ervin (D N.C.) and Charles H. Percy (R Ill.).

Koch, who along with Goldwater, has been in the forefront of the privacy issue in the House, asserts that the matter of personal privacy and individual rights "transcends political partisanship."

DIFFERENCES

While forces lining up behind Senate and House bills agree that individuals have little or no control over the information that is collected about them, strong differences of opinion exist on the best way to check—as Ervin puts it—"the government's voracious appetite for personal information about each of us."

Ervin, along with Goldwater, Koch and others, is convinced that nothing less than a new personal privacy board is required to dictate to federal agencies procedures for collecting and circulating information about individual citizens.

Ervin's insistence on this point was prompted by a survey of federal data banks conducted by the Senate's Constitutional Rights Subcommittee which he chairs. "Finding about these [data] systems has been difficult, time-consuming and a frustrating experience," Ervin wrote. "The subcommittee met evasion, delay, inadequate and cavalier responses [from certain agencies], and all too often a laziness born of a resentment that anyone should be inquiring about their activities. Some agencies displayed their arrogance by not replying at all. With others, extracting information was like pulling teeth."

A House source, who has worked closely on the privacy issue, put it bluntly: "We don't trust bureaucrats as far as we can spit." The board concept is incorporated in S 3418 introduced by Ervin and pending in the Senate Judiciary Committeee.

The Domestic Council Committee on the Right of Privacy, as well as government departments, would place personal information disclosure regulation within the federal agencies. "We're not thrilled with the thought of a privacy board or commission at this point," a spokesman for the panel said.

The committee has been working closely with the House Subcommittee on Government Information, which reported HR 16373 to the full Government Operations Committee Sept. 12. That measure leaves enforcement to the agencies rather than a separate board.

The committee took this approach, Phillips said, because "if you interpose a layer of bureaucracy between citizens and the agencies, you are courting an administrative monstrosity." Once a board is created, Phillips added, "it would be almost impossible to eliminate it."

The ACLU, meanwhile, is avoiding these squabbles altogether, taking the position that any movement on the privacy issue by Congress is a progressive step. "We're awed by any action," said Douglass Lea, director of the organization's Privacy Project, a nonprofit tax-exempt effort set up to monitor data collection by government and private institutions.

Despite assertions by privacy bill supporters that their proposals are comprehensive, both Senate and House measures provide broad exemptions for files containing national defense, foreign policy and criminal investigation data.

"This is one area where I feel that most proposed privacy legislation has been grossly deficient," Rep. Bella S. Abzug (D N.Y.) told the House April 2 during a colloquy on privacy organized by Goldwater and Koch.

Legislation introduced by Abzug "specifically includes records in this area, because I believe we cannot make an exception of one of the most abused areas and then expect people of this country to feel that we have produced a serious piece of legislation." Under Abzug's proposal, however, records that are being used in active criminal prosecution would not be disclosed.

LOBBY REPORT—2

FEDERAL DATA BANKS

Agency	Number of data banks	Number computerized	Number not reporting number of records	Number of records
ACTION	6	5	0	351,700
Administrative Office of the U.S. Courts	9	9	4	757,000
Appalachian Regional Commission	3	2	3	0
Civil Aeronautics Board	1	1	0	0
Civil Service Commission	13	8	4	18,972,800
Department of Agriculture	6	5	0	5,539,200
Department of Commerce	8	8	3	204,165,500
Department of Defense:				
Department of the Air Force	73	36	13	18,001,109
Department of the Army	385	382	12	34,467,849
Department of the Navy	20	12	6	6,154,368
Miscellaneous Department of Defense offices and agencies	19	13	3	2,626,090
Department of Health, Education, and Welfare	61	60	0	402,428,158
Department of Housing and Urban Development	27	25	6	9,862,305
Department of the Interior	1	0	0	79,800
Department of Justice	19	12	4	139,031,722
Department of Labor	4	3	1	24,000,000
Department of State	2	1	1	243,135
Department of Transportation	18	17	2	6,194,430
Department of the Treasury	46	38	7	155,571,458
Environmental Protection Agency	4	4	0	41,200
Equal Employment Opportunity Commission	5	5	0	131,000
Farm Credit Administration	3	1	0	2,900
Federal Communications Commission	12	12	5	2,253,481
Federal Deposit Insurance Corporation	2	0	0	30,000
Federal Mediation and Conciliation Service	1	1	0	1,000
Federal Power Commission	1	0	0	1,100
Federal Reserve Board	1	0	0	1,369
Federal Trade Commission	1	1	1	0
General Services Administration	2	1	0	119,000,160
Interstate Commerce Commission	1	0	0	1,750
National Aeronautics and Space Administration	1	0	1	26,931
National Credit Union Administration	1	0	1	512
National Science Foundation	4	4	1	375,505
Office of Economic Opportunity	13	13	3	108,360
Office of Emergency Ppeparedness	2	2	0	1,905,000
Office of Management and Budget	3	2	0	2,083
Railroad Retirement Board	9	4	5	15,468,000
Securities and Exchange Commission	6	6	0	679,500
Selective Service System	1	1	0	14,860,811
Small Business Administration	4	2	0	884,000
Special Action Officer for Drug Abuse Prevention	1	0	0	23,000
Tennessee Valley Authority	8	7	3	146,150
U.S. Atomic Energy Commission	6	6	0	1,088,600
U.S. Commission on Civil Rights	3	1	1	379
U.S. Information Agency	2	2	0	17,698
U.S. Postal Service	2	2	0	23,000
U.S. Tariff Commission	2	2	2	0
Veterans Administration	29	21	1	72,604,326
White House	7	4	0	151,940
Total	858	741	93	1,245,699,494

Source: Senate Constitutional Rights Subcommittee.

Privacy push

While observers say Watergate is responsible in part for the likely passage of a privacy bill this session, Douglass Lea of the ACLU believes the activities of the White House committee on privacy, the Department of Health, Education and Welfare, the ACLU itself and Goldwater and Ervin, among others in Congress, created a "billiard ball effect" on privacy, keeping the issue rolling in the Senate and House.

Liberals have been drawn to the issue, Lea said, because of their "disillusionment that massive record keeping just hasn't worked out," while conservatives "with breathing time after the social unrest of the last few years, have become aware of the potential of a police state."

Although the privacy issue faces few outspoken critics, "pockets of resistance do surface when you get down to specifics," Lea said, referring to amendments regulating the privacy of school records that were included in the 1974 education bill (HR 69—PL 93-380). The provisions barring federal funds to any educational institution or agency that permitted the release of a student's records without parental consent were an anathema to "education data massagers," Lea said.

FORCES INVOLVED

Major centers of activity on the privacy issue are:

The Domestic Council Committee on Privacy. Established by former President Nixon on Feb. 23, the committee was given responsibility for developing plans to protect an individual's right of privacy.

Under Ford's direction, the committee approved 14 specific proposals July 10 for "immediate action" by federal agencies. Included were initiatives to prohibit military surveillance of civilian political activities, to protect personal bank account records against disclosure to government agents, to safeguard unauthorized disclosure of federal tax returns and build privacy safeguards into federal computers and communications systems.

According to a spokesman for the committee, the panel will review the progress the agencies have made on the proposals at its next meeting this fall.

The committee takes credit for reversing a Nixon White House order that had given the Department of Agriculture permission to examine farmers' tax records, killing a General Services Administration plan for a new government data bank and winning House acceptance of the 1974 education records' privacy amendments.

The committee also has worked closely with the House Government Operations Subcommittee on Foreign Operations and Government Information in developing the privacy bill (HR 16373) sponsored by the panel's chairman, William S. Moorhead (D Pa.). Staff Director Phillips told the *Wall Street Journal* the White House committee has "probably done as much as onyone to call attention to the dimensions of this issue."

The House Republican Research Committee Task Force on Privacy. Chaired by Rep. Goldwater, the task force Aug. 21 issued a set of legislative recommendations for combating threats to privacy in the following areas: government surveillance, federal information collection, social security numbers, census information, bank secrecy, consumer reporting, school records, juvenile records, arrest records, medical records and computer data banks.

ACLU Privacy Project. Launched two years ago, the project serves as a clearing house and monitoring point on privacy matters, supplying reports and information to others working on the issue, including the White House committee, members of the House and Senate and congressional committees. A monthly *Privacy Report* is published by the project, detailing privacy abuses and actions taken by others to gain public attention on data collection.

The tax-exempt project is supported by foundation and business funds, including grants from the Marshall Field Foundation, IBM and Polaroid. The reason IBM is supporting the ACLU effort, according to Lea, is the corporation's "long range interest to see that confidence in the computer is not eroded."

While other private organizations, including the American Trial Lawyers Association have taken some initiative on privacy issues, the ACLU is the most active non-governmental group pursuing the privacy cause. "There are organizations we thought would have lined up with us—Common Cause and Ralph Nader," Lea said. "But they are wary of the issue. They want more disclosure (by government and business), and they seem to think there would be a conflict" by taking an active role on privacy.

The Privacy Project closely observes congressional action on privacy legislation, although the group has refused to take public positions on pending bills because of its tax status. The project, nevertheless, issued a memorandum March 1 outlining six categories of needed privacy legislation, including some 40 separate proposals.

The ACLU suggested that Congress take steps to protect citizens against invasion of their political rights, to protect individuals against abuse of the criminal process, to control wiretapping and computerized data banks and to increase citizens' ability to enforce privacy rights against government and private organizations.

Senator Ervin's forthcoming retirement has distressed the organization, which feels that he "alone has the seniority and influence among his colleagues, the subcommittee chairmanship (Constitutional Rights), the stability of an established political figure and the willingness to take on tough privacy and surveillance issues."

But some civil libertarians, the ACLU noted in its *Privacy Report*, "have sensed in Congress on any privacy issue a lazy 'leave it to Sam' attitude that may be dissipated when Ervin returns to North Carolina." The ACLU believes Ervin's departure may mean that privacy issues will be splintered among several senators with particular interests: Edward M. Kennedy (D. Mass.) on military surveillance, Gale W. McGee (D Wyo.) on federal employee rights, Charles McC. Mathias Jr. (R Md.) on criminal justice, Alan Cranston (D. Calif.) on bank secrecy and Barry M. Goldwater (R Ariz.) on data banks.

Congress' concern

In its Aug. 21 report on privacy, the House Republican Research Committee concluded that the "individual has been physically bypassed in the modern information process" because he is "assumed to waive any and all interest and control over the information collected about him."

Under most information systems, an individual does not really know who has collected data about him or how many agencies or corporations are using it for what purpose, Rep. Goldwater maintains.

AREA OF CONCERN

Republicans cite Bureau of Census data collection and dissemination practices as one major area of concern.

Under penalty of law, each citizen is forced to divulge intimate personal facts about his public and private life, noted the Republican Privacy Task Force. The Census Bureau then sells parts of its collected data to anyone who wishes to purchase the information.

"As the [census] questions become more detailed and extensive, broad-scale dissemination becomes more threatening and frightening," according to the task force. "When used in combination with phone directories, drivers' licenses and street directories, census data may enable anyone interested to identify an individual."

While the task force points to census practices as a potential area for privacy abuse, Ervin's Constitutional Rights Subcommittee in a 1974 report on "Federal Data Banks and Constitutional Rights" reported the existence of three "peculiar data banks": Secret Service files on persons who make anti-government remarks or embarrassing statements about government officials; a Department of Health, Education and Welfare blacklist of scientists, and an Army computer system involving political surveillance.

BASIC LESSON

According to the committee's report, "There are immense numbers of government data banks, littered with diverse information on just about every citizen in the country." (*Chart, preceding page*)

But it was the committee's difficulty in determining the actual number and extent of data banks in existence that led Ervin to conclude: "The most basic lesson the subcommittee survey teaches is the absolute necessity of replacing this voluntary survey approach with a statutory requirement that all federal data banks be fully and accurately reported to the Congress and the American people."

The information-gathering impulse of the federal government is mirrored by similar developments in the private sector, according to Sen. Percy, a co-sponsor of Ervin's privacy bill (S. 3418).

Credit agencies with their consumer files have proliferated in recent years; educational institutions are beginning the process of computerizing student records; hospital and medical centers are finding computers the answer to much of their record keeping difficulties.

"When such information is stored on tape it is easily transferred from one user to another," Percy said. "The individual has no knowledge of the transfer, and no ability to correct information about himself that could ruin his chances for a new job . . . or be taken as cause for investigation by a law enforcement agency.

Which approach?

The legislative controversy over the impact of federal data banks on individual privacy began in the mid-1960s when proposals to set up a national data bank statistical center were discussed in the executive branch.

Although the idea was abandoned after outcries from the public, press and Congress that the data center would lead the United States directly into "1984," hundreds of bills have been introduced in Congress relating to other personal privacy issues. (In the 93rd Congress through March, 102 House bills on privacy had been introduced with 207 sponsors; in the Senate, various privacy bills were sponsored by 62 members).

Most of the pending bills are directed to one aspect of the privacy question: they range from banning the disclosure of Social Security numbers to prohibiting financial institutions from disseminating information on their customers to government agencies. Other bills would restrict existing practices of criminal information systems, ban political surveillance by the Army and control illicit uses of wiretapping.

With the introduction of the Ervin and Moorhead bills, privacy forces feel they have found a satisfactory approach to dealing with the central issue raised by the seemingly disparate pieces of legislation.

The common thread, said Percy, is the individual's right to control how, when and to what extent information about himself is communicated to others.

ERVIN AND MOORHEAD BILLS

Under the Ervin bill, an individual could not be forced to disclose any information not required by law, and he would have to be informed of his right not to disclose. He also would be notified of the existence of any information maintained on him and how the information was used.

In addition, a person would have the right to inspect information pertaining to him and have the right to challenge any information on the basis of its accuracy, completeness or necessity.

The bill also places strict restrictions on the dissemination of information contained in data systems, requiring an agency to request permission from the individual before distributing data about him to those not having regular, authorized access to the information.

But the most controversial part of the measure is the provision establishing a federal privacy board that would have the authority to intercede in the event an agency abuses data information procedures.

The Moorhead bill, on the other hand, which also grants an individual access to his federal records, would depend on self-enforcement by government agencies and, if that failed, by the federal courts.

Federal agencies feel that the federal privacy board plan "would insert a new layer of bureaucracy in their transactions," said Joe Overton, a legislative assistant to Rep. Goldwater. "They are dragging their heels and resisting an invasion on what they see as their traditional prerogatives."

Moorhead's subcommittee staff, Overton added, "believes in privacy, but they are also looking to efficiency in government" which might be affected by privacy board activities.

Staff member Phillips points out that a privacy board would be expensive to set up and "would be open to attack" because of that on the House floor.

"If Congress finds that self-enforcement (by the agencies) is not working, then it can always come back later and say, 'We're going to shove a commission down your throat'," he added. But the agencies "will take the bill seriously," because there are strong civil and criminal penalties for violations in the measure.

OUTLOOK

The subcommittee rejected the privacy board plan by a 7–2 vote, but the proposal was expected to be offered again during consideration of HR 16373 by the full Government Operations Committee.

Phillips said, however, that he does not expect the amendment to pass and that it probably faces defeat if offered on the House floor. Should the Senate adopt the idea, the issue then would have to be resolved in conference.

The major area of contention on the House bill is the effort by John N. Erlenborn (R Ill.) to prevent federal employees from gaining access to their examination and employment investigation results. An amendment by Erlenborn to provide these exemptions was defeated Sept. 19 by the Government Operations on a 22–11 vote and is not expected to win approval on the House floor. "I just don't know what Ford will do with a privacy bill that doesn't contain the exemptions," said Phillips.

Another potential trouble spot on the privacy legislation is the inclusion of private as well as federal data banks in the Ervin bill. But there is a certain reluctance by privacy forces to become involved in the regulation of private data banks.

According to the White House privacy committee, "Federal example and experience in this complex field should precede federal directives to the non-federal governmental and private sectors."

Douglas Lea of the ACLU agrees. "There is a lack of knowledge in this area. It would be easy to leap into regulating private activity if you're not careful."

And according to Joe Overton, "You don't want to legislate in the private sector until you know what you're dealing with. Information practices widely vary in the private sector. There's less sharing of data. The federal level is different. With these agencies, it's easier to exchange information."

CLIFFORD McINTIRE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 8, 1974

Mr. RHODES. Mr. Speaker, it was with a deep sense of loss that I learned of the untimely death of our former colleague and dear friend, Clifford G. McIntire.

Cliff came from the heartland of Maine—Aroostook County—potato country. He was drawn to the land, studied agronomy at the University of Maine and engaged in farming throughout his life.

After a 4-year stint with the Farm Credit Administration, he became assistant general manager of the Maine Potato Growers at Presque Isle.

He came to the 82d Congress after a special election to fill the vacancy caused by the death of Frank Fellows. For 14 years in the House of Representatives he served Maine and the Nation with dedication and distinction.

After leaving the Hill and until his retirement in December 1963, Cliff worked with the American Farm Bureau. His knowledge of Congress—of farming—and of the legislative problems connected with the law and land, led to his appointment to the President's Task Force on Rural Development, 1969–70; to the Advisory Council of the Public Land Law Review Commission, 1968–70; and to the board of directors of the U.S. Railway Association, for which confirmation was assured, and voted posthumously by the Senate.

Cliff McIntire epitomized the spirit of Maine. He was direct—he spoke sparingly—but tellingly. He truly represented the craggy independence that always has characterized the Pine Tree State. You knew where Cliff McIntire stood—and why.

Our Nation has suffered a loss in being deprived of his presence and his talents. I join my fellow Members of the House in expressing our appreciation for having Cliff as our colleague—and I extend my condolences to his wife, Wilda, and to his children.

CLIFFORD G. McINTIRE

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 8, 1974

Mr. SIKES. Mr. Speaker, I am honored to join with my colleagues in paying special tribute to our esteemed friend and distinguished former colleague, the late Clifford G. McIntire who recently passed away. Cliff was my good friend and I enjoyed very much working with him during the 10 years he so ably represented central and northern Maine here in the Congress. He was a warm and genuine human being who spent much of his life in the service of his fellow man and his country. Before coming to Washington in 1951, Cliff served as an appraiser, supervisor, and regional manager for the Farm Credit Administration. Subsequently, he held an executive post with the Maine Potato Growers, Inc., of Presque Isle, Maine. These positions made his service on the House Agriculture Committee even more valuable. In 1965, he became director of the American Farm Bureau Federation's Natural Resources Department and later served as the bureau's Director of Legislation. He also served as a member of the President's Task Force on Rural Development and on the Advisory Council of the Public Land Laws Review Commission. President Ford just recently honored Cliff by appointing him to serve as a director of the U.S. Railway Association. To his bereaved family I extend my deepest sympathy and hope that they may find comfort in the knowledge that they are in our thoughts and hearts today, and that Clifford McIntire's good work will live on for many years to come.

DECISIONS UPHOLD FEDERAL ADVISORY COMMITTEE ACT

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Thursday, October 17, 1974

Mr. METCALF. Mr. President, 22 months ago, the Federal Advisory Committee Act took effect. That law provides, among other things, that: First, a system be created to provide an orderly accounting and management of Federal advisory committees; second, the public shall be allowed to view this type of governmental decisionmaking; and third, timely notice be given to the public that these meetings will be held.

Generally, agencies are complying with the provisions of the act. In addition, the very small staff within the Office of Management and Budget assigned to oversee these advisory committees are valiantly attempting to comply with the act.

Fortunately, where the agencies have failed to interpret the act correctly, the courts have not. I have previously submitted statements for the RECORD concerning court decisions relating to the interpretation of the Freedom of Information Act, an integral part of the Federal Advisory Committee Act. (CONGRESSIONAL RECORD, vol. 119, pt. 29, p. 37742 and CONGRESSIONAL RECORD, July 25, 1974, p. 25350.) Another decision was inserted in the RECORD by Congressman OBEY (CONGRESSIONAL RECORD, vol. 119, pt. 26, p. 34444.) Last February, the Subcommittee on Budgeting, Management, and Expenditures conducted oversight hearings and investigations into the operation and effectiveness of the Federal Advisory Committee Act. Papers relating to several lawsuits concerning the Federal Advisory Committee Act were also printed in that hearing record.

Recently two more decisions relating to the act have been handed down, bringing the total favorable decisions to six.

Judge Bryant, in the District Court of the District of Columbia, held that—

(a) exemption 5 of the Freedom of Information Act—inter-agency and intra-agency memoranda—is inapplicable to advisory committees and cannot be used as a basis for closing meetings; and

(b) timely notice of advisory committees is defined to be at least thirty days before any advisory committee meeting (except under emergency situations).

District of Columbia Circuit Court Judge McGowan held that an advisory committee is not an agency, and as such, cannot use exemption 5 of the Freedom of Information Act as a basis for withholding certain National Institutes of Health peer review information from the public.

Mr. President, I ask unanimous consent that these two decisions be printed in the RECORD.

There being no objection, the decisions were ordered to be printed in the RECORD, as follows:

[United States District Court for the District of Columbia]

(Civil Action No. 1838–73)

ORDER

Aviation Consumer Action Project, et al., Plaintiffs, versus C. Langhorne Washburn, et al., Defendants.

Upon consideration of the plaintiffs' motion for summary judgment, the pleadings, the exhibits and affidavits submitted to the Court, and the arguments of counsel, it appears that there is no genuine issue of material fact, and that the plaintiffs are entitled to judgment as a matter of law. Accordingly, it is by the Court this 6th day of September, 1974.

Ordered and adjudged as follows:

(1) Plaintiffs' motion for summary judgment be and hereby is granted;

(2) Exemption Five of the Freedom of Information Act, 5 U.S.C. § 552(b)(5), pertaining to inter-agency and intra-agency memorandums and letters, is inapplicable and cannot be invoked by defendants or their agents or employees as to documents which have been voluntarily disclosed by the agency to members of an advisory committee who are not full-time officers or employees of the Federal government;

(3) Exemption Five of the Freedom of Information Act, 5 U.S.C. § 552(b)(5), is inapplicable and cannot be invoked by the defendants or their agents or employees as a basis for closing any meeting of the Travel Advisory Board or any other advisory committee from the public, or for excluding the plaintiffs or any other interested persons from any such meeting;

(4) The defendants and their agents and employees are hereby enjoined from excluding plaintiffs or other interested persons from any meeting of the TAB or other advisory committees, or from any portions thereof, unless a lawful written determination has been made in advance of the meeting by the Secretary of Commerce or his duly authorized agent setting forth the reasons why the meeting or portion thereof is required to be closed, in accordance with Section 10(d) of the Federal Advisory Committee Act, and such determination has been included in a timely notice of the meeting published in the Federal Register;

(5) Except for emergency meetings, the requirement of Section 10(a)(2) of the Federal Advisory Committee Act, that timely advance public notice be given by defendants of each meeting of the TAB or any of their other advisory committees, is not met by any notice not published at least thirty (30) days in advance of the meeting;

(6) The defendants shall keep a verbatim transcript of each meeting of the TAB, shall maintain a complete and accurate record of the persons present at any such meeting and copies of all reports received, issued, or approved by the advisory committee;

(7) The defendants shall maintain in the Central Reference and Records Inspection Facility in the Department of Commerce headquarters and shall make available upon request for public inspection and copying, in accordance with Section 10(b) of the Federal Advisory Committee Act, all records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda or other documents (including all correspondence) which were made available to or prepared for or by the TAB;

(8) The defendants and their agents and employees shall issue a report at least annually setting forth the circumstances under which any meeting of the TAB is closed to the public and an accurate summary of its activities in any such closed sessions, in accordance with Section 10(d) of the Federal Advisory Committee Act, and within thirty (30) days of the date hereof the defendants shall prepare and file in the Central Reference and Records Inspection Facility of the Department of Commerce a report setting forth a detailed description of all matters discussed and conclusions reached during the portion of the June 19, 1973 meeting of the TAB from which the public was excluded.

WILLIAM B. BRYANT,
U.S. District Judge.

[United States Court of Appeals for the District of Columbia Circuit—No. 74–1027]

APPEAL FROM THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Washington Research Project, Inc. v. Department of Health, Education, and Welfare, et al., appellants.

(Decided September 12, 1974)

David M. Cohen, Attorney, Department of Justice, with whom *Irving Jaffe*, Acting Assistant Attorney General, *Earl J. Silbert*, United States Attorney, and ***Leonard Schaitman***, Attorney, Department of Justice, were on the brief, for appellants. *John A. Terry* and *Michael J. Ryan*, Assistant United States Attorneys, also entered appearances for appellants.

Michael B. Trister for appellee.

Bruce R. Hopkins and *Robert O. Tyler* filed a brief on behalf of the Association of American Medical Colleges as *amicus curiae* urging reversal.

Before McGOWAN and ROBB, *Circuit Judges*, and STANLEY A. WEIGEL,* *United States District Judge for the Northern District of California.*

Opinion for the Court filed by *Circuit Judge* McGOWAN.

McGOWAN, *Circuit Judge:* Appellee brought this action in the District Court to compel disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, of certain information pertaining to eleven specifically identified research projects that had been approved and funded by the National Institute of Mental Health (NIMH), a unit of the Public Health Service of the Department of Health, Education, and Welfare (HEW). The eleven projects all involve research into the comparative effects of various psychotropic drugs on the behavior of children with certain learning disabilities. After *in camera* inspection of sample documents, the District Court ordered disclosure of all of the information sought, except that it contemplated that certain deletions might conceivably be made in respect of statements of opinion about the qualifications and competence of applicants for grants. The court further ordered the agency to amend its application instructions and regulations to conform with its decision. 366 F. Supp. 929. For the reasons hereinafter appearing, we affirm in part and reverse in part.

I

The information in dispute is contained in three types of documents:

1. *The Grant Application.*

The initial grant application, among other things, identifies the research applicant, any research organization with which he may be affiliated, his qualifications and experience, the budget estimates, and the research protocol or design. Subsequent to the approval of the initial grant application, there may be filed continuation applications, renewal applications, and supplemental applications. Projects are approved for a specific "project period" that may extend over several years, 42 C.F.R. § 52.2(b), but a continuation application must be filed each year to report progress to date and justify support for the coming year. *Id.* § 52.14(d). Renewal applications are required for periods beyond the originally scheduled project period, while supplemental applications are required for additional grants awarded because the amount previously awarded proves inadequate to carry out the project properly. *Id.*[1]

2. *The Site Visit Report.*

Outside consultants, engaged by HEW to review the grant application, frequently visit the location at which the research is proposed to be done, and thereafter prepare a report on their observations.

3. *The Summary Statement ("pink sheet").*

When the outside consultants have completed their work, an NIMH staff member assigned to them prepares a summary of their observations and deliberations and reports their recommendations. This statement will draw upon the site visit reports, if any.

The process by which applications are processed by NIMH and HEW, an understanding of which is necessary to appraise the significance of each type of document for FOIA purposes, is set out in considerable detail in the opinion of the District Court. Accordingly, we begin with only a brief recapitulation of how the process works.

Research of the type sponsored by NIMH is often of a highly sophisticated and specialized nature. In order to assure competent evaluation of each proposal, a system of so-called "peer review" has been established, using the expertise of nongovernmental consultants functioning in panels organized around particular specialized disciplines within the broader field of biomedicine. These panels, called "initial review groups" (IRGs), consist of from ten to twenty members, only one of whom, the Executive Secretary, is an NIMH employee.

Applications for NIMH research support are referred by the Executive Secretary to one member of the IRG as "primary assignee," and one or more other members with secondary responsibility. These assignees undertake to evaluate the application and gather such additional information as may be necessary to that task. This may involve a "site visit" to the facility at which the applicant proposes to conduct his research. A site visit may be made, for example, in order to observe an experimental technique to be used in the proposed research.

An evaluation of each application, and a site visit report where applicable, are written by the assignee group and circulated to the whole IRG, together with the application, prior to its next meeting. (IRGs meet three times a year.) The application is discussed at length and a recommendation voted. If approval is recommended, it is also given a relative priority rating since the cost of all proposals deemed worthy of funding may exceed the funds available.

Following the IRG meeting, the Executive Secretary prepares a Summary Statement for each application acted upon. The Summary Statement describes the proposal and recounts the substantive considerations that led the IRG to recommend approval or disapproval. It contains an opinion of the professional qualifications of the sponsor and an evaluation of his competence and facilities. The IRG's evaluation of the risk to human subjects, if any, is included, as is also a reference to the site visit report, if there is one. If there is a minority of two or more, the minority's view is also summarized, without attribution by name. The Executive Secretary may add a "Note" in order to clarify any matter not resolved by the IRG, call attention to factors other than scientific merit, including policy considerations, or incorporate information obtained subsequent to the IRG meeting at which the application was considered.

Each application and the corresponding pink sheet is submitted to the National Advisory Mental Health Council (NAMHC),[2] which was established to "advise, consult with, and make recommendations to" the Secretary on Public Health Service activities in the field of mental health, 42 U.S.C. § 218 (c). The NAMHC is composed of three officials—the Assistant Secretary for Health, the chief medical officer of the Veterans Administration, and a medical officer designated by the Secretary of Defense—and twelve private citizens appointed by the Secretary on the basis of their qualifications in science, medicine, and/or public affairs. 42 U.S.C. § 218(a).

The NAMHC may approve, disapprove, defer consideration of, or require additional IRG consideration of, any application. On occasion it does reject an IRG's recommendation of approval or disapproval,[3] but ordinarily, instead of passing upon the scientific merits of each application, it gives primary attention to policy direction and emphasis, generally acting on applications in subject matter groups. Applicants are notified of the outcome, but only about 90% of those receiving approval are actually funded by NIMH, to which the Secretary has delegated this function, due to limitations on funds. There is some ambiguity as to whether funding is determined solely on the basis of the ratings given by the IRGs and NAMHC, but the ratings may be presumed to be very influential in the funding decision.[4]

Each month NIMH makes public a list of all research grants awarded during the preceding month, including a general description of the project and its budget, and releases final progress reports received, except that release may be delayed up to six months pending publication by the researcher in a scholarly journal. The research design, proposed methods, and specific aims of a project are not made public, nor are the names or proposals of any applicants whose applications are disapproved.

II

The Freedom of Information Act requires disclosure, upon request, of the final opinions and identifiable records of each agency of the government, unless, in the case of the latter, they come within one of the nine specific exemptions in the Act. The burden of proof is on the agency opposing disclosure, and the exemptions therefrom are narrowly to be construed. The government relies upon three separate exemptions to justify nondisclosure of the various types of information here sought, as follows:

1. Exemption 4, for trade secrets and commercial or financial information received in confidence, is invoked to cover the research designs submitted in applications and described in the Summary Statements, site visit reports, and progress reports.

2. Exemption 5, for inter-agency or intra-agency memoranda that would not be subject to discovery in litigation, is said to cover the Summary Statements and site visit reports in their entirety, except insofar as purely factual information is involved.[5]

3. Exemption 6, which applies to personnel, medical, and "similar" files the disclosure of which would be a clearly unwarranted invasion of personal privacy, is raised with respect to statements of opinion in the Summary Statements and site visit reports as to the professional qualifications and competence of applicants who received grants.

A. Exemption 4.

The essence of the argument that the research designs submitted in the expectation of confidentiality are trade secrets or commercial information is that "ideas are a researcher's 'stock-in-trade.'" Their misappropriation, which, it is claimed, would be facilitated by premature disclosure, deprives him of the career advancement and attendant material rewards in which the academic and scientific market deals, in much the same way that misappropriation of trade information in the commercial world deprives one of a competitive advantage. Indeed, the government has been at some pains to argue that biomedical researchers are really a mean-spirited lot who pursue self-interest as ruthlessly as the Barbary pirates did in their own chosen field. Whether this is the sad truth, or whether, as appellee suggests, "secrecy is antithetical to the philosophical values of science," is not, however, an issue in this case; the reach of the exemption for "trade secrets or commercial or financial information" is not necessarily coextensive with the existence of competition in any form.

It is clear enough that a non-commercial scientist's research design is not literally a trade secret or item of commercial information, for it defies common sense to pretend that the scientist is engaged in trade or commerce.[6] This is not to say that the scientist may not have a preference for or an interest in nondisclosure of this research design, but only that it is not a trade or commercial interest.[7] To the extent that his interest is founded on professional recognition and reward, it is surely more the interest of an employee than of an enterprise, and we are far from persuaded that Congress intended in Example 4 to apply terms drawn from the business context to the employment market.[8] We cannot, consistent with the Act's recognized mandate to construe exemptions narrowly, *see Vaughn v. Rosen*, 484 F.2d 820, 823 (D.C. Cir. 1973), *cert. denied*, 42 U.S.L.W. 3523 (March 18, 1974); *Getman v. NLRB*, 450 F.2d 670, 672 (D.C. Cir.), *stay denied*, 404 U.S. 1204 (1971), extend them by analogies that lead so far away from the plain meaning of Exemption 4. Consequently, we hold that research designs submitted in grant applications are not exempt from disclosure under the Act. This holding extends to all types of applications—initial, continuation, supplemental, and renewal—and to progress reports made by grantees as part of the last three kinds of applications.

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*Sitting by designation pursuant to Title 28 U.S. Code Section 292(d).

Footnotes at end of article.

B. Exemption 5.

The applicability of Exemption 5 to the site visit reports made by members of the IRG, and to the Summary Statement written by the Executive Secretary to report on the IRG's recommendation to the NAMHC, turns on whether the IRG is an "agency" under the Administrative Procedure Act, of which the FOIA is a part. If the IRG is indeed an agency, then appellee's position that the Summary Statements and accompany site visit reports constitute its final opinions, which must be made available, 5 U.S.C. § 552 (a) (2) (A), is not without force. If, on the other hand, the IRG is not an agency but merely a unit within another agency, then these documents are identifiable records in the hands of that agency and it is our task to determine whether they are exempt from disclosure as intra-agency memoranda.

1. The IRG as an agency *vel non*.

The APA defines the term "agency" to mean "each authority of the Government of the United States, whether or not it is within or subject to review by another agency," with certain specific exceptions not applicable in this case. 5 U.S.C. § 551(1). The generality of this definition has required the commentators that have dealt with it to attempt an elaboration along more functional lines than the phrase "each authority" conveys,[9] but recent cases have made it clear that any general definition can be of only limited utility to a court confronted with one of the myriad organizational arrangements for getting the business of the government done. *See Grumman Aircraft Engineering Corp. v. Renegotiation Board*, 482 F.2d 710 (1973) (Regional Boards) (hereinafter *Grumman II*), *cert. granted*, 42 U.S.L.W. 3645 (May 28, 1974); *Soucie v. David*, 449 F.2d 1067 (D.C. Cir. 1970) (Office of Science and Technology); *International Paper Co. v. FPC*, 438 F.2d 1349 (2d Cir. 1971) (Staff of FPC); *Larche v. Hannah*, 175 F.Supp. 791 (W.D. La. 1959) (Civil Rights Commission), *rev'd on other grounds*, 363 U.S. 420 (1960). The unavoidable fact is that each new arrangement must be examined anew and in its own context.

Congress has authorized the Secretary of HEW to make only such mental health and medical research grants "as are recommended" by the various National Advisory Councils, in this case the NAMHC, 42 U.S.C. § 241(d), (i), that it established. 42 U.S.C. § 218.[10] It also, however, authorized the Secretary to "appoint such advisory committees (in addition to those authorized to be established under other provisions of law) . . . as he deems desirable for the purpose of advising him in connection with any of his functions," 42 U.S.C. § 217a(a), and to compensate nongovernmental members thereof. *Id.* at § 217a(b).[11]

The authority to establish advisory committees by administrative action was first exercised in the period after World War II, when the vast expansion of supported biomedical research made it "impractical to encompass in a council membership the expertise in all the numerous disciplines, fields, specialties, and areas represented in biomedical research proposals. . . . To overcome these deficiencies, initial review groups were established to assist the councils." S. Rep. No. 93–381, 93d Cong., 1st Sess. 38 (1973). In 1968, when NIMH was established as a distinct part of HEW, this system was carried over with the creation of the NAMHC, and the Institute's decision to create the IRGs. *Hearings, supra* note 4, at 3620–21. The NIMH dual review process remains, however, "less formal" than that of the NIH: "IRGs are established or phased out as required by the size and nature of the grant review workload. . . ." S. Rep. No. 93–381, *supra*, at 38. Ad hoc IRGs are formed to advise on particular applications "not within the competence" of any then-standing group. NIHM Handbook, *supra* note 2, at 9.

Under the prior decisions of this court, we think the IRGs are advisory committees, performing staff functions through the medium of outside consultancy, and are not agencies. The considerations raised in *Soucie v. David, supra*, and *Grumman II, supra*, point unmistakeably to this conclusion, which comports with our present impression of how this question should be handled. *Soucie* involved the status of the Office of Science and Technology, which, in addition to advising and assisting the President in coordinating federal policy for science and technology, was also authorized, as we emphasized, independently to evaluate federal programs.[12] It was created by an executive reorganization plan submitted to Congress and "explicitly considered" by the House. *Id.* at 1074. Congress approved the plan with the understanding that it was "delegating [to OST] some of its own broad power of inquiry in order to improve the information on federal scientific programs available to the legislature." *Id.* at 1075. It "clearly contemplated," as did the Executive, "that the OST would function as a distinct entity and not merely as part of the President's staff." [13] Finally, we noted that since the OST had published FOIA regulations, it had apparently considered itself, prior to the litigation, to be an agency subject to the APA—a consideration of some weight. *Udall v. Tallman*, 380 U.S. 1, 16 (1965). All of these factors taken together led to the determination that OST exercised "substantial independent authority," and to the conclusion that it was an agency subject to the Freedom of Information Act.

Some of the same factors considered in *Soucie* were present in *Grumman II*, which dealt with the status of the Regional Boards established by the Renegotiation Board. The Regional Boards' exercise of formal decision making power delegated from the National Board was found to be "within Congress' [sic] contemplation when it established the Renegotiation Board apparatus." Indeed, the statutory authorization there at issue was expressly that of delegating functions "to any *agency* of the Government, *including any such agency established by the Board.*" 50 U.S.C. App. § 1217(d) (emphasis added). Further, the National Board had promulgated FOIA regulations for disclosure of some Regional Board documents, again indicating its own view, prior to litigation, that they were agencies subject to the FOIA. Furthermore, the Regional Boards fell squarely within the analytic definition supplied by Professor Freedman, whose consideration of this question is the fullest and most discerning, namely, they were the body in which "substantial 'powers to act' with respect to individuals [were] vested." Freedman, *supra* note 9, at 9. They had their own staffs to investigate and negotiate with contractors, and their "recommendation is communicated openly to the contractor prior to any assumption of jurisdiction by the National Board." 482 F.2d at 715. They were, in short, the agency with which an affected member of the public dealt, and from whose decision appeal might lie, depending upon the amount in controversy.

The contrast between the agencies involved in *Soucie* and *Grumman II*, on the one hand, and the IRGs, on the other, could not be greater. Unlike the OST, the IRGs do confine themselves to making recommendations; authority to make grants is vested in the Secretary, and authority to recommend doing so lies with the NAMHC. The IRGs act as consultants to the NAMHC; their members are strictly forbidden from communicating their group's recommendations to applicants. NIMH Handbook, *supra* note 2, at 30. Applicable regulations and administrative rules within NIMH and HEW have consistently reflected the view that the IRGs are not subject to the FOIA, *see id.;* 45 C.F.R. §§ 5.72(b), 5.73(a); and the authority under which they are appointed gives no hint of a congressional expectation that NAMHC's delegation of the initial review function would somehow make either more or less information available to the legislature or the public.

Clearly, the work now done by IRGs could again be done by the NAMHC if it sat continuously instead of meeting three times a year for about two days each time. Employing consultants to improve the quality of the work that is done cannot elevate the consultants to the status of the agency for which they work unless they become the functional equivalent of the agency, making its decisions for it. There is no doubt in this instance that the usually perfunctory review the NAMHC gives to a particular application—as opposed to the group of which it is a part—makes the IRGs' recommendations an often crucial element in the approval process. But, just as the APA makes the fact that a government authority's decisions are subject to review irrelevant in determining whether that authority is an agency, at least in this case the degree of scrutiny its decisions are given on review is equally beside the point.

The important consideration is whether it has any authority in law to make decisions. The IRGs have not; their favor is not necessary because the law empowers the Secretary to make grant awards if (and only if) the NAMHC so recommends. The fact that the NAHMC may be greatly influenced by the IRG's expert view does not make the IRG an agency. *See International Paper Co. v. FPC*, 438 F.2d 1349, 1359 (2d Cir. 1971). In *Soucie* this court did not consider whether the President generally accepted the advice of OST. In that case and in *Grumman II* we looked to the functions that OST and the Regional Boards respectively were empowered by law to perform. The alternative would inevitably involve the courts in determining the care with which the decisional officers of government agencies supervise their staffs, in order to determine whether in fact the staff is not the stand-in for the officer or agency—its recommendations his decisions—and whether it ought not therefore in law to be held accountable as the agency. This we cannot do. *Morgan v. United States*, 304 U.S. 1, 18 (1938); *United States v. Morgan*, 313 U.S. 409, 422 (1941).

Footnotes at end of article.

That is not to say that a staff recommendation may never achieve the dignity of an agency's final decision; it may do so when the agency adopts it as its own, and at that point its disclosure can be required. *American Mail Line, Ltd. v. Gulick,* 411 F.2d 696 (D.C. Cir. 1969) is a case in point. There the question was "whether an administrative agency [the Maritime Subsidy Board] may take affirmative action against a private party by means of a decision in which it states that the only basis for such action is a certain specified [staff] memorandum and then refuse to disclose the memorandum to the party affected by the action." While the question was answered in the negative, the reason was that the agency had made the memorandum the express and only basis for its decision and not that it had made the staff into the "agency." In the present case, however, leaving aside the problem of whether even the denial of a grant award is "affirmative action" against an applicant, the reasoning of the IRG is not the "only basis" for the Secretary's decision. The Executive Secretary's Note and the NAMHC's policy choices, and in some instances the latter's particularized scrutiny, intervene.[14] *Cf. Sterling Drug, Inc. v. FTC,* 450 F.2d 698, 706 (D.C. Cir. 1971). We hold, therefore, that the IRG is not itself an agency under the APA nor, consequently, subject to the strictures of the FOIA.[15]

2. Application of Exemption 5.

Having decided that the IRG is not an agency, nor its Summary Statements and site visit reports the final decisions of an agency, it becomes necessary to determine just how much of the disputed information in these intra-agency documents is exempt from disclosure. Exemption 5 applies only to matters, "which would not be available by law to a party other than an agency in litigation with the agency." While there are often problems in determining the precise scope of the exemption without the benefit of actual litigation the nature of which informs the breadth of discovery, *see Environmental Protection Agency v. Mink,* 410 U.S. 73, 86 (1973), its application in this case is relatively uncomplicated. As a general proposition Exemption 5 does not shield from disclosure "purely factual, investigative matters," as opposed to "materials reflecting deliberative or policy-making processes." *Id.* at 89. Even purely factual matter may be exempt, however, if it is inextricable without compromise of the deliberative process, *id.* at 91, and so too may be "a summary of factual material [that] is part of the deliberative process," even though the facts themselves are elsewhere on the public record. *Montrose Chemical Corp. v. Train,* 491 F.2d 63 (D.C. Cir. 1974).

In order to apply these propositions to the facts at bar, the contents of the Summary Statements and site visit reports need further elaboration at this point. We take as our texts appellee's Exhibit 1, the NIMH Handbook, *supra* note 2, at 33–36, documents as illustrated by the sample submitted to the court. The Summary Statements begin with (1) a concise resume, "no more than six or seven sentences," of the proposed project, its review by the IRG, and the reasons for the IRG's recommendation, including the contrary reasons offered by a minority.[16] There follows (2) a "brief description of the proposal," its "aims, methodology, and, for renewal, supplemental and revised proposals, the background or history." The next and "most critical" section is the IRG's critique (3) which discusses "the strengths and weaknesses of various aspects of the proposal in detail."[17] The "background and competence" of the applicant and his associates (4) are discussed, as are (5) "any special aspects of the facilities and equipment and the extent of departmental and interdepartmental cooperation" at the applicant's institution. The proposed project budget is then analyzed with reference to its adequacy, justification, and projected duration (6). Supplemental requests are related to previously approved amounts.[18] To all of this may be appended (7) the Executive Secretary's Note, described *supra* at p. 5, (8) the minority report of two or more dissenting members, and (9) a summary of any site visit report.

The site visit report itself contains, in addition to purely identifying material, such as application number, date, and persons seen, (10) evaluations of the proposal, the investigator, and his staff, (11) sections on the facilities and other support available at the institution and (12) the budget, and (13) "other comments." Because of the substantial overlap necessary between the site visit report and Summary Statements, site visitors are advised to follow the format for the latter document "since the site visit report, if accepted by the [IRG] can serve as a basis for the Summary Statement." NIMH Handbook, at 46.

From this mere recitation it is clear that most of the matters called for in the site report and Summary Statement for each application are evaluative, and call into play the policy of protecting the deliberate process, at which Exemption 5 is directed. *See EPA v. Mink, supra; Soucie v. David, supra.* Indeed, the only matters that are even arguably subject to compelled disclosure are the Summary Statements' (2) description of the proposal, its aims and methodology, and any factual matter contained in (9) the summary of the site visit report. In the site visit report itself, only (11) the statement of facilities, and (12) the budget, merit comment.

Of these four items, the two (2 and 9) in the Summary Statement are abstracts of other information—either the site visit report or portions of the underlying application. As such we think them covered by the reasoning of *Montrose Chemical, supra.* That case involved application of Exemption 5 to summaries, made by agency staff attorneys, of evidence developed at a public hearing. The summaries were prepared for and submitted to the Administrator of the Environmental Protection Agency "to assist [him] in his study of the record" on the basis of which he was obliged to make a decision. This court held the summaries exempt as an integral part of the deliberative process. Sensitive to the necessity of attaching varying degrees of significance to different facts in the course of epitomizing the record, we said:

> "Even if they cited portions of the evidence verbatim, the assistants were making an evaluation of the relative significance of the facts recited in the record; separating the pertinent from the impertinent is a judgmental process, sometimes of the highest order; no one can make a selection of evidence without exercising some kind of judgment, unless he is simply making a random selection." 491 F.2d at 68.

No significant difference distinguishes the present case from *Montrose Chemical.* The research design and description of methodology in the application submitted for *in camera* inspection covers fifteen, single-spaced typewritten pages; their description in the Summary Statement is one page in length.[19] In the *Montrose Chemical* paradigm, the judgmental element arises through the necessity to select and emphasize certain facts at the expense of others. In the instant case, where the whole proposal must be described at least in general, various aspects of it are described in greater detail than others. In virtually every sentence the author must operate at a level of specificity that reflects his personal perspective on the material being summarized.

An example may be taken from the Summary Statement before us without compromising any information for which exemption is claimed. In the course of describing a proposal for evaluating the relative efficacy of a number of drugs in the treatment of hyperkinetic children, the following statement appears: "The assessment battery consists of a number of rating scales, and various cognitive and performance measures." Significantly, however, while the various performance and cognitive tests are then enumerated, the rating scales are neither identified nor described, but are said only to have provided sensitive in prior, unspecified studies. This difference of treatment may well reflect no more than the greater ease with which named tests can be referenced than rating scales described. It may, on the other hand, reflect the view that certain well-known tests have a definite reputation for reliability, and that rating scales are only so much surplusage. A different group of reviewers with a different set of views might well have elaborated on the rating scales' utility and never specified the cognitive and performances tests proposed. What the effect of such a choice might be on the proposal's prospects we need not guess. The point is simply that choices are and must be made by someone or some group with a unique perspective, and decisions may be based on them. Accordingly, the two items under discussion must also be held exempt from disclosure.[20]

The NIMH Handbook alone does not indicate whether the two items in the site visit report—(11) the facilities and (12) budget references—are meant to be narrative or analytic. The representative site visit report submitted to the District Court, which is of controlling significance,[21] suggests the latter, however, at least with respect to budgetary considerations. The short section on the budget relates the amount requested to the site visitors' analysis of the amount needed, and suggests for IRG consideration a possible economizing step. As such, it is clearly a part of the deliberative process and exempt from compelled disclosure. But this particular report makes no reference to the matter of facilities, neither describing nor rendering an opinion on the adequacy of the facilities available to the grant applicant.[22] The entire document, however, other than the opening paragraphs which describe the proposal and for which no claim of exemption is made, is an expression of the visitors' opinions and not a recitation of facts. This suggests that facilities references, if any, in the site visit reports for other of the applications sought by appellee would be of the same nature. In light of the parties' agreement, *supra* note 21, however, we need not choose between reliance on this speculation, with its potential effect of relieving the agency of its statutory burden of proof, and *in camera* inspection of all the site visit reports in suit. Finding no matter of the type sought in the controlling document, there is no relief respecting item (12) to which appellee can lay claim.[23]

III

Appellant challenges the District Court's jurisdiction to order the agency to amend its regulations to conform with the court's opinion. The FOIA, it is contended, "grants jurisdiction to the district courts only to review agency denials of requests for specific documents and to enjoin withholding of those documents" from the person who made the request. That is of course true insofar as it goes, but is not responsive to whether the court may not draw on powers apart from, and unabridged by, the FOIA in order to give complete relief where it is due. "With the express vesting of equitable jurisdiction in the District Court by § 552(a), there is

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Footnotes at end of article.

little to suggest, despite the Act's primary purpose, that Congress sought to limit the inherent powers of an equity court." *Renegotiation Board v. Bannercraft Clothing Co,,* 415 U.S. 1 (1974) (dictum).

One can imagine circumstances, such as its actions to the known requirements of the Act in order to deter requests for infor- where an agency simply refuses to conform mation by repetitive litigation, that would tempt a court to use any or all of "the usual weapons in the arsenal of equity," *Bannercraft Clothing Co. v. Renegotiation Board,* 466 F.2d 345, 354 (1972), *rev'd on other grounds,* 415 U.S. 1 (1974). In the case at bar, however, it is unnecessary to decide whether the District Court would be so empowered.

Appellee initiated the process, culminating in this action by a letter requesting access to documents relating to eleven specifically identified research grants. When the request had been denied in part and administrtive appeal exhausted, appellee filed a complaint the prayer of which requested that the court declare the plaintiff's right to disclosure of the disputed records and order their disclosure, and "[t]hat this Court declare invalid under the Freedom of Information Act the regulations issued by [HEW] which exempt from public disclosure all research protocols and all proposed grant applications." J.A. 6. In its opinion the District Court merely suggested that "[a]t a minimum, the defendants should promptly modify existing regulations and grant application instructions to bring them into conformity with the decision of this Court," but its order elevated this suggestion into an injunctive obligation presumably enforceable in the same manner as any injunction, namely, by contempt.

The FOIA requires each agency to make information, not exempt by the terms of the Act, available "in accordance with published rules." From this may readily be inferred an obligation to publish rules that accurately reflect the agency's substantive obligations under the Act, and rules that fail to do so are of no force when "any person" seeks access to information not exempt from disclosure under the Act. Pretermitting the very real question of whether a single request for documents creates a continuing case or controversy[24] sufficient to support an order to amend regulations of only speculative future effect on an FOIA plaintiff, there is no warrant in the record of this case for anticipating that HEW would not proceed in good faith to incorporate the substance of a final court decision into its rules and practices.

The District Court was sensitive to the public interest that the FOIA, "to the extent practical, be self-operative to assure prompt disclosure." It was equally aware of the necessity "that grant applicants be placed on notice that information submitted pursuant to an application for NIMH grant funds" is subject to public disclosure. We, of course, share the court's concern, but are without sufficient reason to doubt that appellant does also. Considerations of interbranch comity impel us to withhold coercive orders that are not demonstrably necessary. Cf. *Nixon v. Sirica,* 487 F.2d 700, 712 (D.C. Cir. 1973).

What we have held hereinabove is that the eleven initial grant applications involved in this case (all of which had been approved by HEW), together with any continuation, renewal, or supplemental applications incident thereto (either approved or pending), are not exempt from disclosure under the Freedom of Information Act. Contrarily, we have held that site visit reports and summary Statements are exempt under Exemption 5. The impact of this latter holding is limited in this case by the fact that HEW has voluntarily disclosed the purely factual matter contained therein, in an apparent recognition that such matters do not come within the purposes of the exemption. Lastly, we have found, in the circumstances of this record, an inappropriate exercise of equity jurisdiction in the District Court's injunctive command that HEW conform its regulations to the court's mandate.

The judgment of the District Court is, accordingly, affirmed in part and reversed in part; and the case is remanded for the entry of a decree consistent herewith.

It is so ordered.

FOOTNOTES

[1] We consider that continuation, renewal, and supplemental applications are all incident to the initial application; and we see no reason to distinguish between them for purposes of their availability to disclosure under FOIA.

[2] The District Court stated that "the Council members do not receive individual grant applications. Their decision is based solely on the review group Summary Statements," 366 F.Supp. at 934. The NIMH Handbook for Initial Review Staff states, however, that the NAMHC "reviews each application and its accompanying Summary Statement." P. 38. This publication was in the record before the District Court as Plaintiff's Exhibit No. 1. The only contradictory indication seems to be a statement in the deposition of Dr. R. S. Lipman, Chief of the Clinical Studies Section. Psychopharmacology Research Branch, NIMH. Dr. Lipman was Acting Executive Secretary at the time of his deposition, and was familiar with the operation of the IRGs but not with that of the NAMHC. When asked whether the latter group acted solely with the Summary Statements before it, he replied (p. 102):

A. I believe, and I am really talking off the top of my head, I believe they have all of the pink sheets and then they can have made available to them any particular grant [application] that they have a particular question about.

The best evidence of what the practice is would appear to be the official publication on which both parties have relied extensively and the accuracy of which neither has questioned in any particular.

[3] Instances are related in House Comm. on Government Operations, The Administration of Research Grants in the Public Health Service, H. Rep. No. 800, 90th Cong., 1st Sess. 62 (1967).

[4] The District Court stated that "[g]eneral priorities for funding are determined by the Director of NIMH, with the advice of the [NAMHC]," and no further elaboration is possible on the basis of this record. *See* Def. Exh. No. 2, *U.S. Government Information Policies and Practices—Public Access to Information from Executive Branch Advisory Groups, Hearings Before a Subcomm. of the House Comm. on Government Operations,* 92d Cong, 2d Sess., pt. 9, at 3619 (1972) (Statement of Dr. John F. Sherman, Deputy Dir., NIH). The finding that "[w]ithin these general priorities [approval] is in the order of numerical priority set by the [IRG]" is very likely correct, however, since often nobody other than the IRG will examine the scientific merit of a particular application.

[5] The purely factual information in these documents has been released by NIMH voluntarily.

[6] Public Health Service regulations provide that "[a]ny corporation, institution, agency or other such person, other than an individual, that is organized or operated for profit" is ineligible to receive a grant award. 42 C.F.R. § 52.11(a)(2). Only an individual grantee engaged in profit-oriented research, or a non-profit organization that engages in profitmaking ventures based on biomedical research, could conceivably be shown to have a commercial or trade interest in his research design. For the eleven grantees whose protocols are sought in this case, however, their institutional affiliations with colleges and universities (7), research institutes (2), hospitals and state agencies (1 each), make this possibility extremely remote. In addition it is established by an undenied allegation in the complaint that "[n]one of the grants is concerned with the production or marketing of the drugs being tested." ¶ 9, JA 5. This does not absolutely preclude the possibility of commercial activity, but in any event, the burden of showing the trade or commercial character of the research design information was on the agency, and since it did not introduce a single fact relating to the commercial character of any specific research project, it can hardly have carried its burden on this point.

[7] *See* note 6, *supra.*

[8] *See* Restatement of Torts § 757, Comment *b* (1939): *"Definition of trade secret.* A trade secret may consist of any formula, pattern, device or compilation of information which is *used in one's business,* and which gives him an opportunity to obtain an advantage over competitors who do not know or use it." (Emphasis added.)

[9] *See* Final Report of the Attorney General's Comm. on Administrative Procedure, S. Doc. No. 8, 77th Cong., 1st Sess. 7 (1941) ("the power to determine, either by rule or by decision, private rights and obligations"); 1 K. Davis, Administrative Law Treatise § 1.01, at 1 (1958) ("a governmental authority, other than a court and other than a legislative body, which affects the rights of private parties through either adjudication or rulemaking"); Freedman, *Administrative Procedure and the Control of Foreign Direct Investment,* 119 U. Pa. L. Rev. 1, 9–10 (1970): "Where a center of gravity lies, where substantial 'powers to act' with respect to individuals are vested, there is an administrative agency for purposes of the APA. . . . [But] a definition stated thus broadly is not self-applying. It is an abstract proposition that does not neatly decide concrete cases."

[10] This system originated with the National Cancer Institute Act, which created, in addition to the Institute, the National Cancer Advisory Council. Ch. 565, § 3, 50 Stat. 560 (1937).

[11] *As added,* Pub. L. No. 87–838, 76 Stat. 1073; *see* Public Health Service Act § 301, ch., 373, § 301, 58 Stat. 691 (1944).

[12] "If the OST's sole function were to advise and assist the President, that might be taken as an indication that the OST is part of the President's staff and not a separate agency. In addition to that function, however, OST inherited from the National Science Foundation the function of evaluating federal programs. . . . By virtue of its independent function of evaluating federal programs, the OST must be regarded as an agency subject to the APA and the Freedom of Information Act." 448 F. 2d at 1075.

[13] The executive branch represented the proposed OST as being organizationally analogous to the Bureau of the Budget, the Council of Economic Advisors, the National Security Council and the Office of Emergency Planning. 448 F. 2d at 1075 & n. 22. Congress contemplated that OST would be sufficiently disitinct from the President's staff to be beyond the reach of executive privilege and thus responsible to Congress.

[14] The result may be that there is no "final opinion" of the agency—NIMH—accompanying its decision on whether to make a grant award. Whether this comports with existing notions of administrative fairness is not an issue in this case, nor do we see how it could be an issue for the courts in the absence of a legislative provision for judicial review of the decision.

[15] The rather sparse legislative history of

Section 2 of the APA is collected in Freedman, *supra* note 9, at 6–12, and analyzed with reference to the meaning of "agency." That history tends to confirm our view that IRGs are not agencies. STAFF OF SENATE COMM. ON THE JUDICIARY, REPORT ON THE ADMIN. PROC. ACT, 79th Cong., 1st Sess. 13. (Comm. Print 1945): "'Authority means any officer or board, whether within another agency or not, which by law has authority to take final and binding action with or *without appeal to* some superior administrative authority." *See* H. REP. No. 1980, 79th Cong., 2d Sess. 19 (1946). *See also* ATTORNEY GENERAL'S MANUAL ON THE ADMINISTRATIVE PROCEDURE ACT 9 (1947).

Whether the IRG is subject to the disclosure requirements of the Federal Advisory Committee Act, 5 U.S.C. App. I, § 10, is not a question before this court. We note, however, that that Act makes the FOIA standards applicable to advisory committees' reports and other papers only insofar as the head of the agency to which the committee reports fails to determine in writing that the reports or documents contain information within an exemption to the FOIA. *Id.* § 10(d). Whether such a determination has been made respecting IRG reports is not disclosed by the record in this case. *But see* Summary Statement, Dept. of HEW (Notice of determination to close certain meetings under authority of Executive Order 11671 of June 5, 1972), in *U. S. Government Information Policies and Practices, supra* note 4, at 3633, which made the same determination under the pre-Committee Act regime established by executive order. Similarly, the court is not now called upon to decide whether failure to make such a determination subjects the affected information to disclosure at the instance of "any person" as under the FOIA.

[16] From the Summary Statement submitted for *in camera* inspection it appears that exemption is claimed for the resume of the IRG's review and reasons, but not for the resume of the project itself, which gives only the most general indication of its subject matter and cannot be regarded as anything but purely factual and nonexempt.

[17] The critique is specifically directed to the following issues:

Are the aims logical? Is the approach valid and adequate? Are the procedures feasible? Is the research likely to produce new data and concepts or confirm existing hypotheses? What is the significance and pertinence of the proposed work with regard to the state of the field and importance of the aims? For continuation and supplemental requests, comment on past progress.

[18] When the IRG is an ad hoc committee, the names and institutional affiliations of each reviewer are listed. Five additional criteria are to be addressed in the case of foreign applications.

[19] The site visit report, which is two and one-half pages in length, is not summarized but rather incorporated by reference. Were it summarized the principle discussed in the text would apply equally to that summary.

[20] As in *Montrose Chemical*, the court does not confront a situation in which the underlying information, a summary of which is determined to be exempt is itself secreted from public inspection, and in which we said "a different result might be reached." The proposals summarized in item (2) are available by virtue of our holding in Part II.A, *supra*. The site visit reports summarized in item (9), insofar as purely factual, were not even claimed to be exempt, although, as appellant points out, they have very little factual content.

[21] The parties "agreed that the determinations made by the court based on this example would control the disposition as to other smilar material covered by plaintiff's request and presently withheld." 366 F. Supp. at 932.

[22] The proposal in question did not require the use of technical medical equipment, which undoubtedly made the question of facilities irrelevant to the IRG's evaluation of the application.

[23] The District Court rejected appellant's argument that Exemption 6, which applies to certain files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is an alternative ground for non-disclosure of any references, in the Summary Statements and site visit reports, to the professional qualifications or competence of a particular researcher. Our holding that the non-factual information in these documents falls within Exemption 5 extends to these expressions of opinion, and we therefore need not reach the merits of this argument.

Neither do we need to deal with the District Court's intimation that under certain circumstances HEW may delete from the site visit report or the Summary Statement an expression of opinion adverse to the qualifications or competence of particular individuals involved in the research project under consideration. The District Court, of course, found that these documents constituted the opinions of an agency and were disclosable as such; and it then referred to a provision of FOIA which says that an agency may make such deletions in an opinion. 5 U.S.C. 552(a) (3). We, of course, have reached a different conclusion on this latter score, and under our approach the deletion authority contained in the statute is not applicable.

[24] The District Court itself prefaced its consideration of this prospective relief with the words, "Apart from resolution of the instant controversy . . . ."

TRIBUTE TO CLIFFORD McINTIRE

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 8, 1974

Mr. SHRIVER. Mr. Speaker, I want to take this opportunity to pay tribute to a former colleague, Clifford McIntire of Maine. His untimely death has saddened all of us who knew him, and who served with him in this body.

Cliff was a dedicated and conscientious member of the House Agriculture Committee, and, throughout his service on that committee, played an important role in shaping our national agricultural policy.

After leaving the House of Representatives he continued his work in agriculture with the American Farm Bureau Federation, as director of the Natural Resources Department, and director of legislation. He served on the President's Task Force on Rural Development, the Advisory Council of the Public Land Laws Review Commission, and had just been appointed by President Ford as a director of the U.S. Railway Association.

Clifford McIntire was a dedicated legislator during his seven terms in the House, but in addition to his fine work here, he will be remembered as a man of dignity and integrity, and a fine friend and colleague. I extend my deepest sympathy to his widow, Wilda, and his entire family.

THE SERIOUSNESS OF FOREIGN OIL PRICING

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. WYMAN. Mr. Speaker, the enormous impact on the economies of major world powers of the unreasonably high OPEC nation oil pricing policy can become a world disaster in a matter of months. It can destroy nations as completely as aggression. Eventually it can destroy its authors because its ultimate effect is to precipitate worldwide inflation, starvation, unrest and eventual revolution.

The OPEC nations must cut their oil price at least in half and do it now. Even with a 50 percent reduction they will have more money than they know what to do with.

In this connection the attached articles by James Reston in the New York Times and Roberta Hornig in the Washington Star-News are significant:

[From the New York Times, Sept. 29, 1974]

STATE DEPARTMENT SUMMIT

(By James Reston)

WASHINGTON, September 28.—Over the weekend, the foreign and finance ministers of the United States, Britain, West Germany, France and Japan have been meeting privately at State Department to discuss the world economic crisis. This is the first indication that the major industrial nations have finally recognized that they must try to agree on common policies to deal with the common threat of worldwide inflation, soaring prices of oil and other raw materials and the consequent danger of economic depression and financial, social and political anarchy.

This was a limited meeting with limited purposes, and with some awkward handicaps. Canada, Italy, the Scandinavian countries and many others were left out, but it was at least a beginning by the big boys toward cooperation.

Earlier this year, they were dealing with this critical problem separately, and fussing with one another about how to analyze what everybody agreed was a worldwide crisis.

President Ford and Secretary of State Kissinger have been criticized in the last few days for overdramatizing the problem and seeming to threaten the oil-producing states with military action, if the latter did not roll back the prices that were disrupting the economies of the industrial and underdeveloped states alike.

"Sovereign nations," Mr. Ford said in Michigan the other day, "cannot allow their policies to be dictated or their fate decided by artificial rigging and distortion of world commodity prices."

"Throughout history," he added, "nations have gone to war over natural advantages such as water, food or convenient passages on land or sea." And now, he insisted, "exorbitant" oil prices set by the oil-producing nations and their cartel were threatening "the breakdown of world order and safety."

Mr. Kissinger was more subtle, but Mr. Ford's remarks were taken in the Arab world as a military threat, and this troubled the Japanese and the Europeans, for the threat did not seem to be credible. It violated the first rule of diplomacy, namely, that nations should never threaten to do what they are not prepared to do, or suggest policies their allies could not afford to support.

Nevertheless, the Ford-Kissinger speeches did dramatize the dangers, and, what was largely forgotten, insisted that cooperation by the industrial nations with one another and with the oil-producing nations was imperative if the world was not to drift into political, social and financial chaos.

What the President and the Secretary of State were saying, not too subtly, was that a continuation of soaring oil prices would shatter the world as we know it, that it would lead to unemployment and human misery all over the world, that democracy might not be able to survive inflation at the present rate and that it might even lead to Communist or other authoritarian governments in many parts of what now remains of the free world.

The facts before the ministers at the State Department were not in dispute. These facts demonstrated the strain on the industrial nations by the rise in oil prices and also the dramatic swing of monetary reserves to the producers of oil. Here are the basic facts and projections of the money flowing out of the industrial nations and to the oil producers as the result of the rising price of fuel.

PAYMENTS MADE

[In billions of dollars]

Year	United States	Other major importers
1972	4.9	14.0
1973	8.5	21.1
1974	25.2	74.8
1975	27.0	81.0
1976	30.3	90.7
1980	43.3	129.7
1985	64.0	192.0

The movement of revenues into the oil producing (OPEC) countries over this same period is estimated by the United States Government and the World Bank as follows:

[In billions of dollars]

Year	Oil revenues of OPEC countries	Reserves of OPEC countries
1972	18.9	
1973	29.6	26
1974	100.0	
1975	108.0	170
1976	121.0	
1980	173.0	653
1985	256.0	1,206

On the basis of these staggering figures, the primary questions before the ministers in Washington were how the oil-consuming nations were going to meet these bills, and what the oil-producing countries were going to do with this vast and growing accumulation of petro-dollars.

The trend in the industrial world is toward more unemployment and social and political disruption. In the underdeveloped world, particularly in Africa and the Indian subcontinent, the trend is toward hunger, malnutrition and death. In the oil-producing countries, the trend is toward riches almost beyond absorption and control. In the world at large, the trend is obviously toward revolutionary change.

No wonder, then, that the State Department was surrounded this weekend with secrecy and security measures. The major nations have just begun to think together about the alarming consequences of the inflation. They are all diverted by domestic, economic and political crises, with weak governments, most of them facing elections, but at least they are now recognizing that they are faced with problems beyond their national control and have to find international remedies for what is obviously a worldwide danger.

[From the Washington Star-News, Oct. 16, 1974]

U.S. TIGHTENING SCRUTINY OF OIL NATIONS' INVESTING

(By Roberta Hornig)

The U.S. government is moving to determine if the oil-producing nations could upset the American economy through their foreign investments and bank transactions.

The tightening of monitoring procedures to better determine how members of the Organization of Petroleum Exporting Countries (OPEC) are investing their oil revenues was revealed today by Treasury Secretary William E. Simon in testimony submitted to the Senate Permanent Investigations subcommittee.

Specifically, Simon said, his department "is about to put into effect" a new weekly and monthly reporting requirement for banks doing business in the United States, and with branches elsewhere.

Further, he said, the government intends to study the adequacy of the present data-acquiring programs now conducted by various U.S. government agencies to get a better analysis of foreign investments.

The testimony by Simon, who is in Russia, is in answer to questions from Sen. Henry M. Jackson, D-Wash., whose Senate subcommittee is holding hearings today on the impact of high oil prices on the world economy.

Also scheduled to testify are Alan Greenspan, chairman of the President's Council of Economic Advisers; Interior Secretary Rogers C. B. Morton, who is also the Ford administration's new chief energy spokesman; and John Sawhill, chief of the Federal Energy Administration.

One of Simon's major points is that none of the oil-consuming nations knows exactly what the oil producers are doing with their growing revenues accruing from higher oil prices.

"We must recognize that OPEC countries are not prepared to inform fully the United States government, other countries, or international agencies as to the nature and location of their investments throughout the world or their future plans for imports of goods and services," Simon said.

Simon estimated that OPEC invested $7 billion in the United States between Jan. 1 and Aug. 31 this year. "of which over $4 billion, perhaps $5 billion, in U.S. treasury bills and other marketable government securities."

He estimated that the OPEC countries, during the same period, had invested about $3 billion in the United Kingdom and $2 billion in other European countries and Japan; a half-billion in international institution bonds; $2.5 billion in less developed countries and $13 billion in European currency markets.

Legislation requiring the Treasury and Commerce Departments to undertake a comprehensive study of existing investments in the United States is now pending in both the Senate and House and is supported by the Ford administration.

OPEC surpluses are being estimated now at a rate of roughly $5 billion a month.

Simon, in his testimony, said that "we cannot project with sufficient validity to be useful the volume of oil-producer funds which may be placed in any particular money market in the future."

He said that even in countries with more comprehensive systems to monitor capital imports, "it is often impossible to identify with certainly the ultimate beneficial owner of invested funds. In virtually all countries, banks are allowed to preserve confidentially . . . the identity of their depositors . . ."

Simon said the weekly reports to be required from banks will enable a better monitoring of "current developments" as they might affect the exchange value of the dollar. The monthly reports, he said, will give "a more comprehensive view of the banks' positions in major foreign currency."

Simon also listed 29 countries cited by the United Nations as being confronted with the potential of near-term bankruptcy or financial collapse because of high energy costs.

The countries include Cameroon, Central African Republic, Chad, Kenya, Lesotho, Malagasy Republic, Mali, Mauritania, Niger, Sierra Leone, Somalia, Sudan, Tanzania, Upper Volta, Bangladesh, India, Pakistan, Sri Lanka, Haiti, Senegal, El Salvador, Guyana, Honduras, Dahomey, Ghana, Ivory Coast, Guinea, the Yemen Arab Republic and the Democratic Republic of Yemen.

THE FACES OF HUNGER

HON. RALPH H. METCALFE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 16, 1974

Mr. METCALFE. Mr. Speaker, one of the most serious problems facing the world today is the specter of increasing world hunger. Drought, famine, natural disasters, and, unfortunately, governmental mismanagement and insensitivity have caused the deaths of many people throughout the world. What is even worse, it has been estimated that an additional 500 million people are in great danger of starving to death if steps are not taken quickly to alleviate their plight.

Presently, the areas where the problems of hunger are most severe are the Sahel region of West Africa, parts of East Africa, and the countries of South Asia. These areas, which contain some of the poorest nations in the world, have been struggling under the burden of a severe drought for the last 6 years. In order to bring the magnitude of hunger and death in these areas to the attention of the American people, the Chicago Tribune has been printing a series of articles on these drought-stricken areas. These articles have been excellently researched, written, and photographed by Tribune reporter William Mullen and Tribune photographer Ovie Carter, who spent nearly 3 months traveling through these areas. They are to be highly commended for their fine work, and the Chicago Tribune is also to be highly commended for helping to bring the problems of world hunger to our attention.

Mr. Speaker, the articles on world hunger which are being printed in the Chicago Tribune are informative and very moving. I include the first of these articles in the RECORD at this point. I am sure that my colleagues will find them informative, and I hope that they will help stimulate congressional action on this vital issue.

The article follows:

THE FACES OF HUNGER—FAMINE: SLOW DEATH OF 500 MILLION PEOPLE

(By William Mullen)

It is the same sun that rises each day over Singimarie Pachuniper, a tiny village in eastern India, and Kao, a tiny village in central Niger in the middle of Africa.

Dawn comes first to a refugee camp for farmers in Singimarie where 6-year-old Saku Barman rises unsteadily to his feet and totters out of an open lean-to into a listless day of numbing hunger.

Six hours later, dawn comes to the Sahara nomad camp in Kao where a spindly 4-year-old girl named Hameda weakly gets to her feet to face the same sort of day.

Once in the sun, Saku and Hameda, though *5,500 miles* apart, cast the same shadow.

They are the shadows of ghastly apparitions, of walking child-skeletons, doomed by the same natural and man-made forces to a short, unhappy existence on Earth.

"I don't think Hameda will survive much longer," a village official told Tribune photographer Ovie Carter and me when we visited on a chilly desert morning early in August.

"It will only take a cold now, or a case of diarrhea, and she will be gone."

Already too weak to stand on her own for long, Hameda's emaciated body clung spider-like to her mother's back most of the day.

Mother and child stayed close to each other and close to their skin tent. A row of tents stretched like a finger from the village into the rolling, brown desert dunes.

"There just isn't enough food coming in," the village official said. "We are losing two or three people every day now."

When we visited Singimarie several weeks later, the village teacher gave Saku Barman about the same chances for survival.

"Unless he gets some milk within a few days," the teacher said, "he will be dead. Twenty people have died already this week."

Saku and a younger sister spent their days walking like stick figures through the sweltering little town, wandering among a gaunt, ragged populace that was just as hungry as they.

Hameda is black, the child of desert nomads whose cattle and livelihood has been destroyed by a six-year African drouth.

Saku is brown, the child of rice farmers killed in a devastating August flood in India.

Until this summer, they were children of different worlds, separated by race, religion, culture, and way of life.

Weakened in the aftermath of flood and drought, starved by the world's inability to get food to them when they needed it most, they faced the same fate.

By the end of the summer, Saku and Hameda looked like brother and sister—dirty, naked, and dying. Their faces were no longer the faces of children, but immobile masks, deeply lined with unfilled form of skin.

The only emotion left was the terror that sometimes silently filled their eyes while they sat quietly thru the day, haunted perhaps by their own private child dreams.

By now it is likely Saku and Hameda are dead.

The thin lifeline of trucks that brought irregular food shipments to Hameda's village was stopped in the middle of August.

When we visited Saku's village, India had no food at all to deliver there. The government was just starting to ask around the world for emergency food donations.

The story of Hameda and Saku is, of course, not a new one. Famine has been a killer every year since history began.

But there is growing concern among world food, agricultural, and weather experts that the world has fallen into a situation much more serious than ever before.

They fear that the many thousands of children like Saku and Hameda who died this year have been carried away in the first wave of what may become the greatest disaster in history.

Many experts are predicting 500 million people will perish in famine by the year 2000.

Sayed A. Marei, secretary-general of the World Food Conference which will convene in Rome next month, believes current crop failures and poor food distribution have left 400 million people "permanently hungry."

"Over the past two years it [the food shortage] has become so serious that it quite literally threatens the survival of hundreds of millions of human beings around the world," Marei said.

"Such a threat carries with it the gravest implications for the peace and security of the world."

In three months of travel thru the African Sahel—the semi-desert area just south of the Sahara—and the flood-stricken northeast section of India, we saw why the experts are worried.

We saw in West Africa thousands upon thousands of acres of once productive pastureland destroyed by the growing Sahara Desert. No amount of aid or work could reclaim it—and so the entire lifestyle of nomadic cattlemen, who for centuries were able to live off the land, has been destroyed.

In Ethiopia we saw the aftermath of the drought destroy Emperor Haile Selassie's government and throw the nation into turmoil that threatens to disrupt any concentrated development effort for years.

In India we saw the intense resistance by mothers and fathers to any form of birth control. Their reasoning was simple. They must have at least six or seven children so that one or two would survive to adulthood and take care of them in their old age.

The story was the same in each of the countries we visited—Senegal, Mauritania, Malie, Upper Volta, Niger, Chad, Ethiopia, and India. Each country has more people than it has land and resources to feed them.

Tho the catastrophic drouth in West Africa and Ethiopia seemed to have been broken this year with a near-normal rainy season, people continue to die in the remote bush because it is impossible to get food to them.

India, which even in good years loses thousands of people to malnutrition, is quietly bracing for its worst famine since 1943.

The problem is that in recent years nearly everything that could go wrong with food production has gone wrong—and all at the same time:

The global energy crisis has dried up the flow of fuel and fertilizer to poor developing nations which, when they began using them in the last decade, thought they were going to be self-sufficient food producers.

World inflation and recession has forced the cutback in millions of dollars of development assistance from wealthy nations to the poor.

Emergency food reserves held by the world's wealthy nations have been depleted to their lowest level since World War II by several years of massive crop failures and natural calamities.

Erratic global weather patterns have wreaked havoc in the form of floods, storms, and drouth on millions of acres of crops in Africa, India, Russia, and North and South America. This year experts are predicting at least 2 per cent less food will be harvested than last year.

The impact of food production in one nation on the wellbeing of people in another nation on the other side of the world is very real and immediate.

Failures of the corn crop in Illinois this summer most certainly mean prices will go up and somebody, somewhere in the world for lack of money to buy the corn will go hungry.

Crop failures in Russia that two years ago forced the secret sale of 30 million tons of wheat from the U.S. had a dramatic effect on the rising price of bread for American housewives.

When Chicagoans last winter impatiently cursed their way thru lines at gas rationing service stations, farmers in India could not get gasoline to operate their irrigation pumps nor could they get petroleum based fertilizers for their crops.

Indian farmers, who were growing surplus crops three years ago, will harvest an estimated 10 million tons less food this year than the nation needs. That food the country can ill afford to replace thru world purchases.

While American mothers complained in the supermarkets this year about the mounting prices of bread and milk, the rising prices were causing more serious problems in Africa and India.

World grain prices shot up so steeply that the government of Niger couldn't buy and deliver enough food to Hameda's village, and she began to die.

Milk became so short in supply in the U.S. that we could no longer ship it to nations dependent on our powdered milk—like India—and Saku Barman began to die.

President Ford expressed his concern when he told the United Nations on Sept. 18:

"Developing and developed countries . . . we are all a part of one interdependent economic system.

"The food and oil crises demonstrate the extent of our interdependence. Many developing nations need the food surplus of a few developed nations, and many industrialized nations need the oil production of a few developing nations.

"Let us not delude ourselves. Failure to cooperate on oil and food inflation could spell disaster for every nation represented in this room."

Ford pledged that the U.S. would substantially increase its development aid to projects geared to increasing food production.

When he announced the U.S. would spend $475 million on such projects compared to the $253 million spent this year, however, the nation which will be receiving the aid were disappointed.

They were expecting far more, and in fact will ask for far more from all wealthy nations at the Rome conference.

They insist the main cause of the problem is unfair distribution of the world's wealth, noting that the U.S. has 6 percent of the world's goods and services.

The poor nations argue that birth rates of Europe and America have been steadily declining in proportion to the rising standard of living and education of their populations.

The same thing would happen, they say, if the wealthy nations transfused more of their wealth into the development of poor nations.

Dr. M. S. Swaminathan, director general of the India Council for Agricultural Research, said he hopes the U.S. will be won over to that point of view by the time the Rome conference starts.

"The crucial role the U.S. must play in Rome this November is to put the political will of the developed nations to work to alter the world's food problems," he said.

"Today's food problems are too important for more words. They need commitment and action."

At the conference, the poor nations will be asking the U.S. and Europe to buy them dam projects, irrigation systems, fertilizer, roads, and expertise.

"President Kennedy said we could wipe out hunger within our lifetime given the political will to do so," Swaminathan said.

"I think he was right, and I think he proved his point when you put a man on the moon. He wanted America to put a man there within 10 years. There was political will to do so, and it was done."

There is considerable doubt that the U.S. and Europe, reeling from inflation and recession, would be willing to foot the bill for the sort of assistance the poor nations will seek in Rome.

Rather than increasing its foreign aid, in recent years the U.S. has been cutting back both in money commitments and in the scope of its aid.

"Big showcase projects—building dams and highways—just isn't our bag anymore," one U.S. official in Ethiopia told me.

No matter how large or small foreign aid becomes in scope, it may not be able to alter the vast problems confronting us in the end.

Five years ago there was great hope that the so-called "green revolution" must wipe out hunger and malnutrition.

Scientists came up with new plant varieties and irrigation and fertilization schemes that transformed several chronic food-short nations in Asia and South America into food exporting nations.

But the scientists have yet to come up with a magic formula to curb the greed and self-interest of oil and fertilizer producing nations. They have put the green revolution out of reach for most of the world's farmers by quadrupling the price of oil and fertilizer in the last two years.

Medicine has tried to help by sending cheap vaccines to the far corners of the Earth, eradicating dozens of fatal diseases, doubling the life expectancy of the people of India and Africa.

But medicine has yet to develop a vaccine that could have filled the empty stomachs of the children of Singimarie when the village ran out of food.

Nor has medicine found a pill that cures the colds or the dehydrating attacks of diarrhea that were killing the malnourished children of Kao.

Massive dosages of foreign aid could build dams and harness rivers to help the impoverished nations of the world become self-sufficient.

But no amount of money can buy a monsoon season when the rain fails and the rivers go dry and the irrigation ponds evaporate.

In the villages and camps where people have already started to die, the arguments, speculation, and expectations for manmade solutions seem far away.

In those dark, faraway places where people day by day watch hunger erode the bodies of their families and neighbors, there is a quiet almost ethereal acceptance of things.

A mother's comforting hand placed on her starving child's head replaces words.

A father's prayer gives them hope.

"It is up to Allah," a nomadic tribesman told me in Niger. "If He wants us to live, we will get rain. If He wants us to die, then we shall surely die."

HONOR MEDAL FOR LOCAL SCOUT

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. MATHIS of Georgia. Mr. Speaker, on September 29, I had the privilege of presenting to a constituent of mine, Scout Joe Jones of Troop 106 in Albany, Ga., the Honor Medal for Heroism.

The Honor Medal, awarded by the National Court of Honor of the Boy Scouts of America, is given in rare circumstances when an individual saves a life or lives at the risk of his own.

Joe was credited with rescuing a 4-year-old neighbor from the swirling waters of a flood drainage ditch, right in front of a large culvert which carries water under the street. A local investigating committee determined that the young girl would certainly have drowned if it had not been for Joe's quick action. He, too, could have drowned in the deep water or been sucked into the culvert to certain death.

Mr. Speaker, I was especially honored to present Joe this award because he is not only my neighbor and a close friend of my son, he also brings such high credit to his family, friends, and church. I am enclosing a copy of an article that appeared in the Albany Sunday Herald regarding Joe's meritorious act prior to the receipt of his medal:

JUST A MATTER OF REFLEXES

(By Yvonne Williams)

"It all happened so fast, it was just reflexes, I guess," said 12-year-old Joe Jones.

The efforts of Jones to save the life of 4½-year-old Holly McGaughey from drowning last February belies the myth that Boy Scouts are concerned primarily with merit badges and camping.

The 12-year-old Jones lives at 415 Forest Glen Road and is a member of Boy Scout Troop 106 sponsored by Porterfield Methodist Church.

On that day in late February Joe stayed home from school with a slight fever. It had been raining heavily all day and he went outside to look at the flooded street in front of his house.

The McGaughey girl who lived several houses down from Joe was also outside and she talked for a while with Joe before going off to play in the flooded streets.

SWIFT CURRENT

Holly stopped to play on a curb where two flooded culverts drained beneath the street. A swift current had formed due to the large amounts of water being forced through the small four-foot wide drainage culverts. The water traveled through drainage pipes under the street for about 50 feet until it reached an opening on the other side of the street.

"Scum and debris had gathered on top of the water in the ditch and Holly must have thought you could walk on it," said Jones.

"She stepped off the edge and sunk like a rock," he said. The boy said he recalls the little girl "bobbing up" once and then going back under the fast moving water. Realizing that he could not reach her from the curb, Joe jumped into the swirling water.

Investigators have estimated that the water Holly fell into was some nine feet deep.

"I don't know how deep the water was but I know that it came up to my neck and I never did touch the bottom," said Joe.

"I grabbed Holly and set her up on the bank and then pulled myself out of the water. She was crying and coughing at the same time and I told her not to cry because she might swallow water. I just kept telling her that everything was all right."

Joe then rinsed all the mud and debris off of Holly with the garden hose and sent her home to put on dry clothes.

On Sept. 29, at Porterfield Methodist Church, Jones will be presented with the Honor Medal by Congressman Dawson Mathis for the National Scout Council's Court of Honor for his efforts in saving the life of his 4½-year-old neighbor.

According to the Boy Scout manual, the Honor Medal is awarded to Scouts who saved life or attempted to save life at the risk of their own. They must have shown heroism, resourcefulness, and skill.

The three-member Advancement Committee for the Chehaw Boy Scout Council was appointed to make a full investigation of the near tragic event and to submit a report to the National Scout Council.

The report submitted by Chairman Eugene Black Jr., Ron Dorminey and Sal Giovingo, said that although Joe's action "while brief, was definitely at the risk of his own life." The report said that "both children were in grave danger of being swept into the culverts and carried beneath the street through the culvert."

QUICK ACTION

The three men on the Scout Advancement Committee said they felt that "Holly McGaughey is alive and well today solely because of the quick and appropriate reaction of Joe Jones."

In addition to the award, Joe has been notified by Woodrow Sasser of American Family Life Insurance Co. of Columbus that he will receive a $500 scholarship.

Joe's parents, Mr. and Mrs. R. Bruce Jones, and his older brother Rickey say they are very proud of Joe's efforts to save the little girl from drowning.

"We really believe in Scouting," said Bruce Jones, "nowadays it's the best training you can give a boy."

MAOIST REGIME SUCCEEDS IN HAVING CONFUCIUS PLAQUE REMOVED FROM U.N. HEADQUARTERS

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. FISHER. Mr. Speaker, a strange and significant event occurred in the United Nations on September 16 which has received little notice in the news media. I am referring to the removal, at the behest of Red Chinese, of the green marble plaque which was presented by the Republic of China in 1968 to commemorate the 25th anniversary of the founding of the world organization.

We are informed the plaque was inscribed with Confucius "Ta Tung Essay," the great commonwealth of peace and prosperity in which mutual confidence is promoted and good neighborliness cultivated. This, we are told, is the main thought of Confucius and this is also the lofty ideals and principles with which Dr. Sun Yat-sen, the Chinese national father, founded the Republic of China.

It would appear, therefore, that the conception of Confucian "Ta Tung Essay" is completely in line with the principles embodied in the Charter of the United Nations. And it would appear the Communist action in having the plaque removed was highly reprehensible and in effect a challenge against the U.N. Charter.

Under leave to extend my remarks, I include an article which appeared in the October 6, 1974, issue of Free China Weekly. This article relates to the reaction of President Chiang Kai-shek in regard to the removal of the plaque. The article follows:

PRESIDENT SAYS COMMUNISTS SHOW FEAR OF CONFUCIUS IDEALS IN INCIDENT AT U.N.

President Chiang Kai-shek declared Sept. 29 that the removal of the Confucius marble plaque from the U.N. headquarters in New York was another indication of the Chinese Communists' fear of the pervasive influence of the Sage's teachings.

In a message to the Confucius-Mencius Society, holding its annual convention at the City Auditorium, President Chiang said the U.N. Secretariat knuckled under to the persistent demands of the Chinese Communists and removed the marble plaque from the U.N. building last Sept. 16.

The marble plaque was presented to the U.N. by the Republic of China six and a half years ago. The plaque was inscribed with an excerpt from "The Great Learning", one of the Four Books of Confucius classics. The quotation is from a Confucius ideal of a utopian commonwealth.

President Chiang, the honorary president of the Confucius-Mencius Society, said the Chinese Communists have revealed their fear of the deep and pervasive influence of the traditional Chinese culture by insisting that the plaque be removed. They fear, he said, that the Confucius ideals will permeate the whole world. They had to have the plaque removed because it was a constant reminder of the contrast of Mao Tse-tung's atrocities and crimes.

President Chiang also told the convention that the anti-Confucius drive, which has been going on for some time on the China mainland, is an indication of Chinese Communist fear for the San Min Chu I (Three People's Principles), which embodies the Confucian teachings. The ideals are deeply-ingrained in the Chinese culture. Any anti-Confucian drive, said the President, is against the very essence of traditional Chinese culture and is doomed to fail.

The teachings of Confucius, President Chiang continued, are everlasting and irrepressible. They are always new and fresh. Light and justice will in the long run prevail over darkness and dictatorship. Now that Mao has amassed all the evils in the world in himself, President Chiang declared, the anti-Confucius drive will only hasten his downfall.

The President said Confucius has preached "benevolence" throughout Chinese history. Confucian students who have practised the Sage's teachings have come to the fore to defend the nation in its dark hours. He told members of the Confucius-Mencius Society that Confucian teachings again would help the nation in its task of national recovery.

FAKE CLAIMS RISE FOR D.C. WELFARE

HON. STANFORD E. PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. PARRIS. Mr. Speaker, public assistance statistics for April 1974 published by HEW this past August indicate that in April of this year, 30,010 District of Columbia families with 74,117 children, a total of 101,585 recipients, received $7,046,927 under the aid to families with dependent children—AFDC—program, a significant rise over the February 1972 figures which showed 88,550 recipients and $4,957,436 in AFDC expenditures. A shocking corollary may be drawn from the above figures in light of the revelation by the October 11 issue of the Washington Star-News that in 1973 and 1974, according to a survey by the D.C. Department of Human Resources, an average of 12.6 percent of the welfare recipients were ineligible for aid, 25.4 percent were overpaid, and 4.2 percent were underpaid. In summary, these statistics mean that approximately 42.2 percent of welfare cases have been receiving an incorrect grant. The District of Columbia has been paying an average of $2,818 per year to 3,781 ineligible AFDC cases, an estimated $758 per year in overpayments to 7,623 cases, and an average of $758 per year less to 1,260 cases.

Through projection, the AFDC payments to ineligibles and overpayments—less underpayments—result in an annual cost of over $15.5 million in Federal and D.C. funds.

Since welfare recipients automatically qualify for the food stamp program, most AFDC families can get them as "assistance" households. The monthly average number of food stamp recipients, in the District of Columbia during fiscal year 1974 was in excess of 113,500 of whom 85,800 were on public assistance. It is estimated that the bonus value of food stamps issued to the latter group in fiscal year 1974 amounted to $17,049,328. Since 12.6 percent of recipients on welfare rolls were found to be ineligible in fiscal year 1974, a conclusion can be made that this group received $2,148,215 in bonus value of food stamps. The amount of overpayments that went to the 25.4 percent group is difficult to estimate. It is conservatively estimated to be about $550,000.

Abuses of these two welfare programs cost the taxpayer $18.2 million, a sizeable sum which exceeds by a factor of 5 the amount the D.C. taxpaying families with incomes above $15,000 would pay in surtax should that proposed revenue-raising measure become a reality.

President Ford in his comments on the proposed surtax stated that an average $15,000/year income family will pay *only* $72/year more in taxes. Should 1970 statistics on the income of D.C. families hold true today, this means an added revenue of about $3 million, a far cry from the welfare boondoggle of $18.2 million. This is the reason why I and some 100 of my colleagues in the House of Representatives believe that our first priority is to eliminate this wasteful spending before we legislate additional taxes on the already overburdened productive sector of our society.

The Washington Star-News article of October 11, 1974, follows:

FAKE CLAIMS RISE FOR D.C. WELFARE

The number of people illegally receiving welfare payments in the District rose 3.3 percent this year, according to a survey by the D.C. Department of Human Resources.

Between 1973 and 1974, the study indicates, an average of 12.6 percent of the welfare recipients were ineligible for aid. In addition, 25.4 percent of the recipients were overpaid and 4.2 percent were underpaid.

Both this year and last year 800 of the more than 29,000 public assistance cases were sampled to indicate the rates of errors made in public assistance.

Joseph L. Yeldell, director of the human resources department, said the city has until June 30 to meet federal guidelines that set maximum levels of 3-percent ineligibility and 5 percent overpayment.

Failure to meet these standards could mean the loss of $1.6 million in federal funds during a six-month period, Yeldell said yesterday.

Yeldell blamed the increase in errors on a lack of adequate staff in the payments assistance administration and on procedural changes required by federal regulations.

Last January, Yeldell announced that all new public assistance applications would be thoroughly checked out to reduce the number of errors.

Yesterday, he said that beginning Nov. 1 the payments assistanance administration would be reorganized, staff will be increased and every case on the roles will be reviewed before June 30.

Yeldell said the agency workers will visit each home within five days of application and also will rectify all cases every 90 or 80 days.

Additional personnel will be hired immediately, using federal funds under the Comprehensive Employment Training Act. The new employes will be clerks, aides and computer operators. They must be District residents who have been unemployed for 30 days or more and "to the maximum extent possible, current public assistance recipients will be hired," Yeldell said.

He said his department expects to receive about half of the $2 million given to the District under the CETA program administered by the U.S. Department of Labor.

The federal money expires after 13 months. At that time, Yeldell said, he hopes to keep the additional employes on with District funds. He said that even with the increased staff, there will be about 100 vacancies in his department.

THE BICENTENNIAL CHALLENGE—STRENGTHENING INTERNATIONAL MUTUAL UNDERSTANDING

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. STEIGER of Wisconsin. Mr. Speaker, original sound ideas are rare, and when they are presented they merit special attention. One such idea, world peace through mutual understanding internationally of people to people, was propounded recently by Deputy Assistant Secretary of State Alan A. Reich to the Rotary Club of New York.

Secretary Reich presented a 12-point program through which American voluntary associations could effectively play a role toward furthering world peace through mutual understanding. Through his broad experience, Secretary Reich is well qualified to present such a practical program to the American people. His recommendations merit the thoughtful consideration of all who read the CONGRESSIONAL RECORD.

The speech follows:

BICENTENNIAL CHALLENGE—STRENGTHENING INTERNATIONAL MUTUAL UNDERSTANDING

INTRODUCTION

It is a pleasure and privilege to address again the New York Rotary Club and particularly on the subject of the "Bicentennial Challenge and Strengthening International Mutual Understanding." This Club has had over the years an international program with considerable radiating impact. New York City, since its founding, has lead in the development of the nation and of the American ideals to be commemorated in 1976. New York symbolizes for the United States and the world the internationalism and global concern required of Americans as we enter our third century.

The American Revolution Bicentennial commemoration is international.

The American Revolution Bicentennial Administration has designated three themes—heritage, festival, and horizons—for the Commemoration. Each has important international implications. The heritage theme recalls the ethnic origins and diversity of America and the fact that our way of life owes much to other peoples of the world. Their contributions find rich expression throughout the United States. Reflecting together upon this heritage and its meaning will result in significant and constructive international dialogue.

Recently I somewhat mistakenly referred to "*our* Bicentennial" in a conversation with a cabinet minister of a nation making plans for the Commemoration. He interrupted and noted politely, "The Spirit of '76 belongs to us, too, you know!" His remark brought home to me the fact that others around the world share with us and hold dear the ideals and values associated with our Revolutionary period. Other nations have been guided by the American model in establishing their systems of governments. George Washington's words, "the basis of our political system is the right of people to make and to alter their constitutions of governments" have had world-wide meaning.

The festival theme suggests the opportunities international visitors will have to discover and get to know America and our people. Over a year ago, the President, through the Department of State and our embassies, officially invited other nations to participate in the Commemoration. It will be much more than a celebration, more than parades, and more than fireworks. There will be cultural, sports, arts, and other attractions both in the United States and abroad which will enhance the understanding of our respective achievements and societies.

Last month, appreciation of the American democratic system in surviving the Watergate problem was expressed by leaders and writers around the world. One Asian newspaper, traditionally anti-American, commented, "Never before have the ideals of freedom and democracy emerged more triumphant than from the trial and torment of Watergate. The whole world," the editorial added, "owes this land and people a solemn homage. . . ." Thomas Jefferson set the tone when he said, "Here we are not afraid to follow truth wherever it may lead, nor to tolerate any error as long as reason is left free to combat it." The United States is seen by peoples around the world as custodian of the ideals of democracy, and they wish to help ensure its continuation for the benefit of mankind.

The horizons theme of the Bicentennial is perhaps the most important to all of us because it looks to the future. John Adams put it succinctly when he said, "I like the dreams of the future better than the history of the past." The notion of the continuing revolution and all it stands for is captured in the growing awareness that we are interdependent; if mankind is indeed to survive, we must cooperate. Problems which a few years ago were national, now are global. Our neighbors' problems are ours, and vice versa. Improving the quality of life is a world-wide challenge.

Concerns with population, inflation, food, and resources require cooperative action. Strengthened informal relationships and people-to-people bonds help improve the climate for cooperation in solving these problems which know no national boundaries. The Commemoration will focus not only on the U.S. future, but also on goals and aspirations for mankind.

People-to-people relations further international mutual understanding and are relevant to world peace.

Why, you might ask, are people-to-people relations and informal communications activities of concern to the State Department? Formal diplomatic channels, of course, are crucial for the conduct of official business and the resolution of differences between nations. To an unprecedented degree, however, the problems nations confront, the means they choose to solve them, and even the perceptions people of one country have of another, evolve outside official channels. Diplomacy has gone public. Foreign affairs is no longer the exclusive domain of the professional diplomat. The tone and content of our international relations are set increasingly by the vastly expanding contacts which occur between Americans and other peoples of the world.

The geometric increase in citizen involvement in world affairs has special significance for the diplomat. When people-to-people bonds and networks for two-way communication are fully developed, there will be a greater readiness to seek accommodation, and to negotiate. When people know and understand each other and appreciate their differences, the likelihood of confrontation diminishes, and prospects for peaceful solutions are enhanced. This rationale governs the interest of the State Department in the furtherance of meaningful people-to-people interchange.

In the past few years, scholars increasingly have studied the relevance of informal, non-governmental communications activities to matters of war and peace. Social scientists are developing a more scientific base for such activities. Their research suggests that the existence of informal communications tends to reduce the level of tensions when conflicts of interest occur and contributes to a climate of opinion in which conflicts may be negotiated more effectively. Second, informal relationships create a greater openness in individual attitudes toward other nations, peoples, and cultures. These predispositions also lead to greater readiness to communicate and to resolve differences peaceably. Third, social scientists tell us that international cooperation and two-way exchange contribute to world-mindedness and to an internationalist perspective on what otherwise might be viewed as purely national problems.

Finally, international people-to-people relationships help develop enduring networks of communication which cut across political boundaries and reduce the likelihood of polarization along nationalist lines. The Bicentennial Commemoration provides both the occasion and the opportunity for expanding and strengthening these people-to people relationships.

Many bicentennial international activities are underway.

As you know, the Bicentennial Commemoration has no single national focus. It is nationwide, involving all our states, communities and people. In addition to the American Revolution Bicentennial Administration in Washintgon and the ten regional offices, every state has its own commission. Many cities, including, of course, New York, have commissions and active programs.

Many other governments of the world, as well as private individuals and organizations of other nations have asked the Department of State and the American Revolution Bicentennial Administration for suggestions as to what they might do to commemorate the Bicentennial and in the process strengthen ties with the American people. Many exciting Bicentennial activities are being planned by governments and peoples of other nations. A sampling includes:

Chairs in American studies to be established in foreign universities.

Estabilshment of chairs for studies of foreign nations in American universities.

Symphony orchestra tours to the United States.

National folk group participation in the Smithsonian Folklife Festival and in community festivals throughout the United States.

Endowment of library collection of Americana.

Commissioning of a number of historical books, studies, and films about the American experience.

Historical and philosophical conferences abroad on American civilization.

Theatre and opera tours and traveling museum exhibits to the United States.

As other nations are developing their Bicentennial programs, Americans too are incorporating an international dimension in their planning. Many of the local programs being organized and carried out by state and community Bicentennial groups involve peoples of other nations. Here in New York, you have a number of exciting international projects. The International Salute will feature exhibits from other nations.

The South Street Seaport Restoration Project in Lower Manhattan will recall New York's early maritime connections with the rest of the world. The Bicentennial Visitors Center and Council is organizing for reception of New York's visitors. Statue of Liberty events will feature the importance of immigration to the development of the United States.

Across the nation there are many programs aimed at providing international focus for the Bicentennial horizons program and at improving understanding over the long term. A few examples are:

Operation Sail '76 is a visit of tall-masted sailing vessels from around the world to come to New York City on July 4, 1976 and visit other world ports.

The World Theatre Festival, a non-profit foundation based in New York, will sponsor appearances of distinguished theatre companies from around the world.

The American Host Program, through its "Meet the Americans" project, is organizing home hospitality for foreign visitors.

Numerous international conferences are being planned such as the World Food Conference to be held at Iowa State University.

The California Bicentennial Commission is sponsoring a publications program on ethnic contributions to California history.

Binational, international exchange, and ethnic organizations are developing new exchange-of-persons programs.

The American Council of Polish Cultural Clubs is conducting a poster contest on Polish immigration to the United States.

The American Medical Association is inviting counterpart associations of other countries to attend their 1976 annual convention to review medical contributions to man's well-being over the past 200 years.

The American Association of Museums is organizing a program for American museums to exhibit foreign contributions to America's development.

Sister Cities International plans to increase from 1,100 at present to 1,976 by July 4, 1976 the number of U.S. and foreign cities affiliated in sister city relationships.

The American Historical Association is offering a prize to the author of the best historical work on the American Revolution written in a language other than English.

These few projects I have singled out are essentially international in character. There are, however, international dimensions in many programs which are primarily domestic in nature.

The organizers have found ways to make them international as well. One of the most promising is the recently-announced American Issues Forum conceived by Walter Cronkite. The Forum is intended to effect a year-long nationwide dialogue by people in all walks of life and all levels of education concerning the values which have characterized our national development and their relevance to the future. One of the nine major issues to be discussed is "America's Role in the World, Past, Present and Future."

Community service organizations are a potent force for international mutual understanding.

In government and in the private sector, there is much to be done. Service organizations, such as Rotary International through its people-to-people programs, are contributing a great deal to international mutual understanding. Rotary's international youth exchange, involving 700 youths throughout the world annually, is a model program with considerable impact.

The Rotary Club matching program, which links Rotary Clubs in 151 countries with counterpart clubs for direct Rotarian-to-Rotarian relationships and shared service projects is equally impressive. Rotary's world community service program has helped people throughout the world. Through Rotary's small business clinic program, many individuals in less-developed countries have been helped to self-sufficiency and community contribution.

The mere existence of some 15,000 Rotary Clubs joining 750,000 Rotarians in 151 countries is a potent force for world peace. Rotary is made up of leaders from all segments of society; these fraternal relationships—professional to professional, businessman to businessman and so on—generate two-way communication and further mutual understanding.

Another service which Rotary Clubs perform is the advancement of international person-to-person programs of other organizations in their communities. In my own travels throughout the United States, I have been impressed with the extent to which Rotary and other service clubs have initiated and developed, for example, sister city affiliations, professional and people-to-people exchanges, international hospitality programs, and international activities of local performing arts and sports groups. These activities contribute to strengthened bonds between participating local groups and their counterparts in other nations.

Can community service organizations do more?

Leaders of private organizations frequently ask us in the Bureau of Educational and Cultural Affairs what they might do to increase international understanding. I would only hope Rotary and other community service organizations in the United States would do more of the same—demonstrating so well the capacity for commitment of the American people to furthering world peace. The Bicentennial Commemoration provides the focus. Specifically, I urge community service organizations to undertake in whole or in part the following 12-point program:

1. Expand home hospitality and community orientation programs for international visitors (including doctors and other professionals, businessmen, diplomats and military and government leaders).

2. Develop programs for continuing ties with the international alumni of area universities and colleges.

3. Enlist the cooperation and support of U.S. corporations operating internationally for meaningful public service activities.

4. Expand and strengthen programs of art, sports, and cultural interchange.

5. Develop and improve community programs for foreign students to enhance their experience while in the United States.

6. Internationalize your community involvement by affiliating with an appropriate international organization in cooperation with the U.S. National Commission for UNESCO.

7. Support established people-to-people, youth, and binational exchange programs.

8. Strengthen relationships with professional counterpart organizations in other countries.

9. Expand programs of international interchange involving America's ethnic and racial minority groups, drawing upon their special sensitivity and competence in cross-cultural communication.

10. Form international institutional linkages affiliating universities, hospitals, schools, institutes, libraries, and museums for exchange relationships.

11. Establish university chairs of international studies.

12. Maximize the goodwill generated by ensuring public visibility for these activities both here and abroad.

The challenge, the Bicentennial challenge, is to develop durable mechanisms which will continue beyond 1976 to contribute to international mutual understanding. While the Government can help, meeting this Bicentennial challenge will depend far more upon America's private sector strengths of initiative, diversity, and dynamism.

Such a Bicentennial commitment and program will be in our national interest as well as in mankind's interest of improving the climate for working together on our global problems. I thank the Rotary Club of New York and Rotary Clubs throughout the United States for your very real contribution in helping to build the "human foundations of the structure of peace."

THE 20TH ANNIVERSARY OF VADA BUILDERS, INC.

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. MATHIS of Georgia. Mr. Speaker, on Saturday past I had the honor of delivering the main address at the 20th anniversary celebration of Vada Builders, Inc., a farm equipment manufacturing firm located in the southern part of the Second District of Georgia. Vada Builders, Mr. Speaker, is living proof of the success of our free enterprise system and of what dedication and hard work can accomplish. The founders and managers of Vada Builders, and others like them all across America, are truly the backbone of the American economy. These are the individuals who produce, who employ, and who keep the system running for the good of us all. Yes, they themselves prosper in the process, and rightly so, yet their enrichment is only a trifle compared to the prosperity accorded the hundreds they employ and the thousands who appreciate the goods and services they provide. As Americans become increasingly cynical of our free enterprise system, I think there is a lesson to be learned from the story of Vada Builders, and I hope that the following story will demonstrate the continued vitality of the free enterprise system and how it contributes to our own well-being:

VADA BUILDERS, INC.

Vada Builders, Inc. was founded in 1954 as a small welding and repair shop. It was housed at the time in an old tin-roofed wooden shed at the Vada crossroads. The company then was primarily a "blacksmith" shop. It continued to operate like that through the fifties and into the sixties. Business was pretty fair until a fire completely destroyed the operation during the winter of 1966. The only thing that was saved was an old warehouse which still functions today as just that—an old warehouse. There was no insurance to speak of ($10,000) when fire struck, so for all practical purposes, the company was wiped out. Up until that time, though, the company was a big builder of hunting buggies for wealthy plantation owners, truck bodies, cultivators, and some peanut wagons and a few cotton wagons. Sales were less than $100,000 dollars. After the fire in 1966, the company was cranked up again with help from the Small Business Administration. A building 200 x 50 was initially constructed at the site of VADA Builders, Inc. today. Since then, the company has grown and prospered. Additional square footage was added and today that figure stands at 65,000 square feet. Of course from 1966 until the present time, the company has been growing in other ways as well. Sales have gone from less than a million per year in 1970 to a projection this year of 5 million. The product line has grown from truck bodies and hunting buggies which are no longer manufactured, to peanut and grain drying wagons, cotton wagons, tobacco curing systems, stock trailers, implement trailers and cultivators. In 1973, VADA of Oklahoma, Inc. was founded by VADA Builders, Inc. of Georgia. That plant is located in the Southern Oklahoma city of Springer. Primary units of manufacture there are peanut drying wagons and cotton wagons. During the first year of operation of the Oklahoma plant, sales there passed the one million dollar mark.

Today, VADA Builders, Inc. markets products in Georgia, Florida, Alabama, North and South Carolina, Virginia and will move later this year into Mississippi and the "export" market. U.S.S. Agri-Chemicals is marketing our new tobacco curing system in the Carolinas as well as various other merchandise in our product line. Goldkist, Inc., based in Atlanta, is also marketing a number of drying trailers, stock trailers, implement trailers, and other products all built by VADA, but carrying the Goldkist label, thru their network of FMX stores throughout Georgia, Florida, and Alabama. The number of employees in the Vada, Georgia plant is about 160 with a total weekly payroll of approximately 15,000 dollars. Production capacity varies according to the various units being manufactured. About 20 peanut drying trailers can be built daily and about 15 cotton wagons per day. On the average Vada puts into manufacture near 1.5 million pounds of steel per month.

The man behind the VADA operation today as he has always been is Levy L. Harrell, Sr. He is 58 and a staunch Christian. He has earned everything he has the hard way. Today, he plays a semi-retired role but appears at the plant almost every day. He tends to big financial matters but always has a word for the employees of VADA. He drives a Cadillac and likes to fish. He spends some time at his trailer located on Lake Seminole. He is very easy-going and real down to earth. He is very proud of his sons that run the plant. He is married to Christine Sellers Harrell and they live in a fashionable brick home in Vada. Four of his sons run the Georgia plant with the fifth son, Levy Harrell, Jr. serving as plant manager of the Oklahoma plant. His middle son Bobby Jack Harrell, serves as General Manager and Executive Vice-President. His oldest son, Ronnie Harrell, serves as Production Manager and runs the day-to-day activities in the production area. His second to youngest son, Gary Harrell, serves as Secretary-Treasurer and attends to the bookkeeping and finance functions. His youngest son, Hugh Harrell, serves as Plant Manager. He attends to the production scheduling and works hand-in-hand with engineering. Calvin Culverson is the Sales Manager, Larry Harrell, no relation to the other Harrells, is the Chief Engineer; Dwight Godwin serves as Cost Accountant and Management Consultant, and Jim Turknett is Personnel Director.

THE GREAT PAYCHECK RAID

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. HARRINGTON. Mr. Speaker, the American people are quite understandably outraged at the declining value of the dollar. Inflation is, without a doubt, the single greatest problem facing us today. Even as the purchasing power of the dollar declines and inflation claims a larger part of the working person's paycheck each week, the Federal budget continues to grow larger, making greater and greater demands on the already overburdened lower and middle income level taxpayers.

These same taxpayers have recently been deprived of an opportunity to control the rise of prices directly by means of price controls, which President Ford has ruled out, and since the price of basic foodstuffs and commodities continues to rise at an ever-increasing rate, despite the availability of WIN buttons, our constituents plead for and demand relief. As elected Representatives, we are obligated to provide this relief, by whatever means we can. We cannot control prices in the supermarkets or on the farms of the Nation, but we do control the Federal purse and the less money we appropriate from that purse, the better off the majority of taxpayers will be financially.

Members of Congress will benefit, too, with the renewed support and confidence of the people, who certainly view us now as shirking our responsibility to the American taxpayers by not taking grasp of the situation to cut Federal spending and alleviate the tax load. Instead, we continue to pass legislation which aggravates the problem and frustrates the taxpayers.

This past summer, I inserted in the RECORD a series of articles from the Boston Herald American highlighting the increasing burden of Federal taxes on working persons.

The author of this series, Bill Duncliffe, has brought his exceptional talent to bear on this issue and has produced an unusually perceptive look into attitudes which prevail among disgruntled taxpayers.

I would like, at this time, to share with my colleagues the articles which I did not insert in the RECORD before the August recess.

The texts follow:

THE GREAT PAYCHECK RAID: HUB EARNERS SHORT-CHANGED

Each week your livelihood—and that of every other person in Massachusetts—is being picked apart by a multitude of national, state, and local taxes.

But while everyone is aware of how much is taken in withholding and Social Security taxes, few realize how large a slice of their income is being consumed by the many other levies to which they are subjected.

Two typical wage earners opened up their financial records and family budgets to the Herald American in order to explore just how these indirect and hidden taxes hurt them.

What was found—and what it all means, to you as well as to them, is told in this series, "The Great Paycheck Raid."

(By Bill Duncliffe)

A blue-collar worker whose $201 paycheck is being butchered by the raid which a whole horde of open and hidden taxes is making on it each week is angrily certain that in many ways he is being robbed—principally because he happens to be a resident of Boston.

He's convinced that both the suburbs and the state are playing Boston for a patsy, that they are refusing them the right to win a measure of relief from that oppressive load.

One articulate though understandably biased authority on the subject maintained that not only is the blue collar worker correct all the way down the line, but predicted that if the situation is allowed to remain unchanged it will not be Boston—but the state and the suburbs—who will lose the most.

At the moment, though, the taxpayer, a factory hand and family man, isn't all that worried about future damages to someone else. He's more concerned about what his present problem is doing to him, and he said:

"When you come right down to it the whole setup is screwy. I live in Boston and I love the city, but a guy who lives in Wellesley, Newton or one of those places and works here doesn't pay through the nose the way I do.

"The state is killing us, particularly in the way it makes us pay assessments for the T and the MDC, and the way it hits us for all the costs of Suffolk County, even though Chelsea, Revere, and Winthrop are as much a part of it as we are.

"Take the T: it's a pretty good transportation system, I guess," he continued. "I really don't know, though, because I don't use it. Yet I've got to pay more on its deficit each year than a guy who lives in one of the suburbs and uses it every day.

"And what about my car? Okay, compulsory auto insurance isn't a tax in the strictest sense of the word but I've got a 1971 Maverick and I had to pay $350 to register it this year.

"But the guy next door registered his in Newton—and he's paying only half as much as I do.

"So sure. I'm disgusted living in Boston—but it's not the city's fault. It's the state's, and it's the fault of those suburbs who have enough members in the legislature to defeat any idea that would shift part of the burden from us and put it on their shoulders.

"Outsiders coming into Boston every day to work are getting off lighter than I am—and I think that kind of a setup is lousy."

Though he doesn't put it quite that bluntly. Richard Wall, Mayor White's budget director, couldn't agree more.

Wall, who was born in Massachusetts but went out of state—to Philadelphia and Cincinnati—to get his experience in municipal finance, said nothing he learned in those cities prepared him for the shock of how Boston is hamstrung by the heavy hand of the state government.

"The city's name is a dirty word in the legislature," he declared. "The quickest way to get a bill is to label it a 'Boston bill.' Year in and year out mayors of Boston have gone up to Beacon Hill with pleas and ideas for relief—and every year they've come back down again, emptyhanded.

"It's a matter of emotional attitude, I think. There's a general antipathy toward the central city in the minds of a great many people, and there is little sympathy among them for the city's problems—even among those who are in many ways dependent on the city."

Wall said that about half of all those who come into Boston each day to their jobs live in the suburbs; each day they receive—for free—the services that residents must pay for, and he believes that is eminently unfair.

"You ask yourself what would happen to the suburbs if Boston suddenly vanished from the face of the earth," he said. "The economics of the situation are that those suburbs would immediately go bankrupt.

"A healthy Boston is vital to the survival and prosperity of the entire area, and I believe the entire area should contribute to making it healthy."

As a land mass of business activity and commerce Boston is well-fed economically, Wall declared, but as a city government it is starving—and he insisted that the state is largely to blame for that.

For one thing, he said, Beacon Hill has made a mockery of real home rule by blinding Boston with all sorts of restrictive policies and mandates, has forced it to accept obligations it did not want, and has prevented it from using devices that would enable it to march long way toward solving the problems that now beset it.

And one of those devices, he declared, is a payroll tax—withheld from the wages of everyone holding a job in the city.

As a "Boston bill" that is a hardy and regularly rejected perennially in the legislature, and Wall does not delude himself into believing that it will become law in the foreseeable future.

Yet he insisted that it is a fairer and less regressive tax than the one which owners of Boston's homes and business properties, and those who rent space for them, are whacked with now.

"Both Philadelphia and Cincinnati have a payroll tax of three percent," he said, "and they get more from that than they do from the property tax.

"Neither one had to ask their state Legislature for approval. The city government just voted it in, and that was that. But Boston has to go hat-in-hand to the State House for everything."

Wall's reference to the real estate tax was made in this context: Well back in the past city was a hive of factories and other manufacturing activities—all of which were dunned for large hunks of money annually on their property.

But, he said, over the years the emphasis shifted from manufacturing to service industries, which generally yield a smaller amount in taxes, and he declared:

"If we were able to levy a payroll tax we'd get more money from it than we get from manufacturing plants. If we had real home rule we'd have been able to shift to a payroll tax as the economic activity shifted.

"But it's tough getting used to the fact that Massachusetts local government is so closely regulated by state law. For example, you can't change a municipal charter without getting the state's approval for it.

"Yet year after year at least one bill goes through the Legislature which lays more costs on municipal government. You hear a lot about mandates now, about how cities and towns are protesting against the state's policy of forcing programs or policies of one kind or another on local communities without providing the money to pay for them.

"I believe those protests are valid—and yet, for more than 100 years now Boston has been saddled with a mandate to pay all the costs of running Suffolk County. It's the only county in the state where that kind of arrangement is in effect, and in the new city budget the county costs amount to $23,000,000.

"That's a mandate we've been trying to get changed for a number of years. Every year Boston asks for it—and every year the Legislature refuses."

A new mandate which could cause widespread conflict in the city and town halls throughout Massachusetts in time to come went into effect July 1. It requires that in cases where local officials cannot come to terms with their police or firemen on a new contract their dispute must, as a last step, be submitted to binding arbitration. Each party would choose a representative and would agree on a third, impartial, arbiter.

The three arbiters to whom a given dispute would be handed for settlement would have to choose between "the final and best offer" made by either side.

Boston does not yet have any problem with that particular mandate since its contract with the Police Patrolmens' Union does not run out until June 30, 1975. The city is now negotiating with firemen, whose pact expired this past June 30, but Wall said he believes agreement will be reached with them soon. What concerned him about the mandate, however, was this:

"There is not much history of binding arbitration to judge by, so we don't really know how great an effect this new law will have," he declared. "But we are concerned about it because it places a vital decisionmaking function in the hands of an outsider who will, to a significant degree, establish how large a community's tax rate is going to be."

In any event, the state is apparently far more ready and willing to intrude upon home rule than it is able to meet its responsibilities to the cities and towns that are so greatly affected by its decisions.

And Boston is no different than any other community in that respect.

Wall said that in the upcoming year Boston will get approximately $90,000,000 in state aid—and while that might sound like a lot, it's only about 80 percent of what the city is entitled to receive.

In substance, what that breaks down to is that Boston—and people like the blue collar worker—are being short-changed of what is rightfully theirs to the tune of $18,000,000 in this year alone.

It is for that, as well as all the other reasons listed above, that he is certain he's being jobbed, and he said that no one has shown him—yet—where he's wrong.

The Great Paycheck Raid: Another Hike in Real Estate Taxes Coming

(By Bill Duncliffe)

Any time now, a new raid will be made on the paychecks of every home owner and rent payer in Massachusetts—and in the case of the white-collar worker whose personal budget has been examined in this series it will take between $2 and $5 more a week from his earnings.

The raid will take the form of still another increase in constantly rising real estate tax rates in the state's 351 cities and towns and, depending on which expert is right, the rise will range from eight to 20 percent.

Last year the white-collar worker paid $25 a week in property taxes on a $35,000 Cape which he and his working wife are trying to buy in one of Boston's bedroom communities.

If Lyman Ziegler, vice president of the Mass. Taxpayers' Foundation, is close to correct with his educated guess of an eight percent jump, that particular home owner will be clipped for another $2 a week. What will keep the rate from going higher in many areas, he said, is a new formula for distributing state aid which will give 200 communities more money from that source, but will leave the other 151 with less than they received in the past.

If Kennedy Shaw, executive director of the Mass. League of Cities and Towns, hits the target with his estimate of "more than 10 percent," the tab will be at least $2.50. He wants a closer look at that new formula before deciding that it's as marvelous as its adherents claim.

But both Shaw and Robert Hathaway, the league's legislative director, said a spot check indicates that an increase of 20 percent in some communities won't be all that unusual—and if the white-collar worker is unfortunate enough to live in a town with a problem of that size he'll be dunned for a full $5 a week more than he's paying now.

The impact of figures like that on the livelihood and future of anyone owning a home or commercial property in Massachusetts may perhaps best be measured in terms like these:

In 1973, for the first time in seven years, the annual rate of rise in real estate taxes was less than 10 percent—primarily because many cities and towns used the money they got from revenue sharing for tax reduction.

Despite that, the total take, statewide, from that one operous levy was $2,168,000,000—a boost of 5.8 percent more than in 1972, according to the Taxpayers' Foundation.

If Ziegler's estimate of the expected increase is correct, then an additional $173,440,000 will be taken from property owners this year.

If Shaw's prediction on the low side proves true, they'll have to find an extra $216,800,000 to keep their community tax collector happy.

If his high-side guess turns out to be the rule rather than the exception, they will have to come up with $325,200,000 more.

Thus, while most of the comment and quarreling in the public forums of Massachusetts at the moment revolves around whether the state will need another $200,000,000 or so in boosted taxes to help pay its bills, the unlovely fact is that the projected and little-publicized rise in property levies could approach and even outstrip that monstrous figure.

The remarkable thing about all this is that, somehow, in spite of the insatiable inroads which real estate taxes make on everyday earnings, people like the white-collar worker are managing to pay them. They may be living on short rations, but they're finding the money for their taxes.

"Cities and towns are collecting 97 percent of their bills, so no one's losing their home," Ziegler declared. "And if that's the standard by which to judge you would have to conclude that while the property tax may be unfair and regressive, the money is still there.

"People are somehow making the payments."

Ziegler and everyone else with any knowledge of the problem are agreed that too heavy a chunk of public money is raised by putting one arm on home owners and rent payers, and on those who hold business properties. Last year, according to charts made by the Taxpayers' Foundation, property levies claimed 56 cents out of every tax dollar raised by local and state government in Massachusetts.

This year's bite will be at least as large, and on that point Shaw said:

"What strikes me is the psychological ease with which we extract income taxes from people. They never see the money that's withheld from their paychecks, they don't realize how much is being taken out and they don't complain.

"Yet they go up the wall when they get their property tax bill because the money for that comes right out of their household budget.

"They can see the services their property tax buys; they can see police and fire protection, schools, and the like. But in many cases their income tax money is going overseas, or to subsidies that benefit some other part of the country or society, and they actually see only a small part of what they're paying for.

"The taxpayer tends to get more upset at the property tax because of the way it is raised and because it comes in one big bill that changes his mortgage payments. The income tax is automatically adjustable to the inflationary factors in our society. A worker gets a cost-of-living raise and his income tax automatically goes up. But the property tax isn't adjustable that way, and so the taxpayer gets hit in one shot."

During the late sixties, Shaw said, tax rates jumped like Mexican beans because of inflation, the beginning of collective bargaining or municipal employes, and other factors. In the past few years the rise has slowed because of revenue sharing. Now; however, they're on the way up again—"perhaps faster than before"—because of a worsening inflation and a tougher collective bargaining law which mandates compulsory arbitration of wage disputes with police and firemen when all other means of reaching agreement on a new contract prove futile.

Gov. Sargent's new budget contains $786 million in local aid for cities and towns, and Ziegler is hopeful that a new and complex formula for deciding who gets how much of it will enable many communities to keep their tax rates under reasonable control. It's fairly certain, too, that revenue sharing—which still has two years to run—will help in those localities which apply it to their rates.

But though Sargent and the Legislature have appeared to be more concerned this year than in the past over the plight of home owners, "local aid" they offer is like an 80-cent dollar.

As a rule, cities and towns get about 80 percent of what they're entitled to under the law, and any time there's a shortfall in local aid, the difference has to be made up by the property tax.

In addition, the Commonwealth persists in its practice of mandating programs such as kindergartens, police incentive pay, school lunches, etc., on cities and towns—without providing the means to pay for them.

"This whole thing has become a question of faith," Hathaway said. "The state mandates programs because it doesn't have any faith that the local communities will carry them out on their own—and the communities don't have any faith in promises by the state to reimburse them."

Ziegler, Hathaway and Shaw all agreed that the campaign to restrict the fiscal autonomy of School Committees is by no means the central issue, although education does claim an enormous share of municipal costs.

According to Ziegler, the experience of other states indicates that there really wouldn't be any great change in school spending if a City Council or Town Meeting were given a veto over School Committee budgets. What he urged was that committees be given professional help in their negotiations with teachers. He declared:

"We've got to strengthen the school board and give them the facts and the attitude they need, the attitude that they and they alone can speak for the public interest and have as much a duty to demand things of the teachers that will strengthen education and help children, than the teachers have to make demands on them."

Hathaway said fiscal autonomy is a "paper tiger issue," and Shaw added:

"Tax reform is a far more significant issue than fiscal autonomy because both the schools and local governments are living on the same limited tax base, and instead of fighting each other we ought to be trying to change that.

"I believe we are at one of those times in history where a really significant economic change is being dictated by the conditions under which we live. The load on the property tax is unfair and it just can't carry the burden that's being placed on it.

"So now there is talk of transferring the costs of education to the state, as other states have done. What we are advocating is moving welfare to the federal level, and education to the state. This will take the curse from property taxes—and it's an idea whose time will come, sooner or later.

"Everyone says that education is a function of the state, and if the state took it over legislators would be more responsive and more responsible because they'd have to find the money for every program they mandate.

"I'm confident that this kind of a change is coming," Shaw maintained. "All these pressures—inflation, etc.—will dictate it, as will national trends, court cases and a basic sense of fair play.

"Educators and local government must work together to put this program across, because if it ever becomes law property taxes will have to decrease."

Whatever drop occurs, however, will be less pronounced in the cities than in suburban areas because of the "urban markup factor."

That's a gobbledegook term which means that it costs more per person to operate an older city than a newer suburb because the city has more senior citizens, more poor and more minority-group families.

Because of that—and because a city such as Boston usually has a smaller ratio of taxable property from which to draw its funds—police and fire protection cost more, welfare and public education cost more, and everything involved in the operation of a municipality costs more.

But any decrease at all, however large or small it turns out to be, will help make the owning of a home more of a pleasure and less of a problem for the white-collar worker and people like him.

[From the Boston Herald American, July 16, 1974]

THE GREAT PAYCHECK RAID: TAX SQUEEZE FELT BY ALL

(By Bill Duncliffe)

Massachusetts is a Commonwealth caught between two "highs"—and those being hurt most by that state of affairs are people whose paychecks are being raided every week by the insatiable assaults of a legion of hidden and openly-imposed taxes.

They include the blue collar worker who is left with slightly more than $100 to feed, clothe, and house his family of five after all three levels of government bite into his salary of $201 a week. They include couples like the white collar worker and his wife who between them earn $19,000 a year and surrender 38 percent of it to tax collectors on the Federal, state, and local levels. They include people subsisting on pensions or savings, whose standard of living is lowered by inflation and by the multitude of levies they are required to pay.

In short, they include just about everyone old enough to know the difference between a dime and a dollar.

The "highs" that will largely affect their future livelihood are contained in these contrasting sets of statements:

Massachusetts looks especially good to any industries desirous of setting up shop here because of the high degree of reliability and skill which its labor force possesses.

But it also looks especially bad to many of those same industries because of the high and steadily-escalating level of government spending, and because there seems to be no disposition on the part of anyone at the State House to do anything about it.

Those statements are not necessarily beyond dispute; they are, rather, expressions of informed opinion on the part of office holders and experts whose concern about the state's economy is a continuing thing.

But what is beyond dispute is that new business means new jobs—and new jobs usually result in a spreading of the tax burden among a larger number of people and companies. However, the state has been desperately short of both business and jobs in recent years, and the deepening gravity of the situation is shown by the latest government figures which show 203,800 unemployed here.

That adds up to a jobless rate of 8.1 percent locally compared to a national average of 5.2 percent—and that compels those who are working to contribute more, via taxes, to the support of those who are not.

The question is, who's to blame for that depressing condition—and the answer is, it depends on who you ask.

In the view of House Majority Leader Rep. Thomas P. O'Neill, Jr., the current doldrums are not particular to Massachusetts, but are general to New England.

"When a new industry thinks about coming here they take several things into account," he said, "and among them are taxes, power costs, transportation, nearness of the product to the market, and the stability of the workers.

"The truth is that on an over-all basis we haven't had many new industries come into this area," O'Neill continued, "and I'm told that there are a lot of companies talking about moving out—although I don't know of anyone who's gone yet.

"But we are close to the major markets here, and our transportation system is more than adequate as long as we keep the railroads running. As far as stability is concerned, the average worker in Massachusetts is absent from his job no more than five percent of the time—but in many areas of the country the absentee rate runs as high as 15 percent.

"I've met textile people who left here years ago to locate in the south, and all they talked about was how reliable the employes they had here were compared to what they've got now.

"So the difficulty is, I think, in taxes and the cost of energy—and that last is a real crunch because of the added fuel charges.

"We've had progressive government for years in this state, and that always costs more. We had Workmen's Compensation a long, long time ago—and some states don't have it yet. And we've got pension systems here—and other areas still don't have them."

O'Neill's thesis that high taxes are a byproduct of social progress is not accepted in toto by other authorities on the subject. One business-oriented tax expert maintained that Massachusetts is in such desperate straits now because no Governor for the past 20 years—Democrat or Republican—has made the state's economic health his Number One concern, and he said:

"There is absolutely no realization in the legislative and executive branches of government that we're in trouble. Spending beyond income is a bi-partisan thing, and the politicians give no thought whatever to where the money is coming from.

"I think we're at the point where taxes and the cost of government in Massachusetts are a detriment to the growth of the economy. If we don't control both we're going to have an increasingly unhealthy load on the economy that will drive more businesses—and jobs—out of the Commonwealth.

"We've got to have people at the State House who will face reality and stop passing new programs without providing the money to pay for them. We've got to have department heads who will be able to justify every dollar they ask for, and we've got to force them to look at their programs with a critical eye.

"Until we do we'll never be able to put a dent in state spending and we'll never be able to give the taxpayers of Massachusetts, large and small alike, the assurance that their government has an honest concern for their wellbeing."

The expert maintained that Gov. Sargent, while not necessarily hostile to industry's interests, is certainly indifferent to them—and many businessmen agree with him.

That is an allegation which Sargent denies heatedly and repeatedly. His most recent attempt to put the lie to it centered around a $101,000,000 program that would, he said, create 33,000 new jobs by:

Floating $48,000,000 in loans to help industries that either want to expand or locate here;

Releasing $40,000,000 in state highway money for road building over the next three years, and

Asking the Legislature to okay $13,000,000 in additional housing subsidies which would be used to create jobs in the construction industry.

The announcement of his program, coming at the tail end of the legislative session and the beginning of his summer-long drive for re-election, left Sargent open to charges that he was playing politics with unemployment.

He denied that too—but apart from that he insisted that the picture of him as anti-business is a false one, and he declared:

"I think it's time for the business community to recognize the many advantages we've got here, and to use the many incentives we've made available for them, rather than be forever talking gloom."

Sargent said that when he took over as Governor in early 1969 he could see that the state's economy was headed for trouble, and so he asked a task force of businessmen and labor leaders to come up with a program to expand industry here. "I told them that if that meant tax incentives and legislative proposals, okay, let me see them," the Governor declared, and added:

"What they recommended became 12 bills that were passed by the Legislature and signed by me—but what amazes me is that when I held a seminar in Springfield recently I found out that a lot of business leaders didn't even know about these things."

Among the measures Sargent said he made available were a $500 tax credit to any company for each new employe taken from the welfare or unemployment rolls, as well as tax breaks on purchases of machinery and anti-pollution equipment, on industrial development financing, and on excises and tangible property taxes assessed against corporations.

"Several months ago I met with Wall Street investors," the Governor said. "They knew about the tax incentives and the other things we'd done—and they liked them. They told me they were innovative proposals and because of them they were looking favorably at Massachusetts for investment purposes.

"I see evidence that the economy is on the upswing here. I see indications that the companies along Rte. 128 are winning major new contracts. I maintain that there are 50,000 more jobs here than there were a year ago, and we are seventh among the states in terms of foreign money being invested here. So while there are still problems to be solved, I think there are a lot of encouraging signs in the economy."

Gordon D. MacKay, a Boston insurance executive who is also one of the guiding spirits of Citizens for Economy in Government, described Sargent's 12-point program as "bandaid treatment for a basic problem," and said what's needed more than anything else in Massachusetts is to create the justified impression that this state is being run well.

That can best be done, he said, by budget reform.

"We've got to develop a system of measurement that will enable us to look at various programs and make cuts or changes in them where indicated. When money is short the average family takes steps to live within their budget. They tighten their belts, do without some things, and develop alternatives. We don't think the state government has explored alternatives. They've just added taxes and more taxes.

"Many other states have been able to cut taxes—but we haven't. They've measured output, what they're getting for their tax dollars—and we've never done that.

"The businessman is a person oriented to the bottom line, and we need to create a positive attitude that this state is being run well," MacKay maintained. "When that's done the word will spread, and new business will be attracted here.

"In order to correct the bad impressions about Massachusetts—like its being known as Taxachusetts, for example—we've got to get state government squared away and create the reality that it is being run well and efficiently.

"After all, how do you think the marginal businessman—not the big corporations but the marginal businessman—feels when he *reads about* a new tax increase here? We're trying to create the attitude that this state is interested in business—and to transfer that attitude into action is what we've got to do."

[From the Boston Herald American, July 17, 1974]

The Great Paycheck Raid: Sargent a Minority of One on Balking Tax Boost

(By Bill Duncliffe)

How much more will the paychecks of the blue collar worker, the white collar worker—and you and I—be raided for in additional state taxes next year?

If Gov. Sargent is right, not a dime—as long as the Legislature refuses to open the public purse for any program or proposal requiring a large outlay of dollars.

But Sargent, up to now, has been a minority of one on that issue.

The overwhelming majority of private experts and public officials to whom this reporter talked were convinced that Sargent will have no choice but to seek anywhere from $100,000,000 to $400,000,000 more in taxes in 1975.

If they are right, the money will probably have to come from the sales, income, and corporation levies—and that will assault everyone's paycheck with blows like the following:

Anyone who pays $75 in sales taxes this year will pay $100 next year, if the rate is increased one percent. However, at least one legislator believes it could go up two percent, or could be made a general rather than a limited tax. If either happens, the impact will be even rougher.

Anyone who has $5 taken from his paycheck for state income taxes will probably be dunned for another dollar a week in 1975.

And if the rule-of-thumb cited earlier in this series is accurate, half of whatever tax increase is charged to corporations will be passed on to their customers.

Nor is that necessarily all.

One of the more powerful lawmakers at the State House, who out of a sense of self-preservation asked that his identity be withheld, said that two rather hair-raising innovations might be explored.

The first would be to place a tax, similar to the sales levy, on such "services" as a haircut and car on TV repairs, and he guessed:

"About $80,000,000 could be realized from that source alone."

The second would be to make any income tax increase that might be approved next year applicable to incomes earned this year. To do that, he declared, would be to provide "instant money," which he claimed, may very well be needed if the state's financial situation is as serious as Sargent's critics say it is.

But the Governor told this reporter they have been wrong before—and he happens to be right about that.

And he insisted they'll be proven wrong again—and that remains to be seen.

"For the past three years a lot of people have been saying we needed a tax increase of $100,000,000, or $200,000,000, or whatever," he maintained, "but for the past three years we've been able to hold the line on taxes while tripling the aid we give to the cities and towns.

"That's been particularly tough to do in a time of inflation but we were able to do it by:

"Extreme austerity, cutting back on state activities and not filling jobs simply because they became vacant;

"By being very conservative in estimating how much we'd realize from various taxes. For example, we expect to get $30,000,000 more from the corporation tax than anyone outside this administration predicted;

"We anticipated we'd get revenue-sharing money from the Federal government, and I was one of three governors who worked hard in Washington and elsewhere to win approval of that program, and;

"There is $100,000,000 which is owed the state by the Dept. of Health, Education, and Welfare. We have documented bills for every dollar of that. We're under-estimating what we'll get from that source, but even if we get $35,000,000 we'll be in good shape.

"With that money, the additional $30,000,000 from the corporation tax, and $35,000,000 in reversions from departmental budgets we'll be all right.

"So there shouldn't be any new tax program in '75. There are a lot of problems remaining, but if the economy picks up and we get the money we expect we'll be all right."

Sargent said, however, that the legislature's failure to pass more of his reorganization program—which once was figured to save about $100,000,000—disappointed him greatly and he declared:

"The urgency of reorganizing state government is greater now than it ever was, and if I'm still here in January we've got to give priority to ramrodding the rest of that program through the Legislature."

Sargent's claim of austerity appears to clash with figures put together by the Mass. Taxpayers Foundation which, in an analysis of his new budget, noted that since 1969 the number of permanent state employes had increased from 50,219 to 62,578—a jump of 24.6 percent. And that does not include temporary or '03 help. The Foundation also counted, in Sargent's budget requests, 56 programs or items that were being included for the first time.

The Governor's reply to those statistics is that, first, higher education has been hugely expanded during his tenure, that a number of community colleges have been opened, as well as a state medical school at Worcester and the new multi-million dollar campus of UMass-Boston.

"We had to ask for a lot of jobs for those schools because there is no sense in putting up buildings like that if there's no one to staff them," he said.

In addition, he decided, many of the jobs added to state rolls were the responsibility of the Legislature which passed laws and mandated programs that made more hiring unavoidable.

"Another thing," the Governor continued, "I want an additional 200 state troopers to fight crime in this time of violence because I feel they're absolutely necessary. But at the same time we're letting jobs in other agencies go unfilled—so what we're dong is shifting priorities."

One of those who are certain that Sargent will have to put the arm on the public for more taxes is Sen. James A. Kelly, Jr., (D.) of Oxford, chairman of the Senate Ways and Means Committee.

For one thing, Kelly said, the new budget is many million dollars short of breaking even, and for another, Sargent has made commitments to the future that will entail large sums of money. The Governor will need between $60,000,000 and $80,000,000 more for state employes, and he'll need at least $60,000,000 to meet the state's obligations to its elderly, disabled, and blind under the Supplementary Security income program, Kelly said.

"Neither the Legislature or the Governor has seriously tried to cut spending," he maintained. "They talk austerity but they're still spending. We're not going to cut costs by eliminating services but by making them more efficient, by getting people out of administrative jobs and moving them out into the field where they can provide services to the public."

Kelly stressed, however, that the vast majority of state employes give a good day's work for a good day's pay—but he conceded that there are some people paid for no-show jobs and others who not only don't do their own work but prevent others with more enthusiasm from doing theirs.

"We're trying to squeeze loafers out by forcing department heads to justify what they've got, to choose between those who are doing their jobs, and those who are not," he said. "If we could cut the cost of government by one-twentieth, in this year's budget that would wipe out the need for a new tax program."

One of the few people outside of Sargent's executive suite who thought—for a while—that there was some slight chance of avoiding a tax hike was Rep. Joseph D. Early (D.) of Worcester, vice chairman of the House Ways and Means Committee.

But Early's hope was hedged by two big "ifs"—if Sargent's budget could be cut to $2,715,000,000, and if no deficiency budget to keep state agencies running until next June 30 became necessary.

The first hope was dimmed when the lowest the budget could be cut to was $2,732,000,000, and the second didn't do any better when Early became reasonably sure Sargent would have to look for more money via a deficiency budget.

At least one such budget has been submitted in each of the last ten fiscal years, and Early saw no reason why this one should be any different.

"He is just trying to get by the November election," Early said. "He's trying to be all things to all people and promising them things he can't possibly deliver on fully. But the deficiencies won't show up until after November, and so he'll have to come in some time later with a request for more money."

Early maintained that the state budget is loaded with fixed costs for such things as food, personnel, and fuel, and he said that a way must be found to "un-fix" them to some degree. And he declared that in some areas what Massachusetts needs is management and clear thinking.

"For example," he declared, "when we started the state pension system 20 years ago the cost was $2,000,000 a year.

"The employes' contribution was five percent. But over the years we've increased the benefits without increasing the contribution—and this year pensions will cost at about $170,000,000.

"I wanted to raise the contribution to seven percent, but we couldn't get it through. I told teachers and state employees that they were killing the pension system without an increase of that nature.

"And then, there are our judges. They're in a non-contributory pension system and it never cost us anything because they never retired. But then we made it mandatory for them to retire when they reached the age of 70, and in one year we knocked out 40 of them.

"Their pensions came to 75 percent of their salary, so that meant they get $25,000 a year. Now maybe $25,000 doesn't seem like much—but multiply that by 40 and it comes to $1,000,000 a year.

"It's in places like this, and in state aid for school construction, for example, we need management and direction."

[From the Boston Herald-American, July 18, 1974]

THE GREAT PAYCHECK RAID: TAX PICTURE BAD, GOOD

(By Bill Duncliffe)

The immediate future contains a mixture of both bad news and good for everyone whose quality of life is being wounded by the slashes in their income being inflicted each week by The Great Paycheck Raid.

First, the bad news:

Despite all the bright and "it's high time" talk coming out of the Capitol, there is no chance whatever of a cut in the Federal income tax being passed before the end of the year.

Plus which, despite the long labors of the House Ways and Means Committee, there is no chance either that Congress will get around at this session to correcting some of the more obvious inequities that now exist in the nation's tax laws. The impeachment proceedings and the pressures of an election year will act to shove that issue aside until 1975 at the earliest.

Those same factors will give the kiss of death to any hope that the same Committee will allow the House to vote on the bill proposed by Rep. James A. Burke of Milton and cosponsored by 132 of his colleagues to give low and middle-income wage earners a break on their Social Security tax.

As for Sen. Kennedy's proposal to increase the personal income tax exemption to $825, forget it for now. Next year, maybe—but it will still be a tough one to win.

On the state front the common feeling is that whoever wins the governorship in November will have to perform the political equivalent of walking on water if he is to avoid asking for a massive tax hike next year.

There is, however, no discernible hope of a miracle where the auto excise tax is concerned. Bills to reduce it and to require local authorities to make automatic refunds of overpayments to motorists were scuttled by the Legislature this year, and it will take a complete change of mind for them to become law in the foreseeable future.

"The rate ($66 per $1000 of valuation) is too high, and enforcement of the tax is replete with red tape and mistakes," said Eivhard W. Hoover of the AAA. "Take the refund procedure, for example. If a department store over-charges you the refund will ordinarily be handled quickly and with little trouble.

"But neither the state or the local communities will do that. If you don't know you over-paid they won't tell you—and that's wrong."

Even more unjust and oppressive, in the view of tax and financial experts and officials, is the steadily-escalating cost of government in Massachusetts —but there is virtually no chance of any significant reduction either in state spending or the number of state employes.

The more realistic goal is to control the growth of both.

On the municipal scene the prospect is that property tax rates will continue to rise—primarly because of inflation, school costs, and the new collective bargaining law that requires compulsory arbitration as an ultimate step in settling contract disputes with police and firemen. For a time, the new Special Education law appeared to be a major factor in this regard—but the decision of the Legislature to provide $26,000,000 in "up front" money to help cities and towns put it into effect this coming September eased its impact considerably.

The expected rise in real estate rates would be slowed somewhat in 200 of the Commonwealth's 351 communities by a new formula increasing their cut of state aid—but that will come at the expense of those other cities and towns whose share is reduced.

In either case, whatever sum any community gets will almost certainly be less than it is entitled to under the law—because the historical fact is that Massachusetts usually makes good on about 82 percent of the aid it has pledged to its cities and towns.

In spite of all the depressing evidence however, there are some encouraging—if less substantial—signs that officials on all three levels of government are beginning to tumble to how the Great Paycheck Raid is causing hardship for those they are supposed to serve. In Washington, there is increasing pressure not only for tax reform but welfare reform—changing the system so that the needy can live in dignity and hope and the taxpayer can be sure his money is being dispensed wisely and fairly. There is support, too, for the thesis that welfare should be solely a Federal function—and if that ever becomes law a huge load will be lifted from the state's tax structure.

Despite the bungling and filibustering which bushwhacked the tax-cut efforts of Sen. Kennedy and several of his colleagues it will come up again in 1975, and it is quite likely that Burke—if he is reelected—will be able to shake his Social Security bill loose from Ways and Means and bring it before the House for a decision.

At the moment, he is about four votes short on the Committee, an Burke's expectation is that if he gets those few he will win by a large margin in the House.

Both Burke and House Majority Leader Thomas P. O'Neill, Jr., insist that there is every prospect that, as far as tax reform is concerned, Ways and Means will retain the "little man loopholes" used by many people in filling out their income tax returns. These include deductions for union dues, medical insurance premiums, state gas taxes, and the like.

But while allowing those to remain, the Committee will very probably urge that other, larger loopholes which work to the advantage of major oil companies and other members of "Big Business" be closed. Almost certainly that will prove to be one of the toughest fights of all in the next session of Congress.

In Massachusetts a new reform bill will—if signed into law by Gov. Sargent—make the next state budget a truly "open" one from beginning to end. It is the combined product of the thinking of Rep. Joseph D. Early (D) of Worcester, House Speaker David M. Bartley (D) of Holyoke, and a coalition of groups that included the Citizens for Economy in Government, League of Women Voters, Mass. Taxpayers Foundation, Common Cause, Massachusetts, and Citizens for Participation in Political Action.

* * * but proponents claim that this would mean that school costs would be spread more justly over all segments of the population rather than on the property owner alone.

But will it—and any or all of the other remedies suggested above—be approved? And if approved, will they work?

Those are the key questions, and the answer to them is while they may be approved they cannot possibly work without the active and articulate—and persistent—help of blue collar workers and white collar workers alike, without the pro or con contribution of everyone whose taxes help pay the freight of government.

There are always cries that too much money is being spent, and that government must stop frittering funds away on every program that's proposed by this special-interest group or that. But a survey made by Joseph Napolitan Associates of Springfield for Citizens for Economy in Government indicated that many taxpayers are talking out of both sides of their mouth.

The survey, based on 798 personal interviews with people reflecting the state's population characteristics, showed that more than twice as many citizens—39.6 percent to 16.5 percent—would rather cut back services than raise taxes.

Yet, given a list of 16 specific services, those interviewed recommended reductions in only three—and wanted more money spent on ten others.

"The contradiction of people at the same time demanding less spending but more services clearly shows the political dilemma facing the Governor, legislators, and local officials in dealing with fiscal chaos in Massachusetts," said Henry S. Lodge, executive director of CEG. The only answer is a government which works seriously to maximize the effectiveness of every tax dollar."

But no public official can really do that unless he or she knows what the public thinks about any given problem or program. Speaking strictly about the situation at the State House—although his words would apply equally well on the national or municipal level, Peter Keyes, legislative director of Common Cause, said:

"Legislators don't hear from their constituents on many issues. Sure, they hear on such things as gun control, abortion, and the like, but virtually no one knows that court clerks, for example, have an organization and they're up at the State House every year looking for a raise. Other groups of workers and officials have organizations doing the same thing, and the public isn't aware of them.

Legislators are pressured by these groups, but there is no countervailing pressure from the people back home—and lawmakers have to know how their constituents feel if they are to do a truly effective job."

So that's it. Apathy, a widespread hopeless feeling of "what's the use of saying anything" has allowed The Great Paycheck Raid to go as far as it has. What's needed now to change things for the better is constant, constructive action by people like the $200-a-week blue collar worker, the white collar worker with an income nearly twice as large—and people like you and me.

MASS TRANSIT LEGISLATION BEFORE ADJOURNMENT

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. MADDEN. Mr. Speaker, the House of Representatives is vitally concerned that this Congress pass a mass transportation bill this year. I was most pleased when some weeks ago, after 3 days of debate, this body by a large majority passed the mass transportation bill that was reported from the Committee on Public Works. This is a long range 6-year bill which would establish a permanent program in the mass transportation field.

This bill has been languishing in the other body for several weeks and no action has yet been taken.

During the last 10 to 15 years, traffic congestion has multipled several times until today our economy is being threatened by millions of workers, shoppers, business, and industry being tied up in urban traffic tangles by bumper-to bumper truck, automobile, bus, and railroad congestion.

Not all Members of this Congress, especially those from rural communities, are directly contending with this unspeakable traffic burden now being endured by the citizens in metropolitan areas. In some cities, workers are now being delayed from 30 minutes to an hour and a half in getting to and from their work in factories, industries, offices, and shops.

Members of Congress from urban areas during past years have, with few exceptions, supported farm subsidies and other forms of aid to rural areas throughout the country. We are now asking our colleagues to reciprocate by supporting mass transit.

I recently sent a telegram to the American Transit Association which reaffirmed our position that the Public Works Committee bill on mass transportation should be moved by the other body. This is still my position, and I believe that, if the other body would hold immediate hearings on a mass transportation bill and report it out right after the recess, there could be a quick conference and legislation would be forthcoming before we adjourn for the year.

It is my firm feeling that such action should be taken by the other body, and I urge Senator HARRISON WILLIAMS of the Senate Committee, and other Senators who have done such a great job in the past in the field of mass transportation, to move now to meet with the Committee on Public Works and give us the bill we need.

BURKE SEED LEGISLATION

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. MOAKLEY. Mr. Speaker, I am pleased to learn that we will have an opportunity, after the recess, to vote on legislation to provide free seeds to the American public.

This bill was introduced by my distinguished colleague from Massachusetts (Mr. BURKE) and has been ordered to be reported out by the Committee on Agriculture. The gentleman also has been assured of prompt action on this measure by the Committee on Rules. I wish to commend both committees for their prompt action in this regard.

This legislation will greatly encourage home gardening and could have a significant impact in reducing food prices. Since Richard Nixon first took office 5 years ago, consumer prices have risen 38 percent.

Food prices have paced this rise and—with energy, interest, and housing costs—have represented the major contributing factors in our overall inflation.

Even a very small garden could significantly cut the vegetable purchases of the average family. Individually, it could have a significant impact on the cost of living for a family. In the aggregate, it could have an equally beneficial impact on the cost of groceries.

But, not only is this good legislation, it is one of the best examples I have seen in my short time in Congress of the impact of one man with a good idea.

All of us in this chamber have been looking for ways to cut consumer spending to relieve inflationary pressures. And here the gentleman has offered an idea for a program which involves an expenditure by the Government of only $6 million which can reduce consumer spending by $380 million—in effect, a 6,000-percent return on our investment.

But all of us know that putting a good idea in the form of a bill does not automatically make it law. This bill has reached the point it has because of the tireless efforts of the gentleman from Massachusetts. He has walked the corridors of Capitol Hill, seeds in hand, buttonholing Members. On our first encounter, I left with a package of cucumber seeds and the gentleman left with a firm commitment.

I would like to take this opportunity to urge my colleagues to support this measure when it comes up for a vote next month and to commend our distinguished colleague for his tireless efforts on behalf of the American consumer.

LONG PRESENTS PROGRAM TO COMBAT INFLATION

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. LONG of Maryland. Mr. Speaker, I shall oppose the President's proposals for an income surtax and increased investment tax credit.

The 5-percent tax surcharge is offered to finance a proposed investment tax credit for industry which will cost the the U.S. Treasury about as much as the surtax will increase revenues.

The investment tax credit is a wasteful gimmick which only subsidizes investments that companies would have made anyway; thus, it adds to inflation without adding new supplies of goods and services.

There are, however, a number of other steps the Federal Government can take to combat inflation effectively, I am submitting a list of my own proposals, as follows:

(1) Cut the Federal budget.—*Rep. Long has introduced a resolution calling for a two-thirds reduction in the growth of the Federal budget*. Rep. Long pointed out that, during the last five years, the expenditures of the Federal government ballooned by about 9% each year, thus causing the government to fuel inflation by adding to the money supply. Rep. Long's resolution calls on the Congress to limit the growth of the Federal budget to no more than 3% per year, thus curbing the growth of the national debt.

(2) Stop market-shelf price boost.—*Rep. Long has sponsored a bill to eliminate the annoying practice in many stores of re-pricing merchandise* which has already been displayed for sale at a lower price. Rep. Long's bill would make it illegal for any retailer to increase the price of a commodity once that item has been priced for sale.

(3) Cut export of U.S. food.—*A larger food supply at home would mean lower prices.* Rep. Long has sharply criticized the past sales of U.S. grain to Russia, and has supported programs to help small farmers around the world grow more food themselves, rather than rely on U.S. food assistance.

(4) Increase world's food supply.—*Rep. Long has sponsored the Food Research and Development Act, a bill to increase America's and the world's food supply (and thereby cut long-term food prices)* by developing better means of food production, processing, irrigation, and livestock breeding.

(5) Cut taxes for savers to increase mortgage money, boost homebuilding.—*Rep. Long has introduced legislation (co-sponsored by 31 other Congressmen) to exempt the first $500, or $1,000 on a joint return, of savings account interest from Federal income tax*. Rep. Long's bill helps those lower- and middle-income savers who have been hit hard by inflation. In addition, Rep. Long's bill would *boost the housing market by providing more construction and mortgage funds through savings banks.*

(6) Plug tax loopholes.—*Rep. Long has sponsored several bills to plug the tax loopholes for the wealthy which drain the Treasury and add to the tax burden of the average taxpayer*. Such reforms would be aimed at capital gains taxes, farm 'loss' deductions claimed by wealthy investor-farmers, special tax treatment of foreign subsidiaries of U.S. corporations (including foreign tax credits claimed by oil companies), and the oil depletion allowance.

(7) Reduce energy costs, break up monopolistic energy companies.—*Rep. Long has sponsored the Energy Industry Competition Act to halt the anti-competitive practices of oil, gas, coal, and oil shale companies*. Large, integrated energy companies would be compelled to divest themselves of a segment of their operations, leading to increased competition and lower prices.

(8) Increase U.S. oil yields.—*Rep. Long pushed for and got an increase of appropriations for research on increasing the yields from existing oil wells*. Such advanced oil recovery techniques could produce more oil from existing wells—prices should drop with the increased supply.

(9) Stop automatic rate hikes.—*Rep. Long has sponsored a bill to require that utility companies justify any rate increases in a public hearing*—forbidding use of such mechanisms as the "automatic fuel adjustment clause."

(10) Ease materials shortages by boosting recycling.—*With industry facing higher prices for scarce raw materials (often controlled by foreign suppliers), Rep. Long has sponsored the Resources Recycling and Conservation Act*. Rep. Long's bill provides incentives for recycling and conserving raw materials which have been in short supply.

(11) Cut wasteful paperwork required of businesses.—*Rep. Long's Federal Paperwork Burden Relief Act seeks to eliminate billions of dollars worth of paperwork which businessmen must provide to the Federal government*. Businessmen now spend $18 billion a year to fill out Federal forms. Much of this money could be used for more productive purposes.

(12) Assure pension rights.—*Rep. Long was a leader in the recent passage of a bill to assure that retired persons receive the pension benefits to which they are entitled,* by insuring pension funds and requiring strict compliance with pension regulations.

(13) End ups and downs in benefits for the elderly.—*Rep. Long has introduced a bill to guarantee that, when Social Security benefits are increased, those on veterans' pensions do not receive reduced benefits.* Many elderly persons, living on such fixed incomes, are particularly vulnerable to inflation.

(14) Remove limits on wages for those getting social security.—Many retired persons on Social Security find that they still must do some work to make ends meet. *Rep. Long's bill assures that those who must earn are not penalized by an offsetting reduction in their Social Security benefits.*

(15) Collect debts due to the U.S.—*Foreign nations owe the United States more than $45 billion, and many of these debts are long past due. Rep. Long's bill would require payment on these debts.* If any of these debts can be collected, repayment would alleviate our balance of payments problems and put needed funds into the Treasury.

(16) Curb inflationary world-wide arms spending.—*Rep. Long has called for an Arms Sales Limitation Conference to limit spiraling arms sales and thus hold down world-wide inflationary defense spending.* Middle East oil producers raise oil prices, and worsen the U.S. balance of payments, in part because they desire to purchase new supplies of arms and weapons.

DOG FIGHTING

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. O'BRIEN. Mr. Speaker, professional dog fighting, an illegal sport in this country, has been on the rise over the last few years. We must put a stop to it. Therefore, I have joined Mr. KYROS and several other colleagues in sponsoring legislation to amend the Animal Welfare Act making interstate transportation of fighting dogs for purposes of sport, wagering or entertainment illegal.

The following is the testimony I gave at recent hearings held on this bill by the Agriculture Committee's Subcommittee on Livestock and Grains:

Mr. Chairman, my name is George M. O'Brien. I represent the 17th Congressional District in Illinois which includes the counties of Will, Kankakee and Iroquois and most of Bloom Township in Cook County.

I am here today to urge immediate action on H.R. 16715. This bill, which I have joined Mr. Kyros in sponsoring, would help to put an end to the cruel and illegal practice of professional dog fighting.

Although these savage spectacles are banned in every state of the Union, they continue. It is well known that Illinois is a major center for this so-called "sport." In my own district, at least two Will County communities have been the scene of numerous fights and dog-fighting conventions. Local breeders of pit bulls, the dogs most commonly used for fighting, are now under investigation.

Unfortunately, all the recent publicity and the investigation have only served to drive the fight promoters further underground.

Fans, owners and promoters claim we are making a big fuss about nothing. A fellow who refused to identify himself, naturally, told one of my aides recently that dog fights are just good clean fun, not much different from horse racing. It is just as natural for a pit bull to fight and die as it is for a Thoroughbred to race, he claimed.

Of course he insisted that the dogs don't die very often or even get hurt badly. Reminded that dozens of kittens and dogs are killed in training just one fighting dog for the pit, our anonymous friend suggested that was as good a way as any for getting rid of unwanted pets.

I beg to differ with him on all counts. There is no comparison between a regulated, legal and beautiful sport such as horse racing and the sordid, clandestine death duels of dog fighting. A more apt comparison would be the Roman circuses that featured gladiators and men fighting wild beasts.

Furthermore, neither racing nor fighting to the death come naturally to horses and dogs. A Thoroughbred may run naturally but he must be highly trained in order to win races. Without training, pit bulls, or any dog, would not battle so desperately.

One has only to see the stomach-churning film presented here by Mr. Duncan Wright, president of the American Dog Owners Association, to know that the dogs do suffer death and maiming in these fights.

As for the argument about proper disposal of unwanted pets, I hardly believe that allowing a live animal to be torn apart is more humane than putting it to sleep or finding it a home.

While cruelty is the overriding evil of dog fighting, this practice is also closely tied to criminal activities. We have all heard testimony that wagering is heavy at these fights and that the stakes are phenomenally high. In addition, Mr. Frank McMan of the U.S. Humane Society has said that investigations are going on concerning two murders in Texas in connection with a dog fighting ring.

In my own district, police have reported that at least one witness to a local fight refused to testify out of fear. Fear of what, I don't know. But it does seem odd that any spectator at such a "good clean sport" would be afraid to talk about it. I've never met anyone who was afraid to talk about a basketball or football game.

There is only one way we can put a stop to dog fighting and the host of other activities related to it. We must enact strong federal legislation that will make it impossible to transport the dogs across state lines to follow the fight circuit. Our bill, H.R. 16715, could do this. It would also hit violators with a substantial fine of at least $1,000 and could land them in prison for a year. Or both.

The fact that the fights continue is clear indication that our present state laws are just not enough.

Mr. Chairman, I urge you to give this matter serious consideration and to report out a bill quickly so that these savage duels may be stopped.

EXHIBIT OF WORLD WAR II COMBAT ART

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. SHRIVER. Mr. Speaker, the U.S. Navy under the sponsorship of Navy Secretary J. William Middendorf is currently conducting an exhibit of World War II combat art in honor of the President and Members of the Congress who have served with the sea services of the United States. This exhibit, which includes some 190 paintings, is an exciting collection of the works of artists who served along side the men and women of the Navy, Marines, and Coast Guard during World War II, and is being held in conjunction with the 199th birthday of the U.S. Navy.

For those Members of the House and the Senate who have not already seen this superb collection at the Reserve Officers Association Minuteman building at 1 Constitution Avenue, I urge that they do so before the exhibit closes on October 31. The paintings are on display from 10 a.m. to 4 p.m. weekdays.

A WELCOME CHANGE

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. ROBISON of New York. Mr. Speaker, President Ford's testimony in further explanation of the Nixon pardon, as presented today to the Hungate Subcommittee, was a beautifully forthright—and characteristically candid and honest—attempt by him to lay at rest those suspicions which, in the aftermath of Watergate, have surrounded his motives in granting it.

Whether or not those suspicions—supersuspicions, I called them on yesterday—have now been erased, remains to be seen. But it would be my early judgment that most of them have been—leaving, then, only a question of President Ford's judgment in granting a pardon to the former President when he did, and as he did. As to that, as regards all Presidential actions and decisions, opinions will continue to differ. But that situation is something far different from thoughts and rumors to the effect that some sort of Machiavellian "deal" existed as between Richard Nixon and Gerald Ford.

In light of our recent experiences, the idea that chicanery exists almost everywhere in high political circles is one that is going to be hard to put behind us as a people. If, however, that is an attainable objective, our success in achieving it is going to greatly depend upon the actions and attitudes of President Gerald R. Ford—whose chief task is not only to heal the Nation's more obvious wounds in the post-Watergate months immediately ahead, but also to do everything he can to restore credibility to the White House, and the Presidency, thereby reviving public confidence in our political system and institutions. This is not to suggest that Congress, too, cannot make a similar contribution. It is, instead, to note that, under our system and our appreciation of it, it is the Presidency—and certainly not the "imperial" Presidency of recent past—that has traditionally tended to be the fountainhead of popular confidence and trust in our governmental structure.

Mr. Speaker, I have every confidence that President Ford is up to the personal challenge posed to him in this, as in other respects. I have such confidence, perhaps I should add, if—and it is a rather big "if"—he is given a chance. His first 30 or so days in office were, as we recall of an unusual "honeymoon" nature. The public reaction to the granting of the pardon abruptly ended much of that temporary—and perhaps overdone—era of good will, and evidently in a manner not contemplated by President Ford when he announced his decision.

Neither he, nor we, can retrace our steps in that regard and it is even possible, one assumes, that it was just as well for all concerned that the fact of the pardon "stopped in its tracks," as Arthur Schlesinger, Jr., has put it, "too headlong a return—after the Nixon resignation—to the bad old habits of awe and reverence" for the Presidency. As Mr. Schlesinger further notes—

> By pardoning his predecessor, (Mr. Ford) has mercifully postponed our return to those barbaric practices of President-worship that made Watergate possible.

Well, in any event, Mr. Speaker, I think it is well and good in this context that President Ford has, throughout this difficult time for him, remained so true—at least as I see it—to his pre-Presidential self. Today, perhaps as at no other time yet since he assumed the Presidency, has the American public had a chance to see and listen to the Gerald R. Ford most of us have known, and trusted, and appreciated, for a good many years—17 years, in my case. His explanation of the pardon will not satisfy everyone, of course—how could it be expected to do so? But, surely now, nearly all of the critics of that act will accept it, if it was a mistake, as an honest mistake. To that extent, then, President Ford today rendered a service of possible historic impact for the institution that is the American Presidency—an office he is now privileged to hold.

His willingness to attempt to do so, under the equally historic conditions surrounding his voluntary appearance before a congressional subcommittee, is—as Godfrey Sperling, Jr., chief of the Washington bureau of the Christian Science Monitor has recently written in other regards—

> A welcome change in a capital that has been badly stained by evasiveness and duplicity.

I will now include Mr. Sperling's full column from which those words are taken, as a way to carry forward, and conclude, the theme underlying these thoughts of mine:

THE UNCOMPLICATED GERALD FORD

(By Godfrey Sperling, Jr.)

WASHINGTON.—A reporter was holding forth with some of his fellows on his problems of "selling" his findings to his editors on the presidential pardon of Richard Nixon: "I've been looking in all sorts of directions," he said, "and talking to everyone close in to the President. And I am convinced that there was no deal, no funny stuff, no chicanery. I think he did it for the reasons he stated—that he thought he could get Watergate behind him and that he did, indeed, think he was performing a Christian act by giving Nixon a pardon right away and not making him wait for it.

"But my editors keep prodding me to see if there isn't something else behind the move. After Nixon and Watergate they have become so accustomed to lying and evasiveness that they just can't accept the fact that this President is a man who may make mistakes—but that he acts honestly and directly. They continue to think that Machiavellian acts are going on behind the scenes in the White House. So they keep pushing me to look harder."

Another reporter in the group, nodding his head while the other talked, broke in to say: "My editors are acting in the same way. Watergate has made them supersuspicious. It's only natural, and we should be looking hard. But I keep telling them that this President is different from the last—that he approaches decisions the way most people do. But they keep telling me to look under the rug."

These White House reporters, huddling in the briefing room just a few minutes before the new presidential press secretary, Ron Nessen, arrived on the scene, were all in agreement on one point: President Ford might or might not turn out to be a notable achiever. His simplicity of approach might provide useful answers or it might turn out to be frightful oversimplification. But they saw him following a forthright path. "He may at times make bad decisions," one particularly hard-nosed reporter put it, "but he will make them honestly."

This thesis of an uncomplicated, easy-to-read President Ford is one that is gaining ground here, even among the most cynical of the Washington press.

Disciples of the theory of a candid, straightarrow Gerald Ford are convinced that some of his most important acts thus far must be explained in the most simple way—in the manner in which Mr. Ford himself explains them.

Here are examples of presidential decisions that have evoked widespread controversy and varying interpretations—and where Mr. Ford's own story is at least holding its own in this city of very suspicious reporters:

Amnesty. Some newspaper articles have said the President decided to come up with a limited amnesty plan simply to counter the adverse reaction that would come when he pardoned Mr. Nixon. Mr. Ford's own explanation is that his children—and, particularly the son who is the divinity student—persuaded him that this was the right thing to do. Mr. Ford has also indicated strongly that amnesty and pardon were two, separately, arrived at, decisions.

The presidential hint that a blanket pardon of Watergate-related defendants was forthcoming. There were stories which indicated Mr. Ford actually had decided to move in that direction and was only turned away when he heard the widespread negative repercussions from the American people.

Another analysis has concluded that this was a presidential "trial balloon." In such accounts Mr. Ford was pictured as rather craftily and quite politically testing the wind before deciding what to do with these defendants. But the President has said that all he meant to say was that if these defendants asked for pardon, he would examine the cases individually. He said he never had any intention of issuing a blanket pardon.

Had the President committed a giant-sized "blooper" by opening the door to wide speculation that he was going to follow the presidential pardon by pardoning everyone involved? Those who support the "honest-but-sometimes-misguided-President - Ford" theory would say "yes." They would say that if he had consulted with his inner circle of advisers and friends, he would have kept his mouth completely shut on this subject. But they would reject the theory of a clever maneuver of stratagem on Mr. Ford's part.

All this is not to say that those presidential watchers who might roughly be called "Ford believers,"—those who tend to accept his explanations—are not so unrealistic as to think that what Mr. Ford does is completely unrelated to his perception of political implications. They know that, on the contrary, this is a President who is also a skilled politician.

But those who now are underscoring the Ford credibility in this city—and who are asserting that there is absolutely nothing of the scheming Nixon in Ford—are merely saying that when this President says something was done for a certain reason you can believe him.

They see it as a welcome change in a capital that has been badly stained by evasiveness and duplicity.

THE 93D CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include my Washington Report entitled "The 93d Congress":

THE 93D CONGRESS

The 93d Congress may go down in the history books as the Congress that pushed a President out of office, but it has done much more than that. Even before taking a recess for the November elections, its list of accomplishments marks it as an unusually productive Congress. So far, it has:

Re-asserted its Congressional role in warmaking;

Established a mechanism to regain control over federal spending;

Adopted a pension reform to give 25 million workers some assurance of retirement benefits;

Strengthened federal programs for grade and high schools;

Established the first major federal housing program since 1968;

Enacted campaign reform legislation to limit contributions and spending in federal elections;

Passed a four-year farm bill to spur food production and end subsidies when market prices are high;

Authorized construction of the Trans-Alaska Pipeline, sharply accelerated energy research and development, and created the Federal Energy Administration to increase the supply of energy;

Stepped up the fight against cancer, encouraged the formation of organizations to improve the delivery of health care and emergency medical services; and

Among dozens of other notable pieces of legislation, created an independent corporation to provide legal services to the poor, raised the basic minimum wage while extending coverage to an additional 8 million workers, and gave the District of Columbia citizens the right to elect local officials.

Congressional action on 10 of 15 appropriation bills reduced the President's request for funds by a net of $3.15 billion. (House appropriations actions so far this year have reduced Presidential budget requests by $4.5 billion, and for the first time in recent memory the House acted on most of the fiscal year appropriation bills before the spending year began on July 1.)

The record of the 93rd Congress is still incomplete, but it is apparent that it was not obsessed with impeachment. When the Congress returns after the elections, it will have only a few weeks to work on a full agenda, including the nomination of Nelson Rockefeller to be Vice-President, the President's new economic policy, and measures dealing with strip mining, trade reform, and health services extension, along with completion of the regular fiscal year appropriation bills.

Of course, there will be some casualties, among them probably tax reform and national health insurance. The Congress ducked some tough questions, such as inflation and committee reform, but even if the Congress does nothing more, it has already produced a record surpassing most recent sessions of the Congress, and it gave the nation leadership at a time when the Presidency was disabled.

This solid performance by the 93rd Congress is much better than many people had thought. In view of the intensive media coverage of Watergate, they believed, quite understandably, that the Congress was doing nothing but dealing with Watergate and impeachment.

Nevertheless, the majority of Americans (54%) still give the Congress a negative rating, and nearly two-thirds of the electorate say Congress does not inspire confidence in government. It is interesting to note that the only time Congress has had a positive rating in the last decade was when it was passing the programs President Johnson sought in the early 1960's.

It may be that Congress cannot provide the kind of dynamic and comprehensive leadership the people want and apparently expect. A number of political and organizational realities limit the role that the Congress can play. These realities include the sheer weight of the work load of the Congress, the complexity of the issues with which the Congress deals, and the difficulties of developing a consensus on these issues. Each year the Congress deals with over 25,000 pieces of legislation, appropriates over $300 billion, and oversees the vast interests of the federal government. It does this with insufficient staff support, meager information resources and limited computer assistance, while trying to reach a higher level of agreement, by accommodation and compromise, among 535 strong-willed politicians who represent vastly different constituencies. At the same time the Congress seeks to buttress the law it eventually enacts by the process of discussion and consensus building so that the law will be acceptable to, or at least tolerable for, most groups and individuals in the nation.

An appreciation of these limitations will help in understanding what the Congress can and cannot accomplish. Given these limitations and the difficult political climate of these last two years, the Congress has performed tolerably well, although there is obviously much room for improvement.

TRIBUTE TO CLIFFORD G. McINTIRE

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 8, 1974

Mr. BELL. Mr. Speaker, it is with great respect that I join my colleagues in a tribute to the memory of Clifford G. McIntire, an able representative in the Congress for 10 years.

This unfortunate occasion brings with it a sense of acute loss at the passing of such a distinguished former colleague.

Throughout his career, Clifford McIntire lost no opportunity to acquaint himself thoroughly with the problems and needs of his constituents. By coordinating his administrative abilities, his practical knowledge of agricultural affairs, and his untiring concern, he served those needs well. The rural regions of Maine, in particular, should be much indebted to Cliff McIntire for his invaluable assistance in the formulation of agriculture legislation and programs of rural development. His single-minded dedication to the people he represented earned for him the respect of his colleagues and the privilege of serving the administration in several advisory capacities.

Consequently, I wish to extend my sincere condolences to Clifford McIntire's widow and to other members of his family.

JOSEPH F. LESTER, A HUMANITARIAN

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. FLOOD. Mr. Speaker, I have known Joe Lester for many years as a leading businessman, a humanitarian, and as a close friend. I was, therefore, most gratified to read a column in the Wyoming Valley, Pa., Observer of October 13, 1974, written by Rena Baldrica, which highlights this outstanding man's long career. As a long time friend of Mr. Lester's, it gives me a great deal of personal pleasure to have the aforementioned column inserted in the RECORD.

The column follows:

ANTHRACITE VALLEY NEWS

(By Rena Baldrica, Columnist)

From time to time my column has been the source of information on individuals or events long forgotten by the general public. Today we featured facts about one gentleman, Mr. Joseph F. Lester of Trailwood, Bear Creek. His love of humanity, spreads benevolence among his fellow man. His integrity and concern in his beliefs, should be brought to light.

For the many years Mr. Lester has donated his time and efforts to the cause of humanity. We people as a little group, made up of several nationalities, have a chance to pay tribute to a self made man, an active crusader in the cause of freedom.

In April of 1955, he was honored by Kingston Businessmen's Association who formally conferred on Mr. Lester the "Man of the Year" award. He served on the Committee of One Hundred to bring industries to the Valley.

During World War II, Mr. Lester formed a committee to sell War Bonds and was credited for selling over 6 million dollars worth of United States Savings Bonds. Mr. Lester is a civic-minded person, who has always tried to repay his debts to America and Wyoming Valley for his success in his adopted country.

Mr. Lester was born in the North Eastern part of Poland near Krakow. He was educated in Poland and came to America in his late teens.

After working as a bus boy, a waiter, a photographer, a newspaperman, and a car salesman, in 1920 he came to Wilkes-Barre and worked as a salesman for W.B. Chevrolet Co. In 1924 he was given the franchise for a Chevrolet dealership in Luzerne. He moved his business a year later to Kingston, and there remained until he retired.

In 1928, General Motors Export Co. sent Mr. Lester to Poland, where he directed the opening of General Motors Assembly Plant in Warsaw, Poland, which is still operating.

In 1936, the flood having ruined the building his business was in, he changed his franchise from Chevrolet to Pontiac. In 1949 he constructed the Pontiac Automobile establishment on Pierce St. in Kingston. His trade name was Lester Pontiac Co.

He is Life Member and director of the Wyoming Valley Motor Club, Director of the Wyoming Valley Veterans Association Army Ordnance Association, and a member of the YMCA. He recently retired as a trustee of Wilkes College. He is a past president of the Pennsylvania Heart Association, Director and past president of the Tatra Club. In 1938 he received the highest award, the Order of Polonia Restituta from the President of Poland, for unselfish devotion to his fatherland.

In 1963 Congressman Dan Flood and Joseph Lester helped christen the nation's 53rd nuclear submarine in memory of General Casimir Pulaski. The move was approved by the late President John F. Kennedy. The Casimir Pulaski is equipped to fire missiles with a range of 2,500 miles, a strong defender in the cause of freedom.

Mr. Lester is retired having spent 35 years as an automobile dealer.

He has been elected for the past 7 years as national president of the General Pulaski Heritage Foundation and trustee co-founder of Kosciuiszko Foundation, New York.

With the help of Cong. Dan Flood, Mr. Lester has directed the construction of an American Research Hospital for the children in Poland, more specifically the city of Krakow.

Mr. Lester's efforts have been here and in Poland. His generosity merits the badge of distinction, because, one must not forget that compassion, especially when children are involved and helped, must be recognized be it here or in any foreign land.

His help to the blind children in Krakow, gives him the right to be called a Humanitarian here and in Poland.

THE CIA: CHILE AND ELSEWHERE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. HARRINGTON. Mr. Speaker, in an editorial published in the Christian Science Monitor of September 19, 1974, Charles W. Yost offers some valuable insights on the subject of covert operations and their influence on the United States standing in the international community.

Focusing on the role of "dirty tricks" in a generally acknowledged post-cold war period, Mr. Yost examines the question of our national interest, the various interpretations which are attached to that phrase and the discrepancies among those interpretations.

As a member of the Foreign Affairs Committee, the relationship between the Central Intelligence Agency's covert activities and this Nation's foreign policy are of particular concern to me, and I commend the article, which is printed in full below, to the attention of my colleagues:

THE CIA: CHILE AND ELSEWHERE

(By Charles W. Yost)

NEW YORK.—Is it not high time that the United States Government, Congress, and people drew some operative conclusions from the repeated and embarrassing public predicaments in which the CIA has involved them over the past 15 years?

The most recent debate on the subject arises from the avowal by the director of the agency that it did expand considerable sums in Chile to prevent Allende's accession to power and, after he had nevertheless acceded, to weaken or undermine him.

I have not had an opportunity to examine the record sufficiently to judge whether, as claimed, other witnesses misled congressional committees on this point, though there certainly is prima facie evidence that they were not wholly candid. I should myself, however, support the U.S. Government's contention that, whatever the CIA may or may not have done in Chile, it did not "overthrow" Allende.

Allende was overthrown by Chileans. He never at any time had the support of the majority of the people. He was overthrown because he and his more radical adherents alienated, frightened, and ultimately radicalized in the opposite sense the unconverted majority, particularly its most powerful element, the military.

It is necessary to make this point in order to clarify the broad issue—whether admitted CIA activities in Chile, even if they played no substantial part in the overthrow of Allende, were in the national interest of the U.S. I would argue that they were not.

American and other Western spokesmen have for the past half century been pointing out that, while the Marxist revolutions in the Soviet Union and elsewhere were no doubt directed to noble ends, the atrocious means so often employed grossly distorted and even vitiated those ends. Yet since the onset of the cold war the U.S. has taken a leaf out of the Communist book and too often resorted to means so shabby we dare not avow them. In the long run this does not pay.

Ignoble means debase and demoralize the actors, corrupt and brutalize those acted upon and, in so doing, transform and disintegrate the end itself. This is as true for democrats as for Communists.

The consequence of a quarter century of "dirty tricks" by the CIA, that is, the U.S. Government, has been to make the agency throughout the world a symbol for unscrupulous intervention in other people's internal affairs and hence often to undermine, rather than to serve, the objectives of U.S. foreign policy.

We see how it is almost universally believed in Greece that the CIA inspired the July 15 coup in Cyprus which set in train the subsequent disasters. I believe this is a mistaken judgment, because upsetting the status quo was so obviously counter to U.S. interest. But the fact it is plausible to suppose that the CIA might have inspired the coup if it had been in the U.S. interest lends color to the accusation.

A New York Times story last week quotes a telegram from the U.S. Ambassador in Delhi to the effect that the recent revelations about CIA activities in Chile have confirmed the worst suspicions of the Indians about that agency and caused Indira Gandhi to wonder *whether the Indian* Government may not be the next target for elimination. This is hardly the image of its foreign policy and practice the U.S. Government should wish to see widely held around the world.

Supporters of CIA activities of this kind think of themselves as "hard-nosed" realists. The Bay of Pigs is one instructive example and Gordon Liddy's little operation at Watergate is another.

The fact is that "dirty tricks" conducted by agents of the U.S. Government very rarely serve the national interest of the United States, even if one interprets these interests in strictly "cold-war" terms. Experience has shown that they cannot be adequately "controlled" within the executive branch, because it is so often the controllers, as in the case of the Bay of Pigs and perhaps of Chile, whose perceptions and judgments are at fault.

Vietnam has tragically demonstrated the limitation on the capacity of the U.S. to determine the structure of an alien society even by a massive injection of armed force. How much less likely that America could hope to do so by clandestine operations. The U.S. can, no doubt, occasionally contribute to the rise or fall of a particular government or politician, but over the longer run indigenous forces, which it cannot control, will determine whether this superficial change has any lasting effect.

In referring at a public meeting in Washington last week to proposals that CIA abandon its covert action programs, director William Colby said: "In light of current American policy, it would not have a major impact on our current activities or the current security of the United States."

While the triple use of the word "current" is ominous, this statement is mildly reassuring. It is to be hoped that the President and Secretary of State will be persuaded that, in the broader perspective, these "dirty tricks" do more harm than good to the national security and should be phased out.

AN UNUSUAL FELLOW—THE HONORABLE LUTHER HARTWELL HODGES

HON. IKE F. ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. ANDREWS of North Carolina. Mr. Speaker, earlier this month, on Sunday, October 6, my State, our Nation, and the world suffered a great loss with the death of Luther Hartwell Hodges.

He served long and well—as a top executive with Marshall Field & Co., as Lieutenant Governor and then Governor of North Carolina, as Secretary of Commerce under Presidents John F. Kennedy and Lyndon Baines Johnson, as president of Rotary International, as chairman of the board of the Research Triangle Foundation.

Earlier, in the 1930's, he was appointed to the State highway commission by Gov. J. C. B. Ehringhaus, and, during World War II, he served as head of the textile division in the Office of Price Administration.

It was my privilege to serve in the North Carolina State Senate in 1959 when Governor Hodges was rounding out the longest tenure of any North Carolina chief executive. We became friends at that time, and our friendship continued until the day he died at his home in Chapel Hill.

For the benefit of my colleagues I am including in the RECORD some of the editorial tributes to Governor Hodges that appeared in some of the North Carolina newspapers.

They sum up the man—his life, his careers, his long service—quite well, and to them I would like to add a recollection that was somehow overlooked and largely forgotten, I imagine, by those who have joined in paying editorial tribute to this exceptional man.

My recollection, which has been verified by Mr. Ed Rankin, who was administrative assistant to Governor Hodges, was that during the fifties he advised Mr. Rankin and others that it was his personal preference that no bridge, building, park, highway, or other permanent structure be named for him during his lifetime.

Governor Hodges was one who put greater stock in intangibles—truth, love, and human spirit—than in brick and mortar.

He was one who appealed to others to serve unselfishly, one who spurred others on to help their fellow human beings, one whose exemplary life was such that he lives on through those of us who knew and loved him.

Governor Hodges was an alumnus of the University of North Carolina at Chapel Hill, a member of the class of 1919. He was a student there along with the late author Thomas Wolfe, the retired newspaperman Jonathan Daniels, and our distinguished senior Senator, the Honorable SAM J. ERVIN, JR.

It is a fitting tribute to Luther Hartwell Hodges that his beloved alma mater is establishing in his memory—not a dorm or classroom building—but a professorship in business ethics.

The editorial tributes to Governor Hodges follow:

[From the Asheboro Courier-Tribune, Oct. 9, 1974]

AN UNUSUAL FELLOW

Luther Hodges was an unusual fellow. He never really retired nor showed any signs of preferring inactivity to public service of one nature or another.

Every North Carolinian knows the Horatio Alger story of Mr. Hodges' climb from the tenant farm to the corporate boardroom. "Retiring" from an executive position with Marshall Field textile mill chain, he ran for lieutenant governor and succeeded to the governor's office upon the death of Gov. William B. Umstead in 1954. He won a term in his own right two years later and served the longest of any North Carolina chief executive, six years.

It was a distinguished governorship. No schools were closed during these turbulent years nor was there racial violence in the wake of the U.S. Supreme Court's ruling which knocked down racial barriers in American schools. A consummate salesman, the governor's sales pitch for North Carolina-made products skirted the ridiculous, especially when he posed in a shower wearing a wrinkle-free suit.

But it was the kick in the seat of the pants the state needed. After all, business means jobs—and that's something the governor—who rose from the poverty-stricken ranks—understood.

"Operation Bootstrap" we remember as a sort of huckster promotion to attract industry into the state, but it wasn't a failure considering the state's relatively healthy state with a stable industrial mix. The governor will share a bit in our success of late in depicting the state of North Carolina as a good place to work and live.

He represented all that was good in the state. The mixture of salesmanship blarney, common sense and public decency which were all part of the Hodges image were good for the state.

And Horatio Alger lives! Other sons of tenant farmers should look to the example Luther Hodges set during the productive rags-to-riches lifetime.

[From the Durham Morning Herald, Oct. 8, 1974]

GOV. LUTHER HODGES

We need not repeat in these lines the long and impressive list of contributions that former Gov. Luther Hodges, who died Sunday, made to life in North Carolina.

Few would deny that he was one of the state's most distinguished and successful governors, businessmen and citizens. In his long career, he seemed almost to personify that which is best about North Carolina.

When he ran for lieutenant governor in 1952, he campaigned as a businessman, not as a politician, who wanted to bring good business principles to state government. Yet he became an exceptionally adroit politician, a politician in the best sense, whose high ethical sense, energetic devotion to progress and insistence on the sane, sensible middle way helped to bring North Carolina through the turbulent 'fifties in good shape.

He did not personally believe in the desegregation of the schools, but North Carolina was lucky to have him as governor when the first token desegregation came to the state. The Pearsall Plan adopted under his governorship, was an astute exercise in compromise during an uncompromising time. It saved the state from the futile resistance of the kind undertaken in Virginia, yet it was never invoked to close a school or to pay the private tuition of a single North Carolina student. It set the stage, as much as anything else, for North Carolina's entry into the even more drastic social revolution of the 'Sixties.

Former Gov. Terry Sanford summed it up best, perhaps, when he said. "His courage and sense of fairness and enlightenment calmed the angry seas of racial strife and established North Carolina as a model for the nation."

Gov. Hodges was also a model for the genre from which he sprang, the nation's industrialists and businessmen. But the enormous energy he invested in bringing industry to North Carolina, the Research Triangle Park and his own successful business career marked only one aspect of the man. As governor, as secretary of commerce, as an author and a speaker, he continued right up until the closing days of his life to emphasize that businessmen not only have a duty to make money—they have a responsibility to do it honestly and to contribute to the social welfare of their community and nation.

Luther Hodges was a conservative in a basically conservative southern state. But his was an enlightened, creative conservatism which never ceases to grow and which builds upon the best that we have. North Carolina was fortunate to have his energy, his surefootedness and his inspiration in her service for such a long period of time.

[From the News and Observer, Oct. 8, 1974]

LUTHER HODGES LIVED A FULL LIFE

When Luther Hodges ran for lieutenant governor in 1952, a lot of people thought him just another retired businessman looking for something purposeful to keep busy. The notion sprang naturally from his arduous climb from tenant farmer's son to $75,000-a-year executive of the Marshall Field textile mill chain.

But unlike many young men who pursue success and attain it in maturity, Hodges was neither tired nor overly impressed by achieving it. He retained a young man's sense of vigor, optimism and openmindedness. He regarded retirement as merely a different set of circumstances for more growth and achievement.

Hodges won that lieutenant governor's race as a novice politician because he worked hardest at learning public affairs and campaigning for votes. And hindsight tells us that if Gov. William B. Umstead had not died two years later, propelling Hodges to the governorship, Hodges very likely would have earned it in his own right. Indeed, he did win a full term in the 1956 gubernatorial election.

Those were the turbulent years of school integration in the South. Though some of us sharply questioned the "safety valve" plan which Hodges promoted in North Carolina, it closed no schools. This state escaped the racial violence he counselled against, too.

Industrial promotion and economic development most marked his years as governor. Hodges was comfortable in the board rooms and the waiting rooms as a salesman for his state. Often he was successful. He pursued many avenues. He prevailed on the legislature to cut taxes for corporations. He cooperated for a series of pictures for Life magazine, promoting North Carolina products. (One of the photos showed him in a wrinkle-free suit taking a shower, another showed him hitching his well-pressed pants over his North Carolina-made underwear.) The gimmickry was a sidelight to substantive economic leadership such as founding the Research Triangle Park.

He learned to be a politician. He preferred Lyndon Johnson at the 1960 National Democratic convention. He became an indefatigable campaigner for John F. Kennedy, and later launched yet another public service career as U.S. secretary of commerce.

In 1964, he came back for another retirement and another decade of work for the Research Triangle and other North Carolina causes. Few men in this state's history lived so fully as Luther Hartwell Hodges.

[From the Raleigh Times, Oct. 7, 1974]

GOV. LUTHER HODGES SERVED NORTH CAROLINA WELL

Luther Hodges, who died yesterday after suffering a heart attack at his home in Chapel Hill, was the epitome of the American success story.

Starting his career as a mill hand he went on to become governor of North Carolina.

He was born in Pittsylvania County, Va., March 9, 1898, but his early life was tied to nearby Leaksville, N.C., where the family moved when he was two. His father worked in the textile mills there. Hodges himself worked as an office boy in the mills 1910–1911. He also worked as a mill hand during summer vacations. He obtained an AB degree from the University of North Carolina at Chapel Hill in 1919 then went to work as secretary of the general manager of the Leaksville mills.

Hodges went on to become general manager of the Marshall Field and Co. mills in 1938 and was made vice president of the company in 1943. He retired in 1950.

He was active in the Rotary Club and was a member of the Highway Commission under Governor Ehringhaus in the early 1930s. Hodges took part in Democratic Party politics at the precinct and congressional district levels.

But he was a political unknown when he decided to run for lieutenant governor in 1952.

He set out to change this. He told friends later that during the campaign he never bought more than one-gallon of gasoline at a time. He'd pull into a service station, buy a gallon of gas, shake hands all around and say "I'm Luther Hodges. I'm no politician, but I'm running for lieutenant governor. I'd appreciate your vote." Then passing out cards he'd move on to the next service station or restaurant where he'd go through the routine again.

Although he was a definite underdog, he won. He became governor Nov. 7, 1954, when Gov. William B. Umstead died.

He finished the term, then was elected governor on his own Nov. 7, 1956 and served until Jan. 5, 1961. He thus served longer than any governor in this century.

By moving from an unknown to governor, Hodges showed that it was still possible to beat the bushes and get elected without the backing of a political machine.

Hodges was appointed secretary of commerce by President Kennedy and continued the post under President Johnson.

As governor, Hodges advocated the so-called Pearsall Plan as a safety valve toward integration in the state's schools. At the same time he said he hoped it would never be used.

Before it was struck down by the federal courts it allowed closing of schools under certain conditions and allowed the state to grant tuition to students not wishing to attend racially mixed schools.

It was passed by the legislature and okayed by the voters but was never used.

Hodges once told an interview "I consider the calm manner in which North Carolina handled its integration problems the number one achievement of my administration. It also was the thorniest problem."

He'll be remembered for the formation of the Research Triangle which he and banker Robert Hanes of Winston-Salem pushed to entice high quality industry into the state. Hodges wished to create jobs for persons leaving the farms.

Hodges was dignified and looked every bit the part of the governor. Yet he posed in his underwear for a Life photographer in a move to help the state's industry.

He was a man of action, a man needed for the times. He continued to be active right up to the end. He will be missed by North Carolina and particularly the Research Triangle area.

[From the North Carolina Leader, Oct. 15, 1974]

PURPOSE

Before they were married a few years back, Mrs. Luther Hodges told the Leader, "The Governor is, in so many ways, about the youngest person I've ever known."

Anyone who came in contact with this remarkable man had to agree.

He was a man of action with a probing mind and vision about the future of North Carolina.

Just a few weeks ago, we heard him explain Research Triangle Park—its reason for being—to members of the Chapel Hill Rotary Club, which he founded.

"We wanted to raise the income level of North Carolina and keep the young men and women educated in our schools at home instead of having them seek higher paying jobs in the North or West," he said.

Prof. Joel Carter of the University of North Carolina faculty whispered, "Any meeting is enhanced just by his being there. He has such integrity!"

Former Gov. Luther Hodges' integrity, dedication and purpose were a beacon light in the development of Research Triangle Park.

The Leader, as the Research Triangle's newspaper, enjoyed a unique, joyful relation with him. We weren't around him a great deal, but interviews with him were fun; his quick-witted mind supplying the answer to the next question before it was spoken.

His wife, Louise, brightened the last years of his life. They were almost inseparable.

We remember one autumn morning seeing them stroll together with Louise Hodges reading aloud from a book.

"What book are you reading?" we asked.

Governor Hodges chuckled and supplied the answer.

"It's a joke book," he confessed. And we thought he knew all the jokes!

He lived to see his dream come true in Research Triangle Park. However, as he himself reminded people in a special article he wrote for the Leader in 1969, the "unremitting dedication" of North Carolina citizens is always needed to see that things keep happening in Research Triangle Park.

MANPOWER POLICIES FOR A NEW ADMINISTRATION

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. STEIGER of Wisconsin. Mr. Speaker, the National Manpower Policy Task Force recently completed a policy statement of substance and importance. For the information of my colleagues, I want to share this statement with them for their review and thought at this point:

MANPOWER POLICIES FOR A NEW ADMINISTRATION

The beginning of a new administration is an appropriate time for reviewing past policies, assessing current conditions, and analyzing *future needs.* The National Manpower Policy Task Force offered its assessments and recommendations at the beginning of the Nixon administration, hopefully with same positive impacts. In this policy statement, we briefly review the manpower policies of the last six years, and offer unsolicited advice to policymakers in the Ford administration and in Congress.

PAST PERFORMANCE

The major manpower policy thrusts of the Nixon years were the decentralization, decategorization, and consolidation of manpower programs. These were ultimately combined in the passage of the Comprehensive Employment and Training Act in December 1973. A solid achievement, it was the right approach for the right time. The initial impetus for manpower programs was necessarily national, but with a decade of experience to build upon, the time had come to adopt the results of that experience to the particular needs of local labor markets. The passage of the Comprehensive Employment and Training Act was only a first step. A major effort will be required before the chief elected state and local officials will acquire a full appreciation and understanding of manpower problems and before state and local manpower staffs will develop the necessary planning and administrative skills.

The Department of Labor, which retains federal responsibility, has several difficult assignments. It must continue to confront some manpower issues which are national in scope, such as the problems of youth, older workers, and veterans, and accept responsibility for aiding migrant workers, Indians, and others whom state and local government cannot, or would not, effectively serve. It also must maintain a monitoring and evaluation role to assure that national objectives specified in the Comprehensive Employment and Training Act are pursued, and to provide technical assistance without "hovering" over state and local decisionmakers.

The Nixon administration left office with another important, but unfinished, accomplishment to its credit—the introduction of a plan to reform the welfare system. Earnings from employment is the preferred source of income in the American, as in any other society, but a basic floor of economic security should be a social right of all citizens in an affluent society. A guaranteed minimum income accompanied by work incentives and income supplements for the working poor appears to be a desirable way to accomplish the goal. While the Nixon administration faltered in its commitment before Congress might have acted, important groundwork was laid in formulation of the concepts and education of the public.

In other manpower policy areas, the Nixon administration's record was mixed. It opposed the introduction of a public employment program as a countercyclical device and as an initial small step toward guaranteeing employment. However, once Congress insisted, the executive branch followed through with vigor and determination in its administration of the program.

On the negative side, the administration was responsible for cutting back badly needed budgetary support for manpower services as well as community antipoverty agencies which had gained valuable experience as deliverers of manpower and social services. It contributed to spreading a negative image of manpower efforts, far beyond what was justified by evaluation data. Budget retrenchment made the decentralization of programs to state and local officials more difficult as they faced the unwelcome task of breaking a smaller loaf among an increasing multitude of potential clients.

THE CURRENT SCENE

The Ford administration faces difficult manpower challenges. The most immediate issue is to cope with the problems of unemployment and inflation. Joblessness is rising to socially and politically unacceptable levels, yet "double digit" inflation persists, a pace never before known in peacetime. Traditional methods of fighting inflation have always visited their major costs on those least able to bear them—those already at the lower margins of the labor market. Strong voices in the federal establishment and outside continue to advocate fighting inflation with insufficient regard for rising unemployment. But the current inflation did not originate with labor shortages, excess labor market bargaining power, or excess demand. Labor market bargaining power is now obviously a factor, but it must be recognized as an effort to "catch up" after remarkable restraint. We believe that the use of weapons with adverse labor market impacts to fight an inflation which counts no labor market phenomena among its causes will be costly, ineffective, and above all, inequitable. Yet, the pace of inflation must be slowed, and we have no pat answers how to deal with the situation.

One thing is certain, however. Increased monetary and fiscal restraint will further boost the already high levels of unemployment. Whatever policies are adopted, we believe that society has a clear responsibility to protect and compensate those who bear the burden of national policies aimed to reduce inflation for the rest of us.

Unemployment compensation and public assistance benefits are first line defenses. President Ford's proposal to bolster unemployment compensation by extending regular benefits 13 weeks and implementing a special program of up to 26 weeks for workers who qualify for compensation on the basis of employment and earnings but who are not in covered industries, are necessary and timely steps, but not enough. Except for those for whom gainful employment is not a reasonable alternative, income support is not desirable. To idle willing hands is no way to fight an inflation originating in shortages. Public service employment was sufficiently successful under the Emergency Employment Act of 1971 to win the approval of liberals and conservatives alike. It makes sense because it maintains productive activity and output. It is less costly than often supposed because its expenditures are partly offset by savings in income maintenance programs. Creation of public service jobs is less inflationary than the customary "trickle down" approach of creating employment by generating aggregate demand for goods and services. It requires minimal capital investment and rations its jobs directly to the unemployed. While public employment measures could become a disguise for unproductive income maintenance and could replace other public budgetary commitments with no real increase in jobs, these abuses can be minimized by prudent public administration. The major issue is not whether to introduce public employment programs, but on what scale. The Task Force has previously recommended a public service employment program providing work for one quarter of the unemployed above 4.5 percent, with an automatic "trigger" releasing funds for use in depressed local labor markets as national unemployment rates increase. The Ford administration's plans for a Community Improvement Corps to hire unemployment insurance exhaustees for short-term public works and beautification projects emphasize temporary, work-relief at low wages. An annual average of over 1.8 million persons exhausted benefits in the past three years, and there may be many more in the coming year. If a plan is adopted which provides jobs for a large proportion of these unemployed, it could be a very useful tool. But the Community Improvement Corps is not a substitute for an expanded program along the lines of the Emergency Employment Act which served a broad range of the unemployed and funded needed "regular" jobs above as well as at the entry level, thus insuring transitional opportunities. Provision should be made not only for those who exhaust compensation benefits, but for those who lose their jobs and want to continue working. President Ford's proposal might complement an expanded public employment program along the lines initiated in 1971 subject to a 4.5 percent trigger funding formula.

Public service employment is only a piece of an antistagflation manpower policy. A recession is also an appropriate time to upgrade the skills of the labor force. The costs of training otherwise unemployed people are reduced by the drop in their foregone earnings. Trainees are not tempted by job availability to drop out before completion of training courses, and employers are not likely to raid the training facilities. Program administrators are not so anxious to reduce training time to the minimum, and substantial skills can be provided. Training must remain a central component of manpower policy.

The public employment service is a necessary cornerstone of our manpower efforts. Important improvements have been and are being made to augment its ability to serve both employers and jobseekers. Experiments have demonstrated that, in addition to its direct placement functions, it can do more to spread job market information and improve the abilities of employees and employers to exercise their own initiative in the job market. Shortening the duration of frictional unemployment is an obvious contribution to reducing overall unemployment. Vigorous steps are, therefore, needed to increase the effectiveness of the public employment service and to fully utilize its resources under CETA.

Despite notable progress in the last decade, race, sex, and age discrimination still persist. Differences in skill, experience, productivity, and labor market mobility account for only a portion of the high average unemployment (and lower earnings) among minority groups and women. The immediate goal should be to eliminate market discrimination to assure that persons with equal skills and abilities are treated equally. In the longer run, differences in training, education, and work experience must, then, be attacked. A more vigorous antidiscrimination policy and enforcement is needed both in the short- and long-run to achieve these aims.

Finally, continued research is needed into the functioning of labor markets. The current economic crisis has suggested how much there is still to be learned. Research is a long-range investment, not to be cut back in short-run emergencies. The limited funds invested in labor market research have been carefully husbanded and for the most part wisely spent. Advancing the frontiers of knowledge and experimenting with new approaches are high risk activities where failures are more likely than successes. Yet, there is no other road to progress. Continued research into improving productivity and labor market efficiency is an indirect but not unimportant weapon against both unemployment and inflation.

THE LONG-TERM CHALLENGES

In addition to pressing immediate needs, longer-range challenges also cannot be ignored. The American people, guided by (or guiding) every administration since World War II, have made Herculean efforts to upgrade the quality of the nation's human resources. That expenditures on education have risen from $6 billion to over $100 billion a year is only one gross indicator of those efforts. With a vast deficit in human resource development stemming from a severe depression and a major war, followed by a rapidly changing technology, the corrective action was timely and positive. As a result, no persistent skill shortages remained even during the tight labor markets in the past decade. In the 1970s circumstances have changed, and imbalances in the supply of and demand for skilled and highly-educated manpower are becoming a more and more frequent occurrence. In a society where freedom of occupational choice is an unchallenged right, planning and information are needed to guide human resource investments in order to maintain a balance between supply and demand and to avoid wasteful surpluses or shortages.

Accompanying that investment in human resource development was the challenge of absorbing into the work force the swelling cohort of youths, the product of the high postwar birth rates. That group has now passed through the years of formal education. Continual improvements in the quality of preparation given youth for productive lives will be needed, but the quantifiable challenge is a declining one. However, human resource development needs do not end with a high school or college diploma. Whether because of changing technology and social priorities or due to the changing occupational preferences of maturing workers, a need for institutional facilities to provide recurrent education—upgrading and mid-career changes—will be a continuing challenge in which the efforts of individuals, public institutions, and employing organizations must join. Opening second or subsequent careers and other productive outlets for the persisting energies of the longer-lived population and assuring that educationally disadvantaged people are not left out, are parts of that same challenge.

In the long run, increased productivity is the major route to raising living standards. Much has been learned by employers about motivating employees, but little of it has been applied in public policy. The new career education emphasis relating schooling to work can be expanded for adults as well as children and youth. Areas of particularly slow productivity growth can also be identified and attacked.

As another ever-present long-range challenge, we always have the poor with us. Manpower programs have helped many individuals to surmount the handicaps they have faced in job market competition, but someone is always at the end of the line. The task of helping them is a never-ending, but an essential one. Current efforts to improve the efficacy of the remedial manpower system which evolved over the last decade should not obscure its fundamental mission—to provide a helping hand to those who are failing in or being failed by the labor market.

Finally, there remains the challenge to design a system that would provide adequately for those who cannot support themselves, but without destroying incentives for the able-bodied to contribute to their own maintenance. Work and welfare have typically been portrayed as mutually exclusive alternatives. For an increasingly large portion of the population, however, the choice is not work *or* welfare, but work *and* welfare. The need is to provide income supplements to the working poor with a decent support for all at a level which is compatible with an affluent society.

A MANPOWER AGENDA

In summary, this is no time to slacken human resource development efforts nor to visit the costs of anti-inflation efforts upon those who have been less the villains and more the victims than others. Despite the occasional stumblings of trial and error and fluctuations in commitment, the manpower experience overall has been one of persistent progress. That progress should continue with:

1. Augmentation of decentralized planning and administrative capabilities under federal policy guidance.
2. Compassionate efforts to promote self-support methods of income maintenance, combining, where necessary, work with welfare, rather than treating the two as separate systems.
3. Priority of improving the employability and employment opportunities for those facing disadvantages in their competition for jobs.
4. Vigorous antidiscrimination enforcement.
5. Long-range investment in human resource development including early and recurrent career education for adults as well as youths.
6. Expansion of public service employment as both a countercyclical tool to protect the unemployed and as a transitional process for the disadvantaged.
7. Continued emphasis on training and retraining during the recession to take advantage of immediate lower costs and to spark productivity during recovery.
8. Search for other opportunties to increase productivity and reduce labor costs.
9. Research into labor market behavior and institutions.
10. Most of all, recognition that the current inflation did not start in the labor market and cannot be cured there.

These general principles, implemented programatically based on a dozen years of experience with manpower policy, can, we are convinced, contribute both to short-run problem solution and long-run national progress. They can be the basis of wise manpower policy for a new administration.

The National Manpower Policy Task Force is a private nonprofit organization of academic manpower experts. It is devoted to the promotion of research in manpower policy. This statement represents the combined judgment of the Task Force members. Despite divergence of opinion on details, the members agreed to a unanimous statement without indicating individual exceptions.

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HUMANITIES ENDOWMENT'S "COURSES BY NEWSPAPER"

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. BRADEMAS. Mr. Speaker, as the chairman of the Select Education Subcommittee, which has jurisdiction over the National Foundation on the Arts and the Humanities Act, I want to bring to the attention of my colleagues the Courses by Newspaper program supported by the National Endowment for the Humanities.

The programs makes available, through 200 newspapers, weekly 1,500-word lectures by a faculty of nationally and internationally known scholars. It is estimated that the newspapers reach 20 million Americans, and that 15 million of them have read one or more of the lectures.

In addition, Mr. Speaker, 180 colleges and universities last year offered credit for successfully passing a test based on the full 18-week lectures, and almost 5,000 students enrolled for credit.

Mr. Speaker, the Courses by Newspaper program was conceived of last year as a pilot program involving five newspapers and five colleges and universities.

But the response has been extraordinary, leading to the involvement of 180 institutions of higher education and 200 newspapers such as the Decatur, Ala., Daily; the Honolulu Advertiser; the Elkhart, Ind., Truth, in my own congressional district; the Boston Globe; the McGuire, N.J., Airtides and others.

Because this important program, supported by the National Endowment for the Humanities, will be of interest to every Member of Congress, I insert, at this point in the RECORD, a description of the Courses by Newspaper program from the September 30 Chronicle of Higher Education:

"COURSES BY NEWSPAPER" STARTS ITS SECOND YEAR

(By Beverly T. Watkins)

Readers of some 200 newspapers will have an opportunity this week to brush up on their American history—for college credit if they wish—as "Courses by Newspaper" begins its second year.

Part of a projected trilogy keyed to the forthcoming American Bicentennial, the 1974–75 course, "In Search of the American Dream," will offer 18 "lectures" through both daily and weekly newspapers nationwide.

The first course, the 20-week "America and the Future of Man," had appeared in 273 newspapers by the time the 1973–74 academic year ended.

Some 126 institutions, including two-year and four-year colleges, universities, and college extension programs, will offer academic credit for the second course. Almost 5,000 students enrolled last year at the 180 institutions that offered credit.

SUPPLEMENTARY LEARNING KIT

Courses by Newspaper, developed and coordinated by the extension division of the University of California at San Diego, offers weekly 1,500-word lectures by a "faculty" of nationally known scholars to newspaper students numbering in the millions. If they wish, readers may purchase a supplementary learning kit that includes an extensive reader, a study guide, and self-tests.

"'In Search of the American Dream,' will focus on the persistence . . . of the utopian spirit that animated this country's beginning," according to Robert C. Elliott, professor of literature at the university and academic coordinator of the program. Course content will span American history from "Columbus Discovers Utopia," the first lecture, through "Crisis and Continuity: the 20th Century" and "Now and History," the concluding lectures.

The authors, in addition, to Mr. Elliott, who wrote the introduction and first lecture, include Winthrop Jordan, University of California, Berkeley; Michael Kammen, Cornell University; William Goetzmann, University of Texas; Jay Martin, University of California at Irvine; and Robert Penn Warren, Yale University.

The project to distribute college-level material through the country's most widely read medium almost overwhelmed its developers with its success last year, according to Caleb A. Lewis, director of media programs at the University of California at San Diego's extension division and project director for the newspaper courses.

An evaluation of the 1973–74 program by a researcher at California State University, San Diego, revealed that more than 75 per cent of the potential readers had read some of the lectures.

For all its success, however, Courses by Newspaper has not been without problems. And, although it has benefited from its experience, the project faces a dilemma this year that may not be easily resolved.

Courses by Newspaper, financed by the National Endowment for the Humanities with additional support last year from the Exxon Education Foundation, was developed primarily for those who don't participate in higher education, according to Mr. Lewis.

"We wanted to reach those who aren't involved because education is unavailable; those who are afraid of education because of some past experience or because they feel it is all beyond them because [they feel] they are so stupid," he said.

PROJECT EXPANDS GREATLY

What was conceived as a modest undertaking to expose the unexposed to higher education exploded into a project that also involved people with formal higher education but no degree, degree-holders, senior-high-school students, and even some university graduate students.

The pilot study planned for five selected newspapers and five matching colleges expanded into a project that included such diverse papers as the Decatur (Ala.) *Daily*, Denver *Post*, Honolulu *Advertiser*, Elkhart, (Ind.) *Truth*, Boston *Globe*, McGuire (N.J.) *Airtides*, Kansas City *Star*, Tullahoma (Tenn.) *News*, and the Seattle *Post-Intelligencer*, plus nearby colleges.

At the end of the year, 4,974 people had enrolled for credit at participating colleges and an additional 6,630 had purchased the learning kit at $10.

Following a telephone survey of newspaper subscribers in five cities—San Diego, Denver, Shreveport, La., and Huron and Chamberlain, S.D.—Oscar J. Kaplan, director of the Center for Survey Research at San Diego State, estimated that of the potential 20 million readers nationwide, 15 million had read one or more of the lectures. The poll showed that 35 per cent of Chamberlain *Register* readers and 27 per cent of Huron *Daily Plainsman* subscribers had read "America and the Future of Man," which was second in popularity only to "Dear Abby."

Although no figures are available on the number of students who actually received credit for the first course, 1,769 took a difficult 30-item multiple-choice final examination. Some traveled many miles to complete it.

"We had one student who went from Jackson Hole (Wyo.) to Salt Lake City and another from Nova Scotia to the University of Massachusetts," said Mr. Lewis.

The overwhelming response to Courses by Newspaper has caused the project some trouble.

"We definitely underestimated the problems involved in matching newspapers and colleges," said Jane L. Scheiber, editorial director and assistant director for the project.

Under the plan, the first newspaper in any city to apply for the course receives the exclusive right to it for that area. This arrangement has caused some friction within the Copley News Service, which distributes the lectures, according to Ms. Scheiber.

The large institutional response meant that "we faced four to five times as many colleges as we could accommodate," said Ms. Scheiber. "We tried to go with the land grant institutions where we could," she said, "but we sometimes had trouble recruiting the right college for the newspaper."

"The biggest mistake," acording to Mr. Lewis, was limiting participation to four-year institutions. "We wanted to keep the course at an upper-division-equivalent level to make it consistent across the country. If someone wanted to transfer units from the University of Tennessee to Oregon, they'd be talking about the same thing," he said.

But intense pressure from junior and community colleges, plus the fact that four-year colleges offered the course for lower-division, upper-division, and even graduate credit—and some senior high schools picked it up for honors programs—prompted Mr. Lewis to reverse that decision. This year "the junior colleges are as welcome as anyone," he said.

Ironically, a new problem unique to the medium now faces Courses by Newspaper.

"The newsprint shortage has caused a downswing in the number of papers participating this year," said Mr. Lewis, who estimated a drop of about 75 and a proportional drop in readers.

However, if Courses by Newspaper is funded for its third year as originally planned, Mr. Lewis expects "participation to double in all areas."

"Newspapers are evaluating the course now," he said. "Some are taking full-column ads asking their readers if they want it again. They're surprised at the response—not the size of it but the intensity. Those who want it, want it badly," he said.

FOREIGNERS TAKE OVER U.S. BANK

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. RARICK. Mr. Speaker, the Franklin National Bank of New York upon being declared bankrupt on October 8, has been taken over by six European banking concerns and is operating as the European-American Bank & Trust Co. Apparently, the transfer was so smoothly engineered by the Federal Reserve and banking interests that the bank was open the next morning with the same employees and the depositors did not lose a penny.

The same apparently cannot be said for the U.S. taxpayers since the Franklin National fiasco has reportedly now cost $100 million and is expected to even go higher.

In May of this year the Federal Reserve Banking system, in a futile attempt to bail out Franklin National reportedly agreed to loan it up to $1.1 billion at its "discount" window.

In the meantime as the national debt grows—now estimated at public and private to be $2½ trillion—our inflation increases and other American banking interests are overextended, the American people are told that we must continue our bankrupt foreign policies of sharing our food, energy and credit with all the world.

Recently the East German Communist party leaders in gaining diplomatic recognition from our Government, advised that they are looking forward to most favored nation trading status with our country. This means not only the advantage of a devalued U.S. dollar, but also on subsidized credit terms cheaper than any American can obtain.

Today we are advised that Treasury Secretary Simon in Moscow is proposing most favored nation trading status and credits with the Soviets.

Soon there must be a day of reckoning with the share-the-wealth policies of the one-worlders and the domestic crisis of the American people being understood by all. The Franklin National Bank incident should remind us that the foreigners are not only rapidly getting control of our food and money, but now they are even taking over our banking institutions.

I insert the related news clippings following my remarks:

[From the Washington Post, Oct. 17, 1974]

BANKRUPTCY PETITION FILED BY FRANKLIN

NEW YORK, October 16.—Franklin New York Corp., the holding company that used to control Franklin National Bank, filed for bankruptcy in Federal District Court here today.

The holding company's chief asset was the stock of the bank which was declared insolvent on Oct. 8 by federal banking authorities. At that time, most of the bank's assets were sold to European-American Bank & Trust Co., which is owned by six large European banking concerns.

An attorney speaking for the holding company said the papers were filed this morning at 10. He said it was "a voluntary petition in bankruptcy."

Officials of Manufacturers Hanover Trust Co., which is known to have loaned Franklin New York Corp. $30 million earlier this year before Franklin National Bank's troubles were made public, couldn't be reached for comment on the latest Franklin development.

(Another large creditor listed in the papers is Morgan Guaranty Trust Co., acting for some of its customers.)

[From the Wall Street Journal, May 23, 1974]

FED'S LENDING TO FRANKLIN NATIONAL BANK IS ABOUT $1.1 BILLION, A HIGH FOR SUCH AID

(By Edward P. Foldessy)

NEW YORK.—Franklin National Bank's borrowings from the Federal Reserve System have reached about $1.1 billion.

Neither thhe bank, a subsidiary of Franklin New York Corp., nor the Fed would confirm the figure, a record in terms of Fed aid to a troubled bank. In the middle of last week, the level of Franklin's Fed borrowings was around $750 million.

The $1.1 billion figure, obtained from usually reliable sources, represents about a quarter of the bank's deposits and borrowings from all sources.

It was learned yesterday that officials of the Federal Reserve Bank of New York have been asking other large New York banks to resume "normal banking relationships" with Franklin National to the extent that they can.

The reserve bank has been noting that Franklin is solvent according to the U.S. Comptroller of the Currency and that the Fed itself has been lending funds to the troubled bank.

On May 10, Franklin New York announced plans to skip dividends on its common and preferred stocks because of poor earnings. Later it disclosed a large loss in its foreign exchange department that it said was caused by unauthorized dealings by one of its traders.

Franklin currently is adjusting its previously reported first quarter earnings, partly to reflect the trading losses. But according to some sources, the restatement may go well beyond the foreign exchange losses and show a sharp net loss for the period. The restatement is expected to be made public either today or tomorrow.

Franklin originally reported first quarter operating net of 582,000, or two cents a share, down 83% from $3.6 million, or 68 cents a share, a year earlier. At the time, it said income from foreign exchange trading in the quarter rose $2.3 million from the year-earlier period.

Franklin has had to borrow from the Fed because of its difficulties in obtaining funds from normal channels. But the loans from the Fed have had a beneficial side effect: bargain basement prices for the borrowed money.

In borrowing from the Fed, Franklin pays an 8% annual rate of interest (the Federal Reserve's discount rate) on loans backed by eligible and acceptable collateral, such as U.S. government securities. An 8½% rate is paid on advances backed by other types of collateral, including long-term municipal securities, mortgages and long-term corporate loans.

By contrast, the cost of funds in the open money market recently has hovered in the 11% to 12% range. Thus, on $1.1 billion, Franklin stands to save from $500,000 to $750,000 a week in interest costs over what it would have to pay in the open market if it were able to tap that source.

The Fed hasn't publicly specified the amount of funds it stands ready to inject into Franklin or the amount of collateral Franklin has available for such purposes. On May 12 the Fed said the bank had a "large amount of acceptable collateral available to support advances." At the time the Federal Reserve said that it could make loans to any solvent bank and that the U.S. Comptroller of the Currency had found Franklin to be solvent.

According to sources, the Federal Reserve's request that bankers resume normal activities where possible with Franklin hasn't received much response. At least two banks have turned down the request almost out of hand, they said.

Originally, reports circulated that the Fed was waging an arm-twisting campaign to have banks resume so-called federal funds trading with Franklin. Federal funds are uncommitted reserves banks lend each other. But sources within the Fed said the reserve's suggestion to bankers was broader; involving all types of interbank relationships.

Fed sources stated that the reserve bank in each case reminded bankers of their legal responsibilities to their own shareholders and depositors, and, in effect, cautioned them to enter only those kinds of transactions that would be considered prudent for the benefit of their banks' depositors and shareholders.

[From the New York Times, May 13, 1974]

Reserve Comments on Bank Case

Washington.—The following is the text of a statement made today in response to inquiries about the Franklin National Bank by George W. Mitchell, vice chairman of the board of Governors of the Federal Reserve System:

"Inquiries have been raised in recent days about the position of Franklin National Bank. The bank has reported a poor earnings record recently, and the management of the controlling holding company announced Friday that it would recommend that the regular dividend payment on both comomn and preferred stock be passed. The board is familiar with this situation and looked carefully at the bank's condition in connection with the proposed acquisition of Talcott National Corporation by the bank's holding company. Its decision earlier this month was to turn down this proposal in part because it felt that management's energy should be devoted to the remedial program for the bank, which is now underway.

"There is, of course, the possibility that—with many rumors about the bank—Franklin National may experience some unusual liquidity pressures in the period ahead. As with all member banks, the Federal Reserve System stands prepared to advance funds to this bank as needed, within the limits of the collateral that can be supplied. Working with Franklin National, the Federal Reserve Bank of New York has determined that there is a large amount of acceptable collateral available to support advances to the bank from the Federal Reserve Discount window if they are needed.

As a matter of general policy, the Federal Reserve makes credit extensions to member banks, upon acceptable collateral, so long as the borrowing member bank is solvent. We are assured by the Comptroller of the Currency that Franklin National Bank is a solvent institution.

Chairman Burns, who is in Europe, has been kept informed of developments. Since this matter does not require his personal attention, he has no intention of changing his travel plans which call for his return to Washington later this week.

[From the Washington Post, Oct. 17, 1974]

How U.S. Insurance Setup Safeguards Your Savings

(By Jane Bryant Quinn)

New York.—Surprising numbers of otherwise prudent people have taken to storing cash in safe deposit boxes. They're willing to forgo the interest that cash might earn because they think that savings accounts aren't safe.

Yet, in the largest U.S. banking failure to date—the collapse of New York City's Franklin National Bank—depositors didn't lose a penny. The government engineered an overnight sale of the bank's assets to the European-American Bank, which opened for business the next morning with the same doorkeepers and the same tellers.

So far, the Franklin National disaster has cost the Federal Deposit Insurance Corp. $100 million. That sum will go much higher, but the FDIC now has reserves of $5.8 billion, plus another $3 billion line of Treasury credit.

It's possible that, in the year ahead, other poorly managed banks will buckle under the weight of bad loans. But the government can handle it. Here's the background on the insurance system that protects your savings:

The FDIC and its sister insurer, the Federal Savings and Loan Insurance Corp., were born in the Depression. Their task was to rebuild America's confidence in the banking system by guaranteeing every depositor that the first $2,500 of his savings would be as safe as the U.S. Treasury. Since then, the insured amount has risen to $20,000.

From 1934 until last year, the FDIC paid out $903 million to 502 banks that failed (or were forced into shotgun mergers). But that money was not lost. In return for its largesse, the FDIC acquires some or all of the assets of the failed bank. This year, for example, it has become the lucky owner not only of stocks and bonds but apartment houses, cattle ranches, hotels and even a fishing fleet.

Over time, the FDIC sells these assets and even may make a profit on them. Since 1934, it has recovered $779 million of the $903 million it dispensed. That's a total loss of only $124 million over 40 years. Its average annual profit on investments (mostly U.S. government securities, once the ranches and fishing fleets are sold) comes to $400 million. The FDIC could save other Franklin Nationals out of profits alone.

Whenever a bank has failed, the FDIC has paid off, within days, on all accounts up to the insured limit. Subsequently, the bank's assets have been liquidated in such a way that 93 per cent of the uninsured deposits also were paid back.

The books of the FSLIC tell a similar story. In 40 years, some 103 savings and loans have failed or needed financial aid, for a total booked loss so far of $167 million. Reserves now stand at $6.6 billion. Its record for helping depositors couldn't be much better; the FSLIC says that no one has ever lost a nickel in an insured S & L, even on accounts larger than $20,000.

A bill that went to the President for signature Oct. 10 would raise the amount of insured savings from $20,000 to $40,000. That means that, if your thrift institution got into trouble, up to $40,000 in each account would be paid off in a matter of days.

If you had an individual account, a joint account with a spouse, a trust account and a joint account with a parent you'd be entitled to up to $40,000 on each of them. Eventually, you'd also get back most of your savings over $40,000. But a better idea is to keep excess savings in a different institution. Then you're insured in both places.

But check to see that your savings are indeed insured by a state or federal agency. A few states still permit banks and S & Ls to operate without government backing. With financial conditions so uncertain there's no sense taking that risk.

[From the Washington Post, Oct. 17, 1974]

Simon Back From Talks In U.S.S.R.

President Ford will decide on whether to allow a suspended multimillion-dollar Soviet grain deal to go ahead after being briefed by Treasury Secretary William E. Simon, who has just returned from Moscow.

Simon spoke briefly to reporters on his return from a four-day visit for economic talks with Soviet officials.

He said he had full and frank discussions with the Soviet leaders, including the agreement reached by two grain companies to sell some 3.4 million tons of corn and wheat to the Soviet Union.

President Ford blocked the $500 million transaction earlier this month, principally because fears of domestic shortages following a particularly bad summer had pushed up prices to a point where they threatened to worsen inflation.

Simon said he would discuss the matter with Mr. Ford. But, he added, "The President must make the decision."

[From the Washington Post, Oct. 17, 1974]

Simon Ends Talks In Moscow on Trade

Moscow, October 16.—Secretary of the Treasury William E. Simon said today the U.S. government shares Soviet Communist Party leader Leonid Brezhnev's desire to resolve trade problems between the two countries.

Simon spoke with newsmen at the airport before he left for Washington after two days of talks with Soviet officials, including Brezhnev.

At a banquet ending the talks last night, the Soviet party chief made a hard-line speech in which he said the Soviet Union's domestic policies were irrelevant to increasing U.S.-Soviet trade.

Simon told newsmen he did not find the speech surprising. "We share his desire to get the resolution on MFN and trade," he said.

He was referring to congressional efforts to deny the Soviet Union "most favored nation" trading status and credits until the Kremlin eases emigration restrictions which are applied mainly to Soviet Jews.

[From the Washington Star-News, Oct. 14, 1974]

U.S. DEBT OF $2.5 TRILLION HELD ECONOMY THREAT

NEW YORK.—The total debt of every segment of American society has swelled to $2.5 trillion and poses a serious threat to the nation's economy in this inflationary period, Business Week magazine says in its latest edition.

"Never has the debt economy seemed more vulnerable, with a distressing number of borrowers and lenders in precarious shape," the magazine said.

Since the close of World War II, the nation has borrowed an average net of $200 million a day, the magazine said.

Now the debt is so huge that it would take more than one-third the gross national product of Japan, the world's second-largest capitalist economy, just to pay this year's interest on the American debt, the magazine said.

Of the total debt, $1 trillion is in corporate debt, $600 billion in mortgage debt, $500 billion in U.S. government debt, $200 billion in state and local government debt, and $200 billion in consumer debt.

Business Week said the debt "is an ominously heavy burden with the world as it is today—ravaged by inflation, threatened with economic depression, torn apart by the massive redistribution of wealth that has accompanied the soaring price of oil."

The magazine said the consensus among economists was that the economy still was not overborrowed but the breaking point was drawing near.

"In the end, the world may very well escape disaster," Business Week wrote, "but there is no way it can escape change. The very assumptions on which the United States built its debt economy, for instance, must be rethought. Not in the foreseeable future will any nation pile up debt as rapidly as this nation."

The magazine said corporations had tripled their debt in the past 15 years, and consumer debt had soared 50 percent in the past three years.

In a separate article, the magazine says that a survey of 550 major nonfinancial corporations found that 23 percent or 114 of the companies as of last June "had amassed more total debt . . . than they carried in equity."

FAMILY LIFE IN RUSSIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

SOVIET LIFE ORIENTED TOWARD FAMILY

(By Robert G. Kaiser)

(Washington Post Foreign Service)

MOSCOW.—Imagine a Soviet apartment: Four women sit around a table, periodically tossing down slugs of vodka. They are playing cards—loudly—and telling war stories—more loudly still. A man, the husband of one of them, enters wearing an apron, carrying a tray full of hot cups of tea.

With nervous, jerky gestures he tries to clear empty vodka bottles off the table and serve the tea. The women start complaining to him about the food, the dirty table. He shrugs his shoulders. Finally the guests decide it is time to go home. The husband fetches their coats and boots.

When her pals are gone the man's wife throws her arms around him drunkenly. "Don't touch me!" he shouts. She responds indignantly. "Whatsa matter, doncha think I can drink? I drink on my own money, you know . . ."

Speaking of money, the husband complains, she doesn't give him enough housekeeping money to do the shopping. She brushes him aside . . .

Difficult to imagine? For a Soviet audience watching a group of comedians acting it out, this scene is hysterically implausible. The theater rocks with laughter. The audience obviously loves the mirror image of Soviet family life that the comedians create.

Reality, as one of the comedians explains in an introduction to the skit, is different: Papa comes home from work and reads the paper. Mama comes home from work and goes shopping, makes supper, does the laundry and ironing, and helps the children with their homework. Sometimes, papa helps out after dinner by turning on the television set.

In Russia, "A good wife doesn't let her husband help her keep house. She keeps it clean herself, sews and weaves for her husband and children. A good wife is always merry—she always smiles and makes her husband's life easy and pleasant. A good wife doesn't interfere in her husband's business talks, and in general is mostly silent."

Well, those were the rules in the 16th century, when this prescription for a good wife was written in the "domostroi" or "rules of the household" that were then accepted by church and state. Though contemporary Russian society has little in common with the 15th century, the influence of the domostroi is still evident.

Yet mama's role has grown enormously, although she continues to act as a servant of the rest of the family. In the 16th century, papa was the lord of the manor, but today he is much less imposing, and much less influential. A woman who allows her husband to loaf around the apartment while she does all the housework is also—in many families—the pillar of family life and the chief decision maker.

The Russian family is one of the institutions that Russians love most about their country. In its ideal form, the family is a fortress of love and mutual protection whose walls shield all within from an uncertain outside world. Though reality may seldom live up to these grand intentions, sentimental Russians (and that means virtually all of them) often overlook the family's failures and romanticize its accomplishments.

Modern Soviet society does not challenge traditional family relationships the way the fast-paced societies of the industralized West do. There is no sign of the hedonistic lifestyle here: No amusement industry to fill leisure time, no cult of youth and beauty, no consumer industry for children or cemeteries for pets. The Soviet population is relatively stable and immobile.

Parents have time for children, and children for parents. Soviet sociologists claim that comparative surveys of Russian and Western families show that a mother or father here is likely to devote more of her or his week to the children than does a Western parent. There are fewer distractions, at least in the evening and on weekends, and perhaps—as many Russians would insist—a greater desire to share the child's life.

"Sometimes it's silly," one mother recently admitted. "We sit around in our apartment—me, my husband, my parents, maybe an aunt and uncle—and everybody is looking at Kolya [age 8]. 'What's new with you, Kolya?' 'How's life, Kolya?' 'What's happening in school, Kolya?'—That's all you hear for hours at a time."

At the opposite extreme is the story told in a woman's letter to the radio program "Man and Society," perhaps the nearest Soviet equivalent to a personal advice column.

"My life has been a nightmare," the woman wrote from Magadan, a remote corner of Eastern Siberia not far from Alaska. "I got married in 1946, and hoped to raise a happy family. . . ." Her first son was born in 1947 and—"perhaps to celebrate this event," her husband took a drink of vodka that was his downfall. A lifetime of drinking followed. "Our family survived extreme material difficulties, since more than half our income was spent on vodka."

Finally, after 21 years of marriage, she and her three children decided to throw him out of the house. To get away from him completely they went to Magadan. Papa stayed in the industrial city where they'd lived, still drinking. He remarried, then divorced, then moved in with another woman. Several years ago he had a stroke, which left him paralyzed. Learning of this, mother and children decided to invite him back.

"He getting better now," the woman wrote. "He's back at work, and most important, he isn't drinking any spirits. But life has already passed us by. We can't repeat our youth . . ."

Alcoholism is a perpetual epidemic in this society. There are no published statistics on the consumption of vodka or the prevalence of alcoholism, but evidence of it can be seen on the streets of any village or town. Perhaps 40 per cent of all divorces are caused by drunkenness, according to sociologists' research.

Vodka and wine play an important role in Soviet family life. What does an ordinary worker's family do to celebrate a birthday or a big event? "Buy a bottle of vodka," is the most common reply. An enormous Russian woman who works as a janitor confided that she would need 20 [half pint] bottles for the four-day May Day weekend.

Family celebrations are likely to happen at home. Millions of Soviets—very likely the vast majority—never go to a restaurant. (Restaurants are neither good nor common. In Moscow, the best-served city in the country, there are 127 of them—or one for every 55,000 inhabitants.) The Russian "table" for a big occasion is another of the things Russians love most about their country.

Besides vodka, it will be piled high with a dozen different "zakuski" (hors d'oeuvres), from canned sprats in oil to elaborate Caucasian chicken in walnut sauce. The company can easily spend an hour or two over these washing them down with the toasts that inevitably accompany the consumption of alcohol.

A soup may follow the zakuski, and a piece of meat, or perhaps a duck, will follow the soup. Mama and grandma serve and clear the dishes—none of which match each other—and yell at the young people to eat more of everything. Three generations crowd around the table, many sitting on stools, because there are never enough chairs, and all crowded, because the table is always too small. The men tell jokes and give toasts, the girls gossip and tease.

There is no cocktail hour, no coffee in the drawing room afterward (there's no drawing room), and somehow, it is usually more fun than any dinner party in Washington or London.

If Soviet society lacks the distractions from family life typical of Western countries, it has substitute distractions of its own. The most important of these is the requirement that able-bodied women, particularly in the city, hold a full-time job.

For some traditionalists, this is an outrage. Alexander I. Solzhenitsyn, the author, stated the conservative view of women at work in his recently published open letter to the Soviet leaders:

"How can one fail to feel shame and compassion at the sight of our women carrying heavy burrows of stones for paving the street . . .? When we contemplate such scenes, what more is there to say, what doubt can there possibly be? Who would hesitate to abandon the financing of South American revolutionaries to free our women from this bondage?"

Old women doing hard physical labor are an embarrassment to many Soviet officials, but the general notion that women should work is not. "The state's interest presupposes only one decision," Elena Ivanova, a senior editor of the government newspaper Izvestia said recently. "The country needs hands for work, including women's hands . . ."

To a large extent, women agree. In surveys, half or more of the working women questioned regularly say that they work for the satisfaction and enjoyment, not just for the money. Mrs. Ivanova points out that 60 per cent of the college graduates in the country are women. "Do they want to sit at home and waste their qualifications?" she asked. "Of course not." Polls show that the higher a woman's level of education, the more she wants to work, regardless of the number of children she has.

The compromises available to an American middle-class woman who wants to raise a family and pursue a career are not available here. The Soviet economy is rigid, and Soviet institutions live by a stern rule book. They do not believe in women taking 10 years off, or starting a career at 35, or working part time. Either you work, or you don't.

The inflexibility of the system puts a psychological strain on women. As one sociologist observed recently, Soviet women may start life on an equal footing with males, study, begin work and marry on the basis of equality, but suddenly lose their equality with the arrival of a child, if not earlier.

In Russian families a child is the mother's business, whether or not her job, her housework and shopping already fill her time. A working woman with a child in this society has an enormous amount of work—30 hours a week, according to one survey, on top of a work week that averages 45 hours including transportation to and from the job.

If she finds a place for her baby in a nursery or kindergarten, a Soviet woman is still on call in case of illness. Day care centers won't keep a sick baby, for fear others will catch the illness, so the mother must take care of her child at home. (She is given some paid leave from work for this purpose.)

Work discipline is lax in most Soviet factories and offices. Many women manage to do errands on office time. "A woman scientist in our institute is about one-third as productive as a man," a research chemist claimed.

Babysitters are virtually unheard of here. Either the baby goes out with the adults, or mama stays home—unless there's a grandmother who can be persuaded to look after the child. Soviet teenagers don't seem to have the entrepreneurial spirit or the confidence of their elders that would be necessary if they were to copy the American babysitting system.

Like most Soviet workers, a working woman is entitled to a month of paid holiday each year. In theory, this vacation could be devoted entirely to the family, and often it is. But it is common for Soviet parents to take separate holidays. This is officially—though coincidentally—encouraged.

Places in trade union sanitoria, rest homes and resorts—the most sought-after holiday spots in the Soviet Union—are allocated at work. Unless husband and wife work in the same place, they cannot expect to get spaces in the same resort at the same time. So they often go off alone at different times of the year. The effect of this on family life has been repeatedly criticized in the press and in sociological studies, but without apparent effect.

(There aren't spaces in these resorts for even half the population, so many Soviet citizens do take their vacations with their families—even if they'd rather not.)

The question remains what is Russian family life really like? Hopefully some of the answers have been included in these articles, but a lot of them haven't. For an outsider who has had only a limited opportunity to see families at home, many of the answers remain out of reach.

For an American, it is instructive to reflect on typical aspects of middle-class American life which have no obvious equivalent here. The list is long.

There is no family car in the Soviet Union, save in about one in 14 families in Moscow, one in 70 for the country as a whole. There is no house, but rather a small apartment for the luckiest families (in urban areas, about half the total), and a room for the others. It is an officially stated goal of Soviet housing policy that every citizen should have his own room in his own apartment, but the goal is just a distant hope now.

The consumer goods that set the tone of American family life don't exist here. There are no cold Cokes in the refrigerator (which is tiny, if it exists), no cartons of milk brought home by the milkman, no garbage disposals or food freezers.

There is nothing here to compare with the organized activities that occupy American children and become the focal points of so many families' lives. Schools don't have organized athletic teams or—except in special cases—bands or orchestras. Dancing classes, pottery classes, church choirs—none exist. Nor do part-time jobs for young people.

Life in the Soviet Union is quieter, duller and harder than in the West. It is also more secure. No one need fear unemployment, inflation or a financially catastrophic illness. On the other hand, no one outside a very special elite can realistically hope to visit the Champs Elysees or the canals of Venice. The state provides, but it also withholds.

In the unique environment that Soviet society has created, family life goes on in recognizable patterns. Kids come home from school, have something to eat, go out to play. Mothers prepare supper, fathers read the evening paper, everybody watches television. "We're living well," Russians like to tell each other, "Life is good."

Moscow.—Money—a remnant of capitalism that is supposed to disappear when true communism is achieved—still exerts a powerful influence on daily life in the Soviet Union.

Rubles and kopecks do not have the tyrannical power that dollars and cents achieve in American life, because Soviet society is not as oriented toward consumption. It couldn't be, since it doesn't prodnce a fraction as many consumer goods.

Here the issue is still subsistence, or something a little better. The average Soviet family spends its entire income on necessities, with little left for frills. A five-ruble bottle of champagne is a grand splurge for many. On the other hand, extreme poverty is unusual.

To a foreigner who developed monetary reflexes in the capitalist world, the role of money in Soviet society seems unique—not for what it can do, but for what it cannot.

The acquisition of a lot of money does not assure a Soviet family a radical improvement in its standard of living. Sudden wealth would allow a better diet and more clothes, but mere money won't buy a big new apartment, a new car or a summer vacation in Yugoslavia.

Those things are allocated, not sold. The best apartments are assigned to Communist Party officials and other influential citizens. The opportunity to buy a new car is similarly distributed as a privilege. Foreign travel is the rarest—and thus the most coveted—privilege of all, and no amount of money can substitute for the official permission to go abroad.

"For many people," a Moscow film director recently argued, "money doesn't give satisfaction—it creates difficulties. Spending money is difficult.

He explained: A family without pretensions can quite easily maintain a simple life—a basic diet, ordinary clothes worn until threadbare, vodka and television for entertainment. Such families are common.

If a sudden jump in income induces that family to try to live better, life becomes complicated. Any attempt to improve the family's diet, for instance, would require a large increase in the amount of time devoted to shopping. Good foods are the hardest to get, and they attract the longest lines in the shops.

A determined effort to acquire the best food available in Moscow absorbs hours a week beyond the time it would take to purchase a diet of cheese, salami, bread, cabbage and dairy products.

It is no easier to buy clothes. "Some people," the movie director said, "can never buy a new suit—when they've got the money, there are no suits, and when there are suits, they haven't got the money." Women interested in acquiring the best Yugoslav or Hungarian fashions that are sometimes sold here must devote hours to scouring the stores and collecting inside information. (A tip from a salesgirl about when Polish sweaters are going on sale is worth a week of window-shopping.)

The movie director thinks many people are so put off by these difficulties that they would rather live their simple, subsistence lives. But many Soviet citizens are also willing to go to whatever lengths are required to get more and better consumer goods. The other day a full colonel in the Red Army was seen in Moscow waiting patiently in a long line to buy a pair of Hungarian shoes.

Money does talk on the Soviet black markets which seem to be extensive.

The term is misleading, for many "black market" sales are simply unofficial exchanges between friends at free market prices. For six to eight rubles, for instance, one can buy a one-ruble coupon valuable in special hard-currency shops that sell imported goods. The coupons are sold by people who have worked abroad and earned hard currency, or had it sent to them by relatives.

This winter a pair of foreign-made ladies' boots on platform soles cost 150 rubles on the black market. The prices for foreign-made double-breasted sheepskin coats began at 750 rubles.

The official press periodically reveals that bribery is a phenomenon of modern Soviet life. A man with a wife and daughter, theoretically entitled to a two-room apartment could offer the right local official 1,000 rubles and find himself with three rooms. A man building a cottage in the country might get the lumber he needs with a well-placed "tip" in a state construction organization.

Millions of Soviet citizens are prepared to risk a little money in the hope of making a lot. State sponsored lotteries are popular. So is the race track in Moscow, where betting is allowed, though the payoffs are miserly. In many offices, the female employees, maintain a "black cash box" to which each contributes five or ten rubles a month, then takes her chance in a winner-take-all drawing.

The average family lives on a modest budget. According to published statistics, that family (composed of 3.5 people and 1.6 wage earners) has a monthly income of about 220 rubles. This is $285 at the official exchange rate, but the comparison is misleading. A small Soviet-made Fiat costs 5,500 rubles. A pound of tomatoes in the farmers' market may cost four rubles in early spring.

According to the book "Family Needs and Income," published here in 1967, a well-balanced, nutritional diet costs about 50 rubles per person per month. Thus the typical family would have to spend 175 rubles a month on food, were it to eat that well. In fact, most families seem to spend 40 to 60 per cent of their cash income on food, and settle for something less than the ideal diet.

Another 10 to 20 per cent goes for rent, gas and electricity. (Rents are heavily subsidized by the state.)

That leaves the average family with, say, 50 to 100 rubles a month for clothing, transportation, entertainment, medicines (which are *only partially* paid for by the state medical system) and incidentals. Thus a basic item like a 200-ruble television set will absorb all the family's spending money for two or three months.

Wealthier people—members of the Soviet middle class—have family incomes of 350 to 600 rubles a month, which leave them a little more flexibility. A chemist and his wife who make 500 rubles a month say they spend at least 220 on food for themselves and two sons. The rest goes on ordinary expenditures, "and we never have anything left at the end of the month."

Other middle-class families invest in the status symbols of contemporary Moscow—antique furniture (which was scorned just a few years ago), old jewelry, china, crystal and carpets.

Some people save money, too. Soviet savings banks (which pay 2 per cent interest) have deposits of about 70 billion rubles, an average of 280 rubles per man, woman and child in the country. This appears to be rainy day money. When asked, most people express surprise at the size of personal savings, and claim they themselves spend all they earn. One explanation for these savings is that many people cannot find the products they would happily buy, if they were available. The waiting time to buy a car stretches to several years in many towns.

Some of these savings undoubtedly belong to the very rich—a tiny slice of Soviet society, whose lives have little in common with ordinary citizens'. A couple like Roman Shedrin, the composer, and his wife, Maya Plisetskaya, the prima ballerina of the Bolshoi, probably earn several thousand rubles a month—more than a worker can make in a year. They have a large Moscow apartment, a foreign car, a big country dacha, hired help, foreign clothes and much more that ordinary Russians never even dream of.

ST. RITA'S GOLDEN JUBILEE CELEBRATED

HON. STANFORD E. PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. PARRIS. Mr. Speaker, this year St. Rita's Church in Alexandria, Va., is celebrating its 50th anniversary as a parish. On Sunday, October 20, the cornerstone from the original church building will be relaid next to the cornerstone in the present church.

For the interest of my colleagues, I would like to insert at this point in the RECORD a recent news article describing the golden jubilee celebration. It is my understanding that it is the intent of the parish to place a copy of today's CONGRESSIONAL RECORD with other memorabilia of church history under the cornerstone.

ALEXANDRIA PARISHIONERS CELEBRATE ST. RITA'S GOLDEN JUBILEE

It was a grand night for singing and celebrating as St. Rita's Church of Alexandria marked "Fifty Golden Years" as a parish last Saturday night, the evening beginning with a Solemn Mass of Thanksgiving in the modified Gothic-style church at 3815 Russell Road.

Memories were evoked for the parishioners from the first moment of the entrance procession, for along with their new Bishop of Arlington, Bishop Thomas J. Welsh, who was making his first visit to their church, were familiar faces which had come and gone over the years, their former bishop, two former pastors, former associates and two former deacons, now ordained; Sisters of St. Joseph who had long taught in the parish school, and lectors. Later some lay members of the community who had a long history in the church, some as charter members of the little community who first met in a cobbler's shop in 1913, and then the little church in Mt. Ida, a mission of St. Mary's built in 1914, were to form the offertory procession.

Bishop Welsh was the principal celebrant at the Mass which combined folk music and Latin hymns, and he was flanked by retired Bishop John J. Russell of Richmond and their pastor, Father Francis L. Bradican.

Seated in a place of honor in the sanctuary was Msgr. Leonard J. Koster, first pastor of St. Rita's when it was elevated to parish status in 1924, now pastor-emeritus of St. Charles, Arlington.

Father Edward P. Browne, pastor from 1967–72, in his homily traced the history of St. Rita's, but said, "If you talk only about the buildings, you're not talking about a parish. A parish is most of all the people," he said, "and the priests who spread the gospels and help to build community. We have been blessed with a good, dedicated, zealous priesthood, varied in talent, varied in virtue, but one in dedication to the people. My life with the people of St. Rita's," he said, "were among the happiest years of my life because of the people. They are unique," he said, "because there are children in the school, whose parents and grandparents built the church before them and they are still carrying on. We are indebted to those of the past," he asserted, "and we must continue to build ourselves, so that we will have something to pass on to those in the future. As we celebrate this Golden Jubilee, may it awaken in us a renewed sense of community and may we especially remember Msgr. Emmett P. Gallagher." (Msgr. Gallagher, who died in 1968, had become pastor in 1947 and had overseen the building of the present church and school complex.) "Let us pray for the future," Father Browne concluded, "that God will bless St. Rita's with many young men and women who will dedicate themselves as priests and Sisters."

Bearing the gifts at the Offertory were five parishioners, whose family roots go deep in the church's history, Mrs. Catherine Cousins, Anthony Giammittario, Miss Frances Conlon, Miss Mary Conlon, and Miss Camille DeLane, first organist of the original church.

It was a happy, ebullient crowd of 250 which gathered later for a reception and dinner at the round, red-covered tables at the Ramada Inn on North Fairfax Street. A string trio circulated throughout the room playing "requests" and Bishop Russell displayed a fine tenor as he joined in "Santa Lucia," and Father Bradican in "Galway Bay." For Bishop Welsh there was the "Pennsylvania Polka."

Father Bradican spoke of his pride in St. Rita's, and thanked all the laity who had helped "to make it what it is" as well as the Sisters of St. Joseph for their work in the parish school. He paid tribute to the former pastors and "especially Msgr. Gallagher, who set us up and got us started. We shall work unitedly for the good of the parish to help each other and make it one of the finest in the diocese," he told his people. Msgr. Koster, first pastor, called "those days the happiest of my life. It has always been a family," he said. His final words were drowned out by a standing ovation.

Bishop Russell who served as bishop from 1958–73, said, "I come in great, good humor as your 'retarded' bishop. I am able to look back and say these have been good years," he said. "All through the years St. Rita's has been a wonderful parish. I hope that it will continue to be even though we are 'separated' brethren," he said, referring to the division of the diocese of Richmond. "Down in 'the holy city,' we miss you," he concluded, "but we pray that God will bless your new bishop and will bless you."

Continuing the jocular tone of Bishop Russell's remarks, Bishop Welsh told him, "We're glad to have you back and hope you have no trouble at the border." To the people of St. Rita's he said, "No amount of searching had found any substitute for a parish. This celebration, this jubilee," he said, "represents a great continuity of priests and people, and a spiritual continuity.

"The Church," he said, "has been caught up in the acceleration of change, as well. But there is one thing that does not die, and that is the devotion to the saints of the places where we worship." He spoke of the "downgrading of devotion to the Blessed Mother. I don't know quite what was behind it," he said, "but we stand in need of the kind of continuity that you have had in your parish of St. Rita. There hasn't been any real change," he said. "Thoughts have been updated, but real theologians are as true today to patron saints and especially to the Blessed Mother as they ever were. Pope John, who gave us the Vatican Council, said 15 decades of the Rosary a day," he said, "and the Council wrote at great length about the Blessed Mother, more than any other Council. When Pope Paul closed the Council, he gave Mary one more name—'Mother of the Church.' This is not ancient history," the Bishop said, "this is in recent days. It is a crucial fact," he said, "that from the earliest moments of the Church, Mary has been included in essential dogma of the church."

ENVIRONMENTAL PERSPECTIVE

HON. ROBERT E. JONES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. JONES of Alabama. Mr. Speaker, the quality of the environment is of proper concern to each citizen. The concern is reflected in the great volume of legislation introduced in the Congress each session with the objective of improving the quality of life available to the people of the Nation.

The intensity of concern can sometimes cause loss of perspective on the distance the Nation already has traveled toward the common goal of a better environment.

A refreshing examination of the ecological situation has been published in the Huntsville, Ala., Times by the associate editor, Mr. Bob Ward, from an interview with a farmer in north Alabama, Mr. Holland Baker.

Mr. Baker's thoughtful comments and Mr. Ward's skillful presentation of the views are most worthwhile and I include them as a part of my remarks so that others may appreciate this fresh perspective:

ENVIRONMENTAL PERSPECTIVE: ONE MAN'S VIEW OF HOW BAD IT ISN'T

(By Bob Ward)

At 60 years of age, Holland Baker seems a tad too young to be termed an oldtimer. Still, he likes to talk about how things used to be, back in the good old days. Except, as he remembers them, they were the bad old days. But, that is, with respect to what is today lumped under the twin headings of Ecology and The Environment.

What disturbs Baker is the popular view that the natural environment has reached its sorriest state ever, that pollution of the elements and despoilation of the land have never before been so bad. He regards such thinking as alarmist and he blames it on "mass hypnotism"—and on ignorance, of past conditions as well as present.

"It seems like so often some of the best-educated people are so ignorant on this ecology thing," says Baker. "I claim the ecology is in better shape than it's ever been."

Holland Baker, it should be quickly noted, is no ecologist, no certified scientist of any kind. He has a small farm on Highway 72 West at Monrovia, to which he has recently retired after 25 years as a Huntsville postal worker. His own formal education was brief, stopping short of high school. But this father of two grown children reads a great deal, he is widely traveled, and his first-hand experience with the environment does date back better than half a century.

He can cite dozens of examples of an environment that is today better, not worse, than it used to be.

"Think how it was in the 1920s and '30s" he says. "To tell you the truth, this whole country—and by that I mean the Southeast—was washed away back then. We had forest fires all the time. And about the time trees got big enough to make a stick of stovewood, they were chopped down and burned up.

"Now, I don't go back to the last century, but my father did—he was born right after the Civil War. About the time of the end of that war, this country was used up and worn out. It had been 'cottoned to death,' as they say."

As one small indicator of how soil conditions have changed, Baker points to the 100-acre farm on rolling land he bought in 1946. He had applied for a Farmers Home Administration loan to help him buy the place. It took the agency almost a year to decide to let the loan go though, he recalls, "because the land was so poor, they weren't at all sure the place was worth even the $330-a-year payment on the loan."

"This land, like a lot of other land around here, was absolutely worn out. There wasn't one acre on the place that was considered Class A land—land that would make a bale of cotton to the acre."

Today, his land is restored to production, thanks to fertilizers and years of caring for it. Because it is so heavily contoured, it remains marginal land for row crops and fit only for grazing, and so Baker has it in pasture for the beef cattle he raises. But the soil conditions have been so restored, he says, that his land could produce up to two bales of cotton per acre for a year or two—until, with the plant cover gone, all the topsoil had washed away.

Baker's point is that he, along with virtually all farmers today, have learned not to mistreat this facet of the environment that way.

But that's not by any means all that's changed.

"Across the board, the ecology is in so much better shape than it was 40 or 50 years ago," argues Baker good-naturedly, "it's just amazing to me that people are so perturbed over it. Any area you could name is improved. Back 35 years ago, for instance, when Huntsville had 16,000 population and there were probably 10,000 cars in the county, those cars were probably doing far more polluting per car than cars today do.

"And take the coal fires we used to have. They were the worst air polluters. I've had asthma all my life and I used to go into town in wintertime on a frosty morning. Every store burned coal for heat, as did an awful lot of houses, and the air would be so heavy with smoke. And back then all the smokestacks at the mills and factories and laundries were belching forth thick black smoke all the time."

And then there were the forest and woods fires.

"A lot of people out in the country," Baker recalls, "would set the woods on fire, and just let them burn, and there would be a smoky haze all through the air around the mountains here. The farmers did it to improve the browse for their cattle. Well, we don't see much of that today. People today think all forest fires are so bad, but the Indians used to do the same thing and so do foresters today.

"And people now yell about others who might burn a pile of leaves in their yard, and then these same people turn around and go inside to build a fire in their fireplaces that burns for hours and puts out 10 times as much smoke."

And consider water pollution. Huntsville Spring Branch, for example, decades ago was so filthy it was called—well, as Baker delicately explains, it had "the appellation of a common four-letter word in front of the word 'Creek.' "

"They dumped all the sewage of Huntsville into it," he recalls. "It went all the way to the river, just open like that. But that was nothing unusual back then. Every city between Asheville, N.C., clean on down and around to Paducah," Ky., at the other end, dumped their sewage into the Tennessee River—untreated. And most of them took their drinking water from just above where they dumped their sewage. They called themselves purifying it before using it, but I don't know how much purifying they really did in those days."

Fish and wildlife are other ecological concerns which Baker mentions.

"We used to fish on the river a week without catching a thing," he remembers. "Now, after they've built the dams, you can't go without catching fish. The ecologists today yell against building dams, but dams help fish and wildlife. There weren't any ducks along the river here until the dams were built, not to mention all the fish that were killed and land ruined before flood control came.

"And take wild game, for instance. My daddy never saw a deer. Now they're all over the place. And beaver were only a fond memory around here. Now you see them; they've worked their way up Limestone Creek from the Tennessee and are beyond the Capshaw area now. I've got squirrels returning to my place after all these years, now that the nut trees are getting big. And woodchucks are taking over the place. And I even get wild duck in my pond."

Baker is especially critical of environmentalists' alarm over phosphates, particularly phosphates in detergents under attack because they cause excessive algae growth in rivers and lakes.

"The phosphates you find in detergents," he argues, "are approximately the same chemical constituents in many fertilizers, such as the one I use. But the fish in my pond are waxing fat on the same chemicals they're trying to ban in detergents. I think the public is being fed a lot of malarkey on phosphates. It's largely because of phosphates and other chemical fertilizers that we're now getting 50 to 60 bushels of corn per acre. The average corn yield in this country used to be 15 to 16 bushels.

"Now, I don't have anything against organic faming—I keep a compost heap myself. But what a lot of people who are against chemical fertilizers forget is that they produce a lot more stalk and stem, which is turned under and makes more humus to enrich the soil. And it's yet to be shown that any of these fertilizers cause cancer, as some have been saying."

Oil spills, another environmental concern, do not trouble Baker unduly. "Oil spills at sea are nothing new," he says. "There's no telling how many big tankers were sunk by German subs along the Atlantic and Gulf coasts during World War II. A lot of that oil washed up on our beaches then, but I don't know of any lasting ecological damage from it."

Baker doesn't have unkind words even for strip-mining. He thinks reclamation of strip-mined areas would be nice, but he questions its necessity. He lately has seen some strip mines of 30 and 40 years ago and he says: "You can hardly tell what they were, they look almost natural now, mostly grown over—and with no reclamation."

It's not that Holland Baker is in favor of environmental damage or pollution. It's that he feels the American public has gained a "warped view" of our ecological ills from "the mass media, especially television."

"Things get blown out of proportion and they get the people in a trauma," he says. "It's some kind of mass psychological thing, mass hypnotism. But most people are better off today, environmentally as well as materially, than they ever were. They just don't know it. As old Will Rogers said, 'Everybody's ignorant, just about different things.'

"I'm for ecology, myself," Farmer Baker insists. "If I hadn't been, I sure wouldn't have spent the better part of my life trying to make this place better.

"I suppose my point is that there is really nothing man can do to Nature that, given enough time, Nature can't repair."

No doubt the people living elsewhere today near some major rivers and lakes choked nearly to death with man-made pollutants hope he's right.

WAYS AND MEANS COMMITTEE CREATING NEW TAX LOOPHOLES

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. VANIK. Mr. Speaker, I was very concerned when the President in his economic message of October 8, 1974, gave a blanket endorsement to the tax bill which has been developed by the Ways and Means Committee. This tentative bill is more loophole than reform. Some have tried to give the committee's bill the odor of tax reform—but it reeks or special interest loopholes. The American people must not be fooled into accepting this tax bill as a reform bill.

I would like to include at this point in the RECORD a column of October 17, 1974, by the economics writer of the Washington Post, Mr. Hobart Rowen, entitled "Creating New Tax Loopholes":

CREATING NEW TAX LOOPHOLES

(By Hobart Rowen)

By endorsing the House Ways and Means Committee tax "reform" bill, President Ford has focused attention—no doubt unintentionally—on what could be one of the major tax giveaways in U.S. history.

As it now stands, the bill is not a tax "reform" bill at all, although it does reduce or eliminate a few special privileges, notably the oil depletion allowance.

But the main thrust of the proposed legislation is to create $3 billion to $4 billion worth of new loopholes for businessmen, and those wealthy individuals whose income is largely derived from capital gains rather than wages.

Thus, although the bill contains $1.6 billion in tax relief for the working poor (not enough to compensate for inflation) it is on balance a bad piece of legislation which benefits upper income brackets in too many ways while leaving what Rep. Henry Reuss (D-Wis.) calls "the old established loopholes" very much alone.

Take the capital gains proposal, which has most true tax-reformers up in arms. At present, 50 per cent of a capital gain—say on securities—is excluded from any tax if held six months. The generous Ways and Means Committee would exclude 1 per cent in addition for each year the asset is held over five years, but not over 25 years.

That neat trick would increase the exclusion to a potential 70 per cent and presumably make stocks more attractive to buy—as well as persuade those holding stocks over a long period of years and said to be "locked-in" by potential tax liabilities to take their profits (with a minimum tax bite) and buy new stocks.

Economists Roger Brinner and Alicia Munnell point out: "While a declining inclusion ratio would not solve either the inflation nor lock-in problem, such a change would significantly reduce the tax rate on capital gains." For individuals in the 70 per cent top bracket, their tax on capital assets held 25 years would be cut from 35 per cent to 21 per cent.

The Committee's proposal, if it worked to solve the lock-in problem, might be a shot in the arm for the ailing brokerage business. But it would cost the Treasury at least $1 billion a year, while the biggest capital gains loophole of all—the nontaxation of capital gains at death—remains untouched.

The surest way of tackling the lock-in problem, as Brinner and Munnell point out, is to provide a tax on capital gains transferred at death. Tax expert Joseph A. Pechman of the Brookings Institution estimates the current cost of that loophole, which allows wealth and power to be transferred from generation to generation, at $3 billion a year.

Other bonanzas created by the bill:

Industrial Development Bonds—Presently, private industry has a nice little racket under which it can finance up to $5 million of an expansion in a six-year period at public expense. This is done through issuance of tax-exempt bonds by a state or local government to finance a new facility. Not only does this system provide tax-exempt investment possibilities for high income individuals, but the companies lease the plants at low rents because the construction borrowing costs are less than normal due to the tax-exempt gimmick. But now the committee proposed to take off the $5 million ceiling. With the sky the limit, the potential tax loss is another $1 billion.

Savings Account Interest—The bill would exempt the first $500 of interest in savings accounts ($1,000 per couple) in an effort to help thrift institutions keep deposits, and thus aid the housing industry. Whether new savings would be encouraged is debatable. But what is clear is that high-income families would benefit most (a family would need nearly $20,000 in a 5.25 per cent passbook account to accumulate $1,000 in interest), and the Treasury would be out an estimated $1.8 billion.

Tax Simplification—Many deductions presently itemized would be replaced by a lump sum deduction up to $650 whether or not a taxpayer had actually qualified for any. The net result: taxpayers with many and varied expenses which are now deductible would be short-changed, while others would get what amounts to a tax cut from Uncle Sam. Net estimated cost: $400 million.

As mentioned earlier, there are some worthwhile things in the bill, including a heftier minimum tax, a reduction in real estate shelter possibilities, a limitation on tax-free junkets for doctors, lawyers, and other professional groups, and tightening of taxes on salaries earned abroad.

But such welcome steps are as nothing alongside the new loopholes and old ones such as tax-free bond interest, the existing capital gains benefits, and the "DISC" give-away that allows corporations to avoid taxes on export sales. Better no bill at all than this one!

IN SUPPORT OF VETO OVERRIDE OF HOUSE JOINT RESOLUTION 1163

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. BIAGGI. Mr. Speaker, I support the motion to override the President's most recent veto, of House Joint Resolution 1163. I find this action to be an unfortunate move by the President and one which should not be tolerated by the Members of this body.

It has been almost 3 months since Turkey invaded Cyprus yet still we find ourselves debating the issues of both our continued providing of aid to Turkey and our efforts toward restoring peace to Cyprus. Yesterday we in the House passed an effective compromise amendment to the resolution which gave the administration until December 10 to work out an agreement on Cyprus, with the condition that if any of the aid which we provide to Turkey was shipped to Cyprus, the President would be authorized to terminate aid to Turkey immediately. This was a responsible and vitally important amendment, one which could prevent any further military aggression by Turkey in Cyprus. Yet once again, the administration has chosen to reject our efforts at bringing peace to Cyprus and has once again demonstrated its lack of concern for the future security of Cyprus.

I reluctantly supported the compromise reached yesterday, reluctantly to the extent that I would have preferred, and have supported legislation in the past which would cut off aid to Turkey immediately. Her blatant violations of the Foreign Assistance Act with respect to use of military aid dictated to me that this aid should be cut off forthwith. However, realizing that compromise was needed, I supported the Rosenthal amendment.

However, I cannot support the President's veto today. While we have been debating this issue, the crisis on Cyprus has continued virtually uninterrupted. The Turkish Army continues its illegal and ruthless control of more than one-third of Cyprus using our military aid in open defiance of the Foreign Assistance Act, yet confident knowing that they have a friend in the administration which seems content to allow them to continue their actions without any interruption.

I most vehemently disagree with the contention of the President that any decision to cut off aid can only prolong the Cyprus crisis. Unless we asset ourselves in preventing any further shipments of arms to Turkey, Turkey will be in an excellent position to solidify her position on the island, and it is this that will prolong the misery and suffering for more than a quarter of a million Greek Cypriots.

We are again confronted with a historic opportunity to override a Presidential veto. A vote to override is critical if we are to maintain our commitment to the people of Cyprus. We must support the bill we passed yesterday if we are to get the machinery in motion which will bring the two sides in this conflict to the negotiating table. We must demonstrate unequivocably to Turkey that continued violation of the Foreign Assistance Act will no longer be tolerated.

Above all, we have an opportunity to assert ourselves in an important matter of foreign policy. Our vote last week indicated that we in Congress still are content to play a subservient role. Our vote today may be the last chance we have to maintain our strong positions with respect to aid to Turkey. Failure to override this veto will only serve to prolong the Cyprus and intensify the embittered feelings of the Greek community who have viewed with a sense of betrayal the U.S. Government's failure to act in the wake of Turkey's action. Most importantly a vote to override will tell those Greek Cypriots who have seen their families and friends, killed, their homes destroyed and their future imperiled, that we are still committed to assisting them, and that we are still the champions of freedom for all men. We cannot forsake the people of Cyprus any longer, for their hour of need is upon us. I urge a decisive and overwhelming vote to override this veto today.

HUD SECRETARY JAMES T. LYNN COMMENDED

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mrs. HECKLER of Massachusetts. Mr. Speaker, in the midst of what I consider unfair criticism of Secretary of Housing and Urban Development James T. Lynn, I would like to share with my colleagues my own perspective on Secretary Lynn's performance, which I believe has been very creditable in the most difficult of circumstances.

No Secretary of Housing has worked as closely with Congress as has Jim Lynn. I can assure my colleagues that the reason we have a new housing bill (the Housing and Community Development Act of 1974) and not a veto is due in large measure to Secretary Lynn's untiring efforts to find common ground between a number of powerful interests, which have been at odds for over 3 years of housing legislation. During the committee's months-long drafting sessions on this legislation, Jim Lynn visited with each committee member individually to exchange views. He spent several hours in my office discussing my proposal to provide loans for elderly housing construction which he ultimately supported. The bill which passed authorizes $11.2 billion for housing, and charts a new direction for the Federal housing and development effort. So let us not say that Jim Lynn has been ineffective.

As in all compromises, no one is entirely satisfied with the final version of the new housing law. I fought hard to keep the Model Cities program fully funded for an additional 3 years, and I was the author of a new elderly housing construction program, as well as a prohibition of discrimination against women in mortgage credit. Nevertheless, I did not get everything I wanted in the legislation. In the process, however, I did develop a firm respect for Secretary Lynn, who demonstrated that he cares about housing as much as I do. He is a dedicated, hard-working leader.

I also fought last year to continue full funding for existing housing and community development programs, after a moratorium on these programs was announced, but I do not hold Secretary Lynn responsible for that decision. The moratorium was imposed before he became Secretary, and the decision was not made by HUD, it was made by President Nixon. It was a decision that no one in the administration could have overturned.

Mr. Speaker, we now have on line an $11.2 billion housing program. It is the first opportunity Jim Lynn has had to demonstrate what he can do for housing. I believe he deserves a fair chance to perform on his own, and to be judged objectively on his own record.

TENNESSEAN NAMED "POSTMASTER OF THE YEAR"

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. JONES of Tennessee. Mr. Speaker, at its recent annual convention in Hollywood, Fla., the National League of Postmasters named as the U.S. Postmaster of the Year, Mr. W. C. Herndon of Camden, Tenn., which is located in the congressional district I represent.

I have known Mr. Herndon personally for many years and know him to be not only a fine postmaster and noted leader in community affairs, but a man of honor and integrity. He is an outstanding American, and we in Tennessee's Seventh Congressional District are indeed proud of him.

Mr. Speaker, at this point I would like to insert in the Record an article from the Camden, Tenn., Chronicle of October 10, 1974, concerning Mr. Herndon's award:

> Postmaster W. C. Herndon of Camden has been named the U.S. Postmaster of the Year. The award was presented on September 27 in Hollywood, Florida by Dr. Andrew Holt, president emeritus of the University of Tennessee and a member of the Board of Governors of the U.S. Postal Service during the annual convention of the National League of Postmasters.
>
> Earlier in the year Herndon was named Postmaster of the Year in Tennessee at the State Convention at Paris Landing in July. His selection as Postmaster of the Year came from a field in which competition was tough. All other states had chosen their representatives with which he had to compete.
>
> The award was based on recognition and appreciation of his outstanding service in the Camden Post Office and this community and to the National League of Postmasters.
>
> The honor reflected credit upon himself, the entire postal service and honored the National League. Those were the criteria on which the selection was based.
>
> During the two days that Herndon served as president of the State Tennessee beat all other states in the membership drive.
>
> Postmaster Herndon has been an influential and dedicated worker in many facets of community life. He is active in Boy Scouts, having earned the Silver Beaver Award by the National Council. His efforts in the Cancer Crusade have been untiring. As both a Sunday School teacher and a Deacon, he serves well in Camden's First Baptist Church.
>
> Today, Herndon is a Lt. Colonel in the U.S. Army Reserve. He teaches classes for the military. He is proud of the Army and has a reason to be.
>
> During World War II, he served in the European Theatre of Operations where he was taken prisoner by the Germans and held for four months.
>
> Veteran organizations have chosen him as V.F.W. Commander and American Legion Commander locally. He has served as State Vice-Commander of the American Legion and in 1973–74 he served as National Vice-Commander of the organization's Council on Americanism.
>
> Postmaster Herndon and his wife, Peggy, reside on Woodland Drive in Camden. Their son, Joe, is a senior at the University of Tennessee in Knoxville where the postmaster graduated in 1949.
>
> As coincidence would have it, the same Dr. Andy Holt who presented Herndon his National Postmaster's award was the same Dr. Holt, who as president of U.T. presented him the diploma in 1949.
>
> Another Tennessean was honored at the recent meeting in Florida. Kenneth Jennings of Powell, Tennessee, was elected president of the National League of Postmasters.

CLIFF McINTIRE

HON. W. R. POAGE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 8, 1974

Mr. POAGE. Mr. Speaker, all who served with Cliff McIntire in the Congress knew him as an able and distinguished legislator. Those of us who served with him on the Agriculture Committee, because of a close personal relationship, knew him also as a gentleman in the highest meaning of that word.

He was considerate and helpful, kind and understanding. His counsel was sought by his colleagues. He was unstinting in service to his country, and in the field of agriculture he was truly a national authority.

News of his untimely death saddens all who knew Cliff McIntire, and I join with his countless other friends in extending sympathy to his wife and the other members of his family.

SENATE—*Monday, November 18, 1974*

The Senate met at 12 o'clock meridian and was called to order by the President pro tempore (Mr. Eastland).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we give Thee thanks for this Republic, "one nation under God," and for all the privileges and responsibilities of citizenship. Lift us now above the contention and controversy of the election arena to the place of wise statesmanship and confident leadership which shall benefit the whole world. By Thy presence here make us new in mind and heart, fit for our tasks.

Grant Thy grace and protection to the President that his mission may promote good will and advance the cause of justice and peace among the nations.

Deliver the "Holy Land" from all that is unholy. Stay the threat of war and establish the reign of justice and enduring peace.

Come to the great needy world of humanity. Open man's heart to Thee that he may walk in Thy light and possess Thy peace.

And to Thee shall be all praise and glory. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, October 17, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SYMINGTON TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leadership has been recognized tomorrow, the distinguished Senator from Missouri (Mr. Symington) be recognized for not to exceed 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR CLARK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the distinguished Republican leader, the Senator from Pennsylvania (Mr. Hugh Scott), has been recognized and has disposed of his time, my 5 minutes be allocated to the distinguished Senator from Iowa (Mr. Clark).

The PRESIDENT pro tempore. Without objection. it is so ordered.

A TIME FOR COOPERATION

Mr. HUGH SCOTT. Mr. President, I see that we have a new rug. This will lend some comfort to our footing, and I hope that our improved footing will lead not to improved footwork, but to better headwork.

I think that the theme of the day is cooperation. As the Greek poet who lived under Roman domination once said, "We live not as we would, but as we must." So existing, we will do our best to be useful Members of this body, to cooperate whenever possible with the majority leader, to seek to enact those measures which can be enacted during the remainder of this session, and to hope that we can get as much work done as possible before we adjourn.

I particularly hope that we will expedite the hearings on the confirmation of the nomination of the Vice President-designate in accordance with the provision and the mandate of the 25th amendment. I do wish that the suggestion of the distinguished senior Senator from Rhode Island (Mr. PASTORE) had been accepted by us in 1965 in considering the amendment; namely, the imposition of a time limit on action by the two bodies of Congress. That would have improved the situation.

Even so, we are nearing the 100th day since the Congress received this nomination. That will occur, I believe, on November 28. I sincerely hope that the Senate will act and not seize upon any excuse that we must wait for the other body; because if we were to do that, then indeed we might not get action at all.

I extend to our colleagues my felicitations on their return: my condolences to those who were unsuccessful; my congratulations to those who received again the mandate of heaven, as expressed by their constituents. I wish them all a very Happy New Year.

THE 150TH ANNIVERSARY OF THOMAS JEFFERSON UNIVERSITY

Mr. HUGH SCOTT. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

This resolution simply extends the congratulations of the Senate to Thomas Jefferson University, in Philadelphia, on the occasion of its 150th anniversary.

I have the honor of holding the No. 1 diploma from that institution, as I received an honorary degree there some time ago, right after they changed their name.

I hope the resolution is agreed to.

The resolution (S. Res. 434) was read, considered by unanimous consent, and agreed to as follows:

S. RES. 434

Whereas Thomas Jefferson University of Philadelphia, Pennsylvania celebrates its 150th anniversary in 1974 and is a totally health-related, medically-oriented university, comprising three colleges and a teaching hospital; and

Whereas the University's Jefferson Medical College, founded in 1824, is the largest private medical college in the Nation; and

Whereas Jefferson encouraged graduate studies in the basic medical sciences as early as 1941 and consolidated these into a College of Graduate Studies in 1969; and

Whereas in 1967 Jefferson chartered a College of Allied Health Sciences to provide both academic and clinical education in the health professions and occupations; and

Whereas Thomas Jefferson University has committed it resources and the talents of its faculty to care of the sick and injured through an infirmary that opened in May, 1825, and subsequently through Thomas Jefferson University Hospital that first opened its doors in 1877: Now, therefore, be it

Resolved, That the Senate congratulates Thomas Jefferson University on its 150th anniversary, commends the faculty, staff, employees, and graduates of its colleges and hospitals on their dedication, vision, and exemplary professionalism, and extends to them every good wish for continued growth and impact on the health care needs of this Nation.

SEC. 2. That a certified and enrolled copy of this Resolution introduced by Mr. Hugh Scott be transmitted to Dr. Peter A. Herbut, President of Thomas Jefferson University, Philadelphia, Pennsylvania.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. JOHNSTON). At the request of the majority leader, the Senator from Iowa will now be recognized for not to exceed 5 minutes, under the time of the Senator from Montana.

WORLD FOOD CONFERENCE

Mr. CLARK. Mr. President, over the last 2 weeks, the representatives of 130 nations met in Rome to discuss the global problem of hunger and the ways to attack it. The World Food Conference was neither an outright success nor an outright failure, but rather a combination of both frustration and hope.

The delegates to the World Food Conference did agree to establish a World Food Council to coordinate the fight against hunger, and the conference did raise the international awareness of the famine, starvation, and malnutrition plaguing so many people in so many parts of the world. There was a great deal of discussion, many proposals and ideas, but no food was committed to feed the hungry. And that was the most singular disappointment of the conference.

As one of the congressional advisers to the U.S. delegation in Rome, I thought it would be appropriate to make a brief report to the Senate on the conference and the challenges that face all of us in meeting the problem of world hunger.

Secretary of State Kissinger was the principal proponent of the conference, and his suggestion for such a meeting in a speech to the United Nations earlier this year was received enthusiastically, especially by the developing nations, and with good reason. Only 4 or 5 years ago, there had been some optimism that the problems of hunger might be manageable. Many of the developing nations had become more self-sufficient with the help of irrigation, more fertilizer, pesticides, and the benefits of the Green Revolution in crop yields and nutritional value. Only 4 or 5 years ago, world food production was increasing faster than the world's population, and the United States alone had almost 100 million tons of surplus grain and 60 million idle acres of the most fertile land in the world.

Since then, however, that optimism has faded. In 1972, bad weather devastated harvests in many parts of the world, and for the first time in 20 years, world food production declined. Much of the food that was available was being bought up by the more affluent nations while more and more people worldwide were going hungry. This year, crop setbacks here have virtually depleted domestic stocks of corn, wheat, and soybeans while adverse weather conditions on the Indian subcontinent and in Africa have created new threats of massive famine.

As a result, when the Conference began in Rome, there was little disagreement about the dimensions of the problem. It had two aspects: the long-term-challenge of world hunger, which will have to be met through international rural development programs and the establishment of food reserves—and the short-term challenge of famine, which can only be met by immediate shipments of food to the starving.

The Secretary General of the United Nations Food and Agricultural Organization estimated that over the next 8 months it will take about 10 million additional tons of food assistance to meet the most basic needs of half a billion hungry people.

Although the supplies of some commodities are in short supply, there is more than enough food grain available to meet the immediate challenge and prevent massive famine. But the poorest people in the world, the people that live with starvation every day, cannot afford to buy it. The bill for that additional 10 million tons of food comes to about $2 billion altogether—a cost that would be shared by the many affluent nations of the world, a cost that seems modest indeed when compared with the 500 million lives that may be at stake.

There was no lack of debate at the Conference about the best ways of promoting long-term development of food production and reserves, but with each day it became increasingly apparent that some answer had to be found for the immediate problem of immediate hunger. Canada offered to double its food aid over last year to a million tons and to keep that commitment for each of the next 3 years. Australia indicated that it, too, would increase food aid for the hungry.

But the United States—traditionally the world's leader in both food production and humanitarian food aid—was not prepared to increase its commitment.

The proposal that I supported along with other members of the delegation—including Senator HUMPHREY, Senator HATFIELD, Senator METZENBAUM, Senator McGOVERN, and Senator JAVITS—was straightforward and modest: an increase in U.S. food aid by 1 million tons. It would have raised the U.S. commitment to 4.3 million tons, just a 30-percent increase over last year.

Even with that increase, the amount of aid would have been far less than the traditional American contribution to stopping hunger. Between 1968 and 1972 for example, the average annual commitment was 9 million tons—in 1973, it was 7.5 million tons, and this year, it fell to 3.3 million tons.

The chairman of the U.S. delegation at the Rome conference, Secretary of Agriculture Earl Butz, argued that consideration of immediate food needs was inappropriate at a conference designed to deal with the long-term problem of food. However, Secretary Kissinger in his opening speech to the World Food Conference said the world food problem must be addressed at two levels: "first, coping with the food emergency and, second, assuring long-term supplies and an adequate standard of nutrition for our growing populations." And given the very real need for food, given the historical role of moral leadership that the United States has provided in this area, given the commitment of Secretary Kissinger to a successful conference, the immediate problem could not be ignored. The United States was in a position to help, and as this country has provided relief for other countries on so many occasions in the past, it should have made a contribution to providing relief now.

After some debate and modification in the proposal, Secretary Butz agreed with it, and the delegation unanimously cabled the President to ask for an immediate increase in U.S. food aid. A week passed without a response from the White House. In the meantime, other delegations began to question the U.S. commitment to solving the world food problem. And, in the meantime, Secretary Butz began to change his mind about the proposal that he supported, attacking it as "partisan" and "political." Finally, a few hours before the conference ended, Secretary Butz announced the President's decision to turn down the request for additional food assistance.

In his announcement, the Secretary cited budgetary restrictions, commodity shortages, and adverse effects on prices as justifications for the decision. But they seem to be more excuse than reason.

In the very telegram the Secretary sent supporting a million ton increase in food aid, it was stated that such an increase would be feasible in terms of the supply situation. Furthermore, his cable said that the announcement at the conference of an increase in food aid would be extremely constructive at this time in view of Canadian and Australian announcements of increased aid.

The additional food would have cost $175 million, hardly enough to doom the budget or upset the economy. And some or even all of that cost could have been avoided by using food aid already in the budget for humanitarian purposes instead of as an instrument of foreign policy. Why is it that this Government has so little difficulty in allocating funds for foreign military shipments, but such great difficulty in allocating a small fraction of that amount for food assistance?

The additional food—1 million tons—would not have created domestic shortages. The countries that need our help the most—Pakistan, India, Bangladesh—depend on rice, and right now, this country has the greatest volume of rice on hand in history. This year, the United States had a record rice crop—22 percent above last year, and the carryover at the end of the marketing year in July will almost triple to 23.1 million hundredweight. The other commodity needed to combat hunger abroad is wheat. There is no large wheat surplus in this country, but there is an adequate supply—adequate enough to sell several millions tons to the Soviet Union, Egypt, and Syria. If this administration can maintain that these sales will not adversely affect domestic price or supply, how can it maintain that the shipment of a fraction of that amount will drive prices up or leave the American housewife in short supply? It simply is not so.

The World Food Conference closed without having confronted the immediate problem of hunger. For that indefensible failure, the United States must assume a significant part of the blame. We might have made a difference, but we were unwilling to confront the problem.

Fortunately, the long-term prospects are more encouraging. The World Food Council could become a significant force in combatting world hunger. There is new incentive and new interest in developing international grain reserves.

And fortunately, Congress can still do something about the immediate problem. Before the month ends, the Senate will consider both the agricultural appropriations bill and the foreign aid bill. Both represent opportunities to increase our food commitment to the starving nations of the world. In addition, legislation will be introduced—including my own bill to help increase the availability of fertilizer for food development—to deal with the long-term problem of hunger.

This is not a new area of interest or concern to the United States. No country in the world produces more food more efficiently than the United States. No country in the world has farmers with more knowledge or ability than the United States. And, traditionally, no country in the world has had a greater commitment to providing the food for people who do not have it.

So, in my judgment, we are faced with a moral imperative, a humanitarian imperative, to do our part in meeting the challenge of world hunger. The developing nations of the world expect it of us. We ought to expect it of ourselves. And there is no reason to fail to meet that expectation. Too much is at stake for that.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there morning business?

The PRESIDING OFFICER. Under the previous order, the Senate is now to proceed to the consideration of H.R. 16900.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period of not to exceed 15 minutes, with a time limitation of 3 minutes attached thereto, for the conduct of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT ORDERED TO BE HELD AT THE DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a message from the President of the United States received on October 31, 1974, concerning the third submission of budget rescissions and deferrals; a message from the President received on October 31, 1974, concerning the deferral of funds appropriated to implement the Family Practice of Medicine Act of 1970; and a message from the President received on November 13, 1974, concerning the fifth submission of budget rescissions and deferrals be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF ADDITIONAL CONFEREES—S. 356

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Senator Beall and Senator Hart be added as conferees on S. 356.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY FROM EXECUTIVE L, 93D CONGRESS, 2D SESSION, AND ORDER FOR REFERRAL TO THE COMMITTEE ON FOREIGN RELATIONS

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted by the United Nations General Assembly on December 14, 1973, and signed in behalf of the United States of America on December 28, 1973 (Executive L, 93d Congress, 2d session), transmitted to the Senate on November 13, 1974, by the President of the United States.

I also ask unanimous consent that the convention with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the Record.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a copy of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the United Nations General Assembly on December 14, 1973 and signed in behalf of the United States of America on December 28, 1973. The report of the Department of State with respect to the Convention is also transmitted for the information of the Senate.

The effective conduct of international relations depends in large part on the ability of diplomatic agents to travel and live freely and securely while representing the interests of their respective countries. We have witnessed in recent years an unprecedented increase in acts of violence directed against diplomatic agents and other internationally protected persons. This development has demonstrated the urgent need to take affirmative action to minimize the threats which can be directed against diplomatic agents. Although the legal obligation to protect these persons was never questioned, the mechanism for international cooperation to ensure that perpetrators of serious attacks against them are brought to justice, no matter where they may flee, was lacking.

The Convention is designed to rectify this serious situation by creating a legal mechanism whereby persons alleged to have committed serious crimes against diplomats will be prosecuted or extradited. It also sets out a framework for international cooperation in the prevention and punishment of such crimes.

This Convention is vitally important to assure continued safe and orderly conduct of the diplomatic process. I hope that all States will become Parties to this Convention. I recommend, therefore, that the Senate give early and favorable consideration to this Convention.

GERALD R. FORD.

THE WHITE HOUSE, *November 13, 1974.*

PRESCRIPTION DRUG PRICING

Mr. MOSS. Mr. President, Federal Trade Commissioner Mayo Thompson recently addressed the National Association of Retail Druggists at their national conference. Commissioner Thompson laid out the reasons for increased consumer information in this industry and the desirability of prescription drug advertising. Commissioner Thompson's message is that retail pharmacies should engage in more open competition and as a result the consumer will benefit. Commissioner Thompson's remarks are most apt at this time, and I hope that they do not fall on deaf ears.

Mr. President, I ask unanimous consent that the address by Commissioner Thompson be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Federal Trade Commission, Sept. 30, 1974]

ADVERTISING AND PRICES: TOO LITTLE KNOWLEDGE CAN BE A DANGEROUS THING

(Address by Mayo J. Thompson, Commissioner, Federal Trade Commission)

Being second-choice generally carries, of course, the implication of being second-best. Everything depends, however, on the context. It's like it was with the careful fellow who, when asked "How are you this morning?," pauses for a minute and then asks, "Compared to what?" Seeing as how your first choice for the role of featured speaker here today was the President of the United States, I guess I can't really complain about being your number two selection. As I understand the situation, you had managed to book him a couple of months ago when he had a somewhat less demanding job. That's the trouble with promotions. More work, less time for talking with friends out in the country. But then his new job does have, I'm told, its compensations.

While some of you already know the story of how I was persuaded to pinch-hit for the President today, I want to make it clear that I'm not, to put the matter somewhat delicately, exactly a "volunteer." To give you some idea of my enthusiasm for the whole project, my original title for this little talk was "The Old Testament Revisited or Daniel in the Lion's Den."

Since I had earlier played some small part in convincing the FTC that it ought to be looking into the question of whether drug prices are being maintained at higher-than-competitive levels, I found it hard to imagine that I was really in for a hero's welcome before a convention of retail druggists. As a matter of fact, I had a rather strong suspicion at first that the President, having just treated himself to the exhilarating experience of delivering his maiden speech on amnesty before the VFW in Chicago, thought someone else in government deserved a similar opportunity to re-prove the old axiom that "the best steel is made in the hottest furnaces."

Now I could have gotten out from under this problem if your invitation had come to me directly. The sensible bureaucratic thing for me to have done with such an invitation would have been to write you a warm but firm letter explaining how the press of duties in Washington would unfortunately prevent me from joining you. I could have even softened it up a little further by explaining that, since your industry is currently under formal investigation by the FTC, someone might interpret my remarks as an effort to prejudice either the industry or the investigation or, perhaps, as an indication that I have personally "prejudged" the matter one way or the other. But I didn't get a chance to actually use any of these excuses. Someone in your organization has apparently been through this kind of exercise before and I was, as they say in my part of the country, headed off at the pass. A speaking invitation of any kind—even one that entitles you to extra pay for "hazardous duty"—is not likely to be turned down if it comes through the White House. In a more current vernacular, you "made me an offer I couldn't refuse."

But I have the proverbial ace up my sleeve. Remember, I'm here as a stand-in for the President. I know you wouldn't throw wilted lettuce, over-ripe eggs, or other fruits, vegetables, and assorted foodstuffs at *him*. Since you've asked me to come in his stead, I naturally figure that I'm under his protection as his agent today and therefore claim the same indulgences you would grant him had he appeared here in person. How's that for lawyer-like thinking? They say there's nothing quite like the hint of danger to sharpen a man's mental concentration. But I didn't really intend to rely solely on my wits to take care of me here today. I wanted to use protective equipment. Your sergeant-at-arms stopped me at the front door, however, and took away my baseball catcher's outfit, including my face mask, chest protector, shin guards, and so forth.

Seriously, gentlemen, I assume that you did invite me here to talk as much as I can about why I thought the Federal Trade Commission had a responsibility to look into the matter of retail drug pricing. If so, it is a perfectly proper request and I am more than happy to do what I can to put the matter in a better focus for you.

Let me begin by saying that I have read with great interest the various arguments that have appeared in the trade press as to why some apparently believe the country's retail druggists should be "protected" from price competition. It is said that, because the pharmacist dispenses professional services along with the drugs he sells, he shouldn't have to face price competition from other sellers. The argument is also made that, with free price competition, drug prices would drop so low that consumers would buy them in dangerously excessive quantities. Then there's the claim that, if the consumers should learn about the prices of competing druggists, they would give price too much emphasis and end up buying from a druggist who wouldn't give them the kind of extra services they need. Another argument here is that price competition can't be permitted in the industry because the manufacturers charge different prices to different pharmacies, a fact that would put the smaller druggists at a severe disadavntage if they had to compete on price with the chain drug stores. And of course it is said that the FTC lacks the legal power to declare unlawful any restraints that might have been imposed by the various pharmacy boards insofar as those boards are acting under the authority of state or local law.

Now I don't want to take up a lot of your time going through these and the many other points that have been made by the parties on both sides here. Suffice it to say that, first, the Supreme Court has ruled that even the American Medical Association is not exempt from the antitrust laws. Secondly, it is not easy to imagine the country's doctors being so irresponsible as to over-prescribe drugs just because prices may have declined somewhat. Thirdly, good customer service builds good will and, as a proven technique for getting repeat business, is not likely, one would suppose, to be abandoned in the near future by any profit-making business or profession. Finally, the smaller drug stores, like the smaller grocery stores, are not precluded from forming "buying co-ops" if they believe they're being overcharged by their suppliers. An ounce of this kind of intelligent self-help is worth, in my view, a great deal more than even a pound of government "protection" from discriminatory pricing or other objectionable trade practice.

I have not forgotten about the question of the FTC's legal authority to challenge a state-sponsored restraint of trade. I'll be back to that issue in a moment. I want to pause at this point, however, and say a few words about advertising.

As in so many other areas of life advertising has its "good" side and its "bad" side. It is good when it is truthful and conveys the factual information needed by the buyer to make a sensible choice between seller A and seller B. It is not so good when it is false, deceptive, or otherwise aimed at persuading to buy an inferior product at an inflated price. Put another way, advertising is very much in the public interest when it is employed by an honest man with a good product or service and the ability to sell it at a fair competitive price. It is not very good at all, however, when it is used by those who have an inadequate or mediocre product and want to flim-flam the public into buying it at a "premium" price. This latter kind of advertising—a variety that has of course been roundly criticized by economists and other scholars for years—in fact has at its main function, we are told, the inflationary goal of raising prices to unnecessarily high levels, eliminating the smaller firms from the industry in question, and making entry into that industry so expensive that no outside firms will be tempted to enter, even if its profits do in fact rise to visibly non-competitive levels.

Now advertising's critics have focused on this non-informational and deceptive variety of the species for so long that many people have forgotten that most advertising is not of that kind at all. An estimated 50% or more of all advertising is primarily informational in its main thrust, telling the public, for example, that a certain product exists, that it has certain properties, that it sells for a certain price, that it can be bought at certain times and places, and so forth. Newspaper advertising—which accounts for nearly 1/3rd of the just under $25 billion spent on all advertising in the United States each year—is almost entirely of this helpful and informative kind. And the information it provides, according to our economic experts, has profound effects on the workings of our economic system.

Let me mention just one of these principal economic results of informational advertising. First, full knowledge on both the buying and selling sides of the market as to what is being offered for sale and the prices asked is essential to what economists call the efficient allocation of resources. Our standard of living depends on how efficiently we use what we have, on how successful we are in eliminating waste and inefficiency in the nation's production and distribution processes. In general, that means putting each dollar's worth of capital equipment and each man-hour of labor into the hands of those men who can use them to produce the largest quantity and the highest quality of goods and services desired and needed by the American public. If one man can produce and sell a given product at a price of only $1.00, while another one is so inefficient that he needs a price of $1.50 to stay in business here, it is obviously in the interests of the consumer, of the more efficient businessman, and of society as a whole to let the consumer *know* about those price differences.

The mechanics of this principle are simple but vastly important to the country's welfare. Since consumers are generally believed to have a preference for more money rather than less, they tend to shift their patronage away from high-cost sellers and over to low-cost operators as soon as they find out which is which. Put another way, the presence of informed consumers is a necessary element in our markets if the efficient producer is to be allowed to compete away the customers of his inefficient competitors. In my little illustration here, for example, the consumer who saves 50 cents by switching from one vendor to another has added that much to his own real standard of living. And he has, at the same time, rewarded the one vendor for his productivity and punished the other for his lack of it. This is, I need not add, precisely the purpose of the free-market system, to eliminate waste by getting the nation's resources out of the hands of inefficient operators and into the hands of those who will use them to enhance the society's real wealth. America may very well be "affluent" by the standards of some of the poorer nations of the world. But we still have needy people in this country—the poor, the sick, the old—and I am not persuaded that we can really afford to simply throw away billions of dollars that many experts believe we do in fact waste each year because of the kind of market inefficiences I am talking about here.

Then there is the matter of inflation. Once upon a time, there was no inflation in the United States. In fact, for the entire 100-year period between 1800 and 1900, there was a slight overall decline in prices in this country.[1] Beginning at about the turn of the 20th century, however, some changes started cccurring in the overall structure of the American economy. A number of scholars believe, for example, that the real origin of our inflation problem can be traced to the various pro-cartel and pro-labor legislation of the early 1930s. In an effort to increase the incomes of workers and the profitability of business in the face of the Great Depression that began in 1929, the national policy in favor of competition and against monopoly was dramatically reversed in a period of several years. The National Industrial Recovery Act (NIRA), for example, made it lawful for the members of entire industries to come to Washington and work out "codes" of behavior for themselves that were, in substance, little more than price-fixing cartels. And of course the Wagner Act and subsequent labor legislation similarly gave the law's full protection to the elimination of all competition in the country's various labor markets.

Guess what happened then? The result of this sudden turnabout in the nation's attitude toward cartels of both the business and labor variety was of course promptly re- down to 14.3% in 1937, it could hardly be said that these were years of "excess demand." Yet the cost of living rose by 13% during the 1933–37 period and wholesale prices rose by 50% during those 5 years.[2] In flected in a rapid inflationary price movement. With the country's unemployment rate ranging from a high of 24.9% in 1933 the words of Professor Milton Friedman, "from 1933 to 1937, the NIRA, AAA, Wagner Labour Act and the associated growth of union strength led to increasing market power of both industry and labour and thereby produced upward pressure on a wide range of wages and prices. . . ."[3] With effective price competition knocked out of the picture, America's markets—both on the product and the labor side—had been drastically altered and its long-term inflation problem had been born. There is only one way to anchor down all the prices in an economy, namely, free and effective competition. We cut the anchor chain in the 1930s and have been drifting seaward ever since.

How much of the American economy is still sufficiently competitive to keep inflation under control? There's a lot of dispute on this point, of course, and it is currently being debated with renewed interest in Washington. President Ford's pre-summit conferences with a group of the nation's leading economists, for example, has produced, as I'm sure you're all aware, quite a mixture of heat and light in this area. One of the more enlightening contributions here was made by Dr. Hendrik Houthakker, a former member of the Council of Economic Advisers. Dr. Houthakker has compiled a list of no less than 45 industries that are currently "protected" from competition by law. The charge, in other words, is that these 45 industries have talked our lawmakers into passing a set of laws that gives them, in one form or another, a cartel apparatus for maintaining their prices at higher-than-competitive levels. Being unable, we are told, to kill competition on their own, they have allegedly signed up the government to do it for them.

Since the country is obviously in deep economic trouble, and since the government is trying rather desperately to find a way to get our raging inflationary fires under control, the suggestion was naturally made that perhaps the federal government, at the very least, ought to get itself out of the price-fixing business and let competition take over in these 45 industries. Almost everyone agreed, of course, that this was a great idea. Notice that I said "almost" everyone agreed. The firms doing business in those particular industries are not, to put it conservatively, enthusiastic about the whole idea. In fact, they are dead-set agin' it. And it is widely conceded in Washington that they have the political muscle to assure that nothing is done to take away their privileged non-competitive status in the economy. They have it locked up so tight, in fact, that they have come to be known as the "sacred cows" of Washington, untouchable by the anti-inflation axe. In time, they'll probably come to be called "Houthakker's Herd," a distinction I'm sure Dr. Houthakker would be more than happy to forego. I might also note in passing that this is a very dangerous breed of animal indeed. India, for example, has a lot of sacred cows. The cows are well-fed. But the people are starving. When a society starts losing interest in efficient techniques for supplying itself with goods and services and begins concentrating, instead, on feeding its sacred herds, a social malaise of grave proportions has set in.

Now all this brings me back to the last item on the laundry list of reasons why, according to the drug trade press, your industry should be allowed to suppress price advertising through the action of its state-authorized pharmacy boards. The argument here, as you'll recall, is that the Federal Trade Commission simply doesn't have the legal authority to declare these state and local laws unlawful. I think we do but that's not the point I would like to make with you today. If you can't persuade a court somewhere that competition would be a "bad" thing in your industry—and you may very well be able to do so—you can of course always go to Congress for an omnibus law declaring it perfectly lawful to do whatever it is you need to do in order to avoid competing for the drug dollars of this country's sick and aged citizens. With 40,000 small-business members of your association, and with the very modest profit figures I am told you can point to among your members, you might in fact have a reasonably good chance of getting such a law passed. But do you really want to take yourself out of the country's free-enterprise system?

That may sound like a funny question but I assure you that I ask it in all seriousness. If your industry is in fact suppressing competition by using these pharmacy boards to prevent your members from advertising drug prices—and I give you my fullest assurance that I will await the results of our investigation before making up my mind on this point—then it is both economically and legally engaged in something called price-fixing.[4] If price advertising is in fact being suppressed by the country's retail druggists, and if the purpose and the effect of that suppression is to alter in any way the level of drug prices in any market or markets, I think the industry needs to give some careful thought to where it is going. If all of these things are true—and I profoundly hope they are not—I believe the industry needs to get started on a serious rethinking of what free enterprise is all about in America.

Let me say to you, and I say this as one who yields to no man in his love of this country's economic system, that without free and effective competition, there is no social, economic, or moral case for free enterprise. Competition is the key to the businessman's continued freedom. It is the force that drives the country's economic engine. It is the seal of approval that gives social legitimacy to the prices he charges and the profits he receives. Without it, he reaps where he never sowed and is thus a man outside the protective cloak of the law and mores of our society. An industry that dampens down the fires of competition among its members has snuffed out the sacred flame that is the very heart of free enterprise, has pulled down its flag, and has handed over its great sword to an alien enemy. For those who love economic freedom and who believes, as I do, that competitive free enterprise is what made this land the great nation it is today, there is no sadder sight than a group of businessmen. hat-in-hand, begging Congress for a law that will "protect" them from each other's honest competition.

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[1] See, e.g., Dr. John M. Blair, *Economic Concentration: Structure, Behavior, and Public Policy* (Harcourt Brace Jovanovich, 1972), pp. 405–407.

[2] Dr. Gottfried Harberler, "Incomes Policies and Inflation," in *Inflation and the Unions* (Institute of Economic Affairs, 1972), p. 12.

[3] Quoted in Haberler, id., p. 12.

[4] In the words of the Supreme Court, "any combination which *tampers* with price structures is engaged in an unlawful activity." *United States* v. *Socony-Vacuum Oil Company*, 310 U.S. 150 (1940) (emphasis added). Nor is it a defense that the industry, unless it suppresses competition, will be plagued with undue hardships: "But such defense is typical of the protestations usually made in price-fixing cases. Ruinous competition, financial disaster, evils of price cutting and the like appear throughout our history as ostensible justifications for price-fixing . . . [T]o the extent that they raised, lowered, or stabilized prices they would be directly interfering with the free play of market forces. The [Sherman] Act places all such schemes beyond the pale and protects that vital part of our economy against any degree of interference. Congress has not left us with the determination of whether or not particular price fixing schemes are wise or unwise, healthy or destructive. It has not permitted the age-old cry of ruinous competition and competitive evils to be a defense to price-fixing conspiracies. It has no more allowed genuine or fancied competitive abuses as a legal justification for such schemes than it has the good intentions of the members of the combinations." Id.

When the FTC's investigation of your industry has been completed and we have written our final report, whichever way it might go, I want you to know that I believe it will contain one very important postscript. It will, I believe, acknowledge in full the great debt owed by the American people to the pharmacists of America. There can be no doubting your high professional skills; your deep dedication to the physical and emotional needs of those who come to you for counsel and assistance; your unflagging support for the very best medical care this country can provide its citizens; and your great service in the general cause of better health for all. I am also confident that, when the final chapter of this story is written, it will reflect high credit on every member of this group. If no changes are needed, fine. If some are, I believe you will make them yourself and do it promptly. I am confident, in short, that you will not only do what is right but do it with the same great and generous spirit that has always been the hallmark of the American pharmacist. You carry a heavy responsibility. May Divine Providence guide your hand in all that you do.

REFERRAL OF SEAMANS NOMINATION

Mr. MOSS. Mr. President, the nomination by President Ford of Dr. Robert C. Seamans, Jr., to be the Administrator of the new Energy Research and Development Administration did not receive much comment in the press. But those of us who know of Bob Seamans' long and distinguished career as an engineer, teacher, and manager were cheered by this outstanding nomination. Recognizing the need to move ahead swiftly in this area, I am sure that the Senate will move promptly and in all likelihood favorably on confirmation.

Nevertheless, the nomination must be referred to a committee for proper hearing and to follow the regular order.

On June 27, 1974, Senator GOLDWATER and I introduced Senate Resolution 352, which would give jurisdiction over ERDA to the Committee on Aeronautical and Space Sciences. Since then, a number of additional Senators have become cosponsors.

Understandably, the Rules Committee has not yet considered this resolution, although I am hopeful that consideration can be scheduled in the very near future. Since the Energy Reorganization Act requires annual authorizations for ERDA, it is clear that some disposition of this matter is going to have to take place very soon.

Senate jurisdiction over ERDA raises some complicated questions; however, because of unhappy experience in the matter of multiple jurisdiction, it would be highly desirable that this jurisdiction reside in a single committee. Splintering ERDA jurisdiction would require an inordinate number of congressional presentations, would inevitably lead toward friction among the committees, would make it impossible for the Senate to consider energy R. & D. as a whole, and would tend to defeat the very purposes for which ERDA was created in the first place. Considering also the rigid deadlines added to the congressional process by our new budgetary procedures, it would seem almost mandatory that ERDA jurisdiction be made the responsibility of only one committee.

I know what all of these factors will be carefully considered by the Rules Committee.

In the meantime, I suggest that Dr. Seamans' nomination be referred to the Aeronautical and Space Sciences Committee where I can assure you it will receive prompt consideration so that the new ERDA management team can get on with the difficult job of organizing this important new agency.

THE REGULATORY AGENCIES

Mr. MOSS. Mr. President, tomorrow the Committee on Commerce will begin 3 days of hearings on Senate Joint Resolution 253, a joint resolution to establish a national commission to undertake an examination of the independent regulatory agencies.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MANSFIELD. Mr. President, I yield my time to the Senator from Utah.

Mr. MOSS. I thank the distinguished majority leader. The Commission's task must be approached with care and the highest standards of accuracy and thoroughness. The job of establishing the Commission, the process of appointing its members, and the Commission's operations are not to be regarded as a "political football" game between the forces of regulation and the forces of deregulation.

The purpose of the Commission is to report on the economic and other impacts of regulation by the independent regulatory agencies and secondly to recommend to the Congress methods of improving the independent regulatory agencies and the regulatory structure. The Commission would be required to make specific legislative recommendations for agency reform, or, indeed, disbandment.

It is difficult not to develop a severe case of astigmatism looking at the Federal regulatory agencies, whether it be from the perspective of Congress, as regulated business people, or as consumers. Many people view the regulatory agencies as unecessary insults to free enterprise. The regulatory agencies seem to impose monstrous paperwork burdens, gobble up hard-earned profits to feed their own unquenchable thirst for data, and permit costs to rise without concomitant increases in services. Some see them as unaccountable bodies possessed with misplaced zeal, consumed with their own self-perpetuation and growth, feeding on publicity, and fueled by undercurrents of contempt for the pubic interest. They seem contrary, confused, conflicting, and competitive with each other. Sometimes they appear to be subverters of due process and damnable drains on tax dollers.

Have I overstated the case?

Unfortunately, the regulatory agencies represent seeds of promise which fail to germinate. Sometimes they are mired in trivia and sterile precedent. Some are stifled by bureaucratic inertia. Some are staffed by time-servers—people of shallow commitment with stunted imaginations.

We in Congress wince when we see our appropriated funds dribbling out without visible return. We often see the agencies outgunned in administrative tribunals and courts by their own regulations and by their alumni.

Yet the faith persists that an independent regulatory agency with broad powers and a clear mandate from Congress, with adequate resources, and with enlightened public servants, does possess the potential for channeling the great, but unruly, forces of capitalism toward the common good.

President Roosevelt articulated a noble vision for these independent agencies. He said:

> The regulatory commission, my friends, must be a tribute of the people, putting its engineering, its accounting and its legal resources into the breech for the purpose of getting the facts and doing justice to both the consumers and investors . . . this means, when the duty is properly exercised, positive active protection of the people against private greed.

Many have suggested and looked to a renaissance of vigorous antitrust policy as an alternative to the unwieldy regulatory agencies. Many believe that the restoration of competition will cure all ills of the economic body.

Effective antitrust enforcement is needed to dissipate the continued growth and concentration of monopoly power. But even competition—unfettered, healthy competition, for all its acknowledged virtues—is a blind policeman when it comes to such marketplace disfunctions as the safe design of products, fair and nondeceptive advertising, prudent conservation of limited natural resources, preservation of land, air, and water quality, humane conditions in the workplace, and justice in the marketplace.

These and other shared goals of a just society have led Congress again and again to seek remedies in the form of regulatory restrictions, administered by independent regulatory bodies—to demand fairness, honesty, quality, safety, and convenience. What if anything then is to be done about the disparity between the promise and the reality of regulation?

Some may contend that the appointment of a commission recommended by Senate Joint Resolution 253 is a way for Congress to duck the issue. I disagree. Three recently established commissions have resulted in major legislation with a substantial impact on the public. The National Commission on Product Safety, the National Commission on Consumer Finance, and the National Commission on Fire Prevention and Control, each proposed changes which resulted in a major substantive legislation to improve the life of the American people. It is my belief that the legislation which grows out of the National Commission on Regulatory Reform will result in similar public benefit.

The American people are demanding reform of the regulatory process. They are demanding improvement of the machinery which governs much of the marketplace and is their contact with

Government. There is much fat in our regulatory structure which can be eliminated through a return to competition. And there are other aspects of society which need to be governed by fair and efficient rules. It is my belief that the Commission can fulfill its objectives. It then will be up to us to see that these recommendations are implemented through the enactment of new legislation where necessary, and the repeal of outdated legislation where appropriate.

Only then can the forces of competition work in harmony with the requirements of society to provide the goods and services which the American people need and demand.

REFERRAL OF THE SEAMANS NOMINATION

Mr. GOLDWATER. Mr. President I congratulate the President on his nomination of Dr. Robert C. Seamans, Jr., to be the Administrator of the new Energy Research and Development Administration. Dr. Seamans has proven himself in high Government positions, the last being as Secretary of the Air Force. Because of his outstanding qualifications, I would expect prompt confirmation by the Senate.

It is my understanding that the Senate rules make no provision for jurisdiction over energy research and development. With the creation of this sorely needed new agency, the Senate must in the near future make its will known on the matter of jurisdiction.

In the past, energy research in the Federal Government has been fragmented leading at best to competition for scarce funds and at worst to bureaucratic snarls. ERDA, like NASA after sputnik, is designed to pull it all together and get the show on the road. If the Senate is going to have the same unity of purpose, it is my view that one and only one legislative committee should have jurisdiction over ERDA.

On June 27, 1974, the chairman of the Aeronautical and Space Sciences Committee and I introduced a resolution (S. Res. 352) conferring jurisdiction over ERDA to our committee. Because of a tremendous workload imposed upon the Rules Committee, it has understandably not had an opportunity to take up Senate Resolution 352.

Since the introduction of Senate Resolution 352, I am not aware of any other Senate resolutions dealing with ERDA jurisdiction. As matters now stand, Senate Resolution 352 is the only expression of the Senate's will on this matter. Accordingly, it seems to me, that the nomination of Dr. Robert C. Seamans, Jr. to be the Administrator of ERDA should be sent for confirmation hearings to the Senate Committee on Aeronautical and Space Sciences.

If any of our colleagues are inclined to have different feelings about the jurisdiction of ERDA, I respectfully submit that a reasonable time from them to make their views known is when the Rules Committee holds hearings on Senate Resolution 352. It is my hope that the Senate will resolve the question of jurisdiction over ERDA within established procedures.

In other words, I believe hearings should be held on Senate Resolution 352, or any contending resolutions, and that the Rules Committee should then make its recommendations known to the Senate. Finally, the Senate should consider the Rules Committee recommendations.

THE CASE FOR THE B-1 BOMBER

Mr. GOLDWATER. Mr. President, there is no question, but that in this new Congress we will once again hear the rather hackneyed, worn out word "priorities." There are many priorities in America, all of them in my opinion of equal importance. We have the priority of human needs, on which more money is being spent than by any country in the history of the world. We have the priority of "city needs," again on which more money is being spent than any nation has ever spent. I might suggest, however, that the fulfilling of these priorities would mean absolutely nothing if we ignore a third and major priority, that of national defense.

It is very easy to say, "let's balance the budget, let's take it out of the defense budget." I would remind my colleagues that at no time in history have we spent so little on national defense compared with the gross national product as we are spending today. A strong defensive position in this world of antagonists is a very necessary thing and if we start out the next Congress with the continuing idea that defense is the only source of budget cuts, then we will rapidly deteriorate into a second or third or even worse rate country.

Because we will be hearing a lot on the subject of the B-1 bomber, I would suggest that my colleagues read the interesting editorial by John Loosbrock, appearing in the November issue of the Air Force magazine, so I ask unanimous consent that it be printed in the RECORD at this point in my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE CASE FOR THE B-1

(By John F. Loosbrock)

We have an acquaintance who is getting along in years and who recently suffered a series of personal setbacks—both physical and financial. We asked him how he was getting along.

"Great," he replied.

"How have you managed that?" we wanted to know.

"Simple," he said. "I've just lowered my standards of greatness."

That's one way to look at it, of course, and as a personal philosophy it has some attractions. But a great nation cannot approach its responsibilities so simplistically. At least not if it has thoughts about retaining its greatness. History is littered with the remains of once-powerful states that thought they could beat the system. In most cases, their downfall came about by their becoming so preoccupied with internal problems that they forgot about the competition.

Now, no one can blame the national leadership, in both the executive and legislative branches, for being preoccupied with the economic plight of the nation. And the electorate lives with inflation every day. We have a few unpaid bills on our own desk at the moment, including one for a new roof which we didn't want but which we needed very much and which would have cost us only half as much ten years ago.

The point is that in times of economic stress, governments, like people, must put needs before wants, necessities before luxuries. Where the rub comes is in deciding the priorities.

In a family, the priority decisions are often made by your creditors. The wheel that does the squeaking gets the grease. But among nations, as among businesses, the priorities must be determined with one eye, at least, on the competition.

As Secretary of Defense James R. Schlesinger put it recently, "We match ourselves not against the Department of Defense as it might have existed ten years ago, but in relation to the preservation of a worldwide military balance in which the Soviet Union carries a very large weight. Therefore, we are comparing ourselves to a considerable extent with Soviet capabilities . . . Soviet expenditures in real terms, in constant rubles, have been increasing three to five percent each year. The balance at the present time is gradually eroding from the standpoint of the United States. If the United States wishes to fulfill its worldwide responsibilities, it is not going to do that on four and a half percent of the GNP. We will just have to face up to the expenditure."

The conditional "if" in Dr. Schlesinger's statement is significant. If the United States decides, as a nation, that it does not wish to fulfill its worldwide responsibilities, presumambly it is entitled to do so. Presumably, it can decide that national survival can be jeopardized. But the fearful consequences of such decisions must be recognized. What would be unforgiveable would be to delude ourselves by professing that U.S. responsibilities will be fulfilled and national survival ensured while refusing to provide the wherewithal with which to bring about these ends. Neither our competition nor our allies would be deceived. We would fool *only* ourselves.

Nowhere in the defense budget are the economic pressures, virtually all resulting from inflation, so heavy as in the case of the Air Force's B-1 manned bomber. The mood on Capitol Hill (*see p. 16, "Airpower in the News"*) borders on despair, with few legislators questioning the need for the B-1, but with an uncomfortably large number almost literally wringing their hands over the prospect of paying for it. So it is important to reiterate what options would be foreclosed to the U.S. in the event that support for the B-1 should not be forthcoming.

The manned bomber per se is critical to Secretary Schlesinger's new approach to targeting strategy (*see "The Pentagon Looks at New Strategic Options," February '74 issue, p. 52*). It gives you a combination of selectivity, flexibility, and deliverable megatonnage that no missile system can match. You can pick both a weapon and a delivery tactic matched to your target. You have a way to use conventional weapons when those are appropriate, and neither of the other parts of the strategic Triad can make this claim. And you can use it without using it up. It's recyclable.

But why does the manned bomber of the future have to be the B-1? It doesn't, of course. Several alternatives have been examined—lengthening the operational life of the B-52; going to a smaller, cheaper aircraft; opting for standoff cruise missiles. Each imposes severe operational penalties and, in the case of the cruise missile, involves dependence on a system that is still embryonic and untested. In each alternative lies one or more elements of unsureness as to ability to penetrate sophisticated defenses, ability to take out a wide range of targets, ability to contribute to deterrence over the balance of this century. To introduce one or more such uncertainties into a strategic posture that demands certainty above all, would be placing at unwarranted risk the almost 200 years of accumulation of institutions, values, property, and people that we call the United States of America.

The B-1 currently is the No. 1 national defense priority. Let's keep it at the top of our list.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

APPROVAL OF BILLS AND JOINT RESOLUTIONS

A message from the President of the United States stated that he had approved and signed the following enrolled bills and joint resolutions:

October 17, 1974:

S.J. Res. 123. Joint resolution authorizing the procurement of an oil portrait and marble bust of former Chief Justice Earl Warren.

S. 2001. An act to redesignate the Alamogordo Dam and Reservoir, N. Mex., as the Sumner Dam and Lake Sumner, respectively.

October 18, 1974:

S.J. Res. 251. Joint resolution to extent the authority of the Export-Import Bank of the United States.

S. 283. An act to declare that the United States holds in trust for the Bridgeport Indian Colony certain lands in Mono County, Calif.

S. 634. An act to declare that certain federally owned lands shall be held by the United States in trust for the Kootenai Tribe of Idaho, and for other purposes.

S. 3362. An act to enable the Secretary of the Interior to provide for the operation, maintenance, and continued construction of the Federal transmission system in the Pacific Northwest by use of the revenues of the Federal Columbia River Power System and the proceeds of revenue bonds, and for other purposes.

S. 3979. An act to increase on an emergency basis the availability of reasonably priced mortgage credit for housing.

October 20, 1974:

S. 1794. An act to amend section 308 of title 44, United States Code, relating to the disbursing officer, deputy disbursing officer, and certifying officers and employees of the Government Printing Office.

S. 2220. An act to repeal the "cooly trade" laws.

October 24, 1974:

S. 605. An act to amend the act of June 30, 1944, an act "to provide for the establishment of the Harpers Ferry National Monument", and for other purposes.

S. 2348. An act to amend the Canal Zone Code, to transfer the functions of the Clerk of the U.S. District Court for the District of the Canal Zone with respect to the issuance and recording of marriage licenses, and related activities, to the civil affairs director of the Canal Zone government, and for other purposes.

S. 2362. An act granting the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact.

October 26, 1974:

S.J. Res. 236. Joint resolution to provide for the indemnification of the Metropolitan Museum of New York for loss or damages suffered by objects in exhibition in the Union of Soviet Socialist Republics.

S.J. Res. 250. Joint resolution to extend the Regional Rail Reorganization Act's reporting date and for other purposes.

S. 628. An act to amend chapter 83 of title 5, United States Code, to eliminate the annuity reduction made, in order to provide a surviving spouse with an annuity, during periods when the annuitant is not married.

S. 1411. An act to authorize the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings in North Dakota and South Dakota, and for other purposes.

S. 1412. An act to declare that certain federally owned lands are held by the United States in trust for the Sissetan-Wahpeton Sioux Tribe of the Lake Traverse Indian Reservation in North and South Dakota.

S. 2840. An act to authorize the Secretary of Commerce and the Secretary of the Treasury to conduct a study of foreign direct and portfolio investment in the United States, and for other purposes.

S. 3234. An act to authorize a vigorous Federal program of research, development, and demonstration to assure the utilization of solar energy as a viable source for our national energy needs, and for other purposes.

S. 3355. An act to amend the Controlled Substances Act to extend for three fiscal years the authorizations of appropriations for the administration and enforcement of that Act.

S. 3473. An act to authorize appropriations for the Department of State and the U.S. Information Agency, and for other purposes.

S. 3698. An act to amend the Atomic Energy Act of 1954, as amended, to enable Congress to concur in or disapprove international agreements for cooperation in regard to certain nuclear technology.

October 27, 1974:

S. 355. An act to amend the National Traffic and Motor Vehicle Safty Act of 1966 to authorize appropriations for the fiscal years 1975 and 1976; to provide for the remedy of certain defective motor vehicles without charge to the owners thereof; to require that schoolbus safety standards be prescribed; to amend the Motor Vehicle Information and Cost Savings Act to provide for a special demonstration project; and for other purposes.

S. 3007. An act to authorize appropriations for the Indian Claims Commission for fiscal year 1975.

October 29, 1974:

S. 1769. An act to reduce losses of life and property, through better fire prevention and control, and for other purposes.

S. 3792. An act to amend and extend the Export Administration Act of 1969.

S. 3838. An act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. JOHNSTON) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL CANCER ADVISORY BOARD—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States received on October 23, 1974, during the adjournment, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

In accord with section 410B(g) of the "National Cancer Act of 1971" (P.L. 92-218), I am transmitting the second annual report of the National Cancer Advisory Board on the progress of the National Cancer Institute.

As the Board's report indicates, the activities of the National Cancer Institute are progressing smoothly. The report highlights several areas in which significant scientific advances are being made.

In several instances, the Board raises major policy issues and makes recommendations to the Congress. For example, the Board's report urges Federal regulation of cigarettes. It should be pointed out that there is considerable dispute as to whether there exists adequate scientific evidence on which to base safe levels of tar and nicotine under responsible regulatory action. In response to the Board's concern, I have asked the National Cancer Advisory Board to provide me with an assessment of the scientific evidence that would provide a basis for responsible Federal regulation of cigarettes.

While I think it is important for the Congress to have the benefit of the Board's views, those views must necessarily be considered along with other diverse and responsible points of view.

GERALD R. FORD.

THE WHITE HOUSE, *October 23, 1974.*

REPORT ON THE OPERATION OF THE AUTOMOTIVE PRODUCTS TRADE ACT OF 1965—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States received on October 23, 1974, during the adjournment, which, with the accompanying report, was referred to the Committee on Finance. The message reads as follows:

To the Congress of the United States:

I hereby transmit the Eighth Annual Report on the Operation of the Automotive Products Trade Act of 1965. This report contains information with respect to United States and Canadian Automotive Products Agreement including trade, prices, and employment in 1973. Also included is other information pertinent to the various provisions of the Act.

GERALD R. FORD.

THE WHITE HOUSE, *October 23, 1974.*

BUDGET RESCISSIONS AND DEFERRALS—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States, received October 31, 1974, during the adjournment, concerning the third submission of budget rescissions and deferrals, which was ordered to be held at the desk. The message is as follows:

To the Congress of the United States:

I herewith report on additional deferrals for the fiscal year 1975, as required by the Congressional Budget and Impoundment Control Act of 1974. These deferral actions have been taken to reduce the inflationary effects of the Public Works for Water and Power Development and Atomic Energy Commission Appropriation Act of 1975 (Public Law 93–393). When I approved the Act, I did so with the hope and expectation that the Congress would work in cooperation with the Executive Branch to defer for one full year the expenditure of that amount of appropriated funds which would contribute excessively to inflationary government spending.

The deferral actions reported today decrease the amount of budget authority which would otherwise be available in the fiscal year 1975 by nearly $82 million and thereby keep Federal spending from rising nearly $57 million above current estimates. If the Congress and the President are to keep Federal outlays for the fiscal year 1975 within $300 billion, such measures as the ones reported here are essential.

GERALD R. FORD.

THE WHITE HOUSE, *October 31, 1974.*

DEFERRAL OF FUNDS TO IMPLEMENT THE FAMILY PRACTICE OF MEDICINE ACT—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States received on October 31, 1974, during the adjournment, which was ordered to be held at the desk. The message is as follows:

To the Congress of the United States:

In accordance with the provisions of Title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344), I am reporting the deferral of funds appropriated to carry out the Family Practice of Medicine Act (S. 3418, Ninety-First Congress).

The details of the deferral are contained in the attached report.

GERALD R. FORD.

THE WHITE HOUSE, *October 31, 1974.*

REPORT ON THE NATIONAL CANCER PROGRAM'S ACTIVITIES—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States received November 4, 1974, submitting a report on the activities of the national cancer program, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

I am pleased to submit to you the annual report on the National Cancer Program's activities, progress and accomplishments during calendar year 1973, as well as the plan for the program for the next five years. Both the report and the plan are required by section 410A(b) of the Public Health Service Act as amended by The National Cancer Act of 1971.

The plan is provided in two documents. The first, called "National Cancer Program Operational Plan," covers the five-year plan for the program and delineates the major policies and procedures used to operate the program. The second document, called "Appendices to the National Cancer Program Operational Plan," includes separate brief descriptions of the individual research, control and support programs of the National Cancer Institute. The funding levels contained in the plan do not constitute a specific commitment or recommendation by the Administration. Among other things, those levels do not adequately take into account overall budgetary constraints and the competing demands of other biomedical research programs.

The Administration is also deeply committed to an effective cancer research program. The progress and accomplishments made in 1973 are gratifying. The National Cancer Program is beginning to have an impact on Americans who have cancer or are at risk to it. Today, more Americans than ever before have access to the most advanced methods of cancer diagnosis, treatment and rehabilitation. This human endeavor and its successes are the result of the National Cancer Institute's expanding research programs, and its efforts to apply for the benefit of the people, as quickly as possible, the knowledge emerging from the clinical bedside and research laboratory.

Our national research program to conquer cancer will take years before achieving ultimate success. The recent enactment of the National Cancer Act Amendments of 1974, which continue the National Cancer Program, demonstrates the abiding commitment of the Congress and the executive branch to solve this major health problem.

Success in this endeavor will ultimately come, however, only with the sustained dedication and hard work of the physicians, scientists, health professionals, voluntary agencies, and the volunteers who support this program.

GERALD R. FORD.

THE WHITE HOUSE, *November 4, 1974.*

BUDGET RESCISSIONS AND DEFERRALS—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States received November 13, 1974, concerning the fifth submission of budget rescissions and deferrals, which was ordered to be held at the desk. The message is as follows:

To the Congress of the United States:

In accordance with the provisions of Title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344), I am transmitting supplementary reports that revise proposed rescission and deferral reports made to the Congress in September and October of this year. I am also transmitting herewith reports on two new deferral actions required to promote sound financial management practices.

The details of the supplementary reports and the new deferrals are attached.

GERALD R. FORD.

THE WHITE HOUSE, *November 13, 1974.*

REPORT OF THE NATIONAL CAPITAL HOUSING AUTHORITY—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate a message from the President of the United States received on November 13, 1974, submitting the report of the National Capital Housing Authority for the fiscal year ending June 30, 1973, which, with the accompanying report, was referred to the Committee on the District of Columbia. The message is as follows:

To the Congress of the United States:

I am herewith transmitting the National Capital Housing Authority's annual report for the fiscal year ending June 30, 1973. The report sets forth the efforts of the Authority to improve and expand the housing opportunities in the District of Columbia.

In light of the recent transfer of the National Capital Housing Authority to the District of Columbia Government, I hope that even greater efforts will be made to improve housing conditions in the Nation's Capital.

GERALD R. FORD.

THE WHITE HOUSE, *November 13, 1974.*

LEGISLATIVE PROPOSALS—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States setting out his program of legislation for the Congress:

To the Congress of the United States:

I regret that commitments which I believe will advance the cause of international understanding prevent my delivering this message personally. On two previous occasions when I returned to the Capitol for formal communication with the Congress, I emphasized my sincere desire for partnership with you in the interests of our country. Nothing has changed that intention on my part.

On August 12, three days after assuming the office of President, I asked the Congress to join with me in a new spirit of action and accommodation in getting America moving again. On October 8, I presented a comprehensive 31-point program to strengthen our economy, share the burdens of inflation and stagnation and significantly reduce this Nation's dependence on outside sources of energy which is both strategically and economically undesirable.

There has been piecemeal criticism of my program and I expected it. But there has been no specific and comprehensive alternative program advanced and time is passing. I do not read any mandate in the recent election so clearly as the American people's concern about our economy and their urgent demand for fiscal restraint and responsible action on the economic front.

I am still ready to meet the Congress more than half way in responding to this call from our constituents. We cannot wait and the country cannot wait until next March or April for needed action.

I will always have a special affection for the 93d Congress—the last one to which I was elected and in which I served both as Minority Leader of the House and as President of the Senate. But I hope this pride can be more solid than sentimental.

Time is short, but time remains for this Congress to finish its work with a real record of accomplishment. Your leaders have given me their assurance of a desire to do as much as possible.

There is much to be done. I am confident that if we all declare a moratorium on partisanship for the rest of 1974 we can still achieve much for America.

In this message I am listing those legislative actions, among the many I have proposed, to which I attach the highest priority. I respectfully request their careful consideration and resolution before the 93d Congress takes its place in history.

NOMINATIONS

I regret that neither body of the Congress has acted on my nomination of Nelson Rockefeller to be Vice President of the United States.

It has been nearly thirteen weeks since I nominated Governor Rockefeller. Our recent experience with the 25th amendment makes it plain that an incumbent Vice President is essential to continuity in Government. I appreciate the need for thorough examination of this nomination, but it is in the highest national interest that I urge speedy confirmation.

Forty-three other nominations pending before the Senate lapsed with the election recess. I request that my resubmissions be given expeditious consideration so that vacancies in key executive branch posts may be filled with approval of the Senate at the earliest possible time.

I will also transmit to the Senate the names of other candidates for major Administration positions and urge their speedy confirmation. Good government makes it imperative that all pending nominations be acted upon during this session of the Congress.

ECONOMIC ISSUES

No single issue has a higher priority than the economic health of our country. Prices rise while production lags and unemployment increases. It is a severe problem requiring specific corrective actions to start the recovery and to check inflation.

EXPENDITURES

I am gratified that recent deliberations of the House and Senate have recognized the need to restrain Federal spending for fiscal year 1975. I am confident that this action reflects the strong desire of the American people.

Accordingly, for fiscal year 1975, I will recommend to the Congress next week more budget rescissions and will report on budget deferrals and administrative actions to hold down expenditures. I will also request the Congress to make changes in existing authorizations and in pending appropriation bills. I urge the Congress to support these actions and move quickly to enact the required legislative changes.

I have already reported on a number of budget deferrals totalling more than $23 billion and requested seven rescissions of over $675 million. Failure to support these actions would increase outlays by over $660 million in 1975, $2.2 billion in 1976, and even more in subsequent years. I urge the Congress to accept these deferrals and take prompt action on the over $675 million in rescission proposals that have been submitted.

EMPLOYMENT ASSISTANCE

In addition to Government belt-tightening, I also indicated in my economic message of October 8th that special legislation was needed to assist citizens who are particularly hurt by increases in unemployment. On that same day, I sent to the Congress my proposed *National Employment Assistance Act*. Under this plan, employment assistance programs would be triggered into action whenever the average national unemployment rate rose to six percent for three consecutive months.

In that event, these programs would provide special jobless compensation and work opportunities in those labor market areas where the rate averages six and one-half percent for three consecutive months.

These programs should be enacted immediately, since rising unemployment indicates they will very likely be needed before the 94th Congress convenes. I hope this Congress will recognize its responsibility in this important area.

TRADE

Action is urgently needed on the Trade Reform Act which I consider absolutely essential to our economic health. Our trading partners in the industrial and less-developed world are waiting to see whether we can negotiate multilateral solutions to the common economic problems which plague us, as well as make much-needed improvements in the trading system. The unacceptable alternative is economic warfare from which no winners would emerge.

I urge the Senate to move as quickly as possible to adopt the Trade Reform Act, and to forego any encumbering amendments. If the Senate acts promptly—and only if it does—there will be sufficient time remaining in this Congress for both Houses to agree on a final measure.

TAXES

The Congress has before it the tax reform proposals sent up in April 1973; the windfall profits tax proposals submitted in December 1973, and the economy strengthening and stabilizing proposals which I recommended last month.

The economic proposals of last month include surtaxes on all corporations and on individuals with well above-average incomes. They call for change in the investment tax credit and in the tax treatment of certain limited kinds of preferred stock.

My individual surtax proposal, I must emphasize, would apply only to families and single persons whose incomes exceed $15,000 and $7,500, respectively, and only to that portion of their actual income above those levels. It is a very progressive tax proposal which takes much more from high bracket taxpayers than middle income taxpayers. Low bracket taxpayers would be exempt. With a $16,000 income, for example, a family of four would pay a surtax of only $3. On the other hand, a family of four with a $50,000 income would pay $482 of surtax.

I also urge Congress to enact the windfall profits tax proposals so that we will not forever lose the chance to recapture a part of the excessive profits that domestic oil producers realized this year. I reiterate my support for eliminating the foreign depletion allowance.

I have asked the Secretary of the Treasury to work with the congressional committees concerned to develop balanced legislation, including additional tax reductions for low-income individuals.

FINANCIAL INSTITUTIONS

There is great need for action on an Administration proposal to strengthen and revitalize banks and thrift institutions through the elimination of certain Federal regulations which impede efficiency and healthy competition. While retaining appropriate safeguards to assure solvency and liquidity, the proposed Financial Institutions Act would allow more competition in our banking system to benefit the small saver as well as the institutions themselves. This could also make additional dollars available to the private citizen and to industry.

Further, this proposal would provide the added incentive of the mortgage interest tax credit for our financial institutions to enable them to devote their resources to home mortgages and thus curb the wide and disruptive swings in home mortgage credit availability.

REGULATION

The Congress has before it my proposal to establish a one-year National Commission on Regulatory Reform to examine the practices and procedures of the independent regulatory commissions. It has become clear that many regulatory activities of the Government are themselves stifling competition and producing higher prices without comparable social benefits. I urge this Congress to complete action on this important legislation. Such a Commission, to be composed of Congressional, Executive, and public members, should start now to formulate realistic proposals for reform of our regulatory system for early consideration by the next Congress.

FOOD

Food prices concern everyone. The Congress must act rapidly to not only increase food production but to remove impediments to the maximum production of peanut and rice crops.

I am also recommending that we amend Public Law 480, the Food for Peace program. Additional flexibility is clearly needed to assure that our food aid programs can continue to serve the national interest and humanitarian goals.

COMPETITION

Activities which are illegal under the Sherman Anti-Trust Act disrupt the natural competitive forces in the marketplace and invariably result in higher prices to the American consumer. The Justice Department's antitrust efforts against monopolies and activities which operate in restraint of trade must be strengthened.

The maximum allowable penalties for violation of the Sherman Anti-Trust Act should be increased from $50,000 to $1 million for corporations and from $50,000 to $100,000 for individuals. Maximum prison sentences for individual violations should also be increased to five years.

Current estimates by the Immigration and Naturalization Service indicate that there are some 4 to 7 million illegal aliens in the United States. Prompt action on a pending illegal alien bill would help solve this critical problem by providing sanctions against the hiring of illegal aliens. This would make more jobs available for our own citizens.

STOCKPILING

The General Services Administration has submitted stockpile disposal bills for silver, lead and tin. These would permit sale of stockpile quantities that clearly exceed our national security needs. This additional authority will assure adequate supplies of these commodities and also dampen excessive price fluctuations. The additional disposal authority for silver, lead, and tin would also provide potential budget receipts of $1.4 billion, of which about $150 million could be realized in fiscal year 1975 if legislation is enacted by the end of this year.

HOUSING

I thank the Congress for promptly enacting housing legislation making conventional mortgages eligible for purchase by the Government National Mortgage Association. This is giving the housing and real estate industry much needed support, even though the act did not cover apartments and condominiums. I urge you to consider legislation to correct this omission.

ENERGY

In addition to my deep concern over the economy, I am committed to resolving the problems of achieving sufficient energy supplies for ourselves and our children. I repeat my earlier requests for action during this session on several energy bills under consideration.

First, we need legislation to help increase the supply of natural gas and permit competitive pricing of these new supplies. Our worsening shortages are directly attributable to more than 20 years of unsuccessful Federal regulation of natural gas. Unless we remove Federal regultory impediments with respect to new sources, supplies of environmentally clean natural gas will remain in the ground. The shortage of natural gas is already forcing curtailment of service to industry in many areas, resulting in increasing unemployment and greater use of imported oil. New homes are being denied natural gas service, forcing the use of alternative fuels that are more costly and far less clean.

I urge the Congress to complete action quickly on legislation to establish a system of permits for the construction and operation of deepwater ports. This system is a far superior means—from both a cost and environmental point of view—for handling that portion of oil which we cannot avoid importing for some years ahead. I have asked the Secretaries of Interior and Transportation to work with the Senate and House conferees to develop a bill that I can sign within the next few weeks.

Last March, legislation was proposed to speed the licensing and construction of nuclear plants, allow more meaningful public participation at early decision points relating to their design and siting and encourage standardization of new nuclear plants. I urge that the Congress pass this bill to speed the development of domestic energy supplies, reduce dependence on imported oil, and help hold down electrical power costs.

The House and Senate conferees are now addressing the difficult issues in the proposed *Surface Mining Act*. I am still hopeful that the conferees can agree on provisions which strike a reasonable balance between our desire for environmental protection and reclamation and the need to increase the production of domestic coal supplies.

I must emphasize that some provisions of the bills now in conference are not acceptable. I have asked the Secretary of the Interior to continue working with the conferees to develop a bill which I can sign.

As a necessary step toward conserving fuel and saving lives, I urge the Congress to make permanent the 55 mile-per-hour speed limit. I also ask the House of Representatives to approve an extension of the carpooling provisions in the *Emergency Highway Energy Conservation Act* which expires December 31, 1974.

I have asked the Secretaries of Interior, Defense and Navy to work with the Congress in finding satisfactory ways of dealing with our emergency petroleum reserves to balance our domestic energy needs. We must proceed with development of the oil reserves at Elk Hills, California, and with exploration and development of the reserve in northern Alaska. We must not wait for another energy crisis to force action, perhaps too late, on these vital resources.

APPROPRIATIONS

There are four regular appropriations bills still to be enacted—*Agriculture-Environmental and Consumer Protection, Labor-HEW, Military Construction and Foreign Assistance*—and the important *First Supplemental Appropriations* bill.

Action has not yet been completed in the Senate on the Agriculture-Environmental and Consumer Protection Appropriation Bill for fiscal year 1975. This bill was vetoed by President Nixon on August 8th because it would have substantially increased Federal spending. I urge the Congress to complete action on this appropriation measure as soon as possible within reasonable funding limits.

The Labor-HEW and Related Agencies Appropriations bill is currently in conference. Unfortunately, the totals are excessive. Unless the Congress reduces funding in both the House and Senate versions, I will have no choice but to veto this measure.

Appropriations now pending for Military Construction and Foreign Assistance should be given high priority.

The First Supplemental Appropriation bill has passed the House and is pending on the Senate calendar. However, I am concerned about the inflationary aspects of the Senate version and hope final action will produce an acceptable bill.

VETOES

During the adjournment, it was necessary for me to pocket veto five bills. Two were private relief measures and three were legislative issues: National Wildlife Refuge System, Farm Labor Contractor Registration, and Rehabilitation Act Amendments.

I have determined on advice of the Attorney General that the absence of my signature from these bills prevented them from becoming law. Without in any way qualifying this determination, I also returned them without approval to those designated by the Congress to receive messages during the adjournment period.

If the Congress should elect to challenge these vetoes by overriding them, there could be a prolonged legal uncertainty over this legislation. However, I would welcome new legislation to replace the measures which were vetoed.

Specifically, while the *Farm Labor Contractor Registration Act Amendments* contained worthwhile provisions to protect migrant farm workers, an unrelated rider arbitrarily would have reclassified and elevated certain Federal employees to important Administrative Law Judge positions, regardless of their qualifications. I, therefore, urge the Congress to pass the essential sections of the vetoed bill without the personnel provision which would create serious pay inequities by legislatively overcompensating a particular class of employees in one executive department.

Similarly, the intent of the *Rehabilitation Act Amendments* section of H.R. 14225 is worthwhile. But the features which would force the creation of new and unnecessary bureaucracies in the Department of Health, Education and Welfare prompted my veto.

I have requested the Secretary of HEW to work with Congressional leaders in an effort to correct the serious difficulties in administration and accountability contained in the vetoed bill.

Although it was necessary to return to the Congress without my approval the *Freedom of Information Act Amendments* on October 17th, the day the Congress adjourned, I continue to endorse the intent of that legislation. I have already submitted to the Congress amendments which would eliminate the national security information problems and the damage to effective law enforcement inherent in the bill which I vetoed. I pledge the full efforts of the Administration in working out a fair, responsible way to increase public access to Federal papers and records without impairing individual rights and essential Government activities.

Just before adjournment, I also vetoed the *Atomic Energy Act Amendments*. I objected to a provision I consider to be unconstitutional. Because of this provision, the bill would not have become effective, even had I approved it, unless a Joint Committee of the Congress subsequently took affirmative action. I urge passage of a new measure removing the constitutional objection to section 12 of the vetoed bill, thereby eliminating the legal uncertainties which would becloud the entire nuclear energy program.

During the adjournment, I signed into law a bill overhauling the *Commodity Exchange Act*. This is an important step to assure full confidence in Federal regulation of commodity futures trading. Nevertheless, there are several provisions which need revision. First is the requirement for concurrent submission to the Congress and to the President of both the new Commission's budget and legislative proposals, and second is the need for Senate confirmation of a non-Presidential appointee. These provisions run contrary to good management of the Executive Branch by the President and the traditional separation of powers. I hope these Constitutional and policy questions can be resolved.

OTHER MAJOR LEGISLATION

In addition to pending nominations, economic legislation and energy issues, there are a number of other important bills awaiting final action by the Congress.

In today's world, all nations are interdependent. The United States owes it to itself, as well as to others, to provide military and economic assistance which may mean the difference between stability and instability in a global or regional context. Where there is instability, there is danger—danger of conflict which can involve the greatest as well as the smallest.

The *Foreign Aid Authorization* bill before you represents a sincere effort to reflect the realities of today's world. It remains my assessment of the minimum which is needed to sustain our peaceful objectives.

I urge the Congress to move quickly to enact legislation which will help to achieve these objectives and meet our moral, political and security obligations. If such legislation is to enable us to effectively carry forward the foreign policy of the Nation, it must not tie the hands of the President nor restrict his authority and ability to act when action is called for.

Also important to the achievement of our objectives overseas is legislation to enable the United States to contribute its fair share to the various multilateral development institutions and, at the same time, provide continued incentives to other nations to join in these international assistance efforts.

In order for the United States to maintain its strong position in foreign markets, it is important that the Congress pass the Export-Import Bank bill and avoid attaching unnecessary encumbrances.

The Congress is making good progress on the Administration's proposal to improve the regulatory climate in an important portion of the transportation industry. *The Surface Transportation Act*, as reported by the House Committee on Interstate and Foreign Commerce, is a beginning in the overall area of regulatory reform. This bill, with certain modifications to insure greater reliance on competitive market forces, would contribute substantially to the efficiency and vitality of this Nation's railroad system. I urge the Congress to complete its work on this vital legislation without waiting for the establishment of the National Commission on Regulatory Reform.

Earlier this year, legislation was submitted to provide reasonable increases in the size and weights of trucks traveling on interstate highways. These increases were to offset the economic disadvantages to truckers resulting from lower permissible speed and higher fuel costs. The Senate passed a bill containing most of the features of the Administration's proposal while a similar bill did not pass in the House. I ask the Congress for early action on this issue in the interest of economic efficiency and fuel conservation.

I also urge the Congress to act promptly to pass the *National Mass Transportation Assistance Act of 1974*. This bill has been developed through close cooperation between the Congress and the Administration. It will provide the Nation's cities with the Federal financial assistance needed to help them meet priority urban mass transportation needs. This bill establishes a long-term assistance program for mass transit—actually, for six years—and distributes a significant portion of the funds according to a simple and equitable formula. It also provides for an enhanced role for the Governors and local officials in mass transit decisions.

I consider the total dollar level of $11.8 billion over a six-year period to be at the upper limits of fiscal responsibility. The needs of the cities and the uncertainties and delays that would result from waiting until the next Congress for a transit bill make it imperative that this Congress act before adjournment sine die.

In 1972, the Judicial Conference of the United States recommended the creation of 51 additional Federal District Court judgeships in 33 separate judicial districts across the country. Senate hearings on legislation incorporating this proposal were concluded in 1973. To date, however, this legislation has not been scheduled for floor action. The increasing backlog in the Federal courts makes this measure an urgent national necessity of a non-partisan nature—for justice delayed is too often justice denied.

Earlier this session, the House passed a bill to codify, for the first time in our history, evidentiary rules governing the admissibility of proof in Federal courts. This bill is the culmination of some 13 years of study by distinguished judges, lawyers, Members of the Congress and others interested in and affected by the administration of justice in the Federal system. The measure will lend uniformity, accessibility, intelligibility and a basis for reform and growth in our evidentiary rules which are sadly lacking in current law. I strongly urge final action on this important bill prior to the conclusion of this Congress.

With respect to the *Vietnam Era Veterans' Readjustment Assistance Act*, I urge the Congress to reconsider the action it has taken to date and send me instead legislation providing a straightforward 18.2 percent cost of living increase, effective January 1, 1975. Increased payments for our veterans in school are necessary. But while acknowledging our great debt to those who served during the Vietnam era, I must insist on a fiscally responsible bill on behalf of all Americans. I object to the inflationary 22.7 percent rate increase, retroactive to September 1, 1974, the direct loan program which the Congress has added and the extension of educational benefits allowing Vietnam era veterans to attend school for 45 instead of the present 36 months. This extra entitlement goes beyond the standard for World War II and Korean veterans.

The Energy Transportation Security Act of 1974 would require a percentage of imported petroleum to be carried on U.S. vessels. Although I fully support a strong U.S. merchant marine, I am seriously concerned about problems which this bill raises in the areas of foreign relations, national security, and perhaps most significantly, the potential inflationary impact of cargo preference.

Administration officials have testified during congressional hearings on our concerns about the impact of this bill.

The House-Senate conferees adopted new language concerning the waiver provision so that the requirements of this bill "may be temporarily waived by the President upon determination that an emergency exists justifying such a waiver in the national interest." However, the legislative history of the waiver does not expressly demonstrate that the Congress intends it to be broad in scope.

The potential problems which could arise if this bill becomes law require a provision which will permit the President to waive its requirements for economic as well as foreign affairs and national defense reasons. Since the waiver language in the bill is not explicit, the Conference Committte Report should make it clear that the Congress intends to grant broad waiver authority.

Other provisions in the bill which concern me are: the narrowness of the definition of which ships are eligible to participate in this trade, the rebate of oil import fees and the unnecessary antipollution requirement that vessels serving certain ports be built with expensive double bottoms.

Another measure on which action is required is comprehensive health insurance. I will continue to seek agreement with the Congress on legislation centered on principles incorporated in the Comprehensive Health Insurance Plan. To keep this program from feeding inflation, however, the Congress will have to join with me in cutting Federal expenditures before we can afford this program.

Included in the *Military Construction Authorization* and *Appropriation* bills now before the Congress are funds for completing projects and initiating new ones at installations in 42 States and the District of Columbia. I reiterate my strong conviction that the limited expansion of facilities on Diego Garcia in the Indian Ocean is of critical importance.

CONCLUSION

This list of legislative priorities represents a streamlined action program for the Nation. To achieve results will require partnership, not partisanship, on the part of both the executive and the legislative branches. It will mean long days and nights of hard work—of communication, conciliation, compromise, and cooperation between the White House and the Congress, the House and the Senate, and majority and minority within the Congress itself.

But it must be done for one overriding reason: America needs these actions. And the American people rightly expect us to do everything we can to accomplish them.

I pledge my full cooperation with the Congress in the weeks ahead. I am confident that the Congress will respond in the same spirit.

GERALD R. FORD.

THE WHITE HOUSE, *November 17, 1974.*

Mr. **MANSFIELD** subsequently said: Mr. President, I ask unanimous consent that the message from the President on sundry legislative proposals received today be referred jointly to all of the Standing Committees for their consideration of matters falling within their respective jurisdictions.

The **PRESIDING OFFICER** (Mr. DOMENICI). Without objection, it is so ordered.

REPORT ON THE BALANCE-OF-PAYMENTS DEFICIT RESULTING FROM DEPLOYMENT OF U.S. FORCES IN NATO—MESSAGE FROM THE PRESIDENT

The **PRESIDENT** pro tempore laid before the Senate a message from the President of the United States transmitting a report on further progress toward offsetting the balance-of-payments deficit resulting from the deployment of U.S. forces in NATO Europe, which, with the accompanying report, was referred to the Committee on Armed Services. The message is as follows:

To the Congress of the United States:

In accordance with Section 812(d) of the Department of Defense Appropriation Authorization Act, 1974 (Public Law 93–155), I am pleased to submit a report to the Congress on our further progress toward offsetting the balance of payments deficit resulting from the deployment of U.S. forces in NATO Europe.

I am now able to provide you with figures for U.S. expenditures in NATO Europe during fiscal year 1974. These figures were compiled by the Department of Commerce in consultation with the Department of Defense and the General Accounting Office. They indicate that in FY 74 the expenditures resulting from the deployment of U.S. forces in fulfillment of our NATO commitments and obligations amounted to $1,983 million (including preliminary fourth quarter data subject to revision). Attached to this report is an appendix showing how this figure was derived and what adjustments were made to conform our normal expenditure data to the letter and intent of Section 812. Minor changes in this data may occur as final quarter fiscal year 1974 figures are confirmed during the next few weeks.

As President Nixon reported to the Congress on May 16, 1974, the offset agreement concluded in April 1974 with the Federal Republic of Germany had a dollar value of approximately $2.22 billion over fiscal years 1974 and 1975. Of that amount, the fiscal year 1974 portion, approximating $1.1 billion, will be directly applicable toward meeting the requirements of Section 812, leaving approximately $883 million to be offset by our other European NATO allies.

As I noted in my report of August 20, 1974, the NATO Economic Directorate, at the direction of the North Atlantic Council, has established a mechanism for identifying allied purchases of military-related items from the United States. This was an essential step to enable us to comply with the requirements of Section 812. Representatives of the Economic Directorate consulted in Washington on October 21–22 with the Departments of State, Commerce and Defense and reported that approximately $1,050 million in purchases by allies other than the Federal Republic of Germany have been identified.

The Departments of Commerce and Defense have sought to confirm this figure by examining the U.S. balance of payments accounts and records in an effort to identify balance of payments receipts reflecting military-related sales and exports to our European NATO allies, on both a government-to-government and commercial category basis. However, this data is still incomplete and the U.S. accounting system in many cases is too aggregated to identify all of the specific purchases and payments made by the European members of NATO. For this reason our calculation of the final offset total will take into account the information being provided through the NATO Economic Directorate by our European NATO allies. On the basis of the foregoing, I continue to expect that the requirements of Section 812 will be met.

GERALD R. FORD.

THE WHITE HOUSE, *November 17, 1974.*

Appendix

A. U.S. defense expenditures entering the international balance of payments in NATO Europe during fiscal year 1974 (in millions of dollars):

Personal expenditures by U.S. military and civilian personnel and their dependents	815
Payments to foreign nationals for direct and contract hire	561
Major equipment purchased in NATO Europe	81
Construction	75
NATO infrastructure system payments	76
Petroleum products (includes cost of crude oil imported into Europe	137
Materials and supplies	148
Payments to U.S. and foreign contractors for contractual services	444
All other payments (net)	66
Total for fiscal year 1974 (preliminary)	2,403

B. Deductions made pursuant to section 812 for expenditures not resulting from the deployment of U.S. forces in fulfillment of our NATO commitments and obligations (in millions of dollars):

Expenditures for U.S. activities not related to NATO such as U.S. strategic forces in NATO countries	279
Major equipment purchased in NATO Europe and imported into the U.S. and unrelated to U.S. troop deployments in Europe	81
Expenditures in NATO Europe for the afloat operations of the Sixth Fleet for U.S. strategic purposes	60
Total for fiscal year 1974 (preliminary)	420

C. Expenditures less deductions	1,983

MESSAGE FROM THE HOUSE

At 3:45 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed without amendment the bill (S. 3204) to eliminate discrimination based on sex in the youth programs offered by the Naval Sea Cadet Corps.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The **PRESIDENT** pro tempore laid before the Senate the following letters, which were referred as indicated.

PROPOSED GENERAL PROVISION CONCERNING TRANSITION TO NEW FISCAL YEAR—(S. DOC. No. 93–124)

A communication from the President of the United States transmitting a proposed general provision concerning transition to the new fiscal year required by the Congressional Budget and Impoundment Control Act of 1974 (with accompanying papers). Referred to the Committee on Appropriations and ordered to be printed.

PROPOSED SUPPLEMENT APPROPRIATION INCREASING LIMITATION FOR REAL PROPERTY MANAGEMENT—(S. Doc. 93–125)

A communication from the President of the United States transmitting a proposed supplemental appropriation for the fiscal year 1975 increasing by $30 million the obligational limitation for real property management and related expenses under the General Services Administration's Federal Buildings Fund (with accompanying papers). Referred to the Committee on Appropriations and ordered to be printed.

PROPOSED SUPPLEMENTAL APPROPRIATION FOR THE FEDERAL ENERGY ADMINISTRATION—(S. Doc. 93–126)

A communication from the President of the United States transmitting a proposed supplemental appropriation in the amount of $16 million for the Federal Energy Administration (with accompanying papers). Referred to the Committee on Appropriations and ordered to be printed.

AMENDMENT TO BUDGET REQUEST FOR THE DEPARTMENT OF AGRICULTURE—(S. DOC. No. 93–128)

A communication from the President of the United States submitting a proposed amendment to the request for appropriations transmitting in the budget for the fiscal year 1975 in the amount of $15,671,000 for the Department of Agriculture (with accompanying papers). Referred to the Committee on Appropriations and ordered to be printed.

PROPOSED SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF THE INTERIOR—(S. Doc. No. 93–127)

A communication from the President of the United States transmitting a proposed supplemental appropriation for the fiscal year 1975 in the amount of $15 million for the Department of the Interior (with accompanying papers). Referred to the Committee on Appropriations and ordered to be printed.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution adopted by the county legislature of Suffolk County, N.Y., requesting congressional reform of the SSI program. Referred to the Committee on Labor and Public Welfare.

A resolution by the medical staff of the *Memorial Hospital* of Glendale, Glendale, Calif., reaffirming its position that PSRO should be repealed in the best interests of their patients. Referred to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of October 11, 1974, the following reports of committees were submitted on November 12, 1974, during the adjournment of the Senate:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 2938. A bill to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes (together with additional views) (Rept. No. 93-1283).

By Mr. MONDALE, from the Committee on Labor and Public Welfare, with amendments:

S. 3639. A bill to provide for the development and implementation of programs for youth camp safety (Rept. No. 93-1284).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with amendments:

S. 2994. A bill to amend the Public Health Service Act to assure the development of a national health policy and of effective State health regulatory programs and area health planning programs, and for other purposes (Rept. No. 93-1285).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ERVIN, from the Committee on the Judiciary, with amendments:

S. 3830. A bill to help preserve the separation of powers and to further the constitutional prerogatives of Congress by providing for congressional review of executive agreements (Rept. No. 93-1286).

By Mr. HASKELL, from the Committee on Interior and Insular Affairs, with amendments:

S. 600. A bill to designate certain lands as wilderness (Rept. No. 93-1287).

URBAN MASS TRANSPORTATION ASSISTANCE ACT OF 1974—CONFERENCE REPORT (REPT. NO. 93-1288)

Mr. SPARKMAN. Mr. President, on behalf of the Senator from New Jersey (Mr. Williams), I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 386) to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes, which I ask unanimous consent to have printed in the Record at this point.

There being no objection, the conference report was ordered to be printed in the Record, as follows:

Conference Report (S. Rept. No. 93-1288)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 386) to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "National Mass Transportation Assistance Act of 1974".

FINDINGS

Sec. 2. The Congress finds that—

(1) over 70 per centum of the Nation's population lives in urban areas;

(2) transportation is the lifeblood of an urbanized society and the health and welfare of that society depends upon the provision of efficient economical and convenient transportation within and between its urban area;

(3) for many years the mass transportation industry satisfied the transportation needs of the urban areas of the country capably and profitably;

(4) in recent years the maintenance of even minimal mass transportation service in urban areas has become so financially burdensome as to threaten the continuation of this essential public service;

(5) the termination of such service or the continued increase in its cost to the user is undesirable, and may have a particularly serious adverse effect upon the welfare of a substantial number of lower income persons;

(6) some urban areas are now engaged in developing preliminary plans for, or are actually carrying out, comprehensive projects to revitalize their mass transportation operations; and

(7) immediate substantial Federal assistance is needed to enable many mass transportation systems to continue to provide vital service.

TITLE I—INCREASED MASS TRANSPORTATION ASSISTANCE

AUTHORIZATION

Sec. 101. (a) The first sentence of section 4(c) of the Urban Mass Transportation Act of 1964 is amended by striking out "$6,100,000,000" and inserting in lieu thereof "$10,925,000,000".

(b) Section 4(c) of such Act is further amended by adding at the end thereof the following new sentence: "Of the total amount available to finance activities under this Act (other than under section 5) on and after the date of the enactment of the National Mass Transportation Assistance Act of 1974, not to exceed $500,000,000 shall be available exclusively for assistance in areas other than urbanized areas (as defined in section 5(a)(3))."

TRANSPORTATION PLANNING

Sec. 102. Section 3(a) of the Urban Mass Transportation Act of 1964 is amended—

(1) by inserting "(1)" after "Sec. 3. (a)";

(2) by redesignating clauses (1) and (2) of the third sentence as clauses (A) and (B) respectively;

"(2) It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States in the development of long-range plans and programs which are properly coordinated with plans for improvements in other affected forms of transportation and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The development of projects in urbanized areas under this section shall be based upon a continuing, cooperative, and comprehensive planning process covering all modes of surface transportation and carried on by the States and the governing bodies of local communities in accordance with this paragraph. The Secretary shall not approve any project in an urbanized area after July 1, 1976, under this section unless he finds that such project is based on a continuing comprehensive transportation planning process carried on in conformance with the objectives stated in this paragraph."

(3) by striking out the sixth and seventh sentences; and

(4) by adding at the end thereof the following:

FORMULA GRANT PROGRAM

Sec. 103. (a) The Urban Mass Transportation Act of 1964 is amended by striking out section 5 and inserting in lieu thereof the following new section:

"URBAN MASS TRANSIT PROGRAM

"Sec. 5. (a) As used in this section—

"(1) the term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the acquisition, construction, or reconstruction of facilities and equipment for use in mass transportation, including designing, engineering, locating, surveying, mapping, acquisition of rights-of-way, relocation assistance, and acquisition and replacement of housing sites;

"(2) the term 'Governor' means the Governor, or his designate, of any one of the fifty States or of Puerto Rico, and the Mayor of the District of Columbia; and

"(3) the term 'urbanized area' means an area so designated by the Bureau of the Census, within boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in the case of any such area, encompass the entire urbanized area within the State as designated by the Bureau of the Census.

"(b) The Secretary shall apportion for expenditure in fiscal years 1975 through 1980 the sums authorized by subsection (c). Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(A) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all the urbanized areas in all the States as shown by the latest available Federal census; and

"(B) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term 'density' means the number of inhabitants per square mile.

"(2) The Governor, responsible local officials and publicly-owned operators of mass transportation services, in accordance with the procedures required under section (g) (1), with the concurrence of the Secretary, shall designate a recipient to receive and dispense the funds apportioned under paragraph

(1) that are attributable to urbanized areas of two hundred thousand or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. The term 'designated recipient' as used in this Act shall refer to the recipient selected according to the procedures required by this paragraph.

"(3) Sums apportioned under paragraph (1) not made available for expenditure by designated recipients in accordance with the terms of paragraph (2) shall be made available to the Governor for expenditure in urbanized areas or parts thereof in accordance with the procedures required under subsection (g)(1).

"(c)(1) To finance grants under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contracts, agreements, or otherwise in an aggregate amount not to exceed $3,975,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $300,000,000 prior to the close of fiscal year 1975; not to exceed $500,000,000 prior to the close of fiscal year 1976; not to exceed $650,000,000 prior to the close of fiscal year 1977; not to exceed $775,000,000 prior to the close of fiscal year 1978; not to exceed $850,000,000 prior to the close of fiscal year 1979; and not to exceed $900,000,000 prior to the close of fiscal year 1980. Sums so appropriated shall remain available until expended.

"(2) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of two years following the close of the fiscal year for which such sums are apportioned, and any amounts so apportioned remaining unobligated at the end of such period shall lapse and shall be returned to the Treasury for deposit as miscellaneous receipts.

"(d)(1) The Secretary may approve as a project under this section, on such terms and conditions as he may prescribe, (A) the acquisition, construction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service, and (B) the payment of operating expenses to improve or to continue such service by operation, lease, contract, or otherwise.

"(2) The Secretary shall issue such regulations as he deems necessary to administer this subsection and subsection (e), including regulations regarding maintenance of effort by States, local governments, and local public bodies, the appropriate definition of operating expenses, and requirements for improving the efficiency of transit services.

"(e) The Federal grant for any construction project under this section shall not exceed 80 per centum of the cost of the construction project, as determined under section 4(a) of this Act. The Federal grant for any project for the payment of subsidies for operating expenses shall not exceed 50 per centum of the cost of such operating expense project. The remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

"(f) Federal funds available for expenditure for mass transportation projects under this section shall be supplementary to and not in substitution for the average amount of State and local government funds and other transit revenues such as advertising, concessions, and property leases, expended on the operation of mass transportation service in the area involved for the two fiscal years preceding the fiscal year for which the funds are made available; but nothing in this sentence shall be construed as preventing State or local tax revenues which are used for the operation of mass transportation service in the area involved from being credited (to the extent necessary) toward the non-Federal share of the cost of the project for purposes of the preceding sentence.

"(g)(1) It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States in the development of long-range plans and programs which are properly coordinated with plans for improvement in other affected forms of transportation and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The development of projects in urbanized areas under this section shall be based upon a continuing, cooperative, and comprehensive planning process covering all modes of surface transportation and carried on by the States and the governing bodies of local communities in accordance with this paragraph. The Secretary shall not approve any project in an urbanized area after July 1, 1976, under this section unless he finds that such project is based on a continuing comprehensive transportation planning process carried on in conformance with the objectives stated in this paragraph.

"(2) The Governor or designated recipient shall submit to the Secretary for his approval a program of projects for utilization of the funds authorized, which shall be based on the continuing comprehensive planning process of paragraph (1). The Secretary shall act upon programs submitted to him as soon as practicable, and he may approve a program in whole or in part.

"(3) An applicant for assistance under this section (other than a Governor) shall submit the program or programs to the Governor of the State affected, concurrently with submission to the Secretary. If within thirty days thereafter the Govenor submits comments to the Secretary, the Secretary shall consider such comments before taking final action on the program or programs.

"(h)(1) The Governor or the designated recipient of the urbanized area shall submit to the Secretary for his approach such survevys, plans, specifications, and estimates for each proposed project as the Secretary may require. The Secretary shall act upon such surveys, plans, specifications, and his entering into a grant or contract agreement with respect to any such project shall be a contractual obligation of the Federal Government for the payment of its proportional contribution thereto.

"(2) In approving any project under this section, the Secretary shall assure that possible adverse economic, social, and environmental effects relating to the proposed project have been fully considered in developing the project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe, and efficient transportation, public services, and conservation of environment and natural resources, and the costs of eliminating or minimizing any such adverse effects, including—

"(A) air, noise, and water pollution:

"(B) destruction or disruption of man-made and natural resources, esthetic values, community cohesion, and the availability of public facilities and services;

"(C) adverse employment effects, and tax and property value losses;

"(D) injurious displacement of people, businesses, and farms; and

"(E) disruption of desirable community and regional growth. "(i) Upon submission for approval of a proposed project under this section, the Governor or the designated recipient of the urbanized area shall certify to the Secretary that he or it has conducted public hearings (or has afforded the opportunity for such hearings) and that these hearings included (or were scheduled to include) consideration of the economic and social effects of such project, its impact on the environment, including requirements under the Clean Air Act, the Federal Water Pollution Control Act, and other applicable Federal environmental statutes, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community. Such certification shall be accompanied by (1) a report which indicates the consideration given to the economic, social, environmental, and other effects of the proposed project, including, for construction projects, the effects of its location or design, and the consideration given to the various alternatives which were raised during the hearing or which were otherwise considered, and (2) upon the Secretary's request, a copy of the transcript of the hearings.

"(j)(1) The Secretary may discharge any of his responsibilities under this action with respect to a project under this section upon the request of any Governor or designated recipient of the urbanized area by accepting a certification by the Governor or his designee, or by the designated recipient of the urbanized area, if he finds that such project will be carried out in accordance with State laws, regulations, directives, and standards establishing requirements at least equivalent to those contained in, or issued pursuant to, this section.

"(2) The Secretary shall make a final inspection or review of each such project upon its completion and shall require an adequate report of its estimated and actual cost, as well as such other information as he determines to be necessary.

"(3) The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this subsection.

"(4) Acceptance by the Secretary of a certification under this section may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do so.

"(5) Nothing in this section shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4 (f) of the Department of Transportation Act (49 U.S.C. 1653(f), title VI of the Civil Rights Act of 1964 (42 U.S.C. 200(d) et seq.), title VIII of the Act of April 11, 1968 (Public Law 90–284, 42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(k)(1) As soon as practicable after the plans, specifications, and estimates for a specific project under this section have been approved, the Secretary shall enter into a formal project agreement with the Governor, his designee or the designated recipient of the urbanized area. Such project agreement shall make provision for non-Federal funds required for the State's or designated recipient's pro rata share of the cost of the project.

"(2) The Secretary may rely upon representations made by the applicant with respect to the arrangements or agreements made by the Governor or the designated recipient where a part of the project involved is to be constructed at the expenses of, or in cooperation with, local subdivisions of the State.

"(3) The Secretary is authorized, notwithstanding the provisions of section 3648 of the

Revised Statutes, as amended, to make advance or progress payments on account of any grant or contract made pursuant to this section, on such terms and conditions as he may prescribe.

"(l) The Secretary shall not approve any project under this section unless he finds that such project is needed to carry out a program, meeting criteria established by him for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area, and is necessary for the sound, economic, and desirable development of such area, and that the applicant or responsible agency has the legal, financial, and technical capacity to carry out the proposed project. A project under this section may not be undertaken unless the responsible public officials of the urbanized area in which the project is located have been consulted and, except for projects solely to pay subsidies for operating expenses, their views considered with respect to the corridor, location, and design of the project.

"(m) The Secretary shall not approve any project under this section unless the applicant agrees and gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may *prescribe, that* the rates charged elderly and handicapped persons during nonpeak hours for transportation utilizing or involving the facilities and equipment of the project financed with assistance under this section will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation of such facilities and equipment is by the applicant or is by another entity under lease or otherwise.

"(n)(1) The provisions of section 13(c) and section 3(e)(4) shall apply in carrying out mass transportation projects under this section.

"(2) The provision of assistance under this section shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable.".

(b) Section 4(a) of such Act is amended by striking out "Except as specified in section 5, no" and inserting in lieu thereof "No".

ELIGIBILITY OF QUASI-PUBLIC DEVELOPMENT CORPORATIONS

Sec. 104. (a) The first sentence of section 3(a) of the Urban Mass Transportation Act of 1964 is amended by inserting "(1)" after "financing", and by inserting before the period at the end thereof the following: ", and (2) the establishment and organization of public or quasi-public transit corridor development corporations or entities".

(b) The second sentence of section 3(a) of such Act is amended to read as follows: "Eligible facilities and equipment may include personal property including buses and other rolling stock and real property including land (but not public highways), within the entire zone affected by the construction and operation of transit improvements, including station sites, needed for any efficient and coordinated mass transportation system which is compatible with socially, economically, and environmentally sound patterns of land use."

COORDINATION OF URBAN MASS TRANSIT PROGRAMS WITH MODEL CITIES PROGRAMS

Sec. 105. Section 103(a) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) any program which includes a transportation component as a project or activity to be undertaken meets the requirements of section 3(e) of the Urban Mass Transportation Act of 1964;".

PROCUREMENT

Sec. 106. The fifth sentence of section 3(a) of the Urban Mass Transportation Act of 1964 is amended by inserting before the period at the thereof the following: ", nor shall any grant or loan funds be used to support procurements utilizing exclusionary or discriminatory specifications".

INVESTIGATION OF SAFETY HAZARDS IN URBAN MASS TRANSPORTATION SYSTEMS

Sec. 107. The Secretary of Transportation shall investigate unsafe conditions in any facility, equipment, or manner of operation financed under this Act which creates a serious hazard of death or injury for the purpose of determining its nature and extent and the means which might best be employed to eliminate or correct it. If the Secretary determines that such facility, equipment, or manner of operation is unsafe, he shall require the State or local public body or agency to submit to the Secretary a plan for correcting the unsafe facility, equipment, or manner of operation, and the Secretary may withhold further financial assistance to the applicant until such plan is approved or implemented.

FARES FOR ELDERLY AND HANDICAPPED PERSONS

Sec. 108. Nothing contained in this title shall require the charging of fares to elderly and handicapped persons.

SCHOOL BUS OPERATIONS

Sec. 109. (a) Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof (immediately after subsection (f)) the following new subsection:

"(g) No Federal financial assistance shall be provided under this Act for the construction or operation of facilities and equipment for use in providing public mass transportation service to any applicant for such assistance unless such applicant and the Secretary shall have first entered into an agreement that such applicant will not engage in schoolbus operations, exclusively for the transportation of students and school personnel, in competition with private schoolbus operators. This subsection shall not apply to an applicant with respect to operation of a schoolbus program if the applicant operates a school system in the area to be served and operates a separate and exclusive schoolbus program for this school system. This subsection shall not apply unless private schoolbus operators are able to provide adequate transportation, at reasonable rates, and in conformance with applicable safety standards; and this subsection shall not apply with respect to any State or local public body or agency thereof if it (or a direct predecessor in interest from which it acquired the function of so transporting schoolchildren and personnel along with facilities to be used therefor) was so engaged in schoolbus operations any time during the twelve-month period immediately prior to the date of the enactment of this subsection. A violation of an agreement under this subsection shall bar such applicant from receiving any other Federal financial assistance under this Act."

(b) The first sentence of section 3(f) of such Act is amended by striking out "purchase of buses" each place it appears and inserting in lieu thereof "purchase or operation of buses".

ALTERNATE USE OF CAPITAL GRANTS

Sec. 110. Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof (after the new subsection added by section 109 of this Act) the following new subsection:

"(h) Notwithstanding any other provision of this Act, or of any contract or agreement entered into under this Act, up to one-half of any financial assistance provided under this Act (other than under section 5) to any State or local public body or agency thereof for the fiscal year 1975 or any subsequent fiscal year may, at the option of such State or local public body or agency, be used exclusively for the payment of operating expenses (incurred in connection with the provision of mass transportation service in any urban area or areas) to improve or to continue such service, if the Secretary finds (in any case where the financial assistance to be so used was originally provided for another project) that effective arrangements have been made to substitute and, by the end of the fiscal year following the fiscal year for which such sums are used, make available (for such other project) an equal amount of State or local funds (in addition to any State or local funds otherwise required by this Act to be contributed toward the cost of such project). Any amounts used for the payment of operating expenses pursuant to this subsection shall be subject to such terms and conditions (including the requirement for local matching contributions), required for the payment of operating expenses under other provisions of this Act, as the Secretary may deem necessary and appropriate."

DATA AND FINANCIAL REPORTING SYSTEMS

Sec. 111. Section 15 of the Urban Mass Transportation Act of 1964 is amended by striking out the entire section and inserting in lieu thereof the following:

"REPORTING SYSTEM

"Sec. 15. (a) The Secretary shall by January 10, 1977, develop, test, and prescribe a reporting system to accumulate public mass transportation financial and operating information by uniform categories and a uniform system of accounts and records. Such systems shall be designed to assist in meeting the needs of individual public mass transportation systems, Federal, State, and local governments, and the public for information on which to base planning for public transportation services, and shall contain information appropriate to assist in the making of public sector investment decisions at all levels of government. The Secretary is authorized to develop and test these systems in consultation with interested persons and organizations. The Secretary is authorized to carry out this subsection independently, or by grant or contract (including working arrangements with other Federal, State, or local government agencies). The Secretary is authorized to request and receive such information or data as he deems appropriate from public or private sources.

"(b) After July 1, 1978, the Secretary shall not make any grant under section 5 unless the applicant for such grant and any person or organization to receive benefits directly from that grant are each subject to both the reporting system and the uniform system of accounts and records prescribed under subsection (a) of this section."

TITLE II—FARE-FREE MASS TRANSPORTATION

DEMONSTRATIONS

Sec. 201. The Secretary of Transportation (hereinafter referred to as the "Secretary") shall enter into such contracts or other arrangements as may be necessary for research and the development, establishment, and operation of demonstration projects to determine the feasibility of fare-free urban mass transportation systems.

Sec. 202. Federal grants or payments for the purpose of assisting such projects shall cover not to exceed 80 per centum of the cost of the project involved, including operating costs and the amortization of capital costs for any fiscal year for which such contract or other arrangement is in effect.

Sec. 203. The Secretary shall select cities or metropolitan areas for such projects in accordance with the following:

(1) to the extent practicable, such cities or metropolitan areas shall have a failing or

nonexistent or marginally profitable transit system, a decaying central city, automobile-caused air pollution problems, and an immobile central city population;

(2) several projects should be selected from cities or metropolitan areas of differing sizes and populations;

(3) a high level of innovative service must be provided including the provision of crosstown and other transportation service to the extent necessary for central city residents and others to reach employment, shopping, and recreation; and

(4) to the extent practicable, projects utilizing different modes of mass transportation shall be approved.

SEC. 204. The Secretary shall study fare-free systems assisted pursuant to this title, and other financially assisted urban mass transportation systems providing reduced fares for the purpose of determining the following:

(1) the effects of such systems on (i) vehicle traffic and attendant air pollution, congestion, and noise, (ii) the mobility of urban residents, and (iii) the economic viability of central city business;

(2) the mode of mass transportation that can best meet the desired objectives;

(3) the extent to which frivolous ridership increases as a result of reduced fare or fare-free systems;

(4) the extent to which the need for urban highways might be reduced as a result of reduced fare or fare-free systems; and

(5) the best means of financing reduced fare or fare-free transportation on a continuing basis.

SEC. 205. The Secretary shall make annual reports to the Congress on the information gathered pursuant to section 204 of this title and shall make a final report of his findings, including any recommendations he might have to implement such findings, not later than June 30, 1975.

SEC. 206. In carrying out the provisions of this title, the Secretary shall provide advisory participation by interested State and local government authorities, mass transportation riders, and any other persons that he may deem necessary or appropriate.

SEC. 207. There are hereby authorized to be appropriated not to exceed $20,000,000 for each of the fiscal years ending on June 30, 1975, and June 30, 1976, respectively, to carry out the provisions of this title.

TITLE III—RAILROAD GRADE CROSSINGS

SEC. 301. The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings. The Federal share payable on account of such project shall be that provided in section 120 of title 23, United States Code.

SEC. 302. There are authorized to be appropriated to carry out this title not to exceed $14,000,000, except that two-thirds of all funds expended under authority of this section in any fiscal year shall be appropriated out of the Highway Trust Fund.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: "An Act to amend the Urban Mass Transportation Act of 1964 to provide increased assistance for mass transportation systems."

And the House agree to the same.

JOHN SPARKMAN,
WILLIAM PROXMIRE,
HARRISON WILLIAMS,
JOHN TOWER,
ED. BROOKE,
Managers on the Part of the Senate.

WRIGHT PATMAN,
JOSEPH G. MINISH,
TOM S. GETTYS,
JIM HANLEY,
PETE STARK,
EDWARD KOCH,
WILLIAM COTTER,
ANDREW YOUNG,
JOE MOAKLEY,
GARRY BROWN,
WILLIAM B. WIDNALL,
STEWART B. MCKINNEY,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 386) to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

STATEMENT OF FINDINGS

The short title of the House amendment was cited as the "Urban Mass Transportation Assistance Act of 1974." The Senate short title of the bill was cited as the "Emergency Commuter Relief Act". The conference report cites the bill as the "National Mass Transportation Act of 1974".

The House amendment contained no Congressional statement of findings. The Senate bill contained seven statements of findings which outlined the importance and necessity of quality urban mass transportation for the United States. The conference report contains the Senate findings.

INCREASED MASS TRANSPORTATION ASSISTANCE

On September 25, 1974, the conferees on the bill, S. 386, conducted a public hearing to explore means of improving and modifying S. 386, the Emergency Urban Mass Transportation Act. At these hearings, witnesses, including members of Congress, Governors, Mayors, transit industry officials, labor representatives, business and community leaders, and the Administration testified on the need for a long-term comprehensive mass transit program this year. In particular, the Administration testified that they would oppose legislation that was not a long-term comprehensive bill. The Administration also raised additional objections to S. 386 as it was reported to the House on February 26, 1974 (House Report 93-813). During discussions with members of the conference committee and in a letter dated July 26, 1974, to House Minority Leader John Rhodes, Secretary Brinegar stated that S. 386 had the following "critical weaknesses":

(1) it effectively eliminates participation by State governments in planning and executing public transportation programs;

(2) the formula for distributing funds in S. 386 is unsound; and

(3) the funding authorizations in S. 386 are out of line with the need to fight inflation.

In addition, the Administration argued for a long-range bill in order to deal comprehensively and effectively with the mass transportation needs of the country. In an effort to accommodate the Administration and in the spirit of cooperation with the new President, the conferees agreed to make major modifications in this conference report.

AUTHORIZATIONS

The conference report amended section 4(c) of the Urban Mass Transportation Act of 1964 by striking $6.1 billion and inserting $10,925,000,000. Of this $3.1 billion was obligated as of the end of Fiscal Year 1974. $3 billion is previously authorized authority. Thus, this conference report provides $4,825,000,000 of new authority. This provides for a 6-year capital program of $7,825,000,000 available for obligations of which $500 million will be reserved for a new rural public transportation capital assistance program. By combining the existing authority and the new authority in this conference report, approximately $1.2 billion on the average per year will be authorized for the existing capital grant program. The obligation for Fiscal Year 1974 for this program was $1.2 billion and the estimate for 1975 is $1.350 billion. Thus, no substantial major increases are anticipated in the existing capital grant program. This conference report will have little or no budgetary impact during Fiscal Year 1975.

TRANSPORTATION PLANNING

All projects approved under the existing capital grant program have had to be in compliance with regional comprehensive plans. In many urbanized areas in this country, regional planning has not been coordinated with state transportation planning. A new section would be added to the capital grant program which would provide for long-term coordination of mass transit planning and the Governors, along with local officials, would be required to develop long-range plans to improve and coordinate all forms of transportation within urbanized areas as a condition to receiving Federal funds. This addition would add Governor participation to the planning requirements which are not now required under existing law.

FORMULA GRANT PROGRAM

A new formula grant program is authorized by this conference report. $3,975,000,000 is authorized in the next 6 years with the following liquidation schedule provided:

[In millions]

1975	$300
1976	500
1977	650
1978	775
1979	850
1980	900

These funds would be available to be allocated to states or urbanized areas on a formula basis and would be available to finance capital projects or pay operating costs of public transportation systems.

This multiple purpose of these funds and the development levels of funding are very similar to the formula grant program embodied in the Administration's UTAP proposal.

One of the bases of criticism of the original S. 386 was the distribution formula. The use of revenue passenger and vehicle miles as factors in the formula were criticized because they were not reliably ascertainable numbers and were potentially susceptible to manipulation. Therefore, the conference adopted the factors of population and population weighted by density that are based upon the 1970 census figures. The 50 percent population and 50 percent population weighted by density factor formula was initially recommended by the Administration.

In urbanized areas of 200,000 population, a designated recipient will be selected by the

Governor, local officials, and officials of the transportation authority. In any case in which a State agency is responsible under State law for financing, construction, and operation, directly by lease, contract, or otherwise public transportation services, the Secretary shall designate such State agency as the designated recipient to receive and dispense funds apportioned. In urbanized areas under 200,000 population, the State will be the recipient of these funds.

The apportioned funds, if used by the Governor or designated recipient for capital purposes, shall be on an 80 percent Federal share. Where the Governor or designated recipient uses these funds to pay operating expenses, they shall be on a 50 percent share basis.

The conference report would make the charter bus restrictions in section 3 of the Urban Mass Transportation Act of 1964 applicable to grants under this section. To be eligible for grants under this provision, the recipient must continue to maintain State and local operating and capital funds, and the transit system must maintain other revenues such as advertising, concessions, and property leases. This maintenance of effort provisions is to be a two-year average of the total of State and local funds used to finance operating costs and other nonfarebox income. The State and local revenues and other incomes can be used as local matching share but that revenues gained by farebox shall not be eligible.

Mass transportation systems receiving assistance under this provision must charge half fares to the elderly and the handicapped during nonpeak hours. In the case of areas served by privately owned public transportation systems, the applicant will be the Governor or designated recipient who by lease contract or otherwise shall make the funds available to these privately-owned public transportation systems.

The Governor or the designated recipient of the urbanized area shall submit to the Secretary for his approval such surveys, plans, specifications, and estimates for each proposed project as the Secretary may require. In addition, the Governor or the designated recipient must certify to the Secretary that he has conducted public hearings or afforded the opportunity for such hearings.

The conferees recognize that in order to minimize the deficits now being incurred, all possible efficiencies of operation should be encouraged. There is also a need to improve the operating systems and eliminate inefficiencies in them. The conferees desire that no part of this conference report shall be construed to limit or alter the responsibility of each recipient of assistance from initiating and implementing all necessary and desirable efficiencies.

SCHOOL BUS OPERATIONS

Recipients under the existing capital program who have not engaged in school bus operations are not eligible to do so. A similar restriction for recipients of formula grant funds under section 5 is provided.

ALTERNATIVE USE OF CAPITAL GRANT PROGRAM

Up to one-half of any financial assistance provided under the discretionary capital grant provisions of the Urban Mass Transportation Act of 1964 may be used, at the option of the grantee, for the payment of operating expenses if the Secretary finds that effective arrangements have been made to make available an equal amount of State or local funds for completion of the project for which the Federal funds were to have been used. Where a grantee chooses to use funds for operating rather than capital assistance under this provision, the terms and conditions applicable to other operating expense projects under the Act (including local share and maintenance of effort) shall be applied to projects under this subsection. The substitute funds must actually be made available to the project no later than the end of the fiscal year following the fiscal year for which the sums were used for operating expenses.

DATA AND FINANCIAL REPORTING SYSTEMS

Governors designated recipients or public transportation systems who are beneficiaries of funds apportioned under section 5 shall be required to adopt and operate a uniform reporting system.

The Secretary has until January 10, 1977, to devise such a uniform reporting system. After July 1, 1978, all recipients of beneficiaries of grants must be participants in this national system of uniform accounts. In addition, the establishment of a new formula grant program will insure an equitable distribution of funds among the various cities and States throughout our Nation as does the new rural capital grant program. Therefore, in the opinion of the conferees, section 15 of the present Act is unnecessary; and, thus, the conference committee deleted this section.

ELIGIBILITY OF QUASI-PUBLIC DEVELOPMENT CORPORATIONS

The House amendment contained a provision making eligible for capital grants quasi-public transit corridor corporations and would expand the definition of facilities eligible for such grants to include station sites and transit corridors. The Senate bill contained no similar provision The conference report contains the House provision.

COORDINATION OF URBAN MASS TRANSPORTATION PROGRAMS WITH MODEL CITY PROGRAMS

The House amendment contained a provision requiring that model city transit programs must comply with the labor provisions of the Urban Mass Transportation Act. The Senate bill contained no similar provision. The conference report retains the House provision.

SOLE SOURCE PROCUREMENTS

The House amendment contained a provision prohibiting, except in unusual circumstances, sole source procurements utilizing exclusionary or discriminatory specifications. The Senate bill contained no similar provision. The conference report contains the House provision with an amendment that strikes out the reference to sole source procurements, but would retain the prohibition on exclusionary or discriminatory specifications.

INVESTIGATION OF SAFETY HAZARDS

The House amendment contained a provision directing the Secretary of Transportation to conduct investigations into unsafe conditions in any facility, equipment, or operation financed under the Act which creates serious safety hazards and would direct the Secretary to require mass transit systems to submit a plan for correcting any unsafe conditions and directs him to withhold further financial assistance until such plan is approved or implemented. The Senate bill contained no similar provision. The conference report retains the House provision.

FARES FOR ELDERLY AND HANDICAPPED

The House amendment contained a clarification with regard to the fares for elderly and handicapped persons. The clarification specified that fares for such persons may be lower than one-half the regular fare. The Senate bill contained no similar provision. The conference report contains the House provision.

TITLE II—DEMONSTRATION PROJECTS FOR FREE FARES

The Senate bill contained provisions authorizing the Secretary of DOT to enter into contracts or other arrangements for research, development, establishment, and operation of demonstration projects to determine feasibility of free fare urban mass transit systems. Federal grants for such payments shall cover not to exceed 80 percent of the cost of the project. This provision authorizes not to exceed $20 million for fiscal year 1974 and $20 million for fiscal year 1975.

TITLE III—RAILROAD GRADE CROSSINGS

Title III of the conference report would authorize an appropriation not to exceed $14 million to be used to carry out a demonstration program in Hammond, Indiana, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings.

John Sparkman,
William Proxmire,
Harrison Williams,
John Tower,
Ed. Brooke,
Managers on the Part of the Senate.

Wright Patman,
Joseph G. Minish,
Tom S. Gettys,
Jim Hanley,
Pete Stark,
Edward Koch,
William Cotter,
Andrew Young,
Joe Moakley,
Garry Brown,
William B. Widnall,
Stewart B. McKinney,
Managers on the Part of the House.

REFERRAL OF NOMINATIONS TO THE COMMITTEE ON RULES AND ADMINISTRATION

The nominations of Joseph F. Meglen and Joan D. Aikens for appointment to the Federal Election Commission were referred to the Committee on Rules and Administration.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on October 17, 1974, he presented to the President of the United States the enrolled bill (S. 3355) to amend the Controlled Substances Act to extend for 3 fiscal years the authorizations of appropriations for the administration and enforcement of that act.

ENROLLED BILL SIGNED

The enrolled bill (H.R. 12628) to amend title 38, United States Code, to increase vocational rehabilitation subsistence allowances, educational and training assistance allowances, and special allowances paid to eligible veterans and persons under chapters 31, 34, and 35 of such title; to improve and expand the special programs for educationally disadvantaged veterans and servicemen under chapter 34 of such title; to improve and expand the veteran-student services program; to establish an education loan program for veterans and persons eligible for benefits under chapter 34 or 35 of such title; to make other improvements in the educational assistance program and in the administration of educational benefits; to promote the employment of veterans and the wives and widows of certain veterans by improving and expanding the provisions governing the operation of the Veterans' Employment Service, by increasing the employment of veterans by Federal contractors and subcontractors, and by providing for an action plan for the employment of disabled and Vietnam era veterans within the Federal Government; to codify and expand veterans' reemployment rights; and for other purposes, having been previously signed by the Speaker of the House of Representatives, was signed on November 18 1974, by the President pro tempore.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. TAFT:

S. 4155. A bill for the relief of Mengistu Abegaz. Referred to the Committee on the Judiciary.

By Mr. HUGH SCOTT:

S. 4156. A bill for the relief of Sarah Naomi Grant. Referred to the Committee on the Judiciary.

By Mr. ALLEN:

S. 4157. A bill to amend the Egg Products Inspection Act. Referred to the Committee on Agriculture and Forestry.

By Mr. THURMOND:

S. 4158. A bill for the relief of Sergio Fernando Diaz. Referred to the Committee on the Judiciary.

By Mr. TALMADGE (for himself, Mr. NUNN, and Mr. THURMOND):

S. 4159. A bill to provide that the sex discrimination guidelines prescribed under title IX of the Education Amendments of 1972 do not apply to fraternities and sororities. Referred to the Committee on Labor and Public Welfare.

By Mr. MANSFIELD (for Mr. McGOVERN):

S. 4160. A bill to provide for the purchase of animals and animal food products for use in foreign and domestic food relief programs, and for other purposes. Referred to the Committee on Agriculture and Foresty.

By Mr. CURTIS (by request):

S. 4161. A bill to repeal the statutes relating to the issuance of cotton acreage and production reports. Referred to the Committee on Agriculture and Forestry.

By Mr. HUGH SCOTT (for himself and Mr. SCHWEIKER):

S. 4162. A bill to establish a program of Federal assistance to provide relief from energy emergencies and energy disasters. Referred to the Committee on Interior and Insular Affairs.

By Mr. BAYH:

S. 4163. A bill to amend title XI of the Education Amendments of 1972 to exempt certain fraternities and sororities from sex discrimination guidelines. Referred to the Committee on Labor and Public Welfare.

By Mr. HATHAWAY:

S.J. Res. 255. A joint resolution proposing an amendment to the Constitution of the United States relating to the strengthening of the system of checks and balances between the legislative and executive branches of the Government as envisioned by the Constitution with respect to the enactment and execution of the laws and the accountability to the people of the executive as well as the legislative branches of the Government. Referred to the Committee on the Judiciary.

By Mr. ALLEN:

S.J. Res. 256. A joint resolution to establish a national commission to study and report on the impact of certain regulatory agencies upon commerce and for other purposes. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TALMADGE (for himself, Mr. NUNN, and Mr. THURMOND):

S. 4159. A bill to provide that the sex discrimination guidelines prescribed under title IX of the Education Amendments of 1972 do not apply to fraternities and sororities. Referred to the Committee on Labor and Public Welfare.

Mr. TALMADGE. Mr. President, today I introduce a bill to exempt college social fraternities and sororities from title IX of the Education Amendments of 1972.

Title IX restricts educational institutions receiving Federal assistance from engaging in discrimination on the basis of sex in admissions, student services, and employment in colleges and universities.

Nowhere in the history of title IX is there any indication of congressional intent to include fraternal organizations. Its scope was described by its author, the distinguished Senator from Indiana (Mr. BAYH), in 1972 as follows:

> More specifically, the heart of this amendment . . . would cover such crucial aspects as admissions procedures, scholarships, and faculty employment, with limited exceptions.

Nevertheless, for several months, the Department of Health, Education, and Welfare has threatened to extend title IX to college social fraternities and sororities. Despite all evidence to the contrary, HEW has maintained that it has authority to withhold Federal assistance from institutions of higher education which provide "substantial material" support to social Greek-letter societies.

In my judgment, HEW's interpretation of the law is plainly wrong. The enactment of title IX was not meant to require college fraternities and sororities to make their memberships coeducational. By clarifying the statute itself, my bill removes the threat to college fraternities and sororities posed by the Department. I hope that this measure will be promptly enacted.

Mr. THURMOND. Mr. President, I have recently been very disappointed by the Department of Health, Education, and Welfare's position that title IX of the Education Amendments of 1972 applies to college sororities and fraternities. HEW's proposed regulations attempt to regulate the membership practices of these organizations.

Notwithstanding numerous objections and voiced concern on the part of many Americans and officials, including myself, HEW appears committed to this unreasonable position. Mr. President, I believe a reading of the legislative history surrounding the passage of title IX makes it apparent that this legislation was never intended to apply to social fraternities and sororities. This legislation was aimed at preventing discrimination by institutions on the basis of sex in such areas as admissions, scholarships, and employment. This legislation was not aimed, nor should it apply, to sororities and fraternities which are by definition organizations for members of a particular sex.

HEW, however, refuses to accept this position. The Department indicates there must be a specific statutory exception for these organizations. Mr. President, I am amazed at the position of this agency. They have obviously thrown reason and commonsense out the window. If this Congress is going to be required to specifically provide for interpretations that should be a matter of commonsense, the wheels of Government will grind even more slowly than they do now.

I do not accept HEW's position, but, realizing the detrimental effect of bureaucratic intervention and disruption in this area, I join with the distinguished Senator from Georgia, Senator TALMADGE, in sponsoring legislation to unequivocally provide an exemption from title IX of the Education Amendments of 1972 for social fraternities, sororities, and similar organizations. By sponsoring this legislation, I am not admitting to any extent that the same result is not permissible under the present statute. In fact, I still urge the Department of Health, Education, and Welfare to modify its proposed regulations to accomplish this result. If not, however, Congress should have the opportunity as soon as possible to clarify this issue by providing for the exemption.

We cannot allow an agency of the Federal Government to adopt a course of action which would destroy a system so basic in American life as the sorority and fraternity system. For over 200 years, this system has served the social, academic, and cultural needs of our students at educational institutions. HEW's proposed regulations to title IX of the Education Amendments of 1972 would have the practical effect of destroying this system. Therefore, I urge the Senate give this legislation prompt and favorable attention, and I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 901(a) of the Education Amendments of 1972 is amended by—

(1) redesignating paragraphs (4) and (5) as (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) this section shall not apply to a social fraternity, sorority, club, or similar organization exempt from tax under section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students enrolled in an institution of higher education;".

SEC. 2. The amendment made by this Act takes effect on June 23, 1972.

By Mr. MANSFIELD (for Mr. McGOVERN):

S. 4160. A bill to provide for the purchase of animals and animal food products for use in foreign and domestic food relief programs, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from South Dakota (Mr. McGOVERN), I introduce a bill and I ask unanimous consent that a statement prepared by Senator McGOVERN in connection with the bill be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR McGOVERN

Mr. President, I introduce today for appropriate reference a bill which would provide badly needed assistance for two hard-hit sectors of the population of our planet—livestock, poultry and dairy producers in the

United States and malnourished people everywhere.

This bill is identical to one which is being introduced today in the other body by Mr. Melcher and a number of cosponsors.

It would provide that the Commodity Credit Corporation, through funds and authority available to the Corporation, undertake a significant purchase of surplus meat animals and meat products and distribute the products thereof through existing channels and present programs to those who, at home and abroad, are unable to purchase them.

Mr. President, many members of the Congress during the past two weeks have been exposed to two significant events—an election and the World Food Conference.

In the case of elections in the agricultural areas of this country, all of us were made aware time and again of the critical financial plight of the livestock, dairy and poultry producer. Their problems have been recited in the Congress so frequently and in such detail that further explanation is not needed at this point.

Those of us who attended the World Food Conference which concluded in Rome last week were made aware of the plight of undernourished and starving people throughout the globe.

This legislation, then, is a modest attempt to assist those sectors of the world's people—those livestock producers who are threatened with extinction and those whose very lives are threatened by starvation.

It is legislation which deserves the most serious consideration of the Congress.

By Mr. CURTIS (by request):

S. 4161. A bill to repeal the statutes relating to the issuance of cotton acreage and production reports. Referred to the Committee on Agriculture and Forestry.

Mr. CURTIS. Mr. President, I am introducing by request legislation to repeal the statutes relating to the issuance of cotton acreage and production reports.

I ask unanimous consent that a letter from Mr. Richard Ashworth, Deputy Under Secretary of Agriculture outlining the purposes of this bill be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 2, 1974.

Hon. GERALD R. FORD,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To repeal the statutes relating to the issuance of cotton acreage and production reports."

This Department recommends enactment of the proposed legislation.

Title 7, Sections 475 and 476 of the United States Code stipulate the month, approximate date, and hour for the issuance of cotton crop reports and the membership of the cotton Crop Reporting Board. Cotton is the only crop which has specific legislation that relates to the issuance of crop estimates. All other crop estimates are issued under provisions of laws governing the collection of statistics and issuance of crop reports, 7 U.S.C. 2201, 7 U.S.C. 2204, and 7 U.S.C. 411a. These provisions would govern the issuance of cotton acreage and production reports upon repeal of 7 U.S.C. 475 and 7 U.S.C. 476.

Title 7, Sections 475 and 476 of the United States Code, prohibit the projection of harvested acres, yield, and production prior to the August 1 Crop Report. Thus, due to this restrictive legislation, the Department's supply and demand estimates for cotton are incomplete compared with similar data currently available for wheat, feed grains, and soybeans. This prohibition against cotton production projections also applies to the Economic Research Service's "Cotton Situation" report and makes the economic analysis incomplete, thus limiting the value of this report.

The general statutes that govern all other crop estimates allow flexibility for responding to special needs of data users. This is currently not true for cotton. An example of a desirable change which 7 U.S.C. 476 prohibits is an estimate of cotton acres for harvest prior to the August 1 report. Acres for harvest for *all other* crops are released a month earlier in the July 1 Crop Report. Another need for flexibility was highlighted in 1970 when the corn blight situation caused the Crop Reporting Board to issue a special mid-month report measuring the blight damage immediately. This report squelched rumors which had exaggerated the amount of corn yield damage. Such a special report would not be possible if a similar emergency occurred with the cotton crop. Changing harvesting practices for cotton are delaying cotton ginnings. For example, in 1972 nearly 1.7 million running bales of cotton remained to be ginned after the final crop estimates were released as of January 1. In the future, late ginnings may warrant additional cotton estimates as of February 1 or March 1.

Title 7, Section 475 of the United States Code stipulates that at least three members of the Crop Reporting Board must be supervisory field statisticians who are located in different sections of the cotton growing States, and have firsthand knowledge of the condition of the crop. Today, this stipulation is obsolete. A sample of about 2,500 cotton fields is visited each month beginning with the August 1 survey to obtain objective yield counts and measurements. Through the use of a cotton estimating model these data are used in setting State and National forecasts. Therefore, *subjective* field observations by three field statisticians are unnecessary. Since only six field statisticians are needed to assist with the preparation of the National Crop Report each month and three must be from cotton producing States, other parts of the country are underrepresented on the Crop Reporting Board when estimates are set for crops such as corn, soybeans and wheat.

Enactment of the proposed legislation would not require additional funds. An identical letter and draft bill have been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget advises that there is no objection to the proposed legislation from the standpoint of the Administration's program.

Sincerely,

RICHARD A. ASHWORTH,
Deputy Under Secretary.

By Mr. HUGH SCOTT (for himself and Mr. SCHWEIKER):

S. 4162. A bill to establish a program of Federal assistance to provide relief from energy emergencies and energy disasters. Referred to the Committee on Interior and Insular Affairs.

Mr. HUGH SCOTT. Mr. President, today I am pleased to introduce legislation which is much needed. It is the Energy Disaster Assistance Act of 1974.

In the past through a great deal of trial and error the Congress has been able to fashion an effective instrument to deal with natural disasters. The Federal Disaster Assistance Agency and its complements throughout the Government are now capable of dealing with any natural disaster no matter what the circumstances or when the situation arises. We have all learned a great deal from the worst of natural disasters which struck the Wilkes-Barre area in Pennsylvania just a few years ago.

I feel this kind of contingency planning and Federal coordination must exist in a period of an energy emergency or energy disaster. The events of the last 18 months have brought to a focus our great dependency on energy sources. We have begun to realize exactly how serious a lack or a shortage of energy can be for even a short period of time.

Lack of adequate statutory provisions in time of an energy disaster or emergency was brought to my attention only recently. During the early summer I was advised of the fact that there might be a shortage of over 250,000 tons of anthracite coal in northeastern Pennsylvania during this coming winter. This has been occasioned by a number of factors including the closing of the largest anthracite coal production facility in this area. I began immediately to try to rectify this situation, and I was amazed to learn that the Federal Government did not have the authority to deal directly with this potentially serious situation.

Through my efforts I was able to bring together members of the Pennsylvania delegation, the State government, and the Federal Energy Administration with other Government agencies to work on a voluntary solution to the problem. Fortunately, we were successful and it looks like there will be no serious shortage of anthracite coal in Pennsylvania this winter. This situation did convince me, though, that special legislation was needed so we can effectively deal with energy problems in the future.

The bill I am introducing today defines two different kinds of potential problems, an energy emergency and an energy disaster. An energy emergency would be defined as a shortage of or a price level of energy supplies which the President or an appropriate agency determines has caused an inability to meet essential energy demands of a geographic area. An energy disaster would be a situation, as determined by the President, which exceeded in severity an energy emergency. An energy disaster would potentially cause immediate danger to public health or safety in any geographic area.

The bill's main thrust is to provide for Federal assistance in either an energy emergency or disaster when state or local efforts have been unsuccessful. A Governor of a State will, when he determines there is an energy emergency or disaster, approach the President of the United States or a Federal agency designated by the President for the purpose of this act. Once the President has determined that a serious energy problem does in fact exist, certain Federal powers will be available.

Immediately upon designation of an energy problem the Federal Government will dispatch to the local area a Federal coordinator who will be in charge of centralizing all the Federal efforts in that area and dealing with the Governor or his representative. The President will have the power to direct any Federal agency with or without reimbursement to utilize Federal personnel, equipment, supplies, facilities, and any other resources including technical service to support State and local energy disaster or emergency efforts.

In an energy emergency the appropriate agency is authorized to exercise any of the powers outlined in section 6 of this bill. This would include redirection of energy supplies from other areas, specific allocation of supplies among distributors to end users, energy conservation programs, emergency loans to individuals and families who cannot financially afford essential energy needs, and furnishing technical assistance and loans to reestablish disrupted sources of energy supplies. The bill later describes how these loans will be paid back and the method by which certain loans may be canceled or forgiven in designated circumstances.

In the case of an energy disaster, besides the powers enumerated in section 6 of the bill, there are additional powers which may be tapped. They are outlined under section 7 of this legislation. It should be noted that these powers include a number of the regulations presently exercised by the Federal Government under the Disaster Relief Act of 1974 for natural disasters.

I firmly believe this legislation is essential if we are to act in a responsive manner on potential future disruptions of our energy sources. This can come from any number of circumstances either foreseen or unforeseen at the present time. I hope we are never in a situation where the legislation has to be invoked. However, an energy problem, like natural disasters, can occur and we must be ready to cope with it in the most effective method possible.

I would be delighted to have all Senators from both sides of the aisle join with me on this legislation. Several of my distinguished colleagues from Pennsylvania have indicated their intention to introduce an identical bill in the House. I am hopeful the other members of our Pennsylvania delegation will join Congressmen Daniel Flood, Democrat of Wilkes-Barre, and Joseph McDade, Republican of Scranton, in a bipartisan effort to enact this bill.

I wish to announce my intention to reintroduce this bill early next year and to push for its serious consideration by the Congress if the Congress should fail to enact this legislation during the brief time left of this session.

By Mr. BAYH:

S. 4163. A bill to amend title XI of the Education Amendments of 1972 to exempt certain fraternities and sororities from sex discrimination guidelines. Referred to the Committee on Labor and Public Welfare.

Mr. BAYH. Mr. President, over 3 years ago, I authored the amendment to the Higher Education Act which established the statutory basis for the proposed regulations issued by the Department of Health, Education, and Welfare under title IX. The purpose behind title IX was to once and for all establish a guarantee of equal opportunity for men and women in higher education. By creating this legal framework which outlawed sex discrimination in higher education, sex-based quotas for admissions to colleges and universities were outlawed, equality of opportunity for scholarship aid was mandated, and equal access to course offerings and curriculum was made available to both sexes.

As the author and prime Senate sponsor of title IX in the Senate, I take great pride in this legislation. At the same time, I have grown concerned over the possibility that the Department of Health, Education, and Welfare might misconstrue the intent behind title IX in terms of its applicability to fraternities and sororities. In light of my concern with this issue, I wrote a letter to Secretary Caspar Weinberger, detailing my hope that the Department of Health, Education, and Welfare would include a specific exemption for fraternities and sororities. Secretary Weinberger responded that with the proper legislative authorization for such an exemption, the Department of Health, Education, and Welfare could make such a specific exemption in the final version of the guidelines, to be issued some time after the first of the year. If there is no objection, I would like to place the content of this exchange of correspondence in the Record.

In order that the Department of Health, Education, and Welfare can specifically include an exemption for fraternities and sororities, I am introducing today a bill which clarifies my intent, and I believe the intent of the Congress, in enacting title IX. If there is no objection, I would like to have the text of this bill inserted in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Secretary of Health,
Education, and Welfare,
Washington, D.C., November 8, 1974.

Hon. Birch Bayh,
U.S. Senate,
Washington, D.C.

Dear Senator Bayh: Thank you for your letter of October 3 expressing concern about how the Department's proposed regulation to implement Title IX of the Education Amendments of 1972 will affect fraternities and sororities at federally funded colleges and universities. As you know, Title IX generally prohibits discrimination by sex in federally assisted education programs. I apologize for the delay in responding.

Section 86.31 (b) (7) of the proposed regulation would prohibit a recipient of Federal funds from assisting another party which discriminates on the basis of sex in serving students of the recipient.

As outlined in the enclosed copy of the proposed regulation at page 22229, the substantiality of the college's assistance to the fraternity and the degree to which the fraternity's activities are an integral part of the education program offered by a recipient are the key factors to be considered by the Department in determining Title IX applicability. The regulation clearly would not apply to or affect fraternal organizations which do not derive any support from the federally assisted education institution and which do not perform services for the institution.

All of the above is required by the statute according to advice I have received from our General Counsel—advice which, of course, I must follow.

There has been some concern about the applicability to Title IX of Section 1975 (c) (a) (6) of the Civil Rights Act of 1964 (42 U.S.C.) which also is listed under Title V of the Act, Section 104 (a) (6) as published by the Government Printing Office. It states:

> Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization.

The prohibition of Section 104(a)(6), of course, relates to the Civil Rights Commission which operates independently from the Department and its Office for Civil Rights and is an investigative, information gathering agency. The Civil Rights Commission does not have the enforcement repsonsibilities Congress mandated under Title VI, Section 602 of the Civil Rights Act, to Federal departments such as Health, Education, and Welfare. The prohibition of Section 104(a) (6) has never been interpreted as extending to the Department's Title VI enforcement effort, and it is the view of the Department's Office of General Counsel that it does not apply to Title IX or any regulation to implement Title IX.

Although the Waggonner Amendment to the Higher Education Act of 1965 (20 U.S.C. 1144(b)) does apply to Title IX enforcement, the advice I have received is that it does not completely remove fraternities and sororities from the reach of the nondiscrimination provisions. Section 1144(b) states:

> Nothing contained in this act or any other act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the membership practices or internal operations of any fraternal organization, fraternity, sorority, private club or religious organization at any institution of higher education (other than a service academy or the Coast Guard Academy) which is financed exclusively by funds derived from private sources and whose facilities are not owned by such institution.

Obligations under Title IX run to the recipient institution of higher education and not to a fraternal organization, unless the organization itself received Federal financial assistance. The Waggonner Amendment would exempt a fraternal organization from Title IX requirements when that fraternal oragnization is "financed *exclusively* by funds derived from private sources and those facilities are not owned by such institution." Accordingly, the Department, when presented with a complaint alleging Title IX discrimination by an organization covered by Section 1144(b), would have to consider the relationship between the institution and the particular organization.

You mention the exemption in Title IX relating to single-sex colleges. This exemption extends only to admissions to institutions and not to membership policies of organizations supported by federally assisted educational institutions.

I agree that social fraternities and sororities have played, and should to continue to play, a useful role in the social and cultural needs of American students. We do not read Title IX as precluding such a role, nor is the language of the proposed regulation intended to do so. To the extent that the statute and regulation preclude a social Greek Letter society from receiving material support from an educational institution that is in turn supported under one of our programs, or to the extent that they preclude the university from using the society as an instrument in the university's educational program, any change in approach would have to be effected by amendment of the statute. Should you wish to propose such an amendment, we would be glad to provide such technical assistance as you might desire in its preparation.

If I may be of further assistance, please let me know.

Sincerely,
Caspar W. Weinberger,
Secretary.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., October 3, 1974.
Hon. CASPAR WEINBERGER,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I would like to take this opportunity to express to you some serious concern that I have regarding the Department of Health, Education and Welfare's proposed regulations pursuant to Title IX of the Education Amendments of 1972.

As the author and prime sponsor of Title IX in the Senate, I was pleased to see that the majority of the regulations promulgated by HEW are addressed to the underlying purpose of the authorizing legislation, the elimination of sex discrimination in our institutions of higher learning.

However, I was distressed to learn that there is some possibility that HEW may apply Title IX regulations to fraternities and sororities, social organizations which have no bearing on the fight to achieve equal educational opportunity for both sexes. It is my understanding that because various fraternities and sororities have traditionally had rent free or low lease arrangements with colleges and universities, they may be termed in violation of Title IX. Without such minimal financial aid, many of these fraternities and sororities would not survive. Without the existence of such organizations, already financially overburdened colleges and universities will have to provide additional housing for those students who have been displaced from fraternities and sororities.

I would like to state at this point that there was certainly no intention on my part, or on the part of the Congress, to apply Title IX restrictions to Greek organizations, organizations which are primarily social in nature and which serve no educational or professional purpose. While there is no mention of the application of Title IX to Greek organizations in the legislative history of the authorizing legislation, the specific Congressional exemption of traditionally single sex schools demonstrates that the Congress had no desire to penalize such institutions.

Fraternities and sororities have been a tradition in the country for over 200 years. Greek organizations, much like the single-sex college, must not be destroyed in misdirected effort to apply Title IX.

Sex discrimination remains a serious problem for today's colleges and universities. The regulations promulgated under Title IX by the Department of Health, Education and Welfare go a long way toward eliminating such invidious practices as admissions quotas and unequal benefits based on sex. It was these practices toward which Title IX was directed, not toward the elimination of our nation's Greek tradition.

Please advise me what more I can do to put the legislative intent of Title IX in perspective relative to fraternities and sororities.

Thank you for considering this request.

Sincerely,

BIRCH BAYH,
U.S. Senator.

S. 4163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 901(a) of the Education Amendments of 1972 is amended by—

(1) redesignating paragraphs (4) and (5) as (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) this section shall not apply to a social fraternity, sorority, club, or similar organization exempt from tax under section 501 (a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students enrolled in an institution of higher education;".

SEC. 2. The amendment made by this Act takes effect on June 23, 1972.

By Mr. HATHAWAY:

S.J. Res. 255. A joint resolution proposing an amendment to the Constitution of the United States relating to the strengthening of the system of checks and balances between the legislative and executive branches of the Government as envisioned by the Constitution with respect to the enactment and execution of the laws and the accountability to the people of the executive as well as the legislative branches of the Government. Referred to the Committee on the Judiciary.

Mr. HATHAWAY. Mr. President, one of the enduring cliches of courses in American government is that the Constitution is a "living document." By this is meant that its terms are not absolute nor frozen but are subject to alteration and development through the process of legislation, judicial interpretation, and just plain usage. This characteristic of our Constitution is universally cited as one of its great strengths and a prime factor in its long vitality as an instrument of government. I share in this view and am a firm believer that organic law cannot be expected to deal with the details of government or cover every conceivable contingency. Further, I recognize the remarkable service rendered to us by this extraordinary document and approach its alteration only with the greatest reluctance.

But my experience, coupled with recent events, has led me to focus on the obverse of the "living document" coin—that perhaps some of the governmental development we have experienced, particularly over the past 50 years, has not been all to the good. Or, looked at another way, it could be that events have simply overtaken the Constitution; its development has not kept pace with governmental changes imposed upon us by changes in the outside world.

I refer here to a conflict which exists between the imperatives of the modern technological superstate and the theoretical bases of the Constitution. Unfortunately, I think, the Constitution is losing this conflict, while, at the same time, the continued existence of its much revered shell lulls us into a false sense of everything being as it once was.

The Constitution, as I understand it, was based upon three fundamental principles, which can be stated, in the order of their priority, as the diffusion of power, the accountability of power, and finally, the establishment of power. The first and most important principle to the framers—products, as they were, of Europe's awakening from autocracy—was that governmental power can be dangerous; the best way to prevent its abuse was to spread it about as broadly as possible and set it against itself through a complicated system of checks, balances, and multilevel government.

Second, the framers were republicans, if not democrats, insofar as they provided for regular elections of Members of the House of Representatives and the President. This too, which made the government accountable to the people, can be seen as another, indeed an ultimate, form of check on the arbitrary exercise of power.

And finally, the Constitution is based, rather grudgingly, on a premise that some governmentally exercised power is necessary to provide for the "common defense" and assure a reasonable measure of "domestic tranquility." None who read the Constitution and its debates—or study the first pass at the problem in the articles of Confederation—can doubt that this last, the establishment of power—while the reason for wirting a constitution in the first place—was at the bottom of the Framers list of priorities. That some source of central authority was necessary was made plain by the experience under the articles. The framers accepted this as a given but then spent most of their time devising ways to hedge in and control what they were in the process of creating.

In order to understand the present situation, this background must be related to the changes brought about more recently.

Sometime after the turn of this century, probably around the end of the First World War, the nature of the modern state began to emerge; it was markedly different from the mildly anarchistic model that had gone before. The spread of the franchise—and thus the expansion of the government's clientle—the interrelationship of geographic regions through new methods of transportation and communication; the development of giant national and now even international corporations and labor organizations, and the external challenges, first from world-wide depression and then from highly organized—and centralized—competitor states all combined to demand a kind of government alien to the intent of the framers—a "positive" state. While the thrust of the original Constitution was preservation of the status quo, the new state had to be able to act positively, both domestically on behalf of its new constituencies and in foreign affairs in dealing with the new autocracies of Germany and Russia. Depression, wars, and continuing national crises had made the old dispersions of power untenable.

The first victim of this new imperative was the concept of federalism, or the sharing of real power between the national authority and the States. While the Civil War settled the questions of whether the states had the ultimate power—that is, self-determination—the New Deal and its aftermath—including the historic civil rights developments—have pretty well laid to rest notions of residual State power when there is a conflict with some significant national interest. We need look no further back than our recent passage of the no-fault insurance bill to recognize the validity of this observation. While I do have some qualms about this development, its implications do not concern me as much as those of the rise of what has come to be called "the imperial presidency."

For just as power in this country has been inexorably flowing to Washington over the past 50 years, so power in Washington has been flowing toward the executive branch of the Government. This is, as I hope I have established, not the work of sinister men consciously seeking to alter our established power relationships, but is the result of changes forced on the structure by outside social and political developments. And we can no more fundamentally alter this situation than we can ignore inflation, crime, or the Middle East.

So we are left with a governmental structure which by necessity has become more centralized and, in many ways, more autocratic. But instead of developing new checks and balances to reign in this new power, we have been content to assume that the old system would take care of us. I would submit that the events of the past dozen years or so demonstrate that this is not an entirely safe assumption.

We have seen the presidency swollen beyond all precedent, both in actual governmental responsibilities and in the superficial trappings of power. And we have seen the Congress—the body designated to set policy by the framers—reduced to something on the order of a simple irritant in the executive's ongoing governing of the country. And again, this state of affairs was not produced through the connivance of a few, but really came about gradually, through a combination of individual dereliction institutional paralysis, and simple necessity.

To me, one of the great ironies of Watergate and President Nixon's resignation is that the very magnitude of the scandal and the departure of the President has obscured the significance of the developments I have outlined this morning. If my colleagues will think back to the winter and early spring of 1973, it was not Watergate that dominated the headlines—or our consciousness—but instead it was impoundment and the "battle of the budget." Due in large part to the arrogance of the President and his men, we were building up to a major confrontation on the rather clearly defined issue of which branch of the Government was going to run the country.

Unfortunately, the changing of administrations has temporarily delayed the day of reckoning and I sense a propensity for further drift toward one-man rule and away from the Constitution. I say temporarily because it is inevitable that this instrument of power we are allowing to grow will some day be used to its full potential. And when it is, we may not be lucky enough to have a Watergate-type scandal to help bring the executive under control. For this reason, I think it is imperative that we take a look at where we are and seriously consider whether there is any safer way to conduct the public's business.

Clearly, some of what I urge is already underway. Actions we have taken on impoundment, budget control, executive privilege, war powers and even impeachment itself have begun the process of restoring some of the balance to the system. Certainly Judge Sirica and the unanimous Justices in the tapes decision have underscored the continuing vitality of the judiciary. But these steps are not enough. We, and I mean the Congress, have still not figured out how to make policy in difficult and controversial areas beyond simply passing the ball to the President.

The reaction of Congress to every major public issue of the last 10 years—from Vietnam to the energy crisis, from inflation to foreign trade—has been to pass what amounts to authorizing legislation which delegates the power and the responsibility for the tough decisions to the Executive. When things do not work out, of course, we are in a good position to blame the President or the bureaucrats, just as they can always find some reason to blame us. The problem is that this puts the Government as a whole in the position of spending more time trying to avoid responsibility for its actions than trying to actually solve its problems. And the people are left not knowing who to believe—or blame—while at the same time having a clear realization that the system is not working.

I am honestly not sure what the answer to all of this is. Perhaps we should have a smaller Congress. A committee of 535 is an unlikely instrument for dealing with anything, let alone something as complex as the energy crisis or problems in a trillion dollar economy. Or perhaps we should accept our role as authorizer of Executive action and become more skilled in defining and overseeing the exercise of the authority we grant. Certainly we should build up our own resources for policy determination—both in terms of staff support and more streamlined decisionmaking procedures. And finally we must find new ways to check the executive and hold it accountable for its performance.

In this regard, I do have a concrete proposal which, if adopted, should have the effect of acting as a powerful brake on abuse of Executive authority while at the same time forcing the Congress to take a more responsible position in the ongoing process of Government.

What I propose is a modified "no confidence" provision, whereby the Congress could call a new Presidential election in certain carefully defined circumstances. The resolution I will introduce is based upon one put forward in the House over a year ago by Representatives EDITH GREEN, LES ASPIN, ALPHONZO BELL, HUGH CAREY, JOSEPH GAYDOS, ROMANO MAZZOLI, GILLIS LONG, PATSY MINK, MORRIS UDALL, and WILLIAM FORD. This proposal would not convert us to a full-blown parliamentary system whereby the administration must win every vote and an ideological majority in the Congress could inevitably determine the character of the Executive. On the contrary, I would assume that the vote to remove would only be taken in rather extreme circumstances and then only by a Member fairly confident of the support of his constituents.

What such a provision would do is act as a deterrent to the abuse of power. A new check, if you will. And by not having any of the moral or legal wrongdoing connotations of impeachment—after all the President could even run in the new election—it should provide a more immediate and realistic threat than does impeachment. One of the unfortunate side effects of the recent impeachment inquiry was the acceptance by many of the White House position that indictable crimes are necessary to impeach. I have never held to this view, but it did seem to emerge as the dominant one in the proceedings. This proposal would correct this situation.

I should emphasize here that Congress could not take this action frivolously or because of policy disagreements with the Executive. In the first place, such a measure would require a two-thirds majority in both Houses. Second, the vote could only be taken upon a finding that the President "has failed or refused faithfully to execute the laws enacted by the Congress; or that he has willfully exceeded the powers vested in him by this Constitution and the laws of the United States; or that he has caused or willfully permitted the rights of citizens of the United States to be trespassed upon in violation of this Constitution, the laws of the United States, or treaties made, or that he has lost the confidence of the people to so great an extent that he can no longer effectively discharge the powers and duties of his office."

Of course, the criticism can be made that this is a one-sided proposal—that we should all stand for election once a removal vote is taken. I think this contention is more theoretical than real. As our recent experience has taught us, the vote to remove a President—or to set up new elections as under this proposal—would be one of terrible significance to one's constituents. There would seem little doubt, especially in the case of House Members, that those participating in such an exercise would be held directly accountable in very short order. It is in this way—and through the fact that what is being mandated is not removal but a new election—that control of the Government is being moved a little closer—or perhaps I should say returned—to the people.

A further argument along this line would be that a partisan majority in the Congress could use the language of the resolution to expel any President they did not like. There are two answers to this:

First, the vote required is two-thirds of both Houses—a majority difficult to obtain on any issue, particularly so on a question of such obvious controversiality. Second, as mentioned before, there is little doubt that the representatives voting on the question will be in extremely close touch with their constitutents. That a vindictive Congress would vote to oust a President with broad—or even minimal—public support is highly unlikely.

This proposal does not solve the problem of policymaking by the executive; as I mentioned previously, we must look to our own capacities for definition and oversight for that. But it could help us to restore some of the balance originally envisioned by the Framers. While recognizing the latter day necessity for effective executive authority, such a proposal can offer us realistic protection against such authority's abuse.

Mr. President, I ask unanimous consent that the resolution be printed in full at the conclusion of my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. Res. 255

Joint resolution proposing an amendment to the Constitution of the United States relating to the strengthening of the system of checks and balances between the legislative branches of the Government as envisioned by the Constitution with respect to the enactment and execution of the laws and the accountability to the people of the executive as well as the legislative branches of the Government

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution of the several States:

Section. 1. There shall be such power vested in the Congress of the United States that upon enactment by two-thirds of the Senate and of the House of Representatives present of a joint resolution that the President has failed or refused faithfully to execute the laws enacted by the Congress; or that he has willfully exceeded the powers vested in *him* by this Constitution and the laws of the United States; or that he has caused or willfully permitted the rights of citizens of the United States to be trespassed upon in violation of this Constitution, the laws of the United States, or treaties made, or which shall be made, under their authority; or that he has lost the confidence of the people to so great an extent that he can no longer effectively discharge the powers and duties of his office, the Congress shall by legislation enact a law which shall be excluded from the provisions enumerated in article I, section 7 of this Constitution requiring presentation to and signature by the President of all laws by Congress which shall provide for a special election for President and Vice President of the United States, such special election to be held within ninety days from the date of enactment of the joint resolution.

Sec. 2. The special election of the President and the Vice President as provided for in section 1 of this article shall be by the direct popular vote of the registered voters of the several States.

Sec. 3. The special election shall be held pursuant to law enacted by the Congress and necessary campaign funds and allied expenses of the political parties participating in such special election as provided for in this article shall be financed exclusively from the funds which the Congress shall appropriate. Such legislation shall be excluded from the provisions enumerated in article I, section 7 of this Constitution requiring presentation to and signature by the President of all laws by Congress.

Sec. 4. The provisions of this article establishing a special election shall be inoperative whenever the date for such special election shall occur within one hundred and eighty days prior to the normal date for the election of the President and Vice President as provided for by this Constitution and the laws of the United States.

Sec. 5. The provisions of this article shall not affect the operation of the twenty-second amendment to this Constitution. The incumbent President and Vice President shall be eligible to be renominated as candidates of their respective political party for reelection; and, if reelected, shall be considered as continuing to fulfill the term of office for which originally serving upon the enactment of the legislation under this article. If persons other than the incumbents are elected in the special election, such persons elected shall serve for the remainder of the unexpired terms of the incumbents.

Sec. 6. The provisions enumerated in section 1 of this article shall in no manner impair impeachment procedures relating to the President and Vice President in this Constitution.

Sec. 7. The Congress shall have power to enforce this article by appropriate legislation.

Sec. 8. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution of the United States by the legislatures of three-fourths of the several States within seven years from the date of its submission to the several States by the Congress.

By Mr. ALLEN:

S.J. Res. 256. A joint resolution to establish a national commission to study and report on the impact of certain regulatory agencies upon commerce and for other purposes. Referred to the Committee on Government Operations.

NATIONAL COMMISSION ON REGULATORY REFORM

Mr. ALLEN. Mr. President, opinion polls and our mail are telling us that the public does not feel that the Federal Government is doing a good job either at the legislative or executive levels. In today's highly inflationary times, consumers are, with justification, questioning the effectiveness and efficiency of the Federal Government in regulating the keystone of the American way of life, commerce.

It is high time that we reevaluated our regulatory mechanisms in light of the complex realities of the times. And this is just what President Ford perceived in his October 8 address to a joint session of Congress.

In that address, the President urged "a joint effort by the Congress, the executive branch, and the private sector to identify and eliminate existing Federal rules and regulations that increase costs to the consumer without any good reason in today's economic climate."

The legislative response was almost immediate. A few days later, a joint resolution was introduced for the distinguished chairman of our Commerce Committee, Mr. Magnuson, and a similar bill was introduced in the other Chamber. The distinguished Senator from Montana (Mr. Metcalf) also introduced a bill, by request, which will very soon undergo hearings in the Committee on Government Operations on which I serve.

These proposals would create a bi-partisan National Commission on Regulatory Reform which would look beyond the veil of Federal agency press releases and high-sounding titles on congressional enactments. It would run a cost-benefit study on major regulatory efforts and report back to us its correcting recommendations.

THE ACA PARALLEL

I heartily endorse this concept of finding where the problems lie—there no doubt are problems—and tailoring solutions to the problems. In fact, many of us steadfastly maintained such a position during the debate on the now moribund bill to create an Agency for Consumer Advocacy—alias Consumer Protection Agency. It made little sense to propose, as some proponents of the ACA bill did, that because there were problems in existing agencies we should create yet another permanent agency. That is a product of the old school of regulation, bureaucratic block building, which has contributed greatly to the mess we are in now.

The groundswell of support for that ACA bill was a valid expression of frustration with the present regulatory situation, an attitude that Congress should do something. A look at the expressions of support for the ACA bill will show that most of them indicated a gross unfamiliarity with the complexites and issues raised by that particular bill; the public just wanted something done about the situation.

THE ALLEN BILL

A high-level National Commission on Regulatory Reform can guarantee that something is done about the situation. I not only endorse this concept, I have today, Mr. President, introduced Senate Joint Resolution 256 to create such a commission.

This bill is introduced as a constructive addition to the bills now scheduled for hearing. I have had the benefit of the recent recess to study the President's message and the existing bills which were introduced shortly thereafter. I believe my bill takes the best of current proposals and adds to them certain concepts that flow logically from their comparative study and recent experience in Congress.

STRUCTURE

The Allen bill proposes a slightly different structure for the Reform Commission than do other proposals. First, under the Allen bill, the Commission is a 15-member body, while other proposals would create a 12-member body.

The major difference in this regard is that the Allen bill would mandate that the President, with Senate advice and consent, appoint six qualified representatives from within the private sector, and that these be specifically chosen from the labor community, business community, and from consumer representatives—two from each area of expertise.

Other Reform Commission proposals variously require either three or four representatives from the private sector, and none of these other proposals stipulates the areas of expertise desired.

In addition to the private sector representatives, the Allen bill proposes that Reform Commission members be appointed from the Senate, the House of Representatives and the executive branch; three from each area. This follows the pattern of the other bills, with one major exception. The other bills would either allow or even mandate that officials from Federal regulatory agencies serve as Commissioners on the unit created to study regulatory agencies. Such appointments would be of dubious value, in my opinion.

Under the Allen bill, the three executive branch representatives must be officials of nonregulatory agencies. Executive branch officials in expert nonregulatory agencies, such as the Office of Management and Budget or the Administrative Conference of the United States, it would appear to me, would be more appropriate as appointees to a Regulatory Reform Commission than would officials with regulatory responsibilities.

JURISDICTION

The Allen bill also differs from other regulatory reform proposals in regard to the Commission's jurisdiction.

The other proposals purport to limit themselves to independent agencies, omitting executive branch units which are not independent. I see little justification for such a limitation.

The approach taken in the Allen bill is to allow the Commission to study and make recommendations concerning any agency which is authorized to regulate commerce by rulemaking—which includes ratemaking—or adjudication—which includes licensing—provided the Commission decides that the agency's actions are of substantial importance to the protection of the public's health, safety, or economic interests. The word "actions" is used in the legal, Administrative Procedure Act, sense here to include failures to act.

Like some of the other proposals, the Allen bill lists specific agencies which the Commission must study. In my bill, the list is dominated by independent regulatory agencies, but does include three agencies which are operating units of Cabinet-level departments. These are agencies recently criticized for failure to act responsibly or for acting in a manner which tends to promote unnecessary costs.

The independent regulatory agencies specifically mentioned in the Allen bill as subject to the Regulatory Reform Commissions mandate are a cross section of bureaucracy. They all have been linked with sufficient charges of being nonresponsive to the public interest or with taking action which promotes unnecessary—hence, inflationary—costs to warrant their objective evaluation. They are: The Civil Aeronautics Board, the Consumer Product Safety Commission, the Environmental Protection Agency, the Federal Communications Commission, the Federal Maritime Commission, the Federal Power Commission, the Federal Reserve System, the Federal Trade Commission, the Interstate Commerce Commission, the National Labor Relations Board, the Postal Rate Commission, the Securities and Exchange Commission, and the U.S. Postal Service.

The three nonindependent agencies specifically made subject to the mandate of the Commission under the Allen bill are the Food and Drug Administration, the National Highway Traffic Safety Administration, and the Occupational Safety and Health Administration.

ACA STUDY

Finally, the third major distinction between the Allen bill and the other Regulatory Reform Commission proposals concerns the recent proposals for the creation of an Agency for Consumer Advocacy, mentioned earlier.

Proponents of this ACA insist that its benefits exceed its costs. Opponents have maintained that it would be an inflationary measure conceived in ignorance of the real problems existing in our Federal regulatory scheme and subject to the same abuses to which the regulatory agencies are subject.

A bipartisan, expert National Commission on Regulatory Reform is precisely the body to evaluate objectively the adequacy of representation of the interests of consumers in the decisionmaking process of regulatory agencies. The Allen bill gives the Commission a mandate to do so.

In addition, the Allen bill would require the Commission to report on alternative methods for improving such consumer representation, including specifically as one of these alternatives the establishment of a nonregulatory agency to so represent consumer interests and an evaluation of the jurisdiction, functions, duties, powers, personnel, and authorization of funds anticipated as being necessary to make such a Federal Agency for Consumer Advocacy a viable alternative.

For example, who better could solve one of the major issues of the ACA debate—should Federal action dealing with certain labor activities be excluded from consumer representation, even though it greatly affects consumers?

Under the Allen bill, the Commission is to report on these consumer representation facets within 18 months, giving a full cost-benefit analysis as required for other studies.

ALLEN AMENDMENT

Although the Allen bill contains several other refinements, these provisions concerning the Reform Commission's structure, jurisdiction and consumer representation determinations are its three major distinguishing features.

With this in mind, I have also filed today an amendment to conform S. 4145 to the Allen bill in these three areas; S. 4145 is the bill by Senator Metcalf, for himself and the highly respected and distinguished Chairman Ervin, on which our committee is expected to hold hearings this week.

Mr. President, I ask unanimous consent that my proposal to create a National Commission on Regulatory Reform, Senate Joint Resolution 256, be printed at this point in the Record along with a comparison of its major provisions to those of the other bills on this subject now pending in the Senate.

There being no objection, the joint resolution and comparison were ordered to be printed in the Record, as follows:

S.J. Res. 256

Joint resolution to establish a national commission to study and report on the impact of certain regulatory agencies upon commerce and for other purposes

Whereas the American consumer has a right to be protected against inefficient or otherwise unreasonable regulation of commerce which results in increased costs of products and services purchased for personal, family or household use;

Whereas those persons whose products and services are marketed to consumers are entitled to compete for a profit on their investments free of such inefficient or otherwise unreasonable regulation of commerce;

Whereas the Congress, in order to regulate commerce with foreign nations and among the several States, has created and continues to create regulatory agencies as arms of the Congress with authority to act within a broad framework of congressionally established standards and policies;

Whereas such regulatory agencies may be imposing unnecessary or unreasonable burdens upon commerce by legitimizing restrictive and anticompetitive trade practices or by otherwise acting contrary to the purposes of establishing such agencies;

Whereas any such burdens would unnecessarily or unreasonably increase the cost to the consumer of goods and services made available in commerce;

Whereas the President of the United States, in an address to a joint session of the Congress, has called for "a joint effort by the Congress, the Executive Branch and the private sector to identify and eliminate existing Federal rules and regulations that increase costs to the consumer without any good reason in today's economic climate"; and

Whereas, the President's recognition of the need for the establishment of a national commission to examine the operation of the regulatory agencies and to examine the premises upon which some or all of them were created is supported by testimony received by Committees of the Congress, the efficacy of these agencies, the accountability of these agencies to the public interest, and the public policy justification of these agencies should be studied and reviewed by qualified and impartial individuals on a bipartisan basis: Now, therefore, be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled:

(a) Establishment.—There is established for a term of three years a National Commission on Regulatory Reform (hereinafter referred to as the "Commission").

(b) Structure.—(1) The Commission shall consist of fifteen members, as follows:

(A) Three who shall be appointed by the President Pro Tempore of the Senate, of whom not more than two shall be affiliated with the same political party;

(B) Three who shall be appointed by the Speaker of the House of Representatives, of whom not more than two shall be affiliated with the same political party;

(C) Three who shall be appointed by the President, with the advice and consent of the Senate, from the personnel of Federal agencies other than regulatory agencies;

(D) Six who shall be appointed by the President, with the advice and consent of the Senate, from individuals who, because of their education, training or experience shall, respectively, be two qualified representatives of the interests of (i) the labor community, (ii) the business community, and (iii) the ultimate consumer of goods and services, of whom not more than four shall be affiliated with the same political party.

(2) Members of the Commission shall be appointed for a term of three years, except that any individual appointed to fill a vacancy occuring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and in the same manner in which such predecessor was appointed.

(3) The members of the Commission shall elect one of their number to serve as Chairman thereof.

(4) Twelve members of the Commission shall constitute a quorum for the purpose of electing a chairman or approving any final reports required by this resolution, and eight members of the Commission shall constitute a quorum at any meeting for the performance of any other function of the Commission; *Provided,* That notice in writing of the dates, time, and location of any meeting of the Commission is given or sent by certified mail to each of the members of the Commission at least fifteen days prior to the date thereof.

(c) Duties.—The Commission shall—

(1) within twelve months after its establishment, prepare a comprehensive report to the Congress and the President containing its conclusions and recommendations, together with the criteria, standards, data, and findings upon which such conclusions and recommendations are based, with respect to—

(A) the consequences to the Nation of regulation by regulatory agencies;

(B) the economic costs, including any inflationary impact upon the price of goods and services resulting from such regulation, and any economic benefits, of regulation by the regulatory agencies, including an analysis of the relationship, if any, between such regulation and the degree of market concentration, the amount of competition, and the performance characteristics of industries subject thereto, of regulation by the regulatory agencies, considered collectively and individually;

(C) any noneconomic costs and benefits of such regulation, taking into account reliability of service, protection of the environ*ment, protection of* low and middle-income consumers, demographic impact, quality of life, and other relevant factors and national goals and purposes as set forth in Acts of Congress;

(D) evaluation of the benefits to the Nation of continuing regulation by regulatory agencies, considered collectively and individually, and costs thereof in comparison with the benefits to the Nation of discontinuing such regulation in whole or in part, and costs thereof;

(E) the consequences to the Nation of discontinuing regulation by regulatory agencies, on the same bases as set forth in subparagraphs (B) and (C) hereof;

(F) the extent to which regulation by such agencies should be continued, discontinued, or modified to attain the maximum economic and other benefits to the Nation at the minimum economic and other costs to the Nation and its citizens, including identification of regulation which should be continued and regulation which should be discontinued and on what basis; and

(G) the economic costs and benefits to consumers, to those who produce or sell goods or services in commerce and to taxpayers, of the collection of information by regulatory agencies from those who produce or sell goods or services in commerce;

(2) within eighteen months after its establishment, prepare a second such comprehensive report to the Congress and the President, with respect to—

(A) adequacy of representation of the interests of consumers within the decision-making process of the regulatory agencies;

(B) alternative methods for improving such representation, evaluating the anticipated economic and noneconomic costs and benefits of each in relation to consumers, taxpayers and efficient regulation of commerce, including specifically as one of these alternatives the establishment of a nonregulatory agency to so represent the interests of consumers and an evaluation of the jurisdiction, functions, duties, powers, personnel and authorization of funds anticipated as being necessary to make such a nonregulatory agency a viable alternative.

(3) within twenty-four months after its establishment prepare a third such comprehensive report to the Congress and the President, with respect to—

(A) changes in the structure, operations, procedures, mechanisms, and philosophy of the regulatory agencies, considered collectively and individually, which would decrease any negative consequences of regulaton to the Nation without impairing the affirmative consequences thereof;

(B) the extent to which such changes and any other modifications (by statute, regulation, rule, or practice) could improve the effectuation by such agencies, considered collectively and individually, of their statutory purposes and duties;

(C) all reasonable proposals for administering the regulatory agencies and for improving the efficiency, effectiveness, responsiveness, and accountability of such agencies, considered collectively and individually, including, but not limited to an evaluation of proposals for—

(i) merging or otherwise restructuring existing independent regulatory agencies;

(ii) providing for tenure in the office of the Chairman of each independent regulatory agency;

(iii) providing for some form of merit selection recommendation prior to nomination of members of such agencies;

(iv) reducing the number of members or commissioners of such agencies and defining areas of responsibility of each;

(v) authorizing each agency to appoint a certain number of employees without regard to the provisions of the civil service laws applicable to officers and employees of the United States for the transaction of business which involves policy or other special responsibilities and who may be removed at the discretion of the agency;

(vi) authorizing the Senate to withdraw its advice and consent to an appointment of a member of such an agency.

(vii) limiting the authority of the President to remove a member of such an agency or establishing an impartial procedure for investigation and hearing prior to mandatory removal by the President, such as that established in some States for the removal of unfit judges upon a finding by an independent removal commission;

(viii) prohibiting members of such agencies and employees thereof of grade GS–14 and above from accepting employment or direct or indirect compensation from any person subject to regulation by their agency for a fixed period of time after they leave the employ of such agency;

(ix) granting each such agency independent control of its litigation in the Federal courts;

(x) directing that each such agency transmit legislative recommendations and budget requests directly to the appropriate committees of the Congress simultaneously with any submission to any official in the executive branch and without prior approval by any person outside such agency;

(xi) better means of enforcement of determinations by such agencies and faster ways of investigating and reaching such determinations, including the establishing of semiautonomous regional and district offices; and

(xii) expanding the responsibility of the Comptroller General of the United States, on behalf of Congress, for regular performance auditing of each such agency, authorizing the duly authorized committees of the Congress to appoint hearing examiners to conduct regular hearings into the actions and inactions of each such agency, and other ways of making such agencies more accountable to the Congress.

(4) Within thirty-six months after the date of its establishment, prepare a fourth such comprehensive report to the Congress and the President detailing steps taken or underway to carry out the recommendations set forth in the first, second and third comprehensive report together with any additions, modifications, or further refinements of such earlier conclusions and recommendations.

(d) Definitions.—As used in this joint resolution—

(A) "independent regulatory agency" means the Civil Aeronautics Board, the Consumer Product Safety Commission, the Environmental Protection Agency, the Federal Communications Commission, the Federal Maritime Commission, the Federal Power Commission, the Federal Reserve System, the Federal Trade Commission, the Interstate Commerce Commission, the National Labor Relations Board, the Postal Rate Commission, the Securities and Exchange Commission, and the U.S. Postal Service;

(B) "regulatory agency" means any independent regulatory agency, the Food and Drug Administration (being an agency of the Public Health Service in the Department of Health, Education, and Welfare), the National Highway Traffic Safety Administration (being an agency of the Department of Transportation), the Occupational Safety and Health Administration (being an agency of the Department of Labor) and any "agency" as defined in Section 551 of title 5, United States Code, authorized to regulate commerce by rulemaking or adjudication, the actions of which, as determined by the Commission, are of substantial importance to the protection of the public's health, safety, or economic interests.

(e) Advisory Committees.—To assist it in carrying out its duties, the Commission is authorized to appoint such advisory committees as it deems necessary or appropriate consisting of qualified administrative law experts, political scientists, economists, management specialists, consumer representatives, environmentalists, social scientists, and other individuals, pursuant to the Federal Advisory Committee Act (5 U.S.C. App. I).

(f) Powers.—(1) The Commission or any member thereof may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or other order the attendance and testimony of such witnesses and the production of such evidence as the Commission or member deems advisable. Subpenas may be issued under the signature of the Chairman or any duly designated member of the Commission, and may be served by any person designated for such purpose by the Chairman. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production may be required from any place in the United States to any place designated for such hearing.

(2) In case of refusal to obey a subpena or other order issued under paragraph (1) of this subsection, by any person who resides, is found, or transacts business within any judicial district of the United States, the district court of the United States or any such district shall have jurisdiction and shall upon the request of the Chairman of the Commission issue to such person an order to appear and produce evidence. Any failure to obey such an order shall be punishable by such court as a contempt of court.

(3) The Administrator of General Services shall furnish the Commission with such offices, equipment, supplies and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(4) Each Federal agency is authorized and directed to furnish to the Commission, upon written request by the Chairman thereof, on a reimbursable basis or otherwise, such assistance as the Commission deems necessary to carry out his duties.

(5) The Commission may enter into such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its duties, with any person.

(6) If the Commission receives of any person or agency any material or other information which was, or had been, submitted on a confidential basis, protected as such by statute, such material or other information shall be held in confidence by the Commission.

(g) Compensation and Personnel.—(1) A member of the Commission shall receive compensation only if not otherwise employed in any capacity by the Federal Government. Such member shall receive $300 per diem when engaged in the actual performance of duties vested in the Commission. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(2) Subject to such rules and regulations as the Commission may adopt, the Chairman of the Commission shall have the power to (A) appoint, fix the compensation, and assign the duties of an Executive Director and such additional staff personnel as are deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, except that no individual shall be paid at rates in excess of the maximum rate for GS–18 of the General Schedule as set forth under section 5332 of such title; and (B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for persons performing such services.

(h) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary, not to exceed $1,000,000 for each of the years of its establishment, such sums to remain available until expended.

(i) TERMINATION.—Ninety days after the submission of the final report provided for in subsection (c)(4), the Commission shall cease to exist.

COMPARISON OF MAJOR PROVISIONS OF SENATE PROPOSALS TO CREATE A NATIONAL COMMISSION ON REGULATORY REFORM

S. 4145 (By Mr. METCALF)	S.J. RES. 253 (For Mr. MAGNUSON)	S.J. RES. — (By Mr. ALLEN)
	A. Term of commission	
One year, plus 90 days. Sec. 3(b);7.	Three years [no specific termination provision]. Sec. (a).	Three years, plus 90 days. Sec. (a); (c)(4); (i).
	B. Structure	
1. Twelve members. Sec. 2(a).	1. Twelve members. Sec. (b)(1).	1. Fifteen members. Sec. (b)(1).
2. Senators: Two, appointed by "the President" of the Senate [no provision regarding party affiliation for any appointee under this bill]. Sec. 2(a).	2. Senators: Three, appointed by the Majority Leader; no more than two from the same political party. Sec. (b)(1)(A).	2. Senators: Three, appointed by the President Pro Tempore, no more than two from the same political party. Sec. (b)(1)(A).
3. House Members: Two, appointed by the Speaker. Sec. 2(a)(4).	3. House Members: Three, appointed by the Speaker; no more than two from the same party. Sec. (b)(1)(B).	3. House Members: Three, appointed by the Speaker; no more than two from the same party. Sec. (b)(1)(B).
4. Executive Branch: Four 'senior officials of the executive branch" appointed by the President. Sec. 2(a)(2).	4. Executive Branch: Three independent regulatory agency officials, appointed by the President with Senate advice and consent. Sec. (b)(1)(C).	4. Executive Branch: Three officials from agencies which are *not* regulatory agencies, appointed by the President with Senate advice and consent. Sec. (b)(1)(C).
5. Private Sector: Four members, appointed by the President. Sec. 2(a)(1).	5. Private Sector: Three appointed by the President with Senate advice and consent "from lists of qualified individuals"; no more than two from the same political party. Sec. (b)(1)(D).	5. Private Sector: Six, appointed by the President with Senate advice and consent, two qualified representatives each of the interests of the labor community, business community, and ultimate consumers of goods and services; no more than four from the same political party. Sec. (b)(1)(D).
6. Chairman: President of U.S. designates Chairman and Vice Chairman. Sec. 2(c).	6. Chairman: Commission elects Chairman; all 12 members must be present to constitute a quorum for such a vote [no Vice Chairman provided for]. Sec. (b)(3)(4).	6. Chairman: Commission elects Chairman; 12 of 15 members must be present to constitute a quorum for such a vote [no Vice Chairman provided for]. Sec. (b)(3)(4).
	C. Jurisdiction	
1. Regulatory activities of "independent regulatory agencies," identified for review by the Commission, including State and local regulatory activities which "interact" with the Federal independent regulatory system. Sec. 3(a).	1. Regulation by Federal "independent regulatory agencies". [State and local activities not expressly covered.] Sec. (c).	1. Regulation by Federal "regulatory agencies". [State and local activities not expressly covered.] Sec. (c).
2. Key Definitions: [None].	2. Key Definitions: "Independent regulatory agency" means—CAB, CPSC, FCC, FMC, FPC, FTC, ICC, and any other Federal entity which "was or is in the future established by law to exercise independent investigatory, regulatory, or oversight responsibilities of importance to the protection of public health, safety, or consumers." Sec. (d).	2. Key Definitions: (a) "Independent regulatory agency" means—[same specific agencies as S.J. Res. 253, plus the following:] EPA, Federal Reserve System, NLRB, Postal Rate Commission, SEC, U.S. Postal Service. (b) "Regulatory agency" means—any independent regulatory agency, the FDA, National Highway Traffic Safety Administration, OSHA, and any "agency" per 5 USC 551 authorized to regulate commerce by rulemaking or adjudication, the actions of which, in the Commission's opinion, are of substantial importance to the protection of the public's health, safety, or economic interests. Sec. (d).
	D. Commission reports and recommendations	
1. Within One Year: Comprehensive report and recommendations to the President and Congress [See bill for criteria.] Sec. 3(a), (b).	1. Within One Year. Comprehensive report and recommendations to the President and Congress. [See bill for extensive criteria.] Sec. (c)(1).	1. Within One Year: [Same as S.J. Res. 253, except the Commission must also report specifically on the economic costs and benefits of information by regulatory agencies from business.] Sec. (c)(1).
2. Within 18 Months: [None.]	2. Within 18 months: [None.]	2. Within 18 Months: Comprehensive report on the adequacy of representation of consumer interests in regulatory agencies and alternative methods for improving such representation, including the possible establishment of a nonregulatory Agency for Consumer Advocacy. Sec. (c)(2).
3. Within Two Years: [None.]	3. Within Two Years: Comprehensive report primarily concerning needed changes. [See bill for extensive criteria.] Sec. (c)(2).	3. Within Two Years: [Essentially the same as S.J. Res. 253.] Sec. (c)(3).
4. Within Three Years: [None.]	4. Within Three Years: Final comprehensive report detailing steps taken or underway to carry out recommendations in prior reports, with any additions or modifications to earlier reports. Sec. (c)(3).	4. Within Three years: [Same as S.J. Res. 253.] Sec. (c)(4).

COMPARISON OF MAJOR PROVISIONS OF SENATE PROPOSALS TO CREATE A NATIONAL COMMISSION ON REGULATORY REFORM

S. 4145 (By Mr. METCALF)	S.J. RES. 253 (For Mr. MAGNUSON)	S.J. RES. — (By Mr. ALLEN)
	E. Commission Powers	
1. Hearing and Subpena Power. Sec. 4 (a), (b).	1. Hearing and Subpena Power. Sec. (f) (1), (2).	1. Hearing and Subpena Power. Sec. (f) (1), (2).
2. Appoint Advisory Committes: Only for specific analytical or investigative undertakings. Sec. 4(d).	2. Appoint Advisory Committees: As deemed necessary by Commission. Sec. (e).	2. Appoint Advisory Committees: As deemed necessary by Commission. Sec. (e).
3. Duties of Other Units: Congress and *any Federal, State* or local agency *must* furnish information requested by Commission, subject to Federal laws and Constitution. Sec. 6.	3. Duties of Other Units: All "Federal agencies" must furnish requested "assistance" as Commission deems necessary, and GSA must furnish supplies and services as it would to other agencies. Sec. (f) (3), (4).	3. Duties of Other Units: [Same as S.J. Res. 253.] Sec. (f) (2), (4).
	F. Confidential Information	
Materials submitted on a confidential basis to the Commission or to any Government agency, protected as such by statute, must be held confidential by Commission. Sec. 4(c).	[Nothing similar.]	[Essentially the same as S. 4145] Sec. (f) (6).
	AUTHORIZATION	
$500,000. Sec. 8.	Such sums as necessary, not to exceed $1,000,000 for each of the years of its establishment. Sec. (h).	[Same as S. J. Res. 253.] Sec. (i).

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3908

At the request of Mr. TAFT, the Senator from Maine (Mr. HATHAWAY) and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of S. 3908, a bill to revise and improve the program of supplemental security income established by title XVI of the Social Security Act, and for other purposes.

S. 3911

At the request of Mr. BENTSEN, the Senator from Georgia (Mr. NUNN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Delaware (Mr. BIDEN), the Senator from Utah (Mr. BENNETT), the Senator from Wyoming (Mr. MCGEE), the Senator from Georgia (Mr. TALMADGE), the Senator from Massachusetts (Mr. BROOKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Maryland (Mr. BEALL), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 3911, a bill to require more effective and efficient management of the records of Federal agencies.

S. 3985

At the request of Mr. WILLIAMS, the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. METCALF), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 3985, the Anti-Dog-Fighting Act.

S. 4060

At the request of Mr. HANSEN, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 4060, a bill to amend section 206 of the Federal Water Pollution Control Act in order to authorize reimbursement for the construction of certain sewage treatment works.

S. 4065

At his own request, the Senator from Michigan (Mr. GRIFFIN) was named as a cosponsor of S. 4065, a bill to prohibit the shipment in interstate commerce of dogs and other animals intended to be used to fight dogs or other animals for purposes of sport, wagering, or entertainment.

ADDITIONAL COSPONSORS OF A RESOLUTION

S. RES. 392

At the request of Mr. TAFT, the Senator from Minnesota (Mr. HUMPRHEY) and the Senator from Pennsylvania (Mr. HUGH SCOTT) were added as cosponsors of Senate Resolution 392, concerning the safety and freedom of Valentyn Moroz, Ukrainian historian.

AMENDMENTS SUBMITTED FOR PRINTING

SUPPLEMENTAL APPROPRIATIONS, 1975—H.R. 16900

AMENDMENTS NOS. 1979 AND 1980

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY submitted two amendments intended to be proposed by him to the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

AMENDMENT NO. 1981

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted an amendment intended to be proposed by him to the bill (H.R. 16900), supra.

AMENDMENTS NOS. 1983 AND 1984

(Ordered to be printed and to lie on the table.)

Mr. CLARK. Mr. President, I ask unanimous consent that two amendments to the supplemental appropriations bill—H.R. 16900—be printed. These amendments I submit for myself and Senator KENNEDY.

The first amendment would increase the funding for the manpower assistance programs for older workers by $3 million. This amendment would, in effect, raise the operating level of the Operation Mainstream programs to $23 million. This increase would insure that older workers receive the benefit of the new minimum wage increase, and it also would insure that present employment programs are not cut back.

The second amendment would increase the Senate appropriation for the title VII older Americans nutrition program by $25 million above the House-passed figure, raising the appropriation to $150 million. This increase is needed to insure that the nutrition program is fully funded to meet the rising cost of food and to begin to serve the large number of older people who qualify for the nutrition program but are not now participating in it.

AMENDMENT NO. 1985

(Ordered to be printed and to lie on the table.)

(Mr. HELMS (for himself, Mr. ALLEN, Mr. GURNEY, Mr. BUCKLEY, Mr. SPARKMAN, Mr. STENNIS, Mr. THURMOND, Mr. HARRY F. BYRD, JR., and Mr. TALMADGE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 16900), supra.

NATIONAL COMMISSION ON REGULATORY REFORM—S. 4145

AMENDMENT NO. 1982

(Ordered to be printed and referred to the Committee on Government Operations.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (S. 4145) to establish a National Commission on Regulatory Reform.

NOTICE OF HEARING

Mr. SPARKMAN. Mr. President, I should like to announce that oversight hearings on rural housing programs will be conducted on November 19, 20, and 21, 1974, as part of a special rural housing study program proposed by Senator WILLIAM D. HATHAWAY during a meeting of the Committee on Banking, Housing and Urban Affairs.

The hearings, called by the Subcommittee on Housing and Urban Affairs, will review rural housing needs, and examine the operation of existing programs in order to determine how Federal housing assistance programs in our nonmetropolitan areas can be improved.

I anticipate that these hearings will provide substance for new rural housing legislation in the year ahead.

The hearings will begin at 9:30 a.m. on November 19 and 20, and at 10 a.m. on November 21, and will be held in room 5302, Dirksen Senate Office Building.

The committee would welcome statements for inclusion in the record of hearings.

HEARING ANNOUNCEMENT

Mr. JACKSON. Mr. President, on Thursday, November 21, the Committee on Interior and Insular Affairs will receive a briefing on Project Independence by Dr. John C. Sawhill of the Federal Energy Administration. The briefing session, which will be open, will be held in room 3110, Dirksen Senate Office Building at 9:30 a.m. Also, on Tuesday, November 26, the committee will hold a hearing on the international energy program, a multinational energy emergency plan which the United States signed November 18. The committee will receive testimony from representatives of the Department of State, Department of the Treasury, Department of the Interior, and the Federal Energy Administration. This hearing will commence at 10 a.m. in room 3110, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

CANCER RESEARCH

Mr. HUGH SCOTT. Mr. President, in recent days one of the country's foremost problems has been brought close to us in hard and in very human terms—the fight against cancer. I am not at all sure, however, that many people are aware just how successful the treatment of cancer can be these days.

The very weekend that Mrs. Ford entered the hospital the National Cancer Institute opened a scientific meeting planned several months earlier to announce the results of some unusually important clinical trials performed under the Federal Conquest of Cancer program.

I take great pride in the fact that the most striking research results reported at the conference came from Dr. Bernard Fisher at the University of Pittsburgh.

Dr. Fisher coordinated research on breast cancer patients in 37 institutions. Dr. Frank Rosato was in charge of the work at the University of Pennsylvania Hospital in Philadelphia; Dr. Harvey Lerner at another clinic in Philadelphia, Pa., Hospital; Dr. William Demuth ran parallel studies at the Milton S. Hershey Medical Center at Hershey, Pa., and similar groups were located in other States.

When all of the results were compiled, Dr. Fisher reported that the 2½-year disease recurrence rate was under 10 percent for patients in the study who had breast cancer surgery followed by preventive anticancer medicine. It is exciting to note that the preventive medicine doses were effective in such small amounts that patients had very few of the undesirable side effects of drugs experienced by most cancer patients.

The low rate of disease recurrence came because these drugs were given soon after surgery, rather than only after reappearance of the disease.

The experience outside of this exextremely significant panel of research patents is much worse, with nearly 50 percent of them statistically likely to suffer a recurrence of the disease within 2½ years of their operations.

From nearly 50 percent to less than 10 percent recurrence—truly a remarkable advance in therapy. This research is considered by many of the scientists at the National Cancer Institute to be the best, most hopeful, most successful that has come out of the Conquest of Cancer program so far.

All of the doctors of America will be informed in coming days by full publication of the data from this remarkable study in the New England Journal of Medicine and in other publications available to all physicians and hospitals. Further, a large conference for cancer doctors from all over the country has been scheduled for New York City on November 24, 25, 26, and 27, by the American Cancer Society and the National Cancer Institute.

Just as Pennsylvania takes pride in these accomplishments which were coordinated in Pittsburgh and performed in four of the hospitals in our Commonwealth along with 33 States, I think the Congress should take pride in its investment in the Conquest of Cancer.

Mr. President, to assist in maintaining the life saving momentum brought about by Mrs. Ford's illness, I would like to list, at this point in the Record, Cancer's seven warning signals as well as the seven safeguards urged by the American Cancer Society.

I ask unanimous consent that they be printed in the Record.

There being no objection, the safeguards listed were ordered to be printed in the Record, as follows:

CANCER'S 7 WARNING SIGNALS

Change in bowel or bladder habits
A sore that does not heal
Unusual bleeding or discharge
Thickening or lump in breast or elsewhere
Indigestion or difficulty in swallowing
Obvious change in wart or mole
Nagging cough or hoarseness

If you have a warning signal, seek medical attention promptly!

THE 7 SAFEGUARDS URGED BY ACS

Lung: Reduction and ultimate elimination of cigarette smoking.

Colon-Rectum: Proctoscopic exam as routine in annual checkup for those over 40.

Breast: Self-examination as monthly female practice.

Uterus: Pap test for all adult and high-risk women.

Skin: Avoidance of excessive sun.

Oral: Wider practice of early detection measures.

Basic: Regular physical examination for all adults.

SPEED LIMIT OF 55 MILES AN HOUR IS POSITIVE WAY TO CONSERVE FUEL—PRESIDENT FORD URGES ENFORCEMENT—POLL INDICATED CITIZENS CONTINUE STRONG SUPPORT

Mr. RANDOLPH. Mr. President, a year ago America was bracing itself against the full impact of the Arab oil embargo. The sudden shortage of petroleum products forced us to make unaccustomed adjustments in our way of life. I was gratified that the citizens of this country again proved themselves equal to the challenge.

We learned some painful lessons during that period of oil shortage. I hope that we learned them well enough so that this Nation will never again be in the uncomfortable position imposed by excessive reliance on foreign fuel sources. I fear, however, that we have short memories and without firm measures we will drop back into the easy habit of permitting petroleum consumption to steadily increase.

Growing dependence on foreign sources for oil is a dangerous practice. We already know that these sources can be turned off overnight. We also know of the adverse effect on our economy of huge expenditures for foreign oil—outlays that this year are expected to reach $25 billion. In this time of economic uncertainty we cannot afford to send growing amounts of money abroad.

It is essential that every effort be made to reduce the consumption of energy—particularly oil—in this country. Oil is a finite resource and our domestic supplies of it are being rapidly depleated. There is much talk of tapping new sources of oil, notably Alaska and the ocean floor. This approach might temporarily ease the situation but the long-range answer to energy needs requires a shift to other fuels as well as conservation. If we allow ourselves to be deluded into believing that these new oil sources will end our problems we are only postposing the day when we must face up to reality.

Mr. President, America's well-known "love affair" with the automobile contributes heavily to our consumption of oil. Our mobile population now burns more than 100 billion gallons of motor fuel a year. This consumption offers the opportunity to sharply reduce oil demand. The American people responded well last winter to the need to curtail driving. A new report from the Department of Transportation shows that gasoline consumption for the first 8 months of this year was 4 percent below that of 1973. Much of this saving is directly attributable to slower driving. The nationwide 55-mile speed limit, which became law on January 2, was one of the first congressional responses to the energy shortage. In the 11½ months since its adoption the 55-mile limit has proven its value in lives saved as well as reduced fuel consumption. So convincing are the results that the Senate Public Works Committee developed provisions to make the 55-mile-per-hour maximum speed limit permanent. This feature was part of S. 3934 which was passed by the Senate on September 11 and is now pending before the House of Representatives. The latest Gallup poll, published yesterday, shows that 73 percent of those questioned believe the 55-mile limit should be kept.

I am fully aware that the 55-mile limit is not universally popular with motorists, particularly since fuel supplies are, at present, adequate. The Federal Energy Administration has calculated that adherence to the 55-mile-per-hour speed limit will produce a daily savings of 5 million gallons.

To achieve this beneficial result, however, the uniform speed limit must be observed. And to achieve this observance there must be strict enforcement of the speed limit law. While many Americans are adjusting their habits to the 55-mile limit others somehow do not feel bound by this requirement.

Enforcement of the speed limit law is the responsibility of the States. On July 10 I wrote to all 50 Governors urging them to require strict enforcement of the speed limit in their States. Responses I have received from the Governors are very encouraging and reflect their commitment to this energy saving program.

Recent news reports, however, indicate not only substantial violation of the 55-mile speed limit but also reluctance by some law enforcement agencies to insist on its observance. This shortsighted cynicism by both motorist and police is wrong. Slower driving is certainly not the total answer to our energy conservation needs but it is a readily available means of producing substantial results. The 55-mile speed limit is also a poweful symbol of our commitment to energy conservation. Our support for energy conservation as well as law and order become mere lipservice if we are unwilling to take the step of slowing down.

The commitment of President Ford to the 55-mile speed limit is gratifying and most welcome. On October 11, I sent the President a telegram requesting that he join me in a crusade in slower driving to save lives and fuel. His response was heartening and has been followed by a plea by the Governors for strict enforcement of the speed limit law.

Throughout the executive branch there appears to be the determination to see that the speed limit law is enforced. Federal authority in this area is limited and its greatest force is that of persuasion. I look forward to working with the Secretary of Transportation in exploring possibilities for improving enforcement of the 55-mile speed limit.

Mr. President, there is wide approval of the uniform national speed limit in the media. A number of publications have explained the benefits of slower driving in a manner I believe will be helpful in carrying our message to the people. In this month's issue of "Ford Times" magazine a concise article shows the dramatic results that can be achieved by slower driving. Millions of motorists will read it and I hope that they will heed its message.

Mr. President, I ask unanimous consent that my telegram to President Ford, his response and the article from Ford Times be printed in the Record.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[TELEGRAM]

OCTOBER 10, 1974.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: One of the most readily available ways of reducing our energy consumption is slower driving. The Federal Energy Office has reported a saving of five million gallons of gasoline a day during the first four months of this year. Strict adherence to the national 55 miles per hour speed limit could produce even greater savings now that automobile usage is higher than that of six months ago. Recent reports show that gasoline consumption is greater than a year ago, making the need to conserve fuel even more critical. Twice last year I appealed to all governors urging their support for a Senate-passed resolution calling for voluntary speed reductions. The Uniform Speed Limit Act (P.L. 93-239) became law last January and has been effective. Faced with increased gasoline supplies and an apparent weakening of our conservation resolve, I wrote to the governors on July 10, 1974, urging strict enforcement of the 55 miles per hour speed limit. The response was gratifying. In view of your declared desire to see fuel consumption reduced, I hope you will join with me in this effort and stress to governor's and others responsible for law enforcement the necessity for strict enforcement of the speed limit. The benefits in savings of both fuel and lives are absolutely necessary if we are to continue our crusade.

JENNINGS RANDOLPH,
Chairman, Senate Committee on Public Works.

THE WHITE HOUSE,
Washington, D.C., October 11, 1974.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR JENNINGS: Thank you for your October 10 telegram. I do want you to know that we are in complete agreement over the need to enforce rigidly the 55 miles per hour speed limit. It is essential to the overall objectives of our energy conservation program.

I am confident that through our cooperative efforts we will be able to emphasize the necessity of enforcing this speed limit. Not only has it proven effective as an energy saver, but also it has been of incalculable value in the reduction of highway casualties. You may be assured that my Administration will continue to emphasize the importance of strict enforcement of this limit by State and local law enforcement agencies. In addition, I have directed Secretary Brinegar to work with State officials to suggest additional traffic control measures for conserving gasoline.

The reduction in vehicular gas consumption will be an important factor in implementing Rog Morton's marching orders to reduce our foreign imports by one million barrels a day by the end of 1975. I know that he will welcome you, as I do, as an ally in this joint endeavor.

With warmest personal regards,
Sincerely,

JERRY FORD.

[From Ford Times, November 1974]

WHY 55?

Until problems developed in the free flow of gasoline last fall, many Americans thought that a speed limit of about 70 miles an hour was a basic right, like the freedoms guaranteed by the Constitution. While fuel was temporarily in short supply, the Congress passed a national 55-mph speed limit—and howls of protest filled the air.

The speed limit has been in effect since January 1—nearly a year—and three things have become apparent: first, it saves lives; second, it saves gasoline; third, many people like it.

Since the law's inception, traffic deaths have declined approximately 25 percent. The National Safety Council largely credits the lower speed for the fact that, on the average, 1,000 fewer Americans have been killed each month on the nation's roads since the lowering of speed limits. During the first six months of the lower limit, turnpike traffic deaths declined by 60 percent.

With respect to fuel consumption, John C. Sawhill, head of the Federal Energy Administration, said if the new limit were universally respected, the country could save more than five million gallons of oil products a day. Since the limit went into effect, he said, "we have been saving a significant proportion of that."

Because the 55-mph limit also reduces fuel consumption, it also saves drivers money.

Most automobile engines operate at peak fuel efficiencies between 35 and 50 mph, and higher speeds only cause more wind resistance, the prime reason for the increase of gasoline consumption.

Wind resistance actually is four times greater at 60 mph than it is at 30 mph. And, when you compare 55-mph speed limits with 70-mph limits, fuel consumption is increased by 57 percent at the higher speed due to increased air resistance alone. (It's 86 percent greater at 75 mph than at 55.)

In more familiar terms, if a driver were to travel 300 miles in a Pinto at 55 mph, and got 30 miles per gallon, he'd burn 10 gallons of gas. If the gas price were 60 cents a gallon, his trip would cost $6. If, however, he traveled at 70 mph, his miles-per-gallon rate could be cut to 19, requiring 15.7 gallons of gas—a cost of $9.42.

Besides the obvious advantage of saving lives and gas, the lower speed limit has brought out one more important factor in its favor—drivers seem to like it.

The Gallup Poll reports that the public favors the lower limit by a margin of nearly three to one. Some drivers like it for safety reasons, some because of fuel conservation, others for the simple reason that they feel more relaxed traveling slower.

Industry leaders also favor the national 55-mile-an-hour speed limit. Ford Motor Company officially endorsed it when Ford President Lee A. Iacocca told newsmen, "I urge Congress to keep this important measure on the books indefinitely. For one thing, it already has saved thousands of lives and will save more in the future.

"Beyond that, it has helped reduce fuel consumption, which in turn has saved people money. And a continuing 55-mile speed limit would enable us to save still more fuel, because we could refine our engine-driveline combinations to provide optimum performance at more economical speeds."

THE NEED FOR AN ETHNIC HERITAGE STUDIES PROGRAM

Mr. TAFT. Mr. President, I firmly believe in the positive value of intercultural educational experiences help people understand that those who differ in ethnic backgrounds have much in common in abilities, interest, and reactions. Such educational experiences also help people to learn to appreciate the value of diversity among peoples.

To this end, I ask unanimous consent that the remarks of Dr. Michael S. Pap, John Carroll University, Cleveland, Ohio, on the need for an ethnic heritage studies program be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

WHY TITLE XI? WHY DO WE NEED AN ETHNIC STUDIES PROGRAM?

(By Dr. Michael S. Rap)

Together, as the directors, coordinators, Federal officials, ethnic communities representatives, and originators or "Godfathers" of our Nation's first ethnic heritage studies program, we share today the many joys of our accomplishments. Our continuous efforts to establish this program, legitimizing pluralism in America, have produced an unprecedented widespread interest in ethnicity and a massive outpouring of ethnic heritage studies materials. As "Yogi" Berra once said at his own testimonial, "Thank you for making this day necessary."

Through Title IX we have demonstrated our capacity to introduce into an abstract promisory document practical realities which are applicable to all American people for all times. Our program exemplifies the growing awareness of the meaning of ethnicity and a greater respect and appreciation for the part that America's ethnic groups have played in the history and development of our Nation.

In reviewing the points stating the purpose of the Ethnic Heritage Studies Program Act, once again I am inspired by the profound conceptual basis and empirical validity upon which this act was established.

Title IX was approved: "In recognition of the heterogeneous composition of the Nation . . ." According to the 1970 census, approximately 34 million persons living in this country are immigrants or the children of immigrants. This figure alone is a substantial portion of the American population; however, according to a special census bureau survey taken in 1969, there are more than 75 million Americans who identify themselves with one of many major ethnic origins. U.S. immigration and naturalization records show that from 1820 to 1973, more than 46 million persons immigrated to the United States from all countries. Almost 36 million of those persons came from Europe.

In addition, our black American population is now over 22½ million. We have more than 9 million persons of hispanic (Spanish) origin; more than 6 million persons of Jewish heritage; and more than 1½ million Asian. (Japanese, Chinese, Filipino, Korean, Hawaiian) Americans; There are approximately 800,000 American Indians; we have the most heterogeneous composition of any nation in the world and, indeed, we are in fact a "Nation of Nations."

The act also states "in recognition . . . of the fact that in a multi-ethnic society, a greater understanding of the contribution of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, . . . " We know that many persons somehow regard all "newcomers"—the foreign born—as ethnics but, simultaneously, ironically consider themselves as non-ethnic. The fact is that "we are all ethnic." In our ethnic heritage studies program we have defined "ethnic" as a term designating "any of the basic groups of divisions of mankind or of a heterogeneous population as distinguished by customs, characteristics, language, common history, etc." The term, therefore, includes not only nationality groups but also those peoples linked together by regional characteristics (Appalachians), racial characteristics (blacks), religious characteristics (Jews), and mixtures of nations or tribes (American Indians). Each ethnic community is linked by a common heritage, customs and culture which they have uniquely developed over the ages.

Our American society has been given its essential form and character by the multiplicity of ethnic groups which have embraced it. We talk about a "new pluralism" in our nation which consists of both national self-consciousness and group identity. This "new pluralism" is the product of unique American conditions and not imports from abroad. Ethnicity, as the most creative form of pluralism, has enriched our society through its numerous expressions. The multiplicity of ethnic groups gathered together on these shores has given this Nation its unique face, identity and strength among the nations of the world. The immigrants came to America to help to build and strengthen the most durable democratic system of government in the world! And yet—in the past—they were often excluded from policy decision making process! They were only counted on—they now are hopefully counted in.

To emphasize the point which is brought up and discussed at many occasions, Henry Ford's "melting pot" myth operated in this Nation at the time of the "great immigration": The "natives" thought that all "foreigners" would enter into the great American crucible which would purge away all their differences and erase their "old world" identities; but the melting pot did not perform the functions expected of it, and the impact of American life tended to accentuate rather than obliterate group consciousness. Those occasions when the peasant immigrants were made to identify themselves by their national origin—when filling out forms for social agencies or employment applications—offer an example of how ethnic identity was stamped on them.

Since those early immigrant days—America's ethnic consciousness hasn't vanished, but rather has grown. It has resulted in an intense search for answers to the questions: "Who are we?"—"Where are we from?"—"Where have we been?"—"What have we contributed to growth of this nation?"

This search is the first step to sanity in an age of ever changing and perplexing social and economic issues and events. Ethnicity is thus a tool and an agent for goals beyond itself. Ethnicity contributes its rich resources to the major needs of a society growing daily more desperate. New confidence, poise and courage come to bear upon these needs as we all develop a sure sense of our roots and our identity.

Today we have reached a critical point in the process of nation-building. As we celebrate the 200th anniversary of this Nation, we need to increase our knowledge and understanding of our commonalities as well as the unique cultural characteristics of all peoples in our multi-ethnic society. And in a world which is made increasingly smaller and inter-dependent by technological advances, a better understanding of who we—as Americans—are, is crucial. America—having the most cosmopolitan population of any nation—has an unusual opportunity to lead all the nations of the world in improving human understanding, by demonstrating to the world that people of diverse backgrounds can live together in harmony, peace and freedom!

Ethnicity, particularly as expressed through our ethnic heritage studies program, therefore, has international implications. We are aware that the essence of our democratic society is individual freedom. Americans of all ethnic backgrounds have worked hard to achieve the proper balance between rights and responsibilities of all citizens. Protection of individual freedom in our society is the most cherished achievement. In our pluralistic society we also have the freedom to identify with all ethnic groups, a few ethnic groups, one ethnic group, or no ethnic group. Acknowledging and accepting ethnicity is, in a sense, like expressing our freedom of choice and equality of opportunity regardless of who we are and what our origin.

The Ethnic Heritage Act also stresses that "in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn more about the differing and unique contribution of the national heritage made by each ethnic group. . ." The introduction of ethnic heritage studies into the American educational system has a two-fold meaning: first, it stands as the recognition of the rights of members of all our ethnic groups to constructively cultivate their unique cultural heritage, which we consider essential to the processes of identity formation and general personality growth; and second, it marks the rejection of the concept that the teaching of ethnic diversity is a betrayal of national unity meant to tear the country apart. Ethnicity is a positive factor leading to higher levels of social and cultural organization and reinforcing the development of conscious unity both through explaining and experiencing the ideals of freedom and equality.

The general climate in our society and in the educational system itself, regarding the acceptance of the concept of ethnic pluralism and our program of ethnic studies, has been improved tremendously over the past year. However, it will take several more years before a general consensus on these issues will develop in our society.

Today we have only established the conditions for a free and dispassionate exchange of ideas. Our focus on ethnic studies in terms of "self-identity, mutual understanding, and community cooperation" has brought to our curriculum development the rich resources of viable and vital ethnic communities across the Nation. We have reached new levels of inter- and intra-ethnic collaboration and cooperation within communities because we recognize the necessity of making the ethnic heritage studies program a high priority for our educational institutions. From the point of view of identity formation and of attitude toward self and others, it is essential that our program begin at the moment of entry into the school experience. Therefore, our efforts to work with educators, in training teachers and preparing curriculum materials, have brought us together in the true spirit of "E Pluribus Unum" (one out of many).

In a period of national focus on equality of opportunity, what program can better equip the youth of our Nation in dealing with the diversity in our unity than title IX—the ethnic heritage studies program.

"It is the purpose of this title to provide assistance designed to afford to students opportunities to learn more about the nature of their own heritage and to study the contributions of the cultural heritage of the other ethnic groups of the nation."

It is with deep regret and concern that we learned about the exclusion of the ethnic heritage program from the Federal budget of 1975–76. I was particularly disturbed that the ethnic heritage program was ignored after the ethnic communities had fought so hard to have it included in the education bill of 1974–75, which was passed by Congress.

I am at a loss to understand the logic of the policy decision makers who refuse to consider the fact that when the 1973-74 Federal allocation of $2.3 million for the ethnic heritage programs in our schools was announced, it produced such an unexpected and widespread reaction that the U.S. Office of Education was only able to fund a small fraction of the 1,042 applications.

The submission of our Cleveland area proposal—a joint proposal of the academic council on ethnic studies and Cleveland Board of Education with cooperation of public, private and parochial school systems and ethnic communities—through the Cleveland Board of Education represented our attempt to develop a program for research and curriculum development in ethnic studies which would bring our community closer together. Our ethnic diversity continues to be one of our major resources: it has also been the source of our strength. Cleveland reflects our nation's pluralism. We pride ourselves that our community represents the peoples and cultures of almost all nations. We have numerous examples of our diverse citizenry working together to enrich this community and improve the quality of life for all people. We have demonstrated our unity in our diversity; we have worked together toward common goals and in the process added depth and richness from our unique perspectives.

I am sure this is a national trend. We are trying to establish a meaningful dialogue to eliminate fear which leads to misunderstanding, chaos, and destruction.

Let me conclude with the funding all of us have received through title IX. We are seeing educational institutions and community organizations working cooperatively to develop a meaningful ethnic heritage studies program for our nation's primary and secondary schools. However, all these efforts will have

limited results unless the Federal Government continues to give its financial support. After all, the new federalism calls for a return of some Federal tax money back to communities. We cannot complete and expand this program without this support.

I also believe that it would be a tragedy for America, the nation of nations, to celebrate its bicentennial without the aid of the ethnic heritage studies program. This program has the potential to project us into the third century of our nationhood with a clear understanding of the multiplicity of contributions of freedom-loving Americans of a plurality of backgrounds.

Whatever the obstacles or outright hostilities, I am sure of one axiom: together we will make it and earn for America the respect of the world and restore the identity—which eroded in the past—as indeed the promised land of liberty.

THE PRESIDENT CONTROLS THE SWITCH

Mr. PROXMIRE. Mr. President, recently President Ford did what Presidents have been able to do at will since President Roosevelt went on the air with his fireside chats.

In the face of refusals of time by the three networks, President Ford prevailed and commanded prime time for his Kansas City speech.

From advance texts supplied to them, network editors had deemed the anti-inflation peptalk less newsworthy than the criteria would dictate. From recent history, it can be assumed that in the absence of advance texts, or with copies judged to contain news, the networks would have granted the time readily.

Regardless of the importance of the President's message, the point is that Mr. Ford was able to flick the networks' switches as surely as if he were sitting at the master control desks in New York.

Tom Wicker, the New York Times columnist, put it this way:

> If a President can command the airwaves almost at will, moreover, broadcast journalism never will be able to reach the independence and equal constitutional status with print journalism that it deserves, and that the people are entitled to expect of it. Presidents can't command this or any other newspaper to carry the texts of their speeches; and they should not be able to command the networks to broadcast their speeches.

But Mr. Wicker does not make, at least directly, the obvious point. The President is the head of Government, the same Government that controls broadcasters through the Federal Communications Commission.

As long as that situation exists, it will not take much pressure for the President to get all the air time he wants. Although the networks are not technically controlled by the FCC, their owned and operated stations are controlled. That is just as real as direct legal jurisdiction.

Because the control exists, over every broadcaster, there is no free press guarantee for that segment of the communications industry. And this is in spite of the mandate of the first amendment to our Constitution.

It is necessary to remember why the first article in the Bill of Rights included freedom of the press. It was not to benefit the publishers of the post-Colonial period. It was not designed to increase their sales.

No, the free press guarantee was designed to be an outside check, a fourth check, on the formalized competitive government made up of three competitive branches. My authority for this is Mr. Justice Potter Stewart, who recently addressed a Yale Law School convocation on the subject of a free press.

The benefits of a free press—one presumed not to be in cahoots with the established government—flow to the citizens.

And how is the press kept from falling into, or being dragged into cahoots with a government?

By guaranteeing its freedom.

By the natural competitiveness of business.

Today we expect our newspapers and broadcasters to inform us fully and fairly, being a market place of ideas. And, as Mr. Justice Stewart says, that is the only way they probably can make money.

Yet, the original purpose—and, indeed, still the purpose—of a free, unfettered press was to blow the whistle on wrongdoing in government.

To achieve that end, readers and listeners may have to put up with a lot. They may have to shop around to piece together the facts for themselves—and they may not, if they are fortunate enough to live in a city with a really good newspaper.

But think of the consequences of not having a free press. Look at other countries.

Sports writers covering the Ali-Foreman fight in Zaire ran into trouble with censors. An appeals court in South Africa upheld the censoring of a novel. Peru's military junta recently seized newspapers in Lima.

When a President of the United States, who appoints members of the FCC, can command air time at will, is that something to remain silent about?

It is time that there is a full, rational debate on the controls exercised over broadcasters through such devices as the fairness doctrine. We owe it to the citizens of this county as officials sworn to uphold the Constitution.

Mr. President, I ask unanimous consent that the Wicker column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE "PULPIT" MAGNIFIED

(By Tom Wicker)

President Ford has set a notable example, and taken a long step toward an "open Presidency" by his appearance before a Congressional subcommittee—a precedent that may have much meaning for the future. But just two days before, Mr. Ford had demonstrated the extent to which Presidential "powers" are still unchecked and may be subject to political abuse.

Mr. Ford had announced his intention to speak on what American citizens "individually and collectively" could do to fight inflation and conserve energy. The national television network news divisions decided that the address would have little news value and none of them scheduled live coverage for Mr. Ford's appearance before a Future Farmers of America meeting in Kansas City. But Mr. Ford refused to accept that judgment and made formal request of the networks that they broadcast his speech in the prime evening hours.

This was amateurish of the White House, for at least two reasons. One was that prime time on the National Broadcasting Company's network was occupied by the third game of the World Series, a sporting event many Americans do not take lightly. The other was that, as the network news executives had suspected, Mr. Ford did not have much to say; after the fuss he had made about obtaining time, his appearance was at best an anticlimax, at worst an annoyance to baseball fans. Advising Americans to plant vegetable gardens, seek bargains and drive slowly is a poor substitute even for Joe Garagiola, let alone Catfish Hunter.

But aside from these White House fumbles, the plain fact is that the President was able to demand and get time from the networks, blanket all three of them for a period in the prime viewing hours, and impose what he had to say on the nation, even though able and experienced news executives, acting separately, had determined in advance that he had little to say that was newsworthy.

Mr. Ford was able to do this, moreover, just three weeks to the day before a national election that he has been describing as of critical importance to the survival of the Republican party. Even though his speech was relatively innocuous—even though it might have cost him some of the baseball vote—his appearance may well have had good political impact for Republicans either in its net effect or in particular localities. And it could have been an openly political speech, had Mr. Ford chosen to make it so.

This is a Presidential "power" that no one wrote into the Constitution, or even "implied" in that document, and that had not been adequately studied or considered by Congress, the Federal Communications Commission or anyone else. It is the power to command a vast audience almost at will, and to appear before that audience in all the impressive roles a President can play—from manager of the economy to Commander in Chief.

This "power" raises two problems of considerable gravity. It obviously gives a President (of either party) an enormous advantage over his political opposition, as well as over the other branches and institutions of government, in molding public opinion. It magnifies a thousand-fold what Theodore Roosevelt, along before television, called the "bully pulpit" of the Presidency.

If a President can command the air-waves almost at will, moreover, broadcast journalism never will be able to reach the independence and equal constitutional status with print journalism that it deserves, and that the people are entitled to expect of it. Presidents can't command this or any other newspaper to carry the texts of their speeches; and they should not be able to command the networks to broadcast their speeches.

The best remedy would be for network news executives to exercise rigorous news judgment on every Presidential attempt to use the airwaves, and to reject all such attempts that in their news judgment are unworthy. Practically speaking, however, it is not easy for the networks to turn down a President who wants to go on the air, particularly if he says he intends to speak on "national security" matters. Nor is it easy to ascertain in advance if such a claim is valid. Repeated, apparently concerted refusals by the networks would run the risk either of antitrust questions or Agnew-like charges of a press conspiracy, or both.

Automatic assignment of equal time to the opposition works well in Britain, balancing a Prime Minister's ability to shape public opinion and causing him to consider whether his own appearance is worth providing a similar opportunity for the leader

of the opposition. But there is no recognized leader of the opposition here, and no guarantee that the opposition party will control Congress, as it does now.

Mr. Ford's transgression and the networks' acquiescence in it were of no great importance; but the incident shows what could happen, which is why broadcast journalism, members of Congress and anyone wary of unchecked power ought to give the matter serious thought.

TITLE IX REGULATIONS

Mr. ABOUREZK. Mr. President, on June 18, the Department of Health, Education, and Welfare submitted their proposed regulations pertaining to nondiscrimination on the basis of sex. The regulations were published in the June 20 Federal Register—(volume 39, No. 120, Part II). Specifically, the regulations are directed toward educational programs and activities receiving Federal funds.

Since then, many of my South Dakota constituents have written or called my office to express their views on the proposed regulations. Their opinions seem to follow along this line: that although the proposed regulations are certainly well-intended and clearly reflect the spirit of equality, they are just not conclusive enough.

After spending many hours studying the proposed regulations and debating the possible long-range goals and effects, I must say that I agree with them. The regulations are a commendable step in the right direction, but in order to adequately meet our needs, I believe they should be more comprehensive, more inclusive, and more specific.

In an October 9 letter to Caspar Weinberger, I have stated my suggestions. Mr. President, I ask unanimous consent that my letter to Secretary Weinberger be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U. S. SENATE,
Washington, D.C., October 9, 1974.

CASPAR WEINBERGER,
Secretary, Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: Pursuant to reading the proposed regulations in the June 20 Federal Register (Vol. 39, No. 120, Part II), I am writing to express my opinions and suggestions concerning nondiscrimination on the basis of sex. Upon considering the regulations, I conferred with several South Dakota constituents—people who are professionally and personally interested in the future of our educational system, and who are aware of the evident shortcomings inherent in the system. I believe that the following thoughts are an expression of their feelings as well as of my own.

You have undoubtedly received many letters expressing concern about the additional bureaucracy these regulations will engender; and I fully agree that bureaucracy and redtape in the Federal government are too often excessive and should be minimized whenever possible. It is distressing to think that such bureaucratic intrusions into our system of education are necessary. It is just as distressing to realize that legislation relating both to education and to women has been shamefully ineffective in the past. But the facts are there—facts that show discrepancies, double-standards and inequalities beyond belief.

It seems to be universally accepted that the future of a country—of the United States or of any country in the world—hinges upon the development of its young people. Because of this, education is both the measure of our strength and the hope for our future.

Knowing this, can we settle for mediocrity?

Sincerely,

JAMES ABOUREZK,
U.S. Senator.

PROPOSED REGULATIONS

The proposed regulations are an encouraging attempt to eliminate the unwarranted and demanding treatment of students, faculty and staff occasioned by discrimination on the basis of sex. Section 86.32(a) of the guidelines expresses this objective succinctly.

But while being a commendable step in the right direction, the regulations lack any real conviction to expedite and assure an enforced compliance with the law. The fact that they will undoubtedly correct many of the longstanding inequities which exist does not eliminate my concern that several important areas were minimized. If the Department of Health, Education and Welfare is going to go to the effort and expense of proposing and enacting these regulations, I think the provisions should at least be comprehensive enough, inclusive enough and specific enough to merit that effort and expense. Half-way measures cannot deal adequately with the scope of the problem.

CURRICULUM AND TEXTBOOKS

I would like to take issue with the provisions dealing with curriculum and textbooks. I cannot understand how the issue of sex stereotyping in textbooks and other teaching materials can be construed to suggest the possibility of ". . . raise(ing) grave constitutional questions under the First Amendment." You assume that institutions receiving Federal funds "will deal with this problem," and you offer your assistance should these schools decide to face the issue. However, you make no demands and issue no clear-cut guidelines. While it is unfortunate that such guidelines appear to be necessary in this day of heightened public awareness and understanding, it is nonetheless evident that they are necessary. Minimally, I would suggest that the regulations include provisions for specifying review procedures for schools and school systems.

ATHLETIC EXPENDITURES

The issue of athletic expenditures is vague to the point of irrelevance. Although the proposed regulations require "equality" in facilities and equipment, determining this socalled "equality" is virtually impossible under the terms of the regulations.

It is specifically stated that equal opportunity in sports does not require "equal aggregate expenditures for athletics for members of each sex." I cannot see how this statement can be incorporated under the heading of "equality."

Dr. Robert H. DeZonia, who is the Commissioner of Higher Education in South Dakota, has been most helpful in supplying me with figures and statistics on South Dakota's seven state-supported colleges and universities. The facts speak for themselves, and are painfully revealing. For instance, while the total enrollment at these seven schools is currently 11,377 men and 7,358 women, the allotment of athletic funds is grossly disproportionate: men's programs received, for the 1973–74 academic year, $780,104; women's programs received $109,952. I have not studied in any great detail the statistics of schools in other states, but certainly South Dakota is not the exception to the rule.

This situation creates a cycle that is difficult to break: women are not encouraged to participate actively in sports because the funds are not available to allow their full participation; and becaause they don't participate, funds continue to be slotted into programs designed for men.

I do not believe that allotments should be immediately re-ordered on a one-to-one, proportionally balanced scale; neither the schools nor the students are prepared to handle such an abrupt shift. Rather, I believe that the proposed regulations should be amended to include provisions for incentives to women to begin a more active participation in athletic programs, and an accompanying long-term affirmative action plan calling for a gradual equalization of the funds allotted for men's and women's athletic programs. This plan could perhaps be subject to periodic review and consideration by members of a committee established specifically for that purpose.

The idea of an annual survey of student interest in athletic opportunities is excellent, but I think it should be followed through with more specificity: for instance, definite methods for the survey should be suggested, and provisions included which require their public disclosure.

MATERNITY LEAVE

I would like to commend you and your staff on the regulations relative to the employment field. Recruiting, pay and fringe benefits are covered in excellent detail.

But I strongly object to the maternity leave provisions. They are punitive. They treat the occurrence of pregnancy in a different manner than the occurrence of male disabilities. A male instructor or employee, for example, would not be required to notify his employer in advance, in writing, for time taken off for a surgical or medical procedure—however time-consuming or serious that procedure might be. He would not be required to obtain a certificate from his physician before returning to work. And he would not be kept off the job until the beginning of the first full academic term after he had been certified to return to work.

The irony of the maternity leave provisions lies in the fact that pregnancy is a natural "disability" in comparison to the disabilities which could force men to request extended leaves of absence.

I believe that the notification procedure, the requirement for physician certification, and the leave regulations for teachers are punitive, discriminatory and imply that the physical disabilities of men and women should be treated differently. I suggest that they be dropped.

SCHOLARSHIPS

While HEW prohibits discrimination in scholarship programs established under domestic wills or trusts, programs established under foreign wills are, unfortunately, exempted. Therefore, Rhodes Scholarships, which are certainly among the most presitigious, are available only to men.

I believe the regulations should include foreign programs as well as domestic programs.

VOCATIONAL AND PROFESSIONAL PROGRAMS

The regulations ascribe to an overly conservative position in the provisions concerning vocational and professional programs that are run by private undergraduate colleges.

The law prohibits discrimination in all vocational and professional schools, and private undergraduate colleges that receive Federal funds should also be covered by the law.

PENSION REGULATIONS

The proposed regulations fail to prohibit the use of premium or rate tables that differentiate on the basis of sex. Rather than calling for either equal contributions by the employer for members of each sex or equal periodic benefits, I feel the regulations should adopt the approach of insuring both.

SUMMARY

In summary, I believe that the regulations would be more effective if they followed closer the guidelines governing executive orders that prohibit discrimination by Federal Contractors. I believe that the ambiguities, of which there are many, should be cleared up. And I believe that both affirmative action and self-evaluation, neither of which are covered by Title IX, should be included as priorities.

THE LIFE AND DEATH OF LT. GEN. JAMES C. DOZIER

Mr. THURMOND. Mr. President, one of America's outstanding men who distinguished himself in military service both to his country and to his State of South Carolina died October 24, 1974. Lt. Gen. James C. Dozier had rendered a full life of patriotic service until his death on that date at the age of 89.

His military service began at the turn of the century when he enlisted in 1904 as a private in the National Guard. It was an affiliation he was to maintain for the rest of his life.

As a first sergeant in 1916, he saw active duty along the Mexican border as Pancho Villa caused this Nation to mobilize its defenses. It was, however, only a prelude to the active military duty which was to bring such great distinction in World War I. By then a first lieutenant, he commanded two platoons as his regiment encountered heavy resistance on October 18, 1918. Despite a painful shoulder wound, Lieutenant Dozier fought on, leading his men with great courage and military skill. As his unit became pinned down by intense machinegun fire, he chose to personally assault the machinegun nest. Displaying bravery of the highest order, he crawled in the face of heavy fire until he could attack the gun crew. In that personal attack he killed the entire enemy crew which was raining death and destruction on his men, and individually captured a number of German troops who had moved into the area.

For that display of gallantry, he was awarded America's top military decoration, the Congressional Medal of Honor.

Once the war ended, this man who had received the Naton's highest accolades came home to continue his distinguished military service. He organized a company in South Carolina National Guard and was promoted to captain. A year later, he was promoted to major. In January 1926, he was appointed adjutant general of South Carolina, upon the death of his predecessor, and promoted to brigadier general.

General Dozier was to serve his State and Nation in the capacity of adjutant general for the next 33 years. It was a period during which he demonstrated time and time again the foresight of his planning and the outstanding nature of his leadership.

One of his duties in the years between the World Wars was to serve as the custodian of Camp Jackson—now Fort Jackson—near Columbia, S.C. Although the camp was deactivated at the end of World War I, it was to be maintained as a training site for National Guardsmen and Army Reservists. General Dozier maintained the post for those annual training exercises until it was reactivated shortly before World War II.

Characteristic of his service which had already spanned more than 40 years, General Dozier enthusistically launched a rebuilding of the National Guard after World War II. In so doing, he supervised the development of the Guard to its greatest strength. In 1950, just before the outbreak of the Korean war, he was promoted to major general.

Mr. President, this eminent American and son of South Carolina continued his active service until 1959 when he retired. His value as a military leader and patriot was recognized far and wide. He was promoted to lieutenant general in retirement.

In addition to his accomplishments in uniform, both on the line and administering military programs, General Dozier contributed much to those around him. He was an active member of a number of civic, fraternal, and service organizations which often bestowed upon him their awards of merit and achievement.

In war and peace this man demonstrated the qualities of true greatness in the dedicated leadership and service he rendered to his State and Nation. The caliber of his life can truly serve as an example to each of us.

I want to extend my deepest sympathy to the members of his family. He is survived by his wife, Mrs. Tallulah Little Dozier; two sons, Donald P. Dozier and Col. James C. Dozier, both of Columbia, S.C.; a brother, Marion L. Dozier of Rock Hill, S.C.; and four grandchildren.

Mr. President, at the time of General Dozier's death a number of articles and editorials about him were published in newspapers throughout South Carolina. I ask unanimous consent that such representative accounts be printed in the RECORD, as follows: "Former Adjutant General Dozier Dies at Age 89," the State, Columbia, S.C., October 25, 1974; "James C. Dozier Dies in Columbia," the Charleston Evening Post, Charleston, S.C., October 24, 1974; "Retired Adjutant J. C. Dozier Dies," the News and Courier, Charleston, S.C., October 25, 1974; and "A Symbol of Service," the State, Columbia, S.C., October 25, 1974.

There being no objection, the articles and editorials were ordered to be printed in the RECORD, as follows:

[From the State, Columbia, S.C., Oct. 25, 1974]

FORMER ADJUTANT GENERAL DOZIER DIES AT AGE 89

Lt. Gen. (ret.) James C. Dozier, Medal of Honor winner and adjutant general of South Carolina for 33 years, died Thursday at his home. He was 89.

A native of Galivants Ferry, Gen. Dozier devoted most of his adult life to the military. He began his career in 1904 as a private in Company H, 1st Infantry Regiment, S.C. National Guard.

His first call to federal service was in 1916 when the 1st Infantry was mobilized to serve on the Mexican Border. During this service, he attained the grade of first sergeant.

At the outbreak of World War I, the 1st Regiment was again mobilized in 1917 and redesignated the 118th Infantry, 30th Division. Gen. Dozier was commissioned a second lieutenant, Infantry on July 19, 1917 and promoted to first lieutenant on Dec. 5, 1917.

His division was soon in the forefront of the fighting against the Germans but it was in the autumn of 1918 that the then Lt. Dozier encountered the confrontation that won him the Medal of Honor.

Gen. John J. Pershing pinned the medal on the young South Carolina officer; the citation reading:

"Near Montbrehcian, France, Oct. 18, 1918—First Lieutenant James C. Dozier, 118th Infantry, 30th Division—in command of two platoons was painfully wounded in the shoulder during attack, but continued to lead his men, displaying the highest form of bravery and skill. When command was held up by machine gun fire, he disposed his men in the best cover available. With a soldier, he moved forward to attack a machine gun nest. Creeping up in the face of intense fire, he killed the entire crew with grenades and pistol fire. Later he captured Germans who had sought refuge in a dugout nearby."

Years later, recalling the event, Gen. Dozier said: "You don't have too much time to think when you are in combat; you just act."

After World War I, he continued his interest in the military by organizing Company I, 118th Infantry, South Carolina National Guard. On Dec. 1, 1920, he was commissioned a captain, and on Sept. 1, 1921, he was promoted to major and assigned to command the 3rd Battalion, 118th Infantry.

On Jan. 22, 1926, Maj. Dozier was appointed adjutant general of South Carolina by Gov. Thomas C. McLeod to fill the unexpired term of Brig. Gen. Robert E. Craig, who died while in office. Upon his appointment, Gen. Dozier was promoted to brigadier gneeral.

During his 33 years as the state's military leader, Gen. Dozier's career was highlighted by many achievements and events. He knew and served five Presidents of the United States—Presidents Coolidge, Hoover, Roosevelt, Truman and Eisenhower. He served with 12 S.C. governors.

Gen. Dozier was twice invited to Washington as a Congressional Medal of Honor recipient to act as an honorary pallbearer for the burial of the unknown soldier of World War I and burial of the second unknown soldier of World War II, and the Korean Conflict.

Shortly after becoming adjutant general, he was asked by the War Department to take over custody of Camp Jackson near Columbia.

"I remember when the chiefs of staff came to Columbia when the idea was being pushed around about building an army camp," Dozier said years later. "Do you know that Ft. Jackson was almost located on the other end of town?"

"They headed out towards where the airport is now located. But the railroads there and the frequent stops caused them to turn around and head out the other way. When they stood up on the hill (now known as Tank Hill) and looked around at all the acreage, all they could see was a good location for any Army post."

From that time until the beginning of World War II he maintained Camp Jackson as a training site for National Guard and Reserve units.

After World War II, the national guard had to be completely reorganized and rebuilt. Gen. Dozier accomplished the task with his usual enthusiasm and vigor, and the result was a national guard with a strength never before attained in the State.

His example of dedicated service and excellent conduct as an officer brought about his appointment as major general on April 5, 1950.

Upon his retirement in 1959, Gen. Dozier was honored with a reception at Ft. Jackson, and one of the messages of congratulations received was from the then President Eisenhower. The President's telegram said:

"As a soldier of the nation and as adjutant general of South Carolina, Gen. Dozier has rendered great and heroic service. His record of valor in war and peace stands as an example to all. It is a privilege to add my personal congratulations and best wishes to him."

Also following his retirement he was promoted to lieutenant general by a special act of the General Assembly.

Gen. Dozier's other decorations included the British Military Cross, the French Croix de Guerre with Palm, the French Legion of Honor, the Italian War Cross for Valor, the Portuguese Medal, the Montenegran Medal of Valor, the Purple Heart; and after receiving the French Legion of Honor, he was named a Chevalier of the Legion.

He was a past president of the National Guard Association of the United States and was awarded the Distinguished Medal by that organization. He was the 15th officer to receive this award in 75 years. Gen. Dozier received the medal from the National Guard Association of South Carolina and was the second officer in the history of the organization to receive the award.

Gen. Dozier was an elder emeritus in the First Presbyterian Church of Columbia, a member of the Board of Visitors of The Citadel, a life member of the American Legion Post 6, Veterans of Foreign Wars, Disabled American Veterans, Military Order of the World Wars, Blue Key Fraternity, Rotary Club of Columbia, Masons, Congressional Medal of Honor Society of the U.S., the Military Order of the Purple Heart, the National Society of Scabbard and Blade, and held a life membership in the Infantry Association.

He was South Carolina state chairman for two years of the National Foundation for Infantile Paralysis, for which he was presented an Award of Merit.

A son of the late John Henry and Julia Marie Dozier, Gen. Dozier is survived by his widow, Mrs. Tallulah Little Dozier; two sons, Donald P. Dozier and Col. James C. Dozier of Columbia; a brother, Marion L. Dozier of Rock Hill and four grandchildren.

Services will be 3 p.m. today at the First Presbyterian Church of Columbia; conducted by the Rev. Dr. J. Norton Dendy. Burial will be in Elmwood Cemetery.

Pallbearers will be Brig. Gen. James W. Henderson, Brig. Gen. Robert H. Morrell, Col. Donald H. Collins, Brig. Gen. (ret.) Joseph W Douglas, Lt. Col. Claude E. Huffstetler, Col. William H. Gary, Col. Grady L. Patterson Jr. and Col. (ret.) Herbert B. Guerry.

Dunbar Funeral Home, Devine Street Chapel, is in charge.

[From the Charleston (S.C.) Evening Post, Oct. 24, 1974]

James C. Dozier Dies in Columbia

Columbia.—Retired Lt. Gen. James C. Dozier, for 33 year's South Carolina adjutant general and winner of the Congressional Medal of Honor in World War I, died today at his Columbia home after a long illness. He was 89.

Dozier was adjutant general from 1926 until 1959.

The National Guard career of the Gallivants Ferry native began in 1904 when he enlisted as a private. Two years later his unit was mobilized for service on the Mexican border and Dozier was promoted to first sergeant.

When World War I was declared Dozier's outfit was again called up and was redesignated as the 118th Infantry Regiment of the 30th Division. Dozier was commissioned a second lieutenant in July 1917 and became a first lieutenant that December.

He was one of six men in the regiment to win the Congressional Medal of Honor. Dozier was cited for "conspicuous gallantry and intrepidity above and beyond the call of duty" for action near Montbrehain, France, Oct. 8, 1918.

Dozier reorganized a National Guard company upon his return home and became a captain in 1920. The following year he was promoted to major and assigned command of a Guard battalion. He was named adjutant general by Gov. Thomas E. McLeod to fill the unexpired term of Robert E. McCraig, who had died in office, and became a brigadier general at that time.

He supervised the Guard through the lean years of the '30s including its custody of then Camp Jackson near Columbia and the post-World War II reorganization. He was appointed a major general of 1950 and to the special rank of lieutenant general by the legislature after his retirement.

Dozier is survived by his widow and two sons. Funeral services are incomplete.

[From the Charleston (S.C.) News and Courier, Oct. 25, 1974]

Retired Adjutant J. C. Dozier Dies

Columbia.—Medal of Honor winner and retired South Carolina adjutant general James C. Dozier, who said of the World War I feat that led to the nation's highest combat decoration, "You don't have much time to think when you are in combat, you just have to act," died Thursday at the age of 89.

He died at his Columbia home after a lengthy illness. Funeral plans are incomplete.

On Oct. 18, 1918, Dozier was a first lieutenant with the 118th Infantry Regiment, 30th Division, near Montbrehcian, France. The unit was ordered to attack.

Dozier recalled years later, "We knew the Germans were out there but we didn't know where. The sweat from the hot morning sun came quicker as we moved over the top at 8 a.m. That's just about the time a man ought to be having his second cup of coffee.

"We moved towards our objective with the 27th (Division) on our left and others on our right. The machine gun fire caught us cold.

"There vas little cover but we dispersed as well-concealed as we could possibly get. They had us pinned down and they knew it.

"I moved on up, heaved hand grenades and fired my pistol. We got every one of the Germans in the hole and found six or seven more in a shellhole off to the right.

"We didn't have time to say good morning and were ready to open fire, but they surrendered.

The Galivants Ferry native joined the National Guard when he was 19. The following year his Rock Hill unit was called to active duty on the Mexican border, and Pvt. Dozier was promoted to 1st Sgt. Dozier.

The 1st Infantry Regiment was again mobilized in 1917, was redesignated the 118th and sent to Europe. Dozier became a second lieutenant in July that year and a first lieutenant that December.

Six of the regiment's soldiers received Medals of Honor in their year in combat.

After Armistice Day, Dozier returned to South Carolina and rejoined the Guard. He became a captain and a company commander in 1920 and was promoted to battalion commander and a major in 1921.

On Jan. 22, 1926, Dozier was named adjutant general by Gov Thomas E. McLeod to fill the unexpired term of Brig. Gen. Robert E. Craig, who had died.

He was re-elected every four years until retiring in 1959.

In that period the Guard went through the lean years of the Depression and rebuilding years after World War II.

In 1950 Dozier was named a brigadier general and then a lieutenant general by the General Assembly upon his retirement.

He is survived by his widow and two sons.

[From the Columbia (S.C.) State, Oct. 25, 1974]

A Symbol of Service

The death yesterday morning of Lt. Gen. James C. Dozier ended the notable career of a man who personified both the citizen soldier and the soldier's soldier.

Returning from World War I service in which he earned the coveted Congressional Medal of Honor, General Dozier re-entered the ranks of the South Carolina National Guard, his consuming interest during most of his 89 years. For more than three decades, he served the state and nation as South Carolina's adjutant general.

In that role, he not only contributed to the national defense but helped instill into thousands of young South Carolinians a sense of duty, patriotism, and performance. He was a strict administrator, setting a personal example of dedicated leadership, and military proficiency.

The worth of his service was recognized throughout the country, a recognition reflected in part by his election as president of the National Guard Association of the United States. Here in his native South Carolina, the General Assembly capped his military career by elevating him to the three-star rank of lieutenant general prior to his retirement from office in 1959.

Hosts of South Carolinians will recall with respect and affection the trim, erect figure of "Jim" Dozier as a symbol of the state's dedication to its military men.

HARNESSING THE TIDES TO PRODUCE ENERGY

Mr. HATHAWAY. Mr. President, the idea of harnessing the tides to produce energy has been battered around since the early 1920's when a young man by the name of Franklin Delano Roosevelt, campaigning for the Vice-Presidency, made a speech on the subject in Eastport, Maine. Young Roosevelt spoke of the advantages of turning the tides of the Passamaquoddy Bay into electricity. A tidal project was actually started at Passamaquoddy Bay in the late 1930's with the support of President Roosevelt. Unfortunately, the project was soon abandoned because of lack of funds.

The following article which appeared in the November 9 issue of Business Week indicates that the time for tidal power is here and the dream of the Passamaquoddy tidal power project may be finally realized.

I commend this article to the attention of my colleagues, and I ask unanimous consent that it may be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Technology: Tidal Power May Now Make Sense—Canada Will Probably Be the Next To Test This Long-Ignored Power Source

For decades, engineers have looked longingly at the idea of harnessing the enormous energy in the rise and fall of the tides to generate electricity during periods of peak demand. They have even pinpointed areas in 23 countries as suitable for development.

So far, though, only one site—La Rance, on the coast of Brittany in France—is producing commercial power. The high capital costs and technical problems of building tidal power generating systems have until now stalled all other possible projects. But the rapidly escalating cost of fuel is stirring a worldwide renewal of interest and a number of countries are reexamining proposals to harness the tides.

Canada will probably move faster than any other nation in the West. If it does set up a tidal power project, the output initially would probably go largely to the New England states after Canada built a new $500-million transmission facility. The premiers of New Brunswick and Nova Scotia (page 76) are now considering an unpublished Canadian government report on the feasibility of a project at the Bay of Fundy, a neck of the Atlantic Ocean that separates the two provinces and has the world's highest tidal rise and fall—53 ft.

To harness the Bay of Fundy tides, or any other tidal flow above 16 ft., the minimum necessary for a power project, engineers propose building a dam using the basic principle of hydroelectric power, and the hardware that goes with it. The water would build up behind the dam during the incoming tide, and after the tide ebbed, the impounded water would be released through turbine generators. But since the tide peaks only twice a day, the key to tidal power becomes how to use the energy when it is needed most—during peak demand, which often does not correspond to tidal cycles. To get around this problem, engineers have devised several "retiming" schemes, ranging from a simple and inexpensive pumped storage system to a series of high-cost storage basins built behind the dam. The penned-up water would then be released through the turbines at times of peak demand.

No one knows what effect tampering with the Fundy tides would have on surrounding waters, so the Canadian report calls for much more detailed study of tidal patterns in the area and the project's effect on one of North America's largest bird-feeding grounds.

"Nova Scotia and New Brunswick both indicate they are in agreement with the need for further study and would like to proceed," according to Les Kirkpatrick, president of Nova Scotia Power Corp., the provincially-owned utility that is leading the campaign for Fundy tidal power. Kirkpatrick estimates that such power would cost 15 mills per kilowatt hour at the Fundy site—roughly comparable to the cost of nuclear power and sharply lower than the 18-to-20 mills cost of power from fossil fuels in Canada.

FINANCING

Raising capital is a major hurdle, but Edmund de Rothschild, chairman of N. M. Rothschild & Sons, Ltd., the London merchant bank, has already announced his support for a Bay of Fundy project. Rothschild, who organized the financing of the $950-million Churchill Falls, Newfoundland, hydro power scheme in 1968—the world's largest privately developed power project—joined in a $350,000 study of the Fundy proposal and has concluded that it is feasible. Power from Fundy "will happen a lot sooner than many people imagine," says Rothschild. Kirkpatrick, for one, looks for Fundy power by 1985.

One problem for Rothschild and Canadian proponents of tidal power will be overcoming wariness among Ottawa officials, who foresee much of Fundy's power going first to New England. Moreover, the central government can point to the dismal history of tidal power in the U.S. as a reason to hold back. During the Depression, President Franklin D. Roosevelt spent $2.5 million for a tidal system study at Passamaquoddy Bay, between Maine and Canada, but Congress refused to approve the project, contending that it was uneconomical.

Fundy would probably cost $2-billion to $3-billion. But proponents contend that tidal power, like hydro power, is inflation proof because the "fuel" itself is free. They also say that a tidal plant would have a life span of at least 60 years, compared with about 30 years for a fossil-fuel or nuclear power plant.

In a tidal plant, the hydroturbines would spin at only 200 rpm instead of the 3,600 rpm that is usual in fossil-fuel and nuclear power plants. The much slower rate doubles to triples the life of the tidal turbines. Moreover, advocates say that tidal power would be more reliable than hydro power; the latter can be hampered by drought, but tidal power relies on the unchanging lunar cycle.

Among the other countries working on tidal power are:

FRANCE

After building a commercial-scale, single-basin, 240-megawatt plant at La Rance in 1966, Electricité de France, the state-owned power utility, lost interest because oil prices plummeted. But last year, it dusted off plans that call for a 6,000 Mw. plant powered by the tidal waters of the 220-sq.-mi. Bay of Mont-Saint-Michel. The dammed-up bay would be divided into separate basins. As the tide falls, water collected in one basin would flow into the empty second basin, driving the turbines in the dividing dam. When the second basin is full, the water would be fed out at low tide through the turbines in the sea wall, allowing the utility to provide power for almost 24 hours.

RUSSIA

Engineers built an experimental 400-kw single-pool unit at Kislaya Guba, an inlet off the Barents Sea, six years ago and are working on a feasibility study for a 6,000-Mw. project at Mezenskaya Guba, in the White Sea at the Artic Circle. It would help meet the peak loads of the northern European part of the Soviet Union. Russian engineers are also considering plans for a giant 10,000-Mw. project on the Sea of Okhotsk, possibly as a joint venture with the Japanese. Only huge projects make economic sense to the Russians. Says Lev Borisovich Bernstein, tidal expert at the Hydro-project Institute in Moscow: "Small tidal projects are absurd—a blacksmith forging an insect." Bernstein refuses to discuss the cost of Russia's first tidal project, saying, "When you do an experiment, you don't ask how many dollars per kilowatt hour it costs . . . only when you build it for production. Did you ask about the cost per mile of the first airplane?"

BRITAIN

Eric M. Wilson at the University of Salford and Thomas Shaw at the University of Bristol are pushing a reluctant government to support a 4,000-Mw. double-pool tidal plant on the Severn River near Bristol. Shaw estimates the cost at about $3.2-billion, and Wilson says the plant would supply 4% to 7% of Britair's annual electricity consumption at "competitive rates."

But in the near term, tidal power supporters are looking to Canada for the next move. Plans call for construction of a 6,000-Mw. tidal plant on Fundy. As now conceived, a 5-mi.-long dam would be built across Cobequid, a small bay at the head of Fundy. Sluice gates in the dam would allow water in to fill a pool. As the tide ebbs, about 30% of the water would be released through the turbines to generate electricity. The balance of the water would be pumped up to a higher-level storage basin. When required, this water would be brought down through the power turbines in the dam just as it would be in a conventional hydro operation. "You can't store electricity," notes Nova Scotia Power's Kirkpatrick. "But you can store water at a height—which is potential energy."

Kirkpatrick and other Canadian supporters must still persuade Ottawa that it makes economic sense to develop a source of power that would be used primarily by New England. But, says Nova Scotia's Premier Gerald A. Regan optimistically: "In cooperation with the private sector—such as the Rothschilds—it will be possible to raise the money to develop tidal power within the next few years."

TIME FOR ECONOMIC REALISM

Mr. McGEE. Mr. President, in the November 10 edition of the Washington Star-News, there appeared an excellent postelection analysis of our economic problems and the hard and realistic decisions which have to be made if we are to overcome these problems. The column was written by Crosby S. Noyes.

Mr. Noyes hit the nail right on the head when he noted the American people were willing enough to make sacrifices as long as they were convinced it would do some good. However, at this point, the American people perceive that Government, particularly the executive branch of Government, as being neither willing nor able to demonstrate the leadership for making these hard decisions so necessary to overcome our economic woes. I have long maintained that it was my belief that if their leaders leveled with them concerning the severity of any crisis, the American people would be more than willing to make the necessary sacrifices, whether it be tough wage and price controls, gas rationing, or the like.

Mr. Noyes' column is particularly noteworthy at this time as the Congress settles down to business in the remaining days of 1974. Both the executive branch and the Congress should heed the words of Mr. Noyes.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Opinions of Our Columnists: Time for Economic Realism

(By Crosby S. Noyes)

The hope is that now that the election is out of the way, President Ford at long last get down to the hard business of dealing with the worsening economic crisis. The hope is fine, but don't bet on it. For the one thing the administration has learned about the crisis so far is that it doesn't know what to do about it.

It really hasn't been a question of shrinking from the hard decisions at election time. The truth is that Ford's failure to come up with a credible program to deal with the simultaneous inflation and recession undoubtedly hurt Republicans at the polls, despite the President's effort to pin the blame on the Democratic-controlled Congress.

The country, we hear from all sides, is tired of inaction and buck-passing. Most people know very well that it is not their own profligacy and greed that is the cause of the trouble. They are willing enough to make sacrifices as long as they are convinced that it will do some good—but they are not convinced.

On the contrary, it is becoming only too obvious that Ford's prescriptions for curbing inflation—mild as they are—are making the recession worse. The Old Time Religion approach, squeezing money and credit and telling people to clean their plates and not to buy anything, is exactly the wrong medicine, simply because it isn't needed.

Who in the world at this point is wasting food and buying things he doesn't need? Even before Ford started his belt-tightening routine, the farmers were going broke, the housing and automotive industries were in their worst shape in a generation, and the unemployment rate was headed for the ceiling.

Excessive consumer spending and excessive government spending quite certainly are not the real causes of our present inflation. It is not a question of too much money going in search of too few products. On the contrary, demand in the country, even without presidential encouragement, is being severely curtailed.

The basic cause for the inflation, most economists agree, is an enormous rise in the cost of basic commodities, of which the cost of oil is the latest and most dramatic. This, on top of the normal—and manageable—wage-price inflation that we have been living with for years, is the problem with which Ford's homey prescriptions fail to deal.

One of the difficulties, of course, is that it is a problem which cannot be easily dealt with strictly in terms of domestic economic policy. No amount of cooperation between the administration and the new Congress is going to do much to bring down the price of Arab oil. And no amount of pious exhortation to the American consumer is going to redress the large and growing imbalance in our international balance of payments.

To be sure, if we all drive less and turn down our thermostats, it will do a little good. But the administration is half-hearted in its advocacy of even such marginal remedies.

It is not easy, after all, to preach austerity at a time when petroleum reserves are at an all-time high and the oil companies are urging dealers to sell gas at lower prices seven days a week. Significantly, John Sawhill, the only member of the administration to speak up for effective conservation measures, was the first to get the boot.

The prescriptions for curbing inflation will fail if Ford's analysis of the kind of inflation we are experiencing is wrong. But even worse, the condition of the economy as a whole surely will continue to decline as long as inflation continues to be regarded as far more threatening than the developing recession.

Indeed, it is only very recently that administration leaders have brought themselves to admit that there is a recession, much less to face up to the fact that their cautious tinkering with the economy was hastening the decline. The attitude, in fact, has been chillingly reminiscent of the fatuous optimism of the Hoover White House in 1930. And the one thing that the election may do is to stimulate a more realistic appraisal by the administration of where we really stand.

THESIS ON LEADERSHIP

Mr. HUGH SCOTT. Mr. President, Harland Cleveland, a former Assistant Secretary of State and U.S. Ambassador to NATO and I recently attended the Williamsburg Conference in Hong Kong. Mr. Cleveland has just joined the Aspen Institute for Humanistic Studies to direct a new program in international affairs. In an interesting article based on his Maxwell Lecture at the 1974 annual meeting of the American Society for Public Administration, of which Mr. Cleveland is past president, he presents an interesting thesis on leadership. I think we can all benefit from his ideas. I ask unanimous consent that this informative and thought-provoking article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

How Do You Get Everybody in on the Act and Still Get Some Action

(By Harlan Cleveland)

There was a time, celebrated in song and story, when leadership was entrusted to "leaders." Their numbers were tiny, their information scarce, their expertise primitive, the range of their options narrow, the reach of their power marginal, the scale of their actions limited. But they were at least in charge.

In Aristotle's Athens, Confucius' China, Cicero's Rome, Charlemagne's Europe, and Jefferson's Virginia, the educated and affluent few did the social planning and made the destiny decisions—actions that made the difference between war and peace, poverty and prosperity, individual freedom and collective coercion, minority rights and majority rule. The uneducated "Lower Orders" of slaves and servants and peasants and workers and tradesmen, were not expected and did not expect to join in the elegant conversations about policy. Aristotle, Confucius, Cicero, Charlemagne and Jefferson would have been equally baffled by Paul Appleby's definition of policy as the decisions that are made at your level and higher. In the vertical, presystems society, dogma, doctrine and dictation were the natural style of leadership.

Somewhere along the way in the colorful story of people working together to make things happen, the process we now call modernization made the vertical society obsolete. Man-as-manager had to learn how to manage the complexity which man-as-scientist-and-engineer and man-as-educator were making physically and psychologically possible. In a world of inter-continental conflict, gigantic cities, congested living, and large and fragile systems of all kinds, the traditional modes of leadership, featuring recommendations up and orders down, simply couldn't work very well. Nobody could be fully in charge of anything, and the horizontal society was born.

The key to the management of complexity was the division of labor and the training of specialists; the benefits of "modernization" were available only to societies which educated most of their people to function as specialists in a division of labor economy. In the modernized societies, machines started taking over the drudgery—the copy work, the repetitive processes, the predictable functions—and the work left for human beings to do was the improvising, the looking-ahead, the wondering and inventing and institution-building. And thus there came to pass, in the twentieth-century A.D., slaveless societies which responded to a technological imperative by giving citizenship to all their people, and legislating education as an entitlement for all their citizens.

But when every man, and now every woman, too, is entitled to earn through education a ticket of admission to citizenship, leadership is now the province not of a few hundred nobles or a few thousand landholders but an aristocracy of achievement measured in the millions. Participation in decision-making is not a club but a crowd. And the primary puzzle of modern planning is revealed: How do you get everybody in on the act and still get some action?

The contemporary clamor to be in on the act is certainly impressive. In business, customers are freer to complain, stockholders are more numerous and less compliant, a remarkable number of insured citizens think they understand no-fault, and nearly every automobile owner has a plan for gas rationing, or knows for a fact that it isn't necessary. More and more parents have a world population policy. Students want to mould their own curriculum. Environmental groups, carefully avoiding questions about who they represent, are articulate and effective beyond the wildest dreams of Gifford Pinchot and Teddy Roosevelt. New kinds and colors of people are breaking through the oligopoly of influence long controlled by businessmen and male lawyers from early-arriving ethnic groups. Even those deadly predictable circuses, our national political conventions, grow in interest and decorum as minorities and women fill more delegate slots and TV coverage enhances the risk that a delegate will be seen making a deal or picking his nose in 10 million living rooms at once.

Openness, then, is the buzzword of modernization. In its firmament the deities are the public hearing, the news conference, the investigative reporter, *Meet the Press* and *Face the Nation* and *Issues and Answers* and *The Advocates*. Its devils are also familiar: smoke-filled rooms, secret plans, hidden or edited tapes.

In consequence, compared to a generation or even a decade ago, most public officials are more inclined now to ask themselves, before acting, how their actions would look on the front page of the Washington Post or on the evening newscast. Even Vice-President Agnew conceded that taking cash from contractors might be wrong if judged by what he called post-Watergate moral standards. No one doubts that enhancing the risk of public exposure will improve the private behavior public executives, as they ask themselves, "How would *I* feel about this action if every one was able to see me take it?" And in private enterprise affected with the public interest, executives are also bound to be influenced by the cautionary tales they read with their breakfast coffee. The moral of Watergate is clear enough: If the validity of your action depends on its secrecy, better decide to do something else.

But the openness movement has gone beyond this nationwide sensitivity training. It has now produced a rising tide of proposed "Sunshine Laws," in a good many states in the U.S. Congress. The Hawaii version of such a law, built partly on the model suggested by Common Cause, would make it a crime for public officials to have a private meeting of any sort without giving advance notice and inviting the press and public.

Two legislators, passing each other in the corridor of the State Capitol, would literally be forbidden to discuss with each other—unless seven days' public notice had been given and the subject to be discussed had been their attention in their official capacities. advertised—any matter likely to come to Any official of general government would thus have to stick to pleasantries about the weather, and that topic may soon be proscribed by developments that enable governments to modify the weather at human command.

This brand of sunshine—moonshine might better describe it—is the product of linear thinking carried to the limits of absurdity: If more openness improves the quality and relevance and fairness and acceptability of public policy, total openness is bound to produce the best policy of all. The logic is apparently compelling, and a remarkable amount of emotional steam has been generated in its support.

But there are costs as well as benefits in more openness. An open meeting is likely to be large. The larger it is, the higher the ratio of emotion to reason, nonsense to common sense. An open meeting favors simple formulations over complicated ones, certainty over ambiguity, the loud-mouth over the reflective private person. An open meeting is more likely to generate confrontation than compromise, liable to result in inaction rather than action.

In sum, the procedures of openness are well designed to stop things, and ill designed to get things moving—unless the consensus for action has been built in private ahead of time.

It is not easy, I find, to discuss this subject without being misunderstood. I have complained for years, in writing and at length, about the malignant effect of secrecy upon public policy. In a paper for the Senate Watergate Committee, a colleague and I have argued that secrecy, and too-small circles of consultation, may have been the main reason for some of the classic booboos of our time—the Bay of Pigs fiasco, the escalation of the war in Vietnam, the Nixon shock in Japan, and of course the opera bouffe called Watergate.

But a couple of decades of experience with openness and the participatory mode suggests that it is high time we faced the *next* question: How much is enough?

In most areas of social and economic and political concern, we are nowhere near the limits of useful openness. But the evidence is piling up that the very great benefits of openness and wide participation are being offset by the risks of making it difficult or impossible to get done the complicated things that have to be done if we are going to protect our surroundings, our bodies and our selves.

We want more openness, that's clear. But as the French say, "Il faut vouloir les consequences de ce quón veut." In one language or another, every child learns the lesson:

You must not only want what you want, you must want what it leads to.

Let's look honestly at some disturbing examples of what our experiments in openness are leading to:

First. It is obviously easier and more fun, to advocate openness than to use it. The student movement of the late 1960's achieved in college and university decision-making, much opportunity for student participation all over the county. But an honest reckoning in 1974 would have to feature the massive student absenteeism from the committee meetings where budgets and curricula are made.

Second. Public-interest lawyers and a climate of litigious paranoia have brought the courts into public administration in a big way. Some of the sort-run results are gratifying, but do we want what it leads to? The longer-run effect is to cause every public agency (and many semi-public ones, such as foundations) to write down all its procedures, to put greater power in the hands of lawyers and management specialists, and to generate in consequence a jerky and arthritic condition.

The progress of this muscle-binding disease can now be traced clinically: Rights are adjudged to be better protected when they are written; if they are written down, they have to be scrupulously fair to the equal and unequal alike; exceptions are then increasingly frowned on, or bucked to higher authority, or taken to court; the professional planners and executives lose the flexibility and discretion which attracted them to their professions in the first place; they drift away, to be replaced by instruction-reading machines in human form; the moral climate degenerates with the widespread feeling that whatever really needs to be done is obviously impossible, the conviction that whatever is wrong it must be somebody else's turn to fix it.

Third. The passion for public hearings, too much of the time, serves only the purpose of having held a public hearing so that it cannot be later said that a public hearing was not held. Occasionally, the public hearing actually attracts an audience; on these occasions, the news reports feature the most extreme and partisan statements heard, and ignore as unnewsworthy the voices of reason and counsels of compromise. The provoking and advertising of controversy is not the same as "openness," but it is a hallowed tradition of journalism that if there is no controversy, if there is merely cooperation and compromise and consensus, the process must not be open enough.

Fourth. Voting is in vogue, and *Robert's Rules of Order* reign. Some days I think General Robert's little book is the most subversive volume in the university library, so useful is it to those who would cloak a do-nothing purpose in the tinfoil of procedure.

The trouble with writing everything down in whereas clauses and then voting on some clear proposition is that it eliminates from the process of getting things done the very ambiguities which leave room for discretion, improvisation, imagination and plain common sense. Sigmund Freud was probably right when he defined maturity as the ability to live with ambiguity. But if he had not mixed this perception with all the talk about sex, his books never would have sold. I have been trying for years to sell the notion that Freud's definition of maturity is the essence of the executive function, and it's a hard sale.

In some Pacific islands, the villagers do not have ready access to *Robert's Rules*, and they do not share our Western enthusiasm for dividing a meeting in two by voting. To plan an important operation, the villagers gather in a circle and the village elder solicits what we moderns would call input from all concerned. Gradually, those who are not much concerned with the particular decision will edge their way to the perimeter, while those whose oxen might be gored press toward the center to make themselves felt.

When the talk, and the participants, are thoroughly exhausted, the leader suggests a consensus; if he guesses wrong, the talk resumes until those really concerned decide to compromise or silently acquiesce. At this point, in the participatory West, we would destroy the consensus by insisting the meeting end with a recorded vote—giving an equal voice to those who care less, dividing a many-sided complexity into a two-sided simplification, freezing in its intransigeance the losing minority, moulding the future by political arithmetic rather than the reasoning consciences of the human beings concerned.

It is noticeable that in those international organizations where the Western nations imposed a parliamentary model for administrative decision-making, there is much voting but little action; the U.N. General Assembly is of course the prime example. But in those international bodies which tend to act by consensus and expect their executives to take a policy lead (the World Bank is one kind of example, the North Atlantic Council another) major actions are taken and very large budgets are spent by processes that involve little or no voting.

For some purposes, voting may still be the best and fairest way to make decisions. It is hard to improve on voting as a way of selecting those who will act as the people's representatives in a legislature where public policies must be negotiated and agreed. But for those so chosen, and especially for the executives and experts who suggest the policies and carry them out, procedures of consensus better fit the complex issues and variant interests involved in the macroproblems of modernization than our Western tradition of choosing up two sides in an adversary process.

Fifth. The ease with which procedure becomes the surrogate for substance, in the Age of Participation, makes it easier to prevail with a negative than with a positive program of action.

You will have noticed, in your own experience, that a person who disagrees with what you are doing will almost never say he or she disagrees with what you are doing. The complaint usually turns up in camouflage. You failed to follow the correct (that is, written) procedures; you did not consult his, or her, group, or at least not early enough or long enough, or with its authorized representatives; you neglected to prepare, in the proper form, a PPBS justification, an environmental assessment, a PERT chart; you omitted to quantify the costs and benefits, request the Attorney General's opinion, call a public hearing, or provide the requisite number of copies.

Procedural objections, even trivial ones, can be devastating to a plan of action. Especially in a large meeting, most of those present are sufficiently inattentive, apathetic, confused, or hungry to favor postponement of action by means which do not require hard thinking about the substantive action proposed.

The power of openness to smother action is not all bad. Many proposed actions ought to be stopped, and it's nice that we have invented so effective a way of blocking them. If the people gathered around the cross at Gethsemane had been able to participate with 20th century knowhow in the decision whether the Saviour should be crucified, Good Friday and Easter would never have made the Christian calendar. Some bright Apostle could readily have created a parliamentary impasse that even the Romans couldn't have untangled.

Sixth. The Age of Participation is producing lifetime tenure for nearly everyone. If the essence of human rights is fairness and equality, then it is clearly out of order to discriminate between those who function well and those who function poorly, and preferable to reward rather than release the weaker members of the team.

I have been struck in recent years with the willingness of students and colleagues to sign petitions in defense of teachers who are by common (private) knowledge less than fully competent, just when their contracts are being quietly and compassionately terminated to protect the rights of future students to the best available teaching. The academic executive has two options—to take on the protestors, publicly explain the teacher's weaknesses, and spend a couple of weeks in court as defendant in a defamation suit, or inflict the inferior teacher on the next 30 years of students. In too many cases, the second option looks most inviting—short-run benefits traded for long-run trouble often do. And each such choice brings our society closer to participatory mediocrity.

The very great benefits of openness and wide participation are flawed, then, by apathy and non-participation, by muscle-binding legalisms, by processes which polarize two adversary sides, by an excess of voting and parliamentary procedure, by the nay-saying power of procedural objections, by the encouragement of mediocrity—and one thing more. It seems clear now that very wide consultation tends to discourage innovation and favor standpattism.

The mythology of the matter has it the other way around. More openness in decision-making is a radical litany; yet the multiplication of those consulted seems usually to side-track radical reform. An action proposal, especially if it is new and unfamiliar, will seem threatening or at least postponable to a large majority of previously uninvolved participants in the discussion.

It is no accident that so many memorable public policy initiatives (in foreign policy, I think the Marshall Plan, Point Four, Open Skies, The World Weather Watch, and The Nuclear Test Ban) began as the products of hunch and thinking-out-loud rhetoric, with most of the professional staff work and the domestic and foreign consultations following after. If the statesmen involved had consulted widely before launching them, some or all of these great ideas might well have died in the womb. Too many people, in Washington and abroad, would have said, "Let's study it some more."

Bold initiatives for change are thus likely to be inhibited by wide-open debate about whether change is desirable, and in which direction. Yet let us again remember that openness is well designed to stop foolish change. Wider consultation would almost certainly have killed the Bay of Pigs operation, drastically modified the Vietnam escalation, and illuminated the grotesquerie at Watergate for the foolish scheme every one, including the President, later judged it to have been.

The paradox of participation is here—and if it has the ring of truth, that is because truth always comes in paradoxical packages.

A true dilemma can never be solved by choosing one of its horns and ignoring the other. In a Portuguese bullfight the man who tried to swing himself over the oncoming bull by grasping only one of its horns would have to be superhuman to bring it off. But if he can catch hold of both horns at once, a reasonably athletic bullfighter can vault over the bull with grace, applause ringing in his ears.

The paradox of participation is not so easily surmounted—nor is applause for the feat so freely given. But the principle applies: For the modern leader, neither tight secrecy nor wide-open referendum is a viable policy.

The trouble of course is that an astonishing number of people consider one pure option or the other to be a matter of high principle in itself. Just now President Nixon is making a principle out of confidentiality; at the other end of the spectrum, others are pushing sunshine laws. It is too easy to "take a position," "be decisive," "stand on principle." The leader's task is more complicated and more interesting: To produce, through many-sided consensus, decisions that will "stick"—that is, will be accepted and carried into action by those whose interests are involved.

It is wryly said of academic politics that the men of honor always seem to be outnumbered by the men of principle. The wider politics of citizenship and public affairs is also abundantly supplied with loud and effective defenders of overriding principles. The leader's unique function is to squash together all the overriding principles, push them through that narrow pipeline called policy and extrude them out the other end as viable action. That requires a steadier sense of direction, wider consultation, more unremitting toil and unrewarded homework, and more willingness to forego an ego trip, than merely deciding and annoucing what is "right."

The wise leader will not make a principle out of openness, or secrecy either. He, and she, will use openness to frustrate short-range schemes and end-runs by narrow interests around the public good. But the leader who expects bold and imaginative long-range thinking to come out of a town meeting had better look for some other line of work.

ALEXANDER M. BICKEL—CONSULTANT TO THE SUBCOMMITTEE ON SEPARATION OF POWERS

Mr. ERVIN. Mr. President, on November 7, the Nation and the Senate Subcommittee on Separation of Powers suffered a profound loss. Prof. Alexander M. Bickel, who was Sterling Professor of Law at Yale University and a consultant to the subcommittee, died on that day.

Professor Bickel served as a consultant to the Subcommittee on Separation of Powers from October 1967, the year the subcommittee was created, until his death. He contributed importantly to the laying of plans for the work of the subcommittee and advising on fundamental constitutional issues and defining the proper boundaries for the operation of the separation of powers doctrine.

The subcommittee's announcement of Professor Bickel's appointment, on October 18, 1967, contained these words:

> Professor Bickel is without question one of the country's leading authorities on the United States Constitution and American governmental processes. He is virtually without peer in regard to his scholarly achievements and the high esteem his many books and articles have earned for him among his colleagues throughout the country. His academic background, past government service, and dedication to constitutional government uniquely qualify him to advise the subcommittee in its studies.

Professor Bickel, throughout the 7 years of his association with the Subcommittee on Separation of Powers brought to its work a priceless insight and a wisdom which added immeasurably to the subcommittee's studies and enriched our understanding of American government. His premature death at the age of 49, at the height of a brilliant career, is a deep loss to the subcommittee and to the country. His wise guidance will be sorely missed.

Many persons have acclaimed Professor Bickel's brilliance of mind and his impressive attainments, as I do now. In addition, I should like to pay tribute to him for his personal qualities, for not only did he earn the great admiration and respect of those who knew his work, but also his warm, courteous, and unassuming manner, his wit and humor, endeared him to all who knew him.

On behalf of the subcommittee members and its staff, I express condolences to Mrs. Bickel, to his two daughters, and to the other members of his family.

Mr. President, I ask unanimous consent to have printed in the RECORD articles concerning Professor Bickel that appeared in the New York Times and the Washington Star-News on October 9.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 8, 1974]

ALEXANDER M. BICKEL DIES; CONSTITUTIONAL LAW EXPERT

NEW HAVEN, November 7.—Alexander M. Bickel, Yale's Sterling Professor of Law and one of the country's pre-eminent authorities on the Constitution, died today of cancer at his home. He was 49 years old.

In Washington, the death of Professor Bickel, a provocative and influential scholar who participated in the successful defense of The New York Times in the controversial Pentagon papers case in 1971, brought an expression of bereavement from Chief Justice Warren E. Burger.

"This is a great loss to the law and the country," the Chief Justice said in a statement.

His death was also mourned by Kingman Brewster Jr., the president of Yale, who said:

"One of the greatest privileges of my life has been to be a fellow student and colleague of Alexander Bickel both at Harvard and at Yale. His death is a tremendous loss to his friends, his colleagues and to the nation."

Surviving Professor Bickel are his widow, the former Josephine Ann (Joanne) Napolino; and two daughters, Francesca Ann and Claudia Rose.

The funeral will be private. A memorial service will be held Sunday, Nov. 17, at 3 P.M. in the auditorium at the Yale Law School.

CONSTITUTIONAL CONSERVATIVE

(By Lawrence Van Gelder)

In politics a liberal Democrat, in legal philosophy a constitutional conservative, Alexander Mordecai Bickel was a lawyer and scholar whose thoughts, speeches and writings were addressed to some of the foremost issues of his day and resounded with profound impact at the highest levels of the government whose fundamental document he interpreted so impressively.

And, while his ideas and arguments figured formidably in the nation and the legal community at large, the slight, urbane Professor Bickel also struck those who witnessed him in his classroom role as arresting and memorable.

"He is bright, witty and offputting, all at the same time," said the winter, 1961, issue of The Yale Law Report. "And he is mesmeric. To counteract the intellectual subtlety of his case analysis, he paces the platform, puffs a cigaret, thrusts his thumbs inside his vest, or swings in concentric circles a small object at the end of a key chain."

In general, it was the contrast between his avowed political liberalism and his constructional conservatism that struck sparks. With a flair for intellectual jousting, he once replied to a Yale colleague who had attacked him for "antediluvian" views on integration by saying, "I would lose my way intellectually if I started thinking about the political impact of my position."

A CRITIC OF WARREN

Typically, his scholarly criticisms of the Supreme Court under Chief Justice Earl Warren shocked its liberal admirers. He said he had come to doubt that "judicial supremacy can work and is tolerable in large areas of social policy." Courts, he maintained, should let society advance empirically.

In recent years, his name was prominently mentioned whenever vacancies occurred in the Supreme Court; and in 1972, Chief Justice Burger, who had succeeded Chief Justice Warren named Professor Bickel to a blue ribbon committee that recommended creation of a "national court of appeals" to screen out and dispose of nearly 90 per cent of the high court's caseload.

Outside the legal community, Professor Bickel was best known for his participation on behalf of The Times in the Pentagon papers case. Confronted with an unprecedented Government endeavor to block news articles prior to publication on the ground of national security, Professor Bickel characteristically refrained from an absolutist approach.

Eschewing the argument that the First Amendment shielded the press absolutely, he told the Supreme Court that if the President had any "inherent power" to enjoin the press, its exercise must be limited to extraordinary circumstances. He proposed a standard whereby "prior restraints" could be imposed only when publication would have the "direct, immediate and visible" result of causing grave harm to the nation.

Mr. Bickel insisted that the dangers cited by the Government—that future diplomatic initiatives might suffer or that the course of the war in Vietnam might be lengthened as a result of publication of the contents of the study on origins of the war—were too remote from the publication to warrant suppression.

Of the six Justices who sustained the right to publish, three took an absolutist position, and three—William J. Brennan Jr., Potter Stewart and Byron R. White—took stands close to that advanced by Professor Bickel.

Professor Bickel also spoke out on a number of occasions during the height of the Watergate controversy. In July, 1973, he maintained that President Nixon had no right to withhold from the Senate Watergate committee some White House tapes that showed evidence of criminal activity.

He was, however, one of the few lawyers to hold publicly that Mr. Nixon had a right to dismiss Archibald Cox as Watergate prosecutor, calling it a lawful exercise of the President's right to dismiss an employee.

Professor Bickel's expertise in United States legal and constitutional history took him frequently to Washington to testify before Congressional committees on such diverse subjects as the President's warmaking powers and integration.

Although renowned for his knowledge of American institutions, Professor Bickel was not native-born. The son of Solomon and Yetta Schafer Bickel, he was born in Bucharest, Rumania, on Dec. 17, 1924, and immigrated to the United States at the age of 14. His family lived in New York City.

In 1943, the future professor became a naturalized citizen. He served as a machine-gunner in Italy and France during World War II and in 1947 graduated from City College as a Phi Beta Kappa student with a degree in social science.

Two years later he graduated summa cum laude from Harvard, where he was an editor of The Law Review. After graduation, he became in turn a law clerk in Boston, and, after being admitted to the bar in 1950, a law officer in the State Department and then law clerk to the late Supreme Court Justice Felix Frankfurter.

Justice Frankfurter was frequently acknowledged by Professor Bickel as a major influence on his thinking, and one of the professor's colleagues once described Professor Bickel as Justice Frankfurter's "son-in-law."

RETURNED TO HARVARD

In 1953, Mr. Bickel rejoined the State Department as a special assistant on the policy planning staff, but a year later he returned to Harvard, where he served as a research assistant. During this time he wrote his first book, "The Unpublished Opinions of Mr. Justice Brandeis."

His other books were "The Least Dangerous Branch" (1962); "Politics and the Warren Court" (1965); "The Supreme Court and the Idea of Progress" (1970), and "Reform and Continuity" (1971).

Just before his death, he had been at work on a two-volume series on the Supreme Court in the early nineteen-hundreds. He was also the author of numerous newspaper and magazine articles.

Professor Bickel, whose interests in constitutional law developed during the period in 1952 and 1953 when he was Justice Frankfurter's law clerk, joined the faculty of the Yale Law School in 1956. In 1960 he became a full professor. Six years later, he was appointed Chancellor Kent Professor of Law and Legal History. He held the three-year post of *William C.* DeVane Professor from 1971 to 1974. Last spring he was named Sterling Professor of Law.

COMMENT ON INTEGRATION

In the Oliver Wendell Holmes lectures at Harvard Law School in 1969 were expanded into his book "The Supreme Court and the Idea of Progress," Professor Bickel analyzed the major decisions of the Warren Court.

In his lectures, Professor Bickel contended that integration was not the total answer to race and schools, that there was a need for identification of parents with schools that might be met only by community control and that blacks themselves wanted autonomy before integration. He also held that new political arrangements were needed for dealing with school administration, city centers and their suburbs and that those cannot be based on the populist ideal of one man, one vote. He contended that there must be weighting so that black groups got a sense of participation, of controlling their own destiny, but so that whites also felt secure.

Professor Bickel was a Guggenheim fellow and a fellow of the Center for Advanced Study in Behavioral Sciences on the Palo Alto campus of Stanford University.

Reflecting on the Pentagon papers case less than two years later, Professor Bickel wrote in the magazine Commentary that "law can never make us as secure as we are when we do not need it."

"Those freedoms," he said, "which are neither challenged nor defined are in most secure. In this sense, for example, it is true that the American press was freer before it won its battle with the Government . . . than after its victory . . . We extend the legal reality of freedom at some cost in its limitless appearance. And the cost is real."

[From the Washington Star-News, Nov. 8, 1974]

ALEXANDER BICKEL, DIES; CONSTITUTIONAL LAW EXPERT

(By Richard Slusser)

Alexander M. Bickel, 49, the noted authority on constitutional law who was the attorney for the New York Times in the Pentagon papers controversy, died of cancer yesterday at his home in New Haven, Conn. He was the Sterling professor of law at Yale University.

Bickel also served on the seven-member panel appointed by Chief Justice Warren E. Burger to study the case load of the Supreme Court. Yesterday Burger said that Bickel's death "is a great loss to the law and the country."

Kingman Brewster Jr., president of Yale said that one of the greatest privileges of his life was "to be a fellow student and colleague of Alexander Bickel both at Harvard and Yale. His death is a tremendous loss to his friends, his colleagues and to the nation."

Bickel's legal views sometimes had national impact and his opinion often was sought during the Watergate scandals. In 1972 he was a consultant named by the White House to help the Nixon administration develop a policy for dealing with federal court school desegregation decisions.

Bickel opposed an antibusing amendment to the Constitution, which was being considered by Congress, saying it would be "symbolically catastrophic" to the black community. Such an amendment, Bickel said, would "trivialize" the Constitution by amending it for a current emotional issue like busing. "The Constitution is not an internal revenue code that you change at will," he said.

Soon after he wrote in a magazine article last year that President Nixon was legally entitled to fire Archibald Cox, the Watergate special prosecutor, Cox was dismissed. Bickel said, however, "I would lose my way intellectually if I started thinking about the political impact of my position."

While representing the New York Times three years ago in its successful battle against the federal government over publication of the Pentagon papers, Bickel argued in the Supreme Court that the attempt of the government to prevent further publication of the secret Pentagon war study threatened to uproot the constitutional guarantees of free speech.

Nothing in the laws or the Constitution gave the federal government the right to stop a newspaper in advance of its publication of certain material, Bickel said.

A liberal Democrat in politics, Bickel was a constitutional conservative in his legal philosophy. His thoughts, speech and writings, said the Times, "were addressed to some of the foremost issues of his day and resounded with profound impact at the highest levels of the government whose fundamental document he interpreted so impressively."

"There was nothing that he touched that he didn't adorn," said another law professor, "and he touched many topics."

A 1961 issue of the Yale Law Report described Bickel as "bright, witty and offputting, all at the same time. And he is mesmeric. To counteract the intellectual subtlety of his case analysis, he paces the platform, puffs a cigarette, thrusts his thumbs inside his vest, or swings in concentric circles a small object at the end of a key chain."

Bickel, a native of Romania, came to the United States in 1939 and was naturalized in 1943. A graduate of the College of the City of New York, he received his LL.B. from Harvard in 1949.

After serving as a law clerk to the chief judge of the U.S. Court of Appeals in Boston he became a law officer for the State Department. From 1952 to 1953 he was law clerk to the late Supreme Court Justice Felix Frankfurter. He returned to the State Department, then became a research associate at Harvard before joining the Yale faculty in 1956.

Bickel was the author of "The Unpublished Opinions of Mr. Justice Brandeis," "Politics and the Warren Court" and "The Supreme Court and the Idea of Progress."

He leaves his wife, Joanne N., and two daughters, Francesca and Claudia. Services will be private, but a memorial service will be held in the Yale Law School.

SPEECH DELIVERED BY SENATOR FULBRIGHT AT WESTMINSTER COLLEGE IN FULTON, MO., NOVEMBER 2, 1974

Mr. ABOUREZK. Mr. President, I am inserting excerpts of a speech delivered by our colleague Senator J. WILLIAM FULBRIGHT at Westminster College in Fulton, Mo., on November 2, 1974.

Senator FULBRIGHT's continued dedication to a rational approach to our problems is more than obvious in the words he spoke in Missouri. While all of us will feel the departure of BILL FULBRIGHT from the Senate, I am hopeful that he can continue to provide the stability, wisdom, and intellectual inspiration which he has in the past.

I ask unanimous consent that the excerpts of the speech be printed in the RECORD.

There being no objection, the excerpts of the speech were ordered to be printed in the RECORD, as follows:

[From The National Observer, Nov. 16, 1974]

ISRAEL: TRYING "TO HOLD OFF THE INEVITABLE": SENATOR FULBRIGHT'S APOCALYPTIC VISION

(NOTE.—These remarks are excerpted from a speech by Sen. J. William Fulbright at Westminster College in Fulton, Mo., Nov. 2, 1974. Winston Churchill made his famous Iron Curtain speech there soon after World II. The speech is perhaps Fulbright's last as chairman of the Senate Foreign Relations Committee; he was defeated for re-election. The senator was an early and vociferous prophet of disaster in Vietnam.)

* * * * *

In the course of 30 years in the U.S. Senate I can recall few if any instances in which it has seemed to me that our national problems were beyond resolution. Far more often than not, a solution, or an approach, or an opportunity to advance in a creative way, has seemed both available and feasible. The obstacles, most often, have been political, and perhaps psychological: How can people and politicians be gotten to do what they ought to do, and what they usually very well know they ought to do, rather than do nothing, or do what is convenient or comfortable for the moment?

I have no answer to the question, my own powers of persuasion have been less over the years than I would have liked them to be. I have noted, however, that there are times—usually times of dramatic adversity—when human beings show a capacity for co-operation and sacrifice of which they had scarcely thought themselves capable. . . .

CONFRONTING A MONSTER

Winston Churchill became prime minister of Great Britain at a time of dramatic adversity, and he and his people together turned it into Britain's finest hour. Confronted with an adversary, Hitler, whom he could accurately describe as a "monster of wickedness," and "this bloodthirsty guttersnipe," Churchill offered his people "blood, toil, tears, and sweat," and they rose magnificiently to the occasion.

If adversity were all it took to get people to behave magnificiently, or even sensibly America and the West would be at this moment within minutes of their "finest hour." That, however, seems not to be the case, as we confront a different kind of adversity. In addition, Churchill had the added assist, in Hitler, of all that one could ask in the way of a villain.

Today we face a different kind of adversary, not a tyrant but a condition and the ominous prospects to which it gives rise. The condition is economic crisis, and the prospects—unless immediate and drastic corrective measures are taken—are for economic depression, political breakdown, and perhaps war.

TODAY'S QUESTION

It is one of the perversities of human nature that people have a far greater capacity for enduring disasters than for preventing them, even when the danger is plain and imminent. Churchill, for all his prescience and eloquence, was powerless to prevent the second World War: He wrote in 1936 of an England "decided only to be undecided, resolved to be irresolute, adamant for drift, solid for fluidity, all-powerful to be impotent." The question for us today is whether we can succeed where Churchill failed—a tall order indeed—by preventing disaster so as not to have to endure it. . . .

* * * * *

The catalyst, if not the cause, of our current, mounting difficulties was the Middle East war of a year ago. Like the assassination at Sarajevo in 1914, the October war set loose a chain reaction of events. The war precipitated the oil embargo, and the embargo combined with Arab military successes, gave the Arabs a whole new sense of their own power and capacity. . . .

United in OPEC (the Organization of Petroleum Exporting Countries), they set out to redress the imbalance between cheap oil and costly imports, and also, in a psychological sense, to redress centuries of colonialism and exploitation. They did so with a vengeance, through huge and precipitous increase in the price of oil. It came like an avalanche, but as the old aphorism goes, great crises may issue from small events but never from small causes. A great deal of casual debris had accumulated on the Arab mountainside—the debris of mounting frustration over continued Israeli occupation of Arab lands, superimposed upon bitter memories of colonialism. All it took then was the sonic boom of the October war to send the rocks crashing down upon us.

THE GREAT DEPRESSION

The effect, within a single year, has been to bring the economies of the industrial countries to a degree of jeopardy no less than that of the Great Depression of the 1930s. And as national economies falter, democracy itself is threatened—in Europe, in the developing countries, and possibly even in North America. The immediate, compelling problem is runaway inflation, aggravated by—though by no means wholly the result of—the high cost of oil. There was no exaggeration in President Ford's warning in Detroit last Sept. 23 of a "breakdown of world order and world safety." With inflation running at an annual rate of 12 per cent in the United States and in excess of 20 per cent in Japan, Great Britain, Italy, and other countries, the industrial nations are threatened with depression, mass unemployment, and consequent civil disorder. . . .

Depending upon their varying degrees of historic stability, the democracies of the world—rich as well as poor—will bend or break in the economic whirlwind. Japanese economists are openly predicting a depression, and they see no escape from it. Italy, with one of the most overstrained economies and a fragile parliamentary system, may conceivably succumb to communism or neofascism. Great Britain, on the other hand, with its strong parliamentary tradition, may weather the storm for a longer time, even though its economy is one of the most heavily strained. . . .

The major cause of accelerated inflation is the massive imbalancing of international payments caused by the quadrupling of the price of oil since the October war. The United States—far more fortunate than other countries because we produce nearly two-thirds of our own oil requirements—nonetheless will pay an estimated $25 billion for imported oil in 1974, more than triple the $7.5 billion paid in 1973. Meanwhile, the oil revenues of the producing countries will have risen from $15 billion in 1972 to nearly $100 billion in 1974, giving them surplus revenues on the order of $60 billion over and above their total import requirements. With this trend continuing and accelerating, the credit of consuming countries—rich and poor—will soon be exhausted, giving rise to economic collapse and political upheaval. . . .

THE CURE FOR INFLATION

Is this crisis of democratic capitalism indeed fated and beyond our control? The answer, most emphatically, is that it is not. The cure for inflation is to live within your means, which is something we were not doing before the increase of oil prices. That comes first—the elimination of the prodigal, outrageous waste of basic resources which has become endemic to the American way of life. Beyond that, through a wise and skillful foreign policy, we can bring peace to the Middle East, that fountainhead of so many of our troubles, and by so doing open the possibility of lower oil prices—for long enough at least to allow of a gradual transition to new forms of energy. Although domestic political pressures have inhibited our leaders from exploring the possibility forthrightly, there is excellent reason to believe that resolution of the Arab-Israel conflict would bring a respite in oil prices. . . .

As long as we temporize on inflation and the Middle East, these time bombs will keep ticking away. Palliatives will no longer suffice in either area. The truce of last year, followed by the disengagement agreement and the lifting of the embargo, which got our cars back on the road, lulled us into supposing that the crisis was over. In fact, the embargo did us less harm than the quardrupled oil prices which followed. At home we now face the threat of economic collapse, while in the Middle East the tide moves inexorably toward another war and another embargo. . . .

OUR EXTRAVAGANT LIFE-STYLE

We cannot blame the oil producers for the irresponsible, rapacious extravagance of our vaunted "way of life." We Americans are not only living beyond our economic means; we are damaging the world's ecology by depleting irreplaceable raw materials, by consuming renewable resources such as forests and fish faster than the earth's natural processes can replace them, and by fouling the rivers and oceans beyond their natural capacity for cleansing themselves.

Even if we could afford our extravagant life-style . . . it would still be important to conserve and cut back, to go back to living more simply. Over and above the material waste, our high living is also wasteful and destructive in the psychological sense. We have long passed the point of diminishing returns as between our gadgets and luxuries and the human satisfactions that they yield. Like spoiled children who have had too many toys, we are always looking for new playthings—and encouraged to do so by the massive advertising industry—but the gadgets only amuse us for a moment or two, and then we are off in search of something else. . . .

It is being said these days in Washington—that most charitable of communities—that in calling for only voluntary restraints to curb inflation, President Ford shrank from "biting the bullet," offering up a "marshmallow" instead—a 5 per cent surcharge on incomes over $15,000, but no gas rationing, and no price and wage controls. This may have been no more than a marshmallow, but as the President promptly retorted, Congress found even the marshmallow too tough for its tastes. It appears that no one is yet prepared to take the drastic steps—voluntary and mandatory—to curb inflation. It is almost as if we did not quite believe the evidence before our eyes, or our own words acknowledging that evidence. President Ford was not overstating the matter when he warned Congress that inflation threatens to "destroy our country, our homes, our liberties. . . ." Congress applauded the President's warning but rather in the way one applauds a Fourth of July speech, as oratory to be appreciated and then forgotten, but not as literal truth to be absorbed and acted upon. It is rather as if Churchhill had qualified his clarion call for "blood, toil, tears, and sweat" with a statement that of course he could never advocate compulsory military services or higher taxes . . . .

THE IMMINENT DANGER

The German blitz did not allow the British that luxury, and we cannot afford it either. Our inability thus far to recognize the imminent danger to our most cherished institutions arises from the novelty of the circumstances which threaten us, from the absence of a recognizable "monster of wickedness" like Hitler to whom we can attribute our fear.

An intellectual effort of unprecedented magnitude is required to unite and inspire the American people to make the effort and the sacrifices required. We must prepare ourselves for even greater and more painful changes in our mode of living than we made during World War II. We can and should take the voluntary measures Mr. Ford called for—saving money, conserving energy, recycling scrap. We also can and should take mandatory measures, including a tax increase of more than the amount recommended by the President. Most important of all, we must conserve energy, first and foremost by requiring the automobile industry to manufacture cars which will go 20 or more miles on a gallon of gasoline.

I am sure that our leaders underestimate the capacity of the American people for pulling together and modifying their life style in difficult times. During the acute oil shortage last winter, people *did* lower their thermostats, pool their cars, and obey the lower speed limits, and they did it with a certain cheerfulness, with a kind of satisfaction in the sense of shared inconvenience and common effort to overcome it. We felt for a moment like a community again—as we had not since before Vietnam and Watergate. Then the embargo was limted, the gas line disappeared, and we went back to our old ways—while the crisis mounted. Now our leaders are asking for sacrifice, but their trumpet blows so feebly as to leave one in doubt that they expect or really want it. Fearing political retaliation if they ask for real austerity, they ask for no more than token self-denial; they are asking the least of people, and that, to their dismay, is what they are getting. . . .

* * * * *

Turning now to the Middle East, I believe that the current situation is shaped by two central facts: One is the volatility of the Arab-Israel conflict, the high probability of another, greater war if the central issue of the occupied territories is not soon resolved. The second fact—which for domestic political reasons we are exceedingly reluctant to acknowledge—is the close relationship between the Arab-Israel conflict and the price and availability of oil.

The danger of a fifth Arab-Israel war is acute, and if such a war comes, it will almost certainly be more violent and more protracted than the previous wars. In the year of truce since the October war of 1973 both sides have rearmed heavily. The consensus of military experts is that the strategic balance is shifting to the Arab side, not only because of Soviet supplies but also because of the greatly improved training and technical competence of the Egyptian and Syrian armed forces. Egypt, and perhaps Syria, are now armed with Russian surface-to-surface "Scud" missiles, which would enable them to attack Israeli cities as well as Israel's vulnerable oil-storage facilities. Israel, for her part, is generally assumed to have acquired nuclear weapons, and if Joseph Alsop—whose Israeli connections are excellent—is to be believed. Israel is prepared to use those weapons if her cities are attacked. In Alsop's view, Israeli warnings already issued amount to a veiled but unmistakable threat of nuclear war.

PRELIMINARY ACCOMPLISHMENTS

The alternative to war—and the only alternative—is a general settlement. It is no derogation from Secretary Kissinger's great achievements to note that the disengagement agreements of the past year and the limited Israeli pullbacks in Sinai and the Golan Heights were no more than preliminary accomplishments. The difficult issues remain—especially Jerusalem and the West Bank. Unless they are resolved, there will almost certainly be war—a war that would devastate Israel, quite possibly provoke a Soviet-American confrontation, and most certainly bring on a new, ruinous oil boycott. This prospective crisis, let me emphasize, is not a remote or hypothetical one; it is closer to being a clear and present danger.

It cannot be permitted, and it is up to the United States, not alone but in collaboration with the Soviet Union and the United Nations, to prevent it. Israel, it appears, is stalling, and with nothing concrete in mind except to get all the arms and money she can get from the United States so as to try to hold off the inevitable. The Israeli leaders might have made good use of time gained since last year's truce to prepare for the necessary accommodatons. They might have been telling their people, as Israel's first and wisest leader, David Ben-Gurion, tried to tell them in 1971, that peace is Israel's "great necessity," and "to get it"—Ben Gurion said—"we must return to the borders before 1967." "As for security," Ben-Gurion added, "militarily defensible borders, while desirable, cannot by themselves guarantee our future. Real peace with our Arab neighbors—mutual trust and friendship—that is the only true security."

The shift of the balance of power gives added force to Ben-Gurion's prescient words. This shift is more than a matter of improved weapons and fighting skills on the Arab side. The rise of the Arabs is based upon two powerful and growing forces: money and nationalism—the enormous wealth which is accruing to the oil-producing states of the Persian Gulf, and the surging national feeling of the Arab peoples, especially the embittered, tenacious nationalism of the Palestinians. The brief, spectacular ascendancy of the Israelis in the Middle East has been based primarily on human assets which cannot be expanded—discipline, energy, bravery, and competence. Impressive as these human assets are, they do not and cannot overweigh the fact that Israel is a small country with modest natural resources and heavy liabilities—with no oil except that of the occupied Sinai fields, with an economy burdened by military costs and inflation, an economy so dependent on the United States as to make Israel—however little we or the Israelis may care to admit it—a client state of the United States.

What is taking place in the Middle East is a long-term historical unweighting of the scales of power, comparable, say, to the inexorable displacement of France by Germany as the paramount power of Europe in the Nineteenth Century. The difference in the Middle East is that it is all happening much faster. The friends of Israel in the United States do her no service by refusing to recognize these facts of power and change. Myopia among the Israelis, with their siege mentality, is perhaps understandable. It is much less so among Israel's supporters in the United States, who, by underwriting intransigence, are encouraging Israel on a course which must lead toward her destruction—and just possibly ours as well.

SECURITY COUNCIL RESOLUTION

Israel, I am convinced, can and should survive as a peaceful, prosperous society—but within the essential borders of 1967 as called for by the Security Council's Resolution 242 of November 1967. That resolution calls as well for a settlement "guaranteeing the territorial inviolability and political independence of every state in the area. . . ." This provision, as I have suggested in the past, can be implemented by great-power guarantees contracted through the U.N. Security Council and, in addition, by an explicit, binding American treaty guarantee of Israel.

That much we owe them, but no more. We do not owe them our support of their continued occupation of Arab lands, including old Jerusalem and the Palestinian West Bank. The Palestinian people have as much right to a homeland as do the Jewish people. We Americans—who have always professed adherence to the principle of self-determination—should be the first to appreciate that. But when the U.N. General Assembly voted on Oct. 14 of this year, by 105 to 4 with 20 abstentions, to allow the Palestine Liberation Organization to participate in the Assembly debate on Palestine, the United States was in the minority of four—with Israel, Bolivia, and the Dominican Republic.

So completely have the majority of our officeholders fallen under Israeli domination that they not only deny the legitimacy of Palestinian national feeling; but such otherwise fair-minded individuals as the two candidates for senator from New York engage in heated debate as to which one more passionately opposes a Palestinian state. We have nearly allowed our *detente* with the Soviet Union to go on the rocks in order to obtain an agreement on large-scale Jewish emigration—a matter of limited relevance to the basic issue of human rights in the Soviet Union, and of no relevance at all to the vital interests of the United States. Senator Jackson further obfuscates the matter with invocations of Article 13 of the Universal Declaration of Human Rights, which states that "Everyone has the right to leave any country, including his own, and to return to his country." Note that the article refers not only to the right to *leave* but also to the right to *return*. Is the right of the Palestinians to return to homes from which they were expelled any less fundamental than the right of Soviet Jews to make new homes in a new land?

Within the broader question of the West Bank there is a special importance about Jerusalem. It is here especially that the Arab-Israeli conflict converges with the question of the price and availability of oil. Let me explain why:

SAUDIS: CAUGHT IN A DILEMMA

The oil countries, united in OPEC, appear to be on a kind of power "trip," and their lack of restraint is widely, and properly, condemned. Those most insistent on repeated price increases, however, have not been the Arab states, but two of the principal non-Arab producers, Iran and Venezuela. The largest oil exporter, Saudi Arabia, has shown a keen awareness of the dangerous disruptions threatened by the fourfold increase in the price of oil, and Saudi officials have made known—both publicly and privately in unmistakable terms—their strong desire to lower prices and to work out long-term supply arrangements for the industrial nations, especially the United States. The Saudis are motivated by strong feelings of friendship and also of reliance upon the United States. Greatly fearing communism and Soviet and Chinese influence in the Arabian peninsula, Saudi Arabia looks to the United States as its mainstay against communism in the Middle East.

But the Saudis are caught in a dilemma. It is exceedingly difficult, if not impossible, for them to accommodate the United States while the United States provides the money and arms which enable Israel to occupy Arab lands. Further—and this is the heart of the matter—King Faisal feels a special responsibility—indeed a stewardship—for the holy places of Islam. Saudi Arabia is the most orthodox of Muslim societies: The holy city of Mecca is within its territory, and the kingdom uses the Koran as its constitution. Second only to Mecca in sanctity to Muslims is Jerusalem, where the Dome of the Rock is located scarcely a hundred yards from the Wailing Wall, which is Judaism's holiest site, and within a half-mile of the Christian shrine, the Church of the Holy Sepulchre.

A FAIR SOLUTION

As a city sacred to three religions, Jerusalem warrants a special status. Under the original U.N. partition plan of 1947—to which the United States subscribed, and which, to my knowledge, has never repudiated—Jerusalem was to be a *"corpus separatum* under a special international regime." After Israel annexed the old city of Jerusalem in 1967, the U.N. General Assembly condemned the action, on July 4, 1967, by a vote of 99 to 0, and then condemned it again on two subsequent occasions.

In a world without effective international law, sovereign nations are often required to choose between justice and self-interest. A fair solution for Jerusalem, however, as indeed of the Arab-Israeli conflict as a whole, requires no such choice, although uncritical supporters of Israeli policy have insisted that it does. The choice for the United States, they say, is one between Israeli democracy and Arab oil, between high mortality—as they would have it—and the crassest greed. In fact, the withdrawal of Israel to her approximate borders of 1967 and the internationalization of Jerusalem would be wholly consistent with the principle of the self-determination of peoples, an international principle to which we have always professed to subscribe and one which is also central to the U.N. Charter.

An Arab-Israeli settlement will not put an end to the energy crisis. Nor could it be counted upon to bring about an immediate substantial reduction of oil prices. It would, however, eliminate the major irritant in relations between the United States and the Arab states—especially Saudi Arabia—and in so doing create a much improved environment for negotiations on oil supply and prices. A settlement making just provision for the old city of Jerusalem and for the other occupied territories would greatly increase the political influence of Saudi Arabia, and therefore its weight as a force for moderation within OPEC. Saudi Arabia would be liberated, in effect, to do what King Faisal and his ministers want very much to do: co-operate to keep the West, and especially the United States on which Saudia Arabia relies, prosperous and strong.

Such an approach would not constitute a "sellout" of Israel. Quite the contrary, it calls upon Israel to do nothing more than she ought to do anyway, even if there were not a drop of oil in the Middle East. Indeed it would be to Israel's advantage—probably her salvation—because there can be no lasting security for that small beleaguered community without a settlement, and there can be no settlement without withdrawal. For the United States the occasion—if we rise to it—is one of those rare and happy ones in which justice and self-interest coincide.

BAD USE OF A FRIEND

Unfortunately, neither the Israelis nor their uncritical supporters in our Congress and in our media have appreciated what is at stake, and the enormous distortion of American interests in our present course. Endlessly pressing the United States for money and arms—and invariably getting all and more than she asks—Israel makes bad use of a good friend. Unlike the Saudis, the Israelis seem not to recognize that if the United States is gravely weakened, they themselves can hardly hope to survive.

For those reasons it has become incumbent upon the United States—working with the Soviet Union through the United Nations—to take the decisive lead in bringing the quarter century of crisis in the Middle East to a prompt and equitable solution. The general outlines of such a solution are clear and even obvious: explicit acknowledgment of Israel's right to exist by the Arabs, including the

Palestinians; Israeli withdrawal to the approximate borders of 1967, with United Nations forces patrolling demilitarized zones on both sides of Israel's borders; self-determination for the Palestinian people of the West Bank, either as an independent state or in some form of confederation with Jordan, according to their own wishes; a special status for the old city of Jerusalem, providing equal and uninhibited access for members of all faiths; and a general great-power guarantee of the settlement and its terms, under the auspices of the United Nations, reinforced by a direct American treaty guarantee of Israel's independence and territory. On the basis of unofficial soundings, there is reason to believe that the Soviet Union would be prepared to join in such a settlement, including the guarantee of Israel.

A solution in the Middle East is the key to a resolution of the mounting world economic and political crisis. Although it cannot be predicted with certainty, there is good reason to believe that Israel's withdrawal from old Jerusalem and the West Bank will lead to a significant lowering of oil prices, giving the West and others the time they so desperately need to adjust to the new world energy situation. There is even better reason to believe that the failure to achieve a solution will bring a new war, a new oil boycott, and possible consequences therefrom ranging from another Great Depression to Armageddon itself.

To state the matter with simple candor: The United States has done as much for Israel as one nation can do for another—we, and we alone, have made it possible for Israel to exist as a state. Surely it is not too much to ask in return that Israel give up East Jerusalem and the West Bank, as the necessary means of breaking a chain of events which threaten us all with ruin.

As we survey these great difficulties we cannot fail to perceive that the only available solutions are co-operative solutions. If the world crisis is to be surmounted, unprecedented accommodations will be required, starting with the absolutely essential accommodation of Israel and the Arabs. Beyond that—and because of it—it will become possible to build the equally essential co-operation between oil producers and oil consumers, between rich nations and poor nations, industrial and developing nations. We must rededicate ourselves to the objectives proclaimed by Churchill and Roosevelt in their Atlantic Charter of 1941, including their desire "to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned," and the right of "access, on equal terms, to the trade and to the raw materials of the world. . . ."

Lord Byron wrote that "The best of prophets of the future is past." History casts no doubt at all on the ability, of human beings to deal rationally with their problems, but the greatest doubt on their will to do so. The signals of the past are thus clouded and ambiguous suggesting hope but not confidence in the triumph of reason. With nothing to lose in any event, it seems well worth a try.

THE CAYCE-WEST COLUMBIA, S.C., COLT LEAGUE WORLD SERIES CHAMPIONS

Mr. THURMOND. Mr. President, near the end of summer this year, a group of young men from my State won the World Series of Colt League Baseball in an elimination series at Lafayette, Ind. In reaching that pinnacle, the Cayce-West Columbia Colt League Champions defeated teams from around the United States, Latin America, and the Far East.

Their victory is significant as a feat of athletic accomplishment, of course, but it also serves as a reminder to each of us that perseverance, teamwork, and good sportsmanship have their rewards. These young men, ages 15 and 16, and their adult leaders, devoted many long hours to the perfection of their sport and the coordination of their effort.

Mr. President, their performance in the quest of this goal was, indeed, exemplary. They worked together; they perfected their skills, and they won. It is also reassuring to know of the time and talent which the adult leaders of this group contributed to their success. This is the kind of bridge to cooperation which expresses the highest esteem between generations.

The world series victory by the Cayce-West Columbia team is an example to all young Americans. It serves not only as a mark of superior baseball prowess but also as a test of character and purpose. They are to be commended for their successful season and for the beneficial influence their actions have provided for others.

Inspiration for outstanding performance comes from many sources. Each of these young men who contributed their skill and drive to that moment of victory in August drew from their own sources of strength. In turn, they have left a record which will stand as a challenge to others yet to play the game.

Mr. President, I am pleased to congratulate the members of the Cayce-West Columbia, S.C., Colt League World Series Champions and extend to them all best wishes for future accomplishments. The players who contributed to the championship are as follows: Jeff Hipp, Phil Carter, Eric Warren, Bobby Burton, Woody Newton, John Nabors, William Olawsky, Mike Jeffcoat, Jeff Twitty, Ken Coin, Ernest Watford, Mike Medders, Roger Tallent, Billy Hayes, and Johnny Epps. Their adult leaders were W. B. McDowell, team manager; Billy Whitten, team coach; and Lester Newton, team business manager.

At the time of their victory, an article entitled "Local Colt All-Stars Sweep World Series," appeared August 27, 1974, in the Journal of West Columbia, S.C., describing that final game. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the West Columbia, S.C. Journal, Aug. 27, 1974]

LOCAL COLT ALL-STARS SWEEP WORLD SERIES

(By Rob Harper)

The ball has to bounce right for any team to win a world championship, and that's exactly what happened for Cayce-West Columbia Colt League All-Stars as they won the Colt League World Series in Lafayette, Ind., last week.

There weren't any pushovers among the final eight teams which made it to the 1974 series, and some mighty good ball clubs went home after playing but twice in the double elimination tournament.

Veteran observers from Lafayette, the city which has played host to the series five times in the last six years, said this was the best balanced field of teams ever to visit the playoff site, and individual game scores reflected that appraisal.

Cayce-West Columbia's widest victory margin, 5–0, came in the opening game against Venezuela, but not before the Lexington County lads had all the trouble they wanted from the South American champions.

C-WC lefthander Jeff Twitty pitched out of a bases loaded—one out jam to protect a slim lead before his teammates broke through to increase the victory margin in the final innings.

The next step up the victory ladder was even more difficult, as it took a one-out double by Twitty in the bottom of the seventh to nip the host team Lafayette 2–1. Twitty's double landed six inches inside the right field foul line and rolled to the fence. Lafayette, a strong team despite making it to the series as host team, had beaten Northern Division champ Joliet, Ill., in 11 innings in the first round of play.

By the time C-WC squared off against Puerto Rico in the battle of the undefeateds, only El Monte, Calif., remained in the tournament field as Venezuela, Hawaii, Lafayette, Joliet and Corpus Christi, Tex., had been eliminated.

The Caribbean area champions had relied on lightning speed on the basepaths and a defense so reliable Lloyds' of London would have insured it in their drive to the semifinals.

But so far in the tournament C-WC's persistence in tight situations forced mistakes by the opposition, and it happened again in the form of a miracle rally against the Puerto Ricans.

Puerto Rico had capitalized on two C-WC errors to take a 4–1 lead in the fifth, and when the first two South Carolina batters were retired in the sixth, things looked bleak for the local lads.

Then suddenly things began to go right for Cayce-West Columbia. A base on balls, a pop fly double which was lost in the lights and a bad-hop two-run single cut the Puerto Rico lead to 4–3.

Frustrated PR pitcher Jaime Roman then hung a curveball to leadoff batter Eric Warren, and the C-WC leadoff batter promptly deposited it over the 322 foot sign in left for a two-run homer, putting the South Carolina team in the lead once again. C-WC held on for a 7–5 win.

Puerto Rico rebounded the next night to eliminate California 4–3 in 12 innings, earning the Caribbean champs another chance at C-WC.

The bouncing ball was once again smiling on the C-WC club, turning a routine single into a home run in the first inning to give the World Series champions a lead which they never lost.

Jeff Hipp hit a routine single up the middle, but as Puerto Rico centerfielder Carlos Rodriguez charged the ball, it hit a rock, took a crazy hop and rolled to the fence 406 feet away. Hipp circled the basepaths to give C-WC a 1–0 lead.

Eric Warren, who had homered in the first game against Puerto Rico, found a Roland Rodriguez fastball to his liking and homered over the leftfield fence to push the lead to 2–0 in the third.

When John Nabors singled in another run in the fourth it looked like icing on the cake, but Puerto Rico had other ideas. Three straight hits to start the seventh cut the lead to 3–1 and put the tying runs on the corners, but once again came the friendly hop of the base for the South Carolina team.

After Hipp struck out one batter, third baseman short-hopped a hard smash to third and tagged the runner coming from second for out number two. Hipp then struck out Hugo Lopez for the World Championship.

There's an old saying in sports that "it is better to be lucky than good." And when you are both lucky and good, you win the World Series.

ALEXANDER BICKEL

Mr. BAYH. Mr. President, I was deeply saddened to note the untimely death during the recess of one of the Nation's most distinguished legal scholars, Alexander M. Bickel. Over the years Professor Bickel appeared many times as a witness before my Subcommittee on Constitutional Amendments and before the Judiciary Committee. Although on many of these occasions I differed with his views on the issues to which he addressed himself, I always found his analysis stimulating and illuminating. He was a true gentleman and a trule scholar.

Mr. Anthony Lewis wrote a moving column on the legacy of Alex Bickel in this morning's New York Times which eloquently reflected many of my thoughts. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the *New York* Times, Nov. 18, 1974]

Process and Principle

(By Anthony Lewis)

New Haven, Nov. 17.—Last June Professor Alexander M. Bickel of the Yale Law School had a letter from a friend chiding him for something he had written about the Special Prosecutor's suit for White House tapes. It might, the letter said, give comfort to those who thought Presidents were above the law. Professor Bickel replied that of course he did not think that. Then, with an affectionate word for his friend, he added:

"How often have I been told that to say this or that is to give comfort to one or another s.o.b. I have generally functioned without regard to the question of aid and comfort. I speak out on what interests me. Sometimes it draws attention, sometimes not. Sometimes, of course, I make a mistake."

There are a few people who think things through, hard, and then will not be deterred from taking a position by its unpopularity. Alex Bickel was one. He gave no quarter in argument and he expected none. He was unembarrassed by disagreement; he cherished it as an essential part of freedom.

His general attitude toward law and the courts was indeed unpopular with much of his audience. At a time when liberals increasingly looked at the Supreme Court to vindicate the values of a good society, Professor Bickel thought that was a bad idea.

He was skeptical, for example, of the Court's 1964 decision that the states must apportion seats in their legislatures on the basis of population. He thought social policy generally should be left to political decision, however slow and frustrating. "The more fundamental the issue," he wrote in 1962, "the nearer it is to principle, the more important it is that it be decided in the first instance by the legislature."

Like Justice Felix Frankfurter, for whom he was law clerk, critic, friend, he revered the American system. It was doubtless not just coincidence that both had come to this country as young men. Something about that experience of immigration must have made them see democracy with less jaded eyes.

Professor Bickel was prepared to stake almost all on the political process and hence he objected to anything that confused the responsibility of democratic decision. That explained his objection to the suits for the Nixon tapes—a position that many of his friends thought wrong but that reflected a consistent philosophical view.

He thought the Special Prosecutor had no legal standing to sue President Nixon because he was part of the executive branch and could be dismissed by the President. Professor Bickel feared opening the courts to disputes within the executive. He thought the responsibility of decision had to remain with the President—who should face political retribution if he did wrong. Thus, for Professor Bickel, it was the duty of *Congress* to press for the Watergate evidence and take action against a corrupt President, as it eventually did.

As a legal "conservative," he found his views taken up by politicians whom he profoundly disliked. When Richard Nixon decided to use the issue of school busing to arouse racist emotions in the country, Nixon people sometimes mentioned Professor Bickel's published criticism of busing orders as a remedy for segregation. But he was a passionate enemy of racism, and he wanted any legislation on schools to be the vehicle for an economic and political assault on unequal education.

The remarkable thing about Alexander Bickel was that you could disagree with him so violently and yet go on listening with delight.

The phenomenon was explained part by his freshness of language, his ability to make ideas come alive. He was as much writer as lawyer. He threw rare light on the character and methods of a judge in his early book, "The Unpublished Opinions of Mr. Justice Brandeis." It is a heavy cost of his death, to scholarship and literature, that there will be no Bickel biography of Felix Frankfurter.

Part of the explanation for his effect lay also in his zest for combat, his openness to criticism. Those provoked by his ideas found themselves re-examining their own. Disagreeing with Professor Bickel was an intellectual adventure that could lead to discovery of one's own beliefs.

However sharp his words, his ultimate disapproval was directed not at any opposing principle, but at lack of principle—at hypocrisy, humbug, unthinking subservience to power. In the Pentagon papers case, when he represented The New York Times in the argument for freedom of the press, he was angry only when he thought government counsel had cheated on the process by unfair tactics and false assurances to the judges.

In his last months he faced with extraordinary serenity the knowledge that he was dying. Until the last he communicated love of life, ideas and the paradoxes of humanity. The paradox of Alex Bickel was that he warned us against relying too much on the law and showed us how much the law had to teach us about principle and the democratic process.

THE DEPARTMENT OF INTERIOR'S OUTER CONTINENTAL SHELF ENERGY PROGRAM

Mr. TUNNEY. Mr. President, on September 27 and 28, I chaired Ocean Policy Committee hearings in Santa Monica, Calif., in an effort to get at the facts behind the Interior Department's proposal to lease 10 million acres on the Outer Continental Shelf for oil exploration and development.

During the hearings the Interior Department's official spokesman declared that no decision on whether or not to lease would be made until the end of the summer of 1975. However, a few days later a confidential Interior Department memorandum was uncovered which directly contradicted this testimony. The memorandum ordered the leasing of 10 million acres in 1975.

Mr. President, this is but one of many contradictions and inconsistencies in the Department's Outer Continental Shelf energy program.

I ask unanimous consent to have printed in the Record a November 10, 1974, Los Angeles Times article by Philip Fradkin which I believe reveals a single-minded effort to impose upon the public a decision born in secrecy.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Nov. 10, 1974]

Documents Reveal Oil Lease Decision—U.S. Plans To Move Ahead With Development Off Southland Coast

(By Philip Fradkin)

Despite official claims to the contrary, the decision has already been made to sell leases for offshore oil development along the Southern California coastline.

This is the only conclusion that can be drawn from scores of letters, memos and documents made available to The Times that reflect the thinking of the federal government over the last 20 months.

Although there is no single, signed document in which the decision is spelled out, there are many documents which reflect the Department of the Interior's thinking and planning goals.

The picture that emerges shows clearly that the government already has decided to move ahead with plans to lease some part of 1.6 million acres extending from the Channel Islands in Santa Barbara County to Dana Point in Orange County.

In reaching that decision the federal government seemingly has violated its own law—the National Environmental Policy Act of 1969—which requires that an environmental impact statement be completed so that all factors can be weighed before such a decision is made. The environmental statement on this plan, however, will not be completed for several months.

The Times also has learned that the oil industry initiated and vigorously promoted the idea of drilling off the coast. It played a crucial role in resolving the one conflict which could have held it up—the strong objections of the Department of Defense which were overridden by the Department of the Interior and the White House.

This conflict was resolved as the result of private negotations between the oil industry and the government without any input from the public or elected officials.

The state attorney general contends in a suit against the Department of the Interior that a decision to lease already has been made, contrary to the requirements of the environmental policy act.

"It is not easy to point to one act," says California Asst. Atty. Gen. Robert H. O'Brien. "It is a cumulation. They are too far down the line in the decision-making process to back off."

Interior Secretary Rogers C. B. Morton, who was recently named by President Ford to coordinate the nation's energy policies, disagrees.

"I want to make clear one point about which there has been some confusion. The Interior Department has made NO decision to lease any new areas off California for possible drilling."

However, the overwhelming weight of evidence contained in memos and letters made avaliable to The Times by Interior and other sources does not support Morton.

Some of these documents originally were marked "confidential" and "secret" but have been declassified since.

The documents not only delineate the decision-making process involving this one area but also the wider program—of which Southern California is a part—to lease 10 million acres on the nation's outer continental shelf next year.

That goal was announced last January by former President Richard M. Nixon and documents show that top Interior officials take it seriously. The idea originated within the department.

One document, signed by Interior Deputy Undersecretary Jared G. Carter calls for a "firm leasing schedule" that "definitely includes" some "10 million acres leased in 1975—not just 10 million acres offered."

Other documents show that Southern California will play a key role in the drive to meet that goal.

Southern California would be the first lease in a previously unexplored area under this program and is considered a test case for leases in such other untouched areas as the whole Atlantic seaboard and the Gulf of Alaska.

Such a program would result in 8,600 miles of oil pipeline and 1,000 new platforms being constructed off the nation's shores.

It is a goal that is scoffed at as being unachievable by Interior officials on the field level. And at least two ranking officials of the department have cast serious doubt on it in memos.

Oil industry sources say not enough capital or steel for the industry exists to meet these vastly increased objectives.

But the federal government is struggling to meet the goal. This program has been cited in memos as the reason for getting as much acreage leased off the Southern California coast as is possible.

The documents obtained by The Times also reveal:

Central and Northern California continental shelf regions, as yet not precisely defined, along with the coastlines of Oregon and Washington, are being eyed by Interior as possible lease areas.

Studies leading to environmental impact statements have been slated for those areas and two Interior officials met with state officials earlier this year in Oregon and Washington to discuss the possibility of these lease sales.

The Bureau of Land Management, an Interior Department agency which has direct responsibility for the leasing, is more interested in changing the minds of Southland officials opposed to offshore development than gathering the necessary information for the environmental impact statement.

The top priority listed in a memo outlining a proposed $1.2 million "environmental" research study—the only major research to be conducted by the government for this lease—contains a $50,000 item for "reaction analysis and identification of local political community power structure."

An August memo from William E. Grant, head of the local land management office, to his superior in Washington, D.C., further states:

"The identification of the composition of the community power structure will assist in education thrusts toward these officials at a later time, with possible softening of their present opposition to offshore oil development."

Another $43,000 is proposed for a public relations program "to soften negative public opinion" and to determine what that public opinion is.

"At the present time a vocal minority is representing itself as the opinion of the public," the memo states.

Both this memo and a report from the U.S. Geological Survey, another agency within Interior which is charged with furnishing the Bureau of Land Management with technical information, state sufficient geological and environmental information is not available for the lease area.

Grant's memo cites "critical information voids," including earthquake potential. It concludes that tracts are being selected "without complete geophysical understanding of the lease area."

According to the present timetable, all the information will not be available before the final tract selection and the lease sale next fall.

A report by the Geological Survey also points out that information is inadequate to guarantee "full identification of environmental hazards" seaward of the islands.

Lead time to interpret environmental and mineral data for the whole lease area "is in years rather than months," the survey's memo states.

Then Mr. Nixon first identified the lease area in his energy message of April 18, 1973, it was specified as a region "beyond the Channel Islands of California."

This was the area that the oil industry had been promoting since drilling was suspended in the Santa Barbara Channel following a massive oil spill in 1969.

But the next fall the Department of Defense presented Interior with a map showing its objections to the area outside the islands, contending that oil operations would interfere with military staging areas. Interior then moved to expand the lease into the nearshore areas off Ventura, Los Angeles and Orange counties where there were no military objections.

A compromise on the areas outside the Channel Islands was later reached after intervention by Roy L. Ash, director of the White House Office of Management and Budget.

Thus, in the area currently under consideration on both sides of the islands the key decisions were reached within a vacuum of government and industry officials as the energy crisis deepened last fall.

[From the Los Angeles Times, Nov. 10, 1974]

HOW OIL-LEASING WEB DEVELOPED BEHIND SCENES FOR 3 YEARS

(By Philip Fradkin)

The first public announcement of an oil lease off the coast of Southern California was made in April, 1973, but the idea germinated privately between the oil industry and the government for the previous three years.

The chronology of the decision-making process, as compiled from documents and interviews, shows the federal government increasingly caught in the web of a self-fulfilling prophecy.

In the mid-1960s the oil industry became aware of the potential for oil in the Santa Rosa Ridge and the Tanner-Cortes Banks seaward of the Channel Island.

The area was attractive because of the shallow water, it was outside the major shipping lanes, and oil platforms would be located out of sight of large population areas, according to officials at Western Oil and Gas Assn., the trade group representing industry interests on the West Coast.

"In the fall of 1969 and 1970 we held numerous talks with the BLM (Bureau of Land Management)," said Harry Morrison, vice president and general manager of the association. These discussions reached up to the under secretary level of the Interior Department, he said, "But they were pretty much noncommittal."

On April 18, 1973, former President Richard M. Nixon announced that leasing on the outer continental shelf would be increased to 10 million acres beginning in 1975, more than tripling what had originally been planned.

He specifically mentioned the Southern California area in his message, "if the reviews under way show that the environmental risks are acceptable."

The brief mention was buried and few caught it. One person who did was Ann Wray, legislative assistant to Sen. Alan Cranston (D-Calif.).

Ms. Wray called staff members at Interior who told her they were not prepared to talk about it.

"They said there was just the possibility of oil and they weren't sure where the lease area was located," she recalled.

It was not until Jan. 3, 1974, when The Times printed a major story on the department's call for tract nominations from the industry, that the senator knew of Interior's intentions.

Sen. John V. Tunney (D-Calif.) did not learn first hand of Interior's plans until June 27 of this year when he was briefed by Jared G. Carter, deputy under secretary.

But on the same day in the spring of 1973 that the President delivered his energy message, a small group of Interior officials decided "a sale could be held beyond the Channel Islands in California in approximately 15 months."

According to a memo by acting BLM Director George L. Turcott, the meeting was held "to discuss the possibility of scheduling a California OCS (outer continental shelf) sale."

The BLM had first wanted to hold the sale within 12 months, but officials at the meeting decided 15 months was "the absolute minimum period we need to develop an adequate environmental statement." The California sale now took precedence over others.

The following month Western Oil and Gas officials received a call from William Grant, then with the BLM in New Orleans and now head of the BLM office here, asking if the industry would be interested in a sale off the coast of Southern California.

Grant said in an interview that he did not remember if the call was made at the suggestion of his superiors or on his own initiative. He had known the industry officials from the late 1960s when he headed a small BLM office here, which closed after the Santa Barbara oil spill.

The trade association made a quick poll of its member oil companies and WOGA's Morrison said, "We told Grant that, yes, the companies would be interested."

On June 11, 1973, one month before publication of the revised leasing program, Henry W. Wright, land and water manager for the trade group, wrote Grant in New Orleans and suggested that the federal government leave the environmental studies largely up to the industry:

"It is my understanding that your office has appointed an environmental assessment team to study the potential effects on the marine environment of further OCS leasing off California.

"In light of the extensive amount of research that has been undertaken over the past five years, both by our member companies and public bodies, I would hope that the team would utilize this material rather than embark upon time consuming physical research of their own.

"We'll be pleased to assist the team in securing applicable data. Please have them contact the association at their convenience."

But the BLM formed its own team, which now consists of about 15 persons and is headed by Grant.

Meanwhile, by the fall of 1973 the industry had geared up its own efforts to produce an enviromental assessment which is due to be released in mid-November about two months before the release of the government's impact statement which is in final review process.

The industry began channeling information to the BLM more than a year ago.

On July 10, 1973, Interior published in the Federal Register its new five-year leasing schedule and issued a press release stating the schedule was a "planning document" and "no decision" to hold any of the sales would be made until after the studies.

At the bottom of the press release was the statement:

"The new schedule proposes a sale on the Pacific Outer Continental Shelf beyond the Southern California Channel Islands in Sept., 1974."

The call for nomination from the industry of specific tracts was scheduled for August, 1973.

The low-key press release escaped almost everybody's notice.

Only July 17 Turcott sent a letter to government agencies stating Mr. Nixon's wish to lease the area "beyond" the Channel Islands and asking if they saw any conflicts.

The federal agencies replied that they saw no secrious conflicts.

But the geological survey objected about not having enough information "for good *tract selection* and evaluation".

The Department of Defense did not receive one of the letters. Defense was notified of Interior's intentions for the first time on Aug. 14.

Then Alfred D. Starbird, defense deputy director of test and evaluation, walked into the office of the undersecretary of the interior and talked to an aide, Kenneth Lay, who related in an Aug. 24 memo to Undersecretary John Whitaker, the No. 2 man in the department, the gist of the conversation.

Lay first noted that Interior was preparing, to put the area up for nomination, "probably within one week," and then stated:

"Starbird says it is probably the most actively used defense staging area for missile firings, fleet operations and ocean acoustical research and development testing of any area off the U.S. coast.

"He proposed we withdraw this area from consideration for OCS leasing and work with them in selecting an alternative site."

The military's objections delayed the calling of nominations until Jan. 2, 1974, while negotiations went on within government circles.

It was at this critical juncture—during the four-month delay from the time the call for nominations was originally scheduled—that the oil industry played its critical role in the decision making process.

On Oct. 24, 1973, Morrison, head of Western Oil and Gas Assn., wrote a letter to Interior Secretary Rogers C. B. Morton stating:

"It has been disturbing and disheartening to us to find that the call for nominations set for Aug., 1973, was not made, and has not been made to date."

The letter detailed the discussions the industry representatives had with military and Interior officials on Oct. 18–19, beginning at the bottom of the ladder on the West Coast and ending near the top in Washington.

The letter stated that from one Interior official in Washington, "We got the impression we would be welcome 'outside the door and available to answer question' during such negotiations. At this point it was decided that we should contact the secretary of defense and the secretary of interior directly."

The letter also asked that the oil industry "be requested to provide facts that will assist the negotiations between Defense and Interior, so that a start will be made on the development of the area."

Interior officials state that the role requested by the oil industry was not allowed.

The position being advanced by the oil industry at this time and advocated in the letter to Morton was:

". . . We felt nominations should be called for immediately so that both Defense and Interior would know exactly where operations were contemplated."

At Morrison's request, Frank N. Ikard, president of the American Petroleum Institute, talked with Morton "to urge him to call for nominations."

The industry policy was carried by Interior officials to the office of Roy L. Ash, director of the White House's Office of Management and the Budget. Ash wrote Defense Secretary James R. Schlesinger on Dec. 11:

"After reviewing the positions of both Departments, I have come to the conclusion that the Secretary of the Interior should proceed with the proposed call for outer continental shelf oil and gas leasing nominations in the Southern California channel islands area, without the restrictions suggested by Department of Defense representatives."

Ash's letter agreed with the position of the industry. It noted, "Industry nominations will provide specific identification of potential conflicts and show where additional information may be needed. After nominations are received we will, of course, consult further with both Defense and Interior about next steps."

Industry and Interior had won the one critical battle that might have stopped the leasing. Defense had resisted the call for nominations because it felt this would build pressure to lease areas which it had designated as "exclusion" zones."

Defense's fears were to prove true.

There was further compromise. The final plan included a 25-mile buffer zone around San Clemente Island, where the Navy has a firing range, and the middle portion of the Santa Rosa Ridge was deleted to clear a firing path for missiles from Pt. Mugu. The northern portion of the Santa Rosa Ridge was kept as a lease area.

Despite warnings that there were 2,500 live firings a year from the Pacific Missile Range at Pt. Mugu and a one in ten chance of hitting an oil platform south of Santa Rosa Island, part of this area was put up for tract nomination and the military went about the task of rerouting its firings.

BLM officials maintain that the military was exaggerating its position to retain as large an area as possible.

On Jan. 2 the call for nominations was published in the Federal Register and the Department of Interior issued a press release.

The Times published a story the next day which alerted the public for the first time to the possibility of oil platforms off the coast.

On Jan. 23 Mr. Nixon issued his second energy message, which was referred to afterwards by Interior officials as justification for leasing as large an area off Southern California as possible.

The message stated, "I have already ordered leasing in that area (OCS) to be stepped up (a reference to the April, 1973, message).

"Today I am directing the Secretary of Interior to increase the acreage leased on the Outer Continental Shelf to 10 million acres beginning in 1975, more than tripling what had originally been planned."

To implement this new program, Undersecretary Whitaker sent a Feb. 1 memo to Asst. Sec. Jack O. Horton stating "a number of related actions need to be accomplished to insure that the accelerated leasing is done in a responsible and efficient manner . . ."

One of the actions was: "You should identify any 'bottlenecks' to anticipated exploration and production as a result of OCS leasing which can be alleviated through changes in wage or price control policy."

Although the BLM had established an office in Los Angeles the preceding September, it was not until Feb. 13 that a meeting was held with such concerned state agencies as the State Lands Division, departments of fish and game, navigation and ocean development and parks and recreation.

Curiously, the one state agency that was to become most concerned—the State Coastline Commission—was omitted from this early meeting and its staff was only to hear from federal officials the next July.

But Gov. Reagan, or his office, knew about the plan by Sept. 27, 1973.

Reagan had written President Nixon in mid-November, 1973, in support of leasing in federal waters off California.

The BLM and the Geological Survey worked through last spring to come up with a joint recommendation on what tracts should be selected for the lease sale.

The memos of both agencies indicate one factor was of paramount importance—meeting the 10 million-acre goal.

The Washington office of the BLM sent Grant a memo entitled "Tract Selection Guidelines for Offshore Southern California Proposed Sale No. 35" on March 14.

These were the guidelines under which the tracts were to be selected. Under the category of "special considerations" the guidelines state:

"New policy guidelines provide for leasing approximately 10 million acres in 1975. The Southern California area is important in attempting to meet this established goal.

"The various factors mentioned above (Department of, Defense objections)along with the limited acreage in the shallower water depths will limit the sale size.

"In order to comply with Department policy, you should include the largest acreage possible considering nominations from industry, environmental considerations, current technology and other appropriate tract selection criteria."

The Geological Survey (USGS) and the BLM offices on the West Coast began to put together a joint recommendation, with the survey providing technical information and its own acreage suggestions.

The USGS which also has the job of inspection of offshore drilling facilities, had already cited insufficient geophysical information for tract selection.

An April 10 memo from the USGS noted the lack of inspection personnel and raised doubts as to whether the industry had enough manpower and equipment to handle such a large scale.

Yet despite its forebodings, the USGS recommended a 3-million acre sale or two sales "in excess of 1.7 million acres" to help meet the President's goal.

On April 29 the joint recommendation identifying 1,690,000 acres as "primary acreage" was submitted to Washington. It was essentially this amount that Interior Secretary Morton approved, announcing on Aug. 12:

"I will make no decision as to whether a sale will even be held, whether it should be deferred, or what tracts, if any, should be sold until after there has been a thorough review of the possible environmental impacts and an opportunity for public comment, both in writing and at a public hearing."

The acreage was announced as a "tentative" tract selection on which the environmental impact statement would concentrate. It was down from the 7.7 million acres put up for industry nomination in January.

Then the BLM's Los Angeles office began to concentrate on drafting the environmental impact statement.

The guidelines for the "Environmental Studies Program" drawn up by the Washington BLM office state their objective is "to provide information about OCS environment that will enable the department and the bureau to make sound management decisions regarding the development of mineral resources."

The contract for this $1.2 million study has yet to be awarded.

Earlier in the summer Interior Deputy Undersecretary Jared G. Carter held a series of three meetings in California with the public, elected officials and state agencies. He assured everyone no decision had been reached on whether to lease.

On Sept. 18 Carter sent a memo to the top oil leasing officials in the BLM and the Geological Survey, stating, "the under secretary (Whitaker, the No. 2 man in the department) wents a firm leasing schedule laid out that definitely includes the following items:

"1. 10 million acres leased in 1975—not just 10 million acres offered.

"2. A sale in '75 in both Alaska and the Atlantic.

"3. An alternative, if number 2 fails, which will still allow leasing of 10 million acres."

After the Washington Post disclosed this memo, a storm broke and Carter told a hastily called Senate subcommittee hearing that the memo was simply a planning document. "I frankly don't think it's worth a great deal of discussion," he testified.

Responses to the memo were obtained by the Times.

On all the schedules submitted to Carter, the Southern California sale ranks near the top.

THE TRADE REFORM ACT

Mr. ROTH. Mr. President, we are down to the wire on the Trade Reform Act. With only 20 to 25 legislative days left in the 93d Congress, speedy action is necessary to insure that this legislation, so essential to a stronger U.S. economic position in world markets and a more orderly international trading system, is adopted.

If Congress fails to enact the Trade Reform Act, we will have lost a great deal.

We will have lost an opportunity to begin negotiations important to American workers, farmers, and consumers to reduce the many nontariff barriers to our agricultural and industrial products in overseas markets.

We will have lost the provisions of the Jackson amendment designed to alleviate the plight of Soviet Jewry and other minorities in the Soviet Union and to achieve freedom of emigration for these minorities.

We will have lost provisions added by the Senate Finance Committee designed to insure access to the supplies needed by our industries as raw materials and energy sources.

We will have lost the provisions of the Trade Reform Act which update the countervailing duty law to insure that action is taken to counteract subsidized imports hurting domestic industrial or agricultural producers.

We will have lost provisions strengthening the antidumping law to insure that action is taken against imports which are competing with domestic industries at below fair market value.

We will have lost the community adjustment assistance program, sponsored by Senator Long, and other provisions liberalizing worker and firm adjustment assistance.

Above all, we will have failed to enact legislation needed to head off a worse worldwide recession. At this time there is great pressure around the world to react to growing economic frustration by adopting the kind of nationalistic economic policies that proved so disastrous in the 1930's. The United States should take a leadership role in shaping a sound new economic order and to do that, Congress needs to act speedily on the Trade Reform Act.

EXCESSIVE DEFENSE SPENDING CONTRIBUTES TO INFLATION

Mr. CRANSTON. Mr. President, the Los Angeles Times has been publishing a series of articles dealing with inflation from diverse points of view. One of them was written by Harold Willens, a Los Angeles businessman.

Mr. Willens stresses that excessive and wasteful military spending has stoked the flames of inflation. He points out that military expenditures are largely responsible for the $74 billion deficit which this country has incurred since 1969. He mentions that new missiles, new doctrines, a swollen force level, and ongoing expenses in Indochina are draining our economy.

Mr. President, I do not subscribe to every point that Mr. Willens makes. But I wholeheartedly agree with his basic argument: to win the fight against inflation, President Ford must face the fact that the current, ruinous level of defense spending is one of the greatest threats to our economic well-being.

I ask unanimous consent that Mr. Willen's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Sept. 23, 1974]

What Is To Be Done About Inflation?

Willens: Cut Defense Spending by $15 Billion

(By Harold Willens)

To reinforce his contention that inflation is Public Enemy No. 1, President Ford has called it "the cruelest kind of taxation without representation." He has also declared that his highest priority is "all-out war against inflation," and vowed that we will win it before July 4, 1976.

If Mr. Ford is to achieve this goal, he must adopt a sharply revised view of national security—a view which sees our most serious threat as economic rather than military. Yet the President, who repeatedly stresses the need to cut federal spending, also repeatedly stresses his reluctance to cut the fattest peacetime military budget in history.

This contradiction in Mr. Ford's position reflects the common—and costly—myth that our defense budget is just what the name says it is. It isn't.

Just this spring Secretary of Defense James R. Schlesinger admitted before the House Appropriations Committee that the Nixon administration had added $6 billion to this year's military budget (defense spokesmen later tried to back off to $1 billion) in an attempt, of all things, to stimulate the economy. Apparently the former President and his men agreed with Karl Marx's assertion that without war, or its equivalent, American capitalism will collapse. As one American capitalist, I reject that contention, and I hope that our new President will also reject it.

Military expenditures are the most inflationary in the budget. Military goods are dead-end products which take resources away from noninflationary uses. The money we spend this way pumps dollars into the economy but produces no consumable goods or services. In our current period of "stagflation," excessive military spending is a sure prescription for failure to cure its devastating ravages.

Since 1969, our country has incurred a total budget deficit of $74 billion—primarily the result of swollen military spending. During the last 10 fiscal years, individual income taxes paid by all Americans amounted to $814.1 billion, of which $731.1 billion was spent for military purposes. Those expenditures first kindled the fires of inflation, and then stoked them into flames which now threaten to gut our country's economic vitality.

Yet for almost three decades the military budget has been our most expensive sacred cow. While no one in his right mind wants to spend less than enough to protect our country, it is foolhardy to let an outdated military definition of national security pass as an excuse for projects that have no conceivable relationship to the safety of the United States.

All federal bureaucracies have fat. The Department of Defense is the largest of all, with by far the largest budget. Its natural inclination toward waste and mismanagement have only been encouraged by our failure to demand strict accountability.

Like every department, the Pentagon strives to protect its own institutional vested interests, particularly its budget. It is the President who must make sure—like the chief executive officer of any enterprise—that no single department gets what it *wants* as opposed to what it *needs*.

To help make this crucial distinction, Mr. Ford should bear these facts in mind:

Next year the Air Force plans to begin production of the B–1 bomber, intended as a replacement for the B–52. To many military experts, the B–1, which will cost at least $1.5 billion, is a joke. In an age of intercontinental ballistic missiles the manned bomber is, at best, only a fallback weapon, and some of the more advanced versions of the B–52 are quite adequate for that purpose. Similarly, the Trident—a nuclear missile submarine that will cost $13 billion—is uncalled for. We already possesss a nuclear missile submarine, the Polaris-Poseidon, which the Navy itself claims the Russians have no defense against.

At last count, the 40 major weapon systems now in production were running a total of $31 billion above the original estimates.

It has long been known that both the United States and Russia have enough long-range nuclear missiles to wipe out each other many times over. Even for the dangerous new counterforce strategy for fighting limited nuclear wars, now being actively promoted by the Defense Department, we already have more than enough nuclear weapons. Yet the Pentagon embarking on a new nuclear missile program that will cost $10 billion before it is finished.

Although we already have enough nerve-gas stockpiles to kill everyone in the world 1,000 times—even though nerve gas is virtually useless as a deterrent—the Pentagon is asking for money to produce a new and presumably more lethal brand.

We are still spending around $2 billion a year on arms, ammunition and military fuel for a war in Indochina which serves only to prevent people in that area from working out their own accommodations.

The United States military has 2.2 million men under arms (including more field-grade and flag officers than there were in 1945, when the military numbered 12.1 million men). Maybe this force level was economically feasible when the military was paid rock-bottom wages, but not any more. An even greater economic problem, hidden like the underwater par of an iceberg, is how we will support these millions of men after they retire; according to the Treasury Department, the unfunded actuarial deficiency for military retirement pay already stands at $137 billion.

What can be done? The best advice comes from a panel of former governmental national security experts headed by Paul Warnke, an assistant secretary of defense under President Johnson. This group recently concluded that $15 billion could be cut from the military budget "without risk to our national security." Such a reduction would give President Ford the $5.5 billion cut in federal spending he wants so badly—plus $9.5 billion for noninflationary remedies for our economic ills. Funds of this magnitude could create a vast number of public service jobs, provide substantial help to the ailing housing industry and otherwise inject healthy dollar dosages into our economic bloodstream.

In one respect, inflation is like a forest fire. The longer it runs unchecked, the harder it becomes to control. No reasonable person expects the inflationary fires now raging to be extinguished instantly. Our national security can be irreparably damaged, however, if some boldly imaginative step to slow down inflation is not taken soon.

The President has counseled us all to tighten our belts and "watch every penny." We are less likely to do that in response to pep talks than if the nation's biggest *spender*—the Pentagon—has set an example. Control of inflation depends in large part on replacing widespread worry and fear with hope and confidence, which in turn can be generated only by substantive action at the federal level.

A $15 billion reduction in military spending could bring beneficial effects above and beyond its anti-inflationary impact. For a quarter-century Russia has followed us up the armament roller coaster to dizzying heights of mutual cost and danger. Now we have reached the point at which six nations possess atomic weapons—and more than 20 others possess the capability to produce them.

The U.S. Arms Control and Disarmament Agency reports that by damaging the stratospheric *ozone level*, nuclear war could destroy all life throughout the world. It seems reasonable to assume that sheer self-interest would prompt Russia to follow our lead toward gradual arms reduction if only we did what a world leader is supposed to do—lead.

If economic necessity became the mother of military invention, Gerald Ford could be remembered as the world leader who began the process that reversed mankind's lemming-like march to self-extinction.

But first steps first. The clear and present danger to our national security is economic, as Mr. Ford has repeatedly emphasized. The danger cannot be diverted if we cling to a Maginot Line military mentality. We must stop putting money where our myths are—or inflation will never be licked.

THE VIETNAM ERA VETERANS' READJUSTMENT ASSISTANCE ACT OF 1974

Mr. **BENTSEN.** Mr. President, before recessing for the elections, Congress completed action on H.R. 12628, a measure improving the education benefits provided our Vietnam-era veterans. The measure expands a number of highly effective educational and vocational programs for the veteran and increases monthly benefits by 22.7 percent, provides for a yearly educational loan of up to $600, and extends eligibility to 45 months for an undergraduate education.

Many of us had hoped for much more, but this measure deserved our support and should be enacted. For fear of a pocket veto, the bill was not forwarded to the President following final Senate action. The President will, however, receive the measure this week, and I ask him to give it his most careful consideration, as he promised in Salt Lake City several weeks ago. I ask him to consider with compassion the needs of our young veterans and their families in this time of economic stress, and I urge him to sign this bill quickly.

Improving the benefits earned by the Vietnam veteran has won overwhelming bipartisan support during this past year. The Senate has twice approved a conference report on the measure, and on October 10, the House approved the final report 388 to 0. I do not believe the election recess has in any way diminished the Congress support of this bill, and I ask the President to recognize this popular endorsement.

Since first considering this legislation earlier in the year, the Congress has cut the expenditures authorized for these programs by over $642 million, or nearly 46 percent, largely because of the administration's adamant request and our own determination to get a measure enacted as quickly as possible. The Congress has certainly demonstrated its willingness to compromise and to work with the Executive, and I ask the President now to demonstrate that same good spirit.

I simply cannot accept the claim that the proposed benefit increase would be inflationary. Throughout its history, the GI bill has been a wise investment in the future, in the future of America's young men and their dependents and in the future of this Nation itself. For every dollar expended, the Nation has received at least $3 to $6 in additional tax revenues. More importantly, new skills have been acquired, productivity has been increased, and the contribution of the veteran to our peacetime economy has been greatly enhanced.

If ever we could afford not to make that investment, now is not the time. Unemployment reached 6 percent nationally in October, but the jobless rate among Vietnam veterans age 20 to 24 has now soared to 12 percent. Most disturbing of all, the unemployment rate among the young minority veterans has risen to over 20 percent in many areas.

As Senator Randolph noted before the recess, all too often, "these young veterans tend to be the last hired and the first fired." Educational and vocational training is now of utmost importance, and the measure the President considers this week will go a long way in helping the Vietnam veteran obtain the employable skills he needs to have a fighting chance.

However, the most compelling reason for the President to sign this measure deals with the matter of justice. In our effort to forget American involvement in the Indochina war, we have too frequently also forgotten the young men who were asked to give up a portion of the best years of their lives to serve there. We have not provided them with the benefits given their fathers who served in the Second World War or in Korea. We have brought them back to a society marked by inflation, high unemployment, and rising educational attainment, one in which the unskilled or the untrained cannot easily compete.

The time has come to act. H.R. 12628 will help our Nation repay the debt it owes those young men of whom so much has been asked. I call upon the President to seize this opportunity and to sign the measure.

VIOLATIONS OF FUNDAMENTAL HUMAN RIGHTS

Mr. **HUGH SCOTT.** Mr. President, in the interests of our Nation's humanitarian concern, today I am joining Senator Taft in sponsoring the resolution (S. Res. 392) concerning the freedom of Valentyn Moroz, Ukrainian historian.

This brave Ukrainian is among the courageous dissidents in the U.S.S.R. who only wish to enhance the Ukrainian national identity, their national language, and the freedom of cultural expression. Those arrested have included such well-known Ukrainian figures as Ivan Dzyuba, Vyacheslav Chornovil, and Valentyn Moroz. Their arrests have been justifiably condemned as violations of the fundamental human rights outlined in the Universal Declaration of Human Rights.

This is a case of humanity and justice, and I urge my colleagues to join in this humanitarian effort.

Mr. President, I ask unanimous consent that the text of a letter I have received from Mr. Titus D. Hewryk, a friend of the Moroz family, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

University of Pennsylvania,
Philadelphia, Pa., October 4, 1974.

Senator Hugh Scott,
U.S. Senate,
Washington, D.C.

Dear Senator Scott: Permit me to bring to your attention the plight of my dear friend's husband, Valentyn Moroz.

I have corresponded with Mrs. Moroz since 1968 when I had met her in Kiev. Unfortunately, our correspondence was, and is, limited to the discussion of weather and the like. However, on August 28th Raisa Moroz wrote a letter to me, which was mailed in Western Germany. Below are excerpts from this letter as translated from Ukrainian:

"I did not hear from you for an eternity. Apparently letters are getting lost somewhere. . . . In connection with my husband's two months old hunger strike, I went to the city of Vladimir and attempted to get permission for an unscheduled visit. I also tried to bring a physician. Without any results."

"My only hope is world's citizenry, especially writers of the world. If only one could generate their interest in the faith of my husband. I wrote to the head of P.E.N. Club. But will he listen? . . . ."

"Maybe there are possibilities that U.S.A. writers' attention will be brought to this matter, and they in their turn would write to our writers about my husband."

"Help, if only minimal, is only possible from the citizenry of the world. As far as my petitions are concerned, I have lost hope."

"And I am also asking you, not to forget, whoever can and wants to write telegrams and letters to the head of Vladimir's prison. To ask about my husband's health and in general everything. So that the interest in him does not die. Regardless of lack of response to these telegrams. These messages will leave appropriate impression. And maybe will prevent his death."

I can only echo Mrs. Moroz' words. I beg you to raise your voice in defense of this courageous man; I implore you to write on behalf of Valentyn Moroz to Mr. Brezhnev and Ambassador Dobrynin in Washington.

Thank you very much.

Sincerely yours,

Titus D. Hewryk.

GOOD FOR OLD PURDUE

Mr. **HARTKE.** Mr. President, I am proud to bring to the attention of my colleagues the energy conservation measures implemented by Purdue University, one of the fine universities in Indiana. When the shortage of energy became obvious to the Nation, and many people were asking what could be done, Purdue officials called upon the university community to conserve otherwise wasted resources.

The result was more than expected. During fiscal year 1973–74, a savings of $317,784 was realized by closing doors, using less water and switching off lights when not in use. As a result the university burned 17 percent less coal, cut electricity 6.7 percent, water use 15.7 percent and heating steam 10.6 percent.

The entire Purdue community of officials, students, and employees should be congratulated by all energy conscious individuals.

I ask unanimous consent to have printed in the Record at this point, an editorial entitled "Bully for Old Purdue" which appeared in the Indianapolis Star during November 1974.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Indianapolis Star, November 1974]

Bully for Old Purdue

Purdue University students and employes have proved that energy conservation is a worthwhile project, no matter whether the energy crisis is real or contrived.

During fiscal 1973–74 these groups saved the university $317,784 because they made a real effort to conserve energy. They closed doors, used less water and switched off lights when not in use. As a result the university burned 17 percent less coal, cut electricity 6.7 percent, water use 15.7 percent and heating steam 10.6 percent.

Such savings have had an immediate practical effect. Without them many employes who have received pay raises would have received less or none at all. It is a money-saving program that is welcome to the taxpayers.

Whether or not the energy crisis is serious, there is no reason to use energy that is not needed. We doubt if anyone went dirty or was too cold because of the conservation measures. And even though there may be ample energy sources available, they should not be wasted. The earth's supply is not infinite.

Purdue's vice-president Frederick R. Ford was so pleased with the energy conservationists that he congratulated them and urged their continued awareness of wasteful practices.

As the old college yell went: "Bully for old Purdue!"

RIGHT TO PRIVACY

Mr. HART. Mr. President, at the recent Western Regional Meeting of the Commercial Law League of America, Mr. Stuart E. Hertzberg, the president of the league and a widely respected Detroit attorney, delivered a forceful and timely address on the need for Congress to protect fully every American citizen's right to privacy.

As Mr. Hertzberg points out:

> The best defense of the right to privacy is public awareness.

And he properly concludes:

> I would certainly not dispute that modern government needs some information about its citizens to administer certain social programs fairly and effectively. But there must always be restraints against the misuse of information about the private lives of private citizens.

Mr. President, I ask unanimous consent that Mr. Hertzberg's address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

The Invisible Threads, a Defense of Privacy

(By Stuart E. Hertzberg)

Thank you. Ladies and gentlemen, officers of the Western Region, board members and guests. This is the fourth regional meeting I have attended as president of the Commercial Law League and the fourth at which an attendance record has been set. For this Western District success we are especially indebted to Chairman Richard Horton and his wife Sheila and to Arrangements Co-Chairmen Lawrence Fleming and William Moroney.

I'm going to talk this morning about what Alexandr Solzhenitsyn has described as the "invisible threads" and what Louis D. Brandeis defines as the "most comprehensive of rights, the right most prized by civilized man—the right to be let alone."

In a word, I'm going to talk about privacy.

A quarter century ago, Eric Blair, an Englishman, wrote one of the great modern classics of negative Utopia. It was "1984" and Blair's pen name, of course, was George Orwell.

You may remember the opening scene. Winston Smith, the non-hero is in his one-room flat. Orwell described the telescreen on the right-hand wall:

"Any sound that Winston made, above the level of a very low whisper, would be picked up by it; moreover, so long as he remained within the field of vision which the metal plaque commanded, he could be seen as well as heard.

"There was of course no way of knowing whether you were being watched at any given moment. How often, or on what system, the Thought Police plugged in on any individual wire was guesswork. It was even conceivable that they watched everybody all the time.

"But at any rate they could plug in your wire whenever they wanted to. You had to live—did live, from habit that became instinct—in the assumption that every sound you made was overheard, and, except in darkness, every movement scrutinized." That is "privacy" in Oceania, Winston Smith's native land, in "1984".

How is it in America in 1974?

In his 1974 State of the Union Message, the President promised a "major initiative" on the matter of privacy and in late February, he announced that he was establishing a top priority committee to provide, in his words, "a personal shield for every American" against invasions of privacy from any source—including the Federal government.

I am disturbed though, by the limited scope of the President's committee on safeguards to privacy. The President's study group is to concentrate on only three problem areas—the collection, storage and use of personal data.

A position on wiretapping is to be deferred until the new Commission for Review of Federal and State Wiretapping Laws reports. That may not be for many months. The work has just started.

But the real starting point was defined nearly 200 years ago in the Bill of Rights. Unfortunately, there are those who apparently consider the Constitution as no longer operational.

Under the Bill of Rights, the Federal government is prohibited from spying on political opponents. But it did.

Under the Bills of Rights, the people are secure from unauthorized searches of their persons, their houses and their papers. But we had a Watergate and a break-in at a doctor's office.

With each violation of the Bill of Rights, your rights are imperiled. When Army personnel are used to spy on peaceful political meetings, your privacy is threatened. When government officials use Internal Revenue Service files to compile an enemies list, again your privacy is diminished.

Beyond these flagrant and publicized violations of the right to privacy, there is a constant and insidious erosion of privacy of progress, as an unavoidable if somewhat unpleasant side effect of our computer culture.

If I were to ask you this morning: "What do you spend on presents for your grandchildren?" or "How many newspapers and magazines do you buy a month?" or, even more personal, "Do you wear artificial dentures?" and "How often do you go to the barbershop or beauty salon?", I would hope you'd tell me to mind my own business.

But every one of those questions was asked recently of retired Americans in a questionnaire sent out by the Census Bureau at the request of the U.S. Department of Health, Education and Welfare.

And I'm sure many of you remember the questions asked in the last regular census; questions which American citizens were required to answer under threat of punishment under Federal criminal laws.

"Do you have a flush toilet? Have you been married more than once? What is your rent? How many bedrooms do you have? What is your monthly electric bill? Did your first marriage end because of death of wife or husband?"

I would certainly not dispute that modern government needs some information about its citizens to administer certain social programs fairly and effectively. But there must always be restraints against the misuse of information about the private lives of private citizens.

Senator Sam Ervin in a discussion on "Computers and Privacy" told a university panel last year that, as chairman of the Senate Subcommittee on Constitutional Rights, he set out to learn how many data banks were being operated by the Federal government.

The Senator said:

"I wrote to fifty Federal agencies asking them just how many data banks they have. So far, we have received information on more than 750 with varying contents, operational guidelines and the like."

"One of the most disturbing aspects of governmental data collection," Sam Ervin warns, "is the use of surreptitious surveillance and intelligence operations to collect information on innocent citizens whose political views and activities are contrary to those of the Administration."

In July of last year, a month after Senator Ervin appeared on that panel at Miami University in Ohio, the Department of Health, Education and Welfare published a report on a study authorized in 1972 by the then HEW Secretary, Elliot Richardson. It is called "Records, Computers and the Rights of Citizens."

The report, some 350 pages, is available from the Superintendent of Documents, Government Printing Office, for $2.00.

I would hope that one of the first things the President's committee, headed by Vice President Ford, will do is spend $2. And then spend some time reading the recommendation of the HEW report.

The report recommends enactment of a Federal "Code of Fair Information Practice" for all automated personal data systems. Noting that "under current law, a person's privacy is poorly protected against arbitrary or abusive recordkeeping practices," the Code "rests on five basic principles."

1. There must be no personal data record-keeping systems whose very existence is secret.

2. There must be a way for an individual to find out what information about him is on record and how it is used.

3. There must be a way for an individual to prevent information about him that was

obtained for one purpose from being used or made available for other purposes without his consent.

4. There must be a way for an individual to correct or amend a record of identifiable information about him.

5. Any organization creating, maintaining, using or disseminating records of identifiable personal data must assure the reliability of the data for their intended use and must take precautions to prevent misuse of the data.

It should be noted that the HEW study group was headed by Willis H. Ware, chairman of the Corporate Research staff of the Rand Corporation, and members included management in both government and industry, the social service professions, legislators, lawyers, a labor union official and private citizens.

They have done their job well. But it is only a beginning. Recommendations are not law. I do think that the HEW study offers the basis for a legislative program.

However, protection of the right to privacy goes far beyond the problems of computer technology. As a simple indicator of the scope of the subject, let me read a few listings under "Privacy" in a recent Reader's Guide to Periodical Literature. I do this at the risk of revealing my private sources of research for public speeches.

Under "Privacy," we find: "Assault on Privacy; Drifting Toward 1984; Growing Alarm Over Official Snooping; How the U.S. Army Spies on Citizens; Electronic Surveillance of Private Citizens; School Records Can Be an Invasion of Privacy."

There's lots more. And that's good. Strangely, perhaps, the best defense of the right to privacy is public awareness.

Back in 1970, Sam Ervin, who has always been aware of any threat to our basic rights as Americans, said:

We should "bestir all Americans to claim their Constitutional legacy of personal privacy and individual rights and to demand an end to abuses . . . before the light of liberty is extinguished in our land."

It was the President who said:

"A system that fails to respect its citizens' right to privacy fails to respect the citizens themselves."

But the President sees the primary threat as one of technology while neglecting immediate steps his office could take to strengthen citizen rights.

Senator Phil Hart, of Michigan, suggests a program of action, one that can be initiated from the White House.

The Senator believes "the most pressing need is to put an end to domestic political surveillance and intelligence gathering by government agencies. The President could begin that effort by supporting a Senate-passed bill to prohibit military personnel from spying on American citizens.

"The President can order everyone in his Administration to refrain from political spying of any kind. There is absolutely no justification, legal or otherwise, for government to collect intelligence on its political opponents for the purpose of or with the effect of stifling their opposition."

Let me suggest, as Senator Hart has, that the President should immediately order that no wiretapping, bugging or breaking and entering, be carried out without authority of an independent court order.

As the senator has said:

"He should state without equivocation that the label of 'national security' will not be used again to hide or excuse illegal acts. And then he should join Congress in preparing legislation to make those executive orders into law.

"The President must respond to continuing reports that telephone records, bank records and other private business records are being obtained by the government secretly with no legal safeguards—without the protection of a court warrant, or the opportunity for the person involved to raise legal objections to protect his rights. The President, by executive order could and should end that practice and require any federal agency to obtain a subpena for such information.

"For several years, the Administration has opposed a Senate-passed bill to prohibit government employees from being asked about their religious beliefs, their politics and their social lives. The President should support this measure. Such a law would set an example for other employers to follow and free our civil servants from implied threats when that kind of information is sought.

"And finally, the Administration should support stiffer controls on use of criminal justice records.

"These records include arrests as well as convictions. They are sold or given to credit bureaus, banks, insurance companies, employers, and schools. Too many people have been denied advanced schooling, a loan or a job because of inaccurate records or because an arrest record fails to include the fact that charges were later dropped or the person was acquitted.

"And too many people never find out that such records exist and cause their difficulties.

"The answer is a law to prevent private access to all arrest records and require officials to open these records to inspection and correction by those involved. And any criminal justice agency participating in the nationwide criminal information network should be required to update their records."

To single out computer banks—private or governmental, as the root evil could easily divert public attention from the totality of privacy's defense.

There is no safe way to strengthen the Bill of Rights except by giving it once again supremacy over ill-defined Presidential and government powers and over what have been neatly defined as "vague and ubiquitous claims of national security."

The shadow is lengthening.

In another land, where the light of liberty, as we understand it, has been extinguished, these words were written:

"As every man goes through life he fills in a number of forms for the record, each containing a number of questions . . . There are thus hundreds of little threads radiating from every man, millions of threads in all.

"They are not visible, they are not material, but every man is constantly aware of their existence . . . Each man, permanently aware of his own invisible threads, naturally develops a respect for the people who manipulate the threads."

Yes, those are the words of Alexander Solzhenitsyn, from "Cancer Ward."

I see the fabric of our private lives woven from those threads and I fear that we may be careless and unwittingly bow to those who manipulate the threads.

It must not happen here.

Thank you.

HOPE FOR RETARDED NAVAJO CITIZENS

Mr. DOMENICI. Mr. President, on the Navajo Indian Reservation in northwestern New Mexico, hope for retarded Navajo citizens has been born out of the efforts of determined parents, teachers, and community people. The Alchini Be Lchohoo Association for Retarded Citizens, literally translated, the Hope for Children ARC, is the culmination of years of hard work, patience, and perseverance.

In northwestern New Mexico, access to health care facilities is difficult at best. Until recently, access to special education programs and training centers for the mentally retarded and developmentally disabled was impossible. In the establishment of the Hope for Children facility at Coyote Canyon, N. Mex., a corps of dedicated social workers and educators had long perceived the trauma and results of the stress placed on family relationships because of the presence of children or adults with mental or physical handicaps. It was they who provided the technical expertise and assisted in the negotiations with State and tribal governments. Significantly, however, it was a small group of Navajo parents who, intimately familiar with the guilt, the strain, and the physical and economic hardships of educating and training mentally retarded children, provided the impetus.

The development of the Hope for Children ARC exemplifies the innate resourcefulness of community people who are willing to act as they believe. When they could not identify sources of Federal funding, they tapped State resources. Working through the local school system, they gained access to materials, to educational personnel, and to a ready source of technical expertise in the school systems' special education department.

Recognizing that there were parents who could share with them a multitude of experiences and information, they established working relationships with the county association for retarded citizens and cosponsored a statewide convention for the New Mexico ARC.

The Hope for Children ARC has been one of those rare endeavors when, through the energies of concerned and active citizens, all immediately available resources are finally brought to bear on a specific problem of mutual concern to Indian and non-Indian communities.

Mr. President, I ask unanimous consent that the article, "An Indian School. An Indian ARC" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

AN INDIAN SCHOOL . . . AN INDIAN ARC . . . OVERCOME CENTURIES OF TRADITION

If love conquers all, then the Alchini Ba Lchohoo (Hope for Children) ARC on the Navajo reservation in New Mexico is sure to succeed, no matter what.

The school operated by the ARC has twenty students ranging in age from twelve to twenty-one years and has one of the finest vocational programs in the nation, a full academic program and a vital and active Foster Grandparents Program.

Things were not always this prosperous nor was the future always bright for members of the Navajo reservation who had mentally retarded children. Arthur Hood, director of the school, explained that in 1971 it was on the verge of folding. There were little or no funds available, the lights were being turned off, heat wasn't always turned on and the people who were running the facility, as a private corporation, finally just pulled out and left it to the students and their families to figure out how to survive. In October the parents started to hold meetings to ascertain what could be done to save the program.

PARENTS BAND TOGETHER

Eventually things got so bad it was obvious that the whole facility would have to be closed down. At this point a small group of parents banded together and, with the aid of three social workers from the Bureau of Indian Affairs and some members of the Navajo tribal education council, went to the State Capital at Santa Fe and presented their case to the State of New Mexico and asked for their help. Meanwhile the tribal council has appropriated some emergency funds to keep the facility running and many of the staff stayed without salary while members of other agencies donated their time and effort to keep things running. The more desperate and gloomy the situation became, the more determined they were that it would not fold and that it would ultimately become a feasible and viable situation.

Sophie Thompson, who now works full time for the U.S. Public Health Service, explained: "We wouldn't have children sitting there at home doing nothing. Some of them had been returned here from Los Lunas after this facility was originally opened. They could either go back there or to their homes, with their families providing whatever treatment they could. The public schools have no provisions for handicapped children."

Neither of these were acceptable alternatives in the eyes of the proud Navajo people. The nearest schools wre 200 to 300 miles away. This meant virtually no visitation, as free transportation was not available and the cost of public transportation was prohibitive for most families. Neither of the schools available had people on their staff that spoke the Navajo language so the children were even more seriously handicapped as most of the parents spoke little or no English. Experience had taught the parents that when their children went off to these schools they experienced great emotional difficulty adjusting to their homes when they came back during summers or vacations periods, because of the language transition. Even more serious, perhaps, was the feeling by the parents that their children were not receiving the kind of education that would ultimately make them sufficient, a priority goal of the fledging parents group.

At this point there was the idea of becoming an association; it was just a bunch of parents with a common problem. We have children who need help, where can we get it and what do we have to do?

Because the school is on a government reservation the Bureau of Indian Affairs became involved and the bureau's Lucinda Martin began making calls on various agencies and individuals to enlist support for the cause. Helen George, who was also with BIA at that time, became another of those who just wouldn't take no for an answer and found that persistence pays off. Together all concerned worked to find any kind of support they could muster. While Bureau of Indian Affairs schools have provisions for slow learners, there were none for handicapped children.

BIGGEST PROBLEMS

One of the biggest problems in gaining support and help from the Navajo nation, as such, was explaining what the school and the problem was all about. Education of those in a position to help was very difficult but critical. All the volunteers worked on this phase of the campaign.

Eventually, it all paid off, the school was back in business. Hood had been on the staff of the original school and had stayed on to help found the new program. "I figured I'd like to help my own people here, so that's what I did. I took a chance to try and get this program going. I had some help from the psychologist who worked for the original program and from a lot of professional people on the tribal education council. We went to schools that had special education to get information, we went to where resources were available, like in Santa Fe, and we had help from the Catholic Church that already had a program for mentally retarded persons. We had help from all of them. During this time the parents were holding meetings and getting organized and helping in any way they could.

Finally, we got to legal services and through some Office of Economic Opportunity funds we took it to the State Department of Education and they realized we needed such a facility here on the Navajo reservation. By December we got support from the Social Service and Special Education Department of the Navajo tribe.

"Funds were eventually obtained from the State Department of Hospitals and Institutions, covering administration, education, transportation and evaluation. BIA supplied funds for the residential aspects of the program; food, clothing, utilities and use of the school buildings. BIA also provided additional funds for personnel for maintenance, etc. McKinney County school district supplied funds for teachers, aides, and classroom equipment. The Navajo tribe then provided an additional grant to hold things together till we actualy got some of these monies."

The program was underway. Ms. Thompson explained the parents' role and how it changed. "At first the parents had no say in the curriculum. Of course we had a lot of opinions from the parents, but by the third meeting they said they wanted continuing education for their children and that they preferred that the school be on the reservation. They also wanted a vocational trades program so that students could eventually get out of the school and get a job."

DETERMINED PARENTS

Once the facility was given this second life, the staff and parents were determined not to let it die. This time the parents were there asking questions, making suggestions; in a word, participating! Hood explained that the vocational aspects of the school are predicated on traditional Navajo Indian skills and this is where the foster grandparents program became such an integral part of the school. "The foster grandparents teach these students to speak their native language and the ways of Navajo life. Most important to them, they teach them skills that will enable them to make a living. Things like tending a garden, weaving and eventually a program for silversmiths."

TRANSITION

The transition from a loosely organized parents group to a formal member unit of NARC was not achieved easily. One of the turning points came when, at a meeting at Red Rock, Mr. Irey Goossen, an instructor at Northern Arizona University, spoke to parents. He spoke to them in Navajo and explained that he too had a mentally retarded child.

Lucinda Martin explained the effect of this meeting:

"Here was a white person, telling us he had the same problem we did. It wasn't an evil spirit for him. It wasn't just poor people having this problem. They were overwhelmed, Navajo people do not get to travel much and they have very limited contact with white people. It was very hard for them to conceive of thousands of people having the same problems they do. Going to Rosebud helped too. It made them more aware that there can be unity in facing a big problem. Other Indians, white men, all working together for a common cause."

The problems the Navajos face are basically the same problems that any ARC group faces. Ignorance of what mental retardation is. What mentally retarded people can do. Reluctance by some families to admit to their problems. One additional influence makes it just a little more difficult for the Alchini Ba Lchohoo ARC though. That of native custom and tribal superstition.

Chee Willeto, a leader in the government sponsored Foster Grandparents Program explained: "Twenty-five years ago, such children were not brought out into the open, they were cared for in their own homes. It was considered a tabu, a type of spell. We Navajos have respect for nature on earth. We respect the animals, we have prayers for them. We have respect for things that are put on earth and if we as humans somehow endanger them then God punishes us by giving us a retarded child. This is a philosophy that has been kept and carried on in our culture and if it passed on to you from your parents and their parents, you believe it. This is one of the goals of our organization, to educate the whole community.

"One thing we have put out to the community is, do not consider mental retardation as being crazy or sick. We as a group perceive it as a handicap problem, we can maximize the potential, we want to look at it that way. One big problem is that there is no Navajo word for mental retardation."

Overcoming these centuries of tradition and supersition is just one more obstacle for the members of the Alchini Ba Lchohoo ARC; but their track record indicates that they are not easily deterred and in time they will overcome these problems just as they have all the others. They have that same magic ingredient that has helped so many other parents of mentally retarded overcome seemingly insurmountable obstacles. LOVE!

GENOCIDE TREATY DEMANDS IMMEDIATE RATIFICATION

Mr. PROXMIRE. Mr. President, once again I urge my colleagues in this distinguished body to ratify the Genocide Convention Accords.

In the words of the Senate Foreign Relations Committee report, the purpose of the convention is "to make genocide an international crime, whether committed during peace or war." This convention was impaneled in the aftermath of the mass murders of Jewish peoples in Nazi Germany. Since this accord was drafted and adopted by the United Nations General Assembly on December 9, 1948, 78 nations have ratified this crucial document.

The late Harry Truman, the President of the United States at the time of the adoption of the treaty, came out strongly in defense of its ratification. He said:

> By the leading part the United States has taken in the United Nations in producing an effective international legal instrument outlawing the world-shocking crime of genocide, we have established before the world our firm and clear policy toward that crime. By giving its advice and consent to my ratification of this convention, which I urge, the Senate of the United States is prepared to take effective action on its part to contribute to the establishment of principles of law and justice.

Mr. President, as the late President urged, we should have prompt and positive action on the passage of this vital treaty. We are all against genocide. We all deplore the mass murders and horrors that the Jews were subjected to in Nazi Germany. However, talking is not enough. It is time we ratified this treaty and demonstrated to the world our intolerance of genocide.

WEALTH IS NOT INHERENTLY DISQUALIFYING

Mr. HUGH SCOTT. Mr. President, the Washington Post, in an editorial Friday, emphasizes a point I have been trying to make throughout the protracted hearings on the Rockefeller nomination, namely that the foot dragging so apparent in both bodies has obvious political overtones:

> . . . it will become appropriate to ask whether . . . the exercise now going on is not to cripple Mr. Rockefeller as a future political candidate rather than to investigate his qualifications to be vice president.

This is a question which deserves an answer and an appropriate and immediate response—the expeditious confirmation of Nelson Rockefeller as our next Vice President.

I ask unanimous consent that the Washington Post editorial referred to above be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 15, 1974]

WEALTH IS NOT INHERENTLY DISQUALIFYING

One of the threads running through the hearings and the commentary on the nomination of Nelson A. Rockefeller to be vice president is the proposition that the joining of national political power with the economic power of the Rockefeller family would be bad for the country. This proposition has been spelled out both abstractly and precisely. In its abstract form, and stripped of unnecessary rhetoric, it becomes an argument that the very rich should not be allowed to hold high political office because they bring with them a distorted view of American life. More precisely, the question becomes, as Sen. Cannon has put it, whether Mr. Rockefeller realizes the inherent risks of "the wedding of great economic and political power." In either form, it seems to us, this is a mischievous line of inquiry to the extent that it directs attention away from the real questions and diverts it toward a classical Marxist analysis of American politics in which, by definition, the holders of great wealth are, however enlightened individually, unavoidably corrupt agents of their class.

It is true, no doubt, that in some cases the holders of great wealth may not be fit to hold high public office. Their view of America may be so distorted and so narrow-minded as to make them blind to the issues the nonwealthy in the country face. Similarly, some of the poor in the country may be unfit for high public office because their economic status has distorted their vision in a different but equally disqualifying way. And the same can be said of any general class of persons—males, females, white, black, rich, poor, bankers, lawyers, soldiers and so on. There were those who felt General Eisenhower should not have been President because he possessed a "military mind," and those who distrusted Woodrow Wilson because he was a professor, and those who would have ruled out Lyndon Johnson because he was a Texan. The point is simply that it is the character and qualifications of the individual that matter most and these are not criteria that can be fairly applied on the basis of race or sex or social and economic background, or professional experience, or regional origin.

Fortunately, Mr. Rockefeller chose to deal directly with the issue of his wealth in his opening statement before the Senate Rules Committee Wednesday. It now seems crystal clear to us that he understands the risks of which Sen. Cannon spoke and the arguments made on this issue, both precisely and abstractly, and he may understand them far better than most of his critics or questioners.

The real questions about wealth and economic power as they relate to the vice presidency (and the presidency) which Congress should be attempting to answer were spoken by Mr. Rockefeller himself: "Am I the kind of man who would use his wealth improperly in public office? Or, more generally and more importantly, would my family background somehow limit and blind me, so that I would not be able to see and serve the general good of all Americans?"

The answers to those questions, we believe, can only be found in Mr. Rockefeller's record. And despite all the insinuations and all the details that have been dredged up in the last three months, there is not yet one substantial bit of evidence that suggests he has used his wealth improperly or that he has been unable to see the problems of the average American. Indeed, all the evidence surfaced so far points in just the other direction. What was the purpose of the loans and gifts he made to various public officials in New York State? His testimony is that his purpose was to make it possible for the state to have the services of men it might not otherwise have been able to attract, and nothing has been produced to contradict his version. That may not be a desirable way to run a state government—and in our view it is not—but it is neither unique in American history nor on its face an improper use of wealth. It may be worth recalling that in World War II it was patriotic for others to supplement the salaries of some of those who worked for the federal government for a dollar a year.

As to Mr. Rockefeller's second question, which has to do with the proposition that the rich should not be in high political office, there is no doubt from his record as governor of New York and as a national political candidate that he is sensitive to the needs of ordinary citizens, Few governors have been as quick to respond in a constructive and creative way to public needs as he was in his 15 years in Albany.

We do not know in what direction the Senate Rules Committee intends to proceed with all the witnesses it still plans to hear, Nor do we know what surprises the House Judiciary Committee has in store. But we do know that the continuing rounds of questions about the details of various gifts and loans and about the obviously misguided decision to publish a book on Arthur Goldberg have produced little new and nothing that, in our view, is disqualifying. We also know that the country has been without a vice president for three months now. At some point in this protracted inquiry—and that point is fast approaching—it will become appropriate to ask whether some part of the purpose of the exercise now going on is not to cripple Mr. Rockefeller as a future political candidate rather than to investigate his qualifications to be vice president.

FRANCHISING AND THE FTC

Mr. HARTKE. Mr. President, the Federal Trade Commission has requested public comment by November 20 on its revised proposed trade regulation rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising."

It has taken the FTC nearly 3 years to submit the revised proposed trade regulation rule after its original issuance in 1971. However, the proposal falls far short of the effective regulation needed in franchising.

My bill, S. 2467, introduced in September 1973, would remedy many of the shortcomings and pitfalls of the proposed FTC rule. I am hopeful that the Commerce Committee will schedule hearings on my legislation at its earliest convenience so that the Congress may be fully informed of the consequences and problems facing the franchising business.

Mr. President, I ask unanimous consent that an article appearing in the New York Law Journal on October 30, 1974, written by Harold Brown, author of several works on franchising, be printed in the RECORD following my remarks.

The article sets out many of the shortcomings of the FTC proposed regulation rule, and it suggests many thoughts that should be of concern to my colleagues when considering franchising legislation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Law Journal, Oct. 30, 1974]

FTC DISCLOSURE REGULATION ON FRANCHISING

(By Harold Brown)

On Aug. 22, 1974, the FTC issued a formal notice asking comment on its revised proposed trade regulation rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising."[1] The Commission requested that all data, views or arguments be submitted to it by Nov. 20, 1974. It notes that the original proposal was issued on Nov. 11, 1971, and that twelve days of hearings were held in Washington from Feb. 14, 1972, through March 1, 1972. Even though those hearings produced a massive record of oral and written submissions, no explanation was offered for the delay of almost three years nor for the agency's sudden alacrity.

The purpose of the proposed regulation is to provide the prospective franchisee with the factual information requisite to his making a meaningful decision on the investment opportunity for him to go into a business of his own. It is universally recognized that such advance disclosure is desperately needed. There are nonetheless serious misgivings regarding the revisions in the proposal, particularly with regard to the newly offered exemptions and exceptions.

Basically, any FTC regulation has debilities, especially in the areas of enforcement penalties, damages and deterrence. And in the absence of express statutory authority, such a federal rule may fail to resolve the conflict with state statutes.

RULE'S COVERAGE

The rule covers certain acts and disclosures "in connection with the advertising, offering, contracting, sale, or other promotion of any franchise in commerce," declaring any violation to be an "unfair method of competition and an unfair or deceptive act or practice" within the meaning of section 5 of the FTCA.[2] The principal part of the regulation covers the information which must be given to a prospective franchise at the earlier of two occasions, namely, the "first personal meeting" for discussing the possible sale of a franchise or at least fifteen days prior to the signing of a franchise agreement or any other binding obligation, or the payment of any consideration.

This is a substitute for the original requirement that such information be given at the first contact between the parties. While that earlier date might be burdensome to franchisors, it was also recognized that once the prospective franchisee has been "hooked," it is actually close to impossible to dissuade him by the presentation of factual data.

Perhaps more radical is the fact that the specified information need not be filed with the FTC, as originally proposed, but rather that it must be furnished directly to the

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prospective franchisee. It had been evident that the FTC did not propose to examine each prospectus, either for the propriety of its content or for any substantiation of its representations. In the absence of its performance of the functions normally exercised by the SEC for a "security" prospectus, it was apparently determined to forego all contact with the prospectus.

PUBLICITY AS REMEDY

Although the agency thus avoided any self-burden, it also forfeited the implicitly cathartic impact of any public filing, be it even with a state Registry of Deeds. As the progenitor of the disclosure provisions of the securities acts, the late Justice Brandeis aptly observed:

"Publicity is justly commended as a remedy for social and industrial disease. Sunlight is said to be the best of disinfectants."[3] Further, the mere filing of such information with the federal government would subject the material to the deterrent effect of a criminal penalty for any fraudulent information.[4]

A prospective franchisee may be investing his entire life savings in a franchise and he is usually making one of the most important business decisions of his life. It is thus difficult to understand why the federal agency most intimately concerned with franchising would forego all forms of direct contact with the process of disclosure. Further, even though the FTC has neither the staff nor the budget to perform SEC-type functions, it could use the filing in its investigative functions either on the basis of "sampling" or in response to specific complaints. Indeed, since "disclosure" is not offered as a substitute for compliance with substantive law, the content of an honest prospectus might well reveal a bold violation of the antitrust laws.

TWENTY CATEGORIES

The FTC has provided twenty categories of disclosure, covering the entire gamut of the relationshp. These include: (1) identity of the trademark, of the franchisor and of persons substantially connected with the franchisor, with whom the franchisee is required or suggested to do business; (2) the business experience and biographic data of the franchisor's chief executives, except for a franchisor that is a listed company on a national stock exchange; (3) the business experience of the franchisor, including years in this type of business, in granting franchises for such business, and in granting franchises in other lines; (4) certified financial statements for the most recent three-year period with any later material changes in its financial soundness; (5) as to the franchisor or its executives, any civil or criminal judgment involving fraud or embezzlement, any federal or state order affecting franchising, any insolvency, and franchise litigation that went to judgment or settlement in the prior seven years, and any such pending lawsuit, including full data as to each; (6) a factual description of the franchise; (7) the total deposit to be paid and its refundability;

(8) a statement of all recurring fees, including not only royalty, but also lease, advertising, training, and sign rental fees; (9) the number of independent and company-owned outlets, together with names of the ten nearest outlets; (10) a statement of all capital or operating property or services that must be purchased, leased, or rented from the franchisor or from persons substantially connected (tied products and services); (11) the basis and amount of revenue to the franchisor from suppliers of goods or services either required or suggested (direct or indirect "kickbacks");

(12) Any financing arrangements with the franchisor or substantially connected person, including any payment received by the franchisor as a placement fee; (13) a statement as to any limitations on the franchise as to goods, services, or customers he may sell; (14) any requirement as to the franchisee's personal participation in the direct operations; (15) as to any sale or transfer by the franchisee, any terms or required fee; (16) conditions for termination and renewal, including the history of each and explanations; (17) where site selection or operating units are involved, the actual history of delays; (18) details regarding training, as to specific type and nature, time, and cost; (19) as to any related "public figure," his involvement, investment, and cost to the franchisee; and (20) a clear statement and explanation of any required non-competition covenant.

WARNING REQUIRED

The foregoing information would have to be presented to the prospective franchisee in a single document, devoid of and separate from any promotional matter. Further, it would have to carry a warning to read it carefully, to state that it had been neither "reviewed or approved" by the FTC, and that a "false, inaccurate, or incomplete statement" might violate federal law.[5]

No rational explanation is readily available for the exception granted to "a listed company on a national stock exchange," excusing such a franchisor from giving "the business experience stated individually of each of the franchisor's directors and chief executive officers including the biographical data concerning all such persons." It does the prospective franchisee no good to intimate that comparable data is usually available elsewhere for such public companies; indeed, that would suggest the greater case of compliance.

Perhaps it would have been justifiable to circumscribe the number of officers to be included, limiting them to those with comparatively direct contact with the franchise system. Many franchise systems have been acquired by such "publicly listed" companies and there is no assurance that there is no assurance that such franchisors have enjoyed instant prophylaxis.

The above listing of the categories of information which must be given to prospective franchises would, by implication, confirm the disastrous situation that has until now confronted such prospects. They have had no reliable source of information and a wholly inadequate basis upon which to make a rational judgment. Within the past three years a handful of states, led by California, have adopted similar disclosure legislation; of the eight such jurisdictions, half have acted only within the past year. Given the estimates of half a million or more existing franchises, it is difficult to comprehend the extent of their past exposure to fraud, trickery and non-disclosure.[6]

PROFITS OF BUSINESS

Perhaps the most important information sought by prospective franchisees is the profitability of the business. This depends on numerous factors, ranging from marketing to the size and variety of the direct and indirect charges made by the franchisor. The revised rule dropped the original requirement that affirmative data had to be given; instead it copied the Wisconsin formula of forbidding "any oral or written representation of a prospective franchisee's potential sales, income, gross or net profit" unless they comply with a variety of standards. The first is that the "sales, income or profits are reasonably likely to be achieved by the person to whom the representation is made."

The simple justice of such a standard can, however, be avoided by simply saying nothing. Indeed, a music teaching franchise contains an express acknowledgement by the franchisee that no financial data was given. And in the 1971 fast-food franchise agreement adopted by one of the world's largest (and publicly listed) companies, the contract expressly acknowledges that the franchisor has no expertise in site selection, choice of equipment and signs, layout, recipes, and cooking and that the franchisee does not rely on the franchisor for any expertise on those matters.

Similarly, if any such representations are made, the assumptions must be set forth in detail; they must be based on generally accepted accounting principles; carry a warning that they are merely estimates; and not exceed actual experience during a representatively adequate period. Substantiation must be made available to the franchisee and to the FTC.

OTHER PROCEDURES

For general rules, the franschisor cannot give out information inconsistent with the disclosed information. At least fifteen days prior to signing, he must give a completed copy of the proposed franchise agreement. He must comply with the return of deposit representations previously given to the franchisee. And he must give out a copy of the FTC pamphlet "FTC Buyers' Guide No. 4—Franchise Business Risks."

The negative notations by the FTC are of great import. First, the proposed rule does not deal with the question of whether any practice contributes to a violation of the antitrust laws or the FTCA. Further, any publication should not be constructed as a condonation or approval. It had been publicly stated that anticompetitive matters would rather be handled on a case-by-case basis. And the pending legislative proposal to confirm the substantive rule-making powers of the FTC, would confine such to matters involving "unfair or deceptive practices," rather than include "unfair methods of competition."[7]

Finally, there would be no preemption of state regulation except to the extent that such were "directly inconsistent" with the FTC rule. Franchisors would thus apparently be precluded from claiming that state statutes were unconstitutionally in conflict with the federal standards.[8] Theoretically, franchisors would thus continue to be subject to an undue burden in the disparate requirements of various states that have legislation or act later. In fact, the states have already tried to resolve that problem by following the standards originally adopted by California. And at recent conferences, the eight states with such legislation have agreed on uniform requirements. It is said that their standards are in some ways less stringent than the proposed FTC rules.

TWO DEFINITIONS

The remainder of the proposal is devoted to definitions, including the difficult and crucial term "franchise." Even there, the FTC has provided two definitions and has expressly invited comment. In the first, the issue of "control" would be considered in the frame of the representation of more than nominal assistance in the operation of the franchise, whereas the second would focus on the degree of control over the franchisee's business. In both alternatives, there would be an exemption if the capital charge for the franchise were under $3,000. And there would also be an exemption for a relationship involving "nothing more than that of employer-employee or business partner."

That definition and its exemptions may well provide the widest area of dispute. Most emphatically, there is no logical reason to exclude transactions where less than $3,000 is charged for the franchise. First, that is simply an invitation to avoid coverage by charging less than that sum and by making up for it in rental and royalty charges. Second, the "sweat equity" of a franchisee is of far greater importance than the amount of

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his original capital investment. Perhaps two-thirds or more of all franchisors make no such capital charge, yet the franchisee's need for full disclosure is every bit as great. Indeed, the secret rebates and other exorbitant charges may well outstrip the modest initial sum of $3,000.

DISTINCT RISK

Further, the reference to "a business partner" and to an "employer-employee" relationship raises a distinct risk of evasion through such practices as the "joint venturer" or commission manager."[9] Just recently, a District Court has ruled against price-fixing and tying claims involving such a situation.[10] And the FTC rule does not provide any guidance as to the standards to be used in resolving such questions.

The definitional choice on "control" is difficult to resolve, namely, whether to rely on the "representation" of more than nominal control or on the actual exercise of some degree of control. It would be virtually impossible to resolve the evidentiary problems of proving the facts under either standard. Further, "control" may be irrelevant, as against the key phrase of "community of interest" that has been accepted by some states, such as Washington and New Jersey.

In its request for the submission of written views and arguments on or before Nov. 20, 1974, the FTC made specific reference to a number of sensitive areas. Aside from the question of defining a "franchise" in terms of "control," it also asked for comment on the "financial history" exemption for publicly listed companies, the handling of the profitability question and the disclosures for rebates and kickbacks.

RELEVANT INFORMATION

Both the FTC and its chairman, Lewis A. Engman, have long recognized the need for "relevant information useful to an intelligent consumer to make a rational choice."[11] That led to the frustrated effort to have a franchise classified as a "security" and therefore subject to the affirmative duty of disclosure in SEC Rule 10(b)(5).[12] At least eight states have already adopted such disclosure legislation for franchises.[13] And though there is much to be commended in the proposed FTC rule, it is open to fairly severe criticism.

First, it is inexcusable that the FTC has already taken three years since the proposal was first announced in November, 1971. After comments are received, another year may ensue before enactment. Unless prompt action be taken, the entire process may have to be reinitiated to comply with the new "due process" procedure prescribed in pending legislation.[14] And the sudden alacrity after such inordinate delay has led to speculation that the FTC finally acted only because of the sensational disclosures in six articles published in August, 1974, in the *Chicago Tribune*.[15]

RIDICULOUS EXEMPTION

Aside from the incredible exclusion for publicly listed companies on the need for executive histories and the palpably ridiculous exemption for franchises sold for less than $3,000, the most glaring deficiencies are only partly within the power of the FTC to remedy.

The most important is the failure to make any provision for the protection of the half million existing franchisees and the thousands yet to come. Under its recently confirmed power to act in the field of "unfair practices," as distinguished from the antitrust arena of "unfair competition."[16] the FTC should expressly prohibit any franchisor practices that are arbitrary or in bad faith. That standard has already received considerable FTC support.[17] Further, a number of states have acted to require "good faith" in both general and special franchise legislation. Since the proposed rule covers some substantial areas, there is no reason for the FTC to procrastinate in getting to the heart of the relationship.

Unfortunately, it is beyond the power of the FTC to provide for private enforcement, together with exemplary damages. Both of these are absolutely essential for their deterrent effect. Indeed, the Ninth Circuit Court of Appeals has just denied the power of the FTC to order restitution even after it found deception in the sale of franchises.[18] But these shortcomings were understood three years ago and it is in the inexcusable delay of the FTC which has impeded the effort to provide remedial legislation.[19]

FOOTNOTES

[1] 3 CCH Trade Trade Reg. Rep., par. 38,029.

[2] 15 U.S.C. 45(a)(1).

[3] L. Brandeis, "Other Peoples' Money and How the Bankers Use It," 92 (1914).

[4] 18 U.S.C. 1001. It is arguable that anyone who "willfully falsifies, conceals, or covers up by any trick, scheme, or device" a material fact in such a prospectus, would thereby criminally fall within the ambit of "any matter within the jurisdiction of any agency of the United States." See U.S. v. Myers (N.D. Cal., 1955), 131 F. Supp. 525; U.S. v. Ganz (Mass., 1942), 48 F. Supp. 323.

[5] Presumably the "violation" refers to the FTCA, supra, n. 2.

[6] See H. Brown, "Franchising Realities and Remedies" (1973), Chap. IV.

[7] See S. 356 (93d Cong., 1st Sess.), Title II, sec. 202(a), as passed by the House on Sept. 19, 1974. The FTC would also have to comply with due process requirements including such adversary procedure as cross-examination of witnesses and elaborate appeals. Aside from the inordinate delay, these could well frustrate all effective "legislative" proceedings.

[8] See pending appeal to the Third Circuit Court of Appeals in Mariniello v. Shell Oil Co. (D. N.J., 1973), 1973 T. C., par. 74,547.

[9] See H. Brown, "The Commission Manager or the Joint Venture," N.Y.L.J., June 12, 1973.

[10] See Goldinger v. Boron Oil Co. (W.D. Pa., 1974), 1974 T. C., par. 75,233; cf. U.S. v. Standard Oil Co. (D. Ohio, 1973), 1973 T. C., pars. 74,475 and 74,692 (consent decree).

[11] Remarks of Chairman Engman in Honolulu on Aug. 14, 1974 before the Antitrust Law Section of the ABA.

[12] See Comment. W. H. Seiler, Jr., "What is a Security? Howey, Turner Enterprises, and Franchise Agreements." 22 Kans. L. Rev. 55–112 (Fall, 1973).

[13] Starting with California and now including Illinos, Minnesota, Oregon, Rhode Island, So. Dakota, Washington, and Wisconsin. In Virginia, the SEC rule was enacted to apply to the sale of a franchise.

[14] See n. 7, supra.

[15] See Franchise Letter, September, 1974.

[16] FTC v. Sperry & Hutchinson Co., 405 U.S. 233 (1972).

[17] See statement of F. T. Com'r. Everette MacIntyre and of its General Counsel John V. Buffington, cited in Brown, "Franchising: A Fiduciary Relationship." 49 Texas L. Rev. 669, n. 85 (1971), publicly confirmed by L. T. Meyer, Director of Planning and Evaluation.

[18] Heater v. FTC (9th Cir., 1974), 1974 T. C. par. 75.244.

[19] See S. 2467 (92d Cong., 1st Sess.), offered by Sen. Vance Hartke in November, 1971.

THE REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

Mr. BROCK. Mr. President, one of the most important pieces of consumer legislation that remains to be completed in this postelection session of Congress is S. 3164, the Real Estate Settlement Procedures Act of 1974.

The Senate passed S. 3164 by voice vote on July 24 and a somewhat different version of the bill was passed by the House of Representatives by a vote of 399 to 2 on August 14. The conferees were appointed by both Houses before the election recess and all that remains is for the conference committee to meet to resolve the differences in the two bills.

I do not believe that work of the conference committee will be difficult and I hope that there will be no delay in convening the conference and reporting a bill to the Senate and the House. Most of the provisions of the bill have the support of virtually all Members of Congress. Prompt enactment of the bill would go a long way in eliminating the problems and abuses in the real estate settlement area that have been pointed out in the hearings we have held over the past 2 years.

This important consumer-oriented legislation will—

Prohibit all kickbacks and referral fees paid or received in connection with a real estate settlement;

Require HUD to develop special information booklets to explain in understandable language the settlement process and its costs and these booklets will have to be given by a mortgage lender to a prospective home buyer at the time he files a mortgage loan application;

Require the lender to provide the home buyer with a detailed estimate of his settlement costs sufficiently in advance of the closing to allow the home buyer to comparative shop for settlement services and to be fully aware of the various charges—such as transfer taxes, recording fees, et cetera—that he will have to pay at closing;

Require HUD to develop a uniform settlement statement for use in all federally related mortgage loans so as to eliminate the confusion caused by the tremendous diversity of forms presently used throughout the country;

Place strict limitations on the amounts lenders can require borrowers to pay into escrow accounts established for the purpose of ensuring payment of real estate taxes and insurance;

Require HUD to take steps to develop model land recordation systems that can subsequently be adopted by local governments to eliminate the present wasteful and costly systems of recording and indexing land title information; and

Require HUD to report back to the Congress on what further legislative measures may be needed to deal with problems and unreasonable practices in the settlement process.

Mr. President, I know of no individual, firm or group that is opposed to these provisions. All of the witnesses who have testified in congressional hearings—consumer advocates, Government representatives, and industry groups—support these proposals. Editorials in the Washington Post and the Washington Star-News have described these provisions as "thoroughly commendable" and "important consumer legislation that deserves passage this year."

The only provision in the legislation that is at all controversial is the provision contained in the House-passed version of S. 3164 that would repeal section 701 of the Emergency Home Finance Act

of 1970. This provision was deleted from the Senate version of the bill by a floor amendment introduced by the Senator from Wisconsin (Mr. PROXMIRE). I believe that S. 3164, with or without the provision repealing section 701 in it, is a good bill that must be passed this year. Immediate action is most important to revitalize the sagging housing market. I am confident that the conferees can deal with this one controversial provision expeditiously and I hope and expect that we can present a conference report on S. 3164 to the Senate within the next few weeks.

IDEA ADVERTISING BY BIG OIL COMPANIES

Mr. ABOUREZK. Mr. President, it is no secret where much of the millions of profit dollars being taken in by the oil industry are going. Those dollars are going into massive advertising designed to whip up public support for policies that will let the companies keep, and even expand, these huge profits.

This co-called idea advertising, advertising which is often tax deductible, which has absolutely nothing to do with the product sold by the company buying the ads, which is paid for by the public in higher prices at the pump, and which is openly designed to alter public policy in directions favorable to big oil, raises the most obvious policy questions.

It is important, and wholly legitimate for Congress to ask whether one side in the crucial public debate over energy policy should be permitted to expend millions of dollars in paid advertising to foster its viewpoint when those dollars are coming from others who may not share that viewpoint, and when other parties to the debate are wholly unable to muster similar resources to explain their views.

I am aware that any effort to curb or regulate the big oil media blitz will raise serious free speech questions. But I think Congress should be equally aware that the unprecedented move of big oil's unlimited dollar resources into "idea" advertising also raises very serious questions. To reject out of hand any effort to curb or even regulate this advertising would be a serious mistake.

Desmond Smith's article in the Nation is a chilling description of the shape and scope of big oil's use of "idea" advertising. It should be read carefully by anyone concerned about the energy future of this Nation. I ask unanimous consent that Desmond Smith's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PETRODOLLAR PUBLICITY BLITZ

(By Desmond Smith)

As John Jones drove to work he turned on the local newscast. After the headlines came an interesting report on oil drilling in Alaska; a foreman was explaining in plain language just how tough it is to work in 40° below zero temperatures on the Arctic Slope. The oil worker went on to say that his job satisfaction came from the knowledge that it was vital work because, as "everyone knows," the United States is running out of oil. What John Jones did not realize was that this was a sponsored news item, paid for by an oil company.

Jones stopped for gas at his local service station, grumbling aloud at the 54.9¢ a gallon posted price, thankful of course that there were no more gas lines, but remembering the 35¢ gasoline he bought only two years ago. A prominent sign on the pumps declared that 14.2¢ went to state and federal taxes. Unremarked was the 28.6¢ that went to the oil company, up from 18.1¢ in the recent past. At noon, John Jones went to his weekly Kiwanis meeting. The speaker was an attractice young woman from the Mobil Oil Corp. One of several thousand oil company employees who have been specially trained in community work, she spoke about the "energy shortage" and what Mobil was trying to do about it. Driving back to work, Jones stopped at a traffic light. Directly ahead, a billboard urged him to conserve gasoline because of the "energy crisis." It too was paid for by a major oil company. On his desk at the office was an announcement from the firm's oil supplier, there would be further price increases in November. Also enclosed was news that henceforth "free maintenance" of the oil system would be dropped; in future there would be a service charge. An attached slip of paper described ten ways Mr. Jones could "save fuel costs." This bit of consumer advice was provided "in the public interest" by Gulf Oil.

A little after 6 P.M. John Jones was at home, watching the local TV new. Among the day's stories was an energy-crisis report that showed operations at the world's largest offshore drilling station off the United States' Southeast coast. The "news" item was paid for and distributed by the Exxon Corp. There was no identification that this was sponsored material—it was one item in a "package" distributed free by an independent producer, in much the way that "boiler plate" is supplied by news agencies to small newspapers—and the way John figured it the oil companies were doing their best to overcome the present oil "shortage." Before he went to bed that night he picked up *The New York Times* to read the Op-Ed page. A story critical of Big Oil noted, among other things, Congressional impatience over alleged production cutbacks by the companies. Jones really did not have a clear idea of what the writer was saying. But a quarter-page ad on the same page, paid for by Mobil and captioned "Oil Wells Die, Too," made John think again about the energy crisis. Before Jones retired for the night he went downstairs and lowered the thermostat 2°. Although his heating bill was going to be almost double that of last year, thanks to that timely tip from Gulf, the Jones family could save a little money and at the same time do their bit to help the United States overcome the "oil shortage."

John Jones is a fiction, but there is nothing fictitious about the multimillion-dollar media blitz that the oil companies are currently directing at millions of American families. The brightest talents of America's most prestigious public relations and advertising agencies are now at work on the task. Their mission is to insure that the public attitude toward Big Oil remains positive, despite what they may read in the news columns. Paid for out of the most stupendous windfall profits in the history of the oil business, these professional media managers have been hired to transform a policy crisis into an "oil crisis." In the process, the methods they are using raise important questions that deeply affect public opinion and policy formation.

Operating in an environment that is increasingly hostile to their oligopolistic practices, the oil companies have largely abandoned traditional modes of advertising, promotion and merchandising. Control over both the medium and the message has quietly shifted from Madison Avenue to a new group of communications specialists who work directly for the oil companies. The public relations department, or, as it is more frequently called, the communications or public affairs department, is where the power is today. Men such as Ruddick Lawrence, the Continental Oil vice president, corporate activities, and Herb Schmertz, vice president of public affairs for Mobil, are prime movers in this new scheme of things. Declaring that "accusations make headlines, answers wind up on page 31," Lawrence has put Continental Oil into the "news" business in a formidable way.

It is worth recalling that for most of the period since World War II the oil industry attracted little or no public attention. With powerful friends such as Johnson, Rayburn and Kerr in Congress there was little need to worry about the depletion allowance, environment measures, or that import quotas might be canceled. The public was content to believe that the oil industry was highly competitive—it said so in its advertising, didn't it? Moreover, the highly publicized gasoline price wars were a powerful promotional device for hoodwinking a gullible public. Few noticed that when the "war" was over, prices went back to normal—or more frequently, a little above normal, to recoup the promotional expenses.

Many people forget now that the oil industry actively encouraged the "arterialsclerosis" which, beginning in the early 1950s with the Interstate Highway program, was by the late 1960s to leave the major American cities with more than 50 per cent of their usable land devoted to streets and parking lots. On Capitol Hill, oil lobbyists supported the government-subsidized 41,000-mile, $42 billion interstate highway network and, in the name of "freedom of choice," expressed delight that 88 per cent of all intercity travelers went by private automobile rather than railroad. The absurdity of a national policy that approved the construction of highways at $35 million per mile, while allowing its rail lines—each equivalent to twenty lanes of highway—to go to ruin is not entirely accidental. The oil, highway, and auto industries had more influence over Congress than did the beleaguered railroads. It was not until the 1970s, when the number of motor vehicles on U.S. roads had passed the 100 million mark (or thirty-six for every mile of surfaced street and highway in the nation), that Big Oil began to have qualms about the future. And with good reason.

For the first time since the 1930s, the oil industry was under attack. Suddenly, or so it seemed, everybody in the country was talking about "the quality of life" and criticizing the American automobile as a menace to clean air. As if overnight, the environmental movement became a mass movement, and Earth Day became a national celebration. Newspapers, magazines, radio talk shows and network TV began to reflect and report on the public awareness of pollution and other ecological problems. Walter Cronkite started a regular environment report, "Can the World Be Saved?," as part of his nightly news. All of the TV networks gave top play to news of marine oil spills. Suddenly the oil industry was in trouble with the American public. Then came the "energy crisis."

Just how much "crisis" there was in the energy crisis will be debated by scholars for years to come. What is not debatable, however, is the effect it had on the environmentalists. Like a bullet fired point-blank, it stopped the environmental movement dead in its galloping tracks. Oil executives made themselves available to the press and solemnly declared that, at present rates of consumption, the United States would run out of oil before the end of the century. Gas lines appeared overnight (and with them came cover stories in *Time* and *Newsweek* and regular stories in the nightly newscasts). Oil spills moved to page 31; the gas "shortage" made headlines.

Congressional hearings this past year have now revealed that some intricate oil swaps among the international oil companies, coupled to the worldwide economic boom in 1973, rather than the Arab oil boycott, was the prime reason behind the "oil shortage" of last winter. Strong demand, tight supply and nervous buyers pushed up the price of *foreign* crude oil—and along with it soared the profits of the American-owned international oil companies. In spite of the publicity about the new participation agreements with Saudi Arabia, Kuwait, Abu Rhabi and Qatar, a close reading of the testimony given before Congress indicates that the costs of these agreements were simply passed along to the customer. Market prices took care of increased royalties and as anyone who has looked at the stupendous 1973 profits of the oil companies can see, there has never been a more prosperous year in the checkered history of Big Oil. As *Business Week* noted recently, in a bit of classic understatement: "The U.S. has remained vulnerable to monopoly pricing in oil."

And how. In less than twelve months, Americans went from 40¢ gasoline to 60¢ gasoline, from 20¢ fuel oil to 35¢ fuel oil. During the same period, oil (which had presumably been selling at a profit) leaped from $3.86 a barrel to $11 a barrel. When you consider that Exxon's inventory (in contrast to that of your neighborhood corner store) is mainly in the ground, it is easy to see what wonderful things have happened to Exxon's bookkeeping during the so-called oil shortage. Today Exxon, like other oil producers, possesses a huge inventory of low-cost oil that is now being sold at prices beyond the wildest dreams of the robber barons. *Fortune* has calculated that every 1¢ rise in the price of a gallon of gasoline costs U.S. consumers close to $1 billion annually.

And as Stephen D. Krasner, an assistant professor of government at Harvard, pointed out recently in *The New York Times*, "The rising profits of the major corporations suggest that they have no direct economic incentive to lower the price of crude oil. On the contrary; oversupply and the consequent competition continue to be . . . the greatest danger they face."

With millions upon millions of dollars to spend on advertising (most of it tax-deductible) and with absolutely no domestic competition, the oil companies have largely dropped product advertising in favor of "idea" or "involvement" advertising. On a wide front, the oil majors are attempting to create a kind of countervailing force to the ordinary channels of news dissemination. Their executives are being specially trained in television news techniques. Burson-Marsteller, the New York public relations firm, has so far trained more than 1,200 domestic and overseas executives of Gulf Oil. Harry Bridges, president of Shell Oil Co., is a recent alumnus of J. Walter Thompson's Dialogue Telecommunications Development Course. He told *Business Week*, "This business of communication has become as important as finding more oil." Says Arnold Zenker, one-time substitute newscaster for Walter Cronkite and now president of Arnold Zenker Associates, "Our greatest market seems to be among companies where Ralph Nader has just been."

Behind all of this is a single objective: getting the consumer to think right about the corporate entity. Mobil, the third largest petroleum company in the United States, is a textbook example of the new "involvement PR." Its "idea" advertising is propaganda, artfully served up. A Mobil ad, which caused a number of Congressmen to complain to the FTC, asserted, "Today, there's a world-wide shortage of crude oil." In its defense Mobil claimed that the statement was "fully supportable," but told the Federal Trade Commission, "We do understand that in some degree it is, like the views of the politician and the media on the same subject, an expression of a subjective evaluation of known facts in the real world."

A blatant example of Mobil's "subjective" approach was uncovered by an alert Associated Press writer who was watching one of Mobil's TV ads. The 30-second commercial, designed as news, showed a man walking through a desert while an unseen announcer intoned:

"Here's what drilling for oil is like. It's like drilling a lot of holes in the ground, throwing a lot of money in each hole and hoping some of the holes become oil wells and throw money back.

"About one hole in sixty actually pays off. Last year Mobil threw over $100 million into holes in the ground. Drilling for oil is a very risky way to make money."

When Associated Press checked American Petroleum Institute figures, it found that, of all new exploratory and production wells drilled worldwide last year, 61.2 per cent struck oil—thirty-six times better than the one-in-sixty figure in the Mobil ad.

The CBS and ABC television networks, to their great credit, have consistently refused "idea" advertising. Arguing that the policy exists because broadcast time is limited, Arthur R. Taylor, president of CBS Inc., has said: "To permit this time to be purchased for propaganda purposes, other than certain political views, would mean that those with the most money would get to talk the loudest."

To reach the educated and affluent (the citizens most likely to write their Congressmen) Mobil has moved into Public Television in a big way. John J. O'Connor, *The New York Times* TV critic, noted in an article headlined, "Can Public Television Be Bought?," that the modest advertising that once accompanied Mobil's corporate investment in Public TV has given way to full-page ads and huge billboards ballyhooing "The Mobil Season." "Recognition of the local station in this process is limited to the small type at the bottom of the page," says O'Connor, who adds that after he had written a favorable review of *Upstairs, Downstairs*, "I received a letter from a Mobil official complaining that I hadn't given credit to the corporation." The latest Mobil contribution to Public Television has been *The Way It Was*, a sports series hosted by Curt Gowdy. The final credits note that the series was "created by" Herb Schmertz, vice president of public affairs for Mobil.

As "idea" advertising accelerates, several Congressional committees are looking into some of the questionable tax deductions taken by the oil industry. A questionnaire sent out by Sen. Philip Hart (D., Mich.) has discovered that nearly thirty-five energy companies claimed tax deductions for their ads. Of eight oil companies surveyed, seven said that all their ads were "nonpolitical." Among the ads thought nonpolitical were:

A Phillips ad urging readers to write their Congressmen about auto emission standards.

An Exxon ad that criticized the Clean Air Act and called for de-regulation of natural gas.

A Shell Oil ad criticizing the proposed excess profits tax.

A Texaco ad defending high profits as necessary for capital investment.

Contending that such advertising seeks to promote or stave off legislative or government action that would influence oil-company profits, Harvey J. Schulman of the Media Access Project has asked the Senate Commerce Committee's environmental subcommittee to create some new "enforcement mechanisms." Schulman estimates the annual cost of the energy industry's political advertising at between $30 million and $70 million. He says: "As taxpayers and utility ratepayers we have an interest in insuring that millions of our dollars are not spent to subsidize one-sided political propaganda."

In an age when the technology of political manipulation is expanding it is to be expected that propaganda will be widely practiced and highly regarded. Indeed the possibilities for refinement are endless. So far, the oil companies have concentrated solely on using the available channels of communication, but why should they not go further?

Within the next decade the Arab oil countries will add around $400 billion to their financial assets, and many of these "petrodollars" will return to the United States for reinvestment. It will be worth watching cosely how they are used. As an extreme example, a partnership of Exxon with Saudi Arabia could most certainly purchase all three television networks. That kind of thing would run into some pretty tough legal roadblocks, but it is not impossible to imagine the acquisition of substantial blocks of stock—enough to influence policy.

There is already talk of an $8 billion Arabian investment in IBM, perhaps the world's largest communication company. And as new and imaginative "partnership" agreements spring up between the Arabs and the international oil companies, Mobil's chairman, Rawleigh Warner Jr., will be able to say with even stronger conviction than he does today: "We are perfectly willing to take our chances in the marketplaces of ideas."

VANDENBERG ROOM DEDICATED AT UNIVERSITY OF MICHIGAN

Mr. GRIFFIN. Mr. President, on October 16, 1974, the Bentley Historical Library at the University of Michigan dedicated the Vandenberg Room as a tribute to one of Michigan's greatest sons, Arthur H. Vandenberg, and the immense contribution he made toward peace and order in the world.

The room will house the valuable collection of Vandenberg papers dealing with U.S. foreign policy and the formation of the United Nations.

The dedicatory address was delivered by Dr. Francis O. Wilcox, executive director of the Commission on Organization of the Government for the Conduct of Foreign Policy. Dr. Wilcox, who was closely associated with Senator Vandenberg as staff director of the Senate Committee on Foreign Relations, vividly recalled Arthur Vandenberg's contributions to a bipartisan foreign policy, and emphasized the need for a similar approach in these times.

Mr. President, I ask unanimous consent that the text of the address by Dr. Wilcox be printed in the Record at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRIFFIN. In connection with the dedication, the distinguished dean of the Senate, the Senator from Vermont (Mr. Aiken) wrote a letter recalling Arthur Vandenberg's leadership as one who "stood forth eloquently for the ideals of America" in the post-World War II period. Senator Aiken is one of only 11 Members presently in the Senate who served with Arthur Vandenberg.

Mr. President, I ask unanimous consent that the text of this letter be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GRIFFIN. Mr. President, my responsibilities here did not permit me to attend the dedicatory services as I had intended to do. I ask unanimous consent that a copy of my telegram to Mr. Robert Warner, director of the Bentley Historical Library be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. GRIFFIN. And, finally, Mr. President, I ask unanimous consent that the program of the dedication services be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

EXHIBIT 1

DR. WILCOX'S ADDRESS

I. ARTHUR VANDENBERG: SOME RECOLLECTIONS

It is both an honor and a real personal privilege for me to be here today to help dedicate this handsome Vandenberg Room and this valuable collection of papers, and to recall the great contribution Senator Arthur Vandenberg made to our foreign policy. It is an honor because Arthur Vandenberg was clearly one of the towering figures of our era. It is a personal privilege because I still have many fond memories of the years when I worked with Senator Vandenberg, and the other members of the Senate Foreign Relations Committee, during what proved to be one of the most constructive periods in American foreign policy.

This is not the time nor the place to deliver a long scholarly address. With your permission, however, I would like to reminisce a little about Senator Vandenberg and then turn briefly to his concept of a bipartisan foreign policy. For although he made many contributions to our national life, I think history will record that his greatest contribution came in the development of a non-partisan approach to our foreign policy in the critical years after World War II.

Although Vandenberg was a man of action—he was always impatient to get things done—he also had a pronounced scholarly bent. He wrote three books about Alexander Hamilton, whom he greatly admired, as well as the lyrics to a number of popular songs. His total royalties on the latter, I am told, were hardly enough to replace his typewriter ribbons. He also told me on several occasions that his chief ambition in life was to write a book about St. Paul,—a book that would enable the man in the street to understand the impact of that great leader on western civilization.

This scholarly approach, this intellectual interest in world problems, stood him in good stead as he took over the leadership of his party in the Senate in the field of foreign relations. He was one Senator I knew who always did his homework. He wrote his own speeches—a procedure which is almost unheard of in the Senate—and he mastered his subject matter so thoroughly that he was able to give a detailed answer to almost any question that arose on the Senate floor.

I recall vividly one Saturday afternoon in 1948 in the Vandenberg Apartment in the Wordman Park Hotel when he read to me the very important speech he had written to present the Marshall Plan to the Senate. It was an excellent speech and outside of a few minor points of a technical nature I had no real criticism to offer. "That's great," I said with obvious enthusiasm. "Tell me, how long did it take you to write it?" It took me something over two weeks," replied the Senator with a note of pride in his voice, "and I typed it seven times on my own typewriter."

As you know, his efforts were not in vain. He was able to win the support of his Republican colleagues and the Marshall Plan ultimately became perhaps the greatest success story in American foreign policy in recent decades.

In addition to his scholarly bent, Arthur Vandenberg had a deep and abiding faith in the legislative process. Despite the frustrations involved and the long and tiresome debates, he looked upon Congress as the market place of ideas where, after a thorough exchange of views, the truth would normally win out. He believed that Committee action should be based on a full knowledge of the facts and that every Senator, regardless of political persuasion, was entitled to a full and courteous answer to all his questions. In his Committee work and on the Senate floor this philosophy controlled his every action. One of his mottoes was: "we will kill the opposition with kindness." And he proceeded to do just that.

Dean Acheson once wrote Vandenberg commenting on his rare qualities of leadership in the legislative branch: "These are not only your ability and amazing effectiveness on the floor, qualities which everyone recognizes," wrote Acheson, but your outstanding fairness and your warm generosity in meeting someone who tries to take an objective view."

In this connection, Vandenberg developed a justifiable pride in his record as Chairman of the Foreign Relations Committee. In those troubled years just after the war he rightly believed that the unity of the Committee was an important aspect of our national unity, and it helped immensely to strengthen our position if we could speak with one voice in our dealings with other countries. This required an infinite amount of time and energy and patience, for these are essential elements in the legislative process. On a number of occasions, after a long and difficult meeting of the Committee, the Senator would say to me: "Francis, there are still two or three members who don't agree with our position. We will need another meeting in order to get final agreement." The results we all know. Arthur Vandenberg was able to compile a record rarely, if ever equalled, in our history. I can recall only one instance during the entire 80th Congress when the Foreign Relations Committee failed to arrive at a unanimous vote on an important policy question. And that was a question I would say of secondary importance.

This was possible in part because thinking in the executive branch and in the pertinent quarters of Congress was along roughly parallel lines, and there was thorough consultation between the two branches. There was, in other words, a general consensus about the basic aims of American policy and the process by which policy should be developed. But, it was also made possible, in large part, by the ability, the wisdom and the leadership of one of the really great legislative engineers of this century.

As an able legislator, the Senator was a great compromiser—in the best sense of that term. He was loyal to his ideals, but, as a realist, he knew when to make concessions in order to win support for his cause. During the long debate on the Marshall Plan he made concessions to the wheat farmers, the flour millers, the tobacco growers, the shipping interests, and other important groups in American life. But, in the long run, the Marshall Plan legislation went sailing through the Congress with an overwhelming vote—an achievement which many people would have considered impossible six or eight months earlier. This was an example of legislative engineering at its best.

May I cite one more example to underline the point I am making. When the Administration sent to Capitol Hill the Marshall Plan legislation, it called for an authorization of $17,000,000,000 for a four year program. Senator Vandenberg quickly realized that such a huge amount would serve as a focal point of attack for all opponents to foreign aid. He suggested, therefore, that the $17,000,000,000 figure be removed from the bill and that Congress be called upon to appropriate funds for only the first year of the program. This not only made a great deal of sense from a legislative point of view, but it took a good deal of steam out of the opposition. For Arthur Vandenberg politics was always "the art of the possible."

The Senator also had a remarkable sense of timing. He knew from long experience when to speak, when to move an amendment, when to vote on a measure, and above all when to keep still. There weren't many people who could swing votes in the United States but Arthur Vandenberg often did through his fine sense of timing.

I recall one morning in 1948 when the Foreign Relations Committee voted out a rather urgent resolution relating to the participation of the United States in the Olympic Games. Five minutes after the meeting was over I went to the Senate floor to ask the Senator whether he wanted the staff to prepare a report on the resolution so he might present it to the Senate for adoption. "That won't be necessary," he said with a big grin on his face, "the Senate approved the resolution just two minutes ago."

Vandenberg also believed strongly that partisan politics should stop at the water's edge—or at least at the three mile limit—that important foreign policy differences between the two great parties should be submerged so that the nation might present a united front in our dealings with other countries. This approach towards foreign policy had a bearing not only on the great issues of the day but also on Vandenberg's attitude towards his staff, the Foreign Relations Committee and his relations with the Administration.

Many examples come to mind. When he assumed the Chairmanship of the Foreign Relations Committee he certainly did not ignore party lines but on a number of occasions he did appoint leading Democrats to head up subcommittees dealing with important matters about which they had a special knowledge or competence. This is a practice that is almost without precedent in the Senate

By the same token, Vandenberg insisted that the choice of all committee staff members be made on ability alone, and with no regard to political affiliation. "Go and get the best people you can find to do the important job we have to do," were his instructions to me. "I don't even want to interview the candidates. I am interested only in the net results. But don't forget," he added with a twinkle in his eyes, "I'll hold *you* responsible for everything."

His attitude toward the Democratic Administration was somewhat comparable. Serving as the Republican foreign policy leader in the Senate, he must have been sorely tempted at times to blast the President and the Secretary of State for mistakes they made or even for blunders just over the horizon. Yet, very often when such incidents were called to his attention, his reaction was typically non-political in nature. "I don't want that mess to get in the press," he would say. "I just can't do that to George Marshall. It's something I can discuss with him over the telephone."

As a Senator and Chairman of the Foreign Relations Committee, Vandenberg was extremely fair to others, generously warm to people who might take a contrary view, and above all willing to admit his own mistakes. I recall as if it were yesterday, his reaction to President Truman's election in 1948—according to the public opinion polls, at least, a totally unexpected development. When the Senator walked into my office the next morning I asked him what he thought about it. His response was decisive and completely in line with his general philosophy of giving credit where credit is due. "You've got to give the little guy credit," he said. "There he was flat on his back. Everyone had counted him out but he came up fighting and won the battle. He did it all by himself. That's the kind of courage the American people admire."

Arthur Vandenberg's credentials for his unique role in American foreign policy were impeccable. His prestige and influence within the Republican party were unquestioned. Even his colleague Senator Robert Taft of Ohio, who did not always agree with him by any means, recognized his ability and leadership in the field of foreign relations. When he delivered a major foreign policy speech in the Senate, a minimum of sixty Senators could be expected to hear him. That kind of attention is practically unheard of in a chamber where Senators normally address the galleries, the Senate clerks and the country—but *not their* colleagues. But in the Senate votes are what count, and when the chips were down, Vandenberg could deliver them.

II. THE NONPARTISAN APPROACH TO FOREIGN POLICY

Time does not permit a review of the arguments for and against the bi-partisan approach to foreign policy. One of those that impressed me most, however, flows from the obvious fact that basic treaties like NATO and the UN Charter, as well as many legislative programs such as foreign aid and Point IV, are not just "one shot" propositions. They may require continuous congressional support over a long period of years regardless of which party is in power. They have to be carefully nurtured before they can come to full flower. The program of aid to Greece and Turkey is a case in point. For many years after 1947, when the program was launched, Congress was asked to furnish assistance to these two countries. Similarly, Congress has been called upon literally scores of times since 1945 to support various United Nations enterprises.

It follows that the continuity of this support can best be assured if the basic treaty or legislation has been approved in Congress by an overwhelming vote. A narrow margin of victory at the outset for an Administration proposal is bound to leave doubt and uncertainty about the future of the enterprise inasmuch as the switch of a few votes could mean its repudiation by a succeeding Congress. If American leadership is to be strong and certain in the world, this is exactly the kind of foreign policy wobbling we must avoid.

The arguments which center about the proper relationship between the bi-partisan policy and the two-party system in the United States, were the ones which disturbed Senator Vandenberg most. He began by insisting that bipartisanship was "of indispensable importance" to our foreign policy. Then he spent considerable time trying to determine "whether the equally important and equally indispensable maintenance of a two-party political system does not inevitably collide with the foregoing." He was torn between love and duty and he wasn't entirely sure which was which.

In the 1946 election campaign Vandenberg's philosophical enquiry confronted a very practical test. On the one hand he refused to make any partisan speeches because he believed that such action on his part would tend to destroy the bi-partisan unity that had been built up in the field of foreign relations. On the other hand, he was faced with the disconcerting fact that leaders from the opposition party invaded his home state of Michigan to seek his defeat and the defeat of the Republican party.

In spite of this very practical kind of dilemma—which plagued him on a number of occasions—Senator Vandenberg retained to the last his faith in the concept of bipartisanship. He firmly believed that this could be done within the framework of the two-party system.

But how? Clearly bipartisanship would not be possible if it required a surrender, by the minority party, of the principle of free enquiry and free debate in arriving at our position. Nor would it be possible if the party out of power adopted a "me-too" attitude, merely parroting the Administration with respect to foreign policy issues.

Anyone who was close to Capitol Hill during the Vandenberg era knows how carefully these two pit-falls were avoided. In the early post-war years the United Nations Charter, the European Recovery Program and the Atlantic Pact were accepted in our country on a non-partisan basis—as were a good many other programs. Can anyone who reads the voluminous hearings held by the Foreign Relations Committee and the lengthy debates on the Senate floor on these three issues, honestly argue that the debate was curtailed or the process of free enquiry impaired? Quite the contrary. Both in and out of Congress these questions received the most searching kind of analysis. They were examined from every conceivable angle. It is difficult to see how a partisan approach could have been any more thorough or could have brought about more satisfactory results.

Nor can it be demonstrated that these major enterprises involved any substantial element of "me-tooism." The UN Charter, as bipartisan as any treaty could be, reflects a great many principles that came from Republican quarters. The ECA legislation, sent to Capitol Hill by a Democratic Administration, was thoroughly rewritten by a Republican Congress. And the North Atlantic Treaty, which was inspired by the Vandenberg Resolution in 1948, was negotiated by State Department officials who kept in close touch with Senate leaders during the negotiating process.

To be sure, some commentators complained that the State Department followed *too* closely Senatorial advice with respect to the Atlantic Pact. They complained particularly that the suggestion made by Senators Vandenberg and Connally to reduce somewhat the commitment of the signatory parties to go to the assistance of an attacked state in the event of an aggression, emasculated the treaty and left the intentions of the United States in serious doubt. Yet time has proven the wisdom of the two Senators. The Pact met with the overwhelming approval of the Senate. NATO was set up and is a going concern. And no one can doubt that, over the years, the United States has stood ready to meet its obligations to the full in the event any aggression had taken place in the Atlantic Pact area.

There can be no question about it, our Constitution is an invitation to disunity. The separation of powers principle has encouraged a natural rivalry not only between the two great parties but between the Executive and Legislative branches of our government, and has made the conduct of foreign policy in the United States a far more complex matter than it is in any of the other major nations. Whether it be the war power, the appointing power, or the treaty power, all require the coordinate action of two independent branches of government each of which has been given its share of power and responsibility under the Constitution. Unless there is a determined effort on the part of both partners to work together, there is bound to be friction, and trouble will inevitably arise.

The will was apparently lacking during the 1960's and the early part of the seventies. Fanned by the Dominican crisis, the Vietnam war, and more recently the Watergate crises, tension between the President and Congress rose to new heights. The credibility gap widened with each passing year. Ill will, suspicion and distrust were the order of the day. For the first time since World War II the leaders of the Senate openly and vigorously disagreed with their Presidents on a really vital question in the field of foreign relations. Many people wondered whether the Constitution would be able to withstand the strain.

III. CONCLUDING COMMENT

At the time Senator Vandenberg became seriously ill, and when it became apparent he would not be able to resume his duties in the Senate, the New York Times printed a remarkable editorial about the Senator's role of leadership. Said the Times: "even the Democrats miss the clear, authoritative voice [of Vandenberg] that rises above the buzz of party politics to define American policy to the world. For Senator Vandenberg's distinction is that he has given leadership to both parties in the development of foreign policy, and more than any other American has lined up behind it the massive popular support that has been our greatest asset in the post-war years. This leadership is lacking today . . . We have to go forward . . . and where the vision, experience and good-tempered statesmanship of Senator Vandenberg are needed is in the hard transition like the present, when new issues arise and policy has to evolve to meet fresh tests and changing conditions. The wish for his speedy recovery is a wish not for him alone but the country he serves so well."

Once again in the 1970's this country finds itself in a hard transition period when new issues are arising and new policies must be shaped "to meet fresh tests and changing conditions." The issues that are looming on the horizon are at least as tough as those that faced us after World War II and most of them will continue to plague us during the rest of this century. We all know what they are—world population pressures, food to feed the hungry, human rights, the energy crises, the world inflationary spiral, the pollution of the environment, terrorism and violence, the future of the sea-bed and the ocean floor, world trade and the balance of international payments, arms control and disarmament, outer space, how to bring about a more equitable sharing of the world's resources among the rich and the poor nations, as well as the eternal problem of war and peace.

These are staggering problems—problems that will tax our imagination, our patience, and our negotiating skills to the limit. Moreover, most of them—like the sale of wheat to the Soviet Union, or the purchase of oil from the Middle East—have a direct relationship to our domestic economy including the price of food, the rate of inflation, the national budget and so on. Now more than ever before, in this constantly shrinking world, foreign policy questions and domestic issues have become almost inseparable.

In this situation we need to develop a new national consensus and to lay the basis for a new foreign policy. We need a new unity of purpose. We need to put the bitterness and rancor of the Vietnam War behind us and develop new patterns of working together. With the President actively engaged in the day-to-day conduct of foreign affairs, Congress can be of great assistance, just as it was during and after World War II, in helping to find suitable answers to these difficult questions.

Congress is a deliberative body. No one, so far as I am aware, has ever argued that rapidity and dispatch and efficiency are among the major virtues of a representative assembly. Congress does have the facilities, however, to serve as a forum, a national sounding board, where the major issues of foreign policy can be thrashed out and where the nature and purpose of American policy can be critically examined. If these facilities are properly organized, Congress can be of inestimable value in helping to shape the difficult policy decisions that face our country.

Perhaps it is time to revive Arthur Vandenberg's philosophy that politics should stop at the water's edge and that we really need to develop a non-partisan foreign policy to deal effectively with the problems that lie ahead.

There are reassuring signs in Washington that we may in fact be moving in that direction. Henry Kissinger as Secretary of State is making every effort to work more closely with the Congress on foreign policy matters. So far his record is excellent. And President Ford, who has only recently stepped down from the minority leader's post in the House of Representatives, certainly understands as well as anyone of the importance of winning back the friendly confidence of the legislative branch.

It should also be said that Gerald Ford—like Senator Vanderberg, a Grand Rapids product—faces a practical situation and not a theory. When he assumed the Presidency last August he also fell heir to a Democratic House and a Democratic Senate. The relative voting strength in the House was 248–187; in the Senate it was 58–42. Even an optimistic Republican would have to admit the Democratic margin is a substantial one. And the chances are pretty good that it will be even greater after the November elections.

It follows that if the new President is to accomplish anything at all, if he is going to be able to boast of a legislative program of any size or importance, he must win over a good deal of support from the Democratic side of the House and the Senate. The case is even more compelling when one recalls that a two-thirds vote in the Senate is required for the approval of treaties. In the circumstances a non-partisan approach to foreign policy becomes not only sensible but almost inevitable.

After the war, in a period fraught with perils and doubts and apprehensions, the non-partisan approach to foreign policy gave our government the stability and the certainty it needed to carry out its world responsibilities in an effective manner. It was eloquent evidence of a unity of purpose and direction that must have been heartening to free people everywhere.

In earlier days, when life was very simple and the United States was not really a part of the world community, we could afford the luxury of partisan politics in foreign relations. Today the stakes are far too high, our role of leadership in the world is far too important, and the magnitude of the job to be done is far too great to pursue such a course. History may once again demonstrate that Arthur Vandenberg was right.

EXHIBIT 2

SENATOR AIKEN'S LETTER

OCTOBER 15, 1974.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR BOB: On Wednesday, the 16th of October, 1974, you will participate for the United States Senate in an appropriate ceremony at the University of Michigan. I understand you will stand as witness at the Bentley Historical Library during the dedication of a Chamber consecrated to the memory of a great man among our departed colleagues, Arthur H. Vandenberg, Senator from your State of Michigan, and the preservation of his voluminous papers having to do with the formation of the United Nations.

There are only a few of us remaining in the Senate who can speak from the point of view of having been colleagues of Arthur Vandenberg. In fact, only 11 of the 100 Senators presently in our Body can today make this claim, but we knew him well. His name is forever associated with legislation for the good of our Nation. In the United States Senate, in his own State, in engagements throughout our Country, he stood forth eloquently for the ideals of America, which following World War II extended help and compassion to those trying to rise from the crushing burden of that terrible conflict.

Arthur Vandenberg was a leader in the establishment of the United Nations. He labored without stint for an international order as the surest guarantee of a world at peace. He was a craftsman of legislation and an architect of the written word, and a leader in the United States Senate.

I know I speak for those of us who were his colleagues and I am quite sure that if it were put before the entire United States Senate, that all our colleagues who became Members at a later date would join me in commending you and the University of Michigan for the honor which you are paying to one of the great Senators of all time.

Sincerely,

GEORGE D. AIKEN.

EXHIBIT 3

SENATOR GRIFFIN'S TELEGRAM

OCTOBER 15, 1974.

Mr. ROBERT WARNER,
Bentley Historical Library, University of Michigan, Ann Arbor, Mich.:

The University of Michigan honors itself today as it honors a great son of our State, Arthur Vandenberg. It is most appropriate that the university will preserve his papers which reflect such a vast contribution to the cause of world peace. I send my greetings along with regrets that Senate responsibilities preclude me from joining you.

ROBERT P. GRIFFIN,
U.S. Senator.

EXHIBIT 4

PROGRAM

Invocation: The Reverend William F. Allinder, Pastor, Park Congressional Church, Grand Rapids.

Welcome and introduction of distinguished guests: Robert M. Warner, Director, Bentley Historical Library.

Dedication of the Vandenberg Room: R. W. Fleming, President, the University of Michigan.

In appreciation: Elizabeth V. Sands.

"Arthur H. Vandenberg's Contribution to American Foreign Policy": Francis O. Wilcox, Dean, School of Advanced International Studies, Johns Hopkins University.

Concluding remarks.

Viewing of the Vandenberg Exhibit.

Reception.

Committee: A. B. Smith, Jr., Co-chairman; David W. Kendall, Co-chairman; Richard Deem, John Dregge, Edward J. Frey, Paul Goebel, Sr., Hon. Stuart Hoffius, David D. Hunting, Louis A. Weil, Robert J. Wilson, and Mrs. Laurence D. Smith, *Hospitality.*

ARTHUR H. VANDENBERG: SENATOR FOR ALL SEASONS

In the Whiting Room, Miss Joanne Bock of The University of Michigan has prepared an exhibit of photographs and memorabilia relating to the personal, professional, and political life of Arthur H. Vandenberg. Material was selected from the Vandenberg Papers for the insights they provide into his boyhood in Grand Rapids, his college days at The University of Michigan, his family life, and the fascinating years he spent as the editor of the *Grand Rapids Herald*. A section of the exhibit will also pay tribute to the Senator as an author who, during an active and demanding career, was able to write three books. Finally, Arthur Vandenberg's achievements during the twenty-three years he served as United States Senator will be high-lighted, particularly his instrumental role in the entry of the United States into world politics and his efforts in attaining world peace.

Through the photographs, awards, papers, diaries, and other items on display, the viewer will have the opportunity of knowing Senator Vandenberg in an intimate way. The exhibit is an opportunity to appreciate his contributions to American history and to realize that, because of his personal qualities, his decisions were made with candor and openness. Arthur H. Vandenberg was a senator who was able to adjust to the changing and turbulent times in which he served his country, whether they were filled with war or peace, tension or tranquility. In short, the exhibit portrays Arthur H. Vandenberg as a senator for all seasons.

(In conjunction with the dedication of the Vandenberg Memorial Room, the Bentley Library is pleased to unveil an oil portrait of the senator done by Mr. Joseph Maniscalco. This portrait was made possible by a gift of a friend of the Library.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the morning hour be extended for a period of not to exceed 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Under the same time limitations.

The PRESIDING OFFICER. Is there further morning business?

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

TRIBUTE TO FRANCIS M. "JACK" FLYNN

Mr. HARRY F. BYRD, JR. Mr. President, the newspaper business last week lost one of its ablest and finest executives.

Francis M. "Jack" Flynn, for 27 years president, publisher and finally chairman of the board of the New York News, died Friday, November 15, 1974.

I cannot accurately say that I knew Jack Flynn well but I had the opportunity to be with him from time to time through the years. One did not need to know him intimately to recognize that he was a vigorous defender of the free and independent press. He was a long-term crusader for a strong America and his close associates tell me he was happiest when he was championing the causes of ordinary citizens in the newspaper which he regarded as "the voice of all the people."

The New York Daily News has more circulation than any other newspaper in the United States, 2 million daily and 3 million Sunday. In fact, it has just about twice the circulation of any other newspaper.

It is a good newspaper and Jack Flynn's philosophy for successful journalism, as was that of the News' founder, the late Capt. Joseph Medill Patterson, was "print the news and raise hell."

Jack Flynn was a gifted executive who had mastered every facet of the newspaper business. He maintained a lifelong love affair with the newspaper profession. I might say that the senior Senator from Virginia shares that love of the newspaper profession. Having been in the business 39 years I would not swap it for any other.

Here's the way Jack Flynn saw the newspaper business, and accurately I feel:

> It's a crazy, cockeyed, wonderful, stimulating, nerve-wracking, lovable, exciting, rewarding and completely unpredictable occupation.
>
> If you don't yearn for it before you get into it, you shouldn't start, and if you don't love it after you're in it, you should get out. And if you do get out, you'll always want to get back.

I like this story, too, which associates tell about Jack Flynn. On one occasion a veteran News investigator couldn't get a positive answer to a particularly sticky situation so he was advised to go to the top, to go see Mr. Flynn. He was told by the chief executive:

> There aren't any holy cows on this paper. If the truth needs to be told, tell it—and that goes for friends, enemies or advertisers, and from City Hall to the White House. But never be unfair. Give both sides a chance to talk.

And finally, I applaud the following assertion from a speech he made on the Bill of Rights.:

> Criticize the press . . . yes. Disagree with the press . . . yes. Improve the press . . . yes. Do any and all of these things which free men wish to do, but never, never take one step toward regulation by government, by commission, or by other quasi-governmental bodies.

Jack Flynn made an outstanding contribution to journalism, to the New York Daily News, and to his fellow citizens.

At this point I ask unanimous consent to have printed in the RECORD an editorial from the Daily News of Saturday, November 16, 1974, captioned "Francis M. 'Jack' Flynn," announcing the death of Mr. Flynn.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FRANCIS M. "JACK" FLYNN

With deep regret, The News records the death yesterday of Francis M. "Jack" Flynn, chairman of the paper's Board of Directors and for 18 years its Publisher.

Jack Flynn, as his innumerable friends called him, was a great newspaperman from any point of view—as he demonstrated continuously on the editorial and business sides of the newspaper.

He had an ace reporter's nose for news. But his talents only began at that point. Jack Flynn also had a good editor's judgment and taste regarding the selection of news. In addition to that, his business acumen was impressive—and it is a rare person who combines capability with keen business sense.

Above all, Mr. Flynn had the courage of his convictions, and the courage to stand by the paper's editors and writers.

He is deeply mourned by his many friends and associates. He will be missed at The News for years to come.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If there be no further morning business, morning business is closed.

SUPPLEMENTAL APPROPRIATIONS, 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 16900, which the clerk will state by title.

The legislative clerk read as follows:

Calendar No. 1188, H.R. 16900, a bill making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

The Senate resumed the consideration of the bill.

The committee amendments agreed to en bloc on October 10, 1974, are as follows:

On page 2, in line 12, strike out "$2,129,625,000" and insert in lieu thereof "$2,125,000,000".

On page 2, in line 20, strike out "$50,000,000" and insert in lieu thereof "$10,000,000".

On page 2, beginning with line 23, insert:

Provided further, That notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not obligate funds made available under this Act to carry out the provisions of title I of the Housing and Community Development Act of 1974 unless all budget authority provided by law to carry out the provisions of section 202 of the Housing Act of 1959, sections 235 and 236 of the National Housing Act, and the provisions of the United States Housing Act of 1937 relating to low-income housing in projects owned by public housing agencies has been made available for obligation in accordance with section 3679 of the Revised Statutes.

On page 3, at the end of line 19, strike out "equal" and insert "of $200,000,000 in addition".

On page 4, beginning with line 16, insert:

VETERANS ADMINISTRATION

ASSISTANCE FOR HEALTH MANPOWER TRAINING INSTITUTIONS

For grants to affiliated medical schools, assistance to public and nonprofit institutions of higher learning, hospitals and other health manpower institutions affiliated with the Veterans Administration to increase the production of professional and other health personnel, and for expansion of Veterans Administration hospital education and training capacity as authorized by 38 U.S.C. Chapter 82, $10,000,000, to remain available until June 30, 1981.

On page 5, beginning with line 2, insert:

DEPARTMENT OF LABOR

MANPOWER ADMINISTRATION

PROGRAM ADMINISTRATION

For a reduction from Manpower Administration, Program Administration, $1,500,000.

COMPREHENSIVE MANPOWER ASSISTANCE

For a reduction from Comprehensive Manpower Assistance, $5,600,000, to be transferred to the Employment Standards Administration, Salaries and Expenses.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for the Labor-Management Services Administration, Salaries, Expenses, $6,150,000.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for Employment Standards Administration, Salaries and Expenses, $5,600,000, to be derived by transfer from Comprehensive Manpower Assistance.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For additional expenses for the Bureau of Labor Statistics, $300,000, to be derived by a transfer from the Departmental Management, Salaries and Expenses appropriation, of which the entire amount shall be for the expenses of revising the Consumer Price Index, including salaries of temporary personnel assigned to this project without regard to competitive Civil Service requirements.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For a reduction from Department Management, Salaries and Expenses, $300,000, to be transferred to the Bureau of Labor Statistics, Salaries and Expenses.

On page 6, in line 16, strike out "$3,722,000" and insert in lieu thereof "$1,722,000".

On page 7, in line 6, strike out "$149,133,000" and insert in lieu thereof "$147,933,000".

On page 8, beginning with line 2, strike out:

ELEMENTARY AND SECONDARY EDUCATION

For carrying out, to the extent not otherwise provided, Part A of title I ($3,743,300,000), Part C of title I ($28,000,000), title III ($125,000,000), title IV, Parts B ($137,330,000) and C ($172,888,000), title V, Parts A and C ($39,425,000), and title VII of the Elementary and Secondary Education Act; section 822 and 823 of Public Law 93–380; section 417(a)(2) of the General Education Provisions Act; title IV of the Civil Rights Act of 1964 and title III A ($15,000,000) of the National Defense Education Act of 1958, $4,264,643,000: *Provided*, That of the amounts appropriated above the following amounts shall become available for obligation on July 1, 1975, and shall remain available until June 30, 1976; title I, Part A ($1,898,750,000) and title IV, Part B ($137,330,000), and Part C ($172,888,000) of the Elementary and Secondary Education Act and section 417(a)(2) of the General Education Provisions Act ($1,250,000). For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), and the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), $656,016,000, of which $636,016,000, including $43,000,000 for amounts payable under section 6 shall be for the maintenance and operation of schools as authorized by said title I of the Act of September 30, 1950, as amended, and $20,000,000, which shall remain available until expended, shall be for providing school facilities as authorized by said Act of September 23, 1950: *Provided*, That none of the funds contained herein shall be available to pay any local educational agency in excess of 70 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(b) of title I: *Provided further*, That none of the funds contained herein shall be available to pay any local educational agency in excess of 90 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(a) of said title I if the number of children in average daily attendance in schools of that agency eligible under said section 3(a) is less than 25 per centum of the total number of children in such schools: *Provided further*, That, with the exception of up to $1,000,000 for repairs for facilities constructed under section 10, none of the funds contained herein for providing school facilities shall be available to pay for any other section of the Act of September 23, 1950, until payment has been made of 100 per centum of the amounts payable under section 5 and subsections 14(a) and 14(b): *Provided further*, That of the funds provided herein for carrying out the Act of September 23, 1950, no more than 47.5 per centum may be used to fund section 5 of said Act. For carrying out, to the extent not otherwise provided, the Education of the Handicapped Act, $284,609,000: *Provided*, That of this amount $100,000,000 for part B shall become available July 1, 1975, and shall remain available through June 30, 1976: *Provided further*, That none of these funds shall be used to compel any school system as a condition for receiving grants and other benefits from the appropriations above, to classify teachers or students by race, religion, sex, or national origin; assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin; or prepare or maintain any records, files, reports, or statistics pertaining to the race, religion, sex, or national origin of teachers or students, notwithstanding any other provisions of law or any request by any agency of the Federal Government: *Provided further*, That of the sums appropriated herein, not to exceed $575,000 shall be available to carry out section 625 of the Education of the Handicapped Act.

and insert in lieu thereof:

ELEMENTARY AND SECONDARY EDUCATION

For carrying out, to the extent not otherwise provided, Part A of title I ($3,723,300,000), Part C of title I ($48,000,000), title III ($120,000,000), title IV, Parts B ($137,330,000) and C ($152,888,000), title V, Parts A and C ($39,425,000), Part J of the Vocational Education Act of 1963, and title VII of the Elementary and Secondary Education Act; section 823 ($200,000) of Public Law 93–380; title IV of the Civil Rights Act of 1964 and title III–A ($28,500,000) of the National Defense Education Act of 1958, $4,351,043,000: *Provided*, That of the amounts appropriated above the following amounts shall become available for obligation on July 1, 1975, and shall remain available until June 30, 1976: title I, Part A ($1,900,000,000) and title IV, Part B ($137,330,000) and, without regard to section 401 (b)(2)(A)(ii), Part C ($152,888,000): *Provided further*, That none of the funds contained herein shall be used to carry out section 821 of Public Law 93–380.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), and the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), $656,016,000, of which $636,016,000, including $43,000,000 for amounts payable under section 6 shall be for the maintenance and operation of schools as authorized by said title I of the Act of September 30, 1950, as amended, and $20,000,000, which shall remain available until expended, shall be for providing school facilities as authorized by said Act of September 23, 1950: *Provided*, That none of the funds contained herein shall be available to pay any local educational agency in excess of 70 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3 (b) of title I: *Provided further*, That none of the funds contained herein shall be available to pay any local educational agency in excess of 90 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(a) of said title I if the number of children in average daily attendance in schools of that agency eligible under said section 3(a) is less than 25 per centum of the total number of children in such schools: *Provided further*, That, with the exception of up to $1,000,000 for repairs for facilities constructed under section 10, none of the funds contained herein for providing school facilities shall be available to pay for any other section of the Act of September 23, 1950, until payment has been made of 100 per centum of the amounts payable under section 5 and subsections 14(a) and 14(b): *Provided further*, That of the funds provided herein for carrying out the Act of September 23, 1950, no more than 47.5 per centum may be used to fund section 5 of said Act.

EDUCATION FOR THE HANDICAPPED

For carrying out, to the extent not otherwise provided, the Education of the Handicapped Act, $324,609,000: *Provided*, That of this amount $100,000,000 for part B shall become available July 1, 1975, and shall remain available through June 30, 1976: *Provided further*, That of the sums appropriated herein, not to exceed $575,000 shall be available to carry out section 625 of the Education of the Handicapped Act.

On page 13, in line 4, strike out "$126,638,000" and insert "and Section 907 of the Elementary and Secondary Education Act of 1965, as amended, $128,438,000".

On page 13, beginning with line 20, insert:

SENATE

Salaries, Officers and Employees

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $75,525: *Provided*, That effective October 1, 1974, the Secretary may appoint and fix the compensation of a technical advisor at not to exceed $28,690 per annum; a chief elections investigator at not to exceed $28,690 per annum, and the Secretary may fix the per annum compensation of the enrolling clerk at not to exceed $26,878 per annum in lieu of $20,235 per annum: *Provided further*, That effective October 1, 1974, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $41,040.

COMMITTEE EMPLOYEES

For an additional amount for "Committee Employees", $349,980.

Contingent Expenses of the Senate

INQUIRIES AND INVESTIGATIONS

For an additional amount for "Inquiries and Investigations", $5,000.

For an additional amount for "Inquiries and Investigations", fiscal year 1974, $250,000.

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous Items", fiscal year 1974, $1,050,000.

STATIONERY (REVOLVING FUND)

For an additional amount for "Stationery (Revolving Fund)", $300.

ADMINISTRATIVE PROVISION

Effective January 1, 1975—

(1) that portion of the paragraph relating to contingent funds under the heading "UNDER LEGISLATIVE" in the Act of October 2, 1888 (25 Stat. 546; 2 U.S.C. 68, 95), beginning with "And hereafter" and ending with "Government", is amended to read as follows: "Payments made upon vouchers approved by the Committee on House Administration of the House of Representatives, and payments made upon vouchers or abstracts of disbursements of salaries approved by the Committee on Rules and Administration of the Senate, shall be deemed, held, and taken, and are declared to be conclusive upon all the departments and officers of the Government";

(2) section 204 of the Atomic Energy Act of 1954 (42 U.S.C. 2254) is amended by inserting immediately after "upon vouchers approved by the Chairman", a comma and the following: "except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate"; and

(3) section 5(e) of the Employment Act of 1946 (15 U.S.C. 1024(e)) is amended by inserting immediately before the period at the end thereof a comma and the following: "except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate".

On page 15, beginning with line 8, strike out:

For additional amounts in the following appropriation accounts:

Capitol Buildings, $3,200,
Senate Office Buildings, $3,600,
House Office Buildings, $6,600:

Provided, That notwithstanding any other provision of law, effective on the first day of the first applicable pay period which begins on or after the date of enactment of this Act, the positions of registered nurses compensated under the foregoing appropriations shall be allocated by the Architect of the Capitol to grade 10 of the General Schedule and compensated initially at the same steps in such grade, currently in effect for their present grades, so long as such positions are held by the present incumbents.

and insert:

Notwithstanding any other provision of law, effective January 1, 1975, none of the funds appropriated to the Architect of the Capitol shall thereafter be available for any nursing position unless the position is occupied by a Registered Nurse: *Provided*, That such provision shall not be applicable to the present incumbents of such positions.

CONSTRUCTION OF AN EXTENSION TO THE NEW SENATE OFFICE BUILDING

For an additional amount for "Construction of an Extension to the New Senate Office Building", $16,322,000, to remain available until expended.

Administration Provision

Hereafter, with the approval of the Joint Committee on the Library, the Architect of the Capitol may utilize personnel paid from appropriations under his control for performance of administrative and clerical duties in connection with the maintenance and operation of the United States Botanic Garden, to such extent as he may deem feasible.

GOVERNMENT PRINTING OFFICE

Environmental Impact Study on the Relocation of the Government Printing Office

For expenses necessary to prepare a detailed environmental impact statement for the Government Printing Office, $300,000, to remain available until expended, and to be available for transfer to the General Services Administration.

CHAPTER IV

ATOMIC ENERGY COMMISSION

OPERATING EXPENSES

For an additional amount for "Operating expenses", $54,700,000, to remain available until expended: Provided, That this appropriation shall be available only upon the enactment into law of authorizing legislation.

PLANT AND CAPITAL EQUIPMENT

For an additional amount for "Plant and capital equipment", $18,300,000, to remain available until expended: Provided, That this appropriation shall be available only upon the enactment into law of authorizing legislation.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

OPERATION AND MAINTENANCE

Notwithstanding the last proviso under this head in the Public Works for Water and Power Development and Atomic Energy Commission Appropriation Act, 1975 (Public Law 93–393), the Secretary of the Interior, following the final decision of the United States District Court for the District of Nevada in the case designated as "Truckee-Carson Irrigation District v. Secretary of the Interior", Civil Action No. R–74–34, BRT, filed March 18, 1974, now pending in the said Court, may utilize not to exceed $1,000,000 of the funds appropriated under such head for the operation of the Newlands Reclamation Project, Nevada.

On page 20, in line 4, strike out "IV" and insert in lieu thereof "V".

On page 20, beginning with line 15, insert:

REGIONAL ACTION PLANNING COMMISSIONS

REGIONAL DEVELOPMENT PROGRAMS

For an additional amount for "Regional Development Programs", $7,005,000, to remain available until expended.

On page 21, beginning with line 1, insert:

COMMISSION ON REVISION OF THE FEDERAL COURT APPELLATE SYSTEM OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Commission on Revision of the Federal Court Appellate System of the United States authorized by the Act of October 13, 1972 (Public Law 92–489), as amended by the Act of September 19, 1974 (Public Law 93–420), $351,000, to remain available until expended.

RELATED AGENCIES

SMALL BUSINESS ADMINISTRATION

SURETY BOND GUARANTEES FUND

For additional capital for the "Surety Bond Guarantees Fund", authorized by the Small Business Investment Act, as amended, to remain available without fiscal year limitation: $20,000,000 to be derived by transfer from the "Business Loan and Investment Fund".

On page 21, in line 17, strike out "V" and insert in lieu thereof "VI".

On page 21, beginning with line 19, insert:

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

Notwithstanding the limitation on Grants-in-Aid for Airport Development contained in section 302 of Public Law 93–391, the $50,000,000 appropriated by Public Law 91–168 for such grants and subsequently transferred to the Airport and Airway Development Trust Fund by Public Law 91–258 shall be available for obligation through June 30, 1975.

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for "Grants to the National Railroad Passenger Corporation", $75,000,000, to remain available until expended, which shall be available only upon enactment into law of authorizing legislation by the Congress.

On page 23, in line 6, strike out "$4,000,000" and insert in lieu thereof "$8,000,000".

On page 23, in line 7, strike out "VI" and insert in lieu thereof "VII".

On page 23, at line 13, insert "OFFICE OF MANAGEMENT AND BUDGET".

On page 23, in line 21, after the comma, insert "including compensation for the Deputy Director at a rate not to exceed the rate for level V of the Executive Schedule".

On page 24, beginning with line 10, insert:

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the National Commission on Supplies and Shortages Act (Public Law 93–426), including personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service, $287,500.

On page 24, in line 22, after "law" insert a colon and the following:

Provided, That the aggregate salaries of all employees detailed on a nonreimbursable basis under the authority of the Presidential Transition Act of 1963, during the period beginning August 9, 1974, and ending February 9, 1975, shall not exceed $220,000.

On page 25, in line 10, strike out "VII" and insert in lieu thereof "VIII".

On page 25, in line 16, after "in" insert "Senate Document Numbered 93–114 and".

On page 25, at the end of line 17, strike out "$50,569,662" and insert in lieu thereof "$51,472,873".

On page 26, in line 6, strike out "VIII" and insert in lieu thereof "IX".

On page 26, beginning with line 8, insert:

OFFICE OF SALINE WATER

SALINE WATER CONVERSION

For an additional amount for "Saline Water Conversion", $2,900,000, to remain available until expended.

On page 26, in line 15, strike out "$2,214,000" and insert in lieu thereof "$5,294,000, including $1,975,000".

On page 26, in line 17, strike out "including" and insert in lieu thereof "and".

On page 26, beginning with line 19, insert:

CONSTRUCTION

Of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriation Act, 1975, $425,000 shall be available to assist the Tuba City High School, Public School District, Arizona, in the construction of facilities for joint use with the Grey Hills Indian High School.

On page 27, beginning with line 6, strike out:

CHAPTER IX

DEPARTMENT OF THE INTERIOR

SALINE WATER CONVERSION

For an additional amount for "Saline water conversion", $2,900,000, to remain available until expended.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ALLEN. Mr. President, I ask unanimous consent that I may speak out of order at this time for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF SAMUEL LITTLEFIELD

Mr. ALLEN. Mr. President, on May 16, 1972, the day following the cruel assassination attempt on Gov. George C. Wallace of Alabama in Maryland, I took the Senate floor to denounce that dastardly act and to call for the enactment of strong measures and programs to protect the lives and safety of our people throughout the country.

Now, tragedy has struck another prominent and much beloved Alabamian, this time in the city of Washington itself. On last Friday night, November 15, 1974, Samuel Littlefield, a fine, highly respected Alabamian was murdered in cold blood by an armed robber attempting a holdup of Mr. Littlefield and two of his friends in a downtown motel.

As U.S. Senator from Alabama representing all of the people of Alabama, I extend to Mrs. Littlefield and to other members of the family the deepest sympathy of the people of Alabama and of Mrs. Allen and myself personally over the loss of their loved one.

Mr. Littlefield, a resident of Bessemer, Ala., and head of the United Mine Workers in Alabama was in Washington along with a delegation of other UMW members from Alabama working on the consideration of a proposed settlement of the issues involved in the current coal strike. Thus, he was here in the pursuit of his lawful professional activities as a part of the collective bargaining process seeking to bring the coal strike to an end. It was a work of vital importance to the miners, to management and to the welfare of the Nation. A settlement of this strike is absolutely necessary if we are to get the economy of the Nation on the upward move again.

Mr. President, it is a sad and sorry state of affairs when our citizens, as they go about their lawful pursuits, are at the mercy of criminals and murderers who ply their deadly trades with seeming impunity, and I protest and condemn conditions that make this possible.

Mr. President, our citizens in the cities, in the towns and throughout the country must be protected from crime and from criminals; they must be safe as they walk the streets, as they carry on their lawful pursuits; they must be protected in their homes, in their businesses or places of employment. Crime must be stamped out; and wherever possible prevented. The guilty must be apprehended and brought to justice.

Let us hope that this senseless tragedy that has befallen Mr. Littlefield and his family will cause our Government at all levels to redouble efforts in the never-ending battle against crime. Sam Littlefield's worthy and dedicated life has been snuffed out but let us resolve that this tragedy will cause us to take steps designed to put an end to occurrences of similar, senseless tragedies.

ORDER OF BUSINESS

Mr. PELL. Mr. President, I ask unanimous consent to speak for a minute and a half.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF ELIZABETH POWELL

Mr. PELL. Mr. President, just as the sidewalks are not safe, neither are the roadways safe.

It is with deep regret and a deep sense of personal loss that I bring to the attention of her many friends in the Senate the tragic death on Saturday of one of my aides, Elizabeth Powell.

She was killed in a traffic accident on the Beltway when, according to reports I have received, a car heading toward her jumped the median strip in the roadway and crashed into the vehicle she was driving. That such an accident comes without warning, without preparation, heightens its tragic impact.

With all of my staff, my wife and I grieve with Elizabeth Powell's parents, Mr. and Mrs. Roger E. Powell, of 64 Old Great Road, North Smithfield, in my own State of Rhode Island.

"Liz" Powell was a relatively recent employee in my Washington office, but the excellence of her work and her admirable character and personality already had endeared her to all who knew her. Her intelligence and her unfailing cheerfulness were assets of great value to me and to my staff.

To her parents and family we join together in extending our deepest sympathy and our abiding respect.

QUORUM CALL

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. Rom Parker of my staff be allowed the privilege of the floor during the discussion on H.R. 16900.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 482 Leg.]

Aiken
Allen
Beall
Byrd, Harry F., Jr.
Curtis
Domenici
Eastland
Hart
Hathaway
Helms
Javits
Long
Mansfield
McClellan
McGee
Metzenbaum
Proxmire
Stennis
Symington
Taft
Williams
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senator.

After some delay, the following Senators entered the Chamber and answered to their names:

[No. 482 Leg.]

Abourezk
Baker
Bartlett
Bayh
Bellmon
Bentsen
Bible
Brock
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cotton
Cranston
Dole
Dominick
Ervin
Goldwater
Gravel
Griffin
Hansen
Hartke
Haskell
Hollings
Hruska
Huddleston
Hughes
Jackson
Johnston
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stevens
Talmadge
Thurmond
Tower
Tunney
Weicker

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. Biden), the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett), the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Hawaii (Mr. Fong), the Senator from Florida (Mr. Gurney), the Senator from Idaho (Mr. McClure), the Senator from Vermont (Mr. Stafford), the Senator from Illinois (Mr. Percy), and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

I also announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Arizona (Mr. Fannin), and the Senator from Maryland (Mr. Mathias) are absent on official business.

The PRESIDING OFFICER. A quorum is present.

The Senator from Montana.

Mr. MANSFIELD. First, I yield to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. MANSFIELD. Mr. President, may we have order?

TIME LIMITATION AGREEMENT—CONFERENCE REPORT ON MASS TRANSPORTATION

Mr. MANSFIELD. Mr. President, if I may have the attention of the distinguished chairman of the committee, with his permission, I would like to make a unanimous-consent request, to wit: That the conference report on mass transportation be taken up at approximately 3:30 tomorrow afternoon, and that there be a time limitation attached thereto, the time to be equally divided between the manager of the bill and the minority leader or whomsoever they may designate, and operate under the usual rules.

Mr. ALLEN. Mr. President, reserving the right to object, how much time?

Mr. MANSFIELD. One hour.

Mr. ALLEN. Equally divided?

Mr. MANSFIELD. Equally divided.

Mr. ALLEN. That is the mass transit bill conference report?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Will the Senator state the amount of time once again?

Mr. MANSFIELD. One hour equally divided.

The PRESIDING OFFICER. It there objection?

Mr. JAVITS. Reserving the right to object, will the people from the big cities, like myself, have an opportunity to get a few minutes to speak?

Mr. WILLIAMS. Yes.

Mr. ALLEN. Will there be a possibility of starting this a little earlier?

Mr. MANSFIELD. Let us make it 3 o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Make it at 3 o'clock.

The PRESIDING OFFICER. The unanimous-consent request is modified to 3 o'clock; is that correct?

Mr. MANSFIELD. Approximately.

Mr. ALLEN. Mr. President, I withdraw my reservation for the unanimous-consent request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this afternoon or this evening that it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1975

The Senate continued with the consideration of the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

Mr. MANSFIELD. Now, Mr. President, it is my understanding that the distinguished Senator from Ohio (Mr. Taft), the distinguished Senator from Connecticut (Mr. Weicker), the distinguished Senator from South Dakota (Mr. Abourezk), and others have amendments which they are now prepared to offer, and I wish one would be sent to the desk.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. McCLELLAN. Mr. President, let us have order.

The PRESIDING OFFICER. The Senator from Ohio (Mr. Taft) has the floor.

AMENDMENT NO. 1977

Mr. TAFT. Mr. President, I call up my amendment No. 1977.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 3 between lines 10 and 11, insert the following:

REHABILITATION LOANS

For an additional amount for rehabilitation loans authorized by section 312 of the Housing Act of 1964, $25,000,000.

Mr. TAFT. Mr. President, this is a relatively simple amendment. What it does is restore a figure of $25 million originally contemplated for rehabilitation housing programs under section 312.

The PRESIDING OFFICER. Will the Senator suspend?

Mr. McCLELLAN. Will the Senator yield for a moment, Mr. President?

Mr. TAFT. I am glad to yield.

Mr. McCLELLAN. Mr. President, I would like to make a parliamentary inquiry. Is there a time limitation on amendments to this bill?

The PRESIDING OFFICER. One hour on each amendment, and one-half hour on amendments to amendments.

Mr. TAFT. Mr. President, the bill as it is before us contains no additional money for section 312, the 3-percent housing rehabilitation loan program. This program is extremely important, I think, in view of the justifiable emphasis that we are currently placing on preserving existing housing in the crucial role that it can play in the preservation of our cities at this time, with the necessity to stimulate housing-related industries.

The House of Representatives, in recognition of such facts, included $70 million in the HUD appropriations bill for this program originally. That funding provision was deleted later, based solely upon the Senate Appropriations Committee's understanding that carryover and loan repayment funds for this fiscal year "will make possible a program level of up to nearly $70 million without any additional appropriation," in the words of the committee report.

I was concerned at the time that bill was considered that this was an overestimate of available funds, and I expressed that concern on the floor. It now appears that my fears were correct. Rather than $70 million, it now appears that the maximum program level, without additional appropriation in this bill for fiscal year 1975, will be closer to around $45 million, and almost a half of that figure, $20 million, is not even in new fiscal 1975 money. It is money which was allocated to the field in fiscal 1974, but which was not spent until the last—by last—June 30.

Upon learning of these facts informally, the ranking member of the HUD Appropriations Subcommittee, Senator Mathias, Senator Cranston, and I wrote to Secretary Lynn for a verification and details. As far as we know, the facts are correct, and I have a letter—I just received today from Mr. David O. Meeker, the Assistant Secretary, which I will include with my remarks in the Record. Yet this legislation does not contain even the funds necessary to return the fiscal 1975 program level to the level the committee expected when it made its initial decisions on program appropriations. The present funding level virtually undermines Congress recent decision to continue this program despite the administration's suggestion that it be terminated.

Now, this all relates to the community development provisions that were included in the housing bill, and the position that was taken at that time by the administration that the program should have been allowed to be terminated. However, the Congress and, especially the Senate, decided to the contrary, and decided to continue the program, gave it a 1-year life extension, and provided it ought to be fully funded, and I think that that was a correct decision at that time and one which now, in view of the facts that have come out, should be implemented at this time in this bill.

The actual fund usage for fiscal year 1974, rather the figure, which had been estimated, turned out to be some $69 million. So a failure to appropriate here would represent a cutback of almost $20 million in the total size of the program as compared to last year and, at a time when, I think, it is perfectly clear that economic conditions make it of paramount consideration to turn toward rehabilitation of existing buildings rather than trying to put additional pressure upon a new housing market where the interest rates are extremely high, and where the building costs have skyrocketed in the meanwhile.

The PRESIDING OFFICER. Will the Senator suspend? May we have order in the Senate?

Mr. TAFT. Mr. President, it is on that basis that I have proposed this particular amendment. I believe it deserves the support of the Senate.

I ask unanimous consent to have Mr. Meeker's letter printed in the Record.

There being no objection, the letter of Mr. Meeker was ordered to be printed in the Record, as follows:

Department of Housing
and Urban Development,
Washington, D.C., November 18, 1974.
Hon. Robert Taft, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Taft: Secretary James T. Lynn has asked me to reply to your letter of September 24, 1974 concerning funds available in fiscal year 1975 for the Section 312 Rehabilitation Loan Program.

The amended fiscal year 1975 Budget for Section 312 Rehabilitation Loans assumed that the program would expire on October 1, 1974. The Budget stated that any unused balances of the 1974 program level would carry over into fiscal year 1975 to be used at a normal rate until authority to make loans expired on October 1, 1974. In June of 1974, the Department estimated that the fund usage in fiscal year 1974 would be approximately $50 million. Based on this estimate the unused balances plus anticipated loan repayments during fiscal year 1975 would have been sufficient to fund a program level of about $70 million in fiscal year 1975.

However, the actual fund usage for fiscal year 1974 was $69 million—an increase of $19 to $20 million over the Department's estimate. This was due to year-end processing surge in our field offices. It is now estimated that a $49 million program level can be funded in fiscal year 1975. In addition, the program level for fiscal year 1975 may be increased by a small extent through a reuse of recaptured funds in cases where a loan reservation was made in fiscal year 1974 but the loan application was subsequently withdrawn or rejected.

In your letter you stated that the Housing and Community Development Act of 1974 retains rather than replaces the Section 312 program. The Act, however, only retains the program until August 22, 1975 at which time the authority to make loans expires.

I believe the $49 million program level is sufficient and that additional appropriations are not needed in fiscal year 1975. Further, communities starting on January 1, 1975, will have the option of using their grants under the new Community Development Grant Programs to fund local rehabilitation programs. Any increase in the 312 loan approval level would place a substantial burden upon a limited HUD field staff. To the extent that professional staff resources are diverted to processing larger numbers of 312 loan applications, the start-up of the new Community Development Grant Program is delayed.

I appreciate your interest in this matter, and if I can be of any further assistance, please let me know.

Sincerely yours,
David O. Meeker, Jr.,
FAIA Assistant Secretary.

Mr. PROXMIRE. Mr. President, will the Senator from Arkansas yield me 5 minutes?

Mr. McCLELLAN. I yield.

Mr. PROXMIRE. Mr. President, in the regular HUD appropriation bill, the House included $70 million for the 312 program. Our own Appropriations Committee deleted these funds from the bill on the ground that HUD had available unobligated balances of $47 million and anticipated receipts from prior loans totaling $22.8 million. The Senate portion prevailed in the conference. We felt that this $69.8 million would be adequate to fund the 312 program for fiscal year 1975.

We have learned since that HUD had obligated about $25 million more than anticipated in fiscal year 1974, thus reducing the amount available for the fiscal year 1975 program by that amount.

Consequently, I think we can say that the Taft amendment can be accepted as far as this Senator is concerned and I would certainly recommend that to the chairman of the committee and to other Senators. The amount added by the amendment will merely bring the rehabilitation loan fund in fiscal year 1975 up to the amount that was supposed to be available according to the information previously furnished us by HUD.

I think everybody in the Senate and everybody in the country knows we are in a housing depression, not a recession, but a depression.

We know, too, that there are ample materials and great unemployment in this industry; 12½ percent of the people in the construction trades industry are out of work.

So if we provide this money, it will not be inflationary, but very desirable, because it means housing can be improved at a modest cost and, of course, rehabilitated housing is the lowest cost housing one can get.

As I say, it was our understanding at the time we acted before that these funds were available. Now we find they are not. For that reason, I think the amendment by the Senator from Ohio is constructive; it is not an inflationary amendment. I think all of us regret having to appropriate another $25 million, but I think in this case it is of benefit, and I am glad to support the Senator from Ohio.

I might say, the ranking Republican member of the subcommittee (Mr. MATHIAS) also joins in support of the Taft amendment.

The PRESIDING OFFICER. Who yields time

Mr. McCLELLAN. Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. McCLELLAN. Did the Senator say there was $70 million in the bill that had not been expended?

Mr. PROXMIRE. They had unobligated balances of $47 million, then receipts from prior loans of $22.8 million, totaling a little less than $70 million. That sum was supposed to be available. However, they used $25 million of this, so that for this year they would not have $70 million available.

The Taft amendment would bring the amount available up to $70 million.

Mr. McCLELLAN. If this is not added, what would be the consequences?

Mr. PROXMIRE. It means that the rehabilitation program would be reduced by $25 million below the level we thought existed when we acted on the regular bill.

Mr. McCLELLAN. What is the budget request for?

Mr. PROXMIRE. As I understand it, there is no budget request.

Now, I might say, we just got a letter today opposing the Taft amendment.

Mr. McCLELLAN. Opposing?

Mr. PROXMIRE. Opposing the Taft amendment, that is correct.

Mr. McCLELLAN. On what grounds?

Mr. TAFT. Will the Senator yield?

Mr. McCLELLAN. Let us get the record straight.

Mr. TAFT. As I understand it, the 312 program was opposed originally by the administration. It was desired to be terminated totally by the administration. The Senate and House decided to the contrary. They extended it for another year. Otherwise it would have died in October 1974. Congress may well extend it permanently.

The basis or theory on which the opposition to the extension of the program came about was not against the rehabilitation concept but rather that it should be incorporated in community development.

I think everybody in the housing field is pretty well agreed that continuation of a rehabilitation loan program on a lower interest rate and on a grant basis is a very, very desirable thing.

The administration would package it into the community development program.

So, as I say, Congress decided against that, to carry on a current level we have been expending, we would need the additional $25 million appropriation.

Mr. McCLELLAN. Is the Senator saying another appropriation would be——

Mr. TAFT. I do not believe that would be true, I do not think the Senate intended, or anybody intended, the community development portion of the budget would be changed.

Mr. PROXMIRE. If the Senator will yield, I think I can explain the position.

Mr. TAFT. I am happy to yield.

Mr. PROXMIRE. I think I can explain by reading a part of the letter from David Meeker, Assistant Secretary of the Department of Housing and Urban Development:

> I believe the $49 million program level is sufficient and that additional appropriations are not needed in fiscal year 1975. Further, communities starting on January 1, 1975, will have the option of using their grants under the New Community Development Grant Program to fund local rehabilitation programs. Any increase in the 312 loan approval level would place a substantial burden upon a limited HUD field staff. To the extent that professional staff resources are diverted to processing larger numbers of 312 loan applications, the start-up of the new Community Development Grant Program is delayed.

So they feel this is inconvenient because they do not have enough staff to do both the rehabilitation program and the community development program.

As the Senator from Ohio said, I think correctly, both the House and Senate take the position the rehabilitation program should have a very high priority.

As I say, there is construction and low cost, and that is the reason why I think the HUD position is wrong, although I understand why they take the position.

Mr. McCLELLAN. I understand this would call for an increase of personnel?

Mr. PROXMIRE. No; they will simply have to use their personnel in the rehabilitation area and they will have to either work longer hours or not be able to proceed as rapidly as they would like to in this new program.

Mr. McCLELLAN. What is the reason why this cannot go over to the regular appropriation bill and let it be taken up and thoroughly examined in the next regular bill that will soon be coming up?

Mr. TAFT. The reason is that the program is not—this fiscal year we are talking about. The next fiscal year in the next year's budget would have to take into account an entirely new authorization bill that would be necessary to continue as a particular program beyond August 22, 1975.

Mr. McCLELLAN. This was considered in the regular HEW appropriation, was it not?

Mr. TAFT. It was, but it was thought at that time there would be sufficient carryover funds so we would be able to continue in the approximately $70 million level, which now we are not able to do, because the estimates in fiscal year 1974, there on out, would be underestimated by $20 or $25 million.

Mr. McCLELLAN. On the basis of $70 million, they underestimated $25 million?

Mr. TAFT. That is correct.

Mr. McCLELLAN. A poor estimator somewhere.

Mr. TAFT. I would agree and I think perhaps it reflects in some part the hostility toward continuation of this program, but Congress decided otherwise; they decided they did want it.

Mr. McCLELLAN. I yield back the remainder of my time.

Mr. TAFT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on the amendment of the Senator from Ohio (Mr. TAFT).

The amendment was agreed to.

AMENDMENT NO. 1974

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I call up amendment No. 1974.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> On page 27, line 23, after the word "Act" insert the following: "Or any other Act".

Mr. ABOUREZK. Mr. President, this amendment simply inserts into the supplemental appropriations bill four words: "Or any other act." The intention of this amendment is to make more broad the prohibition to use any Federal moneys to ship or deliver any of the Presidential documents, written materials, or tape recordings of former President Nixon from anywhere except where they are now located.

All this does is prevent the use of Federal money from other legislation which might be used by the administration to ship those documents. It is very straightforward and very clear.

I have nothing more to say on that.

Is there a time limit?

The PRESIDING OFFICER. One hour, to be equally divided.

Mr. ABOUREZK. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yield time?

Mr. PASTORE. For the purpose of clarification, may I ask the Senator a question?

Mr. ABOUREZK. Yes.

Mr. PASTORE. This prohibition for using money on documents and tapes is from where to where?

Mr. ABOUREZK. From anywhere to anywhere. It is in the existing legislation. This is the prohibition in section 203, if I might read it, Senator:

> No part of any appropriation contained in this act may be used to pay any expenses of any kind to send, ship, transmit, convey, or deliver any of the Presidential documents, written materials, or tape recordings of former President Richard M. Nixon from the custody of Federal officials, or agencies now in the possession of them until the passage by the Congress of legislation determining the ownership of such documents.

All this amendment does is to expand that prohibition to any other legislation or any other appropriation so that other funds outside of the ones appropriated in this bill cannot be used to ship those documents.

Mr. McCLELLAN. Mr. President, as I interpret this amendment, it is simply meant to broaden a prohibition on the use of certain funds for purposes of transferring certain documents to the former President of the United States which, under the bill before us, says:

> No part of any appropriations contained in this act.

This simply broadens it to say "or any other act."

So if we intend for them not to be delivered until certain events transpire, until certain conditions are met, I would see no objection to this particular amendment. I am prepared to accept the amendment, unless there is objection to it.

I yield back the remainder of my time.

Mr. ABOUREZK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I send to the desk my unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 13, line 5, after as amended, delete "$128,438,000" and insert in lieu thereof "$155,250,000".
>
> On page 13, line 6, after amount delete "$63,319,000" and insert in lieu thereof "$77,625,000."

Mr. JOHNSTON. Mr. President, today I offer an important amendment to H.R. 16900, the Supplemental Appropriations Act, which the Senate is now considering. This amendment increases the 2-year appropriation for adult education programs from $128,438,000 to $155,250,000 and increases the amount to be made available for obligation on July 1, 1975, for adult education from $63,319,000 to $77,625,000.

Mr. President, these amendments are essential if we are not to suffer severe cutbacks in already existing adult basic education programs which provide opportunities for thousands of illiterate adults whose inability to read, write, and speak the English language constitutes a substantial impairment of their ability to obtain, retain, or improve their employment.

Mr. President, on May 16, 1974, the Senate unanimously adopted an amendment I introduced to the Elementary and Secondary Education Act Amendments of 1974 (Public Law 93-380), which provides that no States shall receive less than 90 percent of the State grant program funds than it received in fiscal year 1973.

In fiscal year 1973, $75 million was appropriated for adult education State grant programs. Ninety percent of $75 million dollars, the amount which the authorizing legislation requires that each State receive, is $67.5 million, which is $4.181 million more than the amount being recommended in this proposed bill, H.R. 16900. If just $63.319 million is distributed to the States for adult education act programs, 11 States, States with the highest rates of illiteracy in our Nation, will receive substantially less than the 90 percent "hold harmless" mandated by the authorizing legislation in fiscal year 1975. For instance, Alabama will receive $90,000; Texas will receive $120,000 less; Mississippi will receive $162,000 less; South Carolina will receive $183,000 less; Georgia will receive $238,000 less; and my State of Louisiana will receive $246,000 less than in fiscal year 1973.

Furthermore, Mr. President, from these reduced sums—which will result in drastic reductions in the affected States—each State must allocate 15 percent of the amount they receive in State grant program funds for experimental programs before it can begin to fund local programs.

In fiscal year 1973, in addition to the $75 million which was appropriated for State grant programs, $10 million was retained by the U.S. Office of Education for experimental programs. Under the Elementary and Secondary Education Act Amendments of 1974, however, this $10.125 million discretionary fund for experimental programs is eliminated and States are required to undertake the experimental programs out of local program funds. Therefore, the minimum amount which is needed in order for States to receive adult education funds equal to 90 percent of the fiscal year 1973 level is $77.625 million.

This figure is reached in the following manner: the fiscal year 1973 State grant allocation was $75 million; 90 percent—as required in Public Law 93-380—of that amount is $67.5 million. Fifteen percent of $67.5 million—required to be spent for experimental programs—is $10.125 million. The total of these two amounts—$67.5 million and $10.125 million is the requested $77.625 million.

I might add, Mr. President, that the $10.125 million which my amendment includes in the total $77.625 million figure will be helpful to adult education programs in every State, not merely to those States suffering the most severe cutbacks, which are located primarily in the South and Southwest.

Simply stated, this amendment is important to insure that the splendid basic adult education programs presently going on throughout the country will remain effective. Where adults are deficient in basic educational requirements, the problems of unemployment, family stability and job mobility are obviously greatest. As I said in my floor statement upon introducing the "hold harmless" amendment to the ESEA amendments, it is in the basic adult education area that adult education programs can do the most good for the most people. I urge the adoption of this amendment in order that we can hold on to our greatest level of programing in these areas of our country until such time as it is feasible to expand them. I certainly want to see more efficient allocation and expenditure of Federal dollars, but not at the expense of those who are deficient in the fundamental skills of reading, writing, and simple mathematics.

Mr. President, the ultimate goal of the adult education amendments cannot be realized if we cut back on these vital programs to assist these adults, many of whom are heads of households with families, in achieving the minimum performance levels required for them to make it on their own in our present technological society.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, I will yield.

Mr. McCLELLAN. Mr. President, this deals with a section or title of the bill, that is under the jurisdiction of the Labor-Health, Education, and Welfare Subcommittee's authority for appropriation. Senator MAGNUSON, who is chairman of that subcommittee, is not here today, but he will be here tomorrow. It is anticipated that this bill cannot be completed today because, among other reasons, of the obvious absence of the Senator from Washington, who is not here to discuss amendments which affect his jurisdiction and the jurisdiction of his subcommittee.

I would like to request that my distinguished friend from Louisiana agree to withdraw this amendment tentatively, or for the moment, until Senator MAGNUSON can be present.

I have not had an opportunity to confer with Senator MAGNUSON about this amendment, and I had no notice of it.

Mr. JOHNSTON. I certainly have no objection to letting the amendment go over until tomorrow.

Mr. McCLELLAN. I wish the Senator would do that. I do not know that I am necessarily opposed to it, but I would like to have the benefit of Senator MAGNUSON's judgment about it.

Mr. JOHNSTON. I wonder if the Senator would consent to bringing this and other amendments of a like nature up at a time certain tomorrow so that we will not have to run into that same problem of trying to get recognition?

Mr. McCLELLAN. I would suggest that as soon as Senator MAGNUSON can get here, I would have no objection as to the time. I do not think the Senator will have any objection as to the time. If he will confer with me tomorrow, as soon as I have conferred with Senator MAGNUSON, I will agree readily for the proposal to be brought up and acted upon promptly, as far as I am concerned. I will be glad to do this. But I do not think I can set an exact minute of time. It will be considered tomorrow.

Mr. JOHNSTON. Mr. President, I move that this amendment be temporarily laid aside, to be brought up tomorrow at a time convenient to the chairman handling the bill and the proponent of the amendment.

The PRESIDING OFFICER. Is the Senator formally requesting——

Mr. McCLELLAN. Ask unanimous consent.

Mr. JOHNSTON. I ask unanimous consent.

The PRESIDING OFFICER. Will the

Senator restate his unanimous-consent request?

Mr. JOHNSTON. That this amendment be temporarily laid aside, to be brought up tomorrow at a time to be agreed upon between the distinguished chairman and the manager of the bill and the proponent of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. I have no objection. Just make it subject to being called up tomorrow. The Senator does not have to have my consent.

Mr. JOHNSTON. Subject to being called up tomorrow, right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. I thank the Senator very much.

AMENDMENT NO. 1966

Mr. TUNNEY. Mr. President, I call up my amendment—No. 1966—and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, insert between lines 12 and 13 the following:

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to public nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949 (42 U.S.C. 1486), $5,000,000 to remain available until expended.

Mr. TUNNEY. Mr. President, I would like to ask for the yeas and nays on this amendment.

Mr. PROXMIRE. Before the Senator asks for the yeas and nays, may I ask about this amendment?

It is my understanding—I may be completely wrong—and I am told by the staff of the Appropriations Committee, that this amendment as presently drafted goes to a section of the bill that affects housing and urban development.

Mr. TUNNEY. That is correct.

Mr. PROXMIRE. That it is not within the jurisdiction of the subcommittee or of the housing agency; that, actually, this should go to another section of the bill that deals with agriculture and agricultural appropriations; and that it would be appropriate and proper in that particular section. Is the Senator aware of that? I interrupt him now, because once he gets the yeas and nays, he has to ask unanimous consent——

Mr. TUNNEY. It is my understanding that there is not an agricultural section in the bill. So I placed my amendment following the housing section.

Mr. PROXMIRE. The reason I interrupt the Senator is that I understand that there is not an agricultural section in the bill, but he could add a title to the bill which would make it appropriate. As it is now, I think there is a defect in the amendment, because it is not a proper item in the HUD chapter of the bill.

Mr. TUNNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TUNNEY. Is this amendment, as drafted, appropriate, and can it be considered as drafted?

Mr. McCLELLAN. Mr. President, the question would arise as to whether this amendment is legislation on an appropriation bill. Is this authorized? Is the appropriation authorized for this?

Mr. TUNNEY. That is correct—the appropriation is authorized.

Mr. McCLELLAN. I think there is a question here. I do not want to make an unusual issue of it, but the question here is that this is a supplemental appropriation bill, and the regular appropriation bill has not yet been enacted. I understand that it contains a provision for covering the same funds. Am I correct?

Mr. McGEE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield, for an explanation.

Mr. McGEE. Inasmuch as it has been ruled that this properly belongs in the agricultural appropriation——

The PRESIDING OFFICER. It has not been so ruled, on parliamentary inquiry.

Mr. McGEE. I think we can agree that this amendment should be considered as an item within the Department of Agriculture.

Let me say that the Agricultural Appropriations Subcommittee, with the Senator's support and leadership, approved an appropriation of $5 million without a budget request in the regular appropriation earlier this year. However, that appropriation bill, which was passed by Congress, was vetoed by the President. Therefore, the difficulty that arises here, it seems to me, is that of requesting a supplemental appropriation before there is any regular appropriation to supplement.

I raise a serious question as to whether we do not have the process reversed here. I say that with all due respect to the Senator. The Agriculture Appropriations Subcommittee will be meeting this week to attempt to write a new appropriation proposal. It appears to me to be in the wrong order of things to be considering a supplemental item prior to the time the regular annual bill has been enacted.

Mr. TUNNEY. This matter was considered thoroughly by the Agriculture Appropriations Subcommittee. If it is in order, I do not think we ought to allow technicalities to stand in the way of appropriating an adequate amount of money for rural farm housing.

I renew the parliamentary inquiry.

The PRESIDING OFFICER. On the point of order raised, in response to the parliamentary inquiry, this program is authorized. Therefore, the amendment is in order.

Mr. McGEE. Mr. President, now that the parliamentary inquiry has been clarified, I renew the matter I raised previously with the Senator from California on the timing of his proposal. I would point out again that this proposal calls for consideration of a supplemental item prior to enactment of the regular bill. No other amendment would fall into that category. We are required now to come back with a new agricultural appropriations bill. That measure, will contain, if we have our way, the $5 million that was put in the vetoed bill without a budget figure being submitted.

One proposal for considering the new appropriations bill was to eliminate from it all unbudgeted items. So far, the subcommittee has rejected that approach. They believe that the merit of these things has to be considered and we will in all probability have some unbudgeted items, including $5 million for this program. Because the outcome of that is still not resolved, it would seem to me that this would appear to make somewhat ludicrous the meeting on this item of the appropriations subcommittee, if in fact we are being asked to appropriate a supplementary sum in advance of such action.

I would petition the Senator from California, in his very effective advocacy, to consider the procedural consequences of this approach.

Mr. TUNNEY. I ask the distinguished chairman of the subcommittee whether he is prepared to accept a figure of $10 million for domestic farm labor housing in the subcommittee. If he can give me that assurance, then I feel that that could be handled appropriately by going through the subcommittee.

The problem is that I feel very strongly that this farm labor housing program is a desperately needed program. The administration did not offer one red cent for the program, despite the fact that hundreds of thousands of farmworkers live in the worst, most unsanitary conditions. Anyone who has had the opportunity to go through farm labor camps knows of what I speak—that farmworkers in this country are treated as a special caste of outcasts.

Five million dollars is not adequate, $10 million is not adequate, when we have literally hundreds of thousands of farmworkers living in these conditions. I feel that $10 million is a minimum.

I also believe very strongly that we have to make budget cuts, and I am perfectly prepared to make budget cuts. I have voted to cut $7.5 billion from various budgets so far, in appropriation bills that come through the Senate. But we do have a right—all of us, individually and collectively—to decide where we are going to make these cuts, and I think this is one area where we should be adding money, not cutting.

If all of us had the opportunity to go through some of those camps and to see the housing and to smell the stench and to see the way those kids are being brought up, perhaps there would be a greater desire on the part of Representatives and Senators—and the President as well—to make adequate money available.

So I renew my request to the Senator from Wyoming: Is he prepared to support $10 million in the regular appropriation bill?

Mr. McGEE. The Senator asks a very fair question, and I will give him a very honest anwer. I cannot and could not make that commitment, because it is subcommittee action, not necessarily the views of this Senator, that will prevail. But I would not, under any circumstances, make such a commitment in advance while the matter is being considered in a supplemental appropriation.

Also, in the interest of candor, I have to say to the distinguished Senator from

California, that he does not have to sell this Senator on the equities of the matter, on the stench of the camps and in some other conditions in rural America. But we have had similar petitions from many other individuals and groups in reference to many other programs. Many of them are highly meritorious and the committee will do its best to act responsibly and consider each of them in the overall context of the bill.

I would like to point out one other matter to the Senator.

If the Senator prevails in this supplemental appropriation in advance of the regular appropriating process, it would be readily conceivable, knowing the temperament of members of committees, that they might seize upon that as a chance to reduce the regular bill by $5 million, thereby making any victory the Senator might achieve here today a hollow one.

I fully anticipate hearing that kind of response, and as long as the Senator understands that that is also one of the *hazards in this* procedure, then we can proceed according to the parliamentary processes here.

I do think that that ought to be laid on the line as one of the risks that this immediately opens up in achieving some of the laudable goals that the Senator seeks

Mr. TUNNEY. I am fully aware of the fact that the distinguished subcommittee chairman has been most cooperative in trying to assist the Senator from California in trying to get money in the appropriation bill for farm labor housing. If it had not been for the fact that the chairman of the subcommittee had personally gone to bat, we would not have had the $5 million in the bill. I recognize that, and I recognize the problems that the Senator has with other Senators coming forward with amendments to increase amounts, and the fact that the Senator has to establish his own order of priorities. I fully appreciate that.

I want publicly to thank the Senator from Wyoming for his efforts in my behalf.

My feeling is that I want $10 million for this program, and I am going to do what I can to get at least $10 million. I want the Senate to have the opportunity to make its decision on this program, whether they want $5 million or $10 million or what it is they want.

That is why I am offering the $5 million amendment to the supplemental bill and, hopefully, we can get $5 million on the appropriation bill itself. Maybe we cannot. But I wish to say that it would be helpful if the Senator felt that he could support this effort on the supplemental.

Mr. President, I suggest the absence of a quorum.

Mr. YOUNG. Will the Senator yield?

Mr. PROXMIRE. Will the Senator yield?

I apologize to the Senator from North Dakota.

Mr. TUNNEY. Yes; I yield.

Mr. PROXMIRE. I wish to state to the Senator that if he would make this additional title, a very simple modification of his amendment, he would have the following advantage: he would have people in conference who understand the problem. Otherwise, this is likely to go to conference with the HUD Subcommittee of the Senate and the House negotiating it, and it seems to me that it would get a less sympathetic and less expert consideration.

The fact is that the rural housing program for domestic farm labor is under the jurisdiction of the Secretary of Agriculture, in accordance with title 5 of the Housing Act of 1949. For that reason, it should be a separate title here, and then there would be no question about the jurisdiction, no possibility of having it wiped out in conference simply because it was not understood by either side.

Mr. YOUNG. Will the Senator yield?

Mr. TUNNEY. Yes; I yield.

Mr. YOUNG I think the Senator from Wisconsin makes a good point. This is an unusual procedure because the regular agricultural appropriation bill is coming up within a week. Adding money to the regular agriculture appropriation bill is the normal and proper way for such additions. I think the Senator's chances in conference will be practically nil if he succeeds in getting the money added to the supplemental appropriations bill. The Senator from California will have a much better chance of success, in my opinion, if he submits his amendment to the regular approriations bill.

I hope the Senator will not press his amendment.

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I withdraw my amendment and send to the desk a new amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 27 after line 10 add the following:

CHAPTER X

DEPARTMENT OF AGRICULTURE

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to public nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949 (42 U.S.C. 1486), $5,000,000 to remain available until expended.

Mr. TUNNEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TUNNEY. Mr. President, in 1937 Congress established a policy to remedy unsafe and unsanitary housing conditions and the acute shortage of decent, safe and sanitary dwellings for families of low income, rural communities. Now, in 1974, the disgraceful conditions under which many of the farmworkers in this country are forced to live continues to be a national scandal which deserves our utmost attention. It is clear that a strong congressional commitment is needed to help alleviate this extremely serious problem.

Mr. President, the amendment I propose increases the appropriation for the Farmers Home Administration's farm labor housing grant program by $5 million. As of October 1 of this year, $17.5 million remained authorized for this program, $17.5 million which I attempted to have appropriated when the Senate considered the Agricultural, Environmental and Consumer Protection Appropriations measure. An additional $30 million has since been authorized to fund the program to June 30, 1977. In my opinion, the $5 million recommended by the Appropriations Committee in the fiscal year 1975 regular appropriations bill is not sufficient to meet the drastic need for adequate housing for this Nation's hired farmworkers.

I am, therefore, proposing that we appropriate $5 million in additional funds for this program now, and then, when the regular appropriations bill, which was vetoed, comes out once again, that we add another $5 million, which will build it up to $10 million.

These funds are used by the Farmers Home Administration to make grants to public bodies such as local public housing authorities broadly based nonprofit organizations, and nonprofit organizations of farmworkers for the purpose of paying up to 90 percent of the development costs of housing projects for hired farmworkers. This law, section 516 of the Housing Act of 1949, was enacted in 1964 and significantly amended in 1970, when Congress recognized that reform was necessary if the program were to adequately meet the desperate needs of farmworkers. The program has had a disquieted history, mostly because it has been treated as a stepchild of the Farmer's Home Administration, under the two previous administrations.

Anyone with even the most remote familiarity with the agricultural areas of this Nation, and the living conditions of the farmworkers, must readily acknowledge that the need for better housing for farmworkers is urgent. The administration justified their failure to make a request for funds by stating that each year an increasing number of families settle out of the migratory stream and put down roots in a community, even though they continue to do farm labor. However, almost 2 years ago the Farmer's Home Administration released a study which indicated a need for more than 100,000 new and rehabilitated housing units for migrant farmworkers alone. When you include farmworkers who do not migrate, and this program covers them as well, the need is likely to be at least three or four times that number. The administration's attitude seems to be one of waiting until the problem goes away.

Mr. President, we are talking about a need of about a half a million housing units and we are only providing 1,000 or 2,000.

The administration has failed, for the past 2 years, to request funds for the farm labor housing program. Again, Congress is striving to authorize Federal funds. But Congress has not done enough.

In 1968, Congress attempted to meet the problem head on and, in passing the

Housing and Urban Development Act of 1968, affirmed the national housing goal and provided for 26 million housing units to be completed by 1978. Six million of these were to be for low- and moderate-income families. Since that time, the administration has attempted to discontinue all funds for farm labor housing in an effort to destroy the program. Last year, the Presidential budget contained no funds for the program. Congress, nevertheless, succeeded in appropriating $7.5 million for the program, only to see it impounded by the administration. The funds were released only after a court fight. I am very much aware of the serious fiscal crisis this country is facing, and there is no doubt that we ought to be moving in the direction of trying to balance the budget. I have introduced several proposals toward that end. But, I believe if we are going to balance the budget, we should make our cuts in areas where we are not going to have such a dramatic impact upon human living conditions.

We are still faced with a bill which would appropriate only half of what was available last year. I think this is a contradiction of what this Congress has indicated as its intent. We desire that the program be expanded so that farmworkers also might realize the housing goal we set in 1949—a decent home and suitable living environment. This can only be accomplished by increased appropriations. The demand on the funds last year far exceeded the $10 million available and the applications for the funds were only accepted for a few months. Without sufficient grant funds, the glaring gap between our public rhetoric and positive action will continue to widen, and we will deny thousands of farmworker families the opportunity to meet one of their most basic human needs.

I would like to point out for those Senators who are not from the southwestern part of the United States that we are facing a very serious problem with illegal entrants coming across the border to work not only on the farms of our various States, but also taking industrial and commercial jobs as well. They are not stopping in the Southwest; they are moving also to the Midwest and to the East, and we have a situation now where, in all probability, we have between 7 and 8 million illegal entrants living in this country, working, many of them not paying any taxes whatsoever, and sending their money outside the borders of the United States.

Now, not all of these illegal entrants are Mexicans, but most of them are.

One of reasons why we have so many illegal entrants working in our fields is due to the positively rotten housing conditions that exist for domestic farmworkers. When we consider that the labor force in Mexico is increasing at a rate of 500,000 persons a year, and the Mexican economy is able to find jobs for only 200,000 of these individuals, we recognize that the United States of America represents a goal that many of them seek, and they come across the border in droves.

Now, this was not nearly as much of a problem 10 years ago, but it is estimated by some that there could be as many as 13 million illegal entrants living in the United States.

A conservative figure is 7 or 8 million and, as I say, these people put additional demands upon our social services, our medical services, our educational services, our transportation services. It just does not make any sense to cut off our noses to spite our faces by saying that we are not going to do anything for farmworkers; that we are going to continue to leave their living conditions at a most appalling subhuman level so that we can encourage more illegal entrants to come into the United States, not only to work in our fields, but to work in our factories, in our stores, and in our commercial establishments.

This is just about the most counterproductive thing I have ever seen. People should be convinced by now that if you put a person into a hovel, and you require him to work long, hard hours, and his children are subjected to all kinds of abuse, disease, sexual assaults, et cetera, that you are not going to have American citizens willing to work. Subsequently, because we no longer have a bracero law which allows them to come across the border legally, they are going to come across illegally, as they are now.

So it just makes commonsense to make some money available. We should provide the Farmers Home Administration with money to build 3 to 4,000 houses to at least begin to make a dent in the situation.

The PRESIDING OFFICER (Mr. HELMS). Who yields time?

Mr. COTTON. Mr. President, will the Senator from California yield for a question?

Mr. TUNNEY. Yes, I yield to my distinguished colleague.

Mr. COTTON. I gather from his recent remarks that this money is largely to be used for what we call migrant farm labor.

Mr. TUNNEY. Well, migrant farm labor and also those workers who are living in a community permanently—both.

Mr. COTTON. Will, the migrant farm labor, the person who employs them needs them to save his crop, is that not true?

Mr. TUNNEY. That is correct.

Mr. COTTON. We have a situation in my State where we desperately are required every year to get permission for outside labor to save our apple crop, which is considerable. We have a small State, but we have three counties that produce a lot of apples.

If they do not pick those apples we lose our crop, and our people—and Yankees are not supposed to be unduly generous—are so eager to save their crop that we have no difficulty, if we get that permission to use outside labor.

It is not clear to me why the Secretary of Agriculture handles the Senator's people while the Secretary of Labor handles ours, because apples are a crop. But, anyway, if we can get the labor, they train them year by year; they are so anxious to get them, they give them the best living conditions, so they want to come back. They even cover their insurance. It is not because of their altruism, it is because they have got to save their crop.

Now, it seems to me that $5 million or $10 million is just scratching the surface of the situation. Somebody must have control of allowing the farm people, the producers of the crop, x numbers of migrant laborers. If they do not treat them decently, if they make them live in substandard conditions, if they expose them to all these dangers, they should not be allowed migrant workers. I would think the approach is not for Congress to pour out some more money but it is for the executive department to deny them these laborers so that they can let their crops spoil if they are not willing to care for the laborers sufficiently.

Probably my question is an ignorant question because I am not aware of the conditions in the Senator's State, but I would like an answer to my query.

Mr. TUNNEY. Well, I think that in an ideal world it should not be necessary to threaten farmers with the loss of their workers if they did not provide decent housing for them. I think that many farmers would like to provide adequate housing for their workers, but they find the capital investment too great to justify the expenditure when, as in the case of migrant workers, the worker is only going to be working for perhaps 2 months, maybe less time in his fields, and yet he will have a capital investment in a house that will sit there for 12 months and, perhaps, 10 of those months empty.

It seems to me that if the Senator is suggesting that rather than building additional farm labor houses for not only the migrants but for those who are permanent residents of the communities, that we just cut off an authorization to the farmer to use migrants, we would have to pass additional legislation to accomplish that and, it would seem to me, that it would be counterproductive in two respects: one, at a time when there is a worldwide food shortage it does not seem to me to be advisable to be cutting productivity on farms even if the farmer himself, as a matter of obstinacy, and one who could afford to do otherwise, refuses to build adequate housing.

But I also have to be aware of a second point which would seem to me to negate the validity of my distinguished colleague's suggestion, and that is that many farmers just do not have the money to build housing for migrants where they are only going to be on the farm for a couple months during the course of the year.

If this proposal were law, then they would not be able to harvest their crop because they did not build the housing, and yet they do not have the money to build the housing, so they are caught in a vicious circle, and it does not seem to me that that would be the appropriate way of going about it.

It seems to me the appropriate way to go about it is to look at it as a national program, as our national conscience demands that we have adequate housing for not only the migrants but for the permanent farmworkers as well, and that is what we did when we started the FHA program; that is what we did when we started the VA program.

Of course, middle-income people, middle-income constituents, have a bigger voice, there are more of them, I recognize that. I am for the VA program, and I am for the FHA program. I think middle-income people deserve Federal support as well, but I also happen to feel that farmworkers deserve support for a wide variety of reasons. One of them is that of human compassion, which is not the least among them—as a matter of fact, I think probably the most important reason; but, second, it seems to me that if we are really concerned about the working American citizen, we ought to recognize that the programs that we now have, which are really do-nothing programs for housing for migrant workers, are only going to encourage foreign entrants, illegal entrants, to come into the country and take the jobs away from the American citizens.

The reason why they are going to come in and take the jobs is that they are living under worse conditions in their homeland, and they are going to be able to work for a few months, make American dollars, bring them across the border, and they are going to be able thereby to live better in their homeland than if they had not come up to the United States.

Mr. COTTON. The Senator's answer is very forceful and logical—as he always is—and I recognize that, of course. But it is still difficult for me to understand having had over the years this experience of going downtown and literally getting down on my knees every year and pleading with the Secretary of Labor to let us have enough workers, who are willing to come and who are properly kept, in order to save our apple crop.

I cannot quite see that the purpose of the Federal Government is to do those things for people that they can do for themselves. Food is becoming more scarce, by the same token more expensive. If we start putting a crutch under these farmers and not requiring them to treat their temporary workers properly and give them proper protection and reasonable care—they do not have to build mansions for them to last all year round and sit idle; they can give them reasonable care and get these horrible conditions taken care of—I cannot quite understand, having gone through the experience I have gone through, why people who want to save their crops and realize it is a privilege to get these workers, why some of these farmers should not be forced to do something about these conditions rather than we start in with $5 million and then $10 million and it only scratches the surface and pretty soon it will be a little more.

I cannot help but feel that way. I am not quite convinced yet that this is a wrong attitude.

Mr. TUNNEY. My distinguished colleague is someone I deeply respect and I know of his great feeling for the disadvantaged in our society, he has demonstrated that as one of the men who over the years has supported programs to bring social services to our citizens, and I also recognize his argument that in a society like ours men ought to stand on their own two feet and be able to do the job for themselves, but history has proved that men are not willing to do the job for the migrant worker, or even in many instances for the permanent farmworker who lives in the neighborhood.

I think that this is the time for the Government to move in and redress what I consider to be an appalling social evil.

Mr. McCLELLAN. If I understood the Senator correctly, these houses are occupied for the purposes of these workers only about 2 months out of the year?

Mr. TUNNEY. In the case of some migrant worker camps that is the case, but this program is not just a migrant worker program; this also builds permanent housing for farm workers. It would be my view that the great majority of the money ought to be spent to redress the wrongs that exist in housing for permanent workers.

Mr. McCLELLAN. I am trying to ascertain where we build houses to be occupied for 2 months, what happens to them in the other 10 months of the year?

Mr. TUNNEY. It depends on the area of the country. Speaking for my own State, the farm labor camps that have been constructed are occupied all year round and in many instances the father will leave his home and migrate with the crops for several months, leave his wife and children in the camp, and then will return after he has followed the crops and completed his work for the year and probably find work in the immediate community.

I am speaking now for my own area, which I know well.

It is my understanding that in some of the New England States, there is only a need for farmworkers at harvest time. In the Southwest we have crops coming up all year round and there is a need for farmworkers all year round.

I think our problem in the Southwest is much more serious than it is in the Northeast, although I recognize during the harvest season workers are needed no matter what part of the country they are from, but I do feel that the majority of these funds would go into those areas of the country, like Florida, along the gulf coast, and the Southwest, where we have a permanent need for many farmworkers.

Mr. McCLELLAN. Is there any income derived from that housing?

Mr. TUNNEY. Well, the homes are being built with Federal assistance and it is my understanding that they are being run by public housing authorities, and nonprofit corporations, so that the money that is paid by the farmworkers is recycled for the needy.

Mr. McCLELLAN. These houses, as I understand it, are built by some authority?

Mr. TUNNEY. Well, either governmental authority or private nonprofit associations.

Mr. McCLELLAN. And that there is a compensation charge, a charge when they are occupied?

Mr. TUNNEY. That is correct.

Mr. McCLELLAN. That goes into a fund, I assume, a revolving fund, from which repairs can be made and upkeep, is that correct?

Mr. TUNNEY. That is my understanding, yes.

Mr. McCLELLAN. Can the Senator point to any of these projects that have been a success? I am just trying to make the record.

Mr. TUNNEY. Yes.

One example is down in Coachella Valley, which happens to be my old congressional district, working with the Farm Home Administration I was able to get several millions of dollars for the construction of a farm labor camp to replace one that was recognized as being one of the worst in the country. Then Secretary of Labor Wirtz saw it and he said it was the worst he had ever seen.

In the immediate 12-month period prior to the time we got the funds the existing project had to be torn down. There were two cases of incest because families were required to live in houses that were one room, about 7½ by 7½, with outdoor latrines and showers.

The place not only smelled, it was worse than a garbage pile, and we were able to get that torn down, and we were able to put up new single family units that are now occupied 12 months a year.

I have had a chance to go back and speak to the farmworkers who live in them and to their families, and they are just incredibly gratefuly to the Government for having made this possible. It was something that was beyond their dreams 8 or 9 years ago.

I was back a year ago, and tears were in the eyes of some mothers who had the experience of living in the former farm labor camps as they thanked me for the little help I gave in getting those funds.

These funds have been well used, and I think it is demonstrative of what can be done in the future if we had just a little bit more money.

Mr. McCLELLAN. I am trying to find out something about it, but what is the objection for it going on the regular appropriation bill which will be up here in a week?

Mr. TUNNEY. Well, I would like to see $5 million added in the regular appropriation bill and $5 million added in the supplemental bill, then we would have $10 million, and I think that is what we need.

We had $10 million available last year, I think we need $10 million this year, and I feel I have a commitment to have a vote on this $5 million today and I just feel very strongly about that. I cannot withdraw the amendment. I feel that it is justified and I would hope that the committee would accept it.

Mr. AIKEN. Will the Senator yield?

Mr. TUNNEY. Yes.

Mr. AIKEN. I was just wondering, in New England and other Northeastern States, we happen to have several hundred migrant workers coming to pick the apple crops each year and under the State regulations, State law, they were required to provide adequate housing for all these people. Some of them get as good housing as the owner of the orchard himself. I was just wondering why the States in the Northeast have that responsibility and do not the States in other parts of the country have a responsibility also?

Farmers Home Administration, I am sure, would help them if they needed it.

The PRESIDING OFFICER. The time

of the Senator from California has expired.

Mr. McCLELLAN. I yield time.

Mr. AIKEN. I was wondering why, if the States are responsible for those housing conditions and enforcing them all through New England, anyway, the Federal Government is supposed to take over the job in other States.

Mr. PASTORE. Will the Senator yield?

Mr. TUNNEY. I yield.

Mr. PASTORE. I understand the character of this amendment is nationwide.

Mr. TUNNEY. It is.

Mr. PASTORE. It does not apply to California.

I must say to the Senator he argues well. He is very eloquent. I think there is tremendous merit to the substance of his amendment. I think there is a parliamentary situation here whether or not it would be well to proceed now or wait for the regular bill. I am afraid that because this has not been authorized, there is no probability——

Mr. TUNNEY. It has been authorized.

Mr. PASTORE. I understand the appropriation is pending now.

The Senator may have a tough go of it in conference; I do not know.

Certainly, I do not see how anybody will vote against this amendment, though there may be some who will.

I want to say to my distinguished colleague I have been very much troubled about these illegal aliens who come into this country and take American jobs. I think they are people not only doing the wrong thing, but they are being exploited by American industry. There is no question at all about it. I think many of our businessmen are looking for cheap workers. Just because they know they are illegal aliens, they can buy them and use them at some insignificant amount, and take advantage of them, which, to me, is very inhumane.

There is a bill pending in the Judiciary Committee that makes it a crime for an employer to engage someone knowing that he is an illegal alien.

We are appropriating the part of the bill that comes into my charge and it is in here now. We are appropriating $175 million to do something about illegal entry into this country.

I say very frankly it is ilke trying to stop the wind. They come in and they come in in droves. Then a lot of them come in in some organized way, too.

I do want to say to my colleague that doing it at this moment I am a little skeptical as to whether or not it is going to survive.

I was wondering if my colleague would agree to withdraw his yeas and nays and let us take this to conference and see what we can do with it.

Mr. TUNNEY. If it will be accepted. My feeling is this: I think we need to have an expression by the Senate for the public record that we are in favor of a modest, a very modest, amount of money going into this farm labor program. There was authorized $17.5 million for this year, and we are only going to be making available—if my amendment here succeeds, and another amendment if it is not contained in the subcommittee's bill succeeds—another $5 million. We will have $10 million, which is exactly what we had available last year, which is probably 60 percent of what was authorized.

Now we have gone ahead and we have also authorized an additional $30 million under this program to June 30, 1977.

Mr. PASTORE. Will the Senator yield?

Mr. TUNNEY. Yes.

Mr. PASTORE. The Senator will see, that is the hurdle. That is a new matter that is being put into a supplemental bill, and he has to take it to conference. That is where the crunch is going to be.

However, the Senator is the master of his own actions and he can do what he pleases. I would vote for the amendment tomorrow; I will vote for it today; I will vote for it any day. First of all, I think his request is much, much too modest, if it is going to be nationwide.

I do not know what he will do with $5 million, nor with $10 million, not in this whole United States of America, when we are dealing with migrant workers and poor farmworkers who are permanent residents and citizens of the United States. This is a drop in the bucket. But it has merit, and this may be the beginning of something good. I do not know. I would leave it in the hands of Senator McGee, if I were the Senator from California.

Mr. TUNNEY. Our distinguished colleague from Wyoming (Mr. McGee) has done a great job in his committee. The administration recommended no money, and he put $5 million into the original agriculture appropriation bill. That was vetoed by the President. I would hope that the enthusiasm of the Senator from Wyoming for the program is maintained. I just feel that this $5 million will help maybe 1,500 to 2,000 families, and the $10 million will help double that many.

I think it is clear that we are not going to be able, at a time of budgetary restraint, to do what ought to be done. I recognize that. That is why I am suggesting we just do what we did last year.

Actually, if we give them the same number of dollars we gave them last year it is going to represent about 15 percent less money because of the 15-percent inflation.

I am ready to vote if the distinguished chairman of the committee would agree.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from California. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. Biden), the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Illinois (Mr. Stevenson), the Senator from North Carolina (Mr. Ervin), and the Senator from Minnesota (Mr. Mondale), are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from Washington (Mr. Magnuson) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Utah (Mr. Bennett), the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Hawaii (Mr. Fong), the Senator from Florida (Mr. Gurney), the Senator from Oregon (Mr. Hatfield), the Senator from Idaho (Mr. McClure), and the Senator from Illinois (Mr. Percy) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Fannin) and the Senator from Maryland (Mr. Mathias) are absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 35, nays 42, as follows:

[No. 483 Leg.]

YEAS—35

Abourezk
Bentsen
Brooke
Burdick
Case
Chiles
Clark
Cranston
Dole
Gravel
Hart
Hartke
Haskell
Hathaway
Jackson
Javits
Johnston
Mansfield
Metcalf
Metzenbaum
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stevens
Tunney
Weicker
Williams

NAYS—42

Aiken
Allen
Bartlett
Bayh
Beall
Bellmon
Bible
Brock
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Cotton
Curtis
Domenici
Dominick
Eastland
Goldwater
Griffin
Hansen
Helms
Hollings
Hruska
Huddleston
Hughes
Long
McClellan
McGee
McIntyre
Montoya
Moss
Nunn
Proxmire
Roth
Scott,
  William L.
Stafford
Stennis
Symington
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—23

Baker
Bennett
Biden
Buckley
Church
Cook
Eagleton
Ervin
Fannin
Fong
Fulbright
Gurney
Hatfield
Humphrey
Inouye
Kennedy
Magnuson
Mathias
McClure
McGovern
Mondale
Percy
Stevenson

So Mr. Tunney's amendment (No. 1966) was rejected.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MONTOYA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, I call up an amendment which I have sent to the desk.

The PRESIDING OFFICER. The Senate will be in order. The amendment will be stated.

The legislative clerk read as follows:

On page 20, line 8, delete all through line 10 and insert the following:

"For an additional amount for 'Economic Development Assistance Programs', including activities authorized by title IX, $99,000,000."

Mr. RANDOLPH. Mr. President, the amendment I offer goes directly to one of the most difficult problems our country faces in a realistic effort to set our economic house in order.

While we struggle to bring inflation under control and restore stability to the American economy, tens of thousands of our citizens are meeting the spectre of unemployment.

Experiences with the hardship of unemployment in the past led to the development of title IX of the Public Works and the Economic Development Act Amendments of 1974. This section of the legislation is specifically designed to alleviate the hardship and dislocation increasingly encountered by local economies.

Regrettably, these situations are now occurring with increasing frequency. We learn daily of major layoffs in important basic industries. Employers are ceasing operations. In our State hundreds of workers have found themselves without jobs within the past month. The FMC Corporation chemical plant in Parkersburg closed, leaving 1,800 skilled workers without employment; PPG Industries ceased operations at its Clarksburg plant with a loss of 425 jobs; and Ranson Products Co. may not rebuild its fire-destroyed facility in Charles Town where 85 West Virginians worked.

This pattern is repeated throughout the country. The depression conditions in the housing industry have caused widespread unemployment, and slumping automobile sales have already led to layoffs for 68,000 workers.

Mr. President, jobs are the best and preferable means for creating a healthy economy. There are times, however, when Government must step in to ease the difficulties resulting from economic problems such as we now are undergoing. Title IX of the Public Works and Economic Development Act amendments authorizes the aid needed to help individuals and communities through this difficult time.

The act cannot be effective, though, without adequate funding. The authorizing legislation provides for $75 million for title IX. The supplemental appropriations bill before the Senate contains $27,500,000, an amount which I am convinced is inadequate to cope with the current situation.

The amendment proposed to increase this amount to the full $75 million of the authorization. This money would purchase a wide variety of assistance in a time of economic need. The tile IX program is designed to ease the impact of economic adversity and, equally important, to help restore strength to ailing local economies.

Among the ways in which this is achieved are supplemental benefits to the unemployed, grants for public facilities, public services, business development, rent supplements, mortgage payment assistance training, relocation of individuals, and other elements of economic aid.

Mr. President, Members of the Senate know that no State, no region, no community is immune from the economic shocks that are disrupting our society. Title IX can help us to overcome these problems, but only if it has the muscle of full funding. I hope my colleagues will join in approving this amendment to increase funding for title IX by $47,500,000.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield to my friend from Rhode Island.

Mr. PASTORE. Mr. President, I agree, and I am very sympathetic, with the argument made by my distinguished colleague from West Virginia, as one who has gone through the agony of losing installations in my State. As a matter of fact, we lost 85 percent of all of our naval installations in Rhode Island, and particularly Newport is traditionally a Navy community.

We lost 85 percent, which was equivalent to a 50-percent cut throughout the entire country. We constitute less than 1 percent of the population of the country, so you can imagine the economic impact that the loss of these installations had upon the Rhode Island economy, not only upon salaries paid to personnel, but also, of course, the installations themselves.

So I am very sympathetic. The only trouble is that in our committee we did allow $27.5 million. The authorization, of course, is $75 million, and there is every justification for the authorization. But we are in this financial straitjacket, and naturally we had to reduce our budget. To reduce our budget by 3.5 percent, we had to do a lot of nit-picking. In many instances, when asked, "Why did you cut it?" I had to answer, "Not because there was any merit to the cut, but it was a matter of financial necessity."

So, if my colleague will make his increase $22.5 million, I will be very happy to accept it.

Mr. RANDOLPH. Mr. President, in response to the conclusions drawn by the Senator from Rhode Island, I wish to say that I agree that the amount of $27.5 million is not adequate to cope with the current situation. The Senator has said that. Yet I do realize the fiscal realities of the situation, and I do know that the title IX program has been designed to ease the impact of economic adversity and, equally important, to help restore strength to ailing local economies.

I am sure that the Senator hopes to accomplish what I am attempting to accomplish with this amendment. I ask that the amendment I have offered be modified as suggested by my distinguished colleague to provide an additional $22.5 million for the title IX programs, making a total appropriation of $50 million for this purpose.

The PRESIDING OFFICER (Mr. Pearson). The Senator has a right to modify his amendment.

Mr. PASTORE. I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. Will the Senator state the figure of the modification?

Mr. PASTORE. The figure of the modification is an add-on of $22.5 million.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia. Is all time yielded back?

Mr. RANDOLPH. That would make the total $74 million, would it not?

Mr. PASTORE. Yes, and bring title IX up to $50 million.

Mr. AIKEN. Is the amendment modified? How does it read after being modified?

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. PASTORE. The point is that the amount reported was $51.5 million. Out of the $51.5 million, we allocated $27.5 million for title IX. What we are adding is $22.5 million for this purpose, which brings it up to $51 million. But the total figure is the figure the Senator stated.

Mr. RANDOLPH. $74 million.

Mr. PASTORE. So what we are adding to is the amount reported by the committee. In other words, the $51.5 million goes up to $74 million.

The PRESIDING OFFICER. The Chair understands that the figure $51.5 million was changed to $74 million.

Mr. RANDOLPH. That is correct.

Mr. PASTORE. It is $51.5 mlilion, is it not, in the bill?

Mr. RANDOLPH. That is correct.

Mr. PASTORE. So the Senator adds $22.5 million, and brings it up to $74 million.

The PRESIDING OFFICER. The Chair understands.

Mr. Randolph's amendment, as modified, is as follows:

> "For an additional amount for 'Economic Development Assistance Programs,' including activities authorized by Title IX, $74,000,000.

The PRESIDING OFFICER. Is all remaining time on the amendment yielded back?

Mr. RANDOLPH. I yield back the remainder of my time.

Mr. PASTORE. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I call up my amendment, which is at the desk, on behalf of Senator Pastore, Senator Ribicoff and myself.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> Mr. Jackson, for himself, Mr. Pastore and Mr. Ribicoff, proposes an amendment on page 19, line 5, to strike $54,700,000 and insert $59,700,000.
>
> On page 20, line 8, delete all through line 10 and insert the following:

Mr. JACKSON. Mr. President, I am asking that the portion of the fiscal year 1975 supplemental appropriations bill dealing with the Atomic Energy Commission's efforts in the area of nuclear safeguards be amended to increase safeguards funding by $5 million. This increased support was authorized by the Joint Committee on Atomic Energy at my request, but because the Joint Committee's report on the AEC supplemental authorization was not completed until just before the recent recess, the Appropriations Committee bill before us today does not fully reflect the authorizing committee's wishes. My amendment will harmonize the amounts to be appropriated.

The Atomic Energy Commission's supplemental budget request is composed of two separate proposals for accelerated funding. One, the largest in dollar terms, is for underground nuclear weapons tests; the other request would support enhanced efforts by the Commission to implement and improve domestic nuclear safeguards.

Both these budget items encompass important issues which should receive the full consideration of the Senate. The common factor in each of these requests is the enormous danger to international peace and to the hope for a safe and secure society which is posed by nuclear weapons.

The Office of Management and Budget very unwisely reduced the original AEC supplemental request for the support of accelerated efforts to improve domestic nuclear safeguards. For example, the original AEC request for supplemental funding for the programs of the regulatory division amounted to $10 million, a substantial increase over the fiscal year 1975 base program for safeguards. The OMB deleted these funds entirely. My amendment restores that portion of the OMB cut which the regulatory division can put to use over the remainder of fiscal year 1975.

During the past year, a new awareness of the great dangers associated with inadequate nuclear safeguards has been displayed in considerable detail in the CONGRESSIONAL RECORD, as well as in the public media. The Vice Chairman of the Joint Committee on Atomic Energy, Mr. PASTORE, and the Senator from Connecticut, Mr. RIBICOFF, have performed valuable services in outlining and clarifying this issue. In the public domain the book by Theodore Taylor and Mason Willrich entitled "Nuclear Theft: Risks and Safeguards," and the book by John McPhee about Dr. Taylor, entitled "The Curve of Binding Energy," have alerted many of our constituents to the problems associated with nuclear safeguards. The General Accounting Office has published two detailed reports on the inadequacy of existing nuclear safeguards, and the AEC's Regulatory Division, in a special safeguards study which led to the so-called "Rosenbaum" report and in the "Generic Environmental Statement on the Use of Recycle Plutonium in Mixed Oxide Fuel"—GESMO—report, has focused attention on the need to substantially accelerate the planning, systems design, and research and development for nuclear safeguards.

These planning efforts must begin now if the cost/benefit analyses, systems design, standards and licensing criteria, and special hardware are to be available to permit the safeguarding of future flows of what the AEC calls strategic nuclear material. We now know that this material, uranium–233, plutonium or uranium oxide enriched to greater than 20 percent uranium–235, in the hands of persons of technical sophistication which is no longer uncommon, can be transferred into a credible nuclear weapon.

Currently, flows of this material in the domestic economy are relatively small; still, the amount of strategic nuclear material which poses a real threat in the hands of a terrorist is also small, and therefore, even existing flows must be safeguarded with great care. But the real period of concern with respect to nuclear safeguards is yet to come. Nuclear generating capacity expansions which are now planned as part of the very necessary drive to increase U.S. energy self-sufficiency imply heavily increased flows of nuclear material by the end of this decade. These flows will be further augmented when the AEC authorizes, as it expects to do soon, the recycling of plutonium in the domestic nuclear industry.

The interval of time during which we must organize and carry out the systems design, cost/benefit analysis and program development to prepare for these heavy flows is presently adequate, but it is getting smaller. The essential feature of the domestic safeguards issue is that there exists a breathing period during which, if we act expeditiously, we can analyze and prepare to overcome the problems posed by the need to safeguard strategic nuclear material.

The original AEC request for supplemental fiscal year 1975 funding for nuclear safeguards represented an ambitious but balanced attempt to place efforts for better nuclear safeguards at the priority position which is commensurate with the seriousness of the safeguards issue. It was with considerable disappointment that I learned that the Office of Management and Budget has substantially cut this request, limiting the AEC General Manager's programs under the supplemental to upgrading safeguards in the transportation link of the nuclear fuel cycle only and denying any funds whatsoever for the regulatory division. It is the regulatory division, of course, which must bear the burden of planning for the management of the enhanced flows of strategic nuclear material in the private sector which are implied by nearly all projections of future electric generating capacity.

Early in September, Senator RIBICOFF and I wrote to Senator PASTORE, expressing our deep concern with OMB's emaciation of this supplemental request and, at my request, a meeting to clarify the situation was held on September 19 between my staff, staff from the Joint Committee on Atomic Energy, and representatives of the AEC. At this meeting, the AEC staff reaffirmed their strong belief in the need to greatly increase their safeguards efforts and acknowledged that formidable planning and research efforts must begin very soon if a timely response in terms of policies, standards, regulations and hardware is to be made.

However, it was agreed that, at this late date in the fiscal year, a minimum response which would restore perspective to a program which has been severely unbalanced by the OMB, would be to restore such supplemental research and development authority as can be exercised over the remainder of fiscal year 1975.

Accordingly, I have requested that the supplemental authorization reported by the Joint Committee be increased by $5 million, of which $2 million will be earmarked for analytical safeguards research and development by the AEC General Manager and $3 million will be allotted to the regulatory division to begin the process of contracting for the planning and design studies which will guide the regulatory division's approach to the regulation of the flows of strategic nuclear material in private hands.

This increase in the AEC supplemental appropriations will permit a beginning of the acceleration of safeguards efforts to the level which is consistent with the concern which, in my opinion, the Congress and the American public have for this issue. Further, I fully expect that the nuclear safeguards program submitted to the fiscal year 1976 budget process will provide unequivocally the assurance that a vigorous effort is being made to reduce the risk to the public from safeguards problems to clearly acceptable levels. The public is entitled to a safeguards program which is as strong as is found to be necessary and also to the assurance that the Federal Government is committed to nuclear power which is, above all, safe, in addition to nuclear power which is inexpensive and efficient. The safety programs of the Atomic Energy Commission, now absorbed into the newly created Nuclear Regulatory Commission and the Energy Research and Development Administration, will be subject to increasingly detailed scrutiny in the years ahead, and I intend to see that the Congress plays an active, probing role in this process.

Mr. President, I have discussed this matter with Senator STENNIS who, as chairman of the subcommittee, normally would be handling these funds, and the able vice chairman of the committee, the distinguished Senator from Rhode Island (Mr. PASTORE), and they are both in accord, I might say to the chairman of the full committee.

I have written to Dr. Dixy Lee Ray, Chairman of the Atomic Energy Commission, concerning the support for nuclear safeguards, and I ask unanimous consent that a copy of that letter be inserted in the RECORD at the end of my remarks.

There being no objection, the letter of November 18, 1974, was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 18, 1974.

The Honorable DIXY LEE RAY,
Chairman, Atomic Energy Commission,
Washington, D.C.

DEAR DR. RAY: Early in September I was advised that the Office of Management and Budget had cut by a substantial amount the Atomic Energy Commission's request for a supplemental appropriation to accelerate the Commission's efforts to improve both the understanding and implementation of domestic nuclear safeguards. I have asked that the Joint Committee on Atomic Energy restore the items of highest priority from among those which the OMB unwisely removed. The Joint Committee agreed with me, and I also expect a substantial majority of my colleagues to agree to the restoration of these funds when Commission's FY 1975 supplemental appropriation is considered by the Senate.

As a member of the Joint Committee on Atomic Energy and the Armed Services Committee, I have been concerned for some time with the problems associated with safeguards against the proliferation of nuclear weapons in the international context, and I am convinced that a fundamental review of U.S. policy in this area is overdue. Fortunately the implications of the safeguards issue for *domestic* nuclear fuel cycles are now also receiving enhanced attention by the public, by the Congress and by the Atomic Energy Commission. The original A.E.C. request for supplemental funding for FY 1975 to accelerate its domestic safeguards efforts was, in my opinion, responsive to the new awareness of the importance of this issue.

I was very disappointed, therefore, to learn that the OMB had drastically reduced the AEC request. For example, the AEC had requested $10 million for the safeguards programs of the Director of Regulation; not a single cent of this money survived the OMB's review. However, the insensitivity of the OMB to the importance of adequate management of nuclear safeguards must not be permitted to deter needed efforts to understand and surmount the gaps in our application of safeguards to special nuclear material under either private or AEC control.

At a meeting held at my request on September 19, representatives of the Regulatory Division, the Division of Military Applications, the Controller's Office and the Office of the Assistant Director for National Security met with Captain Edward Bauser of the staff of the Joint Committee on Atomic Energy and with members of my staff to discuss the details of the supplemental A.E.C. authorization for safeguards. As a result of that meeting I asked the Joint Committee to restore $5 million of the funds cut by the OMB.

This action will not restore the entire amount cut by the OMB. However, it will salvage those portions of the original AEC request which, on the basis of our discussions with the AEC, can be implemented prior to the FY 1976 budget authorization. The increased supplemental FY 1975 authorization which I have requested will permit the General Manager to conduct advanced analytical research and development and will provide the Regulatory Division with a substantial increase in its ability to contract for planning studies to develop the methodology to evaluate safeguards measures for private industry as a total, balanced system, to accelerate efforts to devise and prove the feasibility of a continuous inventory system for special nuclear material and to analyze individual facilities to determine their vulnerability to diversion or sabotage.

All those attending the meeting agreed that the restoration of these items represented an essential minimum response to restore perspective to an authorization request which was severely unbalanced by the OMB cuts. In addition, all those present agreed that the original A.E.C. request had been both sound and needed and concurred in the necessity of a complete and prompt review of those items which are not now included in the FY 1975 supplemental authorization. These included, for the General Manager's program, authorization for increased effort in plant protection, communications, material control and accountability, and detection and response capability. This authorization would have supported accelerated research and development (for example, the development of hardware for plant monitoring and for detection units for search and recovery of lost material) and would extend to all relevant portions of the nuclear fuel cycle the enhanced level of security which has been called for in a number of government reports: the so-called "Rosenbaum" report, transmitted to the A.E.C. Licensing Division earlier this year and the GAO reports of November, 1973 on "Improvements Needed in the Program for the Protection of Special Nuclear Material" and of April 12, 1974, on "Protecting Special Nuclear Material in Transit: Improvements Made and Existing Problems". These needs, which are not adequately covered in the present supplemental, must be given early and high priority consideration in the FY 1976 A.E.C. budget.

I am especially pleased that $3 million of the funding authority which will be restored to the FY 1975 supplemental appropriation will go to the AEC's Regulatory Division. As I noted in a letter to Senator Pastore on September 12, I feel strongly that the Director of Regulation has not had adequate resources to acquire the analytical staff and to contract for studies which are needed to develop a full systems analysis of the problems which that Division will face when significant amounts of strategic nuclear material will be flowing in private channels beyond direct government control.

According to the "Generic Environmental Statement on the Use or Recycle of Plutonium in Mixed Oxide Fuel" (GESMO) report, the amount of strategic nuclear material in private hands because of projected expansion in light-water reactor capacity will exceed total domestic strategic nuclear material for all other non-military uses in the early 1980's. Well before this point, it is essential to have completed the systems design, cost/benefit analyses and standards and licensing criteria development which will guide the A.E.C. in the regulation of this flow. I expect the FY 1976 AEC request to include a substantial upgrading of this effort by the Director of Regulation to continue and enhance the programs which are being initiated as a result of the additional authority included in the FY 1975 supplemental appropriation at my request.

The management of nuclear safeguards issue will be under close scrutiny by the Congress in the years immediately ahead. I expect that the AEC will nake an unequivocal commitment to bring the risk to the public from safeguards problems down, at a minimum, to the level of risk associated with the operation of individual nuclear power plants.

As you know, nuclear energy has a tremendous potential to provide a clean and relatively inexpensive alternative source of energy to ease our dangerous dependence on expensive and non-renewable fossil fuels. Recently, the awareness of the necessity of decreasing our dependence on foreign sources of petroleum has heightened interest in expanding U.S. nuclear generating capability. Yet persistent doubts about the public risks associated with widespread utilization of nuclear fission to produce electricity and also about the management of domestic nuclear power program in general have slowed the realization of this potential. Unless these doubts can be finally resolved, this potential may be significantly delayed or even lost. In particular, a failure to adequately assess and prepare for the dangers which could flow from inadequate safeguards for the domestic nuclear fuel cycle could place serious obstacles in the path leading to energy self-sufficiency. The time to accelerate our efforts to analyze and remove these obstacles is now, before serious roadblocks arise. I believe that the A.E.C. must respond to this need on a priority basis.

Sincerely yours,

Henry M. Jackson,
Chairman.

Mr. McCLELLAN. Mr. President, may I ask the distinguished Senator to give us full information or substantial information as to just what these funds will be used for. How are they to be used?

Mr. JACKSON. Three million dollars of the funds will be used in connection with the new Nuclear Regulatory Commission, which is to work out a set of standards, rules and regulations to govern the movement and handling of the output from civilian nuclear power reactors—principally plutonium—so that this material will be managed in such a way as to not fall into unauthorized hands.

We have all heard the rather horrendous stories of the possibility of terrorists getting control of strategic nuclear material.

Mr. McCLELLAN. May I ask if it has anything to do with the safe transportation of it.

Mr. JACKSON. Yes. It involves safe transportation, safe management.

Mr. McCLELLAN. And security.

Mr. JACKSON. And security. This is exactly what it will do and, as I say, the Joint Committee on Atomic Energy unanimously agreed to this. Of course, this $5 million would be subject to the authorization by Congress.

Mr. McCLELLAN. The authorization has not yet——

Mr. JACKSON. It has been approved and it is on the calendar, I believe. It has been approved by the Joint Committee on Atomic Energy.

Mr. McCLELLAN. Is this fund just available for the remainder of the fiscal year?

Mr. JACKSON. The Senator is correct. It restores 30 percent of the original amount requested by the Director of Regulation.

Mr. McCLELLAN. It is anticipated that this will be a continuing fund?

Mr. JACKSON. That is correct.

Mr. McCLELLAN. An annual appropriation.

Mr. JACKSON. Right. There may be some cuts, hopefully. They will need initially funds for hardware to monitor the materials in question.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Pearson). Has all time been yielded? Does the Senator from Arkansas yield back his time?

Mr. McCLELLAN. All time yielded back.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WEICKER. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

> At the appropriate place in the bill, insert the following:
>
> State Housing Finance and Deveopment Agencies
>
> For grants to State housing finance or development agencies as authorized by section 802 of the Housing and Community Development Act of 1974, $50,000,000.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that the distinguished Senator from Maine (Mr. Muskie) appear as a cosponsor of amendment No. 1965.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **WEICKER.** Mr. President, my amendment will appropriate the $50 million of contract authority that is authorized for fiscal year 1975 for purposes set forth in section 802 of the Housing and Urban Development Act of 1974, which was signed into law last August 22.

Section 802 is strongly supported by the National Governors' Conference and the Council of State Housing Agencies.

Section 802 provides new authorities that are designed to assist State housing and development agencies in raising funds for their programs through the issuance of taxable obligations in the private money market. It is also intended to encourage those agencies to make greater use of taxable rather than tax-exempt borrowings in financing their programs, which is in line with the administration's preference that State and local governmental agencies use that form of financing.

This appropriation is needed to provide the initial funding so that this new section 802 program can be moved promptly into operation.

At the present time, State agencies raise their money by floating tax-exempt bonds and use the proceeds of these bonds to make mortgage loans at below market interest rates. By immediately implementing section 802 programs State housing, finance, and development agencies will have additional financial muscle to stimulate housing production for low- and moderate-income persons.

Mr. President, I would just use this occasion to read a UPI report which just appeared on the wire which states:

> WASHINGTON.—Housing starts in October dipped to their lowest level in nearly five years, the Census Bureau said today.
>
> Starts were estimated at 1.124 million units at an adjusted annual rate. It was the lowest since 1.085 million units in January 1970.
>
> "I think it will be a long and cold winter for us," said Michael Sumichrast, chief economist for the National Association of Home Builders. Sumichrast said he expected unemployment in the building trades to rise from its current 12.2 per cent—more than double the national rate—to about 16 per cent by January.
>
> The Census also said permits for new construction for homes, duplexes and apartments plunged to an annual adjusted rate of 802,000. The lowest since December 1966, when the annual adjusted rate was 743,000.
>
> Sumichrast said the new data is "pretty much what we expected. It's going to be another four or five months of the same but we think it is just about to level off at a rate of about 1 million units."

I think it clearly illustrates the disastrous circumstances that exist in housing in this Nation at this time.

The Senate Appropriations Committee, in its report on this bill, expressed sharp disappointment that the Department of Housing and Urban Development has not moved more quickly toward launching this new program and initiating a request for this needed start-up funding. It called upon the Department to move ahead full speed. I strongly endorse what the committee said.

For reasons I will discuss in a moment, I am urging that the Congress provide this essential funding for section 802 now, so that early commencement of this program will not be delayed because of the time that could later be required in order to complete action on an appropriation.

There is one thing that should be made clear at the outset about this proposed appropriation. This appropriation, unlike most others, is expected to result in net revenues to the Federal Government, rather than net expense. In short, it will have a positive rather than negative long-term budgetary impact. The appropriation is to be used for Federal interest differential payments of up to 33⅓ percent of the interest payable on bonds and other obligations which State agencies elect to issue on a taxable rather than tax-exempt basis. When a State agency issues a taxable obligation supported by such interest differential payments, rather than a tax-exempt obligation, the U.S. Treasury Department estimates that the additional tax revenues that the Federal Government will realize on the taxable obligation will exceed the interest differential outlays by roughly 20 percent.

In addition to the interest differential payment authority for which this appropriation will be used, section 802 also authorizes Federal guarantees of taxable obligations issued by State housing and development agencies when the proceeds will be used for programs to revitalize slum areas or to provide housing that is needed to support such programs. These two authorities may be used either independently or in combination.

State agencies that are eligible under section 802 are principally engaged in financing housing for low, moderate, and middle income families as well as in broader development programs. They are an outstanding example of the kind of assumption of responsibility by States in these fields that we in the Congress have long been encouraging.

These State agencies finance their programs not with appropriations but with funds they raise through borrowings in the private capital market. Section 802 is intended to help them finance their programs by enabling them to offer their bonds not only in the tax-exempt market but also in the much larger taxable market.

There are now some 30 States which have State housing finance or development agencies. Another four or five are actively considering the creation of such agencies.

Seven or eight of these agencies are well established and have been fully operational. Most, however, were created during the past 5 years and were just moving toward full scale operations when they were hit by the moratorium on Federal housing assistance that was imposed by the administration in January of 1973.

These State housing programs were largely brought to a halt by the moratorium. Now that the moratorium has ended with the enactment with the Housing and Community Development Act of 1974, they find themselves faced with the extremely tight money and credit market which can make it difficult for them to raise the needed capital at an acceptable cost.

Although many of these State agencies are relatively new, and despite the problems of the moratorium and the credit squeeze, these agencies have already come to play a major role in providing urgently needed housing for the lower income families of our Nation.

These agencies have already developed some 150,000 units of housing, representing an aggregate investment of roughly $4.4 billion. They produced 29 percent of all of the housing that was developed under the section 236 program during the past 5 years. As you know, that was the period of highest production of lower income housing in our Nation's history.

Along with this production record, they have earned a reputation for effective professional management of their programs, for producing good quality housing that is well managed and maintained, and for responsiveness in meeting local needs for housing and for the preservation of neighborhoods that are threatened with decay.

These State agencies now have aggregate borrowing authorizations of over $11 billion. If these authorizations are put to use, this could do much to help ease the current drought on mortgage money for low-cost housing and indeed for virtually all housing.

The funds that State agencies could raise with the assistance of this appropriation would be sufficient to finance the construction of approximately 60,000 units of housing—roughly one-third the total amount of lower income housing that was produced in this Nation in 1973.

Now that the Federal Government is back in the business of providing assistance for lower income housing, HUD has made clear that it expects these agencies to play an even larger role in carrying out the future Federal housing assistance program. To do this, these agencies must be able to raise the capital that they need for loans for housing that is also to be assisted by Federal subsidies. Section 802, if it is promptly funded and implemented, can be of immediate help to them in obtaining this needed capital so they can do their part in translating the new Federal housing subsidy program into early, substantial production of desperately needed housing.

I hardly need emphasize here the importance of bringing about a prompt resumption of housing production to meet the needs of lower income families—as well as to give a boost to our severely depressed home construction industry.

We are concerned both about the dual problem of inflation and of recession. More particularly, the increase in joblessness.

Now, we are going to sit in this body and talk about public service jobs in the time of recession. For Heaven's sake, why not go ahead and put the money into housing without resorting to that? Why not put it in those areas of Government involvement which of themselves produce jobs? Certainly, nothing produces more jobs than the housing industry, not just construction of that particular unit, but the ripple effect it has upon so many other areas of the economy.

Construction starts on lower income housing have sagged almost 60 percent below the previous annual level—down from 427,000 units in 1970–71 to roughly 180,000 units in 1973.

That is a sad commentary on a Congress, on a nation, on its people, that made a commitment to a decent roof over every American's head.

That is a much sharper drop than the severe 45-percent decline in overall housing production during that period, and means that the poor are bearing a disproportionately heavy share of the burden of the recession in housing, as, indeed, they do in the recession with everything else.

This is happening at a time when the need for housing for low-income families is great and growing. A recent Harvard-MIT study found that 13 million families, 20 percent of all American families, cannot afford decent housing in the present market.

Small wonder we have a recession. I would like to know what we are doing of a positive nature in this country, with the possible exception of hoping that in time itself our economic problems will work themselves out.

On top of this, the annual rate of formation of new households that need housing is up 60 percent over the rate of the sixties.

The drop in housing construction has of course contributed heavily to the unemployment rate of over 11 percent in the housing and construction industry, almost double the overall national rate, and to the rapidly growing number of failures among businesses in that industry.

When this matter was brought up in the Appropriations Committee, Secretary Lynn of HUD indicated that he was sympathetic to section 802, but that, since HUD had not proposed this provision, they wanted to study it before making a decision on requesting funds and starting implementation. I take for granted that the purpose of the study is to complete the work necessary to launch the 802 program, not to consider shelving these new authorities that have just been enacted into law.

I trust that HUD will now respond to our urging that it move promptly to put the section 802 program into operation. In this connection I am informed that the Council of State Housing Agencies, whose members are State housing and development agencies, has established a working group of experienced senior-level State agency staff who stand ready to assist HUD in any way they can in completing the preparations to implement section 802.

I ask unanimous consent that a letter from the Council of State Housing Agencies to Secretary Lynn, offering assistance to HUD, be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Council of State Housing Agencies,
October 8, 1974.

Re section 802 of the Housing and Community Development Act of 1974.

Hon. James T. Lynn,
Secretary of Housing and Urban Development, U.S. Department of Housing and Urban Development, Washington, D.C.

Dear Mr. Secretary: As you know from our earlier discussions, State housing agencies strongly urge that HUD proceed as promptly as possible to put into operation the new authorities provided in Section 802 of the Housing and Community Development Act of 1974. That is the section which provides for federal interest differential payments and for guarantees, separately or in combination, for taxable obligations issued by state housing finance and development agencies.

With the present severe scarcity of capital at acceptable cost in the money market, Section 802 assistance, by enabling State agencies to offer bonds not only in the tax-exempt market but also in the far larger taxable market, could be vitally important to State agencies during the months immediately ahead in their efforts to raise funds to resume their low and moderate income housing activities now that the moratorium has ended with the enactment of the new Act.

If State housing agencies are to fulfill the large role we believe HUD envisions for them in carrying out the new Section 8 Leased Housing Assistance Program—in converting the new Section 8 authorities and funding into the early, substantial production of greatly needed lower income housing—those agencies obviously must be able to raise funds through borrowings at acceptable cost for their loans for housing which is also to be assisted by Section 8 subsidies.

Recognizing the heavy work pressures on HUD staff in moving all of the key elements of the new Act into early operation, we want to reiterate the offer of the Council of State Housing Agencies to be of any assistance we can in helping to complete the essential work of developing guidelines, forms and procedures needed to launch the 802 program. We have designated a small working group of experienced State agency personnel who are preparing for this task and stand ready at your call or at that of Assistant Secretary Moscow, who we understand has been assigned responsibility for the initial work on the 802 program.

To commence this program it is also essential to obtain an appropriation of the $50 million of contract authority that is authorized for FY 1975 for interest differential commitments. We again urge that this appropriation be sought immediately in order to avoid the risk of delay in commencing this program due to the time that may later be required to request and secure enactment of this necessary initial funding.

Sincerely,

John G. Burnett.

Mr. WEICKER. In response to this appeal, Secretary Lynn responds in the following manner.

> We are currently studying the implications of Section 802 and soon expect to make a decision on whether or not it should be implemented. In a period of extreme budget stringency, we must, of course, view any new program with an extremely critical eye. If we decide to proceed, I will be in touch with you in order to obtain your groups advice on the technical details.

The distinguished Senator from Wisconsin, in calling for the resignation of Secretary Lynn, labeled HUD, the Department of "No" Housing. I share the Senator from Wisconsin's concern over HUD's unwillingness to actively pursue programs designed to provide a decent roof over every American's head.

I believe, the Congress must speak its will and tell the administration to launch this program. Under the procedures of the Congressional Budget and Impoundment Control Act of 1974, if HUD cannot effectively expend these funds, they can come back to the Congress and ask for a deferral. But let the Congress decide, not the administration by executive fiat or by no action. Secretary Lynn's statement indicates a continued lack of initiative. We do not need further study, the Congress has studied this program. We need action.

It is a good program. It probably is the best of all the programs in the housing area.

To avoid delaying the immediate start of the 802 program as soon as HUD completes its preparatory work, I urge the adoption of my amendment which will provide the initial funding that is needed for this program.

In conclusion, Mr. President, when I introduced this in the committee at that time the concern was that we had stalled out on our housing commitments. Now we sit here, not only with a lack of housing but in the midst of a recession. As one of the resolutions toward the recessionary aspects of our economic problems I would like to see a commitment to housing, to mass transit, to positive programs which not only give a higher quality of life but create more jobs and go ahead and provide a higher income level for all Americans.

So I would hope that my colleagues would pass this amendment.

I have never heard so much rhetoric from the executive and congressional branch over our economic woes and not one bit of sacrifice has been asked for.

Let us act here, the idea was good, the authorization was adopted. Now, just because the Secretary, who has advocated nothing in the way of creative housing programs since he became Secretary, wants to study it further is no reason for this body to not act. I urge the adoption of this amendment.

Mr. BROOKE. Will the Senator yield?

Mr. WEICKER. I am happy to yield to the distinguished Senator from Massachusetts.

Mr. BROOKE. Mr. President, I first want to commend my friend and distinguished colleague from Connecticut for having offered this amendment and for bringing to the attention of the Senate the crisis situation which faces the housing market in the country today, the numbers of people who are being deprived of decent housing, the housing industry which is suffering perhaps the worst crisis of all time, with an unemployment rate I believe now approaching about 13.1 percent, the real estate industry which is suffering, but, as I said, primarily the people who need decent housing.

We in Congress many, many years ago promised the Nation that we would build decent housing and we would have a decent home for every American. Of course, we have not lived up to that promise and to that obligation.

Mr. President, I rise to support the amendment offered by my colleague from Connecticut.

The increasingly important role played by State housing finance agencies in providing low- and middle-income housing field in recent years. Through these agencies many States have taken the lead in providing decent housing for their citizens.

In Massachusetts our State housing finance agency has provided mortgage credit to finance the construction of some 35,400 housing units, and these units are among the most attractive and best-built housing in the Commonwealth.

Funds to finance State-aided housing are in most instances raised by the issuance of tax-exempt bonds. While this has permitted States to offer mortgage credit at below market rates, it has resulted in a loss of income tax revenue to the Federal Government.

To avoid this revenue loss and to broaden the market for State housing agency debentures the Congress, in section 802 of the Housing and Community HUD to pay interest subsidies equal to 33 percent of the interest payable on taxable obligations issued by State agencies.

Implementation of this program will result in an initial outlay of some $50 million. However, this expenditure will be more than made up by increased Federal income tax revenues which will result from encouraging State agencies to issue taxable rather than tax-exempt obligations.

Mr. President, I was disappointed that the Department of Housing and Urban Development failed to request funding for section 802 in the 1975 supplemental because it seems to me that this program represents new federalism at its best, and I think that is what the distinguished Senator from Connecticut was saying in his remarks. The States are willing to take an important role in providing housing assistance, an area where the Federal Government has heretofore assumed the principal responsibility. By funding section 802 the Congress will provide the basis for a new partnership between the Federal Government and the States which will be beneficial to both.

Mr. President, I urge my colleagues to support the Weicker amendment.

Mr. PROXMIRE. Mr. President, will the Senator from Arkansas yield 5 minutes?

Mr. McCLELLAN. I yield.

Mr. PROXMIRE. Mr. President, I rise to oppose the Weicker amendment, but I do so with a heavy heart and with real reluctance, because it is an amendment that has a lot of merit. There have been no hearings on this amendment. There is no record on the amendment. There was really no opportunity for HUD to testify on the merits of the amendment.

When the Secretary of HUD came up to testify on the supplemental bill, I asked him about this specific program. He said he simply did not have an opportunity because of the short time that had occurred since August, when we passed the basic legislation, to develop the regulations and to be able to move ahead.

I think I can say that the section 802 program is a good program. There is no doubt it will help to get some housing constructed. But HUD is contending that section 802 raises several questions which first must be worked out before it can be implemented.

It emphasizes that the statutory provisions are quite flexible on the guarantee; that it is not necessarily a 100-percent guarantee, and that there could be sharing of the risk by the Federal Government and the State government. HUD feels that it will have to give serious consideration to these options before making any decision. It feels that the statute should be carefully studied prior to implementation and thus it has not requested any funds at this time.

Mr. President, I have been very critical of HUD, as the Senator from Connecticut has said. I have been as critical, I think, as any Member of the Senate. I think they have dragged their feet inexcusably on much of the public assistance housing, on the 235 and 236 program, the public housing program, and others, and I think it is a tragedy for our country. But here is a case where HUD can properly say that they have not had adequate time. By reasonable time, I mean that I would expect the budget estimate to fund section 802 either in the regular 1976 budget or in the first supplemental bill that is taken up by the Congress when we return in January.

I believe that an appropriation at this time is premature. If HUD does not use the time we allow it to complete the study, then I promise the Senator from Connecticut and the Senator from Massachusetts that I will support funding of section 802 in the next supplemental, whether or not there is a budget estimate for this item.

I am very anxious to support this program, but, as I say, it is unfair in this case to expect HUD to come forward with their estimate on the program until we give them some significant time from the time we enacted the basic authorizing legislation.

For that reason, Mr. President, I do hope that the Senate will not adopt this amendment.

Mr. AIKEN. Will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. AIKEN. Does the Senator have any idea what the administrative cost of this $50 million in grants would be?

Mr. PROXMIRE. No, and I think that is a good point. We do not have any idea. That is one of the very important and significant elements of information we ought to have. HUD has not been able to tell us that.

Mr. AIKEN. What would the Senator estimate the average cost to be of building a home today, shall we say a $30,000 home?

Mr. PROXMIRE. $30,000 is close to a minimum cost in many areas of the country.

Mr. AIKEN. And with a grant of $10,000 each, that would provide grants for 5,000 homes, assuming there was no additional administrative cost; is that correct?

Mr. PROXMIRE. This would not be a program making grants for housing construction. This is a guarantee program and partial interest subsidy program.

Mr. AIKEN. What would the State do with the grant?

Mr. PROXMIRE. The grant would provide not to exceed 33⅓ percent of the interest payable on bonds.

Mr. AIKEN. The State housing finance and development agencies, what would happen to them?

Mr. PROXMIRE. They would use these funds to back up the guarantee, the bonds, that the State would issue in order to engage in its own housing. But the State would be responsible for raising the money. The State would be responsible for paying the interest. The State would be responsible for seeing that the program was properly funded. All we do in this is to provide a guarantee and some interest subsidy so that they can get a lower rate of interest.

Mr. AIKEN. That is my question. What effect would it have on the interest rate on the State-guaranteed bonds?

Mr. PROXMIRE. I cannot tell the Senator exactly, and it varies. But it is significant. It is substantial. If the Federal Government guarantees, of course, then the banks and others are able to invest in a riskless security.

Mr. AIKEN. Does the Senator know about what the average interest rate is now for a person building a new home?

Mr. PROXMIRE. The average rate now is about 9.5 to 10 percent on the mortgage rate. This could bring it down by perhaps as much as 1 percent or 1.5 percent. It would be very significant, very helpful.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. PROXMIRE. Will the Senator yield an additional 5 minutes?

Mr. McCLELLAN. I yield.

Mr. AIKEN. Would that include the insurance cost on the loan?

Mr. PROXMIRE. Again, we do not have data or testimony on that. I think it would cover that without any question, but we do not know how much that cost would be.

Mr. AIKEN. I think the Senator from Connecticut has a good idea, that something has to be done.

Mr. PROXMIRE. This is a fine program. I supported it in committee. It is a program with great merit. It is only a matter of timing.

Mr. AIKEN. I think the Senator from Wisconsin has stated that the new Congress is only 6 or 7 weeks away, and with 100 new Members coming into Congress we might be a little premature.

Mr. PROXMIRE. I thank the Senator from Vermont very much. I agree with that.

Mr. BROOKE. Will the Senator yield for a question?

Mr. PROXMIRE. I will be very happy to yield.

Mr. BROOKE. I am very pleased to see the chairman of our subcommittee state on the floor that he is in favor of this approach. I think he did favor this approach in the subcommittee, if my recollection serves me well. I just cannot understand why HUD did not make a budget request. It is a good program. The State agencies have become very effective. Would not the Senator believe that if we appropriated this money it would be an impetus for HUD to move?

Mr. PROXMIRE. They have made it very clear that they will not move. They are emphatic about it. They will not go ahead because they say that it will take them time to conduct their study. As a matter of fact, they could go ahead without this appropriation.

Let me read what their own finding is:

> It should be noted that appropriations action is not required under the statute for release of contract authority.

So they could go ahead without the Weicker amendment if they wanted to do it. They will not go ahead with it and they will not go ahead without it.

Mr. BROOKE. My question is, Do they want to go ahead with it? That is the whole point. I just thought that the Weicker amendment would serve as an impetus, a catalyst. We certainly need it. The Senator and I both know we have had problems with HUD.

Mr. PROXMIRE. Well, they have said they will not. They have not completed the study. They have not developed their regulations. I think that what they say is correct: even if we make the funds available, they will not.

We will get the blame for spending money, appropriating money, and we will have no program. From a realistic or practical standpoint, we will accomplish nothing but label the Senate as big spenders.

Mr. BROOKE. Has HUD given the chairman any assurances that they will oversee the regulations and the study?

Mr. PROXMIRE. They have not given me that assurance. They have indicated that they are swamped now with preparing material for the community development program.

As I have said, if they do not follow through promptly with action in this area, then I will certainly be happy to support legislation of this kind within a couple of months.

Mr. BROOKE. If my colleague from Connecticut does not withdraw his amendment, I intend to vote for it. I think it is a good amendment, a strong amendment, a sound amendment, and I feel very strongly about it.

However, in the event that he should withdraw it or it does not pass—and I hope that it will pass when it is put to a vote in the Senate—I do hope that the chairman will insist that HUD move expeditiously in their study and promulgation of the rules. I think that this is an important program, and we need it. As was said, it will not cost the Federal Government money.

Mr. PROXMIRE. I thank the Senator from Massachusetts very much. I think his participation in this debate is useful. It means we are making legislative history here. I am committed, firmly committed. The Senator from Massachusetts is also a member of the Subcommittee on Housing of the Appropriations Committee. I have not had the opportunity to speak about this to the Senator from Maryland, but it is my understanding that that is his disposition.

From what I gather, the other members of the full committee would give strong support.

Will the Senator from Connecticut consider under these circumstances offering his amendment a little later when we can assure him, at least on the part of some of us, of our enthusiastic support?

Mr. WEICKER. I wish I could respond in the affirmative to the distinguished Senator from Wisconsin. As he said, there is just no difference between he and I as to the substantive aspects of what is being offered. As he said, it is a matter of timing. But it is exactly that timing which I wish to address myself to.

Look, the elections are over. We have had enough electioneering; we have had enough recesses; we have had enough foreign trips around here.

While all of this has been going on, we continue to go ahead and slide further down the line when it comes to jobs. Inflation continues to soar.

Some day, somebody in Washington, D.C., had better do something. There is always an excuse as to why there is no action, either in the sense of attacking inflation or the recession. Here we are. What better time?

We talk about timing. Psychologically, what better time to give the country a lift to say that we have come back to work, and we have come back to work on the problems of this Nation. Certainly, two of those problems are our housing and recession-unemployment.

Mr. PROXMIRE. Would the Senator yield on that point?

Mr. WEICKER. Yes.

Mr. PROXMIRE. I would wholeheartedly add that this is the time we ought to move a sled length on housing. There is no doubt about it. The Senator has made the case of the heavy unemployment in housing, the idle resource. There is no reason why we should not move ahead and put people to work.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. PROXMIRE. Will the Senator yield another 2 minutes?

Mr. McCLELLAN. I yield.

Mr. PROXMIRE. It is apparent to me that no matter how we vote on this we will not get action out of HUD. They have made it clear that they will not act on it. So we do not provide more jobs in doing this.

We will pass legislation at the present time, if we support the amendment of the Senator from Connecticut, that may give the appearance to some that action will be achieved. But I think it is very obvious to those who have watched HUD over the years that this will not have any effect in the housing area, will not put anybody to work, will not provide more houses. If we proceed a couple of months from now, when we have an opportunity to know from HUD what their estimate is, to know what all the facts are, in an orderly way, and to hold hearings on the issue and have a record, then I think there is every reason to expect that we will get action.

Mr. WEICKER. Mr. President, I should like to respond by merely citing the record. There have been no hearings on this particular appropriation, relative to this bill, but the entire concept and the amount of money itself have been gone over in detail in the Committee on Banking, Housing and Urban Affairs, with HUD people sitting there.

August was the time of passage. All summer long they had a chance to examine this legislation. I recall going back and forth on this aspect of the legislation. It is not anything new.

Now HUD says that they need a couple of more months. They have had since the end of the summer to review section 802. What has happened to the Nation since the end of the summer? The housing situation has gone from bad to worse, and the unemployment situation is getting there, also.

I think the time has come for Congress to call the shot. If HUD continues to ignore the directives of Congress then the blame for the recession sits on their head. But we will have fulfilled our commitment.

Let us be candid. The decline in housing did not start with high interest rates. It really started when we abandoned in January 1973, by virtue of the moratorium, our commitment to a decent roof over people's heads. People said that we can do without that commitment because it does not affect middle income or housing for the elderly. Once we start down that road, it affects everybody—public, private, poor, middle income, upper income.

We are back here to work, we understand the problem in housing, we understand the joblessness, and we, the Senate of the United States, are going to make a commitment. Somebody has to start.

Seeing the way HUD operates, I do not want any more of their studies. The entire concept, the entire funding, was gone over with HUD present. So I would hope that we would renew the commitment in the best possible way. The State housing finance agencies have done nothing but produce quality housing for Americans, and I hope that today, on our first day back at work, we will recognize the problems by making a commitment of action.

I am willing to yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, before the Senator does that, I ask unanimous consent for a brief quorum call, not lasting more than a couple of minutes, without the time being charged against either side.

The PRESIDING OFFICER (Mr. MONTOYA). Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that my amendment be modified in line 4, to the extent that the figure on line 4, $50 million be changed to $25 million.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the yeas and nays be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I have had the opportunity to discuss this matter further with the distinguished Senator from Wisconsin and the distinguished Senator from Massachusetts. As I indicated, none of us is in disagreement as to the subject matter or as to the objective of this program.

We have taken a significant step today, on our first day back, to attack these twin problems of housing and unemployment. To me, that is the psychological boost which was accomplished on the ground. It is necessary on the part of the leadership of this Nation. I am more than pleased to cooperate with my colleagues in achieving this particular goal.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. PROXMIRE. Speaking only for myself, I think this is a reasonable compromise. I still feel that it would be more orderly and sensible to wait a couple of months. This is primarily a guarantee program. It is, therefore, a very limited commitment on the part of the Federal Government. It is a program that richly merits support. It is one that is not inflationary.

For these reasons, I am hopeful that the Senate will accept the compromise.

Mr. McCLELLAN. Mr. President, I have no objection. I am willing to take the amendment to conference.

The PRESIDING OFFICER. Is all time on the amendment yielded back?

Mr. McCLELLAN. I yield back the remainder of my time.

Mr. WEICKER. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I would like to focus for a moment on an item in the supplemental appropriations bill, which I consider of particular importance. That item is the initial funding for the new Office of Federal Procurement Policy—OFPP—in the Office of Management and Budget.

As you know, creation of this office was one of the principal recommendations of the Commission on Government Procurement, which noted that there was a "void in policy leadership and responsibility" in the procurement field. The authorizing legislation originated in the Federal Procurement Subcommittee, on which I serve and whose chairman worked diligently for many months to achieve the type of viable coordinating mechanism which is so essential and so lacking.

For years, each agency and department of the Government has pretty much gone its own way in terms of procurement policy, spinning regulation after regulation to suit its own needs with little attention to what other agencies and departments were doing. The result has been a complicated, interwoven web of conflicting and confusing regulations which have been the bane of businessmen, particularly small businessmen, attempting to obtain a Government contract. Not only are the latter often discouraged from seeking Government procurement work, but undoubtedly the Federal Government suffers at times from an inability to obtain goods and services at the best rate, simply because some businessmen have concluded that keeping abreast of and meeting the various procurement requirements is too much trouble.

I hope, consequently, that the office funded by this legislation will go a long way toward overcoming these problems. While there will always be special procurement cases, which require their own particular procedures, I am hopeful that the new office will be able to bring some standardization and coordination to the more general procurement activities—to the benefit of both the Government and the businessman.

I think it is important to note that the new procurement office will be a small office—we are not out to create a new bureaucracy, but we are out to create an important office and one that will be able to provide guidance and systematization in an area where it is greatly needed.

ORDER FOR RECOGNITION OF SENATOR MANSFIELD AND DESIGNATING PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after Mr. SYMINGTON is recognized on tomorrow, the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD) be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate turn to the consideration of the supplemental appropriation bill, H.R. 16900.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, the Senator from Missouri (Mr. SYMINGTON) will be recognized for not to exceed 15 minutes, after which Mr. MANSFIELD will be recognized for not to exceed 15 mintues, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each, at the conclusion of which period the Senate will resume the consideration of the supplemental appropriation bill, H.R. 16900.

Approximately at the hour of 3 o'clock tomorrow, the Senate will proceed to the consideration of the conference report on S. 386, a bill to amend the Urban Mass Transportation Act of 1964. Debate thereon will be limited to 1 hour, and will be equally divided. In all likelihood, there will be a rollcall vote on the adoption of the conference report. Other rollcall votes are anticipated on amendments to the supplemental appropriation bill, and it looks as though we will have several rollcall votes.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. Will the conference report on the urban mass transportation bill be taken up regardless of whether or not the supplemental appropriation bill has been disposed of?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. That is the intention of the leadership.

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. I thank the Senator.

ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 5:16 p.m. the Senate adjourned until tomorrow, November 19, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 18, 1974:

DEPARTMENT OF STATE

Charles W. Robinson, of California, to be Under Secretary of State for Economic Affairs, vice William J. Casey.

Leonard F. Walentynowicz, of New York, to be Administrator, Bureau of Security and Consular Affairs, Department of State.

Frank C. Carlucci, of Pennsylvania, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal.

THE JUDICIARY

Thomas J. Meskill, of Connecticut, to be U.S. circuit judge for the second circuit, vice J. Joseph Smith, retired.

Joel M. Flaum, of Illinois, to be U.S. district judge for the northern district of Illinois vice Philip W. Tone, elevated.

DEPARTMENT OF JUSTICE

Stanley B. Miller, of Indiana, to be U.S. attorney for the southern district of Indiana for the term of 4 years. (Reappointment)

THE JUDICIARY

John F. Gerry, of New Jersey, to be U.S. district judge for the district of New Jersey vice James A. Coolahan, retired.

Edward N. Cahn, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania vice John Morgan Davis, retired.

Juan R. Torruella del Valle, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico, vice Hiram R. Cancio, resigned.

DEPARTMENT OF JUSTICE

D. Dwayne Keyes, of California, to be U.S. attorney for the eastern district of California for the term of 4 years. (Reappointment)

Peter C. Dorsey, of Connecticut, to be U.S. attorney for the District of Connecticut for the term of 4 years, vice Stewart H. Jones, resigned.

Earl J. Silbert, of the District of Columbia, to be U.S. attorney for the District of Columbia, vice Harold H. Titus, Jr., resigned.

John L. Briggs, of Florida, to be U.S. attorney for the middle district of Florida for the term of 4 years. (Reappointment)

David C. Mebane, of Wisconsin, to be U.S. attorney for the western district of Wisconsin for the term of 4 years vice John O. Olson, resigned.

Frank X. Klein, Jr., of California, to be U.S. marshall for the northern district of California for the term of 4 years, vice George E. Tobin, term expired.

Kenneth M. Link, Sr., of Missouri, to be U.S. marshal for the eastern district of Missouri for the term of 4 years. (Reappointment)

Edward S. King, of New York, to be U.S. marshal for the western district of New York for the term of 4 years. (Reappointment)

James R. Durham, Sr., of North Carolina, to be U.S. marshal for the eastern district of North Carolina for the term of 4 years vice James W. Norton, Jr., term expired.

Jose A. Lopez, of Puerto Rico, to be U.S. marshal for the district of Puerto Rico for the term of 4 years. (Reappointment)

Marshall F. Rousseau, of Texas, to be U.S. marshal for the southern district of Texas for the term of 4 years. (Reappointment)

William E. Amos, of Maryland, to be a member of the Board of Parole for the term expiring September 30, 1980. (Reappointment)

George J. Reed, of Oregon, to be a member of the Board of Parole for the term expiring September 30, 1980. (Reappointment)

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

James M. Day, of Virginia, to be Administrator of the Mining Enforcement and Safety Administration. (New position)

NATIONAL LIBRARY OF MEDICINE

John William Kauffman, of New Jersey, to be a member of the board of regents, National Library of Medicine, Public Health Service, for a term expiring August 3, 1977, vice William O. Baker, term expired.

Eddie G. Smith, Jr., of the District of Columbia, to be a member of the board of regents, National Library of Medicine, Public Health Service, for a term expiring August, 3, 1976, vice Max Michael, Jr., term expired.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Marjorie W. Lynch, of Washington, to be Deputy Administrator of the American Revolution Bicentennial Administration. (New position.)

COMMISSION ON CIVIL RIGHTS

Murray Saltzman, of Indiana, to be a member of the Commission on Civil Rights, vice the Reverend Theodore M. Hesburgh, resigned.

COMMUNICATIONS SATELLITE CORPORATION

Edward E. David, Jr., of Illinois, to be a member of the board of directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1976, vice Rudolph A. Peterson, term expired.

CORPORATION FOR PUBLIC BROADCASTING

Virginia Duncan, of California, to be a member of the board of directors of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1976, vice Thomas B. Curtis, resigned.

Amos B. Hostetter, Jr., of Massachusetts, to be a member of the board of directors of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1978, vice Theodore W. Braun, resigned.

Joseph Coors, of Colorado, to be a member of the board of directors of the Corporation for Public Broadcasting for a term expiring March 26, 1980, vice Albert L. Cole, term expired.

Lucius Perry Gregg, Jr., of Illinois, to be a member of the board of directors of the Corporation for Public Broadcasting for a term expiring March 26, 1980, vice James R. Killian, Jr., term expired.

Lillie E. Herndon, of South Carolina, to be a member of the board of directors of the Corporation for Public Broadcasting for a term expiring March 26, 1980, vice Frank Pace, Jr., term expired.

John Whitney Pettit, of Maryland, to be a member of the board of directors of the Corporation for Public Broadcasting for a term expiring March 26, 1980, vice Robert S. Benjamin, term expired.

Durward Belmont Varner, of Nebraska, to be a member of the board of directors of the Corporation for Public Broadcasting for a term expiring March 26, 1980, vice Jack J. Valenti, term expired.

OFFICE OF ECONOMIC OPPORTUNITY

Bert A. Gallegos, of Colorado, to be Director of the Office of Economic Opportunity, vice Alvin J. Arnett, resigned.

OFFICE OF MANAGEMENT AND BUDGET

Paul H. O'Neill, of Virginia, to be Deputy Director of the Office of Management and Budget. (New position)

FEDERAL COUNCIL ON AGING

Selden G. Hill, of Florida, to be a member of the Federal Council on the Aging for a term of 2 years. (New position)

FEDERAL ENERGY ADMINISTRATION

Melvin A. Conant, of New York, to be an Assistant Administrator of the Federal Energy Administration. (New position)

MISSISSIPPI RIVER COMMISSION

Maj. Gen. Francis Paul Koisch, [redacted], U.S. Army, to be a member and president of the Mississippi River Commission under the provisions of section 2 of an act of Congress, approved 28 June 1879 (21 Stat. 37) (33 U.S.C. 642).

Wilmer Richard Hall, of Tennessee, to be a member of the Mississippi River Commission for a term of 9 years, vice Frederic H. Kellogg, resigned.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be members of the National Commission on Libraries and Information Science for terms expiring July 19, 1979:

Joseph Becker, of California. (Reappointment)

Carlos A. Cuadra, of California. (Reappointment)

John E. Velde, Jr., of Illinois. (Reappointment)

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

The following-named persons to be members of the National Council on Educational Research for terms expiring June 11, 1977:

Larry A. Karlson, of Washington, vice James S. Coleman, term expired.

Arthur M. Lee, of Arizona, vice Vincent J. McCoola, term expired.

James Gardner March, of California, vice Vera M. Martinez, term expired.

Carl H. Pforzheimer, Jr., of New York. (Reappointment)

Wilson C. Riles, of California. (Reappointment)

NATIONAL SCIENCE FOUNDATION

Robert E. Hughes, of New York, to be an assistant director of the National Science Foundation, vice Thomas B. Owen, resigned.

DEPARTMENT OF STATE

The following-named person for reappointment in the Foreign Service as a Foreign Service officer of class 3, a Consular Officer, and a secretary in the Diplomatic Service of the United States of America:

Lillie Levine, of Iowa.

For appointment as a Foreign Service officer of class 3, a Consular Officer, and a secretary in the Diplomatic Service of the United States of America:

Bryce McGregor Gerlach, of Virginia.

For reappointment in the Foreign Service as Foreign Service officers of class 4, consular Officers, and secretaries in the Diplomatic Service of the United States of America:

Louise Schaffner Armstrong, of New Jersey.
John J. Degan, Jr., of New York.

For appointment as a Foreign Service officer of class 4, a Consular Officer, and a secretary in the Diplomatic Service of the United States of America:

John Lindsey Addis, of Ohio.

For promotion from Foreign Service officers of class 6 to class 5:

Russell August LaMantia, Jr., of Illinois.
Lann A. Malesky, of North Carolina.

For promotion from Foreign Service officers of class 7 to class 6:

Clarke William Allard, of New Hampshire.
Robert D. Austin, Jr., of Washington.
Peggy Blackford, of New Jersey.
James E. Blanford, of Wyoming.
Robert A. Bradtke, of Pennsylvania.
Ralph Lynn Braibanti, of North Carolina.
Robert William Clarke, of Arizona.
Laurel M. Cooper, of California.
Daniel C. Gamber, of Florida.
Robert S. Hagen, of Illinois.
James Henry Hall, of Virginia.
Charles J. Harris, of Louisiana.
Frederick Loren Henneke, of Texas.
John C. Holzman, of Hawaii.
Rodney L. Huff, of Maryland.
Joel Gerard Imp, of Pennsylvania.
Dennis Coleman Jett, of New Mexico.
Douglas Hugh Jones, of California.
Ronald K. Kirkpatrick, of Wisconsin.
William Karl Krauss, of New Jersey.
Richard K. Landers, of California.
Gary Larsen, of California.
Michael S. Lucy, of Massachusetts.
Robert Anthony Lutkoski, of Pennsylvania.
Peter J. Lynn, of Maryland.
Eugene Michael McCarthy, of Virginia.
Jeter J. Lynn, of Maryland.
Eugene Michael McCarthy, of Virginia.
Robert E. McCarthy, of the District of Columbia.
J. Diane Ballard McClellan, of California.
Douglas L. McElhaney, of Michigan.
John P. McGuiness, of Ohio.
Michael John McLaughlin, Jr., of New York.
Robert G. Melson, of Texas.
Edward Wayne Merry, of Oklahoma.
Michael D. Metelits, of California.
Michael W. Michalak, of the District of Columbia.
Thomas W. Ossola, of Colorado.
William Allen Pierce, of Georgia.
Nicholas H. Riegg, of California.
David Snyder Robins, of Washington.
Kenneth M. Scott, Jr., of Pennsylvania.
Neil Edward Silver, of Virginia.

Karl H. Sprick, of California.
Kaarn Jayne Weaver, of Ohio.
Dean L. Welty, of Indiana.
Jeffrey S. White, of California.
Gerald J. Whitman, of California.
Gerard P. Wilson, of New York.
Walter James Woolwine, of West Virginia.
Gerald A. Wunsch, of Indiana.

For promotion from Foreign Service Information officers of class 7 to class 6:

Beverly C. Champion, of the District of Columbia.
Ronald J. Post, of California.

For appointment as Foreign Service officers of class 6, Consular Officers, and secretaries in the Diplomatic Service of the United States of America:

Jerry Lynn Drew, of Illinois.
George F. Haas, of New York.
Priscilla K. Richtmyer, of New York.
Layton Ross Russell, of Ohio.
Robert Earl Watkins, Jr. of Tennessee.

For promotion from Foreign Service officers of class 8 to class 7:

Jeffrey J. Buczacki, of Connecticut.
Frederick Bishop Cook, of Florida.
Robert L. Craven, of California.
Charles Gilman Currier, of New York.
Robyn M. Facinelli, of Illinois.
Michael Daniel Foley, of California.
Kenneth Richard Hedstrom, of California.
Janet L. M. Henneke, of Texas.
John Victor Lubar, of New York.
Nancy E. Morgan, of New Jersey.
Joseph T. Sikes, of Alabama.
Robin Lane White, of Virginia.

For promotion from a Foreign Service Information officer of class 8 to class 7:

J. Brooks Spector, of Maryland.

For appointment as Foreign Service officers of class 7, Consular officers, and secretaries in the Diplomatic Service of the United States of America:

David Michael Adamson, of Massachusetts.
William Howard Barkell, of Arizona.
Clifford George Bond, of New Jersey.
John W. Bowen IV, of Virginia.
Frank Dietrich Buchholz, of New York.
Frederick Nicholas George De Marzo, of New Jersey.
James Michael Derham, of the District of Columbia.
Theodore Feifer, of Maryland.
Reed J. Fendrick, of Virginia.
Mary Christina Finrow, of California.
Ernest J. Fischer II, of Indiana.
Richard V. Fisher, of Virginia.
Robert C. Frasure, of West Virginia.
Edward Michael Harkness, of Pennsylvania.
E. Mason Hendrickson, Jr., of Maryland.
J. Douglas Koelemay, of South Carolina.
Kenneth H. Kolb, of Maryland.
Joseph C. Kramer, of Ohio.
Alfred M. Lehn, of Virginia.
Michael Craig Lemmon, of Virginia.
Marshall F. McCallie, of Virginia.
Dennis A. Michaud, of the District of Columbia.
John N. Morris, of New York.
Larry C. Napper, of Texas.
Don Paarlberg, Jr., of the District of Columbia.
Robert W. Pringle, Jr., of Virginia.
Timothy E. Roddy, of Michigan.
Carol Lynn Rose, of Tennessee.
Gregg A. Rubinstein, of Illinois.
John Michael Shelton, of California.
Herbert S. Thomas III, of Georgia.
Peter S. Wood, of California.
John Joseph Ziolkowski, of the District of Columbia.

For appointment as Foreign Service officers of class 8, Consular Officers, and secretaries in the Diplomatic Service of the United States of America:

William J. Brencick, of Missouri.
Thomas Hubbard Caswell III, of Virginia.
Lana C. Chumley, of Texas.
Joni L. Davidson, of California.
James A. Derrick, of Iowa.
John R. Dinger, of Iowa.
Stephen C. Engelken, of Ohio.
James D. Hansen, of New Mexico.
William F. Loskot, of Washington.
James E. Overly, of Colorado.
Stephen A. Schlaikjer, of Massachusetts.
Don Kenneth Sowers, of Virginia.
James E. Tobin, of Iowa.
John W. Vessey III, of Virginia.
Robert R. West, of Kansas.

Foreign Service reserve officers to be Consular Officers and secretaries in the Diplomatic Service of the United States of America:

Robert D. Aitken, of Virginia.
James D. Anders, Jr., of Louisiana.
Anthony Arnold, of Maryland.
Benjamin F. Ayers, of Virginia.
William B. Carleton, of Virginia.
William E. Cavan, of California.
Martin W. Cooper, of Maryland.
Michael R. Davidson, of Virginia.
John William Davis, of Maryland.
James M. Devlin, of the District of Columbia.
Bernard J. Dougherty, Jr., of Florida.
Charles R. Emmling, of Virginia.
James I. Gadsden, of South Carolina.
Emily M. Gilhooley, of New York.
Keith M. Gwyn, of New Jersey.
Howard P. Hart, of Virginia.
Gordon E. Hill, of Ohio.
Kenneth L. Hurley, of Virginia.
Larry G. Jarrett, of Maryland.
Arthur P. Leonard, of Virginia.
John W. Mallett, of California.
Charles P. McCoy, of Tennessee.
Henry J. McDermott III, of New Jersey.
Juha O. Merikoski, of Michigan.
Maurice S. Parker, of California.
Frank H. Perez, of Virginia.
Kenneth J. Rop, of Virginia.
Claus W. Ruser, of Maryland.
William C. Salmon, of Massachusetts.
David T. Samson, of California.
Philip W. Snell, of Virginia.
Robert L. Spinelli, Jr., of New Jersey.
John D. Stranford, of Virginia.
Winn L. Taplin, of Virginia.
Felix C. Vargas, Jr., of Washington.
Michael J. Walsh, of Virginia.
Robert C. Walson, of Virginia.

Foreign Service Reserve officers to be secretaries in the Diplomatic Service of the United States of America:

Alexander Firfer, of Illinois.
Ward D. Morrow, of Pennsylvania.
William Haven North, of Maryland.
Kenneth M. Rabin, of Oregon.

Foreign Service staff officers to be Consular Officers of the United States of America:

John H. Dieffenderfer, of New Jersey.
Larry G. Millspaugh, of Colorado.

In the Army

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Henry Augustine Miley, Jr., [redacted] Army of the United States (major general, U.S. Army).

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

*Lt. Gen. Bernard William Rogers, [redacted] Army of the United States (major general, U.S. Army).

*Lt. Gen. John Joseph Hennessey, [redacted], Army of the United States (major general, U.S. Army).

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*Indicates ad interim appointment issued.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. General Welborn Griffin Dolvin, 260-60-1400, Army of the United States (major general, U.S. Army).

In the Navy

Rear Adm. Howard E. Greer, U.S. Navy, having been designated for commands and other duties of great importance and responsibility commensurate with the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

In the Air Force

The following-named officers for promotion as a reserve of the Air Force, under the appropriate provisions of chapter 35 and 837, title 10, United States Code:

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Akin, John C. [redacted].
Alley, John H., [redacted].
Armato, Nicholas P., [redacted].
Armistead, Walter L., [redacted].
Baker, Allan E. [redacted].
Baker, Elmo C. [redacted].
Bauer, Howard H. [redacted].
Beal, Frank S., [redacted].
Belasco, Aureo, [redacted].
Black, Howard T., [redacted].
Braun, Donald V., [redacted].
Brown, Robert L., Jr., [redacted].
Brunstrom, Alan L., [redacted].
Buck, Guy P. [redacted].
Buffington, Walter, [redacted].
Cagle, Victor W., [redacted].
Campbell, William H., [redacted].
Carleno, Harry E., [redacted].
Carpenter, James B., [redacted].
Carson, Peter G., [redacted].
Chase, Harry M., Jr., [redacted].
Clark, George H, III, [redacted].
Clark, James E. [redacted].
Clements, James A., [redacted].
Cloyes, John H., [redacted].
Collipriest, Harold, [redacted].
Constable, Edward T., [redacted].
Copeland, William L., [redacted].
Craner, Robert R., [redacted].
Curran, Robert H., [redacted].
Darley, Vernon O., [redacted].
Donigan, John J., Jr., [redacted].
Drake, Laverne [redacted].
Echols, John E. [redacted].
Edwards, Elton [redacted].
Elrod, Alvon C. [redacted].
Eshman, Thomas H., [redacted].
Esserman, Norman S., [redacted].
Ferrari, Norman, D., Jr. [redacted].
Fitts, Robert G. [redacted].
Frisch, Robert M., [redacted].
Gail, James W., [redacted].
Geddes, Dee R., [redacted].
Gideon, Willard S., [redacted].
Gies, Donald G., [redacted].
Giglio, Vincent, [redacted].
Gilbert, Harold S., [redacted].
Goldthwaite, Alfred, [redacted].
Greening, Kenneth H., [redacted].
Grey, Donald C., [redacted].
Haddad, Freddie, [redacted].
Hallock, Gilbert V., [redacted].
Hammond, John S., [redacted].
Hansen, Louie O., [redacted].
Hanson, Carl N., [redacted].
Hedlund, Don J., [redacted].
Heesacker, Edward J., [redacted].
Hunt, Paul R. [redacted].
Hunter, William L., [redacted].
Jackson, Donald L., [redacted].
Jenkins, Donald M., [redacted].
Jennings, William P., [redacted].
Jicha, William P. [redacted].

Kaufmann, Martin A., [redacted].
Kelly, Charles A., [redacted].
Klein, William E., [redacted].
Kruse, John P. E., [redacted].
Lambert, Donald A., [redacted].
Larsen, Robert A., [redacted].
Lash, Melvin N., [redacted].
Laycock, John B., [redacted].
League, Robin M., [redacted].
Lincoln, Donald C., [redacted].
Lord, Douglas A., [redacted].
Luquette, Sylvere J., [redacted].
Maddio, William S., [redacted].
Matter, Milton, Jr., [redacted].
Mayes, Charles L., [redacted].
McElwee, Eugene P., [redacted].
McGann, Donald A., [redacted].
Merdes, Edward A., [redacted].
Mikesell, Bruce L., [redacted].
Miller, Harry J., [redacted].
Mordy, Burke G., [redacted].
Moross, John A., [redacted].
Myers, William B., [redacted].
Nagahiro, James Y., [redacted].
Needleman, Stanley, [redacted].
Neimeth, Albert C., [redacted].
Nichols, William C., [redacted].
O'Connor, Harold G., [redacted].
O'Grady, Raymond A., [redacted].
Ortiz, Leopold, [redacted].
Parr, Joseph S., [redacted].
Paterson, John A., [redacted].
Pearson, Cordie L. J., [redacted].
Perry, Kenneth I., [redacted].
Petersen, Fred H., [redacted].
Phelps, James V., [redacted].
Pierce, Glenn P., [redacted].
Pieron, Joseph J., [redacted].
Pitchford, John J. J., [redacted].
Pohlen, Jerome J., [redacted].
Raymond, John K., [redacted].
Riggsby, Ernest D., [redacted].
Robbins, Frank M., [redacted].
Roberts, Lester A., [redacted].
Roper, John D., [redacted].
Roubadeaux, Donald, [redacted].
Rufsvold, Paul S., [redacted].
Ruhnke, Thomas J., [redacted].
Ryan, Paul V., [redacted].
Schulte, Charles R., [redacted].
Shaddix, Jesse W., [redacted].
Shankland, Donn G., [redacted].
Shattuck, Lewis W., [redacted].
Shelton, Thomas A., [redacted].
Simonson, Gene R., [redacted].
Sjoblom, Paul L., [redacted].
Skrobot, Francis G., [redacted].
Smearman, Daniel J., [redacted].
Smith, James A., [redacted].
Snow, Cubbedge, Jr., [redacted].
Spessert, Daren L., [redacted].
Streck, Alfred F., [redacted].
Succop, Henry W., Jr., [redacted].
Taylor, Edward M., Jr., [redacted].
Taylor, James W., [redacted].
Taylor, Kenneth H., [redacted].
Terrell, Irby D., Jr., [redacted].
Terry, William C., [redacted].
Teslik, James A., [redacted].
Theus, Jon D., [redacted].
Thomas, Talmadge D., [redacted].
Thompson, Brent D., [redacted].
Tillman, William M., [redacted].
Travis, Lon W., [redacted].
Underwood, Paul G., [redacted].
Upchurch, George A., [redacted].
Vanhousen, Robert E., [redacted].
Victor, Arthur B., [redacted].
Vissotzky, Raymond, [redacted].
Vizzard, William R., [redacted].
Voight, Leonard P., [redacted].
Weitzman, Lloyd S., [redacted].
Wendt, Arthur H., [redacted].
Williams, Wesley B., [redacted].
Wilson, Charles E., [redacted].
Winslow, Edward H., [redacted].
Won, Ronald C., [redacted].
Woods, Cameron E., [redacted].
Wormet, Robert A., [redacted].
Wortman, Robert A., [redacted].
Wriggle, Paul A., [redacted].
Zulli, Phillip H., [redacted].

CHAPLAIN CORPS

Baggett, Jimmie D., [redacted].
Brennan, Gerard M., [redacted].
Cope, Livy L., [redacted].
Crotty, John M., [redacted].
Lee, Joseph L., [redacted].
Marsh, Gerald E., [redacted].
Sable, Jack M., [redacted].
Symes, David L. A., [redacted].
Wild, Philip T., [redacted].

DENTAL CORPS

Hungerford, Richard, [redacted].
Kestler, Elmer A., [redacted].
Phelps, James E., Jr., [redacted].
Shervheim, Myron T., [redacted].

MEDICAL CORPS

Schechter, Eliot, [redacted].
Silvernail, William I., Jr., [redacted].
Wahle, William M., [redacted].
Wingert, Robert I., [redacted].
Yarington, Charles T., Jr., [redacted].

NURSE CORPS

Baukus, Donn M., [redacted].
Bremer, Dorothy A., [redacted].
Lofstrom, Mary M., [redacted].
Macaris, Lorraine V., [redacted].
Shipley, Ethel L., [redacted].

MEDICAL SERVICE CORPS

Couch, Robert C., [redacted].
Merrill, Stanley C., [redacted].
Noggle, John W., [redacted].

BIOMEDICAL SCIENCE CORPS

Goldner, Teresa M., [redacted].

IN THE AIR FORCE

The following-named officers for promotion in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended:

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Aamodt, Clark E., [redacted].
Acree, George W. II, [redacted].
Adams, James E., Jr., [redacted].
Adams, Leland L., [redacted].
Addison, James M., [redacted].
Afflerbach, Robert F., [redacted].
Alder, John J., [redacted].
Allee, Robert S., [redacted].
Allinson, David J., [redacted].
Ames, Donald L., [redacted].
Anderson, Louis M., [redacted].
Anderson, Charles T., [redacted].
Anderson, James R., [redacted].
Anderson, John A., Jr., [redacted].
Anderson, Kenneth D., [redacted].
Anderson, Raymond D., [redacted].
Anderson, Wiliam D., [redacted].
Anstine, Gale B., [redacted].
Apostalon, Daniel G., [redacted].
Arndorfer, Thomas F., [redacted].
Atkinson, Gary D., [redacted].
Austin, Ronald R., [redacted].
Ayers, Richard L., [redacted].
Babbitt, Frank K., Jr., [redacted].
Babinski, John D., [redacted].
Bacon, Merle D., [redacted].
Baetz, Gary D., [redacted].
Bain, Donald W., Jr., [redacted].
Baker, Marlin R., [redacted].
Baker, Thomas A., [redacted].
Ballantyne, Wayne L., [redacted].
Banick, Theodore J., [redacted].
Barr, John R., [redacted].
Bartlett, Henry C., Jr., [redacted].
Bass, Williamson G., [redacted].
Bassett, William W., [redacted].
Battaglia, Joseph H., [redacted].
Bauer, Eugene L., [redacted].
Beckwith, Wayne K., [redacted].
Behunin, Otto E., [redacted].
Bell, Clarence P., [redacted].
Bennett, Walter R., [redacted].
Berg, Allan G., [redacted].
Biggs, Richard J., [redacted].
Bills, Walter B., [redacted].
Bishop, Ronald J.B., Jr., [redacted].
Blackwell, Eldred E., [redacted].
Blair, James A., [redacted].
Blake, Daniel, Jr., [redacted].
Blahe, Robert E., [redacted].
Bleier, Robert W., [redacted].
Bloodworth, James O., III, [redacted].
Blum, Fred M., [redacted].
Blunck, Kurt G., [redacted].
Bodenhausen, Max G., [redacted].
Bonner, Otis L., Jr., [redacted].
Boone, George T., [redacted].
Bouton, Lloyd M., [redacted].
Bowen, Billy M., [redacted].
Bowen, Ralph K., [redacted].
Bowline, Jerry D., [redacted].
Boyd, Denzil H., Jr., [redacted].
Boyette, Robert T., [redacted].
Brazell,, Leroy A., [redacted].
Breitinger, Frederick L., [redacted].
Brewer, Stanley M., [redacted].
Brimm, James S., [redacted].
Brooks, Elmer T., [redacted].
Brooks, William O., [redacted].
Broomall, William L., Jr., [redacted].
Brougher, John D., [redacted].
Broughton, Robert N., [redacted].
Brown, Curtiss E., [redacted].
Brown, Luther J., [redacted].
Brownfield, Bird R., [redacted].
Brubaker, Robert D., [redacted].
Bruner, Gordon C., [redacted].
Brusini, Andrew R., [redacted].
Bryan, Deland R., [redacted].
Bryant, Ray H., [redacted].
Bublitz, Robert W., [redacted].
Bunch, Clyde F., [redacted].
Bunting, Joseph O., Jr., [redacted].
Burnfield, Watson D., [redacted].
Burris, Darrel G., [redacted].
Burshnick, Anthony J., [redacted].
Bushong, Eugene M., [redacted].
Cain, Keith M., [redacted].
Caldwell, Jimmie D., [redacted].
Callaghan, James T., [redacted].
Cammack, Luther S., Jr., [redacted].
Campbell, Duncan W., [redacted].
Canon, Truman L., [redacted].
Cantelou, Louis W., Jr., [redacted].
Canterbury, Henry D., [redacted].
Carey, Kenneth V., [redacted].
Carlson, Kenneth D., [redacted].
Carnes, James R., [redacted].
Carns, Michael P. C., [redacted].
Carter, Frank P., [redacted].
Carter, William E., [redacted].
Cash, Eugene G., [redacted].
Chappell, Richard G., [redacted].
Chipman, Jerry L., [redacted].
Chivers, Edgar P., [redacted].
Cicchini, Michael J., [redacted].
Cipra, Donald J., [redacted].
Clark, Richard E., [redacted].
Cockayne, William A., [redacted].
Cockrell, Allen A., [redacted].
Cole, Earle R., [redacted].
Cole, Norman S., [redacted].
Collins, Gerald J., [redacted].
Conner, Hendsley R., [redacted].
Constantine, William M., [redacted].
Conway, James E., [redacted].
Cooper, William L., Jr., [redacted].
Coraine, Richard W., [redacted].
Corder, John A., [redacted].
Corey, Charles J., [redacted].
Cosgrove, John A., [redacted].
Cotter, Lawrence R., [redacted].
Couture, Donald J., [redacted].
Coward, William E., [redacted].
Cox, Kenneth L., [redacted].
Craig, Thomas L., [redacted].
Craner, Robert R., [redacted].
Craw, Paul R., [redacted].
Crego, Richard N., [redacted].
Crotty, Paul V., [redacted].
Curry, Robert W., [redacted].
Dalton, Roy C., [redacted].
Dalton, William M., [redacted].
Daniels, Louis E., Jr., [redacted].
Davidson, George R., [redacted].
Davies, Albert D., [redacted].
Davis, Milford E., [redacted].
Davis, Wayne E., [redacted].

Dayton, Roy D., [redacted].
Deering, Philip A., [redacted].
Degeneres, Frederick S. Jr., [redacted].
Dempsey, Derrel L., [redacted].
Dempster, David P., [redacted].
Detar, Dean E., [redacted].
Devens, Allyn M., [redacted].
Devick, James H., [redacted].
Dickinson, James H., [redacted].
Dickman, Henry J., Jr., [redacted].
Didamo, Francis A., [redacted].
Dilger, Robert G., [redacted].
Dillard, Louis S., Jr., [redacted].
Divich, Chris D., [redacted].
Dreibelbis, Ryland R., [redacted].
Duff, Thomas D., [redacted].
Duff, John J., Jr., [redacted].
Duffack, William C., [redacted].
Dugan, Thomas W., [redacted].
Duke, Robert G., [redacted].
Dupont, Abbie R., [redacted].
Durband, Rudolph F., [redacted].
Durham, Kenneth W., [redacted].
Dutcher, Barent C., [redacted].
Dutton, Ronald K., [redacted].
Eibling, Joseph H., [redacted].
Elftmann, John W., Jr., [redacted].
Elliott, Robert L., [redacted].
Ellis, Robert J., [redacted].
Ely, Richard K., [redacted].
Emma, Frank J., [redacted].
Ernst, Fred H., [redacted].
Espenshied, John L., [redacted].
Everson, David, [redacted].
Fall, William A., [redacted].
Falletti, Joseph L., [redacted].
Fanning, Francis R., [redacted].
Farha, Jimmie L., [redacted].
Fauser, Rodney H., [redacted].
Felmley, Jerry J., [redacted].
Fenimore, John W., [redacted].
Fields, Herbert R., Jr., [redacted].
Fincher, Thomas H., [redacted].
Finkelstein, Eugene S., [redacted].
Finkelstein, Herbert A., [redacted].
Fisher, James L., [redacted].
Flowers, Jack L., [redacted].
Fluty, William L., [redacted].
Foley, Paul F., [redacted].
Follmer, William J., [redacted].
Fortenbury, John S., [redacted].
Fowl, Alvin F., [redacted].
Fox, Robert J., [redacted].
Francis, Bob L., [redacted].
Fulgham, Dan D., [redacted].
Fuller, Jerry G., [redacted].
Fullmer, Wayne M., [redacted].
Furtner, Ralph W., [redacted].
Gable, Stewart R., [redacted].
Galloway, James R., [redacted].
Gaskill, Samuel E., [redacted].
Gatt, John M., [redacted].
Geasland, Robert L., [redacted].
Gee, John P., [redacted].
Gentry, Jack C., [redacted].
German, Kenneth E., [redacted].
Gerrow, Irv R., [redacted].
Giancola, John R., [redacted].
Gillespie, Charley P., [redacted].
Gilless, Alvin E., [redacted].
Gillis, Melvin P., [redacted].
Gillory, Byron M., [redacted].
Gindoff, Alan S., [redacted].
Glavan, Anthony F., [redacted].
Goetze, Edward D., [redacted].
Gonzales, Carlos, [redacted].
Gordon, Richard F., [redacted].
Govan, Robert A., [redacted].
Grace, Judd H., [redacted].
Graham, Robert J., [redacted].
Greene, Samuel J., [redacted].
Griffin, Richard A., [redacted].
Griffin, William K., [redacted].
Griffith, John E., [redacted].
Griffiths, John D., [redacted].
Grill, George W., Jr., [redacted].
Grischkowsky, Edgar R., [redacted].
Grover, David B., [redacted].
Guidotti, Albert C., [redacted].
Haag, Richard G., [redacted].
Hail, William W., [redacted].
Hale, Alan B., [redacted].
Halsey, Samuel A., Jr., [redacted].
Hamilton, Wallace J., [redacted].
Hancock, David L., [redacted].
Hancock, Robert A., [redacted].
Hand, John W., [redacted].
Haney, Robert E., [redacted].
Hansman, Henry J., [redacted].
Harlow, Giles D., Jr., [redacted].
Harper, Douglas A., [redacted].
Hartman, William B., [redacted].
Harvell, Joe L., Jr., [redacted].
Hashimoto, Richard A., [redacted].
Hatch, Monroe W., Jr., [redacted].
Hearn, Gale L., [redacted].
Heinz, Edward J., [redacted].
Helmer, Donald E., [redacted].
Hemmings, Arthur A., Jr., [redacted].
Hennings, Paul E., [redacted].
Henry, Richard L. W., [redacted].
Hetrick, Bradley W., [redacted].
Hill, Vaughn E., [redacted].
Hill, William B., [redacted].
Hine, William H., [redacted].
Hoffman, Ralph N., Jr., [redacted].
Hofmann, Frederick L., [redacted].
Hollinger, Wallace D., [redacted].
Hood, Arthur E., [redacted].
Hood, William M., [redacted].
Horan, Edwin V., [redacted].
Houghton, Richard B., [redacted].
Howard, George H., [redacted].
Howard, Joe A., [redacted].
Hubbell, William M., [redacted].
Hudson, Fred S., [redacted].
Hughes, Harley A., [redacted].
Hughes, James C., [redacted].
Hughey, Kenneth R., [redacted].
Hull, George G., [redacted].
Hume, Harlan B., [redacted].
Hunn, Van, [redacted].
Hutto, Thomas S., [redacted].
Hyland, Charles L., [redacted].
Hyndman, Richard J., [redacted].
Ifland, Jimmy A., [redacted].
Ingold, Harry W., [redacted].
Jackson, Leslie G., [redacted].
Jacobson, Lloyd S., [redacted].
Johnson, Dewey E., [redacted].
Johnson, Edwin W., [redacted].
Johnson, George R., [redacted].
Johnson, Hansford T., [redacted].
Johnson, Richard B., Jr., [redacted].
Jones, James G., [redacted].
Jones, Michael S., [redacted].
Kalen, Herbert D., [redacted].
Kan, Robert S., [redacted].
Kater, James E., [redacted].
Kavanagh, Robert Z., [redacted].
Kazilek, Charles J., Jr., [redacted].
Keating, Michael R., [redacted].
Keith, William R., [redacted].
Keller, George B., [redacted].
Kelly, Fred E., [redacted].
Kemler, Emory N., Jr., [redacted].
Kinder, Morris B., [redacted].
Klepper, Stanley O., [redacted].
Kline, Robert W., [redacted].
Klingensmith, Robert L., [redacted].
Koppin, John A., Jr., [redacted].
Krause, Albert S., Jr., [redacted].
Krause, William G., [redacted].
Kreider, Bruce N., [redacted].
Kreider, Robert J., [redacted].
Kreiser, Guy W., [redacted].
Krejci, Ronald J., [redacted].
Kulla, Vernon M., [redacted].
Kuster, Ralph L., Jr., [redacted].
Kyer, George, Jr., [redacted].
Kyle, James H., [redacted].
Laird, Herbert W., [redacted].
Landen, Wayne O., [redacted].
Landon, Kenneth S., [redacted].
Langford, Willard F., Jr., [redacted].
Laudise, Ernest T., [redacted].
Leblanc, Lynn L., [redacted].
Leutwyler, Cooke H., [redacted].
Lewis, Charles L., [redacted].
Lewis, Gordon E., [redacted].
Lewis, William H., [redacted].
Light, Paul E., Jr., [redacted].
Liske, Robert A., [redacted].
Little, Ronald D., [redacted].
Lomax, Alan L., [redacted].
Long, Francis J., [redacted].
Luhks, Ronald A., [redacted].
Luke, Guy D., [redacted].
Lukens, Leland K., [redacted].
Lunnen, Ray J., Jr., [redacted].
Lynch, Jerrold T., [redacted].
MacDonald, Donald A., [redacted].
Mack, Jerold R., [redacted].
MacKenzie, James S., Jr., [redacted].
Malinverni, Albert, [redacted].
Marsh, Edwin L., [redacted].
Martin, Eugene F., [redacted].
Martino, Salvatore F., [redacted].
Maturo, Jimmy L., [redacted].
May, Donald M., [redacted].
May, Robert C., Jr., [redacted].
Mayfield, Marvin C., [redacted].
Mayfield, William O., [redacted].
McAneny, John D., [redacted].
McCausland, Charles, [redacted].
McCright, Gerald D., [redacted].
McDaniel, Morris L., Jr., [redacted].
McFarlane, Larimer C., [redacted].
McGee, Gerald E., [redacted].
McHugh, Thomas B., [redacted].
McKenney, John S., [redacted].
McLain, Roger W., [redacted].
McLawhon, William A., [redacted].
McLean, Charles G., [redacted].
McRae, Arley W., [redacted].
Mellor, Thomas W., Jr., [redacted].
Mellott, Lester R., Jr., [redacted].
Melone, Sabato J., [redacted].
Metcalf, Charles D., [redacted].
Metzner, Alexander, Jr., [redacted].
Meyerholt, William H., [redacted].
Michaud, Normand, [redacted].
Miles, George S., [redacted].
Miles, Richard J., [redacted].
Miller, Carl D., [redacted].
Miller, Clark J., [redacted].
Miller, George H., [redacted].
Miller, Louis T., [redacted].
Miller, Richard M., [redacted].
Minear, Leslie H., Jr., [redacted].
Mitchell, Jimmie R., [redacted].
Mitri, Charles L., [redacted].
Mobley, Billy M., [redacted].
Moffett, William F., [redacted].
Mohon, Robert W., Jr., [redacted].
Moore, Michael W., [redacted].
Morgan, Charles E., Jr., [redacted].
Morgan, James S., [redacted].
Morris, Raymond E., [redacted].
Mullen, Albert M., Jr., [redacted].
Munsie, Lawrence, Jr., [redacted].
Murphy, Crawford O., Jr., [redacted].
Nakano, Albert S., [redacted].
Nanning, Ronald L., [redacted].
Nay, Gerald L., Jr., [redacted].
Neese, John E., [redacted].
Negus, Kenneth D., Jr., [redacted].
Nelson, John B., Jr., [redacted].
Nelson, Merle A., [redacted].
Newbold, Dale G., [redacted].
Nichols, Carl B., Jr., [redacted].
Norris, Basil S., [redacted].
Norris, Robert W., [redacted].
Nowakowski, Anthony J., [redacted].
Nowlin, Klyne D., [redacted].
Nuckolls, Norman L., [redacted].
Officer, William K., [redacted].
Oliver, George W., [redacted].
Olofson, Tom O., [redacted].
Olsen, Thomas R., [redacted].
Olver, Kelsey M., [redacted].
Osborne, Edward W., [redacted].
Ott, Franklin D., [redacted].
Owen, James M., [redacted].
Owens, Welsey D., [redacted].
Palanek, Edward J., [redacted].
Palmer, Edward J., Jr., [redacted].
Parker, James R., [redacted].
Parker, John D., [redacted].
Parsons, William P., [redacted].
Patterson, George E., [redacted].
Patton, Charles O., Jr., [redacted].
Pearis, Samuel P., IV, [redacted].
Pearson, Morris W., [redacted].
Peeke, Cleveland S., [redacted].

Pennington, David J., [redacted].
Perroots, Leonard H., [redacted].
Peter, Robert A., [redacted].
Peterson, Cliffor D., [redacted].
Peterson, Donald H., [redacted].
Phelan, Thomas J., Jr., [redacted].
Pink, Gordon S., [redacted].
Piper, Robert B., [redacted].
Pirkey, Frederick E., [redacted].
Plowden, Robert B., Jr., [redacted].
Poncar, Jerry V., [redacted].
Poore, Walter H., [redacted].
Poorman, Donald L., [redacted].
Poppe, Robert T., [redacted].
Potter, Frederick R., [redacted].
Priest, James L., [redacted].
Priest, Robert D., [redacted].
Purkhiser, Joe B., [redacted].
Pyne, Ernest L., [redacted].
Rachel, Allen K., [redacted].
Randolph, Bernard P., [redacted].
Rauscher, Norman F., [redacted].
Rawlinson, William R., Jr., [redacted].
Reining, Robert R., Jr., [redacted].
Rich, John C., [redacted].
Richardson, Jerre B., [redacted].
Richardson, William J., [redacted].
Riggert, Melvin E., [redacted].
Ripley, Roy L., [redacted].
Robb, Wesley E., [redacted].
Robb, William G., [redacted].
Robbins, Edward B., [redacted].
Robillard, Donald F., [redacted].
Robinson, Richard O., [redacted].
Rossmeisl, Robert D., [redacted].
Ruiz, Carlos M., [redacted].
Rushfeldt, John W., [redacted].
Russ, Robert M., [redacted].
Sanders, Howard K., [redacted].
Sandvick, Robert J., [redacted].
Scharf, Charles J., [redacted].
Scheidt, Richard J., [redacted].
Schildknecht, Richard L., [redacted].
Schmidt, George J., [redacted].
Schneider, Stanley P., [redacted].
Schreiber, Charles G., [redacted].
Schuyler, Danny C., [redacted].
Schwartzman, Larry, [redacted].
Scoggins, Wilton E., [redacted].
Sears, Thomas B., [redacted].
Sharkey, Byron L., [redacted].
Shaw, John R., [redacted].
Shelton, Charles E., [redacted].
Sherman, William B., [redacted].
Shineman, Francis L., [redacted].
Shropshire, Richard A., [redacted].
Shuler, Ellie G., Jr., [redacted].
Siefken, Rollin S., [redacted].
Simmons, Thomas N., [redacted].
Simpson, Ora L., Jr., [redacted].
Sims, John D., [redacted].
Sinnott, Gilbert J., III, [redacted].
Skinner, Hosea L., [redacted].
Skorepa, Ronald J., [redacted].
Smith, Bobby D., [redacted].
Smith, Charles J., Jr., [redacted].
Smith, Donald L., [redacted].
Smith, Everet E., [redacted].
Smith, Frederic H., III, [redacted].
Smith Monroe T., [redacted].
Smith, Odie, Jr., [redacted].
Smith, William D., [redacted].
Snow, Joe H., [redacted].
Spallina, Marvin G., [redacted].
Spanbauer, Robert W., [redacted].
Spicka, Charles F., [redacted].
Spires, George E. II, [redacted].
Sprague, Donald L., [redacted].
Spriggs, Duane G., [redacted].
Steen, Frank, [redacted].
Stephens, Charles P., [redacted].
Stewart, Charles W., [redacted].
Stihl, John T., [redacted].
Stirm, Robert L., [redacted].
Stischer, Walter M., [redacted].
Stoneburner, James J., [redacted].
Strack, Ronald G., [redacted].
Stratton, Ray E., [redacted].
Stuart, Floyd R., [redacted].
Stukel, Donald J., [redacted].
Stull, Rondall H., [redacted].
Sullivan, Reuben A., [redacted].
Sutton, Stephen L., [redacted].
Sweet, Robert M., [redacted].
Tapman, Thomas F., [redacted].
Tarvin, Albert L., [redacted].
Terry, Jay D., [redacted].
Thomas, Leland C., [redacted].
Thomas, Marshall W., [redacted].
Thompson, Thomas C., [redacted].
Thompson, William J., [redacted].
Thompson, William W., [redacted].
Todd, Harold W., [redacted].
Trainer, Maxie L., [redacted].
Trautman, Konrad W., [redacted].
Underwood, David B., [redacted].
Underwood, John D., Jr., [redacted].
Uptmor, Robert E., [redacted].
Ursini, Samuel M., [redacted].
Vaught, Wilma L., [redacted].
Vipraio, William J., [redacted].
Vivona, Alexander A., Jr., [redacted].
Voorhees, John H., [redacted].
Waits, Kenneth D., [redacted].
Warinner, Algernon S. II, [redacted].
Watson, Marion R., [redacted].
Waxstein, Bernard A., Jr., [redacted].
Weems, Joe F., [redacted].
Weiss, Bernard L., [redacted].
Wendt, Phillip J., [redacted].
West, James H., [redacted].
Wharton, Browning C., Jr., [redacted].
White, Robert B., [redacted].
Wilkinson, Thomas C., [redacted].
Williams, John T., [redacted].
Williams, Robert D., [redacted].
Williamson, James E., [redacted].
Wilson, Conrad L., [redacted].
Wilson, Dwight V., [redacted].
Wilson, William R., [redacted].
Wink, Frank R., [redacted].
Winslow, Joe G., [redacted].
Winston, Donald K., [redacted].
Winters, Albert C., Jr., [redacted].
Wish, George V., [redacted].
Witzel, James E., [redacted].
Wolfkeil, Wayne B., [redacted].
Wood, Carl E., [redacted].
Wood, Dean C., [redacted].
Wood, Richard W., [redacted].
Wray, Robert D., [redacted].
Yates, Douglas B., [redacted].
Yunk, Robert J., [redacted].
Ziernicki, Robert S., [redacted].
Zimmerman, Ralph, [redacted].

CHAPLAINS

Auer, Robert F., [redacted].
Bause, George H., Jr., [redacted].
Branham, Mack C., Jr., [redacted].
Brennan, Gerard M., [redacted].
Dangelo, Salvatore J., [redacted].
Flattery, John J., [redacted].
Jacobs, William H., [redacted].

NURSE CORPS

Byrnes, Mary J., [redacted].
Ohrt, Valerie A., [redacted].

MEDICAL SERVICE CORPS

Finn, Joseph J., [redacted].
Gottlieb, Harold J., [redacted].
Rolfs, Robert R., [redacted].
Schussele, Jerry H., [redacted].
Soto, Carlos A., [redacted].

VETERINARY CORPS

Ziegler, Ralph F., [redacted].

BIOMEDICAL SCIENCE CORPS

Curry, Charles J., [redacted].
Levinson, Samuel, [redacted].
Newman, Harold L., [redacted].
Sadanaga, John Y., [redacted].

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a), title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Samuel E. Alexander, [redacted].
Maj. David K. Baumann, [redacted].
Maj. William P. Bland, Jr., [redacted].
Maj. Wallace P. Carson, Jr., [redacted].
Maj. John K. Chastain, [redacted].
Maj. Everett W. Couch, [redacted].
Maj. Terrence P. Daly, [redacted].
Maj. Richard D. Daniell, [redacted].
Maj. James E. Davis, [redacted].
Maj. Rollin J. Deschane, [redacted].
Maj. Glenn E. Duhs, [redacted].
Maj. Ian J. M. Duncan, [redacted].
Maj. Albert C. Emmerich, [redacted].
Maj. Alan J. Fick, [redacted].
Maj. James F. Gerber, [redacted].
Maj. G. William Gregory, [redacted].
Maj. Douglas G. Hanks, [redacted].
Maj. Robert L. Hanlin, [redacted].
Maj. Rodney R. H. Hoioos, [redacted].
Maj. Jack D. Koch, [redacted].
Maj. James F. Laundrie, [redacted].
Maj. Edward S. Mansfield, [redacted].
Maj. Richard W. Manthey, [redacted].
Maj. Lloyd Q. Marett, [redacted].
Maj. James S. McMahon, [redacted].
Maj. Cecil F. Metzger, [redacted].
Maj. William A. Millson, [redacted].
Maj. Lee E. Morton, [redacted].
Maj. Robert A. Morton, [redacted].
Maj. Richard E. Moss, [redacted].
Maj. Francis D. Paluca, [redacted].
Maj. Donald R. Pfaul, [redacted].
Maj. William R. Richter, [redacted].
Maj. Francis D. Rogers, Jr., [redacted].
Maj. Lonnie J. Slauson, Jr., [redacted].
Maj. John A. Searle, [redacted].
Maj. Robert D. Tice, [redacted].
Maj. Gerrit J. Walhout, [redacted].

MEDICAL CORPS

Maj. Charles D. Kennedy, [redacted].

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3305:

ARMY PROMOTION LIST

To be colonel

Aarestad, James H., [redacted].
Adams, Dwight L., [redacted].
Adams, Earl R., Jr., [redacted].
Adams, Lawrence E., [redacted].
Adams, Walter E., [redacted].
Adkins, Virgil S., [redacted].
Allgood, Charles N., [redacted].
Ambrose, Bernard J., [redacted].
Anderson, Skinner E., [redacted].
Anderson, William A., [redacted].
Arter, Robert, [redacted].
Austin, Thomas A., [redacted].
Bachus, Walter O., [redacted].
Ball, George L., [redacted].
Ball, Thomas H., [redacted].
Barnes, James C., [redacted].
Barringer, Fred A., [redacted].
Barry, Raymond N., [redacted].
Bauer, Eugene R., [redacted].
Baxter, Daryle K., [redacted].
Beaty, Raymond H., [redacted].
Beckner, David A., [redacted].
Beddoe, William A., [redacted].
Bell, John E., [redacted].
Berry, Elbert D., [redacted].
Bice, William S., [redacted].
Birk, Elmer L., [redacted].
Blount, John B., [redacted].
Bolduc, Lucien E., [redacted].
Bolte, Philip L., [redacted].
Braim, Paul F., [redacted].
Branch Raymond L., [redacted].
Brandes, William F., [redacted].
Britton, Thomas N., [redacted].
Brooke, Stafford R., [redacted].
Brown, Jack W., [redacted].
Brumme, Gunther A., [redacted].
Bryan, John A., [redacted].
Buchan, Earl K., [redacted].
Buchanan, William J., [redacted].
Bunn, Dudley T., [redacted].
Burack, Emanuel, [redacted].
Burke, Lloyd L., [redacted].
Bush, Charles C., [redacted].
Byrne, John P., [redacted].
Cameron, David H., [redacted].

Campbell, Clarence, [redacted].
Campbell, John W., [redacted].
Cannon, James W., [redacted].
Carroll, James H., Jr., [redacted].
Cary, Richard L., [redacted].
Chapman, Herschel E., [redacted].
Cheney, Robert A., [redacted].
Childers, Charles N., [redacted].
Childers, John C., Jr., [redacted].
Clark, Donald T., [redacted].
Clark, Richard P., Jr., [redacted].
Clause, James D., [redacted].
Cobb, John E. [redacted].
Cochran, Arthur F., [redacted].
Coe, George B., [redacted].
Collins, Thomas E., [redacted].
Collins, Thomas J., [redacted].
Conroy, Bernard J., [redacted].
Cook, Raymond L., [redacted].
Corkill, Harry L., [redacted].
Covach, John., [redacted].
Cox, Carlisle B., [redacted].
Cox, Charles P., [redacted].
Cramer, Raymond A., [redacted].
Craun, Noel E., [redacted].
Crawford, Albert B., [redacted].
Creuziger, Donald P., [redacted].
Crockett, Edward P., [redacted].
Cunningham, Charles, [redacted].
Curtis, James A., [redacted].
Daniels, Hiram E., [redacted].
Darling, Gregory, [redacted].
Dash, William E., [redacted].
Dashiell, John C., [redacted].
Davis, Reed E., [redacted].
Davis, William D., [redacted].
Day, Harvey A., [redacted].
Degraf, William B., [redacted].
Delavan, Patrick N., [redacted].
Detherow, Ralph H., [redacted].
Devane, William L., [redacted].
Dews, Robert W., [redacted].
Dickson, Ervin W., Jr., [redacted].
Dicus, Forest J. [redacted].
Digrazia, John E., [redacted].
Dillard, Douglas C., [redacted].
Dixon, Frank W., [redacted].
Dixon, Louis F., [redacted].
Dobbins, John P., [redacted].
Donovan, James C., [redacted].
Dornbush, Louis W., [redacted].
Dorsey, Frank J., [redacted].
Dotur, Stephen P., [redacted].
Doughtie, Claude H., [redacted].
Dreisonstok, Thomas, [redacted].
Durham, William L., [redacted].
Ebner, Kenneth R., [redacted].
Eek, Lauris M., [redacted].
Eichorn, William N., [redacted].
Einsel, David W., Jr. [redacted].
Eshelman, Charles O., [redacted].
Eustis, Thomas B., [redacted].
Evans, John C., [redacted].
Evans, Lester J. [redacted].
Farrell, Peter B., [redacted].
Feight, Victor R., [redacted].
Fern, Albert J., [redacted].
Fessenden, Jack C., [redacted].
Finkelstein, Zane E., [redacted].
Florio, John D., [redacted].
Flynn, Allan S., [redacted].
Forney, Leslie R., Jr., [redacted].
Fountain, Foster F., [redacted].
Frandsen, Herbert L., [redacted].
Franklin, Joseph R., [redacted].
French, Daniel W., [redacted].
French, Harry W., [redacted].
Fulmore, Charles E., [redacted].
Fye, Richard S., [redacted].
Fyock, James A., [redacted].
Gafford, Travis M., [redacted].
Gainey, Maurice A., [redacted].
Gaiter, Leonce E., [redacted].
Gallivan, William G., [redacted].
Gard, Robert G., Jr., [redacted].
Gearan, William K., [redacted].
Getz, Wilbur D., [redacted].
Gillilland, William, [redacted].
Glenn, Russell A., [redacted].
Goen, Ira J., [redacted].
Goodwin, William H., [redacted].
Gordon, John D., [redacted].
Gorman, Paul F., [redacted].
Gow, Arthur J., [redacted].
Graham, Charles P., [redacted].
Grange, David E., [redacted].
Grasser, Peter G., [redacted].
Greene, Joseph E., [redacted].
Greer, Thomas U., [redacted].
Gregg, Arthur J. [redacted].
Gregg, Edmund F. Jr., [redacted].
Griffin, Joseph T., [redacted].
Griffith, James C., [redacted].
Grills, Angelo, [redacted].
Grombacher, Gerd S., [redacted].
Guth, Carroll W., [redacted].
Hamilton, Benjamin, [redacted].
Haney, Billy E., [redacted].
Hankins, Robert B., [redacted].
Hanline, Donald S., [redacted].
Hansen, Marcus W., [redacted].
Hansen, Ray S., [redacted].
Harris, Claude R., [redacted].
Hayden, Joseph E., Jr., [redacted].
Hayes, Errol E., Jr., [redacted].
Hayward, Charles W., [redacted].
Hazelwood, John E., [redacted].
Heffelfinger, Edwin, [redacted].
Henderson, John K., [redacted].
Henk, Floyd H., [redacted].
Herbert Morris J., [redacted].
Hergert, Louis G., [redacted].
Hibbs, Kenneth K., [redacted].
Hiebert, Donald L., [redacted].
Hoey, Matthew W., [redacted].
Hoff, Wilford J., [redacted].
Hoffman, Richard G., [redacted].
Holt, Hugh, C., [redacted].
Hooker, Robert W., [redacted].
Horn, Clifton A., Jr., [redacted].
Horne, Carlton R., [redacted].
Horton, William S., [redacted].
House, John M., [redacted].
Howard, John D. [redacted].
Hubbard, George H., [redacted].
Hubbard, Norman F., [redacted].
Hubbard, Wallace H., [redacted].
Hudson, William A., [redacted].
Huestis, John L., [redacted].
Hughes, Robert B., [redacted].
Hunt, Richard L., [redacted].
Ingalls, Robert E., [redacted].
Irons, James V. [redacted].
Irvin, Darrell B., [redacted].
Jackley, Lawrence W., [redacted].
Jacobs, Ernest F., Jr., [redacted].
Jacobson, Gerhard L., [redacted].
James, George T., [redacted].
Jarvis, John R., [redacted].
Jensen, Richard W., [redacted].
Johansen, Eivind H. [redacted].
Johnson, Erik G., [redacted].
Johnson, Hugh H., [redacted].
Johnson, James H., [redacted].
Johnson, Malcolm D., [redacted].
Johnson, Walter A., [redacted].
Johnsrud, Melvin H., [redacted].
Jones, John G., [redacted].
Jose, Allan F., [redacted].
Joy, David D., [redacted].
Kanemoto, George K., [redacted].
Kastner, William H., [redacted].
Kellar, Robert S., [redacted].
Kelly, James L., [redacted].
Kennedy, Edwin L., [redacted].
Kenney, Donald E., [redacted].
Kessler, Robert F., [redacted].
Kiely, John W., [redacted].
Klaus, Vincent J., [redacted].
Kluever, Emil E., [redacted].
Knapp, William L., [redacted].
Knauer, Glenn W. [redacted].
Koehler, John J., Jr., [redacted].
Kubby, Robert S., [redacted].
Labar, Merwin K., [redacted].
Lakes, Cecil T., [redacted].
Lauderdale, John R., [redacted].
Lee, Burke W., [redacted].
Lee, Emmett C., [redacted].
Lee, James M., [redacted].
Lee, John L., Jr., [redacted].
Leishman, Carl A., [redacted].
Levitt, Robert J., [redacted].
Lewane, Leonard L., [redacted].
Lewis, Bennett L., [redacted].
Lewis, Hilliard H., [redacted].
Lillard, James A., [redacted].
Little, Robert A., [redacted].
Lockwood, Kilbert E., [redacted].
Logan, Douglas K., [redacted].
Lombard, Reginald T., [redacted].
Long, Eldredge R., Jr. [redacted].
Loper, Thomas C., [redacted].
Lounsbury, Roy E., [redacted].
Love, Joseph B [redacted].
Lunn, Robert J., [redacted].
Lunsford, Paul R., [redacted].
Lynch, James E., [redacted].
Mackmull, Jack V., [redacted].
Madden, William R., [redacted].
Maladowitz, Raymond [redacted].
Malcom, Ben S., [redacted].
Mancinelli, Thomas, [redacted].
Martin, Clark C., [redacted].
Martin, William L., [redacted].
Martino, Angelo J., [redacted].
Mastoris, William J., [redacted].
Mather, Linwood B., [redacted].
Mathews, Harry T., [redacted].
Matthey, Bernard P., [redacted].
Mayfield, Ross F., Jr., [redacted].
Mayo, Walter L., [redacted].
McBride, Thomas E., [redacted].
McClaran, Jack L., [redacted].
McCleary, John E., [redacted].
McClure, Ardie E., Jr., [redacted].
McCune, John R., [redacted].
McDaniel, Paul B. [redacted].
McDowell, William R., [redacted].
McKennon, Alton C., [redacted].
McLeod, Purdy B., [redacted].
McMahon, William J., [redacted].
McManus, John J., [redacted].
McTaggart, Richard, [redacted].
Means, Charles F., [redacted].
Meengs, Philip G., [redacted].
Melnick, Arnold I., [redacted].
Mendheim, Billy J., [redacted].
Meredith, David S., [redacted].
Merryman, James H., [redacted].
Metheny, Orvil C., [redacted].
Metzger, Edward H., [redacted].
Meyer, Keith, [redacted].
Millener, George A., [redacted].
Miller, James C., [redacted].
Mitchell, John D., [redacted].
Moore, Harold L., [redacted].
Morrison, Robert C., [redacted].
Mueller, Paul J., [redacted].
Mulligan, Donald E., [redacted].
Munnelly, John E., [redacted].
Murphy, Kenneth E., [redacted].
Nadeau, Frank W., [redacted].
Neal, William B., [redacted].
Neinast, William H., [redacted].
Nelson, Franklyn S., [redacted].
Nevins, Robert H. [redacted].
Newell, Henry C., [redacted].
Newport, Elswick, [redacted].
Nix, James H., [redacted].
Norris, Charles R., [redacted].
Norton, John M., [redacted].
Nutting, Wallace H., [redacted].
Oblinger, Frank D., [redacted].
O'Brien, Emmett J., [redacted].
Ogilvie, John C., [redacted].
Oliver, George S., [redacted].
Osterndorf, Charles, [redacted].
Owens, David A., [redacted].
Pagel, Donald, [redacted].
Palmer, Paul R., [redacted].
Palmer, William W., [redacted].
Papile, James D., [redacted].
Parish, John V., Jr., [redacted].
Park, John W., Jr., [redacted].
Parker, Herbert G. [redacted].
Parmenter, William, [redacted].
Patrick, Gladwin, [redacted].
Patterson, Robert W., [redacted].
Payson, Paul M., [redacted].
Pelosky, Edwin F., [redacted].
Pence, Lawrence D., [redacted].
Peters, Robert L., [redacted].
Peterson, George W., [redacted].
Petty, Floyd E., [redacted].
Petty, Lloyd J. [redacted].

Phillips, James H., [redacted].
Pickarts, John M., [redacted].
Pickett, Edward F., [redacted].
Pierce, Edward M., [redacted].
Plyler, Daniel B., [redacted].
Ponder, William R., [redacted].
Porter, Vernon R., [redacted].
Prentiss, Louis W., [redacted].
Price, George L., [redacted].
Prillaman, Richard, [redacted].
Pritchard, Denzil L., [redacted].
Pritchett, Clifton, [redacted].
Racke, Joseph C., [redacted].
Rainville, Rodman C., [redacted].
Rajala, Ernest A., [redacted].
Rarick, David, [redacted].
Ray, Oliver A., [redacted].
Read, William E., [redacted].
Rees, Marvin W., [redacted].
Rein, Richard A., [redacted].
Reinhart, Stanley E., [redacted].
Reinken, Louis A., Jr., [redacted].
Rhodes, Nolan C., [redacted].
Richbourg, John A., [redacted].
Richnak, Frank W., [redacted].
Rising, Lucien E., [redacted].
Roberts, Claude L., [redacted].
Robinson, Wayne, [redacted].
Roehm, John F., Jr., [redacted].
Roemer, Walter R., [redacted].
Romaneski, Albert L., [redacted].
Romano, Frank, Jr., [redacted].
Roseberry, Robert A., [redacted].
Rosin, Al S., [redacted].
Ross, James R., [redacted].
Round, Roswell E., Jr., [redacted].
Roush, Maurice D., [redacted].
Saalberg, John J., [redacted].
Sampson, Donald E., [redacted].
Sanders, Oscar J., Jr., [redacted].
Sanderson, Alfred L., [redacted].
Santry, John P., [redacted].
Sargeant, Edward W., [redacted].
Sargent, Wayne B., [redacted].
Sawyer, Richard H., [redacted].
Scarborough, Wesley, [redacted].
Schanche, Norman D., [redacted].
Schiff, Erwin H., [redacted].
Schiller, William E., [redacted].
Schnoor, Dean F., [redacted].
Schopper, Jared B., [redacted].
Schott, Homer E., [redacted].
Scott, Joseph J., Jr., [redacted].
Seideman, Charles H., [redacted].
Sharp, Jere W., [redacted].
Shea, William L., [redacted].
Sheffey, Fred C., Jr., [redacted].
Shepherd, Wilbur C., [redacted].
Sherman, Lee M., [redacted].
Shirey, Stewart, [redacted].
Shuffstall, Donald, [redacted].
Sibbles, Graham M., [redacted].
Singleton, Millard, [redacted].
Skelton, Winfred G., [redacted].
Skoien, Clarence E., [redacted].
Slocum, John M., [redacted].
Slominski, Martin J., [redacted].
Small, Martin J., [redacted].
Smaw, Daniel G., [redacted].
Smith, Charles R., Jr., [redacted].
Smithers, Samuel W., [redacted].
Sneeden, Emory M., [redacted].
Snoke, Myron D., [redacted].
Snyder, Charles L., [redacted].
Snyder, Paul B., [redacted].
Spell, William H., [redacted].
Spence, Clyde W., Jr., [redacted].
Spencer, Orton F., [redacted].
Spettel, Charles L., [redacted].
Spiller, Robert E., [redacted].
Stafford, Mebane G., [redacted].
Stahl, Kenneth L., [redacted].
Stanton, Walter C., [redacted].
Stapleton, Samuel L., [redacted].
Starker, Joseph B., [redacted].
Steele, William B., [redacted].
Stefanik, Edward P., [redacted].
Steinberg, William, [redacted].
Stendeback, William, [redacted].
Stickney, Louis S., [redacted].
Stoddard, Richard N., [redacted].
Stough, Richard B., [redacted].
Strickland, Henry E., [redacted].
Stroman, Samuel D., [redacted].
Sussel, Malcolm A., [redacted].
Sutton, John E., [redacted].
Sweeney, Harvey O., [redacted].
Tassie, Lawrence R., [redacted].
Tate, Grayson D., [redacted].
Tate, Lester K., [redacted].
Tiegland, Virgil R., [redacted].
Tenhet, Joseph N., [redacted].
Thomann, Charles E., [redacted].
Thomas, Constantine, [redacted].
Thomas, Francis G., [redacted].
Thomas, Grace G., Jr., [redacted].
Thompson, James M., [redacted].
Thompson, Nelson L., [redacted].
Tilson, George P., [redacted].
Todd, William R., [redacted].
Tominac, John J., [redacted].
Tormey, James H., [redacted].
Trayers, James L., Jr., [redacted].
Trefry, Richard G., [redacted].
Tubbleville, Billy, [redacted].
Turner, John T., [redacted].
Vail, James M., [redacted].
Vance, James W., [redacted].
Vanderbleek, Jack, [redacted].
Wagner, John E., [redacted].
Wahle, Charles G., [redacted].
Walker, Samuel S., [redacted].
Wanek, Robert F., [redacted].
Wang, Jesse, [redacted].
Warner, Volney F., [redacted].
Wassenberg, John F., [redacted].
Watters, Clarence M., [redacted].
Wegner, Leonard W., [redacted].
Wheeler, Neil W., [redacted].
White, Kenneth H., Jr., [redacted].
White, Robert R., [redacted].
Wickham, John A., Jr., [redacted].
Wilson, Patrick W., [redacted].
Wolf, William S., [redacted].
Wood, Stuart, Jr., [redacted].
Wood, Walter A., III, [redacted].
Woodman, Richard T., [redacted].
Woodside, William W., [redacted].
Wright, Corey J., [redacted].
Wright, Lawrence S., [redacted].
Young, Bruce C., Jr., [redacted].
Yow, Harold D., [redacted].
Zeller, Norman C., [redacted].

CHAPLAIN CORPS

To be colonel

Brooks, Porter H., [redacted].
Brown, Norman R., [redacted].
Kelly, Orris E., [redacted].
McMaster, Stanley C., [redacted].
Sather, Donald R., [redacted].
Schweitzer, Gordon, [redacted].

WOMEN'S ARMY CORPS

To be colonel

Clarke, Mary E., [redacted].
MacMichael, Kitt M., [redacted].
Weir, Frances, [redacted].

DENTAL CORPS

To be colonel

Anderson, Martin F., [redacted].
Civjan, Simon, [redacted].
Clarke, Theodore C., [redacted].
Davis, Quince B., [redacted].
Gardner, Robert J., [redacted].
Grisham, William K., [redacted].
Kuttas, George, [redacted].
Lewis, Carter H., [redacted].
Lovell, Kell E., [redacted].
Milligan, Vernon L., [redacted].
Mitchell, Jesse T., [redacted].
Pedersen, Gordon W., [redacted].
Stepp, James V., [redacted].

MEDICAL CORPS

To be colonel

Appleton, Budd, [redacted].
Baker, George I., [redacted].
Bergin, James J., [redacted].
Canby, John P., [redacted].
Carey, Philip O., [redacted].
Castellot, John J., [redacted].
Cooper, Everett B., [redacted].
Daniels, John R., [redacted].
Dwyre, William R., [redacted].
Gregoratos, Gabriel, [redacted].
Hebertson, Leon M., [redacted].
Hitzelberger, Anton, [redacted].
Joy, Robert John T., [redacted].
Kiel, Frank W., [redacted].
Kmiecik, Joseph E., [redacted].
Krekorian, Edmund A., [redacted].
Livingstone, Bruce, [redacted].
Luekens, Claude A., [redacted].
Mendelson, Janice A., [redacted].
Mendez, Enrique, Jr., [redacted].
Mosebar, Robert H., [redacted].
Robinson, David M., [redacted].
Singer, Lawrence R., [redacted].
Snyder, Dale R., [redacted].
Weigel, John W., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Anderson, James E., [redacted].
Bentley, Richard E., [redacted].
Cavanaugh, Dan C., [redacted].
Correa, Arnaldo L., [redacted].
Davenport, James D., [redacted].
Fields, James S., [redacted].
Foulk, William J., [redacted].
Godfrey, William H., [redacted].
Greene, Philip D., [redacted].
Madrano, Joseph P., [redacted].
Mueller, Louis C., [redacted].
Nichols, Robert S., [redacted].
Parker, Albert E., [redacted].
Schwarz, William X., [redacted].
Shaw, Robert M., Jr., [redacted].
Simpson, Wayne L., [redacted].
Spencer, Ralph A., [redacted].
Walsh, Ralph J., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Lambertson, Elizabeth, [redacted].

VETERINARY CORPS

To be colonel

Cooper, Irven R., [redacted].
Nossov, Gabriel, [redacted].

ARMY NURSE CORPS

To be colonel

Arnold, Vivian M., [redacted].
Carroll, Helene D., [redacted].
Christensen, Donna, [redacted].
Everett, Anna E., [redacted].
Grech, Anna A., [redacted].
Quinn, Mary C., [redacted].
Setter, Marian J., [redacted].
Vandiver, Frances O., [redacted].

The following-named officers for promotion in the Army of the United States under the provisions of Public Law 92–129:

MEDICAL CORPS

To be colonel

Baden, Melvin, [redacted].
Berner, William H., [redacted].
Bethlenfalvay, Nicholas, [redacted].
Birriel, Carmona T., [redacted].
Blount, Robert E., Jr., [redacted].
Boyce, David C., [redacted].
Bussey, Frederick N., [redacted].
Cordes, Charles K., [redacted].
Cucinell, Samuel A., [redacted].
Feagin, John A., Jr., [redacted].
Follansbee, John N., [redacted].
Garcia, Guillermo, [redacted].
Gemma, Frank E., [redacted].
German, Norton I., [redacted].
Giddens, Warren W., [redacted].
Granger, James A., [redacted].
Hamaker, William R., [redacted].
Hannegan, Michael W., [redacted].
Heilman, John P., [redacted].
Hinz, Rinehold H., [redacted].
Hirata, Richard M., [redacted].
Khoury, Nicholas F., [redacted].
Killam, Allen P., [redacted].
Knapp, Stanley C., [redacted].
Koebele, Eberhard, [redacted].
Kovacic, Joseph H., [redacted].
Krank, Daniel F., [redacted].
Lanoue, Alcide M., [redacted].
Lenio, Paul T., [redacted].

Levine, Seymour, [redacted].
Lichtmann, Manfred, [redacted].
Manson, Richard A., [redacted].
Martins, Albert N., [redacted].
McCann, David T. [redacted].
McKillop, James A., [redacted].
McNanev, Joseph W., [redacted].
Miller, Lee H., [redacted].
Morales, Hernan, [redacted].
Morgan, Donald W., [redacted].
Omer, Lewis M., [redacted].
Orzano, Randel M., [redacted].
Powell, Darryl H., [redacted].
Sanders, Daniel T., [redacted].
Smith, George M., [redacted].
Smith, Milton T., [redacted].
Spaulding, Harry S., [redacted].
Stojic, Borislav, [redacted].
Swanson, David L., Jr., [redacted].
Thering, Harlan R., [redacted].
Varela, Gilberto E., [redacted].
Ward, Chester L., [redacted].
Whittle, Michael H., [redacted].
Wood, Laurence, Jr., [redacted].

IN THE ARMY

The following-named persons for reappointment in the active list of the Regular Army of the United States, from the temporary disability retired list, under the provisions of title 10, United States Code, section 1211:

To be lieutenant colonel, Regular Army and colonel, Army of the United States

Herstad, John O., [redacted].

To be lieutenant colonel, Regular Army and lieutenant colonel, Army of the United States

Hockman, Lucien J., [redacted].

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States, Code, sections 3283 through 3294:

To be captain

Deka, David J., [redacted].
Hemmer, Paul C., [redacted].
Howard, James T., [redacted].
Hubert, George P., [redacted].
McCrone, Willard P., [redacted].
Pietsch, James H., [redacted].
Richardson, Quentin W., [redacted].
Turner, John A., [redacted].

To be first lieutenant

Carpenter, Bernard R., [redacted].
Dickinson, James G. [redacted].
Earl, James D., [redacted].
Feighny, Michael L., [redacted].
Fuchs, Lawrence M., [redacted].
Huffman, Laurence M., [redacted].
Lance, Alan G., [redacted].

The following-named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Hammand, Verle B., [redacted].
Latta, George H., Jr., [redacted].
Olson, James H., [redacted].

To be captain

Adams, Charles V., [redacted].
Baker, Susan I., [redacted].
Baker, Thomas D., [redacted].
Berger, Robert F., [redacted].
Berrong, Joseph M., [redacted].
Boyd, Katie, [redacted].
Chenault, Michael S., [redacted].
Courcy, Ernest H., [redacted].
Foley, Gerald J., [redacted].
Gayle, Andrew C., [redacted].
Guerin, William J., III, [redacted].
Heffner, John, [redacted].
Holley, Richard, [redacted].
Johnson, Roger W., [redacted].
Johnson, Thomas F., [redacted].
Karr, James B., [redacted].
Kauffman, Raymond W., [redacted].
Moon, Austin D., [redacted].
Noland, Robert F., [redacted].
Perkins, Franchot, [redacted].
Rankin, Thomas C., Jr., [redacted].
Richardson, Quentin W., [redacted].
Schmidt, Ronald B., [redacted].
Sepulveda, Eloy, [redacted].
Sherman, Vincent R., [redacted].
Sottak, Barry J., [redacted].
Turner, Lewis T., [redacted].
Vermilyea, Stanley G., [redacted].
Wood, Charles W., [redacted].

To be first lieutenant

Adam, Donald W., [redacted].
Adams, Dennis L., [redacted].
Alexander, Maurice, [redacted].
Amacher, Aaron G. Jr., [redacted].
Anderson, Delos W., [redacted].
Anderson, Robert J. H., [redacted].
Armondo, Angelo A., [redacted].
Augsburger, Robert A., [redacted].
Barker, Larry N., [redacted].
Barksdale, Robin P., [redacted].
Baumann, Ronald C., [redacted].
Bench, Darrell, [redacted].
Bergstrom, Albion A., [redacted].
Bernhardt, Richard J., [redacted].
Bishop, Robert H., [redacted].
Blair, Patrick R., [redacted].
Blount, Jerry L., [redacted].
Boram, Jerry D., [redacted].
Boschma, James H., [redacted].
Boudin, Lavina J., [redacted].
Bovard, Donna M., [redacted].
Bracewell, William R., [redacted].
Brent, Charles H., [redacted].
Broome, Richard E., [redacted].
Brown, David L., [redacted].
Bryant, George T., [redacted].
Bunyea, Walter L., [redacted].
Calway, James R., [redacted].
Campbell, Gary A., [redacted].
Carroll, Vonna, [redacted].
Cereghina, Larry M., [redacted].
Chambers, Bonnie L., [redacted].
Christensen, Stephen, [redacted].
Christopher, James M., [redacted].
Clouser, Clarence R., [redacted].
Colley, Jackie, [redacted].
Cothran, Thomas L., [redacted].
Coughlin, Edward J., [redacted].
Cunningham, David L., [redacted].
Curry, Harry A., [redacted].
Decker, Timothy J., [redacted].
Depalma, John A., [redacted].
Dicken, Keith H., [redacted].
Dittemore, Hugh R., [redacted].
Dow, Philip B., [redacted].
Dunn, Linda T., [redacted].
Elfrink, Ben C., [redacted].
Farrell, Glenn E., [redacted].
Faulkner, William R., [redacted].
Fisher, Jerry W., [redacted].
Fisher, Robert C., II, [redacted].
Fonda, David L., [redacted].
Foster, Guy A., [redacted].
Frisbee, Dennis M., [redacted].
Gaines, Donald W., [redacted].
Garretson, Peter W., [redacted].
Gatanas, Harry D., [redacted].
George, Gary L., [redacted].
Gonzalez, Juan, [redacted].
Greene, Edward E., Jr., [redacted].
Greenlee, Beverly A., [redacted].
Gunterman, John F., [redacted].
Haase, Karen S., [redacted].
Hales, Priscilla W., [redacted].
Hall, Harry D., [redacted].
Harris, Grant, [redacted].
Huff, Michael, [redacted].
Hyatte, Ronald D., [redacted].
Jeffery, Arthur B., Jr., [redacted].
Jones, Donald J., [redacted].
Jones, Roger C., [redacted].
Jurkowski, Cassandra A., [redacted].
Kaminski, Karen L., [redacted].
Kanapka, Joseph A., [redacted].
Kelch, William J., [redacted].
Kennedy, Walter P., Jr., [redacted].
Kettler, Harry L., [redacted].
Knight, James F., [redacted].
Kolisch, Stanley C., [redacted].
Lake, Richard W., [redacted].
Lam, David M., [redacted].
Laski, Karen M., [redacted].
Leduc, James W., [redacted].
Liebenberg, Stanley P., [redacted].
Liggett, Dennis B., [redacted].
Lindbloom, Robert, [redacted].
Lively, Lafon C., [redacted].
Majer, Theodore J., [redacted].
Manning, Jay P., [redacted].
Manuel, Philip K., [redacted].
Marsh, Frances L., [redacted].
McKenty, Bruce G., [redacted].
McKenzie, Eugene A., [redacted].
Meyer, Colin G., [redacted].
Meyer, John J. III, [redacted].
Mitchell, James L., [redacted].
Mongeon, Daniel, [redacted].
Motes, Carol J., [redacted].
Mudder, Gary D., [redacted].
Nash, John A., [redacted].
Norton, Anna T., [redacted].
Nowak, Mary A., [redacted].
Olsen, Carl V., [redacted].
Paraska, Robert L., [redacted].
Paulino, Benny M., [redacted].
Perry, John H., Jr., [redacted].
Petersen, Kenneth P., [redacted].
Peterson, Fredolph W., [redacted].
Peterson, Janet E., [redacted].
Phelps, Lawrence F., [redacted].
Powell, William W., [redacted].
Pridmore, Robert M., [redacted].
Quinones-Alejandro, Edgardo, [redacted].
Prybyloski, Clemens C., [redacted].
Reger, David R., [redacted].
Reid, Pamela S., [redacted].
Richardson, Donald W., [redacted].
Robinson, Scott R., [redacted].
Romig, Thomas J., [redacted].
Rose, Leslie A., [redacted].
Rowland, James R., [redacted].
Rumple Thomas M., [redacted].
Rushing, Laroy M., [redacted].
Rusin, Jo B., [redacted].
Rybicki, John F., [redacted].
Sargent, Patty S., [redacted].
Sasser, Roland E., Jr., [redacted].
Scales, Roy T., [redacted].
Scheidt, Kathryn A., [redacted].
Schenone, Leo F., [redacted].
Seals, Bobbie L., [redacted].
Seiter, Eugene D., Jr., [redacted].
Senter, John T., III, [redacted].
Simpson, John C., [redacted].
Skrodzki, Thomas E., [redacted].
Slaughter, Willard A., [redacted].
Smith, April L., [redacted].
Smith, Marvin S., [redacted].
Smith, Paul H., [redacted].
St. Peter, William J., [redacted].
Stanley, Farrell C., [redacted].
Sulander, Dale E., [redacted].
Sullivan, Julian A., Jr., [redacted].
Sweeney, John J., [redacted].
Tarnosky, Marilyn R., [redacted].
Taylor, Gideon D., [redacted].
Theimer, David B., [redacted].
Thurman, James T., [redacted].
Townsend, William C., Jr., [redacted].
Vanderkarr, Marc A., [redacted].
Vernon, Michael H., [redacted].
Vining, Raymond P., Jr., [redacted].
Wagner, Ernest W., [redacted].
Wank, James A., [redacted].
Ward, William E., [redacted].
Watkins, Paul A., Jr., [redacted].
Weand, Arnold E., Jr., [redacted].
Wells, Oscar T., [redacted].
Yerger, Henry M., [redacted].
West, David B., [redacted].
Whittenberg, Stephen E., [redacted].
Wilkinson, Arthur R., [redacted].
Willis, Richard F., [redacted].
Woerman, Allyn L., [redacted].
Woodson, Edward R., III., [redacted].
Yamamoto, James R., Jr., [redacted].

To be second lieutenant

Bechtold, Dianne, [redacted].
Brogdon, Bunny, [redacted].

Burgess, Molly C., [redacted].
Carreer, James, [redacted].
Gates, Paula R., [redacted].
Hoge, Linda J., [redacted].
James, Craig D., [redacted].
Rixon, Susanne S., [redacted].
Srsic, Kathleen M., [redacted].
Wortzel, Larry M., [redacted].

In the Army

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, sections 3370 and 3383:

ARMY PROMOTION LIST

To be colonel

Abraham, Jack H., [redacted].
Acree, Carl L., [redacted].
Adams, Fred T., [redacted].
Addison, Joseph J., [redacted].
Aguirre, Ramon J., [redacted].
Ahrberg, William A., [redacted].
Ahrens, Robert B., [redacted].
Ailor, Edgar I., [redacted].
Aimar, Lucas B., [redacted].
Aldridge, Jack D., [redacted].
Alfaro, Armando J., [redacted].
Allen, Claude W., Jr., [redacted].
Allen, Guthrie H., [redacted].
Allen, Leslie E., [redacted].
Allen, Paul A., [redacted].
Allen, Thomas J., [redacted].
Allen, William T., [redacted].
Allred, Leonard W., [redacted].
Alton, Robert E., [redacted].
Amaya, Emilio Jr., [redacted].
Amundson, William W., [redacted].
Anderson, Clyde L., [redacted].
Atkins, Raymond D., [redacted].
Aycock, Guy R. Jr., [redacted].
Bacon, George M. Jr., [redacted].
Bagnardi, Frank N., [redacted].
Baker, William D., Jr., [redacted].
Balch, Billy V., [redacted].
Barbosa, Guillermo, [redacted].
Barenklau, Keith E., [redacted].
Barillo, Joseph, [redacted].
Barker, David C., [redacted].
Barnett, John C., [redacted].
Barnhart, Harry E., [redacted].
Barnhill, James E., [redacted].
Barns, Jay M., [redacted].
Baron, Frederick C., [redacted].
Barr, Harley E., [redacted].
Barr, John L., [redacted].
Barrea, Ralph A., [redacted].
Barrett, Edwin C., [redacted].
Barrett, Kenneth M., [redacted].
Bartell, Robert E., [redacted].
Barth, Edward F., [redacted].
Bartlett, Donald W., [redacted].
Barton, Carol B., [redacted].
Basil, Jack J., [redacted].
Bauermeister, R., [redacted].
Baumgartner, Edward, [redacted].
Beard, Jack E., [redacted].
Beard, Richard C., [redacted].
Bearden, J. R., Jr., [redacted].
Beasley, James G., [redacted].
Beauchane, Ronald E., [redacted].
Belford, Melvin, [redacted].
Bell, Milton H., [redacted].
Bender, Kurt W., [redacted].
Bender, Reginald, [redacted].
Bentley, Daniel E., [redacted].
Benzinger, John A., [redacted].
Best, David A., [redacted].
Bieber, Robert A., [redacted].
Bisnett, Roy O., Jr., [redacted].
Black, James C., [redacted].
Blakemore, David M., [redacted].
Boardman, Thomas V., [redacted].
Bochniak, Thomas R., [redacted].
Bohannon, Marvin D., [redacted].
Bohlmann, Willy, Jr., [redacted].
Bonsall, James T., [redacted].
Booker, Lewis T., [redacted].
Borchert, Earl H., [redacted].
Bostwick, James D., [redacted].
Botz, Neil J., [redacted].
Bowden, Joseph H., Jr., [redacted].
Bowler, William E., [redacted].
Bowman, Richard L., [redacted].
Boyd, Howell L., [redacted].
Brabston, Eugene W., [redacted].
Bracey, John T., [redacted].
Bradner, William L., [redacted].
Brady, Egbert L., Jr., [redacted].
Branch, Marion S., [redacted].
Braue, John R., [redacted].
Brettschneid, Joel, [redacted].
Bricker, Richard W., [redacted].
Bright, Harry B., [redacted].
Briscoe, Herschell, [redacted].
Britten, Andrew J. J., [redacted].
Brooks, John R., [redacted].
Brooks, Leland A., [redacted].
Brown, Edward J., [redacted].
Brown, Edward J., [redacted].
Brown, James W., Jr., [redacted].
Bruns, Harold D., [redacted].
Bryant, Ernest, J. Jr., [redacted].
Bryant, Lawrence H., [redacted].
Bullard, James L., [redacted].
Bulmer, Clayton T, [redacted].
Bunch, Leo M., [redacted].
Burnard, Steven A., [redacted].
Butler, John C., [redacted].
Caldwell, James E., [redacted].
Caldwell, Robert C., [redacted].
Callos, Harry R., [redacted].
Campbell, Colin C., [redacted].
Capuano, Albert B., [redacted].
Carpenter, Claude, [redacted].
Carr, Newton W., Jr., [redacted].
Carroll, Grady H., [redacted].
Carroll, James L., [redacted].
Carson, Edward J., [redacted].
Casiraghi, Arthur A., [redacted].
Caughron, Glenn T., [redacted].
Cavano, Arthur T., Jr., [redacted].
Cavoli, Michael R., [redacted].
Cerrato, Dominick, [redacted].
Chabot, Normand A., [redacted].
Cheek, Horace L., [redacted].
Chernoff, Aaron S., [redacted].
Cherry, Robert T., [redacted].
Chiles, James B, [redacted].
Clark, Derald G, [redacted].
Clark, Joseph H., [redacted].
Clark, Terrance D., [redacted].
Clem, Donald S., Jr., [redacted].
Coates, George M., Jr., [redacted].
Cobb, Charles R., [redacted].
Cobb, Jack A., [redacted].
Cobb, James A., [redacted].
Cocke, William J., [redacted].
Coerver, James F., [redacted].
Cole, Richard S., [redacted].
Coleman, William V., [redacted].
Connolly, George C., [redacted].
Conover, Walter C., [redacted].
Conrath, Otto W. Jr., [redacted].
Copinger, Roger B. J., [redacted].
Corey, Roland R. Jr., [redacted].
Correll, Relph W., [redacted].
Coryell, Richard W., [redacted].
Coskey, George B., [redacted].
Courtney, Garvin L., [redacted].
Covel, Floyd E., [redacted].
Craft, Donald E., [redacted].
Craft, Joseph R., [redacted].
Crafton, Charles W., [redacted].
Craig, Alton H., [redacted].
Craig, Harris B., [redacted].
Crants, Doctor R., [redacted].
Crenshaw, E. H. Jr., [redacted].
Crews, Julius P., [redacted].
Cronia, George S., [redacted].
Crossley, Tom A., [redacted].
Crow, Alfred G., [redacted].
Crowell, Olyn C., [redacted].
Crowley, William H., [redacted].
Crumpler, Kenneth M., [redacted].
Crumpler, Kenneth M., [redacted].
Curtis, Kent F., [redacted].
Dabrowski, Mirek J., [redacted].
Damon, Roger H. Jr., [redacted].
Danter, James F., [redacted].
Darrell, David C., [redacted].
Davis, Keith J., [redacted].
Davis, Lowell M., [redacted].
Davis, Richard H., [redacted].
Day, Charles A., [redacted].
Day, Richard K., [redacted].
Decker, George A., [redacted].
Denardo, Joseph J., [redacted].
Deptula, Raymond V., [redacted].
Dethrow, William R., [redacted].
Dickey, Sanford M., [redacted].
Diener, John W., [redacted].
Dietz, Duwayne E., [redacted].
Ditmer, Robert A., [redacted].
Dionne, Albert E., [redacted].
Dishong, Dix O., [redacted].
Ditzler, Warren F., [redacted].
Dixon, Wallace J. Jr., [redacted].
Doerr, Lyle C., [redacted].
Dolan, John C Jr., [redacted].
Donohue, Thomas M., [redacted].
Dooley, Frank M., [redacted].
Doris, William E., [redacted].
Dougher, Gerald J., [redacted].
Drake, William A., [redacted].
Drinka, Martin G., [redacted].
Duewerth, Robert L., [redacted].
Duke, Roy B. Jr., [redacted].
Dungan, Donald G., [redacted].
Dunn, Arthur E., [redacted].
Dupere, Robert J., [redacted].
Durrett, Melvin K., [redacted].
Dusty, George L., [redacted].
Eaves, Marvin L. Jr., [redacted].
Eckert, George A. Jr., [redacted].
Eckley, Benjamin F., [redacted].
Ellington, James R., [redacted].
Elliott, Don R., [redacted].
Elliott, Wortley J., [redacted].
Ellison, John R., [redacted].
Ent, Uzal W., [redacted].
Erwin, Max Gettys, [redacted].
Eskew, Kenneth L., [redacted].
Espino, Virgil, [redacted].
Esslinger, Albert R., [redacted].
Estrella, John R., [redacted].
Eubank, Harry T., [redacted].
Eubank, Orville W., [redacted].
Fairfield, R. T., [redacted].
Faulkner, Leon, [redacted].
Fell, John C., [redacted].
Fendrick, Donald G., [redacted].
Ferguson, Charles R., [redacted].
Ferre, Richard R., [redacted].
Fertig, Wallace R., [redacted].
Fields, Hayden S., [redacted].
Finch, John S., [redacted].
Fine, Leland R., [redacted].
Fink, Lon R., [redacted].
Finney, Joseph E., [redacted].
Fischer, Darwin J., [redacted].
Fischer, Louis I., [redacted].
Fischer, Robert T., [redacted].
Foraker, Rhea W., [redacted].
Forde, Benjamin F. J., [redacted].
Fortune, Freddie C., [redacted].
Foster, Robert E., [redacted].
Fox, Gregg L., [redacted].
Fox, John H. III, [redacted].
Foy, Richard A., [redacted].
Francavage, J. A., [redacted].
Franklin, Charles E., [redacted].
Franklin, Thomas E., [redacted].
Fritsch, Lyle E., [redacted].
Frohman, Paul, [redacted].
Fuller, Louis K, [redacted].
Fuszard, Richard G., [redacted].
Gaddy, Carence D., [redacted].
Gallo, Pasquale M., [redacted].
Galloway, Raymond R., [redacted].
Garcia, Peter V. Jr., [redacted].
Garcia-Arache, Andr., [redacted].
Gardner, James H., [redacted].
Garman, Maurice C., [redacted].
Garrison, Irvin R., [redacted].
Gause, Thomas H., [redacted].
Gawne, James F., [redacted].
Gaynor, Mark P., [redacted].
Geach, Stanley G., [redacted].
Geary, Herbert J., [redacted].
Gecks, John E., [redacted].
Geiger, Edward M., [redacted].
Geith, Richard G., [redacted].
George, Donald A., [redacted].
Gerken, Louis C., [redacted].
Gibson, Billy D., [redacted].
Gibson, Hal J., [redacted].

Giddings, Eugene J., [redacted]
Gillette, Clyde F., [redacted]
Gillette, John W., [redacted]
Gillis, Donald D., [redacted]
Giuliani, C. I., [redacted]
Glass, Floyd L., [redacted]
Gok, James G. [redacted]
Goldman, Arthur L., [redacted]
Goodson, Fred I., [redacted]
Gorsky, Albert E., [redacted]
Graham, Foster J., [redacted]
Gray, Henry B., [redacted]
Gray, Norman J. [redacted]
Gray, Richard C., [redacted]
Green, Charles W., [redacted]
Greene, Albert G. Jr., [redacted]
Gregg, Edwin B., [redacted]
Griffiin, Billy J., [redacted]
Grillo, Richard S., [redacted]
Grimstad, James P., [redacted]
Gruben, James F., [redacted]
Grunewald, R. B., [redacted]
Guest, David R., [redacted]
Gwyn, Jack S. [redacted]
Hagen, Paul A. Jr., [redacted]
Hahn, Thomas C., [redacted]
Hair, James L., [redacted]
Hall, Edward A., [redacted]
Hammond, Marvin J., [redacted]
Hancock, David W., [redacted]
Hancock, Walter J., [redacted]
Hansen, Martin A., [redacted]
Harmon, Robert C. [redacted]
Harris, Herbert C., [redacted]
Harrison, Edward F., [redacted]
Harrison, George W., [redacted]
Harrison, James K., [redacted]
Harshman, William C., [redacted]
Hart, John R., [redacted]
Hastings, Glen R., [redacted]
Hastings, Joe F., [redacted]
Havey, John P., [redacted]
Hearn, Thomas R. Jr., [redacted]
Hedrick, Robert F., [redacted]
Heineke, Hilton E., [redacted]
Hemmer, Clifford J. [redacted]
Henderson, Walter, [redacted]
Henderson, William, [redacted]
Herman, Theodore E., [redacted]
Heyer, Warren K., [redacted]
Higa, Miyoshi, [redacted]
Hildebrandt, Eugene, [redacted]
Hill, Carlos F., [redacted]
Hilton, Junius H., [redacted]
Hodgin, David A., [redacted]
Hoffman, Robert J., [redacted]
Hoggan, Glen A., [redacted]
Holbrook, Francis J., [redacted]
Holland, Jack M., [redacted]
Holland, P. I. Jr., [redacted]
Holland, William F., [redacted]
Holley, Robert H., [redacted]
Holliday, Donald W. [redacted]
Holman, Jay P., [redacted]
Holter, Vernell O., [redacted]
Honsberger, Harry H., [redacted]
Hooper, John F., [redacted]
Hornsby, William A., [redacted]
Howell, Marion L., [redacted]
Howell, Robert L., [redacted]
Huguley, Bobby L., [redacted]
Hunigan, Earl S., [redacted]
Hunt, Donald E., [redacted]
Hunt, James T., [redacted]
Hunting, Huston S., [redacted]
Huston, Richard H., [redacted]
Jackson, Karl E., [redacted]
Jackson, Robert C., [redacted]
Jackson, William L., [redacted]
Jacobson, Raymond M., [redacted]
James, Bobby D., [redacted]
Jenkins, Charles R., [redacted]
Johns, Jack E. [redacted]
Johnson, James E., [redacted]
Johnson, Ruben H., [redacted]
Johnson, Russell J., [redacted]
Johnson, Vernon G., [redacted]
Johnston, John J., [redacted]
Jones, Edwin L. Jr., [redacted]
Jones, Francis E., [redacted]
Jones, Frazier C., [redacted]
Jones, Orval L., [redacted]
Jorgenson, Bruce E., [redacted]
Justus, William H., [redacted]
Kaelin, Henry M. Jr., [redacted]
Kaminski, Bernard P., [redacted]
Kath, Raymond H., [redacted]
Kauffman, James M., [redacted]
Kawamura, Michael S., [redacted]
Kehias, James G., [redacted]
Keiser, Ronald W., [redacted]
Kelleher, Robert L., [redacted]
Kelly, Thomas H., [redacted]
Kent, David T., [redacted]
Kidder, Patrick B., [redacted]
Kienlen, Bruce A., [redacted]
Kimura, Tom T., [redacted]
Kirby, Wilbur C., [redacted]
Klettner, Silas J., [redacted]
Kline, Thomas C., [redacted]
Klopfenstein, Howard, [redacted]
Kluttz, Harry W., [redacted]
Knowlden, George S., [redacted]
Kobayashi, Shizuo, [redacted]
Kochenour, Robert W., [redacted]
Kodelya, Frank L., [redacted]
Kohler, Bernhard J., [redacted]
Kolloff, Richard P., [redacted]
Kothmann, Glenn H., [redacted]
Kottsick, Virgil R., [redacted]
Kramer, Earl E., [redacted]
Kramer, James W., [redacted]
Krevitsky, Simon C., [redacted]
Krowl, George W., [redacted]
Krueck, Arthur J., [redacted]
Kuenzel, Calvin A., [redacted]
Kulla, Abraham L. A., [redacted]
Lachance, Philip A., [redacted]
Lagleder, Louis F., [redacted]
Lambert, Charles T. [redacted]
Lambert, John D. Jr., [redacted]
Landes, Joseph R. [redacted]
Langley, Edward J., [redacted]
Lapsley, Donald G., [redacted]
Largent, Guinn C., [redacted]
Larosa, R. A., [redacted]
Laubach, Dale O., [redacted]
Lavell, Harold J., [redacted]
Lehn, William G., [redacted]
Leonard, Hubert M., [redacted]
Liston, John T., [redacted]
Livingston, Leonard, [redacted]
Lockhart, Richard D., [redacted]
Long, John B. [redacted]
Long, Richard S., [redacted]
Long, Robert E., [redacted]
Loo, George W. T., [redacted]
Looper, Dale [redacted]
Louque, Robert E. Jr., [redacted]
Lovelady, Charles D., [redacted]
Lowery, William E., [redacted]
Loyd, Max Ira., [redacted]
Lyons, Richard C., [redacted]
Lytle, Gary G., [redacted]
Machado, Donald C., [redacted]
Mac Leod, Robert N., [redacted]
Mac Rone, Pasquale J., [redacted]
Mac Williams, John E., [redacted]
Madden, Harry Y. Jr., [redacted]
Maher, John W. III, [redacted]
Malone, James V., [redacted]
Manion, Marion W., [redacted]
Mann, Dean D., [redacted]
Manning, Ralph K. Jr., [redacted]
Markham, Jack W., [redacted]
Marlatt, Ernest E., [redacted]
Marlette, Robert A. [redacted]
Marsh, John L., [redacted]
Marshall, Robert N., [redacted]
Marty, John J. Jr., [redacted]
Massad, Omar K., [redacted]
Matthews, Joe B., [redacted]
McAllister, John D., [redacted]
McCaleb, William H., [redacted]
McCormack, Con M. Jr., [redacted]
McCracken, Paul N., [redacted]
McDonald, Neal L., [redacted]
McGinn, Aloysius A., [redacted]
McGoodwin, James B., [redacted]
McGourty, Charles G., [redacted]
McKeown, Thomas L., [redacted]
McKinney, Robert E., [redacted]
McLellon, Robert N., [redacted]
McMillin, John B., [redacted]
McMills, Jack R., [redacted]
McMullan, J. F. Jr., [redacted]
McNeel, Robert C., [redacted]
Mealing, Elisha T., [redacted]
Meilman, George, [redacted]
Meixner, Allan R., [redacted]
Merkle, Norris V., [redacted]
Messing, Aubrey F., [redacted]
Meyers, Gerald F., [redacted]
Miler, Daniel S., [redacted]
Miller, Jesse W. [redacted]
Miller, Norman D., [redacted]
Miller, William M., [redacted]
Miltner, Edward, [redacted]
Minor, Barrie S., [redacted]
Missavage, J. M., [redacted]
Moakley, R. E. Jr., [redacted]
Modisett, Noah F., [redacted]
Moffett, John H., [redacted]
Mohler, Raymond C., [redacted]
Moll, Robert E., [redacted]
Mooney, John P., [redacted]
Moore, Harry L., [redacted]
Moriarty, John J., [redacted]
Mortensen, Jerald A., [redacted]
Moses, Edward M., [redacted]
Moss, Richard E. [redacted]
Mulchy, Francis N., [redacted]
Mulroney, William C., [redacted]
Munger, Murl D., [redacted]
Murphy, James B., Sr., [redacted]
Murphy, John E., [redacted]
Nash, Robert T. [redacted]
Naughton, John S., [redacted]
Neal, Harry K. [redacted]
Neal, Sidney A., [redacted]
Neff, Howard J., [redacted]
Nelson, Hugh B., [redacted]
Nelson, William J. [redacted]
Newman, Richard J., [redacted]
Newton, David P., [redacted]
Newton, Seaborn A. J., [redacted]
Nipp, Robert E. [redacted]
Nobles, Barney H., [redacted]
Noferi, Frank J., [redacted]
Nolan, Charles A., Jr., [redacted]
Noland, Gilbert L., [redacted]
Nomey, Roy I., [redacted]
Noonan, James P. [redacted]
Nordigian, Peter J., [redacted]
Norman, Milton, [redacted]
Oestreich, C. P. [redacted]
O'Leary, Jerome R., [redacted]
Olmstead, Henry L., [redacted]
Osbourn, Ervin T. [redacted]
Oshields, John L., [redacted]
Oswald, Steven, [redacted]
Owens, Charles H., [redacted]
Pagano, Edward G., [redacted]
Palmer, Robert A., [redacted]
Palmore, Ralph L. [redacted]
Panzarella, J. J., [redacted]
Paris, Russell C., [redacted]
Park, Charles C. R., [redacted]
Parker, Gilbert G., [redacted]
Parks, James E., [redacted]
Parsons, Paul A., [redacted]
Patchel, Robert L., [redacted]
Patrick, Lewie G., [redacted]
Patrick, W. M., Jr., [redacted]
Patton, Don R. [redacted]
Payne, Jerry R., [redacted]
Payne, Phillip D. II, [redacted]
Peabody, Laurence C., [redacted]
Pederzani, Paul P., [redacted]
Perkins, Charles Jr., [redacted]
Perricone, John C., [redacted]
Peters, Edward J., [redacted]
Peterson, Conway V., [redacted]
Peterson, George A., [redacted]
Peterson, James M., [redacted]
Peterson, Morris B., [redacted]
Phillips, Paul G., [redacted]
Phillips, Pete, [redacted]
Pitsker, Cooper K., [redacted]
Polidori, Remo J., [redacted]
Potter, Donald A., [redacted]
Potter, James M., [redacted]
Potts, Joe W., [redacted]
Prillaman, Kermit E., [redacted]
Provenzano, John M., [redacted]

Pruitt, William H., [redacted].
Quandt, Harlan H., [redacted].
Quarles, Jack R., [redacted].
Ramey, Edward R., [redacted].
Ramsay, Dana C., [redacted].
Rand, Dewey A., Jr., [redacted].
Randle, Marlin D., [redacted].
Randle, William J., [redacted].
Rankin, Frank R. [redacted].
Rausch, Fred W., [redacted].
Ray, Joel C. [redacted].
Rayburn, Ernest D., [redacted].
Reardon, John J., [redacted].
Reid, Francis M., [redacted].
Reid, Richard R., [redacted].
Reuben, Jay R., [redacted].
Reynolds, Robert W., [redacted].
Rice, Walter D. [redacted].
Richardson, B. Y., [redacted].
Richardson, Jerry P. [redacted].
Ridgeway, Catha L., [redacted].
Rieker, Louis C., [redacted].
Riggs, Sammy, [redacted].
Riley, Maurice E., Jr., [redacted].
Riley, Waldemar M., [redacted].
Robert, John P., [redacted].
Robertson, Emery S., [redacted].
Robertson, Sherrill, [redacted].
Robinson, Bill L., [redacted].
Robinson, George S., [redacted].
Rogers, Lacy W., [redacted].
Rohm, Curtis L., [redacted].
Rohrer, David A., [redacted].
Roman, William, [redacted].
Romano, Anthony P., [redacted].
Rose, James T. Jr., [redacted].
Roskam, Lynn R. [redacted].
Ross, Kenton E. [redacted].
Rossetti, Raphael A., [redacted].
Rossi, Sylvio, [redacted].
Roza, Robert J. [redacted].
Rundgren, Charles E., [redacted].
Russell, William C., [redacted].
Russo, Russel J. [redacted].
Russo, Thomas F., [redacted].
Sandowski, Joseph M., [redacted].
Saldana, Arthur D., [redacted].
Sands, Charles D., [redacted].
Sapp, William [redacted].
Sarchet, Corbin M. I., [redacted].
Sargent, Gerald L., [redacted].
Saty, Richard E., [redacted].
Savedge, Oscar E., [redacted].
Savoie, Harold L., [redacted].
Schafer, Robert N., [redacted].
Schaffer, Steve J., [redacted].
Schaffner, James E., [redacted].
Scharber, Edward H., [redacted].
Schimelpfenig, G. H., [redacted].
Schoonover, William, [redacted].
Schulke, Richard W., [redacted].
Schwenk, George G., [redacted].
Seehusen, Paul G., [redacted].
Seffens, Oliver C., [redacted].
Seidel, F. E., Jr., [redacted].
Shearin, Daniel J., [redacted].
Shepherd, David E., [redacted].
Sheppard, Alan J., [redacted].
Sherman, John W., [redacted].
Shields, Paul K., [redacted].
Shields, Ray D., [redacted].
Shinaver, Jerome M., [redacted].
Shiramizu, Hiromi, [redacted].
Shirreffs, John F., [redacted].
Shook, Clyde R., [redacted].
Sidell, Arthur L. J., [redacted].
Sills, Donal J., [redacted].
Siragusa, Charles, [redacted].
Skinner, Walter I., [redacted].
Slaymaker, Joseph H., [redacted].
Smith, Alfred E., [redacted].
Smith, Fred D., [redacted].
Smith, Grover C., [redacted].
Smith, Milton A., [redacted].
Smith, Willard L. Jr., [redacted].
Sommer, William E., [redacted].
Southern, Gordon C., [redacted].
Spaulding, W. A., [redacted].
Spence, William, Jr., [redacted].
Spencer, John R., [redacted].
Spinelli, Joseph A., [redacted].
Spivack, Marvin S., [redacted].
Spreen, F. F., Jr., [redacted].
Stall, Joe C., [redacted].
Stams, George A., Jr., [redacted].
Staples, Paul E. [redacted].
Stegall, James W., [redacted].
Stevenson, W. H., Jr., [redacted].
Stiles, John S., Jr., [redacted].
Stilwell, Frank B. J., [redacted].
Stirm, Norman R., [redacted].
Stolfus, Lee R., Jr., [redacted].
Stone, William A. J., [redacted].
Stoneman, Jay H., [redacted].
Strohl, Walter G., [redacted].
Strouse, Jacob J., [redacted].
Sullins, Thomas A., [redacted].
Sullivan, John F., [redacted].
Sullivan, Robert J., [redacted].
Sulpizi, James R., [redacted].
Sur, Walter, [redacted].
Suto, Eugene J., [redacted].
Swank, William A., [redacted].
Swett, George E., Jr., [redacted].
Sykes, Hobert C., [redacted].
Szabo, Francis N., [redacted].
Szabo, Otto, Jr., [redacted].
Taylor, Herbert T., [redacted].
Taylor, John K., [redacted].
Taylor, Walter M., [redacted].
Telthorst, Harold M., [redacted].
Tenhoff, Marvin L., [redacted].
Terrell, Judson M., Jr., [redacted].
Tharney, Leonard J., [redacted].
Thomas, Gordon P., [redacted].
Thomas, James L., [redacted].
Thompson, Robert C., [redacted].
Thurman, Gardner L., [redacted].
Tidd, Charles E., Jr., [redacted].
Tilton, Russell F., [redacted].
Timmons, Layton E., [redacted].
Timmons, Robert C., [redacted].
Tindal, Paul I. [redacted].
Tingle, Leonard E., [redacted].
Titus, George W., [redacted].
Toney, Erston S., Jr. [redacted].
Tormey, Robert J., [redacted].
Trenkle, Howard R., [redacted].
Tucker, Sidney G., [redacted].
Turney, Joseph B., [redacted].
Underwood, Ewing D., [redacted].
Usery, James B., [redacted].
Valliere, Paul R., [redacted].
Van Martin, R. D., [redacted].
Van Wagner, Donald, [redacted].
Vandepoele, Arthur, [redacted].
Vansant, Robert E., [redacted].
Vargas, Ramon C., [redacted].
Vestal, Reagan, [redacted].
Vigo, Milton C., [redacted].
Waldon, Edward W., [redacted].
Wallace, Clarence C., [redacted].
Wallace, Milton D., [redacted].
Walsh, Maurice D., Jr., [redacted].
Wambach, Richard C., [redacted].
Wanamaker, Louis E., [redacted].
Warner, Paul E., [redacted].
Warner, Robert E., [redacted].
Wayne, Leonard G., [redacted].
Weaver, James F., [redacted].
Webb, Lawrence A., [redacted].
Weber, David C., [redacted].
Wehrenberg, Harry B., [redacted].
Wells, Cameron S., Jr., [redacted].
West, Joseph E., [redacted].
Wetherbee, Richard, [redacted].
Whelan, John R., [redacted].
Whitaker, William J., [redacted].
White, Daniel S., [redacted].
White, Shelly L., [redacted].
Wiensch, Dale J., [redacted].
Wiesner, Walter J., [redacted].
Wilczek, Theodore R., [redacted].
Wiley, George R., [redacted].
Williams, Clarence, [redacted].
Williams, James M. J., [redacted].
Williams, Richard E., [redacted].
Williams, William M., [redacted].
Williamson, James E., [redacted].
Wills, Charles M., [redacted].
Wilson, G. J., Jr., [redacted].
Wilson, Marlin G., [redacted].
Wilson, W. W., Jr., [redacted].
Wong, Johnson H., [redacted].
Wood, Charles D., [redacted].
Wood, Marion T. [redacted].
Woodcock, W. P., [redacted].
Woodfin, Harvey Z., [redacted].
Woods, D. L. S., Jr., [redacted].
Wortman, John F., [redacted].
Wride, Bert E. H., [redacted].
Wright, Edward P., [redacted].
Wright, George H., Jr., [redacted].
Young, James N., [redacted].
Yoza, Stanley M., [redacted].
Zabych, Michael N., [redacted].
Zarrilli, Francis L., [redacted].
Zeller, P. J. Jr., [redacted].
Zimmerman, Donald A., [redacted].
Zinni, Michael J., [redacted].
Zuleski, Raymond J., [redacted].
Zweigle, Maurice L., [redacted].

CHAPLAIN

To be colonel

Craig, Julian F., Jr. [redacted].
Forde, Norman P., [redacted].
Frandsen, Leif N., [redacted].
Garvens, Eugene A., [redacted].
Glenn, Ralph W., [redacted].
Ballas, Julius, [redacted].
Belanger, Rene A., [redacted].
Biggers, Sherrill B., [redacted].
Bowles, David A., [redacted].
Brown, Charles H. D. [redacted].
Graisy, John J., [redacted].
Grant, James C., Jr., [redacted].
Gross, Maurice, [redacted].
Grunow, William P., [redacted].
Haggin, Melvin V., [redacted].
Hand, Harry C., [redacted].
Ingalls, Arthur B. [redacted].
Jennings, Richard, [redacted].
Lang, George E., [redacted].
Larsgaard, John O., [redacted].
Pruessner, John H., [redacted].
Risinger, William O., [redacted].
Rusher, Orlow A., [redacted].
Salansky, Paul L., [redacted].
Shalowitz, Morton, [redacted].
Smith, Arthur A., [redacted].
Stevens, Sherrill G., [redacted].
Thigpen, Lee A., Jr., [redacted].
Wells, Harold P., [redacted].
Williams, C. D., [redacted].
Yost, George W., [redacted].
Zbinden, George L., [redacted].

WOMEN'S ARMY CORPS

To be colonel

Lowry, Ann M., [redacted].
Minge, Shirley J., [redacted].

MEDICAL CORPS

To be colonel

Cole, Kenneth M., Jr., [redacted].
Hinshaw, Arned L., [redacted].
Seigler, Hillard F., [redacted].

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of Title 10, Sections 3366, 3367, and 3383:

ARMY PROMOTION LIST

To be lieutenant colonel

Adams, Donald L., [redacted].
Adye, Arthur R., [redacted].
Allen, Kenneth P., [redacted].
Anderson, Howard D., [redacted].
Barker, William J., [redacted].
Bart, Edward D., [redacted].
Baxter, Robert L., [redacted].
Bell, James D., [redacted].
Bell, James F., [redacted].
Bellman, Lawrence M., [redacted].
Benbow, Edward A., [redacted].
Berestecky, B. P., [redacted].
Bergey, Hans T., [redacted].
Bockelman, Alfred J., [redacted].
Breckel, Charles C., [redacted].
Browder, Bennie G., [redacted].
Bryan, Ronald M., [redacted].
Burcham, Thomas H., [redacted].
Carter, William C., [redacted].

Caso, Adolph, [redacted].
Clemens, Paul J., [redacted].
Cockrum, Robert E., [redacted].
Collins, Madison T., [redacted].
Cousins, William, [redacted].
Crespo, Rudolph L., [redacted].
Crofford, Charles P., [redacted].
Darling, Ivan R., [redacted].
Davis, Edward G., [redacted].
Defazio, Anthony J., [redacted].
Douglas, George W., [redacted].
Draghetti, Peter M., [redacted].
Dunham, Kenneth W., [redacted].
Eagan, Vernon L., [redacted].
English, William J., [redacted].
Ernst, Jerome W., [redacted].
Fabi, Mario, [redacted].
Faiola, John A., [redacted].
Fisher, Connie N., [redacted].
Fix, Jerrold E., [redacted].
Flanigan, Michael J., [redacted].
Fraser, Olen G., [redacted].
Gambrell, Samuel C. Jr., [redacted].
Gantt, William A. Jr., [redacted].
Garry, Thomas P., [redacted].
Gentz, Duane H., [redacted].
Giannakis, N. S., [redacted].
Goodger, Charles J., [redacted].
Grayson, Albert L. Sr., [redacted].
Griffin, John R., [redacted].
Hairston, Walter A., [redacted].
Hall, Leon H., [redacted].
Hardesty, Lee W., [redacted].
Harlow, William H., [redacted].
Hayes, Harold J., [redacted].
Herdman, Charleton J., [redacted].
Hoar, Joseph V., [redacted].
Holland, John F. X., [redacted].
Hunter, Stewart M., [redacted].
Johnson, Raymond T., [redacted].
Johnston, Frederick C., [redacted].
Kaufman, Richard C., [redacted].
Kawaguchi, Masaru, [redacted].
Keeney, Fred W., [redacted].
Kilburn, Darrell D., [redacted].
Kimura, Shigeo, [redacted].
Klas, Terry C., [redacted].
Knapp, John W., [redacted].
Knobloch, Thomas A., [redacted].
Laffel, Robert N., [redacted].
Laha, Troy D., [redacted].
Laremore, Richard T., [redacted].
Leonard, Paul D., [redacted].
Lockhart, Jack C., [redacted].
Maass, Charles G., [redacted].
Maceri, Anthony J., [redacted].
Manley, William F., [redacted].
McArthur, Charlton B., [redacted].
McCoy, James E., [redacted].
McGinty, James G., [redacted].
McMullin, George L., [redacted].
Meeks, Cecil H., [redacted].
Miller, Duane H., [redacted].
Moore, Clifton H., [redacted].
Moore, Robert R., Jr., [redacted].
Murphy, Richard E., [redacted].
Nickerson, Thomas B., [redacted].
Niedlerhelman, W. A., [redacted].
Obregon, Conrad J., [redacted].
Ostroot, Donald J., [redacted].
Palmer, Kenneth L., [redacted].
Patterson, Thomas H., [redacted].
Petcovic, William L., [redacted].
Pierson, Allen B., Jr., [redacted].
Pincock, Don S., [redacted].
Pitts, Robert G., [redacted].
Poklacki, Vincent J., Jr., [redacted].
Porter, Kenneth B., [redacted].
Raab, Laurel G., [redacted].
Rappel, Frank R., [redacted].
Reed, Alfred D., [redacted].
Robinson, Delbert R., [redacted].
Robinson, William T., [redacted].
Sample, Eugene A., Jr., [redacted].
Severson, Donald W., [redacted].
Smith, Richard C., [redacted].
Snyder, Frederick R., [redacted].
Stiles, Joe P., [redacted].
Sudholz, Louis H., Jr., [redacted].
Sullivan, John J., [redacted].
Sutton, William H., [redacted].
Tengan, George S., [redacted].
Thompson, Ralph A., [redacted].
Thorne, Clair C., Jr., [redacted].
Thurman, John C., Jr., [redacted].
Timmons, Kenneth E., Jr., [redacted].
Tinsley, Robert W., [redacted].
Torgerson, Robert, [redacted].
Torres, Alonzo, [redacted].
Trofimoff, George, [redacted].
Tsoukalas, Anthony, [redacted].
Vaczy, Edward L., [redacted].
Van Winkle, Larry R., [redacted].
Wahl, John N., [redacted].
Watkins, Bryon C., [redacted].
Wauby, Robert H. G., [redacted].
Weiskircher, Russell R., [redacted].
Wenzlaff, William F., [redacted].
Whitman, Robert L., [redacted].
Williams, Laverne W., [redacted].
Williams, Louis D., [redacted].
Willis, William G., [redacted].
Woodson, Charles O., [redacted].
Woolsey, Herbert L., [redacted].

CHAPLAIN

To be lieutenant colonel

Raisner, Donald E., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Babb, Lewis Jr., [redacted].
Boddeker, Cary A., [redacted].
Donlan, David A., [redacted].
Ervasti, Marlyn K., [redacted].
Foss, William C., [redacted].
Goranson, Kurt A., [redacted].
Ryder, Douglas A., [redacted].
Sharp, Howard J., [redacted].

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, sections 591, 593, and 594:

DENTAL CORPS

To be lieutenant colonel

Toga, Carl J., [redacted].

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3385:

ARMY PROMOTION LIST

To be colonel

Colson, Richard A., [redacted].
Cordner, Thomas J., Jr., [redacted].
Crisler, Giles, W., [redacted].
Ensslin, Robert F., Jr., [redacted].
Gray, Henry B., III, [redacted].
Griffith, Owen D., [redacted].
Kothmann, Glenn H., [redacted].
Moss, William E., [redacted].
Roach, Patrick M., [redacted].
Torres, Roberto, [redacted].
Williams, Thomas A., Jr., [redacted].
Wolf, Andrew G., Jr., [redacted].

CHAPLAIN

To be colonel

Herring, Robert L., [redacted].

ARMY PROMOTION LIST

To be lieutenant colonel

Amador, Julian W., III, [redacted].
Bibeault, Edgar L., [redacted].
Brusino, Francis B., [redacted].
Bumgardner, David W., Jr., [redacted].
Cabrinha, Alvin S., [redacted].
Emerson, Donald L., [redacted].
Gentry, Walter B., Jr., [redacted].
Gereski, John T., [redacted].
Goodson, Ralph L., [redacted].
Grife, Donald S., [redacted].
Grimes, Walter H., [redacted].
Haskett, Martin C., Jr., [redacted].
Hawkins, Averill E., [redacted].
Hernandez, Daniel J., [redacted].
Hoover, Darrell V., [redacted].
Hughes, Francis A., [redacted].
Kizer, Richard A., [redacted].
Levi, Carl E., [redacted].
Marshall, Alvin A., [redacted].
Matthews, John W., [redacted].
Miller, Harold A., [redacted].
Mortensen, Kenneth P., [redacted].
Prior, Joseph M., [redacted].
Ratcliff, Edward H., [redacted].
Seymour, Don I., [redacted].
Shaw, Kenneth A., [redacted].
Solomon, James R., Jr., [redacted].
Stewart, William F., [redacted].
Werdal, Lowell J., [redacted].
Widdoes, Walter H., [redacted].
Zetterstrom, Thomas F., [redacted].

CHAPLAIN

To be lieutenant colonel

Fulmer, Guerry A., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Smith, George F., [redacted].

IN THE NAVY

The following-named naval enlisted scientific educational program candidates to be permanent ensigns in the Line or Staff Corps of the Navy subject to the qualifications therefor as provided by law:

David T. Armstrong
Frank N. Clark
Charles R. Currier
Clarence W. Dickason, Jr.
John M. Hanrahan, Jr.
Thomas E. Hardy
John M. Heffley
Thomas D. Jones
David A. Knapp
Dale E. Kruschke
Gary Lisota
Joseph T. Masden.
David L. Pratt
Danny R. Redmon
Robert T. West
James H. Wicks, Jr.
Dennis R. Wilken

Theodore D. Gross (Naval Reserve officer) to be a permanent lieutenant commander and a temporary commander in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law.

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Cary G. Bayne
Richard Cohen
Nicholas A. Cummings
William A. Fawcett IV
Robert A. Felter
Michael A. Fitzsimmons
Ned W. Garrigues
Robert F. Goad
Gerald G. Govin
William L. Hardy
Edwin B. Hilton
Clyde M. Hunt, Jr.
Donald J. Judice
John W. Koett
William J. Lewis
Charles E. McKinzie
Anthony J. Melaragno
Stephen M. Millbern
Samuel J. Miller III
John A. Mitas II
Michael K. Murphy
Robert C. Nelson, Jr.
Thomas S. Scanlon III
Gerald L. Schneider
Thom A. Tarquinio
John H. Taylor
John R. Wilcox, Jr.

Gilbert H. Larson III (Naval Reserve officer) to be a permanent lieutenant and a temporary lieutenant commander in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law.

Dennis L. Nappen (Naval Reserve officer) to be a permanent lieutenant in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law.

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

Gary A. Backlund
Paul A. Barabas
Thomas J. Boyer
Thomas D. Carlson
Gary G. Cook
Craig B. Dever
Robert L. Duell
Carlton E. Fairbanks
Edward M. Fraleigh
Dennis D. Johnson
Bruce R. Mather
John E. Mazza
Ronald T. Pagani
George T. Peak III
Donald L. Roberts
Thomas G. Wright

Peter F. Fedi, U.S. Navy retired officer, to be reappointed from the temporary disability retired list as a permanent captain in the

Dental Corps of the Navy, subject to the qualifications therefor as provided by law.

Robert W. Fonnesbeck (Naval Reserve Officer Training Corps candidate) to be a permanent ensign in the Line or Staff Corps of the Navy, subject to the qualifications therefor as provided by law.

EX-LCDR Charles H. Lahr, MC, USNR, to be a permanent commander and a temporary captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Lowell G. Yadon (civilian college graduate) to be a permanent commander in the Medical Corps in the reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

EX-LCDR Robert D. Mills, MC, USNR, to be a Commander in the Medical Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law.

The following-named U.S. Navy Officers to be Commanders in the Medical Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law.

Wayland S. Lee
Richard L. Nall

Francis S. Morrison, U.S. Naval Reserve Officer, to be reappointed from the temporary disability retired list as a Commander in the Medical Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law.

Richard P. Hobby (Civilian College Graduate) to be a permanent Captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Captain Charles F. O'Connell, Jr., USNR to be promoted to the permanent grade of Captain in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. Lewis Barclay Bell, ex-Army officer, to be appointed a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. William Young McDaniel, Sr., ex-Air Force officer, to be appointed a permanent captain in the Medical Corps of the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. Ronald Drew Miller, ex-USNR officer, to be appointed a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. Wilfredo Lopez-Saavedra (civilian college graduate) to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. Leonard Erastus Reaves, III, ex-Army officer, to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. Michael Joseph Morro (civilian college graduate) to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. Rafael Enrique Villadiego, ex-Army officer, to be appointed a commander, for temporary service, in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. Kenneth Egils Karols (civilian college graduate) to be appointed a commander, for temporary service, in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. James Francis Morgan, ex-USN officer, to be appointed a permanent lieutenant commander in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law.

Comdr. Manuel Lino Escato, U.S. Navy officer, to be appointed a commander in the Medical Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law.

Comdr. Michael L. Milford, U.S. Navy officer, to be appointed a commander in the Dental Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law.

Joseph Dominic Matarazzo, ex-USNR officer, to be appointed a permanent captain in the Medical Service Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

IN THE NAVY

Robert K. McAlexander (Naval Reserve Officer Training Corps candidate) to be a permanent ensign in the Line or Staff Corps of the Navy, subject to the qualifications therefor as provided by law.

Dr. Harold N. Clark, Ex-Air Force officer, to be appointed a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. Francis X. Farrell, ex-USNR officer, to be appointed a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. Frank R. Arko (civilian college graduate) to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Cass H. Bailey (civilian college graduate) to be appointed a commander in the Medical Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law.

Ronald G. Chism, ex-USNR officer, to be appointed a commander in the Medical Corps in the Reserve of the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law.

Arthur B. Conde, (civilian college graduate) to be a permanent commander and a temporary captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

Lcdr. Robert B. Luzader, U.S. Navy retired officer to be reappointed from the temporary disability retired list as a permanent lieutenant commander in the Line of the U.S. Navy, subject to the qualifications therefor as provided by law.

Dr. Donald Wayne Marsh (civilian college graduate) to be a permanent commander in the Medical Corps of the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

IN THE NAVY

The following named officers of the United States Navy for temporary promotion to the grade indicated in the line subject to qualification therefor provided by law:

LINE

Commander

Abbott, Peter Darby
Ackley, Frederick Roberts, Jr.
Adams, Lloyd Harlan
Alden, Michael Gene
Alden, Robert Fisher
Allen, Richard Charles
Allen, Robert Alfred
Amesse, Arthur Paul
Anderson, Carl Allan
Anderson, Gordon Ray
Anderson, Lawrence Gustav
Anderson, Thomas King
Andress, William Dozier, Jr.
Arkin, William Eugene
Arnett, Rexford Raymond, Jr.
Armor, Jack Mason
Art, Raymond John
Asafaylo, Richard James
Austin, David Vedder
Austin, Jack Burger
Austin, Paul Bliven
Bacon, Daniel Keith
Baer, Robert Dale
Balaun, Jack Eugene
Barnum, Gary Lee
Barrett, James Henry
Battaglini, Arnold Robin
Beasley, Robert Hewett, Jr.
Beggs, Richard Keith
Bell, Joe Latimer
Beveridge, Jerry Donald
Bishop, David King
Black, Eugene Henry
Blackman, Wallace Wayne
Bloch, Vernon Charles
Bockler, James Maccallum
Badger, Patrick Matthew, Jr.
Bains, Carroll Duaine
Ballard, Duane Clare
Barr, Jon Michael
Bartels, Malcolm Gene
Battenburg, John Allen
Beatty, Thomas Johnny
Bell, Gary Eugene
Betts, Stanton William
Bieber, Gene Leroy
Black, Donald Lovering
Bleakley, Andrew Jr.
Bloise, Larry Eugene
Boissenin, William Charles
Bond, Thomas Henry
Borcik, David Eugene
Boshoven, Robert Lee
Bowers, John Martin, Jr.
Bowlby, Carl Albert
Bowley, George Andrew
Boyd, David Harry
Boyes, Allen Dale
Bozzo, Peter Robert
Brainerd, George Edward
Branch, Daniel Bernice, Jr.
Brimmage, Kirby Lesley
Broadfield, Donald Earl
Brockhausen, Frederick C., Jr.
Brown, Dale Sturtz, Jr.
Bruce, Rowlett Henry, Jr.
Bryant, Cordis Charles
Bryant, James Howard
Bryson, William MacLean
Burchett, Jerome Vincent
Burns, John Milton, Jr.
Burrell, Donald Overton
Butler, Phillip Neal
Byng, Robert Hilliard
Cade, James Allen
Camilleri, Terrence Joseph
Carbone, John Anthony
Carey, William Francis
Carpenter, Stephen Paul
Cartwright, James Peter
Castano, John Baptist
Castle, Robert Wellington, Jr.
Castrucci, Richard Francis
Ceres, Robert Lawrence
Chafee, George Benedict, Jr.
Christian, Richard Allen
Churchill, Bruce William
Ciboci, John William
Clark, Donald Deford
Clark, Kenneth George
Clark, Kent Randolph
Clausen, Carl Charles
Clautice, William Gunther
Clement, Russell Lee
Clift, Thomas Alvin
Coats, Jack Thomas
Coen, Ira Hearst, Jr.
Colangelo, James William
Colbert, Edward William, Jr.
Cole, Isaiah Clawson
Collicott, Charles Roy
Commons, Patrick Michael
Cooke, Richard Henry
Copple, Jerald Allen
Corbeille, Reginald Claude
Corey, James William, Jr.
Cormack, James Peter

Cottom, Robert Vance
Coulapides, Anthony Chris
Crandall, Joel Lee, Jr.
Crumpacker, John Peter
Cullen, Richard Columbus
Curtis, Charles Durham
Cutrell, Leonard Earl, Jr.
Dalton, Robert Labrum
Davis, Charles Edward
Davis, Grady Washington, Jr.
Davis, Thomas Elwood
Dean, Dennis Vale
Decker, Joel Porter Wallace
Dempsey, Richard Eugene
Depaul, Anthony William, Jr.
Despard, Ronald Arthur
Devoy, William Michael
Dewey, John Crosby
Dinning, Donald McPherson
Dirvianskis, Arunas
Donovan, David Anthony
Doyle, Ronald Joseph
Drake, William Baker, Jr.
Dunlap, James Herbert
Dunlop, James Murray
Durgin, Herbert Penley
Dykes, Robert Andrew
Dziedzic, Walter Theodore, Jr.
Eaton, Donald Richard
Egan, Gerald Edward
Ekstrom, John Simonson
Ellis, Willie Carl
Evans, Lucian Charles
Everman, Leon Ervin
Ewing, Charles David
Eyer, James Ellsworth
Eyer, Lee Wesley
Featherstone, James Frederic
Fernow, William Frank
Ferrentino, Peter Stanley
Field, Tylor, II
Finerty, Martin Joseph, Jr.
Finlen, James Rendell
Fischer, George Joseph
Fisher, Gordon Everett
Fitzgerald, Michael Edward
Flikeid, Jack Robert
Flynn, Noel Steven
Fogg, Robert Farman
Fogle, William Jerry
Folta, Kenneth David
Ford, Joseph Patrick Peter
Fox, Loyd Otis Jr.
Freymann, David Gerald
Fuchs, Robert Edwin
Fuqua, James Richard, Jr.
Gaffey, Roger Roberts, Jr.
Galbraith, William Ray
Garrett, William Bruce
Garverick, Charles Michael
Gaskin, Roger William
Geist, Gary Quay
Gengler, William Nicholas
Gershon, Jon Jared
Gertner, Charles Adam, Jr.
Gill, Richard Barclay
Gillen, Robert Francis
Gingles, Donald Dimmitt
Glaeser, John Steinmetz
Gneckow, Gerald Eugene
Gorman, Clifford Daniel
Graham, Genie Keith
Greenwood, Jack Robert
Grise, James Edward
Guay, Paul Ernest
Habicht, Roland Franz Herman
Hafford, David Arthur
Hale, Thomas Morgan, Jr.
Haley, Wayne Jackson
Hallman, Lee Allen
Hamilton, Griffin Freeman
Hamon, Richard Warren
Hardie, James Stewart
Hargrave, Paul Ernest
Hark, Donald Lee
Harnden, Richard Lee, Jr.
Harrison, Robert Glen
Harrison, William Lamar, Jr.
Hart, David Austin
Hawthorne, John Warren
Heath, David Michael
Heckman, Robert James
Held, William Earl, Jr.
Henderson, Joseph Clarence
Heppard, William Edgar
Henderson, Joseph Clarence
Hendrickson, Daniel Lucking
Hendry, John Alexander
Heppard, William Edgar
Herman, Donald Roy
Herman, William Alex
Heyden, Hanley Edward
Higbee, Gerald Mahlon
Hill, Charles Edward
Hill, Nordean Thomas
Hill, Virgil Lusk, Jr.
Hoever, Milton Henry
Hoey, John Hugh
Holds, James Howard
Holmes, Donald Devore
Holmes, John Anderson
Holt, Ben Ford, Jr.
Hopkins, Granville John
Horn, William Charles
Houley, William Purcell
Howard, Lee Francis
Howard, Marshall Allen
Hubbard, Ray George, Jr.
Huebner, Richard Foltin
Hulson, Roger Paul
Hurd, Robert Charles
Hurlburt, Joseph Smith
Hurley, Michael James, Jr.
Huston, Merle Edward, Jr.
Hydinger, Robert Marlin
Ianson, Lawrence Warren, Jr.
Israelson, Leroy Dean
Jacanin, James Michael
Jackson, William Edward
James, Jon Gordon
James, Ulysses Samuel
Jaskolski, Kenneth Joseph
Jesberg, Ronald Hans
Jones, Gordon Stewart
Jones, Thesle Robert
Katz, Alfred Charles
Keay, Karl Leroy
Keeley, Joseph
Kelly, Thomas Walter, III
Kelly, William Harvey
Kennedy, Joseph Thomas
Kiland, Ingold Norman, Jr.
Kimble, Charles Donald
King, Joseph Francis
Kirkpatrick, Kenneth Marian
Kirzl, John Edward
Klein, Donald Gilbert
Klementz, Robert William
Klorig, William Nash
Knight, Richard Dorsey
Koehr, James Elmer
Kolbenschlag, George Ronald
Korrell, Harry James F., Jr.
Krumm, Theodore George, Jr.
Kuckelkorn, Josef Simon
Laferty, John Denison
Lamb, Donald Keith
Lambert, Richard Ellis
Lambertson, Wayne Roger
Lampman, Charles Roderick, Jr.
Langemo, James Carroll
Larkin, Robert Joseph
Larson, Dale Leslie
Larson, Robert Lee
Leach, John Phillip
Leach, Thomas Eugene
Leavitt, Richard Campbell, Jr.
Ledbetter, Gary Clifford
Leder, John Francis
Lee, Richard Henry
Leeds, John Michael
Liebmann, John Erich
Link, Kent A.
Logan, Wallis M.
Loomis, Robert Charles, Jr.
Lovell, Jack Wendell
Lueker, Wendell Howard
Luper, James Arthur
Lusk, James Bryan, Jr.
Lusk, James Royal
Lyon, Fred Morris
MacDonald, Bridgman Angus
Mace, James Allen
MacFarlane, Byron Noble
MacGillivray, Kenneth Austin
Macke, Richard Chester
Mallek, George Adelbert
Mann, Harry Paul
Manning, Sidney Ellwood
Marsh, Frank Joseph, Jr.
Marsh, William Burns, Jr.
Marshall, Bruce Cameron
Mason, Albert Thompson
Mau, Gary Wilbur
Mayo, Norman Alfred
Mazeika, Robert George
McAree, William Bernard, II
McCartney, Roy Scott, Jr.
McCarton, Joseph Francis
McConnell, Gary Donald
McCune, George Burton
McGanka, Steven William
McGuire, Larry Wayne
McGuire, Richard James
McKelvey, Gilbert Harvey
McKeown, Ronald Eugene
McKinley, Harold Hammond, Jr.
McKnight, Phillip Fielding
McMurry, Jerry Charles
McRee, James Daniel
Meeker, Charles Martin
Meredith, Francis Marion, II
Metteer, Donald Gene
Merz, Arthur
Meyers, Frederick Paul
Milanytch, Nicholas Ihor
Miller, Alan Charles
Miller, Alan Samuel
Miller, Charles Perry, III
Mitchell, Oscar Eugene
Mixon, Tracy Roland
Monk, William Wade
Montgomery, David Robert
Moon, Henry Reid
Moore, Dennis Anthony
Moore, Gary Lee
Moore, Gerrell Dean
Moore, Lawrence Boyd
Morgan, Henry Anthony, Jr.
Morgan, Robert Vernon
Moriarty, John Alden
Morrison, Richard
Morse, John Palmer
Munroe, Frank Asbury, III
Murchison, Lyndon Conway, Jr.
Murphy, James Andrew
Murray, Jack Lee
Murray, John Francis
Nelson, James Rad
Newman, Errett Delano
Nield, Van King
Noble, Richard Albert
Nolen, Michael Howard Vance
Nordeen, William Edward
Nordwall, Bruce David
Noreika, Richard John
Norrington, Giles Roderick
Nourie, John Edward
Nunn, Silas Oscar, III
O'Boyle, John Robert, Jr.
O'Connell, Philip John, Jr.
Oelmann, Harlan Daryl
Olds, Frederick Arthur
O'Malley, William Joseph
Osburn, David Lowell
Ovrum, Allan Alfred, Jr.
Owen, William Edwin
Page, David Anderson
Paine, John Allison, Jr.
Paleologos, Nicholas Christo
Parcells, Paul Whitney
Parks, Tom Harper, Jr.
Patacsil, Peter Espejo
Patten, John Richard
Patterson, John Wesley
Paulson, Gaylord O'Neil
Peiguss, John Kenneth
Pelkey, Frank Dixon
Pellegrini, Charles Augustus
Perkins, Thomas Millard
Peremeter, Lawrence Flanders
Perry, J. Stephen

Petersen, Jack Eskield
Picard, Joseph Charles E.
Porter, Ethan Oliver, Jr.
Poston, Dwayne Herman
Potente Estelito Nocon
Powell, William Brant
Price, Harold Rogers
Putnam, William Marvin
Radecki, Richard Anthony
Ramsay, Robert Winton, Jr.
Ready, John Kenneth
Redden, Edward George
Rehfield, Austin Warren
Remoll, Charles Michael
Renner, Ernest Arnold
Reny, Robert Winston
Reuther, Clifford Scott
Rhinebeck, George Christopher
Rhodes, William Alfred
Rice, Roy Joe
Richard, Roy Austin
Richards, Frank Martin
Richardson, William Edwin
Richmond, Donald George
Richmond, Robert Sutton
Rickman, Wayne Elwin
Riddell, Robert Allen
Rikli, Albert Frank
Riley, Michael William
Ritchhart, Delbert Arthur
Robbins, Berton Aldrich III
Roberts, James Norman
Robinson, Wayne
Rodgers, John Michael
Rogers, George Arthur Jr.
Rose, Clifford Allison Jr.
Ross, Lawrence Thomas
Rothschild, Robert Edward
Runkle, Roger Kurt
Ryan, Thomas Raymond III
Sallada, Robert Velmont
Sands, Edward Robert
Santos, Alfred Joseph Jr.
Santos, Leonard Bento
Schick, Bruce John
Schlaff, Richard John
Schmer, Conrad John Jr.
Schmidt, John Arthur
Schneider, Donald Lewis
Schneider, Edward Ludwig
Schneider, George Fredrick
Schneider, Michael John
Schultz, John Julius
Schultz, Robert Frederick
Sexton, Harold Patrick Jr.
Seykowski, Donald Walter
Sharp, Walter Henry
Shelton, Donald
Shelton, James Weber
Shivik, John Anthony
Shreckengaust, James Arthur
Siebecke, Alfred George
Siebeking, Paul Frederick Jr.
Siembieda, John
Sigmund, Samuel Wilson
Skinner, Frederick James
Slaven, John Knowles
Smith, John Stephen
Smith, Robert Edward
Smyth, Lorne Herbert
Snell, Alfred Walter
Snuffer, Sanford Joe
Sollberger, Melvin Hugh
Sollenberger, Robert Neil
Solms, William Richard
Sommer, Douglas Frank
Sortore, Jadwin Frederick
Spruell, Alfred Henry Jr.
Stanley, Walter Lane
Starck, Robin Lee
Steiner, Duane Ray
Stevens, Jerry Gordon
Stillwell, William Howard
Stoessl, Leslie
Stokoe, James Henry
Strachwitz, Hubert John
Stratton, Bobbie Eugene
Struck, Gerald Loren Victor
Stuart, Frederick Bruce
Stump, Jerry Dunkin
Stutzer, William Thomas
Sullivan, John Loftus
Taipale, Denis Gary
Tamony, Joseph Michael
Tarpgaard, Peter Thorvald, Jr.
Taylor, Alec Patton, Jr.
Taylor, Bruce Andrew, Jr.
Thames, Lewis Herman, Jr.
Thomas, Ronald Ralph
Thompson, Alton Kenneth
Thresher, Alfred Addison II
Tiedemann, Hollie Joseph, Jr.
Tolle, Robert Joseph
Tomajczyk, Charles Francis J.
Toushstone, Frederick F., Jr.
Trainer, William Perry
Triggs, Frederick, III
Trossbach, Ronald Charles
Traux, Daniel Mack
Tschida, Robert Matthew
Tuggle, Ralph Edward
Turpin, Thomas Jefferson, Jr.
Tyler, Donald Kenneth
Vanallen, William Maurice D.
Vanderslice, John Lester
Volgenau, Douglas
Wagner, Edward Francis
Walker, Harry Craig
Walker, John Wimberly
Walters, Arthur Kirk, Jr.
Wanner, Theodore Michael
Ward, John Philip
Ward, Randall Walter
Wardle, Norval Leon
Warson, Toby Gene
Wass, Standley John
Webber, Michael Jon
Webster, Edward Charles
Weikert, John Patrick
Welch, Walter Edwin
Wellborn, Raymond Burke
Wells, Gary Alexander
Wendt, George Frederick
Wentz, David Radcliffe
Weyers, Maynard Roland
Wheaton, William Clarence
Whelan, John Francis, Jr.
Whipps, Russell Erwin
White, Anthony Walker
White, Richard Douglas
Whittle, Delma Hughes, Jr.
Wienandt, Melvin Walter
Wilkins, Perry
Williams, Charles Frederick
Williams, John Henry, Jr.
Williams, Robert Allen
Williamson, Frederick M.
Williamson, James Ray
Williamson, James Vivian, Jr
Winter, Richard Farnum
Witham, Alan Elroy
Woods, Francis Gerald
Wright, Perry Wayne
Wright, Roger Wallis
Wynn, Alvin Don
Young, Vernon Oran
Youngberg, Guy Milton
Youngmann, Kenneth Charles
Yow, John Samuel
Zanzot, Warren Leland
Zimmerman, Joseph Gerard
Zumwalde, Richard Theodore

The following named women officers of the U.S Navy, for permanent promotion to the grade of commander in the line, subject to qualification therefor as provided by law:

Acosta, Delores Yolanda
Bostwick, Sally Louise
Dupes, Yvonne Mansfield
Hankey, Joan Rhodes
Mohorich, Helen Marie
Yeoman, Marjorie Ann

IN THE NAVY

The following named officers of the U.S. Navy and Naval Reserve for temporary promotion to the grade indicated in the staff corps as indicated subject to qualification therefor as provided by law:

MEDICAL CORPS

Captain

Biehl, Robert Frank
Brough, James William
Carson, Thomas Edward
Colangelo, Eugene John
Crum, Paul Miller
Frankhouser, George Ver
Hagan, Arthur Darrell
Jeffrey, Clyde Grey, Jr.
Karnei, Robert Frederic
Kinney. Robert John
Lopez, Domingo Antonio
McLean, Walter Leo
O'Halloran, Patrick Sylv
O'Reilly, Richard Rolin
Quinn, James Joseph
Roling, Gerald Thomas
Smith, Franklin Adams
Strickland, George Thom
VanValkenburgh, Wood G.
Bodenbender, Reinhardt
Burkett, Patrick Robert
Cochran, Robert Carter
Cowherd, Donald William
Diamond, Evans
Gareis, Frank James
Huber, Kitchel Herbert
Johnsonbaugh, Roger Ear
Kelly, Robert John
Leisse, Fred Charles
Markham, Thomas Newton
Meriwether, Betty Ann
Ohslun, Ronald Kermit
Pasquale, Dominick N., Jr.
Reed, Jerome McDavid
Schwartz, Bradford Benj
Steimel, Herbert Anton
Tyler, Paul Edward
Weber, David Merrill

SUPPLY CORPS

Ardizzone, Joseph Charles
Arnold, Harry Hodges
Bechtelheimer, Robert Russel
Brewin, Robert Leroy
Caverly, Michel Kent
Christenson, Richard Dale
Cornelius, Jack Marcus
Davis, Raymond Peter
Desroches, Sylvio Joseph, Jr.
Fekula, Theodore Vladimir
Ferraro, Niel Patrick
Gaddis, Glenn Leslie
Graessle, Philip Grant
Harkin, James William
Hawkins, Charles Alwin
Henseler, Richard Charles
Hirschy, Henry Eugene, Jr.
Horrigan, John William, Jr.
Jesser, Arthur Donald
Jones, Ronald Arthur
Kela, Frederick Herbert
Krukin, Lawrence Ely
Leblanc, Merrill Marks
Lewis, John Clarence
Luther, James Robert, Jr.
Martin, William James
McDaniel, Roderick David
Mulligan, Thomas Joseph, Jr.
Nolan, Frank Richard
Pavlisin, Frank
Peek, Luther William
Peterson, Kenneth Aldrick
Powell, William Morgan
Ribble, Marland Seale
Rolfe, James Arnold
Ross, Howard T., Jr.
Ruth, Stephen Ruddy
Tillery, Preston James
Topping, James Francis
Walker, Edward Keith, Jr.
Williams, Walter Lee
Wilson, Donald Erwin
Zeberlein, George Valentin J.

CHAPLAIN CORPS

Begg, Wendell Robert
Greenwood, Charles Lawrence

Hilferty, Thomas Joseph
Jensen, Andrew Frederick, Jr.
McKee, Billy Jack
Ota, Peter Iwao
Urbano, Francis Joseph
O'Connor, William Bernard
Smith, Richard Ridgell
Vest, William Thomas

CIVIL ENGINEER CORPS

Andersen, Charles Paul
Edson, Theodore Manning
George, Roscoe Dillard, Jr.
Morton, Donald Arthur
Oscarson, Edward Ronald
Sylva, John Paul
Westberg, Robert Joe
Williams, Jesse Ronald
Daniel, William Floyd, Jr.
Gaulden, Roy Douglas, Jr.
Moger, Jack Bailey
Nystedt, Russell Paul
Socha, Albert Robert, Jr.
Tombarge, John William
Wile, Dorwin Bruce

JUDGE ADVOCATE GENERAL'S CORPS

Battaglino, Joseph Michael
Freed, Maitland Guy
Lawrence, Keith Douglas
Powell, George Warren
Boywid, Edward Thomas
Harlow, Bruce Allan
Meighan, John Michael, Jr.
Sanders, Edward Kendrick

DENTAL CORPS

Anderson, John Willis R.
Besley, Keith Whistler
Baker, Terrance Wesley
Butler, William Dickins
Chapman, Thom Hoffman
Corderman, Roy Clinton
Crawford, Benton Earl
Daughtry, Max Berry
Eastwood, Gerald Winston
Gaston, David Lee
Gourley, James Vincent
Greeley, William Edmond
Harris, Ronald Kenneth
Hart, Gerald Lee
Hatrel, Paul Poincy
Howarth, Hugh Collins
Hube, Albert Ronald
Johnson, James Irving
Kellner, Frank Herbert
Koch, Robert Wayne
Lusk, Samuel Stowell
Mason, Billie Mack
Maw, Ralph Buehler
Montgomery, Steve
Moyes, Edmund Robert
Murphy, Richard Alvin
Reisman, Paul Joseph
Rochford, Philip
Rudolph, Jerome J.
Smith, John Marley
Stevens, John Theodore
Stevens, Mark Myron
Tracy, Norman Hutchinson
Trusz, Edward John
Verunac, James Justin
Walkowiak, Gene James
Williams, John Peter

MEDICAL SERVICE CORPS

Brandon, Daniel Arthur
Bryant, Eugene Marcus, Jr.
Dennis, J. M.
Heath, Jean Louise
Leonard, Russell Dean
Schaffner, Leslie Jacob
Smout, Jay Clifford
Wimberly, Clyde Otis

NURSE CORPS

Colford, Therese Veronica
Fine, Rachel Agnes
Foley, Alicia Mary
Hooker, Doris Helen
Maynard, Mary Elsie
Pampush, Ruth Genevieve
Peterson, Lee
Robinson, Libia Gertrude
Simmons, Harriet Ariel
Walker, Marilyn Jean
Donoghue, Margaret Cathlene
Finn, Celine Agnes
Halverson, Ruth Etta
Leff, Rae Mary
Nagy, Bettye Grace
Perlow, Marion Ruth
Proto, Theresa Mary
Shea, Claire Marie
Stewart, Mary Georgine
Williams, Alice Kolene

IN THE MARINE CORPS

The following-named officer of the Marine Corps Reserve for permanent appointment to the grade of lieutenant colonel:

Patricia A. Hook.

The following-named officers of the Marine Corps Reserve for temporary appointment to the grade of lieutenant colonel:

Pasquale Abbate
Jonathan F. Abel
Ray A. Alberigi
Donald F. Alford
Ralph E. Anderson
Boyd F. Baldwin, Jr.
David A. Ballantyne
Robert F. Barrell
David L. Barry
Walter E. Baumann
Joseph M. Bender
Emile A. Bernard
Austin L. Beveridge
Larry B. Boggs
Gerald G. Bosworth
Phillip S. Carletti
James P. Casey
Alan B. Cassalia
Clayton E. Cavender
Thomas B. Chudzik
Anthony G. Coleman
Stanley N. Collins, Jr.
John C. Conner
George E. Constantino
Marion D. Cook, Jr.
Jerome G. Cooper
Glen A. Cotta
Donald V. Courtney
Tibbott G. Csik
Richard E. Deichmann
Christian J. Dettle
Michael C. Drury
Donald Ducoff
William J. Egan
Ronald J. Ehrle
Loran C. Eldred
Myron H. Engel
Harold Fay
Larry D. Field
David R. Freeman
Nick Galifianakis
Walter J. Gallo
Patrick J. Garvey
Warren E. Gilson, Jr.
Victor H. Golletz
Richard M. Graven
Howard W. Greenup
George E. Hames
Alfred L. Hamilton
James C. Hammond
Russell L. Hanthorn
William A. Hayward
Claude G. Hertler
John F. Hickman, Jr.
Wesley G. Hinkle
William Hochman
B. A. Holaday III
Harry C. Holmberg
Karl Honsberger
Jack W. Humphrey
Robert R. Jespersen
William S. Johnson
John Karabetsos
Donald D. Knold
Lanny A. Kope
George T. Kupper
Norman J. Labhart
Lewis E. Labin
Gerald J. Lavalle
Robert B. Lee
Robert F. Leftwich, Jr.
David J. Leighton
John C. Leite
Douglas W. Lemon
Paul R. Liddell
Mark G. Lipscomb, Jr.
Patrick H. Lyons, Jr.
Lawrence J. Magillan
James J. Manley
Robert A. Marchese
Susano Mascorro
Robert E. McClure
Robert B. McCrea
Patrick G. McDonald
James E. McKeever
James W. Merkle
Richard J. Molyneaux
Aaron D. Murdock
Benjamin F. Napheys III
Daniel W. Nauman
Alexander D. Necco
Charles H. Nichols, Jr.
Robert J. Nippolt
Charles E. Nixon
Robert E. Noska
Tobias Obrigawitch
Daniel J. O'Connor
Robert F. Odom, Jr.
Dino Oliva
Reid H. Olson
George R. Omrod
Fred J. Pasquale
Darrell K. Pastrell
Robert J. Perlak
Robert R. Perry
Thomas E. Persing
George H. Pinckney, Jr.
Gerald R. Pitzl
Clemens M. Plattner
William E. Pope
Lewis M. Porter, Jr.
Dominick A. Prezzano
William C. Price
Paul N. Prichard
James H. Radcliffe
Robert F. Reiland
Michael J. Reynolds
James B. Riley
Harold C. Roberson
Earl V. Rose
Dennis N. Roth
Jesse R. Rothenberger
John J. Safarik
Richard H. Sargent
George Schall
James F. Schmidt
Raymond A. Sears
Frederick N. Shaffer
John C. Simkins
David P. Smalley
Fredie R. Sounders
Larry P. Stevens
Russel H. Stolfi
Albert H. Strickland
Jonathan F. Swain
Charles P. Swedish, Jr.
George D. Sylvester
Bruce C. Taylor
Carl R. Thomas
Robert D. Thomas
Chester J. Tricca
James M. Troxell
Clovis S. Vaughn
Clarke E. Vollbrecht, Jr.
Joseph W. Vowell
Donald M. Waits
Robert H. Wakefield
Charlie D. Walker
Harry R. Warfield
Mitchell J. Waters
Robert F. Welch
John F. Wengert
Thomas W. White
Waylon A. White
Frank E. Whitman, Jr.
Raymond S. Wicker, Jr
Stanley C. Wiggins
Louis M. Withiam
William A. Wren
Arthur R. Zasio
Charles A. Zielinski
William G. Zook

IN THE MARINE CORPS

The following-named temporary disability retired officer for reappointment to the grade of lieutenant colonel in the Marine Corps, subject to the qualifications therefor as provided by law:

Sullivan, John W.

IN THE MARINE CORPS

The following-named (Navy enlisted scientific education program) graduate for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law.

Harrison, Stephen G.

HOUSE OF REPRESENTATIVES—*Monday, November 18, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Trust in the Lord with all thine heart; and lean not unto thine own understanding.—Proverbs 3:5.

Eternal God, who art ever seeking to lead Thy children in right ways for the good of all and whose spirit attends us all our days, come Thou into our hearts as we bow humbly in Thy presence. Help us to realize anew our dependence upon Thee and our constant need of Thy guidance, Thy strength, and Thy love.

Guide Thou the Members of this House of Representatives that they may meet the challenges of this day with courage and use the opportunities which are theirs to create a better and a brighter order of life for our people.

Bless our Nation and make her a blessing to all mankind. Give to our leaders and to our people the spirit in which justice rules, love reigns, and truth prevails; to the glory of Thy holy name and the good of our human family. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

EMERGENCY TOBACCO PRICE SUPPORT INCREASE

The Clerk called the bill (H.R. 16056) to provide for emergency increases in the support level for the 1974 crop of Flue-cured tobacco.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. PEYSER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

INCREASING THE AUTHORIZED NUMBER OF DEPUTY CHIEFS OF STAFF FOR THE ARMY STAFF

The Clerk called the bill (H.R. 14349) to amend section 3031 of title 10, United States Code, to increase the number of authorized Deputy Chiefs of Staff for the Army staff.

There being no objection, the Clerk read the bill as follows:

H.R. 14349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3031(a) of title 10, United States Code, is amended by striking out "three" in clause (3) and inserting in place thereof "four".

Mr. DICKINSON. Mr. Speaker, I strongly support H.R. 14349.

I recognize this bill is not the kind of legislation that stirs up much interest, nor is it likely to appear on tomorrow's front page. Yet, in spite of this, I believe it is evidence of an event that is extremely significant, the Army's sincere effort to provide a more efficient fighting force, by effecting reductions in less essential functions—or, as we are used to hearing it—more tooth and less tail.

As you know, Mr. Speaker, there has been considerable concern voiced by the Congress over the numbers of support personnel in our armed services. The late General Abrams responded to this criticism in a manner which has produced a more effective military force. I am speaking specifically now of the recent major Army staff reorganization. This managemental realinement has resulted in a 14-percent, or 572-space reduction, in the Army staff.

The part H.R. 14349 plays in this reorganization, quite simply, is to formalize one of the actions on which the reorganization was posited. Responsibilities which were spread out among several branches will now be absorbed under this new jurisdictional umbrella of research, development, and procurement, thus reducing the need for previous layers of command when these functions were disparate.

In order to give the office governing these extremely broad functional areas a status commensurate with its responsibilities, the individual to occupy that job is to become a Deputy Chief of Staff.

As the honorable chairman of our subcommittee made clear, this change will not create a need for more rank in the incumbent or a slot for another general officer. It is simply a ratification of a responsible managemental alinement, an alinement which will increase efficiency.

Mr. Speaker, I urge support for H.R. 14349.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAKING RESERVISTS ELIGIBLE FOR THE INCENTIVE AWARD PROGRAM

The Clerk called the bill (H.R. 871) to amend section 1124(c) of title 10, United States Code, to remove the restriction that a member of the Armed Forces must be on active duty to be eligible for the payment of a cash award for a suggestion, invention, or scientific achievement.

There being no objection, the Clerk read the bill as follows:

H.R. 871

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1124(c) of title 10, United States Code, is amended to read as follows:

"(c) An award under this section may be paid notwithstanding the member's death, separation, or retirement from the armed force concerned. However, the suggestion, invention, or scientific achievement forming the basis for the award must have been made while the member was on active duty or in an Active Reserve status and not otherwise eligible for an award under chapter 45 of title 5."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD FOOD CONFERENCE

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, many have expressed hope that a true beginning has been made at the World Food Conference in Rome toward intermediate and long-term solutions to chronic international food shortages. What is needed now is prompt and immediate action. The time has come to move from the conference room in Rome to the Halls of Congress. Action should be taken now to enact into law the Rice Act of 1974. This legislation would help to expand supplies of a food which is basic to the diets of the hungry people of many nations.

FREE ELECTIONS IN GREECE

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I take this time only to comment on the results of the first free elections in 7 years in Greece and to congratulate Mr. Constantine Karamanlis, whose party yesterday won an overwhelming victory at the polls and who will, therefore, become the new prime minister of Greece.

As one who has long believed that the existence in Greece of a military junta during the past 7 years has been counter to the security interests of the United States, counter to the effectiveness of the NATO alliance, and hostile to the free and democratic political institutions which it is the purpose of NATO to protect and develop, I welcome the return of the institutions of democracy to the birthplace of democracy.

Because both President Nixon and Secretary of State Kissinger strongly supported the military juntas in Greece, I hope that President Ford and Secretary Kissinger will now, in light of the resumption of constitutional democracy in that country, give the strong support of the U.S. Government to the free and democratic government of Greece.

In this connection, I hope that in particular the United States will move swiftly and effectively to help resolve the continuing crisis with respect to Cyprus, a crisis which U.S. policy—through its support of the military junta which triggered the July 1974 coup in Cyprus and subsequently by U.S. acquiescence in the massive Turkish military invasion and occupation of Cyprus—did so much to bring about.

Now is the time for the administration to act.

LEGISLATION TO CREATE GREATER VOTER PARTICIPATION IN ELECTIONS

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PEYSER. Mr. Speaker, our whole democratic process, it seems to me, is in very grave danger if we cannot take some steps as a Congress to guarantee greater voter participation than we have had in the recent elections where nationally 38 percent of the voters participated.

For that reason, I am introducing legislation that is calling on the Federal Government to make election day a public, legal holiday; and I will reintroduce this in the next session of Congress.

There are many things that keep people away from the polls, not just apathy. Crime in the streets, in the metropolitan areas, prevents people from voting who are returning from their jobs late at night.

I hope we can address this problem, take positive action, and make voting a legal holiday on election day.

THE EGYPTIAN WHEAT DEAL

(Mr. LONG of Maryland asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LONG of Maryland. Mr. Speaker, how can the United States justify providing 300,000 tons of wheat to Egypt at lend-away credit terms, food that may help that country prepare for a possible fifth war with Israel?

I have called for a congressional investigation of these recent sales and have expressed to President Ford my misgivings.

Is Egypt now committed to peace in the Middle East?

Do we even know whether Egypt's hungry will receive this food?

Even at 3 percent for 20 years, can Egypt repay these loans?

In addition to squandering scarce food—when Americans are paying up to 90 cents a pound for bread—we are subsidizing inefficient agricultural practices with these loans. A strong, self-sufficient economy in Egypt will not develop through reliance on hand-outs and lend-aways.

CHANGES IN LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I wish to make an announcement concerning the schedule for the House of Representatives.

The following resolution that was listed under suspension of the rules today will not be called up, and that is House Resolution 1399, world food situation.

Further, Mr. Speaker, in addition to the program previously announced, the following measures will be considered under the suspension of the rules tomorrow:

H.R. 16757, extending the Emergency Petroleum Allocation Act of 1973;

H.R. 17434, to amend the National Wildlife Refuge System Administration Act of 1966;

S. 782, Antitrust Procedures and Penalties Act;

House Joint Resolution 1117, American Indian Policy Review Commission; and

H.R. 12071, Forest Service fire protection contracts.

May I say further, Mr. Speaker, that this will fit into the program that has been presently scheduled. The Members will note on the whip's notice we scheduled business for Wednesday and the balance of the week. If we have not completed the program by Thursday of this week it is the intention of the leadership on both sides of the aisle to work on Friday. That is, it is our intention to complete the program for the week, and that if it has not been completed by Thursday night then there will be a Friday session.

May I also say that the leadership on both sides of the aisle had a meeting this morning, and for next week we will meet on Monday and Tuesday, and on conclusion of the business on Tuesday night, the House will adjourn for the remainder of the week, which is Thanksgiving week. That means we will be adjourned on Wednesday and Thursday, Thursday, of course, being Thanksgiving Day.

Then on the next Monday, which is December 2, there will be caucuses that day for both sides of the aisle, the Democrats and the Republicans. The Democratic caucus will go forward with the remainder of its program on Tuesday, Wednesday and Thursday mornings if necessary.

We would also expect to have caucuses in the evenings of Tuesday and Wednesday, after the House has adjourned, if necessary. There will be legislative sessions on December 3, 4, and 5 but not on Monday, December 2.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OCTOBER 17, 1974.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: Pursuant to the permission granted on October 16, 1974, the Clerk has received the following message from the Secretary of the Senate: That the Senate has passed without amendment, H.J. Res. 1167, Making further continuing appropriations for the fiscal year 1975, and for other purposes.

With kind regards, I am,
Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Wednesday, October 16, 1974, he did, on Thursday, October 17, 1974, sign the following enrolled bills and joint resolution of the House:

H.R. 13342. An act to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement;

H.R. 14217. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, to authorize appropriations for additional costs of land acquisition for the national park system, and for other purposes;

H.J. Res. 1167. Joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OCTOBER 17, 1974.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 5:38 P.M. on Thursday, October 17, 1974, and said to contain H.R. 12471, An Act to amend section 552 of title 5, United States Code, known as the Freedom of Information Act, and a veto message thereon.

With kind regards, I am
Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives

FREEDOM OF INFORMATION ACT—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–383)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 12471, a bill to amend the public access to documents provisions of the Administrative Procedures Act. In August, I transmitted a letter to the conferees expressing my support for the direction of this legislation and presenting my concern with some of its provisions. Although I am gratified by the Congressional response in amending several of these provisions, significant problems have not been resolved.

First, I remain concerned that our military or intelligence secrets and diplomatic relations could be adversely affected by this bill. This provision remains unaltered following my earlier letter.

I am prepared to accept those aspects of the provision which would enable courts to inspect classified documents and review the justification for their classification. However, the courts should not be forced to make what amounts to the initial classification decision in sensitive and complex areas where they have no particular expertise. As the legislation now stands, a determination by the Secretary of Defense that disclosure of a document would endanger our national security would, even though reasonable, have to be overturned by a district judge who thought the plaintiff's position just as reasonable. Such a provision would violate constitutional principles, and give less weight before the courts to an executive determination involving the protection of our most vital national defense interests than is accorded determinations involving routine regulatory matters.

I propose, therefore, that where classified documents are requested the courts could review the classification, but would have to uphold the classification if there is a reasonable basis to support it. In determining the reasonableness of the classification, the courts would consider all attendant evidence prior to resorting to an *in camera* examination of the document.

Second, I believe that confidentiality would not be maintained if many millions of pages of FBI and other investigatory law enforcement files would be subject to compulsory disclosure at the behest of any person unless the Government could prove to a court—separately for each paragraph of each document—that disclosure "would" cause a type of harm specified in the amendment. Our law enforcement agencies do not have, and could not obtain, the large number of trained and knowledgeable personnel that would be needed to make such a line-by-line examination of information requests that sometimes involve hundreds of thousands of documents, within the time constraints added to current law by this bill.

Therefore, I propose that more flexible criteria govern the responses to requests for particularly lengthy investigatory records to mitigate the burden which these amendments would otherwise impose, in order not to dilute the primary responsibilities of these law enforcement activities.

Finally, the ten days afforded an agency to determine whether to furnish a requested document and the twenty days afforded for determinations on appeal are, despite the provision concerning unusual circumstances, simply unrealistic in some cases. It is essential that additional latitude be provided.

I shall submit shortly language which would dispel my concerns regarding the manner of judicial review of classified material and for mitigating the administrative burden placed on the agencies, especially our law enforcement agencies, by the bill as presently enrolled. It is only my conviction that the bill as *enrolled is uncons*titutional and unworkable that would cause me to return the bill without my approval. I sincerely hope that this legislation, which has come so far toward realizing its laudable goals, will be reenacted with the changes I propose and returned to me for signature during this session of Congress.

GERALD R. FORD.

THE WHITE HOUSE, *October 17, 1974.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

The question is: Will the House, on reconsideration, pass the bill H.R. 12471, the objections of the President to the contrary notwithstanding?

MOTION OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move to postpone further consideration of the bill and veto message from the President on H.R. 12471, to amend the Freedom of Information Act, until Wednesday, November 20, and before moving the previous question on my motion I would like to address myself briefly to the President's veto action.

Mr. Speaker, I was shocked and dismayed by the President's unfortunate and ill-advised action on October 17 in vetoing H.R. 12471; the bill makes a series of strengthening amendments to plug loopholes in the Freedom of Information Act of 1966.

This bipartisan legislation, overwhelmingly approved in both the House and Senate after more than 3 years of oversight and legislative hearings, will help restore the confidence of the American public in their Federal Government by providing greater access to Government records. As we have dramatically witnessed during the Watergate tragedy, unnecessary secrecy and an almost paranoiac desire to hide the business of Government from the people and their elected representatives brought about the most grave constitutional crisis in our Nation in more than 100 years.

Mr. Speaker, President Ford's pledge of "open government" made to the American people soon after he took the oath of office had indicated a recognition of the destructive effects of the "government secrecy mania" that helped bring about his predecessor's resignation. Less than 2 months ago, President Ford expressed to me, as chairman of the House-Senate conference committee on H.R. 12471, his commitment to "open government" and the Freedom of Information Act. In a letter dated August 20, 1974, he stated:

> I share your concerns for improving the Freedom of Information Act and agree that now, after eight years in existence, the time is ripe to reassess this profound and worthwhile legislation. Certainly, no other recent legislation more closely encompasses my objectives for open government than the philosophy underlying the Freedom of Information Act.

In that letter, Mr. Speaker, he raised certain questions about specific provisions of H.R. 12471, most of which had already been tentatively agreed to by the House-Senate conferees during earlier sessions of the conference committee. Nevertheless, we carefully studied President Ford's arguments, discussed them in subsequent meetings of the conference committee and did make a number of changes he requested in both the bill language and in the conference report to help allay his concerns. As I told the House when the conference version of the bill was finally acted upon and sent to the White House on October 7—

> We have gone "more than half-way" to accommodate his views.

But 10 days later, he vetoed the freedom of information bill. It is now clear, Mr. Speaker, that congressional cooperation is not sufficient for the President, and only total capitulation to the White House viewpoint will suffice. I refuse to abdicate my duties as a Member of this House and hope that an overwhelming vote by our colleagues to override this senseless veto will make it clear to the President that cooperation is a two-way street.

As in the Watergate debacle, the umbrella of "national security" is now being raised in the veto message to cover the real reasons for the bureaucrat's opposition to the public's right to know. The message itself is filled with inaccurate statements, misconceptions, and warped interpretations of the bill language that raise questions as to whether anyone really knowledgeable about the law even took the trouble to read and analyze the provisions of H.R. 12471. Contrary to the President's expressed view, the bill would not in any way bare our Nation's secrets, nor would it jeopardize the security of sensitive national defense or foreign policy information.

Mr. Speaker, 8 years ago when Congress passed the original freedom of information bill, President Johnson was urged to veto the measure by every single Federal agency. Bureaucrats said that it was unconstitutional; some said it would bring the business of Government to a halt; others foolishly claimed that it would give away our vital defense secrets to foreign powers. But Lyndon Johnson was well versed in the ways of the Federal bureaucracy. He was not fooled by their rantings and ravings. He courageously rejected their silly arguments and signed the bill into law. In his statement he reaffirmed the people's right to know when he said:

> No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest.

This year the House and Senate approved the conference version of H.R. 12471 to add needed teeth to the original 1966 freedom of information law to plug loopholes used by Federal bureaucrats to hide information from the public. The House rollcall vote was 349 to 2 and the Senate approved it by voice vote. During our hearings, every executive branch witness opposed any strengthening changes to the present law. The Nixon White House and Justice Department operatives lobbied vigorously in the other body in a vain attempt to kill the freedom of information legislation.

When H.R. 12471 was cleared by Congress and sent to the White House, the Federal bureaucracy predictably geared up an all out effort to persuade President Ford to veto it. As in 1966, almost every Federal agency recommended a veto. Many of the same old discredited arguments which President Johnson had rejected were dusted off and fed into the White House. Such overused cliches as "administrative burden," "flexible criteria," "compulsory disclosure," and the old reliable bureaucratic standby "national security" were all sprinkled throughout the veto message. Thus, President Ford succumbed to the old scare slogans of the bureaucrats, who apparently have so much to hide from the public.

But the obvious public need for truly "open government" must not be sacrificed on the altar of bureaucratic secrecy, suspicion, and meaningless slogans. The hard lessons learned from the tragic Watergate coverup must certainly result in some positive achievement to prove to the American people that Congress—at least—is sensitive and responsive to the fundamental need for "open government" in the conduct of our public business.

Mr. Speaker, our colleagues in the House will have the opportunity to vote to override this misguided Presidential veto of the Freedom of Information Act amendments on Wednesday, November 20 by the motion I have just offered. I stress the fact that this is not partisan issue that divides us along party lines. Our effort to override this veto is being led by both Republicans and Democrats on our Government Operations Committee, as shown by the "dear colleague" letter sent to all Members today and signed by: Chairman CHET HOLIFIELD; the ranking minority member of the full committee, the gentleman from New York (Mr. HORTON); by the ranking minority member of our subcommittee, the gentleman from Illinois (Mr. ERLENBORN); and by myself, as chairman of the Foreign Operations and Government Information Subcommittee. With our letter we enclosed a reprint containing a representative selection of editorials from across the Nation urging that Congress override this veto. Every Member should have in his office a copy of this reprint and our letter.

Mr. Speaker, we urge our colleagues of both parties to join us in this fight for more responsible "open government." We trust that we can—by an overwhelming vote to override this veto—show the American people the sincerity of our pledge of truly "open government" and the willingness of Members of Congress to stand up and be counted on this vital issue.

Mr. Speaker, the "dear colleague" letter is as follows:

WASHINGTON, D.C.,
November 18, 1974.

DEAR COLLEAGUE: A vote will be taken in the House on Wednesday, November 20, on overriding the veto of H.R. 12471, the Freedom of Information Amendments of 1974.

We will vote "Aye"—to override—and hope you will join with us.

We have worked for more than 3 years in the bipartisan development of these amendments to the Freedom of Information Act. We received much detailed testimony about the issues raised in the veto message—both pro and con—and carefully worked to make certain our bill would protect the people's right to know without infringing upon the need for government secrecy in some areas.

The objections cited by the President in his veto message, therefore, were not new to us. They had also been called to our attention in the course of our conference sessions. We took them seriously and made changes, both in the language of the bill and in the conference report. We believe the President's objections were accommodated by these changes.

H.R. 12471 passed the House March 14 by a vote of 383 to 8, and the conference report won approval by a 349 to 2 roll call vote.

We believe the American people will have more confidence in their Federal government if we can enact these Freedom of Information Amendments into law over the President's veto. This legislation will help to restrain our civil servants and will help to make them more responsive to the people who pay their salaries.

The attached reprint of some of the representative newspaper editorials over the past several weeks—from all parts of the country—indicates the broad support for overriding the veto.

We suggest that President Ford must have listened more carefully to the bureaucracy than to the Congress and the people when he decided on his veto.

I hope you will join in voting to override the Freedom of Information Act veto on Wednesday, November 20.

Sincerely,

CHET HOLIFIELD,
Chairman, House Government Operations Committee.
WILLIAM S. MOORHEAD,
Chairman, Foreign Operations and Government Information Committee.
FRANK HORTON,
Ranking Minority Member, House Government Operations Committee.
JOHN N. ERLENBORN,
Ranking Minority Member, Foreign Operations and Government Information Subcommittee.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The motion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois (Mr. ERLENBORN) be permitted to revise and extend his remarks at this point in the RECORD and that all Members may have permission to revise and extend their remarks on this subject.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 22, 1974.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 5:00 P.M. on Tuesday, October 22, 1974, and said to contain H. R. 11541, An Act to amend the National Wildlife Refuge System Administration Act of 1966 in order to strengthen the standards under which the Secretary of the Interior may permit certain uses to be made of areas within the System and to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses, and a veto message thereon.

With kind regards, I am

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.
(By BENJAMIN J. GUTHRIE).

NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-382)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am withholding my approval from H.R. 11541, a bill which would amend the National Wildlife Refuge System Administration Act of 1966. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

This bill would amend section 4(d) of the Act of October 15, 1966, by adding a new standard in determining the authority of the Secretary of the Interior to allow certain rights-of-way across lands of the National Wildlife Refuge System. This new standard would require the Secretary to review all reasonable alternatives to the use of such area, and then make a determination that the proposed right-of-way use is the most feasible and prudent alternative for such purpose.

If we are to have adequate energy-transmission and communication facilities, we must have rights-of-way on which to locate them. Of course, when such lands have a special status as wildlife refuges or national parks, we must fully protect this status when portions of these areas are sought for use as rights-of-way.

However, I believe that such protection is properly provided under existing law which requires environmental impact review and further requires the Secretary of the Interior to determine that granting a right-of-way across a national wildlife refuge or national park must be compatible with the purposes for which the park or refuge had been established. Only last year, Congress enacted legislation which had the effect of reiterating this protection in the case of refuges.

In short, our wildlife refuges are properly protected by existing law. We should avoid changes in the law that could create further obstacles and delays in the construction of vitally needed facilities, particularly those facilities designed to help meet urgent energy needs.

Accordingly, I am withholding my approval from H.R. 11541.

GERALD R. FORD.

THE WHITE HOUSE, *October 22, 1974.*

The SPEAKER. The objections of the President will be spread at large upon the Journal and the message and bill will be printed as a House document.

MOTION OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I move that the message, together with the accompanying bill, be referred to the Committee on Merchant Marine and Fisheries.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL).

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. GROSS. This is to refer the bill, not the motion on the vote, but to refer the bill; is that correct?

Mr. DINGELL. If the gentleman will permit, the motion refers both the message and the bill back to the Committee on Merchant Marine and Fisheries, which originally had the legislation.

It is my intention and the intention of the chairman of the full committee that it will be appropriately given to the minority to have a bill on the floor without the features to which the President objected when we consider suspensions of the rules legislation tomorrow.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL).

The motion was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 29, 1974.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 5:25 P.M. on Tuesday, October 29, 1974, and said to contain H.R. 14225, An Act to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for one year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, and for other purposes; to amend the Randolph-Sheppard Act for the blind; to strengthen the program authorized thereunder; and to provide for the convening of a

White House Conference on Handicapped Individuals, and a veto message thereon.

With kind regards, I am

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.
By W. RAYMOND COLLEY.

REHABILITATION ACT AND RANDOLPH-SHEPPARD ACT AMENDMENTS—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-381)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am today returning, without my approval, H.R. 14225, the Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974, and the White House Conference on Handicapped Individuals Act. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

The Vocational Rehabilitation Amendments of 1974 pose some fundamental issues which far transcend this particular bill. No group in our country is more in need of supportive services than the handicapped. Our handicapped citizens have demonstrated time and again that, given a fair break, they can lead as full and productive lives as other citizens.

Throughout my years in Congress I consistently supported good Federal programs designed to assist the handicapped.

During the last two years spending on the basic grant programs for Vocational Rehabilitation has grown from $589 million to $680 million. The key issue posed by this bill is not how much money will be spent. The issue posed is how well the programs will be run.

This bill passed the House of Representatives without any hearings. Had hearings been held we would have explained the disruption that would result from such a massive legislative incursion into the administration of a program.

The Congress has the responsibility to legislate, but I have the responsibility for the successful administration of the programs they enact. This bill is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason—indeed for very bad reasons. It dictates where in HEW minute decisions must be made, it creates independent organizational units at subordinate levels that are wasteful and duplicative and it sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man bureaucracy in HEW to duplicate functions carried out elsewhere in the executive branch. Most importantly, the bill blurs accountability. I cannot be responsible for the good management of all Federal programs if I cannot hold my Cabinet Secretaries accountable. Under this legislation accountability would be diffused. I find myself obliged to return to the Congress unsigned a bill that would disrupt existing Federal programs and ill serve the needs of our Nation's handicapped citizens. The present Vocational Rehabilitation legislation does not expire until mid 1975. Plenty of time remains for us to work out a bill which will improve Federal programs for the handicapped rather than create the disruptions that will inevitably result from this hastily drawn piece of legislation. I have requested HEW Secretary Weinberger to meet with congressional leaders immediately upon their return to initiate this process.

GERALD R. FORD.

THE WHITE HOUSE, *October 29, 1974.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

MOTION OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Speaker, in view of the tremendous importance of the bill and the message just read, I think all Members should have the opportunity to vote on the veto message.

Mr. Speaker, I move that further consideration of the bill and the Presidential message be postponed until Wednesday next, November 20, 1974.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, why would the gentleman wish to postpone further consideration of this and the vote on this veto?

Mr. PERKINS. Simply because the bill is so important and we have so many Members absent today, that all the Members should have an opportunity to vote. Wednesday would be a more suitable day for Members to be here.

Mr. GROSS. Mr. Speaker, I do not understand why we cannot face the issue today.

Mr. PERKINS. Mr. Speaker, many Members did not anticipate that important bills of this type would be scheduled, and so they are absent. It is just for the convenience of the Members in general. That is the reason I am making this motion.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The motion was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. SEBELIUS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 626]

Abzug
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Badillo
Bolling
Brasco
Brooks
Brown, Ohio
Burke, Calif.
Burton, Phillip
Carney, Ohio
Casey, Tex.
Chappell
Chisholm
Clark
Clawson, Del
Clay
Conyers
Coughlin
Cronin
Culver
Danielson
Davis, Ga.
de la Garza
Dellums
Derwinski
Devine
Diggs
Donohue
Eckhardt
Eshleman
Flowers
Foley
Ford
Fountain
Frelinghuysen
Gibbons
Ginn
Grasso
Gray
Hansen, Wash.
Harsha
Hays
Hébert
Hungate
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kuykendall
Landgrebe
Latta
Lujan
Luken
McSpadden
Mann
Maraziti
Mathias, Calif.
Michel
Mitchell, Md.
Mizell
Moorhead, Pa.
Morgan
Mosher
Murphy, N.Y.
Owens
Patten
Pepper
Podell
Quie
Railsback
Rangel
Rarick
Reid
Reuss
Riegle
Rodino
Roncallo, N.Y.
Rooney, N.Y.
Rose
Roy
Sandman
Sarbanes
Skubitz
Smith, Iowa
Steele
Stephens
Stubblefield
Symms
Taylor, Mo.
Thomson, Wis.
Towell, Nev.
Treen
Udall
Van Deerlin
Vanik
Waldie
Wilson, Bob
Wyman
Young, Ill.
Young, S.C.

The SPEAKER. On this rollcall 331 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.
October 29, 1974.

Hon CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 5:25 P.M. on Tuesday, October 29, 1974, and said to contain H.R. 13342, An Act to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement, and a veto message thereon.

With kind regards, I am

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,

AN ACT TO AMEND THE FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS OF 1974—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-380)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning today, without my approval, H.R. 13342, The Farm Labor Contractor Registration Act Amendments of 1974. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

This bill contains provisions designed to strengthen the protections of migrant farm workers under that Act, which I support. I canont approve the bill, however, because it contains an unrelated rider which creates serious inequities and distortions in the Federal personnel system.

In the decade since the enactment of the Farm Labor Contractor Registration Act of 1963, it has become apparent that the provisions of that law have not been adequate to accomplish its purpose of protecting migrant farm workers from abuses by farm labor contractors. For nearly a year, the Administration has been working with the Congress to develop legislation which would improve the Act, and there has been give and take on all sides. I am pleased with this spirit of cooperation, and endorse those provisions of H.R. 13342 which apply to migrant farm workers.

Unfortunately, the Congress has seen fit to add a rider to this bill which is totally unrelated to the needs of migrant farm workers.

Section 17 of the bill would arbitrarily reclassify hearing officer positions in the Department of Labor, and make existing hearing officers Administrative Law Judges regardless of their qualifications.

I am gravely disturbed by that part of Section 17 relating to the hearing officers now employed by the Labor Department to hear and decide "black lung" claims. These employees would by fiat be declared to be Administrative Law Judges without regard to their capacity to fill such positions. Since Administrative Law Judges hired in the usual manner must demonstrate such capacity, this feature would be contrary to all principles of a civil service system based upon merit and competition among candidates.

I also cannot accept the feature of Section 17 which would legislatively classify and pay at the GS-16 level these newly designated Administrative Law Judges for the "black lung" program, as well as those who currently hear claims under the Longshoremen's and Harbor Workers' Compensation Act and the members of the Benefits Review Board established by the Longshore Amendments of 1972. Such a provision would arbitrarily impose a grade level without due regard for the relative complexity and difficulty of the work involved. By over-classifying certain positions, it would be disruptive of the principle of equal pay for equal work. This would create inequities within the Labor Department, and between positions of that agency and those in a number of other agencies, including approximately 400 GS-15 Administrative Law Judges in the Social Security Administration.

My concern about legislating classifications and pay of special groups of employees was the basis for my disapproving H.R. 5094, which provided for an arbitrary and inequitable reclassification of deputy U.S. marshals. In my first veto upon assuming the Presidency, I expressed my strong concern about granting preferential pay treatment by statute, and indicated that our policy must be to provide equal salaries for equal work. The rider to H.R. 13342 contains deficiencies similar to those in H.R. 5094.

In summary, I cannot accept a legislative provision which would disrupt sound principles of personnel administration, would create serious pay inequities by providing overly liberal salaries to employees in one agency leading to demands for similar treatment by large numbers of employees in other agencies, and would not effectively serve the public interest.

I urge the Congress, upon its return next month, to send me a bill—which I will promptly approve—without the unacceptable personnel provision I have described, a bill which is directed only toward strengthening the Farm Labor Contractor Registration Act.

GERALD R. FORD.

THE WHITE HOUSE, *October 29, 1974.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

MOTION OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Speaker, I move that further consideration on the bill and the President's veto message be postponed until Thursday, November 21, 1974.

The motion was agreed to.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

October 29, 1974.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 5:25 P.M. on Tuesday, October 29, 1974, and said to contain H.R. 6624, An Act for the relief of Alvin V. Burt, Junior, Eileen Wallace Kennedy Pope, and David Douglas Kennedy, a minor, and a veto message thereon.

With kind regards, I am
Sincerely,

W. PAT JENNINGS,
House of Representatives.
By W. RAYMOND COLLEY.

AN ACT FOR THE RELIEF OF ALVIN V. BURT, JR., EILEEN WALLACE KENNEDY POPE, AND DAVID DOUGLAS KENNEDY, A MINOR—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-378)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am today withholding my approval from H.R. 6624, a bill "For the relief of Alvin V. Burt, Jr., Eileen Wallace Kennedy Pope, and David Douglas Kennedy, a minor." I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

This bill would provide for payment, "as a gratuity," of $45,482 to Mr. Burt and for similar payments of $36,750 each to the widow and son of Douglas E. Kennedy for injuries and other damages Mr. Burt and Mr. Kennedy sustained as a result of gunshot wounds inflicted by U.S. military personnel in the Dominican Republic in 1965. The amounts in the bill were recommended in a congressional reference case opinion by a review panel of the Court of Claims.

The claims presented in this bill arise from an admittedly tragic and unfortunate incident. On May 6, 1965, Mr. Burt and Mr. Kennedy, two newspapermen who were covering the civil upheaval in the Dominican Republic and the peacekeeping operation in that country of U.S. military forces, attempted to drive through a U.S. checkpoint in Santo Domingo en route from rebel-held territory in the city. The Marines manning the checkpoint opened fire on their car when the men failed to get out as ordered and when it accelerated violently in reverse at the same time that the Marines were fired upon by snipers from an area behind the car. Both Mr. Burt and Mr. Kennedy were seriously injured as a result of the Marines' actions.

After the incident, both men received, without charge, extensive medical care and treatment from U.S. personnel in the field and later in U.S. military facilities. Their employer, the Miami Herald, paid their salaries while they were hospitalized, and guaranteed them continued employment. They also received workmen's compensation benefits during hospitalization, including prescribed lump-sum payments.

A majority of the members on a Court of Claims' review panel, which considered the present claims, held that the claimants had not established a "legal" or "equitable" claim within the meaning of the congressional reference statute. In fact, their opinion strongly suggests that the claimants' own negligence contributed to the injuries they received and further suggests that in pursuing their professions in the face of known hazards, the claimants assumed the risk of personal injury.

Notwithstanding these findings, however, the majority concluded that payment of reasonable compensation in this case was justified on "broad moral considerations" as a matter of "good conscience." Accordingly, they recommended awards in the amounts contained in the current bill.

I have considered carefully the merits of this case, and can find no reason to approve H.R. 6624. Equitable considerations growing out of Governmental actions have traditionally been the basis for private relief awards where no legal remedy is available. But the record clearly establishes that no such considerations are present in this case.

Approval of H.R. 6624 cannot, in my view, be justified by invoking terms such as "gratuity," as the awards are characterized in the bill, or "broad moral considerations," the basis used by the Court of Claims panel. To adopt such an approach could easily set a precedent for the payment of a myriad of claims involving financial hardship to selected individuals simply on the grounds that they lack legal redress. Once we start down this road, it will be difficult, if not impossible, to turn back.

I urge that in the future Congress adhere to the traditional equity basis for awards, whether or not they have been recommended by the Court of Claims under congressional reference procedures.

GERALD R. FORD.

THE WHITE HOUSE, *October 29, 1974.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and the bill will be printed as a House document.

The question is: Will the House, on reconsideration, pass the bill H.R. 6624, the objections of the President to the contrary notwithstanding?

MOTION OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Speaker, I move that further consideration of the bill and veto message from the President be postponed until Wednesday, October 20, 1974.

The motion was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 29, 1974.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 5:25 P.M. on Tuesday, October 29, 1974, and said to contain H.R. 7768, An Act for the relief of Nolan Sharp, and a veto message thereon.

With kind regards, I am
Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.
By W. RAYMOND COLLEY.

AN ACT FOR THE RELIEF OF NOLAN SHARP (H.R. 7768)—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–379)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am withholding my approval of H.R. 7768, a bill for the relief of Mr. Nolan Sharp. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by the Congress to receive messages at this time.

H.R. 7768 would authorize retroactive service-connected disability payments to Mr. Sharp, because of multiple sclerosis, for the period from January 16, 1956, to October 1, 1962. Under the bill, these payments would have to be offset against certain non-service-connected benefits Mr. Sharp received during the same period.

Mr. Sharp had honorable Army service from December 1, 1942, to June 5, 1943, when he was discharged because of severe hypochondriasis and anxiety state. The first confirmed medical diagnosis of an organic neurological disease identifiable as multiple sclerosis was made in 1949, six years after his discharge. At that time, the law allowed payment of service-connected disability benefits for multiple sclerosis manifesting itself within three years after separation from wartime service.

Mr. Sharp's claim for service-connected benefits based on multiple sclerosis received several adjudicative reviews and was the subject of appellate consideration on four occasions. On the basis of available evidence, the Veterans Administration was unable to determine direct connection of multiple sclerosis with the veteran's military service as required by law. He was, however, granted non-service-connected disability pension, effective January 16, 1956.

Effective October 1, 1962, the Congress extended the presumption of service connection for multiple sclerosis from three to seven years. The liberalizing statute, however, prohibited any retroactive payments based on the new presumption. Since Mr. Sharp qualified for service-connected benefits under the new statutory presumption, he has been receiving such payments since October 1, 1962.

Having carefully considered the circumstances of this case, I am unable to find sufficient reasons for approving this legislation to pay Mr. Sharp's benefits from an earlier date than the law permits. To make such a special award would seriously discriminate against similarly situated veterans.

Moreover, once the precendent for such special awards is established, it would be difficult to deny awards to other veterans who have been prohibited from receiving retroactive benefits under the 1962 law or similar statutes. The inevitable result would be to undermine the integrity and impartiality essential to the administration of such veterans' benefits.

For these reasons, I am constrained to withhold my approval from H.R. 7768.

GERALD R. FORD.

THE WHITE HOUSE, *October 29, 1974.*

The SPEAKER. The objections of the President will be spread at large upon the Journal and the message and bill will be printed as a House document.

MOTION OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Speaker, I move to postpone further consideration of the bill and the message until Wednesday, November 20, 1974.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The motion was agreed to.

A motion to reconsider was laid upon the table.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works, which was read, and, together with the accompanying papers, referred to the Committee on Appropriations:

WASHINGTON, D.C.,
November 4, 1974.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of Section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Public Works has approved the work plans transmitted to you which were referred to this committee. The work plans involved are the following:

STATE, PROJECT, EXECUTIVE COMMITTEE, AND DATE APPROVED

Indiana and Ohio; East Fork of Whitewater River, 770, 10/10/74.

S. Carolina and N. Carolina; Clarks Fork-Bullocks Creek, 770, 10/10/74.

Illinois; Upper Salt Creek, 1369, 10/10/74.

Iowa; Twelve Mile Creek, 2205, 10/10/74.

Mississippi; Sowashee Creek, 2205, 10/10/74.

Pennsylvania; Cross Creek, 2205, 10/10/74.

Virginia; Buffalo River, 2205, 10/10/74.

Alabama; Mush Creek, 2462, 10/10/74.

Georgia; Upper Mulberry River, 2462, 10/10/74.

New Mexico; Eagle-Tumbleweed Draw, 2462, 10/10/74.

Kindest personal regards.
Sincerely,
JOHN A. BLATNIK,
Chairman, Committee on Public Works.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works, which was read and, together with the accompanying papers, referred to the Committee on Appropriations:

WASHINGTON, D.C.,
November 8, 1974.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

MY DEAR MR. SPEAKER: Pursuant to the provisions of section 201 of Public Law 89-298, the Committee on Public Works of the House of Representatives on October 10, 1974, adopted a Committee resolution authorizing the following water resources development project:

Pottstown and Vicinity, Schuylkill River Basin, Pennsylvania.

With kindest personal regards.
Sincerely,
JOHN A. BLATNIK, *Chairman,*
Committee on Public Works.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause

3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XXV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

DISPOSAL OF EXCESS PROPERTY LOCATED WITHIN INDIAN RESERVATIONS

Mr. JAMES V. STANTON. Mr. Speaker I move to suspend the rules and pass the bill (H.R. 8958) to amend the Federal Property and Administrative Services Act of 1949 to provide for the disposal of certain excess and surplus Federal property to the Secretary of the Interior for the benefit of any group, band, or tribe of Indians, as amended.

The Clerk read as follows:

H.R. 8958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)) is amended as follows:

(1) The first sentence of such subsection is amended by striking out "In" at the beginning of such sentence and inserting in lieu thereof: "(1) Subject to the provisions of paragraph (2) of this subsection, in".

(2) Such subsection is amended by adding at the end thereof the following new paragraph:

The Administrator shall prescribe such procedures as may be necessary in order to transfer without compensation to the Secretary of the Interior excess real property located within the reservation of any group, band, or tribe of Indians which is recognized as eligible for services by the Bureau of Indian Affairs. Such excess real property shall be held in trust by the Secretary for the benefit and use of the group, band, or tribe of Indians, within whose reservation such excess real property is located.

The SPEAKER. Is a second demanded?

Mr. BUCHANAN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Ohio (Mr. JAMES V. STANTON) will be recognized for 20 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. JAMES V. STANTON. Mr. Speaker, this bill provides that when Federal Government property located within the boundaries of an Indian reservation is no longer needed by the Federal Agency using it, the property would pass to the Department of the Interior to hold in trust for the benefit of the Indian tribe on the reservation.

Under present law, an Indian tribe has no preferential rights to excess or surplus property located within the boundaries of its reservation. Instead, when Federal property becomes excess or surplus, it may be passed on to third parties who may use the property for purposes inconsistent with the activities of the Indian tribe.

In most cases, these properties were originally taken from the reservation by the Federal Government for defense uses, for fire protection facilities, or for use by the Bureau of Indian Affairs. The tribes never intended that the land be passed on to other uses at the time the Department of Defense, the Department of Agriculture, or the Bureau of Indian Affairs no longer maintained them for their original purposes. It is only fair that, once the use to which they were originally dedicated is fulfilled and the properties abandoned, that they then pass back to the Indian tribe to again become a part of their tribal reservation lands.

The amount of property expected to be covered by this legislation is not significant in terms of acreage, but it is significant in terms of what it means to the Indian tribes whose reservations would be affected by the intrusion of unrelated activities.

Mr. Speaker, the original legislation that was introduced was much more extensive and would have authorized the conveyance of surplus Government properties located outside Indian reservations to Indian tribes. The Government Operations Committee amended the bill to delete that provision because we were concerned about extending special treatment to any particular group of people. The committee amended the bill to cover only lands located within the boundaries of the reservations.

This bill, as amended, passed the Government Operations Committee unanimously. It will not result in any additional cost to the United States. In fact, the properties affected will remain in Federal Government ownership. They will simply be dedicated to the uses for which they were originally intended when they were incorporated into the Indian reservations many years ago.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 8958 will permit the transfer of excess or surplus Federal property located within an Indian reservation to the Department of the Interior for the benefit of Indian tribes occupying the reservation.

Recently, the Bureau of Indian Affairs developed a policy of restoring to Indian tribes greater control over their own affairs. This growing involvement has led to the initiation of self-supporting economic endeavors, health services, educational programs, housing projects, and cultural activities. However, the program has been hindered by an inability to obtain necessary facilities. For example, even though a tribe may receive a Federal grant to operate a health, educational, or economic program, it may be unable to obtain the use of necessary facilities to support its operation, even though available facilities exist within the reservation.

This situation exists because of the nature of the Federal property laws. An Indian tribe has no preferential rights in obtaining Federal excess or surplus property located within the reservation. This bill would overcome this inequity.

Enactment of this legislation will not result in additional costs to the United States, since the property transferred for the benefit of Indian tribes will remain in Federal Government ownership.

Mr. Speaker, I urge that the rules be suspended and that the bill do pass.

Mr. JAMES V. STANTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker, I would like to express my appreciation to Mr. HOLIFIELD, chairman of the Government Operations Committee, and to Mr. BROOKS, chairman of the Government Activities Subcommittee, for their consideration in bringing my bill to the floor for action.

The bill, as reported by the committee, provides that the Administrator of the General Services Administration shall transfer Federal lands which are within an Indian reservation and which have been declared excess to the needs of the administering agencies to the Secretary of the Interior to be held in trust for the particular Indian tribes involved. As amended by the committee, the bill provides that such transfers shall be without compensation.

Most of the lands which would be involved in such transfers are lands which have either been reserved or acquired by the Federal Government for use by the Bureau of Indian Affairs or the Indian Health Service in carrying out programs for the benefit of the Indians. The tracts are generally small in size and would be of benefit only to the Indian tribe.

In many cases, particularly with respect to Indian tribes with a small or nonexistent land base, these lands are needed for industrial development purposes, for housing projects, for tribal administrative purposes, or for land consolidation. Without this legislation, transfer of such lands must be accomplished by special legislation in every case.

In addition, this bill, if enacted, would relieve the Interior and Insular Affairs Committee from the time-consuming burden of routinely considering and passing the many land transfer bills which are presented to us each Congress. Conferring this rather narrow authority on the Secretary of the Interior and the Administrator will free up more of the time of the committee and my subcommittee on Indian Affairs to address the more substantive problems of Indians and Indian tribes.

Mr. Speaker, I urge that the bill be passed.

The SPEAKER pro tempore (Mr. O'NEILL). The question is on the motion offered by the gentleman from Ohio (Mr. JAMES V. STANTON) that the House suspend the rules and pass the bill H.R. 8958, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JAMES V. STANTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

JOINT FUNDING SIMPLIFICATION ACT OF 1974

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 16225) to provide authority to expedite procedures for consideration and approval of projects drawing upon more than one Federal assistance program, to simplify requirements for operation of those projects, and for other purposes, as amended.

The Clerk read as follows:

H.R. 16225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Joint Funding Simplification Act of 1974".

PURPOSE

SEC. 2. The purpose of this Act is to enable State and local governments and private, nonprofit organizations to use Federal Assistance more effectively and efficiently, and to adapt that assistance more readily to their particular needs through the wider use of projects drawing upon resources available from more than one Federal agency, program, or appropriation. It is the further purpose of this Act to encourage Federal-State arrangements under which local governments and private, nonprofit organizations may more effectively and efficiently combine State and Federal resources in support of projects of common interest to the governments and organizations concerned.

BASIC RESPONSIBILITIES OF THE PRESIDENT AND HEADS OF FEDERAL AGENCIES

SEC. 3. (a) The President shall promulgate such regulations as may be necessary or appropriate to assure that this Act is applied by all Federal agencies in a consistent manner and in accordance with its purposes. He may, for this purpose, require that Federal agencies adopt or prescribe procedures that will assure that applicants for assistance to projects funded pursuant to the provisions of this Act make appropriate efforts (1) to secure the views and recommendations of non-Federal agencies that may be significantly affected by such projects, and (2) to resolve questions of common interest to those agencies prior to submission of any application.

(b) Subject to such regulations as the President may prescribe, and to other applicable law, the heads of Federal agencies, by internal agency order or interagency agreement, may take the following actions:

(1) Identification of related programs to be particularly suitable or appropriate for providing joint support for specific kinds of projects thereunder.

(2) Development and promulgation of guidelines, model or illustrative projects, joint or common application forms, and other material or guidance to assist in the planning and development of projects drawing support from different programs.

(3) Review of administratively established program requirements in order to determine which of those requirements may impede joint support of projects thereunder and the extent to which such requirements may be modified, making such modifications where appropriate.

(4) Establishment of common technical or administrative rules with respect to related programs to assist in the joint use of funds in the support of specific projects or classes of projects under such programs.

(5) Creation of joint or common application processing and project supervision procedures or mechanisms including procedures for designating lead agencies to assume responsibilities for processing applications on behalf of several agencies and for designation of managing agencies to assume responsibilities for project supervision on behalf of several agencies.

(c) The head of each Federal agency shall be responsible for taking actions, to the maximum extent permitted under applicable law, that will further the purpose of this Act with respect to Federal assistance programs administered by his agency. Each Federal agency head shall also consult and cooperate with the heads of other Federal agencies in order similarly to promote the purposes of this Act with respect to Federal assistance programs of different agencies that may be used jointly in support of projects undertaken by State or local governments, or private, nonprofit organizations.

APPLICATION PROCESSING

SEC. 4. Actions taken by Federal agency heads pursuant to this Act that relate to the processing of applications or requests for assistance under two or more Federal programs in support of any project shall be designed to assure, so far as reasonably possible, that (1) all required reviews and approvals are handled expeditiously; (2) full account is taken of any special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly funded project; (3) the applicant is required to deal with a minimum number of Federal representatives, acting separately or as a common board or panel; (4) the applicant is promptly informed of decisions with respect to an application and of any special problems or impediments that may affect the feasibility of Federal provision of assistance on a joint basis; and (5) the applicant is not required by representatives of any one Federal agency or program to obtain information or assurances concerning the requirements or actions of another Federal agency that could more appropriately be secured through direct communication among the Federal agencies involved.

SPECIAL AUTHORITIES—BASIC CONDITIONS

SEC. 5. Where appropriate to further the purposes of this Act, and subject to the conditions prescribed in this section, heads of Federal agencies may use the authorities described in sections 6, 7, and 8 (relating to the establishment of uniform technical or administrative requirements, delegation of powers and responsibilities, and establishment of joint management funds) with respect to projects assisted under more than one Federal assistance program. These authorities shall be exercised only pursuant to regulations prescribed by the President. Those regulations shall include criteria or procedures to assure that the authorities are limited in use to problems that cannot be adequately dealt with through other actions pursuant to this Act or other applicable law, that they are applied only as necessary to promote expeditious processing of applications or effective and efficient administration of projects, and that they are applied in a manner consistent with the protection of the Federal interest and with program purposes and statutory requirements.

ESTABLISHMENT OF UNIFORM TECHNICAL OR ADMINISTRATIVE REQUIREMENTS

SEC. 6. (a) In order to provide for projects that would otherwise be subject to varying or conflicting technical or administrative rules and procedures not required by law, the heads of Federal agencies may adopt uniform provisions with respect to—

(1) inconsistent or conflicting requirements relating to financial administration of such projects, including accounting, reporting and auditing, and maintaining separate bank accounts, but only to the extent consistent with the requirements of section 8.

(2) inconsistent or conflicting requirements relating to the timing of Federal payments for such projects where a single or combined schedule is to be established for the project as a whole;

(3) inconsistent or conflicting requirements that assistance be extended in the form of a grant rather than a contract, or a contract rather than a grant; and

(4) inconsisent or conflicting requirements relating to accountability for, or the disposition of, records, property, or structures acquired or constructed with Federal assistance where common rules are established for the project as a whole.

(b) In order to permit processing of applications in accordance with the purposes of this Act, Federal agency heads may provide for review of proposals for projects by a single panel, board, or committee in lieu of review by separate panels, boards, or committees except when such review is specifically required by law.

(c) In promoting the more effective and efficient use of Federal assistance resources, Federal agency heads may waive requirements that a single or specific public agency be utilized or designated to receive, supervise, or otherwise administer a part of the Federal assistance drawn upon by any jointly funded project to the extent that administration by another public agency is determined to be fully consistent with applicable State or local law and with the objectives of the Federal assistance program involved. This authority may be exercised only (1) upon request of the head of a unit of general government, with respect to agencies that he certifies to be under his jurisdiction, or (2) with the agreement of the several State or local public agencies concerned.

DELEGATION OF POWERS

SEC. 7. With the approval of the President, agency heads may delegate to other Federal agencies powers and functions relating to the supervision or administration of Federal assistance, or otherwise arrange for other agencies to perform such activities, with respect to projects or classes of projects funded under the terms of this Act. Delegations under this section shall be made only on such conditions as may be appropriate to assure that the powers and functions delegated are exercised in full conformity with applicable statutory provisions and policies, and shall not relieve agency heads of responsibility for the proper and efficient management of projects funded by their agencies.

FUNDING ARRANGEMENTS AND PROCEDURES

SEC. 8. (a) In order to provide for the more effective administration of funds drawn from more than one Federal program or appropriation in support of projects under this Act, there may be established joint management funds with respect to such projects. There shall be transferred to the joint management fund from each affected program or appropriation, from time to time, its proportionate share of amounts needed for payment to the grantee. Any unexpended amounts shall be returned to the joint management fund by the grantee at the completion of the project.

(b) Any account in a joint management fund shall be subject to such agreements, not inconsistent with this section and other applicable law, as may be entered into by the Federal agencies concerned with respect to the discharge of the responsibilities of those agencies and shall assure the availability of necessary information to those agencies and to the Congress. These agreements shall also provide that the agency administering a joint management fund shall be responsible and accountable by program and appropriation for the amounts provided for the purposes of each account established in the fund; and shall include procedures for determining, from time to time, whether amounts in the account are in excess of the amounts required, and for returning that excess to the participating Federal agencies according to the applicable appropriations, subject to fiscal year limitations. Excess amounts applicable to expired appropriations will be lapsed from that fund.

(c) For each project financed through an account in a joint management fund established pursuant to this section, the recipients of moneys drawn from the fund shall keep such records as the head of the Federal agency responsible for administering the fund will prescribe. Such records shall, as a minimum, fully disclose the amount and disposition by such recipient of Federal assistance received under each program and appropriation, the total cost of the project in connection with which such Federal assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(d) The head of the Federal agency responsible for administering such joint management fund and the Comptroller General of the United States or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the moneys received from such fund.

(e) In the case of any project covered in a joint management fund, a single non-Federal share may be established according to the Federal share ratios applicable to the several Federal assistance programs involved and the proportion of funds transferred to the project account from each of those programs.

AUXILIARY PROVISIONS

SEC. 9. Appropriations available to any Federal assistance program for technical assistance or the training of personnel may be made available for the provision of technical assistance and training in connection with projects proposed or approved for joint funding involving that program and any other Federal assistance program.

FEDERAL-STATE ASSISTANCE AND AGREEMENTS

SEC. 10. Subject to such regulations as the President may prescribe, Federal agencies may enter into agreements with States as appropriate to extend the benefits of this Act to projects involving assistance from one or more Federal agencies and one or more State agencies. These agreements may include arrangements for the processing of requests for, or the administration of, assistance to such projects on a joint basis.

REPORTING

SEC. 11. At least one year prior to the expiration of this Act, the President shall submit a comprehensive report to the Congress on actions taken under this Act, and make recommendations for its continuation, modification, or termination. The report shall provide a detailed evaluation of the functioning of this Act, including information regarding the benefits and costs of jointly funded projects accruing to the participating State and local governments and private, nonprofit organizations, and to the Federal Government.

DEFINITIONS

SEC. 12. As used in this Act—

(1) the term "Federal assistance programs" means programs that provide assistance through grant or contractual arrangements, but does not include assistance in the form of revenue sharing, loans, loan guarantees, or insurance;

(2) the term "applicant" means any State or local government or private, nonprofit organization acting separately or together in seeking assistance with respect to a single project;

(3) the term "project" means any undertaking, whether of a temporary or continuing nature that includes components proposed or approved for assistance under more than one Federal program, or one or more Federal and one or more State programs if each of those components contributes materially to the accomplishment of a single purpose or closely related purposes;

(4) the term "Federal agency" means any agency, department, corporation, independent establishment, or other entity of the executive branch of the Government of the United States;

(5) the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, and any tribe as defined in section 3(c) of the Indian Financing Act (88 Stat. 77);

(6) the term "local government" means a local unit of government including a city, county, parish, town, township, village, school district, council of governments, or other agency or instrumentality of a local unit of government.

EFFECTIVE DATE AND EXPIRATION

SEC. 13. This Act shall become effective sixty days following the date of enactment, and shall expire five years following the date upon which it becomes effective; except that the expiration of this Act shall not affect the status of any project approved prior to the date of such expiration.

The SPEAKER pro tempore. Is a second demanded?

Mr. STEELMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill I am presenting today, H.R. 16225, is essentially a procedural measure that is intended to enable State and local governments, and nonprofit organizations, to utilize Federal assistance more efficiently and effectively in situations where they wish to combine, or "package," a number of categorical grants in order to finance a multipurpose project. This concept of "packaging" grants is also known as "joint funding simplification." When a multipurpose project is proposed, this bill would permit the use of a single application and uniform adminstrative requirement, instead of each of the Federal agencies participating in the project requiring conformance with its own administrative forms and procedures for applications, reporting, accounting, auditing, monitoring progress, etc. In this situation, all of the Federal agencies concerned would negotiate jointly with the prospective grantee, but only one would function as the "lead" agency in administering the assistance if the project is funded.

The joint funding simplification concept is not a new one. A similar bill sponsored by the Johnson administration passed the House in the 91st Congress, but the Senate took no action at that time. A joint funding authorization was then passed by the Senate in the 92d Congress, but the House did not act. Legislation for this purpose was again proposed by the Nixon administration last year and has passed the Senate as S. 2299. We now have an opportunity to put it all together.

The bill before the House is a clean bill that was introduced to incorporate amendments recommended by the Intergovernmental Relations Subcommittee. It was reported unanimously by the Committee on Government Operations. Legislation to permit joint funding simplification is supported by the major organizations representing our State and local governments, and we arc not aware of any opposition to this measure. I urge that it be promplty enacted.

Mr. STEELMAN. Mr. Speaker, the No. 1 issue before the Congress is inflation. We currently are grappling with many proposals to help reduce the spiraling costs as well as keep people on their jobs.

H.R. 16225, the Joint Funding Simplification Act of 1974 is not a bill which is generally considered an inflation fighter. But its basic goal, that of streamling the procedures for obtaining Federal assistance, can only help to cut the cost of such activity if the Federal bureaucracy's role is improved.

It should be pointed out that this bill will not, overnight, improve the flow of Federal money back to the State and local governments. For the bill to be truly effective, the administration, through the Office of Management and Budget and the various line agencies, must encourage utilization of its consolidating provisions.

As my distinguished colleague from Florida has pointed out, the bill provides for packaging of categorical grants so that State and local governments, as well as private, nonprofit organizations, may use Federal assistance more efficiently.

Of major significance is the provision in section 6(a) which would authorize the establishment of uniform provisions with regard to financial administration, including accounting, auditing, *reporting* and maintaining separate bank accounts.

In my term as a Member of the House, I have frequently heard from local and State officials that the varied accounting and auditing requirements of the Federal agencies consumes an inordinate amount of time and local tax dollars. It should be a fundamental goal of the Congress, particularly in these extremely difficult economic times, to aid State and local governments in cutting their operating costs in any way consistent with legitimate administrative practices.

We have too long permitted a kaleidoscope of Federal regulations to obscure and hinder the legitimate expenditures of Federal tax dollars. These regulations have contributed to our swollen bureaucracies as well as to the incredibly high costs of supporting these bureaucracies.

Section 8 of the Joint Funding Simplification Act provides for the creation of a joint management fund for the support of jointly funded projects. I would have preferred the original language in this section which did not require as much bookkeeping as does the current language.

However, this is a beginning point. Twenty-six multipurpose projects have been supported under the pilot Integrated Grant Administration. These pilot projects have worked reasonably well, but have been limited in their contribution to our understanding of joint funding because of their relatively small number.

In addition, the enactment of the joint funding bill will require that State and local applicants organize and manage complex projects that require multiagency funding as well as staff assistance from the Federal regional councils and Federal agencies involved in the administration of these projects.

Mr. Speaker, I urge my colleagues to join with the members of the Subcommittee on Intergovernmental Relations and the full Committee on Government Operations in support of this bill. It is the beginning of what I hope will be a continuing effort to streamline, simplify, and improve the manner in which Federal money is distributed to State and local governments.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. STEELMAN. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, as a member of the subcommitee and a cosponsor of this legislation, I would like to join with my colleagues in urging that it do pass.

I particularly would like to commend the gentleman from Texas (Mr. STEELMAN). His expertise in this area was of great value to the subcommittee as we considered this legislation and related matters. I appreciate the gentleman's leadership and commend him for it.

Mr. STEELMAN. Mr. Speaker, I thank the gentleman for his comments.

Mr. HORTON. Mr. Speaker, H.R. 16225 is a piece of legislation that has been before the Congress for a long time. It was first introduced as far back as the Johnson administration. It has been advocated and supported by each administration since that time. Over those years, it has been considered and passed by both Houses in various forms at various times. The current bill (H.R. 16225) is identical, except for a few modifications, to a bill which was passed by the Senate earlier this year.

The explosive growth in the dimensions of Federal grants makes it imperative that all possible steps be taken to simplify and streamline grant administration. H.R. 16225 is one step in that direction.

The bill will simplify funding and other procedures in those cases where a grantee receives assistance from two or more different agencies or programs within an agency. It provides a means by which funds, procedures, and administrative requirements of related programs can be brought together simply and speedily to support a particular project or group of projects for which Federal assistance is being sought.

More specifically, it provides a basis for:

Meeting interrelated needs with one comprehensive plan for receiving grants from several Federal agencies through one Federal funding source;

Establishing work plans and priorities geared to the needs of the grantees, rather than conforming to Washington-imposed plans;

Receiving Federal funds in synchronization with the grantee's own planning and funding cycles;

Simplifying and standardizing administrative requirements;

Simplifying paperwork and recordkeeping;

Reporting progress to one Federal center rather than several; and

Replacing separate Federal agency audits with a single audit by only one agency.

The bill does not affect the substantive provisions of existing grant programs. The identity, purpose, and criteria for eligibility of each program would remain untouched.

In the Senate version of H.R. 16225, section 8(a) of the bill would have permitted the funds for a jointly funded project to be administered as if they were derived from a single appropriation. This was modified by the House committee to require that separate fund accounts be kept by each fund source. I do not think this amendment does too much damage to the bill, but I do believe that the wording of the Senate version would have provided a basis for more accurate accounting on the part of the grantee by facilitating the allocation of costs to the various fund sources.

This legislation has the strong support of the administration. It has the support of the General Accounting Office. It has the support of the Advisory Committee on Intergovernmental Relations and all State and local government public interest groups. It also has the support of professional organizations such as the Municipal Finance Officers Association, the Federal Government Accountants Association, and the American Institute of Certified Public Accountants.

I hope that H.R. 16225 will receive the unanimous approval of the House.

Mr. FOUNTAIN. Mr. Speaker, H.R. 16225, the Joint Funding Simplification Act of 1974, is intended to permit the use of more simplified and uniform administrative rules and procedures in instances where a State or local government, or a nonprofit organization, wishes to develop a project for which assistance is available from two or more programs administered by one or more Federal agencies. An applicant for such assistance normally must file separate applications for each of the several programs included in the project, and the administrative rules and procedures for processing those applications may differ substantially among programs and agencies. H.R. 16225 will help to alleviate this difficulty by providing authority to expedite the consideration and approval of such projects, and by simplifying procedures for their administration after approval. For example, it will permit the use of a single application form and a comprehensive progress report instead of separate applications and reports to each participating Federal agency, and a joint or coordinated financial audit arranged by one agency on behalf of all.

Joint funding simplification is essentially a management tool designed to facilitate the "packaging" of categorical grants so that eligible State and local governments, as well as nonprofit organizations, may use Federal assistance more efficiently and effectively in multiple-purpose projects that transcend categorical program boundaries.

The number and variety of grant-in-aid programs enacted by the Congress have increased greatly in recent years. Since most of these programs were devised to assist specific activities of a relatively limited scope, they cannot readily be used to support multipurpose projects that require funding from two or more programs or appropriations. Yet, State and local governments may find comprehensive projects of this kind a practical way to deliver certain public services with greater efficiency and effectiveness. Existing Federal rules and procedures for grant programs, however, make it difficult or impossible for grantees to package and administer multipurpose projects.

The need for uniform rules and procedures where multipurpose projects are involved has long been recognized, and there has been a longstanding congressional interest in legislation for this purpose. In fact, the House passed a joint funding simplification bill in the 91st Congress, but the Senate took no action. The situation was reversed in the 92d Congress when the Senate passed a joint funding authorization as part of the Intergovernmental Cooperation Act Amendments of 1972, but the House did not act.

Early in the 93d Congress, at the administration's request, I introduced H.R. 11236, which is similar to the bill previously passed by the House. S. 2299, a companion bill, was introduced by Senator MUSKIE and several cosponsors, and passed the Senate in November 1973.

H.R. 16225 is a clean bill which I and other members of the Intergovernmental Relations Subcommittee introduced to incorporate the Subcommittee's amendments to H.R. 11236. It differs from H.R. 11236 and S. 2299 in two principal respects:

First. It requires closer control of money transferred to a joint management fund to insure that appropriations are used for their intended purposes; and

Second. It provides closer congressional oversight through a 5-year rather than a permanent authorization.

H.R. 16225 was unanimously reported by the Committee on Government Operations. Statements or resolutions in support of joint funding simplification legislation have been received from the National Governors Conference, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the Advisory Commission on Intergovernmental Relations, the American Institute of Certified Public Accountants, the American Institute of Planners, the Federal Government Accountants Association, and the Municipal Finance Officers Association, as well as from each of the Federal departments and agencies that expressed views on this measure.

The administration has been testing the feasibility of the joint funding simplification approach in a demonstration program called Integrated Grant Administration, which is operated through the 10 Federal regional councils. Twenty-six projects have been supported under that pilot program. While legislation has been requested to provide a statutory foundation for that effort, the administration has provided no assurance that the new authority will be used extensively on a national basis. The committee has been advised that the number of projects that can be administered in future years will depend upon the capability of:

First. State and local applicants to organize and manage complex projects that require multiagency funding; and

Second. The staff experience and capability of Federal regional councils and participating Federal agencies in administering projects of this kind.

I believe that the Federal Government must give a much greater priority to encouraging broad State and local use of jointly funded projects if this legislation is to be meaningful. Affirmative Federal action is especially needed if communities that do not possess the expertise to organize multi-purpose projects without technical assistance are to benefit from this legislation. In reporting H.R. 16225, the committee expressed the intent that the Federal Government give special attention to the needs of smaller communities in the planning and processing of joint funding proposals.

One of the principal strengths of the joint funding approach is its potential for a bringing together representatives of all Federal agencies involved in a particular proposal for a coordinated review of a State or local government's total project.

While I believe this legislation is useful and desirable, and I fully support it, we should not expect more of joint funding simplification than it is capable of delivering. This is but a limited approach for dealing with the fundamental problems created by the complexity of the present Federal grant-in-aid system. I believe that other measures, such as the legislative consolidation of closely related categorical programs into broader purpose grants and the placement of similar programs in a single Federal agency, have the potential for contributing more significantly to the improvement of grant-in-aid administration.

Mr. FUQUA. Mr. Speaker, I have no further requests for time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. JAMES V. STANTON) that the House suspend the rules and pass the bill, H.R. 16225, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of the Senate bill (S. 2299) to provide authority to expedite procedures for consideration and approval of projects drawing upon more than one Federal assistance program, to simplify requirements for operation of those projects, and for other purposes, a bill similar to H.R. 16225 just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Joint Funding Simplification Act of 1973".

PURPOSES

SEC. 2. The purpose of this Act is to enable States, local governments, and other public or private organizations and agencies to use Federal assistance more effectively and efficiently, to adapt that assistance more readily to their particular needs through the wider use of projects drawing upon resources available from more than one Federal agency, program, or appropriation. It is the further purpose of this Act to encourage Federal-State arrangements under which local governments and other public or private organizations and agencies may more effectively and efficiently combine State and Federal resources in support of projects of common interest to be governments, agencies, and organizations concerned.

BASIC RESPONSIBILITIES ON THE HEADS OF FEDERAL AGENCIES

SEC. 3. (a) Subject to such regulations as the President may prescribe, the heads of Federal agencies may take actions, by internal agency order or interagency agreement, including but not limited to:

(1) identification of related programs likely to be particularly suitable or appropriate for providing joint support for specific kinds of projects;

(2) development and promulgation of guidelines, model or illustrative projects, joint or common application forms, and other material or guidance to assist in the planning and development of projects drawing support from different programs;

(3) review of administratively established program requirements in order to determine which of those requirements may impede joint support of projects and the extent to which these may be appropriately modified, and making modifications accordingly;

(4) establishment of common technical or administrative rules among related programs to assist in the joint use of funds in the support of specific projects or classes of projects; and

(5) creation of joint or common application processing and project supervision procedures or mechanisms including procedures for designating lead agencies to assume responsibilities for processing on behalf of several agencies and for designation of managing agencies to assume responsibilities for project supervision on behalf of several agencies.

(b) The head of each Federal agency shall be responsible for taking actions, to the maximum extent feasible under applicable law, which will further the purpose of this Act with respect to Federal assistance programs administered by his agency. Each Federal agency head shall also consult and cooperate with the heads of other Federal agencies in order similarly to promote the purposes of this Act with respect to Federal assistance programs of different agencies which may be used together or jointly in support of projects undertaken by State or local governments or other public or private agencies and organizations.

APPLICATION PROCESSING

SEC. 4. Actions taken by Federal agencies pursuant to this Act which relate to the processing of applications or requests for assistance under two or more Federal programs in support of any project shall be designed to assure, so far as reasonably possible, that (1) all required reviews and approvals are handled expeditiously; (2) full account is taken of any special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly funded project; (3) the applicant is required to deal with a minimum number of Federal representatives, acting separately or as a common board or panel; (4) the applicant is promptly informed of decisions with respect to his application and of any special problems or impediments which may affect the feasibility of Federal provision of assistance on a joint basis; and (5) the applicant is not required by representatives of any one Federal agency or program to obtain information or assurances concerning the requirements or actions of another Federal agency which could better and more appropriately be secured through direct communication among the Federal agencies involved.

SPECIAL AUTHORITIES—BASIC CONDITIONS

SEC. 5. Where appropriate to further the purposes of this Act, and subject to the conditions prescribed in this section, heads of Federal agencies may use the authorities described in sections 6, 7, and 8 (relating to the establishment of uniform technical or administrative requirements, delegation of powers and responsibilities, and establishment of joint management funds) with respect to projects assisted under more than one Federal assistance program. These authorities shall be exercised only pursuant to regulations prescribed by the President. Those regulations shall include criteria or procedures to assure that the authorities are limited in use to problems that cannot be adequately dealt with through other actions pursuant to this Act or other applicable law, that they are applied only as necessary to promote expeditious processing or effective and efficient administration, and that they are applied consistent with the protection of the Federal interest and with program purposes or statutory requirements of a substantive nature.

ESTABLISHMENT OF UNIFORM TECHNICAL OR ADMINISTRATIVE REQUIREMENTS

SEC. 6. (a) In order to provide for projects which would otherwise be subject to varying or conflicting technical or administrative provisions of law, the heads of Federal agencies may adopt uniform provisions respecting:

(1) inconsistent or conflicting requirements relating to financial administration, including accounting, reporting and auditing, and maintaining separate bank accounts, but only to the extent consistent with the requirements of section 8;

(2) inconsistent or conflicting requirements relating to the timing of Federal payments where a single or combined schedule is to be established for the project as a whole;

(3) inconsistent or conflicting requirements that assistance be extended in the form of a grant rather than a contract, or a contract rather than a grant;

(4) inconsistent or conflicting requirements relating to accoutnability for, or the disposition of, property or structures acquired or constructed with Federal assistance where common rules are to be established for the project as a whole; and

(5) other inconsistent or conflicting requirements of an administrative or technical nature, as defined in regulations of the President and subject to such conditions as he may prescribe.

(b) In order to permit processing of applications in accordance with the purposes of this Act, Federal agency heads may provide for review of proposals for projects by a single panel, board, or committee in lieu of review by separate panels, boards, or committees when such review would otherwise be required by law.

(c) In promoting the more effective and efficient use of Federal assistance resources, Federal agency heads may waive requirements that a single or specific public agency be utilized or designated to receive, supervise, or otherwise administer a part of the Federal assistance drawn upon by any jointly funded project to the extent that administration by another public agency is determined to be fully consistent with applicable State or local law and with the objectives of the Federal assistance program involved. This authority may be exercised only (1) upon request of the head of a unit of general government, with respect to agencies which he certifies to be under his jurisdiction, or (2) with the agreement of the several State or local public agencies concerned.

DELEGATION OF POWERS

Sec. 7. With the approval of the President, agency heads may delegate to other Federal agencies any powers relating to the approval, under this Act, of projects or classes of projects under a program if such delegation will promote the purposes of that program. Agency heads may also delegate to other Federal agencies powers and functions relating to the supervision or administration of Federal assistance, or otherwise arrange for other agencies to perform such activities, with respect to projects or classes of projects subject to this Act. Delegations under this section shall be made only on such conditions as may be appropriate to assure that the powers and functions delegated are exercised in full conformity with applicable statutory provisions and policies.

FUNDING ARRANGEMENTS AND PROCEDURES

Sec. 8. (a) In order to provide for the more effective administration of funds drawn from more than one Federal program or appropriation in support of projects under this Act, there may be established joint management funds with respect to such projects. The total amount approved for such a project may be accounted for through a joint management fund as if the funds had been derived from a single Federal assistance program or transportation. There will be transferred to the joint management fund from each affected appropriation, from time to time, its proportionate share of amounts needed for payment to the grantee. Any amounts remaining in the hands of the grantee at the completion of the project shall be returned to the joint management fund.

(b) Any account in a joint management fund shall be subject to such agreements, not inconsistent with this section and other applicable law, as may be entered into by the Federal agencies concerned with respect to the discharge of the responsibilities of those agencies and shall assure the availability of necessary information to those agencies and to the Congress. These agreements shall also provide that the agency administering a joint management fund shall be responsible and accountable for the total amount provided for the purposes of each account established in the fund; and may include procedures for determining, from time to time, whether amounts in the account are in excess of the amounts required, for returning that excess to the participating Federal agencies in accordance with a formula mutually acceptable as providing an equitable distribution, and for effecting returns accordingly to the applicable appropriations, subject to fiscal year limitations. Excess amounts applicable to expired appropriations will be lapsed from that fund.

(c) For each project financed through a joint management fund established pursuant to this section, the recipients of moneys drawn from the fund shall keep such records as the head of the Federal agency responsible for administering the fund will prescribe. Such records shall, as a minimum, fully disclose the amount and disposition by such recipient of Federal assistance received, the total cost of the project in connection with which such Federal assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(d) The head of the Federal agency responsible for administering such joint management fund and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the moneys received from such fund.

(c) In the case of any project covered in a joint management fund, a single non-Federal share may be established according to the Federal share ratios applicable to the several Federal assistance programs involved and the proportion of funds transferred to the project account from each of those programs.

AUXILIARY PROVISIONS

Sec. 9. (a) Appropriations available to any Federal assistance program for technical assistance or the training of personnel may be made available for the provision of technical assistance and training in connection with projects proposed or approved for joint or common funding involving that program and any other Federal assistance program.

(b) Personnel of any Federal agency may be detailed from time to time to other agencies as necessary or appropriate to facilitate the processing of applications under this Act or the administration of approved projects.

FEDERAL-STATE ASSISTANCE AND AGREEMENTS

Sec. 10. Subject to such regulations as the President may prescribe, Federal agencies may enter into agreements with States or State agencies as appropriate to extend the benefits of this Act to projects involving assistance from one or more Federal agencies and one or more State agencies. These agreements may include arrangements for the processing of requests for, or the administration of, assistance to such projects on a joint basis.

AUTHORITY OF THE PRESIDENT

Sec. 11. In addition to powers and authority otherwise conferred upon him by this Act or other law, the President may take such action, prescribe such procedures, and promulgate such rules as may be necessary or appropriate to assure that this Act is applied by all Federal agencies in a consistent manner and in accordance with its purposes. He may, for this purpose, require that Federal agencies adopt or prescribe procedures that will assure that applicants for assistance to projects under this Act make appropriate efforts (1) to secure the views and recommendations of non-Federal agencies that may be significantly affected by such projects, including units of general government, and (2) to resolve questions of common interest to those agencies prior to submission of any application. The President shall also, from time to time, make reports to the Congress on actions taken under this Act and make such recommendations for additional legislative action as he may deem appropriate, including recommendations for the consolidation, simplification, and coordination of Federal assistance programs.

DEFINITIONS

Sec. 12. As used in this Act—

(1) "Federal assistance programs, are programs that provide assistance through grant or contractual arrangements, and include technical assistance programs or programs providing assistance in the form of loans, loan guarantees or insurance;

(2) "applicant" includes one or more State or local governments or other public or private agencies or organizations acting separately or together in seeking assistance with respect to a single project;

(3) "project" includes any undertaking, however characterized and whether of a temporary or continuing nature, which includes components proposed or approved for assistance under more than one Federal program, or one or more Federal and one or more State programs, if each of those components contributes materially to the accomplishment of a single purpose or closely related purposes;

(4) "Federal agency" includes any agency in the executive branch of the Government; and

(5) "State" means one of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

EFFECTIVE DATE AND EXPIRATION

Sec. 13. This Act shall become effective sixty days following the date of enactment.

MOTION OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Fuqua moves to strike out all after the enacting clause of S. 2299 and to insert in lieu thereof the provisions of H.R. 16225, as passed, as follows:

That this Act may be cited as the "Joint Funding Simplification Act of 1974".

PURPOSE

Sec. 2. The purpose of this Act is to enable State and local governments and private, nonprofit organizations to use Federal assistance more effectively and efficiently, and to adapt that assistance more readily to their particular needs through the wider use of projects drawing upon resources available from more than one Federal agency, program, or appropriation. It is the further purpose of this Act to encourage Federal-State arrangements under which local governments and private, nonprofit organizations may more effectively and efficiently combine State and Federal resources in support of projects of common interest to the governments and organizations concerned.

BASIC RESPONSIBILITIES OF THE PRESIDENT AND HEADS OF FEDERAL AGENCIES

Sec. 3. (a) The President shall promulgate such regulations as may be necessary or appropriate to assure that this Act is applied by all Federal agencies in a consistent manner and in accordance with its purposes. He may, for this purpose, require that Federal agencies adopt or prescribe procedures that will assure that applicants for assistance to projects funded pursuant to the provisions of this Act make appropriate efforts (1) to secure the views and recommendations of non-Federal agencies that may be significantly affected by such projects, and (2) to resolve questions of common interest to those agencies prior to submission of any application.

(b) Subject to such regulations as the President may prescribe, and to other applicable law, the heads of Federal agencies, by internal agency order or interagency agreement, may take the following actions:

(1) Identification of related programs likely to be particularly suitable or appropriate for providing joint support for specific kinds of projects thereunder.

(2) Development and promulgation of guidelines, model or illustrative projects, joint or common application forms, and other material or guidance to assist in the planning and development of projects drawing support from different programs.

(3) Review of administratively established program requirements in order to determine which of those requirements may impede joint support of projects thereunder and the extent to which such requirements may be modified, making such modifications where appropriate.

(4) Establishment of common technical or administrative rules with respect to related programs to assist in the joint use of funds in the support of specific projects or classes of project under such programs.

(5) Creation of joint or common application processing and project supervision procedures or mechanisms including procedures for designating lead agencies to assume responsibilities for processing applications on behalf of several agencies and for designation of managing agencies to assume responsibilities for project supervision on behalf of several agencies.

(c) The head of each Federal agency shall be responsible for taking actions, to the maximum extent permitted under applicable law, that will further the purpose of this Act with respect to Federal assistance programs administered by his agency. Each Federal agency head shall also consult and cooperate with the heads of other Federal agencies in order similarly to promote the purposes of this Act with respect to Federal assistance programs of different agencies that may be used jointly in support of projects undertaken by State or local governments, or private, nonprofit organizations.

APPLICATION PROCESSING

SEC. 4. Actions taken by Federal agency heads pursuant to this Act that relate to the processing of applications or requests for assistance under two or more Federal programs in support of any project shall be designed to assure, so far as reasonably possible, that (1) all required reviews and approvals are handled expeditiously; (2) full account is taken of any special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly funded project; (3) the applicant is required to deal with a minimum number of Federal representatives, acting separately or as a common board or panel; (4) the applicant is promptly informed of decisions with respect to an application and of any special problems or impediments that may affect the feasibility of Federal provision of assistance on a joint basis; and (5) the applicant is not required by representatives of any one Federal agency or program to obtain information or assurances concerning the requirements or actions of another Federal agency that could more appropriately be secured through direct communication among the Federal agencies involved.

SPECIAL AUTHORITIES—BASIC CONDITIONS

SEC. 5. Where appropriate to further the purposes of this Act, and subject to the conditions prescribed in this section, heads of Federal agencies may use the authorities described in sections 6, 7, and 8 (relating to the establishment of uniform technical or administrative requirements, delegation of powers and responsibilities, and establishment of joint management funds) with respect to projects assisted under more than one Federal assistance program. These authorities shall be exercised only pursuant to regulations prescribed by the President. Those regulations shall include criteria or procedures to assure that the authorities are limited in use to problems that cannot be adequately dealt with through other actions pursuant to this Act or other applicable law, that they are applied only as necessary to promote expeditious processing of applications or effective and efficient administration of projects, and that they are applied in a manner consistent with the protection of the Federal interest and with program purposes and statutory requirements.

ESTABLISHMENT OF UNIFORM TECHNICAL OR ADMINISTRATIVE REQUIREMENTS

SEC. 6. (a) In order to provide for projects that would otherwise be subject to varying or conflicting technical or administrative rules and procedures not required by law, the heads of Federal agencies may adopt uniform provisions with respect to—

(1) inconsistent or conflicting requirements relating to financial administration of such projects, including accounting, reporting and auditing, and maintaining separate bank accounts, but only to the extent consistent with the requirements of section 8;

(2) inconsistent or conflicting requirements relating to the timing of Federal payments for such projects where a single or combined schedule is to be established for the project as a whole;

(3) inconsistent or conflicting requirements that assistance be extended in the form of a grant rather than a contract, or a contract rather than a grant; and

(4) inconsistent or conflicting requirements relating to accountability for, or the disposition of, records, property, or structures acquired or constructed with Federal assistance where common rules are established for the project as a whole.

(b) In order to permit processing of applications in accordance with the purposes of this Act, Federal agency heads may provide for review of proposals for projects by a single panel, board, or committee in lieu of review by separate panels, boards, or committees except when such review is specifically required by law.

(c) In promoting the more effective and efficient use of Federal assistance resources, Federal agency heads may waive requirements that a single or specific public agency be utilized or designated to receive, supervise, or otherwise administer a part of the Federal assistance drawn upon by any jointly funded project to the extent that administration by another public agency is determined to be fully consistent with applicable State or local law and with the objectives of the Federal assistance program involved. This authority may be exercised only (1) upon request of the head of a unit of general government, with respect to agencies that he certifies to be under his jurisdiction, or (2) with the agreement of the several States or local public agencies concerned.

DELEGATION OF POWERS

SEC. 7. With the approval of the President, agency heads may delegate to other Federal agencies powers and functions relating to the supervision or administration of Federal assistance, or otherwise arrange for other agencies to perform such activities, with respect to projects or classes of projects funded under the terms of this Act. Delegations under this section shall be made only on such conditions as may be appropriate to assure that the powers and functions delegated are exercised in full conformity with applicable statutory provisions and policies, and shall not relieve agency heads of responsibility for the proper and efficient management of projects funded by their agencies.

FUNDING ARRANGEMENTS AND PROCEDURES

SEC. 8. (a) In order to provide for the more effective administration of funds drawn from more than one Federal program or appropriation in support of projects under this Act, there may be established joint management funds with respect to such projects. There shall be transferred to the joint management fund from each affected program or appropriation, from time to time, its proportionate share of amounts needed for payment to the grantee. Any unexpended amounts shall be returned to the joint management fund by the grantee at the completion of the project.

(b) Any account in a joint management fund shall be subject to such agreements, not inconsistent with this section and other applicable law, as may be entered into by the Federal agencies concerned with respect to the discharge of the responsibilities of those agencies and shall assure the availability of necessary information to those agencies and to the Congress. These agreements shall also provide that the agency administering a joint management fund shall be responsible and accountable by program and appropriation for the amounts provided for the purpose of each account established in the fund; and shall include procedures for determining, from time to time, whether amounts in the account are in excess of the amounts required, and for returning that excess to the participating Federal agencies according to the applicable appropriations, subject to fiscal year limitations. Excess amounts applicable to expired appropriations will be lapsed from that fund.

(c) For each project financed through an account in a joint management fund established pursuant to this section, the recipients of moneys drawn from the fund shall keep such records as the head of the Federal agency responsible for administering the fund will prescribe. Such records shall, as a minimum, fully disclose the amount and disposition by such recipient of Federal assistance received under each program and appropriation, the total cost of the project in connection with which such Federal assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(d) The head of the Federal agency responsible for administering such joint management fund and the Comptroller General of the United States or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the moneys received from such fund.

(e) In the case of any project covered in a joint management fund, a single non-Federal share may be established according to the Federal share ratios applicable to the several Federal assistance programs involved and the proportion of funds transferred to the project account from each of those programs.

AUXILIARY PROVISIONS

SEC. 9. Appropriations available to any Federal assistance program for technical assistance or the training of personnel may be made available for the provision of technical assistance and training in connection with projects proposed or approved for joint funding involving that program and any other Federal assistance program.

FEDERAL-STATE ASSISTANCE AND AGREEMENTS

SEC. 10. Subject to such regulations as the President may prescribe, Federal agencies may enter into agreements with States as appropriate to extend the benefits of this Act to projects involving assistance from one or more Federal agencies and one or more State agencies. These agreements may include arrangements for the processing of requests for, or the administration of, assistance to such projects on a joint basis.

REPORTING

SEC. 11. At least one year prior to the expiration of this Act, the President shall submit a comprehensive report to the Congress on actions taken under this Act, and make recommendations for its continuation, modification, or termination. The report shall provide a detailed evaluation of the functioning of this Act, including information regarding the benefits and costs of jointly funded projects accruing to the participating State and local governments and private, nonprofit organizations, and to the Federal Government.

DEFINITIONS

SEC. 12. As used in this Act—

(1) the term "Federal assistance programs" means programs that provide assistance through grant or contractual arrangements, but does not include assistance in the form of revenue sharing, loans, loan guarantees, or insurance;

(2) the term "applicant" means any State or local government or private, nonprofit organization acting separately or together in seeking assistance with respect to a single project;

(3) the term "project" means any undertaking, whether of a temporary or continuing nature that includes components proposed or approved for assistance under more than one Federal program, or one or more Federal and one or more State programs, if each of those components contributes materially to the accomplishment of a single purpose or closely related purposes;

(4) the term "Federal agency" means any agency, department, corporation, independent establishment, or other entity of the executive branch of the Government of the United States;

(5) the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, and any tribe as defined in section 3(c) of the Indian Financing Act (88 Stat. 77);

(6) the term "local government" means a local unit of government including a city, county, parish, town, township, village, school district, council of governments, or other agency or instrumentality of a local unit of government.

EFFECTIVE DATE AND EXPIRATION

SEC. 13. This Act shall become effective sixty days following the date of enactment, and shall expire five years following the date upon which it becomes effective; except that the expiration of this Act shall not affect the status of any project approved prior to the date of such expiration.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed. and a motion to reconsider was laid on the table.

A similar House bill (H.R. 16225) was laid on the table.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDING THE WILD AND SCENIC RIVERS ACT

Mr. TAYLOR of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14791) to amend the Wild and Scenic Rivers Act (82 Stat. 906), and for other purposes, as amended.

The Clerk read as follows:

H.R. 14791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Act of October 2, 1968 (82 Stat. 906, 911; 16 U.S.C. 1276), is amended by adding the following new subsection:

"(28) American, California: The North Fork from the Cedars to Auburn Reservoir.

"(29) Au Sable, Michigan: The segment downstream from Foote Dam to Oscoda; upstream from Loud Reservoir to the source of the river and including its principal tributaries, but excluding Mio and Bamfield Reservoirs.

"(30) Cahaba, Alabama: The segment downstream from United States Highway 31 south of Birmingham in Jefferson County and upstream from United States Highway west of Selma in Dallas County.

"(31) Clark's Fork, Wyoming: The segment from the Clark's Fork Canyon to the Crandall Creek Bridge.

"(32) Colorado, Colorado: the segment from the Colorado/Utah boundary to a point upstream near the town of Loma, Colorado.

"(33) Kettle, Minnesota: The entire segment within the State of Minnesota.

"(34) Manistee, Michigan: The segment upstream from Manistee Lake to the source of the river and including its principal tributaries and excluding Tippy and Hodenpyl Reservoirs.

("35) Nolichuckey, Tennessee and North Carolina: The entire main stem.

"(36) Sipsey Fork, the West Fork, Alabama: The segment of the impoundment in Winston County formed by the Lewis M. Smith Dam upstream to the point of origin in the William B. Bankhead National Forest in Lawrence County; and the tributaries to the segment.

"(37) Snake, Wyoming: Beginning at the southern boundaries of Teton National Park to the entrance to Palisades Reservoir.

"(38) Sweetwater, Wyoming: The segment between Wilson Bar downstream to Spring Creek.

"(39) Tuolumne River, California: The main river from its sources on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir.

"(40) Wisconsin, Wisconsin: The main stem from the dam at Prairie du Sac, Wisconsin, to its confluence with the Mississippi River at Prairie du Chien, Wisconsin."

SEC. 2. Section 5 of the Act of October 2, 1968 (82 Stat. 910), as amended, is further amended by relettering subsections (b) and (c) as (c) and (d), respectively, and inserting a new subsection (b) as follows:

"(b) The studies of rivers in subparagraphs (28) through (40) of subsection 5(a) shall be completed and reports thereon submitted by not later than October 2, 1978, and in accordance with the provisions of section 4(a) of this Act. For the purpose of conducting such studies, there are authorized to be appropriated such sums as may be necessary, but not more than $975,000."

The SPEAKER pro tempore. Is a second demanded?

Mr. DON H. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. TAYLOR of North Carolina. Mr. Speaker, the legislation now before the House is H.R. 14791—a bill to amend the Wild and Scenic Rivers Act to authorize the study of certain rivers or segments of rivers for possible inclusion in the wild and scenic rivers system.

None of the rivers to be studied under this legislation involve any significant controversy. In fact, all of them enjoy the support of the Members who represent the areas involved. Most of the components of this omnibus bill are the outgrowth of early measures introduced or cosponsored by the Members whose districts are most directly involved. More controversial proposals—such as the one authorizing the study of the New River—are not included in this legislation. Instead, they will be processed on their individual merits.

BASIC STUDY PROVISIONS OF THE WILD AND SCENIC RIVERS ACT

The Wild and Scenic Rivers Act was enacted in 1968. At that time, the Congress established a system which recognized the wild, scenic, and recreational values of eight river components. It also recognized these potential qualities in 27 other river areas. Some of these studies have been completed and two rivers have been added to the system—Chatooga and lower St. Croix. Some have been found unsuitable or more appropriate for State recognition. The remainder of the studies are in varying stages of completion.

Under the act, the studies are comprehensive. Not only do they involve a complete assessment of the wild, scenic and recreational qualities of the river involved, but they must include consideration of alternate uses of the river and its adjacent lands. I want to emphasize that the mere authorization of a study does not automatically mean that the river will become a component of the Wild and Scenic Rivers System. Public hearings are held and interested Federal agencies and States have an opportunity to comment. No river can be added to the national system for Federal administration without the approval of specific authorizing legislation by the Congress.

PROVISIONS OF H.R. 14791

H.R. 14791, if enacted, will permit the Departments of Interior and Agriculture, to study additional rivers. Once those studies are completed, they will be transmitted to the Congress for review and possibly for implementing legislation. In the meantime, these river areas will be protected from adverse actions which might otherwise be funded or licensed by other Federal agencies.

CORRECTION OF REPORT

Mr. Speaker, for the record, I wish to correct an error contained in the committee report. Due to an oversight, the report incorrectly refers to H.R. 14217 in a subtitle on page 3. This error was carried into the text of the report. All references to H.R. 14217 should read "H.R. 14791".

RECOMMENDATION AND CONCLUSION

Briefly, Mr. Speaker, that explains the background and thrust of H.R. 14791. As far as I know, there is no significant controversy over any of its provisions. It was reported by the Subcommittee on National Parks and Recreation and the Committee on Interior and Insular Affairs by a voice vote. I am pleased to have this opportunity to present this bill to the House and I urge its adoption.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the legislation and concur with the remarks of the gentleman from North Carolina (Mr. TAYLOR), our chairman.

Mr. Speaker, H.R. 14791 is an omnibus bill which directs that 13 rivers or river segments in various parts of the country be studied for their potenial value of ultimately being preserved to retain their wild, scenic or recreational attributes.

The Wild and Scenic Rivers System was established by the Congress in 1968 to assure that some remnants of our great system of streams and rivers are preserved in a relatively undeveloped state. That initial legislation designated eight instant rivers outright, as components of the new system, and provided that 27 more be studied, with reports and recommendations thereon to be submitted to the Congress as to the merits of their preservation.

The bill before us identified 13 more river segments felt to be worthy of study, and this legislation provides that completed studies and recommendations on them also be submitted to the Congress within approximately 4 years of the date of this bill's enactment.

Generally, in order to designate any study river as an actual permanent component of the Wild and Scenic Rivers System, an additional act of Congress is required.

Mr. Speaker, the river segments included in this bill are considered to be noncontroversial. This bill also authorizes the appropriation of funds for the conduct of these studies based on an average study cost per river of $75,000.

As we see the impacts of man's works across the country continually spreading and intensifying, it certainly becomes increasingly essential that we assure that an appropriate portion of our great system of rivers be retained in a primitive and generally undeveloped condition.

Mr. Speaker, this bill before us will add to the achievement of that worthy goal, and I urge my colleagues to lend their support of this worthy objective by voting in favor of this bill.

Mr. **BEVILL.** Mr. Speaker, will the gentleman yield?

Mr. **TAYLOR** of North Carolina. I yield to the gentleman from Alabama.

Mr. **BEVILL.** Mr. Speaker, I rise in support of H.R. 14791, legislation which would authorize studies of certain rivers to determine if they qualify for consideration for inclusion in the Wild and Scenic Rivers System.

I am primarily interested in the west fork of the Sipsey Fork, in Alabama.

The unusual features of the West Fork Sipsey, such as waterfalls and deep gorges and the many varieties of trees, shrubs and plants which line the banks, merit consideration, in my judgment, for addition to the Wild and Scenci Rivers System.

Addition of the Sipsey, which is a part of the Black Warrior Basin, would assure its preservation in a free-flowing condition and a natural setting.

Mr. Speaker, the proposed area includes the West Fork Sipsey from the impoundment of Lewis M. Smith Lake in Winston County upstream to its origin in Lawrence County as well as the tributaries to that 16-mile segment. This includes the Bee Branch area which has been protected by the U.S. Forest Service since the creation of the Bankhead National Forest.

It is my understanding that, if passed, these studies would be done in close cooperation with appropriate agencies of the States in which the rivers are located.

I strongly believe addition of these rivers to the Wild and Scenic Rivers System would contribute measurably to the system, and I urge my colleagues to vote for passage of H.R. 14791.

Thank you.

Mr. **HOSMER.** I support the bill before us, H.R. 14791, which adds 13 different river segments to the study list to determine their potential for addition to the wild and scenic rivers system. As far as I know, there is no particular controversy over the study of any of the rivers included within this omnibus bill, and if there is any potential conflict, the study process is designed to bring these facts out.

I want to stress that this bill only provides for a study of each of these rivers. A report thereon, with recommendations, must be forwarded to the Congress by October 2, 1978. A separate enactment of law by the Congress is required to actually add any of these river segments to the Wild and scenic rivers system and thereby withdraw them from major development prospects, and so the Congress will have another opportunity to make a final decision on the disposition of these rivers, should wild and scenic river status be later proposed.

I urge my colleagues to vote favorably for this bill.

I specifically note that the areas referred to for study by H.R. 14791 do not appear to be promoted merely as a scheme to stop or delay a proposed development in some area which is needed to serve other interests than man's concern for the wilderness. All too often during the past few years professional environmentalists have zeroed in on such situations with, what appeared to me, to be less of a legitimate concern for the environment than sheer opportunism to sucker in cash for their coffers, using some grossly exaggerated or imagined threat to nature as their bait.

Mr. **KASTENMEIER.** Mr. Speaker, our National Scenic Rivers System is designed to preserve in a free-flowing condition certain rivers which possess outstanding and remarkable scenic, recreational, geologic, fish and wildlife, historic and cultural values. Since passage of the Wild and Scenic Rivers Act in 1968, the national System now protects 10 rivers and their immediate environments for the benefit of and enjoyment by present and future generations of Americans. Now, through the leadership of our distinguished colleague from North Carolina and chairman of the Interior Subcommittee on National Parks and Recreation, ROY TAYLOR, the House, today, is considering H.R. 14791, a measure which I have cosponsored, that will provide for the study of 13 potential river components to our Nation's Wild and Scenic Rivers System.

One of the 13 rivers that H.R. 14791 designates for study is a 74-mile portion of the lower Wisconsin River in southwestern Wisconsin. Flowing between the communities of Prairie du Sac and Prairie du Chien where it enters the Mississippi, this river is free of any impoundments, has unique historic aspects, a relatively undeveloped shoreline, a wide floodplain, scenic qualities, and recreational potential.

The lower Wisconsin has played an important role in the early development of Wisconsin and of the Nation. It carried the canoes of Indians who used the river as a transportation pathway and located their villages along its banks. In 1673, the French commissioned Father Jacques Marquette and Louis Jolliet to explore the vast reaches of the Midwest and, in doing so, they discovered the lower Wisconsin. Their journey on this river led them into the Mississippi and down that great waterway as far as the mouth of the Arkansas River, thus opening an important water route from Canada to the Gulf of Mexico.

The lower Wisconsin became a gateway to the Mississippi for future explorers. It eventually was the main thoroughfare for fur traders who traveled by canoe from Canada to the Mississippi, and for the transportation of miners who arrived from Europe to mine the lead of southwestern Wisconsin.

Three hundred years ago, Father Marquette, in his journal, described the lower Wisconsin in the following manner:

> The river upon which we embarked is called Mesconsin; the river is very wide, but the sand bars make it very difficult to navigate, which is increased by numerous islands covered with vines. The country through which it flows is beautiful; the groves are so dispersed in the prairies that it makes a noble prospect; and the fruit of the trees shows a fertile soil. These groves are full of walnut, oak and other trees unknown to us in Europe.

The lower Wisconsin which flows through some of Wisconsin's most scenic and valuable farmland, has changed so little since the epic exploration by Marquette and Jolliett that canoeists, today, can imagine they were the original explorers. The shoreline basically has remained the same, the only differences in appearance due to the scattering of summer cottages. The river cuts through a valley which is 3 to 5 miles broad, flanked on either side by an undulating range of imposing bluffs, from 150 to 350 feet in height. These bluffs are heavily wooded, as a rule, although there is now, as there was 300 years ago, much variety, pleasant slopes and sheltered fields, water-washed escarpments rising sheer above the river, terraced hills, with eroded faces and steep uplands.

Between these ranges stretches a wide expanse of bottoms, either bog or sandplain through which the swift current twists and bounds, continually cutting out new channels and filling old ones with the debris. As the river sweeps along, it forms innumerable islands which greatly add to the picturesqueness of the view. These islands are often mere sand bars, sometimes barren, sometimes thick-grown with willows and seedling aspens. For the most part, however, they are heavily wooded, their banks covered with a variety of the season's flowers.

The visitor to the lower Wisconsin

River can enjoy a respite from his daily routine which being given a chance to relive some of the experiences of the early French explorers. In addition, he can learn of the early history of Wisconsin, its geography, inhibitants and their culture, and the flora and fauna of the region. Among the wildlife, the visitor can observe a substantial eagle population which uses the lower Wisconsin River valley as a migratory resting spot.

The potential for a wide variety of recreational activities along the river is very great. The water, topography, vegetation, fish and wildlife, and other values attract many people throughout the year, and activities need not be limited to the usual summer season and can be enjoyed year-round.

Mr. Speaker, this legislation adding 13 potential rivers to the Wild and Scenic Rivers System is, indeed, worthy of our support and I urge its passage.

Mr. JOHNSON of California. Mr. Speaker, it is with great pleasure that I rise in support of H.R. 14791. Having the honor to serve on the Committee on Interior and Insular Affairs and its Subcommittee on National Parks and Recreation has given me an opportunity to review this legislation from the beginning. My colleagues have spent many hours reviewing suggested areas for addition to our Wild and Scenic Rivers System, and I am convinced that the committee has prepared an outstanding list for study by the Secretaries of Interior and Agriculture. I want to take this opportunity to commend the chairman of the subcommittee, Mr. TAYLOR, and the chairman of the full Interior Committee, Mr. HALEY, for their leadership in bringing this legislation to the floor.

Two rivers designated in the bill for study by the Secretary have particular interest to the people of northern California, an area which I am proud to represent. The first river is the North Fork of the American River. The North Fork rises in the beautiful Sierra Nevada Mountain Range. It runs in steep-walled narrow and deep canyons on twisted courses, through mountainous terrain to high hilly countryside. Vegetation in this area is primarily firs, pines, and oaks. The Tahoe National Forest surrounds the upper portion of this scenic river.

Accessibility to the North Fork of the American River is limited primarily to footpaths and logging trails. Less than 5 percent of adjacent lands are commercially developed. Not too long ago, very few people were even aware that the North Fork existed, let alone needed protection.

This portion of the river originates in the western part of Placer County near Lake Tahoe and winds its jagged path through picturesque countryside to the outskirts of Auburn where it joins the Middle Fork. The stretch of river mentioned in this legislation encompasses a scenic canyon accessible only by foot trails. That canyon houses the crystal clear North Fork, one of the last undisturbed rivers in the northern Sierra Nevada region of California. The river and its canyon offer something for all—the fisherman, the hunter, the hiker, and the photographer.

The area also has a national historical significance. Much of the land surrounding this river saw the gold miners of the California gold rush during the last century. The North Fork also supports good anadromous and native trout fisheries. Furthermore, small, large, and unland game species abound all along the banks of the northern branch of this scenic river.

The American's neighbor to the south, the Tuolumne River, has also been nominated in this bill for study by the Secretary. The Tuolumne is the fifth largest river flowing from the Sierra Nevada Mountains. It has carved one of the major canyons of the world and provides oustanding white water canoeing, kayaking, and fiishing.

The 96-mile stretch of river flows from its source high in the Sierras of Yosemite National Park near Mount Dana and Mount Lyell. The first flowing water can be seen as it emerges from the Lyell Glacier. The John Muir and Pacific Crest Trails follow the Lyell Fork for 11 miles of breathtaking mountain scenery. The river then continues as a placid mountain stream of exceptional clarity, which is often filled with small tasty trout.

Suddenly, the river starts its swift descent passing over waterfalls both thunderous and featherlike before entering Muir Gorge. As the river leaves the park, and enters Stanislaus National Forest, the vegetation in the 2,000-foot deep canyon changes from bare granite slabs to chapperals and scattered pine. As the river swiftly churns its way through the National Forest, it provides some of the best canoe, kayak, and raft white water in the country. As it finally flows into the reservoir, it remains clear and reflective of the steep green canyon around it.

These rivers and their surroundings, Mr. Speaker, are some of our remaining truly wild areas, worthy of protection for future generations. It is much easier to preserve that which we have than to rehabilitate and recreate that which we once had but have since lost. Therefore, I am urging that the first step be taken to include all of these rivers under the protection of the Wild and Scenic Rivers Act. I am asking only that these areas be given a fair, efficient, serious and prompt study. Once the results of the studies are available, a proper course of action for the future can be determined.

These rivers can contribute much to the preservation of America's natural beauty of greatness. The first step must be taken now, before they are ruined.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. TAYLOR) that the House suspend the rules and pass the bill H.R. 14791, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 3022) to amend the Wild and Scenic Rivers Act (82 Stat. 906), as amended, to designate segments of certain rivers for possible inclusion in the Nation wild and scenic rivers system; to amend the Lower Saint Croix River Act of 1972 (86 Stat. 1174), and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Wild and Scenic Rivers Act (82 Stat. 906), as amended, is further amended as follows:

(a) In subsection (a) of section 5 after paragraph (27) insert the following new paragraphs:

"(28) Au Sable, Michigan: The segment downstream from Foot Dam to Oscoda and upstream from Loud Reservoir to its source, including its principal tributaries and excluding Mio and Bamfield Reservoirs.

"(29) Manistee, Michigan: The entire river from its source to Manistee Lake, including its principal tributaries and excluding Tippy and Hodenpyl Reservoirs.

"(30) Wisconsin, Wisconsin: The segment from Prairie du Sac to its confluence with the Mississippi River at Prairie du Chien.

"(31) West Fork of the Sipsey Fork, Alabama: The segment, including its tributaries, from the impoundment formed by the Lewis M. Smith Dam upstream to its source in the William B. Bankhead National Forest.

"(32) Cahaba, Alabama: The segment from its junction with United States Highway 31 south of Birmingham downstream to its junction with United States Highway 80 west of Selma.

"(33) Kettle, Minnesota: The entire segment within the State of Minnesota.

"(34) Upper Mississippi, Minnesota: The segment from its source at the outlet of Itasca Lake to its junction with the northwestern boundary of the city of Anoka.

"(35) American, California: The North Fork from Mountain Meadow Lake to the Auburn Reservoir and the lower 7.5 miles of the North Fork of the North Fork.

"(36) Tuolumne, California: The main river from its source on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir.

"(37) Illinois, Arkansas and Oklahoma: The entire river from Tenkiller Ferry Reservoir upstream to its source, including the Flint and Barren Fork Creeks and excluding Lake Frances.

"(38) Shepaug, Connecticut: The entire river.

"(39) South Fork Owyhee, Oregon: The main stem from the Oregon-Idaho border downstream to the Owyhee Reservoir.

"(40) John Day, Oregon: The main stem from Service Creek Bridge (at river mile 157) downstream one hundred and forty-seven miles to Tumwater Falls (at river mile 10).

"(41) Colorado, Colorado and Utah: The segment from its confluence with the Dolores River, Utah, upstream to a point 19.5 miles from the Utah-Colorado border in Colorado.

"(42) Gunnison, Colorado: The segment from the upstream (southern) boundary of the Black Canyon of the Gunnison National Monument to its confluence with the North Fork.

"(43 Los Pinos, Colorado: The segment from its source, including the tributaries and headwaters within the San Juan Primitive Area, to the northern boundary of the Granite Peak Ranch.

"(44) Big Thompson, Colorado: The segment from its source to the boundary of Rocky Mountain National Park.

"(45) Green, Colorado: The entire segment within the State of Colorado.

"(46) Conejos, Colorado: The three forks from their sources to their confluence, thence the Conejos to its first junction with State Highway 17, excluding Platoro Reservoir.

"(47) Elk, Colorado: The segment from its source to Clark.

"(48) Cache la Poudre, Colorado: Both forks from their sources to their confluence, thence the Cache la Poudre to the eastern boundary of Roosevelt National Forest.

"(49) Piedra, Colorado: The Middle Fork and East Fork from their sources to their confluence, thence the Piedra to its junction with Colorado Highway 160, including the tributaries and headwaters on national forest lands.

"(50) Encampment, Colorado: The Main Fork and West Fork to their confluence, thence the Encampment to the Colorado-Wyoming border, including the tributaries and headwaters.

"(51) Yampa, Colorado: The segment within the boundaries of the Dinosaur National Monument.

"(52) Dolores, Colorado: The segment from the west boundary, section 2, township 38 north, range 16 west, NMPM, below the proposed McPhee Dam, downstream to the Colorado-Utah border, excluding the segment from one mile above Highway 90 to the confluence of the San Miguel River; the segment of the main stem from Rico upstream to its source, including its headwaters; and the West Dolores from its source, including its headwaters, downstream to its confluence with the main stem.".

(b) In subsection (a) of section 4—

(1) in the third sentence strike "1978." and insert in lieu thereof "1978; with respect to all rivers named in subparagraphs 5(a) (28 through (51) of this Act no later than October 2, 1979; and with respect to the river named in subparagraph 5(a) (52 of this Act no later than October 2, 1975."; and

(2) in the fourth sentence: (A) between "rivers" and "with" insert "(i)", and (B) strike "system." and insert in lieu thereof "system, and (ii) which possess the greatest proportion of private lands within their areas.".

(c) In clause (i) of subsection (b) of section 7 strike the final comma and the following word "and" and insert in lieu thereof a colon and the following proviso: "*Provided*, That if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides a period for the study or studies which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period in the provisions of this clause (i); and".

SEC. 2. Subsection (a) of section 6 of the Lower Saint Croix River Act of 1972 (86 Stat. 1174) is amended by deleting "$7,275,000" and inserting in lieu thereof "$19,000,000".

AMENDMENT OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of North Carolina: Strike out all after the enacting clause of S. 3022 and insert in lieu thereof the provisions of H.R. 14791, as amended, as passed, as follows:

That section 5(a) of the Act of October 2, 1968 (82 Stat. 906, 911; 16 U.S.C. 1276), is amended by adding the following new subsections:

"(28) American, California: The North Fork from the Cedars to Auburn Reservoir.

"(29) Au Sable, Michigan: The segment downstream from Foote Dam to Oscoda; upstream from Loud Reservoir to the source of the river and including its principal tributaries, but excluding Mio and Bamfield Reservoirs.

"(30) Cahaba, Alabama: The segment downstream from United States Highway 31 south of Birmingham in Jefferson County and upstream from United States Highway west of Selma in Dallas County.

"(31) Clark's Fork, Wyoming: The segment from the Clark's Fork Canyon to the Crandall Creek Bridge.

"(32) Colorado, Colorado: The segment from the Colorado/Utah boundary to a point upstream near the town of Loma, Colorado.

"(33) Kettle, Minnesota: The entire segment within the State of Minnesota.

"(34) Manistee, Michigan: The segment upstream from Manistee Lake to the source of the river and including its principal tributaries and excluding Tippy and Hodenpyl Reservoirs.

"(35) Nolichuckey, Tennessee and North Carolina: The entire main stem.

"(36) Sipsey Fork, the West Fork, Alabama: The segment of the impoundment in Winston County formed by the Lewis M. Smith Dam upstream to the point of origin in the William B. Bankhead National Forest in Lawrence County; and the tributaries to the segment.

"(37) Snake, Wyoming: Beginning at the southern boundaries of Teton National Park to the entrance to Palisades Reservoir.

"(38) Sweetwater, Wyoming: The segment between Wilson Bar downstream to Spring Creek.

"(39) Tuolumne River, California: The main river from its source on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir.

"(40) Wisconsin, Wisconsin: The main stem from the dam at Prairie du Sac, Wisconsin, to its confluence with the Mississippi River at Prairie du Chien, Wisconsin."

SEC. 2. Section 5 of the Act of October 2, 1968 (82 Stat. 910), as amended, is further amended by relettering subsections (b) and (c) as (c) and (d), respectively, and inserting a new subsection (b) as follows:

"(b) The studies of rivers in subparagraphs (28) through (40) of subsection 5(a) shall be completed and reports thereon submitted by not later than October 2, 1978, and in accordance with the provisions of section 4(a) of this Act. For the purpose of conducting such studies, there are authorized to be appropriated such sums as may be necessary, but not more than $975,000."

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 14791) was laid on the table.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONGRESSIONAL APPROVAL OF ECONOMIC CENSUS QUESTIONNAIRES

Mr. WHITE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10510) to amend section 131 of title 13, United States Code, to provide for the taking of censuses of manufacturers, of mineral industries, and of other businesses, for congressional approval of the content of questionnaires used in the taking of such censuses, and for other purposes, as amended.

The Clerk read as follows:

H.R. 10510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 131 of title 13, United States Code, is amended to read as follows:

"§ 131. Collection and publication; five-year periods; congressional approval of questionnaires

"(a) The Secretary shall take, compile, and publish censuses of manufacturers, of mineral industries, and of other businesses, including the distributive trades, service establishments, and transportation (exclusive of means of transportation for which statistics are required by law to be filed with, and are compiled and published by, a designated regulatory body), in the year 1978 and every fifth year thereafter, and each such census shall relate to the year immediately preceding the taking thereof.

"(b) The Secretary shall submit to the Congress his determination of the questions proposed to be included, and the type of information to be compiled, in the censuses conducted pursuant to subsection (a) of this section not later than April 1, 1976, and every five years thereafter. Not later than September 1, 1976, and every five years thereafter, the committees of Congress having legislative jurisdiction over the Bureau may review the questions, and the type of information to be compiled, and may notify the Secretary of their disapproval of the questions and the type of information to be compiled.".

The SPEAKER pro tempore. Is a second demanded?

Mr. ROUSSELOT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas and the gentleman from California will be recognized for 20 minutes each. The Chair now recognizes the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, there probably is not a Congressman who, within the last year, has not had a constituent businessman write or come up to him or her to complain about the economic census forms. These people probably told you that they have had to spend valuable time trying to answer apparently needless questions and then have never heard back from the Census Bureau. They say, "When is Congress going to do something about his paperwork?" Today in this bill is your chance to do something.

This bill, H.R. 10510, is designed to give the committees of Congress having legislative jurisdiction over the Bureau of the Census authority to review and disapprove questions proposed for use in the economic census every 5 years.

This bill, as amended, was ordered reported by unanimous vote of the Committee on Post Office and Civil Service on September 19, 1974.

By way of background, present law provides for the taking of certain economic censuses in the third and eighth year of each decade. These economic censuses form the cornerstone of the Federal Government's economic statistics program. They provide the benchmarks and indexing weights for many very important economic time series, including gross national product, the wholesale price index, and the Federal Reserve Board's index of industrial production. The censuses also provide a rich source of input data for economic and marketing analyses dealing with particular products, industries, and geographic areas.

The Committee on Post Office and Civil Service strongly favors continuation of the economic census program. The committee, however, is concerned over the very substantial reporting burden these censuses place upon the Nation's business community. While the Bureau of the Census has made much progress in reducing the number of businesses required to respond to economic census questionnaires, no less than 2.1 million business organizations were still required to file such questionnaires during the latest round of censuses in 1973. Few other Government census or survey programs demand a comparable level of citizen participation.

The committee strongly believes that the millions of businesses compelled by law to file economic census returns deserve assurance that Representatives in Congress have reviewed the inquiries contained on the census form and have determined that the information called for is truly essential to the needs of government. H.R. 10510 is intended to provide such assurance.

The bill amends section 131 of title 13, United States Code, to consist of two new subsections. The proposed new subsection (a) tracks closely the present language of section 131 authorizing the taking of the economic censuses.

The proposed subsection (b) contains new language requiring the Secretary of Commerce to submit to the Congress his determination of the questions proposed to be included, and the type of information to be compiled, in economic censuses not later than April 1, 1976, and every 5 years thereafter. The committees of Congress having legislative jurisdiction over the Bureau of Census are provided a period of 5 months within which to review the Secretary's submission and to notify him if they disapprove of any of the questions proposed to be included or the type of information to be compiled.

Congressional review process will help to prevent economic census questionnaires from becoming unduly voluminous. Burdensome, or violative of privacy—an important step toward the broader objective of keeping mandatory public reporting at the lowest level possible.

Enactment of H.R. 10510 is not expected to result in additional costs to the Government. But will save small and larger businesses millions of dollars.

Mr. Speaker, I urge enactment of H.R. 10510 as amended.

Mr. ROUSSELOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 10510, which relates to the taking of the censuses of manufacturers, of mineral industries, and other businesses, is a good bill.

It specifically permits, for the first time, the Congress to review and determine the questions to be asked on the economic questionnaires and the material to be compiled.

The economic census which is conducted every 5 years—the next survey is expected to be taken in 1978—provides the primary source of facts about the structure and functioning of the economy. These facts about the country's business structure, and changes in the structure, are essential to the business community and every level of Government.

However, anytime such a comprehensive survey is conducted, proper attention must be given not only to lessening the reporting burden of the respondent but to insuring that the questions asked are relevant and necessary.

The Census Bureau has assured the subcommittee that this is its objective. Nevertheless, I think it is important that we, as elected representatives of the people, should have the opportunity to review these questionnaires, and then decide what questions should be asked. This procedure hopefully will promote a better understanding in the business community of the need to assemble certain important economic information.

Mr. Speaker, I support this resolution and urge its passage.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I would ask the gentleman from California whether the objections of the Bureau of the Budget and the Department of Commerce were in any way considered in the handling of this bill?

Mr. ROUSSELOT. The objections of the Department of Commerce were laid before the committee. I do not recall, and I can be wrong, that the budget operations of the White House objected substantially as to congressional participation, they were concerned about potential add-on costs if he took too long, or if it was a protracted situation.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am happy to yield to the gentleman from Texas.

Mr. WHITE. I would point out that the amendments that are in the bill do help clarify the problem which was presented by the Bureau of the Census and by the executive department so as to adjust the time so that there will be no delays in time whatsoever, they will fall within the process that is necessary so that they will reach the OMB.

The submission is a part of the OMB's receiving the particular questionnaires, so it is merely giving the Congress the opportunity to look at these questions and approve or disapprove, by April 1, and then pass them on to the OMB for exemption.

Mr. ROUSSELOT. I appreciate the gentleman's comment, and I will say to my colleague, the gentleman from Iowa, the original bill called for up to a year's time prior to the submission of questions, and in the bill we reduced it to 5 months. As a result, OMB was satisfied that we had made an attempt to eliminate the problem.

Mr. GROSS. I thank the gentleman.

Mr. GOLDWATER. Mr. Speaker, the House today has an opportunity to recapture an important initiative in gathering statistical information in America. I strongly support H.R. 10510 which would require the questions proposed for mid-decade economic censuses to be submitted to Congress 2 years in advance. Supervision of the decennial census, Government and economic censuses have gravitated into the exclusive preserve of statistical users, far beyond the influence of statistical providers and the Congress.

The Subcommittee on Census and Statistics under the able chairmanship of my colleague from Texas (Mr. WHITE) is to be commended for asserting the rightful role of Congress in the statistical gathering process. I hope as we look to other sample surveys, the commercial orientation of the Census Bureau, its stacked advisory committees, and the all-important 1980 decennial census, the subcommittee will exert strong leadership. The House will recall its unsuccessful campaign to reform the 1970 decennial census which had questions about sharing your shower, refrigerators, TV sets, detailed income accounts, marital status, child bearing and on air conditioning. All these carried a $100 fine or 60 days in jail for failure to answer completely.

Mr. Speaker, let us resolve today by passing H.R. 10510 that we will reform the fiefdom of the Census Bureau and its overbearing practices.

Mr. DULSKI. Mr. Speaker, I rise in support of H.R. 10510, and wish to express my appreciation to Mr. WHITE, chairman of our Subcommittee on Census and Statistics, who is handling this bill.

Participants in Federal economic censuses incur expense in pulling together data requested by the Census Bureau and entering it on the appropriate forms. It is therefore mandatory that the Government take steps to assure that the length and content of economic census forms are kept to reasonable levels. We currently depend upon a two-step procedure to accomplish this.

The procedure begins several years prior to the taking of an economic census with an intensive review program to determine what economic data is required by the Government and how this data can be obtained with the least imposition upon the business community.

Based on the results of this review, the Census Bureau drafts proposed questionnaires and sends them to the Office of Management and Budget for its review and approval. This additional review is required by law and is undertaken to make doubly certain that all information called for on the forms is truly necessary and that the information is being collected in a way that imposes the least possible burden upon businesses.

While there is no doubt that this two-stage review procedure accomplishes much good, there is some doubt as to whether it is totally effective. Records compiled by the Census Bureau show that some 26,000 businesses were so irritated by the questionnaires they received in the last round of economic censuses that they took time to write letters complaining about them. While this number is less than 1 percent of the total number of establishments which filled out questionnaires, I think we have to assume that the total number of disgruntled businesses—those who did not complain as well as those who did—was much larger.

In view of this situation, I believe it altogether appropriate that we further strengthen the procedures for keeping the reporting burden of economic censuses at acceptable and reasonable levels.

The legislation now before us offers us this opportunity. Under the provisions of the bill, proposed economic census forms would be sent to the congressional committees having jurisdiction over the Bureau of the Census. The committees would have a period of at least 5 months for an in-depth review of the content of these forms. Should the forms call for any information of seemingly questionable value, the committees would have the opportunity to call census personnel before them to explain the need for the information. If the answers given are not satisfactory, the committees would notify the Secretary of Commerce of their disapproval of the particular questions involved.

Mr. Speaker, I regard this as a step toward better control over the reporting burden being placed upon the citizens of this Nation by the Federal Government and therefore urge my colleagues to give the proposal now before us their support.

Mr. WHITE. Mr. Speaker, I have no further requests for time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. WHITE) that the House suspend the rules and pass the bill H.R. 10510.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The title was amended so as to read: "A bill to amend section 131 of title 13, United States Code, to provide for the taking of censuses of manufactures, of mineral industries, and of other businesses, for congressional approval of the content of questionnaires used in the taking of such censuses, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

TRANSMITTAL TO STATES OF CERTAIN CENSUS TABULATIONS

Mr. WHITE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13340) to amend section 141 of title 13, United States Code, to provide for the transmittal of each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes.

The Clerk read as follows:

H.R. 13340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 141 of title 13, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The officers or public bodies having initial responsibility for the legislative apportionment or districting of each State may, not later than two years prior to the census date, submit to the Secretary a plan identifying the geographic areas for which specific tabulations of population are desired. Each such plan shall be developed in accordance with criteria established by the Secretary, which he shall furnish to such officers or public bodies not later than January 1 of the fourth year preceding the census date. Should the Secretary find that a plan submitted by such officers or public bodies does not meet the criteria established by him, he shall consult closely with such officers or public bodies in order to achieve the alterations in such plan that he deems necessary to bring it into accord with such criteria. Any issues thereon remaining unresolved after such close consultation shall be resolved by the Secretary, and in all cases he shall have final authority for determining the geographic format of such plan. Tabulations of population for the areas identified in the plans approved by the Secretary shall be completed by him as expeditiously as possible after the census date and reported to the President of the United States for transmittal to the Governor of each State: *Provided, however,* That such tabulations of population of each State shall, in any event, be completed, reported and transmitted to each respective State within one year after the census date."

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **ROUSSELOT**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Texas (Mr. WHITE) will be recognized for 20 minutes, and the gentleman from California (Mr. ROUSSELOT) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, this bill is designed to save the State taxpayers millions of dollars, while at the same time giving the States and local governments considerable help, probably at very little, if any, cost to the Federal Government. This bill will help avoid the confusion that followed the last decennial census in 1970, by providing for the Federal Government to work in partnership with local and State governments in establishing census districts.

In the 1970 census the Census Bureau set enumeration districts, which sometimes split through electoral and political subdivisions, and occasionally were composed of noncontiguous areas. In some States this caused considerable duplication, expense, and confusion in trying to coordinate with these enumeration districts. This occurred because the legislative redistricting procedure in most States begins with the development of prospective districting plans using the "building block" approach. Under this approach the State is divided into small areas with known census counts and these small areas are then combined to form various prospective legislative districts. This "building block" approach is utilized because it automatically produces districts of known population size—a necessity since population deviations are a prime consideration in choosing one prospective districting plan over another.

In the round of legislative redistricting which followed the 1970 census, nearly all States utilized small areas called census enumeration districts as their redistricting building blocks. The use of these areas resulted from necessity rather than choice. Until block data for certain areas became available about 1½ years after the census was taken, enumeration districts and combinations thereof were the only geographic areas for which the Census Bureau provided population counts.

As I stated, having to rely upon enumeration district data caused many headaches for State authorities. Since such districts were established to facilitate assignment of census enumerators to particular geographic areas, their boundaries were chosen with logistical, not redistricting, considerations in mind. As a result, enumeration districts proved too large to be truly suitable for redistricting purposes in a number of instances. This complicated the already difficult task of drawing legislative district lines to court-imposed population standards. A second problem resulted from the fact that enumeration district boundaries often crossed the boundaries of local election precincts, making it difficult to come up with districting plans that did not entail a mass revamping of precinct boundaries. States also encountered problems in the way of poor census map quality, inaccurate, and inconsistent data, difficulty in obtaining census data in time to meet reapportionment deadlines imposed by law.

REPORTED OUT OF THE POST OFFICE AND CIVIL SERVICE COMMITTEE

The bill now before us, H.R. 13340, is aimed at improving Census Bureau support of legislative redistricting in the future. The bill gives States an opportunity to design their own territorial building blocks for use in redistricting, subject only to reasonable technical and cost constraints established by the Census Bureau. This is accomplished through addition of a new subsection (c) to section 141 of title 13, United States Code. The new subsection authorizes State authorities to submit, not later than 2 years prior to the Decennial Census date, a plan identifying those geographic areas for which population tabulations are desired for legislative redistricting purposes. To assure that these plans do not impose unreasonable workloads on the Census Bureau from either a technical or cost standpoint, the bill requires that they be designed in accordance with criteria set forth by the Secretary of Commerce approximately 4 years prior to the census date. In the event that a State submits a plan which fails to conform to these criteria, the bill calls for close consultation to resolve the outstanding differences. If this consultation does not result in agreement, the Secretary of Commerce is given authority to alter the plan in question to bring it into conformance with the established criteria.

The Secretary of Commerce is required to produce population counts for the areas identified in the approved State plans as expeditiously as possible following the taking of the census, but in any event he must complete and deliver such tabulations within 1 year following the census date.

At this time it is not possible to provide a reliable estimate of the additional cost to the Government that would result from enactment of H.R. 13340, but it would probably be minimal, since the final discretion remains with the Director of the Census Bureau. The costs will depend on several factors which are unknown at this time: First, what constraints the Secretary of Commerce will choose to impose in the initial criteria he furnishes to States; second, how many States will choose to submit tabulation plans; and third, the nature of the submitted plans. It is the intent of the committee, however, that the Secretary of Commerce take such steps as are necessary, through issuance of criteria pursuant to authority granted him by the bill, to assure that the cost to the State plans remains reasonable.

The committee wishes to stress that maps and other information provided by States in describing the boundary lines of areas for which they desire tabulations will likely be useful to the Census Bureau in specifying boundary lines for other required area tabulations, and could perform a savings of costs to the Census Bureau. Also to be considered are savings that will accrue to the States, both in terms of dollars and convenience, as a result of having data more suitable for redistricting purposes.

Mr. Speaker, in closing I wish to stress my belief that this legislation will enable States to obtain the data they need to properly carry out the all-important function of legislative redistricting. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. ROUSSELOT. Mr. Speaker, I rise in support of H.R. 13340, a bill to assist States in their legislative redistricting efforts. As the chairman of the subcommittee has explained, this legislation deals only with State not congressional redistricting.

Following the Supreme Court decisions of the 1960's which upheld the "one man, one vote" principle, legislatures have spent considerable time in fixing the boundaries of State legislative districts.

However, testimony received by the Subcommittee on Census and Statistics shows that State redistricting efforts are impeded by inadequate population data provided by the Bureau of the Census.

In many cases, census enumeration districts are made up of noncontiguous areas and bear little relationship to political boundaries. Another problem is the delay in availability of new population data, often allowing too little time before States are constitutionally required to reapportion themselves.

I am hopeful this legislation will resolve these problems and thereby facilitate the drawing of the boundary lines for State legislatures.

Specifically, this proposal affords each State an opportunity to submit a plan, not later than two years prior to the taking of the decennial census. This proposal would identify the geographic areas for which population tabulations are desired for redistricting purposes. Such a plan would be required to conform to basic criteria set forth by the Bureau of the Census. If it did not, then an effort will be made to resolve the differences.

This bill also provides the safeguard that in the event an agreement cannot be reached, the Secretary of Commerce has final authority to alter the plan to conform to the established criteria.

Granting the Secretary of Commerce the authority to establish criteria for submission of a State plan eliminates the possibility of having different forms of census data for each of the 50 States. This would be not only undesirable, but also impractical. Further, giving the Secretary of Commerce the power to approve all submitted plans eliminates any jurisdictional questions. In addition, the bill requires the Secretary of Commerce to deliver the population tabulations to the States not later than 1 year after the census date.

Mr. Speaker, I believe this bill will help the States meet their legal responsibility of redistricting their legislative districts. I urge its passage.

Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Iowa (Mr. Gross).

Mr. GROSS. Mr. Speaker, I should like to ask the gentleman from Texas (Mr. White) a question or two concerning the report.

Did the gentleman say this bill would save money?

Mr. WHITE. I said it would save the taxpayers of the States some money. I did not say Federal because I anticipate it is possible there will be some cost to the Federal Government but the States could save themselves some money. However, it is possible it will cost the Federal Government some money but we are unable to calculate what the Secretary of Commerce or the Census Bureau will have to approve until that is presented to them. If the Secretary does not concur he can merely say, "No, we will not do it." So it leaves this up to the Census Bureau.

Mr. GROSS. But the Department of Commerce report indicates there would be a cost to the Federal Government of several million dollars. Does the gentleman disagree and, if so, what is his prediction.

Mr. WHITE. I seriously doubt that it will cost such an amount because, as I said, I doubt that the Census Bureau would present a plan that would not be workable. If for instance the State has a good plan and the Census Bureau has a good plan and the Census Bureau looks it over and they adopt it, then they have saved a considerable amount of work in the States.

Mr. GROSS. The gentleman is saying that in his opinion there will not be a cost of several million dollars?

Mr. WHITE. I think that is so, because if it came to a point where it became unwise in the eyes of the Director of the Census, he can merely say: "We will not adopt this plan and will not go into it," and he can save this money by doing that. It is in his discretion.

Mr. GROSS. I thank the gentleman.

Mr. DULSKI. Mr. Speaker, I rise in support of H.R. 13340, and wish to express my appreciation to Mr. White, chairman of our Subcommittee on Census and Statistics, who is handling the bill.

Those who bear responsibility for drawing the boundaries of State legislative districts must take into account a variety of factors. There is a need to adhere to rulings of the courts in the area of equal representation. There is a need to preserve the integrity of communities and close-knit social, economic, and ethnic groups. There is a need for geographic contiguity and compactness. Finally, there is a need to minimize restructuring of precinct boundaries to avoid voter confusion and problems in election administration.

Coming up with a districting plan which meets these various needs is difficult at best. It becomes doubly hard, however, when data problems complicate the picture. State authorities discovered this when they sought to redistrict after the 1970 census. For nearly a year and a half following that census, States were able to obtain census counts only for census enumeration districts and combinations of census enumeration districts. This left authorities with no practical choice other than to adopt census enumeration districts and/or combinations of such districts as the building blocks for constructing new legislative districts.

This limitation caused major problems. Census enumeration districts were established for purposes of census administration. Their boundaries were not drawn taking redistricting considerations into account. In many instances they proved too large to be suitable redistricting building blocks. Moreover, their boundary lines often crossed those of election precincts. Together these factors served to drastically complicate the job of coming up with a suitable redistricting plan.

If the legislation now before us is enacted, States will no longer be forced to utilize enumeration districts in their redistricting efforts, but will instead be able to choose their own territorial building blocks for redistricting purposes, subject only to reasonable cost and technical constraints laid down by the Bureau of the Census. As chairman of the committee which reported this measure, I feel that this represents a step toward quicker and more orderly legislative redistricting. I urge Members to give their support to the legislation.

Mr. WHITE. Mr. Speaker, we have no further request for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. WHITE) that the House suspend the rules and pass the bill H.R. 13340.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill H.R. 13340, transmittal to States of certain census tabulations, and on the bill H.R. 10510, congressional approval of economic census questionnaires, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDING THE ACT TO INCORPORATE LITTLE LEAGUE BASEBALL TO PROVIDE THAT THE LEAGUE SHALL BE OPEN TO GIRLS AS WELL AS TO BOYS

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8864) to amend the act to incorporate Little League Baseball to provide that the league shall be open to girls as well as to boys, as amended.

The Clerk read as follows:

H.R. 8864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of July 16, 1964, entitled "An Act to incorporate the Little League Baseball, Incorporated" (Public Law 88-378), is amended by striking out "boys" each place it appears and inserting in lieu thereof "young people" and by striking out "citizenship, sportsmanship, and manhood" and inserting in lieu thereof "citizenship and sportsmanship".

The SPEAKER pro tempore (Mr. O'NEILL). Is a second demanded?

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House Committee on the Judiciary, by unanimous voice vote, reported out favorably H.R. 8864, with a committee amendment.

The purpose of this resolution is to remove any prohibition against young girls participating on an equal basis with young boys in Little League Baseball, Inc. The committee amended the bill to eliminate any possibility of interpreting the charter to mean that separate but equal activities are acceptable.

It should be noted that the Little League Baseball, Inc., itself recommended the change in its charter. The emergence of women seeking equal rights under the law has forced many of our "traditional" institutions to take another look at their practices.

Since its inception, Little League Baseball, Inc., has prohibited girls from playing baseball under the legal sanction of the league. The frustration of the desire of many young girls to play baseball under the auspices of this organization resulted in a plethora of lawsuits against the Little League. Although the decision of the New Jersey Superior Court Appellate Division in March, 1974 (127 N.J. Super. 552, 318 A.2d 33), affirmed the right of girls to play Little League baseball, the league felt that their hands were tied by the language of their Federal charter from complying with that order.

The committee has voted that change so that this organization, which has done so much in the past to further the moral and physical development of a segment of our young people, will now be expanded to include all of our young people. With this amendment to their charter, we can look forward to unhindered local Little League programs, where boys and girls play baseball side by side. We can expect that the Little League Baseball organization will not only afford girls an opportunity to play baseball, but will encourage their equal participation.

Therefore, Mr. Speaker, I urge my colleagues to support H.R. 8864, as amended.

Mr. Speaker, I commend the gentlewoman from Michigan (Mrs. GRIFFITHS) for introducing this bill and for providing important support to the committee.

Mr. GROSS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, H.R. 8864 is a simple bill that merely amends the charter of the Little League Baseball Organization so as to make that organization available for young ladies as well as young men to participate.

This proposal has the support of the organization itself.

I regard it essentially as an internal matter, if this is their wish, as it is. I have no objection to it. I am aware of no opposition of the House.

Mr. Speaker, I urge passage of the bill.

Mr. McCLORY. Mr. Speaker, I have asked for recognition to recommend to my colleagues H.R. 8864—a bill which would amend the Federal charter for Little League Baseball, Inc. to allow participation by young girls by substituting the term "young people" for "young boys" and eliminating the stated purpose of developing "manhood."

Mr. Speaker, in 1964 the Federal charter for Little League Baseball specified that Little League is for "young boys." On account of this, several class action suits have been recently filed on behalf of young girls who were prohibited from participating in the Little League.

Mr. Speaker, in March of 1974, the New Jersey Superior Court Appellate Division affirmed the right of girls to play baseball in the Little League Organization. During this same time, the Little League petitioned Congress to amend their Federal charter to include girls in this far-reaching program.

Mr. Speaker, I recommend this legislation because by substituting the words "young people" for "young boys" this fine organization which has done so much in the past to further and develop the moral and physical qualities of our young people will be expanded to include all of our young people. The proposed legislation, as amended, will accomplish the goal of girls' participation on an equal and not separate basis with boys in the Little League Baseball, Inc.

Mr. Speaker, enactment of this measure will give further support to the principle of equal rights—without discrimination based on sex.

Mr. SCHNEEBELI. Mr. Speaker, it is my privilege to rise in support of H.R. 8864, which would amend the Little League Baseball Charter to provide that the league be open to girls as well as boys.

My special interest in Little League Baseball is due, in part, to the fact that it is headquartered in Williamsport, Pa., my hometown. It began in 1939 with three teams in Williamsport and has grown over the years so that today it is played by almost 54,000 teams and a like number of "minor" league teams in each of 50 States and 30 other countries of the world, including all Provinces of Canada. Little League has been recognized through two Presidential Proclamations and in 1964, I was honored to be able to sponsor the legislation which resulted in a Federal incorporation by the Congress of the United States. It is this charter that we are today seeking to amend and thereby extend to girls as well as to boys the opportunity to participate and compete in Little League Baseball.

This is a unique organization which does not depend upon the tax dollar for its existence. The administrative processes of the program are dependent upon volunteers to a large extent and our action today to include girls will mean that in many communities, entire families will now be able to become involved in Little League activities and to reap the benefits of competitive spirit and teamwork.

My esteemed colleague, MARTHA GRIFFITHS, has been actively involved in efforts to achieve equal opportunities for women and it is only fitting that she is in the forefront of this effort to afford girls the same opportunities to compete in Little League.

Baseball has traditionally epitomized the values of team play and the competitive will to win. I am pleased we have recognized the desirability of extending these same opportunities to girls and I know we can anticipate even more spirited participation in future competition among Little League teams.

Mrs. GRIFFITHS. Mr. Speaker, I rise in support of H.R. 8864, to open Little League baseball to girls.

When I introduced this bill, Little League headquarters had revoked the charter of the Ypsilanti, Mich., league for allowing a girl to play. Since then, Little League has announced that it will no longer fight to keep girls off its teams. But do not be fooled into thinking that girls will automatically gain an equal opportunity to play Little League baseball. Congressional action is necessary to make sure this happens.

Last spring, Little League officials benched thousands of boys to avoid letting a few girls play. In the courts, Little League fought tooth and nail against admitting girls. The League reversed its policy only after 22 class action lawsuits had been filed against it.

In seeking to keep its baseball teams a masculine preserve, Little League relied on the wording of its Federal charter. H.R. 8864 would amend that charter to make it clear that Little League baseball is for all young people, female as well as male.

This legislation will not involve quotas. HEW will not review Little League rosters. A girl who cannot field ground balls or hit fast balls will have no easier time getting on a team than a boy with the same failings.

Nor will this legislation require girls and boys to use the same locker rooms. If a girl were removed from a game for pitching badly, she would not be sent to the boys' showers.

For those who need proof that girls have the ability to play, the girls lucky enough to play last summer supplied it. In one New Jersey town, 150 youngsters tried out for Little League teams. The coaches' and managers' first draft choice was a girl. She played better than all the boys.

The girls who try out for Little League baseball do not want publicity, and they do not want to cause trouble. They just want to play baseball. A vote for this bill will allow them to do just that.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and pass the bill H.R. 8864, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDING THE ACT TO INCORPORATE THE NAVAL SEA CADET CORPS TO ELIMINATE DISCRIMINATION BASED ON SEX IN THE YOUTH PROGRAMS

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13054) to eliminate discrimination based on sex in the youth programs offered by the Naval Sea Cadet Corps, as amended.

H.R. 13054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to incorporate the Naval Sea Cadet Corps", approved September 10, 1962 (36 U.S.C. 1042), is amended by striking out "boys" and inserting in lieu thereof "young people".

The SPEAKER pro tempore. Is a second demanded?

Mr. WIGGINS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, the House Committee on the Judiciary, by unanimous voice vote, with no dissenting vote, reported out favorably H.R. 13054, with a committee amendment.

The passage of this bill will allow girls membership in the Naval Sea Cadet Corps, thereby eliminating discrimination by this organization on the basis of sex. The purpose of the amendment is to remove the possibility that the language used to describe membership eligibility could be interpreted to allow separate but equal activities.

The Naval Sea Cadet Corps, itself, has recommended the change in its charter. The corps has become aware of the detrimental effect on our society of excluding a segment of our young people from participation in worthwhile organizational activities.

The Naval Sea Cadet Corps provides a volunteer training program for youths from 14 to 18 years old, through approximately 150 facilities across the United States. The skills of seamanship and seagoing disciplines taught by dedicated volunteers will now be extended to interested young women.

This amendment to the charter of the Naval Sea Cadet Corps will accomplish the opening of membership in this organization to young women on an equal basis with young men.

Therefore, Mr. Speaker, I urge my colleagues to support H.R. 13054 as amended.

Mr. WIGGINS. Mr. Speaker, this bill, H.R. 13054, is similar in its import to the legislation just passed by the House. It provides that the Naval Sea Cadet Corps shall be open to young people rather than only to boys.

There is no objection to the proposal, to my knowledge. I regard this, as in the case of the previous legislation, to be essentially an internal matter within the organization. They support the change, and so do I.

Mr. Speaker, I urge enactment of the bill.

Mr. McCLORY. Mr. Speaker, I rise in support of H.R. 13054, a bill which I am proud to cosponsor because of a longstanding commitment to the elimination of discrimination, particularly discrimination with regard to sex.

Mr. Speaker, the purpose of this proposed legislation is to amend the Federal charter of the Naval Sea Cadet Corps to allow girls to participate on an equal basis with boys. It was in 1962 that the Federal charter for the Naval Sea Cadet Corps specified that the Corps is a volunteer training program for American "boys" between the ages of 14 and 18.

In line with a growing awareness that women have been discriminated against, the Naval Sea Cadet Corps has petitioned Congress to amend their Federal charter to eliminate discrimination based on sex within their own organization.

Mr. Speaker, the purpose of the Naval Sea Cadet Corps has been to develop in young men an interest and skill in seamanship and seagoing traditions as well as an appreciation for our Navy's customs and history. This amendment removes the possibility of interpreting the charter to mean that separate but equal activities will be acceptable. H.R. 13054 revises the Federal charter of the Naval Sea Cadet Corps to prohibit discrimination on account of sex, by substituting the term "young people" for "boys." This makes it clear that girls are to be treated on an equal basis with boys—and thus making it possible for young girls to participate in the Naval Sea Cadet Corps.

Mr. Speaker, I recommend this legislation to my colleagues—a bill which has the unanimous approval of the House Judiciary Committee.

Mrs. BOGGS. Mr. Speaker, I rise today to strongly recommend to this body H.R. 13054, a proposal to amend the charter of the Naval Sea Cadet Corps to allow girls to participate equally with boys. The Sea Cadet Corps is a nationwide organization, under the sponsorship of the U.S. Navy League. It has 158 units in all parts of the country with over 6,000 members between the ages of 14 and 18. The young cadets are instructed and supervised by adult volunteers, among whom are included retired, Reserve, and active duty Navy personnel, in addition to civilian volunteers. Financial support comes from individual and group contributons.

As a resident of New Orleans, I am very familiar with the activities of the Sea Cadets. There are two units in my area. One meets at the Algiers Naval Support Activity and the other meets at the Belle Chase Naval Air Station. They carry on varied and active programs to develop the skills and customs of our seagoing Nation, along with developing patriotism and high moral character in the young men who are members. In addition to their maritime training and skills programs, the Cadets sponsor many volunteer projects for the betterment of their community.

The young people who are participants in this program benefit from their involvement in the future as well as in the present. If they chose to enlist in either the Navy or the Coast Guard, when they become eligible, they will possess the knowledge and skills to qualify them for accelerated advancement in rank to grade E-3. In addition, the Sea Cadets motivate and prepare individuals for officer training school and Reserve Officer Training Corps programs.

The proposal before us today would open the door of this outstanding volunteer program to all young people, young women as well as young men. There are girls who share interests in developing the skills and discipline of the sea and who are equally desirous of learning the qualities of patriotism, self-reliance and good citizenship that the Sea Cadets teaches. As we know, there are many young women today who would wish to prepare themselves for regular service, or even a career, in the U.S. Navy or Coast Guard, or the Reserves.

This legislation will give women who participate an opportunity to be better citizens and to better appreciate our Nation's maritime forces. I strongly support the expansion of this commendable program and I urge the Members of this House to approve this proposal.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and pass the bill H.R. 13054, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3204) to eliminate discrimination based on sex in the youth programs offered by the Naval Sea Cadet Corps, which has identical language to H.R. 13054.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentelman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to incorporate the Naval Sea Cadet Corps", approved September 10, 1962 (36 U.S.C. 1042), is amended by striking out "boys" and inserting in lieu thereof "young people".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 13054) was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING U.S. CONTRIBUTIONS TO UNITED NATIONS PEACEKEEPING FORCES

Mr. FRASER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 16982) to authorize United States payment for fiscal year 1975 to the United Nations for expenses of the United Nations peacekeeping forces in the Middle East, and the United Nations Force in Cyprus.

The Clerk read as follows:

H.R. 16982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United Nations Peacekeeping Forces in the Middle East Authorization Act".

SEC. 2. There is authorized to be appropriated to the President for fiscal year 1975 funds for payment by the United States of its share of the expenses for the United Nations Disengagement Observor Force and the Emergency Force in the Middle East for the period November 1, 1974, through October 31, 1975, except that from the sums authorized to be appropriated by this Act, the United States shall pay at no higher rate of assessment than the rate established for the United States for the period preceding such period. Such funds shall remain available until expended.

SEC. 3. There is authorized to be appropriated to the President for fiscal year 1975 for payment by the United States of its share of the expenses for the United Nations Force in Cyprus, $4,800,000. Such amount shall remain available until expended.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. FRASER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would provide for U.S. payment of its share of the expenses of the U.N. peacekeeping forces in the Middle East and in Cyprus for fiscal year 1975. Passage of this bill is extremely important to creating conditions for limiting the danger of another outbreak of hostilities in the Middle East and Cyprus and for laying the groundwork for a durable peace. By authorizing the payment for the U.N. peacekeeping forces, passage of the bill would play a crucial role for the peacemaking efforts of our own Secretary of State.

This bill comes before the House at an especially timely moment. The United Nations General Assembly has already decided to extend the mandate for the United Nations Emergency Force for another 6-month period. The United Nations Emergency Force—UNEF—polices the area between the military forces of Israel and Egypt. And this week the General Assembly is taking up the question of extending the mandate of the United Nations Disengagement Observer Force—UNDOF—which polices the area between military forces of Israel and Syria. So it is highly important that the U.S. Government be ready to contribute its share to these two peacekeeping forces when it is asked to do so.

The United Nations Emergency Force, between Israel and Egypt, has been in operation for a year. Its last mandate expired on October 24, 1974 and it has been extended for another 6 months. In the case of the United Nations Disengagement Observer Force—UNDOF—the force has been in operation for the past 6 months and its mandate expires on November 30, 1974.

For the first year of operation for the Middle East peacekeeping forces, the United States' share of the expenses has been 28.89 percent of the total; that is, $17.3 million for the period November 1, 1973 to October 31, 1974. The rates of assessment for contributions by United Nations members were apportioned by the General Assembly last year according to a formula by which the permanent members of the Security Council were assessed 15 percent more than their rate of assessment for the regular budget of the United Nations. This was done in recognition of the special responsibility for international peace and security held by the permanent members of the Security Council. A key role in negotiation of the rates of assessment was performed by one of our colleagues, the gentleman from Alabama, Representative JOHN BUCHANAN, while he was serving as a U.S. delegate to the 1973 United Nations General Assembly. Under this assessment formula, the United States is paying proportionately the same as the other four permanant members of the Security Council. The five veto powers of the Security Council have been assessed as follows:

	[In percent]
China	6.35
France	6.77
U.S.S.R.	14.99
United Kingdom	6.13
United States	28.89

The Committee on Foreign Affairs included a provision in H.R. 16982 which authorizes U.S. payment at a rate no higher than the percentage for the preceding year—28.89 percent. The exact dollar amount of the U.S. payment will depend upon the amount the United Nations sets for the Middle East peacekeeping budget for the coming year. Indications are that the budget will be $80 million in which case, 28.89 percent would be about $24 million.

H.R. 16982 also authorizes $4.8 million to be appropriated for the United Nations force in Cyprus. In the past, the U.S. payment of Cyprus peacekeeping expenses has been authorized in foreign aid legislation. However, this year because of the delay in passing the foreign aid bill and the critical nature of the situation in Cyprus, the Committee on Foreign Affairs decided that the authorization for Cyprus should be in H.R. 16982, separate from the foreign aid bill.

Mr. Speaker, passage of this bill is important to our foreign policy. It will authorize the United States to carry out its responsibilities along with other nations in a cooperative effort to deter the outbreak of additional violence in two troubled areas of the world—the Middle East and Cyprus. I urge all of our colleagues to support passage of H.R. 16982.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the statement that has been made by the gentleman from Minnesota regarding this legislation.

Mr. Speaker, today we have before us H.R. 16982 for consideration. This bill would authorize appropriation of funds to pay the U.S. assessed share of the costs of the United Nations Emergency Force in the Middle East and the U.N. force in Cyprus.

The U.N. Emergency Force was initially established for a 6-month period by the Security Council last fall following the cease-fire agreement between Israel and Egypt to provide a buffer between the two sides and oversee certain aspects of the agreement. Since then, the authorization for the force has been extended on two occasions with the most recent to end April 24, 1975. The importance of this force has thus been clearly recognized by the Member States of the United Nations.

With the later cease-fire in the Golan Heights area, the Security Council authorized the creation of a second peacekeeping force, the United Nations Disengagement Observer Force. Funds and staff for the Disengagement Observer Force were found by temporarily borrowing resources from the U.N. Emergency Force and the U.N. Truce Supervision Organization, which was established after the 1948 war in the Middle East.

Following Security Council establishment of the U.N. Emergency Force, the General Assembly appropriated $30 million for the first 6 months operations and authorized the Secretary-General to make commitments of up to $5 million per month for an additional 6-month period. This authorization to make monthly commitments has now been extended. That means that the United States can expect to receive a bill for its assessed share before the end of the year.

The U.S. assessment for the first year was $17.3 million and funds were made available under the authority of the Emergency Security Assistance Act of 1973. This source is not available for further funds. If the United States is to meet its assessment for the coming year in a timely manner, additional funds must be provided. Our country's prompt payment of its assessed share of the costs of U.N. peacekeeping forces in the Middle East and Cyprus will give further emphasis to our desire for peace in the area.

Mr. Speaker, I would like at this time to yield 3 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, if I may have the attention of the gentleman from Minnesota (Mr. FRASER) this bill means, then, that we are contributing to this Middle East force in this one year $22 million, is that correct, or approximately $22 million?

Mr. FRASER. Mr. Speaker, if the gentleman will yield, the figure for the year which will begin on November 1, that is this coming year, the estimate for it will run, for both forces, approximately $24 million.

Mr. GROSS. What does the gentleman mean by "both forces"?

Mr. FRASER. Both the forces that try and keep peace between Syria and Israel and the forces that try and keep peace between Egypt and Israel.

Mr. GROSS. What about Cyprus?

Mr. FRASER. The Cyprus figure is separate. That is a figure of $4.8 million.

Mr. GROSS. So that the total is what?

Mr. FRASER. The total would be approximately $28 million to $29 million.

Mr. GROSS. $28 million to $29 million. That is worse than I thought.

Let me ask the gentleman: Why are we putting up almost 29 percent of the funds for peacekeeping purposes?

Mr. FRASER. Mr. Speaker, if the gentleman will yield further, this was the formula agreed upon at the time the force was authorized. Our colleague, the gentleman from Alabama (Mr. BUCHANAN) perhaps will elaborate at length on the formula, but basically the agreement was that permanent members of the Security Council would pay 15 percent more than their normal assessed contribution, with the balance being proportioned to the other members of the U.N. At the time, under the circumstances, it seemed like the wisest formula. Perhaps the gentleman will pursue the question further with my colleague.

Mr. GROSS. What other government makes any substantial contribution to these mercenaries that we are hiring in the Middle East?

Mr. FRASER. China, France, the Soviet Union.

Mr. GROSS. Which China?

Mr. FRASER. Mainland China. France, the Soviet Union and the United Kingdom, all permanent members of the Security Council, will pay proportionately the same amount as the United States, the regular assessment.

Mr. GROSS. How long have the Russians been paying on this bill?

Mr. FRASER. They paid this preceding year and have paid. We expect they will pay in the coming year.

Mr. GROSS. They are delinquent in their payments to the United Nations, are they not, to the tune of some $200 million?

Mr. FRASER. Mr. Speaker, they have been delinquent in the peacekeeping enterprise in the Congo, and as to earlier Middle East forces they argued they were not properly authorized by the Security Council and, therefore, would not contribute. They are contributing to these forces.

Mr. GROSS. Until they pay up, why should we put any money into the support of this so-called peacekeeping operation, an operation that does not keep the peace?

The SPEAKER pro tempore. The time of the gentleman from Iowa (Mr. GROSS) has expired.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 additional minutes to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, will the gentleman please answer my question?

Mr. FRASER. Yes If the gentleman will yield further, I think it is very clear that the United States has a major interest in trying to see a peaceful resolution to the conflict in the Middle East. The U.N. peacekeeping forces have been essential in order to keep the forces separated.

I would remind my colleague, although he may not have supported the spending of the billions of dollars we have expended on aid to Israel, that action was occasioned by the outbreak of hostilities. We would hope that hostilities would not break out again in the Middle East, and if we can prevent that in this way, it does seem like a good investment.

Mr. GROSS. Mr. Speaker, if I understand what the gentleman is saying it is that he hopes that investment of billions will not prove as futile as it has been in the past in keeping the peace.

In the 1967 so-called "6-day war" and again last year, the so-called peacekeeping mercenaries that we hire—for what purpose I do not know—certainly failed to keep the peace.

Mr. FRASER. Mr. Speaker, if the gentleman will yield further, there is a new provision with respect to these forces that did not prevail with respect to the earlier peacekeeping forces, and that is this: that they may not be withdrawn on demand of one country as they were withdrawn in 1967. In order for the forces to be withdrawn now, it would require affirmative action by the Security Council. So that does provide a certain protection that we did not have before.

Mr. GROSS. Mr. Speaker, they failed to keep the peace in the Middle East, and they failed to keep the peace on Cyprus; is that not a fact?

Mr. FRASER. Mr. Speaker, the problem on Cyprus was a different matter.

Mr. GROSS. Where else have they kept the peace?

Mr. FRASER. The problem on Cyprus has a different origin. I do not think the U.N. peacekeeping force could have done much about that situation.

Mr. GROSS. With the economic problems that face this country, the inflation, and the financial situation, I am opposed to spending any more millions on mercenaries in the Middle East or anywhere else. The people of this country can no longer afford this extravagance.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, I urge that this legislation be adopted.

As the gentleman from Minnesota has been kind enough to point out to us, it was my privilege as a representative of the United States at the United Nations, serving our delegation on the Administrative and Budget Committee, to have a hand in working out the formula that has been discussed here.

I would point out that it was my privilege to cast the final vote in committee and on the floor of the House for the proposal that reduced our share of the annual budget to 25 percent, which is the lowest it has ever been. It was also my privilege to vote in our delegation for this formula, in which we had the commitment of some 130 nations to pay a share of this relatively small bill to keep the peace.

This commitment was very important, and it did include the contribution of the Soviet Union.

As the gentleman from Minnesota has pointed out, the formula was our regular budget share, plus 15 percent for all Security Council members. This is the best deal we have ever gotten in this kind of an operation, and we have the broadest commitment we have ever had to help foot that bill by other nations.

Mr. Speaker, I would point out that this peace force is working and is essential to the fabric of peace in the Middle East. I know of no other small investment we could make that could have such great importance to the cause of peace in this area of the world, where recently we spent $2.2 billion because of a war that erupted there. I would say that this small insurance payment to help avoid that kind of a consequence is a good investment in economic terms as well as in other terms.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. Yes, I yield to the gentleman from Iowa.

Mr. GROSS. What other country puts in as much as we do?

Mr. BUCHANAN. All countries who are members are putting in their regular budget assessments, plus 15 percent in the case of Security Council members. No one is putting in as many dollars as we are. We pay the largest share of the budget itself. We are, by all odds, the wealthiest country in the organization.

Mr. GROSS. This country is busted. So why should we do this?

Mr. BUCHANAN. Because it is a better deal than we ever got before.

Mr. GROSS. That is only a little less worse.

Mr. BUCHANAN. In the gentleman's term, I would agree: This arrangement is less worse than what we had to do before to keep the peace, and it is less worse than the alternative of war that could erupt if we did not keep the peace.

Mr. GROSS. But we have not kept the peace.

Mr. BUCHANAN. We have thus far. In this particular case it is working and it is helping to maintain a truce as we build toward negotiations toward peace. I believe this can be achieved.

Mr. GROSS. You mean that we have kept the peace for 4 or 5 months, but it has been demonstrated that the U.N. cannot keep the peace anywhere.

Mr. BUCHANAN. I would say this: The commitment of the nations helping to finance this particular arrangement does provide a strong basis for hope that peace can be kept.

Even in Iowa or Alabama, I will say to my distinguished friend, $22 million or $24 million, whatever it turns out to be, as against billions for the cost of a war, is a pretty good thing. I urge, therefore, that the rules be suspended and the resolution do pass.

Mr. HAMILTON. Mr. Speaker, H.R. 16982 is a bill to authorize funds to help pay for peacekeeping forces in Cyprus and in the Middle East. In the case of Cyprus, the bill authorizes $4.8 million for the U.S. share of peacekeeping expenses in fiscal year 1975 while in the case of the Middle East it authorizes expenditures up to the percentage of total costs the United States paid in last year's assessment for Middle East peacekeeping forces. I would like to make a few comments on the Middle East portion of this important bill.

Congress is not accustomed, and certainly should not be, to writing blank checks into legislation. The fact remains that it is now difficult to forecast for the coming year the totality of financial needs for peacekeeping forces along the Israeli-Syrian and Israeli-Egyptian fronts and conceivably additional forces either somewhere on the West Bank of the Jordan River or on the Israeli-Lebanese frontier that might be created pursuant to negotiations.

We do know, however, that these Middle East forces have helped to reduce tensions in the Middle East in the last year and that there have been only minor violations of the terms and force levels established for the zones monitored by the peacekeeping forces. The United Nations is to be congratulated for the smooth working of these forces during the past year. In fact, the experiences and performance of these post-October 1973 forces has been much more praiseworthy than those of previous peacekeeping forces in the Middle East.

Last year, these Middle East forces cost the United States $17.3 million, this figure being based on our agreed share of 28.89 percent of the total costs. That was a very worthwhile investment.

This year the total costs may be considerably higher. According to some estimates, the overall costs may be around $90 million, and we would, pursuant to this bill, pay no more than 28.89 percent of that or any other figure.

The 5,527-man UNEF force in Sinai along the Israeli-Egyptian line and the 1,191 UNDOF force along the Israeli-Syrian line have had good mobility and access to necessary regions since they were put in the field. The Security Council recently renewed the mandate of the Israeli-Egyptian UNEF force which expired on October 24, 1974. And it should be a top priority of this administration to see that the Israeli-Syrian UNDOF force is renewed when its first 6 month's mandate expires the end of this month.

It is in the interest of the United States to do everything to insure that these peacekeeping forces remain and are, in fact, strengthened. At the moment, there are some rumblings in and out of the Middle East concerning possible resumptions of hostilities in the weeks and months ahead. Such rumblings are heard frequently in the Middle East.

Our task is to reinforce the negotiating process to which the United States has committed so much time and prestige in the last year. I believe that strong support of this bill will help counter some of the pessimism heard and help provide some of the momentum needed for further progress in peace talks. A well-staffed, strong and well-financed UN presence in the Middle East is vital to any peace efforts.

Mr. Speaker, I urge support of this bill to help provide for peacekeeping forces on Cyprus and in the Middle East. These two conflicts in the Eastern Mediterranean need continued diplomatic attention. Such attention to try to decrease tensions and encourage negotiating processes must be supplemented by the constant vigil of peacekeeping forces. Peacekeeping forces will not prevent hostilities but they will, in and of themselves, reduce the likelihood of brush fires becoming major conflicts.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. FRASER) that the House suspend the rules and pass the bill H.R. 16982.

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII and the prior announcement of the Chair, further proceedings on this motion will be postponed.

Does the gentleman from Iowa withdraw his point of order that there is no quorum?

Mr. GROSS. Mr. Speaker, I withdraw my point of order.

GENERAL LEAVE

Mr. FRASER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

JUDICIAL DISQUALIFICATION

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1064) to improve judicial machinery by amending title 28, United States Code, to broaden and clarify the grounds for judicial disqualification, as amended.

The Clerk read the Senate bill as follows:

S. 1064

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 455 of title 28, United States Code, is amended to read as follows:

"§ 455. Disqualification of justice, judge, magistrate, or referee in bankruptcy

"(a) Any justice, judge, magistrate, or referee in bankruptcy of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

"(b) He shall also disqualify himself in the following circumstances:

"(1) where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

"(2) where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

"(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

"(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

"(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

"(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

"(ii) Is acting as a lawyer in the proceeding;

"(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

"(iv) Is to the judge's knowledge likely to be a material witness in the proceeding.

"(c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

"(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

"(1) 'proceeding' includes pretrial, trial, appellate review, or other stages of litigation;

"(2) the degree of relationship is calculated according to the civil law system;

"(3) 'fiduciary' includes such relationships as executor, administrator, trustee, and guardian;

"(4) 'financial interest' means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

"(i) Ownership in a mutual or common investment fund that holds securities is not a 'financial interest' in such securities unless the judge participates in the management of the fund;

"(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a 'financial interest' in securities held by the organization;

"(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a 'financial interest' in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

"(iv) Ownership of Government securities is a 'financial interest' in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

"(e) No justice, judge, magistrate, or referee in bankruptcy shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification."

SEC. 2. Item 455 in the analysis of chapter 21 of such title 28 is amended to read as follows: "Disqualification of justice, judge, magistrate, or referee in bankruptcy."

SEC. 3. This Act shall not apply to the trial of any proceeding commenced prior to the date of this Act, nor to appellate review of any proceeding which was fully submitted to the reviewing court prior to the date of this Act.

The **SPEAKER**. Is a second demanded?

Mr. **RAILSBACK**. Mr. Speaker, I demand a second.

The **SPEAKER**. Without objection, a second will be considered as ordered.

There was no objection.

Mr. **KASTENMEIER**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would amend section 455 of title 28, United States Code, by making the statutory grounds for self-disqualification of a judge in a particular case conform generally with recently adopted canon 3(c) of the American Bar Association's Code of Judicial Conduct, which relates to disqualification of judges for bias, prejudice, or conflict of interest. This canon received unanimous approval of the ABA House of Delegates in August 1972 and was adopted by the Judicial Conference of the United States in April 1973.

As amended, the measure applies to any referee in bankruptcy, as well as to any justice, judge, or magistrate of the United States.

Existing section 455 provides that a Federal judge shall disqualify himself in any case in which he: First, has a substantial interest, or; second, is or has been of counsel, or; third, is or has been a material witness; or fourth, is so related to or connected with any party or his attorney as to render it improper, in his opinion for him to sit on the trial, appeal, or other proceeding therein.

The old Canons of Judicial Ethics—(canon 13)—barred a judge from acting in a controversy to which a "near relative" is a party and enjoined a judge—canon 29—from acting where his personal interests are involved.

Spurred by the ambiguities and uncertainties of the status quo—for example, how to measure the substantiality of an interest; how near is a "near" relative; should a judge be the sole arbiter of the degree of substantiality or of the closeness of a relationship in determining his duty to disqualify—the American Bar Association in 1969 appointed a committee to consider changes in the Canons of Judicial Ethics. Pursuant to the report of this committee, a new Code of Judicial Conduct was approved by the ABA and, more importantly, in April 1973 by the Judicial Conference of the United States.

There are two principal differences between present section 455 and section 455 as proposed by S. 1064 to be amended:

First. The present statute requires disqualification if the judge has a substantial interest in the case; the amended section would impose disqualification in the presence of any financial interest, however small.

Second. Existing law has given rise to a doctrine that a judge has a duty to sit unless he is technically disqualified. S. 1064 stiffens the rule by requiring a judge to disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

In its resolution of these two differences, S. 1064 would render section 455 more nearly uniform with the provisions of the ABA Code of Judicial Conduct hearing on disqualification which the Judicial Conference adopted in April 1973.

Apart from the foregoing, proposed new subsection 455(b) requires self-disqualification in a number of situations, namely:

First. Where he has a personal bias or prejudice, or personal knowledge of disputed facts;

Second. Where he or a former or present colleague has served as lawyer in the controversy;

Third. Where he has participated in the matter as a government employee;

Fourth. Where he knows that he or his wife or child has a financial interest in the matter; or

Fifth. Where he or his spouse or a person within the third degree of relationship to either, or his spouse, is a party or a lawyer in the proceeding or interested or likely to become a witness.

Finally, the bill places a duty on a judge to inform himself concerning his own and his wife's or child's financial interests.

WAIVER

Under S. 1064 the parties cannot waive and the judge may not accept a waiver of his disqualification in the presence of any of the disqualifying conditions enumerated in detail in subsection (b). The parties and the judge can effectuate a waiver only with respect to situations in which his impartiality might reasonably be questioned, for example, in subsection (a) of S. 1064, but which do not contain any of the disqualifying conditions of subsection (b).

The committee's objection to permitting waiver in specified subsection (b) situations is that the parties might feel constrained to invite the judge to sit despite the disqualifying condition because they feared to offend him by suggesting or agreeing that he should step down.

SUMMARY CONTEMPT NOT AFFECTED

Under subsection (b)(1) a judge must, among other things, disqualify himself "where he has—personal knowledge of disputed evidentiary facts concerning the proceeding." The question arose during consideration by the House Committee on the Judiciary, whether enactment of this provision would bar judges from dealing with summary contempts in open court before them. The committee agreed that no such interpretation is warranted. The summary contempt procedure has been and remains an indispensable exception to the usual procedures and the bill would not affect it.

JUSTICE DEPARTMENT AND JUDICIAL CONFERENCE

The Department of Justice has submitted a favorable report on S. 1064.

By letter dated September 20, the Director of the Administrative Office of the U.S. Courts, advised Chairman RODINO that the Judicial Conference has voted to express its disapproval of S. 1064 on the basis that enactment is unnecessary at this time in view of the adoption by the Conference of the Code of Judicial Conduct for U.S. judges.

But it is felt that the American people are entitled to ethical behavior on the part of all three branches of the Government, not merely the executive or legislative branches. It no way derogates from the dignity of the Federal judiciary to suggest that not the judges alone should formulate their rules of ethics but that the Congress and the President, as well as bar groups, may appropriately participate or ta least aid in such formulation.

What is more, there are substantial differences between existing section 455 of title 28, and the amended version proposed in S. 1064. In the judgment of the committee these differences could lead to confusion and should be greatly narrowed. Adoption of S. 1064 will eliminate most of them.

It may be noted that neither existing nor proposed section 455 contains a sanction to enforce compliance. The sections simply require self-disqualification. The judge may be petitioned to disqualify himself. Failing this, he may be admonished, he may be reviewed, he may be mandamused and he may be reversed. The chief judge of the circuit may remove him from a particular case and, ultimately, a judge could be impeached and removed for failure to maintain "good behavior."

I reserve the balance of my time.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Speaker, the gentleman has said that the proposed legislation will conform the statute to the Code of Judicial Conduct, the canons. Is it not true that the new canon, the new Code of Judicial Conduct, provides that where the financial interest of the judge is slight or immaterial the parties by agreement may waive it, whereas under this bill they cannot do so, and therefore in that important aspect it in fact does not conform to the canons; is that correct?

Mr. KASTENMEIER. The gentleman is correct.

Mr. DENNIS. I thank the gentleman.

Mr. KASTENMEIER. Mr. Speaker, I reserve the balance of my time.

Mr. RAILSBACK. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, I rise to concur with my colleague from Wisconsin and chairman of the Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice.

The present law in this area, section 455 of title 28, makes a judge the sole decider of whether his interest in a matter before him is "substantial" and therefore enough for him to disqualify himself. This present imprecise standard puts judges in the awkward position of relying on their own impartiality, without clear guidelines.

S. 1064 would establish, by statute, clear guidelines to judges across the country as to when they should disqualify themselves from sitting in a particular case. It frees them of the burden of deciding whether they have a "substantial" interest in the matter being litigated, and replace this with clear standards to apply in determining their interest as it might affect their impartiality to act as judge in the matter. It would also eliminate this "duty to sit" to which I referred which seems so unanimously opposed by the bench and the bar.

The bill provides that certain facts require mandatory disqualification, such as personal bias, or relation within the third degree of a judge or his spouse, to a party to the proceedings, a lawyer or likely material witness in the proceeding, or someone whose interest could be substantially affected by the case.

It also requires disqualification in any proceeding where his impartiality might reasonably be questioned. However this, but only this requirement, can be waived by the mutual consent of all parties to the proceeding, providing it is preceded by full disclosure, on the record, of the basis for disqualification.

As our report makes clear, the bill would not affect the summary contempt procedure available to a judge who by the very nature of that proceeding has personal knowledge of the evidentiary facts and thus would be otherwise subject to disqualification on that ground.

The bill also imposes on the judges an affirmative duty to inform himself about his own personal and fiduciary financial interests, and to endeavor to learn of the financial interests of his spouse and minor children living at home.

The bill is quite similar to the American Bar Association canon 3C of the Code of Judicial Conduct, and is supported by the Department of Justice.

In this time of increasing skepticism by our people in their Government, we hope that a bill such as this will assist the judicial branch in resloving the rather delicate question of judicial disqualification, and thereby help to restore the people's confidence in our system.

I urge my colleagues to vote to suspend the rules and pass S. 1064 as amended.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Maine.

Mr. COHEN. I thank the gentleman for yielding.

I should like to inquire as to whether or not Chief Judge Roger Traynor, one of the most highly respected judges in the history of the California bench, has endorsed this matter wholeheartedly. Is that not the case?

Mr. RAILSBACK. The gentleman is correct. Yes, it does have his support.

Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Speaker, I happen to be opposed to this bill. I think it is a well-intentioned measure, but, like a number of well-intentioned measures, it does not proceed to its objective in a satisfactory manner, in my judgment.

My objections to the bill are two. One is general and philosophical; the other is specific. My general and philosophical objection is that we really cannot legislate integrity or morality, and I question whether by legislative enactment we ought to attempt to tell the judiciary how to run their own business, which they should be able to run for themselves, and, as far as I know from anything disclosed before the committee, they have been running very satisfactorily with very few complaints. So I do not really know why we should come in here and try to lay down a statutory criterion for it.

My second objection is that if we are to do it at all, we ought to do it in a reasonable manner.

I object to the portion of the bill which says that a judge must under all circumstances disqualify himself if he has any financial interest in the subject matter of the case, however small, and even though both of the parties to the controversy may want him to sit. The Judicial Conference of the United States is against this bill and mostly for that reason, because it puts one in a straitjacket. We may have a very, very distinguished, honorable, and expert judge sitting on a particular case, and both parties may want him to sit; They may think he is the best judge around and they do not want anybody else. Yet because he owns five shares of stock in some company that is involved, that maybe he inherited 20 years ago and never thought of since, he must be disqualified and the parties cannot agree to let him sit. This just does not seem to me to make good sense.

I would like to note that under the "Code of Judicial Ethics," the modern one which has been just adopted, the parties in that kind of situation, when that fact is disclosed, made of record, and everybody knows the situation and knows what the facts are, can waive the disqualification in writing and by mutual agreement let the judge act.

If this bill provided for that, I would be for it too, or if we had it under a rule where we could amend it I would offer such an amendment and vote for the bill then. But as it stands I think we have an unrealistic, overstrict approach here which the Judicial Conference opposes and which I oppose.

We could have a Daniel come to judgment or Judge Learned Hand or Justice Oliver Wendell Holmes and all the parties might want him to sit and still he could not do it.

I do not see why we should pass that kind of statute.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Speaker, I think it would be proper to point out that we have the judge as an administrator over the parties litigant and frankly I think it is better to spell out exactly what we do mean so that the court is not in a position to exercise that leverage that a court so often can exercise.

Mr. DENNIS. I understand the gentleman's argument but I still think if a distinguished judge is sitting on the bench in a case and he tells the litigants "I own five shares of stock in XYZ Corporation," and he spreads that on the record and says, "What do you think?" And they say, "Judge, we would rather have you than anybody else, we trust you and think you are the best man to sit," and that is on the record, they ought to be able to go ahead; and that is what is wrong with this bill in my judgment.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Speaker, the gentleman from New York (Mr. SMITH) would like to have 2 minutes to speak.

Mr. KASTENMEIER. Mr. Speaker, in response to the gentleman from Indiana, for whom I have the greatest admiration and who in the years he has been here has been of enormous service and particularly to the Judiciary Committee during his time in the House, while we differ on this question I cannot believe that either the judges or those who work in the courts as counsel really oppose this legislation.

I say that because of existing section 455. We must act because section 455 of title 18 is already on the books and already proscribes breaches of judicial ethics.

The gentleman from Indiana suggests that Congress should not be legislating judicial ethics or judicial disqualification, but for the past 60 years the United States Code has done so. So we either act to update our own statute to the point where it is more or less in conformity with the ABA Code of Ethics and the recommendations of that code and the actual present practices of the Judicial Conference or we permit it to become an outdated and obsolete statute which serves no purpose whatsoever. In the latter event we would have to ignore the question of judicial disqualification, which I cannot do.

Mr. DENNIS. If the gentleman will yield I appreciate the words of my friend, the gentleman from Wisconsin, without taking them personally, and I gladly take the opportunity of reciprocating as far as he is concerned, but with the passing of the point that no judge could be against it, does not our committee report show on page 9 that the judicial conference of the United States in fact does disapprove of this particular bill?

Mr. KASTENMEIER. The gentleman is correct, but the stated objection of the conference is that the bill is unnecessary.

The gentleman is correct that it is unnecessary but only in the sense that the Judicial Conference has already adopted more or less what we propose to imbed in the statutes and have in the past imbedded in the statutes with respect to the subject for the last 60 years; so what we have to do is what we are called upon to do. And action is, indeed, needed.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I would like to compliment the distinguished gentleman from Wisconsin for bringing this bill to the floor. It represents very progressive and important changes by assuring that our judicial branch will adhere to the demands of the highest ethical standards.

I have a question with respect to the interpretation of one portion of the bill. My question is as follows: If, let us say, an attorney for the United States—whether in the Justice Department or any other Government agency—took a position on a particular issue in a case and then became a Justice of the Supreme Court or a judge in any Federal court and heard that identical issue raised before him in another case—for example, whether or not a particular matter constitutes a political question—would the judge be foreclosed from sitting on and deciding that case, and would he have to recuse himself in that instance?

Mr. KASTENMEIER. In answer to the question of the gentlewoman, it is my belief that he would, but that the act as proposed, section 455 as amended by section (b) (3):

> (3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

I think that the term "case" there refers to the then pending litigation, rather than to an analogous situation; however, the judge or justice could properly disqualify himself or be challenged under section (a) which reads:

> (a) Any justice, judge, magistrate, or referee in bankruptcy of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

I advise the gentlewoman that under that section such a judge might be obliged to disqualify himself or herself.

Mr. RAILSBACK. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. SMITH).

Mr. SMITH of New York. Mr. Speaker, I rise to support my friend, the gentleman from Indiana (Mr. DENNIS). I think the House should vote down this bill on suspension today. My reasons are as set forth by the gentleman from Indiana. The judicial conference of the United States opposed the bill as being unnecessary. The American Bar Association generally supports the bill, but feels that the disqualification for any financial interest is unreasonable. I, too, feel that it is unreasonable.

The bill, as it is proposed, says that a judge shall disqualify himself if he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy. And the parties to the proceeding cannot waive the disqualification. Now, financial interest is defined to mean ownership or a legal or equitable interest, however small, or a relationship as director, adviser, or other participant in the affairs of a party.

It seems to me that the reasonable way to do this thing, if we want the bill, would be to allow the parties, with full knowledge of the facts disclosed by the judge, to waive the requirement of his disqualification and allow him to sit.

I think this is very important in these days when judicial manpower in our Federal courts to which this will apply is being pushed to the outer limits, because in case after case where the judge may have very slight financial interest, as defined in the bill, the judges will not be able to sit and must under the bill disqualify themselves, even if the parties to the suit would like to have them sit.

So I say, as the gentleman from Indiana (Mr. DENNIS) has said, that if this bill were subject to amendment, we would say, "Let us go along and let us have an amendment to make this reasonable, and let us exercise the will of the House in that regard," but on suspension I think this bill should be turned down and it should either be sent back to the committee or it should be brought before the House under a rule.

Mr. RAILSBACK. Mr. Speaker, I have no further requests for time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. RAILSBACK) that the House suspend the rules and pass the Senate bill S. 1064, as amended.

The question was taken.

Mr. DENNIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII and the prior announcement of the Chair, further proceedings on the motion will be postponed.

Does the gentleman from Indiana withdraw his point of order that there is no quorum?

Mr. DENNIS. Mr. Speaker, I withdraw the point of order until the time set.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in order in which that motion was entertained.

Pursuant to the provisions of clause 3(b) (3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motions to suspend the rules on which the Chair has postponed further proceedings.

Votes will be taken in the following order: H.R. 16982 and S. 1064.

AUTHORIZING U.S. CONTRIBUTIONS TO UNITED NATIONS PEACEKEEPING FORCES

The **SPEAKER** pro tempore. The unfinished business is the vote on the motion offered by the gentleman from Minnesota (Mr. FRASER) to suspend the rules and pass the bill H.R. 16982.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. FRASER) that the House suspend the rules and pass the bill H.R. 16982.

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 304, nays 56, not voting 74, as follows:

[Roll No. 627]

YEAS—304

Abdnor
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Arends
Armstrong
Ashley
Aspin
Badillo
Baker
Barrett
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bowen
Brademas
Bray
Breaux
Breckinridge
Broomfield
Brotzman
Brown, Calif.
Broyhill, N.C.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Carey, N.Y.
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clark
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Delaney
Dellenback
Denholm
Dennis
Dent
Dickinson
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Foley
Forsythe
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gilman
Goldwater
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Guyer
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Johnson, Calif.
Jones, Ala.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kyros
Lagomarsino
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murtha
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Parris
Passman
Patman
Patten
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Preyer
Price, Ill.
Price, Tex.
Pritchard
Railsback
Rangel
Rees
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rosenthal
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sisk
Slack
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steele
Steelman
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson, N.J.
Thone
Thornton
Tiernan
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wyatt
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—56

Archer
Ashbrook
Bafalis
Bauman
Beard
Blackburn
Brinkley
Broyhill, Va.
Burleson, Tex.
Burlison, Mo.
Byron
Camp
Clancy
Collins, Tex.
Conlan
Crane
Daniel, Dan
Davis, S.C.
Duncan
Flynt
Goodling
Gross
Gunter
Haley
Hammerschmidt
Holt
Hutchinson
Ichord
Jones, Okla.
Ketchum
King
Mathis, Ga.
Miller
Mills
Myers
Powell, Ohio
Quillen
Randall
Rarick
Rousselot
Runnels
Ruth
Satterfield
Scherle
Shuster
Sikes
Snyder
Spence
Steed
Steiger, Ariz.
Stuckey
Symms
Teague
Waggonner
Wylie
Young, Alaska

NOT VOTING—74

Abzug
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Bolling
Brasco
Brooks
Brown, Mich.
Brown, Ohio
Burke, Calif.
Carney, Ohio
Chappell
Clawson, Del
Clay
Cronin
Culver
Davis, Ga.
Davis, Wis.
de la Garza
Dellums
Derwinski
Devine
Diggs
Edwards, Ala.
Eshleman
Ford
Fountain
Frelinghuysen
Gibbons
Ginn
Grasso
Hays
Hébert
Holifield
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Kuykendall
Landgrebe
Landrum
Latta
Maraziti
Mathias, Calif.
Michel
Minshall, Ohio
Mizell
Morgan
Murphy, Ill.
Murphy, N.Y.
Owens
Pepper
Podell
Quie
Reid
Reuss
Riegle
Rodino
Roncallo, N.Y.
Rooney, N.Y.
Rose
Rostenkowski
Skubitz
Smith, Iowa
Stephens
Stubblefield
Taylor, Mo.
Thomson, Wis.
Towell, Nev.
Udall
Waldie
Wilson, Bob
Wright
Wyman

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Reid.

Mr. Chappell with Mr. Rooney of New York.

Mr. Carney of Ohio with Mr. Stubblefield.

Mr. Hébert with Mr. Waldie.

Mr. Fountain with Mrs. Grasso.

Mr. Morgan with Mr. Davis of Wisconsin.

Mr. Murphy of New York with Mr. Frelinghuysen.

Mr. Wright with Mr. Kuykendall.

Mr. Stephens with Mr. Landgrebe.

Mr. Murphy of Illinois with Mr. Andrews of North Dakota.

Mr. Brooks with Mr. Maraziti.

Ms. Abzug with Mr. Davis of Georgia.

Mr. Gibbons with Mr. Mathias of California.

Mr. Hays with Mr. Cronin.

Mr. Jones of North Carolina with Mr. Brown of Michigan.

Mr. Landrum with Mr. Mizell.

Mr. Diggs with Mr. Culver.

Mr. Clay with Mr. Holifield.

Mr. Dellums with Mr. Owens.

Mr. Ford with Mr. Johnson of Pennsylvania.

Mr. Jarman with Mr. Eshleman.

Mr. Pepper with Mr. Brown of Ohio.

Mr. Riegle with Mr. Minshall of Ohio.

Mr. Rodino with Mr. Devine.

Mr. Rose with Mr. Del Clawson.

Mr. Rostenkowski with Mr. Latta.

Mr. Smith of Iowa with Mr. Edwards of Alabama.

Mr. Udall with Mr. Michel.

Mr. Andrews of North Carolina with Mr. Derwinski.

Mrs. Burke of California with Mr. Roncallo of New York.

Mr. de la Garza with Mr. Quie.

Mr. Ginn with Mr. Skubitz.

Mr. Reuss with Mr. Taylor of Missouri.

Mr. Bob Wilson with Mr. Thomson of Wisconsin.

Mr. Wyman with Mr. Towell of Nevada.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

JUDICIAL DISQUALIFICATION

The SPEAKER. The unfinished business is the question of suspending the rules and passing the Senate bill (S. 1064), as amended.

The Clerk read the title of the Senate bill.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the Senate bill, S. 1064, as amended.

The question was taken.

Mr. DENNIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will advise the gentleman that a quorum has just been established by the previous vote.

Mr. DENNIS. Then, Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. Pursuant to the provisions of clause 3, rule XXVII, the Chair again announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules, on which the Chair had postponed the vote.

The vote was taken by electronic device, and there were—ayes 317, noes 31, not voting 86, as follows:

[Roll No. 628]

AYES—317

Abdnor
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Archer
Arends
Armstrong
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bowen
Brademas
Bray
Breaux
Brinkley
Broomfield
Brotzman
Brown, Calif.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Camp
Carey, N.Y.
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clancy
Clark
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Cotter
Coughlin
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Delaney

Dellenback
Denholm
Dent
Dickinson
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Forsythe
Fraser
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Gettys
Giaimo
Gilman
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holtzman
Horton
Hosmer
Howard
Huber
Hungate
Hunt
Hutchinson
Ichord
Johnson, Calif.
Jones, Ala.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Kluczynski
Koch
Kyros
Landrum
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
Parris
Passman
Patman
Patten
Perkins
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Quillen
Railsback
Randall
Rangel
Rees
Regula
Rhodes
Rinaldo
Robison, N.Y.
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Scherle
Schneebeli
Schroeder
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Slack
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, N.C.
Teague
Thompson, N.J.
Thone
Thornton
Tiernan
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Walsh
Whalen
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NOES—31

Ashbrook
Bauman
Breckinridge
Butler
Crane
Daniel, Dan
Dennis
Eckhardt
Goldwater
Goodling
Holt
Hudnut
Jones, Okla.
King
Lagomarsino
Madigan
Mayne
Mills
Montgomery
Rarick
Roberts
Robinson, Va.
Rousselot
Satterfield
Sebelius
Smith, N.Y.
Steiger, Ariz.
Wampler
Ware
Whitten
Zion

NOT VOTING—86

Abzug
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Blackburn
Bolling
Brasco
Brooks
Brown, Mich.
Brown, Ohio
Burke, Calif.
Carney, Ohio
Chappell
Clawson, Del
Clay
Conyers
Corman
Cronin
Culver
Davis, Ga.
Davis, Wis.
de la Garza
Dellums
Derwinski
Devine
Diggs
Dorn
Edwards, Ala.
Eshleman
Fisher
Ford
Fountain
Frelinghuysen
Fulton
Gibbons
Ginn
Grasso
Hays
Hébert
Helstoski
Holifield
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Kuykendall
Landgrebe
Latta
McCloskey
Madden
Maraziti
Mathias, Calif.
Michel
Minshall, Ohio
Morgan
Murphy, N.Y.
O'Neill
Owens
Pepper
Pettis
Podell
Pritchard
Quie
Reid
Reuss
Riegle
Rodino
Roe
Roncallo, N.Y.
Rooney, N.Y.
Rose
Ruppe
Seiberling
Skubitz
Smith, Iowa
Stephens
Stubblefield
Taylor, Mo.
Thomson, Wis.
Towell, Nev.
Udall
Waggonner
Waldie
Wilson, Bob
Wyman
Yates

So (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Andrews of North Carolina.

Mr. Hébert with Mr. Corman.

Mr. Hays with Mr. Culver.

Mr. Chappell with Mr. Davis of Georgia.

Mr. Riegle with Mr. Dorn.

Mr. Rodino with Mr. Fisher.

Mr. Rooney of New York with Mr. Frelinghuysen.

Mr. Fulton with Mr. Ginn.

Mr. Fountain with Mrs. Grasso.

Mr. Brooks with Mr. Davis of Wisconsin,

Mr. Ford with Mr. Blackburn.

Ms. Abzug with Mr. Clay.

Mr. Carney of Ohio with Mr. Anderson of North Dakota.

Mrs. Burke of California with Mr. Cronin.

Mr. de la Garza with Mr. Holifield.

Mr. Diggs with Mr. Waldie.

Mr. Madden with Mr. Johnson of Pennsylvania.

Mr. Morgan with Mr. Derwinski.

Mr. O'Neill with Mr. Latta.

Mr. Murphy of New York with Mr. Brown of Michigan.

Mr. Roe with Mr. Kuykendall.

Mr. Yates with Mr. Eshleman.

Mr. Waggonner with Mr. Devine.

Mr. Reuss with Mr. Mathias of California.

Mr. Pepper with Mr. Minshall of Ohio.

Mr. Conyers with Mr. Helstoski.

Mr. Dellums with Mr. Owens.

Mr. Gibbons with Mr. Brown of Ohio.

Mr. Jarman with Mr. Edwards of Alabama.

Mr. Jones of North Carolina with Mr. Landgrebe.

Mr. Rose with Mr. Del Clawson.

Mr. Seiberling with Mr. Maraziti.

Mr. Smith of Iowa with Mr. McCloskey.

Mr. Stephens with Mr. Michel.

Mr. Udall with Mr. Pettis.

Mr. Pritchard with Mr. Quie.

Mr. Ruppe with Mr. Reid.

Mr. Skubitz with Mr. Roncallo of New York.

Mr. Taylor of Missouri with Mr. Stubblefield.

Mr. Bob Wilson with Mr. Thomson of Wisconsin.

Mr. Wyman with Mr. Towell of Nevada.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OCTOBER 23, 1974.

Hon. CARL ALBERT,
The Speaker,
U.S. House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:35 P.M. on Tuesday, October 23, 1974, and said to contain a message from the President wherein he transmits the second annual report of the National Cancer Advisory Board on the progress of the National Cancer Institute.

With kind regards, I am,
Sincerely,
W. PAT JENNINGS,
Clerk, U.S. House of Representatives.
By W. RAYMOND COLLEY.

SECOND ANNUAL REPORT OF NATIONAL CANCER ADVISORY BOARD ON PROGRESS OF NATIONAL CANCER INSTITUTE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

In accord with section 410B (g) of the "National Cancer Act of 1971" (P.L. 92–218), I am transmitting the second annual report of the National Cancer Advisory Board on the progress of the National Cancer Institute.

As the Board's report indicates, the activities of the National Cancer Institute are progressing smoothly. The report highlights several areas in which significant scientific advances are being made.

In several instances, the Board raises major policy issues and makes recommendations to the Congress. For example, the Board's report urges Federal regulation of cigarettes. It should be pointed out that there is considerable dispute as to whether there exists adequate scientific evidence on which to base safe levels of tar and nicotine under responsible regulatory action. In response to the Board's concern, I have asked the National Cancer Advisory Board to provide me with an assessment of the scientific evidence that would provide a basis for responsible Federal regulation of cigarettes.

While I think it is important for the Congress to have the benefit of the Board's views, those views must necessarily be considered along with other diverse and responsible points of view.

GERALD R. FORD.
THE WHITE HOUSE, *October 23, 1974.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 23, 1974.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:35 P.M. on Tuesday, October 23, 1974, and said to contain a message from the President wherein he transmits the Eighth Annual Report on the Operation of the Automotive Products Trade Act of 1965.

With kind regards, I am

Sincerely,

W. Pat Jennings,
Clerk, House of Representatives.
By W. Raymond Colley.

EIGHTH ANNUAL REPORT ON OPERATION OF AUTOMOTIVE PRODUCTS TRADE ACT OF 1965—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means:

To the Congress of the United States:

I hereby transmit the Eighth Annual Report on the Operation of the Automotive Products Trade Act of 1965. This report contains information with respect to United States and Canadian Automotive Products Agreement including trade, prices, and employment in 1973. Also included is other information pertinent to the various provisions of the ACT.

Gerald R. Ford.

The White House, *October 23, 1974.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
October 31, 1974.

Hon. Carl Albert,
The Speaker,
House of Representatives.

Dear Mr. Speaker: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 5:30 p.m. on Thursday, October 31, 1974, and said to contain a message from the President of the United States on the deferral of funds appropriated to implement the Family Practice of Medicine Act of 1970.

With kind regards, I am

Sincerely,

W. Pat Jennings,
Clerk, House of Representatives.
By W. Raymond Colley.

REPORT OF DEFERRAL OF FUNDS APPROPRIATED TO CARRY OUT FAMILY PRACTICE OF MEDICINE ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-386)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the provisions of Title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344), I am reporting the deferral of funds appropriated to carry out the Family Practice of Medicine Act (S. 3418, Ninety-First Congress).

The details of the deferral are contained in the attached report.

Gerald R. Ford.

The White House, *October 31, 1974.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
November 13, 1974.

Hon. Carl Albert,
The Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:50 P.M. on Wednesday, November 13, 1974, and said to contain a message from the President of the United States concerning the fifth submission of budget recissions and deferrals.

With kind regards, I am

Sincerely,

W. Pat Jennings,
House of Representatives.
By Benjamin Guthrie,

FIFTH SUBMISSION OF BUDGET RESCISSIONS AND DEFERRALS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-387)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the provisions of Title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344), I am transmitting supplementary reports that revise proposed rescission and deferral reports made to the Congress in September and October of this year. I am also transmitting herewith reports on two new deferral actions required to promote sound financial management practices.

The details of the supplementary reports and the new deferrals are attached.

Gerald R. Ford.

The White House, *November 13, 1974.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
November 4, 1974.

Hon. Carl Albert,
The Speaker,
House of Representatives.

Dear Mr. Speaker: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:50 P.M. on Monday, November 4, 1974, and said to contain a message from the President wherein he transmits the annual report on the National Cancer Program's activities, as well as the plan for the program for the next five years.

With kind regards, I am

Sincerely,

W. Pat Jennings,
Clerk, House of Representatives.
By W. Raymond Colley.

ANNUAL REPORT ON NATIONAL CANCER PROGRAM'S ACTIVITIES AND PROGRESS IN 1973 AND PLAN FOR 5-YEAR PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce.

To the Congress of the United States:

I am pleased to submit to you the annual report on the National Cancer Program's activities, progress and accomplishments during calendar year 1973, as well as the plan for the program for the next 5 years. Both the report and the plan are required by section 410A(b) of the Public Health Service Act as amended by The National Cancer Act of 1971.

The plan is provided in two documents. The first, called "National Cancer Program Operational Plan," covers the five-year plan for the program and delineates the major policies and procedures used to operate the program. The second document, called "Appendices to the National Cancer Program Operational Plan," includes separate brief descriptions of the individual research, control and support programs of the National Cancer Institute. The funding levels contained in the plan do not constitute a specific commitment or recommendation by the Administration. Among other things, those levels do not adequately take into account overall budgetary constraints and the competing demands of other biomedical research programs.

The Administration is also deeply committed to an effective cancer research program. The progress and accomplishments made in 1973 are gratifying. The National Cancer Program is beginning to have an impact on Americans who have cancer or are at risk to it. Today, more Americans than ever before have access to the most advanced methods of cancer diagnosis, treatment and rehabilitation. This human endeavor and its successes are the result of the National Cancer Institute's expanding research programs, and its efforts to apply for the benefit of the people, as quickly as possible, the knowledge emerging from the clinical bedside and research laboratory.

Our national research program to conquer cancer will take years before achieving ultimate success. The recent enactment of the National Cancer Act Amendments of 1974, which continue the National Cancer Program, demonstrates the abiding commitment of the Congress and the executive branch to solve this major health problem.

Success in this endeavor will ultimately come, however, only with the sustained dedication and hard work of the physicians, scientists, health professionals, voluntary agencies, and the volunteers who support this program.

GERALD R. FORD.

THE WHITE HOUSE, *November 4, 1974.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 31, 1974.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 5:30 P.M. on Thursday, October 31, 1974, and said to contain a message from the President of the United States concerning the third submission of budget rescissions and deferrals.

With kind regards, I am
Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.
By W. RAYMOND COLLEY.

ADDITIONAL DEFERRALS FOR FISCAL YEAR 1975—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–385)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

I herewith report on additional deferrals for the fiscal year 1975, as required by the Congressional Budget and Impoundment Control Act of 1974. These deferral actions have been taken to reduce the inflationary effects of the Public Works for Water and Power Development and Atomic Energy Commission Appropriation Act of 1975 (Public Law 93–393). When I approved the Act, I did so with the hope and expectation that the Congress would work in cooperation with the Executive Branch to defer for one full year the expenditure of that amount of appropriated funds which would contribute excessively to inflationary government spending.

The deferral actions reported today decrease the amount of budget authority which would otherwise be available in the fiscal year 1975 by nearly $82 million and thereby keep Federal spending from rising nearly $57 million above current estimates. If the Congress and the President are to keep Federal outlays for the fiscal year 1975 within $300 billion, such measures as the ones reported here are essential.

GERALD R. FORD.

THE WHITE HOUSE, *October 31, 1974.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
November 13, 1974.

Hon. CARL ALBERT,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:50 P.M. on Wednesday, November 13, 1974, and said to contain a message from the President wherein he transmits the National Capital Housing Authority's annual report for the fiscal year ending June 30, 1973.

With kind regards, I am,
Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.
By BENJAMIN J. GUTHRIE,

NATIONAL CAPITAL HOUSING AUTHORITY'S ANNUAL REPORT FOR FISCAL YEAR ENDING JUNE 30, 1973—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on the District of Columbia:

To the Congress of the United States:

I am herewith transmitting the National Capital Housing Authority's annual report for the fiscal year ending June 30, 1973. The report sets forth the efforts of the Authority to improve and expand the housing opportunities in the District of Columbia.

In light of the recent transfer of the National Capital Housing Authority to the District of Columbia Government, I hope that even greater efforts will be made to improve housing conditions in the Nation's Capital.

GERALD R. FORD.

THE WHITE HOUSE, *November 13, 1974.*

REPORT ON FURTHER PROGRESS REPORT OFFSETTING THE BALANCE-OF-PAYMENTS DEFICIT RESULTING FROM THE DEPLOYMENT OF U.S. FORCES IN NATO EUROPE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–385)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Armed Services and ordered to be printed:

To the Congress of the United States:

In accordance with Section 812(d) of the Department of Defense Appropriation Authorization Act, 1974 (Public Law 93–155), I am pleased to submit a report to the Congress on our further progress toward offsetting the balance of payments deficit resulting from the deployment of U.S. forces in NATO Europe.

I am now able to provide you with figures for U.S. expenditures in NATO Europe during fiscal year 1974. These figures were compiled by the Department of Commerce in consultation with the Department of Defense and the General Accounting Office. They indicate that in FY 74 the expenditures resulting from the deployment of U.S. forces in fulfillment of our NATO commitments and obligations amounted to $1,983 million (including preliminary fourth quarter data subject to revision). Attached to this report is an appendix showing how this figure was derived and what adjustments were made to conform our normal expenditure data to the letter and intent of Section 812. Minor changes in this data may occur as final quarter fiscal year 1974 figures are confirmed during the next few weeks.

As President Nixon reported to the Congress on May 16, 1974, the offset agreement concluded in April 1974 with the Federal Republic of Germany had a dollar value of approximately $2.22 billion over fiscal years 1974 and 1975. Of that amount, the fiscal year 1974 portion, approximating $1.1 billion, will be directly applicable toward meeting the requirements of Section 812, leaving approximately $883 million to be offset by our other European NATO allies.

As I noted in my report of August 20, 1974, the NATO Economic Directorate, at the direction of the North Atlantic Council, has established a mechanism for identifying allied purchases of military-related items from the United States. This was an essential step to enable us to comply with the requirements of Section 812. Representatives of the Economic Directorate consulted in Washington on October 21–22 with the Departments of State, Commerce and Defense and reported that approximately $1,050 million in purchases by allies other than the Federal Republic of Germany have been identified.

The Departments of Commerce and Defense have sought to confirm this figure by examining the U.S. balance of payments accounts and records in an effort to identify balance of payments receipts reflecting military-related sales and exports to our European NATO allies, on both a government-to-government and commercial category basis. However, this data is still incomplete and the U.S. accounting system in many cases is too aggregated to identify all of the specific purchases and payments made by the European members of NATO. For this reason our calculation of the final offset total will take into account the information being provided through the NATO Economic Directorate by our European NATO allies. On the basis of the foregoing, I continue to expect that the requirements of Section 812 will be met.

GERALD R. FORD.

THE WHITE HOUSE, *November 17, 1974.*

REPEATING DESIRE OF THE PRESIDENT OF THE UNITED STATES FOR PARTNERSHIP WITH THE CONGRESS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–384)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

I regret that commitments which I believe will advance the cause of international understanding prevent my delivering this message personally. On two previous occasions when I returned to the Capitol for formal communication with the Congress, I emphasized my sincere desire for partnership with you in the interests of our country. Nothing has changed that intention on my part.

On August 12, three days after assuming the office of President, I ask the Congress to join with me in a new spirit of action and accommodation in getting America moving again. On October 8, I presented a comprehensive 31-point program to strengthen our economy, share the burdens of inflation and stagnation and significantly reduce this Nation's dependence on outside sources of energy which is both strategically and economically undesirable.

There has been piecemeal criticism of my program and I expected it. But there has been no specific and comprehensive alternative program advanced and time is passing. I do not read any mandate in the recent election so clearly as the American people's concern about our economy and their urgent demand for fiscal restraint and responsible action on the economic front.

I am still ready to meet the Congress more than half way in responding to this call from our constituents. We cannot wait and the country cannot wait until next March or April for needed action.

I will always have a special affection for the 93d Congress—the last one to which I was elected and in which I served both as Minority Leader of the House and as President of the Senate. But I hope this pride can be more solid than sentimental.

Time is short, but time remains for this Congress to finish its work with a real record of accomplishment. Your leaders have given me their assurance of a desire to do as much as possible.

There is much to be done. I am confident that if we all declare a moratorium or partisanship for the rest of 1974 we can still achieve much for America.

In this message I am listing those legislative actions, among the many I have proposed, to which I attach the highest priority. I respectfully request their careful consideration and resolution before the 93d Congress takes its place in history.

NOMINATIONS

I regret that neither body of the Congress has acted on my nomination of Nelson Rockefeller to be Vice President of the United States.

It has been nearly thirteen weeks since I nominated Governor Rockefeller. Our recent experience with the 25th amendment makes it plain that an incumbent Vice President is essential to continuity in Government. I appreciate the need for a thorough examination of this nomination, but it is in the highest national interest that I urge speedy confirmation.

Forty-three other nominations pending before the Senate lapsed with the election recess. I request that my resubmissions be given expeditious consideration so that vacancies in key executive branch posts may be filled with approval of the Senate at the earliest possible time.

I will also transmit to the Senate the names of other candidates for major Administration positions and urge their speedy confirmation. Good government makes it imperative that all pending nominations be acted upon during this session of the Congress.

ECONOMIC ISSUES

No single issue has a higher priority than the economic health of our country. Prices rise while production lags and unemployment increases. It is a severe problem requiring specific corrective actions to start the recovery and to check inflation.

EXPENDITURES

I am gratified that recent deliberations of the House and Senate have recognized the need to restrain Federal spending for fiscal year 1975. I am confident that this action reflects the strong desire of the American people.

Accordingly, for fiscal year 1975, I will recommend to the Congress next week more budget rescissions and will report on budget deferrals and administrative actions to hold down expenditures. I will also request the Congress to make changes in existing authorizations and in pending appropriation bills. I urge the Congress to support these actions and move quickly to enact the required legislative changes.

I have already reported on a number of budget deferrals totaling more than $23 billion and requested seven rescissions of over $675 million. Failure to support these actions would increase outlays by over $660 million in 1975, $2.2 billion in 1976, and even more in subsequent years. I urge the Congress to accept these deferrals and take prompt action on the over $675 million in rescission proposals that have been submitted.

EMPLOYMENT ASSISTANCE

In addition to Government belt-tightening, I also indicated in my economic message of October 8th that special legislation was needed to assist citizens who are particularly hurt by increases in unemployment. On that same day, I sent to the Congress my proposed *National Employment Assistance Act.* Under this plan, employment assistance programs would be triggered into action whenever the average national unemployment rate rose to six percent for three consecutive months.

In that event, these programs would provide special jobless compensation and work opportunities in those labor market areas where the rate averages six and one-half percent for three consecutive months.

These programs should be enacted immediately, since rising unemployment indicates they will very likely be needed before the 94th Congress convenes. I hope this Congress will recognize its responsibility in this important area.

TRADE

Action is urgently needed on the *Trade Reform Act* which I consider absolutely essential to our economic health. Our trading partners in the industrial and less-developed world are waiting to see whether we can negotiate multilateral solutions to the common economic problems which plague us, as well as make much-needed improvements in the trading system. The unacceptable alternative is economic warfare from which no winners would emerge.

I urge the Senate to move as quickly as possible to adopt the Trade Reform Act, and to forego any encumbering amendments. If the Senate acts promptly—and only if it does—there will be sufficient time remaining in this Congress for both Houses to agree on a final measure.

TAXES

The Congress has before it the tax reform proposals sent up in April 1973; the windfall profits tax proposals submitted in December 1973, and the economy strengthening and stabilizing proposals which I recommended last month.

The economic proposals of last month include surtaxes on all corporations and on individuals with well above-average incomes. They call for change in the investment tax credit and in the tax treatment of certain limited kinds of preferred stock.

My individual surtax proposal, I must emphasize, would apply only to families and single persons whose incomes exceed $15,000 and $7,500, respectively, and only to that portion of their actual income above those levels. It is a very progressive tax proposal which takes much more from high bracket taxpayers than middle income taxpayers. Low bracket taxpayers would be exempt. With a $16,000 income, for example, a family of four would pay a surtax of only $3. On the other hand, a family of four with a $50,000 income would pay $482 of surtax.

I also urge Congress to enact the windfall profits tax proposals so that we will not forever lose the chance to recapture a part of the excessive profits that domestic oil producers realize this year. I reiterate my support for eliminating the foreign depletion allowance.

I have asked the Secretary of the Treasury to work with the congressional committees concerned to develop balanced legislation, including additional tax reductions for low-income individuals.

FINANCIAL INSTITUTIONS

There is great need for action on an Administration proposal to strengthen and revitalize banks and thrift institutions through the elimination of certain Federal regulations which impede efficiency and healthy competition. While retaining appropriate safeguards to assure solvency and liquidity, the proposed *Financial Institutions Act* would allow more competition in our banking system to benefit the small saver as well as the institutions themselves. This could also make additional dollars available to the private citizen and to industry.

Further, this proposal would provide the added incentive of the mortgage interest tax credit for our financial institutions to enable them to devote their resources to home mortgages and thus curb the wide and disruptive swings in home mortgage credit availability.

REGULATION

The Congress has before it my proposal to establish a one-year National Commission on Regulatory Reform to examine the practices and procedures of the independent regulatory commissions. It has become clear that many regulatory activities of the Government are themselves stifling competition and producing higher prices without comparable social benefits. I urge this Congress to complete action on this important legislation. Such a Commission, to be composed of Congressional, Executive, and public members, should start now to formulate realistic proposals for reform of our regulatory system for early consideration by the next Congress.

FOOD

Food prices concern everyone. The Congress must act rapidly to not only increase food production but to remove impediments to the maximum production of peanut and rice crops.

I am also recommending that we amend *Public Law 480*, the Food for Peace program. Additional flexibility is clearly needed to assure that our food aid programs can continue to serve the national interest and humanitarian goals.

COMPETITION

Activities which are illegal under the Sherman Anti-Trust Act disrupt the natural competitive forces in the marketplace and invariably result in higher prices to the American consumer. The Justice Department's antitrust efforts against monopolies and activities which operate in restraint of trade must be strengthened.

The maximum allowable penalties for violation of the Sherman Anti-Trust Act should be increased from $50,000 to $1 million for corporations and from $50,000 to $100,000 for individuals. Maximum prison sentences for individual violations should also be increased to five years.

Current estimates by the Immigration and Naturalization Service indicate that there are some 4 to 7 million illegal aliens in the United States. Prompt action on a pending illegal alien bill would help solve this critical problem by providing sanctions against the hiring of illegal aliens. This would make more jobs available for our own citizens.

STOCKPILING

The General Services Administration has submitted stockpile disposal bills for silver, lead, and tin. These would permit sale of stockpile quantities that clearly exceed our national security needs. This additional authority will assure adequate supplies of these commodities and also dampen excessive price fluctuations. The additional disposal authority for silver, lead, and tin would also provide potential budget receipts of $1.4 billion, of which about $150 million could be realized in fiscal year 1975 if legislation is enacted by the end of this year.

HOUSING

I thank the Congress for promptly enacting housing legislation making conventional mortgages eligible for purchase by the Government National Mortgage Association. This is giving the housing and real estate industry much needed support, even though the Act did not cover apartments and condominiums. I urge you to consider legislation to correct this omission.

ENERGY

In addition to my deep concern over the economy, I am committed to resolving the problems of achieving sufficient energy supplies for ourselves and our children. I repeat my earlier requests for action during this session on several energy bills under consideration.

First, we need legislation to help increase the supply of natural gas and permit competitive pricing of these new supplies. Our worsening shortages are directly attributable to more than 20 years of unsuccessful Federal regulation of natural gas. Unless we remove Federal regulatory impediments with respect to new sources, supplies of environmentally clean natural gas will remain in the ground. The shortage of natural gas is already forcing curtailment of service to industry in many areas, resulting in increasing unemployment and greater use of imported oil. New homes are being denied natural gas service, forcing the use of alternative fuels that are more costly and far less clean.

I urge the Congress to complete action quickly on legislation to establish a system of permits for the construction and operation of deepwater ports. This system is a far superior means—from both a cost and environmental point of view—for handling that portion of oil which we cannot avoid importing for some years ahead. I have asked the Secretaries of Interior and Transportation to work with the Senate and House conferees to develop a bill that I can sign within the next few weeks.

Last March, legislation was proposed to speed the licensing and construction of nuclear plants, allow more meaningful public participation at early decision points relating to their design and siting and encourage standardization of new nuclear plants. I urge that the Congress pass this bill to speed the development of domestic energy supplies, reduce dependence on imported oil, and help hold down electrical power costs.

The House and Senate conferees are now addressing the difficult issues in the proposed *Surface Mining Act*. I am still hopeful that the conferees can agree on provisions which strike a reasonable balance between our desire for environmental protection and reclamation and the need to increase the production of domestic coal supplies.

I must emphasize that some provisions of the bills now in conference are not acceptable. I have asked the Secretary of the Interior to continue working with the conferees to develop a bill which I can sign.

As a necessary step toward conserving fuel and saving lives, I urge the Congress to make permanent the 55 mile-per-hour speed limit. I also ask the House of Representatives to approve an extension of the carpooling provisions in the *Emergency Highway Energy Conservation Act* which expires December 31, 1974.

I have asked the Secretaries of Interior, Defense and Navy to work with the Congress in finding satisfactory ways of dealing with our emergency petroleum reserves to balance our domestic energy needs. We must proceed with development of the oil reserves in Elk Hills, California, and with exploration and development of the reserve in northern Alaska. We must not wait for another energy crisis to force action, perhaps too late, on these vital resources.

APPROPRIATIONS

There are four regular appropriations bills still to be enacted—*Agriculture-Environmental and Consumer Protection, Labor-HEW, Military Construction and Foreign Assistance*—and the important *First Supplemental Appropriations* bill.

Action has not yet been completed in the Senate on the Agriculture-Environmental and Consumer Protection Appropriation Bill for fiscal year 1975. This bill was vetoed by President Nixon on August 8th because it would have substantially increased Federal spending. I urge the Congress to complete action on this appropriation measure as soon as possible within reasonable funding limits.

The Labor-HEW and Related Agencies Appropriations bill is currently in conference. Unfortunately, the totals are excessive. Unless the Congress reduces funding in both the House and Senate versions, I will have no choice but to veto this measure.

Appropriations now pending for Military Construction and Foreign Assistance should be given high priority.

The First Supplemental Appropriation bill has passed the House and is pending on the Senate calendar. However, I am concerned about the inflationary aspects of the Senate version and hope final action will produce an acceptable bill.

VETOES

During the adjournment, it was necessary for me to pocket veto five bills. Two were private relief measures and three were legislative issues: National Wildlife Refuge System, Farm Labor Contractor Registration, and Rehabilitation Act Amendments.

I have determined on advice of the Attorney General that the absence of my signature from these bills prevented them from becoming law. Without in any way qualifying this determination, I also returned them without approval to those designated by the Congress to receive messages during the adjournment period.

If the Congress should elect to challenge these vetoes by overriding them, there could be a prolonged legal uncertainty over this legislation. However, I would welcome new legislation to replace the measures which were vetoed.

Specifically, while the *Farm Labor Contractor Registration Act Amendments* contained worthwhile provisions to protect migrant farm workers, an unrelated rider arbitrarily would have reclassified and elevated certain Federal employees to important Administrative Law Judge positions, regardless of their qualifications. I, therefore, urge the Congress to pass the essential sections of the vetoed bill without the personnel provision which would create serious pay inequities by legislatively overcompensating a particular class of employees in one executive department.

Similarly, the intent of the *Rehabilitation Act Amendments* section of H.R. 14225 is worthwhile. But the features which would force the creation of new and unnecessary bureaucracies in the Department of Health, Education, and Welfare prompted my veto.

I have requested the Secretary of HEW to work with Congressional leaders in an effort to correct the serious difficulties in administration and accountability contained in the vetoed bill.

Although it was necessary to return to the Congress without my approval the *Freedom of Information Act Amendments* on October 17th, the day the Congress adjourned, I continue to endorse the intent of that legislation. I have already submitted to the Congress amendments which would eliminate the national security information problems and the damage to effective law enforcement inherent in the bill which I vetoed. I pledge the full efforts of the Administration in working out a fair, responsible way to increase public access to Federal papers and records without impairing individual rights and essential Government activities.

Just before adjournment, I also vetoed the *Atomic Energy Act Amendments*. I objected to a provision I consider to be unconstitutional. Because of this provision, the bill would not have become effective, even had I approved it, unless a Joint Committee of the Congress subsequently took affirmative action. I urge passage of a new measure removing the constitutional objection to section 12 of the vetoed bill, thereby eliminating the legal uncertainties which would becloud the entire nuclear energy program.

During the adjournment, I signed into law a bill overhauling the *Commodity Exchange Act*. This is an important step to assure full confidence in Federal regulation of commodity futures trading. Nevertheless, there are several provisions which need revision. First is the requirement for concurrent submission to the Congress and to the President of both the new Commission's budget and legislative proposals, and second is the need for Senate confirmation of a non-Presidential appointee. These provisions run contrary to good management of the Executive Branch by the President and the traditional separation of powers. I hope these Constitutional and policy questions can be resolved.

OTHER MAJOR LEGISLATION

In addition to pending nominations, economic legislation and energy issues, there are a number of other important bills awaiting final action by the Congress.

In today's world, all nations are interdependent. The United States owes it to itself, as well as to others, to provide military and economic assistance which may mean the difference between stability and instability in a global or regional context. Where there is instability, there is danger—danger of conflict which can involve the greatest as well as the smallest.

The *Foreign Aid Authorization* bill before you represents a sincere effort to reflect the realities of today's world. It remains my assessment of the minimum which is needed to sustain our peaceful objectives.

I urge the Congress to move quickly to enact legislation which will help to achieve these objectives and meet our moral, political and security obligations. If such legislation is to enable us to effectively carry forward the foreign policy of the Nation, it must not tie the hands of the President nor restrict his authority and ability to act when action is called for.

Also important to the achievement of our objectives overseas is legislation to enable the United States to contribute its fair share to the various multilateral development institutions and, at the same time, provide continued incentives to other nations to join in these international assistance efforts.

In order for the United States to maintain its strong position in foreign markets, it is important that the Congress pass the Export-Import Bank bill and avoid attaching unnecessary encumbrances.

The Congress is making good progress on the Administration's proposal to improve the regulatory climate in an important portion of the transportation industry. *The Surface Transportation Act*, as reported by the House Committee on Interstate and Foreign Commerce, is a beginning in the overall area of regulatory reform. This bill, with certain modifications to insure greater reliance on competitive market forces, would contribute substantially to the efficiency and vitality of this Nation's railroad system. I urge the Congress to complete its work on this vital legislation without waiting for the establishment of the National Commission on Regulatory Reform.

Earlier this year, legislation was submitted to provide reasonable increases in the size and weights of trucks traveling on interstate highways. These increases were to offset the economic disadvantages to truckers resulting from lower permissible speed and higher fuel costs. The Senate passed a bill containing most of the features of the Administration's proposal while a similar bill did not pass in the House. I ask the Congress for early action on this issue in the interest of economic efficiency and fuel conservation.

I also urge the Congress to act promptly to pass the *National Mass Transportation Assistance Act of 1974*. This bill has been developed through close cooperation between the Congress and the Administration. It will provide the Nation's cities with the Federal financial assistance needed to help them meet priority urban mass transportation needs. This bill establishes a long-term assistance program for mass transit—actually, for six years—and distributes a significant portion of the funds according to a simple and equitable formula. It also provides for an enhanced role for the Governors and local officials in mass transit decisions.

I consider the total dollar level of $11.8 billion over a six-year period to be at the upper limits of fiscal responsibility. The needs of the cities and the uncertainties and delays that would result from waiting until the next Congress for a transit bill make it imperative that this Congress act before adjournment sine die.

In 1972, the Judicial Conference of the United States recommended the creation of 51 additional Federal District Court judgeships in 33 separate judicial districts across the country. Senate hearings on legislation incorporating this proposal were concluded in 1973. To date, however, this legislation has not been scheduled an urgent national necessity of a nonfor floor action. The increasing backlog in the Federal courts makes this measure partisan nature—for justice delayed is too often justice denied.

Earlier this session, the House passed a bill to codify, for the first time in our history, evidentiary rules governing the admissibility of proof in Federal courts. This bill is the culmination of some 13 years of study by distinguished judges, lawyers, Members of the Congress and others interested in and affected by the administration of justice in the Federal system. The measure will lend uniformity, accessibility, intelligibility and a basis for reform and growth in our evidentiary rules which are sadly lacking in current law. I strongly urge final action on this important bill prior to the conclusion of this Congress.

With respect to the *Vietnam Era Veterans' Readjustment Assistance Act*, I urge the Congress to reconsider the action it has taken to date and send me instead legislation providing a straightforward 18.2 percent cost of living increase, effective January 1, 1975. Increased payments for our veterans in school are necessary. But while acknowledging our great debt to those who served during the Vietnam era, I must insist on a fiscally responsible bill on behalf of all Americans. I object to the inflationary 22.7 percent rate increase, retroactive to September 1, 1974, the direct loan program which the Congres has added and the extension of educational benefits allowing Vietnam era veterans to attend school for 45 instead of the present 36 months. This extra entitlement goes beyond the standard for World War II and Korea veterans.

The Energy Transportation Security Act of 1974 would require a percentage of imported petroleum to be carried on U.S. vessels. Although I fully support a strong U.S. merchant marine, I am seriously concerned about problems which this bill raises in the areas of foreign relations, national security, and perhaps most significantly, the potential inflationary impact of cargo preference.

Administration officials have testified during congressional hearings on our concerns about the impact of this bill.

The House-Senate conferees adopted new language concerning the waiver provision so that the requirements of this bill "may be temporarily waived by the President upon determination that an emergency exists justifying such a waiver in the national interest." However, the legislative history of the waiver does not expressly demonstrate that the Congress intends it to be broad in scope.

The potential problems which could arise if this bill becomes law require a provision which will permit the President to waive its requirements for economic as well as foreign affairs and national defense reasons. Since the waiver language in the bill is not explicit, the Conference Committee Report should make it clear that the Congress intends to grant broad waiver authority.

Other provisions in the bill which concern me are: the narrowness of the definition of which ships are eligible to participate in this trade, the rebate of oil import fees and the unnecessary antipollution requirement that vessels serving certain ports be built with expensive double bottoms.

Another measure on which action is required is comprehensive health insurance. I will continue to seek agreement with the Congress on legislation centered on principles incorporated in the Comprehensive Health Insurance Plan. To keep this program from feeding inflation, however, the Congress will have to join with me in cutting Federal expenditures before we can afford this program.

Included in the *Military Construction Authorization* and *Appropriation* bills now before the Congress are funds for completing projects and initiating new ones at installations in 42 States and the District of Columbia. I reiterate my strong conviction that the limited expansion of facilities on Diego Garcia in the Indian Ocean is of critical importance.

CONCLUSION

This list of legislative priorities represents a streamlined action program for the Nation. To achieve results will require partnership, not partisanship, on the part of both the executive and the legislative branches. It will mean long days and nights of hard work—of communciation, conciliation, compromise, and cooperation between the White House and the Congress, the House and the Senate, and majority and minority within the Congress itself.

But it must be done for one overriding reason: America needs these actions. And the American people rightly expect us to do everything we can to accomplish them.

I pledge my full cooperation with the Congress in the weeks ahead. I am confident that the Congress will respond in the same spirit.

GERALD R. FORD.

THE WHITE HOUSE, *November 17, 1974.*

COMMUNICATION FROM THE COMMITTEE ON MERCHANT MARINE AND FISHERIES

The SPEAKER laid before the House the following communication from the Committee on Merchant Marine and Fisheries:

COMMITTEE ON MERCHANT
MARINE AND FISHERIES,
Washington, D.C., October 23, 1974.

Hon. CARL ALBERT,
Speaker, U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: This is in further reference to my letters to you of October 7 and October 16 enclosing copies of notices of taking of deposition issued to employees of my Committee by Duncan, Brown, Weinberg & Palmer in the matter of Koniag, Inc., et al, v. Rogers C. B. Morton.

Enclosed, for your information, are copies of further notices issued by the same firm to Messrs. Everett, Potter, and Stockton, received on October 21, directing them to appear for the taking of their depositions on October 21 in the matter of Salamatof Village Association, et al., v. Rogers C. B. Morton. It is believed that the subject matter of these depositions also relates to hearings held before my Committee earlier this year.

This material is presented for such action as the House in its wisdom wishes to take.

Sincerely,
LEONOR K. (MRS. JOHN B.) SULLIVAN,
Chairman.

PERSONAL EXPLANATION

Mr. GOLDWATER. Mr. Speaker, I wish to state that on consideration on H.R. 10510, on suspension of the rules, the bill involving the census, I did not vote. I was unavoidably absent.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the following titles:

On October 17, 1974:

H.R. 6202. An act for the relief of Thomas C. Johnson;

H.R. 6477. An act for the relief of Lucille de Saint Andre; and

H.J. Res. 1167. Joint resolution making further appropriations for the fiscal year 1975, and for other purposes.

On October 18, 1974:

H.R. 3532. An act for the relief of Donald L. Tyndall, Bruce Edward Tyndall, Kimberly Fay Tyndall, and Lisa Michele Tyndall.

H.R. 5641. An act to authorize the conveyance of certain lands to the New Mexico State University, Las Cruces, N. Mex.;

H.R. 7135. An act to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service;

H.R. 7954. An act to direct the Secretary of Agriculture to release on behalf of the United States conditions in a deed conveying certain lands to the State of New York and to provide for the conveyance of certain interests in such lands so as to permit such State, subject to certain conditions to sell such land;

H.R. 9054. An act to amend the act entitled "An Act to authorize the Secretary of Agriculture to execute a subordination agreement with respect to certain lands in Lee County, South Carolina"; and

H.R. 11537. An act to extend and expand the authority for carrying out conservation and rehabilitation programs on military reservations, and to authorize the implementation of such programs on certain public lands.

On October 20, 1974:

H.R. 3903. An act to direct the Secretary of the Interior to convey certain public land in the State of Michigan to the Wisconsin Power Co.;

H.R. 9075. An act to authorize the disposition of certain office equipment and furnishings, and for other purposes; and

H.R. 13261. An act to amend the International Claims Settlement Act of 1949, as amended, to provide for the timely determination of certain claims of American nationals settled by the United States-Hungarian Claims Agreement of March 6, 1973, and for other purposes.

On October 23, 1974:

H.R. 13113. An act to amend the Commodity Exchange Act to strengthen the regulation of futures trading, to bring all agricultural and other commodities traded on exchanges under regulation, and for other purposes.

On October 24, 1974:

H.R. 14597. An act to increase the limit on dues for United States membership in the International Criminal Police Organization;

H.R. 15148. An act to extend the time limit for the award of certain military decorations; and

H.R. 16857. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1974 in certain disaster areas in North Carolina.

On October 26, 1974:

H.R. 6642. An act to suspend the duties on certain bicycle parts and accessories until the close of December 31, 1976, and for other purposes;

H.R. 11251. An act to amend the Tariff Schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel, and for other purposes;

H.R. 11452. An act to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes;

H.R. 11830. An act to suspend the duty on synthetic rutile until the close of June 30, 1977;

H.R. 12035. An act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes;

H.R. 13157. An act to provide for the establishment of the Clara Barton National Historic Site, Md.; John Day Fossil Beds National Monument, Oreg.; Knife River Indian Villages National Historic Site, N. Dak.; Springfield Armory National Historic Site, Mass.; Tuskegee Institute National Historic Site, Ala.; Martin Van Buren National Historic Site, N.Y.; and Sewall-Belmont House National Historic Site, Washington, D.C.; and for other purposes;

H.R. 13561. An act to amend the Intercoastal Shipping Act, 1933;

H.R. 13631. An act to suspend for a temporary period the import duty on certain horses, and for other purposes;

H.R. 14217. An act to provide for increases in appropriations ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes;

H.R. 15540. An act to extend for one year the authorization for appropriations to implement title I of the Marine Protection, Research, and Sanctuaries Act of 1972;

H.R. 15643. An act to reorganize public postsecondary education in the District of Columbia, establish a Board of Trustees, authorize and direct the Board of Trustees to consolidate the existing local institutions of public postsecondary education into a single Land-Grant University of the District of Columbia, direct the Board of Trustees to administer the University of the District of Columbia, and for other purposes; and

H.R. 17027. An act to amend the National Visitor Center Facilities Act of 1968.

On October 27, 1974:

H.R. 15736. An act to authorize, enlarge, and repair various Federal reclamation projects and programs, and for other purposes.

On October 28, 1974:

H.R. 11221. An act to increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes; and

H.R. 15427. An act to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes.

On October 29, 1974:

H.R. 7780. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other pruposes; and

H.R. 12281. An act to continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, and for other purposes.

THE NEED FOR BOTH PARTIES TO JOIN TOGETHER IN A COMMON ASSAULT ON THE NATION'S PROBLEMS

(Mr. RHODES asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, today we begin the final phase of the 93d Congress and prepare for the start of the 94th Congress.

We do so at a time of considerable national difficulty. We have an economy that has stubbornly resisted all attempts at resuscitation—we have yet to develop the alternate energy sources that the Nation needs—and we continue to live with the threat of world war. I am an optimist. But in all of my 22 years in this House, I have never been more concerned about the problems facing the country, nor of the need for affirmative action.

The question we have to resolve in this Chamber is quite simple: Can an overwhelming Democratic majority get together with a Republican minority and a Republican President in order to accomplish the things that the country needs?

I am of the opinion that we must. That is why I am proposing a departure from partisan politics-as-usual in which the Democratic majority will come together with the minority and the President to form a consensus type of government.

Practically speaking, this would involve the clearance of administration legislative proposals with the Democratic and Republican leadership prior to their arrival on Capitol Hill. It would also mean that the Democratic leadership would provide the minority with greater input on the scheduling of legislation, so that partisanship would play less of a role in the fate of legislation that the country needs.

Mr. Speaker, we should recall that in 1947, President Truman and the Republican 80th Congress—who were at each other's throats on practically every issue—put aside their differences in order to launch the historic Marshall plan. That is the type of attitude that I hope can prevail in this Chamber.

I would be less than candid if I were to pretend that I am pleased with the outcome of this past election. We have lost some very able people on this side of the aisle. Realizing, however, that only 55 million Americans voted in a Nation where 145 million people are of voting age, it is apparent that the public is disenchanted with both parties, and that is a source of concern for us all.

So strongly do I feel about ever-increasing voter apathy and the rising status of the "independent" voter that I hope that the national committees of both parties will jointly fund and oversee a comprehensive study of recent electoral trends. We need to repair the two-party system.

Mr. STRATTON. Mr. Speaker, would the gentleman yield?

Mr. RHODES. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I want to commend the minority leader, the gentleman from Arizona (Mr. RHODES), upon his statement. I read the gentleman's article that appeared in this morning's paper, and it was basically what the gentleman from Arizona is stating here, and that is the need to get some effective answers to the important questions facing our Nation is the overriding business of Congress now. Certainly one of the most important steps in that direction is for Congress and the President to cooperate together so that we can come up with the answers and the solutions that the American people are demanding.

I agree with the gentleman that the American people expect that both sides will work together to achieve the result the gentleman from Arizona has mentioned. As one member of the majority, Mr. Speaker, I intend to work for that end.

Mr. RHODES. I thank the gentleman from New York.

Mr. Speaker, it is not altogether clear what the people voted for in the last election. But it is clear what they did not vote for—and that is a 2-year congressional stalemate.

Never before has it been more important for good men and women of both parties to join together in a common assault on the Nation's problems. I hope that the majority party will accept the outstretched hand of the minority to do what the American people need to have done.

UNFORTUNATE REMARKS OF CHAIRMAN, JOINT CHIEFS OF STAFF

(Mr. ADDABBO asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, there has been great controversy in the Nation since the Chairman of the Joint Chiefs of Staff, Gen. George S. Brown made his unfortunate remarks about the influence of Jewish citizens within the Nation's business economy.

There is, to be certain, a strong lobby throughout the country on behalf of Israel, but its proponents are not always Jewish alone. Millions of Americans support the cause of Israel because it is right and proper to do so, and because this Nation has always extended aid to those in need, no matter what their race, creed, or national origin.

It is my opinion that an editorial on the incident printed in the Long Island Daily Press of November 14 succinctly sums up the issue, and I would ask unanimous consent that my remarks and the accompanying editorial be printed in the RECORD.

THE GENERAL'S INEXCUSABLE SLUR

President Ford and Defense Secretary James R. Schlesinger have properly reacted with revulsion to the remarks of Gen. George S. Brown, chairman of the Joint Chiefs of Staff, about Jewish influence in America.

Jews own "the banks in this country, the newspapers," said Gen. Brown, adding that the Jewish lobby is "so strong you wouldn't believe now." He suggested that a renewed Arab oil embargo might prompt Americans to "get tough-minded enough to set down the Jewish influence in this country and break that lobby."

Mr. Ford called the remarks—made last month at Duke University Law School, but revealed only yesterday—"ill advised and poorly handled." Presidential Press Secretary Ron Nessen said the President instructed him to emphasize that Mr. Ford feels "very strongly" about the matter—and that the general's remarks in no way represent the views of other senior officials, military or civilian.

Mr. Schlesinger called the remarks "unfortunate and regrettable." Gen. Brown, too, has regrets about what he said. He was trying to answer a complex, controversial question "and it just came out too damn poorly," he explained. But even while saying the statement did not reflect his "true feelings . . . of respect and appreciation" of the contributions to America of its Jewish citizens, Gen. Brown never did repudiate his remarks.

Gen. Brown's conduct is inexcusable, and Mr. Ford and Mr. Schlesinger must consider whether he is fit to remain in the nation's top military post. Chairmanship of the Joint Chiefs of Staff is too important a post to be filled by someone who makes intemperate, irresponsible—and untrue—statements.

STATEMENT OF CONGRESSMAN PHILIP E. RUPPE RELATIVE TO THE SAFE DRINKING WATER ACT

(Mr. RUPPE asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. RUPPE. Mr. Speaker, tomorrow

the House is scheduled to consider H.R. 13002, the Safe Drinking Water Act. Our goal will be to insure that water supply systems serving the public meet minimum standards to protect the public health. This legislation looks to the future, providing administrative procedures and guidelines to assure safe drinking water. All of this I applaud.

However, a situation exists that cannot wait for the extensive process of promulgating regulations. Lake Superior is being raped every day, if you will, by the dumping of 67,000 tons of taconite, asbestos fibers, per day. Asbestos fibers contained in the tailings are being injected by the Reserve Mining Co. at Silver Bay, Minn. Less than 2 weeks ago there were reports that these fibers were found in the drinking water at Marquette, Mich.

The litigation involving the Federal Government, Reserve, and three Great Lake States has been well publicized. Last spring, Judge Miles Lord, of the U.S. District Court for Minnesota, enjoined Reserve from further discharging. The Eighth Circuit Court of Appeals reversed that decision, and as a result 67,000 tons of tailings continue to be deposited in the lake per day. The circuit court stated that Judge Lord's "determination to resolve all doubts in favor of health safety represents a legislative policy judgment, not a judicial one." Not being a lawyer, I will make no judgment on the validity of that decision, other than to say that I was under the impression that the law was clear. But, if it is not, the Congress must make that necessary legislative policy judgment, and we must do it now.

Therefore, tomorrow during the consideration of the Safe Drinking Water Act, I shall offer an amendment which should define without question congressional intent. Basically, the amendment will throw the onus of proof on the defendant to prove that its conduct does not amount to a threat to public health. It makes the health consideration of primary importance by, in essence, raising a rebuttable presumption that upon a showing that a person is engaged in a course of conduct of emitting, discharging, or manufacturing a substance which presents a reasonable risk of being a threat to public health, there is such a threat to public health which warrants equitable relief promptly abating the course of conduct. The burden will then be put on the other party to show that there is no threat to public health, or that it is negligible, or that the equitable action would be arbitrary or capricious. Circumstances will be defined to guide a court in its determination.

Congress must act so that courts will have no question in the future as to the dedication of the Congress to public health.

Thank you.

FORMER CONGRESSMAN EDWARD W. DE GRAFFENRIED

(Mr. FLOWERS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FLOWERS. Mr. Speaker, it is with deep regret that I advise the House of the death of a former Member, Edward W. deGraffenried. He died at the age of 75 on election day in Tuscaloosa, Ala., where he spent most of his life. He represented for two terms the district that I have the privilege to represent.

Mr. deGraffenried was known throughout Alabama not only as a Congressman but also as an outstanding trial lawyer. Mr. Ed, as he was known to thousands, was an old-time orator and it was a genuine pleasure to hear him speak. Many persons went to courtroom trials just to watch his closing summations to the jury.

Although he was best known as a trial lawyer in private practice, he was an outstanding prosecutor, too, serving [illegible] years as solicitor of the Sixth Judicial Circuit of Alabama in the 1930's and the 1940's.

Mr. deGraffenried served in the 81st and 82d Congresses from 1949 to 1953.

He was a member of the Armed Services Subcommittee that formulated the Uniform Code of Military Justice, a measure considered to be landmark legislation.

Many of his colleagues praised him for his work on the bill, citing his knowledge of both civil and criminal law and his skill as a debater.

He also was a member of the Subcommittee on Strategic Materials during the Korean war. He worked hard to ensure adequate supplies of materials needed in the war effort.

During his 4 years in the House Mr. deGraffenried pushed hard for funding of the Tennessee-Tombigbee Waterway project. Although approval was delayed for some years, Ed lived to see construction on that vital waterway system underway.

He leaves behind him a widely known and loved family, several of whom are especially close to me. To his sons and daughters and his grandchildren and to all of their families, I want to extend my heartfelt sympathy.

With Ed deGraffenried's death, I lost a treasured friend and a valued counselor. He left his mark on this Congress and on this nation. He will be missed by all who knew him.

I would like to share with my colleagues the following editorial which appeared in the Tuscaloosa News:

DEGRAFFENRIED'S CAREER ONE OF UNUSUAL DISTINCTION

Many remember the late Edward W. deGraffenried, who died Tuesday, as one of Alabama's most prominent defense attorneys. Others remember him chiefly for his long and distinguished career as a public servant. Certainly, he was one of Tuscaloosa's best known citizens.

As a solicitor for the 6th Judicial Circuit for three terms, Mr. deGraffenried was widely respected for his forceful manner in the courtroom and his success in so many cases. Many came to court just to observe the oratorical skills he used so effectively in his closing remarks to juries. In fact, he was often referred to as one of the last of the "old-time" orators in this area.

His public service also included two terms in the U.S. Congress from 1949 to 1953. His final office was as president of the Tuscaloosa County Bar Association.

It was in between his terms as a public servant that Mr. deGraffenried enjoyed his successful practice of law. His reputation as a defense attorney around the state was formidable, and while on the defense's side he was a participant in many important cases.

Mr. deGraffenried was the descendant of a fine old West Alabama family, having been born in Eutaw. One of his sons, the late Ryan deGraffenried, was carrying on the family's tradition of public service when he died in an airplane accident while campaigning for governor in 1966. It was an enormous tragedy—one from which his father never fully recovered, according to friends.

Ed deGraffenried left an impression on this area that will remain for many years. He was a memorable figure who will be missed by all who knew him.

GENERAL LEAVE

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the life, character and public service of the late Honorable Edward deGraffenried.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

THE FARMERS AND THE LIVESTOCK PRODUCERS HAVE PROBLEMS TOO

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, there are important areas of American agriculture which have encountered serious economic problems in recent months. The livestock industry, particularly the cattlemen, are very hard hit. Low prices to the grower have made it unprofitable for him to sell. High feed costs make it difficult or impossible for him to keep his product off the market. Many producers face the prospect of heavy losses—even bankruptcy.

It should be obvious that a new emergency type program to provide loans at low interest rates may be required to cope with conditions which now exist. The Farmers Home Administration has programs for short-term loans but they are limited to individual family size farmers and the interest rate is high, almost as high as commercial rates. The Emergency Livestock Credit Act falls far short of the need, both in interest cost and in application. A question has been raised about bringing the Small Business Administration into the picture. SBA has been an effective agency for dealing with emergency loan requirements. Heretofore, it has participated only to a very limited extent in farmer-type programs.

The point is that the farmer and the cattleman must have more effective and lower cost loans than he now can obtain. The U.S. Government makes loans to other nations. Most of them are at very low interest rates. Some of them are even interest-free. The Government must borrow money on the commercial market to finance these loans. The balance comes out of the taxpayers' pocket. How much more appropriate it is that the American producer get the benefit of low interest programs. He is charged with producing more food for world needs. He needs realistic help to obtain feed, seed, fertilizer, and essential equipment. A new program is indicated, one which is speedy in application and which will insure the farmer and livestock producer the funds necessary to continue their operations until present unfavorable conditions are overcome.

Consideration also must be given to the effect of meat imports on the U.S. livestock market. Most Government experts argue that there is little adverse effect. However, it is possible that a suspension of imports would provide just the shot in the arm that is needed to tide the American producer over. This should receive immediate attention by the administration.

Attention also is called to the fact that the Government's purchases of meats for its various programs are in the main for cheaper cuts of meat of the type provided by foreign imports. A temporary change in this picture and the purchase of better grade meats would certainly favor the American producer.

It is very important that action be taken speedily to bolster the conditions under which the farmer and the livestock producer now operate. Government has a way of dragging its heels when emergencies arise and this can be ruinous if pursued too long.

REMARKS ON NUCLEAR POWER INDUSTRY PROBLEMS MADE TO ATOMIC INDUSTRIAL FORUM

The SPEAKER pro tempore (Mr. RYAN). Under a previous order of the House, the gentleman from California (Mr. HOSMER) is recognized for 5 minutes.

Mr. HOSMER. Mr. Speaker, of some interest to observers of the nuclear scene may be the following remarks which I made to the Atomic Industrial Forum at its winter meeting in Washington on October 29:

THE 21ST YEAR: LOOKING AHEAD

THE LEGISLATIVE ROAD TO FUTURE SOLUTIONS OR DELAYS

(By Representative CRAIG HOSMER)

My term in the Congress runs out at the end of the year. In the semantics of politics the time approaches for my last hurrah. As I prepare to leave the Joint Committee on Atomic Energy after almost two decades of membership, you have kindly given me this opportunity to deliver my last harangue. I shall try to make the most of it and finish on time, before I turn into a pumpkin. I'll tell it like it is. Then, in case this new fangled ERDA/NRC business fails to work out very well, maybe next year you will have me back to tell it like it was.

Organizational structures

We all recollect the good old days when the Atomic Energy Commission and the JCAE, worked in tandem. They were the major, wise and effective forces which transmuted the destructive atom of World War II into a peaceful servant for the potential benefit of all mankind. Today the two don't work together much anymore. And both seem shadows of their former selves.

The Congressional reorganization to become effective in January as the new 94th Congress convenes, begins the process of dismembering the Joint Committee. Some of its functions will be shared by other Committees. Handwriting on Congressional walls indicates the decimation process is likely to continue until the once "powerful" Joint Committee on Atomic Energy fades into memory—gone but not forgotten.

And, as for the Commission, it will be lined up before a firing squad around January 1st. Some people say good riddance. I'm not so sure. AEC rolls from the tongue more trippingly than ERDA and NRC. Time will tell whether the substantive fission products of this government reorganization scheme are beastly or benign. We just don't know yet whether AEC's passing calls for a requiem for a heavyweight—or a lightweight. But so far as this gathering of the AIF/ANS is concerned, I haven't yet noticed a wet-eye in the crowd over AEC's impending demise.

But later tears could well appear. Like when, for instance, it may be determined that the emergence of ERDA and NRC are really not equatable to the second coming and America's nuclear industry and nuclear utilities can't even find a telephone number for either of them. Functions all the way up and down the nuclear fuel chain will be Ph.D'd—piled higher and deeper—beneath new, numerous and strange layers of administrative inertia and budgetary remoteness.

They will be smothered by unfamiliar legions of the unwanted bizarre and freakish lings and underlings who at such times, are enterprisingly shucked off by old line agencies and gravitate to become the initial inhabitants of a new government body. In this milieu, members of the nuclear fraternity are less likely to be voices crying from the wilderness than they are voices crying from the bottom of a pit.

But that's the good news. Now for the bad news.

This country's Department of the Interior and Senate Interior Committee are run by Rog Morton and Scoop Jackson, two of the most engaging and lovable power-mad fanatics in the entire Republic. Both see it to their self-interest to take ERDA and the Interior Department and anything else they can lay their hands on and combine them into one giant Department of Energy and Natural Resources (DENR). This pair has a good chance of getting away with it, too.

Can you image the National Laboratories, for example, stuffed into some dark and remote corner of the Interior Department? Interior is where bureaucracy was invented and elevated to supreme levels of paralysis. I think of the Interior as a massive tomb, where dead things should be buried, but not where live things should be put.

If the nuclear business doesn't want all that to happen to it, it had best R & D some new amplification equipment so its voice can be heard, even from the bottom of the pit. And, the health of this fraternity could well depend on that voice being heard loud and clear by both new agencies, as well as by OMB, the President and the Congress.

Attitudes regarding risks and benefits

The most important new areas in Congress where that voice should be heard is in the enlarged Interior Committee, the new Science and Technology Committee and the other committees which are or will be picking up pieces of the action formerly exercised by JCAE. As the decision making power in energy and nuclear matters diffuses throughout the Congress, the need grows for greater knowledge and improved attitudes on the part of congressmen and senators so that decisions concerning such vital subjects can be made wisely.

As I see it, most JCAE members are pretty knowledgeable. They understand the atom. They know the intrinsic value of all forms of energy to a power dependent industrial society. But many other legislators are far less knowledgeable and sanguine. They often tilt the way suggested by the last lobbyist that hits them. Some are intimidated by lobbies that threaten to defeat them on the basis of special interest voting record compilations. Many of us have felt the sting of the environmental and anti-nuclear lobbies. They have become quite powerful—for whatever reasons—the biggest of which, I suspect in a case or two, is the left-handed, orgiastic kicks some of these people working the Washington and state legislature circuits get out of the sheer exercise of power, for good or bad.

Somehow we have got to get the Congress and the public convinced that in any free and open society such as ours there are many values which, by each member of that society, may be esteemed in a different degree. To the extent that one individual holds a particular societal value of greater worth than another, the two are in conflict. This essential conflict between its members is acknowledged in an orderly society. The logic is accepted that, for the good of all, each must forego some extremes of personal interest so that the needs and desires of all can be reasonably accommodated.

It is the extremists in our society who refuse to make such an accommodation. They are generally very loud and noisy, and immoderate and selfish in their refusal to compromise. They proclaim and insist that everyone must bow to their personal and peculiar value judgments. They become consumed by righteousness. They sometimes turn into monomaniacs. They tend to wrap themselves up in red, white and blue banners, or, more lately, in green leaves. They cloak their zealotry in the confusing skin of other familiar and non-controversial values.

Thus disguised, they may deceive the legislator who does not understand, for example, that values involving energy, and values involving environmental concerns, may be in competition and thus require some reasonable amount of compromise.

Costs must be weighed against benefits—and risks against rewards—so that our American society may achieve the greatest good for ourselves and our posterity.

It is as simple as that. But getting the idea through the static and interference generated by brigades of bigots, and across to a lot of people—legislators and laymen alike—is fraught with difficulties as all of us well know. Perhaps in the future, the nuclear fraternity should devote more organized intelligence and effort to this task than it does now.

Procedural reforms

A related area needing enlightenment is that in which NRC will function as it licenses and regulates, but which also will continue to be of importance to ERDA as it proceeds with its responsibilities to forward the nation's conventional and nuclear energy R & D. It has to do with the procedures by which these cost-benefits decisions are made or more likely today, delayed.

Let me start it this way; we were all taught in school that the Constitution divides our government into three branches, legislative, executive and judicial, so that each branch can act as a check and balance against the other. Thereby we build-in a protection aginst tyranny by government. So was it, and so be it. But that division into three branches of government was also made for another good reason which I suspect was even more on the minds of the founding fathers. The reason is that this is a highly logical division of power from a management standpoint.

Some decisions need to be made quickly and decisively. They involve regular matters of administration, should be acted upon promptly and fall rationally to the executive branch of government.

Decisions of another, and less clear cut type, are those requiring reflection and compromise and involving a consensus. These are the decisions appropriate for the legislative branch of government. It can hold leisurely hearings, listen to all who wish to be heard, debate a matter, then decide it by a majority vote.

Then there is a third category of decisions which involve rendering justice between men and between men and their government. These require that evidence be presented according to precise rules which protect the innocent. They demand that judgments be made following rigid procedures developed over the centuries to insure justice. That category of decisions is the logical province of the judicial branch of the government.

The trouble is that over the years this logical three-way split of the decision making responsibility has gradually been eroded. We must restore these responsibilities to the correct branches of the government if we are once again to make decisions in this country at a pace which our needs demand.

What has happened is that because, historically, lawyers have predominated the Congress, they have tended to attach the vaunted, but slow moving, trappings of the judicial processes, which lawyers revere, to the executive department's decision making procedures that these lawyers, in their capacity as legislators, fix by law.

In the nuclear power area, the Congress—the legislative branch—should determine what environmental risks and public health hazards equate to the rewards involved in the availability of electricity by the nation's 213 million souls. That decision is a generic one. A proper one for the legislative branch.

But, applying this generic rule to a particular nuclear power plant license application is another matter. It is in the nature of an administrative decision to be made by the executive branch. Yet, the Congress, by law, has dragged the Judicial Branch and its cumbersome procedures into the picture via the Administrative Procedures Act. It has also done so by opening up these decisions to rehash by the courts at all levels and during many stages of the licensing process.

The AEC and EPA statutes abound with decision making injunctions and proscriptions violating Constitutional good sense and factoring in delay upon delay upon delay. But for the valiant efforts of Chet Holifield, the ERDA statute would be riddled with them, too.

Whether progress in nuclear matters is expedited or delayed depends much upon legislators of the future who will have the power to remove past errors in this category from the law books and avoid putting new one on them.

Where the legislative problems lie

The reforms which I have mentioned in organizational and procedural aspects of legislation governing the nation's nuclear efforts proceed from what I believe to be a well founded belief that public health and safety are not major nuclear problems. To the contrary, reason and experience tells us they have been handled so well from the very beginning of the nuclear age that risks from nuclear processes are trivial and totally outweighed by benefits to be gained from their widespread employment.

The miniscule amount of radiation lost from power plants to the environment will always constitute a mini-fraction of the sea of natural radiation in which we are born and live our lives.

The storage and disposal of long-lived, high level radio-active by-products is a non-problem because the amount of them will always remain small enough to be easily manageable. By the year 2000 they will total in volume only enough high level waste to cover a football field three feet deep.

Plutonium, made by uranium burning power plants as they generate electricity, is dangerous if not properly handled. But so are countless other chemical substances which are safely used everyday. Plutonium is itself a nuclear fuel which can be put right back in a reactor to make more electricity. One of the best ways to keep it safely is to put it back in a reactor. Utilities can also make money on it that way, and that is exactly what they plan to do.

As for accidents, successive chairmen of the Atomic Energy Commission and other informed persons, affirm that the worst possible nuclear reactor accident "credible in any way" would take no more lives than the crash of a large passenger airplane. The possibility of such an accident happening is but one-in-a-million per year of reactor operation. The recent $3 million study by Professor Norman Rasmussen of the Massachusetts Institute of Technology affirms these estimates of negligible nuclear risks.

No indeed, in the nuclear area our problems are not primarily in the fields of public health and safety. They are mostly political, psychological, legislative, economic and sometimes, I think, ethereal. These couplings, should demonstrate it: Gofman and Tamplin; Lucky Dragon and Rongelap; China Syndrone and ECCS; Ralph Nader and lately S. David Freeman.

Besides all that implies, we are plagued with double digit inflation, redundant environmental and safety demands, escalating material and labor costs, longer and longer lead times, and deterioration of craftsmanship and the work ethic. All the money around today is short term stuff. The utilities, and everybody else for that matter, are marking time pending a decision by the President and the Congress whether to take stern measures and go broke or throw in the inflationary towel and resort to indexing as the Brazilians have done.

Engineers and physical scientists seem to have done a pretty good job, but we politicians and political scientists have made a mess of things. In the process we have blown up so much smoke that we have blinded the country to one of the most serious and consequent nuclear legislative challenges of all. It has ramifications up and down the nuclear fuel chain. It will not just decide whether nuclear power moves ahead haltingly or swiftly. Rather, its resolution is needed soon to keep all phases of the nuclear power business from screeching to a halt. I'm talking of course, about the "who" and "when" of new enriching capacity.

Now the date is 1982 when we run out of capacity to enrich uranium. It could slip a year, even two, if the cutback and slowdown in installing nuclear power continues. But run out of capacity we will, and today's unused capacity is the one great asset this nation has to make possible, by preproduction, a smooth transition to some new structure for the uranium enriching industry in this country, whether it turns out to be private, government or mixed.

With an adequate preproduction stockpile a shock absorber will exist to prevent nuclear fuel gaps should there be delays in getting new capacity on the line.

Sadly enough, AEC does not yet have any fixed notion of what size that stockpile should be. Nor does AEC have any firm idea about how such a stockpile can be used to assure private companies who might enter the enriching business, and the bankers who might finance them, that their enterprises will be viable. AEC has only a foggy notion that something ought to be done to raise the price of separative work so that money will be on hand to pay the carrying charges for a preproduction stockpile, and to subsidize the front end costs of setting up the new U.S. enriching industry.

Worse than that, AEC has meekly submitted to OMB's diversion of down payments and other enrichment service revenue. These substantial monies are being frittered away to finance AEC's other programs and make the Administration's annual budgets look good. Not one cent is put aside actually to supply the future enriching services AEC is taking down payments for now. If such practices were carried on by private parties instead of the United States Government, they might be put in jail.

I doubt if things will be a bit better when this operation is transferred from AEC to ERDA. They will probably be worse, with the operation run anonymously at low levels by obscure bureaucrats operating behind unmarked doors, hidden somewhere around Washington, D.C., or its environs. I have no confidence at all that, under these conditions anybody is going to have enough clout to get the annual appropriations necessary to adequately carry forward the government's enriching responsibility on a timely basis. We can probably look forward to another kind of energy shortage if something isn't done about it soon, before our still available but unused enriching capacity disappears.

At least, to give the Devil his due, the Congress has taken an interest in this very serious matter. It has held hearings. It even has a tentative solution in the form of a bill, H.R. 17418, to create a United States Enrichment Corporation. That entity, or something similar to it, could give form and direction as well as stability and assistance to the new enriching industry. In the process it would eliminate the possibility of a nuclear fuel gap and the reality of a nuclear fuel contracting gap. It has potentiality for under-cutting the price of swu's on the world market, thereby regaining for the United States an appropriate share of that business to ease our balance of payments problem.

If I had but one legislative recommendation to make to you, it certainly would be to take this enrichment responsibility away from the people who are bungling it and to put it on a fiscally sound, honest and businesslike basis right now.

If we don't get the USEC bill passed in the next few weeks, I'll be lobbying my new congressman next year, whoever he may be, to get it on the law books, and I hope you will, too.

ACTION NEEDED ON GI BILL INCREASE AND CONSUMER PROTECTION AGENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, we probably cannot accomplish all we might wish in a few short weeks remaining for the 93d Congress. But I believe action can and must be completed on two issues that have already been exhaustively studied, investigated, analyzed, and debated.

The Vietnam Era Veterans' Readjustment Act of 1974, originally passed by the House of Representatives in February, has now been approved by both bodies. Since the last GI bill increase 2 years ago, the cost of living has risen more than 19 percent. This bill does little more than keep up with that inflation rate and provide a small cushion for future years. We owe the Vietnam era veteran the same benefits we provided those who returned from previous wars. And I call on President Ford to sign this bill into law.

Legislation creating a Consumer Protection Agency was approved by the House of Representatives in April. And I call on our colleagues in the other body to promptly adopt this measure. In this time of recession and rampant inflation, American consumers must be assured of their rights, of at least a chance of getting their money's worth in the marketplace.

The issues confronting us are many and complex—tax reform, health insurance, and many others. But our time is short, and I urge my colleagues to not lose sight of the two priority goals I mentioned which are now so close to fruition.

PURSUING THE CASE OF MISS DANG THI HIEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Koch) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, on August 22 I brought to the attention of our colleagues a matter involving the alleged torture of Miss Dang Thi Hien by authorities of the Government of South Vietnam. I had correspondence with President Ford and the Department of State on this matter, and in all candor, I must say that the responses are not satisfactory to me. I am appending the original report of the torture which appeared in the New York Times of August 18 as well as the entire correspondence I have had to date:

House of Representatives,
Washington, D.C., August 19, 1974.

Gerald R. Ford,
President,
The White House,
Washington, D.C.

Dear Mr. President: In the New York Sunday Times of August 18, there was an article, a copy of which I am enclosing that moved me to tears. It concerns the torture by South Vietnamese government policemen of a young woman. I will not re-state the acts of barbarism depicted in that article. What distressed me was not only the plight of that young woman but the fact that the U.S., by providing monies to the South Vietnamese government, assists in that barbarism or at the very least condones it.

Not very long ago the American public was horrified to learn that surveillance machines and other police equipment were being exhibited by American industries in Moscow. Great pressures were brought to withdraw those machines from sale notwithstanding that they were available on the American market. The people oppose the sale of that equipment in the Soviet Union because they believed it would be employed in a way that we could not condone. How much greater is our responsibility in the matter of South Vietnam's torture of its citizens when we provide that government with funding.

Mr. President, this letter is honestly not intended as a polemic against our policy on our continuing involvement in South Vietnam, that is another matter to be discussed at another time. Rather this letter is a plea that we not be parties to the kind of revolting barbarism which apparently is practiced on a day-to-day basis by the South Vietnamese government against its own citizenry.

I am urging you to suspend economic and military assistance to South Vietnam unless and until you receive assurances, subject to independent confirmation, that the repressive actions of the South Vietnamese government vis-a-vis its own people are brought to a halt.

You are a good man—decent and kind. I know that you will not let this matter go unresolved.

Sincerely,

Edward I. Koch.

[From the New York Times, Aug. 18, 1974]

Tortured Women Bewildered by Plight

Saigon, South Vietnam.—Arrests by the South Vietnamese Government are not always calculated, often having a random aspect, touching not only those who know they are taking risks but also those who apparently do not.

A 25-year-old seamstress named Thi Hien just seemed bewildered by her plight when she was interviewed recently while handcuffed to a stretcher in a Saigon hospital. As she spoke other patients in the crowded ward gathered to listen.

Last October, she recalled, a woman she had never met approached her as she was talking with a flower girl in a Saigon marketplace. The woman spoke a few words, then walked away.

CONFESS

Suddenly four plainclothes policemen grabbed Miss Hien by the arms and placed her under arrest. She said she was taken to a police interrogation center in Khien Cuong, 22 miles from Saigon.

"They took me to a room," she said. "They told me to take off my pants and my blouse and I wouldn't do it, so they did it for me.

"There were five to seven people in the room. They beat me. They used a big stick and they put electrodes on the ends of my index fingers. When I started to fall they wouldn't let me fall and pulled me up by the hair. They beat me on the chest, the back. They took off my shoes and beat my stomach. It hurt very, very much."

"They wouldn't let me cry out," she continued. "They put their hands over my mouth and said to me, 'Confess!'

"They put a handkerchief over my nose and mouth and poured water and soap and put it through the handkerchief into my two nostrils and my mouth—three or four buckets. I was very tired by that time. Every time I drank these things, my stomach would swell up and they would kick me in the stomach. As soon as my stomach would go down again, they would give me more water and make it swell up again.

"They picked me up by the ribs with their hands, pulling the ribs out. Then they tied my legs apart after I fell because of the electric shock. They pulled by legs apart and kicked my vulva, and I lost blood there after that for 10 days. I could not stand any more."

She sank into unconsciousness, she recalled, and when she awoke she discovered that a live three-foot-long eel had been put in her underpants.

A CAUTIONARY GLANCE

"That night they took me to the hospital and gave me medicine to put me to sleep," she said. "I didn't know anything for a whole night. The next morning after I was awakened they took me back to the room and beat me again with sticks and kicked me on the back and chest. When I was lying on the floor they just came by and kicked. I could no longer walk. The second day I couldn't feel anything."

She told the story in a quiet steady voice. Only when her mother entered the ward and knelt by her did her eyes fill with tears.

"I am sick and sad," Miss Hien said. "Because I was arrested I think that the war still must be going on."

As for her political views, Miss Hien said only: "Before, I didn't know, I did not have any experience with the Government. Now?"

Her mother shot her a glance of warning and whispered a few words. "I don't want to say," Miss Hien added.

The interview was suddenly ended by a plainclothes police captain who had joined the crowd. He was exceedingly polite as he invited the correspondent to a nearby station house, asked what information the prisoner had given, and, apparently satisfied that she had said little of importance, ended the session with a request that nothing be written that would get him in trouble with his superiors.

A few days later Miss Hien was removed from the hospital, although some of the staff said that she was in serious need of physical therapy. After spending time in two prisons, she was released in mid-June.

An American working for a private welfare agency who investigated her case was told by the police that she had been charged with "communication with the Communists." She was said to have introduced a girl to an older woman who was suspected of association with the Vietcong.

Miss Hien denied involvement. In her case, as in many others, it was simply her word against that of the police. The police tortured her, she believed, "partly for fun and partly to find out."

The White House,
Washington, August 27, 1974.

Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Mr. Koch: I wish to acknowledge receipt and thank you for your August 19 letter to the President with which you enclosed an article from *The New York Times* concerning the arrest by the South Vietnamese government of Miss Dang Thi Hien.

You may be assured your letter will be called to the attention of the President and the appropriate members of the staff. I am certain your views on this matter will be given full consideration.

With kind regards,

Sincerely,

Max L. Friedersdorf,
Deputy Assistant to the President.

Department of State,
Washington, D.C., September 19, 1974.

Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Mr. Koch: The President has asked that I reply to your letter of August 19 with which you enclosed an article from *The New York Times* concerning the detention of Miss Dang Thi Hien by authorities of the Government of Viet-Nam.

We do not know if the abuses which Miss Hien is described as having suffered actually occurred and therefore cannot comment on the accuracy of the report.

I can assure you that the U.S. Government deplores the mistreatment of persons detained for whatever reason by any police or security forces. We have taken every appropriate opportunity to convey our views on this subject to other governments, regardless of whether or not we provide assistance to them. One of the emphases of our Public Safety program in the Republic of Viet-Nam—now ended under provision of the Foreign Assistance Act of 1973 and the Foreign Assistance Authorization Act of 1974—was to train in the Vietnamese police in modern police methods and modern techniques of investigation and handling of suspects.

We know from the reporting of our Mission in Saigon that officials of the Government of Viet-Nam have been concerned about maintaining the integrity of the Vietnamese justice and penal system. They continue to be concerned that legal norms are followed in the arrest and trial of suspected offenders as well as during the imprisonment of persons who have been detained for investigation. We also know that those officials have been seriously concerned that measures be taken to correct abuses which creep into the system, just as they creep into any penal system.

Miss Hien was arrested October 21, 1973, and subsequently sentenced to 24 months imprisonment for serving as a Viet Cong recruiting agent and courier and for active participation in the Viet Cong organization. She was arrested by the National Police as a result of information received from two young women captured by the Regional Forces two weeks earlier. Both of them admitted to having been members of the Viet Cong and to being on their way to a training session in a Viet Cong controlled area when captured. They separately identified Miss Hien as a Viet Cong cadre charged with recruiting duties who had recruited them. One identified Miss Hien as her regular contact in Gia Dinh Province outside Saigon. One of them also identified by name three other persons Miss Hien had recruited for the Viet Cong. Miss Hien was arrested at the Phu Nhuan Market in Gia Dinh when she appeared for a meeting with one of the two women captured earlier.

On March 29, 1974, Miss Hien's sentence was reduced by six months on the occasion of the amnesty connected with the Vietnamese Hung Vung Day observances; she would have completed her sentence on April 21, 1975. She has since been released.

If I can be of further help, please let me know.

Cordially,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 18, 1974.

Hon. LINWOOD HOLTON,
Assistant Secretary for Congressional Relations, Department of State, Washington, D.C.

DEAR GOVERNOR HOLTON: I want to acknowledge your letter to me of September 19th responding to my earlier correspondence concerning the alleged torture of Miss Dang Thi Hien by authorities of the government of Vietnam. The original report setting forth the gruesome details of the torture appeared in the New York Times of August 18th.

In all candor, I must say that I was distressed at that portion of your response which stated, "We do not know if the abuses which Miss Hien is described as having suffered actually occurred and therefore cannot comment on the accuracy of the report." I had hoped for more. I had hoped that in view of the fact that you were able to get further details on where Miss Hien was arrested and the fact that she has been released from prison, that it would have been possible for our embassy personnel to have interviewed her to ascertain the accuracy of the reports.

It really is not enough for the U.S. government to "deplore the mistreatment." That is particularly true when we provide so much money to the Republic of Vietnam. And when your letter says, in reference to officials of the government of Vietnam, that, "We also know that those officials have been seriously concerned that measures be taken to correct abuses which creep into the system, just as they creep into any penal system," you, in effect, are giving credence to those, who in defense of South Vietnam's repressive actions against its own citizens, call those actions occasional aberrations. I believe they are not the exception but the rule and if that is so, it is not sufficient in my judgment for us to simply "deplore" but rather to reevaluate the nature and extent of our support. If it continues to be official U.S. policy to support the Republic of South Vietnam, then I think it mandatory that when a case as outrageous as that involving Miss Hien is brought to the attention of the President and through him, the State Department, that the Department do more than has been done in this case.

I would like to request the Department to direct our embassy officials in Saigon to complete the investigation and report the details of that investigation to me as soon as possible.

Sincerely,

EDWARD I. KOCH.

THE 19TH ANNUAL STRATEGIC AIR COMMAND BOMBING, NAVIGATION, AND REFUELING COMPETITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. WAGGONNER) is recognized for 10 minutes.

Mr. WAGGONNER. Mr. Speaker, I have recently returned from my home district in Shreveport where I was pleased to attend the 19th annual Strategic Air Command bombing, navigation, and refueling competition. This event is important to the overall combat readiness and nuclear deterrence of the U.S. Air Force bomber and tanker crews and the Royal Air Force bomber crews. The very best professional crews participate in this even and the spirit of competition is a thrill to observe. A crew represents each unit of B-52, KC-135, and FB-111 aircraft and the Royal Air Force participates in their Vulcan bombers. This year, for the first time, the Tactical Air Command was represented by crews flying the F-111.

From an observer's viewpoint it was apparent that enthusiasm was high throughout the competition. Each crew wears a distinctive uniform which clearly identifies the individual with the unit that he represents. It was indeed a thrill to observe military professionalism in action during this competition. Such combat competition provides for improvement of bombing, navigation, and refueling proficiency; weapons loading procedures; recognition of crew professionalism; enhancement of individual and unit esprit de corps; and evolution of operational and maintenance concepts.

Tangible and intangible benefits derived from this concentrated, head-to-head competition fully justify the use of Air Force resources. Skills, techniques and tactics developed by units for use by their air and ground crews in this competition become the basis for more effective command tactics, new procedures and improved hardware. For example, the installation of the quadruple offset bombing capability used by B-52's in Southeast Asia was a development from bombing competitions. Tactics and procedures for multiple target delivery which are today integrated in the emergency war order are the result of innovative bombing competition procedures.

Intangible benefits are more difficult to measure; however, they have a positive impact throughout the participating commands. Preparation for the honor to represent one's unit in the combat competition begins many months in advance through competition on regular training flights. From this precompetition activity comes a team and aircraft that are the finest a unit can produce. This all-out competition at both the home base and the competition site significantly increases the day-to-day readiness of our strategic aircraft forces, while at the same time increases the enthusiasm, dedication and motivation of thousands of individuals within the participating commands. Undoubtedly this leads to improvements in personnel retention programs and subsequently to dollar savings in replacement training costs.

As a matter of interest, no actual bombs were carried or dropped by competition aircraft. All bombing was simulated through the transmission of electrical impulses, with accuracy scored by mobile units using radio and radar signals. Aircraft fuel and flying hours used during the competition were not in addition to annual allocations. These training proficiency missions would have been flown even if the competition had not been conducted.

Even as the competition closed command leaders had begun a detailed evaluation and analysis of crew and equipment performance. From this study, and from individual experience, will evolve improvements in aircraft systems, improvements in bombing and navigation accuracies, and concepts for future developments.

The mission of the Strategic Air Command is deterrence. This mission is easy to state; however, attaining that objective is much more complex. The Strategic Air Command with outstanding and unsurpassed leadership strives daily to improve its equally outstanding people, equipment, and techniques to meet the challenge. Competition is one of the more effective methods of accomplishing that goal. There will be more to follow.

HON. ERSKINE CHILDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Masschusetts. Mr. Speaker, it is with great sorrow that I take to the floor today to pay respect to Erskine Childers, President of Ireland, who passed away this weekend. President Childers, age 68, collapsed while speaking at a dinner for the Royal College of Physicians and succumbed hours later in a Dublin hospital.

On May 30, 1973, the British-born Mr. Childers, became the first Protestant to be elected President of the overwhelmingly Roman Catholic Irish Republic.

Mr. Childers said one of his first tasks as President would be to ask government consent to invite representatives of the Protestant and Catholic communities of Northern Ireland to meet with him. "I will do anything, just anything, to help that situation," said Mr. Childers when extending his invitation to the two communities of the strife-torn country.

Mr. Childers took a seat in Ireland's Parliament in 1938, and entered the Cabinet in 1944. He served as Deputy Prime Minister and Minister of Health under John Lynch from 1966 to 1973.

When Mr. Childers' father, an English army officer who took up the Irish cause, was captured during the 1922–23 Irish Civil War, Mr. Childers was allowed to see his father the night before his execution. Mr. Childers recalled:

> He asked me to promise him I would never be bitter. That promise I have tried to keep.

This was the spirit in which President Childers conducted himself. A man of peace and compassion, his absence will be sorely felt by his people in Ireland, and by us all in the world abroad.

SIXTY MILLION DOLLARS FOR WHAT?

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, U.S. News & World Report on October 7 printed an editorial which focuses attention on the growing weaknesses demonstrated in the deliberations of the United Nations. The ineffectiveness of the U.N. appears to be degenerative into downright mischief-making. Since the publication of the editorial, which I am submitting for reprinting in the CONGRESSIONAL RECORD, further steps have been taken by U.N. officials which directly refute the actions of its Security Council. For instance, the U.N. continues to rail at discrimination against blacks, and there are grounds for these comments. However, the U.N. completely ignores discrimination against whites and Asiatics which have been shown to be far worse. In view of the weakness of the organization, the Congress should substantially reduce the amount of fiscal support which is being given to the U.N. and require a cut in operating costs or insure that other nations pay a more realistic share of the costs of the organization.

SIXTY MILLION DOLLARS FOR WHAT?

(By Howard Flieger)

Consider for a moment that ungainly and ineffective giant whose very name is a contradiction: the United Nations.

Recent appearances before its General Assembly by Secretary Henry Kissinger and Moscow's Andrei Gromyko have put the U.N. back in the news. So it seems appropriate to reexamine what it is—and is not.

There must be millions of people who have forgotten—if they ever knew—that the first duty assigned the United Nations by its founding Charter is to "maintain international peace and security."

The record shows it can do neither. It also shows nobody really expects it to do so.

So is it worth the price? Many Americans must be asking that question, because U.S. taxpayers are the principal financial angels of the organization. Most of the other members—including the Soviet Union—never pay fully their share of the annual budget.

Of the nearly 11.8 billion dollars spent by the U.N. from its birth through last autumn—the lastest official figures available—we contributed 4.7 billion. For years the U.S. paid roughly a third of the regular budget. Our share dropped to 25 per cent this year, but it's still twice that of any other nation.

Of the 135 members of the U.N., 92 owe 204 million dollars in back dues. The U.S.S.R. and its two Soviet Republics of Byelorussia and the Ukraine are 110 million dollars in arrears. France is the largest of the non-Communist nations in default. It owes 22.4 million.

There is more to the story than financial neglect. The failure of U. N. units on Cyprus to stop the fighting between Greek and Turkish troops in July has revived old doubts about the entire concept of using international armed forces to keep the peace.

A U. N. force has been on Cyprus since 1964 to prevent violence between Greek and Turkish Cypriots. Yet, when the crunch came, it had neither the means nor the mandate to do anything effective. Vastly outnumbered, it was powerless to stop the conflict between the Greek Cypriot national guard and the invading Turks. At one point, the U. N. force—composed of troops from seven nations—was under orders not to fire back, even in self-defense.

It has been demonstrated over and over that U. N. troops cannot prevent bloodshed if either of the two opposing sides in a conflict is bent on violence. Maj. Gen. Prem Chand, a retired Indian Army officer who commands U. N. troops on Cyprus, told a news conference not long ago:

"We can do nothing more than the parties are willing to have us do."

What it all adds up to is this:

Those who used to worry that the United Nations would develop into a "super-government"—a powerful, global bureaucracy with control over everybody, Americans included—can take comfort from the evidence that the U. N. just isn't up to it.

In practice, the organization is no more effective than the concerted will of the majority of its members. And there is no such majority. So nothing really happens.

There was a time when the U. N. was hailed as the "town meeting of the world." But it isn't even regarded as a good debating society nowadays. Some nations use it as a launching pad for self-serving propaganda. Others simply ignore it and go on about their business.

No wonder that, in a day when Government spending is a real concern, questions are being raised in Washington about U. S. financing for the United Nations. Granted that when federal budgets soar above 300 billion dollars a year, the nearly 60 million the U. S. is assessed for the U. N. in 1974–75 doesn't sound like much. But it is a lot more than other nations spend on the world organization. Most of them don't even pay what they owe.

SOMEBODY'S WHALE OF A BONER?

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the American Rifleman for November 1974 carried an editorial entitled, "Somebody's Whale of a Boner?" There have been many instances which indicate a lack of common sense in the administration of the 1968 Federal Gun Control Act. The public is tired of bureaucracy in general and particularly impatient with bumbling bureaucracy. The editorial speaks for itself. There is room for improvement in the administration of the act.

I submit the editorial for reprinting in the RECORD.

SOMEBODY'S WHALE OF A BONER?

After the 1968 Federal Gun Control Act took effect, custodians of a decommissioned World War II battleship, maintained as a museum, were disconcerted to find Federal agents eyeing the battleship's huge 16" guns. For what? Why, possible violation of the gun control law.

Although the battleship with its muted cannon was cleared of all suspicion of law-breaking, zealous agents later swooped down on the Yale University campus to seize a World War I French 75 mm. field piece outside an old ROTC building. A government spokesman solemnly asserted "we would be derelict in our duty" under GCA68 to ignore the presumably sinister threat of the gun's rusty muzzle. Just what wrong-doing this 1920 gift from France to Yale might have committed was never clear. Yet Yale barely won that one by a goal-line stand against bureaucracy.

Despite the absurdity of such harassing performances, they appear to be increasing in several otherwise sane Federal law enforcement programs.

Not long ago, a Pennsylvania collector of American Indian artifacts was charged with violating a 1972 act to protect eagles by selling two eagle-feathered war bonnets from the 1800's to Federal undercover agents. They raided his home and seized valuable items including supposed Custer massacre relics. To get back his collection, the Pennsylvanian had to plead guilty and pay a $500 fine. (The American Rifleman, April, 1974, p. 17.)

A U.S. prosecutor hailed this victory as the start of an "intensified Federal program aimed at eliminating the illegal traffic in eagle feathers."

In the application of the 1973 Endangered Species Act, in itself a well-intended piece of legislation, there are growing indications of overzealousness. The act was passed to shield wildlife, fish and plants "facing extinction." It prohibits the interstate or foreign sale of "any part, product . . . or the dead body or parts thereof" of any endangered species. Violators can be fined up to $20,000 per offense. That is a heavier fine than the penalty for some very grave crimes.

Unfortunately, as it now develops, the Endangered Species Act fails to exempt antiques fashioned out of long-dead whales, tortoises, bird feathers or the like. Overnight, sale of a family heirloom of this nature which has been held for generations can lead to Federal charges.

The National Maritime Fisheries Service of the Department of Commerce, in protecting eight species of whales under the act, has ruled that artistic scrimshaw and early American artifacts made of whalebone cannot lawfully be sold in interstate or foreign commerce. This interpretation would imply that Congress, in the year 1973, belatedly took the side of Moby Dick, the great white whale, against Captain Ahab and all harpooners. Somehow, we believe that the Congress was concerned with saving surviving whales rather than with the bones of long-dead ones.

Next, U.S. Customs agents directed Vice-President-designate Nelson Rockefeller to send back to a London auction house a Victorian cabinet containing 35 stuffed birds that he had bought there recently. Mr. Rockefeller, himself a conservationist, had no idea that stuffed birds which twittered their last in the past century are now banned under a Federal law intended to save live ones.

In an age when only a small percentage of actual criminals are convicted of crime, when a murderer doing life is picked up in Washington, D.C., with a sawed-off shotgun while about to board a New York City train on "recreational leave," when permissiveness and law violation run rampant, must we risk tattering the last shreds of respect for the law by making heavy-handed arrests over such things as antique eagle feathers and century-old whalebone?

If the enforcement agencies have no appropriate answer, Congress should by amendment provide one.

LATVIAN INDEPENDENCE DAY

(Mr. ADDABBO asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, today marks the observance of that historic event 56 years ago when the people of Latvia declared their independence. Today also marks that occasion when Latvian people, including Americans of Latvian origin, take time to consider the hopes for freedom which remain alive in the people of Latvia who have experienced years of oppression as resident of a captive nation.

The Stalin years have not destroyed the spirit of liberty which burns in the hearts and minds of Latvins and one day those hopes for freedom will win independence once again for the Latvian people. In the meantime it is essential that we who enjoy the benefits of a free nation not forget those who are less fortunate. It is imperative that we stop and consider their problems and hopes. It is essential that we mold our own foreign policy in a way which recognizes their rights to freedom as well as our own.

In this era of détente it is particularly important that we remember our Latvian friends. As our own President prepares for a trip to the Soviet Union, it is appropriate that Congress speak out on behalf of those held captive and make clear to all that we have not forgotten them and that we will not forget them in the name of détente or for any other concession. The feelings of the House are clear as we join in observing the 56th anniversary of Latvian Independence.

HERMAN EBELING HONORED

(Mr. ADDABBO asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, on October 30, 1974, Herman Ebeling of St. Albans, Queens, N.Y., was honored on the occasion of his retirement as Long Island Area Director of the National Conference of Christians and Jews. Those of us whom have had the privilege of working with Herman Ebeling know his distinguished career of service to the cause of social justice and brotherhood more than earned him this recognition by his friends in Queens and Long Island.

We will miss the leadership and dedication of Herman Ebeling but we wish him well on his retirement. I am placing in the Record at this point the text of the announcement of the evening of tribute to Herman Ebeling:

Farewell to Herman Ebeling

Herman Ebeling of St. Albans, Long Island Area Director of the National Conference of Christians and Jews, will be the guest of honor at "An Evening of Tribute Upon His Retirement from NCCJ and America" on Wednesday, October 30, at Holiday Inn, Hempstead. The announcement was made by Mary L. Chirchlow of South Ozone Park, Queens Director of the NCCJ, who stated that the event is being sponsored by a committee of members and friends of NCCJ on Long Island. The Dinner Chairman is Thomas J. Poole of Hallen Construction Company, Island Park, and member of the NCCJ Board of Directors.

"I am happy and honored to serve as dinner chairman at this occasion", Tom Poole said in accepting his responsibility. "To me, this is the most deserving tribute to be given on Long Island. Herman Ebeling, through the NCCJ, has toiled here for almost two decades, rendering services in the field of human relations for the NYC Police Department, Nassau County Police Department, Suffolk County Police Department, Adelphi University, NYC School System and School Systems on Long Island, communities and organizations. These services are performed without charge. He has bestowed numerous awards upon men and women representing these organizations throughout Queens, Nassau and Suffolk. Herman Ebeling was very seldom rewarded—or even thanked. This is a wonderful opportunity for us to say 'Thank you, Herman'."

Dr. Ebeling's Curriculum Vitae reads like "Who's Who in International Human Relations and Diplomacy". Born in Germany in 1909, he left in 1933 as a political refugee for France, because he would not live under the Hitler Regime whose nationalism, anti-Semitism and general contempt of human values were fundamentally abhorrent to his Kantian ethics that "human beings are ends in themselves and of infinite value regardless of race, creed or color".

After the defeat of France by the Nazis, he fled to the United States and served in the U.S. Army, volunteering for the O.S.S. and achieving the rank of Captain.

Dr. Ebeling joined NCCJ in 1950 and represented it in Europe, developing NCCJ counterparts and introducing "Woche der Bruederlichkeit" (Brotherhood Week) in Germany. He was director of NCJ in the Carolinas, 1955–58, and has been the Long Island Area director until now.

"Herman Ebeling's has been a life of struggle—a life of aspiration", Mrs. Chrichlow remarked. "His dream is that one day we will live in a world of international brotherhood, in an atmosphere of respect, justice and amity, one for another—since in his words, 'human beings across the continents are interdependent for their very survival'. Although he will be living in another part of the world", Mrs. Chrichlow continued, "we all know that Herman Edeling will be forever creative, thinking, emoting, writing, planning, helping and improving mankind."

Dr. Ebeling is Adjunct Professor of Human Relations at Adelphi University and has appeared in "Who's Who in the East" since 1972. He is married to the former Gretel Rose Fuchs; they have one daughter, Jeannette, suffering from Cerebral Palsy and now in an institution in Germany.

PREPARING A DIRECTORY OF FEDERAL DATA BANKS CONTAINING PERSONAL INFORMATION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, basic to my 5-year effort to establish privacy standards for all Federal agencies has been the requirement that a directory of data banks be published and available to the general public. Provisions to this effect were part of the bipartisan measure which Congressman Goldwater and I introduced in April. Most regrettably, H.R. 16373 as reported contains no specific provision for the publication of a directory of the existence and character of personal systems of records in the executive branch. This can be remedied by minor changes to the agency notice and rule requirements sections of the bill.

The present agency requirements simply call for the annual noticing in the Federal Register of the existence and character of the systems of personal records together with important particulars about the location, categories of information, purpose, policies, practices address and procedures for notification and access. Under agency rules, all rules promulgated to carry out the requirements of the act, in compliance with section 553 of title 5 on rulemaking and public comment, must be published in the Federal Register and made available to the public. This language fails to require the publication of the character of each personal register with these rules. Therefore the public would not have any indication as to the different information systems to which they refer.

I understand there have been objections to an annual catalog of data banks by persons who claim it would be an unwieldy series of volumes. If a separate publication for agency rules were produced there would be two extensive documents, Convenience, uniformity, and likelihood of the general public's use of this information would be impaired. The cost might be prohibitive. As far as I know the so-called unworkability factor, duplication, and cost are the only OMB reasons for opposing a directory.

In an effort to learn the true operating situation, the mechanics of preparing and publishing such directories, I have consulted with officials of the Federal Register. Strangely, mine was the first inquiry from Congress about how to sort out these questions and see that H.R. 16373 is written in a prudent, clear form. These discussions provided me with several important conclusions:

First. An annual directory is not necessary once the basic catalog is published, after that annual updatings can be printed to list changes in registers or note totally new ones.

Second. The language providing for agency notice requires so much detail on procedures for access and notification, policies for storage and practices over such things as disposal of records, that this overlaps significantly into the rulemaking area. It would be impractical to separate the notice requirement and agency rules requirement, therefore they should be printed in the Federal Register concurrently and published in a directory in similar form.

Third. For the original implementation of reporting requirements, it would be wise to involve the Administrative Committee on Federal Reports composed of the Archivist, Attorney General, Public Printer with the Director of the Federal Register serving as its secretary. This committee could prepare a model notice and rule formats for the agencies thus helping to assure uniformity and consistency in presentation. Experience with the reports requirement of the Freedom of Information Act proves that a meaningful public document will need expert advice by the officials represented on this committee.

Mr. Speaker, there is still time for corrective amendments to be prepared so an efficient and economical Directory of Federal Data Banks will be required in the Privacy Act of 1974. I am working on technical changes and would welcome advice and assistance from concerned colleagues. We cannot succeed in protecting privacy with a code of fair information practices which does not call for a publically available directory of personal registers.

CLYDE JORDAN

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, it is a pleasure to report to my colleagues that Mr. Clyde Jordan of East St. Louis, Ill., has been selected for inclusion in volume II of the International Who's Who in Community Service scheduled for publication in 1975.

Mr. Jordan is a distinguished newspaper publisher and government leader in East St. Louis. This well deserved tribute is in recognition of Mr. Jordan's many endeavors to improve his community.

I am especially pleased that Clyde Jordan has been honored in this fashion. He has been an inspiration to the young people of East St. Louis. At this point in the Record, I include an article from the East St. Louis Monitor concerning his award.

Jordan in International "Who's Who"

Monitor publisher Clyde C. Jordan was notified this week of his selection for inclusion in Volume II of the International Who's Who In Community Service scheduled to be published in 1975.

In a letter from the publishers, headquartered in London, England, Jordan was informed that he had been recommended by a number of sources for biographical and pictorial inclusion in what was described as the only illustrated Who's Who in the world covering the field of community service.

The International Who's Who In Community Service is printed in English and recognizes, internationally, the work of men and women engaged within the spheres of regional and local government, public welfare; medicine; education; the arts; the sciences; the church; leisure (including sports); conservation; community life, etc.

The publishers said the volume will be circulated to major libraries and institutions throughout the world.

Jordan is already listed in a number of American biographical publications, and is the first and only native East Louisan to be included in Who's Who In America. He was included in the 1972–73 edition and is also listed in the 1974–75 volume.

In addition to publishing The Monitor, Jordan is Supervisor of East St. Louis Township, a member of East St. Louis School District 189 Board of Education, a member of the East Side Health District, State President of the Elks (IBPOEW) Illinois-Wisconsin States Association, Grand Director of Public Relations for the Elks Grand Lodge, and an officer and/or member of over 40 other organizations.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Eshleman (at the request of Mr. Rhodes), indefinitely, for recovery from surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Abdnor to revise and extend their remarks and include extraneous material:)

Mr. Conable, for 1 hour, November 19, 1974.

Mr. Hosmer, for 5 minutes, today.

Mrs. Heckler of Massachusetts, for 5 minutes, today.

(The following Members (at the request of Mr. Gunter) to revise and extend their remarks and include extraneous matter:)

Ms. Holtzman, for 10 minutes, today.

Mr. Matsunaga, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Koch, for 5 minutes, today.

Mr. Waggonner, for 10 minutes, today.

Mr. Minish, for 10 minutes, today.

Mr. Burke of Massachusetts, for 5 minutes, today.

Mr. Ichord, for 60 minutes, on November 19.

Mr. Matsunaga, for 5 minutes, on November 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Hechler of West Virginia in two instances, and to include extraneous matter.

(The following Members (at the request of Mr. Abdnor) and to include extraneous material:)

Mr. Findley in five instances.

Mr. Peyser in five instances.

Mr. Broomfield.

Mr. Anderson of Illinois in two instances.

Mr. Bell in two instances.

Mr. Hanrahan in two instances.

Mr. Young of Florida in five instances.

Mr. Steiger of Wisconsin in two instances.

Mr. Lent.

Mr. McCloskey.

Mrs. Heckler of Massachusetts.

Mr. Buchanan in two instances.

Mr. Gross.

Mr. Miller in five instances.

Mr. Frenzel in three instances.

(The following Members (at the request of Mr. Gunter), and to include extraneous matter:)

Mr. Nix in two instances.

Mr. Price of Illinois.

Mr. Moorhead of Pennsylvania in 15 instances.

Mr. Stokes in two instances.

Mr. Fraser in five instances.

Mr. Brown of California in 10 instances.

Mr. Lehman in 10 instances.

Mr. Moss in two instances.

Mr. Matsunaga in 10 instances.

Mr. Annunzio in six instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Sisk.

Mr. Anderson of California in three instances.

Mr. Badillo in three instances.

Mr. Byron in 10 instances.

Mr. Thompson of New Jersey in 10 instances.

Mr. Sarbanes in five instances.

Mr. Rosenthal in five instances.

Mr. Vanik in five instances.

Mr. Long of Maryland in 10 instances.

Mr. Brinkley.

Mr. Jones of Tennessee.

Mr. Symington.

Mr. Bennett.

Mr. Minish.

Mr. Rangel.

Mr. Ford.

Mr. Fisher.

Mr. Eilberg in 10 instances.

Mr. Cotter.

Mr. Reuss in six instances.

Mr. Patten.

Mr. Danielson.

Mr. Denholm.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a Joint Resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 13342. An act to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement;

H.R. 14217. An act to provide for increases in appropriation ceiling and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes; and

H.J. Res. 1167. Joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on October 17, 1974 present to the President, for his approval, bills and a Joint Resolution of the House of the following titles.

H.R. 13157. An act to provide for the establishment of the Clara Barton National Historic Site, Md.; John Day Fossil Beds National Monument, Oreg.; Knife River Indian Villages National Historic Site, N. Dak.; Springfield Armory National Historic Site, Mass.; Tuskegee Institute National Historic Site, Ala.; Martin Van Buren National Historic Site, N.Y.; and Sewall-Belmont House National Historic Site, Washington, D.C.; and for other purposes;

H.R. 13342. An act to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement.

H.R. 14217. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes;

H.R. 15736. An act to authorize, enlarge, and repair various Federal reclamation projects and programs, and for other purposes; and

H.J. Res. 1167. Joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes.

ADJOURNMENT

Mr. GUNTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 24 minutes p.m.) the House adjourned until tomorrow, Tuesday, November 19, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2879. A letter from the President of the United States, transmitting proposed amendments to H.R. 12471, the Freedom of Information Act amendments, which would eliminate the basis for his veto of the act if adopted; to the Committee on Government Operations.

2880. A letter from the Assistant Secretary of State for Congressional Relations, transmitting copies of President Determinations No. 75-5, finding and determining that it is in the national interest of the United States to make an agreement for agricultural commodities with Egypt, pursuant to sections 103(d)(3) and (4) of Public Law 83-480; and No. 75-7, finding that it is in the national interest to make such an agreement with Syria, pursuant to section 103(d)(3) of the act, and determining and certifying that it is in the national interest to waive the restrictions of section 620(e) of the Foreign Assistance Act of 1961 as they may apply to such an agreement, pursuant to section 410 of Public Law 83-480; to the Committee on Agriculture.

2881. A letter from the Secretary of Agriculture, transmitting the fifth annual report on Department of Agriculture information and technical assistance to small communities and less populated areas, covering fiscal year 1974, pursuant to section 901(d) of Public Law 91-524 [42 U.S.C. 3122(d)]; to the Committee on Agriculture.

2882. A letter from the Deputy Assistant Secretary of Agriculture, transmitting a report on national reforestation needs as of the end of fiscal year 1974, pursuant to section 3 of Public Law 92-421; to the Committee on Agriculture.

2883. A letter from the Acting Secretary of State, transmitting, notice of his intention to exercise his authority to determine that it is in the national interest of the United States to permit the use of funds for the clearance of a marine minefield in the Mediterranean Sea near Port Said, Egypt, pursuant to section 114 of Public Law 93-240; to the Committee on Appropriations.

2884. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting the fiscal year 1975 report on recissions and deferrals for the month of November 1974, pursuant to section 1014 of the Congressional Budget and Impoundment Control Act (Public Law 93-344); to the Committee on Appropriations and ordered to be printed.

2885. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Veterans Administration for Readjustment Benefits for fiscal year 1975 has been apportioned on a basis which indicates the necessity for supplemental estimates of appropriations, pursuant to section 3679 of the Revised Statutes [31 U.S.C. 665(e)(2)]; to the Committee on Appropriations.

2886. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on receipts and disbursements from the sale of surplus military supplies, equipment, and material, and for expenses involving the production of lumber and timber products, pursuant to section 712 of Public Law 93-238; to the Committee on Appropriations.

2887. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under the German Offset Agreement for the quarter ended September 30, 1974, pursuant to section 819 of Public Law 93-437; to the Committee on Appropriations.

2888. A letter from the Secretary of the Army, transmitting reports of the number of officers on duty with Headquarters, Department of the Army and detailed to the Army General Staff on September 30, 1974, pursuant to 10 U.S.C. 3031(c); to the Committee on Armed Services.

2889. A letter from the Secretary of Transportation, transmitting a report on negotiated contracts for experimental, developmental, test or research work, and industrial mobilization in the interest of the national defense, covering the period April–September, 1974, pursuant to 10 U.S.C. 2304(e); to the Committee on Armed Services.

2890. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various facilities projects proposed to be undertaken for the Naval Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2891. A letter from the Deputy Chief, Office of Legislative Affairs, Department of the Navy, transmitting notice of the intention of the Department of the Navy to donate certain surplus property to the Hawaiian Railway Society, Honolulu, Hawaii, pursuant to 10 U.S.C. 7545; to the Committee on Armed Services.

2892. A letter from the Acting Director, Defense Civil Preparedness Agency, transmitting a report on property acquisitions of emergency supplies and equipment during the quarter ended September 30, 1974, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended [50 U.S.C. App. 2281(h)]; to the Committee on Armed Services.

2893. A letter from the Administrator of General Services, transmitting the semiannual report on the stockpiling of strategic and critical materials, covering the period ended June 30, 1974, pursuant to section 4 of Public Law 117, 76th Congress, as amended [50 U.S.C. 98c]; to the Committee on Armed Services.

2894. A letter from the Attorney General, transmitting the annual report on the enforcement of title II (Extortionate Credit Transactions) of the Consumer Credit Protection Act of 1968, covering fiscal year 1974, pursuant to section 203 of Public Law 90-321; to the Committee on Banking and Currency.

2895. A letter from the Secretary of Commerce, transmitting a report on export administration for the first quarter of 1974, pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. App. 2409]; to the Committee on Banking and Currency.

2896. A letter from the Assistant Secretary of Defense (Installations and Logistics) transmitting a report on Department of Defense procurement from small and other business firms for July-August, 1974, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Banking and Currency.

2897. A letter from the President and Chairman, Export-Import Bank of the United States transmitting the Bank's annual report for fiscal year 1974, pursuant to section 9 of the Export-Import Bank Act of 1945, as amended [12 U.S.C. 635g]; to the Committee on Banking and Currency.

2898. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report for 1974 on the Department's poverty-related research and demonstration projects, pursuant to section 232(b) of the Economic Opportunity Act, as amended [42 U.S.C. 2825(b)]; to the Committee on Education and Labor.

2899. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed general regulations for the National Institute of Education, Department of Health, Education, and Welfare, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2900. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed additional criteria for selection of applications under the program of support for vocational education curriculum projects for fiscal year 1975, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended, to the Committee on Education and Labor.

2901. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed regulations covering the scope, general definitions, application procedures, and allowable educational costs for the basic educational opportunity grant program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2902. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed criteria for fiscal year 1975 foreign language and area studies fellowships, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2903. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed additional funding criteria for reviewing fiscal year 1975 applications for supplemental educational opportunity grant, college work-study, and national direct student loan programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2904. A letter from the Under Secretary of Health, Education, and Welfare; transmitting notice of proposed regulations and guidelines governing the Program of Grants for Strengthening Developing Institutions, authorized under title III of the Higher Education Act of 1965, as amended, pursuant to section 431(d)(1) of the General Education Provision Act, as amended; to the Committee on Education and Labor.

2905. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed regulations and guidelines governing the financial assistance for the college library resources program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2906. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination

No. 75-3, that the suspension of the provisions of section 6 of Pulbic Law 93-448, section 505(d) of the Foreign Assistance Act of 1961, as amended, and sections 3(c) and 3(d) of the Foreign Military Sales Act, as amended, in the case of Turkey will further negotiations for a peaceful solution of the Cyprus conflict, pursuant to section 6 of Public Law 93-448; to the Committee on Foreign Affairs.

2907. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 75-4, waiving the provisions of section 3(b) of the Foreign Military Sales Act, as amended, insofar as they relate to sales, credits or guarantees to a foreign country, pursuant to that section [22 U.S.C. 2753(b)]; to the Committee on Foreign Affairs.

2908. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the quarterly report on the programing and obligation of international narcotics control funds during the period ended September 30, 1974, pursuant to section 481 of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2291(b)(1)]; to the Committee on Foreign Affairs.

2909. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on major items of excess military equipment programed during the month of August for delivery on a grant basis, in addition to those previously reported for fiscal year 1975, pursuant to section 8(d) of the Foreign Military Sales Act Amendments of 1971, as amended [22 U.S.C. 2321b(d)]; to the Committee on Foreign Affairs.

2910. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on assistance-related funds obligated for Cambodia during the first quarter of fiscal year 1975, pursuant to section 655(f) of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2415(f)]; to the Committee on Foreign Affairs.

2911. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a quarterly report for the period ended September 30, 1974, on the programing and obligation of contingency funds, pursuant to section 451(b) of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2261(b)]; to the Committee on Foreign Affairs.

2912. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to Public Law 92-403; to the Committee on Foreign Affairs.

2913. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to Public Law 92-403; to the Committee on Foreign Affairs.

2914. A letter from the Chairman, Foreign Claims Settlement Commission of the United States, transmitting the annual report of the Commission for calendar year 1973, together with the 1973 annual report of the Micronesian Claims Commission; to the Committee on Foreign Affairs.

2915. A letter from the Chairman, Board for International Broadcasting transmitting the first annual report of the Board, covering fiscal year 1974, pursuant to section 4(a)(8) of Public Law 93-129; to the Committee on Foreign Affairs.

2916. A letter from the President and Chairman, Export-Import Bank of the United States: transmitting a report on loan, guarantee and insurance transactions supported by Eximbank to Yugoslavia, Romania, the U.S.S.R., and Poland during August, 1974; to the Committee on Foreign Affairs.

2917. A letter from the Administrator of Veterans Affairs, transmitting a report on the disposal of foreign excess property by the Veterans' Administration during fiscal year 1974, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 514(d)]; to the Committee on Government Operations.

2918. A letter from the Secretary of the Interior, transmitting the annual report of the U.S. Government Comptroller for the Virgin Islands for fiscal year 1973, pursuant to section 17(h) of Public Law 83-517, as amended [48 U.S.C. 1599(h)]; to the Committee on Interior and Insular Affairs.

2919. A letter from the Secretary of the Interior, transmitting a proposed plan for the use and distribution of Grand River Band of Ottawa judgment funds awarded in docket No. 40-K before the Indian Claims Commission, pursuant to section 2(a) of Public Law 93-134; to the Committee on Interior and Insular Affairs.

2920. A letter from the Secretary of the Interior, transmitting a proposed plan for the use and distribution of the judgment funds awarded in Docket No. 218 to the Cowlitz Tribe of Indians before the Indian Claims Commission, pursuant to section 2(a) of Public Law 93-134; to the Committee on Interior and Insular Affairs.

2921. A letter from the Secretary of the Interior, transmitting a proposed plan for the use and distribution of the judgment funds awarded in docket No. 263 to the Kikiallus Tribe before the Indian Claims Commission, pursuant to section 2(a) of Public Law 93-134; to the Committee on Interior and Insular Affairs.

2922. A letter from the Secretary of the Interior, transmitting a proposed plan for the use and distribution of the judgment funds awarded in docket No. 294 to the Lower Skagit Tribe before the Indian Claims Commission, pursuant to section 2(a) of Public Law 93-134; to the Committee on Interior and Insular Affairs.

2923. A letter from the Assistant Secretary of the Interior, transmitting the annual report for fiscal year 1974 on receipts and expenditures of the Department of the Interior in connection with the administration of the Outer Continental Shelf Lands Act of 1953 pursuant to section 15 of Public Law 83-212 [43 U.S.C. 1343]; to the Committee on Interior and Insular Affairs.

2924. A letter from the Assistant Secretary of the Interior, transmitting descriptions of nine projects tentatively selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms, pursuant to section 200(b) of the Water Resources Research Act of 1964 [42 U.S.C. 1961b(b)]; to the Committee on Interior and Insular Affairs.

2925. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for the continuation of the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments until January 1, 1989, and for other purposes; to the Committee on Interior and Insular Affairs.

2926. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Scientific Associates, Inc., Santa Monica, Calif. for a research project entitled "Development of Percussive Water Jets," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

2927. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a loan application and project proposal from the Gering Irrigation District of Gering, Nebr., pursuant to section 4(c) of the Small Reclamation Projects Act of 1956, as amended [43 U.S.C. 422d(c)]; to the Committee on Interior and Insular Affairs.

2928. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 186, the Confederated Tribes of the Colville Reservation as the representative of the Joseph Band of the Nez Perce Tribe; Charles E. Williams, Joseph Redthunder and Harry Owhi, as the representatives of the Joseph Band of the Nez Perce Tribe; the Confederated Tribes of the Colville Reservation, as successor to the claims of the *Joseph Band of the Nez Perce Tribe,* Plaintiffs, v. *the United States of America,* Defendant, pursuant to section 21 of the Indian Claims Commission Act [25 U.S.C. 70t]; to the Committee on Interior and Insular Affairs.

2929. A letter from the Chairman, Indian Claims Commission; transmitting the final determination of the Commission in docket No. 350-F, The Three Affiliated Tribes of the Fort Berthold Reservation, et al., Plaintiffs, v. The United States of America, Defendant, pursuant to section 21 of the Indian Claims Commission Act [25 U.S.C. 70t]; to the Committee on Interior and Insular Affairs.

2930. A letter from the Secretary of Health, Education, and Welfare, transmitting the fourth annual report on marihuana and health, pursuant to section 502 of Public Law 91-296 [21 U.S.C. 187]; to the Committee on Interstate and Foreign Commerce.

2931. A letter from the Administrator, Federal Energy Administration, transmitting a report covering the period July-September, 1974, on imports of crude oil, residual fuel oil, refined petroleum products, natural gas and coal; domestic reserves and production of crude oil, natural gas, and coal; refinery activities, and inventories, pursuant to section 11(c)(2) of Public Law 93-319; to the Committee on Interstate and Foreign Commerce.

2932. A letter from the Chairman, Federal Power Commission, transmitting copies of publications entitled Gas Turbine Electric Plant Construction Cost and Annual Production Expenses, 1972 and Sales by Producers of Natural Gas to Interstate Pipeline Companies, 1972; to the Committee on Interstate and Foreign Commerce.

2933. A letter from the Chairman, Federal Power Commission, transmitting a draft of proposed legislation to amend section 206 of the Federal Power Act; to the Committee on Interstate and Foreign Commerce.

2934. A letter from the Vice President for Government and Public Affairs, National Railroad Passenger Corporation, transmitting a report for the month of September, 1974, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2935. A letter from the Vice President for Government and Public Affairs, National Railroad Passenger Corporation, transmitting the financial report of the corporation for the month of July, 1974, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2936. A letter from the Chairman, United States Railway Association, transmitting the first annual report of the Association, covering fiscal year 1974, pursuant to section 202(e) of Public Law 93-236; to the Committee on Interstate and Foreign Commerce.

2937. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting the second annual report of the Commission, covering fiscal year 1974, pursuant to section 27(j) of Public Law 92-573; to the Committee on Interstate and Foreign Commerce.

2938. A letter from the Chairman, Consumer Product Safety Commission, transmitting a copy of a letter to the President concerning the Commission's fiscal year 1975 appropriations request, pursuant to section 27(k) (1) of Public Law 92–573; to the Committee on Interstate and Foreign Commerce.

2939. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting supplementary materials on the Commission's fiscal year 1976 budget addendum, pursuant to section 27(k) (1) of Public Law 92–573; to the Committee on Interstate and Foreign Commerce.

2940. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting technical materials concerning the Commission's 1976 budget requests which have been submitted to the Office of Management and Budget, pursuant to section 27(k) (1) of Public Law 92–573; to the Committee on Interstate and Foreign Commerce.

2941. A letter from the Chairman, Consumer Product Safety Commission, transmitting a copy of the Commission's budget submission for the transition period June 30 through September 30, 1976, pursuant to section 27(k) (1) of Public Law 92–573; to the Committee on Interstate and Foreign Commerce.

2942. A letter from the Chairman, Consumer Product Safety Commission, transmitting the Commission's comments to the Office of Management and Budget concerning Presidential action on S. 355, pursuant to section 27(k) (2) of Public Law 92–573; to the Committee on Interstate and Foreign Commerce.

2943. A letter from the Attorney General, transmitting the annual report of the Department of Justice for fiscal year 1973, pursuant to 28 U.S.C. 522; to the Committee on the Judiciary.

2944. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

2945. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a) (28) (I) (ii) of the Immigration and Nationality Act [8 U.S.C. 1182(a) (28) (I) (ii) (b)]; to the Committee on the Judiciary.

2946. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d) (3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, together with a list of the persons involved, pursuant to section 212(d) (6) of the act [8 U.S.C. 1182(d) (6)]; to the Committee on the Judiciary.

2947. A letter from the Commissioner, Immigration and Naturalization Service, Department of Jusitce, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a) (1) of the Immigration and Nationality Act, as amended [8 U.S.C. 1254(c) (1)]; to the Commitee on the Judiciary.

2948. A letter from the President and Chairman, National Conference on Citizenship, transmitting the audit of the accounts of the Conference for the year ended June 30, 1974, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

2949. A letter from the Executive Director, Reserve Officers Association of the United States, transmitting the audit of the Association's accounts for the year ended March 31, 1974, pursuant to section 16 of Public Law 81–595; to the Committee on the Judiciary.

2950. A letter from the Secretary of Commerce, transmitting a report on the program of research and development in improved fishing methods and gear designed to reduce the incidental taking of marine mammals in commercial fishing operations, pursuant to section 111(a) of Public Law 92–522 [16 U.S.C. 1381(a)]; to the Committee on Merchant Marine and Fisheries.

2951. A letter from the Chairman, Federal Maritime Commission, transmitting the 12th annual report of the Commission, pursuant to section 208 of Public Law 835, 74th Congress [46 U.S.C. 1118]; to the Committee on Merchant Marine and Fisheries.

2952. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Crescent City Harbor, Calif., requested by a Resolution of the Committee on Public Works, House of Representives, adopted July 31, 1957; to the Committee on Public Works.

2953. A letter from the Administrator of General Services, transmitting a prospectus proposing alteration to the Courthouse and Federal Office Building in Binghamton, N.Y., to the Committee on Public Works.

2954. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on negotiated contracts for experimental, developmental, test or research work, or industrial mobilization in the interest of the national defense, covering the period January-June, 1974, pursuant to 10 U.S.C. 2304(e); to the Committee on Science and Astronautics.

2955. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report covering fiscal year 1974 on NASA grants for the support of scientific research, pursuant to section 3 of Public Law 85–934 [42 U.S.C. 1893]; to the Committee on Science and Astronautics.

2956. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to enable exporters to obtain a refund of manufacturers' excise taxes in certain cases where the articles are exported by persons other than the manufacturers, producers, or importers of the articles; to the Committee on Ways and Means.

RECEIVED FROM THE COMPTROLLER GENERAL

2957. A letter from the Comptroller General of the United States, transmitting his review of the proposed rescissions and deferrals of budget authority contained in the message from the President dated October 4, 1974, pursuant to section 1014(b) of Public Law 93–344; to the Committee on Appropriations and ordered to be printed.

2958. A letter from the Assistant Comptroller of the United States, transmitting a report on the failure of the President to transmit a special message with respect to reserving or deferring budget authority, pursuant to section 1015(a) of Public Law 93–344; to the Committee on Appropriations and ordered to be printed.

2959. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during September 1974, pursuant to section 234 of Public Law 91–510; to the Committee on Government Operations.

2960. A letter from the Comptroller General of the United States, transmitting a report on U.S. actions needed to cope with commodity shortages; to the Committee on Government Operations.

2961. A letter from the Comptroller General of the United States, transmitting a report on the U.S. share of World Bank-financed procurement; to the Committee on Government Operations.

2962. A letter from the Comptroller General of the United States, transmitting a report on substantial understatement of obligations by the Department of Defense for separation allowances for foreign national employees; to the Committee on Government Operations.

2963. A letter from the Comptroller General of the United States, transmitting a report on progress in determining approaches which work in the criminal justice system; to the Committee on Government Operations.

2964. A letter from the Comptroller General of the United States, transmitting a report on flexible and compressed work schedules and their possible application to Federal employees; to the Committee on Government Operations.

2965. A letter from the Comptroller General of the United States, transmitting a report on reducing the number of items in the Federal Supply Catalog; to the Committee on Government Operations.

2966. A letter from the Comptroller General of the United States, transmitting a report on missent mail; to the Committee on Government Operations.

2967. A letter from the Comptroller General of the United States, transmitting a report on the continuing problem of aircraft midair collisions; to the Committee on Government Operations.

2968. A letter from the Comptroller General of the United States transmitting a report on development of the new National Bulk Mail System; to the Committee on Government Operations.

2969. A letter from the Comptroller General of the United States, transmitting a report on the audit of the U.S. Capitol Historical Society for the year ended January 31, 1974, pursuant to section 451 of the Legislative Reorganization Act of 1970 [40 U.S.C. 193m–1]; to the Committee on Government Operations.

2970. A letter from the Comptroller General of the United States, transmitting a report covering fiscal year 1974 on the progress made by Federal agencies in developing and improving their accounting systems; to the Committee on Government Operations.

2971. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the Federal Home Loan Bank Board, the Federal home loan banks, and the Federal Savings and Loan Insurance Corporation for calendar year 1973; to the Committee on Government Operations and ordered to be printed.

2972. A letter from the Comptroller General of the United States, transmitting a report on the Department of Housing and Urban Development's progress and problems in getting the new communities program started; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on October 15, 1974, the following report was filed on October 25, 1974*].

Mr. MORGAN: Committee on Foreign Affairs. H.R. 17234. A bill to amend the Foreign Assistance Act of 1961, and for other purposes (Rept. No. 93–1471). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. SULLIVAN (for herself, Mr. Dingell, Mr. McCloskey, Mr. Karth, Mr. Biaggi, Mr. Conte, Mr. Forsythe, Mr. Ford, Mr. Kyros, Mr. Breaux, Mr. Studds, Mr. Nedzi, Mr. Moss, and Mr. Bowen):

H.R. 17434. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses; and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ASHLEY:

H.R. 17435. A bill to revise and improve the program of supplemental security income established by title XVI of the Social Security Act, and for other purposes; to the Committee on Ways and Means.

By Mr. DOMINICK V. DANIELS:

H.R. 17436. A bill to authorize certain filling and construction in a portion of Upper New York Bay, Hudson County, N.J.; to the Committee on Public Works.

By Mr. FLOOD (for himself and Mr. McDade):

H.R. 17437. A bill to establish a program of Federal assistance to provide relief from energy emergencies and energy disasters; to the Committee on Interstate and Foreign Commerce.

By Mrs. HOLT:

H.R. 17438. A bill to amend title 5, United States Code, to provide for grade retention benefits for certain Federal employees whose positions are reduced in grade, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. KARTH (for himself and Mr. John L. Burton):

H.R. 17439. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. KEMP:

H.R. 17440. A bill to amend the Federal Salary Act of 1967, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LITTON:

H.R. 17441. A bill to prohibit, except in cases of extreme emergency, assistance under the Agricultural Trade Development and Assistance Act of 1954 to any country which does not make reasonable and productive efforts, especially with regard to family planning, designed to alleviate the causes of the need for assistance provided under such act; to the Committee on Agriculture.

H.R. 17442. A bill to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MELCHER (for himself, Mr. Alexander, Mr. Bergland, Mr. Duncan, Mr. Hawkins, Mr. Jones of Tennessee, Mr. Sebelius, Mr. Obey, Mr. Rangel, Mr. Regula, Mr. Rodino, Mr. Thone, and Mr. Zwach):

H.R. 17443. A bill to provide for the purchase of animals and animal food product for use in foreign and domestic food relief programs, and for other purposes; to the Committee on Agriculture.

By Mr. NIX:

H.R. 17444. A bill to amend the Sherman Antitrust Ac to clarify the intent of the Congress with respect to marketing cooperatives; to the Committee on the Judiciary.

By Mr. PEYSER:

H.R. 17445. A bill to make Election Day a legal public holiday; to the Committee on the Judiciary.

By Mr. RINALDO:

H.R. 17446. A bill to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States; to the Committee on the Judiciary.

By Mr. STUDDS:

H.R. 17447. A bill to authorize payment of costs incurred in the alteration or replacement of certain municipal waste incinerators for the purpose of controlling air pollution; to the Committee on Interstate and Foreign Commerce.

By Mr. BRADEMAS:

H. Con. Res. 679. Concurrent resolution to provide for the printing as a House document of the Constitution and the Declaration of Independence; to the Committee on House Administration.

H. Con. Res. 680. Concurrent resolution to provide for the printing as a House document of the proceedings at the commemoration ceremony in honor of the 200th Anniversary of the First Continental Congress; to the Committee on House Administration.

By Mr. FRASER:

H. Con. Res. 681. Concurrent resolution authorizing the printing of additional copies of a report issued by the Committee on Foreign Affairs; to the Committee on House Administration.

By Mr. RANGEL:

H. Con. Res. 682. Concurrent resolution expressing the sense of the Congress concerning the need to increase the amount of fertilizer available for food production; to the Committee on Agriculture.

By Mr. BRADEMAS:

H. Res. 1457. Resolution to provide for the printing as a House document of a revised edition of the booklet entitled "The History and Operation of the House Majority Whip Organization [94th Congress]"; to the Committee on House Administration.

By Mr. BROOMFIELD:

H. Res. 1458. Resolution concerning the safety and freedom of Valentyn Moroz, Ukrainian historian; to the Committee on Foreign Affairs.

By Mr. KEMP:

H. Res. 1459. Resolution to require approval by the House of Representatives with respect to the establishment or adjustment of certain allowances to Members of the House; to the Committee on House Administration.

By Mr. ROE:

H. Res. 1460. Resolution disapproving proposed deferral of budget authority numbered D75-9, relating to construction of waste treatment plants, as transmitted to the Congress in the President's message of September 23, 1974; to the Committee on Public Works.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

551. By the SPEAKER: A memorial of the Legislature of the State of South Carolina, relative to the creation of the Eutaw Springs National Battlefield; to the Committee on Interior and Insular Affairs.

552. Also, memorial of the Legislature of the Territory of Guam, relative to assistance to Pan American Airways; to the Committee on Interstate and Foreign Commerce.

553. Also, memorial of the Legislature of the State of Louisiana, relative to the commercial fishing industry; to the Committee on Merchat Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HICKS:

H.R. 17448. A bill for the relief of Command Sergeant Major Edgar P. Gordon of the U.S. Army; to the Committee on the Judiciary.

By Mr. MADIGAN:

H.R. 17449. A bill for the relief of the J. L. Simmons Co., Inc.; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

545. By the SPEAKER: Petition of the 96th General Conference of the National Guard Association, San Juan, Puerto Rico, relative to the death of General Creighton W. Abrams; to the Committee on Armed Services.

546. Also, petition of the Tennessee Association of Housing and Redevelopment Authorities, Memphis, Tenn., relative to community development and housing; to the Committee on Banking and Currency.

547. Also, petition of the Israel Knesset, Tel Aviv, relative to the recognition of the Palestinian Liberation Organization by the General Assembly of the United Nations; to the Committee on Foreign Affairs.

548. Also, petition of the Palau District Legislature, Western Caroline Islands, Trust Territory of the Pacific Islands, relative to the Micronesian Claims Act of 1971; to the Committee on Foreign Affairs.

549. Also, petition of the National Association of State Departments of Agriculture, Washington, D.C., relative to Federal budget control; to the Committee on Government Operations.

550. Also, petition of the City Council, New York, N.Y., relative to aerosol containers; to the Committee on Interstate and Foreign Commerce.

551. Also, petition of the Miami Beach Tourist Development Authority, Miami Beach, Fla., relative to the U.S. Travel Service domestic tourism program; to the Committee on Interstate and Foreign Commerce.

552. Also, petition of Robert Stewart, Boston, Mass., relative to the resignation of President Nixon; to the Committee on the Judiciary.

553. Also, petition of Edwin C. Richards, Jr. and Philip W. Runkle, Huntingdon, Pa., relative to the pardon of former President Nixon; to the Committee on the Judiciary.

554. Also, petition of John Brill, Peoria, Ill., relative to redress of grievances; to the Committee on the Judiciary.

555. Also, petition of the city council, Redlands, Calif., relative to including Federal-aid roads under the provisions of the Disaster Relief Act of 1974; to the Committee on Public Works.

556. Also, petition of the Assembly of the Kenai Peninsula Borough, Saldotna, Alaska, relative to the proposed 5 percent income tax surcharge; to the Committee on Ways and Means.

557. Also, petition of legislative council, Little Rock, Ark., relative to the collection of delinquent debts owed the United States by foreign countries; to the Committee on Ways and Means.

558. Also, petition of the mayor and city council, LaCenter, Ky., relative to general revenue sharing; to the Committee on Ways and Means.

559. Also, petition of the city council, Lawton, Okla., relative to general revenue sharing; to the Committee on Ways and Means.

560. Also, petition of the Suffolk County Legislature, Riverhead, N.Y., relative to reform of the supplemental income program; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

INTERNATIONAL CONFERENCE CONSIDERS ENVIRONMENTAL PROBLEMS—SENATOR RANDOLPH SENDS MESSAGE ON AMERICAN ACHIEVEMENTS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, November 18, 1974

Mr. RANDOLPH. Mr. President, during the last week of October delegates from several countries gathered in London to exchange experiences and ideas on how to approve the appearance of the world in which we live. In a series of meetings on October 29–31 the participants came to grips with the problems of litter and unsightly conditions in a world that is at the same time producing more and throwing away more.

The American delegation to the Keep Europe Beautiful International Conference was under the sponsorship of Keep America Beautiful, Inc., the nationwide organization formed to mobilize citizen action. James C. Bowling, chairman of Keep America Beautiful, Inc., spoke at a conference session, telling the delegates of the work done in the United States. His address, "See What the People Have Done" was a detailed description of the dramatic progress that can be achieved when citizens are well organized with a common purpose. Copies of it are available from Keep America Beautiful, Inc., 99 Park Avenue, New York, N.Y., 10016.

I had expected to be a member of the American delegation. Duties here, however, kept me from going to this important meeting, but my remarks were presented to the conference.

Mr. President, I ask unanimous consent that my statement and excerpts from that of Mr. Bowling be printed in the RECORD.

There being no objection, the material was ordered printed in the RECORD as follows:

SENATOR JENNINGS RANDOLPH'S MESSAGE TO DELEGATES OF KEEP EUROPE BEAUTIFUL INTERNATIONAL CONFERENCE

It is especially gratifying for me, as Chairman of the United States Senate Committee on Public Works, the Committee responsible for environmental legislation, to deliver this message to the third annual International Conference of Keep Europe Beautiful.

As deeply involved as we, on the Committee, are in solving the environmental problems of our own country, we are constantly aware that these problems are global in their implications and, in many instances, in their solutions.

To know that so many others share our concerns, that the willingness to work cooperatively knows no language barriers, that the governments, industries and citizens of many nations are committed to finding equitable solutions, gives us great encouragement and increases our determination to work to restore ecological balance, not only in America, but, in so far as we can, throughout the world.

I am also gratified to be speaking on behalf of my own organization, Keep America Beautiful. I say proudly, my own organization, for I have the honor of being one of the first citizen members of KAB, a new category of supporters, established just this year. I paid my membership fee because I believe in the KAB movement, in its efforts to stimulate a sense of individual responsibility for environmental quality in every American citizen, in its programs to involve people in projects to improve their own communities, in the spirit of cooperation it fosters between government, industry and citizen groups.

Over the years, before I became an official "member," I have watched Keep America Beautiful in action. In our state of West Virginia, I have seen rivers cleaned, parks reforested, junked cars collected and recycled, by local groups functioning under the KAB umbrella. I have also seen corporate members of KAB support the national public education effort with programs such as the United States Brewers Association "Pitch In" campaign. That positive symbol is mighty popular in America and, I understand, has international appeal. And I have had the privilege of addressing a KAB annual meeting, where the outstanding environmental improvement program conducted by states, counties, cities, business firms, civic and youth organizations receive much deserved recognition for all that they have done to make and keep America beautiful.

This past summer, we had the joy of recognizing the winning high school students in KAB's ECO America program at a luncheon in the United States Senate, in the Public Works Committee's hearing room. It was an impressive sight, one hundred students and teachers, representing the outstanding high school ecology clubs in every state, clubs that had carried out effective improvement programs in their own communities.

Of course, the fact that one of the three top winners was Hinton high school in West Virginia—there's a whole story about their program in the background paper KAB filed with this Conference—the fact that one of the top ecology clubs in America is in the state I represent in the Congress, added to my genuine satisfaction. But the real reward was in knowing that all these diligent and devoted young people were representatives of thousands of others who are determined to have a quality environment and are willing to work—with their own picks and shovels, where necessary—to achieve it.

Knowing that KAB helped these young people to accomplish the tasks they set for themselves, provided them with guidance and encouragement, makes me that much prouder to be a member of this grand organization.

The growth of the KAB movement, in the United States, and, judging by the representation here at this International Conference, around the world, is indicative of the growing awareness and acceptance of the need for a balanced approach to solving environmental problems. People now realize that there are no easy answers, no simple solutions, that for every action, there is an equal and opposite reaction. We saw that, in the United States, in the detergent dilemma. In our efforts to reduce the discharge of phosphates into our waterways, we replaced it with N.T.A., a synthetic material, that contained its own environmental hazards.

There are few final answers, either. While pollution has been with us for a long time—if you know your Dickens you don't need to be told what the Thames looked—and smelled—like even before the Industrial Revolution—its form is constantly changing. New pollution sources and their locations, shifting population patterns and changing needs of the people, all contribute to the necessity for continually modified programs.

As Senators deliberating over these questions, my colleagues and I realize that the only meaningful solutions are those that take into account not only the immediate problem but also, possible harmful side effects, the impact any one course of action will have on the various segments of society and, not the least important, the cost of a particular program.

We have a saying in our country—there is no such thing as a free lunch. Whenever we consider some measure to enhance the environment, we must consider the cost. Not just the dollars and cents of increased taxes, if it is an enabling measure, or the cost to municipalities and industries, if it is a regulatory measure, but the less quantifiable costs, such as the increased fuel consumption required by automobile emission control devices. It then becomes a matter of tradeoffs, of a balanced approach that takes all the costs, quantifiable and unquantifiable, into account in developing a solution.

To achieve this balanced approach, we need the broadest decision making base possible, a mechanism whereby the private citizen can voice his concerns at the same level as government agencies, industry representatives and union leaders. In the Congress, we hold hearings on legislation, giving all who wish to an opportunity to provide information on the subject under study. But relatively few decisions effecting the American environment are made at the Federal level; by far the larger proportion are made at the state and local level. In truth, most of them are made, consciously or unconsciously, by the individual citizen, the taxpayer and consumer, whose vote, in the booth on election day and in the market, each time he makes a purchase, will, in the long run, determine just what level of environmental quality we will have.

It is in this area that Keep America Beautiful, and the other organizations participating in this significant International Conference, perform a vital role. By emhpasizing the need for a sense of personal responsibility, by insisting that the individual can and does make a difference, KAB is stimulating an awareness of the choices involved, the options available, and the need for rational, equitable decisions that will bring about the greatest possible benefits at the most reasonable cost.

We were given our charge in Genesis:

"Be fruitful and multiply, and replenish the earth, and subdue it; and have dominion over the fish of the sea and over the fowl of the air and over every living thing that moveth upon the earth."

It is an awesome responsibility, this stewardship for earth, especially when we realize how we have abused it, how easy it would be to let it be destroyed. But it is a responsibility that we cannot shirk, that more and more people, through organizations such as yours and mine, are taking personally and working to fulfill. I am confident, that, if we continue as we have began in Keep America Beautiful and Keep Europe Beautiful, we shall be faithful stewards and that our children, for generations to come, will reap the reward. Yes, with your crusading spirit we will Build a Better World.

SEE WHAT THE PEOPLE HAVE DONE

(By James C. Bowling)

Over the last four years, the United States has made tremendous progress in its efforts to control pollution. The people through their elected representatives—in the Congress, state legislatures and municipal governments—have determinted that the air will be clean, the water pure, and the land protected.

But, in typically American fashion, the people have gone far beyond enacting laws to safeguard the environment; they have assumed responsibility for the physical quality of life in their own communities and have taken positive action to improve it.

The more than 2000 projects highlighted in the current edition of Keep America Beautiful's *Inventory of Environmental Improvement Programs* do not purport to be even a statistical sampling of citizen efforts, for similar programs are being carried out in every city, town and hamlet in the nation. Just a few examples, however, show the range and depth of the people's concern and illustrate both what they can do to restore ecological balance, and what they have already accomplished.

And such a variety of people—housewives, handicapped youngsters, mayors of major cities, bank presidents and high school students, federal officials, servicemen and clubwomen—identifying an environmental need, marshalling the resources of talent and enthusiasm in their own communities, and meeting that need themselves by hard work—often downright drudgery.

The U.S. Environmental Protection Agency estimates that there are over 5000 citizen reclamation programs across the country. Over 400 local governments now run municipal recycling centers—there were only 100 just a year ago. One state is about to launch regional reclamation centers within its borders, and at least a dozen solid waste management firms and one utility have gone into the reclamation business for profit. Almost without exception, these citizen programs—the volunteer efforts of people who were determined to demonstrate that there is something the individual can do about environmental problems.

With all due respect to the feminist movement, many women continue to find a satisfying outlet for their talents in community organizations, and our environment is the better for it. Two such women from Oregon, technically housewives but more properly "professional volunteers," formed "Neighbors for a Beautiful Springfield" in 1972 to attack aesthetic blight and improve the urban environment. Their citywide program, based on a model developed by Keep America Beautiful, Inc., started with a massive cleanup, then attacked deteriorating housing, vacant lots and other eyesores and health hazards on a neighborhood-by-neighborhood basis.

Urban environments are receiving attention nationwide. A small oasis was created in the decaying Morrisania section of New York's South Bronx when one woman decided to rid a quarter-block triangle of its abandoned tenements, then establish a park adjacent to Youth Village Center, a multiservice neighborhood organization.

The forces of volunteer groups, businesses and governmental agencies were combined to develop the park. The Model Cities Program was persuaded to demolish the existing buildings, and the New York Botanical Garden planned the park—full of trees, shrubs and plants which could survive urban life.

The River Rat Society, working since 1970 to clean up the Chicago River's North Branch, is another outstanding example of the willingness of urban residents to take into their own hands the responsibility for making their city more viable. Since that time, about 480 tons of debris and litter have been taken from a seven-mile stretch of the North Branch and its flood plain, and pollution causing logjams have also been deftly removed by these enterprising Girl, Boy and Cub Scouts, plus volunteers from five local civic groups. In a single memorable project—on Keep America Beautiful Day 1973—nearly 2000 River Rats cleared out 118 tons of trash from a 500-acre tract along three miles of the Chicago. To provide replacements for trees killed by disease or uprooted by spring floods, the River Rats also planted 1500 tree seedlings and 1000 walnut seeds on the banks.

The truly breath-taking aspect about student groups is the overwhelming number of activities they will undertake, and complete, once their enthusiasm has been whetted. As one outstanding example, one could index the projects of the ecology club at Southeast Polk High School in Runnells, Iowa. In the past school year, this aggressive group of young people persuaded the Des Moines Metropolitan Solid Waste Agency to establish a county recycling center, and contacted the Iowa State Education Association to urge the proclamation of a statewide Energy Awareness Week by the governor. The club also appealed to the Army Corps of Engineers to modify its plans to build a dam, sponsored its second annual ecology basketball game to raise funds for its activities, and turned in over 2000 petitions to the Des Moines City Council, asking for the creation of a bike trail, and helped to raise $1200 for this project.

These ecology clubs are members of KAB's ECO America program, sponsored by the Pepsi-Cola Company with support from American Airlines. Over 2000 high schools are enrolled in the program, which is designed to encourage secondary school students to carry out practical environmental improvement projects in their own communities. The accomplishments mentioned are shining examples of young people's work, but if one were to single out a youth group for environmental achievement, one would be hard-pressed to pass up the Girl Scouts.

Programs such as these make one thing, above all else, clear—that concern for the environment must be created in peoples' consciousness, and cannot be effectively developed by fiat. If this sense of "oneness" with the world around us is to become a permanent part of our cultural heritage, it must be fostered by all our institutions—the home, the church, the school—and it is at least as important to our ecosystem as cleaning up the Willamette.

Today, however, some governmental bodies have turned from merely doling out punishment, and have begun encouraging sound conservation practices among their constituents. In Jefferson County, Kentucky, for example, an Ecology Court was created because people there recognized that the traditional modes of enforcing environmental standards weren't proving adequate. The Ecology Court is part of an overall environmental protection program designed to act as a deterrent to potential polluters and as an educational force for the community-at-large, rather than as an arbiter of fines and sentences after the fact.

The United States Jaycees' vehicle emissions control project is exemplary of them. The Jaycees' local chapters nationwide have set up checklanes, where motorists can voluntarily submit their cars to emission evaluation (only two states currently require such tests). Jaycees perform a simple examination for hydrocarbons and carbon monoxide in the emissions, and give the driver a card indicating if the car has passed or failed the voluntary inspection.

Virtually all groups concerned with environmental improvement recognize the enormous importance of media cooperation in achieving their goals, but few stations have taken on this job with the zest and continuity of KHON in Honolulu, Hawaii, a 1972 KAB Award-winner. Initiated in 1970 as part of regular newscasts, "Pollution Hawaii" took the form of weekly features spotlighting some form of pollution—abandoned cars, overgrown lots, litter on the beach—indicating who was responsible and urging the public to take action. When a problem was solved, "Pollution Hawaii" followed up, to show that action had been taken.

"Pollution Hawaii" created a climate of opinion that made it possible for the City of Honolulu to enforce environmental regulations such as vacant lot maintenance and anti-littering codes, and enlisted the support of groups and organizations for cleanups sponsored by the station.

To "see what the people have done" by working together, look at Birmingham, Alabama. A vigorous, aggressive mayor, an innovative public works department, cooperative media officials, a responsive business community, the 50 dedicated women volunteers who staff the Birmingham Beautification Board—and the 60% of the total population who are actively involved in projects to improve the physical quality of life—have turned this once-dreary industrial city into the top winner in the 1973 Keep America Beautiful National Awards Program.

The people of Birmingham have accepted responsibility for a sound environment and, through hard work and determination, have gone far toward achieving it.

The job is not complete in Birmingham, or anywhere else in this country. Pollution is still a problem—in the words of KAB's "Indian," it is "a crying shame." But a beginning has been made; people are taking heart from even small successes. More and more individuals are realizing that they can have the quality environment they want if they are willing to work for it. That they are willing to work, and work hard, is America's pledge to tomorrow, to the future of this one small world, for the generations to come.

THE ILO'S ROCKY ROAD

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. ROONEY of New York. Mr. Speaker, you will recall the events of the last few years with regard to the International Labor Organization and its strange and contemptible doings as far as the American delegation and the American taxpayers were concerned. You will further recall that the present situation in that American-created international organization was fully predicted by President George Meany of the American Federation of Labor and Congress of Industrial Organizations when he testified before our Subcommittee on State, Justice, Commerce, and the Federal Judiciary appropriations a couple of years ago.

Under the permission heretofore granted me I am including with these few remarks an article which appeared in the AFL–CIO Free Trade Union News for September 1974 by Mike Boggs, assistant director of the AFL–CIO International Affairs Department:

THE ILO'S ROCKY ROAD

(By Mike Boggs)

More than 1350 delegates and advisors to the International Labor Organization gathered in Geneva's Palace of Nations from June 3 through 25 for the ILO's 59th Conference. Its rolls now swollen to 124 member states—including the Soviet Union and its subsidiary nations, among them for the first time East Germany—the ILO has predictably come to be what many observers feel is the second General Assembly in the United Nations family, the chief difference being its unique tripartite system.

Indeed, labor, management and government are brought together in this traditional yearly assembly that dates back to 1919. But the majority has fallen under the influence of the communist states. The result is that the traditional social and economic goals of the ILO as spelled out in its constitution and standing orders, are increasingly subordinated to political considerations.

In 1974, this trend was sharpened by the issue of energy blackmail.

The Resolutions Committee, whose original function was to bring forward new material for the consideration of the ILO's Governing Body, was stacked with members sympathetic to the designs of the "socialist" superpower, the USSR. This development was facilitated by the ICFTU's abrogation of its responsibility to coordinate its affiliates' participation in the conference. Consequently, the highest priority for the Resolutions Committee this year was a "Resolution Concerning the Policy of Discrimination, Racism and Violation of Trade Union Freedoms and Rights Practiced by the Israeli Authorities in Palestine and in other Occupied Arab Territories."

Submitted by Worker Delegates from Tunisia, Morocco and Libya, this Resolution was filled with unfounded allegations and condemnations, none of which had the least bearing on the central purpose and work of the ILO as described in its standing orders. After long debate, characterized by a procedural travesty in which the standing orders were completely disregarded, the resolution passed in committee by a large majority and won in the plenary by six votes. Having gone down to defeat last year with the same resolution, the Arabs are reported to have employed scare tactics and the threat of oil boycotts to shape up votes in the plenary, particularly among third-world delegates.

Next came a harshly-worded resolution on Chile, accusing the military junta that took power in September, 1973, of inhuman excesses and violence. But the resolution was softened with a reference to the visit of an ILO Fact-Finding and Conciliation Commission, which the Chilean Government has accepted in principle. While the resolution was stark, it at least had a basis in the reality of the Chilean situation and kept its recommendations within the guidelines of the ILO machinery, unlike the anti-Israel document.

The Committee considered three more resolutions: on financing delegations to the ILO Conference; on calling a tripartite ILO World Conference on employment, income, distribution and social progress; and on the work environment. But the interest of the Committee partisans waned considerably after the two political resolutions went through. Many of the Arab and Latin members were absent after their resolutions were passed and the legitimate work of the ILO began.

ROLE OF THE ICFTU

In spite of official pronouncements to the contrary, the International Confederation of Free Trade Unions (ICFTU) is moving ever closer to tight cooperation and consultation with the Communist World Federation of Trade Unions (WFTU) in the ILO. In years past, the WFTU had to work to elect its representatives to the Workers Bureau, to the Governing Body, and to the various ILO conference committee posts. This year the ICFTU and WFTU agreed beforehand that the WFTU would automatically have the vice-chairmanship and an additional member of the Workers Bureau (the executive committee of the worker delegation), as well as one vice-chairmanship of most of the technical committees. The WFTU considers this only a first step; their expressed goal is rotation of all posts with the ICFTU in order to achieve parity.

IMPACT OF DETENTE

Detente evidently has made its impact on the ILO. Until late into the conference, the tone of the speeches commenting on the Director General's annual report was distinctly bland, without the pugnacity typical of speeches given by the Soviets and their minions in years past. The new Director General, Francis Blanchard, in his one speech to the Conference dealt with none of the fundamental issues facing the ILO.

With the Vietnam war over, the United States is no longer the largest target in the ILO. It has been replaced by Israel and Chile. But there is a fact which may make such political diatribes a thing of the past: the traditional grouping of western democratic forces is diminishing rapidly in the face of the new ILO majority of Communist nations, including East Germany, and their Arab, Asia, African and Latin-American third-world allies. This new reality seems to have discouraged the ICFTU and its European allies from doing anything to counter the blatantly political and often undemocratic thrusts of this new and powerful alliance in the ILO.

In the Committee on Structure of the Conference, the new majority in the ILO systematically worked to change the standing orders and constitution. The Communists and their allies all pressed for the election of the Director-General by the conference of the ILO and not the Governing Body, in order to "bring the ILO closer to the new world reality." Clearly, what is behind this imprecise statement is an effort to put the ILO under the control of the conference, where the new majority could bypass the governing body.

Not only is the USSR a full-fledged ILO member—with government, employer and worker representation—but so are the Ukrainian SSR and the Byelorussian SSR, as well as all of the Soviet colonial nations, e.g., Hungary, Poland, Yugoslavia, East Germany, Czechoslovakia and Cuba. Voting patterns cut across the ILO's tripartite structure and yield to regional blocs as in the UN. Thus, while U.S. employers, government and workers may differ in their voting, no such conflicts trouble the tripartite structures of the bloc nations, or of those member states that tend to vote with them (Guinea, Egypt, Syria, Kuwait, Libya and others).

The technical work of the ILO, as usual, was thoroughly valuable.

Milestones were established in prevention of occupational cancer and in paid educational leave. New investigations of conditions of work of migrant and rural workers (two separate committees), and manpower aspects (human resources) were undertaken as well. The U.S. worker delegation had full-time delegates on each of these important committees.

TECHNICAL TOIL DWARFED

Clearly, the ILO can turn out meaningful, pertinent work. But the importance of the toil of the technical committees is unfortunately dwarfed by the increasing politicization of the ILO Conference, principally through its Resolutions Committee, Structures Committee, Application of Conventions Committee, and the plenary of the conference itself. The Worker's Group, as well, is the scene of endless political happenings.

Toward the end of the conference, the "detente" atmosphere of the first two weeks' speeches faded. In the Worker Group, Lucy Mbwelo, Secretary General of the South African Black Garment Workers Union, was not allowed to speak owing to a protest staged by SACTU, the Communist-dominated South African exile group. "Moderate" black Africans supported SACTU's action, even though a SACTU representative had previously spoken to the Worker Group. One prominent "democratic" black African called Miss Mbwelo "a lady with a black body, but with a white heart." U.S. Worker Delegate Seidman protested that Miss Mbwelo had the right to speak but was not supported by a single member of the entire Worker Group, including the ICFTU contingent. The SACTU speaker had even savagely attacked the British Trades Union Congress (TUC) in his earlier tirade, but the TUC representative, who was part of a TUC commission to South Africa, neither replied to the attack nor supported Seidman. Miss Mbwelo later withdrew her request to speak in a letter that Worker Group Chairman Gerd Muhr (DGB, West Germany) read aloud.

Aside from the usual Cuban political onslaughts against the United States in the plenary, the Soviet camp was quiet until the AFL-CIO's Seidman, speaking on the Director General's Report, brought up the question of freedom to migrate and the lack of it in the USSR. The USSR delegate Gorochkine, last year's defeated candidate for chairman of the Governing Body (largely owing to U.S. efforts on behalf of the Mexican candidate) attacked Seidman and the AFL-CIO. Detente was only a fond memory as Gorochkine said:

"Yesterday we heard Mr. Seidman an envoy of the reactionary leadership of the AFL-CIO, headed by the well-known George Meany, who pathologically hates and fears socialism. We know that neither Mr. Seidman nor his chief reflect the views and convictions of the American workers and are merely mouthpieces for major American capitalism and monopoly, carrying out an anti-working class policy and deceiving the American workers. They are guilty of provocations on the international level. They have inspired slanderous attacks on our country . . ."

Seidman exercised his right of reply:

"In my statement yesterday, I stated certain specific criticisms of conditions in Mr. Gorochkine's country. . . . I said there were concentration camps, in which people were held in conditions of forced labor, that freedom of association was denied and that the freedom to migrate was denied . . . Those delegates who heard Mr. Gorochkine this morning will note he did not reply to a single one of those criticisms and there is a very good reason why he did not—he did not reply to those criticisms and chose instead to level a personal attack against me and my organization and its president because he knew very well that the conditions that I described exist and that there was no answer to the criticisms that I had stated."

But this mild exchange was but foreplay for the next political set in the 59th Conference.

SOVIETS PUT ON LIST

For seventeen years, Edward Hickey, General Counsel for the Railway Labor Department of the AFL-CIO, has been attending the ILO conferences. He has sat on the Committee on the Application of Conventions and Recommendations. Should a member nation of the ILO be cited for non-compliance with ILO conventions and recommendations ratified by that state, it can be placed upon the list of noncompliance until such time as the nation takes corrective action.

For the last two years, Ed Hickey has been elected as Worker Deputy Vice-Chairman of the committee. This year, for the first time, he was obliged to share the seat with a second vice-chairman from Hungary.

The work of the committee went on in normal fashion until Hickey proposed that the USSR be placed on the "list" for non-compliance with Article 29 of the ILO Conventions, which deals with forced labor. As Seidman later remarked, it was rather like "jailing a murderer on tax-evasion charges." Still, the votes were there, and the USSR was placed on the non-compliance list for the first time. Greece and Liberia were also included for "continual failure to fully implement the obligations . . . voluntarily assumed in ratifying Convention 29 prohibiting forced labor and for failing to support the measures to ensure such compliance."

DOUBLE STANDARD

The USSR responded first with a technical filibuster and then viciously attacked the objectivity and competence of the Committee of Experts (which is made up of 18 eminent members of the international legal profession). But as Hickey pointed out, later in his remarks to the plenary.

"The real issue is whether a double standard is going to be permitted under which the Soviet State can set its own rules of conduct and compliance under ratified conventions while the overwhelming majority of member states will have to comply with the established standards and procedures . . ."

After seven hours of arguments, the plenary failed to adopt the Applications Committee report. The Soviets and their allies were in the majority, all extolling the virtues of the USSR's "socialist" state and condemning the report. Once the vote was taken and the report not accepted, the USSR tried to have it declared rejected. After more debate, the report was "noted," not rejected.

The trend is clear. The ILO Conference has now condemned Israel for unsubstantiated and uninvestigated "violations of Arab Workers' Rights." It has agreed to put the question of observer status for the Palestinian Liberation Organization, the Arab terrorist group, before the Governing Body with a view toward its admission. Its Worker Group refused to give a highly legitimate spokeswoman of a black South African trade union the right to speak after allowing a communist exile organization from the same nation to take the floor, and it granted observer status (voice but no vote) to the Chilean Communist CUT in exile. It witnessed the ruthless tactics of the USSR to remove itself from the special list of the Applications Committee, a move which benefitted Greece and Liberia as well. It contemplates the entry of China into its midst (as soon as a tripartite facade can be established, as in the Soviet case).

In 1972, Bert Seidman, AFL–CIO Director of Social Security and Worker Delegate to the ILO, wrote:

"The ILO would need a determined democratic coalition, including especially a free trade union group with an unreserved commitment, to turn back the Communist tide. But despite some hopeful signs, such a solid alliance of free forces is by no means assured.

"Yet, the future of the ILO will depend on the strength and determination of those forces. If they are willing to close their eyes to Communist and other totalitarian depredations of freedom, if they permit these same undemocratic forces to blackmail their way to greater power and eventual control of the ILO, if they indulge in petty bickering among themselves—then the ILO has no future as an organization committed to workers' freedom and welfare.

"But recent experience has shown that this bleak prospect does not have to be the ILO's future. If the free trade unions, progressive employers and democratic governments will insist that the ILO must remain faithful to its heritage of human rights and social justice, then the ILO can continue to do a worthwhile job for the workers of the world and will continue to deserve their support."

THREAT TO OZONE LAYER

HON. HUBERT H. HUMPHREY

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Thursday, October 17, 1974

Mr. HUMPHREY. Mr. President, several recent studies indicate that the vital ozone layer of the Earth's atmosphere is slowly being converted to more stable gases by man's pollution. The tragic result will be harmful amounts of ultraviolent radiation reaching Earth's surface. This will increase the rate of skin cancer and could destroy vegetation on a broad scale.

I urge my colleagues to read the article "Death to Ozone" published in the October 7, 1974, issue of Time magazine. As Senators may recall, this was a key argument against the SST. If these studies prove accurate, we in Congress must be prepared to take action.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Time magazine, Oct. 7, 1974]

DEATH TO OZONE

Scientific concern about the future of man's fragile environment has ranged from pollution of the oceans and the air to radioactive contamination in a nuclear war. Now researchers are turning their attention to the atmosphere's ozone layer, which protects all life below from a lethal overdose of the sun's ultraviolet light. Their ominous findings: the vital blanket of gas is so fragile that it might well be severely damaged or destroyed by large-scale atmospheric nuclear tests, to say nothing of military and civilian supersonic aircraft, and even the widespread use of aerosol sprays.

Ozone is a form of oxygen that has three instead of the usual two atoms of oxygen in each molecule of gas. It is formed when ordinary molecules of oxygen are ripped apart by radiation or discharges of electricity, and is most noticeable after a lightning storm, when it can be detected by its pungent smell. Most of the ozone in the air is concentrated in a layer some 15 to 30 miles above the earth, where it absorbs much of the sun's ultraviolet radiation. Trouble is, ozone is far from stable; it readily gives up one of its oxygen atoms to other gases and turns into ordinary oxygen, which does not block ultraviolet radiation.

Last week the vulnerability of the ozone layer was emphasized by two startling reports on the long-range effects of the propellant gases used in aerosol sprays. Writing in *Science*, University of Michigan Physicist Ralph Cicerone notes that spray-can gases, mostly chlorine compounds such as Freon, are highly stable under ordinary circumstances. Thus they are building up in the lower atmosphere and gradually rising toward the ozone layer. At that altitude, ultraviolet radiation breaks down Freon and the other chlorine-based gases, causing the release of chlorine atoms. They in turn react with ozone, converting it into ordinary oxygen.

SKIN CANCER

Cicerone estimates that even if the use of aerosol sprays were halted immediately, the gases already in the atmosphere would cause a 10% reduction of ozone in the layer by 1990. That would result in a substantial increase of ultraviolet radiation on the earth, causing at the very least a greater incidence of skin cancer among humans. It might also disrupt the food chain by affecting food crops and plankton in the oceans. Lastly, the depletion of the ozone layer might have certain incalculable consequences like changing the earth's weather patterns.

Cicerone's report was based on earlier findings by two University of California scientists. It is further supported by Michael McElroy, a Harvard atmospheric physicist, who in independent calculations concluded that the projected 10% annual increase in the use of aerosols would reduce the ozone layer by 10% in 20 years and 40% by 2014, wreaking havoc on terrestrial life.

These grim warnings closely follow reports by other scientists on the potentially disastrous effects of nitric oxides, which also strip ozone of its third atom and reduce it to ordinary oxygen. Large amounts of nitric oxides are given off by the exhausts of supersonic aircraft, and a recent M.I.T. study (TIME, Sept. 9) indicates that a fleet of 500 SSTS flying regularly in or near the ozone layer would deplete it by 12% within 25 years. In the past few months, scientists have been emphasizing the even greater menace of nuclear explosions, which generate huge amounts of nitric oxides. A nuclear war, or atmospheric testing, they say, might at least temporarily wipe out the ozone layer. Thus if the blasts and radioactivity produced by nuclear explosions did not wipe out humanity, the concomitant destruction of the ozone layer would probably finish the job.

CARNATION CAPITAL OF THE WORLD ISN'T ANY MORE

HON. PAUL W. CRONIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. CRONIN. Mr. Speaker, I rise today to bring to the attention of my colleagues the plight of an industry that is dying in this country, an industry which has been a landmark in my own congressional district. I refer to the carnation growers of Tewksbury, Mass., who have gained for that town its reputation as the "Carnation Capital of the World" but whose efforts may soon be ended by circumstances beyond their control. I would like therefore to present an article taken from the Tewksbury Town Crier which explains the problems faced by carnation growers in Tewksbury, and I earnestly request the attention and sympathy of my colleagues in the Congress with regard to this unfortunate situation:

In Tewksbury, once the carnation capital of the world, an example of that flower grown in the town may soon be as rare as the fossil remains of some neolithic creature.

Greenhouse operators who grew the flower worn by a myriad of girls at high school proms have suffered a one-two punch from foreign competition and skyrocketing oil prices.

Already Mark Roper & Sons Inc. has closed the doors on its 35 acres of greenhouses at 144 Pleasant Street after growing carnations for almost a century.

No other carnation grower in Tewksbury predicted with any assurance he or she would be growing carnations in a year. Most, faced by the high cost of converting to a profitable crop, didn't expect to be in business at all soon.

Although greenhouse operators in the town all complain of the massive increase it costs them for heat, most believe they can pass on the cost of growing all but carnations to customers.

SOUTH AMERICANS COMPETE

Carnation growers in northern United States have been hampered for years now by flowers flown north by growers in Colombia and other parts of South America, where the sun is the only source needed for heat and a peon will work for only a few dollars a day. Other flowers are grown in Florida, where at least the sun is warm.

The South American imports keep the retail price of carnations low, while rising fuel costs have all but eliminated any profit for northerners who must grow flowers in greenhouses.

James Roper, who worked greenhouses first opened by his grandfather with his brothers Al and Bill, said the last carnations at their greenhouse were picked this summer, after which they all got other jobs.

Foreign competition, he said, keeps the price of carnations down, but increased fuel prices have made greenhouse grown carnations unprofitable.

OIL COSTS SKYROCKET

"Our oil bill increased four or five times over the last year," he explained. "I imagine we've closed for good. The three of us aren't kids anymore, and in order to get back in the business it would cost a fortune.

Of the other firms that have been growing carnations in the town, most expected to be run out of business by rising fuel costs soon or forced to grow other crops or enter different parts of the industry.

Mrs. Ruth Camuso, owner of Crystal Greenhouses at 1120 Main St., a carnation specialist, said, "The effect of the oil is horrendous. Undoubtedly if it goes on any longer, we won't be in business. Our oil bill went from $300 in October 1972 to $1,700 in October 1973.

BLAMES TAXES

"The flowers we grow can't compete with the flowers from other countries where the weather is hot all of the time, and to that you've got to add the tax revaluation here in Tewksbury. Farmers can't keep up with it. Every carnation grower in Tewksbury won't exist more than another year, if that."

Crystal, according to Mrs. Camuso, has diversified into other crops a bit. "We are sort of playing it by ear," she said, "when the day comes when we can't pay the bills we will close our doors."

Richard A. Patten, whose 99 North Street greenhouses are mostly used to grow carnations, said, "I think we will close within a year. My oil bill has gone from $7,500 to $52,000 in two years. There is absolutely no way we can absorb this."

Of South American competition, Roper said, "They are paying a couple of dollars a week for labor down there. We have no business being in business."

Patten said he wasn't equipped to diversify into other crops, but was buying small amounts of flowers from Holland, Israel and South America. He said he was considering entering the wholesale flower business instead of growing them himself.

LOWER TEMPERATURE

Richard T. Gale, Jr., whose Helvetia Street greenhouses also specialize in carnations, said, "Our oil costs have gone up 700 per cent, from $2.05 a barrel for No. 6 oil to $14 to $15 a barrel now. We've been lowering temperatures at night, and we don't burn any more oil than we have to.

"Last winter we burned coal days in December and January, and grew some carnations, snap dragons and pom poms."

Gale couldn't predict how much longer his company could afford to keep going.

Stephen E. Kimball, another carnation grower with greenhouses at 276 Marshall St., said, "I just think I may be able to go through this year, but if the price of oil doesn't go down I won't next year. It is so expensive that I am just about working for the oil company. I may change my crop, but that would probably require higher temperatures."

GROWS OTHER PLANTS

Raymond Garlan, who operates greenhouses at 36 Chandler St., and retails flowers, said his firm, once a carnation specialist has only been growing plants lately.

He added, "I think it is going to be rough keeping going. I don't believe in a while it will be profitable to keep the greenhouse going. If it isn't, we will close it down and stick to the retail flower market."

Even as a retailer, Garlan admitted to problems. Keeping flowers grown elsewhere requires refrigeration. "When I saw my electric bill recently I almost dropped dead," he said. "The clean air part of it for running a retail flower shop was $117. You have to sell a lot of flowers to pay that."

John Hetzel, the plant manager of S. Arthur Peterson Inc., at 200 Pleasant St., has successfully converted from carnations to other plants after 35 years of growing carnation cuttings and selling them to other growers who grew the blooms.

FOLIAGE PLANTS PROFITABLE

His firm, he said, has entered the foliage plants market, which is at its peak. Those plants, he said, required warmer temperatures than carnations, but attracted better prices.

"I doubt if we'll ever return to carnations. We are doing well now," Hetzel said.

Barry R. Boyle reported his greenhouses at 275 Marshall St., were in trouble. The number 2 oil he uses has gone up recently from 13 to 14 cents a gallon to 32 cents now.

He said, "I was seriously considering closing up before Christmas and then reopening in the spring, but I'm pretty much committed to staying open all winter now. I'm on the borderline. I may make it through the winter and I may not."

Boyle viewed diversification with suspicion He said he feared everyone would enter the green plant or snapdragon market in the Boston area and lower prices.

BLAMES INFLATION'S EFFECT

The entire industry was in trouble, he said, because most persons would rather spend money on food than plants or flowers.

Boyle said in addition to higher fuel costs, growers also had to absorb fertilizer price rises that have seen that product upped from $7 to $8 a hundredweight to $14 for a similar amount. Plastic needed for greenhouses has increased 50 to 60 per cent in the past year, he added.

"With these costs," he said, "what has happened now is that I have no money available to put into the business, and repairs need to be done."

Gerald Trull, of Trull's Mill Hill Flower Center at 411 River Road, said, "We'll shut down three houses after Christmas and leave one small one open for small house plants. I guess I'll wait until Christmas and see what happens. I'm not going to run $20,000 to $30,000 in debt."

Whatever the effect of rising oil prices on carnation growers and some other greenhouse operators, many greenhouse operators and retail flower and plant firms reported good business somewhat hampered by higher costs.

PRICES RISE

Joseph Holler, owner of Holler's Garden Center & Greenhouses Inc., said, "It is very hard to pay the price of oil like we did last year. It cuts into our profits tremendously, and we have to get more money for our product to make some of the difference.

"We sell plants that we produce to local homeowners, cut flowers and holiday plants. The retail business is doing better than wholesalers.

"Our market hasn't shrunk. We have a 20 per cent increase over last year. People always buy flowers and plants, and we have a garden shop and sell fertilizer and a large variety of other products."

PASSES COSTS ON

Joseph C. Dasteous, general manager of F. I. Carter & Sons Inc. at 1630 Main St., said as a wholesaler such as his firm, unlike carnation growers, could pass some of its increased costs onto customers.

"Our oil bill this year will be three times more than it was last year," he said. Dasteous added, "It is a ridiculous situation when a basic industry can triple its price and effect the whole country without increasing its efficiency or anything."

Fred and Charlotte Carter reported their greenhouse business at 623 Chandler St. was doing well. They are in the plant business.

Mrs. Joan McCool's Lee's Greenhouses at 227 Whipple Road are doing well in the budding plants wholesale and retail business, she said.

OIL PRICE LOWERED

She complained of the rise in price of number 2 oil from 12 cents a gallon to a high of 41 or 43 cents a gallon last year, but she said she now paid 36.9 cents a gallon.

Frank Colantuonio's Tewksbury Florists at 402 Main St. includes two small greenhouses. He said the higher fuel prices has made his product more costly, but that his business was doing well.

It appears that although at one time more carnations were grown in Tewksbury than in any comparably sized area in the world, the only ones soon to be found there will be grown thousands of miles away or in the warm confines of a housewife's living room.

THE ST. LOUIS AIRPORT SITUATION

HON. STUART SYMINGTON

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Thursday, October 17, 1974

Mr. SYMINGTON. Mr. President, so that Members of the Senate may have at hand abundant facts and information concerning the St. Louis airport situation in addition to the comments offered in a recent issue of the RECORD by the distinguished senior Senator from Illinois, I address the matter of studies of the potential capacity of Lambert St. Louis International Airport and a proposal for a new Illinois airport.

My colleague has stated that study after study has shown that the facilities of Lambert Field were taxed to the maximum and could not be safely and adequately expanded. The Missouri-St. Louis Metropolitan Airport Authority has analyzed and summarized some 26 studies related to the Lambert St. Louis International Airport and found that a comprehensive study to determine the ultimate capacity of Lambert had never been undertaken.

This summer, however, the Department of Transportation did agree to partially finance a 6-month study in preparation of a master plan for development of Lambert to continue as the area's primary airport through 1995 or until the airport reaches its limit, whichever comes first.

The master plan study is a joint effort of the Missouri-St. Louis Metropolitan Airport Authority and the city of St. Louis undertaken by the Ralph M. Parsons consulting firm.

On October 14, the Parsons consulting firm presented an interim report in which the firm projected that the current level of 160,000 airline landings and takeoffs this year will increase only to 237,000 operations on an annual basis by 1995. This is a matter of some importance since these projections for metropolitan St. Louis are approximately half the projections made earlier in effort to show that a decision on a new Illinois airport was urgently needed.

The Parsons study will now focus on possible costs and methods for expansion of Lambert and will be completed in another 3 months. In addition to this study, Secretary of Transportation, Claude S. Brinegar, has also sought and obtained a St. Louis forecast by the firm of Peat, Marwick & Mitchell. The Department-ordered study was scheduled for completion in September but has not yet been made public. It is our understanding, based on preliminary reports, that the Peat, Marwick & Mitchell forecast of St. Louis passenger traffic is also approximately half of the earlier projections.

Traffic forecasts on which the FAA made recommendations for construction of a new airport were prepared in October 1972, and these forecasts have been overtaken by the impact of a new and developing energy situation which affects both the availability and the cost of aviation fuel.

The Illinois airport proposal, which may cost up to a billion dollars, is predicated on the theory that some 23.6 million emplanements will occur in 1995. This forecast is off by 100 percent according to the interim report by the Parsons consulting firm.

One reason for the lower projections may be found in the fact that larger airplanes will handle larger passenger levels.

Ninety-one percent of the area air travelers live in Missouri, and 78 percent of the population of the St. Louis region reside in my State. It is not at all surprising, therefore, that 92 percent of the voters in the city of St. Louis and the four surrounding Missouri counties opposed location of an airport across the river in Illinois and some 30 miles southeast of St. Louis and preferred use of Lambert St. Louis International Airport for so long as possible. Members of the Senate are fully aware that the Airport and Airway Development Act establishes that airport location is principally a local decision.

All these reasons show it is extremely important that Lambert's potential capacity be determined, along with the costs associated with such an expansion before any decision is made on a new airport. This procedure now underway, is thoroughly consistent with the recommendation made by the President's Aviation Advisory Commission which called for the determination of expansion potential of existing airports before considering construction of major new airports. It clearly would be wrong in my opinion, for the Federal Government to decide to build a new airport at a cost of hundreds of millions of dollars until the capabilities and capacities of Lambert Field are known.

My colleague, Senator PERCY, states that no further delays can be afforded in an airport decision, and he suggests ominously that "the lives of airline passengers may be put in jeopardy while the politicians and bureaucrats continue their bickering over where to put the new airport."

We are all concerned with safety, but we all recognize that it is necessarily a relative matter. In relative terms then, if there is a true concern about safety, other airports than St. Louis would head the list.

I want to assure my colleagues of the following facts with regard to the important question of safety. Let me point out that Lambert St. Louis International Airport has 2,000 acres. That compares to the 650 acres at Washington National, and the 580 acres at La Guardia Field. Currently there are 178,500 airline takeoffs and landings at Lambert, while the much smaller Washington National has 220,000 and the even smaller La Guardia Field has 295,000 air carrier movements.

The amount of traffic at Washington National this year is approximately what is forecast for St. Louis in 1995.

Certainly at a time when Members of Congress will seek to spend our national resources with care, we should not hasten a decision to spend millions of dollars which are not now shown to be required by the circumstances.

In time, Congress may have an opportunity to consider anew the wisdom of the type and character of airport constructions such as that proposed in Illinois—this in that the Airport and Airways Development Act will come up for examination and renewal at the end of this fiscal year. Hearings will be held, and there will be an opportunity to consider the major airport policies that the Secretary of Transportation favors in light of the energy forecast and the potential for technological developments in airplanes and instruments for handling airplane traffic.

To summarize, it is my opinion that the facts do not justify any rush to a decision for the construction of a new airport of 1,500 acres at an Illinois location far away and across the river from the overwhelming majority of the users in metropolitan St. Louis, Mo. There will be time enough for decision when the current studies are completed and there is an opportunity for the people of St. Louis and the metropolitan region to consider the costs and alternatives.

DISTINGUISHED TENNESSEE COLUMNIST CALLS FOR COOPERATIVE POLITICS TO SOLVE NATION'S PROBLEMS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. EVINS of Tennessee. Mr. Speaker, Col. J. Bill Frame of Lebanon, Tenn., the distinguished columnist for the Lebanon Democrat, in a recent column emphasized that the Democratic sweep is a mandate for action to solve the Nation's problems and particularly the economic problems through cooperative politics.

Colonel Frame urges that partisan politics be put aside in the national interest so that Congress and the President can move foward to find solutions to the Nation's pressing problems. In my view there will be cooperation and "cooperative politics" to solve these problems.

Mr. Frame says that the "prayers of the Nation" will support the efforts of the 94th Congress to respond decisively and effectively to these problems besetting our Nation.

Because of the interest of my colleagues and the American people, I place the column by Colonel Frame in the RECORD herewith.

The article follows:

OUR PROBLEMS CALL FOR COOPERATIVE POLITICS

(By J. Bill Frame)

As expected and predicted, the Democrats won just about everything in sight in last week's election. They now control almost every major office except the White House, and they have a strangle hold on that.

President Ford's campaign in which he cited a "veto proof" Congress as disastrous for the nation was not accepted by the voters. And it should not have been.

All of the "big spenders" in the Congress are not on the Democrat side of the aisle, and neither are all of the conservatives on the Republican side. From votes in recent years, it is obvious that factors other than partisan politics decide how many members vote on all issues.

There is one thing certain. That is that the prayers of the nation are that those who were elected to office—state and national—not only can but will be able to do what they all promised: Find answers to the problems that are giving us so much concern.

While the subject of Watergate scandals played a part in some of the elections at least, I firmly believe that it was inflation, rising prices, unemployment, and the unsettled condition of the world at large that influenced the voting.

If there are any answers to our problems, and if the President and the Congress are really desirous of solving them, and finding those answers, then partisan politics will be dropped, and all efforts will be concentrated on finding those answers.

If the new Congress can come up with some answers, at least to some of the problems facing us, then by the middle of 1975 we should begin to see some results.

There is one nagging question in my mind about this election, as it is in most elections. That is: Just how much influence did the special interest groups have on the outcome?

We read in our newspapers about the heavy contributions of money and effort by quite a number of groups, labor unions, industry, and business for a number of candidates. Many of them won.

Now will those who won pay off their debts to these groups by continuing favorable legislation that will enhance the profits of some, and provide lucrative jobs for others, or will they have as their major concern the welfare of the nation as a whole?

That to me, is the big question.

As an example, a maritime union was plugging for special legislation to force the use of American ships for much of our overseas trade. Now it costs considerably more to ship in American ships than in foreign. If this legislation is approved, it will mean that we, the consumers, will be paying more for many products.

And, unfortunately, that is not the only special interest group that is desirious of having legislation passed favorable to them, and injurious to the public.

Another interesting sidelight to the election was carried on by one of the major electronic networks.

The question was asked about how those who voted felt about wage and price controls. And, believe it or not, well over half of those asked favored reenactment of those controls.

Now economists say it will not work, but maybe we have never really tried to make such controls work. Some folk have always managed to escape abiding by the controls.

Anyway, those who voted, at least a majority, want these controls tried again.

Finally, another disturbing factor about that election was the fact that only about 40 percent of the eligible voters took the trouble to vote.

That perhaps spells something for us. Maybe psychologists will tell us in a few weeks just what it presages for our nation.

It cannot be good.

WORLD FOOD CONFERENCE STAMP

HON. HUBERT H. HUMPHREY

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Thursday, October 17, 1974

Mr. HUMPHREY. Mr. President, I announce my intention to introduce a joint resolution, when Congress reconvenes in November, relating to the issuance of a special postage stamp commemorating the World Food Conference.

It will be my privilege to participate in this conference as a member of the U.S. congressional delegation. Members will recall that the Senate called for a forthright U.S. position on key issues that will confront this conference, in adopting my resolution, Senate Resolution 329, last August. This resolution spelled out the essential elements of an international effort to reduce the risk of famine and lessen human suffering.

It is my sincere hope that substantial progress will be achieved at this conference toward establishing a world food action program in line with my original proposal in an address to a United Nations conference last May—including increased food aid, establishing national and world food reserve programs, stepping up fertilizer production, and expanding agriculture production.

Mr. President, emergency action is required to address the hunger and starvation that threaten millions of people throughout the world. In addition, agriculture production, distribution, and trade systems of the community of nations are now threatened by major destabilizing factors. Developed and developing nations must now come together in a concerted effort to meet an historic challenge to provide adequate food supplies at reasonable prices for their people over the coming years. At the same time, we must assure our farmers the opportunity to produce at a profit.

An essential step to achieve greater world food security is the development of an effective international food information and early warning system. My colleagues will recall that the Office of Technology Assessment, as an agency of Congress, has been engaged in an in-depth analysis of national and international food information systems, based on my original proposal. Interim reports from this assessment have led me to propose to the U.S. delegation to the World Food Conference a series of measures to improve substantially our food and agriculture information systems. In particular, I have recommended that the conference be called upon to consider the establishment of a world food and agriculture information center.

Mr. President, my initial suggestion to Secretary Kissinger which led to his recommendation last year that a World Food Conference be convened, was based on a deep conviction that we confront an international situation of profound urgency and historic opportunity. It is to underscore this fact that I shall introduce legislation to provide that a special postage stamp be issued to commemorate the World Food Conference.

Mr. President, I ask unanimous consent that the text of my proposed joint resolution be printed in the RECORD.

There being no objection, the proposed joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. —

Whereas the World Food Conference, held in Rome this fall, was at the initiative of the United States; and

Whereas over 140 nations, realizing the urgency of the issue of food security participated in this initiative; and

Whereas world food security has become one of the most pressing public policy issues facing this nation and other nations throughout the world; and

Whereas the United States as the world's most important producer of foodstuffs must play a leadership role in addressing the problem of food security; and

Whereas future food security requires the involvement of all citizens both directly through continuing appreciation and support of our American farm production system—the most efficient in the world—as well as a recognition of actions which individual consumers can take to conserve and secure the availability of our food resources: Now, therefore, in order to bring appropriate public attention to this most crucial initiative, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That in conjunction with the World Food Conference held in Rome November 5-16, 1974, the United States Postal Service is authorized and directed to issue during the fiscal year 1975 a special postage stamp commemorating this meeting. Such series shall be issued in such denomination and such design as the Postal Service shall determine.

Furthermore, the President is urged to call upon other nations of the world, through the United Nations, to likewise issue their own stamps commemorating the World Food Conference.

DR. BURRELL K. JOHNSON: CIVIC LEADER

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. MURTHA. Mr. Speaker, a community is only as strong as the individual commitment and concern of its citizens, and Johnstown, Mr. Speaker, is very properly honoring a man who has helped our community tremendously.

That man is Dr. Burrell K. Johnson. A graduate of Johnstown High School, and later the University of Pittsburgh Dental School, Dr. Johnson has worked at these civic activities: The Boy Scouts, Human Relations Commission, Teen Canteen Board, Police Advisory Commission, YMCA, and the area vocational-technical school.

Also deserving a separate mention is his service for 9 years as president of the Johnstown branch of the NAACP and his 2½ years as Pennsylvania State Conference of Branches president.

It is fitting, Mr. Speaker, that we honor this man of dedication and purpose in Johnstown. And I am pleased to extend to him on behalf of the U.S. Congress, all best wishes for continued success in his community activities.

DISTRIBUTION FORMULA AND ALLOCATION OF FUNDS TO URBANIZED AREAS UNDER S. 386, MINISH-WILLIAMS MASS TRANSIT BILL

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. MINISH. Mr. Speaker, the conference report on S. 386, now pending before the House Rules Committee, authorizes a new formula grant program for urban mass transit. Section 5(b) authorizes an apportionment formula that provides for distribution of one-half of the funds on the basis of population and one-half on the basis of a density weighing of population. Funds can be used for either capital expenditures or operating expenses at local discretion.

Although the legislation does not describe the mathematical definition of how density weighting of population is to be done, the Department of Transportation has provided me with the definition they intend to use in determining the density weighting of population. This is defined as the product of population times density, summed for all urbanized areas, and a ratio for each case is calculated to the base.

The Department of Transportation has also provided me with a list of funds the urbanized areas would receive of the $3.975 million authorized for the formula grant program. Multi-State urbanized areas are treated as a single unit to compute its share and then this share is apportioned among the States on the basis of the same formula. Funds are attributed to urbanized areas over 200,000 population where they are earmarked. Below 200,000 population the funds go to the States for reallocation to these urbanized areas. These amounts are indicated.

Please keep in mind that the table inserted here includes only funds from the formula grant portion of S. 386. An additional $7.9 billion would be available under the bill for capital projects. The capital funds will be assigned on a project-by-project basis at secretarial discretion.

For your information the funds allocated to the category B cities of H.R. 12859, which has passed the House but not the Senate, are also included in this list. Both S. 386 and H.R. 12859 authorize a total of over $11 billion to finance capital and operating needs. However, the bills have different methods of funding, and these differences will have an important effect upon the urbanized areas in each Member's district. For this reason I submit the following list for comparison:

COMPARISON OF DISTRIBUTION OF FUNDING LEVELS FOR REVISED S. 386 SUBMITTED OCT. 3, 1974, AND H.R. 12859 OF AUG. 20, 1974, OCT. 22, 1974

[Funding 1975-80 dollars]

	S. 386 [1]	H.R. 12859, category B [2]
Alabama:		
Birmingham	14, 733, 000	10, 629, 000
Columbus urbanized area (Alabama portion)	546, 000	481, 000
Mobile	5, 805, 000	4, 910, 000
Combined: Anniston, Florence, Gadsden, Huntsville, Montgomery, Tuscaloosa	13, 170, 000	10, 683, 000
Total, Alabama	34, 256, 000	26, 730, 000
Alaska: Combined: Anchorage (total)	2, 720, 000	2, 109, 000
Arizona:		
Phoenix	21, 889, 000	16, 443, 000
Tucson	8, 155, 000	5, 602, 000
Total, Arizona	30, 045, 000	22, 045, 000
Arkansas:		
Little Rock-North Little Rock	5, 742, 000	4, 239, 000
Combined: Fort Smith urbanized area (Arkansas portion), Pine Bluff, Texarkana urbanized area (Arkansas portion)	3, 841, 000	2, 972, 000
Total, Arkansas	9, 584, 000	7, 211, 000
California:		
Fresno	7, 838, 000	5, 007, 000
Los Angeles-Long Beach	316, 566, 000	159, 053, 000
Oxnard-Ventura-Thousand Oaks	6, 169, 000	4, 659, 000
Sacramento	17, 014, 000	12, 069, 000
San Bernardino-Riverside	13, 979, 000	11, 114, 000
San Diego	34, 868, 000	22, 822, 000
San Francisco-Oakland	102, 001, 000	(3)
San Jose	32, 131, 000	19, 526, 000
Combined: Antioch-Pittsburgh, Bakersfield, Modesto, Salinas, Santa Barbara, Seaside-Monterey, Simi Valley, Stockton	28, 729, 000	18, 915, 000
Total, California	559, 297, 000	253, 175, 000
Colorado:		
Colorado Springs	5, 230, 000	3, 899, 000
Denver	32, 302, 000	19, 946, 000
Combined: Boulder, Pueblo	5, 538, 000	3, 275, 000
Total, Colorado	43, 071, 000	27, 120. 000
Connecticut:		
Bridgeport	11, 405, 000	7, 872, 000
Hartford	14, 315, 000	8, 856, 000
New Haven	10, 274, 000	6, 634, 000
Springfield-Chicopee-Holyoke urbanized area (Connecticut portion)	1, 525, 000	1, 107, 000
Combined: Bristol, Danbury, Meriden, New Britain, New London-Norwich, Norwalk, Stamford, Waterbury	24, 648, 000	18, 207, 000
Total, Connecticut	62, 169, 000	42, 676, 000
Delaware: Wilmington urbanized area (Delaware portion) (total)	10, 665, 000	6, 659, 000
District of Columbia: Washington urbanized area (District of Columbia portion) (total)	41, 488, 000	14, 408, 000
Florida:		
Fort Lauderdale-Hollywood	17, 233, 000	11, 690, 000
Jacksonville	11, 875, 000	10, 086, 000
Miami	43, 265, 000	23, 228, 000
Orlando	7, 859, 000	5, 817, 000
St. Petersburg	14, 281, 000	9, 430, 000
Tampa	10, 246, 000	7, 022, 000
West Palm Beach	7, 150, 000	5, 476, 000
Combined: Daytona Beach, Fort Myers, Gainesville, Lakeland, Melbourne-Cocoa, Pensacola, Sarasota-Bradenton, Tallahassee	22, 253, 000	17, 356, 000
Total, Florida	134, 155, 000	90, 105, 000
Georgia:		
Atlanta	31, 968, 000	22, 336, 000
Chattanooga urbanized area (Georgia portion)	705, 000	551, 000
Columbus urbanized area (Georgia portion)	4, 516, 000	3, 491, 000
Combined: Albany, Augusta urbanized area (Georgia portion), Macon, Savannah	13, 219, 000	9, 430, 000
Total, Georgia	50, 409, 000	35, 808, 000
Hawaii: Honolulu (total)	14, 130, 000	8, 425, 000
Idaho: Combined: Boise City	2, 392, 000	1, 622, 000
Illinois:		
Aurora-Elgin	6, 668, 000	4, 436, 000
Chicago urbanized area (Illinois portion)	239, 062, 000	(3)
Davenport-Rock Island-Moline urbanized area (Illinois portion)	3, 759, 000	2, 663, 000
Peoria	6, 354, 000	4, 706, 000
Rockford	6, 189, 000	3, 924, 000
St. Louis urbanized area (Illinois portion)	8, 213, 000	5, 989, 000
Combined: Alton, Bloomington-Normal, Champaign-Urbana, Decatur, Dubuque urbanized area (Illinois portion), Joliet, Springfield	19, 289, 000	12, 270, 000
Total, Illinois	289, 536, 000	33, 988, 000
Indiana:		
Chicago urbanized area (Indiana portion)	13, 926, 000	(3)
Fort Wayne	6, 658, 000	4, 288, 000
Indianapolis	20, 543, 000	15, 622, 000
Louisville urbanized area (Indiana portion)	2, 285, 000	1, 551, 000
South Bend urbanized area (Indiana portion)	7, 441, 000	5, 049, 000
Combined: Anderson, Evansville, Lafayette-West Lafayette, Muncie, Terre Haute	13, 935, 000	9, 023, 000
Total, Indiana	64, 791, 000	35, 533, 000
Iowa:		
Des Moines	6, 608, 000	4, 872, 000
Davenport-Rock Island-Moline urbanized area (Iowa portion)	3, 001, 000	2, 405, 000
Omaha urbanized area (Iowa portion)	1, 425, 000	1, 235, 000
Combined: Cedar Rapids, Dubuque urbanized area (Iowa portion), Sixoux City urbanized area (Iowa portion), Waterloo	9, 488, 000	7, 508, 000
Total, Iowa	20, 523, 000	16, 020, 000
Kansas:		
Kansas City urbanized area (Kansas portion)	9, 363, 000	6, 669, 000
Wichita	8, 463, 000	5, 758, 000
Combined: Topeka, St. Joseph urbanized area (Kansas portion)	3, 522, 000	2, 541, 000
Total, Kansas	21, 349, 000	14, 968, 000
Kentucky:		
Cincinnati urbanized area (Kentucky portion)	5, 534, 000	3, 751, 000
Louisville urbanized area (Kentucky portion)	20, 315, 000	12, 530, 000
Combined: Lexington, Owensboro	8, 106, 000	5, 066, 000
Total, Kentucky	33, 955, 000	21, 347, 000
Louisiana:		
Baton Rouge	7, 056, 000	4, 751, 000
New Orleans	36, 119, 000	18, 316, 000
Shreveport	6, 194, 000	4, 467, 000
Combined: Alexandria, Lafayette, Lake Charles, Monroe	8, 905, 000	6, 380, 000
Total, Louisiana	58, 275, 000	33, 914, 000
Maine: Combined: Lewiston-Auburn, Portland (total)	3, 883, 000	3, 272, 000
Maryland:		
Baltimore	58, 533, 000	30, 087, 000
Washington urbanized area (Maryland portion)	29, 176, 000	19, 219, 000
Total, Maryland	87, 710, 000	49, 307, 000
Massachusetts:		
Boston	82, 292, 000	(3)
Lawrence-Haverhill urbanized area (Massachusetts portion)	4, 803, 000	3, 474, 000
Providence-Pawtucket-Warwick urbanized area (Massachusetts portion)	1, 604, 000	1, 256, 000
Springfield - Chicopee - Holyoke urbanized area (Massachusetts portion)	11, 383, 000	8, 687, 000
Worcester	6, 980, 000	4, 712, 000
Combined: Brocton, Fall River Urbanized Area (Massachusetts portion), Fitchburg-Leominster, Lowell, New Bedford, Pittsfield	20, 503, 000	13, 898, 000
Total, Massachusetts	131, 566, 000	32, 027, 000
Michigan:		
Detroit	138, 232, 000	75, 621, 000
Flint	9, 978, 000	6, 287, 000
Grand Rapids	9, 206, 000	6, 717, 000
Lansing	6, 658, 000	4, 371, 000
South Bend urbanized area (Michigan portion)	557, 000	446, 000
Toledo urbanized area (Michigan portion)	255, 000	225, 000
Combined: Ann Arbor, Battle Creek, Bay City, Jackson, Kalamazoo, Muskegon-Muskegon Heights	22, 845, 000	15, 592, 000
Total, Michigan	187, 734, 000	109, 259, 000
Minnesota:		
Minneapolis-St. Paul	44, 150, 000	32, 461, 000
Combined: Duluth-Superior urbanized area (Minnesota portion), LaCrosse urbanized area (Minnesota portion), Fargo-Morehead urbanized area, (Minnesota portion), Rochester, St. Cloud	9, 041, 000	6, 246, 000
Total, Minnesota	53, 192, 000	38, 707, 000
Mississippi:		
Memphis urbanized area (Mississippi portion)	261, 000	170, 000
Combined: Biloxi-Gulfport, Jackson	8, 056, 000	5, 935, 000
Total, Mississippi	8, 318, 000	6, 105, 000
Missouri:		
Kansas City urbanized area (Missouri portion)	21, 499, 000	14, 314, 000
St. Louis urbanized area (Missouri portion)	53, 789, 000	29, 872, 000
Combined: Columbia, St. Joseph urbanized area, Springfield	6, 224, 000	4, 885, 000
Total, Missouri	81, 513, 000	49, 071, 000
Montana: Combined: Billings, Great Falls (total)	4, 019, 000	2, 706, 000
Nebraska:		
Omaha urbanized area (Nebraska portion)	13, 090, 000	8, 131, 000
Combined: Lincoln, Sioux Falls urbanized area (Nebraska portion)	4, 785, 000	3, 073, 000
Total, Nebraska	17, 875, 000	11, 204, 000
Nevada:		
Las Vegas	5, 736, 000	4, 507, 000
Combined: Reno	2, 702, 000	1, 899, 000
Total, Nevada	8, 438, 000	6, 406, 000
New Hampshire:		
Lawrence-Haverhill urbanized area (New Hampshire portion)	389, 000	339, 000
Combined: Manchester, Nashua	3, 936, 000	2, 973, 000
Total, New Hampshire	4, 325, 000	3, 312, 000
New Jersey:		
Allentown-Bethlehem-Easton, urbanized area (New Jersey portion)	804, 000	479, 000
New York urbanized area (New Jersey portion)	140, 981, 000	(3)
Philadelphia urbanized area (New Jersey portion)	21, 731, 000	(3)
Trenton urbanized area (New Jersey portion)	8, 237, 000	4, 621, 000
Wilmington urbanized area (New Jersey portion)	491, 000	411, 000
Combined: Atlantic City, Vineland-Millville	4, 728, 000	3, 955, 000
Total, New Jersey	176, 975, 000	9, 466, 000
New Mexico: Albuquerque (total)	7, 991, 000	5, 665, 000
New York:		
Albany-Schnectady-Troy	14, 324, 000	9, 266, 000
Buffalo	40, 180, 000	20, 694, 000
New York urbanized area (New York portion)	563, 690, 000	(3)
Rochester	19, 893, 000	11, 453, 000
Syracuse	12, 111, 000	7, 164, 000
Combined: Binghamton, Elmira, Poughkeepsie, Utica-Rome	14, 210, 000	9, 986, 000
Total, New York	664, 412, 000	58, 653, 000

Footnotes at end of table.

COMPARISON OF DISTRIBUTION OF FUNDING LEVELS FOR REVISED S. 386 SUBMITTED OCT. 3, 1974, AND H.R. 12859 OF AUG. 20, 1974, OCT. 22, 1974—Continued

[Funding 1975-80 dollars]

	S. 386[1]	H.R. 12859, category B[2]
North Carolina:		
Charlotte	7,561,000	5,323,000
Combined: Asheville, Burlington, Durham, Fayetteville, Gastonia, Greensboro, High Point, Raleigh, Wilmington, Winston-Salem	27,057,000	20,713,000
Total, North Carolina	34,619,000	26,036,000
North Dakota:		
Combined: Fargo-Moorhead urbanized area (North Dakota portion) (total)	1,153,000	609,000
Ohio:		
Akron	14,731,000	10,337,000
Canton	7,123,000	4,652,000
Cincinnati urbanized area (Ohio portion)	27,525,000	17,398,00
Cleveland	56,110,000	(3)
Columbus	23,698,000	15,046,000
Dayton	19,713,000	13,064,000
Toledo urbanized area (Ohio portion)	13,542,000	9,064,000
Youngstown-Warren	11,393,000	7,533,000
Combined: Hamilton, Lima, Lorain-Elyria, Mansfield, Springfield, Steubenville-Weirton urbanized area (Ohio portion), Wheeling urbanized area (Ohio portion)	17,791,000	12,223,000
Total, Ohio	191,630,000	89,317,000
Oklahoma:		
Oklahoma City	13,478,000	11,042,000
Tulsa	9,169,000	7,075,000
Combined: Fort Smith urbanized area (Oklahoma portion), Lawton	2,445,000	1,862,000
Total, Oklahoma	25,093,000	19,979,000
Oregon:		
Portland urbanized area (Oregon portion)	21,943,000	14,317,000
Combined: Eugene, Salem	6,167,000	4,424,000
Total, Oregon	28,111,000	18,741,000
Pennsylvania:		
Allentown - Bethlehem - Easton urbanized area (Pennsylvania portion)	10,604,000	6,388,000
Harrisburg	6,929,000	4,585,000
Philadelphia urbanized area (Pennsylvania portion)	131,291,000	(3)
Pittsburgh	53,317,000	35,158,000
Scranton	5,050,000	3,889,000
Trenton urbanized area (Pennsylvania portion)	527,000	599,000
Wilkes-Barre	6,076,000	4,243,000
Combined: Altoona, Erie, Johnstown, Lancaster, Reading, Williamsport, York	25,679,000	15,774,000
Total, Pennsylvania	239,478,000	70,636,000
Rhode Island:		
Providence-Pawtucket-Warwick, urbanized area (Rhode Island portion)	21,891,000	13,890,000
Combined: Fall River urbanized area (Rhode Island portion)	322,000	303,000
Total, Rhode Island	22,214,000	14,193,000
South Carolina:		
Charleston	5,859,000	4,349,000
Columbia	6,241,000	4,604,000
Combined: Augusta urbanized area (South Carolina portion), Greenville, Spartanburg	6,275,000	4,818,000
Total, South Carolina	18,376,000	13,771,000
South Dakota: Combined: Sioux City urbanized area (South Dakota portion), Sioux Falls (total)	2,094,000	1,447,00
Tennessee:		
Chattanooga urbanized area (Tennessee portion)	4,683,000	3,706,000
Memphis urbanized area (Tennessee portion)	19,746,000	12,475,000
Nashville-Davidson	9,687,000	8,540,000
Combined: Kingsport urbanized area (Tennessee portion), Knoxville	6,310,000	4,892,000
Total, Tennessee	40,428,000	29,613,000
Texas:		
Austin	7,626,000	5,037,000
Corpus Christi	4,880,000	4,053,000
Dallas	32,623,000	25,495,000
El Paso	9,377,000	6,427,000
Fort Worth	15,731,000	12,892,000
Houston	48,596,000	31,955,000
San Antonio	23,477,000	14,712,000
Combined: Abilene, Amarillo, Beaumont, Brownsville, Bryan-College Station, Galveston, Harlingen-San Benito, Killeen, Laredo, Lubbock, McAllen-Pharr-Edinburg, Midland, Odessa, PortArthur, SanAngelo, Sherman-Denison, Texarkana urbanized area (Texas portion), Texas City-LaMarque, Tyler, Waco, Wichita Falls	41,747,000	32,574,000
Total, Texas	184,061,000	133,145,000
Utah:		
Salt Lake City	12,880,000	9,129,000
Combined: Ogden, Provo-Orem	6,309,000	4,834,000
Total, Utah	19,189,000	13,963,000
Virginia:		
Newport News-Hampton	6,413,000	5,109,000
Norfolk-Portsmouth	16,962,000	12,727,000
Richmond	11,668,000	7,933,000
Washington urbanized area (Virginia portion)	20,420,000	13,633,000
Combined: Kingsport urbanized area (Virginia portion) Lynchburg, Petersburg-Colonial Heights, Roanoke	8,642,000	6,333,000
Total, Virginia	64,107,000	45,735,000
Washington:		
Portland urbanized area (Washington portion)	1,876,000	1,393,000
Seattle-Everette	35,265,000	23,580,000
Spokane	6,497,000	4,373,000
Tacoma	8,912,000	6,333,000
Combined: Richland-Kennewick, Yakima	3,359,000	2,590,000
Total, Washington	55,910,000	38,269,000
West Virginia: Combined: Charleston, Huntington urbanized area (West Virginia portion), Parkersburg urbanized area (West Virginia portion), Steubenville-Weirton urbanized area (West Virginia portion), Wheeling Urbanized area (West Virginia portion) (total)	10,606,000	7,588,000
Wisconsin:		
Madison	5,842,000	3,913,000
Milwaukee	34,384,000	23,853,000
Combined: Appleton, Duluth-Superior urbanized area (Wisconsin portion), Green Bay, Kenosha, LaCrosse urbanized area (Wisconsin portion), Oshkosh, Racine	16,445,000	10,506,000
Total, Wisconsin	56,673,000	38,272,000
Puerto Rico:		
San Juan	52,962,000	20,646,000
Combined: Caguas, Mayaguez, Ponce	11,681,000	5,021,000
Total, Puerto Rico	64,644,000	25,667,000

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[1] S. 386, in addition to formula grant money indicated above, cities are also eligible for $7.8 billion over the next 6 years in capital discretionary funding.

[2] H.R. 12859, category B cities are also eligible for category C funds for capital purposes only at the Secretary's discretion at a 6 year level of $2.9 billion.

[3] H.R. 12859 provides discretionary funding to 6 cities with rail systems or capital commitments to rail (A category).

GENERAL BROWN SHOULD BE DISMISSED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. BIAGGI. Mr. Speaker, while I was pleased to see that President Ford rebuked Gen. George S. Brown, chairman of the Joint Chiefs of Staff, for his unfounded and crude anti-Semitic remarks, I regret that this reprimand does not go far enough. As a result of the millions of dollars being spent by the anti-Israel Arab lobby in the United States and the new-found prestige given the Palestine Liberation Organization in the United Nations, there is a strong likelihood that enemies of Israel will consider themselves as having won a victory as long as General Brown remains in office.

Arab propaganda not only stresses the illegitimacy of Israel to exist as an independent nation, but it also seeks to stir up anti-Semitism in our country. In view of the linkage in Arab eyes between the fate of Israel and American Jews, General Brown's remaining in this critical post will be interpreted as a wavering of the administration's commitment to Israel.

True, everyone in fairness should be permitted one mistake at least before judgment is passed. But General Brown's assertions that Jews control the banks and newspapers in this country, and that Israel had undue influence in Congress, represent such a false and prejudiced view of the American political process that one cannot but seriously doubt General Brown's capacity to pass judgment on similar issues involving the relationship between interest groups, public opinion, and government.

Having always supported a strong and responsible defense posture, I find it difficult to understand how a person publicly espousing such ideas as General Brown could have reached the top uniformed position in our Armed Forces. As a result of the severe economic problems facing our country, clearly during the next Congress serious pressures will emerge to sharply reduce military spending. As long as our country is to retain its military strength there are levels below which we cannot reduce military spending without endangering our security. I fear that as a result of the erosion of congressional confidence in General Brown in the wake of his anti-Semitic comments, he will not be in a strong position to present the Pentagon's case as its chief uniformed officer.

Accordingly, despite General Brown's apologies and President Ford's rebuke, it is in the interest of our defense budget as well as in the need of not encouraging Arab anti-Semites as to their political influence in America, that I call for General Brown's removal.

QUESTIONNAIRE

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. MOSS. Mr. Speaker, in October, I again sent out my annual questionnaire to determine the views of my constituents on a number of major issues facing the Nation. The responses have been tabulated by computer as follows:

	His		Hers		Total	
	Number	Percent	Number	Percent	Number	Percent
1. Of the following issues, which do you consider to be the most important (choose as many as 5):						
(A) Cost of living	10,157	86.3	9,983	87.8	20,140	87.0
(B) Federal tax reform	5,350	45.4	4,994	43.9	10,344	44.7
(C) Health care	3,625	30.8	4,189	36.8	7,814	33.8
(D) Environmental protection	3,767	32.0	3,927	34.5	7,694	33.2
(E) Consumer protection	4,680	39.7	4,798	42.2	9,478	40.9
(F) Unemployment	4,726	40.1	4,837	42.5	9,563	41.3
(G) Crime	6,619	56.2	6,524	57.3	13,143	56.8
(H) Energy shortage	4,913	41.7	4,325	38.0	9,238	39.9
(I) Drug abuse	1,676	14.2	1,926	16.9	3,602	15.6
Total	11,774	100.0	11,376	100.0	23,150	100.0
2. How do you rate the work of the 93d Congress:						
(A) Good	672	6.2	676	6.5	1,348	6.3
(B) Average	3,961	36.3	4,244	40.7	8,205	38.4
(C) Poor	6,290	57.6	5,511	52.8	11,801	55.3
Total	10,923	100.0	10,431	100.0	21,354	100.0
3. In regard to campaign reform, would you prefer:						
(A) Complete public financing of all Federal elections	2,772	26.7	2,584	26.0	5,356	26.3
(B) Combination of public and private financing of Federal elections with strict limitation on size of private contributions and full disclosure of their sources	3,781	36.4	3,872	38.9	7,653	37.6
(C) Continuation of present private financing system but with strict limitation on size of private contributions and full disclosure of their sources	3,843	37.0	3,494	35.1	7,337	36.1
Total	10,396	100.0	9,950	100.0	20,346	100.0
4. Concerning a national health insurance program, would you prefer:						
(A) A comprehensive insurance plan financed by payroll taxes which would provide full medical and hospital care at no extra costs to patients	3,115	29.3	2,849	28.2	5,964	28.8
(B) A comprehensive insurance plan providing complete coverage, financed out of the general treasury	3,263	30.7	3,271	32.4	6,534	31.6
(C) Continuation of the existing system of private coverage, supplemented by Medicare and Medicaid	4,237	39.9	3,965	39.3	8,202	39.6
Total	10,615	100.0	10,085	100.0	20,700	100.0
5. (A) Should ex-President Nixon have been impeached:						
Yes	7,741	68.4	7,283	66.3	15,024	67.3
No	2,734	24.1	2,665	24.3	5,399	24.2
Undecided	850	7.5	1,035	9.4	1,885	8.4
Total	11,325	100.0	50,983	100.0	22,308	100.0
(B) Should he be granted any form of immunity for criminal misconduct:						
Yes	2,617	23.4	2,341	21.7	4,958	22.6
No	7,816	70.0	7,538	69.8	15,354	69.9
Undecided	739	6.6	923	8.5	1,662	7.6
Total	11,172	100.0	10,802	100.0	21,974	100.0
6. (A) Should no-fault auto insurance be instituted at the Federal level:						
Yes	6,420	61.1	5,617	56.4	12,037	58.8
No	3,038	28.9	2,849	28.6	5,887	28.8
Undecided	1,043	9.9	1,495	15.0	2,538	12.4
Total	10,501	100.0	9,961	100.0	20,462	100.0
(B) At the State level:						
Yes	4,852	53.1	4,311	49.6	9.163	51.4
No	3,181	34.8	2,895	33.3	2,076	34.1
Undecided	1,106	12.1	1,490	17.1	2,596	14.6
Total	9,139	100.0	8,696	100.0	17,835	100.0
(C) Would you be willing to give up the traditional right to sue under "tort" liability principles for immediate payment without regard to "fault":						
Yes	4,776	48.4	4,072	44.3	8,848	46.4
No	3,287	33.3	2,989	32.5	6,276	32.9
Undecided	1,799	18.2	2,139	23.3	3,938	20.7
Total	9,862	100.0	9,200	100.0	19,062	100.0
7. (A) Do you favor military aid to South Vietnam (currently costing about $1,000,000,000 per year):						
Yes	1,187	11.0	779	7.5	1,966	9.3
No	9,104	84.5	9,114	87.7	18,218	86.1
Undecided	486	4.5	495	4.8	981	4.6
Total	10,777	100.0	10,388	100.0	21,165	100.0
(B) Do you favor nonmilitary aid to South Vietnam:						
Yes	4,195	39.1	3,884	37.6	8,079	38.4
No	5,786	53.9	5,575	54.0	11,361	54.0
Undecided	751	7.0	866	8.4	1,617	7.7
Total	10,732	100.0	10,325	100.0	21,057	100.0
(C) North Vietnam:						
Yes	1,201	11.3	1,069	10.4	2,270	10.9
No	9,025	84.7	8,610	84.1	17,635	84.4
Undecided	430	4.0	564	5.5	994	4.8
Total	10,656	100.0	10,243	100.0	20,899	100.0
(D) Do you favor any aid of a military nature to countries ruled by dictators or juntas:						
Yes	896	8.4	558	5.4	1,454	6.9
No	8.853	83.0	8,961	87.2	17,814	85.0
Undecided	922	8.6	761	7.4	1,683	8.0
Total	10,671	100.0	10,280	100.0	20,951	100.0
8. (A) In regard to the war in Vietnam do you favor granting amnesty to deserters:						
Yes	3,553	32.7	3,793	36.1	7,346	34.4
No	6,565	60.4	5,700	54.3	12,265	57.4
Undecided	749	6.9	1,010	9.6	1,759	8.6
Total	10,867	100.0	10,503	100.0	21,370	100.0
(B) Conscientious objectors:						
Yes	6,318	58.3	6,367	61.0	12,685	59.6
No	3,661	33.8	3,147	30.1	6,808	32.0
Undecided	853	7.9	924	8.9	1,777	8.4
Total	10,832	100.0	10,438	100.0	21,270	100.0
(C) Draft evaders:						
Yes	3,729	34.5	3,796	36.5	7,525	35.5
No	6,359	58.9	5,703	54.8	12,062	56.9
Undecided	709	6.6	915	8.8	1,624	7.7
Total	10,797	100.0	10,414	100.0	21,211	100.0
9. (A) Should we continue to build multipurpose dams for the purpose of flood control, reclamation and hydroelectric power:						
Yes	8,475	77.6	7,859	74.9	16,334	76.3
No	1,528	14.0	1,420	13.5	2,948	13.8
Undecided	915	8.4	1,207	11.5	2,122	9.9
Total	10,918	100.0	10,486	100.0	21,404	100.0
(B) Should we build nuclear plants such as rancho Seco:						
Yes	8,153	74.6	6,852	65.2	15,005	70.0
No	1,587	14.5	1,894	18.0	3,481	16.2
Undecided	1,183	10.8	1,767	16.8	2,950	13.8
Total	10,923	100.0	10,513	100.0	21,436	100.0

THE ATHLETE AS LEADER

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. MURTHA. Mr. Speaker, in 1965 Johnstown High School graduated one of its most outstanding student-athletes, Mr. Larry Walton.

Larry Walton was a track and football standout in Johnstown. From our community, he traveled first to Trinidad Junior College in Colorado before becoming a star halfback for the Arizona State Sun Devils.

From there, Larry Walton went on to the Detroit Lions where he has starred as a wide receiver in football's toughest arena.

Mr. Speaker, Larry Walton will be returning to Johnstown shortly for a very special night in his honor which he deserves. Not only has he entertained millions of Americans through his athletic ability, but he has remained a credit to our community, and an inspiration to young people throughout the Nation, particularly those who are underprivileged and look to our athletic stars for guidance.

Mr. Speaker, I know the entire U.S. House of Representatives joins with me in congratulating Larry Walton for a special recognition in Johnstown that he truly deserves.

MISS AMELIA HARDING HONORED

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. MINSHALL of Ohio. Mr. Speaker, each of us can probably recall a special teacher who provided either direction or inspiration at a particularly sensitive time in our lives. Such a teacher is Miss Amelia Harding who has just retired after 38 years of teaching English at Olmsted Falls High School, the same school from which she graduated as the salutatorian of the class of 1932. Her dedicated and generous life serves as a fine example for us all, especially in this age of mobility.

Her roots lie deep in the Olmsted Falls community, since she is the fourth generation of family living there. Her great-grandfather settled near Miss Harding's present family home when he brought his family over from Holland in 1864. Her grandfather, Charles W. Harding, was a respected teacher and superintendent of the Olmsted Falls School on the old village green where her two great aunts also taught.

Having decided early in life to be a teacher, Miss Harding majored in English and education at nearby Baldwin-Wallace College. She also studied at Northwestern University one summer and at Western Reserve University on Saturdays and summers until she earned her master's degree in 1943.

Besides her teaching activities, Miss Harding participated in numerous professional organizations as well as school committees and PTA. She also directed high school plays, served as the senior class adviser, headed the National Honor Society, served as the yearbook adviser, and sold thousands of tickets.

As a result of her years of dedication, she received a Martha Holden Jennings Master Teacher Award in 1964 which gave her the opportunity to study at the University of California and the University of Edinburgh, where she worked on a doctor's degree.

Although Olmsted Falls High School was sad to see Miss Harding leave, I am sure that the faculty and the students are glad to share their friend and teacher with Baldwin-Wallace College where she is now teaching.

Miss Harding's gift of opening the doors of knowledge and awareness has certainly touched many. Thomas Huxley once said:

> For every man the world is fresh as it was at the first day, and as full of untold novelties for him who has the eyes to see them.

Miss Harding has the gift for helping her students to see.

DR. VINCENT P. MAZZOLA

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. ROONEY of New York. Mr. Speaker, one of my closest friends in Brooklyn, N.Y., is a well-known and respected physician and surgeon who has been a leader in his profession for over a half century. His career is remarkable in the fact that he came to the United States as an immigrant boy from Italy of 7 years of age. Along his way, after being graduated at Long Island Medical College in 1923, he became a member of the faculty of that nationally known topnotch medical school. I consider that it was a high honor indeed when the students of that institution in the year 1934 dedicated their yearbook, The 1934 Lichonian, to my friend, Dr. Vincent P. Mazzola.

Under the permission heretofore granted me by unanimous consent I include an abstract of Dr. Mazzola's biography and his dedicatory remarks contained in that yearbook:

ABSTRACT OF BIOGRAPHY OF DR. VINCENT MAZZOLA

Mazzola, Vincent (Pontorno), physician; b. Italy, May 2, 1898; s. Paul and Antoinetta (Pontorno) M; came to U.S. 1905, naturalized, 1912; B.S., Fordham U., 1919, M.S., 1926; M.D., Long Island College Hospital, 1923; hon. D.Sc., Alfred U., 1938, unmarried. Postgraduate interne and residency in Medicine and Obstetrics and Gynecology at Long Island College Hospital and New York Lying-In Hospital; Attending Obstetrician and Gynecologist at Long Island College Hospital and St. Peter's Hospital; Medical Director, St. Peter's Hospital; Consulting Obstetrician in a few hospitals; Member of the faculty of Obstetrics and Gynecology, Long Island College of Medicine; Fellow, New York Academy of Medicine, American College of Surgeons, International College of Surgeons, American College of Obstetrics and Gynecology, Diplomate of Obstetrics and Gynecology; former member of Board of Contributing Editors of Medical Times; former member Medical Grievance Committee, New York State Board of Regents (2 terms). Military service: Veteran of First World War, Brigade Surgeon, New York Guard; member of Appeal Board, Selective Service for 30 years. Community and Public Service: Member of Board of Visitors, Elmira Reformatory 5 terms (35 years); member, New York State Hospital Review and Planning Council; President and Life Trustee, Brooklyn Benevolent Society; former member of Board of Trustees, U.S.O.; former Director, Association for Children with Retarded Mental Development; former member of Mayor's Screening Panel for selection of members of the Board of Higher Education: former member of Citizen's Advisory Committee for Constitutional Convention; former Special Assistant to Governor Rockefeller for professional activities; member, Bishop's Lay Committee for Charities; Industrial Activities: Limited Partner, Coleman & Co., Members, New York Stock Exchange; member, Board of Directors, Loon Mountain Recreation Corporation, Lincoln, N.H.; former Vice-President and Director, Franconia Paper Corp., Lincoln, N.H.; former Vice-President and Director, Franconia Paper Mills, East Paterson, N.J.; former Director, Federal Sweets and Biscuit Co., Clifton, N.J.; former Director, Lodi Trust Co., Lodi, N.J. International Activities: Fellow, Mediterranean Academy (Cultural organization) Clubs: Downtown Athletic Club; New York Reporters' Association (Honorary); Society of the Silurians; Circus Saints and Sinners. International: Honorary Membership in Surgical Societies of Bordeaux, Madrid, Rome, Brazil. Medical Licensure: States of New York, New Jersey, New Hampshire, Florida, California.

THE 1934 LICHONIAN

(Published by the students of the Long Island College of Medicine)

FOREWORD

The theme herein depicted is one planned to go hand in hand with the new spirit which surges through our college at the present time. Young blood is coming to the front; new ideas for old; we are beginning to see the light of day; the administration has awakened to a new era for Long Island and the Lichonian wants to help take the initiative, to pay tribute to its faculty who now more than ever before has the student in mind . . . and to change the old traditions . . . to call a spade a spade and to pay Caesar his due!

With these thoughts in mind, the Editors have seen fit to dedicate this volume to one of the younger teachers; to a man whose whole life has been devoted to Long Island and whose every thought is associated with the betterment and advancement of the student. Here indeed is young blood!

They have also seen fit to end the era of student eulogizing and record for posterity some of the less prosaic side of the senior's character so that in our older days we may pick up this volume and bring back to mind a more interesting picture of the days gone by. No one individual has been flayed; everyone has been taken for the well-known ride! No harm is intended; it has been all in jest; it becomes more intriguing . . . real. A spade is a spade!

Another tradition has been shattered. In former years it was the custom to include under "faculty" only the heads of departments. This year it has been the aim to feature every member of the faculty who ever taught us to hold a "scope." If some were omitted, the fault is not ours. We could go on listing other innovations but we leave it to you, Gentle Reader, to find them for yourself. Suffice it to say that a more elaborate cover was spared to better the quality and increase the quantity within the covers.

Lastly, the Editors wish to thank the undergraduate members of the board who helped in making this volume what it is and hope that the spirit started herewith will be continued in the future. Special thanks is tendered Dr. Louis Johnson, our faculty advisor, whose untiring efforts and constructive criticism was a foundation for this experiment.

—The EDITORS.

DEDICATION

The 1934 Lichonian has this year seen fit to delve into the ranks of the faculty and pay tribute to one who tho not conspicuous for his efforts to better the conditions here at Long Island, has nevertheless steadfastly and persistently striven for a more unified unit, a more pleased undergraduate body and cooperation between administration and student.

Since his undergraduate days he has never failed to heed the students' plea. . . . He has been stringent in upholding medical ethics. . . . He has been a potent factor in numerous organizations.

We therefore take great pleasure and consider it an honor to dedicate this volume to Vincent P. Mazzola, M.D., F.A.C.S.

LONG ISLAND COLLEGE OF MEDICINE

It is indeed a privilege and honor to give the class of 1934 a message during the last hours with their alma mater. My remarks may prove very humble, but do not blame your fellow colleagues who invited me to say these few words.

Four years ago you were welcomed to the halls of this institution which for more than fifty years has prepared and sent forth men bearing the symbols of sympathy, mercy and healing. Now, at this hour, you are welcomed to enlist in this great army representing the temple dedicated to the Science of Medicine. My most heartfelt wish, which is the sentiment of the entire Faculty, is embodied herewith.

I have selected the topic "Long Island College of Medicine." By this I mean, what has my contact with the various members of the faculty taught me as a student and an alumnus? They have given me certain pillars or guides.

1. WORK. Work is the welfare of all human kind; it has made possible the realization of many dreams of the human imagination. It is the best antidote for discontent, and, of all things, it is the arch enemy of waywardness. Toil is occupational therapy, and there is nothing better calculated to conquer the pathology of melancholy than it. Work alone opens the gateway to success and prosperity.

Time and time again one is impressed by the fact that it is not simply doing a thing that counts, but the manner in which it is done. The hands of a clock mean nothing to a man who is anxious to become the captain of his industry. This, one experiences during his hospital training.

It is toil that has reshaped our human world, abolished the rough barbarities of old and erected the civilized structure of the present. Work not only sustains one and provides the comforts of life, but it may even glorify life itself. It glorified the existence of Semmelweiss, Jenner, Lister, Pasteur, Roentgen, only a few of the heroic figures in medicine and science.

Mark Twain once said: "If I were a heathen, I would erect a statue to work and fall down and worship it." It is man alone who has appreciated the importance of duty zealously followed.

Among the many things which I learned from my teacher and the late Dr. John O. Polak was "Overcome every obstacle in life by work."

2. Service: That sublime word, "service," uttered on so many occasions in this institution, uttered by tongues now forever still, but said with a sincerity so deep that it has become a part of the foundation of our college. Our teachers present and past never missed an occasion to emphasize to the student the full meaning of service. The first resource of a serviceable man must be his own victorious spirit, sustained by motives which can withstand criticism and by hopes which refuse to grow dim.

Our future rests within us and it is determined largely by action; the future is what we make it and what it holds. What it bestows depends wholly on what we are willing to give. It is really not a paradox to say how far one travels depends on how far one is willing to go. One's future, too, is determined not in responding to the things that are ignoble and low, but those that are noble and high; not from the things we command, but the things we reverence.

3. Loyalty means devotion and fidelity. Without it, the family, one's country, the state, the city, or the alma mater, cannot exist. For any organization to survive, loyalty must be the keynote for its success. Democracy would not live without belief and devotion. During the world war many of us forfeited our families, vocations, future ambitions and some even lives for loyalty to a cause. We have not hesitated to do the same for an ideal or a person. Great men of our country who stand out as figures in history were stirred by the spirit of loyalty for independence. As graduates of the Long Island College of Medicine, we owe our allegiance to our alma mater. We appreciate and are most grateful to this institution which has provided us with the opportunity of an educational and professional goal. The alumni should show their gratitude for this splendid opportunity, and should be willing to do anything to make it a better school. The faculty is ready to receive constructive criticism. Remember that the college doors are ever open to an alumnus. Do not hesitate to drop in to see any member of the faculty.

4. Criticism: A cynic never sees a good quality in a man and never fails to see a bad quality. The cultivation of cynicism develops a wicked and deceitful conscience, and conscience is the one thing with which a man must live with always. He alone can keep it clear, placid and clean.

Not only avoid speaking ill of your fellow, but never assume a hostile attitude toward him, for you never can build good relations with one party on bad relations with another party. Most cynics and critics are cast in the same mold. Fiction, according to Kipling, began when one man invented a story about another man or when one woman invented a story about another woman.

Of all persons, the pathologic critic is least qualified to judiciously discuss any topic. Usually a critic of this type lacks fundamental knowledge or is guided by bias of the subject or person criticized. If I should every be in need of sound advice on any social or technical problem, I should steer clear of the narrow-minded cynic or, still worse, the atrophic cerebral hemispheres of the shallow critic. Do not lean toward criticism, for he who learns to criticize, never learns to appreciate. A critic is usually an egotist of a self-satisfying variety and hence is unable to comprehend that other men have the power of discernment and expression, too.

Remember by steering clear of criticism one avoids scandal, and there is much truth in the old saying that scandal is like an egg; when hatched, it takes wings. Hold your speech and, with Socrates, thank your Creator for two eyes, two ears, but only one tongue.

5. Humility: This faculty is the basis of all Christian living and the bed rock of all virtues. Walk humbly and ever remember, to be humble to your superiors, is duty and to your inferiors, generosity.

Humility is the oldest of all the virtues, and hence one cannot be humble with out being virtuous. Virtue is not man-made; it is virtue which makes the man. It is the one faculty which insures man against the menace of egotism or vain glory. Humility, it is stated, is the first test of true greatness. It leads to the highest distinction, because it leads to self-improvement.

When a man learns to walk in the narrow path of humility he at the same time learns the art of tolerance, something which no one has been able to define, but a something which keeps a conscience imbued with the gospel of the Golden Rule.

6. Knowledge: It was Bacon who said knowledge is power and all its ends become means. It is only acquired by devoted attention, unfailing observation and steadfast toil. It is present everywhere, but it is most elusive. It flows like gold in the wine of opportunity, but it only can be garnered by consistent and constant endeavor.

7. Adversity: Despite your educational equipment, your technical knowledge and the practice of all the virtues, trials will come, for grey clouds of adversity encompass every man, but these, too, may be counted of some use. They have their part in the great human plan and, like molten metal in contact with cold water, they strengthen, temper and mold one's life. Overcoming resistance and adversity is the culmination of valiant endeavor.

Life is all contrast, and not to know disappointment and failure is not to know joy or success.

In conclusion, let me say that your welfare is paramount and your interest is the interest of the entire faculty. These men have labored faithfully and they shall always endeavor to impart all they can. They did not expect to make us one hundred per cent doctors, but good, practical physicans and above all, fine men. As we look over our teachers and stop for a few moments, we can personify the guides which I have told you about. My constant contact with them during the past fifteen years has afforded me the opportunity to fully realize and appreciate these unselfish men who have taught us so much.

And finally, my dear friends, may God speed you in the noble work to which you have dedicated your lives. May you know some sadness, only to learn the full meaning of joy. May you realize as I have, the efforts and motives of the men behind the college. God bless you all.

VINCENT P. MAZZOLA, M.D., F.A.C.S.

VINCENT P. MAZZOLA, M.D., F.A.C.S.

Vincent Mazzola was born in 1897 and was educated in the New York City public schools. He graduate from the De Witt Clinton High School at eighteen years of age and entered Fordham University. While there he became interested in research and was appointed laboratory assistant to Dr. Joseph Byrne, Dean and Professor of Neurology at Fordham. During this time he was preparing to study medicine. Upon his graduation in 1919 he was matriculated here at Long Island and after four years graduated with the class of '23.

He then received a medical interneship under Dr. Warren for one year and followed this by attending the Trudeau School of Tuberculosis at Saranac Lake. In a few months he returned and began his service in the Department of Obstetrics and Gynecology under Dr. John Osborne Polak. He served in the capacity of Interne, Assistant Resident and Resident over a period of two and a half years, after which he took a residency in the same subject at the New York Lying-In Hospital. He later completed the necessary courses for a Master of Science degree and received same from Fordham University.

In 1926, on completing his residency he was appointed Assistant Attending Obstetrician and Gynecologist at the Long Island College Hospital, Chief in the Gynecology and Obstetrics in the Polhemus Clinic and Instructor in Obstetrics and Gynecology at the College.

He is at present a Fellow of the American College of Surgeons, the New York Obstetrical Society and the American Medical Association; Associate Fellow of the Brooklyn Gynecological Society and a Member of the American Medical Editor's and Author's Association, Kings County Medical Society and late President of the Italian Medical Society of Brooklyn, of which he is now a member.

ON THE OCCASION OF THE 56TH ANNIVERSARY OF LATVIAN INDEPENDENCE DAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. BIAGGI. Mr. Speaker, today millions of Latvians in America and around the world will take time to commemorate the 56th anniversary of their proclamation of independence. Yet as it has been so often in the past 30 years this event is tinged with the irony of Latvia's situation of being still under the ruthless yoke of communist oppression.

This year's commemoration is somewhat more tragic than in recent years because despite of all the high hopes generated by improvements in United States-Soviet relations, no improvements have been made toward providing the various satellite nations of Eastern Europe with the basic right of self determination that her people so desperately seek. The people of Latvia continue to be subjected to brutal and dehumanizing treatment at the hands of their Soviet captors. The rights of free press, religion and speech, inherent to the success of free world nations, remain but elusive dreams for the brave people of Latvia.

In our quest to achieve a full détente with the Soviet Union let us not be overly hasty and abandon our commitment to seeking that all people of the world enjoy basic freedom. We must speak out and denounce continued domination of weaker nations by the Soviet Union. The concept of détente is an admirable one, but will be only cosmetic if it does not include a guarantee by the Soviets that they will release the stranglehold they continue to have over such nations as Latvia.

On this important day let us salute the rich cultural heritage of the Latvian people. Let us pay tribute to the contributions which the Latvian American has made to this Nation. And finally, let us pledge our continuing support of the quest of the brave people of Latvia as they struggle to repair a life of freedom and dignity which was so coarsly snatched away from them by the Soviet Union.

CONGRESS MUST NOW OVERRIDE VETO OF FREEDOM OF INFORMATION ACT AMENDMENTS

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. THOMPSON of New Jersey. Mr. Speaker, a recent editorial in the New Brunswick, N.J., Home News, makes an excellent case for Congress to override President Ford's untimely and unwise veto of H.R. 12471, the Freedom of Information Act amendments passed by the House on a 349 to 2 rollcall vote last month.

As the editorial points out:

> There is nothing in the legislation vetoed by the President which should alarm any federal government bureaus and agencies—unless they have something to hide. It goes on to point out that the amendments would simply strengthen the provisions of the 1966 act by chopping down some of the bureaucratic barricades to the people's access to their own government.

Mr. Speaker, the best antidote for the Nixon administration's obsession for secrecy that brought on the Watergate mess and its own demise is a strong dose of Freedom of Information—embodied in the provisions of H.R. 12471. I hope that Congress will vote to override the Ford veto of this important measure and commend to our colleagues the full text of the Home News editorial:

> CONGRESS MUST OVERRIDE VETO
>
> President Ford's self-proclaimed "open administration" was just two months old when he sent up his veto of Congress's amendments to the Freedom of Information Act. He wants stronger Freedom of Information legislation, he assured Congress, but the measure he vetoed last month wasn't quite what he had in mind.
>
> Well, Congress has worked on the amendments to the 1966 Freedom of Information Act for nearly three years. It has already reviewed and accepted many of the suggestions for modifications made by President Ford. But it has refused to emasculate the legislation.
>
> Now the time for compromise is over, and when the Congress returns, it should have as one of its first items of business the overriding of the Ford veto.
>
> There is nothing in the legislation vetoed by the President which should alarm any federal government bureaus and agencies—unless they have something to hide. The amendments would simply strengthen the provisions of the 1966 act by chopping down some of the bureaucratic barricades to the people's access to their own government.
>
> An "open administration" is just a meaningless phrase so long as bureaucrats can delay and impede and frustrate the citizens' access to information they have a right to see. President Ford's veto of amendments to the Freedom of Information Act is a veto for secrecy. The Congress must override it and reaffirm the right of citizens to know.

NO RELIEF FOR SOVIET JEWS

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. PEYSER. Mr. Speaker, in spite of the grand statements from the Soviet Union about their intentions to cease harassment of Soviet Jews and to change their present emigration policies, their harassment has not stopped and there has been no easing in their restrictive emigration policies.

During the past recess, I learned about several other cases of harassment of Soviet Jews who desire to emigrate. One concerns a poor Jewish Soviet young man, Aleksandr Silnitsky of Krasnodar, Ukrainian Republic. Mr. Silnitsky's only crime was a simple request to leave the Soviet Union and for this, he has been harassed and tormented by the Soviet Secret Police.

Another case concerns a family, the Vinkovetsky's of Leningrad. Mr. and Mrs. Aron Vinkovetsky have twice had their visa applications denied on the basis that his work as a naval engineer dealt with secret matters. This is an absurd argument, as Mr. Vinkovetsky retired from his job more than 7 years ago—the maximum time for information to lose its secret character in the U.S.S.R.

Mr. Vinkovetsky's son and daughter-in-law, both geologists, have also applied for emigration visas twice and been twice denied. His son, Yakov Vinkovetsky has had his apartment searched by the KGB and both he and his wife have lost their jobs. He has been asked to supply the KGB with information about his friends who admire the writings of Iosif Brodsky and Alexsandr Solzhenitsyn and when he refused to comply, his application was turned down.

Mr. Speaker, I strongly urge the White House not to be deceived by any idle promises from the Soviet about changes which they intend to make in their policies toward Soviet Jews. Actions speak louder than words.

WHITWORTH COLLEGE BUILDS FOR THE FUTURE

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. FOLEY. Mr. Speaker, at a time when Americans are becoming increasingly concerned about whether colleges are properly preparing our Nation's youth for leadership roles in our society, I wish to take this opportunity to commend a Presbyterian Church-related college in Spokane, Wash. Whitworth College, a fully accredited 4-year liberal arts college, has concerned itself with the new challenges to young men and women and has made creative changes in curriculum and campus living that will enable its graduates to be effective in the world of the future—their future.

While colleges all around the country are suffering cutbacks in enrollment including many who have closed their doors permanently, Whitworth College continues to grow, its student enrollment up 39 percent in 3 years. Founded in 1890 by George Whitworth, a pioneer of the Northwest and a Presbyterian minister, the college now serves a student body of 1,400 men and women from 30 States and 12 other countries. Whitworth, a member of the Association of American Colleges, also offers evening and summer classes for 2,000 people.

According to Dr. Edward B. Lindaman, president of Whitworth, the school's unprecedented growth is beginning to reflect a move away from the "youth ghetto" campus concept toward a program that attracts men and women of all ages to the campus. Because of the college's laudatory tuition-free program for students over 65, there are currently 42 senior scholars enrolled. These older people, says Dr. Lindaman, have electrified the campus, stimulating the rest of the student body because of their experience, adding a valuable new dimension to classroom discussions. By the late 1970's, Dr. Lindaman believes 10 to 15 percent of the student body will be senior citizens, and another 10 to 20 percent will be women between the ages of 30 and 50.

For women, Whitworth has designed special daytime and evening mini courses, offered on campus and at various locations in the metropolitan area. One wheat farmer's wife drove 85 miles each way to attend classes. The college estimates more than 1,000 women will have taken part in the program by the end of the year.

Not the traditional Christian or church-related school, Whitworth, whose student body includes non-Christians and agnostics, has done away with compulsory chapel, preferring instead to develop enthusiasm for faith in an atmosphere of openness, diversity and shared responsibility. The school has become a new model for Christian colleges everywhere.

At a time when more and more young people are graduating from college with few areas of competency, Whitworth stresses competencies by providing the student with the environment and resources to develop the ability to communicate clearly, locate information, solve problems and make judgments by finding their own value systems.

Dr. Lindaman foresees colleges functioning more as resource centers for an indepth, all-involving kind of learning. It will not be just a place to spend 4 years of one's life, but a place to go to, off and on throughout life, to plug into the resources when they are needed. And Whitworth has been changing over, gearing itself to meet these anticipated changes.

I think we should all be grateful to Whitworth College for having had the foresight to build for the future, not only for the future of the institution, but for the future of America.

RESOLUTION OF NATIONAL REPUBLICAN HERITAGE GROUPS COUNCIL

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. BROYHILL of Virginia. Mr. Speaker, under leave to extend my remarks, I am pleased to offer for inclusion in the Record, the resolution that was adopted by the National Republican Heritage Groups (Nationalities) Council, at their annual convention in Boston, Mass., September 1974. Mr. Leon T. Delyannis of Arlington, Va., is the first vice-chairman of this organization.

RESOLUTION OF NATIONAL REPUBLICAN HERITAGE GROUPS (NATIONALITIES) COUNCIL

Whereas, Turkey has committed an act of armed aggression against Cyprus, and

Whereas, Turkey has illegally untilized American arms and defense material to kill or wound thousands of Greek Cypriots and force over 200,000 of them from their homes, and

Whereas, the U.S. Foreign Assistance Act and the Foreign Military Sales Act require as a matter of law that all military assistance cease immediately when the recipient country has violated provisions of the Act, and

Whereas, the government of Turkey committed genocide against the Armenian community in Turkey in 1915, massacring over 1½ million Armenians, the first genocide of this century, and

Whereas, Turkey has historically committed genocide and acts of barbarism against the Ukranians, the Greek Orthodox, and the Kurds in Turkey, particularly during the years 1915–1922, and continues to persecute minorities in Turkey, and

Whereas, Turkey has unilaterally breached its agreement with the United States to ban opium poppy production and has resumed the growing of the opium poppy production, which represents the source of the heroin reaching the U.S.; and

Whereas, Greece was an ally of the United States in two World Wars and continues to be the key to the Eastern Mediterranean, and

Whereas, we should do everything possible to support and to strengthen representative government in Greece, and

Whereas, the political strategic relationships between the United States and Greece are of overriding importance to both countries and to the free world, and

Whereas, the United States gave full support to Greece after World War II in her fight against Communist aggression: Therefore be it

Resolved, That (1) all military, economic, or other assistance of whatever nature and form from the United States Government to the Government of Turkey be suspended immediately, and

(2) that the United States continue to provide military and economic support to Greece on an accelerated basis; and

(3) that the United States provide humanitarian support for all Cypriot refugees and economic support to the Government of Cyprus.

PRESIDENT'S VETO OF H.R. 12471, FREEDOM OF INFORMATION ACT AMENDMENTS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am shocked and dismayed by the President's unfortunate and ill-advised action today in vetoing H.R. 12471, the bill making a series of strengthening amendments to the Freedom of Information Act of 1966.

This bipartisan legislation, overwhelmingly approved in both the House and Senate after more than 3 years of congressional study and careful consideration, would help restore the lagging confidence of the American public in their Federal Government by providing greater access to Government records. As we have dramatically witnessed during the Watergate revelations, unnecessary secrecy and the almost paranoiac desire to hide the business of government from the American people and their elected representatives brought about the most grave constitutional crisis in our country in more than 100 years.

President Ford's pledge to open Government made to the American people soon after he took the oath of office had indicated a recognition of the destructive effects of the Government secrecy mania which helped bring about his predecessor's resignation. Less than 2 months ago, President Ford expressed to me as chairman of the House-Senate conference his commitment to open Government and the Freedom of Information Act. In a letter dated August 20, 1974, he stated:

> I share your concerns for improving the Freedom of Information Act and agree that now, after eight years in existence, the time is ripe to reassess this profound and worthwhile legislation. Certainly, no other recent legislation more closely encompasses my objectives for open Government than the philosophy underlying the Freedom of Information Act.

In that letter he raised certain questions about specific parts of H.R. 12471, then being considered by House-Senate conferees. We carefully studied his arguments and made certain changes in both the bill language and in the conference report to help allay his concerns. As I told the House when the conference version of the bill was finally acted upon and sent to the White House on October 7, "We have gone 'more than halfway' to accommodate his views."

But it appears that cooperation is not sufficient and only capitulation will suffice, for again, as in the Watergate debacle, the national security umbrella is being used to cover the real reasons for bureaucratic opposition to the public's "right to know." H.R. 12471 would not bare our Nation's secrets, nor in any way jeopardize the security of legitimate national defense or foreign policy matters if the classification markings applied to them were done so properly in accordance with Executive Order 11652.

Mr. Speaker, 8 years ago when Congress passed the original Freedom of Information Act, President Johnson was urged to veto the measure by every single Federal agency. He courageously rejected the advice of the secrecy-minded executive bureaucracy and signed the bill into law. This year, the conference version of the 1974 amendments to the Freedom of Information Act—strengthening its operation and plugging loopholes used by the bureaucracy to hide information from the public—was passed by the House and Senate with only 2 dissenting votes. Predictably, the Federal bureaucracy again geared up its efforts to kill the measure. This time, all but a single Federal agency recommended a veto and unfortunately President Ford succumbed to the scare talk of the bureaucrats, who apparently have so much to hide from the public.

I call upon all Americans who value their freedom and their "right to know" what the massive Federal bureaucracy is doing in their name to contact their individual Senators and Congressmen and urge them to rally behind our effort to override this misguided veto of H.R. 12471 by President Ford. "open government" must not be sacrificed on the altar of bureaucratic secrecy. The hard lessons learned by the tragic Watergate experience must result in some positive achievement to prove to the American people that Congress, at least, is sensitive to the fundamental need for "open government" in our Nation.

MR. ALGIA GARY: A MAN OF THE PEOPLE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. MURTHA. Mr. Speaker, we can never forget in government that the prime task of government officials rests with the people.

That was brought home to me again in looking over the background of Mr. Algia Gary, who will be honored shortly in Johnstown for his outstanding community work.

Let me list for you just some of the work Mr. Gary has done with people: Currently, he is director of the Equal Opportunity Division of HUD advising on equal housing, employment and civil rights activities; formerly he served in the Pennsylvania Department of Labor handling recruitment of workers, employee-employer relations and other areas of racial relations; former supervisor of OIC helping to train individuals to find better employment; plus a whole host of civic activities aimed at community development.

Mr. Speaker, it is work by individuals such as this that insures a bright future for all the people of our Nation, and that rekindles our hopes that through individual initiative and desire that the human condition can be improved, and that we can learn to live in harmony and to help one another.

I know I speak for the entire U.S. House of Representatives in congratulating Mr. Gary for his outstanding work and wishing him great future success.

ALEX MANOOGIAN, PATRIOT AND BENEFACTOR

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. DANIELSON. Mr. Speaker, I would like to call the attention of my colleagues to an outstanding American, Mr. Alex Manoogian, who, in addition to being a highly successful businessman, is an outstanding patriot, a devoted family man, and a benefactor to many worthy causes. Mr. Manoogian has dedicated a lifetime of effort toward the improvement of our Nation, as well as being a devoted supporter of those who share his Armenian heritage here in the United States, and all over the world.

To Americans of Armenian descent, Mr. Manoogian is best known for his able stewardship of the Armenian General Benevolent Association, and for his selfless dedication and large contributions to religious, cultural, educational, and relief purposes.

Mr. Manoogian has served as international president of the AGBU for 20 years, since 1953. After 17 years of Mr. Manoogian's leadership, during which time the association's capital was raised from $8 million to $20 million, along with a tremendous expansion in worldwide activities, the AGBU General Assembly voted unanimously to elect him as life president.

During those years, Mr. Manoogian personally contribtued over $1 million for charitable, cultural, and educational purposes. During the past 2 years alone, the Alex and Marie Manoogian Foundation has contributed over $5 million for religious, cultural, educational, and relief purposes.

In 1968, the AGBU Alex Manoogian Cultural Fund was established by an initial contribution of $1 million. Today that figure has been doubled. The cultural fund has supported the publication of many scholarly and literary works, and cultural activities. It has sponsored literary contests and provided relief assistance to needy Armenian intellectuals throughout the world.

The story of Alex Manoogian's life and rise to success is as impressive as his generosity. He was born in Turkey where he received his primary and secondary education in the local Armenian schools. He immigrated to the United States in 1920, and lived and worked in Connecticut and Rhode Island while he completed his education. He eventually settled in Detroit, where he worked in a factory, and later founded his own business, which eventually grew to be the huge Masco Corp. In 1931 he married former Miss Marie Tatian and they were blessed with two children, Louise and Richard, and are now blessed with six grandchildren. Today, Alex Manoogian is chairman of the board of Masco, which has over 40 divisions in the United States and Europe.

Mr. Alex Manoogian is very dedicated to his adopted homeland, the United States. He has made substantial contributions to American hospitals, museums, libraries, universities, and other charitable and cultural organizations. He has also donated his mansion to the city of Detroit, intended for use as the mayor's official residence.

In spite of the fact that he has already made many significant contributions to his country and his people, Mr. Manoogian still believes that much remains to be done. I have made only a partial listing of Mr. Manoogian's outstanding accomplishments, a list that will no doubt grow longer with the passing of every month. Alex Manoogian's hard work and dedication serves as an inspiration to all.

In recognition of his outstanding work on behalf of his adopted country and on behalf of the preservation of his own culture, the Armenian community in Los Angeles will hold a dinner in his honor on Saturday, November 23, 1974. This is one of a number of dinners in honor of Mr. Manoogian which are being held this year in celebration of his 20th anniversary as president of the AGBU. I am sure that all will be pleased to know that Alex Manoogian is receiving the recognition he richly deserves for his lifetime of service.

AN ACT OF HEROISM

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. PRICE of Illinois. Mr. Speaker, at a time when we hear and read about human indifference and cynicism it is especially encouraging to read of an 18-year-old young man like Stephen R. Smith, of Granite City, Ill.

Because of his acts of bravery and compassion for his fellow man, Stephen Smith has received awards from the Carnegie Hero Fund Commission.

The following is a brief account of Stephen's heroic efforts. In May 1973 while Stephen Smith was mowing grass on a part-time job at a motel he heard an explosion. Running around the motel building to where two electricians had been working on a 40-foot boom ladder, installing a huge sign that said "Eat," Stephen Smith saw "one guy fall to the ground" and the "other guy was on the ladder with his feet caught and his clothes on fire."

Grabbing a rag from the electricians' truck, Stephen Smith climbed the ladder and for the next 45 minutes held on to William Carroll of Manchester, Mo., and beat the flames consuming Mr. Carroll's clothing. Because the boom ladder was swaying close to a 32,000-volt line, rescue workers were unable to bring the pair down for 45 minutes.

As a result of his heroic efforts Stephen Smith has received a bronze medal and $500 from the Carnegie Hero Fund Commission of Pittsburgh.

Stephen Smith is a member at the Explorer Post 10-4, sponsored by the Madison, Ill., Police Department, and is assistant scoutmaster of troop 41 at Mitchell, near his home. Stephen is a freshman at Southern Illinois University—Edwardsville, where he plans to major in electronic engineering and is considering an Air Force career. He is the son of Mr. and Mrs. Bennie Smith of route 2, Granite City.

I am very proud of Stephen Smith and because of his heroism I wanted to share his story with my colleagues.

POLISH INDEPENDENCE DAY

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. ANNUNZIO. Mr. Speaker, 56 years ago on November 11, 1918, the heroic people of Poland regained their independence and reasserted the nations right to live and develop freely after more than a century of enslavement.

Toward the end of the 18th century, Poland established a constitutional government only to be forcibly incorporated a short time later into the territories of three more powerful neighbor nations. Russia, Prussia, and Austria-Hungary treated Poland as a colonial territory and ignored the desires of the Polish people for self-determination and freedom, sometimes responding with brutal repression.

Poland declared its independence on November 11, 1918, and that declaration was recognized the following summer by the Treaty of Versailles. The noble principles of self-determination, proclaimed by Woodrow Wilson and embodied in the victor's charter, enabled the proud and courageous people of Poland once again to reassert their glorious cultural heritage in justice and freedom.

Poland, however, was not to enjoy its independence for long. The treacherous attack of Nazi Germany and Communist Russia in September 1939 plunged the world into a Second World War and Po-by Woodow Wilson and embodied in the tragic aftermath of that war, Poland was again robbed of political and cultural freedom and the whole world was placed under a permanent threat as a result of the division into rival spheres of influence.

Mr. Speaker, although the years of renewed liberation and self-government were again short-lived for the courageous Polish people, their struggle to be free and develop their cultural heritage continued. It is, therefore, most appropriate that we in the United States acknowledge the steadfast attempts to attain liberty on the part of Poland's people during the anniversary celebration of Poland's Independence Day.

TAX RELIEF FOR THE THRIFTY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. ASHBROOK. Mr. Speaker, the present inflationary spiral has led to a number of problems for every American. With the increasing cost of living, take-home pay buys less and less. This makes it exceedingly difficult for many to save money.

At the same time the deteriorating value of the dollar leads other people to wonder why they should save if their hard-earned dollars will only be worth less tomorrow. Inflation must be controlled. And to do this Federal spending must be cut and the budget brought into balance.

While this must be done there must be some relief for those being affected by rising costs. The bill that I have introduced to provide for a $500 exclusion from gross income interest on savings of an individual taxpayer or a $1,000 exclusion for a married couple will provide relief in, at least, two ways. I have long advocated what this bill will help accomplish.

First, there will be more incentive for saving as the interest earned—up to the $500 limit for an individual—will not be taxed. Second, the banks and savings and loan institutions may not find such an outflow of funds thus giving them more money for mortgages and other loans. This will help drive down interest costs.

This bill by itself will not cure inflation. It will provide some relief. Through such legislation as this coupled with major cuts in Federal spending, inflation can be brought under control.

The text of my bill follows:

H.R. —

A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 125 and by inserting after section 123 the following new section:

"Sec. 124. Interest on savings.

"(a) Exclusion.—In the case of an individual, gross income does not include amounts received as individuals or interest on deposits or withdrawable accounts in a domestic savings and loan association, bank, credit union, or similar thrift institution.

"(b) Limitation.—The exclusion allowed under subsection (a) shall not exceed $500 for any individual for any taxable year."

(b) The table of sections for such part III is amended by striking out the item relating to section 124 and inserting in lieu thereof the following:

"Sec. 124. Interest on savings.
"Sec. 125. Cross references to other Acts.".

Sec. 2. The amendments made by the first section of this Act shall apply only with respect to taxable years ending after December 31, 1974.

FREEDOM OF INFORMATION/COLORADO UNIVERSITY ANALYSIS OF PRESIDENT FORD'S FREEDOM OF INFORMATION PROPOSALS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, one of the most knowledgeable experts in the freedom of information law and its operation is Samuel J. Archibald, who has been working with the Congress and the press for nearly 20 years to overcome excessive Government secrecy. He was instrumental in drafting the original law, and he directed the Library of Congress study of the administration of the law which resulted in the amendments embodied in H.R. 12471, recently passed by the Congress and, unfortunately, vetoed by President Ford.

As these amendments to the freedom of information law have moved through Congress, Sam Archibald has been working with organizations of editors and reporters to make the law a more effective possible tool to dig out Government information. His analyses of developments in the freedom of information field have been sent to selected groups of freedom of information leaders.

Mr. Speaker, Mr. Archibald is moving to the University of Colorado School of Journalism where, in addition to his teaching duties, he will continue his fight against Government secrecy with "Freedom of Information/Colorado University." His most recent analysis of the amendments which President Ford proposed to substitute for those the Congress passed in H.R. 12471 emphasizes the fact that the Ford proposals would make the freedom of information law less effective than it is at present. Rather than improving the law, the Ford proposals would weaken it.

Following is Mr. Archibald's analysis, as contained in his "Note to Editors":

FREEDOM OF INFORMATION/COLORADO UNIVERSITY

If President Gerald R. Ford is successful in ramming through Congress the amendments to the Freedom of Information Law he proposed after vetoing the improvements Congress had passed, the law will be in much worse shape than when the press and the Congress first started working to improve it in 1972.

The Ford amendments, developed by advisers in the Department of Justice whence the fight against the people's right to know has stemmed during the last five administrations, would—

Set a floor of $100 to be charged whenever a citizen requested access to public records;

Establish a minimum time limit of 65 days which every agency would consume before answering a request for information;

Permit investigatory files in civil cases to be hidden from the public just as criminal investigation files now are withheld;

Limit court decisions on so called national defense and foreign policy issues to deciding whether low level classification officers had properly followed agency regulations.

Each one of these issues was considered carefully as the House and Senate developed amendments to make the FoI Law a more effective tool to dig out government information. When Congress voted, by huge margins, to pass the FoI amendments, they formally rejected the proposals which Ford is now pushing.

The present law permits agencies to charge for searching and copying government records. The Ford amendments would permit these charges to be inflated by a $100 fee for agency officials to decide whether they want to provide government records after they have located and copied them. The Congressional amendments would have limited the charges to the actual costs agencies incur in searching and copying records.

Although there is no limit in the present law on the amount of time an agency can take to answer a request for public records, the average time agencies took in the first four years under the law was 64 working days. Ford's 65 day time limit would establish, by law, a delay which is one day worse than the present average. It compares to the 40 days that the Congressional amendments would have permitted for decisions on public access to public records.

The present law, as the courts have interpreted it, permits government agencies to withhold files on criminal investigations even if the investigation has been completed and all court action stemming from it is finished. The Ford amendments would hide investigations of civil law violations under this same secrecy blanket. The Congressional amendments would have permitted the courts to disclose criminal investigation files after all legal action has been completed as long as confidential sources are not disclosed, personal privacy is not invaded and the lives of law officers are not endangered.

The Supreme Court has held that the present FoI Law does not permit judges to decide whether so-called national defense and foreign policy information has been properly classified, although the Court said Congress could change the law. The Ford amendments would permit the courts to decide only whether classification officers had followed their agency's regulations based on a Presidential directive. The Congressional amendments would have permitted judges to study classified documents in their chambers and reach independent judgments on whether the information should be kept secret.

Samuel J. Archibald.

CULTURAL LIFE IN LOS ANGELES COUNTY

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. BELL. Mr. Speaker, today I would like to draw to the attention of the House membership a significant event in the cultural life of the Beach Cities Area of Los Angeles County in the great State of California.

The Beach Cities Symphony Orchestra which has served the region for the past 25 years, under the inspired direction of Dr. Louis Palange for 20 of them, will present their gala "Silver Anniversary Concert" at El Camino College on Saturday, November 23, at 8:15 p.m. The American Revolution Bicentennial will be marked by the playing of Del Castillo's "Festival Overture" and the Piano

Concerto No. 2 in D minor by the American Composer Edward MacDowell, played by pianist Andrea Anderson Swem.

The concert also serves as the finale of the first annual city of Torrance "Inter-Arts Festival, November 15 to 23. Mr. Thomas E. Wilson of the Fine Arts Commission serves as chairman of both the Symphony Association and the Festival Committee, and Hon. Ken Miller, mayor of the city of Torrance will welcome guests to the concert.

Mrs. Gerald Ford, wife of the President and arts enthusiast has written her "hopes that the festival and this fine opportunity to honor the great American artist and patriot, Thomas Hart Benton, be a memorable and enriching one for everyone. With admiration for the spirit of commitments and cooperation of all involved and all best wishes."

THE LATE HONORABLE CLIFFORD J. McINTIRE

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. ROONEY of New York. Mr. Speaker, the recent unexpected tragic passing of our good friend and former colleague from Maine, the Honorable Clifford J. McIntire, came as a great shock and deep personal loss to me as I am sure it did to all my colleagues who knew and served with Cliff in this august body.

Cliff McIntire was a man of the land and of the people. As a potato farmer from Aroostook County in northern Maine he was vitally interested in the welfare not only of his constituents but also in farmers in general and their problems throughout the United States. He knew and appreciated those problems and did all that he could during his many years in public life to help American farmers.

Before coming to Congress in 1951, Cliff had maintained a lifelong interest in farming. After graduating from the University of Maine's School of Agriculture in 1930 he became a regional manager of the Farm Credit Administration in 1933. In 1947 he became the assistant general manager of the Maine Potato Growers, Inc., one of the world's largest potato cooperatives.

In 1951 the people of Maine's old Third Congressional District elected him to the House of Representatives following the death of Representative Frank Fellows. He was reelected five times and when Maine lost its Third District following the 1960 census he was elected from the newly formed Second District. Cliff continued to serve the people of Maine until 1964 when he launched an unsuccessful bid for the other body.

Cliff's sense of public service continued after he left the Congress. He soon became the director of national resources for the American Farm Bureau Federation.

Mr. Speaker, Cliff McIntire's life was entirely dedicated to the service of his country and to the people of his State. His expertise in farm matters will be sorely missed as will his charmingly unique New England way of doing things. Mrs. Rooney joins me in extending to his lovely wife Wilda, their children and grandchildren the Rooney's deepest sympathy.

HUNTINGTON HERALD-DISPATCH EXCELLENT CASE TO OVERRIDE VETO FREEDOM OF INFORMATION ACT

HON. KEN HECHLER

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. HECHLER of West Virginia. Mr. Speaker, on Wednesday, November 20, we will have a chance to vote to override President Ford's unwarranted veto of the freedom of information bill.

As a cosponsor and supporter of this greatly needed legislation, I urge my colleagues to read the following editorial from the Huntington, W. Va., Herald-Dispatch, published in my hometown, which makes an excellent case for overriding the veto:

Congress on Right Course in Considering Overriding Veto of Information Act

"Open government must not be sacrificed on the alter of bureaucratic secrecy."

So saying, Congressional leaders have vowed to press their fellow members to override President Ford's veto of a bill amending the Freedom of Information Act. We believe that veto to have been ill-advised, and we indeed hope the effort to override it meets with success. Since Ford vetoed the measure just before Congress recessed, the effort to override will have to wait until the lawmakers reconvene after the November election.

When it first took effect in 1967, the Freedom of Information Act promised to be a major factor in opening up many of the federal government's locked files and closed doors. Unfortunately, the act proved to have so many loopholes that it's been of only limited value.

Reduced to its basics, the act provides that any citizen—not, we hasten to point out, just people in the news business—may demand to see a specific document or documents in the government files. Obviously, however, many categories of material are exempted from the act. And some such exemptions clearly are essential. The current case files of federal law enforcement agencies are an obvious example.

However, other exempted categories—especially "national defense" and "foreign policy data"—are so broad that they've become handy devices that the bureaucrats can use to hide almost anything they like.

The amendments drafted by Congress would do much to change this. The amendments would not, despite the wild-eyed charges of some of the government secret-stampers, give any and all a license to rummage through top-secret files. Instead, what the amendments call for is establishment of a system of judicial review of contested documents.

Importantly, since delay has been one of the favorite weapons used by those federal officials wishing to side-step the Freedom of Information Act, the amendments also would make some important changes in that regard. A 30-day time limit would be established for the government to reply to lawsuits seeking the release of contested documents. And right-to-know cases would be given precedence on appeal court dockets.

Unconstitutional and unworkable was President Ford's summary of the bill when he announced his veto of it. We disagree. We're convinced that the Freedom of Information Act—with the proposed amendments—CAN work were federal officials to give it their support and cooperation rather than the delay and obstruction that largely have been the rule to date. As for the measure's constitutionality, that, we would argue, is a matter for the courts to decide.

Surely, if Watergate has demonstrated nothing else, it has brought home the folly of governmental secrecy, especially under that all-covering cloak of "national security."

CHILEAN SCHOLARS MUST STILL BE CONSIDERED

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. BROWN of California. Mr. Speaker, I wish to bring to the attention of my colleagues the work being done by the Emergency Committee to Aid Latin American Scholars—ECALAS, 24 Waverly Place, Room 566, New York, N.Y. 10003. This committee of the Latin American Studies Association has been deeply concerned with the overthrow of academic freedom in the Chilean university system which was widely respected for its high standards. Students and scholars of other countries were welcomed in full and open participation in all phases of academic work. Since the coup of September 11, 1973, a great many students and professors have been forced to resign their posts and discontinue their professional pursuits. Most of these academics have been unable to find other employment in a country where inflation and unemployment are widespread.

The Emergency Committee to Aid Latin American Scholars is the only organization in the United States which has tried to relocate these academics to allow them to continue in their professions and try to gain further training with the hope that the Chilean university system will revert to its previous democratic administration at some future time and allow these academics to return.

Given the recent disclosures of U.S. involvement in the overthrow of the democratically elected Allende government, the involvement over the years of North American academics in Chilean scholarly efforts and exchange, this is fitting and deserving of support. If each State university would open its doors to a few graduate students or visiting faculty members, with the support of the local Congressperson, it would demonstrate not only to foreign academics but to our own Latin Americanist scholars a sense of fairness and justice.

In the past we have granted refugee status to Cubans and Hungarians and it now behooves us to renew our efforts on behalf of the Chileans whose lives

and careers have been radically undermined by our foreign policy. I submit that refugee status also be extended to them and that we again consider a termination of all military aid to a regime which has so clearly and blatantly denied all civil and human rights to its populace.

NIX STATEMENT ON BILL TO CLARIFY ANTITRUST LAW

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. NIX. Mr. Speaker, I rise today in support of a bill I have just introduced which will clarify the intent of the Sherman Anti-Trust Act as to price fixing by marketing cooperatives. In *United States* v. *Borden Co.*, 308 U.S. 188, 1939 the U.S. Supreme Court held that the Agricultural Adjustment Act did not protect cooperatives in pricefixing cases which involved noncooperatives, nor were they to be permitted to ignore the Sherman Act.

In *United States* v. *Maryland & Virginia Milk Producers Association, Inc.*, 193 F2d 907, D.C. Cir. 1951, the Court held that full supply contracts are illegal where the purpose is to create a monopoly. A University of Pennsylvania Law Review note in the May 1957 issue pointed out that while the Sherman Act does not forbid the existence of cooperatives, it forbids attempts to monopolize, that is while marketing cooperatives can bring food direct to the consumer, cutting out the middleman, they cannot fix prices in order to obtain excessive returns. Price fixing is as much a violation for marketing cooperatives as it would be for corporations.

While the above cases and legal materials are persuasive, they apparently are not persuasive enough to prevent:

First. The California Milk Producers Association from dumping 420,000 gallons of milk in Los Angeles Harbor in order to maintain high prices.

Second. Or Messrs. Harold Nelson and David Parr from putting into effect a plan as executives of the Associated Milk Producers based in Texas which would regulate the amount of milk farmers could produce. They were able to set the price of milk from the east to the west coast. Their activities only came to light when their $2 million 1972 campaign contributions came to light. It was the promise of contributions that formed a backdrop for the raising of the support price for milk by the President of the United States reversing a decision by his own Secretary of Agriculture, in 1971.

Third. Marketing cooperatives, which produce nothing in themselves act as a middleman, had a volume of $36 billion last year which includes 75 percent of the Nations dairy products.

These facts are disturbing and provide a sufficient basis for showing the need to clarify the law. In fact a recent article in the October 15, 1974, issue of Forbes magazine while pointing out that Ocean Spray Cranberries, another marketing cooperative, had paid for 14 percent more cranberries than it sold in 1973, suggested that cooperatives had an antitrust exemption that would permit them to market at fixed prices. Thus, the inaction of the Anti-Trust Division for many years has led marketing cooperatives to believe that in fact they do have an exemption.

My bill has been restricted to marketing cooperatives in order to pinpoint activities of those cooperatives which do not produce what they sell, while leaving it to the courts to follow the Borden case and other precedents in regard to all cooperatives where price fixing occurs. The basic doctrine set out in the United States against Maryland and Virginia Milk Producers Association, Inc., case, is that while cooperatives could dominate 100 percent of the market, they can only do so by providing better service but not by a conspiracy to fix prices driving out other competitors, one Parr and Nelson team is enough. The Congress must make clear by legislation what is implicit in the few cases dealing with this question.

LAME DUCK SESSION

HON. FRANK E. DENHOLM

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. DENHOLM. Mr. Speaker, I regret the policy of the press that continues to refer to this as a "lame duck session" of the U.S. Congress.

The responsibilities of the Members of this legislative body did not end with the beginning of the recess in October nor did they cease on the 5th day of November, 1974.

We were elected by the people and the people have the right to expect full representation until the 93d Congress does adjourn "sine die."

The major problem of today is the adverse combination of inflationary and recessionary pressure that are a burden to each family and individual citizen of America.

This Congress has accomplished much during the past 2 years but the effort that we exert in the next few weeks will determine our record of achievement in the annals of history. The challenge of timely action is before us in this Chamber today.

I respectfully request of the leadership and the Members of the House of Representatives full attention to the economy of this Nation and the enactment of legislation in the public interest.

I urge each Member to join in an effort that is nonpartisan in nature and constructive in character that the burdens of inflation and recession may be lifted from the people of America.

Let these final days of the 93d Congress be long remembered not as a "lame duck session" but as a time in the history of this Nation when the Congress achieved an all time record of leadership in the interest of the people that we represent. That is the only goal worthy of our best effort.

FISCAL ACCOUNTABILITY OF SOLONS BADLY NEEDED

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. BENNETT. Mr. Speaker, I include in the RECORD at this point, a stimulating and helpful column written by Jayne Brumley, an outstanding journalist here in Washington who reports for the Florida Times-Union in Jacksonville, Fla. I think what she says make a lot of sense and that we should all do our best to accomplish the objectives which she has outlined and which the American public has a right to demand.

The column follows:

Since Tuesday is not a presidential election day let us consider, unemotionally, the plight of the President of the United States.

As tough as his job is today all indications are that it will be even more difficult after a Democratic sweep around the nation, Tuesday, which will bring many new men and women to Washington.

It has been convenient for years to blame the President of the United States for everything, except the common cold. It's a simple approach and one that everyone understands readily.

But the President of the United States at least does have to submit a budget annually. It is public. The President of the United States does not represent federal spending in its entirety.

Tuesday, Americans will vote for congressmen and senators who have bills in dizzying sequence. It is great to read the voting record of these men and women and see all of the things that they were for. Not mentioned in many cases is the situation which is true—that no one has the foggiest notion where the money to fund these proposals will come from.

It is time in this country for the American public to call for an accounting from its elected federal officials in three clear-cut ways.

First of all, among the things which the public is entitled to know before yeas and nays are sounded in the Congress of the United States is how much new federal legislation will really cost the taxpayer.

Secondly, the public should be told where the Congress proposes to get the money to fund these new proposals.

And thirdly, the American should know, in terms of dollars and cents, how much each congressman and senator has voted to spend during the time in which he represents the public. Not only should the voter have the grand total, but each should have a breakdown of costs, bill-by-bill.

Americans have been voting in happy oblivion for almost two centuries. It is way past time to call for an accounting, but perhaps one appropriate way to celebrate our bicentennial.

But it must be done. For these wondrous federal programs are not for free. They are paid for by the American people, who do not get to vote bill-by-bill, who don't know where the funding will come from and who don't know the actual cost of any programs.

Much has been said in recent months about the public's right to know. How the public's money is being spent should certainly be high on the "right to know" business. So far it hasn't been.

By the next election it would be nice to see the candidates run with their price tags in plain view.

All elected federal officials should be required to be accountable fiscally to the same degree that each president is annually.

Meanwhile, it is apparent that everyone will just blame the president, whoever he is, for everything that's done wrong with federal spending, because no one knows who did what.

A new low in president-blaming was possibly reached last month when Chrysler Chairman Glenn Tounsend blamed President Ford for the automobile industry's current, very serious problems.

Republican Tounsend said nothing about the soaring prices of automobiles, the gas-guzzling qualities in the face of the acute need to save energy or other problems with American automobiles. That includes planned obsolence, which the American public has tolerated for decades. He blamed President Ford because earlier in the month the President asked Americans to hold back on spending.

The automotive giants must think Ford is really potent to be able to demolish the automobile industry in less than four months.

Actually, Detroit has had all residents of the White House intimidated for so long that they have truly been free to do their own bad planning.

Since Detroit could not possibly have been wrong through the years, it must have been good old Jerry Ford who done it." He is from Michigan, after all.

TAIWAN DEFENSE TREATY NEEDS AMENDMENT

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. LEGGETT. Mr. Speaker, by voice vote on Thursday last this body repealed the Formosa resolution of 1955. Statements by my distinguished colleagues Mr. HAYS and Mr. SIKES, made during this short debate clearly expressed the opinion that repeal of the resolution would not impair, change, or weaken any commitment of the United States to Formosa.

We were told that this action would not repeal any covenants existing between the United States and Formosa. I would like to make clear for the record that while our intent is to continue our commitments to Formosa, we have in fact by repeal of the resolution reduced our obligations to our friends and allies on Formosa. We have cited the Mutual Defense Treaty as the basis of our commitment and have removed the Formosa resolution as a basis of policy.

Since the defense treaty specifically omits the islands of Quemoy and Matsu from coverage, unless the treaty is amended by mutual agreement, we have in effect placed the offshore islands outside the U.S. defense commitment in the Taiwan area.

I do not believe this was our intent and I propose that we consider an amendment to the treaty to cover the overlooked islands.

Mr. Speaker, if for no other reason than to keep faith and reassure our good friends on Taiwan, we should put our understanding down on paper in clear and concise language for all to see and comprehend. It would surely be senseless for us to flirt with the possibility of having to make a quick decision at some later date to help defend these islands, when on a strict technicality we would be in violation of our own international agreements.

CHILDREN'S RIGHTS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. FRASER. Mr. Speaker, on October 13, 1974, Geri Joseph, contributing editor of the Minneapolis Tribune, wrote:

> Careful reading of the daily news with the stories of child abuse, the doubling of suicides in the 15–24 age group and violations of children's legal and civil rights makes one pause. It would take more than a bit of getting used to, of course, but why not more sharing of rights and freedoms with the young?

She continued:

> We are agitated about the rights of women, minorities, ethnics, homosexuals, consumers, and the handicapped, some voices are saying, but how about a little healthy concern for the most powerless human of all—the child?

Ms. Joseph's article should make one pause—would a bill of rights for children mean fewer children abused? Would more attention to children's rights mean decent day care? A better school lunch program for children? Would an increased emphasis on children's rights have a positive effect, reducing the number of juveniles who become involved in our admittedly overburdened and unsatisfactory juvenile justice system?

The Joseph article follows:

CHILDREN'S RIGHTS

(By Geri Joseph)

Earlier this year, incredulous editors of Forbes magazine published an interview on children's liberation. They decided to print the article, they explained half apologetically, because in this day and age who is to say what is crazy.

Then for two pages, the respected business journal ran the uninhibited comments of Dr. Richard Farson, psychologist and father of five, president of California's controversial Esalen Institute and author of "Birthright," a new book on more freedom for children.

Nobody knows how to grow people, said Farson, who expressed the same views recently at a Minnesota conference on the future of institutions. The best thing any parent can give children is "loving neglect." And he told his nonplussed interviewer, "You will live to see children with the right to enter into binding contracts, to develop a credit record, to own property, to receive equal pay for equal work, to gain promotion to leadership positions in business . . . and to obtain guaranteed government support apart from the family."

Overwhelmed, the reporter asked if this meant children would give up childhood and all its presumed joys. Farson emphasized that childhood and its so-called joys were a 16-century European invention. "Children," he asserted, "are bored, worried, incapicitated, penned up and dominated. Almost all the good things happen by accident."

Unquestionably, Farson is a provocative individual who enjoys saying a far-out thing or two. But a growing body of serious opinion suggests that rights of children are buried—surprisingly enough in this youth-worshipping society—under inconsistent national policies on everything from food programs to school financing. Their rights are severely restricted, too, by entrenched beliefs that children owe absolute obedience to parents and that parents know best despite a lot of uncomfortable evidence to the contrary.

We are agitated about the rights of women, minorities, ethnics, homosexuals, consumers and the handicapped, some voices are saying, but how about a little healthy concern for the most powerless human of all—the child?

Just the other day, the innovative, respected Center for Youth Development and Research at the University of Minnesota sponsored a meeting that overflowed into the hall. The topic: "Making Sense on the Rights of Youth." The speaker: Patricia Wald, a lawyer with the Mental Health Law Project in Washington, D.C., and a member of the Juvenile-Justice Standards Project of the American Bar Association.

Mrs. Wald suggested that increasing preoccupation with children's right stems from a diminishing belief that the family can reliably meet all the child's needs. In a calm voice that belied the challenging thrust of her words, Mrs. Wald—like Farson, a parent of five—reminded listeners that in colonial Massachusetts a 1654 law provided the death penalty for "stubborn children and rebellious servants."

Even the "child savers"—those who supported compulsory education, child-labor laws, child-welfare programs and the 20th-century juvenile courts—did not argue against the assumption that children had no rights to choose for themselves. This "non-person status" is changing somewhat, Mrs. Wald said. Eighteen-year-olds now can vote. College students sometimes can contract for educational loans, auto repairs and insurance. In some places, adolescents can seek venereal-disease and drug treatment on their own. But these small beginnings are not enough. Unless there is significant risk of irreversible damage, children should have the same rights and freedoms claimed by adults.

Well, come now. Aren't children much too young to be entrusted with all those rights? Not at all, said Mrs. Wald. Maturity and good judgment do not necessarily descend on human begins in their late teens or early 20s. Research shows that many children mature physically, mentally and socially far earlier. Besides, more opportunities to learn from experience, to succeed, even to fail, would be good for a child no less than for an adult.

Unlike some children's-rights enthusiasts, Mrs. Wald acknowledged that parents should retain a modicum of authority. For example, they have a right to know when a child has a serious medical problem. And she gave a welcome emphasis to duties as well as rights of the young. They must attend school at least until they can pass a reasonable literacy and knowledge test. They should obey community laws and reasonable—a key word—rules at home.

She posed a number of tough questions without giving any answers. Does a child's freedom of association include keeping company parents forbid? Does freedom to travel mean taking unauthorized trips, playing hooky, staying out after hours? Does freedom of religion allow rejection of the parent's faith?

It is all very confusing and unsettling, and bewildered parents—who may already believe children have more rights than anybody—might be forgiven for thinking with the editors of Forbes that the world has turned upside down. Still, careful reading of the daily news with the stories of child abuse, the doubling of suicides in the 15-to-24 age group and violations of children's legal and civil rights makes one pause. It would take more than a bit of getting used to, of course, but why not more sharing of rights and freedoms with the young?

BILINGUALISM: A SECOND LOOK

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. STEIGER of Wisconsin. Mr. Speaker, prior to the recess I included in this portion of the RECORD a piece by Stephen Rosenfeld on bilingual education. In an effort to continue the dialog on this subject I want to call my colleague's attention to two more articles. One is a piece by Mr. Rosenfeld which appeared in the Washington Post on November 1, and the other is from the November 3 New York Times by Albert Shanker, president of the United Federation of Teachers:

[From the Washington Post, Nov. 1, 1974]

A SECOND LOOK AT BILINGUALISM

(By Stephen S. Rosenfeld)

I am indebted to my critics for broadening my understand of bilingualism—teaching in English and in "home language," usually Spanish, in the public schools. The issue was discussed in this space on Sept. 27. Nothing I've ever written has drawn a larger response—about four to one against, by the way.

I think I understand better now that bilingualism is a program devised to meet a social and educational crisis, a situation in which a great many kids arriving in school speaking, say, Spanish fall behind at once, drop out and thereafter get a raw deal. Mexican-Americans are the key group here but Puerto Ricans and American Indians are also importantly affected.

Bilingualism also serves, I understand better, to redress the sense of those many Americans who speak English poorly or not at all, that their culture—a central element in personal identity—is not respected by the American majority and that their Americanism is somehow suspect.

Perhaps there is nothing more to be said about a program which promises so much to so many. But I think there is more.

First of all, can bilingualism reasonably be expected to carry the educational and social burdens which its sponsors have loaded upon it? The claim is made that a child educated first in the home language will find it easier to learn English, and to learn other subjects in English. But none of its supporters contend that this has been demonstrated other than in a small number of model school programs. It does not seem to me unreasonable, furthermore, to be skeptical about a proposal which puts so much weight on changing the method of instruction, since method is only one factor affecting a child's education.

Some argue in effect that bilingualism is a kind of consolation prize for kids who start school and life with heavy handicaps "at least let them develop proficiency in the home language and pride in the home culture." But in that case it should not be sold as a catch-up. I can think of no crueler trick than a bilingual program which promises catch-up but leaves kids unprepared for society's rigors in two languages. Supporters of bilingualism should be more interested than any one else in making this point.

If it were up to me to resolve this particular issue, I would proceed full steam ahead on bilingualism, but I would tone down the promises made in its name and I would keep looking hard to see how the programs go and whether other programs need to be carried forward at the same time.

For reasons that no doubt reflect on me as well as my critics, I was startled to be called a "cultural facist" and the like for expressing the hope that all American kids will learn English and have a fair chance at the good things in American life. Thereby to be accused of favoring "homogenized Americans" and "bland uniformity" set me to wondering about the ambivalences in American society; we want ethnic pride and conventional success and are uncertain whether the former is help or hindrance to the latter or whether the two have any real connection at all.

What is certain is that Americans of European stock have a very different view of the matter—a much more confident view based on their own experience—than do Mexican-Americans, Puerto Ricans and Indians. These Americans, far from being "immigrants" who chose to join this society, became Americans involuntarily by being militarily taken over by the expanding United States. They have not been "melted" or acculturated in the "melting pot" which absorbed Europeans. Rather, they have often gotten the worst of both worlds, their home culture degraded and their assimilation denied.

But, I still ask, where does this leave America? It is all very well for Americans to "recognize our multicultural heritage" but it does not signify "fear of diversity" or, I would contend, "latent bias" to express concern about how the different ethnic, racial and religious groups which compose this country relate to each other. Observers of the American scene at least since de Toqueville have noted these stresses and have pondered how to give each group its cultural due while ensuring that some larger "national" interest be assured.

Certainly it is fair to ask what role the public school system, perhaps the principal "cultural" institution in American life, should be expected to pay in sorting out this generation's, or this decade's, answer to that fundamental, continuing question. Our "diverse parts" deserve respect but how should it be accorded? Yes, "jingoism," "xenophobia" and "cultural chauvinism" are aspects—baleful aspects—of the American scene. But not everyone who expresses a longing for Americans to get along better with one another need be charged with them.

[From the New York Times, Nov. 3, 1974]

BILINGUAL EDUCATION: NOT "WHY" BUT "HOW"

[By Albert Shanker]

One of the major problems facing school policy-makers these days is that new educational ideas are so frequently accepted without searching analysis and serious debate. It is a common experience for new proposals to be offered as panaceas, hailed by the media as such, in an atmosphere in which anyone who questions the validity of the idea is denounced. That is unfortunate, for there is no doubt that those who dare to question what is taken as gospel perform a valuable service.

In the September 27th Washington Post, columnist Stephen S. Rosenfeld questioned the current commitment to "bilingualism" in education. Said Rosenfeld as an opener: "With practically no one paying heed, the Congress has radically altered the traditional way by which immigrants become Americanized. No longer will the public schools be expected to serve largely as a 'melting pot,' assimilating foreigners to a common culture. Rather, under a substantial new program for 'bilingual' education, the schools—in addition to teaching English—are to teach the 'home' language and culture to children who speak English poorly."

The $170 million program was enacted, without any public challenge, as part of the 1974 Education Act. "Bilingualism," said Rosenfeld, "rode into law on a tide of widespread—and uncontested—awareness that children who arrived in school speaking English poorly tended to do poorly in school.

"According to the traditional melting pot theory, the remedy would be to improve the programs intended to help kids learn English and, generally, to help kids keep up and catch up. All previous immigrant children were subjected to this discipline."

Rosenfeld cites two objections to bilingualism. "First, it is not clear how educating children in the language and culture of their ancestral homelands will better equip them for the rigors of contemporary life in the United States. . . . Let us concede that bilingualism will do everything its supporters claim to foster a child's pride in his family roots, to narrow the gap between his home and his school, and to reinforce personal self-esteem. Will it not also distract attention from learning English and the social skills that accompany the learning of English, or give him an excuse for not buckling down hard on English?"

The second objection (here Rosenfeld leans heavily on an article called "Ethnicity and the Schools" by Nathan Glazer in the September 1974 issue of *Commentary*) is that the wave of ethnicity and bilingualism is in all likelihood "weakening this common American glue and aggravating ethnic tensions and differences."

The article evoked considerable reader response, both in the form of letters to the editor and full-length articles. Rosenfeld has erred in dismissing bilingual education completely, but the proponents of the program also err in making unproven and exaggerated claims for it.

Out of all the ramifications of the debate, two points emerge clearly. First: that there are thousands of children who enter our schools without knowing any English at all or knowing so very little English that they cannot communicate. Being in a strange place without being able to communicate—frightening enough for most adults—is a particularly terrifying experience for children. The need for bilingual teachers and paraprofessionals is justified by this one fact alone—without any further theorizing about bilingualism and ethnic identity or further examination of the specious argument that it is easier to learn in two languages than one.

While the need for the child to feel comfortable and to be able to communicate is clear, it is also clear that what these children need is intensive instruction in English so that they may as soon as possible function with other children in regular school programs.

Unfortunately, the way in which bilingual programs are now being instituted in many New York City schools will serve only to discredit bilingualism, in the same way the ineptness of many community corporations has done inestimable harm to our nation's war on poverty. Here are some of the specifics:

Many schools are employing bilingual personnel. In order to fund these new programs they are dismantling the TESL (Teaching English as a Second Language) program—the very program the children need if they are to learn English.

Very few bilingual teachers are available. In the face of this shortage, schools, in their haste to institute "bilingual" programs, are hiring teachers who are monolingual—who speak the language of the child but speak no English at all or very little! The result is that many children in "bilingual" programs learn no English whatsoever!

Since a school may not institute a bilingual program unless it can prove there are enough children in need of it, some children are compelled to enter such programs against their wishes and those of their parents. In some cases children with Spanish surnames are placed in Spanish-speaking classes even though they speak English better than they speak Spanish.

Non-Hispanic teachers who speak both English and Spanish are dismissed from their jobs—to be replaced by teachers who are not as fluent in either language—on the assumption that if the teacher is not a member of the ethnic group, he or she cannot be as competent.

Since education funds are limited, the adoption of bilingual programs frequently touches off a polarized conflict among ethnic groups in the school community. In P.S. 61 Bronx, for example, the adoption of a bilingual program for Spanish-speaking children was accomplished by the elimination of a special reading program which benefited the school's black children.

While school districts engage in a nationwide search for "bilingual teachers," they fail to ask of the teaching staff already on hand how many are able to communicate in other languages. In New York City the Board of Education is only now beginning to conduct such an inquiry.

The school system has failed to offer expert intensive training in foreign language to members of the present staff.

While bilingual education is being hailed as a way of providing our students with two languages, foreign language instruction is being rapidly phased out of high school programs.

Bilingual education should provide a comfortable and rapid transition for the foreign-language child, but the way it is being instituted will provide powerful arguments for the opponents of the program. It is not too late to remedy these errors in method; the program is in its early stages. If its administrators help these children quickly to become part of our regular school programs, they will get support. But if they attempt to establish a separate, segregated school system based on language and ethnicity, they are sure to fail. The American taxpayer, while recognizing the existence of cultural diversity, still wants the schools to be the basis of an American melting pot.

WWRL SPEAKS OUT ON DRUG ABUSE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. RANGEL. Mr. Speaker, one of the leading radio stations in New York City, WWRL has long had an active commitment to the city they operate in. They are to be commended for their willingness to speak out strongly on issues that are of the greatest relevance to the people of New York.

The following editorials on one of New York City's most serious problems, drug abuse in its many forms, are two examples of the active concern for the city that WWRL has always shown. I would like to submit them for the consideration of my colleagues:

[WWRL editorials]

KEEP ON THE GOOD SIDE

Most of us know by now that methadone is a synthetic drug which has helped thousands to kick the heroin habit. It is less damaging than heroin because those who use it on a controlled basis can hold down jobs and lead reasonably stable lives.

But with misuse, methadone can have its bad side. Tragic proof lies in the medical examiner's report that methadone poisoning killed almost twice as many New Yorkers in 1973 as heroin.

WWRL does not believe that this means methadone must go.

It does mean that there must be a tighter security in the more than 150 city, state and private clinics which deal with some 33,500 addicts.

It also means that just giving a man relief with methadone and letting him go his usual way is not enough. He must be given new hope and new reasons to get off drugs altogether.

SET A GOOD EXAMPLE

Tales of the horse known as heroin paralyze us with fear when they're told about our children. But the plain fact is that your child or mine is much more apt to be heavily involved with liquor. Joel Bennett, president of the New York Council on Alcoholism, says that alcohol "is sort of the accepted national tranquilizer." He estimates that 60 per cent of this city's 1,048,000 youngsters, from 12 to 18 years of age, use alcohol. Some 36,000 of these have early symptoms of alcoholism and alcohol abuse.

Heroin is something to be scared about. Of course, it is. But whiskey or wine are much more likely to ruin our children. As parents, we can help by setting a good example. Don't drink to excess in your own home. Above all, don't turn to alcohol as a tranquilizer.

Asking youngsters to do as you say and not as you do simply doesn't get it anymore.

WWRL believes any war against the abuse of alcohol has to begin with you.

RETIREMENT OF BARTON EVANS

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. BELL. Mr. Speaker, at a time when so many are apathetic toward civic and political affairs, it is refreshing to recognize a man whose enthusiasm and dedication have inspired thousands to become more active, better informed citizens.

I refer to Barton Evans, whose retiremen as Director of Public Affairs for the Hughes Aircraft Co. this month celebrates a record of private and public service a few men achieve.

Executive of Goodbody & Co., New York Stock Exchange member from 1931 to 1940; air intelligence officer, U.S. Navy, World War II; southwestern district manager, Central Intelligence Agency, 1947 to 1952; and Hughes Aircraft Co. 1952 to November 27, 1974—Barton Evans' career spans more than 40 years.

In 1964 Mr. Evans designed the Hughes Aircraft Co.'s imaginative active citizenship campaign, a nonpartisan program to instill greater awareness of and concern for public policies and procedures through a responsible, varied and interesting public affairs program.

Through his efforts to date, countless Hughes employees have registered in-plant to vote, 47,200 small voluntary contributions have been made by employees to the campaigns of their choice, and 481 candidates have spoken on election issues at noontime rallies. Mr. Evans also instituted a Volunteers In Politics, VIP, program which enables employees to contribute their personal talents and abilities during spare time to candidates and parties.

Mr. Evans has received special commendation from the Los Angeles City Council, the California Legislature, and the Freedoms Foundation for making active participation in the political processes of California and the nation a positive responsibility of all company employees.

I am sure that no man, upon retiring from business, ever took with him the good wishes of a larger group of friends and associates. I am proud to number myself among his friends and to wish him well upon his retirement.

ACTION MUST BE TAKEN NOW ON FERTILIZER

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. ASHBROOK. Mr. Speaker, last spring America's farmers suffered a serious fertilizer shortage. An estimated 10- to 15-percent shortfall occurred in both nitrogen and phosphates. These shortages caused a major increase in price. It also resulted in many farmers being placed on partial allocation.

The administration has repeatedly promised that farmers will now get all the fertilizer they need. As we move toward another spring, however, it appears that this will not be the case.

Rather than more abundant supplies, the Ohio fertilizer situation in 1975 is widely predicted to be no better than in 1974. According to the November 4 issue of the Firelands Farmer, a representative of the Ohio Department of Agriculture is suggesting that—

> Farmers try to use about 15 percent less than they have in the past and things should be o.k.

A Landmark manager warns:

> We've allocated to each of our people . . . and that's all they'll get unless they do decide on the premium-priced product.

As I have emphasized time and time again, availability of fertilizer to our Nation's farmers is essential if we are to meet our food production goals. We must meet these goals if we are to replenish our low grain reserves and help avert worldwide famine.

It is time that we moved to straighten this mess out. I again urge the Federal Power Commission, the Federal Energy Office, and all other relevant agencies to give top priority to the fertilizer industry. Adequate supplies should be assured not only for existing plants but also for future plants to encourage the construction of additional fertilizer production capacity.

I again urge the Government to encourage the construction of new fertilizer plants in the United States, not in the Soviet Union or Communist China. If the U.S. Government is to help subsidize fertilizer plants through low-interest loans, it should be right here in America.

I again urge the administration to become more involved in solving this critical problem. Neither our farmers nor our Nation can afford another year of serious fertilizer shortages.

TRIBUTE TO MSGR. PATRICK O'LEARY ON HIS 90TH BIRTHDAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. BIAGGI. Mr. Speaker, on Sunday, November 24, 1974, I will join with hundreds of Bronxites in celebrating the 90th birthday of one of our most distinguished and beloved members of the clergy, Msgr. Patrick A. O'Leary, pastor emeritus of the Church of Our Lady of Mercy Church. On this monumental occasion, I would like to enlighten some of my colleagues into the remarkable life and accomplishments of this great servant of God.

Although Monsignor O'Leary was born in Lislevane, County Cork, Ireland, he considers this country, where he has been for the past 67 years as his home. After attending several noted schools in Ireland including the Christian Brothers School in Cork City and the famous Irish missionary seminary All Hallows, Monsignor O'Leary arrived in the United States to continue his studies at the world famous St. Joseph's Seminary in Yonkers.

He was ordained into the priesthood on May 1, 1910, by John Cardinal Farley at St. Patrick's Cathedral, and celebrated his first Mass at St. Francis de Sales Church in New York City. It was from this date that Father O'Leary embarked upon a career in the priesthood which has encompassed 64 years.

During the next 17 years, Monsignor O'Leary provided a number of parishes in New York City with the benefit of his dedicated service. These included St. Elizabeth's Parish of Washington Heights as well as the Church of the Annunciation in Manhattan. While serving in these capacities, Monsignor O'Leary demonstrated the first examples of his lifelong commitment to not only the church but to the surrounding community as well. An example was his successful setting up and organizing of the first troop of the Boy Scouts of America under Catholic auspices.

In 1927, the Archdiocese of New York awarded Monsignor O'Leary with his first pastorship at the church of St. George in Mohegan Lake, N.Y. During his 11 years as pastor, not only did he succeed in rejuvenating his parish but was also responsible for the building of churches in three other areas of upper Westchester County.

In 1938, Monsignor O'Leary was able to return to his beloved New York City and assumed the duties as pastor of Our Lady of Mercy Church in the Bronx, the same church which will be honoring him. For more than three decades Monsignor O'Leary has provided the parishioners of Our Lady of Mercy with tireless and inspirational leadership. He worked hard for the betterment of the parish and established the first archdiocesan credit union at Our Lady of Mercy which has been successfully in existence for the past 30 years, and has been widely copied elsewhere.

In addition to his service to Our Lady of Mercy, Monsignor O'Leary distinguished himself in the Fordham community serving as both a religious and community leader. He lent his time and energy to various civic fraternal and ethnic organizations and was recognized by all as a true friend of the community.

In 1969, at the age of 85 after 59 years of active service as a priest, Monsignor O'Leary decided to step down as pastor of Our Lady of Mercy. His years of service and his love for his parishioners led to his immediate designation as pastor emiritus of Our Lady of Mercy.

I am honored to join with the thousands of New Yorkers who will pay tribute to Monsignor O'Leary as he reaches this milestone in his distinguished life. I am personally grateful for the opportunity to salute this outstanding servant of God who has dedicated so much of his life in service to his fellow man. Many men speak words and express verbal commitments to the betterment of mankind, Monsignor O'Leary is a living example of a man of action who translated his priestly vows into a mandate to teach and live the word of God among his people. He has earned the eternal love and respect of the people of the Bronx who I know join with me in extending to Monsignor O'Leary my sincerest congratulations and best wishes that the grace of God may be with him for many years to come.

LETTER FROM A CONSTITUENT

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. HANRAHAN. Mr. Speaker, I recently received a very heart-warming letter from one of my constituents, Ms. Stoncius, pertaining to my efforts on behalf of the Lithuanian seaman, Simas Kudirka. I would like to share this with my colleagues:

The letter follows:

CHICAGO, ILL., *November 1, 1974.*

HON. CONGRESSMAN HANRAHAN: I am moved to tears by your efforts and spirit in helping Simas Kudirka to be freed from imprisonment by the Communists. Accept a sincere thank-you. You are a hero of the Lithuanian people and the pride of America because you went out to undo a Judas-like mistake made by the Coast Guard. You went out to protect a son of a small nation. You will be remembered as a son of Lithuania, honored among the ranks of freedom fighters, a brother fights for a brother—that's natural, but you went out to fight for a stranger, led by humanistic emotions. May God's blessing be upon you. For even He has said: Whatsoever you do for the least of my brothers, that you do unto me. The Lithuanian nation, tortured by the Communists, breathes easier when there are people like you in the world, Congressman Hanrahan. Thank-you. We are with you and for you.

Yours truly,

ISABELE STONCIUS,
President, Lithuanian American Community, Gage Park branch.

P.S.—The Gage Park branch, within whose boundaries is the Lithuanian Youth Center, collected $131.00 for the Simas Kudirka Fund.

ABORTION IS NOT A POLITICAL ISSUE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. BROWN of California. Mr. Speaker, one of the unfortunate aspects of the political campaign this year was the attempt by some people, with a variety of motives, to make abortion a political issue. I have commented on this subject before, as have most Members of Congress since the decision by the U.S. Supreme Court declaring certain laws relating to human reproduction to be unconstitutional. That court decision should have removed this subject, which is a very personal matter, from politics. I was sorry to see that many people persisted in making abortion a political issue.

I sincerely hope that those who genuinely oppose abortion or even birth control will recognize that their moral beliefs are not universally held. I have said before that I am not prepared to play God with the lives of others and impose my personal beliefs on all women. It is a strength of this Nation that we can tolerate different views. Certain values cannot, and should not be legislated.

Because I was concerned by the attempts to make abortion and the related issue of birth control a political issue, I found the analysis of this issue during the 1974 congressional elections to be interesting. The analysis was prepared by the National Organization for Women, and I insert it into the RECORD for review by my colleagues at this time.

LIFERS ARE LOSERS

"Starting with Rep. Harry Hogan (R-Md.) who lost his primary to a woman, members of the U.S. House of Representatives who consistently supported the efforts of the so-called "Right-To-Life" movement were defeated at the polls," claimed Ann Scott, Legislation Vice President for the National Organization For Women. Of the 79 members of the U.S. House who played demagogue on the abortion issue and consistently supported all attempts to deprive women, especially minority women and women who are poor, of the right to choose regarding motherhood, 25 percent are not returning to Congress next year. Furthermore, the Right-To-Life leadership lost in a big way. This year saw the defeat of not only Hogan, whose Constitutional amendments represented the worst potential oppression of women and their families, but also of Representatives Harold Froehlich (R-Wis.) and Angelo Roncallo (R-NY) the men who together with Hogan formed the "storm troops" on the floor of the House against legal abortion and HEW funds for abortion. Other losers included Representatives Scherle (R-Ia.), Landgrebe (R-Ind.), Rarick (D-La.), Maraziti (R-NJ). The National Organization For Women had publicized the anti-choice activities of these men across the nation. "We believe that the American public stood shoulder to shoulder with feminists on this issue. In times like these, how could any voter support the negation of the civil right to privacy and the institution of compulsory pregnancy and mandatory motherhood by these men? Voters rejected it just as feminists do," stated Ann Scott.

On the other hand, all of the smaller but courageous band of Representatives who opposed the legislation of Hogan, Froehlich and Roncallo against legal abortion and the provision of same to women who could otherwise not afford it, were returned to Congress. This group includes Representatives Abzug, Chisholm, Schroeder, Brown, Dellums, du Pont, Edwards, and Fraser. "We hope that this year's election returns will give more men in Congress the courage to stand up to the compulsory pregnancy crowd and say, 'What you propose is wrong—it is a violation of the civil rights of women and men in this country, and we will not support you,'" continued Ms. Scott.

A spokesperson for N.O.W. also pointed to some significant victories in the U.S. Senate races. Ms. Jan Liebman pointed to the victory of Senator Birch Bayh (D-Ind.). "At the 'Lifers' rally in Indiana, Mayor Lugar declared he would support and work for passage of the Buckley compulsory pregnancy amendment. Senator Bayh, the courageous chairman of the Senate Subcommittee on Constitutional amendments refused to make such a commitment. The voters of Indiana supported this man's clear stance and integrity."

Ms. Liebman continued, "Those members who did not waffle or try to play coy games with the Right-To-Life won. Those members who obfuscated and obscured their position on the Right-To-Choose motherhood did not fare as well. We believe this is because the public wants to support members who demonstrate integrity and leadership, especially with regard to matters as private and personal as the decision of whether or not to bear or beget a child. No one, whether conservative or liberal would be happy to see HEW bureaucrats with their briefcases descending on women and their families to force them to bear children for the state. We cannot support the Federal government stripping poor women of the right-to-choose by closing the door on abortion services to them. This is just not the American way."

Among others claimed as victories for N.O.W.'s Right-To-Choose program were Senators Glenn, Cranston, Culver, Hart, Javits, Stone, Magnuson, and Packwood. "No U.S. Senator who supported N.O.W. in our efforts to preserve our civil right to privacy and choice was defeated."

BISHOP ROY C. NICHOLS: A COMMUNITY LEADER

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 17, 1974

Mr. MURTHA. Mr. Speaker, it would be quite enough to say of a man that he is the spiritual and administrative leader of 1,050 churches with 272,000 members in the Western Pennsylvania Conference of the United Methodist Church.

But add to that, if you will please, these accomplishments for one man in a lifetime: Organizing pastor of South Berkeley Community Church in California, one of the first interracial churches in the Nation; stimulating community activity in Harlem with a community center; forum chairman of the 1970 White House Conference on Children; pastor of "The Christian Answer" and other radio and TV shows.

It seems like a great deal for three or four men to do in a lifetime. But all that and more has been done by Bishop Roy C. Nichols. And add to that list that Bishop Nichols succeeded in having a successful family life with three wonderful children.

It is certainly fitting that Bishop Nichols be honored by the community of Johnstown for his outstanding work. It is a pleasure for me to add my personal congratulations, and I know I extend to him all the best wishes of the U.S. House of Representatives.

NIX CALLS FOR THE RESIGNATION OF GENERAL BROWN

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. NIX. Mr. Speaker, I was shocked to learn last week of the anti-Semitic remarks made by Gen. George Brown, Chairman of the Joint Chiefs of Staff, in a talk at Duke University last month.

General Brown has quite properly apologized for his crude remarks on the "Jewish influence" in this country. He insists that he is not anti-Semitic and says that his remarks were "unfortunate and ill-considered." Nevertheless, his crude and reckless statements, coming as they do from the highest ranking officer in our Armed Forces, lead me to believe that he is unfit to continue serving in that role.

His comment that "Jewish money" controls the banks and newspapers in this country is a mindless and vulgar ethnic slur. His apparent belief that American Jews should be held responsible for the extortion of the oil cartel echoes the propaganda line of the Arab terrorist organizations.

General Brown has insulted Congress by implying that congressional sympathy for Israel is dictated by a foreign lobby. His apparent dislike of U.S. policy in the Middle East has raised a serious question of his ability to conform to policies set by his civilian superiors. And finally, his reckless indiscretion has set a terrible example for men and women in military uniform.

I must conclude, Mr. Speaker, that the only decent and proper course for General Brown is to submit his resignation as Chairman of the Joint Chiefs of Staff. If he does not do so voluntarily, I believe President Ford should demand his resignation. In these troubled times we cannot have a man as our highest military officer who is given to such outbursts of intemperance and bigotry.

BIRMINGHAM, ALA. REVIVES THE PERFORMING ARTS

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. BUCHANAN. Mr. Speaker, I have come to the floor many times over the last 10 years to report to our colleagues on the tremendous strides being made in the city of Birmingham, Ala., which it is my privilege to represent in the Congress, by the people there.

Often these accomplishments go unnoted by those outside our city and State and so I am particularly pleased when those in other parts of the Nation are provided the opportunity to share this recognition of the growth of our city.

This morning's New York Times records yet another of our major accomplishments—the beginning of a new era for culture and the arts in the Birmingham area. The recent opening of the concert hall and theater in our multimillion dollar civic center complex is the culmination of many years of hard work and cooperation by many citizens from all walks of life in the Jefferson County area.

This cooperation reflects the spirit and dedication which pervades virtually every aspect of Birmingham life today.

I have been telling my colleagues for 10 years that Birmingham is a city which I am proud to represent and I am delighted that there are others who likewise appreciate what our city has come to mean to Alabama, the Southeast, and the Nation.

I include herewith the text of the New York Times article for the edification of our colleagues:

BIRMINGHAM LEADS SOUTH ART REVIVAL

(By Roy Reed)

BIRMINGHAM, ALA.—Any sane gambler would have known instantly where to put his money if he had been asked to bet on which this city would build first, a sports coliseum or a music hall and theater.

"Birmignham, football capital of the South," the street banners say, and the frenzy does not stop there. Any sport that promises bodily collision and partisan fervor draws spectacularly here. The coliseum would have won hands down.

So how does it happen that Birmingham has just dedicated a new multimillion-dollar concert hall and theater complex while the grand sports coliseum is still nothing but a set of blueprints and a hole in the ground?

Alex Lacy, a political wizard who led the city elders in making that choice, explained it this way:

GROWTH STOCK

"We knew there would be plenty of pressure from the public to build the coliseum, and raising money for that would be no problem. But if we waited until last to build the concert hall and the theater, the pressure from the public would be less and we might have had to reduce the cost or cut them out all together."

Through a combination of stealth and hard work, the arts have become the hottest growth stock in Dixie. Everywhere in this region, from cities to crossroads villages, the hunger is growing for artistic expression, especially for the performing arts.

Arkansas has a respectable symphony orchestra. Anniston, down the road from here has a Shakespeare Festival every summer. In Atlanta and New Orleans, small professional theaters are surviving without Government support.

There is hardly a city in the South with a population of more than 50,000 that does not entice traveling professional theater groups at least once or twice a year, communities that do not have their own symphony and opera companies hire them elsewhere and pack the high school gymnasiums when they arrive.

IMPROVING AN IMAGE

But nowhere have the arts, performing and otherwise, shown more growth in the last few years than in Birmingham. Part of the growth is attributed to the leadership's desire to clean up the city's image after the civil rights turmoil of the early nineteen-sixties. But a large part seems to spring from a simple yearning for broadened experience.

A sampling of what Birmingham offered in the first two weeks of October included the ballet "Coppelia" by the dance troupe of the University of Alabama here; Beethoven's Ninth Symphony by the Birmingham Symphony Orchestra and the Birmingham Civic Chorus in the new 3,000-seat Birmingham Concert Hall; a free concert of Schoenberg, Willaert and Mendelossohn by a chamber group from the orchestra in the new 800-seat theater; the musical "Don't Bother Me, I Can't Cope," brought from Broadway; a concert by Dionne Warwick; a dance program by the city's Black Fire Company; the 11th annual Bluff Park Arts and Crafts Show, and the publication of "Jericho, the South Beheld," a $60 book of art and poetry by two Southerners Hubert Shuptrine and James Dickey.

Van Cliburn played Tchaikovsky's First Piano Concerto at the concert hall's opening Oct. 3.

Most of this cultural binge was designed to celebrate the opening of the two most prestigious sections of the city's new civic center, the concert hall and the theater. An exhibition hall already was in use. The foundation will be laid soon for the coliseum. The entire center, covering 23 acres, will cost about $60-million.

ENERGETIC LEADER

The civic center was conceived by a group of city leaders during the troubled mid-sixties as an antidote to Birmingham's reputation as a pit of racial violence. To guide its construction through the anticipated maze of financial and political problems, the leaders selected Mr. Lacy, a lawyer and lobbyist for the Alabama Gas Company, as chairman of the center commission.

Mr. Lacy knew about bonds and high finance. He also knew how to pass legislation at the state capital in Montgomery. He set to work in 1965.

Spending up to 40 per cent of his time on this volunteer project, Mr. Lacy obtained Federal urban renewal money to clear the 23 acres of tired old businesses and alarm houses. He conducted a national architectural competition and helped pick the winner, George Quals of the Philadelphia firm of Geddes, Brecher, Qualls and Cunningham, from among 276 entrants.

Mr. Lacy also negotiated with 11 railroads to move their tracks. And he masterminded a state law to pay for the center with a new tax on tobacco and Birmingham hotels. When that proved inadequate, he finagled part of the revenue from a new half-cent sales tax in Jefferson County to pay off the center's bonds.

"POSITIVE PUBLICITY"

"It began as a means of getting positive publicity after all the bad publicity the city had had," Mr. Lacy said in an interview the other day. "Our young people were leaving and not coming back. We decided we had to do something."

Along the way, the center became more than a public relations gimmick. Mr. Lacy and many others now speak of the sprawling, sand-colored buildings with deep pride. But most of their talk is about the people, plays, music and art that will inhabit the buildings.

The chief tenant will be the Birmingham Symphony. When Amerigo Marino, the conductor, hurled his arm toward the floor and the orchestra began playing "The Star Spangled Banner" on the opening night early this month, the new concert hall rippled with electricity. And it was not just patriotism. The audience seemed to sense that it had an orchestra worthy of the splendid new hall.

"I remember in 1946 going all over town to raise $17,000 for the symphony's maintenance fund," Mrs. David Roberts 3d, now chairman of the Alabama State Council on the Arts and Humanities, said recently. "I think the whole budget that year was $55,000. They played in an old rundown auditorium at Phillips High School."

Mr. Marino now has a budget of more than $500,000. He also has an orchestra of 80 muscians, compared with 50 when he came here from Glendale, Calif., 10 years ago. The orchestra plays a 30-week season and takes its music to 20 other Alabama communities.

Many things undoubtedly account for the changed attitudes that have made the arts boom here, but two institutions get much of the credit: the University of Alabama in Birmingham and Cecil Roberts.

The university was established here in 1966 after having been a branch of the main university at Tuscaloosa for many years. It has attracted new blood from elsewhere and has fertilized the arts through such agencies as town and gown theater and chorus and ballet companies.

Mrs. Roberts moved to New York from England in 1926. She married a young coal mine owner during World War II, and moved here to his home town in 1945. She immediately set about straightening out this dirty, tough industrial city. She has worked with almost every civic and cultural group here, from town and gown theater to the state branch of the American Federation of Labor and Congress of Industrial Organizations, for which she is cultural adviser.

LED INTEGRATION MOVE

She desegregated public theater in Birmingham at the height of the racial tensions by walking down the aisle of an auditorium on the arm of Dr. John Nixon, the Local president of the National Association for the Advancement of Colored People. Despite that Gov. George C. Wallace recognized a fellow force of nature and appointed her as chairman of the State Arts Council a few years ago.

The mixture resulting from all this is heady. Oliver Roosevelt dance critic of The Birmingham News, ended his review of a performance by the Birmingham Civic Ballet by saying, "During our ballet intermission, we could look out the mural windows and see the audience lining up for the Dionne Warwick show a couple of hundred feet away. That's kind of uptown, now, isn't it?"

Mrs. Roberts considers the new concert hall and theater "the carnation in the button hole" for Birmingham.

"I frankly think we have more good things going than Atlanta," she said.

CITIZENSHIP AWARD

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. HANRAHAN. Mr. Speaker, Mr. William Borhauer, who resides in Illinois' Third Congressional District, was recently awarded the "Citizenship Award" by the Mount Greenwood Civic Association. Many residents of Mount Greenwood had been complaining about the many nuisances in the neighborhood. Mr. Borhauer worked with the police on these problems, and many of the nuisances are now lessened. This award was given to Mr. Borhauer in appreciation by the residents of Mount Greenwood.

CONGRESS URGED TO OVERRIDE VETO OF H.R. 12471, FREEDOM OF INFORMATION ACT AMENDMENTS—II

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the President's ill-advised veto of H.R. 12471, making urgently needed improvements in the Freedom of Information Act, has evoked widespread attention from newspapers throughout the Nation. Dozens of incisive, thought-provoking editorials have appeared during the past month urging that Congress act promptly to override the veto so that the American public's belief in "open government" might be restored.

So that our colleagues may know of this overwhelming expression of sentiment supporting action by Congress to override the veto of H.R. 12471, I include at this point in the RECORD another sample of these articles and editorials:

[From the Washington Post, Oct. 21, 1974]

A REGRETTABLE VETO

President Ford's assurances of openness in government were dealt a serious blow by his decision Thursday night to veto the amendments to the Freedom of Information Act. Those amendments, intended to make it easier for citizens and the press to learn what is going on within government, could have played an important role in bringing about that promised openness. Congress was willing; the amendments passed both houses by substantial margins. But Ford chose instead to accept the counsel of the bureaucracy that these changes in the law somehow menaced the operation of government.

The section that caused the President to bring down the weight of his veto power provides that documents that are stamped "secret" must be proved to contain valid secrets if a citizen or a reporter seeks to inspect them. An orderly mechanism was provided for seeing this purpose through. The legislation required that, when a dispute arose over such a document, a federal district court judge would inspect the document in private and determine whether it was in the public interest for the document to be released.

There were other provisions of the act, all of them of paramount importance in the effort to make the government more accountable to those it seeks to serve. The new legislation would have reduced the number of days within which an agency would be required to say whether it intended to provide the public with a previously withheld document. The FBI and other investigative agencies would no longer have been able to withhold material unless they could justify doing so on the grounds that a current investigation or a defendant's rights would be compromised. And, perhaps most important of all from the bureaucrat's vantagepoint, if an official withheld a document and the court decided the document should not have been withheld, the official might be required by the Civil Service Commission to give an account of his actions.

All of these provisions were in the spirit of the kind of relationship between government and the public that Mr. Ford assured the Congress he wanted when he made his first appearance before a joint session only days after taking office. Now he has vetoed a piece of legislation that sought to overhaul a well-intentioned law that has languished ineffectively for nearly a decade. In so doing, the President has put it up to both houses of Congress to muster the votes to make the Freedom of Information Act a more effective servant of the public's right to know.

[From the Milwaukee Journal, Oct. 21, 1974]

MEDIA FIGHT INFORMATION BILL VETO

WASHINGTON, D.C.—News media lobbyists have started a grassroots campaign among editors in large and small towns across the nation in hopes of making sure Congress overrides President Ford's veto of changes in the Freedom of Information Act after the November elections.

The campaign began within hours after Ford vetoed the revisions, which were designed to make it easier for public access to government documents.

"There are going to be a lot of lame duck congressmen coming back here who are looking for jobs in the Ford administration," said Sam Archibald, a leader of the lobbying effort.

The campaign is designed to secure pre-election pledges from incumbents that they will vote to override the veto.

Archibald, a journalism professor at the University of Colorado, lobbied for the act to be strengthened during the House-Senate conference which worked out the compromise both bodies accepted.

The Senate approved the changes by voice vote Oct. 1. Only Sen. Roman Hruska (R-Neb.) spoke against it. A week later, the House voted 349 to 2 in favor of the revisions.

Bill Mullin, general counsel of the National Newspaper Association, which represents 6,000 daily and weekly newspapers, said his organization had sent letters to all its members, urging them to get commitments from all incumbent congressmen.

A similar drive was made by the American Society of Newspaper editors.

[From the Utica (N.Y.) Press, Oct. 30, 1974]

MORE SECRECY?

One might think that after Watergate, government officials would be falling all over each other to assure full disclosure to the public. But no, on the contrary, President Ford has vetoed proposed amendments to the Freedom of Information Act.

Apparently, Watergate was not enough to convince the White House staff that the public will not stand for unnecessary secrecy, which can be a simple means of covering up wrongdoing.

But, unless Congress overrides the veto, the bureaucrats are going to go on classifying documents that the public should have every right to see.

If you don't want your right abridged—in other words, if you don't want the seeds of another Watergate to flourish—demand that Congress strike down this veto.

[From the Chattanooga Times, Oct. 23, 1974]

A BLOW TO OPENNESS

President Ford's veto of legislation containing 17 amendments to the 1966 Freedom of Information Act is depressing news, coming as it does in the wake of two national tragedies—Watergate and the Vietnam war—which might have been ended sooner had not the leaders involved been able to hide their actions in secrecy.

The FOI Act required the federal government and its agencies to make available to citizens, upon reqeust, all documents and records. There were exceptions—national security or foreign policy information, internal personnel practices, trade secrets, personal information, law enforcement investigatory information, and the like.

But difficulties soon developed. Citizens complained about bureautic delay, the cost of bringing suit to force disclosure and excessive charges levied by agencies for finding and providing the requested information. Then, in 1973, the Supreme Court ruled that Congress had not given the courts the power to go behind a "classified" stamp on information sought by a citizen under the law. In short, classification meant exemption.

The amendments to the law sought to clarify the matter, especially the Court's decision. One amendment gave federal courts the power to obtain improperly withheld documents and examine them privately to determine if they had been properly exempted.

It was to this point that Mr. Ford explicitly referred in his veto message, objecting to the courts' being permitted to make what amounts to "the initial classification decision in sensitive and complex areas where they have no expertise."

This is nonsense. Such a sentiment presupposes that federal judges lack sufficient common sense or integrity to enable them to rule against the release of national security information.

This means that citizens will continue to have difficulty obtaining information improperly withheld because some bureaucrat who has made a mistake has hidden it behind a "classified" label.

Mr. Ford has promised his own proposals for broadening the FOI legislation. But can we be sure that he will come forth with anything other than that which seeks to protect, first of all, the interests of the federal agencies who would be affected by the bill? The best answer appears to be: Not likely.

[From the Denver (Col.) Post, Oct. 20, 1974]

FORD VETO OF NEWS BILL RAPPED

CHICAGO.—The society of professional journalists, Sigma Delta Chi (SDX), has criticized President Ford for vetoing legislation to broaden the Freedom Information Act.

In a Statement Friday, Ralph Otwell, national president of the 27,000-member Sigma Delta Chi, said, "For a President who is publicly committed to a more open and honest administration to oppose significant reforms in freedom-of-information legislation is both startling and disappointing."

Both houses of Congress overwhelmingly approved 17 amendments to the 1966 act. One significant reform would require judicial review of defense information and foreign policy before such information could be withheld. Federal agencies connected with foreign and domestic intelligence, including the National Security Agency, have opposed the changes.

With his veto Thursday, Ford said he would offer his own legislation soon.

"Both the Vietnam war and Watergate dramatically demonstrated that fuller access to information and earlier enlightenment of the public would have spared the nation prolonged confusion and torment, but President Ford's veto suggests that his administration is pursuing a discredited policy of coverup-as-usual," said Otwell, who also is managing editor of the Chicago Sun-Times.

He said the organization would try to spearhead a congressional override of the veto.

THE HOUSE COPS OUT

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. STEIGER of Wisconsin. Mr. Speaker, many columns and editorials from around the country in recent weeks have nightly criticized the House for its rejection of the work of the select committee. Two of the best were in Business Week on October 19 and the Washington Star-News on October 16 and I am placing them at this point for the enlightenment of all RECORD readers:

THE HOUSE COPS OUT

Once again, the House of Representatives has marched into the 20th Century with a bill to reform its archaic committee system. And once again, the committee chairmen have rallied to defend their privileges and send the rank and file into retreat.

The bill, carefully constructed by a bipartisan special committee, would have made sense out of the chaotic jumble of conflicting jurisdictions. In four major areas—transportation, health, energy, and environment—it would have consolidated responsibility in single committees. And it would have stripped the overloaded Ways and Means Committee of issues such as foreign trade and health insurance that are not directly related to revenue-raising.

The measure that the House finally adopted is a sadly shrunken version of the original. It makes some minor changes in jurisdiction, but it leaves most of the old overlaps untouched. Ways and Means will remain a bottleneck. It not only will keep responsibility for taxes, Social Security, foreign trade, and welfare, but its Democratic contingent also will continue to control all new committee assignments.

As a result, the House will come into its next session with the same old confused, inefficient procedures. Responsibility for key issues, such as environmental protection, will be divided. Health problems will be split several ways. And Ways and Means, which labored intermittently for two years on tax reform without getting a bill to the floor, will continue to have too much power and too little time.

There is nothing in the rule book, however, that says that the new Congress has to abide by the mistakes of the old. It is significant that the junior members, who have a minimum stake in the Congressional seniority system, supported the reforms. In the Congress that will convene next January, there will be many more juniors—perhaps one out of every seven or eight House members. The reformers should try again in 1975.

Congress has complained for years that the executive branch was pushing it aside. If Congress wants to recapture power, it must be able to act effectively. With its present committee system, it cannot.

RETREAT FROM REFORM

House members marched up reform hill the other day and ran back down as fast as their legs would carry them.

The result is that when the new Congress convenes next year, the House still will operate under its old hodge-podge, oligarchic committee system. Committee chairmen and senior members will be able to settle into their accustomed niches that have grown comfortable over the years and have provided many of them with the influence and perquisites of power. The attendant cozy relationships that have been built up among committee members and the lobbyists who ply the committee rooms looking for favors will remain essentially undisturbed.

For six days the House debated reform and in the end it scrapped a bold proposal drafted after a two-year study and a million-dollar expense by a bipartisan committee headed by Representative Richard Bolling of Missouri. Bolling would have abolished two committees, created two new ones, and split another. He would have rejuggled the work of committees into more logical groupings. He would have prohibited members from serving on more than one major committee so that junior House members would have a better share of the work.

The House would have none of it. Why? Mainly because of self-interest. It would have upset too many powerful chairmen, such as Wilbur Mills, whose Ways and Means Committee would have been shorn of more of its jurisdiction. Too many members—108 to be precise—would have had to give up at least one of their committee assignments. Influential organizations, such as the AFL-CIO, were opposed to major features of the reform plan.

As they raced back down reform hill, House members did pause long enough to adopt something they called "reform"—an anemic program that bears next to no resemblance to the Bolling proposal. They gave the Speaker a little more leeway in assigning work to committees; they're going to get organized a little earlier in the legislative year; they're going to make Mills organize four subcommittees instead of doing all the Ways and Means Committee's business in one room before all members; they're going to give the Republican minority more committee staff personnel.

They provided for a continuing study of committee jurisdictions and work loads with a view to possible changes sometime in the future. Swell! Perhaps they can spend another two years and another million dollars so they'll have something to reject at the next debate over reform.

Bolling, while disappointed, preferred to look on the bright side. He called it a "start." Well maybe, but just barely.

TRIBUTE TO CHESTER NESLEY, JR.

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. PATTEN. Mr. Speaker, on October 14, I attended a wonderful affair in honor of a great man, Chester Nesley, Jr., was given a testimonial dinner by his many friends and associates, and I like to consider myself among them. Chet, as he is better known to those close to him, has given unselfishly of his time and energies to the betterment of his fellow man.

Aside from being an accomplished musician, he has been active in the first aid squad, the fire department and his church; all of the above is accomplished in his spare time. Most of his life, Chet has worked as an ironworker in Local 373 of Perth Amboy and holds the office of treasurer in that local. During the past decade he has established himself as an outstanding labor leader in the field of music. For the past 12 years he has held the post of secretary-business manager of Local 373, American Federation of Musicians, and continues to serve with dedication and integrity in this office. He is known statewide and nationally for his many contributions toward achieving status and recognition for all musicians.

Whatever the task and no matter how difficult, Chester Nesley always comes through because he has those outstanding qualities only a few of us are gifted with.

He has compassion for his fellow man, a keen understanding of people and their problems, a deep sense of loyalty to his job, and integrity. We are indeed fortunate to have Chet Nesley as a friend.

SCIENCE AND ITS PUBLIC: THE CHANGING RELATIONSHIP

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. TEAGUE. Mr. Speaker, in the summer issue of Daedalus, the Journal of the American Academy of Arts and Sciences, Emilio Q. Daddario, a former Member of Congress and presently director of the Office of Technology Assessment, discusses the importance of science policy in relationship to national decisionmaking and public programs. Mr. Daddario writes that the growing and changing role of science and technology in the affairs of the American society calls for more, not less, attention to planning and support of science research and development.

Since July of last year, the Committee on Science and Astronautics has been holding hearings on this matter, "Federal Policy, Plans, and Organization for Science and Technology." The testimony to date strongly supports the major point made by Mr. Daddario in the following article. I hope my fellow Members of the Congress will agree on the central role of science and technology in solving major problems in our society.

The article follows:

SCIENCE POLICY: RELATIONSHIPS ARE THE KEY

(By Emilio Q. Daddario)

Appearing before a Congressional committee in 1970. A. Hunter Dupree, professor of history at Brown University, showed that he was a prophet as well as a historian when he said, "The present organization charts that I have seen put the structure for science and technology, which has been now for two decades building, nowhere near the interior circle where the President must make priority decisions."[1]

Lee DuBridge, then the Director of the Office of Science and Technology in the Executive Office of the President, as well as his Science Adviser, replied to that assertion when he appeared as the next witness.

"I was a little amused to note that apparently Dr. Dupree in his testimony . . . said that the Office of Science and Technology had been wiped off the organization charts. I don't know what organization charts he is looking at, because that was certainly news to me! I think it must be news to the President, too, since he gave a special reception in honor of the President's Science Advisory Committee the other evening. I don't think he realized we were off the organization Charts."[2]

Dupree knew, of course, what the organization charts looked like, but his observations were a way of saying that the Office of Science and Technology did not really have the ear of the President and that it was not effectively involved in top-level decision making. Neither then nor now can White House receptions and ceremonies make up for this deficiency. That all of the White House structure for science and technology was liquidated in January, 1973 is not in itself important. For some time up to its dismantling it had been unable to carry out the legal responsibilities assigned to it by President John F. Kennedy in 1962.

It is no longer seriously questioned that the federal government must assume the primary responsibility for supporting science and its applications to public programs. Indeed, the network of agencies throughout the federal bureaucracy which deal with one aspect or another of science and technology is astonishingly complex. Yet during the past few years these agencies have frequently pursued their separate tasks with little coordination, suggesting that policy making has been the handmaiden of expediency. The question, then, is whether science and technology are seriously and effectively considered in the highest councils of government.

For there does need to be a specific place in government for the coordination, sponsorship, and advocacy of government science and technology, and a group of scientists at that focal point on whom the President can depend and whom the scientific community respects. If the lower levels of the federal bureaucracy are to be responsive to the science policy of the President, then there must be an organizational structure which will coordinate their efforts. Equally important, there must be evidence that there is a coherent science policy, which, in turn, implies the need for a broad understanding of the multiple tasks that need to be done, as well as for sufficient outlays of government funds in their support.

These, then, are the basic ingredients around which a constructive science policy can be formed. Unfortunately, however, science policy making seems to have become synonymous with justifying programs already underway, or with improvising others on the spur of the moment to meet one expedient or another. One need only review the makings of the federal research and development budget for fiscal year 1973 to perceive that expediency, not judicious cerebration, lay behind it. In times of tight budgets and inflationary surges, science has always suffered, but lately even the most trivial budget issues have not been too small to prevail over science.

Although the budget for Fiscal Year 1975 includes substantial increases in dollar amounts for science and technology, we must not lose sight of the facts that these increases are tied to the energy crisis and must be measured against the inflationary spiral. When additional support is so precisely related to special problems, it is almost always accompanied by supporting language which reminds us that we work best under the harshest of conditions. It is indeed true that many good things have resulted whenever we have forced science and technology to meet a crisis of one type or another. In FY 1974, for example, it is estimated that the National Science Foundation will obligate $400 million for basic research, and $89 million for applied research. For FY 1975, the estimates jump to $570 million and $144 million, respectively, with $113.5 million of the basic research increase allocated for research in the energy field. Such quick adjustments make us wonder, however, if we should so often depend on ad hoc relationships and haphazard funding to give sustenance and life to our scientific research. Somehow we must make it a matter of policy to work out a course of action within which the key is continuity and predictability of support in keeping with recognized national goals and objectives. Unfortunately, we must still con-

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Footnotes at end of article.

clude that science policy makers have had less influence in recent years on funding for basic research and the rate and direction of technological change than have the advertising account executives who have been so prominent in high councils.

The growing and changing role of science and technology in the affairs of American society calls for more, not less, attention to the planning and support of scientific research and development. It continues to be tempting to assume that the democratic process has the inherent capability to take us on the right technical course, or at least to permit us to muddle our way through. This assumption is no longer tenable, however, for our future as a nation may depend on our ability to bring science and technologly to bear on national and world problems. We need to strengthen this ability, but the prospects of doing so seem uncertain and remote at this time.

In addition, the shortcomings in our science policy may be due in large part to our having spent so much of our effort on the structure and organization of science and technology within the government, while downgrading and virtually ignoring the social values and choices presented by that same science and technology—those upon which the legitimacy of any government science policy must ultimately rest.

We have come to assume, perhaps, that the effectiveness of science policy makers is assured merely by depositing them within the Executive Office of the President and the various departments and agencies of government. The belief is widely held that scientists need only be placed in the inner court in order for reason to prevail. But the record shows that in recent years there has been more frustration than satisfaction in the hearts and minds of Presidential science advisors, and that those who have responsibility for giving advice on science to the heads of the departments and agencies of government are regarded more as accountants than as movers.

A science policy framework of sorts has now been set up, and is headed by the Director of the National Science Foundation, although apparently not in his capacity as Director. Even if we assume that the Direcor of the Foundation has sufficient time to spare to take on an additional role as Science Advisor and Chairman of the Federal Council for Science and Technology, two fundamental questions remain: Does he have the ear of the President? Does he have the ear of the Cabinet? Without the former he is not likely to have the latter.

Consider the three largest R & D items in the federal budget: defense, space, and health. The Department of Defense is specifically excluded from the new science advisory mechanism; and it is no secret in Washington that the Administrator of the National Aeronautics and Space Administration does not look to the Director of the National Science Foundation for guidance on the space program, nor does the Department of Health, Education and Welfare with respect to health research. It is doubtful, moreover, whether any other department head would look for policy guidance to the head of an equal department. Perhaps the Science Adviser's effectiveness could have been enhanced if the President had issued an executive order explicitly and dramatically delegating science policy authority to the Director of the National Science Foundation. Unfortunately, the appointment was announced by nothing more than a vague and ambiguous letter, which seemed an afterthought to the notice evicting the former Science Adviser from the White House in January, 1973, when Reorganization Plan Number 1 was sent to the Congress. Moreover, this plan explicitly excluded military R & D from the scope of the NSF Director's concerns, despite the fact that the late White House apparatus worked hardest in precisely that area. One would hope that this serious weakness could be cured by a Presidential directive making explicit the authority of the Science Adviser, rather than leaving it to chance and political ability to earn a place at the decision-making table, wherever that may be in Washington these days.

It may be, however, that the ambiguity and weakness of the charter given to him—if a mere letter can be taken as such in the federal bureaucracy—bespeaks a disposition to get scientists out of sight and out of mind. The change which has taken place has not yet proven itself. What we must look for are positive results related to the basic arguments in favor of the change. We see nothing yet to support the fundamental premise of its proponents that the various federal agencies have become so sophisticated about science and technology that the coordinating or advisory functions once performed by OST are no longer necessary. It also remains to be determined whether it is in fact more advantageous to use ad hoc consultant groups when they are needed than to maintain a permanent organization—an argument which arose from the contention that the OST became bureaucratic.

II

There is something to be learned from the whimsies and ironies of science policy over the past fourteen years, particularly from the contrasts between the Reorganization Plans of 1962 and 1973. Since 1969, we have come a long way back to Square One. Let us briefly review the steps up the hill and back down again.

Sputnik was an event compelling enough to usher science policy into the White House. When President Eisenhower appointed James R. Killian, President of the Massachusetts Institute of Technology, as his special assistant for science and technology, he gave him both the responsibility and the authority to oversee the space and missile R & D program. "Through him," the President said,

"I intend to be assured that the entire program is carried forward in closely integrated fashion, and that such things as alleged interservice competition . . . shall not be allowed to create even the suspicion of harm to our scientific research and development program. Moreover, Dr. Killian will see to it that those projects which experts judge have the highest potential shall advance with the utmost possible speed. He will make sure that our best talent and the full necessary resources are applied. . . . In looking to Dr. Killian to discharge these responsibilities I expect him to draw upon the full abilities of the scientists and engineers of our country.[3]"

From that base, a major and direct relationship between the President and science developed. Since drawing upon scientific advice required advisers, President Eisenhower shifted the Science Advisory Committee of the Office of Defense Mobilization to the White House, renamed it the President's Science Advisory Committee, enlarged its membership, and added to its authority by giving it the power to initiate studies on its own. Then, to coordinate R & D programs within the federal departments and agencies, he established the Federal Council for Science and Technology in April of 1959, making the Science Adviser its chairman.

It turned out, however, that the Science Advisory Committee and the Federal Council were not enough to elevate the voice of science policy above the threshold of noise in the White House. For this reason, the Office of Science and Technology was created under the Reorganization Plan No. 2 of 1962, to take over the science policy responsibilities of the National Science Foundation. The Science Adviser was given a full-time professional staff, and specifically designated to advise and assist the President on the development of important government policies, plans and programs in science and technology. The authority was taken from the National Science Foundation and assigned to him to coordinate and sponsor basic research and education in the sciences and to evaluate scientific research programs in the federal departments and agencies.

Despite the increased resources that this office provided the Science Adviser, what transpired over the next ten years was a struggle for survival which culminated in Reorganization Plan No. 1 of 1973 and the razing of the White House science structure. This move just about brought us back to where we started from. Much of the authority that had passed from the National Science Foundation to OST in 1962 returned to the Director of the National Science Foundation. It is important to note that the recent changes have left certain responsibilities and functions unclear:

(a) Is the Director of NSF really the Science Adviser to the President, or simply on call to the Executive Office?

(b) What is the real channel, if any, by which the Director of NSF can approach the President?

(c) What, exactly, is the function of the Federal Council under the new arrangement?

(d) How does the Science and Technology Policy Office make its work and findings available to the people who need it?

(e) In what ways is the Director of the NSF, as the chief science figure in the Administration, able to affect the Office of Management and Budget in its allocation of funds for natural resources, energy, and basic scientific research?

The rationale given for the 1973 *coup de main* must have been devised by someone so preoccupied with his ax and block that he did not take the time to read the argument for the 1962 reorganization—namely, that the [National Science] Foundation, being at the same organizational level as other agencies, cannot satisfactorily coordinate Federal science policies or evaluate programs of other agencies. Science policies, transcending agency lines, need to be coordinated and shaped at the level of the Executive Office of the President, drawing upon many resources both within and outside of Government. Similarly, staff efforts at that higher level are required for the evaluation of Government programs in science and technology.

In 1973, however, "certain" undefined responsibilities, formerly vested in the White House Office of Science and Technology, were transferred to the Director of the Foundation on the basis of the argument that "the research and development capability of the various executive departments and agencies, civilian as well as defense, has been upgraded." Translated: "The kids have now grown up to be strapping and aggressive teenagers and, therefore, they need less guidance from higher authority." Clearly, the earlier argument has been declared inoperative.

It serves little purpose to lament this banishment of science from the White House and to urge the President to reconsider. If the President preferred not to have a scientific advisory committee within the perimiter of the Executive Office Building, threatening to offer frank appraisals of the Supersonic Transport, the Anti-Ballistic Missile, and other programs backed by the White House, it was his prerogative to clear the halls. He also cleared away an illusion that advice was being heard in the White House inner circle because advisers were in the vicinity. An adviser without an advisee is the first to go in a housecleaning, and in its last few years the President's Science Advisory Committee, although its membership was as distinguished as ever, was like the proverbial tree crashing in the vast and secluded Si-

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Footnotes at end of article.

berian forest, unheard because there was nobody there to listen.

III

Let us look beyond the present while trying to make the most of it, and prepare for a time when there is a bona fide auditor. For it is idle to suggest what the science policy structure of this Administration should be when it does not want science in its house. Perhaps it is idle to dwell on organizational structure in any case, for structure is only a means, though one whose importance cannot be ignored. What is important is the future relationship between science and the Presidency.

If we put the question this way, we find that the answer is self-evident. Science policy was at its zenith in the White House when there was a relationship of mutual respect and understanding between the scientists and the President's inner circle. The advisers from the scientific community had a fair hearing. Their advice did not always prevail, nor should it have. But they were heard and, in return, they listened. There is no substitute for such a relationship and no way to achieve it, except to have the right people involved, and the choice of people is up to the President. That is why we must wait.

In the meantime, however, the scientific and technical communities in this country should speak out frankly on the issues, for when they do this they are at their best. Banishment is not all bad. It can increase freedom of expression, and provide an incentive for scientists to call the shots as they see them.

Having had the opportunity, since leaving the House of Representatives, to look firsthand at the uses to which science and technology are put, I am more than ever convinced that the scientific community should be more involved in determining them. As a group, scientists have a vast potential for influencing opinion, which has hardly been tapped.

President Nixon's 1972 message to the Congress on science and technology was excellent in content, though not in follow-through. Of particular relevance to science policy was his declaration that:

"We must appreciate that the progress we seek requires a new partnership in science and technology—one which brings together the Federal government, private enterprise, state and local governments, and our universities and research centers in a coordinated cooperative effort to serve the national interest."

Such a partnership is a laudable objective—one, indeed, toward which the U.S. Congress was reaching when, in 1968, it expanded the authority of the National Science Foundation to permit it to engage in applied research.

Many scientists were apprehensive that this expansion of authority might contaminate basic research. Yet, to be perfectly frank about the matter, most Congressmen are not overly concerned about the distinctions between basic science and technology. They tend to accept the convictions expressed by the leaders of the scientific community that the vigorous pursuit of basic research is a prerequisite to the proper application of science and technology; and for that reason, if for no other, they have supported basic research in the past. Congress also believes, however, that science and technology would be applied more rationally if the connections between them were examined more closely. It was to this end that the restructuring of the NSF in 1968 was addressed.

Glenn T. Seaborg put the question in perspective:

"Scientists must shoulder another responsibility that will not be nearly so popular among them. As the complexity and depth of understanding of scientific information has increased, some scientists have been content to remove themselves from the frontiers by simply rationalizing that their research projects should be continued until all facets of a problem have been explored and all data refined to a greater and greater number of significant figures. We can think of the frontier of science as being a perimeter surrounding our amassed knowledge, and working on the boundary between the known and the unknown. This perimeter has grown enormously, but there are too many scientists still working at the boundary as it existed 20 years ago, even though there is great opportunity to carry out research at the new frontiers. In science as well as in other fields, there is a law of diminishing returns, a point at which the accumulation of additional information may not be worth the effort expended.

"I am not advocating by this argument that some scientists be dragged grudgingly from their benches to the line, but rather that an enlightened science policy will offer to such scientists the opportunity to branch into more speculative directions with assurance that their past accomplishments are recognized. If the public and its elected representatives had the comfort of being assured that this nation would indeed structure the direction of science without interfering with intellectual freedom, I believe that a new era, the likes of which we have never seen, would dawn for science." [4]

This outline of the legislative events which culminated in the expansion of NSF authority in 1968 illustrates the difficulty surrounding any government reorganization. The authorizing legislation for the expansion, which grew out of the studies and hearings of my former Subcommittee on Science, Research and Development of the House Committee on Science and Astronautics, took some five years to complete, even though it dealt with a relatively small agency. The story also serves as a reminder that the U.S. Congress can initiate reorganizations without the impetus of a Presidential message. It further illustrates that that legislative process is a desirable means of involving the scientific and technical community in the formulation of science policy.

We should not neglect the legislative approach to science policy making, either now or in the future. Consider, for example, the recommendation of my former Subcommittee that a National Institute of Research and Advanced Studies be established.[5] In my view, a greater infusion of science advice into the legislative branch of the government can only be beneficial. Part of the genius of a legislature lies in its institutionalization of adversary procedures. As members of the Congress have become more sophisticated about science and technology, several have come to recognize that there can be honest differences of interpretation regarding science policy between two groups of equally competent scientists. This has been a difficult lesson to learn in a society which, in its dependence upon expert knowledge, tends to assume that expertise wipes out differences in opinion. Yet it is a point which must be grasped if efficient science policy making is to be established in an open society.

How a scientific adversary system can be institutionalized at the highest levels of the executive branch is not at all obvious. But it seems likely that if Congress were to establish the means for evaluating responsible scientific advice from many diverse quarters—not simply from the leaders of the scientific community who are too often regarded as its spokesmen on behalf of some imaginary unanimous constituency—then a good beginning would be made in at least one branch of the government toward institutionalizing scientific adversary procedures.

IV

An informed public which understood the full potential as well as the limitations of science and technology to affect social values and choices would be science's greatest ally. At the 1951 Arden House meeting, the American Association for the Advancement of Science issued a statement of purpose which said in part:

"It is clearly recognized that to define, for the general public, knowledge about science and its methods is a difficult, slow and never ending job. . . . In our modern society it is absolutely essential that science, the results of science, and the spirit can be better understood by government officials, by business men, and indeed by all the people."

When a second Arden House Conference was being suggested by the AAAS to look again at this question, the emphasis in the Conference plan was . . . on the improvement of the effectiveness of science in the promotion of human welfare and improving public understanding of science, rather than on furthering the work of scientists and the fostering of cooperation among them.

I am convinced that this kind of commitment on the part of scientists can restore the faith and confidence of the public in science, whereas mere pronouncements, however true, on the virtues and intrinsic values of science will only evoke skepticism. Scientists have an obligation, during this period of reflection on the rise and fall of science policy in the executive branch, to speak out constructively on national issues and to help lay the groundwork for a new relationship of mutual respect and understanding that may someday be reestablished between science and the President.

FOOTNOTES

[1] Hearings on Science Policy before the House Subcommittee on Science, Research and Development, July 7, 1970.

[2] *Ibid.*, July 8, 1970.

[3] "Public Papers of the President, Dwight D. Eisenhower," Document 230, pp. 789–790.

[4] Glenn T. Seaborg, "Review of the National Science Foundation," Statement at the U.S. Atomic Energy Commission Hearings before the Subcommittee on Science, Research and Development of the House Committee on Science and Astronautics, 89th Congress, 1st Session, July 6, 1965.

[5] Report of the Subcommittee on Science, Research and Development, April 15, 1970. That proposal is as valid today as it was in 1970 when we studied it.

A TRIBUTE TO MR. MARVIN ALEXANDER

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. JONES of Tennessee. Mr. Speaker, recently a gentleman from Martin, Tenn., Mr. Marvin Alexander, has been distinguished by winning the Eastern Region Livestock Champion title at the 1974 World Livestock Auctioneer Championship in Spokane, Wash. Mr. Alexander was among 49 professional livestock auctioneers from the United States and Canada competing for the world title.

Marvin began auctioneering after high school graduation in 1961, and has since developed his bid-calling into that of a champion.

Along with his success as an auctioneer, Marvin and his brother Wendell Alexander, own a real estate firm in Martin which is also very successful. Marvin Alexander is an asset to his community and his State.

JOHN W. GALLAGHER: PUBLIC SERVANT

HON. KEN HECHLER

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. HECHLER of West Virginia. Mr. Speaker, one of the outstanding citizens of Huntington, W. Va., John W. Gallagher, left us on Sunday, November 10. Although best known for his service as chief of the Huntington Fire Department for many years, John Gallagher was a civic leader whose influence for the betterment of the community extended to every human being.

It was my honor to know Chief Gallagher and his family very well. Only a few weeks before his death, at a chance meeting on a downtown Huntington street, Chief Gallagher spoke warmly and optimistically about the challenges of the future. He always had his eye on the future, and the well-being of every human, and we shall all miss him. His inspiration will guide us in the years to come.

The articles follow:

[From the Huntington (W. Va.) Herald-Dispatch, Nov. 11, 1974]

JOHN W. GALLAGHER, EX-CITY FIRE CHIEF, DIES AT AGE OF 70

John W. Gallagher, a former fire chief for the City of Huntington, died yesterday in Huntington Hospital at the age of 70.

He was admitted to the hospital at 2 p.m. Saturday and died at approximately 12:20 a.m. yesterday, according to hospital officials. Cause of death was not released pending the results of an autopsy.

Gallagher, of 1039 Jackson Ave., was born May 17, 1904, in Huntington, a son of the late John and Laura Laferty Gallagher. At the time of his death he was fire coordinator for the Cabell County Office of Emergency Services.

Funeral services will be conducted at 2 p.m. tomorrow at Klingel-Carpenter Mortuary by the Rev. E. W. Roy. Burial will be in Woodmere Memorial Burial Park. Active and honorary members of the Huntington Fire Department will serve as pallbearers.

A member of the Huntington City Fire Department for 35 years, Gallagher joined the department in November 1934. He was promoted to Lieutenant in March 1941, and Captain in January 1947.

He was named Deputy Chief Oct. 1, 1949, and was appointed Fire Chief March 1, 1954. He retired as chief in May 1969.

Gallagher was active in promoting fire protection throughout the county and once said, "It is a religion with me. I would never say 'no' to an opportunity to get before someone to talk about how to prevent fires."

He led the fight to establish the fire station at Washington Boulevard and U.S. 60 East which houses Engine Company No. 10. The station, which opened in 1965 and was named the John W. Gallagher Station in his honor, was the first additional fire station in the city since 1926.

At the time of his retirement as fire chief, Gallagher was active in the planning of the downtown Centennial Fire Station, dedicated in January 1972.

A member of several professional organizations, Gallagher was a former past president of Local 289, International Association of Fire Fighters; president of the West Virginia State Firemen's Association; members of the Advisory Board of the West Virginia University State Fire School; a member of the International Fire Chief's Association and was publicity chairman of the West Virginia State Firemen's Association.

He was also a charter member of the West Virginia Society of Fire Service Instructors and chairman of the Huntington Christmas Bureau for 23 years.

The Christmas Bureau, a coordinating agency for civil organizations and groups working to aid the area's needy families at Christmas, was the product of an idea that grew from Gallagher's early days as a fire fighter when firemen would distribute baskets to the needy at Christmas.

Under Gallagher's leadership, the Huntington Fire Department attained status as one of the outstanding fire departments in the eastern United States. Huntington progressed from a Class 7 city to a Class 3 city for fire insurance rate purposes under his tenure as chief.

Gallagher also was elected to the National Firemen's Shrine Hall of Fame at Valley Forge, Pa., in 1968 and was West Virginia's first recipient of this honor.

Active in civic affairs, he organized the Huntington Fire Prevention Parade and the Miss Fame and Miss Spark contests in cooperation with the Huntington Jaycees. He also organized the Halloween Blockwatchers patrol.

Gallagher was a member of the Huntington Civitan Club, A.F. & A.M. No. 152, Beni Kedem Temple of Charleston, West Virginia Civil Defense Council, United States Civil Defense Council and was an honorary member of the Huntington Junior Chamber of Commerce.

He was campaign chairman of the Southwestern Division of the West Virginia Heart Association in 1973. A lifetime resident of Huntington, he was a member of the Jackson Avenue Holiness Church of God.

Survivors include the widow, Irene Booth Gallagher; two sons, Okey L. Gallagher of Springfield, Va., and Robert W. Gallagher of Charleston, W. Va., and three grandchildren.

Friends may call after 3 p.m. today at the mortuary.

[From the Huntington (W. Va.) Advertiser, Nov. 12, 1974]

JOHN W. GALLAGHER: "CHIEF" TO THE LAST

They buried one of Huntington's all-time great politicians today.

John W. Gallagher wasn't a politician in the literal sense of the word, although he mostly preferred Democratic candidates to Republicans. He excelled in promoting fire prevention and in obtaining the best in firefighting equipment and personnel for the city in which he was born more than 70 years ago.

Gallagher served as Huntington's fire chief more than 15 years before his retirement five and a half years ago, and until the day of his death, early last Sunday, he remained "Chief" to the thousands of people with whom he came in contact.

City Councils here have not always responded sympathetically to requests made of them, but they rarely refused when Gallagher appeared before them, resplendent in his gold-trimmed blue uniform, to plead for new fire hose, a new pumper, a new ladder truck or even a new fire station. They did not refuse simply because Gallagher, before making his formal appeal, had personally lined up enough council votes to get what he wanted.

That, in its truest sense, is political wizardry.

While Gallagher was boss, the city's firemen may have had their factionalism and intradepartment disputes; but the chief saw to it their conflicts were waged in private, not in public. His leadership resulted in the department becoming one of the finest in the eastern United States.

His relations with the news media were legend. He once called a city editor at 3 a.m. on Saturday to advise him that a hotel fire in Ashland, Ky., was in progress and already had killed several persons. He suggested the editor might want to dispatch a photographer to the scene. Gallagher was there, fighting the flames in near-zero weather. The fact that he was chief of an out-of-town department did not prevent him from lending a hand.

His penchant for being a "working" fireman caused him plenty of pain, and on at least one occasion almost cost him his life.

Three times he suffered broken ribs while battling fires. He was burned about the hands and face fighting a fire at Rich Chevrolet Co. in the 2100 block of 3rd Avenue June 1, 1956, and bore the scars the rest of his life. He was burned while saving a department pumper that was in danger of being destroyed by the flames.

Of all the fires in his memory, the one Gallagher could never forget was the one at the University Apartments, 16th Street and 4th Avenue, which claimed the lives of a mother and her two sons before he became chief. Another was the Huntington State Hospital holocaust on Thanksgiving Eve, 1952, when 17 persons perished.

One day in 1912 Gallagher, then eight years old, announced to his mother that he was going to be a fireman. In those days he regularly made visits to St. Cloud Fire Station No. 4 to watch "Maude" and "Queen" the horses that pulled the station's fire carriage. Twenty-two years later, on Nov. 30, 1934, he joined the department.

When he retired as chief, he did not retire from his chosen profession. When he died, he was first department coordinator for the Cabell County Office of Emergency Services. Volunteer fire departments in the area never before had benefitted like they did with Gallagher's suggestions and upon his advice.

He also made his mark in civic affairs, and was considered the founder of Huntington's Christmas Bureau, an organization formed to aid needy families of the area during the holiday season.

The spark touched off by John W. Gallagher kindled a flame of leadership and devotion that will burn and be fueled by his memory for years to come.

[From the Huntington (W. Va.) Herald-Dispatch, Nov. 13, 1974]

"THE CHIEF": ALWAYS A FIREMAN, ENTHUSIASM WAS HIS TRADEMARK

(By Rodney A. White)

Friends and associates of "The Chief" paid their final respects to him yesterday.

John W. Gallagher, former Huntington fire chief who died Sunday, was termed by them as a top-notch organizer who devoted his life to the improvement of the Huntington Fire Department and the city itself.

The Rev. E. W. Roy, pastor of the Jackson Avenue Holiness Church of God, eulogized Gallagher as a "very faithful and consistent" member of the church. "When he was assigned to give the lesson at the Men's Bible Class, he was always thoroughly prepared."

After the funeral, the Rev. Roy said the chief always tried to show how the Bible

Class lessons applied to life from a fireman's standpoint. "He never forgot he was a fireman," the minister said.

Following the funeral at Klingel-Carpenter Mortuary, officers of the city fire department formed an honor guard as honorary pallbearers carried the chief's casket out of the mortuary.

Meanwhile, mortuary employes and other firemen were securing wreaths and baskets of flowers on top of a fire truck. The brisk, cold wind carried droplets with it and the skies were threatening more rain.

Among the honor guard were friends of Chief Gallagher from the Charleston and Beckley Fire departments.

After the funeral, some of the men who had worked with Gallagher during his 34 years in service to the community, talked about what kind of man he was.

Robert Carpenter, president of Klingel-Carpenter Mortuary, said, "If one word can be used to describe the man, it would be enthusiasm."

Senior Deputy Fire Chief Jess Pack said Gallagher used his enthusiasm to trigger other people's energy toward projects Gallagher had proposed.

Carpenter said, "Because of his own beliefs, others around him wanted to accomplish his goals."

One of the first ambulances pressed into the service of the city was obtained about 12 years ago, Carpenter said. "John and I put on a quiet campaign with no publicity. We went to civic action groups, some small businesses and a few individuals.

"We showed them the need—and before anyone knew it, we had a new ambulance in town," he said.

"John thrived on enthusiasm. That was his biggest strong point. He could radiate to other people and get others to get the job done."

Pack said Gallagher was not able to finish school. He had to quit early to support his family. But his talents as an organizer were beginning to develop.

"Just before he came to work as a fireman, he was working at the Perry-Norvell shoe factory. He was going to be fired because he was trying to organize a union there," he said.

When Gallagher joined the fire service in 1934, the fire department had a union, but not much support from the city. In the years to come, he forged the public support he thought the department needed into a political force.

During the 1940s when he was a lieutenant, he was active in both fire department and city-related functions.

Chief Claude Nelson said Gallagher was the kind of man who never met a stranger. Within a few minutes after he talked to somebody, he would know all there is to know about them and would have the person ready to help Gallagher in any way, Nelson said.

Carpenter said shortly after Gallagher became chief in 1954, he noted that there was a considerable amount of jealousy between the city professional and Cabell County volunteer firemen.

"Before the school was organized, the various departments couldn't work together because their equipment was not compatible. Also, the volunteers were not very well trained," he said.

"He got the volunteers and the professional firemen to train and work together. Before long, they all started getting standardized equipment that could be used by all the departments. But most important, he got all the firemen to cooperate," Carpenter said.

Everyone who was interviewed said Gallagher enjoyed getting people motivated. They said he worked with civic action groups and citizen's committees which would take his ideas and bring them before the city council.

These ideas eventually were put into motion by council.

Carpenter added, "All the awards Huntington has received for its attention to fire safety are due to the efforts of John Gallagher."

"MR. FIRE DEPARTMENT"

For at least the past 20 years, John W. Gallagher was "Mr. Fire Department" as far as most Huntingtonians were concerned.

Gallagher's death Sunday has deprived our community of one of the finest friends—and hardest workers—it has ever known.

A veteran member of the Huntington Fire Department, Gallagher was named fire chief in 1954 and served in that post until 1969. But then Gallagher refused to sit back and take things easy. Instead he simply moved his office to the Cabell County Courthouse, where he took up the demanding job of coordinating the affairs of the county's volunteer fire departments.

As fire chief, Gallagher was seldom in his office. Most of the time he was out in the community, either spreading the word about fire safety or drumming up public support for a new truck or some other piece of equipment he thought the department needed.

He organized Fire Prevention Week activities here and was active in a score of civic events. A program that was especially close to his heart was the Christmas Bureau, set up to coordinate charitable activities during the holiday season.

"Mr. Fire Department" will be missed.

CONGRESS WOULD DO WELL TO CONSIDER GENERAL'S FUTURE

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. SYMINGTON. Mr. Speaker, today the House acts on H.R. 14349 which authorizes an additional Army Deputy Chief of Staff position. While we act on additional Chief of Staff positions, the Congress would do well to consider oversight hearings on the future of Gen. George S. Brown as Chairman of the Joint Chiefs. General Brown has had a distinguished career as a military professional. But, if "war," as Clemenceau said, "is too serious a matter to be left to the military," certainly domestic politics is too serious a matter for the military to engage in at all, particularly the politics of division, all too pervasive over the past few years. The ingredients of our Mideast involvement are tinder enough without being subjected to heat from such an unexpected, unwarranted and dangerous source. According to the Congressional Research Service, the Congress has no direct power to remove a member of the Joint Chiefs of Staff. It is up to the President to determine if General Brown's effectiveness has been compromised beyond repair. It is a judgment of scarcely less importance than the Nixon pardon. It should not be made without due deliberation of all the relevant factors including citizen reaction. For the trust and confidence of our citizenry is the bedrock of national resolve without which neither the civilian nor the military can meet their responsibilities.

FORTIETH ANNIVERSARY DINNER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. STOKES. Mr. Speaker, I recently enjoyed a very memorable experience in my home district, where, on October 6, 1974, I was the principal speaker at the 40th anniversary dinner of one of Cleveland's oldest and most respected black-owned business establishments, the Erma Lee Beauty School and Barber College.

A capicity audience filled the Gold Room of the Sheraton Cleveland Hotel, including local black community leaders as well as graduates from across the Nation, as we saluted Mrs. Marnette Lee, daughter of the school's founder, Erma Lee, and the present owner and director of the school.

Since her mother's death in 1960, Mrs. Marnette Lee has devoted herself to the continuation of Erma Lee's dream. When the school first opened its doors at 55th and Woodland Avenue in 1934, it was the first black-owned beauty school in the State. Going into business was no little feat then, while the country was still struggling out of the mires of the depression. For a black woman, the challenge was even greater. But the hard work paid off. Since those early difficult years the school has grown and prospered, while graduating some 3,000 students.

Many of the school's alumni are now professional cosmetologists, but other graduates went on to pursue higher educational goals, supporting themselves with the skills they mastered at Erma Lee's. It is a continuing source of pride to the Lee family that many of the school's graduates went on to achieve distinction in the academic and business worlds. An example is Clarence Mixon, vice president of the Cleveland Scholarship Program, who presided as master of ceremonies at the anniversary dinner.

City Councilman Carol McClendon presented a city council resolution in recognition of the school's 40th anniversary. Recognition awards also went to Mr. Ralph Hale for 24 years of service as an instructor; Mrs. Martha Chambers, school secretary; and Mr. Charles Loeb and Seslar Billingslea, who provided the late Erma Lee with financial assistance in the crucal beginning years of the business. A fourth biennial scholarship award was given to Mrs. Druella Jenkins, a young East Side mother, who will be given the vital opportunity to learn a vocation.

I considered it a pleasure and a privilege to join in this very fitting celebration of 40 years of success and honor in business. The Lee family is a sterling example of courage and perseverance. Erma Lee was nothing less than a black pioneer, and her story should be an inspiration to all black people, especially in these times of black entrepreneurial expansion. I know my colleagues will join me in offering sincere congratulations to Marnette Lee and all the teachers, students, and alumni of the Erma Lee Beauty School and Barber College.

THE PALESTINIAN RECOGNITION THREATENS MIDEAST PEACE

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. BROOMFIELD. Mr. Speaker, in a recent letter to the editor of the Detroit Free Press, Mr. Louis Panush of the Detroit Division of the Zionist Organization of America outlined the history of the Palestinian Liberation Organization I believe Mr. Panush's remarks are quite timely, and I would like to share them with my colleagues.

[From the Detroit Free Press, Nov. 9, 1974]

PALESTINIAN RECOGNITION THREATENS MIDEAST PEACE

(By Louis Panush)

The press and TV have given prominent coverage to two events. The United Nations' vote inviting the Palestine Liberation Organization to participate in a plenary session of the General Assembly, and the recognition given by the Arab summit in Rabat to the PLO as the sole legitimate representative of the Palestine people.

They failed, however, to inform the American public what the PLO really is and stands for and that the two events seriously undermine the efforts of Dr. Kissinger and the United States government to promote a peaceful settlement in the Middle East.

The PLO is a terrorist organization dedicated to the killing of Jews and the destruction of Israel. It is a root organization of a number of terrorist groups torn by tactical disputes and personal rivalries but united by the common aim of wiping out the state of Israel. Its leaders are self-appointed and they have maintained themselves in power by using terror against their own people.

They claimed responsibility for the mass killings at the Lod airport and the Olympic games in Munich in 1972, the murder of American diplomats in Khartoum in 1973, and the murder of entire families at Kiryat Shmona and the massacre of 24 school children at Ma'alot in 1974. They called it acts of national liberation. They are responsible for international kidnappings, hijackings and terror. And they got away with it, except for a few pious denunciations.

The basic document of the PLO, neither renounced nor changed to date, of the Palestinian National Covenant of 1968 proclaims that Israel has no right to exist as a nation, that the partitioning of Palestine in 1947 and the establishment of Israel are basically null and void; that it is a national duty to repulse the Zionists, imperialist invasion and to purge the Zionist presence from Palestine, and that armed struggle is the only way to liberate Palestine.

The PLO threatens the existence of Israel by continuous war acts to complete the liberation of Palestinian soil. The Rabat Arab summit voted to allocate over $2 billion for that purpose.

The United Nations by its recent vote subverted justice and morality. Its majority led by the oil-rich Arabs and their communist allies and protectors and supliers of sophisticated weaponry, shortsightedly and cynically gave support to murderers and legitimized terrorism. Although the United States voted against the resolution, it did not condemn it for what it actually stood for.

Our government can repair the damage by refusing to permit terrorists into our country to attend the UN sessions. It will have the backing of the American people and the Congress who will not compromise with terrorists and murderers and who are vitally concerned with a peaceful solution of the Middle East conflict, but not at the expense of a beleaguered Israel, America's only de facto ally in that area.

The Palestinian issue and the rights of the Palestinians can be represented by Jordan who is their state and spokesman.

RICE—ON THE THRESHOLD OF REFORM

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. PEYSER. Mr. Speaker, I submit the following as background information for my colleagues. This article appeared in the Wall Street Journal of Monday, November 18, and clearly outlines the need for a revised Rice Act:

FORD'S MOVE TO END RICE-OUTPUT CURBS AS WAY TO LIFT FOOD CROP STIRS A BATTLE

(By Les Gapay)

WASHINGTON.—A fierce fight is in progress on a legislative proposal by President Ford to remove federal restrictions on rice growing as a way to boost food production.

The proposal is stalled in the House Rules Committee, where the fight may resume soon, possibly later this week, with the return of Congress from its election recess. The proposal would end the current system of acreage limitations on rice, which controls production.

The legislation is favored by interests in such states as Arkansas, Mississippi, Missouri and Tennessee, where farmers want to increase rice production. Proponents also include ethnic and low-income groups that consume much rice, consumer organizations and large users of rice such as food companies and breweries. They say consumers will benefit from the change, if not by lower prices then at least by a slowing in price increases, and that because of increased production government foreign aid in the form of rice could be increased to take pressure off tight grain supplies.

Opponents are farm groups and Congressmen from the big rice-producing states of California, Texas and Louisiana, which benefit the most from the existing system of acreage allotments and price supports. They say the current setup allows for enough production to meet demand and that the proposal would cause the government to get stuck with huge rice stockpiles in future years.

The White House and the Agriculture Department say the restrictions should be removed because increased production would help combat inflation. In his economic message in October, President Ford called on farmers to "produce to full capacity" to help stem food price increases.

Currently there aren't any government restrictions on planting of wheat, feed grains, soybeans, and most cotton. Besides rice, the Ford administration also wants to remove restrictions on the production of peanuts and extra-long-staple cotton, but those proposals aren't moving at all in Congress.

The rice bill, though, cleared the House Agriculture Committee in August by a close vote of 19 to 16. But it failed to get clearance to the House floor from the Rules Committee in September after a six-to-six tie vote.

Proponents may try again in the Rules Committee this week. "If it can get out of the committee it will pass the House," says one congressional staffer.

The Senate also may begin hearings on the measure this month. Even if the matter dies this year, proponents are confident of passage next year with the new Congress, which will have some new faces.

Under the current system, says the Agriculture Committee's report on the legislation, "for almost 20 years, the U.S. Department of Agriculture, not the rice farmer, has determined the rice supply." It says the program has restricted many producers from expanding to more efficient operations and prevented other farmers from growing rice regardless of their potential. The proposed program, the committee said, "would restore management decisions and responsibilities to farmers." The growth of rice exports, currently about 60% of the crop, could help lessen the U.S. balance-of-payment problems, proponents say.

The present law sets a minimum annual acreage allotment for rice of 1,650,000 acres, and each year the Agriculture Secretary sets a maximum acreage figure, historically near two million acres, to assure an adequate rice supply. The allotment is prorated to states based on their 1956 allotments and then assigned to individual farmers.

If too much rice is produced, the Agriculture Department sets marketing quotas to impose a penalty on overproduction. If market prices fall below price-support levels set by the agency, farmers can sell their rice to the government for those rates.

Under the pending House legislation, proposed by Rep. Bill Alexander (D., Ark.), the acreage-allotment and marketing quotas would be suspended for a three-year trial period, 1975–77. Allotments would be set solely for computing payments to farmers if the market price falls to low levels.

The government support price is 11 cents a pound in the House bill, an increase from the seven cents in the original proposal, the figure the administration favors. The change was made in committee by opponents of the bill who wanted to make it unacceptably expensive. An attempt will be made to lower the figure on the House floor.

At the hearings on the measure, Clayton Yeutter, assistant agriculture secretary, said that as the present law is restrictive the agency may be required to impose marketing quotas and production restrictions for the 1975 crop, something it didn't do this year. "If so, this will constitute a vivid and cruel paradox at a time when so many people are concerned about the adequacy of food supplies around the world," he said.

Some estimates are that rice production would eventually increase 30% to 40% from the current level if restrictions are removed; planting of about three million acres a year is considered feasible.

Most rice is produced in California, Texas, Louisiana and Arkansas. Arkansas growers think the current system favors those other states and want to boost their own production.

LATVIAN INDEPENDENCE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. LENT. Mr. Speaker, I call the attention of my colleagues to today's date, November 18, 1974. This marks the 56th anniversary of the Latvian declaration of independence in 1918.

As we are all painfully aware, the Soviet Union halted the growth of independence and the free exercise of human rights in Latvia by invasion and occupation in 1940. The past 34 years have been a nightmare for the Latvian people who have suffered a long record of terrorism and suppression under the Soviet Government.

The right to self-government in a free and open society, the very cornerstone upon which our society is founded, has been denied these peace-loving people. This is a constant reminder to the nations of the free world of how precious our own freedoms are and how much we really have to lose if we do not safeguard them closely.

Mr. Speaker, I call upon my colleagues to reaffirm our support for Latvia in its efforts to secure its lost rights and break the stranglehold of Russia on the Baltic States.

THE SOLUTION TO THE FOOD CRISIS

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. GROSS. Mr. Speaker, when the do-gooders and the bleeding hearts from around the world convened recently in Rome, Italy, at the so-called World Food Conference, I wish they could have had the benefit of the lead editorial in the Waterloo, Iowa, Courier of November 4.

I, for one, am nauseated by the continuing spectacle of Indian leaders—as well as others of the so-called have-not nations—berating this country for its failure to supply ever more food to the world on an outright gift basis regardless of the situation here at home.

In more ways than one, however, we have asked for this treatment because of the past behavior of the mindless super-liberals and international giveaway artists in our midst who, perhaps because of their own alleged guilt-ridden feelings, have sought to give this country away.

It is long past time when it should be made known to these nations that the real solution to the hunger problems of the world, as the Courier editorial points out, is to increase their own food production and stop relying on handouts.

I include the editorial for insertion in the RECORD at this point:

FOREIGN AID CHANGES NEEDED TO SPUR SELF-HELP

India has received more food and economic aid from the United States of America than any other country—$10 billion over the last quarter-century.

With recurring famine among its 530 million people and a birthrate adding 13 million a year to its population, India is also the country that best demonstrates why the philosophy behind our foreign assistance and relief programs needs rethinking.

The Indians should have been listening when Agriculture Secretary Earl Butz told a meeting of food experts recently that the United States cannot go on running an international welfare program indefinitely. Though a major client of that program, India seems to have gone out of its way to try the patience of the people who pay for it.

Leaving aside the frequent criticism which Indian leaders level against U.S. foreign policy, India is simply not trying hard enough to get itself off welfare.

A country that can spare $350 million a year to develop nuclear weapons it doesn't need is asking Americans to feed its hungry babies. When American delegates at the Bucharest population conference urged that poor countries work harder for a lower birthrate, India led a chorus of Third World nations arguing that the real solution to hunger problems would be a redistribution of the world's wealth.

Butz's warning does not stem only from the pressure which inflation has put on the foreign aid items in our federal budget. There is a limit to the amount of surplus grain that countries like the United States can be expected to produce and send abroad.

The Agency for International Development has estimated that world food production will have to double by the end of this century just to maintain levels of nutrition now considered highly inadequate.

The only answer is for poor countries to increase their own food production. As Butz sees it, they can do this by adopting economic policies that may be politically unpopular with their people but would stimulate farm production.

There is also a need for new directions in international aid programs. The Arab states, for instance, are wasting byproducts of their rich oil fields that could be used to increase the supply of cheap fertilizer, and the Arabs have the capital to see that this is done.

The United States has always been reluctant to attach conditions to its aid and relief programs. It has made a point of not interfering with the domestic policies of nations that receive its aid. This may be adding to U.S. moral stature, but if it leaves needy nations free to ignore programs that could improve their lot, then it is certainly not a productive policy.

When a nation like India is holding out an empty rice bowl with one hand while testing atomic devices with the other, there is a good case for attaching more strings to U.S. aid programs.

The poor nations must somehow be persuaded that they have no national priority greater than protecting their people from hunger on a scale the world so far has never seen.

THE LATE CLIFFORD G. McINTIRE

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. FISHER. Mr. Speaker, we were all saddened by the passing of our former colleague, Clif McIntire. During the 10 years he served his Maine district in the House he made a truly outstanding record. Many of us depended upon him for information and guidance relating to agriculture, particularly as it related to potato growers and other matters in which he was a recognized specialist.

In addition, Clifford McIntire was also recognized as a very intelligent Member and a responsible one in every respect. He consistently supported fiscal responsibility, a strong national defense, and the constitutional concept of State and local responsibility. He never faltered in his devotion to the Constitution. He was a true patriot and in every respect a great American. We need more people of his caliber in public office today.

Many of us thought of Clif as a personal friend. Always friendly and affable, he was universally admired and respected, which transcended partisanship.

To Mrs. McIntire and other members of the family I extend my profound sympathy in their bereavement.

THE ROCKEFELLER NOMINATION

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. FRASER. Mr. Speaker, David Seidman, now lecturer in the department of politics, Princeton University served as an American Political Science Association Congressional Fellow in my office in 1972. Mr. Seidman performed a variety of tasks ably and he was a great asset. I have followed with interest his career since he finished his fellowship.

Recently, Professor Seidman sent me a copy of his paper, "The Rockefeller Nomination." His argument is provocative and worth the attention of my colleagues. It follows:

THE ROCKEFELLER NOMINATION

(By David Seidman)

Nelson Rockefeller's nomination for the Vice Presidency ought not to be confirmed by the Senate and the House of Representatives. This would be true even had Governor Rockefeller limited his beneficence to his grandfather's dimes and even had Mr. Lasky's book never been written. These considerations, along with the rest of the Rockefeller record, strengthen the case, but they are not necessary to it. Examination of the legislative history of the Twenty-fifth Amendment suggests strongly that Congress should not confirm anyone nominated by Mr. Ford for the position.

The Twenty-fifth Amendment to the Constitution was designed to handle two problems. The first, which attracted most of the attention at the time, was the temporary or permanent inability of a President to discharge the functions of his office. Mr. Ford seems to be coping, so the provisions of the Amendment regarding Presidential disability are not relevant to the Rockefeller nomination.

The second problem addressed by the Amendment—the one Congress all but ignored—is that of a vacancy in the Vice Presidency, for whatever reason it occurs. When Lyndon Johnson assumed the Presidency, the next in line of succession was the ancient Speaker of the House of Representatives, John McCormack, and after the Speaker was the even more ancient President pro tempore of the Senate, Carl Hayden. It was enough to give one pause.

It seemed only logical then to allow the President to nominate a new Vice President (though some proposed that Congress should nominate and the President confirm). This would provide continuity, ensure that the President and Vice President were of the same party and otherwise compatible, and track the custom of letting Presidential candidates choose their running mates. This arrangement still seems logical—under normal circumstances. But the circumstances leading to Mr. Rockefeller's nomination were not normal, and they certainly were not contemplated by the Congress when it proposed the Twenty-fifth Amendment to the states.

Gerald Ford is the only President in the history of the United States to achieve office by appointment rather than election.

He is to date the sole product of the operations of the Twenty-fifth Amendment, and the legitimacy of his Presidency rests upon those operations, not upon democratic choice through the electoral process. This is frail support for the most powerful office in the world, but it would seem adequate for most purposes. For Mr. Ford now to attempt to transfer that legitimacy to still another appointee, for him to select as his heir someone even further removed from the electoral process, is to stretch the frail chain of legitimacy too far. How can a democracy fill its second highest office with the appointee of an appointee?

Congress never anticipated these circumstances. It was concerned about the legitimacy of appointees, but it did not foresee the appointment of a Vice President by an appointed President. Its performance in proposing the Amendment was inadequate, but there is no need to be bound by past mistakes. The Amendment clearly allows Congress to reject a nominee, and Congress should seize the opportunity. We have been without a Vice President before, and we have survived. We shall survive this time as well.

That Mr. Ford's nominee is Nelson Rockefeller merely strengthens the case for rejection. For more than a decade, Nelson Rockefeller's incalculable financial resources have been used in his quest for the Presidency. In spite of these resources, his record of success matches that of Harold Stassen. Perhaps he would have been elected, if only he could have obtained his party's nomination. That we can never know. All we can know is that not until appointment became possible did Nelson Rockefeller come as close as he is now.

Rockefeller's lack of electoral success came before we knew what we have recently learned about the uses of his money. I have no doubt that his massive gifts to public officials will turn out to be quite legal—a Rockefeller should at least be able to buy competent legal advice. Legality is not the issue. Whatever else they are, these uses of the Rockefeller fortune are unseemly. A feudal lord may govern his realm with family retainers. A democratic leader may not. The voters will certainly be troubled, as well they might be. Nelson Rockefeller perhaps could have been elected to the Presidency in the past, but there is less reason to think he could be today. Do the American people really want Nelson Rockefeller that close to the Presidency?

Even if it were wise for the Congress to confirm for the second highest office in the land some man or woman nominated by a man nominated by any elected President—let alone a discredited one—the doubts about Nelson Rockefeller dictate the rejection of this nominee. Having disposed of the Rockefeller nomination, Congress should then begin to rethink the Twenty-fifth Amendment. We can wait for a Vice President until that task is completed.

LATVIAN INDEPENDENCE

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. PEYSER. Mr. Speaker, November 18 marks the 56th anniversary of the Latvian Declaration of Independence. This occasion should again be a reminder that there are still millions of people throughout the world who do not enjoy the benefits of freedom and self-government.

The Latvian Declaration of Independence of 1918 came as the result of centuries of struggle. The period of economic and cultural growth which followed was unparalleled in their history. Indeed, it is a record of growth which has still not been equalled today. This progress was abated, however, by the Russian invasion and occupation of 1940. Thirty-three years later, the Latvian people are still paying the price of this domination and forced colonization by a foreign power, for "suppression of human rights and fundamental freedoms are the marks of the Soviet occupation in Latvia."

This should be a firm reminder to us all in the United States that we must continue to insist on the right to self-government for all peoples. Latvia is, and rightly so, proud of her culture and heritage. We all look forward to the day when we will be able to celebrate these with them.

WASHINGTON OPPORTUNITIES FOR WOMEN

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. BINGHAM. Mr. Speaker, today I want to speak about a remarkable organization in the Capital area: Washington Opportunities for Women or WOW for short. This organization is a unique community resource devoted to developing and providing equal employment opportunities for women. With primary support from the U.S. Employment Service of the Manpower Administration of the Department of Labor, WOW was established 7 years ago as an experimental effort by a few dedicated women who were looking for answers to their own work-related problems and found there was no place to turn to. Since then, the organization and the impact of its joint efforts with the U.S. Employment Service have grown beyond the most optimistic expectations of the stanchest among original supporters. During the last year alone, WOW has served 10,000 women from all segments of the Washington metropolitan area, as well as numerous employers.

The rapid growth in the numbers of women turning to WOW for assistance is explained largely by its demonstrated ability to respond effectively to women's increasingly acute needs for help in the field of employment. A few hard facts may illustrate just how important the issue of women and their work has become in the Nation today: In August of 1974, there were over 33 million women in the labor force, a number that covers almost half of all adult American women. Of these women, nearly all work because of economic need. Over 22 percent of American households are headed by a woman, an increase of 46 percent over the last decade; and of families headed by women, a full one-third live in poverty, as compared to 7 percent of those headed by men.

In offering its own solutions to some of women's employment-related problems, WOW has developed concepts of self-help and peer support as mainstays of all its various programs. How well these techniques actually work becomes immediately evident at the WOW Information Center, which is a seedbed for many of the organization's efforts, as well as its main contact point with the public.

The information center is a place where women can come to find out what they need to know in order to ready themselves for the job market, to change jobs, or to work out long-range career plans. It is not primarily a job recruitment service, but rather a place where women can better learn to help themselves. They are assisted by professionally trained volunteers who are familiar with the realities and problems of the Washington area job market; many are themselves in the process of testing and reentering the work force. Appropriately termed "peer counselors," they create an atmosphere that is supportive and professional. The center is stocked with up-to-date information about job training and employment possibilities, as well as job-hunting aids, such as tips on résumé writing and interviewing. A talent bank, a roster of qualified professional women with a master's degree or equivalent experience, is maintained for the use of employers. Through the years, WOW has given concrete assistance to many employers, especially in helping them meet "affirmative action" goals in recruiting women.

An effort to provide women with more extensive and sharply focused career planning assistance has further impelled WOW to design and run workshops and classes tailored to the needs of particular groups, including high school students, college women, Foreign Service wives, federally employed women, and others. WOW's high school career guidance programs, which are now being given in local schools, are an especially unusual experiment. Attempting to reach young women before sex stereotyping and other circumstances have conspired to narrow career choices, they employ the peer counseling methods that have been so successfully applied at the WOW Information Center. These are especially effective at the high school level since peer group members often act as the most influential source of advice for adolescents. WOW's approach is specifically to train high school girls to furnish their classmates with useful information about employment-related matters. WOW has also designed and operated college-level, noncredit career guidance courses that are currently being conducted at area campuses.

In recent years, WOW has added a new dimension to its services through training programs for women who most urgently need assistance: those with minimal incomes who lack marketable skills and adequate educations. Since 1970, WOW has successfully run four on-the-job and academic training programs to help low-income women obtain good jobs with promising futures. Among the more unique of these programs is one that currently trains women as waste water treatment plant operators. It is one among several pioneering efforts to open to women occupations previously considered "men's work." WOW's most recent effort on behalf of socially and economically disadvantaged women is a supported-work program for women offenders sentenced to probation, a first in the District of Columbia.

WOW has acquired national recognition as a result of the wide range of experience it has gained and successfully assimilated. During the last year alone, 700 requests from 44 States have arrived at the Manpower Administration of the Department of Labor from women, employers, and training institutions asking for WOW's technical assistance.

An earlier measure of WOW's success appeared in 1972 when the Department of Labor requested it to help establish centers modeled on WOW in six other U.S. cities. Today, thanks to joint WOW-ES efforts, WOW programs are flourishing in Boston, Baltimore, Atlanta, Providence, Richmond, and White River Junction, Vt.; plans to establish additional programs in other cities are now underway.

Finally, the organization's work exemplifies a uniquely successful form of cooperation among Federal, State, municipal, and private sectors, a type of effort which is being strongly encouraged by all who encounter it, and which can be usefully emulated in other fields.

KILL THAT VETO

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. COTTER. Mr. Speaker, on Wednesday we will have an opportunity to vote to override President Ford's veto of the freedom of information bill—H.R. 12471.

As a supporter of the effort to strengthen the public's right to know I intend to vote to override. I hope that a sufficient number of my colleagues will join in this important undertaking.

Columnist Herbert Brucker, writing in the November 12 edition of the Hartford Courant, made an excellent case for H.R. 12471. I would like to share that column with my colleagues at this time:

Kill That Veto!

(By Herbert Brucker)

In the recent election campaign President Ford pleaded endlessly for a viable two-party system, lest we invite the danger of a veto-proof Congress. Actually what matters is not whether vetoes are sustained or overridden, but only what the merits may be of each issue contested between President and Congress.

One decision now hanging in the balance is whether to override President Ford's Oct. 17 veto of HR 12471, a bill to tighten the 1966 Freedom of Information Act. Most of us have paid little attention. But we should, because the amendments are essential, in this day when everything gets more complicated, and when government pays ever less attention to our wishes, if we are to have enough information to make self-government work.

The purpose of the 1966 law was to help interested citizens and organizations keep tabs on what the federal government was doing, notably through insisting on access to government records. As always in government, the federal agencies found ways to dodge and drag their feet in complying. Hence the amendments, designed to plug the loopholes revealed in practice.

President Ford, soon after taking office, expressed doubts to the House and Senate conferees who were putting the amendments into final shape. In response they made four of the five changes the President requested, on behalf of the reluctant departments and agencies.

Despite this the President, in his veto, not only insisted on all five of his original requests but added still another, extending still further the already extended delay in which the information requested might be withheld.

The single proposal on which Congress stood fast was one permitting the courts to determine whether information that had been classified—kept secret—is properly classified or not. There are good reasons for this because the courts are the most nearly objective arbiter there is of such struggles between citizens seeking information and bureaucrats hiding it.

For the most part the public doesn't care, because it all seems distant and technical. Besides, today the public distrust not only government, but prying press and broadcasters as well. The media are of course no more noble, or infallible, than any other human institution. Even so, we tend to overlook the point—namely that our press and news broadcasters have a self-interest in digging out information, and thus in fighting the public's battle to know what is going on.

Unfortunately it is still true that patriotism is the last refuge of a scoundrel. In his veto Mr. Ford said that the freedom-of-information amendments could adversely affect "our military or intelligence secrets and diplomatic relations." But no newspaper or network wants to betray military or diplomatic secrets.

What happens instead is that government officials, high or low, who want to hide error, skulduggery, or corruption always run up the flag of national security. Nor is any bureaucrat ever censured for overclassifying. It is only spilling the public's beans before the public that may get him into trouble.

We have recently had two monumental examples of how national security can be used to conceal error: Watergate and the Pentagon papers.

If Watergate proves anything, it is that President Nixon and his men used the shield of national security to hide corruption and crime in the White House and CRP. As for the Pentagon papers, a public that rarely bothered to read that long history of how we got bogged down in Vietnam still thinks it was wrong to publish it. This, even though a Supreme Court majority that searched zealously for betrayals of national security couldn't find any and so had to approve publication.

When President Ford took office he told us "I expect to follow my instincts of openness and candor, with full confidence that honesty is always the best policy in the end." It still is, and Congress ought to remind the President of that fact.

It can do so, now that the election is behind us, by overriding his veto even more forcefully than it passed the amendments in the first place—349 to 2 in the House, and by voice vote in the Senate, without dissent. In this day of complexity and confusion it is even more true than when Patrick Henry said it, that "To cover with the veil of secrecy the common routine of business is an abomination in the eyes of every intelligent man."

A GOVERNMENT BY CONSENSUS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. ANDERSON of Illinois. Mr. Speaker, in this morning's Washington Post, our distinguished minority leader, the gentleman from Arizona (Mr. Rhodes), has sounded the clarion call for a new spirit of nonpartisan consensus politics in the 94th Congress as we confront the many pressing domestic and international problems of the times. This proposal is based on the approach of President Truman in 1947 when the Congress was controlled by the Republicans.

While the temptation may be great as we approach the 1976 elections to engage in partisan politics as usual, it should be clear from the mood of the electorate that it will not stand for such games to take precedence over dealing directly with the problems of inflation, energy, and food shortages. As our minority leader has pointed out, it would be easy and tempting to let the Democrats take the blame for fumbling a ball in their court after their 1974 election victories; but that would not be a responsible strategy to follow. In the words of the minority leader:

> Never before has it been more important for good men and women of both political parties to join together in a common assault on the nation's problems. The American people deserve action on the part of their federal government and not two years of partisan stalemate.

I commend the minority leader on this call for affirmative action and bipartisan cooperation both within Congress and with the President through prior consultation on legislative initiatives. Let us make it our goal for the Bicentennial of sharing the credit for overcoming the challenges before us, rather than blaming each other for failing to do so. At this point I include the full text of the minority leader's article and commend it to the reading of my colleagues:

[From the Washington Post, Nov. 18, 1974]

A Government by Consensus

(By John J. Rhodes)

There is much that can be said about the sweeping gains made by the Democrats in the Nov. 5 election. For instance, there is an observation to be made about the possible justification used by an American electorate, 77 per cent of which disapproves of the performance of a Democrat-controlled Congress, in electing 291 Democrats to the House and raising the number of Senate Democrats to 60. There is also an observation to be made about the apparent inability of the Republican Party to effectively articulate its case to the people.

But there is a far more important observation to be made, one that takes precedence over all others. It involves the condition of the republic, the unusually pressing nature of the nation's problems, and how the federal government should approach the nation's business during the coming two years.

I have always been, and remain, an optimist. However, I must confess that in all of my 22 years in the Congress, I have never been more concerned about the problems facing the country and have never been more convinced of the need for affirmative action. We have an economy that, to date, has steadfastly resisted all attempts at resuscitation. We have yet to develop the alternate sources of energy that everyone concedes are essential to our future well-being. And we continue to live with the ominous threat of nuclear war.

Clearly, it is a time for responsible action. The question is: Can a large Democratic majority in Congress get together with a Republican congressional minority and a Republican President in order to accomplish the things that need to be accomplished?

On the surface, the prospects for meaningful cooperation between the Republican executive and the Democratic Congress seem remote. Many Republicans, myself included, are tempted at first glance to assume the politically attractive attitude which was aptly articulated by Sen. Hubert Humphrey (D-Minn.):

"Democrats beware! Now you have to deliver." The Democrats have increased their control of Congress to something approaching a monopoly. The people expect them to act decisively and are likely to be disappointed. That is because increased party numbers have little to do with congressional effectiveness; it is the *machinery* of Congress that needs to be changed in order for positive action to take place. Theoretically, the advantageous Republican strategy would be to wait for the inevitable non-performance of congressional Democrats and reap the electoral rewards in 1976.

But that would be precisely the type of politics-as-usual that the country cannot afford. That is why I am proposing a drastic departure from political tradition in which the Democrat majority will come together with the Republican minority and the President to form in effect a consensus type of government.

Practically speaking, this would involve the clearance of administration legislative proposals with the Democratic and Republican leadership prior to their arrival on Capitol Hill. It would also mean that the Democratic leadership would provide the minority with substantially greater input on the scheduling of legislation, so that partisanship would play less of a role in the fate of legislation that the country needs.

There is a modern precedent for this type of consensus approach. In 1947, President Truman and the Republican-controlled Congress were able to get together despite their personal differences in order to launch the Marshall Plan, an effort which Professor Richard Neustadt termed "as thorough a display of executive-congressional cooperation as any we have seen since the Second World War." That is precisely the type of nonpartisan concern for the welfare of the nation that I suggest must prevail during the remainder of this session of Congress and throughout the 94th Session.

I realize that it is a notion that is not instantly attractive to many members of both political parties. But neither is inattention to the nation's problems attractive. Never before has it been more important for good men and women of both political parties to join together in a common assault on the nation's problems. The American people deserve action on the part of their federal government and not two years of partisan stalemate.

AMERICAN INTERNAL SECURITY STILL REQUIRES VIGILANCE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. ASHBROOK. Mr. Speaker, we have all heard a lot about the policy of détente between the United States and the Soviet Union. It is widely believed that this policy has meant a relaxation of tensions between the two countries. During debate on the retention of the House Internal Security Committee—whose function is to watch those groups which advocate violence to attain their objectives as well as those controlled by unfriendly foreign powers—it was even argued that the committee was obsolete "in this era of détente."

This, however, is certainly not the case. Although tensions have supposedly relaxed, the FBI now reports that there has been an alarming increase in the number of foreign intelligence agents—mostly Soviet—operating inside the United States. Whatever else détente may mean, it does not mean an end to the cold war. American internal security still requires vigilance.

Following is an article on the FBI report by John Lofton, which appeared in the November 16 issue of Human Events.

FBI CHIEF HAS HANDS FULL: ALARMING INCREASE IN RED SPIES IN THE UNITED STATES

(By John D. Lofton, Jr.)

Many people believe that detente has meant a so-called "relaxation of tensions" between the Soviet Union and the United States. But for FBI Director Clarence Kelley detente has been a time of increasing tensions. As a matter of fact, Kelley is very uptight about the Russians.

What's bugging the nation's No. 1 G-man is that as "tensions" have supposedly "relaxed," there has been an alarming increase in the number of foreign intelligence agents—mostly Soviet—operating in the United States.

The FBI's top cop naturally declines to say specifically how many of his men are watching suspected foreign spies, but he has revealed that a recent study shows 25 percent of the Bureau's time is spent investigating such people and domestic subversives.

However, there are not enough FBI men to watch the spies. Ideally, Kelley says, he would like to have one agent to assign to each spy. But he doesn't. What has him worried, he says, is that the gap between the number of FBI agents and foreign operatives is widening.

"We're losing ground," Kelley observes, saying that he may have to ask Congress for another 250 agents to deal with the problem.

Over the years, the number of Soviet officials in the United States has drastically increased. In testimony earlier this year, Kelley said there were 1,463 Soviet-bloc officials in this country and a total of 3,111 officials and their families.

The number of Soviet officials alone—943 on Feb. 1, 1974—is 142 more than a year earlier and 249 more than four years ago. A substantial proportion of the 943 Soviet officials, Kelley says, have been identified as intelligence operatives. Hence, the Soviet potential for espionage has been greatly enhanced. The USSR personnel now here in the United States has a formidable contingent of spies.

In this connection, the opening of a Soviet consulate in San Francisco gave Moscow another base from which to operate. Previously, Soviet officials were assigned to the Soviet Embassy in Washington, D.C., and the United Nations in New York.

However, on June 13, 1968, the U.S.-Soviet Consular Agreement was ratified by both countries. This agreement provided for the exchange of consular sites. The Russians opened a consulate in San Francisco and we opened one in Leningrad. The Soviet consulate on the West Coast has a permanent staff of about 20 people.

The kind of thing Kelley worries about is typified by the case of Valeriy I. Markelov. Markelov, his wife and daughter, arrived in New York in 1967 and he began his work at the U.N. as a translator.

In the fall of 1970, he became acquainted with an engineer employed at the Grumman Aerospace Corp. on Long Island. It soon became apparent to the FBI that Markelov was interested in much more than translating Russian at the U.N. Secretariat.

Markelov had 11 separate meetings with the engineer at various New York restaurants and persistently solicited classified information about the new Navy jet fighter Grumman was developing, the F14A.

On Feb. 14, 1972, Markelov was arrested after taking possession of classified documents relating to the plane. Evidence against him also included the fact that he had supplied the engineer with a portable copying machine and a 35 millimeter camera.

Markelov was subsequently indicted by a federal grand jury but the indictment was dismissed and he was returned to the Soviet Union.

So, thanks to FBI Director Clarence Kelley, we have one more criterion by which to judge the success of detente. Presumably, the more Russians spies there are running around in this country, the more "tensions" are being "relaxed" between our two countries.

Aren't you glad the Cold War is over?

COMPUTER SECURITY

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. PEYSER. Mr. Speaker, as you know many business and financial organizations as well as Government agencies have spent millions and millions of dollars for the most modern computer information systems and libraries. Unfortunately, these organizations have not maintained adequate security procedures to eliminate the fraud, theft, vandalism and sabotage which has occurred over the years.

Recently I came across an article in the business and financial pages of the Christian Science Monitor pertaining to the efforts now taking place aimed at reducing such white-collar crimes. This article is based on an interview with Joseph J. Wasserman, president of Computer Audit Systems, Inc., a national organization specializing in the auditing, security and control of computer-based information and computer centers. This article is quite timely in light of our Government's recent establishment of a Domestic Council Committee on the Right of Privacy which intends to study the utilization of computers and computer-based information pertaining to the rights of individuals and invasion of privacy, and the recent publication by the U.S. Department of Commerce, National Bureau of Standards, of FIPS Publication 31, "Guidelines for Automatic Data Processing Physical Security and Risk Management."

Computer Audit Systems, Inc., since its establishment in 1969 has conducted numerous business seminars and workshops aimed at educating management in the areas of computer auditing, control and security. Mr. Wasserman and his associates are to be commended for the leadership and foresight they have displayed in developing computer audit programs which I am certain have a beneficial impact upon our economy. The company today has a client roster of some 70 companies who are utilizing their packages in the over 200 computer installations they maintain.

Under the leave to extend my remarks in the Congressional Record, I include the following excellent story by Martin Skala from the Christian Science Monitor of September 18, 1974:

In an effort to reduce white-collar crime and safeguard business records, security-conscious companies are throwing a protective net over their computers.

The corporate computer center, with its blinking lights and whirring tapes, is no longer considered a glass-walled showcase for all to see. Instead, computer-security experts say, business firms are increasingly limiting physical access to costly data-processing centers and taking special measures to protect computer files against the entry of unauthorized transactions of spurious records.

Concern over computer security has grown considerably since disclosure of the Equity Funding scandal and other less spectacular cases of computer fraud, according to Joseph Wasserman, president of Computer Audit Systems. As more companies process their records by computer, he says, the risk of major losses, either through fraud or human error, mounts substantially.

This computer-security expert says that companies must be alert to several types of computer misuse ranging from vandalism by disgruntled employees to the theft of money or proprietary data by covert manipulation of computer files. Although they often create a big headlines, "all deliberate attempts to steal through the machine cost business far less than programming errors and ineffective controls over computer systems," Mr. Wasserman said in an interview.

Programming errors can destroy, scramble, or misplace data, resulting in thousands of dollars of financial loss, if managements don't install proper controls.

In one widely reported case an inexperienced programmer had made a key change in the accounts-receivable file of a large retail chain. The change was never reviewed or tested before running the program under actual operating conditions. This failure was responsible for destroying by erasure, all customer-debit balances, and led ultimately to the chain's bankruptcy.

This type of problem, Mr. Wasserman says, can be minimized by using the technical capabilities of the computer to audit itself.

As computer systems have become faster and more versatile, a growing number of calculations are performed internally without leaving a printed record. This makes it very difficult for accountants, who often are not familiar with programming methods, to trace transactions and spot irregularities. With high-speed, magnetic-tape systems connected to numerous input-output terminals at remote locations, computers no longer leave piles of paper for an "audit trail," according to Mr. Wasserman.

To protect computerized data against tampering and to spot errors, Computer Audit Systems and other computer consultants have devised special computer programs for control purposes. These consist of series of instructions, written in computer-language, that independently analyze information already processed by the computer. The audit software, in effect, tests the information stored in the computer for accuracy, and in some cases, may even detect fraudulent acts.

In addition, many computers are being programmed to limit an individual's access to certain files. Sometimes passwords, keys, and badges are required to activate a computer input device, thereby limiting access to the system. Some business firms Mr. Wasserman notes, instruct the computer to produce a journal, or log, which reveals who has used the system, when and how.

Such records help establish individual accountability, a key element in preventing computer misuse.

Major accounting firms, some of whom faced legal suits because of alleged oversights in detecting computer fraud, are rapidly building up computer-auditing expertise.

This month, the American Institute of Certified Public Accountants will issue a set of standards emphasizing auditors' responsibility to evaluate a computer system's accounting-control features.

CONGRESS URGED TO OVERRIDE VETO OF H.R. 12471, FREEDOM OF INFORMATION ACT AMENDMENTS—III

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, soon after President Ford took the oath of office last August, he pledged to the American people his commitment to "open Government." The sponsors of H.R. 12471, making clearly needed improvements to the Freedom of Information Act, had labored for more than 3 years to produce the bipartisan legislation which had been approved by the House and Senate by almost unanimous votes. We subsequently approved the conference report on the legislation in the House by a 349 to 2 rollcall vote and sent it to the President for what we all thought was to be the first action by President Ford to fulfill his commitment. But much to everyone's shock and amazement, he vetoed the bill on October 17, just as Congress was preparing to return home for the Election Day recess.

Mr. Speaker, newspaper editorials from all parts of the country have since pointed out the urgent need for Congress to override this unwarranted veto in order that the American public's "right to know" may be preserved and the pledge of "open Government" may become a reality. At this point in the Record, I include another representative sample of these articles and editorials for the information of our colleagues who will soon be asked to join with us in voting to override this senseless veto:

[From the Seattle Post-Intelligencer, November 12, 1974]

CONGRESS MUST GUARANTEE PUBLIC'S RIGHT TO KNOW

One of the vital issues facing Congress when it returns from the election recess will be President Ford's veto of the 1974 Freedom of Information Act.

Congressmen should override the President's veto of the measure—designed to make it easier for citizens to gain access to federal documents.

The 1974 version of the act would close loopholes in the 1966 Freedom of Information Act that have frustrated the public's right to know. The new act would shift the burden of proof from individuals seeking information to those agencies denying access to federal documents.

Under the present act, information often has been withheld simply because it might serve to embarrass an agency or cause a bit of effort by government employes. Individuals have had to go to court to obtain federal documents.

A dramatic example of why the new act is needed was provided last week with the end of a local couple's five-year struggle to see Internal Revenue Department tax audit records.

Philip and Sue Long of Bellvue finally secured access to the records after spending $20,000 of their own money in the quest for IRS tax information.

It is the first time that this information has been made available to the public, the press or even Congress.

The new Freedom of Information Act would reduce the leeway of law-enforcement agencies to withhold information for "confidential" reasons and shorten by a few days the amount of time an agency has to comply with a request. It would also permit the Civil Service Commission to discipline bureaucrats, if the courts find that they have "arbitrarily or capriciously" withheld information.

During the House debate on the 1974 bill, Rep. Bill Alexander, Arkansas Democrat, said he had been unsuccessful last year when he tried to find out how much wheat subsidy had been paid to grain exporters for their sales to the Soviet Union.

Alexander concluded: "If I, as a member of Congress, become frustrated when I am denied access to information vital to the public welfare, what about John Q. Citizen and his efforts to get the information he needs?"

What about John Q. Public indeed?

When President Ford took office in August, he declared his administration would be an "open" one. Despite that promise, he has taken a step backward in vetoing the Freedom of Information Act.

Congress should act promptly to reaffirm the public's right to know what its government is doing.

[From the Providence Bulletin, Oct. 21, 1974]

INFORMATION FREEDOM

There were no ruffles and flourishes when President Ford vetoed the Freedom of Information Act Amendments last week. As quietly as possible the press was informed late Thursday afternoon that the President considered the legislation "unconstitutional and unworkable" although he said it had "laudable goals."

Ironically, the Senate-House conference committee, which labored four months over a compromise measure, had altered various provisions in an effort to satisfy White House reservations expressed soon after Mr. Ford took office. When the final version was completed, Mr. Ford took no position and it was approved—by voice vote in the Senate and 349 to 2 in the House.

Ironically, the President's most serious objection is to a provision authorizing the courts to review secret government information to determine whether it had been properly classified. Mr. Ford said this would permit the courts to make what amounts to "the initial classification decision in sensitive and complex areas where they have no expertise." An important point he failed to acknowledge, however, is that the courts now have this authority in criminal cases.

Other objections cited in the veto message include these provisions: 1. giving the courts discretionary authority to grant court costs and attorneys' fees to successful petitioners;

2. establishing a procedure for disciplinary action when a court found that a federal employe had acted capriciously or arbitrarily in withholding information; and 3. setting time limits of 10 working days for an agency to respond to a request for information, 20 days to answer an appeal from an initial request; and 30 days to respond to a complaint filed in court under the act—limits we view as eminently reasonable.

In vetoing the amendments, President Ford has given in to pressure from executive agencies whose opposition may be understandable in terms of bureaucratic convenience but is wholly without merit in terms of open government and the public's right to know.

If Congress meant what it seemed to say in overwhelmingly supporting these amendments, one of the first orders of business when it reconvenes after the elections will be a vote to override and a clear message to the White House that Americans are demanding the kind of open administration that Mr. Ford in his inaugural address promised to maintain.

[From the Charlotte Observer, October 22, 1974]

Keep It Secret: This Veto Does Just That

Take away Linus's blanket and this usually mild-mannered inhabitant of the Peanuts comic strip becomes a tiger. Bureaucrats sometimes react similarly when someone threatens to take away their precious "top secret" classification stamps. In their efforts to keep information from the people, they now have received a boost from President Ford.

Aware when he assumed office that people were sick and tired of secrecy, of being lied to, and of finding that Washington was a Byzantium on the Potomac, President Ford promised to make candor and openness the touchstones of his Administration. But now he is buying the tired arguments that have been invoked so many times to defend secrecy.

In his veto of a bill to strengthen the Freedom of Information Act, he said it was a threat to American "military intelligence secrets and diplomatic relations." He also said it would give the courts power in an area they were unfamiliar with and complained that it would require too much bureaucratic work—would be required to go through those mountains of classified documents in complying with requests for information.

The intent of the amendments was to strengthen the bill, particularly by putting the burden not on the citizen seeking information but the bureaucrat withholding it. When the act passed in 1966, it was hailed as a breakthrough for citizens and newsmen anxious to know what their government was up to. But the act has not lived up to its billing, and part of the reason is that bureaucrats are able to frustrate requests for information through administrative hurdles and the courts.

The bill would have changed this by cutting the time limit for agency responses to requests for information, setting administrative penalties for arbitrary refusal and permitting recovery of legal fees by successful petitioners. The courts would have been allowed to review classified documents and classification procedures. And a bureaucrat would have been criminally liable if the court found he "arbitrarily or capriciously" withheld desired information. In short, the act would have some teeth.

Attorney General William Saxbe also recently moved to put shrouds around government information. He in effect has reversed a 15-month-old decision by his predecessor, Elliot Richardson, which gave authorized scholars access to investigatory files more than 15 years old. A scholar writing a book on the Alger Hiss case obtained FBI files that had numerous deletions, apparently made because of the scholar's request. Mr. Saxbe backed up the FBI on this, thereby violating the spirit if not the letter of Mr. Richardson's policy.

For weeks now, we have been hearing about the "lessons of Watergate," and we will undoubtedly hear more as moralists of every type look for Watergate lessons like shamans examining entrails for signs. But there is one lesson that must be obvious to all: Secrecy creates the environment for a Watergate, a Vietnam, a Bay of Pigs. The power of a bureaucrat or Administration official to cover his mistakes with a classification stamp is inherently anti-democratic. President Ford could not see that. Congress should override his veto of the Freedom of Information bill when it returns in November.

[From the St. Louis Post-Dispatch, Oct. 22, 1974]

Override the Veto

For his ninth veto in less than three months in the Oval Office, Mr. Ford has chosen a bill liberalizing the weak Freedom of Information Act of 1966. One of his objections to the legislation was that it would have given the courts authority to overrule Government security classifications.

Dressing up the old discredited "national security" argument in new rhetoric, Mr. Ford said such authority would jeopardize "military or intelligence secrets and diplomatic relations." That was the argument used in the Nixon Administration's frantic effort to keep the public from reading a Defense Department history of the Vietnam War, and it hasn't become any more persuasive or valid by virtue of being used by a succeeding administration.

If the courts cannot act as arbiter between citizens and Government bureaucrats empowered to conceal anything and everything behind a security stamp (the Navy once classified a Washington Post editorial secret), the public will know only those things the Government is willing to permit it to know.

The President's promise to send Congress a Freedom of Information bill and his request that the lawmakers pass it so he can sign it "during this session" is a hollow gesture; Congress is now in recess until Nov. 18 and will have only a month or so after it reconvenes in which to write new legislation. Mr. Ford knows very well that what he suggested is unfeasible. There is nothing wrong with the bill Congress has sent to the President—it simply seeks to close some of the loopholes that bureaucrats have been using since 1966 to frustrate the intent of the law—so the simplest and best thing to do is to override the veto.

[From the Washington Star-News, Oct. 22, 1974]

The People's Business

President Ford's surprising veto of legislation to expand the public's access to information about government will, beyond much doubt, go over very poorly with the public. We expect that many Americans are sadly noting the contradiction with his promise, upon taking office, that this will be an administration "of openness and candor." In his personal performance he has brought a refreshing openness to the presidency, but in this veto he sided with the agencies that want to conduct much of the public's business in secrecy.

Astonishingly enough, that includes most agencies—not just those engaged in sensitive diplomatic and defense fields. Most of them were opposed to the strengthening amendments to the Freedom of Information Act which Ford vetoed. These were passed by Congress to remedy serious deficiencies which have shown up in the 1966 act, including one that came to attention very sharply in a Supreme Court decision last year. It turned out that the law had not empowered courts to look behind the "classified" designation which agencies place on documents. If a citizen wants information bearing this stamp, the judiciary cannot decide whether the classification is being used justifiably or capriciously. Hence the agency label prevails and access to the information is denied.

This vetoed legislation would have ended the vast coverup potential inherent in such a system by allowing federal judges to decide, in privacy, whether documents have been classified properly. Ford fears for defense and diplomatic secrets under such a provision for judicial review, but the safeguarding procedures agreed upon by Congress seem adequate. He also was troubled by a proposed time limit for providing information sought by citizens or the press, and in general favored having less "administrative burden placed on the agencies . . ."

The problem is that administrative ingenuity now is applied all too often to delaying the release of requested information indefinitely, and hiding mundane facts behind labels of official secrecy. Official bumbles still can be covered up too easily by these and other methods which the 17 amendments vetoed by Ford would render largely inoperative. We think the public wants, more than ever before, to see the workings of government illuminated, and the bureaucracy can very well take on some added burden—indeed some strict accountability—for that worthwhile purpose.

Congress realized that fully, in passing this legislation with only two dissenting votes in the House and none in the Senate. With that sort of majority an override of Ford's veto—which certainly is called for—should not be too difficult when Congress returns next month.

ANTI-SEMITISM

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. FRENZEL. Mr. Speaker, the anti-Semitic statements of Gen. George Brown, Chairman of the Joint Chiefs of Staff, have by now been roundly denounced by Americans of all political and philosophical persuasions, including the President of the United States. I, of course, join in those denunciations. Despite America's official proclamations of tolerance, equality, and love, bigotry, racism, sexism, and intolerance are closer to the surface of our society than most of us would like to admit. General Brown's remarks revealed some of the ugliness from which few of us are immune.

It is, of course, necessary that anti-Semitism, and other bigotries be promptly identified and promptly denounced. Denunciations do not change attitudes, but they do signify that intolerance is not the accepted norm in our society.

General Brown has been justifiably and necessarily criticized. But, the Brown incident ought to be more than an opportunity for politicians to scourge an easy target. The incident ought to be a grim reminder that there is some of the best in all of us. It ought to remind us of goals as yet unachieved, and of the need to work even harder to attain a society of equality and tolerance.

MAKING THE CASE FOR NUCLEAR POWER

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. PRICE of Illinois. Mr. Speaker, this RECORD and the public media continue to print articles concerning the safety of civilian nuclear powerplants. These articles are authored by persons whose qualifications run the entire gambit from unsuitable to highly qualified. The concerns expressed vary from well-intended to—in some cases—totally malicious.

Surely it is a difficult task for the layman, exposed to such divergent opinion, to assess whether his health and safety are "in good hands" or whether it is imperiled by a Federal nuclear licensing agency and an industry which in effect are driving recklessly down the highway at breakneck speed with a bottle in one hand and the other arm around a girl.

It is refreshing therefor to come across such a fine article as "Making the Case for Nuclear Power" written by Mr. Simon E. Rippon, editor of Nuclear Engineering International, in the September 1974 issue of that magazine. Mr. Rippon with unequaled clarity discusses the issues at controversy with respect to the construction and operation of civilian nuclear power here and abroad and offers some views deserving of consideration by both critics and proponents of the nuclear industry.

I include at the conclusion of these remarks Mr. Rippon's article. I commend it to all Members of this body:

MAKING THE CASE FOR NUCLEAR POWER

It is unlikely that the nuclear industry will ever satisfy the more extreme critics of the peaceful uses of nuclear energy with their barrage of questions directed at ever changing targets. But it is important that all those working on the development and exploitation of nuclear energy should be able to explain quietly and carefully to concerned members of the public just what the nuclear issues are and why we think the industry answers are satisfactory

(By Simon Rippon)

The primary motivation for the majority of those working on the development of nuclear energy for peaceful applications is the provision of abundant cheap energy for the good of mankind. Unfortunately this laudable ideal has been sadly tarnished by the onslaught of the critics of nuclear power. They have exploited to the full the current public suspicion of high technology and of large scale industrial activity. Anybody mentioning in conversation that he works in the nuclear industry is now likely to find himself immediately on the defensive when a few years ago he would have been greeted with fascinated questioning. Thus the first task today is to establish that you have not sold your soul to the devil and that you genuinely believe in the ideal abundant cheap energy for a good of mankind. One should also acknowledge that the nuclear industry offers a very challenging and interesting job and that the financial rewards are commensurate with—but certainly not in excess of—one's academic qualifications. It is also important to establish the fact that the big industrial concerns have not entered the business for quick profits—indeed most of the companies that have entered the nuclear business around the world have been shaken to their foundations by losses on early projects and few can see dramatic profits in the future. For the most part the position of industry is that the long term direction of energy supply is going to be increasingly in the direction of nuclear power and therefore for the wellbeing of their company they must establish a foothold in this sector of the business in spite of the heavy initial costs.

While establishing the sincerity and integrity of those working in the nuclear industry, it is important not to fall into the trap of attacking the sincerity of the critics. They too believe that their actions are in the best interests of mankind and in many cases they are prepared to accept a relatively modest life style as a demonstration of their sincerity. Admittedly, some of the more prominent anti-nuclear speakers can demand an honorarium or generous expenses for their appearances, and an anti-nuclear writer can certainly earn more than a proponent of nuclear power. But the only people making a lot of money as a result of the nuclear controversy are the lawyers—on both sides.

DO WE NEED SO MUCH ENERGY?

The question of whether we need abundant cheap energy is the one with which the nuclear critics have made most impression on the general public. In the advanced industrial countries, and in particular in America, people are very aware of the fact that the habits of mankind have become scandalously wasteful. If asked in an opinion poll whether they would accept a simpler life style in the interests of less pollution, a very substantial majority of the public would probably say "yes." At times of national emergency the public have even demonstrated that in response to massive propaganda campaigns they are capable of making savings in their use of energy for limited periods.

In arguing the case for nuclear power it would be very wrong to challenge this very real public acceptance of the concept of a simpler life style but it is worth pointing out, with regret, that it is not a wholly practical solution. When asked at a press conference what was his solution to the energy crisis, Ralph Nader suggested that Americans could willingly accept a 40 percent reduction in energy consumption. This seems distinctly optimistic in the light of the events of the last nine months. In the U.K., with a miners' strike during the winter oil crisis, domestic consumers responded to an extensive advertising campaign with an initial saving of about 20 percent, but as the emergency continued there were signs of the Dunkirk spirit waning. The inability to sustain personal economy has also been seen with the worldwide return of motoring habits to their former depressing extravagance since the oil crisis. Even if Americans, who consume a third of the world's energy were to achieve the spectacular 40 percent reduction, the rest of the world with a per capita consumption of energy which is less than one fifth of the U.S. figure could hardly be expected to accept a significant reduction in energy demand until the gap between the haves and the have-nots has been closed a little bit more. And raising the average standard of living of the rest of the world with some 3500 million people is going to take more than 40% of America's energy.

Forecasting true energy requirements in different parts of the world is a notoriously difficult task and even the most knowledgeable experts produce widely differing projections. This state of confusion makes it very difficult to answer those who say "do we really need so much energy". The most important points to get over are the general trend of growth in energy requirements and the relative contribution of different primary energy sources. It is then reasonable to argue that even with major programmes of energy conservation it is not going to be possible to limit the momentum of the growth trend overnight and any new alternative sources of energy are unlikely to make any rapid impact on the general pattern of primary energy consumption.

The colourful diagram on the front cover of this issue is an attempt to present the world energy flow situation, with a common scale for different types of energy, as it might be expected to develop over the next ten years. This is a simplified version of a series of diagrams devised by the staff of the U.S. Joint Committee on Atomic Energy in an excellent report on "understanding the National energy dilemma" prepared in 1973. The version on our front cover has been adapted to incorporate the whole world using the best averages that we could derive from the many published figures of national and regional energy requirements. An attempt has also been made to apply some reduction in overall growth rate that seems probable as a result of a general slowing down of economic development and at the same time some readjustment of the relative contribution of the different primary energy sources has been made as a likely outcome of world oil prices. We would claim no great accuracy for this diagram—we must even admit to some artistic licence in adapting it as a front cover design—but it gives a feel for likely trends and provides some pointers to the way in which we should strive to modify the pattern of energy usage later in the century.

The percentage increase in the nuclear energy contribution in the next ten years is larger than any other sector and represents something like 400,000 MW(e) of installed generating capacity—a requirement that will strain the resources of the world's nuclear industry to the absolute limit. But bearing in mind the fact that a common energy scale has been used throughout the diagram, it is apparent that growth in demand for oil is going to be larger than the nuclear contribution while coal and gas will only be slightly less. Thus, it looks as if all the main sources of primary energy are going to be stretched to the limits of their potential growth over the next ten years in meeting a growth in end use which is a good deal less than the traditional ten year doubling normally associated with a reasonable evolution of standard of living in advanced countries. If conservation measures do start to bite in the next ten years most sectors of the energy industry will probably breathe a sigh of relief.

Before leaving our front cover diagram it is worth mentioning some of the conclusions that can be drawn from it with regard to the directions in which we should be making efforts to improve the long term situation. Clearly there is a desperate need to try to reduce the amount of wasted energy and in the case of electricity production this means higher thermal efficiencies and diversion of some of the waste heat into domestic and industrial uses. It would also be nice to see flow of nuclear energy directly into the industrial sector without going through the electricity production stage. One might even see a small nuclear contribution to the transportation sector in the form of nuclear ships. The sizable increase in the contribution of gas over the next ten years reflects mainly the influence of oil prices in Western Europe, but taking a lesson from America, it should be recognized that the limited natural gas resources can only be considered as a stop gap solution. In the longer term this will have to be replaced and the best prospect would seem to be a large increase in gasification of coal with nuclear energy.

CAN WE AFFORD IT?

The latest area of attack from the anti-nuclear movement in America seems to be on the question of utility finance. They argue that the massive nuclear power programme in the U.S. is going to call for prodigious amounts of money which are unlikely to be forthcoming with traditional methods of utility financing. Thus, the critics argue, the nuclear programme can only be fulfilled by diverting vast amounts of Government money which could, in their opinion, be better spent on other environmental improvement programmes. It is true that government control of electricity tariffs in the U.S. and in many other parts of the world, have presented utilities with a nightmare cash flow situation in which they have great difficulty in meeting the high interest charges on the money they need for their capital investment programmes. If governments, for antiinflationary reasons, want to hold down electricity tariffs then they are certainly going to have to help out the utilities by providing cheap money for capital intensive nuclear power programmes. But the suggestion that this money is not being well spent should be challenged at every possible opportunity by the nuclear industry. It should be pointed out to public and politicians alike that there is no better investment than nuclear power. The reasons for this situation can be spelt out as follows:

Nuclear electricity, even from obsolete first generation plants, is today being produced at lower generating costs than modern fossil fired plants.

The differential between fossil fuel generating costs and nuclear generating costs is certain to increase rapidly in the future and could be a factor of two by the 1980s.

The saving in fuel cost obtained by using nuclear energy rather than fossil fuel is likely to exceed the capital charges on nuclear power plants by the 1980s and therefore if one finds oneself in the happy position of having more generating capacity than required it will still pay to decommission, or place in mothball, the surplus fossil fired capacity.

The insensitivity of nuclear generating costs to fuel prices and the absence of any political domination of world sources of uranium, lead to another important reason for investment in a large nuclear power programme—competition from nuclear power will eventually have a stabilizing effect on world oil prices. This factor alone is sufficient justification for the nuclear industry to claim that their activity is in the best interests of mankind, for stabilization of oil prices will benefit all nations and especially the smaller developing countries.

ARE WE UP TO IT?

The safety of nuclear power plants is the issue on which the nuclear industry has the biggest problem in communication with the public for obvious reasons of technical complexity. Members of the nuclear community should judge carefully the level of technical comprehension of people they meet and in presenting the case for nuclear power should try to avoid either overestimating or underestimating the knowledge of the public. It is important that everybody working in the nuclear business should familiarize themselves with the major issues and prepare themselves with simple explanations suited for different levels of technical comprehension—in particular it is important to try out explanations at every opportunity on family and friends paying careful attention to the points which are understood easily and those that need to be explained more carefully.

Other articles in this issue deal in more detail with some of the safety issues and specific technical issues have been, and will continue to be, dealt with in this publication as they arise. We will confine ourselves here to the more general philosophical question which has been raised by certain prominent academics of whether modern man has committed himself to technological tasks which are just too demanding when one takes into account the consequences of failures. There are two issues here—one is the degree of excellence of our technology and the other is the seriousness of the consequences of a failure. There is no doubt that the opponents of nuclear power have exploited public fears of nuclear radiation and grossly exaggerated the consequences of hypothetical nuclear accidents. But since the safety record of the nuclear industry has been so excellent this is not an easy point to prove. Equally, because we have had no serious accidents the design of back up safety systems must be based on hypothetical failures—and multiple failures—which must be analysed in great detail. In the process of this detailed analysis there is inevitably the possibility of elevating an incredibly low probability series of coinciding incidents from a hypothetical accident to an everyday occurrence in the minds of the public.

Thus the nuclear industry starts at a severe disadvantage in presenting the excellence of its technology because, ironically, it adopted a more responsible attitude than has been shown historically by other new industrial activities. And the public, helped by the few prominent academics, just cannot believe that the nuclear industry is any less fallible than other industries. The best way to counter this understandable attitude is to explain that the assumption of fallibility is an important aspect of nuclear safety design philosophy. It leads to the concept of multiple levels of protection which, although it is not a completely new idea, has been applied in the nuclear industry to a far greater extent and much rigorously than any previous industrial activity. The American critics of nuclear power have chosen to ridicule the "defence in depth" philosophy but if the uniqueness of this approach were explained more carefully to the public the ridicule of the critics might well be turned against them.

The first point to make about "defense in depth" is that it is the answer to, rather than an example of, the "weakest link in a chain" argument. It relies upon independent back up systems each designed to be capable of dealing with the consequences of failure of lower "links" in the overall protection system. One can think of some simple examples of what this philosophy might involve in other more familiar areas where the consequences of failure are potentially of comparable seriousness.

Failure of a suspension bridge packed with traffic due to a road accident could cause thousands of fatalities. The first level of defense in depth is in the design margins coupled with quality control and in-service inspection. A second level might be a control system designed to prevent the build up of thousands of people on the bridge at any one time and there are some instances where this has been done. The third level of defense in depth would, however, have to be something like a series of independently suspended nets designed to catch the contents of the bridge if it failed.

A jumbo jet crashing on a packed sports stadium could cause many tens of thousands of fatalities and the probability of such an accident has been compared to the probability of large failure of a reactor pressure vessel. The first level of defense in this case is the extremely high standard of flight safety in the aircraft. The second would be some form of control on overflying during major sports events. And the third would probably have to be a steel dome over the stadium or underground siting.

It is not difficult to think of other examples along these lines and it is advisable that those making the nuclear case to the public should devise some of their own analogies in order to avoid the danger of repeating familiar examples.

ARE WE PROVIDING THE ANSWERS?

A familiar charge made by the opposition movements, especially in America, is that the nuclear establishment is withholding information from the public and is unresponsive or evasive in answering the critics' questions. Anybody who has followed the development of nuclear energy in the U.S. knows that this charge is patently untrue—if anything the U.S.AEC errs with an overkill of public documentation. But the present climate of public opinion is such that any charges against establishments or big commercial interests are accepted without question. The situation becomes more difficult the further one moves away from America because virtually all the substantive questions raised by the critics in other countries can be traced back to the U.S. nuclear controversy and the credibility rating of the American establishment is, understandably, even lower outside the country. But the world nuclear community has not been as clever as the opposition movements in learning from each other. Movements such as the Friends of the Earth and the Union of Concerned Scientists have shown great efficiency, though no great accuracy in communicating the latest point of attack in the U.S. controversy across the Atlantic or Pacific and in communicating back to the U.S., with further exaggeration, the public reaction to these attacks. In contrast, the nuclear establishments in other countries have been slow in going back to the U.S. source for the authoritative rebuttal of the critics' charges. This is not to say that the other countries should rely exclusively on U.S. answers—an original approach is very valuable—but when the critics' charges are based on distorted reported of minor incidents or reputed quotations of experts taken out of context, it is very important to go back to source to check the facts.

Unfortunately the rebuttal process is very laborious and the answers do not always lend themselves to ease of presentation to the public. A classic example is shown in the photograph. The two large folders contain a point by point rebuttal of a ten page press release put out by the Friends of the Earth in London at the time of the debate on the U.K. choice of reactor system. The slightly smaller folder is a similar rebuttal of a letter by Amory Lovins—an American representative of the Friends of the Earth in London at the same time—which was published in the Sunday Times. These documents demonstrate one of the most devastating techniques used by the opposition movements, namely the presentation of large numbers of apparently authoritative quotations. The small team at Westinghouse in Pittsburgh who were responsible for preparing these rebuttals, and who provide a similar services to utilities dealing with public hearings in the U.S., find it necessary to include full copies of all the documents referred to so that there is no question of taking quotations out of context. The resulting files are of considerable value in advocacy type hearings but are hardly suitable for publication in response to press releases or letters to newspapers.

The preparation of rebuttal material may at first sight seem to be a formidable undertaking but it is interesting to note that the Westinghouse team claim that the job rapidly becomes one of routine because so many of the quotations and charges of the critics have been heard time and time again. Clearly there is a case for the nuclear community, both on a national and an international scale, to co-ordinate these activities. A good deal has already been done in this direction in America especially by the Atomic Industrial Forum but so far efforts in the rest of the world have been rather fragmented.

THE TAX AND LOAN ACCOUNT BOONDOGGLE

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. SEIBERLING. Mr. Speaker, the Washington Post yesterday published an article on the tax and loan account ripoff of the American taxpayers which I would like to bring to the attention of my colleagues.

Tax and loan accounts are noninterest-bearing accounts in commercial banks in which the Federal Government keeps several billion dollars worth of the taxpayers' money. The banks have free use of the money, enabing them to earn hundreds of millions of dollars in interest each year—interest that ought to be paid to the Federal Government.

In the past, when this system was challenged by the distinguished chairman of the House Banking and Currency Committee, Hon. WRIGHT PATMAN, and the GAO, the Treasury contended that the expense of maintaining the accounts exceeded the income the banks derived from them. However, a long-overdue 2-year Treasury study released this summer showed that the actual expense of maintaining the accounts was only about 5 percent of the potential interest value of the accounts. As the Post article points out, the interest lost by the Federal Government on the accounts will amount to over $400 million in this year alone.

Last year I introduced a bill to require banks to pay interest to the Federal Government on the tax and loan accounts. I have been disappointed that this issue hasn't received more attention since then. The Treasury Department promised to send a legislative proposal to Congress to correct the tax and loan account situation, but as yet the Banking and Currency Committee has not received it.

Unlike most of the money-saving proposals being debated today, reform of the tax and loan account system seems to be relatively noncontroversial. And as the Post article points out, the interest lost to the Federal Government in one year on the accounts could pay for a year's operation of the Federal Trade Commission, Federal Communications Commission, Securities and Exchange Commission, Maritime Commission, Smithsonian Institution, Secret Service, the Senate, and the Supreme Court.

What are we waiting for?

The article follows:

[From the Washington Post, Nov. 17, 1974]

U.S. BANKS $3.9 BILLION, GETS NO INTEREST

(By Ronald Kessler)

The federal government keeps an average of $3.9 billion of taxpayer money in noninterest-paying accounts at commercial banks here and throughout the country, losing $428 million in potential interest income each year or more than $1 million a day.

The interest lost in one year on the accounts, which are maintained in 95 per cent of the nation's banks for the collection of U.S. taxes from corporations, could pay for a year's operation of the Federal Trade Commission, Federal Communications Commission, Securities and Exchange Commission, Maritime Commission, Smithsonian Institution, Secret Service, the Senate, and the Supreme Court.

To the banking industry, the accounts represent what Rep. Wright Patman (D-Tex.), chairman of the House Banking and Currency Committee, calls a "bonanza." While the government forfeits interest on the money that is put into the accounts, the banks invest it, adding directly to their profits, which averaged 12 per cent of revenue after taxes last year.

The Treasury Department acknowledged last summer that the interest-free accounts, known as tax and loan accounts, lose money for the government. Treasury said it needed special legislation to permit it to invest the money to earn income for taxpayers.

Although the department promised to prepare such a bill, no legislation has yet been introduced by the Ford administration in the meantime, the government's loss of interest since the announcement was made has exceeded $150 million—enough to pay for about a year's operation of the House of Representatives.

In a recent interview, Sidney Cox, the Treasury's assistant fiscal secretary, acknowledged that bank account balances could be invested immediately without the need for legislation if the Treasury had the "cooperation" of the Federal Reserve Board, which operates Federal Reserve banks that supply money to commercial banks.

"It could be done; it's a matter of the Fed doing it," said Cox, who conducted a two-year Treasury study of the interest-free accounts.

A Federal Reserve spokesman, asked for comment, said the technique proposed by Treasury for investing the money was not intended for that purpose.

Interest-free accounts for government and other funds have been a continuing source of controversy in recent years. The Washington Post has disclosed that balances ranging from $1 million to $30 million were kept at various times in noninterest-bearing checking accounts by the Maryland and Virginia state governments, Washington's Sibley Hospital, and Washington Hospital Center. Often, ties were found between the institutions and the banks where the money was placed.

Following the newspaper stories in each case, the balances were reduced, often to a point close to zero, a practice recommended by financial experts and followed by many corporations. Typically, these companies arrange to have their banks transfer into their checking accounts only enough money to cover the checks presented for payment during the day. Any excess cash is invested, often overnight, in a variety of government or private securities or loan arrangements.

Despite the size of non-interest-paying accounts disclosed to date, they are dwarfed by the federal government's accounts in the nation's banks, which receive about 80 per cent of the government's total annual revenues.

The biggest source of deposits to the accounts is individual income tax payments withheld from employee paychecks. These funds must be deposited by private companies in the government's bank accounts each week. A company presents a check for the amount of the taxes to the bank teller, who deposits the check in the government's tax and loan account at the bank.

How much money a particular bank holds depends on how many companies in its area choose to make their tax deposits at that particular bank. To attract such customers, banks generally offer various inducements, such as guaranteed loan arrangements known as lies of credit.

Because New York City has the largest concentration of companies with huge payrolls, New York banks hold the largest interest-free government accounts.

To the government, these accounts represent a speedy and efficient way of collecting tax money without disrupting the money flow. If companies mailed their checks to the U.S. Treasury, the payment of billions of dollars to the government would be delayed while the checks were in the mail and being processed.

Banks do not charge for maintaining these accounts or accepting deposits to them. Instead, they are able to invest all but 8 per cent to 16 per cent of the money held in them. Under Federal Reserve Requirements, the remaining balances must be kept in currency.

In the past, Treasury has insisted that banks' expenses for maintaing the accounts exceed the income they derive from them.

This assertion repeatedly was questioned by Rep. Patman and by the General Accounting Office, the audit branch of government. Last summer, the Treasury concluded that using the banks' own estimates of their costs, the total expense of maintaining the accounts represented about 5 per cent of the potential interest income the government loses on the accounts. The standard used to measure the lost interest was a relatively low 5.5 per cent.

Treasury noted that some additional expense could be charged to the accounts if the government felt they should be reimbursed for issuing and redeeming savings bonds.

The banks' estimates of their expenses for handling the interest-free accounts ranged from 1½ cents to $3.10 for each deposit accepted. The Treasury used 52 cents per deposit, an average figure, for computing total expenses incurred by the banks.

However, Washington banks charge the Chesapeake & Potomac Telephone Co. 5 cents per transaction for performing what the city's two largest banks, Riggs National Bank and American Security & Trust Co., acknowledge is essentially the same service—accepting customers' monthly telephone bill payments.

The Treasury announced when it reported its conclusions last summer that it would immediately reduce the balances in the noninterest-paying accounts while it worked on legislation to permit investment of the money.

Despite some reductions this year, the balances averaged $3.9 billion in the first nine months of this year. Based on the yardstick used by the GAO, the rate paid for loans by banks from other banks (the federal funds rate), the loss of interest amounts to $428 million a year.

The latest balances, down from more than $5 billion in previous years, would be enough to pay off the entire federal deficit incurred in the last fiscal year. To close that gap between tax revenue and federal expenditures, the government instead had to borrow more than $3 billion from the public, paying interest of about about 8 per cent to obtain the money.

Those reductions that have been made thus far have drawn complaints from bankers, according to one Treasury official who asked not to be named. "They think it's their money," he said. "They come on very hard and say it's terrible."

A spokesman for the American Bankers Association, the chief banking industry lobby, said banks have no objection to investment of the government's money, instead of leaving it in the noninterest-paying accounts, but they expect to be paid a "going commercial rate" for maintaining the accounts.

According to Cox, Treasury is barred by Federal Reserve regulations or lack of statutory authority from investing the funds in savings accounts or securities.

Cox said the same end could be achieved

without new legislation or changing regulations by telling the banks that the government funds would be withdrawn each day unless they return them each night to the local Federal Reserve bank and obtain from the Federal Reserve Bank a loan to cover the same amount. The Reserve banks currently make such loans, called discount window loans, but for different purposes.

In this way, Cox said, banks would pay interest to the government on the funds in the accounts. In addition, Cox said, the monetary system would not be disrupted because the money would be retained by the commercial banks. What would be involved, Cox said, would be a bookkeeping transaction that would, in effect, convert the accounts to interest-bearing investments.

Cox said the proposal was rejected by the Federal Reserve Board on grounds the accounts are "Treasury operations."

WHERE CASH IS

Following is a listing of federal interest-free accounts at Washington banks as compiled by the Federal Reserve Board as of last March:

Riggs National Bank	$4, 586, 951
American Security & Trust Co	4, 201, 899
National Capital Bank of Washington	1, 553, 073
National Bank of Washington	958, 578
Union Trust Co. of D.C	813, 122
Industrial Bank of Washington	806, 220
McLachien National Bank	796, 145
First National Bank of Wash	685, 255
National Savings & Trust Co	636, 925
District of Columbia National Bank	466, 688
Security National Bank	433, 255
Madison National Bank	409, 756
Public National Bank	327, 809
United National Bank of Wash	86, 053
Bank of Virginia—Loudon	30, 937
American Indian National Bank	652

Following is a nationwide listing of the 10 largest government interest-free accounts held by banks as of February, 1927, in millions of dollars:

Chase Manhattan Bank	$177. 3
Bank of America	149. 7
First National City Bank	139. 5
Security Pacific National Bank	109. 9
Chemical Bank, N.Y	102. 5
Manufacturers Hanover Trust Co	87. 2
Morgan Guaranty Trust Co	75. 2
Bankers Trust Co., N.Y	71. 6
First National Bank of Chicago	48. 7
Mellon National Bank & Trust Co	66. 7

FEDERAL BANKING PATTERN BENEFITS FIRMS

(By Ronald Kessler)

"The way I look at it is, a tax payment has to be made on a certain date. The government doesn't draw the money out for so many days. So why shouldn't the funds be placed where they can benefit the company? You're able to generate big dollars on a little check you're sending to Uncle Sam."

A financial expert familiar with the inner workings of one of the Washington area's major corporations was explaining how his firm gains financial benefits by placing its federal tax payments in the government's interest-free accounts at particular banks.

The name of the game is knowing how long the government will take to withdraw its money. Here's how it works:

"Let's say you put a $2.5 million tax payment in a bank's government account," the expert said. "Let's say it stays in the account four days before the government draws it out. That means that on an annual basis, you're adding to the bank's balances by $28,000, and most of the money can be invested by the bank until it is withdrawn. The banks want that money, so what do they do to get it?

"A corporation can't operate today without a line of credit. That means the bank agrees to loan up to, say, $1 million whenever the corporation asks for it. In return for that service, the bank wants the company to leave, say, $100,000 in compensating balances at that bank. If a loan is actually taken for $1 million, they want another $100,000 in balances, plus interest on the loan.

"That's where the tax accounts come in. The $28,000 average annual balance from your tax payment is considered part of the compensating balance you're keeping at the bank in return for the line of credit. If the company doesn't get the credit for the $28,000, it may have to borrow that much at the prime rate to keep its balances at the specified level.

"In our case, we'll send the tax balances wherever you can get the best benefits for them. We'll wire them up to Boston or New York (banks that also have accounts from the same company), depending on how often the Treasury withdraws money from that particular bank in that area. It depends on whatever the government is doing.

"Every six months or so, the bank will tally up your average balances. If you have a shortfall—meaning your balances were too low—you'd better buy an interest-free certificate of deposit with that bank. If you're over the amount required, they don't say anything and maybe you're a nice guy and will get favors later.

"Banks can do you a lot of favors. 'Can you call up so-and-so and set up an appointment.' 'Can you put in the good word for us'. If you keep being nice to your bankers over the years, it's an insurance policy. Banks are extremely powerful."

To make sure the banks don't get more than their fair share of balances, companies call the bank each day to find out how much money is needed to cover the checks presented for payment during the day, the expert said.

If the company during the year has kept balances larger than required, it will transfer into the checking account only enough money to cover the checks presented, leaving the day's balance at close to zero, the expert said. Otherwise, it will transfer into the account only enough funds to keep the balances at the agreed-upon level after the checks have been covered.

"It's an art," the expert said. "It's the type of highly sophisticated money management that is being used by most large companies today. It's done by negotiation with the bank, and of course they don't advertise it.

"The real question is, 'Why the hell should corporations get additional benefits from those tax funds'. The government and the taxpayer should. But it's the Treasury's fault, and if the Treasury is going to allow it, you can't blame the companies for taking advantage of it."

CONGRESS URGED TO OVERRIDE VETO OF H.R. 12471, FREEDOM OF INFORMATION ACT AMENDMENTS—I

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUES OF REPRESENTATIVES

Monday, November 18, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, newspapers from all parts of the United States have been editorializing about President Ford's surprising veto on October 17 of the Freedom of Information Act amendments contained in H.R. 12471. This bipartisan measure was passed by the House last March by a vote of 383 to 8 and in May it was approved by the Senate by a 64 to 17 margin. As you recall the measure was cleared for the White House on October 7 by a vote of 349 to 2 on the conference report.

Having pledged himself to "open government," it is inconceivable that the President could have vetoed H.R. 12471, the product of more than 3 years of congressional investigations, reports, legislative deliberations, and thoughtful consideration by Members of both parties who were virtually unanimous in their support for the legislation.

Mr. Speaker, we are urging our colleagues in the House to join with us in voting to override this unfortunate and ill-advised veto. In that effort we are being supported by newspapers from all parts of the country and all shades of opinion. A representative sample of such articles and editorials urging the overriding of the veto of the freedom of information bill are included at this point in the RECORD:

[From the New York Times, Oct. 17, 1974]

MORE OPEN GOVERNMENT

The Freedom of Information Act was passed by Congress in 1966 on the assumption that the public should have broad right of access to information about the workings of its Government. The act hasn't functioned particularly well since it went into effect because of the Federal Government's use of a variety of obstructionist tactics ranging from forcing those seeking information into long and costly litigation to plain old bureaucratic foot-dragging.

Congress has now passed and sent to the White House a number of amendments designed to make the law work more effectively, including a provision that would subject to judicial review decisions on the classification of information. Other amendments would open up noncriminal investigatory files for the first time and would award attorney's fees to successful public litigants.

The Department of Justice is reported to have recommended that President Ford veto this legislation. The President himself has reportedly expressed reservations about the bill on national security grounds.

Mr. Ford's concern appears misplaced. Congress, in developing the new amendments, made an extraordinary legislative effort to balance the public's right to information with the Government's need to protect its legitimate secrets. Unless the President feels that the Federal judiciary is insensitive to national security or is incapable of handling such issues appropriately, he can have no justifiable fears about the law's adequacy to protect legitimate national secrets.

The ability to preserve free and responsive government depends in large measure on the preservation of open government to the greatest possible degree. That is the principle that animated the Congress in passing the amendments. It is the motivation that should lead the President to sign them into law.

[From the Washington Post, Oct. 5, 1974]

AMENDING THE INFORMATION ACT

For several years now, the public and the press have had at their disposal an instrument to pry unwarranted secrets out of government agencies, but it is so cumbersome that it is little used. Only a handful of cases has been brought by the news media under the Freedom of Information Act, and those took many months to resolve.

Now Congress has brightened the future of openness in government, and President Ford will soon have an opportunity to share in the results. By overwhelming votes of both the House and the Senate, a series of amendments has been proposed for the old Freedom of Information Act which should make it much easier for citizens and journalists to learn what the government is doing in their behalf. The bill has emerged from conference in good shape. It has already been given final approval by the Senate, and the House is expected to do the same next week. Then it will be up to Mr. Ford—and there the outcome is not as certain.

The Justice Department has expressed the fear that the new regulations would make FBI files vulnerable to search by the public and the press. Indeed, the act does require the disclosure of certain types of investigative information, but it safeguards that involving current prosecutions. Nevertheless the Justice Department has continued to object and has from time to time advocated a presidential veto. But we suspect that the valid interests of the FBI will be amply protected by the courts when those interests are in need of defending. And in the meantime the value of the legislation is so great it would be a pity if the President chose to veto it on these grounds.

The new amendments would require agencies to keep an index of the documents they generate so that citizens for the first time would have some orderly way of keeping track of what government agencies are doing. They would shorten to 30 days the amount of time in which an agency would have to respond to a suit claiming that valid information had been denied. If a citizen were to sustain his claim in court, the agency might be required to pay his legal fees. Agency officials who withheld information the court believed they should have provided could be required to answer for their actions before the U.S. Civil Service Commission. The agencies would be required to conform to strict guidelines in handling requests for information, and they would have to report to Congress once a year on their performance.

Even with the possibility of a presidential veto—remote though we hope it is—there may well be sufficient votes to override, because the original bill passed both houses by large margins.

The remaining imponderables concern the various news media themselves. In the past, the scant use of the act by the press could conveniently be attributed to the amount of work and frustration that went into trying to make use of it. The frustration was not just at the hand of the agencies, but also at that of the courts, which often showed less enthusiasm than they should have for cases involving the information law.

Now that Congress has expressed its clear intent that adjudication under the act should be speedy, it can be hoped that, if the legislation becomes law, the courts will act within that spirit. All of this should make journalists more aggressive about using this improved instrument. Even under the old law, the act proved useful to those with the perseverance to keep pushing. That is how Carl Stern of NBC News was able to discover from the FBI that the late J. Edgar Hoover took it upon himself to mandate the unconstitutional harassment of political dissenters. Learning how government business is done is the business of the media, and this new measure could help, if it is 1) signed into law and 2) used.

[From the Pittsburgh (Pa.) Post-Gazette, Oct. 13, 1974]

Ford's Wrong; Moorhead's Right

On the same day that President Ford demonstrated a commendable desire for open discussion of national issues by testifying voluntarily before a congressional committee, he turned around and vetoed legislation designed to improve public access to government-held information.

The President rejected House Resolution 12471, which included a series of amendments strengthening the Freedom of Information Act of 1966. His action drew a prompt and justified rebuke from Pittsburgh Rep. William S. Moorhead who, as chairman of the House Foreign Operations and Government Information Subcommittee, played a leading role in the legislation.

Mr. Moorhead rightly sees the veto as another victory for bureaucrats over the public's right to information concerning governmental activities. Virtually every government department and agency, including the Justice Department, opposed the amendments.

The principal objection to the resolution apparently centered around an amendment that would have subjected to judicial review decisions on the classification of information.

That amendment would have permitted a petitioner to ask a federal judge to review privately classified information being sought and rule on whether the information should be classified and withheld or should be made public. Federal judges already have such a right in criminal cases.

The bureaucrats persuaded the President that this and other amendments would jeopardize information classified as secret for foreign policy or national security reasons. But surely federal judges could be relied upon to exercise discretion and judgment.

Mr. Moorhead and his colleagues shouldn't take the veto lying down. They should try to override it and, failing that, they should hold the President to his promise to submit soon his own proposal to strengthen the law. We believe that this President can be persuaded yet to put the public's interest ahead of that of overly-secretive bureaucrats.

[From the Miami Herald, Oct. 29, 1974]

To Let the Sunshine Out

In a joke making the rounds a few years back, a picketer at the White House waves a sign reading "The President Is a Fool" and is promptly arrested for revealing top secret information.

The anecdote makes a point. Although governmental secrecy has some legitimate uses, it is as often the refuge of fools and scoundrels who cover up their indiscretions by denying the public access to vital information.

It does not have to be that way. In Florida a tough law to bring about "government in the sunshine" is a model for other states.

At the federal level, Florida's Sen. Lawton Chiles, the citizen lobby Common Cause and several prominent persons in government and the media have been pushing for a national version of the "sunshine law" with a few changes to take into account military secrecy and foreign affairs that are not a problem at the state level.

After months of work, congressmen thought they had hammered out an acceptable compromise to guarantee public access to public records and the public's business.

The measure, watered down somewhat to meet President Ford's stated objections, passed the House 383–8 and the Senate 64–17. The chief author of the compromise, Rep. William Moorhead of Pennsylvania, noted that the bill would "provide the openness in government that President Ford has promised us" and predicted it would be signed into law.

But Gerald Ford had a secret. He vetoed the compromise measure in an ill-advised action that Washington observers blamed on the President's listening to the Pentagon's views on secrecy.

Mr. Ford's stated reasons for his veto were totally unconvincing. We trust that when Congress returns following its election recess, it will act promptly to enact the Freedom of Information Act to start letting a little sunshine illuminate the activities of the federal government.

REFLECTIONS

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 18, 1974

Mr. JONES of Tennessee. Mr. Speaker, recently at the Naturalization Day ceremonies at Greenville, Tenn., an address was delivered by Mr. Gerhard Ruetz, a naturalized citizen of the United States. Because I feel that Mr. Ruetz' speech is of interest to all citizens of the United States, I insert the text of his talk in today's Record.

Refections

Seven years ago in this very courtroom, my petition for American Citizenship was granted by this judicial branch of the United States government. I was then, as I am now, deeply honored, and a little nervous to state my reasons and beliefs why I wished to become a citizen of this country.

Abraham Lincoln once said: Better to remain silent and be thought a fool—than to speak out—and remove all doubt! Well, I hope this will not apply to me. You see, I am a self-taught linguist and my struggle with the language, after so many years, is still, sometimes, evident. If that occurs, I hope you will forgive me. I found there is little one can do, when the mind thinks one way, but the mouth express it totally different.

In a few months we will be celebrating one of the most outstanding events in human history. I am speaking of the 200 anniversary of the birth of our nation. In my opinion, we are not just having a birthday. Oh no, much more than that: We will be celebrating an event which realized the deep and basic need of mankind to be free. This need has been eminent since man's existence upon the earth. Open up any history book, in any country, and you will find accounts of man's quest for freedom. Open the Holy Bible and you will read the same. Almost every day we are witnesses through the medium of radio, television, and the printed press of acts involving independence concerning some individual. The drama of man's search for freedom is unending, it cannot be erased, because God implanted in us the spirit of freedom.

Perhaps it would do us good to reflect during our bi-centennial celebration on the short, but glorious history of our country. To find meaning and strength in the efforts of individuals, **people like you and me,** who established ideologies and defended them with their lives, so that government of, for and by the people should never vanish from this earth.

No one gave this country a chance to survive, based simply on those principles on which it was founded. I wonder, if we here all realize that we are actually standing in the cradle of independence? Theodore Roosevelt in the first volume of his series: "The Winning of the West" described the forming of the "Watauga Association" in 1772 as "the first men of American birth to establish a free and independent community on this continent." On July 5, 1776, only one day after the signing of the Declaration of Independence, (and we could remember here that instant communication was not available at that time, and it took probably weeks before that news from Philadelphia spread to the frontier) the citizens of Washington District presented a petition to the Provincial Council of North Carolina, stating:—"You may annex us to your province in such a manner as may enable us to share in the glorious cause of freedom and liberty."

We should be proud of the fact that here, in this area, the seeds of independence were sown! The years that followed were years of amazing achievements, a period of starting inventions and unbounded creative energy, all out growth of that one element—the concept of being free—and we all agree that a people can develop best under such an environment. The keystone was progress and man's horizons seemed limitless. But now, even as we Americans look to the stars for "new frontiers", we reflect upon our nation's heritage as embodied in the Constitution.

Because the Constitution is still the rock upon which the fundamental philosophy of freedom, the right of the individual, and the dignity of man, are based. We have ample proof of that in our recent history, where men misused, abused, and mostly misunderstood the precepts of our Constitution. Men may fail and have, but yet, the institution stands and it will, as long as we all take a personal interest and effort in it.

The preservation of life, liberty and the pursuit of happiness is assured to us through means of self-government. But we must clearly understand that we not only inherit privileges with self-government, but also duties. Every citizen must exercise those duties. Without that, we, indeed, shall not survive. And herein lies a most important service, that a naturalized citizen can perform. Through our own experiences and knowledge we must admonish time and time again to young and old alike, but especially to the youth, "that we must pay any price, bear any burden, meet any hardship, support any friend, oppose any enemy to assure the survival and the success of liberty." The youth of America is our strength and our future. Education is the strongest weapon of independence. I, myself, was raised during a time, when the Educational process was used for propaganda to indoctrinate the young and terrorize the old. We as naturalized citizens have a responsibility to see to it, that such happenings shall make us free. The leaders of tomorrow must be as dedicated to the Constitution and its preservation as were the leaders of yesterday.

Over a hundred years ago, there lived a man during troubled times, who understood and was able to visualize this nation and its true enemy. Here are the words of President Lincoln: "This government must be preserved in spite of the acts of any man or set of men. Nowhere in the world is presented a government of so much liberty and equality. To the humblest and poorest among us are held the highest privileges and positions. What constitutes the defense of our liberty and independence? It is not the frowning battlements—or bristling seacoast, our army and navy! These are not our reliance against tyranny! Our reliance is in the Love of Liberty—which God has planted in us. Our defense is in the spirit which praised liberty as the heritage of all men, in all lands, everywhere."

Destroy this spirit, and you have planted the seeds of despotism at your own doors. At what point shall we expect the approach of danger? By what means shall we fortify against it? Shall we expect some transatlantic giant to step across the ocean and crush us at a blow? Never—All the armies of Europe, Asia and Africa combined could not by force, take a drink from the Ohio, or make a track on the Blue Ridge.

At what point, then, is the approach of danger to be expected? I answer—if it ever reaches us, it must spring up from among us. It cannot come from abroad. If destruction be our lot, we, ourselves, must be its author and finisher—as a nation of free men we must live through all time—or die by suicide. Surely God would not have created such a being as man—with ability to grasp the infinite—to exist only for a day. No, no man was made for immortality.

Many years later, when the United States was developing into world-leadership President John F. Kennedy defined Abraham Lincoln's thoughts in his inaugural address: "Now the trumpet summons us again—not as a call to bear arms, though arms we need—not as a call to battle, though embattled we are, but a call to bear the burden of a long twilight struggle year in and year out, "rejoicing in hope patient in tribulation," a struggle against the common enemy of man—tyranny, poverty, disease and war itself—the energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it—and the glow from that fire can truly light the world. And so my fellow Americans: Ask not what your country can do for you—ask what you can do for your country. My fellow citizens of the world: Ask not what America will do for you, but what together we can do for the freedom of man.

Finally, whether you are a citizen of America or citizen of the world, ask of us here the same high standards of strength and sacrifice which we ask of you. With a good conscience our only sure reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking his blessing and his help, but knowing that here on earth God's work must truly be our own."

These are not empty phrases, these are precepts to live by. I believe in them! This country and its people have been good to me. I am a part of it now. I have tried to the best of my ability to justify the trust that was placed in me. Which is only my reasonable service. It should be expected of us. I hope each of you will find the total happiness and contentment that I was fortunate to find.

HOUSE OF REPRESENTATIVES—*Tuesday, November 19, 1974*

The House met at 12 o'clock noon.

Rev. Harry G. Balthis, Fairlington United Methodist Church, Alexandria, Va., offered the following prayer:

Almighty God, our hearts are grateful for Your bounty and goodness to each of us and for this great Nation of which we are a part. We ask Your blessing upon all who are here and those near and dear to us wherever they may be.

Grant us the physical strength, intellectual insight, and moral stamina to fulfill the roles to which we have been called.

Help us to resist the temptation to selfishness and pettiness.

Confirm us in our commitment to brotherhood and justice.

Keep us sensitive to human need and help us so to use our privilege and affluence that human misery and suffering will be alleviated wherever they may exist.

In Your name's sake we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that Mr. BEALL and Mr. HART were appointed as additional conferees on S. 356, proposing standards for written consumer product warranties against defects or malfunctions.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON APPROPRIATIONS FOR MILITARY CONSTRUCTION FOR 1975

Mr. SIKES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

Mr. McEWEN reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

APACHE BELLES AND BAND FROM TYLER, TEX.

(Mr. ROBERTS asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, anyone who attended or watched Sunday's professional football game between the Washington Redskins and the Dallas Cowboys got more than just an exciting game.

They were treated to an outstanding half time show by the internationally famous Apache Belles and Apache Band from Tyler Junior College in Tyler, Tex. I have the great honor of representing the city of Tyler and this fine college.

The city, the institution, and the State of Texas could not have better ambassadors of good will than the 125 members of the Apache Belles and Band. They have been performing from coast to coast and beyond with the same crowd-pleasing precision and showmanship for 27 years.

They give their audiences plenty of variety in both costumes and dance routines, but their famous trademarks are still a precision high kick and traditional gold and white costumes with cowboy hats and boots.

The Apache Belles perform with beauty, charm, poise, and a smile as big as all outdoors, and they do it to the sounds of the talented and hard-working musicians in the Apache Band.

The success of this great organization is due in large part to its longtime director, Mrs. Eva Saunders, and choreographer, Mr. Al Gilliam. The band performs under the able direction of Mr. Jack Smith.

I salute this fine group of young men and women and wish them every success as they continue a great tradition.

If the rules of the House were different, I would advise my colleagues that inside of each of the gold uniforms in the gallery is a gorgeous Apache Belle and with them the Apache Band.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 2535) for the relief of Mrs. Rose Thomas.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

COL. JOHN H. SHERMAN

The Clerk called the bill (H.R. 2633) for the relief of Col. John H. Sherman.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to that the remainder of the calendar will

There was no objection.

Mr. JAMES V. STANTON. Mr. Speaker, I ask unanimous consent that the remainder of the Private Calendar in order today be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. GROSS. Mr. Speaker, reserving the right to object, this did not apply to the next bill that the Clerk started to call, that it be passed over?

The SPEAKER. The Chair will state that the remainder of the calendar will be dispensed with for today.

Mr. GROSS. Including the bill that the Clerk just started to call up?

The SPEAKER. It will be postponed.

Mr. WYLIE. Will be passed over without prejudice.

The SPEAKER. The whole remainder of the calendar.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was nc objection.

CALL OF THE HOUSE

Mr. WYDLER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 629]

Anderson, Ill.
Andrews, N.C.
Annunzio
Badillo
Bafalis
Baker
Blatnik
Brasco
Breaux
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burke, Calif.
Burton, Phillip
Carey, N.Y.
Carney, Ohio
Clark
Clay
Conyers
Davis, Ga.
Dellums
Devine
Diggs
Edwards, Calif.
Esch
Eshleman
Evins, Tenn.
Fisher
Ford
Fountain
Gibbons
Ginn
Grasso
Gray
Green, Oreg.
Gubser
Hansen, Idaho
Harrington
Hawkins
Hays
Hébert
Heckler, Mass.
Jarman
Johnson, Pa.
Jones, N.C.
Latta
Lehman
Luken
Maraziti
Mathias, Calif.
McSpadden
Mezvinsky
Mink
Morgan
Murphy, N.Y.
Obey
Owens
Parris
Peyser
Podell
Rarick
Reid
Reuss
Riegle
Roe
Roncallo, N.Y.
Rooney, N.Y.
Rose
Rostenkowski
Sandman
Steed
Steele
Stubblefield
Stuckey
Teague
Thompson, N.J.
Thomson, Wis.
Towell, Nev.
Waggonner
Wiggins
Wilson, Bob
Wyman

The SPEAKER. On this rollcall 351 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

DISMISSAL OF JOHN SAWHILL

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, during the election recess, I was very distressed by the dismissal of John Sawhill. During his tenure as Administrator of the Federal Energy Administration, he demonstrated that he was a good leader, a courageous innovator and a responsive public official. For consumers, small businessmen and Congressmen alike, his consideration was always thoughtful and timely.

While I am dismayed by the loss of this very good man, I am also alarmed by the significance of his dismissal.

Mr. Speaker, when the Congress passed the Petroleum Allocation Act and the FEA Act, it said that it wanted an independent, accessible, and nonpartisan energy leader. With John Sawhill, we had just that.

I am disappointed that politics has removed John Sawhill. The independent office that Congress created has been usurped. Our national energy policy has been thrown back into the quagmire of leaderless confusion. And once again, for at least the 10th time in 2 years, our energy czar has been deposed.

The United States can no longer afford to fritter away time and make false starts on energy policy. Under John Sawhill, an energy policy was emerging. Now that he is gone, we must start all over again.

Mr. Speaker, that is why the dismissal of John Sawhill is alarming.

CHANGE IN LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I take this time to announce a change in the program for today.

We will take up first H.R. 15229, tort claims for the Canal Zone. Then, we will skip down to No. 7, which is S. 782, Antitrust Procedures and Penalties Act.

Then, we will follow along as the regular program had been arranged earlier in the week.

Mr. SHOUP. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Montana.

Mr. SHOUP. Mr. Speaker, it is my understanding that item 7 shall be moved up to between items 1 and 2, and then we shall proceed as indicated.

Mr. O'NEILL. The gentleman is correct.

Mr. SHOUP. I thank the gentleman.

PERSONAL EXPLANATION AS TO VOTE

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, looking back over this session of the Congress, I have noted nine rollcalls when I have been absent from the House when votes were taken and for which I have not announced my position. For the RECORD, I now state how I would have voted on each of those questions:

MONDAY, APRIL 29, 1974

Rollcall No. 189: H.R. 11793, to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions. I would have voted "yea."

Rollcall No. 190: H.R. 11980, to enhance the public health and safety by reducing the human and material losses resulting from fires through better fire prevention and control. I would have voted "yea."

MONDAY, MAY 6, 1974

Rollcall No. 205: H.R. 296, relating to the preservation of historical and archeological data. I would have voted "yea."

Rollcall No. 206: Motion to suspend the rules and agree to the Senate amendment to the House amendments to S. 1125, to concentrate the resources of the Nation against the problem of alcohol abuse and alcoholism. I would have voted "yea."

THURSDAY, JULY 18, 1974

Rollcall No. 393: An amendment to H.R. 11500, the Surface Mining Control and Reclamation Act of 1974, that sought to replace section 102 with new language similar to section 102 of H.R. 12898, but making it the purpose of the bill to "provide" rather than to "assure" a nationwide effort to regulate surface coal mining. I would have voted "no."

WEDNESDAY, SEPTEMBER 11, 1974

Rollcall No. 521: An amendment to H.R. 13565—nonnuclear energy sources—that deletes section 7 and requires the

Administrator to report to the President and the Congress within 6 months on his assessment of the impact of existing patent policies on ERDA programs and his recommendations for additional legislation. I would have voted "no."

THURSDAY, SEPTEMBER 19, 1974

Rollcall No. 529: H.R. 13671, Solar Energy Research, Development, and Demonstration Act of 1974. I would have voted "yea."

Rollcall No. 531: H.R. 7917, Consumer Product Warranties-Federal Trade Commission Improvements Act. I would have voted "yea."

THURSDAY, OCTOBER 3, 1974

Rollcall No. 568: An amendment to the Hansen substitute to House Resolution 988—Committee Reform Amendments of 1974—that strikes the provisions allowing committee chairmen to bypass the Rules Committee in bringing bills to the floor for consideration. I would have voted "aye."

REPORT OF THE 1973 UPLAND COTTON PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The **SPEAKER** laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Agriculture.

To the Congress of the United States:

In accordance with the provisions of section 609 of the Agricultural Act of 1970, I transmit herewith the report of the 1973 upland cotton program.

GERALD R. FORD.

THE WHITE HOUSE, *November 19, 1974.*

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. The Chair desires to make an announcement. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

TORT CLAIMS INVOLVING CANAL ZONE GOVERNMENT IN REPUBLIC OF PANAMA

Mr. LEGGETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15229) to expand the authority of the Canal Zone Government to settle claims not cognizable under the Tort Claims Act.

The Clerk read as follows:

H.R. 15229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the title of section 271 in the list of sections of chapter 11, title 2, Canal Zone Code, is amended to read as follows:

"271. Claims arising from civil government.".

SEC. 2. Section 271 of title 2, Canal Zone Code (76A Stat. 22), is amended to read as follows:

"§ 271. Claims arising from civil government

"(a) The Governor, or his designee, may adjust and pay claims for injury to, or loss of, property or personal injury or death arising from the activities of the Canal Zone Government.

"(b) An award made to a claimant pursuant to this section shall be payable out of any moneys appropriated for or made available to the Canal Zone Government. The acceptance by the claimant of the award shall be final and conclusive on the claimant, and shall constitute a complete release by him of his claim against the United States and against any employee of the United States acting in the course of his employment who is involved in the matter giving rise to the claim, except that the Governor may make an interim partial award for humanitarian or compassionate reasons in a sum not exceeding $1,000.

"(c) This section does not apply to tort claims cognizable under section 1346(b) or 2672 of title 28, United States Code."

The **SPEAKER**. Is a second demanded?

Mr. SNYDER. Mr. Speaker, I demand a second.

The **SPEAKER**. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER**. The gentleman from California (Mr. LEGGETT) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 15229 is legislation which expands the authority of the Governor of the Canal Zone to adjust and pay claims for personal injury or death arising from the activities of the Canal Zone Government in the Republic of Panama. This bill does not make any great fundamental change in existing law, but rather extends and completes the existing statutory authority previously constructed by the Congress.

Mr. Speaker, as my colleagues know, the Canal Zone is adjacent to the Republic of Panama and, of course, this geographic proximity necessitates that employees of the Panama Canal Company and Canal Zone Government occasionally enter the jurisdiction of the Republic when acting in the scope of their office or employment. In the course of employees' activities in Panama, it was always possible that claims may arise against the Company or Government down there as a result of their actions or omissions.

Mr. Speaker, there is a great variation in the tort claims procedures for the U.S. Government agencies overseas, and the manner in which a tort claim is handled usually varies by the country in which it arises and the U.S. Government agency which is involved. Claims against the Panama Canal Company by Panamanian nationals arising out of activities of Company employees in the Canal Zone and the Republic of Panama are administered through the general statutory authority bestowed upon the Company in the Canal Zone Code. The Tort Claims Act governs the adjustment and payment of tort claims by the Canal Zone government in the Canal Zone. Finally, section 271 of title 2 of the Canal Zone Code bestows authority on the Canal Zone Governor to settle claims against the Canal Zone government for property damage in Panama. When this last authority was granted by Public Law 81–223, it failed to extend the authority to personal injury and wrongful death claims in Panama. H.R. 15229 extends the authority to cover just this aspect of tort claims.

Mr. Speaker, the situations in which this legislation becomes effective are admittedly few, but the need for the legislation in those particular situations is very clear. At the present time, legislation by the Congress would be necessary if a tort claim were to arise in Panama for personal injury as a result of actions of Canal Zone government employees acting within the scope of their office or employment. The Governor down there in the Canal Zone has no authority to handle this specific kind of claim in any manner short of this. H.R. 15229 seeks to avoid a situation in which a Panamanian national is without redress as a result of a wrong against him and, thus, seeks to avoid a situation which could be harmful to United States-Panamanian relations.

Although the chief thrust of the legislation is for claims adjustment for personal injury claims against the Canal Zone Government in Panama, H.R. 15229 contains a provision which allows the Governor to make an interim partial payment of up to $1,000 for humanitarian purposes to an individual who is the subject of a claim such as that addressed in this appropriate section of the Canal Zone Code. This interim award is a concept borrowed from the practice of the military and other Federal agencies in whose hands it has been well-used as I understand it.

Mr. Speaker, I would then urge my colleagues to support this measure as one born of foresight, of experience, of faith in the administration of the Canal Zone.

This legislation was the result of an executive communication, and it has the full backing of the executive branch agencies.

Mr. Speaker, this is a measure which saw the predecessors identical to it receive the affirmation of this Chamber in the 88th and 89th Congresses. This year, we have held hearings on it, and it is hoped the other body will move on the legislation.

This bill reported here without amendment has enjoyed the unanimous and bipartisan support of members of subcommittee and committee.

Mr. Speaker, H.R. 15229 merits passage, then, for the reasons I have stated.

Mr. SNYDER. Mr. Speaker, I rise in support of H.R. 15229, a bill to expand the authority of the Canal Zone Government to settle claims not cognizable under the Federal Tort Claims Act. The Canal Zone Government has authority, under the Federal Tort Claims Act, to settle claims arising out of incidents where injury or damage is caused by the negligence or wrongful act of a government employee who is acting within the scope of his employment. However, this authority does not extend to personal injury cases where the citus of the incident is outside the jurisdiction of the United States. Since employees of the Canal Zone Government go into the Republic of Panama every day while within the scope of their employment, incidents not covered by the Federal Tort Claims Act can and do occur.

In 1949, Congress acted to permit the Canal Zone Government to settle property damage claims where the accident took place outside the Canal Zone. This power has been exercised and has not given rise to any problems except where personal injury is also involved. In the latter type of case, Government officials may reimburse an injured party for damage to, say, an automobile but may not compensate the owner or occupant of the car for personal injuries. Thankfully, incidents involving personal injury or death have been very rare. None have occurred at times of high political tension. Those seeking to drive a wedge between the Republic of Panama and the United States could seize upon such an incident and add an unnecessary and avoidable pitfall to the consideration and solution of questions of serious impact between our governments.

H.R. 15229 is designed to remedy both the humanitarian and political shortcomings of the present law. The Governor of the Canal Zone is authorized to settle personal injury or death claims not cognizable under the Federal Tort Claims Act. Acceptance of a settlement payment by a claimant constitutes a complete release of any further claims against the United States. The Governor may, in his discretion, make an interim payment of up to $1,000 for humanitarian reasons. This will be a valuable power for the Governor to have. The entire bill will give the Panama Canal Zone Government added flexibility in dealing with potentially awkward or even dangerous situations with little cost to the Federal Government.

I urge my colleagues to adopt this needed legislation.

Mr. GROSS. Mr. Speaker, will my friend from Kentucky yield?

Mr. SNYDER. Mr. Speaker, I certainly will.

Mr. GROSS. May we assume this legislation will in no way further chip away any of the sovereignty of the United States in the Canal Zone?

Mr. SNYDER. I want to assure the gentleman from Iowa that if this Member of Congress thought it took one little bit out of that sovereignty, I would not support it.

Mr. GROSS. I thank the gentleman. He has provided the clear assurance I wanted.

Mr. SNYDER. Mr. Speaker, I reserve the balance of my time.

Mrs. SULLIVAN. Mr. Speaker, since Congress is the general legislature for the Canal Zone, the responsibility for making those laws which lead to the efficient administration of that area rests with us. One of the more critical aspects of the environment in the Canal Zone is its proximity to the Republic of Panama, and, of course, that factor is something that may cause different kinds of legislation. It is important that we have laws which provide for as fair and harmonious a relationship with the Republic of Panama and its individual citizens as we can give the Canal Zone Government.

H.R. 15229 is a measure which has as its main purpose expansion of the authority of the Governor of the Canal Zone so as to be able to deal with those instances in which tort claims for personal injury or wrongful death are made against the Canal Zone Government arising out of its activities in the Republic of Panama. All the other circumstances in which tort claims may arise against the Panama Canal Company or the Canal Zone Government are covered by existing law; but H.R. 15229 is designed to plug a loophole which exists in these present statutes, a loophole in which personal injury tort claims in the Republic of Panama against the Canal Zone Government cannot be handled by the Governor but would have to come to Congress for action.

Mr. Speaker, if we pass H.R. 15229 here today, it will be a step in the direction of being able to provide justice for the individual Panamanian who may be legally involved with the Canal Zone Government. Ultimately, H.R. 15229 would be a force for stability in the relations between the Canal Zone and Panama.

This is good, competent legislation designed to fill a precise statutory need. It is noncontroversial and has been passed by this body in previous Congresses, and I believe that it is important that we give it our affirmation today.

Mr. LEGGETT. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. LEGGETT) that the House suspend the rules and pass the bill H.R. 15229.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEGGETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ANTITRUST PROCEDURES AND PENALTY ACT

Mr. RODINO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 782) to reform consent decree procedures, to increase penalties for violation of the Sherman Act, and to revise the Expediting Act as it pertains to appellate review, as amended.

The Clerk read as follows:

S. 782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Procedures and Penalties Act".

CONSENT DECREE PROCEDURES

SEC. 2. Section 5 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 16), is amended by redesignating subsection (b) as (i) and by inserting immediately after subsection (a) the following:

"(b) Any proposal for a consent judgment submitted by the United States for entry in any civil proceeding brought by or on behalf of the United States under the antitrust laws shall be filed with the district court before which such proceeding is pending and published by the United States in the Federal Register at least 60 days prior to the effective date of such judgment. Any written comments relating to such proposal and any responses by the United States thereto, shall also be filed with such district court and published by the United States in the Federal Register within such sixty-day period. Copies of such proposal and any other materials and documents which the United States considered determinative in formulating such proposal, shall also be made available to the public at the district court and in such other districts as the court may subsequently direct. Simultaneously with the filing of such proposal, unless otherwise instructed by the court, the United States shall file with the district court, publish in the Federal Register, and thereafter furnish to any person upon request, a competitive impact statement which shall recite—

"(1) the nature and purpose of the proceeding;

"(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

"(3) an explanation of the proposal for a consent judgment, including an explanation of any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief;

"(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that such proposal for the consent judgment is entered in such proceeding;

"(5) a description of the procedures available for modification of such proposal; and

"(6) a description and evaluation of alternatives to such proposal actually considered by the United States.

"(c) The United States shall also cause to be published, commencing at least 60 days prior to the effective date of the judgment described in subsection (b) of this section, for 7 days over a period of 2 weeks in newspapers of general circulation of the district in which the cases have been filed, in the District of Columbia, and in such other districts as the court may direct—

"(i) a summary of the terms of the proposal for the consent judgment,

"(ii) a summary of the competitive impact statement filed under subsection (b),

"(iii) and a list of the materials and documents under subsection (b) which the United States shall make available for purposes of meaningful public comment, and the place where such materials and documents are available for public inspection.

"(d) During the 60-day period as specified in subsection (b) of this section, and such additional time as the United States may request and the court may grant, the United States shall receive and consider any written comments relating to the proposal for the consent judgment submitted under subsection (b). The Attorney General or his designee shall establish procedures to carry out the provisions of this subsection, but such 60-day time period shall not be shortened except by order of the district court upon a showing that (1) extraordinary circumstances require such shortening and (2) such shortening is not adverse to the public interest. At the close of the period during which such comments may be received, the United States shall file with the district court and cause to be published in the Federal Register a response to such comments.

"(e) Before entering any consent judgment proposed by the United States under this section, the court shall determine that the entry of such judgment is in the public interest. For the purpose of such determination, the court may consider—

"(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

"(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

"(f) In making its determination under subsection (e), the court may—

"(1) take testimony of Government officials or experts or such other expert witnesses, upon motion of any party or participant or upon its own motion, as the court may deem appropriate;

"(2) appoint a special master and such outside consultants or expert witnesses as the court may deem appropriate; and request and obtain the views, evaluations, or advice of any individual, group or agency of government with respect to any aspects of the proposed judgment or the effect of such judgment, in such manner as the court deems appropriate;

"(3) authorize full or limited participation in proceedings before the court by interested persons or agencies, including appearance amicus curiae, intervention as a party pursuant to the Federal Rules of Civil Procedure, examination of witnesses or documentary materials, or participation in any other manner and extent which serves the public interest as the court may deem appropriate;

"(4) review any comments including any objections filed with the United States under subsection (d) concerning the proposed judgment and the responses of the United States to such comments and objections; and

"(5) take such other action in the public interest as the court may deem appropriate.

"(g) Not later than 10 days following the date for the filing of any proposal for a consent judgment under subsection (b), each defendant shall file with the district court a description of any and all written or oral communications by or on behalf of such defendant, including any and all written or oral communications on behalf of such defendant, or other person, with any officer or employee of the United States concerning or relevant to such proposal, except that any such communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone shall be excluded from the requirements of this subsection. Prior to the entry of any consent judgment pursuant to the antitrust laws, each defendant shall certify to the district court that the requirements of this subsection have been complied with and that such filing is a true and complete description of such communications known to the defendant or which the defendant reasonably should have known.

"(h) Proceedings before the district court under subsections (e) and (f) of this section, and the competitive impact statement filed under subsection (b) of this section, shall not be admissible against any defendant in any action or proceeding brought by any other party against such defendant under the antitrust laws or by the United States under section 4A of this Act nor constitute a basis for the introduction of the consent judgment as prima facie evidence against such defendant in any such action or proceeding."

PENALTIES

SEC. 3. Sections 1, 2, and 3 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1, 2, and 3), are each amended—

(1) by striking out "misdemeanor" whenever it appears and inserting in lieu thereof in each case "felony";

(2) by striking out "fifty thousand dollars" whenever such phrase appears and inserting in lieu thereof in each case the following: "one million dollars if a corporation, or, if any other person, one hundred thousand dollars"; and

(3) by striking out "one year" whenever such phrase appears and inserting in lieu thereof in each case "three years".

EXPEDITING ACT REVISIONS

SEC. 4. (a) The first section of the Act of February 11, 1903 (15 U.S.C. 28: 49 U.S.C. 44), commonly known as the "Expediting Act", is amended to reading as follows:

"SECTION 1. In any civil action brought in any district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890, or any other Acts having like purpose that have been or hereafter may be enacted, wherein the United States is plaintiff and equitable relief is sought, the Attorney General may file with such court, prior to the entry of final judgment, a certificate that, in his opinion, the case is of general public importance. Upon filing of such certificate, it shall be the duty of the judge designated to hear and determine the case, or the chief judge of the district court if no judge has as yet been designated, to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.".

(b) Section 2 of the Act of February 11, 1903 (15 U.S.C. 29; 49 U.S.C. 45), commonly known as the Expediting Act, is amended to read as follows:

"SEC. 2. (a) Except as otherwise expressly provided by this section, in every civil action brought in any district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890, or any other Acts having like purpose that have been or hereafter may be enacted, in which the United States is the complainant and equitable relief is sought, any appeal from a final judgment entered in any such action shall be taken to the court of appeals pursuant to sections 1291 and 2107 of title 28 of the United States Code. An appeal from an interlocutory ordered entered in any such action shall be taken to the court of appeals pursuant to section 1292(a)(1) and 2107 of title 28, United States Code, but not otherwise. Any judgment entered by the court of appeals in any such action shall be subject to review by the Supreme Court upon a writ
title 28, United States Code.
of certiorari as provided in section 1254(1) of

"(b) An appeal from a final judgment entered in any action specified in subsection (a) shall lie directly to the Supreme Court if the Attorney General files in the district court a certificate stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice. Such certificate shall be filed within 10 days after the filing of a notice of appeal. When such a certificate is filed, the appeal and any cross appeal shall be docketed in the time and manner prescribed by the rules of the Supreme Court. The Supreme Court shall thereupon either (1) dispose of the appeal and any cross appeal in the same manner as any other direct appeal authorized by law, or (2) deny the direct appeal and remit the case to the appropriate court of appeals, which shall then have jurisdiction to hear and determine such case as if the appeal and any cross appeal in such case had been docketed in the court of appeals in the first instance pursuant to subsection (a).".

APPLICATION OF EXPEDITING ACT REVISIONS

SEC. 5. (a) Section 401(d) of the Communications Act of 1934 (47 U.S.C. 401(d)) is repealed.

(b) Section 3 of the Act entitled "An Act to further regulate commerce with foreign nations and among the States", approved February 19, 1903 (32 Stat. 849; 49 U.S.C. 43), is amended by striking out the following: "The provisions of an Act entitled 'An Act to expedite the hearing and determination of suits in equity pending or hereafter brought under the Act of July second, eighteen hundred and ninety, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, or any other Acts having a like purpose that may be hereafter enacted, approved February eleventh, nineteen hundred and three,' shall apply to any case prosecuted under the direction of the Attorney-General in the name of the Interstate Commerce Commission".

EFFECTIVE DATE OF EXPEDITING ACT REVISIONS

SEC. 6. The amendment made by section 4 of this Act shall not apply to an action in which a notice of appeal to the Supreme Court has been filed on or before the fifteenth day following the date of enactment of this Act. Appeal in any such action shall be taken pursuant to the provisions of section 2 of the Act of February 11, 1903 (32 Stat. 823), as amended (15 U.S.C. 29; 49 U.S.C. 45) which were in effect on the day preceding the date of enactment of this Act.

The SPEAKER. Is a second demanded?

Mr. HUTCHINSON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are three main purposes which the Antitrust Procedures and Penalties Act, S. 782 as amended, accomplishes: First, enactment of legislative and oversight changes to settlements of Government civil antitrust cases; second, an increased fine and sentencing provision for criminal violations of the antitrust laws; and third, the effectuation of changes in legislation pertaining to judicial procedures in the trial and appeal of public antitrust cases so that trials and appeals may be improved or accelerated.

The bill placed before the Congress today has been amended in three respects since the Judiciary Committee originally approved and reported on the proposed legislation. These amendments would: First, increase fines for corporate violations of the Sherman Act from $50,000 to $1,000,000; second, increase jail sentences for individuals committing antitrust crimes from the present 1-year provisions; and third, conform statutory language to reflect these fine and sentencing amendments by changing references to Sherman Act violations from "misdemeanors" to "felonies" wherever appearing.

The background for these changes can be simply stated, Mr. Speaker. The Judiciary Committee acted on the morning of October 8, 1974. On the afternoon of that day, President Ford addressed the Congress concerning measures needed to combat inflation and to restore competitive forces that had been distorted. President Ford, in his address, called upon the Congress to increase fines for violations of the Sherman Act by corporations to $1,000,000 and submitted a written request for this new legislation to you, Mr. Speaker, in a letter of the same date. Subsequently, the administration, in a letter of November 8, 1974, repeated President Ford's request and balanced it out by adding a request to increase jail sentences for individuals. This correspondence, as well as a related letter from me to the Assistant Attorney General for Antitrust on November 1, 1974, clearly establish the need for increasing both fine and sentencing provisions; and, are important to a complete understanding by the public of the legislative need and the legislative history of the Antitrust Procedures and Penalties Act. Therefore, Mr. Speaker, I offer this correspondence for inclusion in the legislative history of this important legislation at this time.

The cooperative action between the executive and legislative branches reflected in the amendments to the act is a shining example of the manner in which our Government can act to protect the public, to fight inflation, and to promote competition. As I said in my statement opening hearings on this bill, "effective deterrents to antitrust violations and not the undisputed need to deter such violations is the real focus of the proposed legislation before us." The Antitrust Procedures and Penalties Act as amended not only supplies measures to fill a shortage in deterrents to the commission of antitrust crimes but also, by numerous remedial provisions to procedures to be followed in civil antitrust cases, provides a total package for the vigorous enforcement of the antitrust laws, "the Magna Carta of free enterprise."

The correspondence follows:

Department of Justice,
Washington, D.C., November 8, 1974.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to our recent conversation with Jerome Zeifman, this is to advise that the Administration supports an amendment to the Sherman Act which would (1) provide that a violation of that act shall be punishable as a felony with a maximum sentence of five years and (2) increase fines in the case of corporations to one million dollars and in the case of individuals one hundred thousand dollars.

We respectfully suggest that your Committee support an amendment to S. 782 along the following lines:

P. 7, strike out lines 11, 12, 13 and 14 and insert the following in lieu thereof:

U.S.C. 1, 2 and 3 are each amended by (i) striking out "misdemeanor" and inserting "felony," (ii) striking out "one year" and inserting 'five years'," and (iii) striking out "fifty thousand dollars" and inserting "one million dollars if a corporation, or, if any other person, one hundred thousand dollars."

As you know, the Department has testified before your Committee in favor of an increase in fines from fifty thousand dollars to five hundred thousand dollars in the case of corporations. Obviously, any statute fixing a maximum dollar fine is somewhat arbitrary. But we believe that an increase to one million dollars for corporations and one hundred thousand dollars for individuals would provide an even greater deterrent and, in the case of large corporations, would give the courts enough flexibility to impose a meaningful sanction. For example, in the case of corporations having a billion dollars in sales, a million dollar fine would represent one percent of annual sales volume. Of course, fines for smaller companies would be adjusted accordingly in recommendations by the Department and decisions by the Court.

With respect to the felony recommendation, we believe that the time is long overdue for legislation which would make the Sherman Act a serious crime. Arguments in favor of the proposed amendment are set forth below.

Antitrust violations are often considered by the public and the business community as mere technical violations of law and not of a particularly serious nature. They have in the past been characterized as similar in nature to traffic violations, littering the public streets, and petty thefts. The fact that they are considered misdemeanors contributes substantially to this attitude. If Congress clearly expressed its view that antitrust violations are serious enough to be considered felonies, this would serve to impress upon the public and businessmen the fact that commercial crimes of this nature have a serious adverse effect on the economy. When businessmen engage in conduct that results in substantial price increases or that exacts monopoly profits, they are injuring the public in terms of monetary damages more seriously than auto thefts, armed robbery, and embezzlement which are considered felonies.

The amendment could increase the deterrent power of the Sherman Act by convincing courts to impose more meaningful sentences. The greatest deterrence in Sherman Act violations, occurs when individual defendants are prosecuted, and hence efforts must be made to secure sentences against such individuals which reflect the severity of the crime. The Antitrust Division has for many years sought to obtain jail sentences in antitrust cases, but courts have been reluctant to impose them. Only in recent years have we met with some success in this respect. With a maximum sentence of one year imprisonment, we have been able on occasions to convince the courts to impose sentences of 30 days, and these in many cases are suspended sentences. If the maximum sentence is increased to five years, reflecting the attitude of Congress on the seriousness of these violations, we might be able to obtain one year prison sentences from the courts—which itself would be an extremely effective deterrent. While it would be rare when the Department would recommend the maximum jail term, the mere fact that a five year sentence is possible could lead the courts to impose more substantial sentences than they do today.

With a better public realization of the nature of these antitrust offenses, and with the imposition of more significant penalties on individual defendants, the deterrent power of future prosecutions would become more apparent. This double-edged sword could reduce still further the recidivist inclinations of companies and their officials to engage in such violations.

This result would reduce the manpower and resources of the Antitrust Division required to prosecute such violations and enable us to divert our efforts to major structural cases in the economy. To the extent we can achieve voluntary compliance by industry itself, we can release our resources to other pressing matters. The amount of voluntary industry compliance with the antitrust laws can be expected to increase with the increase in penalties imposed by the courts. The attitude by some businessmen that engaging in antitrust violations is a risk worth taking in view of the insubstantial penalties imposed would soon be overcome.

It is also quite possible that less Department sources would be required to litigate criminal cases of this nature. With much stiffer penalties, it is possible that more individual defendants and companies would be inclined to dispose of the litigation by nolo pleas.

We believe that this amendment would be a significant step forward for antitrust enforcement in a time when it is most critical to the Nation's well being. Should you have any further questions concerning these proposed changes we would, of course, be happy to respond.

The Office of Management and Budget has advised that there is no objection to the submission of this proposal and that its enactment would be in accord with the program of the President.

Sincerely
W. Vincent Rakestraw,
Assistant Attorney General.

Office of Management and Budget,
Washington, October 8, 1974.

Hon. Carl Albert,
Speaker of the House of Representatives, Washington, D.C.

Dear Mr. Speaker: At the request of the President, I am transmitting for your consideration and appropriate reference the following draft amendment, in implementation of the Economic Message delivered by the President before a joint session of the Congress today:

To amend H.R. 17063 to increase the fine for Sherman Act violations to $1 million for corporations and to $100,000 for individuals.

The President urges swift action on this proposal, which was referred to in the Economic Message, before the close of the 93d Congress.

Sincerely,
Roy L. Ash, *Director.*

Amendment to H.R. 17063

Page 7, strike out lines 17–24 and insert the following in lieu thereof:

Sec. 3. Sections 1, 2 and 3 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1, 2, and 3), are each amended by striking out "fifty thousand dollars" whenever such phrase appears and inserting in each case the following "one million dollars if a corporation, or, if any other person, one hundred thousand dollars."

November 1, 1974.

Hon. Thomas E. Kauper,
Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, D.C.

Dear Mr. Kauper: In your public address yesterday, you disclosed that the Antitrust Division intends to submit proposed legislation making antitrust violations a felony and increasing jail sentences therefor to five years. As I supported Attorney General Saxbe's sentiments disclosed in his address of October 4, 1974 calling for increased punishment and deterrence of "white collar crime", I want you to know that the full resources and cooperation available to me as Chairman of the House Judiciary Committee and its Monopolies and Commercial Law Subcommittee will be committed to the renewed programs outlined by both you and Attorney General Saxbe.

As present antitrust legislation pending House action and already approved by the Judiciary Committee revitalizes and reshapes judicial and public attitudes toward civil antitrust offenses, similar legislation for criminal antitrust violations appears both necessary and equally long overdue. It may be that an amendment making antitrust crimes felonies rather than misdemeanors is possible for the present Congress. Added urgency in this regard would appear to be found in recent disclosures concerning both price fixing and monopolistic practices and prolonged profit gouging in the food industry. As you know, my intense concern about food pricing and monopolistic practices was expressed early in the 93d Congress during the food price investigative hearings conducted by the Monopolies Subcommittee during June and July, 1973. Extensive examination of the reasons for the Nation's disastrous inflation since that time have confirmed my early suspicions concerning the role of antitrust violations by the food industry as a major cause thereof.

Your forthright call to action dramatizes again the need for significant and speedy executive and legislative cooperation not only to deter further antitrust violations but also to eliminate the pervasive anticompetitive and inflationary effects of past antitrust violations. Both the public and our Nation's unique free enterprise system will benefit from this noble endeavor.

Sincerely,

PETER W. RODINO, Jr.,
Chairman.

Mr. HUTCHINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill. S. 782 would make three changes in the way the antitrust laws are enforced. No change would be made in the substantive antitrust law itself. First, the bill would provide new rules for consent decree procedures; second, it makes changes in appellate review in Government injunction suits, and third, it would increase penalties for criminal violations of the Sherman Act.

Perhaps the most significant provision is that which would increase criminal penalties. The maximum fine that could be imposed would be increased from $50,000 to $1,000,000 for corporations and to $100,000 for other persons. The maximum jail sentence that could be imposed would be increased from 1 year to 3 years, thereby transforming what has been a misdemeanor into a felony. These increases are intended to convey a message that conspiracies in restraint of trade will no longer be worth the risk. The maximum criminal penalties would be increased, so that fines need no longer be small or jail sentences light. One cannot unknowingly commit a criminal antitrust violation. This increase is designed to deter those who might conspire to fix prices or to monopolize a given market.

Judges complain that we tie their hands whenever we write minimum mandatory sentences into the law. Yet they leave little choice for Congress when they treat serious wrongdoers leniently. We refrained from imposing minimum mandatory sentences this time with the hope that the courts would understand our firm resolve to crack down on antitrust violators.

Although I support this legislation and will vote for it, I do not subscribe to every provision of each part of the bill. As I stated in my additional views to the committee's report, the first part of the bill which treats with consent decrees imposes on the courts what is essentially a nonjudicial function. In short, the courts will have to decide whether the Department of Justice has exercised its prosecutorial discretion to settle antitrust cases as well as it should. Since the bill offers no guidance to the courts in reviewing executive discretion other than that they are to decide if the proposed settlement is in the "public interest," the bill attempts to assist the courts by allowing the general public or any "public interest" group to offer its views and comments after the proposed settlement has been published in the Federal Register. In my opinion, such a process is foreign to the judicial function.

In addition to this objection, there are two instances in which the Senate version of the bill is preferable to the House bill. The first deals with the public benefit of a trial versus a settlement; the second deals with lobbying contacts.

First. In making the determination whether a proposed consent decree is in the public interest, the court is authorized to consider the public impact of the consent decree on "individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit to be derived from a determination of the issues at trial." It is my fear that this language may invite the courts to "second guess" the wisdom of the policy enacted by the Congress in section 5 of the Clayton Act, which states that consent decrees are not to be considered as prima facie evidence of a defendant's liability in subsequent cases brought by private parties seeking treble damages. It will always be true, in view of that provision of the Clayton Act, that a consent decree is less advantageous to private plaintiffs than a litigated judgment would be. Since that is the necessary and intended result of the congressional policy, it seems to undercut that policy to allow a judge to weigh such a factor in determining whether the proposed consent decree is not in the public interest. It seems to me that the court should be looking at the terms of the proposal and not upon its legal effect. The court should evaluate whether the proposed consent decree by its terms remedies the wrongs alleged in the complaint. A court should not be authorized to refuse a consent decree merely because of its lack of evidentiary utility in subsequent cases brought by private parties. The bill as it passed the Senate did not contain this mischievous language. I hope that the House bill will be remedied at a later stage.

Second. The bill would require that the defendant publish the contacts that it had with any employees of the Government regarding the case in question. Since it is anticipated that this requirement will have a chilling effect on contacts between the defendant and Government, exception was made to the general rule for certain legitimate contacts. The Senate version would exempt from the reporting requirement contacts "made by or in the presence of counsel of record with the Attorney General or the employees of the Department of Justice." Since it is both common and appropriate for a defendant and his lawyer to meet with the plaintiff, this exemption appears reasonable to me. The committee, on the other hand, took the position that such a contact was, in fact, a lobbying contact which should be reported. I disagree. Contacts by the defendant and its counsel with employees of the Department of Justice are appropriate litigation contacts and should be encouraged. Very often it is in such meetings that the employees of the Department of Justice in talking both to the defendant and its counsel find the answer to the question of whether they should prosecute a case against the defendant. As we all know, lawyers are more circumspect in discussing their litigation posture than are regular businessmen. In these meetings when businessmen talk, the legality or illegality of the activity in question may be more apparent than when it is couched in the verbiage of the law. On this point the Senate version appears preferable to me.

The third part of the bill deals with appellate review in injunction cases brought by the Government. The bill makes much needed changes. It permits the parties to appeal the grant or denial of a preliminary injunction without having to await the completion of a typically lengthy trial. In merger cases, this change will be much welcomed.

The other major change regarding appellate review, deals with final orders.

Under current law all antitrust cases may be appealed from the district court only to the Supreme Court of the United States. In practice this procedure which treats all cases as special simply does not work. For the Supreme Court does not permit itself to be forced to hear nonimportant cases. Instead, it summarily affirms the decisions of the lower courts. What this means in practice is that in the majority of antitrust cases there is no real appellate review. The majority of antitrust cases are treated as something less than an ordinary Federal case.

The Senate version of the bill would provide a mechanism whereby the routine cases could be treated as routine and the special cases could be treated as special. The Senate version would permit the trial judge on application of either party to certify that direct review is of general public importance in the administration of justice. The problem with that procedure, however, is that the trial judge is not in the best position to determine how important a case at bar is to the enforcement of the antitrust laws. He does not have a feel for the cases then pending in other district courts or for cases yet to be filed by the Department of Justice. The one who can best make that judgment is the Attorney General, for he is the only one charged with prosecuting the antitrust laws.

That is why the committee's version grants the certification power to the

Attorney General solely and directly, for he is in the best position to know. If he is clearly in error, the Supreme Court is authorized to remit the case to the court of appeals where the appeal should have been brought.

It may be argued that the committee's version is inequitable since it does not provide the defendant with the same power as the Attorney General. The answer to that is that no one simply because he is sued becomes an expert on what is in the public interest and what cases are of general public importance in the administration of the antitrust laws. That burden is placed by law upon the Attorney General. The committee's version gives him the means to meet that responsibility.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, the bill before us today (S. 782) will reform the procedures affecting consent decrees in antitrust cases. The measure corrects various deficiencies and omissions that have resulted in abuses in the enforcement of our antitrust laws.

Some 80 percent of all antitrust complaints never come to trial but are settled by consent decrees. S. 782 opens these pretrial settlement procedures to public scrutiny. Publication of the terms of consent decrees is required at least 60 days before they become effective and mechanisms are established for public comment and Justice Department response. The Justice Department is required to file a "competitive impact statement" for each consent judgment detailing the alleged violations, setting forth the proposed decree, delineating the remaining remedies for private persons damaged by the antitrust violations and outlining the alternatives considered to the proposed consent judgment. Federal judges are to determine that proposed consent judgments are in the public interest—a provision intended to eliminate district court "rubberstamping" of proposals submitted by the Justice Department. To eliminate both the appearance and the occurrence of "political justice" in public civil antitrust cases because of heavy lobbying, defendants are required to report all their "lobbying" contacts in connection with the pending antitrust cases.

Mr. Speaker, this measure will bring all aspects of the case that results in a consent decree out into the open. Considerations which contribute to development of a consent decree will be made known to the Court—and to interested parties. There will be no backdoor arrangements—and no secret agreements or understandings.

Mr. Speaker, those who wish to comment on a proposed consent decree will be given far greater opportunity under this bill as amended.

Mr. Speaker, in addition, it is important also that we increase the penalties for violations of the antitrust laws as recommended by the President—and as set forth in this legislation.

Mr. Speaker, the committee is to be commended for bringing this measure to the House—and I urge an overwhelming vote on final passage.

Mr. HEINZ. Mr. Speaker, will the gentleman yield?

Mr. HUTCHINSON. I will be glad to yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Speaker, I want to join in support of the gentleman's statement that this is a necessary piece of legislation.

I rise in support of S. 782, the "Antitrust Procedures and Penalties Act." It has long been a guiding principle of the Republican Party to support strong antitrust enforcement. This bill is designed to increase the effectiveness of antitrust enforcement. A similar although weaker version passed the Senate in July of 1973 by a vote of 92 to 0. In September of this year I, along with other members of the House Republican Task Force on Antitrust and Monopoly Problems, became apprehensive that the bill might never be reported out of the House Committee on the Judiciary despite the completion of subcommittee action in the spring of this year. We urged the distinguished chairman of the committee to bring this bill to the floor of the House. Later, on the day that the committee finally acted on the bill, the President asked for greater criminal antitrust penalties than had been approved by the committee. Both the Republican Antitrust Task Force and the House Republican Policy Committee have taken positions in support of the bill, and have recommended that the maximum criminal penalties for antitrust violations be increased along the lines of the President's request. I commend the committee for considering the President's request and reporting the bill along with an amendment to increase the maximum criminal penalties to $1 million for corporations and to up to 3 years for individuals. Let us act now and vote favorably on this bill and the amendment.

I believe that when the marketplace is truly open and competitive, it is the best regulator of industry and an indispensable aid to our fight against inflation. The antitrust laws provide the rules for competition. They are a cornerstone in our free enterprise system. They are intended to prevent predatory conduct or combinations which unreasonably raise consumer prices. These laws are designed to encourage businessmen to us their energies to increase efficiency, and lower prices. They are at the heart of our ability to allocate the scarce resources of capital, management, and labor among the competing sectors of our economy.

The antitrust laws are very important, but they cannot do the job if they are not enforced promptly and fairly, or if those who violate them receive so little punishment that it pays them to ignore the law. At present, antitrust enforcement is too often a long drawn out affair and many times the same corporation must be prosecuted repeatedly. We must slow down inflation, we must speed up antitrust enforcement, and we must deter great corporations and the executives that run them from continuing to violate the antitrust laws.

This bill will speed up Government and defense appeals of antitrust cases by permitting circuit court consideration. In the past, antitrust cases have all too often taken years to be resolved and the public has suffered from delays. The public cannot now afford delayed enforcement of the antitrust laws. Circuit court review would also reduce the Supreme Court's caseload and allow that court to spend its time dealing with only the most important cases.

This bill also will strengthen the Government's hand in dealing with large corporate mergers by granting the right of appeal if a district court denies a request for an injunction to stop a merger. At present, if a district court does not grant the Government's request to stop a merger before it takes place, it may be many years before the companies are separated. The companies make money and the public suffers from the loss of competition. We cannot tolerate delay any longer.

As an important additional provision, the bill provides for significantly increased public disclosure of settlements in Government's antitrust cases. It insures that settlements are open to public view and comment and that they are in the public interest. It also insures that settlements will not result from improper lobbying contacts. We must be sure that the laws are enforced fairly and this bill goes a long way in that direction.

The maximum fines that may now be levied against corporations that violate the antitrust laws do not amount to much compared to the sales and profits of some giant corporations. Corporate executives may now reasonably expect that they will not receive any meaningful punishment for criminal violations of the Sherman Act even when they commit the most serious of price-fixing offenses. In this time of double-digit inflation, the public cannot afford to let giant corporations commit repeated violations of the antitrust laws. Today we should and must amend those laws to make the penalties for antitrust violations strong enough to act as a real deterrent. The bill before us will increase the maximum criminal penalties to $1 million in fines for corporations and up to 3 years for individuals. I hope that the most serious penalties might never need to be used. I hope that if these penalties are enacted that criminal violations of the antitrust laws will become a rare event. We know that the current penalties are too low to do this job and must be increased.

When the House approved in June of this year my amendment to increase the staff of the Antitrust Division of the Department of Justice, we took a step forward in antitrust enforcement. We have given the Antitrust Division most of the manpower it needs to enforce the law. Let us now give them a meaningful law to enforce. I urge your support of this necessary and overdue bill.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I think the committee and in particular, the chairman, the gentleman from New Jersey (Mr. RODINO), are to be commended for bringing up this legislation at this time. We are all concerned with inflation, and the very serious effects that anticompetitive behavior in our free enterprise system can have upon prices to consumers. It has been estimated by a member of the Federal Trade Commission that price-fixing conspiracies cost the public about $10 billion a year, and that ineffective competition costs, according to the Justice Department, another $80 billion. So anything we can do to strengthen our antitrust laws and create more effective competition is likely to have a considerable impact upon prices and inflation.

This bill I think cures some real deficiencies in our antitrust laws. Under the existing law, courts, before approving a consent decree, are supposed to consider whether the decree is in the public interest, and not merely to "rubberstamp" an agreement that has been arrived at between the Department of Justice and the particular defendants. But too often the courts have, in fact, simply rubberstamped such agreements, and the public or competitors that might be affected have not had an effective way to get their views before the court, or even to find out in advance what the background and the effect of the proposed decree are. This bill remedies that by requiring a 60-day period, at the start of which the proposal has to be made public, and during which time comments can be submitted by interested parties to the Department of Justice, which must submit to the court what those comments and the responses thereto are.

Furthermore, the bill expressly provides that while the court does not have any mandatory requirement to make further inquiries, it has the specific authority to do so, an authority which it now has under its general equity powers but which is spelled out in the proposed legislation along with some explicit statutory guidelines.

Another thing that the bill would do is to remedy a serious problem, as we discovered during the course of the recent Watergate investigation, which is the tendency of persons who represent defendants in antitrust proceedings to make contact secretly with high Government officials in an effort to obtain a settlement which they consider to be favorable. There is of course nothing wrong with trying to negotiate a settlement, but certainly there is something wrong in not having the public and other interested parties, such as the competitors affected, know about the nature of the contacts made, if those contacts go beyond the mere technical negotiation among the lawyers to the parties.

Accordingly, section 2 of the bill also requires defendants in these consent decree cases to file with the court a description of all contacts the defendant had with Government officials concerning the settlement, except those contacts by the defendant's counsel of record alone with Justice Department officials alone. If a corporate officer were present with the counsel of record in negotiations with the Justice Department, that contact would have to be reported and made public at the appropriate time.

Section 3 of the bill has been amended to provide for a maximum Sherman Act fine of $1 million for corporations and $100,000 for other individuals, and to change Sherman Act violations from misdemeanors to felonies with a maximum sentence of 3 years. Several hours before President Ford asked us to raise the corporate fines, the full Judiciary Committee had recommended increasing the corporate fine from $50,000 to $500,000. During a Judiciary Committee meeting this morning, a consensus was reached to recommend approval of President Ford's $1 million figure, along with the administration's proposal to increase prison sentences. Although the administration had recommended a maximum sentence of 5 years, the consensus of the committee was that the maximum should be 3 years.

Violations of the Sherman Act are serious offenses. Despite the economic and social costs of such violations, prison sentences are rare. By making these offenses felonies, Congress would be serving notice that we consider hard-core violations of the Sherman Act to be serious crimes. The amendment incorporated into section 3 of the bill is intended to deter such crimes and to punish offenders appropriately.

Section 4 of the bill amends the Expediting Act. Right now, upon certification of importance by the Attorney General, civil antitrust cases are heard in an expedited manner by 3-judge courts. There are no interlocutory appeals, but appeals from final judgments lie directly to the Supreme Court. Various members of the Supreme Court have urged that Congress utilize the Courts of Appeals for all appeals. And the Justice Department has asked for the flexibility to determine whether and how to appeal litigated antitrust cases.

Because the Judiciary Committee finds that the need for the Expediting Act has changed, S. 782 provides that civil antitrust cases would be heard by a single district court judge and appeals from interlocutory orders would lie to the courts of appeals. Appeals from final judgments would also lie to the courts of appeals, except when the Attorney General certifies that immediate Supreme Court consideration is of "general public importance in the administration of justice," in which case the appeals would lie to the Supreme Court. The Supreme Court would then have the discretion to dispose of such a case or to remit it to the appropriate court of appeals. Section 5 of the bill would conform the Expediting Act procedures for Justice Department antitrust cases brought under the Communications Act and the Interstate Commerce Act.

Ms. HOLTZMAN. Mr. Speaker, would the gentleman yield?

Mr. SEIBERLING. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for yielding me this time. I want to compliment the gentleman from Ohio for his leadership, and, of course, the distinguished chairman of the committee, Mr. RODINO, in bringing this bill to the floor of the House.

I had planned to offer an amendment, to clarify what I believe is an oversight in this bill, but because this bill is being brought up under suspension of the rules I cannot offer the amendment.

It seems to me that the bill makes a very good point when it requires defendants in antitrust cases to disclose to the court as any communications by the defendant with officials of the Justice Department or other Government officials before any proposed settlement becomes final. The intention of this provision is, of course, to avoid the kind of secret negotiations which occurred in the ITT matter and questions of possible corruption.

Unfortunately, this bill does not spell out that a defendant must try to ascertain all such communications that may have been had; nor does it require a defendant or defendant's counsel to go to all the officers of the corporation and find out whether or not they had such communications. Apparently this was an oversight in the bill that was really unintentional. I am sure it is implicit in the bill that reasonable efforts have to be made to find out what communications with Government officials took place. Otherwise, the main purpose of this section of the bill would be thwarted, and defendants could wear "blinders" in making their disclosures to the court.

It is regrettable that an amendment to make this requirement explicit could not be offered.

Mr. SEIBERLING. Would the gentlewoman from New York read the proposed language of her amendment so that we might have clarification as to just what the gentlewoman is referring to?

Ms. HOLTZMAN. Mr. Speaker, I would have proposed the following amendment. On page 16, line 3, after "shall", insert the following: "make reasonable efforts to obtain a complete description of all such communications from the officers, directors, employees and agents of such defendant, and from all other persons acting on behalf of such defendant, and shall."

Mr. SEIBERLING. Mr. Speaker, I might say that, having practiced antitrust law for many years and worked in corporate law departments, and having made reports on the results of numerous investigations, there is no question that the proper and ethical thing for lawyers to do in this type of situation is to make that type of certification to the Justice Department or the court. I certainly think that is within the intent of the bill. If possible, we would try to clarify that in the conference with the Senate. In any event, that is clearly the intent of the bill.

Ms. HOLTZMAN. I thank the gentleman, and I again want to express my strong support for this bill to reform consent decree procedures and to increase penalties for violation of the Sherman Act. This bill will encourage vigorous enforcement of the antitrust laws—which is necessary if we are to help keep prices down and restore the health of our economy. It will also help put an end to the Watergate atmosphere and insure that our antitrust laws are not for sale. The ITT settlement, which was aired during the impeachment inquiry, created a good deal of public suspicion and cynicism about our antitrust laws, particularly with respect to settlement procedures. This bill, I believe, will go far to allay this cynicism.

Strengthening of penalties is an important measure, in this regard. Certainly in this day of giant corporations, fines of $50,000 are meaningless. The $1 million maximum corporate fine—which this bill proposes—would seem to be more realistic in deterring violations of the Sherman Act. The harmful effects of anticompetitive practices on consumers' pocketbooks merit serious penalties of this nature.

I am particularly pleased by the sections of the bill which require public disclosure of any proposed settlement between a corporation and the Government. Such settlements can have a crucial impact on the economy as a whole and on consumers in particular. The time to air and criticize such settlements is before, not after, they become final. In addition, disclosure of all communications between a corporation and the Government regarding proposed settlements should deter any improprieties in the settlement procedures.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank my colleague on the subcommittee for yielding.

Mr. Speaker, I, too, rise in support of this measure on which our subcommittee has worked. Since I will not have the pleasure of serving with the gentleman and the other members of the subcommittee in the next Congress, I should like to express the hope that he and others may agree with me that in our further studies on the questions of free competition and price fixing, and so on, to which we have been addressing ourselves, we may consider the question of whether or not we ought not to take up the topic of whether the antitrust laws should also be extended in certain particulars to our great labor unions of this country which, by negotiating national contracts with the great corporations may also have their input in the price fixing and noncompetitive area.

Mr. SEIBERLING. I might say that is an important question, although, as the gentleman undoubtedly knows, there is a very long history as to the reasons for exemption of labor relations from the antitrust laws, which would have to be gone into at great length, and I think they are not particularly germane to this bill.

Mr. DENNIS. I agree with the gentleman, if he will yield further. It certainly needs to be gone into carefully and thoroughly. I am simply hoping for the prospect of the gentleman's labors and attention during the next session.

Mr. SEIBERLING. I should also like to make a further observation. One of the things that this bill as amended would do is to increase the penalties for violation of the antitrust laws in criminal cases. As I am sure the gentlemen on the committee know, criminal prosecutions of the antitrust laws are not brought except in cases where the law is very clear and where the violation is potentially very serious, and the defendants' actions are very clear, because the prosecution must meet the burden of proof in criminal proceedings and prove its case beyond any reasonable doubt. So we are not dealing with fuzzy areas but very clear black-and-white areas of the antitrust laws.

At the time the Sherman Act was passed in 1890, violations were made a misdemeanor rather than a felony, and the maximum penalties were in an amount which was considerable in those days but today is not very great, considering what has happened to our money value since. So in an effort to emphasize the seriousness of these economic offenses, the bill would increase the maximum fines for corporations to $1 million per offense from the present $50,000 and make the violations punishable by 3 years in jail. That would make them a felony.

I might add that if there is any one thing from my own experience that has made the enforcement of the antitrust laws much more meaningful, it was when courts started sentencing corporate executives to jail, because if there is one thing most corporate executives, who are usually respected members of their community, do not like, it is having a criminal label attached to them for the rest of their lives and having the reputation of having served time in jail. Believe me, that has had a tremendous effect on antitrust compliance within the major businesses of this country.

Mr. MEZVINSKY. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Iowa.

Mr. MEZVINSKY. I thank the gentleman for yielding.

Mr. Speaker, I just want to say that I strongly support the legislation. I think it is a significant step in antitrust law.

This legislation is one of the most important bills to come before Congress this year. I believe that everyone who has studied and tried to come to grips with the problems of inflation recognizes the necessity for strong antitrust laws and strict enforcement of the statutes already on the books.

The most frequently used tool to stop anticompetitive practices is consent decrees. This procedure compels those who engage in monopolistic activities to cease such activities without the several-year delay which can result from a long and complicated trial. To take every case to trial would far outstrip the resources of the Justice Department and our judicial system as well as allow many of these anticompetitive practices to go unchecked during litigation. For this reason, the consent decree is a very useful procedure to force certain companies to voluntarily stop practices which are not in the best interests of competition.

But this process is not without fault. Under the present system, once a consent decree is entered, the public remains unaware of those practices which necessitated that consent decree actions be instituted. I believe that the public should know of those illegal activities and the effect they have had on competition and ultimately on consumer prices. The legislation before us will give this information to the public and help them to understand the problems caused by anticompetitive practices and to evaluate the effects of the settlement.

This bill also increases the penalties for violations of the antitrust laws. For corporations that do hundreds of millions of dollars worth of business per year, penalties have to be substantial in order for them to be a deterrent to anticompetitive practices. With the increase in fines allowed by law, we are hopeful that the judicial branch will be levying higher penalties on those found to be in violation of the antitrust laws.

There is yet another provision that I would like to speak of for a moment. In an era when government secrecy has come under well-justified attack, I am proud to have worked with the Monopolies and Commercial Laws Subcommittee of the Judiciary Committee on this bill which will help open the governmental process. This legislation makes a significant inroad into secretive practices by forcing the defendant in an antitrust action to disclose its lobbying contacts. The public has an often distorted view of lobbyists and their functions and influence. This type of legislation will help clear up some of the suspicions that many of these contacts raise in addition to showing if improper contacts and influence have been exerted.

Under section 2(g) a defendant in an antitrust suit is required to describe all communications to the Justice Department initiated by it or on its behalf in connection with the case sought to be settled by the consent decree procedure. Of course, communications between counsel of record for the defendant who meet alone with appropriate members of the Justice Department in connection with the case are exempt from this bill. This exemption makes the necessary distinction between lawyering and lobbying. Although legal ethics cannot be legislated, our committee has tried to differentiate between those contacts which are necessary and proper to settle procedural matters in relation to the pending case and those which go to the substantive merits and specifics of the matter before the Department. I believe this will remove a great deal of the doubt surrounding the consent decree procedures.

This section, along with other sections of the bill, make notable changes in the antitrust laws which are vital to our economy. I urge my colleagues to join me in supporting this bill.

Mr. SEIBERLING. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JORDAN).

Ms. JORDAN. I thank the gentleman from Ohio for yielding.

Mr. Speaker, the Antitrust Procedures and Penalties Act has been carefully developed by the House Judiciary Committee to command the widest possible support. It is supported by both the majority and minority party members of the committee. It is supported by the administration. It should qualify for the support of, every Member of the House of Representatives.

Basic to the wide support commanded by this bill is its simple purpose: to ventilate the consent decree process by which the Justice Department disposes of more than 80 percent of all antitrust cases. Normally, secret negotiations precede the filing of a proposed consent decree in a district court. S. 782 would pierce the secrecy with a requirement that the Justice Department file a competitive impact statement with the court along with the proposed consent decree. The public will have 60 days to comment on the proposed decree.

In addition the Antitrust Procedures and Penalties Act provides procedures to be employed by the courts upon the submission to it of a proposed consent judgment. During testimony on the bill it was pointed out that some members of the bar felt district courts were "rubberstamping" proposed consent decrees after having been submitted by the Justice Department. Section 2(e) of the bill is written to correct this practice. For the first time, judges will be able to look to statutory language for explicit guidance prior to rendering judgment on a proposed consent decree. The bill makes a clear distinction between what the courts "shall do" and "may do" in evaluating proposed decrees. This distinction is necessary in order to preserve maximum judicial flexibility on a case-by-case basis. District court judges shall be required to find that each proposed consent judgment is in the public interest. The courts will thus be required to make a positive finding that the decree is in the public interest.

The committee believes this requirement will serve to remedy the so-called rubberstamping practice. It is hoped that flexible judicial procedure will evolve in the process of correcting judicial rubberstamping. It is not the intention of the committee to require the courts to conduct a hearing or trial on the public interest question. It is anticipated the trial judge will adduce the necessary information through the least complicated and least time-consuming means possible.

To assist the court in resolving the public interest question the bill includes language suggesting a series of questions the court may wish to consider. Will the decree increase competition? Will the decree terminate the alleged violations? Does the decree make provision for enforcement? What is the relief? Were other alternative remedies considered, and, if so, what would have been their anticipated effects? Would the individuals, and the public generally, be relieved of injury from the cessation of the alleged violations? And finally, would the injured parties, and the public generally, benefit from a determination of the issues at trial?

This language is not meant to limit judicial consideration of other questions as well. The committee is cognizant of the need for judicial discretion and wishes to preserve to trial judges the widest possible discretion in evaluating proposed decrees. That is why the premissive "may" is employed. The question confronting a judge when presented with a proposed decree is: Shall this court accept or reject the proposed settlement? The judge cannot compel the parties to write a different consent decree. He cannot compel the parties to go to trial. But what the judge can do is make a judgment as to whether the proposed solution to the alleged violations are in the public interest. And this is all the bill requires of the judge.

Mr. Speaker, I would hope an overwhelming majority of the Members of this House would agree with me that this bill should receive their full support.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time.

Mr. HUTCHINSON. Mr. Speaker, I yield such time as he may require to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Speaker, I rise in support of S. 782, the Antitrust and Penalties Act, as amended and reported by the House Judiciary Committee.

This is one of the most important bills awaiting House action. It is an important part of the fight against inflation, and should be promptly enacted.

I have long been interested in the problems of antitrust enforcement, and have studied this matter as a member both of the House Judiciary Committee and of the House Republican Task Force on Antitrust and Monopoly Problems. The open and competitive marketplace is the best regulator of industry and the best guard against inflation. Antitrust laws provide rules for competition and can prevent predatory conduct or combinations which unreasonably raise prices to consumers. They encourage businesses to seek increased efficiency which lowers costs and prices. They help our system allocate scarce resources of capital, management, and labor among the competing sectors of our economy.

However, antitrust laws can not do the job if they are not enforced promptly and fairly, or if violators receive minimal punishment so that they can afford to ignore the law. Antitrust enforcement today too often is dragged out interminably, and too often the same corporation must be repeatedly prosecuted without truly mending its ways.

All antitrust laws and regulatory practices should be thoroughly reviewed, but this modest bill is a good first step in the direction of improving antitrust enforcement.

S. 782 as amended and reported by the House Judiciary Committee today, with my support, would expedite government and defense appeals of antitrust cases by permitting circuit court consideration. Allowing circuit court review also reduces the case load of the Supreme Court, thereby allowing that Court to spend its time on the most important cases.

The present bill strengthens the Government's hand when dealing with large corporate mergers by granting right of appeal whenever a district court denies a request for an injunction to halt a merger—at present, if a district court does not grant the Government's request to stop a merger before it takes place, it may be many years before the companies are separated.

Some 80 percent of all antitrust complaints never come to trial but are settled by consent decree. These consent decrees and pre-trial settlement procedures are opened up by S. 782 to public scrutiny. The bill requires the terms of consent decrees to be published at least 60 days before they become effective, and it establishes mechanisms for public comment and Justice Department response. It requires the Justice Department to file a "competitive impact statement" for each consent judgment detailing the alleged violations, the proposed decree, the remaining remedies for private persons damaged by the antitrust violations and the alternatives considered to the proposed consent judgment. It provides for Federal judges to determine that proposed consent judgments are in the public interest—hopefully this will eliminate district court "rubberstamping" proposals submitted by the Justice Department.

The Judiciary Committee amended S. 782 with my full support to increase the maximum criminal penalties for violations of the Sherman Antitrust Act. It raises maximum corporate fines from $50,000 to $1 million, and raises maximum fines for other persons from $50,000 to $100,000, and to a maximum sentence of 5 years for individual defendants convicted of violation. Current penalties are far too low to act as a real deterrent to violation.

Antitrust violations should not be dismissed as merely misdemeanors or technical violations. They cause greater economic injury to the public than do many other felonies. Hopefully increased jail sentences and higher fines will serve to deter individuals and companies from flouting antitrust prosecution.

Enactment of S. 782 with the committee amendments increasing penalties will help curb commercial crimes that adversely impact the economy, crush small businesses and independent businesses, and contribute to rising prices. It will aid in assuring that antitrust settlements are in the best public interest and will expedite and open to full public view the procedures by which these settlements are reached. I respectfully and strongly urge my colleagues to support adoption of the motion to suspend the rules and pass S. 782.

Mr. DANIELSON. Mr. Speaker, I support the bill, S. 782, the Antitrust Procedures and Penalties Act, though I do not have high hopes that it will produce a beneficial effect. It promises much, but will achieve little.

The purpose of the act, the ends it seeks to achieve, are most worthwhile and, in my opinion, would go a long way toward correcting many of the economic injustices which afflict our people. Clearly, an improvement in the antitrust laws which would help them effectively to realize their intended purposes is most desirable. The fact that the management of large business enterprises, which become de facto monopolies, can so rig the prices people have to pay for the necessities of their day by day standard of living constitutes one of the most serious criticisms of our present economic system. While operating under the banner of free enterprise, many of our largest and most influential business organizations have consistently schemed, combined, and plotted together to defeat that very system of free enterprise by fixing the prices under which their products are sold or their services are rendered, thereby denying the American people the benefits of competition and the free enterprise system which we have traditionally supported.

S. 782 purportedly seeks to add strength to our antitrust laws by increasing the penalties incident to the violation of those laws in two respects—namely by increasing the maximum period of imprisonment and by increasing the maximum fine which can be imposed because of a violation.

While I do not question the motivation of those who have sponsored this bill, in fact I commend them for having done something to improve our antitrust laws, I respectfully point out that the remedies contained in this bill will be of minimal practical effect, if any.

The approach taken in this bill, increasing maximum potential confinement and increasing maximum fine, are not meaningful when considered in the light of the history of the enforcement of our antitrust laws. In fact, from a practical point of view, the changes which will be brought about by this bill are mere window dressing and could be considered as sham. It means nothing to increase the maxmium possible imprisonment for violation of our antitrust laws if one stops to recall that, under the existing laws, the penalty for confinement has rarely been imposed at all. The fact of the matter is that the largest sentences which have been imposed are for confinement for 30 days, and usually those sentences have been suspended. We seem to have a fascination with the idea that imprisonment and fines are the proper methods of punishment for crime. We consistently labor under the delusion that potential imprisonment and potential fines serve as adequate deterrent for the successful functioning of our criminal laws—including those relied upon for the enforcement of antitrust laws. If past experience means anything, it establishes that this is nothing but a fiction and that the threat of confinement and monetary penalties through fines has no significant deterrent effect whatever.

It is axiomatic that punishment in any criminal situation should fit the crime. I respectfully submit that if the punishment for criminal antitrust law violations is to fit the crime, the penalities imposed must be such as will effectively deter a corporate executive from seriously contemplating a violation of those laws and it must be penalties which the courts will either be willing to impose or must impose. Under the present structure of our antitrust laws, which is not changed by the present bill, except to increase the size of the possible but mythical penalties when the antitrust laws are violated, the corporate executive pays a fine and conceivably receives a 30-day suspended sentence and then he is free to continue in the same course as before, without noticeable impairment in his financial well-being or in his social or economic status.

It is notorious that an American citizen convicted of a traffic violation often receives a more severe sentence of confinement than does a corporate executive who violates the antitrust laws and thereby effectively steals millions of dollars from the Amercian people. I respectfully submit that if these laws are to have any practical effect whatsoever, we must forget our long-time fascination with the concept of imprisonment and fines as being a deterrent to antitrust law violations. The deterrent effect of the penalty will be of value only if it is real and certain, and of such nature that the person whose conduct we seek to restrain will be discouraged from that conduct before he ever starts. The only way that that can be done is to attack the motivation for antitrust violation, namely, by effectively taking the profit out of it. If we can deny any profit and any advantage to the potential antitrust law violator, we will then be taking a practical and effective step in enforcing our antitrust laws. I suggest that instead of increasing the potential imprisonment of an antitrust law violator, when we all know that the present provisions for imprisonment are never enforced, we will be far better off to amend the laws to provide penalties which will strike at the heart of the offense—which will destroy the motivation for violating the antitrust laws. This could easily be done, I submit, by taking the potential for profit and the potential for personal gain out of the opportunities to violate those laws. A more meaningful punishment for antitrust violations would be a mandatory disqualification of the offender from serving as a member of the board of directors, or as an executive, of any corporation engaged in interstate commerce for a fixed period of time, such as 5 years. I respectfully submit that such a penalty would cause the managers and directors of corporations to think not twice, but many times before they would engage in combinations in restraint of trade.

As the laws now provide, and as they will continue to provide, even after S. 782 becomes the law of the land, the convicted corporate executive or director will simply pay his fine and receive a token suspended 30-day sentence and will then be immediately free to continue his regular business and social activities. He will still be on the corporation's payroll, he will still receive his director's fees, he will continue to receive and exercise his favorable stock options, he will continue to participate in corporate retirement plans which often rival those of an oriental potentate, he will continue to use the corporation's private jet, he will continue to use the corporation's membership in the choice country clubs, and will continue to enjoy the social and economic status which is so commonly incidental to being a director or officer of a modern corporation. When you consider these facts, you recognize how small is the deterrent effect of the fine and token suspended sentence which we now use to enforce our antitrust laws. If, on the other hand, the violation of those laws would trigger a disqualification for a period of, say, 5 years, from serving as director or officer of a corporation engaged in interstate commerce, then I submit that we would have a true deterrent to antitrust violations and we might begin to get somewhere realistically with the enforcement of these well-intended laws.

Again, I wish to state that I shall vote for S. 782, the Antitrust Procedures and Penalties Act of 1974, since it is well-intended and certainly does not impair the effectiveness of our present antitrust laws. However, I do so without any illusions as to it being a practical improvement to our present laws.

Mr. GUNTER. Mr. Speaker, we are taking an important step today in passage of S. 782, the Antitrust Procedures and Penalties Act.

It is in the public interest to pass this bill because it recognizes the need for full disclosure of pertinent facts leading up to a negotiated consent decree between the Justice Department and the party probed. It offers public citizens as third parties the opportunity to disagree and make their points in court to a consent agreement.

It is in the interest of free enterprise because the requirement that competitive impact statements be filed along with a petition for a consent decree requires the parties to access the probable impact in our economy of such agreements.

For these reasons I applaud the work of the House and Senate Judiciary Committees in opening up consent decrees to public scrutiny. Hopefully it will prevent a reoccurrence of the scandal and public exposure of highly irregular maneuvers associated with the International Telephone & Telegraph consent settlement.

But I want to emphasize, Mr. Speaker, that I consider this a first step. There is unfinished business, important unfinished business, in putting teeth in procedures to prevent major mergers that render the Justice Department powerless to assemble the facts it needs to prevent the formation of monopolies in vital sectors of our economy.

A recent case in point is the recent published findings of the Senate Special Subcommittee on Integrated Oil Operations which cited the ineptitude of the Justice Department to enforce the antitrust laws and prevent the anticompetitive merger of Signal Oil Co. with British-owned Burmah Oil Co., Ltd.

Here is a case in which the companies arrogantly refused U.S. Justice Department requests to delay the merger and far from seeking a consent decree defied the Department to take them to court. The Department for its part had neither the time nor the facts it needed to take such action, by its own admission.

The end result was that in January Burmah Oil Co., Ltd., acquired one of the three largest independent suppliers of crude oil in natural gas in the United States and won Signal's claim to oilfields in the British North Sea to boot.

The point is that the Justice Department under current procedures is operating in the dark when it comes to weighing the antitrust implications of a merger that is snowballing toward consummation. In the case of the Signal merger, I am convinced that the oil companies involved deliberately accelerated the pace to discourage Justice Department action and congressional review.

This is particularly disturbing because we are dealing here with a commodity in short supply in this country—oil and the energy it produces.

I would therefore urge that the 94th Congress take the legislation we are completing here today a step further in the interest of protecting the consumer and the business which both suffer from restraints on trade.

It seems to me that the Justice Department should be given the statutory authority to order a delay in a merger when questions of possible antitrust violations arise. That delay could be for 60 days or for 90 days, some reasonable period of time to permit a thorough review.

The Justice Department should also have the right to request pertinent documents for review. The next step would be to work out a consent decree which would then be subject to the legislation we are discussing today or, barring an agreement, a contest of the case in court.

There really should be nothing short of total cooperation between the Justice Department and those seeking a merger. Because if there is a violation, there should not be a merger. In any case, the determination should not hinge on how cleverly the parties involved kept the facts from the Justice Department.

I offer these as suggestions to my friends of the new Congress, some of whom may read these remarks. My experience in attempting to convince the Justice Department to move forcibly to delay the Signal-Burmah merger makes me believe that there is an important contribution to be made in antitrust legislation by Members of the 94th Congress.

Mrs. HOLT. Mr. Speaker, the Antitrust Procedures and Penalties Act should be a powerful deterrent against price fixing and the creation of monopolies.

This is the best kind of consumer protection legislation, because it gives us the tools we need to prevent such things as the current exhorbitant sugar profits through price manipulation. This legislation will go a long way toward preserving competition in the free market.

I will vote in favor of this because I believe that giant corporate monopolies are as dangerous to a free society as big government. By raising the maximum fine for corporate violations of the Sherman Antitrust Act to $1 million and by punishing individual violations by as much as 3 years in prison, we have gone a step further in protecting the people from abuses of economic power in the private sector.

I am urging President Ford to maintain pressure on the Justice Department for vigorous enforcement of antitrust laws. This legislation gives the administration the authority it needs for an effective war against monopolies and price fixing. We do not need vast new bureaucracies to strangle business in senseless regulations, but we do need tough enforcement of laws to preserve our free economy in the marketplace.

This is an important step against inflation by conspiracy, but I would also remind this Congress of the necessity to fight inflation caused by deficit Federal spending—inflation caused by irresponsibility.

We have demonstrated our will to curb abuses by big business, but it is also time for us to concentrate on restricting the abuses by big government.

The SPEAKER. The question on the motion is offered by the gentleman from New Jersey (Mr. RODINO) that the House suspend the rules and pass the bill S. 782, as amended.

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII and the prior announcement of the Chair, further proceedings on this motion will be postponed.

Does the gentleman from Iowa withdraw his point of order that a quorum is not present?

Mr. GROSS. Yes, I do, Mr. Speaker.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO MEET WHILE HOUSE IS IN SESSION

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit while the House is in session for reading of the bills under the 5-minute rule so the committee may conduct hearings on the Vice Presidential nomination.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDING THE COMMUNICATIONS ACT OF 1934 WITH RESPECT TO THE PERIOD OF LIMITATIONS ON CERTAIN PROCEEDINGS BY OR AGAINST COMMUNICATIONS CARRIERS

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1227) to amend section 415 of the Communications Act of 1934, as amended, to provide for a 2-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges.

The Clerk read as follows:

S. 1227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (a), (b), and (c) of section 415 of the Communications Act of 1934, as amended (47 U.S.C. 415), are amended to read as follows:

"(a) All actions at law by carriers for recovery of their lawful charges, or any part thereof, shall be begun, within two years from the time the cause of action accrues, and not after.

"(b) All complaints against carriers for the recovery of damages not based on overcharges shall be filed with the Commission within two years from the time the cause of action accrues, and not after, subject to subsection (d) of this section.

"(c) For recovery of overcharges action at law shall be begun or complaint filed with the Commission against carriers within two years from the time the cause of action accrues, and not after, subject to subsection (d) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the two-year period of limitation said period shall be extended to include two years from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice."

Mr. STAGGERS. Mr. Speaker, S. 1227 amends the Communications Act to extend from 1 to 2 years the period during which proceedings may be brought against communications common carriers—telephone and telegraph companies—for overcharges or for damages not based on overcharges. The bill also grants the same extension of time for actions by communications common carriers to recover their lawful charges.

"Overcharges" are charges for services by a telephone company or a telegraph company which are in excess of the charges for the service which are set forth in tariffs which are on file with the FCC.

"Damages not based on overcharges" are amounts recovered from charges for services of a telephone or telegraph company which, even though they are included in a tariff on file with the FCC, are unjust, unreasonable, or unduly discriminatory.

Section 415 of the Communications Act requires that proceedings against communications common carriers for recovery of overcharges and damages not based on overcharges must be commenced within 1 year. Similarly actions by such carriers for recovery of their lawful charges must be brought within 1 year.

When the Communications Act was enacted into law in 1934, the 1 year limitation on proceedings to recover overcharges and damages not based on overcharges of telephone and telegraph companies was reasonable. Most interstate communications were either telegrams or long distance telephone calls. Charges for these services were easy to determine.

Today, however, many organizations use complex private line networks over extended periods of time. For example, complex interstate communications networks are used to tie computers together. To compute proper charges for these services is complicated and time consuming. The FCC reports that some large industrial users of communications common carriers have been prevented from making substantial claims for over charges because of the 1 year period of limitations.

The same considerations apply to complaints for damages not based on overcharges. It is believed that extending the period of limitation to 2 years will correct this problem.

As a matter of fairness the 1-year period of limitations on actions by communications common carriers to recover their lawful charges is also increased to 2 years. This will also avoid problems where setoffs or counterclaims are involved in proceedings between a communications common carrier and its customers for overcharges or damages.

The FCC has requested enactment of this legislation.

The SPEAKER. Is a second demanded?

If not, the question is on the motion offered by the gentleman from West Virginia (Mr. Staggers) that the House suspend the rules and pass the Senate bill S. 1227.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

AMENDING THE COMMUNICATIONS ACT OF 1934 WITH RESPECT TO NOTICE OF CERTAIN APPLICATIONS FILED BY COMMUNICATIONS CARRIERS

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1479) to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points.

The Clerk read as follows:

S. 1479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 214 of the Communications Act of 1934, as amended (47 U.S.C. 214(b)), is amended by deleting from the first sentence thereof "the Secretary of the Army, the Secretary of the Navy," and inserting in lieu thereof "the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points),".

Sec. 2. That subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, is amended by deleting from the first sentence thereof "the Secretary of the Army," and "the Secretary of the Navy," and inserting in lieu thereof "the Secretary of Defense," immediately after "Secretary of State," in such sentence.

The SPEAKER. Is a second demanded?

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, S. 1479 amends the Communications Act to designate the Secretary of Defense—instead of the Secretaries of the Army and the Navy—to receive notice of certain applications filed with the FCC by telephone and telegraph companies and other communications common carriers.

In addition, the bill would provide that the Secretary of State receive notice of such applications which involve service to foreign points.

When a communications common carrier such as a telephone or telegraph company wishes to extend its lines or to discontinue or curtail its services, it must file an application with the FCC for permission to do so. Section 214(b) of the Communications Act provides that among those entitled to receive official notice of the filing of such an application are the Secretary of the Army and the Secretary of the Navy. A similar provision for official service is contained in section 222(c)(1), in cases of consolidations and mergers of telegraph companies.

Limiting notice of these applications to the Secretary of Defense would avoid unnecessary paperwork without affecting the transmission of necessary information.

The Department of State has indicated that the extension, curtailment, or discontinuance of services of communications common carriers to foreign points may at times have foreign policy implications. Accordingly, the Secretary of State would be added as an official entitled to notice of applications filed with the FCC under section 214(b) of the act.

The FCC has requested enactment of this legislation.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Speaker, this bill came up before our committee and was unanimously passed. There was no objection to it. I recommend its passage by this body.

Mr. GROSS. Mr. Speaker, I have no request for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers) that the House suspend the rules and pass the bill S. 1479.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMENDING COMMUNICATIONS ACT OF 1934 WITH RESPECT TO GRANTING RADIO LICENSES IN SAFETY AND SPECIAL AND EXPERIMENTAL RADIO SERVICES TO ALIENS

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2457) to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio station licenses to be licensed as operators.

The Clerk read as follows:

S. 2457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (1) of section 303 of the Communications Act of 1934, as amended (47 U.S.C. 303 (1)), is amended by deleting paragraphs (2) and (3) and inserting the following:

"(2) Notwithstanding paragraph (1) of this subsection, an individual to whom a radio station is licensed under the provisions of this Act may be issued an operator's license to operate that station.

"(3) In addition to amateur operator licenses which the Commission may issue to aliens pursuant to paragraph (2) of this subsection, and notwithstanding section 301 of this Act and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization."

Sec. 2. Section 310 of the Communications Act of 1934, as amended (47 U.S.C. 310), is amended by deleting subsection (a), redesignating subsection (b) as subsection (d) and inserting the following new subsections (a), (b), and (c):

"(a) The station license required under this Act shall not be granted to or held by any foreign government or the representative thereof.

"(b) No broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by—

"(1) any alien or the representative of any alien;

"(2) any corporation organized under the laws of any foreign government;

"(3) any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country;

"(4) any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

"(c) In addition to amateur station licenses which the Commission may issue to aliens pursuant to this Act, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization."

The SPEAKER. Is a second demanded?

Mr. WYLIE. Mr. Speaker, I demand a second.

The **SPEAKER**. Without objection, a second will be considered as ordered.

There was no objection.

Mr. **STAGGERS**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2457 amends the Communications Act to authorize the FCC to grant radio station licenses in the Safety and Special Radio Services and the Experimental Radio Services to aliens and corporations with alien officers, directors, or stockholders.

The bill would also authorize aliens, entitled to hold radio station licenses, to receive licenses to operate those stations where such operators licenses are required.

Aliens, alien corporations, and corporations with alien officers or directors would continue to be prohibited from receiving or holding licenses for broadcast, common carrier, or aeronautical fixed or aeronautical en route radio stations.

Section 310 of the Communications Act contains a prohibition against granting most radio station licenses to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders. However, many such corporations establish subsidiary corporations which have no alien officers or directors and obtain radio station licenses which they use for the benefit of their parent corporation. This is inequitable to small corporations which do not have the resources to establish subsidiaries and to partnerships and individual entrepreneurs to whom this option is unavailable. Eligibility for a radio license in the Safety and Special or Experimental Radio Services should not depend upon the size or form of a business organization. Direct licensing of aliens in these services is preferable to the current statutory scheme.

During the period from January 1, 1970, through June 30, 1974, the FCC authorized 253 subsidiary corporations to hold such licenses. The parent companies involved include many of the Nation's leading corporations.

S. 2457 would amend the Communications Act to authorize direct licensing of aliens or business organizations which have alien interests in the Safety and Special and Experimental Radio Services.

The Safety and Special Radio Services are primarily concerned with two-way radio communication. This embraces the use of radio for aviation, marine purposes, and industry, business, manufacturing, forest products, petroleum, power, land transportation—railroads, passenger buses, trucks, taxicabs, automobile emergency—disaster communications and public safety, police and fire departments, forest conservation, and highway maintenance, and operations by amateurs or other private citizens who use radio as a hobby or convenience. The Experimental Radio Service is used to license radio stations for research and development projects such as the radio tracking of birds and animals and remote control of construction equipment.

Mr. Speaker, I yield to the gentleman from Texas such time as he may consume.

Mr. **COLLINS** of Texas. Mr. Speaker, basically all that is involved in Senate bill, S. 2457, is the furnishing of additional subsidiary licenses used in granting radio licenses to a parent corporation. It is a technicality. It grants radio station licensing to own and operate stations in the Safety and Special, and Experimental Radio Services.

This bill corrects the unfairness to small individuals that do not have the resources to form corporate subsidiaries. In our committee this bill was passed unanimously. There were no objections to it during the committee hearings. I would move for its passage.

Mr. **WYLIE**. Mr. Speaker, will the gentleman from West Virginia yield for two questions?

Mr. **STAGGERS**. I yield to the gentleman.

Mr. **WYLIE**. Is this bill more restrictive or less restrictive, as far as the granting of alien or foreign licenses to operate radio stations is concerned?

Mr. **STAGGERS**. As I stated earlier, S. 2457 would continue the prohibition against aliens, alien corporations, and corporations with officers and directors receiving or holding licenses for broadcast, common carrier, or aeronautical en route or aeronautical fixed radio stations. This legislation would only lift the prohibition with respect to licensing radio stations in the Safety and Special Radio Services and the Experimental Radio Service.

The **SPEAKER**. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the Senate bill (S. 2457), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

EXTENDING THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

Mr. **STAGGERS**. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 16757) to extend the Emergency Petroleum Allocation Act of 1973 until August 31, 1975.

The Clerk read as follows:

H.R. 16757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(g) (1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" wherever it appears, and inserting in lieu thereof "August 31, 1975".

The **SPEAKER**. Is a second demanded?

Mr. **SYMMS**. Mr. Speaker, I demand a second.

The **SPEAKER**. Without objection, a second will be considered as ordered.

There was no objection.

Mr. **STAGGERS**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the singular purpose of this legislation is to extend for an additional 6-month period, until August 31, 1975, the existing authorities under the Emergency Petroleum Allocation Act of 1973. Unless extended, that act would terminate on February 28, 1975—at a time when the focus of the new Congress will undoubtedly be confined to administrative matters. The 6-month extension proposed in this legislation, if enacted, would assure that the important allocation and price control authorities contained in the act would continue through the ensuing winter and spring and would give the Congress an opportunity which is not now available to it to consider whether the act should be further extended or whether to make substantive amendments to its terms.

The Emergency Petroleum Allocation Act was enacted on November 27, 1973, at a time when this Nation was confronted with unprecedented shortages in crude oil and petroleum products. I believe that this act has contributed greatly to this Nation's ability to survive the Arab oil embargo. Also it has in large measure worked well in providing for the equitable distribution of supplies and in forestalling a further erosion of competition in the oil industry. I am aware, of course, that the Act itself and, more particularly, the Federal Energy Administration's implementation of it has been criticized by a number of my colleagues, several Members have introduced legislation which proposes to make specific amendments to the fabric of the allocation program. Many of these register dissatisfaction with the implementation of the price control authority under the congressional mandate that the Federal Energy Administration establish "equitable prices" for petroleum products. In several important respects, I would agree, the congressionally defined objectives have been misunderstood, misinterpreted, or in some cases, ignored. The committee was dissuaded, however, from attempting to make substantive amendments to the act at this time. Instead, it was determined to wait until the next session of Congress when time would permit a more reasoned and detailed evaluation of the program. In this regard, it is noted that the program has been in effect for less than 1 year.

In its short life, the regulations have been undergoing almost constant change. It is the sincere hope and expectation of the committee that the Federal Energy Administration will make the necessary revisions in its regulations to bring the program more nearly in line with the firm intent of the Congress and the requirements of the law. In this regard I should point out that the Federal Energy Administration is given great administrative flexibility under this act to respond to situations where the price control and allocation requirements are producing unintended inequities.

Let me also inform my colleagues in the House that it is my intention to request that the committee conduct full oversight hearings of the administration of the allocation program in the early part of the first session of the next Congress. At that time, substantive amendments will be considered and an assessment will be made of the need for continuance of the act.

I would also like to point out that, in fashioning this legislation, the Congress coupled with the allocation mechanism, price control authority designed to afford a protective shield for industrial and individual consumers from artificially inflated prices. Today, the price control authority contained in the Allocation Act stands as the only authority available to the executive branch to assure the petroleum prices are rationally based.

I believe that it is imperative that the Congress act now to extend this important authority and I respectfully ask for the support of the membership of the House for this legislation.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from California.

(Mr. MOSS asked and was given permission to revise and extend his remarks, and to include statistical data.)

Mr. MOSS. Mr. Speaker, I rise in reluctant support of this 6-month extension of the Emergency Petroleum Allocation Act. I will explain to the House my support—and my reluctance.

I am going to vote for this bill because it is the only existing authority for the allocation of scarce petroleum products and for price control over petroleum products. Without it, independent refiners, jobbers, and retailers would face even worse problems than they face now because the major oil companies could refuse to furnish crude oil to them or could furnish high priced imported oil rather than domestic oil which is presently frozen at $5.25 a barrel. Without the price control authority of the Emergency Petroleum Allocation Act, consumers would face even more problems than they face now. As inadequate as the decisions of the Federal Energy Administration have been, in at least one category—old oil—these controls have required the price of $5.25 a barrel, which is better than $10.50, the approximate price of new oil. Without this legislation every driver in this country would be at the mercy of the major oil companies and prices would be set exclusively by Exxon, Texaco, Mobil, and others, so Mr. Speaker, I will reluctantly vote for this extension.

On the other hand, I have grave misgivings over the shortcomings of the Federal Energy Administration. There is a necessity for more effective control on the price of crude oil and gasoline and on the excessive profits of the petroleum producers. As written, the original Emergency Petroleum Allocation Act mandated that the administration set "equitable prices" to all consumers.

The House report—93-531—is absolutely clear on this subject. It states:

> The reference to equitable prices in paragraph (e) is intended to emphasize that the objectives of the mandatory allocation program are to *prevent price gouging or price discrimination* which might otherwise occur on the basis of current shortages. . . . Moreover, it is expected that the President in exercising this authority will be conscious of the need to determine prices which *equitably balance the objectives of obtaining adequate supply and holding down consumer costs.*" (Emphasis added)

As far as I can see, Mr. Simon and Mr. Sawhill have never administered this act to "equitably balance" anything. They have passed on to the American consumer every cent of increased costs and more. They have passed on to the American consumer the excessive profits now being realized by the oil producers as well as sharply increased margins at the retail level. The impact on our already serious inflation has been devastating. I am placing in the RECORD at this point a study by the Economics Division of the Library of Congress which was prepared at my request entitled "Financial impact of Oil Pricing Policies." It estimates that various decisions of the administration and one decision made by the Congress—relating to stripper oil—have cost the American consumer $11.53 billion in the last year and resulted in a significant "ripple" effect on inflation generally. To summarize for the Members, the economics division found the following costs to the consumer:

First. Decontrol of "new" oil, $1.82 billion.

Second. "Old" oil pricing—$1.00/barrel included—$1.95 billion.

Third. 'Released" oil decontrol, $2.23 billion.

Fourth. Decontrol of "stripper" oil, $2.64 billion.

Fifth. Increased dealer margins, $2.89 billion.

I would note that with regard to the decision to exempt stripper oil from the Emergency Petroleum Allocation Act, while an amendment was offered in the House, this was done with full concurrence and support from the administration and was endorsed by Mr. Simon in testimony before the Committee on Interstate and Foreign Commerce.

I include the following:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., October 3, 1974.

To The Honorable John E. Moss.
From Economics Division.
Subject: Financial Impact of Oil Pricing Policies.

In response to your request for an assessment of the aggregate dollar cost to the nation as a whole of oil pricing policies, data have been assembled and some straightforward calculations are made below. In making these computations, it must be kept in mind that decisions were made during the gloomiest embargo months vis-a-vis grim alternatives.

These five simple computations define costs with precision, if the hypotheses are accepted. Perhaps this is due to the almost mechanical way in which petroleum prices are set, with key pricing policies functions of very straightforward parameters. But had the Federal Energy Administration and the Cost of Living Council not taken the price regulating actions discussed herein, prices and their inflationary impact could have been worse than we see them now.

The data used below are largely of the type available to a concerned citizen, although some require persistent research. Calculations made herein are of a similar nature.

Cost element by cost element, FEA decisions of substantial consumer impact are discussed in the following paragraphs. A conclusion about their role in the inflation which now impacts our economy is drawn in closing.

A final note that should be made is that decisions now frequently attributed to FEA began at the Cost of Living Council (CLC). And one decision, decontrol of stripper wells, was mandated by Congress. Nevertheless, FEA has ratified them all, and their downstream impact can be attributed to FEA directly rather than CLC's legacy.

1. *New Crude Oil Prices.* Crude oil prices were originally frozen in 1973 at $4.25 per barrel by CLC, a price which was nearly ⅓ higher than had been historically the case. In August 1973, CLC freed new crude oil from controls to provide exploratory incentive. The 1974 effects of this and supporting data are:

Current price of "new" domestic crude—$10.50 a barrel

Daily production rate of all oil—8.9 million barrels per day (a steadily declining rate).

"New" oil is 16 percent of this total.

To compute the annual cost of new oil decontrol, which followed the price increase from $4.25, we make this calculation:

($10.50–$4.25) x .16 (8.9 million bbl/day) x 365 days/year = $6.25 x 1.42 million bbl/day x 365 days/year = $3.25 billion per year.

If one assumes that $10.50 is excessive incentive to produce something whose estimated production cost averages very roughly $1.00 a barrel in the U.S., and hardly ever more than $2.00, the Canadian experience may provide a measure of guidance. Canada has an oil surplus, and a $6.70 posted price. If we say that $7.00 will create sufficient incentive, as it has in Canada, an increase of ($7.00–$4.25) x 1.42 x 365 or $1.43 million would have been "adequate." If this is correct, it may be assumed that U.S. consumers have had to pay $3.25 million less $1.43 billion, or $1.82 billion more than an "adequate" price of $7.00 per barrel.

2. *Old Oil Prices.* Without analytically detailed rationale, CLC just before its merger with FEA increased the price of "old" oil from $4.25 to $5.25. This is oil that costs, again very roughly, less than $1.00 to produce, in this case average cost may be as little as 50 cents. In the current production situation, "old" oil is 60 percent of domestic production. So, this computation of the aggregate cost of the $1.00 increase is made:

($5.25–$4.25) x .6(8.9) x 365 = $1.95 billion.

3. *So-called "Released" Oil.* In its effort to provide producer incentive, CLC provided for the release of one barrel of "old" oil from price controls for every barrel of "new" oil produced. This really means that a barrel of new oil costs consumers $10.50 plus the additional cost of releasing the barrel of "old" oil which immediately increases to $10.50 from $5.25. So this adds up to a true "new" oil cost of $15.75; including the incremental cost of the barrel of old oil.

Specifically, the released oil program's cost is delineated by the following estimation procedure:

Released oil is 11 percent of domestic production. It should really be priced at the old, "old" oil price—$4.25. Hence, ($10.50–$4.25) x .11(8.9 million) x 365 = $2.23 billion is the extra cost to consumer for this oil.

4. *"Stripper" Oil Decontrol.* Congress mandated that oil from wells producing less than 10 barrels per day be exempt from price controls. In theory, this was to provide incentive to keep these marginal wells in production. The cost of this incentive is calculated as follows:

Stripper wells account for 13 percent of domestic production. Therefore,

($10.50–$4.25) x .13(8.9 million') x 365 = $2.64 billion.

5. *Gasoline Dealer Margins.* In order to offset gasoline station operators' revenue shortfalls due to reduced sales volumes during the Arab oil embargo, FEA raised retailers margins from the CLC frozen 7.25 cents per gallon level to a March 1974 level of nearly 11 cents per gallon, according to FEA figures. The authoritative Lundberg Survey, however, points to more nearly 12 cents. Competition has eroded dealer margins in recent months. In July, FEA claims margins ran at 10.2 cents; Lundberg estimates 10.7 cents. Taking the lower FEA estimate, we make this calculation

of the margin differentials impact on gasoline users:

Gasoline sales will average 6.4 million (42 gallons) barrels per day for the foreseeable future—hence,

(10.2 cents/gal.-7.25 cents/gal.) x 42 (6.4 million) x 365=$2.89 billion.

The need for increased mark up now appears questionable since gasoline sales have returned to pre-embargo levels, and there are fewer gas stations now than there were when margins were set at 7.25 cents in 1973. So sales per retail outlet are up, probably reducing the need for increased mark ups.

6. *Mandated Oil Prices' Role in Inflation.* Inflation can conveniently and accurately be defined as increases in total revenue accruing to sellers of a given product without changes in quality or quantity. A tabulation of revenue increases given to the petroleum industry in items (1) through (5) fills this definition. In summary, we now have the following mandated elements of oil price inflation:

	Billion
(1) Decontrol of "new" oil	$ 1.82
(2) "Old" oil pricing	1.95
(3) "Released" oil decontrol	2.23
(4) Decontrol of "stripper" oil	2.64
(5) Increased dealer margins	2.89
Total	11.53

To estimate the role of inflation in GNP, which ran at a second quarter 1974 yearly rate of $1,387 billion (current dollars), we must calculate the rate of increase of the GNP deflator from the second quarter of 1973 to second quarter 1974. The GNP deflator is perhaps the best, and the broadest indicator of inflation. During this period, it increased from 152.6 to 167.4 (1958=100), 9.7 percent. This implies that 9.7 percent or $135 billion of current dollar GNP is due to inflation or price escalations without quantitative or qualitative increases to match. The above estimated $11.5 billion of this is due to oil price increases, so it can be said that $11.5 billion divided by $135 billion, or about 8½ percent of inflation, or a little over 8/10ths of 1 percentage point of the 9.7% price escalation, stems from these price increases which followed decisions of the CLC, FEA, and Congress in the instances cited above.

7. *A Broader View of Oil's Inflationary Role.* During the past year, domestic oil prices have increased from $4.25 per barrel to $5.25 and $10.50 or a weighted average price of $7.35. In total, this has been an escalation of $3.10 per barrel x 8.9 million barrels per day x 365 or $10.07 billion. Adding $2.89 billion from dealer margins, we have $13 billion or 10 percent of inflation directly attributable to governmental action. It should be noted that this calculation is not substantially different from the above estimate of $11.5 billion or about 8½ percent.

A secondary, but hard to quantify, effect of escalating oil prices is that they have dragged coal and intra-state natural gas prices up with them. Coal prices have nearly doubled in a year and this is a major inflationary factor. Partially facilitating this has been high oil prices, leading oil users to switch to coal, thereby driving its price up toward equivalent oil prices. And the same is true of unregulated gas prices. This all constitutes a substantial, but unmeasured, inflationary contribution.

The results of these pricing decisions, primarily by the Federal Energy Administration and the opposition of this administration to a price rollback or a windfall profits limitation, are now quite clear. I think the Members and the American public should not forget that Mr. Nixon's veto of the Emergency Energy Act and the continued failure of the Federal Energy Administration to adequately limit oil prices have dramatically increased fuel costs. For that reason I am including in the RECORD at this point a schedule prepared by the Economics Division of the Library of Congress entitled, "U.S. Oil Industry Profit Scoreboard—3d Quarter, 1974, and 1st 9 Months, 1974." This schedule, which understates profits because of various accounting techniques utilized by the major oil producers, nonetheless, shows a shocking increase in profits of $5,065.9 million or 138.5 percent for the first 9 months of 1974—compared to the first 9 months of 1972. Comparing 1973 and 1974, oil company earnings have increased 62.8 percent—for the first 9 months:

U.S. OIL INDUSTRY PROFIT SCOREBOARD—3D QUARTER, 1974, AND 1ST 9 MONTHS, 1974

Company	3d quarter, 1974 [1]	Percent change from 1973	1st 9 mos. of 1974 [1]	Percent change from 1973	3d quarter, 1972 [1]	Percent change from 1972–74	1st 9 mos. of 1972 [1]	Percent change from 1972-7
American Petrofina	31.9	247.6	64.3	217.8	6.6	383.4	12.8	402.1
Amerada Hess	38.2	−12.9	134.1	17.7	12.5	205.6	65.0	106.3
Clark Oil	−3.4	[2] NM	19.2	−14.5	3.2	NM	5.0	284.0
Commonwealth Oil	−14.8	NM	12.9	−23.8	.2	NM	5.3	143.4
Exxon	800.0	25.4	2,280.0	37.7	353.0	126.6	1,039.0	119.5
Gulf	275.0	30.9	815.0	43.0	110.0	150.0	346.0	128.9
Shell Oil	216.0	158.4	462.3	82.5	68.2	216.7	189.9	143.5
Standard Oil of Indiana	296.5	101.3	795.5	104.1	107.3	176.3	295.3	169.4
City Service	45.8	75.5	168.4	80.3	17.8	147.3	71.0	137.2
Continental	120.2	121.8	329.8	115.0	39.2	206.6	123.6	166.8
Phillips	112.9	109.5	345.2	140.2	37.6	200.3	110.3	212.9
Standard of Ohio	37.2	106.6	97.3	55.7	15.8	135.5	40.4	140.9
Skelly	31.2	279.9	77.8	186.2	7.2	294.9	24.8	213.7
Texaco	378.4	23.2	1,428.2	70.3	207.4	82.5	622.4	129.5
Atlantic Richfield	144.0	140.8	377.7	111.6	51.6	179.1	130.3	189.9
Marathon	48.7	50.0	129.6	77.6	22.7	114.5	55.5	133.5
Mobil	277.8	20.2	903.8	58.2	140.9	97.2	412.7	118.9
Murphy	12.2	−19.7	50.0	44.4	4.0	205.0	9.3	437.6
Union	79.9	57.7	232.5	80.1	31.4	154.5	89.1	160.9
Total	2,927.7	45.8	8,723.6	62.8	1,237.3	136.6	3,657.7	138.5

[1] In millions of dollars.

[2] Not meaningful.

To place oil company profits in perspective, I also asked the Library of Congress, Congressional Research Service, to prepare a schedule of profits of the 20 major U.S. corporations for the first 6 months of 1974. That schedule, which by the way included all of the 8 major oil companies because they are all within the top 20 manufacturing corporations in size, shows that these oil company profits increased some $2.2 billion or 71.3 percent over a comparable period of 1973. In comparison, the profits of all 20 major manufacturing companies increased only 16.9 percent. I include the following:

20 MAJOR U.S. MANUFACTURING CORPORATIONS PROFITS AFTER TAX.—1ST 6 MOS. 1973, AND 1ST 6 MOS. 1974

[Dollars in millions]

Company	6 mos. 1973	6 mos. 1974	Percent change from 1st half 1973 to 1st half 1974
General Motors	$1,614.3	$425.6	−73.6
Exxon	1,018.0	1,555.0	52.8
Ford	754.9	291.6	−61.4
Chrysler	198.4	29.4	−85.2
General Electric	251.7	271.2	7.7
Texaco	531.6	1,049.7	97.4
Mobil	340.0	626.0	84.1
IBM	696.8	913.9	31.2
Gulf	360.0	540.0	50.0
U.S. Steel	134.0	249.8	86.4
Westinghouse	94.2	62.3	−33.9
Standard Oil of California	334.5	578.0	72.8
Standard Oil of Indiana	242.5	499.0	105.8
E. I. duPont	297.3	305.0	2.6
Gen. Tel. & Elec.	163.4	176.8	8.2
Shell	169.8	246.4	45.1
Goodyear	101.2	106.9	5.6
RCA	88.0	74.2	−15.7
Continental Oil	99.2	209.6	111.3
Eastman Kodak	277.0	267.9	−3.3
Total, 20 companies	7,766.8	9,078.3	16.9
Total, 8 oil companies	3,095.6	5,303.7	71.3
Total, 12 manufacturing companies	4,671.2	3,174.6	−32.0
Total, 9 manufacturing companies [1]	2,103.6	2,428.0	15.4

[1] After profits of 3 automakers have been excluded.

Sources: Business Week Magazine and Wall Street Journal Digests of Earnings Reports.

Furthermore, the return on equity for fuel companies, which includes the major oil companies as well as some coal producers, for the 12-month period ending June 30, 1974—according to Business Week—has skyrocketed to 19.3 percent, one of the highest returns on equity for any U.S. industry and this is a capital intensive industry which tends to cause an understatement of return on equity.

In contrast to the energy industry, automobile manufacturers earned 9.1 percent on equity; airlines 9 percent; and appliance manufacturers 13.1 percent. Only cosmetics 20.9 percent and drugs 20.6 percent—not capital intensive industries—earned higher profits than the oil/coal conglomerate.

Mr. Speaker, while it is essential that we extend the Emergency Petroleum Allocation Act it is also essential that we remember the problems of the American public. It is not fair and not right for any industry to earn excessive profits while the rest of us fight inflation every day. An oil price rollback and legislation restricting the windfall profits of the petroleum industry should be the first item on the agenda of the 94th Congress.

Mr. MACDONALD. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Massachusetts.

Mr. MACDONALD. Mr. Speaker, H.R. 16757 would extend the Emergency Petroleum Allocation Act until August 31, 1975. As it stands now, the law will expire on February 28, 1975, unless we act to extend it before adjournment.

The bill which has been reported out unanimously by the Subcommittee on Communications and Power and by the full Commerce Committee provides for a straight 6-month extension of the act. The bill provides for no amendments of any kind. It is, in reality, an emergency measure which is designed to prevent the Allocation Act from expiring in the middle of winter. This extension will also provide the committee with additional time, so that we may undertake a complete review of the administration of the act by the Federal Energy Administration in order to determine whether any substantive changes are necessary. I want to emphasize that a vote in favor of this bill is not a vote to approve of the way FEA is doing its job.

The Senate has already passed a 4-month extension. However, I have an understanding with Senator JACKSON and the Senate leadership that they are prepared to accept a 6-month extension without a conference, provided that there are no amendments to the act. In addition, in testimony before the subcommittee on September 24, John Sawhill, the Administrator of FEA, promised that the President would support such an extension.

We have very little time remaining in this session of Congress, and I urge the House to approve H.R. 16757 without amendment so that it can be signed into law as soon as possible.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Speaker, in our committee we discussed this bill extension at great length. As the chairman said, it is not meant to represent any type of new legislation. It is a transition bill wherein, in order to provide an extension through the early part of next year, so this 6 months gives an opportunity to review the bill provisions in hearings during the first half of next year.

We all realize that what we are doing is specifying this transitional period, and although I differ with the concept of Government regulatory control, I understand the request for further hearings.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, the chairman of the committee knows that many of us had reservations on this measure when it was originally passed. I recognize that the bill before us is for an extension of 6 months, but I do think it is important that we pause to understand clearly what is being asked of this body at this time.

To begin with, I do not think that we can contend that the mandatory allocation act has been successful. I do not believe that the subcommittee or the full committee will say that there have not been severe problems, or that it really has helped a great deal. Perhaps that is arguable, and I recognize that many will want to respond, but it has not cured the problems, as many Members thought or hoped it would when this bill was originally passed.

I think there is an inequity in this situation in that what the measure does is help some of the major companies, and does disservice to some of the independent producers and independent refiners. Although a late change in the conference the last time did allow for the control not to be exercised at the wellhead or by the producers at the wellhead if the President felt it was against the national interest, nevertheless it has not been so enforced. Producers are still locked in to the previous purchaser, and this works a disservice to independent producers.

I think there is inequity about the price of crude. Through this legislation, we still keep price controls on crude. It is the only commodity in all of our economic system that is so controlled; that is, by price controls. We can debate whether it is for the consumers or not, but we removed controls on everything else.

When the representatives of the FEA and the administration appeared before the committee, they stated that they did not want to extend or renew this measure. They would prefer that it would expire, but recognize the contention that it ought to be extended for 6 months, so the argument is whether we do extend for 6 months or let it expire as the regular legislation required on February 28.

It is my feeling that the measure ought to go off and expire at the time specified by this body when we passed the legislation. We can argue that it comes at a difficult time. I rather suspect that when they have another 4 or 6 months' time, they will want to extend it again, and it will go on and on. At least, that is the history of legislation of this type. I think it is better that we do not extend this measure. I think the House ought to have a right to vote on it and let the bill expire as we agreed to.

Mr. MACDONALD. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Massachusetts.

Mr. MACDONALD. I would like to comment on two matters that were spoken of by the gentleman from Texas, a valued member of our full committee. It is not quite true—I hate to say it is not true—that the administrators did not want this bill, inasmuch as in the report of the committee each one of the administrators of the FEA has said they wanted to extend it, in the way Mr. Sawhill, who was still titular head, wanted to extend, for a 6-month period, and I hope the gentleman is not confusing the merits of the FEA with this extension. Without this extension, the entire matter of keeping homes warm, keeping gas stations moving, becomes moot again. This is not a debate, and there are no amendments, nor are any amendments permitted in the committee or the special subcommittee, because we wanted this just as a short amendment to the bill, for an extension, so that we could correct, if indeed it needs corrections, what the FEA has or has not done.

Mr. PICKLE. Mr. Speaker, I am not confusing this with the FEA. I recognize this is a mandatory allocation and price control measure, and that is exactly what I am talking about. I do contend again that the administration expressed the statement before our committee that they would not defer this legislation but they would ask for an extension. To that extent, they did ask for an extension, but they were not endorsing the bill as legislation, in principle. I do not think the gentleman will contend that.

If we could have amendments to this measure, perhaps we could ask for amendments, particularly in the instance of public-owned oil or State-owned oil. The gentleman will remember when we had the ERDA bill before this body, an amendment was offered, which was not approved, because the chairman of that committee, asked that it not be offered at that time because the ERDA was an organizational bill, but he would have probably agreed to an exemption on the public-owned or State-owned oil. It represents 1 percent of the total production. There would be about 8 or 10 States where the lar good causes. Although that is very lar good causes. Although that is very meritorious and we would hope that that would be handled by the FEA, still it has not been handled, and great damage is being done to some States in the field of public education.

Under the bill as presented, we can have no amendments, so here is another reason why, it seems to me, we ought not extend this bill on the suspension calendar.

Does the gentleman care to comment on that?

Mr. MACDONALD. Yes; if the gentleman will read the committee report, on page 3, we instruct the FEA to do certain things about the very matters the gentleman is talking about. They have not done anything and they pleaded lack of time. So we said, "All right, we will give you a certain amount of time, and then we will give you all of the trouble you can handle unless you handle this unfair fact."

Mr. PICKLE. I appreciate very much the gentleman's point. It is true that we have not been able to get the FEA to move.

Mr. MACDONALD. They keep changing heads down there. Now it is up for grabs. There is no one down there you can talk to.

Mr. PICKLE. I recognize that. I appreciate that situation. I am glad the gentleman did say, so far as the subcommittee was concerned, he felt something should be done about publicly owned oil.

Mr. MACDONALD. I appreciate the gentleman saying that.

Mr. PICKLE. I think that is good history.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. Mr. Speaker, I do not have the time. I believe they have time on the other side.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield time to me?

Mr. STAGGERS. I will be happy to. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I would appreciate it if the gentleman from Massachusetts (Mr. MACDONALD) would help me out by answering a few questions.

I remember, when this legislation came up originally, we were told, because we were transferring substantial powers to the Energy Office, now the Federal Energy Administration, that they would be very careful in allocating gasoline to be produced and they would allow heating oil to be produced.

What assurance do we have that we will not again have the gross inequities the country experienced the last time? The end result in overproducing heating oil and underproducing gasoline, so that all our constituents had to sit in long lines to purchase gasoline as they did last winter should cause us to reconsider this legislation.

Mr. MACDONALD. Mr. Speaker, if the gentleman will yield, we have no guarantee. The only guarantee is that we know that the major oil companies, since the major oil companies are so powerful, can tell the FEA to drop dead and get away with it. We have done our best to prevent this from happening.

Mr. ROUSSELOT. May I ask the gentleman how?

Mr. MACDONALD. We have put somebody in charge of them to indicate as to when mandatory allocations shall be imposed. It is true it did not keep California warm; however, the mandatory allocations kept the Midwest warm, they kept the Northern States warm, and they kept New England warm. We got less fuel, of course, but it is true that we did get some fuel.

Mr. ROUSSELOT. Mr. Speaker, we received substantially less gasoline as a result of this very legislation. That is the problem, and as a result, our constituents had to sit in gasoline lines last winter.

Mr. MACDONALD. Mr. Speaker, if the gentleman will yield further, I am sure if he would drive around these days, he would find there is a price war taking place on gasoline right now.

Mr. ROUSSELOT. Yes.

Mr. MACDONALD. That is directly under the FEA.

Mr. ROUSSELOT. Mr. Speaker, I know it is very popular to knock the major oil companies, but it was not their fault that they were forced to overproduce heating oil and underproduce gasoline. The refineries were mandated to do that; as a result, our constituents had to sit for hours in line, because of a mismanagement at the Federal administrative level.

My point is this: how can we be assured that this legislation is going to provide some balance so there will not be the kind of strange orders coming from the regulatory agency? The Congress cannot just lay it all on the President and say it is all his fault.

Mr. MACDONALD. Mr. Speaker, if the gentleman will yield, I will answer him.

Mr. ROUSSELOT. I will be glad to yield.

Mr. MACDONALD. Mr. Speaker, I think the 2 points I have to bring out on that is that they have learned, hopefully, something about this situation——

Mr. ROUSSELOT. I have heard that before.

Mr. MACDONALD. And that they would not be forced to produce more gasoline than heating oil.

Mr. ROUSSELOT. But this law is just an extension of what we had before. It does not put any restrictions on the ability of the administrative people to do the same thing they did last winter, and that is my concern.

Mr. MACDONALD. Mr. Speaker, I will repeat for the benefit of the gentleman that this is merely an amendment; it does not go to the merits of FEA. We kept that out of the bill. This is a straight extension, so that we can get a handle on what is going on down at FEA and try to maintain some control over their actions.

Mr. ROUSSELOT. Mr. Speaker, should we not be able to amend this bill? Should we not be permitted to amend the bill, so these kinds of inequities will not be imposed upon our people, upon agriculture, for instance? We had the situation where agriculture was telling us they could not get any fuel; we had all those problems.

Why should we be forced to legislate in this fashion, without the opportunity to offer amendments?

Mr. MACDONALD. Mr. Speaker, we will be able to do that when the bill comes up again, because the FEA expires in February of this year——

Mr. ROUSSELOT. But in the meantime we have already considered this bill.

Mr. MACDONALD. Whereas the entire agency does not expire until January 31, 1976. So we will have the agency there until 1976, in any event.

We are here trying to put a handle on somebody who now controls the matters the gentleman has quite properly raised. I believe this would be giving them and giving us a chance to do something about it, to get them up here in February when we come back and the new committees are formed, so that we can find out what they have done, why they have done it, and what they are going to do.

Mr. ROUSSELOT. Mr. Speaker, that is exactly the problem we had with the previous legislation. We were told all these wonderful things would happen when we passed the fuel allocation bill before, but exactly the opposite things happened.

All kinds of assurances were given to agriculture and all kinds of assurances were given to our poor consumers who tried to go to work last year and had to sit in line for hours, just because of the misadministration. That is what I said in the first place.

Why do we constantly go through this "Chinese fire drill," giving tremendous powers to exactly the same agency we dealt with before and then complain when they use those powers?

I still do not believe the gentleman answered my question when he said we are solving it, because this is just an extension of the same act.

Mr. MACDONALD. The shortage was not caused by the FEA. The shortage was caused by the environment.

Mr. ROUSSELOT. I understand that.

Mr. MACDONALD. Therefore, we are trying to make something decent out of something that was unconscionable. In a small way, I think it succeeded. It did not come up to our expectations, but I think it is better than nothing.

Mr. ROUSSELOT. Then why do we not amend it?

Mr. MACDONALD. We will, after February.

Mr. ROUSSELOT. They overproduce heating oil and underproduce gasoline. We are extending the same powers to this agency. I believe it is a major error.

Mr. Speaker, I rise in opposition to H.R. 16757, legislation which would extend for 6 months, from February 28, 1975, to August 31, 1975, the Emergency Petroleum Allocation Act of 1973.

I object to consideration of this measure under suspensions, a procedure which offers no opportunity for amendments, and does not offer the opportunity for this program to be fully debated by the House. I do not think that Congress should prolong the agony of the American people by merely extending this regulatory program without giving any consideration to the further consequences on the lives of all citizens. This is a very poor way to legislate.

To quote from the House report, extension of this act will give Congress time "to consider whether the act should be further extended or whether to make substantive amendments to its terms."

There is no doubt in my mind that this act—which is part of the problem rather than being the solution—should be repealed, or allowed to expire on February 28, 1975, and I have sponsored legislation, H.R. 13021, calling for its repeal. This program has resulted in a redistribution of the shortages rather than allocating the supply, and it is this Federal interference that has done constant battle with the free market system and hamstrung the ability of market forces to provide adequate supplies of energy to consumers in this country.

It is time for this Congress to give attention to how the regulatory programs of the Federal Government have caused distortions and shortages of supply, not to mention inflated prices, and we can start today by defeating this effort to extend for another 6 months—at a cost to the taxpayers of $28,200,000—the Federal Government's regulation of our fuel supplies.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Speaker, I thank the gentleman for yielding.

I have just listened to some of the debate and let me say that the committee should be commended for its effort to extend the Petroleum Mandatory Allocation Act which would otherwise expire February 28, 1975.

I am not prepared to conclude whether the procedures under a suspension of the rules are the best to be desired, but that is a matter of procedure only and not of substance.

Mr. Speaker, I rise not as a bystander but as chairman of a Subcommittee of Government Operations that has had legislative oversight over the Federal Energy Administration. Any problems experienced or any failures or faults that have appeared are a matter of poor administration rather than the substance of the law and certainly is not an argument against the extension of the authority.

Let me say to those who may have concerns about the present high price of gasoline or propane or any of the other petroleum products that if we do not extend this act all of these prices will be higher.

If we wait until the end of February and let all controls over petroleum products go out the window, it may very well then be, as to gasoline and propane prices.

There are some in this country who are saying today that when all is said and done, in our fight on inflation we may, as a last resort, come back to some kind of economic controls; well right now we have this act as a means of control over these gasoline, propane, and other fuels.

I am not sure that this matter should have come up under suspension of the rules but nonetheless the committee should be commended for looking down the road far enough to make sure that this worthwhile legislation does not expire, because if it does, we may see gas prices not the present 51 cents or 52 cents, but 75 cents or just any figure the large oil companies choose to charge.

Mr. Speaker, my time has expired but I take this last moment to urge support for the prompt extension of this most needed legislation.

Mr. SYMMS. Mr. Speaker, I yield myself such time as I may consume.

I would like to associate myself with the remarks of the gentleman from Texas (Mr. PICKLE).

I think that the record should show that last year, when the FEA started out, it had 200 bureaucrats. They are now up to 3,400 bureaucrats, all costing the taxpayers a lot of money.

All it is doing is wholesale rationing; that is all this bill does. We call it mandatory allocation. It is a rationing bill at the wholesale level. It is doing nothing but allocating scarcities.

The sooner the Government gets out of the way, the quicker the energy crisis will be able to be solved.

I think it is unfortunate that this bill was ever passed. I hope it will be defeated at this time.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Iowa.

Mr. GROSS. Do I understand that this bill would authorize the spending of $28.2 million for the support of the FEA for only one 6-month period?

Mr. SYMMS. Does the gentleman say $28 billion or million?

Mr. GROSS. $28.2 million.

Mr. SYMMS. Maybe the question of the gentleman from Iowa should be addressed to one of the members of the committee. I would imagine that it would not be that low.

Mr. STAGGERS. If the gentleman will yield, it does involve $28.2 million.

Mr. GROSS. For a 6-month period only?

Mr. STAGGERS. That is correct.

Mr. GROSS. How can they manage to get rid of that much money in such a short space of time?

Mr. STAGGERS. I do not know, sir, but that is the administration's request, and they are asking for it in this bill.

Mr. GROSS. Then the committee did not go into the expenditures on the part of the FEA in the past or projected into the future; is that correct?

Mr. STAGGERS. No, no. The committee did look at these expenditures. This is not an appropriation, as the gentleman knows.

Mr. GROSS. It is an authorization, and I assume that the gentleman would like to have the authorization bill passed. In so doing, those who vote for it will be putting their stamp of approval on a request for $28.2 million to support the administration of this program for one short 6-month period.

I repeat my question: How in the world can they spend this much money in that space of time? I cannot support this legislation without justification for this kind of spending.

Mr. SYMMS. I would say to the gentleman from Iowa that I think probably the way that they spend it is that they hire more people down there so that they can shuffle more papers back and forth instead of going out and digging new oil wells and coal mines, so as to help solve this problem.

Mr. COLLINS of Texas. Mr. Speaker, if the gentleman will yield further, it is my understanding that the White House and the administration does support this bill. My colleague, the gentleman from Texas, has said—and I agree with him—that we should have a record vote so that those of us who oppose the principle of Government regulation can register our vote as far as the extension goes, and it probably is not something that is necessary in order to get a new type of necessary legislation.

Mr. PICKLE. Mr. Speaker, if the gentleman will yield, and I thank the gentleman for yielding, during the discussion a few minutes earlier between the gentleman from California and the gentleman from Massachusetts, the statement was made that after the next Congress reorganized we would ask the FEA officials to come before this body or before our committee, and we would find out what we might need by way of legislation. The inference was, as I understood it, that rather than extending it, this would be a temporary extension for the purpose of reviewing the bill later. I did not get that impression from the gentleman from Massachusetts earlier. My feeling is that this is an extension itself; is that correct?

Mr. MACDONALD. If the gentleman will yield, the gentleman is absolutely correct.

Mr. PICKLE. I thank the gentleman from Massachusetts for making that clear.

I say again, Mr. Speaker, that there is, in this report, an indication to the FEA that they should make certain price equalizations applicable to crude oil, residual oil, and refined products, and to eliminate the competitive inequity which they said had resulted from the allocation program. I do not know what the FEA is going to propose, because they have offered so many solutions and then they have withdrawn them, that they have confused the situation. That is why I think it would be better if we were not to extend the bill at this time. This program has not produced a single new oil well or a fresh barrel of oil, and it has caused disadvantage to the independent producers of oil.

Mr. CONTE. Mr. Speaker, as the sponsor of similar legislation, I rise to ask for immediate passage of this bill to extend the Emergency Petroleum Allocation Act.

This law must be extended now, so that continuity of business is maintained and the orderly distribution of heating fuels is not disrupted in the middle of the winter.

In the Select Committee on Small Business, on which I am the ranking minority member, the distinguished chairman from Michigan, JOHN DINGELL, and I held an extensive series of hearings on the operations of the Federal Energy Office and the Emergency Petroleum Allocation Act. We recognized that there were many recognized problems at first. But, taken as a whole, the Allocation Act was a salvation for many independent petroleum marketers and small businessmen. For many, this law was their only protection against squeeze-outs and bankruptcy.

When the Small Business Committee publishes its report on these hearings in a few days, I can assure the House that one of its recommendations will call for extension of the Emergency Petroleum Allocation Act.

In the same report, the Small Business Committee will recommend that the Federal Energy Administration adopt a price equalization program, so that no area of the Nation pays a disproportionately higher price for fuel. The committee will also recommend that FEA review all of its regulations, procedures, and operations to insure that efficiency and responsiveness to the needs of small business are always a primary consideration.

Extension of the Emergency Petroleum Allocation Act is necessary to maintain price controls on domestically produced petroleum. This law is needed to fight inflation. If it is allowed to expire, domestic crude oil prices would double overnight. That would be a cruel blow to consumers, who are already bewildered by the 12-percent rate of inflation.

This is not the time to allow the Allocation Act to die. At the present time, our coal mines are shut down by a nationwide strike, and coal reserves are low. The Federal Power Commission has given repeated warnings that severe curtailments of natural gas deliveries can be expected this winter in many parts of the Nation. This will seriously affect many utilities, industries, offices, and schools, and force many of them to switch to an alternate fuel. Meanwhile, tensions in the Middle East are once again very high. And the United States could soon find itself faced with another oil embargo. These factors—the coal strike, the natural gas shortage, and the possibility of another oil embargo—indicate the vulnerability of this Nation to another energy crisis.

In light of this fact, the necessity of maintaining and extending the Allocation Act should be apparent to all for times of need and crisis. This act provides a means for quick, responsive action for consumers and small businessmen. I urge my colleagues to vote for prompt passage of this bill.

Mr. VANIK. Mr. Speaker, I deeply regret that this legislation has been brought to the floor of the House under the suspension of rules procedure which prohibits amendments.

I fear that by extending this legislation for another 6 months without providing congressional guidelines, we will give the administration the opportunity to increase oil prices. There are serious reports that the administration and the President's energy advisers are intent on decontrolling the price of oil. Following is an article which appeared in the Oil Daily of November 15, 1974, entitled "In Works at FEA: Decontrol, Deallocation."

The GAO has recently released a report which indicates that there was no economic justification for establishing the "control" price of old oil at a high of $5.25 and that even this "control" price is more than necessary. Despite the fact that the oil companies are rolling in money, buying out unrelated businesses—and trying to buy out each other, the administration seems intent on letting the price of oil float up—probably to the world price of around $10 a barrel.

The Ways and Means Committee is currently considering legislation to increase the level of taxes on the oil companies. For decades, these companies have paid little or no Federal income tax. Now at last their taxes may be increased, both for purposes of tax justice and to tax some of the windfall profits of the past year.

I fear that the administration will use the excuse of the oil tax bill to argue for the decontrol of domestic oil. The taxpayer-consumer will be devastated by an unwarranted and unjustifiable doubling of the price of old oil.

It was my hope, Mr. Speaker, that this legislation could have been amended to prohibit the administration from arbitrarily decontrolling the price of oil. It is imperative that such an amendment be adopted as soon as possible in the next Congress. The aforementioned article follows:

[From the Oil Daily, Nov. 15, 1974]

IN WORKS AT FEA: DECONTROL, DEALLOCATION

WASHINGTON.—Dropping of price controls and allocations soon is indicated by an internal memo now circulating at the Federal Energy Administration. The memo suggests the FEA plans to follow-up its crude oil equalization program, to be implemented in January, with deallocation of various refinery products and petroleum price decontrols.

Steps involved in the FEA plan are said to include:

Crude price equalization to reduce the extent of the two-tier domestic pricing system and to alleviate adverse effects on independent refiners.

A series of progressive refinery product deallocation actions from December 1974 through April 1975.

Decontrol and deallocation of crude oil in conjunction with imposition of a windfall profits tax on crude oil producers in February or March 1975.

If the windfall profits tax cannot be obtained the idea is to initiate monthly incremental increases in the total decontrol and deallocation of crude and deallocation/decontrol of all refinery products.

The memo—from Eric Zausner, assistant administrator for policy and analysis, to John Sawhill—said the plan outlined above is considered superior to the other alternatives under consideration because it:

Provides for early, substantive deregulation steps and therefore precludes continuation of a controls system whose purpose and utility is no longer justified;

Achieves early crude price equalization and thereby reduces inequities imposed on the Northern tier refineries and distortions created in the marketplace;

Accomplishes refinery product reallocation before price decontrol in order to permit buyers flexibility in finding the least cost sellers when product prices are finally decontrolled and differential price increases begin to move through the system;

Positions crude price control at a time (February–March 1975) when the inflationary impact is expected to be less severe, and provides for a phased crude price decontrol as a contingency action if the general inflationary condition is unfavorable at that time.

Although the goals of the plan remain intact, the time schedules outlined in the memo—written in October—will have to be pushed forward because of the delay in implementation of a crude equalization program. That program is expected to get underway in January while it was originally scheduled to begin Nov. 1, 1974.

Other strategies for price decontrol and deallocation circulating in Washington include proposals to bring about a simultaneous deallocation and decontrol of all products at all levels within the market system and a plan to raise the ceiling price of old oil in a series of increments over a 4 to 5 month period and then deallocate and decontrol refinery products.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill H.R. 16757.

The question was taken.

Mr. PICKLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

Does the gentleman from Texas withdraw his point of order that a quorum is not present?

Mr. PICKLE. I do, Mr. Speaker. I withdraw my point of order that a quorum is not present.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. The Chair would advise the gentleman from Idaho that the Chair has already deferred the vote on this motion as a result of the point of order made by the gentleman from Texas that a quorum is not present, and the procedure requires the gentleman from Texas to withdraw his point of order that a quorum is not present so that we may go into the next piece of legislation.

PARLIAMENTARY INQUIRY

Mr. SYMMS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SYMMS. Mr. Speaker, it seems to me that there is some confusion. If I understand the rules correctly, if we ask for the yeas and nays and 20 percent of the Members present stand, then we automatically have a vote taken by the yeas and nays. I think that that is what the gentleman from Texas (Mr. PICKLE) would like to have.

The SPEAKER pro tempore (Mr. McFALL). The Chair will state that could have been done prior to the time the gentleman made the point of order of no quorum and objected to the vote on that ground. The Chair has already deferred the vote pursuant to clause 3, rule XXVII, so the House is past the point where we could follow that procedure.

Mr. SYMMS. I thank the Chair.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 17434) to amend the National Wildlife Refuge System Administration Act of 1966 to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses, and for other purposes, as amended.

The Clerk read as follows:

H.R. 17434

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Wildlife Refuge System Administration Act Amendments of 1974."

SEC. 2. Section 4(d) of the Act of October 15, 1966 (80 Stat. 928, 16 U.S.C. 668dd(d)), is amended—

(1) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(2) by inserting "(1)" immediately after "(d)"; and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, the Secretary of the Interior may not grant to any Federal, State, or local agency or to any private individual or organization any right-of-way, easement, or reservation in, over, across, through, or under any area within the system in connection with any use permitted by him under paragraph (1) (B) of this subsection unless the grantee pays to the Secretary, at the option of the Secretary, either (A) in lump sum the fair market value (determined by the Secretary as of the date of conveyance to the grantee) of the right-of-way, easement, or reservation; or (B) annually in advance the fair market rental value (determined by the Secretary) of the right-of-way, easement, or reservation. If any Federal, State, or local agency is exempted from such payment by any other provision of Federal law, such agency shall otherwise compensate the Secretary by any other means agreeable to the Secretary, including, but not limited to, making other land available or the loan of equipment or personnel; except that (A) any such compensation shall relate to, and be consistent with, the objectives of the National Wildlife Refuge System, and (B) the Secretary may waive such requirement for compensation if he finds such requirement impracticable or unnecessary. All sums received by the Secretary of the Interior pursuant to this paragraph shall, after payment of any necessary expenses incurred by him in administering this paragraph, be deposited into the Migratory Bird Conservation Fund and shall be available to carry out the provisions for land acquisition of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and the Migratory Bird Hunting Stamp Act (16 U.S.C. 718 et seq.).".

SEC. 3. Section 4(d)(2) of the Act of October 15, 1966 (as added by this Act), shall apply with respect to any right-of-way, easement, or reservation granted by the Secretary of the Interior on or after the date of the enactment of this Act, including any right-of-way, easement, or reservation granted on or after such date in connection with any use permitted by him pursuant to section 4(d)(2) of the Act of October 15, 1966 (as in effect before the date of the enactment of this Act).

SEC. 4. That section 401(e) of the Act of January 15, 1935 (16 U.S.C. 715s(e)), is amended to read as follows:

"(e) Any moneys remaining in the fund after all payments under this section are made for any fiscal year shall be transferred to the Migratory Bird Conservation Fund and shall be available for land acquisition under the provisions of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.); except that the funds available for the management of the National Wildlife Refuge System or for enforcement of the Migratory Bird Treaty Act shall not be diminished by the amendments made to this subsection by the National Wildlife Refuge System Administration Act Amendments of 1974, unless by specific Act of Congress.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Michigan (Mr. DINGELL) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. GOODLING) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 17434 is substantially the same as H.R. 11541, which was recently vetoed by the President, except that the language of the bill objected to by the President has been eliminated.

Mr. Speaker, H.R. 11541 originally passed the House on January 22, 1974, under suspension of the rules, by voice vote. On September 18, the Senate passed the bill, with an amendment, and the House concurred in the Senate amendment on October 7. The bill was sent to the President for signing, and on October 22 the President vetoed the bill.

Mr. Speaker, in his message to the House, the President objected to the legislation primarily on the grounds that the new standard required to be met under the legislation for rights-of-way through areas within the National Wildlife Refuge System could result in further obstacles and delays in the construction of vitally needed facilities designed to help meet urgent energy needs.

In view of the President's strong objection to the new standard called for by the legislation and in lieu of trying to override the President's veto, plans were made to introduce yesterday, November 18, together with the cosponsors of H.R. 11541, a new bill which would be substantially the same as H.R. 11541, except for the language objected to by the President, and have it brought up under suspension of rules today, November 19. This course of action appeared appropriate since the Congress had just recently acted on a substantially similar bill, H.R. 11541. For background information and the legislative history on H.R. 17434, reference is made to the committee report on H.R. 11541 (Rept. No. 93-754).

Mr. Speaker, the purpose of H.R. 17434 is to provide for the replacement of lands within the National Wildlife Refuge System that are permitted to be used for such purposes as roads, canals, and pipelines.

Mr. Speaker, the National Wildlife Refuge System consists of wildlife refuges, wildlife ranges, game ranges, wildlife management areas, waterfowl production areas, and areas for the conservation and protection of endangered and threatened species of fish and wildlife. The system is composed of both public domain and acquired lands, of which approximately 85 percent are public domain and 15 percent acquired or leased lands.

Under present law, the Secretary of the Interior is authorized to permit any area within the system to be used for any purpose such as for powerlines, telephone lines, ditches, pipelines, and roads provided the Secretary determines that such uses are compatible with the purposes for which these areas were established. However, there is no requirement under present law that any payment be made by the permittee for any use of an area.

Mr. Speaker, H.R. 17434 would require the grantee of a right-of-way easement, or reservation concerning the use of an area within the system to pay to the Secretary of the Interior the fair market value of such use as determined by the Secretary as of the date of the conveyance. In addition, after paying administrative expenses all sums would be required to be deposited in the migratory bird conservation fund and earmarked for land acquisition purposes only. In this way, lands that are diverted to other uses will be assured of being replaced with other lands of equal value.

Mr. Speaker, it should be pointed out that when collecting the fair market value of the rights-of-way, the Secretary of the Interior would have the option of collecting it all at one time in lump sum or, in his discretion, on an annual rental basis. This was not clear in the bill as it originally passed the Congress in the form of H.R. 11541; however, the two options are clearly spelled out in H.R. 17434. I might add also, Mr. Speaker, that the option of allowing for the fair market value to be collected in advance on an annual rental basis was taken directly from the recent amendments to the Mineral Leasing Act of 1920, having to do with rights-of-way for pipelines through Federal lands.

Mr. Speaker, the last provision of the bill has to do with wildlife refuge receipts. Under present law, all revenues received by the Secretary of the Interior from the sale or other disposition of animals, timber, hay, grass, or other products of the soil, minerals shells, sand, or gravel, from other privileges, or from leases from public accommodations or facilities incidental to, but not in conflict with, the basic purposes for which those areas of the National Wildlife Refuge System were established are required to be covered into a separate fund in the U.S. Treasury. At the end of each fiscal year, the Secretary is required to pay out of the net receipts in the fund—which funds are to be expended solely for the benefit of public schools and roads—as follows: First, to each county in which reserved public lands are situated, an amount equal to 25 percent of the net receipts from such reserved public lands in that particular area; and, second, to each county in which lands are situated which have been acquired in fee, either three-fourths of 1 percent of the cost of the area, or 25 percent of the net receipts from such area, whichever is greater. All moneys remaining in the fund after payments to the counties are used by the Secretary for management of areas within the System and for enforcement of the Migratory Bird Treaty Act.

Mr. Speaker, H.R. 17434 would amend the present law to provide that any excess receipts—after payment to counties—would be earmarked for the migratory bird conservation fund for land acquisition. This would have the effect of requiring the Secretary to obtain funds with which to manage the areas within the System and enforce the Migratory Bird Treaty Act through regular appropriation channels.

Mr. Speaker, it is my understanding that unofficially the Department of the Interior would support the legislation in its present form.

Mr. Speaker, I think H.R. 17434 is a good piece of legislation and, once again, I urge the Members of the House to declare their support for this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I associate myself with the remarks of the gentleman from Michigan (Mr. DINGELL).

Mr. Speaker, on October 22, 1974, the President vetoed H.R. 11541, a bill amending the National Wildlife Refuge System Administration Act of 1966 in a number of important respects. Essentially that bill would have achieved two objectives which hearings before the Committee on Merchant Marine and Fisheries amply demonstrated to be in the best interest of wildlife conservation and management. The first of these is the requirement that rights-of-way across refuge lands be granted only for full value based upon the fair market value of the right-of-way land at the time of conveyance. The lack of such a requirement in existing law has tended to stimulate the construction of energy transmission systems across refuge lands since such rights-of-way could be acquired virtually free of charge whereas to acquire rights-of-way across adjacent privately owned lands would necessitate the payment of fair market value. The legislation would further require that moneys collected for such rights-of-way be paid into the Migratory Bird Conservation Fund for land acquisition purposes.

The second objective of the legislation which the President has vetoed was to strengthen the criteria governing the approval of rights-of-way across refuge lands. These criteria were amended in the other body and the Senate amendments were agreed to in the House on October 7. As so amended, it was our view that any legitimate objection previously expressed by the Department of the Interior with regard to the impact of this legislation on the granting further rights of-way had been met.

As the bill was sent to the President, it required that the Secretary of the Interior review, prior to the granting of a right-of-way across a refuge, all reasonable alternatives for the use of such area. The original House version contained the phrase all possible alternatives. Unfortunately, the Department of the Interior termed this only a slight improvement in the wording of the bill and recommended a veto to the President. It was not, of course, our intention to frustrate the siting of energy transmission lines across wildlife refuges, but rather to insure that the fundamental purpose for the refuge system is not subverted during this period of heightened effort to develop and bring to market increased supplies of energy. We do not wish to see our wildlife refuges mindlessly criss-crossed by access roads, powerlines, and pipelines. The veto recommendation of the Department of the Interior was an unfortunate overreaction. Nevertheless, we recognize that this is not the sort of legislation which we should ask our colleagues to vote into law over the President's objection. We have, therefore, introduced a new bill, H.R. 17434, deleting the provisions addressed in the President's veto message. I am informed by the Department of the Interior that this new bill is acceptable to the administration and that the President will sign it.

I will not be here to assist him but I am confident that the chairman of the Fisheries and Wildlife Subcommittee, my good friend JOHN DINGELL, will continue in the next Congress to monitor very carefully the leasing of rights-of-way across refuge lands to insure that the refuge system we have worked so hard to create is not adversely affected during this period of intensified energy development. The provisions of H.R. 17434 dealing with the payment of fair market value and the disposition of revenues generated thereby are, in themselves, a very meaningful step forward and should be enacted promptly.

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield 3 minutes to the gentlewoman from New York.

Ms. ABZUG. Mr. Speaker, I thank the gentleman from Michigan for yielding.

I wish the gentleman would clarify something for me. Is it not so that this bill is considerably weaker environmentally than one we passed in the House or which was vetoed?

Mr. DINGELL. To that question I would answer yes, but I must add that the House has the choice of trying to override a veto or of trying to get legislation passed as of this time. We think there is enough good in this legislation, H.R. 17434, so that we would be well served by taking this bill at this time and then try for other things at a later time.

What we will be doing is passing a provision here to require payment of fair market value of rights-of-way for the refuges, with the receipts to be deposited into the Migratory Bird Conservation Fund earmarked for land acquisition. We are not going into the question today which relates to the protection of the refuges from pipelines and roadway rights-of-way and similar devices as called for in H.R. 11541.

Ms. ABZUG. I see. In other words the secretary has only to determine that such right-of-way is a compatible use of the area. It does not require a determination that there is no feasible and prudent alternative to the granting of such right-of-way through a wildlife area.

Mr. DINGELL. The gentlewoman from New York is correct in that the original bill did so require. There is some conflict as to what the existing law happens to stand for. The original bill H.R. 11541 was passed to abate the problem that was brought about by the passage of the Alaskan pipeline legislation which changed that text as it specifically related to refuges. In order to clarify that, the committee brought this original legislation to the floor of the House to make sure we applied the fullest protection possible to our refuge system.

Ms. ABZUG. I appreciate the fact that the original bill brought out by the gentleman's committee did deal with this serious question. We have this feasible prudent alternative requirement for example for highways and it seems to me the least we should do is to have this for the refuge areas. We really should have this more stringent environmental test particularly so when the private oil companies may well wish to run their pipelines, as the gentleman knows, over these refuge areas.

Mr. DINGELL. Unfortunately the gentlewoman from New York is correct. I assure her it is my intention to have the committee go into that during the next session and we will try to rectify the problem about which she complains.

Ms. ABZUG. I must object to this bill although I appreciate the gentleman's agreement to rectify the bill next session. I think the position taken by our President is incorrect and projects a very shortsighted point of view.

The administration's irresponsible action in vetoing H.R. 11541 represents just another example of unwillingness to restrain the oil industry. Certainly, if public highway routes across refuge areas must meet a stringent environmental test, we should require no less from private oil companies who wish to run their pipelines across such areas.

Mrs. SULLIVAN. Mr. Speaker, I rise in support of H.R. 17434, a bill substantially the same as H.R. 11541, recently vetoed by the President, and urge its immediate passage.

Mr. Speaker, this bill is designed to increase the amount of funds available for acquisition of waterfowl habitat at a time when the amount of land suitable for such purpose is steadily decreasing and the cost of such land is rapidly escalating.

I do not believe it is necessary for me to point out the importance of the National Wildlife Refuge System. Late last year, the Congress in its wisdom passed the Endangered Species Act of 1973 to provide additional protection to those species of animals and birds whose very existence is threatened. The continuing destruction of their natural habitat is one of the primary reasons why certain species are endangered.

Mr. Speaker, the legislation now before us is entirely consistent with present law.

It represents a small, but necessary, step to further the intent of existing law. This bill recognizes, as do the members of my committee, that however important it is to set aside the lands in question, it is sometimes necessary to provide for certain intrusions such as highways or power lines. H.R. 17434 merely requires that these encroachments be limited to those that are compatible with the purposes for which such areas are created and that reimbursement of the fair market value of lands so used be made for replacement purposes.

On the basis of its experience, the Department of the Interior believes these requirements will discourage applications for all but essential uses and facilitate the replacement of refuge lands taken for other purposes.

It has been estimated that passage of this bill will provide some $60,000 per year for the purchase of replacement refuge lands on the basis of past experience. At the same time, our current energy crisis is likely to accelerate the number of requests for rights-of-way covered by this legislation so that an accurate estimate of future proceeds cannot be made, except to say that the amount will be considerably higher than previously estimated.

Mr. Speaker, I urge the prompt passage of H.R. 17434.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill H.R. 17434, as amended.

The question was taken.

Ms. ABZUG. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

Does the gentlewoman from New York withdraw her point of order that a quorum is not present?

Ms. ABZUG. Mr. Speaker, I withdraw my point of order.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 17434) just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PROVIDING FOR THE ESTABLISHMENT OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

Mr. MEEDS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 1117) to provide for the establishment of the American Indian Policy Review Commission.

The Clerk read as follows:

H.J. RES. 1117

CONGRESSIONAL FINDINGS

The Congress, after careful review of the Federal Government's historical and special legal relationship with American Indian people, finds that—

(a) the policy implementing this relationship has shifted and changed with changing administrations and passing years; without apparent rational design and without a consistent goal to achieve Indian self-sufficiency;

(b) there has been no general comprehensive review of conduct of Indian affairs by the United States nor a coherent investigation of the many problems and issues involved in the conduct of Indian affairs since the 1928 Meriam Report conducted by the Institute for Government Research; and

(c) in carrying out its responsibilities under its plenary power over Indian affairs, it is imperative that the Congress now cause such a comprehensive review of Indian affairs be conducted.

DECLARATION OF PURPOSE

Congress declares that it is timely and essential to conduct a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indians.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) In order to carry out the purposes described in the preamble hereof and as further set out herein, there is hereby created the American Indian Policy Review Commission, hereinafter referred to as the "Commission".

(b) The Commission shall be composed of eleven members, as follows:

(1) three Members of the Senate appointed by the President pro tempore of the Senate, two from the majority party and one from the minority party;

(2) three Members of the House of Representatives appointed by the Speaker of the House of Representatives, two from the majority party and one from the minority party; and

(3) five Indian members as provided in subsection (c) of this section.

(c) At its organization meeting, the members of the Commission appointed pursuant to section (b)(1) and (b)(2) of this section shall elect from among their members a Chairman and a Vice Chairman. Immediately thereafter, such members shall select, by majority vote, five Indian members of the Commission from the Indian community, as follows:

(1) three members shall be selected from Indian tribes that are recognized by the Federal Government;

(2) one member shall be selected to represent urban Indians; and

(3) one member shall be selected who is a member of an Indian group not recognized by the Federal Government.

None of the Indian members shall be employees of the Federal Government during their term of service on the Commission nor shall there be more than one member from any one Indian tribe.

(d) Vacancies in the membership of the Commission shall not affect the power of the remaining members to execute the functions of the Commission and shall be filled in the same manner as in the case of the original appointment.

(e) Six members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings: *Provided,* That at least one congressional member must be present at any Commission hearing.

(f) Members of the Congress who are members of the Commission shall serve without any compensation other than that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Commission.

(g) The Indian members of the Commission shall receive $100 for each day such members are engaged in the actual performance of duties vested in the Commission. Each such member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as shall be provided from time to time by regulations adopted by the Committee on House Administration of the United States House of Representatives.

SEC. 2. It shall be the duty of the Commission to make a comprehensive investigation and study of Indian affairs and the scope of such duty shall include, but shall not be limited to—

(1) a study and analysis of the Constitution, treaties, statutes, judicial interpretations, and Executive orders to determine the attributes of the unique relationship between the Federal Government and Indian tribes and the land and other resources they possess;

(2) a review of the policies, practices, and structure of the Federal agencies charged with protecting Indian resources and providing services to Indians: *Provided,* That such review shall include a management study of the Bureau of Indian Affairs utilizing experts from the public and private sector;

(3) an examination of the statutes and procedures for granting Federal recognition and extending services to Indian communities and individuals;

(4) the collection and compilation of data necessary to understand the extent of Indian needs which presently exist or will exist in the near future;

(5) an exploration of the feasibility of alternative elective bodies which could fully represent Indians at the national level of Government to provide Indians with maximum participation in policy formation and program development;

(6) a consideration of alternative methods to strengthen tribal government so that the tribes might fully represent their members and, at the same time, guarantee the fundamental rights of individual Indians; and

(7) the recommendation of such modification of existing laws, procedures, regulations, policies, and practices as will, in the judgment of the Commission, best serve to carry out the policy and declaration of purposes as set out above.

POWERS OF THE COMMISSION

SEC. 3. (a) The Commission or, on authorization of the Commission, any committee of two or more members is authorized, for the purposes of carrying out the provisions of this resolution, to sit and act at such places and times during the sessions, recesses, and adjourned period of Congress, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Commission may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Commission unless a majority of the Commission assent. Upon the authorization of the Commission subpenas may be issued over the signature of the Chairman of the Commission or of any member designated by him or the Commission, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Commission or any member thereof may administer oaths or affirmations to witnesses.

(b) The provisions of section 192 through 194, inclusive, of title 2, United States Code, shall apply in the case of any failure of any witness to comply with any subpena when summoned under this section.

(c) The Commission is authorized to secure from any department, agency, or instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this resolution and each such department, agency, or instrumentality is authorized and directed to furnish such information to the Commission and to conduct such studies and surveys as may be requested by the Chairman or the Vice Chairman when acting as Chairman.

(d) If the Commission requires of any witness or of any Government agency the production of any materials which have theretofore been submitted to a Government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material so produced shall be held in confidence by the Commission.

INVESTIGATING TASK FORCES

SEC. 4. (a) As soon as practicable after the organization of the Commission, the Commission shall, for the purpose of gathering facts and other information necessary to carry out its responsibilities pursuant to section 2 of this resolution, appoint investigating task forces to be composed of three persons, a majority of whom shall be of Indian descent. Such task forces shall be appointed and directed to make preliminary investigations and studies in the various areas of Indian affairs, including, but not limited to—

(1) trust responsibility and Federal-Indian relationship, including treaty review;

(2) tribal government;

(3) Federal administration and structure of Indian affairs;

(4) Federal, State, and tribal jurisdiction;

(5) Indian education;

(6) Indian health;

(7) reservation development;

(8) urban, rural nonreservation, terminated, and nonfederally recognized Indians; and

(9) Indian law revision, consolidation, and codification.

(b) (i) Such task forces shall have such powers and authorities, in carrying out their responsibilities, as shall be conferred upon them by the Commission, except that they shall have no power to issue subpenas or to administer oaths or affirmations: *Provided*, That they may call upon the Commission of any committee thereof, in the Commission's discretion, to assist them in securing any testimony, materials, documents, or other information necessary for their investigation and study.

(ii) The Commission shall require each task force to provide written quarterly reports to the Commission on the progress of the task force and, in the discretion of the Commission, an oral presentation of such report. In order to insure the correlation of data in the final report and recommendations of the Commission, the Director of the Commission shall coordinate the independent efforts of the task force groups.

(c) The Commission may fix the compensation of the members of such task forces at a rate not higher than the highest rate of basic pay set forth in the General Schedule of section 5332 of title 5, United States Code, and they shall be reimbursed for travel expenses, including per diem, as provided in section 1(g) of this resolution.

(d) The Commission shall insure that, out of funds appropriated by this Act, the task forces are provided with adequate staff support to carry out the projects assigned to them.

(e) Each task force appointed by the Commission shall, within one year from the date of appropriation of funds pursuant to section 7 of this resolution, submit to the Commission its final report of investigation and study, together with recommendations thereon.

REPORT OF THE COMMISSION

SEC. 5. Upon the report of the task forces made pursuant to section 4 hereof, the Commission shall review and compile such reports, together with its independent findings, into a final report. Within six months after the reports of the investigating task forces, the Commission shall submit its final report, together with recommendations thereon, to the President of the Senate and the Speaker of the House of Representatives. The Commission shall cease to exist six months after submission of said final report. All records and papers of the Commission shall thereupon be delivered to the Administrator of the General Services Administration for deposit in the Archives of the United States.

(b) Any recommendation of the Commission involving the enactment of legislation shall be referred by the President of the Senate or the Speaker of the House of Representatives to the appropriate standing committee of the Senate and House of Representatives, respectively, and such committees shall make a report thereon to the respective house within two years of such referral.

COMMISSION STAFF

SEC. 6. (a) The Commission shall, by record vote of a majority of the Commission members, appoint a Director of the Commission, a General Counsel, one additional professional staff member, and three clerical staff members. The Commission shall prescribe the duties and responsibilities of such staff members and fix their pay at respective per annum gross rates not in excess of the highest rate of basic pay, as in effect from time to time, of the General Schedule of section 5332 of title 5, United States Code.

(b) In carrying out any of its functions under this resolution, the Commission is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government, and to procure, if not otherwise provided for herein, the temporary or intermittent services of experts or consultants or organizations thereof by contract at rates of pay not in excess of the per diem equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332 of title 5, United States Code, including payment of such rates for necessary traveltime.

(c) Any individual serving as a member of an investigating task force, or any attorney or expert in any job or professional field employed by the Commission on a part-time or full-time basis with or without compensation, shall, while engaged in such service or employment, be deemed a "special Government employee" within the meaning of section 202 and the following of title 18, United States Code.

SEC. 7. There is hereby authorized to be appropriated a sum not to exceed $2,500,000 to carry out the provisions of this resolution. The expenses of the Commission shall be paid from the contingent fund of the House of Representatives from funds appropriated for the Commission, upon vouchers approved by the chairman.

The SPEAKER pro tempore (Mr. McFALL). Is a second demanded?

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. MEEDS) will be recognized for 20 minutes and the gentleman from Iowa (Mr. GROSS) will be recognized for 20 minutes.

Mr. MEEDS. Mr. Speaker, I would first like to take the opportunity to thank the chairman of the full committee, the gentleman from Florida (Mr. HALEY) and members of the Committee on the Interior and Insular Affairs and the Members of the entire House for the care and attention they have given to Indian matters in this Congress.

As chairman of the House Subcommittee on Indian Affairs, it is with personal satisfaction that I bring to the House floor this legislation. The Commission created by this bill and the responsibilities conferred upon that Commission have a very real potential for taking our conduct of Indian affairs out of a morass of confusion, inefficiency, and mismanagement and firmly setting the Indian people and tribes on the road to eventual self-sufficiency.

There exists between the United States and the Indian tribes within its boundaries, a unique relationship for which there is no exact counterpart in the history of international law. It is a relationship which has its roots in the European exploration and settlement of the North American continent. It is a relationship which is firmly based in the Constitution and which has been erratically clarified or confused by treaties, statutes, court decisions, and administrative policies and regulations over the years.

The Federal policy implementing this relationship has shifted and changed with changing administrations and passing years. These policies have included peacemaking diplomacy, armed conflict, tribal removal, subjugation, extermination, concentration, assimilation, termination, and self-determination—not necessarily in that order. Laws were piled upon laws without regard to the effect of the one upon the other. Programs have been begun, terminated, replaced, and reinstituted without apparent rational design.

In short, there exists a unique relationship between the United States and Indian tribes which has never admitted of an exact definition and which has never been implemented by a coherent, consistent policy.

Two major studies of Indian affairs were conducted during this century, primarily directed at the operations of the Bureau of Indian Affairs rather than at the totality of the relationship. In 1926, the Department of the Interior invited the Institute for Government Research to make a survey of the social and economic conditions of the Indians. In 1928, the Institute made a comprehensive report, known as the Meriam Report—Meriam, "Problem of Indian Administration, 1928." The illumination of this report was basically responsible for the major reforms in Indian affairs in the early 1930's, including the Indian Reorganization Act of 1934.

In the 82d Congress, the Committee on Interior and Insular Affairs submitted to the House, House Resolution 698 which passed the House on July 1, 1952. The resolution directed and authorized the committee to make a full and complete investigation and study of the activities and operations of the Bureau of Indian Affairs. On December 15, 1952, the committee submitted its report to the

House—House Report No. 2503. The bitter fruit of this report was the termination era of the 1950's which has been repudiated by the 93d Congress by passage of the Menominee Restoration Act of 1973.

The experience we have had with administering Indian affairs has made it clear that the "Indian problem" cannot be viewed as a series of separate, distinct problems of health, education, economic development, and so forth. The inadequacies in one area both affect and are affected by inadequacies in other areas. Yet past and existing policies have failed to deal with this reality.

The end result has been that the Federal programs to benefit Indians and the many dollars poured into them have been a comparative failure in eliminating the basic Indian problems and placing Indian people on the road to self-sufficiency.

It is admitted that a trust relationship exists and that the United States owes a trust responsibility to Indian tribes, but no one can exactly define that responsibility, nor even agree on whether or not it should be given an exact definition. It is admitted that Indians and Indian tribes have certain rights, but the morass of conflicting or duplicating laws make it nearly impossible to render the necessary protection and they often remain ignored. It is admitted that Indians are at the bottom of the ladder economically, socially, educationally, and medically, but the proliferation and duplication of policies and programs have resulted in only limited success in changing their status.

House Joint Resolution 1117 seeks to meet this problem by creating a National Indian Policy Review Commission. The Commission would be composed of 11 members, 3 from the Senate, 3 from the House, and 5 Indians to be appointed by the congressional members.

The Commission would be authorized and directed to study, examine, and review every aspect of Indian affairs, including the status of Indians and Indian tribes; the trust relationship; vitality of Indian treaties; existing statutes affecting Indians; Federal administration of Indian affairs; and the full range of economic, social, educational, governmental, and health problems.

The Commission is directed to appoint three-member task forces, with a majority being Indian to insure adequate Indian involvement, to carry out the initial fact-gathering functions for the Commission.

Within 2 years, the Commission must make its final report to the Congress and wind up its affairs. It will cease to exist not later than 6 months after its final report. The legislation provides that the Commission's legislative recommendations will be referred to the appropriate committee of the House and the Senate and that these committees are directed to make a report thereon to the respective House within 2 years thereafter.

The bill provides an authorization of $2,500,000 for the expenses of the Commission.

Mr. Speaker, I urge enactment of House Joint Resolution 1117.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I am delighted to yield to the gentleman from Iowa.

Mr. GROSS. I would like to ask the gentleman from Washington, what is the life of this new Commission?

Mr. MEEDS. The life of the Commission is 2 years. Well, 2 years and 6 months, actually.

Mr. GROSS. The $2,500,000 that the resolution authorizes would finance it for the 2 years and 6 months period?

Mr. MEEDS. It covers the entire period.

Mr. GROSS. And would this in any way involve the Indian Claims Commission, the work of the Indian Claims Commission?

Mr. MEEDS. Not in any way.

Mr. GROSS. Not in any way?

Mr. MEEDS. Not in any way. The Indian Claims Commission will not be involved in this Commission. It may be that this Commission would discuss matters of claims with the Indian Claims Commission, but this Commission would have no power to adjudicate claims of Indian tribes.

Mr. GROSS. As the gentleman from Washington well knows, Congress has had trouble expediting the work of the Indian Claims Commission. It has been stretched out over far too many years.

I would hope that this Commission, if it has any real purpose, would do something toward expediting it, clearing the decks of the Indian Claims Commission.

Mr. MEEDS. I appreciate very much the gentleman's observation, and I agree with the gentleman. This body has within the past 3 years taken steps to do that. We have set a deadline beyond which the Indian Claims Commission will not go, and a procedure whereby any cases which are left unresolved will be turned over to the court of claims, so the Indian Claims Commission is going out of business in, I think, 2 years.

Mr. GROSS. I hope the gentleman is correct, because we have in the past, and a good many years ago, heard much the same story, but the Indian Claims Commission and its unfinished business is still with us. I hope the gentleman is correct, in that it will have performed its tasks within the next 2 years, because, in all conscience it has gone on a long, long time beyond what we were told years ago would be the case.

Moreover, it seems to me that the establishment of this Commission, even though temporarily, is a reflection on the Department of the Interior and its inability to properly handle the problems of American Indians.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. REGULA) such time as he may require.

Mr. REGULA. Mr. Speaker, I rise to express my strong support for House Joint Resolution 1117. This resolution would establish an American Indian Policy Review Commission to conduct a comprehensive study and review of the Federal-Indian relationship and the policies and programs which implement it.

It has been apparent to me, as a new member of the Indian Affairs Subcommittee that there is a lack of a well-defined congressional policy to deal with the many and varied problems on Indian affairs. What we have before us today is an opportunity to, hopefully, develop a streamlined program that has coherence, that has a single purpose, and that is designed to solve Indian problems without diluting the Federal trust relationship by creating programs in many different agencies of Government that do not have well-defined, coordinated objectives.

The Indian Claims Commission, of course, is dealing primarily with claims concerning land taken wrongfully or without adequate compensation. The objective of this commission would be to look to the future and to develop a comprehensive national Indian policy that would have guidelines; so that in future legislating on matters involving Indians, objectives would have been clearly defined by this commission.

The United States and American Indians share a unique historical and legal relationship based on the Constitution, treaties, statutes, court decisions, and accumulated administrative policies and regulations. However, the Indian people have not enjoyed the benefits of a consistent Federal policy implementing this relationship. Federal Indian policies have changed and shifted along with changes in administrations and the evolution of national moods and goals. The legacy of inconsistent and contradictory policies is a mass of conflicting or duplicating laws and policies. These in turn have spawned a proliferation of often ill-conceived overlapping programs which have had little overall success in solving basic problems and placing the Indian people on the road to self-sufficiency.

The lack of a well-defined, consistent Federal Indian policy has been costly in human and monetary terms. In the past decade the budgets of general programs supposedly benefitting American Indians have risen from $400 million to an estimated $2 billion. However, the status of American Indians at the bottom of the economic, social, education, and health totem poles has not appreciably improved.

The task of the proposed Policy Review Commission is to provide a broad-based, well-researched study as a basis for bringing order to the chaos that is current Federal Indian policy.

House Joint Resolution 1117 provides for an 11-member commission to be comprised of three House Members and three Senators, who would select five Indian members—three from federally recognized tribes, one from a nonrecognized group, and one urban Indian. None of these Indian representatives could be a Federal employee and no tribe could have more than one member on the Commission. The Commission would appoint a Director, General Counsel, a small staff, and a series of investigating task forces. The task forces would each be comprised of three members at least two of whom being of Indian descent. The task forces would be charged with performing the preliminary fact-gathering functions for the Commission and would be expected to provide specific expertise in the areas of Indian affairs which they will study.

Examples of some of the possible issue areas to be covered are: A comprehensive review and study of the historical-legal developments—treaties, agreements, Executive orders, statutes, rules and regulations, and so forth—which serve as the basis for the unique relationship that exists between American Indians and the Federal Government.

A determination of the extent to which the Federal trustee's role extends to Indian people. For example, should urban Indians, nonreservation Indians, and members of nonfederally recognized tribes, as a matter of policy, be considered beneficiaries of direct Federal services of the Bureau of Indian Affairs and the Indian Health Service?

Establishment of methods for insuring the continued protection and proper managemet of the natural resources, mineral and water rights of Indian people.

Establishment of guidelines for the best methods of developing the natural resources of Indians as one means of enhancing their social, economic, cultural, and political situation.

A review of the basic organic acts and other authorities which led to the establishment of tribal governments to determine the adequacy and credibility of such governments in relation to present day community needs and demands.

The adequacy of existing institutional and organizational arrangements, including the most desirable structure for the agency of the Federal Government charged with the administration of Indian affairs.

A comparative analysis of the legal rights of tribal members of Executive order reservations, as opposed to the legal rights of members of treaty reservations.

A reexamination of the applicability of the provisions of the Civil Rights Act of 1968 to Indians residing on reservations and in Indian communities.

Development of more effective means to advance Indian self-determination and to improve the conduct of the continuing responsibilities of the Federal trustee.

The foregoing issues are not all-inclusive or a priority listing of such issues, but are representative of issues which might be studied by the task forces and the Commission.

The task forces are required to make periodic progress reports on their activities to the Commission and to render their final reports to the Commission not later than 1 year after appropriation of funds for the Commission.

The Commisson is required to render its final report to the Congress within 6 months after the final reports of the task forces are submitted and will cease to exist 6 months thereafter. Any legislative recommendations of the Commission shall be referred by the Speaker of the House of Representatives and the President of the Senate to the appropriate standing committees of the Congress. Such committees are required to render a report thereon to the respective House of Congress within 2 years after referral.

The resolution authorizes not more than $2,500,000 for the expenses of the Commission.

Mr. Speaker, in approving this resolution in committee, members were aware that many studies of Indians and Indian problems have been conducted and their findings rejected because essential Indian input was lacking. To avoid that possibility and to insure that the findings and recommendations of the Commission will accurately reflect the views of the Indian community, House Joint Resolution 117 provides for substantial Indian representation and participation at all levels of Commission activity. Five of the Commission's 11 members must be Indians, and fully two-thirds of the task force members are required to be of Indian descent.

Another concern of the committee was to insure that the Commission would be able to finish its work within the allotted 2-year time frame. Accordingly, the resolution provides for direction and coordination of the task forces by the Commission's Director. In addition, the task forces are required to submit quarterly progress reports to the Commission. These requirements are intended to provide Commission members with ample warning of any need to take action to insure that the Commission's work is completed on schedule.

Mr. Speaker, approval of this resolution by the Congress and eventual completion of the study of the issues already described would provide Congress with a compendium of information on the Indan affairs on a scale heretofore unavailable to the Federal Government. This information could serve as the basis for: First, sweeping new legislative proposals targeted to clearly identified problems and needs in the Indian field; and second, congressional oversight designed to insure that new legislation, polices, and programs are properly implemented and administered in behalf of the Indian people.

House Joint Resolution 1117 has broad support from Indian organizations and was approved by the Indian Affairs Subcommittee and the full Interior Committee with strong bipartisan support. I storngly urge its adoption.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Iowa.

Mr. GROSS. It is not the intention of the sponsors of this resolution to go on after 2½ years, is it?

Mr. REGULA. Absolutely not. I would not want to see the commission go on after that point.

Mr. GROSS. This is what we have in Government. We have already had too many of them in too many places.

Mr. REGULA. I understand.

Mr. GROSS. I would like the record to clearly show at this time that there will be no disposition on the part of the Committee on Interior and Insular Affairs to ask for a renewal of this commission at the end of 2½ years and the expenditure of $2.5 million.

Mr. REGULA. I think the gentleman from Iowa makes an excellent point, and I would join him in supporting this kind of a statement in the RECORD.

Mr. HOSMER. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from California.

Mr. HOSMER. Mr. Speaker, I would also hope this commission might conclude its duties in the period of time specified. However, we do know this has to do with American Indians, and the problems concerning them are some of the most difficult problems we have faced in the Congress during the time myself and the gentleman from Iowa have served here.

It is not likely these are going to disappear overnight. However, they could be considerably ameliorated by the commission proposed to be established, and I believe the gentleman and his colleagues on the subcommittee which handled this difficult matter have done their job wisely. I wish to congratulate and urge the passage of the joint resolution.

Mr. COHEN. Mr. Speaker, the House today has the opportunity to set in motion a comprehensive review of the policies of the United States toward the American Indian.

The unique relationship between the Indians and the Federal Government is rooted in the Constitution and in Federal statutes which establish special benefit programs for these Americans. The responsibilities inherent in this relationship have been subject to diverse interpretations during the past two centuries. Unfortunately, this shifting policy has worked at cross-purposes with those efforts which would recognize the special rights and needs of the first Americans. Past neglect has relegated the Indian to the status of the Nation's most disadvantaged minority by every category defined by the U.S. Bureau of the Census. It is my understanding that today is the first time we have attempted to address the totality of this situation.

I am particularly pleased that this legislation will review the situation of all Indians. Since the establishment of the Bureau of Indian Affairs, more than half of the Indians in the United States have been denied even the fragmented assistance of the Federal Government because they do not live "on or near federally recognized reservations." In my own State, approximately 3,000 Indians fall into this category. Maine's Indians are in as great a need of assistance from the Government to protect their legal rights and to develop their personal and tribal resources as any other Indians.

I trust that the Commission established by this legislation will make clear that our Indian policy must be changed to reflect human need rather than geographical accident. To this end, I urge my colleagues to lend their support to the proposal before us now.

Mr. FRASER. Mr. Speaker, as a cosponsor of House Joint Resolution 1117, I want to indicate my strong support for this measure which establishes an American Indian Policy Review Commission.

Over the past 200 years, the Federal Government's unique relationship with native Americans has been confused and complicated by hundreds of treaties, statutes, court decisions, and administrative edicts. Understandably, Indian people have been frustrated by the erratic and often contradictory policies emanating from Washington. During the past 25 years, alone, Indians have seen a major shift from an emphasis on assimilation and termination to a policy which gives at least rhetorical commitment to the cause of self-determination.

Now, through the new Policy Review Commission, Congress will have an opportunity to examine the full scope of Federal involvement with Indian people, including the status of treaty commitments, the trust relationship and the administration of Federal Indian programs. Under the terms of House Joint Resolution 1117, representatives of the Indian community will participate in this review process on an equal footing with Members of Congress.

I am pleased that the Interior Committee has improved on the original Policy Review Commission resolution, introduced by Mr. Meeds and myself, by giving more weight to Indian representation on the commission. The original resolution, House Joint Resolution 881, provided for a 15-member commission, five of whom would be Indians. As approved by the Interior Committee, the resolution now before us reduces the size of the commission to 11 but retains 5 seats for native Americans. I think it is also important to note that the resolution gives special emphasis to the concerns of urban Indians by stipulating that one of the five Indian members shall represent native Americans who live in cities.

Mr. Speaker, this legislation is not intended to provide the ultimate solutions to the serious social, cultural, and economic problems facing Indian people, but it does at least represent an important step toward the development of more rational and effective Federal Indian policies.

Mr. KEMP. Mr. Speaker, at this point I would like to submit the text of a resolution passed by the United Southeastern Tribes, Inc., with regard to the provisions of House Joint Resolution 1117. If this legislation is enacted, I would hope that the selected Members of Congress who will be serving on the American Indian Policy Review Commission will give due consideration to the United Southeastern Tribes recommendations as stated in the following resolution:

Resolution No. 74-25 of the United Southeastern Tribes, Inc.

(Re House Joint Resolution 1117)

Whereas, the House of Representatives will on November 18th be voting on House Joint Resolution 1117, a resolution to establish an American Indian Policy Review Commission, a companion resolution to S.J. Res. 133, which has passed in the Senate, and

Whereas, this legislation is extremely important to the future of Indian policy in the United States of America, and

Whereas, the proposed resolution has received a minimal amount of Indian input during the hearing process, and

Whereas, the proposed resolution is not specific on the criteria to be used in selecting the five Indian members of the proposed commission,

Now therefore be it resolved, that United Southeastern Tribes, Inc., urges the members of Congress to support legislation of this sort which will contribute to the clarification of Indian policy and the furtherance of Indian self-determination,

And resolved further, that the United Southeastern Tribes, Inc., urges members of the House of Representatives to consider amending the legislation to provide that of the three Indian members from Recognized Tribes, two be selected from recommendations submitted by the National Tribal Chairmen's Association and one from recommendations submitted by executive members of the National Congress of American Indians; that the one Indian member representing Urban Indians be selected from among the recommendations of Urban Indian Centers in major metropolitan areas; and that the fifth Indian member be selected from among the recommendations of the executives of State Tribes, and Rural Indian organizations,

And resolved, further, that United Southeastern Tribes, Inc., urges members of the House of Representatives to consider amending H.J. Res. 1117 to provide for an additional duty of the proposed commission, that of recommending a uniform definition of "Indian" to be used in establishing eligibility for Federal services, as a Recognized Tribe,

And resolved, further, that United Southeastern Tribes, Inc., urges members of the House of Representatives to consider amending H.J. Res. 1117 to provide, under duty (vii) that management studies be made of all Government agences with Indian programs, not merely the Bureau of Indian Affairs, as the Bureau of Indian Affairs is certainly not the only agency in which management problems have worked to the detriment of the Indian people,

And resolved, further, that the Executive Director of United Southeastern Tribes, Inc., reproduces this resolution in telegram form to members of the House of Representatives in order to assure its receipt before November 18th.

CERTIFICATION

This is to certify that at a meeting of the Executive Committee, Board of Directors of United Southeastern Tribes, Inc., properly convened and held in New Iberia, Louisiana, November 13–15, 1974, the above resolution was duly adopted.

Howard E. Tommie,
President.
Ernest Sickey,
Acting Secretary,
United Southeastern Tribes, Inc.

Mr. GROSS. Mr. Speaker, I have no further requests for time.

The **SPEAKER** pro tempore (Mr. McFall). The question is on the motion offered by the gentleman from Washington (Mr. Meeds) that the House suspend the rules and pass House Joint Resolution 1117.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate joint resolution (S.J. Res. 133) to provide for the establishment of the American Indian Policy Review Commission and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. Res. 133

DECLARATION OF POLICY

It is hereby declared to be the policy of Congress that the unique and longstanding legal relationship between the American Indian people and the Federal Government shall—

(a) be full recognized and respected; and

(b) serve as the foundation for a fundamental reform of Federal-Indian relations so as to develop and implement a new national Indian policy to encourage and assist the full development of the unique human and natural resources of Indian people.

DECLARATION OF PURPOSE

Recognizing that the unique relationship of the American Indian people and the Federal Government is based upon the Constitution, numerous treaties and a still-growing body of statutory law and court decisions, that this relationship carries with it a Federal trust responsibility for the protection of Indian land and rights to other natural resources and for the provision of public services to Indian people, that this solemn and legal responsibility has not been adequately fulfilled, that the Indian people have been denied the opportunity to realize the full potential of their human and natural resources, and, therefore, that those results demonstrate that the national Indian policy and the administration of Indian affairs is not in the best interests of the Indian people, the general public, and the Federal Government, the Congress declares that it is timely and essential to conduct a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indian people.

Whereas article I, section 8, clause 3, of the Constitution of the United States, gives to Congress the power "to regulate commerce * * * with the Indian tribes" and this clause has been consistently interpreted to give Congress plenary power over Indians and Indian tribes; and

Whereas the Congress has not exercised such plenary power to bring about fundamental reform to Indian affairs since approval of the Act of June 18, 1934 (48 Stat. 987), the Indian Reorganization Act; and

Whereas the Constitution, numerous treaties, statutes, and judicial decisions have charged the Federal Government with a special trust responsibility to protect and enhance Indian lands, water, and other natural resources; and

Whereas the national American Indian policy, from the beginning of this special Federal trust responsibility, has followed an inconsistent pattern and has failed to assist Indian people to achieve their individual, family, and community goals; and

Whereas the administration of Indian affairs by the governmental institutions charged with fulfilling the special Federal trust responsibility to Indians is characterized by a morass of conflicting policies and practices that serve to inhibit the exercise, rather than encourage the fulfillment, of such responsibility to Indians; and

Whereas, as a direct outgrowth of the inconsistent policy pattern followed by the Federal Government, generations of Indian people have suffered social and economic deprivation unparalleled by any other segment of society; and

Whereas such social and economic deprivation is illustrated by following:

(1) The infant mortality rate for Indians is 23.8 deaths per 1,000 live births compared to 19.2 for all races;

(2) The life expectancy for Indians is 64.9 compared to 70.8 for all races in the Nation;

(3) Typical Indian families of five or six live in one- or two-room houses, 24 per

centum of which lack running water and adequate sanitation facilities;

(4) Forty-three per centum of Indian students drop out of school before graduation, and the average number of years of schooling completed by Indians is 8.4 compared to the national average of 10.6;

(5) Unemployment among Indian people averages 40 per centum, and runs as high as 58 per centum on some reservations during the winter months;

(6) The average annual per capita income for Indians is $1,184, as compared to a national average of $3,344; and

Whereas the failure of governmental institutions to enable individual Indians to enjoy good health, to receive meaningful academic and vocational training, to find satisfying employment, to live in decent and acceptable housing, and to enjoy fundamental civil rights has contributed to feelings of despair, frustration, and alienation among young and older Indians alike; and

Whereas the despair, frustration, and alienation experienced by many Indian people have led to deep division in the Indian community and such division having already manifested itself through serious eruptions which conceivably could recur; and

Whereas the Congress deems it timely and essential to undertake a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government to support the formulation of more positive and effective national Indian policies and programs; and

Whereas as used in this resolution the term "American Indian" or "Indian" shall include "Alaskan Native"; and

Whereas the President is to be commended for submission of a legislative package to Congress which is designed to implement a self-determination policy for American Indian people; and

Whereas the proposed comprehensive review of the historical-legal basis underlying the unique Federal relationship with American Indian people would not preclude congressional consideration of the President's Indian legislative proposals and other important Indian measures: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that—

(1) (a) In order to carry out the purposes described above, there is hereby established a commission to be known as the American Indian Policy Review Commission, hereinafter referred to as the "Commission".

(b) The Commission shall be composed of fifteen members, as follows:

(i) two majority members of the Senate Committee on Interior and Insular Affairs and one Member of the Senate at large to be appointed by the majority leader of the Senate and two minority members of the Senate Committee on Interior and Insular Affairs to be appointed by the minority leader of the Senate;

(ii) two majority members of the House of Representatives Committee on Interior and Insular Affairs and one Member of the House of Representatives at large to be appointed by the Speaker of the House of Representatives and two minority members of the House of Representatives Committee on Interior and Insular Affairs to be appointed by the minority leader of the House of Representatives;

(iii) there shall be elected from the foregoing ten members a Chairman and a Vice Chairman of the Commission at an organizational meeting called at such time and place as may be specified in a call issued jointly by the senior member appointed by the majority leader of the Senate and the senior member appointed by the Speaker of the House of Representatives;

(iv) five Indian members who shall be selected by the ten congressional Members, by majority vote, at their organizational meeting immediately following the election of a Chairman and Vice Chairman from the following segments of the Indian community:

(1) three members shall be selected from tribes that are recognized by the Federal Government, one of whom must presently reside off the reservation;

(2) one member shall be selected to represent urban Indians; and

(3) one member shall be selected who is a member of an Indian group not recognized by the Federal Government.

None of the above Indian members shall be employees of the Federal Government at the time of selection, nor shall there be more than one member from any one Indian tribe.

(c) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(d) Eight members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(e) Members of Congress who are members of the Commission shall serve without any compensation other than that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(f) The selected Indian members shall each receive $100 for each day such member is engaged in the actual performance of duties vested in the Commission, but not to exceed sixty days in any one calendar year. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

DUTIES OF THE COMMISSION

(2) (a) The Commission shall—

(i) appoint an Executive Director, whose responsibility will be to supervise the Commission staff and assign and arrange for the preparation of the necessary reports;

(ii) appoint a General Counsel, whose duties will be to advise the Commission, the Executive Director, and the staff on legal matters and supervise the carrying out of those contracts which involve legal expertise;

(iii) contract with organizations and individuals whose professional expertise, experience, work, and credibility are generally recognized and accepted;

(iv) create such advisory groups to examine particular issues as the Commission deems necessary to achieve adequate Indian involvement on those issues:

(v) conduct hearings in various regions and on selected Indian reservations where Indians can most easily attend and make their views known directly to the Commission and where particular illustrations of fact situations may be more easily documented;

(vi) study and analyze the Constitution, treaties, statutes, judicial interpretations, and Executive orders to determine the attributes of the unique relationship between the Federal Government, Indians, and Indian tribes, and concerning the lands they possess;

(vii) review the policies, practices, and structure of the Federal agencies charged with protecting Indian resources and providing services to Indians, and provide specifically for a management study of the Bureau of Indian Affairs utilizing experts from the public and private sectors;

(viii) examine the statutes and the procedures for granting Federal recognition and extending services to Indian communities and individuals;

(ix) collect and compile the data necessary to understand the extent of Indian needs which presently exist or will exist in the future;

(x) explore the feasibility of alternative election bodies which could fully represent Indians at the national level of Government to provide Indians with maximum participation in policy formulation and program development;

(xi) consider alternative methods to strengthen tribal government so that the tribes might fully represent their members, and, at the same time, guarantee the fundamental rights of individual Indians; and

(xii) recommend such modification of existing laws, procedures, regulations, policies, and practices, as will, in the judgment of the Commission, best serve to carry out the policy and declaration of purpose as set out above.

(b) The Commission shall submit to the President of the Senate and the Speaker of the House of Representatives an interim report, not later than one year after the passage of this resolution, which shall contain recommendations based upon their preliminary findings for legislative consideration and specific legislative action to better fulfill the needs of Indian people. Not later than two years after the passage of this resolution, the Commission shall submit to the President of the Senate and the Speaker of the House of Representatives its final report. The Commission shall cease to exist six months after submission of said final report. All records and papers of the Commission shall thereupon be delivered to the Administrator of the General Services Administration for deposit in the Archives of the United States.

POWER OF THE COMMISSION

Sec. 2. (a) The Commission or, on authorization of the Commission, and committee of two or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued only on the authority of the Commission and shall be served by anyone designated by the Chairman of the Commission.

A witness may submit material on a confidential basis for the use of the Commission and, if so submitted, the Commission shall not make the material public. The provisions of sections 192–194, inclusive of title 2, United States Code, shall apply in case of any failure of any witness to comply with any subpena when summoned under this section.

(b) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this Act and each such department, agency, and instrumentality is authorized and directed to furnish such information to the Commission and to conduct such studies and surveys as may be requested by the Chairman or the Vice Chairman when acting as Chairman.

(c) If the Commission requires of any witness or of any Government agency the production of any materials which have theretofore been submitted to a Government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material so produced shall be held in confidence by the Commission.

APPROPRIATIONS, EXPENSES, AND PERSONNEL

Sec. 3. (a) There is hereby authorized to be appropriated a sum not to exceed $2,000,000 to carry out the provisions of this Act.

(b) The Commission is authorized, without regard to provisions of title 5, United States Code, governing appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, to appoint and fix the compensation of its staff director, and such additional personnel as may be necessary to enable it to carry out its functions except that any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege.

(c) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this resolution to carry out such aspects of the review as the Commission determines can best be carried out in that manner.

(d) Any individual serving as a member of an ad hoc committee, or any attorney or expert in any job or professional field employed by the Commission on a part-time or full-time basis with or without compensation, shall, while engaged in such service or employment, be deemed a "special Government employee" within the meaning of section 202 of title 18, United States Code.

MOTION OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MEEDS moves to strike out all after the resolving clause of S.J. Res. 133 and to insert in lieu thereof the resolving provisions of H.J. Res. 1117, as passed.

The motion was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time and passed.

The preamble was amended so as to read:

CONGRESSIONAL FINDINGS

The Congress, after careful review of the Federal Government's historical and special legal relationship with American Indian people, finds that—

(a) the policy implementing this relationship has shifted and changed with changing administrations and passing years; without apparent rational design and without a consistent goal to achieve Indian self-sufficiency;

(b) there has been no general comprehensive review of conduct of Indian affairs by the United States nor a coherent investigation of the many problems and issues involved in the conduct of Indian affairs since the 1928 Meriam Report conducted by the Institute for Government Research; and

(c) in carrying out its responsibilities under its plenary power over Indian affairs, it is imperative that the Congress now cause such a comprehensive review of Indian affairs be conducted.

DECLARATION OF PURPOSE

Congress declares that it is timely and essential to conduct a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indians.

A similar House joint resolution (H.R. Res. 1117) was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the body of the Record on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

FOREST SERVICE FIRE PROTECTION CONTRACTS

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12071) to amend the Department of Agriculture Organic Act of 1944 to authorize the Secretary of Agriculture to enter into negotiated contracts for the protection from fires of lands under the jurisdiction of the Department of Agriculture, and for other purposes.

The Clerk read as follows:

H.R. 12071

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 579a) is hereby amended to read as follows:

"SEC. 205. The Secretary of Agriculture, acting through the Forest Service, may by negotiated contract or otherwise provide for procurement and operation of air tanker facilities and services for the protection and management of the national forests and other lands administered by it it, including the furnishing, at the airbase of facilities, equipment, materials and the preparation, mixing, and loading into aircraft, with authority to renew any contract for such purpose annually, not more than four times, without additional requests for proposals. Notwithstanding any other provision of law, such contracts shall be entered into solely on the basis of capability to perform the required services, as determined by a technical proposal based upon experience, pilot qualifications, aircraft, and aircraft maintenance facilities, at rates to be negotiated based on buidelines developed by a continuing cost gather and study, but the Secretary shall impose such terms and conditions as are necessary to protect the United States.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SYMMS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY) will be recognized for 20 minutes, and the gentleman from Idaho (Mr. SYMMS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 12071 is to amend the Department of Agriculture Organic Act of 1944 in order to make clear the authority of the Secretary of Agriculture to enter into negotiated contracts for protection from fires on lands under the jurisdiction of the Department of Agriculture.

Mr. Speaker, from 1966 until 1973 the Department of Agriculture followed a procedure of negotiating contracts with fire protection services and air tanker operators for the purpose of having maximum fire protection service and equipment available in the event of forest fires on the national forestlands.

This procedure in general worked very well. It was approved by General Account Office memorandum in 1965, but was subject to question as to the adequacy of congressional authority by a second GAO memorandum in 1970.

As a result, the Department felt constrained to return to a policy of bid invitations for these services.

Normally, a bid invitation is a standard procedure by which the Government contracts for goods or services. However, there is a unique situation involved in the obtaining of fire services. When one is purchasing an item for Government ownership, use or service, that procedure is usually described as open competitive bidding, achieving the lowest bid as the object, of the system. It is impossible, however, for the Forest Service to determine the extent to what type of fire service protection will be needed or where in the national forests it will be applied. Quality and availability of the best in service and equipment is an extremely important factor in protecting our great national assets of forest resources.

The national cost, in terms of the loss of resource, as a result of a major forest fire, is enormous. The fire affected lands are removed from the inventory of our national forests for years. Regeneration of forest lands takes several decades and the interest of protecting against that loss is a central concern of the Forest Service and Federal Government.

It is the considered judgment of the Committee on Agriculture that this legislation is necessary in order to produce the most effective and responsive services in fire protection.

In particular, the modern techniques of aerial bombing of fires can often be the most significant single element in fire retardation and suppression.

We feel, as members of the Committee on Agriculture, that the method of negotiating these services is the best and most effective method for the Government to follow.

It might be interesting to note that the State of California, which has undertaken recently to follow the negotiated procedure, has declined to go back to competitive bidding. Negotiated contracts have, in its judgment, not only provided superior service for the protection of its State lands, but, in fact, have accomplished this protection at less cost than was the case under competitive bidding procedures.

H.R. 12071 would authorize the Secretary to request proposals from various qualified aerial services and then to negotiate with them for the most effective service. At his option, the Secretary would also be authorized to extend those negotiated contracts year by year up to a period of 4 years, after which he must again request a new proposal.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I wish to associate myself with his remarks.

The gentleman is saying that the tanker companies are then audited so there is no way that anyone can steal?

Mr. FOLEY. That is exactly correct, and there is legislation to provide for the continual working of this procedure.

Mr. SYMMS. I thank the gentleman for yielding.

Mr. GROSS. Mr. Speaker, will the gentleman yield,

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. GROSS. I do not find in the report any estimate of the out-of-pocket cost to the Federal Government, if any. Is there any out-of-pocket cost to the Government as contained in this legislation?

Mr. FOLEY. The contract for services, of course, would be an out-of-pocket expense. They are at the present time by bid or by negotiation.

I can tell the gentleman from Iowa that there is no accurate way to provide an estimate of the cost difference between this type of obtaining services and contract bidding.

Mr. GROSS. I thank the gentleman for yielding.

Mr. FOLEY. But I remind the gentleman from Iowa that it is the impression of at least one major State that they have actually effected an economy by this method as well as having provided superior services.

Mr. JOHNSON of California. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of this legislation. I think it is well thought out.

I think that H.R. 12071 is going to do a great deal to improve this area of obtaining services that are so important to the protection of our natural resource, the forests.

My own State of California has had a very successful operation in this regard.

I think this is a proper way to deal with this problem. I think going back to negotiating for these fire protection and equipment services is the proper way to do this.

Mr. Speaker, I join the gentleman from Washington in the motion.

Mr. FOLEY. I thank the gentleman from California.

Mr. SYMMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12071 because H.R. 12071 would amend the authority under which the U.S. Forest Service procures aerial firefighting services. The bill would require the Secretary of Agriculture, through the Forest Service, to continue the policy of negotiated procurement which has been utilized since 1966. Hearings were held on the bill on February 13, 1974, before the Forestry Subcommittee of the House Agriculture Committee.

Commencing with the coming 1974 fire season, the Forest Service has reimplemented a policy of formally advertised procurement, awarding contracts to companies submitting the lowest bids. This represents a 180-degree policy shift. In 1965, the Forest Service came to Congress requesting permission to take exception to the general requirement that the Government procure goods and services through formal advertisements for bids. Congress and the Comptroller General were given the opportunity to closely examine a very comprehensive study which the Forest Service had conducted in an effort to determine the efficacy of their policy of awarding aerial firefighting contracts to the lowest bidder. The study detailed the complexity of these firefighting services, explaining the fact that the Government's best interests are not served by getting the cheapest price.

A direct correlation exists between the quality of service which any given company can provide and the risk of forest fire losses to the public and the Government. The higher the quality of an operator's equipment, personnel, and maintenance facilities—the greater is the public's protection against wildfires. Formal advertisement for bids, as a procurement method, ignores this correlation.

The 1965 study points out that no standard specifications can be drawn for good fire protection. This point was used to justify implementing a change from selecting the cheapest responsive bidder to selecting the best qualified operator, because the former was cutting costs anywhere possible in order to turn his low bid into profit. The Forest Service, itself, acknowledged that the first place where successful low bidders cut their expenditures was in maintenance; the next place was in personnel. It is practically axiomatic that an operator giving his equipment less maintenance and flying it with less experienced—thus less expensive—personnel will be offering less effective fire protection.

Unlike the procurement of tangible products which can be fully specified, and rejected upon completion if not fully satisfactory to the Government, good firefighting cannot be outlined in specifications—and no one gets a second chance. The Government and the public have no opportunity to reject an inadequate rendering of firefighting services; that protection—inherent in standard Government contracts—cannot be had in this instance. The best protection is the assurance at the outset that the best available contractor will be fighting the fires.

During the hearings on this bill, the Department of Agriculture could not explain why a change was necessary from the policy successfully used for the past 8 years. Their response to repeated questioning on this point was that the USDA now feels that the industry has stabilized from the disruption engendered by the previous experience with formal advertising and that the Forest Service can contract for an efficient, dependable, and safe air tanker fleet under formal advertising.

The essence of the results of the Government's own study indicates exactly the opposite, and it is respectfully submitted that the same reasons exist today which prompted the Forest Service to state unequivocally 8 years ago:

> It became apparent early in the survey that the primary objectives of safe, effective air tanker services by a stabilized industry cannot be achieved by soliciting open competitive bids for contracts.

No longer can the companies of this industry strive to become the best qualified company, they must calculate and cut corners to become the cheapest—holding their facilities and personnel as close to the minimum Government standards of acceptability as possible. In the meantime, the public must assume not just a risk, but a probability which the Government has thoroughly acknowledged and cannot refute, that protection from wildfires will worsen with every coming fire season.

Mr. Speaker, I have no requests for time.

Mr. ROUSSELOT. Mr Speaker, this legislation provides that "the Secretary of Agriculture, acting through the Forest Service, may by contract or otherwise provide for procurement and operation" of aerial firefighting services. The intent of the bill is "to assure that when the Secretary contracts for such services, such contracts should be negotiated. The bill is designed to improve the overall quality of aerial firefighting services to the Government and the public."

The bill is a direct response to a ruling of the Comptroller General of August 19, 1970, which disapproved the policy of the Forest Service of letting these contracts by negotiation. This ruling required "that the issue of price be an element of the multielement technical proposal."

Under the GAO ruling the Forest Service has developed a two-rate procedure which it believes has solved the major problems which had been associated with competitive bidding—"cutthroat competition," irresponsible bidders. The procedure involves one rate set as a "guaranteed daily availability rate based on indepth cost analysis and not subject to competitive bidding * * *. The second rate is a flying rate which is applicable to the actual hours of flight time. This rate is established by competitive bidding."

Now, just when the Service seems to have worked out a reasonable system, H.R. 12071 would establish quality of service as the sole criterion, with the Forest Service empowered to contract for air tanker service by negotiation, rather than by competitive bidding.

The position of the Forest Service on this legislation has been schizophrenic. On October 7, 1974, the Service issued a "study," reprinted on pages 11–17 of the committee report, detailing the reasons why the Service considered it "impracticable to write bid specifications in a manner which will permit open competition, comparison and evaluation of bids on an equal basis." The Service announced a policy of "negotiating contracts in excess of $2,500 * * * to assure selection of the best available contractor and to secure a fair contract price."

However, Mr. J. W. Deinema, Deputy Chief for Administration of the Forest Service, testified on February 13, 1974:

> We believe that we can contract for an efficient, dependable and safe air tanker fleet under present guidelines utilizing a dual rate system. We therefore recommend that H.R. 12071 not be enacted.

On September 13, 1974, the Director of Legislative Affairs for the Forest Service wrote Chairman **Poage** to state that if the bill were enacted, costs would increase an average of $100,000 for administration of each contract and 10 percent on the operational costs of procuring tanker service.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. **Foley**) that the House suspend the rules and pass the bill H.R. 12071.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order: S. 782 (de novo); H.R. 16757 (de novo); and H.R. 17434 (de novo).

ANTITRUST PROCEDURES AND PENALTIES ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill (S. 782), as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. **Rodino**) that the House suspend the rules and pass the Senate bill (S. 782), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENDING THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 16757.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. **Staggers**) that the House suspend the rules and pass the bill H.R. 16757.

The question was taken.

Mr. PICKLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 335, nays 55, answered "present" 2, not voting 42, as follows:

[Roll No. 630]

YEAS—335

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Ashley
Aspin
Badillo
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Cleveland
Cohen
Collier
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dellums
Denholm
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Goldwater
Gray
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
King
Kluczynski
Koch
Kyros
Lagomarsino
Landrum
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madigan
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Mills
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pike
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Rhodes
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Rogers
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Sebelius
Seiberling
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Traxler
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waldie
Walsh
Wampler
Whalen
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Charles H., Calif.
Winn
Wolff
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Zablocki
Zion
Zwach

NAYS—55

Archer
Armstrong
Blackburn
Brooks
Burgener
Burleson, Tex.
Camp
Casey, Tex.
Clawson, Del
Cochran
Collins, Tex.
Crane
de la Garza
Dennis
Evins, Tenn.
Fisher
Gibbons
Gonzalez
Goodling
Gross
Hammerschmidt
Jones, Okla.
Jordan
Kazen
Kemp
Ketchum
Kuykendall
Landgrebe
Latta
Lujan
McSpadden
Mahon
Mathis, Ga.
Milford
Miller
O'Hara
Pickle
Poage
Powell, Ohio
Price, Tex.
Roberts
Roncalio, Wyo.
Rousselot
Runnels
Shipley
Steelman
Steiger, Ariz.
Steiger, Wis.
Symms
Thornton
Treen
White
Wilson, Charles, Tex.
Wright
Young, Tex.

ANSWERED "PRESENT"—2

Schneebeli
Ware

NOT VOTING—42

Anderson, Ill.
Bafalis
Baker
Blatnik
Brasco
Brown, Ohio
Carey, N.Y.
Clay
Davis, Ga.
Eshleman
Ford
Gilman
Ginn
Grasso
Green, Oreg.
Hawkins
Hébert
Jarman
Jones, N.C.
Lott
Madden
Maraziti
Murphy, N.Y.
O'Neill
Owens
Podell
Rarick
Reid
Reuss
Riegle
Roe
Roncallo, N.Y.
Rooney, N.Y.
Stubblefield
Stuckey
Teague
Towell, Nev.
Udall
Ullman
Waggonner
Wilson, Bob
Wyman

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. O'Neill and Mr. Anderson of Illinois for, with Mr. Teague against.

Until further notice:

Mr. Hébert with Mr. Stubblefield.

Mr. Waggonner with Mr. Blatnik.

Mr. Carey of New York with Mr. Davis of Georgia.

Mr. Hawkins with Mr. Ford.

Mr. Madden with Mrs. Grasso.

Mr. Murphy of Illinois with Mrs. Green of Oregon.

Mr. Riegle with Mr. Clay.

Mr. Reuss with Mr. Brown of Ohio.

Mr. Rooney of New York with Mr. Lott.

Mr. Stuckey with Mr. Maraziti.

Mr. Ullman with Mr. Bafalis.

Mr. Udall with Mr. Owens.

Mr. Ginn with Mr. Rarick.

Mr. Roe with Mr. Baker.

Mr. Jones of North Carolina with Mr. Reid.

Mr. Jarman with Mr. Eshleman.

Mr. Gilman with Mr. Roncallo of New York.

Mr. Bob Wilson with Mr. Towell of Nevada.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) (3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

AMENDING THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 17434, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill H.R. 17434, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 16609, AMENDING PUBLIC LAW 93-276 TO INCREASE THE AUTHORIZATION FOR APPROPRIATIONS TO THE ATOMIC ENERGY COMMISSION

Mr. PEPPER, from the Committee on Rules, reported the following privileged resolution (H. Res. 1461, Rept. No. 93-1472), which was referred to the House Calendar and ordered to be printed:

H. RES. 1461

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16609) to amend Public Law 93-276 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Joint Committee on Atomic Energy, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

PROVIDING FOR CONSIDERATION OF H.R. 16074, PROVIDING AVAILABLE NUCLEAR INFORMATION TO COMMITTEES AND MEMBERS OF CONGRESS

Mr. PEPPER, from the Committee on Rules, reported the following privileged resolution (H. Res. 1462, Rept. No. 93-1473), which was referred to the House calendar and ordered to be printed:

H. RES. 1462

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16074) to provide available nuclear information to committees and Members of Congress. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Joint Committee on Atomic Energy, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 16074, it shall be in order to take from the Speaker's table the bill S. 3802 and to consider the said Senate bill in the House.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 1161, ASSURING COMPENSATION FOR DAMAGES CAUSED BY NUCLEAR INCIDENTS

Mr. PEPPER, from the Committee on Rules, reported the following privileged resolution (H. Res. 1463, Rept. No. 93-1474), which was referred to the House calendar and ordered to be printed:

H. Res. 1463

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H. J. Res. 1161) assuring compensation for damages caused by nuclear incidents involving the nuclear reactor of a United States warship, and all points of order against the joint resolution for failure to comply with clause 4 of Rule XXI are hereby waived. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Joint Committee on Atomic Energy, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

SAFE DRINKING WATER ACT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1423, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1423

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13002) to amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. It shall also be in order to consider the text of the bill H.R. 16760 if offered as an amendment in the nature of a substitute for the said committee amendment. At the conclusion of the consideration of H.R. 13002 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 13002, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 433, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 13002 as passed by the House.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1423 provides for an open rule with 1 hour of general debate on H.R. 13002, a bill to amend the Public Health Service Act to assure that the public is provided with safe drinking water.

House Resolution 1423 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule. House Resolution 1423 also provides that it shall be in order to consider the text of the bill H.R. 16760 if offered as an amendment in the nature of a substitute for the committee amendment printed in the bill.

House Resolution 1423 also provides that after the passage of H.R. 13002, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 433, and it shall then be in order in the House to move to strike out all after the enacting clause of S. 433, and insert in lieu thereof the provisions contained in H.R. 13002 as passed by the House.

H.R. 13002 requires the Administrator of the Environmental Protection Agency to prescribe national primary drinking water regulations for contaminants which may adversely affect the public health and it provides that such regulations are to apply to public water systems and are to protect health to the maximum extent feasible. H.R. 13002 authorizes the Administrator to enforce national primary drinking water regulations only if a State fails to assure timely compliance with at least equally stringent requirements. However, the States can grant an exemption variance to a water system for up to 9 years for compliance.

H.R. 13002 also provides for Federal grants to assist State surveillance and enforcement programs under the bill and establishes Federal-State programs to protect underground sources of drinking water.

Mr. Speaker, I urge the adoption of House Resolution 1423 in order that we may discuss, debate, and pass H.R. 13002.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an extremely important piece of legislation. I think the Members in this Chamber should take note of the legislation to be considered, if this rule is adopted, as it will affect the water systems of every community and every city in this Nation. That is important legislation, and it is nationwide in scope.

I believe this bill points up the pressing need for a change in the rules of the House. As every Member can attest, in order to pass certain bills they are given glorified titles. All too frequently this occurs, and the legislation now to be considered is one of these bills.

Mr. Speaker, what Member could possibly vote against a piece of legislation entitled "The Safe Drinking Water Act"? To be opposed to such legislation, I suppose one would have to be for unsafe drinking water.

I think, Mr. Speaker, when the 94th Congress comes into being, we ought to consider changing the rules of this House so that we will have bills designated by number only. This would force Members to read more than the glorified title before making a decision on the bill. The bill under consideration today labeled the "Safe Drinking Water Act" is a good reason to make a change in the rules.

What am I talking about? I am talking about legislation that would give the Administrator of EPA broad authority to certify or not certify the water-treatment facilities of every city or municipality in this Nation after first adopting its own standards for making such certifications. If they did not adhere to those standards, EPA could go into court and get a judgment against them.

Mr. Speaker, the question in my mind is how are communities without the bonding base and without help from the State and the Federal Government, going to get water when EPA comes in and shuts them down?

That is what we are talking about, and the authority is all contained in this legislation. Apparently the House is not interested in really delving into the provisions of this bill. It scares me to think that legislation of this scope is about to be passed because it has an attractive title and the House is unwilling to really examine its contents.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be glad to yield to the gentleman from Illinois.

Mr. CRANE. I thank my distinguished colleague for yielding.

I applaud the remarks of the gentleman from Ohio.

I too feel that sensitivity to truth in labeling that goes with so much legislation that comes before this body for consideration.

This is surely a classic example of one, in fact, that I used during this past campaign to dramatize some of the problems that those of us who are in a position to do so are able to say no to.

We in the Illinois delegation on both sides of the aisle received a telegram on this piece of legislation from Richard Priceland, who is the director of the Illinois Environmental Protection Agency.

He stated in that telegram that while he and his agency and the Illinois Public Health Authority applaud the theoretical aims of this legislation, they nevertheless urged all Illinois Representatives to vote against it because it was inflexible in its implementation, it preempts State law, and third, it greatly added to local and State costs.

Therefore, I would only urge all of my colleagues to join in the effort of the gentleman from Ohio (Mr. LATTA) to defeat the rule on this bill.

Mr. LATTA. Mr. Speaker, I thank the gentleman for his contribution.

Just let me say that no one, as I pointed out earlier, can be against what is sought to be accomplished in this legislation. We are all for safe drinking water. The question is, how to acquire it. By passing a law requiring the adoption of standards which cannot be met by small communities? I think not.

Mr. MURPHY of Illinois. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. I would like to answer the gentleman from Illinois (Mr. CRANE).

I have in my hand two amendments proposed by the Governor of the State of Illinois, who is in agreement with the basic philosophy of the Safe Drinking Water Act. The two amendments would have the State and Federal administrators work together, this is what Governor Walker wants, and on proper notice of any infraction, the Federal Administrator may come into any State for future action, as long as the State and local authorities are notified of the alleged infraction in timely fashion.

I intend to offer these amendments later in the day, but I would like to say to my esteemed colleague, the gentleman from Illinois (Mr. CRANE), that I did not receive a telegram to that effect. I know the Governor wants this bill passed, if these amendments are accepted.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. CRANE. The telegram came from Richard Priceland, who is the administrator of the Illinois Environmental Protection Agency. He is not the Governor. I would be happy to Xerox a copy of my telegram.

Mr. WIDNALL. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New Jersey.

Mr. WIDNALL. Mr. Speaker, I would like to compliment the gentleman from Ohio (Mr. LATTA) for bringing this to the attention of the House, and for making some very sound and cogent observations as to the general practices that will take place.

I will never forget the number of sins that were committed in the name of the war against poverty. Who could vote against the war on poverty? If one did he would be earmarked as being the most unrepresentative of persons, and as one who did not care about the poor people. But, at the same time, great bureaucracies were built up. All kinds of projects were approved by the Congress in the regular order of business just because it was labeled as part of the war on poverty.

But in reference to this legislation, let me ask what happens in a situation like in the town I live in that has nothing but artesian wells, and we have the purest drinking water in the entire State, and I can just see what will happen if this is enacted into law; that we will have to have chlorinated water, and will have to have all kinds of other things. I object to Federal control such as the EPA, and I think it would be, in the end, a very harmful piece of legislation if we pass this. So I will vote against the rule.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I am wondering what would happen in some of the small communities in this country when the EPA comes in and says, "Your water is not safe under our guidelines, and you are going to have to upgrade your water plant in this community." But say that that community has already used up all of its bonding authority, and does not have the money to be able to upgrade its water plant; what do the people in that community do?

Mr. LATTA. Let me answer that by saying to the gentleman from Texas that I do not have the answer. That is my objection. May I say that I raised this objection before the Committee on Rules, and nobody is, of course, against the purpose of this bill, but the real question is that, like in the community the gentleman from Texas has referred to, how can that community come up with the money to meet the standards that some EPA directive might set forth?

I have a lot of small communities in my district that have been after funds from the Federal Government and from the State government for years, because they do not have the necessary borrowing authority, and therefore they cannot move forward with their plant facilities they need.

If we pass this type of legislation on them will we shut down all the wells that are now giving them some water?

I do not know the answer. I will be happy to yield to anybody from the committee if they have the answer to that question. I think we ought to have the answer to it before we proceed.

Mr. KAZEN. Mr. Speaker, if the gentleman will yield further, the gentleman from Ohio will recall that a couple of years ago we gave EPA the authority to set standards, and we told them to set strict standards in the Water Quality Act. But at the same time we appropriated the money with which these cities were going to be helped to construct their sewer plants. However, the Executive impounded that money, but the standards were not lowered. Now these communities are faced with high sewer disposal standards, and they are not able to improve their facilities, they have no money with which to do this. And the EPA has come up with a regulation that says that, regardless of even an act of God, it will not clear the superintendent of that plant from liability because he cannot comply with the EPA standards.

Mr. LATTA. I thank the gentleman from Texas for his contribution.

Let me say, Mr. Speaker, that the information I have had is that the administration is opposed to this legislation. I would like to yield to the chief sponsor of the legislation, the gentleman from Florida (Mr. Rogers) so the gentleman can advise us whether it is true that some corrective amendments are going to be proposed and, if so, what these amendments will attempt to do?

Mr. ROGERS. May I say to the gentleman that it is my understanding that if some amendments to be offered by the gentleman from Illinois are adopted, the Governor says he will strongly support the bill. There may be various other amendments that Members will offer. I do not know all of the amendments that may be offered, but I will say to the gentleman that I am sure that after the debate, people will be convinced that many of the things that have been said simply are not true. This is a significant bill for America. It will also give control to the States, to the local areas, not to EPA.

We have carefully designed this bill. It has been changed greatly from the bill that was first introduced. I think the gentleman will be very pleased after we explain the provisions in general debate.

Mr. LATTA. There is one further question I should like specifically to ask the gentleman, and that is this: Is the gentleman, as chairman of the subcommittee, going along with some sort of funding amendment to this bill to help these communities when the EPA says "We are going to close your water facilities"?

Mr. ROGERS. No, the bill does not provide that at all, because it has a mechanism whereby the States make that determination, not the EPA.

Furthermore, I thought the gentleman was opposed to spending a lot of money, and we did not think now was the time to authorize substantial sums of money. We thought instead that we should authorize EPA to set standards and afford the States and public water systems a reasonable time to implement them, taking costs into consideration. I would think the gentleman would be happy to support it.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Is this known as a Clean Water Act?

Mr. LATTA. A Safe Drinking Water Act.

Mr. GROSS. Now that the Tidal Basin is being used for drinking purposes, would this legislation apply to that situation; does the gentleman know?

Mr. LATTA. I could not answer that question.

Mr. GROSS. I thank the gentleman.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time. I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill—H.R. 13002—to amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13002, with Mr. Nichols in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. Staggers) will be recognized for 30 minutes and the gentleman from Kentucky (Mr. Carter) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, first I should like to say that this bill is not misnamed. I do not know whether the gentleman from Iowa is in the Chamber or not, but this does mean safe drinking water for the people of America. It is named exactly what we intended it to be. It is intended to bring safe drinking water to everyone. At a time when there is great concern about safe drinking water and about there being some ingredients in the water now that are causing cancer. I think it is very appropriate that this bill comes up at this time.

The intended purpose is to prevent waterborne disease outbreaks and chemical contamination which has occurred more and more in recent years. From 1961 to 1970 there were 130 outbreaks of disease or poisoning which were proven to be caused by unsafe drinking water. There were over 46,000 illnesses and there were 20 deaths which resulted. One major example of such an outbreak occurred in Riverside, Calif., in 1965.

As the people of our Nation travel more and more across this country they have a right to expect safe drinking water wherever they go.

I think in a country as great as America is and as rich as America is the people certainly ought to be able to obtain safe drinking water. Our citizens when they are traveling abroad know that they may not always be able to get safe drinking water. But certainly in this land of ours we have a right to expect safe drinking water.

The legislation emphasizes this need and the need for research and control of water contamination. Research has shown that 66 possible cancer causing agents have been found in the drinking water in New Orleans and Cincinnati. A Naval Research Laboratory study shows many of these same possible cancer causing organic agents have been found in the Washington drinking water. This is water we are drinking every day.

If there is anyone who does not want safe drinking water in Washington, I do not know what kind of person he is. And certainly if he wants it for himself he ought to want it for the rest of our country.

There is also an asbestos contamination problem which has appeared as a national problem. In Vermont, Wyoming, and California we have found asbestos-like particles in the drinking water. This problem is not isolated to the communities of Lake Superior or those surrounding areas.

The bill H.R. 13002 is intended to accelerate and strengthen the Nation's efforts to insure safe drinking water for all of our people and not just those in Washington, D.C.

In general H.R. 13002 would authorize the EPA to prescribe nationwide drinking water regulations to protect the public health to the maximum extent feasible. States are given primary responsibility for enforcement of these regulations. The States may grant up to 9 years delay in the dates for compliance considering the State and local ability to raise the necessary funds.

In addition the bill authorizes assistance to States to carry out water surveillance programs. It also will aid research in how to supply safe water at less expense. About half of the money that is involved will be spent for research.

Several erroneous statements have been made about the bill. One is that a water supply could just be closed down and an area would be left without any source of water to drink. This is not true. According to the language in the bill if an enforcement action is brought, the court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.

From some of the earlier debate, it was said that EPA could come in and just close down the water supply and the area would have no water.

Now, this is not true. The court may only order a system to close down if adequate, safe alternative water supplies are available.

The State has the primary responsibility for enforcement of the program. Of course, the Federal Government sets up minimum standards so that nationwide protection will be afforded.

I think that America deserves this and needs it. We are a Nation on wheels, traveling all over the country, and we want to know when we go into communities that they have safe drinking water.

This bill is not aimed at single-family wells. The bill is aimed only at those who have water for sale and have at least 15 connections or supplies at least 25 different people. It has nothing to do with those that have cisterns and have drinking water from that or those who have wells that drink from springs and have their own water supply. It is only those that have water for sale that are subject to the bill. If they are going to sell it, they ought to make it safe for people to drink. That is the way we felt about it in the committee. I do not think we can name the bill any differently than the Safe Drinking Water Act.

Mr. Chairman, I reserve the balance of my time.

Mr. CARTER. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Minnesota (Mr. Nelsen).

Mr. NELSEN. Mr. Chairman, this bill was in our committee for a long time. Many of us were concerned that perhaps Federal authorities would be given too much muscle. Some of us were concerned because we have seen in other cases where some programs that we enacted into law reached out too far, giving a group of bureaucrats too much authority, so we proceeded very cautiously on this bill.

One member of our committee was concerned, very concerned, about the local communities not being able to finance some of these things that might be demanded of them and that the language in the original bill was going too far. I think a lot of the feeling about this legislation right now is because of that first impression. But we gradually toned it down and brought the States into the picture. We provided for Federal standards, gave the States a little money to implement the standards, and required the States to make examinations in their areas. In the event that finally nothing was done and the water supplies were in bad shape, then there could be a hearing. There could be enforcement process by EPA, but only after a proper hearing before local authorities, not a hearing in Washington, but at home with the grass roots represented.

I personally was one of the very cautious members of the committee. We tried to recognize the fact that certainly there must be some way that the people can be assured of clean, safe drinking water; but on the other hand, not giving a Federal bureau the authority to go in and with one fell swoop say you must do this or that; so I want to say that in my judgment this is a well-considered piece of legislation.

It carefully protects the rights of the States. It gives the local municipalities all the protection and hearing process that they must have and should have. I believe this is a good piece of legislation, and moves in the right direction.

I have discussed this with the chairman of our subcommittee and suggested that if there is any area in this bill where we may have gone too strong, let us find out about it and let us change it if that is necessary. I would say to the Members of this House that we wanted a bill of standards, a bill of State authority, a bill where we would gradually move toward the objective of safe drinking water.

There is time after a 7-year period, a 9-year period, where we give them plenty of opportunity to comply. Certainly, if the people of a community find out after examination that their water supply endangers their health, they are going to want to change it themselves. We want to give them, in the local process, plenty of time to make that decision and move in the direction this bill requires.

Mr. STAGGERS. Mr. Chairman, I yield 7 minutes to the gentleman from Florida (Mr. Rogers), chairman of the subcommittee.

Mr. ROGERS. Mr. Chairman, I thank the gentleman from West Virginia for yielding to me.

Mr. Chairman, I rise in support of H.R. 13002, the Safe Drinking Water Act of 1974, which would assure that the water supply systems serving the American public meet minimum national standards for the protection of the public health.

This bill is the end result of long and careful deliberation by the Subcommittee on Public Health and Environment and has the bipartisan support of the members of the subcommittee. Consideration of safe drinking water legislation began in the 92d Congress with two separate sets of hearings, followed by hearings early in the 93d Congress and extensive subcommittee and full committee markups. The measure before the House today represents the culmination of these efforts.

I will ask unanimous consent of the House to insert in the Record at this point telegrams received from Governors who express support for H.R. 13002:

State of Florida,
Office of Governor
Reuben O'D. Askew,
October 8, 1974.

Hon. Paul G. Rogers, M.C.,
Eleventh Florida District,
Rayburn Building,
Washington, D.C.

Dear Paul: The State of Florida realizes the need for and encourages the promulgation of national minimum safe drinking water standards. The need for minimum standards and enforcement rules and regulations to protect our systems and sources of drinking water is acutely felt in Florida due to the large interstate flow of traffic stemming from our tourist industry.

I urge the Congress to seriously consider any pending legislation on its merits and act accordingly.

With kind regards,
Sincerely,

Rube,
Governor.

Congressman Ray J. Madden,
Chairman, House Rules Committee,
Washington, D.C.:

I urge the House Rules Committee to pass H.R. 13002 the State Drinking Water Act on October 2.

The State of Minnesota is particularly interested in Section 1444 providing demonstration funds for small particle filtration projects, because of the impact of the Reserve Mining Company litigation.

Sincerely,

Wendell R. Anderson,
Governor of Minnesota.

Harrisburg, Pa.,
October 1, 1974.

Hon. Paul G. Rogers,
Chairman, Public Health and Environment,
Rayburn House Office Building,
Capitol Hill, D.C.:

(Telegram sent to Pennsylvania Congressional delegation)

As Governor, I urge all Members Pennsylvania Congressional Delagation support H.R. 13002, Safe Drinking Water Act. Legislation now in Rules. Urge you do everything possible to move to Floor. Nation now faces deteriorating water supply problems on increasing scale. Federal minimum standards with State enforcement needed as provided in legislation to protect against disease which doesn't recognize State boundaries.

Milton J. Shapp, *Governor.*

Trenton, N.J.,
October 2, 1974.

Congressman James J. Howard,
Cannon Office Building,
Washington, D.C.:

To: New Jersey Congressional Delegation.
From: Brendan T. Byrne, Governor.
Re H.R. 13002—Safe Drinking Water Act.

This is to advise you of my support for the objectives contained in H.R. 13002 entitled "The Safe Drinking Water Act." The Federal Government should play a more active role in insuring that all citizens are provided with quality drinking water.

I urge you to support the bill.

Springfield, Ill.,
November 15, 1974.

Mr. Ralph Nader,
Washington, D.C.:

Thank you for bringing the status of the Safe Drinking Water Act to my personal attention. Illinois wholeheartedly supports all efforts to insure the safety of public drinking water supplies. Our State has been in the forefront of such efforts and today has one of the finest programs in the Nation for regulating public drinking water supplies.

As you know the Illinois EPA and the Department of Public Health have raised objections to some features of the bill which in their view would be unworkable as applied to our State. They have drafted amendments that would resolve their objections and in fact significantly strengthen the bill.

These amendments will be introduced by members of the Illinois delegation. It is our intention to strongly support these amendments, and we hope we can count on your support in our effort to strengthen this important legislation.

Should our efforts to amend the legislation fail, I will still support the enactment of the Safe Drinking Water Act given the need for national standards.

Olga Corey of our Washington office will be sending copies of the memo and amendments to you today.

Sincerely,

Dan Walker,
Governor of Illinois.

Columbus, Ohio,
October 7, 1974.

Representative Paul Rogers,
Washington, D.C.

Dear Congressman: In anticipation of the House Rules Committee's consideration of H.R. 13002, the National Safe Drinking Water Act, on October 8, I urge you to support, and to seek your colleague's support of this important legislation. H.R. 13002 provides the foundation for meaningful protection of our precious drinking water supply through authorizing the establishment of primary and secondary water quality standards. Full protection of these supplies requires the vigilance of local, State, and Federal governments. H.R. 13002 could assure those safeguards.

I strongly urge your favorable consideration.

JOHN J. GILLIGAN,
Governor.

BOSTON, MASS.,
October 10, 1974.

Hon. PAUL ROGERS,
Chairman, Subcommittee on Public Health and Environment, Rayburn Building, Washington, D.C.:

I want to commend you and your colleagues for the work you have done in drafting H.R. 13002 and bringing it to the floor of the House for action. Upgraded drinking water safety is one of our highest national public health priorities and I have indicated my strong support of H.R. 13002 to members of the Massachusetts Congressional Delegation.

GOV. FRANCIS W. SARGENT,
Commonwealth of Massachusetts.
State House, Boston.

OFFICE OF THE GOVERNOR,
STATE CAPITOL,
Salem, Oreg., September 30, 1974.

Hon. RAY J. MADDEN, M.C.
Chairman, House Rules Committee, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Having had additional time to review HR 13002—the proposed Safe Drinking Water Act—I now wish to withdraw my previous opposition to your granting a rule to the Act without first amending it.

My September 23 letter to you and other members of the House Rules Committee was written in vast reliance upon objections raised in a telegram from the National Governors' Conference staff. Oregon's director of the Department of Environmental Quality, Kessler Cannon, was at the time I wrote to you, attending an environmental conference in Japan and was unavailable to point out to me that there are far more reasons for granting a rule than for opposing it.

So I respectfully request that you allow me to come down on the side of granting a rule during your meeting of October 1.

In my previous letter I estimated—based on NGC staff projections—that enforcement of the Safe Drinking Water Act would cost Oregon an estimated $150,000 annually. This is incorrect. Since we are in the process of combining laboratory facilities now maintained separately by our Department of Environmental Quality and the Health Division, our increased costs would be minimal.

My letter of September 23 also said that "responsibility for enforcement of new standards should be placed squarely with the states". By that, I did not mean to imply that there never should be a prohibition against Federal government enforcement in the event that the States do not move toward meeting the guidelines of the Act. It would be pointless to set minimum standards without requiring that they actually be met.

The Safe Drinking Water Act comes to you in the same spirit as Federal anti-pollution laws. They all set minimum standards, but allow the states to exceed those standards if they wish.

The contention is made that the Safe Drinking Water Act would saddle many local communities with tremendous costs. That could be true for any community that wanted to instantly meet the new standards. But the Act specifically guards against an instant weighing-down of a state or community with higher immediate costs. Several years are provided in which the states and communities may come up to scratch and, in addition, the Act provides that state variances granted on a case-by-case basis are not reviewable at the Federal level.

The Act would accomplish significant forward steps:

Existing standards were designed primarily to protect the public from communicable disease. We all now recognize that chemical contaminants and viruses also constitute a grave threat to the health of the American people. The Act takes account of our new knowledge.

The Act would prod states and communities who need prodding to review their water quality situation and to make plans for overcoming deficiencies.

It would apply Federal minimum standards to underground waste disposal. We should not let wastes that are out of sight also be out of mind. Further, underground reservoirs often extend under the boundaries of two or more states, and without Federal standards a state that is lax can poison the underground waters of a state that is on guard.

I recognize that the Act may not be in perfect form. At present it does not appear to pledge a future Federal financial commitment. But we have to start somewhere. The utility of an idea is in its timeliness, and this is the time to begin.

Thank you for your consideration.

Sincerely,

TOM McCALL,
Governor.

STATE OF MAINE,
OFFICE OF THE GOVERNOR,
Augusta, Maine, November 1, 1974.

RALPH NADER,
DAVID ZWINK,
Washington, D.C.

DEAR MR. NADER AND MR. ZWINK: In response to your letter of September 29, I asked the responsible State agencies in Maine to supply me with an evaluation of the Safe Drinking Water Act. I have enclosed a copy for your information.

I firmly believe that minimum national standards for drinking water are urgently needed and I therefore have no philosophical objections to the legislation. What does concern me, and this is a reservation which I share with our health engineers, is the manner in which federal standards might be administered. This is a reservation born of our experience under the recent federal occupational safety and health act. Because the Maine legislature declined to adopt a qualified state plan, we are now dependent on unimaginative enforcement of federal regulations which at least in practice are much narrower than the breadth of state responsibility we have been led to believe has been preempted. I take this to be a deliberate attempt to coerce Maine to assume enforcement by creating administrative uncertainty. I sincerely hope similar results will not follow with the drinking water bill, but I can only place confidence in the capabilities of persons presently operating E.P.A. at the national and regional levels. In times when the tenure of federal officials is uncertain, this is insubstantial assurance at best.

Even so, I am persuaded that the issue is important enough that federal legislation should be promptly enacted with a faith that administrative hassles can and will be avoided through good faith cooperation between state and federal governments.

Sincerely,

KENNETH M. CURTIS,
Governor.

I will also ask unanimous consent of the House to insert at this point an excellent speech by Mr. KYROS, one of the principal sponsors of this legislation to the annual meeting of the American Water Works Association in Boston on June 20, 1974. Mr. KYROS' speech traces the history of this legislation and clearly demonstrates the need for this bill:

REMARKS BY CONGRESSMAN PETER N. KYROS TO THE AMERICAN WATER WORKS ASSOCIATION, BOSTON, MASS., JUNE 20, 1974

I certainly want to begin by thanking the American Water Works Association for this opportunity to discuss the legislative history of the Safe Drinking Water Act.

I know we have a mutual desire to see that the American people have reliable supplies of healthful drinking water. Mine comes from my membership on the public health subcommittee in the House of Representatives. Yours springs from your participation in an influential organization that is 10,000 members strong—with its prime interest the proper management of the Nation's water resources, which supply some 40,000 municipal water systems throughout the country.

For this reason, I am glad to be with you and once again thank you for your invitation and cooperation.

THE NEED FOR FEDERAL REGULATION

One thing that should be made clear—perfectly clear—at the outset is that the safe drinking water act would not establish the first national standards. These have been in effect since 1914, when the Federal Government issued standards for potable water that was sold on interstate carrier, such as planes, buses, trains, and boats. The idea behind the regulations was quite plain: to halt the spread of communicable diseases from one state to another. And, although these standards were not enforceable for public water supplies that were purely intrastate, most states and municipalities have adopted them as guidelines.

Yet as mere "guidelines" they have not proven completely effective in recent years. Impure water has grown as a problem in the last ten years. We have seen the population expand greatly. We have seen enormous economic growth in many parts of the country. We have seen new industrial processes come along. And the result of all this is that we have turned increasingly to new sources of polluted raw water and accelerated water re-use projects.

Among the first to see the problems with this trend was Congressman Paul Rogers, a democrat from Florida, and the chairman of the House Public Health Subcommittee. He got the legislative wheels in motion late in 1970 by introducing one of the first in a series of bills to give the Federal Government power to set maximum limits on the level of contaminants permitted in drinking water and to enforce those standards if the States failed to do so.

As you probably know, legislation is developed in committees. One of my assignments is to the public health subcommittee, which has jurisdiction over all health matters. This year we have worked on extending programs in cancer research, heart disease, diabetes, and emergency medical services—as well as the safe drinking water act. The first step, after a bill has been introduced and referred to committee, is to hold hearings on it. Then it is revised and goes from subcommittee to full committee. If all goes well, the full House votes on it, usually accepting the report of the committee. Then the whole process must start over again in the Senate, before the new bill is sent to the President. Democracy in action can be a long, and tedious, and sometimes frustrating process. But, as Churchill said, it is the worst form of government, except for all the rest.

Well, when hearings were held on several bills that had been introduced to set mandatory Federal safe drinking water standards, it didn't take long to convince committee members of the need for the legislation. A typical example of the testimony we heard last year came from Congressman Howard Robinson from New York. He began his remarks by running through newspaper clippings somewhat after the manner that John Dos Passos used in his trilogy "U.S.A." to set the scene for each chapter. His headlines read like this:

Washington Post, March 21, 1972: "Viruses Peril Water of Two Massachusetts Cities."

Louisville Courier-Journal and Times: December 17, 1972, "State Drinking Water Program Got "F" From EPA Last May."

Atlanta Constitution, January 3, 1973: "After school epidemic water hepatitis test sought."

San Mateo (Calif.) Times, January 3, 1973: "How pure is our water?"

New York Times, March 8, 1973: "Scientists analyzing metal contents of water, soil and food for clues to rise in heart attacks."

These statements of concern cropped up in every corner of the country. The Miami Beach and Gainesville in Florida, to Riverside and Pico Rivera in California, and back fast again to Angola, New York. The story they told was capsulized in a report that was conducted in 1969 and 70 by HEW. Called the community water supply study, it was a field inspection and evaluation of 969 community water supply systems. Its ominous conclusion: About 5.4 per cent of all Americans, or 8 million men, women, and children, were being served impure water from about 5,000 of the Nation's community water systems. Moreover, from 1961 to 1970, an estimated 46,000 Americans became ill, many of them seriously, as a result of drinking water with hepatitis, salmonellosis, and gastorenteritis germs.

So what the newspaper stories, outbreaks, and reports told us conclusively was this: Despite advancing technology in almost every area of the Nation's life, the quality of America's drinking water generally was deteriorating. The testimony we heard before our subcommittee ascribed two reasons. First, we were devising ever more potent ways of polluting ourselves. New families of pollutants had begun to degrade the quality of drinking water. The use of toxic chemical compounds for industrial, institutional, agricultural and domestic purposes has increased tremendously, and, as glamorous as these new chemicals are, they do not vanish like cinderella at the stroke of twelve. Instead, they enter and contaminate both surface and ground waters.

Secondly, existing systems were decrepit and inadequately monitored. Communities had long ago built their systems, and long since turned their efforts and resources to other projects. Nor was age alone the problem. They were designed to remove coliform bacteria from the relatively clean water of early days, when the principal concerns were typhoid, cholera, and dysentery. But these conventional treatment processes were not designed to cope with present day raw water quality. They can't completely handle increasing amounts of chemical contaminants, trace materials, and even radioactive materials. So, besides the testimony we heard about the outbreak of water borne disease, we also learned of the increasing introduction of pollutants into the environment, and the declining effectiveness of municipal water supply systems.

Soon, of course, the public became concerned. The overconfidence and apathy that had long pervaded public attitudes about drinking water began to change. Much of the credit for this heightened interest belongs to groups like the AWWA, the League of Woven Voters, and Ralph Nader's group. Your own organization got behind national mandatory standards. In testimony before our subcommittee last year, George Symons, then President-Elect said, "The application of uniform standards covering all aspects of water quality will certainly assist in the achievement of improved service to the public.

"A Federal drinking water standard, applicable to all water supplies, not just to those for interstate carriers, makes sense in today's world," he added.

To these forces behind the drive for Federal standards applicable to all water suppliers, add a final one, which you may say is philosophical as much as anything else. And that is that the Federal Government has been stepping up its role in setting National health care policy. To be sure there are a whole host of reasons why it is in the National interest to improve drinking water. For instance, the quality for our water impacts economic growth. It affects the economy. It even influences travel. But the chief reason is simply that health is the same everywhere, and the Federal Government is increasingly feeling its responsibility to protect public health when the States fail to do so. As our National Government more and more enters the area of health financing and so has to pay the Piper if health isn't protected initially, it increasingly makes sense to subscribe to the theory that one dollar in prevention is better than a hundred in cures. And that means, for our purposes here today, establishing universal safe drinking water standards.

STUMBLING BLOCKS

But as quickly as our subcommittee accepted the need for National regulations, we began to hit stumbling blocks. Ironically, the first came from passage of other environmental legislation. Since the safe drinking water act was introduced, the Congress has enacted the massive Water Pollution Control Act of 1972. Through a huge infusion of State, Federal, and private funds, the law mandates that wherever possible by July 1, 1923, water will be clean enough for swimming and other recreational use and clean enough for the protection and propagation of fish, shellfish, and wildlife; and that by 1985, there will be no more discharges whatsoever of pollutants into the Nation's waters. Impoundments of funds for the implementation of the Act notwithstanding, its passage took much of the heat away from the drive for safer drinking water. We passed a clean-up-the-water bill, some said, so what more do we have to do? To an extent they were right: An improvement in raw water sources would mean better drinking water, because an estimated 50 percent of the Nation is served by drinking water from surface sources that receive industrial waste, untreated sewage, urban runoff, and effluent from sewage treatment. But surface water will still require treatment before it is introduced to water supply systems. And the fact that we had passed an environmental bill for those who swim and boat on the water slowed our effort to pass a health bill for those who drink it. We had looked after the fish, but, as yet, had neglected human beings.

A second stumbling block came in the form of objections to the agency that was to administer the new standards. Initially, the legislation was introduced with HEW in mind. HEW was well established. It was a "safe" agency. It did its job well, and with little fanfare. But then the Environmental Protection Agency came along. It absorbed what had been the community water supply function of HEW. Unlike HEW, EPA did its job with a lot of fanfare, and, in the eyes of some, not too well. EPA was charged with administering the new clean water and clean air bills. And EPA suddenly came in for criticism, because it mandated expenditure of huge sums of money across the country. Yet it lacked experience. It lacked coordination with the States. And its judgments were open to question. And people said that it would be difficult to pass a motherhood bill with EPA in it. So our drinking water legislation became controversial by this association. Thus we faced a second obstacle preventing swift enactment.

Third, it was difficult to know exactly what to legislate for or against, because scientists know surprisingly little about the harmful constituents of water. We don't always know the effect of contaminants. Suppose a given effect appears. How do we know it is from one contaminant in water and not another? Or, if you become sick is it just from the water? Or some combined effect between what you've drunk and what you've eaten, and what you've smoked? The data problem goes one for example, we see asbestos in the water supply in Deluth. Asbestos, when found in the air, has been known to cause cancer under some circumstances 20 years after the exposure. But in the case of contaminants in drinking water, we haven't even had 20 years of awareness of the problem. We don't know whether a given effect is caused by some long-term, low-level exposures, rather than a short-term peak set of exposures.

There are other areas we should fund and research. We need epidemiological investigations of water borne diseases and toxicities to determine the relationship between water and disease. We need to develop and apply sensitive methods for isolating and identifying disease-producing organisms present in drinking water. We need to direct the results of these studies to the improvement of water supply treatment methods, to the formation of bacterial criteria for drinking water, and to the determination of the quality of water reaching the public. But the point is that the whole area of chemical contamination in environmental health is one that only recently has been recognized as a serious problem. To date, we haven't had the money.

We haven't had the studies. And we haven't had adequate monitoring equipment. These deficiencies give rise to technical uncertainty, which in turn impacts on our concerns about having EPA make judgments which will cause State and local governments to pour our large sums of money to clean up their water supplies.

And lastly, another factor that has slowed passage of the bill is a split in thinking among committee members about just how broad the Federal role should be. We got different answers to questions such as these:

Should enforcement, reporting, and monitoring authorities rest with the States, with no enforcement powers for the Federal Government if the States fail to act?

Is it sufficient to set standards for tap water? Or should the legislation also provide operation and maintenance requirements?

Can the States and municipalities bear the cost of meeting new Federal treatment, testing and monitoring regulations? Or should there be a State program grant provision?

These are the issues that have prompted most of the spirited debate on the question of safe drinking water legislation. One school of thought came down to us from the administration, speaking through the testimony of the Environmental Protection Agency. Though helpful to us because it aided the growing tide in favor of national standards, most of us on the committee thought and still think that Russ Train's bill is too weak.

Basically, it provided that the administrator of EPA—that's Russ—would set national mandatory drinking water standards. He would also issue recommended standards for non-health characteristics. States would be charged with implementing the new regulations. In the event of noncompliance, the suppliers of water would be obliged to notify users, the State, and the EPA. But note carefully, there would be no Federal enforcement of the standards. The thrust of the legislation was to be that public awareness achieved through the notice requirement would be enough to assure safe drinking water. Supposedly, public pressure would force compliance by the suppliers. And, if it didn't, citizens had recourse through the courts.

The thinking behind the bill was summed up in a letter to our committee from William Ruckelshaus, then administrator of EPA. Criticizing our bill, his letter said: "The broad scope of the primary standards under H.R. 1059 (our bill number at that time) coupled with the prospect of comprehensive Federal enforcement under the bill could displace State and local responsibility with a far-flung and intensive Federal involvement. In our view, this is highly undesirable."

The other view has been to give the Federal Government a larger role. This is the dominant position on the committee, though not yet, I think, the dominant one in the House. As an index of this, the subcommittee recently voted eight to one against cutting the Federal enforcement provision of our bill, under it.

The states will have primary enforcement responsibility to monitor and inspect community water systems to assure their compliance with federal standards. This is entirely as it should be, with the states having the power to grant variances to systems because of the characteristics of the raw water source or because a required treatment technique is not necessary. A state also obtains authority to grant exemptions until 1981 (or 1983 in the case of regional water systems) for water systems unable to comply for compelling factors, including economic ones. But if a state fails to assure enforcement, then the Federal Government, acting through the Administrator of EPA, can begin civil action in the courts to require compliance. This is the chief difference between our bill and the administration's which leaves enforcement up to the individuals operating within the states.

Another difference is that the administration's bill had no provision to control underground injection of contaminants. Early in our hearings we became aware of the need to address ourselves squarely to the task of insuring the continued purity of our nation's underground water supplies in the face of expanded ground water pollution hazards and practices. A fault with the water pollution control act of 1972—though it controlled surface contamination—was that it permitted underground injection of contaminants, leaving a loophole, or perhaps we can better say "a leak", in the legislation. Since nearly 50 per cent of our drinking water comes from underground sources, it would be foolish to promote better drinking water at the tap without protecting it at the source. As Doctor Roy of our committee put it in discussion with Mr. Symons: "Don't you think it is sort of penny wise and dollar foolish to permit increasing risks of pollution of ground water and then have to go to the expense of purification?" This thinking has prevailed. So regulations designed to help states implement underground injection control programs to prevent underground injection from endangering drinking water sources will also be published by EPA. The state system would be a permit system, implemented within three years. If the states fail to adopt a program, EPA can prescribe one.

And, finally, the question of cost. The best things in life are not free, at least not in the government. We realized that the cost of meeting new federal standards would be enormous. Early estimates were that it would average $10 million per state. More recent ones say it will be more like $50 million. Recognizing that it's the duty of the Federal Government to share some of this cost burden, we have included funds for research and demonstration projects. An amendment adopted recently increases the authorization from the grant program for state public water system supervision programs from $5 million to $15 million for fiscal year 1975 and from $7.5 million to $25 million for fiscal year 1976.

So that briefly is the history of the Safe Drinking Water Act, its need, some of the obstacles we encountered, and major provisions of the final bill. I might also say that it includes a temporary program to ensure that public water systems can acquire adequate chlorine supplies, and calls for a rural water survey of quantity and quality of rural drinking water supplies. The bill is the product of several markup sessions following detailed hearings in 1971, 72, and 73. The bill was reported by the subcommittee in its present form on February 21, by 10 of the 11 subcommittee members. On June 3 and 4 we met again and adopted seven amendments which we have offered this week to the full committee. It is safe to say that, after much valuable discussion and debate, the bill is nearly ready for full House consideration. Very similar legislation, setting primary Federal standards, has also passed the Senate.

I hope these remarks will give you a better understanding of the committee process in the Congress, and shed some light on this particular bill's development. I want to thank you again for your cooperation, your interest, and your testimony before our committee, and, especially, for this invitation to appear today.

Mr. Chairman, briefly, this bill would do five things: First, it would require the EPA to prescribe national primary drinking water regulations which would apply to public water systems for contaminants which may adversely affect the public health. Such regulations would include maximum contaminant levels, if feasible to monitor the level of the contaminant, or treatment technique requirements, if not feasible to monitor contaminant levels, and criteria and procedures to assure compliance with the regulations.

Second, it would authorize any State which adopts standards at least as stringent as the Federal standards and can demonstrate adequate surveillance and enforcement procedures to have primary enforcement responsibility over compliance by public water systems within the State with those standards. Such States would also have the authority to grant certain variances from the national standards, extend the time for compliance by any public water system and establish compliance schedules for public water systems within the State. Federal grants and loan guarantees would be available to assist State surveillance and enforcement programs.

Third, it would authorize Federal authority to enforce national primary drinking water regulations and grant variances and exemptions in those States which fail to adopt and implement adequate standards and enforcement measures.

Fourth, it would establish Federal-State programs to protect underground sources of drinking water from contamination.

Fifth, it would also provide for emergency allocation of chlorine—or other water treatment substances—to public water systems.

Mr. Chairman, during our consideration of drinking water legislation, it became vividly apparent that present legislative authority and present Federal, State, and local activities are inadequate to assure that the water supplied to the American public is safe to drink. Present Federal authority applies only to contaminants which may cause or carry communicable disease and not to those contaminants which could cause chemical poisoning or noncommunicable diseases. During the 10-year period between 1961–71, there were 130 outbreaks of disease or poisoning attributable to drinking water, resulting in 46,374 illnesses and 20 deaths. These figures do not include those incidents not reported or not proven as ultimately waterborne.

A recent HEW survey of 969 water systems across the country established the urgent need for this legislation. The study found that 36 percent of the 2,600 individual water samples contained contaminants at levels exceeding current Federal levels, 56 percent of the systems evidenced physical deficiencies, 67 percent of the plant operators were inadequately trained, and in 50 percent of the systems surveyed, plant officials did not remember when, if ever, a State or local health department had last inspected the system.

Last year alone there were at least 22 waterborne outbreaks in 12 States and nearly 700 people on a cruise liner were struck by gastric disorders because of drinking water.

Included in these outbreaks were over 250 cases of infectious hepatitis in Alabama and Florida. Typhoid also struck through drinking water and sent nearly 250 people to the hospital.

And, of course, all of us are all too familiar with the recently released report on New Orleans situation, which, of course, may end up being the most serious on record.

As you know, 66 organic chemicals have been found in that city's drinking water. Four of these elements are carcinogens. Many of the rest are suspect.

While this survey does not prove that ingestion of New Orleans' drinking water leads to cancer, the author of this report indicates that the chances of cancer mortality are much higher for those white males who reside in Louisiana parishes that draw their water from the Mississippi River than for those white males residing in over 50 adjoining parishes which draw their drinking water from other surface or ground sources.

EPA is now embarking on a nationwide survey. I have asked that they immediately survey discharges upstream from New Orleans to determine how these discharges can be halted.

But I fear that New Orleans is not an isolated incident. I fear we will find similar evidence in most areas surveyed by EPA. And I think that this will represent the evidence needed to move Federal and State and local governments into acting to better protect our drinking water.

Mr. Chairman, this measure would not establish a vast new Federal bureaucracy nor would it necessarily usurp the rightful role of the States to assure its citizens an adequate supply of safe drinking water. The Federal Government after consultation with the National Academy of Sciences shall establish minimum national primary drinking water standards which, if adopted by a State, shall be enforced by that State with leeway for variances and exemptions, and grants to assist the States in enforcing the standards.

I would also like to discuss the significant standard setting and enforcement provisions in the bill.

A question has been raised whether under this bill the Administrator of EPA may set standards limiting asbestos and asbestos-like particles in drinking water. This question is particularly critical in light of the recent decision of the U.S. Court of Appeals for the Eighth Circuit in the case of United States against Reserve Mining Co. In my judgment, the subcommittee intended to permit the Administrator to regulate asbestos and particles with similar chemical, physical, or morphological properties. While the court's opinion indicated that the extent of the health hazard had not been proven for asbestos in drinking water, it did recognize that asbestos in drinking water does pose some unquantifiable risk to the public health. Section 1412 of the Safe Drinking Water Act does not require preponderant proof of a demonstrable health hazard as a precondition for standard setting; all it requires is a reasoned judgment by the Administrator that a contaminant may pose a threat to the public health.

A second question which has been raised is how it is possible to set maximum contaminant level regulations for contaminants, such as asbestos, when it is not possible to assess the significance of the health risk nor to determine what level or exposure is safe or unsafe. The task will be difficult, of course. But it is manageable. The Administrator will have to make two judgments. He will have to determine what the health goal—recommended maximum contaminant level—should be. If there is no known safe threshold, the recommended level should be set at zero. But this is not a requirement which is enforceable against public water systems. The binding requirement is the maximum contaminant level requirement. The maximum contaminant level is required to be set as close to the health goal as is feasible. Thus, the Administrator is directed to require the use of the best treatment technology or techniques which are generally available taking cost into account. Finally, it should be noted that if it is not technologically or economically feasible to monitor a contaminant—such as asbestos—the regulation under section 1412 is to specify required treatment techniques, instead of maximum contaminant levels.

The court's decision in Reserve Mining has prompted a third question, whether it is proper to resolve all uncertainties in favor of public health where substantial economic costs would be imposed to meet standards of questionable necessity. I think this question must be answered after a careful reading of the court's opinion. The court did not say that resolving uncertainties in favor of health protection is impermissible. Rather it said:

> . . . the district court's determination to resolve all doubts in favor of health safety represents a legislative policy judgment, not a judicial one.

Whatever Congress intent was in passing the Refuse Act, I have no doubt that the subcommittee and the committee have made just such a legislative policy judgment in the Safe Drinking Water Act. Under this act, cost is to be taken into account only in determining how close to the recommended maximum contaminant level is feasible and in granting exemptions. Cost is not to be considered in determining whether to regulate any contaminant under section 1412, in setting recommended maximum contaminant levels, or in enforcing requirements under section 1412.

This construction of H.R. 13002 would apply to any of the contaminants which are being considered for regulation under this bill. We must recognize that there now exists very little evidence on the health effects of contaminants in drinking water. What there is is often inconclusive and inconsistent. But in my view, we cannot afford to wait 20 years for health effects research to be completed to begin controlling contaminants which there is some basis to believe endanger public health. If there are uncertainties, they must be resolved on the side of protection of health.

A fourth question which has been raised concerning H.R. 13002 and the Reserve Mining case is whether this bill differs substantially from the Federal Water Pollution Control Act insofar as the directions it gives to the courts in enforcement proceedings. It is important to note that the Federal Water Pollution Control Act specifically directs the courts, in framing appropriate relief in case of a discharge under that act, to consider the practicability, physical, and economic feasibility of securing abatement of the pollution, the public interest, and the equities involved in the case. In the Safe Drinking Water Act, however, the courts are directed to "enter such judgment as protection of the public health may require". The courts may consider the time it will take for any system—making all good faith efforts—to comply and the availability of alternative sources of drinking water. But the purpose of permitting consideration of these factors is to assure that the public health will be protected to the maximum extent feasible as soon as possible, without cutting any community off from all sources of drinking water. Traditional balancing of the equities is not intended, as evidenced by the change in the language of section 1414(b) from that which was contained in the enforcement section of H.R. 1059. Nor is it necessary for the Administrator to prove that any violation of the regulations has caused or is likely to cause specific adverse health effects. This is to be presumed by the court, unless the regulation is arbitrary and capricious or otherwise not in accordance with law.

I would like to point out to my colleagues in the House that this is a bill that has been considered for 4 years—4 years. It has not been lightly considered. As the distinguished ranking member of the subcommittee, the gentleman from Minnesota (Mr. Nelsen) has pointed out, we have taken particular care in designing this bill to make sure that EPA is not given unlimited authority.

We have taken the necessary steps to place enforcement responsibility on the States. We have taken the additional safeguards of not allowing EPA the authority to issue orders or fines. They must, before commencing a civil action, give notice to the States, and provide sufficient opportunity for the States to act.

Furthermore, to prevent administrative autocracy by EPA, the bill requires the EPA to go to the courts and justify the actions taken for the public welfare. So, I think we have carefully crafted a bill that meets the objections of what Members are concerned with here—local control and local responsibility. Members on both sides of the aisle that worked on the bill in subcommittee have been concerned with this.

I think the matter perhaps is best summed up, if Members would permit me, by a paragraph from a letter by a Member who is not on our subcommittee, but who has studied the matter very carefully from the Public Works Committee; a very distinguished Member, our distinguished colleague from Ohio (Mr. Harsha). He stated in his letter in support of this legislation which went to the Members today:

> A good feature of H.R. 13002 is that it assigns the primary enforcement role to the States, carefully restricting Federal authority. Unlike other recent environmental legislation, for example, H.R. 13002 denies EPA the authority to issue administrative enforcement orders. EPA is also denied the authority to review State-granted variances and exemptions to the standards on a case-by-case basis.

Incidentally, may I inject that the State may give these variances and exemptions for periods up to from 7 to 9 years. Think of that—9 years to get clean water. I do not know how much time one could expect.

The letter further states:

> And whereas the 1972 water pollution amendments made EPA's enforcement mandatory and gave EPA the right to intervene whenever a violation was detected, the drinking water bill does not make enforcement mandatory and permits enforcement only after notice to the state, waiting sixty days, and then finding that a state has abused its discretion by failing to take action to bring about timely compliance.
>
> These restrictions will help insure that flexibility to meet local conditions, and the talent and expertise that have been built up over the years in the State and local level, will be preserved.

I do want to say this. We had better look around. The Members would be amazed at what surveys I mentioned earlier are beginning to show about drinking water in this Nation. Many of us have just simply taken for granted that, because water is coming out of the faucet, everything is fine.

But the studies show everything is not fine. We must do research on health effects. We must insure that the technology is developed. To take a position, that we want to do nothing about the health of the people because maybe the EPA will do something repugnant to somebody is indefensible. The American people expect the Congress to do something about it, and the committee has responded.

All over this country the people are speaking through the columns in the papers—and you ought to read the letters in the papers—and the papers are editorializing. They say it is time to act, to take the necessary precautions.

We are simply laying the foundation for the health of the American people, and I predict if the Members study this bill, as I am sure they will, and as this bill progresses, this bill will be overwhelmingly passed, and the drinking water of the people of this Nation will be protected.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Ohio.

Mr. LATTA. As I stated earlier, no one can quarrel with the objectives of this legislation. Everyone is for safe drinking water, or whatever you want to call it. The question is, how are we going to help these small communities, and, as I mentioned, we have a lot of them in our district. We cannot get help from the State, we cannot get help from the Federal Government, and if this legislation goes on the books as it is presently written, they have this long period that the gentleman has indicated that is provided for in the legislation, and the court finally comes through with a judgment and they close them down, where are they going to turn?

Mr. ROGERS. Let me say it is not a question of closing down. They are going to give technical advice and the State itself is going to get into the picture.

Mr. Chairman, this is the whole thrust of the legislation, to get the States and the local areas into the picture and to get the States to do proper planning and take action. For instance, when the State or the water authority is putting out water with far beyond the normal bacteriological content, the bill requires them also to put out a notice to all their users.

What do we think the people of that community are going to say? They are going to say, "I do not want my children drinking water that may have carcinogenic contaminants in it." People in the community will get together in order to do something about it.

Moreover, there are many things which can be done that do not cost anything: For instance, simply doing adequate testing and simply giving or receiving a little professional advice here and there. These actions could clear up many problems.

There will be some serious problems with implementation in some areas, and that is why we give the States some flexibility. As the gentleman knows, they can wait as long as 7 years as long as they demonstrate progress.

Mr. Chairman, I believe the gentleman will support this legislation if he looks at it carefully.

Mr. LATTA. Mr. Chairman, will the gentleman yield further?

Mr. ROGERS. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, I would be happy to support the legislation if only we had the wherewithal. All we need is the funds.

Mr. ROGERS. We must do something to clear up the situation, and as I said, there are many things that can be done which do not cost very much money.

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support H.R. 13002, the Safe Drinking Water Act, for the following reasons: First, from 1961 to 1970, 46,374 cases of illnesses were attributed to impure drinking water; 20 cases of death were reported. Second, 2,600 individual tap water samples were checked out and of these, 36 percent showed contamination bacteriologically or chemically; 9 percent of these samples were so bacterically contaminated as to present serious health hazards; 30 percent of these samples had at least one chemical at above-normal levels indicating the water was of inferior quality.

Third, 11 percent of samples drawn from 94 systems using surface water exceeded the organic chemical limit of 200 parts per billion. Therefore, we see the necessity of purification and removal of dangerous chemicals.

It is necessary that bacterial and chemical contamination be eliminated or diminished to such an extent that health will not be endangered. In checks throughout the country on individuals who superintend purification of water, it was found that many lacked sufficient training and educational background.

It has also been found that in many cases sewage is injected directly into wells, contaminating the aquifers throughout large areas.

Since water used in interstate carriers has been regulated for many years by section 361 of the Public Health Service Act, it is also vital that encouragement, assistance, and direction be given to the States in securing water supplies free of dangerous bacterial and chemical contamination.

Of great importance is the elimination of viruses, particularly those causing hepatitis. Chemical contamination has increased over the past several years because of the increased use of herbicides, pesticides, and excessive amounts of fertilizers. In many rivers throughout the country, dangerous chemicals have been found going into the water supplies of some of our larger cities. In fact, the water has been found to contain nitrosamines, polycyclic aromatic hydrocarbons, and haloethers.

Methods of eliminating such carcinogens must be formed and instituted.

Assistance must be given to the States in training and education of those who purify water and who eliminate the dangerous chemicals from the water. While enforcement primarily is left in the hands of the State, in case of a dangerous outbreak, or in case the State fails to submit an adequate plan, this act permits the Environmental Protection Agency to step in, but only after the State has been given adequate opportunity to attain the required standards.

I strongly support this legislation.

Mr. CARTER. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. HUDNUT).

Mr. HUDNUT. I thank the gentleman for yielding, Mr. Chairman.

I rise in support of this legislation and would like to make a general comment about it and then ask a question or two.

I think this amendment to the Public Health Service Act is properly called the Safe Drinking Water Act. EPA is provided with the resources to aid the States which have primary responsibility for insuring the quality of drinking water. I think the ecology thus far has made it clear that that primary responsibility is still vested in the States where I think it should be.

Presently, Federal authority to regulate water supplies is limited to the drinking water used by common carriers and pertains only to contaminant-causing communicable disease, but the subcommittee and the general committee has concluded that the present law is inadequate to give full assurance that the water supplies to the public are safe to drink.

By making the law comprehensive enough to insure the safety of all drinking water, by financial, technical and other assistance, and by aiding in the surveillance, monitoring, evaluation, and enforcement of high quality water standards, the amendment goes a long way toward the goal of safe drinking water for all Americans. In addition, there is provision for the uniform regulation of underground sources of drinking water that circulates across State borders, without regard to a particular State's regulation.

Shortly after I came to the Congress, I was privileged to attend a hearing conducted in Dade County, Fla., with Congressman ROGERS and two other Congressmen from that locale, at which time we witnessed the devastating effects of a typhoid fever outbreak in the Dade County migrant labor camp upon the inhabitants of that camp. It was the worst typhoid outbreak in the United States in some 20 years.

It seems to me that this one illustration is sufficient to warrant that we pass this legislation. We must do everything possible to avoid similar occurrences in the future.

A great deal of concern has been expressed in general about this legislation insofar as it might give too much power to the EPA, but I think that these concerns have been allayed by the colloquy thus far, and I do not feel that it is a legitimate reason to vote down the bill to say that it centralizes too much power in the EPA and gives too much power to autocratic bureaucrats.

However, I would like to ask the chairman, if I may, a couple of other questions.

Some concern has been expressed to the effect that the cost that would have to be borne by local governmental agencies, to bring their standards up to the minimum Federal requirements, would be great and burdensome. Will it be possible for municipalities and local levels of government, particularly in poorer sections of the country, to comply with the standards as they will be set forth by this legislation and as they will be enforced by the EPA? What about the cost of this bill to the local community?

Mr. STAGGERS. I am sorry, but I did not quite get all of the questions of my friend, the gentleman from Indiana. However, I would like to answer the question as I understand it. We want to try to protect all of the small communities of the land since they are having many difficulties. We have tried to do that in the bill. In fact, we supply, over a period of 3 years, $163 million. About half of this will go into research for the whole United States. The other goes to the States to enable them to assist local communities to provide safe water supplies. Also, we have guaranteed loans in the bill for assisting needy small water systems to supply safe water. Therefore, this is an effort to try to help these communities which do not have the resources to help themselves right now.

Mr. HUDNUT. Therefore, in the opinion of the distinguished chairman of the committee, the economic impact upon poor communities will not be so emormous that we would be unwise to pass this bill?

Mr. STAGGERS. No.

If the gentleman will yield still further, let me say that we give each State up to 9 years in which to bring the systems into compliance.

Mr. HUDNUT. I thank the gentleman for his answer.

Might I ask the gentleman one more question: There has been a great deal of discussion recently about the effect of water treatment processes, specifically chlorination, on safe drinking water. There are a lot of people in the general public who are greatly concerned about recent reports that indicate that some of these treatment processes, like chlorination, might have the specific effect of carcinogenisity. They may produce cancer.

May I ask the gentleman from West Virginia whether the passage of this bill will be of help to us in finding out the correct answers to this question the public has?

The CHAIRMAN. The time of the gentleman has expired.

Mr. CARTER. Mr. Chairman, I yield 2 additional minutes to the gentleman from Indiana.

Mr. STAGGERS. Mr. Chairman, that is also a good question that is presented by the gentleman from Indiana. Let me reply in answer to the question, I believe that the passage of this legislation would hurry the process under a national program to see that adequate research is undertaken.

May I also say that EPA is making a very intensified study of this subject so that the American people will know what can be done, and if emergency measures must be taken then they can be taken.

Mr. STEELMAN. Mr. Chairman, will the gentleman yield?

Mr. HUDNUT. I yield to the gentleman from Texas.

Mr. STEELMAN. Mr. Chairman, I thank the gentleman for yielding.

If I may have the attention of the subcommittee chairman, the gentleman from Florida (Mr. ROGERS).

Earlier the gentleman said something about the research provisions in this bill, and I am interested in the section calling for the Administrator of the Environmental Protection Agency to conduct intensive research into the causes and effects of contaminants in drinking water, section 1442.

Recently a Federal appeals court in St. Louis, Mo., overturned a lower court's ruling to halt the dumping of 67,000 tons of taconite tailings per day into Lake Superior, Duluth, Minn.'s, source of drinking water. The tailings contain asbestos, which is linked with the high incidence of cancer suffered by miners who work with the substance, and inhale it. Scientists find it reasonable to believe that drinking water containing asbestos could cause cancer, too. Fibers found in Duluth's water were diagnosed to be asbestos by several researchers.

The court's decision was based on the fact that the significant link between the waster and its toxic effects were not a proven hazard. The Supreme Court upheld the higher court's ruling, so the dumping continues.

Recently surveys showed that asbestos-like fibers were discovered in the drinking water systems of cities such as Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, and Seattle. If the fibers in these cities' drinking water prove to be asbestos, as in Duluth, then the danger of cancer exists there too, and the possibility of this is great, as asbestos fibers are found even in cement pipes that carry the processed water to consumers.

The necessity for deeper research into this area is obvious, as this ruling proves.

Could the gentleman explain what the Administrator will be requested to do concerning research under this bill into carcinogenic or cancer-causing contaminants in drinking water

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, first let me commend the gentleman from Texas about his concern, and I want to assure the gentleman that carcinogens are one of the type of contaminants that will be examined in this study.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. CARTER. Mr. Chairman, I yield 1 additional minute to the gentleman from Indiana.

Mr. ROGERS. If the gentleman will yield further, the general study described in section 1442 of this bill covers the examination of both known and potential contaminants and certainly would include the specific case the gentleman has mentioned.

The Administrator, on the basis of the study that he will arrange with the National Academy of Sciences and through his own efforts, would attempt to find technologically and economically feasible methods of identifying carcinogens in water, to determine the seriousness of the threat carcinogens pose, and simultaneously determine methods of abatement.

So I think the concern of the gentleman from Texas is covered in the bill.

Mr. STEELMAN. I thank the gentleman for his clarification, and again I thank the gentleman for yielding me the time.

Mr. CARTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. HASTINGS).

Mr. HASTINGS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am not going to belabor the details of this measure. The Members have all been made pretty well aware of them.

There has been concern during the past year, as the gentleman from Indiana has just stated, about the question of the cost of this measure. I must say to the Members that, as a member of the subcommittee, during the many months that we developed this legislation, the cost to the communities of the United States of America was paramount in my mind. I might say that through the cooperation of the chairman of the subcommittee, this bill was changed immeasurably so as to stretch out the time period in which a community would be required to meet the standards. But there is nobody in this Chamber who should not understand ultimately what we are going to be required to do.

Let me give the Members an example. My State of New York is the only State in the Union which has spent $5 million to do a study of drinking water problems in the State. They find, for example, in the city of New York, in order to meet one of the standards that will probably be imposed, the turbidity standard, it will cost $2 billion for just the metropolitan city of New York.

I have a community not 10 miles away from my home, a small rural community of 950 people, where if those standards are actually promulgated that are now advised, the cost to that community of less than 1,000 people will be $675,000—that is for less than 300 families—will be better than $20,000 a family to meet these standards.

We are not going to be required in the 3-year life of this bill to do that. But make no mistake about it—when this bill is up for renewal 3 years hence—once those standards are in place, every community that the Members represent is going to be required to meet those standards, and if they do not, EPA will be given the authority to guarantee that those standards are met.

I can say that what we probably will find is that after the renewal of this legislation 3 years down the road, every time we open up a water tap in every house in the United States of America, we will find an EPA inspector coming out of that water tap.

I thank the gentleman for yielding.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. GUNTER).

Mr. GUNTER. I thank the Chairman for yielding.

Mr. Chairman, I have a special concern with respect to the legislation before the House because of Florida's unique dependence on one particular underground aquifer, the Floridan Aquifer, as the prime, remaining source of fresh water supply for the citizens of my State for the future, and at a time when alarming examples of a deficiency in fresh water resources are already becoming evident in many parts of Florida.

I not only want to commend Chairman Paul Rogers for his long, persistent concern with the threat that exists all over the country to our fresh water resources, and his tireless and unceasing labors to protect this vital resource for our people and all future generations, but I would particlularly like to express my personal gratitude for his own cooperation and receptiveness to suggestions I made at the stage of committee consideration of the legislation in an effort to make a positive contribution toward strengthening the bill.

With the full cooperation of Chairman Rogers, I offered an amendment which was accepted by the full committee to provide for interim application of the provisions of the legislation pending such time following enactment when the permanent provisions of the program governing State regulation of underground injections can take effect.

Specifically, the provision of the legislation dealing with interim regulation of underground injections which I offered would serve to protect the Floridan Aquifer between the effective date of enactment of this legislation and the time several years hence when effective underground injection control programs by the States could be fully implemented.

In the absence of such a provision, an unknown amount of damage could be inflicted with incalculable results on such precious resources as the Floridan Aquifer before an effective program of State regulation could be devised and approved and implemented.

What is at stake here is the proper balance between our energy needs and a proper concern for protection of our vital and most basic natural resources on which we are no less dependent and which are no less important to the well-being of our citizens. Florida faces the same problem as the rest of the country in terms of assuring an adequate future energy supply. But it also faces an equal and special problem, Mr. Chairman, with respect to the prospect of increasingly severe shortages of fresh water supply and the imperative need to conserve and protect those fresh water supplies that remain. The Floridan Aquifer represents the single most important remaining sources of fresh water supply in the State. Any national program such as that envisioned in the pending legislation to conserve and protect such resources for the future represents a critically important step in the right direction. But it is equally important that threatened sources of fresh water supply be protected for the immediate future as well as at a future date. For that reason, I offered an amendment at the time of the committee's consideration providing for a program of interim control of underground injections effective shortly after the date of enactment in cases where a real threat already exists to fresh water supplies and particularly, in the case of Florida, to provide immediate protection for the vital Floridan Aquifer, which would allow under proper procedures the Administrator to regulate dangerous and threatening underground injections between now and the time State programs can be effectively implemented some years hence. With the encouragement and equal concern with this problem exhibited by Chairman Rogers, the section of the pending bill dealing with "Interim Regulation of Underground Injections" was adopted by the full committee.

The provision specifically applies to those areas like the Floridan Aquifer which the Administrator finds constitutes an area that "has one acquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health."

It would allow any person to petition the Administrator to make a finding so designating an area such as the Floridan Aquifer following proper public hearings and, in case of such a finding, to refuse to issue a permit for an underground injection unless he finds "that the operation of such well will not cause contamination of the aquifer of such areas so as to create a significant hazard to public health."

The provision also permits the Administrator to permit such underground injection wells but to require environmental safeguards sufficient to assure that the operation of a well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

I am understandably pleased, Mr. Chairman, to have been able to make a personal contribution to this legislation in a way I believe will effectively strengthen existing and projected safeguards for the Floridian Aquifer.

However, the real credit for this vital and important legislation, as we know, belongs to Chairman Rogers for his diligence and vision over the past several years in recognizing the critical nature of the problem and in moving persistently for means to deal effectively with the threat.

I want to commend Chairman Rogers for his major role in bringing this legislation to fruition, and to express my wholehearted support for the legislation in its entirety. I urge all members of the House to give this legislation their full and earnest support.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. White).

Mr. WHITE. I thank the gentleman for yielding.

Mr. Chairman, I should like to address these questions to the gentleman from Florida (Mr. Rogers), the chairman of the subcommittee, if I may, to be sure that I have understanding of the bill itself.

Suppose a community is not in compliance. Perhaps this question has already been asked, but I want to be sure I understand. If a community is not in compliance, then under the authority of the bill, I presume that the water project can be shut down and fines imposed. Am I correct in this?

Mr. ROGERS. If the gentleman will yield, no, that would not be the proper approach. Under our bill, what happens is we give responsibility to the State to try to bring all of its water systems into proper standards.

Mr. WHITE. But assume that a State does not pass them——

Mr. ROGERS. They do not have to pass them. What they would do is they would look at the problem and discuss it in that community, and if the community cannot do anything, the State can give a waiver or an exemption up to 7 years for an individual community, or if it is working with one, up to 9 years; but they would try to help them take those steps that are possible to bring it up. In the same time that water company in that community must advise all of its users that their water is contaminated, is not meeting health standards, and I think we are going to find that that is going to be a great corrective force, not from the Federal Government, but locally, which is what I think the gentleman would want.

Mr. WHITE. Suppose a community demonstrates that it does not have the financial ability to make the correction and improvements necessary to bring its water system up to the standards promulgated by this bill and by regulations subsequent to this, what would happen?

Mr. ROGERS. This is what we have said, that one of the grounds for a waiver is economic ability, so that is covered as one of the grounds of a waiver or exemption.

Mr. WHITE. I did not see that in the bill. Where is it?

Mr. ROGERS. It is there. I will have to show it to the gentleman. I do not know offhand where it is, but it is covered.

Mr. WHITE. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WHITE. Is there any provision for consultation before the imposition of fines?

Mr. STAGGERS. There are no fines.

Mr. ROGERS. The EPA cannot come down and fine people. We do not let them do that. That has been one of the objections. We say they cannot come in.

If the law has not been obeyed and they have given notice to the State and the State has tried to do what they can and everything has run out, and so on, the only way to proceed would be to go to court, and one of the factors to be considered there would be the economics of the situation. I think we have protected this as well as we can.

Mr. WHITE. I thank the gentleman.

Mr. CARTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York (Mr. Robinson), one of the sponsors of this legislation, who has been interested in this matter for several years.

Mr. ROBISON of New York. Mr. Chairman, my extended remarks will reflect many of the reasons for my long advocacy of the Safe Drinking Water Act. However, I first want to explain why I have not chosen to offer H.R. 16760, the substitute bill I introduced several weeks ago and which is in order under the rule.

A little more than 4 years ago, I introduced the Pure Drinking Water Act—the first version of the bill now finally before us—after reviewing with members of the Cornell University faculty an extensive U.S. Public Health Service survey of the Nation's drinking water systems as recently released. That study, titled the Community Water Supply Study, found that 41 percent of the 969 public water systems surveyed failed to meet one or more of the rudimentary Federal drinking water standards then in effect. In addition, survey data revealed that 2 percent of the study population was drinking water of potentially hazardous quality.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. ROBISON of New York. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I commend the gentleman from New York for his intense interest in this subject and his leadership in this matter. He has done an excellent job, as has also the gentleman from Maryland (Mr. GUDE). Both of these gentlemen have spearheaded the efforts and the work in this matter. The committee is most appreciative of their leadership.

Mr. ROBISON of New York. Mr. Chairman, I thank my friend, the gentleman from Florida.

If anything, the bill I drafted in response to those findings was more stringent than the proposal we now consider. Like so many other observers, I was surprised that such widespread and serious difficulties existed, and I was concerned that the community water supply study might have uncovered only the tip of the iceberg. As a result, my bill had active and direct Federal enforcement of national drinking water standards, and that enforcement effort became effective very shortly after enactment.

During the years since then, there have been several versions of the Safe Drinking Water Act, and I have possibly devoted more time to this legislation than any other single issue I have been involved with. Much of that time—it ought to be noted—has been spent seeking the cooperation of both the old and new administrations in drawing up a bill acceptable to the President.

I mean to stress that fact, because my office has undertaken several direct initiatives during the past 2 years to encourage administration participation in the drafting of a compromise bill. Those efforts continued right up to the present, as I sought the cooperation of OMB and the White House Office of Congressional Liason in drawing up amendatory language to H.R. 13002, which might ease the threat of veto often emanating from those offices.

As a result of one such request, I received a package of amendments from the Office of Management and Budget, which were initially described as "administration amendments." Several of these were cut and pasted directly into my substitute bill, H.R. 16760, which I hoped might serve as a focus for further detailed discussion on administration attitudes toward specific provisions of the committee version of the Safe Drinking Water Act. That intended dialog never materialized, and I was later to find that at the time I was seeking some cooperative effort in reforming the Safe Drinking Water Act into legislation satisfactory to the President, the same individuals at the White House Liaison Office and OMB to whom I spoke were actively lobbying against the bill here in Washington and in various State capitals. And, I regret to say that even as of today, I have not been able to find a more responsive posture in the policy centers of the administration.

Why there has been such uncompromising resistance to any safe drinking water legislation, I am not sure, and this is particularly puzzling since that resistance comes from the same individuals who were responsible for the administration position on this legislation at the time former President Nixon made safe drinking water legislation a national environmental priority. In fact, some of my colleagues may remember that Mr. Nixon earmarked safe drinking water legislation as a priority in his last two environmental messages to Congress.

Whatever the explanation, my substitute bill failed to receive any administration support whatsoever, and there has, likewise, been no indication that my substitute makes the threat of a veto less likely. The committee members responsible for this proposal—particularly the gentleman from Florida (Mr. ROGERS)—who have been so cooperative with me, have understood, I am sure, that the work I undertook to put together my substitute was chiefly an effort on my part to meet the threat of a Presidential veto raised by White House liaison personnel. In that regard, I want it understood that I have never been convinced that changes in the committee bill's provisions were all that necessary or desirable, since those provisions have moved a substantial distance from the enforcement concept of the original committee bill—and, in fact, from my own early version of the bill.

Further, my colleagues may note that—perhaps out of deference to my own early work on this problem area—the committee has kindly allowed my name to appear as one of the cosponsors of its final product. I can assure my colleagues that my attitude toward this bill is what might be expected of a cosponsor. The measure defines a serious national problem and proposes a realistic and reasonable method for arriving at its resolution. It is a solution which can be acceptable to all of us, and I trust that, when President Ford, himself, understands the situation—as, given his other burdens, I doubt he now does—this bill will receive his approval.

Mr. Chairman, to continue with a general discussion of the problem, the first known regulations for the treatment of drinking water appeared some 4,000 years ago, when—according to an ancient Sanskrit source—the prudent man was "directed to heat foul water by boiling and exposing to sunlight and by dipping seven times into it a piece of hot copper, then filter and cool in an earthen vessel." Taken in historical prespective, those were enlightened directions, in an age when bacteria and viruses were completely unknown agents of disease.

In fact, for almost 40 centuries there was little improvement on the Sanskrit formula. It was only during the early years of our own century that scientists found cholera and typhoid epidemics could be traced to drinking water, and there followed large-scale rebuilding of drinking water systems in all parts of the country. We have grown complacent about drinking water since then, and with good reason. Cholera and typhoid are almost unknown in this country, and none of us can remember the kind of epidemic—still common in some parts of the world—where hundreds die from water-borne disease.

It became apparent in the 1960's, however, that our drinking water was not quite at the state of perfection most of us presumed. A succession of investigations revealed that in the decade from 1961 to 1973, there were 128 known outbreaks of disease or poisoning attributable to drinking water; 20 people died in those outbreaks and an estimated 46,000 became ill. And, I should emphasize that these statistics come from known or reported outbreaks of this sort. Most experts agree that other such outbreaks have not been reported because of fear of political or legal liability, or simply because of local pride.

Further doubt in the adequacy of drinking water on a nationwide scale was added by the 1969 community water supply survey, conducted as I have noted by the U.S. Public Health Service, which found a distressing lack of attentiveness to local drinking water supplies. After observing 969 water systems of every shape and size, the study found that 41 percent of the water samples from those systems did not meet the 1962 recommended Federal drinking water standards—and those recommended standards have since been revised in several instances because of more refined knowledge of the health effects of certain water contaminants.

Further, the community water survey documented the existence of a large-scale failure to assure that water system operators and technicians have a sufficient level of training. In addition, the study found more than half of the survey systems had not been visited by State inspectors within the memory of local attendants and technicians.

The message was clear to most of those who considered the survey results; and since those days, local drinking water systems and State officials, in many parts of the country, have responded in a highly responsible manner. It is clear, however, on the basis of several years of congressional hearings, that the Federal Government can play a more active and constructive role in contributing to the improvement of drinking water supplies and to the refinement of technology which can accomplish that improvement.

You may have already heard in this debate that about 12,000 different toxic chemical compounds can be found in industrial use today. More potential pollutants are added each year from among the 500 new chemical compounds developed annually. The breakneck pace of this technology places impossible burdens on individual water systems seeking to provide the safest possible water to their customers. In the first place, over 80 percent of the public water systems in the country are small systems, serving less than 5,000 people. These small systems are directly dependent on the research work of universities and State-sponsored organizations, plus the low-level program which has been operating in the Federal Government for the past few years.

The collection of these facts points to the advisability of a new partnership agreement with the small drinking water utility, in which Federal, State, and local governments join to develop new water purification technology, as well as new engineering techniques which can reduce consumer costs. I believe I can accurately characterize the intent of the bill before us as the attempt of this body and this Congress to help establish such a partnership—not to create a new and onerous enforcement program which seeks impractical and expensive goals.

When talking about drinking water quality, we are talking about people's health and well-being. Every person who puts a glass under a water tap can appreciate efforts which further protect the water he is about to drink, and every customer in a drinking water system can be expected to demand immediate correction of any defect in that system which might place the quality of the water in doubt.

The Safe Drinking Water Act rests on this presumption that the best regulator of drinking water quality is the consumer, and thereby requires that whenever a drinking water utility finds it does not meet a national health standard, all consumers in that system are to be notified of that fact. There are enforceable Federal health standards in this bill—no question about that—but they are enforced by the States, and it is up to the responsible State agency to decide how long, and in what manner a particular community moves to come into compliance with these health standards.

H.R. 13002 is particularly lenient in this regard, since it allows State agencies to provide variances from Federal standards for up to 7 years after enactment. Taken in this perspective, I believe it is fair to say that the Federal health standards required in this bill will have the primary effect of setting national guidelines for good quality drinking water. It wll be up to the States and drinking water consumers, then, to determine whether in every instance they wish to meet these guidelines, and how they wish to go about doing so. For instance, it is conceivable that a particular community might find it cheaper and more convenient to join a regional water supply system than to upgrade undependable local supplies.

As I stated at the outset of my remarks, Mr. Chairman, we have a bill before us which makes a realistic and reasonable attempt for arriving at a solution to drinking water problem we know to exist. I urge my colleagues to give H.R. 13002 their favorable consideration—as I will urge President Ford also to do once we have enacted this measure.

Mr. Chairman, once again I wish to express my appreciation to the members of the committee, and particularly to my friend, the gentleman from Florida (Mr. ROGERS), both for their interest in this problem and in its solution, and for their long and careful inquiry into the pros and cons of the several alternative approaches available in the search for a proper solution, and, more especially, for their willingness to allow me to work along with them, as I have, to that end. It is an experience I shall remember, and for which I shall remain grateful.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from New York (Mr. BIAGGI) such time as he may consume.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman from West Virginia for yielding.

I rise in support of this measure. I consider its passage to be vital if the Federal Government is to make its long overdue commitment to insuring that the drinking water from the tap will continue to be safe for our consumption.

In recent months, we have read a number of disturbing reports from various municipalities across the Nation, which indicate the possibility that their drinking water might be contaminated with potentially dangerous cancerous producing chemicals. One of these cases was reported right here in Washington. While the EPA has authorized an intensive investigation into our and other drinking water systems, a more nationwide commitment is needed and that is what is contained in the bill.

Specifically the bill provides EPA with the authority to establish nationwide standards for drinking water to be imposed on localities who fail to have their systems meet minimum standards of health and safety. These regulations would take into account the potential hazards inherent in many water systems and would seek to eliminate them. The States and localities would be given an opportunity to develop their own standards and only if they fail to do so would the Federal Government have the authority to impose their standards.

Further the EPA would undertake an immediate and comprehensive program to insure that all underground sources of drinking water are free of real or potentially hazardous materials.

In the past the Federal Government's authority to regulate the quality of drinking water has been limited and largely ineffective. It has failed to deal with recent disclosures contained in reports of the GAO and EPA which have pointed out the presence of dangerous chemicals in many drinking water systems across the United States.

In major cities such as New York, this legislation will have an added benefit of giving the EPA the power to allocate chlorine and other chemicals needed for water treatment if such chemicals are not readily available. New York City faces such a shortage of chlorine which is needed not only for its drinking water but also for treatment of water in recreational facilities such as pools.

I am pleased to see this legislation finally reach the floor of the House. It is the culmination of many months of effort by the committee and its distinguished chairman Mr. STAGGERS as well as certain Government agencies. A commodity such as drinking water which every American must come in contact with on a daily basis must be made safe from possible contaminants. We can correct the problems in our drinking water supplies now before undue panic sets in among the American people. I urge the immediate passage of this bill today and its prompt signature by the President so that all available resources of the Federal Government can be directed at insuring the safety and quality of our drinking water.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. Mr. Chairman, I am pleased to voice my support for the passage of H.R. 13002, the proposed Safe Drinking Water Act. There are many things which we as a nation have learned to take for granted, only to find to our very great surprise that our expectations are no longer valid. Perhaps in no area is this disillusionment so prevalent as in our expectations concerning environmental factors.

As a people, Americans have been proud of our wide open spaces, our amber waves of grain, our blue skies, and our clean and pure water. There is no need for me to elaborate on what has happened to these priceless treasures—treasures which probably because of their pricelessness, we have treated as though they were bereft of value. In this year of 1974, we are feeling the pinch of overpopulation, our grain crops are withering in the drought and frost—which is the only environmental disaster that we have not caused—our blue skies are tinged brownish-red with smog, and almost unnoticed, our drinking water is no longer certain to be fit for human consumption. Satirist Tom Lehrer warned us a decade ago:

> When you visit American city,
> You will find it very pretty;
> Just two things of which you must beware—
> Don't drink the water and don't breathe the air.

In the decade of the 1961–70 there were more than 46,000 incidents of disease and more than 20 deaths caused by unsafe drinking water in the United States. In 1973 the General Accounting Office was able to find only 60 of 446 water systems which it studied to be in compliance with existing water safety standards. In that same year, the Environmental Protection Agency estimated that a least 8 million Americans are drinking water that is unsafe. Imagine if we had a law in this country—and perhaps one might be in order for us to consider soon—which mandated that every tap and faucet was required to bear the legend:

> Beware: It has been established beyond a doubt that the water you are drinking may be hazardous to your health.

Of course, this is a bit facetious and, at this point, premature. But it is our goal as Representatives—and in this case, as protectors—of the American people to insure that this remains facetious, and that our water is prevented from becoming a general and universal health hazard. For that matter, commonsense also tells us that this is the most effective way to protect our financial resources since it obviously is much less costly to protect and upgrade our current supply than to try to rush in and repair a degraded water supply.

I have cited a GAO study which found fewer than one in seven water systems to be in compliance with existing drinking water standards. This is bad, bad enough to rightfully cause alarm from every Member of this House. We should be demanding an investigation to find out how the guardians of our public water supplies have allowed such a degradation to occur. We should be up in arms and we should act to remedy the situation.

If we were to make this demand, and a rightful demand it is indeed, we would be dismayed to find that even the standards which we now have are entirely inadequate. These are standards which specify maximum contaminant levels only for the purpose of communicable disease control. There is no reference in the present standards to chemical poisons and heavy metals, and there is no reference to viruses. Furthermore, the current standards for inspection and monitoring of the water supplies are so minimal as to be almost meaningless.

Fortunately, the distinguished gentleman from Florida (Mr. ROGERS) and the other members of his subcommittee have brought to the floor today a measure which would go about, in a very scientific and reasonable manner, making sure that proper standards for drinking water are established, and that these new standards are enforced.

I am pleased to support this bill, and urge each Member to join in support of it. At this time the proposed Safe Drinking Water Act, H.R. 13002, is an urgent bill to deal with a situation that is not yet an emergency. If we as a body can act with the same vigilance as the members of the Public Health and Environment Subcommittee and move to control the quality of our water supply before it is too late, we should be able to forestall a later emergency and a great potential disaster. A bill such as this one, which contains moderate and reasonable provisions for doing what needs to be done is certainly worthy of enactment this session.

I urge its overwhelming approval.

Mr. CARTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, I wish to state my strong support for H.R. 9726, the Safe Drinking Water Act. Most Americans have assumed that modern technology assures them of a continuous supply of safe, pure drinking water. In the past this has been a fairly safe assumption. But as our raw water sources become more polluted, and as more cities find themselves faced with the prospect of recycling water, much more attention will have to be paid to the quality of the final product.

Water treatment systems under the Safe Drinking Water Act will be required to comply with maximum contaminant levels to be set for any physical, chemical, biological, or radiological substance or matter in the water. New standards are long overdue. The U.S. Public Health Service drinking water standards are now far out of date. They were designed for application to systems with a relatively pollution free source of raw water.

One of the hazards that has recently been recognized is the possible presence of viruses in water that has undergone treatment. This could be a particular problem when the raw water source is highly polluted with human or animal waste.

Only a few disease-causing viruses have been shown to be transmitted through drinking water. Scientists do accept waterborne transmission as a common route for the infectious hepatitis A virus. And there are numerous waterborne epidemics documented for viral gastroenteritis. Viral agents associated with these diseases have recently been visualized. These are the most important diseases transmitted by water, accounting for about 70 percent of all waterborne diseases in the United States.

With proper support, research which is underway will unlock the secrets of these diseases, and give us the essential knowledge as to the adequacy of present treatment systems in dealing with them.

Government researchers at NIH are demonstrating great skill in virus research and strong congressional support is warranted, not only because of gains in knowledge in waterborne viral diseases, but efforts as well with influenza and pediatric respiratory viruses. In addition to the discovery of the gastroenteritis agents, another major breakthrough was achieved by NIH Doctors Stephen Feinstone, Albert Kapikian, and Robert Purcell, last year when they visualized the virus that causes infectious hepatitis, hepatitis A. As a result, for the first time scientists now have the means of diagnosing and studying hepatitis A.

The virus question is often raised in the context of a discussion of failures of water treatment plants—for example, inadequate plant equipment or poorly trained plant operators. Chlorination failure, back-siphonage and other such breakdowns often lead to an outbreak of waterborne diseases. Similarly, the consumption of untreated or poorly treated well water can cause outbreaks.

These occurrences can be prevented by the use of adequate equipment and better personnel training. The Safe Drinking Water Act will help this situation by setting maximum contaminant standards and providing aid to the appropriate local agencies.

The major virus problem for the future, however, will be with modern plants that have good personnel, but have to treat highly polluted water. Many cities in the United States today are using water that has already been used by an upstream neighbor. Many more cities will do so in the future as populations grow and water supplies remain fairly constant. The Federal Water Pollution Control Act Amendments will in time bring about cleaner water but, for the immediate future, we will be using that which is more and more polluted.

The increased pollution of water supplies is cause for more concern with viruses because their low level transmission is evidently responsible for subclinical infections. The ratio of clinical cases to subclinical infections ranges from 1:10 to 1:1000, depending on the species of virus involved. In addition to this, the infectious dose of viruses is very low. Subclinical infections must be recognized as a serious problem. They may not only be responsible for much of the minor undiagnosed sicknesses which afflict us all from time to time, but very likely produce minor epidemics in susceptible populations. There is also speculation that such infections may, over an extended period of time, contribute to certain forms of heart disease or cancer.

Therefore, a major need in the water sanitation field is the development of a quick, inexpensive monitoring technique for viruses.

Such a monitoring technique need not detect specific pathogenic viruses such as hepatitis A or a gastroenteritis virus, but merely measures a "tracer" virus of the same characteristic—one whose presence would indicate that infectious viruses of an enteric nature could be present. Such a test is analogous to the widely used test for the bacterium, E. Coli. E. Coli is a relatively harmless tracer organism for bacteria. When it is present in water, it indicates that waterborne enteric disease organisms could be present.

Because of the difficulty of isolating and growing viruses, bacteriophages—viruses which destroy bacteria—offer good potential as tracer viruses. A bacteriophage which conforms to the most resistant waterborne disease viruses would make an ideal tracer.

Virologists at NIH tell me that they believe an appropriate tracer virus could be isolated and a monitoring system developed in several years.

With such a monitoring system, municipal water supplies in the United States could well be monitored with the same efficiency and economy as they are presently monitored for bacterial disease organisms.

Presently, it is assumed that if the E. Coli test shows an absence of bacteria then the water is potable and that disease organisms including viruses have also been inactivated. Unfortunately, this is not always true. Recent studies have shown that chlorine is not as effective against viruses as the E. Coli bacteria. Chlorine, the most common disinfectant in municipal water treatment plants, also varies in its effectiveness against different strains of viruses.

It is evident that much research needs to be done on viruses, virus detection and the efficacy of various water treatment systems in inactivating viruses. Thus, I am very pleased that the Safe Drinking Water Act addresses this issue. In section 1442(a)(7), the Administrator of EPA is directed to carry out a study of virus contamination of drinking water and the means of controlling it.

Local agencies also have a role to play

and this act would provide grants which could assist them. In section 1444(a)(2), the Administrator is given authority to make grants to assist in the development and demonstration of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

Such grants would be most useful. The jurisdictions in the Washington metropolitan area, for example, should begin an extensive virus monitoring program because most of the water treated here is from the polluted Potomac River. If funds were available under this act, the regional Metropolitan Area Council of Governments could use such funds to undertake a monitoring effort. Perhaps the techniques developed during such a program would lead to faster, less expensive monitoring techniques.

Viruses will be just one factor in the future water supply equation. Another area of concern must be chemical pollution. We also would like to see improvements in the taste and odor of water. I believe that this act, if passed and fully implemented, will be an important beginning to a program which will enable Americans to continue to take their water supplies for granted. And in an era of vanishing resources, that would be most appreciated.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I thank the chairman of the committee for yielding to me. I would want to ask the chairman of the subcommittee some questions, particularly with reference to the underground water injection.

If the chairman would look on page 94, part C, which says, "Protection of Underground Sources of Drinking Water, Regulations for State Programs," in that section, particularly section 1421, are some provisions for the Administrator to publish proposed regulations for State underground injection control programs within 180 days after enactment of this bill.

I would like to ask the chairman of the subcommittee whether it was the intent of the Congress that the Administrator propose such regulations that will require every person, whether he is drilling for an oil well or a water well, to obtain certification from the EPA that he is not guilty of pollution as well as obtaining certification from the State. Would the chairman comment about what he thinks was the intent in this particular section—that is, to give the Administrator unlimited powers?

Mr. ROGERS. No. First of all, it gives primary responsibility to the State. Part S speaks only to the adequacy of State programs, not individual wells. Also, as the gentleman knows, the provisions of the bill are not concerned so much with drilling as with the injection of waste into the ground.

Mr. PICKLE. The gentleman would recognize, of course, in the instance of drilling for oil and/or gas, that it is a necessity to put that brine back into the ground as a health protection situation. So, we have the question to begin with: Whenever we drill one of these wells, is it the responsibility of the States or is the EPA going to pass judgment on that?

Mr. ROGERS. It would be the responsibility of the State, assuming its program is approved.

Mr. PICKLE. If it is the responsibility of the States, it goes forward in the section on page 97 to say that there would be some temporary permits which could be granted under certain instances. That is limited. I am assuming that in general the primary responsibility still is left with the States in all other areas.

Mr. ROGERS. The gentleman is correct.

Mr. PICKLE. Section 1422 on page 99 provides that the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources.

Is it the intent of the Congress, by this legislation, to limit the Administrator, by establishing certain criteria that need to exist before he exercises that judgment?

Mr. ROGERS. May I say that the bill places the authority to list States in the judgment of the Administrator. Of course, we expect his judgments to be reasonable and we will monitor them.

Mr. PICKLE. If this Administrator takes upon himself the responsibility that has been exercised in other legislation passed, then we can expect a great deal of burden to be put on the States. If the State is doing the job, then I would say they ought not be subject to the same kinds of regulations.

Mr. ROGERS. May I say, I think the gentleman is basically right in his concept. For instance, Mr. Train has already written us about Texas saying he feels the program is sufficient to qualify under the provisions of the proposal.

Mr. PICKLE. I would ask the gentleman to insert in the Committee of the Whole that letter from Mr. Train so it could be made a matter of record.

Mr. ROGERS. Yes, I will request that it be inserted at this point when we go back in the House.

The letter follows:

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., May 23, 1974.

Hon. PAUL G. ROGERS,
Chairman, Subcommittee on Public Health and Environment, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your May 6 letter concerning the underground waste injection control provisions of H.R. 13002, the "Safe Drinking Water Act."

While I am sure that you are aware of my comments on this legislation relating to underground injection in my November 28, 1973, letter to Mr. Staggers, Chairman, Committee on Interstate and Foreign Commerce, I appreciate the opportunity to comment in response to your specific request regarding state underground injection control programs.

Texas and Kansas both have the statutory and regulatory authority necessary to meet the requirements of Sections 1421 and 1422 of H.R. 13002, with the exception of Section 1421(b)(5) relating to underground injections by Federal agencies. Permit application, with supporting engineering and geological evaluation, are required prior to construction and operation of subsurface injection wells. Operating permits may be revoked and civil penalties may be assessed for non-compliance. The public record shows that, within available resources, Texas sanctions the EPA recommended policy on subsurface emplacement of fluids by well injection published in the Federal Register on April 9, 1974. Kansas applies this policy as required under the EPA National Pollutant Discharge Elimination System.

In light of these facts, and when measured by the present requirements of the sections cited from H.R. 13002, I would be inclined to view favorably an application for approval of these programs.

My staff and I will be pleased to provide any additional assistance you may require.

Sincerely yours,

RUSSELL E. TRAIN.

Mr. PICKLE. I understand. The gentleman knows that in the past sometimes Federal agencies got carried away when we start writing guidelines.

If, before anyone can dig a hole in the ground, they have to comply with all these regulations, permits, et cetera, we are going to have our citizens further disgusted with their Government. When we have a State that has already provided safeguards, and a system that is working, we should be hesitant to change that system unless it is for compelling reasons of protecting the health of a community by safeguarding their drinking water. Therefore, I want us to be sure that before that Administrator issues these regulations he consider carefully the impact it will have on State regulations, and whether these regulations have in fact been working well.

Mr. ROGERS. Yes.

Mr. PICKLE. I would point out to the gentleman that for every barrel of oil that comes out of the ground, sometimes it takes almost the same amount of water to be pumped back into it to produce that oil, because oil is caught in pores of the rocks under the ground. Unless we can put this water down there, then we could have another health hazard if we use open pit systems.

Mr. STAGGERS. Mr. Chairman, I might take one moment to compliment all of those we have heard from on this bill. In its earlier versions I had some fears about the bill, but I am so convinced that the committee bill is one of the most necessary bills in America today. For those who have been interested in safe water through the years, I want to compliment them for the work they have done. I think the bill is in the interests of all Americans and I think we would be derelict in our duty if we did not pass this bill.

I have no further requests for time.

Mrs. HECKLER of Massachusetts. Mr. Chairman, we have all read with concern the recent reports linking cancer to contaminated drinking water. Less publicized are the estimates that contaminated water caused 130 waterborne disease outbreaks from 1961 to 1970, resulting in more than 46,000 illnesses and 20 deaths.

A major problem has been that although there are Federal water purity guidelines, last revised in 1962, there is no overall Federal enforcement power or even a national drinking water policy.

The legislation now before us (H.R. 13002) is a major step forward in solving this problem. The bill is aimed at insuring that all public water supply systems meet minimum national standards for public health protection.

It authorizes the Environmental Protection Agency to set national standards regarding all harmful contaminants. States will have primary enforcement responsibility, but backup Federal authority is provided to be used when States cannot or will not guard from danger. A similar State-Federal partnership is established to protect underground sources of drinking water.

The bill also authorizes the allocation of scarce chlorine. And it sets up a program of financial, technical, and other assistance related to the protection and improved treatment of water supplies.

I call on my colleagues to approve this legislation. Pure drinking water is essential to everyone's health. And the American people must be assured that their water is safe to drink.

Mr. **BLATNIK**. Mr. Chairman, chemical and other contaminants have literally burst upon our environment in the last 25 years with the dramatic expansion in the use of chemical compounds for agriculture, industrial, institutional, and domestic purposes. However, as is often the case with new scientific discoveries, detailed knowledge about the ramifications and effects of these chemical compounds on the environment and the human body has lagged far behind.

There are some 12,000 different toxic chemical compounds in industrial use today and more than 500 new chemicals are developed each year.

Yet, no national standards exist which apply to water supply systems and in many cases provision of a safe drinking water supply is hampered by inadequate bacteriological samples needed to determine the contents of the water, lack of chemicals for treatment, or scarcity of personnel trained in fundamental water microbiology.

The results of a 1970 national community water supply study of 969 systems demonstrated that, although 80 percent of the 18 million people were receiving good water, 41 percent of the systems themselves were delivering water of inferior quality—and, in fact, that 360,000 people were drinking water of a potentially dangerous quality. This was gaged by Public Health Service standards, the most authoritative in use today, but at best only a general indication of major contaminants.

It is safe to say that most of us in Congress, through no deliberate deception or intent by our local officials back home, have some public drinking water systems in our congressional districts which contain suspect material—and, that potentially dangerous synthetics, adhesives, solvents and pesticides remain in the public drinking water.

In my own district, this has been particularly evident for over a year since the discovery of asbestos-like particles in Lake Superior which provides the drinking water for six communities along the northern shore of the lake. This discovery has led to a complicated and lengthy lawsuit which promises to be a landmark court case in environmental law. For over a year scientists have launched an intensive study for all inclusive evidence on the effects which ingested asbestos has on the human body—attempting to resolve difficult questions about "demonstrable proof," how much asbestos is too much, and wrestling with the emphasis which economic considerations should play in a decision of this kind.

These analyses by top experts have brought to light a series of revelations which extend much further than our local drinking water situation.

We have learned that:

Few of our supplies of drinking water are monitored for submicroscopic particles, such as the kind found in Lake Superior;

Many of our municipalities lack personnel trained to identify or understand the implications of chemical substances in the water;

Even our trained scientists know little about the environmental and health impacts of these chemicals, including the body's overall ability to tolerate an accumulation of the chemicals.

We have been trusting that our water is clean. But, with 12,000 different toxic chemical compounds in industrial use today and with these wastes entering our ground and air surface waters—trusting is now no longer enough.

The Safe Drinking Water Act, before us today, takes a big step forward by setting national standards for drinking water and placing primary enforcement responsibilities with the States. In addition, the legislation would assist public water systems by authorizing research and studies on water supply problems, by establishing guidelines for State programs to protect underground sources of drinking water, by authorizing grants for demonstration of new methods for treating water with special problems like Lake Superior and with a requirement for public notification to users in case of violation of the primary regulations—affirming the rights of every American to know what he is drinking.

Although the Congress has enacted legislation which I authored to fund training programs for the design, operation and maintenance of waste water treatment facilities, it is significant to note that no comparable program exists to train people in the operation of public drinking water supply systems.

The Safe Drinking Water Act, however, addresses this problem, by providing technical assistance to State and local governments in training needed personnel.

A 10-year survey of waterborne disease outbreaks showed 130 reported disease outbreaks involving 46,374 individual cases, and some noted scientists are predicting that it is only a matter of time until we have a large-scale environmental health tragedy.

The need for more water and the increasing demand which will be put upon our present water supply must certainly cause us to ask some searching questions about further requirements and how they will be met.

A safe and adequate water supply depends heavily on a research and development program in water analysis, an ability to evaluate health effects of the water constituents and a full understanding of treatment methodology by trained personnel. That is why it is important for us to overwhelmingly affirm today every American's right to safe drinking water by passing the Safe Drinking Water Act.

Mr. **BURKE** of Massachusetts. Mr. Chairman, I am extremely pleased that the House is taking up H.R. 13002, the Safe Drinking Water Act. While there should be no doubt that this country has one of the best, if not the best, water systems in the world, we are still far from having safe drinking water in many parts of the country. The legislation before us today gives us the chance to insure that water supply systems serving the public meet minimum national standards.

A 1969 U.S. Public Health Service study revealed that over one-half—56 percent—of 969 public waterworks surveyed had physical deficiencies. In addition, during the 10 years, 1961–70, there were over 46,000 illnesses and 20 deaths attributed to unsafe drinking water. These facts alone, should be enough to awaken us from the shared illusion that the water which comes from our faucets is clean and safe. The recent Environmental Protection Agency discovery of harmful chemicals in the New Orleans water supply must make us more aware than ever before of the possibility of additional medical disasters. The Safe Drinking Water Act should provide the first step in securing safe water for us all. After all, it is hardly an unreasonable goal in the 1970's, when we can take such pride in our technological accomplishments and generally high standard of living. While the price per capita for safe drinking water would be small, the benefits would be well worth it considering the costs which we now put up with as a result of impaired health and lost days of work attributable to a substandard water supply.

Why should we let a health crisis develop? This Congress has established an excellent record with its consumer and public protection legislation but has been surprisingly slow in ending this obvious health hazard. While expending much time and energy on desperately needed sewage treatment proposals, we have largely ignored the other side of the coin—treatment of the water we drink. I think it is now time to join our Senate colleagues in support of safe drinking water and I urge your support for this bill.

Mr. **LEHMAN**. Mr. Chairman, I rise in support of the Safe Drinking Water Act.

Mr. Chairman, Miami is one of the few large cities in the world located on land only a few feet above sea level. Our freshwater comes from the Biscayne Aquifer, which is charged by our high yearly rainfall, and the flow of water southward from Lake Okeechobee through the Everglades and the Big Cypress Swamp.

Unfortunately, when the first land promoters came to Miami in the early 1900's, they were bent on draining the Everglades to make this land suitable for farming, and constructed a series of canals for this purpose. With this construction came what is known as saltwater intrusion, and as the freshwater level was lowered, so was the freshwater pressure pushing against the sea. In the 1950's, permanent salinity dams on all major canals were built, and now the saltwater front remains relatively stationary.

But saltwater intrusion is still a major threat. During periods of drought and/or high demand for water, the aquifer is lowered, which lowers the freshwater pressure against the sea and thus increases the danger of intrusion of saltwater.

The canals are also the cause of a second problem. In addition to being used for the discharge of excess rainfall to the ocean during wet periods of the year, the canals are also used to recharge our freshwater well fields. Because of the canal system, the rainwater is unable to percolate through the ground for aquifer recharge, and consequently all kinds of contaminants remain in the canal water which then goes to our freshwater well fields.

Such contaminants which seep into our freshwater supply are pesticides and fertilizer runoffs, raw sewage discharge from boats, and street and water runoffs which include such substances as oil, zinc, asbestos from brake linings, rubber from tires, and lead from gasoline.

Contaminants also enter our water supply from dumpsites in Dade County through what is known as a leaching process.

Currently, the most serious water problem is occurring in North Dade. Residents in the area turn on their faucets and get a foaming, ill-smelling, discolored liquid that the authorities claim is water. Explanations abound, but it seems that the crux of the problem is too much and too rapid development in the area.

I have spoken with Mayor Jay Reardon of North Miami Beach, and have been in contact with members of the city council and other concerned citizens in an effort to find Federal funds somewhere to help the city of North Miami Beach with its severe water problems. So far, my search has been unsuccessful. In the meantime, however, 49 suits have been filed against the city, and the North Miami Beach Water Department is faced with a moratorium on new water hookups.

It is estimated that the city needs $4 million to clean up its water system—a system that serves two-thirds of north Dade. This bill will not help the city of North Miami Beach particularly, but I am supporting the bill because I believe it is a start in the right direction. The Safe Drinking Water Act will require the Administrator of the Environmental Protection Agency to set standards for maximum contaminant levels for substances which may cause harmful health effects, or if such monitoring is not feasible, to require certain kinds of treatment for the contaminant which will meet the requirements of providing maximum feasible protection of the public health. If the Federal Government finds that the States are not complying with enforcement of the standards, the Federal Government will step in and enforce those standards.

The problem in North Miami Beach is the subject of secondary drinking water regulations under this bill, and therefore not federally enforceable. The role of the Federal Government in this area is to set standards for secondary drinking water regulations, which are to be used as guidelines by the States. However, if it is found that the particles which are causing the unsightly and ill-smelling water are also carriers of adverse health effects, then this type of water problem would be covered by the primary standards and would, therefore, be federally enforceable.

South Florida not only needs safe water for drinking, but it needs more of it. While this bill is a step in the right direction, I believe that Federal assistance must be given to communities such as North Miami Beach which are facing grave problems in the adequacy of fresh water supplies.

Mr. FRASER. Mr. Chairman, I will support the amendment to be offered by my colleague from Michigan (Mr. Ruppe).

The purpose of the Safe Drinking Water Act is to protect the public health by insuring the safety of the water we drink. Through national standards, implemented under State programs, with backup Federal enforcement procedures, we would be able to realize this major public health objective.

The amendment before us would make clear that securing the public health is the primary goal of the Safe Drinking Water Act. The amendment would shift the burden of proof to polluters. Individuals or firms using drinking water supplies as the repository for wastes would have to show that those wastes do not constitute a threat to the public health.

Two years ago the Federal Government brought suit against the Reserve Mining Co. of Silver Bay, Minn., for violations of the 1899 Refuse Act and the 1972 Water Pollution Control Act. Reserve Mining, which processes low-grade iron ore, called taconite, dumps 67,000 tons of waste sand and gravel daily into Lake Superior.

Lake Superior is the source of drinking water for communities along its shores. Recently, asbestos-like fibers were discovered in the taconite tailings—fibers similar to those which have caused cancer in asbestos workers.

In April, U.S. District Court Judge Miles Lord ordered the plant shut down until the company had worked out a system of on-land disposal. Judge Lord ruled that the risk of people getting cancer was too great to accept.

The Eighth Circuit Court of Appeals reversed the order on the grounds that Judge Lord, by resolving all doubts in favor of public health, had exercised "a legislative policy judgment, not a judicial one."

Without going into the merits of the appeals court ruling, I urge Members to approve the amendment before us and leave no room for doubt. If Judge Lord, in giving precedence to public health considerations, did in fact make a legislative policy judgment and not a judicial one, let us clarify that legislative policy and make certain that public health objectives are paramount in the Safe Drinking Water Act.

I include in the Record at this point the text of Justice Douglas' dissent to the refusal by the Supreme Court, on procedural grounds, to modify the apapeals court's stay order:

[Supreme Court of the United States,
October 11, 1974]

(Applications to Vacate Stay—Nos. A-232
and A-262)

DISSENT

State of Minnesota et al., (A-232) ——— *v.* Reserve Mining Company et al.

United States (A-262) ——— *v.* Reserve Mining Company et al.

The respective applications for an order vacating or modifying the stay order of the United States Court of Appeals for the Eighth Circuit, presented to Mr. Justice Blackmun and by him referred to the Court, are each denied. Four Justices, however, state explicitly that these denials are without prejudice to the applicants' renewal of their applications to vacate if the litigation has not been finally decided by the Court of Appeals by January 31, 1975.

Mr. Justice Douglas, dissenting.

I would vacate the stay issued by the Court of Appeals.

Judge Lord made detailed findings as to the health hazard of the respondent's discharges into the air and into the waters of Lake Superior,[1] findings which I attach as an Appendix to this opinion. The Court of Appeals disagreed with Judge Lord's conclusion but it stopped short of holding that his findings were "clearly erroneous" within the meaning of Rule 52(a) of the Rules of Civil Procedure. Even in its view, the issue, however, was close or rather neatly balanced.[2] It therefore decided that being "a court of law" it was "governed by rules of proof" and that "unknowns may not be substituted for proof of a demonstrable hazard to the public health."[3]

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[1] —— F. Supp. ——.

[2] The Solicitor General in his brief filed with us states:

"In all of this the court of appeals has proceeded on an admittedly preliminary assessment, based on limited exposure to the voluminous record, of the question whether the continued daily discharge of some 67,000 tons of suspended solid waste into Lake Superior and some 100 tons of particulate matter into the air constitutes a significant threat to public health. While we believe that the court of appeals' conclusion in this regard rests upon crucial assumptions that are refuted by the substantial evidence of record here, we do not think it appropriate to attempt to argue such evidentiary issues to this Court on an even more limited record. Suffice it to say that there is no serious dispute that the amphibole discharges in question are widely believed to entail a risk of asbestosis, cancer, and other adverse health consequences, and the only real dispute concerns the quantitative assessment of the likelihood of such consequences—an assessment that is particularly difficult here because of the apparently long-term and cumulative results of exposure to such materials."

That position, however, with all respect makes "maximizing profits" the measure of the public good, not health of human beings or life itself. Property is, of course, protected under the Due Process Clause of the Fifth Amendment against federal intrusion. But so is life and liberty. Where the scales are so evenly divided, we cannot say that the findings on health were "clearly erroneous" nor am I able to discover how "maximizing profits" becomes a governing principle overriding the health hazards. If equal justice is the federal standard, we should be as alert to protect people and their rights as the Court of Appeals was to protect "maximizing profits." If, as the Court of Appeals indicates, there is doubt, it should be resolved in favor of humanity, lest in the end our judicial system be part and parcel of a regime that makes people, the sovereign power in this Nation, the victims of the great God Progress which is behind the stay permitting this vast pollution of Lake Superior and its environs. I am not aware of a constitutional principle that allows either private or public enterprises to despoil any part of the domain that belongs to all of the people. Our guiding principle should be Mr. Justice Holmes' dictum that our waterways, great and small, are treasures,[4] not garbage dumps or cesspools.

APPENDIX TO MR. JUSTICE DOUGLAS' DISSENT

(3) The particles when deposited into the water are dispersed throughout Lake Superior and into Wisconsin and Michigan.

(4) The currents in the lake, which are largely influenced by the discharge, carry many of the fibers in a southwesterly direction toward Duluth and are found in substantial quantities in the Duluth drinking water.

(5) Many of these fibers are morphologically and chemically identical to amosite and an even larger number are similar to amosite asbestos.

(6) Exposure to these fibres can produce asbestosis, mesothelioma, and cancer of the lung, gastrointestinal tract and larynx.

(7) Most of the studies dealing with this problem are concerned with the inhalation of fibers; however, the available evidence indicates that the fibers pose a risk when ingested as well as when inhaled.

(8) The fibers emitted by the defendant into Lake Superior have the potential for causing great harm to the health of those exposed to them.

(9) The discharge into the air substantially endangers the health of the people of Silver Bay and surrounding communities as far away as the eastern shore in Wisconsin.

(10) The discharge into the water substantially endangers the health of the people who procure their drinking water from the western arm of Lake Superior including the communities of Beaver Bay, Two Harbors, Cloquet, Duluth, and Superior, Wisconsin.

(11) The present and future industrial standard for a safe level of asbestos fibers in the air is based on the experience related to asbestosis and not to cancer. In addition its formulation was influenced more by technological limitations than health considerations.

(12) The exposure of a non-worker populace cannot be equated with industrial exposure if for no other reason than the environmental exposure, as contrasted to a working exposure, is for every hour of every day.

(13) While there is a dose-response relationship associated with the adverse effects of asbestos exposure and may be therefore a threshold exposure value below which no increase in cancer would be found, this exposure threshold is not now known.

Mr. MICHEL. Mr. Chairman, I support the objectives of the bill before us, and I think the facts speak for themselves as to the need for more attention to the quality of the water we drink and to the protection of people who, for the most part, have little control over the safety or source of their water supply.

Two recent studies have been used to a considerable extent in pointing up the severity of the problem—one done by the General Accounting Office in 1973 and one by HEW in 1970. Both found serious deficiencies in our efforts to set and maintain standards insuring safe water supplies throughout the country.

The HEW study showed that more than 5 percent of our national population were receiving public water not meeting the primary Federal health standards, It found that 41 percent of all public systems failed to meet some constituent level requirement; that 56 percent had major facility deficiencies; but that a full 90 percent did not even collect sufficient bacteriological information to judge the safety of the water supply. The GAO study found that 60 percent of the small systems failed to meet Federal standards, and that an additional 20 million persons rely on inferior self-supplied water.

It has been estimated that contaminated water has been responsible for some 130 outbreaks of disease from 1961 to 1970, resulting in more than 46,000 illnesses and 20 deaths. Recent reports linking contaminated water supplies with cancer have alarmed many of us, and underscore the need to move decisively to provide adequate water quality protection.

I believe the provisions in this bill can go a long way toward meeting these very evident needs, but in stating this I must also say that I have some real reservations about this legislation.

I am concerned about preemption of State enforcement authority, and administrative procedures that may prove costly and time consuming. I have questions about Federal standards for water treatment plant siting and intake water quality. I doubt that the Federal assistance programs in the bill have been adequately considered in the context of our Federal fiscal situation.

I hope some of these provisions can be looked at again before we finalize this bill, but in any event we need to move expeditiously on this legislation. This is a problem that will not wait, involving the basic health of millions of Americans, and we ought to be approaching it with some sense of urgency.

Mr. BOLAND. Mr. Chairman, I rise in support of H.R. 13002, the Safe Drinking Water Act. I do so with a sense of urgency that I urge my colleagues to embrace as well. We are accustomed in this country to note the differences in the taste of public drinking water from various areas. No one, however, thinks to question the safeness of drinking water. That, we confidently assume, is something a traveler may question in other countries, but American water is scientifically treated and conducted to every tap in the most sanitary fashion. After all, is not all water chlorinated?

I do not have to remind my fellow Members that even chlorination is now being challenged as a cure-all for water sanitation. Some scientific studies recently released suggest a connection between chlorine in drinking water and our Nation's No. 2 killer, cancer.

Beyond the possibility of the carcenogenic properties in chlorine, however, lies other more chilling evidence that denies equivocation. Less than 15 percent of the water systems tested last year by the General Accounting Office for bacteria content met existing Federal standards. And present law limits the applicability of these standards to water used by interstate carriers, while enforcement is restricted to only those contaminants that are capable of causing communicable disease. Yet frequent illness and some deaths can be attributed to the use of supposedly safe drinking water.

Mr. Chairman, the legislation before us today seeks to remedy such statistics. H.R. 13002 would amend the Public Health Services Act to provide for the establishment of minimum national standards for all harmful contaminants in drinking water. The contaminant levels that will be established must protect the public health to the maximum extent possible.

The bill would specifically provide that whatever treatment methods are employed in achieving the standards be generally available. The costs of various alternatives must be taken into account in selecting these methods. Such a provision is mandated by economic circumstances and good sense.

In addition to minimum contaminant levels, H.R. 13002 would also establish regulations to control underground waste injections which threaten to endanger underground drinking water sources. Both underground sources regulations and minimum contaminant levels will be administered by the States, but the EPA may step in to compel compliance if a State fails to act or lapses in its enforcement duties.

The Safe Drinking Water Act would also provide for grants to States which take on the responsibility of enforcing Federal water standards and underground water source regulations. The EPA will receive additional funds with which to conduct research into the causes, treatment, and prevention of disease resulting from contaminated drinking water; underground water sources; public water supervision; and drinking water problems in rural areas. The bill authorizes a total Federal commitment of $156.5 million over the next 3 years.

These are the things that this legislation can achieve. It comes at a time when public attention has been dramatically focused on our drinking water supply by fears concerning the effects of chlorine in this water. That is an important area of inquiry, one into which we must look, but it should not make us complacent about other aspects of our drinking water supply because the evidence shows that this is now maintained at far below acceptable standards. I believe we must act immediately to meet both problems. Safe drinking water is a goal so basic and essential to the public health that it should be accorded the highest priority. We ought indeed to count the costs thereof, but we cannot deny the necessity of swift action.

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[3] 498 F. 2d 1073, 1084.

[4] *New Jersey* v. *New York*, 283 U.S. 336, 342.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Maryland is recognized for 5 minutes.

Mr. BAUMAN. Mr. Chairman, I just wanted to bring to the attention of the *Members* of the House that I have received from Gov. Marvin Mandel of Maryland a statement dated November 1974, directly commenting on H.R. 13002.

It is not often that the Governor of Maryland, because of his view of the Federal Government role, rejects legislation of this nature.

It is not often that I find myself in agreement with him, but here is what the Governor of Maryland has to say about this bill:

> We support strong legislation insuring the safety of our drinking water. However, our State officials see H.R. 13002 as not only establishing tough national standards, but also as containing massive bureaucratic overkill. We do not believe that we need another complex Federal–State administrative tangle like the one that has developed in the water pollution area.
>
> Enclosed are three reports developed by the Departments of Health and Mental Hygiene, Natural Resources and State Planning, which provide a detailed analysis of H.R. 13002 with recommended modifications.

I might add that there are a number of *criticisms* included in this analysis. I continue to quote the statement:

> We cannot support H.R. 13002 in its present form because of its impractical requirements and strong focus on federal enforcement. If H.R. 13002 can be amended to provide tough national drinking water purity standards and adequate federal intervention authority—but without creating unnecessary, costly and frustrating administrative tangle, it will have our support.

Mr. Chairman, I subscribe to this analysis, and therefore will vote against the bill.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Act".

PUBLIC WATER SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by inserting after title XIII the following new title:

"TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

"PART A—DEFINITIONS

"DEFINITIONS

"SEC. 1401. For purposes of this title:

"(1) The term 'primary drinking water regulation' means a regulation which—

"(A) applies to public water systems;

"(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

"(C) specifies for each such contaminant either—

"(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

"(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

"(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

"(2) The term 'secondary drinking water regulation' means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

"(3) The term 'maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"(4) The term 'public water system' means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"(5) The term 'supplier of water' means any person who owns or operates a public water system.

"(6) The term 'contaminant' means any physical, chemical, biological or radiological substance or matter in water.

"(7) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(8) The term 'Agency' means the Environmental Protection Agency.

"(9) The term 'Council' means the National Drinking Water Advisory Council established under section 1446.

"(10) The term 'municipality' means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

"(11) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, or municipality.

"PART B—PUBLIC WATER SYSTEMS

"COVERAGE

"SEC. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

"(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

"(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply; and

"(3) which does not sell water to any person.

"NATIONAL DRINKING WATER REGULATIONS

"SEC. 1412. (a) (1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

"(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on the date of enactment of this title.

"(3) The interim primary regulations first promulgated under paragraph (1) shall take effect not later than one year after the date of their promulgation.

"(b) (1) (A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

"(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

"(ii) list in the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e), list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change such list.

"(2) On the date the Administrator establishes pursuant to paragraph (1) (B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

"(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1) (B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (2) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (2) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1) (B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible For purposes of this paragraph, the term 'feasible' means feasible with the use of technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

"(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 5 years.

"(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect not later than 1 year after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

"(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

"(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking). In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

"(e) (1) The Administrator shall either enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b) (2) in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

"(3) In developing its proposals for recommended maximum contaminant levels under paragraph (2) (D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

"(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

"(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

"(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

"(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

"(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

"(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

"(6) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (2) of this subsection.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

"(1) has adopted drinking water regulations which (A) during the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

"(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation; and

"(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meets the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than in conditions under, and the manner in which variances and exemptions may be granted under sections 1415 and 1416.

"(b) (1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

"(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) determine that he is unable to make such determination and notify the applicant in writing of the reasons for his inability to make such determination.

"FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

"SEC. 1414. (a) (1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

"(A) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(B) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system into compliance and for any failure to take steps to bring the system into compliance). If—

"(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

"(B) (i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time the State abused its discretion in carrying out primary enforcement responsibility for public water systems,

the Administrator may commence a civil *action under* subsection (b).

"(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

"(A) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(B) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he may commence a civil action under subsection (b).

"(b) The Administrator may bring a civil action in the appropriate United States district court to require compliance with a national primary drinking water regulation or with any schedule, control measure, or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

"(1) authorized under paragraph (1) or (2) of subsection (a), or

"(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.

"(c) Each owner or operator of a public water system shall give notice to the persons served by it—

"(1) of any failure on the part of the public water system to—

"(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

"(B) perform monitoring required by section 1445(a), and

"(2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415 (a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

"(A) the existence of such variance or exemption, and

"(B) any failure to comply with the requirements of any schedule or control measure prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), and shall be furnished to the other communications media serving such area. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

"(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

"(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

"(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

"(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulaton or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

"VARIANCES

"SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

"(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water resources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). A variance granted under this subparagraph shall be conditioned on each system to which it applies implementing such control measures as the State finds can be complied with during the period the variance is in effect.

"(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a rational primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

"(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance and documentation of the need for the variance.

"(D)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to impose reasonable control measures or monitoring or other requirements during the period the variances are in effect, the Administrator shall notify the State of his finding. Such notice shall—

"(I) identify each public water system with respect to which the finding was made,

"(II) specify the reasons for the finding, and

"(III) as appropriate, propose revocations of specific variances or propose revised control measures or monitoring or other requirements for specific public water systems granted variances, or both.

"(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised variance control measures or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a control measure or other requirement for a variance and if before a revocation of such variance or a revision of such control measure or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or control measure or other requirement which the Administrator determines makes his finding inapplicable to such variance or control measure or other requirement, the Administrator shall rescind the application of his finding to that variance or control measure or other requirement. No variance revocation or revised control measure or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised control measure or other requirement was proposed.

"(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

"(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

"(b) Any control measure or other requirement on which a variance granted under this section is conditioned may be enforced under section 1414 as if such control measure was part of a national primary drinking water regulation.

"(c) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401 (1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"EXEMPTIONS

"SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

"(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement, and

"(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement.

"(b)(1) If a State grants a public water system an exemption under subsection (a), it shall prescribe, within one year of the date the exemption is granted, a schedule for—

"(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

"(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required. Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

"(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

"(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412 (a), not later than January 1, 1981; and

"(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

"(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

"(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1983; and

"(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

"(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

"(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) or the schedule is revised by the Administrator under such subsection.

"(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption and document the need for the exemption.

"(d)(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title.

"(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. Such notice shall—

"(i) identify each exempt public water system with respect to which the finding was made,

"(ii) specify the reasons for the finding, and

"(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

"(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inappliable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

"(e) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

"PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

"REGULATIONS FOR STATE PROGRAMS

"SEC. 1421. (a)(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

"(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

"(b)(1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2). Such regulations shall require that a State program, in order to be approved under section 1422—

"(A) shall prohibit, effective three years after the date of the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

"(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers underground water sources;

"(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

"(D) shall apply (i) as prescribed by section 1447(b), to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

"(2) Regulations for State underground injection control programs may not prescribe requirements which interfere with or impede—

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(B) any underground injection for the secondary or tertiary recovery of oil or natural gas.

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

"(c)(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits authorize such State to issue (without regard to subsection (b)(1)(B)(i)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

"(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

"(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

"(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

"(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

"(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)), but after reasonable notice and public hearing, one or more temporary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after the date of enactment of this title, if the State has found, on the record of such hearing—

"(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

"(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

"(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

"(d) For purposes of this part:

"(1) the term 'underground injection' means the subsurface emplacement of fluids by well injection.

"(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

"(b)(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

"(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

"(ii) will keep such records and make such reports with respect to its activities under clause (i) as the Administrator may require by regulation.

"(B) Within 270 days of any amendment of a regulation under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program needs the revised or added requirement.

"(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

"(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

"(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

"(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2) or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after such disapproval or expiration date (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b). Such program may not include requirements which interfere with or impede—

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

"(d) For purposes of this title, the term 'applicable underground injection control program' with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been presecribed by the Administrator under subsection (c).

"FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

"SEC. 1423. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcment responsibility for underground water sources (within the meaning of section 1422(b)(3)) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

"(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

"(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources.

the Administrator may commence a civil action under subsection (b)(1).

"(2) Whenever the Administrator finds during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control pogram in such State is violating such requirement, he may commence a civil action under subsection (b)(1).

"(b)(1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a) (1).

"(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources, shall be subject to a civil penalty of not more than $5,000 per day. In addition, if such violation or failure to comply is willful, such person shall be punished by a fine of not more than $5,000 per day.

"(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"INTERIM REGULATION OF UNDERGROUND INJECTIONS

"SEC. 1424. (a) (1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

"(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

"(b) (1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

"(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

"(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the acquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located as so to create a significant hazard to public health.

"(c) Any person who operates a new underground injection well in violation of subsection (b) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs. In addition, if such violation is willful, such person shall be punished by a fine of not more than $5,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b), he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

"(d) For purposes of this section, the term 'new underground injection well' means an underground injection well whose operation was not approved by appropriate State and Federal agencies before the date of the enactment of this title.

"Part D—Emergency Powers

"EMERGENCY POWERS

"SEC. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. Such action may include (but shall not be limited to (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) (1) shall be punished by a fine of not more than $5,000 per day of violation.

"Part E—General Provisions

"ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

"SEC. 1441. (a) If any person who use chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemcial or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a 'certification of need') that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

"(b) (1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance and (C) contain such other information as the Administrator may require.

"(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

"(3) Within 30 days after—

"(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

"(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

"(c) (1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue and order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

"(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceeding sentence, consider—

"(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

"(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producers to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

"(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

"(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

"(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1), that such delay or failure was caused solely by compliance with such order.

"(e)(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) shall be fined not more than $5,000 for each such failure to comply.

"(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

"(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1), he may petition a United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce the provision of such order.

"(f) No certification of need or order issued under this section may remain in effect—

"(1) for more than one year, or

"(2) after June 30, 1977,

whichever occurs first.

"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

"SEC. 1442. (a)(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependable safe supply of drinking water, including—

"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

"(B) improved methods to identify and measure the health effects of contaminants in drinking water;

"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

"(D) improved methods for providing a dependable safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

"(E) improved methods of protecting underground water sources of public water systems from contamination.

"(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system programs (as defined in section 1443(c)(1)).

"(3) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

"(4) The Administrator shall conduct a survey and study of—

"(A) disposal of waste (including residential waste) which may endanger underground water supplies, or can reasonably be expected to supply, any public water systems, and

"(B) means of control of such waste disposal.

Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

"(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

"(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

"(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

"(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

"(b) In carrying out this title, the Administrator is authorized to—

"(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

"(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

"(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

"(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

"(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

"(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(d))).

"(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"GRANTS FOR STATE PROGRAMS

"SEC. 1443. (a)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

"(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed primary enforcement responsibility for public water systems within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. To the extent the applicable appropriation permits, the allotment of a State for any fiscal year shall not be less than $50,000.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977.

"(b)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within two years from the date of such grant an underground water source protection, and

"(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed primary enforcement responsibility for underground water sources within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under pargaraph (5) among the States on the basis of population, geographical area, and other relevant factors.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977.

"(c) For purposes of this section:

"(1) The term 'public water system supervision program' means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).

"(2) The term 'underground water source protection program' means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii).

"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

"SEC. 1444. (a) The Administrator may make grants to any person for the purposes of—

"(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

"(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

"(b) Grants made by the Administrator under this section shall be subject to the following limitations:

"(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

"(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

"(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

"(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

"(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $10,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $10,000,000. The Administrator shall prescribe regulations to carry out this subsection.

"RECORDS AND INSPECTIONS

"SEC. 1445. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

"(b) The Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a primary drinking water regulation prescribed under section 1412 or applicable underground injection control program (or person in charge of any of the property of such supplier or other person), is authorized to enter any establishment or facility or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

"(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) shall be fined not more than $5,000.

"(d)(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

"(2) Any information required under this section may be disclosed (1) to other officers, employees, or authorized representatives of the United States concerned with carrying out this title, (2) when relevant in any proceeding under this title, or (3) to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term 'information required under this section' means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

"(e) For purposes of this section, (1) the term 'grantee' means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term 'person' includes a Federal agency.

"NATIONAL DRINKING WATER ADVISORY COUNCIL

"SEC. 1446. (a)(1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

"(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

"(c) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

"(d) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

"FEDERAL AGENCIES

"SEC. 1447. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1412.

"(b)(1) Each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

"(2) The Administrator shall waive compliance with paragraph (1) of this subsection upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

"GENERAL PROVISIONS

"Sec. 1448. (a)(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.

"(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

"(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.

"(d)(1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

"(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'non profit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

"(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a–276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

"(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.

"(b Not later than April 1 of each year, the Administrator shall submit to the Congress a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to Congress its comments respecting any such report."

(b) Section 2(f) of the Public Health Service Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands".

RURAL WATER SURVEY

Sec. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having limited or otherwise inadequate access to drinking water;

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.

(b) Such survey shall be completed within eighteen months of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1976; and $1,000,000 for the fiscal year ending June 30, 1977.

BOTTLED DRINKING WATER

Sec. 4. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

"BOTTLED DRINKING WATER STANDARDS

"Sec. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.".

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the Record and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AMENDMENT OFFERED BY MR. HEINZ

Mr. HEINZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Heinz: Page 132, line 12, strike out the quotation marks and insert after that line the following:

"(i)(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

"(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this title or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

"(B) testified or is about to testify in any such proceeding, or

"(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this title.

"(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(4) Whenever a person has failed to comply with an order issued under paragraph (2) (B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

"(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this title"

Mr. HEINZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. HEINZ. Mr. Chairman, I rise to offer an amendment jointly with Mr. Symington. The Safe Drinking Water Act would assure that our Nation's drinking water supply is clean and potable. However, I believe that this worthy legislation would not alleviate a potential problem—the problem of discrimination against the employee who attempts to correct a violation he or she sees occurring. I have discussed this amendment with the distinguished chairman of the subcommittee, Mr. Rogers, and he has indicated his support for the amendments.

What this amendment would accomplish is nothing new. The Congress has already enacted similar provisions in the 1972 Water Pollution Control Act Amendments and in the Occupational Safety and Health Act of 1970. The amendment we are now offering is a refined version of the employee protection language in those existing statutes. Although the language in the amendment differs in some areas from the existing provisions in order to add clarity and to tailor it to the needs of this bill, the thrust of the amendment is the same.

The amendment provides that employees who institute proceedings under this act, testify in proceedings under this act, or participate in other actions to see that the purpose of the act is carried out, cannot be fired, or otherwise discriminated against for their actions.

The aggrieved employee, under this section, files a complaint with the Secretary of Labor within 30 days of the alleged violation. The Secretary of Labor then conducts an investigation and issues an order within 90 days. During this time, both the employee and the employer are given the opportunity to request a public hearing on the case. As a matter of fact, 30 days after the filing of the complaint, the Secretary is required to inform both parties of the results of his initial investigation. This will give the two parties a good chance to decide whether or not a public hearing is needed to fully illuminate their case.

If the Secretary determines that the employee's rights have been violated, an order is then issued to require the rehiring of the employee, with back pay, or whatever relief is necessary to make the employee whole in relation to his or her former status.

Both the employee and the employer, of course, have the right to appeal the Secretary's order in the appellate courts within 60 days.

I do not believe it is the intent of Congress to see employees fired or discriminated against when they perform their civic duties and report violations of this act. This amendment, which is very similar to provisions already enacted in two other statutes, would prevent such discrimination. Therefore, I urge adoption of the amendment.

Mr. SYMINGTON. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from Missouri.

Mr. SYMINGTON. Mr. Chairman, I am pleased to cosponsor with Mr. Heinz this very important employee protection amendment. I think it is significant to emphasize that we are not initiating a new concept with the amendment, but rather we are extending to workers affected by the act the same protection against employer retribution that is given to workers under the Federal Water Pollution Control Act and the Occupational Safety and Health Act.

As has been explained, the amendment is designated to protect employees who have been discharged or discriminated against for their actions in seeing to it that the act is implemented. It establishes a procedure for these employees to seek remedy through the Department of Labor.

An important improvement that the amendment makes over existing statutes, however, has to do with settlements reached before the formal procedure is carried through all the way. The amendment requires that any such settlement cannot be made without the participation and consent of the employee involved.

This addition dealing with settlements is important because the Labor Department has found, in the cases it has been involved with thus far, that as the cases near the final steps of the machinery there is a tendency for settlements to be entered into. It is important that we guarantee by statute that the employee's interests not be compromised in these situations.

I would also like to point out that we are not just engaging ourselves with academics with this amendment. The similar provisions which now exist elsewhere are indeed being used. Under the Water Pollution Act provision, some 17 cases are now being actively processed. Under the OSHA provision, the Solicitor's office has given the go-ahead to process 24 cases. In addition to these 24, 7 cases have already been settled prior to completion of the formal procedure.

I think it is plain, then, that we are dealing with a very real problem with which workers are faced. The amendment provides an equitable and efficient procedure for assuring workers that they will receive help in dealing with the problem. Therefore, I urge adoption of the amendment.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I have been looking over the amendment offered by the gentleman from Pennsylvania, and I am very happy to say that so far as I am concerned, and so far as the chairman of the subcommittee is concerned, we accept the amendment on this side.

Mr. HEINZ. Mr. Chairman, I thank the chairman of the committee.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I am pleased to say we will accept the gentleman's amendment.

Mr. HEINZ. Mr. Chairman, I thank the gentleman from Kentucky.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Heinz).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Vanik: Page 132, insert after line 18 the following new section:

"INTERNATIONAL AGREEMENTS

"Sec. 1449. For the purpose of protecting drinking water in the States from contamination by contaminants from sources outside the jurisdiction of the States and the United States, the President shall—

"(1) seek to negotiate multilateral treaties, conventions, resolutions, or other agreements and seek to formulate, present, and support appropriate proposals at the United Nations and other appropriate international entities, and

"(2) seek to implement and enforce existing treaties and agreements to which the United States is a party or signatory and which may serve to provide such protection."

Mr. GROSS. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Iowa (Mr. Gross) reserves a point of order against the amendment.

The Chair recognizes the gentleman from Ohio (Mr. Vanik).

Mr. VANIK. Mr. Chairman, this amendment to the Safe Drinking Water Act is a noncontroversial proposal. It entails the expenditure of no additional money.

In the committee's report, it is pointed out that Government's consideration of drinking water supplies cannot stop at a political boundary; water tables and rivers know no State or local boundaries.

But, Mr. Chairman, just as water supplies do not respect State boundaries, neither do they respect international boundaries. The most obvious example of this is the Great Lakes system. Tens of millions of Canadians and Americans depend on the Great Lakes for their drinking water. Yet each day millions of tons of domestic wastes and chemical pollution are dumped into the lakes. Despite this potentially dangerous situation, there is an amazing lack of Canadian-American consultation over what each country is doing to the waters that the other country may be relying on for drinking supplies.

My amendment is meant to overcome this international void. It provides that the President shall attempt to negotiate treaties or agreements with our neighbors to protect and sustain our mutual drinking water supplies and to implement and enforce any existing agreements that would serve the same ends.

Although a good amount of attention has been given to the water quality problems of the Great Lakes, not enough has really been accomplished. My amendment seeks to help reverse this situation.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Iowa insist on his point of order?

Mr. GROSS. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized on his point of order.

Mr. GROSS. Mr. Chairman, the amendment provides:

> For the purpose of protecting drinking water in the States from contamination by contaminants from sources outside the jurisdiction of the States and the United States, the President shall—
>
> Seek to negotiate multilateral treaties, conventions, resolutions, or other agreements and seek to formulate, present, and support appropriate proposals at the United Nations and other appropriate international entities, and
>
> Seek to implement and enforce existing treaties and agreements to which the United States is a party or signatory and which may serve to provide such protection.

Mr. Chairman, it is my contention that this amendment goes far beyond the scope of this legislation. There is no provision in this legislation, as far as I can see, for involvement in international treaties or agreements and no funds authorized in the wording of the bill for that purpose.

In my opinion, the amendment, Mr. Chairman, goes beyond the scope of this legislation.

The CHAIRMAN. Does the gentleman from Ohio wish to speak on the point of order?

Mr. VANIK. I do, Mr. Chairman.

In response to the point of order that is made by my distinguished colleague, the gentleman from Iowa, I want to point out that this amendment does not provide for any appropriation of funds. It merely requests that the President explore the possibilities of working out conventions and agreements with Canada on drinking water standards.

I do not know how else we can achieve the same standards on the Great Lakes for the millions of Americans who depend on the Great Lakes for their water supplies, if we cannot work this out in some way by agreement with respect to a mutuality of standards between the United States and the Government of Canada.

We cannot compel the Canadians to do anything. Our statutes have no effect, and I think that if we are going to achieve a better quality water, if we are going to maintain the standards proposed by this legislation for drinking water for those people who must depend on the Great Lakes in the nations that are involved, it can only be achieved by agreements and treaties and by conventions with the Government of Canada.

I do not think the amendment expands anything under this act. It deals with the question of drinking water for the millions of Americans around the Great Lakes who must depend solely on the Great Lakes as a source of supply.

The CHAIRMAN (Mr. NICHOLS). The Chair is prepared to rule on the point of order.

The Chairman advises the gentleman from Ohio that the subject of international agreements is not within the scope of the bill and that the subject of the amendment comes under the jurisdiction of another committee of the House; namely, the Committee on Foreign Affairs.

Therefore, the amendment is not germane and the Chair must sustain the point of order raised by the gentleman from Iowa.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. GONZALEZ: Page 107, insert after line 18 the following:
>
> "(e) If the Administrator determines, on his own initiative or upon petition, that an area has an acquifer which is the sole or principal drinking water source for the area and which, if contaminated, could create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such acquifer through a recharge zone."

Mr. GONZALEZ. Mr. Chairman, this amendment, a copy of which I sent to the distinguished chairman of the subcommittee something over a month ago, was one that I was hopeful would receive the welcome acceptance of both sides of the aisle, as far as the managers are concerned, because I cannot see anything but the highest consonance with the main purposes as stated by the managers for this legislation, which is the protection of communities in their sources and right to good, healthy, potable, acceptable drinking water.

My amendment simply says that where you have a community that is dependent for its water source, its principal source or exclusive source of drinking water in an aquifer—and this is true in the case of my own hometown of San Antonio—then if the administrator discovers that Federal funds are going into any particular purposes which would endanger that source of water, that he shall determine, and so does by publication in the Register, and after publication no commitment for Federal financial assistance would be entered into unless and until it is determined that no such dangerous impact exists.

I see absolutely nothing that is in contradiction with the intense desire on our part to insure that all of these districts, such as mine, even though perhaps it is a very unique situation in the country, but, nevertheless a very realistic one, with the adoption of this amendment.

As I say, we receive our complete water supply from an aquifer known as the Edwards Aquifer. The Edwards Aquifer covers several counties; it extends beyond our own immediate counties, and it has been the source of water in San Antonio, the source of pure, sweet, artesian well water. So the Members can see that protection of this rechargeable zone, which is the principal source of the Edwards Aquifer, is essential in order to prevent possible contamination of the water, as in fact that danger now exists.

The problem is that the city of San Antonio is growing rapidly. There are developers who are anxious to drill into the aquifer and develop their extensions willy-nilly, without regard to possible pollution to the aquifer.

Unfortunately, our State laws are very weak. In fact, I am engaged in an intense struggle at this time because of a little-publicized statute passed by the legislature about 4 years ago that makes it possible to do what I last read was possible in Europe in the old rotten-borough district of England. The English abolished the rotten-borough concept in 1830. We have had this reborn in Texas, unfortunately, and some of us are trying to do something to remedy it.

Meanwhile, there are at least a couple of developers who are unconscionable predators, and who are oblivious to the danger to the basic water supply in our community, and they are looking to Federal funds to carry out their projects. My amendment would say that we will not allow this.

Mr. Chairman, I am hopeful that this amendment will be approved. I did not push after I wrote my letter to the distinguished chairman of the subcommittee because we had a recess, but I am presenting it this afternoon in good faith and asking the Members to consider this very unique situation in the case of the City of San Antonio.

Mr. Chairman, I yield back the balance of my time.

Mr. STAGGERS. Mr. Chairman, I rise, reluctantly in a way, because it is a good amendment, but it does something that we have been trying to avoid, to require the Federal Government, over State government opposition to come in and say, "You cannot build this building because maybe it will contaminate the drinking water" when the local authorities have said that it will not.

I do believe, however, that the amendment is worthwhile because I can understand where there is only one source of supply, as the gentleman said, for several counties, that it would not be wise for any federally aided building to be allowed to come in. I cannot conceive of many situations in which this could occur, but it could conceivably.

Mr. CARTER. Mr. Chairman, I move to strike the last word. I just wish to say that I am in sympathy with the distinguished gentleman from Texas. I think he gave an excellent dissertation on his purpose to supply the city of San Antonio with pure, sweet tasting water. I know of nothing better.

I agree with the chairman that this might be more Federal intervention than we would want in this case, but, personally, I just cannot be in favor of the amendment.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

I will ask the chairman, What does this do for San Antonio that it does not do for Waterloo, Iowa?

Mr. STAGGERS. If the gentleman will yield, not a thing.

Mr. GROSS. This provision would be applied evenhandedly across the board to all sections and areas of the country; is that right?

Mr. STAGGERS. That is right. The gentleman does not limit the applicability of his amendment to any particular area of the country.

Mr. GROSS. I just did not want another example of the bill recently approved by the House which provides for the spending of $14 million to relocate railroad tracks and a grade crossing in Gary, Ind., and nowhere else. I just do not want another one of those special privilege deals enacted today.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PICKLE

Mr. PICKLE. Mr Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PICKLE: Page 124, line 4, strike out "$10,000" and insert in lieu thereof "$50,000"; and in line 5 of that page strike out "$10,000,000" and insert in lieu thereof "$50,000,000".

Mr. PICKLE. Mr. Chairman, the amendment seeks to increase the amount of money in the guaranteed loan program. It does not increase the authorization of funds in this bill at all. As a practical matter when these small communities attempt to drill a well or put in a new system to meet these criteria or standards they are finding it costs a great deal of money. We no longer have the situation where a small community can drill a well or put in a system for $10,000 as shown in this particular bill. Water engineers tell us that just to get in business today will cost $30,000 or $40,000 or $50,000 as a starter.

As a practical matter the sums mentioned in this bill on page 124 in my judgment are not sufficient, so this amendment simply raises the amount that could be guaranteed in any individual system from $10,000 up to $50,000, and in the total aggregate that amount would be also increased.

I think it is a practical amendment. The communities simply cannot get into this business unless they can get this kind of guaranteed loan program. This does not increase the money or the authorization but rather the guaranteed loan aspect. I hope the committee will accept the amendment.

Mr. STAGGERS. Mr. Chairman, in response to the gentleman from Texas, I will say I think his intention to increase loan guarantee authority in the bill is certainly worthwhile. I understand this is not an appropriation and this is simply to provide that the communities can receive these higher guaranteed loans.

Mr. PICKLE. That is correct.

Mr. STAGGERS. I think the amendment is worthwhile and deserving of the support of the House.

Mr. PICKLE. Under this bill it must also be shown they cannot get more funds from any other source.

Mr. CARTER. Mr. Chairman, we have no objection here.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PICKLE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RUPPE

Mr. RUPPE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RUPPE: Page 132, line 18, strike out the quotation marks.

Page 132, insert after line 18 the following:

"EQUITABLE RELIEF

"SEC. 1449. (a) (1) Except as otherwise provided in paragraph (2), in any action which is commenced by (or at the request of) the Administrator and which requests equitable relief for the purpose of assuring safe drinking water, if a party shows that a defendant in such action is discharging or emitting any substance in violaton of Federal law (or any State law which is enforceable under Federal law) and that such discharge or emission presents or contributes to a public health risk, the court shall grant such equitable relief as may be necessary promptly to assure that such discharge or emission does not present or contribute to such risk.

"(2) A court is not required by this section to grant equitable relief with respect to a discharge or emission if the person who is discharging or emitting such substance demonstrates that—

"(A) the publc health risk does not exist; or

"(B) it would be arbitrary or capricious to grant such relief (taking into account technological and economic considerations, size of population at risk, and availability of alternative sources of drinking water).

"(b) Nothing in this section shall be construed to have the effect of limiting any other provision of law which requires or authorizes any court to prohibit or limit any discharge or emission.

"(c) To the extent this system would apply, it shall apply in all proceedings pending at the time of its enactment, unless a court determines that its application in such a pending proceeding would prejudice the rights of a party.

"(d) As used in this section:

"(1) The term 'discharging or emitting' includes disseminating, dispersing, and injecting, and includes causing to discharge, emit, disseminate, disperse, or inject.

"(2) The term 'public health risk' means a risk of causing death, serious illness or disease, or irreparable physical harm to persons (whether such illness, disease, or harm is imminent or preceded by a latent period) unless such risk is negligible."

POINT OF ORDER

Mr. BROYHILL of North Carolina. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BROYHILL of North Carolina. Mr. Chairman, I make a point of order against the amendment, that the amendment is not germane to the bill. The bill provides the requirement that the Administrator of EPA will prescribe national primary drinking water regulations. Also, it has provisions in it to provide for State enforcement of these national primary drinking water regulations and also sets up certain oversight by the Administrator in case the States fail to adopt or implement these standards.

Mr. Chairman, this amendment deals with discharge of pollutants into a stream. The bill has enough provisions dealing with this discharge of pollutants. The legislation deals only with water treatment in order to comply with the standards that are set up as a result of the bill and the enforcement of these standards. This, again, is realistically an amendment to the Federal Water Pollution Control Act.

Since it does introduce new matter which is not otherwise dealt with in this legislation, I make the point of order that it is not germane to the bill.

The CHAIRMAN. Does the gentleman from Michigan care to respond to the point of order?

Mr. RUPPE. Yes, Mr. Chairman.

First of all, in response to the question of germaneness, I would like to make the following four points:

The major bill deals with the issue of safe drinking water, and that is exactly the thrust of the amendment.

The amendment deals with the possible health hazards connected with the drinking of water from a raw water source. There are many references to raw water sources in the bill—it is not limited to solely water systems. The following is a list of such references:

First. Section 1401(1)(D)(i)—page 65, line 25 through page 66, line 2—"Water which may be taken into the system" can be taken from raw water sources.

Second. Part C dealing with underground sources of drinking water. Such underground sources are raw water sources.

Third. Section 1442(a)(1)(C)—page 114, line 12—This subsection directly refers to research on new methods of treating raw water.

The amendment deals with enforcement proceedings in which the Administrator of the Environmental Protection Agency is involved. Similar provisions are found in the Safe Drinking Water Act in sections 1414, 1423, 1424, and 1431.

Section 4 of the bill amends the Federal Food, Drug, and Cosmetic Act dealing with bottled drinking water. This clearly demonstrates that the committee was dealing with drinking water, in general, as opposed to just water systems.

Mr. Chairman, for these reasons I feel that the amendment is, indeed, germane.

Mr. BROYHILL of North Carolina. Mr. Chairman, I would like to be heard further on the point of order.

Since it has been agreed that the amendment deals with emissions and discharges into streams and since the amendment deals with that and that the bill has nothing whatever to do with that subject matter and that is the subject of jurisdiction of another committee, I maintain it is not germane to this legislation, or to the legislative jurisdiction of the committee.

Mr. HARSHA. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. HARSHA. Mr. Chairman, I would just like to reemphasize the point made by the distinguished gentleman from North Carolina (Mr. BROYHILL), that this clearly deals with the discharge and emission into the navigable waters of the country, and is under the jurisdiction of the Federal Water Pollution Control Act and amendments which we adopted in 1972. It has nothing to do with the language of the bill presently being considered by the Committee; nor does the Committee on Interstate and Foreign Commerce have any jurisdiction over water pollution. That is within the sole jurisdiction of the Committee on Public Works. To attempt to amend that law by this means is not germane nor within the jurisdiction of this legislation.

Mr. JONES of Alabama. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Alabama is recognized.

Mr. JONES of Alabama. Mr. Chairman, I would like to be heard on the point of order. The proposition that the gentleman is making certainly is not consonant with the Water Pollution Act of 1972. I do not know what his emission standards would accomplish over and beyond that which is contained in existing law.

If it places a greater burden or accelerates the demand of local communities to qualify under the provisions of his amendment, then we would violate all the principles and assets that have been accumulated with the Water Quality Act.

Therefore, I think the proposition he presents to the committee is beyond the scope of the bill which we have before us at the present time.

The CHAIRMAN. The Chair is prepared to rule.

In the opinion of the Chair, the amendment is limited in scope to the question of equitable relief to assure safe drinking water, and does not go to the broader question of water quality generally. The bill goes to the question of contamination of drinking water by any source, including injections of contaminants into underground water. Thus an amendment to provide a remedy which is limited to the control of contamination of drinking water sources is germane to the bill.

For that reason, the Chair must overrule the point of order.

The gentleman from Michigan is recognized for 5 minutes in support of his amendment.

Mr. RUPPE. Mr. Chairman, the importance—and indeed the sanctity—of human health must always be one of our paramount considerations, and certainly that is one of the reasons I would like to thank the authors of the bill and members of the committee today for the legislation we have before us, for we, as U.S. Representatives, have a never-ending obligation to the American people—an unspoken oath, if you will, which dedicates to us the proposition that the U.S. Congress will be in the forefront of the battle to fight dangerous diseases and to promote human health. We today have an opportunity to continue in this tradition.

I therefore propose an amendment which states that when an action in equity is brought to assure safe drinking water, which action is initiated at the request of the administrator of the Environmental Protection Agency, a showing by a party that a defendant is discharging or emitting a substance in violation of Federal law which presents a threat to public health, or which contributes to such a threat, a court shall grant equitable relief requiring prompt abatement.

A court is not so required to grant that equitable relief on a finding that a health threat does not exist or that it is negligible, or that such action by a court would be capricious or arbitrary. Guidelines are provided such as physical and economic impact, the size of the population at risk, and the availability of alternate sources of drinking water. While it expressly states that the amendment is applicable to proceedings pending at the time of enactment, it shall in no way prejudice the rights of such a party.

The onus should not be on the Federal Government, to prove that a health hazard does indeed exist. The onus should be on the other party to demonstrate that its action does not constitute a possible health hazard. This is not an environmental issue, as such. It is a human issue which recognizes the sanctity of human health and human life. If we have not done our job in the past by providing adequate mechanisms to halt a possible health threat, we must do so now. We must act decisively. We must stop a present potential health hazard, and we must insure that future situations do not occur.

I am specifically referring to the operation of and litigation surrounding the Reserve Mining Co., which is engaged in the exploration and mining for iron ore at Silver Bay, Minn. A byproduct of their work is taconite tailings which contain a certain asbestos fiber. This operation has been in existence since the mid-1950's, and today Reserve Mining is depositing 67,000 tons of these tailings daily into Lake Superior.

The litigation surrounding this dumping has been long and expensive. The core of the controversy is an effort by the U.S. Government, through the Environmental Protection Agency and the Department of Justice, to force Reserve to establish an environmentally acceptable on-land disposal system. I will not dwell on all the specifics of the case, but it has been a course of litigation marred, in my opinion, by delaying and dilatory tactics aimed at avoiding a viable and hopefully inevitable result. These legal maneuvers have personally frustrated me as an observer, and as the representative of the congressional district with the largest amount of coastline on Lake Superior and, selfishly, as a personal consumer of Lake Superior water.

Many of us in Congress representing Great Lakes States and, specifically, Michigan, Wisconsin, and Minnesota, wondered what we could do to alleviate the problem. We had passed laws prohibiting the dumping of hazardous substances into waters; we have written to and pressed the Department of Justice and the Environmental Protection Agency to take effective legal action. We have acted on the assumption that Congress had passed adequate laws to deal with the situation and these laws only had to be enforced. The act of one courageous district court judge told us we were correct, but his ruling was overturned by a higher court. The Supreme Court, though, has not agreed to further review the matter, so despite the fact that our laws are adequate, it is incumbent upon us to respect our courts, and, therefore, we must take further action.

Last spring, the Department of Justice, on behalf of the EPA, and with the intervention of the States of Michigan, Minnesota, and Wisconsin, as well as various environmental groups, asked the District Court for the District of Minnesota to enjoin Reserve Mining from further discharging into Lake Superior.

Judge Miles Lord, on April 20, so ordered an injunction in what many of us thought to be a momentous decision. He recognized that fibers, already been found in the drinking water of Duluth, Minn., were similar if not identical morphologically and chemically to certain asbestos, exposure to which can produce asbestosis, mesothelioma, and cancer of the lungs, gastrointestinal tract, and larynx. He made a finding that—

> The discharge into the water substantially endangers the health of the people who procure their drinking water from the western arm of Lake Superior including the communities of Beaver Bay, Two Harbors, Cloquet, Duluth, and Superior, Wisconsin.

I would add a personal note at this point: that the headlines of the Marquette, Mich., Mining Journal, of Friday, November 8, 1974, read, "Fibers Found in City Water." As the crow flies, Marquette is over 200 miles from Silver Bay.

To return to Judge Lord's opinion, he recognized that the exact scope of possible harm was uncertain since the true physical effects are often not known until 15 to 20 years following the original exposure to the fibers. He also recognized the economic effects a temporary or permanent injunction, closing down the mine, could have on Silver Bay and surrounding communities. However, in blistering language, Judge Lord condemned Reserve for putting him in the position he found himself, but, as he stated:

> The Court has no other alternative but to order an immediate halt to the discharge which threatens the lives of thousands.

Many of us were relieved and thankful for a courageous judge named Miles Lord. If you will, to us he was the John Sirica of the Great Lakes. But our feelings were shortlived; for on June 4, the Eighth Circuit Court of Appeals lifted the injunction. Where Judge Lord said: "This court cannot honor profit over human life," the Court of Appeals said: "Judge Lord apparently took the position that all uncertainties should be resolved in favor of health safety." They maintained that what Judge Lord had done was to make a legislative determination, not a judicial one. Because no demonstrable real hazard had been proven, soon thereafter, the Reserve Mining Co. again started to deposit 67,000 tons of taconite tailings daily into Lake Superior, and we were once again faced with this ongoing possible threat to human health and to human life.

Since the Circuit Court of Appeals told us in Congress we had not established the requisite legislative policy, we must do that and do it as soon as possible. I have great faith in the legal abilities of the attorneys of the EPA and the Department of Justice, and I feel certain that they will do everything in their power to force Reserve to an agreement on an acceptable onland disposal site. But it is obvious to me that we must give them one further tool which will be applicable not only to Reserve Mining Co., but to future Reserve Mining Companies. The Safe Drinking Water Act provides us with the perfect opportunity.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. Yes, I yield to the gentleman.

Mr. JONES of Alabama. The gentleman is discussing the status of what he is advocating. It is now pending in the Circuit Court of Appeals.

Mr. RUPPE. It has been decided in the Circuit Court of Appeals.

Mr. JONES of Alabama. It has been decided one time, but it is again pending before the Circuit Court of Appeals.

Mr. RUPPE. It might well be. But the Circuit Court has taken a very hostile, and, in my opinion, a somewhat arrogant viewpoint on the particular matter.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. RUPPE) has expired.

(On request of Mr. OBEY and by unanimous consent, Mr. RUPPE was allowed to proceed for 2 additional minutes.)

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. The question is now pending before the Circuit Court of Appeals; that is a fact, is it not?

Mr. RUPPE. Well, the decision was made. I would like to point out to the Members, if I have the time, the statement over on the Senate side made by the Assistant Administrator for Enforcement and General Counsel for EPA, where he says:

> In our view, the appellate court's preliminary ruling establishes an overly restrictive burden for the Government in cases such as Reserve Mining, where scientific knowledge is not yet complete but there are significant indications of adverse health impacts.

Mr. OBEY. I would like to join my colleague and commend him for his effort and support him in his amendment. I commend him for his leadership on it.

I personally think it is outrageous that in my district, for instance, and communities like Superior and Ashland, they have no way of securing clean water.

I agree with the gentleman on his description of the Circuit Court of Appeals decision on the matter and his comments on Judge Lord.

I think this amendment is needed. I think the gentleman has performed a public service, and I hope the amendment is agreed to.

Mr. RUPPE. I thank the gentleman. The judge said he thought the violation did exist, and yet nothing has been done, and the bureaucratic procedures have gone on for years.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I wish to commend the gentleman from Michigan for offering this amendment. It is an excellent amendment.

This amendment attacks the problems concerning the very source of water which supplies the people in the northern Michigan area and in the upper Great Lakes Basin.

This would help us bring to a halt the outrageous actions which have taken place. These actions are the most outrageous, perpetrated by the most contumacious and rapacious polluters of our Great Lakes, of any we have ever had to contend with. They are adamant in their efforts, which affect the quality of the water in the Great Lakes and upper Michigan area, and they are jeopardizing the health of the people from Michigan, and they are also jeopardizing the health and well being of all the people in the Great Lakes Basin.

Mr. Chairman, I commend the gentleman from Michigan for offering this amendment, and I urge that it is one that should be adopted.

Mr. RUPPE. Mr. Chairman, I thank the gentleman for his full support and for his strong efforts and contribution in this legislative area.

Mr. GOLDWATER. Mr. Chairman, I rise in opposition to the amendment.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, as I understand it, this amendment has not been fully considered by the committee. Concerning the clean water bill, the Water Quality Act of 1972, in that conference we anticipated that there would have to be some changes made in the provisions of that bill.

So we in the next session are going to consider the complete administrative propositions that have been raised.

Consequently, it seems to me that this matter can be delayed until such time as we take on a comprehensive, long-range examination of the entire proposition of water quality. I hope that we do not go to these impulses of trying to legislate in such a fashion as has been proposed by this amendment.

Mr. Chairman, I hope the amendment will be withdrawn or not agreed to.

Mr. GOLDWATER. Mr. Chairman, I thank the distinguished gentleman from Alabama for his observations on this particular amendment. I rise in opposition to the amendment.

The gentleman from Michigan (Mr. RUPPE) mentioned or stressed the point that we have a responsibility in this Congress. We probably have many responsibilities, one of which is to insure that we do not infringe upon the rights of local government to take care of its own local needs.

It appears to me that, with this bill, in our efforts to insure clean drinking water, we may be infringing upon those rights of local government. But then to come along and in essence put the onus of proof upon the defendant or in essence upon local government is not only careless, but I think it is irresponsible and, in the last resort, an expensive proposition.

Mr. Chairman, I can appreciate very much the problem that Lake Superior is suffering under, as my friend, the gentleman from Michigan stated, with the current actions of Reserve Mining Co. However, I do not feel that this is the place nor the particular vehicle by which to rectify that situation, primarily because of the burden that it places upon every other municipality and every other State and local government, just to clean up one particular problem.

Throwing the onus of proof onto the defendant is obviously a complete reversal of one of the most basic and prized principles of Anglo Saxon law. Our Nation is founded in part on the principle of legal presumption of innocence until proven guilty, and we know how highly our forefathers valued that principle.

This is obviously a very serious problem which Lake Superior is suffering under. But it appears to me, in my opinion, that this is not the vehicle, to put the burden of proof on the defendant, jeopardizing the rights of others, and causing tremendous expense to local government.

I would suggest, Mr. Chairman, that the gentleman from Michigan go back to the drawing board and come up with another approach to resolving this very serious problem.

Mr. Chairman, I urge my colleagues to vote against the amendment.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Ohio.

Mr. HARSHA. Could the gentleman inform me as to whether or not any hearings were held on this particular amendment by the committee?

Mr. GOLDWATER. I am not a member of the subcommittee, but I am a member of the full committee.

To my knowledge, there were very few hearings held on the entire proposition; and to my knowledge, neither this amendment nor this problem was discussed in the subcommittee or in the full committee. Further to my knowledge, this is the first time that this has come to our attention. Obviously, it is a serious problem, but until we have had an opportunity to have a full hearing on it, this is not the time to take this up.

Mr. HARSHA. If the gentleman will yield further, this is obviously a very difficult issue to deal with. Certainly it should not be treated lightly. There should have been extensive hearings held on the subject matter of this particular amendment. I think it is of such import and has such ramifications——

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. HARSHA. Continuing my statement, Mr. Chairman, this is of such import that there should very definitely have been detailed inquiry into the subject matter because the ramifications are so great, and it obviously is counterproductive or at least conflicts with the Water Pollution Control Act where this problem was dealt with at some length.

We just heard the new chairman of the Committee on Public Works indicate that we will deal with this matter in the Committee on Public Works.

To require a defendant to assume the burden of proof, as I understand this amendment does, to prove that his discharges do not cause any damage or injury is something that cannot possibly be done, it is utterly impossible. In other words, you are guilty until proven innocent. This is contrary to every rule of evidence, of law, of the American way in fact. To go about legislating in this manner is just not the proper procedure, it denies all parties the right to be heard, to express their views, and to indicate to the committee all the problems an amendment of this kind raises, and I would urge the defeat of this amendment.

Mr. NELSEN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. NELSEN. In the early debate on this bill, there was wide discussion dealing with the possibility that we were stepping out too far with Federal authority in various areas.

The committee conscientiously tried to recognize that hazard, that danger, and modified the bill so that we felt it could be passed.

Now we have added several amendments this afternoon. We think that maybe they are all right; we are not sure, but we think that maybe they are all right. However, we keep on adding more and more amendments, and finally I think we are providing the hazards for the bill itself.

In this instance, I know a little bit about the Minnesota situation because I was one of the members of the State legislature way back there when the first taconite legislation was adopted.

I agree that something must be done in the State, and I think it will be done. However, here we are setting up a procedure that not only would apply to something we need to do in the Reserve mining case, but the criteria set up in here may go much further in other areas.

Therefore, we are going in the direction that we were cautioned about earlier in the talk that the gentleman from Ohio (Mr. LATTA) made on the floor.

We are in this amendment extending authority beyond where we wanted to go in the whole bill to assure its passage.

I believe that this is a matter that should be treated separately and should not be in the safe drinking water bill.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I listened with interest to the remarks of some of my colleagues with regard to the amendment now pending before us. The only thing I can say is that I take some comfort from the fact that they are apparently talking about a totally different amendment than that which pends before us.

The amendment really is a very simple one. It has two parts. It says where there is a discharge of substances into the water which would adversely affect the health and well-being of people through their drinking water that that action is subject to abatement by injunction.

The second part says that if a risk to the public health through the drinking water does not exist then the judgment would not lie, or if it would be arbitrary or capricious to grant relief the judgment does not lie, and the court is not required to issue an injunction in those two instances.

What it says is that if the citizens of the upper peninsula of Michigan or Wisconsin, or Canada or Minnesota, find their health or well-being to be jeopardized that the court may consider and entertain an application for injunctive relief to abate it, because of the threat to the health and well-being.

My good friend, the gentleman from California (Mr. GOLDWATER) apparently did not have the right copy of the amendment, because the gentleman spoke on what appeared to be clearly a very different amendment.

My old friend, the gentleman from Alabama (Mr. JONES) talked about a totally different amendment than that which appears before us.

Anyone putting something in the water which jeopardizes the health and well-being of the people, such as carcinogens or cancer-producing substances that would jeopardize the health of people living many hundreds of miles away, that person ought to be subject to an injunctive process in court. That does not sound like an outrageous proposition to me.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my old friend from Texas.

Mr. ROBERTS. There is another point that should be brought out along with what the gentleman from Michigan is talking about, and that is in reference to injection wells. We have more injection wells in Texas than there are in all of Michigan, Wisconsin, and Minnesota combined, and there have only been five failures in the total time that we have been doing injection wells, and that applies to steam injection and it applies to water injection, and it is subject to secondary recovery.

This amendment is an amendment that is entirely too broad and has nothing to do with the jurisdiction of this committee.

Mr. DINGELL. I very regretfully must disagree with my old friend, the gentleman from Texas (Mr. ROBERTS) because I do not find anything relating to injection wells or to the recovery of oil or secondary recovery.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I just want to point out very emphatically that this amendment is not intended by express provision or implication to weaken any existing provision of Federal law. It merely directs the courts to assure prompt abatement of a violation in a situation like Reserve Mining, where a threat to health was allowed to persist on economic grounds. The amendment is intended to establish the congressional finding of the paramount value of health protection. It is not intended—and this is made clear by subsection (b)—to require proof of a health hazard as a condition for prompt injunctive relief, or to limit any court's authority to grant such relief for purposes of protection of environmental or economic values. So I do not think that really applies.

Mr. DINGELL. I do not read anything in there about water injection into oil wells, or anything else. The hard fact of the matter is that we have had one of the most contumacious resistors to the laws of the United States, and I am rather surprised to find my friends from the Committee on Public Works appearing here in opposition to the amendment, because that is the law that came out of their committee. The Reserve Mining Co., to whom this amendment is directed, are the only taconite producers in the country that refuse to use either land recovery or land disposal. They are the only people that get this advantage to the detriment of almost every one of the other taconite producers.

Mr. JONES of Alabama. Mr. Chairman, if the gentleman will yield, there is a question now, which the judge indicated, the question is as to whether or not this contaminates or is a hazard.

Mr. DINGELL. Contaminates or is a hazard to the health and well-being. That strikes me as eminently good sense.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. OBEY, and by unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my friend, the gentleman from Wisconsin.

Mr. OBEY. Let me just point out that in the circuit court decision they said that the judge apparently took the position that all uncertainty should be resolved in favor of health and safety, but the court then went on to say the determination in favor of health and safety represents a political judgment.

All we are suggesting is that we take the court at face value and make that legislative judgment that we ought to resolve these doubts in favor of health.

Let me also point out that this House just approved 2 months ago a study in the Labor-HEW appropriation bill—an item to finance a 3-year study to determine what the exact effects are of asbestos in drinking water. I doubt that we would suggest that we ought to wait 3 years pending the outcome of that study before offland disposal is stopped.

Mr. DINGELL. I think the gentleman from Wisconsin takes an eminently sensible position. All this amendment does is to allow the people of Michigan, Wisconsin, and Minnesota to get into court to get the judicial relief the court said must be procured first through the action of the Congress, the legislative body. That is all it says.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

Asbestos fibers from an illegal discharge have been found in northern Michigan 200 miles from the site of that dumping. It is almost impossible to prove a health hazard with the scientific evidence available today to the EPA, but even EPA states very, very clearly that if there is a situation where the court determines that a health risk is evident, then that court should have the power to give injuctive relief to the people who have to drink the water in that area.

Mr. DINGELL. This is one of the few instances I have ever found where the citizens have shown that kind of peril.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

It is a little misleading in the statement that was made saying that the amendment says that the only thing anyone can do is go to court. This also puts a burden on the defendant that is contrary to any law.

Mr. DINGELL. I have been a lawyer for over 20 years, and I do not read anything in this amendment that says the burden of proof shifts. Maybe I am wrong. Maybe the gentleman has better eyes than I have, but nowhere in this amendment is there a shifting of the burden of proof. The burden of proof in this amendment still lies on the back of the person seeking injunctive relief.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my friend, the gentleman from Missouri.

Mr. RANDALL. I thank the gentleman for yielding.

The gentleman did make the comment, I believe, that this is directed at the Reserve Mining Co.

Mr. DINGELL. Let me say this. It is general legislation, but I can assure the gentleman from Missouri that we in Michigan are going to be able to look with some confidence on the fact that the courts are going to allow injunctive relief to bring the Reserve Mining Co.'s pollution of Lake Superior to a halt if this amendment is adopted.

Mr. RANDALL. In Missouri we are affected by this because this source of ore is used in our district. It is also true, I understand, that this matter is now in the court.

Mr. DINGELL. Let me just tell my friend, the gentleman from Missouri, that Reserve Mining can use onshore facilities for taconite wastes, and there will be no problem. That is what this amendment will do.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. I just learned a short while ago the amendment would be offered, then just now I have discovered that it is really directed at Reserve Mining of Minnesota. Now it happens as a matter of fact that this mine affects other parts of the Middle West other than Minnesota, Michigan, or Wisconsin. It affects Missouri, and it does, because we have a plant which relies on this mine for about half of its ore. This amendment would shut down this mine for 3 or 4 years until a disposal facility is completed. This matter is now pending in court. The U.S. Circuit Court of Appeals has refused to order the closing of this mine. While it may take a little time I am reliably advised that this mine is ready and prepared to spend whatever may be necessary to comply with the specifications of the court.

It is inappropriate to consider this amendment at this time. There have been no hearings held on the effect nationwide of this amendment. We know we are suffering from inflation and may possibly be heading into a recession. I have just discovered that if this amendment is enacted, it could result in an immediate increase in unemployment of approximately 2,000 persons in the Kansas City area alone.

If this amendment is enacted it could cut off as much as 15 percent of the Nation's iron ore—and this includes ore that is needed if a plant in the Blue Valley of our district is to continue to operate. This country's iron ore reserves are dwindling as it is. Imports are being increased. But there is some bad news in that direction, because Venezuela has announced its intention to nationalize its ore reserve—to be used for their domestic steel production.

Mr. Chairman, I repeat Reserve Mining has agreed to work out a disposal arrangement under the supervision of the court which will cost $250 million—while the total worth of the remaining facility is only about $350 million.

The shutdown of Reserve would result in an immediate massive unemployment of between 7,000 and 8,000 workers. For my part, I firmly believe we cannot stand either an increase in the price of steel or more unemployment.

This amendment should be defeated.

Mr. OBEY. Mr. Chairman, if the gentleman will yield, let me ask the gentleman this question. He does not think we can stand any more increase in the price of steel. How much more cancer can we stand among those who are the helpless victims of this mining company across the State line? How much more risk should they have to take?

Mr. RANDALL. The gentleman raises an emotional question. It is speculative and conjectural whether cancer is caused by any effluent from this mine. But let me add there is nothing speculative about persons who are out of work and walking the streets. Let me say to the gentleman from Wisconsin such conditions are also very emotional.

Mr. Chairman, the gentleman from Michigan asked me to yield to him a minute ago. I will yield to him now.

Mr. RUPPE. Mr. Chairman, the gentleman referred to several discharges in the State of Missouri. Were they in violation or not in violation?

Mr. RANDALL. I was not referring to violations by any of our steel mills, but rather to their suffering a loss of supply of ore if the reserve mining were shut down.

Mr. RUPPE. Reserve for 10 years has absolutely refused to comply. They are not complying.

Mr. RANDALL. Well, it is my understanding they are now complying with the court order.

Mr. RUPPE. They are not complying. They have no permit. They are operating in violation of the law in discharging the taconite. That is my point.

Mr. RANDALL. But there is an agreement reached under the supervision of the court and there will be timely compliance.

Mr. RUPPE. No way.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. RUPPE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. RUPPE. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MURPHY OF ILLINOIS

Mr. MURPHY of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of Illinois: Page 108, line 2, strike out "or" and insert in lieu thereof "and".

Page 108, line 4, insert after the period the following: "To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking."

Mr. MURPHY of Illinois. Mr. Chairman. I would like to explain what this amendment does.

Mr. Chairman, recent reports of unsafe and potentially lethal drinking water have awakened the American people to the need for strict national health standards regarding our water supply. Consideration today of the Safe Drinking Water Act is therefore particularly timely.

One disturbing aspect of setting standards for safe drinking water is the fact that no conclusive data exists as to what levels of contaminants jeopardize the public and what amounts produce no adverse effects. I was pleased to note that the Safe Drinking Water Act recognizes this dilemma and provides that the National Academy of Sciences—NAS—begin studying this problem. The legislation authorizes NAS to identify contaminants known to be harmful but further instructs NAS to identify any which might have harmful effects.

Until the NAS report is finalized, however, the act provides that interim standards set by the EPA Administrator will be enforced. We cannot afford to wait months or years before a comprehensive plan is implemented. We must begin now.

We have the technology to get the answers we need. We have the financial and manpower resources at hand. If we fail to address ourselves to this problem at this time and risk discovering 5 or 10 years from now that we had our chance and blew it, there will be no rebuilding Americans' confidence in their Government.

This legislation recognizes that State and local authorities are capable of policing themselves but require the knowledge and the tools to do the job. I am proud of the recognition this problem has been given by my State of Illinois. Illinois has shown a willingness to set strict requirements for public and private drinking water supplies but, more importantly, my State has enforced these regulations.

I believe the primary responsibility for policing water supplies should rest with State and local authorities if States have proved their commitment and adherence to strict standards. I am introducing two amendments which recognize that a cooperative relationship between the Federal Government and the States is essential if we are to make any progress in our fight for safe drinking water. My amendments further recognize the detrimental effect unnecessary interference by the Federal Government can have on a State program. These amendments in no way tie the hands of the Federal Government to act, however, when the people are in imminent danger and State authorities are unwilling or unable to act to protect them.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Chairman, I want to commend the gentleman from Illinois for his amendment and for the interest he is showing in this legislation. Also I would like to inform the membership that the Governor of our State, Governor Walker, has sent me a telegram informing me that he is in favor of H.R. 13002, the Safe Drinking Water Act. I commend my distinguished colleague, the gentleman from Illinois from Chicago, for introducing his amendment which will serve to strengthen this legislation.

Mr. MURPHY of Illinois. I thank the gentleman.

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Illinois.

Mr. GRAY. Mr. Chairman, I thank my friend for yielding.

I want to associate myself with his remarks and the amendments he will offer. I have received the following wire:

> Governor Dan Walker has asked me to convey to you his continued support for the Safe Drinking Water Act (HR 13002) which is expected to come before the House for a vote today.
>
> We think that the bill would be improved and strengthened by the inclusion of amendments which are being introduced.
>
> In any event, we hope you will vote for the bill.
>
> OLGA GREY,
> *Director, Washington Office,*
> *State of Illinois.*

Mr. Chairman, I am for the amendments and for the bill. I hope they both will be adopted.

Mr. MURPHY of Illinois. Members of the Committee, all this amendment does is affect the emergency powers in part D of the bill.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from West Virginia.

Mr. STAGGERS. After having read the amendment, I would be inclined to accept the amendment on this side.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. I ask the gentleman again to explain what the amendment does.

Mr. MURPHY of Illinois. I am about to, if I am given a chance. All the amendment does is affect the emergency powers for the Federal Administrator when he acts upon information that a contaminant is present in or likely to enter a public water stream and may present an imminent and substantial endangerment to the health of persons. It must also be clear that the area's State or local authorities have not acted to protect the health of such persons, and the Administrator may take such action as he deems necessary to protect the health of such persons.

My amendment requires the Administrator, where it is practical, in light of the imminent endangerment, to consult with State or local authorities in order to affirm the correctness of the information he is acting on and decide what further action he proposes to take. He must make certain that the information he has acted on is based on correct facts.

This amendment requires that the Federal Administrator consult with State and local authorities as to the emergency, what information it is based on, and what action he proposes to take, so that he can work hand in glove with the local and State authorities.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MURPHY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MURPHY OF ILLINOIS

Mr. MURPHY of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of Illinois: Page 124, line 23, strike out "The" and insert in lieu thereof "(1) Except as provided in paragraph (2), the".

Page 125, insert after line 17 the following: "(2) No entry may be made under the first sentence of paragraph (1) in any State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry."

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Florida.

Mr. ROGERS. I think the committee would expect this to be done, anyway, and to have this spelled out is certainly acceptable on this side of the aisle without question.

Mr. MURPHY of Illinois. Mr. Chairman, if I may explain to the gentleman from North Carolina (Mr. BROYHILL), this amendment provides that the Administrator notify the State agency which would have control of a particular water system or agency that comes into question or violation, so that all interested parties can sit down and determine what action should be taken. The amendment provides that the State agency first be consulted to determine whether or not the agency could move on it before action by the Federal agency becomes necessary.

Mr. BROYHILL of North Carolina.

Mr. Chairman, if the gentleman will yield further, we have no objection to the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MURPHY).

The amendment was agreed to.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I would like to get some information from either the gentleman from West Virginia (Mr. STAGGERS) or the gentleman from Florida (Mr. ROGERS) as to the cost of this legislation.

The supplemental report accompanying the bill states that the 5-year cost is, I believe, $336,500,000. The report itself states a 5-year cost of some $352,100,000. What is the cost of this legislation?

Mr. STAGGERS. Mr. Chairman, if the gentleman will yield, I am informed that House rules require me to get the 5-year projection on this. We are only passing this legislation for 3 years, and the fact is that we have $156 million.

Mr. GROSS. What is the 3-year cost, then?

Mr. STAGGERS. One hundred and fifty-six million dollars. The rules require us to give a 5-year projection, but we are only authorizing for 3 years.

Mr. GROSS. But the legislation does call for a 5-year projection; is that right?

Mr. STAGGERS. No; the authorization is only for 3 years, but the rules of the House require a 5-year projection.

Mr. GROSS. What is the gentleman saying, that it is a 5-year projection but the committee is only authorizing 3 years?

Mr. STAGGERS. I think the language is very clear. We are only authorizing for 3 years. At the end of 3 years the bill will have to either come up for consideration again, or it dies.

Mr. GROSS. The $156 million is for 3 years, is that correct?

Mr. STAGGERS. That is correct.

Mr. GROSS. Why did the gentleman's committee change from the figures contained in both reports, the supplemental and the regular report accompanying the bill?

Mr. STAGGERS. My counsel says that it is a typographical error. I do not understand that. What did the gentleman say was in the report on this?

Mr. GROSS. The supplemental report accompanying the bill sets forth a cost estimate of $336,500,000, whereas the report sets forth—the report accompanying the bill of the date of July 10, 1974, sets forth a cost of $352,100,000.

Mr. STAGGERS. According to my counsel, it is a typographical error. I do not understand that, but I would say to the gentleman that we are only authorizing $156 million in the bill for the 3-year period. It is spelled out in the language of the bill.

Mr. GROSS. Can these two be typographical errors, this supplemental report which bears the date of August 15, 1974, and the report accompanying the bill which bears the date of July 10, 1974?

Mr. STAGGERS. The supplemental report, I am informed, is correct.

Mr. GROSS. Well, that is $336,500,000?

Mr. STAGGERS. That is the projection for 5 years, I understand.

Mr. GROSS. That is the projected cost for 5 years. Where does the gentleman propose to get the money?

Mr. STAGGERS. When we add these up across here, it does not come up with that amount, but there is some confusion in the matter. I would like to say to the gentleman that the correct figure is $156 million for 3 years being authorized in the bill.

Mr. GROSS. This is not a very propitious time for multimillion-dollar mistakes to be made.

Mr. STAGGERS. This report is not legislation. The bill stipulates $156 million.

Mr. GROSS. This country is in serious financial trouble.

Mr. STAGGERS. I would agree with the gentleman very much.

Mr. GROSS. I have not yet heard where the gentleman proposes to get the $156 million. It is budgeted?

Mr. STAGGERS. Well, I would not say whether it is budgeted or not. I do not know.

Mr. GROSS. The answer is that it is not budgeted.

Mr. STAGGERS. I am not so sure about that, but I would say to the gentleman that the great demand across America for the bill is rather urgent. We are representatives of the people, and we ought to act here. I think time demands that we act now to get the bill out.

Mr. GROSS. Is this bill being sought by the Bureau of the Budget or any agency in the executive branch of the Government except the EPA?

Mr. STAGGERS. I am sure that the Bureau of the Budget is not checking it, but the different agencies did appear.

AMENDED OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDE:

On page 116, after line 11, add the following new paragraph (9):

"(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after the date of enactment of this title, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate."

Mr. GUDE. Mr. Chairman, this amendment is offered in light of the recent revelations of possible carcinogens in the nations water supply, particularly in certain sections of the country.

The EPA has begun an investigation of this matter, but I think we should inject a note of urgency in reference to this investigation.

Therefore, this amendment provides that EPA will report back to Congress 6 months after the enactment of this title as to the initial results of their study; such a report is much needed by the American people particularly in metropolitan areas where the carcinogens have been reported.

I urge the adoption of this amendment in order that we expedite the scientific research in this critical area.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding.

As the gentleman knows, there has been national publicity recently to a study about the possible implication of cancer-causing substances in the Mississippi River water and about the possible complications that are caused by the chlorination and chlorine and disinfection by the water treatment plants for the drinking water supply.

Of course, in our geographical position, at almost the mouth of the Mississippi River, it is really vitally important to our region that we have controls enforced on the toxic organic compounds that come into the river from the industrial and municipal discharges, from runoffs from agricultural regions, from accidents on the river, and from chemical spills on the river. I would like to know if the language of the gentleman's amendment which says, "public water supplies and drinking water sources," does this cover contaminant discharges into surface raw water supplies?

Mr. GUDE. Certainly all of the water that flows into the water supplies would be subject to an investigation by the EPA, and it would seem to me that they would have a priority for areas of the country where the greatest number of contaminants are already known to be present in the water supply.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield further?

Mr. GUDE. Yes, indeed.

Mrs. BOGGS. Mr. Chairman, after we are assured the underground water supply is protected in the bill, would the gentleman also foresee that following the studies, controls over the surface water supplies could be applied also?

Mr. GUDE. I would think so.

Mrs. BOGGS. And could we be assured that priority would be given to the regions of the country which are in the most desperate need of the study?

Mr. GUDE. Mr. Chairman, there is no doubt that water in certain regions of the country leave a higher priority than that of other regions. Areas served by fresh and pure mountain water have a less critical problem than those in Louisiana which receive water from the Mississippi or areas around the Great Lakes, they would have top priority.

Mrs. BOGGS. Mr. Chairman, I thank the gentleman, and I commend him for offering his amendment.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, while I am, of course, disappointed with the failure of my amendment, I would say to the gentleman that such failure should carry absolutely no inference that the Congress, in the act we are presently considering has not always placed the utmost importance on the question of human health. The Safe Drinking Water Act will insure our public drinking water systems meet the highest health standards. The failure of my amendment to pass should in no way detract from the paramount emphasis of the bill on the protection of public health. I congratulate the gentleman for his fine and exemplary work.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I have been looking at the amendment and I have been studying it. I think it is a reasonable amendment, and I believe that a study should be made of these areas where we know or have reason to believe there are dangerous elements getting into the water.

They will report back in 6 months for further review or for any direct action that the Administrator deems necessary. I think it is a reasonable request, and we would be willing to accept the amendment on this side.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Minnesota.

Mr. NELSEN. I am just wondering, Mr. Chairman, about this: It says the Administrator shall conduct the study.

Now, in the provisions of the bill, we were trying very carefully to get the States involved.

Are we in this case going with the Administrator and in other cases in the bill are we going with the States to make the study?

Mr. Chairman, I would endorse the objective which the gentleman from Maryland (Mr. Gude) seeks. However, I wonder if the procedure here should be in line with the procedure as provided in the bill. I merely ask the question for clarification.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would think that the study is in correlation with the bill, and certainly it is in line with what we intended all the way along. We will use the Academy of Science, I am sure, to make the study.

Certainly I think it is in complete line with what we intended the bill to accomplish.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. Gude).

The amendment was agreed to.

Mr. KAZEN. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, what we are trying to do in this bill is very laudable, as everybody agrees. However, we have had experience with this type of broad-based, universal standard type of a bill.

If the Members will recall the Water Pollution Control Act that we passed, in 1972 we set some high standards for sewage disposal. At the same time we appropriated money to help cities and communities for constructing or repairing this in order to meet those high standards.

Well, we all know what happened. The President impounded the funds. Yet EPA has kept the high standards for waste disposal.

Now we have run into this difficulty: The various communities in my district which have contacted me cannot comply with the regulations because they do not have the money to build their plants.

The same thing is going to happen here. We agree that we ought to have research, we agree that we ought to have the purest water that we can have, and we agree that the health of the people of this Nation should be paramount in our interest. However, all of this is not going to be worth the paper that this bill is written on if we do not make provisions for the various communities to comply with the standards that EPA sets forth. It is just that simple.

Somewhere down the line those of us who represent small communities, as I do—rural areas where we have communities of 500 people, 900 people, 1,000 peoples, and 2,000 people—will find out that the problem is financial. If we have to tell those communities that their plants are not up to meeting these standards for drinking water, what are we going to do? We are going to shut them down or we are going to let them continue to use contaminated water.

Mr. Chairman, the solution would obviously be to provide some funds for these cities that do not have the financial ability to improve their plants, in order to meet the standards that EPA will set, and we know this bill will direct that those standards be met.

This is the biggest fallacy that I see in this bill. Regardless of what we say about exemptions, somewhere down the line within the next 7 years we are going to be faced with this problem. Water plants, considering what the cost is today and what it is going to be in the future, are not going to be cheap things to build. Yet, the very health of our Nation is dependent upon the type of water that we drink.

This bill will not accomplish its goal because of this glaring deficiency.

For that reason, Mr. Chairman, I am going to vote against this bill.

AMENDMENTS OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer a series of amendments and I ask unanimous consent that they may be considered en bloc since they are to correct certain typographical errors.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Staggers: Page 71, line 5, strike out "paragraph (2)" and insert in lieu thereof "paragraph (1) (B)".

Page 75, line 15, strike out "during" and insert in lieu thereof "in the case of"; and in line 19, insert after "(B)" the following: "in the case of the period".

Page 76, line 9, strike out "meets" and insert in lieu thereof "meet"; and in line 11 strike out "in" and insert in lieu thereof "the".

Page 77, line 22, insert '(A)" before "Whenever".

Page 78, line 1, strike out "(A)" and insert in lieu thereof '(i)"; strike out "(B)" in line 5 and insert in lieu thereof "(ii)"; and strike out lines 13 and 14 and insert in lieu thereof the following:

time.

"(B) If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of the notice given pursuant to subparagraph (A), he shall

Page 78, line 21, strike out "(A)" and insert in lieu thereof "(i)"; strike out line 23 and insert in lieu thereof "subparagraph (A), and"; and strike out "(B) (i)" in line 24 and insert in lieu thereof "(ii) (I)".

Page 79, line 1, strike out "(ii)" and insert in lieu thereof "(II)".

Page 84, line 1, strike out "resources" and insert in lieu thereof "sources'; and in line 15, strike out "rational" and insert in lieu thereof "national".

Page 86, line 21, insert a comma after "if".

Page 89, line 2, strike out "it" and insert in lieu thereof "the State".

Page 96, line 12, insert "of the Administrator under this section" after "Regulations".

Page 99, line 23, strike out "clause (i)" and insert in lieu thereof "its underground injection control program".

Page 100, insert after "(b) (2)" in line 24 a comma and the following: "if the Administrator determines under subsection (b) (3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b) (1) (A),"; and beginning in line 2 on page 101 strike out "such disapproval or expiration date" and insert in lieu thereof "the date of such disapproval, determination, or expiration".

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from West Virginia (Mr. Staggers).

The amendments were agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Nichols, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill H.R. 13002 to amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes, pursuant to House Resolution 1423, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment. The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROGERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device; and there were—yeas 296, nays 84, answered "present" 1, not voting 53, as follows:

[Roll No. 631]

YEAS—296

Abzug
Adams
Addabbo
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Brademas
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Calif.
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Cleveland
Cohen
Collier
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dellums
Denholm
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Gonzalez
Gray
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Haley
Hamilton
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Hinshaw
Hogan
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hunt
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kemp
Kluczynski
Koch
Kyros
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McDade
McEwen
McFall
McKinney
Macdonald
Madden
Madigan
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Miller
Mills
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Powell, Ohio
Preyer
Price, Ill.
Quie
Railsback
Randall
Rees
Regula
Rhodes
Rinaldo
Robison, N.Y.
Rodino
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shriver
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thone
Thornton
Tiernan
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waldie
Walsh
Wampler
Whalen
Whitehurst
Whitten
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ill.
Zablocki

NAYS—84

Abdnor
Archer
Arends
Armstrong
Bauman
Beard
Bray
Brown, Mich.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Casey, Tex.
Clawson, Del
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
de la Garza
Dennis
Dorn
Fisher
Flynt
Fountain
Goldwater
Goodling
Gross
Hammerschmidt
Henderson
Holt
Hungate
Hutchinson
Ichord
Jones, Ala.
Jones, Okla.
Kazen
Ketchum
Lagomarsino
Landgrebe
Landrum
Latta
McCollister
McCormack
McKay
McSpadden
Mahon
Mallary
Mann
Martin, Nebr.
Milford
Montgomery
Moorhead, Calif.
Nichols
Parris
Poage
Price, Tex.
Pritchard
Quillen
Rarick
Roberts
Robinson, Va.
Rousselot
Runnels
Ruth
Satterfield
Scherle
Sebelius
Shuster
Sikes
Steiger, Ariz.
Symms
Treen
Veysey
White
Widnall
Wiggins
Wright
Young, Alaska
Young, S.C.
Young, Tex.
Zion

ANSWERED "PRESENT"—1

Ware

NOT VOTING—53

Alexander
Anderson, Ill.
Ashbrook
Bafalis
Baker
Bowen
Brasco
Breaux
Broomfield
Brown, Ohio
Broyhill, Va.
Carey, N.Y.
Clay
Davis, Ga.
Eshleman
Ford
Ginn
Grasso
Green, Oreg.
Guyer
Hanna
Hawkins
Hébert
Holifield
Jarman
Jones, N.C.
King
Kuykendall
Maraziti
Martin, N.C.
Mathis, Ga.
Minshall, Ohio
Murphy, N.Y.
Murtha
Podell
Rangel
Reid
Reuss
Riegle
Roe
Rooney, N.Y.
Rose
Spence
Stubblefield
Stuckey
Teague
Thomson, Wis.
Towell, Nev.
Waggonner
Wilson, Bob
Wyman
Young, Ga.
Zwach

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Alexander.
Mr. Waggonner with Mr. Davis of Georgia.
Mr. Carey of New York with Mrs. Grasso.
Mr. Teague with Mrs. Green of Oregon.
Mr. Murphy of New York with Mr. Hanna.
Mr. Rangel with Mr. Holifield.
Mr. Murtha with Mr. Baker.
Mr. Breaux with Mr. Broyhill of Virginia.
Mr. Clay with Mr. Maraziti.
Mr. Ford with Mr. Anderson of Illinois.
Mr. Ginn with Mr. Kuykendall.
Mr. Jarman with Mr. Brown of Ohio.
Mr. Jones of North Carolina with Mr. Stubblefield.
Mr. Riegle with Mr. Eshleman.
Mr. Reuss with Mr. Broomfield.
Mr. Rose with Mr. Ashbrook.
Mr. Rooney of New York with Mr. Guyer.
Mr. Stuckey with Mr. Bafalis.
Mr. Bowen with Mr. King.
Mr. Hawkins with Mr. Minshall of Ohio.
Mr. Mathis of Georgia with Mr. Martin of North Carolina.
Mr. Roe with Mr. Reid.
Mr. Spence with Mr. Wyman.
Mr. Bob Wilson with Mr. Thomson of Wisconsin.
Mr. Young of Georgia with Mr. Towell of Nevada.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1423, the Committee on Interstate and Foreign Commerce is discharged from the further consideration of the Senate bill (S. 433) to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill S. 433 and insert in lieu thereof the provisions of the bill H.R. 13002, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Act".

PUBLIC WATER SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by inserting after title XIII the following new title:

"TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

"PART A—DEFINITIONS

"DEFINITIONS

"SEC. 1401. For purposes of this title:

"(1) The term 'primary drinking water regulation' means a regulation which—

"(A) applies to public water systems;

"(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

"(C) specifies for each such contaminant either—

"(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

"(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

"(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

"(2) The term 'secondary drinking water regulation' means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

"(3) The term 'maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"(4) The term 'public water system' means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"(5) The term 'supplier of water' means any person who owns or operates a public water system.

"(6) The term 'contaminant' means any physical, chemical, biological, or radiological substance or matter in water.

"(7) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(8) The term 'Agency' means the Environmental Protection Agency.

"(9) The term 'Council' means the National Drinking Water Advisory Council established under section 1446.

"(10) The term 'municipality' means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

"(11) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, or municipality.

"PART B—PUBLIC WATER SYSTEMS

"COVERAGE

"SEC. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

"(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

"(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply; and

"(3) which does not sell water to any person.

"NATIONAL DRINKING WATER REGULATIONS

"SEC. 1412. (a) (1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

"(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on the date of enactment of this title.

"(3) The interim primary regulations first promulgated under paragraph (1) shall take effect not later than one year after the date of their promulgation.

"(b) (1) (A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

"(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

"(ii) list on the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e), list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change such list.

"(2) On the date the Administrator establishes pursuant to paragraph (1) (B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

"(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1) (B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (1) (B) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (2) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1) (B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term 'feasible' means feasible with the use of technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

"(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 5 years.

"(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect not later than 1 year after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

"(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

"(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking). In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

"(e) (1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangement cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b) (2) in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

"(3) In developing its proposals for recommended maximum contaminant levels under pargaraph (2) (D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

"(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

"(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

"(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

"(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

"(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

"(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

"(6) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (2) of this subsection.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"Sec. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

"(1) has adopted drinking water regulations which (A) in the case of the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) in the case of the period after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

"(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation; and

"(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416.

"(b)(1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

"(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) determine that he is unable to make such determination and notify the applicant in writing of the reasons for his inability to make such determination.

"FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

"Sec. 1414. (a)(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

"(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time.

"(B) If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of the notice given pursuant to subparagraph (A), he shall give public notice of such finding and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system into compliance and for any failure to take steps to bring the system into compliance). If—

"(i) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to subparagraph (A), and

"(ii)(I) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(II) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time the State abused its discretion in carrying out primary enforcement responsibility for public water systems,

the Administrator may commence a civil action under subsection (b).

"(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

"(A) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(B) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he may commence a civil action under subsection (b).

"(b) The Administrator may bring a civil action in the appropriate United States district court to require compliance with a national primary drinking water regulation or with any schedule, control measure, or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

"(1) authorized under paragraph (1) or (2) of subsection (a), or

"(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.

"(c) Each owner or operator of a public water system shall given notice to the persons served by it—

"(1) of any failure on the part of the public water system to—

"(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

"(B) perform monitoring required by section 1445(a), and

"(2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

"(A) the existence of such variance or exemption, and

"(B) any failure to comply with the requirements of any schedule or control measure prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), and shall be furnished to the other communications media serving such area. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

"(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

"(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

"(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

"(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

"VARIANCES

"SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

"(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). A variance granted under this subparagraph shall be conditioned on each system to which it applies implementing such control measures as the State finds can be complied with during the period the variance is in effect.

"(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

"(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance and documentation of the need for the variance.

"(D)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to impose reasonable control measures or monitoring or other requirements during the period the variances are in effect, the Administrator shall notify the State of his finding. Such notice shall—

"(I) identify each public water system with respect to which the finding was made,

"(II) specify the reasons for the finding, and

"(III) as appropriate, propose revocations of specific variances or propose revised control measures or monitoring or other requirements for specific public water systems granted variances, or both.

"(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised variance control measures or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a control measure or other requirement for a variance and if, before a revocation of, such variance or a revision of such control measure or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or control measure or other requirement which the Administrator determines makes his finding inapplicable to such variance or control measure or other requirement, the Administrator shall rescind the application of his finding to that variance or control measure or other requirement. No variance revocation or revised control measure or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised control measure or other requirement was proposed.

"(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

"(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

"(b) Any control measure or other requirement on which a variance granted under this section is conditioned may be enforced under section 1414 as if such control measure was part of a national primary drinking water regulation.

"(c) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401 (1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"EXEMPTIONS

"SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

"(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement, and

"(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement.

"(b)(1) If a State grants a public water system an exemption under subsection (a), the State shall prescribe, within one year of the date the exemption is granted, a schedule for—

"(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

"(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

"(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

"(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412 (a), not later than January 1, 1981; and

"(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

"(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

"(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1983; and

"(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

"(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

"(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) or the schedule is revised by the Administrator under such subsection.

"(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption and document the need for the exemption.

"(d)(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title.

"(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. Such notice shall—

"(i) identify each exempt public water system with respect to which the finding was made,

"(ii) specify the reasons for the finding, and

"(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

"(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

"(e) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401 (1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

"PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

"REGULATIONS FOR STATE PROGRAMS

"SEC. 1421. (a)(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

"(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

"(b)(1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2). Such regulations shall require that a State program, in order to be approved under section 1422—

"(A) shall prohibit, effective three years after the date of the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

"(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers underground water sources;

"(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

"(D) shall apply (i) as prescribed by section 1447(b), to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

"(2) Regulations the Administrator under this section for State underground injection control programs may not prescribe requirements which interfere with or impede—

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

"(c)(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

"(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

"(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

"(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

"(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

"(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)), but after reasonable notice and public hearing, one or more temporary permits notice and public hearing, one or more temporary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after the date of enactment of this title, if the State has found, on the record of such hearing—

"(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

"(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

"(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse affect of the injection on the public health.

"(d) For purposes of this part:

"(1) The term 'underground injection' means the subsurface emplacement of fluids by well injection.

"(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

"(b) (1) (A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

"(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

"(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

"(B) Within 270 days of any amendment of a regulation under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

"(2) Within ninety days after the State's application under paragraph (1) (A) or notice under paragraph (1) (B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

"(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1) (A) of this subsection.

"(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

"(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b) (2), if the Administrator determines under subsection (b) (3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b) (1) (A), or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b) (1), the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b). Such program may not include requirements which interfere with or impede—

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

"(d) For purposes of this title, the term 'applicable underground injection control program' with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c).

"FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

"Sec. 1423. (a) (1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b) (3)) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

"(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

"(B) (i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b) (1).

"(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b) (1).

"(b) (1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a) (1).

"(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources, shall be subject to a civil penalty of not more than $5,000 per day. In addition, if such violation or failure to comply is willful, such person shall be punished by a fine of not more than $5,000 per day.

"(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"INTERIM REGULATION OF UNDERGROUND INJECTIONS

"Sec. 1424. (a) (1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

"(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

"(b) (1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

"(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

"(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the aquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

"(c) Any person who operates a new underground injection well in violation of subsection (b) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs. In addition, if such violation is willful, such person shall be punished by a fine of not more than $5,000 for each day in which such violation occurs. If the Administrator has reason to believe than any person is violating or will violate subsection (b), he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

"(d) For purposes of this section, the term 'new underground injection well' means an underground injection well whose operation was not approved by appropriate State and Federal agencies before the date of the enactment of this title.

"(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone.

"PART D—EMERGENCY POWERS

"EMERGENCY POWERS

"SEC. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking. Such action may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) shall be punished by a fine of not more than $5,000 per day of violation.

"PART E—GENERAL PROVISIONS

"ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

"SEC. 1441. (a) If any person who uses chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a 'certification of need') that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

"(b)(1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

"(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reason therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

"(3) Within 30 days after—

"(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

"(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

"(c) (1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

"(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

"(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

"(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

"(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

"(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

"(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1), that such delay or failure was caused solely by compliance with such order.

"(e)(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) shall be fined not more than $5,000 for each such failure to comply.

"(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

"(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1), he may petition a United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce the provision of such order.

"(f) No certification of need or order issued under this section may remain in effect—

"(1) for more than one year, or

"(2) after June 30, 1977,

whichever occurs first.

"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

"SEC. 1442. (a)(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

"(B) improved methods to identify and measure the health effects of contaminants in drinking water;

"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

"(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

"(E) improved methods of protecting underground water sources of public water systems from contamination.

"(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 1443(c)(1)).

"(3) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

"(4) The Administrator shall conduct a survey and study of—

"(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

"(B) means of control of such waste disposal. Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

"(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

"(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

"(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

"(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

"(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after the date of enactment of this title, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

"(b) In carrying out this title, the Administrator is authorized to—

"(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

"(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

"(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

"(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

"(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

"(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(d))).

"(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"GRANTS FOR STATE PROGRAMS

"SEC. 1443. (a)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

"(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed primary enforcement responsibility for public water systems within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. To the extent the applicable appropriation permits, the allotment of a State for any fiscal year shall not be less than $50,000.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977.

"(b)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within two years from the date of such grant an underground water source protection, and

"(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed primary enforcement responsibility for underground water sources within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977.

"(c) For purposes of this section:

"(1) The term 'public water system supervision program' means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).

"(2) The term 'underground water source protection program' means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii).

"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

"SEC. 1444. (a) The Administrator may make grants to any person for the purposes of—

"(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

"(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

"(b) Grants made by the Administrator under this section shall be subject to the following limitations;

"(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

"(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

"(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

"(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

"(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $50,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $50,000,000. The Administrator shall prescribe regulations to carry out this subsection.

"RECORDS AND INSPECTIONS

"SEC. 1445. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

"(b)(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a primary drinking water regulation prescribed under section 1412 or applicable underground injection control program (or a person in charge of any of the property of such supplier or other person), is authorized to enter any establishment or facility or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

"(2) No entry may be made under the first sentence of paragraph (1) in any State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry.

"(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) shall be fined not more than $5,000.

"(d)(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

"(2) Any information required under this section may be disclosed (1) to other officers, employees, or authorized representatives of the United States concerned with carrying out this title, (2) when relevant in any proceeding under this title, or (3) to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term 'information required under this section' means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

"(e) For purposes of this section, (1) the term 'grantee' means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term 'person' includes a Federal agency.

"NATIONAL DRINKING WATER ADVISORY COUNCIL

"SEC. 1446. (a)(1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

"(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

"(c) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(d) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

"FEDERAL AGENCIES

"SEC. 1447. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1412.

"(b)(1) Each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

"(2) The Administrator shall waive compliance with paragraph (1) of this subsection upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrater determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

"GENERAL PROVISIONS

"SEC. 1448. (a)(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.

"(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

"(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.

"(d)(1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

"(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'nonprofit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

"(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a–276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

"(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.

"(h) Not later than April 1 of each year, the Administrator shall submit to the Congress a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to Congress its comments respecting any such report.

"(i)(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because of the employee (or any person acting pursuant to a request of the employee) has—

"(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this title or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

"(B) testified or is about to testify in any such proceeding, or

"(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this title.

"(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

"(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this title."

(b) Section 2(f) of the Public Health Service Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands".

RURAL WATER SURVEY

SEC. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having limited or otherwise inadequate access to drinking water;

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.

(b) Such survey shall be completed within eighteen months of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; and $1,000,000 for the fiscal year ending June 30, 1977.

BOTTLED DRINKING WATER

SEC. 4. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

"BOTTLED DRINKING WATER STANDARDS

"SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read "an act to amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13002) was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 15223, FEDERAL RAILROAD SAFETY ACT AUTHORIZATION

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 15223) to amend the Federal Railroad Safety Act of 1970 and the Hazardous Materials Transportation Control Act of 1970 to authorize additional appropriations, and for other purposes, with the Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and appoints the following conferees: Messrs.

STAGGERS, JARMAN, DINGELL, DEVINE, and KUYKENDALL.

APPOINTMENT OF CONFEREES ON H.R. 14215, DEVELOPMENTAL DISABILITIES AMENDMENTS OF 1974

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14215) to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs authorized by that act, with Senate amendments thereto, disagree to the Senate amendments and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ROGERS, SATTERFIELD, KYROS, DEVINE, CARTER, and HASTINGS.

STATEMENT OF CONGRESSMAN BILL NICHOLS, OF ALABAMA, RELATIVE TO THE DAIRY INDUSTRY

(Mr. NICHOLS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. NICHOLS. Mr. Speaker, on the afternoon of November 12, I met with some eight dairy producers in Elmore County, Ala., together with Mr. Jack Thompson, county extension chairman, and Mr. John Cagle, dairy specialist for the Alabama Farm Bureau. The producers were milking some 1,300 cows, mostly Holsteins, and their average milk production is around 12,600 pounds per cow, which is very near the national average. These dairy farmers are in the business of producing milk. This is their sole occupation and they have no outside income, but are bona fide dairy farmers and are among the best in the business in my State of Alabama.

Mr. Speaker, and gentlemen of the Congress, these farmers along with their counterparts throughout America are in extreme financial difficulty through no fault of their own for dairymen have traditionally worked from "can to can't." Their problem then is that the price of the feed which they must buy each month exceeds the price which they are receiving for their milk.

Two years ago 1 ton of milk bought for these dairy farmers 3½ tons of feed. Today, however, that same ton of milk buys only 1 ton of feed. Feed costs are running about $200 per ton on 44 percent soybean meal. Corn is costing about $3.97 and alfalfa pellets—17 percent protein—are running about $120 per ton delivered to the farm. Alabama milk is priced by the Alabama Milk Control Board with the present price authorized before takeouts at $9.93 per 100 pounds.

From the above figures it is evident that milk producers in my State and elsewhere are going broke fast and they cannot continue to milk cows under the above cost-price situation. These producers have petitioned the Milk Control Board for an increase in price, and I am hopeful that the Board may authorize such a price increase at an early date. In the interim, however, I have joined with 33 other Members of this Congress in asking the President to give us his assurance that the importation of dairy products will not be increased above the present quota levels for the next 12 months. I would call attention to eight Presidential proclamations issued within the last 12 months authorizing imports of dairy products:

December 30, 1972—25 million pounds nonfat dry milk.

April 25, 1973—64 million pounds cheese.

May 10, 1973—60 million pounds non-fat dry milk.

July 18, 1973—80 million pounds non-fat dry milk.

August 28, 1973—100 million pounds nonfat dry milk.

October 31, 1973—56 million pounds butter; 22.6 million pounds butter oil.

January 2, 1974—100 million pounds cheese.

March 4, 1974—150 million pounds nonfat dry milk.

These imports are all over and above the stipulated quotas set for imports, and in my judgment these imports have served to depress the market for class II milk which, of course, represents the milk marketed over and above a dairy farmer's base quota established between him and his processor. At the present time farmers all over the country are losing money every time they sell 100 pounds of milk. Milk production is now about 5 percent below that produced 2 years ago, and unless farmers are assured an adequate price for their milk they will undoubtedly continue to sell their herds, bringing about a threat of major milk shortages in the coming months.

The morale of dairymen who I talked with is at an alltime low. It is imperative then that the dairy farmer be assured some measure of stability in the market through the control of imports of nonfat dry milk, cheese, butter, and butter oil. There very definitely is a crisis in the making and one of serious magnitude with the dairymen in my State and elsewhere, and I am one who believes that all additional imports ought to be terminated until the American dairy industry can again get on its feet.

A letter to the President follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 19, 1974.

Hon. GERALD E. FORD,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Last week I met with dairy producers in my Congressional District in Alabama. In all of my legislative experience I have never listened to a more depressing picture of this important segment of agriculture production. My dairymen tell me that the feed which they are required to buy is costing more than the price they are receiving for an equivalent amount of milk which they sell. Consequently they are losing money day after day after day, and, of course, both the banks and the Farmers Home Administration who are financing about 90% of the dairymen who met with me cannot continue to finance these operations without some repayment on their loans.

Mr. President, I am encouraged by your remarks made at Sioux City, Iowa, on October 31st, in which you have stated that no action will be taken to change the present system of dairy import quotas without a thorough investigation of market quotas and full opportunity for dairy producers to be heard at that time.

It is my understanding that on October the 11th, you met with some nine Members of the Congress when they asked that three actions be taken:

1. Increase the support price for manufacturing milk to $7.31 per hundredweight which equals 90% parity of April, 1974, data;
2. Establish a $7.50 per hundredweight floor for Class I milk as a followup to the October 8 Federal Order hearings in Rosemont, Illinois;
3. Give your personal assurance that importation of dairy products will not be increased above the quota levels for the next 12 months.

Mr. President, I feel that there is a real need for implementation of these proposals. Dairymen consider the milk-feed ratio to be one of the best gauges on their operation, and obviously when the ratio is one to one the dairy producers are well below the break even point in their milking operation.

Farmers throughout the country are losing money everytime they sell 100 pounds of milk, and consequently a forced reduction in the size of their herds is in the making, and I predict that unless a turn-around is made and made shortly that many producers will be forced out of business.

Mr. President, I need not belabor this issue for you have heard from Chairman Bob Poage and others on this subject. I know you to be a fair man and I know you have to be concerned about the threat of a major milk shortage in the coming months. For this reason, I would urge that you seriously consider implementing the suggestions made by the group who called on you in the interests of assuring the American public of a dependable, relatively inexpensive, and wholesome supply of dairy products in the months ahead.

Sincerely,

BILL NICHOLS,
Member of Congress.

GOVERNMENT ACTION NEEDED TO REDUCE DEPENDENCE ON FOREIGN ENERGY SOURCES

(Mr. PERKINS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PERKINS. Mr. Speaker, last January and February when our people were forced to sit in long lines in order to buy a few gallons of gasoline, the Federal Government responded with a pledge to make America independent of outside energy sources by 1985.

Our people applauded that resolution, Mr. Speaker, and took the Government at its word. It assumed that someone in Washington was going to get busy trying to turn that pledge into reality.

Where are we now, 10 or 11 months later? Are we any less dependent upon foreign sources of energy today than we were a year ago?

Unfortunately, it would appear that the only action that has been taken has been taken by the American people themselves. They have reduced gasoline consumption by 2 percent under a year ago.

The Government itself has apparently done precious little to get us moving in the direction of energy independence since those dark days last winter.

I have said on this floor a hundred times, Mr. Speaker, that we have the answer to our energy problems in the form of coal—our most plentiful fossil fuel resource.

Last winter, the economists told us that energy independence by 1985 assumes the production of 2.9 million barrels of oil per day synthetically from coal.

The process was proven in Germany during World War II. It was proven in the United States with pilot plants in the late 1940's and early 1950's. And it is in *operation* today in the Union of South Africa—with the economic production of synthetic fuel from coal.

Production of this required 2.9 million barrels of fuel per day from coal by 1985 requires plant startup in 1979, and the diversion of 425 million tons of coal per year by 1985.

Again, Mr. Speaker, energy independence 11 years from now assumes that synthetic gas will be substituted for increases in natural gas heating in the household, commercial, and industrial sectors.

The economists told us last winter that this requires plant startup in 1978, and 355 million tons of coal per year by 1985.

In the depths of crisis last year, we gave ourselves 11 years to achieve energy independence.

Nearly 1 of those years has gone by, and we are still dawdling, as if we had all the time in the world.

No one that I know is optimistic about the Middle Eastern situation. And no one who thinks about it at all doubts that if war comes to that region, we would see a resumption of the oil embargo.

The oil crisis of the past year has seen a drain of some $20 billion from our economy. And there is no question that this has had profound influence on the inflation which now punishes every one of our citizens.

I do not wish to be an alarmist, but there is a clear and present danger in our continued lack of action. It is time for the administration to buckle down to the task of coal conversion. If it does not, we and our children are in for some terrible nightmares of blackouts, stall outs, and back outs if we again fall prey to the energy blackmailers of the world.

Mr. Speaker. I urge the administration to draw plans for immediate construction of several large-scale coal conversion plants so that we can meet—and beat—the energy independence deadline.

I think this is a vital first step toward our survival as an energy-using industrial society. And if there are those who say we cannot afford it, I say to them we cannot afford not to.

PERSONAL EXPLANATION

(Mr. GILMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GILMAN. Mr. Speaker, permit me to take this opportunity to explain that I was unavoidably detained this afternoon while the record vote was taken on H.R. 16757, the Emergency Petroleum Allocation Act extension, which extends the act's expiration date by 6 months from February 28, 1975, to August 31, 1975.

Had I been present, I would have voted in favor of this necessary legislation.

GIL NOVOTNY AND CAP SMITH—MR. STOCKYARDS, 1974

(Mr. PRICE of Illinois asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, it has been my pleasure to learn that two very dear friends, Gilbert Novotny and Ed W. Smith, have been named corecipients of the "Mr. Stockyards 1974" award at National Stockyards, Illinois. A committee representing stockyard interests selected these distinguished gentlemen on the basis of their contributions to the stockyards.

Mr. Novotny's record demonstrates a dedication to the business community as well as a recognition of civic responsibility. As head of one of the country's five leading livestock markets, Mr. Novotny oversees the operations of a sprawling complex of nearly 700 acres. The livestock industry has traditionally been and will continue to be a mainstay in our Nation's economy.

Mr. Smith has been employed at the stockyards for 56 years. As director of information for the St. Louis branch of Interstate Producer's Livestock Association, he plays a vital role in the smooth operation of the entire market.

Mr. Speaker, I cherish my friendship with these two men. I know their families are very proud.

At this point in the RECORD I include an article from the November 3 issue of the Metro-East Journal concerning the awards:

THIS YEAR MR. STOCKYARDS MR. SMITH AND NOVOTNY

For the first time two men share the honor of being Mr. Stockyards, an annual award made at the St. Louis National Stock Yards, National City.

Gilbert Novotny and Ed W. Smith have been named Mr. Stockyards 1974.

Novotny is president of the St. Louis National Stock Yards Co., and Smith is director of information for the St. Louis branch of Interstate Producers Livestock Assn.

A committee representing stockyard interests selected Novotny and Smith on the basis of their contributions to the stockyards.

The two will be honored Friday at a dinner-dance at Augustine's Restaurant, Belleville.

Novotny was an accountant and banker before joining St. Louis National Stock Yards Co. in 1946 as vice president. He became president 12 years later.

As head of one of the country's five leading livestock markets, Novotny oversees the operation of a complex of nearly 700 acres.

He also is president of the East St. Louis Junction Railroad and helps operate the Crest House Restaurant in St. Louis, which is owned by the Stock Yards company.

Novotny is chairman of the East St. Louis Regional Development Corp. and is on the board of directors of the National Stock Yards National Bank.

He lives in Glendale, Mo.

Smith has been employed at the stockyards for 56 years. **From 1918 to 1942 he** worked for the former St. Louis Daily Live Stock Reporter, which was published at the yards.

Smith has been with Interstate Producers Livestock Assn. for 32 years. He publicizes special events and announced daily market reports over radio station KFUO.

Smith lives on a farm near Smithton.

PRESENT ECONOMIC SITUATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 60 minutes.

Mr. CONABLE. Mr. Speaker, on October 8, President Ford made some recommendations following the Conference on Inflation, which he felt would improve the Nation's economy. These recommendations, which were balanced as to expenditure and as to receipts, and which were also balanced in their impact on inflation and recession, were modest recommendations. As a matter of fact, if anything, President Ford was criticized because they were so modest. It was clear that he felt, as the unelected President without a mandate, he could not tell the American people that they must do a lot of things with respect to the economy which they did not want to do. He felt, quite clearly, that he must lead them through a series of voluntary measures which, while not turning the economy around, would nudge it in the right direction, then moving to sterner measures if the economy did not respond. Many of the things included in his recommendations required congressional action.

I propose this evening to discuss some of the things which have happened to the economy since those recommendations. We all know that nothing has happened here in Congress, at least in part, because of the elections, to change the legislative climate with respect to recommendations on the economy. But I think it is important for us to see where the economy is headed, as disclosed by the statistics following Mr. Ford's recommendation.

First of all, the unemployment situation in October. The unemployment rate is now standing at 6 percent. Total employment is 86.5 million, an increase of 850,000 over a year ago but only a quarter of the gain of the preceding year. Total unemployment now totals 5.5 million, 1.3 million more than a year ago. Selected October, 1974, unemployment rates show adult males now unemployed at the rate of 4.3 percent, up from 3.9 percent in September, adult women, 5.6 percent; teenagers, 16.9 percent; all whites, 5.4 percent; and minorities, 10.9 percent.

The unemployment rate has risen at a disturbing rate over the past 2 months. There certainly is little cause for reassurance in seeing what has happened to unemployment, despite the very large work force and the extent to which it has grown during the period of time which immediately concerns us.

The gross national product for the third quarter, revised, has been delineated to us. That increased by 31.6 billion to an annual rate of $1.4 trillion. Real gross national product, adjusted for price changes, that is, declined at an annual rate of 2.1 percent; in other words, the real GNP has declined substantially during this quarter. Prices, as measured by the GNP implicit price deflator, rose at an annual rate of 11.8 percent, compared with 9.4 percent in the second quarter. In short, we have had not just flat growth, but declining production during the third quarter. There is no consolation to be drawn from this.

The Consumer Price Index in September rose 1.2 percent for the month overall; food, 1.9 percent; nonfood commodities, 1 percent; and services, 1.1 percent. Consumer prices are 12.1 percent over a year ago, increasing at an annual rate of 14.2 percent based on the most recent 3 months.

The Wholesale Price Index, which, as we know, anticipates the CPI to some extent, rose 2.3 percent from September to October. Farm products, processed foods and feeds increased 4.7 percent, and industrial commodities increased 1.1 percent. Wholesale prices—listen to this staggering figure—are 22.6 percent above a year ago and increasing at an annual rate of 28.1 percent in the most recent 3 months.

Nobody can feel, looking at these statistics, that inflation is slowing down. It should be a cause for grave alarm. It certainly is among our constituents. I believe it should be reflected here in the Congress.

Mr. Speaker, industrial production for September, as announced following the President's recommendations, increased by an estimated 0.3 percent in September, but that was a whole percent below a year earlier. The index declined 0.6 percent in October to 1.7 percent below a year ago. In other words, industrial production, which is one of those remarkably stable statistics, showing stable growth over a protracted period of time, has started down, as disclosed by the October statistics.

The U.S. balance of payments and our balance of trade improved some in the third quarter, but certainly we have a very substantial deficit in prospect for the year. The deficit for the third quarter was $330 million. In the second quarter, we will recall, it was $4½ billion, and that is as opposed to a surplus of $1.8 billion in the first quarter.

The McGraw-Hill statistic of manufacturing operating rate in September was 81.5 percent. A year ago it was 87.5 percent. This is a compendium of several economic statistics and again reflects a sluggish economy. It is one from which we can derive no consolation.

The Commerce Department's index of leading economic indicators, a widely-respected broad composite which anticipates developments in the coming months, dropped 2.5 percent in the September period—the largest 1-month decline in 23 years—and followed a revised 1.6 percent reduction in August.

Recently released statistics also indicate further deterioration in the homebuilding industry in the months ahead. New housing starts dropped for the fourth month in a row in October to a total of 1.1 million units at an annual rate, deepening what has been a steady decline from 1972, when new homes were being started at a rate of 2.3 million a year. In addition, the number of new building permits being issued, which usually anticipates new starts by several months, shows a decline for 7 consecutive months to the lowest level in 8 years.

Mr. Speaker, this is a dismal set of statistics and one which should be a matter of considerable concern to us. It seems to me that far from responding to the President's suggestion in any constructive way, we have been inclined as a group, at least in part because of the election, but also because of uncertainty as to what our role should be, to nitpick. We have, I would say, in balance had a tendency to want to select the desirable or what we conceive to be the desirable and rewarding parts of this package while abjuring the financing of them.

This is an old congressional posture, but there is no better way, Mr. Speaker to change an inflation-fighting program into an inflation-building program than to do more of the very things that have made us sick in the first place. In other words, it seems to me that we had better begin to face up to the issue of financing the role of Government, whether it is fighting recession, whether it is in providing the nourishment for existing programs, or whether it is in extending programs that otherwise would expire.

We seem very reluctant to do this, and if I judge it right, this lame duck session is going to sputter out fairly quickly, at least as far as any economic legislation is concerned.

I think the American people, Mr. Speaker, are far ahead of the Congress in this respect. I think they are looking for leadership.

There was, I think, some renewal of confidence when President Ford made his recommendations. They appeared to be balanced and reasonable, despite his lack of mandate to carry them into effect. However, I note with some dismay that the stock market, among other indicators—and the stock market is peculiarly sensitive to confidence—is sinking very rapidly, not just on the basis of these dismal statistics, but because of some sense of drift and some frustration with our failure to follow up the momentum of the inflation summit with the recommendations the President has made.

I am one of those, Mr. Speaker, who regrets that the President is in a foreign country at this time.

It seems to me that this would be a good time for him to be pushing his economic program. I regret that Congress seems not to be terribly upset at his absence or willing to fill the vacuum created by his failing to push this economic program at this time.

It would seem to me that if we are not going to respond to his leadership, it is entirely appropriate for us to come forward with a program of our own. I do not think that anyone is locked into the details of President Ford's package. The need is for us to have a balanced program that provides contingency plans if the recession deepens or to deal with inflation in ways that will not put the economy on its back, and that leadership can be assumed by the Congress if we are unwilling to follow the President's leadership. However, the important thing, in my opinion, is that we get at it.

The sense of drift which I felt as I campaigned around my district during the election is a pervasive one. The lack of confidence people have in the future of this economy and this system reflects concern about a lack of leadership. There is no panacea, there is no special formula for leadership, and there is no doubt that Congress has within its capacity the possibility of going into any vacuum that may have resulted from the absence of a Presidential mandate at this time.

Mr. Speaker, my appeal to my colleagues is that we consider seriously the statistics I have recorded; that we take seriously the frustrations of the American people and their concern about Government continuing to be part of the problem rather than part of the solution to our economic ills; and that we try to order them and to analyze them and come forward with a positive, balanced program that will end the sense of drift that is so destructive.

I hope we can get some dialog on this issue and that we do not permit ourselves to contribute to the deafening silence that seems to have fallen over economic policy when the President's reasonable recommendations were made. We must accept the challenge that any Congress should feel facing the potential of a disastrous fall in our economy; we should heed the warnings coming from the auto industry and the construction industry—and believe me, they are serious—and we must try to reinstill a confidence that I feel is the vital element missing in turning around today's economic situation.

I urge upon my colleagues the earnest consideration of our responsibilities to deal with our serious economic conditions.

THE NATION'S MONETARY SITUATION

The SPEAKER pro tempore (Mr. McKAY). Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

(Mr. GONZALEZ asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, I do not intend to take the 60 minutes, though the motive impelling my getting up at this late hour to speak, I think, would warrant much more than 1 hour. It is a very grave situation.

So serious I cannot find it possible to accept the apparent lack of concern on the part of many managers of our Nation, on the part of our leaders in Congress, on the part of our leaders in industry, and the private economic world.

Since coming to Congress I have been very much intrigued with the powers of the body as well as the limitations that we face, both constitutional as well as procedural.

As a member of the Committee on Banking and Currency, and more particularly since I have been honored with the chairmanship of the Subcommittee on International Finance as of 3 years ago, I have been very much struck with the limitations that we as Members of the Congress have with respect to the events that definitely shape and mold the destiny of this Nation. But I have also been impressed with the fact that we do not exercise the rightful share of our rightful constitutional power at times. For example, and not too long ago, the President announced a devaluation of the dollar on August 15, 1971. There was not a newspaper in the country that described it as devaluation, yet in effect that was what it was. The Congress was in recess. The President announced that as of that day the convertability in international exchange, which really means, in our terms, in the dealings officially between the central banks, that is, the governments, between themselves, that we would no longer convert in gold. That in effect was a devaluation. And it was precisely arrived at, and a few months later, and then under the Constitution, the President had to come to the Congress to formalize that action which he had already taken. It was the first devaluation in over 32 years of the history of this country.

I was amazed at the way the whole thing was handled as a sort of a perfunctory matter, of course, deal—as if not too much were involved. But nobody would listen.

I had suggested more than a half dozen times to the leaders in my committee, as well as in the Congress, that we be permitted to have hearings, specifically on this issue, after we came back from the recess in September of 1971. At that time the Secretary of the Treasury was a fellow Texan and a former Governor of my State. I was told that there was absolutely no reason to waste time on such a wasteful effort as congressional hearings.

I was much more intrigued and somewhat amazed when in rapid order, in an unpredecented action, the country once again devalued its monetary standard in less than six months following the first. Again it was done in a perfunctory manner. The Treasury and the President announced the second devaluation. Then a few months later we formalized it through a formal enactment of what we called the setting of the value of the dollar through legislation. We were told there was not a thing we could do; that the action had been taken and the President had that right. All we could do was just rubber-stamp the action by approving the formal setting of the monetary value of the dollar through legislation.

It was to no avail that I attempted to raise an issue in connection therewith, of the fact that if the Congress needed to legalize the Presidential action and of necessity had to pass a bill, then we have a responsibility to not only understand the nature of our action, but to take every effort and every action within our proper constitutional sphere in order to prevent a reenactment.

Nothing of that kind has happened, and today I get up because we are on the verge of having contributed—we, the Members of Congress, not necessarily the President alone, although he helped—to one of the greatest spectacles that threatens the very stability, if not the outright downfall, of our present fiscal and monetary system that I think we have confronted up to now in our own history, not just in the 20th century but from the beginning of the Republic and from the beginning of the days of Alexander Hamilton as our first Secretary of the Treasury.

As feeble as those 13 Colonies were when they banded together, as weak and as empty as the Treasury of the United States was in 1780, Alexander Hamilton had enough sense—and his colleagues did, too, and those in Congress—to do the basic things that nations as individuals must adhere to, basic principles. We have strayed from them. It has been in vain since this House under questionable procedure in effect actually violated its own rules of procedure and followed the example of the Committee on Banking and Currency, which also violated the rules of procedure, by performing what a colleague from Illinois said was an act of accommodation.

He described by way of excusing that procedure that it was one of those things that happens in politics; it was a deal. It was a nongermane amendment to an act known as the international assistance or foreign soft loan window of the world grant, the International Development Agency, and it was an extension calling for a commitment on our part of $1½ billion. In order to get it approved, the Treasury, the President, his spokesman, and some of our leaders were told that we would have to sweeten that bill by adding the gold prohibition repeal sweetener known as the amendment, and unfortunately under a misnomer calling it a return to the American people of the right to own gold. This was a misnomer. It was mislabeled; it was deceptive; and it was fraudulent. The American people have always had the right to own gold. What was suspended in 1932 was the right to engage in the speculation and in the trade of gold bullion, which will return to us on January 1, 1975, unless this Congress takes action to protect the American interests.

This is why I said awhile ago we are on the verge of seeing thousands of Americans fleeced, cheated, and defrauded by the expert experienced gold speculators of London, Zurich, Bonn, and Paris. We are endangering our country by becoming the dumping ground of all the gold hoarders of the world at the expense of our monetary and fiscal stability. We are on the verge and in the shadow of a threat of a further devaluation of the dollar.

It is urgent that the leaders of the Congress and its Members therein make sure that we take the safeguards that are within our power before January 1 in order to protect not only the interests of thousands of American individual citizens but the integrity and the stability of our monetary and fiscal system.

Where there is no vision, the people perish. This is true today as it always has been for thousands of years.

I am not just now getting up to speak today because this danger is imminent. I have been concerned about it for some time and in my meager position where I was completely overwhelmed in the fold of my committee a few months ago, I got to the point where I even relinquished my position as chairman of a subcommittee because I could not tolerate being a party to the hasty enactment of this measure without having hearings and debate and consideration of the matter.

So on August 23, 1974, I addressed myself to the administrator of the national banks, otherwise known as the Comptroller of the Currency. In this letter I asked him a question about the impact of the provisions of this act on the national banking system. As I said, it will be effective January 1. His reply is to this effect:

I would note that paragraph 7 of 12 U.S.C. 24 specifically empowers the national banks to buy and to sell and to exchange coin and bullion.

Mr. Speaker, under consent obtained I will insert in the Record at this precise point my letter of reply from the administrator of the national banking system in August to the letter I wrote him:

The letter follows:

The Administrator of
National Banks,
Washington, D.C., August 23, 1974.

Hon. Henry B. Gonzalez,
House of Representatives,
Washington, D.C.

Dear Mr. Gonzalez: This is in reply to your letter of August 14, 1974, requesting our opinion on the provision of S. 2665, which became Public Law 93–373, dealing with the purchase, holding, selling, or otherwise dealing with gold in the United States or abroad. You specifically asked whether national banks would be permitted to engage in these activities.

Subsection (b) of Public Law 93–373 states:

"(b) No . . . regulation, or order in effect on the date subsections (a) and (b) became effective may be construed to prohibit any person from purchasing, holding, selling, or otherwise dealing with gold in the United States or abroad."

Black's Law Dictionary, Revised Fourth Edition, states that "As a rule, corporations will be considered persons within the statutes unless the intent of the legislature is manifestly to exclude them." There is no manifest intention to exclude corporations, including banks in the subject law. In addition, "person" is defined in other sections of the prior Par Value Modification Act as "any individual, partnership, association, or corporation." (31 U.S.C. 444) Thus, the scope of the language in Public Law 93–373 would permit national banks to purchase, hold, sell, or otherwise deal with gold in the United States or abroad.

We would also note that Paragraph Seven of 12 U.S.C. 24 specifically confers on national banks the power to buy and sell exchange, coin and bullion. Bullion is defined in the American Heritage Dictionary of the English Language as "gold or silver considered with respect to quantity rather than value."

I trust that this opinion has been fully responsive to your inquiry.

Sincerely,

James E. Smith,
Comptroller of the Currency.

In other words, Mr. Speaker, the chief administrator and supposedly the regulator of our banking system had replied on record that there are no restraints and there will be no regulations governing the manner in which banks undoubtedly will speculate in international gold bullion transactions. That means with the money of their depositors. And here on the other hand we are doing that when even such a probusiness publication as Business Week points out in an editorial entitled, "A Sharper Eye on the Banks," that the banking system is practically and almost criminally negligently not being regulated and it strongly supports some recommendations by Chairman Arthur Burns of the Federal Reserve Board for the Congress to enact some further regulation and further regulatory boards to do some further consolidation and inner communication to properly supervise the banking system.

So here we have an admission that we have weak regulation and yet we are on the verge of a tremendous speculative venture on the part of the national banks and other banking institutions.

The French, and mostly General de Gaulle, in more recent years were the ones who tried to restore the question of going back to the old so-called gold standard, which is fantastic on the face of its after the Depression of 1929, but De Gaulle was not a monetarist. He was not an expert. He was a military man and he was a politician, and his concept of gold is one that finds root particularly in France. Here is the way he felt:

> There can be no other criterion, no other standard than gold, gold which never changes, which can be shaped into ingots, bars, coins, which has no nationality and which is eternally and universally accepted as the unalterable fiduciary value par excellence.

Oh, yes, the French peasants hoard their gold, but let them try to speculate, let them try to transport it, let them try to bring it in.

The French experimented with that freedom in 1968 and quickly stopped it and enacted the export and import controls which they presently hold.

On top of that, over 75 nations of the world, as I tried to point out to my colleagues unsuccessfully, it was like arguing to a wall, over 75 countries of the world, including Britain and Germany, have severe controls on this flow. They have not complete freedom, such as the advocates of our repealer amendment are trying to tell us. These advocates were steering us wrong and basing their arguments on erroneous conclusions.

There is no question in my mind at this time that unless something is done between now and December 31 and principally by the countries, we will see in a matter of months the wreckage of our fiscal and monetary system. Our monetary and our trade situation does not permit such a risk, and especially when we add the other possibilities of fraud, such as counterfeiting. There is absolutely no provision to try to protect the American public.

We will see, Mr. Speaker, if we do nothing, if we fail to act, we will see a restoration of the old slicker who used to palm off gilded lead bricks as gold bullion. We will see many Americans sitting there. I think that is wrong.

So I wonder. I am puzzled, because this is something we can control. This is something we can anticipate.

We can look to the North at the experiences our Canadian neighbors are having along similar lines.

At this point I would like to introduce into the RECORD an article from a recent Christian Science Monitor publication, entitled "Buying Bullion Has Perplexities" describing the dilemma that the Canadians find themselves in and how the Canadian authorities this very moment are trying to figure out what kind of controls and regulations they can devise.

The article is as follows:

BUYING BULLION HAS PERPLEXITIES: CANADIANS SEEKING GOLD, SILVER MAY END UP GAINERS—OR LOSERS

(By Robert L. Perry)

TORONTO.—The legal buying and selling of bullion among private citizens has its problems and perplexities, as Canadians already know and as Americans will discover after Jan. 1.

Many Canadians have found that it pays to shop around before jumping into the retail market for glittering gold and silver bars. Yet, as Phineas T. Barnum noticed many years ago, the ways of the customer are baffling indeed.

With a fanfare of advertising and publicity, a national department store chain recently started selling 100-ounce silver bars in six of its stores across Canada. On one recent day a customer might have walked into a branch of a chartered bank and bought a 100-ounce bar for $440 (Canadian). That same day the department store price for the same silver bar was $555, a substantial difference even if store customers could buy on short-term free credit with their charge-account cards.

STOCK SOLD OUT

Yet at least one store sold out its stock of silver bars, and at last report was still taking orders.

A bona fide Canadian can buy gold at the counter of any Canadian chartered bank. He can pay the current price (in round figures, say $160—Canadian—an ounce) and walk out with the bullion in his pocket. The bank makes its profit on a spread. To use purely illustrative numbers, the bank simply offers to buy gold at $159.50 an ounce but sells at $160.

A private Canadian trading company is advertising that it will sell gold at prices that undercut those of the banks. The company says it can do this because it bases its cost not on the "offer" price in Canada but on the price established by the London Metals Exchange.

BARGAIN HAS A CATCH

On one recent day, for example, the Canadian company was retailing 100 ounces of gold at $157.25 an ounce—25 cents below the bank price. This kind of apparent bargain has a catch, however, because the company charges an 8 percent management fee on its cash deals.

If a customer bought 10 ounces of gold through the company at, say, $159 an ounce, he would pay $1,590 for the gold plus a fee of $127, for a total of $1,717. If he bought 10 ounces from a bank at $160, a full $1 an ounce more, he would pay $1,600.

The same trading company offers another deal almost as alluring to the bullion-hungry. In an appeal to the gambling spirit, it offers to sell gold at today's price 90 days from now, regardless of what the bullion is worth then on the London Metals Exchange. All the eager customer has to do is put down a 25 percent deposit—and agree to pay a 10 percent commission on the final sale.

Most Canadian banks will sell gold on credit, too. They ask a customer to make a down payment of 50 percent, then lend him the balance at the current interest rate, now about 12 percent. The bank, of course, holds the gold as collateral.

GAINS AND LOSSES

So if a customer bought 10 ounces of gold on credit from a bank for 90 days, at $160 an ounce, he would pay $1,600 plus about $24 in 90-day interest on the $800 loan. If at the end of the 90-day period the price of gold has risen by $10 to $170, he could sell his gold for $1,700 (less $1,624) for a $76 gain. Conversely, if the price dropped by the same amount, he could sell for $1,500 (cost still $1,624) and take a loss of $124.

The trading company's deal does not work quite the same way. The customer contracts to purchase the same 10 ounces of gold at the end of 90 days, at the current price of $160 an ounce, for $1,600. If the price goes up $10 an ounce, the customer buys $1,700 worth of gold for the contracted $1,600, making an apparent gain of $100. Then he pays the 10 percent commission on the sale price, $160. He takes a loss of $60 on a $10-an-ounce increase in the price of gold.

REGULATIONS URGED

If the price of gold rose $20 an ounce, the bank customer would make a gain of $176; the company's customer would be ahead $40.

The company calls its plan "securing the price" of gold. But bankers and investment experts call it a "naked option" or "streaking." A lot of them would like to see this kind of dealing regulated.

At the moment, however, naked options present something of a dilemma. Securities officials in Canada frankly admit they are stumped.

When a customer even theoretically buys and sells pieces of metal, is he dealing in a "commodity" or a "security"? It makes a big difference in Canada. In the latter case he has the protection of securities regulations. In the former, he is out in the cold; there are no effective regulations, although securities officials are studying the problem.

The fast-talking slicker who once made a good living passing off gilded lead bricks at $35 an ounce has passed into history. But the glitter of bullion still has the power to blind.

I also have a further article from the Wall Street Journal that I would like to insert at this point in the RECORD, entitled, "New Firm to Allow Investors to Pool Assets to Buy Gold.":

NEW FIRM TO ALLOW INVESTORS TO POOL ASSET TO BUY GOLD

NEW YORK.—Bars of Gold Inc., a new company sponsored by Calvin Bullock Ltd., said it plans to allow investors to pool assets to buy gold bullion.

The company will operate like a mutual fund by selling and redeeming its shares at net asset value based on the daily London gold-fixing price. That price is set by bullion dealers each morning and afternoon. Technically, Bars of Gold isn't a mutual fund because it won't invest in securities.

Bars of Gold said it intends to raise $30 million through an initial offering of common stock, probably in December. Unless the law is changed, U.S. citizens will be able to own gold bullion after Jan. 1. The stock offering, which the company said was registered with the Securities and Exchange Commission in Washington, will involve a minimum purchase of 100 shares at $15 apiece, and subsequent purchases in lots of 50 shares.

The stock will be redeemable in U.S. dollars, Swiss francs or gold bullion.

"We think there'll be a long-term demand for gold by American citizens," Robert H. Wadsworth, the company's treasurer, said. He declined to project any price trend for bullion, adding it wasn't relevant to the service Bars of Gold plans to provide. "We intend to make it convenient to own gold without having to buy and store gold bars," Mr. Wadsworth said.

Proceeds of the $30 million offering will be invested principally in 400-ounce gold bars, bought in the open market at the best price, and stored in U.S. and Swiss banks, Mr. Wadsworth said.

Of the total, about $1.5 million will be invested in government securities or cash equivalents for redemption purposes. Investors won't receive dividends.

The company plans to levy a 5% sales charge, 1% redemption fee and an administration charge of 0.41% on the first $25 million of assets.

A syndicate led by Bache & Co., Paine Webber, Jackson & Curtis Inc. and Reynolds Securities Inc. will underwrite the offering.

Further, the bankers themselves publicly have said nothing. Privately they are worried. I am talking about American bankers. This is very well illustrated in another article of recent date in the New York Times, entitled, "Bankers Girding Up for Gold."

I insert this and the other material I have mentioned into the RECORD for the benefit of my colleagues.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, the article is as follows:

BANKERS GIRDING UP FOR GOLD

(By Robert A. Wright)

HONOLULU.—Bankers are eagerly preparing to play a role in what one of them describes as the "1975 gold rush."

But they are concerned that customer relations might erode if the keepers of money become dealers in commodities and if part of a depositor's account fluctuates violently in value.

By Dec. 31 the 40-year prohibition against Americans owning gold will end. An apparent majority of the more than 14,000 bankers here for last week's annual convention of the American Bankers Association feel their customers will expect them to be a source of supply.

The subject of gold was compelling enough to attract some 400 bankers away from Waikiki's balmy beaches and golf courses to attend an afternoon panel discussion. They came loaded with questions.

"It's a little like the end of Prohibition but probably a more complete change," Charles C. Smith, administrative vice president of the Bankers Trust Company of New York, remarked. "We can expect the public to put on a gold rush second only to the famous invasion of the mountains and the streams of the Old West—for gold is an emotional issue."

Mr. Smith cited estimates that the American gold bullion market alone might reach $3.5-billion in 1975.

There also are projections that the gold market might boom briefly, then dry up suddenly.

Investors trying to take profits may have difficulty in selling because of a lack or inefficiency of a secondary market. Not the least of the bankers' worries is the mistaken expectation their customers may have in that situation that the banks who sold them the gold will willingly buy it back—at the same price they sold it for.

Nonetheless, many bankers expect their customers to demand such service.

John R. Toedtman, group vice president of the Engelhard Minerals and Chemicals Corporation, presented some of the reasons: "That's where my money is. I can store the gold at the bank or in my safe deposit box. My banker may loan me money to buy it. My banker may let me borrow against it. My bank will probably buy it back if for some reason I have to sell it."

Mr. Toedtman acknowledged that some of these reasons might frighten bankers. Among the questions bankers must ask themselves, he said, are: "Can you 'create money' by issuing gold certificates at a rate of 3, 4 or 5 times the extent of your physical stock? Will this be regulated or lawful?" There are as yet no regulations governing bank dealings in gold.

Banks, as gold dealers, will face severe competition. There are already 1,400 licensed dealers in the United States selling gold to industrial users, Mr. Smith note. He predicted a field day for them as well as for gold stocks, gold futures and gold-oriented mutual funds.

Department stores across the country have announced their intention of being in the gold market. Merrill Lynch, Pierce Fenner & Smith, Inc., the nation's largest securities brokerage company, and Handy & Harmon, the precious-metal firm, have formed a joint venture in gold.

Gold will be sold in many shapes and sizes—coins, wafers as small as one-tenth of an ounce and bars as large as 400 ounces—at prices that could range from $18 to $60,000.

The Franklin Mint, the private minting company headquartered near Philadelphia, purchased exhibition space at the Honolulu convention to convince bankers that gold coins would be their best bet.

Franklin has been the official minter since 1969 for such nations as Panama, Jamaica and the Bahamas. Its new program will work this way: Franklin plans to offer foreign gold coins (made in its own plant) to banks at face value—no handling charge.

The company's profit will come from its minting fee, paid by the country of issue. And the country of issue will make a profit from seigniorage, the difference between its metal-plus-minting cost and the face value of the coin.

Vincent J. Higgins, director of sales for the Franklin Mint, insisted that coins would offer the best medium for the average American to enter the market, at prices between $50 and $500.

Bankers voiced concern that unsophisticated investors might balk at paying more than the quoted market price for gold, not realizing that handling charges and markups were added.

Then there is the problem of supply. "In a market characterized by very strong demand, how do we assure adequate resupply?" asked S. Wayne Bazzle, president of the Bank of Richmond Company in Virginia. "How do we guarantee fulfilling large purchase orders?"

Thomas W. Wolfe, director of the Treasury's Office of Gold and Silver Operations, said that the United States had long been dependent on imported gold and that any surge in demand would have to be supplied by South Africa or the Soviet Union. A combination of strong demand and rising gold prices could have a substantial impact on this nation's balance of payments, he said.

"In this situation," he warned, "it would be prudent to be prepared to make gold sales from the Government stock if the need becomes clear."

Bankers will proceed cautiously for the most part. Mr. Bazzle, among the bankers who have studied the gold market in detail, remarked: "It may be a good move to wait out the first two or three weeks of January to test customer demand."

Mr. Smith, of Bankers Trust, said bankers should make their decisions on the basis of profit potential, "with no credit given for any other business which might be generated."

Further, Mr. Speaker, again doing all that one man can do, before the recess was over and concerned because there had been absolutely no action, no indication of action, no indication of concern on the part of our money managers, the Secretary of the Treasury, the President of the United States, the Chairman of the Federal Reserve Board, who in all justice to him was the only one who during our debate on the repealer amendment wrote a letter to me that he was unalterably opposed to that repealer amendment because he agreed with all I was saying, because at this particular time in this disruptive financial market this was no time to go into this kind of financial speculation.

So concerned as I have been and before our return from the recess and immediately after the election, I addressed a letter to the Comptroller of the Currency once again, Mr. James E. Smith. The letter is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 14, 1974.

Hon. JAMES E. SMITH,
Comptroller of the Currency, Department of the Treasury, Washington, D.C.

DEAR MR. SMITH: Last August 23, in response to my inquiry, you advised me that the terms of Public Law 93–373 will "permit national banks to purchase, hold, sell or otherwise deal with gold in the United States or abroad."

Although generally it is assumed that bank dealings in gold would take the form of retailing to customers, it is not clear just what the scope of the term "otherwise dealing" includes. For example, would banks be permitted to issue gold-backed Certificates of Deposit, and could they use gold as a money crediting deposit base? Assuming that such practices as these would be unsafe or undesirable, does the law, in your opinion, restrict or prohibit regulation of such practices by your office? Or, for example, can you under terms of PL 93–373, Subsection 2(b) prohibit banks from dealing in gold futures either on their own account or in behalf of customers."

Some press accounts indicate that Federal regulatory agencies will issue guidelines concerning gold dealings by banks. I would appreciate knowing what guidelines you have developed or contemplate developing, and particularly whether these will be issued prior to the effective date of Public Law 93–373. In the event that the scope of this statute in any way precludes your effective regulation of gold dealings by banks, I believe that it would be urgent for Congress to correct the law so as to allow effective regulation of any gold practices by banks which could threaten the soundness of individual banks, or the effective functioning of the banking system. Inasmuch as Congress will not be in session much longer, and the law becomes effective on December 31, or earlier if the President so elects, I would appreciate your early response along with any suggestions for modifying the present statute that you feel is desirable or necessary.

With best wishes, I am
Sincerely yours,
HENRY B. GONZALEZ,
Member of Congress, Chairman.

I addressed another letter to Dr. Arthur F. Burns, Chairman of the Board of

Governors, Federal Reserve System, which reads as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 14, 1974.

DR. ARTHUR F. BURNS,
Chairman of the Board of Governors, Federal Reserve System, Washington, D.C.

DEAR MR. CHAIRMAN: On December 31, or sooner if the President so elects, Public Law 93-373 will become effective. One consequence of this is that banks will enter into the business of gold dealing. Since this is an entirely new venture, and since the law is extremely vague as to what banks may or may not do in the gold trade, I believe it is urgent for the Federal Reserve to respond to pressing questions about this.

The language of the law, as you know, is extremely broad and couched in terms which appear to have the sole intent of denying any effective regulation over gold dealings. This being so, the first and most urgent question I have is whether the Federal Reserve can, in fact, regulate gold dealings by its member banks.

Is it possible, for example, for the Federal Reserve to prohibit banks from dealing in gold futures? Does the Federal Reserve contemplate counting gold assets held by banks as part of their reserve requirements? Would the Federal Reserve accept gold held by banks as collateral against loans by the System to its member institutions?

From all available information, it is impossible to estimate the size of the potential gold rush. Nor is it possible to determine just how banks will deal in gold. No guidelines have been issued and so far as I know none have been prepared. I do not believe that this law should be allowed to become effective without an adequate understanding of Federal regulations if any that will apply. I would appreciate your advising me at your earliest convenience, whether you believe the statute should be modified or its effective date delayed so as to enable a smooth transition to unrestricted private ownership.

I know that you have opposed this Amendment, as I have. I believe that Congress would have been wise never to have adopted it, because so few people are asking hard questions about what this statute means and what it will do. I am particularly anxious to have your appraisal of it and especially your appraisal of the possibilities that remain for effective and adequate regulation of banking activity in the gold market.

With best wishes, I am
Sincerely,
HENRY B. GONZALEZ,
Member of Congress, Chairman.

I would like also to include an editorial from the Business Week magazine of November 2, 1974, entitled "A Sharper Eye on the Banks":

A SHARPER EYE ON THE BANKS

Federal Reserve Chairman Arthur F. Burns obviously was asking for a fight last week when he proposed consolidating all federal banking regulation in the hands of a single, powerful agency. The Comptroller of the Currency, the Federal Deposit Insurance Corp., and the banking departments in each of the 50 states, all will fight like tigers to keep their present regulatory powers.

But the inevitable storm of controversy should not be allowed to obscure the soundness of the Burns proposal or the grim truth that prompted him to make it. Neither the existing regulatory system nor the existing regulatory techniques have kept pace with a decade of dramatic change in banking. If they had, then both U.S. National of San Diego and Franklin National of New York—the two biggest bank failures in U.S. history—would have been brought up short before they reached the point of collapse.

Comptroller James E. Smith, who supervises national banks, will be hard put to defend the record at his office in the case of U.S. National and Franklin. But the Comptroller's office is not the only one involved in what has been aptly called "competition in laxity." Under the present system, regulators too often give banks anything they want for fear that a tough policy would make them transfer to a more sympathetic jurisdiction.

Burns is right. The U.S. needs a single agency with sweeping powers to review bank operations and to stop irresponsible risk-taking. It also needs a far more sophisticated system of reporting and inspection, an "early warning system" that would spot a bank in trouble early enough to save it.

Bankers will object to the extra paperwork and the costs of equipment and manpower to put such a system into operation. But the banking system suffers heavily from failures like U.S. National and Franklin. As for costs, picking up the pieces of those two banks so far has cost over $2-billion. Even the most complicated early warning system could be installed for a fraction of that amount.

Then I addressed another letter to the Secretary of the Treasury, the Honorable William E. Simon, which is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 14, 1974.

Hon. WILLIAM E. SIMON,
Secretary of the Treasury,
Department of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: Last summer, with your connivance, the House adopted the so-called Amendment which is now contained in Public Law 93-373.

Since that time, there have been many questions raised about the impact of this Amendment and it is unsettling, to say the very least, that neither you nor anyone else seems to have any idea as to its ultimate impact.

It seems to me that Congress would have been wise, and you wiser still, to insist on a full study of the least disruptive ways of removing restrictions on private ownership of gold. However, it is too late for that now. Even so, I do take this opportunity to ask whether you have any suggestion for modifying the statute so as to provide a greater degree of control over the deregulation of private gold ownership. While it may be argued that a single cold plunge is the only way of proceeding, it occurs to me that a more gradual process might be preferable so that some of the presently unanswered questions can be resolved and any necessary modifications of the law undertaken.

For example, I am not at all certain that the language of the law makes it possible for the Comptroller or the Federal Reserve to control bank activities in the gold market. I enclose for your information a copy of my letter to the Comptroller of the Currency in this regard.

There are unanswered questions about the treatment of gold in the banking system. Is gold to be considered merely a commodity or is it to be considered as a banking asset? Could banks, for example, use gold as a money crediting deposit base? Could banks offer gold as collateral against loans made by the Federal Reserve to them? Can the Treasury define and regulate the activities included in the phrase "otherwise deal with gold in the United States or abroad," as regards banks?

I consider it urgent for these questions to be resolved before this law becomes effective. If any modifications to the law are made, I think it important for any such changes to be made now rather than later. Accordingly, I solicit your early attention to these matters and will appreciate your early response.

With best wishes, I am
Sincerely yours,
HENRY B. GONZALEZ, M.C.

Then one last letter to my own chairman of the committee, the honorable gentleman from Texas, Mr. WRIGHT PATMAN, which is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 14, 1974.

Hon. WRIGHT PATMAN,
Chairman, Committee on Banking and Currency, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am sure that you recall the action of the Committee last summer in adopting the gold amendment to the International Development Association Act. You will also recall, I am sure, my strenuous objection to this since no hearings were ever held on the question of private gold ownership, let alone its impact or how best to manage the transition from the existing prohibition.

Owing to this lack of legislative history, there are many unanswered questions about private gold ownership and I am endeavoring to have these resolved insofar as possible.

As an example of the questions that have arisen, the Comptroller of the Currency advises that banks may deal in gold. What is not clear is the extent to which they may do so. Many banks, for example, issue gold-backed Certificates of Deposit; may they use gold as a reserve asset; and may the Comptroller or other Federal regulators exercise any control over the extent and nature of bank activities in gold ownership? I expect responses to my inquiries in the near future. Should these responses indicate the need for corrective legislation, or show that it would be wise to delay the effective date for permitting private gold ownership, I hope that you will convene the Committee promptly for consideration of such legislation. Since, at the latest, Public Law 93-373 will be effective on December 31, I hope that you will undertake to see that any necessary amendments are considered and enacted, before Congress adjourns. We should be in a position to effectively regulate the transition to private gold ownership with as little disruption as possible. Since Congress did not in any way consider the need for regulation, I feel that it has a duty to promptly enact any corrections recommended by the Treasury or Federal Reserves.

With best wishes, I am
Sincerely,
HENRY B. GONZALEZ,
Member of Congress.

In this I am suggesting areas of responsibility that I think are incumbent upon us in the Congress and to these Administrators and money managers in the executive branch of the Government to do before it is too late.

On top of that, I am introducing a bill that would extend the deadline for the effective date of the repealer amendment, which is now public law, from December 31st to June 30, 1975; unless the President finds reason to revoke that appeal before June of 1975. In other words, I am leaving it up to him if, in his discretion, the International monetary situation is stabilized in his opinion so that it would be safe to permit the gold speculation on the part of our citizens.

I do not know what success I will have, Mr. Speaker, but the reason I have risen to take your time and the time of the other Members is because I am very, very much concerned, and because it is clear that this is something that we can get a handle on. It is something we do not have to wait for until the tide of events has overcome us. I do not recall if at this late time in the 20th century we would have a reality of that prophecy of William Jennings Bryan and see our American people truly crucified on a cross of gold.

TELEVISION AND CHILDREN

The SPEAKER pro tempro. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ROONEY) is recognized for 5 minutes.

Mr. ROONEY of Pennsylvania. Mr. Speaker, I took my children, Martha and Greg, to an unusual event on October 19. It was open house for children's television by the American Broadcasting Co. in Washington. It was held in cooperation with television station WMAL–TV.

We were invited to watch ABC's children's programing on that Saturday morning. The highlight of the day was one of the hosts, Jim Malinda, who is the star of a new program called, "Korg: 70,000 B.C." Mr. Malinda plays the role of a Neanderthal man in a historically accurate and educational program that is, at the same time, very entertaining.

It was quite exciting to all the children who were there to meet this star in person. He took the time to sit and chat with every child, sign autographs, and generally behaved in a manner that was a tribute to his profession.

This event, which I understand was repeated in many cities, was part of an effort encouraged by ABC in the theme, "Do you know what your children are watching?" The network, through advertisements on the air, in newspapers, and in magazines, urged parents to watch children's television with their own youngsters during that week. ABC also distributed material by Mrs. Eda LeShan, a specialist in child psychology. Mrs. LeShan made two observations with which I heartily agree:

First. Parents should watch television with their children and know at firsthand what the youngsters see that is good and that is not so good.

Second. There is no reason why a child has to spend excessive amounts of time watching television. The decision should be up to the parent, especially for younger children.

I know there has been a great deal of criticism of children's television in the recent past, some of which has been deserved. But I must commend ABC for what I saw on its children's television that Saturday morning. The programs were devoid of violence. They also contained many themes that are called "pro-social"—where children are urged to be considerate, to show tolerance and understanding of others, and generally to conduct themselves in a manner befitting young citizens. Finally, the programs were interesting. In other words, no entertainment value was sacrificed in the process of eliminating violence and introducing pro-social themes.

Sandy Morrison, the very pleasant promotion assistant for WMAL–TV, distributed "report cards" to all participants. The programs got good "grades" from the audience which, incidentally, included such people as FCC Chairman Richard E. Wiley and his children, Kim, Doug, and Pam and FCC Commissioner Glen O. Robinson, his wife and children, Jennifer and Dean.

I commend ABC for its progress in this very important area in the lives of our children and I hope they continue to provide the American people with better family programing.

PRESIDENT FORD'S STRANGE VETO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, on October 29, while Congress was in recess, President Ford vetoed H.R. 14225, the Rehabilitation Act Amendments of 1974.

My colleagues will recall that the House passed this legislation by a vote of 400 to 1 on May 21, 1974, and the House and Senate unanimously agreed to the conference report on October 16, 1974.

Mr. Speaker, the President specifically stated that he was not vetoing the bill because of the amount of money involved:

He said:

> The key issue posed by this bill is not how much money will be spent. The issue posed is how well the programs will be run.

But the veto message which accompanied the measure back to the Speaker is so rife with factual errors and incomprehensible assertions that I fear the President has been seriously misinformed about the purposes and the contents of this important legislation.

Mr. Speaker, let me stress that I make this observation not from any partisan motive and, indeed, more in regret than in anger.

For I fear that the same advisers who tried to hinder and disrupt the vocational rehabilitation program under Richard Nixon are, today, proffering the same bad advice to our former colleague, now President, Mr. Ford.

Mr. Speaker, I want to emphasize also that the distress and puzzlement I voice are not mine alone.

The distinguished ranking minority member of the Committee on Education and Labor, the gentleman from Minnesota (Mr. QUIE), for example, immediately following the veto, expressed his "extreme disappointment" at President Ford's decision and indicated his intention to vote to override the veto when Congress reconvened.

And on November 7, Burt L. Risley, president of the National Council of State Agencies for the Blind, wrote to me of his dismay at the veto.

Said Mr. Risley:

> President Ford's veto of H.R. 14225 is both distressing and inexplicable. Having carefully reviewed the President's veto message, we must confess that we are unable to understand what the President means by the various reasons given in support of his veto.
>
> The various statements made in the veto message simply are not supported by any facts of which we in this Commission are aware and the rationale offered in support of the decision not to sign the Rehabilitation Act Amendments of 1974 cannot in any manner withstand objective analysis.

PROVISIONS OF THE BILL

Let me briefly, Mr. Speaker, outline the major provisions of the vetoed bill so that my colleagues may understand the importance of this legislation to millions of handicapped Americans.

The bill would have:

Extended for 1 year, until June 30, 1976, the Rehabilitation Act and raised the authorization for the major program, grants to States, from the fiscal 1975 authorization of $680 million to $720 million for fiscal 1976;

Amended the Randolph-Sheppard program to provide for more opportunities in Federal buildings for blind vendors. These amendments were worked out in close cooperation with representatives of the blind: Federal agencies most directly affected, including the Department of Defense; and representatives of Federal employees.

Authorized a White House Conference on the Handicapped to be called within 2 years from the date of enactment of the bill;

Clarified the definition of "handicapped individual" for the purposes of implementing certain provisions of title V of the Rehabilitation Act relating to the employment of handicapped people under Federal grants;

Required affirmative action for the handicapped in employment in State agencies and facilities;

Required review of individuals deemed ineligible for vocational rehabilitation services;

Transferred the Rehabilitation Services Administration—RSA—from the Social and Rehabilitation Service—SRS—to the Office of the Secretary of the Department of Health, Education, and Welfare.

Mr. Speaker, I now turn my attention to the inaccurate veto message which President Ford issued.

For, as Mr. Risley wrote:

> The various statements made in the veto message simply are not supported by any facts of which we . . . are aware.

BILL PASSED WITHOUT HEARINGS

Take first, Mr. Speaker, the assertion in the veto message that "The bill passed the House of Representatives without having hearings."

That statement is a callous misrepresentation of the facts.

The facts, Mr. Speaker, are the following:

Oversight hearings on the implementation of the rehabilitation program were held by the Select Subcommittee on Education, which I am privileged to chair, on August 3, 1973, November 30, 1973, and December 10, 1973. Over 400 pages of printed testimony were compiled and published as a result of these hearings, which formed the basis of the consideration of H.R. 14225;

H.R. 14225 was introduced on April 11, 1974, sponsored by the chairman of the Select Subcommittee on Education and the ranking minority member, the gentleman from Pennsylvania (Mr. ESHLEMAN), as well as the gentleman from Kentucky, the chairman of the Committee on Education and Labor (Mr. PERKINS) and the gentleman from Minnesota, the ranking minority member of the Committee (Mr. QUIE).

H.R. 14225 was reported by the Committee on May 14 and approved by the House by a rollcall vote of 400 to 1.

Mr. Speaker, 400 pages of testimony persuaded the ranking members on both sides of the aisle of the authorizing committee in the House that H.R. 14225 should be introduced and enacted into law. Who then deceived the President into believing that "the bill passed the House of Representatives without hearings"?

Let me point out also, with respect to the question of hearings, Mr. Speaker, that the Subcommittee on the Handicapped in the other body held a hearing on H.R. 14225 on June 27, 1974, at which, the official hearing record shows, the chairman of the hearings welcomed and acknowledged the presence and participation of committee staff members from the House of Representatives.

ACCOUNTABILITY

Let me now ask my colleagues, Mr. Speaker, to consider the following paragraph from the veto message:

> Most importantly, this bill blurs accountability. I cannot be responsible for the good management of all Federal programs if I cannot hold my cabinet Secretaries accountable. Under this legislation, accountability would be diffused.

The President, Mr. Speaker, is wrong. Indeed, the bill does not blur accountability but strengthens it.

First, let me point out that the legislation makes no changes in the organization of the Rehabilitation Services Administration the agency responsible for implementing the Rehabilitation Act of 1973.

Second, I should note that the legislation makes clear the roles of the various officials involved with the program and provides broad flexibility to the Secretary of Health, Education, and Welfare and others to assure that lines of authority and responsibility can indeed be established. For example, Mr. Speaker, the Secretary has the flexibility to place RSA directly under his supervision, or to have it report to the Under Secretary or to an appropriate Assistant Secretary such as the Assistant Secretary of Human Development.

Finally, Mr. Speaker, let me stress that the bill, rather than blurring accountability, strengthens it by placing responsibility for the successful implementation of the program squarely in the Office of the Secretary.

And by requiring that the Secretary be responsible for protecting blind vendors operating under the Randolph-Sheppard Act, the bill promotes the responsible development of this program, which has been adversely affected by conflicting directives from the Social and Rehabilitation Service, the General Services Administration, and other large agencies, including the Department of Defense and the Postal Service, capable of having a significant effect on the program.

To reiterate, then, Mr. Speaker, by making the Secretary responsible for both the Rehabilitation Services Administration and the Randolph-Sheppard program, the bill promotes rather than blurs accountability.

EXPIRATION DATE

Mr. Speaker, the President also complained that the Rehabilitation Act does not actually require extension at this time because the act does not expire until June 30, 1975.

He said:

> The present vocational rehabilitation legislation does not expire until mid-1975. Plenty of time remains for us to work out a bill which will improve Federal programs for the handicapped rather than create disruptions that will inevitably result from this hastily drawn piece of legislation.

Let me first address the question of whether or not, as the President asserts, the legislation was "hastily drawn." As I have earlier indicated, H.R. 14225 was drawn up only after the most careful and responsible scrutiny of the operations of the program in the House along with complementary hearings in the Senate.

I again remind my colleagues that in the House alone, 400 pages of testimony were published.

In addition to holding hearings, the Senate subcommittee submitted to the Department more than 40 detailed questions concerning the administration and operation of the rehabilitation program and carefully considered the responses when reporting its companion legislation, S. 3108 with appropriate modifications.

Furthermore, the Senate subcommittee held 3 days of hearings in late 1973 on the amendments to the Randolph-Sheppard program contained in the bill.

Indeed, the Senate has twice before approved unanimously the Randolph-Sheppard amendments and the Senate has twice before unanimously approved legislation to hold a White House Conference on the Handicapped.

"PLENTY OF TIME"

But I must also point out that it is surely extraordinary for an administration that has consistently complained that local agencies are not given adequate notice of how much Federal assistance will be available for certain programs to allege that extension of legislation 8 months before it is due to expire is unnecessary.

Indeed, I think we would all agree that criticizing Congress for taking action in advance of the expiration of legislation is not in the best interest of sound public policy formulation nor in the best interests of millions of handicapped people in our society.

But I must also stress, Mr. Speaker, that the allocations to the States under title I of the Rehabilitation Act are based on the amounts of money authorized to be appropriated.

What this means is that the State allocations under title I are, provided that the States individually appropriate sufficient State funds to match the Federal funds available under the Federal authorization, entitlements of such funds.

Therefore, unless the States learn soon what amounts are authorized for the title I program, they will be unable to secure the necessary State matching funds for fiscal year 1976.

If, therefore, H.R. 14225 were enacted today, the States would have but 7 months to plan their fiscal 1976 programs, obtain the necessary State matching money, and advise budget makers in the Federal administration how much money can be matched. There is not, then, as the veto message proclaims, "plenty of time" for us to act.

ADMINISTRATIVE OBJECTIONS

Mr. Speaker, I finally want to address myself to a series of objections which the President raised regarding what Congress intended with respect to the administration of the rehabilitation program.

Let me here digress for just a moment, Mr. Speaker, to point out that not until the President vetoed the bill did the administration make known its views with respect to this legislation. Indeed, except for the veto message, the administration has initiated no communications with the Committee on Education and Labor.

And the administration's tardiness in this regard is consistent with a history of neglect toward extension legislation for the rehabilitation program.

The pattern has by now become familiar: First, the administration neglects to send to Congress proposed extension legislation; second, departmental spokesmen do not communicate to us any major reservations about the provisions of the legislation; third, during a House conference with the Senate, the administration makes no suggestions as to how to resolve differences in the House and Senate bills; fourth, only after unanimous approval of the conference report do we begin to hear rumblings that serious objections to the legislation exist.

Indeed, Mr. Speaker, I must tell my colleagues that today, fully 3 weeks after the veto, the administration has still not contacted the committee with any suggestions for changes in this bill. Possibly, as the House Republican conference's "Legislative Digest" reported on October 7, "the administration view" on the conference report on H.R. 14225, is still "under development."

So, Mr. Speaker, let us look at the President's objections regarding the administration of the program.

First, Mr. Speaker, the President states:

> The Congress has the responsibility to legislate, but I have the responsibility for the successful administration of the programs they enact. This bill is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason—indeed for very bad reasons.

Mr. Speaker, far from being "very bad", our reasons for requiring some modest administrative changes were carefully contemplated, developed with bipartisan support and were sound.

But before I go into them, let me just note that it is certainly within the purview of Congress to require a specific organizational status for an office that operates a major program.

For example, Congress did just that with the Bureau of Education for the Handicapped, and although President Lyndon B. Johnson did not like it he accepted it.

In like fashion, Congress, by statute.

moved the Administration on Aging from SRS to the office of the Secretary in 1973.

Mr. Nixon's administration itself recommended that the Office of Economic Opportunity be statutorily placed within the Department of Health, Education, and Welfare.

So there is nothing unprecedented in an action by Congress establishing by statute the organizational status of a major Federal agency.

Indeed, Mr. Speaker, I believe we are all agreed that Congress has both the responsibility to write the laws and to carry out the functions of oversight in order to assure that programs are administered according to the law.

And the testimony before the subcommittee which I am privileged to chair, as well as before the Senate subcommittee, amply supported the view that growth of the rehabilitation program has been stalled and that the transfer of RSA is crucial if we are to assure sensitive response to the needs of handicapped individuals.

MOVING THE REHABILITATION SERVICES ADMINISTRATION

So let me turn my attention to the sound reasoning underlying the congressional decision to move RSA out of the Social and Rehabilitation Service into the Office of the Secretary of the Department of Health, Education, and Welfare.

First, as the committee reports of the House and the Senate made clear, the rehabilitation program, unlike the other programs within SRS, is a human development program.

The other programs operated within SRS are oriented primarily toward public assistance. Congress decided, therefore, that SRS was not the appropriate agency for the rehabilitation program.

I want to stress, second, Mr. Speaker, that in following the line of reasoning outlined above, Congress was implementing a suggestion first proposed by the administration of Richard Nixon.

My colleagues will recall, I am sure, that in 1971 the administration submitted a number of bills to the 92d Congress to reorganize the Federal bureaucracy.

These proposals were first generated by the Ash Commission which studied government organization for the Federal Government. Mr. Ash is now Director of the Office of Management and Budget. One of these proposals, H.R. 6961, was a bill to create a Department of Human Resources which would have included three major agencies: the Human Development Administration, the Health Administration, and the Income Maintenance Administration.

The result of this administration plan for the Social and Rehabilitation Service, Mr. Speaker, would have been to move rehabilitation, aging, and juvenile delinquency from SRS to the Human Development Administration, and to merge SRS's remaining welfare programs with the social security program into the Income Maintenance Administration.

Clearly, Mr. Speaker, the services programs of SRS were to be separated from the welfare and medicare programs. That was one of the major conceptual changes in the organization of the Department and that was precisely what this legislation tried to accomplish.

As a result, the veto of H.R. 14225 on the ground that the executive should be able to manage its organizational problems without legislation, seems ill advised. First, H.R. 14225 only seeks to accomplish some of the objectives of the administration's own bill on the reorganization of HEW. Second, as the reorganization bills establish, the administration desired to remove rehabilitation from SRS and the welfare programs. Third, the reorganization bills recognize the need for congressional participation in organizational decisions and that the question is not one of executive power alone.

MISMANAGEMENT AND VIOLATION OF FEDERAL LAW WITHIN SRS

Finally, Mr. Speaker, I must point out yet another sound reason for moving this program, which for so long has meant so much to so many, from SRS into the Office of the Secretary.

I refer to what I can only call a shocking and scandalous pattern within SRS of mismanagement and flagrant disregard of the law with respect to the rehabilitation program.

Consider, Mr. Speaker, the following facts which came to light during our oversight hearings and subsequently:

The Department seriously considered phasing out the rehabilitation program and replacing it with a cash assistance scheme so that handicapped people might purchase the services and equipment they need. The written memorandum proposing this scheme acknowledged that congressional approval by law would be required, but suggested administratively implementing the plan without legislation;

The Social and Rehabilitation Service forced RSA to ignore the statutory requirement that identifiable agencies within each State be responsible for Federal rehabilitation funds. SRS, that is to say, forced RSA to break the law;

Today, fully 15 months after the Rehabilitation Act of 1973 was enacted, regulations to implement the law have not been published. The program is, therefore, operating under the regulations designed to implement the now-expired Vocational Rehabilitation Act.

The Rehabilitation Services Administration operated for over 1 full year without a Commissioner;

Finally, Mr. Speaker, I must tell my colleagues that in August the Civil Service Commission issued a report ending a 1-year investigation of SRS that indicted widespread violations of Federal law with respect to hiring personnel and the merit principles of government service.

Because of these violations, the Civil Service Commission has suspended the right of James S. Dwight, Jr., Administrator of SRS, to hire personnel above a GS-13.

Mr. Speaker, let me dwell for just a moment on the Civil Service Commission's report.

The report found that in spite of repeated warnings from CSC, the Department of Health, Education, and Welfare had taken no action to see that the illegal hiring practices of SRS ceased.

The report states:

> There is clear evidence that SRS has engaged in employment practices which circumvented merit principles. There is also evidence that these improper practices had not completely ceased even after HEW and SRS gave the Commission assurances that they had.

Mr. Speaker, because of the preselection of applicants and the hiring of cronies, a method that ran rampant within SRS, Local No. 41 of the American Federation of Government Employees, has written to the U.S. attorney for the District of Columbia to urge that the Justice Department review the report with a view toward bringing criminal charges.

Our colleague from California, the Honorable JOHN MOSS, has made the same request of Attorney General William B. Saxbe.

And I too, Mr. Speaker, have written to the Secretary of the Department of Health, Education, and Welfare to advise him that I am awaiting the Attorney General's reply to Mr. Moss with the greatest concern.

Here, Mr. Speaker, are several of the charges that counsel for Local No. 41 believe should be pressed:

Conspiracy to commit offense or to defraud the United States;

Government seals wrongfully used and instruments wrongfully sealed;

Conspiracy to defraud the Government with respect to claims;

False, fictitious or fraudulent claims;

Unauthorized employment;

False entries and reports of moneys.

So, Mr. Speaker, when the President claims, as he does, that moving RSA out of SRS would "disrupt" this Federal program, I must confess that I repress my anger with great difficulty.

For, given the sorry history of the rehabilitation effort under the administration of SRS, I must tell you that I find it difficult to believe the program could fare worse under a different administrative arrangement.

OTHER CONCERNS

Mr. Speaker, I will take just a moment longer to respond to several of the other concerns expressed by the President.

The President argues that H.R. 14225: "dictates where in HEW minute decisions must be made; it creates independent organizational units at subordinate levels that are wasteful and duplicative."

That is not correct, Mr. Speaker. With the exception of the transfer of RSA, the legislation requires no changes in organizational structure which were not intended with respect to the agreement between Congress and the administration in the final version of the Rehabilitation Act of 1973. Indeed, some of the clarifications contained in H.R. 14225 were added in response to requests from the Department of Health, Education, and Welfare.

The President claims that the bill: "sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man bureaucracy in HEW to duplicate functions carried out elsewhere in the Federal branch."

Congress did not, and does not, contemplate such a large manpower requirement, and there is certainly no provision in H.R. 14225, including monitoring responsibilities, requiring so many personnel.

Finally, Mr. Speaker, as I have earlier noted, the President claims the bill would "disrupt existing Federal programs" and "ill serve the needs of our Nation's handicapped citizens."

The President cannot support that assertion—indeed all the proof available is to the contrary.

The directors of State agencies for vocational rehabilitation, for example, overwhelmingly support the bill—90 percent of them voted strongly to support the legislation—as do other concerned groups and organizations.

Clearly, Mr. Speaker, this support would not be forthcoming from the very individuals benefited by the program and from the agencies which administer it at the State level if they feared the legislation would be disruptive.

Furthermore, Mr. Speaker, if this vague comment is directed toward the Randolph-Sheppard amendments contained in title II of the bill, I must tell my colleagues that for over 5 years the Education and Labor Committee and the Senate Labor and Public Welfare Committee have been trying to devise a solution to the problems experienced by this important program.

Lengthy hearings have been held in both the House and the Senate on the Randolph-Sheppard program and indicate that the Randolph-Sheppard program has not been implemented according to the letter of the law or the intent of Congress.

A major report issued last year by the General Accounting Office buttressed this conclusion.

Title II of H.R. 14225 was developed to assure that this important program will work effectively and expand to assist more blind vendors.

Mr. Speaker, I hope that I have been able effectively to communicate to my colleagues my own feeling that President Ford has been badly served by the advisers who informed him of the provisions of H.R. 14225.

I know that many of my colleagues have already decided how they will cast their votes on the question of overriding or sustaining this really unconscionable veto.

This measure is too important to millions of disabled Americans to be made a partisan issue.

It provides training and educational assistance for the handicapped.

It provides reader services and mobility for the blind.

It helps the deaf with interpreter services and research on captioning film and television.

But it does more than all of these things.

For the 300,000 handicapped Americans successfully rehabilitated annually, it makes good on the promise of a productive life in a humane society.

As we think, therefore, of whether we will support or oppose the President's decision, I recall again the words of a great American President who was himself disabled.

I speak, of course, of Franklin Delano Roosevelt, who said on June 27, 1936:

> Governments can err, Presidents do make mistakes, but the immortal Dante tells us that divine justice weighs the sins of the cold-blooded and the sins of the warm-hearted in different scales.
>
> Better the occasional faults of a Government that lives in a spirit of charity than the consistent omissions of a Government frozen in the ice of its own indifference.

Mr. Speaker, I urge my colleagues to join me to override the President's veto of H.R. 14225, the Rehabilitation Act Amendments of 1974.

CONGRESSMAN DRINAN DENOUNCES ANTI-SEMITIC REMARKS OF GENERAL BROWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, the Chairman of the Joint Chiefs of Staff, Gen. George Brown, recently made some unbelievable and untrue statements with regard to the Jewish community in America and the attitude of the Congress with respect to Israel.

I think it important to take each statement of General Brown and subject it to the most careful analysis. The implications of the pronouncement made by General Brown at a student forum at Duke University Law School are nothing less than shattering.

General Brown, having read a paper on the rules of warfare and international law, had a 40-minute period of questions and answers. His last question raised the issue of whether the United States was contemplating the use of force against oil-producing nations. The general at first replied simply:

> I don't know. I hope not. We have no plans to.

But then the general went on to state that:

> If there is another oil embargo and people in this country are not only inconvenienced and uncomfortable, but suffer and they get tough-minded enough to set down the Jewish influence in this country and break that lobby.

The premises on which this particular statement is made are all false and utterly without foundation. The general suggests that Americans are not now sufficiently tough-minded to set down the Jewish influence in this country and that, as a result, Americans lack the will to break the Israeli lobby. It is neither Jewish influence nor the Israeli lobby in this country that has motivated the Congress of the United States for 25 years to support Israel on every occasion. Time magazine on November 25, 1974, put it well in its final sentence on its article entitled "Brown's Bomb":

> What Brown overlooked is that Congress' attitude towards Israel reflects not only Jewish opinion but the more general American public's traditional support of Israel in its struggle with the Arab states.

In 1949 Congress made it clear that Israel was eligible to receive military assistance from America under the provisions of the Mutual Defense Assistance Act. During the 1950's and 1960's Israel, by the mandate of the U.S. Congress, was able to purchase those items necessary for its defense from American suppliers. In 1967 after the Six-Day War Congress made it abundantly clear in section 651 of the Foreign Assistance Act that it was the policy of the United States to provide Israel with an adequate deterrent force. The language in that bill was carried forward into section 501 of the 1970 Armed Forces Appropriation Authorization Act. The authority extended by the Congress to the President under these various laws by which the President may authorize the sale of military equipment to Israel has been extended to December 31, 1975.

In view of the consistent and unwavering support which the Congress has given to Israel it is astonishing that General Brown should enunciate the following words:

> We have the Israelis coming to us for equipment. We say we can't possibly get the Congress to support a program like that. They say, "Don't worry about the Congress. We'll take care of the Congress."

First, it is troubling that General Brown has apparently in the past on several occasions given gratuitous advice to the Israelis about what they should or should not ask for the defense of their country. He has clearly usurped the right of the executive and legislative branches of the Congress and has, in addition, violated the basic and fundamental principle of civilian control over the military. In addition, General Brown has maligned the Congress since it is clear that the Congress has never deviated from its firm and fixed resolution to furnish Israel with that military equipment which it needs to protect its territorial integrity.

It is secondly very distressing to read the reasons why General Brown feels that the Jewish community in America can influence the Congress. The imputation by General Brown of alleged commercial power to the Jewish community as the reason why the Congress acts as it does is an insult both to the Congress and to the Jewish citizens of America. General Brown stated that the Jewish people of America "own, you know, the banks in this country, the newspapers, you just look at where the Jewish money is in this country."

The cliches of classic anti-Semitism enunciated by Air Force General Brown hardly need refutation by anyone who is even slightly familiar with banks and newspapers in America. Stephen D. Isaacs, in his recently published book entitled "Jews in American Politics," reports that Jews are the principal stockholders or owners of only 3.1 percent of the more than 1,700 U.S. newspapers and that the newspapers so owned have about 8 percent of the country's total daily newspaper circulation. Fewer than 20 of the 800 members of the American Society of Newspaper Editors are Jewish.

Jewish control of banking is even less. The Antidefamation League of B'nai B'rith has reported that less than 1 percent of the directors and top officials of American savings and commercial banks are Jews. If General Brown has even the slightest knowledge of what he was talking about, he would know that the banking industry is considered by the Jewish community to be one of the last bastions of discrimination against Jews.

GENERAL BROWN HAS NOT RETRACTED HIS SCANDALOUS REMARK

General Brown, who became Chairman of the Joint Chiefs of Staff only 4 *months ago* by appointment by President Nixon has expressed regret at his remarks at Duke University which he characterized as "both unfortunate and ill-considered." The general went on to state that the remarks were "unfounded." He also asserted that his remarks "certainly do not represent my convictions." In his apology General Brown recognized the obvious fact that the Jewish community, like any group of citizens in America, have the right and indeed the duty to present their point of view to public officials. But the general's comments on his own comments by no means add up to a retraction. Nor do the comments of the White House or of Secretary of Defense James R. Schlesinger add up to a retraction. In addition, the remarks of the civilian superiors of General Brown in no way rebuke him for expressing his poorly informed opinions with respect to a matter of public policy on which it is totally improper for the Chairman of the Joint Chiefs to comment.

It may seem harsh to demand the resignation of the Chairman of the Joint Chiefs of Staff for remarks which he himself has recognized as "unfounded." At the same time there is a serious question of the credibility of General Brown with Members of Congress whom he has, in effect, characterized as insufficiently "tough minded" to "set down the Jewish influence in this country."

In addition the credibility of General Brown with Israelis is also open to question. After all he has confessed to giving *unsought advice* to the Israelis that the Congress would not follow the Pentagon's recommendations as to what Israel needs in the area of military equipment. After such a confession it would be understandable if Israeli civilian and military officials were most reluctant to deal with the present Chairman of the Joint Chiefs of Staff.

In view of the disastrous consequences of General Brown's racial slurs it seems clear that a reprimand by the President and an apology by the general are not enough. The people of America and the Members of the Congress are entitled to have a man who is the Chairman of the Joint Chiefs of Staff whose loyalty to the unbroken alliance of friendship which the United States has had with Israel for more than 25 years is undisputed and beyond question. Gen. George Brown should either resign or be ousted.

An editorial in the November 14, 1974, Boston Globe concurs in this conclusion. I attach herewith this editorial along with a second editorial on this subject from the Washington Post of November 14, 1974:

General Brown's Racial Slur

The reaction has been strong, and deservedly so, to a news story in the Washington Post and The Globe quoting the top US military officer, Gen. George S. Brown, as publicly suggesting that Israel has too much influence in Congress and that Jews "own, you know, the banks in this country, the newspapers."

President Gerald Ford has publicly rebuked his chairman of the Joint Chiefs of Staff, saying he feels "very strongly" about it, and the White House has termed the general's remarks "ill-advised and poorly handled." Gen. Brown for his part has issued a public apology and said his statements were "poorly articulated" and "the words came out very poorly."

That is almost as gross a misstatement of the facts as the original words themselves. They should never have come out at all, and amount to nothing other than a racial, anti-semitic slur.

We have sensed, ever since the Arab oil embargo of a year ago, a latent anti-Jewish feeling among a few misguided Americans who knew nothing of history, of Hitler and of fascism and thought that almost any price was payable for releasing the Arabs' oil. But this has been the first occasion such a racial feeling has surfaced from one of the highest officials of our nation.

Nor does it help at all that, in the same Oct. 10 talk, Gen. Brown predicted that "it's not going to be too many years when all of the money is in" the hands of the Arabs.

The general, and also Defense Secretary James Schlesinger who still says he plans to keep him, should know by now that the military has no business engaging in politics in any way whatsoever. Gen. Brown's words were an affront not only to Jews, but to every other American as well.

A reprimand and an apology are not enough, for he has shown himself to be unqualified to lead the armed forces of our nation in an emergency. We believe, with Sen. William Proxmire (D-Wis.), that he should either resign or be ousted.

[From the Washington Post, Nov. 14, 1974]

The General and the "Jewish Influence"

Not since the Nixon White House transcripts have we heard from anybody in high government office remarks as offensive as those attributed to Gen. George S. Brown, the Chairman of the Joint Chiefs of Staff, on the subject of "Jewish influence" and "Jewish money" and the supposed impact of both on this country's Mideast policy. Gen. Brown is the highest-ranking member of our armed forces, and in an organization as disciplined as the military, the standards are set at the very top. The standard set by Gen. Brown in a question-and-answer period following a speech in Durham, N.C., last month has raised doubts about his future usefulness in the extraordinarily powerful post he now holds.

The general was responding to the question of whether the United States was contemplating the use of force against oil-producing nations in the event of another em- delicate issue, or one more properly left to bargo on oil. One-can hardly imagine a more measured statements by the President of the United States or other civilian policy-makers. The proper, prudent answer, for any responsible—and intelligent—high-ranking military officers, was that this was not an issue he could in any way be expected to discuss. But Gen. Brown plunged into a meandering dissertation on the possibility of something "almost as bad as the 'Seven Days in May' thing," and of what might happen if the American public should become sufficiently "inconvenienced and uncomfortable" as a result of another oil embargo. What might happen, the general volunteered, was that people would get "toughminded enough to set down the Jewish influence in the country and break the [Israeli] lobby."

This thesis is as mindless as it is offensive. But that is not even the worst part of it. The worst part of it is that the Chairman of the Joint Chiefs was crudely involving himself in the conduct of foreign policy. To the extent that he was saying anything intelligible, he was suggesting that the way to bring peace in the Middle East is for an outraged citizenry to turn against the "Jewish influence," presumably for the purpose of forcing Israel to make peace on terms more acceptable to the Arabs. It scarcely needs to be said that this is none of Gen. Brown's business; one would have supposed that this principle had long since been firmly, and wisely, established as fundamental to the functioning of our system of government.

Secretary of Defense James R. Schlesinger described the general's remarks as a "very unfortunate misexpression of the general's opinion." If that is the case, Gen. Brown is either confused about his own opinion or appallingly inarticulate. Either way, Mr. Schlesinger's explanation is not particularly reassuring. President Ford was more emphatic, describing Gen. Brown's observations as "ill-advised and poorly handled." The White House said Mr. Ford felt "very strongly" about it. As for the general himself, he was properly profuse in his apologies in a telegram to the national commander of the Jewish War Veterans and in a statement issued at the Pentagon. But his apologies had largely to do with the question of the right of pressure groups in this country, including the American Jewish community to express their views "forcefully." The general correctly conceded that this right lies "at the very heart of democracy," and this is responsive to at least a part of what was wrong with what Gen. Brown had to say in Durham. But it does not address itself to the central point and neither do the statements by the Secretary of Defense or the President. For it is not enough to note the obvious: that Gen. Brown's remarks were "unfortunate" or "ill-advised" or "poorly handled." What is missing from the general's civilian superiors is some sign of awareness of the impropriety of *any* public statements by the Chairman of the Joint Chiefs about the conduct of this country's Mideast policy.

THE FACES OF HUNGER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 10 minutes.

Mr. METCALFE. Mr. Speaker, on October 16, I entered into the RECORD the first of a series of articles which appeared in the Chicago Tribune entitled "The Faces of Hunger." These articles—researched, written, and photographed by Tribune reporter William Mullen and Tribune photographer Ovie Carter—graphically bring to our attention the tragedy of increasing world hunger. Mr. Mullen and Mr. Carter spent nearly 3 months traveling through the areas where the problems of hunger are most severe: the Sahel region of West Africa, parts of East Africa, and the countries of South Asia.

Mr. Speaker, at this time I include the second of the series of articles by the Chicago Tribune on world hunger which appeared on October 14, 1974. I am sure that my colleagues will find it informative and moving, and I hope that it will help stimulate congressional action on this vital issue.

The article follows:

Months Late—Or Never—Bungling, Delay, Corrupt Officials Kept Tons of Food From the Hungry

(NOTE.—Red tape and corruption contributed to starvation as bungling relief agencies moved too little too late. Tribune reporter

William Mullen and photographer Ovie Carter spent nearly three months in the famine belts of Africa and India to obtain this first-hand account, the second in a series.)

(By William Mullen)

Addis Ababa, Ethiopia.—Official optimism abounds here and in the capitals of six other drouth-ravaged African nations where an estimated 350,000 persons died of starvation in 1973.

Government ministers and international relief officials throughout the six-nation Sahel region and Ethiopia insist that the worst of the disaster is over.

Unfortunately, their optimism did not spill over to thousands of people in remote, food-starved villages that Tribune photographer Ovie Carter and I visited during a two-month tour of African drouth regions. There, people were dying.

They were people who, while they sowed their fields and tended their crops this summer, were totally dependent on 900,000 metric tons of relief supplies shipped to them from Europe and America.

Many of the people for whom the grain was intended did not get it—or at least did not get enough of it—because of bureaucratic bungling by the United Nations and by donor nations, of which the U.S. was by far the largest.

Many more people didn't get the food because their own governments, among the poorest and worst administered in the world, could not handle the supplies—sometimes because of lack of facilities, sometimes because of corruption.

That side of the story was seldom told to us during our travels.

"We have had no reports of death by starvation since the start of the rainy season," a government official told us in Bamako, capital of Mali.

We could have gone to Timbuktu, as we did, and heard local officials chafe because they knew people were stranded and dying in the surrounding desert because they could find no food. Or he could have seen, as we did, the doctor in the Timbuktu refugee camp point out recent arrivals who were so impossibly malnourished that he couldn't save them.

"We have succeeded in stocking every part of the country with foodstuffs," a government official told us in Ouagadougou, capital of Upper Volta.

He could have traveled with us to Gorom-Gorom, a mud-choked village and refugee camp in the northern edge of the country. It was completly isolated by floodling and left with a four-day supply of food. Conditions were bad enough that, reacting to our reports, officials sent a team to investigate and later ordered a special airlift of food.

"I don't think there will be any death by starvation in Niger this year," an American relief official told us in Niamey, capital of Niger.

He could have gone with us to the Tahoua region of central Niger where relief workers charged with supplying dozen of isolated villages with food struggled heroically but admitted they failed their job. People were dying every day in the villages because they didn't have enough to eat.

"I think we have turned the corner on this thing," a U.S. relief official told us in Addis Ababa, capital of Ethiopia.

He could have gone with Carter to the refugee camps in Wollo province north of Addis where he watched an old woman die while he photographed splinter-thin, severely malnourished babies. Ethiopian officials told me they knew there were thousands of people and they feared the worst.

It is true that near-normal rainfall returned this summer to the Sahel region nations of Senegal, Mauritania, Mali, Upper Volta, Niger, and Chad, and that the rains have returned to Ethiopia.

The Sahel area is the semidesert between the Sahara in the north and the tropical countries in the south.

It is true that the grain fields of those countries are ripening now, and will soon be feeding people after the October harvest.

The human disaster will not be as great this year as last, but nonetheless uncounted thousands of people have died and continue to die needlessly.

Time and again relief workers in the remote bush towns told us they could have avoided the sickness and death if only food had arrived earlier, before the rainy season turned relief routes into impassable quagmires.

Villages and refugee camps barely 50 miles from ample relief supplies are going hungry because it is impossible for relief trucks to inch thru dirt roads and desert tracks now turned to muck and mire.

Fed too little and sometimes going for days without food, the bodily resistance of the people, particularly the children and the elderly, drops so low they succumb to the simplest of illnesses.

They catch colds in the cool desert nights and die of pneumonia. Or they catch whooping cough, measles, smallpox, or malaria, and die from lack of medication. Or they contract diarrhea and die from dehydration.

The international relief agencies maintain that they cannot be blamed for breakdowns in food distribution within the drouth areas, that the blame must be borne by the national governments themselves.

J. David Whaley, chief of the United Nations Development Plan for Upper Volta, claimed the U.N. and donor nations were largely successful in getting food to the stricken nations in record time this year.

If some people in isolated regions are suffering, he said, it is because the governments insisted they be allowed to handle their own internal distributions.

"We're not going to carry the can this year," Whaley said. "The governments themselves insisted on their sovereignty, and we respected it.

"Once we got the relief shipments here, they took over, and we were somewhat responsible for logistics and information, but not much else."

The fact remains that the U. N. and the donor nations did not begin to ship relief food in large quantities this year until May, arriving at the start of the rainy season.

The Food and Agricultural Organization of the U. N. last November warned that Africa would need enormous amounts of food relief in 1974.

Instead of heeding its own warnings, however, the F. A. O. bickered for three months with the drouth-stricken nations on how much relief would be needed and how it should be shipped.

It was not until February that the F. A. O. drew up plans for the relief effort to give direction to the donor nations.

When the shipments started arriving in large quantity in May, five months of the dry season—the best season to send trucks of food to remote villages—had been lost.

Food began to pile up in ports, in capital cities, and in major distribution centers, but the trucks taking it to the villages that needed it most were immobilized by the rainy season mud.

At the end of June in Dakar, Senegal's capital and major port city, 67,000 metric tons of grain intended for Mali was still on the docks.

It would take four months to move that much grain into Mali because it had to be transported on a single-track railroad that can carry only 18,000 tons of freight a month.

David McAdams, mission director in Senegal for the United States Agency for International Development [USAID] defended the port backlog as inevitable.

Even if more shipments had arrived earlier in the year, he said, the railroad could not have transported the grain to Mali because it was tied up with bringing Senegal's peanut harvest to port.

"You can't expect these governments just to ship emergency grain on the railroad," he said. "They depend on the railroad to haul all of their commodities."

McAdams acknowledged that hungry people were beginning to fill the cities and towns by the end of June, even tho all the relief food wasn't delivered.

"We probably could have gotten it [relief grain] there sooner by more expensive means, such as an airlift, but sometimes you can't justify an extreme expense until you've exhausted all other possibilities," he said.

He was right about the expense of airlifting. When the Niger River ran dry in June and the government of Mali could no longer ship relief grain by barge, it had to resort to airlifts to the northern desert cities.

Three U.S. Air Force C–130 Hercules transport planes flew grain from Bamako, Mali's capital, to isolated regions at a cost of $900 a ton. That compares to an estimated $80 a ton it would have cost had the food arrived earlier and had been shipped by barge.

Expensive airlifting, relief agencies and the government of Upper Volta claimed this summer, would not be necessary this year as they were last year because of rapid, efficient stockpiling in remote villages.

The idea of no airlift came as a surprise to Father Lucien Bidot, a French priest directing food distribution in the village of Gorom-Gorom in northern Upper Volta.

Responsible for the well-being of 3,500 farmers and nomadic refugees in the gritty little town slowly being swallowed into the emptiness of the growing Sahara, Father Bidot had become alarmed by July.

Torrential rains had cut Gorom-Gorom off from relief stocks sitting just 25 miles away for several weeks. He had only enough food for four days when he heard there was to be no airlift.

"We have been waiting for an airlift to get started," Father Bidot said. "Otherwise, I don't know how we will get supplies up here.

"It's up to the government now to decide if it will be needed."

The government of Upper Volta never made the decision, but Albert Baron, chief of USAID for Upper Volta and Niger, ordered people from his staff to go to Gorom-Gorom when we told him Father Bidot's dilemma.

An airlift to the village began after the staff reported back to Baron.

Baron said places like Gorom-Gorom are the exception to the rule this year because most areas are getting food regularly.

While the Niger government in 1973 had a shameful record of corruption and bungling in its part of the relief effort, Baron said, the new military government formed in an April coup was a model of reform.

The new government, he said, was determined to make a success of the relief effort, opening every possible avenue of transport to get food into the country and into the villages.

"We're pretty proud of ourselves," Baron said. "If we hadn't been able to double the evacuation of the ports, there would have been starvation in Niger this year."

Once the U.S. and other donor nations got food into the country, he said, the Niger government shipped it to provincial distribution centers.

"Some places are in a 'truck to mouth'

situation," Baron said, "where they are down to one day's supply of food. But I don't think there will be any death by starvation in Niger this year."

Whether people were dying for lack of any or too little food seemed an odd distinction to make in Kao, a village of 2,500 where two to three people a day were dying by early August.

The people of Kao were at the mercy of violent rainstorms that produced overnight raging rivers that tore thru the arid, rolling landscape, slicing apart the roads they watched for food shipments.

There was no food stockpiled in Kao, and little chance of regular relief supplies arriving until the end of the rainy season.

The food was supposed to arrive regularly from Tahoua, a major stockpile center 40 miles south. When a truck of food occasionally managed to break thru the rain-soaked dirt road leading from Tahoua, people consumed the food as soon as it was off the truck.

Parents allowed their children to eat raw milk powder as soon as it was handed to them, unaware that it was a sure way to induce fatal diarrhea.

Maj. John Cellis, commander of a Belgain Army trucking unit responsible for feeding a region as large as France from the Tahoua stockpile, said Kao was by no means the only village in distress.

His unit was ordered back to Belgium Aug. 13, but before they left, the major reflected bitterly on what he had been able to accomplish:

"Our mission was to constitute stocks in the villages, but it was impossible to reach the people often enough to build one. They ate what we brought immediately.

"We came once more too late. We should have been here in December and January when the roads were good. It would have been possible then.

"Now we are leaving and not one place has got a stockpile."

The major was extremely pessimistic about even irregular food shipments reaching the villages once his unit had left.

Maj. Cellis' fears apparently were well-founded. By September the Niger government announced it was replacing trucks with camel caravans to supply the Tahoua district towns.

A trucking problem of a different sort arose in Chad, the most remote and inaccessible of the Sahelian nations—and the one which relief officials estimate has the most severe food problems.

The U.S. committed 20,000 metric tons of grain to Chad this year, but by the end of the summer only 7,000 tons had gotten into the country.

Shipped overland from Nigerian ports to the city of Maiduguri in Northeastern Nigeria, it was supposed to be carried across the border by truck into Chad.

The problem was that trucking is one of Chad's major industries, and owners of the truck companies hold powerful political sway in government.

Tho Nigerian trucking firms were willing to carry the relief food into Chad at one-half the tonnage rates charged by Chadian firms, the Chad government wouldn't allow the Nigerians into the country.
tration and Congress. Because of the pro-
have enough trucks to handle the immense piles of food that had grown in Maiduguri and had begun to rot under tarpaulin shelters.

When the government finally relented in July and decided to allow Nigerian truckers to carry the food, it was too late. The rainy season had destroyed the road leading from Maiduguri to Chad.

Ethiopia's Wollo province is a place of spectacular emerald mountains and valleys where people in isolated farming villages died by the thousands last year.

There was no way for an airlift to succeed in the region this year when the villages ran out of food again. There was no way after the rainy season began for the food trucks to penetrate the steep, tortuous roads.

The government instead set up relief camps at the most accessible points they could find, hoping that people in trouble could somehow reach them, pick up supplies, and return to their farms.

"There are at least three million Ethiopians living in acute distress right now," said Shimelus Adugna, the nation's director of relief operations.

"We think we have done a good job getting food to most of them, but we know there are places we have not found, that we have not managed to reach. There is little we can do for the people there, unless they somehow manage to find their own way to one of our shelters."

Often when people finally manage to reach a government camp, such as the one in Bati in Wollo province, they are already beyond help. Weakened by hunger, they are bundled into blankets to ward off the cold mountain air, and officials try to wean them back to health so they can return to their farms.

But every day in the camp a few bony forms under the blankets stop moving. and they are wrapped for the last time to be carried out of the grey barracks buildings.

How many people have died like this in Africa this year is impossible to calculate.

Whether they are dying from starvation or malnutrition seems an academic question. The fact is that they are dying because 900,000 tons of food, much of it grown, shipped, and paid for by American taxpayers, did not arrive in time to save them.

Despite promising African harvests this year, officials already know it won't be enough to sustain the 50 million people in Ethiopia and the Sahel next year. The U.S. and the donor nations already have started shipping food for 1975 emergencies.

STRENGTHENING THE PRIVACY ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, yesterday I called attention to an important deficiency in H.R. 16373, which is scheduled for floor consideration this week. It related to absence of clear language requiring the publication of a Directory of Federal Data Banks. I believe there are three additional aspects of the legislation which similarly require strengthening provisions.

NEW RECORD SYSTEMS

Broad support exists for what President Ford has endorsed as "privacy impact statements" on proposed new personal data systems, such as the recently disclosed Fednet plan. There should be considerably more attention to system design and standards than is required in the bill as well as direct notification to a clearinghouse organization and Congress. I propose the National Bureau of Standards be given a formal role in the early planning stages of new or major modifications of personal information systems. Once such a technical review has been completed and final plans prepared, full particulars should be transmitted to the General Services Administration and Congress. Because of the procurement and management policy mission of GSA, this will be a useful second-line review within the executive branch. Congress can act through its oversight machinery, authorization or appropriations processes where clarifications or objections to new or changes in systems are proposed.

HANDLING PUBLIC INQUIRIES AND COMPLAINTS

Contained in all measures I have introduced to protect individual records and require open-access practices, is the establishment of a board to regulate, monitor, and hear public grievances. H.R. 16373 contains no privacy agency and leaves individuals largely adrift if they need assistance or wish to protest inability to exercise access or other rights to their personal records. The Senate bill does have a board exercising this function which I favor.

I have looked into the Office of Consumer Affairs possible role as an "ombudsman" for privacy complaints as Mrs. Knauer's office serves in the consumer protection area. Aside from good work in developing and circulating a code of fair information practices for retail stores and other businesses, the Office of Consumer Affairs is not well equipped with statutory authority, technical competence, or access to operating agencies.

This vacuum must be filled and I am hopeful that a Privacy Commission having these duties will prevail. The legislative history must indicate a public repository for assistance and complaints on compliance with data protection standards.

RESEARCH

Congress has been plagued by lack of information on problems involving technology and practices of State and private personal records systems. No research dimension is called for in the House bill. In the Senate measure a well-formulated research program is provided. We are told that the Domestic Council Committee on Right to Privacy is now doing much of this job. That is fine. But Congress and the American people cannot be expected to rely on a temporary committee operating under the nonstatutory Domestic Council, at the behest of the sitting President, in the purview of regularly exercised executive privilege. While I have a high regard for the committee, the fact is they cannot give Congress assurance that the reports and background documents related to their several studies will be made public.

Mr. Speaker, I bring up these deficiencies, along with the need for clear language authorizing a directory, as constructive suggestions for consideration.

BACKGROUND ON MINISH-WILLIAMS TRANSIT BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MINISH).

Mr. MINISH. Mr. Speaker, one of the last remaining items on the congressional agenda before adjournment is the question of Federal assistance to the Nation's mass transit systems.

If we are to make a real impact on the problems of our Nation's urbanized areas and, indeed, the problems of the entire Nation, it is essential that the 93d Congress pass, and the President sign, legislation to provide long range, comprehensive, meaningful mass transit assistance. Fortunately, we have, in S. 386, a vehicle which will enable us to meet this crucial goal.

The conference report on S. 386, now pending before the House Rules Committee, is the product of serious legislative compromise between the House, Senate, and the administration. Although the process by which the conference report was reached is extraordinary, the product is of exceptional quality in that it reflects the interests of numerous concerned groups. This is the real test of the legislative process.

For over three years both the House and the Senate have been considering legislation that would authorize Federal funds to finance the costs of operating transit systems. For 10 years, the Federal Government has participated in funding costs through a program which has met with great success. In 1966, $75 million was obligated, and this has grown to $1.3 billion in 1975.

But, in 1966 State and local governments were subsidizing 22 systems at $200 million and in 1975 this grew to 180 systems at $650 million. There has been great interest, therefore, in legislation that would authorize the Federal Government to participate with State and local governments in the support of operating costs.

The administration, under President Nixon initially was opposed to such a program. However, when, legislation cleared both Houses of Congress late last year, they reversed their position and indicated support for a program of operating assistance under certain specified conditions. I am sure you recognize that legislating in the atmosphere of changing attitudes on the part of the administration is difficult. However, we have been pleased by the positive change and have responded by modifying the legislation to reflect the administration's concerns. Only in this way can a passable and effective program result.

The initial action that led to the development of S. 386 was taken by the House Banking and Currency Committee on April 16, 1973, when it reported H.R. 6452 to the full House.

This bill contained four major provisions:

Authorization of a new program of operating assistance for transit of $400 million a year for fiscal year 1973 and 1974. These funds would be allocated by formula weighted evenly between population, revenues passengers and vehicle miles. As with the capital program, the operating aid would be available on an 80-percent Federal share basis;

Increase in contract authority for the capital grant program of $3 billion;

Increase in Federal share of capital grant program from 66⅔ percent to 80 percent; and

Increase in Federal share for planning funds from 66⅔ percent to 80 percent.

This bill was designed to continue the successful capital grant program of the 1970 act, with an update in funding and an increase in the Federal share. One reason for the capital grant program's success was that it allowed State and local public bodies to apply directly for their funds. In the early development of the program, it was impossible to precisely determine capital needs. Thus, a program of application for projects was developed.

The operating assistance program, however, was a different matter. If application for funds was allowed, the Federal Government in reviewing the applications would find itself involved in decisions affecting fares and service levels as well as wage scales. In order to avoid this, the committee felt it essential to have a separate program for operating assistance and that this separate program be funded by an allocation formula. Testimony from the States, cities, counties, and public transit operators was universally supportive on this point.

Earlier, on March 15, 1973, while considering the 1973 Federal Aid Highway Act, the Senate added, on the floor, a new title III. This title III contained many of the provisions of H.R. 6452, except that it contained no formula for distributing the funds, which were to be allocated according to secretarial discretion.

This unusual action of placing this transit legislation into the 1973 Federal Aid Highway Act was a carryover of developments in 1972 session of Congress. The 1972 Housing and Urban Development Act contained the transit legislation, but in the final days of the session, this bill was denied a rule. The Senate placed then the provision of operating assistance in the 1972 Federal Aid Highway Act. The conference report on this bill was not completed until the final day of the 92d Congress, and the report was not acted upon in the House because of a lack of a quorum. A similar strategy was decided on for the 1973 Federal Aid Highway Act.

On April 19, 1973, the House passed the Federal Aid Highway Act of 1973. This bill contained a title III that provided for $3 billion in new contract authority and increased the Federal share to 80 percent for capital and planning grants. However, no operating assistance was included.

Between April 19 when the House passed the highway bill and July 27 when the House-Senate conference on the Federal Aid Highway Act completed its work, H.R. 6452 was held by the Rules Committee on the grounds that these provisions were contained in the highway bill.

The conference on S. 502, the Federal Aid Highway Act, did not adopt the provision in the Senate-passed version for operating assistance. It did add the $3 billion in contract authority and increased the Federal share for capital and planning funds. The conferees on the part of the House from the Public Works Committee refused to accept the operating provisions for assistance. The conference completed its work and filed on July 27, 1973. It was adopted by the Senate and House on August 1 and 3, respectively.

Since the operating assistance program was deleted from S. 502, the Senate Banking Committee reported a new bill, S. 386, July 31, 1973. Like the provision of title III of S. 502, it authorized $800 million for operating assistance for a 2-year period for fiscal years 1974 and 1975. S. 386 passed the Senate on September 10.

H.R. 6452, authorized funding by formula for an operating assistance program and contained the same amount of money as S. 386. It was debated and passed the House on October 3, 1973. After its passage, there was considerable discussion that the administration was rethinking its position on the operating assistance program.

For this reason, the conference on S. 386 and H.R. 6452 met on December 22, 1973, and took no action. The conferees decided to wait until the next session to see if there was a change in the administration's position.

This delay was fortuitous because in early February the administration submitted to the Congress its unified transportation assistance program, which contained a program of Federal aid for operating assistance. It called for a national distribution formula based on urbanized area population, and also allowed the allocated funds to be used for capital purposes.

While providing for multiuse of the allocated funds, UTAP still authorized substantial funds for capital purposes to be available by application. The UTAP proposal was quite similar to one proposed by Congressman Garry Brown in the Banking and Currency Committee.

The UTAP proposal also called for modifications in the urban system highway program and had an enacting clause that called for amendments to title 23, United States Code—the Federal Aid Highway Act. For this reason, the legislation was referred to the House Public Works Committee, rather than the Banking and Currency Committee, even though it contained major mass transit provisions.

The conference on S. 386 met on February 25 and 26 and adopted changes reflecting the administration's interests as described in the UTAP proposal. These were:

The formula grant funds were made available for capital as well as operating purposes; and

The distribution formula was changed to give greater weight to population than transit activity.

This report was filed on February 26. When this bill was considered by the Rules Committee, members of the Public Works Committee testified in opposition to the granting of the rule by the House because the UTAP proposal had been referred to their committee. They promised to report a bill within 6 weeks. On this basis, the Rules Committee denied S. 386 a rule.

Twenty-five weeks later, on July 24, 1974, the Rules Committee granted S. 386 a rule.

When S. 386 reached the floor, a motion to recommit was proposed by the ranking majority member and other members of the House Public Works Committee. They argued that their committee would soon report a 6-year comprehensive transit aid bill, and, therefore, there was no need for the House to act on S. 386, which was recommitted by a vote of the House on July 30, 1974.

On August 1, 1974, H.R. 12859, the Federal mass transportation bill, was reported by the House Public Works Committee. Despite the fact that the bill had been referred to Public Works because it contained highway provisions, the reported bill had virtually no highway provisions.

H.R. 12859 repeals the existing UMTA program and creates a new program as part of title 23 of the United States Code. By amending title 23, the Public Works Committee could claim jurisdiction over a bill that by itself would rightfully be under the jurisdiction of the House Banking and Currency Committee.

H.R. 12859 would make major changes in the existing capital grant program. It would direct all funds allocated for distribution through the States, which is contrary to the existing program under which States and local governments are the applicant. It would also allow urbanized areas with major transit systems to apply for operating grants, as against receiving the funds by formula. This provision in H.R. 12859 drew strenuous opposition from the administration, and public interest groups—cities, the counties, and public transit authorities.

The Senate Banking, Housing and Urban Affairs Committee, like the House, is the committee of jurisdiction for the transit program, and was faced with a problem of how to respond to the actions of the House. To insure that a bill passed by the Senate would go to conference with the House Public Works Committee, the Senate Banking Committee would need to report a bill that amends title 23. There is great concern expressed about the wisdom of this step since it would subject the transit provision to the Federal Aid Highway Act. Certainly, legislative procedures that would require the transit program to be part of title 23 as a condition precedent to passage of legislation in 1974 are unfair.

For these and other reasons of time, Senator WILLIAMS, the chairman of the conference on S. 386, and I asked that the conference be reconvened at a public hearing on September 25, 1973.

Witnesses testifying before the conference committee urged action this year for a long-term transit bill. Testimony also voiced concern over the major changes called for in H.R. 12859. The administration objected to the 2-year bill and called for at least a 6-year bill.

The conference met in executive session on October 2. The administration addressed a letter to the conferees outlining a schedule of dollars for a 6-year program and made a suggestion concerning the elements of the formula. These changes were adopted by the conferees. This report was filed and is now before the Rules Committee.

This is the background of the second conference report of S. 386. Changes in the Administration's view toward operating assistance and the appearance of another committee of the House in the discussion have made its background stormy. But, in its present form it enjoys the enthuiastic support of President Ford and the public interest groups that are concerned about public transportation.

During this 20 months of development, as indicated, there has been considerable change in the original bill, H.R. 6452. Several aspects of the proposed program provided the basis for the issues. Changes were made to accommodate various interests, but the basic outline of the program that is S. 386 was defined in H.R. 6452.

These issues include the operating aid program and its formula, the local share and maintenance of effort, and the recipient and the funding level.

OPERATING AID PROGRAM AND FORMULA

S. 386 as passed by the Senate authorized operating assistance with the Secretary of Transportation given discretion as to the distribution of funds. On the other hand, H.R. 6452 distributed operating aid funds by formula, based equally on population, revenue passengers and transit vehicle miles.

The H.R. 6452 formula, passed by the House in 1972, was criticized because it provided much of the funds to the urban areas of the country with present high transit ridership. The New York urbanized area with 15 percent of the urban population has 40 percent of the riders of public transportation and under the H.R. 6452 formula, New York was to receive 29.9 percent of the funds. Urban areas just now developing transit systems would receive less and this, many argued, was unfair.

The administration's UTAP proposal distributed the funds entirely on the basis of population. But this formula tended to provide a windfall to areas with very little transit ridership, while failing to recognize the substantial local transit effort occurring in large urban areas.

The first conference report formula was changed to provide a weight of 50 percent population, 25 percent revenue passengers and 25 percent vehicle miles, thus reducing to 22 percent the funds provided for the New York area. However, when it was recommitted, members representing medium and smaller urban areas still criticized the formula for short-changing their districts. In addition, the formula also drew criticism because the elements of revenue passengers and vehicle miles are not uniformly reported and might also be subject to manipulation.

In the second conference, the Administration acknowledged that their original formula of 100 percent was unfair and suggested the formula of 50 percent population and 50 percent population weighted by density. Density is the population per square mile of urbanized area. It was argued that density reflects a measure of transit need and that the source figures are firm and not subject to short term manipulation.

The formula based on population and density reduced the share for New York urbanized area further to 17 percent. Many New York spokesmen considered this percentage too low in view of their high transit ridership.

This problem was resolved by discussion between the city of New York and the administration. The city of New York is unique in the country in that over the last few years its capital budget has supported millions of dollars worth of transit improvements with 100 percent locally financed projects. Federal aid programs are used to finance some projects, but in addition they have in their current budget over $200 million in 100 percent locally financed projects.

Because it is very difficult, if not impossible in New York, to use the capital items for operating purposes, an amendment was recommended by the administration that would allow an urban area to substitute up to one-half capital funds received from grants for operating purposes, if they are replaced dollar for dollar from local capital funds.

With this amendment, New York City and its members on the committee accepted the revised formula based on population and density.

Another area of compromise in the conference was proposed originally by Congressman BROWN and supported by the administration in the UTAP proposal. This would allow the formula funds to be used for either capital or operating purposes, at the discretion of State and local public bodies. Section 3 funds, of course, would still be available by application for major capital improvements and construction projects. In addition to administration support, this change was supported by the public interest groups.

The optional use of funds for capital or operation was in the original S. 386 conference report, and it is also in the second conference report.

LOCAL SHARE AND MAINTENANCE OF EFFORT

State and local governments now provide about $650 million in tax support for operating costs of transit systems. Both the Senate and House Banking Committees and their conferees agreed that any Federal funds made available for operating costs should be in addition to what is now being provided and not in substitution for local and State funds.

In addition, the local share could be paid from these State and local funds, but not from fare box revenues. It should be noted that the program from its beginning has required the local share to come from sources other than the fare box. The objective in both cases is to stimulate new State and local money as the result of the Federal effort.

Both maintenance of effort and a prohibition on the use of fare box revenue toward the local share are in S. 386. Both are supported by the administration, but are not included in H.R. 12859.

Both H.R. 6452 and S. 386 called for an 80 percent Federal share for the operating program and funds under the capital program are presently an 80-percent level.

In the second conference, it was argued that the Federal share for operation should be 50 percent in order to compel a greater local effort.

The conference report thus modified the Federal share provision by allowing 50 percent on operating funds from the formula grant program, flexible 80 percent for capital under the formula grant program and a firm 80 percent for section three capital grant programs. The administration supports these changes.

THE RECIPIENT

The mass transit capital grant program, in existence for 10 years, permits State and local public bodies to apply for Federal funds. There have been a wide variety of applicants for these funds, reflecting the many different institutional arrangements made at the local and State levels. For example, in some areas the States have created regional transit authorities which provide all transit service, while in others the States have created separate authorities within each region. In still other instances, the States have assumed the operation of the transit systems by a department of State government. Transit service also is performed as part of city or county governments and in a few remaining cases transit services are handled by private operators. In the latter situation, the applicant must be a State or public body applying in behalf of the private company.

An important objective of the Federal program was to avoid interference with institutional arrangements developed at the State and local level. The 1964 UMTA Act recognized this, but at the same time there were stipulations in the planning program to develop regional decision-making mechanisms where these were lacking.

H.R. 6452 and the original S. 386 provided that funds be made available to State and local public bodies, the same language as is in the capital grant program.

During the first conference, when considering the formula grant program, questions were raised about what would happen when funds were allocated to urban areas where no regional body existed to receive the funds. How would the funds be suballocated in the region?

The conferees agreed that where the State or a regional agency of the State was providing the transit service on a regional basis, the State or regional agency should be the recipient.

In those areas where the State or a State-created regional agency is not providing the service, a designated recipient shall be selected. The State, local government and the operator of public transportation, together with the Secretary of Transportation, would select the recipient.

During consideration of the first conference report, the States objected to this designated recipient procedure. They argued the States were still not sufficiently involved in the program and the administration shared their concern.

In response to this concern, the second conference did two things. It provided that projects under the formula grant and capital grant programs must be approved by the 134 planning process, which was devised to involve State and local governments in comprehensive transportation planning.

The conference also agreed to authorize that the formula grant funds apportioned to urbanized areas under 200,000 population be allocated to the State governments and be suballocated to the areas. Many of these areas, of course, have little or no public transit service.

These efforts, in our conference, to accommodate State and local institutional arrangements stand in contrast to H.R. 12859. This bill would destroy all of the important vital arrangements between the local and Federal governments that have been developed over the last 10 years. Under H.R. 12859, State governments would become the recipient of all Federal aid programs, whether or not they were actually involved in public transportation programs.

FUNDING

The 1970 UMTA Act authorized $3.1 billion for contract authority. These funds were to be available for obligation for any period beginning with fiscal year 1971 and a liquidation schedule for the money was provided for fiscal years 1971–75.

Initially the liquidation schedule was envisioned as a method of program control. However, in practice, it was discovered there was wide and unpredictable range between the time of obligation and the time when the obligation was liquidated into cash. A program that funds major construction projects will have their characteristics.

The $3.1 billion of authorized contract authority required some means of control, though. Thus OMB, DOT, and the congressional appropriations committees developed the concept of administrative reservation as the means of annual program control. The budget contains a sum that the administration declares it intends to reserve—obligation—during the fiscal year. The Congress acts on this proposed level and is free to accept, raise, or lower the amount.

After several budget-appropriation cycles, the liquidation schedule has become obsolete as a control mechanism and its elimination is requested by DOT. In fact, cash liquidations are so far behind administrative reservations that the schedules provded in the initial $3.1 billion and the additional $3 billion in the 1973 legislation are in no way a limit on the program.

In addition, under the new budget-appropriation procedures, such schedules will have significance for 2-year periods. If, under these procedures, the Congress wishes to use a liquidation schedule as an additional control to administrative reservations, substantial reductions should be made in the existing schedule. But, this should be done only after extensive review of reservation/liquidation relationships.

Another provision of the original financing section called for an update in the contract authority and liquidation schedule every 2 years, to reflect changing needs for the program. Thus, during calendar 1972, the Congress would review needs for fiscal years 1973–77, during calendar 1974 review needs for fiscal years 1975–79, and so on through 1981. This financing mechanism was devised to deal with a program whose needs were hard to determine, but would be developing.

Overall, the program has worked well. The availability of such a large amount of authorized contract authority has stimulated State and local governments to develop financing of their local share of the program.

In addition, the administration has expanded the level of obligation through the years to meet the expanding demand. The following schedule of obligation for this program illustrates my point:

Capital grant obligations

[In millions]

1971	$400
1972	600
1973	1,000
1974	1,000
1975	1,450

In 1970 the administration requested $3.1 billion for the first 5 years of the program or an average of $650 million a year. By the third year, they had exceeded this level. The legislation submitted in 1972 and the administration envisioned obligations of a billion a year. Two years later, they were requesting a program in excess of this amount.

The initial $3.1 billion was increased by $3 billion during 1973. The second update was due to be enacted during this Congress. However, the administration submitted its UTAP proposal that called for the phasing out of the UMTA program and made no request for additional funds.

The public interest groups supplied the Banking Committee early this year with substantial justification for increases in the capital grant program. In most cases this was the same material presented to the House Public Works Committee during their hearings on the UTAP proposal.

Pending the outcome of the House Public Works Committee action, the Banking Committee was prepared to enact legislation separate from the original S. 386 to increase the funding for the capital grant program. In fact, I have introduced a bill to accomplish this update. However, by August, when the Public Works Committee reported its bill, the committee felt it would be appropriate to add these funds to an expanded S. 386, which we have done.

S. 386 would add $4.9 billion to the existing $3 billion providing $7.9 billion for 6 years, an average of $1.3 billion per year.

CONCLUSION

In summary, Mr. Speaker, I would urge my colleagues to study the substance and the background of S. 386 and the table of funding levels which I inserted in the Record on Monday, November 18. I believe they will conclude, as most concerned groups and individuals have, that S. 386 is quality legislation deserving of prompt and overwhelming passage.

THE ARTISTS-IN-SCHOOLS PROGRAM

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, on September 23 I had the privilege of presenting an address to a 3-day meeting of the

National Advisory Panel on the National Endowment for the Arts' artists-in-schools program.

I should point out, Mr. Speaker, that the Panel was recently formed to help guide the growth of what is widely regarded as one of the Endowment's most successful programs, artists-in-schools.

Inaugurated in 1969, Mr. Speaker, the artists-in-schools program has this year placed 1,750 artists in over 5,000 schools.

Mr. Speaker, one of my distinguished constituents who serves as Chairman of the National Panel also addressed the meeting.

I refer to Dr. Thomas P. Bergin, dean of Notre Dame University's Center for Continuing Education, who also serves as chairman of the Indiana Arts Commission.

Because I am sure that my colleagues will be interested in Tom Bergin's perceptive comments on the role of the arts in improving the cultural literacy of our young citizens, I include a copy of his remarks at this point in the Record.

Artists-in-Schools Program

Distinguished guests, fellow panel members, and representatives of the National Endowment, it is a warm and cordial greeting which I extend to each of you this evening.

We are delighted to have you here . . . Father Hesburgh asked especially that I extend his best wishes and say you are indeed welcome to Notre Dame.

His new Presidential assignment on the Amnesty Commission may jeopardize his being able to be with us briefly tomorrow. He is at the present time returning from London and apparently they would like to set up a Commission meeting sometime Tuesday.

In light of the somewhat monumental task we have before us in reviewing the various proposals from all the States, I decided earlier that this evening should be an informal, unstructured, friendly gathering . . . one which would provide us an opportunity to get to know one another better and this indeed is what we want to do.

RECEPTION FOR ARTISTS-IN-SCHOOLS PANEL

The more I thought of what might be the most productive use of our time and lead to greater exchange of ideas, I decided perhaps it would be helpful to present a very quick overview of where we are and hopefully where we are going.

OVERVIEW

The artists-in-schools program began in 1969 and since its inception, the program has been enthusiastically greeted by children, artists, schools, teachers, parents and communities.

During the 1973–74 school year, the artists-in-schools program was operating in 5,000 schools in all 50 States and the 5 special jurisdictions. There were approximately 1,750 artists involved: dancers, musicians, poets, painters, sculptors, graphic artists, photographers, designers, craftsmen, actors, filmmakers, architects/environmental artists, and this year we are to add folk artists if we can find the money.

As the needs of the artists-in-schools program continue to grow, the question of support becomes increasingly crucial.

UNMET NEEDS

In the State of Indiana, for example, the request for $51,700 for school year 1975–76 represents a 118% increase over this year's funding and the impressive thing is that this increase is backed up with $100,800 in matching dollars, for a proposed total program (if our budget only permitted) of $152,000 to place craftsmen, visual artists, poets, filmmakers, and dancers in Indiana schools.

Lest one feel Indiana was immodest in its request, one should note that other States responded in the same way: New Hampshire requested a 347% increase, Pennsylvania a 308% increase, and Florida a 258% increase over last year!

Requests such as these arrived even though States were advised in the guidelines to request only modest increases from the 1974–75 school year program. The total request for the 1975–76 school year program is already approximately one million dollars over the amount budgeted for artists-in-schools.

Tremendous pressure is on the endowment and indeed upon this panel to secure the additional money to fund these programs and meet the individual needs of the States.

LOCAL SUPPORT

The money needed is not in the endowment and so we must look elsewhere.

Obviously one place we must look is to the communities for support. One of the most vital and successful programs operating almost entirely on community funding is an artists-in-schools project in the visual arts and crafts in San Francisco, initiated and developed by one of our artists-in-schools panelists, sculptor, Ruth A'sawa Lanier.

This project, the Alvarado School Arts Workshop has received significant funding from several community foundations including the San Francisco Foundation, the Rosenberg Foundation, the Zellerbach family foundation and others from 1969–72. The program has also received school district funding and funding from the California Arts Commission. This indicates a high degree of community and state investment in the program, resulting in an exemplary model for visual artists and craftsmen.

Only this year, long after the project's proven success, has the endowment had funds to assist this project.

We understand through Ray Okimoto, a member of our artists-in-schools panel, that the department of education of the state of Hawaii is drawing up plans to ask state legislators for several million dollars to support artists-in-schools activities.

At a time when the United States Office of Education has disbanded its arts and humanities program, when the National Institute of Education's attention seems elsewhere, and when many schools are dropping art and music teachers from their staffs as they slash their budgets, the artists-in-schools program takes on an even greater significance.

In our schools, this program still is opening avenues of perception and awareness for our children and demonstrating to education systems and to the public the great value and necessity of incorporating (not excluding) the arts into school curricula.

HISTORY OF THE PROGRAM

The artists-in-schools program is an outgrowth of the endowment's earlier poets in schools program, now an integral part of artists-in-schools. Historically, artists-in-schools has been a joint program with the United States Office of Education. The United States Office of Education suggested the endowment join it in expanding the program to, first the visual arts, and then to all the arts, and provided transfer funds to the endowment for expansion of artists-in-schools in the 1969–70 and 1970–71 school years. These first pilot projects accomplished with the United States Office of Education transfer money initiated the visual arts component in six states. (Incidentally, we currently have requests from 50 states for the 1975–76 visual arts and crafts component totaling $1,429,163—a far cry from the $100,000 in 1969.)

Both these pilot programs, in poetry and in visual arts, were so successful that in the school year 1970–71, 31 states participated in programs involving visual arts, theatre, dance, poetry, and music residencies. During the 1971–72 school year the film and architecture/environmental arts components were added and by the 1972–73 school year, all 50 States and the five jurisidictions were operating one or more artists-in-schools components.

OFFICE OF EDUCATION ROLE

Traditionally, the United States Office of Education transfer formula to the endowment has been the most successful funding avenue. Under this formula, planning at all levels has been joint between the United States Office of Education and the endowment. The formula has been an efficient administrative method for avoiding time lags, confusion on matching and guidelines, and duplication of staffing work-load and manpower.

Somehow this highly successful formula has fallen away, as has arts programming at the United States Office of Education. Faced with the realities of bureaucracy, money for artists-in-schools, when identified by the United States Office of Education has come from areas where arts are not funded for, and in, themselves but rather to assist to accomplish other goals.

For example—in the 1972–73 school year, the United States Office of Education provided approximately one million dollars from title III of the Elementary and Secondary Education Act—commissioner's discretionary funds for support of some highly successful artists-in-schools activities.

In the 1973–74 school year, the United States Office of Education had to draw from funds appropriated under the Manpower Development and Training Act to offer a series of grants for training programs and technical assistance for artists (poets, dancers, filmmakers). These funds were utilized primarily for workshops and seminars, and accomplished the goals of the act by training young artists for new areas of employment in our schools. Yet, as with title III funds, when the funds were not available from the United States Office of Education budget in the ensuing years, the strain was felt in the program and in the field.

Although, artists-in-schools has not received any direct support from the United States Office of Education for the current school year artists-in-schools program nor for the coming 1975–76 school year, we must be hopeful that this may change. Particularly as the total requests for the 1975–76 year program are approximately one million dollars over the amount budgeted for artists-in-schools.

There are signs to indicate that the United States Office of Education and the National Institute of Education still have some interest in furthering the development of the arts in education. Yet, the problem that exists seems to be a lack of priority for the arts in their Federal legislation which has given rise to doubts concerning congressional intent. This seems particularly true in regard to the United States Office of Education. What is needed is a clear statement of congressional intent, one which would demonstrate how the Congress feels and how their constituents feel.

KENNEDY CENTER AND ARTS EDUCATION

Are the arts an important part of the learning process of every person?

Grass roots response would seem to say yes. Congress has set aside funds for the Kennedy Center's Alliance for Arts Education (PL 93-380, section 409).

"The Commissioner shall, during the period beginning after June 30, 1974 and ending on June 30, 1978, through arrangements made with the John F. Kennedy Center for the Performing Arts, carry out a program of grants and contracts to encourage and assist State and local educational agencies to establish and conduct programs in which the arts are an integral part of elementary and secondary school programs. Not less than $750,000 shall be available for the purpose of this section during any fiscal year during the period for which provision is made in the preceding sentence."

It would be a major step forward if this legislation could be amended to provide authorization for shared funding of joint programs with the arts endowment, such as artists-in-schools, and for general support of the arts and the humanities in education, including workshops and seminars for artists, teachers, administrators, and scholars.

TO CHANGE THE FACE OF EDUCATION

Pilot projects have proven the arts can change the face of education and present an exciting new way of learning. The response of our States indicate that our schools and State arts agencies working together feel that the artists-in-schools program has a great potential for contributing to this valuable change, and for helping America reassess its role towards the arts, so that they may indeed become an integral part of everyone's life in this country.

It just makes sense, as we know ourselves, the arts make our lives more pleasant outside the schools, think how pleasant the schools are when art exists inside as well.

It seems to me this brief and obviously sweeping analysis of the artists-in-schools program demonstrates rather clearly the task which lies ahead of us as members of this Panel.

It is difficult to exaggerate the total thrust this program can have . . . the boundless opportunity it represents . . . and above all, what it might yet become.

I know I speak on your behalf when I say we intend to work at it.

We believe this program provides a whole new dimension for the arts. . . .

A whole new communication system or network, one which enables us to reach out to all our young people across the Nation . . . and at the same time sensitizes teachers to the great rewards which the arts bring to their teaching and the whole educational endeavor.

On many different occasions and in many different ways, John Kennedy used to say . . .

"We must begin with our young if we truly want to bring about lasting change . . . whether it is in greater appreciation of the arts . . . greater human dignity, better citizenship, or whatever, our young can change the world."

Surely, artists-in-schools is on that track.

MIRACLES EVERY DAY

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I know that many of my colleagues were surprised to learn in the midst of the just-completed recess that President Ford had vetoed H.R. 14225, a bill to extend the Rehabilitation Act of 1973, to authorize a White House Conference on the Handicapped, and to amend the Randolph-Sheppard program for blind vendors.

Surprisingly, Mr. Speaker, this bill was vetoed just as public awareness of the importance of this program for the disabled of our society is increasing.

For example, the November issue of Reader's Digest, of which one of the great friends of handicapped Americans, our former colleague from Wisconsin, Melvin Laird, is senior editor, including an excellent description of the rehabilitation program in an article entitled "Miracles Every Day."

A brief descriptive note on the rehabilitation effort states that, "By rehabilitating the disabled, this State-Federal program turns days of despair into years of productive living—and a profit for the taxpayer."

Because I am sure that all of my colleagues will be interested in this description of the rehabilitation program, I include it at this point in the RECORD.

[From the Reader's Digest, Nov. 1974]

MIRACLES EVERY DAY

(By Joseph P. Blank)

At 26, Sean Kennedy [1] a furniture-finisher, lost both legs and an arm in a train accident. "Life seemed pointless," he recalls. "There was no way to make a living. For four years I just rotted in bed." When a state vocational counselor suggested that he might find help at a place called the Woodrow Wilson Rehabilitation Center in Fisherville, Va., he just nodded indifferently. The suggestion wormed through his mind off and on for a year, however, and finally he asked to be taken to the center—just to find out how hopeless his case really was.

The visit shook Kennedy. "Nobody seemed to think I had such a terrible problem," he recalls today. "I saw a lot of patients a hell of a lot worse off than I was. I decided to try."

Kennedy was fitted with artificial limbs. He learned to walk, drive a car, take care of himself. Aptitude tests indicated that he would do well in accounting. He took a one-year course. The Center then persuaded a construction firm to try him out as a bookkeeper. Within a short time, Sean Kennedy, the triple amputee, had become a decision-maker with the firm.

Today, builders in Virginia pay no attention to Kennedy's disability. They know him as the vice president of a good-sized construction company and a knowledgeable businessman. None of them is aware that he was on the brink of being a permanent, welfare-supported bed case.

In the world of the disabled, miracles like Kennedy's, which turn a life of despair into a life of productive living, are everyday happenings. The transformations occur in a nationwide, but under-used, federal-state program called Vocational Rehabilitation. The program, launched by Congress in 1920, has changed the lives of some three million men, women and teen-agers. It now rehabilitates more than 300,000 people a year. Services include counseling, testing, medical treatment, physical therapy, academic courses, occupational training and job placement. Each state's vocational-rehabilitation agency administers and staffs the program. To finance it, the Social and Rehabilitation Service of the U.S. Department of Health, Education and Welfare provides $4 for every $1 raised by the states.

In general, any person is eligible if his disability—physical or emotional—is a substantial handicap to employment and if there is a reasonable expectation that rehabilitation will make him employable. ("Employment" includes work at home or in workshops.) A client who can afford it may be asked to pay part or all of the cost of his treatment and training. But inability to pay never blocks a disabled person from rehabilitation.

Though vocational rehabilitation doesn't help everybody, the majority frequently do achieve a marvelous change in their lives. In Ohio, for example, 54-year-old Harry Hilliard had never really held a job, had committed numerous burglaries and spent half his adult life in prison. Deciding that there must be another way to survive, he asked for help at a VR center. His "disability" was obvious: he had nothing to offer an employer. In four months under the center's guidance he earned his high-school equivalency certificate, then undertook office-work training. He now works in a university library, owns a new car and says, "I'm finally standing on my own feet."

A physically, mentally or emotionally damaged person often is overwhelmed by what the disability prevents him from doing. Successful rehabilitation, therefore, demands a shift in his point of view. Ken Adams was a construction worker when an automobile accident smashed and permanently weakened his ankles. He couldn't go back to his trade, and he had no other skills. He withdrew into a cocoon of hopelessness. Stubborn pride about asking for help kept him vegetating for four years. "I finally looked up a VR counselor, and I thank God I did," he told me. "I began growing up that day."

Adams took a ten-month course in automobile body-and-fender work, and was offered a job even before he graduated. "Learning that skill changed my life," he said. "I like my work, and I'm earning twice what I made before the accident. I'll always be able to support my family. Life once scared me. Now I enjoy it."

According to H.E.W., more than five million people are now eligible for vocational rehabilitation. The federal-state program is working with one million. Of the remaining four million, several hundred thousand are being treated by the Veterans Administration, private and public agencies, individual physicians and their own families. But most of the disabled who are eligible for aid are not receiving help.

The reasons are numerous. Many disabled don't know that the program is available. Others think they cannot be helped or have reconciled themselves to their disability and don't want help. Pride or fear prevents many from approaching a public agency. Welfare agencies, especially in the big cities, have been neglectful about exploring the potential of VR for their clients. In the job field, which is the payoff for VR, far too many employers are prejudiced against the handicapped.

The federal-state program itself has flaws. In some areas, VR executives favor "easy" clients, who can be quickly rehabilitated at a minimum cost. The quality and adequacy of services vary considerably from state to state, and the South generally is doing a better job than the wealthier North. Despite problems, the federal-state VR program has succeeded in tripling the number of disabled placed in useful work over the past decade.

Astonishingly, VR doesn't cost anything. While making life livable for the disabled, it makes money for the nation. In 1972, three out of every four persons entering the program were unemployed. Three out of four who completed the program immediately moved into moneymaking work. The program increased earning power nationwide by $800 million. While the average rehabilitative effort costs about $2100 per person, the disabled individual restored to productive work begins returning some $850 in annual taxes. In less than three years the good business of VR begins turning a profit for U.S. taxpayers.

The top benefit of VR, however, will always be its impact on the human spirit. Listen to Jerry Paine, 28, who has cerebral palsy and holds an office job: "In my mind, I'm not handicapped. All human beings have limitations. Like others, I'm doing my very best with what I've got. I've received five raises in my job. I like it, and I like the independence and manhood it has given me. I've got something to live for. And I like to think that, because I've done my job well, I've opened the door for others like me."

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[1] The names of all the disabled in this article have been changed to protect their privacy.

The nearest local VR office can generally be located by checking for "Vocational Rehabilitation" in the "State" section of your telephone directory. If the directory does not contain this listing, the address can be obtained from the Governor's office, a physician, public-health nurse, hospital social-service worker, welfare department or public employment-service office.

VETO OF THE FREEDOM OF INFORMATION ACT

(Mr. PIKE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PIKE. Mr. Speaker, in the past several years, the American people have had their fill of secrecy in Government. They had no trouble at all communicating their attitude on this issue to the people's House, as evidenced by our ready passage of the Freedom of Information Act last March 14 by near-unanimous vote. Had our erstwhile colleague, Gerald Ford, stood among us that day it would have been difficult to believe that so consummate a Representative could have failed to get the message from the people and voted against the majority of his old colleagues, both Republican and Democrat, who overwhelmingly passed the bill.

Much has been written lately of the "Imperial Presidency" and the chilling transformation which can occur when normally down-to-Earth and accessible men are catapulted to the highest office in the land. Behind a wall of Secret Service men and fawning, overprotective aides, perhaps it is difficult for the best-intentioned men to maintain vital day-to-day contact with the people and to understand clearly what they are thinking and saying. Only this sort of isolation could have prompted President Ford to veto the Freedom of Information Act.

The consequences of that veto have been clearly spelled out in an exemplary editorial which appeared in the Long Island Press on October 22. Since I have no doubt whatsoever that it is a popular expression of the views of the people of my own district, regardless of their political affiliation, I request permission to enter it in the Record here, both as a prelude to my own vote which will be cast to override the veto and, hopefully, to help the President reestablish necessary contact with the real voice, that of the people.

Another Promise Gone Astray

The 1965 Freedom of Information Act, which provided that a citizen may see any government document except for nine exempt categories—ranging from legitimate military and trade secrets to law enforcement investigatory records—did much to open doors that should never have been closed.

But, as is so often the case, some bureaucrats openly violated the new law while others wriggled through legal loopholes and used delaying tactics in the court to deny the public access to a wide range of documents that do not deserve "secret" classifications.

For example, some agencies refused to look for requested material without precise prior description and threw other roadblocks in the way of people with a right to obtain the requested information.

As a result, both Republicans and Democrats in Congress, plus professional news organizations, began a three-year study of the Freedom of Information Act, seeking steps that could be taken to stop violations and plug loopholes.

This culminated in congressional hearings, followed by a bill passed recently by the House by the overwhelming vote of 349 to 2 and by a voice vote in the Senate. The legislation would give the public quicker, easier access to government documents. Rights-to-know cases would gain precedence on appeals court dockets; a 30-day time limit would be fixed for government replies to lawsuits; there would be a narrowing of agencies' power to withhold investigatory files compiled for law enforcement reasons, and agencies would be required to keep an index of documents so the public could keep track of them.

One of the best features of the amendment was the authority to federal judges to inspect classified material to determine whether the government is justified in withholding it from the public. Sadly, President Ford used this as a peg on which to hang a veto, and veto the bill he did.

The courts, the President told Congress, "do not ordinarily have the background and expertise to gauge the ramifications that a release of a document may have upon our national security." The responsibility for such decisions, he added, are constitutionally those of the President.

We thought the Supreme Court decision upholding the right of newspapers to publish the famous Pentagon Papers disposed of that argument. After all, the high court did assume to have "the background and expertise" to decide such matters.

Moreover, Mr. Ford's veto is a poor way to demonstrate the credo he proclaimed when he took office last August. He promised an "open" administration. Ironically, former President Nixon, whose "closed" administration no doubt helped inspire the Ford credo, two years ago spoke of the classification system as having "frequently served to conceal bureaucratic mistakes or to prevent embarrassment to officials and administrations."

We came to expect Mr. Nixon to say one thing and do another, but we didn't expect it of Mr. Ford. His veto, is a disappointment, and his argument in sustaining it is unacceptable.

We agree with Rep. John E. Moss, D-Calif., who worked for 11 years to get the Freedom of Information Act passed and just as hard to have it strengthened through this amendment. He says that the courts' actions "through the whole unhappy history of Watergate prove that we can place our confidence in the judicial system of this nation."

It is up to Congress to undo the harm President Ford has caused by overriding the veto. We hope this is done quickly and decisively.

TIME FOR CONFIRMATION OF MR. ROCKEFELLER

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, Senate hearings on the nomination of Nelson Rockefeller to the office of Vice President of the United States have just concluded, and the House hearings will be starting shortly. This is welcome news, but it would have been more welcome had it occurred a month or two ago. The Nation has been without a Vice President since August 9, a fact of particular significance this week when the President is out of the country.

I have long been an admirer and supporter of Mr. Rockefeller's, and I was pleased when President Ford announced the nomination. Mr. Rockefeller's qualifications aside, however, the imperative national need at this point is to have a Vice President, and that demands confirmation by House and Senate. If there are legitimate questions about the President's nomination, then they should by all means be discussed, but it would be most unfortunate to have politics played with a decision as important to the Nation's leadership as this. I insert into the Record at this point a recent editorial from the Washington Post on the subject of Mr. Rockefeller's nomination which I commend to my colleagues' attention:

Wealth Is Not Inherently Disqualifying

One of the threads running through the hearings and the commentary on the nomination of Nelson A. Rockefeller to be vice president is the proposition that the joining of national political power with the economic power of the Rockefeller family would be bad for the country. This proposition has been spelled out both abstractly and precisely. In its abstract form, and stripped of unnecessary rhetoric, it becomes an argument that the very rich should not be allowed to hold high political office because they bring with them a distorted view of American life. More precisely, the question becomes, as Sen. Cannon has put it, whether Mr. Rockefeller realizes the inherent risks of "the wedding of great economic and political power." In either form, it seems to us, this is a mischievous line of inquiry to the extent that it directs attention away from the real questions and diverts it toward a classical Marxist analysis of American politics in which, by definition, the holders of great wealth are, however enlightened individually, unavoidably corrupt agents of their class.

It is true, no doubt, that in some cases the holders of great wealth may not be fit to hold high public office. Their view of America may be so distorted and so narrow-minded as to make them blind to the issues the nonwealthy in the country face. Similarly, some of the poor in the country may be unfit for high public office because their economic status has distorted their vision in a different but equally disqualifying way. And the same can be said of any general class of persons—males, females, white, black, rich, poor, bankers, lawyers, soldiers and so on. There were those who felt General Eisenhower should not have been President because he possessed a "military mind," and those who distrusted Woodrow Wilson because he was a professor, and those who would have ruled out Lyndon Johnson because he was a Texan. The point is simply that it is the character and qualifications of the individual that matter most and these are not criteria that can be fairly applied on the basis of race or sex or social and economic background or professional experience, or regional origin.

Fortunately, Mr. Rockefeller chose to deal directly with the issue of his wealth in his opening statement before the Senate Rules Committee Wednesday. It now seems crystal clear to us that he understands the risks of which Sen. Cannon spoke and the arguments made on this issue, both precisely and abstractly, and he may understand them far better than most of his critics or questioners.

The real questions about wealth and economic power as they relate to the vice presidency (and the presidency) which Congress should be attempting to answer were spoken by Mr. Rockefeller himself: "Am I the kind of man who would use his wealth improperly in public office? Or, more generally and more importantly, would my family background somehow limit and blind me, so that I would not be able to see and serve the general good of all Americans?"

The answers to those questions, we believe, can only be found in Mr. Rockefeller's record. And despite all the insinuations and all the details that have been dredged up in the last three months, there is not yet one substantial bit of evidence that suggests he has used his wealth improperly or that he has been unable to see the problems of the average American. Indeed, all the evidence surfaced so far points in just the other direction. What was the purpose of the loans and gifts he made to various public officials in New York State? His testimony is that his purpose was to make it possible for the state to have the services of men it might not otherwise have been able to attract, and nothing has been produced to contradict his version. That may not be a desirable way to run a state government—and in our view it is not—but it is neither unique in American history nor on its face an improper use of wealth. It may be worth recalling that in World War II it was patriotic for others to supplement the salaries of some of those who worked for the federal government for a dollar a year.

As to Mr. Rockefeller's second question, which has to do with the proposition that the rich should not be in high political office, there is no doubt from his record as governor of New York and as a national political candidate that he is sensitive to the needs of ordinary citizens. Few governors have been as quick to respond in a constructive and creative way to public needs as he was in his 15 years in Albany.

We do not know in what direction the Senate Rules Commitee intends to proceed with all the witnesses it still plans to hear. Nor do we know what surprises the House Judiciary Committee has in store. But we do know that the continuing rounds of questions about the details of various gifts and loans and about the obviously misguided decision to publish a book on Arthur Goldberg have produced little new and nothing that, in our view, is disqualifying. We also know that the country has been without a vice president for three months now. At some point in this protracted inquiry—and that point is fast approaching—it will become appropriate to ask whether some part of the purpose of the exercise now going on is not to cripple Mr. Rockefeller as a future political candidate rather than to investigate his qualifications to be vice president.

FREEDOM OF INFORMATION ACT VETO SHOULD BE OVERRIDDEN

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, President Ford's action in vetoing the recently passed amendments to the Freedom of Information Act (H.R. 12471) is most regrettable. The legislation corrected some important defects in the original Freedom of Information Act and went a long way toward establishing once and for all the principle that the Government's business is in fact the people's business, and that the people have a right to know what their Government is doing. A most eloquent commentary on the veto and the reasons why it should be overridden appeared in the Washington Star-News of October 23, 1974. I insert it in the Record at this point and commend it to my colleagues' attention.

The People's Business

President Ford's surprising veto of legislation to expand the public's access to information about government will, beyond much doubt, go over very poorly with the public. We expect that many Americans are sadly noting the contradiction with his promise, upon taking office, that this will be an administration "of openness and candor." In his personal performance he has brought a refreshing openness to the presidency, but in this veto he sided with the agencies that want to conduct much of the public's business in secrecy.

Astonishingly enough, that includes most agencies—not just those engaged in sensitive diplomatic and defense fields. Most of them were opposed to the strengthening amendments to the Freedom of Information Act which Ford vetoed. These were passed by Congress to remedy serious deficiencies which have shown up in the 1966 act, including one that came to attention very sharply in a Supreme Court decision last year. It turned out that the law had not empowered courts to look behind the "classified" designation which agencies place on documents. If a citizen wants information bearing this stamp, the judiciary cannot decide whether the classification is being used justifiably or capriciously. Hence the agency label prevails and access to the information is denied.

This vetoed legislation would have ended the vast coverup potential inherent in such a system by allowing federal judges to decide, in privacy, whether documents have been classified properly. Ford fears for defense and diplomatic secrets under such a provision for judicial review, but the same guarding procedures agreed upon by Congress seem adequate. He also was troubled by a proposed time limit for providing information sought by citizens or the press, and in general favored having less "administrative burden placed on the agencies . . ."

The problem is that administrative ingenuity now is applied all too often to delaying the release of requested information indefinitely, and hiding mundane facts behind labels of official secrecy. Official bumbles still can be covered up too easily by these and other methods which the 17 amendments vetoed by Ford would render largely inoperative. We think the public wants, more than ever before, to see the workings of government illuminated, and the bureaucracy can very well take on some added burden—indeed some strict accountability—for that worthwhile purpose.

Congress realized that fully, in passing this legislation with only two dissenting votes in the House and none in the Senate. With that sort of majority an override of Ford's veto—which certainly is called for—should not be too difficult when Congress returns next month.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. Bafalis (at the request of Mr. Rhodes) on account of illness.

To Mr. Fountain (at the request of Mr. O'Neill) for Monday, November 18, until 12:30 today, on account of official business (North Atlantic Assembly).

To Mr. Jones of North Carolina (at the request of Mr. O'Neill) for November 18 and 19 on account of a necessary absence.

To Mr. Morgan (at the request of Mr. O'Neill) for Monday, November 18, on account of official business.

To Mr. Rangel (at his own request) after 1:30 p.m. today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Gonzalez, for 60 minutes, today.

(The following Members (at the request of Mr. Symms) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 15 minutes, today.

(The following Members (at the request of Mr. Vander Veen) to revise and extend their remarks and include extraneous material:)

Mr. Rooney of Pennsylvania, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Drinan, for 10 minutes, today.

Mr. Gunter, for 5 minutes, today.

Mr. Metcalfe, for 10 minutes, today.

Mr. Koch, for 5 minutes, today.

Mr. Dulski, for 5 minutes, today.

Mr. Minish, for 20 minutes, today.

Mr. Ichord, for 60 minutes, on November 20, 1974.

Mr. Wolff, for 5 minutes, on November 20, 1974.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Snyder to follow remarks of gentleman from Massachusetts (Mr. Conte).

Mr. Gross, his remarks on House Joint Resolution 1117 under suspension of the rules today.

Mr. Danielson, prior to vote on S. 782.

Mr. Rousselot to insert extraneous remarks immediately prior to vote on H.R. 12071.

Mr. Rogers and to include extraneous matters during debate on Safe Drinking Water Act.

(The following Members (at the request of Mr. Symms) and to include extraneous matter:)

Mr. Derwinski in four instances.

Mr. Hosmer in three instances.

Mr. Lujan.

Mr. Ashbrook in five instances.

Mr. Rhodes.

Mr. Gilman.

Mr. Gude.

Mr. Michel in three instances.

Mr. Kemp in two instances.

Mr. Butler.

(The following Members (at the request of Mr. Vander Veen) and to include extraneous material:)

Mr. Moorhead of Pennsylvania in three instances.

Mr. Bolling in three instances.

Mr. Wolff in eight instances.

Mr. Eilberg in three instances.

Mr. Giaimo in four instances.

Mr. Helstoski.

Mr. BRADEMAS in 20 instances.
Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. ANDERSON of California in three instances.
Mr. DE LA GARZA in two instances.
Mr. CARNEY of Ohio.
Mr. ASPIN in 10 instances.
Mr. LEHMAN in two instances.
Ms. HOLTZMAN.
Mr. HAMILTON.
Mr. *RANGEL* in two instances.
Mr. ADDABBO.
Mr. JAMES V. STANTON.
Mr. RODINO.
Mr. GAYDOS in 10 instances.
Mr. JONES of Tennessee.
Mr. ROONEY of New York in two instances.
Mr. MCSPADDEN.
Ms. ABZUG.
Mr. ALEXANDER in 10 instances.
Mr. REUSS.
Mr. DULSKI in 10 instances.
Mr. KOCH in five instances.
Mr. EVANS of Colorado.
Mr. FRASER.
Mr. DENHOLM.
Mr. OWENS in five instances.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3204. An act to eliminate discrimination based on sex in the youth program offered by the Naval Sea Cadet Corps.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 6191. An act to amend the Tariff Schedule of the United States to provide that certain forms of zinc be admitted free of duty, and for other purposes; and

H.R. 12628. An act to amend title 38, United States Code, to increase vocational rehabilitation subsistence allowances, educational and training assistance allowances, and special allowances paid to eligible veterans and persons under chapters 31, 34, and 35 of such title; to improve and expand the special programs for educationally disadvantaged veterans and servicemen under chapter 34 of such title; to improve and expand the veteran-student services program; to establish an education loan program for veterans and persons eligible for benefits under chapter 34 or 35 of such title; to make other improvements in the educational assistance program and in the administration of educational benefits; to promote the employment of veterans and the wives and widows of certain veterans by improving and expanding the provisions governing the operation of the Veterans Employment Service, by increasing the employment of veterans by Federal contractors and subcontractors, and by providing for an action plan for the employment of disabled and Vietnam era veterans within the Federal Government; to codify and expand veterans reemployment rights; and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly, at 6 o'clock and 28 minutes p.m.) the House adjourned until tomorrow, Wednesday, November 20, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2973. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Agricultural Trade Development and Assistance Act of 1954 to provide the United States with the flexibility to carry out the national interest or humanitarian objectives of that act; to the Committee on Agriculture.

2974. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Commodity Futures Trading Commission Act of 1974; to the Committee on Agriculture.

2975. A letter from the Attorney General, transmitting a draft of proposed legislation to provide for the security, accuracy, and confidentiality of criminal justice information and to protect the privacy of individuals to whom such information relates, and for other purposes; to the Committee on the Judiciary.

2976. A letter from the Chairman and Members, U.S. Commission on Civil Rights, transmitting a report on the civil rights activities of the regulatory agencies, pursuant to section 104(b) of Public Law 85–315, as amended [42 U.S.C. 1975c(b)]; to the Committee on the Judiciary.

2977. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to extend the uniform national speed limit indefinitely and to extend for 1 year the authority of the Secretary of Transportation to make grants for demonstration carpooling programs; to the Committee on Public Works.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1461. Resolution providing for the consideration of H.R. 16609. A bill to amend Public Law 93–276 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes (Rept. No. 93–1472). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1462. Resolution providing for the consideration of H.R. 16074. A bill to provide available nuclear information to committees and Members of Congress (Rept. No. 93–1473). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1463. Resolution providing for the consideration of House Joint Resolution 1161. Joint resolution assuring compensation for damages caused by nuclear incidents involving the nuclear reactor of a U.S. warship (Rept. No. 93–1474).

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 14266. A bill to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes; with amendment (Rept. No. 93–1475). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 5050. A bill to amend the Securities Exchange Act of 1934, and for other purposes; with amendment (Rept. No. 93–1476). Referred to the Committee of the Whole House on the State of the Union.

Mr. SIKES: Committee on Appropriations. H.R. 17468. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes (Rept. No. 93–1477). Referred to the Committee on the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. H.R. 11802. A bill to change the name of the Laneport Dam on the San Gabriel River in Texas to the Granger Dam; with amendment (Rept. No. 93–1478). Referred to the House Calendar.

Mr. BLATNIK: Committee on Public Works. H.R. 12044. A bill to modify section 201 of the Flood Control Act of 1962 (76 Stat. 1192) to change the name of the lake to be created by such project from Hidden Lake to Hensley Lake; with amendment (Rept. No. 98–1479). Referred to the House Calendar.

Mr. BLATNIK: Committee on Public Works. H.R. 15322. A bill designating San Angelo Dam and Reservoir on the North Concho River as the O. C. Fisher Dam and Lake (Rept. No. 93–1480). Referred to the House Calendar.

Mr. BLATNIK: Committee on Public Works. S. 1561. An act to provide that Mansfield Lake, Ind. shall be known as Cecil M. Harden Lake (Rept. No. 93–1481). Referred to the House Calendar.

Mr. BLATNIK: Committee on Public Works. S. 2201. An act to provide for the settlement of damage claims arising out of certain actions by the United States in opening certain spillways to avoid flooding populated areas (Rept. No. 93–1482). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. S. 3537. An act to modify section 204 of the Flood Control Act of 1965 (79 Stat. 1095) (Rept. No. 93–1483). Referred to the Committee on the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. S. 3546. An act to extend for 1 year the time for entering into a contract under section 106 of the Water Resources Development Act of 1974. (Rept. No. 93–1484). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADAMS (for himself, Mr. DIGGS, Mr. FRASER, Mr. FAUNTROY, and Mr. MCKINNEY):

H.R. 17450. A bill to provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. ASPIN:

H.R. 17451. A bill to provide for the development of a long-range plan to advance the national attack on arthritis and related musculoskeletal diseases and for arthritis training and demonstration centers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Massachusetts:

H.R. 17452. A bill to amend the Internal Revenue Code of 1954 to exempt buses used predominantly in public passenger transportation service from the manufacturer's excise tax; to the Committee on Ways and Means.

By Mr. CARNEY of Ohio:

H.R. 17453. A bill to provide for the issuance of a commemorative stamp in honor of the approximately 6 million Jews killed by

Nazi Germany during World War II; to the Committee on Post Office and Civil Service.

By Mr. CEDERBERG:

H.R. 17454. A bill to amend the Internal Revenue Code of 1954 to exempt certain farm vehicles from the highway use tax, and to require that evidence of payment of such tax be shown on highway motor vehicles subject to tax; to the Committee on Ways and Means.

By Mr. de la GARZA:

H.R. 17455. A bill to amend the Public Works and Economic Development Act of 1965, to provide for increased authorizations, and for other purposes; to the Committee on Public Works.

By Mr. GUYER:

H.R. 17456. A bill to amend title XVI of the Social Security Act to permit individuals who are residents in certain public institutions to receive supplementary security income benefits; to the Committee on Ways and Means.

By Mr. MAZZOLI (for himself, Mr. Diggs, Mr. Fraser, Mr. Fauntroy, Mr. Adams, Mr. Gude, and Mr. McKinney):

H.R. 17457. A bill to provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. MINISH:

H.R. 17458. A bill to amend the Economic Stabilization Act of 1970 to provide authority to stabilize prices, and for other purposes; to the Committee on Banking and Currency.

By Mr. O'BRIEN:

H.R. 17459. A bill to amend section 404(b) of the Federal Aviation Act of 1958 to provide that no physically handicapped individual shall be denied air transportation solely because of such physical handicap, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 17460. A bill to amend title II of the Social Security Act to increase to $750 in all cases the amount of the lump-sum death payment thereunder; to the Committee on Ways and Means.

By Mr. THONE:

H.R. 17461. A bill to establish a National Commission on Regulatory Reform; to the Committee on Interstate and Foreign Commerce.

By Ms. ABZUG (for herself, Mr. Drinan, and Mr. Koch):

H.R. 17462. A bill to provide increased employment opportunity by executive agencies of the U.S. Government for persons unable to work standard working hours, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GRAY (for himself and Ms. Abzug):

H.R. 17463. A bill to amend title 3, United States Code, to provide for the protection of foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes; to the Committee on Public Works.

By Mr. LITTON (for himself, Ms. Abzug, Mr. Roybal, Mr. Rees, Mr. Mann, and Mr. O'Hara):

H.R. 17464. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

By Mr. LITTON (for himself, Mr. Nedzi, Mr. Yates, Mr. Andrews of North Dakota, Mr. Badillo, Mr. Ginn, Mr. Rosenthal, Mr. Rose, Mr. Blatnik, Mrs. Boggs, Mr. Gray, Mr. Matsunaga, Mr. Yatron, Mr. Pettis, Mr. Wolff, Mr. Fascell, Mr. Riegle, Mr. Mezvinsky, Mr. Won Pat, Mr. Charles Wilson of Texas, Mr. Pritchard, Mr. Rangel, Mr. Ware, Mr. Boland, and Mr. Roe):

H.R. 17465. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 17466. A bill to amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its fuel consumption rate, to provide for public disclosure of the fuel consumption rate of every automobile, and for other purposes; to the Committee on Ways and Means.

By Mr. SIKES:

H.R. 17468. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

By Mr. CLARK (for himself and Mr. Grover):

H. Con. Res. 683. Concurrent resolution authorizing the printing of proceedings unveiling the portrait of Hon. Leonor K. Sullivan; to the Committee on House Administration.

By Mr. GIAIMO:

H. Con. Res. 684. Concurrent resolution expressing the sense of the Congress that the President, acting through the U.S. Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization; to the Committee on Foreign Affairs.

By Mr. FRASER:

H. Res. 1464. Resolution authorizing the printing of additional copies of a report issued by the Committee on Foreign Affairs; to the Committee on House Administration.

H. Res. 1465. Resolution authorizing the printing of additional copies of a report issued by the Committee on Foreign Affairs; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. de la GARZA introduced a bill (H.R. 17467) for the relief of Raul Alvarez Rodriguez, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

561. The SPEAKER presented a petition of the board of directors, Home Builders Association of Greater Oklahoma City, Inc., Oklahoma City, Okla., relative to the marketing fee imposed under the Emergency Home Purchase Assistance Act of 1974; to the Committee on Banking and Currency.

SENATE—*Tuesday, November 19, 1974*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. Eastland).

PRAYER

The Reverend J. B. Thomas, D.D., rector, Church of the Heavenly Rest, 2 East 90th Street, New York, N.Y., offered the following prayer:

May the unseen hands of God rest upon every Member of this Senate in divine blessing and inspiration. Through all the deliberations, debates, and decisions of this Chamber, may the cleansing stream of His pure wisdom, love, and discipline flow; that all evil may depart and truth and justice reign. May the reconciliation of all peoples and their healing, through government and law, here be renewed.

Help us to take each cause seriously and ourselves not so seriously; always to be characterized by grace and gaiety and gallantry, in a kind of meekness which allows differences without rancor, and is totally without fear. Help us to meet ill will with good will, refusing to fight wrong with wrong, for "Satan cannot cast out Satan."

So may America again move forward in the pursuit of those high ideals for which this Nation was born.

In His name we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 18, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Does the minority leader desire recognition?

Mr. HUGH SCOTT. Mr. President, the minority leader refrains, which is the best music of all.

The PRESIDENT pro tempore. Under the previous order, the Senator from Missouri (Mr. Symington) is recognized for not to exceed 15 minutes.

THE CONTINUING RESOLUTION, AND WHY IT MAKES A MOCKERY OF ANY TRUE LEGISLATIVE ACCOUNTABILITY

Mr. SYMINGTON. Mr. President, although the Constitution assigns many important functions to the Congress, none exceeds in significance the responsibility, albeit a shared responsibility, to decide how, in what amount, and for what purpose, the dollars collected in taxes from American citizens shall be spent.

Constitutionally, no money can be drawn from the Treasury until said money is appropriated by law.

Senators and Congressmen, individually and collectively, are sent here to represent the people of their districts and States in deciding, by the appropriations they make, the purposes to which the public funds shall be put; and by their votes, citizens can speak on how the Congress, or their individual Representative or Senator acts in the performance of this "all important" function.

The first requirement is for the Congress to act on appropriation measures; but a mechanism has been developed which, even if the Congress fails to do so, permits the Government to continue to operate, while Congress continues to "put off" its decision or decisions.

The "continuing resolution" is the name of this game; and when used to extremes, as has been true in recent years, said continuing resolution, much as the guilty defendant before a court of law, permits the Congress to enter a plea of "nolo contendere" on the question of its own accountability.

Students of congressional history state the forerunner appeared as early as 1842. When during that year Congress discovered it was not getting its work done on time a comparable device was employed. In the earlier days of the continuing resolution, however, they provided only for truly emergency situations, and lasted for but 10 days to 6 weeks.

Since then, more and more Federal programs have been created, and the Federal budget has grown steadily, both in size and in complexity.

In effort to oversee the performance of a vast bureaucracy under both an authorization process and an appropriation process, the Congress now uses this continuing resolution "gimmick" as an escape hatch from unresolved decisions; but in doing so, it cleverly escapes the performance of its real responsibility.

In the fiscal year 1973, the growing dependency on continuing resolutions reached a zenith when, as a result of two Presidential vetoes, plus other unresolved conflicts, both the Department of Health, Education, and Welfare programs and the foreign aid programs operated an "entire year" without regular appropriations.

And the more Congress seeks refuge and "evasion of responsibility" in these continuing resolutions, the more the tendency for the executive branch to misuse the authority granted under these acts of congressional abdication.

Under said continuing resolutions, normally the state of the authorization or appropriation process determines the rate of the financing of Federal programs. If prior to the beginning of a fiscal year, the House or the Senate has approved an appropriation bill, the controlling rate is the lower of the rate set in the one House bill or the current rate.

If both the House and Senate have approved bills, but the differences are still in conference, under the continuing resolution, normally, funding is continued at the lower of the two measures.

If neither Chamber has acted on appropriations, however, then, with the application of the continuing resolution, programs are funded at the lower of the "rate current" or the budget request for the following fiscal year.

When a budget request is not received, or when the budget request cannot be acted upon because of a lack of authorizing legislation again, under this "passing of the buck" through use of the continuing resolution, programs are funded at the current rate.

Whatever the good faith character of the original arrangement was in light of a particular situation, over a long period inevitably this continuing resolution device has invited executive spending which, in effect, preempts Congress from exercising that rightful authority on which initially it either evaded or defaulted.

Equal to such a challenge of its rightful authority, Congress and certain leaders can and do obtain, through this continuing resolution device, either firmer understandings with the executive branch, or express language in the law which prevents the obligation or expenditure of funds by the latter at disproportionate rates during the periods of such resolutions.

The leverage on the Congress to enact a continuing resolution so as to keep governmental programs operating in the face of incomplete action by the Congress on an appropriation measure has now been matched by leverage on the Executive to sign a continuing resolution, even though it may contain unwanted policy restrictions. As illustration, in the 1970's, the rider on the continuing resolution has become fashionable, as well as a sometimes effective, means of imposing a congressional view on the executive branch.

At times Congress now attempts to present in the waning hours before a wanted recess or an adjournment, a continuing resolution which carries, in addition to the needed spending authority, some of the more important policy decisions of a national character.

Any objective citizen would most certainly agree that this continuing resolution development is a poor way to conduct the business of the U.S. Government. Not only does Congress fail to exercise its full responsibility in turning to such a resolution, but that default in duty is compounded in the waste which thereupon accumulates in all three branches of government.

As but one example, in the current session the Senate Foreign Relations Committee spent many days in hearings on the foreign assistance bill; and several weeks more were involved in the markup and the necessary staff work.

The executive department officials also spent many working man-hours for or against this legislation; but the Senate then first took a relatively short time—perhaps a day and a half—debating, voting, and amending this foreign assistance bill, then voted to recommit said bill to the committee in question.

The executive branch spent much time and effort to bring about this recommittal, preferring the spending level and policy restrictions of the continuing resolution to the spending level and policy restrictions which they expected would emerge as a result of the regular authorization and appropriation process.

Further waste of public funds arises because of the uncertainties experienced by affected agencies, they in turn not being able to plan properly on the basis of firm appropriations.

There is also the waste of judicial arm resources, as affected local and State governmental program managers litigate interpretations of the continuing resolutions in order to determine the amounts to which they are entitled.

New authorization legislation was required this year for 12 of the regular 13 appropriation bills. That factor no doubt contributed to the failure of the Congress to enact even one of the 13 regular appropriation bills for the fiscal year 1975 before that fiscal year, the year we are now in, began.

By June 8, the Congress had enacted a 1974 supplemental appropriation bill. By June 30, the Congress had enacted a continuing resolution for the fiscal year 1975. This later continuing resolution covered virtually all Federal programs. The exception was a special energy research and development appropriation, and even that was finalized June 30.

By the time of the preelection congressional recess on October 17, nine of the regular appropriation bills had become public laws. The further continuing resolution was finally approved on October 17, thus provided emergency funding only for foreign assistance, for which no authorization bill has yet been enacted; also the Labor-HEW appropriation bills currently in conference; also military construction for which no authorization bill yet has been enacted; and Agriculture, an early appropriation measure having been vetoed.

Let us hope the Congress is finally recognizing that reliance on the continuing resolution as a way of life serves to substantially undermine congressional responsibility for the use of public funds.

The Budget Reform Act offers the promise of reducing, if not eliminating this increasing reliance on the continuing resolution.

Not only are deadlines set for approving money bills, but also multiyear authorization requests will come from the executive branch, and the Congress should have a better opportunity to make timely reviews of the various Federal programs.

The size of the Federal budget, plus the volume of Federal programs, makes it very difficult to achieve congressional action in the 6-month period from January through June. With the fiscal year scheduled to begin October 1, however, Congress will have several additional months to work on the budget.

Under the new Budget Reform Act, by next May 15 the President will submit his requests for authorizing legislation of ongoing programs for the fiscal year, which will begin the following October. In the case of any requests for new programs of more than 1 year's duration, the President would be required to submit requests to cover at least 2 fiscal years.

Under the new procedures prescribed by the Budget Reform Act of 1974, there should be an opportunity therefor for Congress to act responsibly.

In the final analysis, whether and how well this new Budget Reform Act will work will depend on the commitment each Member of the House and Senate makes to carry out his responsibility under the Constitution. That responsibility is to decide the particular purposes for which the American tax dollar is to be spent.

Continued use of the continuing resolution process clearly constitutes a sad and continuing erosion of the proper exercise of congressional authority.

Let us hope that the next Congress will take advantage of the opportunity and the challenge now offered by the new Budget Reform Act so as to stop this erosion.

Mr. President, I yield the floor.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Montana (Mr. MANSFIELD) is recognized for not to exceed 15 minutes.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield my time to the distinguished Senator from Missouri.

Mr. SYMINGTON. Mr. President, I have concluded my remarks. I thank the Senator for his courtesy.

TENNESSEE VALLEY AUTHORITY POLLUTION CONTROL FINANCING ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1180, S. 3057.

The PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read, as follows:

A bill (S. 3057) to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Public Works with an amendment on page 1, beginning with line 6, to strike out:

"(i) (1) Beginning with fiscal year 1975, and each fiscal year thereafter, the Corporation shall be entitled to a credit against the payments required as a return on the appropriation investment in power facilities and the annual repayment sum established for such fiscal year in the first sentence of subsection (e) of this section in an amount equal to the amount actually expended by the Corporation during the preceding fiscal year for any certified pollution control facility. The return on the appropriation investment in the Corporation's power facilities required to be paid by such first sentence of subsection (e) shall be reduced in an amount equal to such credit in the same manner and to the same extent as if such credit were a payment in cash. In any fiscal year when the amount expended by the Corporation for a certified pollution control facility or facilities exceeds the payments required as a return on the appropriation investment for the next fiscal year, the amount in excess of such payment requirement shall be applied, as a credit against the annual repayment sum for the next fiscal year and the appropriation investment required to be repaid by such first sentence shall be reduced in an amount equal to such credit in the same manner and to the same extent as if such credit were a repayment in cash. In any fiscal year in which the amount expended by the Corporation for a certified pollution control facility or facilities exceeds both the payments required as a return on appropriation investment for the next fiscal year and the annual repayment sum established for such fiscal year, the amount in excess of such return payments and annual repayment sum shall be applied to the reduction of the appropriation investment required to be repaid by such first sentence in addition to both the credit against the appropriation investment return payment for such fiscal year and the reduction in such investment required as a result of the credit against the annual repayment sum for such fiscal year.

"(2) For purposes of this subsection, the term 'certified pollution control facility' means a new identifiable treatment facility which is or will be used, in connection with a plant or other property, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(A) the Board has certified to the Environmental Protection Agency as being constructed, reconstructed, erected, or acquired in conformity with programs or requirements for abatement or control of water or atmospheric pollution or contamination; and

"(B) the Administrator of the Environmental Protection Agency has certified to the Secretary of the Treasury or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).".

And insert in lieu thereof:

"(i) (1) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter, the Corporation may elect to defer payments under the annual repayment schedule established under subsection (e) if the expenditures of the Corporation for certified control facilities for the preceding fiscal year exceed the amount of the scheduled repayment. The annual repayment schedule shall be suspended one fiscal year for each fiscal year for which the Corporation so elects.

"(2) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter the Corporation shall be entitled to credit against the payments required as a return on the appropriations investment in power facilities the amount of expenditures for certified pollution control facilities in excess of the amount of any repayment deferred under the preceding paragraph.

"(3) For the purposes of this subsection, the term 'certified pollution control facility' means a new identifiable treatment facility which is or will be used, in connection with a plant or other property, to eliminate, abate, or control water or air pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(A) the State certifying authority having jurisdiction with respect to such facility has certified to the Environmental Protection Agency as being constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for elimination, abatement, or control of water or air pollution or contamination; and

"(B) the Administrator of the Environmental Protection Agency has certified to the Secretary of the Treasury or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention, elimination, and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of air pollution under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).".

(2) That the Tennessee Valley Authority Act (16 U.S.C. 831n-4), subsection (e), is amended by adding in the second sentence after the word "appropriations" a comma and the following: "from credits against the return on the appropriations investment,".

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. BAKER. Mr. President, the bill which has just been passed by the Senate, S. 3057, is the product of many hours of work in the Public Works Committee. I want to express my appreciation to the open and helpful attitude of the members and staff of the committee, which resulted in the committee amendment. I am hopeful that this measure will be enacted before the close of this Congress—for while the assistance it now provides is temporary it will afford badly needed relief to the consumers of TVA power.

S. 3057 as originally introduced was identical to H.R. 11929 which, through the efforts of Congressman BOB JONES of Alabama, passed the House of Representatives in March of this year.

Under H.R. 11929 the TVA would receive full and direct credits for its expenditures on pollution control equipment against the annual repayments and return payments required under the TVA Bond Financing Act of 1959. The bill goes further to allow expenditures on such facilities in excess of the annual repayment obligation to be credited against the basic obligation. Thus, under the House-passed bill TVA could rapidly retire the entire obligation created by the 1959 act.

While there is substantial justification for review and modification of the financial burdens which have been placed upon TVA, it is the wisdom of the Public Works Committee that a broader and more incisive analysis of TVA's financial picture is needed before such fundamental changes are undertaken. Thus the bill has been modified to provide temporary assistance to TVA to relieve the financial burden of the repayment obligations while this review is undertaken.

S. 3057 as reported provides that TVA may defer the repayment of appropriations investment required in any of the fiscal years 1976 through 1980, in which expenditures by the corporation for certified pollution control equipment exceed the $20 million required annual repayment. The entire schedule of repayments would be extended by an election to defer a repayment. Thus the final payment of the $1 billion obligation established by the 1959 act could occur in fiscal year 2019 instead of fiscal year 2014 under the present schedule.

The bill as reported further provides that TVA shall be allowed to credit expenditures for certified pollution control equipment in excess of the $20 million annual repayment against the return on appropriation investment during any fiscal year for which a repayment deferral is in effect. The amount of any return foregone under this provision, however, would be treated as an investment of the Federal Government in the TVA power program, becoming a part of the total appropriations investment.

Since the projected annual pollution control expenditures of the Tennessee Valley Authority far exceed the annual payments under the 1959 act, the effect of the reported bill would be to defer repayments for 5 fiscal years and to provide total credit for the return required during that period, increasing the appropriations investment by the amount of the return payments so credited.

It is important to note that S. 3057 as reported does not diminish the obligation of the Tennessee Valley Authority to the Federal Treasury under the 1959 Bond Financing Act. It simply affords TVA the opportunity to defer these repayments during a period of heavy investment in pollution control equipment.

The term "certified pollution control facility" in S. 3057 is drawn from the Tax Reform Act of 1969. It is the intent of the bill that the term be subject to the same limitations applicable to private industry seeking tax writeoffs for such investments.

It has been argued that the measure assails the so-called "polluter pays principle." By allowing TVA credits only for investments for which Congress has already provided a specific tax subsidy, S. 3057 does not set policy in this area but merely follows the precedent of past congressional action.

Since the enactment of the 1959 Bond Financing Act the Tennessee Valley Authority has made annual payments to the Federal Treasury as a repayment of $1 billion of the appropriations investment and as a return or dividend to the Federal Government on the outstanding investment. Presently the annual repayment of investment is $20 million and the return—calculated on the basis of the current "computed average interest rate payable by the Treasury upon its total marketable public obligations"—has averaged about $60 million for the past 5 fiscal years.

These payments have been relatively constant during the past 5 years and projections for the next 5 years indicate that they will remain so. In fiscal year 1974 the total annual payment amounted to 9 percent of the gross operating revenues of the TVA power program. This is a substantial burden to TVA, amounting to over twice the rate of Federal taxes paid by the private electric industry. This burden is, of course, borne directly by the TVA ratepayer, since annual revenues must cover this obligation.

Because the TVA is no longer financed by Federal appropriations, additions or improvements to the TVA power program must be financed either through retained earnings or through revenue obligations issued under the authority of the 1959 Bond Financing Act. Eventually 100 percent of the cost of additional facilities must be reflected in the electric rates of the TVA.

By comparison, it is estimated that over 50 percent of the additions to private power systems will eventually be reflected in a reduction of Federal income taxes. Thus a large portion of the financial burden of capital improvements on private systems is distributed through the tax system to the taxpayers of the Nation, while TVA ratepayers, who as taxpayers share in the added burden created by rapid amortization of pollution control facilities, must also assume the entire burden of capital additions to the TVA system.

The result of this situation over the past several years has become critical. The TVA residential electric rate for 1,000 killowatt hours increased 73.15 percent between 1967 and 1973, while private electric rates in the Southeast region increased only by about 29.6 percent in the same period. The increase for 1,000 kilowatt hours was $1.97 higher for residential consumers of TVA power during that 7-year period than for consumers of private power—$6.48 compared to $4.51. Earlier this year TVA announced yet another rate increase amounting to 14 percent in the average residential rate. And in June TVA put into effect a fuel adjustment clause which has already resulted in a further increase in the average family's bill amounting to about 6 percent.

As substantial as the increases in TVA electric rates have been the rapid increase in capital requirements for pollution control equipment—from $25 million in 1972 and $31 million in 1973 to $136 million in 1974, $183 million in 1975, and an estimated $150 million or more thereafter—and the rapid increase in the price of coal—TVA's average cost per ton was $4.73 in 1970, $8.61 in 1974, and new purchases have been at prices in excess of $20 per ton—indicate that rate increases over the next several years could be even greater.

S. 3057, as reported from the Committee on Public Works would not end this inflationary trend, but it should ease the rate of increase. It would do this by affording temporary relief from the annual repayments of the Federal appropriations investment during a period of heavy capital expenditures. Unlike tax writeoffs for private industry, which eliminate a portion of the obligation which would otherwise be due the Federal Treasury, under S. 3057 the obligation of TVA would remain payable. Only the interest on the Federal investment during the period for which the repayment is deferred would be credited—and that credit would become an investment in the power program, yielding interest to the Federal Government in perpetuity. At the present return rate of 6.1 percent the TVA will pay in returns on the addition to appropriation investment an amount equal to such credits in the first 17 years of the 40-year repayment period.

The increasing capital burden of environmental programs has in recent years spurred the Federal Government to provide financial aid in various forms to assist in meeting both State and Federal environmental standards. Direct appropriations are provided for Federal installations such as military bases, naval vessels, Government buildings, and recreation areas. Federal grants are provided to State and local governments for many pollution control activities. Private industry is afforded various tax relief devices to ameliorate the cost of pollution equipment. The Tax Reform Act of 1969 specifically provides relief to private industry in the form of accelerated amortization of "certified pollution control equipment."

S. 3057, as reported, does not seek to establish an analogy with the tax writeoffs afforded private industry. Such writeoffs abate the tax obligation of the industry; S. 3057 only defers the repayment obligation of TVA and converts the statutory return into owner equity. The most appropriate analogy applicable to this arrangement would be the issuance of common shares in lieu of a dividend.

It is the purpose of S. 3057 to provide temporary relief to the TVA from the repayment obligation established by the 1959 Bond Financing Act during a period of heavy inflationary pressures. By doing so the sponsors of the measure hope to ease the rapid inflation of TVA power rates and to afford Congress an opportunity to review TVA power financing. The measure will also ease somewhat the tremendous demand pressure on capital markets and prevent the debt-equity ratio of the TVA from slipping further below the general industry standard during the temporary period.

Mr. President, now that I have set forth the design and purpose of this measure I would like to discuss some of the arguments which have been raised during consideration of it.

It has been stated that the measure would cost the Federal Treasury $430 million over the next 5 years. While these figures are accurate as far as they go, they are misleading as to the real cost of the bill.

First, I would point out that the estimated $430 million is comprised of two items: $100 million representing 5 years of annual $20 million repayments which would be deferred and the remainder—$330 million—being the interest on the outstanding Federal investment—the so-called return payment.

The bill not only provides that the deferred repayments be repaid after the period of deferral, but converts the foregone return payments into a Federal investment in the TVA power program which will draw interest in perpetuity. As I stated earlier, the transaction is similar to the issuance by a corporation of additional stock in lieu of a dividend.

Private utilities routinely issue stocks as a part of their capital program. S. 3057 would allow TVA in effect to do the same.

The increased ownership equity of the Federal Government would yield dividends at the average rate of Treasury borrowings. This would mean that over the 40-year period in which TVA will repay the balance of the 1959 obligation the Federal Government will receive more than $850 million as an additional dividend on the $330 invested dividend. And the Federal Government will still retain its investment in the TVA power program, the value of which will certainly have increased.

S. 3057 provides temporary relief from the annual obligation created by the 1959 Bond Financing Act. The measure is carefully drafted to preserve the underlying obligation and to provide compensation to the Federal Government for interest on deferred payments.

Critics who assail the cost of the bill simply have not studied the long-term impact of the bill.

It has also been indicated in criticism of the measure that the TVA enjoys an advantage over private utilities in obtaining capital through the issuance of bonds because they are a "quasi-Government agency." Federal law, of course, specifically provides that—

> Bonds issued by the Corporation . . . shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by the United States.

There is no difference in the methods available to TVA to secure bond issuances from those available to private corporations. Thus, if TVA does enjoy a market advantage it is certainly not based upon any actual competitive advantage.

In order to establish their argument the bill's critics have cited statistics showing that TVA was able to obtain favorable interest rates as compared to the average utility. Specifically it is asserted that TVA can issue 20-year bonds at 7½ to 8 percent interest while the "typical investor-owned utility" has to pay close to 10.5 percent for like financing.

This argument completely misses the point that interest rates reflect as much the soundness of the power system as any other variable. There are some utilities who are unable to obtain bond financing at any rate. And there are others who, because they are financially and managerially sound, are able to obtain a triple-A bond rating.

Among these are Baltimore Gas & Electric, Houston Light & Power Co., Commonwealth Edison, Cincinnati Gas & Electric, Texas Power & Light, the Tennessee Valley Authority, and several more.

These companies all compete for bond capital and TVA has obtained interest rates on its bond issues over the last 5 years only 0.1 percent better than their average rate—according to Moody's Aaa P.U. reports.

Critics of the measure also assert that Tennesseans consume twice as much electricity as the national average. While it is true that the average residential consumption in Tennessee is about twice the national average, the observation is misleading. It obscures, for instance, the fact that the average Tennessean uses only 76 percent as much total energy as the average American consumer. And he uses only 69 percent as much as the average New Yorker—that is almost 30 million Btu less per year per person.

Mr. President, the rates for electricity in the Tennessee Valley are lower than the national average. This is true largely because the TVA is an efficiently managed system that has made good decisions with regard to the design of its power system. I cannot yet pass without notice, for instance that virtually all of TVA's power is generated with domestic fuels.

I am deeply concerned by the implication of some critics of S. 3057 that TVA should not receive equitable consideration in the design of its financial program, because it has through good management kept its electrical rates lower than the national average.

I hope that my colleagues will reflect upon the unfairness of this attitude to consumers of TVA power during future consideration by Congress of TVA's financial program.

Mr. President, I am pleased at the action of the Senate in approving S. 3057. I feel that it will remove an unfair burden from consumers of TVA power and afford Congress an opportunity to review the financial program of TVA to design permanent measures which equitably distribute the burdens of the extensive capital requirements facing all electric utilities.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from New York (Mr. BUCKLEY).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BUCKLEY

I would like the record to show that I do not support S. 3057, even as amended and reported from the Senate Public Works Committee, on which I serve, because I believe that the subsidy which this bill provides to the Tennessee Valley Authority for the construction of pollution abatement facilities undermines two fundamental public policy objectives which this Committee has historically supported: the "polluter pays" principle and energy conservation. It sets a lamentable precedent for federal subsidization of pollution control costs: for TVA now and in the future, for other electric utilities and, ultimately, for all classes of industry. Finally, the bill is not justified in order to achieve "equality" for TVA with various tax advantages available to private utilities TVA pays no taxes.

POLLUTER PAYS

According to the testimony of TVA Chairman Wagner, the principal effect of the proposal to credit expenditures for pollution control against TVA's payments to the Treasury will be to make cash available for investments (in pollution control) that would otherwise have been financed with borrowed money (bonds). TVA, in short, would save the interest costs on $430 million in pollution control capital borrowings from FY 1976 to FY 1980. In return, the committee amendment would require TVA to increase its dividend payments to the Treasury by about $26 million/year beginning in FY 1981 (assuming a 6% average yield U.S. obligations is applied to TVA's fortified "appropriation investment"). This obligation is not unlike a long-term 6% loan, payable beginning 5 years after the loan is made, to finance the interest cost for 5 years! In addition, TVA must pay the $100 million of deferred repayment of appropriation investment. However, since the entire payment schedule is shifted 5 years into the future, the payments of $20 million a year which would have been due from FY 1976 to FY 1980 will not be due until FY 2015–FY 2020. The present value of $20 million some 40 years hence is a small fraction of what that $20 million is worth to TVA next year.

Compared to the 8% or so bonds which TVA would otherwise need to float, the scheme provided in this bill does represent a subsidy. Since the payments foregone to the Treasury must be financed by additional U.S. obligations, the subsidy will certainly be inflationary.

The "polluter pays" principle means that the user of the polluting activity must bear the full cost of reducing that pollution. If someone else pays, the user has no incentive to abate pollution or to abate his demand for the polluting activity (in this case, generating electricity). If Congress begins here to finance pollution controls instead of allowing the costs to be passed on to the customer, distortions will begin to proliferate. Those responsible for pollution will not be held accountable, inefficient solutions will be encouraged, and the entire pricetag on this crucial task of environmental protection will increase substantially, (perhaps unacceptably).

ENERGY CONSERVATION

For a variety of reasons, TVA customers have always paid, and continue to pay much less for electricity than the customers of private utilities. For instance in 1973 the average residential consumer in the TVA system paid 1.30¢ per kWh, compared to a national average of 2.38¢ per kWh and 2.54¢ per kWh for investor-owned utilities. Not surprisingly, then, the average consumption of electricity by TVA customers is about double the national average.

If TVA power rates are kept artificially lower than they would be if pollution capital were financed in the marketplace, TVA consumers will continue to have little incentive to take steps to conserve energy. The decisions to insulate homes, schools and other public buildings will continue to be delayed. And with every year of delay, the generating capacity and the pollution abatement requirements associated with that capacity will grow apace.

PRECEDENT

The distortions and inefficiencies described above will be compounded beyond repair should similar subsidies be requested and granted to others which also face the formidable capital costs of pollution control. The financial problems facing the electric utility industry have been the subject of recent Senate hearings under the National Fuels and Energy Policy Study. I am confident that the federal government will be asked to rescue this industry from the high costs of environmental controls and fuels. Others will undoubtedly follow suit.

The relief being offered to TVA is explicitly a temporary measure to ease the burden to its rate payers while a broader analysis of TVA's financial situation is undertaken.

Clearly, the subsidy provided here will not be the last. It is unfortunate that this Committee, which pioneered federal efforts in environmental pollution control, is also initiating the federal subsidization of these vital investments.

EQUITY

Virtually every witness testifying before the Committee in support of S. 3057 claimed that the customers of investor-owned utilities enjoy financial benefits in the form of tax advantages which are not available to TVA customers.

Supporters of a TVA subsidy claim that private utilities can reduce their income tax obligation by over 50% of their investment in a pollution control facility within 5 years through the use of "accelerated depreciation".

An analysis of the use of accelerated depreciation, however, would indicate that the tax break is vastly overstated. If a utility spent $150 million on capital for pollution control, without accelerated depreciation it might amortize its investment over 15 years at $10 million/year. The effect of accelerated depreciation is to increase the depreciation to $30 million per year in the first five years, and eliminate it in the next ten years. Using a discount rate of 5%, the effective subsidy is about $13.5 million—the private utility gets tax savings with a present value of $45.5 million, in return for future tax obligations with a present value of about $32 million. The actual subsidy is less than 10%, not 50%. It is an error to look only at the first five years.

Furthermore, TVA does not and has never paid federal income taxes. In determining what TVA would have to earn on its investment to cover its costs, it does not need to charge its customers in order to pay for income taxes.

It also does not need to earn money to pay dividends to investors (akin to TVA's payments of interest on appropriations investment) at anywhere near the rate which private utilities must earn to cover the equity capital it must raise. Private companies must sell stock. In order to pay dividends to stockholders they must make a profit and these profits are taxable.

Furthermore, because TVA is a quasi-government agency it can raise money by issuing bonds at very favorable rates compared to private utilities. To illustrate, TVA could currently issue, say $100 million in 20 year bonds at 7½ to 8%; whereas the typical investor-owned utility would have to pay close to 10.5%. While superior TVA management might be credited with this advantageous rate, it is more likely that bondholders believe it to be much less risky to lend to TVA, knowing that the federal government can be counted on to keep TVA solvent (irrespective of the fact that TVA bonds are not a legal obligation of the Treasury.)

In general, TVA customers enjoy the use of electricity at much lower rates than customers of private utilities, regardless of any breaks those utilities might get on their federal income taxes, simply because TVA has purchased capital out of appropriations from the Treasury and can raise new money at very favorable interest rates.

The supporters of S. 3057 ask "only" that TVA customers be treated equally with other consumers across the country. I would suggest that TVA customers enjoy many more advantages than others and have for many years. The need for subsidy simply cannot be justified on the basis of "equity".

In summary, if this country is to take seriously the important objectives of environmental cleanup and energy conservation, the federal government must renounce its long history of subsidizing the price of energy and "hiding" its real costs from the consuming public which, in the end, must pay for the subsidy in increased taxes or inflation. Since energy has been made to appear cheaper, in terms of its real economic costs and its environmental costs, than it actually was, this country tended to use far more energy than was wise or desirable. By confusing the price signal which would otherwise be associated with energy consumption, Federal policies have discouraged the adoption of less-polluting and energy conserving alternatives: installing storm windows, choosing more energy-efficient cars, recovering heat from industrial processes, and a host of other activities which would save the consumer far more than any subsidy. The kind of subsidy which S. 3057 represents is a relatively modest but symbolically important distortion of the market. Regrettably, Congress refuses to recognize the self-defeating effect of energy subsidies.

Perhaps even more regrettably, these subsidies are being granted in the name of pollution control. Given the fact that environmental pollution has chiefly been associated with the generation, distribution and combustion of energy, to encourage the profligate use of energy is only to invite continued environmental degradation.

Because the bill contradicts important principles of environmental protection and energy conservation, and opens the door for further potentially very inflationary subsidies I believe it should be rejected.

Mr. MUSKIE. Mr. President, the Committee on Public Works has brought to the Senate a measure which is intended to provide short-term relief for the electric power consumers served by the Tennessee Valley Authority in order to assist in early installation of facilities necessary to reduce air and water pollution.

The legislation before the Senate today was passed by the House in a very different form. As originally proposed, this legislation would have relieved the Tennessee Valley Authority from any requirement to repay to the Treasury a major portion of the investment made by the Nation's taxpayers in TVA which has become the Nation's and the world's largest electric utility.

The House bill would have permitted the Tennessee Valley Authority to write off its entire pollution control investment at the expense of the general taxpayer. This would have included even a writeoff of the energy costs of operating the control devices. The legislation as passed by the House would have voided the obligation of the electric power consumers in the Tennessee Valley to repay the Federal Treasury for a major portion of the taxpayer's investment in that utility. And the House bill would have established a weaker criteria for determining whether or not TVA's pollution control investment was in fact adequate technology under the requirements of the Clean Air Act.

The bill before the Senate today does not forego repayment of the national taxpayer's investment in the Tennessee Valley Authority. It does not forego the national taxpayer's equity in the Tennessee Valley Authority. And it does not create a circumstance in which the consumer of power sold by the Tennessee Valley Authority has an advantage over the consumers of power from other utilities throughout the country.

Mr. President, under existing law the consumers of power sold by private electric utilities receive benefits from existing policies. These include Federal tax credits, rapid amortization, and tax exempt bonds as a means of reducing the cost of complying with Federal and State pollution control requirements. None of these privileges are available to the ratepayers in the TVA. In fact, unlike the private electric utility ratepayer, TVA power consumers must pay 100 percent of the costs of a pollution control investment required of the TVA. This means that TVA's rates are rising at a much more rapid pace than the rates of consumers of private electric utilities. TVA ratepayers are faced not only with the pressures of higher fuel costs due to increased price of coal but also must pay 100 percent of the cost of pollution control. Private electric utility ratepayers at least have the benefit of having part of their pollution control costs borne by the taxpayers of the Nation as a whole.

The legislation before the Senate only provides TVA short-term relief. Under the Senate Public Works Committee version, the Tennessee Valley Authority will be permitted to defer 5 years of annual $20 million repayments to the Treasury, thus extending the date in which TVA repays the Federal appropriation investment of $1 million from the year 2014 to the year 2019.

In the long run, this cost to the Treasury is mitigated in two ways. First: The eventual repayment of the deferred annual return of appropriation investment is required. Second: The interest payments on this new investment in TVA for pollution control costs must be repaid.

I underscore the fact that this annual repayment is deferred, not forgone. It is not given away. The bill simply adds a 5-year delay to the present requirement that $20 million be repaid each year. This will be allowed only if TVA uses those moneys to purchase certified pollution control equipment.

Second, this legislation permits TVA to take a credit against the interest it would have paid on the outstanding Federal appropriation investment to the extent that the total of any annual appropriation investment repayment and such credit are at least equal to TVA's pollution control costs. The effect of this credit is to permit TVA to use moneys for pollution control which previously have been collected in anticipation of the requirement to pay interest on Federal investment.

I might note, Mr. President, that the combination of the annual return on appropriation investment and the interest payment is less than half the anticipated investment in pollution control by the Tennessee Valley Authority. And, TVA's credit for pollution controls will not be automatically written off. Instead, these credits will be added to the total appropriation's investment in TVA. Thus, any dollars which TVA does not repay now will become a part of the appropriation's investment and draw interest in subsequent years.

If, as is expected, TVA obtains a credit of $300 million, then after 5 years the Treasury can expect to receive an annual interest dividend of $18 million in addition to the interest and dividend that TVA would otherwise be paying in those years. In 20 years, the entire credit for pollution control will be redeemed in interest dividends.

Mr. President, TVA is treated under Federal environmental statutes like any other private corporation. It must comply with both Federal and State law. It must obtain permits under the Water Pollution Control Act and it must adhere to implementation plans under the Clean Air Act. If States have permits to regulate pollution emissions or effluents, TVA must obtain and comply with those permits. This legislation continues that procedure.

Like private utilities which seek to obtain accelerated amortization of pollution control investments, TVA must obtain certification from both the State and Federal Environmental Protection Agency that those pollution control investments are consistent with the requirements of State and Federal law.

Mr. President, TVA would not be permitted to use the funds available under this credit and deferral procedure for pollution control strategies which did not reduce or control effluents or emissions. So-called intermittent control strategies, or what TVA calls the SDEL method, would not be eligible for funding under this provision. Stack gas scrubbers, electrostatic precipitators, cooling towers, and other facilities designed to reduce, control, or store pollutants would be eligible. But no facility would be eligible if its purpose is to disperse pollutants.

I would like to insert at this point in the Record the correspondence between myself and the Administrator of the Environmental Protection Agency on how this certification procedure works. In addition, I would like to include in the Record at this point legislative history from the Tax Reform Act of 1969 which spells out that pollution control certification must be for pollution control and is not available for pollution-dilution facilities.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **MUSKIE**. Mr. President, there is debate in the Congress as to the value of utilizing incentives and disincentives to control pollution. It is argued by some that this indirect subsidy of TVA should not be enacted, because it distorts the relationship between the consumer and pollution control costs. I am inclined to agree that goods ought to include as a part of their price the cost of pollution control. But we have in a number of ways acted because of an assumed national interest to permit certain pollution control costs to be spread to the taxpayer as whole rather than just to the consumer of a given product. Production of electricity is but one example.

As I have indicated, electric utilities have been able to take advantage of tax exempt bonds, investment tax credits, and accelerated amortization to reduce the impact on their ratepayers of pollution control costs. The bill before us provides temporary relief for TVA to reduce the impact of pollution control investment on its ratepayers. It is an imperfect mechanism. But I suggest to my colleagues that it will provide significant stimuli to the Nation's largest electric utility to again assert a leadership role in the development of new technology and new ideas. The TVA will be required to spend this money for the kind of pollution control investment that is clearly consistent with clean air and water laws. I would hope the TVA would utilize these funds to go beyond the mere requirements of law and provide new techniques, new technologies, and new methods to meet our environmental needs.

June 24, 1974.

Exhibit 1

Hon. Russell E. Train,
Administrator, Environmental Protection Agency, Washington, D.C.

Dear Mr. Administrator: Attached is a letter which I sent today to Commissioner Donald Alexander of the Internal Revenue Service. In order to assist in this investigation I would appreciate receiving from you a report on "Pollution Control Facilities" which the Environmental Protection Agency has certified as eligible for accelerated amortization under the Tax Reform Act of 1969.

I will need sufficient detail to determine whether or not any depreciable property was included as a part of such "Certified Pollution Control Facilities" which was not eligible under the precise criteria set forth in the Senate Report on the 1969 Act.

You will note that the Act specifically prohibits rapid amortization for facilities such as those associated with intermittent control strategies and tall stacks. I am sure you will find this interesting and supportive of our shared position that tall stacks and intermittent control strategies are not acceptable air pollution abatement technology under the Clean Air Act.

If you have any questions, please contact Leon G. Billings of the Subcommittee on Environmental Pollution at 225-7859.

Sincerely,

Edmund S. Muskie,
Chairman, Subcommittee on Environmental Pollution.

U.S. Environmental
Protection Agency,
Washington, D.C., August 2, 1974.

Hon. Edmund S. Muskie,
Chairman, Subcommittee on Environmental Pollution, Committee on Public Works, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Your letter of June 24, 1974 requested information concerning pollution control facilities which EPA has certified to be eligible for accelerated amortization under section 169 of the Internal Revenue Code. You asked that the information be sufficiently detailed to enable you to determine whether any facilities were certified which did not meet the precise criteria set forth in the Senate Report on the 1969 Act. Our Regional offices were accordingly asked to submit copies of all certifications, or a list of all facilities which EPA has certified. These materials are attached.

This Agency concurs in your view that neither facilities associated with intermittent control strategies nor tall smokestacks are eligible for rapid amortization under section 169. Indeed, EPA's Guidelines for Certification, 36 F.R. 189, Sept. 29, 1971, state at paragraph 2(c):

Examples of eligibility limits. The amortization deduction is limited to any new identifiable treatment facility which removes, alters, disposes of, or stores contaminants or wastes. It is not available for all expenditures for air pollution control and is limited to devices which actually remove, alter, destroy, dispose of or store air pollutants.

(1) *Boiler modifications or replacements.* Modification of boilers to accommodate "cleaner" fuels are not eligible for amortization: e.g., removal of stokers from a coal-fired boiler and the addition of gas or oil burners. The purpose of the burners is to produce heat, and they do not qualify as air pollution control facilities. A new gas or oil fired boiler that replaced a coal-fired boiler would also be ineligible for certification;

and at paragraph 7:

Dispersal of pollutants. Section 160 applies to facilities which remove, alter, dispose of, or store pollutants—including heat. As the legislative history of the section makes clear, a facility which merely disperses pollutants cannot qualify . . .

Our examination of the attached certifications and lists has not disclosed any instance where tall smokestacks or facilities associated with intermittent control strategies have been certified.

Sincerely yours,

Russell E. Train.

June 24, 1974.

Hon. Donald C. Alexander,
Commissioner,
Internal Revenue Service,
Washington, D.C.

Dear Mr. Commissioner: The Tax Reform Act of 1969 included a provision for rapid amortization of pollution control facilities. Pursuant to that law, the taxpayers were permitted to amortize over a 60-month period "certified pollution control facilities".

According to the Conference Report on the Tax Reform Act "The Conference substitute (on amortization of pollution control facilities) follows the Senate amendment." This is important because the Senate Report specifically defines "certified pollution control facilities" on page 250.

The following excerpt is of particular interest:

"The amortization deduction is to be available only with respect to a 'certified pollution control facility', which generally is defined as depreciable property which is a separate identifiable treatment facility used to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes or heat, and which is appropriately certified. A building is not a pollution control facility unless it is exclusively a treatment facility. Thus, a pollution control facility does not include any facility which serves any function other than pollution abatement. Moreover, facilities which only diffuse pollution, as distinct from abating it, are not pollution control facilities.

"In other words, a pollution control facility is an installation which prevents or minimizes the direct release of pollutants into the air or water in the course of manufacturing operations. For example, a smokestack on a plant whose height was increased to disperse pollutants over a broader area would not be a pollution control facility, while a device which is contained in a smokestack and actually abates the emission of pollutants is to be a pollution control facility. In addition, a facility that removes certain elements from fuel (for example, sulphur which would be released as a pollutant when the fuel is burned) would not be a pollution control facility.

I am informed that an extension and possibly expansion of this provision may be sought this year. In order to prepare for such an amendment, I would appreciate an evaluation of the use of this provision of the law. Specifically, I would like to know the types of facilities for which utilities, smelters and other fuel burning stationary sources have sought this deduction. I am concerned that some smelters and other utilities and fuel burning stationary sources may have claimed as certified pollution control facilities property which is not eligible for accelerated amortization.

I have sent a similar letter of inquiry to the Environmental Protection Agency's Administrator Russell E. Train. Your early response to this request will be appreciated.

If you have any questions, please contact

Leon G. Billings of the Subcommittee on Environmental Pollution, at 225-7859.

Sincerely,

EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution.

The **PRESIDENT** pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. **MANSFIELD**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **BAKER**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later in the day the following proceedings occurred.)

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Committee on Public Works be discharged from further consideration of H.R. 11929, a bill to amend section 15(d) of the Tennessee Valley Authority Act of 1933, and that the Senate proceed to its immediate consideration.

The **PRESIDING OFFICER**. Is there objection?

Mr. **ROBERT C. BYRD**. Mr. President, reserving the right to object, I did not hear what the Senator's request was.

Mr. **BAKER**. Mr. President, the request—which, by the way, I discussed with the distinguished majority leader—is to substitute for the House language the language of the Senate bill passed this morning, so that we can go to conference on the two.

Mr. **ROBERT C. BYRD**. This has been cleared?

Mr. **BAKER**. It was cleared with the majority leader.

Mr. **ROBERT C. BYRD**. I have no objection.

There being no objection, the Senate proceeded to consider the bill (H.R. 11929) to amend section 15(d) of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments, which was read twice by its title.

Mr. **BAKER**. I move that H.R. 11929 be amended by striking out all after the enacting clause and inserting in lieu thereof the text of S. 3057, a bill to amend section 15(d) of the Tennessee Valley Authority Act of 1933, as passed by the Senate earlier today.

The **PRESIDING OFFICER**. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

The **PRESIDING OFFICER**. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 11929) was read the third time, and passed, as follows:

H.R. 11929

Resolved, That the bill from the House of Representatives (H.R. 11929) entitled "An Act to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments", do pass with the following

Strike out all after the enacting clause and insert: (1) That the Tennessee Valley Authority Act of 1933 is amended by inserting immediately at the end of section 15d the following new subsection:

"(i) (1) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter, the Corporation may elect to defer payments under the annual repayment schedule established under subsection (e) if the expenditures of the Corporation for certified control facilities for the preceding fiscal year exceed the amount of the scheduled repayment. The annual repayment schedule shall be suspended one fiscal year for each fiscal year for which the Corporation so elects.

"(2) Beginning with fiscal year 1976 and for each of the next four fiscal years thereafter the Corporation shall be entitled to credit against the payments required as a return on the appropriations investment in power facilities the amount of expenditures for certified pollution control facilities in excess of the amount of any repayment deferred under the preceding paragraph.

"(3) For the purposes of this subsection, the term 'certified pollution control facility' means a new identifiable treatment facility which is or will be used, in connection with a plant or other property, to eliminate, abate, or control water or air pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(A) the State certifying authority having jurisdiction with respect to such facility has certified to the Environmental Protection Agency as being constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for elimination, abatement, or control of water or air pollution or contamination; and

"(B) the Administrator of the Environmental Protection Agency has certified to the Secretary of the Treasury or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention, elimination, and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of air pollution under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).".

(2) That the Tennessee Valley Authority Act (16 U.S.C. 831n-4), subsection (e), is amended by adding in the second sentence after the word "appropriations" a comma and the following: "from credits against the return on the appropriations investment,".

Mr. **MANSFIELD**. Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The **PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

Mr. **MANSFIELD**. Mr. President, I suggest the absence of a quorum.

The **PRESIDENT** pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

The **PRESIDING OFFICER** laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE 1973 UPLAND COTTON PROGRAM—MESSAGE FROM THE PRESIDENT

The **PRESIDENT** pro tempore laid before the Senate a message from the President of the United States transmitting the report of the 1973 upland cotton program, which, with the accompanying report, was referred to the Committee on Agriculture and Forestry. The message is as follows:

To the Congress of the United States:

In accordance with the provisions of section 609 of the Agricultural Act of 1970, I transmit herewith the report of the 1973 upland cotton program.

GERALD R. FORD.

THE WHITE HOUSE, *November 19, 1974.*

MESSAGES FROM THE HOUSE

At 1:31 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has passed the following Senate bills with amendments in which it requests the concurrence of the Senate:

S. 3022. An act to amend the Wild and Scenic Rivers Act (82 Stat. 906), as amended, to designate segments of certain rivers for possible inclusion in the national wild and scenic rivers system; to amend the Lower Saint Croix River Act of 1972 (86 Stat. 1174), and for other purposes;

S. 2299. An act to provide authority to expedite procedures for consideration and approval of projects drawing upon more than one Federal assistance program, to simplify requirements for operation of those projects, and for other purposes; and

S. 1064. An act to improve judicial machinery by amending title 28, United States Code, to broaden and clarify the grounds for judicial disqualification.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 871. An act to amend section 1124(c) of title 10, United States Code, to remove the restriction that a member of the Armed Forces must be on active duty to be eligible for the payment of a cash award for a suggestion, invention, or scientific achievement;

H.R. 8864. An act to amend the Act to incorporate Little League Baseball to provide that the league shall be open to girls as well as to boys:

H.R. 8958. An act to amend the Federal Property and Administrative Services Act of 1949 to provide for the disposal of certain excess and surplus Federal property to the Secretary of the Interior for the benefit of any group, band, or tribe of Indians;

H.R. 10510. An act to amend section 131 of title 13, United States Code, to provide for the taking of censuses of manufactures, of mineral industries, and of other businesses, for congressional approval of the content of questionnaires used in the taking of such censuses, and for other purposes;

H.R. 13340. An act to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes;

H.R. 14349. An act to amend section 3031 of title 10, United States Code, to increase the number of authorized Deputy Chiefs of Staff for the Army Staff; and

H.R. 16982. An act to authorize United States payment for fiscal year 1975 to the United Nations for expenses of the United Nations peacekeeping forces in the Middle East, and the United Nations Force in Cyprus.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the enrolled bill (S. 3204) to eliminate discrimination based on sex in the youth program offered by the Naval Sea Cadet Corps.

The enrolled bill was subsequently signed by the President pro tempore.

At 3:30 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed without amendment the following Senate bills:

S. 1227. An act to amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges;

S. 1479. An act to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points; and

S. 2457. An act to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio station licenses to be licensed as operators.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON CONTRACTS NEGOTIATED BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report listing required information with respect to contracts negotiated by the National Aeronautics and Space Administration for the period January 1, 1974 through June 30, 1974 (with an accompanying report). Referred to the Committee on Aeronautical and Space Sciences.

REPORT OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a report setting forth certain information on grants (with an accompanying report). Referred to the Committee on Aeronautical and Space Sciences.

DETERMINATIONS AND STATEMENTS OF REASONS THEREFOR WHICH WOULD PERMIT THE SALE OF WHEAT AND RICE

A letter from the Assistant Secretary of Congressional Relations, transmitting, pursuant to law, determinations with statements of reasons therefor which would permit the sale under the Agricultural Trade Development and Assistance Act of 1954, as amended (PL 480), of 200,000 metric tons of wheat to Egypt and 75,000 metric tons of wheat and 25,000 metric tons of rice to Syria (with accompanying papers). Referred to the Committee on Agricultural and Forestry.

REPORT OF THE DEPARTMENT OF AGRICULTURE

A letter from the Deputy Assistant Secretary of Agriculture transmitting, pursuant to law, a report of national forest reforestation needs as of the end of fiscal year 1974 (with an accompanying report). Referred to the Committee on Agriculture and Forestry.

REPORT OF THE DEPARTMENT OF AGRICULTURE

A letter from the Secretary of Agriculture transmitting, pursuant to law, a report on information and technical assistance delivered by the Department of Agriculture in fiscal year 1974 (with an accompanying report). Referred to the Committee on Agriculture and Forestry.

FINAL DETERMINATION BY THE INDIAN CLAIMS COMMISSION

A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, its final determination in respect to the claim of the Three Affiliated Tribes of the Fort Berthold Reservation, et al. v. United States of America (with accompanying papers). Referred to the Committee on Appropriations.

REPORT OF THE OFFICE OF MANAGEMENT AND BUDGET

A letter from the Director of the Office of Management and Budget, reporting, pursuant to law, on the appropriation for the Veterans' Administration for readjustment benefits indicating the necessity for supplemental estimates of appropriations for the fiscal year 1975. Referred to the Committee on Appropriations.

REPORT OF THE DEPARTMENT OF THE NAVY

A letter from the Deputy Chief of the Office of Legislative Affairs, Department of the Navy, setting forth, pursuant to law, certain items of stock intended to be donated to the Hawaiian Railway Society of Honolulu, Hawaii. Referred to the Committee on Armed Services.

REPORT OF THE DEPARTMENT OF THE ARMY

A letter from the Secretary of the Army transmitting, pursuant to law, a report on the number of officers on duty with Headquarters, Department of the Army, and detailed to the Army General Staff on 30 September 1974 (with accompanying papers). Referred to the Committee on Armed Services.

REPORT OF THE GENERAL SERVICES ADMINISTRATION

A letter from the Administrator of General Services transmitting, pursuant to law, a report on the stockpile of strategic and critical materials for the period January 1 to June 30, 1974 (with an accompanying report). Referred to the Committee on Armed Services.

REPORT OF THE DEFENSE CIVIL PREPAREDNESS AGENCY

A letter from the Acting Director of the Defense Civil Preparedness Agency transmitting, pursuant to law, a report on property acquisitions of emergency supplies and equipment (with an accompanying report). Referred to the Committee on Armed Services.

PROPOSED FACILITIES PROJECTS BY THE NAVAL RESERVE

A letter from the Deputy Assistant Secretary of Defense reporting, pursuant to law, on proposed facilities projects to be undertaken by the Naval Reserve. Referred to the Committee on Armed Services.

REPORT OF THE SECRETARY OF COMMERCE

A letter from the Secretary of Commerce transmitting, pursuant to law, a report on the Export Administration for the first quarter of 1914 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES, FISCAL YEAR 1974

A letter from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, the report on the operations of the Export-Import Bank of the United States for the fiscal year 1974 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS, DEPARTMENT OF DEFENSE

A letter from the Assistant Secretary of Defense (Installations and Logistics), submitting, pursuant to law, the report of the Department of Defense Procurement from small and other business firms for July–August 1974 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE EXPORT-IMPORT BANK

A letter from the Chairman of the Export-Import Bank of the United States reporting, pursuant to law, on loan, guarantee and insurance transactions supported by Eximbank to Yugoslavia, Romania, the Union of Soviet Socialist Republics, and Poland during August 1974. Referred to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION TO AMEND SECTION 206 OF THE FEDERAL POWER ACT

A letter from the Chairman, Federal Power Commission, transmitting a draft of proposed legislation to amend section 206 of the Federal Power Act, subsection (a) [16 U.S.C. 824e (a)] (with accompanying papers). Referred to the Committee on Commerce.

REPORT OF THE U.S. RAILWAY ASSOCIATION

A letter from the Chairman, U.S. Railway Association, submitting, pursuant to law, the first annual report of the U.S. Railway Association (with an accompanying report). Referred to the Committee on Commerce.

REPORT OF THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting, pursuant to law, a report on contracts negotiated under 10 U.S.C. 2304 (a)(11) during the period April 1, 1974 through September 30, 1974 (with an accompanying report). Referred to the Committee on Commerce.

Report of the Federal Maritime Commission

A letter from the Chairman of the Federal Maritime Commission transmitting, pursuant to law, the annual report of the Federal Maritime Commission (with an accompanying report). Referred to the Committee on Commerce.

Impact Statement of the Consumer Product Safety Commission

A letter from the Chairman of the Consumer Product Safety Commission transmitting, pursuant to law, a copy of the impact statement of the Commission on the bill S. 355 (with accompanying papers). Referred to the Committee on Commerce.

Report of the Department of Commerce

A letter from the Secretary of Commerce transmitting, pursuant to law, a report on the program of research and development authorized under the Marine Mammal Protection Act of 1972 (with an accompanying report). Referred to the Committee on Commerce.

Report of the National Railroad Passenger Corporation for July 1974

A letter from the Vice President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the operation of Amtrak for the month of July 1974 (with an accompanying report). Referred to the Committee on Commerce.

Report of the National Railroad Passenger Corporation for September 1974

A letter from the Vice President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the operation of Amtrak for the month of September (with an accompanying report). Referred to the Committee on Commerce.

Publications of the Federal Power Commission

A letter from the Chairman of the Federal Power Commission transmitting two publications entitled "Gas Turbine Electric Plant Construction Cost and Annual Production Expenses, 1972" and "Sales by Producers of Natural Gas to Interstate Pipeline Companies, 1972" (with accompanying publications). Referred to the Committee on Commerce.

Report of the D.C. Redevelopment Land Agency

A letter from the Chairman of the District of Columbia Redevelopment Land Agency transmitting, pursuant to law, the annual report of the Agency for the fiscal year ending June 30, 1973 (with an accompanying report). Referred to the Committee on the District of Columbia.

Proposed Legislation To Enable Exporters To Obtain Refund of Manufacturer's Excise Taxes

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to enable exporters to obtain a refund of manufacturer's excise taxes in certain cases where the articles are exported by persons other than the manufacturers' producers, or importers of the articles (with accompanying papers). Referred to the Committee on Finance.

Report of the Board for International Broadcasting

A letter from the Chairman of the Board for International Broadcasting transmitting, pursuant to law, the first annual report of the Board (with an accompanying report). Referred to the Committee on Foreign Relations.

Annual Report of the Foreign Claims Settlement Commission, January 1–December 31, 1973

A letter from the Chairman, Foreign Claims Settlement Commission of the United States, transmitting, pursuant to law, the annual report of its activities for the period beginning January 1, 1973 and ending December 31. 1973 (with an accompanying report). Referred to the Committee on Foreign Relations.

Report on Cambodia Obligations

A letter from the Assistant Secretary of State for Congressional Relations transmitting, pursuant to law, a confidential report showing the assistance-related funds obligated for Cambodia during the first quarter of fiscal year 1975 (with an accompanying report). Referred to the Committee on Foreign Relations.

International Agreements Other Than Treaties Entered Into by the United States

Two letters from the Assistant Legal Adviser for Legal Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof (with accompanying papers). Referred to the Committee on Foreign Relations.

Veterans' Administration's Report on the Disposal of Foreign Excess Property

A letter from the Administrator, Veterans' Administration, transmitting, pursuant to law, a report on its activities in the disposal of foreign excess property (with an accompanying report). Referred to the Committee on Government Operations.

Proposed Amendments to the Freedom of Information Act

A communication from the President of the United States transmitting three draft amendments to the Freedom of Information Act (with accompanying papers). Referred to the Committee on Government Operations.

U.S. Military Sales and Assistance to Iran

A letter from the Comptroller General of the United States transmitting a secret report entitled "Issues Related to United States Military Sales and Assistance to Iran" (with an accompanying report). Referred to the Committee on Government Operations.

Reports of the Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office of the previous month (with an accompanying document). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the U.S. share of World Bank-financed procurement (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on flexible and compressed work schedules and their possible application to Federal employees (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on substantial understatement of obligations by the Department of Defense for separation allowances for foreign national employees (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Aircraft Midair Collisions: A Continuing Problem," Department of Transportation (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Missent Mail—A Continuing Factor to Mail Delay and Increased Costs," U.S. Postal Service (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on reducing the number of items in the Federal Supply Catalog, General Services Administration and Department of Defense (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on progress in determining approaches which work in the criminal justice system, Law Enforcement Assistance Administration, Department of Justice (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of the financial statements of the Federal Home Loan Bank Board, the Federal home loan banks, and the Federal Savings and Loan Insurance Corporation for the year ended December 31, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report summarizing the progress made by Federal agencies in developing and improving their accounting systems to make them conform to the principles, standards, and related requirements prescribed by the Comptroller General (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Observations and Questions on the Development of the New National Bulk Mail System," U.S. Postal Service (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the audit of the U.S. Capitol Historical Society for the year ended January 31, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

Distribution of Judgment Funds to the Grand River Band of Ottawa

A letter from the Secretary of the Interior transmitting, pursuant to law, a proposed plan for the use and distribution of Grand River Band of Ottawa judgment funds awarded in Docket 40–K before the Indian Claims Commission (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Distribution of Judgment Funds to the Cowlitz Tribe

A letter from the Secretary of the Interior transmitting, pursuant to law, a proposed plan for the use and distribution of the judgment funds awarded in Docket 218 to the Cowlitz Tribe of Indians before the Indian Claims Commission (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Distribution of Judgment Funds to the Lower Skagit Tribe

A letter from the Secretary of the Interior transmitting, pursuant to law, a proposed plan for the use and distribution of the judgment funds awarded in Docket 294 to the Lower Skagit Tribe before the Indian Claims Commission (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Distribution of Certain Judgment Funds to Kikiallus Tribe

A letter from the Secretary of the Interior transmitting, pursuant to law, a proposed plan for the use and distribution of the judgment funds awarded in Docket 263 to the Kikiallus Tribe before the Indian Claims Commission (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

Proposed Research Project Entitled "Low Interfacial Tension and Miscibility Studies for Subfactant Tertiary Oil Recovery Processes"

A letter from the Assistant Secretary of the Interior, United States Department of the Interior, transmitting, pursuant to law, a proposed grant with Carnegie-Mellon University, Pittsburgh, Pa., for a research project entitled "Low Interfacial Tension and Miscibility Studies for Subfactant Tertiary Oil Recovery Processes" (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Proposed Contract for a Research Project Entitled "Study and Report on the Evaluation of Coal Thickness Sensors"

A letter from the Assistant Secretary of the Interior, U.S. Department of the Interior, transmitting, pursuant to law, a proposed contract with Foster-Miller Associates, Inc., Waltham, Mass. for a research Project entitled "Study and Report on the Evaluation of Coal Thickness Sensors" (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Proposed Legislation for the Continuation of the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for the continuation of the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments until January 1, 1969 (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Proposed Contract for a Research Project Entitled "Development of Percussive Water Jets"

A letter from the Deputy Assistant Secretary of the Interior, U.S. Department of the Interior, transmitting, pursuant to law, a proposed contract with Scientific Associates, Inc., Santa Monica, Calif., for a research project entitled "Development of Percussive Water Jets" (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Report on the Government of the Virgin Islands

A letter from the Secretary of the Interior transmitting, pursuant to law, a report on the government of the Virgin Islands for the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

Report of the Department of the Interior

A letter from the Assistant Secretary of the Interior reporting, pursuant to law, on the receipts and expenditures of the Department in connection with the administration of the Outer Continental Shelf Lands Act of 1953 for the fiscal year 1974. Referred to the Committee on Interior and Insular Affairs.

Application for Loan Under the Small Reclamation Projects Act of 1956

A letter from the Deputy Assistant Secretary of the Interior, U.S. Department of the Interior, transmitting, pursuant to law, an application by the Gering Irrigation District of Gering, Nebr., for a loan under the Small Reclamation Projects Act of 1956 (70 Stat. 1044, as amended) (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Annual Report on the Activities of the Guam Development Fund Act of 1968

A letter from the Acting Director of Territorial Affairs, U.S. Department of the Interior, submitting, pursuant to law, the annual report on the activities of the Guam Development Fund Act of 1968, including fund analysis, activity summary, and financial statement (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Descriptions of Nine Projects Tentatively Selected for Funding Through Grants, Contracts, and Matching or Other Arrangements with Educational Institutions, Private Foundations or Other Institutions, and With Private Firms

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, the descriptions of nine projects tentatively selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Imports, Domestic Reserves and Production of Crude Oil, Natural Gas, and Coal

A letter from the Administrator, Federal Energy Administration, transmitting, pursuant to law, a report for the period of July through September 1974 concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; domestic reserves and production of crude oil, natural gas, and coal; refinery activities, and inventories (with an accompanying document). Referred to the Committee on Interior and Insular Affairs.

Proposed Plan for Use and Distribution of Warm Springs Judgment Funds Awarded Before the Indian Claims Commission

A letter from the Acting Secretary of the Interior, submitting, pursuant to law, a proposed plan for the use and distribution of Warm Springs judgment funds awarded in Docket 198 before the Indian Claims Commission (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Orders Suspending Deportation

A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation, as well as a list of the persons involved (with accompanying papers). Referred to the Committee on the Judiciary.

Aliens Found Admissible to the United States

A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting, pursuant to law, copies of orders entered in the cases of aliens who have been found admissible to the United States (with accompanying papers). Referred to the Committee on the Judiciary.

Third Preference and Sixth Preference Classifications for Certain Aliens

A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classification for certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

Annual Report of the U.S. Consumer Product Safety Commission

A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the Second Annual Report of the Consumer Product Safety Commission (with an accompanying document). Referred to the Committee on Commerce.

Supplementary Materials on the U.S. Consumer Product Safety Commission's 1976 Budget Addendum

A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, supplementary materials on the Commission's first year 1976 budget addendum, supplied to the Office of Management and Budget at their request (with accompanying papers). Referred to the Committee on Commerce.

Vocational Education Curriculum, Part I Funding Criteria—Notice of Proposed Rulemaking

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a document entitled "Vocational Education Curriculum, Part I Funding Criteria—Notice of Proposed Rule Making" (with an accompanying document). Referred to the Committee on Labor and Public Welfare.

Notice of Additional Funding Criteria

A letter from the Under Secretary of Health, Education, and Welfare transmitting, pursuant to law, a copy of a document entitled "Notice of Additional Funding Criteria for Reviewing Fiscal Year 1975 Applications for the Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan Programs" (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

Regulations Referring to the Basic Educational Opportunity Grant Program

A letter from the Under Secretary of Health, Education, and Welfare transmitting, pursuant to law, a copy of a proposed regulation covering the scope, general definitions, application procedures, and allowable educational costs for the basic educational opportunity grant program (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

Foreign Language and Area Studies Fellowships

A letter from the Under Secretary of Health, Education, and Welfare transmitting, pursuant to law, a copy of a document entitled "Foreign Language and Area Studies Fellowships—Criteria for Fiscal Year 1975—Notice of Proposed Rule Making" (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

Financial Assistance for the College Library Resources Program

A letter from the Under Secretary of Health, Education, and Welfare transmitting, pursuant to law, copy of regulations and guidelines governing financial assistance for the college library resources program (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

Proposed Regulation of the Department of Health, Education, and Welfare

A letter from the Under Secretary of Health, Education, and Welfare transmitting, pursuant to law, proposed regulations and guidelines governing program of grants for strengthening developing institutions authorized under title III of the Higher Education Act of 1965, as amended (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

Report of the Secretary of Health, Education, and Welfare

A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the annual report on poverty-related research and demonstration projects as of July 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

Budget of the Consumer Product Safety Commission

A letter from the Chairman of the Consumer Product Safety Commission transmitting, pursuant to law, a copy of the Commission's budget for the period June 30 through September 30, 1976 (with accompanying papers). Referred to the Committee on Commerce.

Report of the Consumer Product Safety Commission

A letter from the chairman of the Consumer Product Safety Commission transmitting, pursuant to law, a report on research and development activities of the Commission (with accompanying papers). Referred to the Committee on Commerce.

Appropriations Request for the Consumer Product Safety Commission

A letter from the Chairman of the Consumer Product Safety Commission transmitting, pursuant to law, the Commission's appropriations request for the fiscal year 1975 (with accompanying papers). Referred to the Committee on Commerce.

Guaranteed Student Loan Program—Regulation Amendment to 45 CRF Part 177

A letter from the Under Secretary of Health, Education, and Welfare, submitting, pursuant to law, a document entitled "Part 177—Federal, State, and Private Programs of Low-Interest Loans to Vocational Students and Students in Institutions of Higher Education (with an accompanying document). Referred to the Committee on Labor and Public Welfare.

Proposed Legislation by the Department of Agriculture

A letter from the Under Secretary of Agriculture transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to make advances of money to chiefs of field parties (with accompanying papers). Referred to the Committee on Post Office and Civil Service.

General Regulations for the National Institute of Education, Department of HEW

A letter from the Under Secretary of Health, Education, and Welfare, submitting, pursuant to law, a document entitled "General Regulations for the National Institute of Education, Department of Health, Education, and Welfare (with an accompanying document). Referred to the Committee on Labor and Public Welfare.

Proposed Alterations to the Courthouse and Federal Office Building in Binghamton, N.Y.

A letter from the Administrator of General Services Administration, submitting, pursuant to law, a prospectus which proposes alterations to the Courthouse and Federal Office Building in Binghamton, N.Y. (with accompanying papers). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution adopted by the Legislature of the State of Louisiana; referred to the Committee on Appropriations:

"House Concurrent Resolution No. 23

"A concurrent resolution to urge and request the Congress of the United States to appropriate funds for the use of the National Marine Fisheries Service in administering programs on behalf of the commercial fishing industry of the United States

"Whereas the commercial fishing industry of the United States is the source of millions of dollars in revenue to both the federal and state governments; and

"Whereas the commercial fishing industry of the United States is being depended upon more and more to help counter the growing shortage of food in the world; and

"Whereas the commercial fishing industry is encountering a multitude of problems in all segments of the industry as a result of spilraling fuel and operating costs, and increasing difficulty in obtaining needed financing to keep their vessels seaworthy; and

"Whereas there have been programs instituted in the past designed to help the industry, but which have been untimely discontinued; and

"Whereas the National Marine Fisheries Service is now better staffed and equipped to handle such programs, and is in fact the only federal agency designed specifically to help the commercial fisherman;

"Therefore be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the Congress of the United States is hereby urged and requested to appropriate funds to the National Marine Fisheries Service for the implementation of programs on behalf of the commercial fishing industry of the United States.

"Be it further resolved that a copy of this resolution be mailed to the presiding officers of the House of Representatives and the Senate of the United States Congress and to each member of the Louisiana Congressional Delegation."

A resolution adopted by the Legislature of the Territory of Guam; referred to the Committee on Commerce:

"Resolution No. 316

"Relative to respectfully requesting the Congress of the United States to lend every assistance to Pan American Airways in its fight to overcome its present economic crisis

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, Pan American World Airways has been a standout participant in our island's economic growth and development since its first flight landed here on November 27, 1935; and

"Whereas, PanAm employes 188 local residents, generates direct yearly income to Guam of $12,647,300.00 and generates indirect contributions by bringing over 139,000 passengers to Guam yearly with an incident revenue of $74,898,000.00; and

"Whereas, in addition to its economic contributions, PanAm keeps Guam alive by having established and maintained lines of commerce, communication, and recreation through its air routes of Singapore, Manila, Bangkok, Hong Kong, Osaka, Tokyo, Honolulu, Los Angeles, San Francisco, Portland, Seattle, Fairbanks and New York; and

"Whereas, PanAm's contribution to Guam is only a mirror image of its national spirit of involvement in the growth of the American way—a spirit exemplified in its combat leave program for American servicemen in Vietnam, in its service in the United States' international flag system, and in its high quality of service in international commerce which serves our national prestige; and

"Whereas, now PanAm is experiencing a potentially terminal economic crisis which is clearly attributable to the failure of our Federal Government to take an active interest in securing fair treatment for PanAm in the international marketplace, in that PanAm is subjected to exorbitant foreign landing fees, unfair competition with nationally subsidized foreign airlines, discriminatory compensation rates in hauling U.S. Mail, "ripoff" fuel costs in foreign ports and excessive interest rates by the Export-Import Board; now therefore be it

"Resolved, that the Twelfth Guam Legislature does hereby on behalf of the people of Guam respectfully request, petition and memorialize the Congress of the United States of America to grant emergency temporary financial assistance to PanAm and to review the factors which have brought this great airline to its knees; and be it further

"Resolved, that the people of Guam specifically endorse the International Air Transportation Fair Competition Practices Act which would (S-3481 and H.R. 14260) curb discrimination by foreign flag carriers and their governments against U.S. Flag carriers; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the Honorable Howard W. Cannon, Chairman of the Subcommittee on Aviation of the Senate Commerce Committee, to the Honorable John Jarman, Chairman of the Subcommittee on Transportation and Aeronautics of the House Interstate and Foreign Commerce Committee, to Congressman Won Pat, to Pan American's Guam Director, to the employees of Pan American on Guam, and to the Governor of Guam."

A resolution adopted by the Legislative Council of the State of Arkansas commending a top priority effort to collect delinquent debts owed the United States by foreign countries; referred to the Committee on Foreign Relations.

Three resolutions adopted by the Iowa Annual Conference of the United Methodist Church; one concerning the Indochina peace and referred to the Committee on Foreign Relations; one concerning the genocide treaty and referred to the Committee on Foreign Relations; and one concerning congressional seniority and referred to the Committee on Rules and Administration.

A resolution adopted by the Legislature of Palau expressing objection to certain provisions of the Micronesian War Claims Act of 1971; referred to the Committee on Foreign Relations.

HOUSE BILLS REFERRED

The following House bills were each read twice by their titles and referred as indicated:

H.R. 871. An act to amend section 1124(c) of title 10, United States Code, to remove the restriction that a member of the Armed Forces must be on active duty to be eligible for the payment of a cash award for a suggestion, invention, or scientific achievement; to the Committee on Armed Services.

H.R. 8864. An act to amend the Act to incorporate Little League Baseball to provide that the league shall be open to girls as well as to boys; to the Committee on the Judiciary.

H.R. 8958. An act to amend the Federal Property and Administrative Services Act of 1949 to provide for the disposal of certain excess and surplus Federal property to the Secretary of the Interior for the benefit of any group, band, or tribe of Indians; to the Committee on Government Operations.

H.R. 10510. An act to amend section 131 of title 13, United States Code, to provide for the taking of censuses of manufacturers, of mineral industries, and of other businesses, for congressional approval of the content of questionnaires used in the taking of such censuses, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 13340. An act to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 14349. An act to amend section 3031 of title 10, United States Code, to increase the number of authorized Deputy Chiefs of Staff for the Army Staff; to the Committee on Armed Services.

H.R. 16982. An act to authorize United States payment for fiscal year 1975 to the United Nations for expenses of the United Nations peacekeeping forces in the Middle East, and the United Nations Force in Cyprus; to the Committee on Foreign Relations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, November 19, 1974, he presented to the President of the United States the enrolled bill (S. 3204) to eliminate discrimination based on sex in the youth programs offered by the Naval Sea Cadet Corps.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOLE (for himself and Mr. JAVITS):

S. 4164. A bill to amend title XVI of the Social Security Act so as to provide for the referral, for appropriate services provided by other State agencies, of blind or disabled children who are receiving supplemental security income benefits. Referred to the Committee on Finance.

By Mr. CLARK:

S. 4165. A bill to make more chemical fertilizer available throughout the world for the production of food during 1975 by substantially reducing the amount of such fertilizer used in the United States for non-food-growing purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. GRAVEL:

S. 4166. A bill for the relief of Clemente Napolitano. Referred to the Committee on the Judiciary.

By Mr. PERCY (for himself and Mr. ERVIN):

S. 4167. A bill to establish a National Commission on Regulatory Reform to evaluate and report on the effectiveness of government regulation at the Federal and State level and its impact on inflation, competition, and the public interest. Referred to the Committee on Government Operations.

By Mr. BAYH:

S. 4168. A bill for the relief of Fe Ellen Sauro. Referred to the Committee on the Judiciary.

By Mr. HATHAWAY:

S. 4169. A bill to prohibit unreasonable searches and seizures incident to and following arrests for traffic and vehicular law violations and to prohibit the use in Federal and State criminal trials of any evidence discovered in the course of or as a result of any such searches; and

S. 4170. A bill to prohibit unreasonable searches and seizures incident to and following arrests and to prohibit the use in Federal and State criminal trials of any evidence discovered in the course of or as a result of any such searches. Referred to the Committee on the Judiciary.

By Mr. HART:

S. 4171. A bill for the relief of William Weiffenbach, a major in the U.S. Army. Referred to the Committee on the Judiciary.

By Mr. HUGH SCOTT (for himself, Mr. TAFT, Mr. BENNETT, Mr. HRUSKA, and Mr. BROCK):

S. 4172. A bill to amend section 552 of title 5, United States Code, known as the Freedom of Information Act. Referred to the Committee on Government Operations.

By Mr. ROBERT C. BYRD:

S. 4173. A bill to designate the Wheeling Suspension Bridge as a national historic site, and to provide for the administration and maintenance of the site by the Secretary of the Interior in consultation with an advisory commission. Referred to the Committee on Public Works.

S.J. Res. 257. A joint resolution to authorize and request the President to issue a proclamation designating November 29, 1974, as "National Student Government Day." Referred to the Committee on the Judiciary.

S.J. Res. 258. A joint resolution to authorize and request the President to issue a proclamation designating November 29, 1974, as "National Student Government Day." Considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself and Mr. JAVITS):

S. 4164. A bill to amend title XVI of the Social Security Act so as to provide for the referral, for appropriate services provided by other State agencies, of blind or disabled children who are receiving supplemental security income benefits. Referred to the Committee on Finance.

REFERRAL OF HANDICAPPED CHILDREN

Mr. DOLE. Mr. President, today many parents are applying for Federal assistance for their handicapped children under the supplemental security income program. The SSI law, as it presently stands, requires that each handicapped individual applying for assistance shall be referred to the State vocational rehabilitation agency. Clearly, children are not candidates for vocational rehabilitation and it is my understanding that in the actual execution of the program, children younger than 13 are simply not being referred to any agency.

However, the application for SSI for disabled children represents an opportunity which has not existed previously to refer these individuals at an early stage to an appropriate State or local agency which can provide them treatment and assistance for their particular disability. Today, I introduce this bill to provide that disabled children under the age of 13 shall be referred to the appropriate health, social, or educational agency. This bill provides flexibility for children between the ages of 13 and 18 so that they may be referred to the vocational rehabilitation agency or the proper alternate agency as appropriate. In many cases, specialized agencies may be needed to provide adequate treatment and this measure provides flexibility for referral to those organizations.

This measure should not be controversial. The additional cost of this change in the program should be negligible if there is any at all. It does provide an improved service to our handicapped children and provides for better utilization of the funds we are spending to help handicapped people under the SSI program.

OVERSIGHT IN SSI LAW

In 1972, the Congress established that handicapped people would be referred to vocational rehabilitation agencies under the SSI program. It was apparently an oversight in the drafting of this legislation that no consideration was given for the referral of children who are not eligible for vocational rehabilitation.

It is my understanding that because of the assistance being offered under the SSI program, many disabled children are now being brought to the attention of public officials that previously were not. Prior to SSI, many parents were unaware of programs which could benefit their children and provide treatment for their disabilities. The SSI program now provides a greater potential to direct these individuals to the proper specialized agencies to help with their particular handicap. Since the evaluation under the SSI program is already being accomplished, there should be no great additional expense in making this referral, yet such referral could provide a much more refined and effective system for the tax dollars we are investing in the program.

NEED FOR EARLY ATTENTION

Obviously, referral for rehabilitative services of a vocational nature are of no use whatever to children. It is interesting to note that the Social Security Administration itself recognized this flaw with regard to services for children and made an administrative decision to refer children 13 years and over. Without debating the merits as to whether vocational rehabilitation is the most appropriate service to offer a 13- or 14-year-old, or whether medical or other service may indeed be more meaningful and beneficial to that child, the more serious problem here is the absence of any provision whatever with regard to children from birth to age 13. At present, all an intake officer is required to do is review medical and related records to determine eligibility. Even if that same review clearly indicates a desperate need for medical or other intervention, and the intervention might lead to a diminution of the disability, the employee has no authority to do anything. This gap in the program must be filled with regard to children from birth to 13 years and in certain cases from 13 to 18 years.

Early intervention has long since been established by the medical profession and experts in the field of child development as the best, if not the only, way to preclude the possibility of a childhood disability from developing into a lifelong and irreversible handicap.

For example, an HEW-funded study by the Rand Corp. entitled "Services for Handicapped Youth: A Program Overview" found that "for handicapped children age six is past the optimal time to start the child." in programs designed to reverse the disability.

A study by the Oregon State Board of Education of the impact of title VI—services to the aged, blind, or disabled—programs upon emotionally disturbed, learning disabled, mentally retarded and physically handicapped children found that "there is increasing evidence of the value" of early intervention "for handicapped children."

In a study by Robert Chamberlin and Phillip Nader, published in the American Journal of Orthopsychiatry, the disfunctions of nursery school children were found to be "significantly related to later school function" and, clearly, "early intervention appeared warranted" to prevent those disfunctions from irreversible development.

Take the case of a deaf child, or one *with a severe hearing* impairment. In the past, such a child was destined to live the life of a deaf-mute. Since speech either develops early or not at all, early intervention here, using all of the many methodological rehabilitative devices developed in recent years, has made the difference between an adult who is a "freak" and one who has developed the ability to lead a self-sufficient and normal life.

Or look briefly at the child with a mental disorder. Diagnoses of "mental disorders" are difficult at best. Emotionally disturbed children are frequently believed, especially by their parents, to be suffering from a physical ailment. And a child with an undiagnosed physical disorder frequently suffers not only from the physical ailment, but also develops emotional "hang-ups" which, unless treated, result in later years in an adult without the capacity to attain self-sufficiency.

SUPPORT BY HEW

The regulations developed by the Department of Health, Education, and Welfare for implementation of the SSI program, recently published in the Federal Register, make what is perhaps the strongest argument for early intervention. Those regulations make the following points:

1. Vocational rehabilitation is mandated where the disabling impairment, with rehabilitative services, will restore the recipient to "productive activity".

2. Vocational rehabilitation is mandated in cases where, without the services, the disability effect would "result in continued eligibility".

3. They are mandated where such services "will enable the individual to engage in productive activity".

4. They are mandated where the "predictable period of productive work activity" will "offset payments which would otherwise be made".

In other words, vocational rehabilitation services are designed to render a disabled individual self-sufficient and get him off the payments and out of the SSI program as quickly as possible. It is, therefore, obvious that if a child's disability is prevented from ever developing into the kind of handicap that precludes future employment as an adult, the test of SSI will have been met, since that child will never need the income payments of adult rehabilitative services available through the SSI program in the first place.

In view of all the foregoing, the law should be amended to provide for the referral of all eligible children to the appropriate local or State agency for services. With such a mandate, for example, the intake officer making an SSI eligibility determination would then be required, with appropriate consent forms having been formulated and signed by the parent, to refer the parent, the disabled child and all pertinent records to the State or local agency or agencies offering services that best meet the child's needs. At present, no matter how severe or obvious the disability of a child may be, there is no obligation whatever to do more than establish the fact of eligibility of the disabled child, even in a case where, clearly, the mildest intervention could well prevent further development of that disability.

Since the children who would thereafter receive medical or rehabilitative services are in any event medicaid-eligible, a refined system of referral, evaluation—by the appropriate agency—and actual service could readily be offered by programs already in existence. The services offered by those programs are, of course, available to the potential recipient even without the referral—but in many instances they are not used simply because the client does not know that they exist, or know which service or services he needs, or even that he is eligible for them. A mandated referral, therefore, not only solves that problem, but also guarantees the child in need of early entry into a comprehensive health services system.

So again, I believe this measure is a much needed and non-controversial change to the SSI law. During a period when we are especially concerned about inflation, this modification of the program should enable us to get more complete assistance for handicapped children while not increasing Federal expenditures at all.

I intend to offer this measure as an amendment to the first appropriate bill which comes before the Senate. Mr. President, I request unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4164

A bill to amend title XVI of the Social Security Act so as to provide for the referral, for appropriate services provided by other State agencies, of blind or disabled children who are receiving supplemental security income benefits

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1615 of the Social Security Act is amended to read as follows:

"(a) In the case of any blind or disabled individual who—

"(1) has not attained age 65, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title, the Secretary shall make provision for referral—

"(3) in case such individual has attained age 18 (and, in appropriate cases, when the individual has not attained such age but has attained age 13), of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the rehabilitaton services made available to him under such plan, and

"(4) in case such individual has not attained age 13 (and, in appropriate case, when the individual has attained such age but has not attained age 18), of such individual for appropriate health, social, or educational services provided by a State or local agency of such individual to the appropriate State or local health, social service, or educational agency."

By Mr. CLARK:

S. 4165. A bill to make more chemical fertilizer available throughout the world for the production of food during 1975 by substantially reducing the amount of such fertilizer used in the United States for nonfood-growing purposes. Referred to the Committee on Agriculture and Forestry.

THE NEED FOR MORE FERTILIZER

Mr. CLARK. Mr. President, the World Food Conference has focused increased international attention on world hunger and starvation. The problem is a terribly real one, and much can and should be done by the world's more affluent nations to help remedy it.

Today, I am introducing legislation which represents only one of the many steps necessary to reduce and eventually eliminate starvation and malnutrition throughout the world. The purpose of the bill is to increase world food production by increasing the availability of fertilizer for agriculture.

The need to increase the world's food supply is obvious: 500 million people go to bed hungry every night. Three or four times that many are undernourished. An estimated 300 million children have suffered permanent physical damage as a result of malnutrition, and a high percentage of them have suffered mental damage. And, thousands of individuals are literally starving to death every day.

The picture is a grim one. There is a world food crisis which requires immediate action. I am confident most people agree that the richest nation in the world should take the initiative in the worldwide fight against hunger. An essential part of this effort is to increase food production, and that means an increase in the amount of fertilizer available to farmers throughout the world.

In the past 2 years, the world supply of fertilizer has not kept up with demand. There are many causes for this, including inadequate manufacturing capacity and oil and gas shortages, but whatever the causes the results have been unmistakable. The price of fertilizer has skyrocketed—up 400 percent or more in some instances—pricing many users out of the market, especially in less developed countries which have been forced by high oil prices to curtail drastically other imports. Some farmers have been simply unable to obtain their fertilizer requirements at any price. This has reduced yields throughout the world—with devastating reductions in some areas. The green revolution, which promised to bring agriculture self-sufficiency to many less developed countries, has been disrupted by the fertilizer shortage.

Some improvement is in sight. Many fertilizer producers are currently building new plants and expanding their capacity. However, it takes years to build these plants, and farmers will still be unable to obtain the fertilizer they need in 1975. Once again, food production will suffer—as will millions of people—because of a lack of fertilizer.

One way to help alleviate this is to encourage the use of as much of the world's fertilizer as possible for agricultural production. This, in turn, means using as little as possible for ornamental and decorative growing purposes. It has been estimated that as much as 15 percent of the fertilizer used in the United States is for nonfarm purposes, the great bulk of this for ornamental use. This is approximately 4 percent of the world's fertilizer use—as much as the entire nation of India uses, and more than any other of the less developed countries uses. If a substantial portion of this fertilizer could be diverted to agriculture, it could result in a significant increase in world food production in the coming year.

This bill attempts to achieve this goal in three ways. First, it requires the Federal Government to reduce its use of fertilizer for ornamental and decorative purposes to not more than 10 percent of its average annual use for these purposes during the 3 preceding years. Second, it calls on the President to urge State and local governments, corporations, associations, foundations, and individuals to reduce the amount of fertilizer they use for ornamental and decorative purposes. Third, it directs the President to establish a commission to determine methods of increasing fertilizer production.

This action will not "solve" the world food crisis, but it could help. It will help make more fertilizer available to farmers in the United States and throughout the world. If utilized efficiently, the fertilizer currently used for nonfarm purposes could result in enough additional grain to almost eliminate this year's 10 million ton world grain shortage.

I am confident that most Americans, when given the choice between fertilizer for decoration or fertilizer for food, will choose the latter. I hope Congress will reflect the compassion of the American people and enact this legislation. It is one concrete step that can be taken to alleviate hunger.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4165

A bill to make more chemical fertilizer available throughout the world for the production of food during 1975 by substantially reducing the amount of such fertilizer used in the United States for nonfood-growing purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) Short falls in food production over the past several years have resulted in malnutrition, suffering and starvation for millions of people throughout the world.

(2) A significant factor in these short falls in food production has been the lack of availability of fertilizer supplies.

(3) Considerable potential exists for increasing fertilizer availability through conservation measures such as reducing nonfood producing uses of fertilizer supplies which could be directed into food production, and more efficient application of fertilizer supplies available for food production.

SEC. 2. In order to address the crucial shortfall of fertilizer for food production the President shall appoint a Commission on Fertilizer Availability (1) to review and recommend specific conservation steps and other measures which would be taken to increase the short-term availability of fertilizer for food production and (2) to encourage increased production of fertilizer to meet the medium and long-term fertilizer needs such as investment incentives, priority access to basic materials and machinery to increase production capacity, and necessary adjustments in the cost structure of fertilizer feed stocks.

SEC. 3. No department or agency of the Federal Government, including the United States Postal Service and Federal corporations, shall use chemical fertilizer during the calendar year 1975 for ornamental or decorative growing purposes in any amount greater than an amount equal to 10 per centum of the average annual amount of such fertilizer used by such departments and agencies for such purposes during the calendar years 1972, 1973, and 1974. The foregoing limitation shall not apply with respect to any ornamental or decorative growing purpose the primary purpose of which is to prevent soil erosion or serve some other necessary conservation purpose.

SEC. 4. It is the sense of the Congress that the President should issue a proclamation calling upon all States, and political subdivisions thereof, and upon all corporations, associations, foundations, and other entities, and on all private individuals of the United States to substantially reduce the amount of chemical fertilizer they purchase and use for ornamental or decorative growing purposes which could be redirected into food production during the calendar year 1975.

By Mr. PERCY (for himself and Mr. ERVIN):

S. 4167. A bill to establish a National Commission on Regulatory Reform to evaluate and report on the effectiveness of government regulation at the Federal and State level and its impact on inflation, competition, and the public interest. Referred to the Committee on Government Operations.

NATIONAL COMMISSION ON REGULATORY REFORM

Mr. PERCY. Mr. President, so far as the regulatory agencies are concerned, the time is long-past due to fish or cut bait. And since we have done too much fishing already with some of these agencies with little apparent success, it is none too soon to cut bait. And by that, I mean precisely getting rid of those agencies which do not serve the public interest. I mean axing those agencies whose only raison d'etre appears to be adding to our inflationary problems by upping the costs to American consumers and producers of vital goods and services.

The Federal bureaucracy is altogether too big and cumbersome. It behooves us at least to begin to trim it where agencies of government are not only serving no useful function but are counter-productive to the economic well-being of this Nation. At the top of my elimination list is the Interstate Commerce Commission, and I am sure that other deserving candidates will surface.

We are literally trapped by a web of misguided regulation in this country and the time is now to begin to break through for a breath of fresh air. If agencies can justify their existence and their purpose, then they should continue. But where they cannot, we would be foolhardy to tolerate their continued drain on the economy at a time of maximum strain from the counter-pressures of simultaneous inflation and recession.

In any good analysis of this Nation's present economic problems, the anticompetitive role that some regulatory agencies play must be considered. Long-term, if we are to solve those problems and get back on a sound economic footing, we have no choice but to undergo the rigors of a complete rethinking of what regulation should be all about, where it is truly necessary, and how it is to be best implemented. Up to now, we have hardly begun to ask these questions, let alone consider possible solutions in the light of current developments.

Foremost in my mind, as a possible alternative to the overlap and misdirection of so many separate and conflicting regulatory efforts, involves our becoming serious about rigidly enforcing the antitrust laws of this country as a first-order national priority, with substantially increased resources.

In addition, where merger or transfer of functions and agencies is necessary, let us merge or transfer them. And where elimination of such functions or agencies is feasible, let us "deep six" them now and forever. I do not think the American public will object too strenuously to seeing a few less bureaucrats in limousines and big offices, issuing arbitrary decrees which serve no good purpose.

With this in mind, I am introducing today legislation which would commence the needed review and evaluation of the purposes, functions, and organization of regulation in this country at the Federal level, and at the State and local level. Consistent with the recent program announced by President Ford to deal with the serious problems of our economy, I am proposing the establishment of a National Commission on Regulatory Reform to evaluate and report on the effectiveness of Government regulation at the Federal and State level and its impact on inflation, competition, and the public interest.

The Commission will be given a mandate to review the entire regulatory process with very specific considerations to take into account, and propose a thoroughgoing reform package based upon its findings and conclusions.

The legislation calls upon the Commission to report back to the Congress and the President within 9 months with specific recommendations for legislative actions to improve the effectiveness, efficiency, and responsiveness to the public of Federal regulatory agencies, including but not limited to the following:

(i) Selective elimination of specific regulatory functions, procedures, activities, or practices;

(ii) Selective elimination, merger, or transfer of overlapping or related regulatory jurisdictions, mandates, or functions;

(iii) Revisions in the laws, regulations, structure, operation, procedures, activities, or mechanisms of the regulatory agencies;

(iv) Elimination, transfer, or separation out of the subsidy-granting or other forms of promotional activities performed by regulatory agencies which adversely affect or interfere with their principal regulatory responsibilities.

In addition, or as part of that study and analysis, the Commission is to evaluate proposals for:

(i) Encouraging the enunciation of broad policy guidelines by the regulatory agencies *instead of contin*uing to permit unclear policies to develop impliedly through a series of case-by-case decisions or adjudications involving differing facts and circumstances;

(ii) Making the regulatory responsibilities of selected or all regulatory agencies more independent of the executive branch by requiring simultaneous submission of budget and legislative requests to the President and the Congress, and by permitting each regulatory agency to independently control and supervise its own litigation in the Federal courts;

(iii) Eliminating collegial commissions altogether or selectively, and replacing the commission form with a single administrator;

(iv) Revising procedures for selecting commissioners and reviewing their qualifications, including the designation or establishment of a distinguished Board of Regulatory Review to provide its recommendations or guidance on names submitted by the President as possible appointees for regulatory agency positions;

(v) Revamping the conflict-of-interest statutes, or their applicability to regulatory agency officials, so as to limit the movement of persons from a regulated industry or a related industry to the agency which regulates that industry, and the movement of persons from the agency back to the regulated industry;

(vi) Limiting the removal of regulatory agency officials to reasons relating to their inefficiency, neglect of duty or malfeasance in office;

(vii) Making regulatory agency officials, in their personal capacity, civilly or criminally responsible for intentional misuse or abuse of their office for reasons relating to (a) their disclosure of trade secrets or other confidential or privileged information; (b) their failure to make information available to the public pursuant to the Freedom of Information Act; (c) their failure to open up agency meetings, sessions, and agency advisory committee meetings and sessions to the public; or (d) their neglect or failure to carry out the provisions of the laws administered by them;

(viii) Providing for the payment of reasonable costs and expenses in agency proceedings of intervenors on behalf of the public or consumer interests and an assessment of the manner by which such a proposal might be implemented across the board including the anticipated costs therefor;

(ix) Creating a new Administrative Court of the United States as an expert judicial unit to handle appeals from final decisions of the regulatory agencies;

(x) Amending the Administrative Procedure Act and modifying agency rules to expedite regulatory agency proceedings as a means of facilitating more timely decision-making and preventing wasteful costs attendant to agency delays;

(xi) Substituting direct subsidies, where appropriate, for complicated and cumbersome regulatory schemes, with hidden taxes and costs, which aim at achieving a particular economic or social purpose;

(xii) Improving the information-gathering, analysis, storage and retrieval systems within the regulatory agencies while lessening the paperwork burden both within the agencies and within the regulated industries by avoiding needless duplication;

(xiii) Providing for more effective means of informing the public of the activities within the regulatory agencies and their specific or general impact on the public interest in matters of particular importance or impact.

As a result of this exhaustive study, I am confident that the President and the Congress will be better equipped to seriously undertake the long overdue task of reforming the entire regulatory process in a manner that will benefit consumers in terms of lower costs for goods and services, assist producers and suppliers by eliminating cumbersome obstacles in the way of getting goods to the marketplace, and in turn, make for a far more sound and integrated economic program for the Nation as a whole over the next decade.

I am pleased to report that hearings on this proposal will commence on Thursday of this week in the Government Operations Committee continuing on Friday, and Monday and Tuesday of next week—November 21, 22, 25 and 26.

Mr. President, I ask unanimous consent that the full text of the measure I am introducing be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4167

A bill to establish a National Commission on Regulatory Reform to evaluate and report on the effectiveness of government regulation at the Federal and State level and its impact on inflation, competition, and the public interest

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Interest Regulatory Review Act of 1974".

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established for a period of one year, as an independent instrumentality in the executive branch of the Federal Government, a National Commission on Regulatory Reform (hereinafter referred to as the "Commission") which shall be comprised of ten members selected as follows:

(1) three distinguished representatives from the private sector appointed by the President, at least one of whom shall be especially well-qualified to represent the interests of American consumers,

(2) three senior officials of the executive branch appointed by the President,

(3) two Senators appointed by the President of the Senate, each representing one of the two major political parties,

(4) two members of the House of Representatives appointed by the Speaker of the House, each representing one of the two major political parties.

(b) The President shall nominate, from the private sector membership, one member to serve as Chairman and one member to serve as Vice Chairman of the Commission. The designee for the position of Chairman, shall be appointed with the advice and consent of the Senate.

(c) Vacancies on the Commission shall not affect the authority of the remaining members to continue with the Commission's activities, and shall be filled in the same manner as the original appointments.

(d) Five members of the Commission shall constitute a quorum for the purpose of conducting meetings, except that any two members of the Commission shall constitute a quorum for the administering of oaths and the taking of testimony.

(e) Members of the Commission who are appointed from the private sector shall receive as compensation the daily equivalent of the annual rate of basic pay in effect for grade GS–18 for each day during which they are engaged in the actual performance of the duties of the Commission. All members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties of the Commission.

DUTIES

SEC. 3. (a) Within nine months after the appointment of Commissioners, the Commission shall prepare a comprehensive report to the President and to the Congress containing its findings, conclusions, and recommendations concerning activities within the Federal regulatory agencies with respect to—

(1) the most serious deficiencies within the regulatory process which tend to contribute to inflation, lessen competition, or which adversely affect the public and regulated companies,

(2) the extent to which certain areas of the national economy are over-regulated or under-regulated, with special emphasis on overlapping regulatory jurisdictions, conflicting mandates, and actual implementation of existing laws and regulations,

(3) the economic costs and benefits of regulation, or the lack thereof, with special emphasis on the inflationary impact of regulation on the cost to the consumer of goods and services, the added costs to manufacturers and suppliers in providing goods and services, the anticompetitive effects of some regulation, the degree of market concentration in regulated as opposed to non-regulated industries, and productivity factors affected by regulation.

(4) the continued appropriateness or applicability of original regulatory purposes and objectives as mandated by statute, and an evaluation of the purposes and objectives which regulation should now serve,

(5) the consequences to the Nation of selective deregulation in specified areas or selective modification of regulatory purposes, operations, and procedures in specific areas,

(6) the need for, and specific recommendations concerning increased or more stringent antitrust enforcement as a higher order national priority, including proposals for any new legislation which may be needed or for restructuring of the Federal antitrust effort,

(7) specific recommendations for legislative actions to improve the effectiveness, efficiency, and responsiveness to the public of Federal regulatory agencies, including but not limited to the following—

(A) selective elimination of specific regulatory functions, procedures, activities, or practices;

(B) selective elimination, merger, or transfer of overlapping or related regulatory jurisdictions, mandates, or functions;

(C) revisions in the laws, regulations, structure, operation, procedures, activities, or mechanisms of the regulatory agencies;

(D) elimination, transfer, or separation out of the subsidy-granting or other forms of promotional activities performed by regulatory agencies which adversely affect or interfere with their principal regulatory responsibilities.

(8) an evaluation of other proposals for improving the effectiveness, efficiency and responsiveness to the public of the regulatory agencies including, but not limited to an evaluation of proposals for—

(A) encouraging the enunciation of broad policy guidelines by the regulatory agencies instead of continuing to permit unclear policies to develop impliedly through a series of case-by-case decisions or adjudications involving differing facts and circumstances;

(B) making the regulatory responsibilities of selected or all regulatory agencies more independent of the executive branch by requiring simultaneous submission of budget and legislative requests to the President and the Congress, and by permitting each regulatory agency to independently control and supervise its own litigation in the Federal courts;

(C) eliminating collegial commissions altogether or selectively, and replacing the commission form with a single administrator;

(D) revising procedures for selecting commissioners and reviewing their qualifications, including the designation or establishment of a distinguished Board of Regulatory Review to provide its recommendations or guidance on names submitted by the President as possible appointees for regulatory agency positions;

(E) revamping the conflict-of-interest statutes, or their applicability to regulatory agency officials, so as to limit the movement of persons from a regulated industry or a related industry to the agency which regulates that industry, and the movement of persons from the agency back to the regulated industry;

(F) limiting the removal of regulatory agency officials to reasons relating to their inefficiency, neglect of duty, or malfeasance in office;

(G) making regulatory agency officials, in their personal capacity, civilly or criminally responsible for intentional misuse or abuse of their office for reasons relating to (i) their disclosure of trade secrets or other confidential or privileged information; (ii) their failure to make information available to the public pursuant to the Freedom of Information Act; (iii) their failure to open up agency meetings, sessions, and agency advisory committee meetings and sessions to the public; or (iv) their neglect or failure to carry out the provisions of the laws administered by them;

(H) providing for the payment of reasonable costs and expenses in agency proceedings of intervenors on behalf of the public or consumer interests and an assessment of the manner by which such a proposal might be implemented across the board including the anticipated costs therefor;

(I) creating a new Administrative Court of the United States as an expert judicial unit to handle appeals from final decisions of the regulatory agencies;

(J) amending the Administrative Procedure Act and modifying agency rules to expedite regulatory agency proceedings as a means of facilitating more timely decision-making and preventing wasteful costs attendant to agency delays;

(K) substituting direct subsidies, where appropriate, for complicated and cumbersome regulatory schemes, with hidden taxes and costs, which aim at achieving a particular economic or social purpose;

(L) improving the information-gathering, analysis, storage and retrieval systems within the regulatory agencies while lessening the paperwork burden both within the agencies and within the regulated industries by avoiding needless duplication;

(M) providing for more effective means of informing the public of the activities within the regulatory agencies and their specific or general impact on the public interest in matters of particular importance or impact.

(9) recommendations for assuring an on-going review and assessment of the economic costs and benefits, and the deficiencies of Federal regulatory activities, including proposals for limiting the growth of bureaucracy, and phasing out selected agencies or establishing a time certain within which they would expire unless Congress specifically renews their mandates by legislative enactment;

(10) a realistic and detailed assessment of the costs or savings, transitional, interim, and long-term, of Commission proposals and recommendations for regulatory reform.

3. (b) Within twelve months after the appointment of Commissioners, the Commission shall prepare a comprehensive report to the President and to the Congress containing its findings, conclusions, and recommendations concerning activities within state, regional and local regulatory agencies which tend to contribute to inflation, lessen competition, or which adversely affect the public and the regulated companies. The report shall give special emphasis to areas where Federal regulatory activities interact with or are affected by the activities of state, regional or local regulatory units, and where the latter activities, or the absence or misdirection thereof, have an important inflationary impact.

3. (c) In carrying out its responsibilities under this section, the Commission shall utilize, wherever appropriate, all existing studies, investigations, reports, and other existing material relevant to its responsibilities.

POWERS

Sec. 4. (a) The Commission is authorized to hold such hearings, sit and act at such times and places as it may deem desirable.

(b) Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued on the authority of the Commission and shall be served by anyone designated by the Chairman.

(c) If the Commission receives of any witness or any Government agency materials which have been submitted on a confidential basis, and the confidentiality is protected by statute, the material shall be held in confidence by the Commission.

(d) The Commission is authorized to establish such advisory committees as may be necessary or appropriate to carry out any specific analytical or investigative undertakings on behalf of the Commission. Any such committee shall be subject to the relevant provisions of the Federal Advisory Committee Act (Public Law 92–463).

Sec. 5. (a) Subject to such rules and regulations as it may adopt, the Commission, through its Chairman, shall appoint and fix the compensation of an Executive Director not to exceed the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and such additional staff as is deemed necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates for individuals not to exceed the rate authorized for GS–18 under the General Schedule.

(b) The Chairman may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $150 per day for persons performing such services.

(c) The Chairman is authorized to negotiate and enter into contracts and agreements as the Commission determines are necessary in order to carry out its duties.

ASSISTANCE OF GOVERNMENT AGENCIES

Sec. 6. Each department, agency, and instrumentality of the Federal Government, including the Congress and independent agencies, and State and local agencies, consistent with the laws and the Constitution of the United States, shall furnish to the Commission, upon request of the Chairman, such data, reports, and such other information as the Commission deems necessary to carry out its functions under this Act.

DEFINITIONS

Sec. 7. As used in this act "Federal regulatory agency" includes any existing independent Federal agency which, as one of its principal responsibilities, exercises regulatory functions affecting one or more segments of American industry, as well as any agency or governmental unit within an agency or department of the Federal government which exercises such regulatory functions as one of its principal activities. The term is meant to include but not be limited to such independent regulatory agencies as the Interstate Commerce Commission, the Securities and Exchange Commission, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Energy Administration, the Federal Power Commission, the Federal Trade Commission, the Federal Communications Commission, the Federal Maritime Commission, the Civil Aeronautics Board, the Consumer Product Safety Commission, the Commodity Futures Trading Commission, the National Labor Relations Board, the Farm Credit Administration, the Tariff Commission, the Equal Employment Opportunity Commission, the Small Business Administration, the Nuclear Regulatory Commission, the Environmental Protection Agency, and others. The term is also meant to include but not be limited to such agencies or units within an agency or department as the Food and Drug Administration, the National Highway Traffic Safety Administration, the Occupational Safety and Health Administration, the Federal Aviation Administration, the Antitrust Division of the Justice Department, the Office of the Comptroller of the Currency, the Agricultural Marketing Service, the Commodity Credit Corporation, the Packers and Stockyard Administration, and others.

TERMINATION

Sec. 8. Sixty days after the submission of the final report provided for in section 3(b), the Commission shall cease to exist.

AUTHORIZATION

Sec. 9. There is authorized to be appropriated $1,500,000 to carry out the provisions of this Act.

By Mr. HATHAWAY:

S. 4169. A bill to prohibit unreasonable searches and seizures incident to and following arrests for traffic and vehicular law violations and to prohibit the use in Federal and State criminal trials of any evidence discovered in the course of or as a result of any such searches; and

S. 4170. A bill to prohibit unreasonable searches and seizures incident to and following arrests and to prohibit the use in Federal and State criminal trials of any evidence discovered in the course of or as a result of any such searches. Referred to the Committee on the Judiciary.

Mr. HATHAWAY. Mr. President, the purpose of the two bills which I am offering today is to assure persons of some degree of privacy by prohibiting all searches which are not strictly tied to and justified by the circumstances of their arrest.

The Traffic and Vehicular Arrests Evidence Act is limited to the situation in which stopping an individual for a traffic violation becomes a pretext for a full-scale search of the vehicle he is operating.

The Search and Seizures Act of 1974 is a more general bill. Both would utilize the traditional exclusionary rule.

In the preparation of this legislation, I solicited the help of the Civil Rights-Civil Liberties Research Committee of the Harvard Law School. In explaining my reasons for offering this legislation and what I feel is the need and justification for it, I ask unanimous consent to include in the Record the following excerpts from a memorandum prepared for me in connection with this legislation by

Bill Wilkins, Lynne Bernabei, and Abigail Elias of the Civil Rights-Civil Liberties Research Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Excerpts From Memorandum

The Fourth Amendment of the Constitution of the United States requires that "The right of the people to be secure in their persons, houses, papers, and effects, *against unreasonable* searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

As the law has developed, searches have generally been seen as reasonable within the meaning of this amendment only when accompanied by a search warrant. Searches without warrants, however, have come to be seen as reasonable and lawful under certain special circumstances. Such special circumstances fall into two categories: searches incident to a valid arrest, and searches under "exigent circumstances." The traditional reasons behind allowing searches incident to arrest, were twofold: first, to allow the officer to remove any dangerous weapons which might endanger the officer himself, and second, to prevent the concealment or destruction of any evidence. *Chimel* v. *California*, 395 US 752 (1969).

The "exigent circumstances" exception allows an officer, where he has enough probable cause to search as would justifiy a warrant, but has no cause to arrest, to proceed with a warrantless seach if exigent circumstances make the usual warrant procedure impractical. Such warrantless searches are seen as reasonable because insisting on warrants in these cases would allow the evidence in question to disappear. *Carroll* v. *United States*, 267 US 132 (1925).

The exception which concerns us here is the exception allowing warrantless searches incident to an arrest. Until recently, our courts have refused to give an absolute police power to search incident to any arrest. They have insisted that, for a search to be reasonable, "the scope of the search must be strictly tied to and justified by the circumstances which rendered its initiation permissible" and that the police officer carefully restrict his search "to what was appropriate to the discovery of the particular items which he sought." *Terry* v. *Ohio*, 392 US 1 (1968).

In 1973, however, the Supreme Court of the United States held, in two cases involving warrantless searches incident to traffic arrests, that all searches incident to arrest are reasonable, and need not be restricted by the circumstances of the arrest to be lawful. *United States* v. *Robinson*, 414 US 218, 94 S Ct 467 (1973); *Gustafson* v. *Florida*, 414 US 260, 94 S Ct 488 (1973). These decisions found to be admissible as evidence drugs seized from persons whom the police had arrested for driving without a valid license. In laying down a uniform arrest-search rule, the Supreme Court rejected the earlier reasoning for restricting a traffic arrest search:

"The authority to search the person incident to a lawful custodial arrest, while based on the need to disarm and to discover evidence, does not depend on what a court may later decide was the proability in a particular arrest situation that weapons or evidence would in fact be found upon the person of the suspect. A custodial arrest of a suspect based on probable cause is a reasonable intrusion under the Fourth Amendment; that intrusion being lawful, a search incident to the arrest requires no additional justification." *United States* v. *Robinson*, supra at 472.

We feel this is a dangerous rule, and one which threatens the traditional rights of privacy.

It is offensive to most of our notions of privacy that such trivial offenses could constitute the sole basis for such a serious intrusion as a full search.

By Mr. HUGH SCOTT (for himself, Mr. TAFT, Mr. BENNETT, Mr. HRUSKA, Mr. BROCK, and Mr. GRIFFIN):

S. 4172. A bill to amend section 552 of title 5, United States Code, known as the Freedom of Information Act. Referred to the Committee on Government Operations.

FREEDOM OF INFORMATION ACT AMENDMENTS: A CLEAN BILL

Mr. HUGH SCOTT. Mr. President, on October 17, President Ford vetoed H.R. 12471, a bill to amend the Freedom of Information Act—title 5, United States Code, section 552.

In returning H.R. 12471, the President noted that it was only his conviction that the bill as enrolled is unconstitutional and unworkable in several vital respects that caused him to withhold approval.

The bill that I introduce today will cure the defects revealed by the President in his veto message. It's central features may be summarized in the following manner.

REVIEW OF CLASSIFIED DOCUMENTS

This bill would, as did the bill it is designed to replace, permit a court to review documents classified by agencies in the interest of national defense or foreign policy and to insure the reasonableness of that classification. However, the proposed language would permit a court to review the document itself and to disclose the document only if there is no reasonable basis to support the classification. This bill removes a constitutionally questionable arrangement in H.R. 12471 as vetoed whereby a highly sensitive document pertaining to our national defense would have to be disclosed even if the classification were reasonable. The new language simply provides that after a review of all the evidence pertaining to a classified document, including the document itself if necessary, the document may be disclosed unless there is a "reasonable basis" for the classification by the agency. The burden of proof remains upon the agency to sustain the reasonableness of the classification.

TIME LIMITS AND COSTS

As vetoed, H.R. 12471 provides that following a request for documents an agency must determine whether to furnish the documents within 10 days, and following an appeal from a determination to withhold documents, the agency is afforded 20 days to decide the appeal. In unusual circumstances an agency may obtain an additional 10 days for either determination.

Time limits on agency action with regard to requested documents are important additions to the public's right to know of the operations of its Government, and several agencies have already voluntarily adopted time limits for their responses. Experience with these time limits indicates that the restrictions in H.R. 12471 may be impracticable. Because of the large number of documents often requested, their decentralized location and the importance of other agency business it might often be impossible to comply with requests in the time allotted.

This bill would provide 30 days for the initial determination and would provide an additional 15 days in unusual circumstances. Furthermore, in exceptional circumstances, the agency would be authorized to seek additional time from a court if it could demonstrate due diligence in responding to a request. For particularly burdensome requests, an agency would also be permitted to charge for the cost of reviewing requested documents if such cost exceeded $100 for each request or each series of related requests. This provision would help to defray those unusual expenses in responding to requests for documents at a time when we are seeking to limit our governmental expenditures. Furthermore, the additional time afforded agencies in responding to requests will lead to more responsive determinations and more efficient use of agency personnel and resources, while still providing for prompt agency response to requested documents.

INVESTIGATORY RECORDS

The first portion of this revision is intended to render more realistic the showing of harmful effect which the Government would have to make in order to sustain the withholding of investigatory records. It may not be possible in most cases to establish that release "would" cause particular harm of the type described. But when what is involved is harm so enormous as depriving a defendant of the right to a fair trial, invading personal privacy, compromising our law enforcement operations, and endangering the life or physical safety of law enforcement personnel, existence of a "substantial possibility" that the harmful effect will ensue ought to be adequate reason for withholding the document.

The second portion broadens the protection of confidential information provided to a criminal law enforcement agency to such information provided to an agency with civil law enforcement functions. There are several agencies that perform important civil law enforcement functions, and often civil law enforcement investigations directly lead to criminal investigations. In these instances it is essential that confidential information furnished only by a confidential source be protected from premature disclosure.

In the past, all records contained in investigatory files compiled for law enforcement purposes have been exempt from disclosure under the Freedom of Information Act. Although such a categorical exemption is too broad, Congress originally adopted that provision in 1966 because of special characteristics of these files which the present bill disregards. First, improper release of the information they contain can be harmful, and thus particularly careful screening is required; second, many of these files are of enormous size; and finally, the proportion of nonreleasable information they contain is typically much higher than that contained in other Government files. The combination of these factors makes it impracticable in some situations to devote the efforts of our law enforcement personnel to a paragraph-by-paragraph screening of these files. This is so whether or not the time which these personnel take from law enforcement duties is paid for by the person making the request. While this consideration does not justify the categorical exception of all investigatory files, it cannot be entirely ignored.

This bill will enable the agency head himself to make a case-by-case finding of impracticability, on the basis of specific factors which can be reviewed by the courts. This resolution is both reasonable and not subject to uncontrolled application by the executive branch. The last clause of the sentence also prevents this limited "investigatory files" exemption from being abused so as to protect records which are not investigatory records or which the agency knows do not qualify for any specific exemption from disclosure.

Mr. President, I would hope that my colleagues on both sides of the aisle recognize the salutary effect of these changes which have been recommended by the President.

Mr. HRUSKA. Mr. President, I support the bill introduced by Senator SCOTT which would amend the Freedom of Information Act to insure the fullest responsible disclosure of Government records.

As my colleagues are aware, this body passed a Freedom of Information bill, H.R. 12471, late last spring. I supported that bill, as it was reported out of the Senate Judiciary Committee. Indeed, I worked with the original author of that bill, the senior Senator from Massachusetts (Mr. KENNEDY) in drafting a bill that would remove the obstacles to full and faithful compliance with the mandate of the Freedom of Information Act. That mandate, of course, is to grant citizens the fullest access to records of Federal agencies that the right of privacy and effective government will permit.

The bill was amended on the floor, however, in a way that could open confidential files to the public at the expense of our Nation's interest in foreign relations and defense and every individual's interest in law enforcement and the right of privacy. Because of these amendments, the President was compelled to veto this bill. The bill introduced by the senior Senator from Pennsylvania (Mr. SCOTT) amends the enrolled bill to eliminate the military and diplomatic information problems and the damage to effective law enforcement in the enrolled bill. By amending the bill in this way, we will have worked out a fair, responsible way to increase public access to Federal papers and records without impairing individual rights and essential Government activities.

In vetoing the enrolled bill, the President expressed several reservations about the constitutionality and feasibility of H.R. 12471.

The first ground for vetoing this bill involves our Nation's military, intelligence and diplomatic secrets. At the outset, I want to stress what is and what is not the issue here.

The crux of the issue is not whether a judge should be authorized to review classified documents in camera. The President in his veto message stated that he was prepared to accept those aspects of the provision which would enable courts to inspect classified documents and review the justification for their classification. As this bill was reported out of the Judiciary Committee, it authorized judicial review of the justification for withholding classified documents in a provision I fully supported.

The issue, instead, is whether a standard should be established to guide the judge's decision as to whether a document is properly classified. As the President stated in his message:

> As the legislation now stands, a determination by the Secretary of Defense that disclosure of a document would endanger our national security would, even though reasonable, have to be overturned by a district judge who thought the plaintiff's position just as reasonable. Such a provision would violate constitutional principles and give less weight before the courts to an Executive determination involving the protection of our most vital national defense interests than is accorded determinations involving routine regulatory matters.

The constitutionality of the enrolled bills provision granting the courts unlimited power in reviewing and releasing classified documents is discussed in a memorandum that I ask by unanimous consent be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Basically, the points of this memorandum can be summarized as follows:

First. The Constitution vests in the President the authority to maintain our national defense and to conduct our foreign relations.

Second. In order to discharge these responsibilities effectively, the President must take measures to insure that confidential information bearing on national defense and foreign relations is not disclosed to all the world.

Third. To grant a judge the authority to determine, on his own, whether this same type of information should be disclosed to the public infringes on the constitutional power of the President to maintain in confidence national defense and foreign relations information.

Mr. President, it is one thing to review an agency's decision to determine whether the agency acted arbitrarily or unreasonably. It is an entirely different matter to empower a court to determine in the first instance whether a document should be classified or released to the public.

The issue then boils down to this: Should judicial scrutiny of classified documents be unchecked?

The legal memorandum I refer to cites a number of recent cases as well as law review articles in analyzing this issue. A thoughtful reading of this memorandum will make the President's veto even more convincing.

Second, the confidentiality of countless law enforcement files containing information of the highest order of privacy is jeopardized by this bill. At stake here is not simply the issue of effective law enforcement but the individual's right to privacy and to be secure in the knowledge that information he furnishes to a law enforcement agency will not be disclosed to anyone who requests it.

By requiring the FBI and other law enforcement agencies to respond to any person's request for investigative information by sifting through pages and pages of files within strict time limits to prove to a court line-by-line that disclosure would cause a type of harm specified in the amendment distorts the purpose of agencies such as the FBI. The magnitude of such a task and the standards of harm that are defined in the amendment create serious doubt as to whether such a provision is workable aside from its questionable wisdom. Where the rights of privacy and personal security are at stake, no measures should be adopted that even tend indirectly to undermine these fundamental rights.

In his veto message, the President also expressed concern with the time limits set out in the bill. These time limits can be counterproductive to the disclosure of information under the act. If an agency is required to respond to a request within unrealistic time limits, it will be forced to deny the request for fear that the interests in confidentiality such as the right of privacy, the confidentiality of informants and frank discussion of policy issues, would be jeopardized. Thus, the agency will be compelled to deny requests that, in many cases, could with more study be granted. Unrealistic time limits, therefore, thwart full and free disclosure.

Mr. President, I fully support most of the features of enrolled bill, H.R. 12471. It was—and is—my belief that amendments to the Freedom of Information Act are necessary to remove obstacles to full and free compliance with the thrust of the act.

As I stated earlier, I support judicial review of the justification for withholding classified documents. I also support realistic time limits for processing requests so that a requester will not be frustrated by seemingly endless delays by a reluctant agency. And I support reforms to insure that information that can be disclosed is not hidden in law enforcement files.

It is because I believe that amendments to the Freedom of Information Act are necessary that I am cosponsoring the bill introduced today. This bill retains the favorable features of H.R. 12471 and incorporates the amendments proposed by the President to insure that we have a bill that is both constitutional and workable.

The basic features of the amendments incorporated in this bill are the following:

First, a standard is established to guide the judge's decision in reviewing classified documents. Judicial scrutiny of classified documents is not left unchecked.

The amendment simply provides that a classified document should not be released to the public unless the judge finds that there is no reasonable basis to support the classification.

Second, the time limits provision is amended to reflect a more realistic approach to administration of the act. The amendment would grant an agency 30 days rather than merely 10 days to respond to a request. Because of the location of documents, the press of other agency business and the large number of documents often requested, it is at times impossible to determine in 10 days whether the records requested should be disclosed.

Third, the amendment broadens the bill's protection of confidential information provided to a criminal law enforcement agency. It insures that information that can be disclosed without impairing an agency's discharge of its responsibilities or infringing an individual's rights, is, in fact, subject to disclosure.

Mr. President, these amendments are constructive to the thrust of the freedom of information. A bill which embodies the basic features of H.R. 12471 together with the amendments proposed by the President will give us legislation insuring the fullest responsible disclosure of Government records. It is my hope that this legislation will be reenacted with these amendments.

MEMORANDUM

(Re: Freedom of Information amendments: Constitutionality of provisions of H.R. 12471 pertaining to judicial release of classified defense and foreign relations documents.)

This memorandum discusses the constitutionality of the provisions of H.R. 12471, the bill amending the Freedom of Information Act, which authorizes a court to release documents that are reasonably classified. It concludes that while Congress can provide for judicial review to prevent the withholding of documents based upon unreasonable classification, the provisions of H.R. 12471 which empower the courts to release documents that have been reasonably classified to protect national defense and foreign relations would be an unconstitutional infringement upon the powers and duties of the executive under Article II of the Constitution.[1]

SUMMARY OF DISCUSSION

I. The Constitution and the words of the Founding Fathers make clear that the Executive's function of maintaining this nation's defense and conducting our foreign relations carries with it the responsibility to control the dissemination of information affecting the success of those responsibilities.

II. The Supreme Court, other courts, and previous Acts of Congress have consistently recognized the Executive's constitutional power and duty to protect defense and foreign relations information.

III. Responsible critics of the Supreme Court's decision in *EPA* v. *Mink*[2] have recognized that judicial review of classified documents must not undermine reasonable executive decisions that defense and foreign relations documents require protection.

DISCUSSION

I. Article II, § 1 of the Constitution vests the executive power of the United States in the President. Article II, § 2 makes him Commander-in-Chief of the armed forces. Article II, sections 2 and 3 entrust to him the conduct of foreign relations. Article II, § 3 commands him to "take care that the laws be faithfully executed." Article VI, clause 2 makes it clear that these laws include the Constitution itself, which, as noted, confers on the President the power to maintain our defense and conduct our foreign relations.

That the President would have authority to secure the secrecy and confidentiality necessary to the successful conduct of foreign affairs in a militarily unfriendly world was understood by the Framers of the Constitution. Writing in *Federalist*, No. 64, John Jay stated:

"It seldom happens in the negotiation of treaties, of whatever nature, but that perfect secrecy and immediate despatch are sometimes requisite. There are cases where the most useful intelligence may be obtained if the persons possessing it can be relieved from apprehensions of discovery. Those apprehensions will operate on those persons whether they are actuated by mercenary or friendly motives; and there doubtless are many of both descriptions who would rely on the secrecy of the President, but who would not confide in that of the Senate, and still less in that of a large popular Assembly. The convention have done well, therefore, in so disposing of the power of making treaties, that although the President must, in forming them, act by the advice and consent of the Senate, yet he will be able to manage the business of intelligence in such a manner as prudence may suggest."

Jay then elaborated in some detail on the issue why the President needed authority to provide for secrecy in the conduct of international relations, noting that the rapidly changing tides of foreign affairs could be best handled by the executive branch which has the most experience and knowledge in this area.

II. In a line of cases running down to this year, the Supreme Court has consistently recognized the executive's constitutional power over information held in the exercise of its military and diplomatic functions.

In *New York Times* v. *United States*, 403 U.S. 713, 729–30 (1971), Justice Stewart, in a concurring opinion joined by Justice White, stated that the President's constitutional power in these areas implied a corresponding duty and authority to establish a system of classifying documents. Justice Stewart wrote:

"It is clear to me that it is the constitutional duty of the Executive—as a matter of sovereign prerogative and not as a matter of law as the courts know law—through the promulgation and enforcement of executive regulations, to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and defense."

Justice Marshall, in a concurring opinion, also recognized the President's authority to classify information. 403 U.S. at 741. The views expressed by Justices Stewart, White, and Marshall are supported by other Supreme Court cases, by congressional statutes noted below, and by the intent of the Framers of the Constitution as noted above. In the area of international relations and defense the powers of the Executive traditionally have been treated as very broad, although not limitless.

In *C & S Air Lines* v. *Waterman Corp.*, 333 U.S. 103, 109 (1948),[3] the Supreme Court stated that the "President . . . possesses in his own right certain powers conferred by the Constitution on him as Commander-in-Chief and as the Nation's organ in foreign affairs." Acting in these capacities, the Court added, the President "has available Intelligence services whose reports are not and ought not to be published to the world." *Id.* at 111.

In *United States* v. *Curtiss-Wright Corp.*, 299 U.S. 304, 319 (1936), the Court stated that in the area of foreign affairs, "with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation." The Court quoted with approval John Marshall's statement made as a Congressman that "[t]he President is the sole organ of the nation in its external relations, and its sole representative with foreign nations." An 1816 Senate Foreign Relations Committee Report, quoted with approval by the Court in the *Curtiss-Wright* Case, also recognized the President's constitutional power with respect to foreign affairs and the national safety and observed:

"The nature of transactions with foreign nations, moreover, requires caution and unity of design, and their success frequently depends on secrecy and dispatch."

Just this past summer, in its 8–0 opinion on former President Nixon's efforts to withhold tapes sought by the Special Prosecutor, the Supreme Court expressly recognized that the authority of the President to maintain the confidentiality of secret documents is grounded in the Constitution. The Court stated that, although a generalized claim of confidentiality would not prevail over the specific need shown in the pending criminal proceedings, a President has a "constitutionally based" power to withhold information the disclosure of which could impair the effective discharge of a President's powers:

"In this case the President challenges a subpoena served on him as a third party requiring the production of materials for use in a criminal prosecution on the claim that he has a privilege against disclosure of confidential communications. *He does not place his claim of privilege on the ground they are military or diplomatic secrets.* As to these areas of Art. II duties the courts have traditionally shown the utmost deference to presidential responsibilities. In C. & S. Air Lines v. Waterman Steamship Corp., 333 U.S. 103, 111, 68 S.Ct. 431, 436, 92 L.Ed. 568 (1948), dealing with presidential authority involving foreign policy considerations, the Court said:

'The President, both as Commander-in-Chief and as the Nation's organ for foreign affairs, has available intelligence services whose reports are not and ought not to be published to the world. It would be intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret.' *Id.*, at 111, 68 S.Ct., at 436.

"In United States v. Reynolds, 345 U.S. 1, 73 S.Ct. 528, 97 L.Ed. 727 (1952), dealing with a claimant's demand for evidence in a damage case against the Government the Court said:

'It may be possible to satisfy the court, from all the circumstances of the case, that there is a reasonable danger that compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged. When this is the case, the occasion for the privilege is appropriate, and the court should not jeopardize the security which the privilege is meant to protect by insisting upon an examination of the evidence, even by the judge alone, in chambers.'

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[1] There is no doubt that under the express language of H.R. 12471 as vetoed, providing for *in camera* inspection and *de novo* review of classified documents with the burden of proof on the government in the same terms that apply to all other government records, a judge is instructed to release documents that he finds have a reasonable basis for classification if he also finds that the plaintiff's case is equally or more reasonable.

[2] 410 U.S. 73 (1973).

[3] There the Court held that a Presidential decision approving or disapproving a Civil Aeronautics Board order granting or denying an application to engage in foreign air transportation was not subject to judicial review.

No case of the Court, however, has extended this high degree of deference to a President's generalized interest in confidentiality. Nowhere in the Constitution, as we have noted earlier, is there any explicit reference to a privilege of confidentiality, *yet to the extent this interest relates to the effective discharge of a President's powers, it is constitutionally based.*" (Emphasis supplied.) *United States* v. *Nixon*, ——— U.S. ———, 94 S. Ct. 3090 at 3108–3109 (July 24, 1974).

Another recent court decision, *United States* v. *Marchetti*, 466 F.2d 1309 (4 Cir. 1972) is particularly noteworthy, both for the court's succinct summary of the law in this area, and especially for the concurring opinion of Judge Craven, which expresses views similar to those in President Ford's veto message as to the proper scope of judicial review of the withholding of classified information.

The Court summarized the law as follows:

"Gathering intelligence information and the other activities of the Agency, including clandestine affairs against other nations, are all within the *President's constitutional responsibility for the security of the Nation* as the Chief Executive and as Commander in Chief of our Armed forces. Const., art. II, § 2. Citizens have the right to criticize the conduct of our foreign affairs, but the Government also has the right and the duty to strive for internal secrecy about the conduct of governmental affairs in areas in which disclosure *may reasonably be thought* to be inconsistent with the national interest . . ." (Emphasis supplied.) 466 F.2d at 1315.

Judge Craven's concurring opinion strikes an essentially similar balance in this field as that which President Ford has urged (and as was reflected, incidentally, in the pending amendments as reported by the Senate Judiciary Committee). Judge Craven said:

"I agree that '[t]he conduct of the foreign relations of our government is committed by the Constitution to the executive and legislative—"the political"—departments of the government, and the propriety of what may be done in the exercise of this political power is not subject to judicial inquiry or decision.' Oetjen v. Central Leather Co., 246 U.S. 297, 302, 38 S.Ct. 309, 311, 62 L.Ed. 726, 732 (1917).

"I concur in the opinion of the court except for the statement that the classification of documents and information by the executive is not subject to judicial review. Because the national security may be involved and because of the expertise of the executive, I would resolve any doubt about the reasonableness of a classification in favor of the government. If the burden were put upon one who assails the classification, and surely it ought to be, much of the difficulty envisioned in the court's opinion would presumably disappear. Indeed, I would not object to a presumption of reasonableness, and a requirement that the assailant demonstrate by clear and convincing evidence that a classification is arbitrary and capricious before it may be invalidated.

"But however difficult the adjudication of the reasonableness of a secrecy classification, I cannot subscribe to a flat rule that it may never be attempted. The 'right to know' is in a period of gestation. I think that the people will increasingly insist upon knowing what their government is doing and that, because this knowledge is vital to government by the people, the 'right to know' will grow. I am not yet ready to foreclose any *inquiry into whether or not secrecy classifications are reasonable*. To protect those that are does not require that we also protect the frivolous and the absurd.

"Other than my doubt about the insulation of a classification system for judicial review, I fully concur in the opinion of the court." 466 F.2d at 1318, 1319. (Emphasis supplied.)

A number of congressional enactments have also recognized the first constitutional basis for Presidential authority to classify both the defense and the foreign relations types of national security information. The espionage laws, 19 U.S.C. §§ 792–798, alternately refer to classified information or make it imperative to establish a classification system in order to enforce them fairly and effectively. Subsection (b) of the Internal Security Act of 1950, 50 U.S.C. § 783, makes it a crime "for any officer or employee of the United States" to communicate to a foreign agent "any information of a kind *which shall have been* classified by the President as affecting the security of the United States. . . ." (emphasis supplied). See also 50 U.S.C. §783(c).

III. The two dissenting Supreme Court opinions in the *Mink* case, plus recent commentaries criticizing that decision in two distinguished law reviews, support the view that H.R. 12471, as vetoed, goes beyond overturning *Mink* and purports to transfer the basic constitutional responsibility for classification decisions from the executive branch to the courts.

Justice Brennan's dissenting opinion makes it very clear that he wished to affirm the decision of the Court of Appeals *which he understood only to call for the release of non-secret components of classified documents, not to override executive determinations as to which parts must remain classified for reasons of defense or foreign relations.* In referring to the argument of the petitioners" (*i.e.*, the government) Justice Brennan said:

"Even the petitioners concede, no doubt in response to the 'specifically required' standard of § 552(b)(1) and the 'specifically stated' requirement of § 552(c), that documents classified pursuant to § 3(b) of Executive Order 10501 cannot qualify under Exemption 1. Indeed, petitioners apparently accept the conclusion of the Court of Appeals that as to § 3(b):

'This court sees no basis for withholding on security grounds a document that, although separately unclassified, is regarded secret merely because it has been incorporated into a secret file. To the extent that our position in this respect is inconsistent with the above-quoted paragraph of Section 3 of Executive Order 10501, we deem it required by the terms and purpose of the [Freedom of Information Act], enacted subsequently to the Executive Order.' 464 F. 2d, at 745.

"Nevertheless, petitioners maintain that information classified pursuant to § 3(c) of the Order is exempt from disclosure under Exemption 1. The Court of Appeals rejected that contention, and in my view, correctly. The Court of Appeals stated:

'The same reasoning applies to this provision as the one dealing with physically-connected documents. Secrecy by association is not favored. If the non-secret components are separable from the secret remainder and may be read separately without distortion of meaning, they too should be disclosed.' 464 F. 2d, at 746.

"Petitioners' argument, adopted by the Court, is that this construction of the Act imputes to Congress an intent to authorize judges independently to review the Executive's decision to classify documents in the interest of national defense or foreign policy. That argument simply misconceives the holding of the Court of Appeals. Information classified pursuant to § 3(c), it must be emphasized, may receive the stamp of secrecy not because such secrecy is necessary to promote 'the national defense or foreign policy,' but simply because it constitutes a part of such other information which genuinely merits secrecy. Thus, to rectify this situation, the Court of Appeals ordered only that the District Court *in camera* determine '[i]f the non-secret components are separable from the secret remainder and may be read separately without distortion of meaning. . . .' *The determination whether any components are in fact 'non-secret' is left exclusively to the agency head representing the Executive Branch. The District Court is not authorized to declassify or to release information which the Executive, in its sound discretion, determines must be classified to 'be kept secret in the interest of the national defense or foreign policy.' The District Court's authority stops with the inquiry whether there are components of the documents which would not have been independently classified as secret. If the District Court finds, on in camera inspection, that there are such components, and that they can be read separately without distortion of meaning, the District Court may order their release.* * * * (Emphasis supplied.) pp. 3–5 of Brennan's opinion.

The remainder of Justice Brennan's opinion makes it clear that he objected to the majority's interpretation of the Freedom of Information Act as exempting an entire document from judicial review, inspection, and disclosure *by the mere fact that the document is classified*, even though the government might not dispute that some portions of the document do not warrant classification.

Justice Douglas' dissenting opinion is to the same effect—it stops well short of suggesting the substitution of judicial for executive discretion *as to that material which the executive determines warrants classification for reasons other than its mere inclusion in a classified document.* He said:

"The Government . . . suggests that judges have no business declassifying 'secrets,' that judges are not familiar with the stuff with which these 'Top Secret' or 'Secret' documents deal.

"That is to misconceive and distort the judicial function under § 552(a)(3) of the Act. *The Court of Appeals never dreamed that the trial judge would reclassify documents.* His first task would be to determine whether nonsecret material was *a mere appendage* to a 'secret' or 'top secret' file. His second task would be to determine whether under normal discovery procedures contained in Rule 26 of the Rules of Civil Procedure, factual material in these 'secret' or 'top secret' material [sic] *is detached from* the 'secret' and would therefore be available to litigants confronting the agency in ordinary lawsuits.

"Unless the District Court can do those things, the much advertised Freedom of Information Act is on its way to becoming shambles. Unless federal courts can be trusted, the Executive will hold complete sway and by *ipse dixit* make even the time of day 'top secret.' Certainly, the decision today will upset the 'workable formula,' at the heart of the legislative scheme, 'which encompasses, balances, and protects all interests, yet places emphasis on the fullest possible disclosure.' S. Rep. No. 813, *supra*, at 3. The Executive Branch now has *carte Blanche* to insulate information from public scrutiny *whether or not that information bears any discernible relation* to the interests sought to be protected by subsection (b)(1) of the Act. * * *." (Emphasis supplied.) pp. 5 and 6 of Douglas opinion.

Recent issues of the Columbia Law Review and the Duke Law Journal, containing careful scholarly appraisals of Freedom of Information Act developments, have both criticized the Supreme Court's decision in the *Mink* case, but both clearly reject a remedy that would transfer to the courts the basic responsibility for protecting national security information, as is envisaged by H.R. 12471 as vetoed. The 1974 Duke Law Journal, in an article on "Development Under the Freedom of Information Act—1973, says:

"In this regard, Senator Muskie recently proposed an amendment to the FOIA which would broaden the scope of de novo judicial review. Pursuant to the proposed amendment a court would be empowered to question the Executive's claim of secrecy by examining the classified records *in camera* in order to determine whether 'disclosure would be harmful to the national defense or foreign policy of the United States.' This proposal, *however, extends* judicial authority too far into the political decision-making process, a field not appropriately within the province of the courts. *A more satisfactory legislative solution would be a judicial procedure which would not unduly restrict the Executive's prerogative to determine what should remain secret in the national interest but which would simultaneously provide a limited judicial check on arbitrary and capricious executive determinations.* An acceptable compromise of these competing interests might be a procedure whereby the agency asserting the privilege would separately classify each document and portions thereof and prepare a detailed itemization and index of this classification scheme for the court. *Thus, the court could adequately ascertain whether the claim of privilege was based upon a reasoned determination rather than an arbitrary classification without subjecting the material to in camera scrutiny. Such a procedure would prevent indiscriminate and arbitrary classification yet not unduly infringe upon the privilege of the Executive to protect national secrets.*" (Emphasis supplied.) 74 Duke L.J. 258–259.

The Columbia Law Review's June 1974 issue, in a comprehensive study entitled "The Freedom of Information Act: A Seven Year Assessment" says:

"*To advocate some form of judicial scrutiny is not to say that power should be unchecked. That a court should assume the burden of declassifying documents seems altogether improper.* Judgments as to the independent classification of genuinely secret information should be left to the executive. Little can be said, however, for exempting from disclosure non-classified information solely because of its physical nexus with a classified document. To assign to the judiciary the function of winnowing the state secret from the spuriously classified document *does violence* neither to the language of the Act as an integrated statute, nor to the declaration of policy implicit in the first exemption. Even conceding that excising interspersed but non-secret from secret matter necessarily implies the exercise of some substantive judgment, this does not amount to a de facto power of declassification. *Only materials that would not have been independently classified as secret should be deleted and disclosed on the court's initiative. In close cases, the court, cognizant of the 'delicate character of the responsibility of the President in the conduct of foreign affairs,' should defer to the executive determination of secrecy.*" (Emphasis supplied.) 74 Col. L. Rev. 935.

A "Developments in Law Note on National Security" by the Harvard Law Review reaches the same conclusion. In discussing the role of the courts in reviewing classification decisions, it states that—

"There are limits to the scope of review that the courts are competent to exercise."

And concludes that—

"A court would have difficulty determining when the public interest in disclosure was sufficient to require the Government to divulge information notwithstanding a substantial national security interest in secrecy." 85 Harvard Law Review 1130, 1225–26 (1972).

The foregoing also helps to make clear why, with President Ford's suggested change, the bill's treatment of classified documents would be constitutional. All federal action, by any branch, is subject to the due process clause of the Fifth Amendment. Congress in passing the Freedom of Information Act has conferred on all persons a broad "liberty" of access to federal records. A right of access can also be regarded as a form of limited property. The President's powers over the conduct of defense and foreign relations and information pertaining thereto, as discussed above, must be reconciled with the citizen's right not to be deprived of his statutory "liberty" of access under the Act by a denial that is arbitrary and capricious and thus without due process of law. Judicial review to make certain that there is a reasonable basis for classification, as suggested by President Ford, is constitutionally warranted as a safeguard against such a denial of due process.

In short, the distinction is between empowering a court to review an agency's decision to determine whether it is arbitrary or clearly unreasonable and empowering a court to decide on its own what the agency should be. Where judicial scrutiny is unlimited, as in this latter case and as provided in the enrolled bill, the court can substitute its decision for that of the agency. This purported transfer of power intrudes upon the responsibility of the executive branch and, accordingly, is an unconstitutional infringement of the powers and duties of the Chief Executive.

By Mr. ROBERT C. BYRD:

S. 4173. A bill to designate the Wheeling Suspension Bridge as a national historic site, and to provide for the administration and maintenance of the site by the Secretary of the Interior in consultation with an advisory commission. Referred to the Committee on Public Works.

Mr. ROBERT C. BYRD. Mr. President, I am sending to the desk for appropriate referral, a bill to designate the Wheeling Suspension Bridge at Wheeling, W. Va., a national historic site and to assimilate the bridge into the national park system.

This bridge has a long and colorful history and has played a significant role in the development of our Nation. It was the first bridge built across the Ohio River and linked the National Road to the emerging territories of the West. It also established Wheeling as the early gateway to the West. I am told that the city of Pittsburgh went to court in an effort to prevent the bridge from being erected, and only special legislation pushed through Congress by the delegation from Virginia permitted construction to go forward.

When the Wheeling Suspension Bridge was completed in 1849, it constituted a remarkable engineering feat. At 1,010 feet in length, it was the longest bridge in the world and was the most outstanding example of suspension bridge engineering, which in those days was a revolutionary new way to build bridges.

Five years after its completion a storm swept through the Ohio Valley and the Wheeling Suspension Bridge crumbled into the Ohio River. Wheeling and the Nation were shocked. But local residents and the Wheeling and Belmont Bridge Co., owners of the span, were undaunted. They hired Johan A. Roebling of Pittsburgh to rebuild it. He did, and the bridge was opened to traffic again in 1856 at a cost of $42,000.

For nearly 120 years the Wheeling Suspension Bridge has played a vital role in the course of American history. During the Civil War, it was an indispensable passageway across the Ohio River. During World War I, it carried heavy and continuous loads of war transport trains, which bore the materials of victory to our Nation's seaports. This was a role the bridge played again during World War II.

Millions of American travelers have crossed the Wheeling Suspension Bridge as they have moved back and forth across this vast Nation. Yet, it still stands—sturdy and strong and rich with history. Although a modern new four-lane bridge was built parallel to it in the late 1960's to carry Interstate 70 across the Ohio River, the Wheeling Suspension Bridge still carries local traffic across the mighty Ohio.

Mr. President, I firmly believe that the Wheeling Suspension Bridge richly deserves to be preserved as a national historic site under the guidance and supervision of the National Park Service, and I urge my colleagues on the Interior Committee to favorably report this bill. I stand ready to work with the committee in any way that may be helpful to achieve this objective.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 796

At the request of Mr. PELL, the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Maine (Mr MUSKIE) were added as cosponsors of S. 796, a bill to improve museum services.

S. 3707

At the request of Mr. TUNNEY, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 3707, a bill to provide a tax credit for increases in personal savings.

S. 4159

At the request of Mr. TALMADGE, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 4159, a bill to provide that the sex discrimination guidelines prescribed under title IX of the Education Amendments of 1972 do not apply to fraternities and sororities.

S. 4163

At the request of Mr. BAYH, the Senator from Georgia (Mr. TALMADGE) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 4163, a bill to amend title XI of the Education Amendments of 1972 to exempt certain fraternities and sororities from sex discrimination guidelines.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 422

At the request of Mr. BENTSEN, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of Senate Resolution 422 relating to improving law enforcement efforts to control and prevent rape.

SENATE RESOLUTION 426

At the request of Mr. TUNNEY, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Resolution 426 expressing the sense of the Senate with respect to certain oil and gas leases pursuant to the Outer Continental Shelf Lands Act.

AMENDMENTS SUBMITTED FOR PRINTING

FOREIGN ASSISTANCE ACT OF 1974—S. 3394

AMENDMENT NO. 1986

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (S. 3394) to amend the Foreign Assistance Act of 1961, and for other purposes.

Mr. PERCY. Mr. President, last year during consideration of the foreign aid bill the Senate passed an unpretentious piece of legislation, now known as the Percy amendment, though adopted with the support of Senator HUMPHREY and other of my colleagues. In one sentence the amendment directed the Agency for International Development to administer our foreign aid effort in such a way as to promote the integration of women into the national economies of recipient countries, thus improving the status of women and assisting the total development effort.

This amendment, although simple, has reaped highly significant results. In September of this year AID issued the "Percy Amendment Policy Implementation Plan" directing all Agency development assistance plans to contain clear statements as to how women in developing countries will be involved in the development process and how the plan or proposal will benefit women and use their capabilities. More important, in the approval of all development plans and projects, strong preference will be given to those which provide for the effective utilization of women. International and voluntary organizations working with AID will also be encouraged to give specific attention to the role of women in development. Moreover, AID Washington bureaus and missions overseas have been instructed to collect information pertinent to the understanding of the role, status, and contribution of women in developing countries. Finally, our missions overseas will be required to report on the general progress of integrating women in the development process, highlighting effective projects.

The Percy amendment, however, is incomplete as it stands, for it affects only our bilateral aid programs. The United States also participates in and makes substantial contributions to multilateral aid programs such as those supported by organizations like the World Bank, the International Monetary Fund, and the United Nations, to name but a few. I am, therefore, introducing an amendment today to reinforce this amendment and make U.S. policy where women's equality is concerned consistent regardless of whether we are dealing with bilateral or multilateral aid programs. This amendment would direct our representatives in those international organizations of which we are a member to carry out their duties so as to encourage and promote the integration of women into the national economies of member and recipient countries and into professional and policymaking positions within those organizations.

Mr. President, I offer the amendment for the consideration of my colleagues, for the integration of women into the national economies of countries around the world deserves serious consideration. Equity and equal opportunity should be basic to the economic and social development process of all countries.

SUPPLEMENTAL APPROPRIATIONS, 1975—H.R. 16900

AMENDMENT NO. 1987

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

AMENDMENT NO. 1989

(Ordered to be printed and to lie on the table.)

Mr. MONDALE (for himself, Mr. HUMPHREY, Mr. DOMINICK, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 16900), supra.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1981

At the request of Mr. JOHNSTON, the Senator from New York (Mr. JAVITS) was added as a cosponsor of amendment No. 1981, intended to be proposed to the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

NOTICE OF HEARINGS ON THE NEIGHBORHOOD SCHOOL ACT

Mr. PELL. Mr. President, during our debate on the elementary and secondary education bill, Public Law 93-380, the Junior Senator from Florida (Mr. CHILES) offered as an amendment, the substance of S. 503, the Neighborhood School Act of 1972. After discussing the amendment, I suggested that we put it aside so that the Subcommittee on Education could give it consideration through hearings.

Therefore, I am very pleased to announced that the Subcommittee on Education, on December 10, 1974, will have hearings on S. 503, the Neighborhood School Act of 1972. All those who wish to appear at this hearing should contact Stephen J. Wexler, counsel, Subcommittee on Education, room 4230, U.S. Senate, Washington, D.C. 20510, 202-225-7666.

NOTICE OF HEARING—CLOSURE OF UNDERGROUND COPPER MINES

Mr. METCALF. Mr. President, the Anaconda Co. has announced plans to close its underground copper mines in Butte, Mont. This action will have a disastrous impact on the miners involved, their families, and the economy of Montana.

Because of my deep concern about this situation, the Subcommittee on Minerals, Materials, and Fuels will hold a hearing on the Anaconda Co.'s plans on November 25. We have asked the company to explain the reasons for its plans. Montana Gov. Thomas Judge will testify on the probable impact of the company's actions on Montana. We have also asked exports from the Department of the Interior to testify about general conditions in the copper mining industry.

We want to determine if Anaconda's proposed shift away from underground mining is based on the particular circumstances of the company and the nature of the ore body involved or if it is indicative of general trends in the copper mining industry. We are equally concerned about the potential long-term social, economic, and environmental implications of elimination of underground copper mining. We want to identify any needs for new mining and/or processing technology, more trained personnel, or new sources of ore, such as deep ocean mining.

The hearings will begin at 10 a.m. on Monday, November 25, in room 3110, Dirksen Senate Office Building. For further information call Mike Harvey, special counsel, Subcommittee on Minerals, Materials, and Fuels, 202-224-1076.

NOTICE OF WITNESSES TO TESTIFY AT HEARINGS ON REGULATORY REFORM

Mr. ERVIN. The Committee on Government Operations will hold hearings on the following bills:

S. 4145, which would establish a Reform; S. 3604, the Federal Agency National Commission on Regulatory Efficiency Act; S. 704, the Regulatory Agencies Independence Act; and, S. 770, the Consumer's Information and Counsel Act, and others.

The hearings will be held in room 3302, Dirksen Senate Office Building, on Thursday, November 21; Friday, November 22; Monday, November 25; and Tuesday, November 26. The hearings will begin at 10 a.m., except that on November 22, the hearings will begin at 9:30 a.m.

NOTICE OF HEARING ON TARGET PROGRAM FOR RICE

Mr. HUDDLESTON. Mr. President, the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Committee on Agriculture and Forestry will hold a hearing Tuesday, December 3, on S. 4121, to establish a target price program for rice. The hearing will be in room 324, Russell Office Building, beginning at 10 a.m. In view of the large number of witnesses expecting to testify on this legislation, oral presentations will be limited to 10 minutes and the remainder of the statement will be filed for the record. Anyone wishing to testify should contact the committee clerk as soon as possible.

ADDITIONAL STATEMENTS

THE HIRSHHORN MUSEUM AND SCULPTURE GARDEN

Mr. PERCY. Mr. President, since the opening of the Hirshhorn Museum and Sculpture Garden on the Mall here in Washington, a great deal has been said and written about the Nation's new museum of modern art, whose contents have been *so* generously donated to the American people by Mr. Joseph H. Hirshhorn.

A great flurry of comment and criticism has been made not only here in Washington but in art circles across the country as well. I have read the reviews and I have greatly enjoyed touring the museum and sculpture garden, and I believe that the initial national judgment on the Hirshhorn collection can be summarized. In the words of Hilton Kramer of the New York Times, Mr. Hirshhorn's gift to the Nation is "magnificent" and "unlikely to be equaled in our lifetime."

In my view, the greatest strength of the Hirshhorn collection is its tremendous diversity. The collector has provided us with a true cross section of great 19th and 20th century artworks, with the exquisite creations of recognized masters displayed alongside unfamiliar works of little-known artists. As Harold Rosenberg has indicated in the New Yorker Magazine, this newest public collection has avoided the downfall of other American museums of modern art which have been far too devoted to instructing the public and not enough to showing works the public might like to see. The tremendous scope of style and significance of the individual paintings and sculptures does indeed allow spectators to make their own judgments in an atmosphere that does not dictate a certain set of artistic values.

Despite the consensus of delight and appreciation for the Hirshhorn collecion, it has been criticized for the things it does not contain. No one, least of all Mr. Hirshhorn himself, has claimed that the 6,000-piece collection, let alone the 900 works currently on exhibition, adequately represents all of the significant artists and periods of modern painting and sculpture. The Hirshhorn collection is still growing, and the existing gaps can gradually be filled through Mr. Hirshhorn's generous provision that pieces can be added, traded, or sold.

Mr. President, the Hirshhorn Museum and Sculpture Garden is a bright new jewel in the world of art. The capital and the Nation should be extremely appreciative of Joseph Hirshhorn's voraciousness in art collection and of his generosity in the donation of his "children" to the American public. I know my colleagues will wish to join me in paying tribute to Mr. Joseph H. Hirshhorn and the Hirshhorn Museum and Sculpture Garden.

To give a broader perspective and some background information on this new American art institution, I ask unanimous consent that a selection of editorials and articles from the Nation's press be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 30, 1974]

A NEW MUSEUM AND SCULPTURE GARDEN

With the opening of the Hirshhorn Museum and Sculpture Garden in a series of festivities this week (Oct. 1, 2, 3), the art of this century is at last firmly established (in fact, looking at the building, you might say entrenched) in the national capital. It has taken a long time—36 years, to be exact. For it was in 1938, while the National Gallery was still under construction, that Congress passed legislation calling for another art gallery on the opposite side of the Mall, to be devoted primarily to the work of contemporary artists. The Finnish-born father and son team, Eliel and Eero Saarinen, wor the national competition for the design of the proposed modern museum. Most critics at the time loudly praised the arrival of the new bare and square architectural style among the temples on the Mall. Most congressmen quietly condemned this new-fangled modernity. And in the end, even Eero Saarinen said he was glad the asymmetrical structure, with its 5-story tower and low-slung exhibit halls, was never built. For all its forbidding, almost intimidating rudeness, Gordon Bunshaft's cylindrical concrete container for the Hirshhorn collection seems more appropriate for monumental Washington.

Nor does it seem likely that a Smithsonian Gallery of Art, as envisioned in 1938, could have mustered anything like the artistic bounty Joseph H. Hirshhorn gave to the nation in 1966. Like the Medici or, closer to home, such American tycoons as Henry Clay Frick and Charles Lang Freer, Mr. Hirshhorn collected art with the same aggressive spirit that he brought to the owning of a vast fortune. He often dashed out of board meetings of his various enterprises for half an hour, running to some gallery or artist's studio, striking quick bargains and occasionally buying paintings literally by the dozen. The opening exhibition, which fills three gallery floors of the new museum as well as its plaza and sculpture garden, displays less than one-sixth of the enormous collection Mr. Hirshhorn has donated—some 900 of the 6,000 paintings and sculptures. So vast an assortment obviously varies in quality. There are critics who complain that some of the work, including objects displayed in the inaugural exhibition, are less than outstanding. But critical tastes, after all, are capricious. Art works that only yesterday were disparaged as mediocre are suddenly discovered to be magnificent. A few decades ago, critics and collectors did not deign to look at the work of Georges de La Tour, whose "Repentant Magdalen" has just been triumphantly acquired by the National Gallery for several million dollars.

The sum of Mr. Hirshhorn's collection, in short, is far greater than its many great parts (and the parts include masterpieces, such as Rodin's "Burghers of Calais," Eakin's "Portrait of Mrs. Thomas Eakins" and Picasso's "Baby Carriage"). Just about every artist deemed significant to the creative mainstream of this century is represented, including a great many Americans whom Mr. Hirshhorn is proud to have discovered and to have helped. This wealth will enable the Hirshhorn, better perhaps than any other museum, to present a comprehensive account of the development of modern art from the mid-19th century to the present. There are no strings attached to the Hirshhorn gift. That means that under the protective mantle of the Smithsonian Institution, the new museum can sell and trade individual items and thus gradually turn this grand private collection into a great public museum.

A COLLECTION THAT PUTS MUSEUM IN THE SELECT CLASS

(By Hilton Kramer)

WASHINGTON, Oct. 1—No less than artists or works of art, collections, too, acquire their aura of legend, mystery and scandal. This was certainly the case with the collection of Joseph H. Hirshhorn. Long before it was offered as a gift to the nation, this vast repository of modern painting and sculpture was talked about, joked about, attacked, defended and otherwise dilated both in and out of the parochial purlieus of the art world.

Yet a certain frustration surrounded all this discussion. Except for Mr. Hirshhorn and his long-time curator and collaborator, Abram Lerner, no one could say for certain exactly what the collection consisted of. It was known to be very large, but its sheer size was not universally regarded as a virtue. Could anything so big really be very good? It was known to contain some great things—especially the sculpture—but gossip inevitably concerned itself with the "junk" the collection was alleged to be glutted with.

People who had never seen the bulk of the collection—even some museum people not exactly famous for their interest in modern art—somehow felt free to hold strong opinions about its quality and disposition.

DEVOTED TO ACHIEVEMENTS

With the opening of the Joseph H. Hirshhorn Museum and Sculpture Garden, all of this uninformed carping—the apocryphal anecdots, the condescending criticisms and the general gossip-mongering—can now be consigned to the oblivion it so richly deserves. The private collection has become a public collection. It belongs to a new national museum—a museum devoted to the achievement of modern art—and for its inaugural exhibition, Mr. Lerner, now installed as director, has filled the galleries and the garden with approximately 850 works selected from a total of some 6,000.

It is a marvelous exhibition, containing some superb paintings and especially notable for the scope and quality of its sculpture. On the basis of this exhibition alone, less than one-sixth of the collection is represented, the Hrishhorn museum joins that select body of institutions essential to the study of modern art.

The sculpture collection is surely one of the greatest in its field. From Daumier and Degas in the 19th century to Alexander Calder and David Smith in the 20th, the major sculptors of Europe and America are represented in remarkable depth. There are whole anthologies of the works of Rodin and Matisse and Henry Moore of Meldario, Rosso and Elie Nadelman and Raymond Duchamp-Villon. And along with this massive representation of the major figures, there are excellent examples of virtually every notable sculptor of the period, whether avant-gard or academic. Offhand, the only significant omission seems to be the work of Claes Oldenberg.

INSTALLATION SUPERB

The installation of the sculpture within the museum, both in the painting galleries and in the two inner rings of galleries given over exclusively to sculpture, is likewise superb. Charles Froom, the designer of the exhibition, has performed a remarkable feat in combining maximum visibility for literally hundreds of separate objects with an atmosphere of easy accessibility.

In the outdoor plaza and in the garden, the sculpture—including alas, such major pieces as Rodin's "The Burghers of Calais" and his great "Moment of Balzav," Matissee's series of "Back" reliefs, Henry Moore's "King and Queen" and a number of important works by David Smith—suffers a distinctly less happy fate.

The design of these outdoor spaces is brutally unsympathetic to the scale and feeling of the sculptures they contain. Mr. Froom has no doubt done his best with a bad situation, but the architect made certain that only *his* forms, *his* textures and *his* rather coarse-grained vision would be allowed to make themselves felt in these open-air areas. The art of sculpture cannot—and should not be made to compete with such monstrous visual aggression.

Still, the sculpture collection is first-rate, and museum officials will surely devise ways of ameliorating the efforts of this architectural insensitivity once the distractions of the opening exhibition are over.

The sculpture collection sets a very high standard, and the painting collection does not really meet it. In some respects, moreover, the installation of the exhibition tends to underscore the weaknesses rather than the strengths of the painting collection. Paintings are installed in more or less chronological order, and a good many minor paintings—not to mention some of only the most marginal interest—are made to serve in lieu of the missing major works.

AN EAKINS CONSTELLATION

This is not to say that the collection is entirely lacking in pictures of considerable importance. The constellation of paintings by Thomas Eakins, the greatest of American realists in the 19th century, is fairly staggering, and it is augmented by six sculptures by the same artist. The early years of the modern movement in America are beautifully documented, and the American works are supplemented by certain European paintings—by Munch, Kokoschka and Delaunay, among others—that are very fine indeed.

Willem de Kooning is another of the major American painters represented by an entire constellation of pictures—nine in all—but again, since they are split into periods, they do not have quite the effect of the Eakins group. Indeed the finest of de Kooning's early pictures are made to suffer the indignity of hanging in the same gallery with some of the most inane paintings of Philip Evergood. This is the kind of juxtaposition that seriously weakens many sections of the inaugural exhibition.

But there are also entire galleries that make a marvelously strong and vibrant expression. Although Mr. Hirshhorn was a latecomer to the American abstract expressionists, he has nonetheless managed to acquire some of the major works of this school—the paintings by Clyfford Still and Ad Reinhardt are especially notable—and he has been very attentive indeed to the accomplishments of the American color-field painters. Abstract painting of the nineteen-sixties is, therefore, represented here in force.

The many other movements of the nineteen-sixties—op, pop and their various amalgams and offshoots, and even the revival of realist painting—are also here, though not always with the best examples. The basic eclecticism of the collection becomes a bit weary as we approach the present, but that perhaps is more a problem for the future than for the moment. The Hirshhorn collection is surely not the only one to suffer at times for an excess of hospitality to the going thing.

And this is, in any case, only a minor criticism. This exhibition marks the beginning after all and not the end of what promises to be a major enterprise.

Mr. Hirshhorn's magnificent gift to the nation is unlikely to be equaled in our lifetime. He has given us a great collection, and Washington has responded to the challenge—and the opportunity—with a rare combination of intelligence and vision. Bravo!

[From the Christian Science Monitor, Oct. 4, 1974]

Museum on the Mall—United States Becomes a Patron of Art

(By William Marlin)

Washington.—William Schuman, the composer, has done a fanfare for it.

Abrams, the publisher, has done a book about it—a back-breakingly huge one.

And chichi parties have been going on for days.

What is all the fuss about?

The fuss is about the new Hirshhorn Museum and Sculpture Garden, located on the Washington Mall across from the National Archives, which opens this morning to (at last) the people who paid for it—the public.

This incredible collection, made up of some 4,000 paintings and 2,000 sculptures, was put together over a 40-year period by Joseph H. Hirshhorn, the uranium magnate, and presented to the people of the United States in 1966 at the behest of S. Dillion Ripley, secretary of the Smithsonian Institution, with some additional lapel-pulling by President Lyndon B. Johnson.

The same year, Congress authorized funds for a site and structure to contain the collection which is, beyond all doubt, about the most triumphant and telling array of contemporary creativity that we have seen assembled in one place. Over 900 works compose the inaugural show, which runs to mid-September of 1975.

Mr. Hirshhorn, who was born in Latvia and came to the United States in 1905, developed a boyhood love for art by hanging reproductions of paintings, taken from insurance company calendars, on his bedroom wall. This led his collecting, as a young Wall Street broker, the cloyingly sentimental canvases of the so-called Salon School which, by the 1930's, gave way to Monet, Cezanne, Degas, Renoir, Chagall, Matisse, Picasso, Rodin, and, by the 1940's, to just about everyone else besides.

Consciously eclectic, the collection exhibits a powerful faith in the power of art to improve human outlook—faith barely tempered, fortunately, by Mr. Hirshhorn's fervor.

What tempering has taken place fell to Abram Lerner, his long-time curator and now director of the new museum. Working together, they have created a chronologically rich composite of the trends and techniques of art over the last hundred years. And it is really fun.

The container of this collection was designed by architect Gordon Bunshaft of the New York office of Skidmore, Owings & Merrill, who also designed the Johnson Library at the University of Texas in Austin.

The museum building is an 82-foot-high structure. In many respects, it looks like a mammoth sculpture by Henry Moore but is actually a great big doughnut of reinforced concrete, sugared with an aggregate of swenson pink granite.

The doughnut is 231 feet in diameter, overall, while the doughnut hole is 115 feet in diameter. This inner court contains a 60-foot-diameter fountain.

The exterior surface is uninterrupted except for a 70-foot-long balcony and window on the third floor, which overlook the beautiful sculpture garden and the mall beyond. It is on the third and the second floors that works from the collections are exhibited.

The interior surface is all windows and on both exhibition levels one can look out into the court and across to intriguing glimpses of other parts of the galleries. The main problem presented by so much glass is, of course, the light, which can be harmful to paintings. As a result heavy curtains were decreed by the curators as a compromise with the architecture; sculpture is shown in what is called here the "ambulatory," running concentrically to the interior glass wall; paintings are shown in a second concentric space, more recessed and away from the daylight.

The fourth floor consists of administrative offices, a library, and a vast area for the storage and study of paintings, which are mounted on huge panels that can be pulled out individually, rather like file cards on a huge Rolodex.

The three upper levels are lifted above the first on four curved concrete piers, which, looking a little like truncated Brancusi's, support two concrete girders that are cantilevered from the inner and outer edges of the piers. These lift the whole mass to a height of 14 feet.

As a result, the museum gives the impression of hovering above this lobby level in which the inner court and outer plaza flow together, all studded with assorted sculptural quixotica.

Lighted at night, the sight is quite breathtaking—the splash of the fountain, the hovering structural mass, and on the third level that slice of glass shedding a hint of life inside.

It could be a Martian spacecraft to the unknowing after-dark pedestrian.

The most successful aspect of this project is not what hovers but the sunken, 1.3-acre sculpture garden just north of the museum. It is successful because it is sunken. Its many levels, encrusted with 75 important sculptures, create a humane and textured ambience.

The museum itself creates a kind of visual tumult on the mall, muscling its rotund self into view, but the garden, with its intimate groupings of benches and simple reflecting pool, creates a kind of tranquility—one enhanced by such magnificent works as Rodin's "Burghers of Calais" and Henry Moore's "King and Queen."

The tops of nearby buildings are seen above its walls and plantings, providing a sense of relationship to the surrounding area of the capital.

The critic is continually reminded that Mr. Banshaft has done his work; it is there. And we can ruminate over what riches it contains far more gladly than fulminate against its rude look-at-me manners.

[From the Los Angeles Times, Oct. 6, 1974]

The Hirshhorn Museum: Capital Plays Catch-up

(By Henry J. Seldis)

Washington.—With this week's opening of the Hirshhorn Museum and Sculpure Garden, the nation's capital has caught up to the country's major art centers. Going back nearly 100 years and encompassing almost every aspect of contemporary American and European art, the 900 works shown in the inaugural exhibition are a tribute not only to Joseph H. Hirshhorn's life-long love affair with art and its creators but also a rebuff to those who made unjustified criticism of this magnificent gift to the nation.

The opening exhibition of 900 works installed in the controversial circular building and sculpture garden, near the quaint Victorian headquarters of the Smithsonian Institution which will administer the new art museum complex, comprises less than a sixth of Hirshhorn's total gift. The inaugural exhibition tends to minimize the eclecticism of his entire collection in favor of largely mainstream works that demonstrate a catholicity of taste not only in the irrepressible collector's top choices but those of director Abram Lerner and his staff, who have come up with the most exciting and evocative juxtaposition of modern art this city has ever seen.

Gordon Bunshaft's much criticized building itself has dynamic sculptural qualities which underline the emphasis on sculpture of all sizes found throughout the collection. It functions beautifully as an exhibition space, although the useless, ugly slit-like window and balcony area facing the mall appears as menacing from the outside as it is gracious in its interior.

Those cities—Beverly Hills first among them—whose shortsightedness led them to refuse the offer of this distinctive and distinguished collection and those congressmen whose carping allowed nine years to elapse between the nation's acceptance of the Hirshhorn gift and the completion of the astonishingly successful museum, failed to understand the extent and the depth of this truly extraordinary collection, the maintenance of which will be a drop in the bucket when it comes to the huge annual federal budget or even the expenditures necessary to carry on the widely flung activities of the Smithsonian.

Neither the venerable Corcoran Gallery, *dedicated as it* has always been in part to contemporary art, nor the National Collection of Fine Arts which has lately delved more into 20th-century American art, can compete with the Hirshhorn Museum and Sculpture Garden, although they might well complement some of it. And it is to be hoped that the contemporary works that will fill the huge new addition of the National Gallery will be chosen in a deliberate manner to fill the gaps that do exist in the Hirshhorn collection. Then having available the older treasures of the National Gallery, the exquisite Oriental works in the Freer gallery, the art treasures contained in the Phillips collection and at Dumbarton Oaks along with the museums already mentioned, the nation's political center will be moving very close to becoming the country's second most important art center, next to New York.

The inaugural exhibition within Bunshaft's controversial building opens with some truly outstanding works of the 19th century, including some of the most moving paintings of the museum's unmatched assemblage of paintings and sculptures of Thomas Eakins, Whistler's magnificent "Girl in Black" and one of the least eccentric and most moving works by Louis Eilshemius, that offbeat genius who has so long been a favorite of Joe Hirshhorn.

We are then presented with an incredibly subtle installation of sculpture, ranging from the academic work of 19-century artist Jean Baptiste Carpeaux to pieces by Modigliani and Brancusi, who were among the iconoclasts that completely altered sculpture irrevocably.

One's first exhaustive and exhausting visit to the museum produces an overall effect of a successful attempt to demonstrate how important and widely recognized European and American artists have influenced each other while at the same time accentuating the donor's special attraction to sculpture and American painting. Although a recital of even the highlights found on the three circular gallery floors would become tedious, there is sufficient evidence here to demonstrate that for most of his 40 years of collecting Hirshhorn was drawn to deeply emotive rather than "cool" works and that he deliberately and repeatedly supported artists who had been bypassed by the ever changing art fashions.

Once the year-long opening exhibition comes to a close, Lerner, aided by former LACMA curator Charles Millard as chief curator and his staff, might allow us a look at one-man shows by artists in the vast collection of 4,000 paintings and 2,000 sculptures that still need to be more widely noted or even to be discovered.

No doubt, there are a good number of mediocre works on view, but to cull the collection for only so-called mainstream artists would have been to deny the character of Hirshhorn's art-buying forays, which were often as impulsive as they were audacious.

While the inner core of the upperstory galleries contain amazing juxtapositions of paintings from Sargent to Warhol, the periphery is set aside for smaller sculptures, including some brilliant clusters of works by Daumier, Nadelman, Brancusi and Giacometti. But nearly everywhere you will find names not nearly so well known.

Although there are obvious lacunae in the collection, notably when it comes to abstract expressionism (with the exception of De Kooning) and pop art, there is an emphasis on constructivist and kinetic works—a huge red blade sculpture by George Rickey stands in front of the building—which comes as a counterpoint to the basically emotive tenor of the over $100 million collection.

Rodin, Rosso, Matisse, Maillol, Miro, Nadelmon, LaChaise Calder and Giacometti are found in abundance inside and outside the building, but there are also works of consequence by such younger artists as Mark di Suvero, Robert Graham, Jack Zajac and Kenneth Snelson.

Although there is a respectable body of European canvases on view, the emphasis is definitely on American painters from the early 19th century to the very last monent.

From Eakins and Innes; to the Eight, the Ashcan school and an astonishing group of Arthur B. Davies to excellent examples of Dove, Dibenkorn, Gatch, Francis, Rothko, Reinhardt, Hopper, Johns, Kelly, De Kooning and Lichtenstein, we find luminaries along with painters like Adja Yunkers, Joseph Stella, Nathan Oliveira, Yasuo Kuniyoshi, Walt Kuhn, Gabriel Kohn, Philip Evergood, Preston Dickinson, Irving Block and Eugene Berman, who have either been forgotten or were never properly remembered.

While significant monumental sculptures surround the building itself, its adjoining sculpture garden—which can be reached by a subterranean passage or by crossing the street—contains such great examples of 20th-century sculpture as Rodin's "Burghers of Calais" and the large Balzac (another cast of which will soon stand in front of the County Museum of Art), a magnificent selection of Moores, Giacomettis, top works of Wotruba, Lipchitz, Picasso, Calder, Gio Pomodoro, David Smith and Eduardo Chillida.

But both the rectangular reflecting pool here and the "Lake Geneva" jet-type fountain in the center of the building's courtyard seem hackneyed and oblivious of all the stimulating water sculpture being created today. Here we have an unfortunate relationship of this new controversial complex to the banal government buildings all around.

Far too much has been made about the fact that the building bears the donor's name and its director has been his longtime curator. In the first instance, there is the Freer Museum nearby, publicly administered, which also bears its donor's name. Secondly, Lerner probably is the only person around who knows all of Hirshhorn's collection intimately and has long shown his capability as a curator and administrator.

Nor is it seemly to be overly suspicious of how Joseph H. Hirshhorn acquired his enormous wealth since great art patrons from the Medicis on to the Mellons have hardly ever had their gift horse looked in the mouth in such an inimical fashion.

Having known Joe Hirshhorn for more than 10 years, talked about his collecting at length with him; having joined him on frantic art-buying forays and having talked to many artists who have benefited from his patronage, just as dealers have suffered from his tough bargaining. I am convinced that the nation has received a magnificent gift of which its capital may well be proud.

Remembering his poverty-stricken youth, Hirshhorn would sometimes tell friends, "I used to eat garbage, Kid." If there are clunkers in his vast gift its masterpieces make up for it amply. There is no garbage here and once the nation's public streams through the museum, one would hope that the bickering would stop. Granted Bunshaft did not create a building of great architectural distinction but he did not give us a monstrosity either, as some critics have claimed.

There is an abundance of beauty and stimulation in the new Hirshhorn Museum and Sculpture Garden and at least the architecture serves it well.

When all is said and done, the nation owes Joe Hirshhorn genuine thanks, especially since he added $1 million to the government's $15 million appropriation for the museum construction.

[From the National Observer, Oct. 12, 1974]

A BAGFUL OF "INSPIRED GREED"

(By Bill Marvel)

Monday the press came and stayed all day, sipping drinks, munching *hors d'oeuvres* and wandering from gallery to gallery. Tuesday evening members of Congress and of the Cabinet and other political VIPs filled the place for formal opening ceremonies. Wednesday evening it was the art crowd—artists, dealers, critics, museum directors. Thursday there were two receptions for members of the Smithsonian Associates. And Friday the new Hirshhorn Museum and Sculpture Garden—in effect, the first national museum of modern art—opened its doors to the public, admission free.

The week-long round of celebrations was remarkable even by the standards of this party-throwing town. And it was all justified. The new building, right on the Mall about midway between the Capitol and the Washington Monument, is imposing, even formidable, and the paintings and sculpture on display and stacked away in the cavernoust store rooms—about 6,000 works in all—constitute one of the most impressive private collections of art ever to be made public.

The collection is the gift of Joseph H. Hirshhorn, 75, a Latvian-born immigrant who made millions in the stock market and in Canadian uranium mines. The diminutive Hirshhorn (he's 5 feet, 4 inches) began buying art 40 years ago, and he has put together three separate collections, each time disposing of one as he began another. Nineteenth Century salon painting first attracted his eye. Then he became acquainted with the Impressionists and bought Renoirs, Matisses, Cezannes, and Rouaults by the score. Finally he started on the collection now housed in the new museum, a huge concrete cylinder built for $16 million as the Government's part of the bargain with the collector.

The building, designed by Gordon Bunshaft of Skidmore Owings Merrill, is faced with featureless pink granite and rests upon four enormous piers. It is pierced by a circular inner court, suggesting something like a huge concrete bagel. A slitlike row of windows looks out over the Mall, presenting an aspect more appropriate to the Maginot Line than to a public space. Moreover, the Hirshhorn has been rather uneasily situated between the towers and spires of the Smithsonian's red-brick-castle headquarters and the new factorylike aerospace museum. Inside, however, the intimidation eases and the Hirshhorn becomes downright cozy.

THE HIRSHHORN MONUMENT

Perhaps the resemblance to a fort or a turret was intended: The museum has been embattled practically from the moment in 1966 when Hirshhorn offered his collection to the public. During congressional hearings questions were raised about the collector's character (allegations of stock manipulation and currency smuggling in Canada), about the quality of his collection, and about the propriety of enshrining one man's esthetic taste on the sacred grounds of the Mall, where, critics asserted, only George Washington's monument and Abraham Lincoln's memorial honor individuals. The critics forgot the nearby Freer Gallery, housing the art collection of Charles Lang Freer, and the Smithsonian itself, named after Englishman James Smithson.

But in the end the collection was too important for Washington to lose. It had been sought by London, Zurich, Florence, Tel Aviv, and by Gov. Nelson A. Rockefeller for the state of New York. Nobody knows exactly how many works are included in Hirshhorn's gift because there has never been a complete catalog of his holdings. Expert evaluation of the collection's quality will probably have to wait for several years, until more of the works have been seen by scholars (only about 900 are on exhibit in the inaugural show). For years most of the paintings and sculpture were crated away in warehouses or stuck into some corner of Hirshhorn's various apartments and offices, seen only occasionally by the collector himself or his curator, Abram Lerner, who has become director of the new museum.

GAPS AND STRENGTHS

Based on the opening show, which will run for a year, it appears to be just the kind of collection one would expect from a man with an "inspired greed" for art, as Lerner describes his boss. There are strange gaps—the classic phase of cubism is represented only by sculpture, not by paintings and unexpected strengths.

The late Nineteenth and early Twentieth centuries of American art are particularly well represented—by more than a dozen painted portraits and bronze reliefs by Thomas Eakins, for example, and by samples of the American impressionism of Maurice Prendergast, William Merritt Chase, and Childe Hassam. Within the larger collection there are minicollections, groups of works by artists in whom Hirshhorn has taken a special interest. The career of Arshille Gorky is followed from early portraits to the final abstract paintings, with their cellular forms and suggestion of the action painting to come. Similarly, changes in Willem de Kooning's style over 20 years can be followed from the almost overly elegant draftsmanship and delicate pastel colors of *Queen of Hearts* to the nearly murderously violent brushwork and crimson hues of *Woman, Sag Harbor*. And there is an entire gallery full of paintings and sculpture by Albert Giacometti, including not only the cinderlike stick figures usually associated with this artist, but earlier, more full-bodied works that reveal his debt to the surrealists.

NO ENCYCLOPEDIC SURVEY

Unfortunately—in painting, anyway—some of the collection's weaknesses are as glaring as its strengths. Among the generally excellent abstract expressionist paintings of de Kooning. Franz Kline, Mark Rothko, and other action painters, Jackson Pollock is represented by three inferior works, only one of which shows his famous dribble style. Although there is a large, handsome tryptich by pop artist Roy Lichtenstein, *Modern Painting with Clef*, and a Warhol canvas bearing the repeated imprint of the famous Marilyn Monroe smile, Claes Oldenburg is not present at all and, in fact, the collection is short on "hard-core" pop art. And while the color-field painters and op artists are well sampled, minimal art is barely present in a single work by Donald Judd.

The collection's long suit is sculpture, both the monumental outdoor pieces that fill the sculpture garden and more intimate works—gem after gem—arranged in the museum's inner circle of galleries. Among the numerous works by Henry Moore, *King and Queen*, in which the couple is seated on a bench, looking at once very regal and very human, is outstanding. The centerpiece of the garden, however, is Rodin's *Burghers of Calais*. It is difficult to realize now how the mixture of fear, grief, and determination expressed in those six figures so affronted an age used to the empty, heroic gesture in its public statuary.

It will be years before Washington, the art world, and the rest of the nation can properly assess what it has received in the Hirshhorn collection. In the meantime there is more than enough to keep the celebration going for a long time.

[From the Washington Star-News, Oct. 15, 1974]

JOE'S PLACE

We were eager for the last of the first to explore the wonders of the Joseph H. Hirshhorn Museum and Sculpture Garden to finish exploring them, and have their say. And once they had departed—the captains, kings and critics—we were ready to step in there with our devastating layman's eye for art and tell it like it really is.

Well, we've seen it now. And we're in love with it. It's exciting, it's full of old friends and many new ones that we hadn't had the pleasure of meeting before, and it's, above all, great fun.

First off, Gordon Bunshaft's building, the so-called "great doughnut," is not a doughnut at all, or even a great oil tank, as it has been described. Instead, for all the austerity of its stone, it reminds us of a prairie water tank in which an enterprising kid is invited to splash around on a summer's day. The problem, of course, is getting inside, and here the planners have cleverly contrived to scatter such riches of sculpture *outdoors* that it takes an extraordinary act of will to quit them for the indoor blandishments of Eakins, Hopper, Benton, Matisse, Gorky, Pollock and the like.

What's so great outdoors? Well, everyone will have his favorites, but ours include among Henry Moore's pinheads his seated "King and Queen," serenely resigned to their eminence; and Bourdelle's "Great Warrior of Montauban" with the shadow of that huge, spread-fingered left hand thrown against the pebbled wall behind it by the afternoon sun; and Manzu's pubescent "Young Girl on a Chair," her eyes half closed against the sun to which her face is slightly raised. All this would be lost indoors.

The same goes for Marino Marini's spread-eagled "Horse and Rider," the starved horse's legs splayed out in the same arrested fashion as the truncated arms of the round-eyed, naked, idiot rider, and both of them with heads thrown back as if transfixed by some blinding celestial sign.

All this sculpture, a vast display of bronze and steel and stone, is only a third of the whole collection. Another thousand pieces are still to be shown, along with hundreds of paintings still stored on the fourth floor.

What gets us is how those who accuse Joe Hirshhorn of avarice, along with various lesser sins, have missed the central point: The man has taste, and humor, and a strong affection for each of his "children," even for those in the begetting of which he may have been bamboozled. The collection is singularly his, and whatever selfish motives may have contributed to his decision to give it all away to the Nation's Capital, we suspect the chief one was simply that it is all out of that Manhattan warehouse now and in a place where he can enjoy it along with the rest of us. It will be difficult to go there now without bumping into Joe.

While splashing around inside the water tank, we came upon Giacometti's bronze, scruffy, insoucient "Dog," looking somewhat smaller than we had expected, but going steadfast on its way, recalling the last lines of the poem that Robert Wallace wrote to this same sad mutt:

. . . It's not this starved hound,
but Giacometti seeing
him we see.
We'll stand in line all day
to see one man
love anything enough.

Which, in the context of the museum which now so rightly bears its affectionate benefactor's name, is exactly how we feel.

[From the New Yorker, Nov. 4, 1974]

THE ART WORLD

(By Harold Rosenberg)

The art world today has an accumulated social energy distinct from the energy of art—a reservoir that maintains itself by means of public occasions and spectacular events; for example, new record-breaking prices. The prime art event of all time, according to the press, was the formal opening(s) on October 1st, 2nd, and 3rd of the Hirshhorn Museum and Sculpture Garden, on the Mall, in Washington. By official count, the collection Joseph H. Hirshhorn has given to the nation includes six thousand paintings and sculptures (Hirshhorn himself says sixty-five hundred); the Museum of Modern Art owns only three thousand. The inaugural exhibition, which consists of eight hundred and fifty "highlights" of the collection, will continue through September 15th of next year. On the first night, dedicated to official Washington, two thousand invited guests crowded the massive circular concrete building, like an illuminated babka, whose ponderous effect was dissolved for the evening by champagne and cookies, theatrical lighting, and the play of fountains and high winds. Next came the Night of the Art World, a gala even greater than the political opening; the attendance, no longer primarily Washingtonian but drawn by a mysterious collective impulse of artists, dealers, and "friends of the arts" from all corners of the nation, was estimated to be four thousand. The festivities closed the following day with two receptions by "Smithsonian Associates."

The Grand Opening of the museum made possible by Uncle Joe (the press passed on to the Latvian-born millionaire its old nickname for Joseph Stalin) marked a new phase in the public status of modern art in the United States. Canvases by Dove, Diller, de Kooning, Ernst, Brandt—to pick names at random—became art "of all the people" (the phrase Presidential candidates like to apply to themselves), not only of the aesthetic (elite of New York, Chicago, and Los Angeles). Works ranging from Mel Ramos's "Kar Kween," a painting of a provocative Playboy sort of nude nuzzling a giant sparkplug, to Ad Reinhardt's tiresome twenty-foot-long red canvas are now the property of the federal government, like the White House and the B-52s, and officially featured in the city where not so long ago Congressman Dondero was declaiming that modern art is part of the Communist Conspiracy, proved by the strategic role in it of Wassily Kandinsky, a Russian! It must have been this radical transformation of status that prompted Caryl P. Haskins, of the Smithsonian Board of Regents, to characterize the opening of the Hirshhorn Museum as "a quantum leap for the Capital."

Congressman Dondero, wherever he now is, might take comfort in the fact that there are no Kandinskys in the Hirshhorn exhibition, and no Lissitzkys, Larionovs, or Goncharovas, either, though Gabo and Pevsner are on hand. For that matter, however, there are other omissions: no Juan Gris, no Metzinger, no Lhote, no James Brooks, no Ibram Lassaw, and—one could go on—no paintings by Braque, though there are three small bronzes of his. The essential characteristic of Hirshhorn's mammoth gift is the prevalence of what museum people call "gaps": for all the eight hundred and fifty items in the inaugural show, it is as porous as a moth-eaten blanket in respect to both art-historical coverage and qualitative texture. It is not only that "names" are missing; it is that at every step the spectator is in danger of falling from a height of modernist creation (the roomful of Giacomettis, say) into a crevasse of dullness or eccentricity. This unevenness derives directly from the size of the collection and the way it was put together. The lower down a collector goes on the scale of reputations, the more artists he assembles and the larger the number he leaves out. Hirshhorn bought without consulting experts; as he says, he made plenty of mistakes, and "you can't win 'em all." In compensation, the unevenness of the display allows the spectator to exercise his own judgment and prejudices, as Hirshhorn himself did in building his collection. In this museum, no visitor has any reason to feel overawed by authority. There is an impressive number of modern masterworks—from Rodin's "Balzac" and "The Burghers of Calais" to Lipchitz's "Figure" and "Reclining Nude with Guitar," and what amounts to an important exhibition of Matisse's sculpture. But there is no sign of a guiding principle or of a consistent personal taste. The greatness of the collection lies in its being the most, and a lot of the best, but it is not the best.

Washington should be pleased that its new art collection, for all its modernism, is in the American tradition of the gratuitous undertaking of the self-made millionaire. Joseph Hirshhorn brings to mind the nineteenth-century builders of mansions whose endless rooms were stuffed with canvases and statuary. (One Midwesterner I recall commissioned Italian stone carvers to produce an Eden of life-size portraits in concrete of himself and his wife, in poses representing successive phases of their lives.) The Hirshhorn Collection is stocked like the warehouse of an odd-lots buyer. But Hirshhorn differs from his voracious predecessors in that he operated in and through the art world; he confined his buying to artists with at least a minimum of professional standing. Not many visitors to the museum (or "the Hirshhorn," as S. Dillon Ripley, Secretary of the Smithsonian Institution, affectionately personifies it) will identify Yun Gee, Peter Golfinopoulos, Emile Gilioli, or Gregory Gillespie—to pick artists whose surnames begin with the same letter—but Hirshhorn found each of them in a prominent New York gallery. His collecting shows a respect beyond personal whim for the objective life of art. Yet his forty-year persistence in looking, learning, and acquiring was rooted in his deepest feeling: having begun by collecting European Salon painters of the last century, such as Bouguereau and Landseer, who for so many of his generation represented Art, he soon discovered that works in modernist modes had an affinity with something essential in himself, or with the semblance of a self he could recognize. Thus, art collecting was for him a means of self-discovery as well as of self-expansion—a motive no longer common in a period when art collectors tend to evolve rapidly into specialists.

Hirshhorn bought art not as a connoisseur or art historian or under the advice of connoisseurs. Abram Lerner, for twenty years Hirshhorn's private curator and now director of the museum, testifies in the eight-hundred-page illustrated Inaugural Book/Catalogue issued in connection with the exhibition (Abrams) that Hirshhorn did all the choosing himself and that "expert advice seemed to turn him off." This speculator on Wall Street and in mining properties felt no impulse to win profits in art, although he was no Maecenas, either, and, as happens to most big art collectors, he has been denounced by some as a bargain hunter. Lacking a point of view, Hirshhorn was guided in his buying by the general rise and fall of art-world voices in the four decades of his collecting: he bought art as if he had been chosen by chance from the midst of everybody interested in art in America. The Hirshhorn is an expression of the changing mind of the art world—if the art world can be said to have a mind. To this collective thinking he contributed an untiring enthusiasm capable of transmitting itself to those who visit his museum.

Neither a refined pursuer of the best nor a patron of artists, Hirshhorn is not an art lover, either. Rarely aroused by prolonged gazing at particular works, he has been moved, rather, by the desire to swell his collection toward all-inclusiveness—a kind of sea-to-shining-sea impulse. He bought art by the armful; tales about him stress the speed of his selecting ("I'll take these, that, that, and that"), his baroque price-cutting techniques, his quick departures. Lerner remarks, "The purchase of a Winslow Homer would be followed by the acquisition of a David Smith, sometimes on the very same day." His passion for art was generalized, and, like the passion of Don Juan, it was an excitement blended with the passion for rolling up a record list. For this diminutive art chaser, to hear a work praised was to covet it. Lerner speaks of his patron's "inspired greed." Besides the sixty-five hundred works given to the museum Hirshhorn now owns, he told me, another sixty-five hundred, and he is still collecting: the large iron-plate Nakian, "The Rape of Lucrece," displayed near the entrance of the sculpture garden, was acquired a very short while ago, apparently too late to be listed in the catalogue.

In his obsessive piling up of paintings and sculptures, Hirshhorn has performed a feat of prime significance: through his consuming interest in artists and objects he has transcended the ideologies that have ruled art throughout this century. One is tempted to dub him a folk collector, by analogy with the folk artist. Though Lerner speaks of "our determination to retain the historicity of artistic production," Hirshhorn's collection shows no effort to establish the interlacing of ideas and styles cherished by art-history-trained curators. Had he been more respectful of the critical dogmas current during the many years of his acquisition, his collection could never have achieved its present range: the taste of the nineteen-fifties, for example, might have deprived it of Reginald Marsh, Raphael Soyer, Jack Levine; attention to the polemics of the nineteen-sixties would have resulted in fewer de Koonings and many more Frankenthalers and Olitskis.

Responsive to diverse currents of persuasion and free of stylistic inhibitions, the Hirshhorn Collection reflects the art of our era with the neutrality of time itself; Hirshhorn's wholesale choosing comes as close as possible to no choosing at all. The museum is equally hospitable to a loaf of Italian bread painted blue by Man Ray, a seascape by Rockwell Kent, Warhol's silk-screened lips of Marilyn Monroe, Manzù's cardinal. Hirshhorn collected some artists "in depth;" one is left to wonder on what basis. The catalogue lists fourteen bronzes by Degas but no paintings; fifteen bronzes by Matisse, one terra-cotta, no paintings; twenty-four Daumier bronzes, no paintings or drawings; eighteen David Smiths; nineteen Henry Moores; eighteen Giacomettis; thirteen Rodins; twelve Manzùs; ten de Koonings; seven Cornell boxes and three of his collages—tidy little one-man shows of typical and offbeat works.

To me, however, the most enlightening, as well as the most stimulating aspect of the collection is its store of transitional and tentative creations by artists who have been much shown and of whom stereotypes have by now been formed in the public consciousness. The large Rothko "No. 24," of 1949, is a lively precursor of the suspended rectangular color masses on which this artist played variations (some four hundred of them, according to testimony in the current Rothko trial) during the two succeeding decades. Albers' glass assemblages of the nineteen-twenties and his oil painting "Proto-Form B" (1938) remind us that he was not always paying homage to the square. The tiny "Personage," by Gorky, a heavily painted abstraction in an inner painted frame, is a fully realized anticipation of his later style. Transitional creations such as these—Mondrain's "plus and minus" seascapes are others—are often more moving than the formats in which the artists came to rest, especially if one has seen examples of those formats over and over again, owing to the strategy of art dealers, publishers, and the artists themselves of strengthening aesthetic identities through repetition. Hirshhorn's atypical choices, to which his long-term buying has contributed, broaden an understanding of the artists and of how creation in art takes place.

Despite the division of the inaugural exhibition into time periods, in the mistaken notion that to bracket works together between pairs of dates is to place them in their "historical context," what comes through is a genuine sense of the art, great and small, of our lifetime—of art history as actual creative events instead of the winnowed formal specimens that preoccupy art dealers, museum staffs, and art classrooms. True art history is also served at the museum by the inclusion of marginal artists who figured importantly in the creative life of their time but have been ignored by historians who see only the publicized summits. Four paintings by Arthur B. Carles, particularly the beautifully toned white "Nude" done in 1922, and his Abstract Expressionist "Abstraction (Last Painting)," 1936–41, confirm his right to a place in the permanent gallery of modern American artists. Similarly, Earl Kerkam's self-portraits ought to be kept on display, as well as paintings by Eilshemius, who is perennially rediscovered but remains essentially invisible. Among the "finds" at the Hirshhorn are works belonging to the "earlier-than-you-think" category. For instance, Torres-Garcia's "Composition," of 1932, a canvas divided into rectangles, each of which contains a crude sign or emblem, looks forward to Gottlieb's pictographic paintings of fifteen years later, and one of Torres-Garcia's two 1931 wood constructions named "Untitled" might be mistaken for a Nevelson of the nineteen-fifties. The collection has room, too, for odd triumphs (the portrait in plaster of Hirshhorn by Pablo Serrano), for works in styles now abandoned by the artist (James Rosati's marble figure), for creations in exceptional moods (Edwin Dickinson's erotically opulent "Nude"), and for artists regarded abroad as vital in the art of our era but rarely seen in the United States (Medardo Rosso, admired by the Futurists).

Despite its great collections of modern art, the United States has no museum of twentieth-century American painting and sculpture comparable, say, to the museum of modern Italian art in Rome. Gaps granted, the Hirshhorn Collection comes close to supplying this lack; it does so all the more successfully because of the unexpectedness and unorthodoxy of many of its inclusions. To me, at any rate, its "substandard" and "nonrepresentative" items are among its most precious assets. Museums of modern art in this country have been far too devoted to instructing the public and not enough to showing pictures that spectators might like to see; perhaps this pedagogical impulse arose from the need of the museums to justify themselves as cultural education to a public reluctant to accept their contents as art. The low point was reached in the late nineteen-sixties, with exhibition after exhibition totally devoid of visual appeal and dependent for its interest on the context of formalistic discussion. Hirshhorn's massive collection of works chosen for their attractiveness is a dramatic counterstatement to this trend.

The future character of the Hirshhorn Museum depends on its ability to retain the advantages of the donor's nonprofessionalism. The overpowering impact of the Grand

Opening produced a momentary suspension of complaints about the contents of the museum, but even among its strongest supporters there was evidence of the embarrassment that can arise from art-historical habits: Lerner hastened to confess, in his introduction to the catalogue, that "the Hirshhorn Museum, like most other museums, has lacunae," and he anticipated that these "will be reduced in time." As could be expected, spectators soon voiced indignation at the presence of this or that artist and the absence of someone else. In the art world today, everyone is, or feels himself to be, the representative of beleaguered critical values, and under obligation to affirm his views. The time span of Hirshhorn's collection, begun in the nineteen-thirties, encompasses the prejudices, all the more cherished for being acquired with difficulty, of half a dozen aesthetically indoctrinated generations. If modern art is ideological, it is less intolerantly so than modern opinions about art. Were all still surviving views brought to bear on the Hirshhorn Collection, it would be sliced down to zero, leaving only debris to be cleared away by the Conceptualists.

The filling of "lacunae" by Hirshhorn and other donors that Lerner has promised is a happy prospect. But additions, with their requirements of space, almost inevitably necessitate purgings. If refining the Hirshhorn Collection is to entail the "de-accessioning" of the benefactor's "mistakes," I should prefer to see the inventory remain as it stands whenever Hirshhorn himself ceases to add to it. Since everything must in any case reach a limit, the limit of the Hirshhorn Museum may as well be the life, taste, and times of Joseph Hirshhorn.

"FACE THE NATION" TRANSCRIPT

Mr. ROBERT C. BYRD. Mr. President, on Sunday, October 20, I was interviewed on CBS' "Face the Nation." Panelists for the half-hour public affairs program were George Herman and Connie Chung, both of CBS News, and Martha Angle of the Washington Star-News.

I ask unanimous consent that the transcript of the program be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Transcript—"Face the Nation"

(As broadcast over the CBS Television Network and the CBS Radio Network)

Guest: Sen. Robert C. Byrd, Senate majority whip.

Reporters: George Herman, CBS News, Martha Angle, Washington Star-News, Connie Chung, CBS News.

Producer: Mary O. Yates.

Associate producer: Joan Spiegel.

Herman. Senator Byrd, you once recommended the nomination of Nelson Rockefeller as the vice presidential choice. If you had to vote on the subject tomorrow, would you vote for or against confirmation of Mr. Rockefeller?

Senator Byrd. I would vote for confirmation if I voted tomorrow.

Herman. And how would you reason that? You've been very critical of him.

Senator Byrd. Because I think he is a man who has great experience, tremendous ability, and he has had the opportunity to know the problems of governing. But there are many questions that remain to be answered. Hence, I would not want to vote on that confirmation tomorrow.

Announcer. From CBS News, Washington, a spontaneous and unrehearsed news interview on "Face the Nation," with Senate Majority Whip, Senator Robert Byrd, Democrat of West Virginia. Senator Byrd will be questioned by CBS News Correspondent Connie Chung; Martha Angle, Senate Reporter for the Washington Star-News; and CBS News Correspondent George Herman.

Herman. Senator Byrd, which do you think are the most important questions that need to be found out by the committees of the Congress, by the two houses, in deciding on the nomination of Nelson Rockefeller?

Senator Byrd. As of the moment, I should think that the questions with respect to the gifts and loans would be the more important.

Angle. Senator, are you in any way disturbed by the recent disclosures that Governor Rockefeller owes about 900,000 dollars in back taxes? That was quite a controversy when Richard Nixon owed about half that amount.

Senator Byrd. Yes. I think that if one looks at it objectively, I'm not really disturbed. But I think that on the surface, it has the appearance that will be somewhat damaging to his chances. Now when I say I'm not overly disturbed, as long as there is no evidence of the intent to defraud—this is something that happens to many taxpayers every day, and I think in the context of Mr. Rockefeller's having paid 21 million dollars in taxes over the same period, and also keeping in mind that this is an accumulative audit and one which was begun before he was nominated, I really don't think that too much weight ought to be given to it. However, it doesn't help him.

Chung. Now you said the gifts and the loans were—was one of the most important questions needed to be asked of Rockefeller. When the Senate Rules Committee first opened its hearings and Rockefeller appeared, as I understand it, each member did have a summary on those gifts; and the question is, why wasn't he asked specifically about the fifty thousand dollars to Kissinger, 550 thousand dollars to a man named Dr. William Ronan? Why wasn't he asked then, and why are the questions being raised now?

Senator Byrd. The overall picture with respect to Mr. Rockefeller's gifts and loans was not before the committee at that time, and still is not before the committee. The committee is still awaiting the complete report by the Joint Committee on Internal Revenue Taxation, and when that's in, then the committee will be ready to ask its questions. There are other investigations also going on.

Chung. But didn't the committee have a list—a list that Rockefeller submitted of gifts that he had made, including the fifty thousand dollars to Kissinger?

Senator Byrd. The Committee had a list, but it even yet doesn't have all of the information in connection with those gifts and loans that it needs. For example, the dates when the gifts were given, the circumstances under which they were given, how all of this fits into the New York conflict of interest laws—this information is still not before the committee, and probably won't be before it until we elicit the information through questions.

Chung. When the committee began those Senate—those Rules Committee hearings and Rockefeller appeared, though, did the committee have included in its FBI report the derogatory Goldberg book information—a summary of that at least also, so that why didn't that come up during the hearings—if the committee members did have access to that?

Senator Byrd. During the Ford hearings, if you remember, the FBI information was only available to the Chairman and to the ranking member, and the committee followed this same procedure during the Rockefeller hearings. So the full committee did not have access to this information.

Chung. Did you have a summary, though?

Senator Byrd. Did not have a summary. But I think we have to keep in mind that Mr. Rockefeller's hearings before the committee was not the alpha and the omega of Mr. Rockefeller's appearance, or his testimony. That was the opening session, and he was subject to recall; he is going to be recalled. At the time he was first heard, the committee was attempting to move to show that it was acting as expeditiously as possible, and hopefully to complete the hearings and action on the confirmation before the election. But the information is so massive, and so comprehensive, that it was evident that the hearings couldn't be closed finally at that time. And so at that time, we didn't have all of the information at our fingertips, and won't even when we hear him again. But it will be through the process of questioning that we will hope to elicit the information that will be necessary for his confirmation or rejection.

Herman. This leaves just a little bit of—I don't know whether you want to call it odium—or something, on the Chairman and the ranking member, that they had access to this information and didn't ask these questions. Do you think they just did not appreciate the importance of the matter, or did they have their own set of priorities, or why did they not attack such things which now loom so large?

Senator Byrd. I suppose there are hundreds and hundreds of pages of FBI testimony, and the questions that were asked, I think, went to the point of the things that were uppermost in the public mind at that time. But it takes more time to digest the FBI information, and of course the press has an obligation and it is performing a service in helping to bring out these matters. And many of those matters that have been brought out and which were in the FBI reports, I'm sure, were under investigation at the time, and are still under investigation, and were therefore not really subject to questioning by the Chairman and the ranking member at that time. After all, they have to wait also until the investigations are complete until they are ready to ask questions pertaining to material that was in the FBI reports.

Angle. Senator, do you think the committee should take a closer look at the activities of some other members of Rockefeller's family in view of the disclosures about the expenditures which Laurance Rockefeller made on his brother's political behalf, such as the Goldberg book?

Senator Byrd. I think the committee will certainly want to consider having Mr. Laurance Rockefeller appear before it. It ought to have Mr. Wells appear; it ought to have others of the principals who were involved in the publication and in the financing of the publication of the book.

Angle. Do you think that other recipients of gifts, such as Dr. Ronan or even Secretary of State Kissinger, should be asked to appear to explain their understanding of the motivation behind the gifts, the purposes to which they were—

Senator Byrd. Unquestionably, some of the recipients—at least some of the recipients of the gifts ought to be asked to appear.

Angle. Which ones?

Senator Byrd. In particular Dr. Ronan.

Herman. I would think that Mr. Rockefeller might feel that the timing has worked out very badly for him, perhaps deliberately on the part of the Democratic majority of the committee; the charges have appeared in the press, as he's pointed out. And you had a couple of days; I suppose you—the committee could've had him back to at least make a statement to answer the charges that appeared in the press, and instead you've gone off into recess.

Senator Byrd. Mr. Rockefeller has had an opportunity to answer; he has made available the information to the press with respect to his charities, with respect to—

HERMAN. Is that adequate—to use the press as a forum rather than going back before the committee, do you think?

Senator BYRD. Well, it certainly serves the purpose of informing the people as to his side of the matter. He will have his chance to get back before the committee in ample time before any action is taken on the confirmation.

CHUNG. But will you admit, though, that the timing will work against him? In other words, there is an entire month before he will be called before the committee, and unless he *takes it* upon himself, of course, to come forward and try to explain everything—that in his mind the proper forum is before the Senate Rules Committee. Is it not true that the timing might work against him and—in this respect, Republican charges that the Democrats are playing politics with his nomination might be justified?

Senator BYRD. I think that such Republican charges could be expected in the context of this period. They're unjustified. I don't think the timing works against him. I think we—we're not investigating just the ordinary private citizen here. We're investigating a man whose wealth is beyond the comprehension of most people, and it takes time to conduct a thorough investigation. We have that responsibility, because we stand in the place of 220 million people in passing upon this man's nomination. It takes time, and we ought to take whatever time is necessary, and not make too much haste.

CHUNG. Since it does take time, why did the Senate Rules Committee rush into the hearings in the beginning? On the House side, the House Judiciary Committee has not begun hearings, and it's been under criticism for not beginning its hearings——

Senator BYRD. The Senate Rules Committee didn't rush into hearings.

CHUNG. But you had just said that they didn't—you didn't have all the information.

Senator BYRD. We didn't have all the information. Had we waited until we had all the information, we wouldn't have had a hearing yet.

HERMAN. It takes time and it takes continuity to carry out an investigation. Do you think that it is wise, that it is fortunate, that it is good for the country that Leon Jaworski has resigned before all of the results of his investigations are complete or turned over to the Congress and the public?

Senator BYRD. I was disappointed that Mr. Jaworski chose to resign at this time. I think he has done a tremendous job, and he is to be highly commended, but I had hoped and certainly would have hoped that he would have stayed on until the final report was submitted to Congress.

ANGLE. Senator, have you and other members of your committee been able to work out an accommodation with Mr. Jaworski about the contents of that file report? I know that you among others had asked that he include an accounting of former President Nixon's role in Watergate, and he had said he didn't have the authority to do that.

Senator BYRD. He had said on a tentative basis that he didn't think the authority was there, but continuing—subsequent correspondence I think has indicated that that still is under consideration, and there are indications that the information the committee thinks it ought to have, and the original intent of the committee to have the information bearing upon Mr. Nixon's possible involvment, will be included in the report.

ANGLE. Who is going to be left to write the report now? His successor?

Senator BYRD. Hopefully, his deputy Mr. Ruth. I would hope that the Attorney General and the President would name Mr. Ruth to be his successor.

CHUNG. Senator, there are some who are spelling disaster for the Republicans in the November elections. What do you see as the outcome? How many seats do you see the Democrats winning in the House and in the Senate?

Senator BYRD. I shouldn't get into a numbers game, but the Democrats will pick up in the House and the Senate and in the governorships. I would suggest that probably from two to half a dozen seats in the Senate, and the governorships, the Democrats already have 32 out of the 50, and I should think that they ought to make that three dozen or more.

ANGLE. Will this result in what some have called a veto-proof congress, a congress that can override—

Senator BYRD. Of course not. That's a bug-a-boo, that's a straw man that's intended to be put up and not knocked down. There is no such thing, practically speaking, as a veto-proof congress. In the 86th Congress, under Mr. Eisenhower, the Senate only lacked two of having a nominal two-thirds majority. The House of Representatives only lacked eight in having a nominal two-thirds majority, and yet Mr. Eisenhower in those two years, my first two years in the Senate, 1959 and 1960, vetoed 44 bills and only two of them were overridden.

HERMAN. But in some recent vetoes in the House of Representatives, they were within just a few votes, two votes, I believe, of overriding a veto. Are you saying that if there is a massive change that they will still be just two votes short of overriding a veto?

Senator BYRD. I am saying that practically speaking, a veto-proof congress is a myth. We've heard a lot about myths recently, and that is a myth. Now if the American people were to elect 435 Democrats to the House and 100 Democrats to the Senate, and of course with only one-third of the Senate up for election, that's not possible at any one time—then it's possible that there could be a veto-proof congress, but that is truly a figment of the imagination. It depends upon the issue.

ANGLE. Well, one of the big issues that you will be facing after the election recess is the economy and President Ford's proposals to deal with it. The most controversial of those proposals involves a five percent surtax, and I was wondering what your estimate is of the chances that that will be approved by Congress.

Senator BYRD. I don't think there is any possibility that it will be approved whether or not the Democrats in Congress pick up a single seat in either House.

HERMAN. Not approved in any form?

ANGLE. In no form?

Senator BYRD. I don't think that it will be approved in the form that was suggested by Mr. Ford.

ANGLE. Can you see some kind of compromise, other than——

Senator BYRD. I can see the possibility, certainly, and the worth of consideration of a surtax that is graduated, but not one that begins with the single person, who earns $7,500 a year, and the family that earns $15,000 a year. These are people who have been paying the bills all along. They are the people who need relief.

HERMAN. Both you and Mr. Ullman have suggested that the proper level might be $25,000, and that you might be able to accept and to get a majority to pass that. Now how does that stand?

Senator BYRD. I've suggested $25,000 or $30,000, and even there I'm not saying it ought to be five percent at the beginning. It maybe ought to be two percent, three percent, four percent, or five percent. This ought to be considered. But as it goes up, and I think there ought to be a graduation upward, so that it could go up to nine, ten, 12 percent on the very very high income.

HERMAN. But those are the people who pay almost no taxes, aren't they, for whom a surtax is meaningless.

Senator BYRD. Well, that's why it ought to be graduated upward to where it will mean something to them.

HERMAN. What I'm saying is that the surtax on top of the tax that they already pay, and all the evidence shows that people in very high salary, very high income levels pay almost no tax, because they have so many loopholes available to them.

Senator BYRD. Yes, but that ought to be cured also. But to begin it at the level that has been suggested to Mr. Ford, is totally unrealistic and it's cruel.

CHUNG. What about aid to the unemployed? How do you see that working out within the——

Senator BYRD. I think that Mr. Ford's suggestion with respect to an expansion and extension of the unemployment compensation is a worthwhile suggestion. There should be aid to the unemployed.

ANGLE. Do you foresee Congress stepping in with programs of its own in the economy? There has been considerable reaction from Democrats that the President's program doesn't go far enough. Do you think you are going to get into a fight between the President and the Congress over what should be done?

Senator BYRD. I don't think so much about a fight. I think the President's program didn't go far enough in many ways, but I think he has failed to show initiative and he has failed to make the hard choices.

ANGLE. Such as?

Senator BYRD. The leadership has to come from the executive in any war upon inflation.

ANGLE. Why? Congress has the power to enact legislation.

Senator BYRD. Well, you have 535 members of Congress—535 members of Congress cannot administer programs. They have to be administered, and the leadership in any country comes from the one man who is in the place of leadership.

CHUNG. How important do you think the President's economic program will play in his future for '76, in other words, if Congress rejects proposal after proposal, and if he does not seem to succeed in solving problems of inflation, whatever, how do you see this playing into his election chances?

Senator BYRD. The Congress isn't going to reject for the sake of rejecting. Congress is going to consider whatever proposals have meaning, but the President has failed to show initiative, he has failed to indicate that he can make difficult choices, and he has failed to demonstrate leadership in the war against inflation. He—outright, he rejected two of the major tools, that of standby gasoline rationing and standby wage and price controls. And instead he proposes to sock it to the middle class and the low income wage earners and small businessmen with a surtax.

HERMAN. Well, you are criticizing him for not using them. Do you advocate use of them?

Senator BYRD. I advocate standby gasoline rationing. Certainly. Just drive out the George Washington Parkway and see how many people on a work day are riding in car-pools, see how many people are observing the speed limit. Voluntarism isn't going to work.

HERMAN. How about Senator Mansfield's idea of wage, price, rent, and profit controls, not standby, but actual?

Senator BYRD. I think there should be voluntary wage and price guidelines, and they should be equitable, taking into consideration the remarkable restraint that labor has shown during the past 18 months in its wage demands, but I think that the President ought to exercise strong jawboning. There is only one man in this country who has the moral authority that the President possesses, and Mr. Ford is a decent man, he's a personable man, he's a likeable man, the American people want to work with him, they want him to succeed, and the Congress wants to work with him. He ought to use the strong, moral authority in jawboning, but he needs first of all to have some workable, equitable wage and price guidelines. But then to back them up he ought to have some standby wage and price stabilization authority that has teeth in it, and use it if the powerful groups get out of line.

Chung. There are some, though, who according to public opinion polls, who would say that President Ford does not have the confidence of the people after the pardoning of Richard Nixon. Can a president who does not have that kind of confidence jawbone and gain the kind of moral leadership needed?

Senator Byrd. These are some of the things he ought to do to restore confidence. The people will always doubt the judgment that he used in granting the pardon, but they're also concerned about inflation. They're concerned when they go into the stores and find that an item has been priced up once or twice or three times, has the various prices still on it, which indicates that there's price gouging. They want to see somebody do something about this, and the President is the one man who can exercise the authority and provide the leadership that's needed.

Angle. Well, aren't you really trying to, you know, pass the buck to the White House and make it clear that Congress can do nothing without his leadership? Is that quite fair?

Senator Byrd. I'm not saying that Congress can do nothing. Congress is doing something. It is cutting the budget. It has enacted a budget reform measure which will enable Congress to have a better overall view of the income and the outgo, and Congress has cut the federal budget, as I say, twenty-three and a half billion dollars during the last five years. It sought—it gave Mr. Ford a commission on price and wage stability within ten days after he asked for it. They tried to put teeth—

Angle. But you're suggesting that's inadequate.

Senator Byrd. It tried to put teeth into that, but because of the opposition of the administration, it was unable to do it. Many Democrats in Congress sought to extend the price—the Economic Stabilization Act, which gave the President standby controls, but because of the opposition of the administration, Congress was unable to do this.

Herman. Are the roots of this particular inflation and recession such that we can conquer it by a WIN program of individual consumers cutting down on their consumption?

Senator Byrd. Absolutely not. No, it's going to take more than that. That's part of it. No question but that the American people need to cut down on their energy, but they need to believe, first of all, that there's a real problem and that the leaders themselves are determined to cope with that problem in bold, innovative, gutsy ways, and they don't see it in Mr. Ford's program.

Herman. I don't know any American who doesn't think there's a real problem, but nobody knows exactly what it is, what its roots are, whether it comes from overseas, whether it does come from oil or it doesn't, whether it comes from the world's inflation—

Senator Byrd. Well, the facts ought to be laid out to them, so they will know.

Chung. Senator Byrd, you once said that you thought that the Republicans will—

Senator Byrd. And this can best be done by the one man who is the leader of the nation.

Chung. Senator, you once said that you thought the Republicans were in good shape in 1976, that Gerald Ford was an incumbent, had few enemies, and that Nelson Rockefeller would be a distinct plus as Vice President. Do you still believe that, and what shape do you think the Democrats are in, in 1976?

Senator Byrd. Well, no, I don't believe that, because Mr. Ford has done a lot to change that. He granted the pardon, he was part of an agreement through his agency head to—with Mr. Nixon to allow Mr. Nixon control of the tapes and documents; Mr. Ford asked Congress for $850,000 for Mr. Nixon's transitional problems, which was utterly, utterly exorbitant, and then his milktoast, timid, toothless approach with respect to inflation has hurt him seriously.

Chung. And what about the Democrats in 1976?

Senator Byrd. Well, that's a long way down the road, but I think they have an excellent chance of picking up seats this time, and with a good program and good leadership in the Congress, which has already been demonstrated, they're going to pick up further seats—

Chung. But I'm talking about—

Senator Byrd. —And hopefully the White House in 1976.

Herman. What are your plans for any role in leadership of the Democratic Party? You said you wouldn't mind being President.

Senator Byrd. I'm not uninterested.

Herman. You're not uninterested. Thank you very much for being with us today, Senator "Uninterested" Robert Byrd.

Announcer. Today on Face the Nation, the Senate Majority Whip, Democrat of West Virginia, was interviewed by CBS News Correspondent Connie Chung, Martha Angle, Senate Reporter for the Washington Star-News, and CBS News Correspondent George Herman. Next week, another prominent figure in the news will "Face the Nation."

AMERICAN VETERANS COMMITTEE

Mr. HARTKE. Mr. President, the American Veterans Committee held its 30th national convention earlier this year. The American Veterans Committee has been very concerned about assisting all veterans and has consistently supported legislation to provide adequate educational and medical benefits for all veterans.

As chairman of the Veterans' Affairs Committee I want to acknowledge that the full cooperation and assistance from the distinguished members of the American Veterans Committee has been instrumental in the legislative accomplishments of the committee.

Among the many resolutions passed by the delegates were a number specifically addressed to helping America's 29 million veterans and their 66 million dependents.

Mr. President, I believe their resolutions will be of interest to my colleagues and ask unanimous consent that these resolutions be printed in the Record.

There being no objection, the resolutions were ordered to be printed in the Record, as follows:

Platform of the American Veterans Committee

VETERANS AND ARMED FORCES AFFAIRS

The American Veterans Committee has constantly reiterated, since its founding, its fundamental belief that rehabilitation and integration of veterans into the community is the proper scope and purpose of a veterans program. The achievement of economic security for veterans through sound economic planning for all citizens rather than through special grants or favors to veterans is basic AVC policy.

(1) Compensation

For many years, AVC has pointed out the need for a thorough review and reappraisal of this Nation's policies on veterans as follows:

1. We oppose bonuses and general pensions as being class legislation and unrelated to the real needs of individual veterans and tending to set veterans apart from their fellow citizens.

In the matter of benefits, two basic standards should be applied.

(a) For death or disability incurred in military service: Are the benefits sufficient to provide a decent standard of living for the veteran, his family or survivors?

(b) For all veterans: Are the benefits so designed as to enable a readjustment from military service to civilian life with a minimum economic loss?

Since benefits are a Federal responsibility uniform standards of administration and compensation should be applied nationally without regard to race, creed, color, sex, or national origin.

(2) Reserve programs

The world we live in, with its emphasis on speed of operation and technical superiority, demands standing Armed Forces of sufficient size, training and equipment and organization to be effective immediately for defense and counter attack. It is apparent that the Regular Armed Forces must remain our first line of defense. They must be of sufficient size and mobility for deployment anywhere on the globe within a minimum of time so that we may continue to provide, when necessary, those forces needed for collective security under our international obligation in peripheral conflicts occurring in the strategic localities of the world.

With the end of the draft and reliance on a Voluntary Army the role of the organized reserves—both the Reserve and the National Guard—becomes more important than ever. Our role in the world depends largely on our ability to supplement a small standing army by a second line of defense which consists of a sufficient number of well-trained, well-equipped, and well-organized troops.

AVC believes that the National Guard is ill-fitted to serve both roles, which it is currently called upon to play. One role is that of assisting civil authorities in the United States in peace-time. Forces suited for that role should primarily consist of military police, possible infantry, with some supporting units (medical, signal, QM, etc.). The other role is that of forming a part of our highly complex and sophisticated Armed Forces with guided missiles, high mobility, heavy weapons and requirements for intensive technical training.

AVC regrets that the steps taken to integrate the National Guard have, so far, been far from adequate. While an office has been established in the National Guard Bureau to deal with equal opportunities, neither the staff nor the influence of that office are sufficient for the purpose.

Regrettably, while the percentage of minority group members in the regular Armed Forces is and remains relatively high, the percentage in the National Guard is low and has remained low despite certain recruiting efforts. We cannot afford to have a polarization within the Armed Forces as between the National Guard on one hand and the Regulars on the other. While the domestic peacetime tasks which the National Guard is called upon to perform tend to involve minority group civilian populations, the troops involved should not present the appearance of an army of occupation.

While a National Guard remains apart of the structure of our Armed Forces, incentives should be provided so that a larger number of minority group personnel with active duty experience will choose to enter and remain in the National Guard.

AVC is opposed to any policy whereby the Armed Forces award discharges other than honorable to reserve personnel based upon the political or other activities in which these individuals may participate following separation from active service under the draft.

We believe that the conditions of discharge should be based solely upon the military activity and efficiency of the reservists.

(3) *Benefit dollar*

AVC believes that provision should be made to maintain automatically the purchasing power of the benefit dollar and upward adjustments be made annually in accordance with the Bureau of Labor Statistics, Consumer Price Index.

(4) *Civil Service*

AVC believes that veterans point reference in the civil service for non-disabled veterans be limited to the initial appointment only, and that no person should receive a position unless fully qualified to perform the duties involved.

(5) *G.I. bill*

AVC applauds the passage of a permanent G.I. Bill of Rights as a responsible means of enabling servicemen and women to return to civilian life with facility and ease at the end of their service and become useful and productive members of their communities. We also applaud the recent passage of legislation improving the benefits provided through the G.I. Bill of Rights.

However, we feel that benefits are not yet in line with the World War II and Korean War G.I. Bills and the current cost of living. Unfortunately, many existing programs remain unavailable to veterans because of the financial stress they now entail, or are available only at great sacrifice. This is particularly true in the area of educational programs.

AVC urges the Congress to further adjust benefits to match current costs of living and education.

The G.I. Bill of Rights should be administered in such manner as to guarantee the absence of discrimination.

(6) *VA hospitalization*

AVC greatly regrets that the VA hospital system which AVC has, in the past, characterized as one of the best in the country, appears to have significantly declined. AVC calls for immediate action to upgrade and improve the VA hospital system, with particular emphasis on the following matters:

Quality and efficiency of in-patient service.

Quality of after-care and out-patient service.

AVC urges that treatment of nonservice-connected disabilities in VA hospitals be continued on a space-available basis, but that such treatment be charged at the full cost, if a patient has the means to pay for such service; certificates that a veteran is unable to pay should be investigated thoroughly to determine the true ability to meet the cost of hospitalization. Further that terms of coverage of all prepaid medical associations, plans and companies be amended by action of the legislatures, supervisory bodies or membership, so as to provide payment to VA hospitals for nonservice-connected treatment on the same basis as payment to private voluntary and public hospitals.

(7) *Discrimination—Foreign and domestic*

We maintain that no assignment of any military personnel should be made whether within the United States or overseas, for consideration on grounds of color, religion, sex, ancestry or national origin.

Our goal is to insure that no member or employee of the Armed Forces, and no dependents of such person shall be subject to discriminatory treatment, on or off base within the United States or outside the United States on the grounds of color, religion, sex, ancestry or national origin, and that the power, including the economic power, of the United States be consciously used to further this objective.

(8) *Information service*

We believe that the service orientation programs should be made adequate to fully acquaint every person entering armed services of all the rights, privileges, and benefits he and his family are entitled to as a result of his service in the Armed Forces.

(9) *Jurisdiction over ex-servicemen and civilians accompanying the Armed Forces overseas*

We believe that the ex-servicemen, military dependents, and civilians accompanying the armed forces abroad should not escape punishment for serious offenses committed while in such status.

RESOLUTION ON MILITARY EXPENDITURES AND DOMESTIC NEEDS

It is well established that the needs of our domestic economy are so critical that they cannot be met at the existing level of federal expenditures. The problems of pollution, hunger, poverty, living conditions in our cities and rural areas, public safety, and other domestic needs, require massive infusion of federal funds not available in the present budget.

Our inflated military budget has taken badly needed public funds from our domestic programs. AVC believes that the present military establishment can be cut, especially our Forces stationed in Bases throughout the world, without sacrificing our National Security, and that the requirements of domestic programs should have at least as high a priority as our military requirements.

We therefore urge:

That the military budget be substantially cut and such funds be used in domestic programs.

That we actively pursue the SALT talks and any savings resulting from an arms limitation treaty be diverted to domestic needs.

That more effective scrutiny be given new and untried weapons systems which would put a heavy financial strain on the defense budget in future years, and that funds not be used to bail out defense contractors facing insolvency.

That such cuts be made in the size of our armed forces and supporting civilian personnel especially in our forces stationed in bases throughout the world as will not impair our national security.

RESOLUTION ON MILITARY JUSTICE

AVC favors revision of the Uniform Code of Military Justice to take the court-martial system out of the line of command. AVC generally favors such legislation.

RESOLUTION ON ADMINISTRATIVE DISCHARGES

AVC is gravely concerned for the thousands of ex-servicemen who have been and who continue to be returned to civilian life, stigmatized by less than honorable discharges.

AVC believes that a study should be instituted to determine whether the present discharge categories (Honorable, General, Undesirable, Bad Conduct and Dishonorable) should be retained.

Under the current system, AVC strongly urges that before an individual is given an Undesirable discharge, he be awarded full legal assistance and complete constitutional protections.

AVC urges DoD to adopt regulations and policies and, if necessary, to seek legislation to strengthen and improve the Discharge Review Boards and the Boards for the Correction of Military Records, which changes should be directed toward simplifying and expediting the review process.

Under current law, ex-servicemen who have obtained Honorable or General Discharges are eligible for all VA benefits, and those who have obtained Dishonorable Discharges are not so eligible. Those who have obtained Undesirable or Bad Conduct Discharges may or may not obtain such benefits, depending upon an administrative decision by the Veterans Administration. AVC has found that the Veterans Administration has exercised its discretion in an exceedingly narrow and restrictive manner, thus depriving many ex-servicemen of benefits for which they would otherwise be eligible. AVC calls for greater understanding and compassion on the part of those charged with exercising the Administrator's discretion, and for interpretations which will exclude only the most heinous cases from veterans benefits. If the VA persists in such practices, then AVC calls for corrective congressional action to redefine the V.A.'s discretionary powers.

In the meantime, AVC believes that the General Discharge Under Honorable Conditions should be classified as the mildest form of punitive discharge, not to be awarded except after hearing, rather than as an alternative form of Honorable Discharge, within the discretion of the authority responsible for discharging the individual concerned. The Department of Defense's contention that the possession of a General Discharge does not handicap an individual has not been borne out by the facts.

A veteran who had been awarded a General Discharge under Honorable Conditions without a hearing should be granted an Honorable Discharge upon application unless the government can show good cause for the General Discharge.

RESOLUTION ON RELIGIOUS FREEDOM

AVC supports the principle of freedom of religion in the armed forces. Religious observance should be neither denied nor compelled, nor exploited for non-religious purposes.

AVC recognizes the propriety of providing chaplains and chapels, because military personnel who desire to worship may not otherwise have the opportunity to do so.

AVC hails the Supreme Court ruling prohibiting compulsory chapel attendance at the service academies and continues to oppose the use of chaplains to indoctrinate service personnel on military, political, "moral," and religious matters.

RESOLUTION ON CIVIL RIGHTS AND EQUAL OPPORTUNITY IN THE ARMED FORCES

The American Veterans Committee has a record unique among veterans organizations, of concern for racial justice and equal opportunity in the armed forces, a record which has extended from early support for President Truman's orders to integrate the regular Army in the late 1940's to early and public support for the use of the off-limits sanction against discriminating landlords.

AVC has watched, with growing concern, as racial polarization, reflected in the reports of the Render mission to Europe in the Report of the Task Force on the Administration of Military Justice in the Armed Forces, dated November 30, 1972, and in the racial incidents reported aboard certain ships of the Navy, has apparently greatly increased in the past few years.

AVC is aware of the efforts which have been made by successive incumbents in the position of Deputy Assistant Secretary of Defense for Equal Opportunity, in their respective brief incumbencies, to stem the tide and to create a real equality of opportunity. Unfortunately, AVC is also aware of the degree to which the staff of that office is few in number and overworked and of its relative lack of clout.

AVC is also aware of the efforts which have been made by the Department of Defense, including the creation of a Race Relations Institute and increasing counseling efforts throughout the military services. AVC regrets that these efforts are not yet sufficiently well funded or effective.

AVC believes that the following portions of prior resolutions on this subject are still applicable today:

1. AVC reminds those concerned with military-related costs that the cost of racial friction (lost man-hours, reduced combat effectiveness, added cost of burdens on the military justice and military confinement systems, lower efficiency by those alienated) is many times greater than the cost of a Civil Rights staff large enough, well funded enough, and sufficiently well backed to do an effective job.

2. Urges the Secretary of Defense to strengthen the Office of the Deputy Assistant Secretary for Equal Opportunity, Department of Defense, in personnel and in funds to the point at which it will have a real impact.

3. Points out that among reserve and National Guard personnel with the obligation or the opportunity to serve short tours of active duty, are many with particular expertise in the civil rights area and urges that these skills be better utilized.

4. Recalls, that AVC has, throughout its history, worked closely with the Department of Defense in the civil righs area, on projects such as the tour of Southern military bases by AVC leaders in 1960 and the Audit of the National Guard undertaken in 1963.

5. Offers whatever services it can render in this area to the Department of Defense.

Following meetings with the staff of the Office of the Deputy Assistant Secretary of Defense for Equal Opportunity, AVC has certain suggestions to offer. These include:

a. That the racial/ethnic statistics being gathered by that Office utilize categories which are compatible with the racial/ethnic statistics being gathered by civil rights/equal opportunity staffs of other agencies of government.

b. That liaison between the DoD open housing effort and the efforts of HUD to enforce the open housing provisions of Title VIII of the Civil Rights Act of 1968 be improved, so that housing discrimination against military personnel can be effectively eliminated.

c. On June 10, 1968, DoD decided that, whereas payments to military personnel under CHAMPUS were not covered by Title VI of the Civil Rights Act of 1964, CHAMPUS payments would not be made for medical services rendered by medical facilities which discriminated, AVC urges DoD to consider anew whether similar reasoning cannot be applied to the housing allowances currently paid to military personnel—not to pay such allowances where the benefits will flow to landlords who discriminate in violation of Title VII of the Civil Rights Act of 1968.

RESOLUTION ON NAMING OF VA HOSPITAL

AVC supports legislation to rename the VA Hospital in Jackson, Mississippi as the Medgar Evers Hospital.

RESOLUTION ON NON-DISCRIMINATION IN THE MILITARY MEDICARE PROGRAM

While AVC was greatly encouraged by the decision of June 10, 1968 of the Department of Defense to coordinate its efforts in achieving non-discrimination in the Military Medicare (CHAMPUS) Program with the Title VI enforcement effort in medical facilities being conducted by the Office of Civil Rights at HEW.

AVC regrets that the plans for coordination have not been implemented (except for barring CHAMPUS payments to some eight hospitals for so long as they had been cut off from Medicare programs because of Title VI of the Civil Rights Act), due to the failure of the Department of Defense to authorize a very minor item of reimbursement to HEW, and

Calls upon the Department of Defense to implement its policy and to launch coordination effort so long delayed.

We regret that, despite the passage of years since the decision of 1968, the policy has not been implemented.

We are, however, encouraged by the resumption of talks between DoD and DHEW to implement the policy.

We call on the Secretary of Defense to inform us by when we can expect progress in this area.

RESOLUTION ON ABORTION IN MILITARY HOSPITALS

The Supreme Court of the United States has enunciated criteria for determining constitutionally protected abortions. AVC urges that therapeutic abortions be permitted in all United States military hospitals consistent with those standards and without regard to any variations in applicable state laws. The rights of persons in military service and their families should be uniform.

We further endorse the principle that abortion should be a matter strictly between the woman patient and her physician. Any other position denies women the right to control their own bodies and physicians the right to practice medicine according to their professional standards.

RESOLUTION ON BETTER COORDINATION BETWEEN THE VA AND OTHER GOVERNMENT HOSPITAL SYSTEMS

The United States Government currently operates six separate hospital systems: Army, Navy and Air Force (operated by Department of Defense), Public Health Service and Indian (operated by DHEW) and the Veterans Administration.

AVC has a long history of favoring rationalization of government processes. AVC believes that federal decisions to build hospitals, to open and close its hospitals, and to set up specialized medical, surgical and psychiatric programs should not be made system-by-system. While we do not, at present, insist on unifying all hospital systems, there should be comprehensive planning, much more cross-utilization and rationalization.

In addition we ask that the secretaries responsible for these systems undertake studies on the feasibility of contracting with civilian hospitals for services to selected beneficiaries.

RESOLUTION ON THE MILITARY AND THE EQUAL RIGHTS OF WOMEN

AVC strongly supports adoption of the Equal Rights Amendment.

AVC calls for the immediate elimination of all policies, regulations, practices, and customs in the military departments which perpetrate discrimination based solely upon sex.

AVC also calls for planning so that all forms of sex discrimination based on current legislation can be abolished immediately upon the ratification of the ERA Amendment.

RESOLUTION ON VETERANS BENEFITS AMENDMENTS

AVC favors the following amendments to Veterans Benefit legislation:

(1) An increase in education benefits to parity, in terms of current cost-of-living and cost-of-education dollars, with the benefits given World War II veterans.

(2) Permanent legislation providing for automatic cost-of-living and cost-of-education adjustments, with a formula similar to that which adjusts military and civil service retirement pay:

(3) Strengthening the PREP program, and overcoming the particular hurdles faced by servicemen's participation therein;

(4) Making it possible for veterans to attend college-preparatory or remedial programs without reducing the duration of their entitlement, and without requiring 25 clock hours a week;

(5) Initiating a VA work-study program which would allow veterans to be hired at prevailing wages;

(6) Tightening standards for approval of correspondence schools, including requiring equitable tuition refund policies;

(7) Reducing clock-hour requirements for attendance at non-profit community and vocational schools;

(8) Making NSLI Trust Funds available as a revolving fund to finance veterans educational loans;

(9) Veterans educational assistance allowances should be amended to provide a system of direct payments to institutions of higher education for costs of tuition, books, and fees to supplement the subsistence allowance of veterans.

(10) Expanding outreach programs on a contract basis, with adequate safeguards against boondoggles.

(11) Entitlement provision for veterans benefits should be extended beyond the present 36 months of entitlement.

(12) A provision for speeding up and improving the delivery system of educational benefits being paid to veterans.

(13) The General Accounting Office (GAO) commence an immediate review of the following areas:

(a) vocational and technical schools

(b) VA Housing loan programs and policies, and

(c) VA work-study programs in order to assist the VA and Congress towards improving services for the Vietnam Era veterans.

(14) Resolved that AVC urges the adoption by the government of an adequately funded direct loan program to veterans for the purchase of land for use in building a personal home, for the construction of such a home and/or for small businesses, instead of the VA guaranty program now in existence.

RESOLUTION ON YOUNGER MILITARY RETIREES

AVC is concerned about personnel retired from the armed forces after 20 years' service, but below age 60. After a score of years of service—active and reserve—such individuals are placed in limbo until they reach age of 60, at which time their pension begins, and they acquire the privileges which are usually associated with retired military status. AVC believes that the honorable completion of 20 years of service should entitle these younger retirees at least to an I.D. card which would authorize them the same 'fringe benefits' (PX, commissary, travel, etc.) at minimal expense to the government, as the older retirees.

RESOLUTION ON DRUG AND ALCOHOL ABUSE IN THE MILITARY

AVC is concerned about the continuing problem of alcohol and drug abuse by servicemen and veterans. Drug use and abuse involve medical, psychiatric and social issues as well as issues of military management, morale, and discipline but do not constitute legitimate acts of individual, social, or political protest. AVC believes overall military programs should prevent or deter drug and alcohol abuse generally, and that particular programs should be devised to minimize these abuses specifically. A rational approach to the drug issue requires distinctions between addiction and experimental or occasional use and intermediate degrees of drug abuse; distinction between hard and soft drug use; and determinations of need for separation and type of separation on an individual basis.

AVC favors treatment for servicemen abusing drugs or alcohol while on active duty. In many cases, servicemen, if treated promptly, can be returned to useful service with their units. Those who are discharged with a drug or alcohol problem should have meaningful help and effective programs, from both the Veterans Administration and private agencies contracted for by the Veterans Administration.

AVC favors imaginative programs and research and the use of non-military and nongovernmental agencies for treatment of veterans whenever needed.

AVC opposes automatic less-than-honorable discharges for alcohol and drug abuse. In each individual case, careful consideration should be given to the serviceman's actual contributions to his service versus his actions to the detriment of that service. Also, the discharge review process should determine whether adequate treatment and rehabilitation have been accomplished.

AVC opposes the use of information obtained from servicemen who have volunteered for treatment against those very servicemen.

AVC opposes misuse of medical records and unreasonable breach of medical confidentiality.

AVC believes the United States must insist on cooperation by foreign powers to control drug production, transport, and sale.

AVC continues to support legislation to provide adequate drug abuse treatment and rehabilitation resources and hails the passage of the Drug and Rehabilitation Act.

RESOLUTION ON SPN CODES

AVC welcomed the recent decision of the Department of Defense to remove the SPN codes from the DD 214 now being issued.

AVC notes with alarm the reports in the press, published on June 27, 1974, to the effect that DoD is considering putting the equivalent of SPN numbers back on the DD 214.

AVC believes that the originally stated purpose of the SPN codes—the notice to recruiting personnel as to whether a prospective re-enlistee may or may not be permitted to re-enlist—can well be served by methods internal to DoD and that making SPN numbers available to employers and others by putting them on the DD 214 does not provide any advantage to DoD, while greatly disadvantaging many veterans.

Accordingly, AVC supports legislation which would not only remove the SPN numbers from the DD 214's issued currently, but which will also require the issuance of new forms without SPN codes to all those previously issued DD 214's.

Furthermore, AVC urges that the legislation contain provisions prohibiting the disclosure of SPN's for any purpose other than determining re-enlistment eligibility and including appropriate sanctions.

RESOLUTION ON JUDICIAL REVIEW OF VA DECISIONS

AVC strongly supports repeal of the law which prohibits judicial review of decisions by the Veterans Administration relating to the granting or denial of benefits.

RESOLUTION ON VIETNAM ERA VETERANS

I. AVC urges the Federal government to provide the Vietnam era veteran a significant role in the planning and implementation of all programs, policies and agency actions affecting the Vietnam era veteran.

II. AVC urges the federal government to provide follow-up psychological readjustment assistance to and for the Vietnam era veteran and his immediate family.

RESOLUTION ON ATTORNEY'S FEES IN VA MATTERS

AVC urges that a full review be made of the current $10 limitation on the fee which a lawyer may charge a veteran for representation before the Veterans Administration seeking benefits. AVC believes that consideration should be given to having the government pay all legal fees without charging them against the veteran's benefits.

WORLD FOOD CONFERENCE

Mr. JAVITS. Mr. President, for the last 2 weeks, from November 5 to November 16, delegates from 130 countries met in Rome at the United Nations-sponsored World Food Conference. This conference was a critically important initiative of Secretary Kissinger to deal with the present world food crisis at a time when world food stocks are at their lowest levels since the war.

I am pleased that Senator Clark, who attended the conference, reported to the Senate yesterday morning on his efforts to obtain an increase in short-term food aid and his participation in the conference. I commend my congressional colleagues who contributed their efforts to the conference.

Although I was unable to attend the conference, I felt that it was important that I follow the conference through the attendance of one of my staff. It is especially important to clarify the very useful role of the congressional delegation in the conference, since Secretary Butz charged in his press conference in Rome last Friday that three Democratic Senators urging an increase in U.S. humanitarian food aid of 1 million tons were acting "for partisan political gain." I wish to point out that Senator HATFIELD supported this initiative in Rome, and that I cabled Senator HUMPHREY my support for the increase in food aid, as an essential humanitarian gesture to strengthen the ability of the World Food Conference to deal with longer term issues. I provided the President with a copy of my cable in order that my position might be a matter of record with the executive branch, and Senator HUMPHREY announced my cable of support at a press conference in Rome.

I should also like to make the point that Secretary Butz urged the President to grant a 1 million ton increase in food aid in the name of the U.S. delegation, and not alone as a suggestion of several Senators. It is necessary to clarify this issue, since the matter of humanitarian food aid is far too significant for partisan political activity. We are talking about the very lives of millions of people around the globe. This is not the intellectual property of any Senator or any party; it is the concern of mankind.

In spite of the very substantial progress made by the World Food Conference on medium- and long-term goals, especially the establishment of a new World Food Council, our Government could have been more generous in its approach to the cirtical short-term food needs, and this generosity might have inspired more concrete measures from other nations. I regret that our Government found it impossible to commit an extra 1 million tons of humanitarian food aid, at the very time that Secretary Butz found time—in the middle of the conference—to fly to Egypt and Syria to sell 200,000 and 100,000 tons, respectively, to those countries under title I of Public Law 480.

Mr. President, since last year at this time I have urged the development of a mechanism to allocate our scarce agricultural resources—in order to prevent another Russian grain deal—and another Russian attempt to buy up a significant porton of our grain crop was recently barely nipped in the bud. I regard such a mechanism as indispensable to the establishment of a national food policy that balances national needs, commercial export sales, and humanitarian food aid, and the bill I introduced last year, S. 3771, the Export Priorities Act, would do just that.

Mr. President, I ask unanimous consent that various articles from the New York Times on the World Food Conference be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

FOOD CONFERENCE, IN LAST DAY, FORMS NEW U.N. AGENCY

(By William Robbins

ROME, November 16.—A new United Nations agency to supervise programs to give the world, and particularly the less-developed nations, more and better food, was approved by a negotiating group of the World Food Conference here today.

The new organization, to be called the World Food Council, will have a secretariat in Rome, associated with the Food and Agriculture Organization, but will report to the United Nations in New York.

Though it requires endorsement of the parent organizations, that action is expected to be a formality, considering the worldwide representation at the conference here.

A KEY ACCOMPLISHMENT

The new structure represents a key accomplishment of the conference, whose plans it is to help carry out. It was the result of an intricate compromise between underdeveloped and developed nations that was reached in the final session of this 11-day meeting of 130 nations.

Edwin M. Martin, deputy chairman of the American delegation, said that the United States was pleased with the results of the conference.

"This conference was not called to get food to people tomorrow but to lay out a plan of action to prevent the crisis that we have now from recurring," Mr. Martin said.

His apparent allusion was to President Ford's refusal to commit the United States to a million-ton increase in emergency food aid. However, Mr. Martin acknowledged publicly what others said privately, that "we will probably be giving that much" in additional food aid, but added, "It would not be useful to announce a figure."

As the delegates gathered here Nov. 5, many hoped that pledges of immediate aid for some 460 million people imperiled by hunger would be made while they worked on long-term food-supply problems.

Those hopes for immediate pledges during the conference faded, but before the delegates closed their sessions today they gave the projected council a number of new programs to supervise and coordinate, with details and machinery to be worked out later. The major plans were the following:

An agricultural development fund, originally proposed by several Arab nations, including major oil producers, but later sponsored by many other nations.

A fertilizer-aid program, with help for increased supplies for developing nations as well as for new and improved plants.

A pesticide-aid program, with research into residual effects and other environmental questions.

An irrigation, drainage and flood-control program to aid developing countries.

Expansion of agricultural research and training and methods of disseminating findings among growers.

A nutrition-aid program, including special feeding for malnourished children and studies on fortification of staple foods with vitamins.

Recognition of women's role in agriculture and food, their right to equality and the special nutritional needs of mothers.

A call for "achievement of a desirable balance between population and the food supply."

Earlier in the session, the conference completed work on a 10-million-ton-a-year food aid program for developing nations, an internationally coordinated system of national grain reserves, and an early-warning system of data-sharing to help alert the world to any climatic or other threats to food supplies or sudden surges in demand.

In another action, the developed nations effectively resisted demands of the underdeveloped nations for trade preferences, saying that the conference was not a forum for trade negotiations. Instead the conference adopted a resolution that requests improved treatment of exports from the poorer countries.

The compromise reached today on a World Food Council ended a deadlock between developed and underdeveloped countries over what sort of follow-up mechanism should be created to supervise and coordinate food-aid and development programs.

The United States and other developed countries had wanted a coordinating body to be created and controlled by the United Nations Economic and Social Council. The underdeveloped countries had wanted establishment and control by the United Nations General Assembly of whatever body was created.

A MATTER OF INFLUENCE

The major powers have more influence on the Economic and Social Council, where representation is on a regional basis, than in the General Assembly, where each nation has one vote and the developed countries are outnumbered.

Had the meeting ended in a deadlock, the developed countries would have automatically won their points, because the conference must report to the Economic and Social Council. Apparently, however, no one wanted that kind of result.

A strong influence on the outcome, according to some delegates, was the Soviet Union's support for those who wanted the Economic and Social Council to be the umbrella organization.

The solution gave recognition to the positions of both sides.

Under the agreement, the new World Food Council will be established by the General Assembly as a United Nations body reporting to the Assembly through the Economic and Social Council.

Members of the group will be officials of ministerial or other high level who will meet from time to time, but the everyday work will be done by the staff of the secretariat in Rome.

The secretariat's staff and budget will be drawn from the Food and Agriculture Organization, but it will be independent of that agency.

A COORDINATING GROUP

The new World Food Council will be responsible for coordinating the work of all United Nations agencies now dealing with food.

Mr. Martin emphasized, however, that the new body would not have the power to order action but would have a coordinating role and the responsibility for reporting to the United Nations on needed actions.

The conference also recommended creation of two subsidiary units and a world food security council and a food aid committee, which would take over responsibility for the present World Food Program and coordinate both bilateral and multilateral aid operations.

In one of its final actions tonight, the conference adopted a carefully worded declaration that a committee had spent the entire time of the conference in drafting.

It calls on all governments to "accept the removal of the scourge of hunger and malnutrition as the objective of the international community as a whole," asks "all governments able" to "substantially increase their agricultural aid" and urges all to "reduce to a minimum the waste of food and of agricultural resources."

FOOD CONFERENCE LOOKS AHEAD; FAMINE IS NOW

The World Food Conference in Rome has ended without completing plans on how to save 500 million people from threatened starvation in the next year, but with substantial progress on the long-term aim of establishing an international grain reserve and a World Food Council.

The immediate problem. United Nations experts estimate that as the combined result of flood, drought and fertilizer shortages—the last largely a result of the oil price increases—there is a shortage of between 7 and 11 million tons of grain; other experts place the need as high as 20 million tons. The greatest threat to famine is in India, Bangladesh, Pakistan and sub-Sahara Africa, but those are not the only regions. Millions of persons are now close to death because they have nothing to eat.

Providing the grain is not the only concern. It must also be distributed in remote areas, and past experience in disaster relief indicates that is a difficult problem.

The solution: So far, Canada has reportedly offered to supply a million tons of grain and Australia an unspecified amount. The United States, already the world's most generous provider of aid, was under great pressure to give at least another million tons, Friday, President Ford said no.

Mr. Ford's reasons, as explained in Rome by Dr. Earl Butz, Secretary of Agriculture and an opponent of more aid, included a possible negative impact on the American economy and food supplies specifically.

The producing nations, including the Soviet Union and China, are to meet again November 29 to continue discussions on emergency aid.

The long-range problems: A soaring world population, particularly in India, Bangladesh and other underdeveloped nations, plus the effects of drought and food have diminished the world's once comfortable cushion of surplus grain.

The difficulties have been compounded by fertilizer shortages, the lack of technology in poor countries that might otherwise become capable of self-sufficiency, and by the lack of data on crop production, particularly in the Soviet Union and China.

The solutions: The major breakthrough of the conference was the decision to establish a World Food Council, which will serve as an umbrella organization to funnel food and money to needy nations. Donor nations agreed to provide both money and food in the future to ensure that another 10 million tons of food are shipped annually to hungry nations. The Middle East oil nations are expected to provide some of the money.

The conference also accepted a proposal by Secretary of State Kissinger for a system of nationally held but internationally coordinated grain banks for emergency needs in natural disasters.

MOST OF THE STRUGGLE IN ROME WENT ON BEHIND THE FACADE

(By Clyde H. Farnsworth)

ROME.—They were not selecting a candidate, but discussing hunger in the world and what to do about it. Yet at times the world food conference here assumed some of the character of an American political convention.

There were 1,250 delegates representing 130 countries and 165 delegations representing 47 United Nations agencies. There were spokesmen for four liberation movements and 300 nongovernmental organizations. Almost all of them had interests to defend and ideas to promote, and the result was politics.

There were the old rich, like the United States and the European Common Market states, and givers for years; the United States alone has provided $25-billion since World War II. They were prevailed upon to give more.

There were the new rich, the oil producers, whose net income this year will top $50,-billion. They were urged to share their wealth.

There were the Communist antagonists China and Russia, who sat down together and with other major producers and consumers of grain, urgency prevailing over normally. That group will meet again Nov. 29 in an effort to aid the half billion people facing starvation or malnutrition in the next eight months.

And there were the poor. Thirty-two of the most seriously affected states, mainly in South Asia and sub-Saharan Africa, caucused to find the most effective way to make their case for more food aid now and greater security in the future.

As happens in more conventional politics, there were some incongruous combinations. The hungry poor are part of a group of uncommitted nations—and so are the oil exporting states. They remain members despite their new affluence.

THE OIL POLS WANTED ACTION

The convention air was pointed up by the presence of a score of American Congressmen and by the frenzied lobbying of the nongovernmental organizations, most of them charitable, voluntary agencies in the rich countries. The American Senators were making politics, but they also took some constructive action.

Because the leaders of the American delegation were taking what he thought was an unusually cautious approach to new ideas, Senator Hubert Humphrey, Democrat of Minnesota, said at one of the delegation briefings:

"We seem to be taking the position that this is somebody else's show in which we are the reluctant participants. . . . Why can't we make a few decisions without referring everything back to Washington?"

That afternoon Edwin Martin, the deputy delegation leader, announced a decision by the United States to accept a 10-million-ton annual food aid goal of donor nations.

THE POLITICS OF NONALINEMENT

Among the nonalined nations, there was much politicking over the conference leadership role between Algeria and Mexico. Mexico won, sealing the victory with an address by its President, Luis Echeverria Alvarez. But while he was castigating the rich nations for multiple variants of colonial subjugation, he himself was the target of leaflets branding him as the C.I.A.-Rockefeller imperialist cover for slave labor.

Politics does not proceed without food and drink, even here. President Echeverria made a bid for leadership among the conference gourmandisers in a caviar reception on a Rome roof garden. An even more lavish reception was hosted by Saudi Arabia. The United States delegation sought to set a tone of austerity. The word went out that there would be no American receptions.

As at an American political convention, currents of antagonism ran beneath surface cooperation. Two officials, Sayed Ahmed Marei, an Egyptian agrarian reformer who was secretary general of the conference, and A. H. Boerma, who is Dutch and is Secretary General of the United Nations Food and Agriculture Organization, had the responsibility of organizing the meeting and conciliating between competing interest groups. But they had their own problems. Mr. Marei was generally identified with the needy nations of the underdeveloped world, Mr. Boerma criticized for being too Western-oriented. As it turned out, Mr. Marei's deputy, Sartaj Aziz, a Pakistani, was credited with a major behind-the-scenes role with bringing some of the factions together.

There was some open carping. The representative of Senegal, for instance, said of S. A. Jabati of Sierra Leone, chairman of one of the conference committees, that Mr. Jabati had been "high-handed" in the way he had "shut the mouth" of various delegates.

The accusation may or may not have been justified, but there was no shortage of words at the conference. Some of it was pure self-service, some bombast, but some could turn out to have real meaning as the world struggles to deal with an awesome problem. Governments all over the world will be deciding in the coming months whether they were just words of expressions of national will.

BUTZ TELLS ROME CONFERENCE FOOD IS A "TOOL IN KIT OF AMERICAN DIPLOMACY"

(By Clyde H. Farnsworth)

ROME, November 16.—Agriculture Secretary Earl L. Butz said repeatedly at the World Food Conference that food is a "tool in the kit of American diplomacy," underscoring the belief of the Ford administration, like that of earlier ones, that the top priority in food aid should be to further foreign policy objectives. Food was in fact used as a weapon in the Vietnam war.

Some Democratic Senators who brought reformist ideas to the Rome forum as advisers to the American delegation think the priority should be to fulfill humanitarian needs.

The Senators got the delegation to cable Mr. Ford asking permission to announce here that the United States would increase by one million tons its emergency food aid to nations threatened with famine. The President refused.

A proposal submitted to the conference by the American delegation, after considerable infighting, represents something of a compromise between the two philosophies. The proposal requests donor Governments to:

"Reaffirm a commitment to continually review their food assistance programs toward assuring that the neediest countries are receiving adequate priority in the allocation of available food supplies."

Those close to the Democratic Senators—George McGovern of South Dakota, Hubert H. Humprhey of Minnesota and Dick Clark of Iowa—see in the wording of the draft resolution a subtle shift in the official American position.

According to sources close to the proceedings, a meeting of Administration officials last month, convened to reassess the priorities, had still placed humanitarian objectives second to foreign policy.

The battle to force a full-scale reversal in priorities was seen in American political clashes at the Rome conference, which ended today, and is expected to continue when Administration food officials and the Senators get back to Washington.

Legislation setting up the so-called American Food for Peace program goes back to the mid-nineteen-fifties, under Public Law 480. At that time the United States had a lot of surplus grain, which was costing millions of dollars to store. In some cases, such as the scandal surrounding Bille Sol Estes, a Texas financial operator, grain storage led to profiteering.

There were four objectives in Public Law 480: to dispose of surpluses, develop markets, advance foreign policy and meet humanitarian needs. Now that the surpluses have disappeared, the first two objectives no longer apply. In recent years much of the Food for Peace has gone to Southeast Asia under Title I of the legislation.

ARABS VOW MONEY FOR NEW AID FUND—UNIT, PROPOSED AT FOOD TALKS IN ROME, IS TO ASSIST POORER COUNTRIES

(By Clyde H. Farnsworth)

ROME, November 17.—Sayed Ahmed Marel of Egypt, secretary general of the World Food Conference, said today that "I am absolutely certain" the Arabs will contribute "millions, no hundreds of millions of dollars" to agricultural development fund for third world countries that oil-producing nations have just proposed.

His comment to newsmen shortly after the two-week food conference ended early today was one sign of the pressure on the oil producers to contribute more to development of the poorer nations.

The fund they proposed at this 130-nation conference was seen as a response to such demands. The increases in oil prices have aggravated the problems of growth, development and food supply for many of the underdeveloped nations.

"Despite our resolutions, a large number of people face starvation," said Mr. Marel.

"The proof of what we say here must be seen in acts and facts," said the chief of the Algerian delegation, Layah Yaker.

THE MAIN ACHIEVEMENT

Many delegates, after agreeing yesterday on the creation of a World Food Council within the United Nations to coordinate the fight against hunger, said that probably the main achievement of the conference was to focus public attention on global resources and their utilization.

It has been estimated here that half a billion people face starvation or malnutrition in the next eight months if they do not receive food aid. Such starvation could become a recurrent disaster, specialists warned, if resources are not used more effectively.

Defensive comments from many officials of oil-producing nations at the conference indicated the extent of the pressures on them.

"You can't put the blame for the food crisis on the oil countries," said Interior Minister Jamshid Amouzegar of Iran. "The food crisis has its roots in unfair policies of the developed countries, the enormous grain purchases of the Soviet Union and the population explosion."

He said that Iran was "prepared to give—and give more—provided we do not replace the traditional donors contributions," that is, those of the Western Countries.

KISSINGER CALL CITED

Secretary of State Kissinger, in a speech last week in Chicago, called for increased Western cooperation to deal with the repercussions of oil-price increases.

"A major responsibility," he said of aid contributions, "must rest with those oil producers, whose actions aggravated the problems of the developing countries and who because of their new-found wealth now have greatly increased resources for assistance."

The deputy chief of the Saudi Arabian delegation here, Taher Obaid, retorted: "We are not rich. Richness comes from structures, which we don't have. We import everything from needles and thread to automobiles at inflated prices. We have a continent to develop and services to improve."

Saudi Arabia said that she was already giving 6 per cent of her gross national product in aid. For Iran the figure, according to Mr. Amouzegar, is 7 per cent. Abdullah Al-Quandi, a Foreign Ministry official in the Kuwaiti delegation, said that his nation had set aside 8 per cent of her gross national product for aid projects.

"We have contributed more than our share," said Mr. Quandi. "That is not talk but a fact. We were acting even before this conference was organized."

1 PER CENT FROM WEST

The Western nations give well under 1 per cent of what is, however, an immensely larger over-all gross product.

Before the fund is established, Secretary General Kurt Waldheim of the United Nations must be satisfied that there is enough money earmarked for it. Contributions to the fund are voluntary, and so far there have been no firm commitments to the fund.

The United States and West Germany felt that there were sufficient existing international aid groups.

"We have adequate outlets for our money," said the deputy leader of the American delegation, Edwin M. Martin. While they did not seek to block the proposed fund, the industrial countries indicated that they would not be the first contributors.

U.S. COMMITMENT TO MORE FOOD AID REJECTED BY FORD

(By William Robbins)

ROME, November 15.—President Ford refused today to permit the American delegation at the World Food Conference to commit the United States to a million-ton increase in emergency food aid to nations threatened with famine.

The decision, announced by the Secretary of Agriculture, Earl L. Butz at a news conference, overshadowed other developments on a day in which substantial progress was reported on plans for more food for the future. They included the shaping of resolutions on an international grain reserve and long-term internationally financed aid.

In explaining President Ford's decision, Dr. Butz said the increase "would have a bullish effect on the market." He cited budget constraints, tight supplies and the possible impact on American consumer prices, already sharply inflated.

FEAR OF FALLING SHORT

Another reason, given privately, is that the Administration is unwilling to commit itself for fear that if prices do rise, budgeted funds would buy less grain than the commitment would call for. Decisions on food aid have been made on a quarterly basis to maintain flexibility even though shipments have been at a rate that would produce a 1.5-million-ton increase, Administration sources say.

Commodity experts here question the idea of an impact on grain markets. "The traders have already discounted it," a source close to the Administration said of the purchasing. "They know as well as anybody that the Government is already doing it."

[The White House press secretary said that it would not be proper to assert that President Ford had "turned down" the delegation's request. It said the United States would honor Secretary of State Kissinger's commitment of increased contributions in the current fiscal year.]

Last Friday the American delegation requested President Ford to give it permission to announce that the United States would increase its aid for humanitarian purposes from one million to two million tons.

The request followed a meeting at which major grain-producing nations were presented with a report estimating that South Asia and the sub-Sahara region of Africa face a grain shortage of seven to 11 million tons in the next year.

Dr. Butz, at his news conference, charged that three Democratic Senators attending the conference, acting "for partisan political gain," had placed the United States in a defensive position by pressing Mr. Ford to announce an increase in humanitarian aid. Of the senators who led the initiative the only one whose name he mentioned was Hubert H. Humphrey of Minnesota. The others were Dick Clark of Iowa and George McGovern of South Dakota.

Referring to their public statements, Mr. Butz asserted: "These things have placed the United States in a position of seeming reluctance to go along with food aid. Nothing could be further from the truth.

Though the Secretary acknowledged requesting permission to announce an increase, he said he was only passing along the Senators' position, they had pressed in private meetings and then in public statements. However, a copy of the message obtained by The New York Times makes it seem that the proposal was the sense of the American delegation.

Suggest minimum one-million-ton increase current fiscal year 1975," the cable said. It expressed the belief that such an increase was feasible both in terms of budget considerations and "in terms of the supply situation.

"Belief here is that shipment of 4.3 million tons will likely develop anyway," it said, "and announcement here would be extremely constructive at this time in view of Canadian and Australian announcements.

American shipments last year totaled 3.3-million tons. The Canadians have pledged a million tons a year over the next three years and Austria has pledged a fixed proportion of gross national product.

HISTORY OF U.S. FOOD AID

In announcing the American position, Dr. Butz detailed the history of the United State's food aid to developing countries and noted that it had given 46 per cent of such assistance worldwide since 1962. He also said that more wheat and rice were scheduled for food aid this year than last, with lower shipments of livestock feed. Now, he said, "you need food for people rather than for animals."

"We are indeed shipping more food to the critical areas of the world," he added, citing commitments already made to Bangladesh this year totaling 250,000 tons.

In a recent interview Dr. Butz said that the United States would probably increase shipments this fiscal year as much as the cablegram proposed.

With the American statement the focus of the 12-day conference, which ends tomorrow, shifted from the issue of immediate relief for countries threatened with famine, which had overwhelmed attention, to the long-term problems that has insisted are its primary concern.

FURTHER TALKS SCHEDULED

"The immediate problem of world hunger is not going to be solved by this conference," Secretary Butz, who is the delegation chairman, had said. "Somehow we have to find a way to solve this critical problem. But it has to be found where the supplies are—in the United States, Canada, Argentina, Australia and the European Economic Community."

He and his principal aides have been conferring privately with ministers from the other major grain producers on steps to solve the immediate problem, among other subjects.

His assessment appeared to many to be confirmed Wednesday when a meeting of major producers and importers with A. H. Boerma, Director General of the United Nations Food and Agricultural Organization, failed to identify sources for the 7 million to 11 million tons of grain that the F.A.O. estimates are needed by five most seriously threatened countries—Bangladesh, India, Pakistan, Sri Lanka and Tanzania.

Another such meeting is scheduled here Nov. 29. An administration source said the United States questioned the F.A.O. estimate and expected to tell Mr. Boerma that the five-million-ton-need estimated by the United States will be no problem if financing can be obtained.

Others here have not been willing to accept the United States position on conference priorities. Sayed A. Marei, secretary general of the conference, said this week that pledges for immediate relief would be a measure of its success, and, breaking a diplomatic silence, called on the United States to pledge an increase.

Senator Clark, at a news conference with Mr. McGovern and Mr. Humphrey, expressed the urgency felt by many delegates and observers: "It would be unfortunate to say we are concerned about future generations but not interested here in the half-billion that may die now."

AN OPTIMISTIC OUTLOOK

However, Sartaj Aziz, deputy secretary general of the conference, took an optimistic view, saying: "If the position is unchanged it doesn't mean it gets worse. This may not be the last word because the meeting scheduled for Nov. 29 is due to take up this question." He also said he could see that there might be "all kinds of domestic reasons for the American stand.

Other reactions were mixed.

The Pakistani Agriculture Minister, Khuda Buksh Bucha, said: "I hope it won't have a negative effect on the conference. Perhaps this is internal politics. I think that the American decision to contribute with other donor countries toward a 10-million-ton-a-year goal in food aid is a major achievement of this conference. The United States will be a major contributor."

Joseph Mungai, Agriculture Minister of Tanzania, said: "It is a disappointing outcome in that quite a number of countries were banking on these food supplies."

Some progress in committees working on plans for food for the future were detailed by Richard E. Bell, a Deputy Assistant Secretary of Agriculture, who accompanied Dir Butz at the news conference. Work is "essentially completed," he said, on an early-warning system to provide information that could help avert serious crises or deal with them expeditiously, on the international grain-reserve plan and on the 10-million-ton-a-year food aid plan.

DETAILS TO COME LATER

All such plans are embodied in resolutions, with details to be worked out by negotiating groups.

Mr. Bell said he was encouraged by a statement made in committee sessions that Moscow would be willing to consider an information system.

While noting that the 10-million-ton goal was a substantial increase over present levels, he said it was "feasible provided there are new donors."

In another committee, a proposal by Arab countries for an agricultural development fund has been put in the form of a resolution calling for voluntary participation. The United States usually prefers bilateral aid rather than submerge its help in multilateral funds.

Plea Not "Turned Down"

Washington, November 15—The White House Press secretary, Ron Nessen, said today that it would not be proper to say that President Ford had "turned down" the request by the United States delegation to increase American food aid by a million tons.

At a White House briefing he said that the United States would honor the commitment by Secretary of State Kissinger, who pledged increased food contributions in the current fiscal year despite adverse weather.

Mr. Nessen, who said that the United States could not be more specific about the amount of assistance until more information was obtained about levels, explained that the Administration feared it would compound inflationary problems if it committed itself to a figure.

To avoid adding to inflationary pressures, Mr. Nessen said, commitments will be made on a quarterly basis and will depend on the most up-to-date crop reports.

The United States will do everything it can to insure larger contributions in the future, he added.

Meanwhile, at a news conference Secretary of State Kissinger said that he expected that before the year was over the United States would increase not only the dollar amount but also the quantity of food aid it would provide to hungry nations.

He expresed regret that the question of emergency food assistance had come up during a conference that the United States had proposed to deal with long-range solutions to food-supply problems.

SEX DISCRIMINATION AGAINST STUDENTS

Mr. BAYH. Mr. President, with the publication of the proposed guidelines on title IX by the Department of Health, Education, and Welfare, there have been a number of inquiries raised as to the intent, purpose, and actual effect of title IX on education institutions.

As the author of title IX, I am anxious to respond to those inquiries. Therefore, I ask unanimous consent that an excellent article by Dr. Bernice Sandler, director for the Project on the Status of Women, and Margaret Dunkle, associate for the Project on the Status of Women at the Association of American Colleges, entitled "Sex Discrimination Against Students: Implications of title IX of the Education Amendments of 1972" be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Sex Discrimination Against Students: Implications of Title IX of the Education Amendments of 1972.[1]

(By Margaret C. Dunkle and Bernice Sandler)

(Note.—Margaret C. Dunkle is Project Associate with the Project on the Status and Education of Women, the Association of American Colleges. Bernice Sandler is Director of the Same Project. The views expressed in this article do not necessarily reflect the views of the Association of American Colleges or the Carnegie Corporation of New York, the Danforth Foundation or the Exxon Education Foundation, which fund the Project.)

Title IX of the Education Amendments of 1972[2] mandates that sex discrimination be eliminated in federally assisted education programs. There has been considerable speculation about what changes will be required of educational institutions to comply with Title IX. Although a few issues (most notably competitive athletics) have generated wide interest. Title IX has significant implications for a variety of less publicized issues including recruiting, admission, financial aid, student rules and regulations, housing rules, health care and insurance benefits, student employment, textbooks and curriculum, single-sex courses and women's studies programs.

Differential treatment of men and women exists in almost every segment and aspect of our society. Perhaps it is the most damaging, however, when it appears in and is transmitted by the educational institutions which are supposed to provide all citizens with the

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Footnotes at end of article.

tools to live in a democracy. As the U.S. Supreme Court said in the 1954 *Brown* decision:

"In these days, it is doubtful that any child may reasonably be expected to succeed in life if . . . denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, is a right which must be made available to all on equal terms."[3]

In the past twenty years it has become painfully clear that equal educational opportunity will become a reality only if it is supported by strong and vigorously enforced federal legislation. The long and difficult history of the attempt to eliminate discrimination on the basis of race promises to be repeated in the attempt to eliminate discrimination on the basis of sex.

In many instances, the courts have been less willing to prohibit sex discrimination than race discrimination in educational institutions.[4] They have generally not interpreted the due process and equal protection guarantees of the Fifth and Fourteenth Amendments with the same strictness for sex discrimination as they have for race discrimination. Ratification of the Equal Rights Amendment would have the effect of eliminating these dual standards. Lacking constitutional remedies, statutory prohibitions against sex discrimination become especially important.

This article examines the overall implications of Title IX as well as the specific issues which affect virtually every school and college in the country. It attempts to provide some insights into the scope and nature of practices which discriminate against students on the basis of sex, and the changes in these practices which might well be required for an institution to be in compliance with federal law. While discrimination against females was the major reason for the passage of the legislation, the law covers discrimination against *either* women or men on the basis of sex.

Until the fall of 1971, there was no federal legislation prohibiting sex discrimination among students at any level of education. Female students could be (and were) legally excluded from schools and colleges, admitted on a restrictive quota basis, denied admission to certain classes and subjected to a variety of other discriminatory practices. Females had no legal recourse when educational institutions denied them the opportunity that was regarded as the "birthright" of their brothers.

AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT PROHIBITING SEX DISCRIMINATION

The first federal law prohibiting sex discrimination among students became effective on November 18, 1971. Titles VII and VIII of the Public Health Service Act (PHSA) were amended to prohibit sex discrimination in admissions to federally funded health training programs.[5] There are no exemptions from coverage.

Although the legislation itself speaks only of admission to programs, it appears that the final regulations will also cover treatment of students already enrolled in programs and treatment of employees working directly with applicants to or students in such programs.[6] This broad interpretation is supported by the legislative history of the amendments which indicates that Congress intended to prohibit discrimination among individuals already enrolled in programs as well as applicants.[7] It also appears that an institution's general admissions policies and practices are covered in cases where the federally funded health training programs can be selected as a major after students are admitted. Otherwise, there would not be a nondiscriminatory pool of applicants from which to select students.

The Office for Civil Rights (OCR) of the Department of Health, Education and Welfare (HEW) is charged with enforcing the nondiscriminatory provisions of the PHSA. Noncompliance with the requirements of this legislation may lead to the delay of awards of PHSA Titles VII and VIII funds, revocation of current awards of debarment of an institution from eligibility for future awards. In general, the sex discrimination provisions of the PHSA are consistent with and foreshadow the coverage and provisions of Title IX.

TITLE IX OF THE EDUCATIONAL AMENDMENTS OF 1972[8]

Title IX of the Education Amendments of 1972 prohibits discrimination in federally assisted education programs[9] against students and employees on the basis of sex.[10] The key provision of Title IX reads:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. . .[11]

In addition to the prohibition against sex discrimination in educational institutions, Title IX also amends a number of other laws. Section 906 amends various portions of the Civil Rights Act of 1964[12] and the Fair Labor Standards Act of 1938 to include executive, professional and administrative employees under the Equal Pay Act.[13] Section 904 forbids covered educational institutions from denying an individual admission because of blindness or severely impaired vision.[14]

The sex discrimination provisions of Title IX are patterned after Title VI of the Civil Rights Act of 1964[15] which prohibits discrimination against the beneficiaries of federal money on the basis of race, color and national origin, but not sex.[16]

Both Title VI and Title IX are enforced by the Office for Civil Rights of the Department of Health, Education and Welfare. The legal sanctions for noncompliance are identical: if an institution does not comply with the law, the government may delay awards of money, revoke current awards or debar institutions from eligibility for future awards. In addition, the Department of Justice may also bring suit at HEW's request.

Any educational institution which receives federal monies by way of a grant, loan or contract (other than a contract of insurance or guaranty) is required to comply with the requirements of Title IX.[17] This includes all schools: kindergartens, preschools, elementary and secondary schools, vocational schools, junior and community colleges, four-year colleges, universities and graduate and professional schools.[18] Private, as well as public, institutions are subject to the requirements of Title IX if they accept federal financial assistance.

There are two overall exemptions to Title IX coverage which Congress specifically stated in the legislation:[19]

"An institution controlled by a religious organization is exempt to the extent that the application of the antidiscrimination provisions is not consistent with the religious tenets of the organization. Thus discrimination in such institutions on the basis of sex for reasons of custom, convenience or administrative rule is prohibited. This exemption was originally included in the legislation to exempt divinity schools. The burden of requesting and justifying this exemption lies with the educational institution."

A military school is exempt if its primary *purpose* is to train individuals for the military services of the United States or the merchant marines.[20] This exemption apparently applies to military schools at any level and the U.S. military academies. It does not apply when military training is tangential to the primary purpose of the institution. An example of a tangential relationship would be offering Reserve Officers Training Corps (ROTC) courses.

In addition to these general exemptions, there is an exemption for *admissions* to certain types of institutions, most notably private undergraduate colleges and public single-sex undergraduate institutions. These exemptions are described *infra* at text accompanying notes 35–41. Any other exemptions made as a result of administrative decisions by the Department of Health, Education and Welfare are likely to come under strong criticism from both women's groups and members of Congress. In addition, the parallel wording of Title IX and Title VI would indicate that there is little, if any, legal justification for administratively exempting something from coverage under Title IX (sex), while clearly covering it under Title VI (race, color, national origin). Civil rights advocates are likely to view attempts to dilute Title IX coverage as an effort to dilute Title VI coverage.

Individuals and organizations can challenge any practice or policy which they believe discriminates on the basis of sex by writing a letter of complaint to the Secretary of Health, Education and Welfare. They can file on their own behalf or on behalf of someone else (or some other group). Complaints can be filed on a class action basis, with or without specific aggrieved individuals being named.[21] If the government finds discrimination in violation of Title IX, the statute requires that it first attempt to resolve the problem through informal conciliation and persuasion with the institution.[22] If this process fails to remedy the discrimination, HEW may either hold formal hearings or refer the case to the Department of Justice for judicial action. If discrimination is found following HEW hearings, federal financial assistance can be terminated.[23]

Title IX permits institutions to take affirmative action even in the absence of proven discrimination if, for one reason or another, there is limited participation by women or men in a federally assisted education program.[24] There is a distinction between *affirmative action* and *nondiscrimination*. Nondiscrimination means simply altering practices which have been discriminatory (*e.g.*, ceasing to recruit only at male schools). Affirmative action means taking steps to *remedy* a situation based on sex which was caused by past discrimination either by the school or by society at large (*e.g.*, sponsoring programs specifically designed to attract female applicants).

It is not clear to what extent affirmative action can involve specific preferential treatment on the basis of race or sex. When past discrimination by an institution has been *proven*, it is clear that the courts or enforcing agency can require an institution to give preference to remedy the discrimination. The government cannot, however, base such a finding *solely* on statistical evidence of an imbalance without a formal determination that the imbalance represents discrimination.[25] However, the question of how to encourage voluntary action for the benefit of one group consistent with the purpose of the antidiscrimination legislation, but without proof of wrongdoing—while at the same time, *not* discriminating against members of other groups—has not finally been resolved.[26]

MANIFESTATIONS OF SEX DISCRIMINATION

Many criteria, policies, practices and procedures which have traditionally been accepted by educational institutions perpetuate sex discrimination in both overt and subtle ways. In general, discrimination falls into two categories:

Overt discrimination, which specifically excludes one sex or specifies different treatment or benefits based on sex. Examples would be admissions quotas for women, different standards of conduct for females and males and single-sex classes. In addition, evaluating the same characteristics or con-

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Footnotes at end of article.

ditions differently for women and men would fall into this category. Such decisions are often unconsciously made because of stereotyped or inaccurate assumptions about the roles of women and men. Although these assumptions may be true for some women and men, they are not true for *all* women and men. Making decisions based on such class stereotypes can perpetuate discrimination.[27] For example, evaluating marital or parental status differently for each sex in determining eligibility for financial aid (because married men are "breadwinners" and "need" more money than married women) would fall into this category. A second subtle way in which overt discrimination might manifest itself is *when sex-neutral policies and procedures are not implemented.* That is, if an institution had a nondiscriminatory *official* policy, but *in practice* followed a discriminatory policy, it would be violating Title IX.

Discrimination as a result of criteria, policies, procedures or practices which appear to be fair, but which have a disproportionate impact on one sex or the other. An example would be prohibitions against admitting older students (since women are less likely than equally qualified men to attend college at a young age) or granting preference to varsity athletes (since there are generally far fewer opportunities for women to complete in varsity athletics). Many policies and procedures which appear to be fair may unintentionally have a discriminatory impact on one sex or the other because one sex has been discouraged from participating in or discriminated against in certain activities. It is conceivable that an institution might argue that using such criteria is not an act of discrimination on *its* part and that it is not responsible for the consequences of past discrimination or exclusion by others.

A principle enunciated in a unanimous Supreme Court decision is relevant to this discussion. In *Griggs* v. *Duke Power Company*,[28] the Court said that any employment policy which has a disproportionate effect on minorities or other protected classes (even though it is fair on its face) and cannot be justified by business necessity, constitutes discrimination barred by Title VII of the 1964 Civil Rights Act. In addition, the Court said that it is the *effect* (rather than the *intent*) of a policy or procedure in operation that determines whether or not there has been discrimination. While the *Griggs* decision occurred in connection with employment discrimination, the same principle has been utilized by the courts in civil rights issues and can be expected to be applied to sex discrimination in education.

RECRUITING STUDENTS [29]

Although the recruitment of students is generally not an issue at the elementary and secondary level, it is of increasing concern to post-secondary institutions because the growing competition for qualified students is becoming more intense. The recruiting process includes information conveyed by written materials (brochures, catalogs, applications) and recruiters or admissions personnel (through campus visits, interviews and correspondence). This process can discriminate against women both overtly and subtly if care is not taken to assure that it is unbiased.

The way in which an institution recruits students can have a significant impact on the number of women who apply.[30] Affirmative recruiting to alter a pattern of limited participation by one sex or the other is legal under Title IX. Such affirmative recruiting makes the pool of qualified women applying more accurately reflect the potential pool of applicants and does not necessarily alter the way in which an institution applies its criteria for admission.

Sometimes recruitment policies or practices are overtly discriminatory. More often they are overtly benign, but in one way or another have the effect of discouraging women from applying.

Policies and practices which fairly explicitly exclude women include:

Recruiting only (or predominantly) at male institutions, or recruiting primarily at institutions which discriminate on the basis of sex in their own admissions procedures, without recruiting at institutions which do not discriminate.

Relying heavily on alumni for recruiting (rather than alumnae). This can have an especially profound effect at formerly all-male schools which have admitted women only recently.

Application forms which ask married female students if they have their husband's permission to attend school, while not asking the same question of married male students. Similarly, asking both sexes for their spouses' permission, but evaluating the responses differently for women and men would be discriminatory.

Recruiters who discourage females from pursuing their applications, while not similarly discouraging comparable male applicants.

The more subtle manifestations of discrimination in recruiting have perhaps the most devastating effect on women. Oftentimes institutions and their representatives unconsciously perpetuate discrimination in their publications, application materials and recruiting techniques. All of these items together give a prospective student the "flavor" of an institution and an indication of the status of women on campus.[31] They can either encourage women to apply or have a "chilling effect" on the number of women applicants. Such factors subtly tell a woman student if she is as welcome as her equally qualified brother.

In addition to those listed below, the discriminatory policies and practices listed throughout this article can have a "chilling effect" by significantly discouraging women from applying:

Having only or predominately male recruiters or admissions personnel.

Having pictures in publications which show students as mainly male, while either not showing women at all or showing them primarily in "dating" or social situations.

Describing male sex-typed programs (such as engineering, physics, pre-med programs) in ways which discourage women from applying.

Describing female sex-typed programs (such as home economics, elementary education, nursing) in ways which unnecessarily encourage women and discourage men from applying. For example, describing students in these programs as SHE implies that they are fields for women only.

Using the "generic" HE in catalogs and other publications.

Listing or having other policies (such as residency requirements or age cutoffs) which might have a disproportionate impact on women.

ADMISSIONS TO PROGRAMS [32]

The issue of sex discrimination in admissions is primarily of importance to post-secondary institutions, although it also has relevance for elementary and secondary vocational or special academic schools.[33] A thorough discussion of the admissions decision is critical for several reasons. If an individual is not admitted to an institution because of sex discrimination, equal treatment in the program becomes irrelevant. In addition, many of the considerations which affect the admissions decisions are mirrored in later treatment of students. An understanding of factors which might influence the admissions decision aids in understanding the nature and operation of sex discrimination against students already admitted to a program.[34]

Exemptions from Admissions Provisions of Title IX [35]

Title IX specifically exempts certain types of institutions from nondiscriminatory admissions. Largely because of pressure from parts of the educational community, Congress exempted the following institutions from nondiscriminatory admissions: [36]

Private undergraduate institutions.

Preschools and elementary and secondary schools (other than vocational schools).[37]

Single-sex public undergraduate institutions.[38]

These institutions are exempt from the *admissions provisions* of Title IX only.[39] They are not exempt from the obligation to treat students (and employees) in a nondiscriminatory manner in all areas other than admissions.

Sex discrimination in admissions is specifically prohibited in the following types of institutions:

Public coeducational undergraduate institutions:

Vocational schools, including vocational high schools.

Professional schools.[40]

Graduate schools.[41]

Overt Discrimination in Admissions

In covered institutions, overt quotas that limit the percentage or number of women (or men) violate Title IX. Similarly, an admissions policy based on the number or percentage of applicants from each sex would violate Title IX. For example, admitting 30 percent of female applicants and 30 percent of male applicants would tie admission to sex and could result in admitting members of one sex who were less qualified than some of the students of the other sex who were rejected. Also, ranking or evaluating applicants separately on the basis of sex would be a Title IX violation.

A more unconscious form of overt discrimination occurs when the same characteristics or conditions are evaluated differently for women and men. For example, because of class assumptions about the roles of women and men, a well intentioned admissions officer or counselor may discriminate on the basis of sex by:

Evaluating marital status or potential marital status (whether single, divorced, married or separated) differently for women and men. For example, admitting married men, but not married women.

Making pre-admission inquiries concerning whether a person is "Ms, Miss, Mrs. or Mr."

Evaluating parental status differently for females and males. For example, admitting unwed fathers (while *not* admitting unwed mothers) or admitting men (but not women) with small children.

Evaluating personality characteristics (such as "assertiveness") as a positive factor for one sex (males) and a negative factor for the other sex (females).

Using different standards for admitting women and men because of assumptions about what are suitable and proper fields for women (*e.g.,* home economics, nursing, elementary education) and men (*e.g.,* science, medicine, auto mechanics).

Refusing to admit men, but not women, with long hair.

Admitting older men, but not older women.

Ostensibly Fair Criteria Policies, Practices and Procedures Which Have a Discriminatory Impact on One Sex

Many institutions believe that they have sex-blind (or sex-neutral) admissions criteria and procedures. However, a close examination of these ostensibly "neutral" criteria often reveals that a number are sex biased. For example, an institution might give preference to any "person" who has been a Rhodes scholar. (Since only men are eligible for Rhodes scholarships, this practice has a discriminatory impact on women.)

Footnotes at end of article.

It is important to remember that many of the criteria evaluated by admissions officers and committees are not in themselves indicators of performance in a given program or institution. Rather, they are shortcut indicators of success in what is perceived to be a similar situation.

A distinction can be drawn between ultimate (direct) and intermediate (indirect) criteria or qualities:

Ultimate criteria are those which are essential to preforming a task satisfactorily. (For example, organizational ability, writing skills, motivation, discipline, creativity, research *ability* or aptitude in a particular field.) Unfortunately, however, these criteria are often difficult or impossible to measure directly.

Intermediate criteria, on the other hand, are the shortcut approximate indicators which are used to roughly gauge the ultimate criteria or ability of a candidate. These are more easily evaluated than ultimate criteria and might include offices held in school, articles published, nature and extent of work experience, grades and test scores or attendance at a particular school.

Intermed*iate criteria* are, of course, indispensable aids to narrowing the field of candidates. However, these criteria are by nature generalizations and as such may be both imprecise and arbitrary when used to measure the ability of a given individual. In addition, because of sex discrimination in society at large, women who have the desired *ultimate* qualities may not have had the opportunity to obtain the most desirable *intermediate* credentials. Therefore, blanket application of ostensibly neutral criteria could result in sex discrimination.

The Supreme Court has recognized, in *Griggs* v. *Duke Power Company,*[42] that certain criteria can pose: artificial, arbitrary and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification.[43]

The Court found that:

> Far from disparaging job qualifications as such, Congress has made such qualifications the controlling factor, so that race, religion, nationality, and *sex* become irrelevant. What Congress has commanded is that any tests used must measure the person for the job and not the person in the abstract.[44] [emphasis added]

There *seems little* doubt that this reasoning applies equally to similar discrimination against students in federally assisted education programs.[45]

Assuming that the ultimate criteria evaluated by a selection committee are rationally related to the educational goals of the institution, it is then imperative to examine the intermediate criteria to determine if they are:

Valid indicators of the ultimate qualities desired;

Free of sex bias (that is, not disproportionately excluding one sex or the other).

If an intermediate criterion is in some way sex biased, then the institution would be well advised to look for alternative measures. For example, an institution might consider "competitiveness" a desirable quality for students and use "participation in interscholastic or intercollegiate athletics" as an intermediate measure of competitiveness. Because athletic opportunities are severely limited for women in most institutions, such an intermediate criterion might eliminate women who have the desired ultimate quality (competitiveness). Because discrimination against women often makes it more difficult for them to obtain impressive credentials (intermediate criteria), institutions may find that it is sometimes more difficult to assess the degree to which women (as opposed to men) possess the desired ultimate qualities. As a beginning an institution could broaden its list of acceptable intermediate criteria.

Examples of "intermediate criteria" which might have the effect of disproportionately excluding women include the following:

Membership in a single-sex honorary organization. (In some schools, there is only a men's honorary. In others, where there are two separate single-sex honoraries, the women's honorary is often smaller and/or has higher admissions standards, with the result that fewer women than men have this credential.)

Similarly, using membership in single-sex professional organizations as a criterion can lead to bias. (For example, until 1974 Phi Delta Kappa, the education honorary, did not admit women.[46]

Having received an award available to one sex only. (It is not unusal for there to be fewer "female" than "male" awards and scholarships given. The result of this pattern is that some female students do not receive awards while *less qualified* male students do.)

Having attended an institution which discriminates (or which discriminated in the past) in admission on the basis of sex. (For example, giving preference to individuals from specific private undergraduate institutions—which can maintain sex-based admissions quotas under Title IX—is likely to have the effect of disappropriationately excluding women.) [17]

Having received an athletic letter, award or scholarship. (The lack of athletic opportunities for women makes this criterion especially suspect.)

Giving preference to students who have held offices in clubs. (For example, in some schools the student body president is "always" male. An equally qualified female student is most likely encouraged to run for secretary or vice president.)

Ability to attend school full-time as a measure of commitment. (Often women with children or women who work find that they are unable to attend school full-time, despite their interest.)

Continuous schooling or employment as a sign of commitment. (Although many women interrupt their education or careers for child rearing, this is generally not an expression of lack of interest or commitment.)

Evaluating late commitment to a profession or vocation as an indicator of lack of seriousness or dedication. (Many women resume schooling or make a new career commitment at a later age than their male counterparts.)

Not admitting "older" students. (Women are more likely than men to discontinue their education so that they might support a student-husband or raise children. In addition, women often have a more difficult time financing their education. At any given level of education, the majority of people who do not proceed to the next level are female. Consequently, the pool of qualified older applicants is likely to be disproportionately female.[18]

Using military service as a measure of a broad background or good citizenship. (In addition to being exempt from the draft, the number of women in the military has been limited by a strict quota, and women admitted to the armed services have to be more highly qualified than men.)

Evaluating part-time or summer employment as a measure of interest and accomplishment. (Because of the general pattern of employment discrimination, women are more likely to have had clerical and other so-called "feminine" jobs, rather than jobs that might be indicative of their interests or potential.)

Evaluating work that is typically "male," such as military service, in a favorable light, while evaluating work that is typically "female," such as child rearing, in an unfavorable light.

Relying heavily on letters of recommendation to gauge such things as commitment, ability to work with others, etc.[49] Such recommendations by counselors, teachers and employers may reinforce stereotyped attitudes of admissions personnel and introduce extraneous factors into the selection process. For example, a number of characterizations that are routinely used to describe female candidates ("charming," "delightful," "feminine," pretty") are almost never used to describe male candidates and are, in fact, unrelated to academic ability. It is difficult to imagine the following "recommendations" applied to a man:

"Joan is extremely attractive, but she does not let it get in the way of her work."

"Mary has one of the finest minds I've ever seen in a woman."

"Because Sally Jones is somewhat unattractive, she is not likely to marry and waste her professional training."

"Sarah is a delightful person whose good looks will adorn any department."

THE AWARD OF FINANCIAL AID [50]

The award of financial aid is often of prime importance at the post-secondary level.[51] Indeed, an institution's decision to award (or not to award) financial aid to a student is often a major factor in determining which institution a student will attend. Because the award of financial aid also profoundly affects the treatment of students already enrolled in a program, the financial aid practices and policies of an institution are not exempt from the requirements of Title IX, even when the admissions policies are exempt.

The data indicate that women often meet discrimination in the amount and type of financial aid they receive.[52] Discrimination in the award of financial aid can be either overt or subtle (such as using ostensibly fair criteria which perpetuate sex bias).

Some institutions now require women to meet higher (or different) standards than men in order to be eligible for financial aid. Other institutions have favored men over women by:

Offering a woman a loan, while offering a comparably qualified and situated male a fellowship or assistantship.

Offering the most prestigious scholarships, fellowships and assistantships to men while offering women the less prestigious awards.

Also, a number of admissions committees have traditionally evaluated the same characteristics differently depending on their sex. In addition to the examples mentioned previously in the discussion of admissions, the following might come under this category:

Denying married women financial aid (while not similarly denying such aid to married men) or offering married women and men financial aid on a different basis. (At some institutions financial aid committees have automatically assumed that a married woman needs *less* assistance because her husband will support her, while a married man needs *more* assistance because he is the "head of the household." While this assumption may be correct in some instances, it is certainly not correct in all instances.)

Offering women and men with dependent children different amounts of aid because of sex-based assumptions about their child care responsibilities. There are also a number of ways in which overtly neutral criteria, policies or procedures discriminate against women in the award of financial aid. All of the "intermediate criteria" mentioned which might have the effect of discriminating against women in admissions (membership in single-sex honorary societies, continuous schooling, etc.) can also have the effect of discriminating against women in the award

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Footnotes at end of article.

of financial aid. In addition, policies or procedures which make it difficult (or impossible) for part-time students to receive financial aid or which do not consider the cost of child care in determining need, disproportionately affect women since many more women than men find it necessary to attend school on a part-time basis and have primary child care responsibilities.

There is some question concerning to what extent single-sex fellowships will be allowed under Title IX.[52] Some people maintain that there should be no single-sex fellowships offered by or through an educational institution. They maintain that there is no more justification for single-sex scholarships than there is for scholarships limited to whites. Others maintain that institutions should be allowed to continue to offer single-sex scholarships that are part of a trust, will or bequest if they are "balanced" by an equal amount of money for the opposite sex.[54] Under this system, need would be determined regardless of sex, but single-sex scholarships could continue to be awarded, provided the *amount* of money individual students received was not affected by their sex. A number of people question whether such an option would be administratively feasible. In addition they argue that much of the benefit of receiving such scholarships is in the prestige connected with it, and that such a system would perpetuate past discrimination by allowing the most prestigious scholarships to continue to be for men only. A study of *Women in Fellowship and Training Programs* concluded that:

> Until women achieve a higher participation rate in [fellowship, internship, and other training] programs, many qualified women will lack one of the more important credentials necessary for career upward mobility. They will always be less "qualified."[55]

RULES AND REGULATIONS[56]

There are a variety of rules, regulations and policies which differentiate on the basis of sex and are almost certainly violations of Title IX. It is highly unlikely that the following types of rules and regulations could be justified under Title IX for any reason:

Different curfews or visitation hours for women and men.[57]

Appearance codes which set different standards based on sex (such as a requirement that boys have short hair, while girls are permitted to have either short or long hair).

Dress codes which set different standards for females and males (such as policies which permit males, but not females, to wear slacks).[58]

Different standards of punishment or different types of punishment based on sex (such as punishing females, but not males, who swear, or using corporal punishment on men only).

Forbidding unmarried mothers (but not unmarried fathers) from participating in extracurricular activities or athletic teams, or debarring unwed mothers from eligibility for awards or prizes.[59]

Restricting the options or participation (in classes, extracurricular activities, etc.) of persons (female or male) because of their actual or potential marital status.

Requiring that the prom queen, homecoming queen, etc. be a virgin.[60]

In addition, automatically assuming that the residency of a woman is the same as her husband's can have an especially significant effect in state-supported institutions where the tuition is higher for out-of-state than for in-state residents.[61]

A number of institutions have rules or regulations which might be challenged under Title IX if they have a disproportionate impact on women. For example:

Rigid time limits for completing programs or degrees.

Lack of opportunity to attend school on a part-time basis. (Because many women have primary responsibility for child care, they are often unable to attend on a full-time basis.)

On-campus residency requirements.

Unavailability of leaves of absence for child rearing.[62]

Policies which make it difficult to transfer credits from one program or institution to another. (Women are more likely than men to attend several institutions because of their husbands' job changes.)

HOUSING RULES AND FACILITIES[63]

While this is not an issue at most elementary and secondary schools, the housing facilities and the options available to men compared to women are of importance at a number of post-secondary institutions.

Section 907 of Title IX specifically addresses one aspect of this issue:

> Notwithstanding anything to the contrary contained in this title, nothing contained herein shall be construed to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes.[64]

Although institutions are not required by Title IX to "integrate" their dormitories, they are prohibited from discriminating on the basis of sex in the options they offer their female and male students.[65]

Lack of dormitory space for one sex cannot be used as a means of limiting the number of students of that sex who are admitted. Housing rules have sometimes been used to deny women admission to an institution. For example, an institution may assign a smaller number of rooms to women, and then insist that all women live on campus (although male students are allowed to live off campus). If the institution uses the lack of dormitory space for women as a reason for limiting their admission, it violates Title IX.

Sex-based differences in housing options can take a number of forms:

Allowing men, but not women, to live off campus (or having different standards, such as grade point averages, for women and men to live off campus).

Offering one sex or the other a disproportionate share of the "most desirable" or most economical housing.

Offering women and men differential opportunities to live in housing which permits drinking, the presence of pets, etc.

Making dormitory suites, single rooms or large rooms differentially available to women and men.

Providing different supportive services (such as maid service, laundry facilities, recreation rooms, dining facilities, snack bars) to women and men.

Offering different options of residence hall governance based on sex.

Offering different security provisions based on sex (such as guards, locks on doors, etc.)

Offering different roommate selection procedures based on sex.

Offering married students different housing options based on sex.

Charging different housing fees based on sex.

Listing or otherwise perpetuating or endorsing housing which discriminates on the basis of sex.[66]

REQUIREMENTS FOR GRADUATION[67]

At present there are a surprising number of instances in which females and males are *required* to amass different credentials (or are able to amass the same credentials in different fashions) in order to graduate. These differences are especially pronounced in traditionally sex segregated physical education, home economics or shop classes. Examples of sex-based differentiation which no doubt violate Title IX include:

Requiring females to take home economics and requiring males to take shop or industrial arts. (Often, women cannot satisfy their requirements by taking shop and men cannot satisfy their requirements by taking home economics.)

Having more required (as opposed to elective) courses for females than males. (For example, requiring women to take a course in home economics, with no similar requirement made of men.)

Requiring female and male students to have a different total number of courses, credits or hours to graduate.

Having different required courses for female and male physical education majors or requiring them to have different grade point averages to graduate (or to graduate with honors).

Allowing men, but not women, to exempt required physical education courses by taking a skills test or participating in varsity athletics.

Awarding academic credit to men, but not to women, who participate in interscholastic or intercollegiate athletics.

PHYSICAL EDUCATION AND EQUAL ATHLETIC OPPORTUNITIES[68]

Perhaps no issue concerning Title IX has generated as much heated debate and controversy as equality in sports and athletics. And perhaps nowhere else are the inequities as profound. Although money is by no means the sole measure of equality, gross inequities in the total amount of money spent on women's and men's sports can be used as a rough measure of discrimination. It is not unusual, for example, for the budget for men's athletics to be a hundred (or even a thousand) times greater than the budget for women's athletics.[69]

Many complex and difficult legal and educational questions are raised in the process of attempting to discern what constitutes equality for women in sports.[70] There are a number of unanswered questions concerning precisely what criteria and standards should be used to evaluate equal opportunity. In assessing whether it provides equal opportunity, an institution might examine its non-competitive programs, competitive (interscholastic or intercollegiate) programs, and (since physical education and athletic programs have traditionally been single-sex) employment patterns and administrative structures.[71]

In non-competitive and instructional programs, an institution might find bias in such areas as: [72]

Instructional opportunities and physical education classes.[73]

Sex-based requirements for physical education majors.

Requirements for graduation.

Intramural programs.

Recreational opportunities.[74]

Discrimination in competitive programs might occur in: [75]

The funding of programs (including the source of money, size of the budget and use of funds).

The provision of facilities and equipment.[76]

The availability of medical and training services and facilities.

Scheduling games and practice times.

The availability of funds for travel and per diem allowances.

Awarding athletic scholarships.

Recruiting athletes.

Media coverage.

The selection of sports and levels of competition.

The female/male composition of the team (single-sex versus mixed or coeducational teams).[77]

Some institutions have been reluctant to change policies and practices mandated by althletic conference or association rules, even though they have a discriminatory impact on women. Such regulations, however, *do not* alter the obligation of an institution to provide equal opportunity to women and men under Title IX. For example, the differential

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association or conference requirements for each sex concerning eligibility for financial aid or for participation in intercollegiate sports do not absolve the institution from the obligation to treat the sexes equally.[78]

Although HEW is reluctant to identify absolute criteria for determining compliance in this area, a number of Title IX complaints alleging sex discrimination in athletic opportunity have already been filed.[79] In the absence of detailed standards for assessing athletic programs, HEW will no doubt resolve complaints on a case-by-case basis.

HEALTH CARE AND INSURANCE [80]

Most institutions offer their students some sort of compulsory or optional medical care and/or health insurance. These services and plans have come under considerable criticism, however, at a number of institutions for discriminating in one way or another against women. The areas most frequently cited as discriminatory involve pregnancy, gynecological care and family planning.[81] In general, it is reasonable to expect the criteria for identifying discriminatory treatment of these services and benefits among students to be consistent with already established criteria for making similar determinations among employees.

The principal of treating pregnancy for job-related purposes in the same manner as any other temporary physical disability is clearly stated in the employment area.[82] In the past, pregnant students have often been treated differently because of moral judgments about their pregnancy, rather than because of concern for their health.

Differential treatment of pregnant students may take a number of forms. For example, the following types of insurance coverage treat pregnancy differently from other temporary disabilities:

Excluding pregnancy altogether.

Providing more limited coverage of pregnancy than of other temporary disabilities.

Covering pregnancy only for women who are married and/or who have either a joint or "high option" policy.

Similarly, policies which cover vasectomies, but not sterilization for women, might be called into question under Title IX.

In addition, the following rules and policies concerning the treatment of pregnant students will undoubtedly be challenged under Title IX because they treat pregnancy differently from other physical disabilities:

Expelling pregnant students.[83]

Requiring pregnant students to enroll in special classes or to be tutored at home.[84]

Requiring pregnant students to leave school a certain number of months before childbirth or forbidding them from returning to school for a certain number of months after childbirth.[85]

Requiring pregnant students to have a doctor's certificate to either remain in or return to school, while not making similar requirements of students with other physical disabilities.

Requiring pregnant students to notify the institution of the expected date of childbirth, without similarly requiring individuals with other temporary disabilities to notify the institution of the planned dates for surgery or absence.

Treating pregnant students differently, depending on their marital status.

The inability or unwillingness of institutional health care facilities to provide gynecological services has become an issue on a number of campuses. The absence or inadequacy of these services is likely to be raised under Title IX.

The lack or inadequacy of family planning and contraceptive services has also been a concern of students at many institutions. Title IX would neither require that an institution provide such services nor prohibit them from doing so, even if they were used by a different proportion of students of one sex than the other. If such services are provided, however, they cannot be offered for one sex only.

EMPLOYMENT OPPORTUNITIES [86]

Many institutions either offer their students some sort of employment or assist them in finding employment. Because of increased awareness of both Title IX and employment legislation, a number of institutions now include a section on student employment in their affirmative action plan.

Students employed by an educational institution are protected by the same antidiscrimination legislation and regulations which cover other employees: Executive Order 11246, Title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963. These laws prohibit any differences on the basis of sex (and, in most instances, on the basis of race, color, religion and national origin as well) in hiring, upgrading, salaries, fringe benefits, training and all other conditions of employment.[87]

Sex bias in student employment can manifest itself in a number of ways. For example, at a coeducational ivy league university, a woman who applied for a job in the university greenhouse was told that she could not be hired to work there because "girls kill the plants." In addition, the following are among the practices which would violate these laws and regulations:

Routinely assigning women students to secretarial jobs and men to the (often higher paying) grounds and building crew.

Refusing to hire women students (or discouraging them from applying) for particular jobs.[88]

Student placement services which accept job opportunities limited to one sex not only violate Title IX, but other laws as well. However benign the intent, this breakdown virtually always limits the job opportunities of women students. For example, relatively low paying jobs (such as secretarial work and teaching) are listed for women, while the better jobs (such as engineering and middle-management positions) are listed for men. Placement services (including student placement services) are likely to be challenged under Title IX if they:

Accept job offers limited to one sex only.

Allow recruiters on campus who refuse to interview women or otherwise discriminate against women.

Allow employers to recruit on campus who routinely offer similarly qualified females and males different jobs or salaries.

Refer only males to fields which are predominantly "male," while referring females to fields traditionally thought of as "feminine."

APPOINTMENT OF WOMEN TO COMMISSIONS AND COMMITTEES [89]

Oftentimes administrators or teachers are called upon to appoint students to commissions, committees or governing bodies of one sort or another. In the past, the bulk of these appointments (especially the most prestigious or powerful appointments) have been given to males. Under Title IX, institutions will have the obligation to assure that these appointments are made on a nondiscriminatory basis and that women are given a full and equal opportunity to participate in these capacities.

IMPLICATIONS OF TITLE IX FOR "PRIVATE" GROUPS WHICH DISCRIMINATE ON THE BASIS OF SEX [90]

There has been considerable discussion concerning the degree to which Title IX covers private organizations or groups which may operate in or be assisted by educational institutions. For example, there has been some disagreement concerning the coverage of Little League teams, honorary organizations, professional organizations, community recreation groups and social sororities and fraternities. The legislative history of Title IX provides little guidance concerning Congressional intent in this area.

Some people argue that the regulations should bar any institution from assisting in any way any person or agency which discriminates on the basis of sex. The proponents of this point of view stress that this approach would be consistent with the interpretation with regard to racial discrimination under Title VI of the 1964 Civil Rights Act.[91] They note that excluding females from such activities as Little League, professional organizations and honorary societies could cause real danger to women. They also point to the paradox of allowing a group which discriminated on the basis of sex to use institutional facilities (or otherwise receive support from the institution), while denying the same privileges to a group which discriminated on the basis of race.[92]

Others maintain that private groups which discriminate should not be covered at all by Title IX, since in general they operate after school hours. However, because these groups are covered under Title VI *vis a vis* race discrimination, this argument is extremely weak.

Still others take the position that whether or not a private group which discriminates on the basis of sex should be allowed to receive support from an institution should depend on the substantiality of the relationship between the institution and the private group, the extent to which the group provides aid or services to the students and employees of the institution, and the degree to which the activities of the group are related to the institution's education programs or activities.[93] This argument maintains that whether or not a group is covered should depend on how closely its activities are related to the activities of the institution. Opponents of this position point out that it is in conflict with the precedents set under Title VI and that, if the government adopted this position, it would be bowing to pressure. Moreover, this position could lead to inconsistent situations. For example, it is possible that a discriminatory Little League team mght be permitted to use college facilities, but be denied the similar use of elementary school facilities under this interpretation.

Although the Title IX regulations clarify the criteria for determining compliance in this area to some degree, a number of the specific complaints brought because of discrimination in such organizations are likely to be resolved on a case-by-case basis.

EDUCATIONAL CONSORTIA AND COOPERATIVE PROGRAMS [94]

A number of institutions either require or permit students to participate in cooperative programs or educational consortia (for example, student teaching assignments or credit for work experience). The requirements of Title IX forbidding sex discrimination cover such cooperative efforts. That is, an educational institution cannot assist another institution or organization in discriminating against its students, even if that organization is not covered by Title IX. The institution bears the obligation to assure nondiscrimination against its students, much as a federal contractor must assure that its subcontrators not discriminate under Executive Order 11246. If an institution is not able to assure nondiscrimination against its students, it would appear that it must withdraw from the cooperative program or activities.

EXTRA-CURRICULAR ACTIVITIES [95]

There is little question that extra-curricular activities are an integral part of the education program offered by an institution and, as such, are subject to the nondiscriminatory provisions of Title IX. An institution which sponsored, supported or endorsed single-sex

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(or otherwise discriminatory) extra-curricular activities, clubs or programs would be vulnerable to charges of discrimination under Title IX.

TEXTBOOKS AND CURRICULA [96]

Textbooks from *Dick and Jane* to medical school anatomy texts have come under fire for portraying women in a biased, stereotyped manner. In a study of government texts,[97] Jennifer Macleod and Sandra Silverman identify three ways in which these books perpetuate discrimination:

Women are rarely mentioned in the texts. The authors of the study found that the texts failed to discuss individual women, to quote women, to include a reasonable number of women in illustrations and to use women's case histories as examples.

Illustrations and texts were often condescending and perpetuated stereotyped roles. The authors found numerous examples of undesirable stereotypes concerning women and women's roles. For example, women in the texts were "often defined as their husband's wives rather than as individuals in their own right; sometimes women [were] dehumanized as sex objects." [98]

Finally, the texts ignored much of the subject matter dealing with women. For example, they rarely mentioned famous women, women's suffrage or the women's movement.

A number of studies of texts used at all levels draw similar conclusions.[99] For example, the Association of Women in Science (AWIS) forced publishers Williams and Wilkins to recall *The Anatomical Basis of Medical Practice* because of its portrayal of women. This text contained a variety of passages that AWIS labeled discriminatory. For example:

If you think that once you have seen the backside of one female, you have seen them all, then you haven't sat in a sidewalk cafe in Italy where girl watching is a cultivated art. Your authors, whose zeal in this regard never flags, refer you to Figures 111–50 and 53 as proof that female backs can keep an interest in anatomy alive.

Thus the "little bit" of difference in a woman's built-in biology urges her to ensnare a man. Such is the curse of estrogen.[100]

Differential treatment of women and men is generally more easily identified in textbooks than in most other curricula materials. Similar discrimination, however, may occur in the classroom in a variety of more subtle ways. For example, students at Western Michigan University have cited the following examples of teacher comments which discriminate against women:

A biology teacher during a class field trip passed a junk car lot and said, "Well, there's women's biggest contribution to the world."

Another professor told a woman student, "Don't worry, with your body, you'll get whatever you want."

And still another professor made this remark, "Now that there are permapress shirts, dishwashers and garbage disposals, etc., women aren't needed." [101]

Although there is little question that a wide variety of textbooks and curricula are in one way or another sex biased and perpetuate discrimination, it is not clear precisely what strategy HEW will adopt to remedy this discrimination.

Some persons argue that HEW should take immediate and direct steps to eliminate this sort of stereotyping. However, there is a strong reluctance on the part of many government officials to intervene in issues involving textbooks and curricula. Both HEW and many educators fear that strong enforcement in this area might jeopardize the autonomy and academic freedom of local education agencies and institutions. They believe that such programmatic decisions should be made at the local, not the federal, level. In addition, they feel that the statutory mandate to overcome discrimination does not override the guarantees of free speech under the First Amendment.[102]

Others advocate the position that, although the government should not make such judgments directly, it should require institutions to have internal procedures and mechanisms for reviewing materials and curricula.[103] They think that the government should require institutions to establish internal mechanisms both to ensure that their curricula do not reflect discrimination and to resolve complaints alleging sex discrimination in the curricula. Advocates of this position maintain that, since it avoids having the federal government itself determine what is discriminatory, the First Amendment criticism mentioned earlier does not apply.

A third position is that the government should administratively delay any decision on this issue indefinitely. The probable eventual result of this tactic would be a suit by women's groups against HEW for not enforcing the provisions of Title IX. This would leave the resolution of this issue in the hands of the courts, which many people feel is a more appropriate vehicle for this decision than a government agency. Finally, some people argue that the government should overtly refuse to address the issue at all, perhaps even inviting a "sweetheart suit" to resolve the issue in the courts.[104]

Whatever strategy the government adopts, the issue of sex discrimination that is perpetuated by stereotyping in textbooks and curricula promises to be both controversial and unavoidable in the long run. A number of Title IX complaints in this area have already been filed.[105]

THE COUNSELING OF STUDENTS [106]

While there is little question that it is important for an institution to provide its students with unbiased counseling, there is considerable disagreement concerning how this might most appropriately be accomplished. Sex bias in counseling is perhaps even more difficult to identify and rectify than bias in textbooks or curricula. The arguments both for and against government intervention in counseling parallel those discussed in the preceeding section. Because of the subtle nature of discrimination in this area, the government is even less likely to intervene in counseling programs than in the area of textbooks and curricula.

Although counseling programs alone cannot take the blame or credit for the career and personal choices students make, they typically mirror the attitudes of the institution towards women. Often sex bias is transmitted by well-meaning counselors who pass on stereotypes about men and women. They may be unaware of the growing body of research which is shedding new light on motivation and achievement in women. Often counselors are trained only to work with the "traditional" student, a label which often doe not apply to older women returning to complete their education or women with child care and family responsibilities.[107]

No matter what stand HEW takes on direct (or indirect) intervention to alleviate sex bias in counseling, voluntary steps by schools would be consistent with both the spirit and letter of Title IX. For example, they might develop programs to train their counselors to be more sensitive to their own biases and those in the materials they use.

A similar issue is posed by bias in the tools that counselors might use: interest inventories, catalogs, tests, occupational materials, etc. These instruments can perpetuate stereotypes which limit the options of women and men. For example, in 1972 the American Personnel and Guidance Association passed a resolution calling for the revision of the widely-used Strong Vocational Interest Blank because it perpetuated discrimination against women. Although the APGA focused on the Strong, the pattern is consistent from one instrument to another.[108] It is likely that advocacy groups will use the momentum for change generated by Title IX to encourage schools, colleges and testing companies to reassess and revise counseling tools to assure that they do not perpetuate sex bias.

SINGLE-SEX COURSES AND PROGRAMS [109]

A number of educational institutions at all levels have one or more courses which are open to one sex only. For example, many high schools offer home economics to females only and industrial arts to males only. In almost all instances such practices violate Title IX.[110] This prohibition has significance for a variety of courses: health, physical education, business, vocational, technical, industrial arts, home economics, music, as well as continuing and adult education courses.

Often the argument used for refusing to admit one sex or the other is the lack of duplicate facilities (such as bathrooms, dressing rooms or locker rooms). While bathroom and locker room space may have to be reallocated or shared by both sexes on an alternating basis (similar to the arrangements in airplanes and trains), the lack of duplicate facilities cannot be used as a reason for excluding one sex or the other. In any event, Title IX does not require women and men to undress in front of one another or to share the same bathroom at the same time.[111]

Because of different interest patterns between women and men, it is likely that some classes will continue to be made up either entirely or primarily of members of one sex. Women's groups are urging institutions to assure that classes or programs which enroll primarily men not receive preference over those which enroll primarily women in such areas as facilities and equipment, scheduling of classes or teacher competence.

Some women's groups are stressing that institutions be on guard not to offer courses which might have the effect of discriminating against women. For example, if an institution offered coaching instruction only for predominately male sports, it might leave itself vulnerable to criticism and charges of illegality.

VOCATIONAL EDUCATION PROGRAMS [112]

Many of the vocational education programs and courses in schools have been (and still are) sex segregated.[113] Tracking, as well as overt discrimination, will no doubt be strongly challenged under Title IX. Given that Title IX specifically prohibits sex discrimination in admissions to *all* vocational schools, including vocational high schools, these programs will come under strong legal (as well as moral) pressure to open their doors and programs to women and men on an equal basis. Indeed, because of both constituted challenges and Title IX, a number of schools have already changed their policies and programs.

WOMEN'S STUDIES PROGRAMS AND COURSES [114]

It is reasonable to expect the number of women's studies courses and programs to increase as the press for equality for female students increases. There are now more than 4,000 such courses in existence and they will no doubt continue to flourish.[115] These programs are likely to be challenged under Title IX, however, if they exclude men.[116]

For a variety of reasons (including the reticence of the government to intervene in matters involving curricula), HEW is not likely to mandate that an institution have a women's studies program or women's studies courses. However, in the event that a Title IX complaint is filed, the government is likely to consider the existence of a women's studies program (or courses) as a sign of commitment to the education of women or as remedial or affirmative action.[117]

Footnotes at end of article.

WOMEN'S CENTERS [118]

A number of colleges and some high schools have "women's centers" of one sort or another which provide supplementary services for the women in the institution.[119] It is well within the scope of Title IX to have a center focusing on women. However, under Title IX, it is not likely that a center could exclude men from using its services or participating in its activities. In general, this should not pose a threat to women's centers, because the few men who would use the center are likely to be sympathetic to women's issues.

FLEXIBLE PROGRAMS [120]

Opportunities to pursue a degree in a "nontraditional" manner or at a "nontraditional" pace are often especially important to women. Most college programs were originally designed to meet the needs of young males who had few, if any, home or parental responsibilities. Consequently, they are often not tailored to meet the needs of any of the so-called "nontraditional" students—women, minorities, older students, etc.

For a variety of reasons (including academic freedom and the First Amendment issues raised earlier), it is doubtful that HEW would require that an institution offer flexible programs. However, if these programs are especially beneficial to women, HEW is likely to regard their presence as a positive factor in evaluating an institution's compliance with Title IX.

CONTINUING EDUCATION PROGRAMS [121]

The lack of opportunity for older students to attend school is a factor which is likely to have a disproportionate impact on women. Because fewer qualified women than men go to college or graduate school, older women returning to college make up the largest single group of potential new students. Many *institutions* are finding that one of the easiest ways to increase their lagging enrollment without diluting academic standards is to develop programs and services which facilitate the reentry of these women into academia.

Although Title IX will probably not require an institution to provide such services, the government may look at the presence (or absence) in determining overall compliance with Title IX. Again, although many of these programs were specifically designed to meet the needs of women, it is doubtful whether men could be excluded from them under Title IX. In fact, a number of "Continuing Education for Women" programs already admit men.

CHILD CARE FACILITIES [122]

Although the trend is towards more equal sharing of work both in the home and in the labor force, most women still bear the principal responsibility for child rearing. Therefore, the lack of child care facilities almost always affects female students (and employees) disproportionately. In assessing compliance with Title IX, HEW is likely to view the presence of such facilities as a positive indication of the institution's concern for women.

There are a number of unanswered questions concerning the specific implications of Title IX of the Education Amendments of 1972. There is no question, however, that educational institutions now have a clear and strong federal mandate to eliminate sex discrimination against students, as well as employees.

FOOTNOTES

[1] The authors wish to express their appreciation to Jeffrey H. Orleans, formerly an attorney with the Department of Health, Education and Welfare and currently with the Equal Employment Opportunity Commission, for his helpful comments on drafts of the manuscript.

[2] Education Amendments of 1972 Sections 901–907, 20 U.S.C. Sections 1681–86 (1972).

[3] *Brown* v. *Board of Education of Topeka*, 347 U.S. 483 (1954).

[4] In *Sweatt* v. *Painter*, 339 U.S. 629 (1950), the Supreme Court unanimously ordered that black students be admitted to the University of Texas Law School. In *McLaurin* v. *Oklahoma State Regents*, 339 U.S. 637 (1950), the Supreme Court unanimously ordered that the black student-plaintiff "receive the same treatment at the hands of the state as students of other races." Similarly, in *Brown* v. *Board of Education of Topeka*, 347 U.S. 843 (1954), the Supreme Court found that "separate educational facilities [on the basis of race] are inherently unequal." In contrast, six years after the *Brown* decision, in *Allred* v. *Heaton*, 336 S.W. 2d 251 (Tex. Civ. App., 1960), *cert. denied*, 364 U.S. 517 (1960), the Supreme Court let stand a lower court decision prohibiting a woman from being admitted to Texas A and M (then an all-male institution) to pursue a course of study which was not offered at any other publicly supported institution. Similarly, in *Williams* v. *McNair*, 316 F. Supp. 134 (D.S.C. 1970) *aff'd. mem.*, 401 U.S. 951 (1971), the Supreme Court affirmed a lower court decision upholding the right of a state to maintain a women's college. In *Kurstein* v. *Rector & Visitors of the University of Virginia*, 309 F. Supp. 184 (E.D. Va. 1970), however, women were granted admission to the previously all-male college of the University of Virginia. For a general review, see Shaman, "College Admission Policies Based on Sex and the Equal Protection Clause," 20 *Buffalo L. Rev.* 609 (1971). No cases involving sex discrimination against students in educational institutions in areas other than admissions have been heard by the Supreme Court.

[5] Public Health Service Act, Section 799a and Section 845, 42 U.S.C. Section 295h–9 and Section 298b–2 (as added by the Comprehensive Health Manpower Training and Nurse Training Acts of 1971). The Act covers, but is not limited to, schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health, allied public health personnel and nursing. In addition, regulations issued in June 1972 (45 CFR Part 83) by the Secretary of Health, Education, and Welfare specify that *all* entities (including hospitals) applying for awards under Titles VII and VIII of the Public Health Service Act as subject to the nondiscrimination requirements.

[6] As of July 1974, final regulations for these amendments had not been issued. Draft regulations, proposed 45 CFR Part 83, were published in the *Federal Register* on September 20, 1973. 38 *Fed. Reg. 26, 384–89*.

[7] The legislative history of Sections 799a and 845 of the Public Health Service Act, 42 U.S.C. Section 295h–9 and Section 298b–2, is found at 117 Cong. Rec. 23,222–64, 25,119–22, 25,181–86 (1971). It would be inconsistent with the intent of this legislation to admit students in a nondiscriminatory manner to a program which subsequently treated them discriminatorily. In addition, sex discrimination against students already enrolled in a program might significantly discourage qualified students from applying because of their sex.

[8] Education Amendments of 1972 Sections 901–907, 20 U.S.C. Sections 1681–86 (1972). As of July 1974, final implementing regulations for Title IX had not been issued. For a copy of the *proposed* regulations (45 C.F.R. Part 86), see 39 Fed. Reg. 22, 228–40 (June 20, 1974) or write to the Director, Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C. 20201. The comment period for the proposed regulations ends October 15, 1974.

[9] Federal financial assistance includes, but is not limited to, a grant or loan of federal funds (including funds for construction or repair of buildings or facilities scholarships, loans, grants, wages or other funds extended to an institution for payment to, or on behalf of, students; or scholarships, loans, grants, wages or other funds extended directly to a student for payment to an institution); a grant of federal real or personal property, including surplus property; provision of the services of federal personnel; or the sale or lease of federal property at a nominal cost.

[10] For an excellent section-by-section analysis of Title IX and a suggested legal framework in which to evaluate separate or different treatment of the sexes in educational activities, see Alexandra Polyzoides Buek and Jeffrey H. Orleans, "Sex Discrimination—A Bar to a Democratic Education: Overview of Title IX of the Education Amendments of 1972," 6 *Conn. L. Rev.* 1 (1973) [hereinafter cited as Buek and Orleans].

[11] Education Amendments of 1972 Section 901(a), 20 U.S.C. Section 1681 (1972).

[12] Specifically, Title IV of the 1964 Civil Rights Act was amended to include sex as a category of discrimination in school assignment in determining whether the U.S. Attorney General may bring action upon receiving a complaint of discrimination involving admission or continued attendance at a public institution. Title IX of the 1964 Act was amended to include sex as a category of discrimination under which the Attorney General may intervene in an action commenced in any federal court seeking relief from denial of equal protection of the laws.

[13] Also, coverage under the Fair Labor Standards Act was extended to individuals employed in preschools and outside salespersons.

[14] As of July 1974, no regulations had been issued to enforce this provision.

[15] Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* (1964).

[16] (1) Certain schools are exempt from Title IX, while there are no such exemptions under Title VI; (2) Title VI has certain exemptions from its coverage of employment discrimination, while Title IX does not; (3) Title IX is restricted to federally assisted *education* programs, while Title VI covers all federally assisted programs.

[17] The obligation of an institution to comply with the provisions of Title IX is in no way obviated or alleviated by any state or local law or other requirement which allows or requires discrimination. Similarly, rules or regulations of any organizaton, club or athletic league or association do not alter an institution's Title IX obligations. See Subpart A, Section 86.6 of the proposed regulations.

[18] If an educational institution is composed of more than one school, college or department which are administratively separate units, admissions to each unit are viewed separately under Title IX. See text accompanying notes 35–41 *supra*.

[19] The reader is reminded that there are no similar exemptions under the amendments to the PHSA for federally financed health training programs subject to those provisions.

[20] Since the passage of Title IX, the Maritime Administration has changed its admission policies so that women are now admitted to the U.S. Marchant Marine Academy at Kings Point, New York.

[21] Although HEW attempts to keep the names of complainants confidential, women are increasingly filing complaints through third parties or advocacy groups because they fear harassment. Although such harassment is prohibited, it is often very subtle and consequently difficult to document.

[22] 20 U.S. 1682.

[23] These procedures are expected to be described in some detail in the final implementing regulation for Title IX. See Subpart F of the proposed regulations.

[24] This is consistent with the regulations to Title VI of the 1964 Civil Rights Act as amended in July 1973. 45 CFR Part 80.

[25] Title IX, 20 U.S.C. 1681(b), provides that: Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program activity, in comparison with the total number or percentage of persons of that sex in any community, State, section or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participtaion in, or receipt of the benefits of, any such program or activity by the members of one sex.

[26] The Supreme Court has recently avoided the issue of deciding whether, in the absence of proven discrimination, the Equal Protection clause of the Fourteenth Amendment permits an institution to use different criteria for admitting white and minority students. See *DeFunis* v. *Odegaard*, 94 S.Ct. 1704 (1974).

[27] In a number of employment cases, the courts have ruled that individual capabilities, not on the basis of characteristics attributed to the group to which they belong. See, for example, *Weeks* v. *Southern Bell Telephone and Telegraph*, 408 F. 2d 228 (5th Cir. 1969) and *Phillips* v. *Martin-Marietta Corp.*, 400 U.S. 542 (1971).

[28] 401 U.S. 424 (1971).

[29] See Subpart C, Section 86.23 of the proposed regulations.

[30] A number of institutions are now making special efforts and developing special materials to recruit women, especially for traditionally "male" fields. For example, at Stanford University female students in the graduate business program recruit women undergraduates. Similarly, Rensselaer Polytechnic College has a woman on its admissions staff who, among other things, encourages prospective women students to speak with females already enrolled. In addition, recruiters are beginning to recruit more actively at female high schools and colleges.

[31] See Margaret Dunkle, "Grading the College of Your Choice," *Ms.*, June 1974, 101.

[32] See Subpart C, Sections 86.14–86.22 of the proposed regulations.

[33] In this section, the authors have drawn heavily from the unpublished paper "Expanding Opportunities for the Admission of Women in Graduate and Professional Schools Through Implementation and Enforcement of Title IX" by Gary R. Bachula, which was written while he was a student at Harvard Law School (May 7, 1973). Also see David Leslie, "Emerging Challenges to the Logic of Selective Admissions Procedure," 3 *Journal of Law and Education* 203 (1974).

[34] Similarly, an understanding of bias in admissions aids in understanding discriminatory procedures and policies which may also exist in terms of selection of students for special programs either within the school or outside the school where the institution plays a role in the selection process (for example, summer science programs).

[35] Recruitment policies and procedures are exempt from the nondiscrimination provisions of Title IX to the same extent that admissions policies are exempt.

[36] For a discussion of the legislative history of these exemptions, see Buek and Orleans, *supra* note 10, text accompanying notes 12–18, 47–51.

[37] Single-sex elementary and secondary schools have been challenged on Constitutional grounds. Compare *Bray* v. *Lee*, 337 F. Supp. 934 (D. Mass. 1972). Subpart C, Section 86.34(b) of the proposed regulations provides that:

A recipient which is a local educational agency shall not, on the basis of sex, exclude any person from admission to:

(1) any institution of vocational education operated by such recipient; or

(2) any other school or educational unit operated by such recipient, unless such recipient otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

[38] If single-sex public institutions decide to admit both sexes, they have up to seven years to admit female and male students on a nondiscriminatory basis provided that their plans are approved by the Commissioner of Education.

[39] There is some speculation that the passage of the Equal Rights Amendment would either abolish or significantly limit these admissions exemptions. It seems fairly certain that the exemptions for public single-sex undergraduate institutions and nonvocational public elementary and secondary schools would be negated by the passage of the Equal Rights Amendment. The effect of the amendment on the exemption for *private* undergraduate institutions (both single-sex and coeducational) is less clear and would depend on court interpretation of the degree of "state action" involved. For a further discussion of this issue, see Monica Gallagher, "Desegregation: The Effect of the Proposed Equal Rights Amendment on Single-Sex Colleges," 18 *St. Louis Univ. L. J.* 41 (1973).

[40] The question of the applicability of Title IX to discriminatory admissions in *private undergraduate schools which provide professional or vocational training* is, at this point not clear. Some argue that, since Title IX clearly covers vocational and professional education, these programs must have nondiscriminatory admissions. Others argue that the admissions exemption for private undergraduate schools exempts these programs. The proposed regulations for Title IX take the latter position.

[41] Single-sex graduate, professional and vocational schools at all levels have until July 1979 to achieve nondiscriminatory admissions, provided their plans are approved by the Commissioner of Education.

[42] *Supra* note 28.

[43] 401 U.S. at 431.

[44] 401 U.S. at 436.

[45] For a more detailed discussion of this, see Buek and Orleans, *supra* note 10, text accompanying notes 72–84.

[46] Phi Delta Kappa changed its policy of excluding women after the Women's Equity Action League (WEAL) filed charges of sex discrimination under Title IX against 25 institutions that sponsored chapters of the honorary.

[47] See Subpart C, Section 86.22 of the proposed regulations.

[48] Despite myths that older women are poor risks as students, studies show that their dropout rate is lower and their grades higher than "typical" students. See Melissa Lewis Richter and Jane Banks Whipple, *A Revolution in Education: Ten Years of Continuing Education at Sarah Lawrence College*, Sarah Lawrence College, Bronxville, N.Y., 1972.

[49] Letters of recommendation, particularly for admission to graduate and professional schools, need to be evaluated in the context of the "protege" system. Often faculty members "sponsor" students, training them in the formal and informal systems of their future professions. For a variety of reasons, women typically have less interaction with faculty and are therefore less likely than males to benefit from this system and to have strong letters of recommendation. Regarding alumnae recommendations for minority students, see *Merideth* v. *Fair*, 298 F. 2d 696 (5th Cir. 1962).

[50] See Subpart D, Section 86.35 of the proposed regulations.

[51] The reader is reminded that Title IX applies to the education activities and programs of entities receiving federal funds. Financial aid which is administered by a group outside the institution and which the institution in no way endorses, approves, lists or perpetuates is not covered by the antidiscrimination requirements of Title IX. However, Title IV of the Education Amendments of 1972 prohibits lenders who use the Student Loan Marketing Association from discriminating on the basis of sex, color, creed or national origin.

[52] See Elizabeth W. Haven and Dwight H. Horsch, *How Students Finance Their Education: A National Survey of the Educational Interests, Aspirations and Finances of College Sophomores in 1969–70*, College Entrance Examination Board, New York, 1972; and Helen S. Astin, "Career Profiles of Women Doctorates," in Rossi and Calderwood (eds.), *Academic Women on the Move*, Russell Sage Foundation, Hartford, Conn., 1973.

[53] Subpart D, Section 86.35 of the proposed regulations prohibits single-sex scholarships, fellowships and other financial assistance *except* if the single-sex financial assistance is (1) "established under a foreign will, trust, bequest, or similar legal instrument or by a foreign government" or (2) "provided as part of separate athletic teams for members of each sex." Both of these exceptions are coming under heavy criticism from women's groups.

[54] A public agency cannot administer a will which discriminates on the basis of race. See *Pennsylvania* v. *Board of Trustees*, 353 U.S. 230 (1957).

[55] Cynthia L. Attwood, *Women in Fellowship and Training Programs*, Association of American Colleges, Washington, D.C. 1972, at 15.

[56] See Subpart D. Section 86.31 of the proposed regulations.

[57] *But compare Robinson* v. *Board of Regents of Eastern Kentucky University*, 475 F. 2d 707 (6th Cir. 1973), *cert. denied*, 94 S. Ct. 2382 (1974), with Buek and Orleans, *supra* note 10, text accompanying notes 19–25.

[58] Although it is clear that Title IX covers this issue, there is some debate concerning the appropriate test to be used to determine compliance. Some people argue that there should be identical rules for any aspect of appearance for men and women. (For example, if long hair is permitted for females, it must be permitted for males as well.) Others argue for the "community standards" approach, where allowable dress might differ according to sex, provided that the community standards concerning dress were applied with equal diligence for both sexes. Opponents of the "community standards" approach argue that it would merely perpetuate discrimination by allowing the community to sanction differential standards for men and women. In addition, they cite the difficulty in fairly determining just what "community standards" are.

[59] Since it is impossible to identify unwed fathers with any certainty and consistency, even a policy which ostensibly applied to all "unwed parents" is probably impermissible under Title IX.

[60] In the fall of 1973, seventeen year old Sharon Boldman was ruled off the Urbana (Ohio) High School homecoming queen ballot by her school principal who said, "Only virgins can run for homecoming queen." Mrs. Boldman was the mother of an infant daughter born out of wedlock.

[61] A policy basing a woman's tuition rate on her husband's residency status was voided in *Samuel* v. *University of Pittsburgh et al.*, ——— F. Supp. ——— (W.D. Pa., No. 71–1202, April 10, 1974).

[62] The parallel provision for employment

can be found in Office for Civil Rights, U.S. Department of Health, Education and Welfare, *The Higher Education Guidelines, Executive Order 11246*, at 13 (37 Fed. Reg. 24686 *et seq.*, Nov. 18, 1972):

> If employees are generally granted leave for personal reasons, such as for a year or more, leave for purposes relating to child care should be considered grounds for such leave and should be available to men and women on an equal basis.

[63] See Subpart D, Sections 86.31(b)(6) and 86.32 of the proposed regulations.

[64] Education Amendments of 1972 Section 907, *20 U.S.C. (1972)*.

[65] See Subpart D, Section 86.33 of the proposed regulations.

[66] See Subpart D, Section 86.32(c) of the proposed regulations.

[67] See Subpart D, Section 86.31 of the proposed regulations.

[68] See Subpart D, Sections 86.38, 86.35(d) and 86.34(a) of the proposed regulations.

[69] Subpart D, Section 86.38(f) of the proposed regulations states that "Nothing in this section shall be interpreted to require equal aggregate expenditures for athletics for members of each sex."

[70] For a discussion of the legal implications of sex discrimination in athletics in educational institutions, see Rubin, "Sex Discrimination in Interscholastic High School Athletics," 25 *Syracuse L. Rev.* 535 (1974).

[71] For a detailed discussion of discrimination in sports in educational institutions, see Association of American Colleges, Project on the Status and Education of Women, *What Constitutes Equality for Women in Sports? (Federal Law Puts Women in the Running)*, Washington, D.C., April 1974.

[72] In general, the proposed regulations require complete "integration" for noncompetitive and instructional programs. See Subpart D, Section 86.38 and 86.34 of the proposed regulations.

[73] Subpart D, Section 86.34(a) of the proposed regulations specifically prohibits single-sex classes or courses, including health and physical education courses.

[74] Employees might also challenge recreational opportunities which differentiate on the basis of sex as discriminatory fringe benefits.

[75] On May 20, 1974 Republican Senator John Tower of Texas introduced a bill (as an amendment to the Elementary and Secondary Education Act) to amend Title IX so that it would "not apply to an intercollegiate athletic activity to the extent that such activity does or may provide gross receipts or donations to the institution necessary to support that activity." The effect of this amendment would have been to exclude virtually all intercollegiate (but not interscholastic) athletic activities from Title IX coverage. The Tower amendment was deleted from the bill in the House-Senate conference committee.

[76] Subpart D, Section 86.38(e) of the proposed regulations states that "A recipient which operates or sponsors separate teams for members of each sex shall not discriminate on the basis of sex therein in the provision of necessary equipment or supplies for each team or in any other manner."

[77] Subpart D, Section 86.38(a) of the proposed regulations allows "separate teams for members of each sex where selection is based on competitive skill."

[78] See Subpart A, Section 86.3(c) of the proposed regulations.

[79] For example, the University of Wisconsin, the University of Michigan and the University of Minnesota have had Title IX complaints alleging discrimination in athletics filed against them.

[80] See Subpart D, Sections 86.36 and 86.37, and Subpart E, Section 86.46 of the proposed regulations.

[81] See Association of American Colleges, Project on the Status and Education of Women, *Health Services for Women: What Should the University Provide?* Washington, D.C., June 1972.

[82] The *Guidelines on Discrimination Because of Sex*, the Equal Employment Opportunity Commission, states:

> Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and should be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities. [29 CFR 1604.10]

Also see notes 85 *infra*.

[83] See *Ordway* v. *Hargraves*, 323 F. Supp. 1155 (D. Mass. 1971).

[84] There would be no bar under Title IX to permitting pregnant students to attend separate classes or to be tutored at home, provided the same options were open on the same basis to students with other temporary physical disabilities. See, however, the legislative history at 188 Cong. Rec. 2747 (daily ed. Feb. 28, 1972).

[85] In January 1974, the Supreme Court ruled that school boards violated the due process clause of the Fourteenth Amendment by maintaining and enforcing mandatory maternity leave policies requiring teachers to leave their jobs four and five months before childbirth. *Clevelnad Board of Education et al.* v. *LeFleur et al.*, 94 S. Ct. 791 (1974). But in *Geduling v. Aiello et al.*, — U.S. — (1974), the Court ruled that it was not unconstitutional for a state disability insurance program to exclude pregnancy from coverage.

[86] See Subpart D, Section 86.35 and Subpart E of the proposed regulations.

[87] For a free copy of a chart prepared by the Project on the Status and Education of Women that outlines *Federal Laws and Regulations Concerning Sex Discrimination in Educational Institutions,* write to the Public Information Office, Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C. 20201. See also Bernice Sandler, "Sex Discrimination, Educational Institutions, and the Law: a New Issue on Campus," 2 *Journal of Law and Education* 613 (1973).

[88] A job can be limited to one sex only if sex can be proven to be a "bona fide occupational qualification" (bfoq). The courts have interpreted this exemption very narrowly: for example, acceptable bfoq's are "lingerie fitter" and "rest room attendant" (provided the attendant is in the rest room while it is in use).

[89] See Subpart D. Section 86.31 of the proposed regulations.

[90] *Id.*

[91] Section 804(b) of the Higher Education Act of 1965, P.L. 89–329 ("Waggoner Amendment") provides that:

> Nothing contained in this Act or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the membership practices or internal operations of any fraternal organization, fraternity, sorority, private club or religious organization at an institution of higher education (other than a service academy or the Coast Guard Academy) which is financed exclusively by funds derived from private sources and whose facilities are not owned by such institutions.

Under Title VI, no institution/recipient of federal assistance may assist any person or agency in practicing racial discrimination, whether or not its activities are related to the activities of the recipient. HEW's policy under Title VI has been consistent no matter what form "support" takes. For example, recipients may not do such things as allow a racially segregated social organization, student activity or professional fraternity to use a school facility to conduct its activities.

[92] Race discrimination has been held to be unlawful in *Sigma Chi* v. *Regents of University of Colorado*, 258 F. Supp. 515 (D.C. Colo. 1966); *Webb* v. *State University*, 129 F. Supp. 910 (N.D.N.Y. 1954), appear dismissed.

[93] This is the interpretation articulated in the introduction to the proposed regulations by the Secretary of HEW.

[94] See Subpart D, Section 86.31(c) of the proposed regulations.

[95] See Subpart D, Section 86.31 of the proposed regulations.

[96] The proposed regulations deliberately do not mention the issue of sex stereotyping and discrimination in textbooks and curricula. See the introduction to the proposed regulations by the Secretary of HEW.

[97] Jennifer MacLeod and Sandra Silverman, *You Won't Do; What Textbooks on U.S. Government Teach High School Girls*, KNOW, Inc., Pittsburgh, 1973.

[98] *Id. at 24.*

[99] For further information, see Saario, Jacklin and Tittle, "Sex Role Stereotyping in the Public Schools," 43 *Harv. Ed. Rev.* 386 (1973).

[100] Letter from Estella R. Ramey to Membership of Association for Women in Science, August 1, 1972.

[101] Association of American Colleges, Project on the Status and Education of Women, *On Campus With Women*, No. 7, Washington, D.C., December 1973, at 9.

[102] The proposed regulations adopt this position. See the Introduction to the proposed regulations by the Secretary of HEW.

[103] The January 1974 unpublished draft of the Title IX regulations adopted this position.

[104] That is, a suit in which the parties agree to initiate litigation in order to obtain a judicial determination of their respective rights.

[105] For example, at the University of Wisconsin, a group of women medical students has filed charges of sex discrimination under Title IX, claiming that a professor's remarks showed disrespect for women medical students. The women supported their claims with tape recordings.

[106] Although the proposed regulations do not address the issue of sex discrimination in counseling in any detail, Subpart D, Section 86.34(c) requires nondiscriminatory appraisal and counseling *materials*.

[107] See John Pietrofessa and Nancy K. Schlossberg, "Perspectives on Counselor Bias: Implications for Counselor Education," 4 *Counseling Psychologist* 44 (1973) and I. K. and D. M. Broverman, F. E. Clarkson, P. S. Rosenklatz and S. R. Vogel ,"Sex Role Stereotypes in Clinical Judgments of Mental Health", 34 *Journal of Consulting and Clinical Psychology* 1 (1970).

[108] Pietrofessa and Schlossberg at 49.

[109] See Subpart D, Section 86.34 of the proposed regulations.

[110] Single-sex courses, programs and activities *may* be permitted in a few limited instances if they can be justified for affirmative action purposes. However, indications are that this exception will be construed very narrowly. It is not clear to what extent and in what circumstances special programs or internships for women only will be permitted.

[111] See Subpart D, Section 86.33 of the proposed regulations.

[112] See Subpart A, Section 86.14 and Subpart D, Section 86.34 of the proposed regulations.

[113] For documentation of the degree of sex segregation in vocational schools and programs see Nancy Frazier and Myra Sadker,

Sexism in School and Society, Harper & Row, New York, 1973; *A Look at Women in Education: Issues and Answers for HEW—Report of the Commissioner's Task Force on the Impact of OE Programs on Women,* Office of Education, Department of Health, Education and Welfare, Washington, D.C., 1972, at 5; Gail Byran, *Discrimination on the Basis of Sex in Occupational Education in the Boston Public Schools,* Boston Commission to Improve the Status of Women, 1973, at 6; Marcia Federbush, *Let Them Aspire!,* Committee to Eliminate Sexual Discrimination in the Public Schools, Ann Arbor, 3rd ed., 1973, at 16–17; and Paula Latimer, *Survey of Sex Discrimination in the Waco Independent School District,* Waco, Texas, 1973.

[114] See Subpart D, Section 86.31 of the proposed regulations.

[115] For a listing of about 4,000 women's studies courses and instructors, see Feminist Press, *Who's Who and Where in Women's Studies,* Old Westbury, New York, 1974.

[116] See Subpart D, Section 86.34(a) of the proposed regulations.

[117] See Subpart A, Section 86.3 of the proposed regulations.

[118] See Subpart D, Section 86.31 of the proposed regulations.

[119] For a listing of approximately 500 women's centers see Association of American Colleges, Project on the Status and Education of Women, *Women's Centers: Where Are They?* Washington, D.C., June 1974.

[120] See Subpart D. Section 86.31 of the proposed regulations.

[121] For a listing of such programs, see the publication of the Women's Bureau, U.S. Department of Labor, *Continuing Education Programs and Services for Women,* Washington, D.C., 1971.

[122] See Subpart D, Section 86.31 of the proposed regulations.

TRIBUTE TO ERNEST GRUENING

Mr. GRAVEL. Mr. President, when a wise man dies, we all feel the loss of his good counsel. So it was on June 26, 1974, the day former Senator Ernest Gruening died in Washington, D.C.

Alaska was changed because of Ernest Gruening. He brought a worldly view to the Territory of Alaska when he was appointed Governor in 1939 by President Franklin D. Roosevelt. He made things happen and, indeed, personally quickened the slow and complacent life of that earlier Alaska.

When Ernest Gruening left the Senate in 1969, his career as a public figure continued. He was sought after to speak out on the issues of the day, particularly on college campuses. Foremost, he spoke of the atrocities of Vietnam, and his voice was the most articulate because it had been one of the first. Wayne Morse and he were the only Members of the Senate to wisely vote against the Gulf of Tonkin Resolution in 1964. It was one of life's mysteries that these two men, so closely associated, should die within 1 month of each other. It seems an era quickly came to an end.

Ernest Gruening was most instrumental in the achievement of statehood for Alaska. He quickly saw that the people of Alaska were second-class citizens, or as he often said, "stepchildren of the Federal Government." The battle for Alaska statehood took 20 years after he became Governor, but always constant in his efforts was Ernest Gruening.

There was a memorial service for Senator Gruening in Washington and that service was printed earlier in the Congressional Record. The people of Alaska also paid tribute to Ernest Gruening in Anchorage and I would like to offer the transcript of that service for the Record. also.

In closing, I would like to say that we shall miss the courageous voice of Ernest Gruening who comes to mind when one considers the words of Cicero in his essay on moral duties:

> Again, the strong and resolute man is not shaken by misfortune; he is never disconcerted or thrown off his balance, but at all times retains his presence of mind, his judgment, and his reason. Such are the marks of personal courage.

Such was Ernest Gruening, our Governor and our Senator.

I ask unanimous consent that the transcript of the service be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Gruening Memorial Service,
Anchorage, Alaska,
August 6, 1974.

Judge Thomas B. Stewart, Master of Ceremonies. For forty years he lived among us and devoted his great intellect, vigor, and talents to the building of this our State and of a better nation and, indeed, the world.

This is Ernest Gruening Week by proclamation of the Governor and I have before me the Governor's original proclamation which reads: "Ernest Gruening will always be remembered in Alaska, both by the people he served so well and for so long and also by future generations of Alaskans who will read and hear of his life's good works. The lasting memory of him as he was involved, is involved, and is secure in the lives of the people and this tribune on paper can only serve as a token of our love for him and of the esteem in which he was held. Ernest Gruening cared about and worked for his fellow human beings with a tireless dedication. The essence of this giant among men was an unceasing quest for dignity and justice for all people. He knew that these were achieved not through abstract theorizing about utopian goals but through the betterment of people's everyday lives. He believed that the people who were properly fed and housed and clothed and in good health were fully up to looking after their own destiny. During his years as territorial governor and the years of Alaska's fight for Statehood, on through its first decade as a State when he was a United States Senator and in the period following that as a distinguished senior statesman, Ernest Gruening's great faith in people and what they could accomplish working together continued full and strong and active to the very end of his life. In so many ways, and in so many roles, he worked for the everyday betterment of life for Alaskans and all Americans. Therefore, I, William A. Egan, as Governor do hereby proclaim the period of August 8–14, 1974 as Ernest Gruening Week and urge all Alaskans to join in paying tribute to this outstanding Alaskan. Further, in behalf of Alaskans, I say to his family, that we are proud of this great man who was yours and who was ours. We will always remember that from the day he came to Alaska, things changed. From the day he came to Alaska, attitudes changed. That was the kind of man he was. His wisdom and foresight were matched by an endless energy and tremendous personal drive that enabled him to accomplish day after day, year after year, more than most people dare even dream or hope for. His life there the last thirty-five years was devoted to the well-being of Alaska and Alaskans and we are going to miss him." Dated the 6th of August, 1974. Signed by William A. Egan, Governor. Attested by H. A. Boucher, Governor Egan is here to present personally this proclamation to Mrs. Ernest Gruening. (Governor presented proclamation to Mrs. Gruening.)

On the first day of July, 1974, in Washington, D.C. there was a tribute like this one and I think you should know those who spoke: Justice William Douglas, Governor William Egan, Rep. Claude Pepper, Senator Ted Stevens, Robert Atwood, Rep. Conyers, Ira Hirshman, Rev. John Wells, and Senator Wayne Morse. We have another voice from that company to speak to us this evening, a telegram addressed to Mr. George Sundborg: "I very much regret that commitments in Washington prevent being in Anchorage for the memorial services for my close friend and colleague, Ernest Gruening. He loved Alaska and its people deeply. I know, because I was chairman of the Territory Subcommittee at the time of Alaska Statehood and found him a resourceful and courageous colleague in that fight. And Alaska rewarded Ernest Gruening by sending him to Washington, D.C. as one of its two first Senators along with the great and revered, Bob Bartlett. Ernest Gruening, like the State he represented always seemed to typify eternal youth. In his ninth decade the strength of his mind and body were as a man half his age. At 81, he took a dip in the Arctic Ocean. While high in government for many years, he was never a part of the "establishment." He challenged the leadership continually and effectively. He stood on principle and took on unpopular cases. He won the respect and admiration of all of us in the United States Senate. As a medical doctor, editor, governor, senator, he made great contributions to his country. His life was long and full. We will miss him. Helen joins in sending our best wishes to Dorothy and others of his family. Signed Henry M. Jackson, Senator."

Our tribute tonight will be of the same mold. And I call first on M. R. "Muktuk" Marston:

On March 18, 1942 I arrived on St. Lawrence Island. A Japanese boat arrived there and checked over the natives; checked the whole island over. We knew war clouds were gathering over this land and we weren't ready for a battle. We were taking the natives out of the villages and bringing them back into the Interior. I met a great bunch of natives there and they know everything. I said, "These men should be organized". Here we were about 80,000 people in the Territory of Alaska, unorganized, unarmed, and an enemy was coming. I wrote a plan for the defense of the Arctic by Eskimos, Indians, and Aleuts. I went to General Simon Boliver Buckner, Jr. who was the highest command here in Alaska and I presented the plan to him. I had been fooling around there about three months trying to get some action. The enemy was coming and I couldn't get action on this. I pushed the general hard and he said, "Mayor, I have no authority to authorize you or anybody else to organize those natives," but it shook me. The enemy was coming and we couldn't organize. We were ADC, Alaska Defense Command, the orders came from Presidio, California. He had no authority. I looked around for a next source and I found the territorial governor and his name was Ernest Gruening. I sent him the plans of the defense of the Arctic by the Natives and he came up to see me. He said, "That's good. We've got to fight and defend ourselves here." This program tells all about the great man that we are celebrating tonight. It doesn't say one thing about his military life. He said, "We'll go." We didn't spend months about it, in three weeks we chartered a plane and took off to the Eskimo Land. We were the Eskimos from Barrow to the Aleutians. They were all happy to be "Uncle Sam men," as they put it. We got back to Nome, the enemy was expected anytime as serious conditions in Alaska at that time. The governor turned to me, Governor Ernest Gruening I'm speaking about now, and he said, "Mayor, we see eye to eye on this Native organization. Build an army. When you get in trouble, call on me. Good day." Many times I thought about those orders. He said defend the land west of the 154th meridian. That's all the land from Barrow to Kodiak and a 5,000 mile coastline and I went to work. By land, by air, by sea and by dog team. I met all the villagers time *and again. By the* end of the year I had all the villagers organized! They all joined. Not one man refused to join their colors. Their Commander-in-Chief was Ernest Gruening—commander-in-chief of the Scouts of the ATG and the National Guard. I spent a year or better organizing them and he called me down to see him. I went down, it was a tough job to get down to Juneau then in a single engine job. He asked me how things were going. I had reported to him a time or two. I had lived for months alone with the Eskimos. I had joined them in a great whale hunting and their life and they were a great people. The Governor gave me one order and he depended on me to carry it out. I had no help, *though, I used* the Native people.

He put me in as Captain of their guards and they served well. Gruening went with me and we tore down signs that said, "No Natives Allowed." That was done right here in Anchorage, right in Nome, and in Juneau. They were second class citizens, they were economic slaves to the white trader. By the time we got through one year he had torn the signs down and he made them first class citizens and he broke that chain of making them economic slaves. He was a great man. He walked across the Arctic with seven-league boots and his tracks will remain forever in the Arctic. No time will erase them. Billy Beltz, was a Senator, the first President of the Senate of the State of Alaska, an Eskimo. I got him to homestead over in the North River, back of Unalakleet, and then he died before he got his homestead rights completed. He wanted his boys to stay on that farm (they may be here tonight), I'm not sure. I wrote to the Senator (Gruening), he was now a Senator and I said, "Is there some way that you can get the Senate to okay this homestead so they can have this property?" He asked what we were doing with it and I said we were planting a garden there, and we were farming it. He went before the Senate—he's a persuasive man—and they passed it. President Kennedy signed the deed and we're farming that ground now. There's a young fellow there, a veteran, no legs on him, he asked me this year if he could use my cabin. I said he could use it as long as he lived, no charge. He's got a garden in, he's catching his fish, he's an independent man right now. We're planting potatoes over there, this veteran without legs, good pair of arms, he plants his own potatoes, he gets around and he catches his own fish. We are planting many potatoes. This man, Dottie, Hunt, Clark, Ernest is not dead. He lives forever, here in the Great Land. He is opening doors and planting potatoes for the great people that have come to this land. Right now, over in Unalakleet. Be of good cheer. I think this is a celebration that we have known this great man who changed the land, who made the Natives first class citizens who are now serving in our Senate and House and with credit and honor to them. He is the man who did this and he built an army. Just last week, General Sherrill said to me, "Muktuk that out you, under the leadership of the governor, built, the Scouts of Alaska, is the only organization in the whole United States had the wittiness to join. That is an organization your grandfather put together, Clark, and I'm very proud to have served under him. He was a great leader and he got the job done and it's still going. It's the finest outfit in the United States Army today, the Scouts of Alaska. We're supposed to have five minutes and my time is up. Thank you for letting me have this time.

Judge Stewart. Muktuk, I can't resist telling of the Eskimo who reported that in the early days they had the Methodist God, then later they had the Catholic God, and then later when the Presbyterians came, they had the Presbyterian God. And then Ernest Gruening and Muktuk Marston came and they had the National Guard.

Judge Stewart introduced Miss Brenda Itta:

I had the great privilege of working very closely with our Senator, Ernest Gruening, when I was in Washington, D.C.

It seems like he gently showed me as well as many, many young people throughout the nation. He showed me things in life. His vision helped clear the way for the future. His sense of judgement was keen and very sharp. He always had time to show his personal feelings to people as human beings no matter how busy he was.

His one lifetime touched the lives of many, many people in a positive manner. The young men and women all over the nation looked up to him for guidance and he always stopped to counsel every one of them. His life was dedicated to serve all of mankind in mankind's struggle for a good life here as it is. He believed in equality for every human being, no matter what nationality or color skin he had. He was strong on his feelings for justice at any cost, or at any risk. In Alaska, especially, I thank God that there was a man such as him in the early days to tear down signs that Colonel "Muktuk" Marston was referring to where there were no Indians, Eskimos, or Aleuts allowed at public accommodations.

I'm honored to have had the chance to pay some tribute to our Ernest Gruening whose life was so rich that it can never be described in words. We'll miss his kind of leadership in Alaska as well as throughout the nation. My pain of missing him I share with his family, Mr. Gruening, Hunt, and Clark as well as the joy that he gave. Thank you.

Judge Stewart introduced Mr. George Sundborg:

"God Moves." Those of you who knew Ernest Gruening well knew that this was sort of a shorthand in the Gruening family. Shorthand for the saying which I'm sure he could have told you was written by William Cowper in 1777 because he had a classical education and knew just about everything in the field of literature. The whole quotation is, of course, "God moves in a mysterious way, his wonders to perform." But in the Gruening family whenever there was a fortuitous event, a surprising event, Ernest and the other members, commenting on it would say, "God Moves". I'm sure if Ernest were here he would say because of the circumstances of this day, the first day that his longtime friend, Bill Egan, declared to be Ernest Gruening Week. that there should be such earthshaking events in our nation. Ernest would have said, "God Moves," that we would be starting a week of dedication to his memory on a day when this big event which will perhaps be remembered in the history of the United States took place. And I think Ernest would have said, "God Moves" if he knew that this program honoring his memory was being held in the gilded temple of Cap Lathrop. I understand another one of his old friends, Wally Hickel, made the arrangements for this to happen. "God Moves."

It was a case, too, of "God Moves" for Alaska that this man, born in Manhattan, educated in the Ivy League schools, experienced in journalism in New England and New York, was in 1939 sent, to of all places, Alaska to be the territorial governor. And God did move in a mysterious way by giving us that leadership which eventuated many years later, and after great labors, led always by Ernest Gruening, in our achievement of statehood, putting another star in the flag under his leadership.

He was always a man of vision and his vision was such that as soon as he set statehood as a goal he knew that it was not just a job of trying to sell this to the Congress, that the real challenge and the real task was to make Alaska over from the very different Alaska which existed in those days into one with a viable economy, a viable government, a tax system, a place where people would want to live permanently because of the facilities that could be provided through their government and by their own efforts. And where the spirit of the people would be completely changed so that they would yearn for the kind of self-government which most of them in an earlier time enjoyed in some other part of the United States.

Ernest was a man who inspired followers. Where he led, others followed. I'm sure he would want me tonight to run down a little list of some of his great followers. Among them, people who were loyal supporters who would follow him wherever he led are all of those who are on this platform tonight. But there were many others: Irene Ryan, Stanley McCutcheon, Cliff Warren, Pete Lannon, Earl Albrecht, Bill Baker of Ketchikan, Frank Peratrovich of Klawock, Joe Brewer, Harold Hansen of Cordova, Millie Terwilliger, and many others. Among those who have passed and are gone: Mildred Herman, Frank Gordon, Rod McKenzie, Fred Hanford, Bill Beltz, Pearl Gibson, David Green, Elmer Gagnon, and a whole army of others including many humble people.

If Ernest has assembled this group, say, at Palmer, and given the command, "march north" their unhesitating belief in him was such that they would have set out on foot and marched right over the top of the Alaska Range and through the valleys and swum the Yukon River and scaled the Brooks Range and kept walking across the tundra until they all got up to their chins in the Arctic Ocean if he didn't say "halt" sometime in there and call it all off.

He gave to all of these people and everyone with whom he worked the same kind of loyal support that they gave him. I remember one time as an illustration in my own case of what he would do for a person when I was his assistant when he was in the United States Senate and we were on a visit overseas and we were at the airport in Stockholm, Sweden. The subcommittee of the Senate was led by a very erracible older Senator who when it turned out that one member of the party was missing said to all there, "I'm not going to hold this plane up any longer for a goddamned administrative assistant." That's the way he referred to me. Ernest, who was much less senior, wondered what he could do to keep the plane there. He got off the plane and he went down on the runway and stood with one foot on the ramp and one on the ground, knowing they wouldn't pull the wheeled ramp away and upset him, at least until he could bet his tardy assistant abroad. And it worked that way. That was the kind of man he was. He would do anything for the people he was serving and were serving him.

Memories crowd in on an occasion like this of the many wonderful things Ernest Gruening did. But rather than say anything more about what he did, I would like to say a little bit about what he was. The real Ernest Gruening. He was a man of great intellect and it was an intellect that was honed by an excellent education in some of the finest schools in the United States and by travels in Europe. I think that the vision of which we speak was really a product of this intellect. He was always thinking, he was thinking ahead and he coupled all of this with a marvelous integrity. He never shirked an act of conscience, he sought them out and he reveled in performing them. He was a tireless worker; he did his homework. Anytime Ernest had a task to perform he prepared for it and he did it well. He loved the truth; he thrived on it. He did not dislike to have people disagree with him, he liked this. He liked the intellectual challenge of trying to uphold his point of view. Many and many a time I've seen him change his view on something because he had been persuaded by the fact.

The real Ernest Gruening was a very bubbly, pleasant, friendly man. He had a twinkle in the eye, always. He was sort of part pixie. He loved a good story and he told them well. He was always ready and there always seemed to be time for a little fun mixed in with the very serious work which he was doing. We will miss him. But even as we say this last hurrah to this happy warrior, let us say in Ernest's words, "God Moves." It moves, he moves through the removal of Ernest whose life and example should inspire us in our turn to give our very best in unstinting measure as he always did to fight the many battles for a better Alaska and a better nation. Thank you.

Judge Stewart introduced Miss Celia Niemi:

Mrs. Gruening, the family, and many friends of Ernest Gruening. This has been a sentimental journey for me, and the occasion causes me to review once again how much Ernest Gruening did for me and—much more importantly—for Alaska. I knew him as one of our finest leaders, and, I think, as a friend.

Senator Gruening and his administrative assistant, George Sundborg, with whom I worked very closely, launched my career in Washington in 1959, shortly after Alaska became a state. I was quickly introduced to the world of "people and politics." And how better to be introduced than in the office of Alaska's Ernest Gruening, our Senator and one of the nation's finest statesman! During those years in Washington—as known for long prior—Mrs. Gruening showed in her own charming way, her support for what her husband was trying to do. What a perfect helper and hostess she always was.

I have one personal story to share. When, in January, 1969, Senator Gruening was no longer in a position to employ me, I proceeded to search for an equally challenging position in Alaska, then in San Francisco, and eventually back in Washington, D.C., little did I know then the scope of the task I had laid out for myself. The choice came down to joining the staff of a joint Senate-House committee, or that of Ted Stevens, Alaska's newly appointed Senator.

I did the logical thing—I called Senator Gruening. I said, "Senator, I have a problem." Without hesitating he said, "Well, my dear, what is it?" It was the warmth in his voice that reassured me—though certainly I didn't need it—that he would give me an evaluation that was for my own best good. When I told him of the decision that I had to make, he said: "Well, I recommend you to Ted Stevens!" The message was clear, but he proceeded to vie me the pros and cons of a committee position as opposed to a Senate staff position, reserving for last the point that to work for Alaskans in Washington had its merits. Who would be more qualified to state that than Ernest Gruening, a tireless worker for us all! The decision was made and I joined the Alaska staff.

In the years that followed Senator Gruening called frequently to share his views on a particular subject, to seek assistance in obtaining addresses for his Alaska friends with whom he wanted to correspond, or to request a copy of a bill in which he had an interest. He never lost touch with the issues or the people. It was always a pleasure to assist him in some small way.

We shall miss Ernest Gruening very much. As the years pass more and more people will, I'm confident, come to realize his almost endless accomplishments and just how much he did for us as individuals and as Alaskans. We were lucky to have him and, I think we know it—we're here tonight.

Judge Stewart introduced Mr. Fred Machetanz:

Many rich memories move as I search for adjectives to describe Ernest Gruening. Adjectives that will be said over and over; such as scholarly, articulate, compassionate, forceful and sensitive to name a few. Add to this a delightful and whimsical sense of humor always evident in spite of the strife of many battles and campaigns.

Upon first meeting him in 1941, I was struck with his knowledge and love for Alaska, its people and its beauty. Learning that I was an artist, he immediately gave me many suggestions for painting materials and, of course, especially urged me to paint his favorite scenic area, Chitina Valley, tempting me with descriptions of this loveliest spot in North America. A valley comparable to the veil of Kashmir, surrounded by great peaks, all of which were close to Mt. McKinley in height. When I suggested that there possibly was not enough time at the moment, he admonished me with the familiar phrase, "those who can, do." As a result during the years five expeditions via plane, helicopter, and foot were made into the valley for painting material. The first three did not gain too much material for me since the weather consisted almost entirely of solid clouds at 4,000 feet intermixed with drizzle. Hearing this, the last two trips he made with me and so, of course, the weather was different. As if to welcome him back to his valley replete with gorgeous fall colors, and blue skies and sunshine above. This indeed hikes and some climbing. I remember purposely the first moment of this slowing my gait to make up for his advancing years. Suddenly within fifteen minutes I realized I was behind him and was looking forward to our first rest stop. During these he enjoyed pointing out to me lively vistas, unusual color patterns, and always showed an interest in knowing what was beyond the next rise. On our return to camp that evening I added some more adjectives to describe him. He was endowed with prodigious physical vitality His deep interest in the arts was not entirely confined to Alaska. In Washington he was justly proud of co-sponsoring the bill creating a national foundation for arts and humanities.

It has been my privilege to paint much of Alaska; its people, activities, scenery, and mountains. Many mountains, rugged ones, majestic, inspiring, magnificent and strong. Giants towering above all others. In the North Country, Ernest Gruening, indeed, was a man to match our mountains.

Judge Stewart, introduced Mr. Wendell Kay:

Judge Stewart, my dear Dorothy, Hunt, Clark, friends of Ernest Gruening . . . Clarence Darrow once said about himself, "I had a vivid imagination, not only could I put myself in the other person's place, but I could not avoid doing so. My sympathies always went out to the weak, the suffering, and the poor. Realizing their sorrows, I tried to relieve them in order that I myself might be relieved." So it was with Ernest Gruening.

Courage and compassion, compassion and courage. Those were the words that came to mind; first when I sat down yesterday to think about Ernest. Compassion as with Mr. Darrow for the weak, the suffering, and the poor. Ernest Gruening did, indeed, fight many battles. And not one of those battles ever found him on the side of wealth or privilege. You never had to look to see where he stood. You knew instinctively that you would find him in the trenches leading the tattered forces of the underprivileged, and the needy. He was a compassionate, ruthful man with a heart big enough for all of us. Compassion for others may not mean very much unless you do something about it. Ernest Gruening accomplished great things, things for which we are all deeply grateful. But he never stopped trying; there was always another goal, another battle to be fought just over the ridge ahead. And that takes courage, the kind of courage that never looks back to see how many soldiers are still following. The kind of courage that knows right from wrong without the necessity of polling the people. Ernest Gruening knew the right direction without holding a finger to the political wind and he had the courage to take that direction. Always gallant, always bold, always that valiant one step ahead. His life was an inspiration to me and to us all. If man is, indeed, a bit of dust burning for a second in the darkness of infinity then the moat that was our friend flamed just a little longer and a great deal brighter and his light made the way a little lighter for every man.

Perhaps no words fit him better than the verses of Arthur Clapp: "Say not the struggle not availeth, the labor and the wounds are vain, the enemy faints not, nor faileth and as things have been they remain. If hopes were dupes, fears may be liars, and maybe in yon smoke concealed your friends pursue you now the flier, but for you possess the field. And not by eastern windows only when daylight comes, comes in the light before the sun climbed slow, how slowly, but westward look, the land is bright."

Judge Stewart introduced Mrs. Katie Hurley:

Mrs. Gruening, Hunt, Clark . . . December 3, 1940, I became an excited participant in the making of history under the most brilliant of teachers, Ernest Gruening. Each day was a new adventure and like many of you here today, my life was enriched because of this great man.

I made some notes the day I was asked to participate in this tribute. These words may bring to your mind similar, happy memories. I remember how he bounced into the office full of ideas each morning. The way he dictated speeches to the typewriter and smoked a good cigar as the words flowed. His concern for minorities; how hard he fought discrimination against the Natives of Alaska and personally urged individual Natives to run for office. He took with good humor the fact that after urging Percy Ipalook to run, Percy filed as a Republican. The compassion he showed in letters of sympathy, especially tender were those to parents who had lost a child. How he accepted women as equal to men; if you could do the job, you got the title and the pay, even if traditionally the job had gone to a man. The ability he had for recalling facts, figures, and even quotations from the Bible.

How he pushed for vocational education. He believed it important to have a trade in addition to a classical education. I recall how proud he was when he told me one day that Hunt had been remodeling and had installed the plumbing all by himself after reading a book.

In a lighter vein, how he loved to dance the Tango and on occasion, how he would sing a wonderful, old ballad, "Odd Fellows Hall"—I hope you have the words to that—

The warmth of his friendship for those in his employ and the extent to which he would fight for justice. "E.G.", as I called him, loved Alaska and he knew that this love was returned. When he was here in December he was thrilled by the acceptance of his book and the outpouring of love filled his heart. His only disappointment was that Mrs. Gruening was not here with him.

We tend to think of him as only our Governor and our Senator, but in traveling in other states I find that he was not only a citizen of Alaska, but a citizen of the world. A man from Puerto Rico, when he heard I was from Alaska, told me how fortunate we were to have had Ernest Gruening as our

Governor and Senator. That because of his work on the Reconstruction Administration development came to Puerto Rico. And how the people of Puerto Rico felt he belonged to them, also. E.G. would have enjoyed this tribute. How fortunate, indeed, that Ernest Gruening was appointed Governor and lived so long among us. We can rejoice to have known him.

Judge Stewart introduced Mr. Fred McGinnis:

Judge Stewart, Mrs. Gruening, Clark, Huntington, Governor Egan, distinguished friends, all, of the Governor of Alaska, the Senator from Alaska, the citizen of the world.

In moments like these, of course, a great number of memories come flooding in and one is tempted either to go on to personal reminisces or to indulge in anecdotes, but I think I will forego that particular temptation tonite and say that no one can tell the full story of Ernest Gruening, so distinctive, so much his very own, so much unlike virtually everyone else known to us. So one then begins to grasp rather desperately for some kind of perspective some standard of measurement, but finds the efforts to do so rather vain. To try to measure his meaning for this vast land of Alaska, as well as the nation, is somewhat like trying to measure the beautiful morning sunrise with a span of one's fingers, you see the measuring mechanism is not sufficient.

In twenty-five years of close association with this man, the concept of love and brotherhood for him had a strange duality about it. They were at one and the same time a mission, a goal, something yet to be achieved or reached. But at the very same time a personal possession, something into which he had already moved, grasping, ever grasping, but yet having achieved that goal. His concern for every human being was never stereotyped, never artificial, never hypocritical. It had about it the breath of life. Love and appreciation of his fellow man, yet was not blind. He wasn't just insensitive about those matters. There was no blindness, no slowness, yet recognized viciousness. He knew hypocrisy when he saw it. He didn't always talk about it a great deal, but he knew it. Selfishness, unworthy exploitation, he could feel it out and put his finger on it and touch it. He knew where it was and in whom it resided and in whom it didn't. Yet that same appreciation for human beings and devotion to the human family ever sought to transform and help overcome the weaknesses of men, and of systems, and of governments.

We've heard a lot of tributes in Washington, a great number of tributes here tonite. I think none of us can disagree that he had a great number of gifts and yet he used virtually everyone of them for other people. Among the choicest gift was his unadvertised intention of seeking the good of others. With determination he followed this inward guide through difficult years, through trying experiences with or without human praise, with or without popular acceptance, through glad hours of sunlit mornings and dark hours of midnite struggle. Yet through all of those experiences he never lost that rare gift of keeping persons central, for the individual for him was paramount, central, ever lastingly mattered with him. Whatever hurt, whatever bruised, any individual, hurt him. Whatever liberated, whatever lifted persons, cheered him. He didn't despair of the human condition, he knew it, he understood, but he didn't despair of it. He knew so well that many lives are beset by transgressions, by plights, by tragedies, human failures, human weaknesses. He faced those realities and yet with a tenderness and with a measure of optimism that helped to put stars back into the skies of so many turned to him such as Celia mentioned. Hosts of others known to you and me when they went to him for help. Today there are countless individuals who stand humbly and gratefully in his debt, everlasting debtors to this man to whom we give tribute tonite. His voice, and his spirit were ever clarient calls to social justice. He had something of the fire of the old time prophets burning deeply within him. He was not ever content to let the status quo dictate standards or dictate policies. He saw Alaska and his country for what they may become, not what they were, but what they might be. Not only for what they had achieved, but what they might achieve. He perceived the difference between the actual and the potential, both for Alaska and the country. Yet he seemed to fill his efforts into the difference between the actual and the potential.

For Ernest Gruening, contemporary problems demanded contemporary solutions; war, racial struggles for human dignity, unbridled population explosions, unjust economic orders, wherein lived side by side flaunted wealth and abject poverty, extinction weapons and any condition which robbed a man of his spiritual, his human or his social birthright was the enemy of Ernest Gruening. He had a fierce love and commitment for his country. He loved deeply the United States of America and the best for which the country stands. His view of citizenship was founded in the bedrock conviction that each man must be a participant in the social and political processes if he is to remain worthy of his national birthright. Yet, no narrow nationalism blinded his dreams for a world community based on brotherhood and based on justice. He saw with most unusual clarity that dissent must have a place, and a place of honor if freedom is to survive and that only when dissent is a genuine option can an issue be seen in its fullness.

And now for us in the closing moments of this tribute to such a grand and glorious and good man, I'm sure he would not wish us to live lives tossed about by impersonal and aimless forces, but that his great dreams also and they can be and they should be. He would wish for us dedication to match present demands for a higher form of American citizenship and the courage to pursue those dreams and to make vital that kind of dedication.

George Sundborg mentioned tonite one characteristic of Ernest Gruening and in closing this tribute I should like to comment on George's phrase, "the happy warrior." He mentioned that Ernest Gruening was a reader. Always, he seemed to have a book under his arm and its was either classical literature, or history, or poetry, or drama, or mechanics, or something. And I think he would be pleased if I should choose tonite the words of William Wordsworth for William Wordsworth penned these lines entitled "The character of a happy warrior." And since he wrote about his "Many Battles" so recently and has been characterized by Muktuk Marston as his military career and George Sundborg's reference to the happy warrior these words from William Wordsworth:

CHARACTER OF THE HAPPY WARRIOR

(By William Wordsworth)

Who is the happy Warrior? Who is he
That every man in arms should wish to be?
—It is the generous Spirit, who, when brought
Among the tasks of real life, hath wrought
Upon the plan that pleased his boyish thought:
Whose high endeavors are an inward light
That makes the path before him always bright:
Who, with a natural instinct to discern
What knowledge can perform, is diligent to learn;
Abides by this resolve, and stops not there,
But makes his moral being his prime care;
Who, doomed to go in company with Pain,
And Fear, and Bloodshed, miserable train!
Turns his necessity to glorious gain;
In face of these doth exercise a power
Which is our human nature's highest dower;
Control them and subdues, transmutes, bereaves
Of their bad influence, and their good receives:
By objects, which might force the soul to abate
Her feeling, rendered more compassionate;
Is placable—because occasions rise
So often that demand such sacrifice;
More skilful in self-knowledge, even more pure,
As tempted more; more able to endure,
As more exposed to suffering and distress;
Thence, also, more alive to tenderness.
—'T is he whose law is reason; who depends
Upon that law as on the best of friends;
Whence, in a state where men are tempted still
To evil for a guard against worse ill,
And what in quality or act is best
Doth seldom on a right foundation rest,
He labours good on good to fix, and owes
To virtue every triumph that he knows:
—Who, if he rise to station of command,
Rises by open means; and there will stand
On honourable terms, or else retire,
And in himself possess his own desire;
Who comprehends his trust, and to the same
Keeps faithful with a singleness of aim;
And therefore does not stoop, nor lie in wait
For wealth, or honours, or for wordly state;
Whom they must follow; on whose head must fall,
Like showers of manna, if they come to all:
Whose powers shed round him in the common strife,
Or mild concerns of ordinary life,
A constant influence, a peculiar grace;
But who, if he be called upon to face
Some awful moment to which Heaven has joined
Great issues, good or bad for human kind
Is happy as a Lover; and attired
With sudden brightness, like a Man inspired;
And, through the heat of conflict, keeps the law
In calmness made, and sees what he foresaw;
Or if an unexpected call succeed,
Come when it will, is equal to the need:
—He who, though thus endued as with a sense
And faculty for storm and turbulence,
Is yet a Soul whose master-bias leans
To homefelt pleasures and to gentle scenes;
Sweet images! which, wheresoe'er he be,
Are at his heart; and such fidelity
It is his darling passion to approve;
More brave for this, that he hath much to love:—
'T is, finally, the Man, who, lifted high,
Conspicuous object in a Nation's eye,
Or left unthought—of in obscurity,—
Who, with a toward or untoward lot,
Prosperous or adverse, to his wish or not—
Plays, in the many games of life, that one
Where what he most doth value must be won:
Whom neither shape of danger can dismay,
Nor thought of tender happiness betray;
Who, not content that former worth stand fast,
Looks forward, persevering to the last,
From well to better, daily self-surpast:
Who, whether praise of him must walk the earth
For ever, and to noble deeds give birth,
Or he must fall, to sleep without his fame,
And leave a dead unprofitable name—
Finds comfort in himself and in his cause;
And, while the mortal mist is gathering, draws
His breath in confidence of Heaven's applause:
This is the happy Warrior; this is He
That every Man in arms should wish to be

Judge STEWART. Rather late in his life, Mr. Justice Oliver Wendell Holmes exchanging thoughts on the meaning of life with his friend Professor Harold Lasky wrote in a letter, "Neither place, nor power, nor popularity, can bring the success that one desires, but only the trembling hope that one can come near to an ideal."

Perhaps no one that any of us has known has ever come so near to reaching his ideals (as Ernest Gruening).

We're going to close our program with the music of Mr. Franklin Butte on the organ and with Mr. Miles Brandon leading us all in singing "Alaska's Flag." When we have sung "Alaska's Flag", Dorothy Gruening, Huntingdon, and Clark if you would remain in your places we will go into the lobby and we will be most pleased to meet any of you who may wish to speak.

ALASKA'S FLAG

(By Marie Drake)

Eight stars of gold on a field of blue
Alaska's flag. May it mean to you
The blue of the sea, the evening sky,
The mountain lakes, the flow'res nearby
The gold of the early sourdough's dreams,
The precious gold of the hills and streams;
The brilliant stars in the northern sky,
The "Bear"—the "Dipper"—and, shining high,
The great North Star with its steady light,
Over land and sea a beacon bright.
Alaska's flag—to Alaskans dear,
The simple flag of a last frontier.

LATVIAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, on the occasion of Latvian Independence Day, let us reaffirm our support for the legitimate aspirations of the Latvian people and reassert our admiration for the constructive citizenship of the American Latvian community.

I recall the words of the Latvian national anthem which proclaims so eloquently the spirit of freedom of the Latvian people, as follows:

God, bless free Latvian Land,
Guard well my Fatherland,
Thus pray my heart and mind;
God, save Latvia!

Let there sound free my voice,
Daughters and sons rejoice!
Let there be a happy choice!
God, bless Latvia!

AN INQUIRY INTO THE RELEVANCE OF THE INTENTION OF THE FOUNDING FATHERS WITH SPECIAL EMPHASIS UPON THE DOCTRINE OF SEPARATION OF POWERS

Mr. ERVIN. Mr. President, on April 4, 1974, Arthur S. Miller, professor of law at George Washington University, who has been a great aid to me as a consultant to the Senate Judiciary Subcommittee on Separation of Powers and the Senate Select Committee on Presidential Campaign Activities, delivered a lecture at the University of Arkansas in connection with the University of Arkansas American Revolution Bicentennial.

Inasmuch as Professor Miller is one of the most knowledgeable Americans in the field of constitutional law, this lecture deserves wide dissemination. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the lecture was ordered to be printed in the RECORD, as follows:

AN INQUIRY INTO THE RELEVANCE OF THE INTENTIONS OF THE FOUNDING FATHERS, WITH SPECIAL EMPHASIS UPON THE DOCTRINE OF SEPARATION OF POWERS

(By Arthur Selwyn Miller)

I. INTRODUCTION

My assignment here is to speak about constitutional origins—a topic of sufficient breadth to enable one to pick and choose. And that is exactly what I will—indeed, must—do. So much has been written about the Constitution of the United States—books and articles pour forth from the printing presses—that one is temperarious indeed to attempt to add to the mountain of literature. What more can be said? What hasn't been said before?

Very little, I suspect, in answer to both questions. But even so, it is worthwhile to say some things again simply because in law we are afflicted with a peculiar disease: No one listens, or, if someone does listen, he doesn't heed. We differ, thus, from the natural scientists, they who as a matter of course build upon existing knowledge to construct new hypotheses and thus to advance the frontiers of knowledge. We poor drudges of the law are content with a lesser chore—stirring the mud of continuing controversy, flogging the dead horses of what passes for intellectualism in the legal community, endlessly repeating ourselves much like the medieval scholastics who spent uncounted hours chopping logic over Aristotle. In jurisprudence, for example, lawyers have been sterile: For almost a century the quintessence of legal scholarship is a collection of learned exegeses on a theme struck by Holmes in *The Common Law* in 1881. The most important work of this century in jurisprudence is *A Theory of Justice*, written by John Rawls, who happens to be a philosopher rather than a lawyer.

Furthermore we are at best indifferent legal historians. For a profession that prides itself on building on precedent, that is at least middling strange. We venerate history, but don't know it—something that surely would have amused H. L. Mencken and might even have made Sandburg's hearse horse snicker. So there is merit in trying, in some small degree, to plumb the past to cast some light on the present and perhaps even help to illuminate the future.

My theme is relatively simple—constitutions, including the American Constitution, are always in a state of becoming. They are open-ended, always being updated to meet the exigencies of succeeding generations. The "origins" of the American Constitution, that is to say, are as recent as the year 1974—and there will be new "origins" next year and each year thereafter. I do not suggest there is anything novel in that theme. It is, of course, merely another way of stating that, in Woodrow Wilson's words, our Constitution is Darwinian rather than Newtonian. It is a "living" instrument of governance. There is no need to wax rhapsodical about the notion of the "living Constitution," for I am fully aware of Justice Hugo Black's emphatic put-down of that notion in the *Katz* case. That Black was wrong is, I believe, obvious, something that needs no present argument.

But if the Constitution is the "vehicle of the nation's life" and not a "mere lawyer's instrument," then it draws its strength, not from the shades of the 55 men who sat that hot summer of 1787 in Philadelphia, but from its capacity for adaptation. We cannot read the minds of men long dead to decide specific problems of the day. We cannot, in other words, rely on a search for the intentions of the framers in any case that gets into litigation (or otherwise occupies a lawyer's time). Those intentions are not ascertainable or, if they are, they are irrelevant to the decision of modern constitutional problems. At best, the intentions, assuming they can be identified, are but one factor among many in the difficult task of constitutional interpretation.

That, then, is my theme, something that will be developed more fully below in the context of the misnamed "separation of powers." (I am going to take, if not poetic license, then the license of a guest speaker to define that term to include both the tripartite division of governmental powers *and* the federal system, but will concentrate on the former.)

A word is in order, first, about the context in which we, in 1974, view the Constitution of 1787, with its two-baker's-dozen amendments. We recognize, not a static framework of government, but an always developing set of principles. Justice William O. Douglas said a dozen years ago in *Glidden v. Zdanok* that constitutional questions are always open. So they are. They are open precisely because social structures are always in flux. Change is the law of life—and of constitutions—and we live in the midst of a period of the most rapid social change in human history. This country has changed more in the century since, say, the decision in the *Slaughterhouse Cases* than did people in the previous centuries of known human history. Changed, that is, in the environment in which legal institutions, including constitutions, must exist. There is no present need to restate those massive changes since the Men of 1787 wrote the Constitution. They are obvious, but some will be mentioned shortly by way of illustration. It is sufficient now to note that the process of change has not ceased, and indeed may be accelerating, if such observers as Brzezinski and Bell and Heilbroner are to be believed and if such phenomena as the energy crisis and the demands of the peoples of the Third World are, as I believe, something more than transitory. Professor John Platt, a bio-physicist at Michigan, said in a too-little noticed paper a few years ago: "There is only one crisis in the world. It is the crisis of transformation." Platt goes on to assert that

"[t]he human race today is like a rocket on a launching pad. We have been building up to this moment of take-off for a long time, and if we get safely through the take-off period, we may fly on a new and exciting course for a long time to come. But at this moment, as the powerful new engines are fired, their thrust and roar shakes and stresses every part of the ship and may cause the whole thing to blow up before we can steer it on its way. Our problem today is to harness and direct these tremendous new forces through this dangerous transition period to the new world instead of to destruction. But unless we can do this, the rapidly increasing strains and crises of the next decade may kill us all. They will make the last 20 years look like a peaceful interlude."

Without pursuing that notion further, let me attempt to relate it to "constitutional origins" and their present-day relevance.

II. SEPARATION OF POWERS REVISITED

There are reasons aplenty for the division of constitutional powers. Federalism was one of the prices paid for having a Constitution. As we all know, the Men of 1787 met there to revise the Articles of Confederation, under which the emphasis was on "state sovereignty," but instead produced a Constitution under which the national government had stronger powers. A remarkable feat, that, given the temper of the times. The initial breakthrough was all that was necessary, for soon Chief Justice John Marshall was spinning out marvelous political theories designed to increase national power. *Marbury's Case* is, of course, the key to that development, a decision that settled the notion of judicial review but still is litigated on the merits. (As recently as January 1974 the United States Court of Appeals in the District of Columbia Circuit drew heavily on Marbury in a case involving presidential powers and duties. And it is worth at least passing mention that Judge Gerhard Gesell, in the case of the Watergate Committee against the President, cited *Aaron Burr's* case as authority for ordering the President personally to sign a particularized invocation of executive privilege.) When the *Martin* and *Cohens* decisions settled the proposition that the nation, under the Constitution, was not going to be balkanized, then the way was clear for Marshall to render in *McCulloch's Case* the most important opinion in our history on the nature of judicial interpretation of the Constitution.

All of this, to be sure, is familiar history, recounted now only to indicate that the concept of "dual" federalism, to use Corwin's terminology, placed into the Constitution in 1787 soon began to become "national" federalism when the Supreme Court began to legitimize exercises of federal power. The net result may be stated briefly: The states ever increasingly are mere administrative districts for nationally established policies. They are, as John K. Jessup once said, more a source of senators than a repository of sovereignty.

Let us concentrate, however, on the doctrine of separation of governmental powers, which to the "father" of the Constitution, James Madison, was the "sacred maxim of free government," designed to guard against concentration of power in the same hands—"the very definition of tyranny." (Note, by the way, that even then constitutional commentary tended to take on sacerdotal characteristics—something that has lasted to the present day, the Constitution being a theological document as well as a politico-legal instrument of governance. I will have more to say about that below.) Madison's view has had general acceptance since he wrote Federalist No. 47, echoed, for example, by Justice Brandeis in the *Myers* case and shortly thereafter by Justice Sutherland. It is the essence of Justice Black's opinion for the Supreme Court in the *Steel Seizure Case* and has been repeated often in recent years as confrontations between Congress and the President become routine.

The trouble with the Madisonian concept is that it states at best a half-truth. I should like in this segment of my remarks to tell you why I believe that. Let me begin by quoting the best of American constitution historians, Charles McIlwain: "There is no medieval doctrine of separation of powers . . . . It is a figment of the imagination of eighteenth-century doctrinaires who found it in our earlier history only because they were ignorant of the true nature of that history. These political balances were unknown before the eighteenth century, were almost untried before the nineteenth." If that be so, then it becomes important to determine just why the Founding Fathers, who, with a few presidents, tend to be the only saints in America's hagiology, separated powers. The conventional wisdom is that of Brandeis: Governmental powers are separated, he said in *Myers v. United States*, not to promote efficiency but to prevent despotism.

I believe that to be only halfway true. Powers were separated in 1787 as much to promote efficiency as anything else. Furthermore, cooperation rather than conflict has been the norm of interactions between the branches and there have been major realignments of actual power within the framework of government created in 1787.

III. THE ORIGINAL CONCEPTION

Those who take a filio-pietistic view of the framers of the Constitution may believe that the political (that is, constitutional) theory of separation of powers was invented by the 55 men who sat in Philadelphia that hot summer of 1787 or by their alleged intellectual mentor, Charles Secondat, Baron de Montesquieu. But that is not true. It bears some resemblance to, but is not the same as, the "mixed constitution" well known to the ancient Greeks. Prominent in Plato's *Laws* and Aristotle's *Politics*, the theory of the mixed constitution was perhaps most clearly enunciated by Polybius, a Greek historian whose mixture of monarchy, aristocracy and democracy had its greatest influence in Rome. Not until the late middle ages did separation of powers appear in the literature in anything like its modern form. But there is obvious overlap between the two theories. Both are concerned with achieving liberty under law; both are based on a conception that concentration of power means tyranny; and both appear to be predicated on a view of mankind as essentially irrational. "The theme of man's irrationality during the 17th and 18th centuries," Arthur O. Lovejoy maintained, "and especially of his inner corruption was no longer a speciality of divines; it became for a time one of the favorite topics of secular literature."

Political theorists, European and American, thus came to emphasize the dangers rather than the advantages of government. If man was depraved and anti-social, he then required control; but those who controlled, themselves human beings, would mercilessly exploit their subjects unless there were some way to limit their power. Lord Acton's famous aphorism about the corrupting aspects of power simply restated some familiar learning of the 17th and 18th centuries. As Madison put it:

"But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? *If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.*"

Madison, however, saw matters somewhat differently from other prominent framers of the Constitution. Efficiency was stressed as a principal reason for establishing an executive independent from the legislature by, among others, John Adams, Thomas Jefferson, John Jay and James Wilson. Jefferson clearly perceived that the absence of a division of governmental powers resulted in ineffectual executive action. He was as much or more concerned about the harm resulting from legislative dominance over the executive than he was about possible harm that might occur to American's liberties. James Wilson's views are particularly opposite:

"In planning, forming, and arranging laws, deliberation is always becoming, and always useful. But in the active scenes of government, there are emergencies, in which the man, as, in other cases, the woman, who deliberates, is lost. But, can either secrecy or dispatch be expected, when, to every enterprise, mutual communication, mutual consultation, and mutual agreement among men, perhaps of discordant views, of discordant tempers and of discordant interests, are indispensably necessary? How much time will be consumed! and when it is consumed; how little business will be done! ... If, on the other hand, the executive power of government is placed in the hands of one person, is there not reason to expect, in his plans and conduct, promptitude, activity, firmness, consistency, and energy?"

Under the Articles of Confederation, government was seriously faulty because powers were *not* separated, which resulted in ineffectual governmental activity.

The two conceptions, quite obviously, are not consistent, either in philosophy or in application. As noted, the orthodox notion is based on a conception of man as essentially so evil in nature that he is likely to use governmental power contrary to the common interest unless institutionally prevented from doing so. On the other hand, the efficiency version appears to be predicated on a view, set out, for example, by Carl Becker in *The Heavenly City of the Eighteenth-Century Philosophers*, that man is not naturally depraved and that he "is capable, guided solely by the light of reason and experience, of perfecting the good life on earth." Both versions have had currency throughout American history, one as official doctrine, the other as actual practice.

Despite the assertions to the contrary, the efficiency version has been dominant throughout American constitutional history. Separation of powers has never been a barrier to a high level of cooperation between the political branches of government—a situation that, speaking generally, has found judicial acceptance—illustrated, for example, by the lonely examples of the only two cases in which the Supreme Court ever struck down delegations of legislative power to federal agencies and by the *Steel Seizure* Case, the most important instance of judicial disapproval of executive action. As Willard Hurst has shown, both the federal and state governments, aided by the judiciaries, cooperated in the exploitation of the virgin continent during the 19th century. In this century, the close of the frontier has not altered the posture of cooperation. Woodrow Wilson put it well in 1908, when he stated in his classic *Constitutional Government* that "warfare" between the branches could be "fatal" to the constitutional order.

The norm of cooperation is too little recognized in the legal profession and among commentators, who tend to emphasize conflict rather than cooperation. Just as in law the Holmesian notion of the "bad man" tends to dominate, rather than H.L.A. Hart's "good man" theory, so too in our study of the American Constitution there is a tendency to look for the tensions and disputes. For example, coursebooks in constitutional law, as used in the law schools, slight the nature of the executive function in government and also concentrate mainly on what the Supreme Court has done in interpreting the delphic clauses of the fundamental law. We tend, also, to engage in what Franz Neumann called "constitutional fetishism"—the attribution of political consequences, such as individualism and personal liberty, "to isolated constitutional arrangements which have meaning only in a total cultural, and particularly social, setting."

Cooperation as the norm could scarcely be otherwise. If government is to function, there must be at least a tacit agreement, if not express recognition, among the leaders of all the departments that their duty is to keep the ship of state on its way and not to permit it to get bogged down in the mud of continuous controversy. This, it should be emphasized, is not to say that government accomplishes its tasks well or effectively; the contrary is likely true. But it is to say that insofar as government functions at all, then separated powers are not now, and never were, a barrier of any consequence to getting necessary social results completed. Neumann puts it somewhat differently: "The Liberal state, supposedly condemned to play the role of the night-watchman, was exactly as strong as it needed to be in order to fulfill its domestic and foreign political tasks." To state it in still another way, social and political change—what some call progress—can come about only by moves in concert by the three branches. That there has been massive change in the actual accolation of powers within the national government is, of course, wholly truistic. Constitutional change at the level of effective control over public policy has resulted from agreement, tacit or express, among the three powers.

Within the United States, the allocation of *formal* constitutional powers has remained the same since 1787. The few amendments that have been added do nothing to alter the historical structure. But as Woodrow Wilson said, "The Constitution in operation is manifestly a very different thing from the Constitution of the books." It is, accordingly, a task of those who write about the nature of the constitutional order to delve below the facade and determine the reality beneath it, not allowing themselves to be confused by references to any supposed intention of the framers of the fundamental law. That surface is fairly easily penetrated, for political scientists (rather than lawyers) for many years have considered the nature of power in American government. Our constitutional law, at least as it is studied in law schools, describes the formal framework for the exercise of political power. It also legitimates the exercise of formal power. Little or no attention, however, is accorded those who wield power in fact, as opposed to theory.

Plumb beneath the surface of constitutional formalism and one soon finds at least two bedrock principles: (a) political institutions may be outwardly balanced, but social forces normally are not; and (b) the ostensible balance of political power hides the steady accretion of power in the executive. The first principle will be dealt with shortly. We focus now on the apparently irreversible alteration of American government toward executive hegemony.

There is little need to tarry long to discuss the development. No serious observer disputes the rise of presidential government, however much he may decry it and illustrate its potential for danger. It is enough now to underscore the point that the change in fact, as opposed to fundamentalist constitutional theory, came about by the ready and long-continued acquiescence of Congress, accompanied by the Supreme Court's well-nigh complete refusal or inability to stay the course of constitutional change. The net result has been, in the words of Amaury de Riencourt, that the President today "wears ten hats—as Head of State, Chief Executive, Minister of Foreign Affairs, Chief Legislator, Head of the Party, Tribune of the People, Ultimate Arbiter of Social Justice, Guardian of Economic Prosperity, and World Leader of Western Civilization." To that might be added that the President is also the Chief Law Enforcer, a power, as recent events have demonstrated, that is itself of considerable import. Those eleven hats, balanced somewhat precariously on the head of one man, have had the concomitant result of an exponential expansion of the E.O.P.—the executive offices of the President. The culmination of almost 200 years of constitutional history is a swollen presidency—both in its personal sense of the monarchical character of the Chief Executive and its institutional sense of the several thousand bureaucrats, high and low, who man the E.O.P.

The analog of aggrandized presidential power is, of course, diminished legislative and judicial powers. (And also, be it said, of the powers of the several states—but that is another problem.) A strong presidency, as it has evolved, means a sapless Congress and a judiciary, so far as the actual control of governance is concerned, whose powers are more ostensible than real. However one views the Executive, then, whether as Chief Executive sitting atop the pinnacle of the public administration or as a set of feudalities in a far from monolithic structure, there can be no dispute over the answer to the question of where the power lies in the tripartite system.

Why this development has occurred is not susceptible of easy answer. Certainly it has not been because of a conspiracy to take over government by a sort of silent and continuing *coup d' état*. Neither has it been caused by the Supreme Court (although some scholars who should know better attribute an extremely high degree of power to that tribunal) nor by Congress, save by legislative acts that have delegated enormous chunks of governing power to the bureaucracy and by legislative inaction that has by the large remained silent while the reality beneath the facade altered. Change has been a primary characteristic of the Constitution of 1787; but as Ernest Nagel has shown, there is no simple and at the same time adequate explanation of any social phenomenon, including the fact of constitutional change.

Surely the causes are multiple. It is too simplistic, perhaps, for Neumann to assert that "the higher the state of technological development, the greater the concentration of political power," a sentiment that finds a counterpart in Galbraith's statement that it is "technological imperatives" that demand the giant business corporation. But there may be at least a kernel of truth in the proposition. The scientific-technological revolution has paralleled the rise of presidential government. The causal relationship between the two is *terra incognita* in constitutional theory. Technological determinism bears at least a faint resemblance to Max Weber's famous hypothesis about the relationship between Protestantism and the rise of capitalism. As a hypothesis, rather than as dogma, there is little to quarrel about Weber's formulation. The same may be said for Neumann. In sum, as Frederick Jackson Turner put it, "behind institutions, behind constitutional forms and modifications, lie the vital forces that call these organs into life and shape them to meet changing conditions." Among those vital forces must be listed the new technology.

IV. THE "NEW" SEPARATION OF POWERS

Twenty years ago, Dean Don K. Price chronicled the emergence of "federalism by contract," by which he meant that the system of contracting-out much of the administration of government had created a new type of governmental hierarchy. Contract is also employed as a regulatory technique, with a consequent blurring of the line between public and private in much of the American economy.

A similar development is now evident within the tripartite division of national governing power. The rise of pluralistic social groups to prominence and even domination, largely within this century, means that a system of "private" governments is in the process of becoming. Of them, the giant business corporation is by far the most significant. These corporations, which make up what Galbraith calls the "planning system" of the American economy, are a species of political order that are as important—perhaps more so—than the organs of public government. When viewed in their totality, they exercise more influence over the way Americans (and others) live than does, say, the Supmere Court of the United States.

It is high time, then, that the repositories of economic sovereignty—the giant corporations and their financial allies—be recognized in constitutional theory and in our thinking about the nature of separation of powers today. "This is an age of collective action," John R. Commons asserted in 1950; and so it is. The collective nature of the American economy is haltingly being acknowledged by economists, even though those worthies do not have a viable theory of conscious cooperation. But lawyers have lagged although on at least two occasions the Supreme Court has brought corporations within the ambit of "state action."

This is not the place to argue the point in any comprehensive way. I think it is beyond dispute that the corporations (and other prominent groups) are governments in fact. The problem at the moment is the meaning of that proposition to the orthodox conception of separation of powers. At least three statements may be made. First, the economic power of the corporate giants results in further disintegration of an already badly splintered concept of national sovereignty. Second, and paradoxically, there is dawning recognition, in law and otherwise, of the close interlocks between the social groups and the units of public government. Elsewhere I have suggested that those interlocks are creating the fusion of economic and political power, or, in other words, the development of an indigenous form of corporativism. To the extent that this second statement is valid, then a truly new form of constitutional order is in process of creation. Finally, great danger to human liberty results from the control of more than one department of public government by one social class. If, that is to say, it can be demonstrated that substantial segments of both Congress and the Executive are dominated by, say, units of economic sovereignty, then it may accurately be said that powers are no longer truly separated and that the consequent concentration has portentous, even ominous, meaning for freedom. (The courts need not be excluded from such an analysis. They, too, are "political" and should be seen as the target of interest groups.)

Jacques Ellul maintains that ". . . the organs of representative democracy no longer have any other purpose than to endorse decisions prepared by experts and pressure groups," and thereby dismisses the power of modern legislatures as an "illusion." Certainly there is little evidence to the contrary. Congress, to speak only of the United States, has neither the will nor the staying power to reassert lost powers or to become an effective instrument of governance. Perhaps it could and, to speak normatively, perhaps it should; but despite much huffing and puffing in 1973, at a time when the presidency was (to use Stewart Alsop's sick label) "paraplegic," little of substance and nothing of permanence has emerged from Capitol Hill. After having been largely instrumental in creating the Frankenstein that is the modern Executive Branch, Congress reaction is more hortatory than significant.

It will do little good to argue that, if Congress is an illusion, then the populace, as an entity, can look to the Chief Executive to represent them. The Executive is also the target of interest groups. Here, as with Congress, the entire branch is not conquered; instead, as Professor Grant McConnell has said, "control of significant parts of [government] may be established by particular business interests." The interests of the presidency are not necessarily coterminous with the interests of the "public" (if, indeed, that entity exists at all). The Executive pursues his own ends, defining the public interest as anything that he says it is. In such a situation, McConnell's observation ". . . that a substantial part of government in the United States has come under the influence or control of narrowly based and largely autonomous elites" becomes particularly opposite. If he is correct—his argument is accepted, in different terminology, by other leading commentators—then historical separation of powers has indeed broken down.

The important separation thus has become one between public and private governments—and their interlocks. If narrowly based elites control a substantial part of government, to what avail the classical American doctrine of the separation of powers? I do not mean to do more than raise the question here and to indicate the pressing need for further research to determine the extent to which different social groups control the three branches of government—if at all. In other words, there must be a sociological basis to the separation doctrine, something that Bentham saw. The constitutional principle of separated powers must be paralleled by the sociological principle of balanced social forces. The latter does not exist in America today.

It is not enough to expect the largely autonomous elites to cancel each other out, so that the net result is maximization of human liberty. Quite the contrary. As Madison clearly foresaw, the rise of "faction" could have pronounced dangers to freedom. Furthermore, almost by definition the "public interest"—however defined, perhaps a hopeless task—cannot emanate from the system in the sense of the "common good." Most economists have long since given up on Adam Smith; and even Galbraith no longer talks about "countervailing power" as a substitute. In politics, *laissez faire* is even less adequate simply because of the rise of social groups to prominence has replaced the individual as the basic societal unit. Law follows—or reflects—the political economy. "Separation of powers" theory today must take "private" power into consideration.

We have roamed far from 1787 in an effort to indicate the manner in which the principle of powers follows Darwinian notions. It is evolutionary. This development means, in briefest terms, that the intention of the framers of the Constitution is by and large meaningless. The most that can be said for it is that those who wrote the original document had the intention of leaving it to succeeding generations of Americans to settle their own problems—in this context, to rewrite the "living" constitution anew. Large pluralistic social groups simply did not exist in 1787 or 1800—or 1850, for that matter. No matter how much or how closely we read Jefferson or Madison or Hamilton, or any of their associates, can we find anything more than the most fleeting references to many modern problems.

Why, then, are the shades of the 55 Men of 1787 often invoked? The answer to that, I suggest, lies deep in the psyche of the human animal and the need for certainty and the symbols of certainty in an uncertain world. If we pretend that the framers had a special sort of wisdom, then perhaps we do not have to think too hard about how to solve pressing social problems. It is better, in this view, to envelop ourselves in the mythology of the superhuman wisdom of the Founding Fathers, to look upon them as supermen, all-wise, all-knowing, all-prescient. If that reminds you of how some people view God, it should not be surprising. I said before that Madison himself referred to the "sacred" maxim of free government.

We may pride ourselves on our learning and our sophistication and our considerable insights into the human animal. But we still think, all too longingly, of a mythical golden age when men were wiser, women were purer and children didn't smoke pot. In this respect, we exemplify what the Grand Inquisitor said about human needs. You will recall, I am sure, that he maintained that man needed three things—miracle, mystery, and authority. (To some marked extent, that is what men expect from modern presidents—and their intentions—are clothed in mystery. Our history of that period is at best incomplete. They also are considered to have performed a miracle; who doesn't remember Gladstone's fulsome praise of the Constitution as the most wondrous work every struck by the mind and tongue of men. And they are cloaked with authority; their words, inconsistent though they may be, are perused and debated—and, of much more importance, asserted to be determinative of modern constitutional questions. Dostoyevsky would have been pleased, I think, to learn that his views had been borne out in this citadel of enlightenment. Michael Kammen, in *People of Paradox* (1972), a Pulitzer Prize winning history of the origins of American civilization, speaks of—

"An awkward anomaly in American thought. Although the founders were themselves engaged in a continuous quest for modes of legitimacy appropriate to their times and needs, subsequent Americans have sought to validate their own aspirations by invoking the innovations and standards of our hallowed pantheon as unchanging verities. This nostalgic vision of a Golden Age actually conjures up an era when values were unclearly defined, when instability often seemed beyond control, when public rancor and private vituperation were rampant, and institutions frail and unformed."

I am not suggesting that everyone is bemused by the Saints in our Valhalla. Witness, for example, Justice Holmes in *Missouri* v. *Holland:*

"When we are dealing with words that also are a constituent act, like the Constitution of the United States, we must realize that they have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters. It was enough for them to realize or to hope that they had created an organism; it has taken a century and much sweat and blood to prove that they created a nation. The case before us must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago."

Witness also Chief Justice Hughes in the *Blaisdell* case in 1934: After stating that there was a great need to safeguard the economic structure "for the good of all," he stated:

"It is no answer to say that this public need was not apprehended a century ago, or to insist that what the provision in the Constitution meant to the vision of that day it must mean to the vision of our time. If by the statement that what the Constitution meant at the time of its adoption it means today, it is intended to say that the great clauses of the Constitution must be confined to the interpretation of the framers, with the conditions and outlook of their time, would have placed upon them, the statement carries its own refutation. It was to guard against such a narrow conception that Chief Justice Marshall uttered the memorable warning—"We must never forget that it is a *constitution* we are expounding. . . ."

Or as a sardonic friend of mine once put it, "we must never forget it is a constitution we are *expanding*."

Much more recently, Chief Justice Warren in *Trop v. Dulles* said that the eighth amendment "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society"—a latter-day restatement of the 18th-century philosophers, those who, as I said previously, believed that man is rational and capable "of perfecting the good life on earth." That is a nice sentiment, one to be applauded. And it would be particularly worthy of applause were it true. But, as Sporting Life put it, "it ain't necessarily so." Most of mankind live today in a Hobbesian world; their lives are "poor, nasty, brutish, and short." (There is much more of that in this most wealthy of all nations than many are willing to acknowledge.) The Chief Justice did not enlighten us as to how one identifies those "evolving standards of decency"; as Justice Frankfurter said in dissent, he simply could not understand why taking away one's citizenship for wartime desertion from the armed forces was "cruel and unusual."

All of this is, of course, more than faintly reminiscent of Justice Cardozo's famous *Palko* formulation for due process decisions: Did the action complained of violate the fundamental canons of decency of the English speaking peoples? (Justice Douglas once said, in an off-bench statement, that the *Palko* "test" really meant: Does the official conduct make you want to puke?) Seen in this context, the oft-repeated invocation of the Founding Fathers may be seen for what it is—a tool of rationalization rather than a standard of judgment. Lawyers and judges use and abuse history at will. History settles little that is worth arguing about. And as Chief Justice Hughes said, even if the history is clear, it is really not relevant.

I could go on and demonstrate with further examples why that conclusion is obvious. But I will not, for I fear that you may think it truistic. If that be so, then why talk about it If it is merely obvious, then I can take consolation from Holmes's observation that we need education in the obvious more than elucidation of the obscure. But it it is truistic, a much-labored point, then I must fall back upon my personal experiences in recent years. I have heard testimony from dozens of witnesses before Senate committees, one after another refer to what Jefferson did when he didn't spend money for gunboats (that's to justify President Nixon's penchant for impounding appropriated funds) or to Washington's refusal to furnish the House of Representatives information about the Jay Treaty (that's to validate executive privilege) or to several dozen minor skirmishes, including Jefferson's chasing of the Barbary pirates (that's to justify the savage bombing of Cambodia). I have read the historical studies on impeachment.

I have heard prominent senators, such as Senator Ervin, speak with reverence about the Founding Fathers and President Nixon repeatedly say that many of his actions have precedents running back to George Washington. And I have read many constitutional law cases, such as in the church and state area, in which the Justices make reference to the framers as though Holmes and Hughes had never spoken. (That, as I said before, is the trouble with law—nobody listens.) Consider also *Furman v. Georgia*, the death-penalty decision of 1972, and the *Abortion Cases* of 1973; references there to history are many and varied. For example, Justice Blackmun appears to think that pages of medical history are worth a volume of logic.

Let us no longer delude ourselves. The problem of putting meaning into delphic constitutional terms, in final as well as first analysis, is a job of law creation. Justice Byron White said that in his opinion in *Miranda v. Arizona:*

"That the Court's holding today is neither compelled nor even strongly suggested by the language of the Fifth Amendment, is at odds with American and legal history, and involves a departure from a long line of precedent does not prove that the Court has exceeded its powers or that the Court is wrong or unwise in its present reinterpretation of the Fifth Amendment. It does, however, underscore the obvious—that the Court has not discovered or found the law in making today's decision, nor has it derived it from some irrefutable sources; what it has done is to make new law and new public policy in much the same way that it has in the course of interpreting other great clauses of the Constitution. That is what the Court historically has done. Indeed, it is what it must do and will continue to do until and unless there is some fundamental change in the constitutional distribution of governmental powers."

Justice White goes on to say that ". . . the Court should not proceed to formulate fundamental policies based on speculation alone."

Agree or disagree with the *Miranda* decision, I maintain that White certainly is correct in his observations. The Supreme Court and constitutional commentators simply have not faced up to the implications of the problems of constitutional adaptation. We still pretend that constitutional decisions are babies delivered by judicial storks—a half-century after the legal realists began to rip the facade off classical jurisprudence and to show its inadequacies. No one, repeat, no one, has as yet come to grips with an adequate way even of explaining how the system works. We know little about the flow of information to the Court, almost nothing about what happens once it gets there and next to nothing about the impact of given decisions upon the social order and the behavior patterns of individuals. We do not even have a theory about the operative effect of a given Court decision: Is it the "law of the land" or the "law of the case"? We have no reasonably adequate analysis of the adversary system—and of how public policy and the public good can, by some invisible hand, emanate from the troubles of a few scattered individuals (such as Ms. Roe and Ms. Doe in the *Abortion Cases*). In short, our scholarship is pathetic.

I could dwell longer on this inadequacy in our scholarship, but wish to reveal to the question of separation of powers. We have come hard against a most difficult and important problem—that of rethinking the question of how to cabin the exercise of power so as to make it accountable. To be legitimate under the Constitution, power must be accountable, that is, those who make decisions affecting the values of others must answer in another place for their actions. But that is precisely what is not happening today. We have an executive branch whose activities, speaking very generally, get no scrutiny in another place. Congress, the "sapless branch," as Senator Joseph Clark once called it, is like a great, beached whale. It is still alive; it thrashes about, mindlessly flipping its tail here and there and once in a while strikes a blow for freedom. The problem about Congress is simply this: Not only does it not govern, *it does not want to govern.*

The courts are little better; perhaps they are even less effective. No one who follows administrative law can be sanguine about the power of the courts to police the bureaucracy. And no one who studies the Supreme Court's decisions on the presidency can believe anything else than that this is an area of no (or of very little) law insofar as the Court is concerned. When I use the word "law," it should be mentioned, I speak in terms of interdictory rules—the "thou-shalt-nots" that tell someone, the President, he cannot do something. Take executive privilege as an example. Much has been heard about that in recent months. And certainly it is a problem and quite possibly one of these days we will get a Supreme Court decision on it. But the important thing to know is something quite different—that executive privilege is only one, and one of the least used, means by which the executive branch keeps data from Congress. A study now being completed by a Senate Subcommittee lists more than 300—perhaps several times that—known instances when information was denied Congress by the Executive Branch, with executive privilege being invoked a dozen times only. My point is simple. What Ehrlich called the "living law" permits the executive often to withhold information from Congress. A second point is that without adequate data, as Ellul said, Congress is the prisoner of the expertise of the executive branch.

But, ah, you say, what about impeachment? Isn't that a sanction on presidential action? Doesn't it evidence the vitality of the separation of powers principle? Well, maybe. Time will tell whether Richard Nixon will follow Andrew Johnson to the bar of the Senate there to be tried; and if he is, time also will tell whether he will prevail or whether he will join the four others—all judges—who have been convicted by the Senate in impeachement proceedings.

Impeachment, to my mind, is one of those switchings of the tail of the beached whale about which I spoke a moment ago. If someone gets in its way, it can be lethal. But do not think that even if Richard Nixon is removed from office by the awesome process of impeachment, the *presidency* will suffer. There is no way that Congress can or will be able to handle the manifold problems of government in today's world, to say nothing of the dark future envisaged by Heilbroner and others.

In closing, let me revert to 1787 and to the Founding Fathers. Those men did see clearly—they did see that separation of powers necessitates both efficiency *and* accountability. What they did not and could not foresee were the massive changes in the social structure of the nation since then. And so I leave you with a question: What would the framers do were they to reappear today and reconstitute the Convention of 1787? How would they cabin power, while permitting it to get the necessary jobs of government done? The answer to that question is, of course, unavailable. A task of this—and surely the next—generation of constitutional lawyers will be to answer the question.

A generation ago Alexander Pekelis said that our generation of constitutional scholars would have to come to grips with the problem of "private governments." We are beginning, however haltingly, to do that. I think the process will accelerate. But those private governments of economic power are merely one segment of separation of powers. Pekelis's challenge must be broadened to include the formal structures of public government. Whether that challenge will be met so as to preserve humanistic values—the inherent values of what McIlwain called constitutionalism—is at best dubious. Surely it will not be met if so much of what passes for scholarship continues to be obsessed with the dead hand of the past. The Founding Fathers have been buried. They should not rule us from their graves. We must know what we want—and try to get it. We must, in other words, be fully "result oriented" in our study and analysis of the Constitution. I take it that is what Justice White said in *Miranda* and what Judge Braxton Craven said recently in the *North Carolina Law Review*. Some time ago, the Dean of the Harvard Law School derided some constitutional commentators as result oriented. But I suggest to you that is unavoidable if the constitutional challenges of the modern age, as well as of the emergent future, are to be met. Result oriented, that is to say, in achieving the twin goals of efficiency and accountability in a time of executive dominance in government. The Executive—whoever is in the White House—will prevail. Let there be no doubt about that. That may not have been the intention of the Founding Fathers, but certainly it is the consensus of Americans today. The problem, as I have said, is how to make power—presidential power—that is necessary as tolerable or decent as possible. That should be the goal of constitutional scholarship. It won't be easy, and it may be impossible. But the effort must be made, if we are to preserve a society worth living in.

A final footnote: I speak, of course, after having been occupied rather closely with Watergate for well over a year and at a time when for the second time in our history presidential impeachment is seriously discussed. I do not want you to think that I am over-reacting to Watergate. In my opinion, Watergate was both an aberration and the culmination of trends that have been developing for decades. Putting Watergate or even President Nixon behind us will not eliminate the problem of governmental power.

REA PROGRAM IMPERILED?

Mr. BAYH. Mr. President, two generations ago this Nation made a wise decision to create the Rural Electrification Administration for the purpose of bringing affordable electricity to millions of Americans living in rural areas. Delivering electricity to rural America has never proven attractive to commercial utilities because of the great expense associated with running powerlines in those parts of the country where the population is least dense.

It is not an exaggeration to say that the rural electrification program has been an absolutely essential ingredient in the growth of rural America. I have witnessed the beneficial human and economic impact of rural electrification in my own State of Indiana, and know that similar benefits have resulted from rural electrification in virtually every State.

Supplementing the hard work and effective management of rural electric cooperatives, the Federal Government plays a minimal, yet essential, role in rural electrification by guaranteeing and insuring the loans to the individual membership cooperatives across the country. During my 12 years in the Senate, and especially during the past 2 years while I have served on the Appropriations Subcommittee on Agriculture, Environmental and Consumer Protection it has been my privilege to support strongly the rural electrification program throughout the United States.

I was among those Senators who actively fought and successfully reversed the ill-advised attempt by the administration to terminate the REA direct loan program by administrative edict in December 1972. Since that time I have worked within the Appropriations Committee to make certain that the Federal Government undertakes an adequate program of insured and guaranteed REA loans.

While I appreciated the commitment that Secretary of Agriculture Earl Butz made last year to maintain the REA insured loan program at a minimum of $618 million a year through 1977, rising costs have now made this minimum spending level inadequate to meet the needs of America's rural electric cooperatives.

This is why when the fiscal year 1975 Agriculture appropriation was originally before our subcommittee I proposed that we seek a minimum of $750 million in insured loans this year. In addition, I recommended and the committee agreed to report language recommending that at least $80 million be set aside for 2-percent loans with the remaining funds to be available at the regular 5-percent rate.

Unfortunately, President Nixon vetoed that bill and soon we will be considering a new bill which drops the recommended minimum level of insured loans to $700 million. I recognize the necessity of reducing this recommended level, but hasten to point out that as the year progresses it may be necessary for the REA Administrator to use existing authority to set the insured loan level higher than the $700 million floor in order to meet the real needs of rural electrification in a period of major inflation.

Yet even while we have been trying to set adequate loan levels for the REA program, I was dismayed by a recent hint from the Department of Agriculture that the Department might again be contemplating a major cutback or total end to the insured loan program.

Secretary Butz, in an exchange of letters with Robert Partridge, executive vice president of National Rural Electric Cooperative Association, made deeply disturbing comments about the rural electrification program. After reading about these letters in the October 25 issue of the Rural Electric Newsletter I requested copies of the letters from the NRECA.

I request unanimous consent to print that article and the letters in question in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAYH. I simply want to say at this point that I shall strongly resist, and know many of my colleagues will join with me, any attempt by the Department of Agriculture to weaken or kill the REA insured loan program.

This is a program of proven merit; a program which provides economic benefits to rural Americans that more than justify the limited expense involved. In this regard it is important to bear in mind that we are talking about a loan program, not direct expenditures from the Federal Treasury. Moreover, we are talking about a loan program for which the basic interest rate has been set at 5 percent, the highest level which the electric cooperatives can meet and still provide affordable services to their customers. Quite importantly, it should be noted that Secretary Butz' mention of interest subsidies totaling $429 million is not correct. This is a hypothetical figure based on all outstanding insured loans, it is not correct, and even if it were correct, terminating new REA loans would not reduce the interest subsidy on previously committed loans.

Moreover, future interest subsidies are minimal since the prevailing rate on REA loans was raised to 5 percent when the program was reinstituted in the spring of 1973. And those minimal interest subsidies pay enormous dividends by providing for the economic growth and vitality of rural America.

This threat to the insured loan program is especially disturbing since it comes at the same time that the Office of Management and Budget is trying to prevent rural electric cooperatives participating in the guaranteed loan program from engaging in so-called leverage lease financing operations. These are entirely proper methods of financing, used in other capital expenditures in addition to rural electrification, by which greater private capital is brought into the industry through existing provisions of the tax code. The ill-advised and unjustified effort by OMB to prevent rural electric cooperatives from using guaranteed REA loans in leverage lease financing operations provides a further impediment to an effective rural electrification program.

Mr. President, REA loan programs must not become the whipping boys in the administration's inability to cope properly with our economic problems. Such a step would be extremely shortsighted and I would resist it as strongly as possible, with, I am confident, wide support from my colleagues.

EXHIBIT 1

[From the Rural Electric Newsletter
Oct. 25, 1974]

BUTZ HINTS INSURED LOAN PROGRAM CUTS

Secretary of Agriculture Earl L. Butz has dropped another broad hint that the Administration may once again try to cut back on REA electric and telephone lending levels, especially in the insured loan program.

In a letter to NRECA General Manager Robert D. Partridge this week, Butz said that "while the Department is committed to assuring adequate electric power to meet the growing needs of rural areas, we must also be aware of the impact our loan programs have on the general economy. Of particular concern are programs which put large amounts of loan funds into the economy at artificial interest rates far below the market level. A related concern is the effect of deep subsidies on Federal outlays and on depleting Departmental loan funds. For REA alone, Fiscal Year 1975 outlays for interest subsidies will amount to amout $429-million, and this figure will grow rapidly and be with us for a long time if REA continues the same loan levels at the same interest rates. We believe that there may be many cases where the amount of subsidy can be reduced."

The Butz letter came in response to a letter from Partridge expressing "deep concern" over statements by Assistant Secretary of Agriculture Joseph Wright at a pre-summit economic conference last month.

Butz said Wright's comments "certainly do not reflect a lack of concern in the Department with the nation's energy challenge, or a change in our commitment to assure rural residents of reliable electric power. Rather they announce our intention, which I am sure the rural electric cooperatives share, to pursue our goals as efficiently as possible, and with maximum concern for the national economy."

However, Partridge said this week that the Secretary's reply "only reinforces our apprehension that the Administration is once again embarking on an effort to cut or eliminate REA loan funds. Talk of 'deep subsidies' in a program that was only last year taken from the Federal budget and put on a revolving fund basis can only be interpreted as a return to the disparaging and erroneous campaign that preceded and followed the Administration's unilateral termination of the REA direct loan program on Dec. 29, 1972."

Partridge noted that he could find no basis for the Secretary's claim that there will be a "subsidy" of $429-million involved in the fiscal 1975 operations of REA. "We see no merit in indulging in a numbers game over alleged subsidies," he declared. "The plain fact is that all REA insured loan funds are coming directly from the assets of the Rural Electric and Telephone Revolving Fund and they do not represent a new outlay by the U.S. Treasury."

Butz, in his letter, apparently signaled a move to switch more of REA's financing from the insured loan program, which utilizes the revolving fund, to the guaranteed loan program, which utilizes the private money market. Most insured loans are made at 5% interest, while guaranteed loans are made at considerably higher rates.

Butz said that the guaranteed loan program "has been increased to $1.4-billion this year, and we are prepared to go higher and to continue this program for as long as it takes to ensure that the needs of rural America for electric power are met." This statement, coupled with his comment that "there may be many cases where the amount of subsidy can be reduced," indicates a possible move from insured loans to guaranteed loans for many borrowers.

The change could come as a part of an effort to increase the percentage of a loan to a distribution system that must come from supplemental sources.

Butz, as part of the compromise leading up to passage of legislation creating the revolving fund in May, 1973, pledged to Congress on behalf of the Administration to maintain lending for the insured electric loan program at not less than $618-million through fiscal year 1977.

SEPTEMBER 24, 1974.

Hon. EARL L. BUTZ,
Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: I have read the statement made on behalf of the Department of Agriculture at the recent pre-summit economic conference in Chicago, by Assistant Secretary of Agriculture Joseph Wright, Jr. I am deeply concerned about the inference of Secretary Wright's comments on the REA loan programs and his conclusion that "we need to assess the impact which government credit programs, and particularly those which carry a deep subsidy, have on inflation." For several significant reasons, we believe the state of the economy dictates accelerated construction of electric plants rather than the curtailment which his statement appears to suggest.

The thrust of Secretary Wright's remarks brings immediately to mind the disparaging and erroneous statements made by several top Administration officials during the period immediately preceding and following the December 29, 1972 action terminating the REA direct loans programs. Further, the statement completely ignores the vital contribution made by REA borrowers to the productivity of the economy of the country in general and of rural America in particular. It seems quite unlikely that this country will resolve the inflationary problems facing us unless, among other things, we very substantially increase our output of goods and services, and our production capability is directly related to the availability and cost of basic fuels and electric energy.

I regret that I did not have the opportunity to participate in any of the pre-summit conferences. We in the rural electrification program play a vital role as the component of the electric utility industry which powers rural America, and we have strong views on the importance of resources and power which we would have been glad to contribute to the deliberations.

It appears to us that the total demand of all users in this country for liquid and gaseous hydrocarbons, which substantially exceeds our domestic production capabilities and has resulted in an unparalled escalation of prices, is one primary propellant of the inflationary spiral. The nation's balance of trade position is weakened by our heavy dependency on foreign petroleum to fuel the agricultural, industrial and commercial enterprises which comprise most of the nation's economy. This critical situation will not be alleviated until this nation comes to grips with, and resolves, the basic causal factors.

One of several options we have is to let the process run its course. The inevitable consequence will be a greatly diminished production of goods and services, higher rates of inflation, higher unemployment, and drastically reduced standards of living. We believe that this course of action would start the United States on the down-hill road as a primary power among the community of nations. The essential difference between "have" and "have-not" nations is the capacity to produce, and energy applied to resources is a key factor in the differentiation.

The United States can do much better than that, but it will take a conscious, concerted effort on the part of the decision makers throughout our society, including the federal government. This country has an abundance of coal as well as a substantial nuclear fuel capability. We can, by shifting to electrical energy for stationary power needs and ultimately to meet our transportation needs, make a dramatic change from dependency on foreign fuels to a position of self-sufficiency and, at the same time, continue to maintain the productivity which has brought the United States to its present supremacy. That, of course, is what Project Independence is intended to accomplish; while we believe the objectives of Project Independence may not be possible before the mid-1980's, the objectives are sound and the policies of the government should be designed to achieve them with the least practicable delay.

It will not be possible, however, to make the essential changes without purposeful commitment. That commitment must include, on the part of the federal government, assurances that all segments of our pluralistic electric utility industry can secure the financing needed to build the plants and facilities required to attain the goals of Project Independence.

As you know, the entire electric utility industry is experiencing great difficulty in raising sufficient capital. The industry has been forced to postpone $14 billion of urgently needed electric plant at a time when the construction should be expedited. The rural electric systems are a small but very vital part of the industry, and they certainly could not obtain sufficient capital without the REA insured and guaranteed loans pursuant to the authorities contained in Public Law 93–32. It is entirely possible that other segments of the industry may require similar assistance in the near future.

To summarize, we believe it is imperative that the Administration recognize the very vital nature of the electric utility industry in any plans to recover the initiative in coping with production and inflation; that all reasonable assistance be extended to the electric utility industry in its desperate efforts to continue to power the economy of this country; and that the short-range "bookkeeper" view, including complaints about short-term subsidies, not be permitted to become determinant in the solution of what really are very grave long-range problems.

Sincerely yours,

ROBERT D. PARTRIDGE,
Executive Vice President.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 21, 1974.

Mr. ROBERT D. PARTRIDGE,
Executive Vice President, National Rural Electric Cooperative Association, Washington, D.C.

DEAR BOB: Thank you for your letter of September 24, expressing your concern, and the concern of the nation's rural electric cooperatives, with the effects of energy shortages on the present economic difficulties. I think you know that this Department shares that concern.

In support of the objectives of Project Independence, the Rural Electrification Administration initiated last year a loan guarantee program for power supply borrowers, to assist them in getting the credit they need for plant expansion. This loan guarantee program, which started at a $1.0 billion level last year, has been increased to $1.4 billion this year, and we are prepared to go higher and to continue this program for as long as it takes to ensure that the needs of rural America for electric power are met.

As for the REA direct and insured loan programs, their record is one which you know well. Over the years REA has lent $8.5 billion to rural electric cooperatives to help bring power to even the most remote parts of the country. Today less than two percent of rural homes are not connected to central station electric service.

While the Department is committed to assuring adequate electric power to meet the growing needs of rural areas, we must also be aware of the impact our loan programs have on the general economy. Of particular concern are programs which put large amounts of loan funds into the economy at artificial interest rates far below the market level. A related concern is the effect of deep subsidies on Federal outlays and on depleting Departmental loan funds. For REA alone, Fiscal Year 1975 outlays for interest subsidies will amount to about $429 million, and this figure will grow rapidly and be with us for a long time if REA continues the same loan levels at the same interest rates. We believe that there may be many cases where the amount of subsidy can be reduced.

Assistant Secretary Wright's comments in Chicago certainly do not reflect a lack of concern in the Department with the nation's energy challenge, or a change in our commitment to assure rural residents of reliable electric power. Rather they announce our intention, which I am sure the rural electric cooperatives share, to pursue our goals as efficiently as possible, and with maximum concern for the national economy.

Sincerely,

EARL L. BUTZ,
Secretary.

CARGO PREFERENCE CONFERENCE REPORT SHOULD BE DEFEATED

Mr. PERCY. Mr. President, the Senate will shortly be considering the conference report on H.R. 8193, the so-called Energy Transportation Security Act. This is a bad bill and will only exacerbate our present economic and energy problems. Therefore I strongly urge my colleagues to vote against this conference report.

I ask unanimous consent that an article I wrote for the November 4 issue of NAM Reports, published by the National Association of Manufacturers, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENERGY TRANSPORTATION AND A BAD BILL

(By Charles H. Percy, U.S. Senator, Illinois)

The House of Representatives has approved the Energy Transportation Security Act. Every effort should be made to defeat this bill in the Senate, and failing that, to seek a presidential veto.

Don't let the name of the bill fool you. It offers no security for anyone except the special interests who would profit at the expense of the rest of us while claiming to serve the public interest. I am convinced that if this bill becomes law, it will feed inflation, cost the nation's consumers billions of dollars, violate a number of international treaties and could even hinder our national security.

The bill in question, H.R. 8193, is very simple. It requires initially that 20 per cent—and by June 1977, 30 per cent—of the oil imported into the United States be transported on U.S. commercial vessels to the extent that such vessels are available. Its sponsors say it will improve our national security posture by reducing the nation's nearly total dependence on foreign-flag vessels to meet our energy transportation needs. In addition it is supposed to improve our balance-of-payments position, provide increased protection to our maritime environment, create a fleet of modern U.S. tankers, and provide thousands of jobs for American workers.

Those who proclaim these lofty goals must have been talking only to themselves and the maritime lobby. They have ignored the arguments of those who oppose the legislation. The Department of Defense opposes this legislation. The Treasury Department and the Department of Commerce, both of which have a vital interest in our balance-of-payments, oppose this legislation. The Federal Energy Administration, whose primary concern is the energy needs of this nation, is opposed to this legislation. Even the Maritime Administration, which statutorily has prime responsibility to subsidize and rebuild our maritime fleet, opposes the legislation.

In addition, nearly four dozen of the nation's newspapers and periodicals—from Fortune Magazine to the Cedar Rapids Gazette—have come out against the bill.

To understand this widespread opposition, we need a little background. Our maritime industry did deteriorate after World War II. In 1946, the United States had 904 ships totalling 12.7 million deadweight tons (DWT). By the end of 1970, the number had dropped to 262 ships totalling 7.4 million DWT. In response to this serious situation, Congress enacted the Maritime Program to subsidize the construction of tankers.

This program of direct subsidies has worked well. While the average subsidy rate prior to the enactment of the Maritime Program was 53.6 per cent, the new program stimulated considerable private investment. The law itself provided for a scaling down of the subsidy rate as this private investment increased, and just last year the Maritime Administration signed a contract for the construction of two tankers at a subsidy rate of 33.5 per cent—the lowest achieved for a conventional ship since 1936.

As of May 1 of this year, applications for construction differential subsidies for 107 tank ships totalling 31.6 million DWT and costing in excess of $10 billion were pending in the Maritime Administration. Over and above that, the Maritime Administration had construction differential applications for 17 combination oil-dry bulk carriers averaging 86,000 DWT each and representing construction costs of $600 million.

These subsidies are helping to finance the greatest peacetime shipbuilding boom in our history. In fact, our shipyards have orders backlogged until 1978. Given this current boom, it is expected that by 1980, or 1985 at the latest, U.S. tankers will be able to carry 20 per cent of our oil imports. But the bill would require *30 per cent* of our oil imports to be carried on U.S. tankers by 1977. To achieve this unrealistic goal, we would need an additional 40 Very Large Crude Carriers (VLCCs), which at current prices would cost about $4.2 billion. By passing inflationary legislation such as this, which guarantees a market for the ships, we can expect the prices to skyrocket, adding additional millions to the price of these 40 ships.

We simply do not have the shipbuilding capacity to meet this order. Even if the orders for these ships were placed tomorrow, we would be fortunate if they were delivered by 1979.

Even assuming that we could meet this goal, would we indeed want to? Who is going to foot the bill? Rather than the present direct subsidy program, this bill would impose on the taxpayer an indirect subsidy program, whereby the costs would be passed along to the consumer.

As with all indirect subsidy programs, especially those which involve a basic commodity such as oil, the burden falls inequitably and most harshly on those who can least afford to pay. The inequity is geographic as well. The enormous costs would be borne by the regions that rely most heavily on imports, such as New England, the Mid-Atlantic states, the West Coast, and Hawaii.

Building the ships is not the only new cost. Shipping our imported oil on U.S. tankers will increase the cost of oil because the crews on U.S. ships earn higher wages than the crews on foreign vessels. American taxpayers already subsidize wages, including fringe benefits, for American seamen in excess of 70 per cent of their total wages.

The American Petroleum Institute, which also opposes the bill, estimates that it would increase energy costs by as much as $60 billion in the decade 1975 to 1985. This is over and above the tremendous increases we have already experienced and are likely to have to endure in the coming years even if this bill does not become law. Next year alone, the bill could increase the price of our oil by $79.3 million.

The backers argue that they have written into the bill language which provides for a period of five years a rebate of 15 per cent per barrel on oil other than residual fuel, and a rebate of 42¢ a barrel on residual fuel oil. However, the FEA has burst this bubble by pointing out that the "rebate of 15¢ of the oil import fee would not produce any meaningful relief from the increased costs for crude oil which consumers will be required to pay.

"Since the bill's provision for rebate is only for a five year period," says FEA, "rebates will cease at about the time that import fees begin to be applicable to the majority of crude oil imports." The agency adds that the proposed rebate of import fees on residual fuel oil will provide little or no relief for the increased costs to consumers of cargo preference.

Let's examine some of the other problems of the legislation. The proponents evidently feel that one of their best arguments is that it will enhance our national security. This is an argument that I have heard uttered through the years by the industries with which I have been directly associated. Yet there is never any solid evidence to support this contention. What there is, however, is the desire for some form of federal subsidy and to get in on the "gravy train."

The fact that the bill is very likely to have the opposite effect. Presently, most ships are registered under flags of convenience—Liberia, Panama and Honduras. One would assume that the proponents fear that the nations under whose flags these ships sail might try to blackmail the United States by preventing the ships from carrying oil to us.

Even if this were feasible, the proponents obviously overlook the fact that only last winter the blackmail came not from these countries, but from the countries which actually produce the oil. This legislation does nothing to ameliorate that kind of threat. In fact, it may even rekindle it.

Many oil producing countries are now considering steps to require that a percentage of their oil be shipped on their own flag tankers. The bill we have under consideration could have the dual effect of pushing these countries towards such a step in retaliation, while it deprives our country of an argument against such action. By thus triggering the transportation in Arab vessels of a fixed percentage of oil imports in lieu of vessels that were freely available in international markets, the United States' ability to shift transportation resources when needed would be reduced, and our national security weakened.

Beyond this, other countries could use this bill as an excuse to take additional discriminatory steps of their own. Countries could provide for a cargo preference on all types of cargoes, a move which would harm other segments of the U.S. merchant fleet. These are indeed very real possibilities, and if they come about the American Petroleum Institute estimates that our balance-of-payments could be put further into the red by up to $16 billion in the next decade.

There are other examples of the shortsightedness of the bill. Not only would it damage our relations with Japan and other maritime nations in Scandinavia and Western Europe, but it would also violate treaties of friendship, commerce and navigation with more than 30 countries.

In order to enforce such a law, a large regulatory bureaucracy would have to be set up to develop, administer and enforce the regulations which would govern oil cargo preference. Its job would be to try to ascertain that importers were in fact meeting the percentage requirements of the bill. As a result some importers would probably decide that it would be easier to seek markets other than the U.S. where the red tape wasn't quite so thick. Secretary of the Treasury William Simon believes that this could hinder our progress towards achieving Project Independence.

Those domestic industries which rely on petroleum would have to pay more for it, and naturally would charge more for their products. This would injure their competitive position when exporting their products, not to mention its effect on domestic inflation.

If we pass this cargo preference bill, what is to stop us from going beyond petroleum to include other commodities as well? When the executive director of the American Maritime Association was asked whether preference requirements should not also be attached to ores, natural gas, or dry bulk commodities, he could not think of any reason why not! Let's not kid ourselves, they will be back asking for just this type of expanded cargo preference program, and as part of their case they will point to this bill as a precedent.

This legislation has so many deficiencies that it is difficult to understand how it now stands on the brink of becoming law. Hard to understand, that is, until you take note of the powerful interests which are pushing it. The maritime lobby has done its job well. Unfortunately, the consumer who is going to have to pay the costs of this legislation does not have such efficient lobbyists. The average family trying to stay one step ahead of the inflationary squeeze probably does not even know how much this bill could contribute to its economic problems.

THE CONSUMER CONTROVERSIES RESOLUTION ACT, S. 2928

Mr. TUNNEY. Mr. President, 18 major business, consumer and governmental organizations now support the Consumer Controversies Resolution Act, S. 2928. Among these organizations are: National League of Cities, U.S. Conference of Mayors, U.S. Chamber of Commerce, National Urban League, Federal Trade Commission, Council of Better Business Bureaus, American Retail Federation, Sears, Roebuck & Co., National Home Furnishing Association, Consumers Union of the United States, and Consumer Federation of America.

Additionally, following a White House-sponsored conference on "Consumer Complaints—Public Policy Alternatives," Virginia Knauer, Special Assistant to the President for Consumer Affairs, wrote that:

> Over three-fourths of the conference participants surveyed agreed in whole or in part with these recommendations and findings [including business support for S. 2928], and 36 per cent indicated a decision to actively support such a program. (Only four per cent stated active opposition.) Additionally, there was strong agreement with many of these recommendations in the public policy clinic dealing with 'Feasibility of Complaint Handling Systems.' Strong support for S. 2928 was also evidenced in the legislative clinic. We think that these and other reactions and conclusions of the conference are highly significant to effective public policy in the area of complaint handling.

The Consumer Controversies Resolution Act has been unanimously reported by the Commerce Committee. By unanimous consent of the Senate, the bill was also referred to the Judiciary Committee, and favorably reported by my Subcommittee on Representation of Citizen Interests. Since the limited referral has expired, the legislation is now before the full Senate and I anticipate prompt Senate action. I urge your strong support for this important legislation.

The bill identifies an area which all agree needs reforming and improving: consumer redress. It outlines a limited role of Federal involvement through a $15 million Federal Trade Commission-administered grant-in-aid program to States that formulate a plan meeting certain Federal standards spelled out in the bill. The bill authorizes matching Federal grants for locally controlled and administered small claims courts, arbitration, conciliation, consumer complaint centers and other redress devices that are effective, fair, inexpensive and expeditious. Additionally, the bill provides discretionary grants directly to States, localities or nonprofit organizations without a matching requirement.

The approach taken by the bill gives participating States the incentive, flexibility and freedom to experiment and adopt redress mechanisms meeting their needs, while simultaneously assuring that the Federal Government will not be supporting unfair, ineffective or collection-agency dominated mechanisms. The net result of this limited Federal expenditure will be, as one witness testified at a hearing in Los Angeles on the bill—"a considerable savings for taxpayers all over the country."

The need for this important legislation is underscored by the findings of the White House conference, the National Institute for Consumer Justice, which was established at the suggestion of President Nixon, the report of the Small Claims Study Group of Boston, Mass., and the joint work of my Judiciary Subcommittee on Representation of Citizen Interests and the Commerce Subcommittee for Consumers. One recommendation of the National Institute for Consumer Justice contained in its report entitled "Redress of Grievances" was typical. It concluded:

> It is possible that a comparatively modest infusion of funds from the federal government, either on a non-recurring or a continuing basis, can stimulate states that now do not have small claims courts or that have only ineffective ones to establish efficient systems. We are not suggesting that the federal government should establish all the standards for small claims courts, but only that it stimulate a movement toward the kind of court that consumer plaintiffs will find fair and effective.

This vital legislation, introduced by Senators MAGNUSON, MOSS, KENNEDY, and myself, was not opposed by a single witness in 3 days of joint hearings by the two subcommittees.

Mr. President, I ask unanimous consent that a joint letter from some of the legislation's supporters, and a letter from the White House, be printed in the RECORD along with the text of my remarks to which Mrs. Knauer referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 20, 1974.

DEAR SENATOR:

We urge your strong support for S. 2928, the Consumer Controversies Resolution Act, as amended by the Senate Judiciary Subcommittee on Representation of Citizen Interests. The bill has already been reported unanimously by the Senate Commerce Committee.

The bill identifies an area which everyone agrees needs improving: consumer redress. It outlines a limited Federal role of stimulating, improving and reforming consumer redress at the state and local level through a grant-in-aid program administered by the Federal Trade Commission. The bill provides matching Federal funds not only for small claims courts, but for the use of arbitration, conciliation, consumer complaint centers and other redress devices which meet certain Federal standards spelled out in the bill.

The approach taken by this legislation gives states that want to participate the incentive, flexibility and freedom to experiment and adopt responsive resolution mechanisms meeting their needs, while at the same time, it ensures that the Federal Government will not be supporting unfair, ineffective, or collection agency dominated mechanisms. The net result of the limited Federal expenditures involved will be, as one witness at the hearings testified, "a considerable savings to taxpayers all over the country."

INADEQUATE STATE EFFORTS

While there have been many excellent redress mechanisms developed by states and localities, both in conjunction with and apart from business and community-sponsored programs, the fact remains that for most American consumers, there is no readily-available, effective, fair and inexpensive forum for the resolution for small monetary disputes.

The National Institute for Consumer Justice, established in 1972 at the suggestion of the President, undertook a comprehensive two-year survey of the adequacy of existing procedures for resolving consumer disputes. Both the findings of the Institute and the Senate hearings on the subject pinpointed formidable barriers to effective consumer redress. Among others, these included inaccessibility and inconvenience which deterred use of redress mechanisms, insufficient personnel to assist consumers in pursuing claims, inadequate assurances against improper service of process and abusive use of default judgments.

S. 2928 IS THE SOLUTION

The recommendation of the National Institute for Consumer Justice, unanimously supported by the testimony of five major business associations, several national consumer groups and community organizations, called for a modest infusion of Federal funds to stimulate states that do not have consumer redress mechanisms, or that have only ineffective ones in order to establish an efficient redress system. This is the approach taken by S. 2928, as amended, and enthusiastically support it.

In three days of hearings, of all interested parties afforded the opportunity to testify and to submit statements for the record, not one witness opposed the approach taken by the bill. S. 2928 has already gathered widespread acceptance and we urge that you lend it your strongest support.

Sincerely,

National League of Cities, United States Conference of Mayors, Allen E. Pritchard, Jr., Executive Vice President; American Retail Federation, William Kay Daines, Senior Vice President; Consumer Federation of America (Representing over 185 groups including Consumers Union of the United States, labor unions, rural electric cooperatives, and numerous state, local and national consumer-related organizations); Sears, Roebuck and Co., Phil Knox, Vice President, Government Affairs; Sacramento County Consumer Protection Bureau, Leesa Speer, Director; Consumer Federation of California, Frank Damrell, President.

THE WHITE HOUSE,
Washington, D.C., October 1, 1974.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Your participation in the recent conference exploring public policy alternatives for effective handling of consumer complaints represented an essential contribution to the success of the conference. We are delighted to take this opportunity to express our thanks for your efforts on behalf of consumers and those in government, industry, and the academic community who are interested in increasing the responsiveness of our machinery for the creation of public policy.

As you may know, the conference proceedings will be provided to policy makers in government, industry, and elsewhere. In the preparation and editing of the proceedings there may be additional need to contact you, but we thought you might be interested in hearing about some of the interim conference findings.

As you perhaps recall, Mr. Charles Mack, speaking on behalf of the Consumer Issues Committee of the U.S. Chamber of Commerce, recommended, among other things:

1. Business support for S. 2928, the Consumer Controversies Resolution Act.

2. Establishment of standards for third party complaint mechanisms.

3. Issuance of FTC guidelines for such mechanisms.

4. Certification of business-sponsored complaint resolution mechanisms by the American Arbitration Association.

Over three-fourths of the conference participants surveyed agreed in whole or in part with these recommendations and findings, and 36 percent indicated a decision to actively support such a program. (Only four percent stated active opposition.) Additionally there was strong agreement with many of these recommendations in the public policy clinic dealing with "Feasibility of Complaint Handling Systems." Strong support for S. 2928 was also evidenced in the legislative clinic. We think that these and other reactions and conclusions of the conference are highly significant to effective public policy in the area of complaint handling. We will see to it that you are among the first to receive the full proceedings of this conference which you helped greatly to succeed.

Sincerely,

VIRGINIA H. KNAUER,
Special Assistant to the President for Consumer Affairs.

CONSUMER COMPLAINTS—PUBLIC POLICY ALTERNATIVES

(By Senator JOHN V. TUNNEY)

There is no principle more fundamental to Democracy than equal justice under law. As Justice John Marshall Harlan said 80 years ago, dissenting in *Plessy v. Ferguson,* "All citizens are equal before the law. The humblest is the peer of the most powerful."

The recent pardon of Mr. Nixon for unspecified crimes which were or may have been committed during his term of office starkly raises the prospect of a double standard of justice.

A recent Harris Poll found that a majority of Americans believe "there is something deeply wrong in America." Fifty-five percent of those polled were alienated and disenchanted, feeling profoundly impotent to influence the actions of their leaders."

Why the profound alienation? A major cause is hinted at in the Harris Poll's findings: The lack of citizen access to our institutions of government, including our courts. Americans do not have a sense that they are equally protected and afforded due process. They simply do not believe that "equal justice under law" includes them.

For many law-abiding citizens, their only contact with our justice system may be in the area of consumer redress. But here, too, they may face a double standard of justice. Congress, in S.2928, the Consumer Controversies Resolution Act, insists that "for the majority of American consumers, mechanisms for the resolution of small claims and controversies involving consumer goods and services are unavailable, unfair, ineffective or invisible."

In three days of hearings since I introduced this bill, along with Senators Magnuson, Moss and Kennedy, the question of responsibility was probed. Who's to blame? Business? The states? Consumers? or the Federal Government? Actually, responsibility must be shared. I am relating the transcript of the hearings today. This Conference on "Consumer Complaints—Public Policy Alternatives" provides an important forum, removed from the legislative arena, further to explore significant questions regarding responsibility.

Several studies on consumer redress already have been conducted. The two-year study of the National Institute for Consumer Justice was thorough and comprehensive. Mrs. Knauer, one of the co-sponsors of this conference was instrumental in helping to organize the Institute. The study, together with the work of my Subcommittee on Representation of Citizen Interests, and the Commerce Subcommittee for Consumers, formed the basis for S. 2928. Other studies such as that of the Small Claims Study Group of Boston underscore similar, significant conclusions.

I. BUSINESS EFFORTS

The audit of business' performance in the area of consumer dispute resolutions reveals a mixed record. A consumer dispute which can be settled directly between a consumer and a business person represents the fastest, easiest, most familiar, personalized and satisfactory method of resolving a controversy. By refund, repair or replacement, this method gives the consumer what he or she wants without excessive expenditure of time or money. It also relieves the business person of costly litigation and, actually, may contribute to improved goodwill on the part of customers.

Many businesses have accepted responsibility for adequate consumer redress. The National Business Council for Consumer Affairs recommends that consumer complaint handling be elevated to a "function of prime importance" with "appropriate involvement by Senior Management," further suggesting "money-back policies" wherever feasible. These recommendations, which received the endorsement of the National Institute for Consumer Justice, are to be *applauded. Nonetheless*, voluntary resolution of disputes, between customer and merchant, as desireable as it may be, has not and cannot provide the complete answer. More formal redress mechanisms, such as arbitration and small claims courts, keep the pressure on business to reach agreements directly with customers.

Not only do businesses have individual policies for redress, but many, of course, join in associations to protect themselves and consumers. However, customers haven't always been satisfied. Best known among these organizations are the Better Business Bureaus, which each year handle 1.5 million complaints. A Harris Poll reveals 44 per cent of those who complained to the Better Business Bureau remained dissatisfied, and 23 per cent had a negative image of the Bureau as a result of the way their complaints were handled.

The relatively new Council of Better Business Bureaus has begun an aggressive reform campaign. One particularly worthy reform is the arbitration project. John Macy Jr., the Council President, testified before my Subcommittee that over 10,000 businesses have committed themselves to submit unsettled consumer disputes to binding arbitration. Through the assistance of community groups such as the Los Angeles Trial Lawyers Association, impartial arbitrators render binding, final and conclusive resolutions of consumer disputes. Judges in California and Washington think so highly of the BBB arbitration program that they refer small claims court cases to the program. A judge in North Carolina has done likewise. Most recently, the New York Regional Office of the Federal Trade Commission, as part of a consent decree, ordered a furniture company to submit any individual consumer complaint to the BBB arbitration program.

While all the returns aren't in on the program, it does seem to merit Mr. Macy's confidence, as reflected in his testimony to the Subcommittee: "These privately-supported actions are a visible demonstration of the rising determination by the private sector to improve the marketplace and to be increasingly responsive to the consumer."

Other efforts include consumer action panels which hear consumer complaints and recommend solutions. The best known of these is the Major Appliance Consumer Action Panel. But it has been sharply criticized by the staff report of the National Institute for Consumer Justice. The report finds that:

1. Although the panel itself is independent, panel members are dependent on industry-hired staff;

2. Because of reliance on written evidence, the panel lacked a fact-finding process based on first-hand assessment of credibility of witnesses.

3. Because of its lack of enforcement power, it necessarily relies on the willingness of its sponsors to abide by its decision.

The report concludes. . . "(W)hile efforts such as MACAP (and I would add other business-sponsored mechanisms) are extremely useful, they cannot be viewed as an ultimate solution." While some businesses have responded to the "competitive challenge of consumerism," others have not.

I think it fair to conclude, as is recognized in the legislation, that "while there have been substantial efforts on the part of the business community to provide better consumer redress and such efforts must be encouraged and expanded, effective consumer redress will be brought about only through a cooperative functioning of both public and privately-sponsored mechanisms."

II. STATE EFFORTS

The efforts of states and local governments to deal with consumer redress also are a mixed record. While many cities such as New York and Los Angeles have consumer redress systems which have been rated by the National Institute for Consumer Justice as "efficient and successful," other areas fall far short.

The deficiencies now existing in many states underscore why S. 2928 is needed to bring about a revitalization, expansion and stimulation of consumer redress.

Of all consumer redress procedures, small claims courts hold the greatest promise. Since their inception in this country in 1913, these courts have won widespread acceptance. When the small claims court in Washington, D.C., was established in 1938, President Roosevelt said the court was for those who were "financially unable to retain counsel." Small claims courts now exist, in one form or another, in 33 states.

Many, however, are woefully inadequate. Witnesses before my Subcommittee and independent studies reveal that, while consumer-plaintiffs won from 85–90 percent of their cases in small claims courts in Los Angeles and Philadelphia, many courts merely serve as collection agencies for creditors.

One of the most significant barriers to effective use of these courts is the practical concern of accessibility. Seventeen states have no small claims courts at all. In states that do, many are located in congested downtown sections and often are open only during working hours, costing complainants' time from their jobs and money from their pockets for transportation or parking. Ideally, such courts should be located, like post offices, in neighborhood areas and shopping centers, and open at times when working men and women can use them.

Other inadequacies include:

1. Insufficient personnel to assist consumers;

2. Inadequate systems for the collection of judgments;

3. Abuses of default judgments;

4. Improper service of process, and;

5. The failure to provide alternatives to judicial resolutions of claims such as arbitration and mediation.

While business and states so far have failed to provide the complete solution for adequate consumer redress, so have consumers and the Federal Government. The Consumer Protection Agency and the Consumer Class Action are important vehicles to assure that interests of consumers, in general, are represented, but we must also assure individual consumers that they have access to justice; that due process can function in the consumer redress area; and that their particular complaints can be fairly resolved.

S. 2928

I believe the Consumer Controversies Resolution Act goes the next step in assuring both procedural fairness and true equality before the law. It stands with the consumer and seeks to expand state and local redress machinery in working partnership with business. Specifically, it provides for the improvement and reform of consumer redress through a grant-in-aid program administered by the Federal Trade Commission. The bill makes available matching Federal funds not only for small claims courts, but for arbitration, conciliation, consumer complaint centers and other services that meet standards spelled out in the bill.

The legislation gives states incentive, flexibility and freedom to experiment and adopt programs appropriate to their needs. At the same time, it precludes unfair, ineffective or collection-agency dominated grievance machinery. The net result of the limited Federal expenditures involved will be, as one witness at the hearings testified, "a considerable savings to taxpayers all over the country."

The bill has been favorably reported by my Subcommittee to the full Judiciary Committee. It already has been unanimously reported by the Commerce Committee, and I am hopeful for Senate passage this Congress.

Both the input and the support of business groups such as the Council of Better Business Bureaus, Sears, Roebuck & Co., the American Retail Federation and such consumer and community groups as the League of Cities, the National Urban League, Consumers Union, Consumers Federation of America and many others, coupled with the recommendations of the NICJ and many other witnesses have helped develop the legislation, and I am deeply appreciative.

It is my hope that this legislation will make, in the area of consumer redress, the humblest and the most powerful peers before justice.

ADMINISTRATIVE CONFERENCE REQUEST FOR CITIZEN PARTICIPATION IN A STUDY OF THE INTERNAL REVENUE SERVICE

Mr. MONTOYA. Mr. President, although an unfamiliar entity to many Americans, the Administrative Conference of the United States is an independent Federal agency permanently established by Congress to examine the way executive branch agencies and departments are administered.

Last May at my request, the Conference announced a comprehensive study of the administrative procedures of the Internal Revenue Service. The IRS project has proceeded since that time under the guidance of a steering committee composed of some of the country's finest lawyers and legal administrators. They are:

Professor Walter J. Blum, University of Chicago Law School.

Sheldon Cohen, Esquire, Cohen & Uretz, Washington, D.C.

Professor Victor K. Kramer, Director, Institute for Public Interest Representation, Georgetown University Law School.

Harry K. Mansfield, Esquire, Ropes and Gray, Boston, Mass.

Don J. Summa, CPA, Arthur Young & Company, New York, New York.

Dean Bernard Wolfman, University of Pennsylvania Law School.

The Director of the project is nationally recognized tax scholar Charles Davenport, who is on leave from the University of California's Law School at Davis. Assisting Professor Davenport in evaluation of IRS practices are Laurence B. Wohl, a tax attorney from Beverly Hills, Calif., John J. McGreggor, a tax lawyer from San Jose, Calif., and law student aide Dominick Franco, currently enrolled for his final year at Antioch Law School.

Some of the IRS practices under review are extraordinary collection procedures, the challenging of citizen complaints, the availability of IRS information to the public, the confidentiality of tax information, the method of selecting returns to be audited, and the use of summoning powers. In addition to these, the project investigators will study or review complaints or problems of individual citizens. I urge the public to write. Letters about personal tangles with the tax collector will be sealed in the project's confidential files or returned to the sender. Under no circumstances will private mail be seen by anyone outside the IRS project, and letters describing specific abuses will greatly help Professor Davenport's team to discover and define problem areas in the Internal Revenue Service.

Mail about the IRS should be sent to:

The Administrative Conference of the United States, IRS Project, 2120 L Street, NW., Suite 245, Washington, D.C. 20037.

Mr. President, this is an excellent time to bring the IRS project to the public's attention. Public opinion polls confirm the impression I have derived from correspondence and discussion with my own constituents in New Mexico—Americans are unsure of the integrity of our basic institutions. The institutions of government and law are particularly suspect, and public esteem for politicians and lawyers is at a low ebb. Perhaps by highlighting this tough and thorough investigation pursued by capable, honest lawyers with government mandate, people's trust in our Government will be restored.

I am glad to report that cooperation between Professor Davenport's investigative team and the Internal Revenue Service has been substantial. I am pleased that Commissioner Alexander has opened his nonconfidential files to the Administrative Conference. Frequently, administrators of Federal departments and agencies are wary of any review of their provinces. Public government files and records are often labeled "trade secrets" and withheld from view. It is clear to me that IRS administrators desire to improve the public image of the agency while balancing their responsibility to keep some tax information confidential. In this regard, I am confident that the IRS administrators will be in full compliance with the Freedom of Information Act. The current study by the Administrative Conference will, by means of its results, enable Congress and the public to be better informed about many important procedures of the Internal Revenue Service.

THE FACES OF HUNGER

Mr. PERCY. Mr. President, the World Food Conference is over and I am certain we shall have reports this week from our colleagues who attended the Rome meeting.

Although it will be some while before we shall be able to accurately assess the results of the Conference, I nonetheless, believe from what I have already read and heard that substantial progress was made in coming to grips with and better understanding the scourge of widespread hunger and malnutrition.

I shall have more to say about the way in which the World Food Conference dealt with short-term and longer-range problems in the days ahead. Today I want to bring to the attention of the Senate a series of articles entitled "The Faces of Hunger" by William Mullen of the Chicago Tribune.

In the weeks preceding the start of the Rome Conference many newspapers were publishing analyses of the world food situation. No series, however, so ably depicted both the tragic human consequences of the present crisis in the hunger belt of Africa and the Indian subcontinent as well as the complex set of controllable and uncontrollable factors that have brought us to the brink of worldwide famine as did Mr. Mullen's. The articles make it abundantly clear that the problem will not yield to simple, quick solutions.

I commend Mr. Mullen as well as photographer Ovie Carter of the Chicago Tribune for the series. Their work has pricked the national conscience on a factual and not an emotional basis.

I ask unanimous consent that the Chicago Tribune series, "The Faces of Hunger," as well as related articles be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Chicago Tribune, Oct. 12, 1974]

A Tribune Special Report: The Specter of Starvation

Beginning Sunday The Tribune will publish "The Faces of Hunger," a series by Reporter William Mullen and Photographer Ovie Carter on what threatens to became the greatest disaster in human history.

For nearly three months this summer Mullen and Carter journeyed 10,000 miles, from the Sahel region of West and Central Africa to the east coast of India, to study the effects of six years of drouth.

What they found was terrifying. Millions of people are dead or very near death. Bungling by relief agencies, red tape, and corruption have combined with bad weather to leave an estimated 460 million people permanently hungry.

If something is not done soon, 500 million people—more than twice the entire population of the United States—may die.

Obtaining the full story was a major ordeal. Following are excerpts from a letter that Mullen wrote from Ethiopia midway thru the trip.

You asked us for a synopsis of our trip.

Logistically, our problems started the first day, when we landed in Lisbon, Portugal, and discovered we had only three hours before the last flight of the week to West Africa. We scrambled mightily and barely made it under the wire ...

When we arrived at the airport in Mali, security guards seized Ovie's film case. Luckily, he had secreted a dozen rolls in another bag, and we were able to get on with our work despite the fact it took six days of tape cutting to get the film case back.

As soon as we arrived we booked on the once-weekly flight from Bamako, Mali, to Upper Volta, seven days away. Wonderful Air Afrique, our carrier thru most of the trip, bumped us off the flight as we stood waiting in the airport a week later. We ended up staying two days longer in Mali than we had planned.

While we were in Mali, it took us three days of crawling thru Mickey Mouse government red tape to get accredited to work. When we finally got it, we arranged with the United States Air Force to fly us to Timbuktu. The day we got on the plane, we spent two hours flying thru stomach-churning weather, only to return to Bamako because of turbulence. When we got to Timbuktu the next day, tho we had planned to spend two complete days, airplane breakdowns forced us to take an earlier flight out, leaving us only half a day to work.

The only way to avoid wasting an extra week in Mali was to take an alternate course to Upper Volta, which we did by flying to Abidjan for a night and picking up a flight to Ouagadougou the next day.

We had an impossible logistics problem in Upper Volta because of washed-out roads. We had to wait for five days before we could get up north, ruining our plans of staying in the country for only four days. Even when the roads had supposedly dried out enough for a Land Rover, we had a hell of a time getting as far as Gorom-Gorom.

We spent a night in Gorom-Gorom at the home of a plump young British social worker named Mave. Actually, it was a mud hut infested with bugs, but at least it was dry and it protected us from a tremendous rainfall that night. Mave was O. K., too, tho a bit snippish with us. ["I may be a city girl from London, but I bloody well know how to put a camp bed together. What's the matter with you blokes?"] ...

After finishing up in Ouaga, we flew on to Niger, where customs guards took all of Ovie's and my camera equipment. It took us three days to get it back. It took two diplomatic notes and a lot of cajoling on the embassy's part to get them to let us out of the city to do some work. Getting the permission only took six days ...

Then on to Chad.

It was an eight-day trip that I don't think either Ovie or I will ever forget. The second day we got as far as Taboua, a major grain distribution center in eastern Chad, and decided to go on up to Kao, a town reportedly having some troubles, that afternoon. It was less than 40 miles, so we figured we could check it out to return to Tahoua for the night.

We got about 10 miles when we were cut off by an instant river a couple of hundred yards wide. We were just about to give up on Kao and head back for Tahoua for the night when a Belgian army truck crossed the river from the opposite direction. The driver told us he thought our Land Rover could make it.

We drove into the river and made it across and found ourselves in a 30-mile-long mudhole that led all the way to Kao. We quit counting the times we got stuck up to the axles and beyond. It was a question of working 20 minutes to a half hour to get unstuck so that you could go a couple of hundred yards to get stuck again.

After six hours of this craziness, we came upon a rising river two miles from Kao. Our driver, a young Dutchman who, now that I look back on it, probably would have gotten stuck in a parking lot, gunned the engine and ran headlong into the middle of it, where we sank into about three feet of mud and fast water.

There was no way we could get out. We finally had to abandon the truck, the water was lapping at the seat. I think that was the low point of the trip for me, walking out of that rising river with half my stuff sitting in the back of the Land Rover.

We found a Belgian army truck equipped with a winch in Kao, however, and the Belgian pulled the Land Rover out for us. We also found a Baptist missionary from Florida staying in Kao with his wife and three kids. They gave us a hot meal and real American instant coffee to dry out.

They also provided us with some sleeping bags and room on the dirt floor of their kitchen. Ovie said he learned a lot about the theory of relativity that night, and I guess I did, too. We both agree it was the most comfortable sleep we had in all seven weeks in the Sahel.

After spending a day in Kao the next day, we headed back to Tahoua...

[Three days later] we did get thru and on down to Nigeria. Nigeria has an excellent road system, and the leg of the trip that took us thru there should have taken about twelve hours. Nigeria also has an impossible customs bureaucracy, and the harassments and foulups they dealt us turned the 12-hour trip into a two-day one.

Once we got to the other side of Nigeria, we had only a short 140-mile trip thru the Cameroon to get us into Chad. On the map it looked like a cakewalk. But the road was *like fudge.* We averaged 15 m.p.h. or so on the first, and the worst, 50 miles, until we got to a tiny, unnamed bush town where the road disintegrated into the most impossible quagmire we had yet seen.

We spent an hour trying to figure out a way of getting thru it when one of the town youths volunteered, for a fee, to lead us thru a track in the bush around the village. The track was full of incredible thorn bushes, the kind that had already caused one flat on the trip. We were cleaning out a path in front of the Land Rover when something—we thought a scorpion or a snake—hit Ovie in his left calf.

It turned out it was a thorn puncture, but at the time we didn't know and his leg swelled up and stiffened immediately. Once we got around the village, we decided to hurry on to the next large town that had a hospital in it. We got about 200 yards when the Dutchman got us stuck again. There was no way we could get out, and after an hour of struggling, the townspeople came and volunteered to help us out, for a fee. We did get out, and it turned out to be the last mudhole we had to cross in Africa. I peed in it.

We got to the town with the hospital about 9 o'clock at night and found a male nurse, who treated Ovie by flashlight beam in the clinic. Some clinic. While the nurse was treating Ovie's left leg, Ovie started slapping his right leg violently. I turned the flashlight down on the floor by his right foot, and there were hundreds of ants swarming around, some of them climbing up his leg.

Once we got out of there, we decided to head to the next large town, which had a hotel marked on the map. Arriving after midnight, we found that the town, indeed, had a hotel, but it was closed for the summer. There was no place to stay, so we stretched out on top of the Land Rover. You have never seen mosquitoes like the ones in that town. There were so many of them that the noise could have kept you awake even if the biting hadn't.

The next day, except for an episode of running out of gas in the middle of the bush because the Dutchman had forgotten to fill up, we got into Chad without incident.

From there on, you pretty much know the rest of the story . . . Cheers, Mullen.

[From the Chicago Tribune, Oct. 13, 1974]

Famine: Slow Death of 500 Million People

(By William Mullen)

It is the same sun that rises each day over Singimarie Pachuniper, a tiny village in eastern India, and Kao, a tiny village in central Niger in the middle of Africa.

Dawn comes first to a refugee camp for farmers in Singimarie where 6-year-old Saku Barman rises unsteadily to his feet and totters out of an open lean-to into a listless day of numbing hunger.

Six hours later dawn comes to the Sahara nomad camp in Kao where a spindly 4-year-old girl named Hameda weakly gets to her feet to face the same sort of day.

Once in the sun, Saku and Hameda, tho 5,500 miles apart, cast the same shadow.

They are the shadows of ghastly apparitions, of walking child-skeletons, doomed by the same natural and manmade forces to a short, unhappy existence on Earth.

"I don't think Hameda will survive much longer," a village official told Tribune photographer Ovie Carter and me when we visited on a chilly desert morning early in August.

"It will only take a cold now, or a case of diarrhea, and she will be gone."

Already too weak to stand on her own for long, Hameda's emaciated body clung spider-like to her mother's back most of the day.

Mother and child stayed close to each other and close to their skin tent. A row of tents stretched like a finger from the village into the rolling, brown desert dunes.

"There just isn't enough food coming in," the village official said. "We are losing two or three people every day now."

When we visited Singimarie several weeks later, the village teacher gave Saku Barman about the same chances for survival.

"Unless he gets some milk within a few days," the teacher said, "he will be dead. Twenty people have died already this week."

Saku and a younger sister spent their days walking like stick figures thru the sweltering little town, wandering among a gaunt, ragged populace that was just as hungry as they.

Hameda is black, the child of desert nomads whose cattle and livelihood has been destroyed by a six-year African drouth.

Saku is brown, the child of rice farmers killed in a devastating August flood in India.

Until this summer they were children of different worlds, separated by race, religion, culture, and way of life.

Weakened in the aftermath of flood and drouth, starved by the world's inability to get food to them when they needed it most, they faced the same fate.

By the end of the summer, Saku and Hameda looked like brother and sister—dirty, naked, and dying. Their faces were no longer the faces of children, but immobile masks, deeply lined with unfilled folds of skin.

The only emotion left was the terror that sometimes silently filled their eyes while they sat quietly thru the day, haunted perhaps by their own private child dreams.

By now it is likely Saku and Hameda are dead.

The thin lifeline of trucks that brought irregular food shipments to Hameda's village was stopped in the middle of August.

When we visited Saku's village, India had no food at all to deliver there. The government was just starting to ask around the world for emergency food donations.

The story of Hameda and Saku is, of course, not a new one. Famine has been a killer every year since history began.

But there is growing concern among world food, agricultural, and weather experts that the world has fallen into a situation much more serious than ever before.

They fear that the many thousands of children like Saku and Hameda who died this year have been carried away in the first wave of what may become the greatest disaster in history.

Many experts are predicting 500 million people will perish in famine by the year 2000.

Sayed A. Marei, secretary-general of the World Food Conference which will convene in Rome next month, believes current crop failures and poor food distribution have left 460 million people "permanently hungry."

"Over the past two years it [the food shortage] has become so serious that it quite literally threatens the survival of hundreds of millions of human beings around the world," Marei said.

"Such a threat carries with it the gravest implications for the peace and security of the world."

In three months of travel thru the African Sahel—the semi-desert area just south of the Sahara—and the flood-stricken northeast section of India, we saw why the experts are worried.

We saw in West Africa thousands upon thousands of acres of once productive pastureland destroyed by the growing Sahara Desert. No amount of aid or work could reclaim it—and so the entire lifestyle of nomadic cattlemen, who for centuries were able to live off the land, has been destroyed.

In Ethiopia we saw the aftermath of the drouth destroy Emperor Haile Selassie's government and throw the nation into turmoil that threatens to disrupt any concentrated development effort for years.

In India we saw the intense resistance by mothers and fathers to any form of birth control. Their reasoning was simple: They must have at least six or seven children so that one or two would survive to adulthood and take care of them in their old age.

The story was the same in each of the countries we visited—Senegal, Mauritania, Mali, Upper Volta, Niger, Chad, Ethiopia, and India. Each country has more people than it has land and resources to feed them.

Tho the catastrophic drouth in West Africa and Ethiopia seemed to have been broken this year with a near-normal rainy season, people continue to die in the remote bush because it is impossible to get food to them.

India, which even in good years loses thousands of people to malnutrition, is quietly bracing for its worst famine since 1943.

The problem is that in recent years nearly everything that could go wrong with food production has gone wrong—and all at the same time:

The global energy crisis has dried up the flow of fuel and fertilizer to poor developing nations which, when they began using them in the last decade, thought they were going to be self-sufficient food producers.

World inflation and recession has forced the cutback in millions of dollars of development assistance from wealthy nations to the poor.

Emergency food reserves held by the world's wealthy nations have been depleted to their lowest level since World War II by several years of massive crop failures and natural calamities.

Erratic global weather patterns have wreaked havoc in the form of floods, storms, and drouth on millions of acres of crops in Africa, India, Russia, and North and South America. This year experts are predicting at least 2 per cent less food will be harvested than last year.

The impact of food production in one nation on the wellbeing of people in another nation on the other side of the world is very real and immediate.

Failures of the corn crop in Illinois this summer most certainly mean prices will go up and somebody, somewhere in the world for lack of money to buy the corn will go hungry.

Crop failures in Russia that two years ago forced the secret sale of 30 million tons of wheat from the U.S. had a dramatic effect on the rising price of bread for American housewives.

When Chicagoans last winter impatiently cursed their way thru lines at gas rationing service stations, farmers in India could not get gasoline to operate their irrigation pumps. Nor could they get petroleum-based fertilizers for their crops.

Indian farmers, who were growing surplus crops three years ago, will harvest an estimated 10 million tons less food this year than the nation needs. That food the country can ill afford to replace thru world purchases.

While American mothers complained in the supermarkets this year about the mounting prices of bread and milk, the rising prices were causing more serious problems in Africa and India.

World grain prices shot up so steeply that the government of Niger couldn't buy and deliver enough food to Hameda's village, and she began to die.

Milk became so short in supply in the U.S. that we could no longer ship it to nations dependent on our powdered milk—like India—and Saku Barman began to die.

President Ford expressed his concern when he told the United Nations on Sept. 18:

"Developing and developed countries . . . we are all a part of one interdependent economic system.

"The food and oil crises demonstrate the extent of our interdependence. Many developing nations need the food surplus of a few developed nations, and many industrialized nations need the oil production of a few developing nations.

"Let us not delude ourselves. Failure to cooperate on oil and food inflation could spell disaster for every nation represented in this room."

Ford pledged that the U.S. would substantially increase its development aid to projects geared to increasing food production.

When he announced the U.S. would spend $675 million on such projects compared to the 253 million spent this year, however, the nations which will be receiving the aid were disappointed.

They were expecting far more, and in fact will ask for far more from all wealthy nations at the Rome conference.

They insist the main cause of the problem is unfair distribution of the world's wealth, noting that the U.S. has 6 per cent of the world's population but consumes 30 per cent of the world's goods and services.

The poor nations argue that birth rates of Europe and America have been steadily declining in proportion to the rising standard of living and education of their populations.

The same thing would happen, they say, if the wealthy nations transfused more of their wealth into the development of poor nations.

Dr. M. S. Swaminathan, director general of the India Council for Agricultural Research, said he hopes the U.S. will be won over to that point of view by the time the Rome conference starts.

"The crucial role the U.S. must play in Rome this November is to put the political will of the developed nations to work to alter the world's food problems," he said.

"Today's food problems are too important for more words. They need commitment and action."

At the conference, the poor nations will be asking the U.S. and Europe to buy them dam projects, irrigation systems, fertilizer, roads, and expertise.

"President Kennedy said we could wipe out hunger without our lifetime given the political will to do so," Swaminathan said.

"I think he was right, and I think he proved his point when you put a man on the moon. He wanted America to put a man there within 10 years. There was political will to do so, and it was done."

There is considerable doubt that the U.S. and Europe, reeling from inflation and recession, would be willing to foot the bill for the sort of assistance the poor nations will seek in Rome.

Rather than increasing its foreign aid, in recent years the U.S. has been cutting back both in money commitments and in the scope of its aid.

"Big showcase projects—building dams and highways—just isn't our bag anymore," one U.S. official in Ethiopia told me.

No matter how large or small foreign aid becomes in scope, it may not be able to alter the vast problems confronting us in the end.

Five years ago there was great hope that the so-called "green revolution" might wipe out hunger and malnutrition.

Scientists came up with new plant varieties and irrigation and fertilization schemes that transformed several chronic food-short nations in Asia and South America into food exporting nations.

But the scienitists have yet to come up with a magic formula to curb the greed and self-interest of oil and fertilizer producing nations. They have put the green revolution out of reach for most of the world's farmers by quadrupiling the price of oil and fertilizer in the last two years.

Medicine has tried to help by sending cheap vaccines to the far corners of the Earth, eradicating dozens of fatal diseaases, doubling the life expectancy of the people of India and Africa.

But medicine has yet to develop a vaccine that could have filled the empty stomachs of the children of Singimarie when the village ran out of food.

Nor has medicine found a pill that cures the colds or the dehydrating attacks of diarrhea that were killing the malnourished children of Kao.

Massive dosages of foreign aid could build dams and harness rivers to help the impoverished nations of the world become self-sufficient.

But no amount of money can buy a monsoon season when the rain falls and the rivers go dry and the irrigation ponds evaporate.

In the villages and camps where people have already started to die, the arguments, speculation, and expectations for manmade solutions seem far away.

In those dark, faraway places where people day by day watch hunger erode the bodies of their families and neighbors, there is a quiet almost ethereal acceptance of things.

A mother's comforting hand placed on her starving child's head replaces words.

A father's prayer gives them hope.

"It is up to Allah," a nomadic tribesman told me in Niger. " If he wants us to live, we will get rain. If He wants us to die, then we shall surely die."

[From the Chicago Tribune, Oct. 14, 1974]

BUNGLING, DELAY, CORRUPT OFFICIALS KEPT TONS OF FOOD FROM THE HUNGRY

(By William Mullen)

ADDIS ABABA, ETHIOPIA.—Official optimism abounds here and in the capitals of six other drouth-ravaged African nations where an estimated 350,000 persons died of starvation in 1973.

Government ministers and international relief officials throughout the six-nation Sahel region and Ethiopia insist that the worst of the disaster is over.

Unfortunately, their optimism did not spill over to thousands of people in remote, food-starved villages that Tribune photographer Ovie Carter and I visited during a two-month tour of African drouth regions. There, people were dying.

They were people who, while they sowed their fields and tended their crops this summer, were totally dependent on 900,000 metric tons of relief supplies shipped to them from Europe and America.

Many of the people for whom the grain was intended did not get it—or at least did not get enough of it—because of bureaucratic bungling by the United Nations and by donor nations, of which the U.S. was by far the largest.

Many more people didn't get the food because their own governments, among the poorest and worst administered in the world, could not handle the supplies—sometimes because of lack of facilities, sometimes because of corruption.

That side of the story was seldom told to us during our travels.

"We have had no reports of death by starvation since the start of the rainy season," a government official told us in Bamako, capital of Mali.

He could have gone to Timbuktu, as we did, and heard local officials chafe because they knew people were stranded and dying in the surrounding desert because they could find no food. Or he could have seen, as we did, the doctor in the Timbuktu refugee camp point out recent arrivals who were so impossibly malnourished that he couldn't save them.

"We have succeeded in stocking every part of the country with foodstuffs," a government official told us in Ouagadougou, capital of Upper Volta.

He could have traveled with us to Gorom-Gorom, a mud-choked village and refugee camp in the northern edge of the country. It was completely isolated by flooding and left with a four-day supply of food. Conditions were bad enough that, reacting to our reports, officials sent a team to investigate and later ordered a special airlift of food.

"I don't think there will be any death by starvation in Niger this year," an American relief official told us in Niamey, capital of Niger.

He could have gone with us to the Tahoua region of central Niger where relief workers charged with supplying dozens of isolated villages with food struggled heroically but admitted they failed their job. People were dying every day in the villages because they didn't have enough to eat.

"I think we have turned the corner on this thing," a U.S. relief official told us in Addis Ababa, capital of Ethiopia.

He could have gone with Carter to the refugee camps in Wollo province north of Addis where he watched an old woman die while he photographed splinted-thin, severely malnourished babies. Ethiopian officials told me they knew there were thousands of people and they feared the worst.

It is true that near-normal rainfall returned this summer to the Sahel region nations of Senegal, Mauritania, Mali, Upper Volta, Niger, and Chad, and that the rains have returned to Ethiopia.

The Sahel area is the semidesert between the Sahara in the north and the tropical countries in the south.

It is true that the grain fields of those countries are ripening now, and will soon be feeding people after the October harvest.

The human disaster will not be as great this year as last, but nonetheless uncounted thousands of people have died and continue to die needlessly.

Time and again relief workers in the remote bush towns told us they could have avoided the sickness and death if only food had arrived earlier, before the rainy season turned relief routes into impassable quagmires.

Villages and refugee camps barely 50 miles from ample relief supplies are going hungry because it is impossible for relief trucks to inch thru dirt roads and desert tracks now turned to muck and mire.

Fed too little and sometimes going for days without food, the bodily resistance of the people, particularly the children and the elderly, drops so low they succumb to the simplest of illnesses.

They catch colds in the cool desert nights and die of pneumonia. Or they catch whooping cough, measles, smallpox, or malaria, and die from lack of medication. Or they contract diarrhea and die from dehydration.

The international relief agencies maintain that they cannot be blamed for breakdowns in food distribution within the drouth areas, that the blame must be borne by the national governments themselves.

J. David Whaley, chief of the United Nations Development Plan for Upper Volta, claimed the U.N. and donor nations were largely successful in getting food to the stricken nations in record time this year.

If some people in isolated regions are suffering, he said, it is because the governments insisted they be allowed to handle their own internal distributions.

“We're not going to carry the can this year,” Whaley said. “The governments themselves insisted on their sovereignty, and we respected it.

“Once we got the relief shipments here, they took over, and we were somewhat responsible for logistics and information, but not much else.”

The fact remains that the U.N. and the donor nations did not begin to ship relief food in large quantities this year until May, arriving at the start of the rainy season.

The Food and Agricultural Organization of the U.N. last November warned that Africa would need enormous amounts of food relief in 1974.

Instead of heeding its own warnings, however, the F.A.O. bickered for three months, with the drouth-stricken nations on how much relief would be needed and how it should be shipped.

It was not until February that the F.A.O. drew up plans for the relief effort to give direction to the donor nations.

When the shipments started arriving in large quantity in May, five months of the dry season—the best season to send trucks of food to remote villages—had been lost.

Food began to pile up in ports, in capital cities, and in major distribution centers, but the trucks taking it to the villages that needed it most were immobilized by the rainy season mud.

At the end of June in Dakar, Senegal's capital and major port city, 67,000 metric tons of grain intended for Mali.

It would take four months to move that much grain into Mali because it had to be transported on a single-track railroad that can carry only 18,000 tons of freight a month.

David McAdams, mission director in Senegal for the United States Agency for International Development (USAID) defended the port backlog as inevitable.

Even if more shipments had arrived earlier in the year, he said, the railroad could not have transported the grain to Mali because it was tied up with bringing Senegal's peanut harvest to port.

“You can't expect these governments just to ship emergency grain on the railroad,” he said. “They depend on the railroad to haul all of their commodities.”

McAdams acknowledged that hungry people were beginning to fill the cities and towns by the end of June, even tho all the relief food wasn't delivered.

“We probably could have gotten it [relief grain] there sooner by more expensive means, such as an airlift, but sometimes you can't justify an extreme expense until you've exhausted all other possibilities,” he said.

He was right about the expense of airlifting. When the Niger River ran dry in June and the government of Mali could no longer ship relief grain by barge, it had to resort to airlifts to the northern desert cities.

Three U.S. Air Force C–130 Hercules transport planes flew grain from Bamako, Mali's capital, to isolated regions at a cost of $900 a ton. That compares to an estimated $80 a ton it would have cost had the food arrived earlier and had been shipped by barge.

Expensive airlifting, relief agencies and the govenment of Upper Volta claimed this summer, would not be necessary this year as they were last year because of rapid, efficient stockpiling in remote villages.

The idea of no airlift came as a surprise to Father Lucien Bidot, a French priest directing food distribution in the village of Gorom-Gorom in northern Upper Volta.

Responsible for the well-being of 3,500 farmers and nomadic refugees in the gritty little town slowly being swallowed into the emptiness of the growing Sahara. Father Bidot had become alarmed by July.

Torrential rains had cut Gorom-Gorom off from relief stocks sitting just 25 miles away for several weeks. He had only enough food for four days when he heard there was to be no airlift.

“We have been waiting for an airlift to get started,” Father Bidot said. “Otherwise, I don't know how we will get supplies up here.

“It's up to the government now to decide if it will be needed.”

The government of Upper Volta never made the decision, but Albert Baron, chief of USAID for Upper Volta and Niger, ordered people from his staff to go to Gorom-Gorom when we told him Father Bidot's dilemma.

An airlift to the village began after the staff reported back to Baron.

Baron said places like Gorom-Gorom are the exception to the rule this year because most areas are getting food regularly.

While the Niger government in 1973 had a shameful record of corruption and bungling in its part of the relief effort, Baron said, the new military government formed in an April coup was a model of reform.

The new government, he said, was determined to make a success of the relief effort, opening every possible avenue of transport to get food into the country and into the villages.

“We're pretty proud of ourselves,” Baron said. “If we hadn't been able to double the evacuation of the ports, there would have been starvation in Niger this year.”

Once the U.S. and other donor nations got food into the country, he said, the Niger government shipped it to provincial distribution centers.

“Some places are in a ‘truck to mouth’ situation,” Baron said, “where we live from one day to the next day as supply of food. But I don't think there will be any death by starvation in Niger this year.”

Whether people were dying for lack of any or too little food seemed an odd distinction to make in Kao, a village of 2,500 where two to three people a day were dying by early August.

The people of Kao were at the mercy of violent rainstorms that produced overnight raging rivers that tore thru the aid, rolling landscape, slicing apart the roads they watched for food shipments.

There was no food stockpiled in Kao, and little chance of regular relief supplies arriving until the end of rainy season.

The food was supposed to arrive regularly from Tahoua, a major stockpile center 40 miles south. When a truck of food occasionally managed to break thru the rainsoaked dirt road leading from Tahoua, people consumed the food as soon as it was off the truck.

Parents allowed their children to eat raw milk powder as soon as it was handed to them, unaware that it was a sure way to induce fatal diarrhea.

Maj. John Celis, commander of a Belgian Army trucking unit responsible for feeding a region as large as France from the Tahoua stockpile, said Kao was by no means the only village to distress.

His unit was ordered back to Belgium Aug. 13, but before they left, the major reflected bitterly on what he had been able to accomplish.

“Our mission was to constitute stocks in the villages, but it was impossible to reach the people often enough to build one. They ate what we brought immediately.

“We came once more too late. We should have been here in December and January when the roads were good. It would have been possible then.

“Now we are leaving, and not one place has got a stockpile.”

The major was extremely pessimistic about even irregular food shipments reaching the villages once his unit had left.

Maj. Cellis' fears apparently were well-founded. By September the Niger government announced it was replacing trucks with camel caravans to supply the Tahoua district towns.

A trucking problem of a different sort arose in Chad, the most remote and inaccessible of the Sahelian nations—and the one which relief officials estimate has the most severe food problems.

The U.S. committed 20,000 metric tons of grain to Chad this year, but by the end of the summer only 7,000 tons had gotten into the country.

Shipped overland from Nigerian ports to the city of Maiduguri in Northeastern Nigeria, it was supposed to be carried across the border by truck into Chad.

The problem was that trucking is one of Chad's major industries, and owners of the truck companies hold powerful political sway in government.

The Nigerian trucking firms were willing to carry the relief food into Chad at one-half the tonnage rates charged by Chadian firms, the Chad government wouldn't allow the Nigerians into the country.

Unfortunately, the Chadian truckers didn't have enough trucks to handle the immense piles of food that had grown in Maiduguri and had begun to rot under tarpaulin shelters.

When the government finally relented in July and decided to allow Nigerian truckers to carry the food, it was too late. The rainy season had destroyed the road leading from Maiduguri to Chad.

Ethiopia's Wollo province is a place of spectacular emerald mountains and valleys where people in isolated farming villages died by the thousands last year.

There was no way for an airlift to succeed in the region this year when the villages ran out of food again. There was no way after the rainy season began for the food trucks to penetrate the steep, tortuous roads.

The government instead set up relief camps at the most acceptable points they could find, hoping that people in trouble could somehow reach them, pick up supplies, and return to their farms.

“There are at least three million Ethiopians living in acute distress right now,” said Shimelus Adugna, the nation's director of relief operations.

“We think we have done a good job getting food to most of them, but we know there are places we have not found, that we have not managed to reach. There is little we can do for the people there, unless they somehow manage to find their own way to one of our shelters.”

Often when people finally manage to reach a government camp, such as the one in Bati in Wollo province, they are already beyond help. Weakened by hunger, they are bundled into blankets to ward off the cold mountain air, and officials try to wean them back to health so they can return to their farms.

But every day in the camp a few bony forms under the blankets stop moving, and they are wrapped for the last time to be carried out of the grey barracks buildings.

How many people have died like this in Africa this year is impossible to calculate.

Whether they are dying from starvation or malnutrition seems an academic question. The fact is that they are dying because 900,000 tons of food, much of it grown, shipped, and paid for by American taxpayers, did not arrive in time to save them.

Despite promising African harvests this year, officials already know it won't be enough to sustain the 50 million people in Ethiopia and the Sahel next year. The U.S. and the donor nations already have started shipping food for 1975 emergencies.

[From the Chicago Tribune, Oct. 15, 1974]

Weather Changes Here, Abroad Threaten Unending Food Shortage

(By William Mullen)

Ludhiana, India.—Dr. M. S. Randhawa, considered a hero by Indian farmers and a miracle by agronomists around the world, sat in his office and stared out glumly at the heavy haze hanging over northern India.

"I have never seen the sky like this before," he said.

The sky was almost beige from dust particles whipped up by the wind and carried into the atmosphere from drouth-stricken states 200 miles away in western India.

Dr. Randhawa, the man who brought the "green revolution" to India, was more than a little concerned. His grand experiment in increasing the output of Indian farms, a splendid success three years ago, now seems to be in serious jeopardy because of the disruptive behavior of the weather.

Not just in India, but all over the world scientists are gathering data on changing global weather patterns.

The data they are collecting is startling and frightening. It shows that growing seasons in the world's most productive agricultural areas are being shortened or disrupted.

The changes in the weather are so drastic, many scientists are convinced the world is undergoing a climate change.

In India, for example, which is usually plagued with drouth and floods somewhere in the country every year, this year had more than its share of natural calamity.

Vast areas of land have been baked dry in western and southeastern states while floods have covered huge areas in the northeastern states.

Most seriously, only half the normal rainfall came this year to the nation's most important food-raising states, Dr. Randhawa's Punjab and neighboring Haryana.

It was in those two states where Dr. Randhawa, now vice chancelor of the Punjab Agricultural University, brought the "green revolution" to India in the early 1960s.

Under the guidance of the university, farmers of the Punjab and Haryana learned how to double their food production and briefly transformed India from a chronic food importer into a food exporting nation.

This year the weather changed all that. Because of lack of rain, experts predict farmers in the two states will grow 30 to 50 per cent less food than they grew last year.

When the Punjab and Haryana have that kind of trouble, India is in serious trouble because the nation is so dependent on the grain grown in those two states.

This year the weather has changed the outlook of a lot of nations.

Canada is expecting its worst wheat harvest since 1961. The winter season hung around too long for thousands of farmers to plant this spring.

The middlewestern states in the U.S. suffered the most severe drouth they have experienced since the 1930s dust bowl days, losing hundreds of millions of dollars in failed crops.

It rained too much in some parts of Russia, and not enough in others, resulting in serious wheat and corn crop failures.

Satellite pictures taken over China revealed that many agricultural areas of the world's most populous country have been hit with drouth this year.

When Canada, the U.S., Russia, and China are in trouble, it means the whole world is in serious trouble.

Commodities analysts who study the world's ability to feed itself this autumn have issued some chilling facts about the present situation.

Three years ago, they said, the world had a food buffer of surplus grain that, in terms of emergency distribution, could feed the entire population of the planet for about 50 days.

That was a comfortable margin that kept the world food prices low and food easily obtainable to distribute to the needy in times of catastrophe.

Then this peculiar thing with the weather started showing up, ruining crops all over the world. People in Africa, India, and Central and South America began to starve.

The 50-day margin began to dwindle rapidly as the reserve grains began to be eaten up to make up for serious crop failures.

By last spring food experts became extremely alarmed when the reserves had dwindled to a 27-day supply. They issued grave warnings and urged the fullest agricultural production possible all over the world this year.

Farmers, responding to the increasing prices that came about from the food shortage, made record plantings.

But the curious behavior of the weather did not subside.

"We know that for the second year in a row the world is going to consume more food than it grows," said Reid Bryson, a man who has an intense interest in the behavior of the world's weather.

"We also know that come next spring, the world surplus of food will have dwindled down to about an eight-day supply."

Bryson, director of the Institute for Environmental Studies at the University of Wisconsin, is a climatologist, a man who studies the movements and changes of climates in the world over hundreds of thousands of years.

He has as the result of his years of research become something of a reluctant prophet of doom.

"The evidence is now abundantly clear," Bryson told a Senate committee hearing earlier this year, "that the climate of the Earth is changing in a direction that is not promising."

He predicts that as many as a half a billion people may die from the food shortages before the end of the century.

Bryson is not alone. While he is probably the leading exponent of the changing climate theory, climatologists around the world have come to the same conclusions as Bryson.

They have detected a significant expansion of high-altitude polar winds that move above the North and South Poles, controlling the prevailing wind patterns over the rest of the world.

They theorize that the expanded polar wind activity has changed the patterns of equatorial winds that normally bring monsoon rains to Africa, to India, and to Latin America.

The Monsoon rains that normally fall in these areas have, in recent years, often fallen instead further south or out at sea.

These regions are among the most densely populated and underdeveloped agriculturally in the world. The farmers are dependents on the monsoons for water because they cannot afford to use artificial irrigation.

At the same time, the polar ice caps have been growing, and the climatologists think we may be moving into a period of shorter growing seasons and shrinking crop zones, particularly in Canada and the U.S.

If this is true, it will seriously compound the food shortage problem because the U.S. and Canada are the biggest surplus food producers in the world. It is from these two nations that much of the relief food comes to feed famine-stricken nations in times of emergency.

Aside from the shifting pattern of monsoon rains and the lengthening winters in the northern hemisphere, one of the most ominous fluctuations is the drop in the mean global atmospheric temperature by 2.7 degrees since the late 1940s.

Bryson and others theorize that the temperature drop is caused by an increase of tiny particles, called aerosols, which rise to the upper atmosphere, blocking out solar-radiation that heats up the atmosphere.

Scientists think that the amount of aerosols in the atmosphere has been greatly increased in the last century in the form of windblown soil. They blame this increase on mechanized farming methods used in countries like the U. S. and Canada, and on abuse of marginal lands in more primitive nations, such as overgrazing of Savannah lands in West Africa.

More evidence will have to come in before they are proven or disproven.

If they are right, we will know about it soon enough thru the reports of hunger and death on a scale never before witnessed in history.

The implications of such an occurrence leap far beyond mere famine.

Aside from the estimated 350,000 people who died in drought-related famine in Africa last year, the disaster there has completely upended the social, political, and economic life of seven nations.

In the last year three governments have fallen in military coups because of the drought—in Niger, Upper Volta, and Ethiopia.

The same tremors have run thru the governments of Senegal, Mauritania, Mali, and Chad, where the political fortunes of dozens of high-ranking officials have plummeted and new men have taken over.

Internally, the populations of the Sahel and Ethiopia are in a state of confusion, with massive migrations of people. The Sahel is the semidesert area between the Sahara on the north and the tropical countries to the south.

The drought appears to have ended forever the romantic epoch of nomadic tribesmen who for centuries crossed the Sahara Desert on camel caravans and roamed the desert fringes with tents and herds of cattle.

Economically, the Sahel region is in ruins. Destitute even before the drought, the six nations now are totally dependent on the largesse of the outside world for their survival and their future.

India, where officials fear as many as 500,000 to a million people could die in the next six months, is beginning to blister and break with internal turmoil.

[From the Chicago Tribune, Oct. 16, 1974]

Nomads With Nowhere To Go

(By William Mullen)

Timbuktu, Mali.—It is no accident that when Westerners speak of Timbuktu, they speak of it as the end of the Earth.

Except for an airstrip and a few four-wheel vehicles, there is little evidence of the 20th century. It is still a medieval desert town of high walls surrounding mud buildings that hide 1,000 years of secrets of Tuareg noblemen, holymen, serfs, and slaves.

The Tuaregs have always set themselves apart from the rest of the world. They own a fierce, indomitable culture that has resisted a dozen desert empires and 70 years of French colonialism.

That is beginning to change now. The Sahelian drouth has destroyed the immense grassland region around Timbuktu where the Tuareg nomads roamed freely for 10 centuries with their herds of cattle, sheep, and goats.

As the grasslands disappeared, their livestock began to die. When their livestock disappeared, they had nothing left to trade, and their desert camel caravans carrying salt, silk, and spices went the way of oblivion.

There is nothing left for the Tuaregs in the desert, so now they are coming to Timbuktu and other desert crossroads to stay.

Once they ruled all they surveyed, but now, because of the drouth and their own miscalculations, they no longer control their own destiny.

Their first miscalculation came in the time of French colonialism, when the French wanted to educate the sons of the Tuareg noblemen. The noblemen scoffed at western ideas and instead sent their slaves to the schools.

After the French gave the Sahel [the semi-tropical area south of the Sahara] its independence, they ceded the government to the small, educated middleclass of the ex-slave tribes which now hold Tuareg survival in their hands.

The second serious miscalculation came 10 years ago when western relief workers came to the Sahel with cattle inoculations and well-boring equipment. The Tuaregs saw a chance to greatly increase the size of their herds.

They ignored their own ancient customs of rotational grazing and allowed their burgeoning herds to overgraze the fragile pastures. The drouth came to dry up the grassland, and the Tuaregs cut down all the savannah trees and bushes so their starving livestock could eat the leaves.

As the drouth persisted, they lost not only the animals, but also the savannah, because of their careless treatment. With nothing to protect the topsoil, it blew away with the desert winds that brought down the sand dunes.

Now the Tuaregs are destitute.

Salima is an old Tuareg woman living in the Timbuktu refugee camp for the last year. Her husband is dead, and she stays with her daughters and smallest children.

Her family, she said, was very wealthy five years ago with vast herds of livestock, but they lost everything in the drouth.

"In the beginning we tried to stay in the bush," she said. "There was nothing to eat, and we were deep in the desert, so we joined a caravan to Timbuktu."

Tho she dislikes the camp, she has stayed because it has food. Some of her 12 sons could not stand the life, and they left.

"The ones who were tall enough went back into the bush," she said. "They are going to try to do the only thing they know, taking care of animals. They are trekking the desert looking for animals to start a new herd."

Even if they find a new herd, relief officials think it is unlikely the Sahelian governments will allow them to go back to traditional herding. To preserve the land that is left, they will need range management and controlled herds.

That will mean the lands traditionally used by the Tuaregs will be fenced in, that there will no longer be cattle caravans hundreds of miles long, that the nomads will no longer be able to roam freely.

"With the size of rangelands we're talking about," said C. Payne Lucas, representative of Africare, an American group doing studies for long-term relief in the Sahel, "the nomads will still get some sense of movement."

They will still be able to move with their herds, he said, but in much smaller distances and within the fenceposts. Because of their condition, he said he thinks the nomads are ready for the change.

"There is a receptivity of change coming out of all this," he said.

"My God, it isn't the first time this has happened. Look at our own experience in the Old West with the cattlemen fighting the sheepherders and farmers when they started fencing off grazing land."

It means, too, that not all the million Tuaregs who live across the Sahel from Mauritania to Chad will be able to herd livestock. There won't be enough room for them on the controlled rangelands.

The Sahelian governments are encouraging the nomads to take up farming or a trade to end their ways of wandering. Sometimes the only way to encourage the stubborn Tuaregs has been to refuse to give them food until they pick up a hoe or shovel.

The Tuaregs have not helped themselves in the disaster. They have been arrogant and disdainful of the government civil servants who came from their former slave class.

They have even made it difficult for international relief workers to sympathize with them.

"They wouldn't lift a bloody finger to help us," moaned a Belgian paratrooper who spent three months this year transporting emergency food to Tuareg refugee camps.

"We'd get stuck in a river, and they would laugh. We'd get into the camp, and we'd have to unload a bloody 10 tons by ourselves because they just sat and laughed at us for doing all the work."

In Mali, where Tuaregs briefly revolted against the government in 1967, there are indications the government is trying to get the Tuaregs to leave the country.

The government denies it, but Malian Tuaregs, mostly men, have been inundating refugee camps in Upper Volta and Niger, hundreds of miles from their usual habitat, claiming Mali refused to feed them.

The Timbuktu camp in Mali has a population of 5,216 Tuareg women and children, but only 511 men, most of whom are elderly or sick.

A government official explained that the men were welcome in the camp, but they preferred staying in the desert. He denied they were refused help.

"I don't know if they have gone south, looking for animals, or what," he said. "I don't know where they are."

In Niamey, Niger, last month, a young Tuareg strode into the national museum and confronted a glass case containing a mannequin draped in a Tuareg costume identical to the one he wore.

He stared at the mannequin in bewilderment for some time, then a smile flickered across his face, as tho he were bemused by the fact that he had found his likeness relegated to a museum showcase.

Birth Control Fails, Too; "Green Revolution" Turns to Dust; India's Food Production in Ruins

(By William Mullen)

Cooch Behar, India—There are no classes in the Indra Devi Girls School this year, but an important lesson is being taught there nonetheless.

The school is a compound of long, low buildings behind a high wall in this small district capital in West Bengal.

It is a quiet place, just as the concentration camps of Nazi Germany were quiet.

Like the concentration camps, it is packed with wrecked forms of humanity, room upon room filled with gaunt-faced men, skeletal women, and hollow-eyed children with haunted, glassy stares.

So far this year the world has ignored the people in the school. Nobody from outside India has come with food or medicine or money to relieve the misery and stave off death.

Indian government officials say publicly that they will somehow find food for these and 200 million other hungry people this year.

Privately they express concern that there isn't enough food available on the world market, and that as many as 500,000 to one million people could perish in the next six months.

The vision of that many people dying while the world stands by is a searing one, a scarring one like the vision of the camps in Germany.

It is happening today in Cooch Behar.

"The relief we are able to give them is not enough," said N. N. Kar, who is in charge of relief for the Cooch Behar district.

"We can distribute about four kilograms [less than nine pounds] of wheat each week for each family, and that is about all."

In the Indra Devi school, it was obvious that it was not enough. Children lay listlessly on the ground in the courtyard or in the street running in front of the school.

Fathers looked on in embarrassment as their wives came to two visitors, pushing sick babies to them as tho the visitors, as Americans, might be able to help simply by touching them.

One baby had open running sores on its back, and a massive swelling lump on it spine. An official at the school said there was no doctor to attend the children, that the injury could not be treated.

"We had a medical team here a few weeks ago to administer smallpox inoculations," he said, "but they didn't have time for anything else. There is nothing we can do."

There were 450 people living at the school, one of five schools in the small town being used as refugee camps.

Kar said 31,000 people in the district were suffering in similar circumstances, living in schools, makeshift tents, warehouses, wherever people could get a roof over their heads and wait for food.

Cooch Behar is but one district in West Bengal, a state reeling at one end from floods, at another from drouth. The government estimates 625,000 people are in dire need, and admits that estimate might be conservative.

West Bengal is but one state in India. The condition of its people is no worse and is in some cases better than the people of Assam, Bihar, Orissa, Rajasthan, Gujarat, and Kerala, other states facing severe food problems.

Since 1971, India's food production has fallen apart. It has produced substantially less food in the last two years than it did in the late 1960s and early 1970s at the height of the so-called "green revolution."

The exploding population has added 60 million mouths to feed in the country since 1970.

Money that the country should be using to find ways to grow more food is now being spent to buy emergency supplies to make up for crop failures.

The government is having trouble finding food in a world plagued with crop failures this year, growing 2 per cent less grain than it did last year.

It means 200 million Indians are living on diets one official called "slow starvation."

Instead of getting better, it promises to get worse as India's food growing ability continues on a pattern of steady deterioration started three years ago with failing weather and rising energy costs.

In the Punjab and Haryana, two farming states that became the beneficiaries of the "green revolution," where farmers fed most of India when they learned how to use irrigation and fertilizer, the mood is black.

The farmers there have watched their crops diminish and their profits disappear because of lack of fertilizer and failure of rain.

They complain that the government has deserted them by not protecting them from the soaring cost of fuel needed to operate irrigation wells and by fixing maximum prices they can charge for their harvest.

"For awhile, farming was like heaven," said Haqiqat Singh, a Punjabi farmer whose home in the late 1960s began sprouting the accoutrements of middle class luxuries once he had mastered irrigation and fertilizers.

"Now I'm just passing time, making a subsistence living again."

Singh, a turbaned, bearded Sikh, described the vicious circle of failures that was turning his farm into a losing proposition.

The monsoon rains, failed this summer, so it drastically cut hydroelectric production in the Punjab. He was dependent on the electricity to power his well pumps to draw water for his fields that were drying from lack of rain.

"Now I have to spend 20 rupees ($2.50) a day just to run my tractor engine to draw water because the electricity isn't on."

The gasoline expense cuts deeply into the

$350 to $500 he expects to earn annually from his farm.

"I feel stranded," he said.

He and other Punjabi farmers are fighting back by hoarding much of the grain they managed to harvest this year. The government won't let them sell it at a price they think is fair, so they are trying to drive the price up by making the food scarce.

The people in the greatest danger in India are villagers who live in rural areas where food prices are the highest and money is the most scarce.

There, too, in the rural areas, is where the birthrates are the highest, the families are the largest, and the parents are the poorest.

"Our children are on the brink of disaster," said Tara Gopaldas, a nutritional consultant for CARE in New Delhi.

"They are the first victims of malnutrition, and we are a very young nation. Forty per cent of our people are under 20 years old, and 80 per cent of those suffer in some stage of malnutrition."

About 80 per cent of India's population, which passed the 600 million mark in September, live in the rural areas.

Except for the progressive farmers of the Punjab, Haryana, and a few other scattered areas, they continue to live in a hand-to-mouth subsistence, almost feudalistic agricultural society.

Part of the building tragedy in India is that the peasants themselves, deeply ingrained with tradition and resistant to change, are contributing to their own destruction.

The government long ago recognized that it couldn't seriously attack the poverty of its people until it attacked the population problem.

For several years India has conducted the most expensive and vigorous birth control program in the world, offering free counseling, contraceptive devices, vasectomies, and tubectomies to any one who asked.

The campaign never succeeded because rural people, conditioned by the cycle of good years and bad years, were frightened.

Their only hedge against hunger and starvation in their old age is the number of children who survive to adulthood.

They continue to have six or seven children when they know they won't always be able to feed that many. A few will die, but two or three will survive as social security.

"That is the way it has always been," said Santos Naskar, 50, a rice farmer in the Sundarban lowland swamps.

He was spending a summer afternoon on the stoop of this mud hut, working a little on some fish traps he was hoping to sell in the local market, but mostly just lazing the day away with his six children.

He grows only one crop of rice a year, and while he waited to harvest it this autumn, he and his family were going thru their annual belt-tightening period, eating only one meal a day.

He admitted being hungry every day, was uncomfortable, especially for his children, but it always happened this way in the end of the summer.

"We'll get by, and I can always build a few fish traps," he said. "I'm not much for big plans."

Agricultural scientists insist that families like Naskar's wouldn't have to go hungry every year if they would only accept new cropping methods they have developed and plant more than one crop a year.

But they would need to irrigate and fertilize their land, and farmers who are "not much for big plans" are frightened by the investment it would take to get them started.

"The peasant farmer is a very religious person," said Dr. M. S. Swaminathan, head of the India Council for Agricultural Research.

"Even if we offer credit to get him started on fertilizing and irrigation, he won't take it because he doesn't want to die an indebted man."

They prefer to pay the price of survival in other ways like the 3,000 people in the village of Pasodutoi a few miles away from Cooch Behar.

They may be squatting all day in their rags waiting in front of a government rationing shop.

There isn't enough food for everyone, so the government divides evenly among them, two pounds of wheat for each person every 15 days.

Even when they know they will not get any food, they come anyway, seven days a week, arriving before sunrise to sit and wait until dusk. There is nothing else to do.

[From the Chicago Tribune, Oct. 18, 1974]

The Starving Millions Look to Only One Savior—America

(By William Mullen)

Niamey, Niger.—Several years ago the nomads crossing the Sahara Desert here in night caravans on the backs of camels were startled by little, fast moving blips of light streaking across the sky.

They questioned western missionaries about the lights, and at first were disbelieving when they were told about American satellites and rockets.

Then they became convinced and charmed by the idea of new stars being hung in the heavens by people in a faraway land called . . . America.

"They are amazed by us," said an American missionary who has been working with nomads for the last 15 years. "They shake their heads in disbelief with us, with our gadgets and machinery and men on the moon.

"When we bring their sick kids corn and soya milk, they call the stuff 'America' because it does wonderful things to make them well."

Few nomads have ever seen an American, let alone known one.

But they have heard about us and they know what we can do—Americans can do just about anything they set out to do.

The people who run the government of Niger are a little more sophisticated and a little less lyrical about us. They measure us in technology, in dollars and cents, in food donations to their drouth-ravaged people.

And they have come to the same conclusions as the nomads—Americans can do just about anything they set out to do.

It is not just the government of Niger that thinks this way. Most of the under-developed nations of the world look at America with the same awe.

Now a sense of urgency has grown around the awe held for us. Mankind faces its worst disaster in history, the experts warn us, unless the world comes up with some fast solutions to the food shortage that is slowly begining to squeeze the life out of half a billion people.

As the richest, most technologically advanced people in the world, Americans are expected to make a large contribution to the solutions.

Some of the people looking to America for help are:

Hanana, a 50-year-old Tuareg nomad who wants a few head of cattle so he can leave Timbuktu and return to his old way of life as a cattle herder in the sub-Saharan savannah grasslands.

His problem is much more than the lack of a few head of cattle. The grasslands have disappeared completely under hundreds of miles of growing, choking, suffocating Sahara sand dunes.

Shimelus Adugna, who is in charge of relief for 4 million Ethiopian drouth victims, wants half a billion to a billion dollars to build dams and harness rivers to open up a rich new agricultural belt.

The problem is that Ethiopia is nearly bankrupt, and he can't convince the U. S. or any other wealthy nation to underwrite his project.

Surendra Majhi, a 45-year-old farmer in East India, wants some rain so he can get back to growing rice, or he at least wants a job with a steady income so he can feed his destitute family.

The problem is that nobody knows how to manufacture a monsoon season when nature fails to produce one. And even if Majhi had a good-paying job, it wouldn't help him to buy food for his family when there is no food being grown to sell in the market.

The problems of Hanana, Adugna, Majhi, and the other half billion people facing starvation will be considered at the World Food Conference in Rome this November.

Food experts, economists, and politicians from nearly every nation will pool their ideas and try to come up with solutions to the food shortage. Already the sides are being divided between the wealthy nations and the hungry nations who want the wealthy nations to spend billions of dollars in short, medium, and long-term development.

With our "wealthiest" status the U.S. is expected to supply the biggest portion of money and technology. We will be expected to quite literally sweep back deserts, move mountains, and make the heavens rain.

But it seems doubtful now that the U.S. taxpayer, hardhit by inflation and recession himself, is willing to play such an expensive role to help destitute people half way around the world.

Probably the first assistance the U.S. will be asked to provide at the conference will be to help establish a worldwide network of food stockpiles to more efficiently feed people already in dire need.

President Ford has already given America's blessing to that undertaking, and the U.S. will probably supply much of the funding and food to get it established.

Coming to agreement on how best to help Hanana, Adugna, and Mahji promises to be a much more difficult problem.

Ford on Sept. 18 told the U.N. that the U.S. would greatly expand its aid next year to nations in greatest need of agricultural development.

When he revealed his proposed expenditures—$675 million in 1975 compared to $253 million in 1974—there was not much cheering from the needy nations. They are expecting much more.

Money and technology, however, may not be able to help Hanana, the desert herdsman in the Sahel.

The vast areas of grassland stretching around Tibuktu where he and his family used to follow their herds of cattle are gone. He spent the last six years watching his cattle die as the Sahara Desert rolled relentlessly south at the rate of 30 miles a year, destroying his way of life and the only sizable export industry in the Sahel.

Nobody in the world really knows how to help Hanana. The $22 million President Ford proposed to spend in the six Sahelian nations next year will help but most relief experts agree it won't help very much.

The problems are too immense, and the six nations—Senegal, Mauritania, Mali, Upper Volta, Niger, and Chad—are too destitute at the end of six years of drouth to help themselves very much.

How do you help countries where per capita incomes are $50 to $100 a year, where less than 20 per cent of the people can read, and where virtually no one has graduated even from high school, let alone college.

There are no industries, so there is no employment for those who have lost their land to the desert. They aren't even any roads by which to deliver enough food to keep Hanana and his family alive and healthy.

"Let's not kid ourselves," said C. Payne Lucas. "What is needed here is a Marshall Plan."

The money now committed to the Sahel by the U.N., and the U.S. and other wealthy nations falls far short in scope of a Marshall Plan.

It is going into well-digging projects, demonstration projects showing farmers how to use animals and improve cropping methods, and animal husbandry projects. The process is agonizingly slow.

Lucas, a representative of Africare, an American group of specialists assessing the needs of the Sahel, agrees with other experts that the region needs a massive infusion of western money and technology.

"It's in our best interests," he said. "Are we going to spend the money now, or keep on spending it year after year while it continues to get worse over there."

To make the Sahel self-sufficient the experts say there would have to be a tremendous effort at land reclamation and preservation. They would have to introduce irrigated and fertilized farming, build fertilizer plants, and revamp traditional cattle herding from individual family operations into a modern industry with slaughterhouses, roads, and a modern marketing system.

Looming darkly behind all the proposals is the Sahara itself, which, having destroyed Hanana's way of life, continues to creep across the Sahel. It could eventually destroy any rehabilitation scheme, even one on the scale of the Marshall Plan.

"After all, if the desert continues to grow, it is not very realistic to stop it," said Jean Pierre Schellenberg, director of the U.N. mission in Mali.

"How do you deal with such a natural phenomenon? The problem is of such magnitude; the area is so vast.

"Most of the proposals are too difficult to attempt or so expensive to maintain that, frankly, I don't think the rest of the world would think it worth it."

There isn't a desert threatening to overtake Ethiopia, but Shimelus Adugna is faced with millions of farmers as primitive as those in the Sahel, living on land worn tired and thin by too many centuries of cultivation.

At the same time Ethiopia has a huge, sparsely populated frontier of fertile land along wild and untamed rivers. Adugna wants money to build dams to harness and tame the rivers and to build roads so he can move the people in.

The U.S. has pledged $19 million to Ethiopia next year, about the same it is likely to receive from other donors.

Adugna estimates it would cost $500 million to $1 billion to get his resettlement project underway. If his people don't resettle, he said he fears they will be chronic disaster victims, like the 250,000 he estimates died of famine last year.

"Just take two of our rivers, for example," Adugna said, "the Awash and the Wabe Shebelle. If we could only exploit those rivers, we could produce in three of four years enough for ourselves and a little for export."

The U.S. and the U.N., again, are more interested in conducting smaller, cheaper projects dealing directly with the neediest people.

"Help is insufficient unless it makes further help redundant," Adugna said. "We just want to become self-sufficient. We don't want to become a nation of professional beggars."

Begging, to Indian rice farmer Surendra Majhi's way of thinking, is a superior way of survival to the life he has led this year.

"At least the beggars in the cities are getting enough to eat," Majhi said. "Here in my village there is no food or money to beg."

Three times this summer Majhi and his neighbors in the Parulia District of West Bengal planted their rice. Each planting withered and died when the monsoon rains never materialized.

Majhi gets by on the little money he earns whenever he can find work, and a little grain he has left over from last year.

Experts say there is sufficient water in the ground around Majhi's farm so that he could farm without the monsoon rains. He needs technical assistance to be shown how to get the water and he needs power to draw the water up.

A network of agricultural development projects collapsed three years ago when India and the U.S. clashed politically over the India-Pakistani war and American advisers and development money were chased out of the country.

The global energy crises has effectively cut the nation off from cheap power sources.

President Ford has made a move to restart a program of agricultural assistance by offering India $75.5 million in development aid next year, fully $75 million more than we offered them last year.

Even if joint American-Indian development resumes, the nation will have to solve its energy crises to get anything moving. The Arab oil-producing states have yet to show any willingness to drop their prices for developing nations who are being hurt so badly by the increased oil tariffs.

India instead will have to seek its own energy solutions, by searching for oil deposits, developing coal fields, and building fertilizer plants.

They are astronomically expensive measures to take, and they must be geared towards servicing the agricultural economy so that it can expand and keep pace with the exploding population.

"Again and again we must come back to Square Number One—agriculture," said Dr. M. S. Swaminathan, director general for the India Council for Agricultural Research.

"If we decide to produce one million tons of steel more each year, we will take a few experts to design a mill, and it can go up in a year.

"It is more than one scientist can do. There are certain things we can do by ourselves, but there are others that will never be done unless we get help from the international community."

One recent day in West Bengal, Tribune photographer Ovie Carter and I visited the flooded village of Singimarie Pahuniper. It was a scene of incredible desolation, starvation, and disease, with people packed into the rudest shelters, waiting for help or death, whichever came first.

We tried to buy out the entire contents of the only food shop in town, a bushel of rice, to be distributed to those in most desperate need.

A village official firmly refused our offer, explaining everybody was hungry, and one bushel of rice couldn't feed a tenth of them for even a day.

Instead he made us promise we would see government officials in the district capital and try to convince them to send help.

We promised, tho we knew there was no food in the district capital, that people were starving there, too.

We knew there would be no food for Singimarie, and we had a quiet, depressing ride on a rickshaw thru the flooded landscape to the car we had to abandon where water had cut the highway.

We were almost to the car when a middle-aged man came pedaling furiously behind us on a bicycle, shouting for us to wait.

He climbed off, his face gray with exertion after pedaling several miles in the fierce tropical heat. The sweat sopped from his forehead and streamed down his face as he wheezed and gasped for breath.

He pulled out an identification card showing he was editor of a small weekly paper in a town beyond Singimarie, and we waited for a full five minutes until he had enough breath to speak.

"I heard you were in Singimarie," he said, "and my village is even worse.

"It's getting worse everywhere. We can't help ourselves anymore.

"You are Americans, you are the richest people in the world. America can do anything.

"You must help us, or we will all be dead."

He finished his speech, shook our hands, and got back on his bicycle to head back into the flood.

IF YOU WANT TO HELP, HERE'S HOW

Americans who would like to help victims of famine in Africa and Asia can contribute thru a number of agencies. The agencies listed below use a minimum of the money they collect for administrative costs. The food they distribute goes to people who work for it in self-help projects that enable them to grow more food for themselves in the future.

CARE—220 S. State St., Chicago, Ill. 60604.

Catholic Relief Services—Catholic Center, 1011 First Av., New York, N.Y. 10022.

Church World Services—475 Riverside Drive, New York, N. Y. 10027.

American Friends Service Committee—407 S. Dearborn St., Room 370, Chicago, Ill. 60605.

Lutheran World Relief — 4141 W. North Ave., Chicago, Ill. 60639.

Mennonite Central Committee—21 South Twelfth St., Akron, Pa.

World Relief Committee — P. O. Box 44, Valley Forge, Pa. 19481.

Seventh Day Adventist World Service—6340 Eastern Ave. N.W., Washington, D.C. 10012.

[From the Chicago Tribune, Oct. 27, 1974]

TRIBUNE SERIES ON FOOD CRISIS SPURS CHICAGO AREA TO ACTION

Some night soon in Palatine, the front doorbells will start ringing because Kim Lerch decided she could be the difference between life and death to millions of starving children in Africa and India.

Kim, 14, a freshman at Fremd High School in the suburb, read "The Faces of Hunger," a six-part series on world food shortages which appeared in The Tribune Oct. 13 thru 18.

"I just felt so bad when I saw all those pictures of those sick kids that I felt I should do something to help," she said.

She called Care Inc., in Chicago, and the agency sent her literature and collection kits. She is organizing her friends to canvass the town for contributions.

"I'm going to explain to people about the drouth and all the food problems so they know why I'm collecting and so they know that they're not just wasting their money," she said.

Kim was one of the many thousands of people who joined in a powerful response to the series, compiled after a three-month tour of Africa and India by Tribune reporter William Mullen and photographer Ovie Carter.

Soon after it appeared articles from the series began to go up on school bulletinboards. It also became the subject of church sermons thruout the Chicago area.

Volunteer relief agencies around the country reported a sudden increase of contributions following the series.

"All of a sudden last week we started getting a large influx of checks from the Chicago area," said Nancy Nicalo, acting executive director of Church World Services in New York City.

"We couldn't figure out what was happening until we started seeing some of The Tribune articles."

At least one group of employee, at Horizon, Inc., a Chicago-based land development company, decided to give up their Christmas party fund this year and donate the $4,000 to famine relief.

"We usually have a pretty lavish party," one Horizon executive explained. "But after seeing the series and finding out that $4,000 could buy 144,000 meals, it wasn't hard to give it up."

The most common reaction to the series was the one reported by an Elk Grove Village housewife who sat down with a cup of coffee each morning to read The Tribune accounts.

"I began skirting your articles on the famine-stricken countries; I avoid notice of the brown shrunken bodies in your photos," she wrote.

"When I am ready to take it on, I begin to read The Faces of Hunger. A few minutes later, toward the second- or third-to-last paragraphs, I begin to cry. It is inevitable.

"With my cup of coffee in hand, I have written senators and representatives, spurred by your words and pictures. I have sent a check to a relief organization.

"Still feeling helpless, I berate myself with my sofa, my refrigerator, my not-so-new-but-warm clothes, and I wonder what I can do to help."

Nor did the series escape congressional attention.

Sen. Percy (R., Ill.) said he will introduce The Tribune articles into the Congressional Record.

"The Tribune series helped prick the national conscience on a factual and not an emotional basis," Percy said.

The senator said Congress already is plannign to cut back foreign military assistance and expand agricultural assistance to the afflicted areas.

"We have a great responsibility to share our technological knowledge with other nations so that they may become less reliant on outside food sources," he said.

Sen. Stevenson (D., Ill.) agreed with Precy.

"In our interdependent world the billions of dollars spent on military power will not alone buy security," Stevenson said, "We must face up to the challenge of world food shortages by recognizing that morality and national self-interest can coincide."

GEN. JAMES GAVIN ON THE AMERICAN CHARACTER

Mr. METZENBAUM. Mr. President, I wish to call the attention of the Senate to a fascinating interview with Gen. James Gavin, which appeared in "W," a Fairchild publication, last Friday, November 15. For those who may not know of General Gavin, let me mention just a few high points of his career. He led the 82d Airborne Division on the beaches of Normandy 30 years ago, served as U.S. Ambassador to France in 1962–63, and has been for some years chairman of the Arthur D. Little Corp., Cambridge, Mass., "Think Tank."

His was one of the first voices of dissent against the Vietnam war. As the author of the article says of him:

> He is a unique man with a unique background as a soldier-diplomat, in a unique job, with a unique view of what the American character is and what it means today.

General Gavin speaks with great force and intelligence about the American character and what it means today. He concludes that—

> There's nothing wrong with the American character, but there is something wrong with American life today and we have to do something about it.

Mr. President, I ask unanimous consent that the full text of the interview with General Gavin be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

James Gavin and the American Character

BOSTON.—Thirty years ago, Gen. James Gavin led the 82nd Airborne Division in battle on the beaches of Normandy.

This fall, the 82nd was on alert for possible duty in the Boston school-busing crisis. The division was to march in if violence erupted beyond the ability of police or National Guardsmen to control it.

That, for some, is a concise summation of what has happened to American society: Thirty years ago, the 82nd fought a Crusade in Europe. Today its job could be to keep white and black Americans from killing each other.

Yes, says the former commander of the 82nd, it is a sad commentary. But according to James Gavin, American society has always been troubled, and now as then, its troubles don't necessarily indicate some basic flaw in the American character.

"You can't say we've become a repressive, punitive society," says Gavin. "We came close to that under Nixon, but ultimately we got rid of him."

Gavin has long since retired from the Army. He served in 1962 and 1963 as President Kennedy's ambassador to France. Now he's chairman of the Arthur D. Little Corp., the Cambridge "think tank," searching for solutions to the world's scientific, economic and societal problems. He is a unique man with a unique background as a soldier-diplomat, in a unique job, with a unique view of what the American character is and what it means today.

"I've had more opportunity than most to observe Americans in alien environments," he says, with a fine sense of understatement. "I've lived in Europe, peace and war, for 12 years, and before that I lived in the Phillipines from 1936 to 1938. There's no question, in my experience, that there is a very specific American character. There's no escaping our background.

"Steven Vincent Benet caught that unique character in his poem, 'Western Star,' describing how American kept moving West, always moving on, until they came to the Pacific and said, 'We want to keep going.' Well, they did keep going. They went to the moon."

If the flag planted amid the craters of Tranquility Base shows one side of the American character, doesn't the roll of 55,000 dead in Southeast Asia show the other?

Gavin isn't willing to go that far. Vietnam, he says, was an aberration, a mistake brought on by "stupidity, arrogance and lies."

"The thing that scares a guy like me," he reflects, "is, if we could have gone so far wrong then, what could happen the next time? We've got to get the Constitution in shape to protect ourselves from this usupation of power by the executive."

Gavin's was one of the earliest voices of dissent against the war. He spoke out as early as 1964 and spent a memorable six hours before the Senate Foreign Relations Committee presenting his case against American involvement in Indo-China. But no one listened to him.

"They didn't know what I was talking about," he says. "Our leaders saw a bi-polar world—Communists constantly warring with non-Communists—and the American people didn't understand that this concept was utter nonsense."

When they began to understand later and thousands marched to protest the war, Gavin believes they were acting in the purest tradition of the American character: "History will judge the generation of the 1960s as the real heroes of that time. We will look back on the marchers with pride."

It wasn't a flaw in the American character that caused the crises and catastrophes of the '60s and '70s, he says, but rather a bullet fired in Dallas:

'We've never really gotten over the Kennedy assassination. Nobody ever dreamed Lyndon Johnson would actually become president and get us (deeper) into Vietnam because he was caught up in his own machismo. If Kennedy had lived, Nixon would never have become president. He wouldn't have had to quit and leave us with a present and, shortly now, a vice-president never voted for by the people."

The Nixon scandals, too, he believes, were as much an aberration as the Vietnam war and, again, certainly not a reflection on the American character.

"The proof of that is the contrast between how Americans and Europeans viewed Watergate. Europeans took a ho-hum attitude, you know—'what's new about corruption?' Americans, though, were outraged, genuinely shocked, morally appalled. They will insist on good government and will be as optimistic as ever after they get it.

"No matter how capable Ford is, Americans need a whole new set of faces in Washington. That will get the country back on its feet again. I don't think Watergate has changed the fundamental character of the American people at all. The built-in character strengths of the American people are far too great to be affected by a man like Nixon."

A man like Gerald Ford, Gavin thinks, could call on those traits in the American character that would get the country moving again. But, says Gavin, he isn't.

"Americans are willing to do much more than the President is asking them to do. They want to do more. They want to be told to do much more. Instead, we're getting initiatives from Washington that don't begin to tap this reservoir of willingness to do more. Ford's economic program is too timid. It's pinchy—a little here, a little there. Except for the Pentagon. He wants to spend almost $100 billion on defense.

"I wasn't surprised. I knew Ford wasn't a man who would be willing to pull back on the defense budget, not a man to prevent our drift toward becoming a military-industrial state. We are drifting that way and we simply have to come back. We're not at war with anyone now. We're in competition, that's all. It's economic competition—for markets, for resources."

Gavin, who would have been appointed secretary of defense had George McGovern become president in 1972, is puzzled because Americans allow the Pentagon to monopolize nearly half the federal budget.

"Maybe this is a flaw in the American character," he says. "Maybe it's the same flaw that allowed Americans to trust Nixon so long. We're inclined to trust the executive too much."

Gavin feels certain that America can and will find the means to solve many of its problems.

"I had a Soviet scientist to dinner not long ago at the Brookline Country Club, in the very citadel of capitalism. He picked up his old-fashioned and the bottom fell out of the glass. He asked me, 'Why don't things work in America?'

"Well, some things don't work, but still, I spent three years at war with American young men in large numbers and they are unique. They're very inventive, very good at catch-as-catch-can. They're given to improvisation. It's always been that way."

The ability to solve our problems is within us, says Gavin.

"I am absolutely confident we can solve our problems. I know an awful lot about

Americans, and the very nature of the American character is just what we need to come up with solutions. All Americans want is the facts and to be told what to do. . . .

"But we have to do it now. We have to get the country back on its feet again. There's nothing wrong with the American character, but there is something wrong with American life today and we have to do something about it."

RICE ACT OF 1974

Mr. McCLELLAN. Mr. President, yesterday I received assurances from Senator Talmadge, chairman of the Senate Agriculture and Forestry Committee, that his committee will soon hold hearings on the Rice Act of 1974. Today, Senator Walter Huddleston, chairman of that committee's Subcommittee on Agricultural Production, Marketing and Stabilization Prices, announced hearings on this measure for December 3. Chairman Talmadge's assurances and Chairman Huddleston's prompt action are particularly appreciated in the light of recent releases from the World Food Conference in Rome, Italy.

Testimony presented at the conference highlighted the increasing need for producing more of the world's basic food crops. Rice, the world's principal food crop, is the primary food of literally hundreds of millions of the world's people—millions of whom are among the most needy, hungry, and deprived. Increased rice production, which would be encouraged by the Rice Act of 1974, could help provide the very basic substance of life for many of these people.

First, however, we must pass this important measure. More is involved than increasing the present rice acreage. Under current law, the Secretary of Agriculture may be compelled to reduce the acreage devoted to rice from about 2.5 million acres in 1974 to 1.6 million acres in 1975. This action, I think many would agree, is a step in the wrong direction.

Mr. President, the Rice Act of 1974 provides a unique opportunity for the Congress to address the problem of hunger in the world while providing the potential for a positive influence on our Nation's balance of trade and a workable new policy combining a measure of protection for our farmers and incentives to expand production. A similar bill has already been favorably reported from the House Agriculture Committee and is now pending there before the Rules Committee. It is my hope that the upcoming Senate hearings may prove productive and that the Senate will have an early opportunity to consider this measure.

FELIX GAY—EDUCATOR

Mr. BARTLETT. Mr. President, Mr. Felix Gay's career as an educator exemplifies the type person who has made America great. I ask unanimous consent that the biography of Mr. Gay be printed in full in the Record.

There being no objection, the biography was ordered to be printed in the Record, as follows:

Felix Gay

Felix Gay, Superintendent of Schools at Foyil, Oklahoma, began his teaching career in 1911, and this current year will make a total of 64 years teaching experience—17 years after retirement age of 65.

He was born in the Appalachian Mountains of Kentucky, at Dry Hill, in 1893, the second of nine children. He didn't start to school until he was 12 years old, but he was very eager to learn, and a few years later had an opportunity to buy a trunk full of books, which contributed much to his education.

Mr. Gay began teaching at age 18 in a country school, Wildwood, in Leslie County, Kentucky, after taking a Teacher's Examination and receiving a certificate. The school was only six months in length at that time, and he taught school for six months and went to school the other six months. He attended Witherspoon College at Buckhorn, Perry County, Kentucky, which was a private Presbyterian school. Although he had not attended high school previously, many of the courses taken here were later accepted for college credit by accredited colleges.

After three years teaching in county schools, he went to Witherspoon College for the entire term, teaching part time and attending school part time. He then came back to Leslie County and was principal of the Hyden High School which he got accredited, the first high school accredited in the county.

From there, he went to Goodman, Missouri, as superintendent, for two years, then back to Grant County, Kentucky, at Mason, where he spent five years. He attended school in the summers and received his A.B. Degree from Berea College, Berea, Kentucky, in 1925, the first person from his home county of Leslie to receive a college degree.

He went back to Witherspoon College for three years as a teacher and counselor. He felt that the College had given him an opportunity to do something with his life, and he had told the president when he previously left that he would come back and spend a few years to help pay that debt. But the west had gotten into his blood, so he came back to Goodman, Missouri for two years, then on west to Oklahoma in 1930, where he has remained.

He continued his education, taking graduate work at the University of Kentucky, the University of Arkansas, and Oklahoma State University, where he received his Master of Arts Degree in 1937. He has a life certificate in Oklahoma to teach all subjects from grades 1 through 12, issued in 1930; also, an administration certificate for superintendent, high school principal, and elementary principal. Probably no other person in Oklahoma has as much certification qualifications.

He has been superintendent of schools at Adair, Cleora, Lenapah, Helena, Cleo Springs, Minco, Chelsa, and Foyil. He was superintendent at Chelsea for 12 years and retired in 1962. It took only three months to realize that retirement was not for him, so he got a job as classroom teacher at Big Cabin for 3 months. He then went to Strafford, Missouri for 2 years as elementary principal, coming home on week ends.

The next year Foyil School Board looked him up and said they were in dire financial trouble and needed him to help them out, and he has been there for the past 10 years.

Mr. Gay's three strongest qualities are probably school finance, building, and concern for people. In practically all of the schools where he has been, the districts have been in very difficult financial conditions, and he has not failed to bring them out in good condition.

He built new gymnasiums at Adair and Lenapah under the W.P.A. back in the 1930's, and had building programs at Cleo Springs, Minco, Chelsea, and Foyil.

When Mr. Gay went to Chelsea, the school district valuation was only $990,000. Through a good public relations program and maintaining a good school, many of the surrounding dependent districts were encouraged to annex with Chelsea, increasing the school valuation to more than $2,000,000. No buildings had been built since 1912, and during the twelve years. Mr. Gay was there they built a high school building, an elementary building, and a gymnasium.

A tough job has always been a challenge to Mr. Gay. When he came to Foyil, the school was deeply in debt and the enrollment was so low there was danger of losing their high school. Through careful planning, community cooperation, and State and Federal help, he increased the school personnel from 12 to 32, built one of the best auto mechanics buildings in the state, a new gymnasium, added elementary classrooms, and made many other improvements. He established the first Head Start in the area and has the only Head Start program in the county, which is considered one of the best in the state.

Mr. Gay has concern for people, and particularly those less fortunate. He spends a great deal of his time counseling, and is instrumental in helping a number of persons of low income continue their education and others to become self-supporting. He helps more people get jobs than any person in the area.

He has a genuine interest and faith in people. Whether it be student, teacher, or school board member, he helps them build their self-image and confidence until they can do nothing but succeed.

Mr. Gay has always been active in community affairs. When everyone was discouraged and chances seemed pretty slim for the Foyil Water Dist. No. 3 getting approved, he was elected chairman of the group. Although it was tough sledding, he got the project approved, and Foyil community has rural water.

He belongs to the Chamber of Commerce, and was president of the organization two years ago. He is chairman of Manpower Board, Dist. 1, which covers seven counties. He has been a member of the Community Action since its inception in 1966, and was chairman for three years. He is a member of the United Methodist Church, is chairman of the Administrative Board, and teaches a Sunday School Class.

He has three sons and two daughters, all of whom have college degrees. He and his wife, Vera, live in their country home east of Chelsea where they raise cattle, grow a garden each summer, and enjoy country living.

THE ROCK OF THE SENATE COMES BACK

Mr. TALMADGE. Mr. President, during the congressional recess, there appeared an excellent article in Parade magazine on our distinguished colleague, John Stennis, a Senator from Mississippi and chairman of the Armed Services Committee.

The Nation and the world were shocked in January 1973, when Senator Stennis was shot by thugs in front of his Washington home. For a while, the life of Senator Stennis was in balance and the American people joined the Senate in praying for his full recovery. As the Parade article points out, Senator Stennis came back "with remarkable tenaciousness and endurance." All of us in the Senate, and his many, many friends throughout the country are thankful for his continued distinguished service, for his gentle wisdom, and for the leadership and inspiration he provides.

I bring this article to the attention of the Senate and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

John Stennis: The Rock of the Senate Comes Back

(By Lloyd Shearer)

Washington, D.C.—When a man comes face-to-face with death and beats it, he frequently returns to life with a new philosophy, a new sense of values.

On Jan. 30, 1973, Sen. John Stennis, then 71, the all-powerful chairman of the Senate Armed Services Committee, was gunned down twice by a trio of youths as he emerged from his car in front of his Washington home.

Rushed to Walter Reed Army Hospital, he hemorrhaged badly, lost consciousness. "It looked very much," says "Miss Coy," his wife of nearly 45 years, "that he would not make it."

But with remarkable tenaciousness and endurance, "Honest John" Stennis held on—half in a coma, half out—three times in surgery, intravenous feeding . . . "They gave me a soft-boiled egg after 30 days, first solid food I ate . . . I had fleeting minutes of consciousness. I couldn't tell if I was dreaming or not. Everything was sort of woven together.

"I remember one night I was sure I was going to die. When you've been shot in the stomach, on the left side just below the beltline, and they've cut you up and sewn you back together again, and you've been shot in the leg and wonder if you'll ever walk again, and you're in that twilight zone between life and death and you're suffering—you don't have as much motive to live as you would ordinarily. And that's the way it affected me at first.

MAKES A DECISION

"I remember one particular night in the middle of all this I dreamed I saw a headline on a newspaper and it said, 'Stennis Dies in His Sleep.' It felt so real. I remember saying to myself, 'So that's the way it went? . . . That's what happened to him, died in his sleep, eh?' . . . it all felt so real. And then I woke up, and there I was still in bed—alive!

"And it seemed to me then that I had to make a special effort if I was going to survive. I deliberately considered the matter of living or dying, and I made up my mind that if I could be useful, I wanted to make the fight to survive, to overcome this thing.

"I pictured the possibility of my not being able to function either physically or mentally or both, and I reckon I spoke about it, because the doctor carefully examined all my lower extremities, muscles and everything. I knew what the doctors were looking for—possible paralysis. So I asked them if I would be able to walk again. I wanted to get that straight to begin with. They told me there would be no paralysis, at least if I pulled through. Might not pull through—the gunshot wound in the stomach was awful bad, right through the pancreas and the portal vein—but I built my optimism on the lack of paralysis.

"And I built on prayer, too, I had long prayers. I'm not big on prayers, but I just prayed that I could be useful again. That's what kept coming back to my mind. That's what the consuming thought was, the consuming question, could I survive and be useful. I decided that I could.

LEARNED A LESSON

"Now that I've recovered—I'm back to 170 pounds—and working just as hard as ever, life means more to me than it ever did. I am determined to use what time is left to me more usefully than before. That's what I've learned from my little rendezvous with death, as you put it—to be just as useful as I can, to make the most of time."

John Stennis, the epitome of Southern gentility, the standard-bearer of Senatorial ethics, the so-called "Conscience of the U.S. Senate," widely respected, deeply loved, the last of his breed, has participated in political life ever since 1928 when he was graduated from the University of Virginia Law School and was elected to the Mississippi State House of Representatives from Kemper County.

He plans to run for reelection in 1976 at age 75 for a sixth term in the Senate, and he will probably run unopposed. He is virtually unbeatable in Mississippi where he is regarded as a living tradition and a gentleman of the old school who has long specialized in catching flies with honey.

"I believe," Stennis says, "that it's a good idea to permit a man to pop off, to give him his say. I'm not interested in his first impression but rather his second, seasoned judgment. Tolerance and patience are two virtues which help a man get along in life. Courtesy never hurt anyone."

Stennis is so courteous and courtly that his friendly yet dignified behavior pattern has become a matter of recognition over the years in both houses.

Some time ago, Rep. Edward Hébert (D., La.), chairman of the House Armed Services Committee, said of his Senatorial counterpart: "Now John's a gentleman. I've told John many times, 'Now, John, I wish you weren't such a gentleman. I'd rather you were a no-good sonofabitch. Then I could do business with you much better.' But you know how courtly and nice he is."

BEAT BACK OPPONENTS

The Senator, however, is plenty tough, resilient and stubborn, and few men can shepherd a bill through the U.S. Senate with more energy, drive and persistence than he. He recently floor-managed the $21.9 billion military procurement bill through the Senate despite a tiring, hard-fought week of knowledgeable opposition.

For some years now, Stennis has suffered the unfair reputation of being a "patsy" for the Pentagon, the Central Intelligence Agency and the forces of conservatism. He was regarded as a Vietnam "war-hawk," and a defender of Nixon, and it was said of him that each year the Pentagon would submit "a watered" military procurement bill from which the Senator would then proceed to squeeze out a few billion, leaving both sides relatively happy, a technique he no longer abides, if he ever did.

It is interesting to note the changes which have taken place in the pre- and post-accident Stennis.

For example, I interviewed Stennis five weeks before he became a victim of the senseless armed robbery from which it took him 17 long months to recover. At that time in December, 1972, he said of the CIA, "one has to take those fellows on faith. I think they're doing a good job."

ASKED HIM AGAIN

Last month I again asked him, since he is head of the Senate's Subcommittee on Central Intelligence, what he thought of the CIA and its activities.

"I'm giving the CIA more supervision than I did," he readily confessed. "The thing about the agency which disturbed me greatly was its activities at home, getting into domestic matters. I was disturbed that they actually took part to a degree in providing that fellow (Howard Hunt) with false faces and paraphernalia used in the Dr. Fielding burglary. That concerned me greatly.

"Let me say, too," he later added in a phone interview, "that I do not approve of such missions as 'destabilizing' the Allende Government in Chile. That is not the primary mission of the CIA as I see it. And I am sure that Bill Colby does not favor such missions either. And I tell you this. I am in favor of stopping all of them in the future. And I think he is, too. One thing is to get information which I regard as the primary function of the agency. Another thing is to go messin' about into the internal affairs of other nations in which you have no business.

"I must tell you that I got into this CIA subcommittee, of which I'm now chairman, gradually. But I am now showing it more vigilance than ever before. I am making some rather rugged inquiries into all of its activities everywhere.

"You must understand, of course, that the CIA has done some outstanding work like with the U-2 overflights and their role in the SALT talks. They have provided us with a lot of good information, saved us lots of money on unnecessary weapons systems.

"I have a lot of confidence in Bill Colby. I think he's realizing what he's up against these days. He's a professional, you know, came up through the ranks. I think he's doing the best he can. He takes orders, you know. He doesn't initiate these missions. He provides us with information. But others decide."

INDIAN OCEAN BASE

In line with this last statement, it's interesting to note that Stennis recently made an impassioned plea for $18.1 million for the expansion of a controversial U.S. naval base on the Indian Ocean island of Diego Garcia even though CIA Director Colby testified that he foresaw only a limited increase in Soviet naval activity in the immediate future even after the Suez Canal was opened.

Boomed Stennis in that deep, stentorian attention-getting voice of his: "I am vitally concerned that we have the facilities there to help the Navy which might need to protect the oil route lanes."

Although Stennis is by nature a cautious, conservative man, the archetypal Southern Senator who dislikes rocking the boat, and on occasion a master obfuscator and wheel-spinner, he enjoys a long-standing reputation in the Senate for fairness and restraint. He now appears, however, less cautious, less restrained, and more willing to speak his mind than he did before his accident.

On Vietnam, for example, he says: "I was opposed to going into the war in the beginning, but once our flag was committed and our boys were sent, I thought it was my position to back them up. Now, if the South Vietnamese were to lose Saigon, I would not be in favor of having American troops re-enter that fight. I just would not be."

On Rockefeller: "He's a good man and I'm sure he'll make a fine Vice President, but my personal choice for the position would have been Mel Laird. Right smart, Mel Laird. I have a lot of confidence in him. Even called Ford before he was sworn in as President and told him Laird would make him a good V.P."

On President Ford's pardoning of ex-President Nixon: "I'm in favor of it. Maybe the timing was premature, but as I see it, from where I sit I think Nixon has had punishment far exceeding anything that anyone in office has ever had. His punishment will be lifelong. To me a forced resignation from the highest office in the land, that is the greatest punishment. At least it is to me. I expect that solitude, his solitude, is worse than death. It would be easier to die in a way. The problem is to live, live.

"As a former circuit court judge in Mississippi I can tell you that the acceptance of a pardon is tantamount to an admission of guilt. In effect, Mr. Nixon already pled guilty when he resigned. As to why the others involved in Watergate have not been pardoned, well, I still believe in the principle of equal justice under law, but I tell you it just can't be done. The application of it to every individual case, complete equality—it's just impossible. But I agree with President Ford's action. He had to stop the bleeding some time. And he chose to stop it early in his Administration when he had his most popular public support."

On U.S. troop commitment in Europe: "We

certainly do not need 300,000 troops in Europe, not after all these years. I think we can get along on considerably less, but I think first we have to bring about certain conditions with our allies there before we begin reducing our troops.

On his "tough-it-out" advice to Richard Nixon: "I told President Nixon to tough-it-out, but not in connection with Watergate. That was in connection with the war in Vietnam. Now the press interpreted that statement as relating to Watergate, but what I really said was this: 'He knows what it is to tough-it-out, he can do it.' I was talking about the war then, although when it came up I never did explain it fully."

On the Nixon transcripts: "I was wanting to do it, to play some role in the matter. After months in the hospital I was feeling pretty good and this was a chance for me to start making a contribution, to exercise that usefulness I was talking about. So I agreed to the undertaking, but only, I said, after I had checked it with Senators Ervin and Baker.

"The way it went, I was to dictate the transcript on anything that was close or controversial. I would have had full control. Anything that I didn't agree on, I just would not sign or okay it. Of course, I'm very glad that I didn't get any further into it than I did!"

On President Ford and Presidents in general: "The most important decision a new President has to make concerns his advisers, the men who are going to be closest to him. He's got to be mighty careful about the men he chooses. Because a President is so dependent on them, that's why.

"I remember the late President Kennedy saying in my presence that to him the most frightening things about the Presidency was the small percentage of items that he himself had to make an exclusive judgment on. The very small number of decisions that he could say he had made all by himself. He had to take the word, 90 or 95 percent of the time, of others. So that would be my first advice to a new President: Be careful of the men you surround yourself with. They will make you look very good or very bad or very in between."

MEMBERS OF CONGRESS ARE NOT PAWNS

Mr. HARTKE. Mr. President, remarks made recently by Gen. George S. Brown to a college audience touched off a storm of words in the press. Each morning brings a new round of attack and defense.

There is universal agreement that the General's remarks were "unfortunate" and "ill-advised." The debate has now focused on the issue of what prompted the remarks. Joseph Alsop and the team of Rowland Evans and Robert Novak have taken the position that no anti-Semitism was meant or implied in the Jewish conspiracy-type statements uttered by General Brown.

Regardless of the words he may have used, the defense argues that these were no more than unfortunate phrases of the sort we all use behind closed doors. What really motivated the general was his anguish over the state of American defense and foreign policies. Commentators who defend him differ on the details, but assure us that it was frustration and not anti-Semitism that underlies it all. Perhaps!

What is most disquieting is the apparent total contempt toward Congress. Repeatedly, the view that the American Jewish community "owns" Congress passes as an axiom; no one, at least in print, seems to question it.

Truth, as usual, is more complicated. Facts are rarely unambiguous, and even if they were they would still be subject to a multiplicity of interpretations. Yes, the American Congress has traditionally been pro-Israel. Yes, those attitudes have something to do with the existence in the United States of a substantial Jewish minority.

The implications that have been drawn from these facts is that American Jewry controls vast wealth and, more significantly, access to the media; and that therefore Members of Congress support the cause of Israel either because they fear the loss of financial and media support or, more crudely, because they fear the vengeance of the American Jewish community.

Apparently, it has not occurred to the major protagonists that a conspiracy theory is unnecessary to explain pro-Israeli tendencies. It is just possible that most Members are acting in conscience, out of a spontaneously felt accord with the efforts of Israel to sustain its right to survive. Whether one agrees or not with this view should have little bearing on either the legitimacy of the views or their expression in good faith.

It contravenes every canon of justice and morality to stigmatize all members of a group with a nondefining characteristic found in a few. I find it personally offensive that all Members of the U.S. Congress be regarded as the natural pawns of anybody who controls wealth or any other ingredient of power. Watergate notwithstanding, our ability to function effectively as a nation demands that we take a more discriminating and more rational view of our elected representatives.

A TAX EXEMPTION FOR SAVERS

Mr. HUGH SCOTT. Mr. President, several weeks ago I introduced Senate bill 4099. This bill would provide a tax exemption on interest earned on passbook savings accounts on amounts up to $10,000 held for more than 12 months. The bill as written would grant the tax benefit for savings and loan associations.

Since the time I advanced this legislation, I have received a large number of very favorable comments from savings and loan associations in Pennsylvania and other States. The letters acknowledge that this would be a valuable tool in increasing the amount of money held in savings and loans. There would clearly be an increase in money available for home mortgages. This is the kind of boost the lagging construction industry needs.

On November 9, 1974, I received a letter from Mr. Louis H. Nevins who is counsel to the National Association of Mutual Savings Banks. In Mr. Nevins' letter he outlines his view that my bill should be expanded to include mutual savings banks in the United States. He explains nearly 60 percent of savings banks' assets are invested in mortgages. There is no question the mutual savings banks are a very valuable source of mortgage money.

I am now carefully studying Mr. Nevins' recommendation. I thought it would be useful if other Senators would have the opportunity to examine the arguments he advances on behalf of the mutual savings banks of the United States.

I ask unanimous consent to print a copy of Mr. Nevins' letter on behalf of the National Association of Mutual Savings Banks in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
MUTUAL SAVINGS BANKS,
New York, N.Y., November 8, 1974.

The Honorable HUGH SCOTT,
U.S. Senate, Washington, D.C.

DEAR SENATOR SCOTT: This letter is in regard to the bill, S. 4099, which you recently introduced, to provide a tax exemption on interest earned on passbook savings accounts. Under the terms of this bill, only interest income earned on deposits at savings and loan associations would qualify for this important savings incentive. I applaud your desire to assist the housing industry by making it more attractive for savers to place funds with one of its principal financing sources. The fact is, however, that mutual savings banks are also primarily residential mortgage lenders and, therefore, a major source of housing credit.

In Pennsylvania, for example, total assets of savings and loan associations are more than $12 billion while savings banks' assets are more than $7 billion, with nearly 60% of the savings banks' assets invested in mortgages. Thus, it would seem appropriate and equitable that our depositors be accorded the same benefit of tax exemption on a portion of the interest they earn.

In this connection, you probably know that the House Ways and Means Committee recently approved legislation, H.R. 16994, to provide an exemption of up to $500 for interest income earned by an individual taxpayer ($1,000 for married persons filing joint returns). It was specifically amended in committee to include deposits at savings banks. It also includes commercial banks and credit unions.

I respectfully urge that you introduce a new bill that would exempt a portion of interest earned on deposits with mutual savings banks by making the exemption available at "a mutual savings bank whose deposits and accounts are insured by the Federal Deposit Insurance Corporation or otherwise insured pursuant to state law." You might also want to consider expanding the bill to include deposits at other types of financial institutions.

Thank you for taking our views into consideration. If we may be of any further assistance, please do not hesitate to contact our office.

Sincerely yours,

LOUIS H. NEVINS,
Director-Counsel.

FIRST AMENDMENT RIGHTS

Mr. ERVIN. Mr. President, Members of this body have been long aware of my deep concern for the preservation of civil liberties as outlined in the Bill of Rights to our Constitution. These freedoms cover many areas and among the most cherished are those outlined in the first amendment which protect free political association.

On August 29, 1974, an important judicial decision was filed by Judge James A. Coolahan of the U.S. District Court for the District of New Jersey. The case involved a high school student in New

Jersey, Lori Paton, who wrote the Socialist Workers Party in 1973 to request information for a research paper she was writing on political groups of various ideological leanings. Earlier in the year, the Director of the FBI had requested a mail cover to be placed on all incoming letters to the Socialist Workers Party. The Paton letter was detected and an immediate investigation of her was begun. After an extensive check into Lori Paton's school records and activities and into her family history and background, the Paton investigation ended with a memorandum to the special agent-in-charge which stated:

> In view of the fact that the subject is a high school student who apparently contacted the national office of the SWP in New York for information for one of her courses and, due to the fact that she is not believed to be involved in subversive matters, it is recommended that this case be closed administratively.

However, Mr. President, the entire matter did not end there. The FBI continued to maintain a file on the Paton investigation that was labeled "SM-SWP", an abbreviation for "Subversive Matter-Socialist Workers Party" which identified the Paton inquiry as a part of the larger investigation conducted by the FBI into activities of this organization and its supporters.

Lord Paton sought corrective court action, basing her claims for redress on several violations of her constitutional rights. Judge Coolahan rejected plaintiff requests for financial compensation and punitive damages. In addition, her request for a declaratory judgment on the grounds that the mail cover and investigations resulting from it were in violation of the law was denied. Judge Coolahan did, however, decide in part that:

> Plaintiff Paton has argued and this Court holds, that irrespective of the question of the legality of the FBI investigation, there is no legal justification for the continued possession by the FBI of the Paton file marked "SM-SWP." . . . Insofar as plaintiff Paton's files contain information which could be useful to the FBI in the exercise of its law enforcement functions and the existence of those records may at a later time become a detriment to her, this Court holds that the Paton file should be removed from the custody of the Government and destroyed.

Judge Coolahan further held that, because of the nature of the decision and the actions taken on several motions, "it is unnecessary to address the—substantive question of the legality of the SWP mail cover."

Mr. President, although many questions of considerable concern remain unanswered by the Coolahan decision, I do feel that this is an important step in the fight for protection of the rights and liberties of the individual. I have seen far too many examples of files and dossiers maintained by governmental agencies that document constitutionally-protected political activity. The continued existence of these poses an affront to the liberties we prize. Rights of citizens under the first amendment are priceless. There should be no surveillance of citizens freely exercising those rights unless there can be shown probable cause that the activity in question is directly related to the commission of a crime or the likely commission of one.

FREEDOM OF INFORMATION ACT

Mr. BAYH. Mr. President, later this week the Congress will decide whether to override the President's unfortunate veto of the amendments to the Freedom of Information Act. As a member of the subcommittee which drafted this legislation as well as the Conference Committee, I was very disappointed that the President believed it necessary to exercise his veto power in this matter. This legislation was passed overwhelmingly by both Houses of Congress, and its provisions were carefully worked out to strike a reasonable balance between the competing interests involved.

I have noted in recent weeks editorials in several major newspapers in my State urging that Congress override this veto, and I am hopeful that we will do so. I ask unanimous consent that editorials from the South Bend Tribune, the Fort Wayne Journal-Gazette, and the Terre Haute Tribune be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the South Bend, (Ind.) Tribune, Oct. 23, 1974]

AN UNWISE VETO

One of the first orders of business after Congress returns from its election recess should be to override President Ford's veto of changes in the Freedom of Information Act.

The President's ill-advised veto apparently results from overwrought fears of threats to our national security. In his veto message, Mr. Ford said the bill was "unconstitutional and unworkable" and might endanger diplomatic and military secrets.

When the original Freedom of Information Act was passed in 1966, it was hailed as a milestone in the realization of the American ideal of opening government to the people it represents.

Bureaucratic types in the government soon found ways to make it relatively ineffective, however.

The changes approved almost unanimously by Congress would have shortened the time allowed government agencies to comply with requests for information from the public or press and made bureaucrats who refuse to comply with the law subject to punishment. The changes would also have allowed courts to review government claims that information sought was classified or properly confidential, and would have required the government to pay court costs and fines if it lost any legal fight over a request for information.

The ways in which excessive secrecy can be misused became manifest in the Watergate case. Making the Freedom of Information Act workable is one of the things that should be done to prevent new abuses by keeping the public's business secret.

[From the Fort Wayne Journal Gazette, Oct. 22, 1974]

RIGHT-TO-KNOW VETO

It's almost certain Congress will override Mr. Ford's veto of amendments to the Freedom of Information Act, but the President's opposition to the legislation suggests his policy of candor falls far short of a genuine commitment.

Since its passage in 1966, the Information Act has been compromised beyond recognition. Government bureaucrats, eager to protect their secrets, use a variety of loopholes in the original law to discourage citizens from prying. A popular diversion is delay that often involves long and costly lawsuits.

Prodded by the public, Congress spent three years examining the weaknesses in the Information Act, then recently passed the corrective amendments by a lopsided vote. Perhaps the most important change would make federal judges the final arbiters of what infomation should be kept secret and what should be open to public inspection.

It was this particular provision of the amendments to which Mr. Ford took the strongest exception. He insisted that federal judges aren't qualified to distinguish between national security information and other government data. He's not necessarily saying the judges can't be trusted with military secrets, but he implies they lack the prerequisite sophistication to adequately protect the national interest.

The Supreme Court, however, met this issue in its unanimous ruling last summer against former President Nixon over release of White House tapes. At that time, the high court acknowledged the executive's constitutional right to protect secrets in the national interest. But the court refused to accept the White House claim that it alone could decide when national security was involved. The dispute then fell on Judge John Sirica—a federal court judge—to resolve.

Of course, the tapes dealt with alleged criminal activity in the executive branch. And the Supreme Court could modify its ruling if a broader question were at stake that lacked prima facie evidence of illegality. Still, the court upheld the principle that judges can discern what is properly classified information.

Besides, the overwhelming congressional support of the amendments should have allayed any presidential fears that national security would be compromised. The improvements in the Information Act, securing speedy resolution of contested government documents, should make federal policy more credible and therefore, more vigorously supported by the public.

The President's surprising veto has the effect of undercutting public confidence. It was one of his first opportunities to put tangible meaning into his candor policy. Instead of applauding the amendments as an extension of the spirit of his administration, he turned the question into a test of will with Congress. Either he or the public must surely lose.

[From the Terre Haute (Ind.) Tribune Oct. 22, 1974]

MORE INFORMATION, PLEASE

The purpose of the Freedom of Information Act of 1966 was to strike down bureaucratic obstacles which keep the American people from finding out what their government is up to. The purpose of the amended act just vetoed by President Ford is to strengthen the original legislation.

Strengthening is necessary. The law has not been nearly as effective as its proponents had hoped, there have been many evasions and delays by federal agencies, and much information which should have been made public has continued to be held in the files.

Mr. Ford raised two principal objections to the amended act. He opposed the amendment's central concept of permitting the federal courts to go behind a secrecy classification and determine whether it was justified by circumstances. He also opposed the time limit provisions of this legislation. It would be burdensome, he argued, to require government agencies to decide in 10 days whether to furnish a requested document, and to give them 30 days in which to respond to lawsuits questioning a negative decision.

We do not agree with Mr. Ford on the

latter point. Ten days strikes us as a reasonable time for an agency's initial decision on meeting a request for information. If there are valid reasons for refusing to comply, the agency should be able to set them forth in a preliminary way for the courts within 30 days.

Nor do we agree that judicial review of secrecy classifications would threaten to endanger diplomatic relations or injudiciously reveal intelligence secrets. The President maintains that the courts would be deciding on document classification "in sensitive and complex areas where they have no expertise." Perhaps so, but the courts' record of responsibility suggests that in sensitive cases they would seek expert advice before ruling.

In most cases, it would be preferable to have such decisions made by the courts rather than by bureaucrats whose interest may lie more in concealment than in disclosure. The public needs more, not less, information about the workings of the government. Senate and House votes on the legislation indicate that Congress feels this very strongly. The veto may be overridden, as it should be.

A 55-MILE-PER-HOUR SPEED LIMIT SHOULD BE EXTENDED AND ENFORCED

Mr. PERCY. Mr. President, last May I introduced with Senators RANDOLPH and STAFFORD and four other cosponsors a bill to extend indefinitely the current temporary 55-mile-per-hour speed limit on the Nation's highways. If this extension is not approved, the speed limit will revert to pre-energy crisis levels next July. The desire of the Senate to extend the uniform national speed limit was expressed clearly on September 11 when we voted 85–0 to approve S. 3934, the Federal-Aid Highway Amendments of 1974.

The Senate based its support of the extension provision on the fact that the reduced speed limit demonstrably saves human lives and scarce fuel resources. As time passes, the validity of those facts is borne out. According to statistics provided by both the National Safety Council and the U.S. Department of Transportation, traffic fatalities during the month of September were 15 percent lower than in September 1973. For the first 9 months of this year, the traffic toll has been down an average of more than 20 percent each month. If this trend continues, "We can end 1974 with a saving of close to 10,000 lives compared to 1973," according to Dr. James Gregory of the National Highway Traffic Safety Administration.

And just last month, Administrator John Sawhill of the Federal Energy Administration confirmed to me that the 73 million barrels of oil we expected to save each year with the reduced speed limit still represents a valid estimate if the reduced limit is observed.

The Senate's wisdom in voting to extend the 55-mile-per-hour speed limit is further corrobrated by the fact that the majority of Americans favor the extension of the current limit. The Gallup poll reported on November 17 that 73 percent of American adults favor keeping the 55-mile-per-hour limit, an increase of 1 percent over a similar poll taken last June.

While the 55-mile-per-hour limit is not strictly observed, 68 percent of those questioned in the Gallup poll said that they drive slower now than before the limit was reduced. In addition, law enforcement officials in 12 States, according to the New York Times, have reported that the average speed of motorists on interstate highways has dropped.

Even so, widespread violation of the 55-mile-per-hour speed limit is apparent. The New York Times reports that more than 70 percent of the vehicles on the road are routinely traveling faster than 55 miles per hour. Checks in Missouri, Connecticut, and Oregon show that at least twice as many speeding tickets are being issued this year as last year. Obviously, the 55-mile-per-hour limit is not being strictly observed, despite the serious efforts of most State highway patrols to enforce it.

I believe the situation we face is clear cut. The public supports the lowered speed limit and its effectiveness in saving lives and fuel has been proved, but the current 55-mile-per-hour limit is not nearly as effective as it should be. In my view, the reason for this is primarily psychological: because the limit is temporary, the public and law enforcement groups are uncertain as to how seriously the law should be taken. I believe Congress should act to eliminate this uncertainty by demonstrating that we do indeed mean business.

The Congress first concern should be to extend the 55-mile-per-hour limit indefinitely. The Senate has already approved this measure, so it is now up to the House of Representatives to do the same. In September, I wrote to each of the members of the House Public Works Committee urging that the 55-mile-per-hour extension be incorporated into the House companion to the Federal-aid highway bill. We should urge the House Public Works Committee to finish work on its bill so that it might receive the approval of the full Congress in this current session.

Second, the Congress must act to encourage enforcement of the 55-mile per hour limit in those States where enforcement has been lax. The law now in effect, which will be extended beyond June 1975 if S. 3934 is approved, provides only that Federal highway funds can be withheld from States not posting a maximum speed limit of 55 miles per hour on their highways.

I believe Congress should now strengthen that authority so that States not enforcing the 55-miles-per-hour speed limit might lose access to Federal highway funds. The cutoff of funds would be based on objective tests of enforcement and would be applied only after due notice and consultation with individual States.

Third, Congress must urge the legislatures of the 50 States to allocate sufficient funds for police and courts for adequate enforcement. State budgets, partly as a result of the Federal revenue sharing program, are in better shape than they have been for years. I do not feel that asking the States to spend some additional money on law enforcement is unreasonable, particularly in light of the reduced cost to governments and society that results from slower driving. The National Safety Council estimates that the total cost of traffic accidents in the first 9 months of 1974 has dropped to $12.1 billion, from $13.8 billion for the first 9 months of 1973.

But the most basic action of all that we must take is to urge individuals to observe the 55-miles-per-hour limit strictly for the sake of their own welfare, their families' safety, and the country's continuing need to conserve energy. No Federal legislation and no amount of ticket-writing will yield the desired results if a sense of cooperation by individual motorists is lacking. The public has stated its preference for lower speeds; our citizens must now demonstrate their willingness to act in accordance with their beliefs. If such individual cooperation is not forthcoming, Federal laws and State enforcement policies will be meaningless. Only through a cooperative effort of individuals and State and Federal Governments can we hope to achieve our goals of 10,000 American lives and 73 million barrels of fuel saved annually. President Ford has called for such cooperation and I reiterate that request. The increased welfare of our Nation depends upon it.

JAMES M. COX, JR.

Mr. TALMADGE. Mr. President, on October 27, while Congress was in recess, James M. Cox, Jr., chairman of the board of Cox Enterprises, Inc. and Cox Broadcasting Corp., died at Miami Beach, Fla.

Mr. Cox was a close personal friend, and it was my privilege in the past 3 years to serve with him on the board of trustees of the Richard B. Russell Foundation, a foundation organized to build a memorial library to house the historically important papers of our late and beloved colleague in the Senate, Dick Russell of Georgia.

Mr. Cox was a giant in the American publishing and broadcasting industry, and he will be sorely missed by his many friends and associates.

I bring to the attention of the Senate an editorial eulogy to Mr. Cox and two news articles on his passing from the Atlanta Journal and Atlanta Constitution, and ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Atlanta Constitution, and the Atlanta Journal, Oct. 28, 1974]

JAMES M. COX, JR.

(By Jack Tarver)

With the death of James M. Cox Jr. these newspapers have lost an able and valued leader and those of us who have had the privilege of working with him mourn the passing of a respected colleague and a responsive friend.

Modest and self-effacing, blessed with a sense of humor which enabled him to smile wryly in recognition of his own as well as his fellowman's foibles, Jim Cox roused quickly to anger only when the independence and editorial integrity of his beloved newspapers were under attack. Then he could be most fiercely protective in defense even of a liberal editorial position with which, as a lifelong conservative, he reserved the right privately to disagree.

"Our first obligation is to our readers," he reassured a recently-appointed young publisher in the early 1960's following a belligerent visit from a delegation of the city's fat cats protesting page one coverage of the then widespread sit-ins and demonstrations. "Tell those guys to go to hell. It's a newspaper's job to print the news!"

Such oft-repeated enunciation of—and unswerving dedication to—the primary role and *raison d'etre* of the newspaper in a free, democratic society inspired loyalty as well as pride-of-calling in his fellow workers.

We shall honor his memory by striving to perpetuate the principles he held dear.

[From the Atlanta Journal, Oct. 28, 1974]

James M. Cox, Jr. Dies at 71 in Miami

James M. Cox, Jr., board chairman of the Cox Enterprises newspaper publishing firm and Cox Broadcasting Corp., died in Miami's St. Francis Hospital Sunday after a lengthy illness. He was 71.

Mr. Cox had been chairman of the two and Cox Broadcasting Corp., died in Miami's James M. Cox, a three-time governor of Ohio and the unsuccessful Democratic presidential candidate in 1920.

James M. Cox, Jr., has been described as "a man of his time, even as his father was a man of his time."

Mr. Cox lived much of his early life in the shadow of his famous father. Even so, he was a dynamic and respected publisher, broadcaster, businessman, civic leader and force in education advancements.

At the time of his death, his principal title was chairman of the board of Cox Enterprises, Inc., and Cox Broadcasting.

Cox Enterprises is the parent company of the newspaper group which includes The Atlanta Journal and the Atlanta Constitution, the Dayton Daily News, Dayton Journal Herald, the Springfield News and Sun, the Miami News and the West Palm Beach Post and Times.

Born in Dayton, Ohio, on June 27, 1903, Mr. Cox was named James McMahon Cox. His godfather was John A. McMahon, a noted Ohio lawyer and adviser to his father.

But all his life he was known as James M. Cox, Jr. and is listed that way in "Who's Who in America." It was thought, even by most of his close friends and associates, that his middle name was the same as his father's, James Middleton Cox. His intimates always called him "Jim Jr."

James M. Cox, Sr. had become publisher of The Daily News at the age of 28. He twice represented Ohio's Third District in Congress. He was elected governor of Ohio three times and was the Democratic nominee for president in 1920. He was defeated by Warren G. Harding.

It was the father, known always as "Gov. Cox," who first called his son "Jim Jr." In his autobiography, "Journey Through My Years," he referred to the younger Cox as "James M. Cox Jr., my son."

Mr. Cox never sought public office, but it was not an unfamiliar world to him. He knew several presidents, among them Franklin D. Roosevelt, his father's running mate in 1920. In 1961, 10 days before John F. Kennedy took office. Mr. Cox played golf with the President-elect at Palm Beach, Fla.

Mr. Cox met his first president at the age of six. His father, who had been elected to Congress in 1908, made his first official call on President William Howard Taft and took his son along.

Gov. Cox recalled the incident in his book:

"Taft made quite a fuss over the youngster, and the next morning the lad broke out with the measles. The question was widely discussed in the press of whether the President (a Republican) had been deliberately exposed to a Democratic infection."

When young Cox was 14, he was enrolled at Indiana's Culver Military Academy for three years. In 1922, he attended Roxbury Preparatory Academy at Cheshire, Conn., and entered Yale University in 1924. He was graduated in 1928 with a B.A. degree.

Mr. Cox got his first taste of newspaper work, and also publicity, when he was at Yale.

According to those who remember him in those days, one weekend he journeyed from New Haven to New York City. He reportedly was driving down Broadway at what several policemen considered an unseemly rate of speed. They pursued and caught up with him on the steps on his hotel.

The incident, which would have been ignored had he been anyone else, was reported by New York newspapers. It was carried on wire services and wound up in his father's newspaper, The Daily News.

It was later that same year, during summer vacation from Yale, that young Cox joined the staff of The Daily News as a cub reporter.

Like many young reporters of his day, he started on the police beat, which meant coming to work at 6:30 a.m. But he worked nearly all newspaper beats during his early days as a reporter, before he graduated from college.

The official biography which he prepared has as its first entry, under the heading business experience: "Entered newspaper work, Dayton (Ohio) Daily News, as reporter, 1929."

It was that same year that another young reporter for the paper met Mr. Cox. Fred Robbins, who has known the Cox family since the 1920s and retired in December, 1973, as the industrial editor of The Daily News, recalled the young Cox as a reporter:

"Jim Jr. liked to have a good time in those days, like anyone else that age," Robbins said. "It was a little hard to get him up in the morning, though. When he wasn't at work on time, someone would call to get him out of bed, and he would slip out of the house and down to the office without breakfast."

Mr. Cox subsequently worked in the advertising and circulation departments of the newspaper and was named general manager in 1931, when his brother-in-law, Daniel J. Mahoney Sr., left to head the Miami Daily News, which Gov. Cox had just bought.

In 1938, Mr. Cox was given the additional responsibilities of assistant publisher. Prior to that, in 1934, he had entered a field which was to lead to big growth for the Cox group: broadcasting.

Late that year, the Cox interests bought an Erie, Pa., radio station and had the license transferred to Dayton. Mr. Cox was given the job of getting the station on the air.

On Feb. 9, 1935, the station, using the call letters WHIO, began broadcasting from studios located in a building next door to The Daily News, in downtown Dayton.

It eventually culminated in a Cox broadcasting empire which to date includes five television stations, five AM and four FM radio stations and 34 wholly or partially owned cable TV systems.

James M. Cox Jr. is credited with having the vision, foresight and acute business ability that built the empire and brought about its success.

J. Leonard Reinsch, whom Mr. Cox hired as the first manager of WHIO and who later became head of all Cox Broadcasting operations, said at one time, "Probably the most impressive message I have ever heard came at the dedication of WHIO. The Governor talked about through the long watches of day and night, we must ever be conscious of our responsibility . . ."

Reinsch said, "We all believed in that, but I think it was through Jim Jr. that we've been able to live up to it.

"We've never been pushed to make a few extra dollars that would have caused us to remove some of our services. He (Mr. Cox) wanted us to run good properties, but in running good properties, he wanted us to provide service to the community and do what we could to provide leadership—in some respects, taking the community into areas that would make it a better place to live."

In June of 1942, against his father's wishes, Mr. Cox, an aviation enthusiast and a pilot, became a lieutenant in the Naval Air Corps.

Associates said that Gov. Cox was strongly against the move, partly because his son was 39 at the time. Mr. Cox served until 1945, when he was discharged as a lieutenant commander.

At that time, he plunged back into the business world, where television was getting a foothold.

Gov. Cox was reluctant to get into television, but after urging from his son, eventually agreed to gamble, and Cox interests acquired television stations, first in Dayton, then in Atlanta.

Mr. Cox took charge of those operations, with still a firm hand in the newspaper empire, which also was growing.

When Gov. Cox died on July 15, 1957, at the age of 87, Jim Jr. already had the major responsibility for seven newspapers, three radio stations and two television stations.

Cox executive Robert W. Sherman, who went to work for The Daily News as a teenager in 1928, believes that Jim Jr. was a "man for his time, as Gov. Cox was for his."

Sherman said, "I think we have gone farther, faster, under Jim Jr. You think of everything that's happened since the Governor died. . . ."

Some of the things that happened were acquisition of television stations in Pittsburgh, Charlotte, N.C., and the San Francisco-Oakland area; radio stations in Charlotte and Los Angeles.

There was the formation of CATV systems in Ohio, California, Georgia, Washington, Iowa, Vermont, Massachusetts, Texas, Florida, Pennsylvania, Michigan, Oregon, Indiana, Illinois and New York.

There were the addition of a technical publications division, embracing a dozen magazines; acquisition of a truck line and a steel warehouse, both in Georgia; the purchase of 11 automobile auctions in as many states, and the purchase of a movie company, Bing Crosby Productions.

In 1969, Mr. Cox made another publishing acquisition in Florida which included the Palm Beach Post and Times; the Palm Beach Daily News; a 47 per cent interest in the Daytona Beach Journal and News, and a monthly magazine, Palm Beach Life.

Sherman, who headed much of the operation under Mr. Cox, added, "That's the way it has gone. But, even though we have gotten big in the last 17 or 18 years, each operation has remained pretty much an individual operation. What we are, really, is a conglomerate of small businesses."

Mr. Cox, his associates agree, had an uncanny ability for picking the right man for the right job and then letting him do the job.

Jack Tarver, president of Atlanta Newspapers as well as Cox Enterprises, recalled of Mr. Cox in a recent conversation: "He was not always breathing down your neck. He is one of the best newspaper operators I have known, because when he calls you on the phone, he gets right down to the heart of things and doesn't ask a lot of damn fool questions that have nothing to do with the business at hand."

Jim Fain, who went to Dayton as editor of The Daily News in 1953, made the same point almost at the outset of a recent conversation about Mr. Cox. "He's got the fastest mind I think I ever encountered," Fain said.

Mr. Cox had a strong interest in education. In 1960 he headed a $20 million national development fund for Wittenberg University in Springfield.

Later, when he was awarded an honorary

degree at Wittenberg, college President Clarence Stoughton cited him as "a stronghearted community leader, fighter for good and right and citizen of many cities with a concern for all."

Mr. Cox at one time served on the board of trustees at Wright State University, and was for a time a lay member of the board at the University of Dayton.

He maintained the family interest in the University of Miami, Fla., for which his father had signed the articles of incorporation in 1926. He later served on the board of trustees there, and continued family gifts to the school which in the 1970s totaled more than $1 million.

The $6 million U-M science building bears his name.

Mr. Cox had an apartment in Atlanta on Peachtree Street near St. Philip's Cathedral, a home in Dayton and an apartment in Miami. His first wife, Helen Rumsey, died, and his second marriage—to Jan Streate, then interior decorating editor of The Miami News—ended in divorce.

In 1958, Mr. Cox married Mrs. Devereux Haigh Lippitt Jr., the former Betty Gage, of Atlanta. The wedding took place at Covenant Presbyterian Church with Dr. Herman L. Turner, then pastor, performing the ceremony.

Mr. Cox was a member of the Augusta National and Peachtree golf clubs in Georgia.

His companions said he was a better-than-average golfer. In later life a continuing angina condition limited his playing.

Another of his pastimes, perhaps his favorite, was a yacht, the "Shadow J," which he kept at Miami. Capt. William Spahr worked for him for more than 25 years.

Part of the Cox legacy he left in Dayton includes the James M. Cox Jr. Arboretum, a 164-acre farm south of the city, which he turned into a charitable, nonprofit showplace for trees, shrubs, vines and other plants.

He is survived by his wife, the former Betty Gage Lippitt of Atlanta. They had no children.

Other survivors include two sisters with whom Mr. Cox shared controlling interest in the family media holdings, Anne Cox Chambers of Atlanta and Barbara Cox Anthony of Honolulu.

He is also survived by a brother, John W. Cox of Towson, Md., and a half-brother, Richard H. Lee Jr. of Miami.

Private graveside services will be held at 2 p.m. Tuesday at Woodland Cemetery in Dayton, followed by a memorial service at 3 p.m. at Christ Episcopal Church in Dayton. The family suggests that, in lieu of flowers, a contribution may be made to the Atlanta Memorial Arts Center or to Piedmont Hospital.

[From the Atlanta Constitution,
Oct. 28, 1974]

JAMES M. COX, JR., DIES IN FLORIDA HOSPITAL

James M. Cox Jr., chairman of the board of Cox Enterprises Inc., owners of The Atlanta Constitution and The Atlanta Journal, died Sunday afternoon in St. Francis Hospital in Miami Beach, Fla., after a prolonged illness. He was 71.

Mr. Cox was a major figure in the communications field in the United States, heading widespread newspaper and broadcasting interests.

In addition to his position as board chairman of Cox Enterprises, Mr. Cox was board chairman of Cox Broadcasting Corp., which operates the WSB radio and television stations in Atlanta, and stations in other states, and Cox Cable Communications Inc., operator of cable television systems in 15 states.

Mr. Cox spent over 45 years in the newspaper business and almost as long in broadcasting. After graduating from Yale in 1928, he went to work for the Dayton (Ohio) Daily News, which was owned by his father, former Gov. James M. Cox, and from then on, as the family holdings increased, held numerous responsible executive positions in the Cox enterprises.

His connection with broadcasting dated from 1934, when he persuaded Gov. Cox that it was time for them to get into radio. As a result, they established WHIO in Dayton, which was the beginning of ventures that eventually grew into corporations whose stock is now traded on national stock exchanges—Cox Broadcasting on the New York Stock Exchange and Cox Cable on the American.

James McMahon Cox Jr. was born in Dayton, Ohio, on June 27, 1903. His father, former farm boy, country schoolteacher, printer's devil, reporter and congressional aide, already was solidly established as a publisher in Dayton and edging toward an expansion of his newspaper holdings and the beginning of a political career that would take him first to the Ohio governorship and finally, in 1920, to the Democratic nomination for President. Gov. Cox lost the presidential election to another publisher, Warren G. Harding.

Jim Jr. attended Culver Military Academy in Indiana in 1917-20 and Cheshire Academy in Connecticut in 1922-24 before entering Yale University, where he received a Ph. D. degree in 1928. One of his enthusiasms as a young man was aviation, and he became a licensed pilot.

By the time Jim Jr. finished college, Gov. Cox had put politics behind him as far as active candidacy was concerned and had expanded his newspaper holdings out-of-state by acquiring The Miami (Fla.) News. The next out-of-state acquisition was The Atlanta Journal, and when Gov. Cox flew to Atlanta in 1939 for the first time after purchasing the paper, he was accompanied by Jim Jr.

In World War II, the younger Cox was commissioned as a lieutenant in the United States Naval Reserve and in 1942, when he was 39 years old, was ordered to active duty. He emerged from service three years later as a lieutenant commander.

Until has father's death in 1957, much of Mr. Cox's attention was centered on the family radio and television holdings. Gov. Cox had the oldtime newspaperman's skepticism about the broadcast media and, had it not been for his son's interest and advocacy, might never have expanded his operations in those areas.

When Gov. Cox bought The Atlanta Journal in 1939, radio station WSB came with it, and J. Leonard Reinsch, who had organized WHIO in Dayton for the Coxes, moved to Atlanta to direct the broadcasting operations. At a dinner honoring Mr. Reinsch on his retirement at the end of 1973, Mr. Cox related some of their adventures in expanding the Cox broadcast interests.

A particularly ticklish situation arose, he said, when the Federal Communications Commission announced in the 1940s that it would accept applications for television channels. Mr. Cox and Mr. Reinsch teamed up and submitted applications for channels in Atlanta, Dayton and Miami, where Cox radio stations were located, and the first Gov. Cox knew of it was when he received a congratulatory telegram from Gen. David Sarnoff, head of the Radio Corp. of America and NBC.

Mr. Cox said that his father fussed and fumed and wanted to withdraw the applications and fire Mr. Reinsch, but the two were able to dissuade him. The Cox organization continued to expand in both radio and television both before and after Gov. Cox's death.

The elder Cox died in July 1957 at the age of 87, and Mr. Cox, by then 54 and a veteran of almost 30 years in newspaper, radio and TV work, became head of the still-growing empire.

In a front-page statement in The Journal and The Constitution following Gov. Cox's death, Mr. Cox said his father had felt that the purchase of The Journal and the later merger with The Constitution were "two of his crowning achievements. He was proud of both properties and constantly sought to improve them."

The statement continued: "My associates and I humbly accept the responsibilities of operating his property, aware of the high concept he held for the place of a clean, aggressive newspaper which keeps the faith with all classes and has as its objective the common good."

Jack Tarver, president of Cox Enterprises and an associate of the Coxes, senior and junior, from the time The Atlanta Journal acquired The Atlanta Constitution in 1950, described Jim Cox Jr. as having "the finest instincts of a newspaper person."

Mr. Tarver said that although Mr. Cox devoted a great deal of his time to radio and television before Gov. Cox's death, his long years of close association with his father had endowed him with a deep and abiding loyalty to the principles of newspapering.

In 1959, when Mr. Cox received an honorary doctorate from Wittenberg University in Springfield, Ohio, Wittenberg President Clarence C. Stoughton cited him as "a stronghearted community leader, fighter for good and right and citizen of many cities with a concern for all."

"For you," the citation continued, "communications media have been a means for creation of civic pride, urging of civic progress, denunciation of evil and indifference, and praise of the right and good in communities."

Although he never ran for public office as his father had, Mr. Cox came naturally by an interest in politics and politicians and knew several Presidents, some better than others, among them Franklin D. Roosevelt, who was his father's Vice Presidential running mate in 1920. Mr. Cox attended many national conventions of both political parties.

In 1961, about 10 days before John F. Kennedy took office, Mr. Cox played golf with the President-elect at Palm Beach, Fla. Other members of the foursome were Daniel J. Mahoney, then publisher of The Miami News, and Matt McCloskey, national treasurer of the Democratic party. Afterward Mr. Cox said that JFK "could turn professional on the golf course with but little practice."

In 1964, Mr. Cox hosted a Texas-style barbecue at his farm at Dayton for Young Citizens for Johnson. Luci Johnson, younger daughter of President Lyndon B. Johnson, was the guest of honor.

Generally Mr. Cox maintained a hands-off attitude toward the editorial policies of his newspapers. According to Mr. Tarver, Mr. Cox was basically very conservative. "All of his editors were far more liberal than he," Mr. Tarver said.

Mr. Cox did breach this editorial independence once. In 1972, he told the editors that he wanted his newspapers to support President Richard M. Nixon for reelection. His action created somewhat of a flop during the election after The New York Times broke a story about the Cox directive.

Later Mr. Cox said that it might have been better if the newspapers had "taken a walk" instead of endorsing Mr. Nixon. Mr. Cox's feeling, was that Sen. George McGovern, the Democratic candidate, "just won't do."

The Cox publishing interests include 12 newspapers, The Atlanta Journal, The Atlanta Constitution, Dayton Daily News, The Dayton Journal Herald, Springfield (Ohio) Daily News, Springfield Daily Sun, the Miami News, Palm Beach News, West Palm Beach Post, West Palm Beach Times, Delray Beach News Journal and Boynton Beach News Journal—and one magazine, Palm Beach Life.

As of the same date, the Cox broadcasting interests included: WSB-AM-FM-TV, Atlanta; WHIO-AM-FM-TV, Dayton; WSOC-AM-FM-TV, Charlotte, N.C.; WIOD-AM-Miami; WAIA-FM, Miami; KTVU-TV, Oakland-San Francisco, Calif.; WIIC-TV, Pittsburgh, Pa., and KFI-AM, Los Angeles.

Some of the Cox operations, particularly Cox Broadcasting, have expanded into fields outside of newspapers, radio and television.

Mr. Cox was described by a close associate as "a man of intense personal loyalty." For example, he kept in touch through the years with some of his friends from his Navy days, including Hugh Voegtlin of the Journal-Constitution circulation department. Whenever Mr. Cox was in Atlanta, he always made it a point to talk to Mr. Voegtlin.

Mr. Cox had an apartment in Atlanta on Peachtree Street near the Cathedral of St. Philip, a home in Dayton and an apartment in Miami. His first wife, Helen Rumsey, died, and his second marriage—to Jan Streate, then interior decorating editor of The Miami News—ended in divorce.

In 1958, Mr. Cox married Mrs. Devereux Haigh Lippitt Jr., the former Betty Gage, of Atlanta. The wedding took place at Covenant Presbyterian Church with Dr. Herman L. Turner, then pastor, performing the ceremony.

One of his favorite pastimes was golf, and in his office on the top floor of the Journal-Constitution building was a copy of William Steene's portrait of the young Bobby Jones, entitled "The Concentration of Championship." The original of the portrait hangs in the Commerce Club. Mr. Cox was a member of the Augusta National Golf Club and attended the Masters Tournament nearly every year.

He was a better-than-average golfer himself, and after a couple of heart attacks and a continuing angina condition cut his playing, he still hit practice shots two or three days a week when weather permitted. He also was active in bringing a major league golf tournament to Atlanta and in 1967 was named general chairman of the Atlanta Classic, an Official PGA tournament now held annually at the Atlanta Country Club.

Another of Mr. Cox's pastimes—perhaps his favorite—was a yacht, the "Shadow J," which he kept at Miami. The same captain worked for him for over 25 years.

His survivors include his widow, Mrs. Betty Cox; two sisters, Mrs. Anne Cox Chambers of Atlanta and Mrs. Barbara Cox Anthony of Honolulu; and two brothers, John W. Cox of Towson, Md., and Richard H. Lee Jr. of Miami.

In lieu of flowers, the family suggests memorial contributions to the Atlanta Memorial Arts Center or Piedmont Hospital.

THE PENN CENTRAL

Mr. HARTKE. Mr. President, as chairman of the Surface Transportation Subcommittee of the Senate Commerce Committee, I have become increasingly concerned with the implementation—or lack of implementation—of the Regional Rail Reorganization Act. As my colleagues will remember, there are several provisions of that act that are to be implemented as soon as possible after enactment in order to provide immediate improvements to the rail transportation system in the Midwest and Northeast.

One important provision is contained in sections 601(d) and 206(a)(3). The Secretary of Transportation is directed to begin improvements in rail passenger transportation in the Northeast corridor "upon enactment." Ultimately, those improvements are to result in implementation of the long overdue recommendations concerning high-speed rail passenger transportation contained in the 1971 report of the Secretary entitled, "Recommendations for Northeast Corridor Transportation." To my knowledge, there have been as yet no actual improvements. My subcommittee is becoming increasingly concerned over the apparent inability of the parties involved to move even an interim improvement program off dead center, and if significant action does not occur in the very near future, I will seriously consider remedial legislation that will assign the responsibility for this project to an agency that has the ability to accomplish the needed improvements.

Mr. President, unfortunately the apparent inaction of the responsible implementing agencies—namely, the Department of Transportation and the United States Railway Association—is not limited to the implementation of the Northeast Corridor improvements. What may be even more serious is the interpretation that has apparently been given to sections 213 and 215 of the act.

Mr. President, these two sections were included in the legislation in order to keep the essential rail system running during the interim period when the final system plan is being formulated and to make needed improvements to the rail freight plant. Section 213 is designed to alleviate the possibility that any interim crisis will shut down essential rail services; section 215 is designed to allow the United States Railway Association to make improvements in the rail freight system prior to adoption of the final system plan and transfer of the properties.

This will allow essential maintenance to be conducted now in a cost efficient manner so that far larger expenditures will not to be incurred later because of the increased deterioration caused by lack of proper and timely maintenance. In short, it is designed to be used as a cost saving device to improve properties that will be needed in the future and which would benefit from maintenance or other improvements now. Section 215 is not being used, and, in the words of a recent article which appeared in Business Week, "parts of the Penn Central Transportation Co. are virtually falling to pieces as the Government and creditors argue over its assets."

I have written to both the Secretary of Transportation and the Chairman of the Board of the United States Railway Association urging that they utilize the funding Congress has provided in these sections as soon as possible and in the most effective manner possible. Every day that goes by brings further deterioration to the vital physical plant that we will need to restore. The failure to effectively utilize these funds now will cost far more in rehabilitation and maintenance costs later.

Mr. President, I ask unanimous consent that the text of the article in Business Week to which I have already made reference, and an accompanying Business Week editorial, be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Business Week, Sept. 28, 1974]

WHY THE PENN CENTRAL IS FALLING APART

Parts of the Penn Central Transportation Co. are virtually falling to pieces as the government and creditors argue over the future of its assets. Next Monday, a special three-judge court will decide whether or not the ailing railroad will be in or out of a new quasi-government corporation designed to keep railroad service in the Northeastern portion of the U.S.

But that ruling will not end the complex litigation that is strangling the railroad. As its creditors hound it—some of them want to shut it down to get back their money—the railroad must continue operations at a time when it can barely keep running without pouring in huge sums to rebuild its facilities. Those sums, however, will not be available until the railroad shows that it can be reorganized.

Meanwhile, the Penn Central's operating men are scraping by as best they can, which is not very well. Take, for example, a section of right-of-way in the railroad's southeastern territory.

Wandering in a generally southwesterly direction from Indianapolis amid the tall corn—and on its own right of way, tall weeds—is a branch of the Penn Central known to the operating department as the Petersburg Secondary, a key coal carrying route in the area. The most used part of the branch is only 153 mi. long, but today a freight train and crew takes five days to make the round trip.

The track is so bad that the maximum allowable speed on the branch is 10 mph and the average speed is far less than that. This, plus the law that prohibits railroad operating crews from working more than 12 hours at a stretch, is why the round trip takes so long. For two of the nights when the four-man crews are between ends of their run, they stop their train at the tiny hamlet of Worthington, Ind., and adjourn to a motel—all at incredible expense in wages and lost equipment utilization.

On a recent inspection of the branch, Hershel L. Ring, assistant general manager for the Penn Central's Southern Region, stared morosely from the back of a rocking caboose at the kinked track and mud puddles on which it is laid. "You know," he mused, "we can't hold onto this line and stay within our maintenance budget. But we can't let it slip away; we've got to keep it open. We carry 250 loaded coal hoppers a day over this track; 90% of the coal used by Indianapolis Power & Light depends on this branch."

PATCH AND IMPROVISE

On the worst sections of the branch, where derailments were so frequent even at 10 mph that the region was a disaster area, Penn Central forces have cleaned the old ballast so that it drains and have laid some new crushed stone. They have replaced the worst ties, so decayed they were not holding the rail at all. But they had nothing to replace the rail with. And so, with the same weak-jointed rail beginning to pound the underlying track structure into mud puddles again, the track will be as bad as ever before long.

Obviously, the cheapest solution to the problem is to start over and rebuild the branch. Just by averaging 20 mph, a crew could run from Indianapolis to the coal mines in one day instead of two. One set of diesel units could do the job that now takes three. But neither money nor material are available to do the work right. And so the Penn Central is compelled to do what is far more expensive in the long run: patch and improvise.

The same type of situation is repeated all over the railroad. In Chicago, diesels are maintained in a 60-year-old steam engine roundhouse. Instead of working on the undersides of the diesels standing up, workmen are compelled to crouch in what use to be the old ash pits. Contrasted with the daily number of diesels that go through a shop designed for them, the amount of work that can be done at the Chicago operation is ludicrous.

In Cleveland, the Collinwood freight yard averages five to six derailments a night. John W. Ingram, Federal Railroad Administrator, says that the yard is "the most deplorable I've ever seen." But all over the railroad there are little industrial yards where the track is so worn down that patching is no longer possible. New rail would be so much higher physically than the existing rail that it could not be installed piecemeal. The only solution is to bulldoze the whole yard and start over.

In many yards, half the tracks are unusable. This means that cars must be switched onto tracks where they do not belong and then reswitched. "Our customers can't understand why it sometimes takes 36 hours for a car to move 300 yards," says one division superintendent, "but that's the reason."

Then there is the infamous "toothpick machine" at the former New Haven RR's main yard at Cedar Hill near New Haven, Conn. Like most major yards, Cedar Hill is a hump yard—that is, cars are classified by gravity. The cars are slowed by retarders mounted beside the rails; these squeeze the flanges of the wheels until the car is slowed to its proper speed. But the retarders, installed in 1925 and never replaced, have lost most of their muscle. A heavily laden car hitting the retarder too fast is not slowed at all. To insure that such cars approach the retarder slowly, crewmen toss blocks of wood (the toothpicks) in front of the wheels. Considering the price of lumber these days, it is quite possible a new retarder would be cheaper.

UNTOUCHABLE WEALTH

These and scores of other problems arise from a lack of money. Agonizingly for everyone on the Penn Central, there is a tremendous source of capital that cannot be touched. For example, just about every abandoned mine branch in the Allegheny Mountains is chock full of old Penn Central cars destined for scrap. With today's scrap prices, they are a potential gold mine. But the creditors will not allow this asset to be turned into cash that will be reinvested in the estate, since that estate is eroding day by day.

And the creditor problems do not stop there. Between Indianapolis and Terre Haute, the former Pennsylvania and New York Central RRs had double-track, high-speed main lines rarely more than three miles apart. After the merger, most traffic was routed over the old New York Central route and the Pennsy line's second track was picked up. There are still 11 mi. of double track on the old Pennsy, though and the 132-lb rail is in excellent shape. It is desperately needed on the old New York Central line where double traffic and deferred maintenance have left much of that stretch with 10 mph speed limits.

In this case, management does not want to sell the rail for scrap and reinvest the proceeds. It wants to move the rail three miles. But the rail belongs to a Pennsy subsidiary, itself in reorganization, and the creditors will not permit the asset to be moved to a subsidiary of the New York Central except for "cash on the barrel," which, of course is unavailable.

Even more frustrating to everyone on the Penn Central than creditors' tying up cash and material is the failure by the federal government to provide funds. Under Section 215 of the Rail Reorganization Act, $150-million is available to finance the improvement of track and equipment, but so far not one dime of it has been spent on the Penn Central. And therein lies a legal quagmire.

The Act created a government-controlled entity called the U.S. Railway Assn. USRA, the job of which is to determine which track in the Northeast and Midwest is required to meet the needs of the regional and national rail transportation system. The matrix of rail lines—the main tracks and branches—that are to be operated, must first be determined by the association in a final system plan. And USRA cannot legally lend any money under Section 215 to improve track until it is sure that piece of track will be in the final system plan. But the final system plan depends, among a host of other considerations, on what the courts decide.

"If we go out and fix up a piece of Penn Central track and that track is not in the final system plan because the whole Penn Central is not in the final system plan, we are not fulfilling our legal obligation," says John W. Barnum, Under Secretary of Transportation, whose department must approve Section 215 loans.

A second reason no Section 215 loans have been made is the so-called "double-buy problem." If USRA were to spend money fixing up a piece of track today, that would become more valuable and would cost USRA more when the time comes to buy it from the creditors. "Whatever we do," says Arthur D. Lewis, USRA's chairman, "we are not going to pay for a piece of rail twice."

DETERMINING THE PRIORITIES

Edward G. Jordan, president of USRA, brings up still another reason for the lack of Section 215 loans. Just about any rehabilitation project on the Penn Central today could bring enormous returns on the investment in reduced costs and increased business. According to Jordan, USRA needs first to find the top priority projects in terms of investment return before it lends money. The railroad estimates that $3.2-billion will be needed over an eight-year period just to catch up on maintenance, of which $2.1-billion can be generated internally. Of the remainder, $150-million would not go very far unless it were carefully spent.

"What we're looking for is instant leverage," declares Jordan. "If the money is spent well on long-term projects rather than short-term crises, the return on the first $150-million can finance all the rest. It's the principle of compounding."

Toward this end, USRA asked Penn Central for a list of priorities last winter, and Penn Central produced a list in May. It was so extensive that USRA officials privately describe it as "a hopeless shopping list." So the Penn Central redid the list in July and again in August, but still no funds were forthcoming. "If they don't like our projects, they're welcome to start their own," says A. M. Schofield, senior vice-president for operations. "I don't care just so long as something gets started."

Says Lewis: "Until about three weeks ago we were working out a system of priorities with the trustees, and then they stopped helping us. All of a sudden the cooperation just stopped." To this Robert W. Blanchette one of the trustees, replies: "We can submit priorities forever but there doesn't seem to be any way to implement these projects. So we decided to stop a minute to see where we were going. We wanted to get their attention."

The ploy worked. This week USRA, the Transportation Dept. and the trustees started setting up a committee of legal, financial, and operating experts to be overseen by Jordan, Barnum, and Blanchette. The committee is instructed to find a way out of the legal and financial imbroglio and to get Section 215 money started toward Penn Central projects.

A QUESTION OF SURVIVAL

The money cannot come soon enough. Every summer the Penn Central gets into a cash bind when the automobile companies shut down for their model changeovers. The auto industry, together with its suppliers, is the railroad's largest customer. This year the Penn Central barely survived the squeeze by delaying bill payments to the absolute maximum. No one thinks the Penn Central could survive a long coal strike. But even without such a strike the prognosis is not good. "The effect of inflation on us just in the last 60 days increased our costs $17-million," says Jervis Langdon, Jr., Penn Central's president.

Langdon disputes the often heard accusation that the Penn Ceneral is "tobogganing to destruction." "The condition of the property, while not improved, is not deteriorating as fast as it once was," he insists. The railroad will spend $290-million on maintenance this year, an 11.7% increase over last year, which barely covers the inflationary rise in the cost of track materials. But to stop deterioration entirely, the railroad would have to spend 50% more.

Most people think the Penn Central's track problems started with the bankruptcy in 1970, but Langdon insists otherwise. "I looked back at the records to refresh my memory," he says, "and the problem started in 1958. What we are trying to overcome now is 13 years of neglect."

The extreme results of this neglect showed up this summer when Federal Railroad Administrator Ingram ordered the Penn Central's Chicago-Louisville line closed down. His inspectors found 67 mi. of track along the 419-mi. distance that did not even meet the minimum FRA standards that allow only 10 mph operation.

The Penn Central could get itself into a curious no-win situation with its track. Any piece of active track that does not meet minimum standards for operation constitutes a violation. The maximum fine is $2,500 per violation per day. On the other hand, the Penn Central is required to operate its railroad. "I'll fine them if they continue to operate on track that's below minimum standards," says Ingram, "and the ICC can take them into court if they don't."

This is not to say that the whole railroad is falling apart. There are thousands of miles of good mainline and branch line track. Nevertheless, out of a system total of approximately 38,000 track mi., almost 8,300 are being operated under "slow orders."

The Penn Central managed to get the Chicago-Louisville line back into operation in four days with the expenditure of $100,000, but at an additional cost of not doing track work somewhere else. There is a belief among USRA officials that if the Penn Central could somehow come up with a short-term survival plan, instead of rushing around one step ahead of—or behind—Ingram's track inspectors, perhaps some of the emergencies would not happen.

LOOKING FOR THE TRACK

On a recent afternoon Donald Swanson, general manager for the Philadelphia Region, drove a visitor around the city where there are 500 mi. of track, much of it laid right in the middle of the street and all of it in dreadful condition. "This particular street doesn't drain," he said at one point in the tour. "When it rains, a lake forms and we can't even see the track. When we run trains over it in that condition, the only way we know whether cars are on the track is if they rock. When they start running smoothly we know we're in trouble. They're on the street." He was only half joking.

Later Swanson pointed out a particularly bad section of track which a gang was working on to restore to some sort of operable condition. A few blocks away, however, he found a derailed locomotive in the street. Driving back to where the gang was working, he told the foreman, "Never mind the track for now. There's a diesel on the ground." After giving the location, he ordered the men to help rerail the locomotive.

A little later Swanson was inspecting a small yard where track was being held in place not by ties—they had rotted—but by logs braced against the nearest good piece of rail. "Oh hell," said Swanson, turning to an assistant. "Get on the radio and tell that gang to forget the diesel and come on up here. We can't allow this."

There is no question that supervisory management ranks on the Penn Central are thin, which is why situations like this are allowed to occur. Some 600 lower and middle management men have left the company since the bankruptcy, though Langdon insists the departure rate is now down to a trickle. Moreover, until the past Sept. 1, trainmasters, roadmasters, road foremen of engines, and others at that level of management were making around $5,000 less than their counterparts on neighboring healthy railroads.

"It's easy to criticize management," says trustee Blanchette. "But the problem is not one that can be solved by management. When you don't have enough locomotives and cars so you have to turn business away at the rate of $150,000 a day, when you don't have the track to run over at decent speeds, and when you don't have the money to fix these problems, what can management do?

"The courts won't let us sell things and put money into the property," he continues, "because when you can't reorganize on an income basis—which, God knows, we can't—then you can't legally make capital improvements. We are a capital-starved railroad. We're also hamstrung on service. It's very easy to say we don't have a good marketing organization. But what the hell have we got to market? Eight thousand miles of slow orders?"

The Tortuous Legal Track

Everyone involved agrees that the Penn Central, which has lost $1,252,796,627 from June, 1970, when it filed under Section 77 through August 1974, cannot become viable simply by reducing its debt. But the Penn Central's supervising judge, John P. Fullam, has gone a long step further. He ruled that turning parts of the railroad over to the Consolidated Rail Corp. (Conrail) in accordance with the 1973 Rail Reorganization Act is "not fair and equitable to the estate."

His reasons for not going along with the act are complex, but the essential problem is that creditors are being asked to exchange property, upon which their loans are pledged, for stock in a corporation with unknown price or value. As one creditor lawyer put it, in describing Conrail as "a pig in a poke," enough is known of the pig to tell us that "it is a scrawny beast . . . showing very few signs of life."

BLEAK OUTLOOK

In theory, if Judge Fullam's opinion is upheld on Monday, the Penn Central estate—though not the tracks—would have to be liquidated. The Interstate Commerce Commission would have to make very expensive arrangements for neighboring railroads to provide interim service while the desirable lines were auctioned off "on the courthouse steps" and the others were sold for scrap or for operation by local authorities.

But nothing this drastic is likely to happen. In a parallel legal maneuver, the creditors have questioned the constitutionality of the entire Rail Reorganization Act before the Supreme Court. And, for good measure, they argue that a provision of the Act declaring next Monday's special court ruling not subject to appeal is, by itself, unconstitutional. While the Penn Central's trustees hope the special court will issue an opinion to guide the Supreme Court, they concede that the High Court will not make the ultimate constitutional determination before the end of next year.

And so the messy legal bickering continues. As one high government official describes it, "Every lawyer in Philadelphia has a piece of the action, and he isn't about to let go." And every day that the lawyers argue, the Penn Central gets into worse physical shape. Aside from what double-digit inflation will do to the costs of rehabilitating the Penn Central, every day's delay means more must be rehabilitated. Parts of the railroad are in truly appalling shape and, in spite of herculean efforts to hold on, are getting worse.

There is no way the Penn Central, by itself, can get through 1975.

The Penn Central Hangup

The apparently endless litigation involving the bankrupt Penn Central Transportation Co. has reached the point where it threatens to make everyone a loser—creditors, shippers, and the national economy. It is time for the lawyers and judges to stop playing games and look at what they are doing.

Last year Congress passed the Railroad Organization Act, designed to maintain rail service in the Northeast and Middle West with federal help. But Penn Central's supervising judge ruled that turning parts of the railroad over to the new quasi-governmental Consolidated Rail Corp. would not be fair to the creditors because they would get stock of uncertain value in return. The ruling is now on appeal to a special three-judge court, and whatever decision that court makes will almost certainly go to the Supreme Court.

Meanwhile, Penn Central is literally falling to pieces. By the time the case is settled—if it ever is—there may well be no assets left to conserve.

In all the legal maneuvering, three fundamental points have been lost to sight: Railroad service in the Northeast is essential and must be maintained; the Penn Central is the most important single railroad in the region; its physical plant is deteriorating rapidly from lack of maintenance, and the longer rehabilitation is delayed, the more it will cost.

There are unfortunate echoes in this impasse of Charles Dickens' celebrated case of Jarndyce vs. Jarndyce, which went on until all the assets of the estate had been taken by the lawyers. While the lawyers in the Penn Central case are arguing, it should be possible to start renovating those parts of the road that will obviously be needed in any reorganization. If the law forbids this, then in the words of a Dickens character, "The law is a ass."

RECENT CHANGE IN STANDARDS AT THE WHITE HOUSE

Mr. HUGH SCOTT. Mr. President, Godfrey Sperling, in Monday's Christian Science Monitor, reports on the recent change in standards at the White House which accompanied the change in administration. In discussing President Ford's personal concept of conduct, Mr. Sperling emphasizes—

> Quietly he is putting into motion an ethics-in-the-executive-branch program that may well be the strongest effort ever made by a President to make sure that propriety prevails.

This may well be the most important contribution any President can make to his country. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Nov. 18, 1974]

President Acts To Avoid Watergates

(By Godfrey Sperling, Jr.)

WASHINGTON.—When President Ford stated publicly that his own conduct—his own example—would constitute his code of ethics, he set precisely the right tone for a new administration heading into the post-Watergate period.

It was the climate of excessive suspicion and win-at-any-price established by President Nixon himself which was responsible for Watergate. Mr. Nixon provided the atmosphere for these excesses.

But Mr. Ford is not leaving it at that—simply with words of assurance and no acts. Quietly he is putting into motion an ethics-in-the-executive-branch program that may well be the strongest effort ever made by a President to make sure that propriety prevails.

He has selected his White House coordinator, Donald Rumsfeld, as the presidential watchdog for the program—the one who will be responsible for keeping ethical conduct in the executive branch above reproach.

Mr. Rumsfeld is particularly well-suited for the job. He has been known as a "Mr. Clean" since he started in politics as a young congressman 15 years ago.

In this vein a reporter recalls an assignment of a decade ago. A note from an editor had said: "We would like to do a full page in photos on a day in the life of a young congressman. Whom would you suggest?"

The reporter wanted to be very certain that he chose a congressman who held high ethical standards. He certainly didn't want to have to answer to his editors if letters of protest later came in saying, "Why did you give that political opportunist all that attention in your paper? Everyone knows he's a wheeler and a dealer."

Therefore the reporter made a particularly thorough check to find just the right person. Within a few hours this informal survey—based on conversations with congressional staff people, some congressional leaders, and a few reporters—narrowed the field to one man—Mr. Rumsfeld.

Mr. Rumsfeld had the reputation for being a highly intelligent, effective congressman and a clean though savvy politician.

The photogenic Mr. Rumsfeld, together with an equally attractive Mrs. Rumsfeld, gave the paper a most interesting page. And no one wrote in to complain.

Mr. Rumsfeld, on moving into the White House from his NATO ambassadorial post in October, immediately set up a staff study of how best to protect the administration from less than the very highest ethical conduct.

But even before his staff assessment was available, Mr. Rumsfeld made it clear to all administration personnel that (a) they should scrupulously avoid any activity in which there was any legal conflict of interest and (b) they should also avoid any appearance of conflict, whether it was illegal or not.

Further Mr. Rumsfeld has sent out a warning to all those who are working for the President in any capacity. It says in effect: "Do not peddle influence and, furthermore, do not get in a position where you even appear to be using your influence to get certain things done."

Specifically, in implementing this, the Rumsfeld order states that no member of the executive branch is to make any telephone call to any government regulatory or law-enforcement agency which asks that some specific action be taken with regard to some person or persons or to any particular case. Instead, such calls will now have to be funneled through the President's counsel, Philip Buchen, who will decide on the propriety of such a communication.

A White House aide, explaining the ruling, put it this way: "We don't want anyone in the White House calling up the ICC, FTC, or the Justice Department asking for this or that action. If such calls are legitimate—and sometimes they will be—we want to be certain that this legitimacy is confirmed by our legal staff. We don't want any Deans throwing their weight around in the administration."

Mr. Rumsfeld, in both oral and written communications with all workers in the executive branch, is saying quite clearly: "Everyone must fully understand and abide by the President's message: there shall not only be no wrongdoing in this administration—there shall not be even the appearance of *wrongdoing.*"

That's the President's standard. And Mr. Rumsfeld is seeing to it that everyone in this administration lives up to it.

THE FEDERAL RESERVE'S CURRENT TIGHT-MONEY POLICIES

Mr. TUNNEY. Mr. President, I would like to bring to the attention of my colleagues a two-part editorial by television station KGTV in San Diego, Calif. Mr. Gordon McKinley, senior vice president of McGraw-Hill Inc. and the company's chief economist, spoke for the station on the Federal Reserve's current tight-money policies.

I ask unanimous consent that the editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

WHY OUR GOVERNMENT'S REMEDY FOR INFLATION IS DEAD WRONG

(NOTE.—Why does the government's awesome fiscal power seem unable to cope with the inflation that's eating us all alive? Because the Federal Reserve Board is fighting the wrong kind of inflation. The following two-part editorial commentary was broadcast this week for the McGraw-Hill Broadcasting Company by Gordon W. McKinley, Senior Vice President-Economics and Financial Planning, McGraw-Hill, Inc.)

PART I. THE BASIC CAUSE OF TODAY'S INFLATION

Each and every one of you has felt the impact of inflation in one way or another. It is the most serious economic problem we face today. Yet—tragically—our Government has no effective program to solve the problem. The Federal Reserve Board's solution is to restrict the supply of money and force interest rates to the highest levels in this century. McGraw-Hill Broadcasting Company believes that this tight-money, high-interest rate policy is mistaken. The policy has failed miserably thus far, and will only make inflation worse if it is continued. We call for a prompt move to easier money and lower interest rates.

We do not doubt the sincerity of the Federal Reserve Board. We are convinced, however, that the Board has badly misjudged the true nature of the inflation virus that now grips the American economy. The Board apparently believes that we are in a classic kind of "demand-pull" inflation. They picture the economy as fully employed, with consumer demand very strong and with prices rising simply because we are unable to turn out goods fast enough. Under these conditions, the solution is clear: restrict the money supply so that we do not have too much money chasing too few goods.

Unfortunately, a close look at the real economy of our country does not look at all like the classic case envisioned by the Federal Reserve Board. For one thing, the economy today is not fully employed in any meaningful sense of that term. For another, Government statistics show that our manufacturing industries taken as a group are operating at just 80 per cent of capacity, a rate of utilization which in the past twenty-five years has occurred only during periods of recession. And, in the first quarter of this year, our real gross national product fell by a larger amount than in any other quarter in the past sixteen years. Unemployment is rising, and business failures are multiplying. Industrial production today is actually below that of a year ago. These are not the signs of a fully employed economy.

The fact of the matter is that today's inflation is not at all the demand-pull situation I mentioned earlier. Instead, it is a new cost-push inflation, stemming from a worldwide shortage of basic commodities. Look at the record. The first symptom showed up in a sharp rise in the price of grains and other foods, followed by a staggering jump in petroleum prices. Then, in dramatic succession, price increases developed in other raw materials and foods, from bauxite to bananas. Steel, paper, cement, chemicals and many others joined the list—all booming at the same time that broad areas of the economy are declining. The distinguishing characteristic of today's inflation is that prices are being forced up by rising costs despite a complete absence of vigorous consumer demand.

Now the question: what happens when a Federal Reserve policy of tight money and high interest rates is used in an attempt to halt this new type of cost-push inflation? The answer is all too clear: the whole economy is dragged down in a futile effort to reduce the prices of raw materials and basic commodities. The home construction industry is crippled and vital plant and equipment expenditures are discouraged. The loss of 600,000 homes and apartments this year will unquestionably mean higher home prices in the future. And curbing plant expenditures now will directly affect our ability to raise productivity and lower costs in the future. To the extent that tight money is curbing the output of housing and new plant and equipment in 1974, it is depriving us of our most effective means of combating inflation in the future.

The net effect of the current high interest rate, tight money policy has been to reduce output, not prices. And, even if tight money is pushed to the point of a severe recession, it will not be successful in curing today's inflation. Deliberately provoked recessions are not the cure for inflation. Following the 1970 recession, inflation accelerated so rapidly that an Administration committed to the free market was forced to accept direct wage and price controls.

PART II. A WORKABLE PROGRAM TO COMBAT INFLATION

What, then, can be done about inflation? We suggest the following six-point, anti-inflation program.

The first step, and one which should be put into effect immediately, is easier money and lower interest rates. Tight money has reduced output and raised costs. An easing in monetary policy will increase output, restore order to the financial markets, halt the rising tide of business failures, and put people to work again. Higher production is the best way to beat inflation.

The second step is a cut in government spending. There is fat and waste in the Federal budget and this unnecessary spending can and must be eliminated. Federal officials smugly advise the American public to pull in their belts and suffer patiently while the economy stagnates. I suggest that it is the bureaucrats who should pull in their belts so that the private sector can have the resources necessary to expand production and jobs.

The third step is to increase incentives to the business community to encourage expansion of factories and modernization of machinery. This can be done with a more liberal investment tax credit; depreciation allowances adjusted to reflect inflation; and other forms of tax relief necessary to spur plant and equipment expenditures. Modern plants mean larger, more efficient output which is the way to bring down prices.

The fourth step is the establishment of a National Commodity Reserve. Substantial stocks of raw materials and basic commodities would be accumulated in this Reservoir through government purchase when supply is ample and prices weak. These reserves would be released on the market only when prices rose more than, for example, 10 per cent. This would effectively stabilize prices, and equally important, would make this country less dependent on foreign sources.

Fifth, Congress establish, immediately, an Agricultural Production Bonus Program. Government bonuses would be paid for production above the base period. The increased farm production would bring food prices down, and the bonus payments would keep farm income high. No greater blow could be leveled against inflation than a drop in food prices.

Finally, Congress should establish a National Commission on Free Market Prices. The Commission would be charged with carefully reviewing the many existing laws and regulations which inhibit price competition. The Commission would then recommend to Congress solutions designed to repeal these laws.

All the steps in this program follow one central theme—what this country needs to bring down prices is more production, more employment, more plant capacity. Inflation can be beaten if we discard restrictive monetary policies and concentrate our efforts on increasing output.

President Ford right now is searching for new solutions. Let him know how you feel.

The President's summit conference on economic affairs starts today. If you agree with our solution, or if you disagree with it, or if you have a solution, of your own, by all means communicate it to him. Write to us. We'll forward your comments to President Ford.

If you would like reprints of this editorial commentary, write to: KGTV-10. McGraw-Hill Broadcasting Company, Inc., P.O. Box 81047, San Diego, California 92138.

MR. JUSTICE STEWART INTERPRETS A FREE PRESS

Mr. PROXMIRE. Mr. President, the title, "Or of the Press," hints at the force of the address by Mr. Justice Potter Stewart to the Yale Law School Sesquicentennial Convocation on Nov. 2. Just as the words of the first amendment to the Constitution granting a free press in the United States are simple and forthright, so were the words of the Supreme Court Justice.

Mr. Justice Stewart makes it clear that a free press goes beyond free speech. The free press guarantee, he says, is a "structural provision of the Constitution." Most of the other provisions in the Bill of Rights, he says, are to protect "specific liberties or specific rights of individuals."

Mr. Justice Stewart goes on to say that:

> The Free Press Clause extends protection to an institution. The publishing business is, in short, the only organized private business that is given explicit constitutional protection.

His point becomes clear when he notes that the founders of our system "deliberately created an internally competitive system," meaning a distribution of powers between the legislative, executive, and judicial branches.

So what does that have to do with the free press?

Stewart first quotes Mr. Justice Brandeis in a 1926 dissenting opinion:

> The [Founders'] purpose was, not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy.
>
> The primary purpose of the constitutional guarantee of a free press was a similar one: to create a fourth institution outside the Government as an additional check on the three official branches. Consider the opening words of the Free Press Clause of the Massachusetts Constitution, drafted by John Adams:
>
> "The liberty of the press is essential to the security of the state."

Stewart is saying that a free press is the citizen's guarantee against Government domination.

An old radio program, "Steve Wilson of the Illustrated Press"—remember?—had a standard introduction that included these words: freedom of the press is a flaming sword—hold it high, use it well.

Stewart is saying about the same thing.

Think not?

Early in his address to the Yale convocation, he said that polls have shown that some Americans believe that the former Vice President and former President were "hounded out of office by an arrogant and irresponsible press," and that many more Americans consider the press to have "illegitimate power" in our political structure. Not true, says Stewart. He says:

> On the contrary, the established American press in the past ten years, and particularly in the past two years, has performed precisely the function it was intended to perform by those who wrote the First Amendment of our Constitution.

In his distinction between free speech and a free press, Stewart points to the Supreme Court's decisions on libel and slander. He notes that for all practical purposes officials of all three branches of Government are immune from libel and slander suits, for otherwise we as citizens could not be assured of "bold and vigorous prosecution of the public's business."

And, he says—

> By contrast, the Court has never suggested that the constitutional right of free *speech* gives an *individual* any immunity from liability for either libel or slander. (The emphases are his.)

In this context, he explains the close vote of the Court in a decision that has led to a debate over whether reporters should be able to shield the identity of their sources. As an individual, the reporter obviously cannot use free speech as an argument to frustrate a grand jury. Stewart says:

> Only if a reporter is a representative of a protected *institution* does the question become a different one. The members of the Court disagreed in answering the question, but the question did not answer itself.

The implication in his speech on this point is that a free press must be about the public's business, and it can do that business only if it cannot be intimidated by the officials who are supposed to run it correctly. And that, of course, is why we use the phrase free press rather than just the word press.

Stewart covers CBS versus the Democratic National Committee, which raised the question of "whether political groups have a first amendment or statutory right of access to the federally regulated broadcast channels of radio and television. The Court held there was no such right of access."

Also in his list is the Miami Herald versus Tornillo, in which the Court unanimously held unconstitutional the Florida statute requiring newspapers to grant a right of reply to political candidates who had been criticized in print.

In getting back to the principle on those cases, he says:

> The cases involving the so-called "right of access" to the press raised the issue whether the first amendment allows government, or indeed requires government, to regulate the press so as to make it a genuinely fair and open "market place for ideas." The Court's answer was "no" to both questions. If a newspaper wants to serve as a neutral market place for debate, that is an objective which it is free to choose. And, within limits, that choice is probably necessary to commercially successful journalism. But it is a choice that government cannot constitutionally impose.

But for the Government to force newspapers to be fair is impossible under our system, not only because that force is unconstitutional, but because there is no assurance whatsoever that the Government could establish standards for fairness.

My thesis is that the Federal Communications Commission's fairness doctrine is unconstitutional. Stewart did not say that to his Yale audience.

Can that be read into his speech?

Probably not, because a Justice of the Supreme Court of the United States will not speak in particular about cases that might come before the Court. Also, only a majority of the Court can speak with authority, and it will do that only when a specific question is before the Court.

Yet, I believe it is important that Stewart in his Yale address did not exclude the electronic media from his definition of the press. Indeed, in two instances he specifically listed them along with the print press. In another instance, he alluded to the electronic media.

Here are those three instances:

> Specifically, I shall discuss the role of the organized press—of the daily newspapers and other established news media—in the system of government created by our Constitution.
>
> * * * * *
>
> Newspapers, television networks, and magazines have sometimes been outrageously abusive, untruthful, arrogant, and hypocritical. But it hardly follows that elimination of a strong and independent press is the way to eliminate abusiveness, untruth, arrogance, or hypocrisy from government itself.
>
> * * * * *
>
> The press could be relegated to the status of a public utility. The guarantee of free speech would presumably put some limitation on the regulation to which the press could be subjected. But if there were no guarantee of a free press, government could convert the communications media into a neutral "market place of ideas." Newspapers and television networks could then be required to promote contemporary government policy or current notions of social justice.

Mr. President, there is no doubt in my mind that radio and television broadcasters could be, and should be, the same watchdogs of government that publishers are structurally under our Constitution. It is significant that Stewart in his specific mention of the electronic media warned of government abuse.

Let me repeat my last quotation from his speech:

> Newspapers and television networks could then be required to promote contemporary government policy or current notions of social justice.

Stewart sees the danger in government control of the news media that the authors of the Bill of Rights were seeking to avoid.

We have an adversary system in this country. We have it because it was designed that way. The press is part of that system, and it is part of it constitutionally. It may not be an official or integral part; but it is a distinct part of the system outside the Government.

And the beneficiaries of that system are not the legislative, executive, and judicial branches nor the watchdog press. No; the beneficiaries are the citizens of our country.

The citizens, the people of the United States, delegate powers to the Government. Someone has to watch that Government to make sure abuses are exposed. The press—electronic and print—has that duty. It can carry out that duty because it is not official.

Other countries have official publications. That is, they have authorized organs or tools of information. We should not under our Constitution.

But how then can the FCC—an integral part of government—be explained away in its function of controlling that part of the press which happens to use the airwaves to deliver its information?

It cannot be explained away. It cannot be fitted into our constitutional system.

The FCC is a chain on the watchdog.

Some argue that it is not a chain. Others argue that the chain is necessary because the airwaves are public property.

But it is legal fantasy to say that the airwaves are public property. Suppose for a moment that the airwaves are publicly owned; the chain still cannot be rationalized.

The Constitution is an instrument of the people of the United States.

It is the Constitution that establishes the Government.

The Constitution vests powers to the legislative branch, to the executive branch and to the judicial branch. It vests only the powers enumerated.

The first amendment to the Constitution specifically prohibits the legislative branch from passing a law abridging, that is, diminishing, the freedom of the press.

The President is sworn to uphold the Constitution.

The FCC was established by the legislative branch and is part of the executive branch. It is a part of the Government.

The Government may not interfere with the press. Therefore the FCC may not interfere with the press, which includes radio and television broadcasters.

It makes no difference who owns the airwaves.

The law that established the FCC says that the Government controls the channels of radio communication and may provide for their use but not their ownership. It does not say who owns the channels or airwaves.

That law also says that the FCC shall not interfere with the right of free speech by means of radio communication.

If the FCC may not interfere with free speech, which according to Justice Stewart can be limited because it is not a structural provision of the Constitution, it follows that the FCC in no way can interfere with a free press.

Radio and television are part of the free press, so the Government through the FCC may not interfere with the free press aspects of broadcasters.

But it does interfere.

So it is time to right the situation. It is time to start following the Constitution again.

I believe that job should be done by the legislative branch. It is too much to hope that the executive will change its ways. The judicial, correctly, is reluctant to make law.

That is why after the next Congress convenes I shall introduce legislation making clear that the people of this country should have the protection of a completely free press.

Why is it too much to hope that the executive branch will help accomplish this?

In the Pentagon Papers case, Mr. Justice Stewart said that the line was drawn between secrecy and openness in the affairs of Government. But was the line drawn in the Constitution?

He said:

> The Justice Department asked the Court to find in the Constitution a basis for prohibiting the publication of allegedly stolen government documents. The Court could find no such prohibition. So far as the Constitution goes, the autonomous press may publish what it knows, and may seek to learn what it can.

Then comes the heart of the matter. The Justice goes on:

> But this autonomy cuts both ways. The press is free to do battle against secrecy and deception in government. But the press cannot expect from the Constitution any guarantee that it will succeed. There is no constitutional right to have access to particular government information, or to require openness from the bureaucracy. The public's interest in knowing about its government is protected by the guarantee of a Free Press, but the protection is indirect. The Constitution itself is neither a Freedom of Information Act nor an Official Secrets Act.
>
> The Constitution, in other words, establishes the contest, not its resolution.

Mr. President, it seems clear to me from that position that the real push for a free press—a complete free press including television—should come from the people of this country. They are the ones with the real stake in knowing.

The Congress, being closest to the people, is the place to start.

And what if the free press, including radio and television, gets out of hand?

Justice Stewart, as I have already quoted, has the answer. The press must be responsive to the needs of the people.

He put it this way:

> If a newspaper (and from his context, I believe he includes radio and television) wants to serve as a neutral market place for debate, that is an objective which it is free to choose. And, within limits, that choice is probably necessary to commercially successful journalism. But it is a choice that government cannot constitutionally impose.

Mr. President, I ask unanimous consent that Mr. Justice Stewart's address be printed in the Record. It is, I think, an eloquent argument for a fully free press.

There being no objection, the address was ordered to be printed in the Record, as follows:

OR OF THE PRESS

(Address of Potter Stewart, Associate Justice, Supreme Court of the United States)

Mr. Justice White, President Brewster, Dean Goldstein, Mr. Ruebhausen, Ladies and Gentlemen:

It is a pleasure to be here today with my colleague Byron White, and I am very grateful to him for his generous words of introduction. And it is, of course, a pleasure to participate with him and with all of you in this convocation marking the commencement of the sesquicentennial year of the Yale Law School.

Just how it is that this *is* the Law School's 150th Anniversary is a subject that I am happy to leave for others to explain. All I know is that it is supposed to have something to do with a couple of young men who, in the year 1824, persuaded a friendly printer to give their proprietary law school a little free advertising space in the Yale College catalogue.

But many great institutions have had humble beginnings. Even the Roman Empire, you will remember, traced its history back to no more than two hungry little boys and a friendly wolf.

Yet, however obscure the origins of this law school may have been, all of us know that by the early years of this century it was emerging as an important center for legal study. And by the time my classmates and I showed up here as first year students in 1938, the Yale Law School had long since been universally recognized as one of a very few great national law schools in the western world.

Just to speak the names of those, now gone, in whose classrooms I sat during my three years as a student here is to call the roll of some of the most notable legal scholars and law teachers in our country's history: Charles Clark, Arthur Corbin, Edwin Borchard, George Dession, Ashbel Gulliver, Walton Hamilton, Underhill Moore, Harry Shulman, Roscoe Steffens, Wesley Sturges.

And, although we hardly realized it then, the law school's student body during those three years was quite a remarkable collection of people as well. The membership of a single student eating club during that three year period included, as it turned out, the two members of the Supreme Court who are here today, a United States Senator, three members of the House of Representatives, two Governors of Pennsylvania, two Secretaries of the Army, an Undersecretary of Defense, a nominee for the Vice Presidency of the United States, and the incumbent President of the United States.

The Yale Law School of that era had already acquired a distinctive reputation for its leadership in the so-called "realist movement." Yet it was a place then, as it is a place now, where, in the words of Dean Goldstein, "widely divergent theories of law and society were taught and debated, a school which cannot be described as representing an orthodoxy of left, center, or right." It was then, as it is now, an exciting place and a challenging place, where a teacher's reach sometimes exceeded a student's grasp and where, as a result, every student was invited to stretch himself, in intellect and understanding, to heights and breadths well beyond his previous experience. There was a tradition here then, as there is now, of free inquiry, of independent thought, and of skeptical examination of the very foundations of existing law.

It is in that tradition that I turn this morning to an inquiry into an aspect of constitutional law that has only recently begun to engage the attention of the Supreme Court. Specifically, I shall discuss the role of the organized press—of the daily newspapers and other established news media—in the system of government created by our Constitution.

It was less than a decade ago—during the Vietnam years—that the people of our country began to become aware of the twin phenomena on a national scale of so-called investigative reporting and an adversary press—that is, a press adversary to the Executive Branch of the Federal Government. And only in the two short years that culminated last summer in the resignation of a President did we fully realize the enormous power that an investigative and adversary press can exert.

The public opinion polls that I have seen indicate that some Americans firmly believe that the former Vice President and former President of the United States were hounded out of office by an arrogant and irresponsible press that had outrageously usurped dictatorial power. And it seems clear that many more Americans, while appreciating and even applauding the service performed by the press in exposing official wrongdoing at the highest levels of our national government, are nonetheless deeply disturbed by what they consider to be the illegitimate power of the organized press in the political structure of our society. It is my thesis this morning that, on the contrary, the established American press in the past ten years, and particularly in the past two years, has performed precisely the function it was intended to perform by those who wrote the First Amendment of our Constitution. I further submit that this thesis is supported by the relevant decisions of the Supreme Court.

Surprisingly, despite the importance of newspapers in the political and social life of our country, the Supreme Court has not until very recently been called upon to delineate their constitutional role in our structure of government.

Our history is filled with struggles over the rights and prerogatives of the press, but these disputes rarely found their way to the Supreme Court. The early years of the Republic witnessed controversy over the constitutional validity of the short-lived Alien and Sedition Act, but the controversy never reached the Court. In the next half century there was nationwide turmoil over the right of the organized press to advocate the then subversive view that slavery should be abolished. In Illinois a publisher was killed for publishing abolitionist views. But none of this history made First Amendment law because the Court had earlier held that the Bill of Rights applied only against the Federal Government, not against the individual states.

With the passage of the Fourteenth Amendment, the constitutional framework was modified, and by the 1920's the Court had established that the protections of the First Amendment extend against all government—federal, state, and local.

The next fifty years witnessed a great outpouring of First Amendment litigation, all of which inspired books and articles beyond number. But, with few exceptions, neither these First Amendment cases nor their commentators squarely considered the Constitution's guarantee of a Free Press. Instead, the focus was on its guarantee of free speech. The Court's decisions dealt with the rights of isolated individuals, or of unpopular minority groups, to stand up against governmental power representing an angry or frightened majority. The cases that came to the Court during those years involved the rights of the soapbox orator, the nonconformist pamphleteer, the religious evangelist. The Court was seldom asked to define the right and privileges, or the responsibilities, of the organized press.

In very recent years cases involving the established press finally have begun to reach the Supreme Court, and they have presented a variety of problems, sometimes arising in complicated factual settings.

In a series of cases, the Court has been called upon to consider the limits imposed by the free press guarantee upon a state's common or statutory law of libel. As a result of those cases, a public figure cannot successfully sue a publisher for libel unless he can show that the publisher maliciously printed a damaging untruth.[1]

The Court has also been called upon to decide whether a newspaper reporter has a First Amendment privilege to refuse to disclose his confidential sources to a grand jury. By a divided vote, the Court found no such privilege to exist in the circumstances of the cases before it.[2]

In another noteworthy case, the Court was asked by the Justice Department to restrain publication by the *New York Times* and other newspapers of the so-called Pentagon Papers. The Court declined to do so.[3]

In yet another case, the question to be decided was whether political groups have a First Amendment or statutory right of access to the federally regulated broadcast channels of radio and television. The Court held there was no such right of access.[4]

Last term the Court confronted a Florida statute that required newspapers to grant a "right of reply" to political candidates they had criticized. The Court unanimously held this statute to be inconsistent with the guarantees of a free press.[5]

It seems to me that the Court's approach to all these cases has uniformly reflected its understanding that the Free Press guarantee is, in essence, a *structural* provision of the Constitution. Most of the other provisions in the Bill of Rights protect specific liberties or specific rights of individuals: freedom of speech, freedom of worship, the right to counsel, the privilege against compulsory self-incrimination, to name a few. In contrast, the Free Press Clause extends protection to an institution. The publishing business is, in short, the only organized private business that is given explicit constitutional protection.

This basic understanding is essential, I think, to avoid an elementary error of constitutional law. It is tempting to suggest that freedom of the press means only that newspaper publishers are guaranteed freedom of expression. They *are* guaranteed that freedom, to be sure, but so are we all, because of the Free Speech Clause. If the Free Press guarantee meant no more than freedom of expression, it would be a constitutional redundancy. Between 1776 and the drafting of our Constitution, many of the state constitutions contained clauses protecting freedom of the press while at the same time recognizing no general freedom of speech. By including both guarantees in the First Amendment, the Founders quite clearly recognized the distinction between the two.

It is also a mistake to suppose that the only purpose of the constitutional guarantee of a free press is to insure that a newspaper will serve as a neutral forum for debate, a "market place for ideas," a kind of Hyde Park corner for the community. A related theory sees the press as a neutral conduit of information between the people and their elected leaders. These theories, in my view, again give insufficient weight to the institutional autonomy of the press that it was the purpose of the Constitution to guarantee.

In setting up the three branches of the Federal Government, the Founders deliberately created an internally competitive system. As Mr. Justice Brandeis once wrote:[6]

"The [Founders'] purpose was, not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy."

The primary purpose of the constitutional guarantee of a free press was a similar one: to create a fourth institution outside the Government as an additional check on the three official branches. Consider the opening words of the Free Press Clause of the Massachusetts Constitution, drafted by John Adams:

"The liberty of the press is essential to the security of the state."

The relevant metaphor, I think, is the metaphor of the Fourth Estate. What Thomas Carlyle wrote about the British Government a century ago has a curiously contemporary ring:

"Burke said there were Three Estates in Parliament; but, in the Reporters' Gallery yonder, there sat a Fourth Estate more important far than they all. It is not a figure of speech or witty saying; it is a literal fact—very momentous to us in these times."

For centuries before our Revolution, the press in England had been licensed, censored, and bedeviled by prosecutions for seditious libel. The British Crown knew that a free press was not just a neutral vehicle for the balanced discussion of diverse ideas. Instead, the free press meant organized, expert scrutiny of government. The press was a conspiracy of the intellect, with the courage of numbers. This formidable check on official power was what the British Crown had feared—and what the American Founders decided to risk.

It is this constitutional understanding, I think, that provides the unifying principle underlying the Supreme Court's recent decisions dealing with the organized press.

Consider first the libel cases. Officials within the three governmental branches are, for all practical purposes, immune from libel and slander suits for statements that they make in the line of duty.[7] This immunity, which has both constitutional and common law origins, aims to insure bold and vigorous prosecution of the public's business. The same basic reasoning applies to the press. By contrast, the Court has never suggested that the constitutional right of free *speech* gives an *individual* any immunity from liability for either libel or slander.

In the cases involving the newspaper reporters' claims that they had a constitutional privilege not to disclose their confidential news sources to a grand jury, the Court rejected the claims by a vote of five to four, or, considering Mr. Justice Powell's concurring opinion, perhaps by a vote of four and a half to four and a half. But if freedom of the press means simply freedom of speech for reporters, this question of a reporter's asserted right to withhold information would have answered itself. None of us—as individuals—has a "free speech" right to refuse to tell a grand jury the identity of someone who has given us information relevant to the grand jury's legitimate inquiry. Only if a reporter is a representative of a protected *institution* does the question become a different one. The members of the Court disagreed in answering the question, but the question did not answer itself.

The cases involving the so-called "right of access" to the press raised the issue whether the First Amendment allows government, or indeed *requires* government, to regulate the press so as to make it a genuinely fair and open "market place for ideas." The Court's answer was "no" to both questions. If a newspaper wants to serve as a neutral market place for debate, that is an objective which it is free to choose. And, within limits, that choice is probably necessary to commercially successful journalism. But it is a choice that government cannot constitutionally impose.

Finally the Pentagon Papers case involved the line between secrecy and openness in the affairs of Government. The question, or at least one question, was whether that line is drawn by the Constitution itself. The Justice Department asked the Court to find in the Constitution a basis for prohibiting the publication of allegedly stolen government documents. The Court could find no such prohibition. So far as the Constitution goes, the autonomous press may publish what it knows, and may seek to learn what it can.

But this autonomy cuts both ways. The press is free to do battle against secrecy and deception in government. But the press cannot expect from the Constitution any guarantee that it will succeed. There is no constitutional right to have access to particular government information, or to require openness from the bureaucracy.[8] The public's interest in knowing about its government is protected by the guarantee of a Free Press, but the protection is indirect. The Constitution itself is neither a Freedom of Information Act nor an Official Secrets Act.

The Constitution, in other words, establishes the contest, not its resolution. Congress may provide a resolution, at least in some instances, through carefully drawn legislation. For the rest, we must rely, as so often in our system we must, on the tug and pull of the political forces in American society.

Newspapers, television networks, and magazines have sometimes been outrageously abusive, untruthful, arrogant, and hypocritical. But it hardly follows that elimination of a strong and independent press is the way to eliminate abusiveness, untruth, arrogance, or hypocrisy from government itself.

It is quite possible to conceive of the survival of our Republic without an autonomous press. For openness and honesty in government, for an adequate flow of information between the people and their representatives, for a sufficient check on autocracy and despotism, the traditional competition between the three branches of government, supplemented by vigorous political activity, might be enough.

The press could be relegated to the status of a public utility. The guarantee of free speech would presumably put some limitation on the regulation to which the press could be subjected. But if there were no guarantee of a free press, government could convert the communications media into a neutral "market place of ideas." Newspapers and television networks could then be required to promote contemporary government policy or current notions of social justice.[9]

Such a constitution is possible; it might work reasonably well. But it is not the Constitution the Founders wrote. It is not the Constitution that has carried us through nearly two centuries of national life. Perhaps our liberties might survive without an independent established press. But the Founders doubted it, and, in the year 1974, I think we can all be thankful for their doubts.

Let me emphasize again what I tried to indicate at the beginning of this discussion. The First Amendment views that I have expressed are my own. I have not spoken for the Court, and particularly I have not spoken for Mr. Justice White. While he and I are in agreement about many things, we have also sometimes disagreed—from as long ago as 1939 to as recently as last Tuesday. And, whatever else we may have learned at this Law School, I think each of us learned somewhere along the way that the person who disagrees with you is not necessarily wrong.

In my opening remarks I spoke of the Law School that I knew as a student. But I am not here today in the role of an aging alumnus with wistful memories of the way things used to be. All of us are here not so much

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Footnotes at end of article.

to commemorate a golden past as to celebrate the present, and to express our faith in a bright and solid future.

I spoke earlier of the distinguished members of the faculty who are gone. The fact is that many of the finest teachers of my day are still here, or only recently retired: Fleming James, Myres McDougal, J. W. Moore, Fred Rodell, Eugene Rostow. And the more important fact is that the Law School through the years has been remarkably successful in its continuing program of faculty self-renewal—drawing here teachers and scholars of proven achievement or extraordinary promise. Of them all, I mention only the name of Alexander Bickel, not just because of his nationally recognized distinction, but because I am so sorry he cannot be with us today.

Among the students now here there are undoubtedly future judges and justices, perhaps future senators and congressmen and governors and cabinet officers, and maybe even a future President. But that is not what was really important about the Yale Law School of a generation ago, nor what is important now, nor what will be important in future years. The number of our graduates who have gone into government service is exceedingly high. But public service is surely not limited to government service. The real impact of the Yale Law School will always be most broadly felt through the leadership of its sons and daughters in countless other areas of professional and business activity.

Whatever place any of us may now occupy, all of us share one priceless experience in common. All of us have spent three of the most formative years of our lives in *this* place—challenged by the ideal of excellence, and prepared by that challenge to go forth from here with the will and the confidence to do our best with any task that life may bring.

The opportunity for that priceless experience at this great Law School, for generations of young men and women yet to come, is surely worth preserving for *at least* another 150 years.

FOOTNOTES

[1] See *New York Times Co.* v. *Sullivan*, 376 U.S. 254 (1964); *Curtis Publishing Co.* v. *Butts*, 388 U.S. 130 (1967); *Rosenbloom* v. *Metromedia, Inc.*, 403 U.S. 29 (1971).

[2] *Branzburg* v. *Hayes*, 408 U.S. 665 (1972).

[3] *New York Times Co.* v. *United States*, 403 U.S. 713 (1971).

[4] *Columbia Broadcasting System, Inc.* v. *Democratic Nat'l Comm.*, 412 U.S. 94 (1973).

[5] *Miami Herald Publishing Co.* v. *Tornillo*, 94 S. Ct. 2831 (1974).

[6] *Myers* v. *United States*, 272 U.S. 52, 293 (1926) (dissenting opinion).

[7] See *Barr* v. *Matteo*, 360 U.S. 564 (1959).

[8] Cf. *Pell* v. *Procunier*, 94 S. Ct. 2800 (1974); *Saxbe* v. *Washington Post Co.*, 94 S. Ct. 2811 (1974).

[9] Cf. *Pittsburgh Press Co.* v. *Pittsburgh Comm'n on Human Relations*, 413 U.S. 376 (1973).

BUSINESS EXECUTIVES VIEW CONSUMERISM AS POSITIVE MARKET FORCE

Mr. PERCY. Mr. President, one of the most encouraging signs during these times of two-digit inflation and an unstable economy is the widely held view by businessmen that consumerism is a positive force in the marketplace. A recent article by Stephen A. Greyser and Steven L. Diamond in the Harvard Business Review dramatically reports that 84 percent of the more than 3,400 businessmen surveyed believe that consumerism is "here to stay." Consumer concern over rising prices is seen to be the most important factor in the growth of consumer interest.

Advertising is cited as a major cause of consumer dissatifaction, and the businessmen strongly support more truthfulness; 87 percent agree that "advertising should include adequate information for 'logical' buying decisions, whether or not consumers choose to use it." Hopefully, the views of these executives will be reflected in the mainstream of marketing practices. Consumers need such improvements in advertising both to assist them in their purchases and to restore confidence in American business.

The blame and responsibility for consumer problems was also addressed in this excellent study. The executives assigned to business "the dominant share of responsibility" for both causing, 48 percent, and remedying, 52 percent, consumer problems. In contrast, Government was considered more of a cause, 27 percent of, than a force for remedying, consumer problems. Most significantly, the majority of businessmen, 53 percent thought "consumers should have a lot more protection than they are getting."

These attitudes are encouraging. The Washington-based trade associations that bitterly fought the creation of an Agency for Consumer Advocacy would do better to listen to the enlightened views of these business executives who make up their membership. Fifty-eight percent believe that it is the responsibility of Government to protect consumers from abuse.

The article reports further that 70 percent of the executives agree that "consumerism's pressures overall have had a positive effect on business," and that 74 percent agree that "consumerism's pressures overall have had a positive result for the consumer." This is, as the article indicates, "an interesting twin faceted overall endorsement of consumerism."

Because of the importance of these current research findings for businessmen, consumers, and Members of Congress, I ask unanimous consent that the full text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Harvard Business Review,
September–October 1974]

BUSINESS IS ADAPTING TO CONSUMERISM

(By Stephen A. Greyser and
Steven L. Diamond)

(AUTHORS' NOTE: We gratefully acknowledge the support of the Marketing Science Institute and especially thank Jane Ross for her assistance in data tabulation and analysis.)

Broad recognition and growing acceptance characterize management's attitude toward consumerism, the "buyers' rights" movement that has sometimes frustrated, sometimes dismayed, the business community. Generally considered as here to stay, consumerism is now seen by a surprisingly large number of executives as an opportunity rather than a threat. This comprehensive report interprets the opinions of HBR subscribers on the causes and growth of consumerism, its impact on marketing and other business practices, present and prospective business reactions to it, and its regulatory ramifications.

Mr. Greyser is professor of business administration at the Harvard Business School, where he teaches advertising, and executive director of the Marketing Science Institute (a nonprofit research center associated with HBS). Among other books, he has authored Cases in Advertising and Communications Management (Prentice-Hall, 1972) and coauthored with Raymond A. Bauer Advertising in America: The Consumer View (Division of Research, Harvard Business, School, 1968). A frequent contributor to this and other journals on issues of businessmen's attitudes, marketing, advertising, and public policy, he also serves as secretary of HBR's Editorial Board. Mr. Diamond is a doctoral candidate at HBS and a research assistant at MSI. Also research director of The Child, Inc., Mr. Diamond has published a number of articles in the areas of consumer behavior and market research.

Threat . . . or opportunity? Legitimate rights . . . or radical take-over? Substantive . . . or strictly political? Redressing imbalances in the marketplace . . . or creating them?

Consumerism—a movement generally defined as seeking to increase the rights and powers of buyers in relation to sellers—is a phenomenon that has been characterized as each of the above by some observers. As the principal targets of consumerists' activities and demands, businessmen, especially marketers, are often perplexed and distressed by consumerism. Yet whatever their attitude—accepting, cautious, or rejecting—most businessmen regard consumerism with growing interest and concern.

This survey of HBR subscribers is the first wide-scale study of the attitudes and reactions of the executive community regarding consumerism. The respondents come from a variety of industries, company sizes, functional areas, and levels of management, as shown in *Exhibit I* (see page 40). Not unexpectedly, a healthy proportion—about half—are in industries and companies where markting is considered particularly important. The respondents include many who have direct experience with consumerism as well as many who have been relatively unaffected by it. (For details on the study methodology, see the accompanying ruled insert.)

From the responses to the comprehensive HBR questionnaire, we see a picture of broad recognition and acceptance of consumerism by managers as a permanent part of the business landscape. Although some of this acceptance is grudging, a strong majority of executives consider consumerism a positive force in the marketplace. Moreover, by far the most dominant management view of consumerism is that it represents an opportunity for marketers rather than a threat to them.

SURVEY HIGHLIGHTS

Here are the major findings of the study, which are given more extensive treatment in the indicated sections that follow:

Consumerism is here to stay is the overwhelming executive consensus. The combination of consumer concern over rising prices and over the problems of product performance and quality are viewed as the chief reasons for consumerism's growth. (See the section entitled *Here to stay*.)

The traditional "buyer beware" philosophy of the marketplace is seen as fast eroding. Executives think the balance between buyer beware and seller beware is still tilted toward the former, but the pendulum is swinging swiftly toward seller beware. (See *Caveat emptor eroding*.)

Despite their problems, consumers are seen as still able to make sensible buying decisions. Although many respondents think that marketers sometimes manipulate consumers into unwanted purchases, executives strongly contend that consumers still hold the ultimate weapon of not buying products. (See *Marketing practices and the consumer*.)

Businessmen support propositions to make advertising more factual and informative. They see consumerism as leading to major modifications in advertising's content that will make it more truthful. (See *Focus on advertising*.)

Business is considered primarily responsible for both causing consumer problems and resolving them. Business self-regulation is still the most favored route (See *Blame and responsibility*.)

Improving product quality and performance is viewed as the most constructive consumer-oriented program that companies can undertake. The auto industry, and American Motors specifically, are cited as doing particularly effective work in responding to consumer pressures. (See *Constructive consumer programs*.)

While much progress has been made in the past decade on key consumer-related issues, even further progress is foreseen in the decade ahead. Increased sensitivity to consumer complaints has shown the most progress; quality of repair and maintenance services has the furthest to go. (See *Pace of progress*.)

Consumerism can be a positive competitive marketing tool—an opportunity for business. Executives also generally think consumerism is both good for business and good for the consumer. (See *Overall appraisal*.)

HERE TO STAY

Businessmen strongly agree that consumerism can no longer be ignored or denied. It is "here to stay" say 84% of our responding executives, and only 8% think it is "a passing fad." A financial manager of a petfood products company said of consumerism, "It is a factor which will not disappear in the near term, one which will ever more strongly influence our decision making, and one which we need not fear."

In order to probe the "why" behind this strongly held attitude, we asked respondents to appraise the relative importance of a variety of claimed causes of consumerism's growth, including general economic and social factors as well as specific business and marketing practices.

Looking first at the former, we see that consumer concern over rising prices is regarded as the leading cause of consumerism's growth (see *Exhibit II*). A cluster of product performance and quality problems—both real and as perceived by consumers—are the next most frequently mentioned causes; these include consumers feeling a growing gap between product performance and marketing claims. Warranting comment (although not shown in the exhibit) is the feeling that certain factors have been relatively unimportant in causing consumerism's growth. These include consumerist concern over inadequate consumer protection legislation, inadequate enforcement of the legislation that does exist, and reliance on voluntary control of marketing practices.

EXHIBIT I—*Profile of HBR subscribers responding*

Management position	*Percent*
Top management	21
Chairman of the board; owner; partner; president; division manager; executive vice president; general manager; publisher; editor; administrative director; dean; executive director; member of board of directors; managing director.	
Upper-middle management	16
Vice president; treasurer; controller; corporate secretary; general counsel; assistant to top manager; principal (consulting firm).	
Middle management	32
Assistant vice president, treasurer, etc.; functional department head (advertising, sales, brand manager, production, purchasing, personnel, etc.); assistant to upper-middle manager.	
Lower-middle management	13
Assistant manager; regional sales manager; section head; supervisor; associate head of department.	
Other executives	10
Salesman; representative; advertising personnel; engineer; research personnel; actuary; nonsupervisory personnel.	
Professional	6
Doctor; lawyer; CPA; consultant.	
Miscellaneous	2
Librarian; retired executive.	
Job function:	
Accounting	6
Engineering; R&D	8
Finance	8
General management	40
Marketing	18
Personnel; labor relations	5
Production	4
Other	11
Education:	
High school	2
Some college	10
Bachelor's degree	32
Graduate school	56
Age:	
Under 30	16
30–39	34
40–49	29
50–59	17
60–64	3
65 or over	1
Industry	
Manufacturing consumer durable products	8
Manufacturing consumer nondurable products	9
Manufacturing industrial products	18
Advertising; media; publishing	3
Banking; investments; insurance	13
Construction; mining; oil	5
Defense industry	2
Education; social services	7
Government	5
Management consulting	5
Personal consumer services	2
Retail or wholesale trade	7
Transportation; public utility	6
Other	10
Importance of marketing to company	
Vitally important	51
Very important	26
Rather important	13
Not particularly important	6
Not important at all	4
Relative size of company in industry	
Very large	30
Larger than most	31
About average	20
Smaller than most	14
Very small	5
Company's annual sales	
Under $1 million	10
$1 million-$10 million	19
$10 million-$25 million	10
$25 million-$100 million	15
$100 million-$500 million	17
Over $500 million	29
Impact of consumerism on company	
Tremendous influence	11
Large influence	27
Some influence	32
Little influence	13
Not much influence at all	17

Regarding executives' opinions about specific business and marketing practices that cause consumer dissatisfaction, *Exhibit II* shows that product problems are considered the most important. Specifically, defective products, hazardous or unsafe products, and defective repair work or service are the three most frequently mentioned causes of consumer problems and dissatisfaction—each cited as important by over 80% of responding executives.

A final all-encompassing comment from our respondents is their 3–2 agreement that "the problems of consumers are more serious now than in the past."

Dip in consumer confidence: Another major component of today's consumer picture is the state of consumer confidence in both the marketplace and marketers.

Businessmen draw a gloomy picture here: 76% take the view that "consumer disillusionment today is higher than in the past." Also, executives see today's consumers as far more critical of business generally and far more cynical about what marketers say and do, compared with consumers ten years ago. An executive vice president of a chemicals manufacturing company said: "Consumerism is only a small part of the public's overall disillusionment with business—a symptom. We'd better listen and act—and soon."

EXHIBIT II—*Causes of consumerism's growth*

Economic and social factors	
Consumer concern over rising prices	4.2
Consumers feeling a growing gap between product performance and marketing claims	4.1
Increased consumer expectations for product quality	3.8
Deterioration in product quality	3.8
Political appeal of consumer protection	3.8
Failure of normal marketplace operations to satisfy consumers	3.6
A feeling that business should assume greater social responsibilities	3.6
Impersonal nature of the marketplace	3.5
Greater public concern over social problems generally	3.5
Consumers demanding more product information	3.5
Business and marketing practices	
Defective products	4.5
Hazardous or unsafe products	4.3
Defective repair work or service	4.1
Misleading advertising	3.9
Poor complaint-handling procedures by retailers	3.9
Advertising which claims too much	3.9
Deceptive packaging and labeling	3.8
Poor complaint-handling procedures by manufacturers	3.8
Failure to deliver merchandise which has been paid for	3.6
Inadequate guarantees and warranties	3.5

*The importance rating is based on a 5-point scale, ranging from "very important" (5) to "very unimportant" (1).

At the same time, as exhibit III shows, management views today's shopper as much more sophisticated than yesterday's and expects still greater sophistication in the years ahead.

"CAVEAT EMPTOR" ERODING

Perhaps the most enduring general characterization of the marketplace is caveat emptor—"let the buyer beware." This characterization has been modified somewhat—some would say altered—in recent years by changes in the "rules of the marketplace" made by Government and by changes in the marketing approach of many businesses. Indeed, some observers have suggested that the current marketplace should be characterized as caveat venditor—"let the seller beware."

We asked executives to assess the state of the marketplace as it is today, as it will be in 1980, and as it should be ideally along a 7-point scale ranging from buyer beware (1) to seller beware (7). They rate the present balance as close to the midpoint of the sale (3.2). But they see the pendulum swinging—and swinging hard—in the next few years to 4.9. And this predicted swing is beyond what they consider the ideal point (4.6) of balance; in short, it is seen as going too far.

If consumerism calls into question some presumed longstanding business philosophies such as caveat emptor, it seeks reaffirmation of others such as "the customer is always right." We asked for reactions to several such issues of basic business philosophy, especially those affecting profits.

EXHIBIT III.—TRENDS AMONG CONSUMERS—PAST, PRESENT, AND FUTURE

Issue	Percent of those responding who thought consumers were more today than consumers were 10 yr ago	Percent of those responding who thought consumers will be more 10 yr from now than consumers are today
Critical of business generally	96	48
Cynical about what marketers say and do	86	48
Price conscious	64	37
Quality conscious	77	36
Willing to spend time comparison shopping	43	42
Sophisticated in evaluating products	68	33
Frequently making informed buying decisions	65	32
Satisfied with product performance	10	38

Note: Percentages derived from responses on a 7-point scale, e.g., from more critical to less critical.

Does business operate on the philosophy that "the customer is always right"? *No*, say a clear majority (58%) of our respondents; only a third answer *yes*. Perhaps the word "always" is the fly in the ointment on this issue, since on several related questions, the reactions to business's sense of customer commitment are more positive. For example, almost 60% agree that "manufacturers really listen when their own customers have problems," and a similar percentage agree that this is also true of retailers.

This more optimistic view of business's concern for the consumer does not hold when the issue shifts to effects on profits. The pressures of today's cost-escalating economy are reflected in the opinion of a solid majority (57%) that "manufacturers today are more willing than they used to be to sacrifice some quality if it means greater profits."

MARKETING PRACTICES AND THE CONSUMER

Of more direct concern to the consumer than matters of basic business philosophy are the marketing activities of companies. Consumerists frequently charge that marketers are not close to the consumer and that marketing efforts result in consumer confusion or even seduction into unwanted purchases—allegations that are contested by marketers.

This debate, some maintain, stems from the fact that marketers and their consumerist critics have different views of the marketplace.[1] Indeed, that "marketers and consumer advocates hold fundamentally different views about what goes on in the marketplace" is the opinion of 60% of our respondents; only 22% disagree. By the same proportions, managers take the position that "marketers generally have their finger on the pulsebeat of the consumer." However, almost half of our executives accuse marketers of "manipulating consumers into unwanted purchases."

Nonetheless, by a 2–1 margin, consumers are seen as "generally making the right buying decisions in terms of their own wants and values," and by a 3–2 margin as "making highly self-satisfying product choices, even under complex circumstances." The president of a management consulting firm expressed the opinion that "the basic issue is whether the vast majority of consumers are capable of making intelligent decisions or not—consumerists believe not."

Faith in competition and in consumer power are traditional elements of the businessman's viewpoint. This study's respondents maintain this confidence.

By almost 5 to 1 they agree that "competition between different brands is the best guarantee of better products for the consumer." And they assert that consumers still wield the ultimate weapon: by almost a 4–1 margin, executives believe "consumers can most effectively voice their discontent with products by not buying them."

Consumerist leaders have been both hailed as saviors of the consumer and dismissed as an unrepresentative avant-garde. We asked our responding executives to characterize consumerist leaders on five basic attributes. What is the overall "businessman's view" of consumerist leaders that emerges? It is one of people who reflect consumer's feelings and are relatively reasonable, but who stylistically are "gadflies of society," presenting only one side of an issue.

FOCUS ON ADVERTISING

One specific marketing activity that has received considerable criticism from consumerists is advertising. In this study, executives speak out sharply against the specific problem of misleading advertising (it is cited as the fourth most important cause of consumer problems and dissatisfaction) and against marketing's general tendency to promise too much (the "growing gap between product performance and marketing claims" is cited as the second most important reason for consumerism's growth). Executives also offer surprisingly strong support for a number of propositions that would make advertising more factual and informative.

Our exploration of executives' views of advertising and consumerism started by repeating some questions that HBR had put to a similar sample three years ago.[2] Respondents agree (by a 2–1 margin) that "people today pay more attention to advertising than ever before" and also that "advertising is more effective in influencing the consumer than was the case ten years ago." These attitudes are just about the same as those expressed three years ago.

A majority of respondents are skeptical of advertising's truthfulness, regardless of the specific wording of the question, as Exhibit V shows. One respondent commented that "in advertising, we must be supercritical of not only what we say, but how it is said."

Thus the "truth quotient" of advertising is called into question by over half of the executives responding, but this proportion does represent some improvement since 1971. At that time 60% (compared with the present 49%) agreed that "advertisements do not present a true picture." This change may reflect both the increased regulatory efforts of the FTC on misleading advertising and the industry's own enlarged self-regulatory activities.

Turning to advertising informational content, it is not surprising that almost all executives (96%) agree that "advertisers should be forced to substantiate their claims," since advertisers are already required to do so. On a separate issue, however, almost as many (87%) agree that "advertising should include adequate information for 'logical' buying decisions, whether or not consumers choose to use it." (This is a concept advocated by consumerists, in a fashion similar to the mandatory unit pricing information in supermarkets.) The notion that "advertising should be limited to factual information only, rather than factual and emotional information," is less well supported, albeit still by a surprising majority (51%).

A relatively recent controversy centers on whether advertising should include information on the limitations of products along with the more traditional trumpeting of product advantages. There is executive support for the general notion that "marketers should make a sincere effort to point out the failings and limitations of their products as well as their strengths" (62% agree). However, responding executives agree that "advertising should not be expected to provide information counter to the advertiser's own interest," although the 49%–41% plurality (10% uncertain) represents relatively lukewarm support for what has long been a basic tenet of advertising.

In summary, then, there is surprising sympathy for some of the more restrictive ideas about advertising that have been put forward by consumerists. Little wonder, then, that by a strong majority vote (67%–19%) executives agree that "consumerism will lead to major modifications in advertising content." Although this is a drop from the 77% who agreed with this prediction three years ago, it is strong support for continued movement in this direction.

BLAME AND RESPONSIBILITY

In attempting to assess broad responsibility for causing and for resolving consumer problems, we inevitably find ourselves in the traditional triangle of government, business, and consumers themselves. We asked our respondents to divide 100 points among these three groups in terms of their relative responsibilities. The verdict:

Business is assigned the dominant share of responsibility for both causing (48%) and remedying (52%) consumer problems.

Government is considered somewhat more a cause (27%) than an agent of amelioration (23%).

Consumers are ranked the same (25%) in terms of both causing and remedying their own problems.

EXHIBIT V

OPINIONS ON ADVERTISING'S TRUTHFULNESS

Wording of statement	Percentage of respondents who— Agree	Can't say	Disagree
In general, advertisements present a true picture of the product advertised	29	8	63
In general, advertisements do not present a true picture of the product advertised	49	8	43

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[1] See Raymond A. Bauer and Stephen A. Greyser, "The Dialogue That Never Happens" (Thinking Ahead), HBR November-December 1967, p. 2.

[2] See Stephen A. Greyser and Bonnie B. Reece, "Businessmen Look Hard at Advertising" [Problems in Review], HBR May-June 1971, p. 18.

To try to pinpoint which areas of business our respondents thought were primarily responsible for consumer problems, we asked responding executives again to allocate 100 points—this time among manufacturers of products, retailers, and service industries. In this set of assessments, product manufacturers receive a 45% rating, service industries 28%, and retailers 27%, as the principal contributors to consumer problems.

Turning to matters of remedy, we asked respondents to assess the responsibility of business, government, and consumers in four consumer protection areas. These four were chosen because they encompass a variety of consumer protection needs as perceived by consumerists. The results, shown in Exhibit VI, sharply delineate executives' views of who is responsible for protecting consumers in these areas.

For example, government is seen as having the principal role in protecting consumers from clear-cut abuses in the marketplace, while business is assigned an important, albeit subsidiary, role. In marked contrast, business is the overwhelming choice as the one that should provide adequate information to assist consumers in making purchase decisions.

Consumers are seen as carrying the primary burden in setting their own appropriate buying priorities. Only with regard to protecting consumers from their own buying mistakes are executives in some disagreement as to where primary responsibility should lie; a plurality maintain that this is still an area of consumer self-reliance.

Whatever protection may be needed, however, a majority of businessmen (53%) think "consumers should have a lot more protection than they are getting" although a strong minority (35%) disagree. But conversely, by about the same percentages, the respondents think "government agencies have overreacted to consumerist pressures." Indeed, as we have already noted, our respondents do not consider inadequate enforcement of consumer protection legislation or even its nonexistence in certain areas as important causes of consumerism's growth.

EXHIBIT VI

BUSINESS, GOVERNMENT, AND CONSUMER RESPONSIBILITIES FOR CONSUMER PROTECTION

Consumer protection area	Group assigned primary responsibility for each consumer protection area (percent)		
	Business	Government	Consumers
Providing adequate information to assist consumers in making purchase decisions	90	6	6
Protecting consumers from abuses (e.g., fraud and deceit)	32	58	13
Protecting consumers from their own buying mistakes (e.g., a cooling-off period on door-to-door sales)	27	33	43
Protecting consumers from their own views of appropriate buying priorities	11	7	83

Note: Data sum to more than 100 percent across because of tie 1st-place votes.

One senior assistant corporate counsel in a consumer and industrial products company stated: "Consumerism means seller beware of dangers and defects in your products and services, or you will be pursued by government and users. Business has caused this situation to a degree and must help solve the problems, but the scales of justice in our society must be balanced by fairness to seller as well as user."

Amplifying this opinion is the not unexpected confidence executives express in the effectiveness of business self-regulation. Moreover, there is only modest support (39% agree) for the statement that "additional government standards and regulations for products would really result in better products for the consumer."

In summary, executives still favor traditional reliance on business self-regulation to remedy consumer travails, but with a moderate role for government and with definite responsibilities for consumers.

CONSTRUCTIVE CONSUMER PROGRAMS

A wide variety of consumer-oriented programs have been undertaken by companies in different industries. Some of these focus on improved service (Whirlpool's Cool-Line), some on increased communication between customers and executives (Stop and Shop's consumer boards), and some on better problem solving for consumers (the consumer affairs/action offices of several companies).

Executives were asked to review a list of 16 programs instituted by some companies in the wake of consumerism and to select the 3 they personally consider the most constructive. Since the pertinence of such programs may vary widely from industry to industry, respondents were asked to use their own industry as the frame of reference for their answers.

As shown in Exhibit VII, upgrading product quality and performance standards is by far the dominant choice, particularly among those in the several categories of manufacturing industries. Further, in a separate question (not presented in the exhibit) 30% of the respondents view such upgrading as the single most constructive program area.

There are few surprises in the individual industry responses. Warranting note, however, is the feeling on the part of those in advertising-media-publishing that "making advertisements more informative" is most important; in one sense, of course, this represents upgrading the product of this industry. Other significant industry differences are spotlighted in the exhibit.

What companies are considered to be doing a particularly effective job in responding to consumer pressures? Executives were asked to name up to three companies other than their own in response to this question. Interestingly, three companies are specifically named by more than 10% of the respondents—American Motors, Sears, and Ford. An additional dozen companies, rounding out the fifteen most frequently mentioned, are shown in Exhibit VIII.

When the responses are aggregated on an industry basis, automobile manufacturers, widely criticized by some in the past for their nonresponsiveness, are mentioned by far and away the most executives (56%), followed by department stores (17%), and home appliance manufacturers (14%).

PACE OF PROGRESS

How far have we come? How far have we to go?

To get a sense of how executives feel about rate of progress on consumer issues, we asked them to compare their impressions of today's conditions with those of ten years ago and with those they expect to exist ten years from now. We also requested a comparison of today's conditions with the way things should be ideally. These evaluations were sought on five key consumer-related dimension (see *Exhibit IX*).

On all five, most of our respondents take an optimistic view of progress over the past decade. Nonetheless, even more of them think there will be further progress in the decade ahead. As the exhibit shows, sensitivity to consumer complaints is considered the area of most progress in the past ten years. The quality of repair and maintenance services is rated as having the least relative progress in the past decade and is thought to be farthest removed from the ideal.

DIFFERENT MANAGERS, DIFFERENT VIEWS

In the preceding sections, we have concentrated on the reactions of our respondents as a whole. Naturally, however, not all executives see these issues in the same way. While not all of the detailed analyses of the differences between various groups of managers can be included here, some of the differences in their views do merit comment:

EXHIBIT VII.—MOST CONSTRUCTIVE CONSUMER PROGRAMS

[In percent]

Consumer program	All respondents	Respondents' industry							
		Consumer durable products manufacturers	Consumer nondurable products manufacturers	Industrial products manufacturers	Advertising-media-publishing	Banking-investment-insurance	Government	Personal consumer services	Retail or wholesale trade
Upgrading product quality and performance standards	51	55	54	60	32	36	45	61	42
Establishing industry product standards	26	29	29	33	11	13	28	22	23
Increasing research commitments to better identify consumer wants and needs	24	13	30	11	13	17	22	14	35
Modifying products for greater safety, ease of use, and repair	23	36	21	35	14	7	31	9	20
Making postsale followup calls on consumers	22	13	10	29	19	24	8	22	16
Supporting industry self-regulation efforts (e.g., better business bureau)	20	14	21	12	30	29	17	31	20
Making advertisements more informative	19	10	16	9	48	38	11	23	24
Developing owners' manuals on product use, care, and safety	16	27	8	29	9	2	15	4	17
Creating new organizational positions to deal with consumer affairs	15	12	16	8	8	21	22	16	15
Providing more informative product labeling	14	16	36	10	16	8	8	5	25

Note: These figures are derived from aggregate responses to the question: Considering your own industry, please check the 3 programs you consider most constructive in responding to consumerist pressures. Ratings are included for only the 10 most frequently mentioned programs among the 16 listed in the questionnaire.

Those who say consumerism has had a major effect on their companies are more certain than other executives that consumerism is basically a positive force for business. They are also more positive in their perception of business's responsiveness to consumerism thus far.

Top managers view consumerism as a substantive issue rather than simply as a political one and are more likely than operating managers to espouse substantive company responses to it. At the same time, top-level managers are more optimistic about the efficacy of business self-regulation.

Executives in those industries where consumerism has had the most direct impact—consumer durables and nondurables, advertising, and retailing— feel that the marketplace *already* has shifted to a seller beware atmosphere. These same executives also see greater progress in product improvement and in other consumer-oriented programs than do executives in other industries.

EXHIBIT VIII—*Companies doing an effective job responding to consumer pressures*

Percent of respondents mentioning company

Company:	
American Motors	21.5
Sears, Roebuck	13.0
Ford	12.9
General Motors	7.6
AT&T	6.4
General Electric	5.2
Whirlpool	4.1
IBM	2.4
Procter & Gamble	2.4
J. C. Penney	2.2
Zenith	1.9
Volkswagen	1.8
Xerox	1.7
Exxon	1.7
Maytag	1.7

OVERALL APPRAISAL

What then is business's overall appraisal of consumerism? In trying to develop an answer to this broad question, we must note that consumerism is but one of several societal pressures on business, others being antipollution actions, more minority group hiring and promotion, and so on. Executives, however, by a rather wide margin (over 2–1), think "business generally is more responsive to consumerism than to other societal pressures."

EXHIBIT IX

THE PACE OF PROGRESS ON CONSUMER ISSUES

	Percent of those responding who consider—		
Issue	Better today than 10 years ago	Will be better 10 years from now than today	Could be better Ideally than today
Quality of most products	59	60	76
Quality of manufacturers' repair and maintenance services	36	57	79
Truthfulness in advertising	47	58	73
Manufacturers' sensitivity to consumer complaints	72	64	72
The consumer's lot	59	61	72

A likely reason for this attitude—and perhaps a response to the broader matter of an overall appraisal—is businessmen's strong belief that "companies can capitalize on consumerism as a competitive marketing tool." Some 89% agree with this claim. Further, almost 7 out of 10 respondents consider consumerism an opportunity for marketers, while only 1 out of 10 see it as a threat. "Consumerism is a positive force in the marketplace" (71%), not a negative one (13%).

So businessmen see consumerism basically as an ally, a tool through which profits can be generated. Indeed, 86% agree that "company investment in consumer service and satisfaction will usually pay for itself." However, not all of consumerism's effects are translated into added service and satisfaction for the consumer. For example, executives agree (5-1) that "consumerists' demands lead to higher costs and prices."

On the whole, however, what executives are telling us is that consumerism is good for the consumer and good for business. Of our responding executives, 70% agree (17% disagree) that "consumerism's pressures overall have had a positive effect on business." On the corollary statement that "consumerism's pressures overall have had a positive result for the consumer," some 74% agree and only 14% disagree—an interesting twin-faceted overall endorsement of consumerism!

"I'm optimistic," the president of an industrial products company said, "because I think that good business practices and consumerism are indivisible—what's good for consumers has to be good for business in the long run, and awareness of this by business and consumer is beneficial."

To what degree does this optimism reflect executives' enthusiasm over business's ability to embrace consumerism and turn it to the mutual advantage of consumers and business? To what degree does it reflect reluctant acceptance that consumerism is here to stay and thus will inexorably work its way to both groups' advantage? We have no definite answer in these questions. But we do know from this study that consumerism is no longer considered anathema by management. It is seen as a positive force—one that has brought about a genuine change in business practices, one that can both benefit business and improve the consumer's lot.

SST FLIGHT INTO SAN FRANCISCO AND LOS ANGELES INTERNATIONAL AIRPORTS

Mr. TUNNEY. Mr. President, I have been concerned about supersonic transport flights into the United States for a long time. Now, the Concorde is coming to California.

I have written to FAA Administrator Butterfield expressing my reservations about these demonstration flights.

I ask unanimous consent that the text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., Oct. 11, 1974.

MR. ALEXANDER P. BUTTERFIELD,
Administrator, Federal Aviation Administration, Washington, D.C.

DEAR MR. BUTTERFIELD; As you know, the British Aircraft Corporation will be conducting promotional demonstration flights of its Concorde supersonic transport at Los Angeles and San Francisco International Airports during the next few weeks.

I flatly and consistently have opposed legislation to subsidize an American SST, but I am concerned that foreign airlines may insist on putting their own SSTs on intercontinental routes to the United States, and I believe strong and immediate action must be taken to prevent adverse noise and environmental effects of flights to our cities. The landings in Los Angeles and San Francisco should be utilized as a crucial test for gathering specific information on the impact of the Concorde. Two major requirements must be implemented to protect American cities from the hazards of supersonic jets:

First, it is imperative as mandated by the Noise Control Act of 1972 and as promised by your Agency since 1970, that noise regulations be promulgated for SST landings, take-offs and subsonic travel "in order to protect the public health and welfare." Specific clarification of the relationship of the Concorde to the SST rule is essential. The United States Senate has already voted overwhelmingly (62 to 17) to make the FAR Part 36 standards for subsonic aircraft applicable to the SST. Existing FAA rules, barring fly-overs of supersonic aircraft at supersonic speeds, are inadequate because they lack any requirements regarding landings, take-offs or flights by supersonic aircraft at subsonic speeds.

Second, an adequate environmental impact statement must be completed in accordance with Council on Environmental Quality Guidelines Section 1500.2(b) which states that "initial assessments of the environmental impacts of proposed action should be undertaken concurrently with initial technical and economic studies." As the CEQ has pointed out, "if the 102 process is not closely integrated at this early point, it risks becoming an overlay upon agency decision-making. And it tends to serve as a post facto justification of decisions based on traditional and narrow grounds." (CEQ, Third Annual Report at 206, cited in *Scientists' Institute for Public Information v. A.E.C.* 481 F.2d 1079, D.C. Cir., 1973).

Thus, in order to be meaningful, an adequate impact statement must be completed concurrently with any additional test flights of the Concorde or other SST aircraft. Among other issues, such a statement must address adequately the fears that SST flights adversely affect the ozone layer in our upper atmosphere and cause considerably more sideline noise. Prompt clearance by relevant agencies and personnel and immediate issuance of the statement are essential.

The SST seems an incredibly wasteful and imprudent plane. I fully support the recent Los Angeles City Council resolution offered by Councilwoman Pat Russell, to the effect that one test flight shall not be construed as a precedent in favor of an endorsement of the SST.

I request a status report, detailing your progress toward compliance with these tasks, by November 1, 1974.

Sincerely,

JOHN V. TUNNEY,
U.S. Senator.

GENOCIDE TREATY HAS RECEIVED OVERWHELMING SUPPORT

Mr. PROXMIRE. Mr. President, it seems almost ironic, that the Genocide Convention, a document the United States lobbied so hard for and had a major role in the writing of, has yet to be ratified by the Senate body. It is equally ironic that some of the most respected organizations and public officials have for 25 years urged ratification, and yet the Senate of the United States, the very body selected to represent the people of the United States, has thus far refused to give its consent to the people's wishes and to the logical morality of the human rights safeguarded by the Genocide Treaty.

Every U.S. administration since 1949 has expressed support for ratification of this treaty. On June 16, 1949, President Truman transmitted the following message to the Senate in urging speedy action.

By the leading part the United States has taken in the United Nations in producing an effective international legal instrument outlawing the world-shocking crime of genocide, we have established before the world our firm and clear policy toward that crime. By giving its advice and consent to my ratification of this convention, which I urge, the Senate of the United States will demonstrate that the United States is prepared to take effective action on its part to contribute to the establishment of principles of law and justice.

Political as well as social interest groups have overwhelmingly supported the legislation. Prior to the adoption of the genocide convention, 166 organizations, representing a quarter of a billion people all over the world, appealed to the United Nations to outlaw mass murder.

Likewise, in the United States, scores of American organizations have appealed to the Senate to ratify the Convention. Among these diverse organizations, are the AFL–CIO, UAW, National Council of Churches, National Catholic Conference for Interracial Justice, Synagogue Council of America, American Civil Liberties Union, National Association for the Advancement of Colored People, Leadership Conference on Civil Rights, General Federation of Women's Clubs, and the American Association of University Women.

In the interest of the millions of Americans represented by this cross-section of organizations, as well as the hundreds of millions more around the world who support this treaty, and in the interest of overall human rights, I appeal to my colleagues for ratification without delay of the Genocide Convention Accords of 1949.

THE PRESIDENT'S VETO OF THE FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. MUSKIE. Mr. President, this week, Congress will vote on one of the most important questions pending during this post-election session—the President's veto of the amendments to the Freedom of Information Act, H.R. 12471.

On the surface of the issue, there are a number of points on which the President and the Congress are at odds. The President's veto message would have us believe that all these points were of equal concern to the executive branch.

But beneath all the rhetoric, there is only one issue at stake—and that issue goes to the very heart of what this legislation is all about.

The provision of H.R. 12471 in question is section 2(a), providing for a process of judicial review in cases where classification of Government documents is challenged in the courts. In such cases, the legislation provides for in camera review of the documents in question by a Federal judge to determine whether or not the documents were, in fact, properly classified.

The President has called this provision unconstitutional.

As a lawyer who thinks he knows something about the Constitution, I found this charge puzzling, particularly since the President has not taken issue with the concept of judicial review, but only with the standard to be used.

To clarify the question in my own mind, I sought the advice of one of the Nation's most respected constitutional experts. Prof. Philip Kurland, of the University of Chicago School of Law. I would like to share his response with my colleagues now, for it should be helpful to us all in weighing our vote on this issue.

The President's charge that H.R. 12471 is unconstitutional is serious indeed.

But Professor Kurland's lucid analysis has convinced me that it is a charge without foundation.

I ask unanimous consent that Professor Kurland's letter be printed in the Record, and I urge my colleagues' serious consideration of its arguments.

There being no objection, the letter was ordered to be printed in the Record, as follows:

University of Chicago,
Chicago, Ill., Nov. 15, 1974.

Senator Edmund P. Muskie,
U.S. Senate, Committee on Government Operations, Washington, D.C.

Dear Senator: I have been asked, by Mr. Davidson, the Counsel to your subcommittee, to give you an opinion on the constitutionality of H.R. 12471, in light of the President's veto that rested, in part, on a proposition of unconstitutionality. Before I do so, I would note that the certainty of the Veto Message of 17 October 1974 has been somewhat diluted by later statements. In the Veto Message, the President said: "Such a provision [referring to the provision for judicial review of the propriety of classification of documents] would violate constitutional principles." In this concluding paragraph, he reiterated "that the bill as enrolled is unconstitutional." But only last night, I heard him say to the newspaper fraternity that was urging an override of his veto, that the provisions "may be" unconstitutional.

Although President Ford states that the provision to which he takes exception is unconstitutional, not surprisingly, he refers neither to a provision of the Constitution nor to any judicial decision on which such a conclusion could rest. It is not surprising, because there is neither constitutional provision nor Supreme Court decision to support his position.

My considered opinion is that the issues between the Congress and the President in this regard are really issues of policy and not at all issues of constitutionality. To me, it is clear that the bill does not offend the Constitution in any way.

The provision in question was described in the Conference Report to accompany H.R. 12471 in this way:

NATIONAL DEFENSE AND FOREIGN POLICY EXEMPTION (B) (1)

The House bill amended subsection (b)(1) of the Freedom of Information law to permit the withholding of information "authorized under the criteria established by an Executive order to be kept secret in the interest of the national defense or foreign policy."

The Senate amendment contained similar language but added "statute" to the exemption provision.

The conference substitute combines language of both House and Senate bills to permit the withholding of information where it is "specially authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy" and is "in fact, properly classified" pursuant to both procedural and substantive criteria contained in such Executive order.

When linked with the authority conferred upon the Federal courts in this conference substitute for *in camera* examination of contested records as part of their *de novo* determination in Freedom of Information cases, this clarifies Congressional intent to override the Supreme Court's holding in the case of *E.P.A.* v. *Mink, et al.*, supra, with respect to *in camera* review of classified documents.

However, the conferees recognize that the Executive departments responsible for national defense and foreign policy matters have unique insights into what adverse affects might occur as a result of public disclosure of a particular classified record. Accordingly, the conferees expect that Federal courts, in making *de novo* determinations in section 552(b)(1) cases under the Freedom of Information law, will accord substantial weight to an agency's affidavit concerning the details of the classified status of the disputed record.

Restricted Data (42 U.S.C. 2162), communication information (18 U.S.C. 798), and intelligence sources and methods (50 U.S.C. 403 (d)(3) and (g)), for example, may be classified and exempted under section 552 (b)(3) of the Freedom of Information Act. When such information is subjected to court review, the court should recognize that if such information is classified pursuant to one of the above statutes, it shall be exempted under this law.

Presidential objection is to the standard to be used by the courts in determining the propriety of a claimed exemption from the duty to produce the information required. The bill requires that the Court determine that the material sought is "in fact, properly classified." The President would propose a standard be whether "there is a reasonable basis to support the classification pursuant to the Executive order." Unless the President is really asserting that the classification by the executive department is to be treated as conclusive, I am at a loss to understand what his constitutional argument could be.

The difference between the President and the Congress does not go to the question whether there is a constitutional privilege to be afforded to classified documents. I have doubts that any such constitutional privilege exists. But that is irrelevant to the differences between the Presidential and Congressional positions. For the question is not whether such materials as come in question are privileged; the statute in question recognizes such a privilege. The issue is how to determine whether the materials in issue are entitled to the privilege. Such privilege, under either the Presidential or the Congressional view, would extend only to materials that are, indeed, in the category of "military" or "state" secrets. If the materials do not fall into the privileged category, they are not entitled to protection from disclosure.

Nor does the President contend that the courts cannot undertake the determination by *in camera* inspection of the questioned material, where necessary. Both the bill and the President's suggested alternative would leave that power with the courts. The President would provide: "The court may examine such records *in camera* only if it is necessary, after consideration by the court of all other attendant material, in order to determine whether such classification is proper." Congress has expressed similar recognition of the weight to be given to administrative action. As the quotation from the Conference Report set out above makes clear: ". . . the conferees recognize that the Executive departments responsible for national defense and foreign policy matters have unique insights into what adverse affects [sic] might occur as a result of public disclosure of a particular classified record. Accordingly, the conferees expect that Federal courts, in making *de novo* determinations in section 552(h)(1) cases under the Freedom of Information law, will accord substantial weight to an agency's affidavit concerning the details of the classified status of the disputed record."

Under both the President's alternative and the bill as written, the courts are authorized to undertake *in camera* inspection, if necessary to determine whether the materials are properly classified. And it should be clearly noted that the issue as posed by the bill is whether the classification is proper pursuant to standards established by the executive branch itself for such classification.

It seems clear to me that the provisions of the bill are fully in accord with the only Supreme Court decision that directed itself to the issue that purports to be made between the President and the Congress. I refer to the Supreme Court decision in *United States* v. *Reynolds*, 345 U.S. 1 (1953). There the question was whether a federal court could order the production of materials classified by the executive branch as military secrets. The Court set forth the proper procedure for making that determination in these words:

Judicial experience with the privilege which protects military and state secrets has been limited in this country. English experience has been more extensive, but still relatively slight compared with other evidentiary privileges. Nevertheless, the principles which control the application of the privilege emerge quite clearly from the available precedents. The privilege belongs to the Government and must be asserted by it; it can neither be claimed nor waived by a private party. It is not to be lightly invoked. There must be a formal claim of privilege, lodged by the head of the department which has control over the matter, after actual personal consideration by that officer. The court itself must determine whether the circumstances are appropriate for the claim of privilege, and yet do so without forcing a disclosure of the very thing the privilege is designed to protect. The latter requirement is the only one which presents real difficulty. As to it, we find it helpful to draw upon judicial experience in dealing with an analogous privilege, the privilege against self-incrimination.

The privilege against self-incrimination presented the courts with a similar sort of problem. Too much judicial inquiry into the claim of privilege was meant to protect, while a complete abandonment of judicial control would lead to intolerable abuses. Indeed, in the earlier stages of judicial experience with the problem, both extremes were advocated, some saying that the bare assertion by the witness must be taken as conclusive, and others saying that the witness should be required to reveal the matter behind his claim of privilege to the judge for verification. Neither extreme prevailed, and a sound formula of compromise was developed. This formula received authoritative expression in this country as early as the *Burr* trial. There are differences in phraseology, but in substance it is agreed that the court must be satisfied from all the evidence and circumstances, and "from the implications of the question, in the setting in which it is asked, that a responsive answer to the question or an explanation of why it cannot be answered might be dangerous because injurious disclosure could result." *Hoffman* v. *United States*, 341 U.S. 479, 486–487. If the court is so satisfied, the claim of the privilege will be accepted without requiring further disclosure.

Regardless of how it is articulated, some like formula of compromise must be applied here. Judicial control over the evidence in a case cannot be abdicated to the caprice of executive officers. Yet we will not go so far as to say that the court may automatically require a complete disclosure to the judge before the claim of privilege will be accepted in any case.

It may be possible to satisfy the court, from all the circumstances of the case, that there is a reasonable danger that compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged. When this is the case, the occasion for the privilege is appropriate, and the court should not jeopardize the security which the privilege is meant to protect by insisting upon an examination of the evidence, even by the judge alone, in chambers.

There is nothing in *E.P.A.* v. *Mink*, 410 U.S. 73 (1973), inconsistent with the provisions of amendatory law that the President has vetoed. The vetoed bill is in fact a response to the deficiencies of the Freedom of Information Act as applied in the *Mink* case. The sole question resolved there was the meaning of the statute as it was then framed, and as Mr. Justice Stewart said in his concurring opinion:

"This case presents no constitutional claims, and no issues regarding the nature or scope of "Executive privilege." It involves no effort to invoke judicial power to require any documents to be reclassified under the mandate of the new Executive Order 11652. The case before us involves only the meaning of two exemptive provisions of the so-called Freedom of Information Act, 5 U.S.C. § 552.

"My Brother Douglas says that the Court makes a 'shambles' of the announced purpose of that Act. But it is Congress, not the Court, that in § 552(b) (1) has ordained unquestioning deference to the Executive's use of the 'secret' stamp. As the opinion of the Court demonstrates, the language of the exemption, confirmed by its legislative history, plainly witholds from disclosure matters 'specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." In short, once a federal court has determined that the Executive has imposed that requirement, it may go no further under the Act.

"One would suppose that a nuclear test that engendered fierce controversy within the Executive Branch of our Government would be precisely the kind of event that should be opened to the fullest possible disclosure consistent with legitimate interests of national defense. Without such disclosure, factual information available to the concerned Executive agencies cannot be considered by the people or evaluated by the Congress. And with the people and their representatives reduced to a state of ignorance, the democratic process is paralyzed.

"But the Court's opinion demonstrates that Congress has conspicuously failed to attack the problem that my Brother Douglas discusses. Instead, it has built into the Freedom of Information Act an exemption that provides no means to question an Executive decision to stamp a document "secret," however synical, myopic, or even corrupt that decision might have been."

Indeed, the Court, in its opinion, makes it clear that the question was within Congressional control and all but invited the legislation that is in issue between the President and the Congress here: "Congress could certainly have provided that the Executive Branch adopt new procedures or it could have established its own procedures—subject only to whatever limitations the Executive privilege may be held to impose upon such congressional ordering. Cf. *United States* v. *Reynolds*, 345 U.S. 1 (1953). But Exemption 1 does neither. It states with the utmost directness that the Act exempts matters 'specifically required by Executive order to be kept secret.' Congress was well aware of the Order and obviously accepted determinations pursuant to that Order as qualifying for exempt status under § (b) (1)." 410 U.S. at 83. It is obvious from the bill that Congress is no longer willing to accept an executive classification as final and determinative.

I would repeat that the issue between Congress and the President here is not whether there is or should be a privilege for military and state secrets. Both are in agreement that there should be such a privilege. Nor is the issue between the President and the Congress the question whether the federal courts should have the power of *in camera* inspection in order to determine whether the materials that are classified should retain their privilege. Both are in agreement that *in camera* inspection is appropriate. The controversy is solely over the question of the standard to be applied by the courts in making determinations of availability. Congress says that the materials in question must in fact have been properly classified in accordance with the Executive's own standards for classification. The President wants the secrecy maintained if the court finds a "reasonable," if erroneous, basis for the classification. The distinction cannot, in fact, be important except in a very small number of cases, indeed. In any event, I do not see how it is possible to say that the Presidential position is constitutional but the Congressional position unconstitutional.

Having said this, I would remind you that, if what is sought is not a statement about the meaning of the Constitution as applied to this question but a prediction of what the Supreme Court will do if faced with the question, I must say that the Court is a most unpredictable body in areas such as this. In the *Nixon* case, the Court assumed, without reason or proof, the existence of a constitutional basis for the so-called executive privilege, although it compelled the production of the materials there sought for *in camera* examination and judgment by the trial court. The only way to secure the Supreme Court's opinion on this matter is to enact the law and await that singular case in which the Presidential standard would bring about a different result from the Congressional standard. I can guess but I cannot warrant that the Court would there sustain the validity of the law.

With all good wishes.

Respectfully yours,

PHILIP B. KURLAND.

REPORT BY THE COMMISSION ON UNITED STATES-LATIN AMERICAN RELATIONS

Mr. CHILES. Mr. President, since the spring a distinguished group of Americans with substantial interest in Latin America has been meeting regularly to consider improvements that might be made in U.S. policy toward Latin America and relations within the hemisphere. During October this Commission on United States-Latin American relations, chaired by Sol Linowitz, fomer Ambassador to the OAS, issued a 54-page report with some 33 recommendations.

In the brief time I have had to peruse the Commission's report, I am impressed by the breadth of its content and its recommendations. Of course, none of us in this body will agree with all the recommendations in any commission report. I do not agree, for example, with the Commission recommendations on U.S. policy toward Cuba. Nevertheless, I think that all of us would benefit from giving this report and the recommendations some considerable thought. The report can be a good stimulus for debate and discussion within the Congress. It is with this in mind that I shall ask unanimous consent to have printed at the end of these remarks the conclusion of the Commission report.

The Commission's opening shot is simple and clear: "The United States should change its basic approach to Latin America and the Caribbean." The Commission reminds us that tremendous changes are occurring in world and hemispheric relations and that "unchanging policies in the face of rapidly changing conditions is a sure recipe for trouble."

Our policy and relations with Latin America over the last decade have suffered most from neglect by policymakers and inadequate discussion and even knowledge within the Government of options actually being pursued. If our relations with Latin America are to improve, we must as a government give greater attention, both in the administration and in the Congress, to U.S. policies. The Commission has presented their report to President Ford. Hopefully, the Secretary of State will have some time to become aware of the report. I hope responsible Members of both Houses of Congress will give the recommendations and content of this report serious consideration as a means of focusing more attention on what positive role we can play in bringing our policy relations with Latin America up to date.

I ask unanimous consent that the conclusions of the Commission report be printed in the Record.

There being no objection, the conclusions of the report were ordered to be printed in the Record, as follows:

Recommendations by the Commission on United States-Latin American Relations

1. The United States should refrain from unilateral military interventions in Latin America, and covert U.S. interventions in the internal affairs of Latin American countries should be ended. The President and the Congress should ensure that all agencies of the U.S. government fully respect the sovereignty of the countries of Latin America.

2. The United States should urge all states in the region to provide free access and essential guarantees to the Inter-American Commission on Human Rights. It should support efforts to strengthen the staff and enhance the prestige of the Commission, and should help assure that the Commission's reports are fully publicized and discussed in the OAS General Assembly.

3. The United States should press for the investigation of reported violations of human rights by appropriate international commissions, and it should take the findings of those groups into account in deciding on the substance and tone of its bilateral and multilateral relations.

4. As a demonstration of its determination to do what it can to alleviate the distress caused by political repression, the United States should expand its emergency immigration program for political refugees, whether those refugees flee oppression of the left or right.

5. The United States should take the initiative in seeking a more normal relationship with Cuba. While emphasizing that progress toward improved relations requires positive action on both sides, the Commission urges that the United States act now to end the trade embargo.

This recommended U.S. initiative toward Cuba should be implemented in conjunction with the Latin American countries. At the earliest opportunity—presumably the forthcoming Meeting of Foreign Ministers of the Organization of American States—the United States should consult with other OAS members, indicating its willingness to support repeal of the measures against Cuba adopted at the Ninth Meeting of Consultation of Ministers of Foreign Affairs in July 1964. Assuming that the OAS resolutions are repealed, the U.S. government should then revoke Executive regulations restricting trade between the United States and Cuba and ought to act, within the President's discretionary authority, to suspend any legislative provisions which penalize third countries for trading with Cuba.

Regardless of progress or a Cuban response in other areas, the United States, taking into consideration its discussions with other OAS members, should move quickly to: (a) drop its restriction on travel to and from Cuba; (b) make evident its willingness to permit cultural, scientific, and educational exchanges on a non-official basis; and (c) make clear its willingness to improve cooperative arrangements with Cuba on practical matters of mutual concern, such as hijacking and weather watching, and to negotiate on such additional matters as may be indicated. Appropriate opportunities should be taken for dealing with Cuba informally within international organizations. The United States government should encourage and facilitate, not discourage, non-official cultural exchanges and other forms of contact.

If and when Cuba's response permits, the Commission believes the President should be prepared to take other Executive actions and to seek whatever legislative changes may be necessary to facilitate commercial and cultural relations with Cuba. We should also be prepared to consider renewal of bilateral diplomatic relations as well as other steps to facilitate Cuba's integration into a constructive paattern of inter-American relationships.

When both Cuba and the United States have taken conciliatory steps toward constructive relations, it should be possible to resolve outstanding issues, and as securing compensation for expropriated U.S. properties, agreeing on the status of the U.S. base at Guantanamo, and fostering reconciliation among separated elements of the Cuban community.

6. We strongly support the signing and ratification of a new Panama Canal treaty based on the Statement of Principles accepted by both countries on February 6, 1974. Any arrangement should in fairness take into account the interests of U.S. citizens in the Canal Zone.

7. Consistent with the Statement of Principles and in the interests of efficiency and economy, the President should now take appropriate measures to reduce U.S. government personnel and operations which are not clearly essential to the Canal's operation and defense. In this connection the United States Armed Forces Southern Command should be transferred from the Canal Zone to the continental United States.

8. The United States should encourage and, where appropriate, participate in efforts to develop subregional, regional and global conventional arms limitation agreements among supplier and consumer nations.

9. The United States should terminate grant military material assistance programs in Latin America. The recently abolished Agency for International Development (AID) public safety program in Latin America, which provided equipment and training to police forces, should not be revised.

10. The United States should not actively encourage the purchase of arms by Latin American countries. However, legislative restrictions on arms transfers that discriminate against Latin America ought to be repealed. Conventional miiltary equipment should be available to Latin American countries on a competitive, commercial and non-discriminatory basis—the same as that governing sales to other friendly nations, except those engaging in military hostilities or whose security forces are found by appropriate international processes to be systematically violating human rights.

11. U.S. Military Assistance Advisory Groups in Latin America should be phased out and replaced by small interservice liaison offices or joint commission delegations (possibly as part of Military Attache Offices), whose primary responsibilities would involve coordination of professional exchanges and training, rather than sales promotion or advisory functions.

12. The United States should abandon the threat or application of unilateral measures of economic coercion in its relations with the countries of Latin America. Specifically, the Commission urges:

(a) Repeal of the Hickenlooper and Gonzales Amendments and revocation of the January 1972 Presidential policy statement on expropriation.

(b) Repeal of the amendments to the Foreign Assistance Act, Foreign Military Sales Act, and Ship Loan Act which provide for automatic economic sanctions in cases of fisheries disputes.

(c) Rejection by the United States of economic pressures or policies of economic denial to affect the internal processes of Latin American countries. Such measures should be considered only pursuant to appropriate resolutions of the United Nations or the Organization of American States.

13. The United States should propose a modification of the Inter-American Development Bank charter to encourage additional contributions by other nations in a manner which would permit dilution of the U.S. voting share below one-third, or alternatively, to eliminate the requirement for a two-thirds majority in the Fund for Special Operations. But such action must be accomplished in a manner which would not lower the level of U.S. contributions to the Bank.

14. The United States should assure that its actions in the Inter American Development Bank and other multilateral development institutions accord with the broad purposes of those institutions and are not taken primarily to serve narrow U.S. political or economic interests.

15. The United States should encourage the strengthening of the OAS conciliation and peacekeeping capacities.

16. With respect to the future role of the OAS—including its structure, leadership and location—, the United States should be guided primarily by Latin American initiatives and wishes.

17. U.S. immigration legislation should be reviewed systematically with the aim of eliminating restrictions barring travel and migration on purely political grounds. The Commission urges that the President promptly seek Congressional approval for amendments designed to eliminate these restrictions. In the meantime, we urge the President to instruct all relevant U.S. agencies to interpret and apply existing legislation in the light of changed circumstances and priorities.

18. The United States should propose establishment of an Inter-American Endowment for Cultural Exchange, with funding from a percentage of the earnings of the Inter-American Development Bank. The mandate of such an entity should be broadly defined and its functioning should remain free from the pressures of government agencies in any of the participating countries. Its sole purpose should be to utilize the talents and capacities of institutions and individuals toward a better and broader understanding among the nations of the Americas.

19. The U.S. government should provide increased support for Latin American Area Studies at all levels of the educational system.

20. The United States should enact a generalized scheme of tariff preferences for developing countries. However, both the list of products to be admitted and the limitations on dollar volume should be drawn with a view to providing increased benefits to Latin America.

21. The United States should cooperate with Latin American nations in the forthcoming multilateral tariff negotiation to achieve tariff reductions on products which would be of mutual benefit.

22. The waiver provision on countervail-

ing duties should be included in the Trade Reform Act. The Commission further recommends that the United States, in concert with other nations, begin to review and negotiate new and more appropriate international rules to govern the temporary use of export subsidies by developing nations.

23. The U.S. government should determine which segments of the domestic economy will be disrupted by more liberal trade policies, including tariff preferences, and should develop a *selective, but* generous program of adjustment assistance. This assistance should be integrated with national and local economic policy plans as well as with other measures directed toward more efficient domestic allocation of resources.

24. The United States should encourage the establishment of a regional system for the exchange of information on commodity supply and demand projections.

25. The United States government should examine means to limit and offset the effects of wide fluctuations in supply, demand and prices of selected commodities. Alternatives which should be considered include compensatory finance arrangements, long-term supply contracts and commodity agreements. Such arrangements could be initiated on a regional basis, but should be consistent with Western Hemisphere interests in expanding total global production and maintaining orderly and equitable global trading arrangements.

26. The United States should target its bilateral assistance to the poorer countries in Latin America and the Caribbean, and in cooperation with the countries concerned, to projects within countries which will better the lot of the poorest segments of the population. The United States should endorse attempts by multilateral lending agencies to apply similar criteria in their programs.

27. The United States should fulfill its own commitments to the Inter-American Development Bank and to the World Bank, and should encourage the wealthier nations of Latin America to make more of their resources available for development assistance in the region.

28. The United States should collaborate with the Latin American nations in the development of codes of conduct defining rights and responsibilities of foreign investors and governments. Together, the United States and Latin America should work to develop impartial fact-finding mechanisms and utilize impartial dispute settlement procedures to help in the resolution of investment disputes.

29. The Overseas Private Investment Corporation guarantee programs in Latin America should be modified to emphasize primarily medium- and smaller-size firms and projects intended to have a favorable impact upon the poor.

30. The United States should collaborate with the countries of Latin America to assure that facilities used for the international transfer of oil revenue dollars give appropriate weight to the requirements of the developing countries.

31. The United States should assist the development of scientific and technological capabilities within the Latin American countries. To support this process, we recommend establishment of a publicly-funded foundation to cooperate with counterpart Latin American institutions.

32. The Commission recommends that the United States undertake cooperative research in marine science. Consideration should be given to the establishment of international or regional Marine Research Centers in Latin America and the Caribbean in which scientists from member countries could jointly undertake marine research projects and studies, thereby strengthening local research and scientific capabilities.

33. The U.S. government should cooperate with Latin American countries to collate and disseminate information relating to the terms of licensing agreements, royalty payments, etc. Similarly one function of the new public science foundation recommended previously should be to provide a clearing house of information on technological services potentially available from middle and small-sized firms in the United States.

JAMES DAY NOMINATION

Mr. SCHWEIKER. Mr. President, I am disappointed the administration has now resubmitted to the Senate the nomination of James M. Day to be Director of the Mining Enforcement and Safety Administration. Mr. Day's record shows far more concern for politics than it does for mine safety, and as acting Director he has effectively shut out the miners from any real voice in safety enforcement. I opposed this nomination when it was previously submitted, and I am deeply concerned that its resubmission at this time could jeopardize the delicate coal contract ratification process now taking place.

Coal mining is the most dangerous business in America. Since the turn of the century, over 127,000 miners have died on the job, and even with our present mine safety laws, 132 miners died last year. The injury frequency rate in the mines is a whopping 20 times more than that of the auto industry, and I believe the men who risk their lives to mine our coal should have a strong voice in the selection of the Mine Safety Administrator. Mr. Day does not have the confidence of the men in the mines, and I strongly urge the administration to withdraw this nomination.

NOMINATION OF JAMES DAY TO BE MESA ADMINISTRATOR

Mr. WILLIAMS. Mr. President, yesterday President Ford resubmitted to the Senate the nomination of James M. Day to be Administrator of the Mining Enforcement and Safety Administration of the Department of the Interior. The original nomination was submitted on January 30, 1974, and in the ensuing months, the Senate Committee on Labor and Public Welfare received many objections to confirmation by the Senate. The nomination was held in the committee pending an investigation of allegations relating to Mr. Day's fitness for the position. On October 16, 1974, the nomination was returned without action.

It is difficult for me to understand the rationale involved in resubmitting the nomination in view of the overwhelming objections that have been made, and the record of the Mining Enforcement and Safety Administration during 1974. These objections were not unknown to either the President or the Secretary of Interior, as they have appeared in newspapers and echoed at public gatherings, and they are not lacking in substance. It would be appropriate at this time to quote the statistics as of October 31, 1974, as compared with the same period for 1973, bearing in mind that James Day was Acting Administrator for the entire period of January 1 through October 31, 1974. For that period of 1973, there were 115 coal mine fatalities whereas during that period in 1974, there were 121 fatalities; an overall increase of 6. This is despite the fact that 9,849 more notices of violations were issued and the number of inspectors and technicians has increased.

A second factor that casts doubt on the fitness of James M. Day for this position is his lack of experience with the mining industry. Briefly, his career has been that of an attorney, Republican political campaigner, CIA auditor, and Director of the Office of Hearings and Appeals in the Department of Interior. Much of the objection to his confirmation stems from the fact that the appointment appears to be based on party politics, rather than on qualifications. There are many other objections that have been made, but they are too numerous to mention at this time.

I also am gravely distressed at the resubmission of this controversial nomination during this critical period. The sensitivity of the Nation's miners to inadequate safety in the mines has been a major concern in the contract talks, and the UMW's complete lack of confidence in the administration of MESA under Mr. Day is well known.

Accordingly, I urge that the President in the strongest terms to withdraw this nomination immediately and to send the name of a suitable nominee to the Senate where I can assure him there will be prompt consideration.

MEETING THE WEST'S ECONOMIC CRISIS

Mr. JACKSON. Mr. President, I had the privilege of addressing the Pilgrims of Great Britain in London on November 11. This distinguished British organization has, for decades, maintained a deep interest in strengthening Anglo-American relations. I took this opportunity to discuss the most pressing problem we in the Western world face today—the economic crisis created by the quadrupling of world oil prices.

The heart of the problem is this: The oil-importing nations are floundering in their effort to cope with a cohesive and disciplined oil producers cartel. Thus, the critical precondition for any set of solutions is allied unity; economic and financial isolationism are as out of date as political and military isolationism.

In my remarks to the Pilgrims, I proposed the immediate establishment of a Special Council of Economic and Financial Ministers to take decisive action. For we do not need another debating society; the time for endless talk has long since passed. What we need is a comprehensive strategy to bring down the price of oil, to stabilize the international monetary system, to conserve energy, and to develop new alternative sources of energy.

The Western world is now facing its most severe economic crisis since the end of the Second World War. It is time to deal with it the same way we have overcome past crises—with urgency, confidence and intelligence.

Mr. President, I ask unanimous consent that the full text of my remarks to the

Pilgrims of Great Britain be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Senator Henry M. Jackson

Americans invariably do two things when they are in London: they visit Westminster Abbey and—if they do any speechmaking—they quote Churchill. Having been to Westminster Abbey let me recall Churchill's words at a Pilgrims dinner in July 1932. He said:

"Our troubles are by no means ended. The economic crisis, the monetary crisis in which the world is gripped, still holds its full intensity. Baffling problems confront the Statesmen and afflict the peoples of both our countries, but I believe there is one grand, valiant conviction shared on both sides of the Atlantic. It is this: together, there is no problem we cannot solve."

My remarks tonight are directed to this central theme—that together there is no problem we cannot solve—but with this addition: apart, we will find neither solutions to nor sanctuary from our common peril.

When the Pilgrims gathered a year ago to hear Secretary of State Kissinger, the Western Alliance, darkened by the embargo of Middle Eastern oil, was still recoiling from the trauma of the Yom Kippur War. The Atlantic Alliance, having assembled itself on the parade ground of common purpose, proceeded to march off in as many directions as there were marchers.

However great the historical and cultural affinity of our two people, however richly we, on both sides of the Atlantic, share in the tradition of Western civilization, it has become painfully clear that a dangerous fragmentation has impaired our capacity to act in concert, diffusing our common strength and defeating our common cause.

There has been growing concern in the United States that the foreign policies of some European countries evidence lack of faith in cooperative action. On the other hand, the foreign policy of the United States, while certainly no worse, has often been no better than many European foreign policies in that regard. Too often, for example, my government managed greater forbearance in dealing with its adversaries than in working with its allies. On occasion we asked for your support without disclosing the facts as we knew them; or we asked you to share our risks when we were unwilling to share our reasons or our resources. My government has been slow to appreciate and to grapple with the common economic dangers. On both sides of the Atlantic this much is certain: the divisions that were inefficient in the Year of Europe have become, in this year of crisis, inexcusable.

OUR COMMON ECONOMIC PERIL

The economic stability of the Atlantic community is more precarious today than at any time since the Second World War. Our economies are seized by unprecedented rates of inflation coupled with economic stagnation and decline. The gross national product of OECD countries will grow at only 1.3% this year. Meanwhile, the index of international prices has risen at an annual rate of nearly 10% in the past five years; and 14% in 1974 alone. Unemployment and interest rates are up. Standards of living are down and falling. Economic growth has all but ceased.

Today even nations are in danger of default. The Eurocurrency market, on which governments as well as businesses have come to depend, cannot alone provide the necessary financing for deficit-ridden oil-consuming nations. The world's financial system is endangered by the spectacular growth of short-term bank borrowing, with the proceeds tied up in long-term loans—some of which may never be repaid. Bank losses and bank failures have reached alarming levels, prompting major concern on the part of central bankers everywhere. The outlook ahead is even more disturbing. It is estimated that in the next three months as many petrodollars will inundate private money markets as have flowed in during the last nine months.

We have witnessed a rapid and unprecedented transfer of monetary reserves. The International Monetary Fund reports that monetary reserves held by oil-producing nations have jumped from $13 billion to $38 billion in the last year. The oil producers now have monetary reserves equalling the combined reserves of industrial Europe in 1970.

These bleak indicators—and there are many others—confront us in a period of increased financial, as well as economic, interdependence. Inflation and recession, acknowledging no national boundaries, spread a disease which cannot be easily quarantined.

THE PRICE OF OIL AND ECONOMIC POLICY

No matter what remedy a single nation adopts, decisions made far from her borders limit both options and opportunities.

It is the price of oil that has dimmed not only our lights, but also our hopes for a measured and orderly economic recovery. Oil-consuming nations will collectively bear a staggering current account deficit this year in excess of $50 billion. The quadrupling of the price of oil is a problem not only for Europe, Japan and the United States: if our economies have been crippled by the fourfold increase in world oil prices, those of the developing nations have been strangled. The cost of oil imports to these nations has increased by nearly $10 billion in less than a year.

This increase entirely offsets the amount of official development assistance these countries now receive. Consequently, those least able to finance rising oil costs have been forced to curtail desperately needed human and resource development programs.

The direct relationship between the price of oil and the price of fertilizer dramatically illustrates the immediate crisis confronting the third world. The aggregate "fertilizer bill" for developing countries has increased fourfold in only two years; yet even at exorbitant prices, fertilizer is in critically short supply. Mass starvation is no longer a distant threat, but a grim fact for many of these countries.

In the developed nations of the West, the acute shortage of oil and the arbitrary price increases brought on by last year's embargo have given way to a mounting financial crisis. We lack both adequate theories and appropriate mechanisms—to say nothing of the self-interested cooperation of the producing states—in dealing with the complex problems facing the world. For example, surplus revenues accruing to the producing states are expected to reach $60 to $70 billion by the end of this year, $170 billion by the end of 1975. The World Bank estimates that OPEC surpluses will amount to $650 billion by 1980, and an incomprehensible $1.2 trillion by 1985—surely the largest and most precipitous shift in wealth the world has ever seen.

A SPECIAL MINISTERIAL COUNCIL

The nations of the Atlantic community have waited too long to respond to this "gathering storm." Thus far in dealing with the oil-producing states my country has alternately cajoled and blustered without effect. Instead of expecting the producer nations to solve our financial and economic problems—not all of which were created by escalating oil prices—it is time that the consumer nations did something for themselves.

I believe we must join together in an international effort with the urgency, confidence and intelligence that, in an earlier crisis, accompanied and sustained the Marshall Plan for the postwar reconstruction of Europe. The oil-consuming nations of Europe, along with our friends in Japan and elsewhere, must hammer out a cohesive economic and financial strategy capable of promoting their interests, and the world's interest, in realistic oil prices and a stable world economy.

I propose the establishment of a Special Council of Economic and Financial Ministers—initially comprised of the oil-consuming nations—to devise and implement a new strategy for economic survival. This ministerial-level council should be constituted so that it can respond effectively and realistically to the hazards and opportunities ahead. Much of the administrative machinery to support this effort—the OECD, the Energy Working Group and other multilateral and international organizations—already exists. It is the absence not of institutions, but of meaningful initiatives and coordinated leadership, that impedes our progress and clouds our future.

A COMMON AGENDA

I offer the following agenda for the Special Council of Economic and Finance Ministers.

First: The paramount and immediate objective is to develop and coordinate efforts to bring world oil prices down to levels that will give all nations a fighting chance to contain inflation, to preserve the world economy, and to maintain the international financial system.

An essential step is to insulate the price of oil produced by consuming nations from the control of the producers cartel. The present policy of allowing the cartel arbitrarily to establish price levels for *all* oil—not just the oil they produce and export—should not be legitimized by the inaction of the United States and other consuming nations which are also important oil producers.

Second: We must develop the capacity to withstand curtailments in our sources of imported oil. We have made an important start in the Energy Working Group and in the negotiation of arrangements for burden-sharing and cooperative action in meeting emergency supply situations.

When the American Congress reconvenes a week from today, I will seek early approval in the Senate of legislation to implement the major features of this agreement.

Third: Essential to any overall plan to bring down the price of oil is a tough program to limit demand through mandatory energy conservation. All consuming nations need to fashion comprehensive and concerted plans to limit consumption by eliminating waste while maintaining economic viability. The establishment of dollar or volume limits on oil imports is one initiative that deserves serious consideration. France has endorsed such a program; I have urged a similar "peril point" concept for my own country.

Fourth: Bringing down the price of oil will require an immediate, no-nonsense, expansion in the development of the existing and potential energy sources of consuming nations. This means the rapid development of my nation's Outer Continental Shelf, our Alaskan fields, and our Naval Petroleum Reserves. It also requires that you and the Norwegians get on with the development of the North Sea fields—without delay. And it means increased efforts by our allies in Canada and elsewhere to exploit their own rich potential.

For the longer term, we must make a massive and cost-effective investment in research and development that will lead to new technologies both for developing new energy sources and for lowering the environmental and other costs of extracting conventional energy sources. In this task, we need to mobilize our abundant intellectual talents, as well as our combined capital resources.

Fifth: Each of our countries must get on with the job of setting its own economic affairs in order. In this effort, the Special Council can be a regular forum for the exchange of plans for stabilizing our respective economies.

For example, the renewed interest in public investment institutions to stimulate sluggish productivity merits wider consideration. Canada has already chartered a national investment corporation; your own government is likewise considering proposals to infuse new government capital into depressed sectors. We can and must prevent domestic commercial failures from precipitating an international economic collapse.

Whatever our differing interests, we must not resort to the destructive "beggar-thy-neighbor" policies of the 1930's. Attempts to shift disquieting trade deficits from one country to another—whether through import barriers or currency devaluation—can only bring on worldwide depression. We must promote an orderly economic recovery for the benefit of the whole family of nations.

Sixth: Restoring health to our financial institutions is an urgent objective in the months ahead. The orderly evolution of Euromarkets will require concerted action on the part of central bankers in several areas: more reliable information on the market's operations; the development of liquidity standards to bolster confidence in its institutions; and continued cooperation toward establishing some international "lender of last resort."

Seventh: There is a compelling need for new policies to promote stable, safe and diversified investment of oil producer funds. To dispel present uncertainty we must devise uniform guidelines which will apply to investments by the producing states in our respective national economies. These guidelines must provide consuming nations with the assurance of continued control over their own essential financial infrastructures, and, at the same time, recognize the legitimate concerns of producing nations in guarding against the real risks of inflation and currency fluctuations.

Eighth: The Special Council must explore means of assisting those nations facing serious liquidity problems as a result of concentrated oil producer investment in a handful of countries and markets. A major effort—preferably international, but if necessary on a more limited basis—must be made to encourage direct investment in the economies of those nations which are increasely threatened by their inability to attract funds in private markets.

Ninth: We cannot overlook the plight of the developing countries. The international dialogue now underway in Rome on the critical issue of food is a first step; rapid implementation of cooperative projects to prevent famine and restore hope must be the next.

Joint efforts to build fertilizer plants in the Persian Gulf deserve careful consideration. The producing nations could commit natural gas—which is now being flared and wasted—as the feed-stock. Industrialized nations could commit the necessary manpower, technology and equipment.

Tenth: We should initiate a review of the changing role of the multinational corporation, especially the international oil companies, and prepare standards of conduct which will prevent private gain at public expense, promote orderly world commerce, and better identify the appropriate regulatory spheres of the respective countries in which these corporations are based and operate.

The initiatives presented in this agenda are made in the tradition of bipartisan foreign policy which my nation has historically observed and to which I personally subscribe.

Throughout all aspects of our cooperative endeavor, we need to maintain a continuing dialogue with oil-producing nations and less-developed countries on the critical issues of fuel, finance, and food. The goal of this dialogue should be a new set of arrangements which merit mutual support. In efforts to accommodate conflicting views, however, we will not submit to the dictates of any group of nations which threaten the security of individual countries, or undermine the stability of the international financial system and the world economy.

The oil-producing nations cannot achieve their own varied objectives without the cooperation and assistance of the major consuming nations. This gives us both leverage and opportunity to influence the policies and conduct of the oil producers if we choose to do so—and if we act together.

The agenda I have proposed—our common agenda—offers us the opportunity to promote the economic well-being of all peoples. Let us not succumb to the paralysis of pessimism. Let us use our combined assets and ingenuity to shape a future in which all nations may flourish.

In conclusion, let me add these words:

There is, above all, one abiding faith that joins our two peoples. It is the commitment to individual liberty that time and time again has brought us together in the cause of human rights.

Freedom imposes great obligations on those fortunate enough to have it.

If we care only for ourselves, what are we?
If we do not speak for freedom, who will?
And if not now, when?

If new relations between East and West are to mature into long-term peaceful cooperation, there must be progress toward the freer movement of people and ideas across international borders. In Geneva, at the European Security Conference, your government and mine must join together, along with the free nations of Europe, to press for lowering the artificial barriers that now divide East and West. In this enterprise we, together, are privileged to represent what is most noble in our traditions.

Having begun with your Winston Churchill, I shall close with our Harry Truman. I believe that both men would have approved. On November 11, 1949, twenty-five years ago today, President Truman had this to say:

"The task of achieving greater justice and freedom will be long and it will be difficult. In various parts of the world today, human rights and freedom are being deliberately violated and suppressed. These things are not only morally wrong—they threaten to undo the slow and hard-won achievements of civilization. There can be no higher challenge than to build a world of freedom and justice, a world in which all men are brothers. That is the goal toward which we must strive with all our strength."

In 1945 a truck driver named Bevin entrusted the security of Europe to a haberdasher named Truman with the words, "Over to you." Now, nearly thirty years later, the watchword among Pilgrims must be: over to all of us.

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

Mr. CURTIS. Mr. President, on behalf of the distinguished junior Senator from New York (Mr. BUCKLEY) I ask unanimous consent that a number of articles and press releases relating to the Family Educational Rights and Privacy Act of 1974, of which I was a cosponsor, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

Caspar Weinberger, Secretary of Health, Education, and Welfare, announced today that Thomas S. McFee, Deputy Assistant Secretary for Management Planning and Technology, will assume responsibility for the office mandated by the Family Educational Rights and Privacy Act of 1974.

This office will serve as the focal point for investigating, processing, and reviewing violations of the Act. It also will handle inquiries from individuals seeking information related to the protection of the rights and privacy of parents and students.

The office will be ready to function on November 19, 1974, the effective date of the law. Information requests should be addressed to Mr. McFee, c/o Room 5660, HEW North, 330 Independence Avenue, SW., Washington, D.C. 20201.

The Secretary also reiterated the Department's firm support for the Family Educational Rights and Privacy Act he stressed the President's endorsement of this approach to ensure the rights of individual students and parents and noted that it is consistent with the continuing efforts of the Domestic Council Committee on the Right of Privacy on which he serves.

The Secretary said the Department will publish its notice of proposed rule making to protect the rights of privacy of students and their families in connection with Department-assisted surveys and data gathering activities on the date agreed upon with Congress.

He also directed immediate development of regulations on those other sections of the law relating to access to official school records, hearings to challenge their content, and the release of personally identifiable data without student or parental consent. This second set of regulations will be published as a notice of proposed rule making as soon as possible, and in any event, no later than the end of this year. It is hoped that such regulations will provide members of the education community with the guidance necessary for them to establish their own procedures to ensure compliance with the law.

In addition, the Secretary directed the Department to work closely with Senator James L. Buckley (author of this Act), members of the Senate and House education committees, and representatives of public interest groups to develop any needed clarifying amendments. If the legislation is modified, the Department would, of course, revise its regulations.

CUMULATIVE RECORDS: ASSAULT ON PRIVACY

(By Diane Divoky)

It all started innocently enough back in the 1820s, when schools in New England began keeping registers of enrollment and attendance. In the 150-odd years since, the student record has grown to grotesque proportions. Like Frankenstein's monster, it now has the potential to destroy those it was created to protect.

Educators have constructed this monster in the name of efficiency and progress, adding a piece here and there, tinkering with new components, assuming all the while they were creating a manageable servant for school personnel. But what they failed to foresee was the swift development of modern communications technology and the widening employment of that technology by a social system increasingly bent on snooping.

The growth of the record into an all-inclusive dossier came in response to the increasing centralization and bureaucratization of schools. Another contributing factor was the emergence of education's ambitious goal of dealing with the "whole child." Out of that context grew such specific actions as the NEA's 1925 recommendation that health, guidance and psychological records be maintained for each pupil, and the American Council on Education's 1941 development of record forms that gave more attention to behavior descriptions and evaluation and less to hard data such as subjects and grades. By 1964, the U.S. Office of Education was listing eight major classifications of information to be collected and placed in the student record.

More recently, the Ohio Department of

Education took a hard look at state laws requiring the keeping of such records and sounded a note of warning: "When construed with other statutes which give school authorities wide discretionary power . . . it [is] obvious that schools may collect any kind of information they desire concerning pupils." Power of that magnitude, admonished guidelines for Ohio administrators, must be handled with great care and discretion.

The ultimate mushrooming of records may have been reached in the massive New York City school system—largest in the nation. There, the records required or recommended for each child involve, if nothing else, a staggering amount of book work. A typical, rainbow-hued student dossier in New York carries:

A buff-colored, cumulative, four-page record card that notes personal and social behavior, along with scholastic achievement, and is kept on file for 50 years;

A blue or green test-data card on which all standardized test results and grade equivalents are kept, also for 50 years;

A white, four-page, chronological reading record;

A pupil's office card;

An emergency home-contact card;

A salmon-colored health record—one side for teachers, the other for the school nurse and doctor;

A dental-check card;

An audiometer screening-test report;

An articulation card, including teachers' recommendations for tracking in junior high school;

A teachers' anecdotal file on student behavior;

An office guidance record, comprised of counselors' evaluations of aptitude, behavior and personality characteristics;

A Bureau of Child Guidance file that is regarded, though not always treated, as confidential, and includes reports to and from psychologists, psychiatrists, social workers, various public and private agencies, the courts and the police;

And all disciplinary referral cards.

In New York and elsewhere, as the records began to contain more detailed and varied information, they took on lives of their own; they became, somehow, more trustworthy and permanent than the quixotic people they represented. Read the cumulative folder of a student—131 IQ, strong language skills, musical talent, loss of vision in one eye, permissive home—and then meet the child. If he doesn't come on bright, articulate, humming a little and self-assured in spite of a squint, something, one feels, must be wrong. And it's not likely the record will be blamed.

As the process of information collection in the schools snowballed—a few more forms for the guidance department, a few more facts for state agencies, another set of teacher comments for a new tracking plan—almost no one stopped to weigh the implications of recording; so much hard and soft data about children and their families. There was little thought given to development of clean policies and practices by which student and parental rights of privacy might be balanced against the needs of the school and other social agencies to know, or to guarantee, that material contained in records was accurate and pertinent.

Thus, by 1970, almost any government agent could walk into a school, flash a badge and send a clerk scurrying to produce a file containing the psychiatric and medical records of a former student. It was unlikely that the student would even know about the intrusion into his private life. A mother could be coolly informed that she had *no right* to see the records that resulted in her being transferred to a class for the mentally retarded. A father attending a routine parent-teacher conference about his outgoing son could discover in the boy's anecdotal record comments that he was "strangely introspective" in the third grade, "unnaturally interested in girls" in the fifth, and had developed "peculiar political ideas" by the time he was 12—judgments that the father could neither retroactively challenge nor explain.

Case histories such as these helped motivate sociologists David A. Goslin and Nancy Bordier of the Russell Sage Foundation to undertake a survey of the record-keeping practices of 54 representative school districts. They found that the systems maintained as part of their permanent files widely varied information on students. Almost all kept informal teacher-made ancedotal records, special health data, notes on interviews with parents and students, correspondence from home, records of referrals, delinquency reports and other "high security" data. Nearly three fourths of them also kept personality ratings, samples of student work, diaries and autobiographies. One third recorded the race and religion of students, almost a half recorded students by nationality, and half kept photographs on the record forms. The research team also discovered from the school psychologist to a front-office clerk might be responsible for feeding information into the permanent file. (One interesting sidelight: The records were consistently little used by teachers and school staff, a finding that flew in the face of the official rationale that the dossiers were needed to guide teachers in their relations with individual students.)

Goslin and Bordier also found that CIA and FBI agents had access to the entire student files in more than half the school systems, as did juvenile courts and health-department officials. Local police had access to complete files in almost one third of the systems. But parents—those citizens with primary legal and moral responsibility for the child—had access to the entire files in fewer than 10 percent of the systems. Some superintendents reported that parents were denied access to their children's records even when they possessed the legal right to inspect them. "What is particularly significant," the researchers noted, "is the impression that school officials have strong reservations about giving parents very much information (other than routine grade reports and sometimes achievement-test scores) about the content of evaluations that are continually being made of their children."

As a follow-up to the Goslin-Bordier study, the Russell Sage Foundation convened in 1969 a group of prominent educators, lawyers and social scientists to consider the ethical and legal aspects of school record keeping and to develop guidelines for the collection, maintenance and dissemination of these records. The conference report began: "There are clear indications . . . that current practices of schools and school personnel relating to the collection, maintenance, use and dissemination of information about pupils threaten a desirable balance between the individual's right to privacy and the school's stated need to know." It pointed to these abuses:

"Information about both pupils and their parents is often collected by schools without the informed consent of either children or their parents. Where consent is obtained for the collection of information for one purpose, the same information is often used subsequently for other purposes.

"Pupils and parents typically have little or, at best, incomplete knowledge of what information about them is contained in school records and what use is made of this information by the school.

"Parental and pupil access to school records typically is limited by schools to the pupil's attendance and achievement record (including standardized achievement-test scores).

"The secrecy with which school records usually are maintained makes difficult any systematic assessments of the accuracy of information contained therein. Formal procedures permitting parental or pupil challenges of allegedly erroneous information do not exist. An unverified allegation of misconduct may therefore . . . become part of a pupil's permanent record.

"Procedures governing the periodic destruction of outdated or no longer useful information do not exist in most systems.

"Within many school systems, few provisions are made to protect school records from examination by unauthorized school personnel.

"Access to pupil records by non-school personnel and representatives of outside agencies, is for the most part, handled on an ad hoc basis. Formal policies governing access by law-enforcement officials, the courts, potential employers, colleges, researchers and others do not exist in most school systems.

"Sensitive and intimate information collected in the course of teacher-pupil or counselor-pupil contacts is not protected from subpoena by formal authority in most states."

The report concluded that "these deficiencies in record-keeping policies . . . constitute a serious threat to individual privacy in the United States." It suggested guidelines for record keeping based on these principles: (1) No information should be collected about students without the informed consent of parents and, in some cases, the child. (2) Information should be classified so that only the basic minimum of data appears on the permanent record card, while the rest is periodically reviewed and, if appropriate, destroyed. (3) Schools should establish procedures to verify the accuracy of all data maintained in their pupil records. (4) Parents should have full access to their child's records, including the right to challenge the accuracy of the information found therein. (5) No agency or persons other than school personnel who deal directly with the child concerned should have access to pupil data without parental or pupil permission (except in the case of subpoena).

In 1972, the Sage Foundation tackled the subject once more and found that, in spite of the distribution of 100,000 copies of its guidelines, "the vast majority of schools in this country still do not have records policies which adequately protect the privacy of students and their parents."

The researchers also noted that a good policy may not begin to solve record problems. In one school system visited by a researcher, a written policy was drawn up by a committee composed entirely of counselors. As a result, "the social worker thought it did not apply to her records, the mechanics teacher who had considerable informal contact with local employers thought that it only applied to formal requests for information handled by the registrar, and one of the principals regarded it as of the utmost importance to stay on good terms with local employers by telling them in detail of all the behavior problems potential employees had experienced while in school."

The Sage reports and guidelines helped fuel a growing national alarm about threats to privacy posed by our technological and bureaucratic society, and several educational groups subsequently took public positions insisting on the confidentiality of records. In 1971, the NEA, which 46 years before had urged more comprehensive record keeping, approved the code of Student Rights and Responsibilities, which asserts that the "interest of the student must supersede all other purposes to which records might be put," and urges strict policies to protect the rights to privacy of students and parents. It suggested that junior high school students have joint control with their parents over their own records, and high school students, total control.

Recently, a few local school boards, notably those in Des Moines, Iowa, and Jefferson City, Missouri, have adopted regulations to safeguard records. Des Moines allows parents and students to see the records, asks written consent of them before any information is released to anyone else, and gives them the power to determine which records may never be released to anyone.

On the state level, Oregon has given parents the right to inspect the total record, Delaware grants students 14 years or older control over the release of information from their own records, and New Mexico guarantees any public school student the right to inspect his own record. Both New Mexico and Oregon have moved to keep records confidential from outsiders. Oregon law prohibits the release of records to anyone other than the parents and child. The New Mexico board of education policy statement says that "government investigative agencies as such have no inherent legal right to have access to student files and records," and the board bars them from access without the student's permission or a court order. New Hampshire prohibits schools from *keeping records* that "reflect the political activities or beliefs of students."

Some educators and parents, discouraged with waiting for legislators or school administrators to act, have sought to take the reins in their own hands. In San Francisco, a group of black teachers and counselors are working for the elimination of all records except for a small card of hard data. They argue that the image of a folder as some capacious pocket into which all sorts of alleged wrongdoings and bad marks can be dropped has a bad psychological effect on students, that the folders consistently contain indefensible and gratuitous negative comments but little about the student's real educational ability, and that these biased comments are used authoritatively by the schools, particularly by guidance counselors, who see a folder as a kind of bible. "Black students' folders tend to be at least half an inch thicker than those of white children," one of the committee members said, "which tells you something about the child even before you open the folder."

The manner in which the thick folders of a group of junior high school students in Washington, D.C., were handled is now the basis of *Doe* v. *MacMillan*, a case before the U.S. Supreme Court. The suit was triggered when the House Committee for the District of Columbia, in preparation for its annual hearings on the D.C. schools, sent investigators out to gather up the cumulative records of students. Copies of actual test papers, disciplinary reports and evaluations—defamatory if not libelous materials—were reproduced with the stdents' names, still on them. The report was then published by the committee's chairman, entered in the Congressional Record and circulated about the country. Parents sued the individual congressman as well as the school board, principal and teachers. Sovereign immunity protections in the District of Columbia complicated the case, but the U.S. Supreme Court recently ruled that the congressmen had no special immunity "from local laws protecting the good name or the reputation of the ordinary citizen" and remanded the case to the Court of Appeals for further action. Not coincidentally, the D.C. board of education established regulations for protection of records just as the complaint was filed.

But even the best-intentioned policies don't guarantee ethical practices. A fair record policy in a suburban school district near Cleveland fell into disrepute when it was learned that students were regularly given the job of transporting records from one building to another and were just as regularly snooping on each other.

A California law passed in 1959 assures parents of the right to inspect their children's cumulative records, but local school officials frequently refuse access or fail to inform them of the privilege.

California's state education code also forbids school employees from giving out personal information about pupils to anyone except specified officials. That didn't stop one district administration, acting in advance of a school board hearing into the suspension of a student, from publicly announcing that the boy had been guilty of "serious violation of manners, morals and discipline." Three years later, the courts found that the public statement was based on nothing more than allegations of the school superintendent, and the student was awarded damages.

So while scattered improvements in the national picture have indeed occurred, school records continue to provide an easy route for invasion of privacy. Perhaps the worst abuses of school record keeping in America occur, despite well-established guidelines to the contrary, in the country's biggest and reputedly most liberal city, New York.

During the months that the author served on the New York City board of education's committee to revise student records (as chairman of the subcommittee on safeguarding and dissemination), these incidents occurred:

A secretary at a private tutoring agency calls a public junior high school to inquire about a child's reading level. The principal opens the child's record and gratuitously informs the unseen caller that the child has a history of bedwetting, his mother is an alcoholic, and a different man sleeps at the home every night. When the disclosures are reported to the board of education, the principal denies the incident and his immediate superiors back him up.

A teacher of a child entering a new school gets this summary of the student's past academic year: "A real sickle—absent, truant, stubborn and very dull. Is verbal only about outside, irrelevant facts. Can barely read (which was huge accomplishment to get this far). Have fun."

A black father who works for the school system has a friendly teacher show him his bright daughter's "confidential" record. In it is a five-page critique of how his own community activities as a "black militant" are causing his daughter to be "too challenging" in class.

Yet New York State has the clearest regulations in the nation concerning student records, thanks to a series of administrative and legal decisions dating back to 1960. In that year, the Levittown board of education directed that parents be permitted access to all the school records of their children, including evaluations, guidance notes and medical, psychiatric and psychological reports. A dissenting board member appealed the decision to the New York State commissioner of education. The result was a landmark ruling, *Matter of Thibadeau*, which specified that as a matter of law, parents have access to all their children's school records.

Yet in the following year, the administration in a neighboring New York school district refused to allow either the father or the private physician treating the former's son to see the boy's records. The father went to court, and the decision, *Van Allen* v. *McCleary*, stated: "It needs no further citation of authority to recognize the obvious 'interest' which a parent has in the school records of his child." The court added that the parent's right to see the records stems from "his relationship with the school authorities as a parent who under compulsory education has delegated to them the educational authority over his child." Since both the Thibadeau and Van Allen rulings affected all New York State school systems, they became the basis for the detailed *Manual on Pupil Records* distributed to all school personnel.

Handed that clear mandate to allow parents access to records, how did the New York City school system respond? In May 1962, the board of education sent a special circular to all schools stating that most data in records—guidance notes, medical and psychological reports, social agency reports—"are not part of the official school record and are, therefore, not to be made available for parents to inspect." The system restated that policy in 1964 and 1969, insisting it was "in conformity with State regulations."

In 1970, the New York City system, disturbed by the publicity surrounding the Russell Sage guidelines and fearful of lawsuits, took a small step forward for privacy. It appointed an impressive committee of school department and civic representatives to review and help shape its policies.

An incident during the policy revision process said a good deal about the power of bureaucrats to ignore or override policy. The committee, hearing that school employees were regularly providing sensitive information about students to outside agencies, urged the chancellor to order an end to the practice until a new policy was settled on. He did so. Fifteen days later, under pressure from school administrators, he rescinded the order. During that short period of time, 28 separate and distinct categories of outsiders had called the board of education to complain that their usual sources of information about students had been cut off. They included FBI agents, military intelligence officers, welfare workers, policemen, probation officers, Selective Service board representatives, district attorneys, health department workers and civil service commission officers.

Inside education's own house, the most vocal opponents to giving parents access to student records are those who write and maintain the most sensitive and inferential records; the guidance counselors. In 1961, the American Personnel and Guidance Association issued a policy statement on the use of records that asserted that counselors have the right to decide which records parents should see and how those records should be interpreted to parents. The counselors generally argue this way: What if the child reveals a conflict with his parents that would only be aggravated if the parents knew what the child had said? What if a child tells of a home situation that may be defamatory or even illegal but is important to record for the future counseling of the student? What if parents misinterpret the professional notations of counselors? What if the child needs someone outside his home to confide in?

The other side of that argument is that if information is so delicate or painful that parents shouldn't see it, it probably shouldn't see it, it probably shouldn't be in a school folder at all. Counselors answer that student evaluations will be badly watered down if those writing them know parents will see them—a statement that raises provocative questions about the school's views of the parents of their students, and its honesty in dealing with them.

Dealing with this issue, the *Buffalo Law Review* pointed out in 1970 that when a school evaluates a child, it is acting *in loco parentis*, because evaluation is a parental function that has been extended to the school. But "once the school authority insists on keeping its evaluation of a child secret, then it intrudes into the domain of parental prerogative and oversteps its legitimate *in loco parentis* authority, for it is obvious that a parent can control publication of his evaluation of his own child and can keep secret from the world at large such evaluation."

There are, of course, circumstances in which the best interests of a child and inspection of his records by his parents may conflict. However, definition of those circumstances is made difficult by an unresolved ambivalence about whom counselors and school psychologists serve. If the counselor's client is the student, then the counselor should guard the pupil's records and interests zealously against all other parties, including other school employees. But if his client is the school system that pays him, and his job is trying to help adjust that student to the existing educational environment, then the counselor or psychologist might feel free to share personal information about the student with other educators and government agencies but not with parents, who become a sort of third party. Counselors who are used by school systems primarily to discipline truants and misbehavers unavoidably feel that the institution, not the child, is the client. Administrators all too often evaluate counselors not on the well-being of the child but on the thickness and currency of his record folder.

Perhaps the biggest problem faced by all concerned is the fact that we live today in a world of technologically recorded, maintained and communicated information. In 1968, the Phoenix, Arizona, Union High School System introduced a cumulative record system that enabled any staff member to pick up any phone in his school, push a button, dial a code number, dictate comments about a student into a remote recorder and play back comments made by other staff members. The comments, recorded on magnetic tape or a plastic disc in a central records room, are then transcribed by a typist onto pressure-sensitive labels that are entered in the student's permanent file. A clerk sorts the transcriptions, and they are delivered to the appropriate guidance counselor for inclusion on the cumulative record. Color coding identifies the kind of information contained on each gummed label—health, attendance, discipline or financial. Efficient, unquestionably. But what happens if a teacher calls in a comment at the end of a bad day and two weeks later regrets it, but the information has already made its way to the storage system? What if the typist misunderstands the dictation? What if the staffer dials a wrong number? The potential for abuse is staggering.

The state of Florida already has a centralized record-keeping computer system, which employs an IBM 1230 Optical Scanner to enter data for all pupils from the ninth grade on up into a computer. These items appear: Social Security number, grade, school, address, type of curriculum, date and place of birth, citizenship, health and physical disabilities, sex, race, religion, marital status, family background, languages spoken at home, academic record, test record, honors-work record and extracurricular activities. Iowa and Hawaii are installing similar systems.

Just last April the New York State Education Department asked 85 school districts to supply the names and addresses of all students who have received psychological or social work services; have a history of truancy, delinquency, drug abuse or alcoholism, or a "potentially disabling emotional, physical or mental handicap"; or have attended classes for unwed mothers, for the "socially maladjusted," or in drug-abuse prevention. In no cases were parents asked for permission to release the information.

Many systems complied. In one that didn't, Commack, New York, the director of pupil personnel services said his district would not send the names along "until I receive a statement . . . that they will not be put in a computer . . ." The Nassau (County) Psychological Association took a strong stand against the information release, telling all schools: "Releasing this information without securing authorization from the parent or guardian is inimical to the professional behavior of the psychologist."

Even the federal government, not the greatest defender of privacy rights in recent times, has begun to show some concern about the possible adverse effects of computerizing personal records. An HEW task force on data banks, concerned at first primarily with the recent push to require Social Security numbers of all children entering schools, has broadened its inquiry to include a wide range of other record problems. Another HEW group has been studying how records contribute to the systematic classifying and inappropriate labeling of schoolchildren.

What is often described as California's "pioneering" work in social control suggests ways in which schools inadvertently may feed information about their students into Big Brother computers. With funds from Title I of the Omnibus Crime Control and Safe Streets Act of 1968, the California Council on Criminal Justice has set forth on the mission of making "Californians safe from crime." CCCJ funds a statewide program called "Correctionetics." It computerizes and centralizes all juvenile records, including information on psychiatric treatment. Under state law, children down to the age of six years who have been identified as being "in danger of becoming delinquent" can be declared "pre-delinquent" and thus become a California Youth Authority statistic with a juvenile record.

As if that weren't enough, CCCJ is looking for other potential problems that might be computerized. One program, funded for two years, instructed kindergarten teachers in sophisticated methods of identifying "target students"—those five-year-olds whose social and academic profiles were similar to those of adolescents who ended up in juvenile courts.

Suddenly, an unwary kindergarten teacher has become in effect a government intelligence agent.

NSA PRESIDENT STRONGLY SUPPORTS BUCKLEY AMENDMENT

National Student Association President Kathy Kelly spoke out strongly today in endorsement of the Family Educational Rights and Privacy Act of 1974 sponsored by Sen. James Buckley (Conservative, New York). President Kelly, former student body president at the University of Minnesota at Minneapolis, took exception to certain technical problems with the language of the bill which should be clarified with additional amendments to be introduced when Congress reconvenes.

But she noted that the bill provides a long overdue mechanism for correcting misinformation and errors in students' records which may be vital to their careers and President Kelly hopes that efforts on the part of some educational organizations to delay implementation of the bill will be defeated in light of the pressing need for the legislation.

President Kelly said that the National Student Association, the oldest and largest organization of student governments in the country, has long been an advocate of the legal rights of students, and the Association feels strongly that this bill will curb the arbitrary power that has so often been misused by school administrators and agencies allowed easy access to students' records. Such access, denied parents or the students themselves, has negatively affected students' careers both in school and long after their tenure in the academic community.

The bill would provide parents or students access to records and an opportunity to challenge inaccurate or misleading information therein. Permission of the parents or students must be obtained before records can be released to persons or agencies outside of the school. Also, parents and students must be notified of their rights to inspect records.

The Association hails this bill as a long overdue injustice redressed, and commends Senator Buckley for drafting it.

[From the Harvard Law Record, Nov. 8, 1974]

BACKBENCHER: HARVARD FAVORS SECRECY, AGAINST CANDOR

(By Ira Nerken)

Faced with the release of the Pentagon Papers, Dean Rusk threatened an end to the placement of important information (vital to an informed public) on paper. Faced with demands for the White House tapes, Richard Nixon threatened an end to "candor and frankness" (constituting an abuse of trust) in the oval office. Faced with Senator Buckley's bill giving students access to their own educational records, Harvard has threatened both an end to placement of information vital to students in their records, and an end to frankness and candor in their files.

With the emergence of the issue of student access to files that most vitally affect them, the arrogance of power in academia—at Harvard particularly, but also at other institutions of higher learning—has been set out in bold relief.

Yet to listen to the University's Counsel, Daniel Steiner, one would think the issue is neither Harvard's resentment of any constraints on its autocratic exercise of power, nor even real problems with the substance of the Buckley amendment. Buckley's bill is "terribly drafted," and "extremely ambiguous," claims Steiner, and the "heart of the University's objection," is "the lack of opportunity to be heard." For this Steiner merits a special citation for disingenuousness. For while these issues may have some validity, they have little to do with Harvard's real objective, which is to kill the Buckley bill.

Last summer State Representative Lois Pines introduced a bill in the Massachusetts legislature similar in substance to the Buckley amendment. Pines had drafted her bill well. It was not ambiguous. Steiner was given not only the opportunity to be heard, but to suggest alternative proposals. In that situation he argued that "unless the legislature knows of specific violations, legislation shouldn't be enacted." As to drafting proposals, he doubted anything could be drafted that "would serve her [Pines'] purposes and ours."

"Harvard administrators," according to the *Crimson*, "have said repeatedly since the [Buckley amendment] passed Congress that it will hurt students because they will no longer be able to get straightforward and honest letters of recommendation. (Thus we learn the new Harvard motto: "Veritas—but not to your face.") This is not only a sordid, but also a hoary argument, and one well answered by President Prentice of Wheaton College, responding to a similar argument: "How can an evaluation be considered 'honest and candid' if it is to be kept from the person evaluated? I agree that my criticism of my student should be a matter between him and me and people who have a responsible right to my views. They should not be available to the general public, but they must be available to the candidate himself if I am to be considered 'honest and candid.'"

Admittedly, the protection Harvard heretofore afforded the hatchet job is gone—unless the hatcheteer wants to phone the University. But it took a Harvard senior tutor to point out what Harvard administrators and faculty chose to ignore: "those professors who occasionally say they'll write and then don't write a glowing letter will now say nothing, as they should have done all along."

As to the other hobgoblins Harvard has manufactured. *The Buckley amendment would allow students to violate the confidentiality of their parents' financial statements.* If parents are concerned about this, and can't get a promise from their sons/daughters not to peek, that is their problem—not Harvard's. *Students could see psychiatric reports.* Why in blazes are psychiatric reports lying around in files anyway? And if they must be there, why shouldn't the students look? *Harvard can no longer protect students from being forced to supply potential employers with materials from their files.* Maybe we need a law to protect Harvard students from overbearing employers.

Professor Alan Heimert, of the Harvard English Department, denounced the Buckley bill as "representing the traducing of an entire profession. This law says that academics don't have any ethics, that academics don't even have any common sense, and that any negative recommendation is written in bronze." Perhaps Heimert should compare his words to those of the policemen who claim procedural restraints on their powers to search, etc. are a "traducement of the entire profession." Perhaps he should wonder why courts are allowing defendants to see their presentence reports, without worrying that this implies the judicial system has no ethics or common sense.

Finally, a word of advice to Harvard. Dean Rosovsky (FAS) has talked of "having no choice but to honor the law." But the Secretary of the FAS Council said that while the faculty's "initial posture" would be "full compliance" with the law, "non-compliance isn't out, but it isn't in." James Q. Wilson said "no one is talking about noncompliance at this stage." Such talk may get Gerald Ford to issue a statement deploring non-compliance, but saying Congress was wrong. But it will be hard to kick Southie around anymore.

Questions About and Objections to the Buckley Amendment—The Family Educational Rights and Privacy Act of 1974 (Sec. 513 of P.L. 93-380)—and Responses

Numerous higher education groups are voicing complaints about and objections to the Buckley amendment. Our office receives calls and letters about it every day. It is natural that they should complain; they are being required to change long established practices and (bad) habits, and change is often painful, or, at least, uncomfortable. Most of their objections are not substantive, however, or can be resolved by reasonable regulations. But there is one largely reasonable concern, which will be addressed later.

While there is an effort underway to lobby for delay in the implementation of the amendment, most schools and agencies seem to be able and are in fact preparing to comply with implementation on November 20, 1974. We have received calls from schools, school districts, school boards, colleges, and universities from all across the country; nearly all the callers have said that their schools are developing a policy and procedures for compliance, but that they have a question or two as to what a particular aspect of the bill means or includes, or whether such and such procedure on their part would be appropriate. In fact, we have even received regulations prepared by local school districts, which are now in force, to implement the law.

As further evidence that schools across the country are willing and able to comply, let me offer a quotation from the "Education Daily" of September 27, 1974:

"In advisories to their members to explain what will be expected of them under the new privacy requirements of the Education Amendments of 1974 (P.L. 93-380—Ed Aug. 16), both the National Association of Elementary School Principals and the American Association of School Administrators are suggesting that schools review their policies on record-keeping and develop standards as to what should be in cumulative student folders in the first place.

"It would be a good idea," says Dr. Paul Salmon, Executive Director of AASA, for schools to remove from the folders and destroy such things as unsubstantiated teacher opinions or language which tends to "categorize" students. While many schools already have rules requiring student records to contain only responsible and documented information, Salmon points out, others have tended to "drop everything that came along" into the cumulative folder. For such schools, Salmon and NAESP's William Pharis say, the best advice is to get their records into order before the law goes into effect November 20."

It is also worth noting that more than 20 states already have state laws or regulations on the books essentially similar to the Buckley amendment. In Virginia, for example, even grade schoolers are now permitted access to their school records!

All this is not to suggest that there are no problems and uncertainties involved in the implementation of the Buckley amendment. But it must be realized that such problems and questions arise before, during, and after the implementation of nearly every law. That is one of the reasons we have courts, where considerations of the intent of legislation, the test of reasonableness and of equity usually combine to produce proper and appropriate applications of the law. We also have administrative procedures, particularly in this case, for clarifying and adjudicating issues which may arise.

However, most, if not all, of the questions that are being raised about the amendment, can be resolved without need of recourse to the courts. The law is still new and it has not been fully explicated. Regulations to be issued by HEW should clear up many of these questions. The meeting held in early October between members of the staff of the Congressional Education committees and representatives of HEW to discuss regulations regarding the implementation of the Buckley amendment helped clear up some of the apparent problems. The meeting that OE recently had with interested educational parties highlighted various problems. Now the HEW Task Forces are proceeding to draft appropriate regulations. Secretary Weinberger has announced that regulations will be published before the end of the year. With reasonableness and cooperation on all sides, much can be acceptably resolved without need of further legislation.

QUESTIONS AND OBJECTIONS

1a. Prior Confidentiality—what about the amendment's applicability to already existing letters, statements, and evaluations which were written with the understanding that they would remain confidential—i.e., not for the eyes of the student in question? Would not access to these items involve a violation of the rights of privacy of their authors?

1b. Confidential recommendations on the part of teachers, counselors, etc, are important aids to evaluating students, especially for college and graduate school admissions offices. If these statements were to be available to the students in question, their authors would be very unlikely to be candid and frank in their assessments of a student's strengths, and especially his weaknesses. This would make the selection process more difficult and tend to penalize the talented student who is not a good test-taker.

1. Response—These objections are the most significant and substantive of those that have been raised. While it was not the intent of the Buckley amendment to override prior, acknowledged confidentiality, nor to preclude any confidential assessments and recommendations in the future, the language of the amendment seems to eliminate such confidentiality.

In the great majority of cases, these confidential statements are at the request of the student himself with the understanding that he would not have access to them, although many teachers do provide copies of such statements to their students. Such an understanding on the part of the student and the teacher, while often implied, is nonetheless an agreement which in effect gives the confidentiality of these statements special standing.

On the other hand, there are some evaluations and comments of which the student is totally unaware, sometimes written by individuals with an inadequate knowledge of the student or with a personal bias against him. Such evaluations sometimes find their way into a student's official file, where they may do inestimable damage to his future. In other situations official Committees prepare and send evaluations of a student to other schools to which the student is applying. The student generally has no idea of the content of the evaluations and no opportunity to submit his own statement. Cases sometimes arise, therefore, where a student is "judged" and found "guilty" or wanting by a school or an employer without any opportunity to know who his "accusors'" are or what has been said against him.

One fact that should be realized if we are to keep these matters in current perspective, is that a number of parents and students have already fought successfully in court to have school records, including confidential evaluations relating to college admissions, opened to them for good cause. The rippling effect of these court decisions may eventually make much of this discussion academic.

One way to deal with the confidentiality question might be found by having the teachers and schools seek a written waiver of access from students in connection with certain recommendations and evaluations (as is already being done in some places). On the other hand, students should seek a guarantee of access to such recommendations and evaluations whenever they can (this is also already being done in some places).

Because the Buckley amendment is *silent* on this subject, the seemingly all inclusive nature of its language would seem to override privileged confidentiality. Realizing that the rights of teachers and counselors and the evaluation requirements of colleges need to be considered as well, we would hope that equitable provisions for this situation could be worked out by regulations. Failing that, instead of seeking to delay the implementation of the law, we would suggest that it be amended in the following general manner:

Provided, however, that such personally signed statements or letters to which the student (or his parents) has previously waived in writing his right of access, or which are dated prior to and are generally acknowledged to have been written in confidence, shall not be available to the student or his parents, except upon permission of the author or the order of a court of competent jurisdiction.

Such an addition would perhaps deal adequately with the prior confidentiality question. It would also permit a waiver of access by the students, so that colleges and universities would be able to receive more "candid" evaluations, instead of the bland, useless ones which they fear the Buckley amendment could produce. (On this point let me note that Dr. Joseph Ruth, Director of Admissions for George Washington University, has commented that recent court decisions providing students and parents with access to school application files have already produced increasingly bland and less useful letters of recommendation—prior to and independent of the Buckley amendment).

Some colleges might contend giving the student the option to seek confidential or non-confidential recommendations will still render them useless. But surely this ought to be the right of the student and the teacher to decide. Let it also be remembered that the student is generally hoping to gain something by obtaining a recommendation. A bland, useless recommendation will not be helpful to him. It should generally be to his advantage to take the calculated risk or gamble—his trade-off—of a confidential recommendation which could prove helpful to his ends.

There is no reason, under this procedure, for a teacher to be unwilling to write a thoughtful, positive recommendation on a student whose average grades may mask a superior potential and imagination. And surely the average admissions officer can distinguish between a bland letter which says essentially nothing and an enthusiastic or detailed letter which has something of value to say. Even in terms of negative comments, are we wrong assuming that most teachers would have the moral courage of their convictions to say what they believe, even in the face of disclosure to the individual in question? Or is it that they have often been too loose with their comments, too generous with their personal prejudices and too sparing in their objectivity?

The comments sent to us by the Chairman of a department at a major university are perhaps instructive here:

"It may be that a recommendation 'is not likely to be candid if the writer knows it can be read by the subject', but it certainly will not be an unfair one. Those of us who make recommendations which may affect the lives of others certainly should have the courage and decency to be willing to have our judgements questioned. If I am unwilling to allow a person to see what I say about him then it is probably true that I should not say the thing at all."

* * * * *

2. How broad is the term "any and all official records, files, and data" to which students must be given access? Does it cover psychiatric files, counselors files, all records of every officer whether at home or in the office? Does it cover the notes of a dean or a professor after he has talked with a student?

2. Response. This is the second most important objection to the Buckley amendment, but I feel that most concerns here can be favorably resolved with careful clarification of the amendment language.

The key language of the amendment on this point is underlined in the following quote:

"Any and all official records, files, and data directly related to their children including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system."

The amendment is addressing official records or files or data which are intended for school use or to be available to parties outside the school or school system. The language is not intended to apply to the personal files of psychologists, counselors, or professors if these files are entirely private and not available to other individuals. Records "intended for school use" should generally include those established by an office or a division of the school for the use of that office or division. The definition of the words "official" and "intended for school use" are of major importance. It appears that the definitions and regulations being developed at OE will employ a judicious interpretation of these words, one which is not necessarily all-inclusive, and which will give consideration to the use to which the files are put. In general, it is to be hoped that the law shall be interpreted and implemented—and obeyed—with an attitude of reasonableness. The listing of specific items in the law which follows the quoted part above is intended to prevent the establishment of a separate, "Unofficial" file by the school, as has happened in some areas where state or local laws provide for access by parents and/or students.

3. How will the law affect career placement files, "academic credentials" files, which contain confidential recommendations?

3. Response: Again, these files are set up solely at the request of the student, with his understanding that he will not have access to such confidential recommendations as are contained therein. If we can establish in the law that such an understanding, i.e., waiver of access, is a legitimate exception to the general requirement of the law, then there should be no problem here.

On the other hand, since these files will have a significant effect on a student's academic and/or job prospects, it seems not only reasonable, but also very important to the student's interests, that he have some idea of what is being distributed to prospective employers, etc., about his abilities and character. In such a situation should a student be required to rely solely on the judgment of a placement office as to what unknown (to him) comments and information are to be sent out about him? It seems only fair to at least give a student a listing of the items about him that are being distributed to prospective employers, etc.

4. Inventive teachers and officials will find ways to circumvent the law.

4. Response. Very likely in some areas. This is true of virtually every law. However, the major purposes of the law will be largely achieved: Parents and students will have access to their school records; inaccurate, misleading information will be able to be removed from records; the general availability of confidential information on students to parties outside the schools will be strongly curtailed.

5. The law contains important ambiguities that should be cured by legislative action. There is little or no evidence of Congressional intent to provide guidance.

5. Response. There do exist some apparent ambiguities, but most of the law is quite explicit. The law has yet to be fully explained. This takes time for every law, and even a committee Report is usually not adequate. There is great evidence of Congressional intent to provide guidance, to wit: the meeting between the Congressional Education committees and HEW on the regulations and implementation of the Buckley amendment; the required submission of proposed regulations pursuant to P.L. 93–380 to the Congressional Education Committees for their review and approval.

6. Will the amendment permit students to have access to their parents' Confidential Statements, etc.?

6. Response. It should not. The language specifies "records, files and data *directly related* to their children" (the student). While the Buckley office attempted but failed, only because of confusion and inadequate time, to get the Conference on H.R. 69 to specifically exempt Parents Confidential Statements, such Statements and related information can be reasonably interpreted as not being *directly related* to the student, in the sense that the data is on other individuals. It should, therefore, remain confidential.

7. Under the law, a college will not be able to give any information about a student to his parents without his consent.

7. Response. False. This is surely an overly narrow reading of the law. Nothing in the law is intended to prevent a school official from informing a student's next of kin that he is on the verge of suicide, has had an accident, has been arrested, or even that he is doing very poorly in school and might benefit from some thoughtful communication or assistance from his parents.

8. The Act requires institutions to provide hearings for students to challenge any record they consider inaccurate or misleading. Does this mean that hearings must be held if a student thinks his essay deserved an A and it is "inaccurate and misleading" for his records to show a B? Or if a professor's evaluation, filed with the student's department, says that the student showed little creativity in his written work, must the institution offer a hearing on the issue of the student's creativity? In short, what is the scope of the right to a hearing?

8. Response. This is another red herring. The question of a grade is a matter to be taken up with the teacher involved, and perhaps the department chairman. The items at issue in nine out of ten cases will be erroneous information (as a grade incorrectly recorded), anecdotal comments or evaluations by teachers, or personal information on the student or parents which probably has no business being in such a file. There is no pressing need, nor is it always desirable for a law to fill in every jot and tittle of procedures and the like. There needs to be some legitimate leeway for administrative discretion and flexibility. Besides, no law could ever enumerate and pre-judge every possible situation that might arise under it. Regulations are expected to outline basic minimums in regard to hearing procedures.

9. Despite its evident purpose of protecting students' privacy, the Act is likely to cause invasions of that privacy. Credit bureaus, prospective employers, governmental agencies conducting security clearances and other organizations can now require students to obtain all their records (psychiatric, financial, disciplinary, evaluations, etc.) and turn them over. Prior to the enactment of the Act, institutions could protect students by refusing to turn over such records even if a student had given consent.

9. Response. This is something of an insult to the intelligence, independence, and backbone of today's student. Besides, who can really assert that a college student is better off at the mercy of any given school's policy on records dissemination, rather than his own judgment and decision? Actually, this is a somewhat superfluous issue because the law only requires that a parent or student have "the right to inspect and review" the records, not have a copy of all of them. The only records that he must be able to obtain a copy of are those which the school intends to give to an outside party!

10. Response. It is true that there were no hearings on this law. However, more than twenty states have enacted similar legislation, and the law was closely patterned on the carefully considered recommendations of respected experts and experienced professionals in such fields as law, education, medicine, counseling, school administration, and various academic disciplines (in particular see the *Guidelines* of the Russell Sage Foundation).

Legislation in the form of amendments frequently becomes law, and reported bills frequently have had no or inadequate hearings. In this case, the proposal had been circulated to the Senate and several educational organizations more than two weeks before it was passed. There was also ample time during the Conference for interested parties to suggest changes. In any event, the Congress saw fit to enact this legislation into law.

11. Does the Act give any rights to a person who has graduated and is no longer enrolled as a student? Or does a person who has applied to a college but was not admitted have any right of access to the college's records?

11. Response. By an oversight former students were not specifically dealt with in the amendment, although it can be argued that a certain reading of the language would include former students. A court might extend this right to them as an important civil right of privacy, which falls "within the penumbra of the Constitution."

The case of a person who applied but was not admitted to a college was not addressed by the amendment. However, again, a certain reading of the language would include application files. Thus, these questions remain to be resolved. It is worth noting here, though, that at least one court decision has upheld access to such files.

12. Should all college students be treated the same vis a vis the rights established by this law?

12. Response. While emotional maturity is something that many people never achieve, the rights of adult citizenships are by and large conferred upon Americans at age 18 (voting, etc.). The House-Senate conferees felt it fitting and proper to extend the rights established by the Buckley amendment to any student who is attending a post-secondary educational institution, and no compelling body of evidence or argument has yet been put forth to successfully contest that judgment.

13. While this law may be appropriate for elementary and secondary schools, colleges and universities are different and the law should not apply likewise to them.

13. Response. This argument is an extreme case of in loco parentis. How is it that these basic rights, which will very likely be established throughout the Federal Government by the end of the 93rd Congress (see S. 3418) are all right for an 18 year old high school senior, but not for a 21 year old (or an 18 year old) college student?

14. Is a right of private action created to enforce the Act or is the HEW compliance mechanism created by the Act the only means of enforcement?

14. A right of private action was intended in the Buckley amendment by reference to another part of the Senate bill. However, the Conference did not accept the complete language of the referred-to Senate provision, and the explicit right of private action is no longer in the law at this time. However, it may be interesting to note that the national PTA and the League of Women Voters are considering establishing monitoring activities to review and seek compliance with this law.

15. The applicability of Section 438(b) (4) (A) of the Act is governed by its reference to subsections (c) (1), (c) (2) and (c) (3). There are no such subsections in the Act.

15. This is simply a technical printing error caused by changes made in the amendment in the Senate which necessitated relettering the paragraphs. The reference should be subsections (b) (1), (b) (2), and (b) (3). By the same token, the last section of the law should be labeled (h), not (b).

16. The effort of locating and correcting all the applicable school records will be a severe problem for educational institutions, particularly those in higher education.

16. Response. As stated in the beginning of this memorandum, of course the change of policies and habits occasioned by this law will cause discomfort and some administrative problems. So do most new laws. But that is certainly not a serious or credible reason to postpone implementation of the law or to argue that institutions of higher education should be exempt from the law. Indeed, the objection is in itself compelling evidence of the need for the Buckley amendment. Schools don't even know what files and information on their students are floating around where and being given to whom!

On some campuses there may be as many as fifteen to twenty separate files on a given student scattered around the campus. Some school officials have felt that the law would require them to gather all these files together and review them centrally. But this is not necessitated by the law. All that is basically required is that the student be informed, if he makes an inquiry or request, of the existence and the location of these files, and that he or she be given the opportunity to review the appropriate files within forty-five days of the request. Individual offices might be advised to begin a general review of their files to see whether there are things in them which cannot be adequately justified, or which they are afraid to let the student see. The question of whether or not officials could or should destroy items in the file, or send them back to their source, after a student has sought access to his files has not yet been fully resolved, although the law seems to permit it. There is a further question here as to whether this would be in the best interests of not only the students, but also the institutions involved. The anticipated speedy passage of an amendment exempting confidential letters and statements written in the past will resolve this question.

PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS

SEC. 513. (a) Part C of the General Education Provisions Act is further amended by adding at the end thereof the following new section:

"PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS

"SEC. 438. (a) (1) No funds shall be made available under an applicable program to any State or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy of denying, or which effectively prevents, the parents of students attending any school of such agency, or attending such institution of higher education, community college, school, preschool, or other educational institution, the right to inspect and review any and all official records, files, and data directly related to their children, including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system, and specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), attendance data, scores on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns. Where such records or data include information on more than one student, the parents of any student shall be entitled to receive, or be informed of that part of such record or data as pertains to their child. Each recipient shall establish appropriate procedures for the granting of a request by parents for access to their child's school records within a reasonable period of time, but in no case more than forty-five days after the request has been made.

"(2) Parents shall have an opportunity for a hearing to challenge the content of their child's school records, to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

"(b) (1) No funds shall be made available under any applicable program to any State or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy of permitting the release of personally identifiable records or files (or personal information contained therein) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

"(A) other school officials, including teachers within the educational institution or local educational agency who have legitimate educational interests;

"(B) officials of other schools or school systems in which the student intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

"(C) authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, (iii) an administrative head of an education agency (as defined in section 409 of this Act), or (iv) State educational authorities, under the conditions set forth in paragraph (3) of this subsection; and

"(D) in connection with a student's application for, or receipt of, financial aid.

"(2) No funds shall be made available under any applicable program to any State or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of furnishing, in any form, any personally identifiable information contained in personal school records, to any persons other than those listed in subsection (b) (1) unless—

"(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

"(B) such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

"(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, (C) an administrative head of an education agency or (D) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs: *Provided*, That, except when collection of personally identifiable data is specifically authorized by Federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data has been collected.

"(4) (A) With respect to subsections (c) (1) and (c) (2) and (c) (3), all persons, agencies, or organizations desiring access to the records of a student shall be required to sign a written form which shall be kept permanently with the file of the student, but only for inspection by the parents or student, indicating specifically the legitimate educational or other interest that each person, agency, or organization has in seeking this information. Such form shall be available to parents and to the school official responsible for record maintenance as a means of auditing the operation of the system.

"(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

"(c) The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

"(d) For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of post-secondary education the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

"(e) No funds shall be made available under any applicable program unless the recipent of of such funds informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

"(f) The Secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this Act, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with the provisions of this section, and he has determined that compliance cannot be secured by voluntary means.

"(g) The Secretary shall establish or designate an office and review board within the Department of Health, Education, and Welfare for the purpose of investigating processing, reviewing, and adjudicating violations of the provisions of this section and complaints whch may be filed concerning alleged violations of this section, according to the procedures contained in section 434 and 437 of this Act.".

(b) (1) (i) The provisions of this section shall become effective ninety days after the date of enactment of section 438 of the General Education Provisions Act.

(2) (i) This section may be cited as the "Family Educational Rights and Privacy Act of 1974".

Conference Report Explanation of Action on Buckley Amendment to H.R. 69

Protection of the rights and privacy of parents and pupils.—The House bill provides that the moral or legal rights of parents shall not be usurped. In addition, the House bill provides that no child shall participate in a research or experimentation program if his parents object. The Senate amendment denies funds to institutions which deny parents the right to inspect their children's files and gives parents the right to a hearing to contest their child's school records. The Senate amendment also denies funds to institutions with policies of releasing records, without parental consent, to other than educational officials. Release of records is allowed only upon written parental consent. The Secretary is directed to adopt regulations to protect students' rights of privacy and shall enforce them through an office and review board in the Department of Health, Education, and Welfare to investigate and adjudicate violations.

The conference substitute adopts the provisions of the Senate amendment, including in the list of persons who should have the right to inspect student records those students who attend postsecondary institutions.

An exception under the conference substitute occurs in connection with a student's application for, or receipt of, financial aid. The conferees intend that this exception should allow the use of social security numbers in connection with a student's application for, or receipt of, financial aid.

The conference substitute adds that nothing in these provisions of the Senate amendment shall preclude official audits of federally supported education programs, but that data so collected shall not be personally identifiable. The conference substitute also provides that the consent and rights of the parents of a student transfer to the student at age 18 or whenever he is attending a postsecondary education institution. No action to terminate assistance for violation of these provisions of the Senate amendment shall be taken unless the Secretary finds failure to comply, and that compliance cannot be secured by voluntary means.

The conference substitute also adopts the provisions of the House bill relating to protection of parental and pupil rights, with amendments. The conference substitute provides that all instructional material which will be used in connection with any research or experimentation program or project shall be available for inspection by parents or guardians.

In approving this provision concerning the privacy of information about students, the conferees are very concerned to assure that requests for information associated with evaluations of Federal education programs do not invade the privacy of students or pose any threat of psychological damage to them. At the same time, the amendment is not meant to deny the Federal government the information it needs to carry out the evaluations, as is clear from the sections of the amendment which give the Comptroller General and the Secretary of HEW access to otherwise private information about students. The need to protect students' rights must be balanced against legitimate Federal needs for information.

Under the amendment, an educational agency would have to administer a Federal test or project unless the anticipated invasion of privacy or potential harm was determined to be real and significant, as corroborated by a generally accepted body of opinion within the psychological and mental health professions. In short, the amendment is intended to protect the legitimate rights of students to be free from unwarranted intrusions; it is not intended to provide a blanket and automatic justification for a school system's refusal to administer achievement tests and related instruments necessary to the evaluation of an applicable program.

VETO REVEALS WATERGATE BLIND SPOT

Mr. CRANSTON. Mr. President, President Ford's veto of new amendments to strengthen the Freedom of Information Act reveals a second blind spot in his failure to learn the basic lessons of Watergate.

President Ford seemed to have missed the point of the Watergate trials when he pardoned former President Nixon before the legal process was allowed to run its full course.

That was an unpardonable pardon. Our laws must apply equally to each and all of us, including Presidents and former Presidents.

President Ford's ill-advised veto of the Freedom of Information Act amendments is further evidence that he has not grasped still another lesson of Watergate—the dangers of undue secrecy in Government.

The Watergate disclosure showed how public officials and Government bureaucrats try to cover up mistakes, misjudgments and even illegal acts under the cloak of "national security."

Those people were more interested in job security than in national security. They were more concerned about saving their own necks than about safeguarding the Nation.

The President's veto threatens to perpetuate the Nixon style of letting Government bureaucrats manipulate the public by deceiving the press.

We are all aware of recent efforts by administration officials—especially those at the Pentagon, the State Department, the Treasury, and the Office of Management and Budget—to clamp down on so-called "premature" information to the press.

The Freedom of Information Act amendments, which Congress passed earlier this year are designed to broaden public access to Government documents.

We want to speed up the process of getting the Government to respond to legitimate requests for information by members of the public and the press.

Under present procedures, for example, it took 13 months before the Tax Reform Research Group was able to get released to the public earlier this week 41 documents showing how the Internal Revenue Service's Special Services Staff investigated dissident groups.

The amendments also provide for judicial review of disputes over what information could be made public.

This is in keeping with the American tradition of having disagreements settled by a third party—the courts.

I supported the new legislation because I believe in the freest possible flow of information to the people about what their government is doing, and why. The people must have access to the truth if they are to govern themselves intelligently and to prevent people in power from abusing the power.

The legislation has built-in safeguards against the disclosure of classified information that might endanger national security.

The way the President wants the bill to read, a judge would have to assume that a classified document was, and remains, properly classified. If the Government gives the judge a "reasonable" explanation why the document should not be made public, the judge must accept the explanation without looking at the document himself and forming his own opinion.

Only if the Government fails to give this "reasonable" explanation, could the court decide whether the document should be made public.

Under the amendments in the vetoed bill, our courts, not our bureaucrats, will have the final say as to what information can legitimately be kept secret without violating the basic right of a democratic people to know what is going on in their Government.

Arguments over declassifying materials could be conducted privately in the judge's chambers, and if the Government did not like a judge's ruling, it could always of course appeal to a higher court.

ANALYSIS OF THE PRESIDENT'S JUSTIFICATION OF HIS VETO OF THE FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. CHILES. Mr. President, at the request of the Subcommittee on Administrative Practice and Procedure, U.S. Senate, the Center for Governmental Responsibility at the Holland Law Center, University of Florida, has provided the subcommittee with an analysis of the President's justification of his veto of H.R. 12471, the Freedom of Information Act amendments.

It is the center's conclusion based on their research that neither the constitutional nor the administrative reasons—the only ones given in the President's veto message, can be sustained.

I ask unanimous consent that this analysis be printed in full in the RECORD and that the enclosed editorials which support an override, from Florida newspapers, be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANALYSIS OF PRESIDENT FORD'S VETO OF H.R. 12471

H.R. 12471, a bill to amend Section 552 of of title 5, United States Code, known as the Freedom of Information Act, is designed to narrow the gap between the Act's original objectives and realities of current practices. However, finding the proposed changes "unconstitutional and unworkable," President Ford has vetoed the bill. The President's opposition to the bill is not, by his own implications, founded on philosophical disagreement with the substance of the Freedom of Information Act but disapproval of the procedures selected to further those objectives.

The President's objections to H.R. 12471 principally stem from provisions in the bill dealing with three areas: 1) judicial review of classification, 2) time limits for review of FDIA requests and costs for obtaining information, and 3) investigatory files.

I. REVIEW OF CLASSIFIED DOCUMENTS

A. Practices under the current legislation

The present language of exemption (b) (1) states that the provisions of the FOIA do not apply to matters that are "specifically required by Executive order to be kept secret in the interest of national defense or foreign policy." The FOIA grants jurisdiction to district courts of the United States to order the production of agency records improperly held. According to the Act, "the court shall determine the matter de novo and the burden is on the agency to sustain its action."

The import of the term *de novo* has been the focal point of concern over the application of exemption (b) (1) since the passage of the Act in 1966. The plain meaning of the term *de novo* would seem to be a grant of authority for a court to consider a claim made under the FOIA "from the beginning" and in its entirety. This plain meaning interpretation, however, encountered difficulty when an attempt was made to apply it to a situation where the Government was claiming exemption from disclosure pursuant to exemption (b) (1). The question which arose was whether the *de novo* provision, as applied to materials claimed to have been classified pursuant to an Executive order, permitted a court to review the documents in question *in camera* to determine if they did in fact come within the scope of the alleged classification. The Supreme Court found *in camera* inspection was not allowed. *Environmental Protection Agency v. Mink,* 410 U.S. 73 (1973). The substance of the Court's consideration of the language of the Act and its legislative history was that Congress did not intend for the Act to subject the executive security classification decision to judicial review.

This restriction on the review procedures applicable to exemption (b) (1) has been one of the principal subjects of criticism and suggested reform. In essence, the objection to the restricted judicial review of (b) (1) exemption claims is that such restricted review amounts to no review at all. According to *EPA v. Mink* the Government sustains its withholding of requested materials by merely offering affidavits that the materials sought have been classified pursuant to an Executive order. There is no further check on either the sincerity, or, assuming a good-faith effort, the accuracy of the classifications itself.

There is good reason for concern over the lack of review afforded these two factors. Classification abuse, chiefly through overclassification, is known to be common. To quote former Defense Secretary Laird,

Let me emphasize my conviction that the American people have a "right to know even more than has been available in the past about matters which affect their safety and security. There has been too much classification in this country. *As cited in* H.R. Rep. No. 221, 93rd Cong., 1st Sess. 40 (1973)."

Former United Nations Ambassador and Supreme Court Justice Arthur Goldberg, reflecting on the basis of his personal experience of reading and preparing thousands of classified documents, concluded that—

"75 percent of these documents should never have been classified in the first place; another 15 percent quickly outlived the need for secrecy; and only about 10 percent genuinely required restricted access over any significant period of time. *Id.* at 41."

Justice Douglas, in his dissenting opinion in *EPA,* noted the present day realities of overclassification in this light:

"Anyone who has ever been in the Executive branch knows how convenient the "Top Secret" or "Secret" stamp is, how easy it is to use, and how it covers perhaps for decades the footprints of a nervous bureaucrat or a wary executive."

It is Justice Douglas' opinion that the secrecy stamp is used to withhold information which in 99% of the cases would present no danger to national security. *Gravel v. United States,* 408 U.S. 606 (1972) dissenting opinion).

The significance of the abuse of classification procedures is intensified when no effective review of the procedures is available. The lack of any realistic review of classification procedures other than that provided by the body responsible for the initial classification results in a giant loophole by which the Act's disclosure requirements may be avoided.

B. What H.R. 12471 would do

The provisions of H.R. 12471 relating to review applicable to exemption (b) (1) are designed to tighten the presently existing loopholes created by *EPA v. Mink.* H.R. 12471 would alter two provisions of the Act in order to reach this goal. Section (a) (3), the provision dealing with judicial review, would be amended to specifically grant the court discretionary authority to "examine the contents of . . . agency records *in camera* to determine whether such records or any part thereof shall be withheld under any of the exemptions . . ." Exemption (b) (1) would be amended so as to create a two-prong test. As it stands, exemption (b) (1) exempts matters "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." H.R. 12471 would include the phrase "and are in fact properly classified pursuant to such Executive order" so as to demand adherence to procedural as well as substantive requirements of the order. The combined effect of these changes is to bring discretionary *in camera* review of classified materials within the ambit of the court's *de novo* determination.

C. The President's objections

The President voices two major objections to H.R. 12471's provisions for dealing with review of classified documents. According to the veto message of October 17, 1974, it is the President's opinion that the bill's procedures would jeopardize military and intelligence secrets and diplomatic relations, and violate constitutional principles as well. The concern for the bill's effects on diplomatic relations and military secrets is evidently founded in a skepticism regarding the capability of courts to deal with such matters, matters for which, in the President's words, the courts "have no particular expertise." The nature of the President's constitutional objection is not as easily pinpointed. The veto message makes no reference to the exact nature of the constitutional infraction. Presumably, the constitutional principle referred to is the separation of powers doctrine.

Subsequent to his veto, the President forwarded his own amendments to H.R. 12471 to Congress. His proposals, aimed at curing the deficiencies he believes to exist in the bill as presently written, would allow *in camera* review only where a court finds, after first considering all attendant material, no reasonable basis to support the classification. In effect, the President's procedures would make the affidavit the first and final test of the validity of the government's claim of nondisclosure.

Court expertise

The President evidenced, in his veto message, a skepticism of the capability of courts to deal with such matters as military affairs and diplomatic relations stating the courts "have no particular expertise" in these fields.[1] The courts have, however, in other difficult and sensitive areas, managed to dispose of cases involving a thorough analysis of cases which require special expertise; for example in certain tax cases, the district courts have delved into such difficult tax issues as sections 1311–14, Mitigation of Limitations, and have been affirmed by the circuit courts.[2] The courts have also demonstrated the ability to deal with complex issues in the delicate area of patents and copyrights. *See, e.g., Kewanee Oil Co.* v. *Bicron Corp.*, 94 S. Ct. 1879 (1974), and the highly technical area of antitrust law. *See, e.g., Telex* v. *IBM*, 367 F. Supp. 258 (N.D. Okla. 1973). Perhaps the most salient example of courts dealing with sensitive issues and materials is the Watergate case and the handling of the White House tapes. The President's hesitancy is misplaced in this situation since federal judges, on the district court level, have demonstrated competence in handling complex and sensitive issues. They are appointed by the President himself with the advice and consent of the Senate and as such are worthy of the trust of the executive.

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[1] "In my opinion, citizens urgently need relief from the tyranny of classification secrecy as practiced by the executive branch. The judiciary could give us that relief. I am confident that a Federal court would exercise good judgment about our national defense requirements in any given case. I would assume that the judge could handle any foreign policy case quite satisfactorily." *Hearings on Executive Privilege, Secrecy in Government, Freedom of Information Before the Subcomm. on Intergovernmental Relations of the Comm. of Government Operations,* 93rd Cong., 1st Sess., pt. 1, at 290 (1973). Testimony of William G. Florence, Air Force Security Analyst (Retired).

[2] The district court in *Oklahoma Gas and Electric Co.* v. *United States,* 289 F. Supp. 98 (W.D. Okla. 1968), *affd.* 464 F. 2d 1188 (10th Cir. 1972), stated that "the purpose of the mitigation sections is to correct tax inequities where the statute of limitations, if controlling, would serve to create a double taxation or double escape from taxation to the unjust hardship of benefit of either taxpayer or the government." These sections of the Internal Revenue Code usually only apply under unusual circumstances, and only after several threshold requirements have been met. *See Yagoda* v. *Commissioner of Internal Revenue,* 331 F. 2d 485, 488 (2nd Cir.); *cert. denied,* 379 U.S. 842 (1964); 2 *Mertens, Law of Federal Income Taxation* § 14.01 (Zimet & Stanley ed. 1967). The Second Circuit in *Benenson* v. *United States,* 385 F. 2d 26 (1967), approved the disposition regarding

E. The doctrine of separation of powers

The President makes no direct identification of the constitutional principle he claims to be violated by the procedures outlined in H.R. 12471, but it is apparently the separation of powers doctrine. The President does, however, offer a hypothetical example illustrating that he believes to be the unconstitutional arrangement. The President's hypothetical involves a situation where the Secretary of Defense has reasonably determined that disclosure of a certain document would endanger our national security. As the President interprets the bill, a district judge who, upon contemplation under the FOIA, found a plaintiff's position just as reasonable, would have to order disclosure of the document. "Such a provision," according to the President, "would violate constitutional principles." 10 *Presidential Documents* 1318, Oct. 17, 1974.

The President's concern with the scope of review to be applied under H.R. 12471 is founded upon the presumption or weight to be afforded the executive's findings. Evidently, the President's opinion is that failure to proceed under a standard of review granting some presumption in favor of the executive is unconstitutional. Presumably, the rationale behind this opinion is that absent a presumption in favor of a prior determination by the executive branch, similar to the presumption of validity given to an agency under traditional principles of administrative law, the court is forced to undertake a totally independent evaluation of the validity of a certain classification. For the court to perform this function would be tantamount to substituting its judgment for that of the executive official making the initial classification—a nonjudicial function. Assuming this is indeed the reasoning behind the President's objection, the constitutional principle which requires examination is the doctrine of separation of powers.

The underlying objective of the doctrine of separation of powers is the desire to avoid autocracy. *Myers v. United States*, 272 U.S. 52, 293 (1926). To this end the doctrine serves to safeguard that degree of independence which a certain branch of the government needs in order to carry out its responsibilities. The doctrine is a necessary corollary of the specific constitutional designation of the three branches of the government. Nearly a century ago the Supreme Court observed the following necessary restraints of the Constitution:

"[It is] essential to the successful working of this system that the persons intrusted with power in any one of these branches shall not be permitted to encroach upon the powers confided to the others, but that each shall by the law of its creation be limited to the exercise of the powers appropriate to its own department and no other . . . *Kilburn v. Thompson*, 103 U.S. 168, 191 (1881)."

It has been recognized that the principle of separation of powers "was obviously not instituted with the idea that it would promote governmental efficiency. It was, on the contrary, looked to as a bulwark against tyranny." *United States v. Brown*, 381 U.S. 437 (1965). As applied to the Judiciary, it serves to interpret Article III of the Constitution as both "a grant of exclusive authority over certain areas and as a limitation upon the judiciary, a declaration that certain tasks are not to be performed by courts." *Id.*

The issue, therefore, is whether the courts are being compelled to perform a function which is properly left to another branch of the government. H.R. 12471 requires courts to perform a *de novo* review. A court undertaking such review is authorized "to examine the contents of such agency records *in camera* to determine whether such agency records or any part thereof shall be withheld under any of the exemptions set forth . . ." in the Act. Taken in context, these provisions confer to the courts the right to review an executive decision to determine its propriety—a traditionally judicial function.

The President's objection is presumably based on the argument that the courts' review function is equivalent to the initial classification decision. The crucial point is that the specific task assigned the courts under H.R. 12471 is to establish whether agents of the Executive branch have followed the standards which the Executive branch itself has promulgated for classifying confidential materials. It is not the intention of the bill, nor does it allow, the courts to make an independent determination of whether materials should or should not be classified in the interest of national security. The fundamental task before the court is one of review, a judicial function which the Constitution has assigned exclusively to the courts.

The President attaches great significance to what he considers a lack of presumption in favor of the government's findings. It is likely that the President attributes this lack of presumption to the Act's requirements which call for *de novo* review and place the burden on the agency to sustain its action. The fact is the provisions do not necessarily remove an effective presumption in favor of the government's findings. In reality, such a presumption will most likely be the rule in the majority of cases. The courts have traditionally shown great deference to Executive determinations in matters of national defense and foreign affairs and there is nothing in H.R. 12471 which would require a change of procedure in that regard. *United States v. Curtiss-Wright*, 299 U.S. 304 (1936). The bill permits *in camera* inspection at the discretion of the court; it is not automatic. The clear legislative intent is that *in camera* inspection will occur only after the court has considered all attendant evidence and found it insufficient to sustain the government's position. To quote the conferees:

"Before the court orders *in camera* inspection, the government should be given the opportunity to establish by means of testimony or detailed affidavits that the documents are clearly exempt from disclosure."

Thus a judge might very well determine that an affidavit, asserting that requested materials have been classified pursuant to an Executive order, does itself establish the government's position. The objective of H.R. 12471 appears to be that the weight to be given evidence such as an affidavit is to be left with the court. The bill does not prevent a judge from attaching considerable weight to the fact that the government feels certain materials are within the ambit of a classification. For reasons which will be discussed presently, H.R. 12471 seeks merely to avoid a hard and fast rule which makes an affidavit conclusive evidence of the validity of the government's position.

The hypothetical proposed by the President in his veto message suggests a misconstruction of the scope of review called for under H.R. 12471. The hypothetical involves a situation where the court is comparing its own independent determination of the potential danger of a certain document to the national security with the government's determination on the matter. The procedure called for in H.R. 12471 is a process wherein the court would consider the government's determination in light of requirements outlined in an Executive order. In deciding the question the court would inevitably attach considerable significance to the government's prior determination on the matter. Such a review procedure is not inconsistent with the Act's *de novo* and burden of proof requirements. The *de novo* requirement that the court is to consider the issue in its entirety does not preclude a court from attaching whatever significance to the government's actions it finds appropriate. The burden of proof stipulation means only that the government must come forth with the evidence necessary to convince the court that the materials do indeed escape the Act's disclosure requirements. To return to the President's hypothetical, it would seem to be somewhat of an impossibility for a court to find that a classification was at the same time both reasonable and unreasonable. Were the government to show that a particular classification was made pursuant to the substantive and procedural requirements of an Executive order the court's only option under H.R. 12471 is to refuse to compel disclosure. Thus in the President's hypothetical a finding by the court that a classification made by the Secretary of Defense was indeed reasonable, as judged by the specifications in the Executive order under which the classification was made, would preclude a simultaneous conclusion that the material in question could be disclosed. If there exists a reasonable basis to classify, disclosure is unreasonable.

The scope of review which the President would apply is the equivalent of the substantial evidence rule which the courts frequently apply in reviewing agency actions. The President's procedure would permit disclosure only where a court could find no reasonable basis to support the government's classification. This procedure would also make a government affidavit attesting to the validity of a classification the equivalent of *prima facie* evidence that the government had indeed made a legitimate classification. Under this procedure, an affidavit would provide the court with a reasonable basis to support the government's classification such as to make *in camera* inspection unnecessary and inappropriate. Congress, however, had good reason for selecting a *de novo* scope of review instead of a substantial evidence approach. The lack of any record by which the court could determine whether the government had acted according to the provisions of the Executive order authorizing and prescribing the conduct of the individual involved renders the application of a substantial evidence rule difficult.

As the Supreme Court observed in *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402 (1970).

"Review under the substantial evidence test is authorized only when the agency action is taken pursuant to a rulemaking provision of the Administrative Procedure Act itself . . . or when the agency action is based on a public adjudicatory hearing. *Id.* at 414."

To apply the substantial evidence rule to exemption (b)(1) of the FOIA would be inconsistent with the Act's objectives. In effect, such a standard would do nothing to change the present status of the exemption, and therefore would be undesirable since as we have already seen the current limitations

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relationship between the mitigation provisions of sections 1311–15 and the doctrine of equitable recoupment, made by the district judge "in his exhaustive opinion." *Id.* at 28. *See Benensen* v. *United States*, 257 F. Supp. 101 (S.D. NY 1966).

on review of exemption (b)(1) provides a loophole for avoiding the Act's disclosure requirements. The substantial evidence approach that the President prescribes prohibits any valid independent review and thus allows the abuses of overclassification to continue.

This lack of any meaningful check on administrative action places the Executive rather than Congress in jeopardy of violating the separation of powers doctrine. Total *preclusion of* judicial review makes the Executive the sole judge of its actions. This is particularly inappropriate in the immediate case since the constitutional authorization for the power which the executive is here exercising stems from the Executive and Congress.

While the Constitution designates the President as Commander in Chief of the Army and Navy, and grants him certain powers in regard to treaty making, it likewise bestows the Legislative branch with the power to declare war and raise and support armies to regulate commerce with foreign nations and to ratify treaties. The Constitution thus grants to both the Executive and Legislative branches the authority to deal in matters pertaining to military and foreign affairs. Moreover, the history of the present system of classification shows a conspicuous absence of any constitutional authority for withholding information through classification. Indeed, what is shown is the legitimacy of Congress' authority to act in this area. The onset of the present system for withholding information relevant to the national defense or foreign policy can be traced back to World War I. *See* Executive Classification of Information—Security Classification Problems Involving Exemption (b)(1) of the Freedom of Information Act (5 U.S.C. 552). H.R. Rep. No. 221, 93rd Cong., 1st Sess. (1973). The first Executive order establishing a classification system became effective in 1940 and relied upon the authority of a congressional enactment giving the President power to establish as vital certain military installations and to make unlawful the conveying of information or physical representation of these designated installations. Ex. Order No. 8381, 3 C.F.R. 634.

Since this time various orders have extended the scope of the classification system in the area of non-military affairs. Currently, classification procedures are established by Executive Order No. 11652 (37 C.F.R. 5209, 1972) and apply to "official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States" or, to use the collective term adopted in the order, "national security." It is interesting to note that the only authority for the classification system cited in the order is section (b)(1) of the Freedom of Information Act. It is clear therefore that the objectives of a classification system properly reside within the domain of both the Congress and the Executive. For one branch to completely usurp the administration of such responsibilities through the preclusion of any meaningful procedure for review run contrary to the separation of powers doctrine.

A thorough consideration of the provisions of H.R. 12471 reveals that the separation of powers doctrine is not threatened by the proposed legislation. Indeed it is the constitutionality of the procedures outlined by the President which appear suspect.

One area of possible confusion which deserves consideration is the claim of executive privilege. This claim has no application to the matter under consideration here. As has been shown, it is not the purpose of H.R. 12471 to compel disclosure of materials which in the interest of national security should properly remain classified. H.R. 12471 seeks to exercise Congress' legitimate interest in insuring that the integrity of the classification system is not destroyed through the abuse of overclassification. Additionally, Congress has the legitimate concern of maintaining to the fullest extent possible an open flow of all information pertinent to the decisions which citizens of a democracy are called upon to make. H.R. 12471 does not seek to deprive the Executive of the legitimate use of a privilege against disclosure since exemption (b)(1) is an express recognition of the possible propriety of such a privilege. H.R. 12471 aligns the privilege with principles underlying the separation of powers doctrine. The alignment procedure outlined in H.R. 12471 is the rejection, consistent with the holding of the Supreme Court, of any claim of absolute privilege. Whether or not the Executive has a legitimate privilege granting it immunity from compliance with the demands of the other branches of Government is something that only the courts can determine. What is called for is a decision whether, and to what degree, a matter has been committed by the Constitution to another branch of government. This decision "is itself a delicate exercise in constitutional interpretation, and is a responsibility of [the Supreme] Court as ultimate interpreter of the Constitution." *Baker v. Carr,* 369 U.S. 211 (1961). "Any other conclusion would be contrary to the basic concept of separation of powers and the checks and balances that flow from the scheme of a tripartite government." *United States v. Nixon,* 94 S. Ct. 3090, 3106 (1974).

Consistent with the concept of separation of powers, the provisions of H.R. 12471 place the determination of the propriety of the Executive's privilege against disclosure where it properly resides—with the courts. The United States Court of Appeals for the District of Columbia has articulated the essence of the issue with particular clarity and perception:

"If the claim of absolute privilege was recognized, its mere invocation by the President or his surrogates could deny access to all documents in all the Executive departments to all citizens and their representatives, including Congress, the courts as well as grand juries, state governments, state officials and all state subdivisions. The Freedom of Information Act could become nothing more than a legislative statement of unenforceable rights. Support for this kind of mischief simply cannot be spun from incantation of the doctrine or separation of powers. *Nixon v. Sirica,* 487 F.2d 700, 715 (1973)."

II. TIME LIMITS AND COSTS

President Ford's second objection to the FOIA amendment relates to the limitations placed on an agency's time to respond to initial requests for information and administrative appeals from initial denials. The President suggests substitution of the initial 10 day period by a 30 day limitation, and a substitution of the 10-day administrative extension period for unusual circumstances by a 15 day period. Along with these substitutions the President suggests that an agency be allowed to petition the U.S. District Court for the District of Columbia for an even further extension of these time periods if compliance is essentially impossible. This application to the court must occur prior to the expiration of the periods specified in his substitution.

Obviously, the President recognizes the need for specific guidelines on periods for agency responses—the need for which is born out by past experience. Perhaps the greatest abuse of the Freedom of Information Act has been the low priority accorded by agencies on information requests. Hearings on H.R. 5425 and 4960 Before the Foreign Operations and Government Information Subcomm. of the House Comm. on Government Operations, 93rd Cong., 1st Sess., 334 (1973). One study has shown that six month delays in processing are not uncommon and mentioned one request that remained undetermined after more than one year. Subcomm. on Administrative Practice and Procedure of the Senate Comm. on the Judiciary, Freedom of Information Act Source Book, S. Doc. No. 82, 93rd Cong., 2nd Sess. 223 (1974).

Such delays, whether intentional or not, can often amount to a de facto denial of a request. Specific, enforceable time limitations would significantly alleviate this problem, especially in light of section c(6)C of the amendment. This amendment permits a requester to treat his administrative remedies as exhausted if the time limitations are not complied with, allowing suit to be filed if desired.

President Ford's modifications of the time limits do not present so substantial an improvement over the amendment as to warrant sustaining a veto. It is true that if one totals the time periods mentioned in the two proposals, the President presents a total of 65 working days as compared to 40 working days. A measurement of percentage increment is not possible because this total does not reflect the varying times involved in the requester framing an administrative appeal, a period during which the agency presumably continues to analyze the exempt nature of the requested materials. But simply referring to the difference in time limits fails to recognize that the amendment as it now stands provides an agency with an opportunity to request still more time within which to analyze a request if it is presented with exceptional circumstances.

If it is indeed impossible for an agency to comply with the time periods, once a complaint is filed by the requester, a district court may allot extra time to the agency and retain jurisdiction. Thus, as regards particularly sensitive, complex, or extraordinarily voluminous materials, such as the President is specifically concerned with in the case of investigatory files, an agency will not have to make a hasty or ill considered judgment.

It should be further noted here that the Congressional proposal substantially follows the guidelines suggested by the Administrative Conference in Recommendation No. 24 wherein the 10 and 20 day basic time periods were first suggested. This recommendation was made after a thorough and precise study of agency procedures in relation to the FOIA.

It is not clear that the President's proposal would result in less time, effort, or money expended by an agency, vis-a-vis the Congressional proposal. As the FOAI now stands, the U.S. District Court in the district where the complainant resides has jurisdiction over an FOAI case and would normally be the site of an original proceeding. It is true that if the complaint were filed, under the procedures of the amendment an agency would have to file its request for a time extension in that district. Under the President's procedures the agency would merely have to file its affidavits in the District of Columbia, and it would be the prospective complainant who would have to defray the costs of traveling to Washington to challenge the adequacy of the affidavits. However, under the President's proposal the agency involved would always have to draft such affidavits before the expiration of the initial time periods, whereas under the amendment's procedures the agency could inform the requester of the difficulty of the determination and suggest that he withhold suit for a period of time, save the time and effort of drafting a complaint, as well as the filing fees. If such a procedure is followed in good faith, it saves the complainant from the possibility of unnecessary suit; it saves the agency the time, effort and money of filing affidavits for extension—as it would *always* have to do under the President's proposal; and as a practical matter the whole apparatus operates in a much less cumbersome, inexpensive manner.

Ultimately the point of disagreement on time limits is one of degree. Both the President's proposal and the suggested amendment contain some time limit. Because of unnecessary extended delays, the shorter time limit seems justified and an extension does not warrant the veto.

III. INVESTIGATORY FILES

The Presidential objections identify investigatory files as a separate problem from purported constitutional and time limit infirmities. His complaints focus on the necessity of reviewing large files on a paragraph by paragraph basis to sever the disclosable from the non-disclosable portions.

The President's message singles out investigatory files which he believes should not be subject to the amendment's command that "any reasonably segregable portion of a record shall be provided . . . after deletion of the portions which are exempt." The Presidential substitute allows the agency to classify a file as a unit without close analysis because the time limits are too stringent to allow such intensive analysis.

If investigatory files are so unique in terms of length and complexity, an agency's logistical difficulty in conducting a thorough analysis would certainly strongly influence a court to extend the time for agency analysis as is authorized by the bill. Therefore, a procedure is already available to provide for accurate and thorough analysis without empowering agencies to make conclusory opinions that would result in no disclosure of information in an investigatory file, no matter how much of it would be proper to disclose. Also, it is precisely this opportunity to exempt whole files that would give an agency incentive to commingle various information into one enormous investigatory file and then claim it to be too difficult to sift through and effectively classify all of that information.

This objection, as was the objection to the time limits, is one of degree. In light of the fact that "[t]he FOIA was not designed to increase administrative efficiency, but to guarantee the public's right to know how the government is discharging its duty to protect the public interest," *Wellford* v. *Hardin*, 444 F.2d 21,24 (1971), disclosure of severable portions of investigatory documents does not create an unreasonable burden.

CONCLUSION

None of the objections issued by the President's veto message appear to establish either that H.R. 12471 is unconstitutional or unworkable. The provision of the amendment which allows *in camera* inspection of classification determinations is not unconstitutional under the separation of powers doctrine but does provide a check on possible executive abuses of the classification system. Objections as to difficulty in culling public information properly classified in investigative files is an administrative matter similar in nature to the objection as to lengths of times for review of requests. We conclude that the administrative problems do not constitute insurmountable barriers. Time limits in the amendment accord some flexibility if needed. If those responsible for culling information from investigative files cannot reasonably meet the deadline, extensions can be granted.

The basic philosophy underlying the FOIA is consistent with the President's proclaimed support for open government. Yet experts on the current implementation agree to the need for changes to better implement that philosophy.

Our analysis also suggests that the Constitution does not demand a veto of this bill since it does not violate the separation of powers. And finally the amendments, while requiring some additional effort from officials, are not administratively unworkable.

[From the Miami News, Oct. 21, 1974]

MOST SECRECY NEEDLESS

The public should be distressed that President Ford has vetoed important amendments to the Freedom of Information Act after Congress had overwhelmingly recognized the need to further pry unwarranted secrets out of government agencies.

Mr. Ford apparently had been fed a lot of bad advice by the Justice Department and the Pentagon chiefs that the amendments would give the citizens and the news media carte blanche to invade confidential FBI and military files. But the federal courts long have given ample protection to the necessary secrets of government and there is no reason to think this would not be the case in the future.

The Freedom of Information Act, passed by Congress in 1966, says the public should have the broadest access to information about the workings of government. But the important agencies have done their best to escape compliance. Deliberately long delays in responding to requests for data have defeated the purpose of the act.

The amendments would shorten the amount of time or an agency's response, would impose penalties on officials who arbitrarily refuse to cooperate, and would require annual reports to Congress on performance.

The President promised an open administration when he assumed office last August. But if he yields to the desires of the FBI and the Defense generals for excessive secrecy, he will revert to one of the insidious traits that wrecked the Nixon administration.

Congress ought to override the veto. Learning how government conducts its business is the business of all Americans.

[From the Miami Herald, Oct. 27, 1974]

AN OVERRIDING CONCERN ON SECRECY

President Ford's proposed substitute for the amendments to the Freedom of Information Act which he vetoed Oct. 17 is, if anything, worse than no bill at all.

As J. Arthur Heise suggests in an adjoining column, the existing information act is "largely a toothless baby" which really encourages bureaucrats to clam up when it suits their fancy. It created a situation, he goes on, "akin to allowing a drunken driver to administer his own sobriety test."

Mr. Ford's substitute for the amended act, which passed the Senate 64 to 17 and the House 366 to 8, grants wide latitude and lots of lead time to those who may wish to prevent the public from learning about its own business.

For instance, the vetoed bill would give government agencies 10 days to respond to a request to furnish documents believed to be improperly classified. The Ford version would give agencies 30 days to comply plus another 15 days in some cases and the right to seek a longer delay from the courts in exceptional circumstances. In other words, plenty of time to bury the bones or forget all about it.

U.S. government files are crammed with tons of material affecting and perhaps covering up decisions made in the name of the public but without its knowledge. Some of this material goes back half a century and more.

Washington is an echo chamber for petty politics and social gossip but many of its halls are tightly shut to public information, much of which has no title to official secrecy. At the very least Congress should pass the amended Freedom of Information Act over President Ford's veto, which we fear was derived from bad advice.

[From the Miami Herald, Oct. 29, 1974]

TO LET THE SUNSHINE OUT

In a joke making the rounds a few years back, a picketer at the White House waves a sign reading "The President is a Fool" and is promptly arrested for revealing top secret information.

The anecdote makes a point. Although governmental secrecy has some legitimate uses, it is as often the refuge of fools and scoundrels who cover up their indiscretions by denying the public access to vital information.

It does not have to be that way. In Florida a tough law to bring about "government in the sunshine" is a model for other states.

At the federal level, Florida's Sen. Lawton Chiles, the citizen lobby Common Cause and several prominent persons in government and the media have been pushing for a national version of the "sunshine law" with a few changes to take into account military secrecy and foreign affairs that are not a problem at the state level.

After months of work, congressmen thought they had hammered out an acceptable compromise to guarantee public access to public records and the public's business.

The measure, watered down somewhat to meet President Ford's stated objections, passed the House 336–8 and the Senate 64–17. The chief author of the compromise, Rep. William Moorehead of Pennsylvania, noted that the bill would "provide the openness in government that President Ford has promised us" and predicted it would be signed into law.

But Gerald Ford had a secret. He vetoed the compromise measure in an ill-advised action that Washington observers blamed on the President's listening to the Pentagon's views on secrecy.

Mr. Ford's stated reasons for his veto were totally unconvincing. We trust that when Congress returns following its election recess, it will act promptly to enact the Freedom of Information Act to start letting a little sunshine illuminate the activities of the federal government.

[From the Jacksonville (Fla.) Times-Union, Oct. 24, 1974]

READDRESS SECRECY BILL SOON

It took the Congress three agonizing years to produce a government anti-secrecy act designed to let the American people know what is going on in the federal government.

It took President Ford one week to veto the measure, an amendment to the Freedom of Information Act.

The President's action is distressing unless the justification cited for it is adequate. First, it is distressing because of the acknowledged fact that there has been to much abuse by policymaking bureaucrats of the "secret" and "confidential" stamps placed on government documents.

It is distressing also because one of the foremost pledges of President Ford when he assumed the presidency was for more openness at the White House, an example that should then filter down through the rest of the Executive Branch.

The bill as it worked its way through the Congress was opposed by the Defense Department and by the State Department. They argued that diplomatic secrets and vital military secrets would be revealed as a result of the act.

Congress took these arguments into consideration and, notwithstanding, overwhelmingly adopted the bill. The vote in the House was 366–8 and the Senate vote was 64–17. Congress must have felt that the bill contained sufficient safeguards of national secrets—real secrets—as opposed to cover-ups—to produce those overwhelming votes for the measure.

We hailed the passage of the anti-secrecy bill with muted praise because Congress failed to act more positively with regard to openness concerning its own activities, although some progress is being made in this direction.

In his veto message, President Ford cited the diplomatic-military secrets angle and also said it was his view that the new crack-in-the-door policy enunciated by Congress for the Executive Branch was "unconstitutional and unworkable." The President promised to send along proposals of his own to eliminate defects of unconstitutionality and unworkability that he perceives in the measure.

We are reluctant to criticize the President on this issue. We do not want to see American foreign policy undermined by the inadvertent publication of diplomatic communications; we do not want to see vital American military secrets revealed to enemies or potential enemies; we do not want to see domestic public enemies aided and abetted in their schemes to escape just punishment *for crimes.*

If the President is right and the bill has serious defects with regard to protecting legitimate national secrets, it is distressing that Congress, after three years work, could not have struck a better balance.

In any case, Congress should, in view of all the other pressing matters, move with all deliberate speed to readdress this question of the abuse of secrecy and confidentiality powers by various Executive Branch agencies.

[From the Palatka Daily News, Oct. 22, 1974]

MORE INFORMATION PLEASE

The purpose of the Freedom of Information Act of 1966 was to strike down bureaucratic obstacles which keep the American people from finding out what their government is up to. The purpose of the amended act just vetoed by President Ford is to strengthen the original legislation.

Strengthening is necessary. The law has not been nearly as effective as its proponents had hoped; there have been many evasions and delays by federal agencies, and much information which should have been made public has continued to be held in the files.

Mr. Ford raised two principal objections to the amended act. He opposed the amendment's central concept of permitting the federal courts to go behind a secrecy classification and determine whether it was justified by circumstances. He also opposed the time limit provisions of this legislation. It would be burdensome, he argued, to require government agencies to decide in 10 days whether to furnish a requested document, and to give them 30 days in which to respond to lawsuits questioning a negative decision.

We do not agree with Mr. Ford on the latter point. Ten days strikes us as a reasonable time for an agency's initial decision on meeting a request for information. If there are valid reasons for refusing to comply, the agency should be able to set them forth in a preliminary way for the courts within 30 days.

Nor do we agree that judicial review of secrecy classifications would threaten to endanger diplomatic relations or injudiciously reveal intelligence secrets. The President maintains that the courts would be deciding on document classification "in sensitive and complex areas where they have no expertise." Perhaps so, but the courts' record of responsibility suggests that in sensitive cases they would seek expert advice before ruling.

In most cases, it would be preferable to have such decisions made by the courts rather than by bureaucrats whose interest may lie more in concealment than in disclosure. The public needs more, no less, information about the workings of the government. Senate and House votes on the legislation indicate that Congress feels this very strongly. The veto may be overridden, as it should be.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

SUPPLEMENTAL APPROPRIATIONS, 1975

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, H.R. 16900, which the clerk will state.

The second assistant legislative clerk read as follows:

> A bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

> On page 28, after line 9, insert the following new section:
>
> "SEC. 204. Notwithstanding any other provision of law, appropriations provided in this or any other Act which would otherwise expire on June 30 of the calendar year 1976, or on such date of any subsequent calendar year, shall remain available until September 30 of each such calendar year."

Mr. McCLELLAN. Mr. President, this amendment is proposed by the administration and I see no objection to it. Therefore, I make this brief statement for the RECORD:

Mr. President, this proposed amendment, officially requested by the President and transmitted to the Senate yesterday, is contained in Senate Document 93–124. It should be characterized as a technical amendment.

The general provision makes funds that would otherwise expire on June 30 of 1976 or later years available until September 30 of each of those years. In so doing, it facilitates the transition from the present July–June fiscal year period to the October–September fiscal year period. While the transition does not occur until 1976, being able to plan on the extended fund availability authorized by the general provisions will remove a degree of uncertainty from both executive branch requests and legislative branch actions on the appropriations for the transition quarter—July 1–September 30, 1976. The transition quarter requests will be included in the 1976 budget and appropriations for the quarter will be in the regular 1976 appropriation acts.

The change in the fiscal year is required by section 501 of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Fiscal year 1976 will be the last on the July–June basis. It will be followed by a transition quarter from July 1 through September 30, 1976. Fiscal year 1977 will commence on October 1, 1976.

This change in the fiscal year period requires a number of adjustments in present laws and procedures. Some are provided for in the act itself. Section 504, for example, provides that—

> Any law providing for an authorization of appropriations commencing on July 1 of a year shall, if that year is any year after 1975, be considered as meaning October 1 of that year.

The proposed general provision is a similar kind of adjustment for a later stage of the funding process. It will permit funds which would otherwise expire on June 30 of all years beginning with 1976 to remain available for obligation until September 30 of each of those years. In 1976, this will allow regular fiscal year 1976 appropriations to remain available through the transitional quarter. This will allow financial managers to make use of previously appropriated funds and thus allow smaller appropriation requests for the transitional quarter itself. In the fiscal years 1977 and beyond, the general provision will prevent previously appropriated funds from expiring three-quarters of the way through the fiscal year.

I think, Mr. President, that this amendment is absolutely essential to the orderly process of transition of the fiscal year from June 30 to June 30, to September 30 to September 30, of each year. It is, as I said in the beginning, simply technical in consequence, and I know of no objection to it.

If there is no one wishing to be heard on it, then I suggest that it be adopted.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. YOUNG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, as far as I know, the bill is open to amendment and some Senators who have amendments are not here. We are waiting for someone else to be present.

I would like to proceed with the bill and take up any amendments that may be available.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. BIBLE. Mr. President, I call up my amendment which is at the desk and ask that it be stated.

The PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. BIBLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

> On page 26, between lines 7 and 8, insert the following:
>
> BUREAU OF LAND MANAGEMENT
>
> Management of Lands and Resources
>
> For an additional amount for "Management of Lands and Resources," $12,400,000, to be derived by transfer from the appropriation for "Salaries and Expenses," Office of Coal Research, fiscal year 1975.

On page 26, between lines 11 and 12, insert the following:

GEOLOGICAL SURVEY

Surveys, Investigations and Research

For an additional amount for "Surveys, Investigations and Research," $2,600,000, to be derived by transfer from the appropriation for "Salaries and Expenses," Office of Coal Research, fiscal year 1975.

On page 27, between lines 5 and 6, insert the following:

RELATED AGENCIES

FEDERAL ENERGY ADMINISTRATION

Salaries and Expenses

For an additional amount for "Salaries and Expenses," $8,000,000.

Mr. BIBLE. Mr. President, my amendment is in response to late arriving supplemental budget estimates signed only this past weekend by the President. It embodies $15 million in transfer authority requested by the President for the Interior Department's Outer Continental Shelf oil and gas leasing program. And it includes $8 million of the $16 million he requested for ongoing activities of the Federal Energy Administration.

As chairman of the Appropriations Subcommittee on the Department of the Interior and Related Agencies, I scheduled a full hearing of these requests yesterday—Monday. The subcommittee took testimony from Under Secretary of the Interior John C. Whitaker and from Federal Energy Administrator John Sawhill, together with their associates. The amendment I offer today is the result of information developed at that hearing and the recommendation of the subcommittee members present. This takes the form, then, of a committee amendment although there was not time to permit the normal full committee review of these items.

Let me briefly highlight the funding proposed in my amendment.

The Interior Department request, as I noted, involved transfer authority and no new additional appropriation. The request involves $12,400,000 to the Bureau of Land Management and $2,600,000 to the Geological Survey for the conduct of additional baseline and other environmental and geologic studies in several frontier lease areas and one area deep in the Gulf of Mexico on the Nation's Outer Continental Shelf for oil and gas leasing. These funds supplement some $40 million appropriated earlier in the regular Interior appropriations bill. The Department testified that the funds are needed now so that these prelease studies can be conducted in the brief summer seasons of the northern areas and move forward for contingency lease areas. The committee determined that none of the requested funds will be used for actual lease sales. These funds will be derived from the so-called pioneer plant program of the Office of Coal Research which is deemed to be of lower priority.

The Federal Energy Administration requested $16 million in new appropriations to meet the agency's increased responsibilities under the Federal Energy Administration Act and the Energy Supply and Environmental Coordination Act, both of which were signed into law this past summer and were not anticipated in the agency's regular budget submission. The committee determined that, while some of the energy study programs and related personnel costs did appear to need additional immediate funding, portions of the request such as additional Project Independence and energy conservation studies could await the second supplemental appropriations bill when they could receive more complete congressional review. Therefore, my amendment proposes an appropriation of $8 million instead of the requested $16 million.

As I say, these supplemental estimates reached us just this week. In my opinion, they could have and should have been submitted much earlier. Because of the urgent energy issues involved, the subcommittee did schedule a special hearing so that these requests could be examined before being proposed in the pending supplemental appropriations bill.

The committee is mindful of the need to curb Federal spending during these difficult economic times, and the amounts I am proposing are being considered only because of the essential nature of the programs involved.

Additionally, I would state, Mr. President, I discussed this amendment with the distinguished chairman of the full committee, as well as the ranking member of the full committee.

I urge the adoption of the amendment.

The PRESIDENT pro tempore. Is all time yielded back?

Mr. BIBLE. I did not realize we were acting under a time limit, but I am perfectly willing to yield to the distinguished chairman of the full committee or to the ranking minority member for whatever comments they might have on this proposal.

Mr. YOUNG. Will the Senator yield?

Mr. McCLELLAN. I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Is this a budgeted amount?

Mr. BIBLE. That is absolutely correct. This is a budgeted amount. The amount requested was $16 million in the case of the FEA. The amount that we are suggesting is $8 million. In the area of the BLM and the Geological Survey, it does not take any appropriated dollars. It is simply a transfer from one fund of appropriated moneys in the regular Interior appropriation bill for a different purpose.

Mr. YOUNG. I see no reason why the amendment should not be approved.

Mr. BIBLE. Mr. President, I am prepared to yield back the balance of my time.

Mr. McCLELLAN. Mr. President, as I understand it, two of the items are transfers. They do not increase appropriations.

Mr. BIBLE. That is true.

Mr. McCLELLAN. And the other item was a request for $16 million by the budget, which the Senator recommends as an amendment which provides for only $8 million.

Mr. BIBLE. That is true.

Mr. McCLELLAN. So there is an increase of $8 million in appropriations.

Mr. BIBLE. That is the total effect of the amendment I am proposing.

Mr. McCLELLAN. I have no objection to the amendment, Mr. President.

Mr. BIBLE. I am prepared to yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BIBLE. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. McCLELLAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I have an amendment at the desk which I call up and ask that it be stated.

Mr. McCLELLAN. Will the Senator yield?

Mr. HELMS. I yield.

Mr. McCLELLAN. Is that an amendment dealing with appropriations under HEW?

Mr. HELMS. Yes.

Mr. McCLELLAN. Would the Senator mind withholding his amendment until the chairman of the subcommittee arrives? I understand he will be in the Chamber soon. I refer to Senator MAGNUSON.

Mr. HELMS. I will.

Mr. McCLELLAN. I would like amendments dealing with his part of the bill, over which his subcommittee has jurisdiction, to be withheld until he arrives in the Chamber.

I thank the Senator.

Mr. YOUNG. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

On page 20, between lines 4 and 5, insert the following:

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

For an additional amount for restoring northern border activities, $705,000.

Mr. YOUNG. Mr. President, the Immigration and Naturalization Service will require 90 additional positions and $705,000 in fiscal year 1975 in order to compensate for the Service's reallocation of resources from the northern border to the southwestern border.

In the Federal Register of November 11, 1974, the Commissioner of the Immigration and Naturalization Service announced a realinement of program priorities that was initiated on September 30, 1974. At this point in my remarks I ask unanimous consent that the notice of realinement as published in the Federal Register on Monday, November 11, 1974 be printed in full in the RECORD.

There being no objection, the notice of realinement was ordered to be printed in the RECORD, as follows:

[File No. CO 845-P]

DEPARTMENT OF JUSTICE—IMMIGRATION AND NATURALIZATION SERVICE

PROGRAM PRIORITIES

Notice of Realignment

NOVEMBER 5, 1974.

Notice is hereby given that the Immigration and Naturalization Service has found it necessary to realign program priorities in order to perform effectively with the personnel and funds available to it those functions considered most essential to the mission of the Service. The realignment, which was initiated September 30, 1974, is described in this notice in general terms so that members of the public may be aware of the actions taken.

The realignment will result in a decrease of service to the public in some activities and areas, and an increase in others. It will be necessary to shift and deploy a number of border patrol and immigration inspector positions from the northern to the southwestern border to deter illegal entry and expand inspection capability. The concentration of illegal aliens in the Southwest and the huge volume of admission applicants at land border ports of entry in that area make this step necessary.

At airports and seaports inspection of passengers on aircraft and vessels will necessarily be less expeditious. Personnel assigned to the adjudication of applications and petitions will no longer perform inspections during their regularly scheduled work hours because of the large arrearage in cases awaiting adjudication. However, the quality of inspections must be maintained and will not be sacrificed to reduce waiting time of arriving passengers.

Naturalization applications filed by residents of outlying areas will be allowed to accumulate so that a maximum number of cases can be completed on each visit of a naturalization examiner to a state or federal court. The waiting period for such applicants may be up to one year. Lowest priority will be given to interviews of applicants for certificates of citizenship and to applications for replacement certificates except for urgent cases. Special naturalization hearings will not be scheduled. Visits to citizenship education classes and to military installations by naturalization examiners will be discontinued.

In the adjudication of applications and petitions for benefits under the immigration laws, first priority will be accorded to cases in which the alien is in detention or under expulsion proceedings; orphan petitions; extensions of stay; change in nonimmigrant classification; F–1 student requests for work permission; and nonimmigrant visa petitions involving temporary services or training scheduled to begin immediately, if timely filing of the petition was prevented by reasons beyond control of the petitioner. Second priority will be given to waivers of inadmissibility; immigrant and nonimmigrant visa petitions; adjustment of status to permanent resident (other than applications under section 1, Act of November 2, 1966, and section 249, Immigration and Nationality Act); border crossing cards; school approvals; and advance permission to return. Lowest priority in the adjudication of cases will be given to applications under section 1 of the Act of November 2, 1966, and section 249 of the Immigration and Nationality Act; applications for permission to reapply after deportation; applications for reentry permits and alien registration receipt cards; applications for United States citizen identification cards; action to cancel or breach bonds; and action on change from immigrant to nonimmigrant status under section 247 of the Immigration and Nationality Act. The listing of these priorities does not mean that all cases under a higher priority must be completed before cases in a lower priority are adjudicated. Rather, it means that the available adjudicative manpower will be allocated in such a manner that a tolerable pending workload will be maintained as far as possible in the higher priority cases and that the remaining manpower will continue to work on lower priority cases. In addition, in any case in which the existence of an emergency is established, the case may be accorded first priority consideration.

At information desks the commitment of personnel to answer inquiries will be cut by 50 per cent. Information employees will be diverted to answering the exceptionally heavy volumes of telephone inquiries and responding to the tremendous backlog of correspondence. It is anticipated that long lines at information counters will begin to diminish if members of the public receive prompt and correct information by telephone or letter.

Enforcement priorities relating to investigations, border patrol and deportation activities have also been revised.

The realignment of program priorities will remain in force until the Service is capable of performing effectively all functions for which it is responsible. Interim adjustments may be made by the Commissioner if found necessary by operational exigencies.

(Sec. 103; 66 Stat. 173 (8 U.S.C. 1103))

Dated: November 5, 1974.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc. 74–26290 Filed 11–8–74; 8:45 am]

Mr. YOUNG. Mr. President, we have an increasingly serious problem of drugs coming across the Canadian border into the United States. I think our problem is probably more serious than even in the Southwest.

The practical effect of the realinement of priorities for northern border activities is that 60 immigration inspector and border patrol positions now assigned to the northern border will be assigned to the southwestern border to deter illegal entry and expand inspection capacity. In addition to the 60 positions currently being reassigned the Immigration and Naturalization Service expects that 30 additional positions will become vacant through retirement in the next several months.

The Immigration and Naturalization Service estimate of $705,000 provides for restoring the aforesaid 90 positions along the northern border for the latter half of fiscal year 1975. This amendment does not provide for the cost of training new employees, nor does it include the cost of additional vehicles or equipment associated with new personnel. At the moment the supply of vehicles and equipment along the northern border is adequate to absorb additional personnel.

Mr. President, this amendment merely maintains a status quo in inspection capabilities and prevention of illegal entry along our Nation's northern border. I hope my colleagues will join me in supporting this amendment for additional funds for the border patrol.

Mr. McCLELLAN. Will the Senator yield?

Mr. YOUNG. Yes.

Mr. McCLELLAN. How much money is involved in this amendment?

Is it an additional appropriation?

Mr. YOUNG. Yes, because the Immigration and Naturalization Service has ordered 60 of the border patrolmen along the northern border States to the Southwest to take care of problems in that area. This reduction of 60 positions increases to a total of 90 positions when another 30 border patrolmen reach retirement and cannot be replaced unless this additional money is appropriated. All we are asking for is the same number of patrolmen that we have had in the past.

Mr. McCLELLAN. The Senator is asking for funds which, in effect, make it possible for them to strengthen the immigration protection operations on the southern border. Is that correct?

Mr. YOUNG. The Immigration and Naturalization Service published in the Federal Register their proposal to shift 60 of the patrolmen from the northern border to the southwestern border.

Mr. McCLELLAN. There is an apparent need on the southern border or there would not be the need to transfer those from the northern section of the country, namely, North Dakota. Because they are transferring patrolmen to meet a condition of some urgency on the Mexican border, they would be depleting the strength of their forces on the northern border, particularly North Dakota. Therefore, this is to prevent that depletion of strength. Is that correct?

Mr. YOUNG. Yes, to prevent a depletion of strength of 90 positions. We are not asking for an increased number, but just the same number. Actually, we should have more than we have had in the past.

Mr. McCLELLAN. This would keep the balance, and provide funds and extra help for the southern border without diminishing to any degree the strength that is being maintained in North Dakota.

Mr. YOUNG. On the whole northern border. It affects the whole northern border.

Mr. BURDICK. Mr. President, I ask unanimous consent to have my name added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I have no further comment. I yield back the remainder of my time.

Mr. YOUNG. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. METZENBAUM). The question is on agreeing to the amendment of the Senator from North Dakota.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McCLELLAN. Mr. President, I understand that there will be further amendments, but the parties desiring to offer the amendments are not in the Chamber. Also, the chairman of the Subcommittee on Labor and HEW, whose section of the bill would be involved in some of these amendments, is not present.

I suggest the absence of a quorum. If we cannot work out something quickly, I am going to recommend that we recess for an hour, until other Senators can get here.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. The bill is open to further amendment, is it not?

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MONTOYA. Mr. President, I call up an amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MONTOYA. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

Mr. MONTOYA's amendment is as follows:

On page 25 after line 9 insert the following:

GENERAL PROVISION—TREASURY DEPARTMENT

SEC. 101. Motor vehicles for police-type use by the Treasury Department may be purchased without regard to the general purchase price limitation for the current fiscal year.

Mr. MONTOYA. Mr. President, this is a very simple amendment, which is very sorely needed on this bill. It would remove the limitation with respect to the purchase of police type vehicles by the Treasury Department.

Heretofore, we have had a limitation of $3,000 within which they could purchase these police type vehicles, but during the last bidding, the only bids Treasury received within the $3,000 limitation were for subcompact cars such as Gremlins and Pintos. These cars are not adaptable to police type use. It is vitally necessary that we remove this limitation because of the spiraling costs of automobiles due to the present day inflation.

It is my feeling that the removal of the limitation is very much in order, and I shall continue to monitor the bidding which takes place pursuant to the removal of this limitation, if it is removed.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. MONTOYA. Yes.

Mr. McCLELLAN. The limitation now is $3,000?

Mr. MONTOYA. $3,000.

Mr. McCLELLAN. They cannot pay more than $3,000?

Mr. MONTOYA. That is right.

Mr. McCLELLAN. Plus a trade-in, is that right?

Mr. MONTOYA. No, the limitation is on the price of the vehicle before trade-in.

Mr. McCLELLAN. For a new vehicle. What limit would the Senator suggest? I think maybe there should be some limit. I do not think we should just throw the door wide open.

Mr. MONTOYA. We have no figures at the present time. The automobile makers have been changing these prices, and we do not have any definite figures.

Mr. McCLELLAN. How many cars would be involved? An unlimited number of cars, at an unlimited price?

Mr. MONTOYA. The amount of the appropriation would limit how many cars they could buy.

Mr. McCLELLAN. What is the amount of the appropriation?

Mr. MONTOYA. We have an appropriation item but I do not have that right now.

Mr. McCLELLAN. My recollection is that there is a limitation on the number. They make a representation of the number they need?

Mr. MONTOYA. That is correct.

Mr. McCLELLAN. And on the basis of that representation, appropriations are made?

Mr. MONTOYA. That is right.

Mr. McCLELLAN. As I understand it, the appropriations were made on the basis of not to exceed $3,000 per car for police-type use?

Mr. MONTOYA. Yes, that is what we specified in section 601 of the Treasury, Postal Service, and General Government Appropriations Act, 1975. However, the Justice Department has relief from this section, and I believe we ought to accord the Treasury Department the same exemption for this fiscal year.

Mr. McCLELLAN. And now it has been found that that will have to be increased some?

Mr. MONTOYA. We are not increasing the appropriation.

Mr. McCLELLAN. We are not increasing the appropriation; we are simply leaving them the total amount of the appropriation, but by removing this restriction, it means they will get a smaller number of cars than they would have otherwise?

Mr. MONTOYA. That is correct.

Mr. McCLELLAN. I have no objection, because I realize the situation, but it occurred to me that perhaps there is some way to indicate some limitation. I do not know whether it is practical or not, the way prices are spiraling today, whether it is really practical to do it. If the price is $4,000 today, by the time they get any bids it may be $4,500.

Mr. MONTOYA. These vehicles are basically for the Secret Service, and other Treasury enforcement agencies and this will allow them to run parallel to what the FBI does with respect to its vehicles.

Mr. McCLELLAN. I assume it would be all right to let it pass in this call. How many vehicles are contemplated?

Mr. MONTOYA. I believe these are some 570 of the standard, intermediate, and compact types to be purchased this year to which this amendment would apply.

Mr. McCLELLAN. I just wanted to have that for the record.

Has the Senator also been able to ascertain what loss in terms of the number of cars is contemplated as a result of this increase in the cost of cars? We hear a lot about the increasing cost of Government, but it is increasing, due to the increase in the cost of things the Government has to procure, as well as the cost of services, increased salaries, and so forth.

I think it would be well for us to indicate here, so that the record will reflect it, what this increased cost will amount to. In other words, they expected to get 570 cars within the amount of the appropriation; now they may get only 500.

Mr. MONTOYA. I am informed that the Treasury has compared the estimated bid price to the limitation price and estimates an increased cost of $506,300 for these vehicles. The great difficulty that has arisen because of this limitation is that the only bids that the Treasury could receive and did receive from automobile manufacturers were with respect to Gremlins and Pintos, which are not adaptable to police-type use.

Mr. McCLELLAN. We want to watch the expenditures. Sometimes they can do with a little less number of cars if they are going to cost so much more. But this does not raise the appropriation and, therefore, they will have to buy what cars they can within the limit of that appropriation.

Mr. MONTOYA. That is correct.

Mr. McCLELLAN. Yes.

Mr. MONTOYA. I yield back the remainder of my time.

Mr. McCLELLAN. I yield back my time.

The PRESIDING OFFICER (Mr. METZENBAUM). All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open for further amendment.

Mr. MONTOYA. Mr. President, I have another amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. MONTOYA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 25 after line 9 insert the following:

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY OPERATIONS

Federal buildings fund

Limitation on Availability of Revenue

In addition to the aggregate amount made available for real property management and related expenses under this heading in the "Treasury, Postal Service, and General Government Appropriations Act, 1975", $1,000,000 shall be available for such purposes and the limitation on the amount made available for rental of space is increased to $364,000,000, and the limitation on the amount made available for purchase contract payments is reduced to $16,244,000, and the limitation on the amount made available for real property operations is reduced to $351,000,000.

Mr. MONTOYA. Mr. President, this amendment pertains to the dollar limitation on the amount of leases that the GSA can enter into this fiscal year. This is not an increase in the appropriations. It is merely an authorization which permits GSA to utilize $14 million more of the rental revenue that they get in order to enter into negotiations with private lessors.

This is occasioned by additional space requirements, and an increase in the square footage cost, that was not anticipated in the original budget submission. As the Senate will recall this is the first year for the Federal Buildings Fund, so it could not be entirely anticipated that they would need this additional limitation for this particular purpose.

GSA has supplied my committee with a revised estimate of their requirements. They indicate that an additional $4 million is needed just to cover the space in inventory. This is based on a comprehensive audit that was just completed by an outside contractor. There are in addition space requests from the agencies amounting to $10.6 million plus an amount of $28.4 million for payment to the Postal Service. The Postal Service item is somewhat technical and I believe it does not have to be resolved at this time. We expect a report from the General Accounting Office on GSA's leasing program by the first of the year and we will go into this further at that time. However, as the Senators from California are particularly aware, the Social Security Administration has indicated need for additional rental space in different areas of the country, and there have been other needs indicated. Although GSA asked for $43 million additional, it is my feeling that the $14 million, which this amendment contemplates, is adequate for their needs at the present time.

I want to make it specifically clear that this is not an increase in the appropriation because the revenues that GSA receives are from rents which are in the different appropriations bills.

Mr. McCLELLAN. It is kind of a revolving fund?

Mr. MONTOYA. Yes, it is a fund where there are specific limitations that apply to a GSA's use of the revenues they receive.

As an example, the anticipated revenue which GSA will receive approximates $1,040,400,000 in rents from different Government agencies. The use of this revenue by GSA is limited in the appropriation act; for example, they can use $25 million for construction. The current limitation for rental space is $350 million. Now, I am proposing that this sum be increased by $14 million to $364 million.

Mr. McCLELLAN. That is the rental?

Mr. MONTOYA. That is right, for additional rental space. GSA has also offered saving amounting to $13 million that offsets all but $1 million of the increase in this limitation and I ask unanimous consent that a table comparing the current and proposed limitations be printed in the RECORD.

There being no objection the table was ordered to be printed in the RECORD as follows:

Mr. McCLELLAN. Why is this necessary?

FEDERAL BUILDINGS FUND LIMITATIONS

Activity	Current limits	Proposed limits	Change
Construction	$25,000,000	$25,000,000	0
Purchase contract payments	26,244,000	16,244,000	−$10,000,000
Rental (leases) of space	350,000,000	364,000,000	+14,000,000
Alterations and repairs	98,000,000	98,000,000	0
Real property operations	354,000,000	351,000,000	−3,000,000
Program direction and administration	$54,037,000	$54,027,000	0
Subtotal	907,281,000	908,281,000	+$1,000,000
Carryover from 1974	101,589,700	101,589,700	0
Total	1,008,870,700	1,009,870,700	+1,000,000

Mr. MONTOYA. Because the additional space which they need to make lease for other Government agencies was not anticipated when we put this limitation in the regular appropriation bill.

Mr. McCLELLAN. In other words, if I understand it, the amount of space which we estimated would be required for other agencies, that is, which have to be procured, rented for them, it has developed that it is greater than the amount anticipated at the time that limitation was placed on the disposal of rental funds.

Mr. MONTOYA. That is correct. Of this $14 million increase——

Mr. McCLELLAN. How much did they ask for in addition? I notice the Senator says it is less than they sought.

Mr. MONTOYA. $43 million.

Mr. McCLELLAN. The Senator is offering how much?

Mr. MONTOYA. $14 million.

Mr. McCLELLAN. So the Senator has gone into this and his committee has gone into this, and he is satisfied that there is the need and that this is a proper increase in authority?

Mr. MONTOYA. This is really the closest we can get to their actual needs, being very austere on this thing. Actually, they wanted $41 million over last year, we allowed $27 million and I am extending it now to the original level by this $14 million.

Mr. McCLELLAN. I say the Senator has looked into this and is satisfied——

Mr. MONTOYA. Yes.

Mr. McCLELLAN. That there is legitimate need for this increase?

Mr. MONTOYA. Yes, I am satisfied that there is.

Mr. McCLELLAN. And his committee so reports?

Mr. MONTOYA. Yes.

Mr. McCLELLAN. Mr. President, I have no further comment and no objection.

Mr. YOUNG. I have no objection, Mr. President.

Mr. TUNNEY. Mr. President, the issues and problems relating to the GSA lease ceiling have occupied a considerable amount of my time lately. The situation was brought to my attention by social security personnel deeply concerned over impending expirations of the leases on their office space.

I fully recognize the problems created by the $350 million lease ceiling—we all want to keep the costs of Government down. But when a few situations do arise in which a Federal office daily serving the people of this country is being forced to close due to an expired lease, then something must be done. I see no solution for the thousands of social security recipients who rely on the services of their local SSA office for advice, counsel and their very income, should such an office be forced to close due to the GSA lease ceiling.

On October 11 I wrote to GSA Administrator Arthur Sampson about this matter. At that time a social security office at 929 North Bonnie Beach in East Los Angeles had been ordered off the premises by November 1. Ultimately this office was allowed to remain in its present quarters until March 1, 1975. Come March, however, it will need a new office and GSA will need the authority to negotiate for that space.

On October 29 I wrote to OMB Director Roy Ash urging him to come before the Congress and seek an increase in the GSA lease ceiling so that we might have the opportunity to resolve this growing problem on a supplemental appropriations bill before next year. I was deeply gratified to learn that OMB yesterday officially requested this increase. Mr. President, at this time I ask unanimous consent that my letter to OMB be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., October 29, 1974.

Hon. ROY L. ASH,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. ASH: At least 18 western Social Security Administration field offices are operating on expired or soon-to-be expired leases because of the $350 million ceiling placed on the General Services Administration's lease authority.

One of these, the Social Security office at 929 North Bonnie Beach in East Los Angeles, already has received an eviction notice. The others, operating on temporary or month-to-month leases at the suffrance of landlords, face possible eviction unless the ceiling is lifted and GSA enabled to renew leases.

GSA has acknowledged a serious problem exists here, and the solution is to raise the lease ceiling. I strongly urge you to approve lifting the ceiling so that Congress will have the opportunity to appropriate additional leasing funds for GSA before the 93rd Congress expires.

As I pointed out in a letter to GSA Administrator Arthur Sampson on October 11, the 18 western offices serve thousands of Social Security recipients. Some 400 workers are employed in the 11 California offices operating on expired or about-to-expire leases.

Obviously, additional eviction notices would work a severe hardship on both recipients and Social Security employees.

Should you decide not to support the lifting of the lease authority, please advise me what steps you intend to take to keep these important branch offices operating. I would appreciate a reply before November 11.

Sincerely,

JOHN V. TUNNEY,
U.S. Senator.

Mr. TUNNEY. On behalf of every social security beneficiary, and all persons who are recipients of a Federal program who must depend on an active Federal office, I strongly urge affirmative action in increasing this lease ceiling. It does no good for us to establish Federal programs to assist people if we are not willing to take the necessary steps to provide offices where they can seek help under the programs. In addition to the beneficiaries, we also should consider all the Federal employees involved. I have yet to hear from the administration just what will happen to these employees if an office is forced to close. Are they to be layed off and put on unemployement, or do they collect their paychecks without having an office in which to perform their duties?

The only viable solution is to afford GSA the necessary authority to contract for new space. I hope that my colleagues will recognize this need, and act accordingly.

Mr. ROBERT C. BYRD. Mr. President, I wish to cosponsor the amendment which is being offered by the senior Senator from New Mexico (Mr. Montoya), who chairs the Subcommittee on Treasury, U.S. Postal Service and General Government.

I have previously contacted the Senator's subcommittee to urge that additional funds be made available which would allow officials of the General Services Administration to move ahead with lease renewals and with acquisitions of new space in several critical areas in West Virginia.

In particular, I wish to call attention to the urgent need for funds to meet the following needs:

In Beckley, W. Va., the Mine Health and Safety Academy occupies leased space which is serving as temporary quarters pending completion of the new Mine Health and Safety Academy, which is currently under construction. I am informed that the lease expired September 1, 1974, and that the lease has not been renewed and the rent has not been paid for September, October, or November. I believe this is a deplorable way for our government to operate.

In Williamson, W. Va., the Social Security Office which I was instrumental in having located in this area last year is occupying temporary quarters which both the local office and the national office inform me are inadequate. There is no parking space and no restroom facilities to serve the many black lung and social security clients, who of necessity must come to that office to discuss their claims and problems. GSA has located suitable permanent quarters for this office; however, it has been unable, due to a lack of funds, to move ahead with the acquisition of the new space. What is worse, if GSA does not move to acquire this space very shortly, the lessor has decided to put it to another use rather than hold it indefinitely for GSA.

Additionally, in both Montgomery and Bluefield, contracts for construction of new quarters for the local social security offices are pending but are being held in abeyance. In both of these locales, these offices process heavy caseloads of black lung claims where many of the claimants are disabled and unable to climb stairs, or to exert much other physical energy.

Mr. President, I am hopeful that these additional funds will allow the General Services Administration to move ahead expeditiously in leasing and contracting for the necessary space to permit the involved Federal agencies to properly meet their obligations in administering the important Federal programs in West Virginia for which they are responsible.

Mr. MONTOYA. I thank the Senator from West Virginia for his cosponsorship and support of this amendment. I can assure the Senator that the increase in the limitation will be sufficient to cover the renewal of all GSA present leases. Furthermore, the committee has provided $10 million for the new leases to quarter the expanding programs that the Senator has mentioned. I am confident that this amount will cover the needs in the Senator's State, but as I noted earlier, the subcommittee will be watching this program carefully and is prepared to take appropriate action as the need arises.

Mr. CRANSTON. Mr. President, I rise in support of the amendment offered by the distinguished Senator from New Mexico (Mr. Montoya). His amendment remedies a very grave problem caused by the Government Services Administration's—GSA—moratorium on negotiations of leases expiring with renewal options and on the issuance of commitments for replacement, new, or additional space.

Mr. President, the present lease freeze policy that GSA has implemented threatens serious disruption of the Federal Government's obligation and responsibility to provide certain benefits and services to its citizens.

The genesis of the GSA freeze policy, as I understand it, goes back to a decision reached by the House and Senate Appropriations Committees when the fiscal year 1975 budget request for GSA was under consideration. GSA had asked for 1.5 billion dollars to be expended in six broadly defined and general ways. The House, wishing to delineate expenditures in each of the categories, earmarked an amount for each. Since the time the fiscal year 1975 appropriations act was enacted, GSA has surveyed its rental lease agreements and determined that the amount earmarked in Public Law 93-381 for obligation and expenditure for rental space—not to exceed $350,000,000, provided $43 million too little to carry out the approved projects for all Federal agencies under the GSA leasing program. Consequently, GSA placed a moratorium on the issuance of commitments for new or additional space, and the Presidential submitted a request that the rental space account ceiling in the Federal building revolving fund be raised to $393 million.

The GSA moratorium is being applied nationwide with respect to all agency requests, including those of the Social Security Administration—an agency which has particularly grave responsibilities in meeting the needs of social security and supplementary security income—SSI—recipients.

At the same time GSA has given instructions to its regional offices not to renew leases expiring with renewal options, or to enter into succeeding leases.

Mr. President, this moratorium has already had severe repercussions in California. One social security district office in Oroville experienced several uncertain days this past month while under the apprehension that the office would be closed on November 1 when the current lease expired. GSA, in such situations as this, is making special arrangements with lessors. These arrangements are directed towards assuring continued occupancy of the space until the funding problems can be resolved and lease contracts executed. Such efforts, however, depend on the good faith of landlords who are willing to let the Government remain as a holdover tenant for an unspecified period of time. Not only is this a tenuous policy to pursue with respect to continued occupancy by SSA of district offices, Mr. President, but it is unfair to landlords who are asked to permit month-to-month occupancies. In several cases, as a consequence, landlords have refused to make necessary repairs to building facilities because the rent has not been paid or the lease not renewed.

In a second social security district office in East Los Angeles, GSA has managed only to secure an agreement with the landlord to permit continued occupancy of the building until the first of March, after which substitute space must be located. Under the present moratorium, succeeding leases are a part of the freeze policy.

Additionally, there have been a large number of complaints from employees of the Social Security Administration, as well as SSA and SSI recipients, that the working conditions in many of these offices is severely inadequate. It should be remembered that SSA took over the old State aid programs serving the aged, blind, and disabled only this past January. Caseloads and staff levels greatly increased at that time, with no comittant expansion of office space.

The concern I have had regarding the affect of the moratorium on social security district offices led me to inquire of GSA and the Social Security Administration how the policy would be implemented in the remaining months of this fiscal year and what plans there were for securing the continued provision of services by SSA in the event that an eviction notice was served on a district office.

Mr. President, I ask unanimous consent that the text of my letters to GSA and the Social Security Administration, and these agencies' responses, be printed in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record.

November 5, 1974.

Hon. Arthur F. Sampson,
Administrator, General Services Administration, General Services Building, Washington, D.C.

Dear Administrator Sampson: It has come to my attention that two social security district offices in California—one in Oroville and one in East Los Angeles—are facing the possibility of eviction due to a new General Services Administration lease policy that has placed a moratorium on the issuance of commitments for new or additional space and on the renewal of leases expiring with renewal options. I understand that this moratorium—arising from the provisions in P.L.

93–381 that placed a ceiling of $350 million on rental space—is being applied nationwide with respect to all agency requests. I further understand that in those situations where the Government may become a hold-over tenant, GSA is making special arrangements with the lessors to assure continued occupancy until the funding problems can be resolved and lease contracts executed.

While I understand that such special arrangements have now been worked out to permit continued occupancy of the district office in Oroville, the East Los Angeles district office staff is still uncertain about the status of their rental space. I request your assurances that this situation will be rectified immediately and would like to be advised of what steps GSA has taken to secure necessary quarters for this SSA office so that the provision of services to the East Los Angeles area will not be interrupted.

The implications of this policy for future transactions with lessors who have leases expiring during the remaining months of this fiscal year is also a matter of serious concern. I am most anxious to receive assurances that no social security district office will be closed due to implementation of this policy and would appreciate immediate clarification of the following:

1. Which social security district offices have leases (specifying which have renewal options) expiring during this fiscal year both in California and nationwide?

2. In each case, what specifically are the terms of agreement that have been reached with lessors of social security district offices in California and nationwide where the Government is presently a holdover tenant?

3. What arrangements has GSA made in anticipation of leases expiring in California and nationwide during the remaining months of this fiscal year?

4. Recognizing the severe overcrowding of staff and client space in many SSA district offices presently leased by GSA, what does GSA intend to do to secure additional office space for SSA during this fiscal year both in California and nationwide?

5. Does GSA plan to request supplemental funds to enable the renewal or replacement of existing social security district office leases pursuant to options to renew through the end of FY 1975 and what are your budgetary plans for separately specifying your needs for expenditures for rental of space for FY 1976 in so far as the FY 1976 budget is concerned?

6. If a supplemental request is not forthcoming, or if supplemental funds are not appropriated, does GSA have any other plan for permitting these programs to carry on?

I would appreciate having the answers to these questions (particularly the California data) by November 11, 1974. This deadline is necessary in order to facilitate the preparation of remedial legislation—if it becomes necessary—for consideration by the Congress upon its return from the election recess.

Thank you for your prompt attention to this matter.

Sincerely,

ALAN CRANSTON.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., November 18, 1974.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: Thank you for letter of November 5 concerning the current leasing moratorium and its effect on the continued operation of Social Security Administration (SSA) offices occupying space under lease agreements expiring this fiscal year.

The attached report provides information responding to those portions of questions 1, 2, and 3 contained in your letter that relate to leases for SSA offices in California. We are currently developing similar data on a nationwide basis, and you should receive that information within the next 30 days.

As the attached report indicates, our San Francisco Regional Office has not made, and is not in a position to make any formal (written) special arrangements with lessors to insure continued occupancy of SSA offices. In the case of the SSA offices in Oroville and East Los Angeles, as well as the other cases in the report that involve leases expiring prior to June 30, 1975, we have requested lessors to permit our continued occupancy until the funding problems are resolved. For each of these cases, our San Francisco Regional Office is proceeding with all of the steps preceding execution of a lease agreement.

At the present time, we are not aware of the issuance of a formal eviction action for any case involving a General Services Administration (GSA) lease agreement. Although the lessor of the SSA office in East Los Angeles is planning to vacate the building in March 1975, we have his permission to remain in our present space or substitute space until November 1975.

The following responses correspond to questions four through six contained in your letter:

4. The SSA has submitted to GSA a listing of their most critical space requirements and each of our regional offices has been instructed to proceed with the acquisition of the additional space up to the point of lease award. Just as soon as the limitation on our leasing program is relaxed they will promptly proceed with lease awards for the additional space according to the priority of the space need. Also, in keeping with the President's mandate to reduce Federal spending, we will and must carefully review each request for additional space to determine the absolute minimum requirements.

5. GSA is exploring all alternatives available to the agency, including the possibility of a supplemental request for funds that will permit renewal or replacement of existing Social Security District Office leases.

In GSA's FY 1975 budget request, the amount estimated for expenditures for rental of space was separately identified. For our FY 1976 budget submission to the Congress, we plan to separately identify the amount for rental of space.

6. Without the additional funding to permit the acquisition of additional leased space, or in some cases, the continued occupancy of leased space, GSA and SSA would have to consider all alternatives that would minimize the losses in efficiency resulting from the lack of rental funds. Some of these alternatives are:

a. The use of extended work hours including the implementation of a two shift type of work schedule.

b. The use of trailers in lieu of space in office buildings.

c. A drastic reduction in the amount of space assigned per person.

We trust this information will be helpful, and please do not hesitate to contact us if you desire any additional assistance.

Sincerely,

LARRY F. ROUSH,
Acting Assistant Administrator.

LEASES EXPIRING IN FISCAL YEAR 1975 FOR SSA OFFICES IN CALIFORNIA

Lease No.	Address and city	Renewal option	Exercise by	Expiration date	Status
1055	929 Bonnie Bch. Pl., Los Angeles, Calif.	None		Sept. 30, 1974	Have permission to remain through November 1975 in same or substitute space.
[1] 1034	4524 South Broadway, Los Angeles, Calif.	None		Dec. 3, 1974	Lease actions preliminary to award underway. Informal agreement for continued occupancy after expiration date in effect.
[1] 976	1324 West Avenue J, Lancaster, Calif.	None		Sept. 13, 1974	Do.
[1] 73334	1245 San Fernando, San Fernando, Calif.	None		Sept. 30, 1974	Do.
[1] 6125	145 Columbus Ave., San Francisco, Calif.	None		Oct. 31, 1974	Do.
[1] 74163	1877 Meyers St., Oroville, Calif.	None		Nov. 5, 1974	Do.
[1] 6217	1 Eastmont Mall, Oakland, Calif.	None		Jan. 1, 1975	Do.
[1] 1026	445–461 East Holt Ave., Pomona, Calif.	None		Nov. 30, 1974	Leasing actions preliminary to award underway. Informal agreement for continued occupancy after expiration date is anticipated.
[1] 74201	101 Howard St., San Francisco, Calif.	None		Dec. 19, 1974	Do.
[1] 978	115 Pine Ave., Long Beach, Calif.	None		Apr. 30, 1974	Do.
[1] 6315	1950 University, Berkeley, Calif.	None		Apr. 30, 1974	Do.
[1] 969	10345 South Central, Los Angeles, Calif.	None		Dec. 31, 1975	Do.
[1] 1173	1514–18 6th St., Santa Monica Calif.	Yes	Mar. 31, 1975	Apr. 30, 1975	Option must be exercised by Mar. 31, 1975.
74617	650 East Manchester Blvd., Inglewood, Calif.	None		do	New lease executed—expires Dec. 31, 1979 for space at another location. Rentals being paid.
1075	606–608 East Manchester, Inglewood, Calif.	None		May 31, 1975	Do.
[1] 1400	721 South Glendale Ave., Glendale, Calif.	None		June 30, 1975	Leasing actions to be initiated during 3rd quarter of fiscal year 1975.
[1] 6601	1818 J St., Sacramento, Calif	None		do	Do.

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[1] Awards will be made and rentals paid when funds become available.

Source: PBS/PR Office of Space Planning and Management, Nov. 13, 1974.

NOVEMBER 5, 1974.

Hon. JAMES B. CARDWELL,
Commissioner, Social Security Administration, Department of Health, Education, & Welfare, Washington, D.C.

DEAR COMMISSIONER CARDWELL: It has come to my attention that two social security district offices in California—one in Oroville and one in East Los Angeles—are facing the possibility of eviction due to a new General Services Administration (GSA) lease policy that has placed a moratorium on the issuance of commitments for new or additional space and on the renewal of leases expiring with renewal options. I understand that this moratorium—arising from the provisions in P.L. 93–381 that placed a ceiling of $350 million on rental space—is being applied nationwide with respect to all agency requests. I further understated that in those situations where the Government may become a holdover tenant. GSA is making special arrangements with the lessors to assure continued occupancy until the funding problems can be resolved and lease contracts executed.

While I understand that such special arrangements have now indeed been worked out to permit continued occupancy of the district office in Oroville, the East Los Angeles district staff is still uncertain about the status of their rental space. I request your assurances that this situation will be rectified immediately and would like to be advised of what steps you have taken with GSA to secure the continued provision of services by the Social Security Administration to the East Los Angeles area.

The implications of this policy for future transactions with lessors who have leases expiring during the remaining months of this fiscal year is also a matter of serious concern. I have written to GSA Administrator Sampson requesting immediate clarification of the policy and its application to social security district offices which have leases expiring in the remaining months of this fiscal year. In this connection I would also appreciate being advised of what action SSA has taken to safeguard district offices from any future evictions in buildings whose leases expire before the end of FY 1975.

Thank you for your prompt attention to this matter. I would appreciate a reply by November 8.

Sincerely,

ALAN CRANSTON.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Baltimore, Md., November 12, 1974.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: Thanks for your November 5 letter concerning our local office lease renewals in California.

I can assure you that no eviction will occur as a result of failure to renew a lease. Steps have already been taken to retain our office at 929 North Bonnie Beach Place in East Los Angeles and the Chico office at 376 Vallombrosa Avenue, which serves the Oroville area.

The responsible General Services Administration officials are aware of our high priority needs and the list of those offices whose leases are expiring is in their hands. We are working closely with those officials and we are confident that the entire matter of office rentals will be resolved in the very near future.

With best regards,

Sincerely yours,

JAMES B. CARDWELL,
Commissioner of Social Security.

Mr. CRANSTON. Mr. President, I would like to address one question to the amendment's author, my distinguished colleague from New Mexico.

Mr. MONTOYA, I would like to raise a question if I may with respect to the specific dollar increase in the ceiling which you propose in your amendment. While I feel a $43 million increase as requested by the President would have been more appropriate, I understand your reasons for proposing a lower amount. My question is this: Is it correct that the $14 million added to the ceiling by your amendment will be sufficient to meet fully the Federal Government's fiscal year 1975 commitments to space with expired leases having renewal options, as well as virtually all of the commitments for new or additional space already approved in other agencies' budgets and appropriations; and that the $28 million requested to meet certain rental arrangements between the Federal Government and the Postal Service will be dealt with in a later supplemental appropriations bill?

Mr. MONTOYA. That is correct. We have a report on the GSA leasing program coming from the GAO and we will go into this entire matter fully in the next Congress.

I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1978

Mr. TAFT. Mr. President, I call up my amendment No. 1978.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

The amendment is as follows:

On page 20, between lines 6 and 7, insert the following:

ECONOMIC RECOVERY FOR DISASTER AREAS

For assistance to facilitate economic recovery in disaster areas affected by the tornado of April 3, 1974, and in other disaster areas, as authorized by title VIII of the Public Works and Economic Development Act of 1965, as amended, $15,000,000.

Mr. TAFT. Mr. President, the purpose of this amendment would be to provide funding of $15 million for title VIII of the disaster recovery program which Congress passed this last year.

There is still no funding for this new disaster recovery program, which is in title VIII of the Public Works and Economic Development Act of 1965 which became law last May. The authorization for this title was some $280 million. The Commerce Department and the Department of Housing and Urban Development still have not decided how to administer it; and, as we understand it, the decision is also at the White House at the present time. I gather that administration spokesmen have informed the Appropriations Committee that this is a problem that will be addressed in the fiscal 1976 budget, and I would like to suggest it ought to be addressed before that time, and my purpose in bringing up the amendment at this time for $15 million is to call this to the attention of the administration, of the Senate and Congress because I think that, in the long run, we are just not going to save any money by not facing up to this kind of problem. We are far better off, I think, setting an amount that is a realistic amount, and then attempting to meet the problems as they arise out of that realistic amount rather than facing, as we have continually in the past in Congress, the entire matter of disaster recovery programs on an ad hoc basis as each comes along and as the pressures upon Congress in the face of a particular disaster call upon us to react to that situation.

I previously testified in support of funding for this program and offered such an amendment to an earlier appropriation bill, which I withdrew after obtaining assurances that the matter would be pursued by the committee. I have sought immediate funding for this program because the need is now. Only a slight distance from my hometown of Cincinnati, the city of Xenia is still struggling with a tax base 20 to 25 percent destroyed and major unmet recovery needs as a result of last April's tornado. I was just in Xenia the other day and went into the matter with all of the officials involved, and some of the citizens in the matter involved, and I find that next year, for instance, they expect, just in the reduction of the real estate tax duplicate of the city as a result of the tornado disaster, in the reduction of that income of the city some 10 percent of what has been its ongoing annual budget.

The funds provided under this program could obviously help in providing some of that revenue, particularly to meet the necessary local portion of some of the matching funds that are necessary under some of the Federal programs being used to implement recovery in the area.

The new disaster recovery program could be of major assistance, particularly because it could provide funding to reduce Xenia's local share of all Federal-State matching fund programs from as much as 50 percent to 10 percent. Even though Xenia's estimated local share requirements are in the millions of dollars and the provisions were passed specifically in response to the tornadoes, in the 7 months since the tornado the administration has not submitted a request for funds or figured out which agency will run the program.

I believe that it is time we acted on this matter, and that is why I bring it up again, and I would welcome any comments that the distinguished chairman of the subcommittee might have.

Mr. PASTORE. Mr. President will the Senator yield?

Mr. TAFT. I am glad to yield to the distinguished Senator from Rhode Island.

Mr. PASTORE. I joint with the distinguished Senator from Ohio in endorsing everything he has said. As a matter of fact, it has been vexing and rather irritating to the subcommittee that the administration has not made up its mind as to exactly what agency is going to have contol over this money. No matter what we appropriate today the question is we do not know the agency that could possibly obligate it until the administration has made up its mind.

It is true when we discussed it the last time I assured the Senator from Ohio that we would consider this seriously at the supplemental hearings, which we did, and this is the playback that we got:

> Mr. BLUNT. The administration of title VIII which relates to disaster assistance is something that is under study by the Administration as to exactly who and how it will be administered and pending the outcome of that study, we do not think it is appropriate to ask for a specific amount of funds for the appropriation.
>
> Senator PASTORE. When do you think you will get around to it?
>
> Mr. BLUNT. Very shortly.
>
> Senator PASTORE. How shortly is very shortly?
>
> Mr. BLUNT. I don't have an exact estimate, but I know it has been under consideration since the bill.
>
> Senator PASTORE. You said it was a study that was going on. Is there any prognostication as to when the study will be concluded?
>
> Mr. BLUNT. I will have to supply it.
>
> Senator PASTORE. Will you do it?
>
> Mr. BLUNT. Yes.

Now, I instructed the staff on this. The authorization on this is $250 million, which is a quarter billion dollars. We are asking for $15 million today which would be a drop in the bucket, but I assure the Senator we will keep on top of it. All I can do is to take the horse to water, I cannot make him drink.

I hope the administration will resolve it. I would hope, in the meantime, this colloquy that has transpired on the floor today would be helpful and I would urge my colleague to withdraw his amendment at the present time because I am afraid it will go nowhere.

Mr. TAFT. I thank my distinguished colleague for his comments.

I realize the situation here and the fact that there is a likelihood of getting funds through in an amount that will be helpful for any particular disaster situation, such as the one I mentioned, which I bring up just by way of example. It would be a very small percentage, $15 million, while some of that might meet the needs of Xenia, if it were apportioned around among other communities in Ohio suffering in that disaster and among other areas of the country which have suffered disaster during this period, it probably would not amount to enough to worry about.

I do think it is absolutely vital we move as quickly as possible. I am not even satisfied with waiting for the 1976 budget in this regard.

I think that the administration ought to come out with the program as to how it is going to be administered and then if we have a second supplemental, we ought to ask them for a specific recommendation on that as to how much money they want in this program for the balance of this year because we may well be facing another disaster situation with no money authorized or appropriated to take care of that particular situation.

Mr. PASTORE. I agree completely with the Senator, he is absolutely right. We should consider this in the first supplemental when we come back in January.

Mr. TAFT. I thank the Senator for his comments.

In view of the practical situation, I withdraw my amendment.

The amendment was withdrawn.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, at this time I offer an amendment to H.R. 16900. The amendment is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. McINTYRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 24, between lines 16 and 17, insert the following:
>
> "NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS
>
> "SALARIES AND EXPENSES
>
> "For necessary expenses to carry out the provisions of title II of Public Law 93-495, $2,000,000.00 to remain available until expended."

Mr. McINTYRE. Mr. President, I offer an amendment to H.R. 16900, to appropriate the amount of $2 million, authorized in title II of Public Law 93-495, which was signed into law on October 28, 1974.

This title establishes the National Commission on Electronic Fund Transfers which shall be composed of 26 members. This commission is constituted to conduct a 2-year study of the tremenous changes being brought about in our banking and financial industry by the increasing advances of electronic technology. I am now talking about the future of the checkless society.

It was the unanimous opinion of the members of both the Senate and House Banking Committees in supporting the concept of this Commission that its work begin immediately so as no time be lost in the process of evaluating the implications of electronic fund transfers and to make the necessary and appropriate recommendations for legislation.

To this end, I would hope that this amount, which has already been authorized, be adopted so that the work of the Commission be undertaken as soon as possible.

I would ask the manager of the supplemental bill if he would be agreeable to accept this amendment and take it to conference so that we could have the conferees agree to go forward with this important work.

Mr. McCLELLAN. Mr. President, it seems we have already funded one commission and I have no particular objection to this, I just want to understand it.

We have a national Commission on Supplies and Shortages. We funded that in the bill to the amount of $287,500.

Now, what does this Commission do?

Mr. McINTYRE. Mr. President, I would say to the distinguished Senator from Arkansas that in the banking world the number of checks that are running back and forth are becoming so voluminous we realize something new has got to come about and that is coming about as we look forward to a checkless society, in what is known as electronic fund transfer, which may obviate, for instance, the necessity of really having any checking accounts because savings accounts could be automatically withdrawn from to pay any accounts one chooses.

Now it is necessary to establish this Commission of experts, and I might say the Commission would set forth the Secretary of the Treasury, the Attorney General, and others and give the President the right to add on experts in this field, who are necessary to come up with good recommendations to Congress 2 years hence.

It is necessary to do this, Mr. President, because not only does electronic fund transfer hopefully mean savings of millions and millions of man-hours in the handling of checks or other negotiable instruments, but also tremendous savings to industry and to consumers, the depositors themselves. There are also areas of it that we are concerned with and worried about and that is in the area, for instance, of invasion of privacy that may take place with this new type of checkless society.

In addition, there is the dehumanizing character of computers. Once you have a bad check and get on record that you have bad credit, it may take a long time to get it straightened out.

So we need an authoritative, specialized study on the future that beckons the banking world and consumers, depositors, and people who are operating checking accounts and thrift savings accounts today.

We very much need to have this specialized Commission. The Commission the Senator mentioned, I know nothing about.

Mr. McCLELLAN. Will the Senator yield?

Mr. McINTYRE. I am happy to yield.

Mr. McCLELLAN. Is this Commission limited in the time it is supposed to perform its duties and report back in a certain time?

Mr. McINTYRE. That is correct, 2 years.

Mr. McCLELLAN. In 2 years.

Now, do I understand then that the $2 million sought to be appropriated is a one-time appropriation? It is anticipated this would be adequate to cover its operations for 2 years?

Mr. McINTYRE. Correct.

Mr. McCLELLAN. And it is not just for the remainder of this fiscal year?

Mr. McINTYRE. Oh no. The $2 million being requested and being suggested would be complete funding of this commission for the 2-year span.

Mr. McCLELLAN. In other words, this is a one-time appropriation.

Mr. McINTYRE. Absolutely right, Mr. Chairman.

Mr. McCLELLAN. And this amount has been investigated by the Banking and Currency Committee as an amount in its judgment that is required?

Mr. McINTYRE. That is correct.

Mr. McCLELLAN. I had some thought about reducing it. If it is not continuing, and just a 2-year mandate for this committee to function and get its work done within 2 years, I see no reason for reducing it if $2 million is the estimated amount that is required.

Mr. McINTYRE. Well, I would hope, Mr. Chairman, we would not reduce the amount.

Mr. McCLELLAN. I am saying I have no objection, under those circumstances, to continuing. With more appropriations to come, I thought we might reduce it to see how they operate.

Mr. McINTYRE. I was going to say, Mr. Chairman, that at conference, and this is not in the House bill because the House supplemental was passed before the bill which I am discussing here, that at that time, in conference, the Senate conferees could be putting their heads together with the conferees on the House side and it might be in order, but I would like to recommend having it passed here on the floor, the $2 million figure.

Mr. McCLELLAN. I am simply emphasizing, if it is a one-time appropriation for 2 years, and this is the amount estimated to be required to fund it for the 2 years, I see no reason to reduce the amount and then have to make another appropriation.

So I have no objection to the amendment and I am willing to accept it.

I yield to the Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG. I am not familiar with the request for this appropriation but I am willing to take it to conference.

Mr. McINTYRE. I thank the distinguished Senator.

Mr. SPARKMAN. Mr. President, title II of Public Law 93-495, which was approved by the President on October 28, 1974, establishes the National Commission on Electronic Fund Transfers. This Commission by law is an independent instrumentality of the United States.

The national payments mechanism—the system used to transfer funds from one individual or business to another—is constantly changing and developing. The concept of electronic fund transfer systems is the newest of the long series of developments. Our committee realizes that the concept of electronic fund transfers possesses a number of questions which must be resolved before any rational decisions can be made and that ultimately the answers to these questions must be resolved by the Congress.

Accordingly, our committee included title II in the measure that was eventually to become Public Law 93-495, and I believe I can say the establishment of this Commission was unanimously supported not only in our committee but also in the House committee.

In addition to establishing the Commission, section 208 of the public law authorizes to be appropriated without fiscal year limitations such sums not to exceed $2 million as may be necessary for carrying out the study to be accomplished by the Commission.

Mr. President, as I have already pointed out, the measure establishing this Commission was only signed into law by the President on October 28, 1974. The supplemental appropriations bill we are debating today, H.R. 16900, was pending on the Senate calendar on October 9, 1974, and consequently, there was no opportunity to include in the supplemental appropriation measure appropriations for carrying out the work of the Commission. So that the Commission may become functional at the earliest practicable date, an amendment is being offered to H.R. 16900 to include the $2 million for carrying on the functions of the Commission as is authorized by Public Law 93-495. It is my understanding that this amendment is acceptable to the floor managers of the bill, and I hope it will be supported by the Senate.

In addition, section 101 of the same public law, Public Law 93-495, directs the Advisory Commission on Intergovernmental Relations to conduct a study of the impact that insurance of public funds may have on funds available for housing and on State and local bond markets. The law directs that the Commission shall make a report to the Congress of the results of its study not later than 2 years after the date of enactment of the act, and in addition authorizes funds to be appropriated to the Commission as may be necessary to carry out the study required.

Again, Mr. President, the measure became law too late for an appropriation for this study to be considered by the Appropriations Committee during its deliberations of H.R. 16900.

We have been advised by the Advisory Commission on Intergovernmental Relations that it is estimated it will require $350,000 to accomplish this study. We are suggesting, however, an amendment that will appropriate $87,000 for the study through the remainder of this fiscal year in order that the Advisory Commission may have a timely start on the study and also so that the Commission may have further opportunity to review their estimated cost before additional sums are appropriated.

This matter has been discussed with the floor managers of the appropriation measure, and it is my understanding they are willing to include this $87,000 for the Advisory Commission to commence its study.

I hope the Senate will also agree to the amendment.

Mr. McCLELLAN. I yield back the remainder of my time.

Mr. McINTYRE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McINTYRE. Mr. President, I would like at this time to offer an amendment to H.R. 16900. The amendment is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. McINTYRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, between lines 16 and 17, insert the following:

"ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

"FULL DEPOSIT INSURANCE STUDY

"For necessary expenses to carry out the provisions of section 101(f) of Public Law 93-495, $87,000.00."

Mr. McINTYRE. Mr. President, I offer this amendment to this supplemental bill. This would provide for appropriations of $87,000 to carry out the provisions of section 101(f) of Public Law 93-495, through the balance of the current fiscal year.

Section 101 of this bill provides for Federal insurance of public deposits in financial institutions up to an amount of $100,000 for each deposit.

In deliberations on this provision on both the Senate and the House sides, there were two basic considerations at issue: First, what would be the effect of this type of Federal deposit insurance of public deposits on increasing the available supply of money for home mortgages?

By public deposits I mean deposits being made by counties, towns, cities, and States.

And, second, given the system prevalent in many States requiring the pledging of State and local government securities against the acceptance of any public deposits, what will be the impact on the market for State and local government securities now that financial institutions will not be required to abide by any pledging requirements up to an amount of $100,000?

What will be the effect of this new provision in the law on the tax-free bonds issued by counties, cities, and other municipalities and towns and States? What will be the effect on that?

The amount I am requesting will simply permit the Advisory Commission on Intergovernmental Relations to begin its 2-year study of these considerations, as directed by the statute, in an expeditious manner.

I urge the adoption of this amendment.

Mr. President, and the distinguished Senator from Arkansas, the concern in passing public deposit insurance was that it would seem to be a good idea to try to help housing and to try to help the current situation that is so tight in the banking world.

We were also concerned that it might interfere with a city floating a bond issue for a bridge or a county floating a bond issue for a county school, a county hospital, or something of that order, and these bonds out on the market being preferred by banks because of pledging requirements. What would be the effect on it?

Mr. McCLELLAN. What would the effect be?

Mr. McINTYRE. Would it affect competition to the extent that suddenly the city or the town asking for a bond issue or floating notes of this type would find *that the competition* was down so that the interest it would have to pay for money that they were attempting to borrow would be higher than it is now?

Mr. McCLELLAN. In other words, the Senator is trying to make a study to determine whether the exempt status of bonds or municipal obligations is affected by reason of the increased insurance on the accounts?

Mr. McINTYRE. Increased insurance would mean that the banks and other financial institutions would not have to hold, as they do today in compliance with the law, securities of State and local governments to balance off. Being released from that up to $100,000, the effect would be that the market might be liminished for these Government tax-exempt securities so valuable today because of their tax preference.

It was felt that we ought to go this way, but the caution light in our mind was that we better have this administrative body already in being take a hard look at it because if the effects of it are going to hurt rather than help, then we would like to know this and be able to curtail it.

Mr. McCLELLAN. In what period of time is the Commission expected to report?

Mr. McINTYRE. This is a 2-year study and we are asking for $87,000 for the balance of this fiscal year.

Mr. McCLELLAN. It is anticipated, then, that it is going to cost about $3 million?

Mr. McINTYRE. I would not think so. In 2 years?

Mr. McCLELLAN. I mean $300,000. I am sorry.

Mr. McINTYRE. That would be better.

Mr. McCLELLAN. About $300,000.

Mr. McINTYRE. Yes.

Mr. McCLELLAN. I am not familiar with it. If the Banking Committee feels that such a study should be made on the basis of apparently economic effort, I shall not oppose it.

Mr. McINTYRE. I want to emphasize to the distinguished Senator that this is carrying out the mandate of a public law that was passed by both the House and the Senate.

Mr. McCLELLAN. Very well.

Mr. President, I yield back the remainder of my time.

Mr. McINTYRE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MANSFIELD. Mr. President, I am going to suggest the absence of a quorum. If there are no amendments forthcoming, I am then going to ask unanimous consent that the Senate stand in recess until the hour of 1:30. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1:30 this afternoon.

There being no objection, the Senate, at 11:53 a.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HASKELL).

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1975

The Senate continued with the consideration of the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Is the bill open to amendment under the HEW section?

The PRESIDING OFFICER. The bill is open to amendment under any section.

AMENDMENT NO. 1985

Mr. HELMS. In that case, Mr. President, I call up my amendment No. 1985 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

None of the funds appropriated under this Act shall be used to compel any school system, as a condition for receiving grants and other benefits from the appropriations herein to classify teachers or students by race, religion, sex, or national origin; assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin; or prepare or maintain any records, files, reports, or statistics pertaining to the race, religion, sex, or national origin of teachers or students, notwithstanding any other provisions of law or any request by any agency of the Federal Government.

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. HELMS. I yield such time as I may require.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. How much time is there on the amendment?

The PRESIDING OFFICER. There are 30 minutes to each side.

Mr. HELMS. Mr. President, this amendment is the so-called Holt amendment that was overwhelmingly approved by the House of Representatives on October 1 by a vote of 220 to 169, and attached to this bill. Incidentally, Mr. President, I have several distinguished cosponsors to this amendment: the distinguished Senator from Alabama (Mr. ALLEN), the distinguished Senator from Florida (Mr. GURNEY), the distinguished Senator from New York (Mr. BUCKLEY), the distinguished Senator from Alabama (Mr. SPARKMAN), the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished Senator from South Carolina (Mr. THURMOND), the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the distinguished Senator from Georgia (Mr. TALMADGE).

Mr. President, in spite of the action of the House, the Committee on Appropriations deleted this provision from the bill. Therefore, it is now being offered for the purpose of putting the House provision back in the bill.

This amendment states that no funds appropriated under this act shall be used to compel any school system, as a condition for receiving grants and other benefits from the appropriations provided by this bill, to classify teachers or students by race, religion, sex, or national origin. In addition, it provides that these funds shall not be used to compel the assignment of teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin. And, it provides that these funds shall not be used to compel the preparation or maintenance of any records, files, reports, or statistics pertaining to the race, religion, sex, or national origin of teachers or students.

Mr. President, as my colleagues are aware, Congress over the years has enacted legislation providing various forms of Federal financial assistance to schools and school systems. These assistance funds are generally distributed by the Department of Health, Education, and Welfare. In this legislation, Congress provided that no such funds were to be given to school systems that operated in a racially discriminatory manner. These "strings" were attached because it was felt that they were necessary as a part of the general effort by the Federal Government to abolish all remnants of dual school systems. Of course, all this is history, and it is well known to everyone.

As this Senator from North Carolina has stated many times, it happens occasionally that programs and policies of government continue to survive long after the reason for their existence has ceased to be a real consideration. The Federal Government is riddled with such programs. They are wasteful, and often they are counterproductive to the best interest of the American people.

The amendment offered by Congresswoman HOLT which was overwhelmingly approved by the House of Representatives addressed itself to such an anachronism: the needless "strings" that allow the Department of Health, Education, and Welfare to require school systems to compile stacks and stacks of information, statistics, and reports in order to prove that no discrimination exists. Now, such a requirement may seem harmless enough on its face, but numerous school officials have repeatedly advised me that it is not. HEW requires them to devote many hours—time they could use helping students—to gathering and processing these statistics. It completely disrupts their offices and programs. Further, in many instances these schools do not have sufficient clerical assistance, and they must resort to requiring teachers to help compile this information. They are, in effect, forced by HEW to require teachers to take time away from helping children gain an education in order to provide data-hungry bureaucrats in the Federal Government with unnecessary information.

This HEW harassment has become so great that the Board of Education of the Winston-Salem/Forsyth County school system voted on August 14, 1974, not to attempt compliance with the HEW requirements and to accept the consequent loss of Federal funds. That school system is a fine, progressive one, but the high quality of education there is not to the credit of the Federal Government. It is in spite of the Federal Government. I am heartened by the fact that there is a school system in my State that places the value of its students and their education ahead of the expensive accessories which may be beneficial, but which are not fundamentally necessary to a good educational opportunity.

Nonetheless, the problem remains: this anachronistic power within HEW to defeat the real purpose of Federal assistance funds. The House has recognized this anachronism for what it is, and overwhelmingly it has approved the Holt amendment. Today, I ask the Senate to approve this same language.

The purpose and intent of this provision is simple and clear. It states that the Senate does not want the Departmen of Health, Education, and Welfare to interfere further with the administration of our schools.

Congress has the power to correct this situation. It can do so by approving this amendment. The approval of this provision will finally remove this anachronistic Federal interference from the educational process. It will preclude HEW from continuing to make a negative contribution to the well-being of the children of America.

Lest anyone fear that the removal of these Federal controls will result in the reinstitution of historical discriminatory practices, let me point out that the court-ordered desegregation plans that were entered over the years still remain on the books. They survive as an assurance that dual school systems and the like will not be reestablished.

Constitutional interpretations require unitary school systems, but the Constitution does not require the existence of a power within the Department of Health, Education, and Welfare continually to harass our schools, our school officials, and the parents and children. The Constitution does not require that the Congress appropriate money for the collection of data regarding teachers and students. It is the responsibility of the States and local units of government in the operation of their schools to maintain such records as they consider helpful. It is not a Federal matter, and Federal funds should not be used for that purpose.

Mr. President, Congress, as a coequal branch of the Federal Government, has the sole responsibility for the appropriation of funds, and in this appropriation process, Congress may proscribe the manner in which such funds are to be used. It may say that funds appropriated shall be used for some purposes and not for others. That is precisely what this amendment does. It proscribes the use of appropriated funds.

Furthermore, it is a well-known rule of construction that specific provisions of legislation take precedence over general provisions. Therefore, in the construction of this enactment, it is clear that this amendment is intended to take precedence over any nebulous language of a general nature that may appear at any place in the bill.

I urge the approval of this amendment. It is a much needed step to clarify the role and function of HEW.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield to the Senator from Massachusetts 10 minutes.

Mr. BROOKE. I thank my distinguished chairman.

Mr. President, the Helms amendment to the Supplemental Appropriations Act would prohibit the use of any funds appropriated under the act to compel any school system, as a condition to receiving funds under this act, to classify teachers or students by race, religion, sex, or national origin; to assign teachers or students to schools for reasons of race, religion, sex, or national origin; or to prepare or maintain any records, files, reports, or statistics pertaining to those classifications.

This amendment is unconscionable. If enacted into law, it could in effect nullify title VI of the 1964 Civil Rights Act and title IX of the Education Amendments of 1972—which bars sex discrimination—with regard to the provisions of this appropriations bill.

A brief review of the Federal Government's role in the desegregation of our public schools, pursuant to the 1964 Civil Rights Act, will amply demonstrate the potentially pernicious effect of this amendment.

Title VI of the 1964 Civil Rights Act provides that—

> No persons in the United States shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefit of, or subjected to discrimination under any program or activity receiving federal financial assistance.

Agencies granting Federal assistance, such as HEW are directed to issue rules and regulations in conformance with the objectives of title VI and to secure compliance therewith by voluntary means, negotiation, and the like, if at all possible. However, as a final resort, where it is determined that voluntary compliance cannot be achieved, the agencies are authorized to initiate enforcement proceedings which can lead, after notice, hearing, and an express administrative finding of noncompliance, to termination of program benefits.

Pursuant to the 1964 act, the Office of Education in HEW has issued guidelines which set forth standards for desegregating schools in compliance with title VI.

The standards set forth in these guidelines particularly as they relate to school districts' "affirmative duty," to desegregate, track closely controlling constitutional principles as enunciated by the Supreme Court in school desegregation cases. Moreover, a later amendment to the 1964 act suggests that standards for compliances with title VI are substantially coextensive with constitutional requirements under the 14th amendment.

In its most recent specific pronouncements on the subject, the Supreme Court has consistently recognized that "affirmative" desegregation will almost invariably require that race be taken into account in formulating effective remedies. Thus, in *McDaniel* v. *Barresi,* 402 U.S. 38 (1971) the Court sustained an HEW inspired desegregation plan against allegations that it involved unconstitutional racial student assignments, saying:

> School boards that operated dual school systems are "clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch." In this remedial process, steps will almost invariably require that students will be assigned differently because of race. Any other approach would freeze the *status quo* that is the very target of all desegregation processes.

And in a companion to that case, the Court in *Swann* v. *Board of Education,* 402 U.S. 1 (1971), specifically approved, subject to certain limitations, the use of various racially based desegregation measures involving the remedial assignment of students and teachers and busing. In short, under current departmental regulations and related judicial authority, HEW may, and commonly does, employ race related or "race conscious" desegregation techniques in carrying out its enforcement responsibilities under title VI of the 1964 act.

With this background in mind, we can more fully understand the ramifications of the Helms amendment. The operative language of the amendment would prohibit the use of funds appropriated by H.R. 16900 to "compel" school districts "as a condition" to receiving these funds to "classify" or "assign" teachers or students by "race, religion, sex, or national origin" or to keep "records, files, reports, or statistics" on such bases. As noted above, HEW has more or less traditionally come to rely on its authority to enforce affirmative desegregation plans ploying race-related criteria as a primary feature of its title VI enforcement efforts. The continued validity of such policies under the Helms amendment, however, would appear a matter of some substantial doubt since they seem clearly premised on racial classifications or assignments as contemplated by the amendment. And while the language of the amendment is not mandatory on school districts in the sense of flatly prohibiting their voluntary adoption of affirmative desegregation measures, or otherwise complying with HEW requests, it would apparently deprive the agency of its principal coercive enforcement mechanism under title VI; that is, its authority to cut off Federal assistance. In other words, school districts would be free, as a voluntary matter to assign teachers or students to achieve affirmative desegregation, and would still be subject to Federal court order to do so on constitutional grounds, but they could not be required to do so by HEW as a condition to receipt of funds appropriated by H.R. 16900 as would otherwise be the case under title VI.

Similarly, the Helms amendment would suspend departmental regulations requiring school districts to keep records and submit compliance reports "with respect to racial and ethnic data showing the extent to which members of minority groups are beneficiaries of and participants in federally assisted programs," thereby further hampering the monitoring and enforcement functions of HEW under title VI in the school desegregation area.

And there is no question that this amendment would critically hamper the monitoring and enforcement functions, for how does one prove the existence of discrimination if there is no requirement that records be kept.

Caspar Weinberger, Secretary of Health, Education, and Welfare, made this point very well in a letter to Senator WARREN MAGNUSON—dated October 2, 1974—opposing this amendment. He wrote:

> We urge the Senate to delete this language. It would seriously impede our efforts to enforce Title VI of the Civil Rights Act. Enforcement is dependent upon identifying those school districts which may be in violation of the law. Unless school districts keep the statistics, which this language would prevent us from requiring, we would not know where to direct our investigative resources.

The lack of records would mean that Government funding would be, at best, haphazard. The Federal Government would be relinquishing its concern in the desegregation of school systems, giving life to the possibility that segregated schools would once again flourish. In short, if there are no records, there are no violations.

The Helms amendment could similarly affect HEW's enforcement of title IX of the Education Amendments of 1972, which bars sex discrimination in federally assisted programs of higher education.

The agency could be precluded from seeking to impose by means of the fund termination sanction prescribed by title IX, any affirmative remedy utilizing sex based criteria to combat discrimination proscribed by the act. As under title VI, the agency would have to rely solely on negotiation and conciliation to secure voluntary compliance. And HEW would also be precluded from securing the information it needs to determine whether sex discrimination exists.

Mr. President, this amendment would be contrary to Congress' declared intent that discrimination based on sex should be eliminated from our society.

In addition to its deleterious effects on title VI and title IX, the Helms amendment, by impeding the compilation of statistics regarding national origin, could also jeopardize the smooth functioning of the bilingual education title of the Elementary and Secondary Education Act.

A strong argument can also be made that the Helms amendment is unconstitutional. It can be construed as an unlawful limitation on HEW's authority to insure that Federal assistance programs are administered in accord with constitutional standards.

Mr. President, the Congress of the United States cannot go on record as supporting such an unconscionable amendment. We have come too far and worked too hard. Title VI of the 1964 Civil Rights Act and title IX of the Education Amendments of 1972 are two of our proudest legislative accomplishments. If we pass this amendment we would be effectively nullifying programs which are designed to insure compliance with these acts, other statutes, and the equal protection requirements of the 5th and 14th amendments to the Constitution.

I urge the Senate to reject this amendment.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. MAGNUSON. Will the Senator yield?

Mr. McCLELLAN. I yield 1 minute to the distinguished Senator from Washington.

Mr. MAGNUSON. I do not know if it has been said in the earlier part of this debate, but the Senate committee did consider this amendment at some great length. Although I do not recall that we had a formal vote on it, we did agree unanimously—there was no protest—that we would keep it out and discuss the matter with the House in conference.

The committee felt very strongly about this because here, again, we are getting into legislative matters that do not belong in an appropriation bill. It should be thrashed out in the Education Subcommittee and the Labor and Public Welfare Committee. I am hoping, too, that the amendment will be defeated. I presume the Senator from North Carolina would want a rollcall on this, would he not?

Mr. HELMS. Yes.

Mr. MAGNUSON. I just want to reiterate the committee's position. We did have a quite long discussion on it, and we came to that conclusion.

Mr. McCLELLAN. I yield 5 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, whether we dispose of this amendment by tabling or by a vote, it should be defeated for all of the reasons stated by the Senator from Massachusetts (Mr. BROOKE) so very eloquently, but also for the following reason, which really remains uniquely to me to argue. That is that we just settled this matter in the most complete and affirmative way. That settlement is incorporated in the Education Amendments of 1974, now Public Law 93–380, signed only on August 21, 1974.

There was great debate. The conference literally took hours and hours, indeed days to settle this thing. I was the ranking conferee on the Republican side.

By the way, it represents title II of the bill, to which I have referred, entitled "Equal Educational Opportunities and Transportation of Students," and goes on for a considerable number of pages and sections.

The key to it is the following, section 256:

> Notwithstanding any other provision of law, as per June 30, 1974, no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of the students, unless the court first finds that all alternative remedies are inadequate.

In short, it is a last resort remedy.

Really, we have always sought to avoid a confrontation between the Congress and the U.S. Supreme Court on whether they would have the right to order that remedy in the last analysis even if we forbade it on the ground that there was no other way, and we have now incorporated that whole concept into law.

Also, it will be remembered that this particular settlement is based on three principles which were incorporated in the so-called Scott-Mansfield compromise, which I had a considerable hand in drafting, and which occurred on the higher education bill in 1972.

Under that compromise, busing would only be ordered in a desegregation case if, one, it would not harm, physically or educationally, the student being transported and, two, it would not harm, physically or educationally, the student in the school to which that student is being transported.

Since then the Supreme Court has added another qualification, to wit, that it will not be done across district lines from cities to suburbs.

Now, Mr. President, what does this sum up doing? This amendment really seeks to reconsider in a supplemental appropriation bill a great national policy arrived at with great deliberation on an extremely explosive subject. We should be the first, it seems to me, to say let us leave well enough alone in terms of the resentment, the anger, the instability, which would flare from the adoption of such an amendment as this.

If we needed any proof of it, Mr. President, the Boston situation is adequate proof of that.

Why is it that Senator BROOKE stands here in the Chamber so bitterly opposed to this amendment? Primarily because he understands exactly what the consequences of improvident action in this very field may be, in tremendously embroiling elements of the population which can contribute to the greatest degree of instability rather than stability in the United States.

With all our troubles, Mr. President—and they are absolutely pyramided today—I ask the Senate this question: Do we need this one, too?

The answer must be decidedly no.

Mr. President, we have done the very minimum measure of social justice and constitutional recognition after the most deliberate debate, the most thorough consideration, in settling the matters as we did, as recently as August 1974.

I could not think of a worse mistake in the policy of our country, especially under existing conditions, than reversing that whole procedure in an hour's debate under a supplemental appropriations bill.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

The PRESIDING OFFICER (Mr. BARTLETT). The Senator's time has expired.

Mr. JAVITS. Mr. President, will the Senator yield me 1 additional minute?

Mr. McCLELLAN. I yield the Senator 1 additional minute.

Mr. BROOKE. Apropos of what the distinguished Senator from New York has said—he certainly has been a leader in the fight for equal justice in this country—we are not talking about the busing amendment now. We are talking about the fact that we are now saying to HEW, "You cannot comply with the law under this appropriations bill."

But they still are, pursuant to title VI of the 1964 Civil Rights Act, under the order to desegregate the public schools in the country, but they cannot, if this amendment passes, compile statistics. If they do not do that, how do they achieve their purpose? How do they comply with the law?

In addition, this amendment would cost the U.S. Government millions of dollars. HEW would have to put thousands of people into the schools to determine how many blacks, Jews, Mexican-Americans are in the schools. They would have to go into the Federal courts, because they would be under suit if they failed to implement title VI of title IX, and this would cost a tremendous amount of money for litigation.

It is not a question of whether we have busing. That has been decided and watered down, contrary to our wishes and equal justice. Casper Weinberger is strongly opposed to this amendment because he would not have the facilities with which to work.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. In the first place, I fully subscribe to what the Senator has said.

The Senator has raised yet another point: Bilingual education is a matter of very real concern to many of us in this Chamber. This would prohibit the HEW from doing what has been done in respect of even ascertaining the number for the subject of proper bilingual education. This is nihilism in the name of antibusing. I repeat: This is nihilism in the name of antibusing. I hope that the Senate will quite properly turn its back upon it.

I thank Senator McCLELLAN for yielding the time.

Mr. McCLELLAN. Mr. President, I yield 3 minutes to the distinguished Senator from Connecticut.

Mr. WEICKER. I thank the distinguished Senator from Arkansas.

Mr. President, I rise in opposition to this amendment. I think the time has come to put the shoe where it fits.

Let us understand that busing is the result of a court order. It is a court responding to an illegality with a remedy—that is what it is. The fact is that it should never get to the court in the first place. One question is, Are we going to obey the courts of this country or not?

Second, if anybody wants to point the finger of failure insofar as inequality of educational opportunity which results in busing is concerned, let them point the finger at those who do nothing about inequality of educational opportunity in this country. Inequality of educational opportunity is illegal.

It can be remedied by Senators. It can me remedied by Representatives. It can be remedied by Governors and mayors and Presidents. That is where the solution should take place. It should not ever come to a court in the first place.

So if busing has occurred in a community and the community does not like it, let the community ask their Senator what he has done to create equality of educational opportunity.

The initial responsibility for avoiding the illegality of inequality of educational opportunity is on our heads. It is on the heads of local governments and State governments and the Federal Government—the legislative and executive bodies of our governmental structure.

I respect and will respect the courts of this land. If we do not like busing, let us change the illegality not the courts. That means spending money on schools, on teachers, on personnel, on housing so that the matter never lands in court in the first place.

I am tired of being accused of being for busing by supporting the supremacy of law in our land. It is those who offer this kind of legislation, which is negative, I blame, shifting who are responsible for courts acting in place of legislatures.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I have been very interested—fascinated may be the better word—in the comments of my distinguished colleagues.

For example, the distinguished Senator from New York has said, "Let us leave well enough alone." How about Boston? Is that leaving well enough alone? How about Charlotte-Mecklenburg, N.C., where one child was bused 22 miles to school in the morning, 22 miles back in the afternoon, and was the sole occupant of a schoolbus? He had a private schoolbus and a private driver.

Let us leave well enough alone?

To the contrary, Mr. President, let us put an end to the arrogant interference with the rights of the families, of the parents, of the children to make their determination as to which schools they may attend. Let us put an end to forced busing and all of the miseries that have been the result—plus the absurd waste of money and gasoline.

I call to the attention of some of my colleagues who may occasionally speak piously and deprecatingly about some of the rest of us in this Chamber that the majority of the American people are opposed to forced busing of their children—black, white, whatever color. As a matter of fact, I challenge anyone to produce a poll that shows that the people of this country favor this sort of thing.

As for the comment that all we have to do is obey the courts of this country, I agree with that. But the distinguished Senator's oratory may have been a nonsequitur. We must examine some of the bases on which some of the court decisions are made. I submit, Mr. President, that the courts have proved to be very poor school boards.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. HELMS. I yield to the distinguished Senator from Georgia.

Mr. TALMADGE. I thank the Senator for yielding.

Mr. President, in my judgment, nothing is more un-American than the assignment of children by color to attend public schools.

Since the Brown decision in 1954, when the Supreme Court knocked down classifying children by race for assignment to public schools, we have seen our courts and the Department of Health, Education, and Welfare come back to that same proposition—to wit, the assignment of children to schools based upon color, the assignment of children to schools, because they are white and because they are black, in an attempt to get some mythical, artificial balance to create racial compositions in accordance with their judgment. In my mind, it is just as repugnant to our Constitution as classifying children by race originally was, prior to the Brown decision.

I hope, in the future, that we can have in this country schools—just schools, and students—just students—without regard to color or classification. I hope we can stop this compulsion, whereby little children are picked up in the dark of morning and sent long distances to schools far removed from their neighborhood, simply because they happen to be black or because they happen to be white, to try to create some mythical racial composition. We ought to forget race in the public schools. That is what the Supreme Court said in 1954. But here we are, 20 years later, dealing with the same subject matter.

I hope that the Senate will approve this amendment and let the message go out to the country, now and for all time in the future, that we have stopped race in public schools, that we have schools, nothing else; students, nothing else; and improve the quality of education in this country.

Mr. WEICKER. Mr. President, will the Senator from North Carolina yield for a question?

Mr. HELMS. On whose time? Our time is limited.

Mr. McCLELLAN. I yield 1 minute to the Senator from Connecticut.

Mr. WEICKER. Will the Senator from North Carolina agree that there are instances of inequality of educational opportunity in this country?

Mr. HELMS. I am sure that the State of Connecticut could find some, and I am sure that the State of North Carolina could find some. There are inequalities in everything, I say to the distinguished Senator.

Mr. WEICKER. What does the distinguished Senator from North Carolina recommend as to what we do about these situations of inequality?

Mr. HELMS. I do not know about the distinguished Senator's State, but the State of North Carolina is handling it very well.

Mr. WEICKER. What specific recommendations to assure that these situations of inequality are dealt with? I see that the Senator's amendment says that none of these funds shall be used to compel a school system—and so forth. What in here is going to create equality of educational opportunity?

Mr. HELMS. The Senator is forgetting the obvious fact that the court orders continue to exist.

Mr. WEICKER. Court orders result from illegalities, do they not?

Mr. HELMS. I would assume that that is a correct statement—real or imagined.

Mr. WEICKER. So that in this situation, it is not to defy the court order but, rather, to make sure that the illegality does not come to pass. Would the Senator not consider that a far more preferential solution to the problem?

Mr. HELMS. Would the Senator repeat the question? I could not hear him.

Mr. WEICKER. Will the Senator agree that the primary responsibility rests on those governmental bodies——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HELMS. Mr. President, I yield 7 minutes to the distinguished Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from North Carolina.

Mr. President, I commend the distinguished Senator from North Carolina (Mr. HELMS) for his initiative and for his dedication in this most important field, and for offering this amendment, the so-called Holt amendment, which was approved by the House of Representatives by a large margin.

The vote was 220 to 169. Despite the decisive action of the House, the Senate Appropriations Committee removed this provision from the bill.

Today, the Senate is being afforded an opportunity to reconsider the action of the committee, and to take the same action taken by the House of Representatives with respect to the amendment. It is obvious that there is an increasing realization of the destructive nature of Federal interference with our local school systems. Of course, most of this interference has come from the Department of Health, Education, and Welfare and from our Federal courts.

On September 17, the Senate considered the main appropriations bill for HEW. At that time, the Senate approved an amendment which prohibited the use of Federal funds for the forced busing of schoolchildren. That, of course, was an important step toward returning the control of our schools to local levels of government and to the people. I need not discuss at length the many hardships and detriments that forced busing has brought about.

These have been alluded to by the distinguished Senator from Georgia (Mr. TALMADGE). They are well-known and have been mentioned in this chamber on numerous occasions. Suffice it to say that there is a growing realization of the counterproductive nature of Federal interference with local school systems. This realization manifested itself in the House of Representatives by the approval of the amendment offered by Congresswoman HOLT.

It manifested itself in the Senate by the approval of the amendment offered by the distinguished junior Senator from North Carolina (Mr. HELMS) to the main HEW appropriations bill on September 17.

As Senators are aware, the Federal courts have over the past 20 years ordered various school systems to adopt desegregation plans. In recent years, these school systems have complied with such court orders, and all remnants of the former dual school systems have, in fact, been abolished in such systems. The public schools are being operated in compliance with the applicable court orders. The question has actually become academic, certainly insofar as systems in the South are concerned.

Nonetheless, the legislation of an earlier era which allows the Department of Health, Education, and Welfare to extract voluminous reports of a statistical nature from our local school officials remains in effect. The bureaucrats of HEW are continuing to exercise this authority—in fact, they are exercising it with ever-increasing zeal. The reports and statistics are in themselves an evil. They require weeks to compile. They force school administrators and teachers to take time away from their primary purpose of assisting with the legitimate educational process in order to satisfy arbitrary bureaucratic requirements.

Upon reviewing the statistics, if HEW concludes that a perfect racial balance does not exist in each class, Federal funds can be withheld. It creates a rather ironic situation. The Federal funds are designed, at least in part, to assist students in need of remedial help. But if these students are placed in a remedial class and the statistics do not balance to HEW's satisfaction, then the assistance funds are withheld and the remedial classes are discontinued. On the other hand, in order to keep the assistance funds, the students in need of special help cannot be placed in remedial classes. If the consequences of such folly were not so grave, it might be amusing. However, the situation is, in fact, tragic. The children are the losers. They are the ones who are denied the help they need in order to gain an education and live a productive life.

Congress has the authority to correct this situation. The House of Representatives has already acted to do so by approving the Holt amendment. Today the Senate has an opportunity to consider the same amendment, to make it a part of this bill and to send a clear message to the bureaucrats of HEW. Passage of this amendment will tell them that the Congress does not approve of the arbitrary classification system required by HEW. It will tell them that Congress does not approve of the extraction of unnecessary statistics from local school officials. And, it will tell them that the assignment of students and teachers to classes should be based upon individual need—human considerations—not statistical perfection.

I urge the approval of the Helms amendment, also known as the Holt amendment.

I yield back the remainder of my time.

Mr. HELMS. I thank the distinguished Senator from Alabama for his cogent remarks.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. HELMS. I thank the Chair. I yield 3 minutes to my distinguished friend from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator for yielding time.

Mr. President, I am a member of the Appropriations Committee, and the committee took the other position. I ordinarily stay with the committee, but I think a grave error has been made here.

If Senators will pardon what is partly a personal reference, I stood on this floor years ago and said we in the South will live with and abide by any rule that the membership of Congress outside the South will apply to themselves. That was just a fair proposition. I respectfully submit that we in the South have lived by and do comply very generally and rather specifically with the rules that were laid down by the courts originally. We have integrated our schools. We are carrying on the best we can, with some success, under that rule.

But now this matter has gone on farther and farther and farther, far beyond the original Supreme Court decision. It has gone far beyond to the idea or the concept of literally taking little children, black or white, out of their own communities, away from their parents, away from their friends, and away from where they live over into another community, in strange places, strange faces, and strange surroundings, just to provide a numerical balance.

That is not only far, far beyond the first decision on this matter, but it is ridiculous on its face. It is contrary to every principle that America has stood for heretofore, as I understand the basic concepts of our Constitution.

I speak with the greatest deference, now, to the courts, the Circuit Court of

Appeals and the Supreme Court of the United States. Without going farther, I respectfully say that the courts have not taken this problem to their bosoms and given us a real rule with reference to this busing just for racial balance. Time after time they have turned this matter down, denied a writ of certiorari, and have not gotten in and coped with the real problem.

This amendment, like others, is just a feeble effort to cope with the situation and make sure that these children are taken care of. This scheme has not really been approved yet by the highest courts, but is simply a bureaucratic scheme to carry out this busing.

The Civil Rights Act of 1964, all subsequent civil rights acts and the Brown decision of 1954 dealt with ending racial discrimination. In the past few years, HEW and Federal courts have gone further than merely ending discrimination. Schools now are open to all regardless of color. But, Mr. President, that today is not enough. Now, HEW seems to insist on exact ratio of black to white students in all public schools. To reach this end, many students are being turned away from the school nearest their home because of their color. This is not what was intended by the Brown decision, and certainly was not intended by the Civil Rights Act of 1964.

We made some headway on this type thing earlier this year regarding the busing of students. Everyone realizes that busing is not working. Look at Boston, for example.

HEW has decided though to use busing to balance the ratio in the schools between blacks and whites. There is no constitutional provision for this.

Court orders and HEW guidelines have created an unconstitutional situation by refusing to allow students to go to their neighborhood school solely because of their race.

I said more than 5 years ago that the people of the South would live under any law that was equally applied throughout the Nation. I also said that if these civil rights laws were applied uniformly throughout the Nation that because of their harshness, there would be a great hue and cry in the areas outside the South and a more moderate approach would be called for and demanded. We are now seeing the laws being applied uniformly to some extent; that is, in Michigan and Massachusetts. It is causing much turmoil today in Boston and such events will undoubtedly take place elsewhere as the heavy hand of the Federal Government comes down on the local schools.

The Federal Government is today assigning students to a particular school solely on the basis of their race. They are denying students the right to attend their neighborhood school solely on the basis of their race. This type action is violating the Constitution.

With HEW, statistics and busing comes first—not real education. States would like to spend more time on improving education, but they spend so much time on maintaining and supplying racial statistics for HEW that education in this country is suffering.

As long as HEW has the authority to compel transfers of students based on race, and to require school boards to compile racial statistics, HEW directed busing will continue. HEW will request and require racial statistics for everything.

Merely to satisfy the desires of HEW policymakers—not the Constitution—schools stand to lose vitally needed money for true educational purposes solely because the schools may fail to keep certain records or statistics based on race. HEW is going beyond the requirements of the law as made by the Congress.

There is no end to what HEW will require. It will become even more ridiculous than it is now.

The assignment of students and teachers to courses or classes under directives of HEW almost totally gives the Federal Government control over the schools.

The Federal Government is committed to ending discrimination in schools wherever found and is not authorized to estabilsh racial quotas. Not only does HEW decide, on the basis of race, which school a student is to attend, but once the student is there it decides which classes he attends. HEW does not look to see if discrimination exists, but rather if a certain racial balance is in existence.

And to aid them, they force schools and school boards to develop voluminous reports. All of this requires thousands of man-hours and millions of dollars nationwide.

The Federal Government has no business in deciding which students go to which classes or whether those classes have a proper ratio of boys to girls or blacks to whites. Local officials should be and are capable of operating local schools. Our Federal Government is going too far.

This amendment will not prevent appropriate Government agencies from enforcing laws against discrimination. It will end senseless busing, done solely to create racial balance. It will end HEW interference with the day-to-day operation of local schools.

The people of our Nation are tired of busing and other Government interference with their schools.

This amendment is sorely needed. The Nation wants it—and we must pass it.

Mr. HELMS. Mr. President, I yield the Senator from Virginia 3 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Howard Sagmore and George Shanks, of my staff, be granted the privilege of the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I would like to analyze another aspect of the amendment proposed by Senator Helms. Simply stated, this amendment prohibits the Federal bureaucracy from imposing quotas upon education.

That is—quotas in the hiring of teachers; quotas in the assignment of school pupils, both in the schoolhouse and the classroom; quotas based not on any congressional mandate, but solely according to the theories of social planning held by Federal bureaucrats who are insulated from the people.

What are quotas? In reality, they are the most invidious sort of discrimination. The quota mentality says "Judge an individual because he is a member of a certain class or group and not upon his individual talents and merits."

Quotas do violence to the basic underpinnings of our form of democracy. There is no way to justify arbitrary quotas in a Nation which holds as a self-evident truth "that all men are created equal."

Quotas state—from the first instance that an individual is considered—for school or classroom placement, for a job, for award or discipline, even for a grade—that he or she is not equal. That individual is, instead, a member of a group, to be favored or disfavored on that basis alone and without consideration for individual merit.

Dr. George C. Roche III, president of Hillsdale College and author of the book, "The Balancing Act—Quota Hiring in Higher Education," has inspected this form of bureaucratic overkill and has laid bare the soul of the affirmative action notions of social equality.

His succinct assessment of the quota system should be carefully considered by all of us:

> It is not the wave of the future; it is the putrid backwash of all the tired social engineering schemes of the centuries.

And yet, the social engineers of HEW have pressed on with their quest to force this type of social planning on the American people—without congressional approval and with too little congressional oversight.

How have the people reacted? I think the vote in the House on this very amendment on October 1, 1974, is indicative.

That vote was an overwhelming repudiation of the quota concept. The amendment was adopted by a vote of 220 to 169—a clear majority of the House of Representatives.

What stimulated this mandate to end the invidious discrimination with which HEW has coerced our educational systems?

It was lucid comments from Representative Edith Green, who noted that HEW is "going on the assumption that every group or institution is guilty of discrimination until they are able to prove themselves innocent. This was never the intention."

And, I believe, it was chilling comments like those of Allen C. Ornstein, assistant professor of Education at Loyola University of Chicago, who was quoted in the Wall Street Journal thus:

> We have entered a new and dangerous period of restriction on research and inquiry, even within universities that purport to serve as an arena for the exchange of ideas. Certain topics can no longer be frankly discussed at many universities and harassment and force are used to prevent certain persons from speaking and conducting research.
>
> There is also an underlying self-imposed censorship in many college classrooms: certain social-science topics are best ignored or

slanted to suit the interest and ideologies of various groups that define themselves as minorities; speaking on some subjects is no longer worth the personal costs.

Stop for a moment and consider what this amendment does and does not do:

It does prohibit the Federal bureaucracy from compelling an institution to compile data, whose only purpose is to support preconceived quota notions of Federal bureaucrats.

It does prohibit the Federal bureaucracy from engaging in the economic blackmail of States and localities in contravention of the Constitution and the will of the people.

It does not "gut" title VI of the 1964 Civil Rights Act. HEW still has the authority to seek legal representation from the Department of Justice and to seek redress in the courts whenever it perceives clear violations of the act.

This amendment allows for a long-needed correction in the balance between the branches of Government. The excesses to which the Federal bureaucrats have gone in their social engineering schemes make all the more compelling the wisdom and necessity of keeping legislative prerogatives in the Congress and judicial powers in the courts.

It seems to me that the necessity for an amendment like this is just another indication of how much authority and responsibility the legislative branch of the Government has abdicated. By this amendment, we are trying to end an abuse—a bureaucratic excess—which the authors of this legislation admit was never intended.

That we allowed the executive branch to perpetuate such a violation of individual rights upon the people is as much a condemnation of the Congress as it is of the bureaucracy.

A legislative policy must be established. And this is a good starting point. We must not leave this vital task to bureaucrats, who are responsive to no one, nor to the courts, who are responsible to no one.

Mr. HELMS. Mr. President, I yield 2 minutes to the Senator from South Carolina (Mr. Thurmond).

Mr. THURMOND. Mr. President, I rise in support of the amendment of the distinguished Senator from North Carolina.

First, I want to say that this amendment does not affect voluntary busing, but rather, compulsory busing. Compulsory busing is busing against the wishes of the local community. Personally, I think this busing is wrong.

What are the public feelings on this question in the United States? Polls have been taken over and over, and they show that 85 percent or more of the public is opposed to forced busing.

Mr. President, I hope that the Senate will see fit to stop this compulsory busing, and turn the schools back to the local school officials and the local communities.

I have found just as much wisdom in local, county, and State officials, as I have found in Congress or in the bureaucrats here in Washington. I think we should allow the local people to solve these local problems. Mr. President, certainly schools are a local problem, and I feel it has been a great mistake for the courts to go as far as they have gone in their decision on busing.

The Brown case held that a child cannot be denied admission to a school because of his or her race. Recently the courts have gone 180 degrees in reverse. It is now permissible to select a child of one race and transport that child 40 miles a day to a school in another neighborhood. Is the purpose to improve that child's education? No, the purpose is to bring about a racial balance. This is wrong and should be terminated.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HELMS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. HELMS. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I find myself in a rather peculiar situation on this amendment. If this amendment were an antibusing amendment, I would be for it. I have consistently voted against compulsory busing for racial balance ever since I have been in the Senate.

But this amendment only touches busing in a backhanded way. Your committee, as has been stated by the chairman of the subcommittee, the Senator from Washington, felt this was not an antibusing amendment. It says that teachers and students cannot be classified by race, religion, sex, or country of origin, and it also says that no records can be maintained on the categories.

How in the world are we going to administer some of the legitimate programs that are in this bill? For instance, the bilingual program. We are appropriating money for bilingual education. Well, we have got to know some important facts about the school population in order to administer that program intelligently.

Take the Spanish-speaking American population, for instance. We have got to know where the schools are that are largely attended by Spanish-speaking Americans, so that we can assign teachers who can teach the students in their home language as well as in English, and to carry out this program which is very legitimately right in this bill.

The same is true of possible discrimination—and I am not talking about busing. Discrimination is something we are all against. I believe that every child who wants to go to school, whether he is black, white, red, or any other color, should have the right to do so. But if there is discrimination we can only find it out from the records. This amendment makes it impossible and this will hinder the administration of this very important program, or the administration of other critical programs that have nothing to do with busing. So I must oppose it.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HELMS. Mr. President, this amendment by its terms applies to any school system, and it states that such school systems shall not be required as a condition for receiving grants and other benefits from the appropriations under this bill to classify teachers or students by sex, or assign teachers or students to schools, classes, or courses for reasons of sex, or to prepare or maintain any records, reports, or statistics pertaining to the sex of teachers or students.

The Department of Health, Education, and Welfare in its proposed regulations implementing title IX of the Education Amendments of 1972 has taken the rather extreme position that all courses, except sex education, must be taught in joint classes containing both male and female students. This amendment would return such considerations to the local school officials. It would allow them to determine whether a particular physical education class, for example, should be taught on a coeducational basis.

The amendment would not preclude coeducational classes in any subject. Rather, it would make such a determination a discretionary matter to be decided on the local level. To this extent, the amendment would affect title IX.

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the distinguished Senator from Massachusetts (Mr. Brooke).

Mr. BROOKE. Mr. President, I am not going to be emotional about this issue. I hate to see this issue of busing come up every year, practically on every bill, and divide the country, divide the Senate. I see that most of the Members from the southern delegation feel they have to speak on this bill, and they are quite right. I mention no motives. They have done a better job on busing in the South than has been done in the North.

We are not voting on a busing issue but we are voting on an amendment which would stop HEW in this supplemental appropriation bill from keeping records and statistics not just on race but on religion, sex, and national origin.

HEW says if they cannot keep statistics they will not be able to do their job. If they are not able to do their job properly then they will have to have thousands of people going out into the field and trying to find out how many Mexican Americans, Spanish-speaking Americans, there are so that we can have bilingual training. They will be opening up themselves to all sorts of Federal court orders that would be taking place.

This is what we are talking about. We have already voted on the busing issue time and time again. This will not change it. The Supreme Court order still stands; and we have watered it down with the Mansfield-Scott language. That is not what we are talking about.

We are trying to legislate in this appropriations bill which, in and of itself, is wrong, and we know it is wrong, and that is why the distinguished chairman, Senator Magnuson, and the distinguished minority member, Senator Cotton, have spoken as they have on this bill.

I know how they feel. And I know Senator Cotton does not believe in busing.

If I am in order, Mr. President, I would move to lay this amendment on the table.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

The motion to lay on the table is not in order.

Mr. BROOKE. I am asking my chairman to give me time.

Mr. McCLELLAN. Mr. President, I understood the distinguished Senator from Connecticut wanted another minute. Does he?

Mr. WEICKER. Yes.

Very briefly, the job of leadership is to lead and not to mislead. Inequality of educational opportunity is illegal. Here we have an amendment of 10 Senators, representing great power. Do they take a solution to that illegality to their bosom and press for it? No. They blame the courts.

Do you know what this is? Do you know what I am going to call this type of legislation? This is a probusing amendment because it is wasting our time and our power rather than using it to solve situations of inequality. This is probusing because it does not do the job that is our job, specifically as leaders of this Nation to legislate against inequality of educational opportunity.

This amendment is a smokescreen. It shifts the focus of responsibility. There is an illegality. It is our job to resolve it, not to point our fingers at the courts.

I will vote against this probusing amendment.

Mr. HELMS. Mr. President, I yield the remainder of my time to the distinguished Senator from Virginia (Mr. William L. Scott).

Mr. WILLIAM L. SCOTT. Mr. President, I understand that a motion will be made to table the Helms amendment and, of course, a vote in favor of that is a vote for forced busing.

I would hope that the vote to lay on the table will be defeated, and that the amendment of the Senator from North Carolina will pass.

The people of the country are opposed to busing. It does not make any difference whether it is in North Carolina, Virginia, or whether it is in Michigan or Massachusetts because we hear the outcry when the busing hits new heights in any of those States.

We are using the children as pawns to bring about social reform. The time that they spend on the buses, the money that is spent on the buses, can be spent for quality education that the distinguished Senator from Connecticut talks about. We are all for quality education. But the people of America——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WILLIAM L. SCOTT. The people are opposed to forced busing.

The PRESIDING OFFICER. The Senator from Arkansas has 2 minutes.

Mr. McCLELLAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. McCLELLAN. I yield 1 minute to the distinguished Senator from New York (Mr. Javits).

Mr. JAVITS. Mr. President, one thing this debate has done is made clear the issues. The issues are not quality education, and they are not busing. The issues are nullification or nihilism. This amendment is nihilism, not nullification.

Mr. President, the really key point is that we are talking now about the Constitution. Everything else is laid aside. Quality education is another matter for us to judge. But a constitutional right vests in every single American, if it is only one and we are all solemnly pledged to defend that one. So plebiscites in the country are not relevant to that. There are lots of plebiscites that would take away 10 amendments, the basic rights of every American.

Mr. President, the important thing is that we are vindicating the Constitution. We have now whittled it down to the very, very barest minimum, and that is where it ought to stand.

I thank my colleague for yielding.

The PRESIDING OFFICER. The Senator from Arkansas has 1 minute remaining.

Mr. McCLELLAN. I yield 1 minute to the Senator from Massachusetts (Mr. Brooke).

Mr. BROOKE. Mr. President, because this amendment would render ineffective title VI of the 1964 Civil Rights Act, title IX of the Education Amendments of 1972 dealing with sex discrimination and also bilingual education, I am compelled to make a motion that the amendment be laid on the table.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, parliamentary inquiry. What is the motion?

The PRESIDING OFFICER. The motion of the Senator from Massachusetts is to lay the amendment of the Senator from North Carolina on the table.

All time has expired. The motion is in order. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. Stevenson), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Williams) and the Senator from Minnesota (Mr. Humphrey) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Utah (Mr. Bennett), the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from New Mexico (Mr. Domenici), the Senator from Colorado (Mr. Dominick), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), and the Senator from Florida (Mr. Gurney) are necessarily absent.

I also announce that the Senator from Maryland (Mr. Mathias) is absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to illness in the family.

On this vote, the Senator from Oregon (Mr. Hatfield) is paired with the Senator from Arizona (Mr. Goldwater).

If present and voting, the Senator from Oregon would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 43, nays 36, as follows:

[No. 484 Leg.]

YEAS—43

Abourezk
Aiken
Bayh
Bellmon
Brooke
Burdick
Case
Clark
Cotton
Cranston
Fong
Gravel
Hart
Haskell
Hathaway
Hughes
Inouye
Jackson
Javits
Johnston
Magnuson
Mansfield
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Symington
Taft
Weicker

NAYS—36

Allen
Baker
Bartlett
Beall
Bentsen
Bible
Biden
Brock
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Eastland
Ervin
Fannin
Hansen
Hartke
Helms
Hollings
Hruska
Huddleston
Long
McClellan
McClure
Nunn
Randolph
Roth
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—21

Bennett
Buckley
Church
Cook
Domenici
Dominick
Eagleton
Fulbright
Goldwater
Griffin
Gurney
Hatfield
Humphrey
Kennedy
Mathias
McGee
McGovern
Moss
Stevenson
Tunney
Williams

So the motion to lay on the table was agreed to.

Mr. BROOKE. Mr. President——

Mr. STENNIS. We could not hear the Chair. Point of order, Mr. President.

Mr. MANSFIELD. Will the Chair announced the vote again?

The PRESIDING OFFICER. The Chair announces 43 yeas and 36 nays. The motion to table is agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, on yesterday the Senate agreed to take up the conference report on mass transit at approximately 3 o'clock. I ask that that time be extended to somewhere in the vicinity of 3:30.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BEALL. Mr. President, I send to the desk an amendment and ask the clerk that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second legislative assistant clerk read as follows:

> On page 11, line 10, before the period insert a colon and the following: "*Provided further*, That none of the funds contained herein shall be used to compel any school system, as a condition for receiving grants and other benefits, to participate in any pilot investigation of the problems of discrimination in disciplinary action.

Mr. BEALL. Mr. President, I ask unanimous consent that Joseph Carter, of my staff, be given the privilege of the floor during the debate on this bill and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Will the Senator yield?

Mr. BEALL. I will be happy to yield on the Senator's own time.

Mr. MAGNUSON. I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. At 3:30 the mass transit report. I was wondering if we could have a time limitation on this amendment. Is there a time limitation?

Mr. BEALL. Is there a time limitation on this amendment, Mr. President?

Mr. MAGNUSON. I was hoping we could finish this amendment before 3:30. It looks to me like we are going to have to go over until tomorrow, particularly on the money amendments to the bill.

Mr. BEALL. If the Senator will yield, I will ask the Chair what the time limitation is.

The PRESIDING OFFICER. The time limitation on this bill is 1 hour, with 30 minutes to each side.

Mr. BEALL. On this amendment there is a time limitation.

Mr. McCLELLAN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senate will come to order.

The Senator will state it.

Mr. McCLELLAN. What is pending?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maryland. The discussion was as to how much time is on the amendment, and it is 1 hour, 30 minutes to each side.

Mr. BEALL. Mr. President, while it is my expectation, I say to the Senator from Washington, that we would not use the whole time allotted, at this time I would be hesitant to enter into a time agreement that would be less than already specified. I hope we can end this by 3:30.

Mr. President, I yield myself 10 minutes.

The amendment which was just read is very uncomplicated in that it says that none of the funds in this appropriation bill shall be used to require any school district, as a condition for receiving grants or other benefits, to participate in a pilot investigation of the problems of discrimination in disciplinary action.

We have just completed debate on a very broad amendment. I think probably that amendment lost because of the fact the Senate felt that it was too broad in its application.

Mr. STENNIS. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senator from Maryland is entitled to order in the Chamber.

Mr. BEALL. The amendment that I have offered this afternoon narrows the issue to deal with a particular case that arose in a school district in the State of Maryland where I think the question was not at all a question of the integration of the school, or the success that this county or our State has had in integrating the schools; it is a matter of continued harassment by officials of the Department of Health, Education, and Welfare, which places an undue and uncalled for burden upon the administrators of the school system.

In May of 1973 the Department of Health, Education, and Welfare commenced an investigation of alleged discriminatory treatment of minority students in disciplinary actions taken by the school system in Anne Arundel County, Md.

The amendment, then, deals with two difficult subjects: One is discrimination, and the other is discipline.

It is interesting to note, Mr. President, that the 6th annual Gallup poll on public attitudes toward public education indicated that our citizens regarded lack of discipline as the number one school problem. Indeed, school discipline has been rated the number one problem in 5 of the last 6 years.

It is interesting that in the Gallup special survey of high school juniors and seniors a higher percentage of students than the adults, named discipline as the leading problem facing local schools.

The second ranking problem, according to Gallup's citizens survey, was integration-segregation problems. So this is an extremely important issue before the Senate today.

I believe that this Nation cannot tolerate nor condone discriminatory treatment of students.

Disciplinary action should be applied in a fair and evenhanded manner.

However, I do not believe that a statistical difference alone indicates discrimination. In this case, HEW received general complaints—and I mean they were general—from a group of parents in May of 1973.

I ask unanimous consent that the complaint, and the school system's response, be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BEALL. Mr. President, I did not become deeply involved in this matter until February of 1974. At that time I wrote Secretary Weinberger strongly protesting the massive information demands of the HEW regional office in Philadelphia.

Specifically, HEW was now asking the Anne Arundel County school system, as a result of these very general complaints, for a record of the disciplinary action by race of their 25,000 students, a 13-year history of the coaches of the faculty in the total school system, and a listing of racially isolated classrooms. I ask unanimous consent that a copy of my letter to the Secretary, the Secretary's response thereto, and the county's response to the Secretary's letter be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BEALL. Mr. President, it should be pointed out that the county answered the questions raised regarding the coaches and racially isolated classrooms.

Since the Secretary in his response did not provide, as requested, copies of the complaints HEW had received, information on investigations undertaken and results thereof, I again wrote HEW asking for such information. I ask unanimous consent that this letter, and the Secretary's reply, be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. BEALL. Mr. President, the Secretary took the position that HEW could not complete the investigation until they received additional information. The information sought resulted from information provided by the county which showed statistical differences in disciplinary action regarding minority students. A numerical difference, I repeat, is not equivalent to discrimination. HEW seems to equate the two, although they denied this. In any event, they seem to be saying that where a statistical difference exists, the burden of providing that discrimination does not exist, shifts to the county. Whether intended or not, it may be that the county, if they do not want to undergo the harassment and paperwork generated by HEW, will be forced to have a quota system for discipline. This certainly flies in the face of the serious discipline problems facing some of our schools and in the sentiments of the American citizens as indicated by the Gallup poll to which I earlier referred.

My suggestion to HEW was relatively simple—namely, investigate the validity of the individual complaints. If these complaints proved valid, then investigate the school involved. Then, if the individual and school complaints seemed valid, and there was statistical evidence suggesting possible discrimination county-wide, at this point it would seem reasonable to require a county to spend the inordinate amount of time and energies that Anne Arundel County has been required to devote as a result of HEW's actions.

I might say, parenthetically, that it was estimated at the time the information was requested by the superintendent of schools of Anne Arundel County that in order to fulfill the request from HEW, it would take six full-time administrators 6 months to provide the information requested.

It is interesting to note that the school from which the original complaints were received had a black principal. While it was possible that a black principal would discriminate or permit discrimination against minority children, commonsense would argue against such discrimination and further supports the wisdom of a procedure I have suggested. However, commonsense has not been a characteristic that has been noted to abound at the Office of Civil Rights. In fact, sometimes it would appear they relish in the continuation of the conflict rather than its resolution.

The most recent twist in this case finds HEW now signaling out Anne Arundel County as the first pilot testing program for what HEW labels second generation discrimination, or discrimination in disciplinary action against minority students. The Senate should be aware that HEW has still not resolved its investigation filed in May of 1973 which prompted this controversy. Moreover, Senators should be alerted that while Anne Arundel County is the initial school system selected for this pilot testing program, HEW plans more of the same.

Mr. President, I do not pretend to know everything about this case; but based on my talks and communications with the county, I believe the county has attempted to cooperate. Voluminous information has been furnished to HEW, and endless meetings held and indeed at times it appeared that the matter was going to be resolved. But HEW keeps adding to their demands and continues its fishing. I say it is time for HEW to fish or cut bait.

The educational and disciplinary problems are too important in Anne Arundel County and elsewhere to allow the continued diversification of energies and resources to resolve complaints which should have been investigated and a determination of their validity made long ago.

Therefore, I urge the adoption of this amendment which will deal with what I feel is HEW abuse in Anne Arundel County, Md., and also will prevent similar pilot testing programs elsewhere. I urge the adoption of the amendment.

Exhibit 1

The Parents' Association—The General Nature of Complaints

1. We have received complaints that the school has refused to let children eat lunch at the school and that some of these children who have been refused are on the Federal Lunch Program.

COMMENT

It is possible that this occurred, but if it did, it was accidental. This was certainly not the result of deliberate policy on the part of the school system. Moreover, it is extremely difficult for us to investigate this type of complaint because of its very general nature. Any action on our part would require more specific information—when did this occur? where did this occur? who was involved? If we had such information, we could investigate this complaint completely and if it were true take action to insure that the situation would not be repeated by the parties involved.

2. We have received complaints that some students have had their lunch periods cut, losing ten minutes or so as punishment.

COMMENT

It is possible that this occurred. Again, it is not an action that we would condone, and had specific information been presented to us when this occurred, we could have taken action.

3. We have received complaints that students who do not buy their lunch are put into a separate room near the bathroom.

COMMENT

This is entirely true, but we feel that it is not a legitimate matter for a complaint. In Annapolis Elementary School, the cafeteria is small. During the 1972–73 school year, students who brought bag lunches ate in a classroom sized area located off of the basement corridor. Mr. Wego has seen this area. Our feeling is that the area was adequate for the purpose.

4. We have received complaints that the supervision of lunch in the cafeteria is so poor that the children are harassed and aggravated.

COMMENT

Any problems that occurred in the cafeteria during the last school year were probably due to the fact that the school used only two lunch shifts. Thus the cafeteria was quite crowded when in use. This fact was probably more the cause of problems than was poor supervision. Again, this is something we could have looked into more thoroughly had we received specific information during the school year.

NOTE.—This year the school uses three lunch periods. All children eat in the cafeteria and conditions are much better since there is no overcrowding.

5. We have received complaints that too many children have been expelled or suspended without due process and suspension has been prolonged for as much as five months. Suspension is also open-ended.

COMMENT

Procedures for expulsion as well as for due process in such cases are clearly outlined in state law and we follow these to the letter. Every expelled student is made aware, in writing, of the existing appeal procedure. A sample of such a letter is enclosed as Exhibit K.

As for suspensions, normally, a letter goes home to the parents with the causes and time set for a conference clearly indicated.

In the case of extended suspensions, approval of the superintendent is required. So it is possible that a student is suspended for five months or on an open-ended basis, but when this is done, it is always with just cause. A sample letter for an extended suspension also appears in Exhibit K.

Again, this is a complaint that it is difficult to comment on because no specifics are presented.

6. We have received complaints that some children are receiving harsh punishment for insignificant and trivial acts. The punishments outweigh the acts.

COMMENT

It is impossible to comment on this complaint without more specific information.

7. We have received complaints that whole groups have been punished when only one person is guilty.

COMMENT

In a school system as large as ours, this probably occurs from time to time. Again, it is certainly not due to the school system's policy because we consider this to be very ineffective means of discipline.

8. We have received complaints that children have been embarrassed by being searched to the extent of turning their pockets inside-out—at times without even an understood charge or reason for the search.

COMMENT

The administrative procedures under which principals operate allow them to request that children turn their pockets inside-out if the principals have reason for doing so, such as, possible possession of something that was stolen or illegal. We have been informed by the State's Attorney that we are acting within the doctrine of in loco parentis when we do so.

9. We have received complaints that some children as punishment had bags placed over their heads and were ordered to sit near the room heater.

COMMENT

This is a complaint impossible to investigate without specific details. However, until we received this information, we had never heard of its happening in the school. Certainly, it is something we would never condone. The Superintendent has stated that if he knew of a teacher doing this, that teacher would be out of a job immediately.

10. We have received complaints that some children as punishment for talking were forced to stand on a stool with their hands over their heads for a specific length of time.

COMMENT

Once more, this is something we would never condone, but without specifics about when, where, and who was involved, it is very difficult to investigate further.

11. We have received complaints that staff have ridiculed children on matters of personal hygiene in public.

COMMENT

In a school system this size, it is possible that staff do ridicule children. It is certainly not our policy that teachers do so. Such action is always strongly discouraged.

Again, specific information is required before we can act on such complaints.

12. We have received complaints that children have been allowed to go to the bathroom or drink water only once a day.

COMMENT

My comments for complaint 11 apply here.

13. We have received complaints that the Black experience has not been included in all of the curriculum.

COMMENT

Anyone who can make a statement such as this is simply not familiar with our curriculum, especially, the new social studies curriculum now being introduced in the schools.

14. We have received complaints that the school is severely overcrowded hampering the quality of education.

COMMENT

During the 1972–73 school year, Annapolis Elementary School operated at capacity—it was not overcrowded. This year, the school is 125 below capacity so there is certainly no problem with overcrowding.

One of the major problems with this series of complaints is that they are so general in nature. What we need are specifics. It is difficult to comment on hearsay. Complaints are made to our office all of the time. When specifics are presented, we always investigate thoroughly and take whatever corrective action is necessary.

Exhibit 2

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., February 18, 1974.

Hon. CASPAR W. WEINBERGER,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: This marks the second time in dealing with Maryland school districts that your Philadelphia office has taken action that flies in the face of common sense.

The first such incident involved the Somerset County School system where in an effort to achieve the "proper black-white teacher ratio" in each of Somerset County's schools, HEW was requiring the complete transfer of teachers nine weeks prior to the closing of the school year. Unbelievable, but true! Fortunately, HEW came to their senses and delayed the order until September.

At that time I did not believe that action could be topped, but the latest incident leads me to believe that the HEW regional office has done the impossible. Specifically, what your

Director, Mr. Dewey E. Dodds, has demanded of Anne Arundel County is a record of the disciplinary action by race of the County's 25,000 school children, a thirteen year history of the coaches in the district, and a listing of racially isolated classrooms.

Now, I assume that to impose such a burden on a school district the regional director must have had numerous complaints and that he has verified the validity of such complaints. Therefore, I would like to have a list of each complaint that the Director has received, the investigation that he has undertaken, and the results thereof for each such incident. Also, section 503 of the Education Amendments of 72, Public Law 92–798, requires the listing of "specific legal authority—of each rule, regulation, or guideline."

I would, therefore, appreciate your citing for me the specific legal authority for your inquiry into disciplinary action.

You know, Mr. Secretary, I have heard you and Under Secretary Carlucci, speak about the merits of regionalization, about the competent individuals that you have placed in the regional offices and how it is in the best interest of all of the states to support such regionalization. I do not know the personnel in the regional office, and they may be very competent. However, the actions in this instance certainly raise questions with respect to their common sense. I do know that if this incident, and the former to which I referred, reflect the strength of your regional offices, I can only say that it should be no mystery why the Administration's regionalization proposal has gone no where with the Congress.

I cannot help but comment on that portion of the letter which says "it is necessary that you submit this information as soon as possible, but no later than fifteen days after receipt of this letter". with a threat that if not, they may lose federal funds. I have asked my staff to check our regular constituent letters to HEW and I find that we have been waiting replies from weeks to months. For the most part the facts necessary for HEW to respond are known and all that needs to be done is respond. Yet the Department takes longer for this mail than the County would be given for information they do not readily have and which may be against Maryland State law to produce.

Finally, I have spoken to numerous parents in the State of Maryland and I must say that the expressions that I have received do not indicate that our citizens feel that there is too much disciplinary action taken by the schools, but rather if anything, too little. Furthermore, if students are disturbing the classroom and preventing other children from learning, what does your district director suggest be done—nothing?

I urge the Department to reverse the action of the regional office so as to enable the school district to focus on educational problems and not paper work generated by HEW.

With best wishes, I am

Sincerely yours,

J. Glenn Beall, Jr.

The Secretary of Health,
Education, and Welfare,
Washington, D.C., March 20, 1974.

Hon. J. Glenn Beall, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Beall: Please accept my apology for the delay in responding to your letter of February 18 relating to the information requests made of Anne Arundel County school officials by the Department's Philadelphia Office for Civil Rights (OCR).

I fully appreciate your concerns and hope the following information is helpful in outlining the OCR responsibilities in obtaining information that will enable us to properly carry out the specific responsibilities imposed upon the Department by the United States District Court for the District of Columbia in *Adams* v. *Richardson* (351 Fed. Supp. 636) as well as the statutory requirements of Title VII of the Education Amendments of 1972 which, as you know, is referred to as the Emergency School Aid Act. The Department was directed by the Court to take immediate action to secure compliance of forty-two school districts with Title VI of the Civil Rights Act of 1964. Anne Arundel County was one of the school districts which the Court specifically cited in this respect. Anne Arundel school officials have, of course, also applied for ESAA funds. The Act is very specific concerning school district funding eligibility and information requested pursuant to the requirements of the statute is relevant to the determination of the Title VI compliance of the district.

Concerning employee demotions, in Section 706 (d) (1) (B) of the Act, the Congress provides that:

"No educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title . . . had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from minority groups."

Anne Arundel began its desegregation process in 1961 when it had 31 white and 4 black head coaches. At the time of the filing of its ESAA application, all 85 head coaches in the district were white. Therefore, it was necessary under the statute for the Office for Civil Rights to obtain additional information from the district in order to determine whether the disproportionate loss of black coaches was the result of discrimination.

Concerning classroom assignments, Section 706(a)(1)(C) provides that no educational agency shall be eligible if, after the date of enactment of the Act, it has:

"In conjunction with desegregation or the conduct of an activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day, except that this clause does not prohibit the use of bona fide ability grouping."

A review of Anne Arundel County's application and the forms which it filed with the OCR this past fall showed racial isolation and racial identifiability in several classes. In order to determine if that racial isolation or identifiability was the result of discrimination, it was necessary to request additional information from the district related to the method by which students are assigned to classes.

Concerning student disciplinary policies, Section 706(d)(1)(D) provides that an educational agency is ineligible for assistance if it has "had in effect any other practice, policy, or procedure which discriminates among children on the basis of race, color, or national origin."

The Office for Civil Rights received a complaint from a parent group at the Annapolis Elementary School alleging race discrimination in the disciplining of students. The parent group charged that seven black students had been suspended for a total of 225 days while no white students had been suspended and that this was a violation of Title VI of the Civil Rights Act of 1964. Representatives of the Philadelphia office went to the district in July to investigate the complaint, but were refused information. In September, representatives again went to the district and an agreement was reached to release records with students' names deleted. The district furnished information for five schools.

Subsequently, the district sent in its fall enrollment forms which showed that disciplinary sanctions in the district had disproportionate impact on minority students in some 34 schools and the district was requested to provide information on those schools. The Philadelphia Office for Civil Rights continues to investigate this issue and has determined, based on school district information, that 27 percent of students suspended in the 1972–73 school year were black while the total black enrollment was only 13 percent.

As to your view that perhaps too little disciplinary action is taken in Anne Arundel County Schools, the Department would comment only that whatever the disciplinary policy it should be administered without discrimination because of race, color, or national origin.

I hope you will agree that the above cited provisions of the Emergency School Aid Act place certain information requirements on the Office for Civil Rights if it is to do its enforcing job judiciously. Careful attention to these requirements is particularly important in light of the District Court's orders in *Adams* v. *Richardson* directing this Department to continue to carefully scrutinize (and report to the Court) any and all pertinent information relating to the Title VI compliance status of the district. In this regard, Section 185.13(k) details the reports and information an applicant for ESAA funds agrees to provide the Department.

I hope this information is helpful. Please let me know if I may be of further assistance.

Sincerely,

Caspar W. Weinberger,
Secretary.

April 4, 1974.

Hon. J. Glenn Beall, Jr.,
U.S. Senate, Senate Office Building,
Washington, D.C.

. Dear Senator Beall: Thank you for your letter of March 28, 1974 and the copy of Secretary Weinberger's letter of March 20. In reviewing Secretary Weinberger's letter, we noted that it contained some misinformation and we would like to comment on these points.

Page 1 of the Secretary's letter states they were concerned about possible discrimination on our part against black coaches since we once had four black head coaches but now have none. Actually, we now employ 12 black head coaches. The statement that we had none was an error in our original application. This error was corrected over a month ago, and the Philadelphia office has the correct information, although it apparently did not reach Secretary Weinberger before he wrote you.

At the top of page 2, Secretary Weinberger speaks of some of our classes being racially identifiable and racially isolated. Mr. Dodds' January 26th letter to us spoke of 16 schools with this "problem." In most cases, it is just not true. For example, HEW-OCR complained about the racial distribution in grade 1 at Four Seasons Elementary School. There are four classes of first graders, with the blacks divided 1, 1, 2, and 2. If OCR can find a more equitable way of dividing six students among four classes, we would most certainly be willing to listen!

In other cases, there is not an absolutely even split of blacks among classes. For example, the OCR complained about grade 2 at Millersville Elementary School and grades 5 and 6 at Georgetown East Elementary School. At Millersville, there are four (4) grade 2 classes, with the blacks divided 4, 0, 3, and 5. The three (3) fifth grade classes at Georgetown East have the blacks divided 8, 9, and 10; the three sixth grade classes there have the blacks divided 13, 9, and 9. Admittedly, the black children in these schools are not divided absolutely evenly, but there is certainly no isolation and no attempt to segregate them. The children were assigned on a random basis, and it would do harm to shift them around this late in the year to try to achieve some kind of "optimal desegregation" through dividing black children equally among available classes.

The third section of Secretary Weinberger's letter deals with a complaint from a parent group which claimed that we discriminate against blacks in applying our disciplinary standards. A copy of the original complaint is enclosed for your review, along with some comments of our own about each item.

During the original investigation of this complaint by HEW-OCR last summer, an official from the Philadelphia office demanded the right to peruse all disciplinary records in all of our schools. On the basis of the Maryland confidentiality law we refused. Subsequently, HEW asked for discipline and suspension information, by race but without names, for five schools. We supplied the data and thought the matter closed.

When Mr. Dodds wrote us in January, he again asked for disciplinary information in connection with this complaint, this time for 34 schools, and again with names in violation of the Maryland confidentiality law. We again refused, and this is when we asked for your help in the matter.

The major point that disturbs us is that a determination of whether or not we disciplined in a discriminatory fashion is being made by HEW on the basis of numbers alone. To quote from Secretary Weinberger's letter, he says:

"The Office for Civil Rights received a complaint from a parent group at the Annapolis Elementary School alleging race discrimination in the disciplining of students. The parent group charged that seven black students had been suspended for a total of 225 days while no white students had been suspended and that this was a violation of Title VI of the Civil Rights Act of 1964."

In cases such as this, we are very concerned that we can be adjudged guilty of violating the Civil Rights Act just because we suspend more students of one race than another. If in a given school, students of one race are suspended more than students of another, it is because students of that race have been doing things which merit suspension. It is certainly not true that they were suspended because they belonged to a particular race. (It is interesting to note that in the school complained about, the black children were suspended by a black principal).

Also, we would have a complete breakdown in discipline in our schools if we were forced to discipline students according to a racial quota as Secretary Weinberger suggests. We would have difficulty maintaining order if we were not allowed to suspend a black student unless we suspended a white student, or not allowed to send a black student to detention unless we sent a white student there also, etc.

The question of interest should not be whether we discriminate unequally by suspending more students of one race than another. The real question, which HEW seems to ignore, should be whether we discipline students of different races unfairly. That is, if we verbally reprimand a white student for a certain offense, and suspend a black student for the same offense under the same circumstances, then we could be considered guilty of discrimination in applying our disciplinary sanctions. But, to reiterate, we don't believe the decision about discrimination should be made on the basis of numbers of students suspended.

Thank you for your continued help in this matter. We shall keep your office posted on further developments.

Sincerely,

EDWARD J. ANDERSON,
Superintendent of Schools.

EXHIBIT 3

MARCH 26, 1974.

Hon. CASPAR W. WEINBERGER,
Secretary, Department of Heauth, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I appreciate your letter explaining the Department's request to Anne Arundel County for various information.

While your letter was generally responsive, it failed to answer one of the important questions I raised. I will quote from my letter: "Now, I assume that to impose such a burden on a school district, the regional director must have had numerous complaints and that he has verified the validity of such complaints. Therefore, I would like to have a list of each complaint that the director has received, the investigation that he has undertaken, and the results thereof for each such incident.

I would appreciate having this specified information.

With best wishes, I am

Sincerely yours,

J. GLENN BEALL, Jr.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., April 15, 1974.

Hon. J. GLENN BEALL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: Thank you for your letter of March 26 concerning the Department's requests for information from Anne Arundel County school officials. I understand your concerns.

You suggest that before the Department's Philadelphia Office for Civil Rights asks for information it receive numerous complaints and verify the validity of such complaints. Further, you ask for a list of those complaints, the investigation undertaken on each complaint, and the results of each investigation. That suggestion and request is perhaps based on a misunderstanding. I hope I can explain.

When enforcing the various anti-discrimination provisions of Federal law, including Title VI of the Civil Rights Act of 1964 and Emergency School Aid Act provisions and regulations, any single complaint is given serious consideration and can lead to a request by the Department for information from a federally assisted school district. The Department, of course, must first determine if it has the proper authority and responsibility before investigating. Before a complaint is investigated, additional information generally is required to determne a complaint's validity. This protects the school district against possibly spurious complaints. I should also point out that it has been the Department's experience that an investigated single complaint can reveal a pervasive pattern of discrimination which violates the law and regulations at which time the Department seeks to negotiate corrective action by the school district.

As to a list of specific complaints against Anne Arundel, the only complaint which we received which gave rise to our investigation with respect to disciplinary actions was the parent complaint referred to in the last two paragraphs on page two of my March 20 letter to you. We cannot complete our investigation of this complaint until we have received the requested information from the district.

As the letter points out, the district-furnished information showed that disciplinary sanctions in the district had a disproportionate impact on minority students. The Department asked for additional information to determine the reason for that disproportionate impact with the purpose of trying to fairly determine if disciplinary actions by the district have been discriminatory.

Incidentally, Department Office for Civil Rights officials in Philadelphia understand that District officials have obtained certain information and await contact by your office before submitting it.

I hope you can assist the Department in this regard so that we can more quickly assess the district's compliance status.

Again, I appreciate and understand your concerns and hope this letter is helpful in explaining the Department's position.

Sincerely,

FRANK CARLUCCI,
Acting Secretary.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BEALL. I yield.

Mr. JAVITS. Mr. President, I know that the Senator has a very legitimate complaint. At the same time, for those of us in my position, it is difficult, having, as it were, stood against the whole, to agree with one of the parts, because we do not know where it reaches and exactly what it may mean. I could not vote for permitting discrimination, as it were.

Therefore, I should like to make this suggestion to the Senator, as I am the ranking member of the Committee on Labor and Public Works. This sounds to me like a matter of legislative oversight. Might the Senator consider—and I say this in no way in denigration of his amendment—my getting from the chairman, and I believe I can, a hearing by the Education Subcommittee on this matter, so that it can be aired? Then, if the hearing indicates that legislation is necessary, at least it can be tailored to the situation.

Mr. BEALL. Mr. President, in response to the Senator, I say that I appreciate the Senator's comments and his suggestion. Under normal circumstances, I think I would agree to what the Senator from New York has proposed. However, in this instance, I think the matter has gone too far.

We have been trying to get HEW to be responsible with this school system in answering the complaints since May of 1973. Rather than deal with the complaints that have been made against the school system, HEW has continued to compound the difficulty and ask for more information and reach out into more subject areas.

The reason why I have narrowed this amendment in this manner is that it applies only to pilot programs which deal with discrimination in disciplinary action. This is the only pilot program that I know of in the country today.

Therefore I do not think we do any injustice to anybody by attaching this amendment at this time to this bill. I think it should be a matter of legislative oversight. If the Department of HEW wanted to pursue pilot investigation, it would be proper for them to come before the Subcommittee on Education of the Committee on Labor and Public Welfare and explain the program; we could work out general procedures and guidelines. In the meantime, I think we ought to hold the whole matter in abeyance, and that is what I have done in my amendment.

I am asking them to justify the need for pilot investigations into this area.

I think it would be wise to have a hearing on this subject and have HEW come up. Then, if it is determined that there is a necessity for this kind of investigation, we legislatively can move ahead and remove any prohibition that might exist as a result of action taken here today.

Mr. JAVITS. If the Senator will yield, I am only explaining the dilemma in which I would find myself—and perhaps in which the majority, which has just acted, would find itself—in the interests of getting some result for the Senator. It is very different for the Senator to have his own give and take with HEW and for them to be hauled up before the committee and face any action.

Another objection to this amendment would be, of course, that it has had no hearings. But the Senator controls his amendment. Perhaps I was just trying to make it easier for myself, because I am sympathetic, but I could not vote for the amendment.

Mr. BEALL. I understand the Senator's position, and I hope the Senator understands my position.

This is the only action of its kind in the United States today. We have been trying to get the Department of HEW to be reasonable since 1973. They have not been reasonable. We seem to reach an agreement and then the rules are changed.

I am suggesting that we do not do any harm so far as national policy is concerned. It would allow the time to hold hearings, and I would welcome hearings. Regardless of the outcome of these hearings. The country, I am certain, would welcome the opportunity to take its case to the country. This amendment, if adopted today, would only be on this bill and would only apply to one pilot program in one county in one school system in the entire country. There is adequate time for us to hold hearings.

Mr. JAVITS. It forces us into a position in which we are, ourselves, espousing a doctrine of discrimination or permitting discrimination. I do not think it is necessary.

I have laid my case before the Senator, and he must decide.

Mr. BEALL. I understand the Senator's position, but I do not think the Senator should infer that there is discrimination just because someone makes a complaint to the Department of HEW. I believe there is a responsibility on the Department of HEW to investigate these complaints on their merits and render some judgment before they reach far afield and go into a school system and get a lot of extraneous information which does not bear on the initial complaint.

Mr. JAVITS. All I am saying is that the Senator is inhibiting the department from correcting a discriminatory situation, and I think that that kind of measure requires some preliminary findings of fact and that it can be done by action of oversight. Therefore, the Senate should not be asked to make a generic determination in advance. I think it would satisfy every consideration of equity. I pledge myself to get the Senator that relief, whether or not he prevails on this amendment.

Mr. BEALL. I realize the Senator's position, and I hope he appreciates mine.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. BEALL. I yield.

Mr. McCLELLAN. Mr. President, since I support the amendment offered by the distinguished Senator from Maryland, and as chairman of the committee I would have control of the time in opposition to it, I ask unanimous consent that I may delegate the authority to control time in opposition to the amendment to the distinguished Senator from Washington, the chairman of the subcommittee having jurisdiction.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. BEALL. I am happy to yield, but I have used all my time.

Mr. MAGNUSON. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I have read the Senator's amendment and I think I understand what the Senator is trying to accomplish. I had hoped that the Senator from Maryland would have accepted the assurance of the ranking Republican member of the Labor and Public Welfare Committee that his committee would hold hearings on the Senator's amendment.

As I read the amendment, I think it goes much further than the Senator had intended. I see very little difference between the Senator's amendment and the amendment that was introduced by the distinguished Senator from North Carolina (Mr. HELMS). I think that the same results would flow from the Senator's amendment as would flow from the amendment of the Senator from North Carolina, which was just rejected by the Senate by a vote of 43 to 36.

I would hope that we could establish sufficient legislative history in this colloquy on the floor, which the Senator started earlier with the Senator from New York, and in which I hope we might engage further, to accomplish the purpose of the Senator from Maryland.

I have in my hand a letter which was written to the Governor of Maryland by Peter E. Holmes, Director of the Office of Civil Rights, pertaining to this same subject. I know that this has been a very heated issue in the State of Maryland and in this particular committee, and I know the Senator is justifiably concerned about it.

Certainly, I would not want to see any harassment. I do not know that the Senator has used that term.

Mr. BEALL. I have; I have used the term.

Mr. BROOKE. I did not know that the Senator had used the term, but certainly he had implied that there had been some harassment by what the Senator has called HEW bureaucrats.

I think we should make it very clear to HEW that the U.S. Senate, or the Congress, for that matter, will not tolerate harassment on the part of HEW of any school district or any school board, as the case here may concern. But I would think that in attempting to achieve that purpose, which the Senator desires, he would not want to upset the whole applecart and put us back in the situation where we were when we were confronted with the Helms amendment just a few moments ago. If the Senator has assurance that he will have hearings, through the legislative history which we are now creating, would that not suffice?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BROOKE. I ask for 2 additional minutes.

Mr. MAGNUSON. I yield the Senator such additional time as he may require.

Mr. BROOKE. Would that not suffice, and also make clear the Senator's position to the Secretary of HEW?

We are only talking about a supplemental appropriation bill, in the first place; the Senator knows that.

Mr. BEALL. I am aware of that.

Mr. BROOKE. I would think that with all of these practical considerations, the Senator might consider withdrawing his amendment on the assurances that have been given, and after whatever debate the Senator feels is essential.

Mr. BEALL. First of all, let me say to the distinguished Senator from Massachusetts that regardless of the outcome of this debate, I think we ought to have hearings. Even if we win, we ought to have hearings, because it is a very important matter.

I appreciate the concern the Senator has expressed and the concern of the ranking minority member of the committee. I regret having to introduce the amendment, but I felt the situation was so serious, and there was so much lack of sensitivity on the part of the Department of HEW with regard to the administrators of the school system in the particular county of Maryland where the incident occurred, that something has to be done.

I have tried to make my position clear to the Secretary of HEW. If he does not know my position now, he does not listen to his telephone conversations nor answer his mail, because we have had frequent correspondence. To show the Senate how voluminous that correspondence is, this is our correspondence file on this particular matter.

So I think it is not possible for the Secretary to get the message in any other way than by having the Senate take some action here today, saying, "We want you to respond to vague complaints in fairness to the school system before you embark upon some systemwide investigation to get information on particular subject matter."

I do not think this in any way gets into the matters discussed in the Helms amendment. This amendment confines itself to pilot investigations dealing with the subject of discrimination and disciplinary action. It applies in only one county in the United States of America, and I do not think we are doing any injustice to anyone by suggesting they do not have this kind of study until they first answer the vague complaints that have been made against the system.

Mr. BROOKE. I think the Senator has made his point as clearly as possible. I am certain that the Secretary of HEW is hearing him. I would hope that the Secretary of HEW would comply with the Senator's request. Again, though, I must point out that the amendment, as written, could be construed to be much broader than I am sure the Senator has intended.

Mr. BEALL. Well, I think our debate here today has clarified the intent of the amendment. We intend this amendment to apply to one pilot investigation in one county in the United States of America, an investigation into discrimination in disciplinary action. That is the only place we want it to apply, and the only place that investigation is going on.

Mr. BROOKE. Do we know that to be a fact?

Mr. BEALL. Yes; we know that to be a fact.

Mr. BROOKE. That no other——

Mr. BEALL. That no other investigation of this type is being carried out at the present time—but they are contemplating—additional pilot studies in other school districts in America.

Mr. BROOKE. Can the Senator suggest the reason for that?

Mr. BEALL. Because they got overzealousness on the part of HEW, and they got a vague complaint written by a very small group of people in this county, relating to disciplinary actions in a school which happened to have a black principal.

Mr. BROOKE. If the Senator will agree, I ask unanimous consent that we have a quorum call of about 4 minutes, to be equally divided between the Senator from Maryland and the Senator from Washington (Mr. MAGNUSON).

Mr. PASTORE. Mr. President, reserving the right to object, what is the request?

Mr. BROOKE. For a quorum call, with the time to be equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, are there further requests for time?

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, will the Senator from Washington yield me 2 minutes?

Mr. MAGNUSON. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, all I can assure the Senate is that I will use my every effort, and I am confident I can be successful, to get a subcommittee hearing and the full committee's attention to the very proper complaint made by Senator BEALL that he cannot get anywhere with HEW on a give-and-take basis. For that reason, Mr. President, I shall oppose this amendment, and I do oppose it, because I believe that it just picks up a part of what the Senate has already acted on and tries to legislate, as it were, with respect to that part.

None of us wants discrimination in disciplinary proceedings. There is even less of a case for that than for what is called around here forced or compulsory busing. We certainly do not want black kids, Jewish kids, or Mexican American kids punished when others are not, or by different standards or different criteria.

Yet we are put in the strange position of impliedly voting that if we support this amendment.

So while I appreciate the deep feeling which the Senator from Maryland has, and I am very sympathetic with it, and I have pledged myself to get him some relief in terms of committee oversight, I cannot, Mr. President, see that, with any degree of statesmanship or providence in legislative terms, I can vote for this amendment and, hence, I hope the Senate will reject it. Indeed, I believe it should be tabled.

Mr. MAGNUSON. Mr. President. I yield myself a half minute.

The PRESIDING OFFICER. The Senator from Washington is recognized for one-half minute.

Mr. MAGNUSON. I am going to oppose the amendment, too, on two grounds. I never heard about this matter until this amendment was brought up, but that is not the fault of the Senator from Maryland.

The second thing is that here we are again trying to legislate on an appropriation bill.

With the assurances of the membership of the Health and Welfare Subcommittee that they will go into this matter and see what can be done about it—because there may be a serious problem in this county in Maryland—and we cannot legislate that way anyway—we will have to take it all over the United States—I am hopeful that the committee will, on a motion to lay this amendment on the table, do so.

I will promise the Senator from Maryland that we will be glad to take it up at some regular hearings on HEW appropriations.

I found out now, reading some letters that the Senator may have, a letter from the Governor of Maryland, which was not very satisfactory, I will agree with him. But, it seems to me, this is not the place to do this. It is part and parcel of the amendment which was voted on, the Helms amendment. So I hope the Senate will reject this amendment at this time with the assurances that we will be doing something about it.

Mr. BEALL. Mr. President, just briefly in conclusion, I appreciate the remarks of the Senator from Washington. I would like to be able to accept the assurances of the Senator from New York, and I hope we have hearings. But win or lose, in this particular instance I think HEW has been totally insensitive to the needs of a local school system. I have had numerous meetings and frequent correspondence on this subject in an effort to resolve this matter.

One time, as a matter of fact, HEW's Philadelphia office requested some information of Anne Arundel County and gave them 15 days to supply the information under threat of losing the funds.

I wrote and asked about the information they were requesting, and it took HEW 30 days to reply to my letter.

I just think they are making unreasonable requests of a local school system. As I say, they have been insensitive to the needs of the administrator. This is one pilot project, as I pointed out. I think Congress should give some direction to HEW in this regard.

I think it is proper to have hearings, and I also think it is proper for us to express ourselves on this appropriation bill, to tell HEW that we do not want them to do anything more in this regard until they have gotten some direction from Congress or at least shared with Congress their feelings on this matter or on investigations and how and under what circumstance and guidelines it will be conducted.

Therefore, I must persist in asking that there be a vote on the amendment.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. BEALL. Yes, I will be happy to yield.

Mr. McCLELLAN. I understand the Senator to say that this amendment applied only to one county and one incident?

Mr. BEALL. This amendment says pilot project. HEW can continue to investigate complaints.

Mr. McCLELLAN. I am talking about one county.

Mr. BEALL. And they should investigate complaints. This applies to pilot projects.

Mr. McCLELLAN. I know. But does the Senator maintain there is only one such project in progress now?

Mr. BEALL. There are going to be more. There is only one in effect now, but there are going to be more.

Mr. McCLELLAN. I understand there are some in my State that are in progress, and I thought it applies to more than one. I just wondered what it was.

Mr. MAGNUSON. The amendment applies to pilot projects.

Mr. McCLELLAN. I am trying to ascertain, if I may, whether there is one such project now in progress or if there are additional ones. I ask the question of the clerk of the committee, the subcommittee, or the chairman of the subcommittee, to so advise me on this matter.

Mr. BEALL. The amendment as it is written applies to any pilot project with respect to discrimination or discriminatory action, any pilot project. We are informed there is only one such project taking place, and that is in Anne Arundel County. There are others that are contemplated.

Mr. MAGNUSON. I yield myself time. It is true there apparently has been this one pilot project going on.

Mr. BEALL. That is correct.

Mr. MAGNUSON. It is subject to a great deal of controversy between the local school district of the Senator and HEW. But it is my understanding that this is starting to be done in other parts of the country.

Mr. BEALL. That is correct.

Mr. MAGNUSON. And although we do not have specifics, they are going to start a program in other parts of the country.

Mr. BEALL. That is correct.

Mr. MAGNUSON. That is the intimation.

Mr. BEALL. The Senator is correct.

Mr. MAGNUSON. They did not ask for any further money in the regular bill.

One thing that I think the Senator from Maryland complains about—and I think it is a very legitimate complaint—at least the better part of discretion before this spreads is that we do have a thorough hearing on this matter.

Now, the only trouble with putting this kind of amendment on the appropriation bill is there is no time limitation on it, and it becomes permanent law and forever until we repeal it.

Now, it might be that we could work out some kind of a modification that none of this shall continue until there are proper investigations by the committee, and then have the committee make a report. So that would hold up the other sections of the bill, and obviate the objections of the Senator from Arkansas, so that it could not become permanent law, and if it becomes permanent law, then it becomes exactly what we voted on, the Helms amendment.

Mr. BEALL. If the Senator can come up with language to accomplish that purpose I would be very happy. I want to limit HEW's progressive investigation as to Anne Arundel County immediately. I do not think they should be pursuing this at this time. Then Congress could hold hearing with respect to these so-called pilot investigations.

Mr. McCLELLAN. This would simply limit it to this one appropriation bill.

Mr. BEALL. That is correct.

Mr. McCLELLAN. In the interim between now and the regular bill there is plenty of opportunity to conduct this investigation and make a report and so advise the Senate and Congress so they can act then. This would only suspend it at most—if the hearings are held and the investigation made—some 3, 4, or 5 months.

Mr. BEALL. That was our understanding when we introduced the amendment. I thank the chairman for pointing it out.

Mr. MAGNUSON. I would expect if we do this we would limit it to the life of this appropriation bill, which would go until July 1 of next year.

Mr. BEALL. That is right.

Mr. MAGNUSON. So that everybody can take a good long look at it. But I do not want to be committed, nor does the Senator from Masachusetts and the rest of us, to put some permanency of law into this matter because we just voted against that in the last amendment; is that not correct?

Mr. BROOKE. That is correct.

Mr. BEALL. It is my understanding—on my own time—I will say to the chairman of the subcommittee, in introducing this amendment that it be limited in application to this appropriation bill because we tied it to this particular bill. It is limited to the appropriations made under this particular bill.

Mr. MAGNUSON. What about this discussion—

The PRESIDING OFFICER. The Chair would like to inform the members of the Senate that there was a previous order entered that at 3:30—and I am 3 minutes late—the Senate consider the Mass Transportation Assistance Act of 1974.

Mr. MAGNUSON. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. That has an hour's time limitation, I understand?

The PRESIDING OFFICER. That is correct.

Mr. MAGNUSON. So that will take us up to about a quarter to 5.

Mr. McCLELLAN. Let us vote on this matter now.

Mr. TOWER. If the Senator will yield, I do not anticipate taking a full hour on mass transit.

Mr. MAGNUSON. But the Senator does have an hour. Then I think we could go on maybe later with this amendment. But obviously the other amendments on this HEW bill, of which there are 19 on the desk——

Mr. McCLELLAN. Parliamentary inquiry.

Mr. MAGNUSON. Just a moment.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. How much time is remaining on the pending amendment of the Senator from Maryland?

The PRESIDING OFFICER. About 21 minutes.

Mr. BEALL. Mr. President, I am prepared to vote on this matter.

Mr. McCLELLAN. If everybody yields his time back on this we can vote on it.

Mr. BEALL. This matter can be disposed of.

The PRESIDING OFFICER. Is all time yieled back?

Mr. ALLEN. Mr. President, I call for the regular order which is the consideration of the conference report. Many of us have commitments that were made on that basis.

URBAN MASS TRANSPORTATION ASSISTANCE ACT OF 1974—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will consider the report of the committee of conference on S. 386. The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 386) to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of November 18, 1974, at p. S19432.

Mr. MAGNUSON. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. Under the previous order, the Senate will now be taking up the conference report. I hope that we will be able, when we are through with this later today, to go on with this amendment of the Senator from Maryland, if we can get it over with and, if not, it will go over until tomorrow.

The PRESIDING OFFICER. When the conference report is disposed of, if that is the pleasure of the Senate, we can return to the amendment of the Senator from Maryland.

Mr. TOWER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, with the time consumed not being charged to either side.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unamimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. WILLIAMS. I yield such time as I need, and I ask unanimous consent that the following staff members be accorded the privilege of the floor during the debate on the conference report: Thomas Brooks, Stephen Paradise, Bob Dochin, Ralph Neese, Carl Coan.

Mr. HARRY F. BYRD, JR. I also ask unanimous consent that during the consideration of the mass transportation conference report, Philip Reberger, of my staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that during the consideration of the mass transit conference report Mr. Robert Dotchin, Mr. John Harvey, and Mr. Geoffrey Baker of my staff be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Gary Klein may be permitted the privilege of the floor in connection with this conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, it is with a great deal of pleasure and satisfaction that I lay before the Senate the conference report on S. 386, the National Mass Transportation Assistance Act of 1974. This conference report is the product of over 4 years of serious legislative compromises among the House, the Senate and the administration. It now has the unequivocal and enthusiastic support of President Ford, Secretary of Transportation Brinegar, the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the American Public Transportation Association, the AFL–CIO and many of our Nation's Governors. The Senate conferees—Senators SPARKMAN, PROXMIRE, TOWER, BROOKE, and myself—have labored long and hard in formulating this proposal. And in our opinion, the conference report contains a legislative program of which the Congress can be proud.

More importantly, it is one which will bring much-needed relief to our Nation's urban mass transit systems, enabling them to operate effectively and meet the additional burdens created by the energy crisis.

As we all know, last winter's shortage of petroleum products created a crisis situation in the United States. We have seen gas station closings, long waits to obtain fuel, complex allocation formulas and the possibility of eventual rationing.

And this winter we may once again be confronted with a similar situation.

One of the ways in which we can combat the energy shortage is by improving urban mass transportation. But if we are to reduce automobile usage, a viable alternative must be found. Improved urban mass transportation must be made available so our Nation's citizens can travel to and from work.

The poor, the infirm and the elderly must be assured alternative means of mobility so they may avoid lives of isolation.

The transit industry is ready and eager to make a major contribution toward solving the energy crisis. However, prompt Federal assistance is imperative to enable them to continue their vital public services.

Many members of this public interest industry are already teetering on the edge of bankruptcy, if that is already not the case. And public takeovers will not provide the answer to our Nation's transit needs. A massive infusion of Federal funds for both capital grant and operating assistance programs such as is contained in S. 386 must be enacted into law.

Wherever we look, mass transit systems are in grave financial trouble. The fare box can no longer meet operating costs. As a result, transit systems incur over-increasing deficits requiring higher fares from which the public receives little benefit in improved service or modern and efficient equipment. Fifty- and 60-cent fares have become commonplace, causing ridership to either decrease or remain constant. These financial problems are compounded and little progress is made toward reducing our reliance on the automobile.

Yet one fact remains clear: If we are to alleviate the energy crisis, remove traffic congestion and the environmental pollution which results, existing transit systems must be kept in operation, their services expanded and new ones must be built.

We in the Senate have before us today one sure way of achieving this objective. By adopting the conference report on S. 386, the National Mass Transportation Assistance Act of 1974, we will provide $11.8 billion through fiscal year 1980 for operating assistance and capital improvements for our Nation's transit systems.

Certain substantive legislative changes were made in S. 386 which I now feel should be fully explained to the Senate.

On five previous occasions, beginning in the 91st Congress, the Senate has, by overwhelming margins, passed legislation authorizing operating assistance for urban mass transportation. During the current Congress, the Senate acted on two separate occasions, once on a floor amendment to the Federal Aid Highway Act of 1973, where it was deleted in conference, and again on September 19, 1973, when the Senate passed S. 386 by a 53 to 33 record vote.

On all of these occasions, the legislation provided for $800 million in operating assistance funds for urban mass transit systems on a categorical grant basis over a 2-year period of time. And each time the bill was considered by the Senate it was strongly opposed by the President and the Secretary of Transportation.

Finally, on October 3, 1973, the House, for the first time, passed legislation similar to S. 386; however, the $800 million was to be distributed by a revenue-sharing-type national formula rather than as a categorical grant program. On February 25, 1974, the House-Senate conference committee report on S. 386 was filed. However, the House, with strong administration support, recommitted that report to conference.

The main reasons for the House's decision were contained in a letter to House Minority Leader John Rhodes from Secretary of Transportation Brinegar. In that letter, the Secretary stated that S. 386 had the following critical weaknesses: First. It effectively eliminated participation by State governments in planning and executing public transportation programs; Second. The formula for distributing funds contained in S. 386 was unsound; Third. The funding authorization in S. 386 was out of line with the need to fight inflation; and Fourth. The administration opposed any legislation providing for operating assistance that was not part of a long-term comprehensive bill.

On September 25, 1974, in order to meet the administration's objections to the original S. 386 conference report, the House-Senate conferees conducted an extraordinary public hearing. This was done so that we could explore means of improving and modifying S. 386 so that urban mass transit assistance legislation could be enacted into law this year. At our hearings, witnesses including Members of Congress, Governors, mayors, transit industry officials, labor representatives, business and community leaders and the administration testified as to the need for a long-term comprehensive mass transit program this year. In particular, the administration testified that they would oppose any legislation which did not provide for a long-term program.

Finally, on the morning of October 3, 1974, before the conference committee was scheduled to meet, President Ford discussed with me the various pending legislative proposals. During that conversation, the President stated that he would enthusiastically support legislation along the lines of S. 386 if the final version of the formula grant-operating assistance program were extended from a 2-year program to a 6-year program. He also requested that the capital grant program which now authorizes $3 billion through fiscal year 1976 be funded for an additional 4 years. The President explained that in this manner the Congress would be enacting a comprehensive 6-year long-term urban mass transportation assistance program. The President also stressed that any final legislation should contain authorizations ranging between $11 billion and $12 billion for the life of the program. He explained that this amount would be within his budgetary estimates and would comply with the need to curtail Government spending and thus fight inflation.

The Senate conferees—Senators SPARKMAN, PROXMIRE, TOWER, BROOKE, and myself—agreed that in view of the urgent need for immediate transit aid, the President's request should be honored. The House conferees, in the best spirit of bipartisanship, also acceded to this request.

The original version of S. 386 had provided for $800 million for the urban mass transit formula grant-operating assistance program for fiscal years 1974 and 1975. Since fiscal year 1974 has long passed, the conference committee, in reaching its final report, used identical figures for fiscal years 1975 and 1976. However, at the request of the President, an additional $3.175 billion was also made available for the formula grant-operating assistance program for fiscal years 1977 through 1980.

In order to meet the other substantive objections to S. 386 raised by Secretary Brinegar in his previously mentioned letter to House Minority leaders RHODES, the House-Senate conferees also agreed to modify the formula for the distribution of formula grant-operating assistance funds to one based 50 percent upon population and 50 percent upon population density per square mile. This is a formula first suggested to us by Secretary Brinegar in order to bring about a more equitable distribution of formula grant-operating assistance dollars throughout our Nation. The $3.975 billion in formula funds could be used to finance either capital projects or to pay the operating costs of public transportation systems. The use of the money would be left to to the discretion of local officials who best know the real needs of their communities.

In order to meet the administration's objections concerning state participation, Governors would be the sole allocators of funds for urbanized areas of under 200,000 in population. For areas of over 200,000, the Governor, responsible local officials, and publicly owned operators of mass transportation services, would select a designated recipient to receive and dispense the funds. Governors and governing bodies of local communities would also be required to develop long-range plans and programs for improving and coordinating all forms of transportation within urbanized areas.

In addition, under the final version of the S. 386 conference report, $4.825 billion of new contract authority was added to the existing urban mass transportation program. This provides $7.825 billion—$3 billion remains in existing authority—to be utilized over the next 6 years.

In solving the mass transportation crisis on a national basis the conferees felt that the needs of cities of under 50,000 in population should not be ignored. The senior Senator from West Virginia—Senator RANDOLPH—the chairman of the Committee on Public Works—has over the years been one of our leading advocates for improved mass transportation, especially in our rural areas. His work has been invaluable in pointing out the need in cities of under 50,000 in population—needs which are too often overlooked when we speak of urban mass transportation. As a result of Senator RANDOLPH's work any urban mass transportation legislation must take special cognizance of these rural needs and, therefore, $500 million of the $7.825 billion capital grant program has been earmarked for a new rural public transportation capital assistance program.

In conclusion, although the original versions of S. 386 provided for only $800 million for operating assistance money over a 2-year period of time, the final conference report provides for a 6-year $11.8 billion long-term comprehensive mass transit program allowing funds to be used for both capital expenditures and operating assistance. In my opinion, this legislation should, and must be passed by the Congress during the current session.

The final version of S. 386 as reported from conference is now supported by all interested parties, from the President of the United States to the American Public Transit Association. The merits of operating assistance and revenue sharing have been discussed by the Senate in numerous hearings and in floor debates, beginning in 1970. And the increases in funding for the capital grant program are not only endorsed by the President but are, in his opinion, well within the need for budgetary restraint in our Nation's fight against inflation.

In formulating this proposal, the assistance and expertise of many Members of the Senate was called upon. In addition to the outstanding contributions by Senators SPARKMAN, TOWER, and BROOKE during the conference deliberations, we received considerable assistance from Senators who were not members of the conference committee. The contributions made by Senator RANDOLPH in the area of rural mass transportation have already been mentioned. In addition, the work performed by Senators JAVITS, WEICKER, and BENTSEN in formulating our final proposal should not go unmentioned, as well as the efforts of Senator BYRD of West Virginia, whose assistance the conferees found to be invaluable.

It would be tragic if during the limited time available this year the Congress failed to act on a comprehensive long-term transit program due to procedural difficulties and technical haggling. In the past, the Federal Government has not hesitated to aid in the development of a variety of forms of transportation—from the construction of the transcontinental railroad to the promotion of the maritime and aviation industries and, most recently, in the completion of the interstate highway system.

The national interest has been recognized and Federal dollars have been provided. Now there is a great national stake in maintaining and improving our Nation's mass transit programs.

The issue of mobility and the quality of life afforded thousands upon thousands of our citizens who must depend upon urban mass transportation is not stake.

To take no action in response to the combined transit and energy crises would be, to condone further deterioration. Therefore I urge all Members of this body to support the prompt enactment of the conference report.

Such action is an absolute necessity if we are to provide the Federal assistance which is so urgently needed to keep our Nation's struggling transit systems in operation as viable alternatives to the automobile.

Affirmative section is imperative if we are to provide a better way of life for all of our Nation's citizens.

Mr. PASTORE. Will the Senator yield?

Mr. WILLIAMS. I yield to the Senator from Rhode Island.

Mr. PASTORE. I compliment the distinguished Senator from New Jersey and the members of the Senate conferees and all members of the House conferees for having done what I consider to be a splendid job.

I am hopeful this will pass overwhelmingly in the Senate and I seriously hope the President will give it his endorsement.

Mr. WILLIAMS. That comes from a Senator with a great knowledge of our Nation's mass transit problems. And his support is, of course, essential to the passage of this conference report.

Mr. TOWER. Mr. President, I yield myself 3 minutes.

Mr. President, I ask unanimous consent that Mr. Fred Ruth and Tom Biery of Senator BARTLETT's staff be permitted access to the floor during the course of the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, as has been noted, this legislation has a long and involved history. I shall not dwell on the details as to what has happened to this bill, as the letter Senator WILLIAMS and I wrote to you spells this out explicitly. But today will be an historic day if this body approves this conference report. If this occurs, it will be the first time that we have passed a complete, comprehensive mass transit bill which provides for coordination at the State and local level. Additionally, for the first time in mass transit legislation, this bill will allow a community to decide how it wants to spend its funds, whether it is for capital purposes or for operating assistance.

When S. 386 first came before this body, I and many of my colleagues voted against the measure. At that time, the funds authorized by this legislation could only be used for operating subsidies. In my mind, this was a very short-term, short-sighted approach to resolving this Nation's transit problems. It provided for little coordination with a community's capital program and for very little coordination with a State transportation plan. Furthermore, the incentive to provide better services and efficient management were lacking.

I am pleased to report that under the very able leadership of Senator WILLIAMS, these objectionable elements to S. 386 were radically altered in conference. What has now emerged is a 6-year comprehensive mass transit bill. While operating subsidy money remains, it is now a community's decision whether it wants to use it in that manner or in its capital program. Additionally, the funds are distributed on a more equitable basis. I firmly believe that this type of legislation, that which increases local responsibility and decisionmaking is the proper vehicle to utilize.

Additionally, we have required that any money that is used under this bill is used in accordance with a comprehensive plan—one that includes both local and State transit considerations. This is a significant step, in my opinion, in resolving our transit problems in a comprehensive fashion.

This legislation has been the subject of a tremendous amount of discussions in Congress, the executive level, and in the private sector. Mr. President, it is very infrequent that one sees the cooperation and bipartisan effort that went into the development of this proposal. The administration, the transit industry, mayors and Governors, labor, and members of both Banking Committees have put an enormous amount of work into this proposal, so that the result would be a set of programs that would be most effective in resolving both long- and short-range transit problems.

To remain economically strong, this Nation must have multifaceted transportation programs. In the last few years, economic realities have dictated new changes in our lifestyles. Our urban lifestyles are demanding more efficient and effective means of transportation. We cannot meet this challenge with the catch-as-catch-can, piecemeal approach to transit that we have experienced in the past. Only with a comprehensive approach to our transit problems, as is now proposed in S. 386, can we begin to meet our transit needs in a satisfactory manner.

Again, I want to commend my good friend, Senator WILLIAMS, of New Jersey, for a stellar job for the way he has cooperated with both the White House and the Department of Transportation. I think that we have now produced legislation that all can find acceptable.

Mr. JAVITS. Mr. President, whenever the Senator is ready, I would appreciate 5 minutes.

Mr. TOWER. I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, first, absolutely unstinting praise is warranted to the leaders of this effort, Senator WILLIAMS and Senator TOWER. Without them, it could not have been done. It is, hopefully, now in the process of being enacted and it will be of great benefit to our country because there is a confluence here, Mr. President, of at least three very essential points.

First, a recognition of the fact, which is set forth, interestingly, in the very preamble of this bill, that over 70 percent of the Nation's population lives in urban areas and that the bill recognizes the needs of that major segment of our population.

Second, that what is being asked is not merely for more money. What is primarily being asked for is the flexibility in the use of the money which these cities are entitled to under a generic law.

Third, the critical problem of oil and gas that we are experiencing today and the enormous toll that is being taken out of our country's economy because of their use and the pollution which results.

All of these have come together, Mr. President, to bring us face to face with an extraordinarily gifted piece of legislation.

Mr. President, I cannot help but draw the analogy with the bill that Senator WILLIAMS and I were so deeply concerned with not so long ago, the pension reform bill. There, too, we had an enormous struggle and enormous diversity of interests. But when we hit the right formula, it just went through practically unanimously.

I hope very much, Mr. President, that that may be the case here.

Further, Mr. President, I wish to point out that it is often said and often argued that measures like this are of unique and special interest to the largest city in my State and the largest city in the country, indeed, probably the leading city in the world, New York.

But the fact is that all of our cities have reached the point where assistance is critical. Mr. President, in my own State, for example, we have what are called the big six cities. There are six cities immediately concerned with this legislation which are just as much behind it in terms of municipal bodies and public opinion as the city of New York itself and that is today duplicated across the Nation because of the massive concentration of our people in the cities throughout the country. I hope as they vote upon this bill, Members will remember that.

Mr. President, the idea that we could not have this kind of flexibility in the cities and the States which contain them to decide what kind of action they wish to take with their entitlement under mass transit has reflected itself, also, in ridership. The fact is that as fares go up, ridership decreases, so that it is a self-fulfilling disaster leading to greater and greater energy consumption; pollution and highway congestion.

Finally, Mr. President, at a time of such critical inflation, mass transit fares go particularly to those in the lowest income levels, because they cannot afford cars, to the Nation's poor and to the Nation's elderly.

The elderly get along with the handicapped, pursuant to the provision of this bill, a special half-fare on all non-peak hour transit. In one city which I just visited, an even greater benefit is accorded our senior citizens. They have a fare which goes down to 5 cents for people over 65 years of age as against the normal charge which is made, which is 7 and 8 times that.

So, Mr. President, for all of those reasons, this bill has been overwhelmingly supported by the conferees. It is certainly clearly bipartisan. It is strongly supported by the President and the Secretary of Transportation, Mr. Brinegar; by the League of Cities, the National Governors Conference, and the American Transit Association.

Mr. President, it merits the support of every Senator.

I might point out, too, that the ingenuity with which our colleagues, Senators WILLIAMS and TOWER, and Senator RANDOLPH as well, have dealt with rural problems, recognizing that they, too, have mass transportation requirements, and have set aside a specific sum of $500 million for that purpose. This is, in my judgment, again one of the elements of a formula which has finally resulted in this generally agreed upon bill.

Mr. President, we get enough criticism around here so that when praise is due it should be as complete and as generous as any of us can make it.

Again I would like to express not only for myself as a Senator, but for the people of my State and the people of our great cities, appreciation and gratitude to the two Senators who have so successfully led this fight and to the assistant minority leader who helped make this possible.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. WILLIAMS. Mr. President, the Senator from Texas (Mr. TOWER) and I have, of course, brought mass transportation legislation to the Senate many times. It has been a long, long journey. But along the way we were fortunate, indeed, to have the most knowledgeable, interested, and dedicated people helping us as we developed this legislation, not only over the years but over the last decade.

Certainly the chairman of our full committee, the Senator from Alabama (Mr. SPARKMAN), and other members of our committee have made significant contributions all the way through our deliberations. The Senator from Massachusetts (Mr. BROOKE), the Senator from Connecticut (Mr. WEICKER)—have had a substantial input into the principles involved—even though the legislation may not go as far as all of us may have wished. All of these Members have made a significant contribution.

Senator JAVITS led the way early on making the program comprehensive with the addition of the operating subsidy aspects which gives support to mass transit systems. This is essential until the capital program takes hold.

In recent conferences, the Senator from West Virginia, our deputy leader, has been most helpful and his efforts in bringing the conference report to the floor today were essential. I am glad that the Senator from New York mentioned the provision that goes to rural communities. This is an idea that was added by the Senator from West Virginia (Mr. RANDOLPH).

Senator BENTSEN, from another committee but still with a deep commitment to mass transportation, has been instrumental, too.

So there is a great deal of appreciation to go throughout this Chamber. I thank the Senator from New York.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. I yield 8 minutes to the Senator from Connecticut.

Mr. WEICKER. I thank the distinguished Senator from Texas.

Let me at the outset of my comments give well-deserved praise to all the Senators, Republican and Democrat, who have worked on this bill either in its formal sense or in their commitment to mass transportation. My comments to follow are in no wise geared to those Senators, or indeed this body as a whole.

Mr. President, over the past months, I have been calling for a substantial increase in Federal assistance to modernize and improve urban transit systems, as have others. The bill before us today, authorizes a total of $11.8 billion over a 6-year period to meet mass transit operating and capital expenses. I am deeply concerned that this authorization level is totally inadequate to do the job that needs to be done.

Let me point out, were it not for the efforts of Senator WILLIAMS, Senator TOWER, and members of the committee, we would have no bill before us. They are dealing at best with a very difficult situation where we started off with a threat of a Presidential veto and, therefore, a weak-kneed response by the House of Representatives.

At the present time, $6.1 billion of authority has been authorized by the Congress for the existing capital improvement program. Of that total, approximately $3 billion has already been obligated.

S. 386 increases this $6.1 billion authorization to $10.925 billion. Minus the $3 billion already obligated, $7.825 billion will be available over the next 6 years for improving facilities and modernizing equipment for transit systems.

Assuming an equal division of funding during that 6-year period, only $1.2 billion annually will be available for the capital improvement program. By essentially maintaining the present level of funding for this program, S. 386 ignores the Department of Transportation's projection of mass transit's capital requirements through 1990.

In the 1972 report, DOT projected urban public mass transportation capital investments alone would amount to over $3 billion per year through 1990. The estimate was based on existing plans and ongoing construction of fixed capital facilities in larger urbanized areas and on estimated calculations or capital requirements for smaller areas. Furthermore, the U.S. Conference of Mayors recently called for an annual funding level of $3.6 billion per year to adequately meet mass transit's operating and capital requirements.

After extensive hearings, the House Public Works Committee originally reported out a bill calling for $20 billion for a 6-year period. In response to a threat of a Presidential veto, the House drastically cut this authorization level.

I am keenly aware of the effort by the Senator from New Jersey to have a mass transit bill passed in this session of Congress. His commitment to mass transit has been outstanding.

As the distinguished Senator from New Jersey knows, urban public mass transportation systems are facing a devastating financial crunch on operating expenses. In 1965, operating deficits for mass transit totaled $10.6 million. In 1973, the national deficit spiraled to $681 million. In light of this continued shortfall of revenues to operating expenses, I believe it is essential we immediately implement a program, as outlined in section 5 of the conference report. I would like to ask the distinguished Senator from New Jersey whether the Congress will have the opportunity to increase the authorization levels for the capital improvement and grant programs?

While I support the structural changes made by S. 386 in the existing program, I am concerned over the funding level and the length of the program. I believe it would be a great mistake for the Congress to let this program operate for the next 6 years without congressional review.

Now, Mr. President, the problem basically, to put it in a few concise words, is that this is business as usual during what are rather extraordinary times. The fact is that for a highly developed, affluent nation, we are last among our colleagues in the world in supplying decent bus and rail transportation.

Mr. TOWER. Will the Senator from Connecticut yield so we can get the yeas and nays while we have the Senators in the Chamber?

Mr. WEICKER. Yes.

Mr. TOWER. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WEICKER. We say we have an energy crisis, yet the resolution of that crisis, aside from whatever is done vis-a-vis the restriction of oil and the implementation of rationing, relies on creating decent mass transit systems in order that we lower our consumption of oil.

The money allocated in this bill is not even adequate for 1 year for the State of Connecticut, yet that is what is given to the entire United States of America.

We say that we are in a period of recession, that we want jobs. You will be able to get a bill for public service jobs through this body. But why wait and come forth with that when you have the opportunity to create jobs in a housing bill such as we discussed yesterday, or in a mass transit bill such as we have before us today?

I say these are extraordinary times, so business as usual solutions are not adequate. The funding in this bill is not adequate for any of the areas mentioned.

No. 1, which is the primary concern, the funding is not adequate for building decent mass transit. It is not adequate by the DOT's own figures; by the Conference of Mayors' own figures; by our own eye-balling of the situation in our States. It is inadequate.

We accept this bill under the threat of a veto and because the bill in the House is bottled up and cannot get out any other way. Let us understand the funding level in this bill for what it is. It is inadequate.

It is inadequate for helping us resolve our energy crisis. It is inadequate relative to the job situation. It is inadequate for these extraordinary times.

So, Mr. President, I would hope that we do not consider this finished business for the next 6 years.

This is getting back to the question I initially referred to. As I said, we would not have anything before us if it were not for the Senator from Texas and the Senator from New Jersey.

I do want the assurances, the positive assurances, that this is not put to bed now for 6 years; that we have the right to come back and review our commitment in this area.

Mr. WILLIAMS. Will the Senator yield?

Mr. WEICKER. I yield.

Mr. WILLIAMS. We are amending the basic Mass Transportation Act. Under that act, there is a requirement that every 2 years the Secretary review and make recommendations for changes. The total amount of dollars in this bill is immediately available upon enactment. Even though it is expected that it will be obligated over a 6-year period, there is every opportunity for an acceleration of the expenditure of those funds within that 6-year period—it is mandatory that the authorizations be reviewed every 2 years, by the Congress. If events should change and it is felt throughout our Government that we can afford more money, certainly there is authority to spend more within the framework of what we are doing in this conference report.

Mr. WEICKER. So this is a matter that will be under continual review by the distinguished Senator?

Mr. WILLIAMS. Exactly.

Mr. WEICKER. I thank the Senator from New Jersey.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I am prepared to yield back the remainder of my time, if the Senator from New Jersey is willing to do so.

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. TOWER. How much time does the Senator from Virginia desire?

Mr. HARRY F. BYRD, JR. Four minutes.

Mr. TOWER. I yield the Senator 4 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I think that public mass transit is a very important program; it is a very necessary program. For the past 9 years I have supported such programs, as I think that the Federal Government has a role to play.

What concerns me about this measure is that it is getting into operating subsidies. The question of capital outlay, helping the transportation needs through capital outlay expenditures, is one thing, and I think that is appropriate and worthwhile.

When we get into operating subsidies, though, I fear that the Federal Government is getting itself into a very dangerous position for the future. That is the aspect of this legislation that causes concern to the Senator from Virginia.

The legislation for the first time provides Federal funds to meet deficits of subways, commuter lines and bus systems. This, I predict will prove a bottomless pit.

Mr. TOWER. I wish to ask the Senator from New Jersey (Mr. WILLIAMS) this question.

Under section 103 of S. 386, we propose to amend section 5 of the Urban Mass Transportation Act of 1964. Section 5(b)(2) now states that the Governor, responsible local officials and publicly owned operators of mass transportation services shall designate a recipient to receive and dispense funds under this section.

Can the Senator elaborate on what is meant by the phrase "designate a recipient"?

Mr. WILLIAMS. The selection of a recipient of the formula grant program funds is a difficult one to legislate. For the past 10 years eligible applicants for capital grants have been States and local public bodies. As a result of this a variety of institutional arrangements have evolved at the State and local level to provide for the operating, financing, and construction of urban mass transit systems. In some cases, a department of the State government performs these functions; in others the States have created regional transit authorities or districts with responsibility to perform all transit functions in an urbanized area. Some regions are served by transit systems that are part of city or county governments, but do not provide service in the entire region. In some regions, a regional authority operates a rail transit system, but not the bus system. Thus, it is impossible to write a simple law. Any single rule that would mandate the funds to the State or local government would impose an unfair and unrealistic Federal standard on the States or local government. Therefore, the committee chose to provide a procedure to select a recipient.

Under this bill, the Governors, responsible local officials, and publicly owned operators of mass transportation services, operating in coordination with the metropolitan planning organization designated by the Governor as responsible for carrying out the metropolitan transportation planning function, shall designate the recipient of the funds. There could, of course, be more than one recipient in an urbanized area. This conference committee bill would bring the Governors squarely into the urban transportation development process for the first time, in recognition of the fact that many State governments are now taking an active interest in mass transit and are committing operating funds and other resources to help meet the transportation needs of metropolitan areas. We envision a process under which all concerned parties participating in the planning process will concur on the identity of the recipients.

In the event that they cannot agree, the Secretary will, of course, have the authority to designate a recipient, in order to allow needed funds to flow to the area. Where a statewide or regional agency has been created under State laws to carry out the financing, construction and operation of public transportation services, that agency must be a recipient of funds. Where, in other words, State laws have already made a choice of instrumentalities to carry out mass transportation services, those choices are not meant to be disturbed by this new legislation.

Mr. DOLE. Mr. President, as one of the Senators who voted against S. 386 when it passed this body just over a year ago, I would like to ask a few questions of the ranking minority member of the committee, Mr. TOWER, and receive some assurances regarding the nature and extent of the changes in the legislation since that time.

Specifically, I am interested in what this bill does for the State of Kansas, since the earlier version was for operating subsidies only and would have resulted in little, if any, assistance to basically rural areas with no established mass transportation systems of any great degree.

So I would ask of the distinguished Senator from Texas (Mr. TOWER), exactly what percentage of funds and what dollar figures are earmarked in the report under consideration for the smaller urban and rural communities? This would include, of course, three major metropolitan centers in Kansas—that is, Kansas City, Kansas/Johnson County, Topeka, and Wichita—as well as the many other cities with less than 50,000 population which have both the need and the desire to improve their public transit facilities.

Mr. TOWER. Basically, there are two sources of money. One contains $3.975 billion and this money is distributed by formula to all urbanized areas—50,000 population or more. A community can use this for either capital expenditures or operating assistance, whatever they choose. Over the next 6 years, Kansas will receive over $21 million from this source.

The other source of funds, $7.8 billion, is to be used exclusively for capital grants. Of this amount, $500 million is set aside to be used exclusively in rural areas. This is the traditional UMTA capital grant program, and funds are allocated not by a formula, but based on a community's application.

It should be noted that the formula is based 50 percent on population and 50 percent on density. It was thought that this would provide a more equitable distribution of funds to the States than that which originally existed in S. 386.

Mr. DOLE. I thank the Senator for his response and explanation. And with that, I feel confident that enactment of S. 386 in its present form—unlike the original bill—can be of considerable benefit to Kansas in stimulating both the construction of new systems and the refinement of those already in existence.

I would also, however, like to have a clarification of the source of the funding to be authorized by this proposal. There has, for example, been some question among my constituents as to the effect of Urban Mass Transportation legislation on the Federal-Aid Highway Act provisions.

For that reason, I would appreciate an assurance that the implementation of this new Assistance Act will in no way affect the programs operated through the Federal Highway Trust Fund.

Mr. TOWER. This legislation is funded through appropriations, and no Federal highway trust funds are used to finance the new program. Additionally, no substantive changes are made in the capital grant program.

Mr. DOLE. Again, I thank the distinguished Senator for his reply. It has been most helpful to me in resolving any doubts about my support of the conference report.

I am satisfied now that my previous objections to this important bill have been for the most part eliminated, and that it can contribute to the improvement of the transportation network in the State of Kansas without being inflationary or taking anything away from present related projects.

I also want to express my pleasure over the very equitable changes made by the conference committee in the formula for distributing grant program moneys. Not only will this mean a much greater assistance level for our State, but the all-important discretion as to the use of the funds for either capital projects or operating costs will now be left to local officials who best know the needs of their communities.

Finally, I would like to commend the committee for its efforts in arriving at a comprehensive 6-year plan which includes special assistance for rural public transportation. I agree that this new long-term transit program, as modified, is vital to the progress and success of our mass transportation development nationwide, and urge that my colleagues join me in supporting its enactment.

SENATOR RANDOLPH SUPPORTS EFFORT TO IMPROVE TRANSPORTATION SYSTEMS

Mr. RANDOLPH. Mr. President, in recent years the Federal Government has moved to assist communities in correcting an imbalance in our national transportation program. Growing concern with urban congestion, our commitment to ending air pollution and, more recently, awareness of the need for energy conservation have stimulated a renaissance of interest in public transportation.

Many urban areas are renovating their transit systems and others are being enlarged. Members of the Senate can see first-hand what is being accomplished in Washington, D.C., with continuing construction of the Metro rapid rail network, and the modernization of the region's bus system.

These achievements cannot take place overnight. They require long-term planning and they require long-term financing commitments. The conference report before the Senate makes a 6-year financing commitment so that orderly progress can continue.

Just as we were willing to commit the necessary funds to construction of the interstate highway system, so must we stand ready to properly support public transportation expansion. I call attention to the fact that the highway program has already given us the roads and streets that are the basic facilities for mass transit in many communities. The funds we are asked to authorize in this conference report will permit these communities to make full use of this investment in highways.

Mr. President, the knowledgable Senator from New Jersey (Mr. WILLIAMS) has again demonstrated his expertise in the mass transit field and his commitment to improved public transportation in this country. By bringing this measure to the floor of the Senate today he emphasizes the urgent need to pass new mass transit legislation.

This is a comprehensive measure covering the full range of transit requirements from construction grants to operating assistance. I am particularly gratified that it includes a program aimed specifically at improving public transportation in rural areas and small communities. The Committee on Public Works first addressed this problem in the Federal-Aid Highway Act of 1973 by authorizing a demonstration program. Highway legislation we developed this year (S. 3934) and which was passed by the Senate on September 11, expands the demonstration program and the measure before us now is a further commitment to improving the mobility of persons who do not live in large urban communities.

The conference report on S. 386 is a substantial measure, and it is urgently needed. I believe we will act constructively in giving it our support.

Mr. BENTSEN. Mr. President, I rise in support of the conference report on S. 386, the Urban Mass Transportation Assistance Act of 1974.

In doing so, I recognize that this is not a perfect transit bill and that the procedures for bringing it to the floor in this form have been somewhat unorthodox; however, a number of us have been working on transit legislation since early this year, and I believe it is imperative that we have a bill during this session of Congress. S. 386 represents an acceptable compromise between the various proposals that have been offered.

In February, the Senate Transportation Subcommittee, of which I am chairman, began a series of nationwide hearings on transit. After hearing from mayors, private citizens, transit officials, highway engineers, and a broad range of other witnesses in five American cities, I became convinced that long-range transit legislation was necessary to create that balanced transportation system which has long been one of our national priorities.

I introduced my own measure last June, following the hearings, and I am pleased to see several features of that bill incorporated in S. 386.

My bill contained the option for localities to use a certain percentage of the available Federal funds for operating assistance; that option is preserved in S. 386. My bill set the Federal share on operating assistance at 50 percent, with instructions to the Secretary of Transportation to develop regulations to assure that measures were taken to improve the efficiency of transit operations and to see that localities maintained their past efforts in supporting their own transit systems. Both of these provisions are contained in S. 386.

I believe these safeguards are essential to assure that Federal operating assistance does not supplant local efforts and that it is not poured into constantly deteriorating transit systems. These are realistic provisions.

In my own bill, S. 3601, one of my goals was to assure an equitable distribution of transit funds. Earlier formulas, which had placed up to 30 percent of the funds in a single State, did not seem to reflect our nationwide need for transit assistance. We learned in our hearings that transit assistance cannot be isolated to one or two major cities, even though they may have made a substantial investment of their own funds in existing systems. In any distribution formula, we have to assure fair treatment, not only for these cities, but for others which are only now beginning to plan transit systems and which will rely on Federal seed money to get them underway.

The distribution formula in S. 386 is not ideal, but it is a significant improvement from the earlier versions of that same bill. Up to $3.9 billion of the $11.8 billion in the bill are distributed, 50 percent on the basis of population, 50 percent on the basis of population density. In my view, the introduction of density into the formula is a wise one, since it is a major factor in determining both the nature and the scope of the transit program a city undertakes for itself. In some areas, a few major cities, rail transit will be a feasible solution; in others, a great majority of cities, expanded bus service or other innovative forms of transit will be called for. What is important is that no bill should be written which will create an unnatural incentive for a city to move into a rail system when less ambitious and an equally efficient method of moving people can be found. S. 386 does not create an artificial emphasis on rail, which is commendable.

Under this bill, in my own State of Texas, Austin will receive $7.6 million over the next 6 years; Corpus Christi, $4.8 million; Dallas, $32.6 million; El Paso, $9.4 million; Fort Worth, $15.7 million; Houston, $48.6 million; San Antonio, $23.5 million, and the remainder of the urbanized areas, approximately $143 million.

Perhaps the most important feature of the bill is its long-term commitment to Federal transit assistance. The cities need the kind of assurance this measure provides; they need to know that the Federal Government will support more than a stop-gap, emergency assistance that we found in the earlier versions of S. 386. In September, when I testified before the conferees on this measure, I said that the need exists now for a multiyear bill, since transit commitments cover years of planning and development. Although I would have preferred that the Senate and House committees convene separately and hold hearings before returning to conference, I recognize the time constraints involved and I am pleased to see a long-range bill before us for consideration.

Mr. President, this has been a difficult year for American transit. Operating deficits have climbed to over $680 million, fuel costs have soared, new passengers have been attracted to the systems, only to find that the equipment available was more appropriate to the days of World War II.

In fact, transit in this country, which has long been underfunded, has been in a state of decline since the 1940's. In this era of environmental concerns and energy uncertainties, it is time for us to encourage efficient, attractive alternatives to the automobile. This measure can begin to move us in that direction. I urge the passage of the conference report.

Mr. BROOKE. Mr. President, as a member of the Senate-House conference on the mass transit bill, I want to express my wholehearted support of this legislation. The conference report was a triumph of hard work, persistent effort, and reasonable compromise on the part of the bill's sponsors and supporters.

President Ford, working in cooperation with the conference committee, has indicated his intention to sign this bill upon enactment by the Congress. The administration argued for a comprehensive, long-range bill in order to approach urban mass transportation problems soundly and effectively. This conference bill accommodates those arguments and moves as well for immediate assistance where it is most needed: subsidies for operating expenses. Yet because of the sliding scale of assistance provided in the 6-year period, increasing in amount toward the end of the period, S. 386 would have little or no budgetary impact in fiscal year 1975, and should correspond well with the President's anti-inflation program.

Considering the extreme financial distress of most major urban transit systems, the salutory effect increased transit use could have on our national problems of energy conservation and fuel consumption, and the residual benefit of a better, cleaner environment in our urbanized areas, this bill is most worthy of immediate consideration and enactment by this Congress.

Mr. President, I urge the Senate to vote for this vitally needed legislation.

Mr. BAYH. Mr. President, it is a pleasure to be able to give my strong support to the conference report on S. 386, the National Mass Transportation Act of 1974. The conference report, with wide bipartisan support in the Congress, the endorsement of the administration, and additional support from the Nation's Governors, mayors, and many groups in the private sector, is of truly historic dimensions.

This bill not only extends the existing program of capital assistance for mass transportation, it also authorizes a new formula grant program which will give the States and localities the option of using these additional funds for further capital expansion or to help pay the rising operating costs of public transportation. This is an enlightened approach, which recognizes the need to provide adequate, affordable mass transportation services throughout the United States.

By offering the American people mass transit that provides a desirable alternative to the use of private autos, we can help achieve a number of national goals. We can conserve energy, help fight pollution, and make our urban areas better places in which to live, to work and to do business.

But if mass transit is to realize its potential it must be affordable, accessible, and convenient. This is where the Federal Government, through this legislation, can play a major role by providing the financial assistance States and localities need to pay the rising capital and operating expenses of mass transportation.

It has been rightly said that the manner in which this conference report was prepared departs from normal operating procedures in the legislative process. But if a departure from traditional practice is necessary to achieve the worthy purposes of this legislation then that is a wide and worthwhile step.

The conference report on S. 386 is strongly supported in my own State of Indiana. An analysis of the formula grant funding under the new provisions of this bill shows that Indiana will receive approximately $65 million in the next 6 years, almost twice what it would have received under the earlier legislation. This is an addition to Indiana's share of the capital discretionary funding of almost $8 billion to be made available during those same years. I request unanimous consent to include in the RECORD at the end of my remarks a chart prepared by the American Public Transit Association showing how the conference report will affect Indiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAYH. Mr. President, it should also be noted that title III of this measure authorizes the expenditure of up to $14 million in Federal funds to assist in the relocation of the railroad tracks running through Hammond, Ind. This will enable Hammond to make effective use of the mass transit provisions of this measure by removing a serious physical obstacle to coordinated transportation planning in that community.

The relocation of rail lines in Indiana cities continues to be of great concern for reasons of public safety and welfare; long, slow-moving freight trains often split communities literally in half for periods of up to 20 or 30 minutes. For an accident victim separated from the hospital by that train, the consequences can be tragic. For hundreds or thousands of commuters and businessmen, the consequences are extraordinarily inconvenient and commercially deleterious. For a viable mass transit system in a community as large as Hammond, the limitations caused by these tracks are critical. I appreciate the decision of the Senate conferees to accept this consistent and important provision of S. 386.

EXHIBIT 1

AMERICAN PUBLIC TRANSIT ASSOCIATION COMPARISON OF DISTRIBUTION OF FUNDING LEVELS FOR REVISED S. 386 SUBMITTED OCT. 3, 1974, AND H.R. 12859 OF AUG. 20, 1974, OCT. 22, 1974

	Funding 1975–80—	
	S. 386[1]	H.R. 12859, category B[2]
Indiana:		
Chicago urbanized area (Indiana portion)	$13,926,000	(3)
Fort Wayne	6,658,000	$4,288,000
Indianapolis	20,543,000	15,622,000
Louisville urbanized area (Indiana portion)	2,285,000	1,551,000
South Bend urbanized area (Indiana portion)	7,441,000	5,049,000
Combined: Anderson, Evansville, Lafayette-West Lafayette, Muncie, and Terre Haute	13,935,000	9,023,000
Total, Indiana	64,791,000	35,533,000

[1] S. 386: In addition to formula grant money indicated above, cities are also eligible for $7,800,000,000 over the next 6 yrs in capital discretionary funding.

[2] H.R. 12859: Category B cities are also eligible for category C funds for capital purposes only at the Secretary's discretion at a 6-yr level of $2,500,000,000.

[3] H.R. 12859 provides discretionary funding to 6 cities with rail systems or capital commitments to rail (A category).

Mr. BAYH. Mr. President, I would appreciate it if I could briefly address the attention of the Senator from New Jersey to title III of the conference report. This is the provision of the bill originally passed by the House of Representatives authorizing a rail relocation project in Hammond, Ind. I first want to thank the Senate conferees for agreeing to title III which will allow coordinated transportation planning in Hammond, permitting effective use of the mass transit provisions of the important bill and existing rail and highway transit in Hammond.

Under these circumstances I think it important to make it clear that as written title III would not require that the two-thirds cost of the project to be paid from the highway trust fund be deducted from the regular Federal-aid highway expenditures in Indiana. That is my understanding of the title's implementation, based on conversations with those most knowledgeable about the operation of the trust fund. However, I wanted to make certain that it was also the understanding of the Senator from New Jersey.

In other words, the use of highway trust funds to pay two-thirds of the cost of carrying out title III of S. 386 will not result in any decrease in other highway funds coming to Indiana. Does the Senator agree that this is an additional, limited expenditure from the trust fund in a special category which will not impact on highway programs in Indiana or any other State?

Mr. WILLIAMS. That is correct.

Mr. BAYH. In fact, under the unique provisions of this statute, does the Senator from New Jersey also have the understanding that the Federal Government is agreeing to undertake the entire expense of this project because of its consistency with the overall objectives of the transportation legislation and similar funding of rail relocation projects in the Federal Highway Act of 1973?

Mr. WILLIAMS. That is correct.

Mr. BAYH. I appreciate the Senator's response, making it clear that this special expenditure will not require matching funds from the city of Hammond or the State of Indiana.

Let me again express my appreciation to the conferees for their support of this important step—a step totally in concert with the overall objectives of this important legislation.

Mr. BIDEN. Mr. President, I am pleased to see that we just may be able to provide the financial support to keep the Nation's mass transit system viable. When considering what the possibilities were a couple of months ago for this kind of financial support, I guess I should be ecstatic.

I am pleased, but I am also concerned. What concerns me is that Congress will feel that with respect to providing this country with an effective mass transportation system that it will have done its job for the next 6 years. While I am sure that some will disagree, I consider the nearly $12 billion now before us just a necessary first step. When one considers the amount of energy, and particularly petroleum, devoted to the transportation sector in this country, and the impact that mass transportation can have on reducing that amount, I feel that we must make the financial commitment to mass transportation similar to the ones that we made to building a national interstate highway system, closing the missile gap, cleaning up our rivers and air, and putting a man on the moon. What we have to do is to look at this aggressive financial program that I suggest as not just an expenditure but as an investment—an investment that we cannot afford not to make.

I was somewhat fascinated to read—I was too young to have first-hand experience—that this Nation did at one time have a large effective transit system. In 1945, when I was 3 years old, ridership on public transportation was 19 billion trips a year. In 1973 the number of transit trips had fallen to 5 billion trips per year. When you consider the fantastic growth in the Nation's population during this period, the decline becomes even more astonishing.

One thing that we have found out through the Project Independence hearings is that all that we have available as far as short run solutions to the energy crisis is energy conservation. The transportation sector is an excellent candidate for conservation since it accounts for 24 percent of the Nation's total energy consumption and 52 percent of U.S. petroleum consumption. I am sure that it was this kind of information that motivated Mr. Sawhill to propose the 30-cent-a-gallon tax on gasoline. As late as last week even Secretary of the Interior Morton, to the President's displeasure, suggested that a substantial gasoline tax was still being considered as a viable alternative.

If we are to expect our people to reduce gasoline consumption we must give them alternative transportation. Improved mass transportation would not only provide desperately needed savings in fuel consumption, but also has a positive effect on air quality and reducing of congestion on our highways.

In summary, I would ask my colleagues to not consider that their job is done with the hopeful passage of this legislation but to join me in the next session of the Congress to take action to restore our mass transit system to at least its World War II level.

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from New York (Mr. BUCKLEY).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BUCKLEY

I congratulate my colleagues on the Senate Banking, Housing and Urban Affairs Committee in making an heroic effort to bring before the Congress legislation for mass transportation assistance in the face of formidable procedural complications. The compromise which has been developed by House and Senate Conferees represents a vastly improved approach to the requirements of mass transportation assistance over the original version of S. 386. I have long been concerned with the exceedingly narrow thrust of all of our federal transportation programs, and as a member of the Public Works Subcommittee on Transportation, I have supported efforts to make the administration of the Federal Highway program much more flexible. I am thinking in particular of the 1973 Federal aid Highway Act amendments which opened up the "Urban System" portion of the Highway Trust Fund for mass transportation, as well as highways, as the option of local transportation officials. I have long believed that Congress should move in the direction of increased flexibility for all types of federally-assisted programs, and for this reason I found certain special revenue sharing proposals far more attractive than the hodge-podge of categorical grant programs which have proliferated over the past decade or so.

With further regard to the federal highway program, I introduced legislation which would in effect transform the Highway Trust Fund into a general purpose Transportation Trust Fund. It is my hope that a general transportation fund would become a bridge between the present rigid collection of federal categorical programs and the ultimate goal of a flexible policy of transportation assistance to State and local communities, who know best what their problems are and how they must be resolved.

S. 386, the National Mass Transportation Assistance Act of 1974, as reported from Conference represents another welcome step in the direction of greater flexibility. While it is far from perfect in this regard, the latest version of the bill permits the recipients of the "formula grant program" authorized by the conference report to utilize their shares for either capital construction projects or to pay for operating costs.

For communities, such as New York City, which already have in place a large and well distributed system of mass transportation, the need for flexibility in the use of funds is easily demonstrated. The need to cover operating costs may, and in this case does, command a far higher place in the priorities of local officials than new capital construction. This decision is for the local officials to make, just as the decision to construct new highways or mass transportation facilities in our cities is the responsibility of the local-elected officials. Having said this, I must nevertheless concede no change in my fundamental disapproval of operating subsidies in principle. I have yet to be persuaded that this is a fiscally sound technique for financing the day to day operations of a transportation system.

In terms of fairness, I believe this bill is an improvement over previous proposals, from the admittedly parochial point of view of New Yorkers' interests. For many years, the New York taxpayers' share of the federal fund tax burden has been much greater than the benefits New Yorkers received in grant-in-aid funds. The distribution formula in S. 386, however, represents an all too rare "good deal" for New Yorkers. The Tax Foundation has calculated New York's share of the federal funds tax burden for fiscal year 1974 as 10.88%. The formula grant program authorized by the conference report will provide 16.6% of the federal total to New York State. Of the approximately $4 billion authorized over 6 years for this program, New Yorkers will contribute, in federal taxes, $433 million; they will get back, however, $664 million.

To sum up, S. 386 is not the ideal scheme, in my view, if we are to have a flexible program of federally assisted mass transportation. But it is a genuine step in the right direction, a direction which returns decision making to local officials in fashioning the most effective balance of transportation modes in order to meet a community's particular needs. And, not insignificantly, S. 386 is a "good deal" for New York. It is for these reasons that I support the passage of the National Mass Transportation Act of 1974.

Mr. ROTH. Mr. President, I rise today to express my support for the National Mass Transportation Assistance Act of 1974. After over 4 years of legislative compromises between the Senate, House, and administration, passage of this legislation will mark this Nation's first long-term commitment to our urban mass transportation needs.

Over a year ago, I opposed mass transit legislation which in my opinion, would have provided Federal funds to existing mass transit systems to continue to operate just as inefficiently as they had in the past. Instead of improving our mass transit system, last year's legislation would have opened up a bottomless pit for Federal funds for inefficient mass transportation systems.

After a year of compromise I believe that this legislation before the Senate today provides a realistic approach to our transportation systems, an approach that will aid our ailing mass transportation systems by restructuring them to achieve efficient and effective operations and by encouraging the development of more transportation systems.

As one who is a strong supporter of reduced Federal spending, I also believe that this legislative approach, entailing long-term commitments and effective budget restraints is a vast improvement over the no-strings-attached Federal subsidies approach of a year ago. Frankly, I have grave reservations about the Federal Government becoming involved in operating subsidies.

This legislation will provide approximately $10.6 million in badly needed funds for the Wilmington area. In addition the Wilmington area will also be eligible for portions of the $7.8 billion over the next 6 years in capital discretionary funding.

I am pleased with the bill's provision that reserves up to $500 million of the capital fund for rural areas, and for the provision which encourages reduced fares for our senior citizens and the handicapped.

I believe that an efficient, modern urban mass transportation system is essential to the economic well-being of our Nation. The increased benefits from reduced pollution, energy conservation, and transportation assistance are well worth this expenditure of Federal funds.

Mr. CRANSTON. Mr. President, I rise in support of S. 386, the Urban Mass Transit Assistance Act of 1974. The conference version of this legislation will provide a sound program for the development and operation of our Nation's mass transit systems. The combination of long-term capital grants and operating assistance funds that this bill will provide is desperately needed to make mass transit a viable alternative to the automobile in our cities. It can be a major part of our solution to air pollution, fuel consumption, and urban sprawl.

An equitable share of the funds provided by S. 386 will be earmarked for California. A total of 14.3 percent of the operating assistance funds in S. 386 will go to California cities. In fiscal year 1975—the first year this legislation would be in effect—the seven largest cities in California would receive a combined total of more than $40 million in operating assistance funds. I am especially pleased with the new allocation formula developed in this conference version. By basing allocation equally on population density and urbanized population, this new formula works better for California cities than previously considered formulas such as those based on the number of miles in existing transit systems and work-related trips.

In addition to operating subsidies, $7.9 billion will be earmarked for capital grants. This sum will allow our Nation's transit districts to expand and improve their existing service as well as to construct new transit systems. These Federal funds will be provided to local areas by the same method presently in effect, with local areas applying to the Department of Transportation. These funds will be awarded on a matching basis: The Federal Government will provide 80 percent of the funds and the local area will provide the additional 20 percent.

Mr. President, the Los Angeles Times on November 18, published an editorial in strong support of the conference report on S. 386. I ask unanimous consent that this editorial be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

U.S. Aid for a Modest Transit System

Even though Proposition A was defeated in the recent election, Los Angeles still needs a mass rapid transit system, and it can still get started, though on a more modest scale than would have been provided by the sales tax increase embodied in the proposition.

Federal funding is no less essential to a modest program than it was to the more ambitious one. A bill now working its way through Congress would provide that help.

The legislation, S. 386, would authorize $11.8 billion over six years to assist transit programs. The money is for both capital improvements and operating subsidies.

The Los Angeles Rapid Transit District estimates that it could receive several hundred million dollars under the bill over that six-year period.

If the money is used for capital projects, it would be distributed on a formula of four federal dollars to every dollar put up by cities and states. For operating subsidies, the formula would be half federal, half local.

It has taken months for the legislation to get as far as it has. Rep. Glenn M. Anderson (D-Calif.) was its principal architect; President Ford, who took up the cause of urban transit, prodded a House-Senate conference committee into resolving their substantial differences and producing the measure as it stands.

It will go before the Senate for final action next week. The national interest requires its passage there, and thereafter in the House, in this session of Congress.

A nation that is seriously talking about permanent fuel conservation cannot afford to be less than serious about public transportation.

Mr. CRANSTON. Mr. President, I believe this important legislation will provide much help to hard-pressed transit districts throughout the Nation and will take long strides toward providing the necessary assistance to build new transit systems which can truly be a viable alternative to the private automobile. I sincerely hope that the Senate today will overwhelmingly approve this conference report and that the House will vote its approval in the very near future.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the conference report. On this question the yeas and the nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from California (Mr. Tunney). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from Illinois (Mr. Stevenson), the Senator from California (Mr. Tunney), and the Senator from Texas (Mr. Bentsen) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from Texas (Mr. Bentsen) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Colorado (Mr. Dominick), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), and the Senator from Florida (Mr. Gurney) are necessarily absent.

I also announce that the Senator from Maryland (Mr. Mathias) is absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Michigan (Mr. Griffin) and the Senator from Oregon (Mr. Hatfield) would each vote "yea."

The result was announced—yeas 64, nays 17, as follows:

[No. 485 Leg.]

YEAS—64

Abourezk
Aiken
Baker
Bayh
Beall
Bennett
Bible
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Dole
Domenici
Fong
Gravel
Hart
Hartke
Haskell
Hathaway
Hollings
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Long
Magnuson
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Symington
Taft
Talmadge
Tower
Weicker
Williams
Young

NAYS—17

Allen
Bartlett
Bellmon
Byrd,
Harry F., Jr.
Cotton
Curtis
Eastland
Ervin
Fannin
Hansen
Helms
Hruska
McClellan
McClure
Scott,
William L.
Stennis
Thurmond

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—18

Bentsen
Buckley
Church
Cook
Dominick
Eagleton
Fulbright
Goldwater
Griffin
Gurney
Hatfield
Humphrey
Kennedy
Mathias
McGee
McGovern
Stevenson
Tunney

So the conference report was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPLEMENTAL APPROPRIATIONS, 1975

The Senate resumed the consideration of the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Maryland (Br. Beall) to the supplemental appropriation bill.

The Senator from Maryland is recognized.

Mr. BEALL. Mr. President, how much time remains on the Beall amendment?

The PRESIDING OFFICER. The Senator from Maryland has 11 minutes remaining.

Mr. BEALL. How much time does the opposition have?

The PRESIDING OFFICER. The opposition has 10 minutes.

Mr. BEALL. Mr. President, I ask unanimous consent that I might yield first to the Senator from New Hampshire (Mr. Cotton), and then to the Senator from Pennsylvania (Mr. Scott) for the purposes of taking up amendments, to which I do not necessarily agree, but without being charged against my time, and without losing any rights or privileges to which I might otherwise be entitled.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from New Hampshire.

Mr. COTTON. Mr. President, this is an amendment I am offering in behalf of the Senator from South Carolina (Mr. Hollings), who is chairman of the Subcommittee on Legislative Expenditures.

The PRESIDING OFFICER. Will the Senator suspend. It is noisy in the Chamber, and the Senator is entitled to be heard. The Senator from New Hampshire is entitled to have the Chamber quiet.

The Senator from New Hampshire.

Mr. COTTON. Mr. President, as the ranking minority member of the Legislative Branch Appropriations Subcommittee, I am offering an amendment on behalf of the chairman, Senator Hollings, and ask the clerk to state it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

On page 16 after line 23, insert:

ADMINISTRATIVE PROVISIONS

Effective on Jan. 2, 1975 the provisions of Title II of House Resolution 988, Ninety-Third Congress, relating to, Sec. 202. Early organization of the House; Sec. 203. Legislative Classification Office; Sec. 204. The House Commission on Information and Facilities; Sec. 205. Office of the Law Revision Counsel; Sec. 206 Review of Committee Jurisdiction; Sec. 207 (c) and (d) Technical and Conforming Provisions; and Sec. 208. Compilation of the Precedents, shall be the permanent law with respect thereto.

The provisions of House Resolution 1299, Ninety-Third Congress, relating to an additional expert transcriber to official committee reporters of the House of Representatives, and House Resolution 1309, Ninety-Third Congress, relating to the United States Capitol Police force, shall be the permanent law with respect thereto.

Mr. COTTON. As the Senate knows, Mr. President, the housekeeping details of each body are left to that body, and we do not ordinarily interfere with the matters of the other body.

However, this amendment is offered at the request of Representative Bob Casey of Texas, who is chairman of the Legislative Branch Subcommittee of the House Committee on Appropriations. I have a letter from him under today's date, addressed to the Honorable Ernest F. Hollings, chairman of the Legislative Branch Subcommittee, which I ask to have inserted at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COTTON. The House of Representatives has adopted three resolutions which simply had to do with organizational matters in the House. These House resolutions provided for a Commission on Information and Facilities; a legislative classification office, and so forth. It was discovered, after the supplemental came over here, that these resolutions would expire if it was not put in this bill and made permanent law. So the chairman of the House subcommittee has requested the chairman of the Senate Subcommittee, Senator Hollings—and I am acting for him because he is unavoidably absent—to insert this amendment in the legislative portion of this bill.

It does not have to do anything with money. It is entirely confined to the House of Representatives' organization. I understand the matter has been called to the attention of the chairman of the Appropriations Committee, the Senator from Arkansas and, of course, Senator Hollings is asking for this on behalf of the House. I cannot conceive of there being any objection.

I would be glad to yield back my time and ask for a voice vote on this.

Exhibit 1

Washington, D.C., *November 19, 1974.*

Hon. Ernest F. Hollings,
Chairman, Legislative Branch Subcommittee, Committee on Appropriations, Washington, D.C.

Dear Mr. Chairman: Attached is a proposed amendment to the pending Supplemental Appropriations Bill, 1975 (H.R. 16900) relating to three House Resolutions passed by the House subsequent to House action on the supplemental appropriations bill. Inasmuch as House resolutions expire at the end of a Congress and appropriation bills are the vehicle for making them permanent law, I would appreciate it if the attached amendment could be offered to the supplemental bill.

Sincerely,

Bob Casey,
Chairman,
Legislative Branch Subcommittee.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. McCLELLAN. Is this the amendment the Senator discussed with me earlier?

Mr. COTTON. That is right.

Mr. McCLELLAN. With respect to——

Mr. COTTON. It is purely confined to the housekeeping of the House of Representatives, but they failed to get it in the bill.

Mr. McCLELLAN. I am familiar with the amendment, Mr. President, and I am willing to take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. COTTON. I thank the Senator.

Mr. HUGH SCOTT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Scott) and the Senator from Montana (Mr. Mansfield) propose:

On page 13, between lines 8 and 9, insert the following:

HIGHER EDUCATION

"For carrying out the provisions of P.L. 93-441, an Act 'To authorize the Secretary of the Treasury to change the alloy and weight of the one-cent piece and to amend the Bank Holding Act Amendments of 1970 to authorize grants to Eisenhower College, Seneca Falls, New York', $10,000,000."

Mr. HUGH SCOTT. Mr. President, I submit this amendment on behalf of myself and the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD).

In essence, this amendment appropriates $10 million from the sale of the Eisenhower silver dollars for Eisenhower College in Seneca Falls, N.Y. Some have said this will set a precedent—Federal support of a private educational institute. But this amendment does not precisely represent that. Rather, it represents funding for a living memorial.

On three occasions, without dissent, the Senate has approved legislation which is intended to provide for the long term financing of this memorial to the 34th President.

On October 11, 1974, President Ford signed such legislation and we now have the opportunity to fulfill our earlier commitment by voting for the essential appropriation for Public Law 93–441. As each Senator should know, President Eisenhower gave his approval to the concept of the college as his memorial before the college was started and he proved his devotion to it in many ways before his death. To him it was a more fitting memorial than an impersonal monument or building. He believed in its living quality. He had often said he did not want to be remembered in marble sitting on a horse with birds on his head. As the record will show, no other former President had the chance during his lifetime to consider such a concept as a "living memorial."

To me, however, the most persuasive evidence for us to consider is that we are not dealing just in hopes that it will come into being sometime in the future. We have proof, over 6½ challenging years, that it is succeeding. And, we have no better witness to that success than Mrs. Mamie Eisenhower whose testimony before committees of the Congress is sufficient proof for me that the promise to her husband is being fulfilled—that Eisenhower College has measured up as a true living memorial.

Most heartily, I recommend approval of this vital piece of legislation.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. HUGH SCOTT. I will be glad to yield to the distinguished chairman.

Mr. McCLELLAN. How was this money derived?

Mr. HUGH SCOTT. The money was derived from the sale of Eisenhower silver dollars.

Mr. McCLELLAN. At a dollar each?

Mr. HUGH SCOTT. It is my understanding that they are being sold at a dollar each, but I am not certain of that.

Mr. McCLELLAN. I think it is much more than that, is it not?

Mr. HUGH SCOTT. I am thinking the dollar goes to the Treasury, and I correct myself here, but the profit, which is the difference between $1 and $10 goes to the college.

Mr. McCLELLAN. Is this a private college?

Mr. HUGH SCOTT. This is a private college erected as a living memorial.

Mr. McCLELLAN. I do not have any particular objection, but I just wonder now if we set up private colleges and issue memorial coins, and then sell them to finance that private college, is that not something that might well be carried out to the advantage of all private colleges?

Mr. HUGH SCOTT. I would not regard it as a precedent in that regard at all, because this is the only living memorial of its kind. I would not anticipate that it could be argued that other colleges were entitled to the same consideration.

This is the only illustration, the only example, I am aware of of a living memorial to an honored President.

The college does not subsist solely on these contributions. There are other fundings involved, and there are, of course, tuition fees.

Mr. McCLELLAN. How long will this process continue?

Mr. HUGH SCOTT. Well, this is simply a one-time appropriation, and I am not aware of any additional planned funding.

Mr. McCLELLAN. Do I understand that this appropriation is for $10 million—is that the amount?

Mr. HUGH SCOTT. That is the amount.

Mr. McCLELLAN. Will this come out of the excess——

Mr. HUGH SCOTT. Excess sales.

Mr. McCLELLAN. The sales price?

Mr. HUGH SCOTT. Excess sales price.

Mr. McCLELLAN. Of the memorial dollars?

Mr. HUGH SCOTT. That is right.

Mr. McCLELLAN. So it is actually costing the taxpayer nothing?

Mr. HUGH SCOTT. No, it does not cost the taxpayer anything.

Mr. McCLELLAN. Wait a minute. I know the money would go to the Treasury. But insofar as the original dollar that is minted and is used as a medium of exchange, it has a dollar value like any other dollar.

Mr. HUGH SCOTT. That is right.

Mr. McCLELLAN. But of the sale of them, being a memorial dollar, brings an excess price or profit, and it is that profit that is being appropriated to finance this private school?

Mr. HUGH SCOTT. That is right. The minted dollar itself represents an asset of the Treasury and is so treated. It is the profit which goes to the college, to that extent.

Mr. McCLELLAN. One other point. Have we not heretofore minted other coins as memorials and sold them in excess of their exchange value?

Mr. HUGH SCOTT. Yes. It is certainly my understanding that in the past we have minted a number of coins and sold them above their value.

Mr. McCLELLAN. What has become of that?

Mr. HUGH SCOTT. Some of them have achieved quite a considerable value.

Mr. McCLELLAN. What has become of the profit of those excess dollars?

Mr. HUGH SCOTT. I am not sure that I can advise the Senator as to what happened to the profit because I recall that one of those dollars is now worth $45. I think it is the Robinson memorial dollar, the Senator from Arkansas.

Mr. McCLELLAN. But the point I am emphasizing is, is this to become a custom now, a practice? Are we establishing a precedent which is to be followed hereafter if some President dies while in office or after his term has expired, and after he dies we sell these and take the profit and give it to some institution?

Mr. HUGH SCOTT. Well, I think this is really a unique situation. I think we ought to make legislative history to that effect, that it is not intended as a precedent.

I think we have in the past appropriated sums, three sums for memorials to other Presidents, including memorials, one form or another, to most of the recent Presidents.

This takes a unique form in that it is a living memorial. There are only a certain number of coins and only one dollar as a rule is normally minted over a 25-year period except for special memorial occasions.

I would think that it would be rare, indeed, that we would repeat this particular situation, but this helps the educational system.

It offers young people an opportunity to receive an education who otherwise would not get it. It does not cost the taxpayer any money. The Government actually profits from the transaction.

Therefore, with the desire not to create a precedent, but to further the purposes of a living memorial, I have advocated this amendment together with the distinguished majority leader.

Mr. McCLELLAN. This may be a very good way to do it. I am just trying to analyze it, and trying to make the record clear exactly what we are doing.

Mr. HUGH SCOTT. I thank the Senator.

Mr. McCLELLAN. I am of the opinion that if we do it this time, we are going to repeat it on many occasions hereafter because there will be such similar circumstances that will possibly justify it. I think we might as well take note, we are setting that kind of precedent.

Mr. HUGH SCOTT. I thank the Senator.

I think we should be careful to make the point, we do not set a precedent.

It has been my observation that a memorial for each deceased President so honored has taken a different form on each occasion, in some cases one form of memorial, in some cases another.

This is the only case that applies to a deceased President so far and I would hate to see our feeling that we have to do this every time. I would think that the heirs and friends of any deceased President would have their own ideas of what some memorial should be for them.

Mr. McCLELLAN. How much is anticipated profit to go to the college?

Mr. HUGH SCOTT. Could the Senator from New York enlighten us?

Mr. JAVITS. I think it is a very large sum over and above the $1, I think the thing runs into——

Mr. McCLELLAN. I am talking about the total.

Mr. JAVITS. Yes, it runs into tens of millions.

Mr. McCLELLAN. Tens of millions?

Mr. JAVITS. Yes, a lot have been sold.

Mr. McCLELLAN. $10 million?

Mr. HUGH SCOTT. This limitation is $10 million, this appropriation. I think the Senator from New York is replying as to how much has been received from the sale of Eisenhower memorial dollars otherwise.

Mr. McCLELLAN. We are only appropriating $10 million out of the many millions, whatever the total is.

Mr. HUGH SCOTT. That is correct.

Mr. ALLEN. Will the Senator yield?

Mr. HUGH SCOTT. I am happy to yield to the Senator.

Mr. ALLEN. This does not seem to me an effort of first impression. Has not this proposal been more or less kicking around in Congress for some years?

Mr. HUGH SCOTT. Oh, yes, this body has three times approved legislation intended to provide for the long-term financing of this memorial.

Mr. ALLEN. Yes.

Mr. HUGH SCOTT. This particular idea has been advanced over a period of, certainly, many months, I think several years.

Mr. ALLEN. Has it not failed passage in one House or the other and efforts been unsuccessful?

Mr. HUGH SCOTT. I think the authorization legislation went back and forth.

The Senate has three times approved long-term financing for this memorial.

Mr. ALLEN. And then what was the House response to the Senate proposal?

Mr. HUGH SCOTT. I think that the House of Representatives has not approved on some occasions the authorization. Afterward, the authorization was signed into law and, therefore, passed by both Houses as Public Law 93–441.

So the purpose of this is to implement the authorization even though there are ups and downs before final passage, ultimate passage.

Mr. ALLEN. Well, does this amendment require legislation, does this legislation on the appropriation bill——

Mr. HUGH SCOTT. This is not legislation. The legislation has been passed. This is appropriation pursuant to an authorization which is now a public law.

Mr. ALLEN. Well, now, this college, and I am sure it is a very fine college, is a private school?

Mr. HUGH SCOTT. It is a private school.

Mr. ALLEN. And its chief claim then to an appropriation in the hands of Congress is the fact that it is named for President Eisenhower, whom I greatly admired, I might state?

Mr. HUGH SCOTT. Somewhat more than that, in that the concept of the college was developed in consultation with the late President Eisenhower; was accepted by him as what he would regard as a permanent living memorial, which incited his enthusiasm and to which he had given a good deal of time and thought, and which has been followed by his widow, Mrs. Mamie Eisenhower, who has communicated with me about it from time to time and who has made the Eisenhower College a favored project of her own.

Mr. ALLEN. Well, I fail to see what great significance there is in the fact that a profit has been made by the sale of Eisenhower dollars. These dollars repose in the Treasury at this time and belong to all of the people of the country, and this would be an appropriation from the Public Treasury, would it not?

Mr. HUGH SCOTT. It would be an appropriation from the Public Treasury of profits made from the sale of dollars, not of the original $1.

Mr. ALLEN. Yes, I understand.

Mr. HUGH SCOTT. Representing the face value.

Mr. ALLEN. That money is safely tucked away in the Public Treasury at this time?

Mr. HUGH SCOTT. Well, I would suppose it is safely tucked away, as any other money.

Mr. ALLEN. Until Congress appropriates?

Mr. HUGH SCOTT. Yes.

Mr. ALLEN. But there are no particular dollars there. It is just in the Public Treasury, is it not?

Mr. HUGH SCOTT. Yes, but sales actually made are at the rate of $10 for certain Eisenhower dollars of a certain silver content, and, therefore, there is a $9 profit over and above the face value of the coin and it is the purpose that of those coins which are bought by collectors, very largely because of the fact that General Eisenhower was President, that he was a famous man, that the coins themselves note his memory in the sense that they honor his memory and, therefore, a market is created because of the services and of the life of President Eisenhower.

Part of that market, it is suggested a very small part of it, would be this particular appropriation which would help this particular college as the one living memorial of this particular President.

Mr. ALLEN. I am sure the Senator recognizes, applies to other private colleges.

Mr. HUGH SCOTT. I do.

Mr. ALLEN. And universities in this country, I am sure many others are similarly situated. I am sure there are some in Pennsylvania, I know of many in Alabama.

I hesitate to see a $10 million appropriation made to a private college that simply has General Eisenhower's name.

Mr. HUGH SCOTT. Well, I would hope the Senator from Alabama would be understanding about this.

I am myself chairman of the fundraising committee of another small private college and yet in that position I can understand the unique character of the Eisenhower living memorial, so I do not feel that my college is being deprived by virtue of an act of Congress.

But I realize the Senator's point.

Mr. ALLEN. I take a different view.

Mr. HUGH SCOTT. I understand that.

Mr. ALLEN. I feel like it is an appropriation for the aid of a private college and that hundreds of other private colleges throughout the country are not being benefited similarly.

I would feel it is a special type of benefit.

Mr. HUGH SCOTT. I understand the Senator's point.

Mr. ALLEN. I would request the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, if I may be recognized.

Mr. BEALL. Mr. President, a parliamentary inquiry.

Mr. McCLELLAN. Who controls time?

Mr. BEALL. Do we have the yeas and nays on that?

The PRESIDING OFFICER. Yes.

Mr. BEALL. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BEALL. About half an hour ago, being of an accommodating nature, I yielded the floor so as a noncontroversial amendment might be brought before the Senate. Now it is not only in controversy, but the yeas and nays were ordered.

I understand this all takes precedence over an amendment that I had.

Mr. HUGH SCOTT. I apologize to the Senator because I thought it was noncontroversial. I certainly did not expect a request for yeas and nays, but I have no control over any action people take.

Mr. BEALL. Mr. President.

Mr. MAGNUSON. Mr. President.

Mr. HUGH SCOTT. I yield back the remainder of my time.

Mr. BEALL. Mr. President, I ask unanimous consent to have the yeas and nays on this amendment postponed until after we have completed deliberations on the unfinished amendment up for discussion prior to this time.

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. Mr. President, I object so I can ask a question of the Senator.

The PRESIDING OFFICER. The objection is noted.

Mr. MAGNUSON. I have no objection to this, but just recently a group of us in the United States, mainly Democrats I might say, have initiated a foundation for a living memorial for the late President Truman which involves scholarships all over the United States.

Mr. HUGH SCOTT. Which I cosponsored.

Mr. MAGNUSON. Yes.

Now, it would be possible under this precedent for us to get that off the ground by having a Truman dollar and sell it.

What is the $10 million for? This is what I do not understand.

Mr. HUGH SCOTT. The $10 million is an aid to Eisenhower College at Seneca, N.Y. It is an appropriation.

Mr. MAGNUSON. Directly to the college?

Mr. HUGH SCOTT. Directly for the purposes of the college, yes.

Mr. MAGNUSON. The national scholarships for President Truman, in memory of President Truman, will go to every college in the United States.

Mr. HUGH SCOTT. I can only reply that when the question of scholarships in honor of President Truman came up, I joined gladly in cosponsoring the bill of the Senator from Missouri (Mr. SYMINGTON). I have now proposed a living memorial, some means of assistance, in the name of President Eisenhower. If the objections are great and Members want to defeat an Eisenhower memorial, I cannot stop it.

Mr. MAGNUSON. That is not the point at all. I do not know why there is the need for $10 million. If we mint the Eisenhower dollar and they are worth $10, why do we need an appropriation? Mint them and sell them.

Mr. HUGH SCOTT. We need an appropriation. Otherwise, the money cannot be transferred. It remains in the Treasury.

Mr. MAGNUSON. I do not think there is any implication here that we are against Mr. Eisenhower's memorial. We do have the Truman memorial. I am just wondering what the Senator from Alabama is bringing up here.

Mr. HUGH SCOTT. I yield to the Senator from Montana and the Senator from Maryland.

Mr. BEALL. Mr. President, I will state my unanimous-consent request: that further deliberations on the Scott amendment be put aside until we have completed the deliberations on the Beall amendment.

Mr. HUGH SCOTT. And have a vote back to back?

Mr. BEALL. I understand the vote on my amendment——

Mr. MANSFIELD. Reserving the right to object, as I understand it, Eisenhower College is almost on the rocks and if help is not forthcoming it will succumb to the times.

Mr. HUGH SCOTT. I thank the Senator. I think this little college is facing a critical situation. If the Senate is disposed to help, they will help. If they are not disposed to help, they will not help.

I have made the best argument I can. I have promised Mrs. Eisenhower that I would give this my full support, and I am doing that.

There is a pending unanimous-consent request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Maryland?

Mr. McCLELLAN. Reserving the right to object, what is the request?

The PRESIDING OFFICER. The request is that we return to the consideration of the Beall amendment to the supplemental appropriation.

Mr. McCLELLAN. I have no objection. I suggest that the distinguished Senator amend his request to say that the vote on this pending matter come tomorrow.

Mr. BEALL. Which pending matter is the Senator referring to?

Mr. McCLELLAN. If the Senator has no objection to coming tomorrow, let us proceed.

Mr. BEALL. I have no objection to voting on the Scott amendment. We have almost completed debate on the Beall amendment. My only suggestion was, as I indicated earlier, I had yielded in a spirit of accommodation.

Mr. McCLELLAN. There is further debate on the amendment of the Senator from Maryland.

Mr. HUGH SCOTT. I am prepared to yield back the remainder of my time so we can vote on it today. I yield back the remainder of my time.

The PRESIDING OFFICER. The unanimous-consent request was to revert back to the Beall amendment. Is there objection?

Mr. McCLELLAN. Reserving the right to object, I do want to insert in the Record a letter on somebody's time.

Mr. HUGH SCOTT. I yield to the Senator for that purpose.

The PRESIDING OFFICER. The Senator from Arkansas has 30 minutes of his own time.

Mr. McCLELLAN. I will take 2 minutes.

I just want to ask unanimous consent to insert in the Record a letter that I wrote to Mr. Ash, the Director of the Office of Management and Budget, on October 2, regarding this matter, in which I said that we understood by the terms of H.R. 16032 that Congress should receive recommendation from the Office of Management and Budget for fiscal year 1975.

> Would you advise us as soon as possible of the President's position with regard to appropriations needed to implement this act?

There being no objection, the letter was ordered to be printed in the Record, as follows:

October 2, 1974.

Hon. Roy L. Ash,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

Dear Mr. Ash: The Senate and House have both passed H.R. 16032, a bill to authorize the Secretary of the Treasury to change the alloy and weight of the one-cent piece and to amend the Bank Holding Act Amendments of 1970 to authorize grants to Eisenhower College, Seneca Falls, New York.

That proposed legislation is now at the White House for Presidential approval.

Under the terms of H.R. 16032, the Congress should receive a budget recommendation from the Office of Management and Budget for fiscal year 1975.

Would you advise us as soon as possible the President's action with regard to appropriations needed to implement this Act.

With kindest regards, I am
Sincerely,
John L. McClellan,
Chairman.

Mr. McCLELLAN. I may say, Mr. President, we have received no reply from that request of the Director of the Budget.

I have no objection to voting on either of these amendments. We can vote on whichever one they want first, however, I did want to place the information in the Record. We tried to get information concerning this matter and have not been able to.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maryland?

Mr. HUGH SCOTT. Reserving the right to object, and I am doing it only to try to satisfy everybody down here on this part of the ranch, I have no objection to the vote going over on the Scott amendment until 11 o'clock tomorrow morning, and reserving only 5 minutes on each side to precede the vote.

Mr. MANSFIELD. Will the Senator yield?

Mr. HUGH SCOTT. Yes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the Scott-Mansfield amendment occur at the hour of 11 o'clock tomorrow morning.

Mr. ALLEN. Reserving the right to object——

The PRESIDING OFFICER. Is there objection to the unanimous-consent request made by the Senator from Maryland?

Mr. ALLEN. Reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator would have to have time yielded to him.

Mr. MANSFIELD. I ask unanimous consent that the Senator have the time.

Mr. BEALL. A parliamentary inquiry.

The PRESIDING OFFICER. A unanimous-consent request has been made that the Senator have time.

Mr. BEALL. Reserving the right to object, I did not hear the request of the Senator from Alabama.

Mr. ALLEN. I merely suggested the absence of a quorum, but I withhold the request.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that immediately following the vote on the Beall amendment that the vote occur on the Scott-Mansfield amendment.

Mr. ALLEN. Reserving the right to object, I have an amendment I want to add to the Scott amendment, adding George Washington University, Notre Dame University, and Howard College.

The PRESIDING OFFICER. The unanimous consent request does not include that amendment.

Mr. MANSFIELD. I withdraw my request.

The PRESIDING OFFICER. We have the request of the Senator from Maryland.

Without obection, it is so ordered.

Who yields time on the Beall amendment?

Mr. BEALL. I have a further unanimous consent request. I ask unanimous consent that debate on the Scott amendment and the Beall amendment be separated so that the Beall amendment debate shows itself at one point in the Record, and the debate on the Scott amendment shows itself at another point in the Record, and neither interrupted.

The PRESIDING OFFICER. Without obection, it is so ordered.

The Senator from Maryland is recognized.

Mr. BEALL. I am prepared to yield back the remainder of my time, Mr. President.

Mr. MAGNUSON. How much time is left on the Beall amendment to either side?

The PRESIDING OFFICER. There is 10 minutes on either side remaining.

Mr. MANSFIELD. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Maryland has been recognized.

Mr. BEALL. I am prepared to yield back the remainder of my time, but I will reserve my time if the opposition is not prepared to yield back the remainder of their time.

Mr. MANSFIELD. Will somebody yield me 1 minute?

Mr. BEALL. I yield 1 minute.

Mr. MANSFIELD. Will the Senator the Beall amendment, and the time is divided. I have 10 minutes, and I will yield 1 minute.

Mr. McCLELLAN. Let us have order.

Mr. MANSFIELD. For the information of the Senate, at the conclusion of the vote on the Beall amendment that will be the conclusion of business for today.

Mr. McCLELLAN. When do we meet tomorrow?

Mr. MAGNUSON. Mr. President, I yield myself——

Mr. BEALL. I ask for the yeas and nays on the Beall amendment. The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, I yield myself such time as I need.

In the first place, the Beall amendment, which was unprinted, came to us with a great deal of lack of information, though I appreciate the problem that is involved in the county in Maryland. I was hopeful we could come to an agreement that we would limit the prohibition under the Beall amendment until such time as the Committee on Labor and Public Welfare would act and have hearings.

In other words, we would temporarily suspend the expenditure of money in these particular cases.

I was hopeful we could clear this up by having this referred to the committee—the distinguished Senator from New York has agreed to this—or at least limit this amendment to such time as the committee takes a look at it.

There are many, many things involved other than this one county. I agree that HEW should have no problem at all in Maryland, but this amendment goes beyond that. It is a facet of the Helms amendment, which we just defeated. It is the same thing.

Reluctantly, I hope this amendment will not carry at this time.

I will be more than happy to join with the Senator from Maryland, and any others, particularly those of us on the Subcommittee on HEW Appropriations, to see what we can do to clear up this matter. After all, we are trying to clear it up, and we do not do it by passage of legislation such as this.

I agree with the Senator from Arkansas. I just found out this afternoon that they are preparing to do this in other places.

I know how the feelings are about these matters in the Senate. They run high on one side or the other. I am going to ask that we vote against the Beall amendment at this time.

I was hoping that we could modify it and get something done, and we might even accept it if it could be modified. This will become permanent law in the face of the fact that this whole thing has to be cleared up. We have had no hearings on it. Frankly, I did not know anything about this situation until today, and I am sure that many, many members of the Appropriations Subcommittee knew nothing about it.

I agree with the Senator from Maryland that HEW should have called this up long ago, but we ought to take a look at it. This is a very important vote on a amendment that could be permanent law.

Mr. BEALL. Mr. President, in view of what the Senator from Washington has said, I yield myself 3 minutes, or as much time as I may consume.

We have made it entirely clear throughout the course of this discussion that we do not intend to have this amendment apply other than to those kinds of pilot investigations.

The Senator is correct that other investigations are contemplated. It is my contention that before HEW embarks upon this kind of policy, we should have the hearing before the proper committee in Congress. But it is important to note that this will have no effect on any lawsuits now pending or on any lawsuits contemplated, nor does it infringe upon HEW's right or responsibility to investigate any complaints that may come to them among the various States.

I point out, further, that this applies only to this particular appropriation bill, so we are not writing a permanent law. We are writing into this bill a restraint on HEW so far as the expenditure of funds appropriated in this bill are concerned, and that does not make it permanent law.

We are talking about only one situation, and it is a situation that I think deserves attention because of the total insensitivity of the Department of HEW of the needs and requirements and responsibilities of the local school district in the performance of its duties, in conducting an educational system for the benefit of the children of that community.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield the Senator 2 minutes.

Mr. JAVITS. Mr. President, I beg the Senate to listen to this. I am very sympathetic to Senator Beall, and I will help him, no matter how the vote goes. Let us listen to this amendment:

> Provided further, that none of the funds contained herein shall be used to compel any school system, as a condition for receiving grants and other benefits, to participate in any pilot investigation of the problems of discrimination in disciplinary action.

That is the essential quote. That is essentially a part of the whole which we dealt with in the Helms amendment. If anything, it is even worse, because the Helms amendment deals with busing. This deals with discrimination in disciplinary actions.

To take an action such as this, just a blind shot, because a Member has had problems with the agency, whereas the normal way in which we deal with those problems is by bringing the weight of the committee to bear upon that agency, it seems to me is unwise; and that is the point I tried very hard to make with Senator BEALL.

I regret that we are compelled to vote on this matter, but we are. Every Member has a right to offer any amendment he chooses. It is a blind shot, considering the range of problems which come under discrimination. Here is one that has nothing to do with busing. This is a deeply held question of how we shall discipline children in schools, whether there should be any discrimination in such disciplinary proceeding; and if there is, we certainly want to safeguard that correction, rather than to go for this amendment, which lets it go scot-free, without even an opportunity to look into it.

So while I appreciate very much Senator BEALL's view, I fully concur with Senator MAGNUSON that this is an important civil rights vote, and I shall vote against the amendment.

Mr. BEALL. Mr. President, I hope to conclude this debate, but I suggest that the Senator from New York and others are raising a smokescreen here.

We are talking about a closely restricted activity. We are talking about pilot investigations. We are not restricting the Department of HEW in their responsibility of investigating complaints that come through the normal channels. All we are suggesting is that before they embark upon a pilot investigation which may lead to the eventual cutoff of funds, Congress should know something about this, before they cut off the funds of a school district—a county or a State. We have restricted it to a pilot investigation.

As I pointed out, there is only one such pilot investigation that has been embarked on to date. Others are contemplated. Before we go further down the road, I think Congress should hear from HEW.

This has come about because HEW has not responded to an initial complaint that was raised in May of 1973, and since May 1973 they have set a school system in turmoil and have been consuming the time, energy, and money of that system, and it has been contrary to the best educational interests of the children in that system.

I think the Senate should act in this matter and should speak out in this matter, and the Department of HEW should know the feelings of the U.S. Senate. Therefore, I think we should vote on it and vote in favor of it.

Mr. President, if there is no further discussion, I will be happy to yield back the remainder of my time.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, will the Senator withhold that request?

Mr. JAVITS. Yes.

Mr. MANSFIELD. Mr. President, I indicated earlier that the vote on the Beall amendment would be the last vote this evening. I meant the last recorded vote this evening. If there are any noncontroversial amendments which are agreeable to both sides, they will be handled.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. JAVITS. I do not think there is any more time.

The PRESIDING OFFICER. Eight minutes remain on the amendment.

Mr. MONDALE. I just wanted to speak to the majority leader about my amendment, which I have cleared with the leadership.

Mr. MANSFIELD. That is what I had in mind.

Mr. MONDALE. Is it the intention that I should call it up after this vote?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

Mr. BEALL. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Hathaway). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, at the request of the distinguished Senator from Massachusetts (Mr. Brooke), who cannot be here at this time, I move to table the pending amendment, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from Rhode Island (Mr. Pastore), the Senator from Illinois (Mr. Stevenson), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) and the Senator from Minnesota (Mr. Humphrey) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Colorado (Mr. Dominick), the Senator from Michigan (Mr. Griffin), the Senator from Florida (Mr. Gurney), the Senator from Arizona (Mr. Goldwater), and the Senator from Illinois (Mr. Percy) are necessarily absent.

I also announce that the Senator from Maryland (Mr. Mathias) is absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 45, nays 34, as follows:

[No. 486 Leg.]

YEAS—45

Abourezk
Aiken
Bayh
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Clark
Cotton
Cranston
Gravel
Hart
Hartke
Haskell
Hathaway
Huddleston
Hughes
Inouye
Jackson
Javits
Magnuson
Mansfield
McIntyre
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Symington
Taft
Weicker
Williams

NAYS—34

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bible
Brock
Byrd, Harry F., Jr.
Chiles
Curtis
Dole
Domenici
Eastland
Ervin
Fannin
Fong
Hansen
Helms
Hruska
Johnston
Long
McClellan
McClure
Metcalf
Nunn
Roth
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—21

Bentsen
Buckley
Church
Cook
Dominick
Eagleton
Fulbright
Goldwater
Griffin
Gurney
Hatfield
Hollings
Humphrey
Kennedy
Mathias
McGee
McGovern
Pastore
Percy
Stevenson
Tunney

So the motion to lay on the table was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, may I ask——

The PRESIDING OFFICER. The Senate will be in order. The Chair cannot hear the Senator from Washington.

Mr. MAGNUSON. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. May I ask the leadership what are the plans on coming in tomorrow, at what time?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. Mr. President, for the benefit of those interested in HEW, the majority leader tells me that we will meet at 10 a.m. tomorrow when we will proceed.

Mr. ALLEN. Mr. President, I have an amendment at the desk and I ask that it be stated.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Scott-Mansfield amendment be made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment of the Senator from Alabama.

The assistant legislative clerk read as follows:

> The Senator from Alabama (Mr. Allen) proposes an amendment to the Scott-Mansfield amendment to add at end of the amendment of Mr. Scott, Pa., and Mr. Mansfield the following:
>
> $10,000,000 to G.W.U. in Washington.
>
> $10,000,000 to Notre Dame in Indiana.
>
> $10,000,000 to Howard University, Washington.
>
> $10,000,000 to Brandeis University.
>
> $10,000,000 to Rockefeller University.
>
> $10,000,000 to Vassar College, Poughkeepsie.
>
> $10,000,000 to Tuskegee Institute.

Mr. McCLELLAN. Mr. President, will the Senator yield? Will the Senator advise us whether there is that much money in the Treasury subject to being appropriated out of profits from the sale of these dollars?

Mr. ALLEN. We were assured by the Senator from New York there were millions upon millions that have been realized as a profit from the sales.

Mr. McCLELLAN. We ought to ascertain it before we go overboard and appropriate more than the profits.

Mr. ALLEN. The Senator can vote as he sees fit. I am advised there are funds there. As a matter of fact, I believe it is up in the hundreds of millions of dollars.

Mr. McCLELLAN. Maybe we ought to add some other colleges if the money is there.

Mr. ALLEN. Well, I think that might be a good idea, but the purpose of the amendment is to illustrate and point out that there are a number of private universities and colleges throughout the country that also need help, and that it is not a good policy to appropriate $10 million to a private college. That is the purpose of the amendment. If we are going to start appropriating for private colleges, let us get a list of fine colleges that need the funds.

I feel sure that George Washington University could use an additional $10 million; that Brandeis University could use an additional $10 million; Notre Dame University could use an additional $10 million; Howard University, here in the city of Washington, could use an additional $10 million; Tuskegee Institute in Alabama could use an additional $10 million; Vassar College in Poughkeepsie, N.Y., could use an additional $10 million. If we start appropriating to private colleges, let us add a sufficient number of other private colleges that need funds, and not just confine it to one college, one private school.

Mr. HUGH SCOTT. Mr. President, this is simply an attempt to implement an authorization and to provide a living memorial for the late President Eisenhower.

I, therefore, move to table the amendment to the amendment.

Mr. ALLEN. The time has not yet expired.

Mr. HUGH SCOTT. I yield back the remainder of my time.

Mr. ALLEN. I have not yielded mine back as yet.

Mr. HUGH SCOTT. I yield back my time. If the Senator from Alabama is ready to yield back his time——

Mr. ALLEN. I first want to see if there are any others who want to speak on either side, and I would be prepared to yield time to any Senator who wishes to speak on any side.

Mr. HUGH SCOTT. All right; I yield back my time.

Mr. ALLEN. I will yield back my time in order to have consideration of the motion.

Mr. HUGH SCOTT. Mr. President, I move to lay on the table the amendment to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table (putting the question).

There is a doubt as to the vote.

Mr. HUGH SCOTT. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. A division is requested. Senators in favor of the motion to lay on the table will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division the motion to lay on the table was agreed to.

Mr. HUGH SCOTT. Now, Mr. President, I believe the distinguished majority leader has made a statement that no more rollcall votes will occur tonight.

Mr. MANSFIELD. Mr. President, if there is any further debate tonight, there will be no further rollcall votes tonight.

ORDER FOR A VOTE ON THE SCOTT-MANSFIELD AMENDMENT TO OCCUR AT 11 O'CLOCK TOMORROW MORNING

Mr. MANSFIELD. Mr. President, I ask unanimous consent—and I think this is cleared with the chairman of the committee, and the Senator from Alabama—that the yea-and-nay vote on the Scott-Mansfield amendment will occur at the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. The distinguished majority leader asked that I not call up an amendment this evening. I wonder if we can have an agreement to have a vote on that amendment after the vote on the Scott-Mansfield amendment?

The PRESIDING OFFICER. The Chair will state that on the Scott-Mansfield amendment there remain 10 minutes on the side of the proponents, and that 25 minutes remain for those in opposition.

Who yields time?

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that of the time remaining, 5 minutes be reserved on each side for debate to begin at 10:50 tomorrow, and the yea-and-nay vote to occur at 11 o'clock.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HUGH SCOTT. I yield back such additional time as I may have.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns tonight it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. ALLEN. Mr. President, due to a commitment of more than 2 months' standing, at which time I thought the Senate would not still be in session in a lameduck session. I ask unanimous consent that I be given leave of absence from the Senate on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1975

The Senate continued with the consideration of the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

Mr. JOHNSTON. Mr. President, under the unanimous-consent agreement agreed to on yesterday, I would like to recall my amendment which has already been submitted and debated, which I understand is agreeable to the proponents of the bill.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to read the amendment.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 5, after "as amended," delete "$128,438,000" and insert in lieu thereof "$155,250,000".

On page 13, line 6, after "amount" delete "$63,319,000" and insert in lieu thereof "$77,625,000".

Mr. MANSFIELD. Will the Senator yield?

Is this an amendment on the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSTON. That is correct.

Mr. MANSFIELD. I had informed the Senate that there would be no further voting on the bill tonight, I would say to the distinguished Senator.

Mr. JOHNSTON. If the distinguished majority leader please, I understand this is agreeable and——

Mr. McCLELLAN. This amendment is acceptable to the manager of the bill, the chairman of the committee, and I know of no reason why it might not be accepted, unless someone wants it to go over until tomorrow.

Mr. MANSFIELD. No, just so there are no rollcall votes.

Mr. COTTON. Will the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. COTTON. Has this proposed amendment been taken up with the Senator from Washington, the chairman of our subcommittee?

Mr. JOHNSTON. It has been taken up with his staff. It is agreeable.

Mr. COTTON. Will the Senator tell us what the amendment is?

Mr. JOHNSTON. Yes, this amendment was introduced yesterday and was explained in full and under unanimous-consent agreement was to come up today.

Very simply, what it does is carry out the will of the Senate as expressed in an amendment a few weeks ago to the education bill which says no State can receive less than 90 percent of the funds which it received last year. Under the new formula and under the new funding, the funding for adult education is so small that many States, my State included, get less than 90 percent of what they gave yesterday.

This bill simply increases the funding to carry out that 90-percent limitation.

Mr. JAVITS. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. JAVITS. For one critical point, because I happen to be on this amendment, and that is, this is for adult education and you have a big problem with that in many States in the South.

Mr. JOHNSTON. That is correct. My State of Louisiana is the second from the bottom on illiteracy, it is losing $260,000 this year.

Mr. JAVITS. I think that is very important, to make it clear it is for adult education especially.

Mr. COTTON. If the Senator will yield further for a moment, I would appreciate it.

Mr. JOHNSTON. Yes.

Mr. COTTON. Even though this only affects adult education, this is similar to a formula we had last year, which I think the Senator will recall was the subject of long and heated controversy. It sets a pattern which would immediately, I think, be followed in the distribution of these funds to the States.

I have information from the Senator from Washington, the chairman of the subcommittee, that he would strenuously object to this being voted on tonight after the announcement that was made by the distinguished majority leader and many Senators have gone home.

I do not care how long we debate it, but I hope there will be no attempt to get a vote on this amendment tonight.

Mr. JOHNSTON. I understood it was agreeable. I brought it up yesterday and acceded to the request to not bring it up yesterday and I waited around here today since 2 o'clock.

I have been on the strip mining conference and waited around on the floor awaiting an opportunity to bring it up.

Mr. McCLELLAN. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. McCLELLAN. The Senator did wish to bring it up yesterday, and I asked him to withhold it so that he would have an opportunity to confer with the distinguished Senator from Washington, because it does come under the purview of his responsibility. That is why it was delayed yesterday.

I understood there was no objection to it and that is why I agreed to accept it.

However, if it is to go over until tomorrow, I suggest it be made the pending business when the Senate reconvenes in the morning. If the Senator wishes to do that.

Mr. JOHNSTON. I, of course, will accede to the request of any Senator, but I would simply point out before the request is made to put it over until tomorrow that I have already done that for 1 day and have waited around today to do it.

I am willing to do it again, if it is necessary, but I think it is such a simple amendment, it does not change the formula, it simply gives effect to what this Senate has already done some weeks ago in saying they cannot get less than 90 percent of what they did last year.

Mr. COTTON. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. COTTON. I would not be necessarily opposed to this. I was not present yesterday when it was debated. This is the first I heard of it.

I am aware of the fact that even though I am the ranking minority member, I am also a lame duck, and I know that lame ducks are the only vanishing species not protected by the environmentalists. However, if my chairman of the subcommittee had agreed, and I am sure that the Senator had that understanding, there must be some misunderstanding because the chief counsel of the subcommittee who works with Senator Magnuson has just informed me that Senator Magnuson hoped it would not be voted on tonight.

Mr. JOHNSTON. Well, I think that is correct. I have a note here to that effect.

Mr. McCLELLAN. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. McCLELLAN. I ask unanimous consent, since the Senator from Louisiana has been very patient and has been trying to get an amendment up and we deferred it for the convenience of the distinguished subchairman of the committee, the Senator from Washington, that this amendment be made the pending business when we reconvene tomorrow.

Mr. JOHNSTON. That is agreeable.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I merely do this to remind Senators that on tomorrow the Senate will come in at 10 o'clock, and at the hour of 10:50 a.m. the Senate will begin debate for 10 minutes on the amendment by Mr. Scott, after which time, at 11 o'clock, there will be a rollcall vote on that amendment, following which the amendment by Mr. Mondale will be called up.

I merely wanted to be sure we were clocking this in to that calendar tomorrow.

Mr. McCLELLAN. Is the Mondale amendment to be called up at a given time?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLELLAN. Unanimous consent?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLELLAN. Then I ask unanimous consent that immediately following the Mondale amendment that this amendment be made the pending business.

Mr. JOHNSTON. What time is that going to be?

Mr. McCLELLAN. That will be about 11 o'clock.

Mr. JOHNSTON. The situation I am in, the strip mining conference which is at its very most critical time, the question is, Are we going to vote or not vote to get a strip mining bill out, and this is important to me and my State as well.

I have waited around all day and I just think that Senators are entitled to some consideration.

Now, I am willing to do it. I have to do it, frankly, in consideration of my colleague, but I just do not think it is right, I have got to say that.

Mr. McCLELLAN. Well, the Senator would have had his amendment up yesterday or earlier today if it had not been for the absence of some other Members. I asked to have it deferred when first brought up to give the chairman an opportunity to be here, because it came within the purview of the bill that is his responsibility.

I was just trying to be accommodating to the distinguished Senator from Louisiana.

Mr. JOHNSTON. I am willing to take it up after the Mondale amendment.

I recognize that the distinguished chairman from Arkansas has done his best to expedite this matter, and I will go along with that request.

Mr. McCLELLAN. Very well.

The PRESIDING OFFICER. The Senator's request is that it will be in order after the disposition of the Mondale amendment.

Without objection, it is so ordered.

The Senator from Virginia.

THE FAVORED-NATION TREATMENT

Mr. HARRY F. BYRD, JR. Mr. President, I have studied the statement to the Congress submitted yesterday by President Ford. I want to comment on just two aspects of it.

The President urges action on the Trade Reform Act. I will say to the Senate that the Finance Committee today decided to, at an early date—maybe tomorrow—report the Trade Reform Act to the Senate. This action was taken, however, with the proviso—with the proviso—that the bill would not be called up in the Senate for consideration until after Secretary of State Kissinger appears before the Finance Committee to answer questions in open session in regard to certain aspects of this legislation.

This action by the committee was taken at the request of the Senator from Virginia. The Senator from Virginia is particularly concerned about the question of most-favored-nation treatment for Russia, and the vast potential for the use of U.S. tax funds for loans to the Soviet Union.

I think it is important, before the Senate takes up this legislation, that the Secretary of State appear before the committee to discuss this matter in detail. He has made a commitment to the Committee on Finance that he will appear before the committee at 10 a.m. on December 3.

So far as the Senator from Virginia is concerned, I have no desire to hold up this legislation. As of today it is my intention to support it. But I feel very strongly that this matter should not be considered by the Senate, and the Finance Committee agreed, until the committee has an opportunity to query Secretary Kissinger.

The Jackson-Vanik amendment is a part of the bill as it is now before the Finance Committee. The plan is to report the bill to the Senate with the Jackson-Vanik amendment intact.

Through recent months there have been negotiations between Senator Jackson and Secretary Kissinger. There has been an exchange of letters. I have read those letters. From the letters I cannot fully comprehend just what they mean. I think the committee and the Senate are entitled to know the details; to know how this proposal will work; what commitments have been made to the Soviet Union; what commitments, if any, have been obtained from the Soviet Union.

I think the decision of the committee today is a thoroughly satisfactory one. I had a commitment from the Finance Committee that the bill would not be reported until the Secretary appeared before the committee, but I have no objection at all—in fact, I think it is just as well—to report the bill to the Senate with the proviso I have just enumerated; namely, that it not be considered by the Senate until the Secretary appears.

So far as I am concerned, I do not care whether the bill rests in the committee or rests here in the Senate. All I want to do is to have the Secretary before the committee so I can put a number of questions to him.

In President Ford's report to Congress yesterday, he mentioned another matter on which he urged early action. He said:

> It is important that the Congress pass the Export-Import Bank bill and avoid attaching unnecessary encumbrances.

I do not know what he means by unnecessary encumbrances. The Senate put a number of what I regard as necessary amendments on the Export-Import Bank bill when it was before the Senate. Then it went to conference.

The conferees discarded every single Senate amendment—every single Senate amendment. Then they brought the bill back here for consideration by this Senate. Some of us had to oppose it. It was put off until after the recess.

I want to state frankly that I intend, when the conference report comes from the House of Representatives—which I understand will be in the next day or so—to do what I can to defeat that conference report. I see no justification for deleting all of the Senate amendments.

Another aspect of it that I am particularly concerned about is that we do not pass Export-Import Bank legislation increasing the loaning authority of the Export-Import Bank from $20 to $25 billion without putting a ceiling on the loans that may be extended to the Soviet Union. The State Department opposes a ceiling.

Already $469 million in loans have been made to the Soviet Union at subsidized interest rates, at an average rate of 6 to 7 percent, when the working people of this country are paying 12 and 14 percent. Yet they still are not satisfied with making available $469 million to Russia of U.S. tax funds.

The Senate wrote into the Export-Import Bank a ceiling of $300 million over and above the $469 million. That would make a total to Russia of $769 million.

It is certainly reasonable, I think, to ask that a ceiling not beyond that amount be put on these credits to the Soviet Union. So far as the Senator from Virginia is concerned, I shall make every effort to defeat the conference report until such time as agreement can be reached to put a ceiling on loans to Russia.

Frankly, I do not quite understand this great love affair our country is having with the Soviet Union, even to the extent of giving subsidized credit to the extent of hundreds of millions of dollars to Russia. We know that Russia bought our wheat with our own money. We know we came out second best on that deal. We know what the Russian grain deal cost the consumers of the United States. We know what the Russian grain deal cost the taxpayers of the United States. Still the State Department is not satisfied and wants the Senate and the Congress to vote the Export-Import Bank without any restrictions on what can be loaned to Russia.

Another reason I am persuaded that I do not want to give a blank check to the State Department on this matter, nor to the Export-Import Bank on this matter, nor to the President on this matter, is the settlement which the State Department made with Russia on the Russian debt.

One of those who participated in the negotiations with the State Department said that the United States drove a hard bargain. Well, here is the bargain: They settled the Russian debt to the United States at 3 cents on the dollar, plus another 24 cents, provided the United States gives Russia most-favored-nation treatment in the way of tariffs, and provided we make huge loans to the Soviet Union. I do not call that much of a deal.

I am perfectly willing to cooperate with President Ford insofar as giving early consideration to the Export-Import Bank bill, but I shall oppose, as strongly as I can, the passage of this legislation unless it includes a savings on the amount of loans to the Soviet Union.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

S.J. RES 258—DESIGNATING NOVEMBER 29, 1974, AS NATIONAL STUDENT GOVERNMENT DAY

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution to authorize and request the President to issue a proclamation designating November 29, 1974, as "National Student Government Day".

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which was read the second time at length.

Mr. ROBERT C. BYRD. Mr. President, this resolution has been cleared with Mr. HRUSKA, Mr. McCLELLAN, and with the joint leadership on both sides of the aisle.

The joint resolution (S.J. Res. 258) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating November 29, 1974, as "National Student Government Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

ORDER FOR RECOGNITION OF SENATOR McCLURE AND SENATOR MANSFIELD TOMORROW AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, Mr. McCLURE be recognized for not to exceed 15 minutes, after which Mr. MANSFIELD be recognized for not to exceed 15 minutes; after which there be a period for the transaction of routine morning business, until 10:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that statements during the period for the transaction of routine morning business be limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION TOMORROW OF H.R. 16900, THE SUPPLEMENTAL APPROPRIATIONS, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business on tomorrow, the Senate resume consideration of the supplemental appropriations bill, Calendar No. 1188, H.R. 16900.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow, the Senate will convene at 10 a.m.

After the two leaders or their designees have been recognized under the standing order, Mr. McCLURE will be recognized for not to exceed 15 minutes, after which Mr. MANSFIELD will be recognized for not to exceed 15 minutes.

There will then be a period for the transaction of routine morning business which will extend to 10:45 a.m., during which period statements will be limited to 5 minutes each.

At the conclusion of routine morning business, the Senate will resume the consideration of the supplemental appropriations bill, H.R. 16900.

At 10:50 a.m., the time on the amendment by the Senator from Pennsylvania (Mr. HUGH SCOTT) will be running. There is a time limitation of 10 minutes, to be equally divided. At 11 a.m., a vote will occur on the amendment by Mr. SCOTT. That will be a yea-and-nay vote, the yeas and nays already having been ordered.

On the disposition of the Scott amendment, the Senate will take up the Mondale amendment, on which there is a time agreement which was previously entered into, limiting time on amendments to 1 hour.

On the disposition of the Mondale amendment, the Senate will take up the amendment by Mr. JOHNSTON.

There will be several yea-and-nay votes on tomorrow.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. STAFFORD. Mr. President, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and at 6:02 p.m., the Senate adjourned until tomorrow, Wednesday, November 20, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 19, 1974:

DEPARTMENT OF STATE

Theodore R. Britton, Jr., of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Grenada.

ADMINISTRATOR OF FEDERAL PROCUREMENT POLICY

Hugh E. Witt, of Virginia, to be Administrator for Federal Procurement Policy. (New position.)

EXTENSIONS OF REMARKS

BERLIN—TEST CASE FOR PEACE, FREEDOM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. DERWINSKI. Mr. Speaker, recognizing the preoccupation of the Members and the media with the present Presidential visit to the Far East, the growing circumstances in the Middle East and the unresolved Cyprus dispute, I, nevertheless, feel it practical for us to review another trouble spot which has, in the past, been a center of the struggle between forces of freedom and forces of oppression.

I refer to Berlin—which remains a symbol of resistance to Communist expansion. Therefore, I deem it most appropriate to insert into the RECORD a speech by Axel Springer that he made in Berlin. The speech was reprinted in the San Diego Union of November 3 and now follows:

[From the San Diego Union, Nov. 3, 1974]

BERLIN—TEST CASE FOR PEACE, FREEDOM

(By Axel Springer)

I accept the view that it is possible for peoples to fall victims to demonism.

And I support the view that Soviet imperialism represents the greatest and most dangerous evil facing the world today.

However, this is a point on which opinions are divided.

The American Senator Henry Jackson, critic of Secretary of State Henry Kissinger, has repeatedly said that a policy of detente must be based on human rights. According to Jackson there can be no detente unless the Soviets abandon their power politics and their immoral principles.

Or in simpler terms: unless Moscow gives up its intention to compel the world by force, lies and terror, to submit to the Soviet yoke.

A policy of detente would be critically dangerous if it were simply aiding and abetting an immoral and abhorrent tyranny over half the world. Many have escaped from this hell only with difficulty and at high cost. However, the danger has not been exorcised.

Where could the need for a rethinking of attitudes be proclaimed with more justice than in the capital of the German people—which is at the same time the German town with the largest number of refugees?

This is where resistance must begin. This is the place where there must be no capitulation to the aggression of Soviet imperialism.

Berlin, all of Berlin, is Moscow's main target on the way to the Atlantic. Its strategy is attrition.

The city is losing its life blood. In 1973 the excess of deaths over births was more than 21,000—the worst figures since 1946. And nearly 10,000 more German citizens left the city than came into it.

But for an influx of 16,000 foreign workers the position would have been serious.

Worst of all, however, Berlin's right to exercise the functions of a capital city has been surrendered. Since the four-power agreement, there have been no official visits by the Bonn Government to Berlin.

The shifting of this year's Free Democratic Party Conference to Hamburg is rightly regarded by Berliners as the most striking piece of complaisance by a democratic party towards Soviet imperialism which has yet occurred.

Berlin has an unrestricted right to be the capital city of the German people, the capital of a German nation which lives on despite the frontiers imposed by force.

This is the particular and exceptional feature about Berlin: it remains a capital city despite demarcation lines, fences of death and walls of shame.

What will become of Berlin?

The East German regime will not even permit Berlin to have a federal office for environmental protection. This, they say, would interfere with detente.

However, the four power agreement, the agreements with the East German Government and the policy of detente, on the other hand, do not prevent the Soviet Bloc from continuing its material, spiritual and political isolation and blockade of West Berlin.

The "German Democratic Republic," the Soviet Union and other East Block countries continue to infringe upon the letter and the spirit of the four power agreement and treaties.

If Berlin is to survive the struggle, if it is to remain a vital metropolis of the German nation, open to the world, then it is necessary that a commitment to Berlin must be created.

From a number of facts we know that the Soviets have made a very precise study of the works of the Prussian master of the art of war, Carl von Clausewitz.

One of Clausewitz's maxims is: "The principal objective in a war is always the enemy's capital."

They maintain this objective even in time of peace. For it was Lenin who said: "Whoever holds Berlin, holds Germany, and whoever holds Germany holds Europe."

The first objective of the Soviets is Berlin. They will then lay claim to the whole of Germany.

Berlin then must become the center of a German nation, open to the world, peace loving, industrious and courageous—even while the nation remains divided.

Berlin is a test case—where peace and freedom have to be won.

In contrast to those across the wall who are constantly marching, parading and clanking their weapons, our arm is justice. Our demand is for self-determination for the way to reunification can only be via self-determination.

Human rights, the right to live in one's own country, and the right of self-determination, are the triple constellation of our aspirations.

ENERGY TRANSPORTATION SECURITY ACT OF 1974

HON. CARL T. CURTIS

OF NEBRASKA

IN THE SENATE OF THE UNITED STATES

Tuesday, November 19, 1974

Mr. CURTIS. Mr. President, the Senate will soon be considering the conference report on H.R. 8193, the Energy Security Transportation Act of 1974, or the so-called cargo preference. This bill mandates that 30 percent of U.S. imports of petroleum and petroleum products be carried in American constructed and registered tankers.

The House has passed this conference, so our Nation is the only hope left for the consumer. Only we stand in the way of a highly inflationary bill being passed.

Tomorrow, I will report to the Senate in detail on the inflationary analysis of this bill. I just today received an excellent analysis of the highly inflationary impact of H.R. 8193 by Mr. Roy Ash, Director of the Office of Management and Budget.

I wish to call the attention of my colleagues to this letter so they can clearly understand the anticonsumer, inflationary aspects of H.R. 8193.

Mr. President, I ask unanimous consent that Mr. Ash's letter to me dated November 19, 1974, be made a part of the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of Management and Budget,
Washington, D.C., November 19, 1974.

Hon. Carl T. Curtis,
U.S. Senator,
Washington, D.C.

Dear Senator Curtis: Thank you for your letter of October 29, requesting our views on the inflationary impact of H.R. 8193 ("Energy Transportation Security Act of 1974").

The Office of Management and Budget remains strongly opposed to enactment of this bill. In addition to the problems it would create for our national security and our relations with other nations, it is clear that it would have a serious inflationary impact.

The bill would result in a serious and immediate increase in the cost of petroleum imports. Estimates of the cost of using older and less efficient U.S. tankers that could be dedicated to foreign trade show that existing U.S. flag ships would require rates at least 200 percent higher than for foreign flag ships, and this differential could be as much as 300 percent depending on the route.

There would also be a serious cost increase for the domestic transportation system. Current U.S. flag tanker capacity is not sufficient to meet both domestic requirements and the 20 percent of oil imports reserved under the oil cargo preference bill. This overall shortage will put strong upward pressure on domestic shipping rates. Freight rate increases of 150 percent for domestic ocean borne transportation of petroleum could be expected.

The total short-term cost impact could vary from $300 to $600 million per year depending on the level of oil imports and the prevailing foreign flag charter rates. Increased oil imports are anticipated, and freight rate projections suggest that a serious over-tonnage situation is developing worldwide which is expected to depress freight rates. Both these factors would tend to increase the cost impact resulting from the use of U.S. flagships.

The bill would also have an adverse inflationary impact on the U.S. ship construction industry. Most major U.S. yards are now operating at or near their current capacity. The demand for labor at shipyards is now increasing at a rate of 8 to 12 percent per year, resulting in severe skilled labor shortages. Serious material shortages began developing in 1973 and steel shortages have become critical for some yards. A recently completed nationwide survey of yards by the Maritime Administration showed almost half had experienced delays or anticipated future delays in the delivery of steel. The added demand for ships created by this bill will aggravate these shortages and add to the difficulty faced by the Navy in contracting for ships to meet its force requirements.

The material price index for ships has gone up 22.6 percent in the six month period ending July 1974, while the increase for all of FY 1973 was only 6.2 percent. Average hourly earnings have increased nine percent during the last year. Given the demand for new ships which will be created, yard capacity may have to be expanded by as much as 50 percent, according to industry sources. Unfortunately, the bill provides no incentive to the yards to hold down construction costs. Whatever industry wide increases in investment or operating costs occur in the scramble for new ships would be passed along to consumers through higher than prevailing world freight rates, which the bill would allow.

Supporters of the bill have argued that it provides for a rebate on oil import fees to offset part of the cost impact. They fail to point out, however, that no more than 5 to 10 percent of all crude oil imports incur such fees today. Since the bill's provision for rebate is only for a five year period, rebates will cease at about the time that import fees begin to be applicable to the majority of crude oil imports. Consequently, there would not be any meaningful relief from the increased costs associated with the bill through this rebate provision. In any case, whatever reduction in oil import fees that does occur will reduce revenues to the Treasury and will, therefore, be absorbed by the American public.

The serious adverse impact that this bill would have on our economy, our national security and our foreign relations is clear. The passage of this bill by the Congress would be extremely undesirable.

Thank you for the opportunity to express our views. I hope that this information will be useful to you.

With warm regards,
Sincerely,

Roy L. Ash,
Director.

WILL MANGANESE NODULE MINING DISTURB THE MARINE ENVIRONMENT?

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, November 19, 1974

Mr. METCALF. Mr. President, one of the leaders in research on the effect of the mining of manganese nodules on the marine environment is Dr. Oswald A. Roels, chairman of Biological Oceanography, Lamont-Doherty Geological Observatory of Columbia University. A summary of one of his reports is part of the hearing record on "Mineral Resources of the Deep Seabed"—Subcommittee on Minerals, Materials and Fuels, Committee on Interior and Insular Affairs, on S. 1134, May–June 1973.

Last month Dr. Roels presented a paper entitled "Will Manganese Nodule Mining Disturb the Marine Environment?" at the International Conference on the Exploration of the Oceans held in Bordeaux, France. In September he had presented the paper at the annual meeting of the Marine Technology Society here in Washington. It appeared in the Marine Technology Society Journal of September 1974.

Dr. Roels makes the point that, on the basis of admittedly incomplete research to date, it appears that the effect of seabed mining of manganese nodules and lifting them, together with sediment and near-bottom water, to the surface would be small.

However, if processing began at sea, it would be a different ball game. As Dr. Roels writes:

> The processing and extractive metallurgy of manganese nodules at sea, and the discharge of waste materials resulting from this processing, could be far more dangerous unless adequate precautions are taken.

Mr. President, I commend this important paper to those interested in this future source of minerals basic to our economy. I ask unanimous consent that the above mentioned paper be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WILL NODULE MINING DISTURB MARINE ENVIRONMENT?

(By Oswald A. Roels)

The presence of extensive manganese nodule deposits over much of the deep ocean basins and the increasing need for the metals contained within these nodules has recently led to international commercial interest in mining these deposits.

This interest, particularly on the part of the most highly developed nations, has been greatly stimulated recently by the use of rapidly decreasing, known, landbased mineral resources by smaller nations to further their national and international, political, economic or military objectives.

There is no doubt that environmental considerations and arguments—with or without sound technical basis—will be used in international legal, political and economic deliberations concerning the exploitation of the mineral resources of the seafloor, as has already been the case in the United Nations Seabed Committee.

Several mining tests have already been completed, many more in preparation and at least one full-scale mining vessel is undergoing sea-trials. The prospect of imminent extensive deep-sea mining requires serious consideration of the environmental impact of this activity, since it could affect the benthic and pelagic environments. It is essential that the environmental implications of manganese nodule mining from the deep-seafloor should be thoroughly understood, evaluated and documented before such mining is attempted on a large scale.

UNIQUE COLLABORATION

The proposed mining of manganese nodules from the deep-seafloor has triggered a perhaps unique collaboration in the United States between the government, the mining industry and academic institutions to determine the environmental impact of the proposed mining operations *before their start.* This is in great contrast to other important industrial developments, where environmental concerns have usually only arisen after—sometimes serious—damage was caused to the environment. By taking preventive action, it should be possible to greatly reduce or completely eliminate potential environmental hazards due to the mining operations.

It is our sincere hope that collaboration to ensure safe deep-sea mining methods will bring together all nations interested in this activity, and thus lead to the development of mining techniques with beneficial environmental effects.

This discussion will be restricted to the consideration of the impact of manganese nodule mining on the marine environment. The metallurgical operations to extract the valuable metals such as copper, nickel and cobalt from the manganese nodules should be comparable to their environmental effects to land-based operations of a similar nature. However, if the ore processing would take place at sea, special precautions would have to be taken for the discharge of waste materials. Since secondary land use (including land-based processing plants and tailings disposal sites) and social and demographic patterns affected by marine mining or ore processing are not exclusive problems of deep-sea mining, they are outside the scope of this recommendation. Similarly, the environmental impacts of alternative means of obtaining metal ores and the environmental analysis of the utilization of minerals obtained from the marine environment are not considered here.

The managanese nodule areas of the greatest commercial interest are situated in the north equatorial central Pacific Ocean in water depths between 10,000 and 18,000 feet at least 1,000 miles from shore. The nodules are generally found in areas of extremely slow sedimentation of red clay and siliceous (radiolarian) ooze. The manganese nodules lie mainly on top of the sediments covering the ocean bottom underlying oceanic water masses of very low biological productivity. No deep penetration of the sediment will, therefore, be required to retrieve them. Manganese nodules are extremely rare in areas where there is rapid sedimentation, e.g. on those parts of the seafloor underlying areas of high biological productivity in the water column, giving rise to rapid sedimentation of biogenic oozes.

Manganese nodule distribution on the ocean floor and technical and economic factors governing their retrieval from the depths will, therefore, greatly limit the areas to be mined. We will, therefore, consider in our discussion only relatively flat, sediment-covered parts of the ocean floor, with a high density of manganese nodules on, or very close to, the surface of the sediment.

In the first steps of the mining operation, the manganese nodules are collected from the ocean floor, usually from great depths, and transported through the water column to a surface vessel.

MINING TECHNIQUES

The collection of manganese nodules will result in the removal and redistribution of sediments and benthic organisms on the ocean floor. In all mining operations, it is likely that there will be considerable resuspension of sedimentary materials in the near-bottom waters. All the different techniques under consideration for nodule mining will try to avoid as much as possible the retrieval of sediments with the nodules. The continuous-line-bucket-dredge (CLB) system tested in the Pacific in 1971 and 1972, used buckets of 40-centimeter depth with a maximum penetration into the sediment of about 20 centimeters, but probably much less in practice. The other systems propose to utilize bottom-gathering devices connected with hydraulic or air-lift pumping systems to transport the nodules to the surface through a pipeline system.

All these machines have components which contact the ocean bottom to make a first separation of the nodules from the surrounding sediment. This first separation is achieved by a chute with water jets, heavy spring rake tines, a radial tooth roller, harrow blades and water jets, or spaced comb teeth. Many of the machine concepts employ adjustable collecting elements so that changes can be made during the mining operation to accommodate variations in the nodule deposit and sediment characteristics. A second important feature of all the collecting machines is a controlled digging depth into the ocean bottom. The interest is usually centered within the upper few inches of the sediment.

It is obviously in the interest of the mining operation to separate the nodules from the sediment as well as possible on the ocean floor and to disturb the sediment as little as possible, compatible with efficient collection of the nodules. However, it is equally obvious that significant disturbance of the sediment and the sessile benthic organisms which cannot escape the oncoming dredge will occur. A cloud of sediment will undoubtedly be stirred up in the near bottom water layers. The distribution and resedimentation of the stirred-up particles will obviously be governed by their density and other sedimentation characteristics as well as by the near-bottom currents. This resuspension of sedimentary materials will influence the near-bottom water mass as well as certain areas of the ocean floor from which sediments have been removed, as well as other areas where redeposition will occur.

The near-bottom water mass may retain in solution certain compounds leached out from the sediment or from the interstitial water. For instance, it is conceivable that the trace metal content of the near-bottom water could be increased by this resuspension of sediment, this stirring up of the bottom. This enrichment of the near-bottom water in certain compounds may have a stimulatory or inhibitory effect on organisms living in the deep ocean near the seafloor.

POSSIBLE EFFECTS

On the whole, important effects seem unlikely both in view of the relatively low density of the near bottom prowlers and the fact that the sedimentary material arrived on the seafloor as a result of natural sedimentation processes. It has been argued that the redistribution of sediment on the ocean floor resulting from natural phenomena exceeds by many orders of magnitude on a world-wide scale any disturbance caused by all the dredges ever likely to be utilized in deep sea mining. However, it remains equally clear that local disturbance of sediment may have a certain impact on the deep-sea fauna and flora. This is particularly the case of sessile animals which may have a very slow reproductive cycle. However, it is unlikely that any mining operation will cover 100 percent of a given area of the seafloor: thus, if bands of adequate width on the seafloor were left undisturbed in a mined area, the deep-sea fauna and flora should be able to reestablish themselves in those areas where the dredge heads have destroyed it. This process of recolonization would be quite rapid on a geological time scale.

In general, we know that the biomass of the sessile fauna on the deep-seafloor is very small particularly in manganese nodule areas and therefore the quantitative impact of deep-sea mining on the marine flora and fauna should be quite small. Another possible result of the disturbance of the sediments and their resuspension in the water column is the transplantation of spores or other dormant or live forms of microorganisms from one area, where they lay in the sediment, to another, whether they may be transported by water currents in the overlying water masses after resuspension from the sediment by the dredge. Initial observations on some viable phytoplankters occurring in deep-sea sediment have been described.

After the manganese nodules have been collected from the seafloor with certain quantities of sedimentary material, they are transported through the water column to the surface mining vessel either in the buckets of a continuous line dredge or in a water stream through a pipeline. In both modes of transport, some or all of the accidentally gathered sediment and near-bottom water may be discharged, either at the surface or at intermediate depths in the water column. The effect of these discharges at the surface has been measured or forecast by my group.

To date, there is no information concerning the rate of sedimentation of discharged particulate matter. We have some information concerning the influence of deep-sea sediment on the productivity of waters in the euphotic zone. The influence of dissolved nutrients from interstitial water, or near-bottom water, on the chemical composition of the overlying water column can readily be calculated from the rate of mixing and the fate of the discharged near-bottom water. This mixing will be governed by the salinity and temperature of the near-bottom water at the time of discharge as well as by the salinity and temperature of the receiving water mass.

The possibility of the introduction of foreign species of phytoplankters which were dormant in the sediments but may come to life under the temperature, light and oxygen conditions prevailing in the overlying water column should also be considered.

From the admittedly incomplete results of our work to date, it appears that the effect of the mining operation and of the vertical transport of the manganese nodules, sediment and near-bottom water to the surface, and its discharge at the surface or at intermediary levels in the water column, is small.

The processing and extractive metallurgy of manganese nodules at sea, and the discharge of waste materials resulting from this processing, could be far more dangerous unless adequate precautions are taken.

However, most major concerns involved in the development of manganese nodules have determined that at least for first generation plants, economical processing can only be accomplished ashore. The principal reasons for this area that the reagent transportation costs will be equal to, or greater than the nodule transport costs, and problems of waste disposal and environmental protection will be much greater at sea than on land. However, should all processing take place at sea, at least as great care should be taken for waste disposal resulting from the metallurgical process as is now done on land: we should have learned the lesson that we cannot willfully damage our environment without bad consequences for the quality of life.

PROPOSALS

To ensure the safe development of this resource, and to avoid costly and drawn out legal wrangling based on the unsubstantiated opinions of "experts" for opposite viewpoints, it is clearly necessary that an orderly procedure be followed and that all environmental factors related to deep-sea mining be well documented.

We therefore propose that the following procedure be adopted:

1. The establishment of base-line conditions in the potential mining areas. This study could be continued and completed—if necessary—simultaneously with the subsequent phases of the procedure.
2. The environmental monitoring of pilot and/or full-scale mining operations.
3. The documentation of changes induced in benthic and pelagic ecosystems by deep-sea mining and evaluation of their implication in relation to current and potential maritime resources.
4. If necessary, the recommendation of changes in mining methods and equipment based on the facts established in 2 and 3.
5. The formulation of environmental criteria and regulations for future mining operations to minimize harmful environmental effects while enhancing the development of potentially beneficial by-products.
6. The monitoring and enforcement of 5.

This procedure could be implemented rapidly by the United States alone or in collaboration with one or more of the most interested nations and could then serve as a model for possible international adoption. We believe that there is no other way to develop this resource and preserve and protect the quality of our marine environment.

References

Horn, D.R., Horn, B.M. and Delach, M.N., "Ferromanganese Deposits of the North Pacific," Technical Report No. 1, National Science Foundation, GX-33616, Washington, D.C. 20550, U.S.A., 1972.

Masuda, Y., Cruickshank, M.J. and Mero, J.L., "Continuous Bucket-Line Dredging at 12,000 Feet," Offshore Technology Conference, April 1971, p. 1410.

Welling, C.G. (Lockheed Missiles & Space Company, Inc.), "Some Environmental Factors Associated with Deep Ocean Mining," Eighth Annual Marine Technology Society Meeting, Washington, D.C., Sept. 11–13, 1972.

Garland, Charles (Director of Advanced Engineering) and Hagerty, Royal (oceanographer, Deepsea Ventures, Inc.), "Environmental Planning Considerations for Deep Ocean Mining," Eighth Annual Conference and Exposition, Marine Technology Society, Washington, D.C., Sept. 11–13, 1972.

Malone, T.C., Garside, C., Anderson, O.R. and Roels, O.A., "The Possible Occurrence of Photosynthetic Micro-organisms in Deep-Sea Sediments of the North Atlantic," *Jour. Phycology*, in Press.

Amos, A.F., Garside, C., Haines, K.C. and Roels, O.A., "Deep-Ocean Mining: Some Effects of Surface-Discharged Deep Water," in: *Papers from a Conference on Ferromanganese Deposits on the Ocean Floor*, Jan. 20–20, 1972, Arden House, Harriman Campus, N.Y., David R. Horn (Ed.). Publ. of Office of IDOE/NSF, Washington, D.C., 1972, pp. 271–281.

Cardwell, Paul H. (Director of Research, Deepsea Ventures, Inc., Gloucester Point, Virginia), "Extractive Metallurgy of Ocean Nodules," 1973 Mining Convention/Environmental Show of the American Mining Congress, Denver, Colorado, September 9–12, 1973.

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ISRAEL AND THE "PLO"

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. LEHMAN. Mr. Speaker, the world is being subjected to an unprecedented propaganda barrage by Arabs who favor the liquidation of Israel. The occasion is the invitation by a majority of the United Nations to the Palestine Liberation Organization—PLO—to speak before the General Assembly.

This unprecedented invitation to allow a nongovernmental group to address the U.N. raises serious questions about the continuation of the world organization as a responsible international forum.

Just as disturbing is the ability of the Arabs, fueled by their new oil-based power in world affairs, to spread lies and falsehoods about the situation in the Middle East.

Mr. Speaker, I would like to note just a few important points which unmask the intentions of the so-called Palestine Liberation Organization.

First, we should recall that there are already 20 Arab states and 37 Moslem states in the world. The Jewish people, with a history and culture extending back over 4,000 years, need apologize to no one for insisting upon the continued existence of Israel as the one Jewish state in the world.

Second, the Palestinians already have an independent Arab state of their own. The majority of the population of Jordan is comprised of Palestinian Arabs.

Third, the Soviet Union is a major force behind the continued existence of the PLO. The weapons and the military training of PLO terrorists come from the Soviet Union. It was no accident that Arafat's first stop after the U.N. was a visit to Castro's Cuba, Russia's prime base in the Western Hemisphere.

Fourth, the PLO is not a legitimate government, but rather a collection of terrorist groups. The PLO does not wage war against military targets where the killing of civilians is accidental. Rather it purposely seeks out civilian targets for murder such as the Olympic athletes in Munich, the U.S. Ambassador in Khartoum, the school children in Maalot, and the housewives at home with their infants in Kiryat Shmona. Arafat even had the insensitivity to address the U.N. wearing a pistol, an action which should offend peace-loving people everywhere.

Fifth, the problem of the Palestinian refugees is not a problem for Israel to solve. It is an Arab problem. The solution which should have come years ago and which is still valid today is the resettlement of the Palestinian refugees in the 20 Arab countries, including Palestinian Jordan, which have the land and the wealth to easily accomplish this move. With far fewer resources, Israel long ago resettled some 700,000 Jewish refugees from Arab lands.

Mr. Speaker, I do not doubt for 1 minute the resolve and ability of the people of Israel to stand in their own defense. Nor do I doubt the continued support of Israel by the people of the United States. What I do question is the behavior of those scores of nations who welcomed the PLO terrorists to the United Nations Assembly.

SOCIETY OF PROFESSIONAL JOURNALISTS—SIGMA DELTA CHI URGES CONGRESS TO OVERRIDE THE VETO OF H.R. 12471, FREEDOM OF INFORMATION ACT AMENDMENTS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, last week the President addressed the annual convention of the Society of Professional Journalists—Sigma Delta Chi—in Phoenix, Ariz. His address and a wide-ranging press conference were broadcast nationally and received considerable press coverage the following several days. In his remarks, President Ford defended his October 17 veto of the amendment to the Freedom of Information Act, passed by Congress last month by a virtually unanimous vote.

Several days later, the members of Sigma Delta Chi attending the convention adopted a resolution reaffirming their support of H.R. 12471 and urging Congress to override the veto. I should point out, Mr. Speaker, that one of the many outstanding witnesses who testified on the bill which later became H.R. 12471 was Mr. Courtney R. Sheldon, a distinguished journalist for the Christian Science Monitor and then chairman of the Freedom of Information Committee of Sigma Delta Chi.

Since the Sigma Delta Chi resolution adopted on Saturday, November 16, 1974 naturally did not receive the attention that the President's appearance at the convention invoked, I include the full text of the resolution at this point in the RECORD:

RESOLUTION ADOPTED AT THE CONVENTION OF THE PROFESSIONAL SOCIETY OF JOURNALISTS—SIGMA DELTA CHI—PHOENIX, ARIZ.

Whereas: Weaknesses in the Freedom of Information Act of 1966 have prevented adequate public access to Government data, and

Whereas: Congress overwhelmingly passed a measure that would have removed some of those weaknesses, and

Whereas: The measure passed by Congress was adopted only after considerable debate and compromise over objections that sensitive military and intelligence information needed protection, and

Whereas: Despite overwhelming support of the measure and the compromises made to insure its passage, the measure was vetoed by President Ford on October 17, and

Whereas: The Society of Professional Journalists, Sigma Delta Chi has long supported efforts to assure the greatest possible public access to public records, now, therefore:

Be it resolved that the Society restates its belief that the measure passed by the Congress would be of significant benefit to the American people by providing greater access to Government data, and

Be it further resolved that the National Convention of the Society urges Congress to override President Ford's veto.

PHILADELPHIA SAVES TAXPAYERS' MONEY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. EILBERG. Mr. Speaker, government at every level must always be on the lookout for ways to save the taxpayers' money.

My city, Philadelphia, will cut its costs by some $63,000 a year by switching to longer lasting synthetic motor oil for its 954-vehicle Police fleet.

According to city officials the synthetic engine oils provide at least 40,000 miles of driving, compared to 5,000 miles with customary lubrication. Oil filters are good for at least 20,000 miles with the new synthetics, instead of 5,000 miles with the present petroleum-based oils.

Although the synthetic oil is more expensive initially, direct cost savings will come from using less oil, fewer oil filters, and considerably less garage times and manpower. An added benefit will be that each vehicle and its driver will remain on patrol an additional 9 hours per year, an estimated 8,586 patrol hours for the fleet.

Philadelphia police vehicles patrol an average of 60,000 miles per year. Following routine maintenance programs now, each vehicle received an oil change and new filter every 5,000 miles or 12 times per year. This adds up to 5 fresh quarts of oil, 1 filter, and 1 hour of mechanic's time, every visit. During that hour, the car is off the street.

The new synthetics, although they cost more per quart, will require less than two oil changes and only three filter changes each year. Additionally, the city will need to store less oil, for a space saving and a reduction in fire potential.

Present annual per-vehicle maintenance cost is $101.28, for a total fleet cost of $96,621.12. With the new synthetic motor oils, the costs will be $35.22 per vehicle and $33,599.88 per year.

Synthetic motor oils are used extensively in military and aircraft applications. City officials anticipate no trouble with the switch, especially since they will continue their routine motor-oil inspection program.

Each vehicle in the police fleet is involved in the program whereby a sample of oil is extracted monthly and subjected to laboratory analysis to determine its condition.

THE CASE OF GENERAL BROWN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. LEHMAN. Mr. Speaker, the recent public comments of Gen. George S. Brown, Chairman of the Joint Chiefs of Staff, are outrageous for a man in his important position.

General Brown is confused about the situation in the Middle East. The real threat there, to the existence of Israel and to the interests of the United States, does not come from the Arab nations themselves. On their own, the Arabs can do little but commit terrorist acts. The real threat to peace in the Middle East comes from the Soviet arms which are continuing to flow in enormous quantities to the Arab States.

General Brown is further confused about the reasons for congressional support of Israel. The support for Israel in Congress is not the work of some powerful lobby but rather results from the widespread belief that Soviet influence should not be allowed to spread unchecked and that America has both a moral and a political interest in the survival of the only democracy in the Middle East.

The general is also confused about the cause of the oil situation in the United States. Even if Israel did not exist, the Arab States would continue to use oil as an economic weapon to acquire wealth and power. It is important to note here that countries which are friendly with Israel, such as Iran and Venezuela, have contributed equally to the world's oil problems.

We should have serious reservations about the character and ability of a man in his high position who repeats timeworn, anti-Semitic myths. To set the record straight, the vast majority of newspapers in this country are not owned by Jews. Furthermore, banking is a profession from which Jews in this country have been generally excluded.

The security of our country is in danger if it depends on a man who bases his opinions and his judgments on information that is biased, false and designed to mislead.

If a military leader is duped by absurd anti-Semitic charges, what kind of response can we expect from such a man when subjected to the effects of subtle and beguiling Soviet propaganda?

The welfare and security of this country can best be served by the removal of General Brown and his replacement by someone not so easily taken in by phony information.

I do believe General Brown sees his error and that his apology is sincere.

The problem is that in time of national crisis our top military leader may not have a second chance to correct his bad judgment.

FORMER SOUTH TEXAN NAMED CITIZEN OF THE YEAR IN WHITTIER, CALIF.

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. DE LA GARZA. Mr. Speaker, a distinguished newspaperman, who for some years was editor of the McAllen Monitor in my district, recently was named citizen of the year in Whittier, Calif.

Mynatt Smith moved 20 years ago from McAllen to Whittier, our loss becoming that city's gain. As editor and publisher of the Whittier Daily News, he has carried forward the reputation for community service that he established in South Texas. The Whittier-Area Chamber of Commerce and the Whittier District Board of Realtors, cosponsors of the annual citizen of the year award, have given deserved recognition to his civic activities.

We of south Texas are in no way surprised by the honor that has come to Mr. Smith. He laid the groundwork for his distinguished journalistic career in our area, and we are proud of him. And I am proud to say that as a youth I wrote high school sports for the McAllen Monitor when he was editor.

I extend my congratulations to Mynatt Smith and to the California city he and his newspaper serve so well. As part of my remarks, I include a story from the Daily News giving details about his community service:

SMITH NAMED WHITTIER CITIZEN OF THE YEAR

Mynatt Smith, active in Whittier community organizations and projects in the 20 years he has lived here, has been named Whittier's 1974 citizen of the year.

Smith, editor and publisher of The Daily News, was named at a reception in his honor at a Whittier restaurant Monday afternoon.

The honor came from the Whittier-Area Chamber of Commerce and the Whittier District Board of Realtors, cosponsors of the award. Board members of both groups were present.

Smith will also be honored at a traditional *citizen-of-the-year* banquet at the Friendly Hills Country Club Nov. 21.

A member of the First Baptist Church of Whittier and the Whittier Rotary Club, Smith is on the board of governors of the Museum of Natural History of Los Angeles County, a member of the boards of directors of the YMCA of Greater Whittier, the Whittier Heritage Assn., the Whittier Community Concert Assn., the Whittier Uptown Assn., and the Whittier Bicentennial Committee. He is treasurer of the Presbyterian Intercommunity Hospital Foundation.

Smith is a past president of the Whittier Area Chamber of Commerce, a past chapter director of the American Red Cross, and has been active in United Way finance efforts. He is a former member of the Whittier City Library Board.

The dinner honoring Smith Nov. 21 will begin at 7:30 p.m., preceded by a social hour at 6:30 p.m. Tickets may be obtained from the chamber or the realty board.

This is the second year that the two sponsoring groups have jointly presented the award. Formerly, the presentation was a project of the realty board.

RESOLUTION PASSED BY B'NAI B'RITH DISTRICT THREE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. EILBERG. Mr. Speaker, the United Nations, in a shocking display of disregard for the murders of hundreds of innocent people, has agreed to allow the Palestine Liberation Organization to take part in the debate on the Middle East. During our recess many organizations in the United States protested this action. At this time I enter into the RECORD a resolution of protest issued by District Three of B'nai B'rith:

RESOLUTION

For most Americans and, therefore, for most members of B'nai B'rith, the United Nations has represented the best hope for lasting peace among the nations of the world, and has been a forum in which the world's leaders might express their concerns and work constructively together to find solutions for the troubles that beset them. Unfortunately, as the family of nations has grown, and more and more emerging countries, lacking in knowledge and understanding of the democratic and humanitarian principles which motivated its founders, have been admitted to membership, it has veered off course as a catalyst for the ills of mankind, and has become little more than a debating society in which nations, spurred by self-interest or intense economic pressure, have vented their hatred and frustration on those who have tried to uphold the ideals and purposes of the United Nations Charter. This development was sadly and dramatically underscored on October 14, 1974, when the General Assembly, in a shocking and unprecedented action, voted to admit the Palestine Liberation Organization as a participant in the forthcoming debate on peace in the Middle East, notwithstanding its avowed purpose of destroying the State of Israel, repeatedly demonstrated by its unrelenting campaign of kidnaping and hijacking and the murder of innocent persons.

Now, therefore, the 34,000 members of B'nai B'rith in District No. 3, comprising the states of Pennsylvania, New Jersey, Delaware and West Virginia, resolve as follows:

1. They express their outrage and dismay over the incomprehensible action of the United Nations General Assembly in admitting the Palestine Liberation Organization as a participant in the debate and discussion on peace in the Middle East scheduled to begin on November 4, 1974.

2. They commend and congratulate the United States government for its courageous action, in the face of overwhelming odds, in voting against the resolution seating the Palestine Liberation Organization, and urge the implementation of that commendation in the form of letters, telegrams and petitions to President Gerald R. Ford, Secretary of State Henry A. Kissinger, and United States Ambassador to the United Nations John A. Scali, and to their Senators and Representatives.

3. They propose to join in the national expression of disapproval over the action of the General Assembly by traveling to New York City on Monday, November 4, 1974, to participate in a solidarity rally at United Nations Plaza.

WILL THE SOCIAL SECURITY BUBBLE BURST?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. MICHEL. Mr. Speaker, concern is growing over the long-range viability of our social security system. Projected demands on the system indicate that it is headed for a financial crisis which may require significant changes in resources, benefits, or both.

While the actual crunch may be some way further down the road, we had better be doing some serious thinking now about how we can deal with it, and just what our alternatives are.

The dimensions of this problem are very well outlined in an article in the November issue of Nation's Business entitled "Will the Social Security Bubble Burst?" I hope that my colleagues in the House and the general public will give some attention to this and other analyses of the situation so that we can begin to develop a better awareness of what we are faced with, and some understanding of what our options are in coming to grips with it.

The article follows:

WILL THE SOCIAL SECURITY BUBBLE BURST?

(By Robert T. Gray)

After teaching school for more than 12 years, Ida M. Fuller was hired in 1904 as a bookkeeper, secretary and clerk in the law offices of Stickney, Sargent & Skeels in her home town of Ludlow, Vt.

In 1937, her employers—she was still there—explained that the slight deduction they had started taking from her weekly pay represented a 1 per cent tax required by the new Social Security Act to finance retirement benefits for the elderly.

Though the tax was imposed in 1937, the start of benefit payments was deferred until 1940 to allow a buildup in the fund from which they would be made.

Miss Fuller retired in 1939 and applied for benefits.

In January, 1940, she received a check for $22.54.

Numbered 00-000-001, it was the first monthly Social Security check ever issued.

From that droplet, the flow of payments has increased to a trickle, a stream, a river and now a mighty torrent. In 1940, a total of $62 million went to 222,000 beneficiaries. This year, $65 billion is being paid to more than 30 million recipients.

All told, $400 billion has been distributed since the program got underway—three quarters of it in the last 15 years alone.

Social Security has been accorded the popular status of a national institution whose financing method makes it invulnerable to uncertainties that might threaten other government programs. Most Americans have no doubt that the bounty will continue indefinitely.

In fact, if you look at Social Security Administration projections into the next century, it appears on the surface that the program will flourish at a level far beyond its originally envisioned role as a provider of modest retirement income.

The Administration currently forecasts that the maximum payment to an individual retired worker, now $3,660 a year, will go up like this in the future:

1980—$5,580.
1990—$8,976.
2000—$15,082.
2010—$25,693.
2020—$42,908.
2030—$71,292.

UNDER THE SURFACE

Behind the glittery promise, however, are some hard economic facts. Congress is only now beginning to face up to them after years of increasing benefits and expanding coverage of the program.

In the last five years alone, Social Security increases totaling nearly 70 per cent have been voted—a considerably greater rise than the rise in living costs.

While the original Social Security Act set up an "old age insurance" plan covering only employees who had paid taxes into a trust fund, the scope has been enlarged in stages to cover: survivors and dependents of workers; the self-employed; preretirement-age workers who are disabled—long-term or permanently—and their dependents; and individuals 72 or older who have never paid into the program. The most sweeping expansion came in 1965, when the Medicare system of health insurance for the elderly was established.

There is now a growing awareness that the Social Security system is being strained by the constantly growing demands on it and is headed for a financial crisis that can be resolved only through major tax increases—even beyond hefty ones now scheduled—or by restraint on future benefits increases, or a combination of both.

Those scheduled increases are hefty indeed.

Workers now pay—and employers match—5.85 per cent Social Security tax on income up to $13,200, a total of $772.20 each.

In 1972, Congress set up an automatic escalator on which benefits will go up along with the Consumer Price Index, beginning next year. That same law provided for raising the taxable wage base to finance the increases, also automatically.

At the same time, Congress adopted what it termed "dynamic assumptions"—that wages would go up an average of 5 per cent a year over the next 75 years and prices only 3 per cent, so that workers' income would be going up faster than the benefits it financed.

The official forecasts of future maximum payments listed above are based on those assumptions, which obviously do not take into account the current inflationary situation.

The other side of the coin is, of course, the tax levels that will be needed to pay the future benefits.

Based on tax schedules in the present law and Social Security Administration projections of benefits, this is how the maximum tax that employer and employee each pay will go up:

1975—$825
1980—$1,071
1990—$1,875
2000—$3,019
2010—$4,954
2011—$6,005 (a major jump in the tax rate occurs this year)
2020—$9,319
2030—$15,176

WHERE DID WE GO WRONG?

Why, in the light of tax increases like that, should anyone be worrying about the future financing of the retirement system?

What in the world has gone wrong?

In answering those questions, it is first necessary to recognize that the Social Security system operates through transfer financing—taxes taken in from workers go immediately out in benefits to retirees and other recipients, not into any reserve or individual account.

The theory is that the economy will continue strong over the long range, with enough workers employed at rising pay levels to assure that taxes coming into the system will at least equal benefits going out. Also, that the working public will accept whatever tax increases are necessary to maintain this balance.

But this theory must be evaluated against recent developments: declining birth rates that will affect future worker-to-beneficiary ratios; inflationary trends in which prices are rising faster than wages, contrary to Congress' 1972 expectation of a 2 per cent annual increase in real wages; unexpectedly high costs of providing benefits to the disabled; and new public attitudes as Social Security taxes climb. To elaborate:

Population trends. Children born during the great baby boom of 1946–69 began entering the work force in the 1960s and the influx will continue into the late 1980s.

Over the next 35 years or so, then, there will be a large work force providing retirement and other benefits for a relatively small retired population of the pre-1945 era, when birth rates were low.

So far, so good. But during the early 1970s, the birth rate dropped suddenly to the zero population growth level—a development that had not been expected until after the year 2005.

Therefore, when those in the baby-boom generation reach retirement age starting about 2010, a relatively small work force will be providing high benefits for a large number of retirees.

Back in 1940, when Miss Fuller received that first check, 35 million taxpayers contributed to Social Security and, as mentioned earlier, benefits went to 222,000 beneficiaries—ratio of 150 workers to one retiree.

By 1950, the ratio had dropped to 14 to one—over 48 million working and 3.5 million receiving.

In 1960, there were 72.5 million workers and 14 mililon beneficiaries—a little over five to one.

Right now, some 95 million workers are providing benefits to 30 million retirees—about a three-to-one ratio.

This could be down to two to one by the turn of the century or not long thereafter.

The number of beneficiaries is considered certain to be over 40 million by 1995, some 45 million 10 years later and nearly 60 million by 2020. The increase in the work force, on the other hand, will be affected by the unknown factor of general economic conditions.

Inflation. The cost-of-living increase that beneficiaries will get next year, on the basis of the Consumer Price Index at the end of the first quarter, will show up as a higher wage base beginning Jan. 1, 1976. By current estimates it will be around $15,300—which translates into a tax of $895 each from employer and employee.

As long as the inflation rate is more than 3 per cent a year, the benefits level will keep going up—and so will the wage base.

But nobody envisioned the current double-digit inflation when Congress set up the automatic escalator two short years ago.

Such living-cost pressures will send the benefits level up in amounts that simply can't be recovered solely by raising the wage base. Boosting the base from $15,300 to $17,500, for example, would produce extra revenue only from those making more than $15,300 a year, and none from the majority of workers making less.

Without increases in the tax rate affecting all workers, the Social Security system will plunge into the red in 1980, if not before, and the deficit will build up by billions of dollars a year.

Presently scheduled increases in the tax rate—to 6.05 per cent in 1978 and 6.30 in 1981—won't be enough to keep Social Security in the black. So Congress is going to have to make some difficult decisions on tax rates and benefit levels in the near term.

Robert J. Myers, longtime chief actuary for the Social Security Administration and currently a professor of actuarial science at Temple University [see "Is It True What They Say About Social Security" NATION'S BUSINESS, June, 1973], views revisions in the escalator plan as an important element in resolving the problem.

"If the automatics operate in their present method indefinitely," he says, and current inflationary trends continue, Social Security benefits "will rise unduly and the system will get out of control."

He points out that if the price increases that trigger higher benefits continue running ahead of wage boosts, "the benefits would, after some decades, be more than final pay for most people."

Mr. Myers adds: "And you can see what that would do to both the cost of the program and to any private sector activities in the economic security field."

Disability coverage. "For reasons that are not quite clear yet," says Mr. Myers, "far more people are being awarded disability benefits" than a few years ago.

From just a preliminary study, he says, one factor appears to be a policy under which determinations of disability are made by state agencies, rather than the Social Security Administration—which, until 1971, reviewed each case but since then has checked only on a sample basis.

The fact that the number of disability cases has increased since 1971 "may be a coincidence," Mr. Myers says. "Or it may not."

Public attitudes. Under the present transfer system, the existence of Social Security depends on the willingness of the working generation to be taxed to pay direct benefits to those covered.

Historically, there has been little protest over that concept. Congressional action has reflected the viewpoint that more political mileage is gained in raising benefits than lost in raising taxes to finance them.

But as those taxes have taken a bigger and bigger bite of the income of families whose cost-consciousness has been heightened by inflation, there are signs of unrest, especially among younger taxpayers.

"I am 27 years old, married, have three children and am an employee of AT&T," Bruce Wheatley of Forrest City, Ark., wrote his Congressman. "The Social Security tax is becoming more oppressive and burdensome from year to year to both employer and employee, and it appears there is no letup in sight under the present system."

The complaint is not an isolated one.

Says Rep. Ancher Nelsen (R.-Minn.): "As do all of my colleagues, I regularly receive letters from the elderly who say they need even more . . . to get along. Needless to say, I also receive letters from those who are paying the rapidly increasing payroll tax to support the system and who believe the tax has risen far enough."

Social Security Commissioner James B. Cardwell agrees that "the rising voice of the middle-income worker, challenging the equity of the payroll tax and its growth rate," is among the reasons why the system is at the center of unprecedented controversy.

Declining worker-retiree ratios and prolonged inflation are matters of proper concern, he says, and there's no question the program is heading into deficit. But, he adds:

"I would stress . . . that all that exists at the moment is the possibility of this happening in the distant future and that we possess the means of preventing it from happening. . . . I do not believe that even the specter of a future deficit will be allowed to last beyond the next session of Congress."

"THE SIREN SONG"

The focal point for Congressional action on resolving the impending financial crisis will center on a report due by Jan. 1 from an advisory council that is making a complete appraisal of Social Security, covering such fundamental questions as what the nation expects of the system and how it is to be financed.

Health, Education, and Welfare Secretary Caspar W. Weinberger appointed the panel last April under a law requiring a periodic review of Social Security.

W. Allen Wallis, chancellor of the University of Rochester and a former special assistant to President Eisenhower, is chairman. Other members represent business, labor, retirees and the public.

While the council's work, and even its existence, might be unknown to most Americans, the recommendations it makes will be the starting point for legislation that will have a major impact on business well into the next century.

The debate inevitably will produce a resurgence of proposals to tap general revenues for partial financing of retirement benefits, rather than make hard decisions on raising taxes or moderating increases in benefits.

Mr. Myers has a warning for the business community on that score.

Beware, he says, of "the siren song" of those trying to sell general-revenue financing as a way to ease the burden of payroll taxes.

"Money that comes out of general revenues is money that business is going to pay in part in *one* form or another," he adds. "The same is true for individual taxpayers."

"As long as people see the payroll tax rates directly, I think they will be more interested in keeping the system within bounds."

First Come, First Served

The year she turned 65, Ida M. Fuller traveled from Ludlow up to Rutland, Vt., one day to inquire at a U.S. government office about the new Social Security retirement plan.

It was 1939, and the first benefits were to be paid the following year.

By coincidence, the day's mail to the Rutland office contained its allotment of the first shipment of application blanks from Social Security headquarters in Washington, D.C.

Miss Fuller was invited to fill one out immediately, and it was mailed off the same day. Because of that timing, she became the first individual to receive a benefit check under the new program of retirement benefits.

She's been getting them ever since.

Now 100 years old, Miss Fuller received her 474th check this month—$105 after a deduction for Medicare, compared with $22.54 in that first check.

In 1965, as part of the 25th anniversary of the start of Social Security benefits, Miss Fuller was featured in a promotional film made for the Social Security Administration.

The camera recorded a ceremony in which her footprint, movie star style, was impressed on wet concrete. The hardened block is now part of the Social Security archives in Washington.

Miss Fuller, who lives with a niece in Brattleboro, Vt., was in good health and active up to her 100th birthday last September, but since then has been showing her years.

LABOR UNREST COULD BREED NEW CONFLICT

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. BOLLING. Mr. Speaker, the article by Hobart Rowen which follows appeared in the Washington Post of Sunday, November 10, 1974, and presents a possibility which policymakers in the Federal Government must consider seriously:

Labor Unrest Could Breed New Conflict

(By Hobart Rowen)

"You can't screw all of the workers all of the time."

That blunt comment on the failure of the recent explosion in wages to keep pace with an even faster advancing inflation comes not from a labor leader but from a top official of a major American financial institution.

For all of the efforts of labor leaders, which have about doubled last year's average wage boost, the value of a pay check, measured by what it can buy in the stores has fallen.

This pattern not only frustrates U.S. labor leaders, but leads some of the most thoughtful among them to suggest that the deepening recession lying ahead could bring with it the seeds of a new social conflict.

Jerry Wurf, the dynamic president of the American Federation of State, County and Municipal Employees, makes the point that, even at the height of the big depression, the labor movement remained largely pro-Establishment, in marked contrast to what happened elsewhere in industrial societies.

But confrontation politics in the 1960s on race issues and the Vietnam war, and more recently the bitter struggle in New York and Boston on school issues, point to the possibility of direct action by groups of workers in striking contrast to labor's traditional role of working within the system.

It's a pattern that some observers felt might first rock the industrial economies of Europe—especially in Italy and the United Kingdom where inflation is even worse than here and the oil-induced depression hits even harder.

But Wurf thinks it can happen in this country, too, unless business leaders and government take "Draconian steps" to insure a better distribution of the national wealth and income.

In a candid interview in his new Washington headquarters on L Street, Wurf said that the labor movement in recent years has paid lip service to real change, but has actually tried to be "more patriotic than any institution in America."

Now, labor leaders' failure—including his own—to keep the bulk of the labor force "equal to where they were—let alone reaching out for the new sights that they've been led to expect is their right"—is causing a basic upheaval, Wurf says.

It's probably too early to predict a rank and file rebellion against the present union leadership, Wurf says. But there is a stirring:

"At this moment, it is a sort of gradual, grumbling discontent, and it seems to escalate as they get closer and closer to the (economic) precipice.

"You take those auto workers. They're not making a lot of noise right now. But when they use up the supplementary unemployment compensation that's part of their union contract, and when they use up unemployment insurance, listen loud and clear. They're not going to be content to sell apples on the corners, you believe me!"

Wurf, in his mid-50s, came out of college into the depression of the 1930s—an experience that the younger men and women in today's work force have so far missed.

Until recently, Wurf feels, the factory and construction union worker was less concerned with security against unemployment than with increasing his affluence, his two-car status, and enjoying his leisure time.

Thus, two years ago, the big issue fought within the United Auto Workers Union was over "optional overtime": Union men didn't want to be forced to work overtime.

Now, with unemployment at 6 per cent, and threatening to go to 7.0 or 7.5 per cent next year, things look so different, Wurf believes, that workers may reject the restraining influence of their leaders, and take to the streets.

Moreover, the work force increasingly is concentrated in the services, rather than industry—and service workers, being the least well organized, are the hardest hit by today's combination of inflation and recession.

"I think they're angry and they don't really believe that they've got to accept meekly what their parents and grandparents accepted," Wurf said. "When you exhaust all of the remedies of reasonableness, then you go to non-violence, civil disobedience, and"—Wurf didn't finish the thought—"I'm not one for making wild predictions."

That's a sober perspective from a sober and responsible man who is frustrated by the fact that, no matter what he brings back from the bargaining table, "it's wiped out" by price increases.

"You know," says Wurf, "people are saying there's something wrong, somebody is ripping me off, and I'm not going to sit still for it."

A PRAYER FOR OUR MIA'S

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. ADDABBO. Mr. Speaker, the Daniel M. O'Connell, Post 272, American Legion, has made a vigorous effort to keep the subject of our missing in action servicemen in the forefront of public attention. I share the objectives of the O'Connell Post and have been particularly impressed with the activities of that post's chaplain, John Weiss.

Chaplain Weiss recently sent the text of a prayer for MIA's to me which had been offered at an O'Connell Post breakfast earlier this year. The message is so important that I want to share it with you by placing in the Record at this point the text of "A Prayer for Our MIA's":

Lord, shelter the living and dearly departed MIA's in S/E Asia. Open the hearts and minds of those who know of their existence or death to advise those at home who love and miss them. As soldiers, these MIA's carried the burden of battle; discharged on obligation of his country; faced hazards, pain and imprisonment beyond the lot of the soldier.

O Lord, these gallant men who bore so great a burden during the conflict must not be forsaken.

God of justice, to whom we pray, thy compassion we beseech—lift the curtain of secrecy and indifference which is a burden they should no longer be expected to bear, give them the strength to survive the thoughtlessness that is denying them the freedom of America and the love of those at home. Amen.

HOW YOUR MONEY IS BEING SPENT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. MICHEL. Mr. Speaker, it is clear that the voter turnout in the recent election was the lowest since 1946, and those of us in the Republican Party are all too aware of what impact that vote turnout had on our forces here in the Congress.

There has been much speculation as to the reasons for that voter apathy, and it occurs to me that the feelings expressed in a letter from one of my constituents, Mr. H. Keith Leggott of East Peoria, Ill., typifies the feeling of frustration and impatience which so many people feel toward government at all levels.

I ask that the text of Mr. Leggott's letter, together with the enclosure, be inserted in the RECORD at this point:

HOW YOUR MONEY IS BEING SPENT—AT LEAST $6,002,737 OF IT

(By John Epperheimer)

"Cut the high cost of government" is a familiar campaign slogan in election years.

If the following list of government projects is any indication, we should heed that slogan.

The Hardin (Mont.) Herald obtained the list from the Congressional Record. It's been widely reprinted, and Johnny Carson talked about it on his show.

Here's the list, which has to serve as an indictment of our bureaucracy:

$35,000 for chasing wild boars in Pakistan.

$70,000 to study the smell of perspiration given off by Australian aborigines.

$28,361 for odor-measuring machine for above project.

$50,000 to study life views of the Gaujiro Indians in Colombia.

$17,000 for a dry cleaning plant to spruce up the djellabas of the Bedouins.

$37,314 for a potato chip machine for the Moroccans.

$117,250 wages for Board of Tea Tasters.

$68,000 paid to Queen of England for not planting cotton on her plantation in Mississippi.

$14,000 to Ford Motor Co. for not planting wheat.

$19,000 to Libby McNeil for growing no cotton.

$2 million to Yugoslavia's Marshal Tito for purchase of a yacht.

$31,650 for Speaker of the House Carl Albert's new carpet; $21,000 for his new draperies; $44,000 for his chandeliers; $65,000 for other furnishings.

$80,000 for a zero gravity toilet for the space program.

$230,000 for environmental testing of the same.

$250,000 to Interdepartmental Screw Thread Committee, established as a temporary agency to speed the end of World War I, still laboring to make nuts and bolts fit together.

$100,000 per year to servants at Alaskan Chateau in Anchorage, which is a retreat for government bureaucrats.

$6,000 to study Polish bisexual frogs.

$85,000 to learn about the "cultural, economic and social impact of rural road construction in Poland."

$20,000 to study the blood groups of Polish Zlotnika pigs.

$5,000 to collect a rare moss in Burma.

$8,000 to track down specimens of a certain Burmese ant.

$5,000 to learn about Yugoslavian intertidal hermit crabs.

$15,000 as a bounty for finding Yugoslavian lizards.

$5,000 to tabulate the differences between native American and Indian whistling ducks.

$20,000 to investigate the German cockroach.

$71,000 to compile the history of comic books.

$5,000 for an analysis of violin varnish.

$50,000 for analysis of the fur trade between the United States and Canada between 1770 and 1820.

$20,324 to learn about the mating calls of Central American toads.

$203,979 to city of Los Angeles to extend traveler's aid to migrants lost on the freeway.

$50,000 paid to the genius who wrote the poem "lighght." (That is not the title of the poem, it is the whole poem.) The whole thing comes to seven letters worth $714.28 each.

$19,300 to Health, Education and Welfare Department to find out why children fall off tricycles.

$375,000 spent by the Pentagon to study the frisbee.

$1 million spent by Air Force to invent a device to cover the tips of missile silos.

$600,000 to outfit executives' jets for the Pentagon.

$121,000 to find out why people say "ain't".

$33,101 to the Israeli Institute of Applied Science to conduct a "test of the husband-wife relationship."

$15,000 to find out how fishing boat crewmen cause conflicts in Yugoslavian peasant towns.

$3,000 to search for Indian lizards.

$25,000 to study biological rhythms of the catfish in India.

$8,000 to study medieval Spanish satire and invective.

$14,000 to learn about speciation of cave beetles.

$2,458 to train 18 Good Humor Peddlers.

$70,000 to classify and determine the population biology of Indo-Australian ants.

OCTOBER 14, 1974.

DEAR CONGRESSMAN: The enclosed is a clipping taken from a recent issue of the "Tazewell Courier." When I first read it, I searched for the punch line because I thought certainly it must have been authored by some well-known joke writer. Then I realized that what I read was a serious offering. The first thought that came to me following this realization was that "you've got to be kidding." I repeat this thought to you: "you've got to be kidding."

For a number of years, I have been aware that govt. money was used in to say the least, some odd ways, but little did I realize that these "oddies" were of such magnitude. What disturbs me more is just how incomplete the enclosed list may be! I would almost wager that this is only the "top of the ice berg."

I have never opposed the spending of federal funds for basic and related research; however, in all honesty, some of the listed "grants" would have to be classified as rediculous while others are almost laughable. I'm sure that my 74 year old widowed Mother along with thousands of others living on social security would derive a great deal of comfort and pleasure from knowing that $5000 was spent to learn about Yugoslavian hermit crabs or that $117,000+ was spent for salaries of the board of tea tasters etc.

Come on now, isn't this a little much for the American tax payer to put up with!! My gosh, when the nation is begging for some budget cuts and some tax relief, can't anyone over there in Congress find some of this stuff to whittle away at. When I read about this junk, I can only judge that all this talk about budget cuts and spending reductions is just talk and that few are really serious or really even care. I just wish someone would pursue this type of junk as diligently and with as much vengence as Watergate was pursued. Now that would be something wouldn't it? Have a heart you guys—Get Serious!!

You know, it could be that if a little less were extracted from the taxpayer and let those who would, obtain their own funds to find out "how fishing boat crewmen cause conflicts in Yugoslavian peasant towns, perhaps we could take better care of widowed mothers. Did anyone ever think of that?

Very truly yours,

H. KEITH LEGGOTT.

RISING UNEMPLOYMENT SHOULD BE HALTED

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. DE LA GARZA. Mr. Speaker, the necessity for taking effective steps to combat the rising tide of unemployment is immediate and urgent. Fortunately, the basic machinery for doing this is already in existence. I refer to the public works impact programs of the Economic Development Administration.

As my colleagues know—and as the people of my south Texas district certainly know—EDA has made grants to communities in order to provide useful work to the underemployed and unemployed in high unemployment and low income areas. Many useful community projects of lasting value have been carried out under EDA's public works impact program.

In recently enacting a 2-year extension of the Public Works and Economic Development Act, Congress added a provision for a new economic adjustment authority designed to reach communities either experiencing or on the verge of facing high levels of joblessness among their people. Grants can be made directly to communities for them to use in job-providing projects of their own devising.

In an address before Congress on October 8, President Ford proposed creation of a Community Improvement Corps to assist jobless workers who had exhausted their unemployment benefits. This program, the President said, would provide "short-term, useful work projects to improve, beautify, and enhance the environment of our cities, towns, and countryside."

Mr. Speaker, the Economic Development Administration has extensive experience with exactly these kinds of projects. It is a going concern. Its administrative procedures have been tested. It is the ideal vehicle for carrying out the President's proposal.

Accordingly, I am today introducing a bill to expand EDA's public works impact program. My bill authorizes up to $500 million each year for these purposes during the 2-year life of the Public Works and Economic Development Act. The money would be expended for precisely those purposes set forth in President Ford's October 8 address to Congress.

The need for this expanded program is shown clearly in the rising tide of unemployment among our people. And the need is now.

"UP WITH DOWNS"

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. JAMES V. STANTON. Mr. Speaker, on October 17, a great Clevelander, Ollie Downs, was inducted into the National AAU Boxing Hall of Fame and was named the 1974 Man of the Year.

I am extremely pleased to extend to Ollie my warmest congratulations on these honors, which are only the most recent to be bestowed upon him. Ollie, who has been active in the AAU for over 50 years, now serves as first vice president of Cleveland Golden Gloves, and his years of coaching have produced innumerable boxing champions.

In 1972 the local newspaper of Ollie's home, Gates Mills, wrote an article which well sums up his achievements, and I now insert this article from the Gatepost into the Record:

Ollie Downs: A Lifetime of Athletics

White-haired, florid-faced, jovial, peripatetic Ollie Downs, who has lived at Gates Mills Towers II in Suite 551 since January 1971 with his wife Helen, is quite a multitalented gent. Retired from Railway Express Agency in 1962, where he served for 45 years. Ollie has permeated his life with sports activities from his youth to this day. A star baseball and basketball player at East Tech High School and sandlot team champ, Ollie then became a skillful boxer, and he was "hooked" for life. He became a trainer, handled Golden Gloves fighters, and trained many aspiring young boxers for national competitions. Four of his boys made Uncle Sam's Olympic Boxing Team in the 1920's and boxed in the competition in Belgium. Boxing remained the main impetus of his prodigious pursuits in a stream of activity that led him into local, regional, and national involvements. He became supervisor for community centers of the Cleveland Public Schools, a post which he held for 17 years, and where he was the innovator of many youth-oriented sports programs. As boxing coach for John Carroll University, from 1947–49, Ollie's teams were rated among the best in the country for small colleges.

Numerous honors have been bestowed upon him for his service to amateur athletics and physical fitness programs . . . among them the coveted plaque given to him in September 1964 by the AAU (Amateur Athletic Union of the United States) for 50 years of intensive and dedicated activity. He's probably the only sports figure in Ohio to have achieved this honored status.

Ollie served as secretary-treasurer of the Ohio Association of Boxing and Wrestling Commission and was made a life member when he resigned several years ago. Still active on the national level, Ohio is the secretary-treasurer of the National Wrestling Association and will represent that group as a delegate at the annual convention of the World Boxing Association in August in Hawaii. It will be his 22nd convention.

Along the way, Ollie Downs has made hundreds of friends . . . among them . . . comedian Bob Hope, whom Ollie dissuaded from becoming a boxer . . . George Steinbrenner III . . . sports writer Hal Lebovitz . . . Mayor Ralph Perk . . . recreation director John Nagy . . . Babe Triscaro, who became a national boxing champ, under Ollie's tutelage.

People still reminisce about the many gymnasiums that Ollie operated in the old neighborhoods of Cleveland. To say nothing of the dance halls, where people waltzed the night away. But, Ollie doesn't dwell on past achievements. He's too busy being chairman of the Finance Committee of the Lake Erie Amateur Athletic Union, where he is a past president . . . being helpful in various capacities for the Cleveland Boxing and Wrestling Commission, and raising funds to support physical fitness programs for Youth. We say "Up With Downs" . . . amateur boxer, trainer, coach, supervisor, and coordinator . . . who has made a unique and penetrating contribution to the World of Sports.

OPENING FEDERAL FILES

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. GIAIMO. Mr. Speaker, on Wednesday we will have an opportunity to vote to override President Ford's veto of the Freedom of Information Act amendments contained in H.R. 12471. As an advocate of "open government" and as a supporter of the effort to strengthen the public's right to know, I intend to vote to override the Presidential veto of this legislation.

The editorial, written in the October 26 edition of the New Haven Register, makes an excellent case for the Freedom of Information Act amendments and exemplifies the importance of overriding the veto of H.R. 12471. I would like to commend to our colleagues the full text of the New Haven Register's editorial:

[From the New Haven (Conn.) Register, Oct. 26, 1974]

Editor's Note—Opening Federal Files

The idea of this Editor's Note column, since its inception, has been to provide some Saturday morning shoptalk about the New Haven newspapers, and newspapering in general, for the casual reader.

If I seem to be discussing the relationship between news reporters and government almost too frequently, it's because news about government is so important today to the entire thrust of our society.

I'm back on the subject this morning because President Ford has just vetoed a series of new amendments to the Federal Freedom of Information Act. News people everywhere in the country are girding themselves to make sure that the veto does not mean an end to efforts to improve this act.

Some editor groups and reporter groups are trying to organize congressional action to override the Ford veto when Congress meets again after the election. Others simply want to make sure that President Ford will, as he promised, "shortly submit language which would dispel my concerns." His objections, he said, were based on fears that the Freedom of Information Law would become both unworkable and unconstitutional if the revisions stuck.

The original Freedom of Information Act was passed in 1966. Its purpose was to provide a clear legal mechanism for opening up government information, and particularly government records, to the public and to the press. Because it is a long and complex law shaped to the needs and concerns of the whole, huge federal establishment, government bureaucrats have never had any difficulty in finding loopholes which permit them to duck away from citizens who want information—often about themselves, or from reporters who desire to look over official papers for news purposes.

The big and continuing hang-up between government insiders and those on the outside is the matter of classified documents. The proposed changes in the law would have given the courts power to review the classification of documents by a government agency. The new amendments also authorized a court to suspend a federal employe from his job for up to 60 days if it found that the employe had withheld requested records without a reasonable basis in law.

President Ford felt that there was danger of letting a judge poke around in secret government papers in a way that would "risk exposure of our military or intelligence secrets and diplomatic relations." Other critics felt that discipline against an erring federal employe could best be handled by one of his or her supervisors rather than by a judge unfamiliar with the routines of the office. And there were other technicalities to which objection had been made.

The point of concern, however, is that after eight years of the Freedom of Information Act it is still most difficult for an individual citizen or for a working reporter to dig out facts which any agency of government wants to keep buried. Ford insists that the government agencies need more than 10 days to decide whether to furnish a requested document. He claims that the 20 days allowed for deciding an appeal are unrealistically short for such decision-making. This seems like bureaucratic stalling.

In the confusion that is certain to prevail when a lame-duck Congress comes back to work after Election Day, the whole painfully-achieved proposal for constructive amendment to the Freedom of Information Act could simply go up in smoke—unless the presidential veto is overridden. Or unless enough pressure is put on President Ford to make him keep the concept alive by submitting his own revisions to the law. The House voted 349 to 2 in favor of the revisions. The Senate passed the amendments on a voice vote with only one member raising objections. Obviously Congress was willing.

In a period when the power of the press is occasionally considered too great, the power of the federal government to avoid detailed scrutiny by press or public is obviously greater. Because dry legal language is at the center of the argument, it isn't easy to make the issue lively for our readers. But it is vital to good government—and to better government.

Closing quote.—"I view the guarantee of the First Amendment as the foundation upon which our government structure rests and without which it could not continue to endure as conceived and planned. Freedom to speak and write about public questions is as important to the life of our government as the heart is to the human body. In fact, this privilege is the heart of our government. If that heart be weakened, the result is debilitation; if it be stilled, the result is death."—Justice Hugo Black, 1941, Bridges v. California.

PLANS TO OFFER AMENDMENTS TO H.R. 16373

HON. M. CALDWELL BUTLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. BUTLER. Mr. Speaker, when H.R. 16373, the Privacy Act of 1974, comes before the House, I plan to offer the following amendments:

I. To section 3(b) add: (9) pursuant to the order of a court of competent jurisdiction;

II. To section 3(b) add: (10) to assist an agency of the Government enforce the criminal law.

FOOD AID ABROAD

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. RHODES. Mr. Speaker, Secretary of Agriculture Earl Butz, returned over the weekend from Rome, Italy, where he headed the U.S. delegation to the World Food Conference.

The Secretary met yesterday with the news media to discuss the conference. He also released some pertinent facts about America's food aid abroad—both past contributions and our current level of support.

I applaud this action of the Secretary. During the 11 days of the conference. I was shocked by news reports from Rome that indicated how little some Americans know about the magnificent role of the United States in providing food assistance to lesser developed countries of the world.

Charges of "foot dragging" by the United States were leveled by some nondelegate observers and groups.

These unsubstantiated charges simply are not true.

For 25 years, the United States has led the way, beyond the capacity or desire of any other nation to follow, battling hunger and providing food assistance to the needy of the world. Our long-range commitment is to stamp out starvation everywhere.

True, we got in the food assistance business because of the productive capacity of our American farmers. They produced more than we could use or find markets for. As a matter of national policy, we elected to share our surpluses with others, rather than destroy them.

But the acid test of our humanitarian policy came last year, and this.

Last year, although the Government did not own a bushel of available grain, the United States contributed $890 million worth of aid. This year that amount was boosted to nearly $1 billion.

From 1965 to 1972, the United States provided 84 percent of all food aid—a figure that, Secretary Butz rightly told the World Food Conference, was too high. The Secretary has asked other nations of the world to help broaden the base of giving. He points out that food aid is actually a resource transfer, and therefore it should involve the commitment of resources of all nations.

One additional note. I saw in the Washington Post a dispatch from Rome indicating that Sayed A. Marei, Egyptian Secretary General of the U.N. World Food Conference, found it necessary to defend the U.S. food aid record in a formal speech to conference delegates. He reminded the delegates that the United States is still the "leading food aid contributor" in the world today.

I agree with Secretary Butz; it is embarrassing that Secretary General Marei felt it necessary to differ publicly with observers and nondelegates—including some Americans—who have been holding press conferences in Rome to denounce U.S. food aid policy. Nevertheless, I am glad he did it. Secretary General Marei's action puts into perspective some of the irresponsible charges hurled at the United States by those who should know better.

The following summary of U.S. assistance over the years clearly refutes the claim of anti-USDA, anti-Butz groups that the United States has been dragging its feet when it comes to helping others:

U.S. FOOD AID

In eight years 1965–72, provided 84 percent of all food aid contributions of developed countries (both bilateral and multi-lateral).

46 percent of all World Food Program aid since beginning in 1962. (Canada second with 13 percent.)

$25 billion in donations and concessional sales since beginning of P.L. 480 in 1954.

143 million tons of wheat, rice and other grains since 1954.

Current year: Higher spending level. More wheat and rice.

U.S. TECHNICAL AID

400 U.S. Agriculturalists assigned to other countries.

1200 foreign farm scientists studying in U.S.

Thousands of foreign students in U.S. colleges.

AID TO BANGLADESH

U.S. contributed a third of all food aid since independence (1972).

Current year already programming 250,000 tons of wheat and rice (Title I).

Watching situation closely.

AID TO INDIA

U.S. leading provider of economic development aid since independence.

Last year, sent outright donations of $67 million (far more Title II than any other country).

Now consulting with India in effort to meet current needs.

AID TO SAHEL

Direct donations of over a half million tons of grain in FY 1973 and FY 1974.

This year, additional donation of 100,000 tons now moving to Sahel.

$3.3 million to UN Sahelian Trust Fund through FAO for assuring delivery of food in drought relief programs.

U.S. has donated $29 million for aid supplies including medicine, vitamins, tools and equipment.

Supplied aircraft to assist in delivery.

Providing technical assistance to improve production there.

FERTILIZER DEVELOPMENT AID

In FY 1975, will provide 329,000 tons of fertilizer valued at $164,000,000.

Could increase substantially during year. ⅔ or more will be purchased offshore.

DEVELOPMENT AID AND TECHNICAL ASSISTANCE

Over $1½ billion in last 10 years for Agriculture.

Current year: USDA has asked that it be doubled. 60% of all U.S. development assistance is earmarked for agriculture.

TRAINING PROVIDED FOR FOREIGN NATIONALS IN UNITED STATES

For 22 years, have averaged over 1,000 a year.

OVERSEAS TECHNICAL ASSISTANCE SINCE 1966 (BEGINNING OF PASA)*

USDA people average 300 in any given year on location overseas.

Land Grant Colleges: Over 1,000 man years since 1960.

PUBLIC LAW 480 RESEARCH GRANTS

Since 1954 P.L. 480 counterpart funds have provided 1500 research grants in 32 countries.

DIRECT GRANTS TO OVERSEAS RESEARCH CENTERS

USDA provides one-fourth of budgets of 10 research centers including IRRI** (Philippines) and the Center for maize and wheat improvement in Mexico.

By 1978, these contributions will double.

PUBLIC LAW 480 PROCEEDS FOR ECONOMIC DEVELOPMENT

In 20 years, $11 billion generated by P.L. 480 for development use by foreign countries.

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[*] Participating Agencies Service Agreements.

[**] International Rice Research Institute.

A TOTAL OF 100,000 METRIC TONS OF WHEAT AND RICE TO SYRIA?

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. VANIK. Mr. Speaker, the Federal Register of November 13 contains a Presidential determination of November 4 finding that—

> The making of an agreement with the Government of Syria for the sale . . . of 75 thousand metric tons of wheat and 25 thousand tons of rice is in the national interest of the United States.

I find it interesting that this decision was made on November 4 but not announced until 9 days later. Apparently, the White House did not feel it was in the national interest to make this announcement prior to the elections.

If carried through, such a concessional sale, at interest rates of 2 to 3 percent repayable over 20 years, would be a scandal. Syria is the center of aggression and anti-Americanism in the Middle East. Syria, more than any other nation, has been receiving massive, unstabilizing arms shipments from the Soviet Union. This virtual giveaway of food—food which is desperately needed by nations far more friendly to the United States—is a bribe. The "finding" by the President is another new low point in American diplomatic history.

One hundred and seventy-five years ago, when the Barbary states held American and foreign seamen ransom, we alone, of all the nations of the world, fought those pirates. There are nations in the Middle East today who are 20th-century pirates. We are feeding them and they are biting our hand. I do not believe that the American people will accept this policy of bribing pirates, terrorists, and avowed enemies of the United States.

If Syria needs food, let it make a decision to obtain food purchases at world market prices instead of using its credit and resources for arms procurement. If Syria needs food, let it get "foreign aid" for food from those nations which currently provide extensive supplies of weapons.

I support efforts to obtain a peaceful settlement in the Middle East—but the administration should draw a line between bribery and diplomacy.

A LIFELINE FOR RUNAWAYS—AND IT WORKS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. PICKLE. Mr. Speaker, one of the most trying and tragic times which can befall a parent is when a child runs away from home. The parent can search and wait futilely for years and never even know if his child is still alive.

Sparked by the tragedy of multiple kidnap-murders of young teenagers and runaways in Houston, the State of Texas and concerned citizens of the Houston area set up a "Peace of Mind" hotline for runaway children.

The function of the toll-free telephone system is simple: To allow runaways to make contact with their parents or to receive expert advice without disclosing their location. In the past year the volunteers who man the phones at Peace of Mind have helped over 4,000 runaway children, and the State has now provided a paid director for the program.

Key to the success of the program is the organization's absolute strictness in maintaining and respecting the confidence of the runaway. Runaways are often afraid to call the police or some other public medium for fear of being located and punished.

Although all runaways who call Peace of Mind do not come home, many a worried parent has at least learned that his child is alive and well.

I insert a reprint of an article from the October 27, Parade magazine explaining this service, which has now been instituted in Florida and has interested many other States as well:

[From the Parade magazine, Oct. 27, 1974]

Hot Line for Runaway Kids

(By Don A. Schanche)

Houston, Tex.—A desperate and hungry 15-year-old runaway named Laura stepped into a phone booth in Jacksonville, Fla., a few weeks ago and hesitantly dialed the toll-free number, 1-800-231-6946. She had spotted the number on a poster just a few minutes earlier when she had tried without luck to panhandle a meal in a coffee shop.

"Are you still alive?" its headline asked. "Let somebody know."

The poster's message, advertising a little-known group of telephone hot-line volunteers in Houston, Tex., was simple. "You call us. We'll call them. No tricks, bugs or traps. We're just here to pass on the word. To let them know you're still alive. Whoever they are."

Last April Laura became one of the million American youngsters who run away from home each year. Since then her imagination had worked overtime, with nightmares of being arrested, spending weeks in a juvenile detention cell, then facing punishment at home. She loved her parents but feared them, too. She was afraid that if she telephoned them directly, they would track her down.

But Laura had even more urgent problems. She had not eaten for three days. She had no place to stay. And she was afraid that she was pregnant.

Laura's desperate call was answered by a confident, reassuring voice 900 miles away, from a crowded Houston motel room by a "Peace of Mind" volunteer.

"No," the soft-spoken volunteer, Mrs. Philip (Lee) Didelot, told Laura, "we can't trace your call, and you don't have to tell me where you are. I'm just here to let your family know you're alive and well."

Laura broke down in tears. She was alive, but not well. Mrs. Didelot, a Houston mother who has been taking calls from kids like Laura for more than a year, listened quietly. She did not interrupt with adult judgments and criticism, nor gush with motherly advice.

"If you want to tell me where you are, I can find someone to help you," she said. "And I'll call your parents. I won't tell them how to find you, but I'll give them any message you want to send. If you call back later, I'll pass along their message to you."

SHE GOT HELP

Within an hour Mrs. Didelot and other telephone volunteers had made arrangements for food, lodging and a free medical exam for Laura in Jacksonville. They also had tried to call her parents, failed, and reached Laura's grandmother instead. From her they learned that Laura had run away because her strict and occasionally abusive parents had refused to let her take refuge at the grandmother's house. Later the tearful parents telephoned the 800 number to say that they were willing to let Laura move to her grandmother's.

Laura telephoned Peace of Mind the next day, vastly relieved by the results of her medical checkup. She was not pregnant, just severely undernourished. And she was overjoyed by the message from her mother and father.

A week later Peace of Mind Director Grace Surguy, a 23-year-old social worker on the staff of Texas Gov. Dolph Briscoe, heard from Laura again. She was happily settled in her grandmother's house in Kentucky, back in school, and trying hard to resolve her differences with her parents.

Laura's is but one of more than 4000 similar human dramas that have been played out entirely by telephone during the past year over the nation's only hot line for runaway kids. Houston's free message and referral service has reunited more than 1000 youngsters with their families. In many more instances it has passed reassuring messages to parents who feared that their children were dead. Never has the hot line given away the location of a runaway.

AROSE IN A CRISIS

Like most telephone hot-line services, Peace of Mind was formed to meet a crisis. It began in August, 1973, when two Houston teenagers blurted out an incredible story of sexual depravity and murder involving runaway kids. As the now notorious mass murder story unfolded, authorities began digging for bodies. All of the victims were youngsters from the Houston area. Soon, police and social agency lines were jammed with anxious calls from the more than 5000 families in the area whose children had left home. Each caller hoped against desperate hope that his or her missing child was not among the bodies then being disinterred by the police. But there was no way to reassure them. Broadcast appeals by newspapers and TV and radio stations failed to induce the runaways to call home or the police.

"They weren't about to call the police, because they were afraid of being arrested," says volunteer Mrs. George (Suzanne) Randolph," and if they felt free to call their parents they probably wouldn't have run away. So our organization got together, to give peace of mind to parents at a time when the police were still looking for bodies.

With Governor Briscoe's backing, Rev. Travis Key, a local Baptist minister, brought together a force that eventually included 250 volunteers. Some of them were former runaway kids and some the parents of runaways. Holiday Inn donated two rooms, and two toll-free long-distance lines were installed—1-800-392-3352 for runaways still living in Texas, the other—1-800-231-6946—for kids in any other state except Hawaii and Alaska.

It soon became apparent to Governor Briscoe and Lt. Gov. William P. Hobby that the hot line was providing a sorely needed service. The state of Texas supplied a paid director, Grace Surguy, and Peace of Mind has been taking calls nationwide ever since at a rate that has zoomed from 32 in the first month to more than 700 a month today. Its monthly costs of $4000 have been met almost entirely by contributions, mostly from Texans and grateful parents, and its phones have been staffed around the clock by volunteers working in four-hour relays.

Last summer Gov. Reubin Askew of Florida, distressed that his state spends more than $700,000 a year to detain and process runaway children, responded to a call for help from Governor Briscoe. Askew sponsored a national conference at which Peace of Mind volunteers briefed his and 24 other state governments on the problem and their work. The Florida legislature promptly appropriated $20,000 with which to publicize the toll-free hot line with posters, billboards, ads and spot radio and TV announcements volunteered by the Miami Advertising Club. Other states have promised to follow suit. (The advertising material is available at cost to public and private social agencies from the Miami Advertising Club and Peace of Mind.)

CALLS FROM FLORIDA

A few weeks ago, when Parade sought out Peace of Mind the new surge of publicity in Florida already was being felt, as indicated by Laura's call from Jacksonville.

(When Peace of Mind gets a plea for help of any kind the volunteers try to locate private and public agencies, including 80-odd runaway houses in the U.S. where confidential assistance is available.)

Grace Surguy explained why many kids leave home. She had just helped to reunite three 12-year-olds with their families after the youngsters had run away on what proved to be merely a lark.

"They weren't serious about it," she said, "but most of our callers are. They run away for two reasons, mostly. Many leave homes that supply all of the basic physical needs but no emotional support or communication. Many of the others come from intolerable homes, where the parents are violently abusive, alcoholic or so deep into poverty that the kids leave to ease the burden."

FOUR REASONS

Once they hit the road, she said, the kids who call Peace of Mind commonly become desperate for four reasons: "They need shelter; they need health care for drug problems, pregnancy or illness; they need legal aid, or they need counseling. And almost all of them want to send word home, if only to tell their parents that they are alive."

About a quarter of the youngsters who call eventually return home, she said, but the majority, for reasons of their own, elect to keep their whereabouts secret.

"We are absolutely strict about maintaining and respecting their confidence," she said. "Some parents have called to complain that we're just encouraging them to stay away. But our success depends entirely upon the fact that the runaway doesn't have to reveal himself. The kids are willing to make contact through a third party—Peace of Mind—as long as there's no risk of being located. If we betrayed that confidence, this hot line wouldn't work. And the parents might never learn whether their kids are alive or dead."

THE OLYMPIC MASSACRE OF 1972

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. BRINKLEY. Mr. Speaker, many Americans were jolted by the events of the past week at the United Nations. For those who remembered all too clearly the murdering of diplomats and the Olympic massacre of 1972, the U.N. sessions last week were an almost unbelievable spectacle.

An editorial last weekend in the Richmond, Va., Times-Dispatch stated well the feelings of the millions of Americans who cannot possibly reconcile in their minds these grossly conflicting events. A full reprint of the editorial follows:

[From the Richmond Times-Dispatch, Nov. 16, 1974]

If the spectacle at the United Nations this week did not shock and disgust many Americans, then Americans have become too jaded by varied atrocities to be shocked and disgusted by anything.

There was Yasir Arafat, the Palestinian terrorist leader, being whisked from Kennedy International Airport to the UN headquarters in a helicopter of the United States Army. Yasir Arafat and his entourage of nomadic gunmen being protected by more than 1,000 American security officers, federal and local.

This is the same Yasir Arafat who has been accused of giving the orders to the Black September thugs who murdered American Ambassador Cleo A. Noel, American charge d'affaires George C. Moore, and Belgian charge d'affaires Guy Eid in the Saudi Arabian embassy at Khartoum, the Sudan, on March 2, 1973. Do we forget so soon? Does a fresh shave and flowery rhetoric make a statesman of a pistol-packing desert rat?

Accompanying Arafat were three guards who actually participated in the Khartoum slaughter of the unarmed diplomats, according to The London Evening Standard. The State Department has confirmed that at least one of the guards—Farouk Al Husseini—was in Khartoum at the time of the slayings, but the department said it did not have evidence that Husseini participated in the crime.

During his rambling 90-minute oration, Arafat sought to portray himself as a fearless fighter for an oppressed people rather than as a wanton terrorist. It is true to an extent that one man's terrorist is another man's freedom fighter, and vice versa. But a guerrilla foray against enemy defense installations is one thing; the slaughter of diplomats, Olympic athletes, and schoolchildren is quite another. Arafat and his gang have defiled their cause by their selection of the weak and the innocent as targets.

The UN General Assembly exhibited once again its own moral degeneration by according Arafat a warm greeting, including a standing ovation and all the protocol normally reserved for heads of state. Arafat's message was clearly and uncompromisingly revanchist: he would restore the Palestine that existed before 1948 and destroy the existing Jewish state.

Yet, it was the United Nations that decided in the aftermath of World War II and the Nazi holocaust that the historic Jewish aspiration for statehood ought to be honored. Palestinian Jews and the surviving remnants of European Jewry thus were given their state of Israel with the partition of Palestine. For Palestine Arabs there remains a nation today; it is called Jordan.

All signs are that a UN now controlled by an Afro-Asian-Arab-Communist coalition whose ranks have been swollen by admission of many so-called "emerging" nations (many of them dictatorships) would side with Arafat in the desire that the UN-aided creation of Israel be repealed. This aim very likely could not be realized by actions short of a second holocaust for the Jewish people. It must be an especially bitter pill for a people that looked to the United Nations for moral leadership after Adolph Hitler to realize that the enemy has now become . . . the United Nations.

CONGRESS URGED TO OVERRIDE VETO OF H.R. 12471, FREEDOM OF INFORMATION ACT AMENDMENTS—IV

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, newspapers from all parts of the Nation have condemned President Ford's unwise veto of H.R. 12471, the bipartisan legislation making strengthening amendments to the freedom of information law. Such unwarranted and illogical action, coming on the heels of the President's pledge to the American people of an "open government," forces us to recall all of the sordid happenings of his predecessor's administration that were first spawned and then covered up by abuses of Government secrecy. Excessive Government secrecy, whether to hide criminal action by Government officials or to prevent the public from knowing about embarrassing policy mistakes, has undermined the faith of millions of Americans in our governmental institutions.

Mr. Speaker, Congress must act to help restore public confidence in government and the integrity of our political process by voting overwhelmingly to override the unwarranted Presidential veto of H.R. 12471, the legislative symbol of "open government." The freedom of information law is the best tool to curb excessive secret dealings by the executive bureaucracy, while at the same time protecting legitimate national defense and foreign policy matters. It must be strengthened and reaffirmed as is provided for in H.R. 12471, the result of more than 3 years of bipartisan effort.

At this point in the RECORD, I include another representative sample of articles and editorials from newspapers urging that Congress act promptly to override the freedom of information bill veto:

[From the Miami Herald, Nov. 10, 1974]

FORD'S "OPEN GOVERNMENT" CLAMMING UP?

(By David Hess)

WASHINGTON.—When President Ford was sworn in last August he promised to run an "open government"—but his critics now say he has flunked his first major test on the secrecy question.

In mid-October, heeding the advice of Nixon holdovers in the White House, Justice Department and Defense Department, Ford vetoed a "freedom of information" bill granting broader and quicker public access to government information.

The bill, painstakingly constructed by Democrats and Republicans in both houses after months of investigation and exhaustive hearings, would have:

Given federal judges the right to determine whether confidential government documents were properly classified by federal bureaucrats.

Required the government to respond to requests for information within 10 days and to administrative appeals within 20 days. Such deadlines would greatly speed the government's usually slow response to such requests.

Opened some investigatory files, under strict limits designed to protect individual rights, to the public.

Provided a stern administrative wrist-slap, including up to a 60-day suspension, to any federal bureaucrat who "arbitrarily and capriciously" withheld public information.

Granted attorney fees to any citizen who had to go to court to win access to government files, and limited the price of access to files to the costs of copying and searching for the information.

From the outset of hearings on the bill, the federal bureaucrecy has bucked it.

Rep. William Moorhead (D., Pa.), whose government operations subcommittee forged the legislation in the House, snapped: "Those guys have served heir entire careers shrouded in secrecy, and they don't want the people minding the people's business."

In his veto message, Ford said he agreed in principle with the "direction of this legislation."

But he added that its major provisions went too far in granting public access and were, in some cases, "unworkable and unconstitutional."

Ford later offered several proposed amendments to the bill and said he would sign it if his proposal were adopted.

These amendments would curb the power of judges to rule on the validity of security classifications; force citizens to pay all costs above $100 incurred in making the information available; deny access to virtually all investigatory files; and extend the time for responding to requests for information.

One White House official close to the issue said Ford's major concern over the Moorhead bill centers on the "national security" question.

"Suppose," the official said, "that a court ordered the Defense Department to release targeting plans for the Soviet Union, to take an exaggerated example.

"The President then would be faced with a constitutional quandary as to whether he should abandon his constitutional role as commander-in-chief and protector of the nation's security or whether he should adhere to his role as the enforcer of the laws."

This official added that Ford agreed "in principle" with the nation of "judicial review" of disputes over access to information.

But, the official said, the President believes the "standard of review" ought to be based on the question of whether a federal official had a "reasonable basis" for classifying a document—not on whether the classification was correct.

Moorhead and other lawmakers say this standard would "legitimize" practically any classification and would lead to a gross abuse of classifying powers.

Moorhead has branded the Ford proposals "unacceptable" and said he intends to ask the House to override Ford's veto when Congress reconvenes on Nov. 18.

Although it is risky to forecast how a lame-duck Congress, some of whose members are rankling from election defeats, might act, Moorhead and the bill's Senate backers feel they have the votes to overturn the veto.

The House passed the bill 383–8 late last winter, and the Senate soon followed suit 64–17. Both votes are well within the two-thirds range needed to override a veto, assuming the lawmakers stick to their guns.

Moorhead and his subcommittee staffers are still a bit dazed by the Ford veto.

During a House-Senate conference on the bill, conferees agreed to a number of Ford proposals to modify the measure and thought they had an agreement with the White House for a presidential signature.

"Good Lord," exclaimed subcommittee staffer William Phillips, "we'd even talked about plans for a bill-signing ceremony in the White House. The President could have shown a dramatic example of his 'open government' policy."

New to the office, however, and heavily dependent upon the support of holdovers from the tainted administration of Richard Nixon, Ford was persuaded to reject the bill.

Most of the pressure to veto it came from Defense Secretary James Schlesinger, White House legislative counselor William Timmons, and Attorney General William Saxbe and his chief deputy, Laurence Silberman—all Nixon appointees.

Schlesinger feared the compromise of military and national security secrets, although the Moorhead bill contains explicit safeguards against such disclosures.

Timmons sided with Senate conservatives, who also fretted about the possibility of Central Intelligence Agency leaks.

Saxbe and Silberman—heeding the alarms of the FBI, their civil and criminal divisions, and their office of legal counsel—insisted the bill would permit unwarranted intrusions into investigative files and heap "impossible administrative burdens" on the Justice Department.

All of these issues had been debated at legislative committee sessions dating back to 1966, when the first Freedom of Information Act was passed.

They came up again when the latest bill, designed to broaden the scope of the 1966 act and plug loopholes through which inventive bureaucrats were eluding the spirit of the law, was moved through Congress.

"We gave a lot of ground to the bureaucrats on this," Phillips admitted, "but they wanted all or nothing. Secrecy is an obsession with them, they don't want the public looking over their shoulders.

"Then the Nixon Administration came along and brought secrecy to a high—and I might add, malevolent—art. Talk about obsessions, whew!"

Subcommittee counsel L. James Kronfeld said the FBI was "consistently opposed to our bill but they would never say what would be acceptable to them. We went as far as we could to accommodate our differences, then we finally *had to* stop short and say: 'Here's our bill, live with it.' "

Phillips and other congressional sources agree that Ford probably got "bad advice" from his Nixon holdovers.

"But let's face it," Phillips went on, "Ford's the boss, and he had the final say-so."

Jerald terHorst the Detroit News reporter who served briefly as Ford's press secretary, partly during the time when the new administration was dickering with Moorhead over the information bill, recently wrote in a column:

". . . no serious efforts to work out a compromise were made by the Justice Department, the FBI, or the Domestic Council or other administration agencies whose leaders supposedly were now responsive to Ford."

terHorst complained that the "Nixon holdovers . . . have sandbagged the new President's pledge of new openness in government."

Instead of turning the issue into a triumphant affirmation of his "open government" promise, Phillips said, Ford now faces the humaniliating prospect of a congressional repudiation of his veto.

Even if this lameduck Congress fails to overturn the veto, Phillips added, Ford faces a more liberal and possibly hostile Congress next year, when scores of new lawmakers elected in the anti-Nixon, anti-secrecy backlash flock into the House and Senate.

"You know," Phillips mused, "if I were Ford I'd kind of hope that my veto were overridden by this Congress. The next one might pass a bill that's even broader and more open than this one."

[From the Chicago Sun-Times, Oct. 20, 1974]

WHAT HAPPENED TO CANDOR?

Early this month Congress passed a number of amendments to the Freedom of Information Act. The amendments were sound, designed to vastly improve access to government documents and to records of government decisions. The measure sailed through the Congress—the House passed it 349 to 2. It should have sailed through the White House. Instead, President Ford ignored his pledges of an open and candid administration, succumbed to the dire warnings of the Secrecy Set and vetoed the measure. Congress should reverse his action.

Among other things, the bill would have limited the amount of time allowed a federal agency to respond to a citizen's request. Such a limitation is essential to due process and necessary to forestall frustrating delays by arrogant bureaucrats. The bill also would have granted the federal district courts the right to review the classification of documents. Certainly, such a review is to be desired. Classification is too frequently employed to cover mistakes rather than to protect national security data. And certainly it has been shown that federal courts are equal to the demands of such review.

Ford says the bill he vetoed is unworkable. We question that. He says he will put forth proposals of his own for the next session of Congress. Congress should make that unnecessary by overriding his veto. It is likely that the proposals the administration would substitute would be drafted by the very agencies which insist they cannot operate efficiently if they must be accountable to the taxpayers.

[From the Memphis Commercial Appeal, Oct. 21, 1974]

CUTTING COILS OF SECRECY

President Ford's veto of antisecrecy legislation probably will be overturned when Congress reconvenes after the elections, but it reflects the deep resistance within the bureaucracy to letting the public know what's going on. It is a sign, itself, of the need to provide more access to government operations.

The legislation, in the form of 17 amendments to the Freedom of Information Act, was passed overwhelmingly by Congress—366–8 in the House and 64–17 in the Senate. Congress has had its own battles to get information from government agencies, including the Nixon tapes. It also is sensitive to the great public concern that has grown out of secretive U.S. involvement in Chile and Cambodia and other matters, as well as Watergate.

One of the amendments would permit judicial review of classified foreign policy and national defense information to determine whether it should be released to a petititoner. Such information had been excluded from court review in the original 1966 act. This apparently was the major point of disagreement between Congress and the administration. Ford said in his veto message that he objected to the courts making "the initial classification decision in sensitive and complex areas where they have no expertise."

It was a classic type of confrontation between the two branches of government. Despite the wide margin of approval and undeniable public support, virtually every government department and agency was reported opposed to the legislation. The same was true in 1966 when President Johnson signed the act. Most of the pressure came from the Justice Department, the National Security Council and other departments involved in domestic and foreign intelligence. This is the part of the federal bureaucracy that is most loath to divulge information. Ford seems to have bought its line.

Jerome Wiesner, president of Massachusetts Institute of Technology, recently called secrecy "public enemy No. 1." Many Americans would agree with him. From Indochina to Watergate to South America to who knows where secret intrigues have been reported that seem to violate the principles of American democracy. A researcher on Watergate contends in an article in Rolling Stone magazine that at least 100 break-ins, "apparently political in nature," can be traced to the government during the Nixon administration. Clarence Kelley, FBI director, was moved last year to pledge to the Senate Subcommittee on Oversight of the FBI "complete candor, with no reservation whatever. . . ."

The President's objection about court review is weakened by the fact that federal judges already have this authority in criminal cases. They often declassify "secret" or "top secret" information. Moreover, such court authority would seem to fit naturally into the system of checks and balances between the legislative, executive and judicial branches of government. Ford has promised his own antisecrecy legislation. But if it comes with the blessing of the bureaucrats, it is not likely to be very helpful. The vetoed bill is what the country needs.

WHO OWNS THE NIXON TAPES?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. RANGEL. Mr. Speaker, the Society of American Law Teachers has recently released a statement outlining their argument for the reversal of the decision to allow Mr. Nixon to retain custody of his Presidential papers. It is imperative, for the preservation of our democratic system that these papers and tapes be open to the Government and the public for their scrutiny.

The Society of American Law Teacher's well written statement follows:

The Ford-Nixon agreement rests on a widely shared misapprehension about the ownership of the tapes and documents. All Presidential tapes and documents that flow from the President's conduct of his job, all that are produced, so to speak, on government time, belong to Mr. Nixon's employer. If he were any other employee of the United States, he could not claim any literary property in his official conversations or his writings, nor any personal property in the papers or tapes that embody them. The Office of the President does not create different rights.

"It is true that long-standing custom has tolerated and even encouraged the removal and custody by former Presidents of their papers. Congress may be thought to have given its approval with respect to presidential libraries, and perhaps has recognized this custom in other bits of legislation. But even if this were so, Congress can change a custom if it conflicts with the public interest.

It is surely clear that the disposition of these state papers, especially those that are discreditable, should not be left to the person who was disgraced by their disclosure.

The Board of Governors of the Society also voted their strong disapproval of the pardon of Mr. Nixon and urged the Special Prosecutor, Leon Jaworski, to test its validity in the courts.

NUCLEAR MATERIAL SAFEGUARDS

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. LUJAN. Mr. Speaker, many critics of nuclear power and the nuclear industry have attacked what they believe to be negligent or insufficient control and safeguarding of nuclear material. These attacks are frequently pursued by those with high motives but little if any factual information about past and ongoing materials management and safeguards efforts.

Dr. G. Robert Keepin, who heads the nuclear safeguards technology group at the Los Alomos Scientific Laboratories, N. Mex., has written a number of articles controverting the sensationalism often inherent in media accounts and reports which purport to demonstrate the ease with which terrorists could steal nuclear materials and could make nuclear explosives. Dr. Keepin's comments, if read and understood should go far toward mitigating the fear and concern of the many who cannot judge the validity of the lurid and generally incredible scenarios on nuclear blackmail and sabotage.

It has been forgotten, ignored, or glossed over by most of those who state how easy it is to make a nuclear explosive that it took the Indians as a nation, employing about 12,000 workers and outstanding scientific and engineering talent in well-equipped laboratories, almost 12 years to develop and test a nuclear explosive.

At this point, I would like to insert in the RECORD the aforementioned material plus a chart which compares the accessibility to and consequences of sabotage to various targets:

[From Nuclear News, September 1974]

NUCLEAR MATERIALS SAFEGUARDS—A PROFESSIONAL SPEAKS OUT

OR, "A JOURNEY INTO THE AWESOME & AUTOMATED SAFEGUARDS WORLD OF G. ROBERT KEEPIN"*

(By G. Robert Keepin)

A timely monograph on a sensitive and controversial political/technical issue is bound to make absorbing reading, especially for those whose specific area of professional interest is under fire. So it was for this reviewer with John McPhee's book, *The Curve of Binding Energy* (Farrar, Straus and Giroux, 1974), and with the more technical companion piece, *Nuclear Theft: Risks and Safeguards*, by M. Willrich and T. B. Taylor (Ballinger, 1974). In both of these books the authors argue for the public's right-to-know generally how nuclear explosives and radiation weapons can be made and where in the nuclear industry the requisite nuclear materials are to be found; they cite the fact that nuclear energy, with its bright promise of a major new energy source, does at the same time pose some inherent long-term risks about which the lay public should be as fully informed as possible. Agreed—emphatically. But as with any complex technical subject, and especially one that is largely classified, there remains the judgmental question of what degree of detail constitutes adequate informing of the public.

A common denominator of concern arising from all the recent publicity concerning Taylor, terrorism, and nuclear material diversion stems mainly from the extraordinary dialogue between Taylor and McPhee over a period of several days at a primitive cabin in the Maryland woods. "The place was convenient," McPhee recounts, and Taylor "was pursuing, in its many possible forms, the unclassified atomic bomb." Without elucidation, this reviewer would simply record here the opinion that it is both unseemly and counterprodutcive for a former professional in the weapons field to speculate—however hypothetically—on how a would-be diverter might proceed with design and fabrication of an illicit atomic bomb. Genuine concern with safeguarding against diversion of nuclear materials could surely take more constructive forms than indulging in what could turn out to be self-fulfilling prophecy.

The dictates of reason and prudence would appear to reject Taylor's assertion that "it seems necessary to be quite specific" in order to make the risks of nuclear terrorism credible, and to convince the public of the gravity and urgency of the nuclear materials diversion problem—so that, in turn, public pressure can be applied to the AEC, among others. (This somewhat circuitous rationale apparently derives from the rather extreme view: "Historically public pressure is the only kind that the nuclear community responds to.") In rebutting the need to be specific it can be argued that—based on AEC-released public information on the general characteristics of nuclear weapons and their effects—the informed lay citizenry has acquired a general appreciation of the risks, realities, and public issues (civil defense, ABM deployment, etc.) associated with nuclear weapons withuot knowing, or caring to know, details of weapons design.

One reviewer, obviously shaken by his first glimpse into the "awesome and alarming world of Theodore B. Taylor," concludes flatly that "The Curve of Binding Energy" constitutes "a serious . . . indictment of the Atomic Energy Commission and the private nuclear industry." Such a broadside calls for some factual rebuttal. Aside from the obvious need for tighter physical security around nuclear plants (as stressed by Taylor and others, and now being implemented), it has long been recognized that the *pro forma* methods for materials safeguards and control *within* plants do indeed leave much to be desired. Principal among these shortcomings are: (1) a lack of timeliness of material assessment, especially for bulk flow material which must be accurately and frequently *measured* for stringent accountability (i.e., as opposed to the more straightforward piece counting of discrete fabricated units); (2) the relative insensitivity (to pinpointing diversion) of the cumulative data representing material unaccounted for (MUF); (3) the practical difficulties of determining MUF to within an accuracy of 0.5 percent (e.g., as required in the Code of Federal Regulations—10 CFR 70) or to within some designated "trigger" quantity of fissile material; and (4) the severe operational and economic penalties imposed by frequent process line shutdowns and cleanouts. Although these shortcomings have recently been identified by critics, such deficiencies have been well known to safeguards professionals and indeed are receiving requisite R&D attention.

A general commentary on much of the recent high-profile criticism of U.S. safeguards posture is the seeming preoccupation with scenarios, sensationalism, and technical superficialities rather than an in-depth attempt to understand, evaluate, and interpret for the public the scope and thrust of the AEC's ongoing safeguards R&D program. As seasoned professionals know only too well, truly constructive contributions to an effective, balanced safeguards system for the nation require competent dedicated, and sustained hard work—nearly always at low profile.

It is particularly regrettable that safeguards dilettantes and neophytes generally choose to ignore or fail to grasp the fundamental significance and key role of the new nondestructive assay (NDA) technology and instrumentation being developed and now beginning to be applied throughout the nuclear industry. This new instrumentation coupled with advances in low-cost on-line computers will provide automated in-plant accountability and control of nuclear materials on an essentially realtime basis. Augmented by automated surveillance and verification instruments, this total NDA capability can meet, efficiently and economically, the stringent new federal regulations on security and accountability, and can provide requisite levels of assurance against nuclear material diversion from all types of nuclear plants. Additional important economic benefits of automated in-plant instrumentation include better process and quality control, criticality safety, and the reduction or elimination of costly shutdown and cleanout procedures during each inventory campaign.

The important over-all point to be made here is that—notwithstanding certain glaring shortcomings and sins of the past—the AEC and much of the nuclear industry are in fact making great strides toward effective, stringent control of the nuclear materials which are the lifeblood of that industry.

To switch gears from technical to literary commentary, McPhee's style really is hard to beat. The "Curve of Binding Energy" is fascinating exposition. Undoubtedly some will find it entertaining, albeit scary entertainment. Nearly all readers should find the book intellectually exciting and a model of clarity throughout the skillfully interwoven technical and nontechnical subject matter.

Except for the notable deficiencies discussed above, both of the subject monographs are unquestionably worthwhile for their timely contribution to public awareness of an increasingly important and complex national issue.

[From Laser Focus, October 1974]

NUCLEAR SAFEGUARDS

Focus on books.—"The Curve of Binding Energy," John McPhee, Farrar, Straus and Giroux 1974, 231 pp., $7.95.

"Nuclear Theft: Risks and Safeguards," Mason Willrich and T. B. Taylor, Ballinger 1974, 256 pp., $13.50.

In less than six months nuclear materials safeguards has emerged from relative obscurity to become a major nuclear issue in the United States. Safeguards concerns—which today encompass not only diversion of nuclear materials, but also overt attack, nuclear blackmail, and other forms of terrorism—have escalated recently with the explosion of a nuclear device by India, the rise of terrorism in the U.S. and abroad, and the prospect (spectre) of nuclear power being introduced into Middle East countries. Although such events have "fed the flames," the continuing firestorm of safeguards publicity in the U.S. seems to have been sparked by the various publications earlier this year by and about Theodore B. Taylor, a former weapons designer who has seen fit to "go public" in order to emphasize dramatically the growing threat of diversion and theft of special nuclear materials with their by-now-well-advertised potential for making crude atom bombs.

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* Editor's subtitle, with permission from the author.

In all candor, it must be stated at the outset that seasoned safeguards professionals, this one included, generally have serious reservations about any publicity-oriented, sensational approach to the complex problem of nuclear diversion, so they have had understandable reticence to respond publicly on this sensitive issue. Unfortunately, however, the continued silence of safeguards people has been construed by many as tacit endorsement of Taylor's claims and modus operandi. This perpetuation-by-default of a grossly false impression has finally become intolerable, so in response to repeated urging this reviewer seems, de-facto, elected to speak out for safeguards professionals—the "safeguards establishment" if you will!—in the improbable form of a double book review!

IS SUCH SPECIFICITY NECESSARY?

In both "The Curve of Binding Energy" and the somewhat more technical companion study "Nuclear Theft: Risks and Safeguards" the authors argue for the public's right to know, generally, how nuclear explosives and radiation weapons can be made and where in the nuclear industry the necessary special nuclear materials (SNM) are to be found. Their argument hinges on the fact that nuclear energy is no temporary phenomenon, but rather a major national commitment and a burgeoning worldwide industry with certain inherent longterm risks about which the lay public should be as fully apprised as possible.

While concurring generally in the obvious merits of "candid disclosure," this reviewer must take issue with Taylor's thesis that "it seems necessary to be quite specific" about considerations of weapon design and fabrication in order to make the risks of nuclear terrorism credible, and to convince the public (and thereby, he argues, the Atomic Energy Commission) of the gravity and urgency of the growing nuclear-materials diversion problem. In countering Taylor's claim it can be argued that on other national issues involving nuclear weapons—e.g., antiballistic-missile deployment, civil defense, nuclear disarmament, etc.—the informed lay public has traditionally expressed policy views, debated alternatives and, through elected representatives, participated in the national decisionmaking process without access to particulars of weapons design and fabrication. From the mass of pertinent AEC-released documentation, concerned citizens have been able to acquire a general appreciation of the risks and realities associated with nuclear weapons without knowing, or caring to know, details of weapons design. Further, it is clearly the prerogative of any citizen sufficiently concerned about technical details to dig out for himself whatever weapon information (or misinformation) may exist in the open literature. On the other hand, in this reviewer's opinion it is most unseemly for a former professional weaponeer to gratuitously screen distill and document pertinent technical literature in this sensitive area. It seems a further impropriety, bordering on irresponsibility, for the same source to then pursue detailed technical speculation—and then proceed, with apparent impunity to release same for publication without formal AEC classification review—on how a would-be diverter might fashion an illicit homemade atomic bomb. Genuine concern with safeguarding nuclear materials could surely be directed along more constructive lines than indulging publicly in what could turn out to be self-fulfilling phophecy.

MATERIALS CONTROL WITHIN PLANTS

Turning to another area of concern to safeguards professionals generally, the recent criticism of U.S. nuclear-safeguards posture in the popular press has focused on the obvious need for improved transportation safeguards and for tightened physical security *around* nuclear plants—and indeed these much-needed improvements are now being widely implemented. There is, however, an equally important need for stringent control of materials *within* plants to protect against SNM diversion, theft and loss by covert rather than overt means. Perhaps because it is not as readily understandable as physical security, the urgent need for, and solutions to, better *in-plant* control of SNM are not delineated, interpreted, or developed adequately in any of the recent popular assessments of our national safeguards posture.

To gain some appreciation of the difficulty of SNM control within an operating nuclear plant, it need only be recognized that all in-process bulk-flow materials require frequent, if not continual, *measurement* for stringent accountability and control; this is clearly in sharp contrast to the safe-guarding of fabricated discrete units which, like money, can be piece-counted for exact accountability. Thus many important types of SNM control problems simply do not involve physical security *per se*, but depend rather on timely knowledge of what, where, and how much SNM is found in the various process and storage areas of a nuclear plant. For example, in the assessment of an accident (either real or contrived as a "screen" for diversion) or in the assessment of a nuclear blackmail threat, current and accurate information on plant inventory status and level of assurance against diversion are essential input data which can only be provided by direct SNM measurement and control on essentially a realtime basis.

It must be candidly acknowledged that the traditional methods of SNM accountability, off-site analysis of attribute samples, etc. generally fail to meet the key requirements of assay accuracy and timeliness. Cumbersome, inefficient and sometimes wholly ineffective, the older accountability methods can also impose severe economic penalties, e.g., in the frequent plant shutdowns and cleanouts required for physical inventory campaigns. It follows that rigid enforcement of increasingly stringent safeguards requirements will pose a growing threat to the economic viability of commercial reactor fuels containing plutonium or highly enriched uranium, i.e., light-water reactor (LWR) recycle, liquid metal fast breeder reactor (LMFBR) and high-temperature, gas-cooled reactors (HTGR). Fortunately there is a practical, cost-effective alternative to this rather bleak prognosis for the reactor fuels of the future. The new nondestructive assay (NDA) technology and instrumentation being developed by the AEC and now beginning to be implemented throughout the nuclear industry promise essentially realtime measurement and control of nuclear materials on a unit process basis. For those not familiar with NDA technology, it may be explained that nondestructive assay methods are categorized as (1) active and (2) passive. Active assay involves irradiation with neutrons or photons to induce fissions in the sample, and interpretation of the resulting neutron or gamma-ray "signatures" to determine quantitatively the amount of fissionable material present. Passive assay uses naturally occurring gamma and/or neutron radiations as direct signatures of fissionable material. A variety of passive and/or active assay techniques are required for the wide range of materials-measurement problems found in the nuclear fuel cycle.

Appropriate NDA measurement instrumentation, augmented by surveillance and verification equipment, thus comprise a complete, automated in-plant safeguards system which can meet, on a cost-effective basis, the stringent new federal regulations on security and accountability, and should provide requisite levels of assurance against nuclear material diversion from all types of nuclear plants. Additional important economic benefits of automated in-plant instrumentation include better process and quality control, criticality safety, and the reduction or elimination of costly shutdown and cleanout procedures.

Needless to say, nondestructive assay techniques are not limited to analysis of fissionable materials alone; they are being applied to assay and diagnostic problems in such diverse fields as bioassay, isotopic tracer techniques, environmental monitoring, and chemical process development. A noteworthy example which embraces both safeguards and laser technology is the use of high-sensitivity NDA instrumentation to study uranium atom and compound gas kinetics, molecular exchange, and dissociation problems arising in the development of a practical process for laser isotope separation.

The foregoing elaboration of the capabilities and promise of automated in-plant measurement technology seems both timely and necessary to fill an obvious gap in popular understanding of this important aspect of safeguards. Typical of misinformed, rash reaction to at-times-illusory popular writings is a reviewer's broadside in the June 29 issue of Business Week: "The book [Curve of Binding Energy] is a serious bomb [sic] indictment of the Atomic Energy Commission and the private nuclear industry." Actually the brief elaboration of technology herein is but a foretaste of a broader effort by the AEC to outline and explain to the public as fully and clearly as possible the thrust of modern safeguards technology and its vital role in achieving clean, safe—and safeguarded—nuclear power.

Finally as regards journalistic merits, both of the subject books (however diverse in individual scope and purpose) are indeed well-written, intellectually stimulating and, for this reader at least, completely engrossing. To those knowledgeable in the field it is readily apparent that the development of such "moving-target" subject material required considerable effort and dedication. Subject to the technical caveats as noted, it seems fair to say that both of these monographs offer a timely and significant contribution to public awareness of an increasingly important and complex national issue.

—G. ROBERT KEEPIN.

[From Nucleonics Week, Oct. 17, 1974]

DYMAC: KEEPING CONTINUOUS TRACK OF SPECIAL NUCLEAR MATERIAL

Los Alamos Scientific Lab (LASL) is developing for AEC an in-plant safeguards system which appears to have considerable promise in the expanding field of special nuclear materials (SNM) safeguards Called Dymac—Dynamic Materials Control—it is based on instrumented measurement and verification of SNM inside nuclear facilities, whether they are fuel fabrication, reprocessing, enrichment, conversion or recovery plants. When fully developed, Dymac will be thoroughly evaluated and tested in representative types of nuclear facilities; the first in-plant prototype tests of equipment are already under way at the LASL plutonium fabrication and recovery plant. The Dymac program is in the hands of the LASL safeguards r&d group headed by G. Robert Keepin.

Keepin stresses the vital need for timely and detailed knowledge of what, where, and how much SNM is in the various process and storage areas of a nuclear plant. Such a "dynamic" materials accountability system balanced with appropriate verification and physical security measures, can provide a stringent, multiple-layered defense against nuclear diversion, theft, or accidental loss. Although the safeguards focus has recently been almost exclusively on physical security—fences, armed guards, etc.—AEC chairman Dixy Lee Ray, in citing the need for a balanced safeguards effort, told a recent meeting: "Perhaps the most important key to proper protection is "accountability.'" As a major part of AEC safeguards r&d, Keepin and his group are developing nondestructive assay techniques and instrumentation to implement accurate accountability on as automated and current a basis as is technically and economically feasible.

In developing the rationale for the Dymac system, as well as AEC regulatory's counterpart Retimac—Real Time Materials Control system—Keepin cites certain types of materials control problems which do not involve physical security per se. For example, the security guard at a plant gate may make a verification check for presence or absence of nuclear material on a vehicle but he cannot assay on the spot the exact quantity of plutonium or uranium, what enrichment level, etc., is passing through his gate check point. That job requires timely and accurate measurement in the plant, such as at the load-out station. Direct piece counting of fabricated units—fuel pellets, rods, assemblies, etc.—is relatively easy, says Keepin, compared to keeping track of the flow of SNM in process lines. Under Dymac, in-process material could be measured on leaving one unit process (such as a solution tank) and measured again as it enters the next. Detailed comparison of such "double check" measurements could then aid in pinpointing precisely when and where SNM had been removed or lost, and how much. As an illustration of timely accountability, a plant-wide material balance could be struck during each 8-hour operating shift, with the personnel routinely released upon obtaining the requisite level of assurance against material diversion.

Keepin stresses that the whole Dymac concept must be fully evaluated and tested in real-life operating nuclear facilities before its full potential can be accurately gauged. He believes it will ultimately prove cost-effective through improved process and quality control, criticality safety, and the reduction or elimination of costly shut-down and clean-out procedures at inventory time. Such substantial economic benefits would help to ease potential industry concerns about the cost of the Dymac system.

Although Los Alamos is developing and field testing nondestructive assay (NDA) instruments for Dymac, it is also cooperating with nuclear instrument manufacturers to bring proof-tested such instruments onto the commercial market as quickly as possible. To facilitate personnel instruction in use of the nondestructive assay instruments, AEC has established at LASL a formal NDA training program open to industry and government people, both U.S. and foreign.

Keepin deplores the sensationalism and publicity in the popular press on SNM theft and diversion scenarios, and "cook-book" descriptions alleging how easy it is to put together a home-made atom bomb. All this, he feels, is quite unnecessary to drive home the case for safeguards and it could lead to self-fulfillment of dark prophecies of nuclear blackmail, terrorism, etc. In the October issue of *Laser Focus* magazine, Keepin pointedly critcizes Theodore B. Taylor, safeguards authority and board chairman of International Research & Technology Corp., for "going public" with speculations on the design of do-it-yourself nuclear weapons and the various ways that nuclear materials can be stolen. Taylor, Keepin says, asserts that "it seems necessary to be quite specific" about considerations of weapon design and fabrication in order to make the risks of nuclear terrorism credible and to convince the public (and thereby the AEC) of the gravity and urgency of the SNM diversion problem.

Keepin counters that on other national issues involving nuclear weapons—antiballistics missile deployment, civil defense, nuclear disarmament, etc.—the informed lay public has traditionally expressed policy views, debated alternatives and, through elected representatives, participated in the national decision-making process *without* knowing, or caring to know, details of weapon design.—*Roger Smith*

FIFTY-SIXTH ANNIVERSARY OF LATVIAN INDEPENDENCE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. ANNUNZIO. Mr. Speaker, November 18 marks the 56th anniversary of Latvian Independence Day and our distinguished mayor, Hon. Richard J. Daley, has issued a proclamation in commemoration of this significant event in the history of freedom-loving peoples everywhere.

On Sunday, November 17, a commemorative program in observance of Latvian Independence Day was held at Mather High School, 5835 North Lincoln Avenue, by the Chicago Latvian Association which is ably headed by Viktors Viksnins, president, and by the United Latvian Associations of Chicago whose fine and outstanding officers include Ilmars Bergmanis, chairman; Alberts Raidonis, vice-chairman; Aleksandrs Osis, vice-chairman and treasurer; Mara Tomsons, secretary; Karlis Vanags, director of cultural and social activities; and Rev. Vilis Varsbergs, committee member.

The theme of the commemorative program was "Remember Latvia," and the following statement from the United Latvian Associations reflects the deep and special meaning of this anniversary to Latvian-Americans in Chicago:

> To the Latvian people living in this community, the 18th of November is a day to remind them of several things. First is the past. The peoples of Latvia proclaimed their independence of Russia on this day in 1918. In 1920 Soviet Russia made peace treaties with them. By these treaties Soviet Russia recognized without reservations, the independence and sovereignty of the Baltic States, declaring that it voluntarily and forever renounced all sovereign rights over these people and territories. Unted States recognition was extended on July 28, 1922.
>
> For two decades these Nations established a good measure to economic well being and a high standard of social justice. Then, in 1939, the U.S.S.R. pressed so-called pacts of mutual assistance upon the Baltic States for the establishment of Soviet military bases and airfields in each nation, at the same time guaranteeing that there would be no interference with their political structure and social economic systems. In June of 1940, the Soviet Union marched its Red armies into the Baltic territory, set up a puppet government and caused them to apply for admission into the U.S.S.R. by staging mock elections with the support of the invading military forces. Only one list of Handpicked Kremlin Representatives was presented to the voters. The exercise of the secret ballot was denied thereby assuring the results long before the first ballot was cast. By this process the political commissars of the U.S.S.R. installed their puppet parliaments which on July 21–22, 1940, adopted a resolution prepared in Moscow petitioning the Supreme Council of the Soviet Union for recognition as a Soviet Republic. This action by the puppet parliaments was in violation of the sovereign will of the Baltic people and in violation of the legal constitutions of those nations which required a popular referendum on such issues. These nations were forcibly occupied and illegally annexed by the U.S.S.R. Unhappily, the devious processes as exhibited in this case have been going on until today to more than fifteen once-independent nations.
>
> Thereto came staggering into History's annals June 14, 1941, when about 60,000 Baltic people were incarcerated by the Communists without a warrant for search and seizure. These people in family groups, but separated from each other, were shipped in cattle cars to the harshest regions of Russia including the northern reaches of Siberia. For many it meant separation forever from their families. For those who died, it is the Baltic peoples' Memorial Day—the day of Deportation, the day of the Baltic "Auschwitz". The total deported and killed Latvians in the first year alone amounted to 1.80% of the population. This means that in the case of a Russian occupation and in proportion to the population, 2,400,000 people would be deported from the United States of America.
>
> Secondly, this day is a very opportune time to thank the community, the city, the state and the country for its charity, tolerance and help in the modern day "Exodus" of the Baltic people. America is the standard-bearer of the premise that without justice there is no dignity accorded the individual. We are especially appreciative to the U.S. Government which has not recognized the enforced incorporation of the Baltic States into the U.S.S.R., still maintaining consular and diplomatic relations with the representatives who served the last governments of these nations. We pray this non-recognition will continue."

The tragic plight of Latvia, as well as the other Baltic nations—Lithuania and Estonia—has long been a matter of deep concern to me and that is the reason I introduced legislation expressing the sense of the Congress against the continued incorporation of Latvia, Lithuania, and Estonia into the Union of Soviet Socialist Republics. My resolution recommends that the President of the United States take this matter once more to the United Nations to seek a declaration of world opinion demanding that the Soviets withdraw all troops, agents, and controls from the Baltic nations.

In addition, my resolution urges that hundreds of thousands of Baltic exiles who still survive in Russian prisons and slave labor camps be permitted to return to their homeland, and finally recommends that free elections be held in Latvia, Lithuania, and Estonia in order that the Baltic peoples may choose their own form of government. I do feel that the repeated demonstration of our determination to defend this righteous cause will in the long run help to make Baltic liberty a reality.

Mr. Speaker, the Baltic people know by bitter experience that civil rights and elemental freedoms are the concern of all mankind, and I urge all of my colleagues here in the House of Representatives to "remember Latvia." On this occasion I extend my greetings to the Americans of Latvian descent in my own 11th Congressional District, the city of Chicago, and all over this Nation who are participating in the 56th anniversary celebration of Latvian independence.

My colleagues will be interested to know that the Lithuanian seaman Simas Kudirka met yesterday with Mayor Daley, who has proclaimed him an honorary citizen of Chicago. Kudirka unsuccessfully attempted to escape from Soviet authorities by boarding a U.S. Coast Guard vessel in 1970. For this attempt, he was imprisoned by the Soviet authorities and was only recently released from prison and allowed to immigrate to the United States. I was proud to join with many Members of Congress in urging the release of this courageous man.

Mr. Speaker, at this point in the CONGRESSIONAL RECORD I would like to insert the proclamation passed by the City Council of Chicago and signed by Mayor Richard J. Daley regarding Latvian Independence Day in Chicago.

The proclamation follows:

PROCLAMATION

Whereas, there exist many historical, cultural and family ties between the people of the Baltic States and the people of the United States and the City of Chicago; and

Whereas, in commemoration of independence proclaimed in 1918, confirmed by a peace treaty in 1920, and later violated by Russian occupation, Chicagoans of Latvian origin will again this year observe the 1918 declaration of liberty; and

Whereas, appropriate services will be held at Mather High School starting at 4 p.m. on November 17:

Now, therefore, I, Richard J. Daley, Mayor of the City of Chicago, do hereby proclaim Sunday, November 17, 1974, to be Latvian Independence Day in Chicago and urge all citizens to take cognizance of the special events arranged for this time.

JOHN SAWHILL'S REMOVAL

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. SNYDER. Mr. Speaker, I do not like to disagree with my friend from Massachusetts (Mr. CONTE) but I believe that the only thing wrong with John Sawhill's removal from office is that it did not occur soon enough. On October 2, 1974, I sent the following telegram to President Ford:

> Urge you immediately fire Federal Energy Administrator John Sawhill for advocacy of additional tax or fee on gasoline. Urge you fire any and all your advisors so out of touch with the common man's problems to recommend such abuse of the people. What a damnable reward to give them for their admirable voluntary conservation of fuel. I urge an immediate unequivocal statement by you that no new Federal tax, fee or other charges will be levied on gasoline at any time under your administration. The average American who can't make ends meet now with inflation due to Federal deficit spending expects leadership from you to get out of the hole, not deeper into it.
>
> M. GENE SNYDER.
> *Member of Congress.*

My question is only why did he wait so long.

A CLASSROOM IN ACTION

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. HELSTOSKI. Mr. Speaker, this is an age in which our educational system and teaching technologies are becoming more sophisticated and complex each day. As a result, it has become increasingly important to keep the members of the community informed about what is going on in the classroom. To accomplish this goal, many schools periodically hold "open houses" or "back-to-school nights."

Unfortunately, many members of the community are often unable to attend these sessions or are simply not aware of these opportunities. However, an effort to overcome these obstacles was made recently by some students and teachers in Teaneck, N.J. In an attempt to offer their community a better look at the school system, about 100 pupils attended class recently in a local supermarket. The purpose of this trip to the market was to afford shoppers a better look at what goes on in the classroom of today.

An interesting article concerning the Teaneck experiment appeared recently in the New York Times. In view of the fact that it gives further insight into an idea which proved beneficial to all involved, I would like to share this article with my colleagues. The article follows:

TEANECK SHOPPERS SEE A CLASSROOM IN ACTION

(By Grace W. Weinstein)

TEANECK.—About 100 pupils from the second, third and sixth grades here went to school in a local supermarket last week.

In observance of American Education Week, Teaneck not only opened its schools to the community but, in an effort to show more residents what education is all about in 1974, also took the schools to the community. Four classes from two elementary schools convened in the Pathmark store on Cedar Lane, Teaneck's main street. One class met each morning and afternoon, Tuesday and Wednesday.

"We traditionally invite the public into the schools for American Education Week," said Lucy Stamilla, Teaneck's director of elementary education, "but it occurred to me that there are many people in the community with no children in the schools at all and parents who only visit a single classroom and don't know what's going on in the district as whole. We decided to bring the schools to them, and chose a supermarket because it gets a good cross-section of the community."

Thus, Mrs. Joyce Dalton's third-graders from Lowell School filed into the store on Tuesday morning. They sat at tables and chairs brought from school and arranged alongside the frozen turkeys; on the other side, between the children and the fresh meat displays, shoppers wheeled their carts and supermarket employes pushed multitiered meat-distribution carts.

APPETIZING SURROUNDINGS

The youngsters went about their work undisturbed by the bustle around them.

Eight-year-old Adam Leitner found the experience "fun," but that the surroundings made him hungry. He then tried to see how many words he could make out of the word supermarket.

Marci Manberg, also eight, began writing a story: "Once there was a lady who went shopping at Pathmark. She found everything she wanted. After she paid for everything, she went home and made supper."

At another table, a pig-tailed youngster in a purple print shirt started a mathematics problem thusly: "Robin went to the store with her mother. They bought one pound of meat, two pounds of chicken, five pounds of tomatoes. How much did they all cost together? How many pounds of food did they get altogether?"

In the corner, next to a display of turkey platters, two boys referred to an encyclopedia, brought from school, to begin a project on the national origins of different foods.

Despite the link-up of work field trip to a supermarket, to location, this was not a field trip to a supermarket. Its purpose was to make school visible to the general public.

A folding table at the end of the meat aisle—the rear of the "classroom"—held booklets about the Teaneck schools and evaluation forms for shoppers to fill out. Mrs. Ethel Brown, a teacher's aide, was prepared to answer their questions.

While some shoppers looked nonplussed at the unusual sight, most reacted favorably.

Mrs. Carol Wagner, with two boys in her full shopping cart (the older one starts kindergarten next fall), said:

"It's a nice idea, I'd like to learn more about the school system here. It's so different compared to when we went to school."

A visiting parent, Mrs. Lore Morgenstern, agreed.

"There's a world of difference from when we were in school," she observed. "We sat in rows and folded our hands."

This "world of difference" is exactly what the school administration wanted residents to see.

"A BIRD'S-EYE VIEW"

As Henry Witte, principal of Whittier School, put it:

"Education is very different today than it was 10 or 15 years ago. This gives residents a bird's-eye view, in an uneducational environment, of what school is all about."

Said Sydney Bookstaber, principal of Lowell School: "Residents of the town pay for the education of the children of the town. This will let them see what they're paying for."

Most of the shoppers who filled out evaluation forms agreed that school-in-the-market was a good idea. While one anonymous critic wrote "Although this is probably good public relations, it probably interferes with the normal amount of learning that would go on in school on a given day," most agreed with the shopper who observed:

"The kids can learn anywhere, and this project shows the public what's new and how flexible the kids are and the schools are or should be."

"There should be more public contact with the schoolchildren and the educational program," another shopper wrote. "Maybe, then, people would see what education needs and wouldn't squawk about taxes."

As for the children, Mrs. Dalton said:

"They had just hoped that more people would stop and ask about their work. They were so pleased and proud to explain."

ROOM SELECTION PRCCESS SHOULD BE CHANGED

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. MILLER. Mr. Speaker, last Monday I witnessed the ritual room selection process in the Cannon Caucus Room. I am compelled to say that there is absolutely no excuse for the antiquated, dilatory procedure that is still being used for the selection of Members' offices.

The session began at noon with a packed room of Members and aides, well over 200 persons at one point. It was not until after 7 p.m. that the four termers completed their selection and near midnight when the first termers finished. The 92 new Members have yet to pick rooms. All in all, literally thousands of man-hours were wasted that day by staffers simply waiting their turns to select. I think we can and must find a better way to do this job with less time, more fairness, and greater accuracy.

I, therefore, urge the House Office Building Commission to meet and redesign the selection procedure so as to improve its speed and efficiency. I suggest that the process could be computerized or at least the drawing could be held over several days with only two or three service classes scheduled at a time.

In no way do I intend to fault those who diligently labored to supervise and administer the drawing. They did their best to follow the regulations as they were set down. So it is the regulations which must be changed and I hope I can report back to you the Commission is taking action to prevent a repeat of last week's ridiculous selection procedure.

CONGRATULATIONS TO MR. AND MRS. ROBERT SIDNEY PHELAN

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. JONES of Tennessee. Mr. Speaker, I would like to take this opportunity to congratulate Mr. and Mrs. Robert Sidney Phelan, of Trenton, Tenn., on being chosen Outstanding Citizens at the Trenton Chamber of Commerce Membership Banquet in late October. At this point, I include in the RECORD a news article regarding this event that appeared in the Jackson, Tenn., Sun on October 15, 1974:

TRENTON.—Automobile dealer Robert Sidney Phelan and his wife, Gayle, were named Trenton's outstanding citizens Monday night at the annual membership banquet of the Chamber of Commerce.

Arnie Anderson, named the city's first outstanding citizen a year ago, surprised the Phelans and the more than 500 in attendance by announcing two winners rather than one.

Phelan, a lifelong Gibson County resident, is a member of the city's industrial board. He also is a Democratic member of the county election commission and is credited by many for the strong showing made in Gibson County by Jake Butcher in the Democratic primary for governor.

Mrs. Phelan has been active since February as chairman of the Concerned Citizens for Better Education, a group that is trying to build a new high school for the city. Her work with the group has included meetings with education leaders in the city, county and Nashville.

The Phelans were married in 1958 and have three children: Sid, Paul and LeAnn.

The outstanding citizens were selected by a committee of the Chamber's directors after nominations were solicited from the public.

Outgoing Chamber President Charles Hill also was presented with an award Monday in honor of his year of service to the civic group.

And country humorist Jerry Clower, who provided the evening's entertainment, was named honorary mayor of Trenton by Mayor Leo Maness.

CONGRESS URGED TO OVERRIDE VETO OF H.R. 12471, FREEDOM OF INFORMATION ACT AMENDMENTS—V

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, truly "open government" is badly needed as an antidote after the Watergate mess in order to restore faith and confidence of the American people in our governmental institutions and leaders. President Ford pledged "open government" when he was sworn into office last August; but by his puzzling veto of H.R. 12471, our bipartisan bill strengthening the Freedom of Information Act, he has turned his pledge into just another political slogan and another broken promise.

If ever any veto deserved to be overridden, Mr. Speaker, it is this one. The veto message itself is filled with misstatements of fact, incoherent inaccuracies, legal mythology, and shows an amazing lack of understanding of the operation of the Federal judicial system and the Freedom of Information Law.

The Nation's editors almost universally agree that the Freedom of Information bill veto should be overridden. Dozens and dozens of editorials from newspapers throughout the country have urged Congress to act promptly to set aside the veto. I have already placed many of them in the RECORD for the information of our colleagues. Another representative sample of such opinion is included at this point:

[From the Washington Star-News, Nov. 1, 1974]

FREEDOM OF MISINFORMATION

(By J. F. terHorst)

The day after his swearing in on Aug. 9, President Ford assembled the Nixon Cabinet and urged the department heads to be "affirmative" in their relations with the news media.

He promised to set a high example at the White House.

Moments later, as he went around the table soliciting the views of the Cabinet on matters of concern to their agencies, Atty. Gen. William Saxbe brought up the amendments to the Freedom of Information Act then moving through Congress. Saxbe termed the amendments "bad legislation" and warned Ford that he might have to veto the bill.

On the way out of the Cabinet room, Counsellor Robert T. Hartmann and I, then Ford's press secretary, exchanged grim glances. It was clear that the attorney general had not caught the spirit of Ford's desire to establish an open administration after years of Nixon isolation. We immediately sought out Ford and pointed out to him that a veto of the Freedom of Information amendments would make his pledge of openness ring hollow.

Ford agreed and, displaying his keen knowledge of Capitol Hill, suggested that the Senate and House chairmen be asked to hold up the FOI amendments so his administration people could work out an acceptable compromise.

Ford knew the Hill chairmen would respond to his plea that the new administration deserved a chance to break the impasse then developing. What Ford didn't know was the depth of the ingrained Nixonian antagonism toward the media that still prevailed among the Cabinet members he had inherited.

Despite the grace period that the congressional managers of the bill extended to Ford as a personal courtesy, no serious efforts to work out a compromise were made by the Justice Department, the FBI, the Domestic Council or other administration agencies whose leaders supposedly were now responsive to Ford.

It amounted to stonewalling, some actually preferring that Congress pass a bill which Ford would veto. At a meeting of the White House Senior Staff several weeks later, William Timmons, the White House congressional liaison chief retained by Ford, urged that the staff recommend to Ford that he veto the FOI legislation. And Ford, assuming Congress and not the administration was being stubborn, finally did that just last week.

In the process, however, Ford offered several new suggestions to Congress which he says will make it possible for him to sign a Freedom of Information measure.

One Ford proposal deals with the right of federal courts to review the merits of disclosing the contents of classified documents if there is no reasonable basis for keeping the information away from the public. Another Ford proposal is that Congress grant federal agencies 15 more days to produce the government information sought by citizens or news media.

The Ford ideas, although coming late in the game, deserve serious consideration. At least they could form the framework for a compromise on Freedom of Information that would be palatable both to Congress and the White House.

Unfortunately, Ford's move may be too late now. The Nixon holdovers in the administration have sandbagged the new President's pledge of new openness in government. And congressional Democrats, emboldened by their assurance of victory in next week's congressional elections, probably will be in a mood to slap at Ford for his harsh campaign rhetoric of recent weeks.

The lesson for Ford is that there still remains an excessive amount of anti-media zeal among the Nixonites in government, despite his own desire that federal agencies make more, not less, information available to the public.

It is yet one more liability Ford will have to live with until he installs his own men in the Cabinet and around the White House.

[From the Vicksburg, Miss., Post, Oct. 22, 1974]

MORE FREEDOM OF INFORMATION

Soon after the Freedom of Information Act took effect in 1967 it became evident that the law did not guarantee quite as much public access to government documents as had been expected. It is gratifying that Congress has at last completed work on revisions designed to strengthen access.

The law is basically a good one. In general it permits access to information from federal agencies, and also provides the machinery for court appeal of official decisions to withhold data. Exceptions are made in certain areas—trade secrets, investigatory records of law enforcement agencies, and so on.

Problems arose from the start, however. About three years ago Congress began the task of improving the Act. Matters were complicated by a Supreme Court ruling in 1973 which allows the president to screen documents from judicial review.

This ruling will in effect be overturned by the new legislation. It authorizes federal courts to make a determination as to whether a secrecy stamp on any given piece of information is actually justifiable under terms of the law. Nor will the courts have unbridled discretion in classifying questioned documents. They will be obliged to decide whether the criteria of an executive order for classification are met by a document.

All this is in aid of the people's right to know what their government is up to. Let us hope that President Ford, whose earlier objections have largely been met by congressional compromise, will sign the bill.

[From the Columbus, Ohio, Dispatch, October 23, 1974]

The Better Alternative

In large measure the preservation of a free and responsive government depends on its openness with the people and in its reliance upon their judgment in the end.

We believe President Ford basically adheres to that principle and that he chose the wrong alternative to improve its workability when he vetoed the 17 amendments adopted by Congress to the Freedom of Information Act of 1966.

The act has not worked particularly well since it went into effect due to the inherent tendencies of federal bureaucracies to overclassify their documents or otherwise obstruct legitimate efforts by citizens and news agencies seeking information.

The President fears the new amendments jeopardize military and diplomatic secrets. He objects, particularly, to a provision which would allow judicial review of government contested efforts to gain governmental information.

Without judicial review, a decision to release or withhold government information would continue to rest with bureaucrats who have themselves and their respective agencies, as well as legitimate government secrets, to protect.

In preparing the amendments, responsible legal, legislative and news media leaders considered their national security implications for three years.

They rightfully exempted criminal investigative records from the amendments.

The margins by which each house of Congress passed the amendments—349 to 2 in the House and a voice vote in the Senate—reflect the Legislative Branch's broad confidence in the checks and balances provided by judicial review.

It is difficult to see any justifiable fears about the amendments' adequacy to protect authentic national secrets.

One should keep in mind, too, that no law is sacred once enacted. If it does not fulfill its intended purpose, it can be amended to do so or be abolished, as need be.

The amendments should be given a chance and for that reason the Congress should override Mr. Ford's veto.

There is a good chance that may happen. But if there is any doubt it may not, it should be done.

Any citizen who believes the government should conduct its business as openly as possible—even including risks which may not be foreseeable—can readily wish the same.

[From the Norfolk Virginian-Pilot, Oct. 21, 1974]

Public Business

Contrary to expectations, President Ford vetoed Congressionally approved amendments to the 1966 Freedom of Information Act. Congress should overwhelmingly reaffirm its support of the changes by overriding the veto when it reassembles after the November 5 elections.

The intent of the original Freedom of Information Act—to guarantee access to all Federal documents and records, with certain well-warranted exceptions—was frustrated by bureaucratic delay, the expense of suing to force disclosure, and excessive charges levied by agencies for finding and providing requested information.

After three years of study, Capitol Hill moved to correct the worst deficiencies. President Ford, almost immediately after his inauguration, asked a House-Senate conference committee to make five changes in the bill it produced reconciling differences in amendments passed in each chamber of Congress.

The committee responded by providing that Federal employes who violate Freedom of Information Act strictures should be punished by their own agencies, not by the courts; that time limits for agency answers to petitions for public records should be extended well beyond the 30 days in the original bill; that attorneys' fees and court costs should not be paid for corporations seeking Government records; and that investigative files should not be opened if their disclosure would invade personal privacy. The committee balked at weakening an amendment to permit Federal courts to determine whether so-called classified information should remain secret.

The Senate sped the conference committee bill through on a voice vote. The House approved it 349–2. Mr. Ford vetoed it, demanding that the amendment he proposed but the committee spurned be added to the measure, and that lengthy investigatory records be exempted because, he said, law-enforcement agencies lack competent officers to peruse them.

The bill Mr. Ford vetoed would go a very long way toward exposing to public scrutiny governmental documents relating to public business. Even more salutary, it would restrain bureaucratic high-handedness and the inclination to secrecy. It would encourage responsibility where now there is irresponsibility because of an absence of accountability. Congress should lose no time in seeing that the amendments become law.

OPPOSITION TO APPEARANCE OF PLO AT THE UNITED NATIONS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. WOLFF. Mr. Speaker, I would like to take this time to express my strongest opposition to the recent appearance before the United Nations of Yasir Arafat, the leader of the band of terrorists known as the Palestine Liberation Organization.

I have always respected the ideals for which the U.N. stood and am deeply saddened that that body, which should honor the peacemakers of the world, instead chose to welcome Arafat, whose avowed aim is the destruction of another state through terror. For the first time in its history, the United Nations permitted someone who is not the representative of an established state to address it. This presents grave possibilities for the future. Henceforth, an organization might not be considered a legitimate spokesman on the merits of its standing in international law, but because it blatantly violates that law and feels no qualms over spilling the blood of innocents. Respect for peace may be trampled by hatred and murder. Mr. Speaker, the world must not permit terrorism to become a legitimate way to gain international recognition.

The Palestinian Arabs have a right to have their voice heard. But the voice of an organization of mass murderers should not be heard.

The PLO does not seek peace between the nations of the Middle East but the destruction of a member state of the U.N. Mr. Speaker, the situation in the Middle East must be resolved through negotiation between the parties and I urge my colleagues to join me in condemning the audience given the PLO's unilateral demands backed by the use of violence and bloodshed against women and children.

WAGE-PRICE PLAN NEEDS SELECTIVITY

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. BOLLING. Mr. Speaker, the article by Arnold R. Weber which appeared in the Washington Post of Sunday, November 10, outlines an approach to wage-price policies which deserves the attention of all those interested in economic stability in the United States.

The article follows:

Wage-Price Plan Needs Selectivity

(By Arnold R. Weber)

Wage-price policies in the United States have now undergone 30 years of trial and error and it is fair to say that there has been as much of the latter as the former. Even without a systematic assessment of their effectiveness, several deficiencies can be cast in sharp relief.

First, there has been a consistent failure to develop arrangements for defining a national consensus concerning the objectives and rules of the game governing wage-price policies. Unfortunately, there is no evidence that advisory committees or pseudo-parliamentary conclaves achieve anything approaching a durable consensus.

Second, wage-price policies have suffered from an inability to achieve even-handed treatment of wages and prices. The imbalance has not been a matter of conscious design but has been a consequence of the particular administrative arrangements for the implementation of wage-price policies.

Wages have been most severely restrained under formal systems of control and prices have borne the brunt of government actions under informal programs. Each instance of differential treatment comes to be viewed as evidence of class oppression rather than as an effort to deal with economic power or market deficiencies in particular cases.

Third, the quest for a standard that is comprehensive, equitable and sufficiently precise for effective administration has been less than successful. By fastening on productivity as the dominant standard, the administration of wage-price policies has focused on wages, with action on prices as a subsequent step. Aside from problems of measurement, the relevance of productivity as a sensible basis for wage and price decisions in the short run is diminished as you move from the economy as a whole to untidy markets for specific goods and categories of labor.

Fourth, there has never been a sensible theory of coverage of wage-price policies. Presumably, wage-price policies emerged as an attractive alternative because they could bridge the gap between the macro-economic policies that would sustain high levels of growth and employment for the economy as a whole and wage-price decisions in particular cases. These linkages have never been carefully identified. Consequently, wage-price policy administrators have turned almost reflexively to the same set of industries. If the steel industry didn't exist, it probably would have been invented for the convenience of the chairman of the Council of Economic Advisers.

Last, because the objectives, coverage and legal authority associated with wage-price policies have never been clearly established on a continuing basis, the organizational arrangements have had a consistent quality of improvisation.

Where does this analysis leave us and what alternatives may have promise? At the outset, the notion that wage-price policies can be global in nature and employed to control the general level of wages and prices in an effective manner should be rejected. Such an objective is misleading and administratively infeasible within the normal range of governmental activity in peacetime.

Instead, wage-price policies should be viewed as an instrument that can be applied selectively in particular product and labor market situations.

Within this more discriminating framework, selective controls will have two broad functions.

On the wage side, they would be concerned primarily with preventing distortions in the national wage structure. If wage movements have an autonomous inflationary effect, it is usually manifested through structural distortions which leverage the general level of wages as one union attempts to leapfrog another in its wage demands.

On the price side, administrative efforts would be concentrated on situations in which competition is limited by the organization of the market (as in health services), where a firm or industry can exploit temporary imbalances in supply and demand to reap economic rents (as in energy) and large, oligopolistic industries. Continued attention also would be given to those industries in which prices are strongly influenced by government actions and policies. Governmental price policies should not be viewed as an adequate substitute for the vigorous enforcement of the antitrust laws.

Selective controls also will relieve policy makers of the necessity for fashioning the consensus or "social compact" that is necessary to sustain a global program. If such a consensus is to be forthcoming, it is unlikely to be the product of advisory committees, summit conferences, or tripartite bodies. The task of defining a consensus is properly the obligation of the Congress and the Executive. The political system, and not some artificial assemblage of economic interest groups, must bear the burden for establishing a consensus, however fragile.

Meanwhile, wage and price policies can be exercised selectively without a supporting national compact because they will not be viewed as part of a strategy for the redistribution of power and income in society at large.

The selective approach also would relieve the sense of inequity arising from the inability to afford evenhanded treatment of labor and business within a global framework. To be sure, specific interests will feel either advantaged or disadvantaged by the imposition of selective wage-price policies. But, as a tactical and political matter, it is easier to deal with special interests than class interests. Experiences with the development of selective wage policies in the food distribution and construction industries in 1972–73 indicate that they can be maintained without arousing hostilities. In addition, by narrowing the focus of wage-price policies to specific industries, full weight can be given to all relevant economic data rather than fixing on a single criterion such as productivity.

The task of developing a framework for selective wage-price policies and implementing them in specific cases should be given to a permanent Wage-Price Commission, independent of the Council of Economic Advisers. In the past, such a commission has been viewed with distaste.

It is best to recognize that efforts to influence wage and price decisions will be a permanent element in national economic policy making. It is significant that, four months after the Cost of Living Council was quietly laid to rest it was disinterred as the Council of Wage and Price Stability. A permanent commission will have a higher degree of public accountability for its actions, an accountability that often has been blurred or ignored in past exercises of wage-price policies.

Last, to the extent that expertise counts, a permanent Wage-Price Commission would be an institutional depository for expertise in devising and administering these programs. Otherwise, each crisis precipitates a frantic search for the few tired bureaucrats who were involved "the last time around."

The Wage-Price Commission would be established by statute. It would have the authority to review wage and price developments in individual industries, develop procedures for public hearings and, if necessary, apply mandatory controls. It is argued that, if the President has such authority, the political pressures to exercise it on a broad scale would be irresistible. This is especially likely if the Congress could badger the President without any involvement in the decisions.

This problem can be resolved by giving the President the right to impose selective controls subject to approval by the Congress within 15 to 30 days through the process of negative legislation. Also, where the authority exists on a permanent, legal basis, it is less likely to be the subject of promiscuous use. In too many cases, wage-price policies have been applied by employing the economic equivalent of political "dirty tricks."

If these arguments are not persuasive, then an additional proviso may be added limiting the exercise of the commission's authority to impose direct controls in any individual case to one year. The authority would expire after 12 months unless the commission demonstrated to Congress that the wage and price behavior of the units involved posed a continuing threat to economic stability.

All of this is rather unheroic, if not prosaic. But the experience of the past 30 years clearly indicates that the heroic concept of wage-price policies has not been realized. To some extent, our attitude toward such policies is still colored by notions of populist retribution or Keynesian visions of full employment and price stability. It is time that we placed wage-price policies in a more modest, operational framework where their contributions may be more limited, but their failures less dispiriting.

NATIONAL CAPITAL TROLLEY MUSEUM

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. GUDE. Mr. Speaker, on August 25, 1974, I had the pleasure of participating in the dedication of Bicentennial car No. 4220 of the National Capital Trolley Museum, Wheaton, Md.

While streetcars may not be the first thing to come to mind when our Nation's Bicentennial is mentioned, car No. 4220 carries a lot of history, American and European.

Car No. 4220 was constructed in the shops of New York's Third Avenue Line in 1939, and gave 10 years of heavy urban service. Then, in 1949, as a part of Marshall plan aid, No. 4220 was sent to Vienna, Austria, to help restore that city's war-ravaged transit system. After another decade's faithful service, the National Capital Trolley Museum brought her back to the United States—streetcars have become almost impossible to obtain in this country—where she continues in active service.

But even here No. 4220's story does not end. For like our national Bicentennial, No. 4220 is an inspiration for the present and, hopefully, a guide for the future. In this era of escalating energy use and costs, and of concern for our environment, a transit system that produces negligible pollution and burns no oil has much to recommend it. Subway and commuter rail systems are expensive and require years for construction. The electric streetcar, once familiar in all of our cities and most of our towns, can provide today a light rail service to supplement heavy commuter facilities and as a primary transit service for smaller metropolitan areas.

In fact, the United States is witnessing a revival of interest in electric streetcars, and in the rehabilitation of those lines which survive. Old No. 4220 is not likely to return to the canyons of Manhattan, but in her Bicentennial livery she remains a working link to America's past, to our era of international involvement, and to our new concern with the quality of our life today.

THE FARM-RETAIL PRICE SPREAD

HON. FRANK E. DENHOLM

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. DENHOLM. Mr. Speaker, I have today urged President Gerald R. Ford to expedite the effort of the administration to determine if a conspiracy exists in the farm-retail price spread.

I presented to this Congress evidence that constituted cause for an investigation of the price levels received by producers and paid by consumers on the 17th day of May 1974. Since then a Federal court in California has substantiated my apprehension by a verdict against the A. & P. chain stores in the amount of $32 million to be repaid to producers.

Today, witnesses from the national retail foodstore chains and the meatpacking industry testified before the Domestic Marketing and Consumer Relations Subcommittee of the House Committee of the House Committee on Agriculture. It is interesting to note that these witnesses did not appear before our subcommittee until threatened by subpena.

It is essential that the Members of this Congress be fully aware of the ever-increasing spread of prices received by the farmers, feeders, and ranchers and the higher and higher prices paid by the consumers in the retail marketplace if legislation is to be enacted essential to the national conquest of inflation. The cost of living is the barometer that measures the rate of inflation that extends to all items of consumer necessity.

We must have the facts and we must convince the administration that the current situation in the food industry will not be tolerated by the Congress and the people of America.

"FREEDOM" SETBACK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. RODINO. Mr. Speaker, tomorrow the House will vote on the question of overriding the President's veto of H.R. 12471, the freedom of information amendments bill. I most strongly urge my colleagues to vote to override and thereby reverse the unwise action by the President. This is a truly bipartisan bill developed over 3 years, which passed the House overwhelmingly. I was deeply dismayed over the veto of this long needed bill to make Government more responsive to the people, and I was pleased to note that the Newark Star-Ledger, in an editorial in the issue of October 26, most effectively stated the case for enactment of the legislation, concluding that "the legislative care with which these amendments were prepared deserved presidential affirmation, not a veto." I include the entire editorial in the RECORD at this point:

"FREEDOM" SETBACK

The Freedom of Information Act passed in 1966 by Congress never achieved the full potential envisioned by its sponsors. It was designed to provide a broader public access to information about operations of government.

It has never worked out that way. The ways of bureaucracy are traditionally oriented toward secrecy and obscurity, an insularity that tragically breeds the seeds of a Watergate.

President Nixon's Administration—and the Johnson Administration to a lesser degree—made excessive use of executive privilege, the shield against needed public scrutiny. In a number of crucial aspects, it was used as a cover to keep the truth from the American people. The bombing of Cambodia stands as a graphic example.

But the bureaucracy itself has remained rigid and unyielding, despite the statutory provision toward a more open government. The easy access to information was thwarted by diversionary methods that resulted in long litigation or frustrating administrative delays.

Congress attempted to deal with these deficiencies with amendments that would make the law reasonably responsive. In sensitive areas such as military or counterintelligence, it would submit information classification to judicial review.

Regrettably, President Ford appears to have been overly influenced by an exaggerated concern on national security grounds, despite the safeguards written into the amendments by the legislative branch. In vetoing the legislation, he took the position that the courts should not be "forced to make what amounts to the initial classification in sensitive and complex areas where they have no particular expertise."

That's sheer nonsense. A federal judge would be just as circumspect about national security as a bureaucrat. In fact, the former would tend to be more cautious in sensitive areas.

Congress was similarly concerned. It carefully weighed the public right to information against the need of the government to withhold classified material. The legislative care with which these amendments were prepared deserved presidential affirmation, not a veto.

THE CATTLEMAN'S PLIGHT

HON. CLEM ROGERS McSPADDEN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. McSPADDEN. Mr. Speaker, quoted below is a letter of November 19, which sums up the situation of the Oklahoma—and the United States—cattle producer. The letter has been sent to Secretary of Agriculture Earl Butz with a copy to President Ford. It is not a tale of crocodile tears—it is a brief summation of the facts. It deserves widespread dissemination and comprehension to save a vital factor of our Nation's economy:

DEAR MR. SECRETARY: While in Oklahoma over the Recess I talked with countless livestock producers and needless to say the livestock industry is in its most pitiful plight since the early days of the depression in the 1930's.

I think our government's position hit a ridiculous high today when USDA market reports released here in Washington show that we are paying 60 cents a pound for foreign imported boned beef while domestic producers in our own country are getting 59 cents per pound for boned beef.

The recent restrictions on Canadian imported beef sound good but with a ten to $12 per hundred weight higher priced for live animals in Canada this is only window dressing and will not help the plight of livestock producers.

I urge you to do everything in your power to immediately put a 60 day restriction on all beef imports as the ridiculous situation I pointed out that exists where our taxpayers are giving foreign livestock producers more money for boned beef than our producers are receiving.

I also urge you to instigate a program of:

(1) A movement to stop importation of all meat into this country. The U.S. Department of Agriculture predicted that one billion, two hundred million pounds, 15 percent of U.S. consumption, would be imported in 1974. However, the USDA figures released this month show that one billion, one hundred and thirty-three million pounds of beef has been imported in the first six months of 1974, which will push the import figure substantially above predictions.

(2) Create a broader understanding between the USDA, Capitol Hill, and beef producers.

(3) Relate actual facts of the beef producer to the consuming public through the news media, personal appearances, et cetera.

(4) Seek for immediate investigation into the prices paid beef producers and retail prices.

(5) Initiate a canned meat program to use excess of killer cows and grass-fat steers.

(6) Ask that more beef be used in school lunch programs.

(7) Ask for emergency interest rates to be applied to beef loans until market prices reach cost of production.

(8) Seek that all meats used by our armed forces are produced in this country. We have found that there exists numerous contracts with foreign countries.

Again, I urge you to do everything within your power to help this situation.

With warmest personal regards, I am,

Sincerely,

CLEM MCSPADDEN,
Member of Congress,
Oklahoma Second District.

KISSINGER IN INDIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. HAMILTON. Mr. Speaker, almost lost in the hectic pace of diplomatic maneuvering during Secretary of State Kissinger's recent swing to over 15 states in Europe, Asia, and the Middle East was a landmark speech delivered in New Delhi, India, before the Indian Council on World Affairs on October 28, 1974.

Two aspects of that speech deserve particular attention. First, Secretary Kissinger stressed in a new and persuasive manner that the United States now accepts nonalinement and that "America sees a world of free, independent, sovereign states as being decidedly in its own national interest." This theme represents a significant departure in American foreign policy and a clear, explicit, and positive acceptance of a longstanding foreign policy principle espoused by many developing states, a principle which was, at various times in the past, actively opposed by some American leaders because it was considered to be against American interests overseas.

Second, Secretary Kissinger provides in his speech important evidence and a reaffirmation of the U.S. continued desire for a more mature relationship with India and closer cooperation in many fields of mutual interest. United States-Indian relations have come a long way since the events surrounding the birth of Bangladesh, some 3 years ago. This speech is an important part of this process of improving the environment in which these two large democracies interact. It is significant that this process has taken its course without, in any way, jeopardizing the U.S. interests in or good relations with many other friendly South Asian states.

Secretary Kissinger's speech in India follows:

REMARKS BY THE HONORABLE HENRY A. KISSINGER, SECRETARY OF STATE

Dr. Bharat Ram, Ladies and Gentlemen: I am honored to be invited to address such a distinguished gathering for the basic objective of this Organization—to comprehend, communicate and help shape the state of world affairs—has been the central purpose of my own life since long before I served in Government. And I since have found that the statesman, too, has no more important task.

Former President Radhakrishnan once said, "Life becomes meaningful only when we grasp the character of the age we live in, see its significance, understand the objectives it sets for us and strive to realize them."

The fundamental reality of our age is that we live in a world inextricably linked by interdependent economies and universal aspirations, by the speed of communications and the specter of nuclear war. The political lessons of our age is that the national interest can no longer be defined or attained in isolation from the global interest, and the moral challenge of our age is to free ourselves from the narrow perception of the nation state and to shape a conception of global community.

A NEW WORLD

The three years since I was in New Delhi have seen profound changes in the relationship between India and the United States, in the whole region and in the world.

On my last trip to South Asia I paid my first visit to Peking. On this trip I have visited Moscow. Moving about among capitals only recently considered hostile is a new pattern for the United States. It signified the transition from a bipolar world locked in confrontation and seemingly destined for some final encounter to the new world of dispersed power and reduced tension.

This changed environment is more complex and therefore, for some, less assuring. Yet we see it as a world of hope. For the process of detente among major powers has not made the world more complex; it merely signifies that leaders have recognized its complexity. Those who ought always to have known how serious is man's predicament have learned how little benefit confrontation brings and how absolute is the need for cooperation.

This has not been an effortless transition for the American people. Nor is it without difficulties in other nations of the world, for it requires coming to terms with less simple views of right and wrong, of the possible and the ideal than have permeated political thinking for a generation.

This new American view, it is appropriate to acknowledge, owes much to an old vision of India's national leaders. Jawaharlal Nehru perceived the impermanence of the post-war world—into which India was born—of frozen hostility between the superpowers and their insistent efforts to enlist other nations on one side or the other. Under Nehru and since, India sought to deflect, to moderate and to redirect those forces. This was the origin of the concept of nonalignment.

It is not necessary to debate now whether the United States should have welcomed the concept at that time in order to agree that in the present world it is not nations such as India an altogether understandable and practical position. The United States accepts nonalignment. In fact, America sees a world of free, independent, sovereign states as being decidedly in its own national interest. Support of national independence and of the diversity that goes with it has become a central theme of American foreign policy.

Nowhere is this clearer than with respect to South Asia, where a fifth of mankind lives. In testimony before the U.S. Senate Foreign Relations Committee six weeks ago, I stated this principle of American foreign policy in explicit terms: "We do not look at the Subcontinent as being composed of some countries that are clients of China, others that are clients of the Soviet Union, others that should be clients of the United States. We believe that we can have productive relationships with all of them. And we believe also, specifically with respect to India, that our relations are in a stage of dramatic improvement."

The warming of our bilateral relations has been increasingly manifest for some time. It began inevitably as the Simla process began, and it has proceeded and strengthened as that process has proceeded and strengthened. For it was conflict with the Subcontinent that brought the involvement of outsiders in the first place. And correspondingly, the region's political capacity to resolve regional conflict has, to a considerable degree, diminished outside involvement. President Ford has asked me to affirm that the United States strongly supports the efforts of peaceful settlement on the Subcontinent, free of imposition, or pressure or outside interference. We want political stability and economic success for South Asia. That is what we believe South Asians hope for, and what the rest of the world should hope for as well.

The statesmanship of all of South Asia's leaders has been at the heart of this process. It has taken great courage to perservere toward the goal agreed upon by Pakistan and India at the Simla Conference in 1972: "The promotion of friendly and harmonious relationship and the establishment of a durable peace in the Subcontinent."

The size and position of India give it a special role of leadership in South Asian and in world affairs. They confer on it at the same time the special responsibility for accommodation and restraint that strength entails. The United States recognizes both these realities. They are wholly compatible with the close friendships and special bonds we have with all the nations of the region. As we wish South Asia well, we wish India well.

Thus a more mature and durable relationship is emerging between India and the United States—one which leaves behind the peaks and valleys of the past.

Both India and the United States still consider themselves youthful nations. The restlessness, the striving and the ideals of our people attest to the reality of that image. But a basic quality of youth—enthusiasm unseasoned by experience—often caused us to assume or expect too much. We are two great nations of independent judgment and perspective; often our zeal and moral convictions have led us into disagreements with a passion that might not have been present had we not been conscious of similar ideals.

For a quarter of a century our relations tended to oscillate between high expectation and deep suspicion. The low point occurred in 1971 when a basic disagreement flowed from different political judgments. We faced these differences candidly; that crisis is now behind us. We have surmounted past strains and moved ahead with promise. We can now build our relationship free of past distortions and conscious of the interests and values we share.

From the events of the past—from our experience with the world as well as yours—we have both developed a more balanced view. Both of us independently have come to temper our zeal and understand limitations on our ability to bend the world to our expectations. In parallel with this, in our relations with each other we both stress the basic compatibility of our interests. This promises to provide a durable basis for cooperation and friendship.

AMERICA'S PURPOSES

For our new relationship to thrive, a great deal depends on our mutual understanding. Nations face different problems and different opportunities—their perspectives and power inevitably vary. Let me therefore briefly sketch America's broader purposes—especially as they have evolved in recent years in a changing international environment.

Around the world today, the new and the old coexist in uneasy equilibrium. The frozen international landscape of the past quarter century has begun to thaw but we have yet to put a durable structure of cooperation in its place. A new era of stability has begun in Europe and Asia, while chronic disputes in the Middle East and Indochina still endanger regional and global peace. The United States and the Soviet Union have perceived a common interest in avoiding nuclear holocaust, while some potential for conflict persists and the arsenals of the two sides continue to grow. The United States and the People's Republic of China has succeeded in overcoming two decades of estrangement, but important differences in philosophy remain. And as the old blocs among old powers decline, new blocs among new nations threaten to emerge.

The United States sees its central task today as helping the world to shape a new pattern of stability, justice and international cooperation. We have rejected the old extremes of world policeman and isolation. But we recognize that American's principles, strength and resources imposed upon us a special responsibility.

Our goal is to move toward a world where power blocs and balances are not dominant, where justice not stability can be our overriding preoccupation, where countries consider cooperation in the global interest to be in their national interest. For all that has been achieved, we must realize that we have taken only the first hesitant steps on a long and arduous road.

The United States has three principal policy objectives:

First, America has sought to foster a new spirit of responsibility and restraint among all powers.

The cornerstone of our foreign policy is—as it has been for a generation—our partnership with our Atlantic allies and Japan. These bonds have served both the world's peace and its prosperity. Our cooperation provided a solid foundation for efforts to reduce tensions with our adversaries. It has enabled us to contribute to world economic growth. And the nations which provide the industrial, financial and technological sinews of the global economy now share a heavy collective responsibility to concert their efforts in a time of global economic stress.

In the last five years the United States has also sought to put its relations with the Communist powers on a new and steady basis.

Since the dawn of the nuclear age, man's fears of holocaust and his hopes for peace have turned on the relationship between the United States and the Soviet Union. Never before have two nations had the physical ability to annihilate civilization. Never before has it been so important that the two nuclear giants maintain close contact with one another to avoid conflicts which would menace other nations as much as themselves.

Progress has been achieved in our relationship with the Soviet Union which would have been unthinkable a decade ago. We take the easing of tensions for granted only at the risk of the return of confrontation. In my discussions in Moscow I stated yet again the determination of the American Government to maintain the momentum of the process of detente, and was assured by the Soviet leaders that they shared this intention. The United States will persevere to reduce military competition with the Soviet Union in all its aspects; to ensure that our political competition is guided by principles of restraint especially in moments of crisis; and to move beyond restraint to cooperation in helping find lasting solutions to chronic conflicts.

American's relations with the People's Republic of China are also of fundamental importance. There cannot be a stable peace in Asia—or in the world—without a pattern of peaceful international relationships that includes this powerful and talented nation. It was essential to end a generation of mutual isolation and hostility.

Yet rapproachment with the People's Republic of China is not sought at the expense of any other nations; on the contrary, it attempts to serve a wider purpose. The principles of the Shanghai Communique commit our two nations to respect the independence, sovereignty and integrity of all countries as we work to improve our own relationships.

Our relations with the non-aligned countries are another pillar of our foreign policy. No accommodation among countries, however powerful, can be durable if negotiated over the heads of others or if an attempt is made to impose it on others. Our attitude toward the non-aligned will be based on the principles of equality, mutual respect and shared endeavors and on the premise that all countries have a stake in a peaceful world. Condominium, hegemony, spheres of influence are historically obsolete and morally and politically untenable.

It is a corollary of this, however, that bloc diplomacy of any kind is anachronistic and self-defeating. We see a danger of new patterns of alignment that are as artificial, rigid and ritualistic as the old ones.

The issues the world faces are so urgent that they must be considered on their merits, on the basis of their implications for humanity, and for world peace—rather than on some abstract notion of ideological or bloc advantage. In a real sense the world is no longer divided between East and West, North and South, developed and developing, consumer and producer. We will solve our problems *together or* we will not solve them at all.

Second, America seeks to limit and ultimately to reduce nuclear weapons competition.

The relaxation of international tensions cannot survive an unrestrained arms race by the two strongest nuclear powers. And international stability will be seriously jeopardized by the proliferation of nuclear weapons. This is why the United States has made it a major objective to bring about a more stable nuclear environment.

The Strategic Arms Limitations Talks are among the most crucial negotiations ever conducted. The agreements already signed by the United States and the Soviet Union represent a major step toward strategic stability. They placed a permanent limit on defensive weapons and an interim limit on offensive nuclear weapons. Our task now is to control the qualitative as well as quantitative advance of weapons. We seek a long-term agreement which would establish stable ceilings and other restraints, from which we could begin the long-sought process of arms reductions. Progress in this direction was made during my recent talks in Moscow.

At the same time, a world in which an ever-increasing number of nations possess nuclear weapons vastly magnified the risks of both regional and global conflict. And proliferation complicates—if it does not inhibit—international cooperation in the peaceful uses of the atom.

Last month at the United Nations I proposed a comprehensive global effort. The United States is of the view that countries capable of exporting nuclear technology should agree to common restraints on a multilateral basis which would further the peaceful, but inhibit the military uses of nuclear power. We take seriously India's affirmation that it has no intention to develop nuclear weapons. But India of course has the capability to export nuclear technology; it therefore has an important role in this mutlilateral endeavor. Needless to say, the United States does not ask other countries for restraint on the export of nuclear materials and technology which it is not prepared to apply to itself. We will work vigorously with others on the practical steps which should be taken to limit the dangers of the atom while furthering its potential for human good.

A third objective of American policy is to build global cooperation to meet unprecedented global problems.

The traditional agenda of international affairs—the balance among major powers, the security of nations—no longer defines our perils or our possibilities. To some extent we have mastered many of the familiar challenges of diplomacy. Yet suddenly we are witnessing a new threat to the governability of national societies and to the structure of international stability. A crisis threatens the world's economic system. The industrialized nations see decades of prosperity in jeopardy; the developing countries see hopes for development and progress shattered or postponed indefinitely. And even the newly wealthy oil producers are beginning to perceive that their recent gains will be swept away in a global crisis.

The dangers are as self-evident for the United States as they are for India and other countries: rates of inflation unknown in the past quarter century; financial institutions staggering under the most massive and rapid movements of reserves in history; and profoundly disturbing questions about the ability to meet man's most fundamental needs for energy and food.

This is not a conventional political problem, which can be dealt with by conventional diplomacy or on the basis of conventional premises of social and economic theory. It affects all countries and groups. There is no gain for one at the expense of another. Piecemeal solutions offer no hope: a global enterprise is imperative. No nation or bloc of nations can impose its narrow interests without tearing the fabric of international cooperation. Whatever our ideological belief or social structure, we are part of a single international system on which our national objectives depend. Our common destiny is now not a slogan; it is an unmistakable reality.

The United States is prepared to dedicate itself in practical ways to this global effort. At the World Food Conference next week we will offer a comprehensive program as our contribution to freeing mankind from the eternal struggle for sustenance. We recognize that America's agricultural productivity, advanced technology, and tradition of assistance represent a major obligation. We know that we cannot speak of the global responsibility of others without practicing global responsibility ourselves. America pioneered in development assistance, particularly with respect to food; we are determined to step up our past contributions. We will increase our production at home so there will be more food available for shipment abroad. And we will help developing nations increase their own production which is the only long-term solution to the problem.

The magnitude of the world's food needs—and the redistribution of the world's wealth—imply that others must enlist in the fight against famine. The United States will work cooperatively with other exporters, with food importers, and with those countries in a position to help finance increased food production in the developing countries.

But it is an objective fact that we cannot meet man's need for food, much less ensure economic and social advance, without coming to grips with the energy crisis. Higher oil prices directly affect food prices by increasing the costs of fertilizer, of operating agricultural machinery, and of transporting food to deficit areas. This in turn contributes to the more general economic crisis of inflation and stagnation which will surely doom the ability of the economically advanced countries to fulfill their obligations to the less well-endowed. Both consumers and producers have a parallel stake in a global economy that is stable and growing. The economic progress of thirty years has brought the goal of universal well being closer; today's crisis puts it in jeopardy. This is why the United States has emhpasized global interdependence and seeks cooperative global solutions.

THE UNITED STATES AND INDIA

The American purposes I have described are, we believe, consistent with India's purposes. We are nations whose values and aspirations are so similar that our disputes are often in the nature of a family quarrel. We have no conflict of interest, no basic animosity or disagreement that keeps us apart. And we face a world in crisis and transition, that compels us to work together.

We are both democracies, with all that implies for the kinds of decisions we are able to make. The leaders of a democracy can only sustain policies which their electorate will support. If there are no general rules as to what such policies are likely to be, there are specific limitations as to what they cannot be. It is clear that our relationship cannot be based—in either country—on the dependence of one on the other. Nor can our relationship survive constant criticism of one by the other in all international forums. There must be a sense of common purposes in at least some endeavors. To India-American relations equality and mutual respect are more than doctrines of international law. They are political necessities.

In the past year or two we have removed major obstacles to an improved relationship. Our energies are now focused on the positive content of our relationship. Even more importantly, we find once again that as two great nations we share certain aspirations for the world at large: We share a concern for cooperative solutions to man's fundamental needs.

The present crisis confronting both developed and developing nations reveals all too clearly the world's past failure to address global problems on a truly cooperative basis. India and the United States have much to contribute. The world's best minds must be mobilized, and India has the third largest pool of scientific talent while the United States has the first. We must apply the great economic strength of our two nations; the United States has the largest industrial output in the world and India the tenth largest. Our economies are complimentary; the fact that India is only the 26th largest trading partner of the United States reveals what potential is yet untapped.

The joint commission we are establishing—for scientific, cultural and economic cooperation—provides a new means to match our resources with our challenges. It is the symbol of the new area of equality, and the United States stands ready to expand the concept of the joint commission into other areas.

We share a concern for economic development.

It is impossible to visit South Asia without being deeply affected by the plight of so many of the peoples of this region. Individual hopes for survival and national aspirations for development have been dealt a cruel blow by the crises in energy, food and inflation.

The American people want to be helpful, while avoiding the dependence we both reject. Earlier this year, the United States wrote off the largest amount of foreign debt ever cancelled in history. This year the United States will launch a modest bilateral aid program. A substantial portion of our multilateral aid already comes to India. Our new food program, which I will outline at the World Food Conference next week, will be of particular relevance to India.

We share a concern for world peace.

Neither India nor the United States will ever be satisfied with a world of chronic conflicts, uneasy truces and offsetting blocs. We have a joint interest in a comprehensive, institutionalized peace, based not merely on a balance of forces but on a sense of justice.

In recent months our dialogue on the entire range of global concerns has assumed a new frequency and depth. Our consultation has defined areas where we agree and narrowed those where we do not. We have found anew the basis for collaboration in many areas.

Tagore wrote with foresight: "During the evolution of the nation the moral culture of brotherhood was limited by geographic boundaries, because at that time those boundaries were true. Now they have become imaginary lines of tradition divested of the qualities of real obstacles. So the time has come when man's moral nature must deal with this fact with all seriousness or perish.

The time has come for nations to act on this vision. Let there be hope rather than despair, creativity rather than disarray. The recognition and understanding of our problems are clearly emerging; we have the technical means to solve them. And the urgency of our talks impels us.

Half a century ago, Mahatma Gandhi wrote that we must launch "experiments with truth." In this spirit, let us resolve to strength the new beginnings between India and America. Let us build a relationship that can endure and serve common ends for a long time. Let us make our contribution to help mankind match its capacity to its challenges for the benefit of our two peoples and of all mankind.

CHAIRMAN OF JOINT CHIEFS SHOULD BE REMOVED

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Ms. HOLTZMAN. Mr. Speaker, last Wednesday it was reported that Gen. George S. Brown, Chairman of the Joint Chiefs of Staff, had claimed at Duke University that American foreign policy in the Middle East was a result of "Jewish influence," influence made possible because the Jews "own the banks in this country, the newspapers."

I was stunned and outraged at the ignorant bigotry displayed by General Brown, and immediately sent the following telegram to President Ford asking him to relieve General Brown of his command:

DEAR MR. PRESIDENT: I have just read of General George S. Brown's irrational and appalling remarks on Jews and American policy in the Middle East.

General Brown's statements about "Jewish influence" over foreign policy through ownership of banks and newspapers are not only utterly false, but smack of vicious and ignorant anti-semitism. They further demonstrate a lack of understanding of this nation's commitment to Israel, a commitment rooted in America's respect for freedom and our need to have a reliable democratic ally in the Middle East. Finally, blaming American Jews for the energy crisis is not only false, stupid and irresponsible, but offensive to the overwhelming majority of Americans who have long supported this country's commitment to Israel.

General Brown's gross ignorance and flagrant bigotry show that he is unfit to serve as this nation's chief military officer. He ought to be relieved of his command forthwith.

Respectfully,
(S) ELIZABETH HOLTZMAN,
Member of Congress.

I must add, Mr. Speaker, that General Brown's subsequent unconvincing disclaimers and inept apologies show no understanding of what made his remarks so offensive to all Americans who have supported U.S. policy in the Middle East. I urge President Ford again to dismiss him.

ABBREVIATIONS IN GOVERNMENT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. DERWINSKI. Mr. Speaker, for years the Congress has been guilty of adding one layer above the other to the extent where we must honestly wonder at the great waste in duplication and counterproduction in Government programs. An added frustration is divisiveness in Government agencies to adopt abbreviations which often defie the occasional student of bureaucracy science.

A column by Mike O'Neal of the Harvey Star–Tribune addresses this subject in a very fascinating fashion. His article of November 10 follows:

CSSMTD, UMTA, IDOT, ETC.

(By Mike O'Neal)

Abbreviations are about to take over the world.

Words are on the way out, there's no doubt about it. In the future, we'll all be talking in capital letters.

This realization crept up on me as I was working on a Chicago South Suburban Mass Transit district (CSSMTD) story. Involved in the discussion at the CSSMTD meeting were the Illinois Central Gulf (ICG) railroad, South Suburban SafeWay lines (SSWL), the Urban Mass Transportation administration (UMTA) of the U.S. Department of Transportation (DOT) and the Illinois Department of Transportation (IDOT).

Lurking on the sidelines of any mass transportation discussion nowadays is the Regional Transportation authority (RTA) along with such planning agencies as the Northeastern Illinois Planning commission (NIPC), the Chicago Area Transportation study (CATS) and the Northwestern Indiana Regional Planning commission (NIRPC). NIRPC, by the way, used to be known at the Lake-Porter Counties Regional Transportation and Planning commission (LPCRTPC).

When talking about urban mass transportation in the Chicago area, you naturally have to include the Chicago Transit authority (CTA) and commuter railroads such as the Chicago and Northwestern (C&NW), the Burlington Northern (BN), the Rock Island (RI), the Milwaukee road (MILW), the Chicago South Shore and South Bend (CSS&SB), the Norfolk and Western (N&W) and the Penn Central (PC). In the north suburbs, there's a bus line known as the United Motor Coach company (UMC).

There's also the CSSMTD's sister suburban transit districts, such as the West Suburban Mass Transit district (WSMTD), the North Suburban Mass Transit district (NSMTD) and the Northwest Suburban Mass Transit district (NWSMTD).

If you want to expand the discussion beyond the Chicago metropolitan area, you have to include such transit systems as the Bay Area Transit (BART), the Metropolitan Atlanta Regional Transportation authority (MARTA) and the New York City Metropolitan Transit authority (NYCMTA).

Keeping the discussion down to a local level, perhaps, some freight-carrying railroads would be mentioned such as the Chicago and Eastern Illinois (C&EI), the Louisville and Nashville (L&N), the Indiana Harbor Belt (IHB), the Grand Trunk Western (GTW) and the Baltimore and Ohio Chicago Terminal (B&OCT).

More than likely, a story about the CSS MTD will include mention of the extension of ICG commuter service to Governors State university (GSU) in Park Forest South (PFS). The developer of PFS, New Community Enterprises (NCE), is also usually mentioned.

But, let's not put all the blame on the abbreviationization of the English language on transportation units. Education is a big contributor.

In addition to the above mentioned GSU, the local area contains such education institutions as Thornton Community college (TCC), Prairie State college (PSC) and Moraine Valley Community college (MVCC). Of course, there's numerous elementary and high school districts (SD). There's also Thornton Township high school (TTHS).

Special education co-operatives have some of the best abbreviations such as Exceptional Children Have Opportunities (ECHO), Special Education Co-operative of South Cook county (SPEED) and the South Metropolitan Association for Low Incidence Handicapped (SMA).

Teachers organizations have a tendency to be known by their initials, such as the Illinois Education association (IEA) and the Illinois Federation of Teachers (IFT). The IFT is affiliated with the AFL–CIO, which almost nobody calls by its full name, the American Federation of Labor-Congress of Industrial Organizations.

Local affiliates of the IEA also tend toward abbreviations, such as the Harvey Education association (HEA) in District 152, the District Education association (DEA) in District 151 and the Classroom Teachers association (CTA) in District 149.

Of course, the IEA and the IFT are affiliated on the national level with the National Education association (NEA) and the American Federation of Teachers (AFT).

When writing about educational matters, title funds under the federal Elementary and Secondary Education association (ESEA) are also mentioned along with such matters as average daily attendance (ADA). Special education stories often mention Educable Mentally Handicapped (EMH) persons.

In District 151, there's an organization called Volunteers in Service to Our Neighborhood (VISION).

Higher education in Illinois includes such institutions as Northern Illinois university (NIU), Southern Illinois university (SIU), Western Illinois university (WIU), Eastern Illinois university (EIU), Illinois State university (ISU), Chicago State university (CSU) and the University of Illinois (U of I).

Local civic action organizations also enjoy identity by abbreviations such as the Human Action Community organization (HACO), Citizens Organized to Protect the Environment (COPE), the Independent Voters of Illinois (IVI) and the League of Women Voters (LWV).

Governmental agencies often have long titles that are better understood when abbreviated such as the Calumet Union Drainage district (CUDD) or the Environmental Protection agency (EPA).

Complicated issues such as the RTA or the Equal Rights amendment (ERA) are also reduced to mere abbreviations in this day and age.

But, enough of this. I have to write a feature story about the ICG's new Passenger Assistance Link (PAL) system, which is part of the railroad's Automatic Revenue Collection system (ARCS).

THE 56TH ANNIVERSARY OF THE LATVIAN INDEPENDENCE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. WOLFF. Mr. Speaker, I would like to call to my colleagues attention the fact that November 18 marked the 56th anniversary of the Latvian declaration of independence. While we enjoy our freedom, we must remember that there are many in the world who are denied freedom and self-government.

As a result of centuries long struggle, the Latvian people gained their independence in 1918. The Latvian people then enjoyed a brief respite of freedom in which they enjoyed unparalleled economic and cultural growth. The freedom of this proud people was devastated when the Soviet army invaded and occupied their nation. Today, 24 years later, the Latvian people are still paying the price of their colonization and domination by a foreign government.

The United States has a proud heritage of defending a peoples' right to freedom. We must continue to insist that all people be free to govern themselves and, on this day, we must remember that the Latvian people do not have that right.

THE SO-CALLED ALLEGED DÉTENTE WITH TYRANNICAL COMMUNIST REGIMES AND ATHEISTIC RED LEADERS SUCH AS MAO TSE-TUNG, BREZHNEV, AND GIEREK IS RIDICULOUS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. ROONEY of New York. Mr. Speaker, I wish to assure our loyal friends, the anti-Communist Chinese, that during the present period of uncertainty they are not being forgotten.

With the overthrow of the Manchu dynasty 63 years ago the people of China began the task of shaping their nation into a republic. Taking the best points from their own heritage, one of the world's richest, they combined them with the concepts of Western democracy. The struggles they endured to build this new republic were, and continued to be, Herculean tasks. Setbacks dealt the Republic of China would have laid low many of their adversaries but only served as stimuli to the Chinese people to strengthen their resolution to make their nation a great republic.

When the Communists took over the mainland of China in 1949 the so-called "China experts" predicted the demise of the Republic of China on Taiwan within a couple of years at the most. The facts of today show how these "experts" had grossly miscalculated the desire of the Chinese people. Since about 1950 the Nationalist Government, the Republic of China, has made considerable progress. From the status of a war-ruined, agricultural society in 1950, Taiwan today stands as one of the most industrially-advanced countries of Asia whose people enjoy a high standard of living. Today, in terms of gross national product and per capita income, it ranks ahead of most Asian countries.

The United States is a major trading partner with the Nationalist Government, the Republic of China, and private American firms have invested in that country. Economic predictions are for the Nationalist anti-Communist Republic of China to have another increase in foreign trade this year.

These facts are realities that must be taken into account as consideration is being given to whether or not this Government of ours should increase trade with the red Communists running the alleged People's Republic on the Chinese mainland. Supporters of "unlocking the doors" between the United States and red Communist China should meditate very carefully on what such a policy denotes. Let us take a look at two important points. The first of these points was discussed by our friend Madame Chiang Kai-shek during an interview with a correspondent from the Chinese Central News Agency in August of this year, when she made the following statement:

> The "unlocking" of the doors of the mainland would indeed be a very good thing were it true. Unlocking the doors means free egress and ingress. First, let us talk about egress. The pity of it all is that it is only a theoretical "unlocking" for we all know that in egress no compatriots of ours are permitted to leave the country and their enforced serfdom. The only ones that leave the mainland escape by swimming to Hongkong, or Communist functionaries who are sent out as so-called diplomats, trade officials, or those on special tasks or missions and even they move about in threes or more to prevent their decamping and asking for asylum from the "decadent" countries wherever they are stationed or to the "decadent" West.
>
> As to ingress, I can quote from extremely impartial sources. We all have heard of and about the well-known sinologist Lord Michael Lindsay. We also know over the years where his sympathy lies, yet he has become so disenchanted with the Maoist regime after his visit together with his wife to the mainland last summer.
>
> According to Lord Lindsay, (1) All diplomatic missions in Peiping are completely isolated, incapable of obtaining information other than that printed in the "People's Daily": (2) Only Australians certified by the Australian Communist Party as loyal to the Communist cause would be given visas by the Chinese Communist "Embassy" in Canberra.
>
> Lady Lindsay, herself a Chinese, came to the conclusion that the present-day Peiping regime is "more threatening and ferocious than a tiger." Lord Lindsay further charged that all Chinese people on the mainland are poverty-stricken, except Mao and his cohorts and cadres. And the people do not even have the freedom not to speak.

Keeping in mind Madame Chiang's definition of unlocking the doors, let us now consider title IV of H.R. 10710, the Trade Reform Act. As you remember, Congress was asked to give the President the authority to extend nondiscriminatory—most favored nation—tariff treatment to Communist countries. This House of Representatives provided for such authority but it required that it not be given to a country unless that country permitted freedom of emigration. Moreover, the House of Representatives withdrew existing authority the President had to extend U.S. Government credit or credit guarantees to Communist countries not eligible for most-favored-nation tariff treatment. The relaxing of tensions between nations is a two-way street and we must decide whether to base our decisions on facts or on the predictions of the so-called China experts who have a very low batting average.

I do not want to leave with you the impression that the only reason we appreciate the friendship of the people of the Nationalist Republic of China is because of the trading aspect. Our friendship and respect for one another go much deeper. During the previously mentioned interview Madame Chiang referred to this friendship. Her comments read as follows:

> Could anyone with a modicum of intelligence ever honestly think that establishing formal relations with a repressive regime can mean that the Chinese people on the mainland will turn instantly from being 'enemies' of the United States into 'friends' of the United States? I say categorically that there is no such thing as instant friendship as instant coffee. On the contrary, the Chinese people are friends of the American people of long standing despite the Communist regime. In fact, reason and factual reports from refugees fleeing the Maoist tyranny tell us that the Chinese people resent and are bitter towards the U.S. detent and the establishment of closer liaison between the two governments because the people feel that the U.S. is putting the stamp of approval on their enslavement.
>
> In point of fact they feel that the United States by so doing is helping the Maoist cabal to enchain them with redemption set further away from achievement. They also feel that the United States is dealing a psychologically lethal blow to their emancipation from servitude. This I know is not the purpose nor the wish of the American people but this is how millions upon millions of my compatriots feel. The millions upon millions of refugees who were fortunate enough to flee to safety and are in Hongkong and elsewhere are each and very one a living testament of that cruel tyrannical rule. I can do nothing but to report the facts as they are.

In conclusion, Mr. Speaker, I feel that Madame Chiang—in her final statement of the hereinbefore mentioned interview—more than adequately summed up the facts in the case when she stated:

> The evidence is all there for us to see. Need I say more?

TIME TO CLEAR THE AIR ON BILINGUAL/BICULTURAL EDUCATION

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. BADILLO. Mr. Speaker, there are as many as 5 million children in the schools of America whose chances for success are slight because they have come from homes where Spanish, Italian, Greek, Chinese, or American Indian languages are spoken. It is bad enough that they cannot keep pace with their English-speaking peers because of inability to understand the language of instruction, but worse, in many States it has been illegal until recently to conduct basic education in any other but the English language.

In an attempt to meet the educational needs of these children, we have had a Federal bilingual education authorization since 1968, but only a small fraction of the required funds have been made available through this authority. Far greater efforts must be made if we are to end the high dropout and failure rates—over 50 percent for Spanish-speaking children alone—that characterize these neglected minorities whose deficiencies in English can become a permanent liability in life.

The U.S. Supreme Court has ruled that to deny children who are not native-English speaking the benefits of bilingual programs is a "mockery of public education." The New York City Board of Education recently agreed in Federal court to provide bilingual classes for all Spanish-speaking students in its schools by September of 1975. And some State legislatures have moved to implement bilingual programs through appropriation of State funds.

It is clear by now that equal educational opportunity cannot be a reality if all children do not at least enter the race from the same starting line. Acceptance is slowly growing for the notion that bilingual/bicultural education is the only fair solution for those youngsters from families in which English is not the native tongue.

Yet despite the overwhelming evidence of the need for the program, attacks on the concept of bilingual education still surface from time to time in the national press. One of the most virulent of these was a column by Albert Shanker, president of the United Federation of Teachers, in the November 3 New York Times.

Under the guise of supporting bilingual education, Mr. Shanker has leveled charges that could ultimately erode public support for the program. If Shanker's charge is true that teachers are being hired for bilingual programs who speak little English, then the practice must be stopped. If his claim that children are being forced into bilingual classes can be proven, then that too must end. And if, as he states, children are not being taught English in the bilingual curriculum, this too needs to be remedied immediately.

But if these and similar charges are untrue, then that must be made clear and the attacks on an essential educational program must cease. It is my intention to offer Mr. Shanker a forum for his allegations through hearings which I have requested Chairman PERKINS of the Education and Labor Committee to authorize. If there are abuses in the program, that will be the appropriate time to name names and places so that we can take remedial action in the interests of the education of the youngsters in our schools. If the charges are not true, that will be established through the same forum.

Mr. Speaker, I append a copy of my letter to Chairman PERKINS requesting early hearings on this matter. Also attached is a letter from the executive administrator of the New York City Board's office of bilingual education, Mr. Hernan LaFontaine, pointing out that none of Mr. Shanker's allegations have ever been brought to the attention of the appropriate officials and that the board's licensing procedures preclude abuses such as those described in the Times article.

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 4, 1974.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Yesterday's New York Times carried a column prepared by Albert Shanker, president of the United Federation of Teachers, regarding the bilingual education program. This item describes what Mr. Shanker feels are some shortcomings of the bilingual education program. Further, it contains a number of rather serious charges concerning the manner in which this program is being carried out in New York City. A copy of the column is enclosed for your information.

In view of the statements made by Mr. Shanker I believe it would be most important for the General Education Subcommittee to conduct an investigation into the manner in which the bilingual education program is being conducted in New York City. Such an official inquiry should require testimony from Mr. Shanker as to his various charges. Also, we would be able to receive testimony from Chancellor Irving Anker, Hernan La Fontaine, executive administrator of the Board of Education's Office of Bilingual Education and representatives from groups such as the Public Education Association.

I suggest that these one-days hearings be held as soon as possible, such as the week of November 25. I would be pleased to provide whatever help I can in arranging these hearings. In any event I feel the claims made about bilingual education in the City of New York require the prompt and most thorough examination by the Congress and I hope you will give this recommendation full and careful consideration.

Sincerely,

HERMAN BADILLO,
Member of Congress.

OFFICE OF BILINGUAL EDUCATION,
Brooklyn, N.Y., November 4, 1974.

Hon. HERMAN BADILLO,
Member of Congress, Bronx, N.Y.

DEAR CONGRESSMAN BADILLO: The New York Sunday Times of November 3, 1974 carried a column by Mr. Albert Shanker, President of the United Federation of Teachers, which I consider to be inaccurate and inflammatory. I feel I must bring this matter to your attention since you are a member of the House of Representatives' Education Committee and because of your role as a forceful advocate of bilingual education.

The theme for Mr. Shanker's column purports to reflect a position of favor and support for bilingual education. But, as has occurred in the past, the content of his message serves only to create further fear, resistance, and hostility regarding bilingual education. As usual, no specific data is provided to substantiate the allegations made by Mr. Shanker. Instead, a series of generalities are presented in quasi-factual language with the intention of leaving the impression that the allegations are indeed gospel truth. I am particularly disturbed that Mr. Shanker states that in many cases children participating in bilingual programs are receiving no instruction in English. This is clearly not true. The very nature and definition of bilingual education require that students learn the English language. In the same manner the implementation of bilingual programs is most successfully carried out through the utilization of bilingual teachers. It is simply ridiculous to state that bilingual teachers performing in our bilingual programs do not speak English. No such case has ever been brought to my attention. In fact, licensing procedures for bilingual teachers require that candidates demonstrate proficiency in English as well as in Spanish.

I write this letter not only to refute these allegations, but to enlist your aid in obligating Mr. Shanker to either substantiate these charges with factual evidence or to cease from publishing any further material which can only lead to an acrimonious polarization of our communities. I certainly am most willing to work in a reasonable and cooperative manner toward the resolution of some of the real problems in the "how" of bilingual education. I will not tolerate, however, the dissemination of unsubstantiated allegations and outright prevarications. I trust all of us involved in promoting quality bilingual programs will have your support in this matter.

Very sincerely yours,

HERNAN LA FONTAINE,
Executive Administrator.

TECHNOLOGY ASSESSMENT AND ENERGY POLICY

HON. FRANK E. EVANS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. EVANS of Colorado. Mr. Speaker, one of the new tools the Congress has to provide it with expertise and technical information is the Office of Technology Assessment. The assistance provided by this office lessens the dependence of the Congress on the executive branch for information and data, enabling Congress to play a more independent and effective role in developing policy. My distinguished colleague from California, GEORGE E. BROWN, JR., has written an article explaining the importance of technology assessment for energy policy, and I would like to share his article with my colleagues:

NEW TECHNOLOGY: LET'S LOOK BEFORE LEAPING

(By GEORGE E. BROWN, Jr.)

Now that the Administration's blueprint for Project Independence has been released, energy policy is being debated once again. That's why the American people ought to know just how little the government has done toward assessing the social, economic, demographic and environmental impacts of the various energy options.

The forthcoming decisions on energy may be the most important our country has made in generations. What we do may have repercussions for decades.

Yet the Project Independence blueprint provides no real estimate of the full range of effects of any of the choices considered. Indeed, the document released this week serves to remind us once again that the United States glaringly lacks an institutionalized means of conducting a thorough assessment before allowing any new technological system to be realized.

We have had many examples of national policy decisions that, once made, have had far-reaching, unsuspected consequences. One relatively recent federal project that might have been radically modified if its full impact had been known or even suspected is the interstate highway program, which Congress enacted in 1954.

Among the unforeseen results of that decision have been the often-wasteful growth patterns of cities and the alarming increases in demand for land, material and energy. As these consequences became apparent, the original scale of the interstate system was reduced, and now there is opposition even to completing it.

While it is easy to look with 20/20 hindsight and see the faults of such a project, it should not have been terribly difficult to foresee many of the ill effects—if only we had had an institutionalized way of doing so. In that event, the possible consequences of the interstate network could have been considered and debated before the decision to proceed was reached.

The potential ramification of a decision on energy policy, of course, are even more hazardous to predict than those of a highway construction program. We have many different energy technologies which, like energy itself, involve many more aspects of the economy than do highways—important as highways are. Some of the side effects of our energy policy are being studied, such as the environmental problems that might be created by expanded offshore drilling, but the government is not carefully considering the *full* impact of a total energy strategy. Examining a single nuclear power plant or a single strip mine is tantamount to assessing a single stretch of an interstate highway.

The final report of the Ford Foundation's Energy Policy Project, released not long ago, deals with proposals to expand energy production and introduce new technologies. The report concludes that a "thorough assessment of the costs and benefits, and the health, safety and environmental problems associated with the technology, should be undertaken by an independent technology assessment office before any funding for a demonstration project is authorized."

The report went on to urge extensive public debate on whether to proceed with a particular kind of energy technology, based on knowledge gained in the overall assessment. Both the Administration and Congress should follow this recommendation.

Ideally, the Administration should have such an assessment in hand when it proposes any new technological project. The National Environmental Policy Act now requires an "environmental impact statement" for such undertakings. But this is not enough.

What we need are exhaustive assessments, which take environmental factors into account but go far beyond that to analyze the complete social and economic consequences of new technology. Obviously, close study should be made of an energy policy intended, say, to increase the supply of electricity that would, at the same time, decrease food production because of water diversion.

Some other proposal, if put into effect, might cause employment and population shifts, requiring changes in distribution and, perhaps, increases in the cost of social services. We should be aware of ramifications before a particular course of action is chosen.

One way to proceed is for Congress to utilize its own Office of Technology Assessment. Little known but potentially potent, it was mandated in 1972 to secure "competent, unbiased information concerning the physical, biological, economic, social and political effects" of new or existing technology.

Congress should give this office expanded authority to conduct such analyses, for it is Congress, when the chips are down, which is responsible for protecting the public's interest in the energy scramble.

At the same time, we should institutionalize technology assessments in the executive branch as well so that they are available while major policy decisions are being considered.

If this were now the case, President Ford would have a much better grasp of the many options offered by Project Independence, just as he would be in a much better position to make all those difficult choices facing him in the years ahead.

THE VETERANS' READJUSTMENT ACT

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. OWENS. Mr. Speaker, many veterans in the State of Utah have seen their benefits deteriorate because of inflation. They have asked me to send their views to the President in this regard and have collected numerous petitions which I intend to deliver to the President. These petitions were signed by student veterans at the University of Utah, Brigham Young University, Weber State College, and Utah Technical College.

The veterans' petition to the President is in support of H.R. 12628, the Vietnam Era Veterans' Readjustment Act of 1974. The veterans of these colleges are deeply concerned with what appears to be a forthcoming Presidential veto of the bill.

I wish to add my support to the desires of these Utah veterans that the bill be allowed to pass into law. The President's concern that the bill will be inflationary is based on good intent, but faulty reasoning. Any immediate inflationary effect will be quickly offset by the increased productivity that well educated veterans would add to our economy. This concept has been proven time and again through reasonable benefits to veterans following our past wars.

Moreover, who is more deserving of decent Federal benefits than the veterans of our country? These are the men who willingly distinguished themselves for their country. Yet, while the President is gracious in pardoning those who chose not to sacrifice, he refuses to honor in the most basic way the truly heroic men of our past military conflicts. I strongly urge President Ford to consider the requests of the Utah veterans and veterans throughout America.

The petitions follow:

Veterans Affairs Office,
November 1, 1974.

Mr. Gerald R. Ford: Enclosed are the signatures of some of the veterans attending the University of Utah. These signatures represent some of the men who served their country in time of need. These signatures also represent those men who are asking their country to help them in their time of need.

We are asking for your help in passage of H.R. 12628, the Vietnam Era Veteran's Readjustment Act of 1974, by your signing of this much needed piece of legislation when presented to you by Congress.

Thank You,

Terry Swanger,
Legislative Relations, University of Utah Veterans Association.

November 1, 1974.

Mr. Ford: Upon resumption of this session of Congress, Nov. 18, we understand that you will be presented with H.R. 12628, The Vietnam Era Veterans' Readjustment Act of 1974, for your signature.

We have also been led to believe, through Congressional offices and media sources here in Utah, that you have given consideration to vetoing the bill, because it would tend to be inflationary.

Having heard numerous rationalizations, both for and against, for more than a year now, cocerning the bill, we believe this bill not to be inflationary primarily on the basis of the revenue returned to our country, past and present, will continue in the future.

We also believe that this is a much needed piece of legislation, on a non-partisan political basis, and the rhetorical befriending and actual defrauding of those men who served has gone on to long.

We believe that the government of the people should serve those people that served the government in time of need.

This petition is on behalf of the student veterans of Utah.

Signed by 575 Utah Veterans.

OPENING THE FILES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. BROWN of California. Mr. Speaker, tomorrow we face one of the most important votes that shall take place in this body during the remaining weeks of the 93d Congress. I know that many of our colleagues are still undecided as to how they will vote on the veto override attempt on the Freedom of Information Act amendments, and it is for the benefit of those uncommitted Members that I wish to insert in today's Congressional Record an editorial which appeared on October 24 in the Riverside, Calif. Press. It reads as follows:

[From the Riverside (Calif.) Press, Oct. 24, 1974]

Opening the Files

When President Ford vetoed proposed amendments to the Freedom of Information Act last week, he cited his fear that national security information could too easily be declassified. But experience tells us that there is far more to fear from excessive secrecy in government than from unwarranted disclosure.

The act's good intentions have been largely thwarted by a federal bureaucracy intent on protecting itself from criticism and unwanted intrusion. Those seeking informational material under the act's provisions have been subject to, among other things, long delays and exorbitant copying fees.

They have also had to contend with the Secret stamp, and with a 1973 Supreme Court ruling which held that once information was so classified, the classification was not subject to review in court.

Congress this month approved several amendments to strengthen the 1966 act. Among the most important was a provision giving federal judges the authority to review, in chambers, classified documents whose classification was being challenged.

It was this provision to which the President took the strongest exception. He said it would give judges too much power in areas in which they weren't expert, and thus could weaken the nation's security and defenses.

This is hard to accept. The amended act seems to provide plenty of protection for legitimately classified information. Judges have shown no inclination to treat casually the necessity of such classifications—witness the courts' willingness to impose, however temporarily, prior censorship in the Pentagon Papers case—and there is no indication they would start now.

For too long too much information has been routinely kept from the public. That trend may be changing, but it has not changed nearly enough, and Congress should make override of the veto an early order of business when it returns from the election recesss.

Mr. Speaker, I hope that our colleagues will keep in mind the points raised by the Press as they make their decisions on how they will vote tomorrow.

FORD ADMINISTRATION DELAY IN ACTION ON URANIUM ENRICHMENT THREATENS A NEW KIND OF ENERGY SHORTAGE

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. HOSMER. Mr. Speaker, nuclear power reactors burn a special kind of uranium which is enriched in the fissionable isotope U^{235} by an industrial process. Presently the U.S. Government owns and operates most of the Free World's uranium enriching capacity. But demand soon will exceed supply and only prompt and intelligent action by the President and his subordinates can create the conditions necessary to bolster supply.

Unfortunately, President Ford's budget advisers are in the saddle on this issue. Revenues the Atomic Energy Commission receives from carrying on the enriching activity run into the hundreds of millions of dollars and have come in quite handy for Roy Ash and his predecessors as the Directors of OBM to make quick-fixes on their annual deficits. They view the matter of enriching uranium from the "now" standpoint of this year's budget.

Yet, if money is to be available to do the thing necessary to induce people to build new uranium enriching capacity in the country, a longer range view must be taken which will devote these revenues to those things which are prerequisite to the establishment of an enriching industry. Siphoning them off to perform fiscal cosmetic jobs must cease. It will simply mean that soon, instead of private investment handling this chore, the U.S. Treasury will suddenly have to poney up billions to build the capacity as the alternative to suffering a severe and long lasting nationwide electricity shortage due to a lack of nuclear fuel.

In the November 7 issue of Public Utilities Fortnightly, writer Gerald Casbolt discusses this situation under the title "Deadline Approaching for Construction of New Uranium Enrichment Facilities; Power Shortfall Feared." The article follows:

[From the Public Utilities Fortnightly magazine, Nov. 7, 1974]

DEADLINE APPROACHING FOR CONSTRUCTION OF NEW URANIUM ENRICHMENT FACILITIES; POWER SHORTFALL FEARED

(By Gerald Casbolt)

Some leadership, beyond "jawboning", is needed for the uranium enrichment industry; someone, whether in the White House or Congress, will have to make financial and planning decisions quickly, before the end of this fiscal year, to avoid a serious shortfall of enriched uranium by 1982, in the opinion of many nuclear power authorities.

According to all parties concerned—the Atomic Energy Commission, congressmen, private industry, miners and power plant officials—there will be enough enriched uranium in the United States in future years to supply the nuclear reactors that will have to come on line to supply the nation's electricity needs. But all concerned also say they do not know where the fuel will come from.

In the past few months, darkness has appeared on the already-cloudy fuel enrichment scene. General Electric said it was dropping out of its venture with Exxon Nuclear; Union Carbide left Uranium Enrichment Associates, then Westinghouse exited, leaving only Bechtel Corporation to carry the load. This means, basically, that except for Bechtel and Exxon, working on separate projects, there is no private industry working on the massive project that the Nixon administration and AEC Chairman Dixy Lee Ray have said must be handled by private industry. There has been no change in this view expressed by the Ford White House, despite Ford's avowed heavy reliance on nuclear power to save the country from an expected electricity shortage. Literally billions of dollars will have to be committed to ensure enrichment plants will be operative in the Eighties, and with today a tight money market, no one knows where the cash will come from.

One proposed solution is for AEC to continue to operate and expand its enrichment facilities, eventually operating them on a commercial basis. Officials of AEC privately say they expect that to happen, and they expect Congress will approve the necessary massive cash outlay when the time comes, because, after all, enriching is a money-making proposition. But that, too, apparently, is the rub. It is believed that many law makers will balk, mightily, when it comes to a government agency operating any thing other than a non-profit agency. But officials at AEC contended there is nothing else for them to do, because selling the enriched uranium to private power plants on a cost basis would not encourage private industries to develop their own facilities.

Nevertheless, AEC is the last resort in the search for a uranium enricher; there is still time, officials said, for private industry to "get it together."

Needed for private industry to move on enrichment are two major elements: an assurance for utilities that they will receive contracted-for supplies of nuclear fuel; and an assurance of money for prospective operators of enrichment facilities. The utilities want contracts to assure supply, come "hell or high water", before they make down payments which would in turn be used by enrichers as seed money to obtain the necessary capital. On the other hand, constructors want assurance of money before they start building huge enrichment plants.

One of those working hard on these problems is retiring Representative Hosmer (Republican, California), the ranking minority member of the Joint Atomic Energy Committee. Hosmer at one point was pushing for some kind of permanent government corporation (a tentative name was the United States Enrichment Corporation, or USEC) to handle the enriching process for private industry. This would keep radioactive material in the hands of the government, where many legislators feel it belongs, and there would be an assurance of cash. Hosmer still wants USEC; he recently called it "the only game in town" for enriching uranium. But he said recently also, "I do not want it to be forever a government operation: I want it to be a private operation, but the difficulties of getting into the business are enormous." He said there are huge financial problems in getting "from here to there."

Hosmer has worked out two "Essays on Enrichment" which together detail an elaborate plan for AEC to provide a stockpile of Separative Work Units* (SWU's) at a cost of about 82 cents a SWU. (It should be recognized that the Energy Research and Development Administration, recently formed by Congress, will take over many of the duties of AEC, which will fade into non-existence. This, however, should have a minor effect on Hosmer's plan, which refers to "government" rather than AEC.)

In his papers, Hosmer estimated some 27.5 million SWU's will be needed by 1982; there presently are none available from private industry in the U.S. One of the things this means with AEC plants putting out just over 27.5 million SWU's by 1982, is that new plants will have to be built to supply SWU's to new nuclear power plants that will come on line after 1982. At a recent financing meeting between utility representatives and UEA in New York, Hosmer's plans were discussed in depth as a possibility.

The problems of getting "from here to there" are indeed enormous. Enriching plants cannot be built on a practical basis unless there is some assurance there will be a need for the enriched uranium. This means, although it may appear very obvious, that nuclear power plants must be built in conjunction with enriching facilities.

Presently, AEC is working feverishly on completing improvement programs for its three enriching plants, which will increase the plants' combined capacity to about 27.7 million SWU's by 1981, with the construction costing an estimated $907 million (in 1974 dollars). This, according to Hosmer's figures, would supply enough enriched uranium for projected plants. But the improvement programs might not work, might not be completed in time, and might very well fall short of needs if total nuclear capacity increases. Another potential problem is with foreign contracts, which could cause a rather severe drain on this nation's supply of enriched uranium, if foreign demand gets out of hand.

There are other possibilities for improvement, aside from AEC picking up the ball. Breeder reactors may eventually obviate the need for separate enrichment facilities because the breeder supplies its own fuel. And there is the fusion process which, again, will virtually take away the need for additional enriching services. Even after breeders and fusion processes become realities, however, present reactors will not be scrapped. Thus, enrichment services will be needed for a period probably stretching well into the next century, although the new technologies might lessen demand.

AEC used to talk in terms of a "window", 1980 to 1985, when 27 million SWU's would be needed to supply nuclear plants. That date has now been fixed at 1982, (though some debate it). Coupled with this, AEC is striving to reduce lead time for enrichment plant construction from ten years to six years. Such a speedup would no doubt encourage industry to make realistic plans to build, but still the question remains: Will there be enough enriched uranium after 1982?

There clearly will not be enough enriched uranium from private industry unless several things happen, and they all involve money. An enrichment operation must be made an attractive financial package for investors. It would help the situation, some say, if government would guarantee loans. At least one official said government subsidiaries are in order. But AEC said so far as subsidies are concerned, private industry is already getting some of those now, in a sense. Technology is being "practically given away" (at some cost to the receiver), but this is necessary because much of the technology private industry needs for enrichment development is still classified and may be dispensed only by the federal government. Also, some federal money has been budgeted for a demonstration centrifuge, but even that (according to present plans) will be repaid to the government. One obvious proposal is for some sort of tax break to firms that develop enrichment processes; this has been and is being discussed in some government circles.

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* Separate Work Units, known as SWU's, are arbitrarily defined units that measure the amount of work needed by an enriching plant to separate quantity of uranium of a given assay into two components, one having a higher percentage of uranium-235 and one having a lower percentage. Normally, enriching plants charge power plants by the SWU, and this measure is also used to describe an enrichment plant's capacity or a nuclear plant's needs, in terms of enriched uranium.

All of which brings the problem full cycle: some leadership, beyond "jawboning", is needed from Washington to ensure there will be enough enriched uranium to fuel nuclear reactors and avoid a serious electricity shortfall.

WILLIAM SUMMERS JOHNSON

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. REUSS. Mr. Speaker, a respected former professional staff member of the House, William Summers Johnson, died September 19 in Hawaii.

I knew Bill as both staff director of the House Committee on Banking and Currency and as executive director of the Joint Economic Committee. He was a valuable Government employee.

After leaving the legislative branch of the Federal Government, he served the State of Hawaii as an economic advisor. All who knew him will miss his advice.

The Honolulu Star Bulletin, on September 19, 1974, briefly summarized his career in the following article:

FORMER FINANCE DIRECTOR JOHNSON DIES

Former City Finance Director William Summers Johnson, an outspoken, tough-minded economist respected as a "pro" by others in his profession, died today in the Convalescent Center of Honolulu, 1900 Bachelot St. He was 61.

Mr. Johnson suffered a stroke July 30, 1972, and was in Kaiser Hospital until Oct. 10 that year, when he was moved to the Convalescent Center. He died of complications resulting from the stroke.

He had been able to sit in a wheelchair, and attended a political rally at the center Sept. 4, according to a nurse there. Although he was unable to speak, she said "he was quite aware of what was going on."

Mrs. Ruth Johnson said her husband's body will be cremated and the ashes scattered at Waimanalo Beach "because he loved that beach so much."

Borthwick Mortuary has charge of funeral arrangements, to be announced later.

Mrs. Johnson asked that flowers be omitted, but said contributions may be made to the American Cancer Society or the Heart Association.

City Budget Director James Sakai took over Mr. Johnson's duties as City finance director when he was stricken two years ago.

Johnson came to Hawaii in 1965 to become State economist in the Department of Planning and Economic Development, and the department director, Shelley Mark, called him a "pro."

He served in that $16,800-a-year position on a contract through October 1968, surveying the State's economy and its trends.

He never hesitated to say what he saw in the future, despite the fact that bank and university economists, as well as businessmen and government officials, often refused to believe him.

He resigned the State post in 1968 when Mayor Frank F. Fasi appointed him City finance director. On June 10 last year, he submitted his resignation from the $23,500-a-year post over apparent disagreements with the Mayor. He changed his mind and rejoined the City the next day.

Despite the fact that his economic views were often discounted, time proved him correct or led others to agree with him. For example:

In 1967 when tourism was riding the waves of prosperity, Johnson said that increased tourism would create a serious strain on revenues to pay for such capital improvements as expansion at the airport, streets and sewers.

He told a 1967 meeting of the Hawaii State Federation of Labor, AFL–CIO, that labor should work for the reinstatement of wage and price guideposts because labor has great power. With this great power came the responsibility for curbing inflation, Johnson said.

Again in 1967, he told residents that they ought to buy insurance policies from companies which invest the premiums in Hawaii industry rather than on the Mainland.

In January 1967, he said hotel room taxes, a control of land through zoning and limiting unrestricted resort growth by imposing permit controls could achieve selectivity in resort development and on the kinds of tourist coming here. He warned against the "cracker-and-cheese" tourists as opposed to the middle and upper income visitors, the "carriage trade."

In February 1968, he suggested tax reforms which would encourage the use of open space and good urban design.

Johnson was born in Thomasville, Ga. He was a graduate of the University of Georgia. From 1956 until he came to Hawaii, he was frequently a lecturer in graduate economics at George Washington University.

His career was based in the nation's capital until he moved to Hawaii. From 1940 to 1944, he was an economist and statistician for the War Production Board. He was staff economist for the Federal Trade Commission for seven years. During the Korean War, he was on loan for five months to the Small Defense Plants Administration as acting deputy administrator.

From 1955 to 1959, he was chief economist of the House Select Committee on Small Business. During the 1961–62 congressional sessions, he was executive director of the U.S. House-Senate Joint Economic Committee—Congress' chief economic adviser. Then he was staff director of the House Committee on Banking and Currency where he directed a nationwide survey of commercial banking problems.

Always active in Democratic party politics, Johnson advised then-Sen. John F. Kennedy on economic matters during the latter's successful presidential campaign in 1960.

In 1964, President Lyndon B. Johnson sent the economist to Pennsylvania to coordinate the presidential campaign in that key state.

Because of his years in Congress, Johnson was on a first-name basis with the Democratic leaders in both the House and the Senate.

Although long associated with the Democratic party's establishment, in 1972 he backed Sen. George S. McGovern for the presidential nomination.

Johnson is survived by his widow, his mother of Atlanta, Ga., and three brothers, all living on the Mainland.

RENEGADE PATRICIAN

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Ms. ABZUG. Mr. Speaker, the October 4 issue of the Harvard Crimson contained a well-written review of Corliss Lamont's recently published book. Mr. Lamont's work, entitled "Voice in the Wilderness: Collected Essays of Fifty Years," has definite autobiographical overtones. It gives a poignant insight into a somewhat "deviant" delegate of America's upper socioeconomic echelons.

Robert T. Garrett, in reviewing the work, was impressed by the numerous parallels between Lamont and another member of a renowned patrician clan—Nelson Rockefeller. However, as the Crimson article portrays, the harmony of their upbringing faded into discord as the years passed.

Corliss Lamont sought activist remedies to abate the world's many ills. His actions have been those of a dedicated humanist, civil libertarian, and world pacifist. As an educator and political activist, this "renegade patrician" has dedicated his life to maxims quite alien to his peers.

At this time I would like to commend Mr. Garrett's thought-provoking article to the attention of my colleagues:

[From the Harvard Crimson, Oct. 4, 1974]

RENEGADE PATRICIAN

("Voice in the Wilderness: Collected Essays of Fifty Years," by Corliss Lamont, Prometheus Books, $10, 327 pp.)

(Reviewed by Robert T. Garrett)

In 1974, two of the most famous, and in some quarters, most infamous, scions of two of America's most famous and infamous patrician clans have bared it all. Or at least, all they feel like baring. By fate, coincidence, or contingency Nelson Rockefeller and Corliss Lamont, nabobs of Standard Oil and the House of Morgan, respectively, have hung heaps of autobiographical linen out to dry at the same time. Modern detergents and public relations notwithstanding, only one man comes out clean in the wash.

Rockefeller and Lamont both come from uptown, East Coast, forever philanthropic, library-building families that take great stock in printing private genealogies and producing model citizens. Rockefeller and Lamont are both closing in on that age when reminiscing becomes more than attending the occasional Ivy League alumni gathering. One is 66, the other 72. And, as their initial golden-days forays into reminiscence and self-accounting reveal, Rockefeller's in 72 pages and four days before the white-hot television lights of the Senate Rules Committee, Lamont's in a little-noticed collection of essays entitled *Voice in the Wilderness*, it's harder than the average communist thinks to bite the trust fund that feeds you.

Still, if Lamont hasn't bitten too brazenly (and it goes without saying that patrician parents demand oral gratification) Rockefeller nonetheless exceeded all previously known limits for filial sucking-up. The vice-presidential nominee delivered a maudlin soliloquy on the "Influence of My Mother." By contrast, Lamont's introductory, right-upfront candor is inviting indeed:

"Various people, especially newspaper columnists, have habitually tried to make a mystery out of my beliefs and actions owing to the fact that my father, Thomas W. Lamont, was a successful banker. But both my father and mother were warm, sympathetic, generous individuals who were liberals on most issues of importance and shared with me the aim of seeking the greatest good for the greatest number . . . In a real sense, I have carried on in the spirit of my parents, though thinking their goals would be more likely achieved through leftist solutions."

Lamont goes on to deny that an Oedipal complex, arising from hate of a father who hobnobbed with J. P. Morgan and James J. Hill, was "operative" in his decision to become a socialist, Humanist, civil libertarian and world pacifist. True to form, just as throughout this compendium of essays Lamont attacks determinism in any name, shape and form (Christian theistic, Marxist economic, Skinnerian behaviorist, even shades he sights in Dewey's naturalistic), he dismisses Freudian psychology as the explanation for his very un-patrician life choices. Rather, Lamont places a premium on just such choices—life choice, free will, individual accountability. From there, he spins a personal philosophy of "naturalistic humanism," scientific, rational, ethical, democratic, and internationalist, in order of presentation.

The 44 essays in *Voice in the Wilderness* are divided into three parts, detailing the chronological framework of Lamont's three weightiest concerns: humanist philosophy, civil liberties, and world peace and socialism. Although it was as an undergraduate at Harvard, Lamont ('24) says in the essay "It All Began in the Yard," that he fought his first skirmishes for the First Amendment and the League of Nations, his philosophic studies at Oxford and at Columbia under Dewey and F. J. E. Woodbridge pointed to his consuming passion.

Unlike his Rockefeller counterpart, who metamorphosed unnoticeably from the strict Baptist faith of his grandfather to the tepid gently-theistic civil religion so at home recently in the White House, Lamont turned into a shrill, at times evangelical Humanist. Not just a fly in the smooth ointment of his family's liberal Protestantism, but a gadfly among the "New Philosophers," correcting Dewey's semantics and grammar here, rescuing George Santayana from an ignominious Vatican tomb-marker there, always, always proselytizing for the American Humanist Association, the Ethical Union of America, and other similar religious-philosophical organizations.

To his credit, Lamont spurned the narrowly academic tendencies of his own personality and the universities where he taught in favor of an activist role in healing U.S.-Soviet relations, in fighting the red-baiters of both post-war eras, in protesting the Hiroshimas, the Bays of Pigs, the Vietnams. And, as certain of his essays in *Voice in the Wilderness* drive home, the reader should be grateful. For Lamont, had he written the books requisite to obtain a tenured position more revered than the "lecturer in philosophy" job he worked at intermittently for almost two decades at Columbia, Cornell, the New School and Harvard's Graduate School of Education, would surely have wallowed in the nitpicking pedantry that some of the lesser essays in *Voice in the Wilderness* border on.

The best pieces in this collection are good not because they are "relevant," though they hit upon every solid issue the American left has argued in the 20th century. They are worth reading because Lamont is authentic—he is there on the courtroom floor, on the picket line, at the teach-in sessions when his colleagues of the cloister are silent. Lamont fought Harding and isolationism from his typewriter as an editor of The Crimson, fought for the right to bring dissenting speakers such as Eugene V. Debs, William Z. Foster and Scott Nearing to Harvard as chairman of the Union Undergraduate Committee. And Lamont continued to take on the Goliaths of reaction—Attorney-General A. Mitchell Palmer, the House Un-American Activities Committee, and Joe McCarthy.

In fact, Corliss Lamont has taken such admirable stances for half a century it is hard to be rough with him. A biography might have established the distance needed between the man and his actions to evaluate his philosophical and ideological stances. Yet one does wonder whether such a work on such an untenured maverick would sell with the committees that parcel out tenure to the sort of people who would write such a book. Despite such problems of point of view, Lamont emerges as "warm and agreeable" as the Humanism he dotes upon. And most of all, he comes clean.

Reading Lamont's essays grates against all the modern sensibilities. Samples from one year, 1973, range from an interview with Chile's president Salvador Allende to a humanist pamphlet titled "How to Be Happy—Though Married." Who is this latter-day Ben Franklin, anyway? Why is he trying to take a stance on every conceivable aspect of life in this world? How can anyone be "conversant," "critical," and "definitive" in more than the appointed intellectual niche? Corliss Lamont, yea even a Corliss Widener, who does he think he is?

The questions still stand after finishing *Voice in the Wilderness*. Perhaps Lamont's chronicling of his quiet, underexposed work for humanism, civil liberties and socialism is a desperate attempt for recognition from a retired fellow-traveler standing a half-skip, jump or foot away from the grave. Lamont wrote obsessively on the subject of death as a young man—philosophic studies, poetry anthologies, scientific debates on reincarnation and psychic phenomena. His thanatology concluded in a "higher hedonism" doctrine, which stressed living vitally, though ethically, since man is always a hearbeat away from nonentity.

Lamont's autobiographical venture came at a time when he saw Dartmouth's "Most Likely to Succeed" of 1930, Nelson Rockefeller, a heartbeat away from the temporal world's highest office. Maybe the inherent injustice in an ordering of the world in which Nelson Rockefeller can be president prodded Lamont to grap, finally, at immortality. If so, *Voice in the Wilderness* represents his most thoroughly human act to date.

CHARLES E. COLLINS

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. BYRON. Mr. Speaker, last week an old friend and a distinguished citizen of Frederick County and the State of Maryland, Charles E. Collins, passed away. Charlie Collins was a man who had dedicated most of his life to public service, and he was pursuing that service at the time of his death.

Charlie Collins served in the Maryland House of Delegates for 6 years. He then served as president of the Frederick County Board of County Commissioners for 4 years from 1966 to 1970. He combined his active role in public affairs with a career in farming. His last position was perhaps his favorite—that of public affairs director of the Maryland Farm Bureau Federation.

Charlie was a frequent visitor to my office and to the Halls of the Capitol. He was an effective spokesman for the farm industry and individual farmers from throughout the State of Maryland. His achievements in all areas will long be remembered, and his dedication to the public welfare, his family, and his friends will long remain in the memories of those who knew him and worked with him.

THE FEDERAL BUDGET AND INFLATION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. ASPIN. Mr. Speaker, 2 months ago, Prof. Francis Bator submitted a memo to the Senate Budget Committee on our economic prospects and the direction of economic policy. Events since that time tend to confirm his analysis of the present situation. We would be well advised to take seriously his prescriptions. I hope all Members will take the time to read this excellent memorandum:

The Federal Budget and Inflation

(By Francis M. Bator, Professor of Political Economy, Harvard University)

1. THE OUTLOOK FOR THE NEXT 6–9 MONTHS

The most likely story is that told by the now "standard" forecast;

Real output marginally down;

Unemployment up to 6½–7% and still rising;

The gap between actual output and "potential output", conservatively defined but ignoring some awkward bottlenecks, up to an annual $100–110 billion (a rough measure of the annual rate of forever-lost wages/profits/taxes and output due to unemployed people and idle machines);

The rate of inflation slowing but only slowly, to perhaps 8–8½% by next summer measured by the GNP deflator, with wages replacing commodity prices as the driving force.

That is the most likely outcome if the Fed promptly eases up on money, and the government does not take restrictive fiscal action. Continuation of very tight money (the Federal funds rate at 11% plus, the money stock growing at only a fraction of the rate of inflation) or a large cut in Federal spending below the estimate built into the standard forecast, or a significant tax increase would probably produce a further decline in output and real income, more unemployment, and an only slightly better price performance. It would be a poor bargain.

It bears emphasizing that the most likely outcome is only that. Forecasts are based on "regularities" found in the record of the past. The U.S. record doesn't contain much direct evidence on the spending behavior of households and business in an environment of two-digit inflation. It's the only "past" we've got; the most likely story drawn from it by the use of good economics, good sense, and knowledge of the economic history of other countries, is the most likely story. But we should be prepared for surprise, especially unpleasant surprise. Specifically:

I do not think it is likely that inflation during the next year will accelerate: demand will be sluggish; "wage-push" is not yet out of hand despite some large settlements recently and a recession-caused fall in productivity; while the poor U.S. harvest will drive food prices higher, other commodity prices might even decline. Nevertheless, it is right to be nervous about the coal negotiations this autumn, the weather next year, OPEC (though I don't think they'll try to increase the real price any further), and most of all, after two years of falling real wages, the shape of wage-price politics in the 40-50% of the economy where competition exerts at most a feeble discipline. (The worry-list concerns the source of the next big push. For the next few months, the figures will continue to be affected by the past increase in oil prices and the decontrol bulge in other prices working their way through to the price indices for final output.)

While a proper depression is not in the cards, an economy even more sluggish than that sketched above is all too possible. Inventory investment (precariously swollen during the past year), plant-and-equipment spending, and net exports could all fall short. (Many countries are counting on exports in amounts that are inconsistent with their partners' projections of imports.) Last, personal consumption is a large question mark. Households have taken such an economic beating in the last two years (even the stock market matters), that one cannot rule out unusual belt-tightening. (Those who worry about hyper-inflation of the South American sort, conjure up the opposite nightmare: an accelerating attempt by people to shift out of money and into goods. Unless inflation accelerates for other reasons, I think that unlikely. It is, after all, 8–11% money, or only slightly less than 0% in real terms. At any rate, up till now the evidence on personal saving runs the other way.)

2. THE CAUSES OF INFLATION DURING THE PAST 18 MONTHS

Going into '73, we inherited a 3½–5% wage-price-wage inflation, conventionally labeled cost-push (cost-push/price-pull would be more accurate), which was stimulated if not ignited by the ol-fashioned aggregate demand-pull inflation of '66–68. (Mr. Nixon's decision in January 1969 to abandon any effort directly to influence wage-price bargains didn't help any. He opted out just when the economy was about to turn soft enough to give energetic jaw-boning a chance to do some good.) But judging by its *macro-performance*, the economy in January '73 seemed to be in pretty good shape: demand was gradually gaining on potential output, reducing the excess slack of '71; unemployment at 5% was falling; John Dunlop was about to begin his "social contract" experiment on the wage-price front. Then came the great acceleration: a commodity inflation that drove the rate of price increase from 3–5% to the current 10–12%.

Sorting out and assigning weights to complementary causes is a delicate analytic task. The best work with which I am familiar has been done by Professors Nordhaus and Shoven (they published a report for the lay reader in *Challenge*, May-June 1974.) It only covers the nine months through August 1973, but the results confirm the impression one gets from an informal examination of the evidence for the entire period until mid–1974.

The great acceleration cannot be explained, except in the trivial sense I'll get to it in a moment, by an excess of aggregate demand in the U.S., i.e., by unduly expansionary fiscal and monetary policy. It cannot be explained by an acceleration of wage-push (although, since the spring, that has become the most serious danger we face from here on out.) Rather, the major proximate cause is to be found in the combined effect on the dollar price of commodities, notably of food and oil, of

(1) The world-wide food-supply shortfall of 1972 and the incomplete catch-up in 1973;

(2) The 14–16% depreciation in the foreign exchange value of the dollar relative to pre-Smithsonian exchange rates;

(3) Simultaneous acceleration of economic growth, and hence demand for commodities, in the rest of the world (world-wide, real output grew by an unusually hefty 7% between mid–'72 and mid–'73);

(4) Imposition by the oil cartel of what amounts to an excise tax of some $13–$15 billion per year on American consumers of imported oil.

We have been plagued since late '72 by some massive micro-economic events involving large once-for-all changes in *relative* prices. Monetarists would argue that such increases in the relative prices of commodities could have been achieved in part by large *absolute* decreases in other prices and hence much less inflation—if, that is, the government had not expanded the supply of money to accommodate the spurt in the price level and in total spending.

True: in theory one can envisage a tight money squeeze on total spending sufficiently drastic to keep the lid on prices in the aggregate, with a lot of prices falling to help achieve the appropriate relative increase in food prices and the cartel's target for oil. But that is sheer fantasy. In a modern industrial economy that medicine works, if it works at all, by creating and sustaining massive unemployment and excess capacity, a "reserve army of unemployed". To keep the price indices from taking a large jump in the face of what happened in the markets for food and oil, we would have had to suffer draconian deflation and a far larger reduction in real income than that imposed on us by the adverse change in our terms of trade. Better the disease than the medicine.

3. HAS EXCESSIVE FEDERAL SPENDING . . . BEEN ONE OF THE MAJOR CAUSES OF HIGH INFLATION OVER THE PAST 18 MONTHS?

It's clear that I don't think so. First, I don't think so. First, I don't think that in the past 18 months we have erred on the side of too much aggregate demand, though a weak contrary case could be made out for the early months of '73 by someone who cares mainly about stopping inflation and very little about the cost in unemployment and lost real income. But even if it were otherwise—if aggregate spending had been excessive—exclusive emphasis on public or Federal spending would be a red herring.

Second-order qualifications aside, what matters for old-fashioned demand inflation is total spending, private plus public. Whether the public or Federal component of total spending is excessive is not a question that can be settled as a matter of demand management alone. One has to compare the value of such spending on particular public programs with the value of competing private use of resources, and adjust both public spending and, by changing taxes and monetary policy, private spending, accordingly.

I am among those who believe that, as a community, we are not devoting a large enough portion of our resources to public tasks. In the end, that's a matter for political argument. But it's an argument that cannot be settled by talking about inflation. We are ill-served by people in authority who claim otherwise.

4. SHOULD CONGRESS REDUCE FISCAL YEAR 1975 SPENDING TO $295 BILLION?

I fear I answered the question before I got to it. Good demand management and inflation control do not call, in my judgment, for a Congressional effort to get closer to the budget ceiling (or for higher taxes.) A tightening of fiscal policy at this juncture would gain us little in the fight against inflation, and could cost us much in worsening the recession. This is not an argument against cutting out waste and substituting good things instead. But it's much too late for much of that in this year's budget. The items that can be cut on short notice are not generally those that should be cut.

5. IMPACT OF A $5, $10, $20 BILLION CUT IN THE FISCAL YEAR 1975 BUDGET

It would be foolish to pretend to a precision that we don't possess. On the basis of some back-of-the-envelope arithmetic, I think that a spending cut of $5–$10 billion, measured against the standard forecast estimates, would be large enough to shorten the odds on an appreciable further decline in output. A cut of the order of $15–$20 billion would I think produce the worst recession we have suffered since the war. It might even produce enough unemployment and idle capacity to squeeze out inflation—if we kept the screws on for 2–4 years. It's the sort of radical surgery that can cure or kill, and no one knows the odds.

6. THE BUDGET PROCESS AND PRIORITIES

I think the new Budget Committee should try something that has never been tried in this country—national economic budgeting. And it should prod the Executive Branch into doing the same.

Except during World War II, we have never properly addressed the large questions of "priority" that confront us as a community: how each year we should divide, to take a conservative, incremental formulation, the $50–$60 billion worth of extra output available to us between private use and various public tasks, and between consumption by the very poor and by the rest of us. The question may seem grandiose. It really isn't. We make those choices, year in and year out, when we decide about government purchases, transfers and taxes, and monetary policy. But we do so blindly, barely aware of what we are doing. Perhaps the paramount objective of the Budget Committee should be to remedy that.

It won't be easy. In the face of justified anxiety about inflation, widespread confusion about the connection between government spending and inflation, preoccupation with waste in government, and the like, it will be much easier for the committee to focus on bits and pieces of the problem in isolation: deficits, spending ceilings, or at best, trade-offs among various public programs, thereby failing to place things in their larger frame. In light of the problems of the next few years, it would be a clostly failure.

FIFTY YEARS AT CONGREGATION B'NAI YITZHOK

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. EILBERG. Mr. Speaker, our country, no matter how large it has grown, has always been a nation of small communities. Our cities have populations which number in the millions but the people always think of themselves as residents of particular neighborhoods. These neighborhoods have distinctive characters and identities.

One of the reasons for these distinct personalities is the institutions located in these particular areas. In my own district in northeast Philadelphia our synagogues and churches play a very strong role in the life of the community. One of them, Congregation B'Nai Yitzhok, has served the people of the northeast for 50 years. At this time I enter into the Record a history of this synagogue written by its Rabbi, Sholem J. Horowitz:

Fifty Years at Congregation B'Nai Yitzhok

Not many more than the required quorum of ten men gathered together in a dimly lit store front on Ella and Ruscomb Streets. They assembled to pray on the High Holidays and according to the best memories they were ushering in the year 5686. The date was September 9, 1926. They must have been very worthy men and prayed with great devotion because their prayers were heard and the fruits of their labor blossomed into Congregation B'nai Yitzhok.

For a year and a half that humble beginning served the needs of our community and in the following year the building at 254 E. Roosevelt Blvd. was acquired. The depression was spent in that building and although the country was suffering terrible hardship a synagogue was maintained and there was a place for a Jew to come and find solace.

When the fury of war broke out upon the land with all its horror the synagogue, still at the same place, this time however with the aid of Rabbi Felix Freifelder. After the war Rabbi Irving Ebert accepted our pulpit and it was then that the synagogue grew substantially. A building fund drive was initiated in 1948 and in 1951 a new synagogue was ready. It was in 1952 that the property at 256 E. Roosevelt Blvd. was acquired and with some renovations and alterations became substantially the same then as they are now.

The decade of the fifties became the zenith for our congregation both in terms of growth and membership. There were at one time about 100 children in our Hebrew School and more than enough members to fill the sanctuary to overflowing. A great contributing factor to our growth was the arrival of Rabbi Arnold Feldman to our community in 1956. His able and dedicated leadership served as an impetus to our development as a responsible Orthodox Synogogue. There are some fascinating vignettes from that decade. In 1953 our budget was $15,323.82 and on April 27, 1953 we had a bank balance of $35.00. The Silver Anniversary Journal in 1953 netted $2635.50 and the average time that Board meetings were over was past 11:00 P.M.

At the end of 1959 and beginning 1960 we really became very exclusive. It was then the Main Sanctuary got a new coat of paint, plans were made for the stained glass windows, and the Board began thinking of air-conditioning the entire building. It was also during this time that we had very capable leaders. No names are being mentioned for fear of offending someone by omission. But suffice it to say that no small measure of credit is due to those people who labored so valiantly on our behalf.

On June 14, 1960 there was a general Congregation meeting and a motion was passed by a vote of 34 to 13 to institute separate seating during services in the Main Sanctuary and to include a "Michitza". The only exception would be the High Holiday services.

It was late in 1962 that Rabbi Feldman sent in his letter of resignation which of course saddened everyone; but without rancor he was wished well in his career and given a Testimonial Dinner. It was with typical foresight that almost immediately the congregation began seeking a new spiritual leader and it wasn't long before Rabbi Saul I. Aranov accepted the Pulpit at B'nai Yitzhok in 1965.

The synagogue is most beautifully adorned with its stained glass windows, and we sit in air-conditioned comfort, but these projects didn't occur with the ease of writing. Many were the arguments, long were the hours and dedicated were the workers who carried through these tasks to completion. It took from 1959 to 1965 and beyond to complete them. It was in October 1967 that Bingo got started and after much hestitation became a solid source of support. In 1969 Rabbi Aranov left our congregation for the halls of study in Israel and beginning September 1970 Rabbi Sholem J. Horowitz came to serve as religious leader.

The past four years have also seen remarkable progress despite the general decline in the community. The mortgage was paid off for the first time in forty-five years, the buildings were renovated and a sense of community spirit became a part of Congregation B'nai Yitzhok.

In reading through the minutes of Board Meetings of the past two and a half decades I've become intimately aware of the difficulties overcome and of the great dedication that so many people have shown. At times I felt as if I were resurrecting many memories, some even bitter and sad. There were arguments and squabbles to be read between the lines and even bitter animosities. But through it all I sensed that great spirit which animates the Jew and makes him strive the way he does. We stand upon the labor and toil of love of all those that have worked before us. I hope we will be worthy to have people say the same of us fifty years from now.

HOUSE OF REPRESENTATIVES—*Wednesday, November 20, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, offered the following prayer:

I am the vine, ye are the branches: He that abideth in Me, and I in him, the same bringeth forth much fruit.—John 15: 5.

O God, our Father, in whom there is strength, wisdom, and love, come Thou anew into the hearts of the Members of this body to whom our people have committed the welfare of our Nation. As we pray may there come to us light for our way, life along the way, and love all the way.

Give to us responsive minds and receptive hearts that we may receive Thy word for this day and then grant us the will and the wisdom to work for the highest good of our beloved land.

Guide Thou our President, our Speaker, and the Members of Congress that with strong minds, great hearts, true faith, and ready hands they may lead our Nation into a brighter day radiant with promise and resplendent with hope, with liberty and justice for all.

In the spirit of Him who is the Way we pray. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 386) entitled "An act to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11929. An act to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 3057. An act to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments; and

S.J. Res. 258. Joint resolution to authorize and request the President to issue a proclamation designating November 29, 1974, as "National Student Government Day."

PROPOSAL TO EXTEND DATE ON TRADING IN GOLD

(Mr. **GONZALEZ** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **GONZALEZ**. Mr. Speaker, I rise at this time to remind the colleagues in the House that I am introducing a proposal that will extend the effective date permitting Americans to trade in gold and speculate in gold and gold bullion today to an additional 6 months, to give us a chance to do what neither the Congress nor the money managers of the Nation have done thus far, and that is to protect the American public from being fleeced, from being defrauded, from being robbed by the expert speculators in gold of London, Zurich, Bonn, Paris, and other centers.

This country is about to witness a wholesale fleecing of the American people. We are going to see our banking structure weakened and endangered. We are on the threshold of a real monetary crisis and there seems to be an oblivious indifference on the part of Members of Congress and the monetary managers of our country, both of whom are responsible for the irresponsible manner of repealing the gold prohibition that we have had since 1932.

LEGISLATIVE PROGRAM

(Mr. **O'NEILL** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I have asked for this time to announce the program for the day.

We will consider the following legislation:

H.R. 14225, Rehabilitation Act amendments, vote on veto override;

H.R. 12471, Freedom of Information amendments, vote on veto override;

H.R. 6624, private bill, vote on veto override;

H.R. 7768, private bill, vote on veto override;

H.R. 15977, Export-Import Bank extension, conference report;

H.R. 16373, Privacy Act, under an open rule, with 1 hour of debate.

House Resolution 1387, place for amendments in Congressional Record; and

Senate Joint Resolution 40, White House Conference on Libraries, under an open rule, with 1 hour of debate.

Mr. Speaker, that is the rotation and the order in which we will take up the legislation for the day.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 632]

Anderson, Ill.
Andrews, N.C.
Baker
Biester
Blatnik
Boggs
Bolling
Brasco
Breaux
Burke, Calif.
Camp
Chisholm
Clark
Collins, Tex.
Conable
Conlan
Conyers
Davis, Ga.
Dellums
Diggs
du Pont
Esch
Eshleman
Foley
Ford
Fraser
Gaydos
Giaimo
Gibbons
Gray
Hanna
Hansen, Wash.
Hawkins
Hébert
Heckler, Mass.
Holifield
Jarman
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kemp
Kuykendall
Luken
McKay
McSpadden
Martin, Nebr.
Mathias, Calif.
Mitchell, Md.
Moorhead, Pa.
Mosher
O'Hara
Owens
Pepper
Podell
Rangel
Rarick
Rees
Reid
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Rousselot
Ryan
Shuster
Smith, Iowa
Smith, N.Y.
Stark
Steed
Steiger, Wis.
Teague
Traxler
Veysey
Wiggins
Wilson, Charles H., Calif.
Wyman

The SPEAKER. On this rollcall 358 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

APPOINTMENT OF CONFEREES ON H.R. 11929, AMENDING THE TENNESSEE VALLEY AUTHORITY ACT OF 1933

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11929) to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Alabama? The Chair hears none, and appoints the following conferees: Messrs. Jones of Alabama, Kluczynski, Johnson of California, Harsha, and Baker.

EXTENDING REHABILITATION ACT OF 1973 AND AMENDING RANDOLPH-SHEPPARD ACT FOR THE BLIND—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President of the bill H.R. 14225, to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for 1 year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare to make certain technical and clarifying amendments, and for other purposes; to amend the Randolph-Sheppard Act for the blind; to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals.

The question is: Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Indiana (Mr. Brademas) for 1 hour.

Mr. BRADEMAS. Mr. Speaker, I shall plan to yield 30 minutes of the 1 hour to the distinguished ranking minority member of the Committee on Education and Labor, the gentleman from Minnesota (Mr. Quie), who has done so much to make possible the passage of H.R. 14225, the Rehabilitation Act Amendments of 1974. Pending that, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want here to take a moment to pay particular tribute to the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. Perkins) and the distinguished ranking minority member of the committee, the gentleman from Minnesota (Mr. Quie), for their outstanding contributions to this important legislation.

Mr. Speaker, in voting today on the question of overriding President Ford's veto of H.R. 14225, the Rehabilitation Act Amendments of 1974, we are considering a program that is not a partisan matter.

We are considering a program that annually helps make possible a productive life in a humane society for 300,000 handicapped Americans rehabilitated for employment.

So to reiterate, Mr. Speaker, my remarks today are not those of a partisan but of one who hopes that the progress toward helping the handicapped that we have seen over the past five decades will not be halted.

Indeed, I ask Members to recall the overwhelming bipartisan support this measure received when it was first approved.

On May 21, H.R. 14225 passed the House by a recorded vote of 400 to 1, and it was approved by unanimous voice vote in the Senate on September 10. The conference report on the measure passed both the House and the Senate unanimously on October 11 receiving a vote of 334 to 0 in the House.

It is clear, therefore, Mr. Speaker, that this program has not been viewed as a partisan issue in either the House or the Senate on either side of the aisle.

MAJOR PROVISIONS OF THE BILL

Before I address myself to the major points of the President's veto message, Mr. Speaker, let me remind my colleagues of the major provisions of the vetoed bill.

H.R. 14225 would have extended for 1 year until June 30, 1976, the Rehabilitation Act and raised the authorization for the major program, grants to States, from the fiscal 1975 authorization of $680 million to $720 million for fiscal 1976—a modest increase and within the administration's own budget levels; amended the Randolph-Sheppard program to provide for more opportunities for blind vendors.

These amendments were worked out in close cooperation between representatives of the blind, of those agencies most directly affected, including the Department of Defense, and representatives of Federal employees.

In addition, H.R. 14225 would have authorized a White House Conference on the Handicapped to be called within 2 years from the date of enactment of the bill; clarified the definition of "handicapped individual" for the purposes of implementing certain provisions of title V of the Rehabilitation Act relating to the employment of handicapped people under Federal grants; required affirmative action for the handicapped in employment in State agencies and facilities; required review of individuals deemed ineligible for vocational rehabilitation services; trasferred the Rehabilitation Services Administration, RSA, from the Social and Rehabilitation Service, SRS, to the Office of the Secretary of the Department of Health, Education, and Welfare.

PRESIDENT'S VETO MESSAGE

Mr. Speaker, before I address the reasons given by Mr. Ford for vetoing this important legislation let me stress that he did not veto it for budgetary reasons.

As the President said in his veto message on October 29:

> The key issue posed by this bill is not how much money will be spent.

So for those who might fear that this measure was vetoed because it posed another threat to our fiscal stability during this time of inflation, let me set their minds at ease: The President did not veto this bill because it was a so-called budget buster—indeed it is not—he vetoed it because he disagreed with the congressional interpretation of our responsibilities not only to write legislation but to see that it is carried out in accord with the intent of Congress.

But I fear, Mr. Speaker, that the President has been badly misinformed about the purposes and contents of this legislation, and I say this because he objects to the transfer of the Rehabilitation Services Administration to the Office of the Secretary of HEW without showing any knowledge of the legislative history of these provisions.

This is what Mr. Ford said in his veto message:

> It transfers a program from one part of HEW to another for no good reason . . . . It dictates where in HEW minute decisions must be made, it creates independent organizational units at subordinate levels that are wasteful and duplicative and it sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man bureaucracy in HEW to duplicate functions carried out elsewhere in the Executive Branch.

Mr. Speaker, almost every word in that paragraph is simply inaccurate.

Far from transferring the Rehabilitation Services for, as the President put it, "no good reason," we transferred it for very carefully thought out and sound reasons which received overwhelming bipartisan support in the subcommittee I am privileged to chair, as well as the Committee on Education and Labor, and the entire House of Representatives.

Before I say a word about the sound reasons underlying this decision let me take just a minute to cite the inaccuracies in the President's statement.

The bill does not, as the President claimed, "dictate where in HEW minute decisions must be made."

Apart from the transfer of RSA—which administers a major program and makes not minute decisions but major policy determinations affecting millions of handicapped Americans—the bill makes no organizational changes in the Department of Health, Education, and Welfare.

The bill does not, as the President asserted, create "independent organizational units at subordinate levels that are wasteful and duplicative."

As I have just explained, Mr. Speaker, the bill transfers one major office within the Department of Health, Education, and Welfare, but creates no new subordinate offices.

The bill does not, as the President claimed, set up a "monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man bureaucracy in HEW."

There is simply no such requirement in the bill, Mr. Speaker, and the drafters of this legislation never conceived of creating a new bureaucracy with 250 people in it.

Indeed, I hasten to point out that the objection is a fabrication of the imagination of the President or his advisors. For today only 169 people work in the Rehabilitation Services Administration and we have added no new functions to their responsibilities that would require such an increase in the work force in the agency.

I should also stress, Mr. Speaker, that the Committee on Education and Labor has encountered such enormous difficulties with the bureaucracy in HEW with respect to the Rehabilitation program that the furthest thing from our minds would be the recommendation of a new layer of bureaucracy.

TRANSFER OF THE REHABILITATION SERVICES ADMINISTRATION

Let me say a few words, Mr. Speaker, about the transfer of the Rehabilitation Services Administration from the Social and Rehabilitation Service to the Office of the Secretary of the Department of Health, Education, and Welfare.

First, as the committee reports of the House and the Senate made clear, the rehabilitation program, unlike the other programs within SRS, is a human development program.

The other programs operated within SRS are oriented primarily towards public assistance. Congress decided therefore that SRS was not the appropriate agency for the rehabilitation program.

ADMINISTRATION SUGGESTION

I want to stress, second, Mr. Speaker, that in following the line of reasoning outlined above, Congress was implementing a suggestion first proposed by the administration of Richard Nixon.

My colleagues will recall, I am sure, that in 1971 the administration submitted a number of bills to the 92d Congress to reorganize the Federal bureaucracy.

These proposals were first generated by the Ash commission which studied government organization for the Federal Government. Mr. Ash is now Director of the Office of Management and Budget. One of these proposals, H.R. 6961, was a bill to create a Department of Human Resources which would have included three major agencies: The Human Development Administration, the Health Administration, and the Income Maintenance Administration.

The result of this administration plan for the Social and Rehabilitation Service, Mr. Speaker, would have been to move rehabilitation, aging and juvenile delinquency from SRS to the Human Development Administration, and to merge SRS's remaining welfare programs with the social security program into the Income Maintenance Administration.

Clearly, Mr. Speaker, the services programs of SRS were to be separated from the welfare and medicare programs. That was one of the major conceptual changes in the organization of the Department and that was precisely what this legislation tried to accomplish.

As a result, the veto of H.R. 14225 on the ground that the Executive should be able to manage its organizational problems without legislation, seems ill-advised. First, H.R. 14225 only seeks to accomplish some of the objectives of the administration's own bill on the reorganization of HEW. Second, as the reorganization bills establish, the administration desired to remove rehabilitation from SRS and the welfare programs. Third, the reorganization bills recognize the need for congressional participation in organizational decisions and that the question is not one of Executive power alone.

MISMANAGEMENT AND VIOLATION OF FEDERAL LAW WITHIN SRS

Finally, Mr. Speaker, I must point out yet another sound reason for moving this program—which for so long as meant so much to so many—from SRS into the Office of the Secretary.

I refer to what I can only call a shocking and scandalous pattern within SRS of mismanagement and flagrant disregard of the law with respect to the rehabilitation program.

Consider, Mr. Speaker, the following facts which came to light during our oversight hearings and subsequently:

The Department seriously considered phasing out the rehabilitation program and replacing it with a cash assistance scheme so that handicapped people might purchase the services and equipment they need. The written memorandum proposing this scheme acknowledged that congressional approval by law would be required, but suggested administrative implementing the plan without legislation;

The Social and Rehabilitation Service forced RSA to ignore the statutory requirement that identifiable agencies within each State be responsible for Federal rehabilitation funds. SRS, that is to say, forced RSA to break the law;

Today, fully 15 months after the Rehabilitation Act of 1973 was enacted, regulations to implement the law have not been published. The program is, therefore, operating under the regulations designed to implement the now-expired Vocational Rehabilitation Act.

The Rehabilitation Services Administration operated for one full year without a Commissioner;

Finally, Mr. Speaker, I must tell my colleagues that in August the Civil Service Commission issued a report ending a 1-year investigation of SRS that indicated widespread violations of Federal law with respect to hiring personnel and the merit principles of government service.

Because of these violations, the Civil Service Commission has suspended the right of James S. Dwight, Jr., Administrator of SRS to hire personnel above the GS 13 level.

Mr. Speaker, let me dwell for just a moment on the Civil Service Commission's report.

The report found that in spite of repeated warnings from CSC, the Department of Health, Education, and Welfare had taken no action to see that the illegal hiring practices of SRS ceased.

The report states:

> There is clear evidence that SRS has engaged in employment practices which circumvented merit principles. There is also evidence that these improper practices had not completely ceased even after HEW and SRS gave the Commission assurances that they had.

Mr. Speaker, because of the preselection of applicants and the hiring of cronies that ran rampant within SRS, Local No. 41 of the American Federation of Government Employees, has written to the U.S. Attorney for the District of Columbia to urge that the Justice Department review the report with a view toward bringing criminal charges.

Our colleague from California (Mr.

Moss) has made the same request of Attorney General William B. Saxbe.

And I too, Mr. Speaker, have written to the Secretary of the Department of Health, Education, and Welfare to advise him that I am awaiting the Attorney General's reply to Mr. Moss with the greatest concern.

Here, Mr. Speaker, are several of the charges that counsel for local No. 41 believe should be pressed:

Conspiracy to commit offense or to defraud the United States;

Government seals wrongfully used and instruments wrongfully sealed;

Conspiracy to defraud the Government with respect to claims;

False, fictitious or fraudulent claims;

Unauthorized employment; and

False entries and reports of moneys.

So, Mr. Speaker, when the President claims, as he does, that moving RSA out of SRS would "disrupt" this Federal program, I must confess that I repress my anger with great difficulty.

For given the sorry history of the rehabilitation effort under the administration of SRS, I must tell you that I find it difficult to believe the program could fare worse under a different administrative arrangement.

If you think I exaggerate, Mr. Speaker, consider the following starting figure: according to a memorandum issued this Administration, successfully closed rehabilitation cases are down 45 percent during this fiscal year over the comparable period last year.

To repeat, Mr. Speaker, because of the mismanagement of this important program, the successful rehabilitation of handicapped Americans for employment has been cut almost in half.

Surely the President cannot seriously assert that it is Congress that is disrupting the program.

NEED FOR EXTENDING THE LEGISLATION

Mr. Speaker, the handicapped people of our society need this legislation now.

They cannot wait until Congress and the Executive resolve their differences over the appropriate role of each in shaping the Federal bureaucracy.

I say this because State legislatures will shortly be meeting to determine how much State money to appropriate for the matching share of the rehabilitation program.

Unless Congress acts today to extend this legislation, the States will not know how much money they will need to meet their matching requirements.

I point out in this regard, Mr. Speaker, that the allotments to the States under title I of the Rehabilitation Act are entitlements which the States are guaranteed if they appropriate the necessary State matching money.

Unless Congress acts today then, Mr. Speaker, we will hinder State planning and ultimately the delivery of services to the disabled of our society will suffer. For instance, because of delays and misstatements of the true facts by SRS and the administration, my colleagues from Texas will be shocked to learn that beginning December 1 not a single additional handicapped person can be served in that State—and Mr. Speaker, I am speaking of the State program which has rehabilitated more individuals than any other. This, of course, is not the only State running out of money, Mr. Speaker, and this administration continues to hamper this most successful of all Federal-State programs, I fear the consequences.

Mr. Speaker, I said at the outset of my remarks that the issue before us is not a partisan matter.

The rehabilitation program means services to the handicapped and the crippled.

It means interpreter services for the deaf.

It means mobility training and jobs for the blind.

We should not, as we consider our vote this morning, forget the words of a great American President who was himself crippled.

I speak, of course, of President Franklin Delano Roosevelt, who said on June 27, 1936:

> Governments can err, Presidents do make mistakes, but the immortal Dante tells us that divine justice weighs the sins of the cold-blooded and the sins of the warm-hearted in different scales.
>
> Better the occasional faults of a Government that lives in a spirit of charity than the consistent omissions of a Government frozen in the ice of its own indifference.

Mr. Speaker, I urge all of my colleagues to join with me to override the President's veto of H.R. 14225, the Rehabilitation Act Amendments of 1974.

PARLIAMENTARY INQUIRY

Mr. QUIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Minnesota will state his parliamentary inquiry.

Mr. QUIE. Did the gentleman from Indiana yield 30 minutes to me at the outset?

The SPEAKER pro tempore. The answer to that question is "Yes."

Mr. QUIE. I thank the gentleman.

Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, it is unfortunate that one of the most successful programs aided by the Federal Government has become embroiled once again in controversy and caused a veto. The vocational rehabilitation program is 54 years old and through those years has taken over 3 million handicapped individuals from dependence to independence and made them contributors to society rather than dependent upon it.

This legislation originally passed the House 400 to 1. It was a 1-year extension which included the removal of the Rehabilitation Services Administration—RSA—from the Social Rehabilitation Service—SRS. RSA was transferred because we felt that its responsibility, first and foremost, is to serve the handicapped and help them to gain some type of employment and self-sufficiency. We did not feel that vocational rehabilitation was a welfare program and therefore did not believe that it fit into the SRS umbrella. Second, we felt that the program was suffering as part of SRS.

The Senate also extended the basic programs, transferred RSA, and added amendments to the Randolph-Sheppard legislation which originally became law in 1936. The Randolph-Sheppard legislation authorizes the establishment of vending stands to be operated by the blind in or on Federal buildings and installations. I must stress to my colleagues that the Randolph-Sheppard legislation requires appropriated dollars only for administrative costs. The stands operated by the blind are self-sustaining. The Senate also authorized a White House Conference on the Handicapped.

The Randolph-Sheppard amendments originally passed the Senate as a separate bill June 20, 1974, and were later added as an amendment to the Vocational Rehabilitation Act extension on October 10, 1974. The amendments were quite controversial and generated considerable opposition from the American Postal Workers Union. However, after months of negotiations and compromise a version was developed that we believed served not only the blind but the Postal employee unions as well. As a result of the compromise, APWU withdrew its opposition to the legislation and the Randolph-Sheppard amendments, which were incorporated in the final conference reported bill, passed by a unanimous roll call vote of 334 to 0 on October 16, 1974. The final authorization of the conference bill was about $12 million higher than the original House measure.

Considering the unanimous bipartisan support in both Houses for the legislation I was extremely disappointed when I learned that the President had vetoed this legislation. What were the reasons for his veto? The following excerpt is from the veto message.

> The key issue posed by this bill is not how much money will be spent. The issue posed is how well the programs will be run.
>
> This bill passed the House of Representatives without any hearings. Had hearings been held we would have explained the disruption that would result from such a massive legislation incursion into the administration of a program.
>
> The Congress has the responsibility to legislate, but I have the responsibility for the successful administration of the programs they enact. This bill is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason—indeed for very bad reasons. It dictates where in HEW minute decisions must be made, it creates independent organizational units at subordinate levels that are wasteful and duplicative and it sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man bureaucracy in HEW to duplicate functions carried out elsewhere in the Executive Branch.

Let me take that part of the message point by point.

"NO HEARINGS"

Oversight hearings were held with administration witnesses by the Select Education Subcommittee on the Vocational Rehabilitation program on August 3, 1973, November 30, 1973, and December 10, 1973. Another oversight hearing was held March 8, 1974. It was these hearings which convinced the Committee that RSA was not able to function adequately under SRS and that being under the SRS umbrella actually hurt rather than help the administration of the program. Based upon these hearings the subcommittee developed H.R. 14225 which removed RSA from SRS.

The Senate held hearings on June 27th, 1974, and the administration did have an opportunity to testify on this legislation and specifically on the transfer. HEW witnesses—including the Under Secretary—testified at length on the RSA program. In addition, 40 detailed questions concerning the administration and operation of the RSA programs were submitted by the subcommittee to the Department to which they resposed in writing. Although HEW did testify against the transfer their arguments evidently were not persuasive since they were rejected by both Democratic and Republican Senators.

What is the reason for the Congress insisting that RSA be separated from SRS? All you have to do is skim through the oversight hearing on August 3, 1973, and read the testimony of Mr. William Morrill, the Assistant Secretary for Planning and Evaluation, who told the committee that the rehabilitation program was "one of the most successful of the Federal human resources programs." It was also revealed at that hearing that Mr. Morrill wrote a memo to the Secretary of HEW which proposed doing away with the RSA and suggested "cashing out" the rehabilitation program.

The judgment to remove RSA from SRS was not made in a vacuum and was not made without careful consideration of the implications of such a move. Opposition from an administration to the establishment of a program or an office by the Congress is certainly not new or unique. Back in the Johnson administration when we established the Bureau of Education for the Handicapped, Wilbur Cohen personally campaigned to have that provision dropped by the House-Senate conference. Mr. Cohen buttonholed most conferees and argued that, "The Congress really did not understand what it was doing and that HEW could and should make the judgments as how to best administer programs and provide services." Mr. Cohen also argued that such an office was not necessary and would actually be disruptive in the Office of Education. History, of course, has proven Wilbur Cohen wrong because the Bureau of Education for the Handicapped is considered to be one of the best operating agencies in the entire Office of Education. The President's Rehabilitation Act veto message sounds like a reincarnation of Wilbur Cohen's words.

The judgment to move the RSA program was done after careful thought and deliberation. The administration may disagree with the action that we took but it should not in any way suggest or imply that we didn't carefully consider the action that we were taking.

Now let us look at some early recommendations of the Nixon administration to show we are not the only ones who feel this way. The administration in 1971 actually proposed the removal of RSA in a manner which was very similar to the action we took in this bill. You will recall that in 1971 the administration submitted a number of bills to the 92d Congress regarding reorganization of Federal agencies. These proposals were first generated by the Ash Commission which studied the issue of Government organization for President Nixon. The bills were part of the New Federalism program which included general revenue sharing, special revenue sharing, and welfare reform. The concept of the reorganization bills was to streamline Federal Government and make more responsive to citizens' needs and the needs of State and local government.

One of these bills, H.R. 6961, was a bill to create a Department of Human Resources—DHR—which would include a reorganized HEW, plus the manpower programs of the Labor Department and some product safety programs from Commerce and Agriculture. Under the DHR scheme, there would have been three major agencies within the DHR: the Human Development Administration—HD, the Health Administration—H, and the Income Maintenance Administration—IM. HD would have included rehabilitation, child development, aging, juvenile delinquency, manpower training—Labor—social services, and education programs. IM would have included welfare, social security and the health financing programs—medicare and medicaid. The result of this administration reorganization plan for the Social and Rehabilitation Service—SRS—would have been to remove rehabilitation, aging, juvenile delinquency and place them in HD, and merge the remaining welfare programs with the programs of the Social Security Administration. Clearly, the services programs of SRS were to be separated from the welfare and medicaid programs. This was one of the major conceptual changes in the organization of the Department.

The Aging Amendments of 1973 and this bill, H.R. 14225, are wholly consistent with the Nixon administration's Department of Human Resources bill, H.R. 6961. They move aging and rehabilitation to the Assistant Secretary for Human Development. The administration has already moved Headstart and the Children's Bureau to the Office of the Assistant Secretary for Human Development. As a result, the veto of H.R. 14225 on the ground that the executive should be able to manage its organizational problems without legislation, seems ill advised. First, H.R. 14225 only seeks to accomplish some of the objectives of the Nixon administration's own bill on the reorganization of HEW. Second, as the reorganization bills establish, the Nixon administration desired to remove rehabilitation from SRS and the welfare programs. Third, the reorganization bills recognize the need for congressional participation in organizational decisions and that the question is not one of executive power alone.

WASTEFUL DUPLICATION

Once again let me quote from the President's message. He said:

> It (the bill) dictates where in HEW minute decisions must be made, it creates independent organizational units at subordinate levels that are wasteful and duplicative.

When the conference report was written an effort was made to accommodate the department's concerns that there was language which could conceivably create a duplicative and independent entity if clarifying language was not inserted in the conference report. Working through the Under Secretary, the Office of the Assistant Secretary for Legislation, and the Office of the General Counsel of HEW, the conference reported the following language in the statement on the part of the managers which begins on the top of page 22 of Conference Report 93-1457:

> The conferees stress that the clarified language with respect to delegation of functions does not prohibit the centralized administration of certain routine administrative services by the Department of Health, Education, and Welfare in support of RSA functions and programs in the categories of budget formulation, grant administration, financial administration, and personnel administration. However, the conferees intend that the RSA Commissioner is to be responsible for all policy decisions in these four areas and that this policy-making responsibility cannot be delegated beyond persons directly responsible to him, both at headquarters and at reigonal offices. Where routine administrative functions and policy are intertwined, then the Committee intends that the functions be carried out within RSA, both at headquarters and at regional offices. The conferees have thus agreed to the Senate provision in this regard with full knowledge of its intention and the legislative history surrounding it.
>
> The conferees are in agreement with the following clarifications submitted by HEW as to what are considered to be routine administrative services that can be centralized:
>
> In the area of budget formulation, provision of technical assistance to the RSA budget officer to assure that budget documents conform to applicable O.M.B. and Department instructions in matters of form and timing of submission.
>
> Preparation for RSA approval of testimony for presentation to the pertinent Appropriations subcommittees on the amounts sought for RSA.
>
> In the area of great administration, the processing of the necessary grant documents required to implement an RSA decision to award a project grant. This involves, among other things assuring that the award complies with the Department's Grants Administration Manual and with opinions of legal counsel respecting grants administration.
>
> The preparation of the documents required to obligate RSA formula grant allotments.
>
> Monitoring of the application of Department regulations governing the determination of amounts chargeable to grant awards and the expenditure of obligated funds under Treasury warrants.
>
> In the area of financial management, assistance to RSA in the administration of accounting systems, and the preparation of documents required to obligate and expend salaries and expenses appropriations required for the operation of RSA.
>
> In the area of personnel management, provision of general personnel management support services. Although RSA is responsible for the selection of persons for employment and promotion within RSA and for such selection and promotion decisions as to Regional Office personnel carrying out responsibilities under the Rehabilitation Act of 1973, the requisite appointment papers may be prepared and approved centrally in headquarters and in the region.
>
> Maintenance of RSA personnel records, advice to RSA employees on personnel matters, and administration of the equal employment opportunity program.
>
> While these are not all the areas, the conferees believe they cover the general area

into which routine administrative services fall.

When it was said, "The conferees are in agreement with the following clarifications submitted by HEW as to what are considered to be routine administrative services that can be centralized" and then listed them; technical assistance to the RSA budget officer, preparation for RSA approval of testimony, processing of necessary grant documents, preparation of documents to obligate formula grant allotments, monitoring of the application of department regulations, assistance in administration of accounting systems, general personnel management support services, maintenance of RSA personnel records, advice to RSA employees on personnel matters and administration of the Equal Employment Opportunity program. The conferees were attempting to comply with HEW's wishes and not limit them in areas of routine administrative services. Not only this but the conferees, as you notice, also added the language; "While these are not all in areas, the conferees believe they cover the general areas into which routine administrative services fall" to show that even those listed were not limiting. The Congress did not attempt to dictate contrary to the statement made in the veto message which said:

> It (the bill) dictates where in HEW minute decisions must be made, it creates independent organizational units at subordinate levels that are wasteful and duplicative.

I have tried to understand what the President meant and I can only presume the problem may be in the third sentence of the first paragraph on page 22 which states:

> Where routine administrative functions and policy are intertwined, then the Committee intends that the function be carried out within RSA, both at headquarters and at regional offices.

This statement hardly seems enough of a problem to warrant a veto, but it may have been construed by someone to negate the language that followed which permits centralization of routine administrative services. You will notice in the paragraph before that the conferees stressed that centralization of administration of routine administrative services was not prohibited. They said that in the four areas, budget formulation, grant administration, financial administration, and personnel administration, the RSA Commissioner was to be responsible for all policy decisions and not be delegated to persons not directly responsible to him in both headquarters and regional offices. The third sentence which I have quoted I certainly did not intend to negate the language that follows on page 22 nor do I believe any of the other conferees intended that.

Mr. Speaker, I would ask the gentlemen from Indiana (Mr. Brademas) if he does not construe this the way that I do, that that third sentence in the first paragraph on page 22 does not negate that which we say later on on that same page, having to do with routine administrative services.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Indiana.

Mr. BRADEMAS. I agree with the position of the gentleman from Minnesota. I thank him for calling the attention of the House to this particular point.

Mr. QUIE. I thank the gentleman from Indiana.

Mr. Speaker, in regard to the new 250 man bureaucracy, this does not make sense at all to me as you can see by the explanation I have just given on routine administrative functions which was agreed to by the gentleman from Indiana. I am not saying that no new positions are required. The bill does require ten new positions to administer the Randolph-Sheppard program but, considering that there are only four individuals presently employed who have responsibility for Randolph-Sheppard, the fact that this program had in 1972 3,583 blind operators and had total gross sales of $109,847,029, and will be significantly expanded under the new legislation, did not seem to the conferees to be an excessive requirement by the Congress. No doubt a few extra employees might be needed but without any details about that claim, I surely do not accept the 250 man projected figure.

I should point out that extensive hearings were held in the Senate by Senator Randolph, chairman of the Subcommittee on the Handicapped, on the Randolph-Sheppard legislation. Senator Randolph, who after meeting with some House members—not myself—regarding the Randolph-Sheppard bill, requested a GAO review of the entire vending stand program. The final GAO audit was completed September 27, 1973, and was reviewed by both the House and the Senate staff with the GAO auditors. It, along with the extensive hearings became the basis for the Randolph-Sheppard amendments which were incorporated into this bill.

Furthermore, there were months of endless meetings between representatives of the Blind and the American Postal Workers Union—APWU. They met with Members of Congress and our staffs in an attempt to develop the compromise version of the Randolph-Sheppard amendments which emerged in the conference reported bill. As far as I know the departments or agencies did not attempt to communicate with the Congress about Randolph-Sheppard until after the Senate passed the amendments to the Vocational Rehabilitation bill—almost 4 months after the Randolph-Sheppard amendments passed as a separate bill in June because it did not look to them that those amendments were going anywhere.

DISRUPTION OF PROGRAMS

The President's message talks about the disruption to the rehabilitation program that would result if RSA was removed from SRS. We believe that under SRS the RSA has been stifled, stymied and generally downgraded over the past few years. Under the SRS the program went without a permanent Commissioner for over 16 months. SRS personnel policies had been under investigation for over 18 months and were charged by CSC with procedural errors, political influence, blatant preselection of candidates, and the conversion of consultant into Federal employees at the expense of careerists. It cast a cloud of doubt about the entire SRS operation, so much so that in August the gentleman from California (Mr. Moss) asked the Justice Department to investigate possible criminal wrongdoing by high officials of SRS. I am told that U.S. Attorney for District of Columbia Earl Silbert presently has the fraud section of his office studying these charges to determine whether criminal laws have been violated.

Somehow I do not see how anything that we have proposed could possibly do damage to vocational rehabilitation programs as SRS has already done. I must also point out that SRS has stymied the RSA so much that 14 months after the Rehabilitation Act of 1973 was signed into law, the basic regulations and guidelines for the program have not yet been issued in final form.

I should point out this is not the only action the Congress has taken against SRS. In the Rehabilitation Amendments of 1973 (P.L. 93-112) the Congress removed the research and training programs from SRS and put them back under RSA because SRS was not spending research and training money for the handicapped as required by law. I should also remind my colleagues that last year because of similar problems the Congress removed the Administration on Aging from the jurisdiction of SRS and placed it in the Office of the Secretary. These programs were removed because they simply did not fit or work to their best advantage under SRS. The removal of RSA is simply another step in the recognition of the SRS has not provided the leadership necessary for beneficial program development and operation.

Mr. Speaker, this was an unfortunate veto. Those Americans who are handicapped suffer enough and have so many personal problems and obstacles to overcome simply to be able to do what you and I do because we were more fortunate. The handicapped deserve a better break than they have been getting. This legislation is designed for them and not for the convenience of the bureaucracy. The Congress has put the needs of the handicapped first in developing this legislation. It is my hope that the Congress will move immediately to remedy at least one obstacle they face and override this veto.

Mr. BRADEMAS. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Speaker, I certainly feel that there is very little basis for any Member in the Chamber failing to vote to override the veto on this legislation.

There are thousands and thousands of handicapped Americans who are anxiously watching our action here today. I share their deep and understandable concern about the future of the great rehabilitation program—and I join with them in urging an override of this uncalled for and unjustified Presidential action.

The rehabilitation program, which was initiated in 1920, is often and correctly cited as a model of effective Federal-

State humanitarian action. Mr. Speaker, it has been both an honor and a pleasure for me to have been associated with the rehabilitation program and rehabilitation legislation during my years in Congress.

Aware of the great need for rehabilitation services in my own congressional district—particularly with respect to disabled coal miners—in the early 1950's I worked with members of the committee, and in particular with our former colleague, Carl Elliott, who was also familiar with the acute needs of disabled coal miners—on legislation to expand and strengthen the rehabilitation program.

I recall that in the early 1950's the distinguished minority leader, JOHN J. RHODES, along with other members of the House Committee on Education and Labor, undertook field studies in different sections of our country with a view to trying to come up with constructive legislation that would expedite the rehabilitation of disabled workers who needed gainful employment.

Our efforts then eventually lead to the enactment of major legislation in 1954. With strong congressional support and the unique leadership of Mary Switzer in the administration, the rehabilitation program grew and grew during the 1950's and the early 1960's.

Again the overwhelming support in the Congress, and under the leadership of our colleague, EDITH GREEN, in 1965 we enacted legislation to take still another significant step forward in the rehabilitation effort.

After this, we worked with our colleague DOM DANIELS, and now with the chairman of our Select Subcommittee on Education, JOHN BRADEMAS, to bring the rehabilitation program to a point where today we are rehabilitating over 300,000 handicapped individuals per year.

Mr. Speaker, I want to take this opportunity to particularly compliment the distinguished gentleman from Indiana for his untiring efforts in behalf of the rehabilitation program in recent years. And I would be remiss if I did not also extend congratulations and commendations to the ranking minority member, Mr. QUIE, for his efforts in behalf of the rehabilitation movement and this bill.

Mr. Speaker, I for one am not willing to allow this great program which has enjoyed such wide support here in Congress and throughout the Nation, to be damaged by action influenced more by bureaucratic concerns rather than humanitarian concerns for handicapped Americans.

Before turning to the specific objections mentioned in the veto message, I should like to once again emphasize a matter which I know is of concern to all of my colleagues. The issue before us does not involve the budget. The President himself in his message states:

> The key issue posed by this bill is not how much money will be spent.

I do not want my colleagues to interpret my remarks to mean that more money is not needed for rehabilitation. To the contrary, we are spending far less than what is necessary, in my judgment. But—may I repeat—dollars are not an issue in this debate.

The President goes on to say that the issue posed is how the programs will be run. Mr. Speaker, I am satisfied because of the almost unanimous support the legislation enjoys among administrators in the field that we have designed legislation to make administration at all levels—Federal, State, and local—more efficient.

Mr. Speaker, the President complained that this legislation passed the House of Representatives without any hearings. Mr. Speaker, it was because of the excellent oversight hearings conducted by the Committee on Education and Labor that we acted to correct administrative abuses which were highlighted time and time again during our hearings.

To be more specific, hearings were held in the House on August 3, November 30, and December 10 in 1973—there were 400 pages of testimony compiled and published.

In connection with title II of the legislation—amendments to the Randolph-Sheppard Vending Stand Act—I would point out that this is a matter which has been under study in our committee for more than 5 years. Hearings were held by our subcommittee in 1970. As my colleagues also know, an extensive study of the administration of the program was undertaken by the General Accounting Office, and extensive consideration has been given to this investigation, report, and recommedations.

Contrary to the assertion that there is no basis in hearings for the legislation we approved, the committee and subsequently the Congress acted because of what was presented to us by persons in the field regarding the inadequacies and weaknesses of the administration here in Washington of the rehabilitation program.

At the heart of the veto message is the President's concern that we have transferred the Rehabilitation Services Administration out of the Social and Rehabilitation Service into the Office of the Secretary. Mr. Speaker, we did not do this simply to do it. We did it because of the administrative problems cited time and time again in our hearing record. The Social and Rehabilitation Service is known as a welfare agency. We are here today dealing with a rehabilitation program, one that helps handicapped people secure gainful employment. It is not a welfare program and therefore it is inappropriate and ill-advised to have it lodged in an agency that is known as a welfare agency.

Mr. Speaker, I will not go on in an attempt to refute each of the charges made in the President's message, for they almost all relate to administrative concerns expressed by the affected Federal departments. I again am confident that this legislation is not only well designed but necessary because of its virtual unanimous acceptance among rehabilitation leaders and State and local administrators.

I will mention one point however, finally, and that is it is imperative that we process this legislation immediately. The President is correct that the Rehabilitation Act does not expire until mid-1975. Our experience here in the Congress with late authorizations and late appropriations is in and of itself sufficient reason to support extension legislation well before the expiration of an act. This is just good government.

Moreover, with regard to the rehabilitation program, because the basic authorization is an intricate part of the allotment formula, it is imperative that this figure be set in advance of budget-making decisions both at the Federal and State levels. Both the executive branch in Washington and State governments should have certain knowledge of 1976 basic authorizations before January of next year. If this is not the case, then we will once again throw a major Federal program into a period of uncertainty with all of the unfortunate resulting effects here in Washington, but most importantly at State and local levels.

Mr. Speaker, the original rehabilitation bill passed the House with only 1 dissenting vote—by a vote of 400 to 1. The conference report was unanimously approved on October 16, 1974, by a vote of 334 to 0.

Mr. Speaker, I urge a vote to override the veto similar to the votes of confidence given this legislation earlier this year.

Mr. Speaker, I take this time also to clarify a certain section of the conference report and the statement of managers relative to the placement of blind vendors in areas where employees work. As is indicated in the managers' statement, the conferees deleted language in the original Senate amendment which would have required, to the maximum extent feasible, the placement of blind vendors in areas where employees work.

In explanation of this action, the conferees included the following in the statement of managers:

> The purpose of this change is to remove the emphasis on placing blind vendors in employee work areas. It is not the intention of the conferees to wholly preclude the placement of a blind vendor in such areas. The conferees take note of the fact that blind vendors do currently operate in swing rooms, adjacent to the workroom floor, and near employee entrances. Factors governing the placement of blind vendors on any Federal property will, of course, apply in such cases; that is, the building population and potential income for the blind vendor must be considered.

Questions have arisen as to our intentions with respect to the above statement. More specifically, some are concerned that we intend to achieve, through the statement of managers, what had been originally intended in the Senate language which was deleted.

First of all, Mr. Speaker, speaking for the House conferees we had no such intention. We assume that vending machines of competitive interests will continue to be operated in many workroom areas of postal installations. At the same time, we anticipate that blind vendors will continue to have opportunity for the establishment of facilities where appropriate. This constitutes no substantive change from existing law which does not require the exclusion of blind licensees from any Federal location except where placement would be adverse to the interests of the United States.

In our judgment the explanation of the conferees stated above is intended to assure that the rights of all parties under law with respect to work areas are not disturbed.

Mr. QUIE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BELL).

Mr. BELL. Mr. Speaker, first I should like to compliment the gentleman from Indiana for his excellent leadership on this bill, and also the leadership of the gentleman from Minnesota (Mr. QUIE) and the chairman of the full committee.

Mr. Speaker, I would like to voice my strong disapproval of the President's veto of H.R. 14255, the Vocational Rehabilitation Amendments of 1974.

Although the President mentioned in his veto message that handicapped persons benefit themselves and society through rehabilitation programs, he vetoes this bill.

Although it was mentioned in his veto message that—and I quote:

> No group in our country is more in need of supportive services than the handicapped.

Yet he still vetoes this bill—a bill that directly aids our handicapped citizens.

The executive department states that the key issue in this bill is not money. But rather the question concerns the administration of Federal rehabilitation programs.

The administration states that no hearings were held in the House and, consequently, the administration was not given the opportunity to discuss the matter and thus voice its opposition to the transfer of a Rehabilitation Services Administration in the Office of the Secretary of HEW.

That is completely inaccurate. Both the House and the Senate held hearings on this legislation and very careful consideration was given to this situation.

It was decided in these hearings that the Rehabilitation Services Administration is necessary, in the office of the Secretary.

It is necessary because the rehabilitation program is currently under the umbrella of the social and rehabilitation service which is too large and unwieldy to adequately administer the program.

The administration claims we are establishing this office and transferring programs for no good reason.

I say that becoming more responsible and less bureaucratic is, in itself, a good reason.

I heartily agree with my colleague from Minnesota (Mr. QUIE), that this legislation is necessary. And that it was not conceived behind closed doors.

I strongly urge my colleagues to override this unfortunate and unnecessary veto.

Mr. QUIE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I would like to add my support to the statements that have been made toward overriding this veto. I have served on the subcommittee that has held the oversight hearings and I have been an active participant in this legislation.

Frankly, of all the legislation that we should not be fooling with at this time and causing delay on, it is this piece of legislation. It was stated that we could move ahead on new legislation before the end of the year. That is absolutely ridiculous. In the first place, we could not do that, even if we were prepared not to support this bill, but the facts are that we need the legislation now so all the States can move ahead on this program.

This program has been one of the most successful programs the Congress has ever legislated. It really has done a job in my own State of New York. This has been a boon, a great help to the handicapped people in giving them a way to get on their own and to get off welfare and to get off support and to be self-sustaining citizens.

So I ask the Members to join with the gentleman from Indiana (Mr. BRADEMAS), who has been the leader in this area, and the gentleman from Minnesota (Mr. QUIE), and the gentleman from Kentucky (Mr. PERKINS), as well as other Members who have spoken, to override this veto overwhelmingly so that the administration will recognize the Congress is aware of what it is doing in this matter and it feels the action it has taken previously is the correct action.

Mr. QUIE. I yield 3 minutes to the gentleman from Indiana (Mr. LANDGREBE).

Mr. LANDGREBE. Mr. Speaker, first I would like to make it abundantly clear that I am most anxious to be helpful to the handicapped, and I am sure that President Ford shares that very same feeling. However, a few days after the May passage of this vote, in which I was the only Member who voted against the bill—the vote was 400 to 1—I was privileged and flattered by a visit from Dr. Andrew Adams, from HEW, head of the Rehabilitation Services Administration. Dr. Adams came to my office to introduce himself, and we also discussed my vote on this bill. He said:

> I admire the fact that you are the one Member of this Congress who clearly reviewed the situation and did vote your convictions.

There is simply too much bureaucracy and too little help for the handicapped in this bill. This is a rerun of the very same situation we had when President Nixon vetoed a similar bill, a bill on which we failed to override the veto. Then it was my privilege to be the House sponsor of the administration substitute which reduced the expenditures by approximately $1 billion and continued to provide more and better services for the handicapped.

In other words, this bill has too much bureaucracy but too little help for the handicapped. I agree with President Ford that the 94th Congress will have sufficient time to rewrite this legislation and to wring some of the bureaucracy out and put in some real help for the handicapped of this Nation. Again I say I want to help the handicapped and so does President Ford, but bureaucracy does not necessarily mean more help to the handicapped.

Therefore I urge all the Members of this House and particularly the Republican Members to take this opportunity to support President Ford by sustaining his veto and let the Committee on Education and Labor rewrite this bill making it a good bill, a bill President Ford can sign, that Congress can be proud of and one that will do the most for our handicapped citizens.

Mr. BRADEMAS. Mr. Speaker, I would simply sum up by saying I am gratified by the strong support that this vote to override the President's veto obviously enjoys on both sides of the aisle, and I hope there will not be more than a single vote against this bill.

Mr. VANIK. Mr. Speaker, I urge all my colleagues to vote in favor of overriding the veto of the Vocational Rehabilitation Act amendments.

The President's message accompanying his disapproval is extremely confusing—it is not the place to look for an understandable justification of his reasons for the veto. Apparently President Ford's main objection is that the bill transfers authority for administration of the Vocational Rehabilitation program from the Department of Health, Education, and Welfare's office of Social and Rehabilitation Services, SRS, to the office of the Secretary of HEW. President Ford apparently does not object to the other main areas of the bill: the Randolph-Sheppard amendments to extend vendor's privileges in Federal buildings to the blind; the section providing for a President's Conference on the Handicapped; nor the level of spending authorized under the bill.

Although the President's message alleges that no committee hearings were held on the transfer of administrative authority from SRS to the Secretary's office, the gentleman from Indiana's (Mr. BRADEMAS) subcommittee held 4 days of hearings. Among other things, that committee found a general SRS disinterest in administration and implemenation of the vocational rehabilitation program, misuse of program moneys, lack of agency expertise, and a general hostility toward the goals and intent of the program. It would have been irresponsible for the Congress to allow such conditions to persist—and since there was no indication that either the administration or the Department of Health, Education, and Welfare intended to change those conditions, the Congress acted. The bill passed the House overwhelmingly. The conference bill was passed with only a single dissenting vote.

In short, President Ford's fears that this bill would confuse or make more difficult the administration of vocational rehabilitation are misplaced. This legislative alteration of the Vocational Rehabilitation Act is specifically meant to improve that administration. I urge all of my colleagues to vote for the veto override of H.R. 14225.

Mr. BADILLO. Mr. Speaker, I want to urge my colleagues on both sides of the aisle to override President Ford's veto of H.R. 14225, the Rehabilitation Act Amendments of 1974.

President Ford vetoed this legislation not because of budgetary considerations, hardly applicable since the increase in authorizations failed to fully offset inflationary increases, but because of mandated reorganization which transfers the Rehabilitation Services Administration from the Social Rehabilitation Servce to the office of the Secretary of Health, Education, and Welfare. The President stated that such a transfer, in his opinion, "blurs accountability" and thus disrupts existing Federal programs.

Yet, the decision to transfer was reached because House and Senate Members viewed the rehabilitation effort as programs of human development as opposed to welfare, the major responsibility of the Social Rehabilitation Service. Because of the disparate nature of the programs it was believed, particularly strongly among consumer groups, that rehabilitation considerations tended to be submerged within SRS. As a consequence the full benefits of rehabilitation programs did not accrue to their users.

I regret that President Ford does not share Congress assessment of the situation and find it particularly distressing that he employed the device of a pocket veto to once again derail much-needed programs.

In addition to extending the provisions of the Rehabilitation Act until June 30, 1976, the bill before us clarifies the definition of "handicapped"; requires affirmative action in employment in State agencies and facilities; makes provisions for reviewing the case of individuals initially deemed ineligible for vocational rehabilitation; and establishes a Consumer Advisory Panel for the Architectural Barriers Compliance Board. It also calls for the convening of a White House Conference on the Handicapped within two years of enactment and establishes a National Planning Council, 10 members of which must themselves be handicapped.

Most significantly, it also clarifies and strengthens the provisions of the Randolph-Sheppard Act and thus establishes realistic safeguards for the Nation's blind vendors.

Mr. Speaker, this measure passed the House with only one dissenting vote a few months ago, while the Senate saw fit to support it unanimously. In view of the urgent, unmet needs of the handicapped, I hope that it will once again receive overwhelming support.

Mr. MATSUNAGA. Mr. Speaker, I rise in support of the motion to approve, notwithstanding the Presidential veto of H.R. 14225, the bill to extend and strengthen the important Rehabilitation Act of 1973.

The vetoed measure would continue essential financing for the program through fiscal 1976. It would also remove the Rehabilitation Services Administration from the Social and Rehabilitation Service and place it in a more productive association with the Office of the Secretary of the Department of Health, Education, and Welfare. In addition, a long-overdue White House Conference on the Handicapped would be authorized, and our commitment to the essential Randolph-Sheppard program, which permits blind persons to earn a decent living as responsible, self-sufficient vendors in Government buildings, would be reaffirmed.

I urge an affirmative vote to override the Presidential veto of H.R. 14225, so that we can insure the continuation and establishment of its essential programs.

Mr. ROYBAL. Mr. Speaker, I rise to support the override of the President's veto of H.R. 14225, the Rehabilitation Act Amendments of 1974.

This bill has been considered to be of a noncontroversial nature from the outset. It passed the House under a suspension of the rules with only one dissenting vote. The conference report was approved by the House by a vote of 334 to 0 and by a voice vote in the Senate. It is therefore difficult to understand why the President vetoed the bill and called it "wasteful and duplicative." An analysis of the bill's provisions shows it was meant to correct some problems that have developed both in the administration of the original amendments and in the operation of the blind vendor program.

First, the bill provides for a 1-year extension of the Rehabilitation Act and authorizes $850 million in funding. The programs administered under the Rehabilitation Act are funded with matching Federal and State revenues. If this bill were not passed, it would greatly hamper the States in planning their programs for the handicapped in the next fiscal year.

Second, the bill transfers Rehabilitation Services Administration from the Social and Rehabilitation Service to the Office of the Secretary of HEW. The Rehabilitation Services Administration will then be headed by an administrator appointed by the President and confirmed by the Senate. The transfer is based on the perception that the programs administered by the Rehabilitation Services Administration are designed to help handicapped Americans achieve independence, while most of those under the Social and Rehabilitation Service promote an incompatible idea. Thus, the RSA programs do not operate well within SRS, and transfer should increase the former agency's effectiveness.

Next, the bill amends the Randolph-Sheppard Act to strengthen the blind vendors program now administered by the Federal Government. Blind vendors were being replaced by vending machines and impeded in their businesses by agency regulations. The bill provides that blind vendors are to receive priority in the operation of vending facilities including machines on Federal property. Further, it requires the Secretary of HEW to promulgate nationally applicable guidelines and procedures for operating blind vendor programs.

Last, the bill provides for a White House Conference on the Handicapped. This conference will stimulate a national assessment of the problems facing individuals suffering from handicaps and help develop recommendations to solve them.

Mr. Speaker, there is no indication that any provision in this bill is inflationary. Rather, the bill seeks to transfer a Federal agency to increase its effectiveness and to strengthen programs aiding the handicapped. I believe that Congress had the welfare of the handicapped in mind when it passed this bill, and I trust we can muster the necessary votes to override the veto.

Mr. BRADEMAS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The **SPEAKER.** The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 398, nays 7, not voting 29, as follows:

[Roll No. 633]

YEAS—398

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Pa.
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kyros
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe

Mezvinsky
Michel
Milford
Miller
Mills
Minish
Mink
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reid
Reuss
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Waldie
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—7

Broyhill, Va.
Davis, Wis.
Hosmer
Landgrebe
Minshall, Ohio
Ware
Williams

NOT VOTING—29

Baker
Boggs
Brasco
Camp
Conable
Conlan
Davis, Ga.
Eshleman
Gray
Green, Oreg.
Griffiths
Hansen, Idaho
Hébert
Jarman
Jones, N.C.
Kuykendall
Mitchell, Md.
Nelsen
Podell
Rangel
Rarick
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Ruppe
Teague
Traxler
Veysey
Wyman

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Hansen of Idaho.
Mr. Rooney of New York with Mr. Roncallo of New York.
Mr. Mitchell of Maryland with Mr. Davis of Georgia.
Mr. Rangel with Mrs. Green of Oregon.
Mrs. Boggs with Mr. Kuykendall.
Mr. Teague with Mr. Rarick.
Mr. Riegle with Mr. Nelsen.
Mr. Gray with Mr. Baker.
Mr. Jarman with Mr. Conlan.
Mr. Jones of North Carolina with Mr. Camp.
Mr. Traxler with Mr. Eshleman.
Mrs. Griffiths with Mr. Conable.
Mr. Ruppe with Mr. Wyman.

The result of the vote was announced as above recorded.

The **SPEAKER**. The Clerk will notify the Senate of the action of the House.

GENERAL LEAVE

Mr. **BRADEMAS**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill, H.R. 14225, just passed.

The **SPEAKER**. Is there objection to the request of the gentleman from Indiana?

There was no objection.

TRANSFERRING CONSIDERATION OF S. 2149 FROM COMMITTEE ON MERCHANT MARINE AND FISHERIES TO COMMITTEE ON ARMED SERVICES

Mrs. **SULLIVAN**. Mr. Speaker, I ask unanimous consent to have the Committee on Merchant Marine and Fisheries discharged from further consideration of the Senate bill S. 2149 and that it be referred to the Committee on Armed Services.

S. 2149 would amend title 10 of the United States Code to provide certain benefits to members of the Coast Guard Reserve, and for other purposes. It is my understanding that this arrangement is satisfactory to the chairman of the Committee on Armed Services.

The **SPEAKER**. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

FREEDOM OF INFORMATION ACT AMENDMENTS—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The **SPEAKER**. The unfinished business is the further consideration of the veto message of the President on H.R. 12471, an act to amend section 552 of title 5, United States Code, known as the Freedom of Information Act.

The question is: Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD) for 1 hour.

Mr. **MOORHEAD** of Pennsylvania. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, it is a rare experience for any Member of this distinguished body to lead off the debate in an effort to override a Presidential veto. In my almost 16 years of service here, it has never before been my responsibility to handle a legislative measure in this situation, under the procedures prescribed in section 7 of article 1 of the Constitution. It is an awesome task for any Member and one that requires the deepest reflection and most careful consideration of such a course of action.

A little more than 6 weeks ago when I stood here in the Chamber and urged approval of the conference report on H.R. 12471, the Freedom of Information Act amendments, it never occurred to me that a Presidential veto might be forthcoming. I explained in detail on that October 7 the changes agreed to by the House-Senate conferees, how they differed from the bill originally passed by the House on March 14 of this year, and the sincere efforts which the conferees of both parties made to accommodate the specific concerns raised by President Ford. I included at pages 34162–34164 of the RECORD the full text of the President's letter outlining these concerns and the text of our letter to the President detailing each of the significant modifications which we made to allay his concerns.

Other distinguished members of the conference committee, including the ranking minority member of the full Government Operations Committee, the gentleman from New York (Mr. HORTON), and the ranking minority member on our subcommittee, the gentleman from Illinois (Mr. ERLENBORN), spoke in strong support of the bipartisan compromise legislation which we had produced in almost 2 months of conference committee deliberations.

Every single House member of our conference committee had signed the conference report. Congress certainly went "more than half-way" to accommodate the President's views. We had been led to believe by administration officials that the Freedom of Information Act amendments would promptly be signed into law by the President since major Ford amendments were incorporated in the bill.

After all, he had so clearly stated upon assuming the Presidency that he and his administration were fully committed to a restoration of "open government." Surely, these amendments to the basic law to assure more "open government" within the Federal bureaucracy would provide to the President an early opportunity to prove to the disillusioned and still suspicious American public that, in fact, he really meant what he said that day on nationwide television. By signing into law with a flourish these much needed amendments to the Freedom of Information Act, he could strike a ringing blow for credibility in Government. By a stroke of the pen, he could have taken a giant stride forward to reverse the public's cynical distrust of governmental institutions and public officials. By an overwhelming bipartisan vote of 349 to 2, the Members of this body approved the conference report on H.R. 12471 and sent the bill to the White House, it having been unanimously approved by voice vote in the Senate a few days earlier. By our votes we spoke clearly for open government and for an end of excessive Government secrecy that has eroded public confidence in government, politics, and politicians. We overwhelmingly gave President Ford the golden opportunity to sign into law a bill to dramatically fulfill his 2-month-old pledge of open government in America—a bill on which our committee and this Congress had tediously worked 3 years and 4 months to finally produce in virtually unanimous bipartisan form.

Mr. Speaker, how on earth—we reasoned—could President Ford not avail himself of this golden opportunity to restore desperately needed confidence in Government by signing H.R. 12471 into law as soon as possible?

But alas, Mr. Speaker, something went awry on the way to the Presidential signing ceremony to proclaim the fulfillment of open government in the Ford administration. Incredibly, and to the amazement of virtually everyone concerned, President Ford vetoed H.R. 12471 on October 17, just prior to commencement of the congressional recess. The big question, Mr. Speaker, is, Why did he really veto the freedom of information open government bill?

Certainly, there is little evidence to answer that question to be gained from reading and rereading his veto message. We can only speculate as to what the real reasons might be. We do know that virtually all Federal agency bureaucrats opposed these amendments in our hearings, in written reports, and in their lobbying efforts against H.R. 12471. We do know that almost every segment of the Federal bureaucracy recommended that President Ford veto the legislation. We all have experienced the depth of commitment of the Federal bureaucrats to the principles of "open government" and have generally found it sadly wanting. We also know, Mr. Speaker, that 8 years ago, when the original Freedom of Information Act was passed by Congress—every single agency within the Federal bureaucracy also urged that President Johnson veto the measure. In that instance, President Johnson wisely disregarded the advice of the self-serving bureaucrats and promptly signed the bill into law. In his statement he said—and these words are particularly significant today in view of what has transpired during the past several years—

> This legislation springs from one of our most essential principles: A democracy works best when the people have all the information that the security of the Nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest . . . I signed this measure with a deep sense of pride that the United States is an open society in which the people's right to know is cherished and guarded.

Mr. Speaker, I can only speculate on what bureaucratic advice President Ford—by contrast—relied upon to exercise his veto power over this needed legislation. It is clear from the wording of certain portions of his veto message—particularly those dealing with the permissive judicial review of classified material authorized in H.R. 12471—that there is little understanding of either the clear meaning of the language of these parts of the bill or the intent as spelled out in detail in the conference report to meet what was a previous misunderstanding on the President's part of such language. For example, the veto message states:

> As the legislation now stands, a determination by the Secretary of Defense that disclosure of a document would endanger our national security would, even though reasonable, have to be overturned by a District judge who thought the plaintiff's position just as reasonable. . . .

Mr. Speaker, this is just not true. The bill does not say that, it does not mean that, and no one familiar with the legislative history could ever imagine that Members of Congress could almost unanimously vote to write into law such an obviously dangerous provision.

The President went on to say in his veto message:

> I propose, therefore, that where classified documents are requested, the courts could review the classification, but would have to uphold the classification if there is a reasonable basis to support it. In determining the reasonableness of the classification, the courts would consider all attendant evidence prior to resorting to an in camera examination of the document.

Mr. Speaker, in the procedural handling of such cases under the Freedom of Information Act, this is exactly the way the courts would conduct their proceedings. An agency, in defending an action in Federal court that involves a Government document having classification markings, normally submits an affidavit to the court explaining the basis for the particular classification assigned to it as authorized under the provisions of Executive Order 11652 and the implementing regulations of the agency involved. The court would then review such affidavit to determine the proper use of classification authority. If there was doubt, or if the affidavit was not sufficiently detailed to permit a clear decision, the court can request supplementary detail from the agency involved.

It can discuss the affidavit with Government attorneys in camera, or employ other similar means to obtain sufficient information needed to make a judgment. Only if such means cannot provide a clear justfication for the classification markings would the court order an in camera inspection of the document itself. If the examination and subsequent discussions of the affidavit from the agency indicate that the classification assigned to the particular document is reasonable and proper under the Executive order and implementing regulations, the court would clearly rule for the Government and order the requested document withheld from the plaintiff. But if the examination and subsequent discussions of the affidavit from the agency could not resolve the issue, the court could then order the production of the document and examine it in camera to determine if the classification marking was properly authorized.

Such discretionary authority for in camera review is authorized in H.R. 12471, and properly so, to safeguard against arbitrary, capricious, and myopic use of the awesome power of the classification stamp by the Government bureaucracy. Abuses of the classification stamp are well known. As former President Nixon said in issuing the present classification and declassification Executive order in March 1972:

> The many abuses of the securtiy system can no longer be tolerated . . . Unfortunately, the system of classification which has evolved in the United States has failed to meet the standards of an open and democratic society, allowing too many papers to be classified for too long a time. The controls which have been imposed on classification authority have proved unworkable, and classification has frequently served to conceal bureaucratic mistakes or to prevent embarrassment to officials and administrations . . .

Former Defense Secretary Melvin Laird also said in a 1970 speech:

> Let me emphasize my convictions that the American people have a right to know even more than has been available in the past about matters which affect their safety and security. There has been too much classification in this country.

Mr. Speaker, even if a district court ordered the release of a classified document in dispute, after following all of the procedural steps just described and including in camera review of the document itself, such decision may—of course—be appealed by the Government to the circuit court of appeals, and, if necessary, to the Supreme Court. I find it totally unrealistic to assume—as apparently the President's legal advisers have assumed—that the Federal judiciary system is somehow not to be trusted to act in the public interest to safeguard truly legitimate national defense or foreign policy secrets of our Government.

Similarly ludicrous legal arguments are made later in the veto message with respect to investigatory law enforcement files and time limits placed in the Freedom of Information Act for agency responses. For example, the veto message states:

> I propose that more flexible criteria govern the requests for particularly lengthy investigatory records to mitigate the burden which these amendments would otherwise impose, in order not to dilute the primary responsibilities of these law enforcement activities.

Mr. Speaker, no one wants to burden law enforcement agencies or to take their attention away from the difficult job of fighting the growing menace of crime in America. The language of section 2(b) of H.R. 12471 in no way places an undue burden on such agencies. The conference committee specifically took into consideration the potential problem that might be created within an agency if it received a request for the type of "particularly lengthy" records mentioned in the veto message. We wrote into the law a provision that additional time could be obtained by an agency in cases involving "a voluminous amount of separate and distinct records which are demanded in a single request." Obviously, the President's lawyers did not notice this part of the bill before drafting the veto message.

Moreover, Mr. Speaker, we also include language requested by the President in his August 20 letter to the conference committee to authorize the courts to grant a Federal agency additional time to respond to a request under the Freedom of Information Act if the agency is "exercising due diligence in responding to the request." Here again the veto message ignores specific language already included in the bill.

Mr. Speaker, as I have attempted to explain in detail during my remarks, this veto is without merit and represents a shocking lack of understanding of the workings of the present law, court procedures, and the clear language in the bill which has already dealt with the major objections raised against H.R. 12471.

As strongly as I know how, Mr. Speaker, I urge the Members of this House to join in voting "aye" to override this ill-advised veto of the Freedom of

Information Act amendments contained in H.R. 12471.

Let our voices here today make clear to the doubting citizens of America that Congress, at least, is totally committed to the principle of "open government."

By our votes to override this veto we can put the needed teeth in the freedom of information law to make it a viable tool to make "open government" a reality in America, not merely a preelection *slogan to be* erased by the pressures of secrecy-minded bureaucrats.

Mr. Speaker, during the past several days, I have inserted into the Appendix of the Record more than 20 articles and editorials from all parts of the Nation urging that Congress override President Ford's veto of H.R. 12471, the Freedom of Information Act amendments we will vote on today. Many of our House colleagues have also placed in the Record other editorials from papers in their own districts, also condemning the unwise veto and calling for an override.

At this point, Mr. Speaker, I would like to include another excellent editorial entitled "Congress Must Override Veto of Information Act Changes," from the November 7, 1974, issue of the Denver Post. The executive editor of the Post, Mr. William Hornby, is also chairman of the Freedom of Information Committee of the American Society of Newspaper Editors. I would like to express our appreciation to the officers and members of the many news media organizations who have helped spearhead the fight to preserve the public's right to know. They include the ASNE, whose president is Howard H. Hays, Jr., editor-publisher of the Riverside, Calif., Press-Enterpirse; the National Newspaper Association, its executive vice president, Theodore A. Serrill, and William Mullen; Sigma Delta Chi, the Society of Professional Journalists; the Radio-Television News Directors Association; and the Association of American Publishers. Other national organizations participating in the effort were Common Cause; Public Citizen; the AFL–CIO and individual unions including the United Auto Workers and the American Federation of Government Employees' Government Employment Council; the American Civil Liberties Union; and the Consumer Federation of America.

Mr. Speaker, I also include the editorial today from the Washington Post entitled "Federal Files: Freedom of Information" and other timely editorials from the Jackson, Mich., Citizen Patriot; the Des Moines Register; the Philadelphia Inquirer; the Tuscon, Ariz., Daily Star; and the Wichita Falls, Tex., Times and the Wichita Falls, Tex., Record News:

[From the Denver Post, Nov. 7, 1974]

CONGRESS MUST OVERRIDE VETO OF INFORMATION ACT CHANGES

When Congress reconvenes after the election recess, it ought to act promptly—and decisively—to override President Ford's veto of essential amendments to the Freedom of Information Act.

The amendments, embodied in the bill H.R. 12471, are designed to improve the seven-year-old FOI law by removing bureaucratic obstacles in the way of freer public access to governmental documents.

Mr. Ford's veto of HR 12471 is in direct contradiction of his avowal of an "open administration." Further, his demands for more concessions from Congress on FOI amendments raise additional questions about the credibility of his openness pledge.

Congress has gone more than halfway to meet administration objections to the original FOI changes considered on Capitol Hill.

The House-Senate conference committee bill that emerged was a genuine compromise between congressional representatives and Justice Department experts.

Mr. Ford got four out of the five changes he recommended to the committee. Yet not only did Mr. Ford veto the final bill, but he added a new demand to his original proposals.

In his veto message, President Ford contended for the first time that lengthy investigatory records should not be disclosed on the grounds that law enforcement agencies do not have enough competent officers to study the records. He also restated his earlier demand that Congress should not give the courts as much power as the bill provides to decide on whether documents should be withheld for reasons of national security.

Mr. Ford's veto also prevented other improvements in the FOI law ranging from the setting of reasonable time limits for federal agencies to answer requests for public records to requiring agencies to file annual reports on compliance of the law.

The amendments to strengthen the FOI law represent a true consensus of Congress: HR 12471 passed the House with only two dissenting votes and there was no opposition in the Senate.

If Mr. Ford will not follow through on his open administration pledge, then Congress ought to do it for him by overriding his veto.

[From the Washington Post, Nov. 20, 1974]

FEDERAL FILES: FREEDOM OF INFORMATION

Just before the election recess, President Ford used his power to veto and sent back to the Congress a piece of very important legislation, the 1974 amendments to the Freedom of Information Act. Those amendments were important because they strengthened a law that was fine in principle and purpose but poor in practical terms. The Freedom of Information Act had been enacted in 1966 in the hope of making it possible for the press and the public to obtain documents from within government to which they are entitled. Because of cumbersome provisions of the act, however, obtaining such information proved very difficult.

This year, after long hearings, much haggling between House and Senate and two resounding votes, a series of amendments was ready for presidential signature. They shortened the amount of time a citizen would be required to wait for the bureaucracy to produce a requested document. They removed some restrictions on the kinds of information that could be obtained; and they placed sanctions on bureaucrats who tried to keep information secret that should be released in the public interest. In light of President Ford's previous statements in support of openness in government, it was assumed that the President would welcome this legislation and sign it into law. Instead, sadly, Mr. Ford yielded to the arguments of the bureaucracy and vetoed the legislation.

Since then, a number of journalists' and citizens' groups have criticized that action by the President and urged Congress to override the veto. Today in the House and tomorrow in the Senate, those votes are scheduled to take place. We would urge a strong vote in support of the legislation, particularly in light of two recent disclosures made possible by the Freedom of Information Act.

Recently, a Ralph Nader-supported group on tax reform turned up the fact the Nixon White House instigated Internal Revenue Service investigations of social action groups on the left and in the black community. The absurdity of the exercise is illustrated by the fact that the Urban League was among the targets, lumped in as "radical" along with several social organizations that hardly merit either the label or the attention they were given by IRS. As we have had occasion to say in the past, the tax laws were not intended to be used for political harassment. The interesting point about these latest disclosures is that they were made possible by the utilization of the Freedom of Information Act.

In the same veil, the Justice Department released a report earlier this week on the operations of the counter intelligence operations of the FBI. Much of this information about the use of dirty tricks against the far left and the far right had been revealed earlier this year, again because of action taken under the Freedom of Information Act. Attorney General William Saxbe felt compelled, on the basis of what the Justice Department had been forced to release about the program, to order a study of what the FBI had done. Mr. Saxbe found aspects of the program abhorrent. But FBI director Clarence M. Kelley actually defended the practices of his predecessor, J. Edgar Hoover. This is a good example of how important it is that this country have a strong Freedom of Information law that will make it possible for the public to learn of such activities—and such attitudes on the part of officials in sensitive and powerful jobs—and to learn of them as quickly as possible.

The Freedom of Information Act is not a law to make the task of journalists easier or the profits of news organizations greater. It is, in other words, not special interest legislation in the sense that the term is ordinarily used. It is special interest legislation in that it is intended to assist the very special interest of the American people in being better informed about the processes and practices of their government. This is a point President Ford's advisers missed badly at the time of the veto. One of them is alleged to have said that if the President vetoed the bill, "who gives a damn besides The Washington Post and the New York Times?" The truth of the matter is that this legislation goes to the heart of what a free society is about. When agencies of government such as the FBI and IRS can engage in the kind of activity just revealed, it is serious business. That's why we should all give a damn—especially those who are to cast their votes today and tomorrow.

[From the Jackson (Mich.) Citizen Patriot]

JOB NEEDS FINISHING

Issue: Should Congress override President Ford's veto of a bill amending the federal Freedom of Information Act?

Almost lost in the campaign rhetoric was the President's veto of a bill that had taken three years of cooperative work between congressmen, public groups, and the press.

It would have made the federal bureaucracy more responsible for classifying documents and refusing to open them to public inspection.

In its final form, the bill, amending the 1966 Freedom of Information Act, passed the Senate by voice vote because of the minute opposition, and the House voted 349–2 in favor of it.

Back in 1966, Congress established the policy of the public's right to know what and how well government was doing.

The present bill was opposed by several federal agencies, and as a result, President Ford proposed five modifications. Congress agreed to four of them.

Then President Ford, who launched his administration with a pledge of openness in government, vetoed the measure because Congress didn't grant him the fifth requested modification.

The bill does not jeopardize national security, safeguards having been built in. It does jeopardize overzealous bureaucrats who want to operate in their own private vacuums.

At issue between the President and Congress (and the various non-governmental backers of the measure) is a provision that would allow the courts to determine reasonableness of classifications.

As written, the bill would fill a chink in the 1966 act, by allowing persons to sue, then be bound by the court's ruling. It also establishes specific time limits on both parties so that no unreasonable time period would thwart the intent of the law.

Ford's position is that the amendments to the 1966 Freedom of Information Act would compromise military and intelligence secrets and diplomatic relations while placing unrealistic burdens on various agencies by setting time limits for response to requests for data.

However, nine specific exemptions are provided. They are secret national security or foreign policy information; internal personnel practices; information specifically exempted by law; trade secrets or other confidential commercial or financial information; inter-agency or intra-agency memos; personal information; personnel or medical files; law enforcement investigatory information; information related to reports on financial institutions; geological and geophysical information.

What it boils down to is that the employes of the various federal agencies don't like opening the doors to what's going on.

The Watergate-related activities, among others, prove there is good cause to fight such an attitude.

The President seems to have dumped his open-administration policy in favor of restrictions on the public as dictated by the bureaucracy and Cabinet.

We strongly urge Congress to override the veto when it resumes business later this month. After enacting this legislation by such an overwhelming majority, it would be irresponsible for Congress to do otherwise.

[From the Des Moines Register, Nov. 5, 1974]

THIS SHOULD BE VETOPROOF

One of the first pieces of business for Congress after the election is to consider overriding President Ford's veto of the bill strengthening the Freedom of Information law. Since the House approved the bill by a vote of 349 to 2, and the Senate adopted it by voice vote with no dissent, there should be ample support for overriding the veto, whether a "veto-proof" Congress is elected or not.

All Iowa's congressmen voted for the bill, and we hope the delegation from this state will vote the same way.

The amendments are vitally needed to make the Freedom of Information law more effective and to live up to the political promises (including those of President Ford) for more open government. The ability of the Nixon administration to keep material secret during the Watergate scandal shows the importance of the reforms in the law to make information available to the public.

The most important amendment is one permitting court review of national security secrecy classifications. The law says that documents can be kept from the public if "specifically required by executive order to be kept secret in the interest of national defense or foreign policy." The U.S. Supreme Court ruled in 1973 that not even the courts could question the validity of secrecy stamps placed on government documents.

However, the court opinion invited Congress to change the law to authorize judicial review of such secrecy. Congress has now done this overwhelmingly, and President Ford has vetoed it.

President Ford evidently allowed himself to be argued into this position by the traditional secrecy hounds in the Defense Department, as well as officials in other departments who do not want the public prying into their affairs.

Other amendments in addition to the national defense item require agencies to respond more promptly to complaints filed under the act and establish formal procedures making it easier for the public to get answers to requests for documents.

President Ford's veto of this measure is indefensible and is a repudiation of his own pledge to the American people. It should be overridden decisively and promptly.

[From the Philadelphia Inquirer, Oct. 21 1974]

CONGRESS SHOULD OVERRIDE THE FORD ANTISECRECY VETO

In 1966, when both houses of Congress passed the important but limited Freedom of Information Act, virtually every department in the executive branch urged a veto. President Johnson signed it into law. Somehow, government survived.

President Ford would have done well last Thursday to have followed the example. Instead, he vetoed an immensely important, widely supported and overdue bill to extend the 1966 act. His veto should be overridden by the Senate and House as an early order of business when they reconvene Nov. 18.

Since 1966, and intensely for most of the past four years, the earnest enemies of arbitrary secrecy in government have been laboring to broaden reasonably the 1966 law. The principal opponents have been the often faceless, nameless functionaries of government who by their nature seem to find it either too troublesome or too dangerous for the people of the United States to know what business is being done on their behalf.

Watergate and all its obfuscation, stonewalling and outright lying added fuel to the movement. Ultimately the Senate last June passed an amending bill by a vote of 64 to 17; the House passed a somewhat different version, 363 to 8.

Responding to pressures from executive agencies, and raising some conscientious concerns, President Ford last August submitted to the Congress written objections to the pending measure. A House-Senate conference committee made significant compromises and resolved conflicts. The conference-approved bill was passed 349 to 2 by the House and by unanimous voice vote in the Senate.

Then came Mr. Ford's veto, urged by every department of the executive branch except the Civil Service Commission and—somewhat astonishingly—the Department of Defense.

The President's veto message focused mainly on the bill's assignment to the judiciary the authority to rule on the appropriateness of secrecy classifications erected by executive agencies, and on enforcement provisions—including time limits on bureaucratic stalling and rather mild penalties for violating the law.

The same objections were raised by Mr. Ford in August. Serious attention was given them. Significant adaptations were made to avoid any possibility of excess.

We are convinced that the only real danger the final bill raised was to threaten the anonymous and arbitrary excesses of power often used by government servants to evade accountability. Mr. Ford's invocations of unconstitutionality and national security—especially in the aftermath of the Watergate experience—are not only flimsy in their logic; they are offensive in their insensitivity to public dismay.

With the Congress in adjournment, its members are at home, pursuing votes in an election year made tumultuous by the very concerns about government secrecy and unaccountability the Freedom of Information bill sought to help remedy.

Those legislators' constituents—you—would do well to demand how each of them will stand when it comes time in November to override Mr. Ford's unwise and ill-considered quashing of the public's right to know what its servants are doing in Washington's back stairs.

[From the Tucson (Ariz.) Daily Star, Oct. 27, 1974]

THE INFORMATION VETO

The President has vetoed proposed amendments to the Freedom of Information Act that would have gone far in holding accountable the headless mass of federal bureaucracy. His veto must be overridden.

The amendments would have required agencies to keep an index of the tons of information they record each year for use by the consumer-taxpayer. It would have required agencies to produce information on request by general subject matter rather than much less-accessible file numbers. It would have provided for court review of each refusal of information.

Bureaucrats would be required to report annually to Congress the number of times information was withheld, by whom and why; whether appeals were made under the act and the outcomes of those appeals. The law was specifically applied to the executive department, the Pentagon, government corporations, government-controlled corporations and independent regulatory agencies. Those individuals who withhold information without firm basis would be subject to civil service discipline.

But President Ford was persuaded by the FBI, the CIA and others that such law would dangerously inhibit them in their work. They want to be totally exempted.

In fact, the amendments provide numerous safeguards to the conduct of active police investigation, foreign intelligence and counter-intelligence. Specifically exempted was information classified for national defense, information that would foul a criminal case, deprive a defendant of fair trial, constitute an unwarranted invasion of privacy, disclose the identity of a confidential source, disclose unusual procedures and techniques or endanger the life of an officer.

If all that failed there would be the courts to make the determination behind closed doors.

The American system of government can afford no isolated enclaves of nonresponsiveness—certainly not after the revelations of the past two years that the FBI and CIA have been employed for extensive political services.

The conduct of criminal law enforcement and legitimate foreign intelligence would not be hampered by the amendments. It would make agencies like the FBI and CIA, not used to being held accountable, accountable, and that is their real objection.

[From the Wichita Falls (Tex.) Times, Oct. 31, 1974]

PRESIDENT BLOCKS RIGHT TO KNOW

Congressional improvements in the Freedom of Information (FOI) Act adopted in 1966, have been blocked with a veto by President Ford.

The Times, concerned with our readers' right to know, believes Congress should override the veto when it convenes after the election recess.

The President vetoed amendments to the FOI Act at the insistence of many federal agencies, including the Justice Department.

The measure went to the White House Oct. 7 after the House approved the conference report by the overwhelming vote of 349 to 2. The Senate had approved the conference report by voice vote Oct. 1.

The FOI amendments were approved by Congress to facilitate public access to information. The FOI Act requires the federal government and its agencies to make available to citizens, upon request, all documents and records, except those which fall into certain exempt categories.

Studies of operation of the law indicate that major problems in obtaining information are bureaucratic delay, the cost of bringing suit to force disclosure, and excessive charges levied by agencies for finding and providing requested information.

It was to correct these problems that Congress approved the 1974 amendments to the *law.*

The FOI amendments have been three years in development. Spokesmen for the American Society of Newspaper Editors believe every reasonable effort has been made to cooperate with governmental bureaucracy in shaping legislation where legitimate national security matters are concerned.

In ensuring a basic American right, Congress should lose no time in overriding the presidential veto when it convenes after the elections.

[From the Wichita Falls (Tex.) Record News, Nov. 6, 1974]

Citizens' Right To Know

An important question before Congress is whether or not President Ford's veto of the freedom of information amendments to the FOI Act of 1966 is to be allowed to stand. Congress will consider an attempt to override the veto after members return from the general election recess, Nov. 18.

Purpose of the amendments was to close some glaring loopholes in the 1966 law which had negated its intent. Although the amendment, H.R. 12471, passed both House and Senate with only two dissenting votes, Ford vetoed it because of disagreement with three provisions, review of classified documents, time limits and costs, and investigatory records.

The President felt the review of classified documents provisions might adversely affect national security. Of course newspapers have heard this argument before, and have seen it misapplied more often than not.

News is perishable, thus quick reaction to requests for information is essential. If enough time lapses, such as sometimes is the case under present law, the information sought becomes worthless.

Fear that compulsory disclosure of FBI and other investigatory law enforcement files will eliminate confidentiality also is an ultracautious approach. The White House is giving the FBI, the CIA, Department of Justice and the fears of every document classification official in Washington the benefit of doubt over the citizens' right to know.

Attitude of the federal government is personified by a White House aide's remark about the veto: "Who gives a damn except the Washington Post and New York Times whether he vetoes them?"

Well, we also care. And so should every citizen who is fed up with the secrecy with which the public's business too often is being transacted, not only in Washington, but by bureaucrats everywhere whose qualifications have never been passed on by the voters.

Major problems in obtaining information under present law of bureaucratic delay, cost of bringing suit to force disclosure and excessive charges levied by agencies for developing and providing requested information. Correction of these problems should be given top priority, not the negativism that the amendments are designed to counter.

The key to overriding the veto, which will help restore openness in our government, rests with the people. An expression of support for the amendments from individual citizens to their representatives in the U.S. House and Senate could make the difference. We suggest it of every interested person.

Mr. REID. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I will be happy to yield to the gentleman from New York, a former member of the subcommittee.

Mr. REID. I commend the gentleman on his statement as to the action on the conference report.

I believe very strongly that the Freedom of Information amendment bill before us is clearly a step forward. In addition to setting important time limits by which Government agencies would be required to respond to cases and lawsuits, it would authorize a court "to enjoin the agency from withholding agency records," "to determine the matter de novo," and to "examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth" later in the bill. As the bill emphasizes, "the burden is on the agency to sustain its action."

The in camera inspection provision included in this bill would overturn the 1973 Supreme Court decision, EPA against Mink, in which the court held that in-chambers inspection is ordinarily precluded under the act. Such inspection was also denied in a case in which I was involved—with Mr. Moss—relating to the Pentagon papers. In this case, Judge Gerhard Gesell of the U.S. District Court for the District of Columbia held that in camera inspection would not be appropriate. While the language added by the managers of the conference points out that this inspection procedure is discretionary and not mandatory, and that courts will "accord substantial weight to an agency's affidavit" arguing that documents may be exempt for defense or foreign policy reasons, I am hopeful that this language would be construed exceptionally narrowly. The courts, in my view, have a duty to look behind any claim of exemption, which all too often in the past has been used to cover up inefficiency or embarrassment even in foreign policy matters which, many times, are fully known by other countries but not printable in our own—supposedly the most democratic and most open in the world.

This bill also makes some important redefinitions of exemptions from the act. While in the original act, there was a blanket exemption for all national security matters, these amendments limit that exemption to those matters: First, specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and second, are in fact properly classified pursuant to such Executive order.

Finally, this bill redefines the law enforcement exemption, narrowing it significantly compared to previous law. Rather than affording all law enforcement matters a blanket exemption, this bill requires that the Government specify some harm in order to claim the exemption. When one considers that in the past the law enforcement exemption has been construed by agencies to preclude access to meat inspection reports, OHSA safety reports, airline safety analyses and reports on medical care in federally supported nursing homes, one can easily see the need for plugging the loophole in the old law.

The gentleman in the well and I both, I think, would have liked to see it stronger in some of the criteria, particularly as concerns what constitutes national security, which is frequently used to bar the door to information. But sometimes I believe in clear violation of the Constitution. I believe the steps narrowing the criteria in section 552 which sets forth the requirement for prompt consideration by the courts of what constitutes appropriate action within the meaning of the Executive order and the criteria of the Executive order are precisely the kind of accountability that the American people must have if we are to have freedom of information, both for the public, the press and the Congress.

I think an override is an essential first step to make further progress in this area, and I think the arguments presented in the conference report are clear and overwhelming.

Mr. Speaker, I hope and urge that the veto will be overridden.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, I commend the gentleman from Pennsylvania for bringing this matter to the floor today.

I strongly support the public's right to know about their Federal Government and, therefore, I am voting today to override President Ford's veto of the freedom of information bill—H.R. 12471.

The arguments for overriding this veto are well set forth in the following editorial from the Seattle Post Intelligencer:

Congress Must Guarantee Public's Right To Know

One of the vital issues facing Congress when it returns from the election recess will be President Ford's veto of the 1974 Freedom of Information Act.

Congressmen should override the President's veto of the measure—designed to make it easier for citizens to gain access to federal documents.

The 1974 version of the act would close loopholes in the 1966 Freedom of Information Act that have frustrated the public's right to know. The new act would shift the burden of proof from individuals seeking information to those agencies denying access to federal documents.

Under the present act, information often has been withheld simply because it might serve to embarrass an agency or cause a bit of effort by government employes. Individuals have had to go to court to obtain federal documents.

A dramatic example of why the new act is needed was provided last week with the end of a local couple's five-year struggle to see Internal Revenue Department tax audit records.

Philip and Sue Long of Bellevue finally secured access to the records after spending $20,000 of their own money in the quest for IRS tax information.

It is the first time that this information has been made available to the public, the press or even Congress.

The new Freedom of Information Act would reduce the leeway of law-enforcement agencies to withhold information for "confidential" reasons and shorten by a few days the amount of time an agency has to comply with a request. It would also permit the Civil Service Commission to discipline bureaucrats if the courts find that they have "arbitrarily or capriciously" withheld information.

During the House debate on the 1974 bill, Rep. Bill Alexander, Arkansas Democrat, said he had been unsuccessful last year when he tried to find out how much wheat subsidy had been paid to grain exporters for their sales to the Soviet Union.

Alexander concluded: "If I, as a member of Congress, become frustrated when I am denied access to information vital to the public welfare, what about John Q. Citizen and his efforts to get the information he needs?"

What about John Q. Public indeed?

When President Ford took office in August, he declared his administration would be an "open" one. Despite that promise, he has taken a step backward in vetoing the Freedom of Information Act.

Congress should act promptly to re-affirm the public's right to know what its government is doing.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I now yield 5 minutes to the ranking member of the subcommittee, the distinguished gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, I rise in support of the motion to override the veto of the amendments to the Freedom of Information Act.

Mr. Speaker, the original Freedom of Information Act was a bipartisan effort. It originated in this House in the first term during which I served in Congress.

One of the Republican cosponsors of that effort was my colleague, the gentleman from Illinois, Don Rumsfeld, who now serves President Ford in the White House.

The bill before us is also the result of a bipartisan effort in our Subcommittee on Foreign Operations and Government Information of the Government Operations Committee. We started out with the same goals in mind, with some divergent opinions, and in our subcommittee, I think in the best tradition of bipartisanship, we resolved what differences we did have, and came to the floor with a bill that was very substantially supported by this House.

President Ford had his first opportunity to have input as President on this bill when it was in conference, and he did make his views known to the conferees. I think in great measure the conferees responded to the concerns that President Ford articulated to us, and when we then brought the effort of the conference committee to the floor it was supported overwhelmingly.

I believe the concerns that the President states in his veto message are not sufficient to warrant the support of this veto.

I would like to address myself to those concerns that the President enumerated in his veto message. The first has to do with the section of the bill that clearly reverses the Supreme Court decision in the case of EUA against Mink. That decision held that there was no authority under the act to look behind the stamp of classification in a document that was classified. We clearly intend to overturn that decision. The question that arises is what weight of evidence must there be for the court to find that a document has been improperly classified. We do not spell out in the conference report a particular rule of weight of evidence, but I think the normal rule in civil cases or preponderance would apply. The President asks that the classification be supported, and the court not have authority to overturn it if there is any reasonable basis to support the classification. He uses as argument a corollary of the decisions coming from regulatory agencies. I do not believe that the corollary is apt. The decisions of regulatory agencies are reached ordinarily as a result of adversary proceedings, public proceedings, and the making of a record.

The decisions whether to classify a document are made usually on an arbitrary basis of some employee of the executive branch, deciding whether or not the document falls within the system of classification as outlined in the Executive order. Therefore, I think that the weight of the evidence or the preponderance of the evidence is the proper test.

Second, the President would have longer time limits for response.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I thank the gentleman for yielding to me. This is on the first point the gentleman made:

One of the points, as I read the President's veto message, and the explanation which was given, was that there might be instances in which they did not want to produce sensitive documents with regard to the in camera inspection so that the document would not be presented to the court. We did try to cover that situation in the language of the conference report, and I thought it might be appropriate to put on the record what we said in the conference report:

> However, the conferees recognize that the Executive departments responsible for national defense and foreign policy matters have unique insights into what adverse effects might occur as a result of public disclosure of a particular classified record. Accordingly, the conferees expect that Federal courts, in making *de novo* determinations in section 552(b)(1) cases under the Freedom of Information law, will accord substantial weight to an agency's affidavit concerning the details of the classified status of the disputed record.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker. I yield 2 additional minutes to the gentleman from Illinois.

Mr. ERLENBORN. I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. I thank the gentleman for yielding.

In other words, we did make it possible that the court would not have to have the document, and we indicated that it would not necessarily have to have the document produced and that it could be determined on affidavit.

Mr. ERLENBORN. The gentleman is correct, and I think that we made it clear. We anticipated the court would give great weight to the affidavit, coming from the executive branch, and would not in most cases even view the document but only if the court felt it was necessary to do so in camera.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

Mr. Speaker, I am compelled to stand and speak for this bill, despite the veto by my President.

The issues in this legislation go far beyond whether we will have "openness and candor" in this particular administration. This is a struggle over constitutional interpretation. How the Congress decides the fate of this bill shall have a grave effect upon the interpretation of the first amendment and the people's right of access to their Government.

A century ago, the British Prime Minister, Benjamin Disraeli, said:

> From the people and for the people, all springs and all must exist.

A decade later, President Lincoln wrote that we have a—

> Government of the people, by the pepole and for the people.

This quotation states the essence of our democracy and our freedoms. We cannot take them for granted. They can perish if the Government is allowed to become a separate and independent entity from the people.

The bill that has been returned to this House, the Freedom of Information Act amendments, embodies the spirit of "government of the people, by the people, and for the people." These amendments provide greater access to Government records. They provide a mechanism for tearing away some of the layers of official secrecy without endangering our national security.

This bill has come before this House twice before and passed by overwhelming margins. On March 14, the House passed this bill on a vote of 383 to 8. Then last month, on October 7, the House adopted the conference report on a vote of 349 to 2.

The purpose of the Freedom of Information Act amendments is to strengthen the public's right to know what its Government is doing. When this right to know is bolstered, democracy will work better. This is an objective that all Members of Congress support overwhelmingly.

Mr. Speaker, the value of the Freedom of Information Act has been demonstrated time and time again since it was enacted in 1966. Recently, it was instrumental in exposing some dubious, if not illegal, activities by the Internal Revenue Service and the Federal Bureau of Investigation. The Washington Post ran an incisive editorial on the act in this morning's edition, which I submit for the RECORD. It explains clearly why my colleagues should pass this bill over the veto of the President. The article follows:

[From the Washington Post, Nov. 20, 1974]

FEDERAL FILES: FREEDOM OF INFORMATION

Just before the election recess, President Ford used his power of veto and sent back to the Congress a piece of very important legislation, the 1974 amendments to the Freedom of Information Act. Those amendments were important because they strengthened a law that was fine in principle and purpose but poor in practical terms. The Freedom of Information Act had been enacted in 1966 in the hope of making it possible for the press and the public to obtain documents from within government to which they are entitled. Because of cumbersome provisions of the act, however, obtaining such information proved very difficult.

This year, after long hearings, much haggling between House and Senate and two resounding votes, a series of amendments was ready for presidential signature. They shortened the amount of time a citizen would be required to wait for the bureaucracy to produce a requested document. They removed some restrictions on the kinds of information that could be obtained; and they placed sanctions on bureaucrats who tried to keep information secret that should be released in the public interest. In light of President Ford's previous statements in support of openness in government, it was assumed that the President would welcome this legislation and sign it into law. Instead, sadly, Mr. Ford yielded to the arguments of the bureaucracy and vetoed the legislation.

Since then, a number of journalists and citizens' groups have criticized that action by the President and urged Congress to override the veto. Today in the House and tomorrow in the Senate, those votes are scheduled to take place. We would urge a strong vote in support of the legislation, particularly in light of two recent disclosures made possible by the Freedom of Information Act.

Recently, a Ralph Nader-supported group on tax reform turned up the fact the Nixon White House instigated Internal Revenue Service investigations of social action groups on the left and in the black community. The absurdity of the exercise is illustrated by the fact that the Urban League was among the targets, lumped in as "radical" along with several social organizations that hardly merit either the label or the attention they were given by IRS. As we have had occasion to say in the past, the tax laws were not intended to be used for political harassment. The interesting point about these latest disclosures is that they were made possible by the utilization of the Freedom of Information Act.

In the same vein, the Justice Department released a report earlier this week on the operations of the counter intelligence operations of the FBI. Much of this information about the use of dirty tricks against the far left and the far right had been revealed earlier this year, again because of action taken under the Freedom of Information Act. Attorney General William Saxbe felt compelled, on the basis of what the Justice Department had been forced to release about the program, to order a study of what the FBI had done. Mr. Saxbe found aspects of the program abhorrent. But FBI director Clarence M. Kelley actually defended the practices of his predecessor, J. Edgar Hoover. This is a good example of how important it is that this country have a strong Freedom of Information law that will make it possible for the public to learn of such activities—and such attitudes on the part of officials in sensitive and powerful jobs—and to learn of them as quickly as possible.

The Freedom of Information Act is not a law to make the task of journalists easier or the profits of news organizations greater. It is, in other words, not special interest legislation in the sense that the term is ordinarily used. It is special interest legislation in that it is intended to assist the very special interest of the American people in being informed about the processes and practices of their government. This is a point President Ford's advisers missed badly at the time of the veto. One of them is alleged to have said that if the President vetoed the bill, "who gives a damn besides The Washington Post and the New York Times?" The truth of the matter is that this legislation goes to the heart of what a free society is about. When agencies of government such as the FBI and IRS can engage in the kind of activity just revealed, it is serious business. That's why we should all give a damn—especially those who are to cast their votes today and tomorrow.

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the motion to override the President's veto of H.R. 12471 consisting of amendments designed to improve the Freedom of Information Act and urge my colleagues to do the same.

As you know, one of the amendments would permit Federal judges to make an in camera examination of classified documents to determine whether they had been properly classified. The author of the Freedom of Information Act, the gentleman from California (Mr. Moss), has stated that was the original intention of the act when it was passed 8 years ago during the Johnson administration. But the courts said the issue was not that clear.

Although a Federal agency's affidavit that a document is properly classified should be given due consideration by the courts, that assertion simply cannot be and should not be the final word in the matter. We should remember that a number of the "political enemies" documents in the Watergate investigation carried false classification labels based on national security.

The abuse of classification labels by any administration should be open to challenge. It does not require an oracle to know when something does not meet specific classification requirements. You do not have to be a chicken to know when an egg is bad and that is what we are talking about. I have faith that in genuinely gray areas, Federal judges will tend to rule in favor of national security. But when something clearly does not meet the test, it is going to come out. And it should for the sake of good government. That sort of thing helps the American people make an informed judgment on whether its governmental leaders are doing a good or bad job.

Mr. Speaker, I include the following editorial on this subject from the Detroit Free Press:

Ford Lapses on Promise To Open Up Government

In light of the new era of openness President Ford has pledged to bring to the federal bureaucracy in Washington, his recent veto of changes in the Freedom of Information Act was unfortunate and misguided.

The act was passed in 1966, and was designed to make it easier, not harder, for the public to know what its government was doing. The law, however, contained numerous loopholes which have allowed insensitive federal agencies to continue the aura of secrecy which for far too long has permeated government thinking.

The new amendments to the act were designed to eliminate some of the key loopholes, and were passed overwhelmingly by both houses of Congress.

The amendments would put a time limit of 10 working days on a federal agency to decide whether it would honor a request to make information public, and 20 working days to decide appeals when access to information is denied. These are not unreasonable limits, and they would force agencies to come to grips with the public's right to know, instead of indulging in bureaucratic foot-dragging. Another amendment called for judicial review of classified national security information, if its release is sought, before it could be withheld.

Within the government, opposition to the amendments has come mainly from officials connected with foreign policy and national defense policy. It was on their objections that President Ford apparently acted in announcing his veto.

The president said he would submit proposals of his own to Congress. We hope he will do so, and soon, for there are good reasons otherwise why Congress should try to override this veto. While it is true that newsmen and newswomen are among those who have been pressing for passage of the amendments, all of the public has a stake in them.

Over the last decade, we have seen the fruits of governmental secrecy—in the conduct of the war in Vietnam, the decisions that led to and increased American involvement there, in the secret decisions to bomb Cambodia, and in the aftermath of the Watergate scandals. What all of these events have shown is that government governs worst when it does not trust the people, and is unwilling to tell the people what it is doing. That is why the public should support efforts to strengthen the Freedom of Information Act, and why President Ford is wrong to veto such efforts.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Speaker, I will vote to override the President's veto of H.R. 12471, the Freedom of Information Act Amendments of 1974.

In vetoing this legislation, the President cited three reasons:

First. The legislation would authorize a Federal judge to examine agency records privately to determine whether these records can be properly withheld under the Freedom of Information Act, and that this provision could endanger our diplomatic relations and our military and intelligence secrets;

Second. The bill would permit access to additional law enforcement investigatory files; and

Third. The President believes that the time limits for agencies to respond to requests for information—10 days on furnishing the document, and 20 days for determinations on appeal—are unreasonable.

During the debate on the House floor on October 7 on the conference report on H.R. 12471, the first two points which the President used as reasons for the veto were specifically discussed in an exchange between Congressmen Horton and Moorhead of Pennsylvania, both of whom serve in ranking positions on the House Government Operations Committee, the committee which had jurisdiction over this legislation. During this exchange, it was brought out that the "judge would have to decide whether the document met the criteria of the President's order of classification—not whether he himself would have classified the document in accordance with his own ideas of what should be kept secret," and that before the Court orders an in camera inspection, the Government would be given the opportunity to establish in testimony and detailed affidavits that the documents in question are exempt from disclosure. The conference report clearly states that an in camera investigation would not be automatic.

With regards to exempting national security and law enforcement investigatory information, the conference language is very specific on this issue. The legislation protects materials which have been—

> (1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;
>
> * * * * *
>
> (7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;"

It is my view that this legislation is necessary in order to give the citizens of this Nation access to their Government—a Government which was created to serve them, and which they support through their tax dollars. Although I respect the President's position and his willingness to approve similar legislation once it has been amended as he suggests, I cannot in this instance agree with him. I believe that this bill does protect those lawful sensitive areas of Government, and I think that the time allowed for agencies to respond to citizens' requests for information—10 days for agencies to respond to a request, with provisions for an additional 10-day extension under "unusual circumstances," and 20 days for agencies to respond to appeals—is reasonable.

I urge my colleagues to join with me in continuing to support this legislation.

Mr. ERLENBORN. Mr. Speaker, I want to make the second two points. Under the bill before us the time limits for response to a request are reduced to 10 working days for the original response, 20 working days for an administrative appeal, and then 10 additional days' extension in cases where there are particular difficulties. This would be a total of 40 working days or a total of 8 weeks. I think that is long enough.

The President suggests in his veto message and the amendments he sent here to the House 30 days, plus 15 for extension, plus 20 for the administrative appeal. That would be 65 working days or 13 weeks before a final decision would be made. I think that is an unreasonable delay. In either event, whether it be under the proposal of the President or in the bill, there is the opportunity for court intervention to give additional time in cases where there are particular difficulties.

Lastly, on the question of opening up investigatory records, at the present time under the law all investigatory files are exempt, and we found that there have been abuses in this regard. Under the bill we would open up nonexempt records that are within exempt files. I think that there are reasonable safeguards in the bill, and I hope that the veto will be overridden.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 5 minutes to the distinguished author of the original bill, the gentleman from California (Mr. Moss).

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Wisconsin.

Mr. ASPIN. I thank the gentleman for yielding.

Mr. Speaker, we vote today on a bill which would put an end to 7 years of brueaucratic foot-dragging and guarantee the openness in Government which the original Freedom of Information Act was designed to promote.

The overwhelming margin by which this House passed H.R. 12471 when it was first before us testifies to the broad support which these goals command.

But the President has chosen to veto this bill. He returns it to us with his reasons for refusing to sign it. Our job is to consider whether those reasons are cogent.

First, he argues that the provisions of the act with respect to classified material would compromise national security, because no presumption of reasonableness is created for an administrative classification. The language of the veto message suggests that the provisions of H.R. 12471 are dangerous innovations, that they would "violate constitutional principles."

Yet there is nothing unprecedented in this bill. It merely treats challenges to classification under the Freedom of Information Act as those challenges are treated when suit is filed on other grounds.

Why should the courts presume that an administrative classification is reasonable? Surely we are familiar by now with the extent to which any document tending to embarrass any agency tends to become an instant top secret. I am often reminded of the Russian story about the man sentenced to 23 years in prison for saying "Brezhnev is a fool": 3 years for insulting the party secretary, and 20 for revealing a state secret.

No, by their own actions the managers of those classification stamps have forfeited any presumption that their actions are reasonable. Let the courts decide.

The second objection raised in the veto message is simply a matter of administrative convenience. It is claimed that too great a burden is placed on the bureaucracy to act quickly and to demonstrate document by document that there is a need for secrecy. If the agencies had a history of cooperation with the spirit of freedom of information, if we did not have before us their history of stubborn, protracted, trench warfare, yielding nothing except under compulsion, then these arguments might carry some weight. But the record being the record, I cannot work up any great degree of sympathy for the administration's position. The President would have us build in loopholes for the agencies to snipe through. I see no reason to do so.

This bill, as we passed it before, is a major advance. I hope my colleagues support overriding the President's veto.

Mr. MOSS. Mr. Speaker, this legislation deserves to be finally enacted by the overriding, in this instance, of an ill-advised Presidential veto. I think that the advice upon which President Ford acted in vetoing this bill came in many instances from the same top and middle echelons in the Government, the same group of people who so vigorously urged the late President Lyndon Johnson to veto the original legislation.

In drafting the original legislation, there were many compromises made which, in my judgment, should not have been made, but they made it possible to accomplish something toward opening the Government wider to the American people. After all, it is their Government, not only their Government, but they are the ultimate governors of this Nation, and that they have in the final analysis the greatest need for information.

The bill upon which we are voting today, the matter of overriding the veto, represents compromise in the finest tradition, compromise of the views of the Congress, and it should have been the views of the Executive, because they were carefully considered. I know that I personally agreed to modification of positions that I had carefully thought through in an effort to go more than half way toward meeting the objections of the Executive. I think every legitimate objection that could have been supported has been met in the bill before us.

I think it is the minimum that we should do as a Congress to insure more openness in Government.

Mr. REID. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I yield to my friend, the gentleman from New York (Mr. REID), who worked so hard on the original Freedom of Information Act.

Mr. REID. Mr. Speaker, I thank the chairman for yielding.

As coauthor of the original Freedom of Information Act along with the chairman, I share his view. I would like merely to make one point and ask a question.

First I share the gentleman's concern about what constitutes executive privilege, and to the extent it does exist it should be construed extraordinarily narrowly in my judgment. I hold that it does not, for instance, extend to foreign policy or national security information which is essential to the legislative and oversight purposes of the Congress under the Constitution.

But my question goes beyond that to the experience the gentleman and I had with respect to the Pentagon papers and I believe Judge Gesell. By the time the court acted, the Pentagon and Secretary Laird had declassified about 80 percent of the papers; the court at that time in their opinion held they could not then look behind the Government's judgment—determined by the then Pentagon attorney Fred Buzhardt—on the remaining 20 percent.

So, when the gentleman in the well says we are dealing here with a very minimum somewhat more stringent standard and much prompter action by the court, we nonetheless are dealing with an area which is still very, very broad. I personally think well over 90 percent, perhaps 98 percent of the Pentagon papers could have been declassified at that time. And unless the courts can act to hold some kind of accountability in this kind of determination, then our Republic lacks defenses for the right of the people to know that which it is imperative for us to know.

Mr. MOSS. I thank the gentleman.

I am not going to take further time other than to urge that we send a loud and strong and clear message downtown: This is the people's business. This must be public and this Congress insists that it be public to the extent provided by this series of amendments.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 5 minutes for the purpose of debate to the ranking minority member of the Government Operations Committee, the distinguished gentleman from New York (Mr. HORTON), who has helped so much in the construction of this legislation.

Mr. HORTON. Mr. Speaker, I rise in strong support of overriding the President's veto of H.R. 12471, the Freedom of Information Act Amendments of 1974.

This bill is the result of long, careful, and reasonable consideration by the Committee on Government Operations, on which I am proud to serve as ranking minority member. The committee began its review of the Freedom of Information Act in this Congress with two bills, one principally sponsored by the gentleman from Pennsylvania (Mr. MOORHEAD) and one principally sponsored by myself in which I was joined by the gentleman from Illinois (Mr. ERLENBORN) as a cosponsor. After hearing the views of many individuals—including several representatives of executive branch agencies—we recommended to the House a measure which combined the best features of both bills. I am pleased that this product passed the House by a vote of 383 to 8. The conference report, which does not differ greatly from the House bill, pased by an equally impressive margin—349 to 2.

I was disappointed that the President vetoed this bipartisan legislation.

Mr. Ford has found three parts of H.R. 12471 objectionable.

First, he says in his veto message that courts should not have authority to review "reasonable" decisions by executive agencies as to what information should be clasified for reasons of national security. In asking us to revise the pertinent section of our bill, however, he explicitly reserves to judges the right to determine which decisions are "reasonable" and which are not. Under Mr. Ford's proposal, then, judges themselves would still be able to decide when they would view classified documents in chambers and when they would not. Mr. Speaker, that is what H.R. 12471 does. The President's proposed language makes no real change in this part of the bill. Objection No. 1 is, very frankly, without substance.

Second, the President says that the time limits we have prescribed for agencies to respond to public requests for information are too short. Agencies need more time, according to Mr. Ford—65 days instead of 40. Mr. Speaker, I think we should ask here exactly what actions are required within these time limits. The bill does not stipulate that agencies physicaly produce all requested documents within these periods. It does not even stipulate that agencies say within the time periods which specific documents of the ones requested will be produced. It merely states that officials of the executive branch tell requestors within certain amounts of time whether their inquiries will be complied with or not. Again, the conference report makes this clear. It also states quite clearly that further action shall occur promptly—it does not use the word "immediately." Mr. Speaker, this does not seem an onerous requirement to me. Its effect would be to demand of executive officials that they process information requests quickly, not that they disrupt their activities to fulfill their requests. To my mind, objection No. 2 is also without merit.

Third, the President says that the bill places unreasonable demands on law enforcement agencies and should be amended to provide that the heads of such agencies need not comply with the law when doing so would be difficult. Mr. Speaker, this proposal is extraordinary. It just does not make sense as a matter of public policy. Suppose we enacted a law that people need not pay income taxes whenever completing an income tax form would be difficult. Of course that would be absurd. What we have been asked to do here is similar in concept, and it is equally nonsensical. The real problem, as I understand, is that searching through records in response to some requests may be time consuming and expensive for law enforcement agencies. As I explained in detail during the original debate on the conference report, under H.R. 12471, agencies could charge members of the public the actual cost of these searches through records. So objection No. 3 is without merit as well.

Mr. Speaker, we have an opportunity now to strike a blow for the public's right to know what its Government is doing. I urge all Members to join with me in striking that blow by voting to override the President's veto of H.R. 12471.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I now yield 3 minutes to the gentleman from Arkansas (Mr. ALEXANDER), a very able member of the subcommittee.

Mr. ALEXANDER. Mr. Speaker, President Ford's surprising veto of the amendments to the Freedom of Information Act passed by Congress last month makes a mockery of his promise of "open government."

Like patriotism being the "last refuge of scoundrels," Mr. Speaker, the withholding of information from the public is the "last refuge" of the bureaucrat. Have we not had enough of Government secrecy just for the sake of hiding mistakes, political embarrassment, or covering up criminal behavior?

Have the bureaucrats not learned anything from the Watergate scandal?

Has the White House not learned that Government secrecy is the real enemy of democracy?

Our subcommittee worked long and hard for more than 3 years to produce a workable, enforceable, and effective series of amendments to make the Freedom of Information Act more viable.

The bill, with bipartisan support, was unanimously reported by the full Government Operations Committee. This body passed H.R. 12471 last March by a vote of 383 to 8. It was likewise passed in the Senate in May by a one-sided vote.

Mr. Speaker, as a member of the conference committee, I can assure our colleagues that we afforded every possible consideration to the concerns expressed by the President about certain provisions of the bill.

We made a number of significant changes in the language of the bill to help meet the objections of his advisers.

We had every assurance that these changes would make it possible for him to sign the bill into law promptly.

But the executive bureaucrats who had fought H.R. 12471 were successful in persuading him to veto it and it is now our clear responsibility to override that unwise and unwarranted veto.

I urge an overwhelming "aye" vote to restore credibilty to our governmental processes and preserve the public's right to know.

Mr. TIERNAN. Mr. Speaker. I rise in support of H.R. 12471, the Freedom of Information Amendments Act, the President's veto notwithstanding. If there was ever a time in our National Government's history for candor and truth that time is now. I regret very much that President Ford accepted the bad advice to veto this legislation. It does not wash with his goal of an "open" administration.

The right of the public to know what their Government is doing was never so much needed as it is today. A recent editorial in the Providence Evening Bulletin speaks to the issue when it said:

> If Congress meant what it seemed to say in overwhelmingly supporting these amendments, one of the first orders of business when it reconvenes after the elections will be a vote to override and a clear message to the White House that Americans are demanding the kind of open administration that Mr. Ford in his inaugural address promised to maintain.

Mr. Speaker, without objection I include this editorial of October 21 as part of my remarks:

[From the Providence Bulletin, Oct. 21, 1974]

INFORMATION FREEDOM

There were no ruffles and flourishes when President Ford vetoed the Freedom of Information Act Amendments last week. As quietly as possible the press was informed late Thursday afternoon that the President considered the legislation "unconstitutional and unworkable" although he said it had "laudable goals."

Ironically, the Senate-House conference committee, which labored four months over a compromise measure, had altered various provisions in an effort to satisfy White House reservations expressed soon after Mr. Ford took office. When the final version was completed, Mr. Ford took no position and it was approved—by voice vote in the Senate and 349 to 2 in the House.

Ironically, the President's most serious objection is to a provision authorizing the courts to review secret government information to determine whether it had been properly classified. Mr. Ford said this would permit the courts to make what amounts to "the initial classification decision in sensitive and complex areas where they have no expertise." An important point he failed to acknowledge, however, is that the courts now have this authority in criminal cases.

Other objections cited in the veto message include these provisions: 1. giving the courts discretionary authority to grant court costs and attorneys' fees to successful petitioners; 2. establishing a procedure for disciplinary action when a court found that a federal employe had acted capriciously or arbitrarily in withholding information; and 3. setting time limits of 10 working days for an agency to respond to a request for information, 20 days to answer an appeal from an initial request; and 30 days to respond to a complaint filed in court under the act—limits we view as eminently reasonable.

In vetoing the amendments, President Ford has given in to pressure from executive agencies whose opposition may be understandable in terms of bureaucratic convenience but is wholly without merit in terms of open government and the public's right to know.

If Congress meant what it seemed to say in overwhelmingly supporting these amendments, one of the first orders of business when it reconvenes after the elections will be a vote to override and a clear message to the White House that Americans are demanding the kind of open administration that Mr. Ford in his inaugural address promised to maintain.

Mr. WHALEN. Mr. Speaker, we assemble here in the aftermath of an election in which only 38 percent of the American people participated. It was the lowest voter turnout in more than a quarter century.

That is troubling news, because it appears to confirm the contention that we now face the most serious problem that can arise in a democracy: The people are alienated from their Government. Millions of Americans believe that the "government of the people" has become a government very separate from the people.

And no wonder. The Watergate scandal confirmed the worst suspicions about secrecy, deception, and Government officials' contempt for the American citizen.

Fortunately, the Constitution authored nearly two centuries ago was resilient enough in 1974 to enable us to survive Watergate. Our task now, however, is to revive the confidence of the people in their government by insuring that Government is responsive to the people.

The fact is that many agencies of Government are not open. Too often the public interest is subservient to the institutional interest. Secrecy prevails.

In 1966, Congress enacted the Freedom of Information Act so that the public could obtain information about the policies being formulated and the tax dollars being spent by government departments. The act was a vital first step, but its usefulness has been limited because officials have devised ways to impede public inquiry into the public's business. For instance, documents simply are stamped "secret." Or citizens are told that there will be indefinite delays. Or individuals are charged exorbitant prices for obtaining copies of documents.

Now, however, after 3 years of bipartisan effort, 17 amendments to the act have been passed by the House and the Senate by overwhelming margins. Apparently accepting the advice of the Government agencies who opposed the act in 1966, President Ford vetoed the Freedom of Information Act amendments.

In my view, it is imperative that the representatives of the people override the veto and enact these amendments into law. If we sanction continued government secrecy by sustaining the veto, we will damage—perhaps irrevocably—efforts to revitalize government and return it to the people.

The amendments require Government agencies to maintain an index of documents so that citizens can know where to look for information. A time limit for agency response is established to eliminate bureaucratic foot-dragging. Excessive charges will be prohibited—the Government will be able to charge only what it costs to provide requested material. The "secret stamp" cannot be used to shield material that need not be secret, since the amendments provide for court review of classified documents. The amendments also require that the Civil Service Commission initiate proceedings to determine if disciplinary action is warranted in cases where a court finds that an official acted "arbitrarily or capriciously" in denying information.

This carefully drafted legislation exempts materials that must be kept private, including medical reports, trade secrets, and legitimate national defense information.

The years that have elapsed since the original Freedom of Information Act was passed are replete with the tragic evidence of the consequences of secrecy in Government. If the spirit of the law had been alive during the past 8 years, we might have been spared the agonies of Vietnam and Watergate. The spirit of the law has not been sufficient, however, to penetrate a detached Government bureaucracy.

Thus, the letter of the law must be strengthend. These amendments do just that. When the amendments are enacted into law, the people who want to participate will have the law on their side.

Mr. DENT. Mr. Speaker, if I had not already made up my mind to vote to override President Ford's unwarranted veto of the Freedom of Information Act, I would certainly have been influenced by the editorial which appeared in the Valley Independent of Monessen, Pa. It is a short editorial but very much to the point and I recommend its reading to my colleagues. The editorial follows:

MORE INFORMATION

Soon after the Freedom of Information Act took effect in 1967 it became evident that the law did not guarantee quite as much public access to government documents as had been expected. It is gratifying that Congress has at last completed work on revisions designed to strengthen access.

The law is basically a good one. In general it permits access to information from federal agencies, and also provides the machinery for court appeal of official decisions to withhold data. Exceptions are made in certain areas—trade secrets, investigatory records of law enforcement agencies, and so on.

Problems arose from the start, however. About three years ago Congress began the task of improving the Act. Matters were complicated by a Supreme Court ruling in 1973 which allows the president to screen documents from judicial review.

This ruling will in effect be overturned by the new legislation. It authorizes federal courts to make a determination as to whether a secrecy stamp on any given piece of information is actually justifiable under terms of the law. Nor will the courts have unbridled discretion in classifying questioned documents. They will be obliged to decide whether the criteria of an executive order for classification are met by a document.

All this is in aid of the people's right to know what their government is up to. Let us hope that President Ford, whose earlier objections have largely been met by congressional compromise, will sign the bill.

The past 2 years have done anything but win the confidence of the American people for an unquestioned support of our system, especially in the area of the accessibility of information regarding actions of the Government. It is discouraging to report to the Congress that, to the best of my knowledge, there is not one agency of Government that can give you an accurate and an honest answer to inquiries pertaining, for example, to imports and exports in such a way that the average American citizen can understand them.

Is it not curious that when this great Republic was founded, it was founded upon the intentions of people who were tired of hearing nothing from Mother England save dictums as to how to conduct their affairs and where they were to send their taxes. Nearly 200 years later we hear again of the distrust and disgust of the people with their Government, precisely because they feel, in large part, that some great, secret machinery is operating in Washington, D.C., and they have very little access to its inner workings.

You know, a machine can be a very ominous, frightening thing. Our form of government was not meant to be ominous or frightening, and yet in various ways the public is confronted with the closed door, the closed envelope, and the closed file in attempting to deal with the workings of our federal system.

We have gone through a frightening period in this last summer, a chain of events that should have effectively pointed out the dangers of secrecy in government. The "imperial Presidency" of Richard Nixon is over, halted by vigilance, and yet we may be now in danger of perpetuating the attitudes of the Nixon administration if we should allow the Ford veto to stand on the Freedom of Information Act amendments.

I voted for Congressman Gerald Ford's selection to the Vice Presidency of the United States. If I had the opportunity, I would vote to make him a Member of Congress again because in that position he could not do as much harm as he has done in his short stint in the White House. He takes the easy way out by continuing to criticize Congress for anything and everything, yet he knows that between his use of the Presidential veto power, and the inherent rules and criteria-making powers of the bureaus and departments of the executive branch, Congress has become the fifth wheel on a hearse.

For instance, I have just been informed that the Labor Department is interpreting the recently highly acclaimed Pension Reform Act of this Congress in such a manner that any resemblance between the intent of Congress and the rules and criteria that they are promulgating is strictly accidental. And this has become true in nearly every area of legislative enactment.

Particularly is this true in the enactment of the so-called Kennedy round of trade agreements. It has been administered without regard of any kind to the intent, or the goals, or the letter of the law. The present administration of the Kennedy round, although perhaps well intended, seems now to be aimed at the destruction of American international trade, rather than to keep the promise made by that act that it would create jobs in America, support prosperity in America, and above all, bring peace to the world.

This morning, within a 2-hour span of having breakfast and answering mail, I watched at least three TV stations and their various news presentations and I believe now that I can recite President Ford's toast to the Emperor of Japan, verbatim. However, I did not hear more than a single line about the Chrysler Corp. starting a massive layoff, shutting down production in several more plants; about Greyhound Bus Lines going on strike and stranding thousands of travelers; about the coal miners' dissatisfaction with what their president, Arnold Miller, called a reasonable and good contract; about Bethlehem Steel threatening to close down part of its operation permanently.

While I sat and contemplated the great damage these various economic upheavals could do in the next month, the President was promising the Japanese a continuance of the policies we have followed in regard to Japan. Mr. Ford's "openness" was bright and shining in his pronouncements to the Japanese, even in the light of his veto of this bill, a veto which will effectively maintain a "closedness" here at home.

I will venture to say that there are Arab leaders who have better access to information concerning trade, arms and energy in the United States than do most of the American people. And this has all come about at the behest of that inveterate globetrotter Dr. Henry Kissinger, whose "openness" with the Arabs we do not need, but who obviously was holding something from us in the Chilean upheaval.

There just may be a few dozen Arab sheiks in the Middle East who know more about the United States than we in Congress know and the only way we are going to improve the situation is to override this veto.

I opened by quoting the concerns of one of my local papers. I might effectively close by quoting from this morning's Washington Post:

> FEDERAL FILES: FREEDOM OF INFORMATION
>
> Just before the election recess, President Ford used his power of veto and sent back to the Congress a piece of very important legislation, the 1974 amendments to the Freedom of Information Act. Those amendments were important because they strengthened a law that was fine in principle and purpose but poor in practical terms. The Freedom of Information Act had been enacted in 1966 in the hope of making it possible for the press and the public to obtain documents from within government to which they are entitled. Because of cumbersome provisions of the act, however, obtaining such information proved very difficult.
>
> This year, after long hearings, much haggling between House and Senate and two resounding votes, a series of amendments was ready for presidential signature. They shortened the amount of time a citizen would be required to wait for the bureaucracy to produce a requested document. They removed some restrictions on the kinds of information that could be obtained; and they placed sanctions on bureaucrats who tried to keep information secret that should be released in the public interest. In light of President Ford's previous statements in support of openness in government, it was assumed that the President would welcome this legislation and sign it into law. Instead, sadly, Mr. Ford yielded to the arguments of the bureaucracy and vetoed the legislation.
>
> Since then, a number of journalists' and ctizens' groups have criticized that action by the President and urged Congress to override the veto. Today in the House and tomorrow in the Senate, those votes are scheduled to take place. We would urge a strong vote in support of the legislation, particularly in light of two recent disclosures made possible by the Freedom of Information Act.
>
> Recently, a Ralph Nader-supported group on tax reform turned up the fact the Nixon White House instigated Internal Revenue Service inevstigations of social actions groups on the left and in the black community. The absurdity of the exercise is illustrated by the fact that the Urban League was among the targets, lumped in as "radical" along with several social organizations that hardly merit either the label or the attention they were given by IRS. As we have had occasion to say in the past, the tax laws were not intended to be used for political harassment. The interesting point about these latest disclosures is that they were made possible by the utilization of the Freedom of Information Act.
>
> In the same vein, the Justice Department released a report earlier this week on the operations of the counter intelligence operations of the FBI. Much of this information about the use of dirty tricks against the far left and the far right had been revealed earlier this year, again because of action taken under the Freedom of Information Act. Attorney General William Saxbe felt compelled, on the basis of what the Justice Department had been forced to release about the program, to order a study of what the FBI had done. Mr. Saxbe found aspects of the program abhorrent. But FBI director Clarence M. Kelley actually defended the practices of his predecessor, J. Edgar Hoover. This is a good example of how important it is that this country have a strong Freedom of Information law that will make it possible for the public to learn of such activities—and such attitudes on the part of officials in sensitive and powerful jobs—and to learn of them as quickly as possible.
>
> The Freedom of Information Act is not a law to make the task of journalists easier or the profits of news organizations greater. It is, in other words, not special interest legislation in the sense that the term is ordinarily used. It is special interest legislation in that it is intended to assist the very special interest of the Amercan people in being better informed about the processes and practices of their government. This is a point President Ford's advisers missed badly at the time of the veto. One of them is alleged to have said that if the President vetoed the bill, "who gives a damn besides The Washington Post and the New York Times?" The truth of the matter is that this legislation goes to the heart of what a free society is about. When agencies of government such as the FBI and IRS can engage in the kind of activity just revealed, it is serious business. That's why we should all give a damn—especially those who are to cast their votes today and tomorrow.

Mr. UDALL. Mr. Speaker, at the time of the President's veto of H.R. 12471, the freedom of information bill, I thought that action to have been ill-timed to an extreme and contrary to his pledge to "go more than halfway" to meet the Congress efforts to pass this important legislation.

Mr. Speaker, the President again raised the specter of abuse of national defense secrets in his veto message. If there is a more transparent and bedraggled banner to wave in this post-Watergate era, it is the one bearing national security as a shield against the public's right to know.

The committee working on this legislation labored for more than 3 years to come up with a bill that provided necessary security safeguards, but provided improved public access to Government information.

It is a vital bill at a vital time. The public is skeptical of its Government. It is suspicious of the security agencies and the repositories of such information as tax records. The public is questioning the candor of such agencies as the Atomic Energy Commission and the Food and Drug Administration and whether or not these agencies are telling all the facts about the water we drink, the food we eat, and the safety of use of nuclear energy for power production.

Mr. Speaker, the President's veto of the amendments to the Freedom of Information Act ought to be overridden for at least two very basic reasons: First, it eases public access by requiring the agencies to be more accountable to the Congress and gives the people new opportunities to force disclosure of information not classified and not vital to the Nation's security; and second, enactment of this bill at this time will serve notice to the people of this Nation that we have learned at least one lesson from Watergate, that the old politics of supersecrecy and basic suspicion have been replaced by candor and openness.

Mr. Speaker, a recent editorial in the

Arizona Daily Star of Tucson, Ariz., called for override of the President's veto.

In that editorial, the Star stated:

> The American system of government can afford no isolated enclaves of nonresponsiveness—certainly not after the revelations of the past two years that the FBI and CIA have been employed for extensive political services.

Mr. Speaker, I can only add my full concurrence with those sentiments and I rise in support of the resolution to override.

Ms. ABZUG. Mr. Speaker, when President Ford took office he promised the Nation more openness and candor in government. Since then he has taken some actions which have raised serious doubts about his commitment to a more open government. The most recent such action was the ill-advised veto of H.R. 12471, the Freedom of Information Act amendments. The veto of this legislation was clearly contrary to the public interest. In my view, H.R. 12471 would make a number of responsible and highly desirable changes in the Freedom of Information Act—changes which would greatly improve the access of the American people to the business of government. It would shift the burden of proof from individuals seeking information to those agencies denying access to Federal documents; it would permit the Civil Service Commission to discipline bureaucrats, if the courts find that they have "arbitrarily or capriciously" withheld information; it would allow courts to review classified documents and classification procedures; and it would also shorten the length of time an agency has to comply with a request. In short, the amendments give the Freedom of Information Act some teeth.

Why the President would veto such a bill on the heels of his pledge to more openness is exceedingly difficult to understand. In his veto message of October 17, 1974, the President asserted that the courts had neither the expertise nor the constitutional jurisdiction to question the classification of documents. This allegation is reminiscent of the argument used by the former President Nixon in his attempt to keep the Watergate tapes secret—an argument which, I might add, was rebuked by a unanimous Supreme Court in the case of United States against Nixon.

The American people want and deserve more candor in the conduct of the public's business. They do have a right to know what their Government is doing. To protect, to expand, and to strengthen that right are the purposes of the Freedom of Information Act amendments. The bill is the product of careful study and deliberations extending over a period of more than 3 years. If ever a veto deserved to be overriden, it is this one.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I will at the appropriate time ask for general leave to extend; but having no further requests for time, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill (H.R. 12471) the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 371, nays 31, not voting 32, as follows:

[Roll No. 634]

YEAS—371

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Barrett
Bauman
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boland
Bolling
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grasso
Green, Pa.
Griffiths
Gross
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Holifield
Holt
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Hunt
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Kluczynski
Koch
Kyros
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Mills
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reid
Reuss
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruppe
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thone
Thornton
Tiernan
Traxler
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waldie
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—31

Arends
Beard
Bray
Broyhill, Va.
Burleson, Tex.
Collier
Collins, Tex.
Davis, Wis.
Fisher
Frelinghuysen
Goodling
Gubser
Hanrahan
Hosmer
Hutchinson
King
Landgrebe
Martin, N.C.
Montgomery
Price, Tex.
Rhodes
Runnels
Ruth
Scherle
Shuster
Steiger, Ariz.
Stratton
Treen
Waggonner
Ware
Williams

NOT VOTING—32

Baker
Boggs
Brasco
Camp
Chamberlain
Conable
Conlan
Davis, Ga.
Eshleman
Gray
Green, Oreg.
Hastings
Hébert
Hogan
Jarman
Jones, N.C.
Kuykendall
Mitchell, Md.
Nichols
Podell
Rarick
Riegle
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Shoup
Teague
Thomson, Wis.
Towell, Nev.
Vander Jagt
Veysey
Wyman

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Baker.

Mr. Hébert with Mr. Conlan.

Mr. Rooney of New York with Mr. Eshleman.

Mr. Mitchell of Maryland with Mr. Davis of Georgia.

Mr. Riegle with Mr. Hogan.

Mr. Jarman with Mr. Camp.

Mr. Jones of North Carolina with Mr. Kuykendall.

Mr. Teague with Mr. Chamberlain.

Mr. Gray with Mr. Rarick.

Mr. Nichols with Mr. Roncallo of New York.

Mr. Roncalio of Wyoming with Mr. Conable.

Mrs. Green of Oregon with Mr. Hastings.

Mr. Shoup with Mr. Thomson of Wisconsin.

Mr. Towell of Nevada with Mr. Wyman.

Mr. Vander Jagt with Mr. Veysey.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RELIEF OF BURT, POPE, AND KENNEDY

The SPEAKER. The unfinished business is the further consideration of the veto message of the President of the bill H.R. 6624, an act for the relief of Alvin V. Burt, Jr., Eileen Wallace Kennedy Pope, and David Douglas Kennedy, a minor.

The question is: Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Massachusetts (Mr. DONOHUE), for 1 hour.

Mr. DONOHUE. Mr. Speaker, I yield myself such time as I may consume.

The bill H.R. 6624, the subject matter of this Presidential veto, when passed by the House provides for payments of certain sums to a newspaperman, one Alvin Burt and the widow and child of another newsman, Douglas Kennedy. These payments were recommended in an opinion of a Court of Claims Commissioners' panel transmitted to the House of Representatives in 1972.

The bill authorizes a payment to Alvin V. Burt, Jr., of $45,482 and a payment of $36,750 to the widow of Douglas E. Kennedy, deceased, and the same amount of $36,750 to the son. In each instance the amounts would be paid in full settlement of claims based upon injuries and disabilities suffered by the two newspapermen on May 6, 1965, as the result of wounds received when they were fired upon by U.S. marines at a checkpoint in Santo Domingo in the Dominican Republic.

The claims involved in this bill have been the subject of extended consideration. A bill and an accompanying House resolution were considered in the Committee on the Judiciary during the 90th Congress, and a House resolution (H. Res. 1110) was reported and passed the House in that Congress on May 21, 1968, which referred the bill to the Chief Commissioner of the Court of Claims as a congressional reference case. After extended consideration, the opinion in that case was filed November 16, 1972. The opinion and the accompanying statement of facts provide the basis for the provisions of H.R. 6624.

The facts in the case are as follows:

That bill passed the House on November 6, 1973 and passed the Senate on October 10, 1974. It was vetoed on October 29, 1974.

In 1962, Mr. Alvin V. Burt was the Latin American editor of the Miami Herald. Mr. Douglas E. Kennedy was the chief photographer of that same paper. On May 3, 1965, Mr. Kennedy and Mr. Burt flew to San Juan, Puerto Rico, and the next day were flown to Santo Domingo on a U.S. Navy plane. They traveled to the Dominican Republic as newsmen to cover the civil strife in that country. At that time the U.S. Army and Marine forces were performing a peacekeeping role and were maintaining a zone of neutrality which had been established to separate two contending local groups. It was at one of the checkpoints established to control passage through the neutral zone that the tragedy referred to in this bill occurred.

This car in which they were riding was marked with the word "Prensa," the Spanish word for "press." The marine officer in charge of the checkpoint ordered a Spanish-speaking corporal forward to halt the car. The driver of the car complied with his hand signal to stop some 25 to 30 meters away from the blockade. The corporal called for the occupants to get out, but this request was not immediately complied with. After several minutes, the Dominican driver opened his door and began to get out. At this point, there were several rounds of rifle fire from the area beyond the claimants' car. At this, the driver slammed his door, the car accelerated violently in reverse, and at this point the marines opened fire on the car. Both Alvin V. Burt, Jr., and Douglas E. Kennedy were badly wounded and the injuries they sustained were those for which compensation would be paid as provided in this bill.

Each claimant received multiple wounds from machinegun fire. Mr. Kennedy was hit in the head and left leg and was more seriously injured than Mr. Burt. Each had multiple metal fragments in their bodies from the bullets and each required multiple surgical procedures to repair damage to bones, nerves, and other tissues. Douglas E. Kennedy died in Canada on November 10, 1971.

The opinion examines the question of impaired earning ability and other elements which bear upon the right to recovery. Each individual was forced to make changes in his occupation as a result of the injury sustained on May 6, 1965.

On the basis of the reasons stated in the opinion, Chief Commissioner and the review panel of commissioners concluded that the claimants had established that the United States has a moral obligation to recognize the claims of the two newspapermen. In essence, the opinion held that considerations bearing on the "sovereign honor and good conscience" of the United States dictate an obligation to compensate the persons injured in this incident. It was pointed out that Mr. Burt and Mr. Kennedy were present in the Dominican Republic to observe and report the events transpiring there and their presence was directly attributable to the encouragement and even the logistical support of the U.S. Government. As to the actions of the marines, the opinion stated that the marine gunfire that caused serious injuries to these two men was an unquestionably tragic occurrence but that, with the benefit of hindsight, was unwarranted. As was noted in the concurring opinion, the facts of the case make it clear that the start of firing by the marine guard involved a collapse of discipline and a loss of command control that was not warranted by the circumstances. While the marine guard's actions may not have met the tests of actionable negligence as required in a court of law, it is also clear that these men would not have sustained multiple wounds and injuries had the chain of command maintained control.

The Judiciary Committee agreed that the facts and circumstances provide the basis of an obligation on the part of the United States to compensate the individuals named in the amended bill in the amounts stated therein. This is an obligation based upon broad moral principles of right and justice. It is recommended that the amended bill be considered favorably.

The veto message of the President seeks to make a distinction between the terms "legal" or "equitable" claims as contained in the congressional reference statute and the use of the terms "good conscience" and "broad moral considerations" as stated in the congressional reference opinion recommending relief in this case. As a matter of fact, private bills do embody appeals for relief which are directed to the conscience of the Congress. The courts have recognized that when the Congress acts on such measures, the obligation of the United States is based upon a moral right recognized by the Congress.

The Supreme Court in the case of *United States* v. *Realty Co.*, 163 U.S. 427 (1896) commented on the basis of such claims against the United States. Specifically, the Court stated that:

> The nation, speaking broadly, owes a "debt" to an individual when his claim grows out of general principles of right and justice; when, in other words it is based upon considerations of a moral or merely honorary nature, such as are binding on the conscience or the honor of an individual, although the debt could obtain no recognition in a court of law. The power of Congress extends at least as far as the recognition and payment of claims against the government which are thus founded . . .

The term "equitable claim" was defined by the Court of Claims in the case of *Bertha A. Burkhardt, et al.* v. *the United States,* 113 Ct. Cls. 658 (1949). In commenting upon the use of that phrase in the congressional reference provisions of section 2509 of title 28, the court stated:

> We are therefore of the opinion that the term "equitable claim" as used in 28 U.S.C., Sec. 2509, is not used in a strict technical sense meaning a claim involving considerations of principles of right and justice as administered by courts of equity, but the broader moral sense based upon general equitable considerations.

This was reiterated in congressional reference case, Clarkson against United States, decided in 1971. In commenting on the basis for the recommendation, the opinion stated:

> The inquiry thus focuses on whether plaintiff has an equitable claim within the meaning of 28 U.S.C. § 2509(c). In this sense, "equitable" is used to mean broad moral responsibility, i.e., what the Government ought to do as a matter of good conscience.

This is precisely the basis cited for relief in this instance. I therefore urge my colleagues, in good conscience, that the veto in this instance be overridden.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Massachusetts and urge the House to vote to override the veto of the President in this instance.

The committee worked long and hard in consideration of this measure. It was indeed an equitable and justifiable claim and it passed in the subcommittee and the committee with substantial support.

I urge that the President's veto be overriden.

Mr. DONOHUE. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I thank the distinguished chairman of the subcommittee and I express my appreciation to him and to the ranking minority member for speaking on this bill. The chairman has very carefully and fully outlined the details of the matter. I simply would like to add this to what the chairman has laid out in the RECORD.

In my 20 years experience here I do not know of a claim bill that has been more carefully scrutinized by the Members of the Congress and the Court of Claims. In this case the matter went to the Court of Claims by reference of the House. There was a hotly contested trial there. The trial commissioner found in favor of the claimants in amounts higher than are called for in this bill. The matter was then considered by a review panel of three commissioners. The review panel unanimously recommended in favor of the claimants, although they did reduce the amounts recommended by the trial commissioner to the amounts which are now called for in this bill.

One other fact needs to be emphasized. While in the legal sense these men could not have been considered invitees of the U.S. Government, they were welcomed most strongly to provide press coverage in the Dominican Republic during the time of the ceasefire. I want to emphasize again it was not a combat situation. Our Marines were there to protect American citizens and to maintain a neutral zone. The Government flew these men from Puerto Rico to the Dominican Republic, briefed them, and gave them the credentials so they could do their work. And these men had previously talked to the very people at the checkpoint where this totally unwarranted tragic incident occurred.

Their injuries, I might add, were very substantial. One of the men was shot in the head and it took 30 stitches to close the wound. Each had multiple shell fragments throughout his entire body, in every muscle and nerve and bone. Many operations were required in order to put the men back into shape.

It has taken 9 long years for justice to find its way through the court of claims and the legislative process, only to vanish at the last moment with the President's perfunctory veto. During those 9 years the U.S. Court of Claims, the House of Representatives and the U.S. Senate all reached the same conclusion—that the United States has an obligation to compensate Burt and Kennedy for the injuries caused by U.S. Marines.

Al Burt and Doug Kennedy, representatives of the American press, were severely wounded and endured great pain and suffering as a result of actions taken by our own American soldiers. As a result of the wounds, neither man was ever able to return to the job he had held prior to the accident. Burt and the widow and child of Kennedy deserve at least this measure of compensation from their Government.

I should like to urge that both sides vote to override this veto.

Mr. DONOHUE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I thank the chairman for yielding. I wish to associate myself with his remarks in which he has carefully and fully outlined this bill.

I personally worked on this bill when it was before our subcommittee and I studied all the available facts very carefully. I can assure my colleagues this is a case in which justice requires that the veto be overriden. I urge an "aye" vote to override the veto.

Mr. PEPPER. Mr. Speaker, I shall vote to override the President's veto of this measure. The court of claims has found that on "broad moral considerations" as a matter of "good conscience" the amount proposed by this measure should be paid to Mr. Alvin V. Burt, Jr. and the personal representatives of Mr. Douglas E. Kennedy for injuries received by Mr. Burt and Mr. Kennedy by gunfire of U.S. marines while the marines were in the Dominican Republic on May 6, 1965. The President in vetoing the bill admits that the incident in which Mr. Burt and Mr. Kennedy sustained very grievous injuries was "an admittedly tragic and unfortunate incident." It is obvious even from the President's statement of the facts in his veto message that there was a misunderstanding between the two newspapermen—representatives of the Miami Herald—and the marines which led to the shooting. Mr. Burt and Mr. Kennedy obviously did not hear the command of the marines to stop and the marines misunderstood the identification and the motivation of Mr. Burt and Mr. Kennedy. The grievous injuries leading to long hospitalization and grave suffering by Mr. Burt and Mr. Kennedy was simply a part of this whole episode of our Armed Forces being sent into the Dominican Republic to protect the lives and property of American citizens.

It is the kind of incident that often occurs. Indeed, it is to be expected in almost every situation of this sort. The two newspapermen were there to serve the public interest by keeping the public informed about the situation in the Dominican Republic. They were doing their duty. The marines thought they were doing their public duty by shooting Mr. Burt and Mr. Kennedy. The court of claims thought the circumstances were such, as I said, that "broad moral considerations" and "good conscience" required the Government of the United States to pay the small amounts recommended by the court of claims and embodied in this bill. These injuries sustained by these worthy men were a part of the cost of this operation initiated by our President in the national interest and it should be borne by the National Government. Therefore, I think this veto should be overridden.

Mr. DONOHUE. Mr. Speaker, I have no further requests for time and I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

In view of the fact that the electronic device is not working, the Clerk will call the roll.

The question was taken, and there were—yeas 236, nays 163, not voting 35, as follows:

[Roll No. 635]

YEAS—236

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Barrett
Bennett
Bergland
Biaggi
Biester
Bingham
Boland
Bolling
Bowen
Brademas
Breckinridge
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Butler
Byron
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Chappell
Chisholm
Clark
Clay
Cochran
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Derwinski
Diggs
Dingell
Donohue
Dorn
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fraser
Frey
Fulton
Fuqua
Gettys
Giaimo
Gibbons
Ginn
Gonzalez
Grasso
Green, Pa.
Gude
Gunter
Haley
Hamilton
Hansen, Wash.
Harrington
Hawkins
Hays
Helstoski
Henderson
Hicks
Hinshaw
Holifield
Holtzman
Horton
Howard
Hungate
Ichord
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Landrum
Leggett
Lehman
Litton
Long, La.
Long, Md.
Luken
McClory
McCloskey
McCormack
McDade
McFall
McKay
McSpadden
Macdonald
Madden
Mann
Mathis, Ga.
Matsunaga
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mills
Minish
Mink
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pike
Poage
Preyer
Price, Ill.
Railsback
Randall
Rangel
Rees
Reid
Reuss
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shipley
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, James V.
Stark
Steed
Steelman
Stephens
Stokes
Stubblefield
Stuckey
Studds
Sullivan
Symington
Thompson, N.J.
Thornton
Tiernan
Towell, Nev.
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen

Vanik
Vigorito
Waldie
Whalen
White
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki

NAYS—163

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bauman
Beard
Bell
Bevill
Blackburn
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burlison, Mo.
Carter
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Collier
Collins, Tex.
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dellenback
Dennis
Devine
Dickinson
Downing
Duncan
Edwards, Ala.
Erlenborn
Findley
Fountain
Frelinghuysen
Frenzel
Froehlich
Gaydos
Gilman
Goldwater
Goodling
Griffiths
Gross
Grover
Gubser
Guyer
Hammerschmidt
Hanrahan
Hansen, Idaho
Harsha
Hechler, W. Va.
Heinz
Hillis
Hogan
Holt
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Johnson, Colo.
Johnson, Pa.
Kemp
Ketchum
King
Lagomarsino
Landgrebe
Latta
Lent
Lott
Lujan
McCollister
McEwen
McKinney
Madigan
Mahon
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mayne
Michel
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Mosher
Murtha
Myers
Nelsen
O'Brien
Parris
Pettis
Peyser
Pickle
Powell, Ohio
Price, Tex.
Pritchard
Quie
Quillen
Regula
Rhodes
Robinson, Va.
Robison, N.Y.
Runnels
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schneebeli
Sebelius
Shriver
Shuster
Sikes
Skubitz
Spence
Stanton, J. William
Steele
Steiger, Ariz.
Steiger, Wis.
Stratton
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Thone
Treen
Waggonner
Walsh
Wampler
Ware
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Young, Alaska
Young, Ill.
Young, S.C.
Zion
Zwach

NOT VOTING—35

Baker
Blatnik
Boggs
Brasco
Breaux
Camp
Conable
Conlan
Davis, Ga.
Eshleman
Gray
Green, Oreg.
Hanley
Hanna
Hastings
Hébert
Heckler, Mass.
Jarman
Jones, N.C.
Kuykendall
Mathias, Calif.
Meeds
Mitchell, Md.
Nichols
Podell
Rarick
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Rousselot
Shoup
Teague
Veysey
Wyman
Young, Tex.

So, two-thirds not having voted in favor thereof, the veto of the President was sustained, and the bill was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Blatnik and Mr. Riegle for, with Mr. Hébert against.

Mr. Rooney of New York and Mr. Hanley for, with Mr. Rarick against.

Mr. Mitchell of Maryland and Mrs. Boggs for, with Mr. Nichols against.

Mrs. Heckler of Massachusetts and Mr. Meeds for, with Mr. Baker against.

Mr. Gray and Mr. Hanna for, with Mr. Rousselot against.

Mrs. Green of Oregon and Mr. Jones of North Carolina for, with Mr. Conlan against.

Mr. Teague and Mr. Davis of Georgia for, with Mr. Kuykendall against.

Until further notice:

Mr. Breaux with Mr. Camp.

Mr. Jarman with Mr. Roncallo of New York.

Mr. Young of Texas with Mr. Shoup.

Mr. Eshleman with Mr. Conable.

Mr. Hastings with Mr. Mathias of California.

Mrs. SULLIVAN, Messrs. ECKHARDT, O'HARA, MAZZOLI, VIGORITO, and ICHORD changed their vote from "nay" to "yea."

Messrs. COHEN, YOUNG of Alaska, and ABDNOR changed their vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The SPEAKER. The message and the bill are referred to the Committee on the Judiciary, and the Clerk will notify the Senate of the action of the House.

FOR THE RELIEF OF NOLAN SHARP—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President on the bill H.R. 7768, an act for the relief of Nolan Sharp.

MOTION OFFERED BY MR. DONOHUE

Mr. DONOHUE. Mr. Speaker, I move that the message, together with the accompanying bill, be referred to the Committee on the Judiciary.

The motion was agreed to.

AUTHORIZING DISTRICT OF COLUMBIA TO ENTER INTO INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL

Mr. DIGGS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 342) to authorize the District of Columbia to enter into the Interstate Agreement on Qualification of Educational Personnel, with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

"THE INTERSTATE AGREEMENT ON EDUCATIONAL PERSONNEL

SEC. 101. The Commissioner of the District of Columbia is authorized to enter into and execute on behalf of the District of Columbia an agreement with any State or States legally joining therein in the form substantially as follows:

"THE INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL

"ARTICLE I—Purpose, Findings, and Policy

"1. The States party to this Agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this Agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the States party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

"2. The party States find that included in the large movement of population among all sections of the Nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from State to State in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other States. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their States of origin, can increase the available educational resources. Participation in this Agreement can increase the availability of educational manpower.

"ARTICLE II—Definitions

"As used in this Agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

"1. 'Educational personnel' means persons who must meet requirements pursuant to State law as a condition of employment in educational programs.

"2. 'Designated State official' means the education official of a State selected by that State to negotiate and enter into, on behalf of his State, contracts pursuant to this Agreement.

"3. 'Accept', or any variant thereof, means to recognize and give effect to one or more determinations of another State relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving State.

"4. 'State' means a State, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

"5. 'Originating State' means a State (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

"6. 'Receiving State' means a State (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

"ARTICLE III—Interstate Educational Personnel Contracts

"1. The designated State official of a party State may make one or more contracts on behalf of his State with one or more other party States providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the States whose designated State officials enter into it, and the subdivisions of those States, with the same force and effect as if incorporated in this Agreement. A designated State official may enter into a contract pursuant to this Article only with States in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on basis sufficiently comparable, even though not identical to that prevailing in his own State.

"2. Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating State in qualifying educational personnel for acceptance by a receiving State.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

"3. No contract made pursuant to this Agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

"4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating State approval of the program or programs involved can have occurred. No contract made pursuant to this Agreement shall require acceptance by a receiving State of any person qualified because of successful completion of a program prior to January 1, 1954.

"5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving State.

"6. A contract committee composed of the designated State officials of the contracting States or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting States.

"ARTICLE IV—Approved and Accepted Programs

"1. Nothing in this Agreement shall be construed to repeal or otherwise modify any law or regulation of a party State relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that State.

"2. To the extent that contracts made pursuant to this Agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

"ARTICLE V—Interstate Cooperation

"The party States agree that:

"1. They will so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this Agreement.

"2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

"ARTICLE VI—Agreement Evaluation

"The designated State officials of any party States may meet from time to time as a group to evaluate progress under the Agreement, and to formulate recommendations for changes.

"ARTICLE VII—Other Arrangements

"Nothing in this Agreement shall be construed to prevent or inhibit other arrangements or practices of any party State or States to facilitate the interchange of educational personnel.

"ARTICLE VIII—Effect and Withdrawal

"1. This Agreement shall become effective when enacted into law by two States. Thereafter it shall become effective as to any State upon its enactment of this Agreement.

"2. Any party State may withdraw from this Agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States.

"3. No withdrawal shall relieve the withdrawing State of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

"ARTICLE IX—Construction and Severability

"This Agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision of this Agreement is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any Government, agency, person, or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any Government, agency, person, or circumstance shall not be affected thereby If this Agreement shall be held contrary to the constitution of any State participating therein, the Agreement shall remain in full force and effect as to the State affected as to all severable matters."

SEC. 102. The "designated State official" for the District of Columbia shall be the Superintendent of Schools of the District of Columbia. The Superintendent shall enter into contracts pursuant to Article III of the Agreement only with the approval of the specific text thereof by the Board of Education of the District of Columbia.

SEC. 103. True copies of all contracts made on behalf of the District of Columbia pursuant to the Agreement shall be kept on file in the office of the Board of Education of the District of Columbia and in the office of the Commissioner of the District of Columbia. The Superintendent of Schools shall publish all such contracts in convenient form.

SEC. 104. As used in the Interstate Agreement on Qualification of Educational Personnel, the term "Governor" when used with reference to the District of Columbia shall mean the Commissioner of the District of Columbia.

TITLE II—PRACTICE OF PSYCHOLOGY ACT AMENDMENTS

SEC. 201. This title may be cited as the "Practice of Psychology Act Amendments".

SEC. 202. The Practice of Psychology Act (84 Stat. 1955) is amended as follows:

(1) Subsection (C) of section 13 of such Act (D.C. Code, sec. 2–492(C)) is amended to read as follows:

"(C) Any person aggrieved by a final decision or a final order of the Commissioner under subsection (B) of this section may seek review of such decision or order in the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act.".

(2) Subsection (D) of section 13 of such Act (D.C. Code, sec. 2–492(D)) is amended to read as follows:

"(D) In hearings conducted pursuant to subsection (B) of this section, the Commissioner may administer oaths and affirmations, and may require by subpena or otherwise the attendance and testimony of witnesses and the production of such books, records, papers, and documents as he may deem advisable in carrying out his functions under this Act. In the case of contumacy or refusal to obey any such subpena or requirement of this subsection, the Commissioner may make application to the Superior Court of the District of Columbia for an order requiring obedience thereto. Thereupon the court, with or without notice and hearing, as it in its discretion may decide, shall make such order as is proper and may punish as contempt of court any failure to comply with such order.".

(3) Section 14 of such Act (D.C. Code, sec. 2–493) is amended by amending the second sentence to read as follows:

"Prosecutions shall be conducted in the name of the District of Columbia in the Superior Court of the District of Columbia by the Corporation Counsel or any of his assistants.".

(4) Section 15 of such Act (D.C. Code, sec. 2–494) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(5) Section 8 of the Practice of Psychology Act (84 Stat. 1955), is amended to read as follows:

"SEC. 8. (a) Notwithstanding any other provision of this Act, a license shall be issued without examination to any applicant who is of good moral character, who, at any time during the twelve-month period preceding the effective date of the Practice of Psychology Act, maintained a residence or office, or participated in psychological practice acceptable to the Commissioners, in the District of Columbia, and who, within one year after the effective date of the Practice of Psychology Act, submitted an application for license accompanied by the required fee, and who holds—

"(1) a doctoral degree in psychology or forty-five credit hours taken subsequent to a bachelor's degree in courses related to psychology, from accredited colleges or universities, and has engaged in psychological practice acceptable to the Commissioner for at least two years prior to the filing of such application pursuant to this Act; or

"(2) a master's degree in psychology or twenty-four credit hours taken subsequent to a bachelor's degree in courses related to psychology, from accredited colleges or universities, and has engaged in psychological practice acceptable to the Commissioner for at least seven years prior to the filing of such application pursuant to this Act.

"(b) For purposes of subsection (a) of this section, the term—

"(1) 'courses related to psychology' means any combination of the following behavioral science courses not necessarily in one department of one school: human development, education, educational psychology, guidance, counseling, guidance and counseling, vocational counseling, school psychology, school guidance, family counseling, counseling and psychotherapy, special education, learning disabilities, anthropology, sociology, human ecology, social ecology, rehabilitation counseling, group counseling and psychotherapy, or any substantially similar field of study acceptable to the Commissioner; and

"(2) 'psychological practice acceptable to the Commissioner' includes any job in which the job title or description contains any term acceptable to the Commissioner, or any of the following terms: psychologists, psychotherapy, group therapy, family therapy, art therapy, activity therapy, psychometry, measurement and evaluation, psychodiagnosis, pupil personnel services, counseling and guidance, special education, rehabilitation, or any job in which the person or organization was recognized or reimbursed under public or private health insurance programs by reason of being engaged in psychological practice.".

SEC. 203. The amendments made by paragraphs (1) through (4) of section 202 of this title shall take effect with respect to petitions filed after the date of the enactment of this title for review of decisions or orders.

TITLE III—DISTRICT OF COLUMBIA UNEMPLOYMENT COMPENSATION ACT AMENDMENTS

SEC. 301. The District of Columbia Unemployment Compensation Act is amended as follows:

(1) Section 3(c)(10) of such Act (D.C. Code, sec. 46–303(c)(10)) is amended by striking out the last three sentences and inserting in lieu thereof the following new sentence: "The employer shall be promptly notified in writing of the Board's denial of his application or of the Board's redetermination. An employer aggrieved by the Board's decision may seek review of such determination in the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act.".

(2) Section 12 of such Act (D.C. Code, sec. 46–312) is amended to read as follows:

"SEC. 12. Any person aggrieved by the decision of the Board may seek review of such decision in the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act.".

SEC. 302. The amendments made by section 302 of this title shall take effect with respect to petitions filed after the date of enactment of this title for review of decisions or orders.

Amend the title so as to read: "An Act to authorize the District of Columbia to enter into the Interstate Agreement on Qualification of Educational Personnel, and to amend the Practice of Psychology Act and the District of Columbia Unemployment Compensation Act.".

Mr. DIGGS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendments and that they be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. GROSS. Mr. Speaker, reserving the right to object, I should like to propound a parliamentary inquiry. The request of the gentleman from Michigan to take this bill from the Speaker's table does require unanimous consent, does it not?

The SPEAKER. It does after the reading of the amendments. The gentleman from Michigan asks unanimous consent to dispense with further reading of the Senate amendments.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection to that.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER. The Clerk will report the amendment to the Senate amendments.

The Clerk read the amendment to the Senate amendments as follows:

Page 19, strike out line 20 and insert in lieu thereof the following: "this Act; or

"(3) presents evidence of completion of a curriculum of study acceptable to the Commissioner, taken subsequent to a bachelor's degree in psychology, in courses related to psychology from an institution outside the United States acceptable to the Commissioner, and has engaged in psychological practice acceptable to the Commissioner for at least seven years prior to the filing of such application pursuant to this Act."

Technical amendments: Page 19, line 7, strike out "holds".

Page 19, line 8, immediately after "(1)", insert "holds".

Page 19, line 13, strike out "or".

Page 19, line 14, immediately after "(2)", "holds."

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. GROSS. Mr. Speaker, reserving the right to object, may I inquire of the gentleman from Michigan when this legislation was first approved by the House?

Mr. DIGGS. The House passed H.R. 342 on the 29th of April of last year and the Senate passed a substitute, which is in essence the House-passed version plus two new titles. The Senate made one minor technical change, I will say to the gentleman from Iowa in title I. Article 1 is the House-passed version, and the purpose of that change was to allow the Senate to add subsections in their two new titles.

The first Senate amendment, I will say to the gentleman, is title II—Practice of Psychology Act amendments. The first four sections in title II are basically housekeeping items and are intended to conform the practice of psychology in the District to the requirements of the Administrative Procedures Act. The amendment would provide final judicial review in the District Court of Appeals and vest injunctive power in the superior court, which is consistent with the requirements of the Reorganization Act.

Mr. GROSS. Do I understand there is an entire title in this bill dealing with psychology and the practice of psychology in the District of Columbia, a title and a subject which was never considered in the bill as passed by the House?

Mr. DIGGS. The gentleman is correct in that the Senate additions are not germane within that context; but as the gentleman further understands, at this stage of our proceedings there is some consolidation of efforts in connection with these District of Columbia bills, as we understand, on the threshold of self-determination, there are some things that have to be done on an expeditious basis.

Mr. GROSS. Without taking a great deal of time discussing this bill, I do want to ask the gentleman this question with respect to the new title never considered by the House dealing with the practice of psychology. Does the gentleman contemplate that Congress will be called upon now or in the future for Federal funds to administer the practice of psychology in the District of Columbia?

Mr. DIGGS. I am very happy to say to the gentleman from Iowa that the answer to that question is, "No," that the Congress would not have any further responsibility with respect to this matter.

Mr. GROSS. Mr. Speaker, I withdraw my reservation.

Mr. BLATNIK. Mr. Speaker, in 1971 Congress passed legislation establishing comprehensive standards for the licensing of psychologists in the District of Columbia. This act provided a much needed mechanism to protect the public from the practice of psychology by unqualified people.

Addressing the question of those psychologists engaged in practice prior to the enactment of the law, the authors included section 8, the so-called grandfather clause which provides for the licensing of these psychologists provided they have at least a master's degree and 7 years of experience. The amendments which the Senate has already approved are designed to clarify the intent of Congress relative to the standards for judging what is, or is not, equivalent to a master's degree by defining the master's degree in terms of credit hours, the normal form of measurement in American universities.

While I applaud these needed clarifications, the Senate amendments leave untouched the problems faced by a person, otherwise qualified under section 8, who took their graduate training at a foreign institution, which, by tradition, does not grant the "master's degrees" or calculate credit hours that are so familiar to all Americans. This has led to the instance where one person of impeccable credentials, whose talents and abilities are not questioned by the Board of Psychologist Examiners, was denied a license because she did not, technically, receive a "master's degree" after 1 year of postgraduate study at a London college, and 4 more years of advanced study at a world renowned clinic in England, nor can she point to a transcript of credit hours as the Senate amendment would allow, because these institutions, of English rather than American roots, do not work with these units.

The Senate amendments will clarify the general situation for most but they will do nothing in this case because they are tied to the American system of degrees and credit hours, which are not applicable in the case of persons trained at some foreign institutions.

Perhaps I can describe this problem and demonstrate the need for my amendment by further reviewing for a moment the background of one person caught in this unforunate situation.

Having received an A.B. in psychology from the University of California, Berkeley, the woman mentioned previously traveled to England where she attended Bedford College of the University of London, and completed 1 year of research for the Ph. D. degree in Psychology. Thereafter, she completed, in 1955, a 4-year course in psychoanalytic child psychology at the Hampstead Child-Therapy Clinic, which is a world renowned child psychoanalytic training center directed by Dr. Anna Freud, daughter of Sigmund Freud. Returning to the United States, she was appointed senior clinical instructor in child therapy at Western Reserve University, School of Medicine, Department of Psychiatry, where she worked from 1955 to 1966.

In 1966 she came to the Washington area to join the staff of the Department of Psychiatry at Children's Hospital. In this capacity, she served as a faculty associate of the Psychiatric Department of Children's Hospital. Simultaneously, she served as supervisor of the Therapeutic Nursery School at Hillcrest Children's Center, Washington, D.C. In 1969 she became an instructor in pediatric psychiatry at the George Washington University School of Medicine.

From 1955 to the present time, she has also taught psychoanalytic child psychology to Ph.D. psychologists, psychiatrists, and pediatricians. In this connection, American applicants to the Hampstead Clinic are generally required to hold a Ph.D. degree prior to their admission.

In 1974 she became a faculty member of the Extension Division of the Baltimore-D.C. Psychoanalytic Institute. She is a past member of the British Psychological Society and a current member of the American Psychological Association.

As a practicing psychologist prior to enactment of the 1971 law, this woman, in March of 1972, applied for a license to practice psychology under section 8 of the new law. It is quite evident from this resumé, the views of many distinguished psychiatrists, pediatricians, psychologists, and the transcript of the Board of Examiners meeting on this case that this woman's training is not only far superior to any master's degree, but is the equivalent to a Ph.D. degree. The Board of Examiners, however, denied her application for a license because she did not receive a "master's degree" upon completion of 1 year at Bedford College and 4 years at the Hampstead Clinic because neither the college nor the clinic confer master's degrees or credit hours in the sense that you and I know these terms.

Clearly then, this is a case where the original intent of the law, to license qualified psychologists, is being frustrated by a narrow interpretation of the statutory language. The Senate amendments, while clearing up other problems, do not adequately address this problem.

The amendment I offer today seeks to extend the principles enunciated in the Senate amendments so that they will apply to a person who received advanced training outside the United States where the standards of degrees and credit hours may not be relevant to the foreign educational system.

My amendment would require that a person be licensed under section 8 of the law if they present evidence of completion of a curriculum of study which is acceptable to the Commissioner of the District of Columbia, taken subsequent to a bachelor's degree in psychology, in courses related to psychology from an institution outside the United States which is acceptable to the Commissioner, and has 7 years of experience.

This removes, in the case of foreign institutions, the rigid requirements of credit hours and degrees, and clearly grants the Commissioner and the Board of Psychologist Examiners discretion to recognize equivalent training at foreign institutions. At the same time this privilege is limited to those trained at foreign institutions, so that the basic standard of credit hours and degrees, applicable to those trained in the United States, is left intact.

Mr. NELSEN. Mr. Speaker, I rise to move an amendment to the Senate amendment to H.R. 342, which seeks to improve section 8 of the D.C. Practice of Psychology Act—Public Law 91-657, approved January 8, 1971.

The D.C. Practice of Psychology Act was intended to establish standards for the licensing of psychologists in the District of Columbia and thus to protect the public against substandard psychological services by unqualified persons. While the act has apparently served this purpose reasonably well in the matter of licensing psychologists in general, the "grandfather clause," which is section 8 of the act, has failed utterly to provide reasonably and adequately for the licensing of those psychologists who were practicing in the District of Columbia prior to the enactment of the new licensing law. As a result of the extremely narrow and highly technical educational degree qualifications interpreted by the Board of Psychologist Examiners to exist in section 8, a number of highly competent and well educated psychologists who had been practicing successfully in the District for many years prior to the enactment of the D.C. Practice of Psychology Act have been unable to obtain license to continue their professional careers here in the Nation's Capital.

In recognition of this problem, the Senate acted on August 12, 1974, to approve our bill, H.R. 342, authorizing the District to enter into the interstate agreement on qualification of educational personnel, with several amendments, one of which will amend the grandfather clause of the Psychology Act so as to clear up an ambiguity therein and to provide more liberal but throughly adequate and reasonable criteria for licensing those psychologists either living or practicing in the District of Columbia prior to the enactment of the Psychology Act. I am informed that this Senate-approved amendment, which has the approval of the D.C. government, will serve to license all of the truly qualified pschologists in the District who have been denied their licenses under section 8 of the act—with one exception.

This one exception, a lady whose qualifications are unquestionably of the highest order and whose contributions to the practice of psychology in the District and elsewhere have been outstanding over a period of many years, is the subject of my proposed amendment to this Senate amendment.

This psychologists singular problem arose from the fact that after receiving her bachelor's degree in psychology from the University of California, she took her graduate work in that field in England. This includes 1 year of study at the University of London and then 4 years at the famous Hempstead Training Center in London under the direction of Dr. Anna Freud. This outstanding graduate educational training was followed by 18 years of distinguished service in the field of child thereapy in Cleveland and also in the District of Columbia, where she has served in the Psychiatry Department of Children's Hospital and the Therapeutic Nursing School at Hillcrest Children's Center, and also as an instructor in psychiatry at George Washington University School of Medicine.

The problem which the Board has cited in refusing this psychologist's application for a license to continue practice in the District of Columbia is that whereas section 8 of the D.C. Practice of Psychology Act requires "grandfather clause" applicants to have at least a master's degree in psychology, the Anna Freud Institution in London, while internationally famous in the field of child psychology, does not grant degrees as they are known in this country. This, despite her outstanding educational background and her very substantial professional experience and contribution in the field of child psychology and therapy, this lady has been unable to continue her fine work in the District of Columbia for the past 2½ years. Furthermore, her situation with respect to licensing is so unique that even the Senate amendment to section 8 of the act would not solve the problem in her case.

For these reasons, I propose an amendment which will correct this very obvious inequity by providing that the D.C. Commissioner may recognize, in the case of applicants for licensing section 8 of the act, acceptable courses of graduate study in psychology in acceptable institutions outside of the United States as qualifying such an applicant for licensing in the District of Columbia when the applicant has also had at least 7 years of practice in psychology acceptable to the D.C. Commissioner.

Mr. Speaker, I urge the approval of this proposed amendment, which will broaden the scope of the Senate-passed amendment to section 8 of the D.C. Practice of Psychology Act sufficiently to permit the licensing of this one thoroughly qualified individual. I am assured that the Senate will approve this amendment, and I wish to say that this entire amendment to the "grandfather clause" will serve only to clarify and implement the intent of the Congress when we approved the D.C. Practice of Psychology Act in 1971.

Mr. BROYHILL of Virginia. Mr. Speaker, I rise in support of the Senate amendments to H.R. 342, a bill which I introduced on January 3, 1973. This bill passed the House on April 9, 1973, by a voice vote of 331 to 1, and was approved by the Senate on August 12, 1974, with the aforesaid amendments.

The purpose of the bill itself is to authorize the District of Columbia to enter into the Interstate Agreement on Qualification of Educational Personnel. This measure passed the House also in the 92d Congress, but failed of action in the Senate at that time. I have never been aware of any opposition to this proposed legislation from any source whatever.

Two of the Senate amendments to H.R. 342 are more or less technical in nature. The first of these would amend the D.C. Practice of Psychology Act—Public Law 91-657, approved January 8, 1971—so as to correct two inadvertent inconsistencies between that act and the D.C. Court Reorganization Act of 1970 and the D.C. Administrative Procedures Act. The Senate amendment accomplishes this by providing final judicial review over decisions of the D.C. Commissioner revoking, suspending, or refusing to issue a license under the provisions of the Practice of Psychology Act in the D.C. Court of Appeals rather than in the U.S. Court of Appeals for the District of Columbia circuit; and also by authorizing the D.C. Superior Court, rather than the U.S. Court for the District of Columbia, to enjoin the unauthorized practice of psychology in the District on petition by the D.C. Corporation Counsel. Both of these provisions are consistent with the two acts cited above, and will serve to correct contrary provisions which appear by oversight in the D.C. Practice of Psychology Act.

The second of these corrective amendments provides for judicial review of decisions of the D.C. Unemployment Compensation Board by the D.C. Court of Appeals. Actually, this review authority was vested in that court by the D.C. Administrative Procedures Act, but certain sections of the D.C. Court Reorganization Act of 1970 inadvertently vested this authority in the D.C. Superior Court.

By far the most important Senate amendment to this bill will vastly improve the inadequate "grandfather clause" which is section 8 of the D.C. Practice of Psychology Act. This is a badly needed reform which will broaden the scope of section 8 of the act so as to correct a serious injustice by providing licensure to some 25 or 30 well qualified psychologists who were practicing in the District of Columbia for some years prior to the enactment of this Licensing Act, but who despite being thoroughly educated, highly competent, and in many cases eminent in their profession, have not been able to obtain D.C. licenses solely because of certain rigid and technical educational degree qualifications as interpreted by the Board of Examiners to be imposed by the original act.

This situation has unfairly deprived these people of their means of livelihood for the past 2½ years, and has also militated against the public in the District of Columbia who have been denied their services during this same period of time.

One such person, for example, is a constituent of mine who, after taking her bachelor's degree in psychology, got her master's degree from Northwestern University in counselling—a field of education which is actually applied psychology—plus some 31 hours of further graduate study beyond the master's degree level in psychology itself. Further, she has taught psychology at both Syracuse University and George Washington University, in addition to which she has practiced psychology, including the very difficult field of psychotherapy, here in the Nation's capital for more than 25 years. Despite these outstanding qualifications, however, she has been denied her license to continue practice in the District, solely on the grounds that her master's degree was not, literally speaking, "in psychology." Quite obviously, this situation cries out for reform.

I wish to point out that during the present Congress I introduced a bill, H.R. 8923, to alleviate this injustice; and also another bill, H.R. 12392, was cosponsored by Congressmen BLATNIK, NELSEN, and FRASER for this same purpose. However, neither bill received any action by subcommittee. In the face of this situation, I wish to commend the Members of the other body for initiating this measure to bring relief to the victims of this highly unfair provision, or the Board's interpretation thereof, in the D.C. Psychology Act.

My distinguished colleague from Minnesota (Mr. NELSEN) is introducing an amendment to this Senate amendment, which will further correct this grandfather clause inequity so as to provide license to one additional very prominent psychologist who because of highly unusual circumstances would not qualify for a license under the proposed Senate language. This lady, I am informed, received her graduate education in psychology in a college in England which is directed by Anna Freud. This institution, despite its international renown, does not give credits in the usual sense for its courses of study, nor does it grant degrees as such.

Thus, despite her many years of successful practice of psychology in the District of Columbia and elsewhere, and her membership in such professional organizations as the British Psychological Society, the Cleveland Psychoanalytical Society, the Baltimore-District of Columbia Society for Psychoanalysis, and the American Psychological Association, this applicant cannot qualify presently to be licensed in the District of Columbia. Congressman NELSEN's proposed amendment will correct this obvious injustice by authorizing the Board of Psychologist Examiners in effect to accept the diploma this lady holds from the Anna Freud College in England in lieu of the master's degree requirement, together with recognition of her practice of psychology in the District for a period of more than 7 years prior to the enactment of the D.C. Practice of Psychology Act. I strongly commend this amendment to my colleagues for their approval.

I wish to emphasize the fact that the adoption of these proposed amendments to the D.C. Practice of Psychology Act will in no way lower the professional standards for licensed psychologists in the District. Nor will the new provisions apply in the case of future applicants for licensing. Rather, they will serve only to license a few individuals whose educational qualifications and successful experience in the practice of psychology in the District of Columbia for many years prior to the enactment of that act are incontrovertible proof of their right to practice their profession now. In every instance, however, these people are being denied license in the District solely because of the overly restrictive limitations of section 8 of the D.C. Practice of Psychology Act as interpreted by the Board of Examiners. It was never the intent of the Congress, when we enacted this Practice of Psychology Act, that any such qualified psychologists should be denied license to continue their practice in the District of Columbia, and there is no reason whatever to permit this unjust situation to exist any longer.

Mr. Speaker, the District of Columbia government has expressed their support for the enactment of H.R. 342 as amended by the Senate. I urge the support of my colleagues to approve these Senate amendments at this time, as further amended by Congressman NELSEN's proposed language in the one instance, and thus to correct an inequity of more than 2½ years duration, in the public interest.

The Senate amendments, as amended, were agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no obligation.

PERMISSION FOR COMMITTEE ON THE DISTRICT OF COLUMBIA TO FILE A REPORT

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia may have until midnight tonight to file the committee report on the bill (H.R. 17450) to provide a people's counsel for the Public Service Commission of the District of Columbia, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. GROSS. Mr. Speaker, reserving the right to object.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his inquiry.

Mr. GROSS. Mr. Speaker, would a motion to adjourn be in order at this time?

The SPEAKER. Well, the gentleman knows the answer to that question. The Chair hopes that the gentleman will keep it to himself.

CONFERENCE REPORT ON H.R. 15977, EXPORT-IMPORT BANK ACT AMENDMENT

Mr. MINISH. Mr. Speaker, I call up the conference report on the bill (H.R. 15977) to amend the Export-Import Bank Act of 1945, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 8, 1974.)

Mr. MINISH (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MINISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 15977 to amend the Export-Import Bank Act of 1945, and for other purposes. The act provides the authority to foster the expansion of the export of goods and related services, through export credit assistance, thereby contributing to the promotion and maintenance of high levels of employment and real income and the increased development of the productive resources of our country. This authority, unless extended, will expire on November 30, 1974.

There were 24 provisions of substance which were the subject of conference. The House receded to the Senate in 5 instances, and the Senate receded to the House in 12 instances. In seven instances the conferees agreed on compromise language.

Mr. Speaker, it would be helpful to my colleagues if I reviewed those instances in which the House receded to the Senate.

The House conferees accepted a provision requiring that the semiannual report of the Bank describe how its rates, terms, and other conditions "compare" with those of other major foreign export-financing institutions.

The House conferees accepted a Senate provision requiring that lending by the Treasury Department to the Bank must bear interest at a rate equivalent to the Treasury's cost of borrowing for similar maturities.

The Senate conferees insisted that a House-passed provision prohibiting the financing of exports to Turkey until the President "reports to the Congress that Turkey is cooperating with the United States in the curtailment of heroin traffic" be struck. The House conferees receded on this point.

A Senate provision directing the Bank to give due recognition to the needs of small business in the operation of its programs and to designate an officer to be responsible for doing so was accepted by the House conferees.

Finally, the House conferees accepted a Senate provision requiring that the Bank shall include in its annual report a statement of progress it is making toward meeting its mandate to assist small business concerns.

Mr. Speaker, there are other, important, provisions of the conference report which constitute compromise language between the House and Senate provisions. There are four of these which I believe to be of major significance and of interest.

Under the conference report, the Bank must submit a detailed statement to Congress at least 30 days prior to final approval of any proposed transaction involving a loan of $50 million or more to any country. If the proposed loan is to a Communist country, the President must find that this is in the national interest, and he must report that determination to the Congress.

The conference report also provides for a $300 million limit on new loans and guarantees for exports to the Soviet Union, providing that this limit may be raised on a national interest finding by the President submitted to both Houses of Congress, together with a justification for a higher limit.

Another important provision of the conference report requires the Bank to report semiannually a description of each loan involving energy-related products and services and a statement assessing the impact of each such loan on the availability of such products, services, or energy supplies for use in the United States.

Finally, I believe I should point out that this legislation specifies that until such time as the Trade Reform Act is approved by the Congress and signed into law by the President, no loan, guarantee, insurance, or credit shall be extended by the Bank to the Soviet Union.

Mr. Speaker, I urge adoption of the conference report.

Mr. WIDNALL. Mr. Speaker, I rise in support of H.R. 15977.

Mr. Speaker, had I not been one of the conferees on the Export-Import Bank Amendments of 1974, I would feel free to be much more laudatory of the shrewd bargaining and cohesive effort of the House conferees on this bill. In any case, I am pleased to observe that the conference report before this body represents a successful legislative effort in extending the authority of the Export-Import Bank with a well-rounded legislative directive in carrying out the Bank's functions.

I think it is important to note also that the conference report on Eximbank should be viewed in conjunction with Export Administration Act amendments. Both are, of course, concerned with our national security and foreign policy as well as with the basic enabling of international trade and its effects on our domestic economy. The entire area of congressional policy has been reviewed in this bill.

I believe that the coordination of specifics such as the competitive nature of Eximbank's operations with its counterpart financing facilities in other countries and its relationship to private capital available here, the considerations of other economic impacts, energy-related projects and small business, and particularly the establishment of interest rates on its loans, along with the reporting requirements levied in this bill, will give the Congress a much more comprehensive opportunity to have an effect on the entire Eximbank operation.

Moreover, a system of prior notification is set up in this bill as a compromise between the House and Senate provisions which will, in effect, give the Congress an opportunity to act prospectively and not only in a remedial manner. The entire question of assistance for sales and projects in the Communist countries, the Soviet Union in particular, was the subject of intensive bargaining among the conferees and I can report that the compromise which we reached affords the broadest opportunity for trade which will be in our national interest while restricting effectively any questionable or marginal transactions.

Additional curtailment of the participation of the Soviet Union in Export-Import Bank operations is made clear in the section on the relationship to the Trade Reform Act. I believe that this bolsters the position of the House by providing a temporary measure until effective permanent legislation can be enacted.

As my colleagues well know, the Export-Import Bank has operated under a series of temporary extension since June 30 and its present authority to do business is slated to expire at the end of this month. It is imperative then that we act with dispatch to provide this needed authority to the Export-Import Bank. I can assure my colleagues that this bill represents a cohesive package which will enable the Export-Import Bank to carry out its functions in a manner mutually beneficial to our own economy and with substantial favorable international effects. Accordingly, I commend this conference report for favorable action.

Mr. ICHORD. Mr. Speaker, will the gentleman from New Jersey yield for a question?

Mr. WIDNALL. I will be glad to yield to the gentleman.

Mr. ICHORD. I understand that the conference report does contain a provision that no loan guarantee or credit shall be extended to the Union of Soviet Socialist Republics until the Congress acts on the Trade Reform Act; is that correct?

Mr. WIDNALL. That is correct; 30-day notice.

Mr. ICHORD. Is it also true, I would ask the gentleman from New Jersey, that the conference report does not raise the loan limitation of the Export-Import Bank?

Mr. WIDNALL. I believe that is true.

Mr. MINISH. Mr. Speaker, I yield such time as he may consume to the chairman of the committee, the gentleman from Texas (Mr. PATMAN).

Mr. PATMAN. Mr. Speaker, I rise in support of the conference report on H.R. 15977, to amend the Export-Import Bank Act of 1945, and for other purposes. The act provides the authority to foster the expansion of the export of goods and related services, through export credit assistance, thereby contributing to the promotion and maintenance of high levels of employment and real income and the increased development of the productive resources of our country. This authority, unless extended, will expire on November 30, 1974.

There were 24 provisions of substance which were the subject of conference. The House receded to the Senate in 5 instances, and the Senate receded to the House in 12 instances. In seven instances the conferees agreed on compromise language.

Mr. Speaker, there are few instances which I can recall in which the position of the House in conference was so successfully sustained. This is a tribute to the members of the Subcommittee on International Trade, and to its able and distinguished chairman, Mr. ASHLEY, who proved themselves so well prepared to deal with the issues in disagreement, following months of efforts to bring this legislation forward.

In closing I want to commend the House conferees—and most especially the chairman of the International Trade Subcommittee of the House Committee on Banking and Currency, the Honorable THOMAS L. ASHLEY—for the long hours and hard work devoted to this subject.

He and the members of the subcommittee, all of whom participated as conferees, are to be commended for their efforts in bringing back to the House a bill which overwhelmingly represents the position of the House on this subject.

Mr. MINISH. Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I wish to extend my thanks to the chairman of the full committee, the gentleman from Texas (Mr. PATMAN), for the generous and kind remarks he has offered.

I wish also to thank my very good friend, the gentleman from New Jersey (Mr. MINISH), for the help he has given me.

Mr. Speaker, this is important legislation which has been the subject of lengthy consideration and deliberation. It faithfully reflects the will of the House and merits adoption.

The Export-Import Bank must continue to expand its support to the American export sector, but it must do so under changed conditions and with a new sense of direction which the legislation signals. The $5 billion increase in lending authority which this bill provides is needed and needed now. At the end of fiscal year 1974 the Bank had for the first time actually used the congressionally approved budgetary limit set on loans for that year. This meant that for the first time projects on the order of $700 million were carried over into the new fiscal year.

It has become clear that the additional billions we will have to pay for imported oil will bring us into a substantial deficit for 1974 even though we have been increasing our agricultural and capital goods exports by substantial amounts. To avoid a rising trade deficit and a cheapening of the dollar, it will be essential for us to expand the trade surplus we have been achieving in machinery and transport equipment.

Deteriorating trade accounts have emerged in Europe, Japan, and in most of our best markets in the less developed world. As other nations see their monetary reserves falling as a result of higher oil import costs, they are pushing their exports harder, just as rising import prices have increased our need to export.

All of this increases the needs of American industry for the services of the Export-Import Bank. The attractiveness of the credit offered by various countries will be a much larger factor in sales competition. The conference report provides the tools and the policy guidance appropriate for the functioning of the Export-Import Bank at this time and in the years immediately ahead.

Mr. VANIK. Mr. Speaker, I have long been concerned about many of the Export-Import Bank's policies. I do not understand their heavy loans for foreign oil and mineral development when we so desperately need energy capital here at home. American international airlines are in serious trouble—yet the Bank persists in helping foreign state airlines buy aircraft at low interest rates.

During the debate on the Export-Import Bank extension legislation this summer, I was particularly offended by the extraordinary degree of lobbying conducted by the Bank. It was obvious that a number of Bank officials had been assigned to the task of lobbying individual Members. It is probable that the expense involved in this lobbying ran into the tens of thousands of dollars.

I am well aware that when an agency's bill is being considered by the Congress, representatives of that agency are "available" to help answer questions, provide information, and generally "puff" the merits of their agency. These civil servants may even sit in the galleries during the debate to "watch" how things are going.

But the lobbying carried on by the Eximbank far exceeded this.

I believe that officials of the Bank may have violated the Criminal Code, title 18, section 1913, prohibiting unsolicited legislative lobbying by Government officials.

As a result, on September 13, I requested a General Accounting Office investigation of the Bank's lobbying activities. The GAO's report is not yet available—largely because the Bank has not been zealously responsive to the GAO. I find this delay most objectionable. I believe it may be part of the Bank's continuing effort to avoid "bad publicity" prior to the passage of the conference report before the House today. I was not going to comment on this matter until the GAO report was available—but I think that the Members should know that there are serious questions involving activities of members of the Bank's staff.

I believe that the General Accounting Office report will certainly lead to legislative recommendations and data which I am sure will be of interest to the Appropriations Committees.

Following is a copy of my letter to the General Accounting Office:

SEPTEMBER 13, 1974.

Hon. ELMER B. STAATS,
Comptroller General, General Accounting Office, Washington, D.C.

DEAR MR. COMPTROLLER GENERAL: In reviewing the events surrounding the passage by the House of Representatives of H.R. 15977, the Export-Import Bank Act of 1945, I believe that there have been violations of Title 18 of the United States Code, section 1913, relating to legislative lobbying by government officials.

I would like to request the General Accounting Office to determine whether there has been a violation of 18 USC 1913 by any officials of the Export-Import Bank. If so, I request that the GAO transmit its findings to the Department of Justice so the appropriate fines, sentences, and job terminations may be affected.

In investigating this matter, I would hope that the GAO could provide answers to the following questions:

1) Does the Export-Import Bank fall under the coverage of 18 U.S.C. 1913? While the Bank is outside of the Budget, its expenditures and authorization are controlled by the Congress and it would certainly be my feeling that the section applies to the Bank.

2) How many Bank employees were assigned to work on the passage of the Bank's authorizing legislation? How many man-hours were devoted to this lobbying effort? Who is it liable for this decision?

3) How many unsolicited telephone calls were made to offices of Members of Congress? Even though I had long made clear my opposition to many features of the Export-Import legislation, my office received three unsolicited telephone calls from individuals identifying themselves as representatives of the Export-Import Bank. I regret that my staff people who took the calls did not register the names of the persons calling. The first call was approximately two weeks before the vote. The caller assured my staff person that if I had any questions or concerns about the legislation, the Bank would be happy to answer my questions or provide information. The second call was of a similar nature. The third call informed my secretary that the Export-Import Bank bill was coming up on the floor of the House. The caller "wondered" if I was on the floor, and if not, expressed the hope that I would be able to attend the floor debate.

4) What written communications were made by the Bank to Members of Congress? Prior to debate, I received an unsolicited letter from the Bank listing all the loans which had been made in recent years to companies in my Congressional District. Was this done for all Members? If so, at what cost? Was this a regular mailing? Was it not timed to coincide with the House debate?

5) Did any one at the Bank contact major American exporting companies, or lobby groups requesting that they write to Members of Congress in support of the Bank? Prior to the vote, a number of major American companies wrote to my office urging the support of the legislation.

6) What Bank officials came to the House to lobby for passage? During the debate on the bill, I walked out the East Door of the House. I observed a man who was identified to me as Chief Counsel of the Bank and two staff aides were present and calling Members off the floor. Was their aid and assistance solicited or unsolicited?

7) In sum, how much money was spent on this lobbying effort?

Thank you for your assistance in this inquiry.

Sincerely yours,
CHARLES A. VANIK,
Member of Congress.

Mr. MINISH. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. DELANEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file privileged reports.

The **SPEAKER.** Is there objection to the request of the gentleman from New York?

There was no objection.

PRIVACY ACT OF 1974

Mr. **MURPHY** of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1419 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES 1419

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16373) to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. **MURPHY** of Illinois. Mr. Speaker, I yield 30 minutes to the minority, to the distinguished gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1419 provides for an open rule with 1 hour of general debate on H.R. 16373, the Privacy Act of 1974.

House Resolution 1419 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule.

H.R. 16373 permits an individual to have access to records containing personal information on him kept by Federal agencies for purposes of inspection, copying, supplementation and correction, with certain exceptions, including law enforcement and national security records.

H.R. 16373 also allows an individual to control the transfer of personal information about him from one Federal agency to another for nonroutine purposes by requiring his prior written consent.

H.R. 16373 also provides a civil remedy by individuals who have been denied access to their records or whose records have been kept or used in contravention of the requirements of the act. The complainant, if successful, may recover actual damages and costs and attorneys fees, if the agency's infraction was willful, arbitrary or capricious.

Mr. Speaker, I urge the adoption of House Resolution 1419 in order that we may discuss, debate, and pass H.R. 16373.

Mr. **DERWINSKI.** Mr. Speaker, will the gentleman yield?

Mr. **MURPHY** of Illinois. I will be happy to yield to the gentleman from Illinois.

Mr. **DERWINSKI.** Mr. Speaker, I had a number of questions about this rule and the bill, but the gentleman from Illinois (Mr. MURPHY) described it in such a truly effective fashion that I at this point do not have any questions.

I commend the gentleman for the scholarly presentation.

Mr. **MURPHY** of Illinois. I thank the gentleman for that comment.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. LATTA).

Mr. **LATTA.** Mr. Speaker, this rule, House Resolution 1419 provides for the consideration of H.R. 16373, the Privacy Act of 1974. There will be 1 hour of general debate on the bill and it will be open to all germane amendments. In order to preserve the normal amending process, the rule makes the committee substitute in order as an original bill for the purpose of amendment.

The general purpose of H.R. 16373 is to protect the privacy of individuals by regulating the Federal Government's collection and use of personal information.

The bill includes provisions to do the following things: (a) The bill permits an individual to have access to records containing personal information on him kept by Federal agencies for purpose of inspection and correction, with some exceptions, such as national security and law enforcement records. (b) The bill will make known to the American public the existence and characteristics of all personal information systems kept by every Federal agency. (c) The bill prohibits any Federal agency records from including information on political and religious beliefs unless authorized by law or the individual himself. (d) The bill provides a civil remedy by individuals who have been denied access to their records or whose records have been kept or used in violation of this act. The plaintiff may recover actual damages and costs and attorney's fees if the agency's violation was willful, arbitrary or capricious. (e) The bill provides that anyone who obtains a Federal record containing personal information by false pretenses is subject to a fine up to $5,000.

Mr. Speaker, I would like to point out that on October 9 the President sent a message up here in which he stated as follows:

> H.R. 16373, the Privacy Act of 1974, has my enthusiastic support, except for the provisions which allow unlimited individual access to records vital to determining eligibility and promotion in the Federal service and access to classified information. I strongly urge floor amendments permitting workable exemptions to accommodate these situations.

The cost of implementing this bill is estimated to be between $200 million and $300 million a year, with a one-time "start up" cost of $100 million.

Mr. **MURPHY** of Illinois. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Ms. **ABZUG.** Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16373) to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies.

The **SPEAKER.** The question is on the motion offered by the gentlewoman from New York (Ms. ABZUG).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 16373, with Mr. BRADEMAS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The **CHAIRMAN.** Under the rule, the gentleman from California (Mr. HOLIFIELD) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. HOLIFIELD).

Mr. **HOLIFIELD.** Mr. Chairman, I yield 9 minutes to the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. **MOORHEAD** of Pennsylvania. Mr. Chairman, it is with a deep feeling of honor and pride that I present to the House of Representatives today H.R. 16373, "The Privacy Act of 1974."

Like the Freedom of Information Act, this bill is also totally bipartisan. It was approved by the Committee on Government Operations by a unanimous rollcall vote of 39 to 0. It has the enthusiastic support of President Ford except on one point which the House itself will resolve when an amendment is offered on the floor. More important, I sincerely believe such legislation has the widespread support of the American people. I believe they want us to act on this bill without delay.

It seems to me that the events of the past several years have a lesson in them. Americans want to see more credibility in Government, and they want to see the removal of any undue Government power which could be used to invade their personal privacy.

This landmark legislation, H.R. 16373,

is a first step in that direction. It is in total harmony with the spirit of the Constitution. It gives individuals as a matter of right some meaningful control over how the Federal Government utilizes personal information about them.

H.R. 16373, when passed and signed by the President, will be the first comprehensive law dealing with the right of privacy of the individual citizen.

At the outset, I should state that this bill affects only personally identifiable files or systems of files held by the Federal Government. It does not seek to regulate those files maintained by State or local governments or by private entities.

Although this bill appears complicated on its face, it breaks down into four straightforward provisions: First, notice; second, access; third, regulation of disclosure, and fourth civil and criminal remedies.

NOTICE

Basically the bill provides that each and every system of records, as defined by the act, shall be made public by notice in the Federal Register. This notice shall list the essential characteristics of the system, the categories of persons to which it applies, its physical characteristics, the uses to which it is put, and the person responsible for its maintenance and operation.

ACCESS

Each individual shall be given access to his record within the system on his request, with the exception of files related to criminal investigations or national security. Along with access to the file, the individual concerned shall have the right to challenge inaccurate information and supplement the file to explain or contradict inaccuracies.

DISCLOSURE

Disclosure of the information by the agency holding the file shall be limited to those disclosures which are of the type previously announced in the Federal Regitser. Other disclosures of a "nonroutine nature" may be made only upon the prior written informed consent of the individual concerned.

REMEDIES

Civil damages are available to individuals who are injured by determinations made on the basis of inaccurate or incomplete records and criminal penalties are provided for illegal disclosure by Government employees, or fraudulent access by individuals.

I am going to say something very important now, especially in light of disclosures during the last week or so on the Federal Bureau of Investigation and the Internal Revenue Service. H.R. 16373 also prohibits the Government from keeping secret personal information systems and collecting records on political and religious beliefs. This proposed statute would thus provide greater safeguards for protecting the lawful exercise of first amendment rights.

The remainder of the provisions of the bill are designed to provide the legal teeth to enforce these rights and limitations. Special provision is made to protect America's legitimate and legally authorized interests in national security and law enforcement.

We have tried to tailor this bill so that it will protect individual rights and at the same time permit the Government to operate responsibly and perform its functions without unjustifiable impediments.

As a result, we think it will go a long way in restoring confidence by the American people that Government is indeed responsive and sensitive to individual rights. Simply put, this legislation will demonstrate that Congress is determined that Government will act as the servant of the people and not its master.

Under a key provision of this bill, no Federal agency shall disclose any personal information record to another agency or person unless this action is done by request of the individual or with his prior written consent.

An exception is permitted in the case of routine transfers, such as when the Social Security Administration instructs the Treasury to issue a benefit check.

Thus routine transfers of personal information will be permitted between agencies so that the regular business of Government can proceed without delay. Nonroutine transfers, however, are another matter. In those cases, the prior written consent of the individual will be required by law.

What is a nonroutine transfer? That is a transfer of personal information used for a different purpose than for which it was originally collected. This in itself is going to stop a lot of hanky-panky. It will make it legally impossible for the Federal Government in the future to put together anything resembling a "1984" personal dossier on a citizen.

It means interagency computer data banks will not be able to share personal information unless the data is truly a routine transfer where its general use has already been made known to the individual and his consent obtained.

The consent requirement and other provisions of the bill are backed up with criminal and civil penalties. This also will help protect Americans and at the same time give Government officials a good reason to say "no" to any improper requests from anyone for personal information on any other American.

This legislation also requires that Federal agencies, in making determinations on individuals, utilize records which are accurate, relevant, timely, and complete. This assures fairness to the individual and, in our view, is going to result in much better decisions by Government officials.

Senator Ervin has referred to the situation existing now as "the Government's voracious appetite for personal information about each of us."

His subcommittee reported that the Federal Government has at least 858 data banks of which 741 were computerized. Although 93 agencies did not report the number of records kept, those which did, reported a total number of records kept as 1 billion, 245 million individual records or an average of almost 6 records for every man, woman, and child in America.

When such information is stored on tape it is easily transferred from one user to another.

The potential danger to individual freedom is so great that it is easy to understand why the concept of legislation to protect the privacy has support from a broad spectrum of political and philosophical beliefs.

I think the Members should be aware of the fact that in the event of the failure of Congress to act on this legislation, the President intends to issue an Executive order which would put a similar privacy system into effect. However, it would lack the necessary civil remedies and criminal penalties to provide our citizens with adequate redress. Besides, this task is a congressional responsibility and I think you will agree, we should face up to it.

On another matter, our subcommittee has received numerous phone calls from State tax commissioners asking whether their tax information transfer agreements with the U.S. Internal Revenue Service will be harmed by this bill. The answer is "no," because I am certain the Treasury Department will publish that type of activity as a "routine transfer" permitted under this bill and other statutes.

My colleagues, H.R. 16373 actually is the result of an awareness of the problems of invasion of privacy which began growing more than a decade ago when the House Committee on Government Operations started its initial investigations into this subject. Other committees also discovered what these problems are.

A lot of water has passed under the bridge since then. The Nation has survived numerous major and minor "floods." It is now time to build a strong dam to make certain we are not endangered again. I beseech you to support this bill and implement the Constitution, as we have a duty to do.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank the gentleman for yielding. With reference to the gentleman's statement that this would keep the Government from maintaining records as to political beliefs, would this bill prevent the Federal Bureau of Investigation from maintaining a list of Communist Party members or people who belong to organizations which are dedicated to the violent overthrow of the Government, or anything of that sort?

Mr. MOORHEAD of Pennsylvania. Lawful criminal investigations of that type would be exempt from the bill, but normal dissidents, exercising first amendment rights, would be covered.

Mr. DENNIS. If it hinged on the criminal field, it would come under the exemption which was referred to earlier?

Mr. MOORHEAD of Pennsylvania. The gentleman is correct.

Mr. DENNIS. And would the gentleman agree that if it dealt with individuals or organizations dedicated to the violent overthrow of the Government, that that would fall within the criminal exemption?

Mr. MOORHEAD of Pennsylvania. Anything that falls within the criminal exemption is taken care of. We have tried to prepare it very carefully.

Mr. DENNIS. Activity dedicated to violent overthrow of the Government would fall under criminal exemption, would the gentleman agree with me on that?

Mr. MOORHEAD of Pennsylvania. Yes. That is what I am saying.

Mr. DENNIS. I thank the gentleman.

Mr. HOLIFIELD. Mr. Chairman, I yield 5 minutes to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Chairman, this is indeed a landmark piece of legislation. H.R. 16373 regulates the collection, maintenance, and use by Federal agencies of information pertaining to individuals. It is a very significant first step in an attempt to guarantee the right of privacy to all Americans. It is the product of many, many months of hard work, and of many bills that have been before the Congress which the committee has considered in great depth. Much credit is due to my colleague, Mr. MOORHEAD of Pennsylvania, the chairman of the Foreign Operations and Government Information Subcommittee, and to that subcommittee's staff members for the months of diligent effort in the drafting of this significant legislation. The bill which has been reported out of the committee is a good bill, but I believe it is a bill which requires some additions and changes to strengthen it. The amendments which I plan to offer today in connection with this bill are amendments which would have been brought before the full committee, but, in order to expedite the consideration and the bringing of the bill to the floor of the House, they were left for floor action. So, although I support the bill and, indeed, have been the author of one of the bills before the committee, along with the gentleman from New York (Mr. KOCH) and the gentlemen from California (Mr. GOLDWATER) who also had bills which were considered by the committee, I feel that there have to be some improvements.

There are three basic weaknesses in the bill: the numerous and unjustified exemption provisions, the failure to provide either liquidated or punitive damages, and the lack of any administrative mechanism to oversee the implementation of the bill.

First, exemptions from the provisions of this bill or of any bill designed to protect individual rights of privacy can be justified only in the face of overwhelming societal interests. There are, at most, only three areas where societal interests can be paramount to the individual rights provided in this bill: First, where granting an individual access to his or her records would seriously damage national defense or foreign policy; Second, where such access would interfere with an active criminal prosecution; and Third, where records are required by law to be maintained for statistical research or reporting purposes and are not, in fact, used to make determinations about identifiable individuals.

It follows that exemptions should relate to the type of data sought to be protected from disclosure, not to the agency maintaining such records. For this reason, I will offer amendments to eliminate the general agency exemptions provided in the bill for the CIA and the Secret Service.

I will also support an amendment to provide for the assessment of punitive damages in cases of willful, arbitrary, or capricious violation of the bill and for actual damages in cases of negligent violations. These provisions were stricken in the full committee, and, as a result, an individual who may have suffered by violation of the act must now prove not only actual damages but that such damages were caused by willful, arbitrary, or capricious agency action. I believe that these two stricken-out provisions must be restored to the bill to provide, as the bill in the other body does, for actual damages to compensate for any violation of the act and for punitive damages to compensate for any willful, arbitrary, or capricious violation. If this is not done, there really is no adequate remedy at law.

I will also support an amendment which I brought in the committee to establish a Federal Privacy Commission. Without such a commission, we have no assurance that agencies will not be motivated by mere whim or convenience in divulging or withholding information.

We would be more than naive if we failed to recognize that individual Federal agencies cannot be expected to take an aggressive role in enforcing privacy legislation. Enforcement of the provisions of this bill will be secondary to each agency's legislative mandate and will, of necessity, cause additional expense and administrative inconvenience. Only by providing a separate administrative agency with authority for implementing this legislation and for coordinating the privacy programs of the various Federal agencies can we be assured of uniform, effective enforcement of the rights guaranteed by this bill.

I would hope that we will support this bill with the amendments proposed. I think that will be the beginning of an important first step in the protection of the right of privacy.

Mr. ERLENBORN. Mr. Chairman, I yield myself 5 minutes.

Mr. ERLENBORN. Mr. Chairman, I rise in support of the Privacy Act of 1974, H.R. 16373. I think it is rather fitting that this bill comes to the floor today on the same day that we considered a motion to override and have overridden the President's veto on the Freedom of Information Act.

The Subcommittee of Government Operations, known as Foreign Operations and Government Information, is the parent subcommittee of both bills, the Freedom of Information Act and now this new Privacy Act. It has been quite an effort to walk a tightrope in the one bill to provide the maximum access to information on the part of the public, and in the other bill to limit access to protect an individual's privacy.

There has been a tendency, I think, to view these often as conflicting, but I think that we have successfully walked that tightrope and have, in both of these pieces of legislation, very important landmark legislation for open government, and yet the protection of individual rights.

The Privacy Act of 1974 does several things that I am sure will be delineated and explained by the several Members who will be engaged in debate. Generally it requires that when the Federal Government does maintain a system of records pertaining to individuals, it must identify publicly those systems of records. There will no longer be the ability within Government to maintain secret systems.

Not only in the past has this been done for any nefarious purpose, but the system of records may be instituted and maintained and the public just not know about it.

So that is the first thing that will be done: identify the systems of records and make public the fact that such records are being maintained.

Second, again a public record would be made of the purpose for which the system is being maintained. Then we would limit in the bill access to these records for those purposes so that information contained in those systems would be used only for those routine purposes, and unless the individual about whom the information related agreed to its use for other than routine purposes, it could not be so used.

It could be used then only for the routine purposes. This limits the purpose and the use of these information systems to the public purpose which has been made known, the purposes identified in the Federal Register.

Third, we provide for access by individuals to information in these record systems pertaining to himself or herself, so that a person about whom information has been collected will have an opportunity to get a copy of that information and to see if it is accurate and will have the procedure where he can request the amendment of the information to make it accurate and will have an opportunity if the information is misused under the terms of the act for recourse in a civil action through the courts.

In addition criminal penalties are provided for people within Government who violate the terms of the Act in making information available that they should not, thereby invading the privacy of the individuals about whom the information is maintained and also criminal penalties for those who would seek and obtain illegally this information.

I think this is truly landmark legislation. It has been very difficult to draft because of the varying systems and the varying purposes for the systems within the Federal Government. We were of course at times importuned to expand this to all record systems, not just of the Federal Government but of States and local governments and also in the private sector. I think if we had done so we would have bitten off more than we could chew.

I think we have here maybe a modest

beginning in the field of privacy but we have an important piece of legislation affecting only Federal Government systems.

We generally exempt from the provisions of this bill the law enforcement proceedings, systems for the criminal justice system, and other committees of Congress will be turning and already have turned their attention to this criminal justice field.

There is one amendment that I hope will be adopted. Several will be offered and I will offer one amendment and I hope it will be adopted and I think it is crucial in making this a workable bill. The bill as it has been reported by the committee and is before us today will open up all preemployment and security clearance files retroactively as well as prospectively. Just think of this. In the past years there have been implied and expressed promises of confidentiality given to people who have been asked to make statements concerning the security clearance investigation or preemployment investigation for those who would be employed by the Federal Government, appointed to Federal office, or Federal contractors engaged in defense work, let us say. These promises of confidentiality would be violated by this bill because the bill would mandate opening up these files so that the person about whom the investigation was conducted would have access to the files and find out who said what about them.

In the name of privacy we would be violating the privacy of those who have given such statements in the past. I think we have to strike a balance and see that we cannot violate the privacy of individuals by the very bill that is supposed to be the bill of rights for individual privacy.

The amendment I will offer was discussed in an editorial in the Washington Post this morning inaccurately. They say my amendment would close these preemployment and security files. It would not.

Mr. Chairman, the amendment that I will offer will make all of the information in these files available to the individual about whom the investigation has been conducted, except that information which would reveal the identity of a person who has under a promise of confidentiality given information contained in the file. Even the Washington Post editorial suggested that other legislation in the field of credit, the Fair Credit Reporting Act, had struck a good balance here by saying it is to protect only that information which would reveal a confidential source. They seem to think that was a good way of protecting both individuals' privacy. That is exactly what the amendment that I will offer will do. It will protect only those sources that have given information under a promise of confidentiality.

In addition, the Office of Management and Budget has assured me that regulations will be adopted in the future so that only in the most compelling circumstances will a promise of confidentiality be given. It will not be the customary thing to make these promises of confidentiality, so that most all of the information will be made available.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. For the purpose of making legislative history, I should like to ask about the impact of this legislation as it affects one aspect of the current law.

I currently represent an area which at one time was represented by one of our predecessors in the Congress, the illustrious Jackson Betts, who was very concerned about the confidentiality of the Bureau of Census information.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ERLENBORN. I yield myself 2 additional minutes.

Mr. BROWN of Ohio. Mr. Chairman, the Bureau of the Census has a singular and highly commendable record of scrupulous protection of the confidentiality and privacy of census data about individuals and about businesses.

This is a matter of concern to every American, and the integrity of such information is essential to the public trust which is in turn essential to the accuracy of census findings.

These census findings provide the factual bases for: First, countless governmental and private decisions which profoundly affect the economy, second, equity and fairness in revenue sharing measures, and third, the determination of representation in the Congress.

The continuing confidentiality of such census information is mandated by statute—section 9 of title 13 of the United States Code—as affirmed by repeated Presidential proclamations.

It is true that neither the purpose nor effect of subsection (b) or (1) or of any other provisions of section 562a as set forth in this bill are to modify or relax in any way the safeguards of title 13?

Mr. ERLENBORN. Mr. Chairman, the answer to the gentleman's question is that this bill in no way would diminish the protection provided by law for census data.

Mr. BROWN of Ohio. I wonder if the gentleman would yield further so that I might receive the concurrence of the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. ERLENBORN. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. I agree with the remarks of the gentleman from Ohio and with the gentleman from Illinois.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Indiana.

Mr. DENNIS. I would like to make reference to the question of criminal records, publication of criminal records, which are generally exempted from the bill, as I understand it.

The gentleman said a moment ago that those records are the subject of pending special legislation, and obviously those are very sensitive records and present a peculiar problem, and the subcommittee of the Committee on the Judiciary, chaired by the gentleman from California (Mr. EDWARDS) and of which the gentleman from California (Mr. WIGGINS) is the ranking minority member, has special legislation on that subject now before it. That subcommittee is tied up in a meeting today on a very important matter that the members of the subcommittee could not avoid, and hence they are not on the floor; and they have asked me to bring the matter up and express the strong hope that the House adopt no amendment that would impinge on that situation and would include criminal records in this bill.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may consume to the ranking member of the Committee on Government Operations, the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Chairman, I rise in support of H.R. 16373, the Privacy Act of 1974.

Having served as a member of the Special Subcommittee on Invasion of Privacy of the Committee on Government Operations some 10 years ago, I have a particular interest in the subject of personal privacy. During my 5 years of service on the Foreign Operations and Government Information Subcommittee, I participated in several investigative hearings into this important area. Today, as ranking minority member of the Government Operations Committee, I am very happy to lend my strong support to a bill which insures that Federal Government agencies protect individuals' rights to privacy when dealing with information about people.

The bill does this in two ways:

First, it mandates that agencies disclose an individual's records to other persons or other agencies only with the written consent of that individual, unless the disclosure would be for a purpose which had been endorsed by the Congress or published in the Federal Register. Whenever the Government asks someone for information about himself, according to the bill, it would have to inform him of the disclosures which had been published as permissible.

Second, the bill provides that individuals shall have access to all Government records maintained about them, and shall have the right to petition agencies to correct any misstatements in those records. Agencies would have to make the changes requested or note on the records that the changes had been sought, but that the Government disagreed with them.

All Federal records pertaining to individuals would be covered by these provisions, except for national security information, investigatory material compiled for law enforcement purposes, other criminal justice records, Secret Service and CIA files, and statistical data.

To make sure that Government agencies fulfill their responsibilities under this legislation, the bill permits individuals who are injured by Government agency's failure to comply with the law to bring suit against the agency in Federal court. A successful complainant could be awarded actual damages and attorney's fees by the judge.

Mr. Chairman, this is landmark legislation in an area of concern to all Americans. I urge its enactment.

Mr. ERLENBORN. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, as a cosponsor of this legislation, I am indeed gratified that it is finally receiving the floor consideration which it should.

I want to commend the chairman of our subcommittee, the gentleman from Pennsylvania (Mr. MOORHEAD); the ranking member, the gentleman from Illinois (Mr. ERLENBORN); and, in particular, the gentleman from California (Mr. GOLDWATER), the gentlewoman from New York (Ms. ABZUG), and the gentleman from New York (Mr. KOCH) who are also cosponsors of this legislation. They have been a driving force toward its consideration and in bringing it to the point where we find it at this moment.

The chairman of the subcommittee has very well outlined exactly what this legislation does. It is long overdue. This is the kind of attention that Government records have needed for some period of time. I think matters which we consider routine and perfunctory are very often hidden under agency directives, rules, and regulations, and we assume what is normal to us on the Hill to be what is normal throughout the Federal Government.

Increasingly, as the society and the Government have grown more complex, the maze of Federal activity and regulation have intensified, and the individual citizen has had to make increasing concessions to the imperatives of the Federal bureaucracy. The quantity of Federal paperwork alone, for example, has reached such proportions, that the House felt the need last month to authorize the establishment of a Commission on Paperwork to study the problem and find ways of reducing the burden which bureaucracy imposes on the citizen.

The level of regulatory activity which touches on the lives of individual citizens has also increased. Seat belt standards, now repealed, safety and health standards, labeling and advertising standards, while important Government tools to correct serious problems we have, all intrude on the freedom of the individual in some small way.

Certainly the demands of a complex technological society call for some concessions, but we have before us today an opportunity to help balance the recent trend of legislative activity by enacting legislation to help restore individual rights and individual privacy. This bill imposes limits on what the Government can do with individual data, and it imposes obligations on the Government to the subjects of the data, and in doing so it helps to maintain the balance of individual freedom and privacy which we all cherish.

Symbolic of this balance is the controversy over the use of social security numbers for identification purposes. While such a proposal may make sound technological sense, to many citizens it implies removal of an important element of their privacy and individuality. This question is not dealt with in this bill, but some of the same principles are—the right of the individual to maintain his privacy and personal identity.

Beyond these questions of principle, the bill also has substantive significance for many citizens who feel, rightly or wrongly, that they have not received a "fair deal" from their Government.

Mr. Chairman, I would like to quote the experience which one veteran had in regard to the Veterans' Administration. He was unable to obtain compensation and relief for injuries he had received while serving his country abroad, and yet he was unable to look at his records in the Veterans' Administration files. He finally had to obtain legal counsel in order to get access to his files, and he found the reason the Veterans' Administration had denied his obvious need was because certain records that were in his file actually belonged to another veteran who had a similar name.

This may seem to be a very small thing, but this is the type of action which can occur in situations when we in Congress have not enacted regulations to provide for the overseeing of Federal records, which can sometimes be buried under a lot of bureaucratic redtape which denies the citizen the access to which he is entitled.

Mr. Chairman, I am going to offer two amendments to this bill at the appropriate time. They are amendments which I was unable to offer in the committee, because of the pressure of business when we were reporting the legislation to the floor. The first has to do with medical records.

This first amendment would clarify one item that I believe to be ambiguous in intent, in restricting the circumstances under which individuals would be granted disclosure by Federal agencies. It was the intention of the committee to exclude information which would be vital to the health or safety of an individual.

I believe that the current language in the bill is vague in this regard, in that it would permit such disclosures without prior permission, unless it is an emergency case. It does not make clear to whom the information would be disclosed.

The second amendment I would offer is one that would establish a Privacy Commission, which I believe is a vital necessity if the privacy legislation we are enacting is to become a meaningful statute. Clearly, the enactment and maintenance of successful privacy standards would hinge on the degree of cooperation provided by Federal agencies which have to implement the program.

The Privacy Commission which I will propose will coordinate and assist in these efforts, and it would be an important goal for gaining the necessary agency cooperation in order to make this legislation meaningful in the service of American citizens.

Mr. Chairman, I will offer these two amendments at the appropriate time.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I will be glad to yield to the chairman of the full committee.

Mr. HOLIFIELD. Does the gentleman's amendment of the privacy bill follow the words of the Senate provision?

Mr. GUDE. I have not compared them word for word, Mr. Chairman, but I believe it does.

I urge the passage of this legislation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. ALEXANDER), a member of the subcommittee.

Mr. ALEXANDER. Mr. Chairman, on June 19, following hearings on the Federal Government's use of telephone monitoring and lie detection devices conducted by the Subcommittee on Government Information, I stated that it appears our Government has been overcome by a snooping mania and that we must find the medicine to cure this disease. H.R. 16373, the Privacy Act of 1974, is a good dose of such medicine.

I was alarmed to discover in those hearings that it is literally possible to have every home in America bugged.

Mr. Chairman, I am convinced that Americans do not want to be a part of one big party line. If present Government preoccupation with spying on its citizens continues, George Orwell's fictional fishbowl existence and "Big Brother" era in his book "1984" may very well occur.

H.R. 16373 provides basic safeguards for the individual to help remedy the misuse of personal information by the Federal Government, and reasserts the fundamental rights of personal privacy that are derived from the Constitution. At the same time, it recognizes the legitimate need of the Government to collect, store, use, and share among various agencies certain types of personal data, but under a framework of law to protect the citizen.

Like the Freedom of Information Act Amendments, H.R. 16373 also recognizes that certain areas of Federal records are of such a highly sensitive nature that they must be exempted from some of its provisions.

The Privacy Act provides for the exercise of civil remedies by individuals against the Federal Government through the courts to enforce their rights. Provision is made for the actual collection of damages by the individual against the Government if the infraction was willful, arbitrary, or capricious. Penalties are also provided for the unauthorized knowing and willful disclosure of identifiable material by a Government officer or employee by a fine of not more than $5,000. Criminal penalties and fines would also be imposed on persons requesting or obtaining any such individually identifiable record under false pretenses.

The bill attempts to strike that delicate balance between two conflicting and fundamental needs—on the one hand, the need for a maximum degree of privacy and control over personal information the individual American furnishes his Government, and, on the other hand, the need for information about the individual which the Government finds necessary to carry out its legitimate functions.

Over 40 years ago, Supreme Court Justice Louis Brandeis, in his famous dissent in the case of Olmsted against United States, said:

> Every unjustifiable intrusion by the government upon the privacy of the individual whatever the means employed, must be deemed a violation of the fourth amendment.

He further stated in terms relevant to current wholesale abuses of power that:

> Experience should teach us to be most on guard to protect liberty when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasions to their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding. . . .

Let us talk a moment on the concept of privacy. Privacy is the ability to be confident of security in our homes, persons, and papers. It is not only the bedrock of freedom. Privacy is the very essence of democracy. If we cannot speak or transact business without being snooped on by hordes of bureaucrats—we soon will not be able to speak or transact business without government permission.

In my opinion, events in recent years have brought about a chilling effect on the exercise of first amendment rights. It is now time for a defrosting. Every American must insist that government is the servant of the people—not our master.

In his first speech as Chief Executive, President Ford pledged his personal and official dedication to the individual right of privacy, in declaring that "there will be hot pursuit of tough laws to prevent illegal invasion of privacy in both government and private activities."

H.R. 16373 is a first step in that pursuit. I strongly urge my colleagues to support this legislation.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. HUDNUT).

Mr. HUDNUT. I thank the gentleman for yielding.

Mr. Chairman, I rise in suport of H.R. 16373, the Privacy Act of 1974. While there will be amendments offered to strengthen this bill, I feel the Committee on Government Operations has done a good job in bringing this legislation before us. There is a great need for statutory guidelines to protect the privacy of individuals by regulating the Federal Government's collection, maintenance, use, or dissemination of personal, identifiable information.

In this computer age, it is easy to obtain informaton about an individual and along with many others I am concerned over the extent to which citizens' privacy is being invaded. We see this in the accumulation of personal data in computer banks and other such means which constitute a threat to the privacy of every American citizen. There are some who look upon individual tax returns as the greatest source of such information.

Earlier this year I cosponsored a bill (H.R. 10977) to provide further restrictions on accessibility to individual tax returns. The assurance provided the American people that information voluntarily given on tax returns will be carefully protected from disclosure and improper use is one of the basic concepts underlying this country's system of collecting taxes and I want to assure that protection. I am hopeful that the Ways and Means Committee will take specific action on that measure.

In the meantime, H.R. 16373 provides a series of basic safeguards for the individual to help remedy the misuse of personal information by the Federal Government and reassert the fundamental rights of personal privacy of all Americans that are derived from the Constitution of the United States. At the same time, it attempts to strike that delicate balance between the right of individuals for a maximum degree of privacy over the personal information he furnishes his Government and the need of the Government for information to carry out legislative functions.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I thank the distinguished minority member on the subcommittee, the gentleman from Illinois (Mr. ERLENBORN) for allowing me the privilege of speaking in favor of this particular legislation before us today, which has been long in coming and long overdue.

This particular piece of legislation is the result of a strong bipartisan effort in the House of Representatives. The efforts of my colleague, the gentleman from New York (Mr. KOCH) in behalf of an individual's right to privacy, are well known and were extremely important in the preparation of this legislation. Equally significant were the efforts of the members and the staff of the Subcommittee on Foreign Operation and Government Information of the Committee on Government Operations and, particularly, the subcommittee chairman, the gentleman from Pennsylvania (Mr. MOORHEAD) who was most diligent in pursuing this very difficult task, and who was assisted quite ably by the ranking Republican member, the gentleman from Illinois (Mr. ERLENBORN). They are both to be commended for this excellent piece of legislation.

This legislation, as I said, has been long in coming, and is only here today because of the persistent efforts of not only members of the Committee on Government Operations, but also many Members of the House of Representatives, as well as Members of the other body, not to mention the private sector, educators, members of private organizations, and just plain people, and it certainly would be most fitting to mention the fine efforts by our President of the United States, Gerald R. Ford, and his Committee on the Right of Privacy.

Mr. Chairman, my concern for privacy is a long-standing one. The right to privacy is a derivative right. It is not specifically mentioned in the Constitution, as are the general rights of life, liberty, and the pursuit of happiness, nor is this subject mentioned in the Bill of Rights. But none of these would have had the content that we know them to have without the element of privacy being present. It is an essential, inherent element of our inalienable rights.

The concern for protecting personal privacy as it relates to personal information is fairly recent in its origin. The rapid growth of our population and the rise of massive urban centers, the advent of modern communication and electronic technology, and the rise of the computer, have brought a basic change in our society. Massive amounts of personal information can be conveniently and economically collected, stored, and used. The individual is no longer directly involved in the modern personal information transaction process. Many information practices have been developed and adopted because they were convenient, technologically feasible, and cost-effective. The individual actually became an impediment in these new processes. As he began to protest his exclusion and try to protect himself from the injury and damage that occasionally resulted, he found he had no legal rights to fall back on.

Mr. Chairman, the Federal Government has a relentless appetite for information. There seems to be a direct correlation between the continued growth of Government and the continued growth of privacy invasion.

The Federal Government, as we enact more and more programs, has a need to collect more and more information in order to administer these programs. So it is with this piece of legislation that we are trying to strike a balance between the need to know in order to successfully and correctly administer Government programs, and the rights of an individual to be left alone, to control his own personal life. This particular bill undertakes to redress this disastrous imbalance.

The Federal Government is required to permit an individual to know what records it has pertaining to him. It introduces the element of active consent as a requirement before information that is collected for one purpose can be put to a new use. It permits an individual to have copies of files about him and to correct or amend erroneous portions of them.

Finally, it requires the Government to keep records accurately and securely in accordance with specific, published regulations.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ERLENBORN. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. GOLDWATER. It is noteworthy, Mr. Chairman, that this Privacy Act of 1974 prohibits the Federal Government from maintaining secret personal information systems. This bill is an important major first step in the restoration of the individual's right to privacy, and I would caution and suggest to my colleagues that as we pursue further legislation in other areas, we constantly be vigilant that we do not undermine this effort today, that we take into consideration in new legislation, enabling legislation, the rights of the individual to his privacy. It is time that we insert human rights into the programs and the programers. It is time that we insert privacy rights into the policy of our agencies. It is time that we instill a spirit of concern for our liberties. We must reestablish—and I think we do so with this legislation—the right to be left alone for the people of this country.

Mr. Chairman, I urge my colleagues to support this legislation.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Chairman, I wish to associate myself with the remarks of the gentleman from California (Mr. GOLDWATER).

I should like to commend the gentleman from California for his efforts that he has made on behalf of this Privacy Act which we have here before the House today. I would say to the gentleman in the well I thank him for his support, effort, and leadership on it and hope that it is successful today, as this Privacy Act offers some protection for people from big brother government snoopervision.

Mr. GOLDWATER. I thank the gentleman and commend him also for his support and active participation on the Republican Task Force on Privacy, which issued what I considered a very comprehensive report and bibliography this past year.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may require to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I want to commend my colleague, the gentleman from California (Mr. GOLDWATER) for the effort he has put forward on this issue, and our subcommittee chairman for his work on this issue.

Mr. Chairman, as one of the original cosponsors in this Congress of right to privacy legislation, I rise in support of H.R. 16373, the Privacy Act of 1974.

This is a comprehensive bill which is intended to protect the privacy rights of individuals by regulating the Federal Government's collection, maintenance, use, or dissemination of personal, identifiable information.

Through my committee assignments on Banking and Currency, and Post Office and Civil Service, I have become particularly aware of the need for the protection of an individual's privacy rights with regards to bank records and census data. Very strict care must be taken to protect the confidentiality of these records and insure that the information is used only for proper purposes. Since the census questions have become more detailed and extensive, the dissemination by the Census Bureau of statistical data must be more closely regulated in order to protect the individual from being identified by that data. H.R. 16373 does provide proper safeguards in this area.

Mr. Chairman, I have sponsored legislation, H.R. 10021, the Right to Financial Privacy Act. My bill would protect the constitutional rights of citizens by prescribing procedures and standards governing the disclosure of financial information by financial institutions to Federal officials or agencies. The bill we are discussing here on the floor today does not regulate the collection of information by the Federal Government other than to prohibit any agency from maintaining any record concerning the political or religious belief or activity of any individual unless expressly authorized by statute or the individual himself. I realize that by the very nature of the subcommittee's—the Foreign Operations and Government Information Subcommittee of the House Government Operations Committee—jurisdiction it could not get into this area of regulating the activities of the Federal Government specifically with regards to obtaining individual bank records, so I hope that our concern about privacy rights will not stop with the passage of this one bill, H.R. 16373.

I urge support of H.R. 16373 with the hope that in the next Congress, we will give further attention to areas that need to be specifically considered in order to afford our citizens full protection from the violation of their privacy rights by the Federal Government. Of these areas, one of the most important is, I believe, the legislation which I have sponsored to preserve the confidential relationship between financial institutions and their customers and the constitutional rights of these customers.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may require to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I rise today in enthusiastic support of H.R. 16373. The Privacy Act of 1974. In this bill we are regulating the collection, maintenance, and use of by Federal agencies of information concerning American citizens.

I hope this bill will be the first of a wave of privacy oriented legislation which the Congress will consider in the next few years. Therefore, we must be very careful in laying a foundation for future reforms. Other areas which clearly need attention are the protection of constitutional freedoms for Federal employees, limitations upon distribution of federally collected information, and strict regulations upon the types and use of surveillance tactics employed by Federal agencies. Beyond our limited Federal perspective, we must also seriously examine the activities of private information and collection services.

Since I entered this body in the 92d Congress I have proposed over a dozen bills relating to questions of individual and financial privacy and domestic intelligence. Along with most Members, I am committed to guaranteeing the rights implicit in the 1st, 4th, and 14th amendments. This bill, H.R. 16373, is a good start.

I urge that we pass this bill, with the inclusion of a Federal Privacy Commission and some changes in the civil procedure and criminal penalties sections. It is only a start, but it will be a good base for future laws to protect the personal privacy of all Americans.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, at this time I yield 5 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, as its title—the Privacy Act of 1974—and the prefatory findings indicate, it is the commendable purpose of the measure to protect the individual against the misuse of official information. To that end the act would add a new section to what is now commonly known as the Freedom of Information Act (5 U.S.C. 552). The new section, to be designated section 552a, would impose conditions upon the disclosure of official information, and would give individuals affected access to such information so as to permit them to review and, if necessary, to correct the record.

The committee which reported the measure and the gentleman from Pennsylvania (Mr. MOORHEAD) who chaired the subcommittee which had the measure under consideration, are to be commended for the professional manner in which they have sought to deal with this extremely complex and difficult subject.

The "right" of privacy has been said to be the right of the individual "to be left alone." It is without doubt a right inherent in our libertarian system. While it is said that this right is not explicitly asserted in our Constitution, it does however find expression in certain related provisions and in the basic philosophy which prompted the adoption of the Constitution itself. By that instrument those freedoms and liberties were reserved to the individual which were not deemed essential to the coexistence of man in society. Hence, like other rights, the right of privacy is not deemed an absolute right.

Logically, the absolute right of privacy could be fully asserted only in a state of anarchy. But even in such a state, if extended to its outer and extreme limits, the exercise of any such absolute right must necessarily collide with the rights of other individuals. The resulting conflict would consequently result in the destruction of the rights asserted by each. It necessarily follows that if the right of privacy is to be recognized as a legitimate claim in an ordered society, it must be subject to limitations and must be conditioned upon the rights of others and exercised consistently also with the rights of the public.

What we are dealing with in statutes of this type is thus necessarily a balancing process by which we seek to resolve the right of the individual to be left alone with the public and other individual rights "to know." For it is a fact that such latter rights are equally recognized by the Constitution, although in a sense they may collide with the individual's "right of privacy." The first amendment rights of freedom of speech and of the press, for example, intrude upon an individual's right of privacy, but they are rights which are essential to the administration of Government and to the free functioning of our libertarian and democratic institutions. Moreover, the individual's right to privacy must be conditioned by that which is consistent with the continued existence and protection of that Nation and its constitutional system upon which the vitality of the right itself must ultimately depend.

It appears to me that the bill before us has generally resolved the conflict between the rights of the individual and the public and other private rights with considerable success. I propose today to offer only two amendments to the bill which are directed toward clarifying certain aspects of the measure's impact upon our intelligence services, particularly in relation to the acquisition and use of information which is essential to the maintenance of the national and internal security. On their adoption I shall support this measure.

First, however, I should like to express my concern over an ambiguity inherent in the provisions of the proposed subsection (b), at page 22, line 10, relating to conditions of disclosure. This subsection would, subject to the exceptions therein set forth, generally prohibit an agency from disclosing to any person information about an individual without the individual's prior written consent. The subsection would generally authorize only interagency and intra-agency disclosures for authorized law enforcement activities, but do not appear to contain any explicit provisions authorizing certain essential disclosures outside official agencies which would be clearly required if certain vital security programs maintained by the Government are to be effectively carried out. These include, for example, the effective maintenance of the industrial security, industrial defense, atomic energy, and port and vessel security programs. Defense contractors and others involved in the receipt of classified information and related information about individuals are mainly private employers.

I am informed, however, that the provision of subsection (b) (2) which would except from the prohibition the communication of information therein described as "for a routine use," is intended by the sponsors of the legislation to permit such essential disclosures beyond the bounds of the particular agencies involved. If this is effectively accomplished by the language of this exception, it may well be that a specific clarifying amendment is unnecessary on this aspect of the bill. It is my hope that any such ambiguity as may exist on the reach and meaning of this provision, can be obviated in colloquy with the sponsors of the measure at the appropriate time.

On the other hand, I deem it necessary to offer a specific clarifying amendment to the provisions of subsection (e), paragraph 4. This section commences at page 26, line 18, of the bill. The particular paragraph of this subsection to which the amendment will be offered is at page 28, line 13. This subsection and paragraph prohibits an agency from maintaining any record, and I quote, "concerning the political or religious belief or activity of my individual, unless expressly authorized by statute or by the individual about whom the record is maintained." We may well recognize that the purpose of this provision is commendable and legitimate in prohibiting the disclosure of records with respect to conventional political and religious beliefs and activities. However, in its present form it is clear that the provisions can be construed to cover activities which are properly within the scope of legitimate law enforcement. I am assured that the authors of this measure have not intended the provisions to foreclose this proper purpose.

The terms of the broad prohibitions on maintenance of records relating to "political" and religious" activities would, for example, embrace the activities of the Communist Party and similar groups, which, although generally recognized as conspiratorial or clandestine, are nevertheless commonly described as "political." Similarly, certain sects within the Black Muslim movement, which have been described by the Director of the FBI as endangering the internal security, may claim protection under this clause as a "religious" activity.

Although those records of political or religious activity which are "expressly authorized by statute," are excepted from the prohibitions of this paragraph, this is not adequate to exempt the activities of such subversive groups as I have indicated. I know of no existing or enforceable statute which expressly and generally authorizes any particular agency to maintain the records of political or religious activities of subversive groups. I would therefore amend this paragraph by striking out the period after the word "maintained" and add the following:

"; provided, however, that the provisions of this paragraph shall not be deemed to prohibit the maintenance of any record of activity which is pertinent to and within the scope of a duly authorized law enforcement activity."

I believe this clarifying amendment would obviate any ambiguities as to the reach of the prohibition, and would serve to eliminate any adverse litigation on the subject.

The second and final amendment, which I propose to offer to the measure, would affect the provisions of paragraph (2) of subsection (k), at page 34, line 7. This section deals with certain specific exemptions that may be made to the disclosure requirements of the act, particularly with respect to those investigatory files or material which the Act would otherwise require the agencies to disclose to an individual by the provisions of subsection (d). While the provisions of paragraph (2) of subsection (k) would permit the agency to exempt from the mandatory disclosure requirements of subsection (d) investigatory material compiled for law enforcement purposes to the extent it is not now open to public inspection under the provisions of existing law, that is, section 552(b) (7) of title 5, United States Code, it would appear to me that under this paragraph there is a question whether the agency could exempt from public disclosure the identity of individuals and information pertaining to those, for example, who are members of such organizations as the Communist Party and other revolutionary groups having similar objectives.

In view of the fact that there are literally tens of thousands of individuals who are involved in such revolutionary organizations, to require such agencies of the Government as the FBI and the defense intelligence agencies to disclose investigatory material pertaining to such individuals on request, would not only have the effect of literally immobilizing the agencies in the effective execution of their essential and vital work, but would greatly impair, if not destroy, their functioning. The research which would be involved, the extensive correspondence required, and the litigation which would likely ensue as a result of the thousands of requests that would conceivably and very likely pour into the agencies would wreck havoc upon the agencies. Moreover, to permit the indiscriminate raiding of investigatory files, the maintenance of which in confidence is so essential to the protection of the national and internal security, would also destroy their usefulness by revealing the extent of coverage and the method and adequacy of operation of our intelligence forces. Any such result is wholly unnecessary to the attainment of the objectives and purposes of the bill. I would thus amend paragraph (2) of subsection (f) by striking the paragraph in its present form and amend it to read as follows:

On page 34, strike lines 7 through 11 and insert the following in lieu thereof:

"(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j) (2) of this section; provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

Thus by its terms the amendment would fully protect the individual by requiring the disclosure to him of relevant investigatory material in the system of records—other than that within the scope of subsection (j) (2)—when, as a result of the maintenance of such material, he is denied any right, privilege, or benefit to which he would otherwise be entitled by Federal law, or for which he would otherwise be eligible. In such event disclosure is limited to the extent necessary to protect the identity of a source who furnished information to the Government under a promise that the identity of the source would be held in confidence.

This amendment very properly serves the purpose of protecting the investigatory material from being raided by the thousands and perhaps tens of thousands of persons who may seek to do so for no legitimate or excusable purpose.

Hence the right of privacy of the individual is protected, without diminution, to the extent of his legitimate requirements. It shall be recognized that the amendment does not affect the requirements of subsection (b) of the bill, which prohibits disclosure of information beyond the legitimate uses of the Federal agencies maintaining them. Thus the privacy of the individual remains protected by the amendment consistently with the attainmen of the purposes of the bill and the national security interest.

There is one final point to which I should direct attention, regarding both the wording of this and my prior amendment, in the use of the term "law enforcement" as applied in the context of these amendments and the bill as a whole. In referring to a "law enforcement activity" and "law enforcement purposes," I am, of course, using the expression "law enforcement" in its general meaning and in the broadest reach of the term. I include within that term those purposes and activities which are authorized by the Constitution, or by statute, or by the rules and regulations and the executive orders issued pursuant thereto. Thus the investigatory material maintained shall include, but not be limited to, that which is compiled or acquired by any Federal agency in connection with and for the purpose of determining initial or continuing eligibility or qualification for Federal employment, military service, Federal contracts, or access to classified information.

I want to emphasize—so that there is no misunderstanding—these changes are designed to protect only legitimate national or internal security intelligence and investigations, and no records or files shall be kept on persons which are not within constitutional limitations. Let the legislative history be explicit. None of these changes are intended to abridge the exercise of first amendment rights. The rights of Americans to dissent in a lawful manner and for lawful purposes must be preserved.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, we did discuss these two questions, I will say to the gentleman from Missouri, and we did say it was our understanding that under the gentleman's amendments no file would be kept of persons who are merely exercising their constitutional rights, as the gentleman stated.

Mr. ICHORD. The gentleman is exactly correct.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. Koch), who has been so very active in the privacy of information field.

Mr. KOCH. Mr. Chairman, first I want to thank the distinguished gentleman from Pennsylvania, my good friend (Mr. Moorhead), who is responsible for so much of the language incorporated into this bill and for the efforts necessary to bring it to the floor.

I just want to take special note of what he has done on behalf of privacy as well as take note of the enormous efforts on the Democratic side by the gentlewoman from New York (Ms. Abzug) and on the Republican side by the gentleman from Illinois (Mr. Erlenborn) and the gentleman from New York (Mr. Horton).

Rather than restate the provisions of the bill which have been so amply set forth by a number of the speakers, I would rather simply comment on the fact that this kind of legislation which relates to the privacy of the individual, protecting that individual from Government, has the support of those who are conservatives and those who are liberals.

They have indicated that support by rising in the well this very afternoon, on both sides of the political spectrum and both sides of the aisle.

That is not to say that this bill is a perfect bill. I do not know of any perfect legislation. It may be there have been occasions when there has been legislation never requiring an amendment of any kind brought to this floor and passed, but I am not aware of it.

This bill, however, is a very good bill. There are amendments that will be offered, some that I support, some that I oppose; but the thrust of most of those amendments and the nature of those amendments is intended by those offering them to improve the bill. We may disagree on whether they do or do not; but the persons involved in most of the amendments want to protect privacy and that is key and very important to understand when we discuss those particular amendments.

There is an area that ought to be covered which is not by this bill. If I had my way, I certainly would have it in the bill; that area relates to law enforcement agencies which are, frankly, not covered adequately under this bill. The reason for that is that the Committee on the Judiciary has before it legislation which relates to the criminal data banks of law enforcement agencies. I know that that great committee with its distinguished chairman (Mr. Rodino) and the subcommittee chairman in charge of that subject, the gentleman from California (Mr. Edwards) are very concerned about the rights of privacy. So I have no doubt that the legislation which I am informed they intend to bring to the floor, hopefully early in the next session, will cover that data not covered under this legislation, pertaining to law enforcement agencies.

What this legislation does do is open the Federal files in so many areas. Millions of files that are now not available to the public would become available to the public. I am not saying available to the public in terms of seeing somebody else's file, but seeing one's own file, seeing whether the material in there is relevant, seeing whether it is accurate, seeing whether it is current, and if it is not, providing the mechanism whereby that can be corrected.

This is landmark legislation. This is legislation in which I take great pride having espoused it in February of 1969, and later with my good friend, the gentleman from California, Mr. Barry Goldwater. In my own district we refer to the legislation as the Koch-Goldwater bill, and in his district as the Goldwater-Koch bill; but the fact is that while the initial legislation was ours, it has been subjected to extensive review and amendment by the committee and improved upon in a number of ways. This legislation is now the joint work product of many people. I am proud to be one of those who brought this legislation to this point, where its passage seems assured.

Again, I want to express my deep appreciation to the chairman, Mr. Moorhead, the members of the committee, its brilliant staff without whose hard work, we would not be here tonight, and to my partner on this legislation, Barry Goldwater, Jr.

Mr. BIAGGI. Mr. Chairman, I rise in strong support of this legislation. I feel that passage of this bill today will represent a significant victory in the battle against unlawful and dangerous intervention by the Federal Government in the private lives of the average American citizen.

While the fourth amendment to our Constitution clearly spells out the right of the individuals to privacy in recent years, the Federal Government has intensified their efforts to superimpose themselves into the lives of the individual. Many people pointed to these dangerous actions by the Government as the fulfillment of the Orwellian theory of "Big Brother" as contained in his masterpiece, 1984.

What we are considering today is comprehensive legislation which will take a number of steps to protect the individual from the power of the Federal Government. Perhaps the strongest area of controversy concerns the maintaining of nonessential records by Government agencies against individuals. This legislation addresses itself decisively to this problem in the following ways:

It permits an individual to be aware of and have access to all personal information records compiled by Government agencies, except in cases where these record are needed for law enforcement and national security.

It allows the individual to control the transfer of personal information records from one Government agency to another.

It further specifies the extent of records which can be maintained by the Federal Government, and specifically prohibits keeping of records which contain a person's political and religious beliefs unless clearly provided for by law.

Finally, this legislation sets a new and important precedent by allowing for a civil remedy to be acquired by individuals in instances when they have been denied access to their records or whose records have been kept or used in violation of the provisions of this law. The individual will have the right to bring suit as well as the ability to collect damages if it can be established that such actions were taken capriciously by the Government.

I feel a sense of personal relief in the realization that the Congress has seized the initiative in this area. Many of us sitting here today have been the target of unlawful Government intervention in our personal activities. I feel that the recent abuses of power disclosed in the Watergate hearings may have provided a special impetus for the development of this legislation. One only has to read these hearing to discover the extent to which certain Government agencies either were manipulated or on their own, took steps to discredit those individuals they view with suspicion or fear.

On the same token I am pleased to see that certain conditions were contained in this bill. As a former law enforcement officer, I know the value of maintaining information about potential or actually dangerous groups. There are dangerous and anarchistic elements in this society which merit the close attention of law enforcement personnel and I applaud the fact that we are not tying the hands of law enforcement as they work to uphold the law of the land.

Mr. Chairman, the legislation we are considering today is both necessary and vital to the American people. We are a free nation and the strength of our Nation derives from the rights of the individual to freedom and privacy. Many Americans have become justifiably alarmed in recent years by the increased activities of the Federal Government in the area of maintaining personal records and information. We are today striking a blow against the potential of tyranny in this Nation and I am pleased to rise in support of this bill which can only enhance and strengthen the bonds of freedom which exist in this Nation.

Mr. REGULA. Mr. Chairman, I rise in support of H.R. 16373, the Privacy Act of 1974.

In April of this year I joined with my colleagues Messrs. GOLDWATER and KOCH in participating in a special order to discuss the need for the establishment of a national privacy policy. A singular point or theme emerged from that discussion; one of the basic tenants of our system of law is the right to confront a witness or an accuser and to cross-examine him in order to elicit the truth.

In recent years computers, photocopiers, and other technological advances have made the storage and retrieval of information about citizens fast and relatively inexpensive. Almost without notice and in the name of efficiency our technological progress has moved us toward the "big brother" supervision predicted in George Orwell's book "1984."

Today, an individual does not really know who has information about him, or how many agencies or corporations are using it or for what purposes. There is no mechanism for providing explanations or to add mitigating facts. And, even more important there are no limits on what can be collected either by Government or the private sector.

Information is collected on academic achievement, credit ratings, health, judicial records, employment history, birth and marriage records, military records, tax returns and census records, to name a few.

The written word, film, or computer punch card bears witness as eloquently as the spoken word. The right of access to and challenge of records by the subject of the information obtained in those records could, if exercised under the same or similar rules, only instill confidence in our governmental process.

This bill, H.R. 16373, would provide the Government with the tools it needs to regulate, collect, maintain, use, and disseminate personal, identifiable information. It would provide individuals with the safeguards they need to prevent misuse of this information.

Like the Freedom of Information Act, which I am sure this Congress will pass in one form or another, this bill is a significant step toward open government.

I urge my colleagues' support for passage of this bill.

Mr. BROYHILL of North Carolina. Mr. Chairman, I strongly support the passage of H.R. 16373, the Right to Privacy Act. Earlier this year, I cosponsored H.R. 15524, a forerunner of this legislation.

I feel, as do many Members of Congress, that there is a growing capacity for major violations of the privacy of Americans, as the Federal Government increases its collection and use of data furnished by citizens for specific governmental purposes. Safeguards are needed to insure that the personal information obtained by the Government, for legitimate purposes, is not misused. Recently, we have witnessed flagrant violations of the constitutional rights of some of our citizens by the Federal Government. We should enact legislation now to insure that these individual rights are never again violated.

While there can be no absolute protection of privacy in any society, I believe H.R. 16373 provides the necessary safeguards for greater protection of private records. Perhaps the greatest protection afforded the individual is his right to have access to his records, and to control the transfer of any personal data from one Federal agency to another for nonroutine purposes. Additionally, the bill will require the disclosure by every Federal agency of certain identifying characteristics about virtually all systems of records under their control, to insure that no "secret" Government system of records is created.

H.R. 16373 would also permit individuals access to civil court action against the Federal Government should their rights be violated. Provision is made for the awarding of actual damages to an individual, if the Government is shown to have acted willfully, arbitrarily, or capriciously in violating the provisions of this act. Criminal and civil penalties could be levied against individuals who disseminate or seek to obtain personal information contained in Federal files.

Mr. Chairman, it is essential that the Federal Government, the largest repository of personal records in the country, do everything possible to safeguard these files and to protect the rights of every American citizen. H.R. 16373 contains these safeguards and protections. I will support this measure and I urge my colleagues to do likewise.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 16373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Privacy Act of 1974".

Sec. 2. (a) The Congress finds that—

(1) the privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal agencies;

(2) the increasing use of computers and sophisticated information technology, while essential to the efficient operations of the Government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use, or dissemination of personal information;

(3) the opportunities for an individual to secure employment, insurance, and credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems;

(4) the right to privacy is a personal and fundamental right protected by the Constitution of the United States; and

(5) in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies

(b) The purpose of this Act is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies, except as otherwise provided by law, to—

(1) permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies;

(2) permit an individual to prevent records pertaining to him obtained by such agencies for a particular purpose from being used or made available for another purpose without his consent;

(3) permit an individual to gain access to information pertaining to him in Federal agency records, to have a copy made of all or any portion thereof, and to correct or amend such records;

(4) collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information;

(5) permit exemptions from the requirements with respect to records provided in this Act only in those cases where there is an important public policy need for such exemption as has been determined by specific statutory authority; and

(6) be subject to civil suit for any damages which occur as a result of willful, arbitrary or capricious action which violates any individual's rights under this Act.

Sec. 3. Title 5, United States Code, is

amended by adding after section 552 the following new section:

"§ 552a. Records maintained on individuals

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'agency' means agency as defined in section 552(e) of this title;

"(2) the term 'individual' means a citizen of the United States or an alien lawfully admitted for permanent residence;

"(3) the term 'maintain' includes maintain, collect, use, or disseminate;

"(4) the term 'record' means any collection or grouping of information about an individual that is maintained by an agency and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual;

"(5) the term 'system of records' means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

"(6) the term 'statistical research or reporting record' means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13.

"(b) CONDITIONS OF DISCLOSURE.—No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

"(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

"(2) for a routine use described in any rule promulgated under subsection (e)(2)(D) of this section;

"(3) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

"(4) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

"(5) to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

"(6) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

"(7) pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon the disclosure notification is transmitted to the last known address of the individual; or

"(8) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, or any joint committee of Congress or subcommittee of any such joint committee.

"(c) ACCOUNTING OF CERTAIN DISCLOSURES.—Each agency, with respect to each system of records under its control shall—

"(1) except for disclosures made under subsection (b)(1) of this section or disclosures to the public from records which by law or regulation are open to public inspection or copying, keep an accurate accounting of—

"(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

"(B) the name and address of the person or agency to whom the disclosure is made;

"(2) retain the accounting made under paragraph (1) of this subsection for at least five years after the disclosure for which the accounting is made;

"(3) except for disclosures made under subsection (b)(6) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

"(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency within two years preceding the making of the correction of the record of the individual, except that this paragraph shall not apply to any record that was disclosed prior to the effective date of this section or for which no accounting of the disclosure is required.

"(d) ACCESS TO RECORDS.—Each agency that maintains a system of records shall—

"(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him to review the record and have a copy made of all or any portion thereof in a form comprehensible to him;

"(2) permit the individual to request amendment of a record pertaining to him and either—

"(A) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

"(B) promptly inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review by the agency of that refusal, and the name and business address of the official within the agency to whom the request for review may be taken;

"(3) permit any individual who disagrees with the refusal of the agency to amend his record to request review of the refusal by the official named in accordance with paragraph (2)(B) of this subsection; and if, after the review, that official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency; and

"(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and, upon request, provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed.

"(e) AGENCY REQUIREMENTS.—Each agency that maintains a system of records shall—

"(1) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual—

"(A) which Federal statute or regulation, if any, requires disclosure of the information;

"(B) the principal purpose or purposes for which the information is intended to be used;

"(C) other purposes for which the information may be used, as published pursuant to paragraph (2)(D) of this subsection; and

"(D) the effects on him, if any, of not providing all or any part of the requested information;

"(2) publish in the Federal Register at least annually a notice of the existence and character of the system of records, which notice shall include—

"(A) the name and location of the system;

"(B) the categories of individuals on whom records are maintained in the system;

"(C) the categories of records maintained in the system;

"(D) each routine purpose for which the records contained in the system are used or intended to be used, including the categories of users of the records for each such purpose;

"(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

"(F) the title and business address of the agency official who is responsible for the system of records;

"(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him; and

"(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content;

"(3) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination; and

"(4) maintain no record concerning the political or religious belief or activity of any individual, unless expressly authorized by statute or by the individual about whom the record is maintained.

"(f) AGENCY RULES.—In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall—

"(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

"(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

"(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

"(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means the head of the agency may deem necessary for each individual to be able to exercise fully his rights under this section; and

"(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall annually compile and publish the rules promulgated under this subsection in a form available to the public at low cost.

"(g)(1) Civil Remedies.—Whenever any agency (A) refuses to comply with an individual request under subsection (d)(1) of this section, (B) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on *the basis of* records and consequently a determination is made which is adverse to the individual, or (C) fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual, the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

"(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (j) or (k) of this section, and the burden is on the agency to sustain its action.

"(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

"(3) In any suit brought under the provisions of subsection (g)(1) (B) or (C) of this section in which the court determines that the agency acted in a manner which was willful, arbitrary, or capricious, the United States shall be liable to the individual in an amount equal to the sum of—

"(A) actual damages sustained by the individual as a result of the refusal or failure; and

"(B) the costs of the action together with reasonable attorney fees as determined by the court.

"(4) An action to enforce any liability created under this section may be brought in the district court of the United States in *the district* in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to the establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation.

"(h) Rights of Legal Guardians.—For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

"(i)(1) Criminal Penalties.—Any officer or employee of the United States, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this secton or by rules or regulatons established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be fined not more than $5,000.

"(2) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be fined not more than $5,000.

"(j) General Exemptions.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, to exempt any system of records within the agency from any part of this section except subsections (b) and (e)(2)(A) through (F) if the system of records is—

"(1) maintained by the Central Intelligence Agency; or

"(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

"(k) Specific Exemptions.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(2) (G) and (H), and (f) of this section if the system of records is—

"(1) subject to the provisions of section 552(b)(1) of this title;

"(2) investigatory material compiled for law enforcement purposes, except to the extent that the material is within the scope of subsection (j)(2) of this section or is open to public inspection under the provisions of section 552(b)(7) of this title;

"(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18; or

"(4) required by statute to be maintained and used solely as statistical research or reporting records.

"(l)(1) Archival Records.—Each agency record which is accepted by the Administrator of General Services for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Administrator of General Services shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

"(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section.

"(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be subject to all provisions of this section except subsections (c)(4); (d) (2), (3), and (4); (e) (1), (2) (H) and (3); (f) (4); (g) (1) (B) and (C), and (3).

"(m) Annual Report.—The President shall submit to the Speaker of the House and the President of the Senate, by June 30 of each calendar year, a consolidated report, separately listing for each Federal agency the number of records contained in any system of records which were exempted from the application of this section under the provisions of subsections (j) and (k) of this section during the preceding calendar year, and the reasons for the exemptions, and such other information as indicates efforts to administer fully this section.".

Sec. 4. The chapter analysis of chapter 5 of title 5, United States Code, is amended by inserting:

"552a. Records about individuals."

immediately below:

"552. Public information; agency rules, opinions, orders, and proceedings.".

Sec. 5. The amendments made by this Act shall become effective on the one hundred and eightieth day following the date of enactment of this Act.

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENTS OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer two amendments, and I ask unanimous consent that my amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Moorhead of Pennsylvania: Page 22, lines 19 and 20, strike out "in any rule promulgated".

Page 27, line 8, immediately after "(2)" insert "subject to the provisions of paragraph (5) of this subsection,".

Page 28, line 12, strike out "and"; on line 16, strike out the period and insert in lieu thereof "; and "; and immediately after line 16, insert the following new paragraph:

(5) at least 30 days prior to publication of information under paragraph (2)(D) of this subsection publish in the Federal Register notice of the use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency.

Mr. MOORHEAD of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with. They have been distributed to the minority side, and I do not think further reading of the amendments is necessary.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, this amendment has also been discussed in advance with the minority side. Its purpose is to tighten up the part of the bill under which a Federal agency makes its determination as to the "routine purpose for which records contained in a system of records are to be used or intended to be used. As I explained in earlier remarks, "routine" uses of personally identifiable information permit an agency to transfer such records without obtaining the individual's consent—within the agency or between agencies—in the "routine" conduct of Government business.

It is essential, however, that this "routine" authority is not abused so as to circumvent the basic purposes of this law. Under the present language of the bill, an agency—under subsection (e)—may publish in the Federal Register a list of each "routine purpose" for which records in an information system are used. The danger is that there is no check on the agency—except congressional oversight—as to what might be called a "routine purpose." A bureaucrat might be tempted to include a "nonroutine" use in the definition of "routine" and subvert the safeguards set up for individual privacy in this bill.

Therefore, the purpose of these amendments is to subject the agency determination to public scrutiny by providing 30 days for interested parties to submit to the agency after publication in the Federal Register written data, views, or arguments as to its interpretation of "routine purpose." I believe that this amendment strengthens the bill against potential bureaucratic abuses and urge that it be adopted.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding to me. I want to say that the gentleman from Pennsylvania has furnished me with a copy of the amendments, and I support the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of Pennsylvania: On page 33, line 2, after "(F)" insert "and (i)".

On page 30, line 24, strike "(j) or".

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I will be brief in explaining this amendment, which has been previously discussed with the minority side. Very simply, it tightens up a part of the bill where a loophole might exist. It provides that if the head of an agency utilizes the authority under subsection (j) of the bill to exempt a system of records from this law, such action shall not exempt the particular agency from safeguards to the public against abuse of such exemption authority as provided in subsection (i), imposing criminal penalties for violations of the act.

I trust that the amendment will be adopted.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding to me. I do support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: On page 34, in line 14, strike out the word "or";

In line 16, strike out the period and insert in its place a semi-colon; and

After line 16, insert the following:

"(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

"(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

"(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence."

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, a copy of this amendment has been furnished to the majority, and since the amendment has not been read, I would like to briefly describe its three purposes. This adds in the specific exemption, subsection (k)(3) exemptions not found in the bill.

The first is investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualification for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of the source that was a confidential source, promised confidentiality.

As I said during the general debate, the Washington Post this morning, in an editorial, incorrectly described this as closing the files entirely. The files will be open. The individual will have access to the files and to the information contained therein. But we will protect the confidentiality of statements that have been given in the past on a promise of confidentiality, express or implied, and will protect in the future the confidentiality of statements that were given by someone with an express promise of confidentiality.

The second part of the amendment will exempt testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

This amendment has been requested by the Civil Service Commission. Under the bill, without this exemption, each test that is given—and there are hundreds of such tests that have been prepared by the Civil Service Commission—would be available to any individual who took the test—the questions and the answers. That test then would be compromised and could never be used again. The Civil Service Commission would have to prepare a whole new test the next time a test in that area was given. This would be an unnecessary expense without enhancing the privacy of any individual. I think this portion of the amendment is certainly warranted.

Lastly, my amendment provides a specific exemption for evaluation material used to determine potential for promotion in the Armed Services, but again, only to the extent that it is necessary to protect a confidential source.

As to the first and third portions of this amendment, the protection of confidential sources, I think it is very interesting that the House today overrode a veto of amendments to the Freedom of Information Act, and that Freedom of Information Act gets into the same area of information.

Listen to the report of the conference committee relative to the Freedom of Information Act. It says:

> In every case where the investigatory records sought were compiled for law enforcement purposes, either civil or criminal in nature, the agencies can withhold the names, addresses and other information that would reveal the identity of a confidential source who furnished the information.

So there, in that act, we saw the need to protect the confidential source. I think we should do likewise in this act.

Mr. Chairman, the President on October 9th issued a statement endorsing the legislation before us. He had in that statement, however, one reservation. He said:

> H.R. 16373, the Privacy Act of 1974, has my enthusiastic support except for the provisions which will allow unlimited individ-

> ual access to records vital to determining eligibility and promotion in the Federal service and access to classified information.

I strongly urge a floor amendment permitting workable exemptions to accommodate these situations. This is the amendment that will meet the President's concern, and I think it is a valid concern.

There is one last observation that I would like to make. I have here a copy of the decision in the case of Koch against the Department of Justice. It is a decision of the District Court of the District of Columbia, which is considered one of the more liberal courts, and the judge was Judge Gerhard Gesell, who is considered one of the more liberal judges.

I would like to read just one or two excerpts from the decision.

The judge says:

> Background files on Congressman Bingham which were compiled during investigations into his eligibility for certain high Government posts. Such employment checks are routine, fully authorized, and essential to the maintenance of integrity in government service.

The court later in another part says as follows:

> Plaintiffs' narrower interpretation of that exemption is unjustified, since it would require disclosure of highly confidential information supplied to Bureau investigators. In order to insure such confidentiality, FBI files may be withheld if law enforcement was a significant aspect of the investigation.

The judge goes on further to say:

> This is true even if the laws being enforced were regulatory rather than criminal in nature.

Then the judge later says:

> Even inactive investigatory files may have to be kept confidential in order to convince citizens that they may safely confide in law enforcement officials.

Mr. Chairman, unless we adopt this amendment, confidential statements given to investigators in the past will be made available to the persons about whom the investigations are being made.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, there are literally hundreds of thousands of people across this country, many Members of Congress included, who in the past have given confidential statements relative to people who are being considered for high Government posts. These confidential statements will be opened up to the individual who is being investigated if the bill passes without amendment—and, I think equally important, in the future we would not be able to conduct meaningful investigations into such matters as the appointment of a Vice President and the appointment of members of the courts, including the Supreme Court, District Courts, and so forth, unless we have limited ability to promise confidentiality where it is necessary to get candid information concerning individuals.

Mr. Chairman, I hope that my amendment will be supported.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield briefly to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, do I understand that the gentleman's amendment would open the files, as far as the background statements themselves are concerned, as long as the identity of the person making those statements was preserved?

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his question. The gentleman is exactly right.

The information, derogatory or otherwise, will be made available to the individual. The only portion that will be kept confidential is the name of the one who has given the information in confidence, or such information as might lead to his identity.

Mr. SMITH of New York. I thank the gentleman.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, I would like, of course, to say, not being a lawyer, that I find myself at somewhat of a disadvantage, with the very complexity of this bill.

I recognize the laudable purpose of it. I do intend to vote for the bill. In committee I did vote with the gentleman for this amendment, or one very close to it. There seems to be a difference of opinion as to whether this is the exact amendment or not. I expect to vote for it at this time.

I think that if we do reveal the sources of confidential information, after we have or an agency has obtained the information under the promise of protecting the source, it would imperil the access to information which we should have.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(On request of Mr. HOLIFIELD and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. HOLIFIELD. Mr. Chairman, I also believe that there might be a great danger, both to the Government and to the individual involved who gave that information, if the source was revealed.

Therefore, I find myself in general agreement with this amendment. I voted for the amendment in committee, although we lost it in committee, as the gentleman remembers. It does seem to me that it is a protective amendment.

We are skating on thin ice, between freedom of information and privacy of information, and I think the extra care that this would give or the extra protection it would give to sources that might be vital to the Government in many fields is worthy of consideration.

Mr. Chairman, I would hope that the chairman of the subcommittee, unless there is a very strong reason, which he will undoubtedly express if there is such a reason, might be able to accept this amendment.

Mr. ERLENBORN. Mr. Chairman, I thank the gentelman for his support.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I will say to the chairman of the full committee that I felt that I am bound by the vote of the full committee, which, as I recall, was 22 to 11 not to accept the amendment offered by the gentleman from Illinois.

I have tried to negotiate portions of this matter with him, but unsuccessfully, even though we have been very successful in reaching agreements on many other pieces of legislation.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding. I would like to ask him a question. I can appreciate what the gentleman is trying to do, and that is to protect the parties' sources of information, but is there anywhere any protection to eliminate the inclusion of vicious rumors, subjective opinions, false statements, or honest mistakes that are in the records that are supplied by these parties?

Mr. ERLENBORN. Yes. I would point out that the information in the file will be made available quite generally, whether it is derogatory, defamatory, or whatever. We will only protect the confidential source.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Thirty-six Members are present, evidently not a quorum.

In view of the inoperability of the electronic device, the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 636]

Ashley
Baker
Bergland
Bingham
Blatnik
Boggs
Brasco
Breaux
Broomfield
Brotzman
Burton, John
Burton, Phillip
Camp
Carey, N.Y.
Chappell
Clay
Cohen
Conable
Conlan
Coughlin
Cronin
Davis, Ga.
Diggs
Dingell
Downing
Drinan
Esch
Eshleman
Evans, Colo.
Foley
Ford
Fraser
Fulton
Gibbons
Ginn
Goodling
Grasso
Gray
Green, Oreg.
Hanrahan
Hansen, Wash.
Hébert
Heckler, Mass.
Jarman
Jones, Ala.
Jones, N.C.
Kuykendall
Leggett
Luken
McEwen
McKinney
Madigan
Martin, Nebr.
Mathias, Calif.
Mayne
Melcher
Mitchell, Md.
Murphy, Ill.
Murphy, N.Y.
Nichols
Obey
O'Hara
Parris
Patman
Pike
Poage
Podell
Quie
Rarick
Reid
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Rosenthal
Runnels
Sandman
Shoup
Stark
Steele
Steiger, Ariz.
Teague
Tiernan
Ullman
Veysey
Waldie
Wilson, Charles H., Calif.
Wyatt
Wyman
Young, Alaska
Zion

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFALL) having assumed the chair, Mr. Brademas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 16373, and finding itself without a quorum, he had directed the roll to be called, when 344 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Moorhead).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

I oppose the amendment because I think it makes second-class citizens out of some 4½ million Government employees, civil and military. And I wish to report to the membership that the amendment is opposed by the Government Employees Council, AFL–CIO.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. At this time I yield to my colleague on the committee, the gentleman from Florida (Mr. Fascell).

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

I also am strongly opposed to this amendment, because what it does is set up a whole new exemption and write a provision into law which does not now exist. Otherwise there would be no reason for the amendment.

The amendment specifically exempts from the provisions of this bill identity or source of information. There is no such exemption now in the law.

Other Members, just as I have been, have been asked many, many times to give information. Never have I had any Government agency or agent say to me, "Sir, the information you give me is classified" or "The information will be kept confidential."

Mr. Chairman, what the pending amendment would do is write this tremendous loophole into the statutes of this country and change the complete thrust of this bill. That is what this amendment does, is to give the applicant the right to look at information; the burden is then on him to prove his innocence without ever knowing who the person was or what the source was of the adverse or derogatory information.

Mr. Chairman, this amendment destroys the principal purpose of this bill.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I might add that should there be any serious question of the need to protect the confidentiality of informants' identity for law enforcement activities or for national security purposes, that identity would be protected under specific exemptions in the bill which we have before us.

So that the only purpose that the amendment offered by the gentleman from Illinois (Mr. Erlenborn) would serve would be, as has been stated by both of my colleagues on the committee, to exempt millions of civilian employees and military employees from the safeguard provisions of this bill, which are so desperately needed. The need for privacy protections for these particular groups has been amply documented by a GAO report which is in our committee and which the gentleman is well aware of.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, in the interest of brevity, I yield back the balance of my time and I hope that a vote can be called for promptly.

Mr. GOLDWATER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise with certain reservations with regard to this amendment. I likewise am greatly concerned with protecting the rights of applicants for civil service employment and with insuring that the applicants have access to information about him that is furnished by third parties. I likewise recognize the difficult question regarding policy matters contained in this particular bill, in that, if taken in its true sense, opens up disclosure of third-party information.

I would like at this point to ask the author of the amendment (Mr. Erlenborn) a few questions if he would be kind enough to respond.

Mr. Erlenborn, what in this provision provides for the applicant to rebut or to countermand any vicious rumors or subjective opinions or false statements or honest mistakes taken from third parties about an individual?

Mr. ERLENBORN. If the gentleman will yield, the bill itself provides for the first time the right of access by an individual to records maintained concerning himself or herself, and the bill provides that if the individual believes that the information is inaccurate, he has a right to demand that the information be corrected. This is as to all records generally and can be applicable to these free employment and security investigation files as well. Therefore, the application of the bill—not the amendment—but the application of the bill is such that it provides this right to the individual to demand that a file be made accurate if he considers it to be inaccurate.

Mr. GOLDWATER. How will the applicant know that there is included in his file information from a third party or confidential source?

Mr. ERLENBORN. Will the gentleman yield?

Mr. GOLDWATER. Yes, I yield to the gentleman.

Mr. ERLENBORN. As provided in my amendment, the information contained in the file will be made available to the individual about whom the file has been maintained.

Only to the extent that the confidential source would be compromised would we keep the name of the individual who is the confidential source or such information as would identify him from the applicant. That information would be kept from the individual seeking information. Otherwise, all the rest of the contents of the file, including any of this derogatory information, would be made available to the jobseeker.

Mr. GOLDWATER. Is it your understanding that your amendment notwithstanding, the applicant would be allowed to file with this information obtained from a confidential source his own version or his own rebuttal or perhaps his own denial of that accusation or erroneous information?

Mr. ERLENBORN. Yes. Under the terms of the bill itself, that would be a remedy available to the individual about whom the file was kept.

Mr. GOLDWATER. One other question: It is my understanding that promises of confidentiality have in most cases only been made on the strength of bureaucratic authority as to most Civil Service records and that there is no statutory authority for agencies to grant confidentiality or protection; am I correct?

Mr. ERLENBORN. If the gentleman will yield, in the past, of course, an individual never had an opportunity to go into his security clearance file or into his free employment file.

Therefore, the question really never arose.

In the past there has been lawfully express and implied promises of confidentiality given to those who have made statements to investigators.

The function of this bill, if it is not amended by the Erlenborn amendment, will be to open up all of those old files so that those statements that were given in confidence will now be made available to the individual.

The gentleman from Florida says that he has never had any promises, express or implied. In that case, his name will be made available if he is one who has given such a statement, because the only thing that would be protected are those confidential sources.

Mr. GOLDWATER. Obviously, it appears by this language in the amendment that we are in essence legitimatizing this practice.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Goldwater was allowed to proceed for 1 additional minute.)

Mr. GOLDWATER. One last question, Mr. Chairman, and that is: This gives discretion to the agency to arbitrarily decide which information it will supply, and which information it will withhold. The question that occurs to me is, Where is the check and balance? It is the intention of this committee that information should be disclosed to an applicant or to an individual upon request, but, if there is this discretion within the agency, then where is the check and the balance? Where is the impartial review, the in camera inspection to determine whether in fact all information is included, or whether in fact third parties should perhaps be made available?

Mr. ERLENBORN. If the gentleman will again yield, I think the general access to the courts, as we provided in the bill, would provide that. However, let me make this one additional point, and that is that many Members of this House, myself not included, but many Members of the House have sponsored the newsmen's shield bill, realizing the great advantage that there is in confidential sources, and it will protect such sources of newsmen and newspapers, and it would shield them so that they would not have to reveal their sources and, if we pass that legislation we would find that possibly just wild rumors could be printed in the paper, and the source of the information to the news media could not be revealed.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto do now close.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by clerks, and there were—ayes 192, noes 177, not voting 65, as follows:

[Roll No. 637]

AYES—192

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bauman
Beard
Bell
Bevill
Biester
Blackburn
Bray
Breaux
Brinkley
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Casey, Tex.
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Conte
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, S.C.
Dellenback
Denholm
Dennis
Derwinski
Devine
Dickinson
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Findley
Fish
Fisher
Flowers
Flynt
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Fuqua
Gettys
Ginn
Goodling
Gray
Gross
Grover
Gubser
Gude
Guyer
Hammerschmidt
Hansen, Idaho
Hastings
Hays
Heckler, Mass.
Heinz
Henderson
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Huber
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Jordan
Kemp
Ketchum
Lagomarsino
Landgrebe
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McKay
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mayne
Milford
Miller
Minshall, Ohio
Mizell
Mollohan
Moorhead, Calif.
Myers
Nedzi
Nelsen
O'Brien
Patten
Pettis
Pike
Powell, Ohio
Preyer
Price, Tex.
Pritchard
Quie
Quillen
Randall
Regula
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rousselot
Ruppe
Satterfield
Scherle
Schneebeli
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stratton
Stubblefield
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Thone
Treen
Ullman
Vander Jagt
Veysey
Waggonner
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

NOES—177

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Barrett
Bennett
Biaggi
Bingham
Boland
Bolling
Bowen
Brademas
Breckinridge
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney, Ohio
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cotter
Culver
Daniels, Dominick V.
Danielson
de la Garza
Delaney
Dellums
Dent
Diggs
Dingell
Donohue
Dorn
Drinan
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Flood
Foley
Ford
Fraser
Gaydos
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Green, Pa.
Gunter
Haley
Hamilton
Hanley
Hanrahan
Hansen, Wash.
Harrington
Hawkins
Hechler, W. Va.
Helstoski
Hicks
Holtzman
Howard
Hudnut
Hungate
Johnson, Calif.
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, La.
Long, Md.
Luken
McCormack
McFall
McSpadden
Macdonald
Madden
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Mills
Minish
Mink
Mitchell, N.Y.
Moakley
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Murtha
Natcher
Nix
Obey
O'Hara
Owens
Passman
Pepper
Perkins
Peyser
Pickle
Price, Ill.
Rangel
Rees
Reid
Reuss
Rinaldo
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shipley
Sisk
Slack
Smith, Iowa
Stanton, James V.
Stark
Steelman
Stephens
Stokes
Studds
Sullivan
Symington
Thompson, N.J.
Tiernan
Traxler
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Whitten
Wilson, Charles, Tex.
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—65

Baker
Bergland
Blatnik
Boggs
Brasco
Broomfield
Camp
Carey, N.Y.
Cederberg
Chamberlain
Chappell
Clark
Cochran
Cohen
Conable
Conlan
Cronin
Davis, Ga.
Davis, Wis.
Dulski
Eshleman
Froehlich
Fulton
Grasso
Green, Oreg.
Griffiths
Hanna
Harsha
Hébert
Jones, Ala.
Jones, N.C.
King
Kuykendall
Landrum
McKinney
Madigan
Mathias, Calif.
Mathis, Ga.
Michel
Mitchell, Md.
Murphy, Ill.
Nichols
O'Neill
Parris
Patman
Poage
Podell
Railsback
Rarick
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Ruth
Sandman
Shoup
Staggers
Stuckey
Teague
Thornton
Towell, Nev.
Waldie
Wilson, Charles H., Calif.
Wyatt
Wyman

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise to see if I can determine how many more amendments there are expected to be offered, to see if it would be possible to arrive at an agreement on time for closing debate on this legislation.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, we just checked at the minority desk as to how many amendments we are aware of. There are about 12 or 13, not all of them are contested; probably 4 or 5 are contested.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I will not make my unanimous-consent request at this point.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 31, line 5, strike out line 5 and all that follows through line 13 and insert in lieu thereof the following:

"(3) In any suit brought under the provisions of subsection (g)(1) (B) or (C) of this section in which the court determines—

"(A) that the agency has refused or failed to comply with any of the provisions of this section, or any rule promulgated thereunder, the United States shall be liable to the individual in an amount equal to the sum of—

"(i) actual damages sustained by the individual as a result of the refusal or failure; and

"(ii) the costs of the action together with reasonable attorney fees as determined by the court; or

"(B) that the agency's refusal or failure has been willful, arbitrary, or capricious, the United States shall be liable to the individual in an amount equal to the sum of—

"(i) actual damages sustained by the individual as a result of the refusal or failure;

"(ii) punitive damages allowed by the court; and

"(iii) the costs of the action together with reasonable attorney fees as determined by the court."

Mr. FASCELL. Mr. Chairman, what my amendment does is to restore to the bill language which was in the bill in subcommittee, stricken out in the full committee, dealing with damages, the right of damages and remedies available to the individual.

If the members of the committee will follow me, in the present bill on page 31 with the section we are talking about, they will find the remedies in the lawsuit there for actual damages sustained by the individual, together with the court costs and reasonable attorney fees.

The Members will notice, however, that it is predicated only in those cases where there is willful, arbitrary or capricious action by the agency. There, the Members will find a complete departure from ordinarily understood law, tort law. A remedy that would be available to an individual if he were damaged in this case, we limit his recovery to actual damages. We require him to prove that he was damaged by a willful, arbitrary, or capricious violation, the kind of burden which is a very difficult burden, I assure the Members, as a lawyer. The Members who are lawyers know that, we place that kind of a burden only in those cases where we seek punitive damages.

So, what my amendment would do would be to restore the right of actual damage in those cases where there is a refusal or a failure to comply with the law, aside from whether it is willful, capricious or arbitrary; just sheer negligence, whether it is inadvertent or not. When there is a refusal or inability or a failure to comply with the law, we will allow the individual redress for actual damages and the cost of the action.

Then, what we do in those cases where we have willful, arbitrary or capricious action by an agency is to allow recovery for actual damage and punitive damage. So, what this amendment does, to recap, is to take the reasonable remedy, restore the rights to the individual who is actually damaged in the cases where, in the present bill now, it is only actual damages in cases of willful, arbitrary or capricious action. My amendment would give the person the right to recover actual damages in cases where there is a failure to comply with the law. It would also give him punitive damages in those cases where there is willful, arbitrary or capricious action by the agency.

Mr. BUTLER. Mr. Chairman, will the gentleman yield for a question?

Mr. FASCELL. Yes.

Mr. BUTLER. My understanding is that, in effect, what you are providing for are punitive damages in case of willful, arbitrary, or capricious action of the United States in withholding information?

Mr. FASCELL. The gentleman is correct. That is one part of the amendment.

Mr. BUTLER. Can the gentleman cite me a precedent in the statutes in the United States, or has the United States adopted a low holding itself open for willful punitive damages? Can the gentleman cite me a statute where any nation of the world has held itself open for punitive damages in the statute?

Mr. FASCELL. Frankly, I do not have that citation. But the gentleman knows where one has a willful, capricious, arbitrary action by the Government, and one is trying to protect the rights of the individual, mine or the gentleman's, it seems to me that leaving it to the court to decide whether or not there ought to be punitive damages under our system is reasonable. I am perfectly willing to leave it to the system. We do it in all kinds of cases with respect to the individual redress against the Government of the United States.

Mr. BUTLER. May I fairly observe there is no sovereignty in the world that exposes itself to punitive damages by a statute of this nature?

Mr. FASCELL. I thank the gentleman for his observation.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding. I think we have made an exhaustive study of the statutes of this Nation, and if we are to adopt by this amendment punitive damages, it would be the first time in history that the United States has made itself subject to punitive damages for any cause or in any case. We have adopted six or seven provisions by statute to impose attorney's fees against the United States, but this would be the first time for punitive damages.

I would like to ask the gentleman in the well, is it not true that there would be no way of ascertaining in advance of any one year, when this Congress is ascertaining the budget, what might possibly be the amount of damages that might be awarded?

Mr. FASCELL. The gentleman is absolutely correct. And we have the same problem in respect to awards made in condemnation cases. We have the same problem.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak against this amendment, and I would like to call the attention of my colleagues to the very real problem that the amendment imposes on a government servant. We have just overriden a presidential veto of the Freedom of Information Act, and we have put in that statute extremely strong and rigorous provisions, penalizing a Government agency and an employee who may improperly withhold information from the public or from the Congress or from other Federal employees. We have wanted to penetrate the veil of secrecy which Government agencies and Government bureaucrats have been accustomed to throw around the protection of information.

If we enact this amendment however, we will, in effect, be placing upon the Government bureaucrat the choice that if he reveals information improperly, he may subject his agency to punitive damages. If he withholds the information, on the other hand, he is subject only to ordinary damages, attorneys' fees, and costs.

Government employees, faced with that choice, faced with the imposition of punitive damages if they improperly release information, as against only attorneys' fees and costs if they improperly withhold will be tempted to withhold. We thus endanger that great principle which we have just established when we overrode the presidential veto of the Freedom of Information Act Amendments.

Mr. FASCELL. Will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman.

Mr. FASCELL. Let us talk about my problem. You are a Government employee and I want some information from you, is there any hardship on you or any burden to make that information available to me?

Mr. McCLOSKEY. I may violate the Freedom of Information Act if I do not reveal it. Yet I may be subject to punitive damages if I do.

Mr. FASCELL. No, the punitive damage language only says, "willful, capricious, or arbitrary."

Mr. McCLOSKEY. Mr. Chairman, I do not think any of us who have practiced law would care to stake our future and our future careers on what some court might determine to be "willful, capricious, and arbitrary."

Mr. FASCELL. Mr. Chairman, will the gentleman yield further?

Mr. McCLOSKEY. Certainly.

Mr. FASCELL. Then I would suggest to the gentleman that he should make the information completely available to them.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman has spoken of the term "willful, arbitrary, and capricious."

Can the gentleman give me any reason in the world why I, as a person who has been injured, should not recover actual damages from a dumb but ineffective bureaucrat, since I can get them from one who acts willfully?

One can be hurt just as badly by a dumb, well intentioned person as one can by an intelligent, conniving one, can he not?

Mr. McCLOSKEY. Mr. Chairman, let me respond to the gentleman in this way: that we are trying to balance two great interests here. We are trying to balance the necessity of balancing the budget, and we are trying to protect the Government from undue liability.

I think it is wrong to make the Government of the United States and this congressional budget subject to an absolutely incalculable amount of liquidated damages. If we had a hundred lawsuits, and if we had a hundred verdicts of $1 million each, there would be no guarantee in any way that this Congress could protect itself against that liability. It seems to me, when we balance the rights of the individual against the Government, that to add punitive damages and to set this kind of a precedent is an unfortunate mistake. It would be the first time in history this has occurred.

This would be singling out invasion of privacy as a particular right of an individual against the Government, a right that would weigh heavier than all other rights.

We have just seen a Presidential veto sustained in the case of an individual who could not recover damages against the Government in an ordinary lawsuit. Why should we make invasion of privacy a special right with this extraordinary remedy?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. McCLOSKEY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, aside from the point the gentleman is making with respect to punitive damages, the question I am raising is that this amendment is the only vehicle that would correct the situation, because actual damages are not available to an injured party because the person who hurt him did not do so intentionally.

Is that not what the gentleman reads in the original language, and is that not corrected by the amendment?

Mr. McCLOSKEY. Mr. Chairman, I do not believe that the individual is denied actual damages if he can prove them. In cases of this kind, of course, it is quite often difficult to prove actual damages, but that is not necessarily a reason to establish the extraordinary remedy of punitive damages.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I wish to speak only briefly. I simply wish to point out, if I understand the amendment correctly, the thrust of the first part of the amendment is to avoid what seems to me to be a terrible error in the bill, and that is this: that a person who is injured by virtue of a mistake unintentionally made by a bureaucrat has no redress for that injury.

Will the author of the amendment inform me whether I am correct on that?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, the gentleman from Texas is absolutely correct.

That provision is totally lacking in the bill, and that is what this amendment provides.

If the gentleman will yield further, I would like to respond to some of the remarks made by the gentleman from California. The gentleman said that we would not know how much money this would cost and that there is no way to budget it. That is the same problem the Government is faced with in all claims bills. We do not at any time know how much money it will cost and how much should be budgeted. Of course, I feel after today that we may never pass any again, but nevertheless we are stuck with the same problem in that respect.

It seems to me that this matter can be spelled out in a different way. We would force these individuals to file private claims bills. After numerous bills were filed and after they tried to get redress, we would force these people to take action. As the gentleman from Texas has said, this should be a matter of legal right, and they should have the right to collect damages.

Mr. ECKHARDT. Mr. Chairman, it also seems to me that the fears concerning punitive damages are ill-founded. The court must agree in these situations that they should be granted. I feel that the courts would seldom grant them against the United States if the United States was acting properly.

Mr. FASCELL. The gentleman is absolutely correct.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I know that the erudite gentleman from Texas (Mr. ECKHARDT) is a lawyer. I have heard the gentleman discourse very learnedly on the floor of the House before. I understand the gentleman from Florida (Mr. FASCELL) also has legal training.

As I believe most of the lawyers here in the House know, it is a general principle of law that the Government, in exercising its governmental functions, is not liable.

In exercising the proprietary functions, the Government can be liable; but it would be, as has been pointed out by others debating this amendment, unprecedented to make Government liable for punitive damages, because there has been no precedent in the past for making any Government liable for punitive damages.

I would also like to point out that the bill, as it was being considered in committee, had a punitive damage section. The committee, in its wisdom, removed that by amendment before reporting the bill.

I hope the committee will be sustained on the floor and the amendment will be defeated.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret that I cannot, as floor manager, accept this amendment, although as an individual Member I support it.

Permit me to explain my position. When the bill was reported by the subcommittee, it contained a punitive damages provision. However, this provision, by a close 18 to 14 vote in the full committee, was deleted.

Therefore, although I personally support the amendment, I do not feel, as floor manager, that I can argue in favor of the amendment.

Let me state to the Chair that after the action on this amendment, it is the intention of myself to move that the committee rise.

The **CHAIRMAN.** The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment was rejected.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. BRADEMAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill H.R. 16373 to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, had come to no resolution thereon.

U.S. DISTRICT JUDGE COMMENDED FOR OPPOSING DEPARTMENT OF JUSTICE ATTEMPT TO PREVENT PROSECUTION OF JAKE JACOBSEN FOR MAJOR CRIME

(Mr. FISHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. FISHER. Mr. Speaker, when the Department of Justice recently asked U.S. District Judge Robert M. Hill, in Dallas, to dismiss an indictment there against Jake Jacobsen, involving $825,000 in savings and loan funds, the judge very properly revolted. He insisted no valid grounds were presented and that the defendant should be made to answer for a crime of this magnitude.

There was no claim the charge against Jacobsen was not fully justified.

Then, when the district attorney, acting on orders from Washington, refused to prosecute, Judge Hill proceeded to appoint three members of the bar to do that job. But, believe it or not, so determined was Attorney General Saxbe's Department of Justice to protect Jacobsen against being tried for an $825,000 crime, it requested and obtained a stay order in the Fifth Circuit Court of Appeals—pending full review of the issue.

Mr. Speaker, ostensibly the dismissal request stemmed from a copout deal with Jacobsen under which the latter agreed to testify against John Connally involving a claim Connally had somehow misused $10,000 in milk funds in Washington.

Obviously, the Office of Special Prosecutor, headed at the time by Leon Jaworski, and Attorney General William Saxbe were determined to pay any price for testimony which would suit their needs. Jacobsen not only wangled a virtual pardon for an $825,000 major crime out of Saxbe and the Office of Special Prosecutor, but in their gleeful spirit of triumphant generosity they also, for good measure, agreed to forgo Federal prosecution of another felony pending against Jacobsen in Washington.

This will probably go down as the most lopsided and most incredible windfall ever accorded a man accused of a major crime.

It should be emphasized that there was no remote relationship—none whatever—between the misapplication of saving and loan funds in Texas and the Watergate investigation and related indictments in Washington. Therefore, the practice of plea bargaining, applicable to multiple offenses or degree of offenses, flowing out of a common transaction, has no application in the situation I have described.

Is it any wonder Judge Hill would not be a party to such a scandalous transaction? He is to be commended for his law-and-order attitude. In this day and time when so many treat crime so lightly, it is refreshing to have a judge who believes in upholding the dignity of the law.

Incidentally, Mr. Speaker, the big losers in the $825,000 savings and loan fund indictment reside in my district. The savings and loan company is located in my hometown. Those people are not interested in the high flights and poetry of Washington-based copouts. They want justice administered to the man accused of robbing them of their hard-earned money.

On last August 22 I wrote Attorney General Saxbe a letter in which I asked him the following two questions:

> 1. Specifically, what if anything was wrong with the Texas case, what are the legal grounds, to justify this extraordinary action of dismissal?
>
> 2. Is the proposed dismissal recommended by the U.S. District Attorney whose responsibility it would be to prosecute Jacobsen in the Texas case?

Mr. Speaker, that letter was written 3 months ago. Up to this time I have not received even the courtesy of an acknowledgment from the Attorney General.

The fact is there are in fact no legal grounds for dismissal, and the fact is the U.S. district attorney handling the $825,000 indictment did not initiate a request for dismissal.

Quite obviously, therefore, it would be

embarrassing to the Attorney General to address himself to the two questions, with responsive and responsible answers.

NATIONAL USURY ACT OF 1974

The **SPEAKER** pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Missouri (Mr. ICHORD) is recognized for 60 minutes.

Mr. ICHORD. Mr. Speaker, I shall of course not take the entire 60 minutes, but I have asked for this time so as to discuss a bill which I have introduced today, joined in by the gentleman from Pennsylvania (Mr. DENT) and the gentleman from Missouri (Mr. TAYLOR).

Mr. Speaker, the cost of borrowed money reached an all time high in 1974 since the time that banking reforms were first enacted in the 1930's. The average prime interest rate charged by banks doubled over a period of a mere 20 months, rising from 6 percent in January 1973 to 12 percent in August of 1974. Yields on residential mortgages rose from 7.49 percent in January of 1972 to 10.38 percent in September 1974, with a rapid rise beginning around August–September of 1973. And other interest rates have shot up on all types of loans as shown by table I in which Federal Reserve Board figures are given for the "most common" effective annual rate collected on loans over a period of time:

TABLE I.—INTEREST RATES CHARGED ON SELECTED TYPES OF BANK LOANS

Type of loan	Interest rate (percent per annum)		
	January 1972	August 1974	September 1974
Small short-term noninstallment loans to businesses[1]	7.31	11.79	12.02
Farm production loans (1 yr or less maturity):			
Feeder cattle operations	7.55	10.88	10.78
Other farm production operating expenses	7.63	10.29	10.21
Consumer installment credit for:			
New automobiles (36 mo.)	10.26	11.15	11.31
Mobile homes (84 mo.)	10.94	11.71	11.72
Other consumer goods (24 mo.)	12.57	13.10	13.20
Other personal expenditures (12 mo.)	12.74	13.45	13.41
Credit card plans	17.11	17.21	17.17
Business loans—prime rate:			
To small businesses	NA	9.97	10.22
To large businesses	5.25	12.00	12.00

[1] Loans of $10,000 to $25,000 maturing in 1 yr or less.

Note: Except for the prime rate on loans to large businesses, the interest rates shown on this release are based on a survey conducted jointly by the Federal Reserve System and the Federal Deposit Insurance Corporation at 370 insured commercial banks. All rates except the prime rates represent simple unweighted averages of the "most common" effective annual rate on loans made during the 1st full calendar week of the month in each loan category. The most common rate is defined as the rate charged on the largest dollar volume of loans in the particular category during the week covered in the survey. Consumer installment loan rates are reported on a Truth-in-Lending basis as specified in the Federal Reserve Board's Regulation Z.

The prime rate on loans to small businesses, as provided for in the dual prime rate structure established by the Committee on Interest and Dividends in the interest rate criteria for commercial banks, issued Apr. 16, 1973, is the best rate charged by a bank to its most credit-worthy local customers. For the committee's purposes, a small business is defined as any domestic commercial, industrial, or agricultural borrower whose total borrowings outstanding at any one time over the preceding 12 mo. (exclusive of long-term real estate mortgage debt) did not exceed $350,000 and whose assets do not exceed $1,000,000. The figure shown is the simple unweighted average of the rates in effect on the last business day of the first full calendar week of the month; the range of variation of these rates is considerable. The large business prime rate is the rate most commonly quoted by large banks on that date. Since the prime rate information has not been converted to an effective rate basis, the rates shown are not directly comparable to the other rates shown on this release.

Source: Federal Reserve Statistical Release, Oct. 25, 1974.

Mr. Speaker, I believe that I am generally recognized as a fiscal conservative—and I mean more than being conservative in someone else's district—but by the drafting and joining in the introduction of the National Usury Act of 1974 with Congressmen DENT and TAYLOR of Missouri, I have no objection to being characterized as a monetary liberal. I do believe that monetary policy is truly a responsibility of the national government, not State and local governments. The Constitution by article I, section 8, clauses 3 and 5, and article I, section 10, clause 1 specifically places such responsibility upon the Congress. Hence, the National Usury Act of 1974 which I have introduced today.

I submit that since the President failed to exercise the power to roll back interest rates granted to him by the Credit Control Act of 1969, it is now incumbent upon the Congress to act. The National Usury Act of 1974 will constitute simple, yet practical and effective action by the Congress. The Federal Reserve Board and the Open Market Committee do have the power to lower interest rates. The National Usury Act of 1974 compels them to do so by making it illegal to lend money in excess of 8 percent, subject to well-defined exceptions to be authorized by the Federal Reserve Board, and authorizes the Federal Reserve Board to regulate and control domestic credit transactions as well as the flow of capital abroad in order to assure and promote the availability of adequate credit for domestic purposes.

I reject the concept that money is a commodity and that a high interest policy can successfully control or abate inflation. Rather, I submit that a high interest policy aggravates inflation and will, if continued for an extended period, destroy the free enterprise system and irreparably injure America's middle class.

General interest rates on loans reached their highest levels in 1974 since the banking reforms of the 1930's. These unreasonably high interest rates have resulted in a severe curtailment of credit in general and have put a deadly squeeze on long-term loans to the housing market, small businessmen, and State and local governments. Many banks have even lost their deposits to the Federal Government. This all happened at a time when business and labor are being asked to exercise restraints on prices and wages. Yet, few seem to realize that high interest rates also increase costs and prices significantly contributing to the inflationary spiral. Additionally, when businessmen cannot afford the costs of borrowed money for basic necessities required for expansion, increased inventory costs, and for the financing to produce necessary goods and services, productivity also declines—as it has done—and unemployment results. At that point a high interest rate policy only contributes to both inflation and recession which is exactly the economic situation we are faced with today.

The high interest policy is also devastating for the new homeowner. For example, if one buys a home for $20,000 at 7 percent interest for 30 years, he will pay $28,000 in interest, but if the interest rate rises to 8 percent he pays $33,000—almost twice as much as the cost of the home—in interest alone. And the median selling price of a new one family home is $37,100 today while the average residential mortgage rate was 10.38 percent in September 1974.

The high interest policy, if continued for an extended length of time will redistribute the wealth of America. For example, let us assume that you borrow $1,000 at 6 percent interest for business purposes. The interest cost per year will be $60. Let us further assume that inflation, 100 percent, forces you to borrow $2,000 for the same purpose. If the interest rate continues at 6 percent you will pay twice as much interest; to wit $120 but if the interest rate has increased to 12 percent you will pay $240, twice the amount in terms of purchasing power but four times the original interest cost in terms of dollars. If the interest rate increases from 4 percent to 12 percent you will pay six times the original interest in terms of dollars. Inflation, regardless of the degree, and notwithstanding the deflationary effect, if any, of a high interest policy, is no excuse to permit prime interest rates to jump from 6 percent in January 1973 to 12 percent in August 1974. Consequently, after long research on the subject, in order to counteract the unhealthy trends of high interest policies, I have introduced today the National Usury and Credit Control Act Amendment of 1974.

It is my hope that even if there is not time for the passage of the bill during this session of Congress, it will be instrumental in establishing a national dialogue on monetary policy. We really have not had any national discussion of this subject since the passage of the Federal Reserve Act and the Presidential races of William Jennings Bryan.

RESOLUTION OF INQUIRY ON REMARKS OF GENERAL BROWN ON INFLUENCE OF JEWS IN UNITED STATES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, today I introduced a resolution of inquiry directed to Secretary of Defense James Schlesinger calling for the production of all factual information in the possession of General Brown, Chairman of the Joint Chiefs of Staff, upon which he based his statements on the influence of Jews in the United States. The resolution calls for the specific information which led to General Brown's observation that—

> We have the Israelis coming to us for equipment. We say we can't probably get the Congress to support a program like this. And they say don't worry about the Congress. We will take care of the Congress. This is somebody from another country, but they can do it. They own, you know, the banks in this country, the newspapers. Just look at where the Jewish money is.

The lack of "intelligence" evidenced by General Brown's remarks leads me to believe the basic security of the Nation may be threatened if we permit one with so little judgment and solid information to lead our defense effort. I have submitted the resolution of inquiry as a means of facilitating full congressional review of this incident which took place at Duke University on October 10. If there is no evidence and he is making statements which have no evidentiary support, then I think he should resign. We cannot permit a man who makes rash, unfounded judgments to serve as the Nation's ranking military officer. On the other hand, if there is evidence to support General Brown's statements then I want to know about it and I am sure that the Congress would like to know about it.

In conclusion, I want to assert that I object not only to the content of General Brown's remarks but also to the context. We must remember that his remarks were made at the height of the recent campaign, 3 weeks before the November election. General Brown chose to inject himself into political policymaking which is improper for any military officer. His actions are diametrically opposite to the wise intent of the Founding Fathers who put the military under civilian authority. It was similar military involvement in political affairs which perverted our Nation's *decision*making during the Vietnam conflict and led to tragic consequences.

PRIVATE GOLD OWNERSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 30 minutes.

Mr. CRANE. Mr. Speaker, it was with a keen sense of disappointment that I read the remarks of the distinguished gentleman from Texas (Mr. GONZALEZ) in the RECORD this morning. The gentleman serves as the chairman of the International Finance Subcommittee of the Banking and Currency Committee. I have the privilege of serving both on the full committee and his own subcommittee with him, and while we do not see eye-to-eye on the question of private gold ownership, I want the gentleman to know that I hold him in the highest regard.

I am not going to debate the wisdom of our Government's actions regarding past devaluations because I want to concentrate on the issues the gentleman raised concerning private gold ownership.

Unfortunately, his remarks to this body yesterday misrepresent the goals of those of us who have long labored to obtain for every American citizen the right to buy, sell, or hold gold.

My colleague criticized the Congress for the manner in which it became necessary to remove from the President the authority to lift the prohibition of Americians to buy, hold, sell, or otherwise deal in gold. My colleague concluded his remarks by suggesting that, as a solution to this abdication of authority to the executive branch, legislation would be introduced which would return to that very branch the discretionary authority which Congress had removed in enacting legislation which would allow Americans to own gold effective December 31, 1974.

As my colleagues will recall, during the debate on this issue on July 2 of this year I stated that—

> The importance of the cutoff date to me is that if the Congress adopts a date certain, and if the administration later comes to the House and asks that the date be extended, for whatever reason, that neither the House nor the Senate would vote to give them such an extension on the ground that it would be a betrayal of faith, because the administration did not register opposition to this date certain now.

I also made it clear that I was supporting passage of the International Development Association authorization bill, which I had previously opposed, because of this significant alteration which would return to Americans this fundamental right. While it was a difficult decision, it was a good-faith commitment made on my part to support legislation with a price tag of $375 million a year in return for the restoration to Americans of this vitally important right. This was an agreement reached among honorable men, an agreement set forth in the legislative history on this bill, an agreement which was consummated by a vote of the Members of this House. The legislation passed by a margin of 225 to 140.

I, for one, cannot conceive of any one of my colleagues in Congress violating this agreement. For the record, I would like to include the legislative history on this proposal as it was written on the floor on July 2, 1974:

> Mr. CRANE. Mr. Chairman, I rise in support of the bill H.R. 15465.
>
> When the House of Representatives last considered the International Development Association on January 23, 1974, I opposed it. I have become a supporter of the legislation for the following reasons:
>
> First, I have been a long-time supporter of the right of American citizens to buy, sell, and hold gold; in the Banking and Currency Committee, we introduced an amendment calls for the restoration of this right on December 31, 1974, unless the President acts prior to that date. I strongly supported this amendment because I believe it is high time this right is restored to all American citizens.
>
> Because the Senate has already acted on its bill, S. 2665, and because it includes an amendment which also will permit American citizens to own, buy or sell gold on or before a date certain, the only point in dispute when the IDA bill passes the House and then goes to conference will be to compromise on the effective date. H.R. 15465 provides for the right to be restored on or before December 31, 1974. The Senate language provides for the right to be restored on September 1, 1974.
>
> In addition, in response to a series of specific inquiries to Secretary Simon, Under Secretary Volcker and Assistant Secretary Hennessey, I have been reassured on a number of points which concern me and many of my colleagues with regard to the International Development Association.
>
> I include the text of Under Secretary Volcker's letter to me of June 14, 1974, in the RECORD at this point:
>
> UNDER SECRETARY OF THE
> TREASURY FOR MONETARY AFFAIRS,
> *Washington, June 4, 1974.*
>
> Hon. PHILIP M. CRANE,
> *House of Representatives,*
> *Washington, D.C.*
>
> DEAR MR. CRANE: You raised a number of points regarding IDA practices and policies during the June 11 hearings of the International Finance Subcommittee of the Banking and Currency Committee. This letter provides responses to those points, generally in the order in which you brought them up, with the exception of private ownership of gold to which we have addressed ourselves separately.
>
> By way of general introduction, I wish to point out that U.S. participation in the proposed Fourth Replenishment of IDA will provide the Association with the resources needed to carry out its program. U.S. failure to participate in IDA will not only mean the collapse of the institution's ability to carry out agreed policies, but also the loss of much of the leverage available to the United States for affecting policy in the World Bank group of institutions.
>
> A concrete example relates to the question of IDA lending to South Vietnam. Since all of IDA's present funds will be committed by June 30, future loan assistance to South Vietnam depends on U.S. action giving promise that the Fourth Replenishment will come into effect. If IDA is assured of Fourth Replenishment funds, there is no reason not to anticipate an appropriate volume of IDA assistance.
>
> The World Bank has, in fact, been working toward establishment of a consortium of donor countries for aid to IDA members in Indochina. In this connection, the U.S. Government has expressed to the IDA management its view that an initial annual lending program for Vietnam of perhaps $50 million could usefully be carried out. The IDA management, in turn, has indicated its willingness to make financing available to South Vietnam out of Fourth Replenishment resources, provided that IDA's normal lending criteria are satisfied and the security situation in the country permits.
>
> Lending to Laos and Cambodia could also be anticipated out of IDA Fourth Replenishment resources. This fund would multilateralize and depoliticize the Southeast Asia reconstruction effort and take advantage of the special expertise and successful experience of the World Bank Group in reconstruction activities. These include lending for reconstruction of Europe and Japan after World War II and similar efforts after hostilities in Nigeria and Bangladesh.
>
> Another example of the importance of U.S. participation in IDA in order to achieve important international economic objectives relates to the question of continuing membership of the Republic of China in the international financial institutions. This question is being examined within the respective Boards of Directors of the International Monetary Fund and the World Bank, and no new developments are anticipated at least until the annual meetings of these institutions in the fall. The United States is strongly supporting continued membership by the Republic of China, and while we can give no guarantees on their continued membership, there is no surer way of undermining their continued participation than to have the United States pull back from further financial participation in IDA.
>
> There are at present no cases of which the Executive Branch is aware of IDA credits being proposed for countries that have expropriated foreign private investments without compensation. It is already the policy of the World Bank and IDA to withhold lending where such expropriations take place and compensation has not been provided, or unless reasonable efforts to arrive at settlements are being made. The stated World Bank policy is consistent with Executive Branch policy and with applicable statutory policy expressions.
>
> There is no need for the U.S. Government to discuss with the World Bank withdrawal of Bank opposition to the granting of loans to the Government of Chile, since the World

Bank does not oppose such loans. In fact, within the last six months the World Bank made three loans to Chile, and three additional loans are in the processing pipeline. The World Bank's earlier suspension of lending to Chile was based on its conclusion that the economic situation there had deteriorated to such an extent that effective use of World Bank funds was not possible and was also due to the absence of good faith negotiations on compensating U.S. investors for nationalized property. Economic policy reforms by the new government of Chile have significantly altered the prospect for the Chilean economy and good faith negotiations are now going forward on compensation of copper companies. A satisfactory agreement has already been reached in this regard by the Government of Chile and the Cerro Corporation.

The announcement by India of its detonation of a nuclear device has raised legitimate concerns about the extent to which developing countries may be unwisely allocating too much of their resources to non-development purposes. In the Indian case, the Administration believes that the nuclear test explosion does give rise to questions about India's economic priorities for the future, although it is recognized that peaceful nuclear development, particularly in relation to nuclear power generation, is important for India's development. To the extent that India's nuclear efforts are directed towards peaceful purposes, the concern about the recent test disappears. The United States is sure that all aid donors will want to review carefully the implications of the Indian nuclear program in relation to India's long-range economic development. Since IDA normally monitors the appropriateness of budgetary policy of its borrowers—including the proportion spent for military purposes—and will not readily lend if an excessive proportion of a country's budget is being devoted to non-development purposes, there is no need for a special prohibition on IDA credits related to a particular type of military expenditure or to acquisition of military equipment from a particular source.

All of IDA's transactions, like those of the World Bank, are subjected to a comprehensive audit program by the public accounting firm of Price Waterhouse & Co. In addition, a system of internal financial audits and program evaluation audits is normally carried on by the Bank, and discussions are now reaching a final stage on the initiation, at the urging of the United States, of an independent evaluative audit mechanism covering a wide range of World Bank and IDA operations. The Treasury has drawn heavily on GAO assistance and advice in formulating its position in this area.

Although all IDA officials are subject to the conflict of interest rules of the World Bank Group, the idea of a system of financial disclosure by senior officials has merit and will be explored promptly with the World Bank.

Most OPEC members countries are ineligible for IDA credits under IDA's criterion of per capita GNP of $375 or less. Only Indonesia and Ecuador were receiving IDA credits before oil prices went up; further lending to these countries has been terminated already or will be by June 30, 1974. Thus no special additional action is necessary to accomplish the termination of IDA lending to OPEC countries.

By its charter, IDA can only lend to its member countries. Rhodesia is not a member of IDA.

I hope the foregoing is responsive to your concerns regarding IDA and that you will find it possible to support the proposed legislation.

Sincerely yours,

Paul A. Volcker.

Mr. Chairman, because of this response from Secretary Volcker to my series of inquiries at the subcommittee's hearings, my staff and I then held a series of meetings with various Treasury Department officials.

On the basis of the letter, and these meetings, I was pleased to join my distinguished colleagues on the committee from Georgia (Mr. Blackburn) and Pennsylvania (Mr. Williams) in preparing supplementary views on the bill.

I include those views at this point as a very important part of the legislative history of the bill, H.R. 15465:

"Supplementary Views to H.R. 15465 of Congressmen Ben B. Blackburn, Philip M. Crane, and Lawrence G. Williams

"Whereas the House of Representatives considered the fourth replenishment of the International Development Association on January 23, 1974, we opposed it.

"We now support the new bill, H.R. 15465, for the following reason:

"It contains Title II which restores to every American citizen the right to buy, sell, and own gold by a date certain.

"Mr. Crane has been the primary House sponsor of legislation to restore the right and we are very pleased that the full committee has overwhelmingly voted its inclusion in this bill.

"Because the Senate has already acted on its bill, S. 2665, and because it includes an amendment which also will permit American citizens to own, buy or sell gold on or before a date certain, the only point in dispute when the IDA bill goes to conference will be to compromise on the effective date. H.R. 15465 provides for the right to be restored on or before December 31, 1974. The Senate language provides for the right to be restored on September 1, 1974.

"In addition, in response to a series of specific inquiries to Secretary Simon, Undersecretary Volcker and Assistant Secretary Hennessey, we have been reassured on a number of points which concern us and many of our colleagues with regard to the Internal Development Association. These reassurances include the following:

"1. The Republic of Vietnam will receive favorable consideration for loans of $50 million a year from this IDA replenishment.

"2. Those members of the Organization of Petroleum Exporting Countries who have previously been recipients of IDA loans, will no longer be eligible for them.

"In these meetings, we have also stressed the continuing concern of a number of our colleagues and us with regard to the following specific policies:

"1. Continuing membership of the Republic of China in the IMF and the IBRD. It has been stressed to U.S. representatives of the IMF and the IBRD and Treasury officials that continuing membership for the Republic of China in the IMF and the IBRD will be a prime prerequisite for continued support of funding of IDA as it comes up for its annual appropriations process if H.R. 15465 passes. That is, the Congress will have the opportunity to review annually the funding of IDA and will, we believe, consider continuing membership of the Republic of China in the IMF and the IBRD as one of the prime prerequisites to any continued funding.

"2. Purchase of military hardware by recipients from non-donor nations. A number of our colleagues expressed concern over the fact that some recipient nations of IDA purchased armaments from non-contributing nations (particularly the Communist countries. We have expressed our concern over this and have been assured by officials that 'IDA normally monitors the appropriateness of budgetary policy of its borrowers—including the proportions spent for military purposes' and that this close scrutiny will, in fact, be intensified.

"3. Secretary Volcker has assured Mr. Crane in his letter of June 14 that 'the idea of a system of financial disclosure by senior officials has merit and will be explored promptly with the World Bank.' We support this move and trust it will be expeditiously considered and promptly implemented.

"4. We have also expressed our deep concern over those recipient nations of IDA loans which have chosen to detonate nuclear devices. This is a particularly obnoxious action for several reasons: The first is quite obviously the diversion of resources from more urgently needed priorities, such as feeding its own population, to a militarily destabilizing 'prestige' project.

"Equally important, however, is the fact that nuclear nonproliferation has long been a major premise of American foreign policy. A great deal of our foreign policy activity has rested on the premise that we will try to limit the proliferation of nuclear weapons wherever possible. For the United States, even indirectly, to support nations which are so clearly violating such a fundamental tenet of our foreign policy, is unthinkable to us and we believe to a majority of our colleagues here in the House. Therefore, we are pleased that World Bank and IDA officials will examine very closely their lending policies to any nation which may detonate a nuclear device. In his letter to Mr. Crane, Undersecretary Volcker noted that 'the United States is sure that all aid donors will want to review carefully the implications of the Indian nuclear program in relation to India's long-range economic development.'

"In summary, because of the restoration of the right to own gold, and because of these major policy clarifications, we feel the bill H.R. 15465 is deserving of support.

"Ben B. Blackburn.
"Philip M. Crane.
"Lawrence G. Williams."

In conclusion, Mr. Chairman, I would only remind my colleagues that the concerns which we have raised, go beyond the so-called "gold question."

These discussions have done a great deal to clear the air on a number of major policy problems concerning IDA, as expressed in our supplementary views. As the Treasury officials are aware, and I presume that the officials of the IMF/World Bank group are aware, we shall continue to monitor closely through the appropriations process the vigor with which our concerns are pursued.

Because of these facts, I support the bill and I urge my colleagues to do likewise.

Mr. Speaker, it is interesting, to note that the Treasury Department recently issued a release on this subject. It is obvious to me that the Treasury Department is taking this agreement seriously. The text of their release of November 12, 1974, follows:

Memorandum for Correspondents

November 12, 1974.

In response to questions, Jack F. Bennett, Under Secretary for Monetary Affairs, stated today that the U.S. Treasury position continues to be that the Congress would be requested to postpone the date of December 31, at which time private United States investment in gold bullion would be permitted, only if there were developments in foreign exchange or financial markets making such a change desirable. At the present time, however such conditions do not exist, and the Treasury does not anticipate that conditions will necessitate such a request to the Congress.

Mr. Speaker, in referring to this legislative procedure in his remarks yesterday, my colleague from Texas (Mr. Gonzalez) used the words "deceptive" and "fraudulent." This is very strong language from an individual who has refused to accept the mandate of his colleagues here in the House. Further, it does violence to the compromise negotiated by the honorable men of this body.

My colleague further alludes to "seeing thousands of Americans fleeced, cheated and defrauded by the expert experienced gold speculators." He worries for the public, accuses the bankers, and totally ignores the regulatory authorities invested in Federal agencies. One might as readily raise this same specter over trading in silver, copper, nickel, or pork bellies.

I, too, am very interested in what specific regulations the various Government agencies will be implementing to regulate gold ownership and trading. I ask unanimous consent that the text of letters dated November 4, 1974, which I have sent to Arthur Burns, Chairman of the Federal Reserve Board, James Smith, Comptroller of the Currency, Kay Garrett, Chairman of the Securities and Exchange Commission, and Louis Engman, Chairman of the Federal Trade Commission, be inserted in the CONGRESSIONAL RECORD at this point:

As you know, I have long been interested in obtaining for American citizens the right to buy, sell, or otherwise deal in gold.

Now that PL 93-373 has been signed by the President, I am very interested in what regulations your agency might be planning to implement regarding this law.

Will you please advise me what your plans are, if any?

It is interesting to me that my colleague failed to mention the protection to be offered through the recently established Commodity Futures Trading Commission. As recently as November 15, 1974, the Department of Agriculture began work on the promulgation of regulations relative to transactions for the delivery of silver bullion, gold bullion, or bulk silver and gold coins pursuant to a standardized contract commonly known as a margin account, margin contract, leverage contract, or leverage account. I incorporate at this point in my remarks the Agriculture Department's notification of this action as contained in the Federal Register:

[Department of Agriculture—Commodity Exchange Authority]

TRADING IN LEVERAGE CONTRACTS IN GOLD AND SILVER

NOTICE OF INQUIRY

Section 217 of Pub. L. 93-463, enacted October 23, 1974, provides for regulation by the newly-established Commodity Futures Trading Commission, of transactions for the delivery of silver bullion, gold bullion or bulk silver and gold coins pursuant to a standardized contract commonly known as a margin account, margin contract, leverage contract or leverage account. (Hereinafter referred to as "leverage trading" or "leverage contracts.") Under this section, effective April 21, 1975, all persons will be forbidden to offer to enter into, enter into, or confirm the execution of any such transaction contrary to any rule, regulation, or order of the Commodity Futures Trading Commission designed to insure the financial solvency of the transaction or prevent manipulation or fraud.

Pursuant to sections 418 and 104 of Pub. L. 93-463, the Administrator of the Commodity Exchange Authority is inviting all persons interested in, or affected by, such leverage trading in gold or silver to give their views for the benefit of the Commission in considering what rules, regulations or orders should be issued with respect to such trading.

To assist the Commission in considering this matter, all interested persons are requested to submit their views as to what rules, regulations or orders are in the public interest to insure the financial solvency of leverage contracts or to prevent manipulation or fraud. Any person who believes that an account of his actual experiences will be of value to the Commission is requested to submit them in writing.

All persons dealing in, or proposing to deal in, leverage contracts in silver bullion, gold bullion or bulk silver and gold coins are requested to submit their views as to regulation; copies of the types of contracts they write; a description of how they solicit business, including copies of advertising and other promotional literature; a description of how they insure, or plan to insure, the financial solvency of their contracts; and any other information they believe will be of interest to the Commission in considering this matter.

Written statements of interested persons should be mailed to the Administrator, Commodity Exchange Authority, United States Department of Agriculture, Washington, D.C. 20250, prior to December 31, 1974. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Administrator, Commodity Exchange Authority, during regular business hours.

Issued: November 12, 1974.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[FR Doc. 74-26787 Filed 11-14-74;8:45 am]

To date, I have not yet received a reply to any of the above mentioned inquiries. However, I have had an extremely informative meeting with Mr. Thomas Wolfe, Director of the Office of Domestic Gold and Silver Operations in the Department of the Treasury. During that meeting, we discussed many aspects of the gold market, and how it would evolve. I was heartened to have Mr. Wolfe advise me that he envisioned the United States becoming the "freest gold market in the world." In addition, I believe my colleagues in the House of Representatives will find of interest the following elaboration of remarks by Thomas Wolfe, Director of the Office of Domestic Gold and Silver Operations, before the American Bankers Association:

REMARKS BY THOMAS W. WOLFE, DIRECTOR, OFFICE OF DOMESTIC GOLD AND SILVER OPERATIONS, OCTOBER 21, 1974

On next December 31—or earlier if the President so elects—all statutory restrictions on the ownership of gold will end. Americans will be free to buy, sell and hold gold just as they do other basic commodities. There will be no residue of Government rules, regulations, guidelines or hints beyond those that would normally apply to business transaction in general. In short, the United States will have a gold market that is as free and open as in any country in the world.

A great many banks are taking a hard look at the possibility of actively participating in the new gold market. But being more regulation conscious than other sectors of the economy, many banks have asked whether they will be permitted to deal in gold. This is not an idle question. In contrast to the accepted legal status of individuals and nonfinancial corporations, banking powers under the law are exclusive and the omission of any power is an implied prohibition. However, national banks have the authority under Section 24 of the National Bank Act to buy and sell bullion, defined as gold and silver, subject, of course, to such conditions as the Comptroller of the Currency may consider appropriate. State chartered banks have comparable authority to deal in bullion under state banking laws. So, not later than next January 1 those banks that so elect may once again include gold in the range of services available to their customers.

The right to deal in gold by banks for their own or customer accounts does not, of course, mean that all banks have an obligation to take on this function. Whether and in what way a bank may participate in the new gold market is a matter for management decision based essentially on the time honored profit motive. In making this decision any potential gold dealer should, of course, have some awareness of the present scope of the gold market—who buys gold, how much, where it comes from—and what new developments lie ahead. In this context let me briefly outline the supply-demand situation for gold in this country as it is now, set forth a few of the factors that are likely to effect changes following an end to gold controls, and offer a few thoughts on the potential role of the banks in the new environment.

The production of gold on a large scale is a relatively recent historical development. Since King Solomon's time the total production of gold throughout the world is estimated to be about 2½ billion ounces. Nearly 80 percent of this amount has been mined since 1900 and about half of it in the past 25 years. Annual world gold output reached its peak in 1970 at about 48 million ounces. Of this total South Africa produced about 30 million ounces, the Soviet Union perhaps 7 or 8 million ounces, and the United States about 1½ million ounces. Since 1970 world gold production has shown a substantial decline. In 1974 the production of gold outside the Soviet Union is estimated to be only about 32 million ounces. This year United States gold output will be not much over 1 million ounces.

On the demand side the industrial and commercial use of gold rose rapidly after World War II and by 1972 probably at least equaled world gold production. However, over the past couple of years commercial gold buying has dropped sharply—largely in response to higher prices—and is now substantially short of world gold production. In 1973 and again this year the market demand for gold has been largely sustained by heavy purchases for speculation and investment.

For many years American industry has been the largest constant buyer of gold in the world market. In the peak demand year of 1972, American industrial gold consumption totaled over 7 million ounces—about 15 percent of the world supply. Since our mining production was less than 1½ million ounces, United States gold imports in that year totaled nearly 6 million ounces. Over the past year or so industrial gold consumption in the United States has sharply declined, and gold bullion imports this year will probably be well under 5 million ounces.

But while industrial gold buying has been on a sharp down trend, a new demand factor has developed in the American market in the past year or so. In December of 1973 the gold regulations were interpreted to permit the purchase of any gold coin originally minted prior to 1960, including restrikes of these coins in subsequent years. The practical effect of this interpretation was to open the American market to so-called "bullion" coins, mainly of Mexican and Austrian origin. As a result, in the first 8 months of this year Americans purchased nearly 2 million ounces of gold in coins valued at about $340 million. For the year as a whole, United States imports of gold will be between 8 and 9 million ounces—perhaps 5 million ounces for industrial use and between 3½ and 4 million ounces in bullion coins bought by individuals.

But what about the future? What will happen when gold controls end? At present we can't be certain how strong American demand for gold will be, but we do know that all of it will be reflected in higher imports in the absence of Government sales. If there are increased imports they will come from the only available sources of new supply, i.e., South Africa and the Soviet Union. A combination of strong demand for gold and higher prices could have a very substantial and adverse impact on the balance of payments for 1975. In this situation it seems prudent to be prepared to make gold sales from the Government stock if the need becomes clear. This would not involve more than a small percentage of our total holdings. In addition to reducing the balance of payments deficit such sales would increase federal receipts and effect a modest contribution toward a balance in the Federal budget.

In this new situation banks are considering various ways in which they might participate in the gold market. Options being considered cover a broad range from the simple direct sale of gold to investors all the way to fairly exotic instruments such as gold convertible CD's.

My colleagues on the panel will be enlightening you on the technical details of possible gold market dealing from a banker's standpoint. For my part I think it may be useful to offer a few cautionary thoughts on the possible scope of the new market.

The forecasts of demands in the coming year have ranged from a substantial surge in public buying and much higher gold prices to a minor ripple of demand that might generate a sell-off by disappointed speculators and an actual drop in the gold price. Let me present a few reasons that seem mildly persuasive to me why an extraordinary surge in gold demand may not occur.

(1) There is nothing in the American historical past to indicate any great public interest in holding gold. Gold was not widely held as a store of wealth here when it was freely available prior to 1933. It is worth noting that the Canadians have not been heavy gold buyers and the lifting of ownership restraints for the Japanese last year created only a short-run spurt in public buying which quickly faded.

(2) Since December 1973 the so-called "bullion" gold coins have been available for purchase by Americans in virtually unlimited quantities. But as I noted earlier, the demand for these coins has not been unduly heavy despite active promotion in the market.

(3) Holders of gold bullion, particularly in small amounts do not, in any practical sense, have a liquid investment. As a freely traded commodity there is always the risk of a substantial swing in the price. Over the past year the price of gold has made several short-run movements—down as well as up—of 15 percent or more. But even apart from the commodity price risk, there is a substantial gap between the buy-sell price necessarily quoted by dealers of gold in small quantities.

(4) Gold is an investment which gives no current return to the holder. At the present high level of interest rates this sacrifice is a considerable cost factor, particularly over an extended period of time.

(5) Investors in gold must take account of the very large stock of gold held in official reserves throughout the world. The United States alone holds about 276 million ounces, an amount several times larger than present annual world gold production. The possibility of using a portion of this reserve to satisfy new public demand is a factor that must be taken into account by any prudent investor.

(6) And finally, any banker contemplating gold dealing must recognize that he will face formidable competition from other sectors of the market, not to mention his fellow bankers. As a free commodity, gold in the coming year can be bought and sold by anyone. Whatever the extent of market demand the gold business is certain to be among the most highly competitive in the American economy. In this situation the profits to the average bank in gold sales are likely to be at best minor, even including a modest boost to the safe deposit rental business.

But even if the direct sale of gold turns out to be more of a cost burden rather than a source of revenue to banks, I doubt that our enterprising and innovative bankers will give up the game easily. For modern bankers the return of gold to commodity status in a sense turns the clock back to the 17th century when the goldsmiths of Lombard Street conceived the idea of issuing more and more paper receipts against less and less gold deposits and thereby established the basic principle of the modern banking system. But for American bankers of today there is a difference that should not be overlooked. Unlike the ancient Lombards, American bankers operate in an environment of long established and, on the whole, attentive federal and state regulatory authorities.

In assessing the gold market from a banker's viewpoint, the key point is that a free gold commodity market—with fluctuating prices determined by essentially unpredictable supply and demand—is a very recent historical phenomenon. As a practical matter the free gold market dates only from March 17, 1968 when the two-tier gold price came into being. For centuries prior to that date—the price of gold for anyone was rigidly fixed by political authorities based essentially on its monetary status. However, the one factor that has in the past distinguished gold from other commodities—a fixed trading price—has now gone by the board. The significance of this change, particularly for bankers, is profound. All of the banking traditions, institutional practices, regulations, and habits of thought pertaining to bank gold dealing, which have their roots in the long historical period prior to 1968, are largely irrelevant in the new environment. Gold is now a commodity priced in a free market and with a highly volatile recent price record. For banks, gold dealing under these conditions will be a wholly new activity for which the historical past offers no reliable guide—either for the bankers or the bank regulators. In this context we can assume that the banking authorities will be keeping a close watch on developments, and it would be reasonable to expect appropriate guidance will be forthcoming if the situation so warrants.

We will all note that Mr. Wolfe states that—

> There is no residue of Government rules, regulations, guidelines or hints beyond those that would normally apply to business transactions in general. In short, the United States will have a gold market that is as free and open as in any country in the world.

Needless to say, this free-market economy is among the greatest strengths of our American system. I do not sell our American public short and I believe that the protection of this open and free market is the best protection of our system and ultimately of the individual citizen. I do not believe that the American public is so foolish as to be "fleeced, cheated, and defrauded" as easily as my colleague suggests. I am confident the American public will not be bamboozled by sleazy operators in the new gold market. I have great confidence in the American public to deal in this commodity as they have been dealing in other commodities, from precious gems to pork bellies, for many years.

I must say to my friend that I have a high regard for the innate shopping ability of the American consumer. That we will be offered a wide variety of gold ranging from certificates indicating ownership, to small bars, to bullion coins, to coins which are legal tender in other lands, will, I believe, again offer the American consumer the variety of choices to which he is entitled in this, as in any other market.

Regarding the allegation that no hearings were held on the question of private gold ownership, I would remind my friend that on numerous previous occasions over a period of years I have both formally and informally asked the distinguished chairman of our committee to hold such hearings.

The gentleman repeatedly asks that the Congress reassert its authority in this area. Of course, the Congress did—that is why the bill passed by such wide margins both here and in the other body. But a further point that deserves to be driven home is how can the Congress reassert its authority by giving the President the arbitrary authority to determine a date to permit private gold ownership? It is precisely this kind of congressional abdication which has, on the one hand, eroded the authority of the Congress over the years, and also denied the American citizens the right to own gold.

Mr. Speaker, I believe that the proper course in this matter lies not in returning to the executive branch the vast power it has exercised in this area for more than 40 years, but in returning to Congress yet another oversight responsibility—that of ruling on any effort to sell, alienate, or commit any of our gold reserves by the Secretary of the Treasury. I have already introduced legislation to this effect. My bill would prohibit the sale, alienation, or commitment of gold by the Secretary of the Treasury without prior approval by act of Congress. This is another area where the peoples' Representatives in Congress should have the right to oversee any action taken. If my colleague from Texas is, in fact, concerned over the abdication by Congress of its proper responsibilities, then I call upon him to join me as a cosponsor of this legislation. I have here a copy of my bill together with a "Dear Colleague" letter I circulated in September calling for support of the bill and ask that they be incorporated in the RECORD at this point:

H.R. 16594

A bill to prohibit the sale, alienation, or commitment of gold by the Secretary of the Treasury without prior approval by Act of Congress

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 3699 of the Revised Statutes (31 U.S.C. 733), section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a (a)), or any other provision of law, or any rule, regulation or authority of any such law, the Secretary of the Treasury may not sell, alienate, or commit gold without prior, specific approval by Act of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 17, 1974.

DEAR COLLEAGUE: Last week I introduced legislation to prohibit the sale, alienation, or commitment of gold by the Secretary of the Treasury without prior approval by Act of Congress.

The Secretary of the Treasury has very broad outstanding authority to dispose of our gold. Current law provides that ". . . he may sell gold in any amount at home or abroad, in such manner and at such rates and upon such terms and conditions as he may deem most advantageous to the public interest . . ." I believe that the oversight authority provided by my bill properly belongs to the Congress. This is yet another area where the executive branch has unlimited power and where the people's Representatives in Congress should have the right to oversee any action taken.

There is clearly no valid reason for denying Congress the oversight authority provided by my bill. The Secretary of the Treasury was initially granted his broad powers for the purpose of stabilizing the value of our currency at a time when it was redeemable in gold. The gold-reserve requirements for Federal Reserve notes and deposits have been abolished, however, and the reduction of the monetary role of gold, begun in the days of the New Deal, has now been completed.

It is clear that the power to dispose of this national treasure, our gold reserves, must not *rest in one individual*. I plan to reintroduce this legislation requiring Congressional approval of the sale, alienation, or commitment of our gold on Monday, September 23, and I welcome your support.

IN DEFENSE OF PRIVACY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 5 minutes.

Mr. McKINNEY. Mr. Speaker, I rise in support of H.R. 16373, the Privacy Act of 1974. This bill is virtually identical to legislation I helped to introduced when I first came to Congress 4 years ago. Since that time I, along with every other citizen in this country, have been alarmed over the consistent erosion and Government abuse of our right to privacy. The Watergate revelations, in which we learned of Government surveillance of innocent citizens, illegal wiretapping, misuse of income tax data, collection of personal dossiers, have helped to create a growing distrust and even fear of Government in the minds of millions of Americans.

To meet these myriad abuses I had hoped Congress would promptly enact a much more comprehensive and inclusive bill than is represented by H.R. 16373. The aim of this legislation is to safeguard individual privacy from the misuse of Federal records and to provide that inividuals be granted access to records concerning them which are maintained by Federal agencies. However, I recognize there must be a first step in protecting the personal freedom of privacy and there is no better place to begin than the safeguarding of individual records held by Government agencies.

We have reached the point in our history when we must determine whether we are to be a people who controls their Government or a Government that controls its people. By passage of this legislation we are insuring that it is, indeed, the people who control their Government, for this bill, in a sense, gives a conscience to our Government computers and tells our citizens that they are indeed individuals, not mere numbers on a card.

For the first time the American public will be made aware of the existence and characteristics of all personal information systems kept by every Federal agency and each citizen will be able to review and correct his record as compiled by Government agencies, to correct inaccurate or misleading information in the records that can be so damaging. For the first time citizens will be able to control the transfer of personal information about him from one Federal agency to another for nonroutine purposes and no records concerning political and religious beliefs of individuals can be maintained by Federal agencies unless expressly authorized by law or an individual himself. Moreover, the availability of records containing personal information will be limited to agency employees who need access to them in the performance of their duties.

In essence, H.R. 16373 provides a series of basic safeguards for the individual to help remedy the misuse of personal information by the Federal Government and reassert the fundamental right of personal privacy of all Americans.

Mr. Speaker, we have a long way to go before our citizens are once again confident that the constitutional guarantee of privacy is not a mere abstraction but is a fundamental facet of our system of Government. The Privacy Act of 1974, as I have said, is a first step to reinstilling confidence that Government does indeed respect the freedoms guaranteed in the Constitution.

I would hope my colleagues in the Congress will not rest complacent upon passage of the legislation before us today. There is much work to be done in the area of privacy and we must address the many other aspects—protection of income tax records; protection of computer files held by private industry; privacy of bank records and credit ratings; surveillance of innocent citizens, to name but a few—to once again insure privacy as an intrinsic individual liberty, inherent to our system of democracy.

FEDERAL ELECTIONS COMMISSION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 60 minutes.

Mr. FRENZEL. Mr. Speaker, the Federal Election Campaign Act Amendments of 1974—Public Law 93-443—signed into law just last month by President Ford, is an important milestone in the reform of our system of campaign financing. In the past, probably the most important reason for the failure of campaign finance reform legislation has been the lack of an effective enforcement agency or mechanism. The 1974 law attempts to remedy this problem by providing a vehicle for fair, vigorous, equitable enforcement—a Federal Elections Commission.

The Commission is established to administer, seek to obtain compliance with, and formulate overall policy for the disclosure requirements enacted by the 1971 law, contribution and expenditure limitations, public financing provisions, and other provisions of law which relate to campaign financing.

With the passage of the 1974 act and establishment of the Commission, Congress has made a most important official move to recognize, and to begin to redress, the dangerous lack of public confidence in politics and government at all levels.

The Commission is unique among Federal institutions. Two of the Commissioners are appointed by the President; two are appointed by the Speaker of the House upon the recommendations of the majority and minority leaders of the House; two are appointed by the President pro tempore upon the recommendations of the majority and minority leaders of the Senate. All six voting members must be confirmed by both the House and Senate for 6-year terms. In recognition of the complexity, scope, and importance of the new Commission's work, the law states that "members shall be appointed on the basis of maturity, experience, integrity, impartiality and good judgment."

The effectiveness of the new law will be dependent on the ability of the Commission to oversee and enforce the act's intricate provisions and maintain its own integrity, independence, and impartiality in dealing with sensitive issues.

Both the Congress and the President are presently contemplating their choices of nominees for these crucial positions. To aid this process, it may be helpful to list some of the vast array of responsibilities and powers vested in the Federal Elections Commission and to review some of the regulatory decisions required immediately. The following is a summary of the major duties and powers of the Commission, categorized by function, which, while not all-inclusive, will indicate their range and complexity.

GENERAL RESPONSIBILITIES

After being nominated, the Commissioners-designate will be subjected to confirmation hearings. They will be expected to display knowledge of the law, a grasp for the failings of the old system, and a willingness to devote long hours to assuring the smooth functioning of the Commission.

Upon final appointment, the Commissioners will need to find a office/headquarters. There will be countless budgeting, equipment, and hardware decisions. The Commissioners will have to appoint a staff director, general counsel and other members of the staff. Skillful personnel selection is essential if the Commission is to meet its varied responsibilities. Considerable administrative skill will be needed at this stage. A few wrong decisions might seriously impair the future operation of the Commission.

The Commissioners must develop written rules for the conduct of the Commission's activities. These rules will provide guidelines for the staff and future Commission decisions.

The Commissioners will be responsible for formulating overall, general policy for the 1971 act—containing disclosure provisions—the criminal code sections relating to campaign financing—contribution and expenditures limitation and so forth—and the Presidential Election

Campaign Fund Act—public financing provisions.

Another important initial step will be to determine the ability of the Commission to utilize the resources of other Government agencies such as the General Accounting Office and Library of Congress. These agencies could be extremely helpful to the Commission in administering and enforcement of the law.

The 1974 act is unique in that it gives the Congress power to veto the rules and regulations of the Commission before they go into effect—that is within 30 legislative days. All rules and regulations proposed by the Commission must be submitted to the appropriate committee or committees of Congress with a detailed explanation and justification. Since it will be at least 30 legislative days before they are approved—over twice as long if they are vetoed—the Commission must submit its proposed regulations long in advance of the first primaries in 1976—probably by around September of 1975. In the interim—since candidates will undoubtedly begin campaigning for the presidency early in 1975 and some provisions of the act will have immediate ramifications—the Commission will have to give considerable guidance to candidates and committees.

The Commissioners will be responsible for drawing up all budget requests and submitting them to both the Executive and Congress.

The Commission is required to report to the President by March 31 of each year. This statement must contain a detailed summary of the Commission's activities, together with recommendations for legislation and other actions.

Another important general responsibility is to assure that all interested and affected parties are informed about their duties and responsibilities under the act. The new law is often technical, complicated, and often imprecise. Penalties for violations are severe. The Commission must do everything in its power to educate candidates, campaign workers and treasurers, party officials, the press, and other groups and individuals to assure that as few violations as possible are unintentional and unwitting. If the Commission becomes bogged down in policing violations that are committed out of ignorance, intentional and serious violators may be able to escape punishment for their transgressions. The Commission should publish manuals, fact sheets, and summaries of the act to help explain the law to affected parties.

REPORTING AND DISCLOSURE

The 1971 Federal Election Campaign Act, as amended by the 1974 act, cites some specific responsibilities of the Commission under its disclosure provisions:

First, each political committee which receives contributions or makes expenditures in excess of $1,000 must register with the Commission. Guidelines and regulations will have to be drawn up to administer this requirement.

Second, reports of a specified nature must be filed at certain times by political committees and candidates. The Commission will be responsible for supervising these provisions and establishing appropriate regulations.

Third, all persons who make expenditures in excess of $100 must also file with the Commission. Rules will have to be drawn up to administer this separate provision.

Fourth, the Commission must develop, furnish, and distribute the prescribed forms for making the required reports and statements under the disclosure provisions. These forms will probably have to be more clear and precise than at present if contribution and expenditure limitations are to be adequately enforced.

Fifth, the Commission must prepare, publish, and furnish a manual setting forth uniform, recommended bookkeeping and reporting methods.

Sixth, it must develop a method for filing, coding, and cross-indexing of contribution and expenditure information. Existing computer storage facilities must be integrated to achieve genuine full disclosure.

Seventh, the Commission must make reports available for public inspection within 2 days after receipt.

Eighth, reports and statements must be preserved for a period of 10 years from the date of receipt, except that in the case of House races they need be preserved only 5 years.

Ninth, the Commission is responsible for compiling and maintaining a cumulative index of reports and statements filed with it, published in the Federal Register and available for purchase directly or by mail.

Tenth, it is required to periodically publish a list of those who did file and those who did not file disclosure reports.

Eleventh, from time to time the Commission must make audits and field investigations of reports and statements filed with it. It also must make investigations of alleged failures to file reports.

Twelfth, apparent violations are to be reported to the appropriate enforcement authorities by the Commission.

Thirteenth, the Commission shall publish regulations of general applicability prescribing the manner in which debts and other contracts, agreements and promises are to be reported.

Fourteenth, a copy of each statement filed with the Commission must be filed with the Secretary of State—or other comparable State official—of the appropriate State. To assure uniformity and public dissemination of these reports, the Commission will have to issue guidelines and regulations. In order to administer and enforce this provision, the Commission will probably need to establish a liaison with the National Association of Secretaries of State—NASS—and other groups of State election officials.

Fifteenth, the Commission will have the power to waive reporting requirements for certain categories of candidates and political committees, as long as it carries out the basic intent of the act. There may be numerous applications for relief, and the Commission may need guidelines to decide on individual cases.

Sixteenth, acceptable standards must be established to determine if candidates and political committees have taken sufficient action to secure full contributor information—that is, occupation and place of business.

Seventeenth, the Commission must establish standards for the requirement for filing of statements on convention financing.

Eighteenth, the Commission is responsible for policing the retention of records by political committees and candidates. It must decide on the period of time the records are to be kept and on the manner in which these records are to be kept.

ADDITIONAL RESPONSIBILITIES

The 1974 act adds several important, additional requirements under the disclosure provisions.

Multicandidate committees supporting candidates in numerous states presently must file almost daily in congressional and presidential election years. The Commission will have the discretion to allow these committees to report not less frequently than monthly. Guidelines will have to be established to sort out the many applications for relief under this provision.

The 1974 act requires candidates to designate principal campaign committees which will compile the reports of all committees and persons acting on behalf of the candidate. Procedures will have to be established for establishing and registering principal campaign committees, for identifying those agents who are authorized to make expenditures on behalf of a candidate, and for determining and registering auxiliary committees.

Each candidate is required to make all expenditures through campaign depositories—national or State banks. Rules and regulations will be needed for designation of candidates' campaign depositories, for State depositories of Presidential candidates, and for maintenance of petty cash accounts.

One of the most difficult provisions to administer and enforce will be the requirement that all earmarking be disclosed. The Commission will have to police and develop procedures for reporting earmarked funds and for assuring full identification of the original source and ultimate recipient.

The definition of contribution includes the phrase "anything of value." The purpose of this phrase is to include donations that cannot be classified as deposits of money, loans, cash, and so forth—that is contributions in-kind. Clearly, all such donations must be reported. However, it will be most difficult to set a specific value on the use of an individual's car, a storefront, an airplane, a media consultant, and other similar goods and services. Yet, guidelines and regulations to determine the exact value of such contributions are mandatory if the contribution and spending limitations are to be enforced. The Commission will have to evaluate the various types of in-kind contributions and make sure that they are reported at full value.

The 1974 act allows excess campaign contributions to be used for the purpose of supporting activities of Federal officeholders—as well as for other legal purposes. The Commission will have to promulgate rules for the disclosure of funds used in this manner.

Under the new law, a candidate who fails to file a disclosure report will be prohibited from running again for office. The Commission will have to decide upon the ground rules for this provision: If a candidate files a day late, will he be disqualified from running? An hour? A week? If a candidate fails to file a complete return, should he be disqualified?

Section 308 of the new law requires not only political committees and organizations which attempt to influence elections to file reports, but also any person who commits any act directed to the public for the purpose of influencing the outcome of an election. This broad and imprecise language will have to be refined to show who is covered, the reporting requirements, and the types of activities covered. The complexity of this section will probably require lengthy regulations. Section 308 is really a new law in and of itself.

The new law makes certain exceptions to the definitions of contributions and expenditures for the purpose of disclosure. Food and beverages provided on an individual's residential premises up to $500, unreimbursed travel expenses up to $500, and slate cards and any other printed listing of three or more candidates made by a State or local party committee are all exempted. The Commission will have to develop a mechanism for reporting the items, which are exempt if below $500, once the contribution or expenditure does exceed $500. It will also have to define what a State and local party committee is for the purposes of the slate card exemption.

CONTRIBUTION LIMITATIONS

The new law sets limitations on the amount individuals and political committees can give to a candidate and his supporting committees. The Commission is responsible for administering and enforcing this provision.

The definition of contribution is rather vague and nebulous and needs extensive clarification and refinement, much of it via regulation and on a case-by-case basis by means of advisory opinions. A clear, precise definition of contribution is necessary, otherwise special interests may use the vagueness to circumvent the limitations.

The Commission will have to develop rules regarding contributions that are exempted from the definition of contributions for the purposes of the limitation; for example, food and beverages up to $500, unreimbursed travel expenses, slate cards, and listings of three or more candidates.

Similarly, the Commission will have to develop precise estimates for the worth of various contributions in-kind. Hundreds of questions will have to be answered if the contribution limitations are to be applied equitably and effectively.

The Commission will have to determine what the normal day-to-day expenses are for special interest and party committees, and to what extent these expenses should be attributed to the limitations. For example, the congressional campaign committees provide services and have day-to-day expenses which total up to $16,000 per Congressman. If the value of these goods and services are attributed to each candidate's limitations, everybody will be in violation of the law. On the other hand, some services, such as the recording studios and media consultant work, directly influence a candidate's chance of being elected. The Commission will have to carefully scrutinize many of the activities of both party and special interest committees to ascertain which are legitimate campaign expenses. Fine lines will have to be drawn, including distinctions between services provided by party committees and the same services provided by special interest committees.

The Commission will have to develop a mechanism for determining when the aggregate contribution limitations have been reached. Computer processing coupled with easy identification of donors will be needed to instantly locate those who have exceeded the limitations. Insofar as possible, violators must be exposed before the election, so that the American voters will be able to register their disapproval of such activities.

The Commission will have to apply contribution limits to Presidential candidates who may also be running as Senate or House candidates. For example, Texas will permit LLOYD BENTSEN to run for Senator and President at the same time. Can AmPAC, COPE, or any other political committee give him $5,000 as a Presidential candidate and another $5,000 as a senatorial candidate?

The legislative language of the conference report states that if a person exercises any direct or indirect control over the making of a contribution, then such contribution shall be counted toward the limitation imposed on that person. In other words, a political committee or individual cannot contribute up to the maximum and then direct someone else—a subsidiary committee, for example—to contribute more. The Commission will have to develop standards under which affiliates and organizations—which are otherwise associated—may qualify as separate entities for the purpose of the contribution limitations. In order to make separate contributions, do two organizations have to have completely independent decisionmaking processes?

EXPENDITURE LIMITATIONS

The Commission is responsible for administering and enforcing the provisions of the new law which place limitations on the amount which candidates can spend.

The definition of expenditure is not precise, and needs extensive clarification and refinement, much of it via regulation and on a case-by-case basis by means of advisory opinions. A clearer definition of expenditure is necessary if the limitation is to be effective.

The Commission will have to develop rules regarding the expenditures that are exempted from the definition of expenditure for the purposes of the limitation—that is, food and beverages up to $500, unreimbursed travel expenses et cetera.

The Commission must determine the spending limits for each race—based on Census Bureau population data—and the cost-of-living increases in the limits for the 1976 elections—based on Bureau of Labor Statistics data.

In order to ascertain whether or not a specific candidate has or is likely to exceed his spending limitation, the Commission must develop a mechanism for determining aggregate spending by a candidate, including the capability for quick identification of authorized spending committees and individuals.

The Commission will have to determine whether certain preprimary expenses should be credited toward a candidate's spending limitation. Candidates could spend thousands of dollars to build up their name recognition before the campaign even begins. Should the many informal phone calls and lunches and dinners for presidential hopefuls be credited against their spending limits if those expenses are run up in 1974 and 1975? Should Presidential candidates be allowed to set up commissions and fly their own airplanes around the country in attempts to launch their campaigns? If such expenses are not counted toward the limitation, early starters and wealthy candidates would have an important advantage. Yet, if they are credited toward the limitation, serious first amendment questions might arise.

The Commission will have to determine whether certain expenditures are made in a primary or general election. If bumper stickers are bought in the primary, but not used until the general, which election spending limit should they be attributed to? When candidates carry over huge inventories from the primary to the general election, which spending limit should the inventories be credited to? If a billboard is bought for the primary, but is also used in the general election, how should it be prorated between the primary and general? To what extent should candidates be allowed to shift their expenses from the primary to the general and vice versa? These and numerous other similar questions will have to be answered by the Commission.

The Commission must prescribe rules for cases in which a candidate for nomination for election to the office of President makes an expenditure in two or more states. It must determine how much of each such expenditure shall be attributed to the candidate's expenditure limitation in each state.

The Commission must define what constitutes a separate election. For example, in some States, the party convention is tantamount to the primary election.

There may be huge administrative problems in attempting to prorate expenses. Candidates frequently run as teams and conduct campaigns jointly. How should a commercial or direct mailing be prorated toward the spending limitations of several candidates? How should these costs be allocated? This may be an extremely difficult task, especially when there are important State, local, and Federal races in the same State at the same time. For example, a candidate for the Senate may simply credit as much of his expenses as possible to the gubernatorial candidate, thereby circumventing the law. This might be relatively simple to do with expenses such as campaign headquarters, staff, and election day efforts to get the voters to the polls.

There are also problems with cross-endorsements and independent committees. In 1972, a group of conservatives in Kansas published ads which said essentially, "Nixon-Docking—Men You Can Trust." Should these ads count toward both candidates' spending limits? Since it was not fully authorized, can this type of advertising be forbidden? Innumerable administrative and constitutional problems arise whichever way these questions are answered.

It will be difficult to monitor and police many types of expenditures.

The expenditure limitations will raise many questions about how to assess the value of personal services or use of personal property. How does a candidate value the services of a President, Bart Starr, Serpico, or Archie Bunker when they campaign on his behalf?

Many questions may arise over the rigidity and inflexibility of campaign spending limits. What happens if a candidate goes on the air 3 days before the election, using time booked and paid for well in advance, and attacks his opponent with a sensational, but phony exposé, and his opponent has already spent up to his limit? Is the opponent not permitted to purchase additional air time to reply? If a candidate reaches his expenditure limit and a warehouse of campaign materials is destroyed by fire, is the candidate allowed to spend more money to replace the destroyed material, thereby exceeding the legal limit? If there was insurance to cover the loss, would the insurance payment have to be declared as a campaign contribution and could the candidate spend the insurance money for his campaign and exceed his limitation?

Candidates are allowed to spend up to 20 percent of their limitation for fundraising expenses. Must such expenses be made out of a separate account? What constitutes a fundraising expense? What candidate may normally enclose a self-addressed envelope in all his mass mailings for fundraising purposes. Would it be equitable to allow one candidate to count mass mailings as a fundraising expense, but not to allow another to? Should television spots, radio commercials, and newspaper ads qualify as fundraising expenses under certain circumstances? Does the State spending limit in Presidential primaries apply to fundraising expenditures as well, or can a candidate spend $2 million in California and New York to raise funds for New Hampshire and Florida primaries? These are just a few of the types of questions that are likely to be asked.

PARTY SPENDING

The new law allows political parties to make additional expenditures on behalf of candidates. A mechanism must be developed to give an accurate accounting of party spending on behalf of a candidate.

The Commission will have to establish guidelines for defining what the national committee of each party is, in addition to defining what a State and local committee is. It will have to determine who actually acts for the party at the State level—that is, the Mississippi National Democrats or regular Democrats. It will have to determine whether local committees are actually subordinates of State committees and whether party committees have been set up as fronts to channel additional money into a candidate's campaign.

INDEPENDENT EXPENDITURES

The Commission must promulgate rules and regulations regarding independent expenditures on behalf of candidates.

The independent expenditure provision will encourage certain types of spontaneous, grassroots activities by exempting them from the cumbersome requirements of the law. However, if a candidate urges supporters to undertake such activities or these activities are in some way coordinated, has the law been violated? At what point will "spontaneous" independent expenditures be considered too organized? This provision could create dozens, perhaps hundreds, of constitutional lawsuits. The Commission may be forced to devote many hours of legal time to resolving the complicated issues surrounding the independent expenditure provision.

The Commission will also be responsible for promulgating rules for the provision which allows candidates to make expenditures from their personal funds and those of their immediate family.

MISCELLANEOUS PROVISIONS

Preemption of State law: The new law preempts all State laws in the area of campaign financing, but does not precisely define the types of laws which will be superseded. For example, a Florida law prohibits candidates from handing out anything of value to voters during the campaign. Is this law preempted by the 1974 act? The Commission will have responsibility for supervising this provision.

Clearinghouse: The Commission will function as the national clearinghouse on election information. The clearinghouse supervises the conduct of a wide variety of studies in addition to operating an information dissemination center. It oversees studies on State and local election boards, voter registration, State campaign financing laws, election administration and various other related issues. It has a mailing list which includes thousands of State boards of election and many other State, local, and Federal officials.

Honorariums: The Commission will have to promulgate regulations for and answer questions about the honorarium provision contained in the new law.

Corporate contributions: While the ban on corporate contributions has long been in effect, there are still many fuzzy areas of interpretation and many practices that are borderline violations of the law. Further, the Supreme Court has never—but may in the near future—ruled on the constitutionality of this provision. Finally, the Commission will be responsible for supervising separate segregated funds set up under sections 610 and 611.

Other provisions: The new law reduces the statute of limitations for violations of campaign financing laws. It also maintains the requirement that newspapers charge candidates the normal comparable charge for advertisements. The Commission will supervise these provisions.

PUBLIC FINANCING

General responsibilities: The Commission is responsible for formulating overall policy with respect to the public financing provisions contained in the new act, in addition to those contained in the 1971 Presidential Election Campaign Fund Act. It must establish a liaison with the Secretary of the Treasury to assure the smooth functioning of the fund. The Commission is also responsible for the administration and enforcement of the public financing provisions.

The Congress has the power to veto any rules and regulations promulgated by the Commission under the public financing provisions. All rules and regulations proposed by the Commission must be submitted to the appropriate committee or committees of Congress along with a detailed explanation and justification.

General elections: The Commission must establish rules and regulations regarding the methods by which candidates for President establish eligibility for public funds, including designation of the candidate's authorized committee, determination of funds available, bookkeeping requirements, records, and information, and audits. The Commission is required to determine major and minor parties and whether or not each party's candidate is eligible for money. This determination may be more difficult than it initially seems, because if a party is within 1,000 or so votes of the 5 or 25 percent requirements, it may demand a recount of all national Presidential returns. The Commission must determine the entitlement of eligible candidates to subsidies and factor in the cost-of-living escalator provision. It must then certify each candidate's eligibility to the Secretary of the Treasury. A liaison with the Department of Treasury is essential to assure that the funds are automatically transferred and so that the Commission can easily find out precisely how much is in the fund.

After each Presidential general election, the Commission must conduct a thorough examination and audit of the campaign expenses of each candidate, and determine if any repayments are necessary.

The Commission is responsible for collecting and auditing the five reports from each candidate that are required in the month before the election. As soon as possible, it must prepare and publish a summary of each statement for the Federal Register.

As soon as possible after the Presidential general election, it must submit a report to the Congress listing qualified campaign expenses, the amounts certified by the Commission and the amount and circumstances of any repayments.

The Commission is authorized to appear and participate in judicial proceedings, including those to recover payments, to seek declaratory and injunctive relief and to appeal any decision by the courts. It may initiate suits that are appropriate to implement and construe any provision of the act.

The Commission oversees the penalty provisions, including the prohibitions on making excess campaign expenses, unlawful use of payments, false statements, kickbacks, unauthorized expenditures, and contributions, and unauthorized disclosure of information.

Presidential conventions: The Commission must make sure that a separate account is established to pay for presidential nominating conventions. It is required to determine the eligibility of each party and each party's entitlement to funds. In the process, it must define the manner in which each national party designates the committee eligible to receive financing, the information that committee must supply to the Commission, and the timing and manner of the committee's disclosure of records and books. The Commission must certify to the Secretary of the Treasury eligibility for payments from the Fund. It must determine what constitutes a legitimate convention expense. It must also formulate rules and regulations regarding the eligibility of new and third-party candidates and committees for preconvention and convention financing.

As soon as possible after the conventions, the Commission must conduct a thorough and complete examination and audit and determine if any repayments are necessary. It must also supervise the penalty provisions, including the prohibitions on excess expenses, unlawful use of payments, kickbacks and illegal payments.

Since the parties are eligible to begin receiving funds on July 1, 1975, the Commission should finish work on the rules and regulations by February of next year—only 3 months from now.

Presidential primaries: The Commission must establish rules and regulations regarding the methods by which candidates for nomination for President establish eligibility for public funds, including designation of the candidate's authorized committee, determination of funds available for matching, bookkeeping requirements, records and information, and audits. Determination of the funds that are available will be close to impossible, because the Commission will have to decide before the primaries how much money from the fund will be spent on the general election and conventions. The remaining funds are to be made available for the primaries, to be distributed equitably among the eligible candidates. The Commission must also decide upon a schedule for the equitable distribution of the primary moneys.

The Commission must determine the entitlement of eligible candidates to primary subsidies and certify each candidate's eligibility to the Secretary of the Treasury.

The Commission is required to conduct a full examination and audit of qualified campaign expenses of every candidate after each matching payment period, and determine if any repayments are necessary.

As soon as possible after the matching payment period, the Commission must submit a report to the Congress listing qualified campaign expenses, the amounts certified by the Commission, and the amount and circumstances of any repayments.

The Commission is authorized to appear and participate in judicial proceedings arising from the provisions of the Presidential Primary Matching Payment Account Act, including those to recover payments, to seek declaratory and injunctive relief and to appeal any decision by the courts. It may initiate suits that are appropriate to implement and construe any provision of the act.

The Commission oversees the penalty provisions, including the prohibitions on making excess campaign expenses, unlawful use of payments, false statements, and kickbacks and illegal payments.

Enforcement: The Commission is charged with overseeing the enforcement of title III of the Federal Election Campaign Act of 1971, as amended—the disclosure provisions—the Presidential Election Campaign Fund Act, the Presidentian Primary Matching Payment Account Act, and the following sections of title 18, United States Code: 608, limits on individual and organization contributions, candidate and family contributions, aggregate individual contribution limits, independent expenditures, and candidate and party expenditures; 610, prohibition on corporate and labor union contributions, administration of separate segregated funds; 611, prohibition on contributions by Government contractors; 613, prohibition on contributions by foreign nationals; 614, prohibition on contributions in the name of another; 615, prohibition on cash contributions over $100; 616, prohibition on excessive honorariums; and 617, fraudulent misrepresentation of campaign authority.

The Commission must coordinate enforcement efforts with the Department of Justice, FBI, Clerk of the House, and Secretary of the Senate.

General responsibilities include the examining and auditing of about 250,000 pages of disclosure reports every 2 years. The Commission will probably be forced to conduct extensive field investigations of alleged violations.

The Commission will have numerous powers to enforce the law. All of these powers can be exercised only by the Commissioners. The powers include:

First to require any person to submit reports and answers to questions.

Second, administer oaths and affirmations;

Third, issue subpenas;

Fourth, take depositions;

Fifth, pay witnesses fees and mileage;

Sixth, initiate, defend or appeal any civil action involving the provisions of law under the Commission's jurisdiction;

Seventh, render advisory opinions;

Eighth, make, amend, and repeal rules;

Ninth, conduct investigations and hearings expeditiously;

Tenth, petition the courts to require compliance with Commission subpenas; and

Eleventh, petition the courts for quick rulings on questions of constitutionality.

The Commission will be able to use each of these powers to investigate all violations. In the first 2 years of operation of the 1971 act, there were 6,000 violations in House races, over 1,000 in Senate races, and over several hundred in the presidential election. These numbers include only violations of title III—the disclosure provisions. With the institution of contribution and expenditure limitations, the number of violations will probably be substantially greater. There is no way of telling how many violations of the public financing provisions will be uncovered.

The act contains a specific, fairly lengthy procedure for the investigation and resolution of each violation, including the requirement that the Commission endeavor to correct each violation by means of conference, conciliation, and persuasion.

The Commission is required to render advisory opinions in response to any written request by Federal officeholder, candidate, or political committee as to whether any transaction or activity would constitute a violation of the law. The Commission must make each such request public, provide an opportunity for interested parties to comment, and respond in a reasonable period. Any action taken on the basis of an advisory opinion is presumed to be in compliance with the act. Due to the many ambiguities contained in the act, it is likely that the Commission will receive hundreds, probably thousands, of requests for advisory opinions in the first couple of years.

The new law requires the Attorney General to report to the Commission the disposition of each violation within 60 days after it receives the violation and every 30 days thereafter. The Commission will be responsible for seeing that this provision is complied with and that the Justice Department moves expeditiously on any violation forwarded to it.

CONCLUSION

Fears have been expressed that even though the job of Commissioner is full time, Commissioners would not have to spend much time on the job. Since the Commissioners cannot delegate any of their powers or authority to members of the staff, the above analysis shows that, if the job is done right, being a Commissioner may be even more than a full-time job, especially for the first 2 years.

The law goes into effect on January 1, 1975. Candidates and committees will need almost immediate guidance on how to comply with the provisions of the new law. Rules and regulations will have to be drawn up immediately for the new section 308—requiring persons who indirectly influence elections to report the same as political committees and candidates. Regulations for the Presidential primary matching scheme must be drawn up immediately. The parties will need to have guidelines and regulations for the convention financing. Since all regulations will take at least 30 legislative days to enact, they should be complete by February 1975. Rules and regulations for the other provisions of the law will have to be complete by September if they are to go into effect before the New Hampshire primary.

It is imperative that the Commissioners be appointed and confirmed as soon as possible. Unless the Federal Elections Commission is quickly set up, chaos may ensue when the law goes into effect on January 1st. All candidates, officeholders and political committees deserve to know promptly what ground rules they will be operating under.

I include the following:

THE POLICING OF CAMPAIGN REFORM

In any battle over political reform, a key question—often *the* key—is how the rules will be enforced. This is especially true when the new rules are as far-reaching and complex as the program of spending and contributions limits, reporting requirements and public financing of presidential campaigns contained in the landmark reform act finally signed last month.

Throughout the long debate preceding passage of that law, the Senate favored entrusting the enforcement of its provisions to a strong, independent agency. The House preferred a less powerful supervisory panel closely tied to Congress. Such a group, House members argued, would be more sensitive to the practicalities of politics; in other words, enforcement might not always be too strict. These contrasting views were finally reconciled by a conference agreement to create a fairly strong enforcement commission with six full-time, voting members—two (of different parties) to be nominated by the President, two by the Senate president pro tempore, and two by the Speaker of the House. All six must be confirmed by both houses of Congress. This approach, many believed, could produce a panel that would combine the pragmatism treasured by the House with the independence and stature the Senate emphasized.

The Senate nominations have now been made, and it appears that the spirit of amiability has prevailed after all. The Democratic nominee, chosen by majority leader Mike Mansfield (D-Mont.), is Joseph F. Meglen of Billings, Montana, an attorney who is a longtime friend of Sen. Mansfield and is also his former campaign treasurer. The Senate's Republican nominee, selected by minority leader Hugh Scott (R-Pa.), is Joan D. Aikens of Swarthmore, a businesswoman and president of the Pennsylvania Council of Republican Women. Both Mr. Meglen and Mrs. Aikens are said to have extensive political experience.

The fact that these nominees are little-known outside their own domains does not mean that they necessarily lack the competence to enforce a whole new package of federal election laws. The problem is precisely that they are so little-known and that their personal affiliations with the Senate's leaders seem to have been such a large factor in their selection. It would be equally objectionable if the post were regarded as a sinecure for a former member of Congress, whose main attributes were friendliness and longevity. Such nominees simply do not bring to the elections commission the national stature and recognized impartiality which can best promote public confidence in the panel—and in the heralded reforms which the commission will have to enforce. Nor does it help that Sens. Mansfield and Scott tried to zip their nominations through the Senate on the last day before the recess, the same day that their selections were announced. That effort was aborted and a hearing will be held—but the impression of coziness and myopia remains.

It is now up to the President and the Speaker of the House to set a constructive standard by making nominations that are less parochial and more deserving of general acclaim. The Congress has an obligation, too, to make the confirmation process meaningful. Mr. Meglen, Mrs. Aikens, and the four others yet to be named should be questioned extensively about their views on what is wrong with the old system of campaign finance, their understanding of the new law and the commission's responsibilities, and the time they intend to devote to the job. In the present climate, such scrutiny would be almost routine for nominees to any other regulatory post. It is doubly important in this case, given the necessity of showing from the start that the new election commission will not be the captive of any party, individual or interest group.

PROJECT INDEPENDENCE—A PERSPECTIVE ON RESOURCES AND COSTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 30 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, Project Independence is a goal that requires further examination before a misguided sense of patriotism and nostalgia for the good old days propels us into programs that may not be economically viable and energy productive. While the raison d'etre of this national goal stems from the realization of the serious economic and political implications of continued, and increasing, reliance on imported petroleum, the full meaning of Project Independence is only beginning to dawn on the public sector. Two questions that need to be answered are: How? And at what cost?

Clear definition of how this national goal is to be achieved has yet to be developed. Most scientific and economic analysts agree that we cannot achieve our energy goals by 1980, the target date for Project Independence. The costs of this program—in price increases, taxes, Government spending, and environmental damage—are even more difficult to calculate—but have been projected as high as $985 billion over the next 20 years.

Whatever the final methods and costs, it is almost certain that Project Independence will have the following implications:

First. Energy prices will stay high indefinitely. Experts estimate that the long-term price of gasoline will be about 65 cents per gallon at the pump. At a 5-percent inflation rate, this could rise to over $1 a gallon in a decade. Plans to deregulate natural gas prices and remove controls on other fuels indicate higher utility bills in the years ahead. Taxes are being considered for high-energy-using appliances, such as air conditioners and heaters, and tax surcharges are contemplated on electrical power consumption. Increases in fuel taxes, auto registration and parking fees are also possible to curb energy consumption.

Second. The Federal Government will have to underwrite the energy effort in a gigantic program of Federal subsidies, price guarantees, and insurance against economic failure. These incentives will be necessary to coax energy investors into pumping billions of dollars into developing unproved methods of producing synthetic fuels from coal and oil shale. The private sector has not involved itself in this type of energy program before, because of initial high costs and market uncertainty. The Commerce Department has envisioned a program of price guarantees on specific amounts of synthetic oil. This Government backing would enable an energy investor to obtain funds in private financial markets. Of course, this arrangement could also cost a great deal of money. For instance, an output of 4.1 million barrels a day is anticipated for 1982. If the Government guaranteed a price of $9 a barrel, and the going price of oil is $6 a barrel, the Government would pay the $3 difference. At this production rate, it would cost the taxpayers $12.3 million a day. The Department of Commerce has developed a "worst case projection" that envisions a price support level of $5. This would cost the taxpayers $98.1 billion over a 14-year period. If the price of oil goes high enough, these price guarantees may not be necessary—but stop to consider the enormous cost if Government support is required.

Third. In order to protect our developing energy industry, tariff walls would have to be erected against the possibility of cheaper imports. We might find ourselves looking at the rest of the world paying $4 a barrel for oil while we have to pay $6 a barrel for our domestic production. And might not tariff barriers be adopted by other countries against our products, using the same protectionist rationale? If the price of oil should plummet due to a withdrawal of the United States from the international oil market, will the rest of the world benefit while we continue to pay high prices?

Fourth. The environmental costs of Project Independence are too large to be ignored. A 60-percent increase in coal production portends large scale strip mining, especially in the Western States. Drilling for oil on the Continental Shelf might result in damage to the beaches of the east and west coasts. Will a regional rift develop between residents of States bearing the environmental brunt of Project Independence and the residents of those States who only consume energy? What will be the final cost, in lives and dollars, of burning high sulfur coal?

Are we abandoning economics, conservation, and good sense in pursuit of a goal whose achievement is questionable under the present time frame? Do we really treasure energy self-sufficiency over all other considerations? Or would it be more prudent to advocate an increased level of sufficiency that would not forego a sensible level of fuel imports from friendly nations—a level of self-sufficiency that would absorb the effects of an import reduction or cutoff without undue economic disruption? Would it not be more sensible to call for an increased national energy conservation effort rather than pulling out all the stops in favor of increased energy production at any cost? Should we not take the time to carefully analyze the net energy gains that might be realized from the various energy programs that have been proposed?

The implications I envisage from Project Independence portend an era of very high costs to the American consumer, substantial environmental damage and a return to a gloomy and dangerous trend of protectionism. Let us examine our available and potential energy resources in light of these considerations.

OIL

The total oil heritage of the United States—including Alaska—is about 200 billion barrels. of this total, about 50 percent has been recovered and burned; another 30 percent has not yet been pumped from the oilfields; and 20 percent is presumed to exist, somewhere. If we were to rely solely on our own reserves, our oil would last for 20 years at the 1970 consumption rate of 5.4 billion barrels annually. Actually, our consumption level has already surpassed this level and continues to spiral upward. All of the free nations of the world consume 14.6 billion barrels of oil per year. With a total free world reserve of 550 billion barrels of proved reserves, the lifespan of oil for our free world economies would be 35 years.

The Alaskan oil find represents about 20 billion barrels. If we relied on it for our entire oil needs, it would last 4 years, based on 1970 consumption levels. At the most optimistic estimates of recoverable oil—30 to 50 billion barrels—it should last 6 to 10 years. Increased oil production is a very short term answer to our energy problem. Even if more oil reserves are discovered, it seems to be an inexorable law that consumption rises to meet supply of energy available, and additional finds will at best provide only a small additional measure of short-term relief.

NATURAL GAS

We face an immediate gas shortage over the next two decades that can only be met by increased imports of decreased consumption. From the total estimated world resources of gas and from consumption trends, a natural gas life-span of two to three decades can be projected for the United States. Estimates of our gas heritage range from 1,000 trillion cubic feet to 2,000 trillion cubic feet. Using an average of 1,400 trillion cubic feet as our initial gas legacy, we have consumed 400 trillion cubic feet. Of the 1,000 trillion cubic feet remaining, three-fourths have yet to be discovered. By 1975 our "gas gap" will amount to 5 trillion cubic feet, or a 20-percent shortage. As far as gas imports are concerned, one of our primary suppliers, Algeria, has recently announced her intention to increase natural gas prices by as much as 986 percent over the next few years. Another possible source is Russia, whose gas resources of 3,000 trillion cubic feet surpass our own. There are questions that attend this possibility, such as who will pay for this venture, and what will the cost of gas be? Estimates indicate that we might be paying $1 billion annually for only 4 percent of our gas needs. The obvious political implications of increasing reliance on Russian natural gas are also too compelling to be ignored.

Some suggestions have been made regarding nuclear stimulation of natural gas deposits. One such project, Project Gas Buggy, involved the underground explosion of a 29-kiloton atomic device, and yielded 300 million cubic feet of gas in 1 year. At our 1970 consumption rate of 23 trillion cubic feet, we would need 7,000 such detonations per year to keep up with demand for gas. To stimulate our gas fields for 10 years would require 19 explosions per day. The technical and scientific manpower and uranium resources expended in such a project cannot be justified to increase the lifespan of our gas reserves by 20 to 30 percent when we need to deploy this talent and resource into nuclear fission and nuclear fusion programs which hold the ultimate answer to our energy problems. However, it would be wise to perfect this technique for use as a possible future option, should conditions so require.

COAL

Coal, the giant of our fossil fuels can be considered as our only viable substitute for oil and gas for short and intermediate term needs.

Our total estimated coal reserve is 1.5 trillion tons, which includes coal discovered and not yet mined plus that presumed to exist. Our 1970 coal consumption rate was 600 million tons. If used solely for energy, this reserve would last for 700 years at the 1970 rate of consumption. However, it is likely that much of our coal will be used in the production of synthetic oil and gas, and its life expectancy would then drop to 250 years. If used solely as a source of chemicals for conversion to proteins and plastics, it could last as long as 100,000 to 150,000 years.

Synthetic fuel technology is in itself a highly complex problem and one that does not appear likely to meet our fuel needs for some time. The National Petroleum Council estimates that by 1985 we could have 26 synthetic fuel plants in operation, with a combined production of 2.3 trillion cubic feet of gas per year. By 1985, our present gas needs of 23 trillion cubic feet will have doubled, so the synthetic gas production will only fill 5 percent of our annual gas needs. We could close the gas gap by a capital outlay of $25 billion by 1985 that would produce synthetic gas to equal projected imports. Estimates to fill all of our gas needs range over $110 billion. To fill our doubled gas needs of 46 trillion cubic feet by 1985, we would need 500 plants of 90 billion cubic feet per year capacity.

At present, 50 percent of coal, 17 percent of natural gas and 13 percent of petroleum are employed for the generation of electricity. The question has been raised whether the utilization of coal alone for electrical generation would reduce the need for synthetic fuels and close the energy gap. Unfortunately, the projected petroleum demand of 6 billion barrels per year and the projected gas gap of 13 trillion cubic feet by the mid-1980's would mean that coal could only fill 17 percent of the oil gap and 29 percent of the gas gap.

One of the frequent criticisms of increased use of coal for electrical generation has been its classification as a "dirty" fuel. Two new processes might go a long way toward solving this problem. One process involves magnetohydrodynamics—MHD—a technique pioneered by the Soviet Union for the combustion of powdered coal with other additives so that the resulting "torch" effect can be used to generate electricity directly. Another possibility for clean coal combustion lies in the fluidized bed combustion in which powdered coal and other chemicals, along with air, are injected into a molten bed of iron. The iron acts as the heat transfer medium to generate steam to produce electricity.

Despite obvious drawbacks, it appears that coal alone holds the possibility for filling our short- and intermediate-term energy needs.

OIL SHALE

We should not overestimate the potential of oil shale to solve our energy problems. The energy required for processing is greater than the energy obtained from the oil in about 99 percent of all oil shales. Most shales—99.2 percent—hold about 25 gallons or less of potential oil per ton of shale. Additionally, although the hydrocarbon content of all shale is estimated at 1,000 trillion barrels, only one part in 10,000 is recoverable, and oil from shale may add only another 10 percent to mans' oil reserves. In a February 26, 1974, statement before the House Interior Subcommittee on Mines and Mining on the prototype oil shale program, Interior Secretary Rogers Morton stated that "oil shale belongs in the future." He reiterated that it will be several years before we will even know the feasibility of commercial oil shale production in terms of economy and technology. Testimony by Gulf and Standard Oil Co. experts acknowledged that actual production of the shale would be unfeasible until 1980–82, with an approximate agreed-upon price of $10 per barrel. The proposed in situ process was viewed as being commercially impractical until at least 1980; this method would have the least environmental impact but presents significant technological challenges. Because of its potential, however, there is need for accelerated research and development of the various in situ processes.

The disposal of spent shale and water problems continue to loom as major problems in the development of oil shale technology. Clearly. our total answer to the energy gap does not lie buried in the Rockies.

SOLAR ENERGY

Solar energy, the bright hope of the future, is currently a giant beyond reach. Solar radiation reaching the Earth is 30,000 times the present industrial power employed by man—6 trillion watts. If our creative talent and technological skills could harness this potential power, our energy resources would last as long as the Sun continued to shine. Despite its abundance, solar energy has not been exploited except in a limited way in water heaters, furnaces, and space applications. Widespread commercial use is not practical at the present time, but systems for heating and cooling or for limited generation of electricity could be built now. For home heating and cooling purposes, cost is the prohibitive factor. but this situation could change dramatically with a steady increase in the price of fossil fuels. The generation of electricity from solar energy is a more difficult challenge, and there are conflicting ideas about the best approach to the problem. Some engineers believe that small generating units located where the electricity is to be consumed are the ideal way to utilize this resource, rather than building solar thermal facilities modeled on existing central power stations. Additionally, the problem of nighttime storage of energy remains to be completely solved, as does the problem of locating solar panels in space. The energy required to launch these panels into space orbit, and the possible adverse effects of micrometeorities on solar panels remain unanswered problems. Scientific projections now indicate a 5- to 20-year leadtime for solar heating and cooling, and projected electrical generation from solar sources is more than 20 years away.

GEOTHERMAL

Considering the heat of the Earth as an energy bank, it is about 100,000 times that of all fossil fuels. Although the total geothermal potential is great, only a small portion of this is accessible. This fraction that could be effectively harnessed for energy needs constitutes about 1 percent of present world energy needs. There are several plans to tap geothermal energy now in preparation. Scientists at Los Alamos are advocating a technique known as hydraulic fracturing—where water pumped down a well under very high pressure is used to fracture underground rocks and create a heat cavity. Using this technique, each well could be converted into a 100-megawatt powerplant with a lifespan of 30 years. There are several dimensions to be noted in this proposal, however. Using a 3-percent per year turnover rate in powerplant relocation, derived from the life expectancy of 30 years, we would need to have 750 such plants by 1985 to supply just 10 percent of our power needs, projected at 750 billion watts. Geothermal energy research should be pursued to fill the energy needs of those areas that are feasible sites, such as the Western States. While geothermal energy does not completely solve our power problem, it could make an important contribution to closing the energy gap.

NUCLEAR POWER

While nuclear power cannot rescue us from our present plight, it is our greatest hope for the future. Back in the 1940's, nuclear energy was hailed as the energy of the future. Unfortunately, much of the contribution to our Nation's energy needs that might have been made by nuclear power has been effectively thwarted by well-intentioned, but not well-informed, interest groups.

How long could the uranium reserves of the United States last? Assuming all power were to be drawn from nuclear fission, it would require 2,400 tons of uranium to supply our present 2 trillion watt needs for a year. At such a consumption rate, uranium would last for 275 years. If our present rate of power growth continues until the year 2000, we will need eight times our present energy needs. At such a rate of consumption, we would deplete our uranium reserves in 30 to 40 years. Even the power of nuclear fission cannot withstand the onslaught of exponential population growth and accompanying demand for energy based on rising living standards.

The answer to this dilemma lies in two areas: the nuclear breeder reactor program and the nuclear fusion program. Unfortunately, work on these projects should have started in earnest back in the 1940's. Because of the time we have lost, we can expect a serious breeder gap—by the end of the century we can realistically expect no more than 5 to 10 percent of our electrical power needs to come from the breeder reactor program. Using nuclear fission, our energy needs for 100 to 1,000 years could be filled by nuclear power—depending on whether a "burner" reactor system is used—consuming uranium resources—or if a breeder reactor system is used—producing additional nuclear fuels.

What are some of the concerns that have hampered the development of the nuclear power program? Concern is concentrated in five areas: the problem of radioactive waste; the possibility of an explosion; atomic plant site emission; waste heat problems; and the problem of possible theft of nuclear materials.

First. Waste disposal is a problem that is solvable, and one to which the Atomic Energy Commission is devoting considerable attention. Currently, research is being conducted on waste solidification that would eliminate the problem of leakage. In the interim, the Atomic Energy Commission maintains an intense monitoring system to insure that no harm will come from the remote possibility of leakage.

Second. Nuclear powerplants cannot explode like an atomic bomb. The arrangement of the fuel pellets absolutely precludes this. A nuclear bomb requires almost pure uranium, whereas a powerplant has only enriched uranium (3 percent (235)). It is important to remember that no fatalities have occurred in civilian nuclear reactors in 210 reactor-years of operation. If one added the 1,150 reactor years of the operation to naval reactors, the total derived would be 1,360 civilian-naval reactor years of operation with no fatalities. Compare this with the number of people killed in automobile accidents from 1945 to 1968—951,171 people. Consider the deaths that are attributable to fossil fuel air pollution—estimates range as high as 10,000 deaths a year in New York alone. We accept the risk of driving automobiles; accepting the possibility that we could be among the 55,000 people killed annually on the Nation's highways. The exceptional safety record of commercial reactors is the most eloquent rebuttal to the emotional charges that have been leveled about the risks of nuclear accidents. If we cannot accept this risk, we accept instead the political and economic consequences of a growing energy deficit.

Third. Nuclear powerplants produce less emissions than fossil fuel plants. Atomic powerplants emit no sulfur dioxide, no particulates, no nitric oxides and carbon monoxide. They also produce less radioactivity than fossil fuel plants which burn coal and release into the air minute quantities of radioactive matter. Atomic powerplants emit 1 millionth of a rem per person per year, far below the background exposure level of radioactivity normally present from natural sources of 0.1 rem. The radiation from a full-scale atomic power program of even 1,000 powerplants will be far below even the background level of radiation.

Fourth. Thermal pollution is a concern still undergoing debate. While this factor can be deleterious to some forms of marine life in one area, it has been demonstrated to have actually increased the number of fish in other areas. This concern needs to be studied on a basis that takes into consideration the type of marine life in a given area, and should not be subject to blanket condemnation.

Fifth. Much concern has been voiced recently about the danger of nuclear material falling into the wrong hands. Safeguards against theft of nuclear materials have been, and will continue to be, strengthened by the Atomic Energy Commission. No one can positively guarantee that theft of nuclear material will never occur; however, the security system that is being developed by the AEC will take every practical human and technical precaution against the possibility of nuclear theft. Risk is a factor that accompanies every progressive scientific endeavor. In the case of nuclear power, risks must be reduced to minimal levels obtainable through extant technology and the application of human intelligence. These risks then must be weighed against the benefits derived to calculate the worth, both social and economic, of progress in a given scientific area. To those who question the worth of nuclear power in our long-range energy goals we must ask "What do you propose in its place?" That question has yet to be answered. This Nation cannot afford to grow cold in the dark while nuclear detractors grope for nonexistent, long-range energy options.

Nuclear fusion is perhaps our most promising possibility for energy in the future. If successful, the program could yield unpolluting energy for an indefinite period of time. Unfortunately, this effort, like that of the breeder reactor program, has been hampered by a lack of adequate funding. America spends more on deodorants in 1 year—$390 million—than it has on fusion research for the past 10 years. Research on fusion and work on the breeder reactor program must be accelerated if we are to come close to closing the serious energy gap that looms in the near future. The relentless attack on nuclear power may just be a case of misunderstanding, but we may be in serious trouble if it indicates a prejudice against modern science.

There is a danger that the lifting of the Arab oil embargo has lulled the public into complacency about our energy problems. There is an even greater danger that too much emphasis on the short-term convenience of increasing oil imports will jeopardize our Nation's ability to respond to the impending international energy gap. Oil imports can alleviate some of our present energy problems, but a return to complete reliance on them as a source of energy would be most imprudent. Project Independence must be structured to encourage energy research and development of potential fuel sources holding the greatest promise for long-term energy yield. At the same time, the scope of our national commitment should be broadened to include an energy education program and the formulation of long-term energy conservation policies. Curbing consumption of imported oil is our best short-term energy option. If we can make this hard choice, we can stem the flow of U.S. dollars to the Middle East that has undermined our international monetary position. These dollars should be spent in our own country to build an improved foundation of energy self-sufficiency. If the projections on the costs of Project Independence are correct, we will need these dollars within our own economy. Work should begin immediately to determine the maximum acceptable level of oil imports. This decision should reflect both economic and political considerations for the long-range national interest of this country. While it appears to be economically impractical to advocate the goal of total energy self-sufficiency, it is equally impractical—and inherently dangerous—to increase our energy dependence on unreliable sources.

The American public deserves to have the full economic and political facts on Project Independence and all it implies. Further, they also need to know what the consequences of energy inaction will be. If they are going to help pay the bill for improved national energy self-sufficiency, they need to know exactly what they are buying.

GOLD OWNERSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. SYMMS) is recognized for 30 minutes.

Mr. SYMMS. Mr. Speaker, yesterday on the floor of the House, one of my colleagues delivered a lesson in economics. He issued a clear warning, for those who cared to believe it, that the American people are about to be crucified on a cross of gold. He asked for delay in our newly restored right to own gold.

Mr. Speaker, the only "cross" we are about to be crucified on is that of the welfare state, if this body takes the advice of my respected colleague from Texas.

Delay of our legal right to own gold is another shabby trick to prevent the owners of private property protection from their greedy Government. The financial policy of any welfare state depends on the politicians' ability to deficit spend, confiscating wealth through the ravages of inflation.

Only two things stand in the way of the kind of double-digit inflation we see today—an enlightened, enraged citizenry; and the right to own gold. Assured that their political rhetoric has confused and fooled the former, some politicians live in fear of exposure of their deeds—an exposure which will surely come with the ownership of gold by our citizens.

Few of the Government's actions in the past decade have been as important and inspiring in the fight for the economic freedom and stability of all Americans as the legalization of gold ownership.

Money is the common denominator for all economic transactions: it is a commodity which serves as a medium of exchange, universally accepted by all participants in an exchange economy as a payment for their goods and services. Throughout history, many such mediums existed, ranking from seashells to precious jewels. But as civilization advanced, the market weeded out the less valuable and useful commodities, usually settling on some metal as the basis of exchange. Metals were homogeneous and could be easily divided: every unit could be made like every other in both size and quality relatively easily. Furthermore, the market decided obectively, via the law of supply and demand, which metals were the most valuable, usually deciding on just one or two as the "standard of value."

Gold, because it was relatively scarce, virtually indestructible and possessed a wide range of artistic and functional uses, became this standard in most economies. It was easily coined, highly portable, and universally recognized for its value.

It did have drawbacks, however: For example, large payments were difficult to execute. The development of a banking system thus became a logical extension of the gold exchange economy—gold was deposited in banks in exchange for bank notes or currency representative of and specifically tied to a specific amount of gold.

The currency and banking system of the United States rested on these basic premises until early in the 20th century. Individual owners of gold were induced, by payments of interest, to deposit their gold in a bank, against which they could write checks. Because individual depositors rarely desired to withdraw all their money at the same time, the banker needed to keep only a small fraction of his total gold deposits on hand as reserves. The rest could be lent out to enterprising men whom the banker deemed worthy: those men who would be able to pay the loan back with interest so that the banker could pay interest to his depositors and make a little profit for himself.

The distinguishing feature of this system from that of the present day was that, although most transactions were made with paper currency, this paper currency was readily redeemable for a specific amount of gold—or silver.

The American Government began destroying the gold standard in 1913 with the creation of the Federal Reserve System which, through its 12 regional offices, could supply member banks with paper currency not backed by any commodity whatsoever. Noting that mild recessions had taken place in the past whenever banks reached their lending limits, determined by the extents of their gold reserves, the Fed decided that if money could be made available at the right times, recession need never be experienced again. The fact that the Fed could not reliably predict when this money would be needed was proven over and over again throughout the 20th century, but its most spectacular failure was its first. Rapid credit expansion led to the so-called "Roaring Twenties" and wild speculation in the stock market, culminating in its infamous crash in 1929 along with the crash of the American and world economies.

With typical statist logic, the Roosevelt administration argued that it was the gold standard that precipitated the 1929 crash and subsequent economic collapse. But we had been off a true gold standard since 1913—it was the paper printed by the Government not backed by gold which led to the worldwide economic debacle.

This was Roosevelt's excuse for outlawing the ownership of gold in 1933. His real reason was far more insidious: The gold standard was entirely incompatible with any form of chronic Government deficit spending, so essential to Roosevelt's gargantuan welfare schemes. The welfare state is nothing more than a mechanism by which the Government confiscates the wealth of its productive citizens in order to support the nonproductive and the incompetent. Some of this confiscation can be done directly—through taxation—but most of it, in order to remain politically acceptable, has to be carried out by less obvious means—by deficit spending. Since paper money was made by law unconnected to any commodity whatsoever, administrations like Roosevelt's—and Johnson's—could print dollar bills until doomsday and back them with nothing but worthless bureaucratic promises.

It is the lack of a commodity standard today that encourages deficit spending, leading to double digit inflation, explosive interest rates, and economy deadening uncertainty. The statists' antagonism to the gold standard is certainly understandable and must be understood: Gold's existence at the basis of a currency effectively destroys the statists' most underhanded, hidden weapon in the confiscation of an individual's earnings—deficit spending. Gold stands as a protector of man's property rights, his economic security and, as a consequence, his freedom.

It is amusing that a last-ditch effort is now being made to assure the American people they have had the right to own gold all along; that they are apparently without need of the kind of gold ownership provision which passed this body earlier this winter. Presumably, because we are allowed the freedom to purchase gold jewelry and coin, we have no further economic incentive to get our hands on the real stuff. It is the old "half a loaf" rhetoric that comforted the German businessman in the 1930's; be comforted in holding title to your business and do not concern yourself that the state prescribes the manner in which you run it. Like the Germans, we lost our true freedoms and true protection from Government in 1932. In a show of true statesmanship, Congress has now resolved to right that wrong and to return a very important measure of freedom to the American people.

Yet we were told yesterday that present laws will not protect the American citizens from trickery, from snake oil salesmen—from the so-called "slicksters" in the gold business who will gild lead bricks and pass them off as bullion. We were warned that speculation was the sure ruin of our international monetary position.

Speculation in gold is not an inherent evil. It is a symptom—and a warning—of a distorted, Government-ravished economy. You do not blame speculators for their efforts toward self-protection, nor can you blame the inanimate object, gold, for conditions of confusion in the marketplace. The fault is with the inflationist, the big-spending politician who seeks constantly to make gold a scapegoat for the malfeasance of Government and its monetary policy.

It has been proposed that we not only delay gold ownership, but that we somehow weave a Federal cocoon of "protection" around our unwary and helpless citizens through endless Federal regulations when ownership finally does come.

This makes about as much sense as outlawing the sale of bread for fear that some company will try to pass off foam rubber loaves on the public. Certainly there are adequate laws on the books prohibiting the kind of business fraud which each of these cases would represent. This attitude of throwing out the baby in order to avoid diaper rash is nothing but a smokescreen to hide the real objections which certain politicians have to gold ownership.

Freedom is the only protection our people wish from this Congress. The American people are neither gullible nor stupid. In calling for gold ownership, I did not hear a corresponding call from the people for protection from "fraud," for indeed the greatest fraud of all is being perpetrated by their own Government. Nor did they ask to be protected from investment mistakes. The so-called "wisdom" of the Congress in this area has come across all too often as outright coercion.

We fought long and hard for the simple return of a basic, constitutional right which is our only protection against the legalized counterfeiting practiced by this Government. We are asking only to make honest men of this Congress and its agents downtown, and we ask only to make free and independent agents of our citizens.

I had no idea until yesterday that the welfare state lived in such fear of a free market. It is an encouraging thing to me. It tells me that the work I have dedicated to restoring a free market is not in vain and is, in fact, the only true course to freedom and individual responsibility. The American people will not be crucified on a cross of gold. The only people crucified by the right to own gold are the deficit spenders.

THE FACES OF HUNGER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Metcalfe) is recognized for 10 minutes.

Mr. METCALFE. Mr. Speaker, yesterday I entered into the Record the second of six articles on world hunger which appeared last month in the Chicago Tribune. The series, entitled "The Faces of Hunger," was written and photographed by Tribune reporter William Mullen and Tribune photographer Ovie Carter. Mr. Mullen and Mr. Carter spent nearly 3 months traveling through the drought-stricken countries of Africa and South Asia. This third article in the series appeared in the Chicago Tribune on October 15, 1974.

Mr. Speaker, I would also like to announce that today I have introduced a resolution which calls upon the President to immediately assess the situation in these drought-stricken areas and to report his recommendations to the Congress. My resolution also calls upon the appropriate committees of Congress to give these recommendations priority consideration. The tragedy of world hunger is increasing daily, as the Tribune article strikingly reveals. My resolution is intended as another step in our efforts to combat this tragedy.

The article follows:

Weather Changes Here, Abroad Threaten Unending Food Shortage

(By William Mullen)

Ludhiana, India.—Dr. M. S. Randhawa, considered a hero by Indian farmers and a miracle worker by agronomists around the world, sat in his office and stared out glumly at the heavy haze hanging over northern India.

"I have never seen the sky like this before," he said.

The sky was almost beige from dust particles whipped up by the wind and carried into the tmosphere from drouth-stricken states 200 miles away in western India.

Dr. Randhawa, the man who brought the "green revolution" to India, was more than a little concerned. His grand experiment in increasing the output of Indian farms, a splendid success three years ago, now seems to be in serious jeopardy because of the disruptive behavior of the weather.

Not just India, but all over the world scientists are gathering data on changing global weather patterns.

The data they are collecting is startling and frightening. It shows that growing seasons in the world's most productive agricultural areas are being shortened or disrupted.

The changes in the weather are so drastic, many scientists are convinced the world is undergoing a climate change.

In India, for example, which is usually plagued with drouth and floods somewhere in the country every year, this year had more than its share of natural calamity.

Vast areas of land have been baked dry in western and southeastern states while floods have covered huge areas in the northeastern states.

Most seriously, only half the normal rainfall came this year to the nation's most important food-raising states, Dr. Randhawa's Punjab and neighboring Haryana.

It was in those two states where Dr. Randhawa, now vice chancellor of the Punjab Agricultural University, brought the "green revolution" to India in the early 1960s.

Under the guidance of the university, farmers of the Punjab and Haryana learned how to double their food production and briefly transformed India from a chronic food importer into a food exporting nation.

This year the weather changed all that. Because of lack of rain, experts predict farmers in the two states will grow 30 to 50 per cent less food than they grew last year.

When the Punjab and Haryana have that kind of trouble, India is in serious trouble because the nation is so dependent on the grain grown in those two states.

This year the weather has changed the outlook of a lot of nations.

Canada is expecting its worst wheat harvest since 1961. The winter season hung around too long for thousands of farmers to plant this spring.

The middlewestern states in the U.S. suffered the most severe drouth they have experienced since the 1930s dust bowl days, losing hundreds of millions of dollars in failed crops.

It rained too much in some parts of Russia, and not enough in others, resulting in serious wheat and corn crop failures.

Satellite pictures taken over China revealed that many agricultural areas of the world's most populous country have been hit with drouth this year.

When Canada, the U.S., Russia, and China are in trouble, it means the whole world is in serious trouble.

Commodities analysts who study the world's ability to feed itself this autumn have issued some chilling facts about the present situation.

Three years ago, they said, the world had a food buffer of surplus grain that, in terms of emergency distribution, could feed the entire population of the planet for about 50 days.

That was a comfortable margin that kept the world food prices low and food easily obtainable to distribute to the needy in times of catastrophe.

Then this peculiar thing with the weather started showing up, ruining crops all over the world. People in Africa, India, and Central and South America began to starve.

The 50-day margin began to dwindle rapidly as the reserve grains began to be eaten up to make up for serious crop failures.

By last spring food experts became extremely alarmed when the reserves had dwindled to a 27-day supply. They issued grave warnings and urged the fullest agricultural production possible all over the world this year.

Farmers, responding to the increasing prices that came about from the food shortage, made record plantings.

But the curious behavior of the weather did not subside.

"We know that for the second year in a row the world is going to consume more food than it grows," said Reid Bryson, a man who has an intense interest in the behavior of the world's weather.

"We also know that come next spring, the world surplus of food will have dwindled down to about an eight-day supply."

Bryson, director of the Institute for Environmental Studies at the University of Wisconsin, is a climatologist, a man who studies the movements and changes of climates in the world over hundreds of thousands of years.

He has as the result of his years of research become something of a reluctant prophet of doom.

"The evidence is now abundantly clear," Bryson told a Senate committee hearing earlier this year, "that the climate of the Earth is changing in a direction that is not promising."

He predicts that as many as a half a billion people may die from the food shortages before the end of the century.

Bryson is not alone. While he is probably the leading exponent of the changing climate theory, climatologists around the world have come to the same conclusions as Bryson.

They have detected a significant expansion of high-altitude polar winds that move above the North and South Poles, controlling the prevailing wind patterns over the rest of the world.

They theorize that the expanded polar wind activity has changed the patterns of equatorial winds that normally bring monsoon rains to Africa, to India, and to Latin America.

The monsoon rains that normally fall in these areas have, in recent years, often fallen instead further south or out at sea.

These regions are among the most densely populated and underdeveloped agriculturally in the world. The farmers are dependent on the monsoons for water because they cannot afford to use artificial irrigation.

At the same time, the polar ice caps have been growing, and the climatologists think we may be moving into a period of shorter growing seasons and shrinking crop zones, particularly in Canada and the U.S.

If this is true, it will seriously compound the food shortage problem because the U.S. and Canada are the biggest surplus food producers in the world. It is from these two nations that much of the relief food comes to feed famine-stricken nations in times of emergency.

Aside from the shifting pattern of monsoon rains and the lengthening winters in the northern hemisphere, one of the most ominous fluctuations is the drop in the mean global atmospheric temperature by 2.7 degrees since the late 1940s.

Bryson and others theorize that the temperature drop is caused by an increase of tiny particles, called aerosols, which rise to the upper atmosphere, blocking out solar radiation that heats up the atmosphere.

Scientists think that the amount of aerosols in the atmosphere has been greatly increased in the last century in the form of windblown soil. They blame this increase on mechanized farming methods used in countries like the U.S. and Canada, and on abuse of marginal lands in more primitive nations, such as overgrazing of Savannah lands in West Africa.

More evidence will have to come in before they are proven or disproven.

If they are right, we will know about it soon enough thru the reports of hunger and death on a scale never before witnessed in history.

The implications of such an occurrence leap far beyond mere famine.

Aside from the estimated 350,000 people who died in drouth-related famine in Africa last year, the disaster there has completely upended the social, political, and economic life of seven nations.

In the last year three governments have fallen in military coups because of the drouth—in Niger, Upper Volta, and Ethiopia.

The same tremors have run thru the governments of Senegal, Mauritania, Mali, and Chad, where the political fortunes of dozens of high-ranking officials have plummeted and new men have taken over.

Internally, the populations of the Sahel and Ethiopia are in a state of confusion, with massive migrations of people. The Sahel is the semidesert area between the Sahara on the north and the tropical countries to *the south.*

The drouth appears to have ended forever the romantic epoch of nomadic tribesmen who for centuries crossed the Sahara Desert on camel caravans and roamed the desert fringes with tents and herds of cattle.

Economically, the Sahel region is in ruins. Destitute even before the drouth, the six nations now are totally dependent on the largesse of the outside world for their survival and their future.

India, where officials fear as many as 500,000 to a million people could die in the next six months, is beginning to blister and break with internal turmoil.

BARRETT URGES PASSAGE OF MASS TRANSIT AID BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BARRETT) is recognized for 5 minutes.

Mr. BARRETT. Mr. Speaker, we all hear about and read about an energy shortage. The people of America are urged to conserve energy. In particular, the focus is on oil, gasoline, and all petroleum products. While earlier this year the administration proposed a Project Independence, studies indicate that we cannot reach a level of self-sufficiency in petroleum.

Proposals to date to conserve fuels have been meager, at best, and often confusing. I believe that the Congress has an opportunity to take a large step in the proper direction. That step can be taken by approval of legislation to assist the mass transit services throughout the country; namely, the approval of the conference report on S. 386.

The Philadelphia Inquirer today carries an editorial in support of this bill. I include it at this point in the RECORD:

HOUSE SHOULD APPROVE MASS TRANSIT AID BILL

Mass transit legislation introduced in Congress early in 1973 finally has advanced to the threshold of final approval with yesterday's 64–17 affirmative vote in the Senate. Now the bill needs to be cleared by the House Rules Committee and passed by the full House membership. We strongly urge every congressman to support this measure.

Its enactment is vital to transit progress in Philadelphia and communities throughout the country—to provide a more economical alternative to the automobile, to conserve energy, to fight pollution, to ease traffic jams.

As approved by a House-Senate conference committee in October, the six-year-authorization bill would provide $11.8 billion in federal transit subsidies over six years.

More important, and this is a breakthrough of historic proportions, the bill would authorize for the first time Federal funds for mass transit operating expenses. Heretofore, all U.S. transit aid has been for capital expenditures.

Another attractive feature is a local option provision. While about $4 billion could be used for operating subsidies, communities could elect to take part or all of their operating allotment in capital subsidies. There would be a financial incentive to do so. For capital subsidies only $1 in state or local money would be required for every $4 in Federal funds. For operating subsidies each Federal dollar would have to be matched by a state or local dollar.

We continue to believe that Federal funds should be used for capital rather than operating subsidies to the maximum extent feasible. In the Philadelphia area, as in many other urban centers, the prime need is for expansion and improvement and modernization of service and equipment to attract more riders and hence more operating revenue, while reducing maintenance and repair and other operating costs.

But operating subsidies are desirable to the extent they are necessary to hold fares at reasonable levels, without perpetuating inefficient operations or funding excessive and inflationary wage settlements.

The House-Senate bill, by offering operating subsidies on an optional basis, would provide the best of both worlds.

Disbursement of some of the Federal funds would be based on population and on density of population, a formula moderately favorable to Philadelphia.

Regional transportation authorities such as SEPTA would get their Federal funds directly from the U.S. Department of Transportation rather than through the state government as had been proposed by some. The direct approach is better, eliminating the need for negotiating with state transportation departments that, as in Pennsylvania, tend to be highway oriented.

Mass transit is a blue chip investment to save energy, reduce dependence on the automobile and relieve traffic congestion in urban areas.

The House should join the Senate in approving the conference bill.

PANAMA CANAL: REPRESENTATIVE FLOOD WILL ADDRESS THE HOUSE ON TUESDAY, NOVEMBER 26, 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, one of the most gravely vital issues now facing the people of the United States is that of the future of the Panama Canal. On Tuesday, November 26, I plan to address the House on this subject and to supply recent information. It is hoped that all Members interested in protecting U.S. rights, power, and authority will be present and participate in the colloquy.

FEDERAL RESERVE SECRECY AND MISTAKES

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, a recent column in the Washington Post by the syndicated columnist Nicholas von Hoffman makes the point that the Federal Reserve, which so importantly affects our economic health by controlling the Nation's money supply and interest rates, operates in secrecy. By now everyone knows or should know that the Fed has put us on one economic roller coaster ride after another in recent years. We all know now that we were being pulled up too fast by Dr. Burns and his cohorts in 1972 and 1973 and that more recently the Fed has been helping to push the economy down rapidly into a recession. Mr. Speaker, much as freedom of information is needed to prevent "White House horrors" so too is public knowledge of what the Fed is up to needed to prevent Federal Reserve-made inflation and recession. Mr. von Hoffman points out that:

> It's possible that if the Fed made its decisions out in the open they'd still make the same mistakes, but, since the citizenry must pay the consequences, the least the Fed can do is go public and thereby give the rest of us fair warning.

Mr. von Hoffman's column follows:

OF FORTUNES AND THE FED

(By Nicholas von Hoffman)

It tells you something when Sears, Roebuck and Co., the nation's largest retailer, announces a personnel layoff eight weeks before Christmas. Times are getting harder and so is the pressure to do something.

Many of the proposals—like public service jobs—which get pushed forward at moments of such distress don't do enough good to be considered more than demonstrations that Your Government Loves You. These gestures of symbolic affection, however, turn people away from thinking about structural changes in the way we run our political economy. The need to break out of our pattern of *ad hoc* improvisation on the peaks and valleys of the business cycle has never been greater because these hastily contrived measures—price control, emergency loans and the forced feeding of enormous amounts of money into the system—are becoming progressively less effective.

It would pay us better to spend less time debating illogical schemes like the gasoline tax and poke around joints like the Federal Reserve Board. With the zero publicity the

Board gets many people may think the Federal Reserve has something to do with administering government reservoirs when, in reality, the Fed has more to do with good times or the lack of them than any other single agency in Washington. The Fed controls our money supply.

You must consult such recondite business publications as Fortune magazine (July issue) to learn it is there that much of the blame for our double-digit inflation belongs. Specifically the magazine charges the board's chairman, Arthur Burns, with creating a false prosperity of the '72 election by flooding the country with a torrent of inflation currency.

This isn't the first time the Fed has been suspected of playing such dangerous games. The man who preceded Burns in his job did the same sort of thing for the '68 election with similar results, an upward surge in prices followed by unemployment. But Burns' critics, who are numerous and growing in business and economic circles, aren't accusing him of doing anything improper, only of pursuing mistaken policies for erroneous reasons.

Part of that goes to how Burns and his fellow Federal Reserve governors think as economists and politicians; part goes to the nature of the Fed itself. The decisions on monetary policy—decisions which weigh so heavily on how much you're going to pay for bread, milk and rent, or whether you're going to have a job or be laid off—these decisions are made by an arcane group within the Fed called the Open Market Committee; its members are Burns, the six other governors, and, in rotation, five of the 12 presidents of the regional Federal Reserve Banks.

These gentlemen meet monthly, decide what the monetary policy of the United States is going to be and then tell no one about it. They keep it secret, only issuing instructions to another gentleman in New York who executes their orders. Ninety days after each meeting they routinely release a summary of what they talked about, but in languages so darkly Delphic that even men who've put in a lifetime of learning about our monetary system have trouble figuring out what the Fed has said it is doing. As a consequence a whole profession has been created of people who try to divine what the Sam Hill the Fed is up to. They're the domestic Kremlinologists of American economics.

The reasons for the secrecy aren't sinister. It's supposed to discourage sharp traders from cashing in on the information, but the rumors, tips, speculation and purportedly inside dope swirling about the Fed would seem to have exactly the opposite effect from the one intended.

However that may be, the nation's prosperity is still hugely affected by 11 guys who nobody has ever heard of, operating as a committee that everybody is ignorant of. Congress can struggle to balance the budget and the fruits of its fiscal responsibility can be canceled out by policy decisions that aren't even announced until three months after they're made.

In this clandestine nonsense Burns is but following the ancient traditions of his organization. He isn't the first man to orchestrate disaster in a closet. History teaches us that the same kind of secretive, well-intentioned madness brought on the massive bank closings of 1932–33 and the recessionary collapse of 1937 which prolonged the Great Depression another dreary, unnecessary four years.

Even now it's suspected—nobody outside the Fed can know for sure—that our monetary policies have been turned around 180 degrees, that the Fed is building the foundations of a new inflationary rush. It's possible that if the Fed made its decisions out in the open they'd still make the same mistakes, but since the citizenry must pay the consequences, the least the Fed can do is go public and thereby give the rest of us fair warning.

THE FEDERAL RESERVE SYSTEM IS OWNED BY THE FEDERAL GOVERNMENT

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, in recent weeks, it has come to my attention that there is still a lot of misunderstanding about who actually owns the Federal Reserve System and the various Federal Reserve banks.

The Federal Reserve and the Federal Reserve banks are owned by the Federal Government. There is no question about that. Misconceptions about the "ownership" have resulted from the fact that member banks own "stock" in the System. The word "stock" is a misnomer—in reality it is not stock in any generally accepted definition of the word.

Four points about this so-called "stock" clearly differentiate it from the ordinary meaning of the term:

First. It carries no proprietary interest. In this respect, the stock is unlike the stock of any private corporation;

Second. It cannot be sold or pledged for loans. It thus does not represent an ownership claim;

Third. In the event of the dissolution of the Federal Reserve banks, as provided for in the Federal Reserve Act, the net assets after payment of the liabilities and repayment of the stock go to the U.S. Treasury rather than the private banks; and

Fourth. The stock does not carry the ordinary voting rights of stock. The method of electing officers of the Federal Reserve banks is in no way connected to the amount of stock ownership. Instead, each bank in a district has one vote within its class, regardless of its stock-ownership.

The major officials of the Federal Reserve System have consistently agreed that the banks do not in any sense own the Federal Reserve System.

In a letter to Representative Wright Patman dated April 18, 1941, Marriner S. Eccles, Chairman of the Board of Governors, stated:

> This so-called stock ownership, however, is more in the nature of an enforced subscription to the capital of the Federal Reserve banks than an ownership in the usual sense. The stock cannot be sold, transferred, or hypothecated, nor can it be voted in accordance with the par value of the shares held. Thus, the smallest member bank has an equal vote with the largest. Member banks have no right to participate in earnings above the 6 percent statutory dividend, and upon liquidation any funds remaining after retirement of the stock revert to the Government.

In hearings before the Banking and Currency Committee of the House of Representatives, June 17 and 19, 1942, Mr. Eccles stated—pp. 25, 26:

> Mr. Eccles. Well, the Government, in effect, for all practical purposes, owns the Federal Reserve banks.

The viewpoint of former Chairman of the Board of Governors, Mr. William McChesney Martin, is indicated by the following quotation from hearings before the Subcommittee on Economic Stabilization of the Joint Economic Committee in 1956 in which Mr. Martin was questioned by the subcommittee chairman, Representative Wright Patman. It should be noted that Mr. Martin served on the Federal Reserve Board longer than anyone else, from 1951 to 1970:

> The Chairman. All right.
>
> No. 2 is that the banks own the Federal Reserve Banking System, and it is run by the banks; it is operated for their benefit.
>
> That is a fallacy, is it not?
>
> Mr. Martin. That is a fallacy.
>
> * * * * *
>
> The Chairman. That stock, or that word "stock," is a misnomer, is it not?
>
> Mr. Martin. If you are talking about stock in terms of proprietorship, ownership—yes.
>
> The Chairman. Well, of course, that is what stock is; yes. Normally that is what stock is; when you say "stock," you mean a proprietary interest of some kind, do you not?
>
> Mr. Martin. In the ordinary sense, yes.
>
> The Chairman. That is right, in the ordinary sense.
>
> Mr. Martin. You and I are in agreement that it is not proprietary interest.
>
> The Chairman. Yes. Therefore, this does not convey any proprietary interest at all, and the word "stock" is a misnomer. It is not a correct word at all. It is just an involuntary assessment that has been made on the banks as long as they are members.
>
> * * * * *
>
> The Chairman. Yes. Therefore, the statement that the banks own the Federal Reserve System is not a correct statement, is it?
>
> Mr. Martin. The banks do not own the Federal Reserve System.

Mr. M. S. Szymczak, member of the Board of Governors, in hearings before the House Small Business Committee on Problems of Small Business Financing, April 1958, is quoted as follows:

> Mr. Patman. Do you agree with Mr. Martin that the member banks do not own the Federal Reserve banks, and have no claim to their assets or income other than the interest payment on the so-called stock which the member banks are required to subscribe to the Federal Reserve banks?
>
> Mr. Szymczak. That is correct.

Testimony of Mr. J. L. Robertson, member of the Board of Governors, before the House Small Business Committee on Problems of Small Business Financing, April 1959, reveals the following:

> Mr. Robertson. I think you could operate the Federal Reserve System without the member banks having stock in Federal Reserve banks.

Testimony of Mr. Charles N. Shepardson, member of the Board of Governors at the same hearing reveals the following:

> Mr. Shepardson. . . . I think we have never contended that the central bank, the Federal Reserve System, is owned by the commercial banks. On the contrary, we have taken every occasion in my knowledge to disabuse that idea. I don't contend that at all.

PERSONAL EXPLANATION OF REPRESENTATIVE BELLA ABZUG

(Ms. ABZUG asked and was given permission to extend her remarks at this point in the Record and to include extraneous matter.)

Ms. ABZUG. Mr. Speaker, due to a longstanding previous commitment to address the American Transit Association, I unfortunately missed the rollcall on adoption of the conference report H.R. 14225, the Rehabilitation Act Amendment of 1974. Had I been present I would have voted "yea" on rollcall No. 619.

Also, Mr. Speaker, due to unforeseen circumstances I missed the vote on House Resolution 1456, making further continuing appropriations. This vote brought to an end, and I believe a successful conclusion, the problem of continuing aid to Turkey in violation of the law. Had I been present I would have voted "yea" on roll No. 624, and also the votes on H.R. 16982—authorizing U.S. contribution to United Nations peacekeeping forces and S. 1064—a bill providing standards for judicial qualifications. I favored the passage of both bills and consequently, had I been present I would have voted "yea" on roll No. 627 and "yea" on roll No. 628.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. McKinney (at the request of Mr. Rhodes), for after 3 p.m. today, on account of illness.

Mr. Mitchell of Maryland (at the request of Mr. O'Neill), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Symms) to revise and extend their remarks and include extraneous matter:)

Mr. Kemp, for 15 minutes, today.

Mr. Crane, for 30 minutes, today.

Mr. McKinney, for 5 minutes, today.

Mr. Frenzel, for 60 minutes, today.

Mr. McEwen, for 60 minutes, on December 3.

Mr. Hansen of Idaho, for 30 minutes, today.

Mr. Symms, for 30 minutes, today.

(The following Members (at the request of Mr. Ginn) to revise and extend their remarks and include extraneous material:)

Mr. Metcalfe, for 10 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Kastenmeier, for 5 minutes, today.

Mr. Barrett, for 5 minutes, today.

Mr. Flood, for 5 minutes, today.

Mr. Mezvinsky, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. Abzug, prior to the vote on the Freedom of Information Act.

Mr. Pepper, prior to the vote on H.R. 6624.

Mr. Blatnik, and to revise and extend after the remarks of Mr. Diggs on H.R. 342 in the House today.

(The following Members (at the request of Mr. Symms) and to include extraneous matter:)

Mr. Wydler in two instances.

Mr. Young of Illinois in two instances.

Mr. Zwach.

Mr. Gilman.

Mr. Derwinski in three instances.

Mr. Smith of New York in two instances.

Mr. Froehlich.

Mr. Collier in five instances.

Mr. Landgrebe in two instances.

Mr. Huber in four instances.

Mr. Talcott in two instances.

Mr. Fish.

Mr. O'Brien.

Mr. Towell of Nevada.

Mr. Armstrong.

(The following Members (at the request of Mr. Ginn) and to include extraneous material:)

Mr. Gaydos in two instances.

Mr. Badillo.

Mr. Slack.

Mr. Udall in 10 instances.

Mr. Jones of Tennessee.

Mr. James V. Stanton.

Mr. Corman in five instances.

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Alexander in two instances.

Mr. Helstoski.

Mr. Burke of Massachusetts.

Mr. Rooney of New York.

Mr. Stokes.

Mr. Nix.

Mr. Rees.

Mr. Fraser.

Mr. Diggs in two instances.

Mr. Roybal in two instances.

Mr. Boland.

Mr. Nedzi.

Mr. Wolff.

Mr. Denholm.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 258. Joint resolution to authorize and request the President to issue a proclamation designating November 29, 1974, as "National Student Government Day"; to the Committee on the Judiciary.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1227. An act to amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges;

S. 1479. An act to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretary of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points; and

S. 2457. An act to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders, and to permit aliens holding such radio station licenses to be licensed as operators.

ADJOURNMENT

Mr. ICHORD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 28 minutes p.m.) the House adjourned until tomorrow, Thursday, November 21, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2978. A letter from the President, United States Railway Association, transmitting an appropriation request for the Association for fiscal years 1975 and 1976, pursuant to section 202(g)(2) of Public Law 93–236; to the Committee on Appropriations.

2979. A letter from the General Counsel, Federal Home Loan Bank Board, transmitting drafts of proposed amendments to Public Law 93–495 to remove inconsistencies between the authority of the Federal Savings and Loan Insurance Corporation and the Federal Deposit Insurance Corporation; to the Committee on Banking and Currency.

2980. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on activities carried out during fiscal year 1974 under the Rehabilitation Act of 1973, pursuant to section 404 of the act (Public Law 93–112); to the Committee on Education and Labor.

2981. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed criteria for funding of applications for graduate and undergraduate international studies programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2982. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions by Ambassadors-designate Theodore R. Britton, Jr., and Frank C. Carlucci, III, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2983. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to Public Law 92–403; to the Committee on Foreign Affairs.

2984. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed concession contract for the continued provision of facilities and services for the public at White Sands National Monument through September 30, 1979, pursuant to 67 Stat. 271 and 70 Stat 543; to the Committee on Interior and Insular Affairs.

2985. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend chapter 40, title 18, United States Code, to authorize the destruction of explosive materials subject to seizure and forfeiture where it is impractical or unsafe to remove the materials to a place of storage or where such materials cannot be safely stored; to the Committee on the Judiciary.

2986. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

2987. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to modernize the procedures for licensing and regulating customs brokers, and for other purposes; to the Committee on Ways and Means.

Received From the Comptroller General

2988. A letter from the Comptroller General of the United States, transmitting his review of the proposed deferrals of budget authority contained in the messages from the President dated October 31, 1974, pursuant to section 1014(b) of Public Law 93-344 (H. Doc. No. 93-395); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIGGS: Committee on the District of Columbia. H.R. 17450. A bill to provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes; with amendment (Rept. No. 93-1485). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1468. Resolution providing for the consideration of H.R. 17234. A bill to amend the Foreign Assistance Act of 1961, and for other purposes (Rept. No. 93-1486). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 1469. Resolution waiving certain points of order against H.R. 17468. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes (Rept. No. 93-1487). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 1470. Resolution waiving certain points of order against the conference report on S. 386. A bill to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes (Rept. No. 93-1488). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS:

H.R. 17469. A bill to establish a commission to obtain, preserve, and provide access to copies of tape recordings and other documents concerning Federal investigations into Watergate-related activities; to the Committee on the Judiciary.

By Mr. BARRETT:

H.R. 17470. A bill to establish an Agricultural Products Export Control Board to allocate exports of agricultural commodities to assure that domestic needs for such commodities are satisfied at reasonable price levels; to the Committee on Banking and Currency.

By Mr. EILBERG:

H.R. 17471. A bill to establish a Council on Judicial Tenure in the judicial branch of the Government, to establish a procedure in addition to impeachment for the retirement of disabled Justices and judges of the United States, and the removal of Justices and judges whose conduct is or has been inconsistent with the good behavior required by article III, section 1, of the Constitution, and for other purposes; to the Committee on the Judiciary.

By Mr. FLOOD (for himself, Mr. Addabbo, Mr. Barrett, Mr. Bevill, Mr. Biester, Mr. Carney of Ohio, Mr. Clark, Mr. Coughlin, Mr. Dent, Mr. Duncan, Mr. Eilberg, Mr. Eshleman, Mrs. Grasso, Mr. Green of Pennsylvania, Mr. Heinz, Mr. Johnson of Pennsylvania, Mr. Kemp, Mr. McDade, Mr. Moakley, Mr. Moorhead of Pennsylvania, Mr. Morgan, Mr. Moss, Mr. Murtha, Mr. Nichols, and Mr. Nix):

H.R. 17472. A bill to establish university coal research laboratories and to establish energy resource fellowship, and for other purposes; to the Committee on Science and Astronautics.

By Mr. FLOOD (for himself, Mr. Roe, Mr. Rooney of Pennsylvania, Mr. Schneebeli, Mr. Shuster, Mr. Stokes, Mr. Tiernan, Mr. Ware, Mr. Williams, Mr. Charles H. Wilson of California, and Mr. Yatron):

H.R. 17473. A bill to establish university coal research laboratories and to establish energy resource fellowships, and for other purposes; to the Committee on Science and Astronautics.

By Mr. FORD (for himself, Mr. Thompson of New Jersey, Mr. Landgrebe, Mr. Lehman, and Mr. O'Hara):

H.R. 17474. A bill to amend the Farm Labor Contractor Registration Act of 1963 to provide for the extension of coverage and to further effectuate the enforcement of such act; to the Committee on Education and Labor.

By Mr. GONZALEZ:

H.R. 17475. A bill to modify the effective date of Public Law 93-373 which permits U.S. citizens to purchase, hold, sell, or otherwise deal with gold in the United States or abroad; to the Committee on Banking and Currency.

By Mr. HEINZ (for himself and Mrs. Collins of Illinois):

H.R. 17476. A bill to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape; to the Committee on Interstate and Foreign Commerce.

By Mr. HELSTOSKI:

H.R. 17477. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals who have attained age 62 a refundable tax credit for the amount of the Federal excise tax imposed on gasoline purchased by such individuals for use in their motor vehicles; to the Committee on Ways and Means.

By Mrs. HOLT:

H.R. 17478. A bill to amend title 5, United States Code, to reduce from 60 to 55 the age after which the remarriage of a surviving spouse will not cause the loss of such spouse's civil service survivors annuity, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ICHORD (for himself, Mr. Dent, and Mr. Taylor of Missouri):

H.R. 17479. A bill to amend the Credit Control Act of 1969 (83 Stat. 376; 12 U.S.C. 1901 et seq.) to fix maximum interest charges in connection with credit transactions, and for other purposes; to the Committee on Banking and Currency.

By Mr. NEDZI:

H.R. 17480. A bill to provide for protection of franchised dealers in petroleum products; to the Committee on Interstate and Foreign Commerce.

By Mr. O'HARA (for himself, Mr. Dellenback, Mr. Perkins, Mr. Quie, Mr. Randall, Mr. Andrews of North Carolina, Mr. Benitez, Mr. Biaggi, Mr. Bolling, Mr. Brademas, Mr. Burlison of Missouri, Mr. Phillip Burton, Mr. Clay, Mr. Erlenborn, Mr. Esch, Mr. Gaydos, Mr. Hungate, Mr. Ichord, Mr. Kemp, Mr. Lehman, Mr. Litton, Mrs. Sullivan, Mr. Symington, and Mr. Taylor of Missouri):

H.R. 17481. A bill to establish the Harry S. Truman Memorial Scholarship Program, and for other purposes; to the Committee on Education and Labor.

By Mr. SLACK:

H.R. 17482. A bill to redesignate November 11 of each year as Veterans Day and to make such day a legal public holiday; to the Committee on the Judiciary.

By Mr. SNYDER:

H.R. 17483. A bill to increase the contract authority for the construction of a bridge across Markland Dam on the Ohio River near Markland, Ind., and Warsaw, Ky.; to the Committee on Public Works.

By Mr. BRADEMAS (for himself, Mr. Gettys, Mr. Gaydos, Mr. Jones of Tennessee, Mr. Koch, Mr. Cleveland, and Mr. Hansen of Idaho):

H.R. 17484. A bill to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes; to the Committee on House Administration.

By Mr. DIGGS (by request):

H.R. 17485. A bill to provide for additional law clerks for the judges of the District of Columbia Court of Appeals; to the Committee on the District of Columbia.

By Mr. UDALL:

H.R. 17486. A bill to establish a program within the Department of the Interior for alleviating shortages of materials, products, and for other purposes; to the Committee on Banking and Currency.

By Mr. GREEN of Pennsylvania:

H. Con. Res. 685. Concurrent resolution requesting release of two Ukrainian intellectuals; to the Committee on Foreign Affairs.

By Mr. METCALFE:

H. Res. 1466. Resolution expressing the sense of the House of Representatives concerning the serious problem of malnutrition which exists in certain areas of the world; to the Committee on Foreign Affairs.

By Mr. WOLFF:

H. Res. 1467. Resolution directing the Secretary of Defense to provide to the House of Representatives all information in possession of the Chairman of the Joint Chiefs of Staff which formed the basis of certain comments by that Chairman at Duke University on or about October 10, 1974; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. WIDNALL introduced a bill (H.R. 17487) for the relief of Yaroslav L. Tiajoloff, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

562. By the SPEAKER: Petition of the State Council of Kentucky, Junior Order United American Mechanics, relative to immigration; to the Committee on the Judiciary.

563. Also, petition of the Board of Trustees, New Jersey State Bar Association, Trenton, relative to judicial salaries; to the Committee on Post Office and Civil Service.

SENATE—*Wednesday, November 20, 1974*

The Senate met at 10 a.m. and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our God, grant to us a right spirit that we may approach Thee with reverent and trustful hearts. As men chosen for a great service help us to stand for truth and right. Assure us that we do not stand alone but in Thy supporting power, that we do not work in our own strength but in the strength Thou dost give us. Help us this day to be gentle without being weak, strong without being coarse, humble without being servile, positive without being intolerant. And may what we say and do and vote honor Thy name, enhance the Nation's life, and advance Thy kingdom.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 20, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. PROXMIRE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, November 19, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 1209 and 1217.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

YUMA COUNTY, ARIZ.

The Senate proceeded to consider the bill (S. 3574) to relinquish and disclaim any title to certain lands and to authorize the Secretary of the Interior to convey certain lands situated in Yuma County, Ariz., which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, in line 4, strike out "that".

On page 2, in line 17 after "2." strike out "That the" and insert "The".

On page 2, in line 17, before "Interior", insert "the", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States hereby disclaims any right, title, or interest in or to certain real property situated in Yuma County, Arizona, within the boundaries of the east half of the northwest quarter and the north half of the northeast quarter and the northwest quarter of the northwest quarter of section 13; and the northeast quarter of the southwest quarter and the south half of the southwest quarter of section 12, township 9 south, range 21 east, San Bernardino meridian as depicted by the original plat of survey of such township published by the United States Surveyor General's Office, dated March 21, 1857, being a portion of sections 23, 25, and 26, township 1 north, range 24 west, Gila and Salt River meridian as depicted by the dependent resurvey and accretion survey plat of said township published by the United States Department of the Interior, Bureau of Land Management, dated June 5, 1962, except that the provisions of this section shall not apply to the 52-acre portion of such property that was condemned by the United States pursuant to the complaint in condemnation filed by the United States on June 30, 1964, in the United States District Court for the District of Arizona (No. Civ. 5188–Phx.) and any portion of such property submerged in the bed of the Colorado River and owned by the States of California and Arizona.

SEC. 2. The Secretary of the Interior is authorized and directed to convey by patent to Wide River Farms, Incorporated, an Arizona corporation, 52 acres of land, more or less, described as the southwest quarter of the northwest quarter and the southwest quarter of the northeast quarter of section 13, township 9 south, range 21 east, San Bernardino meridian as depicted by the original plat of survey of such township published by the United States Surveyor General's Office, dated March 21, 1857, being a portion of section 26, township 1 north, range 24 west, Gila and Salt River meridian, as depicted by the dependent resurvey and accretion survey plat of said township published by the United States Department of the Interior, Bureau of Land Management, dated June 5, 1962, except that the provisions of this section shall not apply to any portion of such property that was described in the complaint in condemnation filed by the United States on June 30, 1964, in the United States District Court for the District of Arizona (No. Civ. 5188–Phx.) and any portion of such property submerged in the bed of the Colorado River and owned by the States of California and Arizona.

SEC. 3. The Secretary of the Interior is authorized and directed to prepare and execute without consideration such instruments as may be appropriate to carry out the purposes of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HORSE PROTECTION ACT AMENDMENTS OF 1974

The Senate proceeded to consider the bill (S. 2093) to amend the Horse Protection Act of 1970 to better effectuate its purposes, which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Horse Protection Act Amendments of 1974".

SEC. 2. Section 1 of the Horse Protection Act of 1970 (Public Law 91–540) is amended to read as follows: "That this Act may be cited as the 'Horse Protection Act'.".

SEC. 3. Section 2 of the Horse Protection Act of 1970 (15 U.S.C. 1821) is amended to read as follows:

"DEFINITIONS

"SEC. 2. As used in this Act, unless the context otherwise requires—

"(a) 'commerce' means commerce among the several States or with foreign nations or in or through any State or between any State and foreign nation;

"(b) 'management' refers to any person who organizes, exercises control over, or is responsible for organizing, directing, or administering;

"(c) 'Secretary' means the Secretary of Agriculture, or his delegate;

"(d) 'sore', with respect to a horse, means that (1) an irritating or blistering agent has been applied, internally or externally, to any of its limbs: (2) any burn, cut, or laceration has been inflicted on any of its limbs; (3) any tack, nail, screw, or chemical agent has been injected into or used on any of its limbs; or (4) any other method or device has been used on any of its limbs, and, as a consequence of such application, infliction, injection, or other use, the subject of such use suffers, or reasonably can be expected to suffer, physical pain, physical distress, inflammation, or lameness when walking, trotting, or otherwise moving. A horse shall be considered sore if it manifests abnormal sensitivity of the hoof, pastern, or fetlock;

"(e) 'State' means any State, the District of Columbia, the Commonwealth of Puerto, Rico, the Virgin Islands, Guam, and any territory or possession of the United States; and

"(f) 'unsound limb' means any condition in any limb of a horse that results in, or reasonably can be expected to result in, physical pan, physical distress, inflammation, or lameness to the horse when walking, trotting, or otherwise moving.".

SEC. 4. (a) GENERAL.—(1) (A) Section 3 of the Horse Protection Act of 1970 (15 U.S.C. 1822) is amended to read as follows:

"FINDINGS

"SEC. 3. The Congress finds and declares that—

"(a) the soring of horses is cruel and inhumane;

"(b) horses shown or exhibited which are sore or which have any unsound limb, may, where such soreness or unsoundness improves the performance of such horse, compete unfairly with horses which are not sore and which have sound limbs;

"(c) the movement, showing, exhibition, or sale of sore horses in intrastate commerce adversely affects and burdens interstate or foreign commerce;

"(d) the showing or exhibition of horses that have any unsound limb is cruel and inhumane and adversely affects and burdens interstate or foreign commerce;

"(e) all horses which are subject to regulation under this Act are either in interstate or foreign commerce or substantially affect such commerce; and

"(f) regulation by the Secretary is appropriate to prevent and eliminate burdens upon commerce and to effectively regulate commerce.".

SEC. 5. Section 4 of the Horse Protection Act of 1970 (15 U.S.C. 1823) is amended to read as follows:

"RESPONSIBILITIES

"SEC. 4. (a) GENERAL.—(1) (A) The management of any horse show or horse exhibition shall disqualify any horse which is sore or which has any unsound limb from being shown or exhibited; and

"(B) The management of any public horse sale or auction shall prohibit the sale or auction of any horse which is sore; or

"(2) The management of any horse show, horse exhibition, or public horse sale or auction, in accordance with regulations which the Secretary shall issue, may appoint and retain any person who is qualified to detect and diagnose a sore horse and a horse with any unsound limb, other than a person who has been disqualified by the Secretary, after notice and an opportunity for a hearing, to inspect horses for purposes of this Act, at any place or at any time on the show or exhibition grounds and before, during and after the horses are shown, exhibited, or sold: *Provided*, That if any such qualified person is appointed by management (i) the management of any horse show or horse exhibition shall disqualify from being shown or exhibited any horse which, in the opinion of such qualified person, is sore or has an unsound limb or limbs; and (ii) the management of any public horse sale or auction shall prohibit the sale of any horse which, in the opinion of such qualified person, is sore.

"(b) RECORDS.—Each person who organizes, promotes, directs, manages, or conducts a horse show, horse exhibition, or public horse sale or auction shall keep such records relating thereto as the Secretary may on the record after opportunity for hearing by regulation prescribe. Such persons shall submit to the Secretary, in such form and with such content as the Secretary shall prescribe, any notification, report, or other material relating to any matter regulated under this Act as the Secretary shall on the record after opportunity for hearing by regulation prescribe.

"(c) INSPECTION.—The Secretary is authorized to make such inspection of any horse at any horse show, horse exhibition, or public horse sale or auction as the Secretary may by regulation prescribe or as he deems necessary for the effective enforcement of this Act. The Secretary is further authorized to inspect and copy, at all reasonable times, such records as are required to be kept under subsection (b) of this section.".

SEC. 6. Section 5 of the Horse Protection Act of 1970 (15 U.S.C. 1824) is amended to read as follows:

"PROHIBITED ACTS

"SEC. 5. The following acts, and the causing thereof, by any person are prohibited:

"(a) shipping, transporting, moving, delivering, or receiving any horse which is sore except a horse which is sore as a result of therapeutic treatment by a person licensed to practice veterinary medicine in the State or political subdivision thereof in which such treatment was given, with reason to believe that the horse may be shown, exhibited, or entered for the purpose of being shown or exhibited, or sold, auctioned, or offered for sale, in any horse show, horse exhibition, or public horse sale or auction: *Provided,* That this provision shall not apply to an act performed by a person engaged in the transport of horses for hire in the course of such transport unless such person has reason to believe such horse is sore;

"(b) showing, exhibiting, or entering for the purpose of showing or exhibiting, or selling, auctioning, or offering for sale, in any horse show, horse exhibition, or public horse sale or auction, any horse which is sore;

"(c) showing, exhibiting, or allowing to be shown or exhibited, any horse, after having been advised by a qualified person, management, or a representative of the Secretary that the horse has an unsound limb;

"(d) failure by the management of any horse show or horse exhibition, which does not appoint and retain a qualified person in accordance with section 4(a) (2) of this Act, to disqualify from being shown or exhibited any horse which is sore or which has any unsound limb;

"(e) failure by the management of any public horse sale or auction, which does not appoint and retain a qualified person in accordance with section 4(a) (2) of this Act, to prohibit the sale, offering for sale, or auction of any horse which is sore;

"(f) failure by the management of any horse show or horse exhibition, which has appointed and retained a qualified person in accordance with section 4(a) (2) of this Act, to disqualify from being shown or exhibited any horse, which, in the opinion of such qualified person is sore or has any unsound limb;

"(g) failure by the management of any public horse sale or auction, which has appointed and retained a qualified person in accordance with section 4(a) (2) of this Act, to prohibit the sale, offering for sale, or auction of any horse which, in the opinion of such qualified person, is sore;

"(h) showing or exhibiting at a horse show or horse exhibition; selling or auctioning at a public horse sale or auction; allowing to be shown, exhibited, or sold at a horse show, horse exhibition, or public horse sale or auction; entering for the purpose of showing or exhibiting in any horse show or horse exhibition; or entering for the purpose of selling at a public horse sale or auction, any horse which is wearing or bearing any equipment, device, paraphernalia, or substance which the Secretary does not allow to be used on the limbs of a horse, in the interest of preventing the practice of soring and pursuant to regulations to be issued under this Act;

"(i) failing to maintain or submit records, notices, reports, or other material required by this Act or regulations issued under this Act;

"(j) refusing to permit the Secretary to enter and to make inspection of any horse show, horse exhibition, or public horse sale or auction or of any horse at any horse show, horse exhibition, or public horse sale or auction, for purposes of determining compliance with this Act or any regulations issued under this Act;

"(k) failing to provide the Secretary with adequate space or facilities, as the Secretary may by regulation prescribe, in which to conduct inspections or any other activity authorized to be performed by the Secretary under this Act.".

SEC. 7. Section 6 of the Horse Protection Act of 1970 (15 U.S.C. 1825) is amended to read as follows:

"ENFORCEMENT

"SEC. 6. (a) CRIMINAL VIOLATION.—Except as otherwise provided in paragraphs (6) and (7) of subsection (d) of this section and in section 9 of this Act any person who knowingly commits any act prohibited under section 5 of this Act shall be subject to criminal prosecution and, upon conviction thereof, shall be fined not more than $3,000, or imprisoned for not more than 6 months, or both. An action against such person may be brought before any United States magistrate in the district court of the United States in any judicial district in which such person is found, and such magistrate shall have jurisdiction to hear and decide such action.

"(b) CIVIL ACTION.—(1) Except as otherwise provided in subsection (d) (8) of this section, any person who commits any act prohibited under section 5 of this Act shall be liable to the United States for a civil penalty of not more than $500 for each day of violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation. The amount of such civil penalty shall be assessed by the Secretary, or his delegate, by written notice. In determining the amount of such penalty, the Secretary shall take into account all factors relevant to such determination, including the nature, circumstances, extent, and gravity of the prohibited act or acts committed and, with respect to the person found to have committed such act or acts, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

"(2) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the appropriate court of appeals of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aide if found to be unsupported by substantial evidence, as provided by section 706 (2) (e) of title 5, United States Code.

"(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"(4) The Secretary may, in his discretion, compromise, modify, or remit with or without conditions, any civil penalty assessed under this subsection.

"(c) DISQUALIFICATION.—In addition to any fine, imprisonment, or civil penalty authorized under this Act, any person convicted or assessed a civil penalty for any violation of any provision of this Act or any regulation issued under this Act may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or public horse sale or auction, or participating in any horse show, horse exhibition, or public horse sale or auction, for a period of not more than one year for the first offense and not less than one year for any subsequent offense. Any person who knowingly fails to obey an order of disqualification shall be subject to a civil penalty of $1,000 for each offense. Each day during which such failure continues shall be a separate offense. Any horse show, horse exhibition, or public horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or otherwise to participate in any horse show, horse exhibition, or public horse sale or auction in violation of an order shall be subject to a civil penalty of $1,000 for each offense to be assessed by the Secretary in accordance with subsection (b) of this section. Each day during which the violation continues shall be a separate offense.

"(d) Procedure.—(1) The Secretary may require any person subject to this Act to file with the Secretary, in such form as he may by regulation prescribe, annual or special reports, or both, in writing, furnishing the Secretary information which he may require about the organization, business conduct, practices, or management of any activities subject to this Act. Reports shall be made under oath or otherwise as the Secretary may prescribe, and shall be filed with the Secretary within a reasonable period of time *prescribed* by the Secretary, unless he grants additional time.

"(2) The Secretary may require by subpena the attendance and testimony of witnesses and the production of books, papers, and documents relating to any matter under investigation or the subject of a proceeding. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(3) The attendance of witnesses, and the production of books, papers, and documents, may be required at any designated place from any place in the United States. In case of disobedience to a subpena, the Secretary, or any party to a proceeding before the Secretary, may invoke the aid of any appropriate district court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this Act.

"(4) The Secretary may order testimony to be taken by deposition under oath in any proceeding or investigation pending before him, at any stage of the proceeding or investigation. Depositions may be taken before any person designated by the Secretary who has power to administer oaths. The Secretary may also require the production of books, papers, and documents at the taking of depositions.

"(5) Witnesses whose depositions are taken and the persons taking them shall be entitled to the same fees as paid for like services in the courts of the United States or in other jurisdictions in which they may appear.

"(6) Any person who knowingly neglects or refuses to attend and testify, or to produce books, papers, and documents in reply to a subpena, or to submit a report required by the Secretary, shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.

"(7) Any person who willfully makes, or causes to be made, a false entry or statement in any report required under this Act; who willfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this Act or in any notification or other material required to be submitted to the Secretary under section 4(b) of this Act; who willfully neglects or fails to make, or cause to be made, full, true, and correct entries in such accounts, records, memoranda, notification, or other materials; who willfully removes any such documentary evidence of any person subject to this Act out of the jurisdiction of the United States; who willfully mutilates, alters, or by any other means falsifies any such documentary evidence of any person subject to this Act; or who willfully refuses to submit any such documentary evidence to the Secretary for inspection and making shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than 3 years, or both.

"(8) If any person required by this Act to file an annual or special report fails to do so within the time fixed by the Secretary, and his failure continues for 30 days after notice of his default, he shall forfeit to the United States $100 for each day such failure continues. Such forfeiture shall be recoverable in a civil suit in the name of the United States brought in any district where the person may be found, resides, or transacts business.

"(9) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in sections 6(b) and (c) of this Act.

"(e) Detention and Seizure.—The Secretary is authorized to—

"(1) detain for further examination any horse at any horse show, horse exhibition, or public horse sale or auction, which is sore, or is suspected by the Secretary of being sore, for a period not to exceed 24 hours;

"(2) disqualify from competition at any horse show or horse exhibition any horse which he has probable cause to believe is sore or has any unsound limb;

"(3) prohibit the sale of any horse at any public horse sale or auction which he has probable cause to believe is sore;

"(4) seize any equipment, device, paraphernalia, or substance which he has probable cause to believe was used in violation of any provision of this Act or any regulation issued under this Act or which he has probable cause to believe contributed to the soring of any horse at or prior to any horse show, horse exhibition, or public horse sale or auction.".

Sec. 8. Section 11 of the Horse Protection Act of 1970 (15 U.S.C. 1830) is amended by striking out "twenty-four-calendar-month period" and inserting in lieu thereof "12-calendar-month period".

Sec. 9. Section 12 of the Horse Protection Act of 1970 (15 U.S.C. 1831) is amended to read as follows: "There are authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this Act not to exceed $1,000,000 for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.".

Sec. 10. The Horse Protection Act of 1970 (15 U.S.C. 1831 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 13. Any person who forcibly assaults, resists, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than $5,000, or imprisoned not more than three years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than $10,000, or imprisoned not more than ten years, or both. Whoever kills any persons while engaged in or on account of the performance of his official duties under this Act shall be punishable as provided under sections 1111 and 1114 of title 18, United States Code.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, I do not seek recognition.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho (Mr. McClure) is recognized for not to exceed 15 minutes.

THE CHALLENGE OF DÉTENTE

Mr. McCLURE. Mr. President, I must take this time to alert the people of this country to a grave threat to our national security—a threat that demands immediate response by our national leadership.

The American people are sick of war, and the Government is aware of it. They are so conscious of this national mood that they seem to want, above all, to assure the American people that we can avoid any hostility. In their anxiety to appeal to this national mood, they appear willing to sacrifice our security in order to avoid any apparent conflict. And, even worse, while it appears that our own leaders prefer disarmament to disharmony, it seems evident that the Russians are boldly confident that this mood paralyzes our willingness to confront reality.

In today's climate, it may appear a bit bold to suggest to our people that a country which specializes in overrunning its neighbors, exporting its revolution and promoting its own form of government by force and terror, is somewhat less than a reliable friend. Let us not, however, allow our desire for peace to dim our perception or dull our wits.

The greatest challenge of détente lies, not in achieving it, but, in keeping alive a clear recognition of what it is not. Détente is not a blissful state of peaceful cooperation. It is not even a trustful coexistence. It is simply a relaxation of tensions which makes armed conflict less of an imminent threat. It demands, simply, that we lower the musket from our shoulder—but that we keep our powder dry. The word "détente" should never replace our two-century-old tradition of proud self-defense. There have been people who ignored "détente," considering it harmless if not important. It has been dismissed in much the same manner as has the United Nations, as just talk. It may not be accomplishing anything, but neither does it do any harm.

But, Mr. President, I am not so sure. There may be those who see détente as the pearl of great price which we must attain at the expense of anything or everything we value. The case in point is this. The United States has uncovered compelling evidence of Soviet treaty violations and is doing nothing about them. I have learned this from sources I consider quite reliable. But if confirmation is needed, then there is a source you might want to turn to for at least partial confirmation.

An article in Aviation Week and Space Technology lays out the facts. The article states that:

> The U.S. has detected Soviet concealment efforts and development of a new mobile anti-ballistic missile system now being engineered at Sary Shagan ABM development center on Lake Balkhash near the Sino-Soviet border.

There are two violations involved in this action. The first is concealment. Since the Soviets have never been willing to agree to on-site inspection to assure that treaties were being observed, the United States and Russia have depended on satellites and electronic detection methods to keep track of the other side. Both nations committed themselves not to interfere with these detection systems, but the Russians have systematically increased their concealment operations. The second violation involves the upgrading of the defensive high altitude SA–5 surface-to-air missile. The ABM treaty stipulates that neither nation may develop or build new anti-ballistic-missile systems. The reason for this agreement was that at the time of the talks, the United States had a limited system under development and both our administration and the Soviets found it desirable to limit United States expenditure and development of an ABM system. A single point-defense system per nation was to have been the cutoff point. But what the Russians are doing in secret is taking the old SA–5 which was an anti-aircraft system and modifying its radar so that it can track down and destroy ballistic missiles which may have penetrated its primary defense, thus effectively assuring them of a two-tier mobile defense system, while the United States remains half defended by comparison. The fact that they chose to call the new system by the old name should not confuse grownups.

Now instead of the legitimate outcry that you would expect your Government to make upon such a discovery, we are hearing a deafening silence from our officials. They are so busy pursuing the ephemeral goal called "peace" that their main business—that of defending you and me—is going by the board. Americans have sometimes shown an extraordinary ability to ignore the obvious. Hitler explained his objectives ahead of time, but who read "Mein Kampf" until after World War II? Lenin has dropped minibombs like, "When the capitalist nations begin to trade with us, on that day they will have begun their downfall." Handbooks by Mao and Che Guevera on guerrilla warfare were available before Vietnam, but who read them? The ostrich approach is dangerous.

There are two essential ingredients to any agreement. One is the good faith of the participants and the second is protection from violation of the agreement. Russia has already demonstrated that her good faith is only as good as it is convenient. Even the most naive liberal would not suggest that the U.N. or the World Court can make the U.S.S.R. live up to its agreements. Even our own Government fails the test. Instead of insisting that the Soviets make good on their bargains, we carefully conceal the harsh evidence of their perfidy. Their moral corruption becomes ours. Harsh words? Let me detail but one example.

We have pursued the goal of peace by agreement for a long while. One chapter in that book was the Space Treaty. It was widely heralded by our liberals as a great step toward international cooperation and evidence of universal brotherhood. Its facts are that the Russians were testing an orbital bombing system while we were negotiating the treaty. They continued the testing after it was signed and its ratification was being considered. And it was perfected after the Senate voted confirmation of the treaty forbidding the system. Instead of protesting, our Government covered up the fact that the tests were being conducted. Our officials were so anxious to reach an agreement that they concealed the violation. They even invented the term "fractional" orbital bombing system—FOBS—to excuse the violation. Nothing must stand in the way of the agreement. Not even our own security. Must we repeat that perfidious litany?

Instead of logical thinking and determined action, we are handed the fuzzy warm emotional blanket of détente at any price. Officials conducting the SALT talks must be made to remember that their primary responsibility is to the American people. If they are not sure what the American people want, I would like to offer them the attached poll as a start. They can take their own if they doubt it.

The Opinion Research Corp. found that 67 percent of the people they interviewed think the United States should have stronger military strength than the Soviet Union—not equal to, but stronger; 74 percent have stated that they find the Soviet Union untrustworthy as an agreement partner, and—listen and shudder—73 percent believe the United States should have the objective of turning back the growth of communism.

Instead of this, we find ourselves facing another round of probable concessions called SALT II. I should like to associate myself with the statement of my colleague, the distinguished Senator from New York (Mr. BUCKLEY), who said that:

> A growing awareness of the extent of the advantages conferred upon the Soviets by SALT I, as well as of the degree to which the Soviets are exploiting every one of these, is guarantee enough that the approval of the Congress will be anything but automatic.

This subject is one which ought to be made a part of the public debate, and I should like to state my commitment to help bring that about. I have written to President Ford asking—no, begging—that he level with the American people on this problem. I think that he and they would benefit from that candor.

I have also written Secretary Kissinger, urging that he confront the Soviets. If we are to survive as a free people, and if we are to continue as the one sure symbol to the oppressed peoples of the world, we must have the courage and the integrity to face reality. The reality is that the Soviet Union is proving that agreements are made to be broken, not kept.

Mr. President, I ask unanimous consent that an article from Aviation Week and Space Technology, by Clarence A. Robinson, Jr., and the results of the Opinion Research Corp. poll be included in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SOVIET TREATY VIOLATIONS DETECTED—U.S. COMPILING EVIDENCE OF U.S.S.R. ACTIONS PROHIBITED UNDER BOTH OFFENSIVE STRATEGIC, ABM SYSTEM AGREEMENTS

(By Clarence A. Robinson, Jr.)

WASHINGTON.—U.S. is compiling evidence of major Soviet violations of both the interim offensive strategic arms limitation and anti-ballistic missile systems treaties. Detection of the actions is being made despite Soviet efforts to thwart strategic weapons systems detection by U.S. electronic and photographic intelligence gathering techniques.

The key to the present strategic arms limitation treaties with the Soviet Union is a commitment by both nations not to interfere with electronic or satellite systems used to gather data to verify that neither nation is violating the agreements.

This detection capability is referred to in the agreements as "national means of technical verification."

It prohibits either the U.S. or USSR from interference with satellites in orbit or electronic detection methods and from using concealment measures to impede detection.

The U.S. has detected Soviet concealment efforts and development of a new mobile anti-ballistic missile system now being engineered at Sary Shagan ABM development center on Lake Balkhash near the Sino-Soviet border. Despite this, the Defense and State departments are still at odds over what position to take at strategic arms negotiations later this month.

Secretary of State Henry A. Kissinger is scheduled to leave the U.S. this week to resume talks with Soviet officials on reaching a permanent treaty limiting offensive strategic arms.

This will be the first high-level meeting since the unsuccessful June summit, and President Ford has promised a unified bargaining position for U.S. negotiators.

NEGOTIATING OPTIONS

The Pentagon has provided a so-called "infinite list of negotiating options" to Kissinger for his Moscow meeting. But they are all based on the concept of reducing the aggregate strategic force structure. This means reducing the Soviet deployment of multiple independently-targetable reentry vehicles (MIRV) on intercontinental ballistic missiles (ICBM).

Kissinger is believed to be in substantial disagreement with the position offered by the Pentagon for the upcoming negotiations.

Rather, he believes that the Soviets will not continue the negotiations if pressed for further reductions and that any permanent treaty on offensive weapons must be within the constraints of the present interim agreement, which does not call for major reductions in the strategic force structure.

"Kissinger has taken the position that [Defense Secretary James R.] Schlesinger's options for the Moscow negotiations are not to be considered as more than an obstacle by the bureaucracy, which can be coped with if a successful permanent treaty is negotiated," an official outisde the Defense Dept. said.

The Secretary of State has told Congress that the Soviets will deal only at the highest level—meaning himself—when negotiating on strategic arms agreements, rather than the so-called bureaucracy. Kissinger uses that term to identify those who deal at the working level in negotiations, detailing problems and providing possible positions for negotiators.

"FLAGRANT VIOLATION"

Development of a mobile anti-ballistic missile radar system at the Soviet's ABM test site in Sary Shagan is considered by many U.S. officials to be a flagrant violation of the permanent ABM treaty, but without on-site inspection it is impossible to pin down the Soviet development precisely.

An element of the anti-ballistic missile agreement signed by the U.S. and Soviets in May, 1972 is prohibition of development and testing, as well as deployment, of sea-based, space-based or land-mobile anti-ballistic missile systems and components.

To avoid circumvention of the ban on ABM advances through development of non-ABM systems such as antiaircraft surface-to-air missiles both countries agreed to halt conversion of such tactical missile systems or their components to perform in the ABM role.

Development of the mobile system now being tested at Sary Shagan is an outgrowth of technology which was developed by the Soviets in the SA-5 Griffon long-range air-defense missile system.

Others disagree, believing that the development of a mobile radar for ABM use is new technology and unrelated to the SA-5.

All tend to agree that the system is mobile and is capable of being integrated with the present ABM radar systems to detect and track U.S. ICBMs and to avoid radar blackout during a nuclear warhead detonation.

Some believe that the development at Sary Shagan is a modification of the SA-5 radar, which has been code named Square Pair by the North Atlantic Treaty Organization, and that the system uses a phase-array radar with both mechanical and electronic steering of the beam in azimuth and elevation.

One reason for this belief that the system is an improvement to the SA-5 radar is that the same Soviet team that developed the Griffon weapons system is involved in the present radar development.

RADAR HOUSING

The radar modified for ABM use is housed in several vans, but the system is mobile. The ballistic missile defense functions of the radar would be slightly limited by its power capability if it has been correctly estimated by the U.S. But that also depends on what phase of the ballistic missile defense role will be performed by the system and whether it is used in conjunction with other ABM radars.

The SA-5 missile has no exo-atmospheric capability and the U.S. believes that there is no connection between the ABM radar development and the Griffon missile as an interceptor.

The Soviets also are developing a new intercontinental ballistic system beyond the capability of the SSX-19, a 5,500-naut.-mi. liquid-fueled missile (AW&ST May 27, p. 14; Apr. 29, p. 73) designed as a possible replacement for the present SSX-11, which is now deployed in large numbers. The SSX-19 uses a cold-launch "pop-up" technique designed to permit increased performance while remaining within the missile silo size constraints of the interim strategic arms agreement. The new ICBM also will have a MIRV capability.

Soviets have sought to prevent the U.S. from detecting developments in the USSR by concealing Soviet missile silo work and by interfering with electronic monitoring of intercontinental ballistic missile tests.

The Soviets are permitted approximately 1,618 operational land-based ICBM silos, the number they were estimated to have operational or under active construction when the interim agreement froze further construction of launchers. The U.S. has 1,054 silos operational.

New construction of Soviet silos has been detected in spite of attempts by the Russians to conceal such construction.

Those detected have been described by the Soviets as command and control centers and not launchers.

Since launchers for testing and training purposes are not banned by the interim agreement, the Soviets are claiming that silos added to the ICBM belt along the trans-Siberian railway in Soviet Asia are for training only.

The Soviets appear to be building a substantial number of new silos, which some estimate may total as many as 200 above the freeze level specified in the interim treaty.

The Soviets have announced that their test area in the Pacific, about 500 naut. mi. north of Midway Island, will be closed to shipping and aircraft from Oct. 20–30.

Defense Dept. officials expected that submarine-launched ballistic missiles will be fired into the area. They believe the launches are to be timed to coincide with the Moscow visit of Kissinger.

The Soviet Union already has fired two SS-N-8 SLBMs into the target area in the Pacific from a Delta-class submarine in the Barents Sea, north of Moscow. The flight was about 4,500 naut. mi. The tests included only single reentry vehicles and not MIRV's.

The upcoming tests are expected to be a continuation of SLBMs in the SS-N-8 class but could include multiple reentry vehicles.

PUBLIC SPEAKS ON DEFENSE

In 1974, the Opinion Research Corp. conducted 1,006 telephone interviews with a national probability sample of the general public of age 18 and over during the period April 8 through April 13.

The results included the following responses:

1. Should the United States have military strength greater than that of the Soviet Union?

Yes—67% No—25% Undecided—8%

2. Should the United States have a military research and development program at least as large as that of the Soviet Union?

Yes—86% No—10% Undecided—4%

3. In the first strategic arms limitation treaty, the United States and Russia agreed not to protect their citizens against nuclear missiles. Would you prefer that the United States develop the capability to destroy most missiles before they can strike our cities?

Yes—85% No—11% Undecided—4%

4. Let's assume for a moment that Russia had gained military superiority over the United States and that it would cost $20 billion a year more for the U.S. to regain superiority. Would you favor spending the $20 billion per year?

Yes—65% No—27% Undecided—8%

5. Do you trust the Soviets to keep the strategic arms limitation agreement even though there is no provision for on-site inspection by either side?

Yes—19% No—74% Undecided—7%

6. In what is known as the Cold War, do you believe the United States should have the objective of turning back the growth of communism?

Yes—73% No—18% Undecided—9%

The above six basic majority views were not presented on CBS-TV Evening News during 1972.

QUORUM CALL

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Montana is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE TIME HAS COME FOR WAGE-PRICE-PROFIT CONTROLS

Mr. MANSFIELD. Mr. President, there is a good deal of talk going around about the economy, but that is all it is—talk. We note in this morning's paper that Chrysler is laying off something on the order of 44,000 workers. At the same time, Chrysler has increased its prices.

We see GM laying off workers, and we see Ford laying off workers. They, too, have raised their prices.

We see a situation developing which could, in my opinion, take us back to the terrible days of the depression of the thirties if we do not face up to our responsibilities. There are those of us who advocate wage, price, rent, profit, and other kinds of controls, and there are those of us who are opposed to them. But both of us are just talking unless we want to face up to the realities of today.

Volunteerism is not the answer. Wearing a button on one's lapel is not the answer. Cleaning one's plate is not the answer. Oil shortages alone are not the problem.

In my opinion, Mr. President, the basic reason for the recession in which we find ourselves today is twofold: Vietnam, a tragedy if ever there was one, and the turning off of the oil spigot just about a year ago. Vietnam, an unnecessary, brutal war which was not tied to the interests of the United States, cost this Nation 55,000 American dead. Vietnam cost this Nation 303,000 American wounded. Vietnam caused this Nation to spend 140 billion American dollars, and before we are through, according to the "Statistical Abstract of the United States, 1973," issued by the Department of Commerce, Vietnam is going to cost us $352 billion, a cost that will extend into the latter part of the first half of the next century.

As to the other factor, petroleum, let us see what we are paying. In 1972, the cost of petroleum imports was about $4.7 billion. In 1973 the cost was about $8.3

billion. This year, the cost is going to be in excess of $27 billion. And the oil from these sources can be turned off at any time the exporters desire to.

We talk a lot about the Middle East when we speak of oil, but I think it is well to keep in mind that not more than a third of our imports come from the Middle East. In fact, 27.7 percent comes from Venezuela; 17.7 percent comes from Canada and half of that is Venezuelan crude refined; 9.5 percent comes from Nigeria; 4 or 5 percent comes from other areas throughout the world, 10 percent from Iran. The first Middle East country with any substantial export of petroleum to the United States is Saudi Arabia. From that country, we get 9.5 percent of our imports.

Furthermore, as far as the OPEC countries are concerned, OPEC was founded by Venezuela, and Venezuela was the first country which tied the cost of oil to the rate of production. So what we are facing is not something which is tied only to the Middle East, but we are facing a factor which must be considered on a worldwide basis.

Those are the two things which I think are most responsible for the recession in which we find ourselves today: Vietnam and the shortage of petroleum, plus the policy of turning the spigot off and on to regulate the price and apply the pressure. But these are facts and history; our responsibility is for now and tomorrow.

Mr. President, in 1970, when the President told us that economic standards should never be used, Congress passed standby wage, price, profit, and rent controls. Over a year later, President Nixon finally used that standby authority to control the mounting inflation then considered rampant in the country.

The inflation rate in August, 1971, was 4.5 percent. Today the inflation is triple that figure. In fact, we have the same rhetoric against the strong remedy of controls from this administration. But in the past 100 days unemployment has increased in America to 5½ million or 6 percent of the total work force. It is expected to jump to 7 percent or more before the new Congress convenes in January. Automobile sales are down 38 percent from a year ago, but the cost of cars has increased by $386 on the average. Assembly line layoffs are beginning to snowball. The cost of living keeps going up. Last month on the eve of the election wholesale prices increased at an annual rate of nearly 28 percent; wholesale prices for food increased by over 50 percent; the gross national product dropped 2.9 percent in the third quarter of this year. These statistics keep telling the story, but a sense of urgency seems to escape all but those in the grocery store lines.

A program of voluntary restraint—in effect since President Nixon's phase II was abandoned—is inadequate to meet the economic crisis of the Nation.

What is needed is a strong, fair and total program to control the spiral of this Nation. It is not satisfactory to blame it on an international oil conspiracy alone. Assessing blame does not provide a remedy. Getting our domestic house in order through a balanced program of energy conservation and economic restraint will do more to remedy the international recession than the rhetoric of countless international conferences.

The measure I introduce today should be considered as but one part of an overall program to meet the urgent needs of this Nation. It will provide for the authority to exercise the appropriate control over our economy during this period of crisis. It is similar to the authority granted to President Nixon in 1970. It includes authority over wages, prices, profits, rents, dividends, interest rates, and other economic transfers with a base period of April 30, 1974, the date the 1970 control authority expired.

A newly added feature will require the administration to submit to the Congress within 60 days after enactment a detailed plan on how this authority would be implemented if called upon by the President. This report will include specific descriptions of the manner in which such authority would be exercised and the organizational and administrative structures that would be undertaken. These reports would give Congress the ability to adjudge what measures are contemplated to assure that all sectors of the economy are to receive a comparable level of control; that all sections are to be treated fairly and equitably; and that comparable duties and sacrifices on individuals and organizations will be distributed throughout the economy.

I hope that the Committee on Banking, Housing and Urban Affairs—and I see the next chairman of that committee (Mr. PROXMIRE) presiding over the Senate at the present time—will give this matter its earliest consideration, because, Mr. President, the bells are tolling, and we know for whom.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. McCLELLAN. Does the measure that the Senator is introducing today provide for mandatory action on the part of the Executive, or is it chiefly discretionary, as we have always provided in the past?

Mr. MANSFIELD. Standby authority would be granted to the President.

Mr. McCLELLAN. What does the Senator propose in his bill by way of standby authority that the President does not have now?

Mr. MANSFIELD. The President has indicated, or at least his predecessor did, that he does not have the authority to impose wage, price, profit, rent, and interest rate controls; that authority expired on April 30, 1974, and is not in operation at the present time.

If I could ask the Presiding Officer to speak as a Senator from the State of Wisconsin, I would like to have my statement either refuted or accepted.

The ACTING PRESIDENT pro tempore (Mr. PROXMIRE). The Senator from Montana is correct. The authority of the President expired April 30, 1974.

Mr. McCLELLAN. It has expired. What the Senator is doing, then, with his bill, is seeking primarily to renew authority that had heretofore been granted to the President, that is discretionary authority?

Mr. MANSFIELD. In general, yes, because he would be the one to implement the controls, to invoke or not the authority in this bill. The question will be raised, "Well, we are just trying to pass the buck to the President."

Not at all. If there was any way in which I could devise a measure which would pass Congress on a substantial basis and which would give Congress coequal control with the President, I would be delighted to do it. But the only way it can be done, as I see it, is on this basis, because the President is the Chief Executive Officer of our Government, the designated leader of the Nation, and he is the one who must furnish the leadership in mobilizing the Nation to get its economic house in order.

Mr. McCLELLAN. There is no doubt in my mind, that Congress has the power, and can by legislation as proposed by the distinguished Senator, confer upon the President the discretionary authority to act and to invoke and impose controls, regulations, and limitations on various aspects of the economy. But, as the Senator pointed out earlier in his remarks, we are doing a lot of talking with little action, and the situation is worsening all the time. I am wondering if we are approaching a time, or if we have not already reached such a time of economic distress, when it becomes imperative that Congress take the responsibility for enacting laws that require action, rather than leave it to the discretion of the executive branch of the Government.

These are just thoughts, Mr. President. I am not trying to pick flaws. I am simply discussing the matter from the standpoint that if we act and give the President the power, in the past it has been said, "We do not need congressional help; it is not time yet for that; wait and see."

I am not saying this in criticism of the President as he performs as Chief Executive. There are often honest differences of opinion in areas where discretion is permitted. But I wonder if the time is not here for Congress to assert itself, and legislate to require certain acts to be accomplished.

Mr. MANSFIELD. Mr. President, I appreciate the comments of the distinguished chairman of the Appropriations Committee. As far as I am concerned, I would be delighted to support legislation, unpleasant though it might be, which would make it mandatory to undertake certain actions to forestall, alleviate, or reverse the recession which is upon us.

I would point out, though, that no matter what Congress did, even if it did mandate the type of legislation which the Senator from Arkansas and I agree would be worthwhile, it would have to be administered by the executive branch of the Government, and that is a factor which we cannot close our eyes to.

May I say I agree with the Senator; I think that President Ford is a man of good heart and good intentions, and I think that the Congress is made up of men and women of good hearts and good intentions, but it is going to take more than that to face up to this difficulty which now confronts us with 12.1 percent inflation from September 1973 to September 1974, and the trend is up, with 6 percent unemployment, according to figures about 3 weeks ago, and I dare say the figure right now is in excess of 6 percent; and if the coal strike continues, which affects other industries as well, the trend will go well beyond that.

It is time for us to take stock and face up to our responsibilities, because we owe a duty and a responsibility to the American people which I think up to this time both the executive and legislative branches have been shying away from assuming.

Mr. McCLELLAN. The question in my mind is whether Congress should make a quick indepth study and reexamine the whole economic situation, and make a determination—about whether discretionary authority may or may not be used. Or, whether discretionary authority, used sparingly instead of forcefully and effectively, is going to solve our problems. I am beginning to think it will not.

I had a letter the other day—from a farmer in my State, and I was much impressed with his fairmindedness. He spoke of the complaints about high prices for food.

He was perfectly willing to place some limit on what the agricultural products may sell for, but he pointed out that there should be no reduction on the price the farmer could get for his product. If there was no price limitation placed on restrictions on the cost the farmer would have to pay for his fuel, which has risen three or four times over what it was a year ago, and on the chemicals he has to buy which have also risen, and on the fertilizer that he has to buy which is being shipped abroad, then no price limitation should be placed on the crops.

It is not simple matter and it is very well to say that the farmer is getting more than he ever received, and maybe he is in some areas. But it is also costing him far more to operate, and if we are going to hold down the cost of living in this country, we have got to hold down the cost of food production.

Mr. MANSFIELD. Mr. President, in my State of Montana we face a triple difficulty. Our timber operations are down. What mills are functioning are operating on a shortened-hour basis, our beef industry is in bad shape because the prices are too low and the costs are too high, but somebody is making money out of beef and it is not the cattlemen.

When I was home during the election, just the day before the election it was announced that three of the four mines in Butte would be closed down and the men would be laid off. That is going on at the present time.

In Montana, I think the rate of unemployment is somewhere between 7 percent and 8 percent. In the President's home State of Michigan, I think it is around 10 percent, if not more. The trend in almost every State is up.

Getting back to the suggestion made by the distinguished Senator from Arkansas, I am delighted that we have in the chair at this time the distinguished Senator from Wisconsin (Mr. PROXMIRE) because he has undertaken, I believe, the kind of a study which was mentioned and I would express the hope that in his capacity as chairman of the Joint Economic Committee he would continue that study and come forth with recommendations so that the Senate and the Congress would in time be in a position to act in a positive manner and in a way which hopefully would be beneficial to the people of the Nation as a whole.

Mr. McCLELLAN. Mr. President, if the Senator will yield. I have the same situation in Arkansas, a lumber-producing State. As the Senator knows, many of our mills are completely closed down.

Mr. MANSFIELD. That is right.

Mr. McCLELLAN. And, of course, homebuilding is at a standstill. People cannot get money to finance homebuilding, except at excessive interest rates, and they are lucky if they can get financing at all.

Something is wrong with our economy and it has got to be straightened out if we are to pull out of the recession now and avoid going into a deep depression.

I think the leader is right and I want to support him in his expressions of concern, and I, too, desire to get moving and quit talking.

I hope that the distinguished Senator from Wisconsin, with the committee study he is making, can come forth at a very early date with some concrete recommendations that will be helpful to us.

I do not think we can continue drifting and expect to reverse the trends that are now upon us. We are going to have to take some action.

Mr. MANSFIELD. The Senator is correct; he used the right word, "drift."

The administration and the Congress both are drifting and we are not drifting in the right direction.

Mr. YOUNG. Will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. YOUNG. I was impressed by the comments made by the Senator from Arkansas with respect to the letter he received from a farmer.

Farm operating costs have gone up far more than most people realize, and the end is not in sight. There are some farm prices that are way down. My friend from Montana knows the cattle prices now are probably at the lowest point since they were in 1955. Cattle are selling now for only about one-third what they were a year ago, and this segment of our agricultural economy is in serious trouble, but the meat over the counter here in Washington seems to be selling for about the same price it always was before.

Mr. MANSFIELD. Or higher.

Mr. YOUNG. These cattle people with the very high interest rates just cannot stay in business if prices continue the way they are.

Mr. MANSFIELD. The Senator is correct; no one knows more about the farm economy than the distinguished senior Senator from North Dakota, and what we apply to the beef producers, cattlemen who produce beef on the hoof, we can also apply to the feed-lot operators.

It is a most difficult situation which this country finds itself in, and I think the time calls for cooperation between the parties and cooperation between the Congress and the Executive, but most of all, a confrontation by all of us to hard realities of this Nation's economy.

Mr. President, I ask unanimous consent that the text of the bill I introduce today, the Economic Stabilization Act of 1974, be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

§101. Short tilte

This Act may be cited as the "Economic Stabilization Act of 1974."

§102. Presidential authority

The President is authorized to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, salaries, profits, dividends, interest rates, and other comparable economic transfers at levels not less than those prevailing on April 30, 1974. Such orders and regulations shall provide for—

(1) the making of such adjustments as may be necessary to prevent gross inequities;

(2) wage and salary increases or adjustments, after April 30, 1974, based on the application of cost of living and productivity formulas;

(3) price, rent, or interest rate increases or adjustments, after April 30, 1974, based on cost or productivity increases; and

(4) profit or dividend increases, after April 30, 1974, attributable to increased productivity, efficiency, or sales or revenues.

§ 103. Delegation

The President may delegate the performance of any function under this Act to such officers, departments, and agencies of the United States as he may deem appropriate.

§ 106. Expiration

Whoever willfully violates any order or regulation under this Act shall be fined not more than $5,000.

§ 104. Penalty

Whenever it appears to any agency of the United States authorized by the President to exercise the authority contained in this Act to enforce orders and regulations issued under this Act, that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any regulation or order under this Act, it may bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such act or practice, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the agency, any such court may also issue a mandatory injunction commanding any person to comply with any regulation or order under this Act.

§ 105. Injunctions

The authority to issue and enforce orders and regulations under this Act expires at midnight September 30, 1977, or upon the date provided in a concurrent resolution of the Congress whichever is earlier but such expiration shall not affect any proceeding under section 104 for a violation of any such order or regulation committed prior to October 1, 1977, or for the punishment for contempt for a violation of any injunction issued under section 105 committed prior to October 1, 1977.

§ 107. Transmittal of detailed plan

(a) Not later than 60 days after the date of enactment of this Act, the President or his delegate shall transmit to the Congress a plan setting forth detailed proposals for the implementation of the authority conferred by this Act, including specific descriptions of the manner in which such authority would be exercised and the organizational and administrative provisions which would be used.

(b) The plan required under this section shall—

(1) be generally fair and equitable;

(2) provide for a comparable level of control of all sectors of the economy; and

(3) impose comparable duties and sacrifices on individuals and organizations in all segments of the economy.

(c) The President or his delegate shall make and transmit to the Congress from time to time such revisions of the plan transmitted under this section as may be necessary.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed beyond 10:45, with statements therein limited to 5 minutes.

ORDER TO HOLD H.R. 17434 AT DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the message on H.R. 17434, the National Wildlife Refuge System Administration Act Amendments of 1974, be held at the desk when it arrives from the House.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 15223) to amend the Federal Railroad Safety Act of 1970 and the Hazardous Materials Transportation Control Act of 1970 to authorize additional appropriations, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. JARMAN, Mr. DINGELL, Mr. DEVINE, and Mr. KUYKENDALL were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 14215) to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs authorized by that act; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. KYROS, Mr. DEVINE, Mr. CARTER, and Mr. HASTINGS were appointed managers of the conference on the part of the House.

The message further announced that the House has passed the bill (S. 782) to reform consent decree procedures, to increase penalties for violation of the Sherman Act, and to revise the Expediting Act as it pertains to appellate review; and the joint resolution (S.J. Res. 133) to provide for the establishment of the American Indian Policy Review Commission, each with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 12071. An act to amend the Department of Agriculture Organic Act of 1944 to authorize the Secretary of Agriculture to enter into negotiated contracts for the protection from fires of lands under the jurisdiction of the Department of Agriculture, and for other purposes;

H.R. 15229. An act to expand the authority of the Canal Zone Government to settle claims not cognizable under the Tort Claims Act; and

H.R. 17434. An act to amend the National Wildlife Refuge System Administration Act of 1966 to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses, and for other purposes.

At 1:45 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 11929) to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JONES of Alabama, Mr. KLUCZYNSKI, Mr. JOHNSON of California, Mr. HARSHA, and Mr. BAKER were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the bill (H.R. 16757) to extend the Emergency Petroleum Allocation Act of 1973 until August 31, 1975, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 1227. An act to amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges.

S. 1479. An act to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points.

S. 2457. An act to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders, and to permit aliens holding such radio station licenses to be licensed as operators.

The PRESIDENT pro tempore subsequently signed the enrolled bills.

At 4:08 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that, on reconsideration and two-thirds of the House agreeing, the bill (H.R. 14225) to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for 1 year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, to make certain technical and clarifying amendments, and for other purposes; to amend the Randolph-Sheppard Act for the blind; to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals, which had been returned by the President of the United States with his objections, was passed.

The message also announced that, on reconsideration and two-thirds of the House agreeing, the bill (H.R. 12471) to amend section 442 of title 5, United States Code, known as the Freedom of Information Act, which had been returned by the President of the United States with his objections, was passed.

The message further announced that, on reconsideration and two-thirds of the House not agreeing, the bill (H.R. 6624) for the relief of Alvin V. Burt, Jr., Eileen Wallace Kennedy Pope, and David Douglas Kennedy, a minor, returned by the President of the United States with his objections, was not passed.

The message also announced that the House has passed the bill (S. 433) to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15977) to amend the Export-Import Bank Act of 1945, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. PROXMIRE) laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION BY THE OFFICE OF MANAGEMENT AND BUDGET

A letter from the Director of the Office of Management and Budget transmitting a draft of proposed legislation to provide flexibility in carrying out the national interest or humanitarian objectives of Public Law 480 (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

PROPOSED LEGISLATION BY THE OFFICE OF MANAGEMENT AND BUDGET

A letter from the Director of the Office of Management and Budget transmitting a draft of proposed legislation to eliminate three provisions of the Commodity Futures Trading Commission Act of 1974 which encroach on the separation of powers (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

Report of the Department of Defense

A letter from the Assistant Secretary of Defense reporting, pursuant to law, on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under German Offset Agreement for the quarter July 1, 1974 through September 30, 1974. Referred to the Committee on Appropriations.

Report of the Attorney General

A letter from the Attorney General of the United States transmitting a report, pursuant to law, on the enforcement of title II of the Consumer Credit Protection Act for the fiscal year 1974 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

Proposed Legislation by the Federal Home Loan Bank Board

A letter from the General Counsel of the Federal Home Loan Bank Board suggesting certain amendments to the National Housing Act. Referred to the Committee on Banking, Housing and Urban Affairs.

International Agreements Other Than Treaties

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into within the past 60 days (with accompanying papers). Referred to the Committee on Foreign Relations.

Publications of the General Services Administration

A letter from the Administrator of General Services transmitting several publications of the General Services Administration concerning high rise fire safety systems (with accompanying publications). Referred to the Committee on Government Operations.

Report of the Comptroller General

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Getting the New Communities Program Started: Progress and Problems" (with an accompanying report). Referred to the Committee on Government Operations.

Report of the Federal Energy Administration

A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report entitled "Project Independence" (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

Report of the Attorney General

A letter from the Attorney General of the United States transmitting, pursuant to law, the annual report of the Attorney General for the fiscal year 1973 covering the responsibilities and activities of the Department of Justice (with an accompanying report). Referred to the Committee on the Judiciary.

Report of the Commission on Civil Rights

A letter from the Chairman and members of the Commission on Civil Rights transmitting, pursuant to law, a report entitled "The Federal Civil Rights Enforcement Effort—1974" (with an accompanying report). Referred to the Committee on the Judiciary.

Report of the Department of Health, Education, and Welfare

A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, a report entitled "Marihuana and Health" (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

Proposed Criteria of the Department of Health, Education, and Welfare

A letter from the Under Secretary of Health, Education, and Welfare transmitting, pursuant to law, a copy of proposed criteria for funding of applications for graduate and undergraduate international studies programs (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

Proposed Legislation by the Office of Management and Budget

A letter from the Director of the Office of Management and Budget transmitting a draft of proposed legislation to extend the uniform national speed limit indefinitely and to extend for 1 year the authority to make grants for demonstration carpooling programs (with accompanying papers). Referred to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 428. A resolution to provide authorization for supplemental expenditures by the Committee on Public Works (Rept. No. 93–1289).

S. Res. 435. An original resolution authorizing additional expenditures by the Committee on Rules and Administration for routine purposes (Rept. No. 93–1290).

By Mr. NELSON, from the Committee on Labor and Public Welfare, without amendment:

S. 4178. An original bill to provide for the extension of Headstart, community action, community economic development, and other programs under the Economic Opportunity Act of 1964, to provide for increased involvement of State and local governments in antipoverty efforts, and for other purposes (Rept. No. 93–1292).

H.R. 14449. An act to provide for the mobilization of community development and assistance services and to establish a Community Action Administration in the Department of Health, Education, and Welfare, to administer such programs (Rept. No. 93–1291).

HOUSE BILLS REFERRED

The following House bills were each read twice by their titles and referred as indicated:

H.R. 12071. An act to amend the Department of Agriculture Organic Act of 1944 to authorize the Secretary of Agriculture to enter into negotiated contracts for the protection from fires of lands under the jurisdiction of the Department of Agriculture, and for other purposes; to the Committee on Agriculture and Forestry.

H.R. 15229. An act to expand the authority of the Canal Zone Government to settle claims not cognizable under the Tort Claims Act; to the Committee on Commerce.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, November 20, 1974, he presented to the President of the United States the following enrolled bills:

S. 1227. An act to amend section 415 of the Communications Act of 1934, as amended, to provide for a two-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges.

S. 1479. An act to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points.

S. 2457. An act to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio stations licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders, and to permit aliens holding such radio station licenses to be licensed as operators.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MANSFIELD:

S. 4174. A bill to stabilize prices, rents, wages, salaries, profits, dividends, interest rates, and other economic transfers. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. PROXMIRE:

S. 4175. A bill for the relief of Soon Ja Jung. Referred to the Committee on the Judiciary.

By Mr. BENTSEN (for himself, Mr. Ribicoff, and Mr. Humphrey):

S. 4176. A bill to provide an income tax credit for savings for the payment of postsecondary educational expenses. Referred to the Committee on Finance.

By Mr. PACKWOOD:

S. 4177. A bill to amend the Fair Labor Standards Act of 1938 with respect to effective dates of overtime provisions relating to employees in fire protection activities and law enforcement activities. Referred to the Committee on Labor and Public Welfare.

By Mr. NELSON, from the Committee on Labor and Public Welfare:

S. 4178. An original bill to provide for the extension of Headstart, community action, community economic development, and other programs under the Economic Opportunity Act of 1964, to provide for increased involvement of State and local governments in antipoverty efforts, and for other purposes. Placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MANSFIELD:

S. 4174. A bill to stabilize prices, rents, wages, salaries, profits, dividends, interest rates, and other economic transfers. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. MANSFIELD'S remarks on the introduction of the Economic Stabilization Act of 1974 are printed earlier in the Record.)

By Mr. BENTSEN (for himself, Mr. Ribicoff, and Mr. Humphrey):

S. 4176. A bill to provide an income tax credit for savings for the payment of postsecondary educational expenses. Referred to the Committee on Finance.

Educational Savings Plan

Mr. BENTSEN. Mr. President, today I am introducing legislation to provide greater educational opportunities for an estimated 33 million young Americans through the creation of "Educational Savings Plans."

The educational savings plans provided for in this bill will allow a Federal tax credit for individuals who save for either vocational or other higher educational expenses. Funds deposited in these educational savings plans will be channeled into savings and loan associations, mutual savings banks and other federally insured financial institutions—the majority of whose loans are related to housing. These savings plans will not only make postsecondary education more readily available to millions of this country's youth, they will provide a stable source of private funds at reasonable interest rates to potential American homeowners.

The average American has four basic economic goals beyond the day to day physical needs for survival—he wants to be able to purchase his own home, to provide for his children's education, to meet his family's health needs and finally, to provide for his own retirement when those working years are behind him.

Despite the progress of the last several decades, in recent years these four basic goals of home ownership, education, health care, and retirement have become further from the reach of millions of Americans. I believe it is the duty of government to provide policies that enhance the opportunity for working Americans to accomplish the goals which they have chosen.

This past year, the Congress passed a major piece of legislation to reform the private pension system and I was pleased to have played a role in that effort. Next year we expect to pass legislation to provide a national system of health insurance and I hope to play a role in seeing that legislation enacted as well. But in addition to retirement income and health care, I believe we must take steps to assist American families in meeting the educational needs of their children and those families' needs for housing.

In the 10 years between 1962 and 1972, the costs of tuition, room, and board at public colleges and universities increased 50 percent, compared to 38-percent increase in the Consumer Price Index. During the same period, the costs of private higher education have escalated 80 percent, more than twice the rise in the Consumer Price Index. Equally important, vocational education programs have also seen substantial cost increases.

Middle- and lower-middle-income students have been increasingly priced out of postsecondary education. With limited funds available under the various programs of student financial aid, and with college costs increasing, we confront a situation in which the costs of a secondary education tend to eliminate those who fall between the categories of the very poor and the very rich. The children of the very poor frequently qualify for full scholarship aid, and those who are very rich can afford high tuitions. It is primarily moderate-income Americans who are frequently ineligible for Federal student assistance who have been suffering during the cost squeeze in education. The educational savings plan provided for in this legislation should be of considerable benefit to these families. It should also provide an element of predictability to families concerned about how they are going to meet the cost of their children's higher education.

In addition, Mr. President, these educational savings plans can give strong impetus to our efforts to provide a better trained work force and to improve the productivity of the American worker. In recent years, many countries have been outstripping the United States in productivity as they have adopted American management techniques and improved their technologies. One of the lessons of the economic summit was that our country badly needs the new technology and higher level of skills created by a vigorous postsecondary education program in both our colleges and vocational schools.

When American youth becomes more productive, the individual and the economy benefit. The educational savings plan should channel increasing numbers of students into career education, develop their skills, lower unemployment rates, and provide the Nation with a more effective work force.

The Department of Treasury estimates that as many as 15 million families would utilize these plans to save for the education of 33 million children. This would mean approximately $9 billion would be deposited in educational savings plans annually. Since these plans will be managed by savings and loan associations, mutual savings banks, and any other institutions placing 50 percent of their assets into housing-related loans, these plans will provide a stable source of financing for home mortgages and constructions loans.

Mr. President, the unavailability of a steady flow of capital into housing is creating unnecessary shortages of housing and inefficiencies in construction.

Thrift institutions, such as savings and loan associations and mutual savings banks which will be able to offer educational savings plans, made 65 percent of this Nation's loans for the purchase of homes in 1973 and have been the traditional source of such lending. Savings and loan associations put approximately 85 percent of their funds into mortgages generally and 75 percent into single-family dwellings. Mutual savings banks have over 60 percent of their assets in mortgages. But, Mr. President, these institutions suffer serious shortages of funds during periods of tight money and high interest rates.

During the last period of tight money in 1969 there was a net outflow from savings and loan associations of over a billion dollars during the course of the year. As interest rates eased in 1970 and 1971, funds began to move back into these institutions for a peak new inflow of over $23 billion in 1972. But when interest rates began to climb again in 1973, that net inflow was more than cut in half to only $10½ billion. When the administration's tight money policies of this year began to really be felt that inflow was further cut to $2.7 billion for the first 9 months of this year. We are never going to be able to provide the almost 2 million new homes Americans need every year when the principal source of funds for housing is subject to this type of fluctuation.

The $9 billion in annual deposits for educational savings plans provided by my legislation would not be subject to such market fluctuations and would provide a steady source of financing for as many as 300,000 new homes per year—three times as many homes as the emergency housing legislation we just passed.

As a result of the unavailability of financing, the current depression in housing appears to be the worst since the 1930's. Housing starts have dropped from an annual rate of over 2½ million in October 1972 to a present annual rate of slightly over 1 million. Forty percent of the total decline in our entire economy during the first quarter of this year came in residential construction even though residential construction accounts for only about 4 percent of our Nation's total output.

Fluctuations such as these not only drive up home prices by creating a housing shortage, they cause serious inefficiencies in every phase of home construction by increasing the cost of materials and skilled labor and contributing to home builder bankruptcies. Over 50,000 construction workers lost their jobs in September alone for a total of over half a million out of work. Over 1,000 home builders have been forced out of business since the first of the year. Inflation in housing cannot be controlled by forcing skilled construction workers and homebuilders in other lines of work or by continuing to create artificial shortages of housing units available.

Mr. President, the periodic unavailability of funds for housing has created seven major housing cycles since World War II. Past experience indicates that a substantial increase in construction costs occurs during the 2 years following the bottom of the cycle. We will be paying for the present depression in the housing industry with higher construction costs in 1975 and 1976. And, Mr. President, most Americans have already been priced out of the market for a new home. A home that cost $32,000 in 1971 now costs $45,750—a 43-percent inflationary increase over 3 years. Moreover, when the extra cost of the 2½-percent increase in interest rates during that period is included, the monthly payments have gone up 78 percent. A more stable and lower cost source of funds must be made available if the opportunity for home ownership is to be a reality for millions of American families.

The Treasury estimates that a $1.7 billion annual revenue loss will occur from the tax credits allowed on these educational savings plans. However, this estimate does not take into consideration the benefits to the Treasury of lower unemployment rates and more stable profits in construction and construction-related industries. I believe most if not all of the direct revenue loss of this legislation, would be offset by the benefits of steadier economic growth. I am sure that when the long-term benefits of greater educational opportunity are considered, we will find, as we did with the veterans' education programs, the country reaps a healthy return on its investment.

Mr. President, with the twin goals of encouraging long-term savings and education and stabilizing the flow of funds into housing, the educational savings plan addresses two of the most serious social issues confronting the American people. I believe this is the kind of tax incentive the American people want—one which addresses the basic needs of our society and one which benefits millions of average citizens.

I ask unanimous consent that a brief analysis of the legislation and the text of the legislation be printed at the conclusion of my remarks.

There being no objection, the bill and explanation were ordered to be printed in the Record, as follows:

S. 4176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by redesignating section 42 as 43, and by inserting after section 41 the following new section:

"Sec. 42. Post-Secondary Education Savings Plan

"(a) General Rule.—There is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amounts deposited by the taxpayer in an educational savings plan (as defined in subsection (c)(1)) for himself or a dependent.

"(b) Limititions—

"(1) Taxpayer Account—In determining the amount of the credit allowable under subsection (a) for the taxable year with respect to any educational savings plan maintained by the taxpayer for his own benefit, amounts deposited in any taxable year in excess of $250 and amounts deposited during any taxable year in which the taxpayer is enrolled in any eligible post-secondary educational institution shall be disregarded.

"(2) Dependent Account—In determining the amount of the credit allowable under subsection (a) for the taxable year with respect to any educational savings plan maintained by the taxpayer for the benefit of his dependents, amounts deposited in any taxable year in excess of $250 per dependent and amounts deposited during any taxable year for any dependent who is enrolled in an eligible post-secondary educational institution shall be disregarded.

"(c) Definitions—For purposes of this section—

"(1) Educational Savings Plan—The term 'educational savings plan' means a savings account maintained by the taxpayer for the benefit of himself or of a dependent in a savings institution exclusively for the purpose of paying expenses of post-secondary education incurred by the taxpayer for himself or his dependent.

"(2) Savings Account—The term 'savings account' means an interest-bearing deposit or account which is not payable on a specified date or at the expiration of a specified time after the date of deposit (although the individual who maintains the deposit or account may be required by the bank or savings and loan association with which the deposit or account is maintianed to give notice in writing of an intended withdrawal not less than 30 days before withdrawal is made).

"(3) Savings Institution—The term 'savings institution' means—

"(A) a savings and loan association, the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation, or

"(B) a mutual savings banks, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, or

"(C) any other financial institution which invests at least 50 percent of its assets in residential realty mortgages, residential construction loans, residential realty improvement loans, or mobile home loans.

"(4) Expenses of Post-Secondary Education.—The term 'expenses of post-secondary education' means, subject to regulations of the Commissioner of Internal Revenue and Commissioner of Education, the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and an allowance for such other expenses as determined by regulation to be reasonably related to attendance at an eligible post-secondary educational institution."

"(5) Eligible Post-Secondary Educational Institution.—The term 'eligible post-secondary educational institution' means formal instruction, research, and other learning opportunities offered by educational institutions that primarily serve persons who have completed secondary education or who are beyond the compulsory school attendance age and that are accredited by agencies officially recognized for that purpose by the U.S. Office of Education or are otherwise eligible to participate in federal programs."

"(d) Recapture of Credit Allocable to Non-Qualified Use.—

"(1) Disqualification for Non-Educational Purpose.—If any amount in such account is withdrawn and expended for anything other than an expense of post-secondary education, a tax shall be imposed on the amount expended for a non-educational purpose equal to the credits allowed under this section for all prior taxable years on this amount.

"(2) Disqualification for Failure To Use Account.—

"(A) Taxpayer Account.—An educational savings plan maintained by the taxpayer for the payment of expenses of post-secondary education incurred by him for his own education is terminated for the taxable year following the taxable year (of the taxpayer) in which the taxpayer attains the age of 25 years, or if the taxpayer is enrolled in an eligible post-secondary educational institution at that time, when the taxpayer terminates such enrollment. A tax shall be imposed on any amount remaining in such account upon termination, equal to the credits allowed under this section for all prior taxable years on this amount. However, no tax shall be imposed under this subparagraph in the event of the death of the taxpayer or disability (within the meaning of section 72(m)(7)).

"(B) Dependent Account.—An educational savings plan maintained by the taxpayer for the payment of expenses of post-secondary education incurred by him for the education of dependents of the taxpayer is terminated for the taxable year following the taxable year (of the taxpayer) in which the youngest dependent for whose benefit the account is maintained attains the age of 25 years or if that dependent is enrolled in an eligible post-secondary educational institution at that time, when that dependent terminates such enrollment. A tax shall be imposed on any amount remaining in such account upon termination, equal to the credits allowed under this section for all prior taxable years on this amount. However, no tax shall be imposed under this subparagraph in the event of the death or disability (within the meaning of section 72 (m)(7)) of all dependents.

"(e) Application with Other Credits.—The credit allowed by this section to the taxpayer shall not exceed the amount of the tax imposed on the taxpayer for the taxable year by this chapter, reduced by the sum of the credits allowable under this subpart (other than under this section and section 31).

"(f) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Post-secondary educational savings plan

"Sec. 43. Overpayments of tax.".

Sec. 2. The amendments made by this Act shall apply to taxable years beginning after December 31, 1974.

Provisions of the "Educational Savings Plan"

1. A taxpayer can contribute as much as $250 annually for each dependent child to an "educational savings plan" and subtract a tax credit equal to 20% of that contribution from the taxpayer's federal income tax. If no plan is opened for an individual by his parents or guardian, he can contribute $250 annually to an educational savings account for his own education and subtract a credit equal to 20% of that contribution.

Example: A family saving for the education of two dependent children in a qualified plan could save $500 annually and reduce their tax liability by $100.

2. Any funds which are withdrawn from an educational savings plan and used for an educational purpose such as tuition or fees at an eligible educational institution or for reasonable living expenses during participation in such a program would be free of any further taxation. However, if the plan is terminated or the funds withdrawn for other than an educational purpose, the tax credits must be repaid to the Treasury. This provision is waived if the person for which the plan was established has died or become disabled.

3. The definition of "eligible educational institution" would closely follow the definition of post-secondary education adopted by the National Commission on the Financing of Post Secondary Education. This would include institutions of higher education and vocational schools either accredited by an official accrediting agency and recognized by the Office of Education or institutions otherwise eligible to participate in federal programs, such as those recognized by the Veterans Administration. Presently, approximately 10,000 public and private post secondary educational institutions would be accessible to students and families under this definition.

4. A plan established for dependents could continue until the youngest child reaches 25 years of age or as long as the child remains a student, at which time the plan automatically would terminate. A plan established by the taxpayer for himself could continue until the taxpayer was 25 years old or as long as he remains a student.

5. During the years that a taxpayer withdraws money from one of these plans, the taxpayer would be required to file a supplemental tax form specifying the use of these funds. Falsification of this supplemental return would subject the taxpayer to existing penalties for tax fraud.

6. Educational savings plans can be administered by savings and loan associations, mutual savings banks, and other federally insured financial institutions that invest at least 50% of their assets in housing. The earnings in these plans would be determined by competition as well as the existing authority of the various government agencies that regulate such financial institutions.

IMPACT OF THE "EDUCATIONAL SAVINGS PLAN"

The savings plan is directed at meeting two of the most basic goals of the American people—the opportunity for a better education and for home ownership.

The Department of the Treasury estimates that 15 million families would save for the education of 33 million children through these plans and that approximately $9 billion would be deposited annually in the thrift institutions which offered them. Most of these funds would be channeled into home mortgages and provide the nation with a more stable source of financing for as many as 300,000 new homes a year.

The Treasury estimates a $1.7 billion annual revenue loss from the tax credits allowed on educational savings plans. However, the building of an additional 300,000 homes would result in over a billion dollars in federal revenue from taxes on wages and profits in the home building industry. Reductions in government expenditures on unemployment compensation for construction workers would further reduce this revenue loss.

By Mr. PACKWOOD:

S. 4177. A bill to amend the Fair Labor Standards Act of 1938 with respect to effective dates of overtime provisions relating to employees in fire protection activities and law enforcement activities. Referred to the Committee on Labor and Public Welfare.

OVERTIME FOR FIRE AND POLICE EMPLOYEES

Mr. PACKWOOD. Mr. President, earlier this year, the Senate passed the Fair Labor Standards Amendments of 1974, later enacted into law as Public Law 93–259. This was legislation which I supported as an essential means of protecting workers at the lowest end of the wage scale.

Section 6 of Public Law 259 brought public employees under coverage of the Fair Labor Standards Act. Although this section included fire protection and law enforcement employees. Congress recognized the special nature of their work schedules by providing separate, more flexible overtime requirements for these fields.

Had regulations to define and implement section 6 coverage of fire and law enforcement employees — particularly their overtime requirements—been published in a timely fashion, most municipalities would have faced serious budgetary difficulties, due to the substantial additional budgetary funds which will be required, and at a midyear point in their budget process.

However, the Labor Department delayed publication of proposed regulations and definitions until November 1—60 days before the effective date—and final regulations will not be published until at least mid-December. This being the case, it is virtually impossible for local fire and police districts to come into compliance by the January 1, 1975, effective date written in the law.

Mr. President, we cannot expect, much less demand, compliance with but 2 weeks' notice of what is expected. I am therefore today introducing for the Senate's consideration, an amendment to the Fair Labor Standards Act which would simply delay for 1 year the effective dates of the act's overtime provisions as they relate to fire and law enforcement employees. This amendment will not affect other public employees, and will not alter the phasein of the overtime requirements, except to postpone those dates by 1 year. This will give local fire and police districts the time they need to make necessary budgetary arrangements to finance the additional expense involved.

I ask unanimous consent to include at this point in the Record a letter from the Washington County Paid Firefighters Association in Beaverton, Oreg., outlining some of the difficulties they are facing. I believe this dilemma is typical of fire departments throughout the Nation.

I also ask unanimous consent to include a copy of an emergency resolution passed recently by the Oregon Fire Chief's Association, indicating their strong concurrence in the need for a 1-year delay in the effective date of the section 6 provisions.

Mr. President, we are once again facing a situation where Congress and a Federal agency are placing local communities in an untenable situation. I am hopeful that when the nature of this problem is brought to all Senators' attention, they will agree on the need for prompt action.

There being no objection, the letter and resolution were ordered to be printed in the Record, as follows:

Washington County Paid Fire
Fighters Association,
Beaverton, Oreg., November 11, 1974.

Hon. Robert Packwood,
U.S. Senate,
Washington, D.C.

Dear Senator Packwood: I am writing this letter on behalf of myself and my 250 brother Fire Fighters of Local 1660, International Association of Fire Fighters, to first of all congratulate you on your recent reelection to the Senate. Secondly I would like to discuss with you certain amendments recently adopted to the Fair Labor Standards Act.

I am specifically referring to the extension of the minimum wage and hour law to the fire and police services (29 CFR Part 553), that can be found on page 38663 of the Federal Register, Vol. 39, No. 212, published Friday, November 1, 1974. We certainly agree with the law, but we are very concerned about the starting date of January 1, 1975.

We are employed by a rural fire protection district whose operating budget is set on the fiscal year, from July 1st to June 30th. The current budget was approved by the voters of the district prior to March 28, 1974, when the Act was first published in the Congressional Record, with no provisions for overtime pay to comply with this new law.

In referring to the Congressional Record of March 28th, we understood that the Secretary of Labor was directed to compile some proposed rules to implement the Act sometime last summer. We have finally received these rules, but they weren't published until November 1st. This doesn't leave either us or our employers any time to try to work out some kind of a workable solution for the remaining 6 months of our operating budget.

I would like to ask you to use your influence to ask the Congress to "set back" the starting date of the Act so that our employers can include the increases in their next budget and not be burdened with trying to find the monies in this year's budget.

I am including a copy of a resolution that was adopted by the Western Fire Chief's Association. We are in full support of their resolution and are hoping you can assist us.

Thanking you, I remain,

Sincerely yours,

David R. Gilson,
Secretary.

Emergency Resolution

Whereas, The 93rd Congress has extended the Fair Labor Standards Act to include all phases of the public sector, and

Whereas, All local governmental agencies came under the law effective May 1, 1974, and all Fire and Police Departments must comply with the new law effective January 1, 1975, and

Whereas, The Department of Labor to date has not been able to establish necessary rules and regulations to carry out the intent of this law, and

Whereas, The budgetary process does not allow sufficient time to provide for necessary local funding to meet the requirements of the law, and

Whereas, Until such rules and regulations are established, it is impossible for local governmental agencies to properly administer this act or to properly fund the implications of this act as it effects the fire and police services and particularly those states operating on a fiscal budget year,

Now, therefore, be it resolved, That the Western Fire Chiefs' Association in Conference at Tucson, Arizona, October 13th to October 17th, 1974 do hereby direct the office of the International Association of Fire Chiefs in Washington, D.C. to request that Congress delay the effective date of this act to January 1, 1976 to give the Department of Labor sufficient time to establish the rules and regulations and to give local governmental agencies sufficient time to budget for the selection, hiring, and training of additional personnel to maintain at least the same level of service, and

Be it further resolved, That a copy of this resolution be forwarded to all Senators and Representatives of all states within the Western Fire Chiefs' Association and to the office of the International Association of Fire Chiefs in Washington, D.C.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3418

At the request of Mr. Ervin, the Senator from Tennessee (Mr. Brock), the Senator from Michigan (Mr. Hart), the Senator from California (Mr. Cranston), the Senator from Massachusetts (Mr. Kennedy), the Senator from New York (Mr. Buckley), the Senator from Minnesota (Mr. Humphrey), and the Senator from Maryland (Mr. Mathias) were added as cosponsors of S. 3418, to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State, and local governments, and other organizations regarding such information, and for other purposes.

S. 4163

At the request of Mr. Bayh, the Senator from Arizona (Mr. Fannin) was added as a cosponsor of S. 4163, a bill to exempt fraternities and sororities from title IX coverage.

S. 4172

At the request of Mr. Hugh Scott, the Senator from South Carolina (Mr. Thurmond) and the Senator from North Carolina (Mr. Helms) were added as cosponsors of S. 4172, the Freedom of Information bill.

SENATE JOINT RESOLUTION 224

At the request of Mr. Montoya, the Senator from Iowa (Mr. Clark) was added as a cosponsor of Senate Joint

Resolution 224, a resolution designating January of each year as "March of Dimes Birth Defects Prevention Month."

SENATE JOINT RESOLUTION 254

At the request of Mr. Montoya, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of Senate *Joint Resolution* 254, authorizing the Administrator of the National Aeronautics and Space Administration to make a grant for the construction of facilities for the International Space Hall of Fame.

SENATE RESOLUTION 435—ORIGINAL RESOLUTION REPORTED FROM THE COMMITTEE ON RULES AND ADMINISTRATION AUTHORIZING ADDITIONAL EXPENDITURES

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolution:

S. Res. 435

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, during the Ninety-third Congress, $30,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in Senate Resolution 317, Ninety-third Congress, agreed to May 7, 1974.

AMENDMENTS SUBMITTED FOR PRINTING

CONSUMER CONTROVERSIES RESOLUTION ACT—S. 2928

AMENDMENT NO. 1990

(Ordered to be printed and to lie on the table.)

Mr. BURDICK submitted an amendment intended to be proposed by him to the bill (S. 2928) to establish national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes.

HOME HEALTH SERVICES UNDER SOCIAL SECURITY—S. 2690

AMENDMENT NO. 1991

(Ordered to be printed and referred to the Committee on Finance.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill (S. 2690) to amend title XVIII of the Social Security Act to liberalize the conditions under which post-hospital home health services may be provided under part A thereof, and home health services may be provided under part B thereof.

FEDERAL PRIVACY BOARD ACT—S. 3418

AMENDMENT NO. 1992

(Ordered to be printed and to lie on the table.)

NET WORTH DISCLOSURE AMENDMENT

Mr. WEICKER. Mr. President, when the Senate tomorrow brings up for consideration the Federal Privacy Board Act, S. 3418, I intend to offer an amendment to provide for full disclosure of net worth by high-ranking public officials in the executive and congressional branches of the U.S. Government. The amendment is the same as the Net Worth Disclosure Act, S. 4059, which I introduced on September 30 of this year.

I strongly believe that the public has a right to know the financial interests of those who guide their Government. The disclosure of financial worth and interests by policymakers is one step toward strengthening the public's trust. I feel the Senate, for example, has an unprecedented opportunity to dispel public cynicism by adhering to the same standards of public disclosure that it has asked of Vice President nominee Nelson Rockefeller.

The net worth disclosure amendment would require that the President, Vice President, Members of the Congress, and all employees of the executive and legislative branches earning in excess of $30,000 a year, file each February 15 a net worth statement of assets and liabilities over $1,500 held alone or jointly within the family during the previous calendar year. Asset valuation would be based on fair market value as of December 30 of the disclosure year.

This amendment is similar to net worth disclosure provisions in title IV of the Federal Election Campaign Act Amendments of 1974, S. 3044, as passed by the Senate earlier this year. Unfortunately, these important provisions were dropped in conference.

Mr. President, I ask unanimous consent that the text of the amendment incorporating the Net Worth Disclosure Act, be printed at this point in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1992

On page 54, line 8, strike out "This Act" and insert in lieu thereof "Titles II and III of this Act".

On page 54, line 14, strike out "this Act" and insert in lieu thereof "titles I, II, and III of this Act".

On page 54, immediately below line 14, insert the following new title:

TITLE IV—FINANCIAL DISCLOSURE

Sec. 401. This title may be cited as the "Net Worth Disclosure Act".

Sec. 402. (a) Each individual referred to in subsection (b) shall file annually with the Comptroller General of the United States a full and complete statement of net worth to consist of:

(1) A list of the identity and value of each asset held by him, or jointly by him and his spouse or by him and his child or children, and which has a fair market value in excess of $1,500 as of the end of the calendar year prior to that in which he is required to file a report under this Act.

(2) A list of the identity and amount of each liability owed by him, or jointly by him and his spouse or by him and his child or children, and which is in excess of $1,500 as of the end of the calendar year prior to that in which he is required to file a report under this Act.

(b) The provisions of this Act apply to the President, the Vice President, each Member of the Senate, each Member of the House of Representatives (including Delegates and the Resident Commissioner from Puerto Rico), and each officer and employee of the United States within the executive and legislative branches of Government receiving compensation at an annual rate in excess of $30,000.

(c) Reports required by this Act shall be in such form and shall contain such information in order to meet the provisions of this Act as the Comptroller General may prescribe. All reports filed under this Act shall be maintained by the Comptroller General as public records, open to inspection by members of the public, and copies of such records shall be furnished upon request at a reasonable fee.

Sec. 403. Each person to whom this Act applies on January 1 of any year shall file the report required by this on or before February 15 of that year. Each person to whom this Act first applies during a year after January 1 of that year shall file the report required by this Act on or before the forty-fifth day after this Act first applies to him during that year.

Sec. 404. Any person who knowingly and willfully fails to file a report required to be filed under this Act, or who knowingly and willfully files a false report required to be filed under this Act, shall be fined not more than $2,000, or imprisoned for not more than two years, or both.

Sec. 405. This title shall become effective on January 1, 1975.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1914

At the request of Mr. Percy, the Senator from Connecticut (Mr. Ribicoff) was added as a cosponsor of amendment No. 1914, concerning abuses of the social security number, intended to be proposed to S. 3418, a bill to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State and local governments, and other organizations regarding such information, and for other purposes.

AMENDMENT NO. 1932

At the request of Mr. Stevenson, the Senator from Wisconsin (Mr. Nelson) was added as a cosponsor of amendment No. 1932, intended to be proposed to the bill (H. R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

NOTICE OF HEARINGS ON S. 1728—WAR CLAIMS ACT AMENDMENTS

Mr. BURDICK. Mr. President, I wish to announce that a hearing will be held on December 3, 1974, in room 6202, Dirksen Senate Office Building, commencing at 10 a.m., for the consideration of S. 1728—the War Claims Act amendments, by an ad hoc subcommittee consisting of Senators Bayh, Fong, and myself, as chairman.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with William P. Westphal, Chief Counsel of the Subcommittee on Improvements in Judicial Machinery, 6306 Dirksen Senate Office Building, Washington, D.C., 224-3618.

ADDITIONAL STATEMENTS

CLEANUP OF A LAKE

Mr. McGEE. Mr. President, a major problem in this Nation is the pollution of our lakes and streams. Not only does pollution of our water supplies create unnecessary health hazards for our citizens, but it also denies to us a food source at a time when world food problems are mounting.

In Wyoming, a group of concerned and dedicated people have taken matters into their own hands. They have brought a polluted lake back to a healthful and productive state. Known as Lake Viva Naughton, the body of water is located 15 miles north of Kemmerer in southwest Wyoming.

Lake Viva Naughton was nearly dead in 1960. However, the once popular fishing site was restored through the cooperative efforts of the Lincoln County Conservation District, the resource conservation and development program of the Soil Conservation Service, Utah Power & Light Co., and residents of the Kemmerer area, all working to keep the lake in service.

Mr. President, the story of this cleanup of Lake Viva Naughton is told by Richard L. Thompson, R.C. & D. coordinator for the Soil Conservation Service in Kemmerer. This story is a salute and tribute to the Federal Government and local residents working hand-in-hand to solve a problem.

I ask unanimous consent that the article entitled, "Clean-up of a Lake," appearing in the June 1974 issue of Soil Conservation, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Clean-up of a Lake

(By Richard L. Thompson)

Lake Viva Naughton, about 15 miles north of Kemmerer in southwest Wyoming, has been both a boon to fishermen and a headache to nearby ranchers. Now, thanks to community cooperation, camping and ranching can be good neighbors.

One reason for this turnabout was the help provided by members of the Western Wyoming Resource Conservation and Development Project (RC&D) in the area.

Lake Naughton is on the Hams Fork River which runs through the small city of Kemmerer. In 1941, Kemmerer built a dam across Hams Fork River, creating a 100-acre lake for municipal water storage. It was open to everyone for fishing and remained open until 1960 when it was closed due to water pollution and a general degradation of the nearby area.

In 1962, the Utah Power & Light Company constructed a much larger dam across the Hams Fork River a mile above the city dam. This created the new 1,458-acre Lake Viva Naughton. It was used for water storage and fishing also.

Lake Viva Naughton's reputation for yielding "big ones" spread, and fishermen flocked into the area. But, once again, pollution became a serious problem.

Local ranchers lost patience—along with thousands of dollars—when fishermen drove cars, trucks, and campers through their grain and hay fields. Because there were few camping facilities, visitors stopped for the night under the willows, along the lakeshore, or at any wide spot in the access road. And when they left for home, garbarge and other refuse was strewn around the once-beautiful river and lakeshore.

The ranchers had only one choice left to protect their land; they fenced off a major part of the Hams Fork River shoreline. At the same time. Utah Power and Light threatened to close the large lake to visitors because of pollution problems.

The city of Kemmerer, Utah Power & Light, and some of the ranchers considered two possible ways to rejuvenate the lake. One was to develop a public recreation area administered by the community; the other was to look for a reliable concessionaire.

The first idea was tried, but problems arose over which community group should administer the lake area.

Next, two Wyoming residents proposed that they operate the Viva Naughton Marina concession. The two men promised to save the lakeshore and develop the lake to full recreation use—if the community helped them overcome pollution problems.

The RC&D and the Lincoln County Conservation District provided conservation and land use planning assistance. Soil Conservation Service specialists and field office personnel surveyed area soils, revised a number of separate conservation plans of landowners, incorporated the ideas of local people into plans for the marina, and drew up an area-wide conservation plan.

RC&D people also provided help on standard designs for buildings, boat ramps, and restroom facilities. And the Wyoming Game and Fish Department stocked the lake with 110,000 rainbow trout fingerlings.

In the spring of 1973, construction began on the marina. A well was dug, a complete sewage and garbage system was set up, and the entire area was fenced to keep out litterbugs. A cafe, showers, and other amenities were also completed.

In the first year, some 12,000 visitors have used the marina and camping facilities. As many as 500 campers remain at the lake overnight. Future plans call for A-frame summer houses to be built and rented, and an expansion of the lake itself.

The operation has boosted Kemmerer's economy, through increased sales of fishing gear, groceries, and other supplies. And, while a fee is charged to use marina facilities, campers seem to feel it's more than worth it. Their problem lake is now a popular recreation spot.

THE CONFIRMATION OF NELSON A. ROCKEFELLER AS VICE PRESIDENT OF THE UNITED STATES

Mr. PERCY. Mr. President, the confirmation of Vice President-designate Nelson A. Rockefeller is the most important business pending before Congress. Within the bounds of the responsibility of the committees charged with reviewing the nomination, and the responsibility of each Member of Congress to review the testimony gathered by these committees, the nomination should be considered with dispatch.

Based on the facts before us today, and based also on personal knowledge of his life and work for a period of a quarter century, I intend to vote for the confirmation of Governor Rockefeller to serve as the 41st Vice President of the United States. In my judgment, he possesses the qualities of leadership and expertise which we urgently need in America today. In considering a nominee for Vice President, one question stands out as most relevant: Does the nominee have the ability and experience to serve as President if for any reason he should have to assume that office? I answered this in the affirmative when I strongly supported him for the Presidency in 1968.

In the case of Governor Rockefeller the question can be answered even more in the affirmative today. In my judgment he now is clearly one of the best qualified people in America to hold high national office.

We are all familiar with Governor Rockefeller's long and distinguished record of public service. Over the past 30 years, his service in various public capacities has given him outstanding experience in domestic and international affairs. He has served five of our last six Presidents. He has served in the Departments of State, and Health, Education, and Welfare. And, most importantly, he served the people of New York as Governor for 15 years. Throughout his career, he demonstrated a rare talent for leadership. That, I believe, is Rockefeller's most outstanding quality.

There exists an urgent need for proven leadership in America today. Governor Rockefeller can significantly help meet this need.

I believe also that government at all levels is only as good as the people who serve it. Nelson Rockefeller has shown that he not only possesses the qualities of experience and expertise that bring distinction to public service, but that he is able to attract pepole to Government who possess the same qualities. As Vice President, his performance would be augmented by the people he would draw to Government service.

The Senate Rules and Administration Committee recently completed extensive hearings on the Rockefeller nomination. In those hearings, legitimate questions were raised about Governor Rockefeller's judgment on two points—first, the numerous financial gifts which he gave to his associates, and second, the financial backing by his brother, Laurance, of a campaign biography critical of Arthur Goldberg. On both counts, I believe Governor Rockefeller has satisfactorily answered those questions raised by the committee. I for one am convinced the gifts were given out of friendship with no intention of affecting public policy. He candidly stated that his family's participation in the publication of the Goldberg book was a mistake, and he has apologized to Mr. Goldberg.

The members and staff of the Rules Committee should be commended for their fairness and attention to detail in considering the Rockefeller nomination. At the same time, Governor Rockefeller deserves praise for his candor in addressing the committee's questions. Certainly the hearings before the House Judiciary Committee, which begin tomorrow, should be conducted in the same spirit.

Mr. President, Governor Rockefeller was nominated by President Ford as Vice-President-designate 3 months ago today. We need a Vice President. President Ford has urged Congress to confirm Governor Rockefeller as soon as possible. The American people now deserve a swift resolution of this matter. A month ago my distinguished Republican colleague from Virginia reached the conclusion that he would vote against the pending nomination. I am now convinced that the Republican Senator from Illinois can vote in good conscience and with great enthusiasm for the nomination of Gov. Nelson Rockefeller to be the next Vice President of the United States.

OHIO FEELS ERTS RESULTS ARE VERY PROMISING

Mr. MOSS. Mr. President, I have a letter from Gov. John J. Gilligan of Ohio who tells me that the Ohio Department of Natural Resources has had extensive experience with using ERTS data on an experimental basis to seek solutions to resource management problems. He states:

> Results are very promising and a regular program of using ERTS data to compile land use data is under consideration. . . . It would indeed be good news to have the ERTS system declared operational.

Mr. President, I ask unanimous consent that Governor Gilligan's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF OHIO,
OFFICE OF THE GOVERNOR,
Columbus, Ohio, Aug. 8, 1974.

The Honorable FRANK E. MOSS,
U.S. Senate, Chairman, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR SENATOR MOSS: Thank you for your letter of June 24, 1974 soliciting our opinion of the merits of establishing an operational ERTS system. The Ohio Department of Natural Resources has had extensive experience with using ERTS data on an experimental basis to seek solutions to resource management problems. Two counties in northeast Ohio have been used as a study area for generating current land use map overlays from ERTS computer tapes. Results are very promising and a regular program of using ERTS data to compile land use data is under consideration. Annual updates would be required and much concern has been voiced to the effect that if we start such a program we need to be assured that the ERTS collection system will continue to be a source of input data. It would indeed be good news to have the ERTS system declared operational.

With respect to the two bills (S. 2350 and S. 3484) we recommend positive action on S. 3484, which would establish within the Department of the Interior the Earth Resources Observation Administration. We strongly recommend a distinct separation between the Resource Satellite developments phase and the operational phase. Having an agency such as the Department of the Interior responsible for the operational phase is obviously a very good way to do this.

Sincerely,

JOHN J. GILLIGAN.

CRS MEMORANDUM ON BARTLETT ANTIABORTON AMENDMENT

Mr. HELMS. Mr. President, a matter of grave importance has come to my attention with regard to the conference committee that is presently considering H.R. 15580, the Labor-HEW Appropriation Act. As my colleagues will recall, the Senate approved the Bartlett amendment to H.R. 15580, which provides that, "No part of the funds appropriated under this act shall be used in any manner directly or indirectly to pay for or encourage the performance of abortions except such abortions as are necessary to save the life of the mother."

What disturbs me, Mr. President, is that sources outside of the Congress are apparently attempting to exert the powers of their office in order to influence the conferees and subvert the Bartlett amendment.

On September 24, 1974, the Department of Health, Education, and Welfare sent an unsigned memorandum to the members of the conference committee entitled "Effects of General Provision 413 of the Labor-HEW Act." One section of the memorandum implicitly argues that the Bartlett amendment should be rejected on the ground that the low "cost" of abortions should be preferred as a matter of public policy to the high "costs" of human life.

In response to this memorandum, my colleagues, Mr. BUCKLEY, Mr. BARTLETT, and I, sent a letter to President Ford, questioning the rationale of the memorandum and the concept of human values upon which it is based.

Now we are witness to a second memorandum that seeks to undermine the Bartlett amendment from a legal point of view. On October 4, 1974, the Congressional Research Service released an 11-page study on the "Constitutionality of the Bartlett Amendment Banning Use of DHEW and DOL Fiscal Year 1975 Funds for Abortions." This memorandum has already been given publicity in the press. It offers the following conclusions as to the constitutionality of the Bartlett amendment:

> It would appear that by eliminating abortion as one of the medical services that may be rendered indigent women under the Act, while at the same time continuing to allow all other medical services for pregnant women, the Bartlett Amendment creates an individual classification which restricts the fundamental right of women in that class to decide whether or not to terminate their pregnancies. On its face, therefore, the amendment conflicts with the decisions in *Roe* and *Doe* and the lower court rulings interpreting those cases, and would violate the equal protection and due process protections of the Fifth and Fourteenth Amendments.

In arriving at this opinion, the CRS memorandum follows a course of reasoning and analysis that suggests a distinct bias against the restrictions on abortion that were approved on September 17, when the Senate passed the Bartlett amendment. On the very first page of the memorandum, for example, the author implicitly casts doubt on the wisdom of the Bartlett amendment in order to color the judgment of the reader by drawing attention to the fact that "a similar amendment was defeated in the House on June 26 by a vote of 247–123." The amendment to which the memorandum refers is, of course, the Roncallo amendment. The objective reader can only conclude that the author has not examined the Roncallo amendment, as it is quite dissimilar to the Bartlett amendment in a variety of ways. The Bartlett amendment refers only to abortions, whereas the Roncallo amendment speaks not only of abortions, but also of "abortion referral services, abortifacient drugs, or devices, the promotion or encouragement of abortion, or the support of abortion, or to force any State, school, or school district or any other recipient of Federal funds to provide abortions or health or disability insurance abortion benefits." The similarity between the Bartlett and Roncallo amendments, Mr. President, is about the same as that between apples and oranges.

The superficial analysis of the Federal cases that affect the Bartlett amendment is, likewise, indicative of a casual disregard for important details and the finer points of law. After a brief reiteration of the Doe and Roe decisions, which establish the principle that the 14th amendment restricts the States in their attempts to make abortions illegal or difficult to obtain, the CRS memorandum focuses on lower Federal rulings that bear more directly on the Bartlett amendment.

The first of these is the case of *Klein* v. *Nassau County Medical Center*, 347 F. Supp. 496 (1972), in which a Federal district court ruled unconstitutional a directive issued by the New York Commissioner of Social Services, allowing compensation only for those abortions that were medically required. The court found that the directive deprived indigents of equal protection of the laws. In the words of the CRS memorandum,

> The Court reasoned that all pregnant women have the right to decide whether or not to bear children; the state medicaid program, by paying for childbirth, but not elective abortions, deprived indigent women of this right and forced them to carry their children to term for economic reasons.

The binding effect of this case is open to doubt, however, because in *Commissioner of Social Services* v. *Klein*, 412 U.S. 925 (1973), the Supreme Court of the United States vacated the District Court decision and remanded it for further consideration. Quick to dispel any doubts that the reader might have regarding the present legal force of district case, the CRS memorandum speculates that—

> It would not appear, however, that any negative implication may be drawn from the remand since the Court has summarily disposed of, or denied certiorari in, all subsequent cases that might have involved reassessing or expanding its decisions in Roe and Doe.

The memorandum's undeclared preference for the district court's opinion is clear enough; for it could be argued with equal force that a positive implication could be drawn from the remand since the Supreme Court did not place a stamp of approval on the district court ruling.

The other lower Federal decisions upon which the memorandum is based do not seem to add much additional weight to the CRS case against the Bartlett amendment. The memorandum cites Doe against Rampton, without mentioning the fact that the three-judge district court was divided on a number of issues; the memorandum also draws extensively from Hathaway against Worcester City, a Federal District Court of Appeals decision, without mentioning the fact that this is a case involving sterilization rather than abortion.

But it is the memorandum's reliance upon Doe against Roe, a 1974 Federal

District Court of Appeals decision, that arouses the greatest skepticism as to the merits of the CRS memorandum. Here, an indigent pregnant woman under a State medicaid program for pregnancy was denied an elective abortion, on the basis of an informal policy of the executive director of the Utah State Department of Social Services. The Court ruled that this policy constituted a form of individual discrimination and was therefore unconstitutional.

What the CRS memorandum fails to mention, however, is the crucial fact that the whole case hinges on the absence of a controlling statute empowering the Executive Director to exercise his policy. The court says:

> At the outset, so far as we are advised, the applicable federal statutes regarding Medicaid make no mention, as such, of abortions. Hence we lack specific guidance as to whether Congress intended that abortions be covered by Medicaid, and, if so, more critically, which abortions were to be covered by Medicaid benefits. . . . The implementing state statutes of Utah, as well as the latter's state plan, submitted to and approved by the federal authorities, also make no mention, as such, of abortions.

Here is a classic example, explains the court, of an administrative policy under attack that is mandated by neither a State nor a Federal statute, and the absence, in turn, of prohibitive language in either statute outlawing the policy. To what source of authority does the Court turn for guidance in such instances? The court replies:

> In this regard, we are mindful of the Supreme Court's preference for statutory, as opposed to constitutional resolution of welfare controversies.

In other words, the court ruled against the administrative policy not because of a statutory restriction on abortion, such as that contained in the Bartlett amendment, but because of the absence of such a statutory restriction. To be sure, the case of Doe against Roe lends weight to the constitutionality of the Bartlett amendment, in light of the court's apparent recognition, through dicta, of Congress' right to impose limitations on abortions under welfare programs. With regard to this matter of statutory limitations, it should be remembered, by the way, in none of the Federal cases cited in the CRS memorandum was a state statute declared unconstitutional; and as the court's reasoning in Doe against Roe clearly shows, the presence of a statute is vital to a determination of the restrictions on the use of welfare payments for abortions.

Finally, it should be observed that the CRS memorandum totally ignores another line of cases which bear directly on this issue. I refer to those Federal decisions involving the aid to families with dependent children—AFDC—program under the Social Security Act. Since 1946, HEW and its predecessor agencies have authorized AFDC payments to unborn children, giving each State the option of providing benefits under its State program to the unborn. Although there are conflicting precedents in the lower Federal courts at present as to whether a State has such an option or is required to grant the aid, the situation as it presently stands allows and States to accept the option or disregard it. In a recent Federal Court of Appeals decision, for example, the constitutional claim of a pregnant woman who was denied AFDC benefit payments in Connecticut was met with the argument that the Supreme Court has held that, in the area of economics and social welfare, "a State does not violate the equal protection clause merely because the classifications made by its laws are imperfect."

The equal protection clause "does not require that a State must choose between attacking every aspect of a problem or not attacking the problem at all. It is enough that the State's action be rationally based and free from invidious discrimination." Connecticut's policy of denying AFDC benefits to the unborn, the Court concludes, easily meets the test. In the absence of the Bartlett amendment, it should be pointed out, we presently face a rather bizarre, if not ludicrous, situation. According to medical authorities, pregnancy can be determined by medical diagnosis as early as the first month and certainly by the third month. Once pregnancy is established, the unborn child becomes eligible for AFDC payments, but is not eligible for life. Then, a few months later, the mother terminates the pregnancy through medicaid benefits. One wonders whether Congress, which has acquiesced to the practice of AFDC payments to the unborn, should allow a situation to exist which actually makes killing profitable.

Finally, Mr. President, I would point out that, as a matter of public policy, the Bartlett amendment seeks to eradicate discrimination that is presently practiced against the poor. It is often alleged, for example, that elective abortion is justified on the ground that medically safe abortions have always been available to the wealthy, while the poor are forced to risk their lives, their health, and their meager earnings because they cannot afford abortions.

Does this mean that we are required by law to upgrade the financial status of the poor by providing them with the means of killing financially burdensome unborn children? Furthermore, if the Supreme Court has determined that there is no fundamental constitutional right to adequate housing and that "wealth discrimination" alone is not a suspect classification, how can it be argued that legalized killing of the unborn is a constitutionally mandated right of the poor?

In a recent article in the New York Times, the director of a corporation in charge of New York City's municipal hospitals was reported to have said that "the level of health care in municipal hospitals is shocking." Why? Because, said the director, there is a diversion of funds and personnel from ordinary health care to the maintenance of an abortion program. "Perhaps the morbidity and mortality suffered as a result of the choice of priorities," observes one scholar, "ought to be included when we analyze the 'safety' of induced abortions as a health-care boon to the poor." In the words of the Commission on Population Growth:

> The poor cry out for justice and equality, and we respond with legalized abortion.

It would appear, Mr. President, that HEW and the Congressional Research Service are rapidly becoming an extension division of the Pro-Abortion Lobby. Such activity is especially disturbing with regard to the Congressional Research Service, which is supposed to supply the Members of Congress with objective material on the legislative problems that confront us, and not biased views of legislation that is calculated, either by accident or design, to influence Members in their evaluation of legislative subject matter. As the distinguished Senator from Oklahoma (Mr. BARTLETT) points out in his letter of November 18, 1974, to the conferees of H.R. 15580, the CRS memorandum does not even take notice of the crowning principle here, namely, that "the Supreme Court has no authority to order the Congress to appropriate money for anything."

Mr. President, I ask unanimous consent that the HEW memorandum entitled "Effects of General Provision 413 of the Labor-HEW Act," and the letter of Senators BUCKLEY, BARTLETT, and HELMS to President Ford be printed in entirety in the RECORD at the conclusion of my remarks. I also ask unanimous consent that the CRS memorandum entitled "Constitutionality of the Bartlett Amendment Banning Use of DHEW and DOL Fiscal Year 1975 Funds for Abortions," and the letter of Senator BARTLETT, November 18, 1974, to the conferees of the bill, H.R. 15580, also be printed in entirety in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[New Memorandum]

EFFECTS OF GENERAL PROVISION 413 OF THE LABOR-HEW APPROPRIATION ACT

"No part of the funds appropriated under this act shall be used in any manner directly or indirectly to pay for or encourage the performance of abortions except such abortions as are necessary to save the life of a mother."

This language would affect virtually all programs "directly or indirectly" involved in or related to the provisions of medical care as well as those which are concerned with social and education services or benefits funded by the Departments of Labor and of Health, Education, and Welfare. Included would be programs such as those of the Bureau of Community Health Services, the Public Health Hospitals, social service programs of Aid for Families with Dependent Children and Medicaid.

The program that would be most affected would be the Medicaid program, in forty-nine States and the District of Columbia. It is estimated that Medicaid is currently financing between 222 thousand and 278 thousand abortions annually at a cost of $40–$50 million. For each pregnancy among Medicaid eligible women that is brought to term, it is estimated that the first-year costs to Federal, State and local governments for maternity and pediatric care and public assistance is approximately $2,200. It should be noted, however, that there are two lower Federal court decisions holding that Connecticut and Utah cannot constitutionally refuse to include non-therapeutic abortions in their Medicaid programs.

The provisions would also clearly preclude the use of Federal funds for therapeutic abortions except to save the life of the mother, severely constrain medical schools receiving capitation grants and other HEW funds in instructing students in the performance of abortions, and preclude any *Federally supported* agencies or projects from counseling clients on the availability of abortion services.

Hon. GERALD R. FORD,
The *White House*,
Washington, D.C.

DEAR MR. PRESIDENT: On September 24, 1974, the Department of Health, Education, and Welfare sent to the Conference Committee on the Labor-HEW Appropriation Act (H.R. 15580) a memorandum entitled "Effects of General Provision 413 of the Labor-HEW Appropriation Act." A copy of that memorandum is attached, but one section of it was so outrageous as to warrant quotation here:

"The program that would be most affected would be the Medicaid program, in forty-nine states and the District of Columbia. It is estimated that Medicaid is currently financing between 222 thousand and 278 thousand abortions annually at a cost of $40–50 million. For each pregnancy among Medicaid eligible women that is brought to term, it is estimated that the first year costs to Federal, State and local governments for maternity and pediatric care and public assistance is approximately $2,200. . .

"The provisions would also clearly preclude the use of Federal funds for therapeutic abortions except to save the life of the mother, severely constrain medical schools receiving capitation grants and other HEW funds in instructing students in the performance of abortions, and preclude any Federally supported agencies or projects from counseling clients on the availability of abortion services."

Coincidentally, the same argument is being used by the proabortion lobby in its campaign to convince the conferees that Federal tax dollars should be used for abortions. The National Abortion Rights Action League, in a letter to Congressmen dated October 3, 1974, has provided the following statistics:

Average cost of contraceptive services per year	$66
Average cost of therapeutic abortion	200
Average cost of prenatal care and delivery	1,000
Average cost of mother and child on welfare 1 year	3,600
Total: prenatal plus delivery plus welfare 1 year	4,600
Average cost of remaining on welfare 18 months	64,800

"We urge you to speak to members of the Joint Conference Committee immediately to demand that they delete the discriminatory and costly Bartlett Amendment."

There is quite simply no substantive difference between the HEW memorandum and the NARAL letter in terms of the attitude toward abortion. In each case, abortion is discussed as if all that mattered in the decision is to kill an unborn child or to allow it to live is the cost in dollars and cents.

The reference to the alleged "severe constraint" that would be placed upon medical schools would be ridiculous were it not so tragic. When an agency of the federal government argues for the expenditure of taxpayers' dollars so that the medical profession, dedicated to preserving life, may better train its students in methods of death, then we have come to a state of affairs best described as Orwellian in its implications for our society.

Finally, it is incredible that the Department of Health, Education and Welfare cannot come up with a more precise figure than "between 222 thousand and 278 thousand," when speaking of the number of federally-funded abortions per year. Are 56,000 lives so unimportant to the Department of Health, Education and Welfare that we are forced to accept this "round-numbers" approach to the killing of innocent human beings?

It is our hope that the Department of Health, Education and Welfare has not become an extension of the abortion-lobby. But the memorandum in question, containing as it does, implicit arguments for the "low-cost" of abortions as opposed to the "high cost of human life, and a callous imprecision in numbers concerning federally funded abortions makes us wonder what is now happening in the Department of Health, Education and Welfare. We cannot help but ask ourselves if what we are witnessing is the gradual but unmistakable evolution of the Department from an agency of life-enhancing values to one whose programs are based upon utilitarian concepts in which the value of human life is calculated in terms of dollars and cents in a cost/benefit analysis.

Sincerely,

JAMES L. BUCKLEY,
DEWEY BARTLETT,
JESSE HELMS.

CONGRESSIONAL RESEARCH SERVICE.

CONSTITUTIONALITY OF BARTLETT AMENDMENT BANNING USE OF DHEW AND DOL FISCAL YEAR 1975 FUNDS FOR ABORTIONS

(By Morton Rosenberg)

This is in response to your request for an analysis of the constitutionality of the Bartlett Amendment (#1859) to the Department of Labor, Department of Health, Education and Welfare appropriations bill (H.R. 15580) which would impose a ban on the use of funds allotted to DOL and DHEW "to pay for or encourage" abortion. The amendment was adopted on September 17. The bill passed the Senate on September 18 and is now in conference.[1] The amendment reads as follows:

> No part of the funds appropriated under this Act shall be used in any manner directly or indirectly to pay or encourage the performances of abortion except such abortions as are necessary to save the life of the mother.

In view of recent court decisions involving the attempts of states to similarly withhold funds for abortions, and other decisions in closely related areas, it would appear that the constitutionality of the Bartlett amendment is open to serious question.

In its landmark abortion decisions, *Roe* v. *Wade*, 410 U.S. 113 (1973) and *Doe* v. *Bolton*, 410 U.S. 179 (1973) the Supreme Court ruled that states may not categorically proscribe abortions by making their performance a crime, and that they may not make abortions unnecessarily difficult to obtain by prescribing elaborate procedural guidelines. The constitutional basis for the *Roe* decision rested upon the conclusion that the Fourteenth Amendment right of personal privacy "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." Since the right of personal privacy is a fundamental right, only compelling state interests can justify its limitation by a state. While the Court recognized the legitimacy of the state interest in protecting maternal health and preserving the life of the fetus, it held these interests insufficient to justify an absolute ban on abortions. Instead, the Court emphasized the durational nature of pregnancy and held the state's interest to be sufficiently compelling to permit curtailment or prohibition of abortion only during specified stages of pregnancy. The Court concluded that until the end of the first trimester an abortion is no more dangerous to maternal health than child birth itself, and found that:

> [w]ith respect to the state's important and legitimate interest in the health of the mother, the "compelling" point in light of present medical knowledge, is at approximately the end of the first trimester.

Only after the first trimester does the state's interest in protecting maternal health provide a sufficient basis to justify state regulation of abortion, and then only to the extent to protect this interest.

Doe, which struck down state requirements that abortions be performed in licensed hospitals, reiterates the holding of *Roe* that the basic decision of when an abortion is proper rests with the pregnant woman and her doctor, but extended *Roe* by warning that just as states may not prevent abortions by making their performance a crime, they may not make abortions unreasonably difficult to obtain by prescribing elaborate procedural barriers.

The Supreme Court's decisions have fostered hostile reactions in many states and have resulted in enactments or agency actions that overtly conflict with those rulings. Often these state actions have taken the form of indirect deterrence through influencing considerations thought to be related to a woman's decision to abort. One of the most important of these is lack of money. Thus, some states have attempted to deter abortions by limiting the scope of Medicaid coverage. Thus far, all such actions have been struck down by federal courts which have had occasion to deal with them.

The earliest litigation on the scope of Medicaid coverage arose in New York after that state's liberalized abortion law went into effect in 1970. For nine months the program paid for all abortions. Then, the New York Commissioner of Social Services issued a directive allowing compensation only for those abortions that were medically required. The New York Court of Appeals, reversing the lower courts, sustained the validity of the directive. But in a challenge brought in a federal court, in *Klein* v. *Nassau County Medical Center*, 347 F. Supp. 496 (E.D. N.Y. 1972), a three judge district court found that the directive, and the New York Medicaid statute if interpreted as mandating the directive, deprived indigents of equal protection of the laws. The court reasoned that all pregnant women have the right to decide whether or not to bear children; the state medicaid program, by paying for childbirth, but not elective abortions, deprived indigent women of this right and forced them to carry their children to term for economic reasons. The *Klein* case reached the Supreme Court after *Roe* and *Doe* were decided. The Court vacated the district court decision and remanded for further consideration in light of those decisions. *Commissioner of Social Service* v. *Klein*, 412 U.S. 925 (1973). It would not appear, however, that any negative implication may be drawn from the remand since the Court has summarily disposed of, or denied certiorari in, all subsequent cases that might have involved reassessing or expanding its decisions in *Roe* and *Doe*.

Court decisions since *Roe* and *Doe* have interpreted them as forbidding unduly restructive requirements for Medicaid sponsored abortions. In *Doe* v. *Rampton*, 366 F. Supp. 189 (D. Utah, 1973), a three judge district court held unconstitutional Utah statutes which would have limited payments for therapeutic abortions. Judge Ritter, writing for the court, emphasized that the legislatively imposed Medicaid restrictions were unconstitutional because they limited the "exercise of the right to an abortion by the poor in all trimesters, for reasons having no apparent connection to the health of the mother or child."

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[1] A similar amendment was defeated in the House on June 28 by a vote of 247–123.

In another Utah case, the Tenth Circuit Court of Appeals overruled an attempt to limit the use of Medicaid funds for abortions, this time under the guise of requirements issued by the states welfare agency. *Doe* v. *Rose*, 499 F. 2d 1112 (10th Cir., 1974). In that case the policy of the Executive Director of the Utah State Department of Social Services was that indigent pregnant women entitled to medical services and care for pregnancy under its Medicaid program were not entitled to an abortion at the expense of Medicaid unless an application for it was approved by him as being a therapeutic abortion. He defined therapeutic abortions as one necessary to save the life of the expectant mother or to prevent serious and permanent impairment to her physical health, and none other. In holding the informal policy of the Executive Director unconstitutional under the Fourteenth Amendment, the Court concluded that his "broad abortion policy is intended to limit abortion on moral grounds. Under the authorities above cited, [among others, the Court cited *Klein*, *Rampton*, *Hathaway* v. *Worcester City Hospital*, and *Roe* v. *Wohlgemuth*, the latter two of which are discussed below], such policy constitutes invidious discrimination and cannot be upheld under constitutional challenge."

A similar result obtained in *Doe* v. *Wohlgemuth*, 376 F. Supp. 173 (D.C.W.D. Pa. 1974), an action challenging the state's refusal to provide reimbursement for the cost of abortions under its medical assistance program. In holding the state's restrictive regulations violative of the Fourteenth Amendment's Equal Protection Clause, the Court stated:

"Under traditional Equal Protection standards, once the State chooses to pay for medical services rendered in connection with the pregnancies of women, it cannot refuse to pay for the medical services rendered in connection with the pregnancies of other indigent women electing abortion, unless the disparate treatment supports a legitimate State interest . . ."

The Court rejected arguments that the fiscal integrity of the state was a legitimate interest (the Court in fact found that abortions would cost the state less than full term pregnancies), that the restrictive regulations were approved by doctors and that denying indigent women abortions would help discourage abortions. The Court concluded:

"We hold that the state's decision to limit coverage to "Medically indicated" abortions, as arbitrarily determined by it, is a limitation which promotes no valid state interest. In the PMAP, the state has instituted a program to provide benefits to the poor; the state has excluded certain of the poor from the program; the exclusion denies medical assistance benefits to otherwise eligible applicants solely because they have elected to have an abortion, and the state has been unable to show that the exclusion of such persons promotes a compelling state interest.

". . . the Regulations and/or Procedure of the Pennsylvania Medical Assistance Program are unconstitutional because they are in violation of the Equal Protection Clause since they create an unlawful distinction between indigent women who choose to carry their pregnancies to birth, and indigent women who choose to terminate their pregnancies by abortion."

Finally, we would note the similar application of Equal Protection principles in a case in a closely related area. In *Hathaway* v. *Worcester City*, 475 F. 2d 701 (1st Cir., 1973), the question was raised whether a municipal hospital could constitutionally refuse to allow other non-therapeutic procedures involving similar medical risk. Relying primarily on *Roe* and *Doe*, the Court ruled the refusal an impermissable denial of equal protection under the Fourteenth Amendment:

"But it seems clear, after *Roe* and *Doe*, that a fundamental interest is involved, requiring a compelling rationale to justify permitting some hospital surgical procedures and banning another involving no greater risk or demand on staff and facilities. While *Roe* and *Doe* dealt with a woman's decision whether or not to terminate a particular pregnancy, a decision to terminate the possibility of any future pregnancy would seem to embrace all of the factors deemed important by the Court in *Roe* in finding a fundamental interest, 410 U.S. at 155, 93 S. Ct. 705, but in magnified form, particularly so in this case given the demonstrated danger to appelant's life and the eight existing children.

"The state interests, recognized by *Roe* as legitimate, are far less compelling in this context. Whatever interest the state might assert in preserving the possibility of future fetuses cannot rival its interest in preserving an actual fetus, which was found sufficiently compelling to outweigh the woman's interest only at the point of viability. The state maintains of course a significant interest in protecting the health and life of the mother who, as here, cares for others whom the state might otherwise be compelled to provide for. Yet whatever health regulations might be appropriate to vindicate that interest, and on the present record we need not decide the issue, it is clear under *Roe* and *Doe* that a complete ban on a surgical procedure relating to the fundamental interest in the pregnancy decision is far too broad when other comparable surgical procedures are performed.

"*Doe* is particularly opposite in this regard. The Court there struck down the Georgia requirements of advance approval of an abortion by a hospital committee of three staff members and the additional concurrence of two doctors other than the patient's attending physician, primarily on the ground that 'We are not cited to any other surgical procedure made subject to committee approval' and 'no other voluntary medical or surgical procedure for which Georgia requires confirmation by two other physicians has been cited to us.' 410 U.S. at 199, 93 S.Ct. at 751. Here we are cited to no other surgical procedure which is prohibited outright and are told that other procedures of equal risk are performed and that non-therapeutic procedures are also permitted. *Doe* therefore requires that we hold the hospital's unique ban on sterilization operations violative of the Equal Protection Clause of the Fourteenth Amendment."

The concept of equal protection, of course, is applicable to the Federal government *Bolling* v. *Sharpe*, 347 U.S. 497, 499–500 (1954). As the Court stated in *Bolling*, "it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government." In view of the cases discussed above, it may be strongly argued that the Bartlett Amendment would result in a form of invidious discrimination against indigent women who seek and are denied abortions.

Under Title XIX of the Social Security Act, 42 U.S.C. Sec. 1396 *et. seq.*, the Federal government makes substantial funds available to those states desiring to participate in the program to provide medical care to individuals and families "whose income and resources are insufficient to meet the cost of necessary medical services." Under the Act, participating states are required to provide medical services to individuals and families who are eligible for cash grant assistance under any of the Federal categories of assistance such as Aid to a Blind, Aid to the Permanently and Totally Disabled, Old Age Assistance, and Aid to Families with Dependent Children. 42 U.S.C. 1396 (a) (13). These individuals and families are considered the "categorically needy." 45 C.F.R. 249.10(a) (1).

A second group of individuals termed "medically needy" may also benefit under this Act, and is composed of those persons whose income is too great to qualify for cash assistance as "categorically needy," and yet insufficient to meet the costs of medical care. 42 U.S.C. 1396(a) (1) (13). This group also consists of individuals benefiting from Federal money available to meet the cost of administration of Medical Assistance Program, or others who do not come under one of the Federal categories. 45 C.F.R. 248.10(d) (1).

A statutory requirement for participating states is that they must provide certain minimal medical services under the program. For "categorically needy," persons, the state must provide: (1) inpatient hospital services; (2) outpatient hospital services; (3) other laboratory and X-ray services; (4) skilled nursing facilities, screening and diagnosis of children, family planning services and supplies furnished to individuals of child bearing age; and (5) physicians services furnished by a physician whether in the office, patient's home, hospital, or elsewhere. 42 U.S.C. 1396(a) (13) (B). For "medically needy" persons, the state has the option of providing from among the above five services.

It would appear that by eliminating abortion as one of the medical services that may be rendered indigent women under the Act, while at the same time continuing to allow all other medical services for pregnant women, the Bartlett Amendment creates an invididous classification which restricts the fundamental right of women in that class to decide whether or not to terminate their pregnancies. On its face, therefore, the amendment conflicts with the decisions in *Roe* and *Doe* and the lower court rulings interpreting these cases, and would violate the equal protection and due process protections of the Fifth and Fourteenth Amendments.

U.S. Senate,
Washington, D.C.,
November 18, 1974.

To Conferees of the Bill, H.R. 15580

Hon. Dewey F. Bartlett,
U.S. Senate,
Oklahoma.

Dear Sir: At the request of a member of Congress, the Library of Congress has issued an opinion indicating their doubt about the constitutionality of the so called "Bartlett" anti-abortion amendment to the Labor-HEW Appropriations Bill.

The crux of the opinion is that, as a result of the Supreme Court's decision in Roe v. Wade legalizing abortion, Congress lacks the authority to cut off HEW funds to pay for the performance of abortions.

Although I am not a lawyer, the logic of the Library of Congress opinion eludes me as well as the attorneys in my office.

Merely because the Supreme Court has ruled that abortion is legal does not justify a conclusion that Congress must pay for the abortions.

Additionally, and not considered by the Library of Congress memo, the Supreme Court has no authority to order the Congress to appropriate money for anything. Whether or not to appropriate funds is solely within the purview of Congress. If Congress is opposed to spending $50 million to fund abortions, no order of the Supreme Court can change that.

I urge you as a Conferee to judge the "Bartlett" amendment on its merits and not on a questionable opinion of an attorney with the Library of Congress.

Sincerely,

—— ——.

A PLEA TO THE 93D CONGRESS FOR RATIFICATION OF THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, it was in 1950 that President Truman first submitted the Genocide Convention to the U.S. Senate for ratification. Hearings were held before the Foreign Relations Committee that year, but no action was taken. To this day the Senate has yet to vote the convention up or down.

During the time that the convention has stagnated in the Senate, it has been ratified by 78 nations. This includes virtually every major nation in the world. The United States stands out as the single major abstainee on the list of nations ratifying the convention.

In May 1971, the Foreign Relations finally reported the convention to the Senate floor, with the recommendation that the convention be ratified. After several more years of inaction we again have the opportunity to act upon it.

Mr. President, let us not lose this opportunity. The Genocide Convention, which would make unalterably clear the *opposition* of the civilized world to the hideous crime of genocide, deserves, to be ratified. I hope that my colleagues in the 93d Congress will give this issue a high priority and act upon it without further delay.

RICHARD L. ROUDEBUSH AND THE ADMINISTRATOR'S MESSAGE TO VA EMPLOYEES

Mr. THURMOND. Mr. President, on October 12, 1974, Richard L. Roudebush was sworn in as the new Administrator of Veterans' Affairs. I was particularly pleased to attend his swearing in ceremony.

Anyone who holds such a high position in public office should strive to fill that position with humility and dedication. I am confident that Mr. Roudebush will seek to meet these objectives and to instill them in the employees of the Veterans‘ Administration.

On November 5, 1974, in the Administrator's message to employees, Mr. Roudebush wrote about VA service. I commend him for his views.

Mr. President, I believe his message to be of interest to my colleagues, and ask unanimous consent that it be printed in the Record at the end of my remarks.

There being no objection, the message was ordered to be printed in the Record, as follows:

[From Vanguard, Nov. 5, 1974]

Administrator's Message to Employees

On Saturday, October 12, I had the high honor of being sworn in as your Administrator in the Rose Garden at the White House. It is an honor I wish I could have shared with all of you. Since I fully intend to share with you the essential decision-making, action-taking, result-producing authority needed to serve America's veterans, their dependents and survivors—I want to share with you—as my first order of business—some of my thoughts concerning the Veterans' Administration.

It has often been said that we in VA are engaged in a service occupation, and much has been made of the word "service" in describing our mission, our responsibilities and our goals.

I would also like to share with you my idea of service—not to detract from our commitment, but to reinforce and vitalize it.

To me service is people and we are in a people business.

The people we deal with are special people—veterans and their families—men and women who have gone one step further, given up one drop of blood more, held on one hour longer for the continued good of our country.

The special nature of the people we serve demands a special quality in the service we render. We serve people when they are happy, like the veteran who is about to buy his dream house with a VA guarantee. Service to him is easy, requiring only a simply human decency on our part.

The veteran going to school under the G.I. Bill may be entering the happiest period of his life—but it won't be very happy if VA people don't get him his checks on time so he can enjoy his education experience without worrying about his next meal.

But mostly we serve people in trouble. The veteran admitted to our hospital deserves not only the best of medical care, but also the best people attention we can give him. For him the best level of medical care means high quality people care from people who really care.

The veteran who lost an arm in service needs more than a high quality prosthesis. He needs the timely adjudication of his claim to provide compensation and a carefully supervised vocational rehabilitation program to permit him to overcome his handicap. And he needs understanding and encouragement.

And the veteran or widow in need deserves more than just penson dollars from us. He or she deserves the type of treatment that preserves dignity as people. He or she deserves the treatment of people who care.

All of these attributes of service—these illustrations of people who care—I expect from each and every one of you in the VA service family.

I expect you to do your best, and more. I expect you to accept thanks in a gracious manner and to accept criticism or abuse with the same full realization of the personal pressures that caused it.

I want you to commit yourselves to excellence—to do not only the most you can, but also to do the best you can—to continue to learn your job better and better to the point that you assure yourself no one can do more on your job than you.

And, in turn, I promise to treat you with the respect, consideration and affection you deserve as VA people.

I promise to make working conditions as pleasant as possible. I promise to listen to what you have to say and to do all that I can to make your worthwhile ideas become reality.

I promise to keep you fully informed on a timely basis of everything you must know to do the type of job I expect.

I promise to try my best to see that promotion channels are open and accessible.

And I promise you as much worthwhile, demanding, and important work as you can possibly handle—and maybe a little more.

Because, together we don't really know how much we can accomplish, we don't know what heights we can reach and we don't know how well we can perform. But we know we serve people who need and deserve our best. And we do know we can be the best there is at our jobs. With dedication we can once again make VA the vanguard agency in government.

CHILD ABUSE

Mr. MONDALE. Mr. President, during 1973 my Subcommittee on Children and Youth conducted a major investigation into the abuse and neglect of children in this country. As an outgrowth of those hearings, the "Child Abuse Prevention and Treatment Act," which I introduced, became law on January 31 of this year.

One of the most rewarding aspects of the hearings was the great public interest and concern they generated about abused children. I am particularly pleased with the continuing commitment of the news media to increasing public understanding of this terrible problem. Last month the Christian Science Monitor published a series of five articles on the problem of child abuse and efforts to prevent, diagnose and treat it. I ask unanimous consent to have printed in the Record this series of articles.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[First of five articles]

Rescuing Abused and Neglected Children

PARENTS WHO STARVE THEIR CHILDREN

(By David Mutch)

Chicago.—When Jody was brought to the hospital, aged four, she was so emaciated that her cheekbones protruded beneath dark and sunken eyes. Her upper arms were thinner than her wrists. She weighed only 17 pounds. Along with severe malnutrition, x-rays revealed fractures of the skull, of an arm, and both hands.

Jody, youngest of five children, was not the victim of a merciless kidnapper. It was her own mother who had beaten and starved her.

The four other children escaped abuse, but Jody's mother, doctors later discovered, saw Jody as most like herself. The mother apparently hated her own selfhood, and unloaded the hatred on the child.

But Jody was saved. She made dramatic progress in the hospital, under one of the deans in the field of rescuing abused children, Dr. C. Henry Kempe, of Denver. In five weeks she put on weight, began to grow, and was able to ride a tricycle. A county juvenile court soon terminated the rights of her parents permanently, and Jody was successfully adopted by a loving family.

Girl now leads normal life

Today, seven years later, the girl has escaped in a large measure her early childhood trauma and is leading a normal life. Dr. Kempe says: "Jody is in the appropriate grade for her age. She is, however, perhaps 20 percent below her potential intelligence level, and she is just a little slow, but the average person who didn't know of her experience wouldn't notice it."

And yet, each year in the U.S., as far as experts on child abuse can estimate, between 1,000 and 4,000 children are killed by their parents. In New York City alone, three or more children are killed by parents each week.

After accidents and some illnesses, abuse and neglect are leading causes of childhood death.

Hundreds of thousands more are physically, mentally, and emotionally scarred each year, in what one doctor calls a slaughter of the innocents.

Nationally, experts say, between 74,000 and 90,000 children a year are physically abused by their parents or by someone else caring for them. In New York City alone in 1973 there were 3,500 abuse cases and 15,500 neglect cases reported for investigation.

In almost all areas of the nation doctors, psychiatrists, psychologists, social workers, nurses, police, judges, lawmakers, and laymen are struggling against what appears to be a rising tide of child maltreatment. It has become a concern of local community leaders. States as well as the federal government are more and more active.

Today all states have laws against abusing children. Doctors, schoolteachers, and others who come into contact with cases of abuse are required to report them to local authorities; in some cases, the general public is required to report suspicious circumstances. Laws usually allow the person reporting a suspected case to remain anonymous.

Among those engaged in rescue work, there tend to be two leading themes: (1) to find and help the parents that are treatable; and (2) to more adequately identify situations where children have no hope in their own homes, then to remove the children quickly and permanently so they can be provided with better care.

Neither alternative is heralded as a panacea. Fierce arguments surround all of the alternatives. Each case must be resolved on its own merits, with available skills and resources being considered.

The basic problem is a deterioration of family life. The basic challenge is to make up the deficit of love in many families. It is exceedingly difficult to accomplish; courts, public agencies, private agencies, and individual workers must try to fill the gap left by family turmoil.

As society as a whole becomes more aware of and sensitive to the problem, the ability to detect early warning signs in families will increase, experts say, and more lives can be saved.

Various deeply humane efforts are shedding some light on this subject and are saving some lives. They will be covered in subsequent articles.

Yet rays of hope must still shine through heavy clouds. Nationally, the picture seems grim.

VARIED FORMS OF MALTREATMENT

Infants and young children still are being baked in ovens, dipped in scalding water, slammed against walls, struck with heavy objects, whipped with light cords, severely bitten, chained to their beds and cribs. They are being starved and deprived of water and other liquids. Sexual abuse is a common form of maltreatment.

One District of Columbia policeman told this reporter of a case in which parents put a young child on a leash, made him stay on all fours, and eat out of a dish on the floor. Neighbors reported the case when they saw the mother walking the child in her backyard like a dog.

Social agencies often find cases where health care is not provided for children.

Emotional scars are harder to heal than physical damage: some infants, although fed normally, still appear greatly emaciated and even occasionally pass on because they never receive the essential emotional nuturing of a mother's tenderness. They die starving for love.

Some older children face an unending barrage of cursing and verbal abuse that ingrains self-hatred. Serious mental illness often results.

Leontine Young, in her classic book, "Wednesday's Children," cites a case of an emotionally and physically abused girl. A social worker, trying to help, asked the girl what she wanted to be when she grew up. The girl replied she had thought of jumping into a bottomless lake. She said, "I don't want to be."

It is the bizarre and extreme cases that sometimes make the headlines, yet experts say that much of the abuse that is treated is done by relatively normal parents who cross the boundary from punishment to abuse for a variety of reasons, summed up generally as an inability to control their impulses. Often the damage is done in a moment of rage, a fit of "instant insanity," as Dr. Maure Hurt of George Washington University in Washington, D.C., described it in an interview.

Love for youngsters "must be an unselfish love, demanding no response except in the child's own growth," wrote Pearl Buck in "The Joy of Children" 14 years ago.

But when this love fails to appear consistently in a family, human society has no simple or adequate answers.

Dr. Gerda L. Schulman, a professor of social work at Hunter College, New York, describes the humanitarians active in this field as people who "apply the idea of universal salvation."

But if these good people do see salvation, it tends to be from their own perspective. Professor David Gil of Brandeis University, who has done a major study on abuse, says everyone sees the problem out of his own "box." Dr. Saad Z. Nagi, professor of sociology and public policy at Ohio State University, says that "professional bias is a major problem in the field."

What kind of mothers and fathers abuse their children? Why don't they love? Only 10 percent of abusive parents are mentally unstable, according to experts in the field. The other 90 percent have what Dr. Brandt Steele, a psychiatrist and close associate of Dr. Kempe, calls "problems in mothering." This diagnosis tends to be widely accepted by those treating parents. The term "abnormal rearing" is used frequently.

More often than not abusive parents have been badly raised by their own parents. Abuse and neglect are passed on from generation to generation. Victims of such treatment tend to marry similar persons.

Abusive and neglecting parents—somewhat separate groups—all tend to feel inadequate. Neglecting parents (those who don't adequately feed, clothe, or meet other needs) often are simply indifferent and usually don't hit their children.

Abusive parents often are good housekeepers and providers but they have "short fuses." Both categories—and they sometimes do overlap—express a selfish immaturity that fails to perceive a child's needs. Often the parents look to their children, even the infants, to satisfy their own "needs," and "punishment" is inflicted when the children fail to respond.

But many of these parents want to learn how to love. One social worker told of a mother who went to a grocery store and carefully watched exactly how other mothers treated their youngsters. She came back to the social worker and said she was going to try some of the methods she had observed. (Her mother had never treated her kindly, she said.)

Following are some highlights in the area of child abuse and neglect:

The problems of abuse and neglect are seen by many as a part of a larger children's-rights movement that encompasses juvenile justice, health care, education, family life—in short, all aspects of a child's life.

Those who know the field of abuse and neglect say that only the tip of the iceberg of this hidden social problem is being detected and treated. Reporting of incidents is racing ahead of provisions for treatment.

In large part treatment being offered is "brush-fire," meeting emergencies but not delving into deeper, longer-term needs of children, parents, and families. There is a relative paucity of public money (and even less private money) in this aspect of social work, considering that the problem is a sign of fundamental social ills.

Abuse and neglect occur everywhere

Dr. Gil of Brandeis concluded that in cases of abuse where the father spends as much time in the presence of the children as the mother, it is the father who tends to be the most abusive parent. Fathers are harder to get into treatment. But because child-rearing centers largely on mothers, the research and practice in the field tends to focus on mothers.

Abuse and neglect occur not only in big cities and small towns but in rural areas as well.

Neglected and abused children are found not only in lower income families but in affluent middle-class and upper-class homes, too. But cases among the poor are reported the most, and these are the parents who become most involved with social agencies and the law.

It has taken 12 years for definitions of physical abuse to take reasonable shape in laws. Struggles over legal definitions of neglect, which has many cultural aspects, and emotional abuse, which has highly personal overtones, are under way. Several states already permit removal of children from homes on grounds of emotional abuse.

Life-styles of today—drug abuse, alcoholism, relaxed sexual standards, easy divorce, the "general loosening of commitment and responsibility in personal relations," as one social worker puts it—all take their toll on dependent and defenseless children.

A high percentage of men and women become parents with little or no specific knowledge about the needs and demands of infants and young children. "The American dream—that because you can have kids you know how to raise kids—is absolutely fictitious," says Dr. Edward F. Lenoski of Los Angeles.

As if in unwitting revenge, a good percentage of these children turn and rend society for the ill beginning thrust upon them. Studies in Denver and New York, recently completed and not yet published, indicate close to 40 percent of delinquent children had abuse and/or neglect in their own backgrounds.

Present therapy has shown little promise of significantly healing the lives of these unfortunate youngsters unless the trouble is detected and treated early in their lives—preferably before school age.

[Second of five articles]

The Road Back to Loving

(By David Mutch)

Denver.—Mrs. Sherry Ulery of Denver once tried to strangle her own adopted daughter. Money for food and other essentials had almost gone; her husband was out of work; and one day "I just blew my cool," as she puts it.

But now she is a much better mother. The road back to loving, not hating, began when she turned desperately to her local minister. He referred her in turn to a child-abuse team headed by Dr. C. Henry Kempe at Colorado General Hospital. She says that prayer also helped her.

Aided by one particular member of the team, Dr. Brandt Steele. Mrs. Ulery was assisted for three years, with less intensive help for another two. She has become a successful foster parent, and recently adopted two more children.

"Most people just don't understand what parents who do these things go through," she says. "Before I began treatment, I felt unloved by everyone, even by God."

The heart of the treatment, she said, was learning to grow up emotionally. She defined this as learning to put her children's needs ahead of her own.

"Children have great needs," she says, "and unless parents meet them unselfishly, children don't get the emotional nurturing and maturing they need." She says she could not have pulled through without the help of her husband, Bill.

Restoring love to a family does not necessarily have to involve medical or psychiatric care, though it often does. "Rescuers" can make their own choices.

FAMILY MEMBERS WORK TOGETHER

One California family adopted a five-year-old victim of child neglect, a boy who had been abandoned three times, deprived of food, and locked in a room for long periods. The family amazed welfare officials by its success in restoring him to health and soundness by imparting a sense of love—and discipline—from all family members working together. The family included six children, aged 10 and above.

Officials told the family that the boy's feet were deformed, that his hearing was impaired, that he could not possibly attend public school within 12 months, that he was so terrified of water that he could not be put in a bathtub and had to be kept clean with a washcloth, and that it would be 18 months before his nightmares ceased.

The family promised to provide medical care if needed—but asked to have the boy in the home for a period before any such decision was reached.

The parents, and the children, worked hard at loving. They helped him to read. He was given household jobs to do, such as setting the table for meals.

"It would have been so easy to spoil him," the father recalls. "But discipline is love, too. There are two kinds of love: the nervous kind, that pampers and spoils, and then there's the kind of love that instills self-confidence and maturity. That's the kind we were after.

"It takes parental discipline. If the boy needed to be sent to his room for disobedience, we sent him. And you know, if it was a merited punishment . . . he knew it. Afterward he would come to us and ask, 'We're still friends, aren't we?' Of course we would always reassure him.

"But you can't treat a child that has been abused and abandoned like a pet, or a sick puppy dog. You have to treat him like a human being.

Having other children also was a great help, the parents say. The children were able to share, and to see how many advantages they themselves had, which were not to be taken for granted.

Very soon the boy began to mend. He became an accomplished swimmer as his fear of water vanished. His feet became normal—a specialist said his problem was toes contracted and curled under through fear; once the fear dissipated, the toes resumed their proper shape and position. He willingly went to school—though he still has a hearing difficulty in one ear. He is bright and alert.

This family, like Mrs. Ulery, also made much use of prayer.

These two success stories—one of a mother who stopped abusing her child, another of a child who found a new home—are typical of all too few cases of abuse and neglect, experts lament.

The stories show that abuse and neglect can be overcome. But it remains true, in the estimate of most specialists, that only a small percentage of cases needing treatment actually get it, let alone succeed in it.

Abuse and neglect remain a field that needs constant attention—and much more of it, if significant strides are to be made, most experts agree.

Parents—fathers as well as mothers—who abuse children need to be brought into contact with experts who can provide them with warm friendship based on mutual respect, says Dr. Kempe. Talks and advice should include such practical matters as feeding, bathing, discipline, and a general "ego building" intended to lead to more unselfish attitudes toward children.

Dr. Kempe has helped pioneer a team approach, involving a variety of community resources, such as day-care centers, drug counseling, medical care, and so on. He and his associates have spread their ideas nationally and internationally, not only into hospitals and health centers, but into courtrooms, police stations, and into the minds of social workers and their superiors at the top of the social-welfare bureaucracies.

Doctors interviewed for this series agree with a remark by Dr. Edward Lenoski of Los Angeles, that "there are 1,000 solutions to child abuse." (Dr. Lenoski suggests a very unstructured approach "without white coat, without psychological terms, and without a punitive attitude.")

In his book "Helping the Battered Child and His Family," written and edited with Dr. Ray E. Helfer (now in East Lansing, Mich.), Dr. Kempe lays out his basic approach. Abuse is treated in its medical, legal, social, and other aspects. Experts from all of these fields contributed.

POOLING CALLED "DENVER APPROACH"

The pooling of expertise has been a hallmark of what is now called the "Denver approach." The child-abuse center Dr. Kempe now runs here has been visited for training purposes by police, judges, attorneys, doctors, district attorneys, and others from many states and several foreign countries.

This team approach, Dr. Kempe explained in two long interviews with this newspaper, "diminishes and spreads the risk of making mistakes, of returning a child when it should not be returned to a home, or of returning it too soon." His team, which at regular group meetings evaluates cases and sets up treatment plans, includes an attorney, a nurse, a psychiatrist, a social worker, and a pediatrician, at a minimum.

Services from such teams to families are multiple. The first service often is resented by parents—when medical reasons are used to keep a child in the hospital for observation and to allow time to investigate the family situation. Great stress is laid on not expressing hostility towards the parents, however. But frankness about the suspected cause of injury is encouraged.

A family being helped by such a team may receive individual and/or group treatment. Often an injured child will be kept in an emergency foster home for three months (the hospital stay is made as short as possible by the top-notch teams, but one of the many tragic aspects of treatment is that children often languish in a hospital for more than a month because no quick resolution of the usually complex legal situation is reached). A nurse knowledgeable about child abuse may visit the home.

INTER-AGENCY EFFORTS GROWING

Because of the team approach, the idea of bringing abusive parents together with community resources—mental-health centers, nurses, day-care facilities, drug and alcohol treatment centers—is growing. St. Paul, Minn., is a good example. But far too few public welfare agencies are open-minded enough to adopt this step because it involves a high degree of inter-agency cooperation and abandonment of selfish prerogatives.

Mrs. Ulery is convinced that experiences early in her life—failure for one thing to receive enough affectionate physical handling—contributed to the problem she had to work out later in life.

In her view, it takes two or three years for even motivated parents to change an abusive pattern. (Most abusive parents are not motivated initially to seek treatment as she was, and they tend to be discovered by visits to emergency rooms at hospitals or reported by neighbors or found out by social workers.)

But most treatment being offered parents today lasts no longer than six months at the most. Most public agencies are not funded or staffed to offer more than crisis-intervention for children, if that.

Another mother who worked with the Kempe team said, "I still hit the child after two years, but less and less, so there was not so great a chance I would kill it." An even less successful mother, in a famous quote, told the Kempe group: "I don't hit the kid anymore, but I still hate the little ------." "Success" is a relative word in this field.

Actually, a number of social agencies in the U.S. have worked to alleviate abuse and neglect for 100 years. Their work includes helping parents as well as children. Vincent DeFrancis, head of the children's division of the American Humane Association, has pioneered in leading the public agencies to do more in the field, especially as private agencies faded out.

But the magnitude of the problem—and of abuse in particular—was unknown even to many top social workers, as Leontine Young admitted when she did the research in the late 1950's for her book, "Wednesday's Children." In a sense her work parallels that of Dr. Kempe's in alerting society to the problem.

Still today, rescuing abused and neglected children is the least popular form of social work, since it involves work with usually unmotivated clients.

The tendency is for parents to explain inflicted injuries as unusual burns, broken ribs, and even fractured skulls in their infants as results of simple accidents. "Too many doctors did and do accept these flimsy excuses," Dr. Kempe says.

REPORT STARTLED MEDICAL WORLD

Dr. Kempe startled the medical world in 1962 with an article in the Journal of the American Medical Association which laid out not only his own research but a nationwide survey by him and his colleagues. It reported that 71 major hospitals in one year had recorded 302 cases of badly battered children—33 of which died, while 85 sustained permanent brain damage. The report set the medical world on its ear and alerted doctors all over the country to give more attention to this problem.

Today it is estimated that a minimum of 1,000 children a year are killed by abuse or neglect. The figure may reach 4,000. Dr. Vincent J. Fontana, also an authority on the subject, says 200 children a year die in New York City alone from abuse and neglect. Even critics of Dr. Fontana's statistics admit that at least 150 cases a year in New York can be solidly documented.

Dr. Lenoski, director of pediatrics at John Wesley County Hospital in Los Angeles, studied 674 hard-core abuse cases over five years. He compared these cases to a control sample of 500 normal children.

Some of his findings: Only 3.17 percent of the abusing parents had early exposure to household pets, while 86 percent of the more normal parents did; only 10 percent of the abusive parents listed their phone numbers, while 88 percent of the normal parents did; some 90 percent of the abusive parents wanted the pregnancy and had the child in wedlock, while only 60 percent of the non-abusive parents wanted the pregnancy and had the child when married—indicating, he says, that unrealistically high expectations placed on wanted children can lead to abuse; a much higher percentage of abused children than the normal ones were either premature, born by cesarean section, or were involved in complications in delivery.

Dr. Kempe often is criticized for being too clinical and for operating a strictly "medical model" that keeps the doctor in charge. As the modern medical pioneer in the field, his research and practice did center initially on a hospital.

His approach, he says, has in time brought all related disciplines into play, and extends logically to other agencies in the community—police, the courts, social welfare agencies, schools, and public and mental-health clinics, and so on. He believes in shared decisions.

Dr. Kempe also is criticized for selecting middle-class patients—and only a relative few of them—that are more prone to successful treatment. His reply is that this kind of client was necessary to provide insight into the dynamics of abusive behavior.

His center is privately financed. The cost per patient is beyond what any public agency could ever dream of. The money comes largely from the Robert Wood Johnson Fund in Princeton, N.J., and the Commonwealth Fund in New York.

[Third of five articles]

THE UNSUNG HEROES: BATTLING THE TIDE

(By David Mutch)

NEW YORK.—Bill Johnson rang the doorbell of an apartment in the Bronx. A worker for the New York's Bureau of Child Welfare (BCW), he was responding to a report that a family was not providing a young son with proper care.

After explaining the purpose of his visit, Mr. Johnson (not his real name) found himself at the wrong end of a shotgun—with the father at the other end.

"Get out or else!" he was ordered. He left, phoned the police, but remained near the front of the buliding. Meanwhile, the father took his child out of a rear window and drove him to another neighborhood. It took the police and the social worker 36 hours to locate the father and the child.

Workers like the bearded Mr. Johnson are the unsung heroes of the public social service agencies trying to rescue abused children in the United States. They deal mostly with clients who do not want help. Some female workers have been raped.

It is not too uncommon for men and women workers to get spat on or mugged. They go into the worst of slums and knock on doors to tell parents they must be investigated for neglecting or abusing their child.

A number of them have quit more respectable executive jobs to labor at rescuing children.

Every week in this city of 8 million people, three or more children are killed by their parents. The city's Bureau of Child Welfare this year will investigate reports of 4,000 physically abused children and 21,000 neglected children (lacking food, clothing, or health care, or abandoned outright). Some 14,000 families will be involved.

Yet only a small percentage of the families will be helped in a way that makes a difference.

One of the burdens on public agencies is that reporting of child abuse is racing ahead of ability to provide treatment. New York in 1965 had only 300 abuse and neglect cases reported. In the mid-1960's states began adopting reporting laws; they all have them now.

OFFICIALS DEMONSTRATE

These laws frequently require not only professionals such as doctors, nurses, schoolteachers, and social workers to report suspected child abuse, but also the citizen in general—under penalty of law.

BCW spokesman Stuart Grant, quiet and well-groomed, says the agency needs another $5 million a year and 300 more workers at least even to make the kind of dent in the caseload that would really help the children in peril. He says it matter-of-factly, almost helplessly, as we sit comfortably in an air-conditioned office building.

In Brooklyn a handful of somewhat less-well-groomed BCW officials demonstrate outside a BCW office the same day with signs that say: "How many more children must die before BCW gets more workers?"

Mr. Grant says BCW does not have the money to hire more.

Only 92 workers in New York provide some semblance of long-term care for families in this kind of trouble.

Yet it is the long-term care that really counts. Witness the case of Mrs. Jones of Boston (not her real name), who is raising her four children successfully today because her sister turned her in to a social agency as an alcoholic and a neglecting mother. "I'd be dead if my sister hadn't reported me," she said in an interview. "And the children would be scattered who knows where."

The sister called Children's Protective Service, a private agency under contract to Massachusetts to do most of its child protective services work—and the only statewide private agency of its kind in the U.S.

A social worker with the agency got Mrs. Jones into Alcoholics Anonymous and enrolled her in a mothers' group that meets regularly. The social worker also visits the home occasionally; she has become a real friend to the family.

The healing process took time.

What happens to children when a mother drinks or gets on drugs? Here is what Mrs. Jones says:

"I started drinking because my husband wanted me to. He had a horrible childhood.

"When you drink so much you get weak, and you really hate to see the kids around because you know they want things. Have you ever tried to cook an egg when you are sick from drinking? You just don't cook for them.

"They would want to go to the beach, and I wouldn't do it. Why, I didn't even want to go outside to hang up the clothes because I thought everyone was looking at me.

"Believe me, the kids had it rough for years. They missed a lot of school. They were pushed aside with all their problems. I used to lock them outside—can you believe it? The family tried for a long time to help, but you don't want to see the family.

"The support of the agency has made me respect myself more, and I feel stronger. Now I can see how I hurt the kids—physically, yes, but more emotionally. My husband still drinks, and I'm divorcing him. The kids are more important. They have to come first now."

In New York, each case of abuse or neglect reported must be investigated within 24 hours. (This time limit is common across the nation, but only a few agencies have 24-hour protective service.)

Bill Johnson took us on the tour of his "beat" in the Bronx.

The streets have to be seen to be believed.

Bricks, papers, cans, and other litter spread out over the pavement, on the sidewalks, up the steps, and into doorways. The humanity that abides the stench and rubble hangs out of the windows and flows onto steps and streets. Every block seems to have an old car parked half on the sidewalk, with two or three men working on it.

The brick houses, without a breath of air between them, go on for blocks, the dirtiest of dirty red-brown in color. Streets are pockmarked. Children scramper and scream in the middle of it all—the ones fortunate enough to have even that much of a childhood.

Out of these slums come some of the worst neglect cases in the country. Almost all are handled by public agencies.

MANY LOVE THEIR CHILDREN

Infants have been found dead from starvation with hands so dirty the fingers are stuck togther and the skin around the diaper area completely gone from lack of care. Such cases are well documented in the medical examiner's office of many large United States cities—not just New York.

Yet in defense of the poor, two things should be said.

First, many poor mothers love their children enough to care for them in spite of the stress of poverty. This observation is carefully documented in the studies and writing of Norman A. Polansky, especially in his recent book "Roots of Futility."

Dr. Polansky, who teaches at the University of Georgia, did say in an interview with this newspaper, however, that middle-class children generally are more loved than poor children. "Them that has, gets," he says. His research in the hills of Georgia and South Carolina focuses on the personality traits of the poor and brings out many distinctions about poverty. (Urban and rural poverty are strikingly similar.)

The second thing to be said about abuse and neglect in the ghetto is that it is not confined to blacks, as some believe. James Weston, who has been a medical examiner in Philadelphia, Salt Lake City, and now Albuquerque, says: "Whites starve and kill their kids, too."

There is a running debate among experts about how much of the abuse and neglect is done by the lower income classes. Dr. Weston has perhaps the most impressive statistics, gathered from the offices of medical examiners in a number of cities. He says: "We see 80 to 90 percent of the starvation deaths and 70 to 80 percent of the abuse [battering] deaths from the lowest socioeconomic levels."

He says that those who point the finger away from the poor "may only be afraid they won't get government grants for work in the area." He explains, "It's hard to appear to be against the poor and still qualify for government money."

Hennepin County (Minneapolis), Minnesota, has what many regard as one of the finest public "protective service" (child abuse) units in the U.S. Mrs. Kay Utsunomiya tells of a case she worked with for four years:

A low-IQ mother had two children and another on the way when she was reported by a neighbor as an abusing parent. She was punishing her two children by beating them with a bicycle inner tube and her fists. Her marriage was on the rocks. The children were dirty, underfed, and ill with colds most of the time.

Mrs. Utsunomiya and a public health nurse at first tried to help the mother with the children in the home. The baby came. After three months it was not doing well. Through a petition to juvenile court the three children were removed and placed in a temporary foster home. A divorce took place.

Within three months the oldest child was back with the mother, and after a few months the second child returned, but it took nearly two years to return the youngest. During these months the mother took courses in child care and was given considerable counseling by the social worker. The mother's parents both had been alcoholics; she herself had been neglected.

"Just now is this woman realizing she can talk to the kids and not scream at them," the social worker says, "She is on welfare now, and even with that little money she has some left at the end of the month. This case has taken a long time, but she is now functioning. The mother has motivation and now wants to improve her education. Without motivation there is no success at all."

The most effective agencies in this work have singled out special units to devote full time to it. The latest trend—just catching on, for example, in Honolulu; Nashville, Tennessee; and Adams County, Colorado—is for these agencies to participate regularly in teams that include doctors, psychiatrists, and lawyers to sharpen their decision making.

A social worker in Colorado, Mrs. Patricia Beezley, says for example: "Social workers have for years been required to make decisions alone—life and death decisions that often involve legal, medical, and psychiatric problems. Social workers who are in the field of abused and neglected children for a long time are often reluctant to give up this responsibility and so call on other disciplines for 'consultation.'"

These public agencies should be required by law to be involved with teams of specialists as a protection to the children, she says.

Back in Denver, Vincent DeFrancis, who

as head of the children's bureau of the American Humane Society does periodic studies on child protection, says that no state in the U.S. has adequate protective services; the New York statistics can almost be multiplied nationally. A few counties do, however, have good programs. But there are over 33,000 counties in the U.S., a jurisdictional fact of life that is part of the problem of lack of services.

The problem of inadequate services is reflected at the national level as well. The ceiling of federal money available for children's protective services has been set at $226 million a year for some time, but only $46 million a year has been appropriated by Congress for the last seven years. Also, the new federal law on child abuse and neglect, signed in January of this year, directs the bulk of its funds to research and demonstration projects—not to services.

Mr. DeFrancis says with irritation, "This kind of research has been done in the U.S. for 100 years—a lot of it in direct treatment—so now they decide we need more, while we know that one good protective worker can salvage 25 homes in one year and prevent removal of 50 children and save some lives. We should put the money into services."

Many who actively work with the families who abuse tend to agree.

On the other hand, Mr. DeFrancis and others in the field are grateful that at least the federal government, largely because of Sen. Walter F. Mondale (D) of Minnesota, is "finally, at long last, thank heavens" doing something on a relatively large scale.

DECISIONS ARE ARBITRARY

In New York, Dr. Vincent J. Fontana, an expert on abused and neglected children, told how babies sometimes die soon after birth because their mothers were on heroin *or methadone* at the time of birth. Drug-addicted mothers often become prostitutes and bring clients into the home.

Private agencies in this work are fewer in number today. Dr. DeFrancis, who used to head a private agency in Brooklyn, explains that a private agency can be a true advocate for children because it is not part of the government bureaucracy. A private agency can demand high quality staff, but the public agencies often get unqualified people with job protection. And most of them face budget and staff problems akin to BCW in New York.

Many feel the public agencies are removing too many children from homes. Of children open to risk, only 10 percent are estimated to be abused, while the rest are classified as neglected. (Sometimes the categories overlap, however.) In neglect, as Dr. C. Henry Kempe of Denver points out, there often is a "fine line between willfully inflicted harm and cultural differences." Decisions to remove a child can often be highly arbitrary.

But the question of removal has more than one side. In Maryland a grand jury had at this writing all but indicted the Montgomery county welfare department for not removing a girl who was killed by a stepmother. There was a similar case in Chicago two years ago where a four-year-old was taken from a happy long-term foster home and returned to his parents. He died soon afterward.

Again, removal creates an unending stream of problems for the state and the children. Institutional care does not usually really help children. Foster care is under attack today because so many children end up in five or more homes and do not find the long-term relationship with an adult they need for emotional stability.

There are some good foster homes, however.

Putting children in institutions can lead to one scandal after another—drug abuse, beatings, and so on. The juvenile court's responsibility to monitor these institutions is often neglected.

Several people close to the problems of abused and neglected children feel that public welfare agencies won't be reformed until the juvenile court system does—or is permitted to do—its part more responsibly.

[Fourth of five articles]

TRYING TO KEEP THE FAMILY TOGETHER

(By David Mutch)

BRIGHT, COLO.—A sullen man and a nervous woman—husband and wife—sit in the chambers of a juvenile-court judge here. Their two daughters have reported them for abuse.

The Judge—James Delaney of the Adams County Juvenile Court, a strong but kindly man whose sandy hair is streaked with gray—is responding in a way that many other judges contacted by this newspaper for this series applaud:

He is trying to help the children by keeping the family together. He could send the girls to an institution if he found their complaints justified; instead, he is following his usual method of attempting to rescue them by rescuing their family unit as a whole, using himself, his court, and other community resources. It is by no means an easy task.

The judge was seeing the parents after the two daughters had been taken from the home temporarily, and placed in emergency foster care. He had been notified as soon as juvenile authorities received the complaint.

The daughters accused the father of sexual advances, which they feared could lead to incest. The father denied it to the judge, but then failed a liedetector test. After more talks with the judge, he was told in clear terms that unless he agreed to therapy, he would lose the girls altogether. This came as a shock to him. He wanted them to stay, and he did not want to stand trial.

The wife, too, wanted the family kept together. The judge followed up by ensuring that the various childcare and welfare agencies of the county were brought into play where necessary to help restore a sense of love to the family.

Many other juvenile court judges in the U.S. would like to follow Judge Delaney's example. Yet they lack his advantages: His county is small, and he has or makes the time that is necessary. Other jurisdictions are far bigger, and time and money are both in short supply. Some judges also lack the same kind of commitment to the family unit in child abuse ar neglect cases.

The judge himself is sometimes charged with using his court more as a social agency than a court of law.

COURT AS THERAPY

Yet he counters that he is simply trying to use the authority of the court in a therapeutic way—and this newspaper has found strong consensus from other judges that much, much more must be done to get abused and neglected children back into homes—safe homes.

It is a national tragedy that very few families in these categories receive any treatment at all, let alone treatment designed to improve their own lives.

The only way it can be done, judges stress, is by more caring: The kind of caring that includes an understanding of the needs of abusive and neglecting families.

The whole thought pattern and approach of involved agencies—police, welfare departments, district attorneys, and so on—must change, judges say. Public opinion, too, needs education, they stress.

Judge Hughes Koford, who sits weekly on the family court in Oakland, Calif.: "A big problem is finding competent, adequate agencies. A high proportion of the children we see in abuse and neglect are from broken homes. Yet California state law for three years has made it an easy civil action to get a divorce, with no consideration whatsoever for the children.'

Even in Boston, long an agency-conscious community, not enough is being done to help families, says juvenile court Judge Francis G. Poitrast. He himself was a foster parent; he says he recalls vividly how the children reject the idealism of foster parents and then how difficult the parents find it not to reject the children. His experience, too, leads him to look for ways to strengthen the family.

"We spend a lot of money teaching geography but why not more teaching about the obligations of marriage?" ask experts in child abuse over and over. They deplore the utter lack of knowledge about child rearing on the part of too many young parents. Judge Poitrast hears a lot of people talking about this today, he says, "but I don't see much being done."

Judge John J. Toner of the family court in Cleveland: "If you can get treatment for the family, this is much better than punishment of the parent. The community is better off.

"The law-and-order people want to 'hang' the parents, and when I do, I get positive letters from the public. But if I can get at the motive of the abuse, and usually it is a one-incident kind of thing, I can get help, and everyone is better off. Really now, can the community really take on all these kids? No. But that's what happens with the punitive approach."

A planning agency in Cleveland is developing a plan to split the city into two areas for dealing with abuse and neglect. It will involve hospitals, the public welfare agency, mental health centers, the police, child-care centers, and the family court.

The idea is to gain cooperation between agencies and to insure that each case is followed up rather than lost—so often the case when only the one public agency is involved. The plan is based on ideas being implemented in East Lansing, Mich., by Dr. Ray Helfer. It is similar to what is happening in Nashville. St. Paul, Minn., took steps along these lines four years ago and has developed an excellent system for dealing with child abuse.

Judge Frank Montemuro, head of the family court in Philadelphia, is one of many judges who call for more services for abusing parents: "The solution is not just to transfer the case to the trial division for aggravated assault, because one day the parent will be with the children again," he says.

"But in Philadelphia as in other urban areas, we just don't have the resources to help the parents, and a lot [of parents] need it. Frankly, we are looking toward [a system of] checks on the Department of Public Welfare. Up to now, once a child was committed by the court to the welfare department, that was all we heard of the case.

"But the 20 judges in the family court here feel there should be some rein on the department. Otherwise children just get lost. The confidentiality the welfare departments enjoy makes it hard to find out what is happening. . . ."

Differing with the view that courts should be more deeply involved in dealing with abuse is young Chicago attorney Patrick Murphy, who examined what happens to children in Cook County after they are made wards of the state by juvenile court. He concludes that courts have failed in the rehabilitation field.

His conclusions, based on a large court system, are somewhat negative—that the system for dealing with dependent and delinquent children can't be reformed so it must be simply cut back in authority. Yet his own devotion to the subject indicates he feels something must be done for those children who simply have no home to live in.

SELF-HELP NECESSARY

Largely in agreement with Mr. Murphy is Judge Lois Forer of Philadelphia, who for years represented the poor before reaching the bench. She says the "interveners" do so little to help that she is convinced "the poor have to make it on their own, as they used to through the church, the family, and voluntary agencies."

But Judge Delaney and others keep on their course. The judge's introduction to the perils of abuse and neglect was literally by fire. He recalled in an interview that soon after he began the work he got a call from a woman who said her sister-in-law was drunk all the time.

"I called the welfare department," she said, "and a kindly [official] only talked to the family at the door and went home, and I went back to sleep. By morning the mother had set fire to the house in a drunken stupor, and she and her child were dead."

Only a few weeks later a mother killed herself and her two children after a policeman, who responded to a suicide attempt, had convinced the judge over the phone that the situation "would hold till morning."

These experiences put Judge Delaney to work on a job that he hasn't stopped since: to save the lives of children by actively trying to save families.

Here are some of the changes Judge Delaney has brought to Adams County:

The welfare department has increased its number of protective service workers from six to 24. Night and day service is available from workers too professional and "stubborn" to take "no" for an answer when a child's welfare is at stake.

The number of cases being handled in cooperation with the court has gone up dramatically, although actual filings are about a third of the number of situations he deals with. The bulk of the cases are worked out in conferences.

The county has a team including a pediatrician, an attorney, a nurse, and a psychiatrist, at a minimum, which reviews all cases and makes professional recommendations to the judge.

"I couldn't do it without them," he says. "It's not basically the welt on the buttock but the alcoholism of the father that has to be dealt with."

The judge and his staff periodically visit all of the county institutions that contain dependent and delinquent children. They interview the staff and the children. They review the cases to make sure that previous decisions are still adequate.

But the Colorado judge says his methods—actually a composite of ideas and administrative procedures worked out by himself and a group in Denver headed by Dr. C. Henry Kempe—can apply to any city where officials care enough to act.

He says, for example, that instead of passing all juvenile cases through one courthouse—more than 26,000 petitions are filed in the Cook County juvenile court every year—there could be smaller courthouses in different city locations.

But the juvenile court itself must be upgraded, he maintains. He says: "It's low man on the totem pole, but it is the area where the most basic help can be given to society. Yet it has the lowest budget of all the courts, and even the attorneys that represent clients haven't tried to upgrade its standards. The whole treatment system for children must be reformed by the courts, for they are responsible under law."

NEED FOR COOPERATION

There is, many observers believe, a great need for cooperation among all involved agencies, with considerable weight being given to the juvenile court, the ultimate authority on the question of handling the cases.

While such cooperative action has now begun in Los Angeles, for instance, the attorney general's office still has a training film on child abuse for the police that is so inflammatory that it practically invites police to arrest and jail parents. It stresses the fact that child abuse is a crime.

Laws in Hawaii make child abuse a civil rather than a criminal offense, although it is always possible to prosecute parents in criminal court in severe cases by using laws covering aggravated assault. Structuring laws this way emphasizes treatment although the community must provide services for the approach to become a reality, judges say.

In Nashville, Tennessee, the Monitor found, a project launched two years ago already has cut arrests and court-ordered removal of children by more than 30 percent.

It took two man-years of study by public policy experts (Burt Associates in Bethesda, Md.) on a grant by the Urban Institute. It also has taken federal seed money from the Office of Child Development in the Department of Health, Education, and Welfare to implement the changes.

Significantly, no laws but a lot of attitudes were changed, says Mike Servais, who heads the team of probation officers attached to a court. He speaks highly of the police in Nashville and says they must be involved jointly in the decisions on difficult abuse and neglect cases.

This reporter spent some time with the juvenile division of the District of Columbia police, the unit that exclusively handles investigation of abuse and neglect cases for the department. The unit hopes soon to be in plain clothes, as are the police in a similar unit in Nashville. These youth division workers in D.C. are sensitively concerned for the families they investigate. Yet they constantly see parents at their worst, as police in general do.

[Last of five articles]

HOW TO KEEP HOPE ALIVE

(By David Mutch)

WASHINGTON.

Gail, almost 9, could not wait to show us how she could ride her bike. Her slender legs were unsteady as she pushed off, but once under way the slight wobbling was not as noticeable as the triumph in her blue eyes and the proud bounce of her pony-tail.

Her foster mother told us of the six months of patient effort to give Gail—once a badly neglected and abused child—the confidence she needed to switch from her safer three-wheeler to the bike.

These days, most children at five or six are urging their parents to take the training wheels off their bikes. Gail, three years older, needed special help, as she does in almost everything.

She came to the family three years ago under a special foster care program run by a private agency, Family and Child Services, here in Washington, D.C. She had severe emotional problems, a speech deficiency, and very poor coordination. Her legs were so weak and poorly controlled that she couldn't walk upstairs; she crawled up instead, and slid down.

Now not only can she ride her bike, but she works hard at twirling a baton, and talks animatedly of a recent family excursion. She is so delighted to share an experience with someone that she shudders slightly when she laughs.

Family and Child Services is one of a number of private agencies in the U.S. providing long-term care for neglected and abused children. These agencies bring much hope to the subject—although the problem is so extensive that their impact at times seems minimal.

Only a small percentage of the families and children that need long-term help are receiving it.

But these agencies keep alive the hope that children and families can be put back together again.

ADVOCATE OF FOSTER-HOME CARE

Mrs. Regina V. Fine of Family and Child Services first found Gail in a hospital. As she walked by her bed, she heard the child ask a nurse, "Is she going to be my mommy?" When the social worker heard the girl's story, she made arrangements for the foster care at once.

Gail's mother was an alcoholic who abused her physically and verbally to the extent the child had no sense of self-worth. The mother finally abandoned her.

"A broken arm mends quickly," Mrs. Fine says, "but a broken heart takes years of patient caring—you just can't quit giving to these children until they have regained their confidence and are able then to be responsible for themselves."

Gail's new mother is a veteran of the German work camps and was captured by the Russians in World War II. Hers is a strong, unselfish love to rebuild a shattered childhood.

Mrs. Fine is a strong advocate of getting disturbed children out of institutions and into foster homes. Family and Child Services, in addition to the foster-home program for emotionally disturbed children that Gail is in, also administers a family foster-care program for normal children. The program hires parents to raise families—a minimum of five children per home—and pays a salary to the mother as well as helping on housing and paying all the children's bills for food and clothing. It is more successful than the standard foster-care program that often pays very little and is poorly administered.

This reporter also visited one of the agency's extended family homes—a black foster home with five children full of energy and affection. One youngster they raised now is in the Navy and comes home on weekends whenever his ship is in port—a higher recommendation for the home could not be imagined.

Their five-year-old boy was a delight: after checking with his father that we were indeed "white folks," he turned to his mother and said, "I didn't know we had any white folks for friends." His mother said, "Well, now you know."

Mrs. Catherine Pratt, who directs this program, explained that the foster parents receive nearly twice the financial support of the average foster parent. Still, the cost averages considerably less than the minimum cost of putting a child into an institution, depriving it of the chance of a family life.

The District of Columbia welfare department helps finance this program—but only after a suit by FLOC (For Love Of Children) forced closure of the department's own group home.

Foster care is being sharply debated today by those interested in the problems of dependent children. Studies have documented that most foster children end up in six or seven homes before they are old enough to fend for themselves. Thus they experience a series of rejections by adults that compound the original problems.

Family and Child Services devotes many hours to working with the foster parents in its programs. Foster parents for public agencies rarely if ever receive such support, either moral or managerial.

Juvenile Court Judge James Delaney of Colorado says improving foster care is less expensive and more effective ("when done well") than group care.

Because children can't always be returned to their own family, he says, a judge in a family or juvenile court needs a number of options: "You can't abolish foster care."

The first wish of many juvenile court judges who have to decide the fate of a dependent youngster is to see the home reestablished. Many of them said so in the interviews for this series.

Their second choice, except in very unusual cases, is to send a dependent youngster to a home where he can establish a permanent relationship with one or more adults.

That there is a need for permanent placement of children is undeniable. Mrs. Mildred Hamilton of the Jewish Family Service in *Elizabeth, N.J.*, tells of two cases she has encountered recently. One couple adopted an infant boy and raised it for nine years, then divorced. Neither wanted the child. The boy became severely disturbed emotionally and was placed in a group home.

MOTHER ABANDONS BOTH CHILDREN

Another mother who had been divorced for five years decided she could no longer cope with her two children, especially the 14-year-old daughter, who had been keeping late hours and "acting up." She abandoned both. The boy was placed in a group home, and the girl, who turned to drugs, was last in a residential treatment center. A grandmother refused to take the children, and the father, who had remarried, said he could not.

This reporter will never forget a blond, blue-eyed girl of three sitting on a swing in a grassy courtyard. Other children played nearby. It was a treatment center operated by Odyssey House in New York for children and their mothers who had been on drugs. The girl was sitting very still, staring at the ground. Asked what her name was, she just lowered her head further and remained motionless. Later I learned her mother, an addict in treatment elsewhere, had abandoned the girl.

Fred Cohen, a reformed drug addict and one of the administrators of the program, said that he feels one of the conclusions it *may well* reach is that some children simply have to be removed from their parents. He says half of the mothers in the Odyssey House program have been prostitutes.

The unique aspect of Odyssey House is that the mothers and children are brought into an enclosed living environment away from the ghetto's pressures—and drugs.

The mothers interviewed were candid about the child neglect caused by drug-taking. One mother admitted, "If I can't stay clean [off drugs], probably my children would be better off somewhere else."

Parents who abuse (rather than neglect) children are much less prone to admit their defects—but all too frequently their children, too, need to be removed from a home to keep them safe.

Juvenile court Judge Francis G. Poitrast of Boston recalls the case of a child whom he returned home at the recommendation of a social worker. "The child soon had a serious fracture from a parent," he recalls. He got the case again. The social worker still claimed "things were okay at home." The judge found out, however, that the parents had even threatened the life of the social worker. The ruling by the judge was to remove the child from home permanently and to end visitation rights.

This newspaper has found that few welfare departments or even judges are in fact making serious efforts to reunite families.

Yet the Monroe Harding School, Nashville, Tenn., operated by the Presbyterian Church, specializes in integrating children back into their families. Director of family services Joan McAllister says: "I've worked at several agencies that are structured the way we are, but the results weren't nearly so good—it must be that we stress return to the family."

She says: "Here the client is the family, not the kid. In most troubled families, the assumption that relationships won't work is a legalistic view and not one based on feelings. All people basically want to be in a family."

She told of one case of a boy in his early teens brought to them who had received too much professional help. "He would sit straight as a board in a chair and jump four inches if you spoke to him unexpectedly," she said.

He had gone through nine therapeutic communities—after having been diagnosed as retarded at four years of age—and his mother was convinced that the boy was mentally unstable. Like many youngsters, he may have been the victim of emotional abuse by his mother.

"We determined he was basically shy, that he had experienced a great trauma when his father died, and that he had difficulty in learning in some areas," Miss McAllister recalled.

They also noticed, she said, that the boy was anxious to develop relationships with other youngsters. They sent him to lots of their recreation programs, expressed great interest in him, and let him develop trust in others at the school. And they encouraged the mother to visit and to observe the normal life the boy was leading. The staff sees a more healthy family relationship developing, and they expect the boy to be living with his family very soon. The mother had to be shown that the boy was normal.

"Don't call your series 'rescuing children'; call it 'rescuing families' "—this reporter was urged almost simultaneously by Leonard Lieber and Margot Fritz, staff memmembers of Parents Anonymous, based in Inglewood, Calif.

PARENTS GROUP MEETS WEEKLY

This self-help group for abusive mothers was founded by a remarkable woman known only by her first name and last initial—Jolly K., graduate of 100 foster homes, 32 institutions, and a victim of rape at age 11. She had only five years of grade school, and a period of prostitution. And she had two bad marriages. But most of all she had a desire to make something out of life for her her daughter—whom she used to abuse—and for herself. She says families—mothers mostly—must be helped in order to save the children. She knows firsthand that "institutions don't help," she says.

The keynote of Parents Anonymous—they share only first names and phone numbers—is "help now." Several Chicago mothers in a chapter there explained how they call each other at times of "stress." They meet once a week for three hours and talk over their past week at home. A professional social worker and a mother lead the group together. They get very practical. One mother said: "My daughter wouldn't eat, and I used to get mad, yell, and hit her. Another mother said to just give the girl 15 minutes to eat and set a timer for her so she will know the framework. I tried it and it worked beautifully."

These women say they are learning to divert their anger away from their children by realizing the anger is in themselves and they are responsible for being alert to what "sets them off" and avoiding it. One mother said: "I still get angry, but not for such a long time."

The U.S. Office of Child Development has given the group a 12-month grant of $200,000 and plans to follow it with two more payments of equal size over the next two years.

More Facts: Where To Turn

Following are organizations which can provide additional information on the subject of abused and neglected children:

National Center for Child Abuse and Neglect Treatment, 1001 Jasmine, Denver, Colo. 80220

The American Humane Association, Children's Division, P.O. Box 1266, Denver, Colo. 80201

Office of Child Development, Department of Health, Education, and Welfare, Washington, D.C.

Parents Anonymous, 2930 W. Imperial Highway, Suite 332, Inglewood, Calif. 90303.

Other organizations visited for this series and which are working hard to help families, include: Health Hill Hospital in Cleveland, Bowen Center in Chicago, The Extended Family Center in San Francisco, and Friends of the Family in Van Nuys, Calif.

Readers also can contact city and county welfare departments, local health departments, police, juvenile courts, and boards of education for additional information.

Books of special interest:

Wednesday's Children (McGraw-Hill paperback, $2.45) by Leontine Young.

Somewhere a Child Is Crying (MacMillan, $6.95) by Dr. Vincent Fontana.

Helping the Battered Child and His Family (Lippincott Company, Philadelphia, $12.50) by Dr. Ray Helfer and Dr. C. Henry Kempe.

Roots of Futility (Jossey-Bass Inc., San Francisco, $9.50) by Norman Polansky.

Our Kindly Parent—the State (Viking, $8.95) by Patrick Murphy.

SECRETARY OF STATE KISSINGER ON THE ENERGY CRISIS

Mr. PERCY. Mr. President, it is becoming apparent that financial chaos threatens the Western World due to the 400-percent increase in the price of oil during the past year. Leading academic and Government economists agree that private capital markets and present Government financial institutions will prove unable to handle the enormous and increasing flow of funds being generated by trade in oil—the world's most important strategic commodity.

In my view it is absolutely essential that the major oil consuming nations join in a concerted effort to drastically reduce petroleum imports. First, mounting balance-of-payments deficits make it clear that they can no longer afford the high cartel-administered prices. Second, only by reducing consumption will pressure be put on OPEC to either permit a price reduction or undertake the exceedingly difficult task of prorationing further production cutbacks.

Exhortations and calls for voluntarism can no longer be relied upon. If we are to reduce American oil imports by approximately 1 million barrels a day by the end of 1975, as has been suggested by President Ford, then we must undertake stringent measures which will require sacrifice by us all. We must adopt some combination of the following:

First. Higher gasoline taxes;

Second. A step-by-step mandatory reduction in oil imports;

Third. The adoption of tax incentives to promote purchase of fuel efficient autos and discourage purchase of inefficient autos;

Fourth. Strict enforcement of the 55-mile-per-hour speed limit; and

Fifth. Elimination of the highway trust fund.

On November 14, 1974, Secretary of State Henry Kissinger addressed the financial and economic problems posed by the energy crisis in a speech at the University of Chicago. While discussing specific problems and solutions, the Secretary placed most of his emphasis on the need for cooperation by consumer countries—

> Finally, price reductions will not be brought about by consumer/producer dialogue alone. The price of oil will come down only when objective conditions for a reduction are created and not before. Today the producers are able to manipulate prices at will and with apparent impunity. They are not persuaded by our protestations of damage to our societies and economies, because we have taken scant action to defend them ourselves. They are not moved by our alarms about the health of the Western world which never included and sometimes exploited them. And, even if the producers learn eventually that their long-term interest requires a cooperative adjustment of the price structure, it would be foolhardy to count on it or passively wait for it.
>
> We agree that a consumer/producer dialogue is essential. But it must be accompanied by the elaboration of greater consumer solidarity. The heart of our approach must be collaboration among the consuming nations. No one else will do the job for us.

As Secretary Kissinger has indicated, the time for agonizing about the possibility of further economic and financial damage to the West is long past. The time for avoiding the hard realities is over. The time for action is now.

I ask that the entire text of the Secretary of State's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ENERGY CRISIS: STRATEGY FOR COOPERATIVE ACTION

(Address by Henry A. Kissinger, Chicago, Ill.)

THE PROBLEM

A generation ago the Western world faced an historic crisis—the breakdown of international order in the wake of world war. Threatened by economic chaos and political upheaval, the nations of the West built a system of security relations and cooperative institutions that have nourished our safety, our prosperity, and our freedom ever since. A moment of grave crisis was transformed into an act of lasting creativity.

We face another such moment today. The stakes are as high as they were 25 years ago. The challenge to our courage, our vision, and our will is as profound. And our opportunity is as great.

What will be our response?

I speak, of course, of the energy crisis. Tonight I want to discuss how the administration views this problem, what we have been doing about it, and where we must now go. I will stress two themes that this government has emphasized for a year and a half:

First, the problem is grave but it is soluble.

Second, international collaboration, particularly among the industrial nations of North America, Western Europe, and Japan is an inescapable necessity.

The economic facts are stark. By 1973, worldwide industrial expansion was outstripping energy supply; the threat of shortages was already real. Then, without warning, we were faced first with a political embargo, followed quickly by massive increases in the price of oil. In the course of a single year the price of the world's most strategic commodity was raised 400 percent. The impact has been drastic and global:

The industrial nations now face a collective payments deficit of $40 billion, the largest in history, and beyond the experience or capacity of our financial institutions. We suffer simultaneously a slowdown of production and a speedup of an inflation that was already straining the ability of governments to control.

The nations of the developing world face a collective yearly deficit of $20 billion, over half of which is due to increases in oil prices. The rise in energy costs in fact roughly equals the total flow of external aid. In other words, the new oil bill threatens hopes for progress and advancement and renders problematical the ability to finance even basic human needs such as food.

The oil producers now enjoy a surplus of $60 billion, far beyond their payments or development needs and manifestly more than they can invest. Enormous unabsorbed surplus revenues now jeopardize the very functioning of the international monetary system.

Yet this is only the first year of inflated oil prices. The full brunt of the petrodollar flood is yet to come. If current economic trends continue, we face further and mounting world-wide shortages, unemployment, poverty, and hunger. No nation, East or West, North or South, consumer or producer, will be spared the consequences.

An economic crisis of such magnitude would inevitably produce dangerous political consequences. Mounting inflation and recession—brought on by remote decisions over which consumers have no influence—will fuel the frustration of all whose hopes for economic progress are suddenly and cruelly rebuffed. This is fertile ground for social conflict and political turmoil. Moderate governments and moderate solutions will be under severe attack. Democratic societies could become vulnerable to extremist pressures from right or left to a degree not experienced since the twenties and thirties. The great achievements of this generation in preserving our institutions and constructing an international order will be imperiled.

The destinies of consumers and producers are joined in the same global economic system, on which the progress of both depends. If either attempts to wield economic power aggressively, both run grave risks. Political cooperation, the prerequisite of a thriving international economy, is shattered. New tensions will engulf the world just when the antagonisms of two decades of the cold war have begun to diminish.

The potentially most serious international consequences could occur in relations between North America, Europe, and Japan. If the energy crisis is permitted to continue unchecked, some countries will be tempted to secure unilateral benefit through separate arrangements with producers at the expense of the collaboration that offers the only hope for survival over the long term. Such unilateral arrangements are guaranteed to enshrine inflated prices, dilute the bargaining power of the consumers, and perpetuate the economic burden for all. The political consequences of disarray would be pervasive. Traditional patterns of policy may be abandoned because of dependence on a strategic commodity. Even the hopeful process of easing tensions with our adversaries could suffer because it has always presupposed the political unity of the Atlantic nations and Japan.

THE NEED FOR CONSUMER COOPERATION

This need not be our fate. On the contrary, the energy crisis should summon once again the cooperative effort which sustained the policies of North America, Western Europe, and Japan for a quarter century. The Atlantic nations and Japan have the ability, if we have the will, not only to master the energy crisis but to shape from it a new era of creativity and common progress

In fact we have no other alternative.

The energy crisis is not a problem of transitional adjustment. Our financial institutions and mechanisms of cooperation were never designed to handle so abrupt and artificially sustained a price rise of so essential a commodity with such massive economic and political ramifications. We face a long-term drain which challenges us to common action or dooms us to perpetual crisis.

The problem will not go away by permitting inflation to proceed to redress the balance between oil producers and producers of other goods. Inflation is the most grotesque kind of adjustment, in which all elements in the domestic structure are upset in an attempt to balance one—the oil bill. In any event, the producers could and would respond by raising prices, thereby accelerating all the political and social dangers I have described.

Nor can consumers finance their oil bill by going into debt to the producers without making their domestic structure hostage to the decisions of others. Already, producers have the power to cause major financial upheavals simply by shifting investment funds from one country to another or even from one institution to another. The political implications are ominous and unpredictable. Those who wield financial power would sooner or later seek to dictate the political terms of the new relationships.

Finally, price reductions will not be brought about by consumer/producer dialogue alone. The price of oil will come down only when objective conditions for a reduction are created and not before. Today the producers are able to manipulate prices at will and with apparent impunity. They are not persuaded by our protestations of damage to our societies and economies, because we have taken scant action to defend them ourselves. They are not moved by our alarms about the health of the Western world which never included and sometimes exploited them. And, even if the producers learn eventually that their long-term interest requires a cooperative adjustment of the price structure, it would be foolhardy to count on it or passively wait for it.

We agree that a consumer/producer dialogue is essential. But it must be accompanied by the elaboration of greater consumer solidarity. The heart of our approach must be collaboration among the consuming nations. No one else will do the job for us.

A STRATEGY FOR CONSUMER COOPERATION

Consumer cooperation has been the central element of U.S. policy for the past year and a half.

In April 1973 the United States warned that energy was becoming a problem of unprecedented proportions and that collaboration among the nations of the West and Japan was essential. In December of the same year, we proposed a program of collective action. This led to the Washington Energy Conference in February 1974, at which the major consumers established new machinery for consultation, with a mandate to create, as soon as possible, institutions for the pooling of effort, risk, and technology.

In April 1974 and then again this fall before the U.N. General Assembly, President Ford and I reiterated the American philosophy that global cooperation offered the only long-term solution and that our efforts with fellow consumers were designed to pave the way for constructive dialogue with the producers. In September 1974 we convened a meeting of the Foreign and Finance Ministers of the United Kingdom, Japan, the Federal Republic of Germany, France, and the United States to consider further measures of consumer cooperation. And last month President Ford announced a long-term national policy of conservation and development to reinforce our international efforts to meet the energy challenge.

In our view, a concerted consumer strategy has two basic elements:

First, we must create the objective conditions necessary to bring about lower oil prices. Since the industrialized nations are the principal consumers, their actions can have a decisive impact. Determined national action, reinforced by collective efforts, can transform the market by reducing our consumption of oil and accelerating development of new sources of energy. Over time this will create a powerful pressure on prices.

Second, in the interim we must protect the vitality of our economies. Effective action on conservation will require months; development of alternative sources will take years. In the meantime, we will face two great dangers. One is the threat of a new embargo. The other is that our financial system may be unable to manage chronic deficits and to recycle the huge flows of oil dollars that producers will invest each year in our economies. A financial collapse—or the threat of it—somewhere in the system could result in restrictive monetary, fiscal, and trade measures and a downward spiral of income and jobs.

The consumers have taken two major steps to safeguard themselves against these dangers by collaborative action.

One of the results of the Washington Energy Conference was a new permanent institution for consumer energy cooperation—the International Energy Agency [IEA]. This agency will oversee a comprehensive common effort—in conservation, cooperative research and development, broad new action in nuclear enrichment, investment in new energy supplies, and the elaboration of consumer positions for the consumer/producer dialogue.

Equally significant is the unprecedented agreement to share oil supplies among principal consumers in the event of another crisis. The International Energy Program that grew out of the Washington Energy Conference and that we shall formally adopt next week is an historic step toward consumer solidarity. It provides a detailed blueprint for common action should either a general or selective embargo occur. It is a defensive arrangement, not a challenge to producers. But producing countries must know that it expresses the determination of the consumers to shape their own future and not to remain vulnerable to outside pressures.

The International Energy Agency and the International Energy Program are the first fruits of our efforts. But they are only foundations. We must now bring our blueprint to life.

THE FIVE ACTION AREAS

To carry through the overall design, the consuming countries must act in five interrelated areas.

First, we must accelerate our national programs of energy conservation, and we must coordinate them to insure their effectiveness.

Second, we must press on with the development of new supplies of oil and alternative sources of energy.

Third, we must strengthen economic security—to protect against oil emergencies and to safeguard the international financial system.

Fourth, we must assist the poor nations whose hopes and efforts for progress have been cruelly blunted by the oil price rises of the past year.

Fifth, on the basis of consumer solidarity we should enter a dialogue with the producers to establish a fair and durable long-term relationship.

Let me deal with each of these points in turn.

CONSERVATION

Conservation and the development of new sources of energy are basic to the solution: The industralized countries as a whole now import nearly two-thirds of their oil and over one-third of their total energy. Over the next decade we must conserve enough oil and develop sufficient alternative supplies to reduce these imports to no more than one-fifth of the total energy consumption. This requires that the industralized countries manage the growth of their economies without increasing the volume of their oil imports.

The effect of this reduced dependence will be crucial. If it succeeds, the demand of the industrialized countries for imported oil will remain static, while new sources of energy will become available both inside and outside of OPEC [Organization of Petroleum Exporting Countries]. OPEC may attempt to offset efforts to strengthen conservation and develop alternative sources by deeper and deeper cuts in production, reducing the income of producers who seek greater revenues for their development. The majority of producers will then see their interest in expanding supply and seeking a new equilibrium between supply and demand at a fair price.

Limiting oil imports into industrial countries to a roughly constant figure is an extremely demanding goal requiring discipline for conservation and investment for the development of new energy sources. The United States, which now imports a third of its oil and a sixth of its total energy, will have to become largely self-sufficient. Specifically we shall set as a target that we reduce our imports over the next decade from 7 million barrels a day to no more than 1 million barrels or less than 2 percent of our total energy consumption.

Conservation is, of course, the most immediate road to relief. President Ford has stated that the United States will reduce oil imports by 1 million barrels per day by the end of 1975—a 15 percent reduction.

But one country's reduction in consumption can be negated if other major consumers do not follow suit. Fortunately, other nations have begun conservation programs of their own. What is needed now is to relate these programs to common goals and an overall design. Therefore, the United States proposes an international agreement to set consumption goals. The United States is prepared to join an international conservation agreement that would lead to systematic and long-term savings on an equitable basis.

As part of such a program, we propose that by the end of 1975 the industrialized countries reduce their consumption of oil by 3 million barrels a day over what it would be otherwise—a reduction of approximately 10 percent of the total imports of the group. This reduction can be carried out without prejudice to economic growth and jobs by cutting back on wasteful and inefficient uses of energy both in personal consumption and in industry. The United States is prepared to assume a fair share of the total reduction.

The principal consumer nations should meet each year to determine appropriate annual targets.

ALTERNATIVE ENERGY SOURCES

Conservation measures will be effective to the extent that they are part of a dynamic program for the development of alternative energy sources. All countries must make a major shift toward nuclear power, coal, gas, and other sources. If we are to assure substantial amounts of new energy in the 1980's we must start now. If the industrialized nations take the steps which are within their power, they will be able to transform energy shortages into energy surpluses by the 1980's.

Project Independence is the American contribution to this effort. In represents the investment of hundreds of billions of dollars, public and private—dwarfing our moon-landing program and the Manhattan Project, two previous examples of American technology mobilized for a great goal. Project Independence demonstrates that the United States will never permit itself to be held hostage to a strategic commodity.

Project Independence will be complemented by an active policy of supporting cooperative projects with other consumers. The International Energy Agency to be established next week is well designed to launch and coordinate such programs. Plans are already drawn up for joint projects in coal technology and solar energy. The United States is prepared to expand these collective activities substantially to include such fields as uranium enrichment.

The area of controlled thermonuclear fusion is particularly promising for joint ventures for it would make available abundant energy from virtually inexhaustible resources. The United States is prepared to join with other IEA members in a broad program of joint planning, exchange of scientific personnel, shared use of national facilities, and the development of joint facilities to accelerate the advent of fusion power.

Finally, we shall recommend to the IEA that it create a common fund to finance or guarantee investment in promising energy projects, in participating countries and in those ready to cooperate with the IEA on a long-term basis.

FINANCIAL SOLIDARITY

The most serious immediate problem facing the consuming countries is the economic and financial strain resulting from high oil prices. Producer revenues will inevitably be reinvested in the industrialized world; there is no other outlet. But they will not necessarily flow back to the countries whose balance-of-payments problems are most acute. Thus many countries will remain unable to finance their deficits and all will be vulnerable to massive sudden withdrawals.

The industrialized nations, acting together, can correct this imbalance and reduce their vulnerability. Just as producers are free to choose where they place their funds, so the consumers must be free to redistribute these funds to meet their own needs and those of the developing countries.

Private financial institutions are already deeply involved in this process. To buttress their efforts, central banks are assuring that necessary support is available to the private institutions—particularly since so much of the oil money has been invested in relatively short-term obligations. Private institutions should not bear all the risks indefinitely however. We cannot afford to test the limits of their capacity.

Therefore, the governments of Western Europe, North America, and Japan, should move now to put in place a system of mutual support that will augment and buttress private channels whenever necessary. The United States proposes that a common loan and guarantee facility be created to provide for redistributing up to $25 billion in 1975, and as much again the next year if necessary. The facility will not be a new aid institution to be funded by additional taxes. It will be a mechanism for recycling, at commercial interest rates, funds flowing back to the industrial world from the oil producers. Support from the facility would not be automatic, but contingent on the full resort to private financing and on reasonable self-help measures. No country should expect financial assistance that is not moving effectively to lessen its dependence on imported oil.

Such a facility will help assure the stability of the entire financial system and the creditworthiness of participating governments; in the long run it would reduce the need for official financing. If implemented rapidly it would:

Protect financial institutions from the excessive risks posed by an enormous volume of funds beyond their control or capacity;

Insure that no nation is forced to pursue disruptive and restrictive policies for lack of adequate financing;

Assure that no consuming country will be compelled to accept financing on intolerable political or economic terms; and

Enable each participating country to demonstrate to people that efforts and sacrifices are being shared equitably—that the national survival is buttressed by consumer solidarity.

We have already begun discussion of this proposal; it was a principal focus of the meeting of the Finance and Foreign Ministers of the Federal Republic of Germany, the United States, Japan, the United Kingdom, and France in September in Washington.

THE DEVELOPING WORLD

The strategy I have outlined here is also essential to ease the serious plight of many developing countries. All consuming nations are in need of relief from excessive oil prices, but the developing world cannot wait for the process to unfold. For them, the oil crisis has already produced an emergency. The oil bill has wiped out the external assistance of the poorer developing countries, halted agricultural and industrial development, and inflated the prices for their most fundamental needs, including food. Unlike the industrial nations, developing countries do not have many options of self-help; their margin for reducing energy consumption is limited; they have little capacity to develop alternative sources.

For both moral and practical reasons, we cannot permit hopes for development to die, or cut ourselves off from the political and economic needs of so great a part of mankind. At the very least, the industrial nations must maintain the present level of their aid to the developing world and take special account of its needs in the multilateral trade negotiations.

We must also look for ways to help in the critical area of food. At the World Food Conference I outlined a strategy for meeting the food and agricultural needs of the least developed countries. The United States is uniquely equipped to make a contribution in this field and will make a contribution worthy of its special strength.

A major responsibility must rest with those oil producers whose actions aggravated the problems of the developing countries and who because of their new-found wealth now have greatly increased resources for assistance.

But even after all presently available resources have been drawn upon, an unfinanced payment of deficit of between $1 and $2 billion will remain for the 25 or 30 countries most seriously affected by high oil prices. It could grow in 1976.

We need new international mechanisms to meet this deficit. One possibility would be to supplement regular International Monetary Fund (IMF) facilities by the creation of a separate trust fund managed by the IMF to lend at interest rates recipient countries could afford. Funds would be provided by national contributions from interested countries, including especially oil producers. The IMF itself could contribute the profits from IMF gold sales undertaken for this purpose. We urge the Interim Committee of the IMF and the joint IMF/IBRD Development Committee to examine this proposal on an urgent basis.

RELATIONS WITH PRODUCERS

When the consumers have taken some collective steps toward a durable solution—that is, measures to further conservation and the development of new supplies—and for our interim protection through emergency planning and financial solidarity, the conditions for a constructive dialogue with producers will have been created.

We do not see consumer cooperation as antagonistic to consumer/producer cooperation. Rather, we view it as a necessary prerequisite to a constructive dialogue as do many of the producers themselves who have urged the consumers to curb inflation, conserve energy, and preserve international financial stability.

A dialogue that is not carefully prepared will compound the problems which it is supposed to solve. Until the consumers develop a coherent approach to their own problems, discussions with the producers will only repeat in a multilateral forum the many bilateral exchanges which are already taking place. When consumer solidarity has been developed and there are realistic prospects for significant progress, the United States is prepared to participate in a consumer/producer meeting.

The main subject of such a dialogue must inevitably be price. Clearly the stability of the system on which the economic health of even the producers depends requires a price reduction. But an equitable solution must also take account of the producers' need for long-term income security and economic growth. This we are prepared to discuss sympathetically.

In the meantime the producers must recognize that further increases in the prices while this dialogue is being prepared, and when the system has not even absorbed the previous price rises, would be disruptive and dangerous.

On this basis—consumer solidarity in conservation, the development of alternative supplies and financial security, producer policies of restraint and responsibility, and a mutual recognition of interdependence and a long-term common interest—there can be justifiable hope that a consumer/producer dialogue will bring an end to the crisis that has shaken the world to its economic foundations.

THE NEXT STEP

It is now a year and a month since the oil crisis began. We have made a good beginning, but the major test is still ahead.

The United States in the immediate future intends to make further proposals to implement the program I have outlined.

Next week, we will propose to the new IEA a specific program for cooperative action in conservation, the development of new supplies, nuclear enrichment, and the preparation of consumer positions for the eventual producer/consumer dialogue.

Simultaneously, Secretary Simon will spell out our ideas for financial solidarity in detail, and our representative at the Group of Ten will present them to his colleagues.

We will, as well, ask the Chairman of the Interim Committee of the IMF as well as the new joint IMF/IBRD Development Committee to consider an urgent program for concessional assistance to the poorest countries.

Yesterday, Secretary Morton announced an accelerated program for domestic oil exploration and exploitation.

President Ford will submit a detailed and comprehensive energy program to the new Congress.

CONCLUSION

Let there be no doubt, the energy problem is soluble. It will overwhelm us only if we retreat fom its reality. But there can be no solution without the collective efforts of the nations of North America, Western Europe, and Japan—the very nations whose cooperation over the course of more than two decades has brought prosperity and peace to the postwar world. Nor in the last analysis can there be a solution without a dialogue with the producers carried on in a spirit of reconciliation and compromise.

A great responsibility rests upon America, for without our dedication and leadership no progress is possible. This Nation, for many years, has carried the major responsibility for maintaining the peace, feeding the hungry, sustaining international economic growth, and inspiring those who would be free. We did not seek this heavy burden, and we have often been tempted to put it down. But we have never done so, and we cannot afford to do so now—or the generations that follow us will pay the price for our self-indulgence.

For more than a decade America has been torn by war, social and generational turbulence, and constitutional crisis. Yet the most striking lesson from these events is our fundamental stability and strength. During our upheavals, we still managed to ease tensions around the globe. Our people and our institutions have come through our domestic travails with an extraordinary resiliency. And now, once again, our leadership in technology, agriculture, industry, and communications has become vital to the world's recovery.

Woodrow Wilson once remarked that "wrapped up with the liberty of the world is the continuous perfection of that liberty by the concerted powers of all civilized peoples." That, in the last analysis, is what the energy crisis is all about. For it is our liberty that in the end is at stake and it is only through the concerted action of the industrial democracies that it will be maintained.

The dangers that Woodrow Wilson and his generation faced were, by today's standards, relatively simple and straightforward. The dangers we face now are more subtle and more profound. The context in which we act is more complex than even the period following the Second World War. Then we drew inspiration from stewardship, now we must find it in partnership. Then we and our allies were brought together by an external threat, now we must find it in our devotion to the political and economic institutions of free peoples working together for a common goal. Our challenge is to maintain the cooperative spirit among like-minded nations that has served us so well for a generation and to prove, as Woodrow Wilson said in another time and place, that "the highest and best form of efficiency is the spontaneous cooperation of a free people."

CHILDREN'S CHARITIES

Mr. MONDALE. Mr. President, I would like to take a few minutes to discuss the findings of a recent General Accounting Office study on children's charities.

This study was requested by me as chairman of the Subcommittee on Children and Youth. It was part of a much broader study of the programs administration and fundraising of charities claiming to serve children and youth, which we have been conducting since early this year. It was the subject of a public hearing before the subcommittee on October 10.

I asked the GAO to look into the process by which the U.S. Agency for International Development registers charities which are soliciting funds from the American public to be sent to aid programs abroad. More than 90 groups—including some which emphasize services to children—are currently registered. Many of these groups advertise that registration on their solicitation materials.

Specifically, I requested GAO to study the administrative process involved in registration; and to audit and examine the activities of five groups which are currently registered. The groups on which audits were requested all emphasize children's services in their programs or advertising. They are the American Korean Foundation, Christian Children's

Fund, Foster Parents Plan, Holt Adoption, and Save the Children Federation.

I was most encouraged by the results of the investigation. GAO found no major deficiencies and no illegalities in the operations of any of these organizations. As has been the case throughout our study of children's charities, most of the groups were found to be conducting important, humane programs of critical importance to the persons who benefit from them. We were impressed by the dedication of the staffs of these groups and by the great amount of good that they are doing. For this reason I am very concerned about a number of press reports that have suggested that GAO found major problems in all of the groups studied.

The record should show that GAO found four of the groups generally operated good programs and managed their money well—American Korean Foundation, Foster Parents Plan, Holt Adoption, and Save the Children Federation. In only one case—that of the Christian Children's Fund—were the management problems a matter of serious concern. And at the subcommittee hearing, the executive director testified that remedial action on these problems was already under way.

GAO also concluded in its report that registration of these types of groups by the Agency for International Development should not be accepted by the public as a guarantee of their reliability, because the Agency does not bother to monitor and audit their activities.

Private, charitable efforts for children and youth provide an absolutely essential part of any strategy for dealing with human problems. It has been my intention throughout this investigation to encourage and support those efforts wherever possible. I sincerely hope that these voluntary efforts will continue to play a major role in improving the quality of life, and that our public policies will continue to encourage them.

THE ENERGY CRISIS

Mr. BARTLETT. Mr. President, the energy crisis is a tremendously complex problem. A thorough and thoughtful analysis by all of us in Congress is essential before we act on critical energy legislation. In this regard, a speech recently given before the Independent Petroleum Association of America by Dr. Edward Mitchell, director of the National Energy Project of the American Enterprise Institute, is especially enlightening.

In his address, Dr. Mitchell discussed the domestic energy shortage from an economist's viewpoint. His analyses of both the causes and the solutions to our energy problems are particularly astute. I encourage all Senators to read his remarks.

I ask unanimous consent to have Dr. Mitchell's speech printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF EDWARD J. MITCHELL

Suppose that oil had never been discovered in North Africa or in the Middle East. Suppose that the entire region from Gibraltar to Afghanistan contained not a drop of oil. Would we have an energy crisis today? When this question was posed a couple of weeks ago at a conference of our National Energy Project, Herbert Stein, President Nixon's chief economist, answered with an instantaneous "no." Later that evening at dinner, I posed the same question to Alan Greenspan, Washington's new chief economist, and just as promptly received another negative reply.

To these distinguished economists, to Charles Murphy of Murphy Oil, the man who first asked the question, and to myself, the negative answer was obvious and required no pause for reflection. Yet when I ask that question of most intelligent people, including some oil men, they are just as confident the answer is yes. And when I tell them how the economists answered, they are often flabbergasted.

If my opinion poll is accurate, economists have a rather unique perception of our current energy dilemma. Enormous fields of cheap oil in the Middle East now co-exist with an energy crisis, while in the minds of these economists the absence of this oil would have left us without an energy problem. One obvious conclusion to draw is that scarcity of energy is not the cause of the energy crisis. Certainly this is a controversial view. One needn't be reminded of the surfeit of doomsday pronouncements to be aware of the widespread concern about running out of energy.

Today I would like to offer you the perspective of one economist on the energy problem and attempt to elucidate this seemingly strange viewpoint.

First let me deal with the doomsday argument. I think that most economists who have thought about it regard this argument as naive. We have been hearing it for more than a century and the predictions of catastrophe have never come to pass. In the field of petroleum resources the IPAA has probably done as much as any organization to debunk this argument. You have pointed out that as early as 1866 the U.S. Revenue Commission was concerned about having synthetics available when crude oil production ended. And that in 1914 the Bureau of Mines estimated total future U.S. production at 6 billion barrels—an amount we now produce every 20 months.

Government experts have told us not only that there isn't any more oil, but also where it isn't going to be. In 1891, Dr. McKelvey's predecessors at the U.S. Geological Survey assured us there was no chance of oil in Texas.

But these guesses at physical quantity are beside the point. Economists whose subject matter is scarcity, do not measure scarcity by physical supply. The price that equates supply and demand is the proper measure of scarcity. If we look at real energy prices, we find that the American consumer is paying about the same for energy today that he did in 1950. One can not argue on the basis of cost that energy is becoming more scarce.

If we are not facing increasing scarcity, what is the energy problem all about? In my view there are two causes of the current crisis. First, there has been an extremely abrupt change in energy prices in the world market. While it is true that real energy prices are about the same in 1974 as in 1950, the course between those two years has not been steady. From 1950 to the middle of 1973, prices fell continuously, and in every five year period fell faster than in the previous five year period. Up to the middle of 1973, we had an accelerating decline in energy prices that left the real price 25 percent below 1950 levels. In the next year, energy prices gained back all of that decline and a bit more.

This pattern of accelerating decline and extremely sharp reversal has little to do with the physical scarcity of oil. Prices fell in the 50's and 60's primarly because competition in the world oil market was driving crude prices down toward Middle East costs of production. Prices have risen in the past year because competition in the world oil market was brought to a halt when an organization of oil exporting countries began to operate effectively as a cartel. The shift from competition to cartel accounts for the upsurge in world energy prices.

The second factor is that within the United States there has been in the last decade harmful regulation imposed upon the energy sector in the form of absurdly low price ceilings on natural gas, severe limitations on the use of Federal lands, and out-moded treatment of monopolies that produce electric power. Even if world markets had continued their competitive trends, we would still have had trouble at home in the petroleum and electricity markets.

The abrupt change in world oil prices is what brought about the crisis as the public knows it. Had energy prices remained stable over the last quarter of a century it is doubtful that anyone would be losing sleep over the energy problem today. Certainly we would have nothing resembling the panic that now exists in the United States and abroad. Had real energy prices remained constant over the years we would have experienced gradual rises in the money or nominal prices of gasoline, heating oil and electricity and consumers would not have been induced by low prices to drive bigger cars, waste heating oil in uninsulated homes and purchase inefficient electric appliances. Energy consumption today would be significantly lower in the home and in industry.

On the supply side, we would be much further along in the utilization of oil shale, tar sands, coal and other non-petroleum sources. In brief, we would be very close to the kind of energy economy envisioned by forecasters for the late 1980's and 1990's. Instead, we have had the luxury of very low energy prices but have had to experience the pain of getting back on the track in such a short period of time. The movement has been so fast that we have been going through the economic bends and a certain amount of decompression is in order.

It is not true that the rapid inflation now being experienced in most western countries is a direct consequence of these world oil difficulties. Certainly there is going to be a transfer of wealth from the oil consuming to the oil producing countries. However, responsible monetary and fiscal policy would assure that this transfer would be accomplished without measurable effects on the rate of inflation. The classic economic response would be to permit a decline in both money and real incomes in the consuming countries. Apparently, it is more politic to attempt to hide the real income transfer by allowing prices to rise and to accomplish the move of wealth through inflation rather than through income reductions. Either way we choose to go there is no way around this massive movement of wealth short of drastic changes in the foreign policies of consuming nations.

The problems that nations such as Italy have in maintaining balance of payments equilibrium are due in part to the fact that Middle East oil is so cheap to produce. If ten dollar oil cost ten dollars to produce, Arab nations would have to spend all their oil revenues on the supplies necessary to produce oil. These supplies could be bought only from the consuming nations. How well any particular consuming nation fared would depend on its ability to compete in this market.

But instead, much of the oil revenue generated does not return automatically in the demand for consuming nation products. It is completely free, totally discretionary money that often cannot be spent sensibly on imported products. The funds must be held in the form of monetary or real assets of the consuming nations who compete for these funds not in the import markets of the oil producers, but on the basis of the overall quality of their currencies and the stability of their governments and private property institutions. In this competition, the strong get stronger and the weak get weaker.

Thus, the pains caused by high oil prices are exacerbated by low oil costs. Once again we are the victims of abundance.

In summary, the existence of cheap oil has afforded us cheap energy for a couple of decades, but its concentration in one geographical location has allowed a cartel to form and take away these benefits so quickly as to create a shock to the international economy. The crisis is not in the price of oil, but in the dramatic change in the price in a short time period.

At this point in a speech I am normally expected to say something about the future. From the foregoing remarks you can readily see that the energy future will depend not so much on what economists, businessmen and scientists do, but on what governments do. This has clearly been the case for the last several decades in the United States. For this reason forecasts of energy prices and consumption have been wide of the mark. Indeed if past performance is a guide, little faith should be placed in any energy forecast. Given the recently increased dependence of energy supply and demand on government behavior, the prospects for accuracy in future forecasts are dismal.

There is, however, something important that can be said about the way we look at the energy future. Most projections oriented towards influencing energy policy deal with highly aggregative figures and with over-all growth scenarios in an attempt to reconcile future energy demand and supply. I believe this approach is a miserable way to go about making energy policy. In the first place, as I have indicated, the forecasts are almost certain to be wrong. But more important, this conception of the energy issue offers no intelligent basis for making policy choices. If you asked me whether I would prefer a 2% energy growth or a 4% rate, I could not give an intelligent answer, nor could anyone else. The overall energy statistics have almost no policy meaning. What I suppose people have in mind is that by going through this arithmetic exercise we can learn how to balance future demand and supply and avoid energy shortages. But energy shortages are not a problem. The market-place has been balancing supplies and demand efficiently for millennia. The task confronting energy policy makers is to choose policies that help individual citizens more than they hurt them. We choose policies because they make people better off, not because they balance two columns of numbers. The only way to make good energy policy is to study in detail the human consequences of each decision and make the choice on the merits of each individual case.

There is another fault with the macro or aggressive approach: it requires a high degree of government planning and control. Yet we know from recent history that the sectors of greatest government control are the ones that give us the greatest headaches.

The government cannot successfully program the future by blueprinting supply programs for oil, coal and other energy sources or by postulating elaborate conservation programs with rationing, or as it is now euphemistically known, allocation. Almost certainly such programs will result in either large surpluses or shortages, and more important, unnecessary costs. What is called for are institutions that are responsive to change and self-correcting in the face of mistaken premises. The market is such an institution. The political and bureaucratic processes as we know them today are not.

In spite of our limited capacity to predict the energy future, there is a great deal we can say about the proper policy choices that should be made. Some policies have benefits to society that are so obviously greater than their cost that we simply cannot hesitate to go forward with them.

First, we must de-regulate the price of natural gas. Regulating natural gas prices at their current levels is no longer intellectually defensible.

Secondly, we should remove controls on the price of oil. The argument for oil de-control is a bit weaker than for gas because the oil market has not had as much time to get messed up under controls, but I have every confidence the FEA will catch up quickly to the FPC.

Third, we should open up promptly, for competitive leasing, the outer continental shelf and the naval petroleum reserves.

Fourth, we should speed up government licensing and regulatory procedures, particularly with regard to nuclear power plants. To cite a prominent example, the nation has lost tens of billions of dollars from the delay in the Trans Alaska Pipeline alone.

My final recommendation is to carry out the preceding four recommendations immediately. One of the greatest problems facing our economy is the uncertainty surrounding government policy in the energy field. Businessmen and consumers must know the rules of the game if they are to make sensible decisions about future consumption and production. It may well be better to adopt a clear-cut mediocre energy policy today than to stumble along as we are even if it leads to a better policy five years from now.

One of the worst mistakes that could be made would be to view the energy problem as primarily something that might happen in the year 2000 unless we take action on a crash basis today to develop more energy sources. New energy sources will be developed and certainly we should attend to their development. But the main energy problem is now and for the next ten years. We must permit the economy to adjust to the new level of prices instead of resisting the inevitable. Indeed, freeing American consumers and producers to adjust to the price of energy is the best single thing that can be done to reduce the price.

KIDNEY DISEASE: "WE LOST"

Mr. HARTKE. Mr. President, during the past several months, I have had printed in the RECORD thousands of words and hundreds of statistics about the chaos which has existed within the Department of Health, Education, and Welfare and the Social Security Administration in the management of the kidney disease program. The distinguished Senator from Louisiana (Mr. LONG) and I sponsored the amendment which established that program 2 years ago, but I regret to say that our hopes have been unfulfilled.

I cannot ignore the fact that there have been several significant improvements in the kidney program in recent months. Most hospitals and patients are being reimbursed in a reasonably timely fashion, problems between the Social Security Administration and the Veterans' Administration have been resolved, and new proposed interim regulations have just been issued. But all of that progress pales in comparison to a recent letter which I received from a bereaved young woman from California.

She wrote to me about the death of her husband. He had suffered from chronic kidney disease for some time and had more recently received a kidney transplant.

Wayne Ritchey lived in El Centro, Calif. To receive dialysis treatments 3 times a week, Wayne drove 250 miles round-trip to a facility in San Diego. There were two hospitals near his home, but neither had a dialysis facility.

Wayne Ritchey's plight came to my attention because his uncle is a friend of mine. It was through his uncle that I learned that money had been placed in a bank account to purchase a dialysis machine in El Centro. There were some 13 people in that remote area of California who made the same trip Wayne Ritchey made 3 times every week, and the community had raised the money to provide these people with the treatment they needed.

Bureaucratic delay played its ruthless game. For months, my office worked with hospital representatives in El Centro and with health officials in Washington, D.C., in an effort to get a dialysis treatment program underway. During those months of waiting, Wayne Ritchey got his transplant, and his family and I shared a common prayer that he would accept the transplant and live in good health. But Wayne Ritchey died on August 26.

A few weeks before his death, I wrote Wayne to find out how he was doing. When his wife wrote to tell me of his death, she included a letter which Wayne had started to write to me just before he died. He speaks of his difficulties in obtaining treatment, of being shuttled from one facility to another, of feeling that nobody cared.

Wayne Ritchey did not have a chance to finish his letter to me, but his wife filled in where Wayne left off. She also speaks of the agony and the frustration which Wayne went through in an effort to remain alive.

Mrs. Ritchey's final paragraph says: "We lost," and I share her grief as I am sure that it is shared by my colleagues. But I intend to redouble my efforts to make the kidney program work, and to make the delivery of quality health care a reality for every American. I did not fight for a kidney disease program so that people like Wayne Ritchey would lose. I wanted to see an end to the loss of needless lives because people who did not have the money to take advantage of the advances made by medical technology would be able to go on dialysis or get a kidney transplant.

Mr. President, in a postscript to me, Mrs. Ritchey says,

> If there is any way I can get my story out about the tragedy of dialysis and transplants I wish you would let me know.

In an effort to begin to spread her story, I ask unanimous consent that the text of Mrs. Ritchey's letter to me together with the text of her late husband's uncompleted letter to me be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Sept. 22, 1974.

Dear Senator Hartke:

Wayne died August 26.

I found this letter that he had started and although its not completed it will give you some small idea of the problems.

As an observer I can only say that the problems are horrendous and will only become worse through the thing that was to be the most help to the victims of catastrophic diseases, MediCare. I'm afraid that it will be terribly abused by the doctors with little benefit to the patient. I was shocked at the open conflict between the surgeons and nephrologists. When it gets to the point where the patient is aware of the fight between these two groups over top billing and their share of the money its bad. Those are the problems at the top and they continue on down the line. The promise of the continuation of life is offered with very little support. People too sick to get themselves to dialysis centers (paying twenty-four dollars a day taking cabs and buses, begging friends and neighbors to help you), people too sick to fix a lunch on the only day they can eat what they want and hoping that someone will be around to go out and get you something and then almost the last straw getting off the machine with a blood pressure of 30/60 and as soon as you show any signs of life at all being thrown out on the street to find your way home the best you can.

All in all its a very inhuman and degrading experience. It has an effect on all who surround you(,) family, friends to say nothing of your finances.

I deeply appreciate your help and concern through our long struggle. We lost. But maybe we made the road easier for someone else. I hope. If I can give you any more information please let me know.

With deep appreciation,

(signed) Barbara Cecere Ritchey.

P.S. If there is any way I can get my story out about the tragedy of dialysis and transplants I wish you'd let me know.

Dear Senator Hartke:

Thank you very much for your letter expressing your best wishes for my health.

I am sorry it has taken so long to reply but the problems I had with dialysis were so numerous I didn't know how to answer.

The troubles started with my initial hospitalization for high blood pressure. The diagnosis of the cause of the hypertension was failing kidneys, and the cure or remedy was dialysis. The hospital I was in did not have a dialysis unit so I had to arrange transportation to another hospital approximately ten miles away. My wife and mother drove me back and forth, however, my treatments were in the evening and I didn't finish till 10:00 to 11:00 PM and then they had to return from San Diego to El Centro, a trip of 120 miles. I feel I should have been transferred to the University Hospital or one of the other hospitals in the area with a dialysis unit when I was diagnosed as having renal failure.

After stabilizing my blood pressure via dialysis and heavy medication I was discharged and assigned dialysis treatment at Bio Medical Dialysis Center, a private corporation located in San Diego. My schedule was three days a week from 7:00 a.m. to 1:30 p.m.

NEED FOR A GAS TAX

Mr. PERCY. Mr. President, there appeared in the Sunday, November 10, edition of the New York Times, an article by Tom Wicker which is particularly timely and noteworthy.

While several national leaders have acknowledged that fuel conservation is one of the fastest and soundest means of reducing our energy shortages, there is no consensus on the actions needed to achieve this conservation. The President has asked all Americans to voluntarily conserve, but I, for one, do not believe that this will be enough.

Stricter measures will have to be taken if we are to appreciably reduce fuel consumption. The gasoline tax, which I have favored, is one method which strikes at the heart of the problem.

Tom Wicker makes an effective argument for a gasoline tax which my colleagues should find most interesting.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

One Way To Bite the Bullet

(By Tom Wicker)

George Meany cut through a lot of baloney when he said the Democratic victory in the Congressional elections was not a "mandate" for anything, but a voter reaction to "all the scandal and the collapsing economy." If the hundreds of Democratic Congressional candidates around the nation were advocating some coherent economic program which the voters duly endorsed, that fact was not apparent to anyone but Democratic Chairman Bob Strauss.

It would be fair to say, nevertheless, that if the election had any meaning at all, it was not to validate the economic records of the Nixon and Ford Administrations. Instead the returns logically implied that voters would like to see more effective control of inflation and less unemployment, and that they don't think Mr. Ford is doing much about either.

So now that the immediate necessity to face the wrathful voter is out of the way, both the executive and legislative branches should find the courage to take necessary economic steps. Right? So far, the indications are not encouraging.

Mr. Meany probably was correct that when Democratic Congressional leaders talk of wage-price controls, they really mean granting authority for Mr. Ford to impose such controls, when, if and how he sees fit—*you* do it, Jerry. Mr. Ford himself is not even willing to concede there is a recession, which hardly suggests he is willing to bite that mythical bullet everyone talks about. And what leading Democrat, secure in his new term, has yet talked of such a muscular move as a stiff increase in the gasoline tax?

This is a proposal that Mr. Ford dismissed more or less out of hand. Then he apparently dismissed his energy administrator, John Sawhill—but not his Treasury Secretary, William Simon—for advocating it anyway. Democratic leaders like Senators Mondale, Muskie and Eagleton have shied away in holy horror. Yet, this many-edged proposal has much to recommend it, when it comes to bullet-biting.

A gasoline tax would be the quickest and most effective means of imposing the kind of oil conservation on American consumers that is the most useful response to the general energy crisis and to the threat of another Arab oil embargo. High American oil consumption is one of the prime causes of the energy crisis and its reduction—by real, not token amounts—is necessary both to a long-term energy solution and to reduce the immediate effectiveness of the Arab oil weapon.

A gas tax increase would effect that kind of conservation without affecting the more vital uses of oil—for home heating and industrial fuels. It would eliminate the need for gasoline rationing. It would drive down demand, rather than reducing imports and making demand conform, as the French are trying to do. It might even lead the Federal Government out of its shortsighted refusal to provide adequate funds for mass transportation development. Fewer automobiles in the cities could improve urban life, and gasoline conservation would do much to remove air pollution from the long list of national problems.

A gasoline tax increase would have more anti-inflationary impact than Mr. Ford's proposed 5 per cent surcharge on income taxes, making the latter unnecessary. A ten-cent increase, for example, would bring in an estimated $11 billion in additional revenues—taking $6 billion more out of the public's pocket than the surcharge would.

As for poor families who would be disadvantaged, they are estimated to use less than a third as much gasoline as the average American consumer, and the increased tax could be rebated to them at small cost and without much effect on gas conservation. The remaining revenue increase would be ample to finance both low-income tax relief for those hit hardest by inflation and a public-employment program (perhaps with emphasis on mass transit facilities) for those thrown out of work by the slack economy.

On the other hand, a gasoline tax increase would have severe impact on the automobile industry, which is already in a slump. But recurring oil shortages or gasoline rationing or any of the visible alternatives are not going to be much better for the auto industry, which is going to be driven in any case to making smaller cars and more efficient engines—perhaps with Government tax credits to help cushion the transition.

A gasoline tax increase would be unpopular and cause much dislocation in an automobile society, but neither the economic nor the energy problem can be dealt with by half-measures and easy promises and who knows? Maybe American voters are smarter and tougher characters than the polls think. Maybe they might be willing to take their medicine—grumbling all the time—if somebody they trusted had the guts to say the medicine was good for them. And maybe somebody who showed that kind of guts would be trusted.

Such a somebody should also advocate opening the highway trust fund to general transportation uses. That's a logical next step after a gasoline tax increase, and just in case the public won't accept the latter, there's an old saying that goes, "You might as well be hung for a sheep as a goat."

ANNOUNCEMENT OF POSITION ON A VOTE

Mr. STEVENSON. Mr. President, I was necessarily absent from the Senate on Tuesday, November 19, 1974. Had I been present for the vote (No. 485 Leg.) on final passage of the conference report on S. 386, the Urban Mass Transportation Assistance Act of 1974, I would have voted "aye."

Mr. CURTIS. Mr. President, the cargo preference bill also referred to as the Transportation Security Act of 1974 is a direct attack on our economy. The Senate should defeat the pending conference.

I ask unanimous consent to have printed in the Record a statement made by me at a press conference today together with a backup statement of mine entitled "You Can't Win With Cargo

Preference" and also a letter from the Secretary of Commerce dated November 18, 1973.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Remarks of Senator Carl T. Curtis

Thank you, ladies and gentlemen of the media for coming.

On September 5, when the Senate passed H.R. 8193, a highly controversial bill that would require up to 30% of America's oil imports to be carried on domestic built and registered tankers by a vote of 42 to 23, many Senators due to campaigning and other reason were necessarily away and, therefore, were not present for the debate. During that debate, the question of the inflationary impact of this Cargo Preference Bill did not come into sharp focus.

President Ford, in his recent address to the Joint Session of Congress labeled inflation as "Public Enemy Number One" and requested the Congress to prepare inflationary impact statements for each Bill. As far as I know, to date no such study has been prepared for H.R. 8193. For this reason, I asked a cross-section of the American economy to comment on the inflationary consequences of H.R. 8193 prior to the Senate's final consideration of it.

I wrote to renowned economists of numerous economic persuasion—including all those whom President Ford invited to participate in his recent White House Summit Conference on Inflation; to Federal Agencies; and to people from areas of American life affected by H.R. 8193.

I can say today, as a result of this investigation, that H.R. 8193 is unquestionably, undeniably, and unconscionably inflationary. And, enactment of this legislation will result in unnecessarily higher prices to every American consumer.

Every written response received to date agrees that the Bill is highly inflationary to the American economy. They differ only on exactly how inflationary the Bill will eventually prove to be.

I was gratified to see that President Ford, in his legislative message earlier this week specifically voiced his concern about H.R. 8193 when he stated,

"Although I fully support a strong U.S. merchant marine, I am seriously concerned about problems which this bill raises in the areas of foreign relations, national security, and perhaps most significantly, the potential inflationary impact of cargo preference."

I have sent a compilation of the responses I received to the President—which clearly reaffirm his concerns—for his consideration and will send them to all of my Colleagues.

I am sure that my Colleagues here in the Senate agree with me that a strong vibrant Merchant Marine is necessary and that the proper federal approach in trying to achieve this goal is best expressed in the Merchant Marine Act of 1970.

The evidence is clear. This vote will prove to be an important test of Congresses's commitment to begin ending the insidious inflation that tends to erode public confidence in our economy and which hits hardest at those on fixed and lower incomes. The Senate has the opportunity to convince the American people it intends to fight "Public Enemy Number One" by defeating the Conference Report on H.R. 8193.

An objective appraisal of these responses will lead others to conclusively agree with me that you can't WIN with Cargo Preference.

You Can't Win With Cargo Preference

(By Carl T. Curtis, U.S. Senator)

On September 5, 1974 the Senate passed H.R. 8193 by a vote of 42 to 28. Soon we will have a chance to rectify that mistake by defeating the Conference Report on this Cargo Preference legislation.

Though many of us were necessarily absent from that vote, I wish to commend my dear friend and distinguished colleague, Senator Norris Cotton of New Hampshire, for his outstanding efforts in trying to warn the members of the Senate of the consequences of enactment of H.R. 8193. Also. my compliments to those Senators from those Eastern Seaboard, energy consuming States, who realized that the Nation in general and in particular the 40% of the population they represent that consumes 70% of our energy imports would be seriously hurt by the higher fuel prices inherent in H.R. 8193 and therefore opposed the Bill.

During the earlier debate, however, the question of the Bill's inflationary impact did not come into sharp focus.

Since President Ford has accurately described inflation as America's "Public Enemy Number One," I asked for expert opinion on this Bill's economic impact from a broad sampling of the Nation's leading economists as well as persons in both the public and private sectors who are in a position to know and assess the legislation's impact. All told, I sent approximately 60 letters requesting their assessment of the inflationary impact of H.R. 8193.

What clearly emerges from every response from this cross-section of economists of virtually every economic persuasion and from the citizens whose interests transcend philosophical differences is that H.R. 8193 is unquestionably, undeniably, and unconscionably inflationary and enactment will result in unnecessarily higher prices to every American consumer.

The responses speak for themselves:

Walter Heller, Regents' Professor of Economics, University of Minnesota referred me to his comments on H.R. 8193 which he made during his remarks at the recent White House Summit Conference on Inflation. He said, on September 28, 1974:

"A painful and current case in point is the Bill just passed by Congress to require 30% of U.S. oil imports to be carried in U.S. flag tankers, which will cost American consumers hundreds of millions of dollars. One hopes that this fatted calf will be stillborn."

Paul A. Samuelson, Institute Professor of the Department of Economics at the Massachusetts Institute of Technology said:

"A jury of economists of all shades of political opinion would largely concur that this legislation would add to the current inflation, and would subtract from the real standard of life of the American people—without at the same time adding any worthwhile national security or protection of our energy resources.

"Indeed, at the Second Summit Meeting of Economic Experts, at the Waldorf in New York, of the 23 economists present, 21 expressed themselves as being opposed to precisely such measures as this one. Of the two who refused to approve the general statement of the other 21 economists, one was the AFL–CIO representative.

"I believe this is one measure that members of both political parties can join in rejecting."

Paul W. McCracken, Professor at the Graduate School of Business Administration at the University of Michigan says:

"I regard this Bill as an excellent illustration of how a narrow special interest can triumph over the general interests. Any member of the Senate or the House who has been expressing deep concern about the high cost of gasoline and oil to consumers would be displaying hypocrisy if he votes for this Bill. That is a strong statement but it is, I believe a fair statement."

C. Jackson Grayson, Jr., of Southern Methodist University Department of Economics says:

"Though I cannot express my views in quantitative terms, I can certainly say that this will raise the price of oil and is inflationary. It is a piece of legislation which aims to help a sector of the economy, but ends up asking that the rest of the economy pay for the price. The simplest response I can make is that this act, if passed, will drive prices up."

Otto Eckstein of Harvard University's Department of Economics says:

"This legislation would seriously compound our inflationary difficulties, contribute to our energy problems and all without significant redeeming social value.

"If the Congress and the President find themselves unable to resist the political pressures for this legislation under the current economic circumstances, then our political-economic system is in very deep trouble."

John Letiche, Professor of Economics at Berkley put his comments rather strongly by saying:

"It is most regrettable that no 'Inflationary Impact Statement' has been prepared on this ill-advised legislation: For it would definitely reach the conclusion that this Bill would aggravate the already deleterious inflationary pressures upon our economy. It cannot but have the effect of raising the price of imported crude and, thereby further inflating the price of gasoline, heating oil, fertilizer and numerous other petrochemical-related products. According to my estimates, the 'Energy Transportation Security Act of 1974' would have the net effect of raising the price of gasoline above 1 to 2 cents a gallon.

"The evidence is incontrovertible that this ill-chosen Act would seriously aggravate the already existing shortages in basic industries, such as steel.

"The distortion in the balance of free collective bargaining that this legislation would bring about injects a political factor into the collective bargaining process that is bound to have deleterious effects upon the Nation's objectives of fighting inflation, reducing monopoly power and negotiating a code of trading principles under the GATT which would reduce rather than exacerbate the cartelization of foreign trade and the disruption of the international financial structure.

"The passage of H.R. 8193, and its resulting rise in the price of crude, will put into jeopardy the credibility of our Government's attempt to struggle with inflation. It opens the door to the cartelization of trade in other basic commodities in short supply, such as iron ore.

"From the point of view of political economy, there is nothing to justify the passage of this legislation; particularly since the Maritime Act of 1970 is well suited to the legitimate expansion of the Merchant Marine."

Milton Friedman of the University of Chicago's Department of Economics was equally strong in his comments when he said:

"The requirement that a specified percentage of all oil imports be carried in U.S. built tankers is an unconscionable special interest measure that, so far as I can see, has no redeeming feature whatsover.

"The measure would burden the consumer, undermine our policy of promoting expanded international trade, and increase government spending—and all in order to provide employment to classes of labor that are already short and high paid.

"By increasing government spending, this measure would foster a more rapid increase in the quantity of money; by wasting resources, it would make for a lower level of output; both effects would be inflationary unless offset by reductions in spending elsewhere. In the present situation, such reductions are difficult to envision.

"I conclude that the public interest clearly requires the defeat of any provisions requiring oil to be carried in U.S. built registered tankers. We profess to believe in freedom and free trade. We should practice what we preach."

Yale University's Richard Cooper agrees with his colleagues:

"I believe this bill would be highly inflationary, in the worse sense of raising real costs, and should be defeated.

"In addition to raising the prices of petroleum products to the already beleagured consumers, this provision would raise the production costs of American manufacturers and this reduces their competitiveness in world markets. I am, therefore, highly skeptical of any alleged balance of payments benefits from this provision because of this loss in competitiveness."

I will place responses from other economists in the Record as I receive them.

The various Agencies I wrote appear to be equally unanimous in opposition to H.R. 8193. For example,

Assistant Secretary of State, Linwood Holton, wrote:

"H.R. 8193 would extend cargo preference for the first time to the area of commercial cargoes and would not only set a precedent but would counter the United States policy of encouraging to the extent possible, international fair trade for shipping. It would violate commitments made in more than thirty of our Friendship, Commerce, and Navigation Treaties with many countries. The enactment of H.R. 8193 would certainly be tantamount to encouraging similar, but more drastic, moves on the part of the oil-producing countries. It would not only greatly affect the flexibility now enjoyed by importers in meeting supply demands, but it would affect, as noted below, the cost of this supply. Finally, many maritime nations, including NATO alliance countries, have already voiced serious reservations regarding the restrictive nature of H.R. 8193, and thus its passage could vitally affect future diplomatic relations with these nations.

"Once the U.S. approves the concept of petroleum cargo preferences, similar legislation at a higher percentage, as a *condition of supply* may very well emerge from the producing Nations. Accordingly, in such a captive market, a foreign government which controls both source and transportation could conceivably raise prices to nearly any level it wishes in the current energy shortage climate. Diplomatic efforts on our part would then have little logical basis.

"The Department of Agriculture has indicated it opposes H.R. 8193 because in its total concept the Bill would not serve the best interests of the American farmer. Specifically, the legislation would impose added costs of at least $.50 per barrel for every barrel of petroleum imported. Hence, as the cost of imported oil increases, the price of domestic oil will tend to rise proportionately. With the agriculture industry consuming more petroleum products than any other industry, it is estimated that H.R. 8193 will cause an increase of farm fuel costs of $35 million per year and an increased total to agriculture of at least $175 million per year. These higher costs will inevitably be passed along to the consumer at the supermarket and would be clearly inflationary. Additionally, H.R. 8193 would establish an unfortunate precedent for the possible extension of U.S. flag preference measures to other commercial imports and exports such as grain and other agricultural commodities. Accordingly, the higher petroleum costs and the possible extension of flag quota requirements to the agricultural sector would have a repressive effect on U.S. agricultural expansion and would impair agriculture's significant contribution to the U.S. balance of payments.

"In conclusion, the cargo preference provisions of H.R. 8193 are, in comparison to direct subsidy, an inefficient and cumbersome means of promoting the merchant marine—particularly since its implementation would interfere and cloud the deliberate nature of foreign policy, while at the same time drastically fueling the fires of domestic inflation to the detriment of the American people."

Rogers C. B. Morton, Secretary of the Interior, commented:

"To the extent that enactment of H.R. 8193 would cause this capacity to be used to transport insecure imported oil instead of building OCS drilling rigs to increase domestic production the 'Energy Transportation Security Act' would in fact contribute to our overall energy insecurity."

Assistant Secretary of Defense (Installations & Logistics), Arthur I. Mendolia, noted:

"The United States has become, and will remain for some years into the future, an oil-short and refinery-short nation dependent on multiple foreign sources of crude oil and refined products to sustain its economy in peacetime and to insure adequate petroleum resources for the Nation's security in time of war. We cannot expect the nations which produce or refine that oil, however friendly they may be, to look with equanimity on unilateral American legislative actions which would dictate in part the flag of the vessels which call at their ports to carry away their crude oil or refined products, or deliver crude oil to their refineries. H.R. 8193 would so dictate, and should it become law, we must realistically anticipate counter actions which would led to compartmentalization of the world's tanker fleets on a national flag basis. Eventually, most tankers would be controlled by governments which are likely to be parties to, or vitally concerned with future potential crises in international oil supply, whether caused by economic, political or military reasons. The great flexibility in employment of the world tanker fleet which we have always enjoyed in the past would be gone, with potentially harmful results in an emergency."

I must comment here that although repeated attempts have been made to register Mr. Nader's position on this Bill, he remains conspicuously silent on a Bill adversely affecting American consumers. However,

Virginia Knauer, Special Assistant to the President for Consumer Affairs commented:

"I share your misgivings about this legislation and I think you will be interested to know that I wrote Sentor Long in June of this year to state for the record my concerns about the detrimental effects on the consumer and inflation which this legislation is likely to have."

In that letter of last June to Senator Long, she made the following comments on behalf of the consumer:

"Passage of oil cargo preference legislation is virtually certain to cause an increase in consumer's cost of living. This is particularly unfortunate in light of the high inflation which currently confronts us.

"While estimates vary regarding this legislation's general inflationary consequences and its effect on the prices of specific consumer goods and services, the increases will be appreciable. The American consumer simply cannot afford this.

"Some proponents of the legislation say that these increases are minimal and therefore bearable by consumers. I say that such a position is hostile to the interests of consumers. The increases—even by conservative estimates—will amount to literally millions of unnecessary dollars out of the pockets of American consumers every year. Moreover, the cumulative effect of the assault of 'minimal price increases' upon the consumer's buying power can be truly unsettling, as we are seeing at the present time.

"There are signs of improvement on the inflationary front. It is especially important now that we protect our advantage by firmly resisting temptations which would strengthen the forces of inflation. One way that we can be effective in this regard is to defer on cargo preference legislation.

"Beyond its inflationary implications, I am also concerned by the fact that implementation of this legislation is very likely to reduce the supply of petroleum imports to the United States, and worsen the energy shortage already facing consumers. William E. Simon has stated that this legislation could hinder our progress toward Project Independence whereby we hope to guarantee ourselves a secure and adequate energy supply for the years ahead.

"Spot purchases of oil from foreign refineries account for a significant portion of our imports. I understand that passage of this legislation would interfere with these transactions and could result in the loss of as much as a half million barrels per day for the United States.

"Moreover, exporters of oil to the United States may become disenchanted with cargo preference red tape and turn to other markets instead of those in the United States.

"The increases in price and limitations on supply would be objectionable if borne evenly by all consumers throughout our nation but they become even more unpalatable when localized in those areas most dependent on foreign oil. In 1970, approximately 70 percent of oil imports was needed by the 40 percent of our population which resides in the 17 Eastern seaboard states, and this disparity is projected to become even greater in the next few years. In addition, there are other states—such as Hawaii—which are also largely dependent on waterborne foreign oil imports. Consumers in these areas will feel the sting of this legislation the worst."

Mr. Larry F. Roush, Acting Assistant Administrator for the General Services Administration stated:

"The bill has been of concern to GSA, and particularly its Office of Preparedness, in view of the current shortage of keel space, copper, steel, and manpower in the shipbuilding industry. Enactment of H.R. 8193 would exacerbate these problems by increasing demand, which at the same time would have an obviously adverse inflationary impact."

Members of private industry are also deeply concerned about the inflationary impact of this Bill on the American consumer. For example:

Mr. E. Douglas Kenna, President of the National Association of Manufacturers said:

"We believe that H.R. 8193 is a completely bad bill—highly inflationary and adverse to the manufacturing community, the economy, and the public interest."

Mr. Frank Ikard, President of the American Petroleum Institute made the following comment:

"The analysis shows an added financial burden on the average household in the U.S. amounting to at least $70 per year."

During the debate when the Bill was before the Senate last September, the proponents made a big deal about waiving the 15¢ per barrel import fee on oil (other than residual fuel oil with the fee on residual fuel oil being reduced by 42¢ per barrel) to offset any inflation aspects of the bill. This is apparently not the case at all. In a letter to Senator Magnuson, Chairman of the Senate Commerce Committee of last October.

Mr. John Sawhill, Administrator of the Federal Energy Office made the following comments about this question:

"With respect to crude oil, rebate of the oil import fee would not offset the increased cost of oil imports which would be caused by the bill. It is evident from the above figures that the provision of the bill which provides for a rebate of 15¢ of the oil import fee would not produce any meaningful relief from the increased costs for crude oil which consumers will be required to pay.

"The observations made above with respect to the small amount of crude oil actually subject to import fees in the short term apply to residual fuel oil also.

"We fail to perceive any reason why a rebate on residual fuel should be greater than the increased cost for shipping in U.S. vessels."

Mr. Arch Booth, President of the Chamber of Commerce of the United States in his recent letter to me addressed with clarity the provision of the bill which provides for a rebate of the oil import fee and proved the case that the rebate provision in no way alleviates the inflationary impact of H.R. 8193:

"Over the five-year period that the license fee rebate provision would be in effect, its cumulative potential value is about $850 million. However, the added cost of the legislation over this same period would total at least $6.5 billion and could easily be double this amount if consideration is given to the possible effect of foreign retaliation or imitation. Thus, over the short term, the license fee rebate provision would offer at best a 13% reduction, and in all probability the reduction would be closer to 6%–7%.

"Taking a longer term view, the cumulative cost of the legislation over the 1975 to 1985 period would be at least $25 to $31 billion, and could be double these amounts. On this basis, the $850 million potential value of the fee rebates would represent a 3% reduction at most.

"While there could be a relatively minor reduction in the direct cost to the consumer, the license fee remission features obviously would do nothing to reduce the overall inflationary impact on the economy. It would not prevent the diversion of critically short raw materials and capital into shipbuilding to satisfy the artificially created demand for tankers. It would not reduce upward pressures on shipbuilding costs. It would not eliminate the captive market created for U.S. flag tankers. The only thing it would do is to transfer a small amount of the added cost of the bill from the consumer to the U.S. Treasury, and thus to all taxpayers. In no way would this shifting of the cost burden reduce the inflationary impact on H.R. 8193 on our already troubled economy."

In addition to these comments, the Nation's media is almost unanimous in its opposition to this inflationary kind of special interest legislation.

I was pleased to see that President Ford, in his legislative message earlier this week, specifically voiced his concern about H.R. 8193 when he stated,

"Although I fully support a strong U.S. merchant marine, I am seriously concerned about problems which this bill raises in the areas of foreign relations, national security, and perhaps most significantly, the potential inflationary impact of cargo preference."

I have sent all the material and information I have been able to gather on this issue to the President for his consideration. All of this evidence says one thing loud and clear—H.R. 8193 is bad legislation and would make an economy already racked with inflation even worse. In the simplest of terms, "You can't WIN with Cargo Preference."

Secretary of Commerce,
Washington, D.C., Nov. 18, 1974.
Hon. Carl T. Curtis,
U.S. Senate,
Washington, D.C.

Dear Senator: This is in response to your letter of October 29, 1974, requesting my opinion on the inflationary potential of H.R. 8193 ("Energy Transportation Security Act of 1974").

There is little question that this bill would have significant inflationary impact. The mandatory carriage of a percentage of our petroleum imports in U.S.-flag ships would increase the delivered costs of imported petroleum to the United States, and exert upward pressure on charter rates for tankers carrying domestically produced crude oil and products to refinery and marketing centers in the United States.

The short-term effects of H.R. 8193 on the shipping costs of imported oil can be estimated by comparing the rates necessary to cover the costs of tankers now operating under the U.S. flag and current charter rates in the world market. Since charter rates in the domestic trades would increase to the level of cost-based rates under H.R. 8193, the extent to which current rates are below cost-based rates can be used as a measure of the bill's impact on the cost of domestic oil movements.

The competitive nature of the tanker market tends to keep charter rates in line with the costs of building and operating tankers in the long-run. For this reason, the longer-term impact of H.R. 8193 on the delivered costs of imported oil can be evaluated in terms of the differences between the costs of U.S. and foreign tankers.

The Department's estimates of the magnitude of the inflationary impact of H.R. 8193 are set forth below. The short-term estimates are based on current import levels (approximately 6.3 million barrels per day), and the estimates for 1985 on imports of 10 million barrels per day, and 6 million barrels per day.

[*In millions per year*]

Short-Term:	
Higher import costs	196
Higher domestic costs (shipping)	119
Total	315
Long-Term:	
Imports at 10 million b/d	306
Imports at 6 million b/d	127

The short-term costs represent the premiums associated with using the existing U.S.-flag fleet. The long-term costs assume that modern efficient ships will constitute the U.S.-flag tanker fleet in the mid-1980's.

It should be pointed out that the import license fee remission provision of H.R. 8193 would provide negligible relief from the higher costs associated with this legislation in the early years of the program. Furthermore, the fee remissions will only be authorized for a period of five years and will be terminated at about the same time they begin to become significant.

The import license fee system is to be phased in over a seven-year period. Initially, only imports in excess of the 1973 quota levels were subject to fees and in each succeeding year fee-exempt allocations have been and will continue to be reduced by a fraction of the original level until phased out completely in 1980. Currently license fees are required only on imports in excess of 90 percnt of the 1973 quotas.

H.R. 8193 provides that, for a period of five years, the import fee on oil other than residual fuel oil be reduced by 15¢ per barrel and the fee on residual oil be reduced by 42¢ per barrel to the extent that such oil is imported on U.S.-flag commercial vessels and provided the reduction is passed on to consumers. However, in light of the phased introduction of the fee system, this rebate provision will yield little relief to oil consumers over the period in which the fee remission system is to be in effect.

Because the 1973 quota level of 2.9 million barrels per day for residual fuel oil was well in excess of actual imports in that year (2.0 million barrels per day) and because the phase-in provisions of the license fee system are tied to the 1973 quotas rather than actual imports, it is estimated that it will be 1976 or later before any fees at all will be paid on this import category. Hence, in the early years of the cargo preference there will be no fees to rebate on residual imports.

For imports other than residual the outlook is only slightly better. Even if we assume that 10 percent of our projected 1975 imports in this category enter subject to license fees and further assume that all of the oil subject to fees is carried on U.S.-flag vessels, the total fee rebate would amount to only about $23.5 million in 1975. Clearly this is inadequate to cover anything but a small portion of the added costs of cargo preference in the early years of the program. However, costs which are offset by fee remissions are not eliminated, but simply shifted from the consumer to the general taxpayer.

In summary, H.R. 8193 would impose hundreds of millions of dollars of additional costs on U.S. oil consumers each year. The import fee remission provisions of H.R. 8193 offer only minor relief from these higher costs.

If I can be of further assistance in this matter please let me know.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

Sincerely,

Fred Dent,
Secretary of Commerce.

PROJECT INDEPENDENCE

Mr. **HARTKE.** Mr. President, I have been growing increasingly pessimistic about this Nation's commitment to pursue the objectives of Project Independence, which might more accurately be referred to as Project Survival.

The minimal objective of Project Independence is to achieve some reasonable degree of energy self-sufficiency by the end of this decade. Most observers and analysts recognize that this is not feasible. The earliest we could even begin to achieve national self-sufficiency is 1985. To accomplish even that will require not only dedication, good intentions, and rousing speeches; it will require the Federal Government to commit major resources into a variety or different but interrelated areas. Furthermore, the attack must be carefully planned and centrally coordinated.

In the long run, of course, we will have to go well beyond the full implementation of existing technologies and the exploitation of existing resources. It is imperative that we begin to think in such long-range terms as well; we must remember our obligations to future generations.

I ask unanimous consent, Mr. President, to print in the Record following my remarks, the summary of a report entitled "U.S. Energy Prospects: An Engineering Viewpoint," written by a special task force of the National Academy of Engineering and published under the auspices of the National Academy of Sciences. I believe that the report takes a realistic view of the prospects for short-run energy self-sufficiency, and suggests the magnitude and nature of the commitment that will be required.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary

Suddenly and dramatically, in October 1973, when the Arab oil embargo was imposed, the United States became aware of its dependence on foreign fuel to maintain its productive capacity, employment base, political autonomy, strategic security, and living standard. During the subsequent five months of the oil shortage, the complex of problems, issues, resources, and habits connected with the Nation's energy supply, distribution, and use was a fundamental concern of the government, the industry, and, indeed, the whole American society. In this context, the National Academy of Engineering appointed a Task Force on Energy to provide an informed, reasoned, and prompt assessment of the technological range of actions that would have to be taken if the United States chose to become as independent as possible of foreign sources of energy in, say, a decade—that is, by 1985.

This report presents the analysis, findings, and conclusions of the Task Force. The Task Force concludes that, by any standard, the achievement of energy self-sufficiency in one decade would require enormous efforts but assumes the undesirability of a wartime "crash" program with its implications of government direction and intervention. Basically, it would be necessary to reduce the consumption of energy voluntarily, by means of increased efficiencies and reduced wastefulness, and to develop the fuel resources available in the United States with the best technology now available. Simultaneously, a major program would need to be pursued in research and development on advanced techniques in energy production and conservation for the future.

Central to this report are the roles of government, industry, and the public in advancing a comprehensive energy program in the next decade. The Task Force recognizes that achieving this goal would require a series of intermingled political and social decisions by the American community. The fundamental decisions toward that end should be made this year.

SUPPLY AND DEMAND

On the basis of recent historical trends the demand for energy in the United States could surge to the equivalent of 58 million barrels of oil per day (MBPD) by 1985—more than 55 percent greater than 1973 consumption of 37.2 MBPD. However, if major initiatives are undertaken to conserve the use of energy, the demand by 1985 could possibly be reduced to some 49 to 50 MBPD, which would still require a significant increase in energy supply during the next decade.

In 1973, domestic sources supplied the equivalent of 30.6 MBPD of the energy consumed. The rest came from imports of crude oil and natural gas. Projections made by industry experts in 1972 and in the pre-embargo months of 1973 indicated that domestic supplies could rise to about 40 MBPD by *1985 based* on the then projected large-scale program. This study finds that if appropriate and timely actions are taken, domestic production could be further increased to about 49 MBPD in 1985. If this happens, the Nation's energy demand in 1985 could be satisfied by domestic energy supply sources, so long as significant conservation measures are taken by all consumers.

The gap between the domestic supply capabilities and the demand even with extensive conservation, cannot be closed quickly. Oil imports will probably have to rise to a level of 8 to 9 MBPD by 1978 in order to meet the overall demand by this period. Thereafter, as new domestic sources become productive, the need for oil imports could diminish.

It may not be possible or even desirable to cease importation altogether, even by 1985. This study forecasts that maximum probable domestic production of liquid hydrocarbons from all sources could be about 13.6 MBPD by 1985—still far short of the 1973 consumption of 16.2 MBPD. Therefore, unless major oil conservation practices are implemented, including converting some present uses of oil to more readily available forms of energy, oil will continue to be imported, at least until coal-based synthetic fuels can be brought into large-scale production.

CONSERVATION POTENTIALS

Increases in the price of energy, resulting from inexorably higher costs of development, production, supplies, labor, and capital, will provide a compelling incentive for the voluntary conservation of energy and will help promote the replacement of inefficient machines and methods with more efficient ones. Timely and intensive public information campaigns as well as economic and social incentives could guide business, industry, government, and individual consumers to reduce their energy demands by the equivalent of 8 to 9 MBPD below the historical extrapolations for 1985, the Task Force estimates.

Areas where major savings are considered possible include: increased adoption of small cars with less power equipment, improvement in the efficiency of industrial products and processes, better insulation and more efficient heating and cooling systems in residential and commercial uses, and, eventually, expanded and more effective public transit systems.

While most energy conservation can be achieved through the normal working of economic forces, government leadership will be the key to methodical conservation through such actions as encouraging the labeling of efficiencies and "life-cycle" costs, stressing such considerations in its own purchases and programs, and considering efficiency improvements in allocating grants and financial assistance to transportation systems.

OIL AND GAS PROSPECTS

In 1973, more than 75 percent of the Nation's energy was supplied by oil and gas, of which about 23 percent was imported. With this dependence on imported energy, the oil embargo and price increases for imported oil came as a rude shock to the U.S. economic, political, and social structure.

The 1973 domestic oil and gas production of 22 MBPD cannot be maintained or increased without prodigious application of present technologies and the development of new technologies. Over the years, producing fields wane and new fields must be discovered and brought into production. Field production is ultimately limited by geologic conditions, and, even with such techniques as pumping and flooding, about two-thirds of the oil cannot be extracted economically. Some gas fields have formations of such low permeability that economic yields cannot be attained by conventional practices. What is more, environmental concerns have inhibited the production of oil from offshore sites.

If oil and gas prices, regulated only by a free market, reach levels at or below the expected world prices, the Task Force believes that sufficient capital can be attracted to increase production of these fuels from domestic sources, including Alaska and the Outer Continental Shelf, to as much as 27 MBPD by 1985. To achieve this, about $180 billion * would be needed.

In addition to exploration and development of new fields, major flows of oil and gas would be expected from increasing production in existing fields that are now considered marginally economic. By advancing and applying secondary and tertiary recovery techniques and developing fracturing methods to free gas in low-permeability fields, significant increments could be made, though the output would be less than from primary extraction.

SHALE OIL PROSPECTS

Shale deposits are now estimated to contain some 1,800 billion barrels of oil. However, only about 6 percent of the shale is accessible in thick enough strata and with high enough oil content (30 gals per ton) to be of commercial interest today. There also are difficulties associated with the extraction of oil from the shale. If above-ground retorting methods are used, large amounts of rock would be mined, treated, and discarded as tailings. Techniques to reclaim tailing areas in ways that are environmentally sound are presently unknown or uncertain. Another serious complication is that deposits are located in arid and semi-arid areas and sizeable quantities of water are required for the processing and reclamation.

The Task Force believes that these limitations will keep the rate of production of shale oil relatively low until 1985 and perhaps for longer. It estimates that shale oil production by 1985 will not exceed 0.5 MBPD despite an investment of between $3 billion and $5 billion. To achieve even this production will require that larger tracts be provided for leasing than are presently permitted, that environmentally acceptable methods for disposing of tailings be determined, possibly with government assistance, and that sufficient water be available.

COAL SUPPLY PROSPECTS

Recoverable coal reserves in the United States are capable of supplying many energy needs for centuries. This study concludes that the 1973 coal production rate of 600 million tons per year (MTPY) could be doubled to at least 1,260 MTPY by 1985. Of this, about 700 MTPY could be consumed in direct firing for generating electricity, 310 MTPY could be used for producing synthetic gas and oil and the balance for industrial uses and export. About $21 billion of additional capital investment would be required by 1985 to maintain eastern surface mining at about 1973 levels, to increase eastern underground output to what its capacity was in 1940, and to expand western surface mining to an annual rate of 560 MTPY.

These production goals would require that federal coal-bearing lands in the West be made available for immediate leasing, that interim and longer-term mine operating regulations be reviewed and accepted, that environmental requirements for reclamation and for burning coal be determined and clarified. All this would help create a stable and lasting producer-user relationship. Coal, competing against other fuel sources, would also have to reach a price level that would attract the investment capital needed for more production.

There are serious barriers to increased coal production, principally transport. More unit-trains, new slurry and gas pipelines, and enlarged capacities for the Nation's inland waterway systems would be needed to transport as much as 660 MTPY of additional coal.

Moreover, capital would be needed to finance the conversion of coal to synthetic fuels. The technology for transforming coal to methane, or synthetic natural gas, is ready for commercial application, the Task Force believes.

By 1985 there could be as many as 20 syngas plants producing an aggregate of 5 billion cubic feet per day, the energy equivalent of 0.8 MBPD of oil. The production of methanol is technologically similar to methane production, and the production potential is largely dependent on the development of a market and on the pricing of competitive liquid fuels. Under the circumstances, the Task Force estimates that production of an equivalent of 0.3 MBPD is likely by 1985. The market potential for medium-Btu gas, principally for power generation, will also determine the desired production level; about 0.3 MBPD is foreseen for 1985.

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*All capital requirements are in '73–'74 dollars, and only reflect direct costs for facilities in place during this 1974–1985 period; associated infrastructure and financing costs are not included.

Liquefaction of coal into a synthetic crude oil, or syncrude, is potentially the most important technology to be exploited. However, the present processes are costly and would lead to syncrude prices well above the likely world price levels of oil in the future. To develop commercially useful alternate processes, an aggressive R&D program would be imperative. The costs and risks associated with such developments would probably require substantial government funding in addition to private capital. Although the lead time needed to develop and deploy production plants make it unlikely that syncrude production will exceed about 0.3 MBPD by 1985, the Task Force believes that the longer term importance of liquefaction as a major source of liquid fuels suggests that an early demonstration of economical processes be given a high national priority.

The aggregate capital requirements for the production of synthetic fuels from coal at the projected 1985 levels will vary, depending on the presently uncertain development costs to achieve commercial-scale operations. A range from $16 billion to $22 billion is considered likely. This sum would be in addition to the $21 billion of estimated capital needed to extract and transport coal for all purposes.

ELECTRICITY PROSPECTS

Electrical power generation has been increasing at about 7 percent per year recently, about double the overall rate of increase in energy consumption. From an energy standpoint, a continuation of this trend to electrification is desirable because of the wide range of fuels that can be used. In 1973 coal generated 44 percent of the electricity, oil and gas about 37 percent, and hydropower accounted for most of the remainder. With only 25 stations on-line at the start of 1974, nuclear powered electricity has been a small part of the Nation's present energy supply.

The total 1973 generating capacity was 435 Gigawatts electric (Gwe)—a Gigawatt equals 1 million Kilowatts. By 1985 this capacity could be more than doubled to about 980 Gwe. The implication for the Nation's total fuel mix is significant: coal and nuclear energy could reduce the need for oil and gas. The Task Force estimates that coal-fired electricity plants could account for 220 Gwe of the increased capacity and nuclear fission plants for an additional 300 Gwe. These increases, together with a modest increase in the use of hydropower and geothermal generating stations, would provide the estimated growth in electrical capacity. Although the capacity of oil- and gas-fired plants would remain about constant, it is anticipated that they would be utilized principally for intermittent cycling and peaking generation, and thus their fuel consumption would actually decline.

The expansion of generating capacity to the projected level, together with concurrent expansion of transmission and distribution networks, would involve high costs. Capital investment of more than $300 billion is likely to be needed. It would not be possible to raise this capital and achieve this expansion, the Task Force observes, without several important actions. The expansion of coal-fired plants, or the reconversion of oil or gas plants back to coal, for example, will depend largely upon the resolution of sulfur dioxide (SO_2) emission standards. The Task Force believes that although reliable and effective SO_2 scrubbers do not now exist, these can be developed in a few years. In the interim period, environmental regulations could be put in effect to permit the controlled intermittent operation of coal-fired generating stations during the overhaul of malfunctioning scrubbers. As it is now, regulations require the whole plant to shut down when scrubbers are not working properly. Alternatively, in some locations, consideration could be given to use of high stacks for SO_2 dispersion and to switching to alternate low-sulfur fuels during unfavorable meteorological conditions.

An increase in the size and number of previously projected nuclear power plants would seem to be possible, The Task Force states, if the administrative procedures that have lengthened their lead times from drawingboard to on-line output to 9 to 10 years could be reduced to 6 to 7 years, which was the time-frame only 5 years ago. Such actions as consolidating public hearings, approving generic designs for duplicate construction, preselecting and approving new sites, and retrofitting during construction would reduce the lead time. The Task Force is confident that the present state of the art in nuclear plant technology warrants such changes without reducing safety.

Other decisions would also be needed to provide direction and stability for the efforts needed to acquire and enrich uranium fuels in order to expand the Nation's nuclear generating capacity. In addition to opening federal lands for mining, the government would have to resolve uranium import policies and encourage electrical utilities to enter into long-term contracts for uranium supplies. Removing or reducing the classification of enrichment information, resolving the plutonium recycling dilemma, and restructuring the government/commercial interfaces on enriching plants are some of the principal actions that would be needed soon to ensure sufficient nuclear fuel capacity. Capital requirements for nuclear mining and enrichment could range from $11 billion to $14 billion.

PROGRAM CONSTRAINTS

The Task Force recognizes factors that could seriously restrict any major program of the dimensions that would be required to approach energy self-sufficiency.

Capital: Private capital requirements for production facilities are estimated at $500 billion to $600 billion. This sum does not include working capital, dividends, debt service, and other financial obligations. Nor are government R&D and production facilities (e.g., uranium enrichment operations) included in this estimate.

Water: A serious concern for producing oil from shale or synthetic fuels from coal in the quantities considered possible by 1985 is the availability of water. It is also essential for rehabilitating land after surface mining and for cooling electrical power plants. In the West particularly, the limited availability of water as well as the issue of riparian rights would have to be examined carefully on a case-by-case basis.

Environment: While energy is essential to the quality of life, its production disrupts the environment in many ways. Methods need to be found to reconcile energy with the environment. Land reclamation after coal and shale mining; protective measures associated with oil extraction; and effective techniques for sulfur removal either at the coal mine or the power plant are only a few problems that require solutions. The Task Force recognizes the importance of protecting the natural environment and safeguarding human health and believes that these concerns can be dealt with by appropriate technology and realistic standards.

Manpower: An estimated 1.4 million people are engaged in energy related activities today. To run the programs presented in this report would require several hundred thousand more. Substantial increases would be needed in engineering, in construction trades, and in mining, transportation, and technical and managerial work. The Task Force notes with considerable anxiety the drop in student enrollment in engineering curricula during the past four years. It will be important to reverse this trend as soon as possible. In addition, engineering manpower shortages may be alleviated in part by transferring engineers from fields outside the energy industry, by special training programs, and by careful organization of engineering assignments.

PROGRAM RESPONSIBILITIES

Federal departments and agencies now deal with energy policies and programs in a variety of disparate ways. Although the Federal Energy Administration recently has been established, the Administration and the Congress are still considering creation of a special energy R&D agency and/or a department of energy and natural resources. In its engineering view of the energy problem, the Task Force did not address organizational questions, although it recognized that the government would have to assume responsibility for the following:

Collection, development, evaluation, and publication of projections for energy demands and supplies;

Development of national energy policies for consideration by the Executive Department and the Congress, and coordination of policy development with other federal, state, and local government agencies as well as in the energy industries;

Preparation of strategies for assuring adequate energy supplies at reasonable costs and minimum impact on the environment;

Development and implementation of programs for conserving energy and measures for increasing efficiencies in energy utilization;

Collection and publication of data on resource requirements and availability for such critical areas as engineering, scientific, and construction manpower, equipment and manufacturing capabilities, and basic materials availability;

Organization of allocation and rationing programs such as manpower, equipment, and resources, as well as of energy supplies, if necessary;

Identification and assistance in removing institutional roadblocks in the production and use of energy resources;

Development and application of financial incentives where clearly required, including development and overall surveillance of joint government-industry partnerships in programs requiring public support;

Examination and resolution of critical environmental problems such as water supply, land use, and air quality;

Development and coordination of international programs in energy areas;

Support of R&D when the risks are too great for private investors;

Coordination of programs for long-range and basic research in energy areas;

Provision for dissemination of information and advice to the general public and special groups.

Once a politically defined and economically practical set of national objectives and policies are established, the various segments of the energy industry should be able to accelerate and expand their efforts to provide more energy supplies in the needed forms. Industry would have many difficult tasks to carry out in a timely, cost-effective, and beneficial manner. These include, but are not limited to, the following:

Expansion of energy facilities requires very large amounts of money from internal funds, equity funding (stock), and bonds or loans; such funds can be obtained if the industries have stable and adequate revenue to cover their costs, repay the loans or bonds, and provide the stockholders with an adequate return.

Rapid and detailed planning would be carried out in response to new objectives and goals as well as within any new energy supply-demand situation.

Once detailed plans are evolved and critical problems identified, the various organizations—along with their managers and key personnel—have to be reorganized and redirected as necessary to undertake the various tasks on an urgent basis. Whether these are new exploration programs, new mines, new oil refineries, construction of facilities, operation of new mines or plants, manufacturing of new equipment, or provision of development support, the industrial structure will be the same, but substantial changes would surely evolve and experienced planners and managers would most likely be at a premium.

There will surely be a critical shortage of many types of manpower, particularly engineers and skilled construction workers; major programs will be needed to make more efficient and effective use of available manpower, to utilize less skilled manpower where practicable, and to train more personnel as rapidly as possible.

Full consideration would have to be given to possible environmental effects and to reasonable cost/benefit decisions for industrial programs posing problems to the environment; close cooperation with government should allow quicker decisions if industry does an adequate job of considering the issues. Similar consideration would be due in safety and health as well.

Many energy programs would require substantial support in terms of development, and effort would need to be diverted from other research and development activities to provide such support.

Industry would have to establish and maintain credibility with the public as well as with the government for understanding and cooperation to be real and effective.

BEYOND 1985

Achieving the complete range of programs described in this report by 1985 is not considered by the Task Force to be of high probability. Even if it is accomplished, the United States would be buying time. For beyond 1985 looms an ominous prospect of even greater demands for energy from ever-increasing and ever-rising expectations at home and abroad. Unless innovative ways are developed for conserving and using energy and substantial new sources and new technologies are found for increasing energy supplies, the strategies presented by the Task Force would only postpone a grim future of energy scarcity.

This report shows what can be done with today's technology. If the United States is to have options beyond 1985, a well-planned, wide-ranging program of research and development is essential.

SWIFT AND FIRM ACTION NEEDED TO PREVENT INTERNATIONAL MONETARY SYSTEM COLLAPSE

Mr. PERCY. Mr. President, if present economic trends continue, the international monetary system could well begin to collapse by mid-1975. We might then be plunged into a severe recession or much worse.

The main cause of the instability in the world economic system at the present time is the four-fold increase in oil prices in the past year and the resultant radical shift of world financial resources to oil exporting nations. And yet, the United States has no clear coherent policy to deal with this problem.

We need a tough domestic energy/economic policy to get at the basics of the problem—which means as a minimum, substantially reductions in oil consumption. Some of the measures that we must employ, on a mandatory basis in my judgment if we are really serious, include an increased tax on gasoline with appropriate tax rebates to relieve hardships, a mandatory reduction in petroleum imports, a sliding tax on new automobiles based on their fuel efficiency, and mandatory restrictions on cooling, lighting, heating, and insulation.

Mr. President, I discuss these questions in greater detail in the November 18, 1974, issue of the American Banker, and I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the American Banker, Nov. 18, 1974]

Preventatives Needed To Avoid Predicted Crumbling of World Monetary System

(By Charles H. Percy, Republican Senator from Illinois)

My original interest in this article was to explore the problems associated with the current petrodollar crisis. As so often happens in political affairs, events outstrip publication deadlines and analyses become quickly dated. But while names and amounts and projections change, the underlying problem remains. The harsh fact is that responsible economic analysts both here and abroad are now predicting that if present trends continue, the international monetary system will begin to crumble as early as mid-1975.

I wonder if any of us have fully faced up to the situation. Secretary of Treasury Simon, in a recent address, called the problems of inflation, recycling and commodity cartels serious but not overwhelming. He urged no hard choices. Robert McNamara, president of the World Bank, has concentrated his remarks on solving the problems of the developing nations, implicitly assuming no drop in oil prices. And finally President Ford, in his address before Congress, shelved the toughest advice of his economic advisors and opted primarily for voluntarism.

If the monetary system does begin to collapse in the next eight months, this nation and the world are in for a severe recession or possibly worse. We will lose years of economic growth and the possibilities for social progress. Where, it is time to ask ourselves, are the preventive programs?

The issue is not beyond grasping. The international monetary system simply will begin to collapse as nation after nation becomes internationally insolvent. The purpose of the system is to attempt to rationalize worldwide distribution of production. The world's food is not located where the major concentrations of population appear. Raw materials are no longer located close to industrial plans and the generation of capital no longer is located in countries where it can be used most efficiently.

The international monetary system, through trade and capital transfers, allows a better economic rational to exist in the world. If it collapses, the world will suffer a significant decline in wealth and the strategic industrial centers of Japan and Europe could easily be threatened from international or external political forces. Therefore it is in the interest of the U.S. to do everything possible to keep the system functioning.

The system is threatened by the potential international bankruptcy of some industrial nations and numerous less developed countries. The heart of the problem is the four-fold price increase in international crude oil since December, 1973. It is estimated that this price rise will increase the flow of funds to oil-exporting countries from $25 billion in 1973 to $80 billion this year. This rise in price was the result of a complex set of international political and economic events that allowed the Organization of Petroleum Exporting Countries—OPEC—through collusive cartel practices to raise the price of oil. This $55 billion increase represents a "tax" on the oil-importing nations by oil-exporting nations.

Of their $80 billion in estimated revenues in 1974, the OPEC nations are expected to purchase some $25 billion worth of goods from other non-communist nations. The balance of $55 billion will be available for recycling, that is, returned in some form to the international economic system.

Both the "tax" and the recycling process threaten the international monetary system.

First, the "tax" is levied on consumption and not on ability to pay. It is true that the largest tax burden in total dollars falls on the industrial countries—mainly on Europe and Japan—because they import the largest volume of international crude, but as a percentage of GNP, it is the less developed countries that proportionately pay the most. Payments for oil and vital petrochemical products by the developing countries must come directly out of present expenditures, thus lowering the real standard of living.

Many of the less developed countries have edged closer to bankruptcy. They cannot generate the increased exports to pay the high oil prices and they are increasingly unable to borrow funds through ordinary commercial channels.

The recycling problem is two-fold. First is the problem of obtaining a general balance of payments equilibrium between the OPEC nations and the importing world. This is just a matter of physically getting the $100 billion back into the monetary system in the industrialized nations.

The second problem is the acute regional disparity in balance of payments caused by a concentration of recycling petrodollars. The $40 billion in trade goods will be purchased mainly in the developed countries and the $60 billion remainder is returning in capital flows mainly to the financial markets of London and New York. The inequity of reflows in trade and capital is threatening the international solvency of many industrialized nations. Italy is a prime example.

The basic strategy of the importing world to sustain the monetary system has been to develop ad hoc accommodations to the problem of recycling. Most industrial nations in trouble have relied on Eurocurrency loans and bilateral agreements. There have also been multilateral efforts through the World Bank and the International Monetary Fund to aid less developed nations and some industrial nations. While these financial mechanisms have worked until now, it is unlikely that present arrangements are sufficient to handle the recycling that will be necessary in the future.

The initial policy of the U.S. government last spring hinged on King Faisal of Saudi Arabia and the workings of international market forces. His majesty was seen as the key to OPEC because Saudi Arabia had the largest proven oil reserves, the largest monetary reserves and a minimal population relative to its wealth. Saudi Arabia, therefore, had the capacity to influence the price of international crude oil by adjusting its level of production.

The U.S. strategy had two aspects. The first was to convince the Saudis that the price of oil was too high, and that the speed and magnitude of the price hike threatened the fundamental health of the world economy. We attempted, with some success, to make the Saudis realize that financial chaos and an attendant global depression which could be brought about by present petroleum price levels was not in the long-run interest of any oil producing nation. It was reasoned that if the Saudis held production at last spring's level, given the prevailing high prices, the drop in demand in response to these prices would produce a surplus, thus driving international crude price down.

New world prices were to be established

by having the Saudis hold open auctions of their surplus oil. This aspect of the strategy collapsed in August when the Saudis announced that production was being cut 10% and the auctions postponed indefinitely. Then in September, the oil producing nations met and approved an inflationary index on the oil price in order to prevent the real value of their revenues from being eroded by inflation. This indexing of prices could result in a 12% increase in oil prices this year.

The second aspect of U.S. strategy focused on the problem of recycling. It was recognized that the oil funds, being recycled into the Eurocurrency banking system, would cause some disruption. But it was believed that market forces would absorb the disruptions. The hypothesis was that the large deposits of short term oil money would drive down short term interest rates below long term rates. At this point the oil money would flow into the long term market, thus dispersing it into other fiduciary assets.

This strategy also collapsed since the OPEC countries have not responded to traditional economic incentives. Instead they have preferred the liquidity and anonymity of short term deposits over long term investments. The desire for anonymity probably reflects a fear that the industrialized nations might freeze their accounts for political leverage to bargain prices down.

To understand the Saudi responses it is necessary to understand the roles King Faisal plays in the Arab world. First, the King plays a conservative leadership role in AOPEC—the Arab members of OPEC. To preserve his leadership in this organization and to keep his traditional role in Pan Arab politics he will not do anything alone to split AOPEC. At a minimum, one or more of the AOPEC nations will have to go along with Saudi Arabia if they are to move for a lower price in international crude.

Secondly, the King of Saudi Arabia traditionally bears a strong religious responsibility in the Moslem world. This role could be equated to the Holy Roman Emperors in our own European heritage before church and state were separated. King Faisal is the protector of the three holiest shrines in the Moslem world; Mecca, Medin and, most significantly, the Mosque of Omar in Jerusalem, now under Israeli control. It was the Yom Kippur war that convinced the King and other Arab nations to use oil as a political weapon. In any negotiations with King Faisal, the settlement of the oil price issue will be tied to a solution of the Israeli question.

The administration has had a limited success in negotiating an emergency oil-sharing agreement with Europe and Japan. But this is a defensive agreement and could not be used offensively. Given their monetary reserves, the OPEC nations could outlast an importer's boycott.

Secondly, there are a few strong governments among the major consuming nations. Harold Wilson has just constructed a majority government by a margin of three votes. Giscard d'Estaing of France must rely on the good will and votes of the Gaullists in order to maintain a parliamentary majority for his government. Similarly, Prime Minister Tanaka of Japan is under increasing political attack and the power of his party has been severely atrophied. Italy, of course, has not had a strong government in years.

These nations are almost totally dependent on OPEC for oil. The United States cannot realistically expect to find partners among its traditional allies in an effort to forge a common front of oil consuming nations.

Lacking support from our allies for a united action, another option would be to turn to the multinational oil companies—five of the largest seven are American owned. But executive testifying before our Senate Foreign Relations Subcommittee on Multinational Corporations readily admitted that the companies' leverage had been reduced substantially in any bargaining process. The companies need the countries they operate in more than the countries now need the oil companies. The companies need crude supplies to keep their heavy investments in shipping refineries and marketing in operation.

Optimists have held out hope that the North Sea, the North Slope and Project Independence will be our answer. To this we can now add the euphoric reports of a huge new oil field in southern Mexico. The problem is that these areas of possible relief are three to ten years off. Even Project Independence itself may leave us with a heritage of high priced energy sources while the rest of the world operates on cheaper oil. OPEC may follow a strategy prescribing a price for oil just below its best substitute in order to discourage investment in alternate energy sources.

The next logical question is what is the possibility of internal pressures splintering the group? The probability in the short run is slight. Almost all of the OPEC countries are short-term maximizers or find their national interests aligned with decreased oil supplies to sustain high prices. These countries with large populations—Iran, Indonesia, Egypt, Algeria, and Nigeria—need maximum revenues and want high prices, even though they would continue to pump if prices fell. Those with limited oil reserves—Kuwait and Venezuela—are advocates of cutting back production to hold prices and long-term revenues up.

To this group of production-cutters can be added Libya, Saudi Arabia and the smaller states of the Persian Gulf, mainly because their populations are small compared to oil revenues and they see oil prices as a political question, not an economic price issue. Smaller producers such as Equador do not export enough to affect the international balance. The key states, those willing to cut production to hold prices, are mainly Arab with Saudi Arabia the dominant force. Here again, we return to the link with the Israeli conflict.

Clearly, the oil price settlement will have to be largely political. Secretary of State Kissinger has traveled again to the Middle East to try to weave a political solution. However, arranging an Israeli-Arab agreement is no guarantee of lower oil prices. It may bring only further demands or a token reduction. Therefore, other efforts must continue and they must include our European and Japanese allies for they are the major consumers of international crude.

But we are never going to convince our allies or the Arab nations of our resolve to lower oil consumption without a coherent, tough, domestic energy policy. If foreign policy is to succeed it must be a projection of this strong domestic policy.

We must reject ideas which espouse withholding industrial and technological goods and services from the oil-producing countries, or dramatically increasing the prices of our goods and services in retaliation for the OPEC cartel policies. Nor are vague public threats of political or military action the answer. These are the politics of confrontation and they bring with them political and military risk which cannot be foreseen. Confrontation with OPEC is inconsistent with our objective to find peaceful solutions to the world's problems.

The cornerstone of our domestic energy policy must be energy conservation. We simply must really pull in our belts and stop our profligate ways. By reducing demand we will conserve foreign exchange, diminish OPEC revenues and reduce the number of petrodollars that need recycling. If the Europeans and Japanese join us they will receive the same benefits. Additionally, further reductions in consumption will swell the existing excess crude supplies now facing the OPEC cartel.

These surpluses may bring internal pressure on OPEC because production cuts or price cuts will be necessary to equate demand with supply. Cartel countries will be forced to undertake the difficult political task of prorationing production cutbacks. Traditionally cartels have faced their greatest strain in just such situations of excess production since cuts in output or price mean sacrifices of revenue by some cartel members.

The best way to accomplish conservation is to take decisive action to dramatically reduce petroleum consumption in this country. While I'm all for voluntary conservation, when push comes to shove the really hard decisions must carry the force of law. We must make it unmistakably clear to the OPEC nations that the U.S., for one, means business about reducing imports.

I simply do not believe that a voluntary program alone is going to work. Nor do I believe that the crisis we face allows us the time to hope it will work, then take corrective action if it does not.

We must not accept the risks of inaction. Instead we must undertake a program for mandatory oil conservation and put it into effect now.

Specific examples of the steps that we must now consider include:

1. An increased tax on gasoline with appropriate tax rebates to relieve hardships. The tax should be large enough to reduce consumption and, as a secondary goal, help balance the Federal budget.

2. A mandatory reduction in petroleum imports, achieved not precipitously but on a steady, month-by-month basis. By Jan. 1, 1976, we should have reduced imports by 30%, or roughly two million barrels a day.

3. Develop mandatory reductions in consumption through such steps as a sliding tax at the manufacturers' level based on the fuel efficiency of new automobiles; strict enforcement of the 55 m.p.h. speed limits; and mandatory "no drive" days for every American car.

4. Mandatory conservation measures such as restrictions on commercial and home heating, cooling and lighting and tougher insulation standards for all new construction as well as incentives to better insulate existing buildings.

Each of these methods presents some inequities and risks unintended distortions in economy. But the alternative to mandatory action is far worse. Only if we assume leadership among the oil-importing nations by sharply reducing our oil imports will we succeed in convincing the OPEC nations that we consider oil prices our number one inflation problem, a problem that we mean to solve.

ORDER AUTHORIZING SALARY INCREASE FOR OFFICERS AND EMPLOYEES OF THE U.S. SENATE

Mr. EASTLAND. Mr. President, on October 7, 1974, the President of the United States issued an Executive order, pursuant to the provisions of the Federal Pay Comparability Act of 1970, which authorized a 5.52-percent salary increase for the Federal pay systems under his jurisdiction.

Under the authority vested in me, as President pro tempore of the Senate, by section 4 of the Federal Pay Comparability Act of 1970, I issued an order on October 7, 1974 authorizing the same 5.52-percent salary increase for officers and employees of the U.S. Senate. I ask unanimous consent that this order be printed in the Record.

There being no objection, the order was ordered to be printed in the Record, as follows:

ORDER, U.S. SENATE, OFFICE OF THE PRESIDENT PRO TEMPORE

By virtue of the authority vested in me by section 4 of the Federal Pay Comparability Act of 1970, it is hereby—

Ordered,

CONVERSION OF NEW MULTIPLE

SECTION 1. (a) Except as otherwise specified in this Order or unless an annual rate of compensation of an employee whose compensation is disbursed by the Secretary of the Senate is adjusted in accordance with the provisions of this Order, the annual rate of compensation of each employee whose compensation is disbursed by the Secretary of the Senate is adjusted to that multiple of $151 which is nearest to but not less than the rate such employee was receiving immediately prior to October 1, 1974.

(b) For purposes of this Order—

(1) "employee" includes an officer other than a Senator; and

(2) "annual rate of compensation" shall not include longevity compensation authorized by section 106 of the Legislative Branch Appropiration Act, 1963, as amended.

RATE INCREASES FOR SPECIFIED POSITIONS

SEC. 2. (a) The annual rates of compensation of the Secretary of the Senate, the Sergeant at Arms, and the Legislative Counsel (as such rates were increased by prior orders of the President pro tempore) are further increased by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of either of the following: (1) the annual rate in effect for positions in level V of the Executive Schedule under section 5316 of title 5, United States Code, or (2) an annual rate of compensation which is $1,000 less than the annual rate of compensation, which is now or may hereafter be in effect, for Members of Congress.

(b) The annual rates of compensation of the Secretary for the Majority (other than the present incumbent), the Secretary for the Minority, and the four Senior Counsel in the Office of the Legislative Counsel (as such rates were increased by prior orders of the President pro tempore) are further increased by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of either of the following: (1) the annual rate of basic pay, which is now or may hereafter be in effect, for positions in such level V, except that until the annual rate for such level V is increased to $42,000 or more, any such individual shall not be paid at an annual rate exceeding $41,072, or (2) an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, $1,057 less than the annual rate of compensation which is now or may hereafter be in effect, for Members of Congress.

(c) The maximum annual rates of compensation of the Secretary for the Majority (as long as that position is occupied by the present incumbent), the Assistant Secretary of the Senate, the Parliamentarian, the Financial Clerk, and the Chief Reporter of Debates (as such rates were increased by prior orders of the President pro tempore) are further increased by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151. Notwithstanding the provision of this subsection, an individual occupying a position whose compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of either of the following: (1) the annual rate of basic pay, which is now or may hereafter be in effect, for positions in such level V, except that until the annual rate for such level V is increased to $42,000 or more, the annual rate of compensation of any such individual shall not be fixed at an annual rate exceeding $41,072, or (2) an annual rate of compensation which is that multiple of $151 which is nearest to, but less than $1,057 less than the annual rate of compensation, which is now or may hereafter be in effect, for Members of Congress.

(d)(1) The maximum annual rates of compensation of the Administrative Assistant in the Office of the Majority Leader, the Administrative Assistant in the Office of the Majority Whip, the Administrative Assistant in the Office of the Minority Leader, the Administrative Assistant in the Office of the Minority Whip, the seven Reporters of Debates in the Office of the Secretary, the Assistant Secretary for the Majority, the Assistant Secretary for the Minority, the Assistant to the Majority and the Assistant to the Minority in the Office of the Secretary, the Legislative Assistant in the Office of the Majority Leader, the Legislative Assistant in the Office of the Minority Leader, the Assistant Parliamentarian, the Legislative Clerk, the Journal Clerk, the Assistant Legislative Clerk, the Administrative Assistant to the Sergeant at Arms, the Deputy Sergeant at Arms, the Director of the Senate Recording Studio, the Curator of Art and Antiquities of the Senate, and the Postmaster of the Senate (as such rates were increased by prior orders of the President pro tempore) are further increased by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, as long as the annual rate of basic pay for positions in such level V is less than $39,000, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of $35,938, except that (A) any individual occupying the position of Administrative Assistant in the Office of the Majority Whip or Minority Whip shall not be paid, by reason of the promulgation of this Order, at an annual rate in excess of $35,636, (B) any individual occupying the position of Assistant to the Majority or Assistant to the Minority in the Office of the Secretary, Legislative Assistant in the Office of the Majority Leader, or Legislative Assistant in the Office of the Minority Leader, shall not be paid, by reason of the promulgation of this Order, at an annual rate in excess of $35,334, (C) any individual occupying the position of Assistant Parliamentarian, Legislative Clerk, or Journal Clerk shall not be paid, by reason of the promulgation of this Order, at an annual rate in excess of $34,579, (D) any individual occupying the position of Assistant Legislative Clerk, Administrative Assistant to the Sergeant at Arms, or the Deputy Sergeant at Arms shall not be paid, by reason of the promulgation of this Order, at an annual rate in excess of $33,522, (E) any individual occupying the position of Director of the Senate Recording Studio shall not be paid, by reason of the promulgation of this Order, at an annual rate in excess of $32,918, (F) an individual occupying the position of Curator of Art and Antiquities of the Senate shall not be paid, by reason of the promulgation of this Order, at an annual rate in excess of $32,314, and (G) any individual occupying the position of Postmaster of the Senate shall not be paid, by reason of the promulgation of this Order, at an annual rate in excess of $31,710.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, if the annual rate for such level V is increased to $39,000 or more but less than $42,000, an individual occupying the position of (A) Administrative Assistant in the Office of the Majority Leader, Administrative Assistant in the Office of the Minority Leader, a Reporter of Debates, Assistant Secretary for the Majority, or Assistant Secretary for the Minority shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of $38,958, (B) Administrative Assistant in the Office of the Majority Whip or the Administrative Assistant in the Office of the Minority Whip shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $37,750, (C) Assistant to the Majority or Assistant to the Minority in the Office of the Secretary, Legisaltive Assistant in the Office of the Majority Leader, or Legislative Assistant in the Office of the Minority Leader shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of $37,146, and (D) Assistant Parliamentarian, Legislative Clerk, or Journal Clerk shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of $36,391.

(4) Nowithstanding the provisions of paragraph (1) of this subsection, any individual occupying the position of Administrative Assistant in the Office of the Majority Leader, the Assistant Secretary for the Majority, the Administrative Assistant in the Office of the Minority Leader, the Assistant Secretary for the Minority, and the seven Reporters of Debates in the Office of the Secretary shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of either of the following: (A) an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, the annual rate in effect for positions in such level V, or (B) an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, $1,812 less than the annual rate of compensation, which is now or may hereafter be in effect, for Members of Congress.

(5) Notwithstanding the provisions of paragraph (1) of this subsection, any individual occupying the position of Administrative Assistant in the Office of Majority Whip or the Administrative Assistant in the Office of the Minority Whip shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of either of the following: (A) an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, the annual rate in effect for positions in such level V, or (B) an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, $2,567 less than the annual rate of compensation, which is now or may hereafter be in effect, for Members of Congress.

(6) Notwithstanding the provisions of paragraph (1) of this subsection, any individual occupying the position of the Assistant to the Majority or the Assistant to the Minority in the Office of the Secretary, the Legislative Assistant in the Office of the Majority Leader, or the Legislative Assistant in the Office of the Minority Leader, shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of either of the following: (A) an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, the annual rate in effect for positions in such level V, or (B) an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, $3,473 less than the annual rate of compensation which is now or may hereafter be in effect, for Members of Congress.

(e) The annual rate of compensation of each employee of the former Vice President whose pay is disbursed by the Secretary of the Senate under Senate Resolution 379, 93d Congress, agreed to August 9, 1974, is increased by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151. Notwithstanding the provisions of this subsection, no such employee shall be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the annual rate of basic pay, which is now or hereafter may be in effect, for positions in such level V.

CHAPLAIN'S OFFICE

SEC. 3. The annual rate of compensation of the Chaplain and the maximum annual rate of compensation for the position of secretary to the Chaplain (as in effect immediately prior to October 1, 1974) are increased by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151.

OFFICES OF THE PRESIDENT

SEC. 4. (a) Any specific rate of compensation established by law, as such rate has been increased by or pursuant to law, for any position under the jurisdiction of the Sergeant at Arms shall be considered as the maximum annual rate of compensation for that position. Each such maximum annual rate is increased by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151.

(b) The maximum annual rates of compensation for positions or classes of positions (other than those positions referred to in section 2 (c) and (d) of this Order) under the jurisdiction of the Majority and Minority Leaders, the Majority and Minority Whips, the Secretary of the Senate, the Secretary for the Majority, and the Secretary for the Minority are increased by 5.52 percent, and as so increased adjusted to the next higher multiple of $151.

(c) The following individuals are authorized to increase the annual rates of compensation of the employees specified by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151:

(1) the Vice President, for any employee under his jurisdiction;

(2) the Majority Leader, the Minority Leader, the Majority Whip, and the Minority Whip, for any employee under the jurisdiction of that Leader or Whip (subject to the provisions of section 2(d) of this Order);

(3) the Majority Leader, for the Secretary for the Majority so long as the position is occupied by the present incumbent (subject to the provisions of section 2(c) of this Order);

(4) the Secretary of the Senate, for any employee under his jurisdiction (subject to the provisions of section 2 (c) and (d) of this Order);

(5) the Sergeant at Arms, for any employee under his jurisdiction (subject to the provisions of section 2(d) of this Order);

(6) the Chaplain, for his secretary;

(7) the Legislative Counsel, subject to the approval of the President pro tempore, for any employee in that Office (other than the four Senior Counsel);

(8) the Secretary for the Majority and the Secretary for the Minority, for any employee under the jurisdiction of that Secretary (subject to the provisions of section 2(d) of this Order); and

(9) the Capitol Guide Board, for the Chief Guide, the Assistant Chief Guide, and the Guides of the Capitol Guide Service.

(d) The figure "$855", appearing in the first sentence of section 106(b) of the Legislative Branch Appropriation Act, 1963, as amended (as provided in section 4(d) of the Order of the President pro tempore of October 4, 1973), shall be deemed to refer to the figure "$906".

(e) The limitation on the rate per hour per person provided by applicable law immediately prior to October 1, 1974, with respect to the folding of speeches and pamphlets for the Senate, is increased by 5.52 percent. The amount of such increase shall be computed to the nearest cent, counting one-helf cent and over as a whole cent.

COMMITTEE STAFFS

SEC. 5. (a) Subject to the provision of section 105 of the Legislative Branch Appropriation Act, 1968, as amended (as modified by this Order), and the other provisions of this Order, the chairman of any standing, special, or select committee of the Senate (including the majority and minority policy committees and the conference majority and conference minority of the Senate), and the chairman of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate are each authorized to increase the annual rate of compensation of any employee of the committee, or subcommittee thereof, of which he is chairman, by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151.

(b) (1) The figures "$16,815" and "$24,795" appearing in section 105(e) of the Legislative Branch Appropriation Act, 1968 (as provided in section 5 (b) (1) of the Order of the President pro tempore of October 4, 1973, and as amended by the Supplemental Appropriations Act, 1974), shall be deemed to refer to the figures "$17,818" and "$26,274", respectively.

(2) The maximum annual rates of "$40,185", "$41,895", and "$43,890" appearing in such section 105(e) (as provided in section 5(b) (2) of such Order of October 4, 1973) are each further increased by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151, and shall be deemed to refer to figures "$42,431", $44,243", and "$46,206", respectively.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position to which any such rate applies shall not be paid at any time at an annual rate in excess of $33,975, $35,636, or $35,938, respectively, as long as the annual rate of basic pay for positions in level V of the Executive Schedule under section 5316 of title 5, United States Code, is less than $39,000.

(4) Notwithstanding the provisions of paragraph (2) of this subsection, if the annual rate for such level V is increased to $39,000 or more but less than $42,000, an individual occupying a position (A) to which the rate "$42,431" applies shall not be paid at any time at an annual rate in excess of $36,844, (B) to which the rate "$44,243" applies shall not have his compensation fixed at an annual rate in excess of $38,656, and (C) to which the rate "$46,206" applies shall not be paid at any time at an annual rate in excess of the lesser of $41,072 or that multiple of $151 which is nearest to but less than the annual rate of basic pay for positions in such level V.

(5) Notwithstanding the provisions of paragraph (2) of this subsection, if the annual rate of basic pay for positions in such level V is increased to $42,000 or more, an individual occupying any position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of either of the following: (A) an annual rate of compensation which is a multiple of $151 which is nearest to, but less than, the annual rate of basic pay, which is now or may hereafter be in effect, for positions in such level V, or (B) (i) in the case of an individual occupying a position to which the rate "$42,431" applies, an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, $2,265 less than the annual rate of compensation, which is now or may hereafter be in effect, for Members of Congress, (ii) in the case of an individual to which the rate "$44,243" applies, an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, $1,661 less than such annual rate for Members of Congress, or (iii) in the case of an individual to which the rate "$46,206" applies an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, $1,057 less than such annual rate for Members of Congress.

SENATORS' OFFICES

SEC. 6. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended (as modified by this Order), and the other provisions of this Order, each Senator is authorized to increase the annual rate of compensation of any employee in his office by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151.

(b) The table contained in section 105 (d) (1) of such Act shall be deemed to read as follows:

"$392,298 if the population of his State is less than 2,000,000;

"$404,076 if such population is 2,000,000 but less than 3,000,000;

"$432,464 if such population is 3,000,000 but less than 4,000,000;

"$469,006 if such population is 4,000,000 but less than 5,000,000;

"$498,904 if such population is 5,000,000 but less than 7,000,000;

"$530,312 if such population is 7,000,000 but less than 9,000,000;

"$564,438 if such population is 9,000,000 but less than 10,000,000;

"$590,712 if such population is 10,000,000 but less than 11,000,000;

"$625,140 if such population is 11,000,000 but less than 12,000,000;

"$651,414 if such population is 12,000,000 but less than 13,000,000;

"$684,936 if such population is 13,000,000 but less than 15,000,000;

"$718,458 if such population is 15,000,000 but less than 17,000,000;

"$751,980 if such population is 17,000,000 or more."

(c) (1) The second sentence of section 105 (d) (2) of such Act is modified to read as follows: "The salary of an employee in a Senator's office shall not be fixed under this paragraph at a rate less than $1,057 per annum or in excess of $24,160 per annum except that (i) the salaries of five employees may be fixed at rates of not more than $41,223 per annum, and (ii) the salary of one employee may be fixed at a rate of not more than $43,035 per annum."

(2) Notwithstanding the modification made by paragraph (1) of this subsection, any individual occupying a position to which a rate referred to in clause (i) or (ii) of such modification applies shall not be paid at any time at an annual rate exceeding $34,881 or $35,938, respectively, as long as the annual rate of basic pay for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code, is less than $39,000.

(3) Notwithstanding the modification made by paragraph (1) of this subsection, if the annual rate for such level V is increased to $39,000 or more but less than $42,000, an individual occupying a position to which a rate referred to in such clause (i) or (ii) applies shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of (A) in the case of an individual to whom the rate under such clause (i) applies, $38,052, and (B) in the case of an individual to whom the rate under clause (ii) applies, the lesser of a rate that is a multiple of $151 which is nearest to, but less than, the annual rate for such level V or $39,864.

(4) Notwithstanding the modification made by paragraph (1) of this subsection, if the annual rate for such level V is increased to $42,000 or more, an individual occupying a position (A) to which the rate "$41,223" applies, shall not be paid at any time, by reason of the promulgation of this Order, at

an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, $2,265 less than the annual rate of compensation, which is now or may hereafter be in effect, for Members of Congress, or (B) to which the rate "$43,035" applies, shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of either of the following: (i) an annual rate of compensation which is a multiple of $151 which is nearest to, but less than, the annual rate for such level V, or (ii) an annual rate of compensation which is that multiple of $151 which is nearest to, but less than, $1,661 less than such annual rate for Members of Congress.

GENERAL LIMITATION

Sec. 7. (a) The figure "$1,140" appearing in section 105(f) of the Legislative Branch Appropriation Act, 1968, as amended (as provided in section 7(a) of the Order of the President pro tempore of October 4, 1973) shall be deemed to refer to the figure "$1,057".

(b) (1) The maximum annual rate of compensation of "$43,890" appearing in such section (as provided in section 7(b) of such Order of October 4, 1973) is further increased by 5.52 percent, and as so increased, adjusted to the next higher multiple of $151, and shall be deemed to refer to the figure "$46,206".

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any individual occupying a position to which such rate applies (A) shall not be paid at any time at an annual rate exceeding $35,938 as long as the annual rate of basic pay for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code, is less than $39,000, (B) if the annual rate for such level V is increased to $39,000 or more but less than $42,000, shall not be paid at any time at an annual rate exceeding the lesser of (i) a rate that is a multiple of $151 which is nearest to, but less than, the annual rate for such level V, or (ii) $41,072, and (C) if the annual rate for such level IV is increased to $42,000 or more, shall not be paid at an annual rate in excess of either of the following: (i) an annual rate which is a multiple of $151 which is nearest to, but less than, the annual rate for such level V, or (ii) an annual rate which is nearest to, but less than, $1,057 less than the annual rate of compensation, which is now or may hereafter be in effect, for Members of Congress.

NOTIFYING DISBURSING OFFICER OF INCREASES

Sec. 8. In order for an employee to be paid in an increase in the annual rate of his compensation as the result of an increase in the maximum annual rate of compensation for his position authorized under this Order, the individual designated by section 4, 5, or 6 to authorize an increased rate of compensation for that employee shall notify the disbursing office of the Senate in writing that he authorizes an increase in such rate for that employee and the date on which that increase is to be effective.

LEGISLATIVE BRANCH APPROPRIATION ACT, 1975, RATE INCREASES

Sec. 9. (a) Except as provided in this section, no provision of this Order supersedes paragraph 4 of "Administrative Provisions" under the heading "SENATE" in the Legislative Branch Appropriation Act, 1975.

(b) An individual occupying a position for which that paragraph 4 prescribes a specific annual rate of compenastion shall be paid that annual rate until such time as the annual rate of basic pay for positions in level V of the Executive Schedule under section 5316 of title 5, United States Code, is increased to an annual rate which will result in authorizing an annual rate of compensation to be paid such an individual under this Order which is higher than the annual rate authorized under that paragraph 4. After such time, any such individual shall be paid in accordance with this Order.

(c) (1) An individual occupying a position for which that paragraph 4 prescribes a maximum annual rate in excess of the annual rate for positions in such level V in effect immediately prior to October 1, 1974, may be paid at the maximum rate authorized by that paragraph 4 or any annual rate which is a multiple of $151, except that if the maximum annual rate to be paid is in excess of $36,693, the annual rate paid shall be a multiple of $285. After such time as the annual rate of basic pay for positions in such level V is increased to an annual rate which will result in authorizing an annual rate of compensation to be paid such an individual under this Order which is higher than the annual rate authorized for that individual under that paragraph 4, such individual shall be paid in accordance with this Order.

(2) An individual occupying a position for which that paragraph 4 prescribes a maximum annual rate of compensation less than the annual rate for positions in such level V in effect immediately prior to October 1, 1974, shall be paid in accordance with sections 1–8 of this Order.

EFFECTIVE DATE

Sec. 10. Sections 1–9 of this Order are effective October 1, 1974.

James O. Eastland,
President pro tempore.

SUPPORT FOR SENATOR ERVIN'S PRIVACY BILL, S. 3418

Mr. **HUGH SCOTT**. Mr. President, after watching the systematic attempt to destroy the credibility and integrity of Nelson Rockefeller, I can see why more and more people shy away from public service. The loss of privacy and individual dignity associated with such an undertaking is often too great for average citizens to endure. Constitutional rights of privacy are closer to being lost now than at any time in the last 200 years, and something must be done.

Some Members of Congress recognized this threat to our privacy and have sponsored bills to curb the information-sharing activities of Government agencies and further to allow citizens an opportunity to appeal inappropriate actions of such agencies.

Speaking as one Senator, I intend to support Senator Ervin's privacy bill, S. 3418. This proposal, which affects Federal data banks, establishes five new standards:

First. Collect only relevant personal information and inform the individual which data is required, which data is voluntary, why it is needed and under what authority.

Second. Maintain and disseminate only timely data, keep track of outside access to the data, establish managerial and physical security.

Third. Announce the nature of each data bank maintained.

Fourth. Grant the individual access to inspect his record and tell each person where the data came from and how it is used.

Fifth. Reinvestigate information challenged by an individual, then correct the record or amplify it to include the person's version, and grant a hearing to resolve existing disputes on data.

Of course, when the bill comes up for floor debate, I will reserve my right to support or oppose amendments which are offered, but I will not withdraw my support for a strong and comprehensive approach to the protection of individual privacy. As we come closer to our bicentennial observance, privacy is one right, not a privilege, which must be kept inviolate.

BILINGUAL EDUCATION

Mr. **MONTOYA**. Mr. President, on September 27 the Washington Post published a column by Stephen S. Rosenfeld concerning bilingual education. On September 30 the Honorable William A. Steiger asked that Mr. Rosenfeld's column be printed in the Congressional Record, in an effort to encourage further discussion and debate. The column also produced a very large number of letters to the editor of the Post, some of which were printed on October 10 and inserted into the Record by my distinguished colleague Senator Floyd Haskell.

Because of my own concern over the issues raised by Mr. Rosenfeld, I wrote a guest column for the Washington Post which was published on October 22. I attempted to clarify some of the points raised by Mr. Rosenfeld and others, and to correct some of the misunderstanding of fact concerning congressional action.

Finally, Mr. Rosenfeld published a second column on this subject in which he very graciously expressed his thanks to those critics who had "broadened his understanding" of what bilingual education is intended to do.

Response to my own article was immediate and in most cases enthusiastic. It is clear that there is deep interest in this subject and deep concern over the basic concepts which this discussion has brought to the surface.

Because I believe that this kind of three-way debate between a popular and sensitive columnist, legislators in both the House and the Senate, and the public, is very valuable, Mr. President, I ask unanimous consent that Mr. Rosenfeld's second column, my own guest column, and several of the most pertinent letters I have received be printed in the Record following my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **MONTOYA**. Mr. President, I think it is especially interesting to note that those who are most enthusiastic about bilingual and bicultural education programs are either students who have themselves struggled with this problem or teachers who have worked with minority language children and have discovered the depth of the need and the value of the bilingual teaching effort.

Finally, Mr. President, I hope that this discussion will result in further and more thoughtful examination of the importance of every one of our various ethnic, racial, and religious groups in the creation of a multicultural America.

I am certain that as we enter the bicentennial years just ahead of us we are all going to be looking with better understanding at our history and at the many different kinds of people who were a part of that history. As we do that, I hope we will all begin to recognize that our culture and language is already multicultural, with ideas and ways of doing things which came to us from many different countries and which have been adopted into our own unique American lifestyle. Sauerkraut, pizza, tortillas, and Roquefort are part of our language as well as our diet—and every American can appreciate the spice and variety they have added to our diet as well as our language, for instance.

Our majority language is not really English, of course, as any Englishman can tell us. It is American, and it includes many words and phrases which have come to us from countries all over the world. A very large number of our place-names and words are Indian—and that part of our language and life did not come to this continent to join us—we came to join them!

I would agree with Mr. Rosenfeld that our variety of ethnic, racial, and religious groups cause tensions and stresses and problems. They always have. But the astounding achievements we have made as a people may be due, at least partially, to those very tensions and the effort we have been forced to make in adjusting to more than one kind of people and more than one culture and language group.

We live in a multicultural and multilingual world which becomes smaller and closer and more full of tension every day. We must learn to live together on this planet as human beings who respect ourselves and others. We are indeed, as has been suggested, a "great rehearsal" for the kind of international understanding and cooperation which is increasingly important.

It is perhaps a long step from a good bilingual/bicultural program in a first grade class in a little town in New Mexico to an international agreement about world problems, of course. But I think a very good argument can be made for the idea that our ability to succeed in that little schoolroom will be helpful and set a good example for our larger efforts in the world.

I realize we cannot accomplish all the goals of better bilingual/bicultural education overnight. As has happened so often in our past, these programs are evidence of our recognition of a problem, however—and a first step in providing solutions.

I am hopeful that the discussion which has been engendered by this debate will result in a broader understanding of not only the needs of our minority language children, but also of the great strength of our multicultural heritage.

[From the Washington Post, Sept. 30, 1974]

Exhibit 1

A Second Look at Bilingualism

(By Stephen S. Rosenfeld)

I am indebted to my critics for broadening my understanding of bilingualism—teaching in English and in the "home language," usually Spanish, in the public schools. The issue was discussed in this space on Sept. 27. Nothing I've ever written has drawn a larger response—about four to one against, by the way.

I think I understand better now that bilingualism is a program devised to meet a social and educational crisis, a situation in which a great many kids arriving in school speaking, say, Spanish fall behind at once, drop out and thereafter get a raw deal. Mexican-Americans are the key group here but Puerto Ricans and American Indians are also importantly affected.

Bilingualism also serves, I understand better, to redress the sense of those many Americans who speak English poorly or not at all, that their culture—a central element in personal identity—is not respected by the American majority and that their Americanism is somehow suspect.

Perhaps there is nothing more to be said about a program which promises so much to so many. But I think there is more.

First of all, can bilingualism reasonably be expected to carry the educational and social burdens which its sponsors have loaded upon it? The claim is made that a child educated first in the home language will find it easier to learn English, and to learn other subjects in English. But none of its supporters contend that this has been demonstrated other than in a small number of model school programs. It does not seem to me unreasonable, furthermore, to be skeptical about a proposal which puts so much weight on changing the method of instruction, since method is only one factor affecting a child's education.

Some argue in effect that bilingualism is a kind of consolation prize for kids who start school and life with heavy handicaps: "at least let them develop proficiency in the home language and pride in the home culture." But in that case it should not be sold as a catch-up. I can think of no crueler trick than a bilingual program which promises catch-up but leaves kids unprepared for society's rigors in two languages. Supporters of bilingualism should be more interested than any one else in making this point.

If it were up to me to resolve this particular issue, I would proceed full steam ahead on bilingualism, but I would tone down the promises made in its name and I would keep looking hard to see how the programs go and whether other programs need to be carried forward at the same time.

For reasons that no doubt reflect on me as well as my critics, I was startled to be called a "cultural fascist" and the like for expressing the hope that all American kids will learn English and have a fair chance at the good things in American life. Thereby to be accused of favoring "homogenized Americans" and "bland uniformity" set me to wondering about the ambivalences in American society; we want ethnic pride and conventional success and are uncertain whether the former is help or hindrance to the latter or whether the two have any real connection at all.

What is certain is that Americans of European stock have a very different view of the matter—a much more confident view based on their own experience—than do Mexican-Americans, Puerto Ricans and Indians. These Americans, far from being "immigrants" who chose to join this society, became Americans involuntarily by being militarily taken over by the expanding United States. They have not been "melted" or acculturated in the "melting pot" which absorbed Europeans. Rather, they have often gotten the worst of both worlds, their home culture degraded and their assimilation denied.

But, I still ask, where does this leave America? It is all very well for Americans to "recognize our multicultural heritage" but it does not signify "fear of diversity" or, I would contend, "latent bias" to express concern about how the different ethnic, racial and religious groups which compose this country relate to each other. Observers of the American scene at least since de Toqueville have noted these stresses and have pondered how to give each group its cultural due while ensuring that some larger "national" interest be assured.

Certainly it is fair to ask what role the public school system, perhaps the principal "cultural" institution in American life, should be expected to play in sorting out this generation's, or this decade's, answer to that fundamental, continuing question. Our "diverse parts" deserve respect but how should it be accorded? Yes, "jingoism," "xenophobia" and "cultural chauvinism" are aspects—baleful aspects—of the American scene. But not everyone who expresses a longing for Americans to get along better with one another need be charged with them.

Bilingual Education—Taking Exception

(By Senator Joseph M. Montoya)

A recent column in *The Washington Post* raised the frightening prospect of a divisive ethnicity being developed and fostered by Congress through passage of a "new" program for bilingual education. Stephen Rosenfeld expressed his "apprehension" at the possibility that our "melting pot" schools would no longer be able to Americanize immigrant children in what he called the "traditional" American way. He reported that the taxpayer was being asked to pay $170 million a year for this "extremely disturbing" new kind of education through legislation which he said had been enacted "without any public challenge" and with "no one paying heed."

It is hard to imagine a statement founded less on fact and more on fright. However, since it is always difficult to get coverage for the education problems of minority children, I welcome Mr. Rosenfeld's invitation to debate, and hasten to do what I can to correct the record.

First, let us be clear about what Congress did. The legislation passed this year was not new, but was simply an amendment to the Bilingual Education Act of 1968, written and introduced first in 1967 by Senator Ralph Yarborough and me. This year, that legislation, Title VII of the Elementary and Secondary Education Act, was amended in bills introduced by Senator Kennedy, Senator Cranston and me. The changes made will provide clearer definitions, better administration, an increase in funding to cover teacher-training, and better coordination between State and Federal programs. The $170 million mentioned by Mr. Rosenfeld is an authorization, not an appropriation, and *is for the year 1978, not this year*. The authorization for this year is $135 million, but only $70 million has been requested for appropriation. That will provide for only 284 programs across the nation—26 less than were funded last year.

Because the Federal Government has never provided for more than two percent of the children who need this special kind of education, however, the Federal program is really irrelevant to the debate which Mr. Rosenfeld's column raises. The controversy, it seems to me, centers on two concepts: First, an understanding of what bilingual and bicultural education is, and, second, an understanding of what we want America to be.

In order to understand bilingual/bicultural education, it is necessary to work with reality, not myth. The reality is between five and seven million children who are poor and come to school speaking a language other than English. They have historically been considered "marginal" children—barely worth educating, just as marginal products are barely worth producing. They live in barrios and ghettos, or on reservations, and they have drop-out rates as high as fifty or sixty percent. When the National Education Association held its first national conference to discuss this problem in 1966, educators urged a real commitment toward building "bridges of understanding" so that all Americans could learn to value our variety as a nation and at the same time provide an equal opportunity for education to these "other language" children.

Unfortunately, we did not succeed in solving the problem in time to help the children who entered school in 1966. For those who did not speak English, we know what has happened: Ten percent of them have dropped out of school already. Of those who are still in school, sixty-four percent are reading below grade level and ten percent are at least two years behind—in the fourth or fifth grades. And by the time they should be in twelfth grade—just four years from now—forty percent will have dropped out of school. Only five percent of them will ever complete college.

What those statistics mean to the dropouts is painfully clear to all of us. They will face the handicaps of higher unemployment, less income, less opportunity, all their lives. All the fringe benefits of poverty will be theirs: More illness, harder and less rewarding work, an earlier death. And fifteen years from now, when *their* children are ready for school, the whole sad story will be repeated, unless we are able to use the better techniques developed by educators in the last twenty-five years.

We know a great deal more today than we used to know about how children learn. We know, for instance, that when a child is five or six years old and has learned to think and make sounds in one language, he is ready to learn to read and write in that language. We call that "reading readiness." But if we switch languages on that child suddenly, and at the same time make him feel ashamed of all that he has learned so proudly in his first six years, he loses his reading readiness and suffers irreparable learning damage. Soon he falls behind in school and eventually he drops out.

It was through this modern understanding of learning that bilingual education was developed. The idea is to let the child learn to read and write in his own vernacular, the language he brings to school with him, and at the same time introduce him to English so that he can learn to speak and be literate in both languages at the same time.

Although this sounds *more* difficult, educators have been able to prove that it works better. Children who are taught in a truly bilingual and bicultural program learn better and faster in *both* languages. In the relatively *few places* where programs have been fully funded and where trained teachers are available, we find monolingual English-speaking students clamoring to be a part of bilingual programs because their parents see the evidence of expanded educational opportunity and understand the economic value of being able to use two languages fluently as an adult. In these places, the language the minority student brings with him to school becomes an asset instead of a liability.

The thought that an individual's language and cultural heritage is something of value brings me to the second concept which is important to this debate: The "melting pot" myth versus the American reality. We have always been a multicultural and multilingual nation. For our first hundred years, the "traditional" idea of America was that of a nation which gladly welcomed the cultural and lingual contributions of each inhabitant and every new citizen. The names of our states and of our cities are drawn from many languages, and tell the story of our past better than many of our history books do. Every group in America can find something of pride and self-identification in our folk histories. Our great pride in our early years was not that we were a nation full of people who were all of a kind—but that we were a nation full of individuals, each one of a kind, who shared a belief in liberty and personal freedom.

It wasn't until 1908 that the "melting pot" myth was extracted from a popular play of that name. The idea of an homogenized American emerging from the economic and cultural crucibles of the immigrant ghettos of our Eastern cities caught the imagination of social chauvinists. Unfortunately, the victims of this foolish attempt to create a bland uniformity in us have been the minority-language children of the poor, those who were least able to fight for our respect.

Now, at last, many minority Americans are asking that we recognize and use all of our multicultural heritage in order to broaden the educational experience of all of our children. They think our textbooks should reflect the fact that Cabeza de Vaca's exploration of Texas and New Mexico in 1528 is historically as important to us as John Smith's adventures at Jamestown in 1620. They believe that in a world which grows smaller every day, America should no longer ignore the language ability and cultural variety of its people or its heritage.

We Americans came to this continent from many countries and brought with us many talents. It is time to use those talents—including our multilingual abilities—to help our children build upon and enjoy their own great variety.

Those who are frightened of this resurgent appreciation of our worth as individuals should take time to examine closely the possibilities for growth which bilingual and bicultural education for minority-language chldren will give to us all. Let us not continue to throw away the rich legacy which minority-language children can contribute to our American inheritance.

GAITHERSBURG, MD.,
November 1, 1974.

Hon. JOSEPH M. MONTOYA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONTOYA: Your article "Bilingual Education" appearing in the October 22 edition of the Washington Post deserves both congratulations and many thanks. You have spoken out on a poorly-understood concept which is vital to many peoples.

Behavioral scientists have long espoused the importance of childhood experiences as a foundation of later characteristics. Language is perhaps one of the most significant of those experiences; yet very few recognize it as such.

A child does not distinguish between a verbal symbol and that which it represents. For example, several months ago I gave my 7-year-old daughter a "beginner's book" in Spanish. She carefully studied one of the pages, which pictured a ball with "BOLA" written beneath it. Finally, she asked me to pronounce the word for her, which I did. She frowned at the book a few more seconds, then announced with emphatic conviction, "Well, that may be what they call it, but it's still a ball." The word and the object were identical to her, and she could see no reason to call it something it obviously wasn't. Having come to this logical conclusion, she stubbornly refused to have anything further to do with the book. Yet at the end of her first year of school, her reading comprehension level IN ENGLISH was placed at the middle of the fifth grade; and school officials had measured her "IQ" at 140.

This is an excellent illustration of the obvious idiocy of denying children the opportunity of learning to read the language they grew up speaking. Had my daughter been give only Spanish books to read when she first entered school, the chances are she would have been considered retarded, indeed! She HAS recently begun asking me for specific Spanish words, which indicates she is mastering the concept of languages. Once she is completely capable of separating verbal symbols from the objects and concepts they represent, she will be ready to learn a second language. Until that time, forcing her to read another language would be nothing short of sadism.

I do most sincerely hope you will continue actively supporting the concept of bilingual/bicultural education, for I can conceive no greater service to so many of our people.

Very sincerely,
JANICE W. LEFFINGWELL.

COUNCIL OF CHIEF
STATE SCHOOL OFFICERS,
Washington, D.C., October 22, 1974.

Hon. JOSEPH M. MONTOYA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONTOYA: I have just finished reading your article on bilingual education in this morning's *Washington Post* (October 22, 1974) and I would like to take this opportunity to express my appreciation for the article. You have presented, in clear and succinct fashion, a sound rationale for bilingual and bicultural education. And at the same time, you have provided the public with an excellent explanation of the concept.

I would hope that the article could be made available to a vastly larger segment of the American public, because, as you have so neatly suggested, the public, by and large, either misunderstands or remains unknowledgeable. In this context, I would respectfully suggest that the article, as it is written, would be excellent for inclusion in a popular magazine such as *Reader's Digest*. I would hope that you and your staff would pursue the possibility.

As an educator, it has been traumatic, to say the least, to see non-English speaking youngsters enter school systems in which they were told, either explicitly or implicitly, to "speak English." I can readily recall an instance in which a beginning first-grade teacher, during the first two weeks of her first year, thought one of her students was either a deaf/dumb mute or a severely retarded youngster. The youngster was, as you describe, a monolingual non-English speaking child. This situation, I am certain, has occurred in millions of instances over the years, and I, as one concerned educator, applaud you and your colleagues for your efforts to remedy it.

Sincerely,
DAVID L. JESSER, Ed.D.,
Director of the Career Education Project.

WASHINGTON, D.C.,
October 24, 1974.

Re Biilingul Education.

Hon. JOSEPH M. MONTOYA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONTOYA: Just a note of commendation for your fine letter published in the Washington Post this week (Tuesday, October 22) concerning the legislation you have introduced to fund bilingual education. Although I am what is commonly referred to as a "WASP", being native-born of English ancestry resident in this country going back to 1640, more or less, I believe very firmly in bilingual education for ALL of our children, starting in the primary grades. With a smattering of Latin, Spanish and French, I feel not a master of any language but my native English, and it has been a source of life-long embarrassment to me in traveling and meeting persons from other countries who shame me with their polished English. Meagre as my Spanish and French have been, I have learned that it opened doors (and hearts) for me in countries where these languages are spoken.

A little anecdote from my childhood may prove relevant to your point. My mother was a teacher; she dearly loved and understood children. One year she was called as a substitute teacher to a little country school in western Oregon, to finish out the last two months of the school year for a teacher who had become ill.

At the hospital, the sick teacher explained a little about her students and added at the end, there was one little boy, about 8, who was retarded and had been unable to learn. She had kept him in the first grade for the past two years but just gave him "busywork" to do, as he seemed unable to carry out the simplest order. The other children shunned him and he just sat around by himself all day. Her first day in the new school, my mother found it to be as described. (Having completed my own year of schooling, I was also sitting in the classes—I was about a sixth grade student at the time.)

At recess, Mother called the shy little dark-eyed boy to her side. He came reluctantly and looked down at his shoes. She addressed a few words to him gently and was answered in what she immediately recognized as a foreign language. She guessed him to be Mexican, and spoke the very few words she knew in the language—padded out with Latin, which proved to be a god-send! The little guy had been trying to communicate with that dum-dum teacher for two years and she never took the trouble to learn that he was the son of a Mexican "section hand" on the railroad, living in a boxcar on the siding!

Through recess, Mother and I sat with little Manuel and drew pictures on the blackboard with the English words underneath—which she pronounced and he repeated perfectly. The same routine at noon was repeated, and at afternoon recess. The child had exceptionally good learning ability and before the week was out he was writing words and speaking them in whole sentences. At her first opportunity, my mother secured a Spanish dictionary and grammar, and they fell to with a real gusto—he was delighted to TEACH HER his language, and with her background in Latin which she knew very thoroughly, they were communicating with real pleasure on both sides, in the two languages.

By the end of the two months, with her special coaching (we also went to see his parents and were received graciously in their box-car home, with the special courtesy which is typical of Mexican people, however poor their station in life.) He spent Saturdays and Sundays with us, practicing his English, and we found this bright and lovable child a real joy to know. He shared his luncheon sandwiches with us (bread spread with lard and garlic) and we in turn traded ours with him. By the end of the 2 months, when school closed, my Mother promoted him to third grade, which earned him new respect among his scornful fellow students. The gratitude of his parents was boundless and they gave a little fiesta for us before we left. We gave him small presents of primary story-books. My mother assured his parents—"It is I who have learned the most—your son has taught me far more than anything I have taught him." We parted from them with kisses and tears.

The following year, when school began, Mother wrote a note to the new teacher (Miss Dum-Dum did not return to that school, fortunately) relating the child's progress and urging that he continue to receive special attention until he could catch up in all the subjects, as he was a boy of exceptional intelligence who needed only loving appreciation to shine scholastically. She was assured that the new teacher would follow up on what she started.

That was over fifty years ago, but it is an episode which I have never forgotten and in my own lifetime it has borne rich fruit, of tolerance and appreciation for persons of different nationalities, races and religions—lessons that I owe to my wonderful mother who took the trouble to UNDERSTAND and leap over the barriers of background, culture and language, to communicate with a lonely child.

Sincerely yours,

Mrs. Ione Warren Conway.

Hanover, Md.,
October 25, 1974.

Hon. Joseph Montoya,
U.S. Senate,
Washington, D.C.

Dear Senator: Allow me to offer my most sincere congratulations for a most articulate and eloquent rebuttal in the Washington Post concerning bi-lingual education in the United States and the support it needs and is getting from the Congress.

Mr. Rosenfield apparently neither understands our bi-lingual society or he is, as you so correctly pointed out, living in the myth and not the reality.

I am thirty years old and just finished college. Yes, it took me all these years and more to mature enough intellectually to be able to master the English language and have the confidence and motivation to be able to do the rigid work required in a major university like Maryland. You see, my dear Senator, school officials kept sending me back to repeat grades like the third grade, the seventh grade twice, and the ninth grade twice. Seems I couldn't understand what was going on. Maybe with bi-lingual education a child will not have to suffer the humiliation and sense of futility I experienced as a child in an anglo dominated society where speaking Spanish was considered a punishable offense.

You have made my pride in you, our only representative in the United States Senate, even more intense. Gracias a dios por Joe Montoya!

Yours truly,

Gustavo Caballero.

INTERGOVERNMENTAL PERSONNEL ACT

Mr. MUSKIE. Mr. President, recently, Gov. Mike O'Callaghan of Nevada addressed a conference in Emeryville, Calif., praising the merits of the Intergovernmental Personnel Act. Governor O'Callaghan describes numerous achievements and reports that as a result of IPA "there is a much higher degree of cooperation and a much-improved relationship between State and local government in Nevada."

The burden carried by government below the Federal level grows constantly. Citizen demands for better educational systems, improved transportation, clean air and unpolluted water, more and better recreation facilities as well as increased health care and hospital services place an increased strain on the capacity of State and local government to assume its full share of responsibility for public services today. I commend to my colleagues in the Senate Governor O'Callaghan's speech as a worthy illustration of the progress that is being made under the Intergovernmental Personnel Act to improve and strengthen the administration of State and local governments and to assist them in dealing more effectively with their personnel problems. I ask unanimous consent that this speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Remarks by Gov. Mike O'Callaghan to Regional Conference

It is an honor for me to be here. It is an honor to represent the State of Nevada, whose Personnel Division—by numbers a small Division in a small State—is nationally recognized for its achievements in improving personnel management.

The achievements are many, and the level of the achievements is high. But what it all comes down to . . . is getting the most worth out of precious tax dollars.

Dollars don't go as far as they used to. And all of us in Government are being put out on the point, and told to produce.

Well, frankly, I think that's good advice, whether you're in Government or elsewhere.

And when about sixty-five percent of the total cost of Government is in personnel, we'd better produce, all of us.

Some of you here—I hope most of you, for the sake of Nevada's tourism industry—know our State and our people. Nevadans are a tough, independent breed and they demand results. We're still a small State by population, a very personal State, and our public administrators face a lot of pressure in the form of public scrutiny. Maybe that's one reason that Jim Wittenberg, my Personnel Division Administrator, does such a superb job. If he doesn't, he can be sure that Nevadans, everywhere I go in the State, are going to be telling me about an inadequate performance.

Instead, I'm told by Nevadans throughout the State about the fine work our Personnel Division is doing for local public agencies. The support for this fine work is the Intergovernmental Personnel Act, and I want to mention today a few of the dividends of the IPA investment in Nevada.

The IPA recognized the critical need of state and local governments to strengthen personnel management programs, and to enhance cooperation in the programs among all levels of governments. This need grows every day, as state and local responsibilities grow.

For Nevada, IPA has provided grants for training, test validation, cooperative personnel services, work performance standards and affirmative action. All of these areas, as you well know, are under the gun for improvement. They are Nevada's personnel management priority needs. And without IPA, our needs may not have been met.

But there is IPA . . . . and as a result, there is a much higher degree of cooperation and a much-improved relationship between State and local government in Nevada. This is a strong tribute to Federal, State and local officials who had an important role in IPA accomplishments.

I was so personally impressed with the accomplishments—and the accomplishments to come—that last year by special proclamation I declared October 26 as "IPA Day" in Nevada. My proclamation was issued as a sincere gesture to recognize the benefits of

IPA to our State, and to emphasize to all our citizens that good public personnel administration is the main ingredient in the effective delivery of public services.

With the award only a month ago of the latest IPA grant to Nevada, our total Federal funds through IPA has reached three hundred and five thousand, five hundred dollars.

Not a large amount of money, as grants go, but believe me, it is most welcome in Nevada, and it has helped us attain some important objectives. We are very proud of the fact that our overhead for our total IPA grants has been under ten percent.

This is one of the reasons that Nevada has received national recognition for achievements in improving personnel management. As you know, Nevada is the designated State from Region Nine . . . for the Presidential Level Goal on Comprehensive Personnel Management Improvement. The overall action plan developed by the Nevada IPA staff aims at twenty-five specific improvement projects over the next twenty months. These projects include our priority needs, and I'd like to tell you now how far down the road we are on these projects.

One of the most important programs under IPA is the Cooperative Personnel Services Project. The majority of IPA funds granted to Nevada has been utilized in Cooperative Personnel Services. Nevada law provides that the State Personnel Division make its services available to local Governments on request, and such requests have resulted in numerous joint efforts between State and local governments to meet today's challenges in personnel management. Through IPA funding, the cost of such efforts and services to local governments has been greatly reduced, and personnel management at local levels has become more effective.

Incidentally, it sometimes happens that small amounts of seed money—such as the IPA funds we have received in Nevada—can trigger such impressive results that it can lead to State funding, when the executive and legislative branches see a good track record. In effect, IPA grants can be parlayed into State support.

Test validation is another of our priority needs, and Nevada is about one-fourth the way through this IPA project. We have established an examination research function in Nevada, which followed our entering into a bi-state agreement with the California Selection Consulting Center. Through the Center's assistance, Nevada has developed its own staff consultants, and our people can now offer training and technical guidance to local governments in the State.

Another of our priority needs is affirmative action. For the past several months, we've zeroed in on this one. And within the next thirty to sixty days, our affirmative action plan will be finalized, with timetables and solid goals.

My top priority among the critical needs being met by IPA funding was placed on work performance standards. I issued an executive order that all of the State's fifty-three operating agencies . . . develop and implement work performance standards for each classified job in State Government. This massive project over the past nine months will be successfully completed by the end of this month. And by June of next year, all classified State employees . . . as well as a large portion of Nevada's local public employees . . . will be subject to work performance standards. The dividends of this IPA investment almost defy measurement . . . because it's a measurement of quality. Quality is what we're after . . . and reward for quality.

The valid criticism of most public personnel systems is that, in the past, individual performance standards have been virtually non-existent. In many cases, current systems encourage less work . . . rather than more . . . because outstanding performance is not given any higher recognition than average or mediocre performance. This stifles workers' incentive and innovation. It reduces productivity and fosters less effective Government.

The public—the taxpayers—will not stand for this. So we simply must have change which brings about improvement in the system.

In the future for Nevada's work performance standards are further refinements. To continually improve the quality of the delivery of services to the public, we will broaden the current incentive system so that superb performance is given the recognition it richly deserves.

We have our eye on monetary rewards, as well as other forms of recognition for hard and effective work. For instance, certain members of the State workforce must, for the protection of the public, be on duty on such days as Christmas. We are looking at the possible incentive of rewarding the top few performers in these professions . . . with Christmas Day off.

Now, this may not seem like much to those of us who have Christmas Day off. But rest assured, if you had to work *that* day every year—if you were unable to spend Christmas, of all days, with your family . . . then having Christmas Day off would seem the best possible recognition you could have for excellent work.

We are striving for career incentives for *merit*, as opposed to incentives merely for time put into the job.

Some other key people in Nevada's IPA projects are also here today . . . George Earnhart and Mitch Brust of my IPA staff, and Don Dawson, Chairman of my IPA Committee in Nevada. Don's the city manager in Henderson, my old stomping grounds near Las Vegas. He's certainly one local government official in Nevada who's had direct benefits from IPA through the Joint Wage and Salary Survey.

Before I conclude my remarks, I must mention that Don, Jim Wittenberg and IPA staffers have told me of a startling development. It boggles the mind. It's unheard of. But they tell me . . . that the IPA grant process doesn't involve a mountain of paperwork and red tape.

Now, that's progress. My hat is certainly off to the IPA staff of the Regional United States Civil Service Commission, and to the exceptional direction of Asa Briley.

My hat is off to the concept, the results, and the future of IPA and good personnel management. The dividends of the IPA investment in Nevada represent what I am convinced is an excellent return on tax dollars, a giant step forward in the efficient delivery of services, and a plan to give outstanding public employees the distinction they have earned.

Thank you.

OVERRIDE OF PRESIDENT'S VETO OF REHABILITATION ACT AMENDMENTS OF 1974

Mr. WILLIAMS. Mr. President, by a vote fo 398 to 7, the House of Representatives has voted to override the President's veto of H.R. 14225, the Rehabilitation Act Amendments of 1974. I commend my colleagues in the House for this swift and decisive action on this legislation and hope and expect that the Senate tomorrow will take similar action. It was with some surprise that many of us learned of the veto of this legislation during the election recess. H.R. 14225 is an important piece of legislation. It contains many critical changes in the 1973 Rehabilitation Act. It is not, however, legislation which is controversial or legislation which can be said to affect the economy, except to the extent that it will assure handicapped people a better opportunity for retaining employment in these difficult times.

Mr. President, H.R. 14225 is a 1-year extension of the Rehabilitation Act of 1973, making minor changes in authorizations and necessary substantive changes indicated by committee oversight amendments to the Randolph-Sheppard Act, and calling for a White House Conference on Handicapped Individuals. Money is not the issue with this bill, as is so aptly pointed out in the veto message. I hesitate to say this, but this legislation represents one of the lowest increases in authorizations ever reported by the Committee on Labor and Public Welfare, so hard did we work to avoid a veto of this bill on fiscal grounds.

In summary, title I of H.R. 14225:

Extends Rehabilitation Act for 1 year until June 30, 1976, and raises certain authorizations;

Transfers the Rehabilitation Services Administration from the Social and Rehabilitation Services Administration to the Office of the Secretary, and provides that the Commissioner shall be responsible only to the Secretary, the Under Secretary, or an appropriate Assistant Secretary;

Clarifies the definition of handicapped individual for purposes of provisions relating to affirmative action for employment under Federal contracts and nondiscrimination under Federal grants, and other provisions;

Requires affirmative action in employment in State agencies and facilities;

Includes provisions requiring review of individuals deemed ineligible for VR, and collection of data so that ineligibility determinations may be evaluated by HEW;

Provides for a Consumer Advisory Panel for the Architectural Barriers Compliance Board, and creates a compliance mechanism for the Board.

Title II: Randolph-Sheppard Act amendments makes certain changes in act, including priority to blind persons in operating vending facilities on Federal property, assignment of income of vending facilities, complaints and arbitration procedures, and training for upward mobility for blind vendors.

Title III: White House Conference on Handicapped Individuals authorizes the President to call a White House Conference on Handicapped Individuals within 2 years from date of enactment, includes a National Planning Council, members shall include at least 10 individuals with handicaps and five parents; authorizes grants to States—at least $10,000 but no greater than $25,000—to run at least one State conference required previous to White House conference.

The President, in his veto message, cited this legislation as being disruptive to the rehabilitation program and criticized the Congress for a "hastily drawn" bill. It is hard to understand how this legislation could disrupt the vocational rehabilitation program. Indeed, it is this veto which is disruptive. The vocational rehabilitation legislation underwent two vetoes in 1972 and 1973, leading to a compromise bill agreed upon by the Congress and the administration and finally enacted in September of 1973. Today, 1 year and 2 months later, we have yet to see final published regulation to implement the provisions contained in that law. This veto has again delayed the implementation of vitally needed program changes and delayed the settling of issues which we thought were settled by the agreements entered into in the compromise legislation in 1973.

This legislation carries the virtually unanimous support of all organizations and groups concerned about rehabilitation and training programs for individuals with handicaps, and has been supported by the State directors of vocational rehabilitation programs. It hardly seems necessary to point out that if this legislation were disruptive, it would not enjoy such strong and pervasive support from those who administer the program and those who benefit from the program.

ACTION ON LEGISLATION

Mr. President, this legislation was originally introduced in March of 1974. The House passed the bill on May 21; the Senate did not take action until September 10, 1974, and the conference committee did not meet until 1 month later. Indeed, if this is the President's idea of haste, I suggest he check with our House colleagues who certainly did not agree with him over that long summer and were critical of the Senate for taking 6 months to finally fashion this bill.

Furthermore, with regard to the Randolph-Sheppard amendments, I am sure that the Senator from West Virginia, does not feel that the long years that he spent trying to enact these amendments, from 1969 until today, have passed by hastily. Review of this program started in 1969 in the Senate, and the Senate has passed the legislation unanimously now three times in the last two Congresses. The same is true of the White House Conference on Handicapped Individuals which has been passed twice unanimously by the Senate before its inclusion in this amendments. Ample opportunity has been provided to the administration over this entire period of time to meet on this legislation, and such meetings were in fact held.

The President argues that the House did not have hearings and had the House had hearings the administration would have been able to explain the effects of this legislation. This statement is a clear misrepresentation. Both the House and the Senate have been conducting extensive oversight since the enactment of the 1973 Rehabilitation Act. The House committee had 3 days of hearings in August, November, and December of 1973, and was involved in extensive discussion with the administration over regulations. Their hearings and discussions were the basis for House action on H.R. 14225. The Senate, furthermore, did hold a hearing on H.R. 14225 on June 27 at which the Department was the only witness and at which the Department testified at length. The committee further submitted more than 40 detailed questions to the Department for its response. On the basis of this information, the hearings, and other oversight activities, the committee moved some 3 months later to report its bill. Hearings were also held in both House and Senate on the Randolph-Sheppard amendments from 1969 onward.

Mr. President, it is perhaps the height of irony that this is a classic example where a committee has performed its true oversight function and has done it thoroughly and well—a function that is cited by most scholars as vestigial and unexercised. Yet, in this instance, we have been criticized as having acted "hastily" without giving true consideration to the effects of our actions.

TRANSFER OF RSA

The President in his veto message alleges that the transfer of the Rehabilitation Services Administration from Social and Rehabilitative Services Administration to the Office of the Secretary is an attempt to "administer through legislation." Yet beyond the transfer of RSA out of SRS, H.R. 14225 makes no changes in organizational structure which were not fully encompassed with respect to the agreement between the Congress and the administration in the final version of the Rehabilitation Act of 1973. And, the Congress made a decision to move RSA on the basis of its oversight hearings, and on the basis of philosophy. This move is not without precedent. Legislation passed by the Congress quite often makes transfers of this type. Indeed, this committee moved the Office of Aging from SRS in a similar transfer in 1973. More importantly, a similar transfer was recommended by the Ash Commission and was strongly advocated within one of the reorganization proposals submitted by the Nixon administration in 1971. Indeed, those proposals recognized the need for congressional participation in organizational decisions and that such decisions were not to be the prerogative of the executive branch alone. Under that reorganization proposal, a Human Development Administration would have been created within a restructured HEW and would have included: rehabilitation, child development, aging, juvenile delinquency, manpower training, social services, and education programs. Furthermore, SRS was to contain income maintenance programs including welfare, social security, medicare and medicaid. The clear point of this proposal was to do exactly what H.R. 14225 has done: To separate the human services programs from income maintenance programs. It is not often that the Congress adopts reorganization proposals of the administration, and in this case, many of the other recommended programs transfers have already been moved to the Office of Human Development. It is indeed strange that we are criticized for what was lauded as an important and vital step toward a more manageable Department of Health, Education, and Welfare, and to be criticized now, 3 years later, for acting "hastily."

Mr. President, contrary to other allegations in the veto message, there are no requirements in the bill which would create. as the President states, "independent organizational units." Furthermore, his claim that a "250 man bureaucracy" is required for "monitoring the construction and modernization of Federal facilities" has no actual or implied basis in the law. There is no provision in H.R. 14225 which would require so much personnel, and no monitoring responsibility which would require so much personnel.

Mr. President, perhaps the most disturbing argument in the veto message is that because the present program does not expire until mid-1975, plenty of time remains to work out a bill. Having been criticized in the past for failing to enact legislation long enough in advance to provide ample time for planning, I must say that I find this criticism rather absurd. The Congress takes a great deal of abuse for failing to plan ahead, for failing to take timely action, for being late. Because both committees believed strongly that this program had been abused enough in 1972 and 1973, we enacted legislation some 8 months before the expiration date. As many of my colleagues understand, this program's allocations are based on the authorization of appropriations. States cannot plan the State share in advance without knowing the authorized level. If H.R. 14225 is enacted tomorrow, States will have but 8 months to plan their fiscal year 1976 programs and to obtain adequate State funding.

I feel I must remind the President that it is the Congress responsibility to legislate. The Congress has legislated after full consideration of proposals before it, after oversight hearings, and after consultation with the executive branch. This legislation was not introduced on Monday and passed yesterday. It has been before the Congress since March, and the issues dealt with by the bill have been with us much longer. It is highly important for the future of this program that we take final action immediately to allow the States to get on with their business. Their business is providing high quality rehabilitation services to persons with handicaps, and to carry out the priorities within the 1973 act for services to the severely handicapped. I urge my colleagues to vote to override this veto, so that we may get on with our responsibilities of insuring that the 1973 act is implemented fully and completely.

ALASKAN FISH CAMPS FOR MILITARY

Mr. PROXMIRE. Mr. President, the General Accounting Office has been requested to investigate reports of a number of fishing resorts located in Alaska and Canada that have been used by high ranking officers and civilian guests.

Available evidence indicates that there are several such camps, some of them only accessible by aircraft.

For example, the camp at King Salmon, 300 miles southwest of Elmendorf Air Force Base has been opened for the salmon season. The Air Force flies military personnel into this camp as their guests.

Mr. President, the Reasoner Report has conducted its own investigation of these fishing camps and aired its results October 12 on national television. This report is very interesting and contains many of the facts I have asked the GAO to investigate.

Mr. President, I ask unanimous consent that the transcript of the Reasoner Report be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

Fishing Camp Story

Reasoner. At six o'clock on a Saturday morning in August, a fleet of boats sailed into Alaska's Resurrection Bay for the 19th Annual Seward Silver Salmon Derby.

The first Derby winner was an Air Force Lieutenant from Elmendorf Air Force Base, 125-miles away. The military has been well represented ever since, because the Army and the Air Force have built their own fishing empire in Alaska.

As the Silver Salmon Derby began this year, there were questions being raised about the right of the military to run fishing camps. Questions about the cost, the authorization and the safety.

Ilse Harper. I was getting kind of upset but I wasn't very much worried because my husband is pretty good at things like this you know. I never had to worry much because he took care of the kids very well.

Reasoner. Ilse Harper has filed a claim for one-million dollars against the United States, charging negligence in the operation of the Army's Recreation Area at Seward.

Ilse Harper. I had supper prepared and I put it in the oven in the camper and I washed the dishes and over the radio what I had in the camper I heard that a Sergeant was—(crying)

Reasoner. In May, 1973, Army boat F–R 22, driven by PFC Jimmy Foster, an 18-year old from Old Hickory, Tennessee, left the Seward camp for a day of fishing. His passengers were career Army Sergeant Floyd Harper and his four children. There was an accident and all six people died. Ilse Harper, the Sergeant's widow, and Ruth Harper, his mother, live in Riverbank, California.

Ilse Harper. There is only six allowed on the boat. So, either one of the children had to stay back or I had to go. So I didn't like fishing so I stayed back and the children went. But today I wish I would have went. I wouldn't be here either. That would have been much simpler.

Reasoner. The General Accounting Office, the budget investigating arm of Congress, is looking into the accident.

At the request of Senator William Proxmire, the G.A.O. also is trying to determine how many tax dollars are spent on the camps, and who uses them. The Senator wants to know whether enlisted men do the work, and if so, is that proper? Quite simply, he is asking whether the military is wasting money on a recreational fringe benefit for the brass.

A former Air Force Sergeant, Thomas Staudenmeier, has been an outspoken critic of the cost of the camps.

Staudenmeier. Years ago, the military wasn't paid very much. This was part of the benefits. In this day and age the military are well paid and it is my belief if they don't want to pay their own way, then they shouldn't have it.

Reasoner. Our own investigation started at an Air Force Camp and an Army Camp, side by side at Seward.

The Air Force Camp is open for three months each year. Air Force men bring their wives and children down from Elmendorf Air Force Base on a three day pass. This year, the Air Force estimated the cost of running its camp at 298-thousand dollars. 268-thousand from tax dollars, budgeted for national defense.

The Army told us its operation at Seward had been trimmed this year. The only available cost figures were for last year, when the Army's camp cost the taxpayers another 106-thousand dollars. That did not include the salaries of the enlisted men assigned to the camp.

We also visited two more Air Force camps, at an out of the way fishing paradise called Camp Naknek. There are no wives or children at Naknek.

The Air Force flies its fishermen into the town of King Salmon, 300-miles southwest of Elmendorf Air Force Base, and provides buses out to the camps. This year, the camps were kept open just for the salmon season, between mid-May and the end of July.

Chuck Samuels—*resident*. I think the folks here in King Salmon feel that the thing is grossly overdone. A lot of taxpayers' money is wasted in bringing them down here in Air Force aircraft. We can understand the use of the fish camps for local Air Force personnel, but it seems like quite a waste of money to bring people in from far places.

Reasoner. The cost of running the Naknek camps: 159-thousand dollars. 152-thousand came from appropriated Defense Department funds—tax dollars.

Dean Paddock—*guide*. It does bother me a little bit that they are providing facilities there for nickels and dimes in direct competition with me. This past year I have been charging a hundred-ten dollars a day per person. I understand that the cost to the military personnel over there is something like seven-and-a-half dollars a day.

Reasoner. As for who uses the camps: according to the Air Force, of the 563 active duty men at Naknek this summer, almost half were officers. There were nine Generals, six of them retired.

The Army, in Washington, told us that most of the servicemen who visited its Seward Camp early in the season were officers or non-commissioned officers. An Army fact sheet said the lack of enlisted men was not surprising considering that, "Fishing is not a high interest activity with the young soldier."

The General Accounting Office also is investigating the use of enlisted men at the camps. At Seward, 59 Army men were assigned to temporary duty.

Army Lieutenant. Let's be sure we don't have any hassles with civilian drivers. Let's go through the whole Salmon Derby without a single complaint about Army drivers. Make sure you watch where the hell you're going when you back out of your slip in the morning.

Reasoner. Commanded by a Lieutenant fresh out of West Point, the boat drivers are enlisted men from the 1st Battalion, 60th Infantry, at Fort Richardson in Anchorage.

Enlisted Man. I'm in the infantry, I'm just at Seward driving boats for the summer.

I'm in the infantry, so I can get down here in the summer.

Reasoner. The use of young, inexperienced servicemen to drive boats is one of the objections raised in Ilse Harper's million-dollar claim against the government. She says that James Foster, the driver of the boat in which her husband and children were killed, was given very little training.

Ilse Harper. The most he had was 3-weeks out there because he had tonsillitis, he was brought back, he was in the hospital, he was taken back, and there is no fault at all to go to James for the simple reason he was an 18-year old boy.

Reasoner. Since the accident, the Air Force has switched to civilian drivers at Seward, citing increased safety as the prime reason. The Army still uses military drivers.

Our Defense Department correspondent Frank Tomlinson was told there was no one available to answer questions on film. We were told that the Army and the Air Force are given a free hand in their recreation programs until something goes wrong.

Ilse Harper and the other people we interviewed seem to think there is now sufficient reason for a review of the fishing camps.

Ilse Harper. It is just too bad that I had to lose my family for them to realize and do something about it.

THE DANGER OF SABOTAGE AT NUCLEAR POWERPLANTS

Mr. RIBICOFF. Mr. President, the General Accounting Office has reported to the Chairman of the Atomic Energy Commission on the need for immediate improvement of security at nuclear powerplants.

The report, dated October 16, makes clear that even under the most recent physical security plans approved by the AEC nuclear powerplants are now vulnerable to takeover by small groups of saboteurs. I ask unanimous consent that the text of this report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIBICOFF. Mr. President, according to the report:

> Licensee and AEC officials agreed that a security system at a licensed nuclear powerplant could not prevent a takeover for sabotage by a small number—as few, perhaps, as two or three—of armed individuals. Such a takeover, particularly of a nuclear powerplant near a large metropolitan area, could threaten public health and safety, if radioactive materials were released to the environment as a result of successful sabotage.

The report goes on to note that the AEC is presently funding studies, scheduled for completion by June of next year, in an attempt to resolve disagreement among experts on the vulnerability of nuclear powerplants to sabotage in the event of a takeover by would-be saboteurs. However, the report does note:

> According to AEC and licensee officials, the used-fuel storage facility at a nuclear powerplant is more accessible and vulnerable to sabotage than is the reactor core.

The used fuel is generally stored in an uncovered pool of water near the reactor for cooling before being packaged and shipped to a commercial fuel reprocessing plant. The highly radioactive used fuel is not covered by the containment vessel which is designed to prevent the active fuel in the reactor core from penetrating beyond the plant in the event of an accident. There is a shortage of storage space for used fuel because no commercial fuel reprocessing plants are now in operation. As a result, the report states:

> The dwindling commercial storage capacity has already resulted in some nuclear powerplants' keeping more used fuel on hand than they normally would. This situation increases the potential consequences of successful sabotage of the used-fuel storage facilities at such plants.

The GAO, in its survey of nine nuclear powerplants at five sites, found examples of noncompliance with AEC security guidelines, including unlighted protected-area perimeters, unlocked outside doors, lack of intrusion alarms, and unarmed watchmen.

GAO investigators also found that the "AEC's review and approval of licensees' proposed security systems are not based on specific performance criteria," leaving "no way to measure the effectiveness of licensees' total security systems." Furthermore, the report found that there was "no specific coordination with other Federal agencies, such as the Department of Defense and the Federal Bureau of Investigation, to protect against or respond to attacks by paramiiltary groups." Nor did the AEC require nuclear powerplants to establish such coordination with local law enforcement agencies, according to the report.

Mr. President, these GAO findings contain the latest disturbing indications that inadequate safeguards against theft and sabotage may yet be the Achilles heel of the nuclear power industry.

Earlier GAO reports revealed the lack of protection of plutonium and other weapons-grade nuclear fuel during storage and transportation in the AEC-licensed industry.

Earlier this year, as chairman of the Subcommittee on Reorganization, Research and International Organizations, I conducted the first congressional hearings into the problem of safeguards against theft and sabotage in the nuclear power industry. On March 12, Dr. Theodore B. Taylor, an eminent theoretical physicist and former designer of atomic bombs at Los Alamos, testified that present AEC safeguards were incomplete and that thefts of nuclear materials and the fashioning of terrorist atomic bombs were now possible. The next day we heard the testimony of responsible AEC officials who reassured the subcommittee that the commission's safeguarding of industrial nuclear materials was being upgraded and that the newest regulations were adequate to protect them from theft and sabotage.

The actual seriousness of the situation became clear a few weeks later, however, when on March 31 I released an AEC internal study—the Rosenbaum report—which found the latest AEC safeguards to be "entirely inadequate" to prevent theft of these materials and their later conversion into atomic bombs by terrorist groups.

Now we learn that the AEC has done little to protect nuclear powerplants from sabotage, and that highly radioactive used fuel is especially vulnerable to such threats.

It was in response to this kind of regulatory blundering that Congress acted recently to abolish the AEC and replace it with an all-new Nuclear Regulatory Commission—NCR—with special, upgraded safeguards responsibilities. As author of the safeguards provisions of this legislation, I wish to stress that the intent was to assure that the NRC will have the capability to make security at reactor sites and fuel facilities airtight and foolproof. Protection of the highly vulnerable transportation link between these facilities also must be upgraded through the use of special armored and boobytrapped vehicles that are now available only for the nuclear weapons program.

One of these provisions requires the new Commission to report within 1 year on the advisibility of forming a Federal security force to take over some or all of the safeguards functions now in the hands of the nuclear power industry. It should be noted that within 10 years, this industry will be producing more plutonium than the Government weapons program, reaching a projected 660,000 pounds a year, every year, by the turn of the century.

Unfortunately, there has been little evidence to date that either the executive branch or the nuclear industry is prepared to take the safeguards problem seriously. Just recently, the Office of Management and Budget slashed AEC's request for supplemental finding to improve safeguards from $87.6 million to $18 million. The action included a total rejection of the AEC Regulatory Division's request of $13 million to begin a major upgrading of safeguards in the nuclear power industry.

Senator JACKSON and I were able to obtain an additional $5 million for safeguards—$3 million of it to go to regulatory—in the still-pending supplemental appropriations bill. Yet, this is little more than stop-gap funding, and it will have to be increased substantially in the next fiscal year if the vast quantities of commercial nuclear materials are to be adequately protected.

Unless safeguards against theft and sabotage are given the same priority attention as the prevention of reactor accidents, the materials used in the nuclear power industry will pose a serious threat to public health and safety regardless of how safely the reactors themselves operate.

Exhibit 1 follows:

EXHIBIT 1

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., October 16, 1974.

HON. DIXY LEE RAY,
Chairman, Atomic Energy Commission.

DEAR DR. RAY: We have surveyed the security systems at commercial nuclear powerplants, and have noted issues which warrant your attention.

As you know, security in the nuclear industry has been a matter of considerable public and congressional concern mostly related to safeguards for preventing the theft of special nuclear materials. Some concern has been expressed about security systems at nuclear powerplants. The consensus of opinion is that security throughout the industry needs to be improved.

We made this survey as a follow-on to our recent work on in-plant and transportation protection of special nuclear material. During the survey, we visited nine nuclear powerplants at five sites. We identified those sites for AEC officials. We also visited local law enforcement agencies. We saw the existing security systems and discussed them with licensee and AEC officials. We also discussed with these officials any planned changes in these areas.

AEC's guidance to licensees for security systems at nuclear powerplants does not specifically define the level of sabotage threats that licensees' security systems must be able to handle, and AEC has not clarified the Government's responsibility for protecting nuclear powerplants against sabotage threats beyond the capabilities of licensees' security systems. Studies AEC is funding should provide a basis for determining credible sabotage threats and for developing performance criteria. However, it will be some time before these studies are completed, performance criteria are developed, and revised security requirements are adopted. The actual or prospective increase in the amounts of highly radioactive used fuel stored at nuclear powerplants would seem to warrant establishing interim additional security requirements as soon as possible.

SECURITY SYSTEMS AT COMMERCIAL NUCLEAR POWERPLANTS

AEC regulations effective November 6, 1973, require licensees to prepare physical security plans for their nuclear powerplants and to submit them to AEC for its approval. To help licensees develop their plans, AEC issued Regulatory Guide 1.17, "Protection of Nuclear Power Plants Against Industrial Sabotage." The guide endorses the American National Standards Institute Standard N18.17, "Industrial Security for Nuclear Power Plants." As of September 1, 1974, AEC had reviewed and approved the physical security plans for all nuclear powerplants licensed to operate.

Under the AEC guide and the standard, licensees, to detect, deter, and protect against intrusions, are expected to maintain an armed-guard force, install protective barriers, and provide intrusion detection devices. Licensees are also expected to establish liaison and communications with law enforcement agencies to help licensees protect their plants against acts of industrial sabotage.

At several plants we visited, we noted unlighted protected-area perimeters, unlocked outside doors, lack of intrusion alarms, and unarmed watchmen. Licensees were planning to correct such weaknesses in their security systems to comply with the AEC guidelines for security at nuclear powerplants.

Are commercial nuclear power reactors vulnerable to sabotage?

Licensee and AEC officials agreed that a security system at a licensed nuclear powerplant could not prevent a takeover for sabotage by a small number—as few, perhaps, as two or three—of armed individuals. Such a takeover, particularly of a nuclear powerplant near a large metropolitan area, could threaten public health and safety, if radioactive materials were released to the environment as a result of successful sabotage.

Various experts disagree on the vulnerability of nuclear powerplants to sabotage. In an attempt to better define this vulnerability, AEC is funding studies, scheduled for completion by June 1975, to determine the:

Potential sources of sabotage threats;

Vulnerability of nuclear power reactors to sabotage;

Resources necessary to carry out successful sabotage, and

Potential consequences of sabotage.

According to AEC and licensee officials, the used-fuel storage facility at a nuclear powerplant is more accessible and vulnerable to sabotage than is the reactor core. Such a storage facility generally is an uncovered pool of water near the reactor. The highly radioactive used fuel does not have the same degree of physical protection as that provided to the reactor core by the reactor containment vessel.

The used fuel is stored on site for cooling. After cooling it is packaged and shipped to a commercial fuel-reprocessing plant. Fuel-reprocessing plants have large storage capacities and have been storing used fuel. However, these plants are not expected to be in operation until 1976 or later and their storage areas are rapidly being filled. AEC has recognized this problem and is considering allowing AEC facilities to store used fuel from commercial nuclear powerplants.

The dwindling commercial storage capacity has already resulted in some nuclear powerplants' keeping more used fuel on hand than they normally would. This situation increases the potential consequences of successful sabotage of the used-fuel storage facilities at such plants.

Need for improved security requirements

Standard N18.17 states that the security system it outlines is designed to protect against a wide variety of potential threats, including a "small group of discordant individuals." The standard specifically excludes protection against "deliberate assaults by trained para-military groups," stating that such protection is the Government's responsibility.

Licensees have not been given specific guidance on the difference between threats posed by small groups of discordant individuals and those posed by trained paramilitary groups. Therefore the level of threats that licensees' security systems must be able to protect against is unclear.

AEC's review and approval of licensees' proposed security systems are not based on specific performance criteria. Without such criteria there is no way to measure the effectiveness of licensees' total security systems—their onsite security system and assist agencies' response capabilities.

AEC officials told us that there had been no specific coordination with other Federal agencies, such as the Department of Defense and the Federal Bureau of Investigation, to protect against or respond to attacks by paramilitary groups. These officials said that local law enforcement assist agencies would be expected to respond to such attacks. However, AEC guidance to licensees does not provide for making such assist agencies aware that they would be expected to carry out the Government's responsibility to counter attacks by paramilitary groups against commercial nuclear power reactors.

The need to give licensees specific guidance on the level of threats their security systems must be prepared to handle and on the Government agencies which must be contacted for assistance and to provide for evaluating the response capabilities of assist agencies, has been recognized within AEC. During a recent review of an applicant's security system, AEC's Atomic Safety and Licensing Board said that, since the applicant depends on the assist agencies to handle situations beyond the onsite capabilities, their abilities to respond should be tested.

In a later comment on that same security system, AEC's Atomic Safety and Licensing Appeal Board recommended that the AEC Regulatory staff make sure that requirements for security plans "prescribe precisely the 'design basis threat' that the applicant itself must be prepared to meet." The Appeal Board further said that the AEC Regulatory staff should make sure that those requirements specify "the governmental authorities which an applicant must contact for assistance" to counter threats beyond its own capabilities. AEC Regulatory officials told us that these recommendations were advisory and they did not plan to take any specific action on them.

In addition, the need for increased security is being advocated from within AEC. AEC's Advisory Committee on Reactor Safeguards, which independently reviews all applications for construction permits and operating licenses for nuclear power reactors, recently recommended to AEC, as a result of its analysis of a construction permit application, that more attention be given to reactor design features which "prevent or mitigate the consequences of acts of sabotage." Furthermore, an AEC Commissioner recently noted that the use of built-in protective devices, such as incapacitating gas in critical areas of reactors, would help provide greater insurance against sabotage.

CONCLUSIONS

AEC needs to (1) give licensees more specific guidance on the level of threats their security systems must be prepared to handle by clarifying the differences between assaults by small groups of discordant individuals and by paramilitary groups, (2) clarify the Government's responsibility for protecting nuclear powerplants against sabotage by paramilitary groups, and (3) establish performance criteria for licensees' total security systems.

After AEC gives licensees better guidance on what their security systems are expected to protect against and clarifies the Government's responsibility for protecting nuclear powerplants against sabotage by paramilitary groups, licensees will know more precisely what their security systems must be designed to do and AEC will be better able to judge this capability.

The studies AEC is funding should provide a basis for determining credible sabotage threats and for developing performance criteria. However, it will be some time before these studies are completed, performance criteria are developed, and revised security requirements are adopted. Meanwhile, there is one vital area at nuclear powerplants—the used-fuel storage facility—which seems to warrant establishing additional security requirements as soon as possible, particularly in view of the actual or prospective increase in the amounts of used fuel stored at nuclear powerplants.

When the vulnerability of nuclear powerplants to sabotage is better known as a result of the current studies, AEC should be able to establish performance criteria; evaluate security systems against such criteria; and adjust security system requirements, as necessary.

RECOMMENDATIONS TO THE CHAIRMAN, AEC

We recommend that AEC clarify the differences between assaults by small groups of discordant individuals and by paramilitary groups and clarify the Government's responsibility for protecting nuclear powerplants against sabotage by paramilitary groups. We recommend also that, in view of the actual or prospective increase in the amount of used fuel stored at nuclear powerplants, AEC determine what additional interim security requirements can be established to strengthen licensees' security systems.

We appreciate the courtesy and cooperation extended to our representatives during the survey. We shall appreciate being informed of the action you take on our recommendations.

We are sending copies of this report to the Director, Office of Management and Budget; the Chairman, Joint Committee on Atomic Energy; and the Chairman of the House and Senate Appropriations and Government Operations Committees.

As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

Sincerely yours,

HENRY ESCHWEGE,
Director.

OVERRIDE VOTE ON H.R. 14225, REHABILITATION ACT AMENDMENTS OF 1974

Mr. CRANSTON. Mr. President, the House of Representatives today voted 398 to 7 to override the President's ill-advised veto of H.R. 14225, the Rehabilitation Act Amendments of 1974. At present, the Senate is scheduled to vote on this matter tomorrow at approximately 2 p.m.

Mr. President, the principal sponsors of this legislation in the Senate — the Senator from West Virginia (Mr. RANDOLPH.), the distinguished chairman of the Subcommittee on the Handicapped of the Labor and Public Welfare Committee, the ranking minority member of that subcommittee (Mr. STAFFORD), the chairman of the full Labor and Public Welfare Committee (Mr. WILLIAMS), and the ranking minority member of the full committee (Mr. JAVITS)—and I sent a letter to each of our colleagues urging their vote to override this veto.

Mr. President, I ask unanimous consent that the text of our letter, along with the enclosure which specifies a response to each of the objections set forth in the President's veto message on H.R. 14225, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON
LABOR AND PUBLIC WELFARE,
Washington, D.C., November 20, 1974.

DEAR COLLEAGUE: The House of Representatives today voted to override the President's veto of H.R. 14225, the Rehabilitation Act Amendments of 1974, by a vote of 398 to 7. The Senate will vote tomorrow—tentatively scheduled at approximately 2:00 p.m.

H.R. 14225 contains amendments to the Rehabilitation Act of 1973 which seek to carry out the original compromise agreement and to provide a one-year extension of the authorization in order to assure stability for this program for an additional year. It also makes long overdue improvements in the Randolph-Sheppard blind vending facility legislation and provides for a White House Conference on Handicapped Individuals.

For the sake of the continuity of the vocational rehabilitation program and the welfare of the blind vendor program and handicapped persons generally, we urge you to vote to override this veto. The President in his message makes clear that there is no monetary issue involved. We believe that the reasons given for the veto are not substantial.

We are enclosing a summary of responses to the point made in the veto message. Should you have additional questions about this matter or desire additional information, please contact Bob Humphreys (47673), Jon Steinberg (47651), Mike Francis (45141), Lisa Walker (49161), or Jack Andrews (47682).

With best wishes.

Sincerely,

JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped.
ALAN CRANSTON,
HARRISON A. WILLIAMS,
Chairman.
ROBERT T. STAFFORD,
JACOB K. JAVITS.

FROM THE OFFICES OF SENATORS RANDOLPH, CRANSTON, STAFFORD, WILLIAMS, AND JAVITS

REASONS CONGRESS SHOULD OVERRIDE THE PRESIDENT'S VETO OF H.R. 14225

H.R. 14225 contains a one-year extension of the Rehabilitation Act of 1973, making minor changes in the amounts and substantive changes which both Houses have considered necessary; certain modifications in the Randolph-Sheppard program agreed to by blind organizations and employee union representatives; and provision for a White House Conference on Handicapped Individuals. MONEY IS NOT THE ISSUE. The following are the objections and answers to the objections.

I. Haste

The message states that the legislation is "hastily drawn".

Response: This legislation was originally introduced in March of 1974; passed the House May 21 and the Senate not until September 10. The Conference did not meet until one month later. Opportunity was provided to the Administration to meet and discuss this legislation, and such meetings were held.

The Randolph-Sheppard and White House Conference on Handicapped Individuals legislation has been considered and unanimously passed by the Senate twice previously. Both Houses have been involved in review of the Randolph-Sheppard program since 1969.

H.R. 14225 passed the House 400 to 1 and the Senate unanimously. The Conference Report passed the House 334 to 0 and the Senate unanimously.

II. Disruption of programs

This bill would "disrupt existing Federal programs and ill serve the needs of our nation's handicapped citizens."

Response: This legislation has the overwhelming support of 96% of the Directors of state agencies for vocational rehabilitation and concerned groups and organizations.

III. Absence of hearings

"The bill passed the House of Representatives without having hearings. Had hearings been held we would have explained the disruption that would result. . . ."

Response: The House Subcommittee held hearings on the administration and operation of the rehabilitation program on August 3, 1973, November 30, 1973, and December 10, 1973. These hearings formed the basis for consideration of H.R. 14225.

The Senate Subcommittee on the Handicapped on June 27, 1974, held a hearing on H.R. 14225, S. 3108, and S. 3381, at which H.E.W. testified at length. More than 40 additional detailed questions concerning the administration and operation of the rehabilitation program were submitted to which the Department responded in detail. The Committee reported S. 3108 with modifications based on these hearings and Committee oversight.

Three days of hearings were held in late 1973 on the Randolph-Sheppard amendments.

IV. Administration through legislation

"This bill is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason—indeed for very bad reasons."

Response: The Congress has both the responsibility to write laws and to carry out oversight functions to assure that programs are administered according to the law. The Senate Committee report states: "The Committee has formulated its decision . . . on the basis of policy and philosophy. The Committee views the vocational rehabilitation program as a human development program and not a welfare program. As such, it should not be subsumed within an administrative entity whose major program responsibilities relate to welfare. S. 3108, as introduced, would have transferred RSA to the Office of the Assistant Secretary for Human Development. Though such a transfer might be appropriate, the Committee has provided the Secretary with sufficient flexibility to effectuate a transfer to an organizational arrangement within his office which, in his view, would be most appropriate and beneficial for RSA and the programs it administers." The Administration's strong objection to this program transfer is particularly difficult to understand since the Administration in 1971 proposed a similar realignment in its proposed Department of Human Resources legislation (H.R. 6961).

V. Dictation of minute decisions; wasteful duplication

Response: This legislation, except for the transfer, requires no changes in organizational structure which were not intended with respect to the agreement between Congress and the Administration in the final version of the Rehabilitation Act of 1973. Furthermore, in response to the HEW request, certain clarifications were made, in Senate floor debate and in the Conference Report statement, respecting routine administrative services which may be centralized.

There is no requirement in the bill that any new "independent organizational units" be established.

VI. The 250-man bureaucracy

". . . it sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250 man bureaucracy in HEW to duplicate functions carried out elsewhere in the Federal branch."

Response: We do not know what this refers to. There is certainly no provision in H.R. 14225 requiring so much personnel and no monitoring responsibility requiring so much personnel.

VII. Blurring of accountability

"Most importantly, this bill blurs accountability. I cannot be responsible for the good management of all Federal programs if I cannot hold my cabinet of Secretaries accountable."

Response: The legislation requires no organizational changes with regard to Secretarial responsibilities in carrying out any provisions of this bill or existing law.

The roles of each appropriate official under this legislation are clear, and adequate flexibility is provided the Secretary of HEW and others to assure direct lines of authority and responsibility for program operation.

VIII. Expiration of the act

"The present vocation rehabilitation legislation does not expire until mid-1975. Plenty of time remains for us to work out a bill which will improve Federal programs for the handicapped. . . ."

Response: The Rehabilitation Act's title I funding entitlements are computed on the basis of the authorized level of appropriations, and states must contribute 20 percent of their allocation. States cannot plan in advance the state share under the rehabilitation program if the authorized level is not established. The FY 1976 budget request will be submitted in 2 months. As it is, States will have only eight months to plan their FY 1976 programs and obtain State funding. There is not "plenty of time".

CRIMINAL JUSTICE AND PRIVATE MARIHUANA USE

Mr. JAVITS. Mr. President, the Alcoholism and Narcotics Subcommittee of the Committee on Labor and Public Welfare, of which I am ranking minority member, has completed its second day of hearings on marihuana research and legal controls.

Yesterday three distinguished physicians with outstanding credentials in the field of drug abuse—Dr. Robert DuPont, Director of the Special Action Office for Drug Abuse Prevention, Dr. Jerome H. Jaffe, past Director of the Special Action Office for Drug Abuse Prevention, and Dr. Thomas Bryant, president of the Drug Abuse Council—made it clear that the deterrent effect of the marihuana laws on small private use are virtually nonexistent—we are not here talking about pushers, sellers, or dealers—that such efforts result in overburdening the courts, and diverting our police capabilities from vital serious responsibilities for the public safety. And, that the most significant deterrents to the private use of marihuana, were the result of changing lifestyles, responsibility for nonstudent roles and new patterns of personal relationships—not the criminal penalties we now impose.

During the course of today's hearings, one of the witnesses was Richard J. Bonnie, one of the world's leading experts—a law professor and practitioner of criminal and constitutional law, and former Associate Director of the National Commission on Marihuana and Drug Abuse—on the question of such laws in the United States.

I believe his thoughtful testimony on the need for congressional action to decriminalize the possession of small amounts of marihuana for personal use and for casual, nonprofit distribution of small amounts—the objective of the bill (S. 746) introduced by Senator HUGHES, chairman of this subcommittee, and myself—should be shared with all our colleagues.

I commend to my colleagues his in-depth analyses of how the criminalization of private marihuana consumption has hurt the legal system, tended to erode public confidence in criminal justice and to encourage disrespect for law enforcement.

I ask unanimous consent that the full text of the testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF RICHARD J. BONNIE, SUBMITTED TO THE SUBCOMMITTEE ON ALCOHOLISM AND NARCOTICS OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE, NOVEMBER 20, 1974

Mr. Chairman and members of the Committee, it is a great pleasure to be here today and share with you some of my observations about the marihuana laws.

For the better part of the past 5 years, I have reflected on our current policy toward use of marihuana; and I have done so from many vantage points. Much of my attention has been directed to the origins of present policy, and I have recently co-authored *The Marihuana Conviction* (University Press of Virginia 1974) which traces the remarkable history of marihuana prohibition in the United States. Over the course of these five years I have have also formulated some very strong opinions about the wisdom of these laws, opinions shaped by my experience as a researcher, as a teacher and practitioner of criminal and constitutional law, and as Associate Director of the National Commission on Marihuana and Drug Abuse.

As I was preparing for my testimony today, I began to wonder what I could say that had not yet been said. I knew my basic message would be simple and easily formulated—the criminalization of possession of marihuana for personal use[1] is indefensible.

I could devote the remaining time allotted me to a recitation of the irrefutable case for decriminalization; I could do so in a wholly objective manner, pretending that the arguments for criminalization merit refutation. But this would be a charade. It's all been said so well and so often before.

Footnotes at end of article.

Decriminalization has won extraordinary backing from most serious observers from all points on the political spectrum, including William F. Buckley and Tom Braden. It has been endorsed by a comprehensive assortment of professional organizations. The list is awesome: The American Medical Association, The American Bar Association and numerous state and local bar associations, the National Conference of Commissioners on Uniform State Laws, the National Education Association, Consumer's Union, the American Public Health Association, and the National Council of Churches.

Of central interest, of course, is The Report of the National Commission on Marihuana and Drug Abuse. The Commission was established in 1970 by the Congress for the express purpose of formulating sound policy recommendations in this emotionally charged area. After issuing authoritative findings of fact, the Commission painstakingly addressed the various social policy options. In support of its central recommendation to decriminalize possession for personal use, the Commission documents the serious institutional and individual injuries caused by criminalization and then refutes every conceivable argument against repeal.[2]

That was in 1972. Why, then, haven't the legislatures responded? The federal decriminalization bill introduced in this chamber by the distinguished Chairman and his colleague from New York has lain unattended for 2 years, as has Congressman Koch's bill in the House. At the state level, only Oregon has removed criminal penalties for possession.

If we were to look at public statements alone, we would think the official defense of the status quo runs something like this: "Marihuana use has to be a crime because we're not yet sure how use of the drug would affect a person's physical and mental health if he were to use a lot of it."

But this is absurd. Since when is it criminal for a person to risk his health and well-being? Consider the recent controversy regarding the automobile seatbelt buzzer and interlock system. I have no doubt that these devices decrease the risk of fatalities in traffic accidents by increasing the number of people wearing their seatbelts. Under the law in effect for 1974 models, the manufacturers were required to install these devices. Note carefully that the law did *not* coerce people to wear their seatbelts, and failure to wear seatbelts was not a crime. Instead, the law simply denied the consumer the choice to buy a less safe car.

Yet, Congress has just repealed the mandatory requirement that seatbelt buzzers and interlock systems be included in next year's models. I can not imagine more unequivocal support for the proposition that sometimes the American people and their representatives care very little about individual health and safety and are sometimes willing to tolerate substantial risk for very little benefit. In this case the enhancement of personal safety was apparently outweighed by the inconvenience of having to "buckle up."

Let me turn next to the problem of harmful substances used for non-medical purposes. We all know of course that long-term tobacco use is clearly harmful to individual health; yet the prevailing governmental policy is to discourage use of the substance by informing the public of the risks and by prohibiting commercial attempts to encourage smoking. At the same time, in the context of this discouragement policy, the government has not curtailed the availability of these substances, relying instead on personal choice.

Obviously the same is true for the present social policy toward alcohol. And this is so despite the well-documented effects of chronic alcohol use on individual health and the equally clearcut harms to the public health and safety flowing from acute or chronic alcohol intoxication.

My message then comes into clearer focus. The issue on the legislative agendas in every state capital is *not* a health issue. Nor is it a moral issue. The intoxicant property of marihuana cannot honestly be distinguished from that of alcohol in terms of this society's moral and social acceptance of recreational drug use.

The issue is *not* the properties of marihuana—the ethics or effects of its use. No, the only issue is the wisdom of applying the criminal sanction to individuals who choose to use the drug despite the government's preference to the contrary[3] and despite the government's efforts to suppress availability.[4]

Throughout my testimony I will assume that marihuana use poses serious risks to individual health and welfare if the drug is consumed in large doses or is used frequently over a long period. I will assume, in short, that the risks are roughly equivalent to the risks associated with alcohol use.[5] And I will assume further that government has correctly decided to discourage *any* use of the drug in order to minimize the types of use which present these risks.[6]

Even with these assumptions, the criminalization of the user is indefensible. Little social benefit is achieved by invoking or threatening to invoke the sanction; yet the costs of doing so are overwhelming. The question isn't even a close one.

If the case is as persuasive as I have indicated, why is injustice perpetuated? Again, I ask: Why haven't the legislatures acted? As I have turned this question over in my mind, I have begun to suspect that too many legislators are not sufficiently aware of limits of the criminal sanction. So, at the risk of repeating what has been said so well before, let me review some of the purposes and consequences of the criminalization of marihuana use.

PURPOSES OF CRIMINALIZATION

Let me first consider the various purposes which can be served by criminal sanctions or by the criminal process. In this way we can isolate the benefits of criminalization which might be offered to offset its substantial "costs" as applied to marihuana use.

Punishment and immorality

In the past, marihuana use was identified with immorality, criminality and degeneracy, and the possession offense was a convenient device for punishing the marihuana user for his entire deviant lifestyle. But marihuana users are no longer "outsiders," being drawn instead from the social mainstream.

For this reason, a desire to assist, not to punish, now characterizes popular and official attitudes toward the contemporary marihuana user. The public views the marihuana user for what he generally is, a young, otherwise law-abiding citizen. The prevailing motivation is to get him to stop using marihuana, not to punish him for having done it. To the extent that the retributive instinct supports the criminal sanction, it is totally inapposite to marihuana use.

Therapy and leverage

The criminal process is sometimes used to identify particular offenders in need of treatment and to exert leverage for this purpose. This is the primary rationale for the heroin possession offense, and for many sex offenses as well since it is presumed that *most* (not all) persons who engage in these behaviors are in need of attention. The criminal offense is the entry mechanism.[7]

However, most marihuana users *and* marihuana offenders as well, are not in need of treatment in any sense and are in fact indistinguishable from their peers in all respects other than their marihuana use. The vast majority of marihuana users do not use the drug heavily and do not use any other illicit drug. Thus, even if a possession offense is legitimately used as a leverage device in other contexts, this rationale is simply not applicable to possession of marihuana.

Control and dangerousness

In some contexts, a behavior may be criminalized in part to give society an objective basis for confining a person who is perceived to be dangerous to person or property. Again, this rationale is totally inapplicable to marihuana use.

Deterrence and discouragement

We come then to the only remaining rationale for a criminal prohibition: the policy-making bodies have determined that citizens should be discouraged from using marihuana and have sought to preclude the drug's availability. Through its deterrent function, the criminal prohibition of possession may be regarded as a necessary implementation of this discouragement effort.

Despite its central role in our criminal law, the deterrent process is ill-understood and under-researched.[8] The otherwise difficult task of determining why people behave in a given way is compounded by the need to isolate and define the different components of the legal threat. For present purposes, however, several propositions can be enunciated with some confidence.

1. The legal threat plays a greater role in shaping some types of behavior than other types. From this perspective, marihuana use is probably less deterrable than conduct which is a means to some other end—e.g. forgery—and which is more visible and susceptible to detection.

2. Adolescents and young adults are less deterrable by legal threats than their elders. Since young people predominate among marihuana users, one would expect the overall deterrent process to be less effective.

3. The deterrent process plays little role in determining the frequency or amount of use. Whether a user will use heavily is instead determined by a wide variety of non-legal variables, particularly psychological ones, as well as availability and price of the drug. The possession offense is thus inapposite to the government's major aim—to minimize heavy use.

4. A corollary is that the possession offense does deter some people from experimenting with the drug (initial use) and may also deter some of those who have experimented with the drug from continuing to use it after the initial trial. This is *not* to say however that all of those who have not yet experimented or who have tried the drug and not continued have refrained from use *because* they were deterred by the law.

Quite the contrary is true. A large proportion of persons who have not yet used marihuana profess that they would not use the drug even if it were legitimately available, and offer health-related or ethical reasons. This may be true of 75% to 90% of those who have not yet tried the drug; for them, the illegality of the drug and the criminalization of use have not played the key role in their failure to experiment. Similarly, a large proportion (perhaps 50%) of the persons who have chosen not to continue use after their initial experimentation profess that they would not become "users" even if the drug were legitimately available. "Loss of interest" is the most frequent explanation.

5. The range of persons who could be affected one way or another by the legal status of possession is relatively narrow—about one-fifth of those who have not yet experimented and perhaps a third of those who have experimented but forsaken use of the drug.

6. To the extent that the deterrent value of the possession offense depends on the credibility of the threat, the law must be enforced—violations must be detected and sanctions must be applied to violators. But society would pay a heavy price to maintain the credibility of this threat at a meaningful level. Indeed, given the private nature of

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Footnotes at end of article.

the behavior, the Fourth Amendment precludes a highly credible threat of *detection.*[9] Moreover, society has also chosen to sacrifice the credibility of the threat at every phase of its *application* in order to reduce the costs.[10]

7. To the extent that the mere existence of a criminal sanction,[11] credible or not, functions as a deterrent, society can reap its benefit at very little cost simply by leaving the law on the books and failing to enforce it altogether—through desuetude. This approach is in effect for adultery of course; and has been endorsed editorially by the *Los Angeles Times* in opposition to repeal of the criminal penalties against marihuana use.[12] The only loser, in such an event, of course, is the rule of law.

These observations suggest that repeal of the criminal sanction may result in a slight increase in experimentation by non-users and a slight increase in the proportion of experimenters who become users. But two caveats are in order even on this narrow point. First, this prediction is in comparison to the level of use under current sanctioning conditions; however, the levels of experimentation and use will continue to increase to some extent in any event as the level of enforcement (and the credibility of the threat) continues to drop. Second, the substitution of a civil sanction may result in greater deterrence, by virtue of its greater probability of application, than a sporadically applied criminal sanction.

THE COSTS OF CRIMINALIZATION

Now we must turn to the price this society currently pays for this ounce of deterrence. I will consider the impact of marihuana criminalization on the nation's legal institutions, on the availability of law enforcement resources and on the nearly half-million individuals apprehended for violating the possession laws.

Impact on legal institutions

The most compelling reason for modification or elimination of marihuana prohibition lies in its disastrous impact on the law as an institution. In this century American society has turned to law, particularly the criminal law, to serve a multitude of functions. An attitude has evolved that any behavior offending a prevailing sentiment should be punishable by law. As a result, the legal system has been overextended until its value as a symbol has been magnified beyond its capacity to absorb disobedience. When the law is so readily employed as a symbol of disapproval, it will be easily wielded as a symbol of oppression. When a society so frequently relies on the legal system to control behavior, it will inevitably debase and weaken the influence of those institutions with the greatest capacity to mold desirable conduct.

The marihuana laws manifest the crisis of law that this society now faces. No criminal law can be fairly or effectively enforced unless it commands a popular consensus. Yet, the consensus which supported the marihuana laws from 1915 to 1965 evaporated as soon as the prohibition encountered the rigors of public dialogue. This is not to say that prohibition lacks the support of a popular majority. The point is that utility or propriety of a criminal law is not measured in votes but in shared values. Price controls and other regulatory devices derive their legitimacy from the support of a majority, however transient; but outright criminal prohibitions, particularly those involving private behavior, derive their legitimacy from congruence with more enduring normative precepts. The fact that one-third of the voting population of a major state actually registered electoral opposition to marihuana prohibition definitively establishes the evaporation of the marihuana consensus.[13] All other evidence establishes that uncertainty dominates the vast center of public opinion, while an increasingly smaller fraction of the public affirmatively supports the current prohibition. Undoubtedly, marihuana prohibition does not command the minimum amount of public support necessary to sustain and reinforce a criminal prohibition.

As a result the law suffers disobedience and ridicule. More than 26 million Americans have used marihuana and perhaps 13 million continue to use the drug. In this context the criminal justice system operates unfairly and without confidence. And the moral force of the criminal law wanes with each undetected or unenforced violation. Criminal justice simply cannot be achieved when conviction of a crime is perceived to be an injustice not only by the defendant but by large segments of the public and by the participants in the system itself.

Our society normally employs the criminal justice system to apprehend and punish those persons who have committed certain classes of acts which the general society believes to be deserving of punishment. We then utilize discretion at various points in the system to mitigate the implications of this presumptive judgment. Thus, depending on the culpability of the individual offender, we may forgo prosecution or avoid a punitive sentence. Where the marihuana laws are concerned, however, the presumption has become precisely the opposite. Since the larger society generally does not view its marihuana offenders, who are overwhelmingly young, as morally culpable and deserving of punishment, the effort is now made to select from the near half-million persons who are arrested each year, those few who should continue to be processed through the system.

Our police, our prosecutors, and our courts—sworn to uphold and enforce the laws of this nation—have been confronted with a population of lawbreakers alien to the ordinary process of the criminal justice system. Thus, the system has responded by contorting itself. The discretion ordinarily exercised—whether or not to arrest, whether or not to prosecute, whether or not to convict, and whether or not to incarcerate—has been employed to determine which of these unlikely defendants should remain in the system: and as the need for discretion increases, so does the likelihood of selectivity and inequality.

The punitive instinct simply is not there. In most cases effort is directed not at securing the symbol of wrongdoing—the conviction—but instead to avoid stigmatizing the youthful or otherwise unlikely offender with a criminal record.

The criminalization of marihuana consumption has severely wounded the legal system, has eroded the public confidence in criminal justice, and has made a mockery of respect for law.

Diversion of criminal justice resources

The police energies consumed by the more than 1000 marihuana arrests which they make each day are diverted from detection and apprehension of persons who have committed serious crimes against person or property. Many marihuana arrestees (more than 50%) are apparently dismissed at some point in the criminal process because of prosecutorial or judicial unwillingness to apply the criminal sanction; in these situations, criminal justice resources have been expended for no apparent purpose. Estimates of misallocated resources run as high as 600 million dollars per year. In this connection it is not surprising that spokesmen for police, prosecution, and judicial organizations are increasingly registering official support for repeal of the possession penalty.

I might also observe that substantial attention has been directed in recent months to two matters of criminal law with substantial public consequence. On the one hand, we apparently are witnessing additional increases in the incidence of street crime, and our present economic difficulties can only exacerbate the situation still more. On the other hand increasing public antipathy has been directed to the social and economic devastation—and even political corruption—engendered by white collar crime. The Attorney General has recently indicated that this administration will pull out the stops in its war on white collar crime. Against this background, the application of criminal justice resources to the problem of marihuana use and possession is simply ludicrous.

Impact on individual violators

Persons apprehended but not convicted for marihuana violations are nonetheless the subjects of arrest records. The actual and potential threats to the individual's economic and social interests posed by arrest records have been well documented.[14] The question is thus squarely presented whether this backdoor punishment—the sanction of arrest—is justified in light of prosecutorial and judicial unwillingness to apply the sanctions of conviction and incarceration.

Among those convicted, most individuals are spared the full impact of the criminal law. Neither the legislators nor the judges are anxious to punish the offender or to impose harsh sanctions. So probation, with or without verdict, suspended sentences and fines are the normal dispositions. And expungement of the conviction is often available.

Nonetheless, despite these developments, large numbers of offenders *are* stigmatized by the record of conviction, and some judges even persist in sentencing marihuana offenders to jail.

Conviction of a crime is a potent statement of social disapproval. Although the meaning of a "conviction" has been diluted by its application to behavior like marihuana use, serious social and economic disabilities continue to attach as if the criminal code were coextensive with serious wrongdoing. Many potential employers do not stop to ask what offense an applicant has been convicted of; the label of criminal is enough to stop inquiry altogether.

Here I would note the need to educate the public and their representatives about the meaning of criminalization. Too often the current laws have been defended on the ground that the legislators have already reduced the penalties from a felony to a misdemeanor as if this statement rebutted the arguments for decriminalization.

A misdemeanor is still a crime. The consequences of a misdemeanor conviction are no less real because they are not as serious as those attending conviction for a felony.

Consider the possible consequences of a misdemeanor conviction which arise *by law*—

Up to one year in jail in the discretion of the sentencing court;

Loss of, or ineligibility for professional licenses (e.g. medicine, dentistry, law);

Loss of, or ineligibility for industrial or other occupational licenses (e.g. nursing, barbering, private investigation, notary public, insurance adjuster);

Loss of, or ineligibility for public employment.[15]

Consider further the empirically demonstrated consequences of criminal conviction in the private sector: Many employers will not even consider applicants with a prior criminal record; and even if there is no per se exclusion, most employers systematically hire persons without criminal records in preference to persons with such records.

Some legislators of course have recognized the adverse consequences of a criminal conviction and concluded that marihuana users don't really deserve that kind of disability. So they have adopted various techniques for avoiding the implications of the decision to criminalize: expungement of the record of conviction, diversion in lieu of prosecution or entry of conviction, probation without verdict and similar devices which avoid official records of guilt.

Footnotes at end of article.

TIME TO FACE THE ISSUE

The legislatures have apparently found it convenient to pass the buck to the police, prosecutors and courts to ameliorate the consequences of criminalization. The police respond unsystematically and inconsistently; the prosecutors decline to prosecute, sometimes with screening guidelines, most of time without them; and the judges respond according to their own views of the offense and *of their role* as judges. The real victim of legislative buck-passing is the rule of law. Police, prosecutors and courts roam at large in a sea of discretion because the public doesn't want to punish but the legislature doesn't want to repeal.

Each legislator in every state should ask himself if he would vote to *make* possession of marihuana a criminal offense if there were no criminal sanction now in effect. If the issue is thus put, I am sure the answer is "no." The public would not stand for it.

If use of marihuana—a previously unknown drug—had suddenly appeared on the American scene in 1970 among the same population and on the same scale it has now achieved, prohibition would not even been considered. The drug is used privately as a social drug, with shared ritual and meaning, among a broad spectrum of the American teenage and young adult populations. For the most part, use of the drug has not been associated with visible antisocial behavior. If marihuana had no past, the issue would be whether some form of government regulation would prove beneficial to the users or to the public coffers. And even then the using population would insist that any restrictive action be tailored narrowly to achieve a specific governmental purpose.

The answer should be no different when the question is whether or not to repeal the prohibition now on the books. Indeed, the decision is made easier by the fact that the costs of the criminal sanction are so well documented.

But somehow it does seem to make a big difference. It is contended that use of marihuana would be encouraged by decriminalization even though the substance itself would be contraband and its production and distribution would be outlawed. If the affirmative act of repeal is thought to be encouragement, then we have finally uncovered the pivotal explanation for legislative inertia.

History has woven a web around the use of marihuana; public and legislative reluctance to modify or eliminate marihuana prohibition in 1974 is based on attitudes molded by two generations of illegality.

Marihuana use in the 1960s confronted a system of criminal prohibition which carried its own meaning as defined in another time. Decades of classification as a narcotic, the presumptive immorality attaching to felonious conduct, and the implication of addiction, crime, and insanity had instilled in the public consciousness a fear of marihuana unjustified by the demonstrable effects of its use.

That fear and its codification by law now bars the way to a much needed reform.

Because the origins of marihuana prohibition undercut modern efforts to repeal it, I have attached, as an appendix, some relevant excerpts from *The Marihuana Conviction* (University Press of Virginia, 1974) by Professor Charles H. Whitebread and myself.

SOME COMMENTS ON THE CIVIL FINE

The only defensible alternative to a full de-penalization of marihuana use is the substitution of a civil sanction for possession in public. I refer of course to the Oregon scheme recently endorsed by Dr. Robert Dupont, Director of the National Institute on Drug Abuse and the Special Action Office for Drug Abuse Prevention.

As noted earlier, if violators are fined for every detected violation, the deterrent value of the civil sanction may approach, or even exceed, that of a sporadically applied criminal sanction. In my opinion, the ounce of deterrence thereby preserved does not warrant the diversion of law enforcement resources on the administrative burdens. However, for a legislature unwilling to discard the symbolism of illegality, the civil fine offers an acceptable substitute for the unacceptable criminal sanction.

In this regard, I should note that a civil sanction for marihuana use is in keeping with a significant modern trend. Commentators and public officials have consistently lamented the phenomenon of "overcriminalization"—the tendency to attach a criminal sanction to any and all disapproved behavior.

Although the statutory label varies, an increasing number of states have adopted the recommendation of the American Law Institute's Model Penal Code in 1962 to establish a category of offenses which do not give rise to the civil disabilities attending conviction of a crime. Some call it a "petty offense" or an "infraction" but most call it a "civil violation." One of the principles underlying this reform is that the criminal sanction should be reserved for morally reprehensible conduct and should not be diluted by application to conduct without serious social consequence.

Marihuana use, of course, is the perfect candidate for classification as a "violation," as the Oregon legislature recognized. The problem of marihuana use is not unique from a sanctioning standpoint. There are many examples of behavior that society wishes to prohibit but which are not serious enough to warrant the criminal sanction. Sometimes the law has the perfect word for the occasion—in New Jersey, the non-criminal offense is called a "nuisance violation." In my opinion, that sums up the issue perfectly: marihuana use, under present circumstances, is a nuisance, not a disaster; if there is to be a sanction, it should be formulated in keeping with the minor social consequence of marihuana use.

FOOTNOTES

[1] Hereafter, "possession" will refer to possession of small amounts for personal use and to casual, non-profit distribution of small amounts. The two activities are functionally equivalent, as the Commission, the Congress and many other legislatures have recognized. See *Marihuana: A Signal of Misunderstanding* at pages 157–58.

[2] *Marihuana: A Signal of Misunderstanding*, pages 138–146; 161–157.

[3] In his recent statements on this matter, Dr. DuPont has reaffirmed the distinction between the health-related issues and the criminal law issues. In the fourth *Marihuana and Health Report*, the federal government has continued its prudent effort to disseminate up-to-date information about the effects of marihuana on health and behavior. Continuing uncertainty about these effects and the suggestion that there may be serious risks from heavy use clearly justify Dr. DuPont's efforts to discourage initiation and continuation of use. But this *speculation* about the *potentially* harmful effects of *heavy* marihuana use on individual health must not be allowed to obscure the well-documented harmful effect of the marihuana laws on the public well-being.

[4] The only debatable issue is whether marihuana ought to be legitimately available in a regulatory system for use as an intoxicant or whether, instead, the prohibition of cultivation and distribution outside medical channels should remain in force. My own opinion is that a regulatory approach is, over the long term, a preferable implementation of a discouragement policy. However, it is apparent that serious consideration of this approach is premature. The immediate priority is decriminalization of possession. Once this has been done, the Congress and the state legislatures should initiate serious investigations into the alternative regulatory approaches. See generally *The Marihuana Conviction*, pages 299–304.

[5] This is apparently not the case since alcohol is demonstrably more harmful. See *Drug Use in America: Problem in Perspective*, pages 116–117, for the comparative effects of psychoactive substances.

[6] This is not necessarily an obvious conclusion. The connection between mere use and drug-related risk may not be close enough to warrant a discouragement policy toward recreational use of marihuana. See *Marihuana: A Signal of Misunderstanding*, pages 131–135; see also *Drug Use in America: Problems in Perspective*, page 147, 205–208. In this connection, marihuana should be contrasted with substances having a greater reinforcement potential, such as tobacco cigarettes on one extreme or heroin on the other.

[7] See generally the Uniform Drug Dependence Treatment and Rehabilitation Act, especially § 412. See also *Drug Use in America: Problem in Perspective*, pages 243–277; Bonnie and Sonnenreich, *Legal Aspects of Drug Dependence* (CRC, in press 1974).

[8] See generally, Zimring and Hawkins, *Deterrence: The Legal Threat in Crime Control* (1973).

[9] See Heller, A Conflict of Laws; The Drug Possession Offense and the Fourth Amendment; 26 Okla. L. Rev. 317 (1973).

[10] See the discussion at pages 12–14 *infra*.

[11] That is, the mere declaration of criminality may make the difference. Scholars refer to this possibility as the "moralizing" or symbolic effect of the criminal sanction. This phenomenon probably doesn't play much of a role for marihuana use given changing public attitudes toward use and given the predominant role of social factors in determining whether an individual will use the drug.

[12] See *The Marihuana Conviction*, page 282–284. Compare the ABA Standards on Criminal Justice which legitimize police and prosecutorial discretion *not to enforce* laws like the marihuana possession offense. *Standards on the Urban Police Functions* §§ 3.1–3.4, 4.1–4.3; *Standards on the Prosecution Function* §§ 3.4, 3.9.

[13] *See the Marihuana Conviction*, page 281.

[14] See, e.g., Menard v. Mitchell, 430 F2d 486 (D.C. Cir. 1970); Menard v. Saxbe, 498 F2d 1017 (D.C. Cir. 1974).

[15] Half the state statutes bar from public employment persons with criminal records of one kind or another; the other half authorize the administrators in their discretion to deny employment to persons with prior criminal records.

SUPPLEMENTAL APPROPRIATIONS, 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, H.R. 16900, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the Scott-Mansfield amendment.

Mr. HUGH SCOTT. Mr. President, I yield myself 2 minutes.

I have written a letter to all of our colleagues on behalf of Senator Mansfield and myself, pointing out that he and I have sponsored this amendment appropriating $10 million for Eisenhower College in accordance with the authorization signed into law October 11 last.

This money is not to come from the Treasury's general revenues, but, rather, from the sale of the $10 souvenir Eisenhower silver dollars.

The Treasury has already realized more than $830 million from the sale of the souvenir coins.

I would like to stress that the amendment is not designed for the relief of Eisenhower College alone. If it were solely for the purpose of assisting a single hard-pressed school, I would not be a sponsor. I share the concern that there are many deserving colleges meriting assistance.

This appropriation, however, is for a living memorial to the late President Eisenhower, a memorial specifically designated by General Eisenhower who felt that the college would be preferable as a memorial rather than a cold, sterile monument.

Before his death, General Eisenhower visited the school, and today his family, particularly his widow, Mrs. Mamie Eisenhower, and his former comrades of World War II—and a host of his admirers, including the distinguished president of the AFL–CIO, Mr. George Meany—all strongly support this proposal.

I would hope that my colleagues would join me in this matter.

Just to give a little history——

The ACTING PRESIDENT pro tempore. The Senator's 2 minutes have expired.

Mr. HUGH SCOTT. I yield myself 1 additional minute.

As a matter of a little history, I think I ought to add that we helped in the same way to finance the John F. Kennedy Center for the Performing Arts. I cosponsored legislation for scholarships in honor of the late President Truman. I think I was one of the first cosponsors to the suggestion made by the distinguished Senator from Washington (Mr. MAGNUSON), and the distinguished Senator from Missouri (Mr. SYMINGTON).

The same has been done with regard to memorials to the late President Franklin Roosevelt.

There has never been any objection lodged that I can recall on most of these. There was some objection on the size of an amount in one case among all of these cases. But whenever we have honored former Presidents we have done it in an entirely bipartisan manner. We on this side have always joined in it. Here there is the same reasoning exactly.

As of June 28, a total of 8,327,063 coins had been sold. But of that sum, 10 percent—I hope the Senator from Arkansas will notice this—$832,706.30, was transferred by the college to the Rayburn Library under the authorizing legislation. The orders for the silver dollar were closed as of June 28, 1974.

For the period of 1975–76 the coin will be sold only as a part of the Bicentennial coin package, with no receipts from the sale of these coins to go to the college. However, after 1976 the coin will again go on the market and the proceeds will again be eligible to be funneled into the colleges.

It should be remembered that even though Eisenhower College cannot receive the proceeds from the sale of the Bicentennial coin, the Treasury Department does still receive the profits.

Mr. President, I again suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Arkansas yield?

Mr. McCLELLAN. I yield 2 minutes.

Mr. HUGH SCOTT. I withdraw my suggestion as to the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized for 2 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I have great admiration for Dwight D. Eisenhower both as an individual and as a President. I think he made a good President. I think he was a great general, a great American.

I have considerable doubt, however, as to the wisdom of this particular amendment. I would like to ask the Senator from Pennsylvania a question, if I might.

The Richmond News Leader in an editorial says that Eisenhower College officials have agreed to divert 10 percent of the college's requested $10 million to the Sam Rayburn Library, another great American.

There are several ramifications to this, as I see it.

Is that correct, that part of the funds will go to the Sam Rayburn Library?

Mr. HUGH SCOTT. That is my understanding. I had earlier made that statement here in the Chamber.

Mr. HARRY F. BYRD, JR. I assume the only reason for that—maybe there is another reason—or the apparent reason, is that that would help get votes for the legislation in the House of Representatives. Is there any other reason why they would be diverted?

Mr. HUGH SCOTT. I would not ascribe such motives to anyone. It may be that in the other body the reverence for Sam Rayburn is the same as we hold here, but I believe the library was named in honor of the late Sam Rayburn as a living memorial. It would be my thought that if we should modify our amendment, it would provide again the 10 percent of whatever amount is appropriated to be made available to the Rayburn Library.

Mr. HARRY F. BYRD, JR. They are both great Americans. Does the amendment provide that 10 percent goes to the Rayburn Library?

Mr. HUGH SCOTT. It will, as soon as I modify it.

The PRESIDING OFFICER (Mr. CRANSTON). The Senator's time has expired.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that there be inserted at this point in the RECORD the editorial I referred to from the Richmond News Leader entitled "A Few Million Here . . ."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A FEW MILLION HERE . . .

President Ford has a harder job on his hands than he thinks if he hopes to woo Congress out of its free-spending habits. The road to the public purse has been worn smooth by the knees of supplicants who crawl with outstretched palms, seeking succor in the form of tax dollars. Unfortunately, Congress enjoys the role of benefactor, and it seldom says "no" to any cause it considers worthy.

It didn't say "no" the other day when it voted to appropriate $10 million for the benefit of the Eisenhower College and the Sam Rayburn Library. The Eisenhower College opened its doors in 1968 with a $5 million contribution from public funds, and college sponsors told Congress that $5 million would be enough, thank you. But last year, college spokesmen changed their minds and entreated Congress to give the college $10 million from the proceeds of the sale of Eisenhower dollars.

The bill didn't go through last year, but, like all dubious legislation, it returned this year. This time around, opponents lost their fight. Eisenhower College officials had agreed to divert 10 per cent of the college's requested $10 million to the Sam Rayburn Library. The opportunity to bestow public funds on two institutions memorializing national leaders proved irresistible to the nation's legislators. The bill passed, and President Ford signed it.

Only a few demurrers were voiced about the doubtful rationale for funneling federal cash to private institutions. Congressman H. R. Gross of Iowa denounced the appropriation as a log-rolling device for indirect financing. Representative Edith Green questioned the wisdom of singling out two private institutions for federal aid when hundreds of others need help. *Wall Street Journal* reporter Albert Hunt wondered about the split appropriation for a college located in Seneca Falls, New York, and for a library located in Bonham, Texas. "One rationale for this is that the political science students at the Seneca Falls, New York, campus can then use the library facilities in Bonham, Texas, some 1,500 miles away," he wrote.

Criticisms such as these don't bother a majority of Senators and Congressmen. Time and again they have voted to appropriate more funds for projects initially funded, as project sponsors promised—cross their hearts and hope to die—that the first funding would be the last requested. The Kennedy Center in Washington comes immediately to mind. But Congress dispenses a few million here, a few million there, as if $10 million or so were no more than walking-around money. Until Congress can be persuaded to kick its spendthrift habits by rejecting such boondoggles, President Ford's "Whip Inflation Now" campaign will be no more than a pipe dream.

Mr. HUGH SCOTT. Will the Senator yield an additional 2 minutes?

Mr. MAGNUSON. I yield.

Mr. HUGH SCOTT. I yield to the Senator from New York.

Mr. JAVITS. The thing that is important in these circumstances is the following, Mr. President: In view of the fact that the amount to the Eisenhower College will be reduced to 10 percent of the amount actually received for these coins, I believe it would be fair to provide separately for the Rayburn Library.

In other words, the provision would then read for Eisenhower College $8,327,063, except for the amount of 10 percent to be provided to the Rayburn Library at Bonham, Texas—under section 2(c)—shall be separately provided in the amount of $837,000.

I believe that would result in giving what Eisenhower College ought to have, and without deducting from the already reduced amount the $837,000, which would then go to the Rayburn Library.

I might point out in that regard, Mr. President, that this is by no means an unusual situation. Indeed, we are not treating Eisenhower nearly as well as we have treated other Presidents.

For example, we just passed the Harry S. Truman Memorial Scholarship Act, with an authorization of $30 million. I think we all support that.

Mr. HUGH SCOTT. Not a word was raised against it in this body.

Mr. JAVITS. Not a word. Look at what we have spent on the Kennedy Center. We have spent $50 million on the Kennedy Center. Eisenhower was not only a great President in terms of the tranquility which was vouchsafed to the American people during that period, which we can more appreciate today——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MAGNUSON. I yield time to the Senator.

Mr. JAVITS. But also, he certainly is entitled to at least equal treatment with Harry Truman and Jack Kennedy. None of us, I think, would wish to controvert that.

I feel that this is the very minimum of fairness, and I hope that Senator Scott will amend his amendment that way.

I should like to add one other point: A great deal of money has been poured into this college by the friends of Dwight Eisenhower, at least equal to what the Federal Government has done.

On all those grounds, I think this is eminently justified.

The PRESIDING OFFICER. All time has expired.

Mr. McCLELLAN. I yield 1 minute.

The PRESIDING OFFICER. All time has expired.

Mr. HUGH SCOTT. On the bill?

Mr. President, I ask unanimous consent that debate may continue for 4 additional minutes, for the purpose of enabling me to offer a modification of my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that I may modify my amendment in the terms suggested by the distinguished Senator from New York, to be in the amount of $8.327,063, and 10 percent of that to be transferred by the college to the Rayburn Library.

Mr. JAVITS. Mr. President, I do not think that is quite accurate. What I had in mind was to provide $8,327,063 to Eisenhower College, and then to provide separately $832,000 to the Rayburn Library.

Mr. McCLELLAN. Is there any authorization or statute authorizing that?

Mr. JAVITS. I think that is a valid point.

Mr. President, I ask unanimous consent that after the 4 minutes have expired, there be a quorum call and then 2 minutes allowed to the proponents and the opponents, should the proponents desire to propound an amendment to the amendment. This is not any waste of time, as I could amend the amendment, anyhow.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none, and it is so ordered.

Mr. HUGH SCOTT. Mr. President, I yield 1 minute to the distinguished Senator from New Hampshire (Mr. COTTON).

Mr. COTTON. Mr. President, I want to ask one question, and this perhaps is because my understanding is not clear. I cannot quite understand the need for legislation about the amount of coins to be sold to the public for the benefit of Eisenhower College. It seems to me that if we authorize the coinage of the Eisenhower dollars, the people interested in the college can buy the dollars for $1 apiece and dress them up as they choose and sell them. I wonder why it was necessary for legislation to extend to the sale as to the amount of the dollar.

Mr. HUGH SCOTT. I can explain that. Three kinds of dollars are authorized.

Mr. COTTON. I am in favor of it.

Mr. HUGH SCOTT. I understand.

Three kinds of dollars are authorized under the existing act. One is the so-called "sandwich" dollar. The second is the uncirculated dollar, 40 percent silver, which sells for $3 from the Treasury. The other is the so-called proof dollar, or jeweler's silver dollar, which sells for $10. Therefore, it is necessary to have an appropriation implementing the authorization; and the authorization says what is not now in the law, and that is that, of a certain proportion of these over $80 million being received, $10 million—or, as now modified, some $8 million plus—of these profits may be channeled to the Eisenhower College. So that they get roughly 10 percent of all the profit made by the Federal Government.

The PRESIDING OFFICER. The 4 minutes have expired. Under the unanimous-consent agreement, there will now be a quorum call.

Mr. COTTON. Mr. President, I ask unanimous consent to proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. What kind of dollar do these people get, of the three?

Mr. HUGH SCOTT. The $10 dollar—that is, the dollar which sells for $10.

Mr. COTTON. I see. We authorized the mintage of that for this purpose.

Mr. HUGH SCOTT. We have already authorized that. It is out of the proceeds, where we have already sold some $80 million worth of coins, that this amount is being allocated.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. Mr. President, in the very brief time available to me, I ask unanimous consent that I may modify my amendment, and I send the modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment will be stated.

The legislative clerk read as follows:

> On page 23, after line 6: Department of the Treasury Bureau of Government Financial Operations Eisenhower College Grants for payments to Eisenhower College as provided by Public Law 93–441, $9,000,000.

Mr. HUGH SCOTT. Mr. President, the amendment now, instead of "$10 million," reads "$9 million," because under the public law authorization signed in October, the 10-percent allocation to the Rayburn Library is contained in the authorization.

Therefore, I have further modified, from $10 million down to $8,327,063 to $8,100,000 for the Eisenhower College, because $900,000 now becomes available to the Rayburn Library.

Therefore, I ask unanimous consent that my amendment may be modified accordingly, with this further reduction.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. I yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, with this modification, I shall support the amendment. It is a little more than is actually in the Treasury now, but I am certain that the sales will soon be made to take up the slack. With this modification, I will support the amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. JAVITS. I greatly appreciate this. The college is acquiring an excellent reputation, and with this help, I think it will be a fine memorial to General Eisenhower.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. Mc-

Govern), the Senator from Rhode Island (Mr. Pastore), the Senator from Rhode Island (Mr. Pell), the Senator from West Virginia (Mr. Randolph), the Senator from California (Mr. Tunney), and the Senator from South Dakota (Mr. Abourezk) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Rhode Island (Mr. Pastore), the Senator from West Virginia (Mr. Randolph), and the Senator from Rhode Island (Mr. Pell) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett), the Senator from Colorado (Mr. Dominick), the Senator from Arizona (Mr. Goldwater), the Senator from Florida (Mr. Gurney), the Senator from Illinois (Mr. Percy), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Maryland (Mr. Mathias) and the Senator from New York (Mr. Buckley), are absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 52, nays 26, as follows:

[No. 487 Leg.]

YEAS—52

Baker
Beall
Bible
Brock
Brooke
Byrd, Robert C.
Case
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Ervin
Fong
Gravel
Griffin
Hartke
Haskell
Hollings
Hruska
Huddleston
Hughes
Inouye
Jackson
Javits
Long
Magnuson
Mansfield
McClellan
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Packwood
Pearson
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Thurmond
Weicker
Young

NAYS—26

Aiken
Bartlett
Bayh
Bellmon
Biden
Burdick
Byrd, Harry F., Jr.
Cannon
Chiles
Eastland
Fannin
Hansen
Hart
Hathaway
Helms
Johnston
McClure
Metzenbaum
Nelson
Nunn
Proxmire
Ribicoff
Scott, William L.
Stennis
Talmadge
Williams

NOT VOTING—22

Abourezk
Allen
Bennett
Bentsen
Buckley
Church
Dominick
Eagleton
Fulbright
Goldwater
Gurney
Hatfield
Humphrey
Kennedy
Mathias
McGovern
Pastore
Pell
Percy
Randolph
Tower
Tunney

So the amendment as modified was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1989

The PRESIDING OFFICER (Mr. Cranston). Under the previous order, the Senator from Minnesota (Mr. Mondale) is recognized for the purpose of calling up an amendment.

Mr. MONDALE. Mr. President, I yield 3 minutes to the distinguished majority leader.

The PRESIDING OFFICER. The amendment will first be laid down.

Mr. COTTON. Mr. President, will the Senator yield to me first for a unanimous-consent request?

Mr. MONDALE. Yes. Mr. President, I first yield 1 minute to the Senator from New Hampshire.

Mr. COTTON. Mr. President——

The PRESIDING OFFICER. The amendment will first be laid down. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Mondale's amendment (No. 1989) is as follows:

On page 10, line 20, strike out "Part A" and insert in lieu thereof "Parts A and B"; and on page 11, line 6, strike out "Part A" and insert in lieu thereof "Parts A and B".

Mr. COTTON. Mr. President, I ask unanimous consent that Robert Mercer of my staff be allowed the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I call up an amendment which I have discussed with the chairman and the ranking Republican member of the Appropriations Committee, and the chairman of the subcommittee, dealing with the subject.

The PRESIDING OFFICER. Does the Senator from Minnesota yield for that purpose?

Mr. MONDALE. I ask unanimous consent to yield to the Senator from Montana for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I yield the Senator 2 minutes.

Mr. MANSFIELD. The Senator from Minnesota has yielded time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 26, between lines 19 and 20, insert the following:

For an additional amount for "construction", $100,000, to remain available until expended: *Provided*, That this amount shall be available to assist the Starr Community School, Blackfeet Reservation, Montana, to initiate construction of school facilities.

Mr. MANSFIELD. Mr. President, Senator Metcalf, my colleague from Montana, and I met with Earl Oldperson, the president of the Blackfeet Tribal Council and five other tribal members on yesterday.

He informed us that 2 weeks ago the Montana State Board of Education had condemned the Starr School, an elementary school, which takes care of the education—such as it is—of the Blackfeet Indian children and, therefore, they were meeting in a place which was ill-ventilated, certainly unhygenic, and that what was needed at this time was the beginning of the setting up of plans for the construction of a new school for these Indian children.

During the last 2 weeks, the 40-year-old school, as I have indicated, was condemned by the State authorities for the children. The walls are buckling, and so are the floors.

On Monday of this week the school was boarded up, and the children are having classes doubled up in a trailer and in a community building and, at the present time, Senator Metcalf and I are in the process of obtaining four trailers through surplus property and have located some at Indiantown Gap in Pennsylvania. But, as we all know, the paperwork of getting these transferred will take a long time. Delivery, we expect, will be forthcoming at an appropriate time, and the paperwork will be made through the Johnson-O'Malley funds.

I ask on behalf of these 50 Indian children, who have not been given the best of everything in the history of this country, that this amendment be accepted.

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes.

Is this school now in existence?

Mr. MANSFIELD. It is in existence, but it is boarded up, because the floors and walls are buckling.

Mr. McCLELLAN. It has been condemned?

Mr. MANSFIELD. It has been condemned.

Mr. McCLELLAN. The present building has been condemned?

Mr. MANSFIELD. Two weeks ago.

Mr. McCLELLAN. Is it a Government structure?

Mr. MANSFIELD. Yes.

Mr. McCLELLAN. This is to replace a Government structure?

Mr. MANSFIELD. To lay the plans for the replacing of a Government structure by another Government structure.

Mr. McCLELLAN. This does not indicate, and we do not know, what the ultimate cost will be. This is simply to make a survey and give Congress a report on what the requirements are and the probable costs thereof?

Mr. MANSFIELD. That is right.

I would hazard a guess that the costs would be slightly over $1 million overall.

Mr. McCLELLAN. But it is the beginning of an anticipated project?

Mr. MANSFIELD. It is.

Mr. McCLELLAN. And this is a preliminary expenditure which is necessary to establish not the need for it, but its possible requirements and anticipated costs?

Mr. MANSFIELD. The Senator is correct.

The chairman of the Interior Subcommittee is well aware of all the details involved.

Mr. McCLELLAN. I just wanted to make the Record clear.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. YOUNG. There is no question in my mind but what the school must be rebuilt, and putting money in this bill will save about a year.

Mr. MANSFIELD. I yield to the Senator from Nevada.

Mr. BIBLE. It was considered, but it was not ready to be moved forward at that time. It would be a bad mistake if we did not appropriate this money immediately and get not only the planning but further construction underway without delay.

I think the total cost is a little less than $1 million. That is my memory of it.

Mr. MANSFIELD. Right.

Mr. BIBLE. I think it should be allowed.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

Mr. McCLELLAN. Mr. President, my only purpose is to establish the record so we can have it when requests for appropriations are made.

Mr. MANSFIELD. I appreciate the Senator's effort in doing it.

The amendment was agreed to.

AMENDMENT NO. 1989

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. MONDALE. Mr. President, this amendment simply continues funding for the special incentive grant program—part B of title I of the Elementary and Secondary Education Act—as it has been funded in the past, and as it is provided for in the authorizing legislation. This program provides incentive grants to States that make a higher than average effort to support elementary and secondary education.

As the distinguished floor manager knows, this program has been funded automatically out of the overall title I appropriation for the past 3 years, and during this 3-year period, 28 different States have received grants.

During Senate consideration of the education amendments of 1974 this past June, Senator MCCLELLAN offered an *amendment*, which was subsequently adopted, that changed the formula by which funds are distributed under part A of title I.

But at that time I worked with Senator MCCLELLAN to assure that the part B program would continue to receive automatic funding out of the total title I appropriation; he accepted my amendment in this regard, and it subsequently became law.

Now for reasons I do not understand, the supplemental appropriations bill passed by the House runs directly contrary to the authorizing legislation and provides no funding at all for part B. And the bill as reported by the Senate Appropriations Committee contains the same problem.

My amendment simply conforms the appropriation bill to the provisions in the authorizing legislation by making the part B an automatic entitlement.

I cleared this amendment with the chairman of the Appropriations Committee, Mr. MCCLELLAN, the chairman of the subcommittee, Mr. MAGNUSON, the ranking member of the minority on the Appropriations Committee, Mr. YOUNG, and all are agreeable.

This amendment does not cost any additional money. It is a small special incentive grant program which has been in being for the past several years, and I would hope that could be accepted.

Mr. McCLELLAN. My understanding is that this does not increase the appropriation. It is not an appropriation. It simply is a transfer of funds from one title to another that actually belong in part B; am I correct?

Mr. MONDALE. The Senator is correct.

Mr. McCLELLAN. It was so intended in the legislation, as I recall. This amendment, therefore, proposed by the distinguished Senator would make the appropriations in accordance with the statute.

Mr. MONDALE. The Senator is correct.

Mr. McCLELLAN. I have no objection.

Mr. COTTON. Mr. President, will the Senator yield to me?

Mr. MONDALE. Yes.

Mr. COTTON. I see by the sheet, which reached us this morning, the States that presumably or that it is estimated would gain from the Senator's amendment.

First, I congratulate the Senator because of the fact that this amendment does not increase money in the bill. I think we on the committee are grateful.

I am not hostile to his amendment. I would be friendly because of that. But I am a little concerned.

I note by this estimate which, I assume, is only an estimate and may not eventuate, that 22 States would benefit by this amendment.

If we do not increase the money in the bill, and the 22 States get more than they otherwise would, that has got to come from the other 28 States, if my arithmetic is correct. Is not that a fact?

Mr. MONDALE. Yes.

May I respond to the Senator? This part B distribution is not new. It has been the law for the last 3 years, so it does not change the distribution of the funds as it is now known by the States or by the local school districts.

Second, it is a very small proportion of the total appropriated for title I. It is only $28 million out of $1.8 billion.

The reason for this program—which was authored by Senator DOMINICK—is to try to provide some modest incentive for States to assume a greater share of the burden themselves in terms of effort.

Over the last 3 years, 28 States have benefited. Which States benefit in any one year depends which States exceed the national effort average. It is a modest amount. The most that any State gets is about $4 million. Most get far less than that. It is, in effect, a token expression to States which take on a larger share of their own educational effort. I ask unanimous consent that a table estimating State-by-State distributions under my amendment be printed at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD as follows:

ESTIMATED DISTRIBUTION OF $1,823,300,000 for PUBLIC LAW 89-10, TITLE I, PART A AND PART B

	Estimated total pt. A [1]	Estimated total pt. B.[2]
United States and outlying areas	$1, 795, 300, 000	
50 States, District of Columbia and Puerto Rico	1, 774, 280, 250	$280, 000, 000
Alabama	41, 544, 976	0
Alaska	5, 235, 811	713, 683
Arizona	16, 225, 358	0
Arkansas	26, 000, 161	0
California	148, 940, 525	0
Colorado	16, 646, 370	154, 850
Connecticut	16, 580, 832	103, 926
Delaware	5, 264, 164	219, 470
Florida	62, 014, 093	0
Georgia	45, 741, 058	0
Hawaii	5, 109, 033	0
Idaho	5, 769, 423	0
Illinois	91, 323, 981	0
Indiana	24, 625, 226	0
Iowa	15, 809, 011	71, 220
Kansas	13, 648, 358	0
Kentucky	32, 915, 243	0
Louisiana	49, 740, 586	1, 514, 668
Maine	7, 049, 168	488, 021
Maryland	29, 518, 986	318, 912
Massachusetts	35, 719, 630	442, 990
Michigan	74, 383, 980	4, 200, 000
Minnesota	27, 092, 249	3, 513, 767
Mississippi	40, 024, 337	0
Missouri	31, 409, 991	0
Montana	5, 906, 036	286, 007
Nebraska	9, 108, 149	0
Nevada	2, 318, 118	0
New Hampshire	3, 324, 447	0
New Jersey	55, 220, 359	2, 196, 509
New Mexico	14, 892, 288	1, 390, 149
New York	210, 369, 401	4, 200, 000
North Carolina	53, 187, 262	0
North Dakota	5, 604, 141	0
Ohio	57, 638, 809	0
Oklahoma	20, 536, 224	0
Oregon	16, 951, 044	788, 754
Pennsylvania	85, 620, 576	2, 744, 610
Rhode Island	6, 675, 227	0
South Carolina	33, 324, 763	0
South Dakota	6, 180, 926	0
Tennessee	38, 451, 334	0
Texas	120, 688, 801	0
Utah	5, 919, 192	344, 722
Vermont	3, 710, 602	736, 576
Virginia	38, 273, 178	0
Washington	24, 742, 346	872, 784
West Virginia	17, 337, 998	0
Wisconsin	28, 207, 265	2, 301, 347
Wyoming	2, 725, 841	397, 035
District of Columbia	11, 170, 543	0
Puerto Rico	27, 862, 830	0
Outlying areas	21, 019, 750	

[1] Reduction of estimated authorization under title I, part A with State agencies held at 100 percent authorization, and Puerto Rico reduced under provisions of Public Law 93-380.

[2] Ratable reduction of authorization ($171,413,616) to $28,000,000, with no State receiving more than 15 percent ($4,300,000) of $28,000,000.

Mr. MONDALE. This program was continued in the Education Amendments of 1974. It is strongly supported by the Senate's Labor and Public Welfare Committee, and I would hope that in light of that theory and those facts that the Senator from New Hampshire would be able to support this amendment.

Mr. COTTON. There is a certain other situation which concerns the Senator from New Hampshire which he does not intend to press but, repeatedly, in past years, the Senator from New Hampshire has been compelled to vote against this formula—and that does not affect the Senator's amendment particularly. It affects the whole distribution.

One of the factors, of course, in the formula is the effort, the effort that the States have indicated they are putting into support of their schools and, it seems, in an effort to support their schools to the extent of their ability to get credit for it. Unhappily, the State I represent, the people of the State, the taxpayers of the State, support the schools, but they do not do it through the State treasury.

The State uses its funds for other purposes, to relieve taxation in the cities and the towns and counties or subdivisions, but the schools are supported by the subdivision's real estate tax and certain other taxes that are levied.

So that we never get credit for the fact that *x* number of dollars in my State are put into the support of public education by the taxpayers of the State.

The fact that it is not channeled through the State treasury means that under this fund we do not get what I think should be our fair share, I mean we suffer from that particular feature, but that is not just confined to the Senator's amendment, it is confined to the whole situation.

Consequently, the Senator from New Hampshire finds himself personally embarrassed because representing his State he has to take a certain position. However, the Senator from New Hampshire is not seeking to do anything to defeat the Senator's amendment because the Senator has shown consideration by not blowing up the bill by additional money. I suppose there is some reason why 22 States would profit by it and 28 States would lose by it. However, I am not asking the Senator to go into all details of it.

Mr. MONDALE. I may make one further point, at the time this part B program was extended as part of the Education Amendments of 1974, we made a fairly fundamental change in title 1, part A distribution formula by adopting the McClellan amendment. I do not have the tables before me, but I suspect that New Hampshire does better under the McClellan formula than it did before because that new formula changed somewhat the amount of money flowing to the larger center cities and increased the flow of money to rural areas.

I suspect that when we look at the total going to New Hampshire, and I do not have the table, they are probably doing better overall this year than before.

Mr. COTTON. I am aware of that and appreciate that. The Senator from Minnesota has been a recent visitor to my State. As a matter of fact, while I do not interfere with the internal politics of the party to which I do not belong, I did have an opportunity to speak to a couple of the educators for what had been done for our State in this respect. So give me credit for giving the Senator credit in the very State that has the first Presidential primary.

Mr. MONDALE. I have heard about that.

Mr. COTTON. The question still remains, however. I am wondering about these other 28 States, they have got to lose something, and cannot get anything, actually, from the 22, so in a sense the amendment must rob Peter to pay Paul. Maybe there is a real fundamental reason for that.

Mr. MAGNUSON. Mr. President, I want to clarify the record here just a little bit.

There is a total appropriation for this program of $1.8 billion, and the Senator from Minnesota is merely attempting not to add to that, but to shift $28 million, is that correct?

Mr. MONDALE. That is correct.

Mr. MAGNUSON. All right, so that the record will be clear.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Minnesota (Mr. MONDALE).

The amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from Louisiana.

AMENDMENT NO. 1981

Mr. JOHNSTON. Mr. President, the question at issue is whether or not we shall fund adult education in this country at 90 percent of the level of last year. It is very simple, Mr. President, under the present legislation.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 13, line 5, after "as amended," delete "$128,438,000" and insert in lieu thereof "$155,250,000".

On page 13, line 6, after "amount" delete "$63,319,000" and insert in lieu thereof "$77,625,000".

Mr. JOHNSTON. Mr. President, this amendment is very simple. All it does is to give effect to the action already taken by the Senate in May of this year which guarantees that no State shall receive less than 90 percent of the grant it received in fiscal year 1973 for adult education.

Mr. President, what the present legislation does is take away money from the States that need it most in adult education. It is very nice, Mr. President, to have high levels of literacy, to have high levels of education, but in my State of Louisiana, which stands second from the top in illiteracy, we are being cut by $246,000 on a program which provides the only basis we have, Mr. President, to do away with adult illiteracy.

Some 70,000 citizens in my State of Louisiana have never gone to the first grade, have never received any education at all, and now through a program of adult education these people are given hope, are given some modicum of education, the ability to read, the ability to work with figures, the ability, indeed, to get some basis to compete in the job market.

Mr. President, it is no wonder that my State, which stands second from the top in illiteracy, is at the top in unemployment, at the top of the Nation my State stands in unemployment, and why? Because we have so many people, so many people who cannot read and write, who suffer with that terrible stigma of illiteracy.

Mr. President, if we were talking about blind people, if we were talking about deaf people, if we were talking about mentally retarded people, this Senate would rise up as it has in the past, and thank God for it, and take care of those people, but when we are talking about illiteracy, being handicapped perhaps worse than blindness and worse than deafness, then this Senate turns a deaf ear.

Mr. President, we are not asking for a great deal of money. We are asking for $14 million for this year to restore to those 12 States, I believe it is, who have been cut, States who have been cut deeply.

Listen to this list. Alabama was cut $90,000; Texas $120,000; Mississippi $162,000; South Carolina, which has been in competition with my State of Louisiana as the most illiterate, $183,000; Georgia $236,000; and Louisiana has been cut $246,000 on a program essential, essential to do away with the scourge of illiteracy.

Now, Mr. President, we are trying to conserve money, we are trying to do what we can to fight inflation, but of all places to fight inflation, let us not do it at the price of ignorance, let us not do it at the price of illiteracy, and that is what this amendment does. What this amendment does is try to restore those funds that we need to fight this battle of illiteracy and fight this battle of ignorance and fight this battle of unemployment because the two go hand in hand, go right together.

Mr. President, all this amendment does by adding the $14 million for this year is to give effect to what this Senate did on May 16, 1974, when as an amendment to the Elementary and Secondary Education Act we provided that no State shall receive less than 90 percent of what it did last year in adult education.

Mr. President, I hope this Senate will not turn a deaf ear to the needs of States like Louisiana and Georgia which have been cut deeply in a program so essential in the fight against illiteracy.

I say, let us cut the budget, we have got a lot of fat in this budget, but we do not have an ounce of fat in adult education.

I plead with the distinguished chairman from Washington not to cut this kind of program. They may not need it in Washington, and God bless them for it, I hope they do not, I hope they do not have this scourge of illiteracy there, but we do in the deep South. We have got a lot of people who never went to school.

We have a lot of people who cannot read, a lot of black people, a lot of poor people, and they need help. We are asking for the help of this Senate, for the help of those of you who have the power because of your chairmanships or otherwise to say yea and nay to whether they can respond and whether they can be given help to learn to read, to learn to write, to learn to get those basic skills that will equip them to get a job.

I hope the chairman and the Senate will look at this matter in that light.

Mr. MAGNUSON. Mr. President, over the years I have become used to very impassioned pleas such as I heard from the Senator from Louisiana about programs that, on their face, are good. But we have to sit down and listen to a great number of witnesses and try to arrive at a balance.

If the Senator from New Hampshire and I had our way about this thing, we would probably add a great deal to this bill. Each one of us has a different project which he is convinced needs more money.

In this particular field, we are not responsible for what the legislative committee did. We have to agree with what is reasonable spending for these programs. If we full-funded every bill that came out of the Labor and Public Welfare Committee, and these other committees, the sheriff would be down at the Treasury Department today hanging a sign. So we have to arrive at some discretion.

We have been pretty generous about these things because they are good programs. No matter what you do with even the new formula in this particular program, some States are going to get less and some are going to get more. It is just like the last amendment we had.

I have no idea how my State fares in this, whether it is down or up. It should not make that much difference to me in *making a* recommendation on a total national figure.

The Senator from Louisiana came by here awhile ago and said the Appropriations Committee cut this program. We upped it. I will put the figures in the Record. We upped it from the budget.

Mr. JOHNSTON. Will the Senator yield?

Mr. MAGNUSON. Just a minute. Let me finish.

We are now $424 million over the budget request for the supplemental, and $135 million over the House allowance.

I do not know how far we can go. Everybody comes up with a different program. There were 18 amendments filed here yesterday that would add another $536 million to the budget.

I know the Labor-HEW chapter to this bill is sensitive. Everybody has their programs. I have mine. I would have liked to have added almost double the amount for some health research projects—almost double—if I had my own way about it.

I have no objection to this program. I think the States should receive—what is it—90 percent of last year's amount?

Mr. JAVITS. Ninety percent of last year.

Mr. MAGNUSON. So this would be a hold-harmless level of $67.5 million. We provided $63,319,000. It is a 2-year program.

Mr. McCLELLAN. That is just on one aspect of it. This amendment has two provisions in it.

Mr. MAGNUSON. It is one aspect of it.

There was an error in drafting in the House. The Senate took care of that and added $1.8 million on top of that. This is the amount of the committee add-on for ethnic heritage studies. We had some argument in the Appropriations Committee about that. Even now I am not absolutely clear on what that program will do. Are they going to teach all the Swedes in the State of Washington about Sweden? Are they going to pick out the Norwegians and tell them to look at the Norwegian history? What does it mean? Everybody ought to have the same kind of education.

Illiteracy is a very important matter. I agree with the Senator. It is very important.

As presently drafted, the amendment would provide $75 million for adult education in 1975, and $77 million in 1976. This is the amendment of the Senator. I could not take this amendment no matter how much I believe in the program.

We have not cut this program, nationwide. I think there is an adequate amount.

Some parts of these programs, after we heard all the witnesses, were not doing very well. They were administered badly, although the objectives were good. I am going to oppose this amendment, like I am going to oppose every other amendment. I think we have gone far enough when we put a half billion dollars over the budget in this segment of the supplemental. All of them are very good.

On this one, for the record, the request is $63 million. We made it $65,119,000, and we are plus $1.8 million. We upped it. We did not cut it down.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. MAGNUSON. I yield.

Mr. JOHNSTON. There is apparently some discrepancy in the information which I would like to get clear so that the Senate will well understand.

My information is this: In order to give us 90 percent of what we had last year, you would have to add the amounts as stated in this act, and for Alabama it is $90,000.

Mr. MAGNUSON. I heard all of those figures.

Mr. JOHNSTON. Is that correct or not?

Mr. MAGNUSON. I do not know how it cuts Alabama or someplace else. I do not have any idea whether it cuts or adds to the State of Washington. But we think the total amount is sufficient.

Mr. JOHNSTON. The total amount may be fine for States that do not need it.

Mr. MAGNUSON. If you are going to argue about formula, then you belong up in the Labor and Public Welfare Committee, not here. We do not set the formula.

Mr. JOHNSTON. I am worried about people who need help, about people who cannot read and cannot write, in my State.

Mr. MAGNUSON. Of course, all people need help in this field. But you are talking about a formula that was passed in the authorizing legislation. We think the total amount is enough. If Alabama loses $90,000 with the total amount in this program, I think they are getting off pretty well if we are going to do something about Federal expenditures.

Mr. JOHNSTON. I am not talking about ethnic education or some research program, about something that is irrelevant to what is going on. I am talking about reading and writing, about basics.

Mr. MAGNUSON. We have a right-to-read program. We have millions in here for that. The regular Labor-HEW bill is now $37 billion. I am not going to get too excited about $90,000 that they lose under a formula that we had nothing to do with. If the Senator wants to change the formula he ought to have a hearing up in the Labor and Public Welfare Committee.

Mr. JOHNSTON. When the bill came through here, the elementary and secondary education bill, and pointed out that under this new formula, which they said was wonderful, our State would get less, I said that cannot be.

This program is essential to us. That is why I introduced the amendment which, on May 16, this Senate adopted. We said they cannot get less than 90 percent.

Mr. MAGNUSON. I want to tell my friend from Louisiana something. There are over 300 line items in the Labor-HEW bill.

To many Senators, if $1 is cut, it is essential to them. All these programs are good. Overall, we think we have done pretty well in the supplemental. If somebody would lose $90,000 in a State, I do not know about that. Perhaps the formula is wrong.

Mr. JOHNSTON. $246,000.

Mr. MAGNUSON. Whatever it is. We are talking now about close to $65 million for the total program. We think that, overall, this is a pretty good sum in a supplemental bill. If the formula is wrong, that is not the fault of the Senator from Arkansas or the Senator from New Hampshire or myself. The Senator from Louisiana ought to go up to the Labor and Public Welfare Committee and change it.

Mr. JOHNSTON. All I know is that the States that need it most, those that have the highest rates of illiteracy, are getting the deepest cuts.

Mr. MAGNUSON. Then, the Senator ought to change the formula.

Mr. JOHNSTON. I am trying to restore enough to provide 90 percent of what we had last year.

Mr. MAGNUSON. I do not look at this as the only amendment. The thrust of the amendment of the Senator from Louisiana is to change the formula. The Senator is trying to put it on an appropriation bill.

Mr. JOHNSTON. It would not change the formula.

Mr. MAGNUSON. The thrust of it would change the formula. I do not have any objection to this program. What are we going to do—accept every amendment a Senator from one State wants because of something he does not like? I have no idea what this does to the State of Washington, and I do not think it is important to me to consider that. I am to consider the overall situation. We furnish adequate money nationally. The thrust of the Senator's amendment changes the formula. I will have to oppose it, reluctantly.

I have been accused of being a big spender on this bill. I want to tell the Senator from Louisiana that before he came to the Senate, I was vetoed five times on this bill, and I do not want to go through that again. People went around and said there are too many Federal expenditures, and some of the people who will be Members of the new Congress ran on that issue. But when it comes to their little project or something like this—they do not think there is enough. We are up now a half billion dollars over the budget in a supplemental, and we have not even finished the regular bill.

The White House is going to be looking at both bills. Both bills are going to come down to the White House at the same time, not just one. We are now over the budget $500 million, and $134 million over the House, and we thought this was adequate.

I am going to oppose it for a general reason. I am not against this program. As a matter of fact, I was a cosponsor of the legislation that originated the appropriation. I am hopeful that the Senate will hold the line on this a little.

How much does the State of Louisiana lose?

Mr. JOHNSTON. $246,000.

Mr. MAGNUSON. And some States gain.

Mr. JOHNSTON. I am sure some States gain—probably those that do not need it.

Mr. MAGNUSON. This is the same argument we get into on title I, on impacted aid, and so forth. We just got through with the list.

Mr. JOHNSTON. How the committee could appropriate money for ethnic studies, or whatever it was, and cut adult education, I do not know. It totally escapes me.

Mr. MAGNUSON. We did not cut it. We allowed the full amount of the budget, plus.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. COTTON. Mr. President, I am fairly in sympathy with everything the distinguished Senator from Louisiana has said about the $1.8 million for this ethnic heritage program. I would vote for an amendment to change that and put it into the fund, to go to the States to take care of adult education, without that restriction. I think restrictions such as that waste the money. However, it is not our fault.

There has been a tremendous migration from the Southern States into the Northern States. That is why up in Boston we are fighting over civil rights, when it used to be down in Alabama. There has been a tremendous migration.

If the need for adult education has increased in a State, it is bound to affect the State from which some of that population has gone.

I ask this of the Senator, and I do not ask it in a hostile way. I am just seeking information. Does the legislature of the State of Louisiana, the State he represents, appropriate anything for adult education?

Mr. JOHNSTON. I believe they appropriate considerably. I will have to check that, but I think they appropriate considerably for adult education.

Mr. COTTON. If we increase this bill—and I must go along with my chairman, the Senator from Washington—I would like to vote for an amendment to take that $1.8 million for ethnic history or ethnic studies and put it right into the pot for adult education, without that restriction; 15 percent comes off the top or is set aside for teacher training, and I suppose that is necessary. That is one reason why his State does not have available as much for actual classroom studies.

As for increasing the overall amount, if we do not hold the line, the Senator's State is not going to gain anything. There will be a veto of this legislation. There may well have to be a continuing resolution, and next year the Senate will start all over again, taking care of the last year. That cannot take place, therefore I cannot vote for the amendment.

If the Senator will offer an amendment to cut out that category, leave the money but cut out that designation of $1.8 million for ethnic studies, and put that into the pot, to go for adult education, distributed among the States, he would gain something and he would not lose a thing. We would still have the overall amount intact.

Mr. JOHNSTON. Mr. President, I am about ready to yield back the remainder of my time.

The point has been made. The point is very simple. We are in a time of austerity, when we want to stop inflation by stopping spending. The American people insist on that, and I well understand the feeling and the desire of the chairman to hold the line on spending.

However, I ask the Senator simply to think of one thing: Is it fair, does it make any sense, to take those States that have the highest rates of illiteracy and take the one program that offers a little hope, offers a little chance for these people to learn to read and write and to break the terrible scourge of illiteracy? Is that the way to fight inflation, when it is causing terrible unemployment? We have people who cannot get jobs because they cannot read or write. We are trying to give them a little hope, not by increasing the budget but by giving them 90 percent of what they had last year. That is all I am asking.

Mr. MAGNUSON. But that increases the budget, and we are way over the budget now.

I agree that some of these things are not fair, but we have to deal with the facts of life here, money-wise.

If the formula is wrong, I would be the first one to vote to change it. I think this program is good, but I do not think there is any great cut coming in it for anybody.

Mr. JOHNSTON. $246,000 in Louisiana.

Mr. MAGNUSON. Many of the grants are processed by what the local contribution is, as the Senator from New Hampshire has said. I do not have the figures, but I do not believe there is very much by the legislature of the State of Louisiana.

Mr. JOHNSTON. I cannot respond to that, because I do not have the figures.

Mr. MAGNUSON. It probably should be more.

Mr. JOHNSTON. The information furnished to me by the staff is that my State is cut $246,000. If the Senator has information that that is not correct, I will research it and check it out.

Mr. MAGNUSON. I do not think that $246,000 is going to wreck the program if we have $64 million in the bill. There is still going to be a program.

Mr. JOHNSTON. We shall still have a program. But it will mean that a lot of people——

Mr. MAGNUSON. Is the Senator not going to have a program? Maybe there will be a good one going there.

Mr. JOHNSTON. It will mean that some hundreds of thousands of people will not be able to get service in the program.

Mr. MAGNUSON. I think that the Senator's figures are quite large on that. I do not think that we need to expect that at all. Some of the programs need to have a look taken at them, and some of the expenditures need to be cut down. I know that in my State, they do.

Mr. JOHNSTON. The Senator will admit that a cut of $200,000 is a tremendous cut in adult education in one State, will he not?

Mr. MAGNUSON. It is not a tremendous cut in the program. The percentage is not great.

I shall put in the RECORD how much we are going to spend in Louisiana. What the Senator is talking about—and I do not blame him—he does not want to be one of those that is cut. But the formula is not our business; that is the business of the legislative committee.

Mr. President, I yield back the remainder of my time.

Mr. COTTON. Before the Senator yields, if I may——

Mr. MAGNUSON. If the Senator will wait just a moment, may I say this? According to HEW records Louisiana will get $1,246,000 under the present bill.

Mr. JOHNSTON. That will be about a 20 to 25 percent cut.

Mr. MAGNUSON. And 90 percent hold-harmless would be $1,325,000.

Mr. JOHNSTON. But it is mandated that they have had to take 15 percent and take it away from adult education and put it in another program of teacher training.

Mr. MAGNUSON. But the difference is, from the $1,246,000 to 90 percent, which it did not have to begin with, that is $1,325,000. That difference is the exact figure, not $240,000.

Mr. JOHNSTON. Then we have to take 15 percent off that because it is a new program, or we have to take that away from adult education and put it in teacher training, whatever it is.

Mr. COTTON. If the Senator will yield, this 15 percent is not being taken away from adult education and put in another program. It is to train teachers for adult education.

Mr. JOHNSTON. Right, and it takes it away and puts it in a training program, rather than the substantive program.

Mr. COTTON. The program will not work at all if we do not have competent teachers to teach in adult education.

Mr. JOHNSTON. It effectively amounts to a cut by mandating use of it.

Mr. MAGNUSON. The Senator is adding on figures that do not belong. It is not the intent of the law to add 15 percent to every appropriation bill in this field for adult education. The 15 percent requirement is in the law. If the Senator does not like that amendment, and maybe I did not—the Senator voted for it and I voted for it—then he ought to go up to the Labor and Public Welfare Committee to get it changed.

Mr. JOHNSTON. Maybe the Senator did. I voted to hold onto my substantive——

Mr. MAGNUSON. It is the law. Maybe we have to do that, train teachers. That is the problem with the program. They had the money, they went ahead and spent it, and they did not have anybody to supervise it, did not have anybody to teach.

Mr. JOHNSTON. The practicality is that we were presented with this formula, and my people back home came to me and said, "Look, this is a big cut."

I went to the Education Committee and said, "How do we fight this?" They said, "Put in the same old 'hold harmless' language you have had for the last 2 or 3 years; that is the way to fight it."

So I put in the amendment. The Senator says, "Yes, that is a good idea." So he accepted it.

Then they come around and cut the bill so that the amendment does not mean anything. I think that in a sense, it is the Senate as an institution breaking faith with our State. I do not mean to say that any person, individually, has done that, but that is what it amounts to.

I go back home and talk to my people in adult education, who think that this program is awfully important. I say look, one committee did this, another committee did that, it is nobody's fault, it is just one of these things that happens.

They look at us with disbelief. Do they say the U.S. Senate is not responsible for this thing?

Mr. MAGNUSON. Well, we are responsible for all kinds of things, and I wish there were an open door down at the Treasury, but there is not. There are 316 line items in this bill. They are all good programs.

I want the RECORD to be clear. The 15 percent, we had nothing to do with. Congress voted that. That is for training for teachers. The actual reduction, even if we use the formula that the Senator is trying to change, is actually, for the record, $79,000.

Mr. JOHNSTON. Well, that is fine if we do not include the 15 percent that has been stated.

Mr. MAGNUSON. I just checked with the staff. If we restored 90 percent to all of the States that are involved, the "hold harmless" principle, it would be $4,181,000.

Mr. JOHNSTON. Will the Senator do that?

Mr. MAGNUSON. Well, that would be little better than what the Senator wants, the $28 million. I cannot speak for myself.

Mr. JOHNSTON. Will the distinguished Senator from New Hampshire——

Mr. MAGNUSON. I would be willing, if the Senator from New Hampshire and the Senator from Arkansas would, to take the $4,181,000 and take it to conference. That would put people back to the "hold harmless" principle.

Mr. McCLELLAN. Mr. President, I would be willing to do that. I would be willing to take that amount to conference. What we can do there, I do not know.

Mr. COTTON. That means approximately $8 million, because it is funded for 2 years.

Mr. MAGNUSON. This is for this year and for next year since we are going to forward fund the program. We cannot include that 15 percent. That is the law which the Senator voted for, and which I voted for. I thought it was good to train teachers, because we found that in some of the adult education programs, there was a waste of money that should not be; they did not have proper supervision and qualified teachers. The Senator and I agree with that. That is why we had the bill. But that is the law.

Actually, if this goes through, I will admit the Senator is out $79,000.

Mr. JOHNSTON. Would the Senator restore the $79,000?

Mr. MAGNUSON. $79,000?

Mr. JOHNSTON. Would the Senator agree to go that far?

Mr. MAGNUSON. Would I what?

Mr. JOHNSTON. Would the Senator agree to go as far as restoring the $79,000?

Mr. MAGNUSON. I cannot accept that for one State.

Mr. JOHNSTON. I mean to amend the program.

The Senator says that the 15 percent should not be in the bill. I believe that it should, because it comes right out of the adult education program. But let us assume that the 15 percent ought to be borne by the States, or not paid. Will the Senator at least give us that percent of the substantive program?

Mr. McCLELLAN. Take it for this year's appropriation and let us see. That can be worked out later. I do not know what they will do in conference, but that was the intent, to try to hold them harmless. That is the purpose of it, and that is the provision.

Mr. MAGNUSON. And it is true that most of the States that have the most illiteracy were the ones that apparently are going to be cut—$79,000 in his State and other States that get that cut.

Mr. McCLELLAN. I think that is the best we can do with it, and if we do that well, we shall be doing well. If the Senator wants to take it to conference——

Mr. MAGNUSON. If the Senator will modify his amendment to $8,362,000, that will activate the "hold harmless" for this year and next year.

Mr. JOHNSTON. Mr. President, I move to modify my amendment by reflecting $4,181,000 added on for—that will be for fiscal year 1975 and 1976?

Mr. MAGNUSON. Yes.

Mr. JOHNSTON. We shall provide the exact language on the amendment, but it will reflect $4,181,000 increase in adult education for this year.

The PRESIDING OFFICER (Mr. ERVIN). The Senator has the right to modify his amendment, but I suggest that the Senator send the amendment to the desk in writing.

Mr. JOHNSTON. Can the staff have that ready?

Mr. MAGNUSON. Yes, they can do it. We shall send that to the desk with those figures.

The PRESIDING OFFICER. The amendment is so modified.

Mr. MAGNUSON. I will be glad, and I know all of us will, to take a look at this formula and this whole matter of this 15 percent next year, when we get ready to do this. I think it should be up to 90 percent, personally.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Washington, the distinguished Senator from New Hampshire, and the distinguished Senator from Arkansas for helping us on this critically important matter. It is not as much as we feel is necessary in the program, but if we have a look at the 15 percent next year, that will give us a chance to see how that is working.

The $4 million additional will mean everything to this program in my State and in other States like it.

I yield back the remainder of my time.

Mr. COTTON. Mr. President, as far as the Senator from New Hampshire is concerned, he is certainly willing to go along with the chairman of the full committee and the chairman of the subcommittee to make this compromise agreement. I am glad to do it because I am glad to be of some assistance to the distinguished Senator from Louisiana, for whom I have a very high regard.

I think, however, that there are a couple of things this RECORD should show.

In the first place, it is all right to say that the Senate did not keep faith with the people of Louisiana, the people of Alabama, or the people of these other States, because, on the recommendation of the Legislative Committee on Labor and Public Welfare, a new formula was created to hold harmless each State. The great difficulty, and the reason we have lost control of this budget, is this system of legislative committees authorizing all these things, and it goes into the newspapers, and the people of the country read that Congress has just authorized so much for education, so much for the handicapped, so much for cancer, so much for this, that, and the other, and the sums are utterly impossible. Those who vote for them on the floor of the Senate and the House of Representatives know that they are impossible. They know that if the Appropriations Committee went on and appropriated all those sums, as has been so well said by the distinguished Senator from Washington, we would be bankrupt in no time at all.

The only thing that troubles me about even this compromise is that, because the legislative committee decided and the Senate went ahead and passed it, as just a part of the very long and complicated bill, they decided that even though half of the illiterate people from one State moved up into New York, Illinois, or somewhere else, we would have to increase the money for them in the State to which they migrated, but we have got to continue to pay the same amount or nearly the same amount to the State from which they migrated, and where the problem presumably is no longer quite as severe.

It is not breaking faith with any State when the Appropriations Committee comes in with appropriation bills and does not do everything that the legislative committee has authorized. Furthermore, the time has come when some of these matters must be faced squarely. Look at the problem that we have in this committee. We have not only education, we have health, and for years we have faced this situation of dialysis for diseased kidneys. We have had to sit down and face the grim specter before our committee that even now, in the more sparsely populated parts of this country, a doctor has to make the decision whether this man shall live and that man shall die because we have not been able to produce the money to place within the reach of every afflicted person in this country the dialysis necessary to keep him alive.

When you think of something as gruesome as that—and we have faced that; we have gained on it, and thank God we nearly have it licked, but not completely. Having faced that, I cannot shed so many tears over matters such as, important as it is, the matter of adult education. We in the committee have had to face those decisions and balance them all through the years.

I do not know what the State debt—and I do not want to personalize this and make it any kind of attack on my friend from Louisiana or his State. I do not know what the State debt of Louisiana is. I do not know what the State debt of Massachusetts is. But I would almost be willing to state blindly that it is infinitesimal compared with the Federal debt, a portion of which has to be met by the taxpayers of Louisiana, the taxpayers of Massachusetts, and the taxpayers of Illinois and all of the other States.

We had to produce $35 billion this year just to pay the interest on our debt, and that $35 billion never provided a hospital bed for anybody. It did not do a thing for the veterans. It did not do a thing for adult education. It did not do a thing for cancer, or for kidney dialysis. It did not do a single thing for any of the great crying needs of this country. It just goes into thin space, because of our prodigality in past years.

Only 44 percent of the Federal spending in this country now ever reaches the Appropriations Committee because of these legislative bills that have conferred obligational authority and bypassed the Appropriations Committee. That is what we are up against. The only thing that worries me about this $4 million here—it is not very much, and I am delighted to join in that solution to help the distinguished Senator; I admire the fight he has made for his people and for his State—but we have 17 some amendments. If this is going to set a precedent, and open the floodgates, before we get through with this supplemental appropriation bill, we will have that portion that has to do with health, education, and welfare up so high that it will come back with a veto just as sure as there is a God in Heaven, and we will find we have reached too far and lost it all. There will be another continuing resolution; and this business of spending money this year on the basis of last fiscal year is a terrible thing, because it perpetuates programs that have been proven ineffectual, and cuts off progress and new programs that would be more effectual.

Now, I agree to the $4 million. I hope it will not be taken as a precedent for us to compromise and take to conference every additional amount that some very earnest and sincere Senator comes in with.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? The question is on agreeing to the amendment of the Senator from Louisiana, as modified (putting the question).

The amendment as modified was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 13, between lines 17 and 18, insert the following:
>
> For carrying out an emergency energy program for older Americans pursuant to title III of the Older Americans Act of 1965, as amended, $10,000,000.

Mr. CHILES. Mr. President, I have introduced this amendment to the supplemental appropriations bill with some reluctance, as I feel that present economic conditions demand every effort to hold the line on Federal spending, and this means controlling small budget items, as well as the large.

However, the amendment I have proposed, calling for an appropriation of $10 million, is designed to deal with an emergency situation to prevent or relieve suffering by elderly Americans and, I think, it would prove a most wise and prudent expenditure of Federal dollars.

Mr. President, I also point out that this is an amendment which I took to the subcommittee dealing with the supplemental appropriations bill. It came up late in the day. The subcommittee was tired and, at that time, I was told to bring this amendment to the floor.

I was going to propose this amendment to the full Committee on Appropriations but, again, because of our inability to get a quorum it turned out that the meeting of the subcommittee was, in effect, the meeting of the full committee in regard to the presentation of the supplemental budget.

I want to make clear that I did attempt to bring this before the Senate committee at its hearings so that it would have an opportunity to consider it rather than to present this amendment on the floor.

This amendment, the need for this money, comes to my attention from hearings that I held as a member of the special Committee on Aging. We held two days of hearings with a number of witnesses from the administration trying to find out what kind of programs or procedures had been put into effect or were in the planning stage for the winter, and how these might affect our elderly citizens, those who are retired and living on fixed incomes.

We found that there really were no plans and there were no procedures. The only plan seemed to be that we just pray for a mild winter.

Now we see that every forecast is contrary to that. Every forecast is that this is going to be a most severe winter. We had an emergency energy situation last winter in which many of our elderly citizens were in a terrible plight, and I feel that is again going to be the case this winter.

We know what has happened with respect to the cost of fuel oil. In the last two years home heating fuel oil has increased in cost by 88 percent. This represents an increase of more than four and a half times the overall rise in the Consumer Price Index.

Electricity costs have increased by 26 percent during the same period and in my State they are up over 100 percent. And yet there are really no procedures now for trying to help these older people; to prevent their electricity from being cut off; to keep them from suffering when they have run out of fuel and they have no funds.

During the Committee on Aging hearings, we tried to find out who was really responsible.

FEA says, "Well, we really do not have that role or that authority." The Commission on Aging said, "We are not sure that that is our responsibility."

But now we find that the Office of Human Development, Administration on Aging has sent instructions to the State Agencies on Aging that they will amend their State plans on Aging for fiscal year 1975 and that they will come up with a specific plan of how they are going to deal with the impact of energy shortages and costs on older persons. So we know a program will be implemented by the States. The question is where are the funds going to come from.

If an energy program for the elderly is undertaken by, the States, as they have been instructed, and yet no funds are provided, what will happen to the other projects and programs for the elderly. They will suffer. Granted, $10 million spread among 50 States is not going to do a lot. But I think it would help in giving some impetus, to the required program, and it would show that we are not totally unthinking or unfeeling about the plight of the elderly and the kind of problems they are going to experience this winter.

It would also show the administration that we expect accomplishments from this program; that we expect effective planning and procedures, and not a posture of sitting back and saying "We hope there will be a mild winter."

Mr. President, I feel that if we do not do something we are going to regret it very much. We will regret it if we have a very severe winter, and we have experiences like we had last year in which some of our elderly people were actually found frozen to death in their homes. If we have people whose electricity is cut off, whose oil or gas is not delivered to them because they have no funds, and if there is no program for trying to provide some way of taking care of these people then I think it would be something that we would severely regret. It is for that reason, that I propose the amendment.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. McCLELLAN. To whom would this $10 million be appropriated?

Mr. CHILES. The $10 million would be appropriated under title III, State and community programs for aging, of the Older Americans Act, as amended.

The funds would be provided to the State and area agencies on aging to carry out the action program on energy as required by the Administration on Aging.

Mr. McCLELLAN. Who would administer the funds? How would they be allocated to the different States? How would they be administered?

Mr. CHILES. The Administration on Aging would administer the funds, and the funds would go through the State agencies on aging.

Mr. McCLELLAN. What is the formula for allocating it to each State?

Mr. CHILES. It would be on the basis of population of persons 60 and over.

Mr. McCLELLAN. Are there some States where the need would not be as great, States in the warmer climate, as opposed to States of more severe climate? I am trying to understand it.

I think everybody wants to do something to relieve distress. But does each individual old couple living here who are not able to pay their gas bill or to get coal or something, are they people who have to file a claim or how is it administered? I am trying to find out.

Mr. CHILES. No, sir; there would not be funds to actually meet energy costs.

What the Administration on Aging has required is that every State now start coming up with a plan that would indicate how they will handle those kinds of requests; whether they will try to get the United Funds to come in and help, whether they will try to get the Salvation Army, how they will proceed with the electric companies in respect to the termination of power for these elderly people; the $10 million proposed by this amendment would help in implementing those plans among the 50 States.

This is not funding to buy any fuel oil. There just is not that amount of money, and there is no way that is going to work.

Mr. McCLELLAN. I realize it is not, but I am trying to understand how will they be helped by it, how will they be helped, those who are going to need it.

Mr. CHILES. Specifically, it would fund State agencies on aging to: First, develop agreements with State allocation offices in the event of shortages to provide for meeting the needs of older people; second, to make representations before public utility commissions, to encourage equitable utility rates for the elderly, and to develop procedures to prevent the arbitrary termination of services for older people; third, to develop a program of assistance and education for the winterizing of older people's homes; fourth, to develop a program to coordinate efforts to meet the special energy requirements of the elderly during emergency situations.

Those are the things I would hope this amount of money would help formulate.

Mr. McCLELLAN. What it appears we are doing is appropriate money without any program, without any authority, without any constituted source of responsibility for the administration of it.

Mr. CHILES. No, Mr. President.

Mr. McCLELLAN. I can understand this general idea may have some merit, but——

Mr. CHILES. Mr. President, that is not correct because we do have authorization under title III. The State agencies on aging are in fact being required under the law to implement such a program.

Mr. McCLELLAN. What agency of the State?

What I read here, title 3 to which the Senator referred, it says:

> "SEC. 301. It is the purpose of this title to encourage and assist State and local agencies to concentrate resources in order to develop greater capacity and foster the development of comprehensive and coordinated service systems to serve older persons by entering into new cooperative arrangements with each other and with providers of social services for planning for the provisions of, and providing, social services and, where necessary, to reorganize or reassign functions, in order to—
>
> "(1) secure and maintain maximum independence and dignity in a home environment for older persons capable of self-care with appropriate supportive services; and
>
> "(2) remove individual and social barriers to economic and personal independence for older persons.

I do not see anything in there that authorizes the distribution of fuel or where they would acquire the fuel for them, or anything.

It is something in general terms, some generalities there that may go further than I have read.

Mr. CHILES. Well, if I could, I would like to read to the chairman and put in the RECORD a program instruction from the Office of Human Development, Administration on Aging, dated October 4, 1974. This is directed to the State agencies administering plans under title 3 and title 7 of the Older Americans Act of 1965, as amended, and the subject of it is additional instructions concerning State plans on aging for fiscal year 1975.

Under this, each of the State agencies are directed to provide an action program on older persons and the energy crisis.

It states:

> The continuing problems experienced because of the shortage of energy resources have an extremely severe impact on older persons. This problem is aggravated by the current inflationary situation. State Agencies on Aging have a responsibility under their legislative mandate to take positive actions in response to this critical situation so that the burden on older persons may be alleviated. The coming winter months promise to create devastating hardships on the older population unless we intervene now. In order for approval to be granted to the 1975 State Plans on Aging, the State Agencies must provide assurance in their State Plans that they will—
>
> 1. Develop an agreement with the State Allocation Office, in the event of shortages, that will provide for reorganizing and dealing with the special needs of older persons;
> 2. Make representations before the Public Utility Commission designed to lead to the development of regulations that would insure equitable utility rates for older persons;
> 3. Work for the development of an agreement with the Public Service Commission to insure that services will not be arbitrarily cut off to older persons unable to pay for such services;
> 4. Develop a program, utilizing existing public and private resources to assist in the insulation of older persons' homes; and
> 5. Develop a program, utilizing existing public and private resources designed to provide older persons and volunteers who serve older persons with additional resources for transportation in order to offset rising transportation costs.

So it has been directed that each State will amend their State plan and carry out such a program.

What I am saying is that we have ordered them to do this without providing any kind of funds for that purpose. Either they are either going to take from existing programs or they are not going to fully implement the energy program.

I think it is so necessary that we provide some kind of help for elderly people with the energy problem, and that is what I am trying to do with this amendment.

Mr. MAGNUSON. Will the Senator yield?

Mr. CHILES. I yield to the Senator.

Mr. MAGNUSON. Mr. President, this program sounds good, but the Senator from Florida just pointed out what is wrong with it at the end of his remarks.

This is a matter which the States ought to be doing anyway. In most States this would come under the social rehabilitation and the welfare program, and we have hundreds of millions of dollars in the bill for that. We do not need $10 million more for those States to effect plans. All States ought to be doing that anyway, and most of them, I imagine, do have plans.

Now, I do not know why the Federal Government should get into the act when we are giving them hundreds, hundreds of millions through the social rehabilitation and the welfare programs and the social programs in the State. I am sure Florida gets its share. That is part of the programs they should be doing anyhow and they have plenty of money to do it.

As a matter of fact, in some cases, the social services in some States are oversupplied with money. That is what is wrong with some of them; they have so much administration that people do not get the things they should get and there is a welfare surplus that they are not spending. They did not estimate that correctly, and there is a surplus of about $1.2 billion that has not been spent.

So here is another program. The amendment of the Senator from Florida starts a new program on top of it. The States do not need any direct help for $10 million to do this. They can do it anyway. They have got money to do it.

Mr. CHILES. I wonder if the chairman understands that the Older Americans Act is not a welfare program.

Mr. MAGNUSON. No, but to do this is part of the social services that can be done in the States.

Mr. CHILES. No, it is not.

Mr. MAGNUSON. I know what the——

Mr. CHILES. It is part of human development.

Mr. MAGNUSON. Let me finish.

It is part of it; there is plenty of money there.

Now, this amendment was considered by the subcommittee and was turned down. The Senator did appear and pressed his amendment, which is somewhat unusual, which is usually when these amendments come on the floor without anybody coming down talking about them, but——

Mr. CHILES. Mr. President——

Mr. MAGNUSON. Let me finish. The Senator will have all the time he wants.

Mr. CHILES. Yes, but I want to correct the Senator.

The amendment was not considered by the subcommittee and turned down. The subcommittee told me to come to the floor with the amendment. The subcommittee did not consider the amendment.

Mr. MAGNUSON. All right, we did not have a record vote, a rollcall vote on it, but the Senator got the word, did he not, down there in the subcommittee?

Go to the full committee, and the Senator did not go there.

Mr. CHILES. No, sir, because the subcommittee's action took the place of the full committee, so I did not have the opportunity to go there.

Mr. MAGNUSON. All right, let me finish.

Here is an amendment that is not necessary at all for the purposes. My State should be doing this and is doing it now.

They do not need money from the Federal Government. They get plenty under the broad purposes of the billion dollar social services program. Here is an amendment that has no budget request, no hearings, no requests to testify, no regulations to administer, and it duplicates and overlaps the OEO programs.

It is a worthy purpose.

I do not know what my State would do with this. Would it set up a new division when they should be doing it now? If they are not doing it, what are they doing with their share of the hundreds of millions of dollars from social services which fits into this thing.

I know this being proposed under the Older Americans Act, I want to say a person can get just as cold when he is 59 as he can when he is 61. The Senator knows that, does he not?

This is for people who cannot afford it. I do not know what we are going to do. We cannot subsidize everything.

The Senator's proposal is for making plans. My suggestion is the plans should be done by the States now. If they are not doing that, they are not carrying out their purposes.

The proposal is intended to develop agreements with the State petroleum allocation offices for meeting needs of elderly persons. Well, they ought to be doing that now in the State office. They do not need Federal funds to march down to the capital and do that.

It encourages State public utility commissions. My State already held about 3 months of hearings on this under the State appropriations, not using any Federal funds.

Education to winterize older persons' homes? I guess that is good, but the State ought to be doing that. What is the purpose of getting the Federal Government into this?

If we start this, what is going to happen, without any program, without any hearings, and everything else? The next thing is there will be a subsidy to take care of the extra fuel costs. I might be for that, but I can get all the information I need from my State as to whether that is necessary or not. They do not need to have a piece of $10 million on top of hundreds of millions of dollars that are directed toward these goals.

The Older Americans Act supplemented all of these programs. It happened to be directed more specifically to the problems of the older Americans.

As I said to the Senator from Louisiana, there are 316 items in this bill. I think that many of the social service ones could contribute to exactly what the Senator from Florida wants to do under the broad objectives of the program.

So I am going to have to oppose this for the reasons I have stated: There was no budget request, no hearings, no requests to testify, no regulations to administer, it duplicates and overlaps OEO and a score of other programs, and the States should be doing this themselves. They have money to do it.

Mr. CHILES. Mr. President, I will not belabor the point. The distinguished chairman makes a very good philosophical argument as to the fact that perhaps the States should be doing things like this themselves. I might tend to buy that. I did not pass the Older Americans Act, it passed before I got here.

Perhaps, everything that the Older Americans Act is doing the States could do for themselves. Everything that we are talking about in this bill we could say the States should be doing for themselves. Why have a Department of HEW? Let the States handle that for themselves.

That same kind of argument just could cut all the way down.

But we have an Older Americans Act. Under the Older Americans Act, the States are required if they want to get any funds under title II, to come up with this plan. But you have not given them any wherewithal to carry out the program.

The only thing I am saying is if you are going to give them a requirement, then you ought to give them the wherewithal to do it.

Mr. MAGNUSON. They do not need any wherewithal to come up with a plan.

Mr. CHILES. I yield back the remainder of my time.

Mr. MAGNUSON. Sometimes there seems to be more planners in social services than there are recipients of the act.

The PRESIDING OFFICER. Does the Senator from Washington yield back the remainder of his time? Is all time yielded back?

Mr. MAGNUSON. I will yield back the remainder of my time, yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Florida.

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McCLELLAN. Third reading.

Mr. MAGNUSON. I say to my distinguished chairman I understand that two or three Senators are on their way, I hope, to offer amendments.

Mr. McCLELLAN. I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the bill add the following new section:
>
> SEC. 204. None of the funds appropriated by this or any other Act which are available during the fiscal year 1975 for travel expenses, including subsistence allowances, of Government officers and employees may be obligated, after the date of the enactment of this Act, at a rate which exceeds 75 percent of the rate at which amounts for such expenses were obligated during the fiscal year 1974.

Mr. ROTH. Mr. President, on behalf of 13 of my distinguished colleagues and myself, I am submitting an amendment to reduce the amount of Federal funds spent on travel and transportation.

The cosponsors are Senators McCLELLAN, BAYH, BEALL, BIDEN, BROCK, HARRY F. BYRD, JR., CASE, DOMINICK, METZENBAUM, WILLIAM L. SCOTT, STEVENSON, TAFT, and TUNNEY.

Specifically, this amendment would prohibit the Federal Government from expending more than 75 percent of the amount expended in fiscal year 1974 for the travel and transportation of persons. A recent examination of the Budget by my staff and the GAO revealed that the Federal Government will spend almost $2 billion this fiscal year on travel and transportation to out-of-town conferences, meetings, and other employee transportation.

With inflation being fed by excessive Federal spending and with the vital need to conserve energy, there is absolutely no justification for the Federal Government to spend such sums on travel expenses.

This 25 percent reduction in Federal travel expenses would save nearly $400 million in this year's budget and untold millions of dollars in energy costs. Such a move would not only set an example for the concerned people of this Nation, it would provide additional fuel that could be used in the private sector of the economy and save thousands of jobs.

Inflation and the need to save energy have caused millions of Americans to cut back or cancel their travel plans. Virtually every business and private organization has been forced to reduce its travel budget to save fuel and money. Yet the Federal Government has made no effort to cut back on its travel budget.

Every Federal department and agency has some fat in its travel budget that can be cut to save fuel and money, including the Defense Department. I wish to emphasize that this travel limitation is not intended to apply to troop movements. Since last December, the Defense Department has been the Government's number one energy saver by cutting its fuel consumption by 31 percent. I believe the Department can follow suit and trim some fat out of its travel budget without jeopardizing our national security.

Wisely, the President has called on all Americans to conserve fuel and budget their money wisely. But if the Federal Government expects the American people to cut energy consumption and sacrifice in the battle against inflation, the Federal Government must provide the leadership.

A 25 percent cut in travel expenditures would save nearly a half billion dollars, conserve fuel, and demonstrate to the American people that the Federal Government is serious in its efforts to lead this country through a very difficult period and win the battle against inflation.

Mr. President, I yield back the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MANSFIELD. On both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I am empowered, on behalf of the chairman of the committee, to accept the amendment, which I think is an excellent one.

Mr. ROTH. I thank the majority leader and the chairman.

Mr. MANSFIELD. I yield back the balance of my time.

Mr. ROTH. I yield back the balance of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. HATHAWAY. Mr. President, I call up my amendment No. 1979.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 13, between lines 8 and 9, insert the following:

Funds appropriated under "Occupational, Vocational, and Adult Education" in the Departments of Labor and Health, Education, and Welfare Appropriations Act, 1975 for carrying out career education under the Cooperative Research Act shall be available only to carry out the provisions of section 406 of Public Law 93-380.

Mr. HATHAWAY. Mr. President, one of the most promising movements in American education is the development of what is called career education. This is the effort to bring the worlds of education and work into closer contact so as to make education more relevant to successful participation in the society at large.

For several years now, the administration has requested funds for the development of this concept on the Federal level, but has been turned down, at least in part, because of a lack of direct legislative authority for such a program.

Finally, in this year's Labor-HEW appropriation bill, both the House and Senate appropriated $10 million for this purpose under the general authority of the Cooperative Research Act. At the same time this was taking place, we were putting the finishing touches on what is now 93-380, the Education Act of 1974. Contained in that act is a provision, section 406, directly addressed to the career education question.

This amendment which I am offering would simply require the Department to conduct its career education activities under the new authority specifically provided for this purpose in Public Law 93-380, rather than the more general authority of the Cooperative Research Act.

This does not add a penny to the bill and will have the effect of seeing to it that these funds will be expended according to the most specific and most recent expression of congressional intent.

Parenthetically, Mr. President, I would like to take this opportunity to clear up one question with regard to the intention of section 406 which has recently arisen. Although the emphasis in this section is on career education programs in grades K-12, the bill and particularly the Senate committee report make clear that grants under this section are available to institutions of postsecondary education as well as elementary and secondary schools. We particularly did not want to discourage comprehensive State programs which might include a postsecondary career education component.

I urge the adoption of the amendment.

I understand that the Senator from Washington (Mr. MAGNUSON), who is not present, is willing to accept the amendment. As I mentioned, it does not involve any additional expenditure whatsoever.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 16757 AT DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 16757, to extend the Emergency Petroleum Allocation Act of 1973 until August 31, 1975, when it is received in the Senate, be held at the desk temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1975

The Senate continued with the consideration of the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

Mr. MANSFIELD. Mr. President, I am informed that the distinguished chairman of the subcommittee, the Senator from Washington (Mr. MAGNUSON), has indicated that he is agreeable to this amendment by the distinguished Senator from Maine, and I therefore urge its adoption.

I yield back the remainder of my time.

Mr. HATHAWAY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 11, line 10 after the period, insert the following:

Provided, That the Commonwealth of Puerto Rico shall receive grants for the current fiscal year pursuant to sections 121, 122, and 123 of the Elementary and Secondary Education Act of 1965 (as such Act exists on the date of enactment of this Act) in amounts equal to not less than the amounts received by the Commonwealth of Puerto Rico for the fiscal year ending June 30, 1974, pursuant to sections 103(a)(5), 103(a)(6), and 103(a)(7), respectively, of the Elementary and Secondary Education Act of 1965 (as such Act existed immediately before the effective date of the amendments made to title I of such Act by the Education Amendments of 1974).

Mr. HATHAWAY. Mr. President, this amendment likewise would not add any money to the supplemental appropriations bill. Rather, its purpose is to make a technical change which would "hold harmless" to last year's level the amount which Puerto Rico receives for State agency programs under title I of the Elementary and Secondary Education Act.

The amendment would merely provide last year's level of funding in Puerto Rico for title I State agency programs for handicapped children, neglected and delinquent children, and children in adult correctional institutions.

I have discussed this amendment with the chairman of the HEW subcommittee, and I understand that he is in agreement with it.

I reserve the remainder of my time.

Mr. MANSFIELD. Mr. President, I am informed that this amendment is likewise satisfactory to the chairman of the committee, and I yield back the remainder of my time.

Mr. HATHAWAY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I call up my printed amendment No. 1980 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 10, line 21, strike the figure "$120,000,000" and insert in lieu thereof "$146,393,000".
>
> On page 11, line 3, strike the figure "$4,351,043,000" and insert in lieu thereof "$4,377,436,000".

Mr. HATHAWAY. Mr. President, this amendment would continue funding at the present level for title III of the Elementary and Secondary Education Act. This title provides for grants of limited duration to State and local educational agencies for the purpose of stimulating innovation in education methods. The committee recommendation for funding is $120 million—which is $26 million below this year's level and the President's budget request. My amendment would restore the cuts made by the committee and leave the program at the present amount—$146,393,000.

In my opinion, the major thrust of the entire Federal education effort—which only amounts to about 7 percent of total school expenditures—has been and should continue to be in the areas of innovation and development. Title I has focused on the special educational problems of the disadvantaged and has stimulated an enormous amount of new activity in this field. Title II has assisted in the development of new resource programs through aid to libraries and associated services. And title III has, for the first time, made significant amounts of funds available expressly for the purpose of innovation and development.

The first point to be made about title III is that it has worked. Almost three-quarters of the projects funded have been continued with State or local funds after the 3-year Federal support period terminated. In light of the constraints on local school budgets over the past several years, this is an amazing record. Further, there is evidence that a significant number of these projects—about one third according to most estimates—are being adopted by other schools or school systems. And of course, beyond strict replication of specific projects, many of the concepts and techniques developed under title III have been used in modified form throughout the country.

Because of the concern with being able to assess and repeat successful programs, these projects are subject to an elaborate and comprehensive evaluation procedure at each step of their existence. First, each project must have a detailed plan in order to qualify for funding. Before being funded, these plans are subject to review by a State level title III Advisory Council, the State education agency, and often, a panel of outside experts. Second, each program is evaluated annually by the State agency as well as being in continuing liaison with the State. Finally, especially successful projects are nominated by their State for "validation," the process by which the Federal Office of Education certifies projects for replication elsewhere. Here the project is analyzed in terms of cost-effectiveness, exportability and its effect on student achievement.

I am sure that cases can be cited where these projects have been controversial, poorly executed or just plain failures. But any program of innovation and development will involve blind alleys and unsuccessful projects. It would be a poor program of innovation of there were no failures. I think the high continuation rate by the States and localities is very strong evidence of the usefulness of this program.

Finally, it should be apparent that all is not well with American education. Our people sense it in their refusal to support its funding at previous levels. And our inability to deal adequately with national problems such as inflation and the energy shortage indicate, at least in part, a failure of the educational system.

At this time of change and crisis, cuts in funds for innovation and development seem particularly untimely. We spend less than 1 percent of our education funds for development; and title III constitutes 80 percent of this tiny amount, title III is cost effective and the evidence is that it works. I hope Senators will join with me in helping to preserve the vital role of this program in American education.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I think it would be well for the Members of the Senate before voting on this amendment to take account of what is being done in this field already.

According to the Senate report under the title of "Supplementary Services" the report states:

> The bill contains $120,000,000 for supplementary services authorized by Title III of the Elementary and Secondary Education Act. The amount recommended is a decrease of $26,393,000 below the request—I think that means budget request—"and $5 million below the House allowance."

Now, this is what I think is significant and it ought to be taken into account:

> Under this program, grants are awarded to State and local educational agencies primarily to support projects considered to be exemplary and/or innovative. Although supportive of the thrust of this program, the Committee is not convinced that all of the more than 1,800 projects currently in operation should continue. The Committee concurs with the House concerning the ability to monitor this activity so as to allow successful projects to be replicated. For these reasons, the Committee has also reduced the request for advance funding for Title III programs included under support and innovation grants.

Well, Mr. President, it does seem to me that if we are now supporting 1,800 of these individual projects that out of those we should learn something, and if we cannot learn something from that number, why, we had better begin reducing this program.

I do not think more money is needed. I think the House was wise in cutting it some. It is now $20-some-odd million below the budget.

To add back to it is just giving money to a program that may or may not be working. We have a chance to determine out of 1,800 if any of these programs are any good and, if they are, to make use of them.

Somewhere, Mr. President, in the expenditure of over $300 billion a year there are areas where cuts can and should be made without doing any irreparable harm, and be done at a saving, and be done prudently.

Certainly a prudent reduction could be made in this item and, for that reason, I shall support the action of the committee.

Does the Senator from New Hampshire want some time?

Mr. COTTON. Just one word.

Mr. McCLELLAN. I yield to the distinguished Senator from New Hampshire.

Mr. COTTON. I would simply like to report, in the absence of the Senator from Washington, that we agree with every word that our distinguished chairman of the committee has said.

Now, at the time our subcommittee met and we took the evidence on this matter we found there were in existence already various experimental projects, innovative projects or special projects, and according to the testimony of the Office of Education, over 1,700 of those projects were going throughout the country. At least one representative—I do not think it was the commissioner of the Office of Education, but one of the witnesses—admitted that it was utterly impossible, of course, to monitor any such number of projects and be familiar with their purpose and their success, and most of them have run for 2 or 3 years. Now those projects cannot all be good. They may be good in purpose but they cannot all be effective projects.

It seems that this is one point where, without ending the program, we could be a little more sparing in the money that we appropriated and, therefore, both the chairman of the subcommittee, the Senator from Washington, and I am entirely in agreement with the chairman of the full committee, and we feel we must oppose this amendment.

Mr. McCLELLAN. I anticipate that the chairman of the subcommittee, the distinguished Senator from Washington, will be on the floor in a minute. But, if I may ask the Senator, the ranking member on the subcommittee, according to the information I have from the testimony that the committee heard, is it not quite evident that a number of these projects are not productive?

Mr. COTTON. Oh, yes, there were some of them, I think that certainly seemed nonproductive, but we are not opposed to the program—it seems to be working well on the whole. However, again there are more than 1,700 separate projects and I just do not believe HEW can monitor all these projects properly.

Mr. McCLELLAN. One other point, as I understand it, is that they are not well monitored. Many of them they cannot monitor.

Mr. COTTON. That was the principal point that I was seeking to emphasize. It is admitted, with 1,700 of them in progress across the country at the same time, it was impossible to check them, monitor them, and come into the appropriating committees with specific information.

Mr. McCLELLAN. The report shows about 1,800 throughout the country and the amount of money reduced by the committee would reduce those projects to approximately 1,550 projects which would still be funded, and out of 1,550 projects the average would be 31 projects for each State.

It does seem to me that if there is a place where some cut could be made without doing any harm or hampering progressive education, this could be one area where it might be done.

Mr. COTTON. Of course, it should be borne in mind that a large portion of these are considered by somebody before the grant is made to the State.

Most of them run for 2 or 3 years and my recollection was at the time that we had the hearings and were taking the evidence on this, there were 1,700, but I do not question that there are 1,800 because it is impossible to know. We cannot have 1,800 experimental, innovative, educational projects going and not have some of them—and some of them were, quite obviously—at least not very essential.

I will not say they were ridiculous, I will not say they did not, perhaps, have *some good in* them, but they certainly did not go to the essentials and it seemed to us an obvious waste of money.

We ought to be more selective and invest less.

Mr. MAGNUSON. Will the Senator yield?

Mr. McCLELLAN. I yield to the Senator.

Mr. MAGNUSON. I, along with my colleagues on the committee, necessarily oppose this amendment.

We have placed all kinds of money in the bill for all kinds of educational purposes and this is one program that a good long look has to be taken at.

In view of this we thought we put in sufficient funds. We concurred with the House that there should be some further ability to monitor some of these programs.

Now, no one has been more for education than the members of the Senate committee, particularly this subcommittee over the years. But we are getting to a point where we are getting topheavy with administration.

I think in a lot of new programs, the temptation is to have new programs that do not seem to work, and sometimes I am almost convinced we have lost sight of basic education in this country.

The National Institute of Education is one example, and that was innovation, too. If I read from the floor of the Senate the projects that NIE fostered and sponsored in the last 2 years and asked for appropriations, I would be laughed out of the Senate.

Innovation is fine in education, but I think we are losing sight of some basics—proper teacher training, getting better teachers. What is the reason?

As I said many times, Mr. President, and I say it facetiously, of course, but some days on this education bill I am tempted to ask the committee if they will put in $100 million and subsidize every person in the United States, every parent who would build a woodshed, and subsidize them 100 percent. That is innovation in education.

I know that is not the answer, but the trouble is that we are getting into all kinds of new programs and, as someone once said, newfangled ideas. We have a basic job on education. I will oppose this amendment because I think we have enough in here.

Now, the committee report mentions that there are 1,800 projects currently in operation, and the reason we cut it down a little bit, or we did not add to, maybe, the worthy purpose, is because we need to monitor these things, see how they are going and if they are worthwhile. That is the reason the committee stuck to this amount.

Now, there is $120 million for supplementary services in the committee recommendation. The amount recommended is a decrease of $26 million below the request and $5 million below the House allowance.

I suspect that the $26 million is where the Senator from Maine gets his dollar figure because of the $26 million reduction.

But as the Senator from New Hampshire so aptly pointed out here earlier today, this business of saying that because they had so much last year they have got to have so much this year, sometimes that perpetuates programs that are not really dollar-wise, worthwhile, or serving their purpose, and at the same time shutting out other programs that may be doing fine.

We think the committee did all right on this. I suspect that after taking a look at these 1,800 projects that there will be recommendations to have some of them not continue, or to fold up, and that is what we want to do. That is why we stuck to this figure.

I, of course, like everyone else, agree with the objectives and the dedication of all people for education, including the Senator from Maine, but I wish the Senator would bear with us to see just whether we are doing the right thing with these 1,800 projects. We ought to take a look at some of them to see if they are really adding to what we would like to call quality education in this country, or not. That is why we arrived at this figure.

Mr. HATHAWAY. Mr. President, I appreciate the arguments that have been made against this amendment.

The principal argument is that with 1,800 projects it is impossible for HEW to monitor all of them, and I certainly would accept an amendment to my amendment to earmark some of these funds for the purpose of having HEW monitor these projects.

I do not really think that is necessary, but if it would satisfy those who are opposed to the amendment, I would be happy to accept it.

That these projects are adequately monitored I think is evident from the fact that almost three out of four of these innovative projects, after the 3-year period of Federal funding has expired, have been adopted and continued by the local school agencies. All of us in this Chamber know that the local school agencies are not going to be spending money on projects they do not think are worthwhile.

They are very much more tightfisted in this regard than we are. The fact that this many programs have been accepted or continued I think is pretty good evidence that, even though there may not be sufficient or adequate monitoring at the Federal level, that they are, in effect, getting very good monitoring at the local level. I think that is the best advertisement for the continuation of this program.

I am now asking in this amendment to put the money back to where it was last year. That amendment would call for $51 million. I am asking for $26 million, which simply brings it up to the President's budget request.

We know that this administration and its predecessor have not been very liberal with respect to education money. If this administration is willing to spend $146 million a year on title III, I think we should go along with it. Instead of that, we are cutting it back by $26 million.

Mention has been made that a lot of these projects are not in line with traditional education. Well, I think one of the problems that we have in education generally in our society is that it has been too traditional. One of the reasons that the dropout rate is at least 20 percent—it may be higher than that—is because many students, bright as they may be, have not taken to the current school system. They have been turned off by the traditional methods.

I think it is incumbent upon us to fund, as much as we possibly can, innovative programs that will bring about new techniques in teaching and in learning.

I recall testimony was given just a few years ago when I was on the House Education and Labor Committee indicating that about 80 percent of those who graduated from high school do not know what to do and are not equipped, really, to carry on any occupation.

It seems to me that that percentage figure could be cut down considerably through innovative techniques, by now teaching and new learning techniques, to keep the students interested in the subject matter, make it more alive for them, and make them better products when they do graduate from public schools.

Mr. COTTON. Will the Senator yield for a question?

Mr. HATHAWAY. I am happy to yield to the Senator from New Hampshire.

Mr. COTTON. The Senator from New Hampshire is very much interested in the statement that the distinguished Senator from Maine just made, that three out of four of these experimental projects, after they have expired and are no longer federally financed, are adopted and continued by local educational authorities.

I am sure that the Senator from Maine had long service in the House on their committee, and I have great confidence in him. I know that he surely believes that.

I have inquired of the staff on both sides of our committee. We have had no tangible evidence of any such huge proportion that have been continued.

I am not questioning either the Senator's knowledge or his sincerity, but I wondered if he could tell us what he bases that estimate on. Frankly, it just does not sound reasonable to the Senator from New Hampshire from the testimony we received.

Mr. HATHAWAY. The basis for that statement is from testimony given on the House side, based upon the last national survey, taken in 1971, in which the figure was actually 67 percent. Those who testified indicated in their opinion they thought it was higher than that now, as high as 80 percent. I split the difference and came up with roughly 75 percent.

Mr. COTTON. I am interested in hearing that, and I thank the Senator. But that is 4 years ago at least.

Mr. HATHAWAY. Three years ago.

Mr. COTTON. I doubt very much if you had 1,800 projects going then, to get three out of four. I would think the Senator's statement almost corroborates what I have believed, that if we have fewer projects and more carefully thought out projects, you would get more benefit from them.

I thank the Senator for his information, but it is hardly up to date.

Mr. HATHAWAY. It is 3 years old, to be sure. Undoubtedly, there were fewer projects in 1971 than there are now in 1974.

On the other hand, State agencies have had much more experience with the projects. They can better evaluate them.

I would be inclined to think the percentage of those which are continued on after the Federal funding has expired is probably higher now then it was 3 years ago. This was certainly the thrust of the testimony in the House. But whether the figure is two-thirds or three-fourths, there seems little doubt that a significant majority of the programs are continued and that is the point I wanted to make.

Mr. President, I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the names of the Senator from South Dakota (Mr. McGovern) and the Senator from New Jersey (Mr. Williams) may be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Montoya). Is there a sufficient second? There is not a sufficient second.

Mr. McCLELLAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. HATHAWAY. I do.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Maine. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from Rhode Island (Mr. Pell), and the Senator from West Virginia (Mr. Randolph) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from Rhode Island (Mr. Pell) would each vote "yea."

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. Cook), the Senator from Colorado (Mr. Dominick), the Senator from Arizona (Mr. Goldwater), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Maryland (Mr. Mathias) and the Senator from New York (Mr. Buckley) are absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 35, nays 48, as follows:

[No. 488 Leg.]

YEAS—35

Abourezk
Bayh
Brooke
Case
Clark
Cranston
Dole
Ervin
Fong
Hartke
Haskell
Hathaway
Huddleston
Hughes
Jackson
Javits
McGee
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Percy
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevenson
Taft
Tunney
Weicker
Williams

NAYS—48

Aiken
Baker
Bartlett
Beall
Bellmon
Bennett
Bible
Biden
Brock
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cotton
Curtis
Domenici
Eastland
Fannin
Gravel
Griffin
Gurney
Hansen
Hart
Helms
Hollings
Hruska
Inouye
Johnston
Long
Magnuson
Mansfield
McClellan
McClure
McIntyre
Metzenbaum
Montoya
Nunn
Pearson
Proxmire
Scott,
  William L.
Sparkman
Stennis
Stevens
Symington
Talmadge
Thurmond
Young

NOT VOTING—17

Allen
Bentsen
Buckley
Church
Cook
Dominick
Eagleton
Fulbright
Goldwater
Hatfield
Humphrey
Kennedy
Mathias
McGovern
Pell
Randolph
Tower

So Mr. Hathaway's amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which that amendment was rejected.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. CLARK. Mr. President, I ask unanimous consent that Scott Ginsburg of my staff and David Affeldt and Jim Murphy of the Senate Special Committee on Aging be permitted the privilege of the floor during consideration of this amendment.

The PRESIDING OFFICER (Mr. McClure). Without objection, it is so ordered.

AMENDMENT NO. 1984

Mr. CLARK. Mr. President, I call up amendment No. 1984.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 5, between lines 10 and 11, insert the following:

For an additional amount for the operation mainstream program pursuant to title III of the Comprehensive Employment and Training Act of 1973, $3,000,000.

Mr. CLARK. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of the amendment: Senators Eagleton, Williams, Humphrey, Ribicoff, Bayh, Abourezk, Haskell, and McGovern.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I am presenting this amendment on behalf of myself and the Senator from Massachusetts (Mr. Kennedy) to increase the funding for the older workers component of operation mainstream. This amendment would increase the appropriation for the Comprehensive Employment and Training Act under the Department of Labor from $2,050,000,000 to $2,053,000,000 and thus would raise the funding for operation mainstream from $20 million to $23 *million*.

During the past few years, older workers have encountered a number of employment difficulties. Their lives have been disrupted by layoffs, plant shutdowns, and even their own decisions to find new jobs which often do not materialize. This seems especially unfair when we consider that older workers have given so much to this country and their work has contributed significantly to our prosperity. Yet, they have found it increasingly difficult to find a job, and once unemployed, older workers are unlikely to find another job readily. Older workers remain unemployed far longer than younger workers, and individuals over the age of 55 find it nearly impossible to return to their previous positions and status.

This is particularly disturbing since we know that older workers are an important resource which this country can and should use in productive and meaningful ways. Their experience, talents and enthusiasm are unparalleled, and their maturity and dependability have been demonstrated time and time again.

Operation Mainstream is one Federal program which recognizes the importance of older workers and puts their experience and talents to work in productive ways. Under the Operation Mainstream program funding is provided for the Senior Community Service Aides program administered by the National Retired Teachers Association, and the American Association of Retired Persons, the Green Thumb program administered by the National Farmers Union, the Senior Aides program administered by the National Council of Senior Citizens, and two other important programs administered by the U.S. Forest Service and the National Council on Aging.

Because the cost-of-living has increased so dramatically, the cost of administering the mainstream programs has gone up, and with the new minimum wage increase the cost of these employment programs will go up even further during the next fiscal year. The Department of Labor did not request an increase in the funding for these very important programs for fiscal year 1975. That means that the number of participants will be significantly reduced and the hours of work available under Operation Mainstream programs will likewise be cut back unless we increase their funding.

In order for these programs to maintain their work force at present levels, an additional $3 million is needed. That is the purpose of this amendment. It will not increase the scope of the mainstream programs, it will only maintain the present employment levels and allow national aging organizations, which pay prevailing wages, to continue to do so.

If we do not enact this amendment, it has been estimated that the Senior Community Service Aides program will be forced to cut back enrollment by 364—from 1,775 to 1,411. Similarly, green thumb would be forced to reduce the number of hours of employment for its participants. As a result, green thumb would lose the equivalent of 750 full-time employment positions calculated on the basis of a 20-hour week.

There are successful mainstream projects now operating throughout the United States that will be affected by the funding level we establish. In Iowa, for example, almost 100 workers could be adversely affected, and I do not think that the Congress should allow this to happen—in our State or any other.

It would be the bitterest of ironies if we allow the minimum wage increase and the increased cost of running the mainstream programs to reduce the enrollees in these employment programs. The Congress enacted the minimum wage increase to provide some protection for low-income wage earners from inflation and the increased cost-of-living.

Older people are the hardest hit by inflation, because they spend a disproportionate amount of their incomes on essentials like food, fuel, housing, health care, and utilities. These items have led the ever-increasing consumer price index. We would be doing a great disservice to the older workers if we were to cut back on their incomes at this time.

I know my distinguished colleague from Washington (Mr. MAGNUSON) has been a great friend of older Americans throughout his tenure in this body. The Senator's concern and compassion are well-known to our older Americans, and I know he will give this amendment his full consideration.

Mr. President, because of the overwhelming need for this legislation, I urge its adoption by the Senate.

Mr. MAGNUSON. Mr. President, on the first part of the amendment of the Senator from Iowa, I would like to direct my attention to that $25 million that he suggested we add to the nutrition, under title 7, which would make a total of $150 million.

Oh, the Senator has not called that up yet? Then I shall address myself to the $? million. I was hopeful that we might get rid of the large one first.

The additional $3 million may not be necessary at all, since the increased funding in title IX of the Older Americans program is now pending in conference, and we added a great deal to that. We meet tomorrow, and it may be included in the regular bill. So it may not be necessary in this bill at all.

But I would suggest this to my colleagues, the Senator from New Hampshire and the Senator from Arkansas: that we accept about $2.5 million on this item, with the understanding that after we are through with the regular bill tomorrow—and I hope we can be; at least we will be through before we have a conference on this measure—that we would drop the amount out in conference.

Mr. CLARK. If the distinguished Senator will yield for a question——

Mr. MAGNUSON. I do not know how the Senator from New Hampshire and the Senator from Arkansas feel about that, but I do think in this program we intended——

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. McCLELLAN. Is it not in the regular bill?

Mr. MAGNUSON. Yes, it is in the regular bill, but I do not know what the conference will do with it.

Mr. McCLELLAN. We do not know what the conference will do with this. But it is in there; the same people have the opportunity to act on it in the regular bill as will have the opportunity to act on this.

Mr. MAGNUSON. I was just checking on the amount in the regular bill. There is $20 million in the regular bill.

Mr. McCLELLAN. $20 million in the regular bill?

Mr. MAGNUSON. I was thinking of a way out, that we could drop this amendment if the $20 million stayed in the regular bill.

Mr. McCLELLAN. Mr. President, if we are going to reinforce everything we have in regular bills by coming in and adding something to a supplemental, so we can go to conference saying it will all appear in the supplemental, if we do not get it here we will get it there, I say that is a very poor way to legislate.

Mr. MAGNUSON. I was just talking about a small amount.

Mr. McCLELLAN. Yes, but the small amounts can grow.

Mr. CLARK. Mr. President, if the Senator will yield for a question, it is my understanding that the House bill has $10 million, the Senate bill has $20 million, but we have been advised by elderly groups that title IX money cannot be used for Mainstream.

Mr. MAGNUSON. That is not the way I interpreted title IX money. It may be that they do, but we have not interpreted it in that way. There is no such interpretation in the committee; that is why we put the $20 million in the regular bill.

So I do not know whether the Senator wants to press this proposal or not, because we surely will try to keep the $20 million in the regular bill, and I am sure that it can be used under title IX. That is my interpretation of it, and the staff's interpretation.

We will have plenty of money there.

I do not want to put the Senate in a position, over this amount, if there is some dispute about it, of saying that we do not intend to do what we can in this program for the elderly people. That is the point I am making.

Mr. CLARK. Yes.

Mr. MAGNUSON. Because we do want to do what should be done.

Mr. CLARK. The elderly organizations have advised us that the Department of Labor has advised them that it was not possible to use title IX funds for transfer to the Mainstream program.

I would think a reasonable compromise would be to do as the Senator earlier suggested, that we could agree to $2.5 million, and if title IX funds can be used in the Mainstream program, then this amendment could be dropped in conference.

Mr. MAGNUSON. For the record, we

have the $20 million for Mainstream in the regular bill, and $10 million carryover into 1975 for the title IX program, plus $12 million more tentatievly agreed to for title IX in the fiscal year 1975 regular Labor-HEW bill. That would be $42 million for this purpose including funds late in 1974, but to be spent for fiscal 1975.

The conference agreement, of course, is tentative. But I would hope the Senator from Iowa would withdraw this amendment, and then we will try to keep this larger amount in the conference report tomorrow.

Mr. CLARK. That really only leaves open the question of the interpretation of whether title IX funds can be used.

Mr. MAGNUSON. We checked during the noon hour, and the staff has just now reported to me that there is $30 million available right now, that they have not spent down there. There is a $30 million carryover.

Mr. CLARK. But that is not for older workers' programs.

Mr. MAGNUSON. Yes, it is.

Mr. CLARK. Is that for Mainstream programs?

Mr. MAGNUSON. Jobs for older Americans; there is $30 million downtown right now. And we were, of course, calculating that money under title IX could be used for this purpose. There may be some doubt about that, but it was surely clear with the Appropriations Committee, and the intent of the legislative committee was that title IX funds could be so used. That is the way I interpret it; and there is $30 million downtown now.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield to the Senator from New Hampshire.

Mr. COTTON. It will not be a difficult matter, if the distinguished Senator who is offering this amendment has reason—and of course he does have reason or he would not say so—to fear that this money out of the funds might not be available for the purpose. When we go into conference on the main bill, I think that could be taken care of in the report accompanying the regular bill, and I think the House would agree to it, to make it very clear that funds are available for the aged out of these title 9 funds.

I am sure, if there is any question about it, it will be nailed down in the report.

Now, I would like to add this, and I do not say this derogatorily, I want to say that I admire our colleague in his desire to take care of the aged and, as one of the aged, I express my appreciation for it.

I find that some people do not know anything about how hard it is for an old man to get a job. "I cannot get a job working for nothing, and I am living on my retirement." They say, "I am too old."

For years, I think the last year that I was a Member of the House of Representatives—and that was 20 years ago—I introduced a bill, I think it was the first bill, 21 years ago to take the lid off permitting the recipients of social security to work, provided they were not working at the same vocation from which they had retired to draw their social security; in other words, to prevent a situation where somebody goes back to the plant in which he has been working for years after he has retired and taken social security, and goes back in an advisory capacity and actually does the same work he has been doing which, of course, would be in violation of the whole principle.

Now, in the minimum wage bill I was perfectly willing to support the national minimum wage if it did not extend the coverage as it did. It extended the coverage so that students and old people are actually deprived of a chance to augment their income. We have people whom I have in mind who do work around some of our resort hotels just pruning the hedges and doing light work and picking up something to augment their social security or whatever retirement they have. And of course, everybody knows of students who are in college who work, waiting on tables and who are employed part time. But, no, those who were supporting the minimum wage have insisted that we have to take the old, the young, and everybody from the cradle to the grave.

Now, in those two instances the very people—and I am not referring individually to the distinguished Senator, I assure him—in the Senate and in Congress who moan and shout about the old people and want to add to all these appropriations, are the ones who just hung like a dog on a rope and said, "No, no, no; the minimum wage has got to apply to people whether they are 16 or 80."

In the same way they have fought liberalizing the chance of people, recipients on social security, to add to their income by doing light work which they are capable of doing at this age.

I feel that in those two instances there would have been a much more effective way to take care of the situation.

As far as this amendment is concerned, I am compelled to agree with my chairman that it is putting the cart before the horse to write an amendment into this supplemental bill when tomorrow at 2 o'clock in the afternoon we are going back into what we hope is a final conference with the House on the main bill, with money that has been carried over and money that is in the main bill; and, if there is any question about its accessibility, we can take care of it, and I am sure the House Members would agree that we can take care of it, by expressing the intent in the committee report. Does not my chairman agree with that?

Mr. MAGNUSON. Yes.

Mr. COTTON. So I hope the Senator will either withhold his amendment at this time or that it will not be adopted.

Mr. MAGNUSON. Mr. President, I yield myself such time as I may require.

I want to state for the record again the amount of money that is available for fiscal year 1975. There is $30 million available right now, $20 million for Operation Mainstream national contracts, and $10 million carryover into 1975 for title IX jobs for older Americans. In addition, there will be at least $10 million more available under title IX in the regular fiscal year 1975 Labor-HEW appropriation bill. That bill is now in conference, with the House recommending $10 million and the Senate $20 million. So there will be at least $40 million available in 1975 for jobs for older Americans, compared with only $20 million in 1974.

I join with the Senator from New Hampshire in saying that we will insist on getting language in the conference report on the regular bill specifying that a portion of the title IX funds which we put in, the amount to cover these things, be utilized to pay the minimum wage on all Operation Mainstream enrollees without forcing any cutback in enrollees. We will put that in the conference report and, it seems to me, that will take care of this situation and we would not be putting the cart before the horse.

We are going to do this tomorrow, so I join with the Senator from New Hampshire, and I do hope the Senator from Iowa will withhold this amendment. I think we will come out all right tomorrow in the conference.

Mr. CLARK. Mr. President, I think that is a reasonable approach. Would there be some assurance that the suggested language would actually be in the report? Could we speak with the House conferees as to their willingness to interpret title IX that way?

Mr. MAGNUSON. Well, of course, when we get into a conference with the House we cannot assure ourselves of anything. But I am sure that they will understand this because they are going to ask us, "Well, why did you add this amount of money?" We are going to say, "To make sure that the minimum wage things were taken care of."

We want to be sure that what we have always, and the White House has always, agreed with our insistence that title IX funds can be used for this purpose.

Mr. CLARK. I see.

Mr. MAGNUSON. I do not know why the Labor Department did that but, it seems to me, we can be insistent. We have two reports now, and the House has accepted them both before, and I see no reason to doubt it, and I see no problem.

Mr. CLARK. With the Senators' assurance that the suggested language could be included in the report, language that title IX funds can indeed be transferred to Mainstream, then I will withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MAGNUSON. I thank the Senator from Iowa.

AMENDMENT NO. 1983

Mr. CLARK. Mr. President, I call up amendment No. 1983.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 13, line 17, strike out "$135,000,000" and insert "$160,000,000".

Mr. CLARK. Mr. President, I offer this amendment with the distinguished Senator from Massachusetts (Mr. KENNEDY) to increase the funding for the nutrition program for older Americans. This amendment would increase the appropriation under title VII of the Older Americans Act of 1965 to $150 million which would provide full funding for the legislative authorization which passed the Congress and was signed by the President this past July.

The legislative authorization, Public Law 93-351, extended the nutrition program for 3 years and established authorizations of $150 million for fiscal year 1975, $200 million for fiscal year 1976, and $250 million for fiscal year 1977. H.R. 16900, as passed by the House, appropriates $125 million for fiscal year 1975. The Senate report accompanying the legislation directs "The Department of Health, Education, and Welfare to utilize carryover funds to build the program operating level to at least $150 million for fiscal year 1975."

The administration has requested an appropriation of $99,600,000 which is the same as last year's budget request.

This amendment would emphasize the Senate's intent to fund the program at the authorized level of $150 million, from past experience, we have reason to believe that the Office of Management and Budget will not allow the Department of Health, Education, and Welfare to spend more than the appropriated amount. While the Office of Management and Budget has not given an official statement on this matter, we believe that this amendment should be adopted so that the Senate can go to conference with the House in a stronger position.

The title VII nutrition program is one of the most successful and relevant Federal programs helping older Americans. Right now, over 200,000 meals are being served to elderly persons in their communities, at churches, schools, senior citizens centers, and other public and nonprofit private settings. These meals give older Americans the opportunity to eat a nutritious meal, but just as importantly, it gives them the opportunity to meet with their friends and neighbors in a comfortable social setting.

There are over 4,100 meals being served each day at almost 100 meal sites in Iowa alone. I have had the opportunity to visit many of these meal projects, and without exception older people have told me that this is one Federal program that is working for them. They not only like their meals, they look forward to them. But, they live in constant anticipation of having their meal programs cut back because of the unprecedented inflation which has forced many meal sites to close down.

Inflation has cut back the scope of the nutrition program by 15 percent. In large part, this has been due to the tremendous increase in the cost of food. Perhaps, the best indication of the impact of inflation comes from the Administration on Aging. Initially, it was estimated that the $100 million appropriation for this year's nutrition program would fund 250,000 meals. As a result of inflation, that figure was reduced to 212,000.

Mr. President, whenever our economy begins to get out of control, it is our older Americans who suffer first. Their real incomes have been greatly reduced by inflation because they must spend a disproportionate amount of their incomes on food, housing, transportation, utilities, and health care—the items which have led the ever-increasing Consumer Price Index.

All of this means that the elderly poor are forced to cut back on the amount of their budget that they can allocate to food. The result is that millions of older Americans are not receiving adequate diets and therefore the level of disease, the death rate, and the rate at which the elderly are forced into institutions is bound to be increased.

Mr. President, in view of the significant hunger problem which is facing many nations in this world—the problem which we recently confronted at the World Food Conference in Rome—it is very disheartening to look around and see our own mothers and fathers, grandmothers and grandfathers forced to survive on so little food. As the major agricultural producer in the world, I believe that it is indefensible for any of our people to go hungry. Yet, that is the case for too many older Americans. We can do something about that. For one thing, we can increase the funding level for the title VII program to $150 million. And, we can look to many other programs which would help them as well. To bring the spending level to the amount that the committee intends, they will mandate it rather than leaving the remaining $25 million to the discretion of the administration.

The need for full funding of the nutrition program has been well documented in committee hearings by those people who work directly with older people. We have just begun to identify those people who are most in need of the nutrition services, and right now 70 percent of the title VII effort has gone to help low-income elderly people.

There is a great deal more that we can accomplish if we have more funding for the title VII program. A funding level of $125 million would only allow us to reach the goal established for this year's program of serving 250,000 meals. It would represent a standstill operation, and I think that the success of this program and the existing need justify a substantial increase in the funding authorization level.

Mr. President, on behalf of myself and the Senator from Massachusetts, I ask unanimous consent to add the following cosponsors: Mr. EAGLETON, Mr. WILLIAMS, Mr. HUMPHREY, Mr. RIBICOFF, Mr. BAYH, Mr. ABOUREZK, Mr. HASKELL, Mr. METZENBAUM, and Mr. MCGOVERN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. On their behalf and my own, I urge the Senate to adopt this amendment.

Mr. President, I ask unanimous consent that a survey conducted by the National State Units on Aging detailing the need for increased funding for the nutrition program be included at this point in the RECORD.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

SURVEY OF NATIONAL STATE UNITS ON AGING

State (1)	Title VII funding (2)	Number of projects (3)	Average daily participation (4)	Persons on waiting list (5)	Projects unable to get commodities (6)	Additional funding needed in fiscal year 1975 (7)	Funding needed for new expanded projects (8)
Alabama	$1,565,052	6	4,200	6,000-7,000	6	$212,000	$4,500,000
Arkansas	1,098,667	9	1,938	1,500	5	177,585	3,298,459
California	8,454,000	52	17,000	8,724	(¹)	1,500,000	12,500,000
Colorado	915,222	5	1,852	425	5	195,000	958,000
Connecticut	1,358,465	11	1,200	1,200	7	543,386	1,268,000
Delaware	493,000	4	1,150	200	2	100,000	250,000
Florida	4,704,547	19	9,300	2,497	17	1,411,364	4,000,000
Idaho	493,000	7	1,140	300	7	47,600	815,000
Illinois	5,023,818	30	10,000	2,500	(²)	750,000	3,500,000
Iowa	1,521,231	12	4,200	4,000-5,000	8	250,000	1,980,000
Kentucky	1,547,256	9	3,866	600	7	250,000	800,000
Louisiana	1,471,149	9	2,978	2,300	9	147,000	1,029,805
Maine	516,467	5	2,564	14,000	(¹)	258,233	1,033,000
Maryland	1,471,149	13	3,500	1,043	(¹)	220,800	614,423
Michigan	3,518,237	31	8,100	18,490	26	300,000	2,120,000
Minnesota	1,810,695	17	4,300	1,100	17	225,000	1,322,040
Mississippi	1,042,325	9	2,419	1,644	9	208,465	1,050,000
Missouri	2,504,084	9	7,800	6,000	6	1,205,852	5,505,852
Montana	493,000	5	900	1,000	(¹)	200,000	1,300,000
Nevada	493,000	10	1,282	850	(¹)	123,500	507,000
New Hampshire	493,000	6	1,425	2,850	1	98,000	970,000
New Jersey	3,308,520	23	5,786	2,500		830,000	51,897,000
New Mexico	509,376	6	1,500	10,000	1	509,376	609,376
New York	8,955,000	47	20,000	(³)	(⁴)	5,000,000	15,000,000
North Carolina	2,050,219	24	4,520	1,100	6	507,000	915,000
North Dakota	493,000	6	945	N/A		200,000	450,000

Footnotes at end of table.

SURVEY OF NATIONAL STATE UNITS ON AGING—**Continued**

State (1)	Title VII funding (2)	Number of projects (3)	Average daily participation (4)	Persons on waiting list (5)	Projects unable to get commodities (6)	Additional funding needed in fiscal year 1975 (7)	Funding needed for new expanded projects (8)
Ohio	4,731,013	18	8,400	8,000	1	600,000	10,000,000
Oklahoma	1,347,116	5	3,400	257	5	100,000	1,250,000
Oregon	1,067,365	5	3,000	(1)		213,473	1,317,365
Rhode Island	493,000	6	925	1,200		250,000	5,000,000
South Dakota	493,000	8	1,000	(1)	4	131,077	750,000
Utah	493,000	3	1,000	(1)	3	246,000	1,616,000
Washington	1,505,580	14	2,580	2,500	14	225,000	670,000
Virginia	1,787,875	19	3,000	500	19	531,510	650,000
West Virginia	904,600	12	2,000	400	(1)	120,000	500,000
Wisconsin	2,137,862	16	5,500	4,000	15	250,679	2,955,579
Wyoming	493,000	4	700	50	4	100,000	500,000
Massachusetts	2,825,000	18	6,019	2,000	16	$400,000	5,000,000
Texas	4,760,000	16	11,000	5,000	15	960,000	2,080,000
Hawaii	493,000	4	1,440	88	0	205,960	2,459,304
Washington, D.C.	493,000	5	1,340	365	(2)	70,000	200,000
Page 4	8,621,000	43	19,799	7,453	31	1,635,960	9,739,304
Total 41 States	80,367,990	537	178,169	116,583	235	19,873,224	153,133,203

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[1] See note.
[2] Not available.
[3] In hundreds.
[4] Almost all.

Mr. MAGNUSON. Mr. President, I do not disagree with anything the Senator from Iowa has said on behalf of himself and the cosponsors, and I do not imply that the cosponsors did not take a long enough look at this thing before they cosponsored it. I am sure they did not because if they asked us for the facts, they probably would have said that we could work this out some other way.

What the Senator said is absolutely correct. No. 1, we have been running into about a 2-year program on which the Department has been dragging its heels. It has not gotten off the ground.

Now, the $25 million the Senator talks about is there. It is there now and we advocated in our report that they spend it, which would bring the funding level up to the $150 million the Senator is talking about. We want it at $150 million at least.

It is just a question of whether we appropriate $25 million in this bill and leave the other $25 million lying down there.

I would think we ought to push for them to spend the $25 million already appropriated and we have done it in this report. It would provide, as the Senator points out, about 300,000 meals per day and I think there ought to be a way to make them. I hope they have learned some lessons down there, to unfreeze money.

Now, we are just giving them $25 million if we do it this way, in the bill, and they will not use that other $25 million to add on to this program. It will go to some other program. I think we ought to nail them down to spend the $25 million they have got down there.

Congress has provided $325 million over the last 1½ years and $225 million has yet to be spent and is available to be spent this coming year.

Now, to add $25 million to this does not seem to be logical at this time. They say they will not be able to spend all this money, I hope they will be able to, but they would not be able to spend any more in getting this program moving because we have gone by, now, 4 months.

No one has prodded them more than ourselves to get at this program. But they have not any plans down there, they failed to put it out in places where it was needed.

I am hoping we can urge them to spend this $25 million, that would mean we have provided pretty adequately for this new program, $325 million over the last year and a half, and at least $150 million now if they spend the $25 million.

I know that as the Treasury goes, this would not mean a thing, one way or another, but it seems to me we ought to prod them.

For instance, I have a complaint with them in Seattle. They have not inaugurated a program they started for home needs on wheels, and there are many other programs.

I am going to have to reluctantly oppose this amendment because I feel that we should keep prodding them to spend the $25 million already appropriated which would bring it up to at least the $150 million level that the Senator and the Cosponsors want.

I do not know if the Senator from New Hampshire wishes to add anything to this, but I have no more to say about it.

It is not a question of the program, it is not a question of the amount of money. It is a question of whether we spend the $25 million already appropriated or add $25 million, which would give them $25 million to play around with down there, not for this program but some other program that they might like better.

I suppose there would be trouble in the House doing it this way, but I do not know. I believe the House wants the $150 million program level. But they would be insistent that we just make the carryover available. That is what they do.

Mr. President, I yield back the remainder of my time.

Mr. CLARK. I think the distinguished Senator from Washington has stated the case that both of us agree with; namely, that we want $150 million spent. His report certainly indicates that. The only disagreement is over whether the administration in fact will spend $150 million, $125 million appropriated plus the $25 million carryover. I think the record of the administration to date is clear that it will not. The private indications we have received from that agency are that the carryover funds will not be spent.

The House, in its bill, has made no such request. They may be prepared to make such a request for an additional $25 million, but even if they do I believe it is clear on the record that the money will not be spent.

As the Senator very accurately said, this amendment will not take any additional funds from the Treasury. It will only clarify the additional $25 million appropriation. If we are concerned about spending the $150 million, as I know that the distinguished Senator from Washington is from his own record and from what he has said here today, then I believe we must adopt this amendment.

Mr. MAGNUSON. I hope that will not happen because if they are not going to spend the $25 million they have down there, they will not spend the $25 million that we put in this bill. I will guarantee that. I would rather break loose the $25 million down there and then we can appropriate money on this bill and it would be fresh money.

I do not think they will spend the $25 million that is there, if we put this in, because they are still way behind on the $325 million we appropriated in this program over the past 1½ years. I just hope it will not work that way.

I think we better do first things first. Get them loose from that money down there. We will put conference report language in.

I must say I am pleased to see that they have been paying more attention to that than usual down there, about the impoundment of money and things of that kind.

As the Senator knows, there have been a few lawsuits that they lost. Now they cannot impound it anymore. I am hopeful we jar loose the $25 million and go ahead with the program.

Mr. YOUNG. Will the Senator yield 2 or 3 minutes?

Mr. MAGNUSON. I yield.

Mr. YOUNG. I feel I should support the position of the chairman of the committee. I do not know of anyone who has been more liberal and sympathetic than he has with a program such as this. This is the kind of program I strongly support. But we have already appropriated this amount of money in the regular bill. Adding funds to this bill just adds to the chance of it being vetoed. It is confusing to the public, particularly to the older people, to appropriate in one bill and then appropriate the same thing in another bill.

Mr. MAGNUSON. And they do not get either one.

Mr. YOUNG. I would hope the Senator would not press for it. Certainly, no one has been more friendly to the older people than the chairman of the committee and the distinguished Senator from New Hampshire. I would hope that the amendment would be defeated.

Mr. McCLELLAN. We have already added over $100 million to this bill. You are talking about getting a veto. If we add another $100 million, we can expect a veto.

Mr. MAGNUSON. Not in the HEW section.

Mr. McCLELLAN. I am talking about the whole bill. The amendment is to add another $50 to $60 million to this HEW section. I think we better hold it down or we will get the whole thing vetoed.

Mr. CLARK. Mr. President, I believe the facts are that the pending Labor-HEW appropriation bill does not contain funds for the nutrition program, and that we cannot depend upon that bill for nutrition funds. It will have to be included in the supplemental appropriation.

I do not feel we are that far apart. We are in agreement, the Senate is in agreement, that the $150 million should be spent. The only question is whether we are going to mandate that spending as an appropriation, or whether we are going to mandate $125 million and request that the additional $25 million be spent in carryover funds.

I believe we have exhausted the debate on it and it ought to be decided by the Senate. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Is all time yielded back?

Mr. CLARK. Mr. President, I have not yielded back the remainder of my time. I would like to have the yeas and nays. I would request that efforts be made to get 11 Senators in the Chamber.

Mr. McCLELLAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. CLARK. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Washington yield back the remainder of his time?

Mr. MAGNUSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Iowa. The yeas and nays having been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Texas (Mr. TOWER) is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from New York (Mr. BUCKLEY) are absent on official business.

I further announce that the Senator from Oregon (Mr. HATFIELD) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 36, nays 52, as follows:

[No. 489 Leg.]

YEAS—36

Abourezk
Bayh
Beall
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Clark
Dole
Domenici
Fong
Gravel
Hart
Hartke
Haskell
Hollings
Hughes
Javits
McIntyre
Metzenbaum
Mondale
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Ribicoff
Schweiker
Stafford
Stevenson
Weicker
Williams

NAYS—52

Aiken
Baker
Bartlett
Bellmon
Bennett
Bible
Brock
Byrd, Harry F., Jr.
Cannon
Cook
Cotton
Cranston
Curtis
Dominick
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Hathaway
Helms
Hruska
Huddleston
Inouye
Jackson
Johnston
Long
Magnuson
Mansfield
McClellan
McClure
McGee
Metcalf
Montoya
Muskie
Nunn
Percy
Proxmire
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Symington
Taft
Talmadge
Thurmond
Tunney
Young

NOT VOTING—12

Allen
Buckley
Church
Eagleton
Fulbright
Hatfield
Humphrey
Kennedy
Mathias
McGovern
Randolph
Tower

So Mr. CLARK's amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which that amendment was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, this is our third day on the supplemental appropriations bill. It looks as if there is a possibility that we might complete it this afternoon. May I have a show of hands as to how many are going to offer amendments still?

There are six. Mr. President, will the Senate indulge me in agreeing to a change in the time limitation previously agreed to and make the 1 hour on each amendment not to exceed 30 minutes on each amendment, under the same circumstances?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, there will be two votes tomorrow on attempts to override vetoes of the President of the United States. I understand that the House of Representatives has done so this afternoon.

I ask unanimous consent, therefore, that there be one-half hour, beginning at 12:30 p.m., on the vote on the veto of the rehabilitation bill, the vote to occur at 1 o'clock.

Mr. PERCY. Mr. President, reserving the right to object, it was my hope, and I had expressed it to the minority, that we could have the vote a little bit later than that. I must make a United Nations speech tomorrow for the United States, and then I will come back immediately after that. Could that be done?

Mr. MANSFIELD. But there are others who are——

Mr. PERCY. Is there any reason why it cannot be done an hour later?

Mr. MANSFIELD. 1:30?

Mr. PASTORE. 1:30.

Mr. MANSFIELD. Then we have others who will be discombobulated, whatever that means.

Mr. PASTORE. That is a beautiful word; it sounds good.

Mr. JAVITS. What time does the Senator want it?

Mr. PERCY. I would rather have it at 2 or 2:30.

Mr. JAVITS. How about 2 o'clock?

Mr. PASTORE. Senator SYMINGTON is leaving at 2.

Mr. JAVITS. Senator SYMINGTON is leaving at 2?

Mr. PASTORE. That is what I heard.

Mr. MANSFIELD. If possible, I would like to arrange it in such a way that the votes would come back to back. I understand we can get a half-hour limitation on the rehabilitation bill. There is some negotiation still going on as far as the freedom of information veto is concerned.

So I think for the time being I will not make the request, and see if something can be worked out which will be, hopefully, not unsatisfactory to many Senators.

Mr. PERCY. The Senator from Illinois is very anxious to be here for that vote.

Mr. McCLELLAN. What time did the Senator set?

Mr. MANSFIELD. We did not set any time, because there are too many Senators who have problems.

SUPPLEMENTAL APPROPRIATIONS, 1975

The Senate continued with the consideration of the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

Mr. JAVITS. Mr. President, the Senator from Iowa (Mr. CLARK) has spoken with me about the fact that he has an amendment which he says will take 5 minutes. He does not intend to ask for a rollcall. In an endeavor to accommodate him, I ask unanimous consent that, without losing my right to the floor, I may yield to the Senator for 5 minutes and to the opposition to the amendment, if there be any, for 5 minutes, meaning a total of 10, and that I may then regain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. CLARK. Mr. President, I send to the desk an amendment which I shall offer in behalf of myself and the distinguished Senator from Missouri (Mr. EAGLETON).

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. CLARK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment is as follows:

> On page 13, line 14, strike out "Title" and insert in lieu thereof: "Titles III and".
>
> On page 13, line 17, strike out "$135,000,000" and insert in lieu thereof "$155,000,000".

Mr. CLARK. Mr. President, this amendment would add $20 million to the bill to fund an already-authorized transportation program for the elderly under title III of the Older Americans Act.

This new program was enacted earlier this year in recognition of the fact that transportation problems continue to be an overriding concern for virtually all older people. The new transportation program authorized under title III provides that emphasis shall be placed on providing supportive transportation in connection with nutrition projects operating under title VII of the Older Americans Act, although other transportation services could be provided as well.

The special needs of the elderly for improved transportation services designed to meet their particular problems has been thoroughly documented. In urban areas, the failure of mass transit systems to provide adequate transportation hits older people with greater force than any other group. In rural areas, where the population is often an older one, there usually is no transportation system at all.

Fewer than half of individuals aged 65 and over have automobiles—the primary means of transportation for the rest of society. Not surprisingly, older Americans are forced to rely on the most expensive forms of transportation. They must hire taxis or pay someone with a car to get to the doctor's office, to pick up a prescription, or to cash a social security check—simple everyday activities that most people take for granted, but which pose enormous difficulties for people of limited mobility.

The energy crisis has exacerbated these problems. Fuel shortages last winter decimated the core of volunteer drivers who participate in various aging programs, especially the title VII nutrition program.

Over the long-term, increased fuel costs are having the same effect, as well as raising the cost of the transportation services older people are able to purchase.

In a 1970 amendment to the Urban Mass Transit Act, Congress said:

> It is hereby declared to be the national policy that the elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services.

Unfortunately, this national policy consists largely of words, not deeds. Little progress has been made to implement this policy, despite amendments to the Older Americans Act and the Federal Highway Act designed to improve transportation announced that $10 million will be made available to the States under the Federal Highway Act for the purchase of equipment necessary to provide transportation services to the elderly and the handicapped. However, these funds are limited to capital expenditures only—they cannot be used to assist in meeting the costs of operating a transportation program for handicapped and older persons.

The funds that would be made available under the amendment that I am offering could be used for equipment, fuel, or any other expenses connected with the provision of transportation services. Testimony at hearings conducted by the Subcommittee on Aging of the Committee on Labor and Public Welfare made clear that many thousands of individuals who seek to participate in the title VII nutrition program for the aging cannot do so, because of a lack of transportation. The adoption of this amendment would provide the necessary funds to permit many of these persons to participate in the program—in keeping with the congressional action that provides for an approximately 25-percent increase in funding for the title VII program itself.

One last word about problems relating to inflation, Mr. President. We are told that amendments to increase funds in this bill must be resisted, because such spending would be inflationary. Everyone wants a balanced budget, so the real question is one of priorities.

Older Americans are already bearing more than their share of the inflationary load. In the title VII nutrition program alone, some 100,000 older people have been deprived of the opportunity to participate, because inflation has driven the cost of the program up by 25 percent over original estimates. Older Americans have been devastated by inflation and deserve the small amount of help this amendment would provide. The economy has its demands, Mr. President, but this is not one of them. I urge the adoption of this amendment.

Mr. MAGNUSON. Mr. President, again I appreciate the objectives of this amendment, but here again we are putting the cart before the horse. The Federal Government, of course, provides a large amount of funds for transportation, and the States and localities should be encouraged to provide for special subsidies for senior citizen transportation.

We do that. I know in my hometown of Seattle, we provide for special buses, we provide for transfers to airlines, and this proposal would discourage such State involvement.

There has been no budget request and no hearing on this program. In our Senate report, however, we have asked HEW to consider sending up a budget request for fiscal 1976, next year, after they make a report, and we direct the Department to utilize carryover funds to fund the program—no, this is the other one.

We urge them to consider submitting a budget request to follow up the needs of older Americans, and the program would support the development of individualized flexible transportation projects for older Americans, and provide them with increased access to nutrition projects, health care facilities, and so on.

This is a pretty complex thing. I do not know what the amount of money would do to get the thing rolling in the right way, until we have this study. There are plenty of other ways to do it, and we want to get it done.

I think the committee will have to oppose the amendment for those, I think, logical and sensible reasons.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was rejected.

AMENDMENT NO. 1973 (AS MODIFIED)

Mr. JAVITS. Mr. President, I send to the desk my amendment No. 1973, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 13, between lines 17 and 18, insert the following:
>
> ALCOHOL AND DRUG ABUSE EDUCATION
>
> For carrying out the Alcohol and Drug Abuse Education Act, $5,700,000.

Mr. JAVITS. Mr. President, if I may have the attention of the Senate, I shall take not over 5 minutes.

It is always difficult, when a given climate is created in the Senate, to ask Senators to take a look at a situation which does not belong within that climate. Yet I must ask that, because that is exactly the situation with this amendment.

The amendment seeks to provide a continuance of an existing program, to wit, an education program respecting alcoholism and drug abuse in the schools, and of teams that deal with youngsters in the schools, seeking to keep them from addiction or alcoholism, at a time when that program has fallen between the cracks in the following manner:

The alcohol and drug abuse education bill, which is an improvement and extension of the previous drug education program, was not signed into law by the President until after the regular HEW appropriations bill was enacted, and hence there is no funding in the regular HEW appropriations bill, nor in this supplemental appropriations bill, because the whole thing took place so very recently.

The classic function of a supplemental appropriation is precisely for that purpose, to take care of the funding of programs which fall within this category. That is what this is about.

Whereas I had originally proposed an appropriation amount of $12 million, which is what the program requires, and which I might point out has been appropriated before—in 1972 there was appropriated $13,024,000; in 1973, $12,400,000; in 1974, $5,700,000—in order to try to minimize the controversy, I have asked for the exact sum appropriated in 1974, $5.7 million, that being an even lesser amount of funding support for the program that was carried on then, because we all know costs have materially risen since that time.

The justification for the program is that it is ongoing and it is successful, and the problem with which it proposes to deal is a very critical one, and growing rather than receding, to wit, the problem of drug abuse and alcoholism, tragically afflicting our young people.

I might point out, too, Mr. President, that we now spend in the Federal establishment $316,400,000 a year—that is in fiscal 1975—for antiaddiction programs and antialcoholism programs. Hence, the amount which is sought here, which is $5 million, or less than 2 percent of the total appropriation, is sought for the purpose of education, to endeavor to abate these very, very serious dangers which unfortunately are very present with us.

Mr. President, I said that the problem was increasing rather than decreasing, and in that regard I would like to point out the fact that we have a new incursion of heroine addiction from Mexico. Seventy percent of our heroin today now comes from Mexico, and it is called brown heroin.

The answer is, Mr. President—and, perhaps this will be a matter of some interest to Members who are generally not interested in big city problems—that heroin addiction is now extending into areas of the country, because of its new origin, which never saw it before. We find it now not only in New York and California, but we find it in Texas and in Florida, and we also find, Mr. President, a materially increasing occurrence in respect of that addiction.

Mr. President, amendment No. 1973 would provide the only source of Federal funding for vitally needed local school and community level alcohol and drug abuse prevention programs.

As the author of the Alcohol and Drug Abuse Act Amendments of 1974, I was deeply gratified when the President signed this measure into law—Public Law 93-422. However, the date of enactment into law occurred after Senate passage of the Labor/HEW appropriation bill.

Since the fiscal year 1975 budget request is zero dollars to carry out the purposes of the law, this amendment is essential. Otherwise, there will be no Federal funds to support local school and community personnel in alcohol and drug abuse prevention training and permit them effectively to reach the millions of young Americans at risk to the danger of alcohol and drugs.

The $5.7 million appropriation—of the $26 million authorized by the law for fiscal year 1975—is not for treatment or rehabilitation of heroin addicts or for those who have otherwise fallen victim to alcohol and drugs. Rather it is for helping the troubled youngster who, even though a nonuser, may be headed for trouble with drugs because of their abundance and easy accessibility, because of peer pressure to conform, to join, to belong, and because of the more general but equally strong overall pressure in our society to opt for the chemical solution to life's problems.

I believe the community at large, and the schools particularly, are in the best position to focus on the causes of drug abuse rather than the symptoms, to reflect their own specialized needs, and to plan and develop responsive early intervention and prevention programing. And that is what the funds appropriated under this amendment will enable us to achieve.

One example of how the Office of Education has utilized its limited funding resources—a comparative history of authorizations, appropriations, and expenditures is appended at the conclusion of my remarks—is seen in its operation of an interdisciplinary leadership training program for local school and community personnel, conducted at the regional training centers located in California, Texas, Illinois, Florida, and Adelphi University in Long Island, N.Y.

The need and commitment at the local school and community level is well established. Last year there were 1,000 applications from local school districts committing their educational personnel—for example, teacher, counselor, psychologist, administrator—to receive this team training. Unfortunately, only 388 of the 1,000 could be selected, and of approximately 1,500 community teams which sought training only 247 were selected, because of limited financial Federal resources. Although the ultimate target and the main concern is the youth of our Nation, especially those at risk or already experimenting with drugs and alcohol the training of interdisciplinary leadership teams representing all segments of a community or a local school district allows the program to have as its immediate target the institutions that have primary influence on the behavior, growth, and development of youth—our ultimate target and main concern. At the same time it recognizes the flexibility the local school and community requires in dealing with the drug problem at the local level.

In fiscal year 1974 the budget for the drug abuse education program was cut back from $12.4 million to $5.7 million. This was supplemented by an interagency transfer from the Special Action Office of $1 million for a total $6.7 million.

This reduction necessitated:

First, dropping support to the 55 State and territorial education departments for inservice teacher training programs and technical assistance for local school districts. Although a number of States are continuing these programs at a reduced level, in many instances very effective personnel and programs were dropped.

Second, the reduction from seven to five regional drug training and resource centers, despite the recommendation of an interagency task force that they be continued.

Third, the reduction from a fiscal year 1973 level of 900 to 250 interdisciplinary teams trained and provided onsite developmental assistance in implementing coordinated community response to prevent drug abuse and other destructive behaviors.

Fourth, the funding of only 6 demonstration projects limited to preservice training of teachers to replace the 50 community, college, and school-based demonstration projects that had completed their 3-year cycle.

Fifth, the funding of only 338 of over 1,000 local school district applicants for participation in the school-based drug abuse prevention and early intervention program. Without the $1 transfer from the Special Action Office even fewer could have been supported.

Moreover, there are now reliable reports of a very recent, important phenomenon, an increasing demand for treatment for heroin addiction.

On October 7, 1974, Dr. Dupont, Director of the White House Special Action Office for Drug Abuse Prevention, testified before Congress that there has been "an unexpected increase in heroin addiction in smaller cities like Macon, Ga.; Des Moines, Iowa; or Jackson, Miss. Another change which we are following very closely has been an increase in demand for treatment in certain geographic regions of the country: particularly the Southwest, the west coast, and more recently in Illinois and Pennsylvania."

Moreover, Dr. DuPont stated that:

> Within the last year, the number of clients in treatment in the State of California has increased from 16,000 to 23,500. At the same time the number of heroin overdose deaths in the city of San Diego has increased from 29 in 1971 to a projected 105 in 1974. In Texas, where the availability of Mexican heroin has created a large and fairly steady number of heroin users in the border cities, there is evidence of a resurgence of heroin use in the more northern city of Austin, and the state has reported in the last six months 500 untreated persons who have died, been arrested, or developed serum hepatitis. Similar data has come in from the State of Illinois which law enforcement identifies as a major distribution point for Mexican heroin. The number of clients in treatment has tripled in the last year and a half, and in the first six months of 1974 Cook County (Chicago) reported a 100 percent increase in overdose deaths. Even New York City has reported, within the last few months, a sharp increase in the number of heroin detoxifications being performed in the Tombs and the Brooklyn House of Detention, indicating an increase in the availability of street heroin.

I believe the funds appropriated by this amendment will stimulate all of us to grapple with a problem that must be attended to by all of us: teacher, student, parent, minister, policeman, clinician, and involved citizen.

I believe it is all well and good to talk about budget cuts to lessen the possibility of fanning the fires of inflation, but we cannot stand by and see our children's lives burned out by alcohol or drug addiction.

Mr. President, I would like to point out a report from the Executive Office of the President, Special Action Office for Drug Abuse Prevention, on this subject which is entitled "Current Trends on Drug Abuse," dated November 18, 1974, which gives us, for example, such figures as these: Patients in federally funded treatment in June of 1974 were 36,000; patients in federally funded treatment in August of 1974 were 71,000, an increase of 98 percent.

New patients entering treatment in June numbered 7,000, in August, 14,000, an increase of 100 percent in only a few months.

What the program which we are discussing here—which is not funded at all, I again wish to point out, is not a matter of increasing or having it in the regular bill, but it is simply not funded—seeks to do is to deal with the problems of education so that young people may have a strong argument against narcotics addiction or alcoholism—alcoholism, by way, is a very major and a very growing problem among the very young—rather than that they should be the subjects or patients, as I have just described them, with infinitely greater expenditures.

This program has been operating since 1971 with very considerable success.

The general level of expenditure has been in the area of $12 million a year. But in 1974, for obvious reasons, that was cut to $5.7 million, and the cut to $5.7 million, by the way, was very, very material and was a very serious curtailment of this program with a major reduction in the number of teams that could be trained, as I previously indicated by funding only 338, to wit, one-third of the 1,000 local school districts which were applicants for participation in the school-based drug abuse prevention and early intervention program.

Mr. President, this program has also been supported in terms of the serious increase in drug addiction by the testimony of Dr. DuPont, the Director of the White House Special Action Office for Drug Abuse Prevention which I previously cited.

This is a very grave problem. We know it well. The Federal Government is spending $316 million already with respect to it. There is no provision in that $316 million for the educational aspects which I have just described.

I have heard the Senator from Washington (Mr. MAGNUSON)—and I know his deep sympathy with many of these programs—and the stress under which he has been put by the various amendments which have been offered. But I respectfully submit that this is really an amendment of first impression because this is a characteristic amendment to a supplemental appropriation bill.

I repeat this is a characteristic amendment to a supplemental appropriations bill because the law was signed in between the time of the consideration of the regular appropriation and the consideration of the supplemental. It was signed on September 21, 1974, by the President. Hence, this program is completely unfunded.

There is every reason for continuing it—much more reason, in fact—because of the increase of the use than there was before, and that is why I gave the figures and the facts on the increase in use. So we come in and ask that it be made possible at the same rate as 1974 for the program to continue.

I might point out, too, that I do not feel I am dealing with people who are unsympathetic. Senator MAGNUSON's committee on appropriations provides for this $316 million for drug use and alcohol, that is drug addiction and alcoholism, and Senator McCLELLAN was my particular hero because when I served on the Committee on the Judiciary it was he who recognized the situation and offered the first amendment to create a drug addiction program in the Federal establishment.

Whatever may be their position on this particular matter, I shall be forever grateful to both of them. But I only point out that I do not argue in any oppositional way because I do not feel that I am dealing with people who are unsympathetic. But, again, I repeat, this is a classic application of what a supplemental is for, to wit, to fund a program which has been ongoing, where the law lapsed, where the law has now been renewed, and where there is no way to get it funded except by a supplemental, unless we are to wait until the 1976 fiscal year which, I think, is hardly fair in a situation of this character.

I ask unanimous consent to have printed in the RECORD, a table of the amounts of money authorized and expended starting in 1971 through 1975.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

APPROPRIATION HISTORY: DRUG ABUSE EDUCATION ACT

Fiscal year	Authorized (millions)	Appropriated	Obligated	Expended
1971	$10	$6,000,000	$5,901,000	$196,000
1972	20	13,024,000	13,022,000	6,916,000
1973	28	12,400,000	12,322,000	11,936,000
1974	28	5,700,000	5,700,000	8,435,000
1975	26			

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Of course, here again is another program where the objectives are great, and we are all for it and we want to do what we can about it, like so many other programs in this bill.

If there was an attempt to cut the bill down, of course, there would be more money for these programs. However, although this is a very great concern of many, many people, all the people in the country, from the administration to Congress, this question of the abuse of drugs, this is not quite the approach that should be made, in my opinion.

The amendment would add $5.7 million. There was $12 million provided for this program in 1973 and $5.7 million in 1974. There was no provision—the Senator from New York is right—this year because this program was never intended to go on beyond that.

The committee carefully reviewed this item again in the regular bill, wondering whether it should stop. We found that we wanted to do it in the beginning, and the record is perfectly clear that the original appropriation for those 2 years was to get the States and localities to focus on drug problems.

In many cases, in fact, the committee found this program to be very, very ineffective. In fact, in some instances the programs—and this is sad testimony—had the reverse effect. Some students were using the class as a training ground for drug abuse, and it was not working the way we thought it should work.

I was hopeful that it would work so that we could continue on with it. But we have in the bill, in the regular bill, $221,435,000 for drug abuse.

These funds are for the training, community projects, project grants to States, et cetera, and in any one of these programs one could use the money, some money, for the laudable purposes the Senator wants.

So I do not see that with the $221 million and the reluctance of people to go on with this program, because it was only intended to be a pilot operation, that this amendment should be agreed to.

So, therefore, I reluctantly oppose it with the fact that there is plenty of money in the regular bill for these purposes—$221 million—and that has gone up a great, great deal since we started recognizing this problem a few years ago.

So I say, I reluctantly do this. It creates the implication we are against some kind of program to combat drug abuse and, of course, we hold to just the reverse. That is why we put this huge amount of money in the regular HEW bill for the National Institute of Drug Abuse.

I want to repeat to the Senator from New York that on this particular facet of the program, our best testimony indicates, although the word sounded good—drug education—in some cases it has not worked out at all. I think we ought to take a little longer look and urge in the report that where people think it should continue there is ample money within the $221 million for NIDA to do this and ample authority to do it.

I hope they will work something out. That is the reason I oppose it.

If I thought we could do something about drug abuse in this country, I would be standing here wanting $500 million, if that would do the job. That is my opinion.

Mr. JAVITS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. JAVITS. I yield 3 minutes to the Senator from Iowa.

Mr. HUGHES. Mr. President, I thank the distinguished Senator from New York for yielding.

Mr. President, as I listened to the distinguished Senator from Washington I am certainly sympathetic with his viewpoint and the amount of money he has placed in this bill of $221 million.

As a matter of fact, in that $221 million, as he has stated, there is not one dime for the continuation of this program.

I regret very much that the Senator from New York has reduced it to $5.7 million from the $12 million. The $12 million is absolutely essential.

As a matter of fact, the Senator from New York is the ranking member of the subcommittee that I chair that has held hearings also on this subject matter over the course of the last 6 years.

Certainly, we have had difficulties in education programs, but we have been correcting those difficulties with experience as each year has passed.

There is today, as the Senator from New York has stated, an increasing influx of heroin into the United States. The drug problem is not diminishing. It is increasing when you consider alcohol in the total.

The truth of the matter is that this Congress, this Senate, expressed its opinion on this subject just a while back by voting positively to pass this bill, the authorization bill. The President of the United States signed the bill into law and now what we are, in effect, saying, is that we are going to negate a previous position taken by the Senate, the Congress, and the President, of a need for money in public education run through this department.

I sincerely hope that the Senator from Washington will reconsider his position. This matter is very minimal. It will not meet the essential needs we could go on with, if we did, and I think the Senator's heart is right, but I certainly think the consideration he has given this has been wrong and is mistaken. I do believe we need this money, an essentially small, amount, to continue the programs.

All of us are sympathetic with the overall budget needs and with the restraint in considering that, but I do not think for one moment that any of us in restraint want to reduce an amount of money that will absolutely wipe out a program that is, in the opinion of this Senator who spent 6 years dealing with this subject as chairman of the Subcommittee on Authorization——

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. HUGHES. It is absolutely needed. I encourage the Senate to support the *amendment*.

Mr. MAGNUSON. I yield myself a half minute.

I hope the Senator from Iowa will not let stand the fact that I did not say there is anything in the $221 million that specifies to be used for this program.

What I do say, under the authority, within the $221 million, any amount they wanted to use, particularly in grants to States, and those things, could be used for this particular program if they wished.

Mr. HUGHES. If the Senator will yield, the facts are that they do not wish, and this program will be ended unless we specifically put in the sum of money.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MAGNUSON. I yield myself a half minute.

I suppose so much of this $221 million the people have already programed, and think they are going to get, and they would be reluctant to change it, but within $221 million they can surely find $5 million for these programs in 50 States, that would not be much of a shift at all.

Now, a lot of this is given to the White House program, as the Senator knows. Now, if the budget will set up any amount of money——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MAGNUSON. It has got to be looked at. I will say that. It has got to be looked at because some of it is going in reverse.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I yield myself the remaining time.

Senator Hughes has been a great hero in this field. I am really devastated that we are losing him, but that is life.

But the points that he has made are very accurate. The Senate has just acted; it is not the committee that decided this is a good or bad program; the Senate and the House passed it and the President signed it into law, so that is the conclusive finding.

Because this is November it means killing it. It is not in a supplemental; it will not figure until the budget of 1976; it is a program that will pass out the window. Educational institutions are not going to continue the machinery for dealing with this if there is no funding for the next 7 months.

I respectfully submit, this is a typical example of shortsighted economy. We are spending $316 million, substantively, and Senator Magnuson knows as well as I that every dollar is spoken for in terms of the rest of the program and the rest of treatment, for which I believe the money is inadequate anyhow, but that is another day's argument.

So the education part will go by the boards and that is the one hope we have—trying to reduce usage, both in social terms and in terms of what the Federal Government spends.

Mr. President, it seems to me that this is a classic case for a supplemental and that it is a classic case of being penny-wise and pound-foolish to deny it.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Has the Senator from Washington yielded back the remainder of his time?

Mr. MAGNUSON. Yes, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the yeas and nays having been ordered, the question is on the adoption of the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), and the Senator from West Virginia (Mr. Randolph) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from West Virginia (Mr. Randolph) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Colorado (Mr. Dominick) are necessarily absent.

I also announce that the Senator from New York (Mr. Buckley) and the Senator from Maryland (Mr. Mathias) are absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to illness in the family.

The result was announced—yeas 42, nays 45, as follows:

[No. 490 Leg.]

YEAS—42

Abourezk
Bayh
Beall
Biden
Brock
Brooke
Burdick
Case
Chiles
Clark
Cranston
Fong
Gravel
Griffin
Hart
Hartke
Hathaway
Hughes
Jackson
Javits
Mansfield
McClure
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pell
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Taft
Tunney
Weicker
Williams

NAYS—45

Aiken
Bartlett
Bellmon
Bennett
Bentsen
Bible
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cook
Cotton
Curtis
Dole
Domenici
Eastland
Ervin
Fannin
Goldwater
Gurney
Hansen
Haskell
Helms
Hollings
Hruska
Huddleston
Inouye
Johnston
Long
Magnuson
McClellan
McGee
Nunn
Pastore
Pearson
Percy
Proxmire
Roth
Scott, William L.
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tower
Young

NOT VOTING—13

Allen
Baker
Buckley
Church
Dominick
Eagleton
Fulbright
Hatfield
Humphrey
Kennedy
Mathias
McGovern
Randolph

So Mr. Javits' amendment No. 1973, as modified, was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, once again, if I may have the attention of the Senate, I ask unanimous consent that there be a time limitation of not to exceed 20 minutes on all other amendments to be offered and that on rollcalls from now on, the time be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR CONSIDERATION OF VETO MESSAGES ON TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be ordered that the debate on the veto message on vocational rehabilitation commence not later than 12:30 p.m. tomorrow; that debate on the Freedom of Information Act commence at 1:00 p.m.; that the vote on the veto message on the Freedom of Information Act commence immediately at 2 p.m., to be followed immediately by a vote on the veto message on vocational rehabilitation; that the time for debate be equally divided between and controlled by the majority and minority leaders or their designees.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That on Thursday, November 21, 1974, at the hour of 12:30 p.m., the Senate proceed to the consideration of the veto of H.R. 14225 (the Vocational Rehabilitation Act), with debate equally divided and controlled by the Majority and Minority Leaders or their designees on the question of whether the bill shall pass the objections of the President of the United States to the contrary notwithstanding until the hour of 1:00 p.m. At 1:00 p.m. the Senate shall proceed to the consideration of the veto of H.R. 12471 (the Freedom of Information Act), with debate controlled under the same conditions until the hour of 2:00 p.m. At 2:00 p.m. the Senate shall proceed to vote first on the Freedom of Information Act and followed immediately by a vote on the Vocational Rehabilitation Act.

SUPPLEMENTAL APPROPRIATIONS, 1975

The Senate continued with the consideration of the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 11, strike lines 11 through 25, and on page 12, strike lines 1 through 17 and insert the following:

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), and the Act of September 23, 1950 as amended (20 U.S.C., ch. 19), $340,300,000, of which $320,300,000, including $43,000,000 for amounts payable under section 6 shall be for the maintenance and operation of schools as authorized by said title I of the Act of September 30, 1950, as amended, and $20,000,000, which shall remain available until expended, shall be for providing school facilities as authorized by said Act of September 23, 1950: *Provided*, That none of the funds contained herein shall be available to pay any local educational agency the amounts to which such agency would otherwise be entitled pursuant to section 3(b) of title I:

Provided further, That none of the funds contained herein shall be available to pay any local educational agency in excess of 90 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(a) of said title I if the number of children in average daily attendance in schools of that agency eligible under said section 3(a) is less than 25 per centum of the total number of children in such schools: *Provided further*, That, with the exception of up to $1,000,000 for repairs for facilities constructed under section 10, none of the funds contained herein for providing school facilities shall be available to pay for any other section of the Act of September 23, 1950, until payment has been made of 100 per centum of the amounts payable under section 5 and subsections 14(a) and 14(b): *Provided further*, That of the funds provided herein for carrying out the Act of September 23, 1950, no more than 47.5 per centum may be used to fund section 5 of said Act: *Provided further*, That not to exceed $38,900,000 may be used to insure that the amount to be paid to an agency pursuant to title I (except section 7) shall not be less, by more than five per centum, of the expenditures for free public education made by such agency for the fiscal year 1974, than the amount of its payment under title I (except section 7) for the fiscal year 1974: *Provided further*, That none of the funds contained herein shall be for carrying out section 305(b)(2)(A)(i) of Public Law 93-380.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that my staff assistant, Mrs. Barbara Kernan, may have the privilege of the floor during the debate on the amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

CUT NEEDLESS IMPACT AREA AID

Mr. PROXMIRE. Mr. President, the purpose of my amendment is to reduce the appropriation for the impact aid program for fiscal year 1975 from $656,016,000, the amount recommended by our distinguished Committee on Appropriations, to $340,300,000—a long overdue savings to the taxpayer of $315,716,000. My amendment simply would result in the elimination of payments of large sums of money to school districts merely on the basis of the presence of children whose parents happen to work on Federal property. Such children are known as (b) children in the jargon of the impact aid legislation. The elimination of such moneys would not affect the quality of education nor the budgets of such districts in any significant way, since I have built into my amendment a sum of $38,900,000 as a protection for any districts losing more than 5 percent of their total 1974 operating budget as a result of eliminating category (b) children.

My amendment is an economy measure which would shear nearly a third of a billion dollars from our inflated national budget—but it is more than an economy measure. My primary motivation in offering this amendment is to end a program which in too many instances is unnecesary—and worse. It actually takes money from the poor to subsidize the rich, another example of the Robinhood in reverse principle.

Let me clarify at the outset that my amendment in no way affects the category (a) students. As Senators know, category (a) includes those children whose parents reside and work on Federal property while category (b) includes those children whose parents reside or work on Federal property. I do not argue against the widely acknowledged impact that category (a) children make upon a community. I concur with our committee that Federal allocations in this category should remain at the 90 percent to 100 percent range of entitlements as provided in the supplemental bill now under consideration.

I think it is time that this Congress musters the courage to scrutinize what has become one of our sacred cows and takes a close look at the recipients and effects of (b) category moneys. I am certainly not the first to doubt the validity of this portion of the impact aid program. President Eisenhower called it "arbitrary and illogical." President Kennedy said it "gives more money to more schools for more years than either logic or economy can justify." President Johnson urged its revision. Nixon said the program has "been twisted out of shape" and is "unfair." Former HEW Secretary Robert Finch called the program "a direct boondoggle." Secretary Weinberger has said that it is a "boondoggle that funnels hundreds of millions of dollars into the wrong areas." David Broder of the Washington Post has called it "a classic congressional pork barrel."

The (b) category of impact aid is an idea which has outlived its time. When impact aid was conceived in 1950, it was justifiable as an emergency measure to assist school districts which were being flooded by children whose parents were working on Government installations, such as at those military bases reactivated by the Korean war. The program was born in 1950 with a modest $30 million outlay, but by 1974 had blossomed into a $610,000,000 program.

Just think of that, Mr. President: It has expanded 20-fold since 1950. Since its inception, the Federal Government has provided over $7.2 billion for impact aid.

The program and the number of recipients have grown faster than Topsy. At the start of the program, the prerequisite for receiving funds was a minimum of 3 percent federally connected children of the total school district's enrollment. In 1966, Congress took the lid off the formula and said, "Come and get it" to any school district which had 400 or more "impact" students—regardless of whether that 400 constituted a small fraction of one percent of the district's enrollment. The consequence is that in fiscal year 1973, although only 2.3 million children were federally connected, half the Nation's schoolchildren went to schools receiving impact aid.

No wonder the program has been so politically popular. Yearly checks from Washington pouring regularly into a Senator's State or a Congressman's district which could be used to underwrite anything from badminton birdies in the girl's gym class to the aspirin in the teacher's lounge—with no questions asked.

On top of that, the criteria for determining who is federally connected are disturbingly loose. If a highway-maintenance crewman works on State roads which cross Federal land, for example, his children technically are counted for funding. One district gets approximately a quarter of its locally raised school revenue from taxes paid by privately owned oil-drilling equipment operating on Federal lands. Yet the people who operate that equipment are considered to be employed on Federal property, and consequently their children qualify in the district for impact aid funds.

To me, the most blatant feature of the program is the unfairness of its distribution of moneys. Whether or not a district receives funds has no bearing upon its financial need. In too many instances, and primarily because of the large numbers of children counted under category (b), the program has benefited rich districts while robbing the poor. Of the 20 school districts receiving the largest amounts of impact aid, 15 have median family incomes above the national average. Let us start by looking close to home.

Take Fairfax County, Va., for example. In 1973 its median family income was $14,942, highest in the Nation, compared with a national average of $9,544. Yet Fairfax County in fiscal year 1974 collected $13,335,883 in impact aid funds. Of that total, 12,119,997 of those dollars were brought in because of the presence of the so-called (b) category children. That sum is more than two and a half times the total impact aid money going to the country's 100 poorest counties. If that is not Robin Hood in reverse, I do not know what is.

Let us explore our neighborhood a little further. How about our Maryland bedroom community for Uncle Sam's employees? Montgomery County, with a median family income of $13,257 raked in $6,088,504 last year, and the (b) children were responsible for bringing $5,997,540 of that total. Montgomery County's neighbor, Prince Georges County did even better. With a median family income of $10,901, Prince Georges County received $9,802,486, of which $8,806,789 was for category (b) children. I could give Arlington and Alexandria in Virginia as similar examples and add countless others. But I think the point is clear—many school districts with the highest median family incomes in the country received tremendous sums under the impact aid program, and primarily because of the large numbers of category (b) children.

Now the question might be raised—well, does not the presence of such large numbers of (b) students cause a burden on the education budget of the communities in which they live? The answer must be a resounding "No!" because most of the children of Federal employees who attend schools in these counties are from families who own property which is taxable, and those tax funds are available for the education budget. The basic assumption of the impact aid legislation is that Federally connected students are an economic burden upon a community. There are profound problems with that assumption.

The present impact aid program overestimates the net burden in many cases. Let us examine a few. First, the Federal Government through the creation of a new—or the expansion of an existing—Federal installation, can create a wealthy community. Better wages for local residents who work at the installation is a direct effect, and the indirect effect comes through greater employment in local stores and service operations. We have just seen the disproportionately high median family incomes in the area surrounding Washington, D.C. We can reasonably speculate that if the capital had remained in Philadelphia, Washington might have been a town dependent on the ports of Georgetown and Alexandria, with an economy that might be comparable to that of Baltimore, Md., or Newport News, Va. Yet, now, because of the presence of such high numbers of Federal employees, the Washington area economy, with its restaurants, stores, real estate, and so forth, far surpasses that of Baltimore or Newport News. It is certainly fair to argue that these higher incomes are reflected in higher property values, and thus in a greater taxpaying capacity in the school districts serving the area. The Federal Government has created similar relatively wealthy communities in Huntsville, Ala., with the Redstone Arsenal, and in Cape Canaveral, Fla. Even without Federal impact aid, such communities are probably much better able to finance more than adequate public education systems than they would have been without Uncle Sam's presence. In these cases, and in others, impact aid dollars tend to add one more feather to an already finely plumed economic cap.

The effects are compounded. Essentially, what happens is that the rich get richer and the poor get deficit education financing. In 1969, the Batelle Memorial Institute of Columbus, Ohio conducted a study on school assistance in Federal affected areas. It concluded that those districts with high percentages of Federal students, such as Montgomery and Fairfax counties, tend to be able to combine local resources, State aid, and Federal impact aid to maintain a higher standard of education, as reflected in low pupil-teacher ratios and high per-pupil expenditures, while at the same time making a lower tax effort.

Mr. President. I ask unanimous consent to have printed in the Record a table from that study which bears out this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

PROFILE OF PUBLIC LAW 874 RECIPIENTS BY EXTENT OF FEDERAL IMPACT, 1967 68

	All districts	Districts with this percentage of Federal students				
		0 to 3	3 to 6	6 to 12	12 to 25	25 or more
Students (ADA)	6,271	10,556	5,149	3,914	5,962	2,639
Local contribution rate	$338	$348	$335	$327	$330	$352
Pupils per teacher	23	23	23	23	23	21
Relative salary index	1.83	1.93	1.79	1.76	1.76	1.87
Real tax rate, percent of base	1.09	1.19	1.16	.98	.99	.97

	All districts	Districts with this percentage of Federal students				
		0 to 3	3 to 6	6 to 12	12 to 25	25 or more
Real assessed value per pupil (thousands)	$46.1	$44.9	$56.1	$40.6	$49.0	$38.8
Real assessed value per non-Federal pupil (thousands)	$57.9	$45.9	$58.7	$44.4	$59.2	$117.7
Operating expenditures per pupil	$623	$634	$610	$598	$619	$683

Source: Battelle calculations.

Mr. PROXMIRE. The rich districts can tax their residents less, and have better education because of the presence of category (b) children, than districts with no or few such children.

And, to further add insult to injury, the extent of overpayment is shown in those richer, heavily impacted districts where the rich are getting so much more education for so much less local effort. More for less. Bargains for the rich. The situation is as ludicrous as it would be if Filene's bargain basement opened its doors only to those with incomes above $20,000.

Mr. President, money for category (b) students has no business being included in the supplemental appropriation we are considering today for all the reasons I have articulated.

I urge my colleagues to join me by supporting my amendment, to which the administration subscribes. Both the Office of Management and Budget and the Department of Health, Education, and Welfare adhere to the position maintained in my amendment.

Keep in mind that my amendment will not lower educational standards nor cause budgetary hardships to those districts which up to now have been receiving millions of dollars of category (b) moneys. Remember that this amendment includes language to appropriate $38,900,000 for making special payments to those school districts which are most severely affected by the termination of category (b). It would pay to those districts any amount which represents a greater than 5 percent loss of their 1974 operating budgets. Remember also that category (a) entitlements remain untouched.

Mr. President, we must not pass this opportunity to protect individual school districts, while at the same time, save the Nation nearly a third of a billion tax dollars. I ask my colleagues to join me in carrying out this responsibility.

The PRESIDING OFFICER (Mr. Helms). The Senator's time has expired.

Mr. MAGNUSON. Mr. President, the amendment of the Senator from Wisconsin would cut out (b) student impact aid. I think there are a lot of us sitting here who do not disagree with a lot of things he said. The Senator from New Hampshire and I have, for some time, tried and tried, but have never been able to succeed. The problem is that as long as it is the law, we cannot do much about it but furnish the (b) student impact aid. Everybody is now dependent upon it.

I have told this story many times, but I shall tell it again. I am a little bit embarrassed about impact aid. I think I started it all. I never knew it would spread this far. They were building a dam out in the State of Washington called Grand Coulee Dam. The county was nothing but sagebrush and jackrabbits. They did not have any school funds at all. Because it was a Government dam, I got the money, impact aid money, to build a grade school for the children of the workers.

That is what started it. Now it has gone on and on, and I sometimes wish that I had limited it only to that.

There are many things that the Senator from Wisconsin has said that I am in agreement with, and that Senator COTTON is, also, and some of the rest of us. But we do not have much to do about it now.

Mr. PROXMIRE. Will the Senator yield?

Mr. MAGNUSON. Yes, I yield.

Mr. PROXMIRE. I should like to make three points. One, I do not think we are mandated to fully appropriate funds for everything authorized. Is that correct?

Mr. MAGNUSON. No, but we are obligated as long as the law is there.

Mr. PROXMIRE. No. 2, the administration would like us to make this deletion of category (b) entitlements.

Mr. MAGNUSON. They have cut out of the budget all (b) student funds.

Mr. PROXMIRE. No. 3, I do leave $38.9 million in my amendment, so any school district which would lose more than 5 percent of its operating funds as a result of the loss of (b) funds would be reimbursed for any loss in excess of 5 percent. That is the estimate that the DHEW says will take care of that. So there would be no seriously bad impact, in any case.

Mr. MAGNUSON. We shall have to do something about the legislative matter before we can make a dent on (a) and (b) impact aid funds.

Mr. PROXMIRE. Will the Senator consider accepting this if I modify it?

Mr. MAGNUSON. I could not take this, because they would not even let me in the House conference if this happened. Every Congressman has impact aid in his school district. I may as well stay home from the conference if I do that.

No, I think it is going on, but I think there have to be some radical changes in what they are doing.

I now yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I reluctantly rise in opposition to the amendment, because, like the Senator from Washington, I agree with much of what the Senator from Wisconsin has said. He is only reiterating what many of us have said many times in the past, that the impact aid program no longer serves the need for which it was created.

The Senator from Wisconsin has made reference to the Batelle Memorial Institute study. That study did not conclude, however, that the entire Federal assistance program should be destroyed.

Mr. PROXMIRE. And I do not do that in my amendment.

Mr. McCLURE. Nor did it advocate eliminating the B students. It recommended revising the direction of the program, so that the program provides the aid to the school districts that really need the aid, and sometimes those are B students, not just A students.

Mr. PROXMIRE. Mr. President, my amendment provides $38.9 million for protection of areas where this would result in drastic reductions in operating budgets.

Mr. McCLURE. However, the district that is very needy, and has less than 5 percent of its operating budget in B students, is it fair to take away the 5-percent support they do get?

Mr. PROXMIRE. Of course, the answer is that the analysis shows that this money goes overwhelmingly to the rich districts. One county, Fairfax, gets more than 2½ times the total amount received by the Nation's 100 poorest counties combined. Talking about widows and orphans, they are the ones getting the dividends from corporations.

Mr. McCLURE. No question of that; but what the Senator is doing, in effect, is saying the program is a massive attempt which is misdirected. What I am saying is that the Senator's amendment is a massive attempt, but it is misdirected. It is just as wrong to destroy the aid to the needy as it is to overcompensate those who do not need the aid.

I have testified before the subcommittees in the House of Representatives, when I was a Member of the House; I have testified before the committees in the Senate in regard to the Batelle Memorial Institute report, and suggested we should revise the aid program so that the aid is channeled into those systems that need it. But this is not the way to legislate on that kind of a complex problem, and I very reluctantly rise in opposition to the amendment.

Mr. MAGNUSON. Mr. President, I yield myself 2 minutes.

Of course, there is another factor: As this thing has grown, we have gotten to the concept of revenue sharing, going back and helping out States, counties, and other places, and this has become, now, a revenue-sharing measure. It is a payment in lieu of taxes, is what it amounts to, in lieu of the loss of taxes. So it has one aspect to it that has grown, since I first started out with this little school out in the sagebrush.

Actually, the payment in lieu of taxes and for the loss of taxes has become looked upon by school district people and other people as revenue sharing.

Mr. PROXMIRE. May I say to the Senator from Washington that I am not going to ask for a rollcall vote on this amendment, but I wanted to make a record. I do hope that in the next year or so we can obtain some corrections and reforms. I think, as Senator MAGNUSON and others have pointed out, it does need correcting, and I hope we can revise the basic legislation, as it is obviously a very misdirected program.

Mr. MAGNUSON. The Senator has made a good record for us, but there is an ingrown issue here which will make it very difficult, because it is a form of revenue sharing and a payment in lieu of taxes; but I think the formula has been wrong in different areas.

Mr. AIKEN. Mr. President, will the Senator yield for me to ask a general question?

Mr. MAGNUSON. I yield.

Mr. AIKEN. I notice in the committee report that the bill as reported is $385 million over the budget estimate. Does the Senator know how much more has been added here, by amendments already approved?

Mr. McCLELLAN. About $115 million.

Mr. MAGNUSON. I handle only the section on health, education, and welfare, and we have only added, I think, about $4.5 million. But for the full bill, they tell me it is $115 million, the total.

Mr. AIKEN. Is that all?

Mr. McCLELLAN. It has been added here on the Senate floor.

Mr. AIKEN. Which makes it about $500 million over the estimate?

Mr. MAGNUSON. That is right.

The PRESIDING OFFICER. All time on the amendment has expired. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was rejected.

Mr. AIKEN. If I may ask another question——

Mr. MAGNUSON. I yield time to the Senator from Vermont. Do I have any time?

The PRESIDING OFFICER. The Chair is advised that time has expired.

Mr. AIKEN. Assuming that this bill exceeds the estimate by $500 million, and other appropriation bills carry corresponding increases, does the Budget Committee, I believe under the chairmanship of the Senator from Maine, then have to review all these appropriations, to make sure that they do not exceed the total established ceiling, and perhaps to make changes in them, or what happens?

Mr. MAGNUSON. Well, there is a little dispute about just what the authority of the Budget Committee is. These would be items coming out of the Appropriations Committee.

Mr. AIKEN. I wanted to clear that up.

Mr. MAGNUSON. The distinguished chairman of the Appropriations Committee and his committee were unanimous that we thought the Budget Committee's objective was to establish a ceiling, and we would have to come in with our priorities under the ceiling; but that does not take effect until next year.

But there are other items in appropriations bills. The appropriation bills, as of now, total close to $7 or $7.5 billion under the budget estimates. This bill is a little more difficult to get through.

Mr. AIKEN. But suppose this bill runs $600 or $700 million over the estimate, and the President should feel dutybound to veto it. What happens then?

Mr. MAGNUSON. What happens is what will happen tomorrow with the other things. That is why we have been attempting to hold this bill down. We do not want another veto. We have been vetoed now five times——

Mr. AIKEN. I know that.

Mr. MAGNUSON. And we do not want another veto on HEW. Now, this bill covers every other item. But the administration sent up over $5 billion in this chapter alone.

Mr. AIKEN. But assuming that the President should veto it, is the Senator confident he would not be charged with being against education, labor, health, and all those things?

Mr. MAGNUSON. I am always charged with that. That is why this is a very difficult bill. I had to oppose an amendment on drug abuse that I guess, in the scheme of things, dollarwise, did not amount to too much; but they all add up. So they will say, "He is against controlling drug abuse." Every time you vote against what the educators want, they say you are against education.

Mr. AIKEN. I thank the Senator from Washington for partially clearing up this misunderstanding in my mind. But I think that when we know we are encouraging the President to veto legislation, that is not a good thing to do, and I wish we could stop it.

Mr. MAGNUSON. We have kept HEW under the budget on the regular bill.

Mr. AIKEN. The committee did.

Mr. MAGNUSON. The committee is under the budget in the regular bill by about $500 million.

Mr. AIKEN. I commend the Senator.

Mr. MAGNUSON. The regular bill is in conference now.

Mr. AIKEN. I commend the chairman of the committee for doing that.

Mr. BEALL. Mr. President, I have two amendments, one of which will be immediately acceptable to the committee, I understand, and the other will not.

I will send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Which amendment does the Senator prefer to have read?

Mr. BEALL. The one I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> On page 13, line 3, strike "except section 309A,"

Mr. BEALL. Mr. President, on page 13 of this supplemental appropriations bill under consideration we have funded adult education and excepted section 309A of the act of 1969.

Section 309A establishes a clearinghouse for adult education which creates the framework within which all of the aid that is available in adult education can be brought together and disseminated to the public so they understand what programs are available.

This does not cost any additional money. It just makes section 309A eligible for funding in the amount of money that is already appropriated.

As I say, I discussed this with the managers of the bill, and I understand there is no objection.

Mr. MAGNUSON. The Senator from Maryland has talked to us about this amendment. Actually it is a clarifying amendment. It does not add any money to the bill and, therefore, we will accept it at this point.

Mr. BEALL. I yield back my time on this amendment.

The PRESIDING OFFICER (Mr. McCLURE). Has all time been yielded back? All time having been yielded back, the question is on agreeing to the amendment (putting the question).

The amendment was agreed to.

AMENDMENT NO. 1976

Mr. BEALL. Mr. President, I call up my amendment No. 1976.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to read the amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 11, following line 10, add the following new paragraph:
>
> READING IMPROVEMENT PROGRAMS
>
> For carrying out title VII of Public Law 93-380 $20,000,000, of which $10,000,000 shall be for section 705, $7,000,000 shall be for section 721, and $3,000,000 shall be for section 722.

Mr. BEALL. Mr. President, the amendment which was just reported would fund the national reading improvement program which was enacted as part of Public Law 93-380. This bill passed through Congress earlier this year.

This program was authored by Senators EAGLETON, DOMINICK, and myself. The bill was cosponsored by Senators DOMENICI, MONTOYA, and PASTORE; and, I might say, this program established under the bill had the overwhelming support of the education community.

The amendment which has just been reported, would provide $20 million, of which $10 million would be available for reading-improvement projects under section 705 of this act.

Under this section, the Federal Government would fund programs designed by local education agencies to overcome reading deficiencies; $7 million would be available for the special emphasis projects under section 721. Under this section, the Federal Government will fund specific demonstration projects to determine the effectiveness of intensive instruction by reading specialists and the regular elementary teachers.

Finally, the amendment would provide $3 million to implement section 722, which authorizes the development of courses to be available for the showing on public television—principally for the benefit of the teachers, so they can better train the teachers who are going to have the responsibility to train young people to read.

At my request, the Library of Congress surveyed the 50 States and this survey documented the inadequate preparation and requirements for the teaching of reading. The educational literature has recognized this for some time. The teachers themselves have indicated the need for more training in this area. Some educational agencies, such as Baltimore City, have ordered teachers to take additional courses. Yet, it is not enough to recognize a deficiency but we must provide the means, for teachers, who after all are busy people, to get this additional training.

This would enable the development of 12 credit hours that could be seen by teachers everywhere in the country.

I believe the following statistics indicate the need for action to combat what I have called the "Achilles' heel" of American education, the large number or high concentration of children in some of our schools with severe reading difficulties.

First. That some 18½ million adults are functional illiterates;

Second. That some 7 million elementary and secondary children are in severe need of special reading assistance;

Third. That in large urban areas, 40 to 50 percent of the children are reading below grade level;

Fourth. That 90 percent of the 700,000 students who drop out of school annually are classified as poor readers; and

Fifth. That massive reading difficulties revealed in those statistics have been confirmed by surveys of teachers and principals alike.

The Office of Education in 1969 surveyed 33,000 title I elementary schools in over 9,200 school districts across the country. Two hundred and sixteen thousand teachers were asked to supply data on approximately 6 million pupils in grades 2, 4, and 6. These teachers judged reading the greatest area of need and they estimated that approximately 2.5 million pupils, or 48 percent of the enrollment in these grades, showed evidence of a critical need for compensatory programs in reading. This data indicated that 22 percent of the urban schools had 70 to 100 percent of their pupils reading 1 year below grade level.

Similarly, a survey of principals representing elementary school populations of approximately 20 million and a secondary school population of 17.8 million was taken seeking their estimate of the reading problem. These responses were analyzed by Carol Ann Dwyer of the Education Testing Services, Berkeley, Calif., and she found that the principals identified some 4.7 million pupils with reading problems in the elementary grades, and 2.7 million in the secondary grades.

Sixth. Alarmingly, 37 percent of the elementary pupils and 46 percent of the secondary pupils with reading problems were reported to be receiving no special assistance in the instruction of reading.

The Department of Education in my State last year released the results of its survey of 11,000 citizens on the most important goal for Maryland schools. The survey found that "the people of Maryland believe that the mastering of reading skills is the most important education goal for the schools of the State."

Seventh. Over and over again, parents, the general public, and the press across the Nation have expressed concern with poor student performance in the fundamental reading areas.

Eighth. After I introduced this measure, an individual from Texas sent me a copy of the Dallas Morning News of June 24, 1973, which did a story on "Illiterate Graduates Face Literate World." I want to read into the RECORD the first two paragraphs from this article:

> At commencement exercises throughout the city recently, anywhere from 500 to 1,000 of Dallas' 9,000 graduating seniors, according to official estimates, walked across stages to be handed diplomas they could not read.
>
> Barely able to read, many will wind up with poor jobs or no jobs at all.
>
> Still in school, youngsters who are either unable to read at all or read only at the most elementary level can be found in almost every one of Dallas' 43 secondary schools.
>
> Dallas School Superintendent Nolan Estes has estimated more than 20,000 of the public school system's 70,000 secondary students read at least two or more years below grade level.

Mr. President, on September 23, 1969, then Commissioner of Education James E. Allen announced the beginning of a new right-to-read program. Since then his three successors have also recognized and supported reading as a priority area.

However, as a recent special report of "Education U.S.A." noted this program "has become one of the most highly publicized and underfinanced Federal efforts in educational history."

The national reading program provides a comprehensive attack on the critical reading problem. This amendment enables us to begin this task.

So, Mr. President, I think it is important if we fund this bill, this particular act, that was added as a part of the Elementary and Secondary Education Act when it passed through Congress earlier this year, that it be funded now, and this is the only vehicle that can be used for that funding this year.

I would suggest to the chairman of the subcommittee, I realize that he has been laboring mightily to see to it that nothing is added in the way of additional expenditures to this bill—I can understand that—but I would suggest that this proposal is in a different category because we are funding a program which Congress has just authorized and it is appropriate, therefore, that we embark on this program at this time because we are dealing with a very important national problem, and I think it should be of the highest priority concern to all of us who serve in the body, as it is of concern to people across the country, that we have the ability, first of all, to identify young people in the first, second, and third grades of school who do not read up to standard, and then once we identify them that we have the capacity to correct this deficiency and that our teachers are adequately trained and prepared to do the job.

It is interesting that this kind of proposal is supported not only by the educational community but it received widespread support throughout the entire community. Gov. Ronald Reagan, for instance, replying to an Education USA Survey, said the following:

> I agree with those who are concerned about the fact there are so many functionally illiterate people in the United States. We can ill afford such a situation in a free and open society which requires a reasonably informed and enlightened citizenry for its very existence. Such functionally illiterate people are unable to fully meet their responsibilities to society and share fully in the economic and social benefits to be derived from it. They become a burden to all of us. Because of its many implications and ramifications this is a problem requiring immediate and continuing attention.

Mr. President, I suggest that this is the kind of immediate attention that this problem deserves, and I think it is rather appropriate that, by accident, this amendment bears the number 1976 because in 1976 we are marking our bicentennial year and, it seems to me, there is no greater commitment we could be making to the future generations of Americans and to the young people of today than to see to it that by 1976 we have operative in our school systems a program that is going to make sure we do not have the kind of reading deficiencies among our younger population that we have today.

I, therefore, suggest to the Senate that it is appropriate that this particular amendment be added to the bill.

I will be glad to yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator from Maryland.

I want to add my few words to his with reference to this aspect of the bill.

I commend the chairman of the committee for trying to keep programs that are funded under this bill in line. However, it appears to me that when we have a new one that is as much needed as this one—and I do not believe there could have been any controversy at the committee level—there could not have been any evidence elicited that would indicate anything other than that this program is long overdue as a stimulant to the States of the United States to get back into the basic business of teaching reading.

We have now funded, well within the budget, a lot of programs that are experimental, that are demonstrative in origin, that have some very fine potential. I would encourage the chairman to accept this as one that goes to the very basic reason for having public education. We cannot deny the fact that there is a failure in the basic system of teaching reading. This will not cure it, but it will be a stimulus for the States to draw on the expertise that this program develops. It will restimulate them to a commitment that indeed they can do a better job at it.

I would add, by way of my own State, I submitted a questionnaire to teachers, principals, and demonstrators with a request as to the priority with respect to which programs they thought should have the highest priority.

I can report to the chairman that it was practically unanimous that of all the programs we were offering, the Beall proposal to put some money into emphasizing reading and the basic skill of teaching reading was high on everyone's list as a basic deficiency now existing within the school system.

I am not one for trying to add to the conscientious effort that has been put into this supplemental budget, to the effort of the chairman to keep it within the executive budget. But I honestly believe it is a serious mistake to pass a bill like this and then not fund it, to leave many people expecting it and then putting nothing in to get it started.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BEALL. How much time do I have remaining?

The PRESIDING OFFICER. Two minutes.

Mr. BEALL. I yield half a minute.

Mr. DOMENICI. The amount does not seem to me to be extreme, and I urge the chairman to accept it.

Mr. BEALL. I reserve the remainder of my time.

Mr. MAGNUSON. How much time does the Senator have left?

Mr. BEALL. I have a minute and a half left.

Mr. MAGNUSON. Well, Mr. President, here is the same thing we voted on in the Senate now four times today and yesterday about new programs that they want to start up in a supplemental.

There is already $12 million in the regular bill for the right to read, and I do not see any sense in having another program running along the same track or some other track alongside until we know what we are doing.

By the time this new program gets going, we would be looking at the 1976 budget. In the meantime, there would be an add-on to this budget and the House, of course, would not take it and nothing would happen.

I would rather look at this program after the dust has settled. It is brand new, no hearings have been held on it, no one has had any witnesses come down and ask us about this. No one has any plans that we know of. All of these things point to the need to take a closer look.

In the regular bill, through all the education items which amount to billions, there is an opportunity under several of these programs to conduct reading programs.

We did go ahead with right-to-read and we put $12 million in the regular bill.

Now, here is a new program coming along. I do not know what anyone means by special reading projects. I do not think anybody else does.

I do not know whether we should spend $7 million determine whether intensive reading programs help the children. That may be the case, but let us take a close look before we rush headlong into this. We might end up hurting the program if we try to start it up before all the facts are in.

I do not know whether $3 million is enough to encourage reading programs on public TV, but there are reading programs on public TV, and we have got a very substantial sum in here for this type of program on public TV.

As a matter of fact, the Senator from Washington added on money for public TV. I introduced the first bill for public TV.

Now, I do not suggest that these programs might not be good ones, but no one knows, except this afternoon the statement by the two Senators, what they are about and whether we should spend this amount of money, this $20 million.

So I am going to have to oppose it and suggest that we have hearings on it and talk about it and find out if and what is needed. But there are hundreds of millions of dollars in the educational programs in this bill and any one of them can be reprogramed from title I down through all titles for reading programs if they wish. This is just an add-on.

Therefore, I am going to oppose the amendment and I must say I am laboring mightily to keep this bill down.

Mr. BEALL. Mr. President, I appreciate the view of the distinguished chairman of the subcommittee but, most respectfully, I must disagree, of course, because I think this is a needed adjunct. This is going to make the right-to-read program much more effective than it has been.

It is interesting to note a comment from the Commissioner of Education who says that under the new reading program, the shotgun approach of funding innovative programs, as they spring up around the country, will be a thing of the past.

I point out, the innovative projects will not be vague, random efforts. It is a specific direction at a specific problem.

The purpose of this particular legislation is not to do something about the child when we find out he cannot read. It is to take care of the children in the process of learning to read. It is to have remedial steps available to them when they can be of advantage to the child that is not learning to read properly.

I suggest it is very timely that this be done now. I would suggest further, the Office of Education is already drawing up regulations, so this is something that could be implemented immediately because they are presently working on the project, all they need is the funding.

Mr. MAGNUSON. Well, when the new budget comes up, we will be glad to entertain it if it is in there; but right now we know nothing about it.

I want to say to the Senator from Maryland, I hope I am not correct, but it looks to me after being here, back from the recess, we are going to be here a long time, and any time we are here over 30 days, we have another supplemental.

Mr. BEALL. I recognize that, but I suggest also that——

Mr. MAGNUSON. We will be glad to entertain this at a later date.

Mr. BEALL. I would suggest, the problem is so important and so much in the national interest, it is something that should be done now.

Mr. MAGNUSON. There is no use using that term, national interest.

Mr. BEALL. The longer we delay, it means another school year is passed by before it is started. I think the Congress ought to act on the legislation. Therefore, that we should put the muscle where our mouth has been. We should say that we have authorized the program, here is the money to get started, let us get to work on the job.

Mr. MAGNUSON. I have listened for 3 days to every speaker on how needy these programs are. They are all needy and all worthy, but let us move on; we have got a great deal of money already available for these things.

I will say to the Senator from New Mexico that in here, for bilingual education, we have upped it, doubled it. A reading program is involved in that for the Spanish people.

We have done it all through this bill and we are always adding on one of these special projects when they can be done through the bill. This bill is now about $6 billion. They can find the money to do what you want within that sum.

Mr. BEALL. If the Senator will yield. Yesterday I had an amendment——

Mr. MAGNUSON. I yield to the Senator from North Dakota.

Mr. YOUNG. I want to join with the chairman of the Subcommittee on Labor, Health, Education and Welfare in opposition to this amendment, primarily on the grounds that hearings have not been held. I do not know how we can operate in the Congress by adding on millions of dollars without hearings or a budget estimate. It is a bad procedure.

This may be a very meritorious program, but I would hope it could wait until the next Congress which convenes in January. There will be a supplemental bill at that time. If it is an urgent matter, it could be added on that bill.

In the last days of the session to add on this amount of money, $20 million, without hearings and a budget estimate is a bad procedure.

I do not think a Member can be considered to be against education because he votes against an amendment when there have been no hearings to justify and support the program.

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. BEALL. I have no time remaining.

The PRESIDING OFFICER. All time has been yielded back.

Mr. BEALL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from Indiana (Mr. Hartke), the Senator from Colorado (Mr. Haskell), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from West Virginia (Mr. Randolph), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "nay."

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Wyoming (Mr. Hansen) are necessarily absent.

I also announce that the Senator from New York (Mr. Buckley) and the Senator from Maryland (Mr. Mathias) are absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 17, nays 66, as follows:

[No. 491 Leg.]

YEAS—17

Beall
Brooke
Case
Clark
Domenici
Dominick
Gravel
Hathaway
Jackson
Javits
Pearson
Pell
Ribicoff
Schweiker
Scott, Hugh
Stafford
Weicker

NAYS—66

Abourezk
Aiken
Bartlett
Bayh
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Cotton
Cranston
Curtis
Dole
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hart
Helms
Hollings
Hruska
Huddleston
Hughes
Inouye
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Percy
Proxmire
Roth
Scott, William L.
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

NOT VOTING—17

Allen
Baker
Buckley
Church
Eagleton
Fulbright
Hansen
Hartke
Haskell
Hatfield
Humphrey
Johnston
Kennedy
Mathias
McGovern
Randolph
Sparkman

So Mr. Beall's amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. AIKEN and Mr. PASTORE moved to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1978

Mr. PERCY. Mr. President, I call up my amendment No. 1987, and I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. Nunn). Without objection, it is so ordered.

The amendment is as follows:

On page 13, after line 11, insert the following:

SALARIES AND EXPENSES

For carrying out section 409 of the Education Amendments of 1974, $750,000.

Mr. PERCY. Mr. President, Public Law 85-874, adopted by the 85th Congress, in section 4, states:

> The board shall . . . develop programs for children and youth . . . in such arts designed specifically for their participation, education and recreation.

This act created the Kennedy Center for the Performing Arts. The Kennedy Center Board is required to provide certain programs for children in this country to expand their appreciation of and participation in the arts.

The pending amendment provides for funding of the elementary and secondary schools education in the arts program at a level of $750,000. This program, which was first authorized in the Education Amendments of 1974, is now being funded under the continuing resolution at the level of $500,000.

This program authorizes the Commissioner of Education through arrangements made with the John F. Kennedy Center For the Performing Arts, to carry out a program of grants and contracts to encourage and assist State and local educational agencies to establish and conduct programs in which the arts are an integral part of elementary and secondary school programs.

My amendment will set funding for fiscal 1975 at the authorized level, thus allowing the program to get fully underway, and enabling those additional States that have developed programs to have those programs funded.

Mr. PELL. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. PELL. Mr. President, I am glad to support the amendment of the Senator from Illinois. It is the funding of an amendment on which we worked hard in the authorization bill. I am delighted to understand that the manager of the bill will accept the amendment.

Mr. **MAGNUSON**. Mr. President, I speak for myself in accepting this amendment. It does include a matter that we always thought should be part of the whole Kennedy Center operation, extended to the youth programs. That is just what this does. So I am glad to accept the amendment.

Mr. **PERCY**. I appreciate the Senator's comments.

Mr. President, I yield back the remainder of my time.

Mr. **MAGNUSON**. I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. **PERCY**. Mr. President, I express my appreciation to Senator Magnuson, Senator Young, Senator Cotton, and Senator Case for their approval of this fine program.

Mr. **STAFFORD**. Mr. President, I call up my amendment which is at the desk.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 12, line 20, strike out "$324,609,000" and insert in lieu thereof "$349,609,000".

Mr. **STAFFORD**. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. **STAFFORD**. Mr. President, I ask unanimous consent that Michael Francis, of my staff, may have the privilege of the floor during the consideration of and vote on this amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **STAFFORD**. Mr. President, title VI–B, Education of the Handicapped, Aid to the States, is currently a program of grants to the States to assist in the initiation, expansion, and improvement of education for our Nation's handicapped children at the preschool, elementary, and secondary levels.

My colleagues will recall that the Education Amendments of 1974, Public Law 93–380, signed by President Ford on August 21, alters the formula for title VI–B significantly by creating an entitlement based upon the number of all children within a State between the ages of 3 and 21 in the most recent year for which satisfactory data is available multiplied by approximately $8.75. This entitlement at full appropriation would make available $660 million for fiscal 1975.

I would respectfully point out to my colleagues that this in an entitlement, not a simple authorization because we are engaged in unusually serious business, namely, ending the exclusion of millions of our handicapped children from an appropriate publicly supported education. It will be recalled that priority in the use of funds under this entitlement must go to handicapped children still unserved by an educational program.

Needless to say, Mr. President, I supported the creation of this entitlement, originally proposed by our distinguished colleague from Maryland, Mr. Mathias. In point of fact, I offered and the Senate accepted vital guarantees for handicapped children and their parents which were authorized as part of the Mathias amendment.

Now we are involved in that equally tough, equally delicate and painful enterprise of determining what the actual appropriation will be under the new "Mathias entitlement." We observe that our colleagues on the Appropriations Committee have not been ungenerous, given the economic condition obtaining, and certainly have not been ungenerous when we compare their appropriation figure of $125 million for fiscal 1975 to the actual appropriations for fiscal 1974 under title VI–B, ESEA, of $47.5 million. I say to the distinguished chairman that we understand the problem he faces.

However, we must bear in mind this entitlement envisioned a "quantum jump," as it were, a move to the "second generation" of Federal support for handicapped children. I would further observe that even the appropriation figure at full entitlement of $660 million would only be a breakthrough when one considers that many of the experts estimate that from $2.5 to $3 billion in additional dollars is needed at all levels of government if all of our handicapped children are to have a genuine equal opportunity in education.

The amendment before the Senate would raise the committee figure to $150 million and would represent a little more than 20 percent of entitlement. My amendment would at least be a minimum liveable response to our own prior commitment in the authorizing legislation and would at least indicate that we are attempting to "put our money where our commitment is." This amendment would in fact put us on the road to a meaningful Federal partnership with the States toward bringing our last neglected offspring into the mainstream of educational opportunity. Let me now discuss some of the reasons which I trust will persuade my colleagues to vote in favor of this amendment.

We are all aware that numerous parents and advocates for handicapped children have in the past 3 or 4 years sought redress in the courts. In point of fact, there are at least 36 cases now filed and/or completed in 25 of the States of the Union. Aside from the vital and immediate consideration that the courts are affirming the right to an education, the very fact that so many suits have been brought is in itself more than eloquent testimony that severe neglect is at last coming to an end.

The landmark case was *Pennsylvania Association for Retarded Children* v. *Commonwealth of Pennsylvania*, 344 F. Supp. 1257 (E.D. Pa. 1971) and 343 F. Supp. 279 (E.D. Pa. 1972).

In January 1971 the Pennsylvania Association for Retarded Children brought suit against Pennsylvania for the State's failure to provide all retarded children access to a free public education. The plaintiffs included 14 mentally retarded children of school age who were representing themselves and "all other similarly situated." At issue in this landmark confrontation was a challenge to law and practice which excludes, postpones, or denies free access to public instruction for all exceptional youngsters who can benefit from special educational opportunities.

The courtroom was alive with frank public debate too long suppressed: The mentally retarded can learn. Education is not just an academic experience, but must be seen as a continuous process by which human beings learn to function within their environment. The earlier these children are provided with educational experiences, the greater the amount of learning that can be predicted.

The court did not mince words in its subsequent decree. It mandated that the State could not apply any law which would postpone or in any way deny mentally retarded children access to a publicly supported education, including a public school program, tuition or tuition maintenance, and homebound instruction.

The court went a bit further: By October 1971, the plaintiff children were to have been reevaluated and placed in programs. The court further decreed that by September 1972, all retarded children in the State of Pennsylvania between the ages of 6 and 21 must be provided a publicly-supported education.

The following quotations from decisions of the Supreme Court of North Dakota on April 30, 1974; the State Commissioner of Education of New York State on November 26, 1973; and the Circuit Court for Baltimore County in Maryland on May 3, 1974, are testimony to the continuing success of the judicial effort to achieve the right to education for all handicapped children.

> We hold that G.H. is entitled to an equal educational opportunity under the Constitution of North Dakota, and that depriving her of that opportunity would be an unconstitutional denial of equal protection under the Federal and State Constitutions and of the Due Process and Privileges and Immunities Clauses of the North Dakota Constitution. (*In the Interest of G.H., A Child* v. *G.H., B.H., F.H., Williston School District No. 1, et. al.,* 1974).
>
> I find that a class appeal is properly brought in this matter, in that there are admittedly numerous children residing within the respondent district whose educational needs are not being adequately served, as required by Section 4404 of the Education Law. (*Reid* v. *Board of Education of the City of New York*, 1973).
>
> The Court declares that it is the established policy of the State of Maryland to provide a free education to all persons between the ages of five and twenty years, and this includes children with handicaps, and particularly mentally retarded children, regardless of how severely and profoundly retarded they may be. (*Maryland Association for Retarded Children, et. al.,* v. *State of Maryland, et. al.,* 1974).

The courts are making it abundantly clear that justice delayed is quite simply justice denied.

At the close of the 1972 regular State legislative sessions across the United States, a total of 43 States had in place some form of legislation mandating the availability of public educational services to all handicapped children.

Mr. President, I ask unanimous consent that the nature and extent of mandatory legislation in the States be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE STATUTORY RESPONSIBILITIES FOR THE EDUCATION OF HANDICAPPED CHILDREN—AUG. 21, 1974

State	Type of mandation	Date of passage	Compliance date	Ages of eligibility	Categories of children not included in mandate
Alabama	Full planning and programing	1971	1977	6-21	Profoundly retarded.
Alaska	Full program	1974		From age 3	
Arizona	Selective planning and programing	1973	Sept. 1, 1976	5-21	Emotionally handicapped.
Arkansas	Full planning and programing[1]	1973	1979-80	6-21	
California	Selective			6-21[2]	"Educationally handicapped" (emotionally disturbed, learning disabled).
Colorado	Full planning and programing	1973	July 1, 1975	5-21	
Connecticut	do	1966		4-21[3]	
Delaware	Full program "wherever possible"			4-21	Severely mentally or physically handicapped.
District of Columbia	No statute court order: Full program	1972	1972	From age 6	
Florida	Full program		1973[4]	3-no maximum (13 years guaranteed).	
Georgia	Full planning and programing	1968	1975-76	3-20	Profoundly retarded.
Hawaii	Full program	1949		5-20	
Idaho	do.[5]	1972[5]		6-21	
Illinois	do	1965	July 1, 1969	3-21[6]	
Indiana	Full planning and programing	1969	1973	6-18	
Iowa	Full program "if reasonably possible"	1974		Birth-21	
Kansas	Full planning and programing	1974	1979[7]	Developmentally disabled: Birth-21.	
Kentucky	Planning and programing	1970	1974	(8)	
	Petition (trainable mentally retarded only)	1962	6-21		Other than trainable mentally retarded.
Louisiana	Court order—Orleans parish only: selective for mentally retarded, otherwise permissive.	1973	1973	6-21[9]	Other than mentally retarded.
Maine	Full planning and programing	1973	1975[10]	5-20	
Maryland	do	1973	1979[11]	(12)	
Massachusetts	do	1972	September 1, 1974	3-21	
Michigan	do	1971	1973-74	Birth-25	
Minnesota	Full program		July 2, 1972[13]	5-21	
Mississippi	Permissive				
Missouri	Full planning and programing	1973		5-21	
Montana	Full program[14]	1974	July 1, 1979	6-21	
Nebraska	Full planning and programing	1973	Oct. 1, 1976[15]	5-18	
Nevada	Full program	1973		5-18[16]	
New Hampshire	do			Birth-21	
New Jersey	do	1954[17]		5-20	
New Mexico	Full planning and programing	1972	1976-77	6-21[18]	
New York	Court order: full program (New York City only)	1973	1973	5-21	
	Conditional: 10 or more children who can be grouped homogeneously in same class.			5-21	Profoundly retarded.
North Carolina	Full planning	1974	(19)	Birth-[20] Adulthood	
North Dakota	Full planning and programing	1973	July 1, 1980[21]	6-21	
Ohio	Selective, by petition (8 or more crippled or educable mentally retarded children in district).			From age 5	Other than crippled or educable mentally retarded.
	Selective planning	1972	1973	6-18[22]	Trainable or profoundly mentally retarded.
Oklahoma	Full program	1971	Sept. 1, 1970	4-21[23]	
Oregon	do	1973		EMR: 6-21, others: birth-21	
Pennsylvania	Court order: selective (mentally retarded only).	1971-72	Sept. 1972	6-21[24]	Other than mentally retarded.
	Full planning and programing	1956	1956	6-21	
Rhode Island	Full program		1964[25]	3-21[25]	
South Carolina	Full planning and programing	1972	1977	6-21[26]	
South Dakota	Full program	1972		Birth-21	
Tennessee	Full planning and programing	1972	1974-75	4-21	
Texas	Full program[27]	1969	1976-77[27]	3-21	
Utah	do	1969		6-18	
Vermont	do[28]	1972		Birth-21	
Virginia	do	1972	(29)	2-21	
Washington	do	1971		6-21	
West Virginia	do	1974	1974	5-23	
Wisconsin	Full planning and programing	1973	Aug. 1974	3-21	
Wyoming	Full program	1969		6-21	

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[1] Current statute is conditional: 5 or more similarly handicapped children in district. However, a 1973 Attorney General's opinion stated that the law mandating full planning and programing was effective July 1973. If the State activates a kindergarten program for 5-year old children, ages of eligibility will be 5-21.

[2] 5-21 for deaf, severely hard of hearing.

[3] 3-21 for hearing impaired. Lower figure applies to age of child as of January 1 of the school year.

[4] 1973 law did not include profoundly retarded: however, a 1974 amendment brought these children under the provisions of the mandatory law. Compliance date for services to these children is mandated for 1977-78.

[5] Earlier (1963) law was mandatory for all handicapped children except trainable mentally retarded.

[6] 5-21 for speech defective.

[7] "Developmentally disabled" means retardation, cerebral palsy or epilepsy. For other disabilities, the State board is to determine ages of eligibility as part of the State plan. Compliance date is July 1, 1974 for DD programs.

[8] Disabilities and ages to be served were to be determined as part of the State plan.

[9] Residents over age 21 who were not provided educational services as children must also be given education and training opportunities.

[10] In cases of significant hardship the commissioner of education may waive enforcement until 1977.

[11] Court order sets deadline in Supplement, 1975.

[12] Services must begin as soon as the child can benefit from them, whether or not he is of school age.

[13] Date on which trainable mentally retarded were included under the previously existing mandatory law.

[14] Statute now in effect is selective and conditional; at least 10 educable mentally retarded, 7 *trainable* mentally retarded, or 10 physically handicapped in school district. Full mandation becomes effective July 1, 1979.

[15] Acoustically handicapped Oct. 1, 1974.

[16] Aurally handicapped and visually handicapped: birth-18.

[17] Date of original mandatory law, which has since been amended to include all children.

[18] Child must be 6 years old by January 1 of school year.

[19] Implementation date to be specified in preliminary State plan to be submitted to 1975 General Assembly.

[20] Deaf: to age 18—or to age 21 "if need exists."

[21] All children must be served as soon as they are identified as handicapped.

[22] 3-18 for deaf, blind.

[23] 2-21 for blind, partially blind, deaf, hard of hearing.

[24] When programs are provided for pre-school age children, they must also be provided for mentally handicapped children of the same age.

[25] For mentally retarded or multiply handicapped. Others, as defined in regulations. Compliance date established by regulations.

[26] 4-21 for hearing handicapped.

[27] The Texas educational agency is operating under the assumption that the law is mandatory, and has requested an opinion from the State Attorney General on this question. Compliance date is as established by State policy if the law does not specify a compliance date.

[28] Within the limits of available funds and personnel.

[29] Sept. 1, 1976 established by regulations.

Note: This chart was prepared by the Council for Exceptional Children's State/Federal Information Clearinghouse for Exceptional Children. Current State special education statutes were analyzed and direct contact was made with selected State directors of special education.

Definition of the kinds of mandatory legislation used by States: full program mandate, such laws require that programs must be provided where children meet the criteria defining the exceptionality; planning and programing mandate, this form includes required planning prior to required programing; planning mandate, this kind of law mandates only a requirement for planning; conditional mandate, this kind of law requires that certain conditions must be met in or by the local education district before mandation takes effect (this usually means that a certain number of children with like handicaps must reside in a district before the district is obliged to provide for them); mandate by petition, this kind of law places the burden of responsibility for program development on the community in terms of parents and interested agencies who may petition school districts to provide programs; selective mandate, in this case, not all disabilities are treated equally. Education is provided (mandated) for some but not all categories of disabilities.

TABLE 6.10.--HANDICAPPED CHILDREN RECEIVING EDUCATIONAL SERVICE, BY DISABILITY

State	Mentally retarded		Hard of hearing	Deaf	Speech impaired	Visually impaired	Emotionally disturbed	Crippled	Learning disabled	Other health impaired	Total
	Trainable	Educable									
Alabama	2,208	13,884	347	777	8,550	426	616	452	620	540	28,420
Alaska	140	900	160	50	70	35	166	40	400	50	2,011
Arizona	952	6,153	60	0	6,090	61	799	163	376	473	15,127
Arkansas	1,800	7,377	0	342	5,010	224	329	146	845	357	16,430
California	11,000	47,000	3,000	3,000	130,000	2,500	0	58,000	60,000	0	313,900
Colorado	0	8,584	1,716	451	23,184	233	6,241	533	0	1,250	42,192
Connecticut	2,962	5,260	1,573	0	13,033	464	9,044	2,424	9,501	0	44,261
Delaware	650	2,800	8	155	4,000	95	910	200	920	580	10,318
Florida	3,450	26,000	11,410	1,400	33,590	1,050	7,500	7,000	9,000	0	100,400
Georgia	3,683	31,666	1,085	630	28,232	1,100	3,479	0	2,557	4,108	76,540
Hawaii	733	2,409	152	176	3,960	51	193	155	1,339	100	9,268
Idaho	492	1,700	53	109	4,786	80	0	32	2,908	0	10,160
Illinois	7,040	37,840	9,100	2,480	97,000	1,617	26,510	7,600	12,463	5,320	206,970
Indiana	5,420	18,968	200	927	48,616	374	745	402	190	106	75,948
Iowa	1,450	7,883	430	70	20,414	280	9,464	854	1,400	970	43,215
Kansas	945	7,735	256	0	16,000	180	1,300	770	1,170	1,300	29,656
Kentucky	1,464	13,560	1,040	288	19,000	143	840	2,044	984	0	39,373
Louisiana	1,000	13,500	300	100	32,000	150	1,000	200	1,700	1,000	50,950
Maine	665	2,900	98	336	3,700	283	320	405	800	102	9,609
Maryland	3,165	21,180	633	462	22,435	448	1,307	438	6,893	4,987	61,948
Massachusetts	1,969	12,106	1,087	1,377	32,934	730	3,345	5,500	16,480	0	75,528
Michigan	11,522	42,393	2,399	828	91,488	1,818	6,181	7,539	0	0	164,168
Minnesota	4,284	12,500	0	1,200	28,560	400	27,500	500	0	400	75,344
Mississippi	886	8,623	118	310	9,556	192	74	580	528	60	20,927
Missouri	0	19,877	652	0	33,751	129	808	712	912	1,162	58,003
Montana	510	1,700	53	60	3,000	103	600	750	1,733	45	8,554
Nebraska	2,240	6,043	281	305	17,047	246	913	378	1,302	136	28,891
Nevada	300	1,600	70	30	2,800	50	950	200	0	0	6,000
New Hampshire	619	1,999	263	213	5,050	108	463	50	1,304	244	10,313
New Jersey	6,043	20,661	691	1,654	61,023	1,875	26,274	1,178	5,748	24,625	149,772
New Mexico	1,040	4,590	75	265	2,980	385	276	125	625	150	10,551
New York	12,961	49,842	3,666	2,984	118,658	3,069	27,927	11,938	0	5,670	236,715
North Carolina	3,293	38,000	1,645	0	34,000	1,300	2,000	515	2,500	600	83,853
North Dakota	180	1,240	12	0	4,500	60	1,217	115	1,117	160	8,601
Ohio	14,760	53,239	0	2,436	93,035	1,089	0	1,650	18,645	6,576	191,430
Oklahoma	1,243	11,013	186	462	13,597	157	180	158	5,325	1,511	33,832
Oregon	887	4,670	325	398	14,500	250	650	444	7,000	700	29,824
Pennsylvania	6,200	43,233	1,500	600	80,500	2,050	2,200	2,187	0	1,980	140,450
Rhode Island	300	2,500	4,200	0	7,200	281	600	150	3,800	300	19,331
South Carolina	1,200	20,500	830	170	19,000	600	8,000	1,250	2,000	0	53,550
South Dakota	600	2,000	150	150	5,000	150	400	300	3,000	150	11,900
Tennessee	2,850	15,500	350	150	20,000	275	650	3,300	2,700	4,800	50,575
Texas	10,996	44,221	1,830	910	85,683	1,879	6,881	4,052	24,291	15,467	196,210
Utah	1,293	3,258	259	284	9,928	155	1,293	103	9,282	0	25,855
Vermont	313	1,181	236	87	1,440	86	430	72	1,049	300	5,194
Virginia	2,310	16,845	1,020	0	17,775	0	1,485	1,092	2,500	4,497	47,524
Washington	2,895	10,284	349	412	2,278	245	4,054	509	2,599	1,061	24,686
West Virginia	900	6,625	200	30	8,000	37	45	100	45	198	16,180
Wisconsin	3,985	15,474	676	377	32,352	436	1,580	432	851	2,433	58,596
Wyoming	150	710	65	49	2,150	165	120	280	620	300	4,609
District of Columbia	1,476	2,177	283	191	5,630	113	756	230	128	292	11,276
Total	148,000	752,000	55,000	28,000	1,383,000	28,000	199,000	128.000	230,000	95,000	3,046,000
Percent	4.5	24.9	1.8	1	45.4	.9	6.5	4.2	7.5	3.2	100

Source: Estimated 1972-73 students to be served from "Description of Projected Activities for Fiscal Year 1973 for the Education of Handicapped Children."

TABLE 6.12.—ESTIMATED PERCENT OF HANDICAPPED SERVED BY SPECIAL EDUCATION PROGRAMS, 1972-73

State	Mentally retarded	Hard of hearing	Deaf	Speech impaired	Visually impaired	Emotionally disturbed	Crippled and other	Learning disabled	Total all handicaps
Alabama	75.03	7.44	111.10	26.20	45.68	3.30	21.28	6.65	30.55
Alaska	41.95	29.69	61.85	1.86	32.47	7.70	16.70	37.11	18.70
Arizona	63.65	2.47	0.00	35.85	12.57	8.23	26.21	7.75	31.25
Arkansas	80.29	0.00	91.76	28.80	45.07	3.31	20.24	17.00	33.14
California	50.47	12.02	80.11	74.39	50.07	0.00	232.31	120.16	65.02
Colorado	63.51	58.40	102.33	112.72	39.65	53.10	60.68	0.00	71.98
Connecticut	46.58	41.00	0.00	48.52	60.46	58.93	63.17	123.81	57.82
Delaware	100.92	1.08	139.05	76.89	63.92	30.61	104.96	61.90	69.60
Florida	79.64	141.93	116.10	59.69	65.30	23.32	87.07	55.98	62.60
Georgia	125.71	17.75	68.71	65.98	89.97	14.23	67.20	20.91	62.76
Hawaii	67.02	14.92	115.14	55.51	25.02	4.73	25.02	65.70	45.59
Idaho	47.80	5.32	72.89	68.58	40.12	0.00	3.21	145.85	51.08
Illinois	68.26	63.67	115.67	96.95	56.56	46.37	90.39	43.60	72.58
Indiana	76.58	2.89	89.27	100.32	27.01	2.69	7.34	1.37	54.99
Iowa	54.71	11.59	12.58	78.64	37.75	63.80	49.18	18.87	58.41
Kansas	66.06	8.96	0.00	80.02	31.51	11.38	72.47	20.48	52.04
Kentucky	77.49	24.68	45.55	64.40	16.96	5.04	48.50	11.67	46.83
Louisiana	60.65	5.77	12.83	87.96	14.43	4.81	23.09	16.36	49.14
Maine	59.79	7.56	172.82	40.78	109.17	6.17	39.12	30.86	37.16
Maryland	102.05	12.21	59.39	61.80	43.19	6.30	104.61	66.46	59.87
Massachusetts	43.53	15.47	130.61	66.94	51.93	11.90	78.25	117.24	53.86
Michigan	95.80	19.61	45.12	106.83	74.30	12.63	61.62	0.00	67.26
Minnesota	69.52	0.00	152.42	77.74	38.11	130.99	17.15	0.00	71.96
Mississippi	65.19	3.72	65.18	43.05	30.28	0.58	20.18	8.33	33.08
Missouri	73.13	11.03	0.00	81.60	10.92	3.42	31.71	7.72	49.20
Montana	49.01	5.41	40.80	43.72	52.53	15.30	81.09	88.39	43.74
Nebraska	92.99	14.51	105.01	125.77	63.53	11.79	26.54	33.62	74.79
Nevada	65.40	11.08	31.67	63.34	39.59	37.61	31.67	0.00	47.62
New Hampshire	60.27	27.85	150.38	76.40	57.19	12.26	31.13	69.05	54.74
New Jersey	64.66	7.70	122.82	97.10	104.42	73.16	287.40	32.01	83.62
New Mexico	79.08	4.85	114.14	27.50	124.37	4.46	17.77	20.19	34.04
New York	62.71	16.84	91.37	77.86	70.48	32.07	80.87	0.00	54.50
North Carolina	135.82	24.89	0.00	73.49	98.34	7.56	16.87	18.91	63.59
North Dakota	35.28	1.37	0.00	73.46	34.28	34.77	31.43	63.82	49.27
Ohio	104.94	0.00	115.29	94.35	38.65	0.00	58.40	66.18	68.12
Oklahoma	63.48	4.43	73.38	46.28	18.70	1.07	39.76	63.43	40.40
Oregon	45.28	12.18	99.45	77.64	46.85	6.09	42.88	131.18	56.03
Pennsylvania	73.56	10.27	27.38	78.72	70.16	3.76	28.52	0.00	48.19

TABLE 6.12.—ESTIMATED PERCENT OF HANDICAPPED SERVED BY SPECIAL EDUCATION PROGRAMS, 1972-73—Continued

State	Mentally retarded	Hard of hearing	Deaf	Speech impaired	Visually impaired	Emotionally disturbed	Crippled and other	Learning disabled	Total all handicaps
Rhode Island	54.35	375.01	0.00	91.84	125.45	13.39	40.18	169.65	86.52
South Carolina	131.15	23.07	31.51	75.46	83.40	55.60	34.75	27.80	74.62
South Dakota	60.56	16.07	107.15	76.53	80.36	10.71	48.22	160.72	63.91
Tennessee	79.70	6.99	19.98	57.09	27.47	3.25	161.84	26.97	50.65
Texas	120.08	18.31	60.69	122.45	93.98	17.21	195.26	121.50	98.38
Utah	63.41	16.60	121.35	90.90	49.67	20.72	6.60	297.45	83.06
Vermont	55.47	40.30	99.05	35.13	73.44	18.36	63.53	89.58	44.46
Virginia	69.57	17.04	0.00	42.42	0.00	6.20	93.37	20.88	39.80
Washington	65.16	7.94	62.47	7.40	27.86	23.05	35.71	29.56	28.14
West Virginia	74.02	9.05	9.05	51.71	8.37	0.51	13.48	1.02	36.70
Wisconsin	70.42	11.25	41.84	76.94	36.29	6.58	47.69	7.08	48.89
Wyoming	40.80	14.18	71.28	67.02	180.03	6.55	126.57	67.65	50.41
District of Columbia	96.57	34.41	154.84	97.80	68.71	22.98	63.48	7.78	68.73
Average percent served	80.45	21.38	71.61	76.66	54.76	19.27	86.65	44.65	59.23

ESTIMATED COST FOR THE EDUCATION OF ALL HANDICAPPED CHILDREN IN THE UNITED STATES*

[*Additional dollars needed*]

Name:	
Alabama	$35,159,825
Alaska	7,485,057
Arizona	20,444,240
Arkansas	34,201,375
California	786,648,180
Colorado	23,261,168
Connecticut	41,500,550
Delaware	5,133,800
Florida	28,126,136
Georgia	28,484,820
Hawaii	8,205,990
Idaho	9,847,573
Illinois	40,858,884
Indiana	26,066,911
Iowa	29,261,088
Kansas	13,326,850
Kentucky	18,765,253
Louisiana	15,206,922
Maine	8,157,724
Maryland	24,491,327
Massachusetts	24,283,656
Michigan	116,308,873
Minnesota	38,661,257
Mississippi	36,438,237
Missouri	164,229,300
Montana	8,194,374
Nebraska	59,632,194
Nevada	5,409,120
New Hampshire	8,327,059
New Jersey	45,599,763
New Mexico	34,731,225
New York	232,043,680
North Carolina	33,095,171
North Dakota	14,330,364
Ohio	131,465,880
Oklahoma	$35,330,526
Oregon	7,470,200
Pennsylvania	89,749,282
Rhode Island	11,341,072
South Carolina	13,556,480
South Dakota	2,169,360
Tennessee	45,787,664
Texas	252,961,635
Utah	10,169,820
Vermont	9,478,318
Virginia	99,720,120
Washington	66,512,544
West Virginia	19,249,919
Wisconsin	107,035,917
Wyoming	9,789,396
Washington, D.C	11,236,967
Total	2,995,142,246

The State/Federal Information Clearinghouse for Exceptional Children. The Council for Exceptional Children, 1920 Association Drive, Reston, Virginia 22091.

STATES

ALABAMA

At present, there are in Alabama, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Alabama State Department of Education indicates that out of a total of 111,149 handicapped children, only 22,384, about a fifth, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 6,000 handicapped would be served there would still be over 80,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Alabama mandating that all eligible handicapped children be provided with an appropriate education by 1977.

ALASKA

At present, there are in Alaska a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Alaska Department of Education indicates that out of a total of 5,050 handicapped children, only 1,875, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 125 handicapped children would be served there would still be over 1,700 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Alaska mandating that all eligible handicapped children be provided with an appropriate education.

ARIZONA

At present, there are in Arizona a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Arizona Department of Education indicated that 27,381 handicapped children, out of a total of 40,059, close to 70 percent, were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 4,000 handicapped would be served there would still be over 23,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Arizona mandating that all eligible handicapped children be provided with an appropriate education by 1976. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $2.5 million from 1971–72 to $5.6 million for the 1973–74 school year.

ARKANSAS

At present, there are in Arkansas a great many handicapped children who are not receiving an appropriate education. Data collected from the Arkansas State Department of Education indicates that, as of the past school year, only 22.8 percent of the handicapped school age population were being served. 53,118 additional handicapped children need the opportunity to receive a meaningful public education. As indicated in its annual report to the Governor, the State Department of Education estimates that 3,700 additional teaching units costing approximately $10,000 per unit are required to meet this need. Although it is anticipated that some additional funds may be forthcoming from the state, it will represent a relatively small contribution to the overall necessity for 37 million additional dollars. In considering this situation, it must be emphasized that law is presently in force in Arkansas mandating that all eligible handicapped children be provided with an appropriate education by the 1979–80 school year.

CALIFORNIA

At present, there are in California a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the California Department of Education indicates that out of a total of 1,141,080 handicapped children, only 321,760 children, significantly less than half, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in California mandating that all eligible handicapped children be provided with an appropriate education. The educational dilemma facing California's handicapped children and their families had been considered sufficiently serious to lead to the filing of at least four right to education lawsuits.

COLORADO

At present, there are in Colorado a great many handicapped children who are not receiving an appropriate public education. Statistics gathered by the Colorado Department of Education for the school year 1972–73 showed that of the 91,060 handicapped children in the state only 34,388, or slightly more than one-third, were receiving needed special educational services. In considering this situation, it must be emphasized that with the passage of H.R. 1164 by the legislature, Colorado has mandated that appropriate public education services must be provided to all eligible handicapped children by September, 1976. The educational dilemma facing Colorado's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit in the Federal District Court in Denver, *Colorado Association for Retarded Children* v. *Colorado* (Civil No. C-4620 D. Colo., Filed Dec. 22, 1972).

CONNECTICUT

At present, there are in Connecticut a great many handicapped children who are

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*Data derived from State Education Agency estimates of handicapped population for school year 1971–72 and estimates of projected enrollment for school year 1972–73 and average per pupil cost as reported in *Services for Handicapped Youth: A Program Overview*, Rand Corporation, May, 1973.

not receiving an appropriate public education. Data collected for the 1971–72 school year by the Connecticut State Department of Education indicates that out of a total of 89,866 handicapped children, only 35,544, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 4,000 handicapped would be served, there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Connecticut mandating that all eligible handicapped children be provided with an appropriate education.

DELAWARE

At present, there are in Delaware a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Delaware Department of Public Instruction indicates that out of a total of 15,722 handicapped children, only 8,351, slightly over half, were receiving a public education designed to meet their needs. While projections done by the Department for the 1972–73 school year predicted an additional 2,000 children would be served, there would still be over 5,000 handicapped children waiting for their opportunity to receive a meaningful public education. The educational dilemma facing these children has been so severe that in 1971, Catholic Social Services, Inc. of Delaware filed an administrative action against the State Board of Education to obtain an education for three handicapped children excluded from school (filed August 24, 1971). Since that time discussion has been occurring throughout the state about the possibility of filing a class action right to education lawsuit against the state.

FLORIDA

At present, there are in Florida, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Florida State Department of Education indicates that over 34,000 out of a total of 139,903 handicapped children were not receiving an education designed to meet their needs. Projections done by the State Department of Education for the 1972–73 school year indicated little change from the 1971–72 school year. In considering this situation, it must be emphasized that law is presently in force mandating that all handicapped children be provided with a public education. Of importance also is that in the just concluded session of the legislature, this mandate was extended to include profoundly retarded children.

GEORGIA

At present, there are in Georgia a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Georgia Department of Education indicates that out of a total of 127,864 handicapped children, only 65,061, about half, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 11,000 handicapped would be served there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Georgia mandating that all eligible handicapped children be provided with an education.

HAWAII

At present, there are in Hawaii a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Hawaii Department of Education indicates that only 9,106 handicapped children, out of a total of 19,590 children, less than half, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Hawaii mandating that all eligible handicapped children be provided with an appropriate education. The educational dilemma facing Hawaii's handicapped children has been considered sufficiently serious to lead to the filing of a class action right to education lawsuit in Hawaii (*Kekahana* v. *Burns*, Civil No. 72–3799, D. Hawaii).

IDAHO

At present, there are in Idaho a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Idaho State Department of Education indicates that out of a total of 36,561 handicapped children, only 8,395, about a fifth, were receiving a public education designed to meet their needs. While projections done by the Department for the 1972–73 school year predicted that an additional 1,700 children would be served, there still would be over 25,000 handicapped children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Idaho mandating that all handicapped children be provided with a public education.

ILLINOIS

At present, there are in Illinois a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Office of the Superintendent of Public Instruction indicates that 74,504 handicapped children, out of a total of 183,381 children, about 40 percent, were not receiving a public education designed to meet their needs. In considering this situation, it must be emphasized that law is presently in force in Illinois mandating that all eligible handicapped children be provided with an appropriate education. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $16.4 million from 1971–72 to $73.3 million for the 1973–74 school year.

INDIANA

At present, there are in Indiana a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Public Instruction indicates that 58,492 handicapped children, out of a total of 145,091 children, were not receiving needed special education services. Projections done by the Department for the 1972–73 school year predicted that the total number of children to be served would be little different from the 1971–72 school year. In considering this situation, it must be emphasized that state law presently in force in Indiana mandates that an appropriate public education must be provided to all eligible handicapped children.

IOWA

At present, there are in Iowa a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Iowa to meet their needs. Projections done by the Department of Public Instruction indicates that out of a total of 94,731 handicapped children, only 36,521, less than 40 percent, were receiving a public education designed Department for the 1972–73 school year predicted that while an additional 7,000 handicapped would be served, there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Iowa mandating that all eligible handicapped children be provided with an appropriate education. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $3.7 million from 1971–72 to $7.4 million for the 1973–74 school year.

KANSAS

At present, there are in Kansas a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Kansas State Department of Education indicates that 26,853 handicapped children, out of a total of 54,566 children, about half were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 2,000 handicapped would be served, there would still be close to 25,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Kansas mandating that all eligible handicapped children be provided with an appropriate education by 1979. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $2.4 million from 1971–72 to $6.1 million for the 1973–74 school year.

KENTUCKY

At present, there are in Kentucky a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the State Department of Education indicates that only 24,336 children out of a total of 78,386 handicapped children, less than a third, were receiving an education to meet their needs. Projections done by the Department for the 1972–73 school year suggest that close to 40,000 handicapped children, about half, would receive specially designed services. In considering this situation, it must be emphasized that law is presently in force in Kentucky which requires that all handicapped children be educated by September, 1974. The educational dilemma facing Kentucky's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit in the federal district court in Frankfort, *Kentucky Association for Retarded Children, et al.* v. *Kentucky State Board of Education* (Civil Action No. 435, E. D., Ky., filed Sept. 6, 1973).

LOUISIANA

At present, there are in Louisiana a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Louisiana State Department of Education indicates that out of a total of 122,344 handicapped children, only 45,056, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 5,500 handicapped would be served, there would still be over 70,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Louisiana mandating that all eligible handicapped children be provided with an appropriate education. You will be interested to know that the educational dilemma facing Orleans Parish mentally retarded children and their families was considered sufficiently serious to lead to the filing of a successful class action right to education lawsuit, *Lebanks* v. *Spears* (60 F.R.D. 155, E. D. La. 1973), on behalf of all the Parish's mentally retarded children. Despite the large number of children still needing service, state appropriations for the education of handicapped increased only $8 million from 1971–72 to $20 million for the 1973-74 school year.

MAINE

At present, there are in Maine a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Maine Department of Education and Cultural Services indicates that only 6,758 handicapped children, out of a total of 30,743 children, less than a fourth, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the 1971–72 level of service would be extended to only an additional 3,000 children still leaving about 20,000 handicapped children waiting for their opportunity to obtain a public school education. In considering this situation, it must be emphasized that law is presently in force in Maine mandating that appropriate educational services be provided to every eligible handicapped child. You should also know that the amount of state appropriations available for the education of the handicapped for the 1973–74 school year was $1.5 million, an increase of only $200,000 since the 1971–72 school year.

MARYLAND

At present, there are in Maryland a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Maryland Department of Education indicates that 57,380 handicapped children, out of a total of 123,639 children, close to half, were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different than the 1971–72 school year level of service. In considering this situation, it must be emphasized that Maryland presently has law in force mandating that all eligible handicapped children must be provided with an appropriate public education by 1979. That date, however, has been set aside as a result of a decision in a class action right to education lawsuit, *Maryland Association for Retarded Children* v. *State of Maryland* (Equity No. 100/182/77676, Circuit Ct. Baltimore City, Maryland, May 3, 1974), in which the court proclaimed that all children have the right to an education which must be provided by September, 1975.

MASSACHUSETTS

At present, there are in Massachusetts a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Education indicates that 45,152 children out of a total of 108,612 handicapped, less than half, were receiving an education to meet their needs. Projections done by the Department for the 1972–73 school year suggested little change from the 1971–72 school year. In considering this situation, it must be emphasized that with the passage of Chapter 766, partially motivated by a class action right to education lawsuit, the Massachusetts legislature mandated that all handicapped children be educated by September, 1974. While state appropriations to implement the act have been increased to approximately $60 million, it has been estimated that an additional $40 to $50 million is still needed to achieve full compliance.

MICHIGAN

At present, there are in Michigan a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Michigan Department of Education indicates that 123,279 handicapped children, out of a total of 288,297 children, did not receive a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children that would receive services would be little different from the 1971–72 level of service. In considering this situation it must be emphasized that with the passage by the Michigan legislature of Public Act 198 in 1971, the state mandated that appropriate public education services must be provided to all handicapped children by September 1973. The importance of this Act was emphasized by Judge Charles Joiner of the Eastern District of Michigan Federal District Court when he ruled in *Harrison* v. *State of Michigan* (350 F. Supp. 846, E.D. Mich. 1972) that "this law is a whole new attack on the problem of special education. For the first time, the legislature has directed in unequivocal terms the state and other educational districts to face up to the problem of providing educational programs and services designed to develop the maximum potential of every handicapped person."

MINNESOTA

At present, there are in Minnesota a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Minnesota Department of Education indicates that 52,242 handicapped children, out of a total of 122,665 children, were not receiving an education to meet their needs. More recent data, reported by the Department in March, 1974 for the 1973–74 school year, indicated that although substantial progress has been made, there are still over 17,000 children waiting for their opportunity to receive special education. In considering this situation, it is important to note that Minnesota law requires that these children be educated.

MISSISSIPPI

At present, there are in Mississippi a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Mississippi Department of Education indicates that out of a total of 116,066 handicapped children, only 16,587, less than 15 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only about an additional 4,500 handicapped children would be served, leaving the vast majority of these children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Mississippi mandating that all eligible handicapped children be provided with an appropriate education. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $7.1 million for 1973–74, an increase of only $1.7 million from 1972–73.

MISSOURI

At present, there are in Missouri a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Missouri Department of Elementary and Secondary Education indicates that only 65,110 handicapped children, out of a total of 221,578 children, less than a third, are receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that with the passage of H.B. 474, the Missouri legislature placed in force a mandate that all eligible handicapped children must be provided with an appropriate public education. The statute also provides that this level of service must be provided by September, 1974. Despite the large number of children still needing service, state appropriations for the education of handicapped children increased only $4.5 million from 1971–72 to $18.5 million for the 1973–74 school year. The educational dilemma facing Missouri's handicapped children has been considered sufficiently serious to lead to the filing of a class action right to education lawsuit, *Radley* v. *Missouri* (Civil No. 73C556 (3), E.D. Mo., November 1, 1973). The suit was dismissed in February, 1974 with the court holding that the presence of the statute rendered the issues moot in that the court could not improve on the implementation schedule or approach to the problem mandated by H.B. 474.

MONTANA

At present, there are in Montana a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Montana Office of Public Instruction indicates that out of a total of 23,480 handicapped children, only 5,358, less than a quarter, were receiving a public education designed to meet their needs. Projections done by the Office of Public Instruction for the 1972–73 school year predicted that only about an additional 3,000 would be served, still leaving 15,000 handicapped children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Montana mandating that all eligible handicapped children be provided with an appropriate education by 1979. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $10.5 million for 1973–74, an increase of only $3.3 million from 1972–73.

NEBRASKA

At present, there are in Nebraska a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Nebraska Department of Education indicates that out of a total of 93,568 handicapped children, only 23,734, about a fourth, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 5,000 handicapped children would be served, there would still be about 65,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Nebraska mandating that all eligible handicapped children be provided with an appropriate education by 1976. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $4.7 million for 1973–74, an increase of only $1.1 million from 1971–72.

NEVADA

At present, there are in Nevada a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Nevada Department of Education indicates that out of a total of 13,640 handicapped children, only 6,300, about half, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Nevada mandating that all eligible handicapped children be provided with an appropriate education. The educational dilemma facing Nevada's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit, *Brandt* v. *Nevada* (Civil No. R-2779, D. Nev., Filed Dec. 22, 1972), on behalf of all of Nevada's handicapped children.

NEW HAMPSHIRE

At present, there are in New Hampshire a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the New Hampshire State Department of Education indicates that out of a total of 19,374 handicapped children, only 6,070, about 31 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 4,300 handicapped children would be served, there would still be about 9,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in New Hampshire mandating that all eligible handicapped children be provided with an appropriate education.

NEW JERSEY

At present, there are in New Jersey a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the New Jersey Department of Education indicates that 131,866 children, out of a total of 231,055 handicapped children, more than half, were not receiving an education to meet their needs. Projections done by the Department for the 1972–73 school year indicated that although another 50,000 children for whom special programs were not planned to be available. In considering this situation, it must be emphasized that law is presently in force in New Jersey mandating that all eligible handicapped children be provided with an appropriate public education.

NEW MEXICO

At present, there are in New Mexico a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the New Mexico Department of Education indicates that out of a total of 53,126 handicapped children, only 8,655, approximately 16 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only about an additional 1,500 children would be served, leaving over 40,000 handicapped children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in New Mexico mandating that all eligible handicapped children be provided with an appropriate education by 1977. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $8 million for 1973–74, an increase of only $3.5 million from 1971–72.

NEW YORK

At present, there are in New York a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Education indicates that 151,592 handicapped children, out of a total of 372,811 children, were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only about an additional 15,000 handicapped children would receive service leaving about 135,000 handicapped children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in New York mandating that all eligible handicapped children be provided with an appropriate public education. The intent and responsibility of the state has been reinforced by New York Education Commissioner Nyquist when he ordered New York City in *Reid* v. *Board of Education of the City of New York* (No. 8742, Commissioner of Education of New York, Nov. 26, 1973), a class action right to education suit, to provide publicly supported, suitable education programs for all handicapped children. The New York City public schools estimate that it will immediately cost them $60 million to implement the decision.

NORTH CAROLINA

At present, there are in North Carolina a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the North Carolina Department of Education indicates that out of a total of 172,580 handicapped children, only 73,739, less than half, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 10,000 handicapped would be served, there would still be about 90,000 children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in North Carolina mandating that all eligible handicapped children be provided with an appropriate education. Specifically, the legislature in its last session adopted law that declared "that the policy of the state is to ensure every child a fair and full opportunity to reach his full potential . . . ." (CH 1293, 1973). The educational dilemma facing North Carolina's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit, *North Carolina Association for Retarded Children* v. *North Carolina*, (Civil No. 3050, E.D.N.C. filed May 18, 1973), on behalf of all North Carolina's mentally retarded children. You should also know that the amount of state appropriations available for the education of the handicapped for the 1973–74 school year was $39 million, an increase of only $9 million since the 1971–72 school year.

NORTH DAKOTA

At present, there are in North Dakota a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the North Dakota Department of Public Instruction indicates that out of a total of 47,215 handicapped children, only 8,947, less than a fifth, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in North Dakota mandating that all eligible handicapped children be provided with an appropriate education by 1980. The educational dilemma facing North Dakota's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right-to-education lawsuit, *North Dakota Association for Retarded Children* v. *Peterson* (Civil No. 1196, D.N.D., Filed Nov. 28, 1972), on behalf of all North Dakota's handicapped children. You should also know that in another recently concluded individual action the North Dakota Supreme Court held that the plantiff physically handicapped child "is entitled to an equal educational opportunity under the constitution of North Dakota, and that depriving her of that opportunity would be an unconstitutional denial of equal protection under the Federal and State constitutions and of the Due Process and Privileges and Immunities Clauses of the North Dakota Constitution," (*in the interest of G.H., a child* v. *G.H., B.H., F.H., Williston School District, et al.*, (Civil No. 8930, N.D.S.C., April 30, 1974). Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $3 million for 1973–75 biennium, an increase of only $1.6 million from 1971–73 biennium.

OHIO

At present, there are in Ohio a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Ohio Department of Education indicates that out of a total of 335,898 handicapped children, slightly over half, 175,300 children were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only an additional 16,000 handicapped children would be provided with a special education, leaving approximately 144,000 children waiting for their opportunity. It is clear that even though state appropriations have increased from $65.5 million in 1971–72 to $90.4 million for 1973–74, an increase of 38 percent, 45 percent of the handicapped children still remain unserved. The educational dilemma facing Ohio's handicapped children has been considered sufficiently serious to lead to the recent filing of a pending class action right-to-education lawsuit, *The Cuyahoga County Association for Retarded Children and Adults, et. al.* v. *Martin Essex, et. al.* (Civil Action No. C74-587 N.D. Ohio, filed June 28, 1974).

OKLAHOMA

At present, there are in Oklahoma a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Oklahoma State Department of Education indicates that out of a total of 144,586 handicapped children, only 23,746, about 16 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 10,000 handicapped children would be served, there would still be over 110,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Oklahoma mandating that all eligible handicapped children be provided with an appropriate education.

OREGON

At present, there are in Oregon a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Oregon Board of Education indicates that 26,274 handicapped children, out of a total of 48,044 children, were not receiving a public education designed to meet their needs. Projections done by the Board for the 1972–73 school year predicted that while an additional 3,500 handicapped children would be served there would still be over 18,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Oregon mandating that all eligible handicapped children be provided with an appropriate education.

PENNSYLVANIA

At present, there are in Pennsylvania a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Pennsylvania Department of Education indicates that 108,619 handicapped children out of a total of 265,449 children were not receiving a public education designed to meet their needs. Statistics produced by the Department based on December, 1972 enrollments were that despite service expansion to an additional 60,000 children since the 1971–72 school year, there still remain close to 50,000 handicapped children who are waiting for their opportunity to receive a public education. In considering this situation, it must be emphasized that law is presently in force in Pennsylvania mandating that appropriate educational services be provided to every eligible handicapped child. This mandate was specifically reinforced for all mentally retarded children by the landmark right-to-education order achieved in the class action *PARC* v. *Commonwealth of Pennsylvania* (334 F. Supp. 1257, E.D. Pennsylvania 1971 and 343 F. Supp. E.D. Pennsylvania 1972) lawsuit.

RHODE ISLAND

At present, there are in Rhode Island a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Rhode Island Department of Education indicates that only 13,475 handicapped children, out of a total of 39,475 children, about a third, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only about 6,000 additional handicapped children would receive the educational services they need, leaving about 20,000 handicapped children still waiting for their opportunity to receive a public education. In considering this situation, it must be emphasized that law is presently in force in Rhode Island mandating that appropriate educational services be provided to every eligible handicapped child. The educational dilemma facing Rhode Island's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit, *Rhode Island Society for Autistic Children* v. *Reisman,* (C.A. No. 5081, D.R.I., Filed Dec., 1972) on behalf of all Rhode Island's handicapped children by the Rhode Island Society for Autistic Children.

SOUTH CAROLINA

At present, there are in South Carolina a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the South Carolina State Department of Education indicates that out of a total of 106,505 handicapped children, only 38,275, about 36 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 15,275 handicapped children would be served there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in South Carolina mandating that all eligible handicapped children be provided with an appropriate education by 1977. Despite the large number of children still needing service, state appropriation for the education of the handicapped totaled $16.5 million for 1973–74, an increase of only $6.5 million from 1971–72.

SOUTH DAKOTA

At present, there are in South Dakota, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the South Dakota Department of Public Instruction indicates that out of a total of 17,795 handicapped children, only 4,414, about one fourth, were receiving public education designed to meet their needs. While projections done by the Department for the 1972–73 school year predicted that an additional 7,500 children would be served there would still be over 5,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in South Dakota mandating that all handicapped children be provided with a public education.

TENNESSEE

At present, there are in Tennessee a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Tennessee State Department of Education indicates that out of a total of 131,903 handicapped children, only 49,173 less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Tennessee mandating that all eligible handicapped children be provided with an appropriate education as of September, 1974. The educational dilemma facing Tennessee's handicapped children and their families has been considered sufficiently serious to lead to the filing of a class action right to education lawsuit, *Rainey* v. *Tennessee Department of Education* (No. A–3100 Chancery Court of Davidson County, Tenn., Filed Nov. 6, 1973), on behalf of all of Tennessee's handicapped children. The suit was concluded in July, 1974 with a consent order that again requires that all eligible handicapped children be provided with an appropriate education.

TEXAS

At present, there are in Texas a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Texas Education Agency indicates that out of a total of 777,731 handicapped children, only 175,662, less than a fourth, were receiving a public education designed to meet their needs. Projections done by the Agency for the 1972–73 school year predicted that while an additional 21,000 handicapped would be served there would still be over 580,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Texas mandating that all eligible handicapped children be provided with an appropriate education.

UTAH

At present, there are in Utah a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Utah State Department of Public Instruction indicated that 17,100 handicapped children, out of a total of 44,179 children, were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Utah mandating that all eligible handicapped children be provided with an appropriate education.

VERMONT

At present, there are in Vermont a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Vermont Department of Education indicates that only 4,612 handicapped children, out of a total of 20,631 children, less than a fourth, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Vermont mandating that appropriate educational services be provided to every eligible handicapped child.

VIRGINIA

At present, there are in Virginia a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Virginia State Department of Education indicates that out of a total of 146,748 handicapped children, only 44,768, about 30 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 3,000 handicapped would be served, there would still be about 98,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Virginia mandating that all eligible handicapped children be provided with an appropriate education. A target date for compliance by 1976–77 has been established by the Department through regulations. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased by $4 million from 1971–72 to $12.6 million for the 1973–74 school year.

WASHINGTON

At present, there are in Washington many handicapped children who are not receiving an appropriate public education. Data collected by the Department of Public Instruction indicates that 10,702 handicapped children, which includes the learning disabled category of exceptionality, are presently unserved and for whom the Department desires to serve with an appropriate education during the 1975–77 biennium. There are, in addition, another 12,000 unserved learning disabled handicapped children for whom the state plans to provide programs after the 1975–77 biennium. In order to provide children the services required and planned for the 1975–77 biennium, an additional 36 million dollars is needed, excluding any inflationary factors. While the state has continued to expand services, additional funds are not expected to surpass 16 million dollars and may, in fact, fall short of expectations. Therefore, funding will fall at least 20 million dollars short of the level required to implement the state's plan. In considering this situation it must be emphasized that law is presently in force in the state of Washington which mandates that all handicapped children be provided with an appropriate education.

WEST VIRGINIA

At present, there are in West Virginia a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the West Virginia Department of Education indicates that only 15,161 handicapped children, out of a total of 80,561 children, less than a fifth, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that with the passage by the state legislature of H.B. 1271, West Virginia has mandated that appropriate public education must be provided to all eligible handicapped children. The legislature also by this Act ordered compliance with the mandate in September of this school year.

WISCONSIN

At present, there are in Wisconsin, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Public Instruction indicates that only 66,230 children out of a total of 155,813 handicapped children, considerably less than half, were receiving an education to meet their needs. Statistics for the 1972–73 school year show that the total number to be served is 55 percent, little different from the 1971–72 level of service. In considering this situation, it must be emphasized that with the passage by the legislature of Chapter 89, Wisconsin has mandated that appropriate public education must be provided to all eligible handicapped children. This mandate requiring that these services must be made available beginning with the 1974–75 school year was reinforced and cited in a District Court decision in *Panitch* v. *Wisconsin* (No. 72–C–461 D. Wis.), a class action right to education lawsuit.

WYOMING

At present, there are in Wyoming a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Wyoming State Department of Education indicates that out of a total of 18,475 handicapped children, only 5,665, less than a third, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of services and that over 12,000 handicapped children would still be waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Wyoming mandating that all eligible handicapped children be provided with an appropriate education.

Mr. STAFFORD. Mr. President, it is important to observe that, of the 19 States with specific statutory dates of compliance, 7 became effective in 1974, 1 becomes effective in 1975, 4 become effective in 1976, 4 become effective in 1977, and 2 become effective in 1979.

However, while these statutes and their compliance date represent a forceful statement of legislative intent, they do not guarantee actual program delivery. The same is true of court decrees, as may be witnessesd in the District of Columbia where the plaintiffs have returned to court charging substantial noncompliance with that historic decree resulting from Mills against District of Columbia Board of Education.

This is not to suggest lack of good will on the part of State and local officials; quite the contrary, it is simply to acknowledge a pressing financial crunch in the States and localities exacerbated by the ever-accelerating pace of those court orders and legislative mandates just cited. That is why I offer the amendment before the Senate today. The States must have financial help.

In that context, I would advise my colleagues that a recent survey by the Education Commission of the States found that education of the handicapped was the No. 1 education concern of State Governors and the No. 2 concern of State legislators—education finance reform was No. 1.

Permit me to share with you a recent resolution of the National Governors' Conference which succinctly summarzies the message being conveyed from the States to the National Government:

> The National Governor's Conference believes it should be the responsibility of each state, as an integral part of a free public education, to provide for special education services sufficient to identify and meet the needs of all handicapped children.
>
> Recognizing the tremendous additional financial burden which would be incurred in providing for the education of all handicapped children, the National Governors' Conference calls upon the federal government to increase its assistance to the states in fulfilling this commitment. Federal assistance, however, should allow maximum flexibility and discretion to the states in providing the essential services they deem appropriate, since these services in many states are administered by more than one agency.

But beyond the press of litigation, impending implementation dates in State mandatory laws, and the increasing "hue and cry" for Federal help emanating from the States, lies the most compelling argument for accepting my amendment today; namely, the shocking unmet need itself. Let me again briefly review the basic arithmetic of neglect.

A recent study by the Rand Corp.—1974—found that based upon data from the 1972–73 school year, 3.046 million handicapped children of school age or 6.6 percent of the total enrollment in publically supported elementary and secondary schools received needed special education services. This figure represents conservatively approximately 55 to 60 percent of the estimated and reported children requiring such services. Of the approximately 3 million handicapped children of school age not receiving special education, 1 million are totally excluded from any education.

Numerous studies have documented the importance of educating handicapped children at the earliest possible age. There are approximately 1 million handicapped children of preschool age of whom the Office of Education estimates that only 330,000 are receiving critically needed special education services.

Or, if one were to move a bit closer to home, we need only consult the report prepared by the Labor and Public Welfare Committee of the Senate which accompanied the Senate version (S. 1539) of the Education Amendments of 1974 (Public Law 93–380):

> There are 7 million (1 million of preschool age) deaf, blind, retarded, speech-impaired, motor-impaired, emotionally disturbed, or other health-impaired children in the United States who require special education programs. Although these children represent approximately 10 percent of the school age population (a conservative estimate), and although the number of children receiving special help has grown from 2.1 million to nearly 3 million in the past 5 years, current data indicates that less than 40 percent are receiving an adequate education.

Let me simply conclude with this observation: We are not talking about money for more books, or for better classrooms, or to achieve more satisfactory teacher-student ratios. We are talking about money to end the denial of any education opportunity whatsoever.

If there were a reason to vote against my amendment, it would presumably be with the objective of holding down Federal spending. But should we force these children who have been denied the benefits that are available to all other children, to continue to be denied such benefits and thus bear the heaviest burden of our Nation's economic difficulties. To do so would be trantamount to piling injustice upon injustice, and I do not believe that is the will of the U.S. Senate.

Mr. President, I ask my colleagues for their full support for this amendment.

The PRESIDING OFFICER. The time of the Senator from Vermont has expired.

Mr. MAGNUSON. I yield time to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I have great sympathy with the purpose that my friend from Vermont has in mind. I doubt if there is a Member of this Senate who has more reason to sympathize. I have a brother, whom I have maintained for all of his life, who has been handicapped and could have been, with some of these attentions that we are giving now, able to lead a useful and productive and happy life.

But, Mr. President, let me say just a couple of things.

In the first place, on this matter of State grant programs, the House jumped the budget by nearly $40 million, and our committee increased the House bill by $40 million more, making a total of $125 million. Right on the same page in this supplemental are many of these other appropriations for the handicapped. The deaf-blind centers have $12 million; the early childhood projects $14 million; the specific learning disabilities program $3.250 million; the regional resource centers which participate in this, over $9 million; the innovation and development program, almost $10 million. All of this is under education for the handicapped, and all of this is in this supplemental bill.

I could go on reading the list, but when we get to the total of the appropriations that are in this bill for handicapped children, it comes to $324,609,000. That is more than we have ever appropriated before.

On this matter of entitlement, it is a good word, but entitlement means that a legislative committee has decided to appropriate money and it is entitled, so we have no control over it. We could not have gone to what he calls a complete entitlement. I believe I understood him to say that maybe a third of the children handicapped in some way are already not receiving special attention. But certainly, more children than ever before—I would say almost double—under this appropriation will be taken care of.

For that reason, sympathetic as I am, I do not see how the Senate can find its way to overturn its committee. I trust that it will not do so, because I am afraid that it will endanger the whole program and we might come out with less.

I do not want to take time away from my friend. I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, here again, no one will deny the fact that we want to take care of every handicapped child in the United States, wherever he is. But sometimes, we have to have regulations to find out who is handicapped. It is easy for us to find the people who are physically handicapped, but we are getting into a field now where some of these people are suggesting that the regulation should be revised to include perhaps a boy in a junior high school or a girl who did not get very good grades—some of us were in that position. That means that we are a little handicapped mentally, does it not? We did not get good grades.

We are trying to figure out how to do this. HEW typically is still dragging their heels—I shall agree with that. They are in the process of writing regulations. This means that the money probably would not get to the States until after the beginning of the year, anyway. The committee bill represents adequate 6-months' funding for this program, so we can look at it again.

The Senator from New Hampshire mentioned that the bill contains $125 million. That is an increase of $78 million over the President's budget request.

The committee bill is about three times—three times—what the States got last year. Now, that is about as fast as we can move until we can find out more clearly where we are going.

I appreciate, as all of us do, the motives of the Senator from Vermont. I know there are some other children who ought to be served, and I think we ought to serve them well when we do and not just appropriate money for some State to start out, not knowing exactly what the regulations are. It is easy for a State and for us to know about the handicapped. But when we get into this field that I am talking about, I just do not know how much money we need, or how far we should go. We shall find that out.

In the meantime, with this $78 million over the budget, and three times what the States got last year, I think we moved pretty fast and were very conscious of the situation.

Mr. BEALL. Mr. President, as the Senate considers appropriations under the special supplemental measure, H.R. 16900, I would like to express my deep concern for the provisions in this bill dealing with the education of the handicapped children.

As we know, the House Appropriations Committee made something less than a wholehearted response to this new entitlement for handicapped children. The House measure contains only $85 million in actual funding to carry out provisions of the Mathias amendment contained under ESEA, title VI-B of the Education Amendments of 1974 (Public Law 93-380) which I cosponsored and strongly supported. As my colleagues will recall, in passing this measure, entitlement at full appropriations would mean approximately $660 million for the remainder of fiscal 1975. The Senate Appropriations Committee has recommended an actual appropriations of $125 million for fiscal 1975. Though this figure does represent a respectable increase over prior appropriations, it is exceedingly modest when compared to the entitlement figure of $660 million, and certainly falls far short when compared to the actual need nationwide. Therefore, I commend my distinguished colleague, Senator STAFFORD, for his efforts to provide for realistic funding, and join with him in cosponsoring his amendment to increase the appropriations by another $25 million, for a total of $150 million.

My own State of Maryland is illustrative of the fact that there are a great many handicapped children who are not receiving an appropriate education. Data collected for the 1971-72 school year by the Maryland Department of Education indicates that 57,380 handicapped children, out of a total of 123,639 children were not receiving a public education designed to meet their needs. Projections made by the department, for the 1972-73 school year, predicted that the total number to be served would be little different than the 1971-72 school year level of service. As emphasized in a letter from the Council for Exceptional Children, which I have received, the situation of our State, as in many States throughout the Nation, is made more critical as a result of a decision in a class action right to education lawsuit, Maryland Association for Retarded Children against State of Maryland handed down last May, in which the court proclaimed that all children have the right to an education which must be provided by September 1975. This decision set aside the compliance date of 1979 originally mandated by the law.

In the face of legal requirements to meet the educational needs of service to all handicapped children, it is clear that past funding levels have fallen far short of meeting program goals.

As Senator MATHIAS pointed out during his remarks before the Senate on May 20:

> It would be unfair and untrue to contend that our State and local education programs are neglecting handicapped children. During the school year 1972-73, for instance, State and local expenditures for education of the handicapped amounted to an estimated $2.4 billion. During that same period, the Federal share—which includes funds spent under the Education of Handicapped Act, ESEA title I and III, Headstart, vocational education, the Higher Education Act, Federal schools for the deaf, research and instructional support—reached $315 million or only 12 percent of the total annual special education expenditures of $2.7 billion.

Keeping in mind that this 12-percent figure includes moneys spent for research, teacher training, and special projects, not just classroom services, the insufficiency of these funds is of even greater concern when we consider the fact that upon closer examination, the 1972-73 expenditures for Federal special education represented only 5 percent of the total Federal education budget.

Incumbent upon us in meeting the goals projected, as we passed the authorizations bill, is the clearcut responsibility we are faced with today in seeking to provide the means to insure full educational opportunities for all handicapped children. The first step in bringing about reforms and improvements in meeting the national educational needs of our 7 million handicapped children necessitates realistic funding levels at this time. By failing to appropriate adequate funds to meet these goals, previous passage of authorization legislation appears to be idealistic rhetoric.

While all Americans focus on ways to combat recession and its adverse conditions, it is my judgment that we must look ahead, in terms of investment over the years as we compare cost of these services now versus realistic provision of future services. The investment we consider today is not simply idealization of fulfilling human potential, but realistic planning in terms of bringing self-sufficiency to our Nation's handicapped. If at this time adequate funding levels are met, in the field of education, rather than face far greater annual cost as we continue to pay billions for dependency-related programs, we will realize profit in return as these children served through our efforts today become self-supporting and productive citizens of tomorrow.

I urge my colleagues to join with me in supporting Senator STAFFORD's amendment to add $25 million to the committee's recommendation at the level of $125 million, keeping in mind that this figure of a total of $150 million is still less than 25 percent of the entitlement we approved in passing the Education Amendments of 1974. This is the time to put our money where our laws are, and I urge my colleagues to give this important measure their favorable consideration at this time.

Mr. MAGNUSON. May I just do this, so that the record is clear? I do not suggest that this is all, that it is adequate. It might turn out to be that. But the committee bill will serve about 600,000 children. That is 347,000 more than were served last year under the budget. I think we moved it up pretty fast.

Mr. STAFFORD. Will the Senator yield me about 30 seconds?

Mr. MAGNUSON. Oh, surely. I just want these figures in the RECORD.

Mr. STAFFORD. I wish to comment that I think we are making remarkable progress, but we are talking about 3 million children that are either deaf, blind, retarded, speech-impaired, motor-impaired, or emotionally disturbed. We are also talking about $25 million more to reach those 3 million children that are not getting any services today.

I am prepared to vote.

The PRESIDING OFFICER (Mr. NUNN). All time has expired. The question is on agreeing to the amendment of the Senator from Vermont (Mr. STAFFORD). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. JOHNSTON), the Senator from

Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), the Senator from Indiana (Mr. HARTKE), and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from New York (Mr. BUCKLEY) and the Senator from Maryland (Mr. MATHIAS) are absent on official business.

I further announce that the Senator from Oregon (Mr. HATFIELD) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 32, nays 51, as follows:

[No. 492 Leg.]

YEAS—32

Abourezk
Aiken
Bayh
Beall
Bentsen
Biden
Brooke
Byrd, Robert C.
Case
Clark
Cranston
Gravel
Griffin
Hart
Hathaway
Huddleston
Hughes
Javits
McIntyre
Metzenbaum
Mondale
Nelson
Packwood
Pearson
Ribicoff
Schweiker
Stafford
Stevens
Stevenson
Taft
Weicker
Williams

NAYS—51

Bartlett
Bellmon
Bennett
Bible
Brock
Burdick
Byrd, Harry F., Jr.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Gurney
Hansen
Helms
Hollings
Hruska
Inouye
Jackson
Long
Magnuson
Mansfield
McClellan
McGee
Metcalf
Montoya
Moss
Muskie
Nunn
Pastore
Pell
Percy
Proxmire
Roth
Scott, Hugh
Scott, William L.
Stennis
Symington
Talmadge
Thurmond
Tower
Tunney
Young

NOT VOTING—17

Allen
Baker
Buckley
Church
Eagleton
Fulbright
Hartke
Haskell
Hatfield
Humphrey
Johnston
Kennedy
Mathias
McClure
McGovern
Randolph
Sparkman

So Mr. STAFFORD's amendment was rejected.

Mr. BELLMON. Mr. President, I have an amendment at the desk and I ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

On page 28, line 3, and continuing to line 4 after the words "determining the" strike the word "ownership" and insert in lieu thereof the word "disposition".

Mr. BELLMON. Mr. President, the Senate, some weeks ago, passed and sent to the House S. 4016, a bill relating to the disposition of and governing access to the Presidential materials of former President Nixon. This was a comprehensive piece of legislation expressing the overwhelming will of the Senate regarding these materials. S. 4016 itself, as well as its legislative history, makes it abundantly clear that the one area not covered was ownership. It was not "legislation determining ownership" of these documents, tapes, and materials.

However, section 203 as presently written provides it will remain effective until June 30, 1975, unless Congress enacts legislation determining the "ownership" of these materials.

It would effectively prevent compliance with S. 4016 if enacted. This is a result I am sure no one wants.

My amendment is a simple one. By merely changing one word "ownership" to "disposition", section 203 would cease to be effective upon passage of S. 4016 thereby permitting compliance with its provisions. It would have no other effect.

It is my understanding that the Member of the House that sponsored this provision on the floor of the House has no objection to this change of words.

I hope that the chairman of the Subcommittee on Treasury-Post Office having cognizance over this matter and the chairman of the committee will accept this amendment.

Mr. President, the purpose of this amendment is to make the language in this bill correspond to the language in the Senate bill S. 4106, which the Senate passed recently.

It has been discussed with the distinguished chairman of the Appropriations Committee, with the chairman of the subcommittee and, I believe, they have agreed to accept the amendment.

Mr. MCCLELLAN. Mr. President, I have no objection to the amendment, and I am perfectly willing to accept it if the distinguished Senator from Washington will.

Mr. MAGNUSON. Yes.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? The Senator from Washington.

Mr. MAGNUSON. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment (putting the question).

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, at the risk of some raised eyebrows here, I send to the desk an amendment to add $480,000 to the bill.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 5, line 18, after the words "Salaries and Expenses" insert the following: "$6,080,000, including".

Mr. MAGNUSON. My amendment is designed to solve a serious problem which is frustrating the rights of widows and injured Federal workers in receiving the benefits to which they are entitled under Federal law. We did not take action to correct this unconscionable situation during hearings on the appropriation, because it was just during the recess that the problem was brought to my attention. The office of workers compensation programs of the Employment Standards Administration in the Department of Labor currently has a national backlog of 48,000 unresolved claims for compensation from injured Federal workers. This is the highest it has been since the inception of the program in 1916. While in my own State, I learned that the Seattle district office alone has a backlog of over 2,000 unresolved claims. Seattle and the other 11 regional offices are falling further and further behind. At present, it is not uncommon for a compensation claim to take literally years to be resolved, leaving crippled Federal workers and their families without any income whatsoever in the interim. My amendment will increase the budget of the office by $480,000. This money will add 74 positions nationally on a temporary basis, provide for overtime for existing employees and additional technical assistance to the district offices. I have been assured that if this amendment is adopted, the backlog can be reduced in the next 6 months to 18,000 cases, the level of the backlog in 1971 and the lowest in the past 10 years. At the close of the fiscal year, the administration expects other longer range improvements in management will begin to take effect to keep the backlog low and eventually eliminate it.

I urge favorable consideration of this amendment on behalf of the tens of thousands of injured Federal workers and their families who are now struggling with this intolerable situation.

Mr. MCCLELLAN. Is that $480,000 or 480,000 new employees we are talking about?

Mr. MAGNUSON. No, we are talking about 74 temporary employees.

If the Senator from New Hampshire will accept my amendment, it is an emergency matter, and the administration expects some longrange improvements to take care of this backlog, but the claims are legal, they are there.

With the apparent approval of the Senate, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARRY F. BYRD, JR. There are several reasons I would like to vote for the supplemental appropriations bill, H.R. 16900.

The most important reason I would like to vote for it is that it contains funds for Federal aid to impacted areas. I have supported this program for 9 years—and I support it now.

It is a just program because the Federal Government, I feel, has an obligation to those localities in which the cost of local government has been increased, or the revenues from local property taxes decreased, as a result of Federal Government action or facilities.

So I support the impacted aid program.

But it represents only 7 percent of the total amount in this legislation.

I support other items in the supplemental. But I cannot support the total figure.

The total supplemental appropriation bill, including many different programs and agencies, is $8.7 billion.

As much as I favor many of the items in the bill, particularly the funding of Federal aid to impacted areas, I feel that in this time of high inflation and runaway Federal spending, I cannot vote for the huge total which this bill represents. The funding level is too high.

Mr. McCLELLAN. Third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and the nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is, Shall the bill pass. The yeas and the nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Minnesota (Mr. HUMPHREY) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Idaho (Mr. McCLURE), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from New York (Mr. BUCKLEY) and the Senator from Maryland (Mr. MATHIAS) are absent on official business.

I further announce that the Senator from Oregon (Mr. HATFIELD) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 65, nays 18, as follows:

[No. 493 Leg.]

YEAS—65

Abourezk
Aiken
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Clark
Cotton
Cranston
Dole
Domenici
Dominick
Ervin
Fong
Gravel
Griffin
Hart
Hartke
Hathaway
Hollings
Hruska
Huddleston
Hughes
Inouye
Jackson
Javits
Long
Magnuson
McClellan
McGee
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Tunney
Weicker
Williams
Young

NAYS—18

Bartlett
Byrd, Harry F., Jr.
Chiles
Cook
Curtis
Eastland
Fannin
Goldwater
Gurney
Hansen
Helms
Mansfield
Nunn
Roth
Scott, William L.
Stennis
Thurmond
Tower

NOT VOTING—17

Allen
Baker
Buckley
Church
Eagleton
Fulbright
Haskell
Hatfield
Humphrey
Johnston
Kennedy
Mathias
McClure
McGovern
Percy
Randolph
Sparkman

So the bill (H.R. 16900) was passed.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which H.R. 16900 passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McCLELLAN, Mr. MAGNUSON, Mr. STENNIS, Mr. PASTORE, Mr. BIBLE, Mr. ROBERT C. BYRD, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. YOUNG, Mr. HRUSKA, Mr. COTTON, Mr. CASE, Mr. BROOKE, Mr. STEVENS, Mr. MATHIAS, and Mr. BELLMON conferees on the part of the Senate.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make clerical and technical changes in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSPORTATION SAFETY ACT OF 1974

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 15223.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 15223) to amend the Federal Railroad Safety Act of 1970 and the Hazardous Materials Transportation Control Act of 1970 to authorize additional appropriations, and for other purposes and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MAGNUSON. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. HARTKE, Mr. CANNON, Mr. BAKER, and Mr. BEALL conferees on the part of the Senate.

ORDER TO HOLD ERDA NOMINATIONS AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the ERDA nominations are received, they be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR LABOR AND PUBLIC WELFARE COMMITTEE TO FILE REPORTS UNTIL MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to file reports until midnight tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SUNDRY ADMINISTRATION COMMUNICATIONS SUBMITTED PURSUANT TO THE BUDGET AND ACCOUNTING ACT TO BE HELD AT THE DESK TEMPORARILY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that sundry administrative communications submitted to the Senate pursuant to the Budget and Accounting Act be held at the desk temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 3418 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the votes on the override of the two vetoes tomorrow, the Senate proceed to the consideration of S. 3418, a bill to establish a Federal Privacy Board, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, there be a period for the transaction of routine morning business, not to extend beyond the hour of 12:30 p.m., with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPORT-IMPORT BANK CONFERENCE REPORT

Mr. HARRY F. BYRD, JR. Mr. President, on November 15, a letter was sent to the Members of the Senate dealing with the Export-Import Bank conference report. This letter was signed by the Senator from Virginia, by the Senator from Alabama (Mr. ALLEN), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Nevada (Mr. CANNON).

The letter urged that the conference report be rejected, and it gave various reasons.

Mr. President, I rise today to correct one figure which was in error in the seventh paragraph resulting from a wrong addition, where it says that the Export-Import Bank loaned $956,400,000.

That figure should be $884,400,000.

Another point in that same paragraph that needs to be clarified is that the letter says that the Export-Import Bank loaned the figure just mentioned.

The more exact wording should be "assisted in financing." The Export-Import Bank loans for these items mentioned in this paragraph totaled $308,550,000, based on the press releases by the Export-Import Bank. I point out that most of these loans were at a 7-percent interest rate.

I thought these two points should be clarified for the record.

The signers of this letter regret that the figure was slightly incorrect. It makes no substantial difference, but we do want the exact figure.

I want to say also that nothing in this letter, so far as the Senator from Virginia is concerned, should be construed in any way as a reflection on the able president of the Export-Import Bank, Mr. Casey.

I think he is an excellent man, and I am pleased to work with him. We have a difference of view on some of these matters pertaining to Export-Import Bank; but so far as the Senator from Virginia is concerned, the item I am particularly interested in is putting a ceiling on the amount of loans that may be made to Russia. Mr. Casey, the president of the bank, if I judge him accurately, does not want a blank check, but it is the State Department that has insisted upon a blank check.

Mr. President, I ask unanimous consent to have printed in the RECORD the revised letter written by he five Senators I mentioned.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., Nov. 15, 1974.

DEAR COLLEAGUE: We intend to move to reject the Export-Import Bank conference report when it comes before the Senate shortly after Congress reconvenes.

The conference report nullifies every major Senate action to strengthen Congressional overight of the Bank's activities and paves the way for an immediate multi-billion dollar U.S. investment in Soviet energy development.

The Senate put an overall ceiling of $300 million on Ex-Im Bank loans to the Soviet Union—the conference committee eliminated this ceiling, saying the President could set any limit he chooses.

The Senate adopted an amendment prohibiting Ex-Im Bank support of Soviet fossil fuel project without prior Congressional approval—the conference committee deleted it.

The Senate required prenotification to Congress of any Ex-Im Bank credit transaction of $60 million or more—the conference committee excluded loan guarantees from this provision, effectively nullifying it.

The Senate put Ex-Im Bank back in the federal budget to show its inflationary impact and to permit better Congressional review of the Bank's lending—the conference committee deleted this provision.

Despite growing public criticism of its operations, the Bank has continued to make loans which cause serious economic hardship to American industry and American workers. For example, from August 26 through November 11 of this year the Ex-Im Bank assisted in the purchase of $884,400,000 of U.S. aircraft. Of this total, Ex-Im Bank loans totaled $308,550,000, primarily at 7% interest. Pan Am pays market rates for the same planes and is asking for $10 million a month in federal subsidies to stay in business.

If the conference report is adopted, there will be nothing to stop the Ex-Im Bank from making more aircraft loans, or from financing the Soviet Yakutsk and North Star energy projects while U.S. energy development lags, or from expanding its low-interest lending activities almost without limit while the American taxpayer is unable to get financing for his home or his business.

At the appropriate time, we shall move to reject the conference report and send it back to committee for revision.

Rejecion of the conference report will not close down the Bank. It will only restrict major new transactions until Congress takes further action to insure that the Bank operates in the national interest.

We urge your support in voting down the Export-Import Bank Conference Report.

Sincerely,
HARRY F. BYRD, JR.,
JAMES B. ALLEN,
RICHARD S. SCHWEIKER,
WILLIAM PROXMIRE,
HOWARD W. CANNON.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 12 o'clock noon tomorrow. After the two leaders or their designees have been recognized under the standing order, there will be the period for the transaction of routine morning business of not to extend beyond the hour of 12:30 p.m. Statements made during that period for the transaction of routine morning business will be limited to 5 minutes each.

At no later than the hour of 12:30 p.m., the debate on the override of the Presidential veto of H.R. 14223, the Vocational Rehabilitation Act, will begin.

At the hour of 1 o'clock p.m., tomorrow, the debate will begin on the override of the Presidential veto of H.R. 12471, the Freedom of Information Act.

At the hour of 2 o'clock p.m. tomorrow, a rollcall vote will occur on the override of the veto of H.R. 12471. That vote will be immediately followed by the vote on the override of the Presidential veto of H.R. 14223. Under the Constitution, both votes will be by rollcall.

Following the disposition of the votes to override the Presidential vetoes, the Senate will take up S. 3418, a bill to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, and for other purposes. Rollcall votes are anticipated on amendments thereto.

ADJOURNMENT

Mr. HARRY F. BYRD, JR. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment until 12 o'clock meridian tomorrow.

The motion was agreed to; and at 6 p.m. the Senate adjourned until tomorrow, Thursday, November 21, 1974, at 12 o'clock meridian.

EXTENSIONS OF REMARKS

INTERNATIONAL FEDERATION OF LIBRARY ASSOCIATIONS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. BRADEMAS. Mr. Speaker, the International Federation of Library Associations is meeting in Washington, D.C. this week, and over 900 delegates from some 70 countries of the world are attending.

The International Federation of Library Associations is an international nongovernmental organization, having consultative status with UNESCO, working in 88 countries through its 120 member-associations and 450 member-libraries.

Mr. Speaker, as chairman of the House Select Subcommittee on Education, which has jurisdiction over our Nation's Federal library programs, I wish to extend a special welcome to the delegates from other nations attending this 40th General Council Meeting of the International Federation of Library Associations.

It is fitting at this time to note that there is pending on the House calendar a bill calling for a White House Conference on Library and Information Services in 1977—Senate Joint Resolution 40. This measure must be expeditiously enacted into law before the 93d Congress adjourns so that plans at the State and local level can begin. Senate Joint Resolution 40 authorizes conferences on Library and information services at the State level in the years preceding the 1977 conference at the national level.

Mr. Speaker, I would like to emphasize that Senate Joint Resolution 40 has strong bipartisan support, for President Ford, himself, last year, during his service in the House as minority leader, introduced legislation calling for this White House Conference.

In conclusion, Mr. Speaker, I would like to insert in the RECORD, President Ford's special greetings to the IFLA delegates. In this message the President emphasizes once again, just as he did when he sponsored legislation calling for a White House Conference on libraries, the importance of libraries to progress *among nations*. As chairman of the Select Subcommittee on Education, I particularly welcome this indication of support for libraries coming from the new administration.

President Ford told the IFLA delegates:

> Libraries are recognized throughout the world as indispensable repositories of knowledge, art and wisdom. The rapid growth of new knowledge in today's world and the need to make this information readily available heighten the importance of international communications.

Mr. Speaker, the President's statement follows:

THE WHITE HOUSE,
Washington, D.C., November 11, 1974.

It is a pleasure for me to greet the participants in the Fortieth General Council Meeting of the International Federation of Library Associations. I wholeheartedly welcome you to the United States and to our Nation's Capital, and I hope that your visit here will be a very pleasant one.

Libraries are recognized throughout the world as indispensable repositories of knowledge, art and wisdom. The rapid growth of new knowledge in today's world and the need to make this information readily available heighten the importance of international communications. The IFLA has an enviable record of accomplishment in furthering this kind of understanding and cooperation in its profession.

I know that your deliberations at this session will stimulate new programs and significant progress in existing ones. You have my very best wishes for a most productive conference.

GERALD R. FORD.

WHAT INFLATION MEANS TO THE CITIES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. RANGEL. Mr. Speaker, with Mr. Ford's economic conference and the announcement of his 10-point economic plan long since past, the only dialog on the economic problem going on at the national level is among the press, who are now reporting a 6-percent unemployment rate, and the President's advisers, who are now admitting that we are indeed in a recession. The unemployment and inflation problem is being treated here in Washington as any other political fad. Many words and much literature have been traded back and forth; but now that the moment for action has arrived. What action do we see either from this body or from the Executive?

I would like to submit the following remarks by New York City's Mayor Abraham Beame to remind my colleagues that the question of the economic status of our Nation is now the basic question of the solvency or bankruptcy of our cities, and the life or death of the people in them. Mr. Beame reminds us that there is very little point in talking about extending or increasing city services for those people in special need of them. Barely able the cost increases in those basic areas of operation; interest rates, power and light expenditures, and public assistance outlays,

The remarks follow:

REMARKS BY MAYOR ABRAHAM D. BEAME

Thank you for this opportunity to express our ideas about the impact of inflation on local and state governments.

All of us here hope that our ideas will prove helpful to the President in solving the nation's Number One problem right now.

Some of New York City's problems are unique, precisely because we are the nation's largest city. But, other problems of New York City are also experienced by almost every other urban center in the country. The biggest shared problems are associated with the current inflation-recession.

This is a peculiar kind of inflation of prices, wages and interest rates, accompanied by declining employment, production, and in some cases, consumer demand.

Right now, among the problems we share with other cities are out-of-sight increases in the interest rates we have to pay for our borrowings.

All of us have been hit by tremendous increases in our fuel, power and commodity costs—as well as by boost in welfare and medical care loads—facts which have quite literally pushed some Mayors out of their budget bounds.

Finally, many of us have felt the recessionary part of this inflation in the form of revenue shortfalls. Instead of getting more revenues because of the inflation, we are getting less than we had expected and had incorporated into our budgets.

In the case of New York City, less than three months into the new fiscal year, we project a deficit of $104 million directly attributable to unprecedented increases in interest costs, another deficit of $53 million because of light and power cost increases, and a $33 million deficit attributable to increased costs of public assistance and Medicaid—an increase chargeable to the high unemployment rate in New York City.

This is a total of $190 million in costs more than we had estimated when we drew up our budget—increases which could not have been foreseen at the time.

But, that's only one side of our balance sheet. The picture on the other side—the revenue side—is just as gloomy. In spite of the inflation, revenues from our business income taxes, stock transfer, and other taxes are down from our budget projections. At the present time, the revenue shortfall may run into scores of millions.

Ten days ago, I told the people of the City of New York about the deficits being caused by inflation of prices and interest rates and by the recession of revenues.

I also directed our Budget people to review all departmental spending and recommend areas where new cutbacks could be made in a budget which is already tight as a drum.

If economic conditions do not improve I am sure that I will have to institute new cutbacks which will mean not only municipal job losses, but also some damage to our neighborhoods which will not get as many municipal services as had been budgeted.

New York City is not alone in being forced into this position, nor was it alone in developing tight budgets for the current fiscal year.

I would like to call your attention to the fact that many of us had drastically reduced departmental spending requests before we drew up our budgets and made the politically undesirable decision to raise taxes. We did this in the face of not being able to anticipate additional Federal and State aid.

In the case of New York City, the original gap between income and projected spending was close to $1.5 billion, when I assumed office in January. Over the weeks and months, we reduced that to an irreducible $800 million gap. Then, we were faced with the need to bite the bullet.

It would have been irresponsible to fire $800-million worth of City employees, and it would have been irresponsible to borrow that entire amount. Similarly, it would have been irresponsible to impose $800 million worth of new taxes.

So, we came up with a balanced package of all three options: we laid off 2,500 employees, eliminated 1,250 vacant budget lines, and imposed a partial vacancy freeze to reduce staffing levels of various agencies by an additional 8,000 positions during the course of the year; we borrowed $500 million; and, we increased the sales tax by one more cent on the dollar to 8%, imposed a new auto use tax, and increased our real estate tax.

Other Mayors also performed such distasteful chores, and I cite them only to show that our cities have already taken many steps to meet the new economic challenges.

We plead now for Federal cooperation, because the size of this inflation and accompanying recession is now beyond the form of national assistance to local governments.

We respectfully suggest the following:

1. Selectively expand credit for local governments, the construction industry and small businesses.

A gradual and selective expansion of credit will not aggravate the inflation. Rather, it will help depressed segments of the economy, like the construction industry and small business, while at the same time, stabilize the shaky budgets of many of our large cities.

To help local governments in this matter, we suggest the establishment of a Federal Municipal Financing Agency to purchase state and city bonds and notes at favorable rates for local governments. It should be created with appropriate safeguards to preserve the rights of local governments to determine their priorities in meeting capital needs.

To help the private sector, the Federal Reserve Board should allocate a portion of available credit to the housing industry. Furthermore, adequate additional Federal funds for housing rehabilitation, and new housing funds should be provided.

To further help the sagging construction industry, as well as small business, there should be increased funds for economic development assistance for commercial site development and construction and also for new equipment.

2. Accelerate Federal aid payments to state and local governments, thus reducing the need to go into the short-term money market in anticipation of such receivables.

The Federal government could consider transmitting its aid on a monthly installment basis in this fashion: Pool all anticipated Federal aid to a particular city in an upcoming fiscal year; take 90% of the total and divide it by twelve in order to arrive at a monthly installment; the remaining 10% would be used to make the proper adjustments after the fiscal year is over.

In the case of New York City, as of June 30th, we still have not received $484 million of the Federal aid to which we were entitled, $120 million of which we actually should have received during the prior fiscal year of 1972–1973. In addition to delays during any fiscal year, usually more than 20% of our Federal funding is delayed into the next fiscal year.

This untimely transmission of Federal aid is inflationary, because it forces us into the money market, unnecessarily driving up interest rates because of our competing demands for temporary borrowed funds.

3. Stabilize local mass transit fares as an anti-inflationary measure.

As you know, Mayors of our cities, along with business and labor leaders, are working together in a national caucus to convince the Federal government that increases in local mass transit fares would be highly inflationary.

The pending $11-Billion mass transit bill will not prevent significant transit fare increases in various parts of the country. These fare increases would have a chain-lightning effect throughout our economy.

The Bureau of Labor Statistics estimates that transit fares across the nation account for 1% of the Consumer Price Index. A 50% increase in fares across the country would cause a 0.5% increase in the Price Index.

Such an increase would trigger an automatic expansion in the Federal Budget of almost $350 million annually because of the escalator clauses, which are tied into the Consumer Price Index, of the Social Security law, and of Federal military, civilian and postal worker agreements. This is in addition to the hikes in the Federal Budget mandated by escalator clauses in defense and other contracts. These increases would then become a permanent drain on the Federal budget.

It is obvious that higher transit fares would have a similar inflationary impact in the private sector of our economy.

At our request, private economists drew up economic models to determine whether Federal operating subsidies for local mass transit would have inflationary effects. Their study shows that, far from increasing the inflation nationally, such subsidies would actually provide a minor decrease in inflation.

Fare increases will push more mass transit users into their automobiles. Stabilized mass transit fares, however, will keep them on the subways and buses. Since mass transit is a much more efficient way of moving people from place to place than the automobile, precious energy resources would be conserved, and the tendency of petroleum and gasoline prices to go up would be dampened.

Finally, if fewer cars are on the road in large cities, we have an environmental plus with less pollution and eventually less expenditures to clean up the environment.

4. Increase local public employment opportunities as a way to reduce unemployment in those cities which are experiencing high unemployment rates.

I think we have seen that high unemployment rates in certain areas of the country are not going to depress prices and costs.

We should not be taking the position that more unemployment will stop inflation.

The problem with such a philosophy is that unemployment is not spread out evenly through the country. To point to the national unemployment rate of 5.4% and say that the country could stand a little more unemployment does absolutely nothing good for New York City and Newark and other large cities with much higher unemployment rates.

New York City's unemployment rate is 7.5% in the ghetto areas, it is much higher; in our construction trades, it is estimated to be more than 20%.

In order to avoid more and higher welfare and unemployment costs, which increase Federal expenditures and decrease Federal revenues, we need Federal assistance for such things as job development, housing production, and an expansion of the Federal program to create public service jobs in high unemployment areas.

The society can make good use of new professional, para-professional, technical, clerical and other semi-skilled jobs.

5. Consider selective tax increases to meet part of the cost of these efforts.

Nobody likes to talk about tax increases, and I am no exception. But, once again, I must call your attention to the fact that many Mayors have, this year, done their distasteful job of imposing new taxes on their already overburdened populations, despite dwindling tax bases.

We have already acted in this fight to beat the national inflation. Now, we feel that the Federal government should do its part in providing additional revenues to local governments and to pay for these through Federal revenue raisers.

Selective tax increases might be considered—for example, an excess profits tax, reimposition of excise taxes on luxury items, and increasing the taxation on upper-income levels.

6. Reevaluate Federal spending in other areas and consider cutbacks which will neither result in large-scale unemployment in any sector of the country, nor impose new burdens on local governments.

I think that the defense establishment should be included in the re-evaluation of the Federal budget. I recognize that the defense budget has been cut, that it takes a smaller percentage of the Federal budget than before, and that inflation has also made the Pentagon dollar smaller.

Nevertheless, I believe that further cutbacks can be made in an $82 billion defense budget without jeopardizing our security. We still have an overkill capacity. Moreover, good management practices, which have been instituted in the Defense Department, can further reduce existing inefficiencies and thus create savings.

Thank you, again, for this privilege. The Mayors and Governors and local legislators are willing to cooperate, and we look to the Federal government to help.

PAYING THE PIPER

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. MICHEL. Mr. Speaker, an editorial appearing in the November 18, 1974 issue of U.S. News & World Report echoes a refrain I have heard time and time again from concerned parents in moving around my congressional district.

The editorial reports the results of a recent Rand youth poll and the attitudes of young people toward the concepts of thrift and conservation. Needless to say, it does not present a very encouraging picture.

It is clear that those of us who do place ourselves in the conservative spectrum and are concerned about maintaining the integrity and purchasing power of the dollar will have to work that much harder for our point of view but we will need the help and cooperation of parents and the educational community in our efforts to show these young people the potential dangers that could arise from the philosophy expressed in the poll results.

I include the text of the editorial to be placed in the Record at this point:

Paying the Piper

(By Howard Flieger)

Some further thoughts about the matter of restraint and self-disclipline—

They are, of course, essential ingredients in President Ford's "Whip Inflation Now" crusade. In fact, he has urged individual moderation to the point where some economists and business experts worry that, if he isn't careful, he might talk America into hard times.

But the President's campaign is up against another factor that many older citizens tend to overlook. It is the attitudes of the oncoming generations—teen-agers of the present and the younger adults who are just getting started in their careers.

In that connection, a current survey of young people made by the Rand Youth Poll—which has monitored trends among those in their teens, college students and young married couples for 22 years—is worth attention.

Almost three in four—72 percent of the teen-agers polled—regard high spending as something that is actually good for the country. They see no reason for stinting so long as they have the means to buy.

Of those polled, 78 percent consider themselves and their friends wasteful, but it does not seem to bother them; 74 percent say the subject of thrift is seldom referred to in their homes or schools; 64 percent of them do not look upon conservation and thrift as matters of much importance.

Such reactions are not particularly surprising when you stop to consider that the average annual per capita spending among teen-agers has gone up from $278 in 1950 to more than $800 estimated for 1974.

Eighty-six percent of the teen-agers included in the survey (which, by the way, was a nationwide sampling) feel that a higher and higher standard of living—which most define as more and more possessions—is a primary goal of the American system.

Sixty-three percent consider disruptions in the production of goods and dislocations in supply and demand as temporary. They do not believe there are serious shortages in the U.S. Of those interviewed, 83 percent say they have always regarded the nation's natural resources as inexhaustible.

Nearly all of those surveyed know something about the depression years of the '30s. But 62 percent are convinced it can never happen again. They speak of such built-in "stabilizers" as Social Security, unemployment compensation and insured bank accounts.

In explaining why they don't put much stock in saving money, 54 percent cite the large number of Government and private pension systems, profit sharing by companies and health programs as assurance that their retirement years have been comfortably provided for.

Analyzing his figures, the president of the Youth Poll, Lester Rand, concluded:

"Thrift as a virtue went out of style among this nation's youth as the spending booms of the '50s, '60s and early '70s accelerated. The old proverb, 'a penny saved is a penny earned' has been completely outmoded.

"Young people easily justify their over-all wastefulness by claiming that it contributes to greater consumption and therefore benefits the economy as a whole."

In the affluent days before the Great Depression, a distinguished American poet, the late Conrad Aiken, wrote:

> All lovely things will have an ending,
> All lovely things will fade and die,
> And youth, that's now so bravely spending,
> Will beg a penny by and by.

Subsequent developments gave his words the ring of prophecy at the time they were written. Now the results of the Rand Poll suggest that in the minds of many young people the prophetic verse has become hollow.

They seem to be convinced that the piper has been paid in full, and in advance.

RISING CRIME RATE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 19, 1974

Mr. DERWINSKI. Mr. Speaker, the public is justifiably concerned and frustrated over the rising crime rate and the difficulties that the police face in defending the innocent person from criminal attack.

During the recess, columnist Vernon Jarrett of the Chicago Tribune very properly analyzed this subject of urban crime in his penetrating article of October 23. The column follows:

YOU CAN'T JUSTIFY CRIME OF MURDER

(By Vernon Jarrett)

I don't care how poor, or how uneducated, or how ill-housed the murderer may be, society must never accept poverty or functional illiteracy as a justification for the willful, callous slaying of innocent people.

Underscore that word "justification" because what may begin as a sensitive, logical, humane explanation of a crime-producing situation often concludes as a tacit approval of murder.

I feel deeply and resentful about that sort of confused "socioeconomic analysis" because I have witnessed too many instances where the murderer is given more sympathy and understanding than his brutalized victim.

This is, indeed, a strange phenomenon. For an example, a black teen-age product of the ghetto can take a gun and blow a hole thru the head of a black father, mother, or child—also a product of the ghetto—and he immediately finds that he has friends from the upper strata of society.

Not only will the brutality of his crime become atomized and lost in the ozone of social analysis, the criminal may find that watchdog committees may be formed to insist that he and others like him get fair treatment should he be imprisoned.

And more than likely, somewhere there is a group of "concerned citizens" who will help arrange for him to get an early parole and a speedy rehabilitation, and maybe a good job—in some instances drawing salaries higher than those of equal competence who never killed a fly.

I'm all for fair and humane treatment for prisoners, and I consider rehabilitation programs a must. I contribute to and shall continue to participate in special educational programs for prisoners.

But I think it remarkable that I rarely find any committees formed or any programs designed to help the victim of criminal assault and murder.

However, I have heard many reports on the plight of parents whose children were assassinated in street gang warfare; parents of maimed child victims who didn't die immediately; those parents who didn't have the money to even make a daily visit to the county hospital by public transportation; parents who had to borrow to buy burial space and a cheap casket.

They become the statistics of urban sociology while the killer is humanized.

At the same time there has been established a perverted system of assessing the seriousness of ghetto-related murders. Even in the eyes of some black spokesmen, the life of a black person murdered by a white person—particularly a cop—suddenly becomes more valuable than a person killed by a black.

By the same token, there are white citizens who become disturbed by the "viciousness" of a murder of a white by a black gunman but are not truly disturbed when a white truck driver is murdered by a fellow white trucker in a union strike dispute.

And in other fuzzy minds, the seriousness of an assault depends upon the social status of the victim. I have heard self-appointed analysts of the ghetto speak lightly of criminal acts if the perpetrator is poor and the victim lives in a middle-class neighborhood.

These distorted assessments of murder run counter to the black tradition. Despite what the mythmakers write and say, the black tradition is one of resistance to destruction—particularly self-destruction. That resistance can be traced to a preoccupation with the threat of racial extinction which forever presented itself in a multiplicity of forms, including poverty.

But since poverty, like illiteracy, was so widespread among blacks, it was not accepted as an excuse for self-destruction.

As a Southern-reared black youth I recall vividly how black people reacted to death—especially untimely and senseless deaths. Blacks could accept death and rationalize its value. But one thing they never rationalized or forgave: murder, anybody's murder.

I do not choose to reject that tradition. It is needed now more than ever.

ATHLETES HONORED BY McKEESPORT GROUP

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. GAYDOS. Mr. Speaker, each year a McKeesport organization honors selected individuals for their contribution to the world of sports. The testimonial, sponsored by the McKeesport Athletic Sports Association, is one of the most popular community events in the area for it gives the stars of yesteryear an opportunity to renew old friendships in an evening of fellowship.

I was privileged to be one of the guest speakers at the 1974 banquet, sharing the program with McKeesport Mayor John Pribanic; Richard Bowen, McKeesport High School football coach; Samuel R. Vidnovic and Steve Lesko, toastmasters, and Father Robert Pietrzynski, pastor of Our Lady of Perpetual Help Church in Natrona, Pa.

Honored by M.A.S.A. for 1974 were:

McKeesport National Bank Awards—Howard "Paddy" Peckman, Eugene "Lefty" Hollar, Nick Butcher and Robert Ludwick, baseball; Joe Bazzone and Chuck "Irish" McLaughlin, boxing; William Laughlin, Vic Dietrich and Bob Ward, football; George "Ganzy" Benedict, Helen Gaydos Murray and Millie Gaydos Barry, all sports; Andrew Toth, humanitarian; Herman Levine, sponsorship; Morris "Mushy" Gerendash, promoter; Eddie Rack, golf; Dan Kelly, soccer; Duane Dowden, swimming; John "Dink" Ulm, cartoonist; Bobby Lloyd and Dominick "Cookie" Donato, softball; Jules "Pro" Micklo, organizer, and Rudy Wheaton, bowling.

Joe Odorcich District 15, U.S.W.A. Awards—George "Pete" Goshio, all sports; Sam "Apples" Clay, football; Bill Callaway, basketball; Joe "Goofer" Vukmanic, official; Russ Hoffman, football and softball; John Sullivan, promoter; Tom Manning, sponsor; Pete Damarsky, mushball; Stan Ukasik, baseball; Joe Lupo, youth recreation; Wilburt "Webby" Klein, softball; John "Honus" Lux, bowling, and Dave Cullen, sportsman.

Julius J. Lenart High School Awards—Dave Farina, baseball and basketball; Mark Yazwa, baseball and football; Rich Hofstetter, swimming; Joseph Gaydos Congressional Award—Elroy Face, former ace relief pitcher for the Pittsburg Pirates; Al Duffy Daily News Baseball League Award—Neal Mechling; Merrill Granger American Legion Baseball Award—Dave Farina; Ellis Morgan Special Award—Gerella's Gorillas, fan club for Roy Gerella, star placement kicker for the Pittsburgh Steelers; Mike Newman McKeesport Boy's League Award—Danny Wertz, and M.A.S.A. Golden Quill Award—Thomas D. Mansfield, publisher of the Daily News.

Mr. Speaker, it is with great pleasure I call the athletic achievements of these gentlemen to the attention of my colleagues in the Congress of the United States:

THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Wednesday, November 20, 1974

Mr. METCALF. Mr. President, as our representatives prepare for the second session of the Third United Nations Conference on the Law of the Sea, which convenes in Geneva on March 17, we should note that a single thread runs through preparatory meetings and the first session in Caracas this past summer.

That thread is that mobility of our defense forces is our No. 1 priority as we negotiate with other nations on the broad question: Who owns, or is responsible for, two-thirds of Earth, the oceans, and the land beneath?

That mobility is our No. 1 priority is a matter of record. At page A30 of the Washington Post of August 30, 1974, the chief of our negotiating team, U.S. Special Ambassador John R. Stevenson, was quoted as saying:

> The No. 1 priority is the mobility of our naval and air forces and the importance of retaining our nuclear deterrent.

Mr. President, I ask unanimous consent that this newsstory be printed in the RECORD.

There being no objection, the news story was ordered to be printed in the Record, as follows:

Sea-Law Conference Closes in Deadlock

(By John Virtue)

Caracas, August 29.—The third U.N. Sea-Law Conference ended in deadlock today and the conference president said there was little hope of drafting a new treaty governing the use of the sea at a follow-up spring session in Geneva.

Conference President Hamilton S. Amerasinghe of Sri Lanka indicated that as many as three more sessions might be needed by the 148 participating nations to obtain a signed treaty in 1975.

"There has so far been no agreement on any final text on any single subject or issue," Amerasinghe said in closing the conference, which ended its 10-week session deadlocked on the four key issues needed for a treaty to replace the current 17th-century sea code.

"I am convinced, given the best will in the world, it will be physically impossible for us to finish the drafting of the treaty by the end of the spring session in 1975," he said later at a press conference.

Earlier this week, the conference agreed to reconvene in Geneva March 17 to May 3 and then to return to Venezuela in midsummer for signing a treaty, if one is negotiated by then. Amerasinghe indicated, however, that another session might have to be squeezed in between Geneva and Caracas.

While most delegates said publicly that the conference had achieved the expected, they privately expressed disappointment at the slow progress and the gulf between the positions of the rich industrial nations and the poor developing ones.

The devision between the delegations knew no ideological bounds.

The United States and the Soviet Union were the leaders of the industrial nations, and China backed the aspirations of right-wing South American military dictatorships.

The conference became deadlocked on four key issues:

Territorial limits: the developing nations, led by Ecuador and Peru, insist on virtual sovereign control over all activities within 200 miles of their coasts. The industrial nations, led by the United States and the Soviet Union, favor giving coastal states full control over a 12-mile limit but opening up a further 188-mile economic zone to fishing and scientific research by other nations.

Deep sea mining: The developing nations want preferential treatment in mining cobalt, copper nickel and other deposits through a strong international authority, which would set its own rules and decide who mined where. The industrial nations want the rules written into the treaty.

Pollution control: The developing nations want mild controls for themselves and hard ones for the industrialized nations, who they say polluted while achieving their development. The industrial nations want uniform international standards.

Straits passage: This is the key Soviet and U.S. issue. Both want freedom of passage for their warships and merchant fleets through the more than 100 straits in the world. The straits nations, most of them developing once, want control.

"The No. 1 priority is the mobility of our naval and air forces and the importance of retaining our nuclear deterrent," said U.S. Special Ambassador John R. Stevenson recently.

Sen. Claiborne Pell (D-R.I.), here briefly for the conference, predicted that the Senate would not ratify a treaty that did not guarantee free passage.

Stevenson, in a wind-up news conference, expressed confidence that a sea treaty could be signed in Caracas if enough hard work is done in Geneva. "There is no cause for billing the conference a failure," he said.

"We certainly did not come to Caracas expecting to go back with a signed treaty," said Tanzania's J. S. Warioba, expressing the feeling of many delegates, "But we had certainly come expecting to achieve more than we have."

Amerasinghe cautioned the nations against taking any unilateral action before a treaty is negotiated. In thus, he echoed Stevenson, who warned that any extension of U.S. fishing limits by the Senate could touch off unilateral action by other nations.

There are several bills in Congress to extend the fishing limit to 200 miles, a concept officially opposed by the United States at the conference.

Ecuador and Peru, the hardliners among the developing nations, claimed a 200-mile limit in 1952, touching off the "tuna war" with the United States. Some 200 U.S. fishing trawlers, most of them from San Diego, have been seized during the past 10 years in the disputed waters.

The two South American nations said their claim was simply an extension of the Truman Doctrine, under which the United States in 1945 claimed control over the seabed resources of the continental shelf, which extends beyond 200 miles from the coast in some parts of the Atlantic. The two Pacific nations have virtually no shelf, so they claimed a 200-mile limit instead.

Mr. METCALF. Mr. President, the Defense Department has based at least part of its case on a claim that extension of the territorial seas would close more than 100 straits around the world to vessels vital to defense or commerce.

There is evidence that this claim is questionable.

The evidence is in the hearing record of the Senate Committee on Armed Services early last month on S. 1988, the bill to extend the fishery resource jurisdiction of the United States to 200 miles.

It is in a statement by Dr. Frank E. Carlton, president of the National Coalition for Marine Conservation. Dr. Carlton made the point that, of the straits which might be closed by a 12-mile territorial sea, only 16 "could have importance and that nine of those are either nonessential or fall within the territory of our military allies."

Dr. Carlton's statement continues:

> Of the remaining seven, all but three either offer no significant targeting advantage or are too shallow (Malacca) or dangerous to approaches submerged (Sunda).

To Dr. Carlton's statement was appended a paper by Dr. Robert E. Osgood, dean, the John Hopkins School of Advanced International Studies, Washington, D.C., and director of the Johns Hopkins ocean policy project.

I commend Dr. Carlton's statement and Dr. Osgood's paper to my colleagues who are sincerely interested in this complex subject. I ask unanimous consent that both be printed in the Record at this point.

There being no objection, the statement and paper were ordered to be printed in the Record, as follows:

Statement by Dr. Frank E. Carlton

I am Dr. Frank E. Carlton, President of the National Coalition for Marine Conservation, Inc. The Coalition is a national conservation organization committed to the promotion of rational politics and legislation as it affects ocean use.

The purpose of this paper is to demonstrate that there are alternative views to the somewhat adamant and intractable opposition to immediate passage of S. 1988 expressed by the Departments of State and Defense. Information for this statement is restricted to unclassified material immediately available to the public, e.g., the SIPRI Yearbook of World Armaments published by the Stockholm International Peace Research Institute, Jane's Fighting Ships, 1973–74, Jane's Weapons System's 1972–73 and the annual Military Balances, published by the International Institute of Strategic Studies. Specific rebuttal to certain Defense Department arguments relies heavily on a recent article by Dr. Robert E. Osgood, Dean of Johns Hopkins School of Advanced International Studies in Washington, D.C. entitled "U.S. Security Interests and Ocean Law" published in Ocean Development and International Law, the Journal of Marine Affairs, Volume II, No. 1, Spring, 1974. Specific comments with regard to State Department arguments draw heavily on an article by David C. Loring entitled "The United States-Peruvian Fisheries Dispute" which appeared in the Stanford Law Review, Volume XXIII, February, 1971. For the purposes of this discussion, comments will be limited to the context of international political and strategic considerations; germane fisheries issues will not be considered. The specific concern of this statement will address points previously raised by Defense and State Department representatives and which will undoubtedly be reiterated before the Senate Arms Services Committee.

State Department arguments may be summarized in four general points. Immediate passage of S. 1988 would:

(1) Increase international political tension,

(2) Deter a successful outcome of LOSC '75,

(3) Be detrimental to the long range interest of "all" U.S. fishery interests, and

(4) Be a violation of International law,

Defense Department arguments may be summarized in three basic points. Immediate passage of S. 1988 would:

(1) Add to "creeping jurisdiction",

(2) Cause the loss of significant sea and air mobility necessary to our defense,

(3) Lead to an international chaos of unilateral action and reaction.

The fundamental thrust of a rebuttal to these allegations can be expressed in three general observations:

(1) the strategic necessities cited by Defense have been vastly overstated,

(2) increase in international political tensions, doubtful outcome of LOSC '75 and increasing complexity of international relations are realities, already in a state of active evolution, which will probably occur in the same temporal context regardless of this (S. 1988) or other legislation enacted by the United States, and,

(3) the conclusion that should follow from points "1" and "2" is that certain rigidities in our foreign policies and military attitudes have demonstrably caused the U.S. to underestimate the vital importance of domestic and international changes in her economic and military capacity to be a global power and to continue her position as a leader in international politics, indicating that fundamental reassessment and change in these areas is necessary to maximizing the probabilities and potentials for continued world peace.

Defense Department officials have stated that U.S. security requires free transient through straits and the right of military overflight. It must be pointed out that the distinction is not between the terms "free" and "innocent" in so far as strategic considerations are concerned. In reality the relevant comparison must be between "free" and "secret". Defense contends that the invulnerability of U.S. SSBN's and their indispendable role to our defense depends on their legal *right* to secret passage. Dr. Osgood's scholarly examination of the 121 international straits listed by the Department of State that would be nationalized by a 12 mile territorial sea demonstrates that there are only 16 that could have importance and that nine of those are either nonessential or fall within the territory of our military allies. Of the remaining seven, all but three either offer no significant targeting advantage or are too shallow (Malacca) or dangerous to approach submerged (Sunda). Dr. Osgood's analysis reveals that only Gibraltar and two Indonesian straits, Ombai-Wetar and Lombak, are strategically significant areas which might be politically questionable if a 12 mile territorial boundary were established. Present political relations with Indonesia as well as Spain and Morocco are complex and will undoubtedly become more so, but closure of the Indonesian straits would not prevent the submerged passage of our submarines into the Indian Ocean. Passage through Gibraltar is only necessary to the physical interruption of surface traffic through the Mediterranean. On a nuclear deterrent basis the entire USSR can be targeted from the Atlantic and Pacific Oceans and the Arabian Sea.

Dr. Osgood's studies clearly demonstrate that the physical and political necessity of free transient through international straits is not supported by objective information and should certainly not be considered a non-negotiable item inhibiting international agreement on ocean use.

Further detailed analysis of other relevant considerations:

To what extent would surface transient impair in vulnerability of SSBN's?

Would detection and destruction of United States' SSBN's after passage through straits significantly alter U.S. second strike capacity?

Will the Trident system affect our need to use the international straits in question?

All lead to the conclusion that the absence of "free transient" through straits would not seriously weaken the contribution of U.S. SSBN fleets to our strategic nuclear deterrent.

Aside from this line of reasoning, it must be further pointed out that logic as well as experience indicates that the concept of innocent passage is actually related to commercial vessels on grounds of navigation safety and anti-pollution. If there is any real question that the transient of a warship might not be innocent, one must wonder why any nation would sign a treaty permitting unimpeded passage, or conversely, how such an agreement would deter any nation from "necessary" military action against such passage? Obviously, strategic significance is related to a capacity to place SSBN's in secret positions which Dr. Osgood's analysis demonstrates does not depend physically, or certainly legally, upon "free transient". Thus, the core of the Defense Department's position, as well as the forced extension of their argument to a fanciful relationship between a 200 mile economic zone and passage through international straits, brings grave question to bear upon the validity of their position.

On the other hand, a relevant positive consideration is that if restrictions of innocent passage were imposed upon the world at large they would in fact work significantly greater hardships upon Russia's defensive and aggressive capacities than upon the U.S.

Rational and qualified answers to the various State Department assertions with regard to the deleterious effects of immediate passage of S. 1988 have been presented before other Congressional committees and are presently available. Detailed reiteration of these specifics are therefore neither necessary nor appropriate; however, it is vital to point out that attitudes underlying the position of the Departments of State and Defense, which now dicate their opposition to extend jurisdiction, manifests that same attitude and rigidity which has characterized U.S. performance in international relationships for the last 25 years and which has materially contributed to the difficulties the U.S. faces today. The record of this performance does not inspire confidence in the ability of this country to deal wisely and fairly with regional conflicts and political confrontations. The 200 mile issue itself is an excellent example of the United State's steadfast opposition to a concept and physical reality that will shortly become the accepted world norm. The Defense Department's archaic and illusory attitudes toward the necessity of maximum mobility to maintain our defensive security and the Department of State's insistence to underrate the importance of harmony with less developed coastal nations, have been related to and supplied further impetus toward the total problem of decline in the United State's capacity to maintain a global posture as an economic and political force and its acceptance by other nations as a world leader.

The clear schism between the realities of our domestic priorities and our rapidly changing international capacities and responsibilities necessitate *change*. The traditional attitudes and methods that created the Peruvian fisheries dispute remain very much in effect to this date. In discussing the Peruvian fisheries issue David Loring states, "the background and growth of the dispute . . . can be attributed largely to a series of mistakes by the United States."

In asking the Senate Arms Committee not to support the position of the Department of Defense and State we recognize the catacylsmic disruption with historical precedent such an event would require. Nevertheless, a change of this order is necessary to the reality of maximizing any eventual potential for continued world peace. The National Advisory Committee on Oceans and Atmosphere's third annual report dated June 28, 1974 stated in its foreword, "This year NACOAA worked with the consciousness that our society may well be on the threshold of a *major discontinuity in human history*—from a world in which natural resources such as food and energy, and . . . and the regenitive capacity . . . seem to exceed effective demands, we appear to be moving toward a state of affairs in which consumption and utilization of vital resources are generating new stresses and strains at home and abroad. To contain the resulted instabilities we must respond to unprecedented demands on our capacities to manage natural resources."

It is my respectful contention that these considerations are more vital to our national interest than those unsupported allegations made by the Department of State and Defense and do not, in fact, jeopardize either our international relations or our strategic defense. To the contrary, the Congress should recognize that the continued threat of passage of S. 1988 has been one of the more positive and constructive forces impinging upon international negotiations on ocean use. It must remain for the Congress to forcefully counteract a long tradition of policies and practices which have demonstratably worsened domestic and international problems. Only the Congress itself can bring the necessary forces to bear to insure the necessary changes. I earnestly entreat the committee's consideration of these alternatives.

U.S. SECURITY INTERESTS IN OCEAN LAW

(By Robert E. Osgood)

Abstract—This paper discusses the need for reassessing U.S. security interests in the developing laws and practices concerning the use of ocean space. The nature of these security interests is identified and their importance is weighed in terms of U.S. foreign policy interests and the requirements for maintaining those interests. A projection is made of the international political context within which the U.S. must act over the next decade. Estimates are made of the effects of different ocean regimes on U.S. strategic nuclear interests and other security interests. Conclusions are offered concerning, from the standpoint of U.S. security interests, the desirability and feasibility of resolving various ocean jurisdictional issues by means of the projected law of the sea treaty.

1. THE NEED FOR REASSESSMENT

There is generally a presumption in favor of the primacy of security interests in a nation's foreign policy. U.S. ocean policy is no exception, but the conception of security underlying this policy has greatly expanded from the apparent emphasis on military mobility in the period leading to the U.S. Draft Seabeds Treaty of 1970 to include a major concern with unhampered commercial navigation in the present period before the prospective international Law of the Sea Conference in 1974.

Actually, what appears to the outsider as the initial dominance of avowed military needs—particularly the need for "free transit," as opposed to merely "innocent passage," through international straits—was always a bit misleading. The strong and conspicuous role of the Department of Defense in 1969 and 1970, when the formulation of U.S. ocean policy could still be powerfully affected by a single forceful individual in a key position in that agency, and the tactical convenience of explaining and justifying complicated political issues in terms of military security needs, was compelling, and tended to overshadow a more fundamental and pervasive objective of all the individuals and groups in the government who were most influential in the formulation of the Draft Seabeds Treaty. This objective was to bring a vast area of growing competition and potentially chronic conflict under the control of international law and international institutions before it was too late. Therefore, in the State Department, the National Security Council, and, for that matter, in the Department of Defense as well, the achievement of an international treaty establishing a narrow continental shelf boundary, international restrictions on the exploitation of ocean resources, a share of revenue from exploitation for economic development, and international regulatory machinery was seen as serving America's broadest interest in maintaining a congenial, relatively peaceful international environment. The fact that the narrower interests of DOD were defined as corresponding to the larger interest of the United States in preventing an era of international conflict, revolving around competing claims to ocean territory and resources, was a happy coincidence.

As the prospective 1974 United Nations Law of the Sea Conference approaches, however, some ocean experts outside the government and some parts of the expanded ocean policy community inside the government have come to think that this coincidence is no longer so happy. They fear that DOD has got itself locked into an excessively rigid position on free transit through straits, which is not indispensable to American security but which may jeopardize the achievement of the kind of minimal international order that is essential to America's broader ocean interests. The prevailing official position, however, is that the principle of unimpeded passage through straits has become more important than ever because of the growing potential threat to petroleum and other commercial transit, given the prospect of "subjective" interpretations of innocent passage; and that, moreover, in the intricate pattern of international give and take that characterizes the bargaining and negotiating process on ocean law, unwavering U.S. commitment to free transit strengthens rather than weakens the prospect of achieving a useful comprehensive and near-universal law of the sea treaty.

In forecasting the outcome of the delicately balanced bargaining and negotiating on law of the sea issues, even the experts inside the government must rely on reasoned conjecture about the essentially incalculable dynamics of a complex political process, and outsiders are at a disadvantage in judging the fast-moving state of the game. But on the nature of American security interests at stake in ocean law it is possible to construct an overview that may at least show the full range of these interests and suggest some priorities among them. As in the assessment of most security issues, lack of access to classified data is much less important than one's perspective on the political significance of well-known events and developments open to public scrutiny. From this perspective I have undertaken an assessment of U.S. security interests at stake in the developing laws and practices concerning the use of ocean space.[1]

The amount of technical detail involved in assessing the U.S. military security interests in ocean regimes is disproportionate to the relative importance of strictly military considerations. The thesis presented here conforms to the now conventional view that the most important security interests at stake in the law of the sea treaty are much broader than purely military interests. The policy question I wish to illuminate is whether the official U.S. position may jeopardize the broader interests in attempting to protect the narrower ones or whether, on the other hand, as the top U.S. ocean officials maintain, the law of the sea provisions intended to protect U.S. military interests (particularly, free transit) are indispensable in serving the broader interests (particularly, unimpeded passage of petroleum shipping) as well.

2. U.S. OCEAN SECURITY INTERESTS

In 1970 U.S. security interests in the use of the ocean were articulated largely in terms of naval mobility, and the legal requirements of mobility were formulated largely in terms of "free transit" through international straits. A number of these straits would become territorial waters permitting only "innocent passage" for American warships if, as expected, a twelve-mile territorial sea boundary were embodied in the new international law of the sea treaty that the United States was committed to achieve. More narrowly still, the advantage of free transit over innocent passage was defined largely in terms of the maintenance of American strategic nuclear capabilities through the unannounced underwater passage of nuclear-powered submarines carrying nuclear missiles (SSBNs). Less emphasized in public statements were three other security interests:

(a) Most important among these was the limitation of territorial sea boundaries, which were seen to be in danger of expanding far beyond twelve miles, up to 200 miles, under the influence of Latin American boundary claims, the assertion of anti-pollution zones (as by Canada), and the process of "creeping jurisdiction" that would extend the assertion of anti-pollution and resource-exploitation zones to claims of territorial sovereignty.

(b) Seldom articulated in public was the right of military overflight (to which not even innocent passage applies) over key international straits.

(c) Not mentioned at all but, one must logically surmise, of some significance, was the right to emplace anti-submarine listening devices on the continental shelf.

Whatever may be said—on tactical-bureaucratic as well as substantive policy grounds—for the seeming priority of military security interests at the time, subsequent developments in the international environment affecting the law of the sea treaty and American ocean interests have called for a reassessment of U.S. ocean security interests in a larger framework of time and circumstances. In this larger framework, one can see that the United States needs to use four zones of ocean space—the seabed, subsurface, surface and superadjacent air—in order to support four kinds of functions that enable the United States to sustain important domestic and foreign interests:

(a) The maintenance of an adequate strategic nuclear capability in relation to the Soviet capability.

(b) The maintenance of an adequate capacity to project American forces overseas in limited wars.[2]

(c) The maintenance of adequate intelligence and military surveillance capabilities.

(d) The protection in peacetime of U.S. citizens, commerce, access to critical resources, and a variety of specific policy objectives overseas.

These functions can be regarded as components of U.S. national security insofar as they support American military security, important external interests, and the welfare of American citizens abroad and at home. This is a broad and rather amorphous definition of security, since the objects to be secured go far beyond the territorial integrity of the United States itself. But the definition is in accord with the tremendous postwar expansion of the American conception of national security beyond the traditional core values to encompass the security of allies, a wide range of foreign commitments and other concerns, and an international environmental environment congenial to the protection of these interests. To be sure, the nation is moving toward a more limited and selective interpretation of its security interests in its current phase of moderate retrenchment and introversion, particularly insofar as these interests require the use of armed force. But having acquired global commitments as the dominant counterpoise to the rival superpower, the United States is not about to revert to its restricted pre-World War II conception of national security.

3. THE FOREIGN POLICY CONTEXT

One's assessment of the importance of these various security functions depends, first, upon one's estimate of the impact of the changing international environment on America's vital foreign interests and on the requirements of maintaining these interests against possible threats to them. Enough time has now passed since the announcement of the Nixon Doctrine, the American withdrawal from the Vietnam war, and the rapprochment with China to make some reasonably confident, although necessarily fallible, conjectures about the nature of American security policy and its international environment over the next decade.

It is now clear that the foreign policy instituted and consolidated by the Nixon administration looks toward the maintenance of the U.S. position as a superpower with global interests, global political/military commitments, and global influence, but at a moderated level of expense and diminished direct (especially military) involvement. This posture can be described as retrenchment without disengagement.[3] Toward this end, the first foreign concern of the U.S. government is to orchestrate a global *modus vivendi* of interlinked agreements and understandings with the next strongest and potentially most dangerous State in the world: the USSR. Diplomatically and politically, it seeks to promote this aim through approachment with the Peoples Republic of China, the normalization and stabilization of relations between the two Germanys, the control of superpower competition in the less developed Third World, and the insulation of detente from the superpowers' involvements in this area. Economically, it seeks to promote the global *modus vivendi* through the transfer of capital and agricultural goods to the Soviet Union in order to sustain a Soviet policy and regime committed to detente. Militarily, it aims to undergird the global *modus vivendi* with stabilization of the U.S.-Soviet military balance and moderation of the arms competition through mutually acknowledged strategic parity codified in SALT and, more problematically, with mutually agreed limitations on European forces, coupled with joint opposition to the emergence of new independent national nuclear forces.

The Nixon administration's second concern is to reconstruct its relations with America's major allies—the NATO countries and Japan—so as to give them a compelling interest in participating in the new detente relationships with the Soviet Union and the People's Republic of China on somewhat revised terms: greater diplomatic independence and initiative, accommodation with the United States of increasingly divergent trade and monetary interests, and increased contribution to collective defense under continuing preponderant American management.

As for the so-called Third World of the largely new and poor countries, which scarcely five years ago was thought to be the decisive arena of the Cold War, the Nixon administration hopes to lower America's profile by leaving the welfare and security of developing countries primarily to their own individual and collective efforts of self-help. Having reduced the official estimate of the Communist (and particularly the Chinese) threat of military attack and subversion in the Third World and having raised the official estimate of the capacity of weak States to resist Communist control imposed from the outside, the Nixon administration will rely almost entirely upon the selective use of military and economic aid to contain local Communist aggression. While reaffirming its pledge to shield allies and other States vital to American security from direct aggression by nuclear States, it has virtually ruled out a direct combat role for U.S. forces in local wars that are largely insurgent or civil. The reduction of American military personnel by one third, the reduction of general purpose forces in particular, and the substantial withdrawal of American forces from Asia give tangible meaning to this lowering of the American military profile in the Third World.

Judging from official pronouncements, America's military posture supporting the Nixon-Kissinger revision of foreign policy will continue to aim at maintaining strategic parity with the Soviet Union—indeed, at nothing less than overall technological equality (while conceding to Soviet long-range missile forces some numerical superiority) and a capacity to respond to nuclear attack with something more than massive devastation. The United States will also seek to maintain credible conventional as well as nuclear protection for its allies. But as compared with the periods after the Korean and during the Vietnam wars, it will be far less (if at all) concerned with maintaining a policy or capacity for waging large-scale local wars, as distinguished from small-scale interventions. And, in any event, its political and material capacity to fight such wars will substantially decline.

4. THE INTERNATIONAL POLITICAL CONTEXT

Under what conditions can the United States be expected to retain its position as the predominant manager of the still bipolar, now moderated and stabilized, military balance against the Soviet Union and at the same time retrench its capacity for limited overseas intervention in local wars while maintaining a position of global influence?

Footnotes at end of article.

At the minimum, one must postulate the continuation of U.S.-Soviet detente—that is, of confined competition within negotiated coexistence—and of compelling political and military constraints against Communist armed action.

Will these conditions prevail in the coming decade of international politics? Probably so. The past era of intense great-power confrontation and crisis has more than likely ended. A period of great-power diplomatic maneuver in which superpower crises, military security issues, and concern with the military balance (except in the context of arms control) diminish and recede into the background seems likely to continue for at least a decade. Perhaps this will be a period of considerably less harmonious great-power relations—especially between the United States and its major allies—than the administration anticipates. And perhaps in such a period there will be a greater erosion of the American material capacity and will to maintain a convincing global posture than the Nixon Doctrine pre-supposes. Eventually, the diffusion of power and interests among the world's five developed centers of power and the relative decline of American power could lead to a new-multipolar era of confrontation. But this is too conjectural a possibility to be the basis for changing the American security policy outlined by the Nixon administration.

It is somewhat less conjectural, however, to postulate situations short of large-scale local war in which American security interests, broadly defined, may be in jeopardy. Such situations are most likely to arise where indigenous tensions and conflicts threaten (a) the security of friendly regimes and/or (b) the unhindered supply of critical resources, particularly petroleum. In most of these situations the protection of American interests would depend on the local configuration of interests and power; in some, on the use of force and threats of force by indigenous countries, which the United States would support or oppose by arms aid and other indirect means. In rare cases, however, one can imagine the United States more directly supporting or threatening to support friendly regimes against hostile movements and States, where such support could be extended by military demonstrations or interpositions incurring a minimal risk of U.S. involvement in war.

Thus in the Jordanian crisis of 1970 the U.S. government evidently contemplated aerial intervention, not only to rescue hostages seized by Palestinian guerrillas and evacuate American civilians, but also to bolster the pro-Western Jordanian regime of King Hussein against the guerrillas and Syria, and, above all, deter the Soviets from taking advantage of the conflict or triggering a larger war, while impressing them (and the Arabs) in the wake of the Egyptian missile crisis, with the credibility of American power in the Middle East. Actually, the quick success of the Jordanian army against El Fatah forces and Syrian tanks, combined with Israel's mobilization on the frontier, were decisive in resolving this crisis favorably to American interests. Whether the United States would have intervened under any circumstances must remain in doubt.[4] But the incident illustrates the most likely role of American air, naval, and amphibious forces in a local crisis or war: deterring Soviet direct or indirect intervention, inducing Soviet cooperation toward a peaceful and not unfavorable resolution of the crisis, maintaining Soviet respect for American power and will in order to prevent the Soviet Union from seeking some regional, unilateral advantage that would jeopardize the network of interlinked constraints in the superpowers' global *modus vivendi*. In addition, the role of American forces might be to rescue or protect American civilians, to support friendly local regimes against hostile States, and to maintain in the eyes of regional States the credibility of American power to protect American interests. The prospect of the United States actually employing its armed forces in local crises and conflicts will remain ambiguous; nonetheless, military demonstrations, mobilizations, and maneuvers will probably be credible enough to be viewed by the American President as an indispensable instrument of policy, lest potential adversaries stumble into a clash of arms by underestimating his will to use force.

In any case, as new and more structured regional patterns of conflict and alignment seem likely to develop in some parts of the Third World, the United States and the Soviet Union can be expected to remain mutually constrained yet interested participants, through military assistance and other means, in the international politics of these regions. They will, in some cases, as in the Middle East, be aligned competitively with opposing aspirants to regional hegemony and influence. Where one or both superpowers have important material as well as political interests at stake in regional power politics they may find themselves backing contenders in local military actions, demonstrations, and even wars, in which their own military capabilities will play at least a tacit role.

This trend is growing now in the Persian (or Arabian) Gulf area. Growing dependence on Middle Eastern oil gives the United States a major material stake in an area in which it has had political, commercial, and strategic interests for some time.[5] The increased capacity of a few countries to withhold supply to the United States because of huge currency reserves and alternative buyers, together with the possibility that the Arab-Israeli tension or the influence of radical regimes will provide the political incentive for such withholding, constitutes a new threat to America's regional interests. Similarly, the possibility that local rivalries in the area—resulting, for example, in a conflict between Iraq and Iran, with radical regimes and traditional kingdoms aligning themselves on opposite sides—may disrupt American access to oil poses a potential economic threat with such a serious impact on American domestic welfare as to be tantamount to a security threat. At least, these threats are not implausible possibilities.

Whether America's enhanced interest in access to Middle Eastern oil will actually be threatened depends most immediately on the developing pattern of conflict and alignment among the Middle Eastern and particularly the Gulf States (which control 60 per cent of the world's proven oil reserves),[6] on the influence of violent Palestinian groups, on the capacity of radical regimes to gain and expand power, and on the vicissitudes of the Arab-Israeli dispute. But the involvement of both superpowers in the politics of the area through their major "clients" and other recipients of support means that the possibility cannot be excluded that American military demonstration or action would be called for to protect access to oil.[7]

Apart from the possibly fanciful scenarios of American military action to protect supplies of petroleum, some naval planners and publicists define American security interests more generally in terms of maintaining political influence and pressure in a politically acceptable way through a visible naval presence in areas, such as the Gulf and the Indian Ocean, where the United States cannot afford hostile control of the sea.[8] One need not accept the more sweeping versions of Admiral Mahan's theories of naval power, based on ominous but unspecified and highly improbable threats to vital lines of commerce, coupled with overdrawn estimates of Soviet naval power,[9] in order to appreciate the enhanced political and possibly security significance of a far-flung U.S. naval presence in an era of increasing U.S. dependence on foreign strategic materials coupled with a declining U.S. presence on foreign land.

Throughout the world, however, the situations that are most likely to damage the United States' broad security interests in this presumed period of protracted détente may be those which the United States cannot affect by military means, directly or indirectly—indeed, situations over which it has little or no control by any means. These are situations in which American military mobility, military bases, access to oil, and less tangible security interests are damaged by the hostile actions of the weaker and poorer countries, actions which the United States for one reason or another is inhibited from countering by force. Or they are situations in which the conflicts among other States impinge on American interests incidentally rather than by design. (Thus the "cold war" between Britain and Iceland threatened to lead to expulsion of the NATO base from Iceland). If the frustrations and resentments of the less developed countries, no longer able to exploit cold war competition, should be channeled toward organized harassment and pressure against the developed countries—whether for purposes of revenue, political influence, or just nationalist self-assertion—the United States might find itself operating in an environment as hostile to its security as at the height of cold war competition in the Third World. The rising dependence of the United States and its allies on oil and other natural resources and on straits, seas, and overflight which developing countries are able to control by either uncontested or physically established claims, makes American commerce and military mobility particularly vulnerable.[10] Thus one of the primary U.S. security imperatives in this phase of history may become the achievement of mutually advantageous and acceptable working relationships with coastal States in the Third World.

It is apparent from this line of conjecture that the situations affecting U.S. security, broadly conceived, are even more hypothetical than during the height of the Cold War. Yet American security policy, for the sake of deterrence or just insurance against serious trouble, cannot prudently be geared only to predictable contingencies, even though it cannot afford to be geared to the worst contingencies imaginable. With this cautionary note in mind we can explore the implications of these security considerations for U.S. ocean policy.

5. U.S. STRATEGIC NUCLEAR INTERESTS IN OCEAN LAW

In the context of American foreign and security policy and the international environment in which it operates we can now tender some estimates of the effects of different ocean regimes on the specific kinds of U.S. ocean security interests outlined at the outset. It is not sufficient to note that the United States would benefit from maximum military mobility in ocean space (or maximum freedom to emplace listening devices on continental shelves or to conduct offshore electronic intelligence operations) and minimum interference with maritime access to vital resources. That is too sweeping a generality to be translated into laws of the sea in the real world, where one must consider ideal objectives in the context of such operationally significant questions as: (a) how likely, and by what means, are various States to impede achievement of these objectives, (b) how would such impedence affect U.S. interests, (c) to what extent and in what ways would different regimes for use of the oceans affect such impedence, and (d) how feasible and costly is the achievement of more favorable regimes?

First, let us apply these standards of judgment to U.S. nuclear strategic interests in

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the use of the ocean. Here the chief concern is the efficacy of U.S. SSBNs—currently the Polaris/Poseidon fleet—partly because the onset of MIRVing and improvements in missile accuracy enhance the importance of concealing missiles under the ocean and partly because the case for free transit of international straits has rested most conspicuously on the purported security requirements of the U.S. underwater fleet. The U.S. government maintains that the invulnerability of SSBNs and hence their indispensable role in an adequate second-strike force depends on their right to pass through international straits (that is, straits in which there is regular international passage from one high seas to another) submerged and unannounced; whereas under existing law only innocent passage, which, according to prevailing interpretation, requires surfacing of all submarines, would be legal in straits that fall within territorial boundaries.[11] This is a distinction that is held to be of great significance, since under a 12-mile territorial sea boundary perhaps more than a dozen straits of possible strategic significance would be overlapped by foreign territorial waters.

To assess the validity and practical importance of this position, a number of questions have to be answered:

1. Which of the world's more than 100 international straits (121, according to an unofficial chart devised by the Office of the Geographer in the U.S. Department of State) that would be overlapped by territorial waters if 12-mile boundaries were agreed upon might also be important for the mobility of the U.S. Polaris and Poseidon fleet in order to reach the areas in which present strategic doctrine specifies required targets?

The strategic importance of straits is a matter of judgment on which experts may differ, but stretching this category to its reasonable maximum would produce, according to information provided by the same chart of the Office of the Geographer, a list of 16: Gibraltar, two Middle Eastern straits (Bab el Mandeb and Hormuz), four Southeast Asian straits (Malacca, Lombok, Sunda, and Ombai-Wetar), Western Chosen strait (between South Korea and Japan), five Caribbean straits (Old Bahamas Channel, Dominica, Martinique, Saint Lucia Channel, and Saint Vincent Passage), Dover, Bering, and the Kennedy-Robeson Channels.[12]

Nine of these straits, however, are not really essential to America's strategic capability, and some would in any case fall inside the territory of military allies.[13]

The five Caribbean straits are not needed for transit to Polaris/Poseidon patrol stations, since the Caribbean is not an essential launching area. They are not even essential for access to the Caribbean, since there are several passages over 24 miles wide (for example, Mona, Windard, Anegada, and Guadeloupe).

Western Chosen, the western half of the strait between Japan and the Korean peninsula (which is divided by the Island of Tsushima), is only 23 miles wide; but Japan, if not South Korea, would presumably permit U.S. strategic warships routinely to pass through this strait to the Sea of Japan.[14] In any event, the eastern half of the strait, is 25 miles wide.[15] The real sufferer from any closure of the Korean straits would be Soviet general purpose forces, which, for example, would have to travel more than twice as far from Vladivostok to the Senkakus by going the La Perouse route (north of Hokkaido, south of Sakhalin), thereby affecting Indian Ocean operations, China coast patrols, or submarine deployments from Nakhodka.[16]

Bab el Mandeb offers no significant targeting advantage over the Eastern Mediterranean (and transit through the French side of the strait would probably be available anyway). If the Soviet anti-submarine warfare (ASW) presence became oppressive there, or if Gibraltar were closed, the Red Sea could be considered an alternative deployment area. But nearly all targets that could be reached from there could also be reached from the Gulf. Those in areas that could not be reached from the Gulf (Eastern Europe, the Baltic Coast, and the Leningrad area) could be covered from the Atlantic. Passage through Hormuz is probably not necessary now that the shorter-range Polaris A–1 (with a 1200 nautical-mile range) and A–2 (1750 nautical miles) have been phased out in favor of the A–3 (2880 nautical miles). With Holy Loch available on the west coast of Scotland, there is no great need for SSBNs to use Dover in the English Channel.

2. In which of the remaining straits is submerged passage physically feasible but politically unobtainable on a reliable basis?

Malacca is too shallow (10–12 fathoms) and too busy for submerged passage. Sunda is barely deep enough (20 fathoms in the approaches) but requires a passage of over 700 miles within a 50-fathom depth.

The Bering Straits, although about 45 miles wide, are split by Diomede and Little Diomede Islands, making each half of the straits less than 24 miles wide. But since Little Diomede belongs to the United States, submerged passage to the Arctic is not in question politically. Similarly, the narrow route to the Arctic through the Kennedy-Robeson Channels is presumably accessible by submerged passage, since it is in Canadian waters.

This leaves Gibraltar and two Indonesian straits, Ombai-Weter and Lombok, as strategically important straits through which the submerged passage of U.S. SSBNs is now physically and politically feasible but the use of which might be politically questionable if a 12-mile territorial boundary were established.

The two Indonesian straits are important to SSBN operations from the Indian Ocean to Guam. Without submerged passage through them, the U.S. would have to circumnavigate Australia, greatly reducing the number of days on active patrol as opposed to transit, or double back to one of the entrances to the Timor Sea, 180 to 500 miles east of Ombai-Wetar, which would still pass through Indonesian waters.

An additional hindrance to secret passage through Indonesian waters results from Indonesia's interpretation of the archipelago principle of enclosed waters, according to which the two strategic straits are claimed to be internal rather than international waters.[17] Although the Indonesian government has argued that the archipelago principle does not infringe on innocent passage, it requires prior notification of transit by foreign warships and has begun to raise questions about the innocence of supertanker passage on grounds of the danger of pollution they pose. In April of 1972, the Chairman of the Joint Chiefs of Staff, Admiral Moorer, declared, "We should have and must have the freedom to go through, under, and over the Malacca Strait". Shortly thereafter, the Chief of Staff of the Indonesian Navy was reported as warning, "Our armed forces will attack any foreign submarines entering territorial waters without permit, because it means a violation of Indonesia's sovereignty."[18] In response to Indonesian jurisdictional claims, the United States maintains the international character of Indonesian straits but, according to press accounts and Indonesian sources, routinely provides prior notification of transit by surface ships and presumably relies on some special bilateral navy-to-navy arrangement for submerged passage that is not inconsistent with the requirements of concealing the details of SSBN passage from foreign intelligence.[19] This is a rather contingent *modus vivendi*, but as long as an Indonesian government as friendly as that of Suharto is in power it satisfies America's needs.

The situation in Gibraltar is more complicated. Although the Strait is only 11.5 miles wide and Spain claims a 6-mile territorial sea, its international character has been preserved by historic tradition and by the treaties of 1904 and 1912 between Britain and France and Spain securing free passage. In March, 1971, however, there were intimations of a more restrictive view of foreign rights of transit when Spain and Morocco agreed to cooperate to "promote the creation of Mediterranean awareness" and also agreed to consult on all matters relating to peace and security in the Mediterranean and particularly in the Strait. In June, 1972, the Spanish government announced at the United Nations that it would be useful to consider the freezing of naval forces, followed by progressive reductions, in the Mediterranean. At the same time, it indicated that some compromise was necessary between free transit and the rights of coastal States and suggested that such a compromise might be achieved by a re-definition of the right of innocent passage.

Thus Spain may have prepared the way for asserting a right to force submarines passing through the Strait of Gibraltar to surface. But whether or not Spain chooses to assert such a right against American SSBNs will depend, under existing law, primarily on the overall political relations between the United States and Spain. As long as U.S. submarines are based at Rota, the chances are that these political relations will permit an arrangement for submerged transit of U.S. submarines through the Strait of Gibraltar.

If this is not feasible, even the closure of Gibraltar to unannounced submerged U.S. submarine passage would not be disastrous to America's strategic capability. After all, with the Polaris/Poseidon system the entire Soviet Union can be targeted from the Atlantic and Pacific Oceans and the Arabian Sea. Although there has apparently been no need for SSBN patrols in the Indian Ocean, an Indian Ocean base—say, Diego Garcia—would obviate the need to use Gibraltar or the Indonesian straits altogether.

3. To what extent would surface transit of U.S. SSBNs through straits impair their invulnerability to Soviet detection, identification, and (in the event of war) destruction?

This question really subsumes several different questions:

(a) Is the Soviet capability to detect and identify submerged U.S. SSBNs coming through straits significantly inferior to the same Soviet capability with respect to surfaced SSBNs?

The answer is surely "yes" (assuming, of course, that submerged transit is not announced in advance to the straits State, so as to become subject to Soviet intelligence acquisition). It is relatively easy to detect surface passage through straits by means of surface vessels, land observers, or satellites, even at night. By far the most effective and practicable electronic surveillance of submerged vessels is by means of a series of hydrophones (or sonars) connected by undersea cables anchored to the continental shelf, like the U.S. "Caesar" and "Colossus" system. But this device has to be hooked up to a listening station on the shore, which would seem to preclude the Soviet Union installing it at Gibraltar or in Indonesia for the foreseeable future.[20] Moreover, in the high traffic-density straits of Gibraltar and Lombok it would be very difficult to single out transiting nuclear submarines from the high level of background noise. Even in the less-traveled Ombai-Wetar, possible Soviet hydrophone arrays would have to be supplemented by "trawlers" or towed arrays to be effective. The United States and the Soviet Union have developed ocean surveillance satellites, but U.S. efforts to use them to

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detect submerged vessels have proved impractical for basic physical reasons that technology seems unlikely to overcome in the near future. If the Soviets were willing to assign nuclear-powered anti-submarine submarines (SSNs) to monitor the critical straits, this would somewhat enhance their submerged detection capability; but the difficulty that Soviet SSNs have had in shadowing U.S. SSBNs from bases indicates that SSNs would be no substitute for fixed hydrophone arrays.

(b) To what extent can the Soviet Union continually locate U.S. SSBNs after passage through straits, assuming that Soviet surveillance detects and identifies these SSBNs?

It is now extremely difficult, and promises to remain so far the indefinite future, to track submarines that have passed through straits submerged. It is virtually impossible to track all SSBNs on patrol (that is, in position to fire).[21] Open-area surveillance (from aircraft, surface ships, and satellites) will remain of limited effectiveness unless and until, perhaps, large parts of the ocean floor are covered with a network of bottom detection systems in communication with surface ships and aircraft. The most effective ASW method in wartime is a forward barrier-control system, utilizing coordinated bottom detection devices, other sensors, attack submarines, and ASW aircraft. But in peacetime this system cannot prevent SSBNs from passing through the barrier and disappearing.

(c) Would the Soviet capacity to destroy U.S. SSBNs which were tracked and located after detected passage through straits significantly affect the U.S. second-strike capability?

This is unlikely, unless one estimates the requirements of an adequate second-strike capability very conservatively. To reduce the U.S. second-strike capability significantly, the Soviets would have to be sure of simultaneously knocking out most of the 20 to 25 U.S. SSBNs on station at any one time. Merely a few Poseidon-carrying submarines (which will eventually comprise 31 of the 41 U.S. SSBNs), each with its 16 missiles with 10 MIRVs on each missile, could overwhelm the Soviet ABM system. Moreover, this situation will last at least as long as the initial Strategic Arms Limitation Treaty limiting deployment of ABMs is in effect.

4. How will the prospective new Trident SSBN system affect the need to use the critical straits in question?

Although the amount of Congressional funding and the outcome of efforts in the Strategic Arms Limitation Talks to limit SSBNs are uncertain, the development of a new Underwater Long-Range Missile System (ULMS) for the so-called Trident SSBN system may produce a successor to Polaris/Poseidon in the 1980's. The Trident submarine would carry 24 missiles with a range of between 4500 and 6500 nautical miles and with MIRV warheads. It would be quieter and would dive deeper and remain on station for longer periods. Deployment of the Trident system—or, for that matter, the development of ULMS on Poseidon submarines, which is planned for fiscal year 1978—would virtually obviate the dependence of the U.S. underwater nuclear deterrent on transit of straits.

Taking all these considerations into account, it would seem that, even without the Trident system, the absence of a provision for free transit of international straits in a law of the sea treaty sanctioning 12-mile territorial sea boundaries, although imposing some hardships on the operation of the U.S. SSBN fleet, would not seriously weaken its contribution to nuclear deterrence. From the routine operational standpoint the hardship of having to surface submarines would fall more heavily on nuclear anti-submarine submarines (SSNs), which play an important role in the strategic nuclear equation. But despite the improved information about the numbers, direction, and location of hunter-killer submarines that surface transit would give to Soviet intelligence, this hardship would not really increase the willingness of the Soviet Union to launch a nuclear first strike or greatly enhance the efficacy of Soviet salvos after an initial nuclear exchange. In any event, the same requirements of surfacing imposed on Soviet SSNs would offset the disadvantage to the U.S. underwater deterrent.

Aside from the problem of detection, however, there are other operational disadvantages to surfacing nuclear submarines in straits. Where high-density traffic occurs, as in narrow straits and around headlands, the nuclear submarine is safer both to itself and to surface shipping when it is below the surface. One reason is its huge size. An advanced model such as the *Lafayette* is 425 feet in length, has a beam of 33 feet and a submerged displacement of 8,750 tons, which is longer than WW II destroyers and heavier than some World War II light cruisers. The nuclear submarine is designed to operate best when submerged, where she has greatest maneuverability and her sensors work best. With a low conning tower and no superstructure to speak of, she must receive exceptions to her construction standards in order to comply with light requirements for night navigation. For this reason and since much of her hull is below the surface and not visible to electronic searchers (radar), merchantmen find a submarine hard to detect. Moreover, a submarine's ability to travel under the surface frees her from the limitation of surface weather and wave motion, and any submarine is particularly vulnerable to collision loss by virtue of its small reservoir of buoyancy.

The operational disadvantages of surface transit could be avoided, of course, if the United States were willing to provide littoral States with advance notification of underwater transit, providing that the critical States in question would regard underwater transit on these terms as a satisfactory arrangement. But this hypothesis only illustrates that the prior issue is the importance of secret passage.

When pressed to explain the necessity for free transit of straits, U.S. officials have referred not only to the security of secret passage and to the safety of submerged passage but also to the prospect that, without an international treaty prescribing free transit, straits States might resort to "subjective" (that is, politically-inspired) interpretations of innocent passage in order to restrict the passage of U.S. warships. Thus John R. Stevenson, chief of the U.S. delegation to the U.N. Seabed Committee, testified before Congress that "We would not contemplate notifying [littoral States of intention to transit straits] because if such a requirement is introduced, there is of course ultimately a risk of this leading to control of transit through straits." This risk, Stevenson said, lies mostly in the future, and he cited no case in which the requirement of advance notification had been used to restrict naval transit.[22]

In fact, experience indicates that the risk of restrictive interpretations of innocent passage applies largely to commercial vessels on grounds of navigational safety and anti-pollution—a point which has, until recent emphasis by the oil industry, received little attention, perhaps because of the notable reluctance of the U.S. shipping industry to pursue its considerable interests in a law of the sea treaty openly. Surely, these grounds for controlling the passage of ships offshore are not purely subjective; they are objectively quite important. If, on the other hand, one takes seriously the danger that littoral States will interpret innocent passage and the requirement of advance notification to deny transit of straits to American warships for purely political reasons, then one must also wonder why these States would sign a treaty prescribing unimpeded passage or be deterred by such a treaty.

So much for SSBNs. What about other components of the U.S. strategic capability? In the discussion and controversy about the need for free transit through straits the issue of overflight has been all but ignored in public statements, although the U.S. position on the law of the sea treaty—presumably for compelling strategic reasons—prescribes free transit over straits for military aircraft (there being no innocent passage for overflight recognized in international law). According to the Triad system, U.S. strategic nuclear capability requires manned aircraft as well as SSBNs and land-based missiles. The U.S. strategic bombing force is still a significant weapons system, with some distinct advantages of mobility and of control responsive to political guidance. One might suppose that effective denial of military overflight over key straits would seriously impair the utility of the U.S. strategic bombing force as a deterrent.

In practice, however, the right to fly over 24-mile straits does not seem to be critical to the utility of the U.S. strategic bomber force (as distinguished from the U.S. military airlift capability), since overflight of straits is a small part of the larger pattern of overflight, which is evidently managed adequately by special arrangements, where necessary, and which is physically unfeasible for most States to deny in any case.[23]

The emphasis in American ocean policy on free transit under, through, or over international straits has somewhat overshadowed another official concern: that the U.S. strategic capability may be hampered by territorial sea boundaries or continental shelf regimes claimed or established by coastal States.

The breadth of the continental shelf regime, one can infer from the published data, might have some effect on the freedom of the United States to emplace passive ASW listening devices (SOSUS) on the shelf, particularly off the shores of foreign countries.[24] Apparently, these devices are most effective beyond the 200-meter depth and part way down the slope of the shelf,[25] although their effectiveness must also depend on the peculiar acoustic properties of the ocean at various temperatures, depths, and salinity and particularly on the depth of the sound channel that focuses sound energy in deep water. Presumably, the United States would be constrained from placing SOSUS where the use of the shelf were not permitted by existing international law or protected by a new international treaty. Therefore, one might assume that an ocean regime that extended territorial sovereignty over the whole continental margin would adversely affect U.S. military security if SOSUS is vital to America's strategic capability.

Undoubtedly, hydrophone arrays on the ocean bottom are critically important to the U.S. ASW capability, whatever the strategic or other military importance of ASW may be.[26] It is unlikely that new technology will reduce their importance in the next five to ten years, if ever. These acoustic devices are perhaps physically vulnerable to Soviet interference; but the Soviets, one may assume, are installing many of the same kind of devices and therefore have a vested interest in not interfering with them. Most developing countries do not have the capability to locate and destroy the arrays; and the United States denies, in any case, that it has placed them off the shores of these countries, although their suspicions persist.

Notwithstanding these facts, however, there is little reason to think that the utility of SOSUS would be critically affected even by the broadest boundary of coastal State sovereignty on the continental shelf. The crucial monitoring areas where SOSUS needs to be

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emplaced, one would judge from the published information on the submarine passageways where they are most useful, are the Greenland-Iceland-United Kingdom gap, the Arctic, the North Pacific, and the Caribbean. With the possible exception (albeit a key one) of Iceland, enough of the northern European countries are concerned about the Soviet SSBN force to permit U.S. listening devices in the area. Considering the extent of the shelf off Alaska and Canada, the emplacement of hydrophone arrays in the Arctic is not likely to be severely restricted by a shelf convention. Between Guam, Midway, Hawaii, Alaska, and the Aleutians, the United States can claim a significant amount of underwater real estate on which to emplace listening devices in the North Pacific. Whatever gaps may exist in this coverage would not seem to be affected one way or another by extended claims to the continental shelf. Only in the Caribbean and the Gulf of Mexico would a broad national shelf be likely to restrict U.S. coverage. But U.S. coverage there is limited anyway, since Cuba blocks it from CONUS while the Dominican Republic lies in the way of coverage from Puerto Rico.

In any case, as noted above, since hydrophones have to be connected to shore stations (or, at great expense, to surface ships), the United Stats generally needs the permission of coastal States to emplace SOSUS on their continental shelves, whether within or beyond the territorial boundaries claimed by these States.

It should also be noted that an extension of national claims to the shelf edge probably would do more damage to Soviet acoustic installations than to American. Presumably, it would be difficult to find a government beyond the Norwegian Sea that would consent to Soviet devices on its shelf. The same is true of Canada and of Japan (although the effect of this fact is limited by Soviet ownership of the Kuriles).

The implications of SOSUS are the same even if national regimes were to encompass the continental margin, although the bottom topography near Iceland makes it difficult to determine the precise limits of the shelf, margin, rise, etc. There is however, a third possibility if no international regime is agreed upon. The 1958 Continenal Shelf Convention states, in part, "the term 'continental shelf' is used as referring . . . to the seabed and subsoil of the submarine areas adjacent to the coast to where the depth of the superjacent water admits of exploitation of the natural resources of said areas." Since the technology for exploiting all but the deepest trenches soon will be available, this could eventually lead to a delimitation of the seabed nearly on the basis of media lines. In this event, the United States would own most of the North Pacific seabed (although it probably would not be useful for more listening stations); the United States, Canada, and the USSR would divide up the Arctic (also without much impact on senors); the situation in the Caribbean would not be greatly altered; and Norway would own much of the seabed beneath the entrance to the North Atlantic.

Finally, in estimating the impact of alternative ocean regimes on America's military strategic capability, one must take into account the effects of extended territorial sea boundaries and other kinds of off-shore zones. These effects, of course, depend in part upon what sort of restrictions coastal States choose to claim and are able to enforce or otherwise gain compliance with. Added to the proliferation of extensive off-shore territorial claims, coastal States are looking increasingly to extensive anti-pollution, security, and other functional zones as a basis for restricting foreign navigation, both military and civilian. Moreover, in the absence of a comprehensive and near-universal law of the sea treaty such as the United States has proposed, coastal States may resort to regional or local treaties—on the model of the Montreux Convention or a version of the Soviet doctrine of "closed seas"—that will severely restrict the numbers, types, and methods of transit by warships of non-signatories. Assuming, then, for the sake of analysis, that more and more coastal States will be trying to apply more and more restrictions on foreign military passage within 50 to 200-mile offshore zones and adjacent seas, what are the implications for America's strategic capability?

A 200-mile region that impeded American naval passage would have the greatest effect on America's strategic capability in the Arctic, given the premise presented here that the Mediterranean is not indispensable to America's strategic nuclear capability. But even with 200-mile sea boundaries, access to the Arctic would be possible through the Eastern Bering Strait and the Kennedy-Robeson Channel (given Canadian compliance). In the Atlantic, patrols could still press fairly far north within the 200-mile boundary around the Shetlands. In Indonesian waters, a 200-mile boundary would not be much more restrictive than a 12-mile boundary, since Indonesia defines its boundary according to a broad archipelago doctrine. In any case, Poseidon missiles could still target all the USSR from points 200 miles off Bangladesh and Japan and in the southern Norwegian Sea.

More important than the impact of restrictive territorial zones and special seas on SSBNs may be their impact on the integrated operation of fleets—such as the Sixth Fleet in the Mediterranean—which have strategic functions beyond providing launching platforms for missiles. But the strategic function of surface ships, apart from their political and psychological uses, has been drastically eroded by technological advances in attack submarines, surface ships, and aircraft.

Moreover, it is worth noting that coastal State restrictions would have a much more adverse impact on Soviet than on American strategic mobility. If, for example, the restrictions applied to the current narrow sea boundaries were applied to 200-mile boundaries, Soviet SSBNs would be restricted to half of the Arctic and to operations from Petropavlosk. Submerged passage to the Atlantic would be prohibited. The Caribbean and the southern exits from the Sea of Japan would be closed. Soviet fleet maneuvers would be correspondingly more impeded than American by the proliferation of extensive restricted seas, anti-pollution zones, and the like.

What, then, are the implications of all these considerations for the protection of American strategic interests under alternative ocean regimes? Unquestionably, America's strategic capability with respect to the Soviet Union would be better off under an effective universally-applicable law of the sea treaty that provided free transit through international straits, established a narrow continental-shelf boundary, limited territorial sea boundaries to 12 miles, and protected military passage through anti-pollution and other zones, than under the more restrictive regimes we have postulated. But even the most restrictive regimes we have anticipated would not undermine America's strategic capability on the ocean, particularly if the Trident system were operating. Moreover, the adverse impact of restrictive regimes on the totality of Soviet ocean-based strategic capabilities would be far more severe than on American capabilities, although, faced with America's greater strategic dependence on the sea, U.S. naval leaders cannot be expected to gain much consolation from this comparison.

In any event, what is the most realistic alternative to the postulated proliferation of restrictive regimes? Is it to insist on the non-negotiability of free transit through international straits and the maximum freedom of the seas against the restrictive inclinations of coastal States? Or is it to concede to coastal States somewhat more extensive control of straits, sea bottoms, and sea boundaries, while seeking to protect the really essential strategic needs, whether through a law of the sea treaty that strives for universality or through other kinds of arrangements and agreements?

We shall revert to this question after considering America's non-strategic security needs on the ocean. Suffice it to note here that the United States' achievement of special arrangements and agreements that will protect America's essential strategic interests—demonstrated in U.S. relations not only with allies but also with Spain, Indonesia, and Iran—depends on the government's ability to reach favorable bargains in the total context of its political relations with key coastal States. For this purpose the United States, even in this period of dependence on Middle East oil, has considerable political, economic, and military assets. Its good working relations with a number of locally and regionally powerful States manifests these assets. If this is a correct assessment, it would be a great mistake for the United States to waste political assets or pay a big price in terms of other ocean interests in order to achieve illusory maximum strategic advantages under a law of the sea treaty that might, in that case, be unacceptable to key States anyway.

6. OTHER U.S. SECURITY INTERESTS IN OCEAN LAW

In seeming to concentrate so heavily on the need to protect America's strategic nuclear capability, American ocean-law officials have until recently under-rated more serious threats to U.S. security interests that impinge on the U.S. capability to conduct limited military actions and demonstrations and to protect vital commerce and other peacetime interests. They have also underrated America's general security interest, as one of the principal maritime powers, in maintaining harmonious working relations with the less developed coastal States of the world.

We have contended that American security interests, broadly conceived, will continue to require the support—actively or passively, overtly or tacitly—of American armed forces, particularly outside the developed centers of the world and most likely in the Mediterranean-Gulf-Indian Ocean waters providing access to the Middle East. It is impossible to predict or even to assign with much assurance an order of probability to specific scenarios in which the demonstration or active use of American forces may be called for. But the conduct of foreign relations is never susceptible to such precision of foresight. In general terms, nevertheless, we can see that the revised American foreign policy outlined by the Nixon administration requires the stabilization of a reduced but still global force posture for an indefinite period of moderated great-power competition punctuated by continual disturbances on the peripheries of the developed world.

This kind of force posture will continue to require great military mobility in ocean space, but the implications of this requirement for American interests in alternative ocean regimes are not self-evident. In the event of American direct involvement in a local war or military action, would American deployment of naval and air forces in ocean space depend on the agreed or claimed territorial sea boundaries of coastal States or on the national positions and international rules, whether or not sanctioned by treaty, governing passage through or over international straits? Probably not, if the conflict were regarded as sufficiently important to engage American armed forces. Similarly, if America's merchant fleet were to be directly harassed by Soviet or other ships—an un-

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likely contingency in the case of the Soviet Union, considering its parallel interests as a maritime power—or by its physical denial of access to resources and commerce, the United States would not be deterred by legal claims or interpretations from taking the measures necessary to protect its vital interests.

Nonetheless, the politics surrounding some local conflicts might well lead the United States to heed the objections of non-belligerent States to the passage of U.S. warships and aircraft through and over waters that they held to be under their jurisdiction. In general, the less directly the United States were likely to become involved in an armed conflict and the less critical the outcome to American security interest, the more the United States government might be inclined to heed such objections. Thus if the United States were providing material support to a belligerent in a local conflict—even in the case of Israel, for example—it would probably hesitate to resist either a belligerent's denial of American overflight (as in the Middle East crisis of 1973) or passage of warships and merchant ships. In incidents short of a clash of arms—as, for example, those arising from quasi-legal restrictions imposed on U.S. sea lanes providing access to oil—such denials would be particularly difficult, politically, for the United States to contravene.

It is in situations like these that the kinds of restrictive territorial sea boundaries and special zones that we considered in relation to America's strategic capability can be expected to exert their major impact. Thus the imposition by littoral States of restrictions on straits, whether in the name of protecting themselves from pollution or on economic or more general grounds, is apt to be a far more important and less easily surmounted obstacle to naval mobility (for example, the transportation of general purpose forces in a crisis) and the shipping of oil and other resources than to the efficacy of America's underwater strategic nuclear force. If the criterion of security interest is stretched to include passage through straits of major economic significance (and, incidentally, traffic density), there are at least ten such straits about half of which could be controlled by States that might impose costly, inconvenient, and, conceivably, politically-inspired restrictions on the passage of goods and resources of value to the United States.[27]

This kind of danger was foreshadowed by events in the Strait of Malacca a few years ago. It was a quite reasonable concern about the ecological disaster that could follow an accident to supertankers in the hazardous channels of this strait that provoked Malaysia in July, 1969, to claim a territorial sea of 12 miles. Indonesia, which in 1957 had proclaimed its archipelago doctrine of sovereignty within baselines drawn around its 13,000 islands, joined Malaysia in 1970 in a treaty dividing the Strait down the middle. When the U.S. carrier *Enterprise* and accompanying ships passed through the strait enroute to the Bay of Bengal during the Bangladesh crisis of 1972, Indonesian spokesmen reaffirmed the right of the littoral States to control such passage but reconciled this right with the American action by stating that the Commander of the Seventh Fleet had given advance notice.[28] The United States thus avoided a dispute with Indonesia, but the prospect of more troublesome encounters in the future had been foreshadowed.

It does not necessarily follow, however, that the protection of American interests against such encounters can be secured by new international legal and organizational devices. After the *Enterprise* incident, the United States government proposed that "free passage" of straits in a law of the sea treaty be qualified by international standards for safety to be established by the Inter-Governmental Maritime Consultative Organization (IMCO) or some other international organization and enforced, beyond the coastal State's territorial sea boundary, by the flag State or port State.[29] But Malaysia and Indonesia, while willing to grant controlled transit through straits and waters near their shores at their discretion (although the United States evidently does not give either Malaysia or Singapore the advance notification Indonesia claims to receive), are not willing to relinquish such control to an international organization dominated by the United States; and they are even less willing to entrust enforcement of pollution and safety standards to the great maritime States who are increasingly congesting straits with huge tankers and other commercial vessels.

These political facts argue for the adoption of a legal position more accommodating to the claimed residual sovereignty of coastal States beyond their territorial sea boundaries. But how serious potential conflicts between coastal and maritime States become will depend on more than success or failure in the search for a general international treaty. After all, there seems to be, even now, a *modus vivendi* between the United States and Indonesia that works fairly well because jurisdictional differences are not pressed to the point of codification. One gets the impression that basic political factors, such as Indonesia's determination to become the dominant Southeast Asian power, its uneasiness about expanding Soviet naval activity and Soviet alignment with India, its latent fear of Japan and reluctance to become dependent on Japan's naval power, and its dependence on an American presence in Southeast Asia, consolidated by American economic assistance and military aid and sales, will have more to do with an accommodation of U.S. and Indonesian ocean interests than anything that is likely to happen at a general international conference to negotiate a law of the sea treaty.

Similarly, the protection of American naval and economic interests in the Persian (or Arabian) Gulf seem destined to depend far more on good relations with Iran than on a new law of the sea treaty. Indeed, Iran's drive for control of shipping in the Gulf, through which two-thirds of the non-Communist world's oil imports pass, tends to conflict with the tenets of free navigation that the United States would like to see incorporated into a law of the sea treaty. Thus in March, 1973, Iran was reported to be exploring an agreement with Oman to inspect all ships passing through the Straits of Hormuz at the entrance of the Gulf.[30] Observers of Gulf politics regard Iran's announced concern about the threat of pollution as secondary to its concern about Arab governments supplying arms to Iranian rebels. Iran's inclination to seek control of shipping in the Gulf may run counter to an ideal universal law of the sea treaty; but, considering the more than $2 billion in arms the United States has provided Iran to bolster its claim to paramountcy in the Gulf, Iran's forward policy should not be inconsistent with America's broad security interests in the Gulf. Indeed, if the general U.S. policy of relying on Iran as a surrogate for U.S. naval power is correct, Iranian control of the Gulf may be the condition, or at least the necessary price, of protecting U.S. interests in the Gulf.

Restrictions on overflight, as on surface navigation, exert a far more serious effect on the mobility of general pupose forces in limited wars and crises short of war than on the U.S. strategic capability. In the Mediterranean and Gulf areas, at least, the United States evidently must count on denial of military overflight rights even by allied and other countries in which it has air bases. The result, as in the case of surface navigation, is to enhance the importance of unimpeded passage over (as through) straits. In practice, however, the problem of securing essential mobility by overflight is even more confined geographically. Perhaps it comes down essentially to flying over the Strait of Gibraltar. In any case, resolving this problem, like securing military transit through straits, will depend primarily on the full context of political relations with a few key States. If these relations are not favorable to unimpeded passage, the key States are not likely to sign a free transit provision because of any bargaining that takes place in a law of the sea treaty conference. If they are favorable, the United States will probably have a better chance of arranging a satisfactory *modus vivendi* outside an international conference than of obtaining a legal guarantee through either a multilateral or bilateral treaty.

Nevertheless, U.S. ocean policy-makers understandably cringe from the troublesome prospect of contriving the protection of American ocean security interests through *ad hoc* deals with local and regional powers. As lawyers must, they seek to rest the protection of American ocean interests on treaty-made laws that apply as generally and unambiguously as possible rather than on *modus vivendi* based on fragile political alignments and the untidy growth of customary law. Moreover, they look upon both the threat of American ocean interests and the solution to the threat in abstract terms, consistent with the American tendency to identify the national interests with a universal order.

According to this outlook, the more coastal countries that assert control over straits claim 50-mile or 200-mile territorial boundaries, demand special restrictions on innocent passage, or otherwise constrain the use of ocean space, the more such constraints are apt to lead to encounters and clashes with the major maritime States. Consequently, in this environment American vital interests will be increasingly endangered, and the United States will incur growing difficulties in moving air and naval units to the sites of local clashes and crises that affect these interests. This equation, in the official view, raises the prospect that, in the absence of a new universal law of the sea treaty, the United States will have to choose between acquiescing to increasing assertions by coastal States of jurisdictional rights that constrict American ocean mobility and forcefully contesting such assertions.

The resort to force is typically presented as a prospect that points up the urgency of an international law of the sea treaty, as though force—at least when imposed by the strong against the weak—were either obsolete or too terrible to contemplate. The generalization is pertinent but overdrawn. Not that the commonly observed inhibitions of the most powerful States against enforcing their will on weaker States in the postwar international environment are any less compelling with respect to the major maritime States protecting their interests on the ocean. But we exaggerate these inhibitions if we do not recognize their contingent nature. That is to say, the great powers' constraint in enforcing their interests against the developing countries depends on a calculus of material (and, one can argue, long-run political) gain and political loss that may change with changing conditions.

Thus, the political costs of the United States forcibly protecting American tuna fishers against the claims of sovereignty by Peru always seemed excessive compared to what could be gained by such drastic measures and what would be lost without them. But it is misleading to infer from this situation that the United States would be equally passive in the face of some threat to a more serious economic interest or to a military security interest. British resistance to Iceland's 50-mile exclusive fishing-zone claim, which led to a number of clashes between Icelandic naval ships and British escorts, demonstrates considerable British self-restraint

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but also shows—despite Britain's withdrawal of its warships in pursuit of a settlement—that a maritime State will not necessarily passively accept the assertions by a small State of a conflicting ocean regime when important economic interests are at stake and cannot be secured by other means (such as by licensing arrangements, by trading military or economic aid for non-enforcement, or by gaining compensation for seized ships).

Where military security is involved, moreover, the maritime States have been bolder in backing their interests than in fishing disputes. The most frequent examples have occured in intelligence gathering. Thus, despite North Vietnam's claimed 12-mile boundary, the United States acknowledged that the U.S. destroyer *Maddox* was only 11 miles off North Vietnam shortly before the first Gulf of Tonkin incident. The United States has not been reluctant to fly aerial intelligence missions that contravene unaccepted jurisdictional claims over coastal waters.

Since World War II there have been several cases (excluding fishing-rights interventions and Cold War crises) in which maritime powers have exercised their naval superiority to support their definition of freedom of the seas. In July, 1951, when an Egyptian corvette intercepted and damaged a British merchantman in the Gulf of Aqaba during an attempted blockade of Israel, a British destroyer flotilla was deployed to the Red Sea. Two weeks later Britain and Egypt reached an agreement on procedures for British shipping in the Gulf. In February, 1957, American destroyers patrolled the Straits of Tiran and the Gulf of Aqaba to prevent Egyptian interference with American merchant shipping enroute to Israel. On December 13, 1957, President Sukarno's government enunciated Indonesia's archipelago doctrine. Less than a month later, Destroyer Division 31 passed through the Lombok and Makassar Straits to reaffirm the U.S. right of innocent passage. On July 21, 1961, following a bombardment by French naval aircraft, a French cruiser-destroyer group forced the entrance to the Lake of Bizerta to lift a Tunisian blockade of the naval base and re-establish French control. Following Egyptian closing of the Straits of Tiran in May, 1967, the Sixth Fleet concentrated in the Eastern Mediterranean while the Admiralty announced that the carrier *HMS Victorious* and other units were being kept in the Mediterranean "in readiness against any eventuality," although the threat was not carried further. On April 22, 1969, Iranian warships escorted an Iranian merchant ship from Khorrasmshahr (at the junction of the Tigris and Karun rivers just inside the Iranian border) to the Persian Gulf in defiance of Iraqi threats. Apparently a similar incident had occurred in 1961 in which Iran was forced to yield for lack of naval forces.

On other occasions maritime powers have simply ignored or rejected coastal State claims against their activities. Thus the PRC Chinese routinely challenge U.S. vessels in the Lema Channel en route to Hong Kong, and the U.S. vessels routinely disregard these challenges. France enforces restricted zones around its nuclear testing site at Mururoa atoll, despite national protests. During the Algerian War, France undertook to visit and search the flagships of more than a dozen States, on some occasions as far away as the English Channel.

Thus, if the jurisdictional claims of coastal States were to jeopardize American economic or security interests in the Third World, the United States would not necessarily be deterred by immediate political costs from supporting its ocean interests with force, particularly if the clash of interests occurred out of the context of U.S.-Soviet competition, which is increasingly likely to be the case. If such clashes were to become contagious, as regular features of the international environment within which the maritime powers have to operate, one can even imagine some of these powers at least tacitly cooperating to enforce their conception of freedom of navigation. Then new laws of the sea would eventually be defined, over time, by the kind of military and diplomatic process that created the traditional laws, with test encounters playing a determining role.

This is neither a desirable nor the most likely prospect, however. Coastal States or the maritime powers are not likely to be so intractable in the pursuit of conflicting interests at the expense of their parallel and common interests in maintaining the flow of commerce. Nor are the interests of coastal or maritime States likely to be so cohesive and single-minded as this prospect presupposes. Nevertheless, the prospect does adumbrate a plausible upper limit of conflict, the anticipation of which may tend to keep the political process of customary and formal lawmaking within moderate bounds. Within these bounds the protection of American security interests in the ocean will depend, in the first instance, on the configuration of political interests and military power among indigenous States that are in a position to affect vital American military and resource interests; secondly, on the balance of U.S.-Soviet interests and influence as it affects the actions of these States; thirdly, upon the perceived and actual disposition of the United States to back its ocean interests with force; and, only in this total context, on the process of asserting, contesting, accommodating, and negotiating the modalities of the rights of navigation through and over offshore waters and international straits.

Indeed, whether or not a satisfactory law of the sea treaty is obtained, the United States, consistent with the current realities of international politics as well as with the revised view of American power and interests underlying the Nixon doctrine, must depend more and more on the favorable configuration of interests and power among local States rather than on direct American intervention, by armed force or otherwise, to protect its security interests in the use of ocean space. Insofar as the United States can affect such configurations at all, it must depend primarily on skill and tact in playing the politics of trade and investment, economic and military assistance, and traditional diplomacy in its dealings with the major oil-producing States and the States astride commercially and militarily key straits.

7. IMPLICATIONS FOR THE LAW OF THE SEA TREATY

From the standpoint of American security interests what conclusions can one draw from this analysis about the desirability and feasibility of resolving by means of the projected law of the sea treaty the various jurisdictional issues—present and potential—concerning the use of the ocean? Although American law of the sea officials have scarcely bothered to justify this comprehensive approach except in the most general terms, they are moved, one can infer, by several ostensible advantages of this approach as compared to reliance on existing laws and *modus vivendi*, on separating navigational from other issues for settlement, or on seeking bilateral or regional treaties and arrangements.

One such advantage is the practical one of *uniformity*. The point made by American ocean officials is that it would be excessively time-consuming, inconvenient, and disorderly to make differing *ad hoc* arrangements with all the littoral States involved. This point is compelling as it applies to jurisdictional zones and other ocean issues affecting commercial activities—whether fishing, petroleum and mineral exploration and exploitation, or merchant shipping. Having to adapt these activities to a diversity of local claims, regulations, and laws could pose such practical difficulties and contradictions as to impede commerce while leaving unresolved many sources of international litigation and conflict. If, for example, littoral States continue to impose an increasing number of more stringent requirements on the type and construction of merchant ships, on insurance, and on navigational taxes and tolls for shipping, the resulting chaos of claims and arrangements could be worse than inconvenient.

This kind of disadvantage, however, is not nearly so serious as it applies to naval and air navigation for security purposes, since, if the forgoing analysis is correct, the critical problems of navigation and other military uses of the ocean are neither so numerous and diverse nor so intractable to special arrangements as to be beyond satisfactory resolution on an *ad hoc* basis, if necessary.

Of course, as U.S. representatives now emphasize, if a universal law of the sea treaty incorporating free transit could be obtained, it would be advantageous not only to American military mobility but also to merchant shipping, in which national commercial and security interests now merge. But even so, agreement on free transit would not obviate the need for special international agreements applicable to merchant shipping. Hence, the U.S. government has (a) stressed that the "free" in "free transit" applies only to unrestricted passage through international straits rather than to the whole range of activities permitted on the high seas and (b) expressly stated that the problems of navigational safety and pollution risks in international straits should be resolved by separate international agreements and organizations.[31]

If the right of transit must be qualified, in any case, by recognition of the legitimate concerns of littoral States about the hazards of merchant shipping off their shores and in adjacent straits, it may be unwise to fuse the protection of this right with the right of submarines to go through straits submerged and unannounced. It may also be unwise to insist on the strict meaning of "free transit" if the substance of the right can be as readily protected in practice—and with less arousal of the political sensitivities of post-colonial States—under the rubric of "innocent" or "unimpeded."

A second ostensible advantage to the comprehensive treaty approach to ocean lawmaking is that the United States would gain a *bargaining* advantage by intermixing the free-transit straits provision with resource provisions, such as 200-mile resource zones and revenue sharing, which are intended to give coastal States otherwise opposed or indifferent to free transit an incentive to make concessions to U.S. security interests. The only trouble with this argument is that, in practice, the strategy may not work. Indeed, it may work just the other way, if coastal States, observing the great importance that the United States attaches to free transit, calculate that they can extract concessions on their control of resource zones and the like as the price of accommodating maritime interests. It remains to be seen which, if either, of these bargaining strategies works better. But so far, judging from the concessions to coastal State control of resource zones that the United States has already made, the advantage seems to lie with the coastal States. Even where these States (as in Latin America) have evidently made concessions to the U.S. position on free navigation, they have done so, in accordance with the Latin doctrine of "patrimonial seas," at the price of American abandonment of restrictions on exclusive resource zones (other than restrictions of dubious political feasibility, such as compulsory dispute settlement and security of investments).

A third reason for the comprehensive approach is the alleged *political advantage* to seeking a legal resolution of conflicting interests in the context of a treaty applicable to all States rather than to a few.

One supposition underlying this point seems to be that weaker States will find this general multilateral context less invidious and less damaging to their national pride than entering into bilateral or regional arrangements with the United States, and that therefore they will find it easier to be accommodating. The smaller States can explain their accommodations as concessions to the general international community in which they all participate. The United States can avoid the stigma of hegemony and limit the price for compliance the smaller States may exact.

A related supposition may be that in trying to reach bilateral or regional deals the United States must suffer the political embarrassment, as well as the tactical disadvantage, of having to satisfy the special interests of weaker States; whereas the United States is less vulnerable to such pressure for concessions, and concessions made to one country or regional grouping are less apt to embarrass the United States in dealing with others, if it can generalize its positions and its modes of influence in the huge multilateral forums of the United Nations.

These kinds of political considerations are, of course, valid in some cases of diplomacy; but since they are not valid *a priori* and in all circumstances, only an exploration of the comprehensive approach and its alternatives could indicate whether it applies to the diplomacy intended to protect U.S. ocean security interests. Here the evidence is quite incomplete and will probably remain so. So far, the requisite number of key coastal States have been reluctant to concede free transit in return for international controls against accidents and pollution, but the United States has nevertheless managed to protect its essential security interests. On the other hand, there is no reason to think that the United Sates would come any closer to gaining acceptance of its position through bilateral or regional deals.

Therefore, it would seem that the case for including the provisions of special security concern in a law of the sea treaty depends much less, if at all, on the alleged advantage of comprehensiveness and universality than on the feasibility of persuading a large number of States, including the key straits States, to accept particular provisions like free transit as consistent with their basic interests and sovereignty, no matter what the negotiating format may be. If the requisite States agree to free transit, it will not be because of any advantages of political accommodation and bargaining power inherent in the negotiating forum but because of the particular balance of interests that emerges in the total context of their relations with the United States and other maritime States. If they regard free transit as inconsistent with their interests, for whatever subjective or objective reasons, the United States would be ill-advised to make agreement on free transit the condition of accepting a treaty that might resolve the jurisdictional issues pertaining to merchant shipping and commercial activity, where the case for uniformity and universality is compelling. American security interests will suffer far more from an international environment in which unresolved jurisdictional issues concerning resource and anti-pollution zones engender chronic conflicts and in which coastal States impose a variety of regulations and restrictions on commercial shipping than from international agreements on something less than free transit through international straits or, for that matter, from no additional formal agreements on straits at all.

At this point, before the projected international conference on the law of the sea convenes, American representatives stoutly insist that in the end, when all the rhetoric and bargaining are over and a treaty is up for final negotiation, the coastal States will generally accept free transit, because it is not contrary to their national interests and, in the case of a few countries with maritime interests, is a positive advantage. Although this estimate is shared by few close observers of international ocean parlays outside the government and is doubted by some important individuals and agencies inside the government, it may turn out to be correct if the United States makes concessions to the pride and interests of enough developing countries. If official optimism about the prospect of achieving free transit is unwarranted, however, or if the price is exorbitant, not only U.S. security interests but the whole range of U.S. ocean interests would be best served by confining the law of the sea treaty's concern with passage through international straits to general principles of mutual maritime and coastal State interest, leaving the precise condition of transit legally ambiguous. If these conditions need to be made more precise—which is questionable—the United States can afford to delay the formulation of them until some further accommodation of the various interests of the United States and the key straits States crystallizes outside the tense environment of a huge international conference. Indeed, this may be the only course it can afford. In any event, the best alternative to protecting U.S. security interests in a comprehensive international treaty is probably not seeking protection through bilateral or regional treaties (where the political effort and cost promise no greater returns) but simply through *modus vivendi* under existing law, leavened by international agreements that meet the legitimate concern of littoral States to have a fair share of control, along with the great maritime users, over the increasingly congested commercial ocean lanes.

The disadvantage of this policy has been exaggerated by implicit acceptance of the unexplained assumption in the official policy that there is some great advantage to getting many countries to sign an international treaty embodying free transit (assuming that they will), although a few straits States refuse to sign it (as even U.S. ocean officials consider likely). On the face of it, the most important objective of a treaty provision on free transit is to gain full legal recognition of the principle of unimpeded passage through straits from the few States—for military purposes, perhaps only Spain and Indonesia—that might seriously endanger American security interests by impeding passage. If the U.S. position is not based on the supposition that the key straits States will subordinate their special interests, as they see them, to "world opinion", either by joining the multitude of signatories or by relinquishing their claims in practice—and this would be a most unrealistic supposition—it must be based on the calculation that in the event of a show-down, the United States will be in a better position physically to resist assertions of control by these States, forcibly if necessary, if it can bolster its resistance with the sanction of a nearly universal treaty. There may be an element of truth in this calculation insofar as it applies to the moral courage of American statesmen; but it seems naive as it applies to the efficacy of an international treaty in either marshalling the support of coastal State signatories or gaining the compliance of non-signatories.

Nonetheless, one could view this hypothetical assumption about the psychological and political efficacy of an international treaty more hopefully if there were more reason to share the official U.S. confidence in the eventual "rationality" of a large block of coastal and less developed countries that now seem reluctant to grant free transit. Against this hopeful prospect one must weigh the danger that the United States will only aggravate the problem of reconciling its interests in unencumbered navigation with the interests and pride of a large number of coastal States in controlling the use of "their" waters if it insists on obtaining the maximum guarantees for its interests through international law. By elevating what must in essence be a set of political accommodations between the interests of the great maritime States and many coastal States into a matter of legal rights and national sovereignty, the United States may only polarize the issues. On the other hand, by asking for less in law, it may get more protection for its interests in fact. For on the practical basis of day-to-day dealings, as opposed to the rhetoric of public international discourse, most coastal States, including the key ones, are not necessarily opposed to granting in practice what they may refuse to accept as legal principle. And in an atmosphere in which the less developed coastal States do not see themselves as confronting the great maritime States in a contest of power, a contest in which they must rely on their superior voting strength in the U.N., a number of these weaker States whose shipping can be hampered by regional rivals may come to the conclusion that they have at least as much interest as the developed states in unencumbered navigation.

In this "era of negotiation" and of American "retrenchment without disengagement" it behooves the United States to deal with all States—but particularly with the sensitive developing States of the Third World, who are undergoing a much-needed redefinition of their interests on a more tangible and less romantic basis—on terms of practical mutual benefit and respect, as free as possible from ideological and nationalistic preoccupations. There are critical limits to which the United States can insist upon codifying in the universal writ of international law the protection of interests that are primarily the concern of a few great maritime States without jeopardizing both legal progress and the political accommodations on which such progress must rest.

FOOTNOTES

[*] Dean, the Johns Hopkins School of Advanced International Studies, Washington, D.C., and Director, Johns Hopkins Ocean Policy Project. The research on this article was made possible by a grant from the National Science Foundation.

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[1] In this piece I have relied entirely on unclassified material. Therefore, I cannot vouch for the accuracy of the technical data that does not come from official published sources. Since it would be tedious and cumbersome, I have not cited a source for every piece of data. Aside from the great abundance of such unofficial data in the daily and the technical periodical press, I have relied on a number of special publications, such as the annual *SIPRI Yearbook of World Armaments*, publishd by the Stockholm International Peace Research Institute; *Jane's Fighting Ships 1973–74* and *Jane's Weapons Systems 1972–73;* and the annual *Military Balance*, published by the International Institute of Strategic Studies.

[2] I assume that in a general war the peacetime regimes governing the use of the oceans would be irrelevant, whereas in a war significantly limited geographically and in other respects these regimes might be observed to some extent.

[3] *See America and the World*, Vol. II: Robert E. Osgood and others, *Retreat from Empire? The First Nixon Administration* (Johns Hopkins Press: Baltimore, 1973), Chapter 1.

[4] On this question, see the somewhat opposing views of Henry Brandon and David Schoenbaum in "Jordan: the Forgotten Crisis," *Foreign Policy* (Spring, 1973), pp. 157–81.

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[5] In 1973 more than one-third of American oil consumption came from abroad and about 10 per cent from the Middle East. Assuming the same rate of increase in U.S. demand, and no imposition of import restrictions, dependence on foreign oil is generally expected to increase to 50 percent of American consumption and dependence on the Middle East to 50 per cent of foreign imports in the next five to ten years, before alternative sources of oil and energy could theoretically alleviate this dependence. In 1973, however, only Kuwait and Saudi Arabia had enough foreign exchange reserves to be able to shut down production for a long period.

[6] The most intensive rivals in the Gulf are Iran and Iraq. Iran, having undertaken a substantial military buildup with American assistance, has become militarily dominant in the Gulf and shows signs of seeking to become an Indian Ocean power. Iraq is engaged in a border dispute with Kuwait. Saudi Arabia, although not aligned with either Iran or Iraq, and in the long run perhaps a natural opponent of the former, tangibly shares the interest of Iran and the sheikdoms in opposing Soviet-supported South Yemen and the radical contenders for power in Oman and elsewhere, although it now seems in no danger from radical forces. Like Iran, Saudi Arabia receives American military assistance. Pakistan has strengthened its alignment with Iran and has provided military advisors to Abu Dhabi, Kuwait, Muscat, and Oman. India, conscious of its dependence on Gulf oil and irritated by Iran's ties with Pakistan, has entered into economic and scientific cooperation with Iraq. This pattern of relations is criss-crossed by territorial disputes and dynastic rivalries among the Arab Gulf kingdoms and by rivalry between them and Iran on religious and other grounds. It is linked to the Arab-Israel dispute by Israel's close relations with Iran, as well as by Israel's material dependence on the United States.

[7] Plausible, though unlikely, scenarios for such an eventuality might include, for example, an American naval deployment and possible air action to deter Soviet intervention and support friendly regimes against Soviet-supported countries and guerillas in the event of Iranian military action against radical take-overs in the sheikdoms or Saudi Arabia, possibly accompanied by a Saudi appeal for American support against radicals who were threatening to disrupt supply of oil to the United States. American armed intervention against an anti-Israeli closure of production by Saudi Arabia seems less likely except in the context of countering Soviet intervention.

[8] See, for example, Tom Engelhardt, "The New Half-Nelson," *Far Eastern Economic Review*, April 9, 1973, pp. 25ff., and Cecil Brownlow, "Shift Forced in Military Priorities," *Aviation Week*, February 26, 1973, pp. 3–F ff.

[9] A balanced assessment of the prospect of crises and conflicts arising from Middle Eastern oil politics and affecting U.S. energy interests appears in Robert E. Hunter, *The Energy "Crisis" and U.S. Foreign Policy*, Headline Series, No. 216, June, 1973. On Soviet naval power and policy, see Geoffrey Jukes, *The Ocean in Soviet Naval Policy*, Adelphi Papers, No. 87 (International Institute for Strategic Studies, May, 1972), and Barry M. Blechman, *The Changing Soviet Navy* (Washington: Brookings Institution, 1973).

[10] The opportunities and incentives for developing countries to threaten U.S. investments, monetary interests, and access to natural resources as levers for political pressure and harassment are examined by Fred Bergsten in "The Threat from the Third World," *Foreign Policy*, (Summer, 1973), pp. 102–24.

[11] According to the 1958 Law of the Sea Convention, submarines passing through international straits "are required to navigate on the surface, and to show their flag". This would be tantamount to advance notification. The official U.S. interpretation of innocent passage (in line with the International Court of Justice's report in the 1949 Corfu Channel case that "State in time of peace have a right to send their warships through straits or seas without the previous authorization of a coastal State, provided that the passage is innocent"), does not concede that advance notice of passage through territorial waters is required. Advance notice of transit through straits, the U.S. holds, would run the risk of leading to coastal-State control of transit. In practice, the United States evidently provides advance notice of surface ships but not submarines (except, perhaps, where secret bilateral arrangements have been agreed).

[12] The chart, entitled "World Straits Affected by a 12-Mile Territorial Sea", capitalizes 16 straits as "major". Of these 16 I have substituted Kennedy-Robeson for Juan de Fuca.

[13] One of the more striking manifestations of the military establishment's tendency to leave nothing to chance, once committed to translate military interests into law, is the Defense Department's unwillingness to depend upon allied permission, as opposed to legal right, for passage through straits. But unless the U.S. Navy plans on enforcing free transit against its allies, the codification of free transit in international law would seem to add nothing to U.S. naval mobility in the improbable event that the allies were unwilling to grant submerged passage.

[14] Conceivably, the consultation clause in the Security Treaty with Japan might be interpreted to require special permission for passage of something as conspicuous as a task force—in which case the Japanese government might be reluctant to risk political opposition by granting permission. But it seems unlikely that the present Japanese government would be similarly constrained from granting occasional submerged passage, unless its growing concern over Soviet military passage impelled it to apply equal restrictions to American ships. In that case, however, it would also oppose an international free transit agreement.

[15] According to one interpretation, however, a strait in which 12-mile territorial boundaries come to two miles apart will be considered as falling within territoral waters.

[16] Significantly, the Japanese government, while agreeing with the general principle of free transit, has been reluctant to relinquish control of Sovet military passage through the Straits of Tsushima and Tsugaru (between Hokkaido and Honshu) under the anticipated 12-mile boundary.

[17] In December, 1957, the Indonesian government declared that "all waters surrounding, between, and linking the islands belonging to the State of Indonesia . . . constitute natural parts of inland or national waters under the absolute jurisdiction of the State of Indonesia. . . . The 12 miles of territorial waters are measured from the line connecting the promontory point of the islands of the Indonesian State." Embassy of Indonesia, *Report on Indonesia* (Washington, D.C.: November–December, 1957, January, 1958). Vol. 8, number 7.

[18] Captain Edward F. Oliver, "Malacca: Dire Straits," *U.S. Naval Institute Proceedings* (June, 1973), p. 29.

[19] The U.S. government officially denies that it has any agreement with any country to provide advance notice of the passage of warships through international straits.

[20] Hydrophone arrays towed by surface ships can be almost as effective as implanted systems, but the cost is much greater. Moreover, it is unlikely that towed arrays could avoid extended territorial seas off straits any better than implanted arrays. It is technically possible to deploy implanted arrays at great distances from shore stations, but the need for amplifiers and the problem of breaks and maintenance make this option unattractive.

[21] Thus Secretary of Defense Laird stated on February 20, 1970, "according to our best estimates, we believe that our Polaris and Poseidon submarines at sea can be considered virtually invulnerable today. With a highly concentrated effort, the Soviet Navy might be able to localize and destroy at sea one or two Polaris submarines. But the massive and expensive undertaking that would be required to extend such a capability using currently known techniques would take time and would certainly be evident." He added, however, "A combination of technological developments and the decision by the Soviets to undertake a world-wide ASW effort might result in some increased degree of Polaris/Poseidon vulnerability beyond the mid-1970's. But, as a defense planner, I would never guarantee the invulnerability of any strategic system beyond the reasonably foreseeable future, say 5–7 years." Statement before joint session of Senate Armed Services and Appropriations Committee, cited in *SIPRI Yearbook of World Armaments and Disarmament, 1970–71*, p. 122.

[22] Testimony on April 10, 1973, before the Subcommittee on International Organizations and Movements, House Committee on Foreign Affairs, 92nd Con., 2nd Sess., p. 12. Stevenson and Jared Carter, of the Dept. of Defense, substantiated the risk by citing Egypt's denial of passage to a commercial vessel in the straits leading to the Gulf of Aqaba before the June, 1967, Arab-Israeli war on the grounds that the cargo bound to Israel was not innocent. (Egypt, however, based its contention on the position that there had been a state of war since 1948.) Mr. Carter added that there were other examples of States claiming that warships do not have the right of innocent passage.

[23] In those States where the United States has its own bases or regular access to foreign bases the United States has interpreted overflight rights to be implicit in permission to use the bases. If there are no such base rights, permission for overflight is supposed to depend on diplomatic clearances received by filing one-time transit requests with the defense attaches three or four days in advance of the flights. In emergencies the U.S. practice has been to get clearance, go around, or infrequently, fly over without clearance. In practice, the distribution of American bases has obviated serious overflight restrictions. In the Middle East crisis of November, 1973, however, only Portugal granted the United States overflight, thereby greatly enhancing the need to fly over the strait of Gibraltar.

[24] See, particularly, the proceedings of 1969–70 in the Eighteen-Nation Disarmament Committee (ENDC), renamed the Conference of the Committee on Disarmament (CCD) in August 1969, which led to the 1971 *Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof*. Edward Duncan Brown draws principally from these and other U.N. documents, such as the Proceedings of the Seabed Committee, in examining the legal status of passive listening devices on the continental shelf in *Arms Control in Hydrospace: Legal Aspects* (Woodrow Wilson International Center for Scholars, Ocean Series 301, June 1971), pp. 22–35. See also *SIPRI Yearbook of World Armaments and Disarmament, 1969–70*, pp. 154–79; Captain L. E. Zeni, "Defense Needs in Accommodations Among Ocean Users," in Lewis M. Alexander, ed., *Law of the Sea: International Rules and Organization for the Sea* (University of Rhode Island: Kingston, 1969), p. 33; John A. Knauss, "The Military Role in the Ocean and its Relation to the Law of the Sea," Lewis M. Alexander, ed., *The Law of the Sea: A New Geneva Conference* (University of Rhode Island: Kingston, 1971).

[25] One can infer this from the fact that the original U.S. position on the prospective law of the sea treaty implicitly protected the legal

right of the United States to emplace such devices on the continental shelf beyond the 200-meter depth. See, also, Knauss, *op. cit.*, p. 79. Article 3 of the U.S. Draft Seabed Treaty provides that the area beyond this depth "shall be open to use by all States, without discrimination, except as otherwise proved in this Convention. The only exception pertains to the exploration and exploitation of certain natural resources. In tabling the treaty, U.S. representatives, in a studied reference to military uses of the seabed, pointed out that it expressly protected the rights of States to conduct activities other than exploration and exploitation of certain natural resources in the area beyond the 200-meter isobath.

[26] The utility of ASW as a deterrent to a nuclear attack would seem to be negligible, since its contribution to the U.S. second-strike capability by protecting SSBNs is insignificant as compared to the other components of this capability. As a part of the U.S. strategic war-fighting capability ASW would play a major role, particularly in protecting convoys. But the utility of protecting convoys in any reasonably imaginable war with the USSR is highly questionable. Moreover, the efficacy of ASW against SSNs is probably declining. For a balanced and skeptical analysis of the role of naval forces in general war, see Laurence W. Martin, *The Sea in Modern Strategy* (London: Institute for Strategic Studies, 1967), chap. 2.

[27] The following straits could be included in the category of major economic significance (the straits in italics might be adversely controlled): Florida, Dover, Skagerrak, Bosporus-Dardanelles, Mozambique, *Gibraltar, Hormuz, Bab el Mandeb* (if the Suez Canal were opened), *Malacca, Lombok, Luzon.*

[28] Captain Edward F. Oliver, "Malacca: Dire Straits," *U.S. Naval Institute Proceedings* (June, 1973), pp. 27–33.

[29] Within an undefined coastal seabed economic area, the U.S. position would give coastal States complete authority to enforce both its own and international standards against pollution from seabed activities. With respect to vessels, however, the flag State would continue to have enforcement responsibility beyond the coastal State's territorial boundary, subject to the right of other States to resort to compulsory dispute settlement; and the port State could enforce pollution control standards against vessels using its ports, regardless of where violations occurred.

[30] *Washington Post,* March 23, 1973, p. A1. Iran and Oman later denied the report. Iran subsequently announced that it was preparing a bill that would extend anti-pollution controls to 50 miles from shore or the limit of the continental shelf.

[31] See the statement of John R. Stevenson to Subcommittee II of the U.N. Seabed Committee, July 28, 1972 (U.N. Doc. A/AC. 138/SC.II/SR. 37 at 2), and to the Subcommittee on International Organizations and Movements, House Committee on Foreign Affairs, "Law of the Sea and Peaceful Uses of the Seabeds," 92nd Cong., 2nd Sess., April 10 and 11, 1972, p. 12.

A GREAT LOSS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. WOLFF. Mr. Speaker, I am deeply saddened to learn of the death this past Sunday of the President of Ireland, Erskin H. Childers.

President Childers had a long and distinguished record of service to his countrymen, serving as a member of the Irish Parliament from 1938–73. During this period he held numerous posts in the Cabinet and always acted with the best interests of his people and the world in his heart. In June of 1973, he achieved one of the highest offices of his land, the Presidency.

President Childers had strong family ties to the United States. His mother, an American, is a descendent of the Adams family that gave the United States its second and sixth Presidents.

I wish to extend my condolences to his family and his countrymen on their loss.

THE GREAT ONE-SIDED UNITED STATES-U.S.S.R. JOINT SPACE PROJECT

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. HUBER, Mr. Speaker, it has recently become very clear, if it was not already, that the coming joint space effort with the Soviet Union is going to be a very one-sided affair. The Soviets have rejected the request by our correspondents to view their launch. They are not permitting an equal exchange on technology. One of the reasons for this is the fact that they are so far behind in this field. In support of these two points, I would like to commend to the attention of my colleagues two items—one from the Richmond Times-Dispatch of October 12, 1974, and the other from National Review of October 25, 1974. The two items follow:

[From the Richmond Times-Dispatch, Oct. 12, 1974]

RUSSIANS REJECT UNITED STATES PLEA TO SEE 1975 SPACE SHOT

WASHINGTON.—The Soviet Union has repeatedly rejected requests that American newsmen be permitted to view the launching of Russian cosmonauts during next year's joint U.S.-Soviet space flight, but Russian newsmen will be able to view the lift-off of the American astronauts at Cape Canaveral.

National Aeronautics and Space Administration officials who recently completed negotiating press policy for the historic mission said the Russians refused to budge on the issue of opening their launching site to U.S. reporters.

"However, I don't think we should change our open policy and specifically ban Russian correspondents from the Cape even if ours can't go to Baikonur," said John P. Donnelly, the chief U.S. negotiator. Donnelly is NASA assistant administrator for public affairs.

Aside from Baikonur, Donnelly reported, the Russians have agreed to open up their space program as never before on this flight.

They will follow the open American policy of providing live voice and television throughout their segment of the mission from lift-off to splashdown. But reporters wishing to cover the flight in Russia will have to do so from a press site in Moscow.

The Associated Press has protested the action on behalf of its members.

A document on press coverage of the Appollo-Soyuz flight will be signed later this month by James C. Fletcher, NASA administrator, and officials of the Soviet Academy of Sciences.

It will not specifically state that American newsmen can't go to Baikonur, but will say that each country can accredit who it wants at its launching site.

"But the Soviets made it plain they will not accredit Americans at Baikonur," Donnelly said.

The mission is to begin with the launching of two cosmonauts from Baikonur July 15. About seven astronauts are to lift off from the Florida cape, and the two ships are to link up in orbit the next day.

[From the National Review, Oct. 25, 1974]

THE APOLLO-SOYUZ TEST PROJECT

(By Michael S. Kelly)

On May 24, 1972 former President Nixon signed an agreement with Soviet Premier Aleksei Kosygin committing the United States to the first international space venture, a linkup between American and Soviet space vehicles known as the Apollo-Soyuz Test Project (ASTP). The flight, scheduled for July 1975, was designed as the culmination of detente, a great meeting in the heavens of two old foes become friends.

On the surface, preparations for the flight still appear to be going smoothly. But the more American experts learn about Soviet space operations, the more critical they are of the ASTP. Since the ASTP was conceived in an atmosphere of great euphoria, but without much real consideration of facts, perhaps it would be wise to reevaluate it before it's too late: to analyze the importance of the goals, the success expected in meeting them, and the cost to the United States.

One of the objectives of the ASTP is to open the way for technology sharing between the United States and the Soviet Union. Experts expected such an exchange to be beneficial to both countries. However, once U.S. analysts were permitted to examine the Soyuz, Russia's most advanced spacecraft, the experts were forced to change their view. *Aviation Week & Space Technology* carried a description of the Soyuz in its issues of January 21 and 28, 1974. The articles make interesting, and amusing, reading. The first one begins by summing up the level of sophistication of the Soyuz. It is, it states flatly, "little more than a man-rated unmanned satellite." Such a statement in aerospace circles amounts to pure invective. The description is fitting, however, as evidenced by these facts:

1. The Soyuz has no inertial guidance system, only a periscope arrangement for attitude control and position reference. The periscope is useless when the spacecraft is on the night side of the planet.

2. The Soyuz has no onboard computer. The flight sequencer consists of a set of rotating drums—much like the piano roll on a player piano—on which are inscribed instructions for the automatic controls. The cosmonauts cannot input commands. They can only call up commands already on the drums.

3. Manual control is severely limited. The attitudes control system is primitive; and not adequately safeguarded against malfunction. The fuel is considered insufficient by U.S. standards.

4. The only method cosmonauts have of monitoring engine burns is to time them with a stopwatch. They must wait for word from ground control as to the success of the burn.

5. The life-support system is primitive and nonredundant. There is no backup cooling system. There is no reserve oxygen.

6. The Soviets are not particular about reentry and touchdown. They do not target for a specific point. They are satisfied if the spacecraft lands within the Soviet Union.

7. To conserve fuel, the spacecraft is stabilized by spinning it rapidly around its vertical axis. This accounts for the high incidence of motion sickness on Soviet space flights (spin stabilization is common practice for simpler, unmanned satellites, but

U.S. scientists would never consider it for manned vehicles).

NO QUO FOR THE QUID

All of these factors (plus a great **many** more) lead American experts to conclude that the present level of Soviet space technology is about midway between American Mercury and Gemini technology; that is, about 11 years behind our current state of the art. The Soyuz can in no way compare with the Apollo spacecraft, and it is not even a serious piece of engineering compared to the Space Shuttle. Clearly we have nothing to gain in a trade of space technology, but we do have a great deal to lose.

Inertial guidance technology, structural techniques, propulsion system design, and areodynamic theory given away through the ASTP or any other detente-induced "trade" would aid the Soviet Union in developing sophisticated weapon systems. Inertial guidance technology, added to the tremendous throw weight of the Soviet missiles, could improve Soviet ICBM and SLBM forces to the point at which U.S. systems would no longer be competitive. Talk about accelerating the arms race! By pursuing this policy, we would not only encourage the development of improved weapons, we would help to design them.

One of the most common reactions to the primitive design of the Soyuz, among experts and laymen alike, is, "Our guys must be nuts to fly on that mission." Americans are not used to thinking about the safety angle of space flight any longer, with the tremendous success of the Apollo landing program, but now it must again be considered in view of the Soyuz' record.

The first cosmonaut to fly the Soyuz, Vladimir Komarov, was killed when his spacecraft plunged to earth after reentry, its parachute tangled. Three more cosmonauts died on a subsequent mission when, after the spacecraft had undocked from a Salyut space station, a hatch seal gave way and the cabin atmosphere fell overboard. The most recent Soyuz mission appeared to end prematurely, although the Soviet space agency denies this.

American experts have expressed serious concern over the safety factor. They threatened to call off the ASTP unless the Soviets revealed the cause of the accident which killed the three cosmonauts, and some of them are pressing for postponement of the flight following the apparent abort of the latest Soyuz mission. The concern for the safety of our astronauts is justified. The Soyuz' standards of engineering are not sufficient, and the record bears out the fact that the craft is vulnerable.

Another goal of the ASTP is the development of space rescue techniques. But the value of the lessons learned is questionable, for two reasons: 1) Such techniques will be developed using an Apollo spacecraft, but no Apollo spacecraft will ever fly again. 2) The value of the techniques would be questionable regardless of the fate of Apollo because of the primitive nature of the Soyuz.

OUTDATED TECHNOLOGY

Consider a situation in which a Soyuz is to rescue a stranded Apollo spacecraft. The Soyuz is defeated before it gets off the ground. Its booster is not powerful enough to place it into the nominal Apollo mission orbit. Nor is its guidance system adequate to ensure rendezvous. Booster reliability is only 80 per cent, considered poor for a manrated system, so that achieving orbit cannot even be guaranteed. (For this reason, the Soviets will be the first to launch for the ASTP. If their first rocket does not work, they will have two more standing by.) If orbital injection is not accurate, it must be at least within certain limits, because of the Soyuz' lack of maneuverability. And if the stranded Apollo is unable to maneuver, a docking would not be possible. Because of the Soyuz' inadequate attitude control system, it cannot dock with a passive target. The target must move, in response to signals transmitted to it from the Soyuz. For this reason, the Apollo will be the active docking agent for the ASTP mission, and the Soyuz will be passive.

And if the Apollo, which is powerful, reliable, and maneuverable, should ever be called upon to rescue a Soyuz stuck in the spin-stabilized mode, rescue would be impossible. For all other types of rescue, the Apollo would be more than adequate.

This is purely academic discussion, of course, since the Apollo to be used on the ASTP will be the last such craft ever to fly. It will be succeeded by the Space Shuttle, which will make Apollo-Soyuz rescue techniques obsolete. Should the Shuttle ever be required to rescue a Soyuz, it would merely have to rendezvous with the craft, hoist it into the huge payload bay, and reenter the atmosphere. The Soyuz, on the other hand, would be pretty much useless in any attempt to rescue a disabled Shuttle.

From the foregoing discussion, it is apparent that one of the program goals, technology sharing, would be detrimental to the welfare of the United States. Another, the development of rescue techniques, is not even worthy of serious consideration. And there is substantial cause for concern over the safety of our astronaut crew for the ASTP flight. We get all this—and pay for it, too. Still another of the stated goals of the Apollo-Soyuz Test Project is the promotion of understanding and cooperation in the use of space. It is not difficult to see who will be doing all of the cooperating.

By setting a precedent with the ASTP, we may be committing ourselves to placing heavy payloads into orbit for the Russians with the Space Shuttle. The Shuttle will cost less per launch to operate than any system the Russians could devise, so that this arrangement will represent a substantial savings for them. They, in return, have nothing to offer us.

ASTP SUICIDAL

The ASTP will certainly not open the way to "understanding." Nothing has been able to do that so far, and, because of the Soviet dedication to Marxist principles, nothing ever will. It is time the American people were reminded of the fact that the Soviet Union is ruled by a government that is not "just another government." It is a tyranny, and it has, as part of its international expansionist policy, promised to extend its sphere of influence to cover us. Any technology, any aid of any kind that we give them is aid toward that goal. We, as a nation, are committing suicide with every wheat deal, every SALT talk, every truck plant, and every shred of knowhow we give the Russians. And the ASTP is the bannerhead of this national suicide, a proud advertisement to the world that we will spare no expense to give away to those who did not earn it, and could not duplicate it.

The ASTP might be able to promote one kind of understanding: the American people's understanding of their worth, of the decadence of the Soviet Union, and of the tragic mistake of detente. The signal that such understanding had been achieved would be that America, for the reasons stated above, withdrew from the ASTP.

LATVIANS

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. SMITH of New York. Mr. Speaker, another year has passed and Latvians are observing another anniversary of the proclamation of independent Latvia, their 56th anniversary. The depressing fact is, however, that since 1940 Latvia has observed this anniversary under an oppressive, unwanted Communist rule. The passing of this anniversary means yet another year of living on the hope that some day their country will be free again. It has been said of these people that "those who live in their homeland have no freedom, and those who live in freedom have no homeland." I would hope that the United States in negotiating with the U.S.S.R. would continue to seek guarantees of human rights for Latvians and other Communist-dominated countries, and perhaps, eventually, a return of their freedom.

FREDA PAYNE

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. REES. Mr. Speaker, it is with pleasure that I take this opportunity to call to the attention of my colleagues to a woman who, in addition to being a great entertainer, should be commended for being a great humanitarian as well. I speak of one of the more important young American entertainers to achieve stardom in the past few years, a fellow Californian, Freda Payne.

All too often in the entertainment world, success and recognition take their toll on the human side of the performer. Ms. Payne is an exception. Although most Americans and indeed many music lovers throughout the world know of Ms. Payne's achievements and artistry through her personal appearances, performances on television and through her fine recordings, very few people have learned of her selfless and untiring efforts on behalf of many humanitarian causes, such as for the battle against sickle cell anemia, as well as for the March of Dimes. I would personally like to extend my deep admiration and respect to Ms. Payne for having contributed so much to ease the hardship of human beings in the world.

As an indication of the extent of Freda Payne's efforts, earlier this year, she was named a Dame of Honour of the Knights of Malta, internationally recognized as one of the foremost organizations devoted to raising funds for the needy, the oppressed and the stricken.

In being named for this great honor, Ms. Payne became one of the few women—and the first black woman—to achieve this recognition.

I am certain that many of my colleagues here are familiar with the outstanding nature of the recordings Ms. Freda Payne has produced during the recent past. Needless to say, she has brought the American public and the international music-minded public great enjoyment in the past several years with her dynamic vocal style, on recordings, in supper clubs, on television and in concerts.

Although Freda Payne was born in Detroit, and began her musical training in that city, she now makes her home in the State of California, and has truly brought a great deal of pride to all those who reside in our State.

Mr. Speaker, may I say that it is a honor for me to lead the applause for this great woman and entertainer. Let the record show that this Congress has recognized and recommended Freda Payne for her outstanding efforts in behalf of those less fortunate than ourselves both at home and throughout the world.

FREEDOM OF INFORMATION ACT

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. CORMAN. Mr. Speaker, today I would like to share with my colleagues an editorial which was published in the Los Angeles Times on October 21, 1974. I believe that it is of special interest to my colleagues and makes an excellent case for overriding the President's veto.

The editorial follows:

FORD'S ALARMIST VIEW ON SECRECY

Vast government departments routinely sit on information that the public should have. A bias toward secrecy is a natural tendency in the bureaucracy.

The cold war that followed World War II provided a magic formula for censorship. It was "national security," but the security involved was often the security of a department to be free from public inspection.

In response, Congress eight years ago passed the Freedom of Information Act. Its intent was to enforce greater access to information from government. The law brought some improvement, but it was not as effective as it should have been. Its operation was impeded by bureaucratic delay, heavy costs of court action to force disclosure, and excessive charges levied by agencies for providing requested information.

Last year, a U.S. Supreme Court decision revealed a major weakness in the act. The court ruled that, under the law, the courts had no power to go behind a "classified" stamp on material. If it was classified, it was secret.

Earlier this month, Congress sent to President Ford's desk a bill to strengthen the 1966 law. The measure set time limits for agency response to requests for information. It allowed courts to order the government to pay the legal costs of persons winning suits against government departments under the act. And it permitted court review of classified information to determine whether the material sought under the act was properly classified.

In vetoing the bill Thursday, Mr. Ford took particular exception to this provision, asserting in our opinion, a thoroughly mistaken and alarmist view that the courts could brush aside even "a determination by the secretary of defense that disclosure of a document would endanger our national security." That is not the intent of the law and, if history is any guide, that certainly will not be the result. The intent of Congress is to stop the abuse of classifying information that by any rational standard cannot be remotely connected to national security. If there is any reasonable basis to uphold such a classification, it would be difficult to imagine that a court would rule otherwise. If that occurred, the appellate process is a sure safeguard.

Congress should override the President's veto.

WE GAVE THOUSANDS BACK TO THE NKVD

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. DERWINSKI. Mr. Speaker, at a time when Communist pressures in the Middle East are more threatening than ever and the pressures of other free world nations, in addition to Israel continue to create numerous foreign policy problems for us. The evaluation of current situations are certainly aided by objective understandings of pertinent history developments.

Thus, I was especially interested in an article by Nicholas Bethell in the Sunday, November 17, Washington Star-News, which I insert into the RECORD at this point, along with the followup article on the tragic aftermath of the Yalta Agreement:

WE GAVE THOUSANDS BACK TO THE NKVD

(By Nicholas Bethell)

On May 20, 1945, Winston Churchill sent a note to General Ismay, his personal chief of staff:

"What is known about the number of Russians taken prisoner by the Germans and liberated by us? Can you discriminate between those who were merely workers and those who actually fought against us?

"Could I have a further report on the 45,000 Cossacks of whom Gen. Eisenhower speaks? How did they come into their present plight? Did they fight against us?"

Churchill did not follow up his worried questions. On May 29 the Chiefs of Staff ordered Field Marshal Alexander to hand over the Cossacks who were in his territory to Stalin. In fact, repatriation of virtually all Soviets in allied hands had already begun without waiting for the order, on the authority of an explicit proviso of the Yalta Agreement.

Some extremely bloody operations took place. Repatriation, overall, was for many British soldiers the most disagreeable episode of the whole war.

* * * * *

During the Russian Civil War of 1918–20 some of the keenest fighters on the White side were Cossacks. At the beginning of this century there were five million of them in Russia.

Most of the Cossacks fought against the new Bolshevik authority and the Red Army. When the revolution was all over and the Reds had won, many thousands of Cossacks fled to the West.

It was among Cossacks most of all perhaps that hearts leapt when Hitler invaded the Soviet Union and for a time seemed likely to conquer it. Cossack leaders such as Vyscheslav Naumenko (the ataman of the Kuban Cossacks who in 1920 had been a major-general in the White forces) and the ataman of the Don Cossacks, Pyotr Krasnov, were quick to offer the Germans their services. In November 1943, the Nazis promised eventually to give the Cossacks back their traditional lands in the Soviet Union. Four months later they appointed Krasnov and Naumenko to a directorate of Cossack forces within the German army. Another member was T. I. Domanov.

* * * * *

In the dying months of the war an area around Tolmezzo in the Italian Alps, a few miles from the Austrian border, was occupied and used as a base for 35,000 Cossacks, half soldiers and half refugees.

At the end of April 1945, they loaded everything into their horse-drawn carts and within two days the whole community was camped near two Austrian villages, Mauthen and Kotschach.

On May 8, a Cossack delegation drove over the pass to Tolmezzo to tell British forces that they were ready to surrender unconditionally.

Zoe Polaneska, a 17-year-old Russian girl from a village near Odessa, a refugee but not a Cossack, remembers the kindness with which they were treated by the British when they arrived at Lienz, the surrender point.

After crossing the mountains we got little beds to sleep on and blankets and I thought, 'This can't be so bad.' And then I always remember, they gave us three cream crackers at breakfast time and I thought, 'This is better still.' And then they gave us white bread, pure white, we hadn't seen it for years. I thought, 'This is heaven!'

By May 16, according to British figures, there were 22,009 of Domanov's Cossacks under British supervision in the Drau Valley—15,380 men, 4,193 women and 2,436 children. A little further east British soldiers were guarding the 15th Cossack Cavalry Corps, commanded by a German, Lieutenant-General Helmut von Pannwitz, which had surrendered with its full strength of 18,792.

Brigadier T. P. Scott, commander of the 38th (Irish) Brigade, came across a regiment of Cossacks, about 400 men, who were in imminent danger of being attacked by a division of Bulgarians.

He went to see the Cossack commander, Prince zu Salm. The situation was quite simple, Salm said. The Cossacks would surrender to the British so long as they were sure that they would not be handed over to the Soviet Union. Scott told Salm that British prisoners were British prisoners, and on this understanding Salm surrendered.

The next day Scott's corps commander, Lieutenant-General Charles Keightley, was alarmed to hear that Scott had accepted the Cossacks' surrender and given them certain assurances. He told him of the Yalta Agreement.

"It was the first I'd heard of it," says Scott. Under this agreement, Keightley said, the Cossacks would probably have to be handed over to the Russians.

Scott says, "I told him I thought it would be a damn bad show if they were. I'd accepted their surrender and given my word. I got very hot under the collar about it."

In fact, in fulfillment of part of the Yalta Agreement, orders were that everyone of the Cossacks—man, woman and child—was to be handed back to the Soviet authorities, irrespective of individual wishes and by force if necessary.

Lieutenant General Keightley made it clear in an order dated May 24:

"It is of the utmost importance that all the officers and particularly senior commanders, are rounded up and that none are allowed to escape. The Soviet forces consider this as being of the highest importance and will probably regard the safe delivery of the officers as a test of British good faith."

Apart from moral scruples, the British face a practical difficulty. As soon as the Cossacks realized what was to happen to them they would fight.

Such considerations persuaded senior officers that trickery and deceit would have to be used. They ordered their subordinates to keep the Cossacks in a state of false security right to the last moment; only thus could the Cossacks be disarmed, loaded into vehicles and carried east without bloodshed and mass escapes.

On the morning of May 27, British soldiers were read an order from Brigadier Musson calling for the total disarmament of all Cossacks by 2 p.m. that day. British officers did their duty with such care and tact that no Cossack suspicions were aroused.

Shortly after the disarmament, Davies told the senior Cossack officers that all officers were required to attend a conference which would decide the future of the Cossack units. This was a lie. In fact, there was to be no conference at all. What was planned for the officers was not a discussion but an immediate transfer into the hands of the Soviet authorities.

The announcement caused the Cossacks some consternation. At last their doubts were beginning to grow, and the prospect of being handed over to the Soviets began to seem more fearsomely real.

It was the duty of British Major Rusty Davies, who was immensely popular with the Cossacks, to carry out the deception, and today he is amazed at how successfully he did it: "How the hell we lulled them into that, I just don't know."

Davies was told that the repatriation order came from higher authority and had been agreed between Stalin and Churchill at Yalta. What he was not told was that the agreement applied only to people who were Soviet citizens on the outbreak of war in September 1939. Under the agreement, many of the Cossacks gathered at Lienz, should not have been due for repatriation at all. Indeed, of the most senior officers, only Domanov had been a Soviet citizen in 1939.

An order was issued from General Keightley's headquarters which bore no resemblance to the terms laid down in the Yalta agreement. In this order, whole groups and nationalities were earmarked for repatriation: the Cossacks under Domanov at Lienz, the 15th Cossack Cavalry Corps under Gen. von Pannwitz, the units under Gen. Audrey Shkuro and Caucasians under Gen. Klych Girey. All members of these units were assumed to be Soviet, said the order, and "individual cases will not be considered unless particularly pressed." In other words, there was a presumption of "guilt." People were to be handed over to certain imprisonment and possible execution merely for failing to assert strongly enough that they were not Soviet citizens.

Interpreter Olga Rotovaya was present while the officers were being loaded on May 28: "Some of their wives were crying and begging me as interpreter to ask the British officers whether their husbands would return.

"Of course they will," the officer told me. "Try to calm the women down. There's no need for them to cry."

But the evening passed and there was no sign of the Cossack leaders. At eight o'clock Rotovaya was told that some British officers wanted an interpreter.

"Where are the Cossack officers?" she asked them.

"They're not coming back," they told her.

"Where are they?"

"We don't know. We are only British soldiers and we carry out the orders of our superiors."

Another woman interpreter, M. N. Leontieva, asked British officers the next day whether or not the Cossack officers were to be handed over. She was assured that this would not happen. They were safe and would be accommodated in good conditions.

Rusty Davies finally was given the most unpleasant task of breaking the truth:

> They had a sort of camp committee and I asked the heads of this committee to come together. They were quite horrified when I told them, and I was petrified myself. You see, they had implicit faith in me. That's why I feel sick about the whole thing.

Zoe Polaneska, the young Russian girl, remembers, "I put my arms around my ears and said, 'No, I don't want to hear it.' "

Davies tried to soothe and reassure. He was authorized to tell them, he said, that the Soviet authorities had promised to treat all those who were repatriated humanely and decently. The Cossacks almost laughed at such naivete.

Davies remembers that some Cossacks brought an old woman toward him. She held out her hands and he could see that she had no fingernails. "The torturers of the NKVD—that's what you're sending us back to!" she told him through an interpreter.

British Lieutenant V. B. English was in command of a Royal Artillery detachment guarding the bridge over the river Mur where the transfer took place. He says he asked a Soviet officer what would happen to the Cossacks and was told, "The officers will be shot, but the ordinary soldiers will just be sent to Siberia."

It was two days before the bulk of the deportations were to start. A number of Cossacks and Caucasians disappeared into the neighboring hills during the ensuing few days.

But the vast majority, more than 20,000 people, decided to stay in the valley and resist the order. Their officers were gone, so they elected a senior sergeant called Kuzma Polunin to be their temporary "ataman." Polunin addressed a petition to Alec Malcolm, commanding officer of the troops guarding the area. It began, "We Russians, Cossacks, who evacuated from Russia on our own will and who joined the German army not for the reason to protect the German interests, but bearing in mind exclusively the struggle against the Soviet Union, declare that our return to the Soviet Union is absolutely impossible. We prefer death than to be returned to the Soviet Russia, where we are condemned to a long and systematic annihilation." Many went on a hunger strike.

Davies told the Cossacks that if they resisted they would be loaded by force. Parents would be separated from their children. Surely they did not want that?

The special horror of the subsequent events at Lienz is that they involved some 4,000 women and 2,500 children and amount almost to an act of genocide, marking as they did the liquidation of a large part of the emigre Cossacks.

The affair was not discussed in the British or American press at the time. It suited both sides, the Soviet Union as well as the West, to keep the whole question of forcible repatriation quiet.

The former Cossack ataman, Vyacheslav Naumenko has called June 1 "the day which, together with the world Lienz, is inscribed in letters of blood."

The Cossacks were human beings and, although they had no claim on the allies' loyalty, they had a right to expect correct, decent treatment from the army. It is on this basis that one examines British documents on the affair, only recently opened to public view.

Alec Malcolm wrote a report which begins:

> At 0730 hours on June 1st I went with Major Davies to Peggetz Camp. . . . At the camp I saw a very large crowd of people, numbering several thousand, collected in a solid square with women and children in the middle and men around the outside. A body of 15 to 20 priests were assembled in one part of the crowd, wearing vestments and carrying religious pictures and banners. At 0730 hours these priests began to conduct a service and the whole crowd to chant.

The previous evening the priests had decided to summon Cossacks to a huge open-air service. At 6 a.m. the priests walked in procession around the camp, gathering people as they want, until by Davies' estimate there was a crowd of 4,000 gathered in a central square, surrounded on three sides by a tall wooden fence.

They made black flags and hung them from their tents. They made placards with such slogans as "Better death here than our sending into the U.S.S.R.!"

Towering over the crowd was a wooden platform with a makeshift altar and a large cross. Around this platform were the priests, all in brightly colored vestments. Vassili Gregoriev was leading the crowds in the prayers of the Orthodox liturgy.

Davies addressed the crowd through an interpreter and told them it was time to begin loading. He writes that "the only result was a tightening up of the crowd." Davies formed his men up along the unfenced side of the square. Some were armed with pick handles, others with rifles loaded with live ammunition. The riflemen had bayonets tied to their belts. He gave them the order to fix bayonets. He says:

> I felt sure that this would do the trick. The Cossacks could see those bayonets being clipped onto the ends of those rifles, and I felt sure it would make them realize that we meant business. I really did not think they would resist after that.

Davies was mistaken. Even when the soldiers advanced into the crowd and their clubs and bayonets, the Cossacks carried on praying and refused to move. They had hidden their women and children deep in the middle of the crowd, while along the edge was a line of young men resolved to defend the tribe.

The soldiers tried taking hold of individual Cossacks and pulling them away from the mob. Ivan Martynenko remembers how the whole crowd trembled and rocked as the soldiers tugged at it, but they were not able to drag anyone away.

Davies' next plan was to send one of his platoons into the crowd to isolate a corner.

Up to this point the soldiers had used little violence. There had been pulling and tugging, but blows had not been struck.

What happened next puts the matter into a different category. Emigre Cossacks have written about it emotionally and at length. The British have stayed silent about it and some are still anxious to minimize its drama.

Davies described how an isolated pocket of 200 people was loaded onto the trucks:

> As those on the outskirts of the group were pulled away, the remainder compressed themselves into a still tighter body, and, as panic gripped them, started clambering over each other in frantic efforts to get away from the soldiers. The result was a pyramid of screaming, hysterical human beings under which a number of people were trapped. The soldiers made frantic efforts to split this mass in order to try to save the lives of those people pinned underneath, and pick handles and rifle-butts were used on arms and legs to force individuals to loosen their holds.

One Briton says, "The whole thing went in and the centre rose up higher than a man stands." Another says: "It wasn't the soldiers who smothered them, it was themselves. They were like a lot of sheep in a fog, all piled one on top of the other. I think there were six suffocated to death." Davies writes in his report that all the Cossacks in this group had to be forcibly loaded and that two died through suffocation.

Dimitri Frolov, one of the few Cossack officers present at the scene, says: "They threw us into the trucks like sacks of potatoes. I remember seeing the 17-year-old daughter of Sergeant Pastryulin. She was a beautiful girl. I watched her being tipped over the side of a truck head first. Then I saw her stand up in the truck, one hand holding onto one of the iron struts, the other holding her head which had banged against the floor."

Frolov goes on: "One soldier came up to Father Panteleymon. He grabbed the priest by his robe and tried to pull him out of the crowd. Father Panteleymon held out his wooden cross towards him as if to ward him off. The soldier backed away."

The women and small children were obviously easier to capture, and they could be loaded with less violence. Often the father of the family would see this happening. Many of the Cossack men flung themselves from the mob to save a relative, and once they were out it was easier to seize them.

One British officer said, "I was witness to many amazing incidents of fanatical fear and dread of the future they (the Cossacks) thought was in store for them—men outstretched on the ground baring their chests to be shot where they lay, women in a state of frenzy."

General Naumenko writes:

> Soldiers beat the Cossacks about the heads with clubs. Blood was drawn, and as the men lost consciousness the soldiers picked them up and threw them into the trucks . . . Some of them regained consciousness and jumped out of the trucks, whereupon they were grabbed, beaten again and thrown back in.

His allegations are rejected most strongly by Col. Alec Malcolm. "The Cossacks were traitors to their country and so they had to pay the penalty."

At the back of the crush Zoe Polaneska was being pushed tighter and tighter against the wall of one of the huts. Zoe was lifted up by the mob to the level of one of the windows. She was pressed against the window until suddenly the glass broke. The upper part of her body fell into the inside of the hut, but her legs remained outside, impaled on the jagged glass of the broken window. She says: "My legs were cut to ribbons. Blood was streaming down and I couldn't feel them—that was my worst worry. I just lay there until someone came and threw my legs over the window and into the hut."

The crowd was also pressing against the tall wooden fence. Suddenly it burst. People poured through the gap. Then, in Rotovaya's words, "they scattered in all direction like hunted hares. . . . Everybody had the same idea: "Soon it will be my turn. They'll grab me and throw me into a truck. A short journey and there I'll be, face to face with the Bolsehvik hangmen."

Not surprisingly, the nightmare turned many Cossacks to thoughts of suicide. Frolov says, "I got into the woods and saw several people there hanging from trees." More terrible still were the suicides that took place on the bridge which spanned the river Drau.

Rotovaya writes, "The river seemed our only salvation. One jump into the raging stream and all would be ended. Many people made for the bridge, most of them aiming to escape into the hills, but a few resolved to end their lives." Women and children jumped off the bridge into the water.

What shocked the soldiers most of all was that the Cossacks were not only drowning themselves, but also their children. One such case is described by Fyodor Kubanski:

> A young woman with 2 small children ran to the edge. She embraced the first child for a moment, then suddenly flung him into the abyss. The other child was clinging to the bottom of her skirt and shouting, 'Mama, don't? Mama, I'm frightened!' 'Don't be afraid, I'll be with you,' the frantic woman answered. One jerk of her arms and the second child was flying into the rushing waters of the River Drau. Then she raised her arms to make the sign of the cross. 'Lord, receive my sinful soul,' she cried, and leapt in after her children.

Davies's most terrible memory is of a Cossack who first shot his wife and three children, then shot himself. He found them himself by a sharp dip in the ground, the wife and children lying side by side on a grassy bank and the man lying opposite them, a revolver in his hand.

Zoe Polaneska and her friend were led to the train and pushed into one of the trucks. A British officer bandaged her knees and she took the opportunity to show him her German identity card (Ausweis), which showed her nationality as Yugoslavian. She was able to make the doctor believe she was not a Soviet citizen. He directed her to a special part of the camp where non-Russians were being held.

By 11:30 in the morning, the soldiers had managed to load 1,252 people onto the train. At this point, writes Malcolm, he did stop the loading "in view of the inevitable injuries inflicted." But elsewhere in the valley the operation continued, usually with violence. In all 6,500 Cossacks were sent to the east on that day.

The deportation continued daily until on June 7 General Keightley was able to report: "Hand-over of Cossacks complete with exception of stragglers yet to be rounded up and sick still under medical care." By that date, 35,000 Cossacks had been delivered.

A WARTIME MORALITY IN RETROSPECT

Today few would deny that the Yalta Agreement inflicted a severe injustice on those many Soviet citizens—refugees, liberated prisoners of war—who were repatriated having in no way collaborated with Nazi Germany. The evidence shows that many of these people, quite innocent of any crime even under the harsh Stalinist criminal code, were convicted by makeshift courts and spent 10 years in corrective labor camps.

Perhaps even more shocking is the fate of the rest, several million people, who though not brought to court were imprisoned for many years. Their detention was supposed to last only a short time, to allow the collaborators to be sorted out from the honest men, but in fact it lasted for years and no attempt was made to process and release the innocent inmates. Meanwhile they suffered the same cold, hunger and life-sapping hard labor that the convicted men endured. And they died in the same huge numbers.

The case of those who collaborated with Nazi Germany is more difficult. There can be no doubt that they were guilty of treason under Soviet law, as they would be under the law of any country. There are those who will feel that this is the end of the matter, that they were traitors who deserved no better fate than the one they received, either execution or years of torment in the camps.

But there are also those who will feel that morally, if not legally, the Soviet judges had no right to condemn these men. Rebecca West in her book *The Meaning of Treason* has put forward the idea that a citizen owes loyalty to the country which gives him protection, and that consequently a citizen cannot commit treason if his country has given him no protection by its laws. By this standard there would certainly be many millions of Soviet citizens who owed no loyalty at all to the Soviet Union under Stalin. The repressions, confiscations and deportations were so massive in that country during the 1930s that the Soviet government can well be said to have sacrificed the loyalty of large numbers of citizens. (With actual war criminals, Soviet citizens who committed atrocities and murders against their own people, the moral issue is plain, they deserved retribution.)

Many people faced a severe moral dilemma in that they could not fight against Stalin, whom they hated, without also fighting against the Soviet people to whom in spite of everything they belonged. And although more than a million of them made this choice and fought with their enemy, they were always a minority. The majority, and by the end of the war almost the whole Soviet people, fought bravely and nobly against the Nazi aggressor, even, one must assume, many people who hated Stalin and all he stood for. It is a thought that may well disturb those survivors of the Cossack Corps now living abroad in sad disillusionment.

Only someone familiar with the pro-Soviet atmosphere of those years and the reality of world war can judge whether or not the violence that they suffered at the hands of Britain and the United States was unavoidable, whether one can justify the cold decision to sacrifice Russian lives, initially in order to save British lives, subsequently in order to advance American and British foreign policy. 'If the choice is between hardship to our men and death to Russians the choice is plain,' wrote P. J. Grigg—in a statement which many people today will find shocking but which made perfect sense amid the slaughter of war. Those were ruthless times and one detects more than a touch of ruthlessness in the words of Foreign Secretary Anthony Eden who recommended the Yalta Agreement to his Cabinet colleagues, who acknowledged that it would mean sending Russians to their deaths but concluded that 'it is no concern of ours what measures any Allied government, including the Soviet government, takes as regards their own nationals,' that 'we don't want them here' and that 'we cannot afford to be sentimental about this.'

Once this policy was laid down the suicides and violence which followed could only have been avoided if there were widespread disobedience in the field—an unlikely eventuality at such a time. One must assume, though, that the American and British leaders who took the decision did not realize that the violence would be quite so bad. They anticipated having to hand Russians over to rough justice and possible execution, but they did not realize that hatred of the Bolsheviks was so strong among the hard core of recalcitrants. They did not foresee that thousands would resist repatriation in pitched battles, that many would commit suicide, that a man would murder his wife and children and that mothers would drown their babies rather than have them returned to the Soviet Union.

One must hope that, had they foreseen this, they would not have signed such a rigid agreement.

TRIBUTE TO HON. JOHN F. SHELLEY

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. BURKE of Massachusetts. Mr. Speaker, it gives me great pleasure to join my colleagues in the House of Representatives to pay tribute to former Congressman John F. Shelley. Mayor Shelley had served his city, San Francisco, and his State, California, for over 40 dedicated years. His main interest was in organized labor, being elected to the San Francisco Labor Council and later serving as president of the California State Federation of Labor. Beyond his 8 years in the California State Senate, he was elected to the House of Representatives in 1950 and served the people of California in this capacity for the next six consecutive terms. He returned to San Francisco in 1964 to become mayor of that city.

I would like to take this opportunity to praise former Congressman Shelley on his dedication to the people of California, an example which my colleagues should be proud to acknowledge.

POLISH AMERICANS CONGRESS HONORS CASIMIR PULASKI

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. GAYDOS. Mr. Speaker, during the recent recess the Western Pennsylvania State Division of the Polish American Congress honored one of their people who carved a niche for himself in the annals of American history with his exploits during the War for Independence—Gen. Count Casmir Pulaski.

Born to nobility, General Pulaski fought with his father, Count Joseph Pulaski, against the domination of Poland by Stanislaus II in 1768. They battled valiantly but eventually their outnumbered forces were crushed and the family estates confiscated. Pulaski, however, would not give up the fight. He fled to Turkey in 1772, spending several years there in a futile attempt to enlist Turkish support against Russia. Finally, penniless and destitute, he made his way back to Paris where arrangements were made through Benjamin Franklin to bring him to the United States for service in the war against England.

After receiving his commission in the Continental Army, Pulaski reported to General Washington and fought with distinction in the Battle of Brandywine in 1777. Throughout his career in America, he held various command positions and on October 9, 1779, was severely wounded leading a cavalry charge against the British. Pulaski was taken aboard the American ship *Wasp* where surgeons were unable to save his life and he is believed to have died on October 11. It has never been established whether General Pulaski was buried at sea, beneath the oaks on St. Helena's Island, or at Greenwich, Ga.

However, for the past 29 years, the Polish-American Congress has paid tribute to this gallant soldier and it was my privilege to address this year's observance, which was held in the Polish Falcon Auditorium at 97 South 18th Street in Pittsburgh, Pa.

Among the personalities taking part in the program, October 26, were: Henry J. Zygmunt, president of the Western Pennsylvania Division of the PAC; Rev. Marcel Pasiecznik of the Franciscan Fathers; Francis Lysakowski, commissioner of the Polish National Alliance; Stephen Grabowski, director of the Polish Roman Catholic Union; Mary R. Stecki, directress of the PRCU; Rev. Miroslaw Wojcicki, assistant pastor of St. Josaphat's Church; Viola Smykla Steel, vocal soloist and Gertrude Gunther, her accompanist; and Walter J. Laska, president of the Polish Falcons of America.

Mr Speaker, Polish Americans are justifiably proud of their contributions to the heritage of the United States and the Polish-American Congress should be commended for perpetuating the story of Gen. Casimir Pulaski. I salute the officers of the Western Pennsylvania Division of the PAC—Mr. Zygmunt, president, Mr. Lysakowski, vice president; Mrs. Elmira Kluvo, vice president; Mrs. Stecki, secretary, and Mrs. Emily McElroy—its board of directors and its membership for preserving this piece of Americana.

IN MEMORIAM—BRICE UNION TAYLOR

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mrs. BURKE of California. Mr. Speaker, I rise to request the privilege of the House to say a few words about Rev. Brice Union Taylor, associate pastor of the First African Methodist Episcopal Church in Los Angeles and the first all-American football player at the University of Southern California who succumbed September 18, in Downey, Calif.

Reverend Taylor was a direct descendant of the great Indian Chief Tecumseh. He was born on the Fourth of July, 1902, and rose from his first job as a janitor to become a college president in Texas, a coach, and a doctor of divinity.

Although born without a left hand, he excelled in football, basketball, and track, bringing a number of firsts to his college alma mater.

In the spring of 1925 he was a sprinter, hurdler, and relay runner on the USC track team which startled the Nation by winning the IC4A championship at the University of Pennsylvania.

Reverend Taylor won the 100-yard dash with a 9.8 time, won the 220-yard high hurdles, and was the lead runner on the mile relay team that broke the world record that memorable day in Philadelphia.

In 1924 he was the starting fullback on the USC grid team. The following year, Coach Howard Jones moved Taylor to running guard. During that season, Mr. Taylor was on the field for all but 4 minutes of USC's 11 games, and he was named an All-American by Collier's magazine and International News Service. His record for minutes played in a single season still stands at USC.

Brice Taylor was a powerful man physically, intellectually, and spiritually. These attributes are evident in his accomplishments on the athletic field, his achievements in the field of education and his dedication to the human rights of all peoples. A concept he practiced as a member of the clergy.

Just as in his coaching days there was no generation gap so was he able to relate to people in the game of life. He was a man of strong moral values, there was mutual respect, deep understanding, and love. Neither time, nor age, nor status, nor pride served to strip away the easy camaraderie he shared with all who knew him.

The one thing I think Brice—"the mightiest Trojan of them all"—would ask of us is that we continue in the direction his life, like a compass pointed. That we go forth with all the efforts we can muster toward the highest achievement life has to offer.

That we go forth with the highest achievement might well be:

To instill into our youth strength of character.

To provide leadership for community and church.

To teach, but through teaching to learn.

To stand firm, and tall and confident in life's darkest moments.

To love, to understand, and to pray.

To make a home for the homeless children.

Mr. Taylor leaves behind a devoted wife Dora, a retired teacher and graduate of USC and three children, Cyrus, Henry, and Dora Ada. He once said that he had a beautiful life and I sincerely hope his loved ones will continue to enjoy a beautiful life.

REMARKS OF GENERAL BROWN

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. ROYBAL. Mr. Speaker, I would like to bring to your attention the defamatory remarks made by Gen. George S. Brown, Chairman of the Joint Chiefs of Staff. In a public address to law students at Duke University, General Brown spoke in an ill-advised and clearly bigoted manner concerning military assistance to Israel and Jewish lobbying influence in Congress. General Brown's comments show an irresponsible attitude toward his public utterances and a distinct lack of commonsense judgment. Such remarks can only serve to weaken the principles of religious freedom and tolerance upon which this country was founded.

In particular, the general's statements that Jews control the major banks and newspapers in this country are to be deplored. These remarks are both stereotyped and untrue; further, they are seriously damaging to the Jewish people in that they tend to grossly misdirect blame toward them for our present economic dilemma. In reality, Americans of the Jewish faith own less than 3 percent of the newspapers in this country and less than 1 percent of the banks. So-called Jewish "control" of these institutions is an all too familiar and pernicious canard.

Further, the general's statements concerning a Jewish lobby manipulated by a foreign power are both anti-Semitic and un-American. Such remarks serve to negate the valuable contributions made by American Jews to all aspects of American life.

Much as I am distressed by the content of General Brown's public discourse, I am even more alarmed by the interference by an officer of the military in the affairs of state. Such interference is an affront to all who respect our system of checks and balances.

General Brown's allegations against the people of the American Jewish community are nonfactual and racist. Such statements impair the dignity and credibility of his high office. As a Member of Congress, I call on President Ford to exercise appropriate disciplinary action in this matter.

THE CROP GAMBLE: WILL THE FARMER WIN IN 1974?

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. ALEXANDER. Mr. Speaker, as we become more and more concerned with rising food and fiber prices and work on new agricultural legislation, I think it is imperative that each one of us have a clear understanding of the problems and risks faced by the American farmer today.

Fuel, equipment, fertilizer, seed, and labor costs have all skyrocketed. Yet, these are areas where the average farmer can do very little corner cutting. Once he makes these investments, a few days of bad weather can wipe him out. In some years, he would do just as well to make his gamble at a Las Vegas casino. It would be a lot more fun, less work, and he would know in 1 night whether he could afford to feed his family for the next year.

I would like to include in the RECORD at this point an article from the Blytheville Courier News which outlines the various obstacles the farmer must meet and overcome in order to have a successful year and produce the food crops to feed and clothe his family and the rest of the Nation:

[From the Blytheville Courier News, Nov. 20, 1974]

THE CROP GAMBLE: IN 1974, THE FARMER MAY BE A LOSER

(By Jim Branum)

Indian summer weather came in early October laying beautiful upon the land of Northeast Arkansas. Wherever the eyes fall, the view was that of combines and cotton pickers, man and machine working to beat the wind and rain sure to come. Thus, if not the greatest game of chance played by man, certainly farming would be the next in line as the '74 season nears its end.

All bets are in, the pot is being counted, whether it is win, lose, or draw is not known, yet all estimated yields are down. The farmers knew the deck was stacked early in the season.

For instance, at the end of April when cotton should have been planted, the Mother Nature played her bad weather card. Thus, it was the middle of May and later before cotton could be planted.

Late August proved once again that the farmer was playing against a stacked deck. The weather turned cool.

Results of the cool weather was cotton plants with beautiful foliage but fruit which did not mature, leaving bolls the cotton picker would be unable to harvest. Thus, adverse conditions have cost the Mississippi County cotton farmer, on the overall average, 150 lbs. of cotton per acre compared to the '73 season when pounds per acre averaged 500 lbs. And, if an additional step backward into '72 is taken, it compares to a 534 lbs. per acre average. One finds the farmer's yields going down while at the same time, his costs are going up. As one farmer estimated it, he could have produced two of the 500 lbs. per acre crops on the dollars it has cost to produce the 350 lbs. per acre.

The same thing is happening to soybeans. Last year the yield was 31 bushels to the acre. At this writing, the average per acre is 22 bushels with a good chance of the averaging going down.

The farmer makes the professional gambler look like penny-ante players. T'is doubtful there is any other group of people who put their security along with all they possess on the line so completely as do the farmers year after year. If a dirt farmer, in any given year rolls snake eyes (loses a complete crop) many of them are out of business either to find other jobs or start back at the bottom to climb the unsteady ladder of the professional gambler.

Clide Barnett lives in Keiser, Barnett farms 4,200 acres of the Delta land. The 4,200 acres puts Barnett in the big farmer (gambler) class. The average farm for Mississippi County, according to the 1969 Agricultural Census was 441 acres. This, simply put, means Barnett will have nine times the loss of his average-size farmer neighbor in the event he draws a losing hand.

Clide inventories 11 tractors and accessories, three combines, three cottonpickers with a total inventory of an estimated $325,000 on today's market.

It staggers the imagination to think that nearly $200,000 of Barnett's money is tied up in equipment used only from six to ten weeks out of the farming year.

Combines are in use from eight to ten weeks; whereas, the cottonpicker is worked from six to eight weeks. Barnett estimates the cost to replace his combines on today's market to be $80,000. His cottonpickers are valued at approximately $105,000. For the cottonpicker, Barnett's figures are not far wrong. One dealer said he sold the '73 model cottonpicker for $26,000, the '74 model for $29,800, and the '75 model would go up in price $7,500 to make the new cottonpicker cost $37,300. These are base prices.

On September 13, 1974, Barnett purchased a new combine, the cost was $28,797.26. Just to look at the figure, $28,797.26, passing over it without thought, one is apt to shrug his shoulders with a "so-what" attitude.

But look at those figures again. With this in mind, Barnett bought a combine on Nov. 15, 1972, with trade-in and interest, at a cost of $16,180.96. In just two years there has been a $12,616.30 price increase, or the price of a modest home.

And the machine will only be used for eight to ten weeks then set up and depreciate for the next 11 months.

Putting more emphasis on the $28,797.26 and the home idea, Barnett could have bought in his hometown of Keiser a newly constructed brick home with $14,000, putting the other $14,797.26 in a certificate of deposit savings account at seven percent. There would be enough to pay the taxes and upkeep on the new home.

When it comes time to take a hand in the new game at the beginning of the farming season, Barnett antes up, puts in the pot his estimated inventory of machinery and equipment of $325,000.

Then he borrows money to buy seed, to pay the 12 farmhands, eight of them whether they work or not on a weekly basis. This is the price Barnett will pay to take new cards or his turn at the dice in the next game of chance.

The odds the farmer is against are the whims of nature and the market and, of course, bad health has to be considered. The cost to stay in the game is out of sight.

But consider this: In the last two years fuel has gone from 16 cents per gallon to 35½ cents per gallon. Fertilizer has gone from $60 a ton two years ago to $240, if it can be found on today's market.

Barnett was approached with the idea of liquidating, turning his estimated $325,000 into cash. He could walk off of the street into a bank in Blytheville, to any teller's window, put his $325,000 into a certificate of deposit savings account, long-term at 7 per cent and without turning a hand would earn $22,750 per year, or he could put the money in a short-term account of renewal every three months at over 9 per cent.

If the idea had ever occurred to Barnett, he didn't mention it and seemed to push the idea from his mind at once.

Ruth, Barnett's wife, came to the field about 10 o'clock, one morning. Clide had been on the job since 5 a.m. He had three combines in the field.

Ruth had brought coffee and to report some of the morning activities. Such as, the man would come to lay the cutstone and the brick would be in. Mary Jane Kay, an elderly lady of 100 years, had walked into the Valley of the Sleeping and the funeral would be on Saturday.

Ruth then teased Clide for not having shaved before going to work. A way of life. Simple? Anything but. Change their way of life? Only if forced.

In another few weeks for Mississippi County at least, the cotton and soybeans may be out of the fields. All have lost in comparison to the '72–73 season but not so completely that they will not take a hand in the new game in the '75 season.

In fact, approximately 50 percent of the farmers have already taken their cards in that they have planted winter wheat. Barnett has planted 800 acres of wheat. If Lady Luck smiles upon him, it should yield about 35 bushels to the acre.

If the Fickle Lady does not smile, Barnett could be looking for 40 acres and a used tractor along with tools to start over, or a grease-monkey job, anything to feed the family until he could find a way to take another hand to play in the big game of farming once again.

AMERICA'S BUSINESSMEN EEOC—A NIGHTMARE FOR

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. ASHBROOK. Mr. Speaker, the U.S. Equal Employment Opportunity Commission—EEOC—is a relatively new Federal agency. Despite its short period of existence, however, it is already well known inside our Nation's business community.

As most businessmen have learned, the EEOC determines whether a company has hired and properly advanced enough minorities within the company organization. Failure to do so can result in a Federal discrimination suit by the EEOC against the company.

America's businessmen have also discovered that the EEOC is an ever-worsening nightmare. Actions taken by that agency are resulting in more Government red tape, harassment by low-level bureaucrats, and additional costs of doing business.

Many businesses find themselves being slowly strangled as they seek to comply with the vast network of EEOC regulations. Compliance is no easy matter. Employers are confronted with page after page of detailed rules and forms. Even the employer's guide—prepared by the EEOC as a summary of the law—runs over 150 pages.

Faced with this complexity, it is little wonder that some companies have turned to specialist consulting firms to determine their potential vulnerability. According to an article in the August 2, 1974, Wall Street Journal, companies are paying these consulting firms $10,000 to $100,000 to find out where they are vulnerable and how much it could cost them. Boyle-Kirkman Associates, Inc., for example, charges a company with 500 employees $22,000 to conduct such a survey.

The consulting fees, of course, increase the cost of doing business. Much of the cost eventually will be passed on to the consumer, further fueling our present inflation.

It is the small businessman, however, who is especially vulnerable to EEOC attack. He cannot come up with the thousands of dollars necessary to hire a consulting firm. He cannot afford to employ nonproductive staff personnel just to handle additional government paperwork. He cannot bear the expense of costly litigation fees and perhaps even settlement costs should the issue go to court.

It is time to cut back rather than expand Government control and bureaucratic red tape. Otherwise we run the risk of slowly strangling America's businessmen to death.

THE DANGER OF WAR BETWEEN ISRAEL AND THE ARABS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. WYDLER. Mr. Speaker, the situation in the Middle East can only be described as ominous. The danger of a new war between Israel and the Arabs is very real and the potential for a world war is ever present in such a situation.

This is not a time for weakness on the part of our Nation. We are the one real hope for peace in the area. We must be in a position of negotiating from strength.

I urge Secretary Kissinger to renew and redouble his peace efforts in the Middle East situation.

I also support the resolution of November 10, 1974 by the New York metropolitan Region, United Synagogue of America, on the status of the PLO which is set forth as follows:

> Whereas the Palestine Liberation Organization is dedicated to acts of violence and terrorism, and whereas the PLO does not represent the Palestinian people, and whereas the PLO has committed acts of destruction including, but not limited to the assassination of Wasfi Tel, Premier of Jordan, the slaughter of 18 christian pilgrims at LOD airport, the murder of 11 members of the Israel Olympic team in Munich, the murder of the U.S. Ambassador in Khartoum, the murder of 18 men, women and children at Kiryat Shmona, the murder of 24 Israeli school children at Maalot, the hijacking or destruction of Pan Am, TWA, Swissair, Lufthansa, Japan Air Lines and KLM airplanes, therefore be it resolved that the 165 congregations represented in the New York Metropolitan region of the United Synagogue of America with an approximate membership of close to a quarter of a million men, women and children calls upon the executive and legislative branches of the United States Government to refuse to grant de facto or de jure recognition to the PLO.
>
> That the Government of the United States use its influence to prevent the appearance of the PLO at meetings of the general assembly.
>
> That the government of the United States use its veto power if necessary in the Security Council of the United Nations to prevent membership in the United Nations of the PLO, under that name or any other name, governmental or non-governmental that it may use.
>
> Be it further resolved that we in the convention assembled do rededicate ourselves to the continued struggle for honorable peace in the Middle East that will afford security and confidence in the continued existence and prosperity of the State of Israel.

RAILROAD SAFETY NO. 2

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. DERWINSKI. Mr. Speaker, this Congress has provided the Federal Railroad Administration with the jurisdiction over that segment of the transportation industry.

I call the attention of the Members to an editorial by radio and TV station WGN, Chicago, broadcast on Friday, November 1, to which I fully subscribe:

Railroad Safety No. 2

(WGN editorial, November 1, 1974)

> If some progress is better than no progress, then we must be pleased with some new rules issued by the Federal Railroad Administration. The new rules govern tank cars which contain explosive materials. The rules were issued because of two disasters this summer, one at Decatur which killed seven and injured one hundred and forty-five, and the other at Houston which took one life and injured sixty-six.
>
> The rules do two basic things to improve safety. First, the tank cars cannot be treated the same way other cars are treated in freight assembly yards. They can't be given a downhill shove so gravity and automated switches guide them to the appropriate track where they bang into the car to which they are to be coupled. Ending these low-speed collisions should reduce the chance of damage to the tanker, damage which could split or puncture it sending gas or flame on a deadly path. The second new rule requires the railroads to notify their employees when they are handling these potentially dangerous cars.
>
> These measures are fine as far as they go. What about the general deterioration of equipment and trackage all over the country, deterioration responsible for a large number of the seventy-one hundred-plus derailments reported last year?
>
> The railroad industry says it can't afford to do the job that needs doing. The federal government should not be expected to bail out the railroads even to the extent of safety needs at taxpayer expense. However, if there were less government economic regulation of railroads and the transportation industry in general, sound business practice might provide the money to do the job, while competition might provide the impetus.

IS THE UNITED NATIONS RELEVANT ANY MORE?

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. HUBER. Mr. Speaker, recent years have seen the United Nations change a great deal. We have witnessed the expulsion of our friend the Republic of China. We have seen an attempt to exclude South Africa entirely. The latest sad episode was the giving of a podium to a terrorist leader—Yasir Arafat. A former delegate to the U.N. and also the former Governor of Virginia, Colgate W. Darden, Jr., has suggested that now may be the time to abandon the United Nations and find some other way to maintain world peace. Former Governor Darden's speech at the Virginia Military Institute, in turn sparked an editorial in the Richmond Times-Dispatch on this same subject. Both items from that paper of November 12 and 14, 1974, respectively, follow for the edification of my colleagues:

Darden Proposes Reexamining U.N.

> Lexington.—Former Gov. Colgate W. Darden Jr. said Monday the United Nations should be abandoned and some other way found to maintain world peace if the U.N.'s structure cannot be changed to "bring about a reasonable balance between the members."
>
> "To achieve world peace, it is my thought that some form of collective action offers still the best hope," Darden told the Virginia Military Institute corps of cadets. "I do not believe that world government can be made to work."
>
> But, he added, "I'm afraid the United Nations offers little real hope.
>
> "The structure of the present organization should be reexamined, and if it cannot be revamped so as to bring about a reasonable balance between the members, it should be abandoned and some other plan devised."
>
> In the meantime, Darden said, "it is imperative that the United States remain strong militarily and resolute in its determination to protect her interests throughout the world. It is my deeply held belief that only the strong will remain free in the world in which we live."
>
> Darden, who served as governor throughout World War II, came to VMI to receive the New Market Medal, the institute's highest award.
>
> The award was presented during Founders Day ceremonies marking the 135th anniversary of the institute.

Abandon the UN?

> Normally when an organization is not serving a useful purpose, the answer is to reform it or close up shop.
>
> But suggestions that this standard be applied to the United Nations are usually dismissed as the blathering of right-wing extremists.
>
> As the actions of a UN General Assembly controlled by the Third World-Communist

bloc have become ever more bizarre, however, thoughtful Americans are gradually being forced to rethink the question of whether the UN any longer has a reason or a right to exist.

Yesterday's appearance-by-invitation before the General Assembly of Yasir Arafat, the Palestinian terrorist leader, is just one more cause for renewed reflection. When last observed before opening the world forum to Arafat, plotter of hijackings, kidnappings and murders, and unelected representative of a state that doesn't exist, the General Assembly was closing its forum to one of its charter member-states, South Africa.

Former Virginia Gov. Colgate W. Darden Jr., for one, thinks it is time to start thinking the once-unthinkable: Maybe the UN should be abandoned. Unless it can be restructured into an effective, balanced organization offering real hope for solution of world problems, that should be the case, he told Virginia Military Institute cadets Monday.

Mr. Darden, who was this state's World War II governor and U. S. representative to the UN General Assembly in 1955, believes in international cooperation. If the UN is scuttled, an attempt should be made to put something better in its place, in his view.

Some form of collective action remains the "best hope" of establishing an enduring peace, but, realistically, the United States must continue to have a strong military and a strong will to protect its freedoms and its vital interests into the indefinite future, he added.

Mr. Darden's timely observations on the state of the UN ought to stimulate worthwhile debate as to whether America should continue to furnish refuge to a world organization that seems to have lost its moral and intellectual compass.

THE VETO OF THE FREEDOM OF INFORMATION ACT AMENDMENTS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. ROYBAL. Mr. Speaker, I rise to support the override of the President's veto of H.R. 12471, the Freedom of Information Act amendment as an important step to ending arbitrary and capricious Government secrecy.

Public confidence in Government is probably at the lowest level in our Nation's history. At least a part of the loss of confidence can be traced to the pervasive secrecy in which Government agencies attempt to shroud their activities.

In 1966, Congress passed the Freedom of Information Act to insure that the citizens of this country have access to basic nonclassified information concerning activities undertaken by our Government's executive agencies. Since that time, the agencies have established a number of impediments to circumvent the intention of Congress.

The major provisions of H.R. 12471 would remove these impediments and reassert the intention of Congress as stated in the original legislation.

First, the bill provides for public access to records on the basis of reasonable description of the document rather than requiring a specific title or file number as is presently the case in many agencies.

Second, it provides that an agency must respond to a citizen inquiry within 10 days of the request. If the agency refuses to furnish the requested information and the citizen appeals that decision, the agency must process the appeal and render a decision within 20 days.

Next, the bill provides that courts can conduct an in camera review of documents that have been classified as secret to determine whether the classification was proper under the prevailing statutes and regulations.

Finally, in those cases where the courts determine that Government personnel have arbitrarily or capriciously withheld records, the Civil Service Commission must conduct an investigation to determine if disciplinary action is warranted.

It is unfortunate that at this time when openness in Government is so crucial, the President has seen fit to veto the bill. It is time to reverse our propensity for executive branch secrecy by enacting this bill. Upholding the veto would only continue to sanction the Government's policies of withholding information that should be made public.

WHAT THE ELECTIONS MEAN

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. TALCOTT. Mr. Speaker, political pundits throughout America have been studying the outcome of the election of November 5 with each formulating their own theories on the results. The products of this brainstorming are diverse and too often merely confirm the preconceived bias of the theoretician.

It was refreshing, therefore, to read an editorial of Mr. Tom Nash which appeared in the Seaside Post News-Sentinel, a newspaper serving the 12th District of California, which presented some unembellished facts. I commend this article to my colleagues:

WHAT THE ELECTIONS MEAN

(By Tom Nash)

The election of officers for the various offices is behind us with most of us being elated over the outcome (and I personally think this is premature), and some of us with deep regret.

Differences are being patched up, and new plans are being implemented to battle inflation, the number one problem facing the nation. New ideas to combat the apathy of the American people to insure their involvement in their government.

It was truly amazing the total number of registered voters who stayed away from the polls, stating that their vote didn't count. The apathy that has been shown clearly reveals that the American people are totally disgruntled with the two major parties.

The Republicans lost favor behind the Watergate situation. The Democrats continued to belabor the point, aided by the press, to such an extent that most people became bored to tears, thereby creating a dangerous condition for the present form of government that has made this country the greatest country in the world.

So much noise and bandying of words almost led this country to a one party system which could have caused a dictatorial form of government that could have wreaked havoc with our constitutional form of government, yet we sat at home and refused to intercede by casting our ballot for what we thought was right.

The free press has been given an even greater responsibility now than ever in the history of the United States. The responsibility of being a watchdog to insure that the American people be kept abreast of what is going on in Congress.

Already one of the labor publications has come out with the following statement:

"The Nation needs a creative and responsive Congress that will cooperate with the new President when it feels he is on the right course, but be strong enough to shape needed legislation itself when the President's programs are inadequate."

On the surface this sounds like a good statement, but can't you see the imposed threat?

The Republican party MUST begin their recruitment program immediately, and uppermost on their program must be the reeducation of the masses. They must recruit many new faces, and from these must come strong leadership to shape the plans for balancing the scales in 1976.

There is no doubt in anyone's thinking that with the Congress being dominated by the Democrats, a Republican President will catch hell trying to implement any programs through the Congress. Yet the blame for the failure will lie at his doorstep, just as it has been in the past.

The best we can hope for, at this point in time, is that we can survive the next two years without going to war.

The country clamored for a change. The country received their change, now let us see if it was for the best, or was it just jumping out of the frying pan into the fire.

AN AMENDMENT TO RATIONALIZE THE DATING POLICY ON GPO PUBLICATIONS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. FRASER. Mr. Speaker, I am sure that my colleagues have shared my annoyance at finding that many materials issued by the Government Printing Office contain only obscure, hard-to-find references to the date of publication. This creates needless difficulty for congressional staff members and other researchers, who often must leaf through an entire GPO document before discerning whether it is current or out of date. Persons compiling bibliographies have also complained about the difficulty in finding dates of publication in GPO documents. Clearly, a system which specifies a uniform location for the date of publication in all GPO documents is in order. I, therefore, have introduced the following bill:

A bill to amend title 44, United States Code, to require that the date of publication of any material printed by the Government Printing Office, or of any material authorized to be printed under chapter 5 of that title, appear on the first page of the material

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 5 of title 44, United States Code, is amended by adding at the end thereof the following new section:

"§ 518. Date of publication to appear on first page.

"The date of publication of any material for which the printing is done at the Government Printing Office, or which is printed pursuant to section 502, 503, or 504 of this title, shall appear on the first page on which there is printing in the material.".

SEC. 2. The chapter analysis for chapter 5 of title 44, United States Code, is amended by adding at the end thereof the following new item:

"518. Date of publication to appear on first page.".

SOCIALIZED MEDICINE—THE CONSTITUTIONAL PROBLEMS

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. LANDGREBE. Mr. Speaker, perhaps the aspect of the debate about socialized medicine that receives the least attention is the problem of the constitutionality of such a program of fedmedicine. I believe that this lack of interest in the problem of the constitutional basis for fedmedicine is due to the prevailing opinion in this country that the people are and ought to be rulers. Such an opinion leads logically to disinterest in the Constitution and avid interest in public opinion polls as the proper guide for legislative action. For that reason we are regaled with the latest news from the pollsters about the public's feeling about the "health-care crisis" and the proposed "cures." Government by public opinion is precisely what the founders of the American Nation sought to avoid. They recognized that there is not, nor ought to be, any unlimited power on Earth, so they established a government limited by the Constitution. The Constitution, as any reader of the Federalist would know, was designed to limit the powers of government so that no single man nor group of men can use the government to achieve any ends they desire. The limitations apply as much to the will of a majority as to the will of one man. In the basic questions of government, counting noses is to have as little place as sovereign decrees by a king.

But our modern politicians—and I am afraid too many of the American people themselves—tend to think that majorities do make right, that if the people want it, they should get it and get it when they want it. I disagree. The tyranny of the majority—for it is a tyranny when its power is unlimited—can be as oppressive and as lethal as the tyranny of one man or a small group of men. Unlimited power in the hands of any man will result in a limited life expectancy for other men. In a democracy, the majorities are always changing—one may be in a majority one day and in a minority the next. Far from curbing the appetite for power, as some have suggested, this continual changing of the majorities would result in an increasingly fierce war of everyman against everyman, as each struggled to impose his viewpoints on others. The result would be that out of this civil war of pressure groups there would emerge one group so powerful that no one would be able to oppose it effectively. This is the path from unlimited democracy to unlimited dictatorship. In both forms of government the constant factor is the unlimited nature of the power that is possessed by the ruler, whether that ruler be a majority or a single man. The emergence of the dictator will act as a curb on the appetite for power in some people and will probably be welcomed by most of the people, for it will stop the chaotic conditions that prevail in such an unlimited democracy.

Right now we are seeing the expansion of the civil warfare of democracy by pressure groups and politicians intent upon socializing our still private medical care system. The struggle will not end until: First, socialized medicine is a reality; or second, we return to the concept of limited government and recognize the Constitution, not the Gallup poll, as the source of authority in our system of government. If the first of these things happens, then our descent into a totalitarian society—a society in which the government has unlimited, total power, is guaranteed. However, if we return instead to the idea of a limited government, then we will not be forced with the prospect of socialized medicine and the totalitarian State. This is because the Constitution does not grant the central government the authority to intervene in health care in this manner. Anyone who pretends to see a constitutional justification for socialized medicine or national health insurance has a very vivid imagination. Those people who can see justification for their Socialist programs in the Constitution are usually the same people who accuse conservatives of imagining Communists under every bed. They attribute their powers of imagination to everyone else, particularly to those with whom they disagree. If there is a constitutional justification for socialized medicine, let the proponents of fedmedicine point it out. If there is no constitutional justification for socialized medicine, then let the proponents of fedmedicine keep silent—or let them say publicly that they do not recognize the Constitution as the basis of this Government's authority and that their programs are aimed at destroying the Constitution.

I suspect that they will not do the latter, for it would make unmistakely clear the antifreedom bias of the proponents of socialized medicine. I believe that they will do what subverters of governments have always done: claim that they are acting within the established and legitimate order. The proponents of fedmedicine will claim constitutional justification for their programs—probably the "general welfare" clause of the Constitution. Unfortunately, such a claim must be based upon misrepresenting of the meaning of the clause, and an appeal to ignorance of what the meaning of the clause is, an ignorance that apparently reaches to the highest levels of government. The proponents of fedmedicine would like everyone to believe that the "general welfare" clause which appears in article I, section 8 of the Constitution is an independent grant of power over and above the powers enumerated in the Constitution which allows Congress to do whatsoever it pleases. On this point I would like to quote Jefferson:

> [T]he laying of taxes is the power, and the general welfare the purpose for which the power is to be exercised. They [Congress] are not to lay taxes ad libitum for any purpose they please; but only to pay the debts or provide for the welfare of the Union. In like manner, they are not to do anything they please to provide for the general welfare, but only to lay taxes for that purpose.

Now read what James Madison wrote in the Federalist:

> Some who have not denied the necessity of the power of taxation have grounded a very fierce attack against the Constitution on the language in which it is defined. It has been urged and echoed that the power "to lay and collect taxes, duties, imports, and excises, to pay the debts, and provide for the common defense and general welfare of the United States," amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare. No stronger proof could be given of the distress under which these writers labor for objections, than their stooping to such a misconstruction.
>
> Had no other enumeration or definition of the powers of the Congress been found in the Constitution than the general expressions cited, the authors of the objection might have had some color for it; though it would have been difficult to find a reason for so awkward a form of describing an authority to legislate in all possible cases....
>
> But what color can the objection have, when a specification of the objects alluded to by these general terms immediately follows and is not even separated by a longer pause than a semicolon? . . . Nothing is more natural nor common than first to use a general phrase, and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars which neither explain nor qualfy the general meaning and can have no other effect than to confound and mislead, is an absurdity. . .

It would appear that the meaning of the "general welfare" clause is quite clear, yet the Supreme Court, the New Deal Supreme Court interpreted it to be equivalent to an unlimited grant of authority to the Federal Government. By this misinterpretation of the Constitution, it was transformed from a limitation on Government into an authorization for any action the Government wished to take.

The Constitution was subverted by its interpreters—there was no real need to amend it; there was no need to defy it openly. It is undoubtedly this deliberate misinterpretation of the Constitution that will be offered as the justification for socialized medicine, if any constitutional justification is attempted at all. And that, I submit is no justification at all. If, as Madison said, Congress was to have broad legislative powers, why was an enumeration made? More fundamentally, if Congress was to have unlimited powers, why is there a constitution at all? The New Deal Supreme Court interpretation of the "general welfare" clause must be rejected not only because that meaning was not intended by the framers of the Constitution, but also because it makes the Constitution blatantly self-contradictory.

It asks us to suppose that the framers, intent on limiting and restricting the powers of government, inserted language which destroys all limits and removes all restrictions on the power and authority of Congress. Quite frankly, I cannot believe that to be the case, and I do not believe the American people will accept it either, once the issue is made clear.

We come then to the conclusion that the case for the constitutionality of socialized medicine rests upon a grave and deliberate misinterpretation of the Constitution. We can only conclude that if a misinterpretation is the best argument for the constitutionality of socialized medicine that can be offered, then fed-medicine is unconstitutional and illegal. As long as there is no constitutional justification for it, all the Gallup polls ever taken cannot lend one iota of legitimacy to the Federal medical programs about to be imposed on the American people.

We have been hearing a lot about a government of law, not of men, lately. It never ceases to amaze me that those who are talking most about a government of law are the same people who are always clamoring about the will of the people, and how the people should rule. They cannot have it both ways. Either the law in this case the supreme law of the land, the Constitution rules or men, majorities, the people, rule. It cannot be both. Personally I prefer the Constitution as ruler, not some majority or some clique that wields enough influence and power to turn the Government to their own ends. For that reason I oppose socialized medicine and all the horrors it would bring.

SNUB OF AFRICANS

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. DIGGS. Mr. Speaker, recently the distinguished journalist, Simeon Booker, broadcast on national radio a message on the subject of American foreign affairs with regard to Africa. I believe this broadcast is an honest, realistic look at our policy, and I commend it to the attention of my colleagues:

SNUB OF AFRICANS

Americans are caught in a terrible inflation compounded by the threat of still higher prices for oil and minerals. The U.S. has limited resources of these items. On the other hand, Africa has a rich storehouse. But by the manner in which our State Department handles its diplomatic affairs in Africa, no one would believe it.

Let me give a few examples:

Nigeria, an African country, supplies the U.S. with a quarter of our crucial oil supply. England's Queen Elizabeth rode to the London airport to personally meet Nigeria's head of state, General Yakubu Gowon. A few months later, when Gen. Gowon arrived in the U.S. to address the United Nations as head of the Organization of African Unity, President Nixon failed to make arrangements to see him. The General, leader of Africa's largest black nation, has never come here as an official guest. Zambia is the world's major producer of copper but its leader since independence ten years ago, Kenneth Kaunda, has never been received as a White House guest.

Our State Department is accused of tilting its diplomatic policy toward South Africa and other African countries dominated by whites. Africans are proud and do not have much of a problem—if they wish—to expand their markets to Russia and China. Our shortsighted African diplomatic policies may well short circuit our economic future. Who will pay the price? Millions of American consumers. This is Simeon Booker in Washington.

PUBLIC RELEASE OF THE NIXON TAPES: A BETTER APPROACH

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. CONYERS. Mr. Speaker, I wish to call to the attention of my colleagues a bill I have introduced today to provide for the public release of all tapes and documents relevant to the crimes of the Nixon administration. I believe that the approach embodied in my bill, which creates a Special Historical Commission on Watergate and Related Activities, is more desirable and practical than S. 4016, which was passed by the Senate and is now being considered by the Committee on House Administration.

The essential problem which the Senate bill fails to confront is that some discretion must inevitably be exercised in the process of determining which tapes and documents, or parts thereof, are related to criminal or unconstitutional conduct, and which are not. Under the current provisions of S. 4016, all materials which are not relevant to such conduct—or which are of no historical significance, whatever that means—should be left in the sole custody of former President Nixon. The authority to determine relevancy is delegated to the Administrator of the General Services Administration. The current Administrator, Mr. Sampson, certainly cannot claim to have the expert knowledge necessary to make such determinations, and, without regard to his competence, he should be disqualified from this responsibility because of his involvement in the very tapes agreement this legislation is inwith no claim to expertise.

As a member of the Judiciary Committee, I have spent more days and weeks than I care to remember mastering the intricate details of the various events which are illuminated by the tapes and documents of the Nixon administration. I am sure that anyone who has shared my experience will agree that the discretionary decisions of relevancy, required by S. 4016, will often be too complex and subtle to be left to a political appointee of the Nixon administration with no claim to expertise.

Instead, the Commission created by my bill to exercise this discretion would be composed of representatives from the House Judiciary Committee, the Senate Watergate Committee, the Special Prosecutor's Office, former President Nixon, and the national historical and political science associations. This Commission, therefore, would possess the necessary expertise to make the unavoidable decisions about what is relevant to Watergate and what is not. It would also enjoy the public's confidence that all the pertinent tapes and documents, including those subpenaed but never delivered to the Judiciary Committee, will finally be available for public and scholarly scrutiny.

There are a number of other deficiencies in S. 4016, as passed by the Senate, which the Committee on House Administration will certainly be considering. However, I am convinced that a careful examination of this bill will confirm that discretionary judgments are unavoidable and that such decisions are better left to a panel of experts than to a political appointee whose only previous involvement with the matter was as a party to the agreement to be superseded. I do not believe that S. 4016, even with possible amendments, provides the most desirable approach to public release of all Watergate-related materials.

Instead, I urge my colleagues, and especially the members of the Committee on House Administration, to consider my proposed Commission as a preferable alternative approach. While I recognize that some questions remain to be resolved, especially delicate matters of personal privacy, these questions are endemic to any legislation on the subject.

I include the following:

H.R. 17469

A bill to establish a commission to obtain, preserve, and provide access to copies of tape recordings and other documents concerning Federal investigations into Watergate-related activities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT

SECTION 1. There is established a commission to be known as the Special Historical Commission on Watergate and Related Activities (hereinafter in this Act referred to as the "Commission").

DUTIES OF COMMISSION

SEC. 2. The duties of the Commission shall be as follows:

(1) to obtain, and provide for the organization of, copies of all tape recordings and other documents which the Commission determines relevant to:

(A) the subjects included in the Articles of Impeachment recommended by the Committee on the Judiciary to the House of Representatives and contained in the final report made by the Committee pursuant to House Resolution 803, agreed to on February 6, 1974;

(B) the subjects investigated by the Senate Select Committee on Presidential Campaign Activities which was created by Senate Resolution 60, agreed to on February 7, 1973;

(C) the subjects dealt with by the Committee on the Judiciary of the Senate in its considerations of the nominations of Richard Kleindienst and Elliot Richardson to be Attorney General and of L. Patrick Gray to be Director of the Federal Bureau of Investigation;

(D) the subjects investigated during the 93d Congress by the Committee on Government Operations of the House of Representatives with respect to Federal funds expended on Presidential properties;

(E) the subjects investigated by the Joint Committee on Internal Revenue Taxation in its examination of the tax returns of former President Richard M. Nixon;

(F) the subjects of the hearings held during the 93d Congress by the Armed Services Committee of the Senate on the bombing of Cambodia by the United States; and

(G) the matters which the Special Prosecutor of the Office of the Watergate Special Prosecution Force has consented to investigate.

(2) to provide, in accordance with the regulations described in paragraph (3) of this section, for complete public access to the copies described in paragraph (1) of this section with special attention being given to the copies of the tape recordings and other documents requested, obtained, or subpenaed by the bodies described in subparagraphs (A) through (G) of paragraph (1) of this section in connection with the activities described in those subparagraphs;

(3) to prescribe regulations providing for the protection of and access to the copies described in paragraph (1) of this section and recognizing at least the following factors—

(A) the need to restrict information which affects current or future national security;

(B) the need to protect every individual's rights to privacy and a fair trial;

(C) the need to prevent the disclosure of the contents of illegally intercepted oral or wire communications, as described in section 2511(1) of title 18, United States Code; and

(D) the need to provide a procedure whereby interested parties are given an opportunity, prior to the public disclosure of information concerning these parties, to communicate to the Commission any reason that this information should not be made available to the public;

(4) to determine the appropriate body to supervise the copies described in paragraph (1) of this section after the termination of the Commission; and

(5) to report to the Department of Justice, the Speaker of the House of Representatives, the minority leader of the House of Representatives, and the majority and minority leaders of the Senate, any activity which is revealed in the copies obtained by the Commission, which has not been investigated by the Congress or Department of Justice, and which a majority of the members of the Commission designate by vote as a probable violation of law or of a public official's oath of office.

MEMBERSHIP

SEC. 3. (a) The Commission shall be composed of fourteen members as follows—

(1) two Members of the House of Representatives appointed by the Speaker of the House at the recommendation of the Chairman of the Committee on the Judiciary of the House of Representatives;

(2) two Members of the House of Representatives appointed by the Sepaker of the House at the recommendation of the ranking minority member of the Committee on the Judiciary of the House of Representatives;

(3) two Members of the Senate appointed by the President of the Senate at the recommendation of the Chairman of the Senate Select Committee on Presidential Campaign Activities created by Senate Resolution 60, agreed to on February 7, 1973;

(4) two members of the Senate appointed by the President of the Senate at the recommendation of the ranking minority member of the Senate Select Committee on Presidential Campaign Activities described in paragraph (3) of this subsection;

(5) two individuals appointed by the Special Prosecutor of the Office of the Watergate Special Prosecution Force;

(6) two individuals appointed by the President of the United States without the advice and consent of the Senate;

(7) one individual appointed by the President of the American Historical Association; and

(8) one individual appointed by the President of the American Political Science Association.

(b) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves such office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he may continue as a member of the Commission.

(d) Members shall be appointed for the life of the Commission.

(e)(1) Members of the Commission who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay on account of their services on the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses in the same manner as persons employed intermittently in the service of the Federal Government are allowed expenses under section 5703(b) of title 5, United States Code, except that per diem in lieu of subsistence shall be paid only to those members of the Commission who are not full-time officers or employees of the United States or Members of the Congress.

(f) The Chairman of the Commission shall be elected by the members of the Commission.

(g) The Commission shall meet at the call of the Chairman or a majority of its members.

DIRECTOR AND STAFF

SEC. 4. (a) The Commission shall appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule as described in section 5316 of title 5, United States Code.

(b) The Commission may appoint and fix the pay of such additional personnel as it deems necessary.

(c) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–15 of the General Schedule, as described in section 5332 of title 5, United States Code.

(d) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist it in carrying out its duties.

POWERS OF COMMISSION

SEC. 5. (a) The Commission may, for the purpose of carrying out its duties, sit and act at such times and places as the Commission may deem desirable.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take.

(c) The Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out its duties. Upon request of the Chairman of the Commission, the head of the department or agency concerned shall furnish such information to the Commission.

(d) The Commission may initiate, conduct, or be a defendant in, judicial proceedings necessary to carry out, or related to, its duties.

(e) If a Federal court of competent jurisdiction should decide that any authorized activity of the Commission deprives any individual of private property without just compensation, the Commission may pay the individual the amount adjudged just by the court.

(f)(1) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence for the purpose of performing its duties. This attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) If a person issued a subpena under paragraph (1) of this subsection refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpenas of the Commission shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) Immunity.—No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to a subpena, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(5) All process of any court to which application may be made under this section may be served in the judicial district wherein the person required to be served resides or may be found.

SUPPORT SERVICES

SEC. 6. (a) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services and assistance as the Commission may request.

(b) The Librarian of Congress and the Archivist of the United States shall provide to the Commission on a reimbursable basis such technical and expert advice, consultation, and support assistance as the Commission may request.

COURT ACTION

SEC. 7. Except as provided in section 5(f) of this Act, the Federal District Court for the District of Columbia shall have exclusive jurisdiction and venue to hear any judicial proceeding brought by or against the Commission.

TERMINATION

SEC. 8. The Commission shall cease to exist two years after the date on which all its members have been appointed.

ONE GRANT WE DO NOT NEED

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. HUBER. Mr. Speaker, it was with some amazement I read in the Detroit

Free Press of October 2, 1974, that U.S. Department of Agriculture had authorized a $93,352 research grant to find out whether chitterlings—prepared from pig intestines—are harmful to human beings. If President Ford and the Congress are serious about balancing the Federal budget here is one item we do not need.

MIDDLEMEN TAKE BIG BITE

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. ZWACH. Mr. Speaker, I welcomed the news today that the school lunch program will be buying more frozen and canned beef for our Federal-State child nutrition programs.

This is one area where the beef industry can be helped. But we need help along other lines as well, one of them being a way to hold down on the spread between what the farmer is paid for meat on the hoof and the price the consumer pays over the counter.

In this regard, I would like, with your permission, to insert into the RECORD, a recent news story in the St. Paul Pioneer Press dealing very ably with this subject:

MIDDLEMEN TAKE BIG BITE

WASHINGTON.—The retail cost of a theoretical "average" household's yearly supply of groceries jumped another $25 in September to a record rate of $1,776, the Agriculture Department said Friday.

All of the increase from August to September is attributed to a larger share of the consumer food dollar taken by middlemen who process and sell food at wholesale and retail. The farmer's share is down.

According to the figures, compiled by USDA at the request of reporters, the market basket's retail cost since September of last year has gone up $147 on an annual basis.

Officials said the retail food price increase last month was due mostly to boosts for poultry, eggs, fats and oils, and pork. Pieces of beef and fruits and vegetables, particularly potatoes, declined.

In a related development, Agriculture Secretary Earl Butz announced a two-day public inquiry next week into food costs, including the middleman share of what consumers spend on groceries.

Butz said the meeting set for next Thursday and Friday, was called at the request of President Ford and will be jointly sponsored by the President's Council on Wage and Price Stability.

"The purpose of the meeting is to point up ways to lower costs, improve efficiency and thus reduce food handling margins between farms and consumers," Butz said in a statement.

The USDA market basket figures showed the $25 increase in September, a 1.4 per cent boost, matched the increase in August. Those back-to-back increases were the sharpest since the annual rate jumped $52 or 3.2 per cent last February.

The market basket includes 65 retail items and theoretically provides enough food to supply a household of 3.2 persons for an entire year. Only U.S. farm-produced food is used to determine the cost indicator.

The market basket rate of $1,776 included a farm share of $723 in September down one per cent or $8 from August. The middleman share was a record $1,053 last month, up 3.2 per cent or $33 from August.

The $147 increase since September of last year includes a drop of $35 in the farm share and an increase of $182 in the portion for middlemen. The farmer's share was reported down 4.6 per cent from September 1973 while the middleman portion—also called a marketing spread—rose 21 per cent.

An official report issued with the figures said farmers received sharply less money for meat animals and fresh vegetables during the last month while they got more for poultry and eggs.

The USDA market basket figures reported the retail price of beef averaged $1.416 in September, down from $1.434 in August on an all-cut basis. The record was $1.50 last January.

Officials said the farm share of the retail beef price was 85.2 cents a pound, compared with 97.7 in August. The middleman share was 56.4 cents, up from 45.7 the previous month.

The farm share is not what farmers get for live cattle since it takes nearly 2.3 pounds of live steer to make one pound of supermarket beef. It is however, their share of what consumers pay for beef.

Retail pork averaged $1.099 a pound, up from $1.087 in August. The record was $1.315 in August last year.

The farm share of pork at the retail level was 61.6 cents a pound, down from 64.5 in August. Middlemen got 48.3 cents, up from 44.2 a month earlier.

Retail milk prices averaged 77.3 cents a one-half gallon, down two-tenths of a cent from August.

FAMILY ASSISTANCE PLAN RESURRECTED ONCE AGAIN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. ASHBROOK. Mr. Speaker, the family assistance plan, FAP, although repeatedly rejected as a solution to our welfare problems, has been resurrected once again. Now known as the income supplemental program, ISP, this revised form of FAP is being promoted by Health, Education, and Welfare Secretary Caspar Weinberger.

Enactment of ISP would move our Nation a long way toward a permanent welfare state. It would also result in a sharp increase in welfare costs.

Under ISP a guaranteed annual income for every individual and family would be provided by Federal cash payments. A family of four with no income, for example, would receive yearly payments of $3,600. The family would receive diminished payments as it earned income until it had earned $7,200.

And this is just the beginning of the Federal handout. The family would still be eligible to receive medicaid, medicare, unemployment benefits, public housing and a number of other subsidies. In addition, the family could receive welfare supplements from State and local governments. As can be seen, ISP is an expansion rather than a substitute for the current welfare system.

Also distressing is the large number of individuals who would be eligible for ISP benefits. HEW officials estimate that about 42 million people would qualify. This is three times the number of those receiving assistance under AFDC and SSI, the major components of our present welfare system. If that is not bad enough, some experts contend that the HEW estimate is far too low. Perhaps as many as 60 million would qualify for benefits, well over one-fourth of the entire population.

All of this means an even more costly welfare program. HEW estimates that an additional $3 billion in Federal outlays would be needed. Many believe the actual cost would be far higher.

In summary, enactment of the income supplemental program would only worsen our welfare problems. More people would be on the Federal dole and more money would be spent on welfare benefits. I do not believe that this is the desire of the majority of Americans.

FOI VETO IS BLOW TO AMERICAN DEMOCRACY

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. ALEXANDER. Mr. Speaker, I am proud to represent a State which has one of the most progressive State freedom of information statutes in this country. In my work on the Government Operations Committee and on the floor of the House, I have regularly voiced my support for opening up government to the people it serves. I was proud to be a sponsor of the Freedom of Information Act amendments which passed the House with such an overwhelming vote.

The President's veto of this measure represented a blow to our American democracy. I have already set forth my strong feelings on this issue in another segment of today's debate. However, I wish to share with my colleagues an editorial which appeared in the Arkansas Democrat and clearly outlines the need for overriding this veto:

NOT TOO OPEN

In a move that didn't do much to bolster his bragging about operating an "open government," President Ford vetoed yesterday some very good changes that the Congress had made in the Freedom of Information law. The veto was largely the result of pressure by the Defense Department and other bureaucrats, who deeply resent even the small number (about 200) suits that have been brought under the act.

It's hard to believe it, but the country never had a FOI law until 1966, and this is the first time improvements have been attempted. The law requires the government to make all records available to citizens except defense secrets, tax returns, law enforcement investigation files, trade secrets, personnel or medical files and inter-agency memos. It was thought that reporters would be the greatest users of this law, but it has been activist groups like Common Cause and conservationists that have been its biggest user. This is sort of a sad comment on the press, because there must be thousands of things the public needs to know buried in the mountain of government documents. Of course, this kind of reporting is hard work and not very dramatic, but with the expose bug very much in the Washington air, maybe more journalists will turn to government files.

These amendments would certainly make it easier. Among other things, they set time limits that bureaucrats must meet in producing documents. Now, a clerk can put you off indefinitely. Another stalling procedure was the refusal of an agency to produce a document unless the citizen could give its precise title; the amendment says that a "reasonable description" will suffice. Also each agency will be required to maintain and publish indexes of its documents.

Another crafty idea of Rep. William Moorhead, D-Pa., and Sen. Edward Kennedy, D-Mass., sponsors of the amendments, was to require an annual report from each agency of all decisions made to withhold information AND the name of the person who made the decision. If the decisions were held by a court to be capricious or arbitrary. then the Civil Service Commission would be empowered to punish the employee. Also. the government would have to pay for the lawyer fees if the judge decided in favor of the citizen.)

The most controversial provision and the one President Ford has the most doubts about deals with national security. Now, anything classified as a defense secret is automatically withheld, and as we found out in the wake of the Pentagon Papers case, the classifications on less than 10 per cent of the material cannot be justified. There are even newspaper clippings stamped secret.

Anyway, one of thsee amendments would shift the burden from citizen to bureaucrat; he must justify the secret classification he has affixed to a document requested by a citizen. The way he does this is to submit the classified document to a federal judge, who will look at it in his chambers and decide whether the material should be kept from public view. President Ford said that federal judges didn't have the ability to make these determinations. This was quite a slam at the judiciary and, if true, which we doubt, it leaves us wondering, if judges don't, who does?

The bill was passed by big votes in both houses. We hope the senators and representatives will stay in session long enough to override this veto.

BELL CAPTAIN COLLINS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. STOKES. Mr. Speaker, one of our most active civic leaders and a well-respected man in Cleveland's religious circles, Deacon Jessie A. Collins has long been deserving of the recognition of the community. Deacon Collins recently celebrated his 30th year of employment as bell captain of the hotels associated with the Cleveland Clinic. I have known and admired Deacon Collins for many years and have often marveled at his ability to always be so pleasant with everyone with whom he comes in contact.

This deeply religious man, devoted to his church and to service to mankind, has touched many people with the warmth and cheerfulness of his greeting. Deacon Collins has always been one of my staunchest supporters and I have always been gratified to have his support. Recently Deacon Collins was the subject of an article in the Park Plaza Gazette. To introduce my colleagues to this outstanding citizen I submit this article for their reading:

Bell Captain Celebrates Anniversary

Arthur Collins our Bell Captain, and certainly one of our most important employees, recently celebrated his 30th year with the hotels connected to the Cleveland Clinic. The Bolton Square Hotel, The Clinic Inn and now the Park Plaza Inn. From his home town, Athens, Georgia he joined the United States Air Force and served 2 years overseas before being discharged with the rank of Master Sergeant.

Mr. Collins is very active in civic affairs. To list a few of his many activities: He is on the board of directors of the East Urban YMCA; president of the Ohio Baptist Laymen's Movement; chairman of the board of the Friendship Baptist Church; Treasurer of the Ohio Republican Council; Committeeman in Ward 27; and in addition to all these he sings second tenor in his church choir.

Mr. Collins greets each and every guest with a big smile and a friendly word. He never forgets a face and almost never a name. We at the Park Plaza Inn all think Mr. Collins is a very remarkable man and highly respect him.

THE REVERSE FRANKING PRIVILEGE

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. NIX. Mr. Speaker, KYW radio and television in Philadelphia has recently broadcast a series of editorials which I believe deserve a wider audience. These editorials urge people who have a grievance or who just want to express their opinion to write to their representatives—State, local, and Federal.

All of us in Congress know how important it is to hear from our constituents. But, as the editorials point out, many people do not realize how effective a letter to their Congressman can be. I am happy that KYW has endorsed an idea that I also strongly support: allowing constituents to write to their congressmen free of charge. This is what KYW calls the "reverse franking privilege." I have introduced a bill—H.R. 15759—to establish this plan, which I believe would be of great benefit to the democratic process.

The editorials follow:

How To Complain

Lots of people write to tell us what they think. And often they'll say they want to write their public officials too, but they're not sure how to do it; and they've asked us to spend some time on it.

So let's talk about how you send your representatives a message:

First, the Federal Government: The President is easy. Just write him care of the White House. And wherever you live, you also have two U.S. Senators and a Congressman. If you don't know them, you can call the political parties in your district, or the Board of Elections in City Hall or your township building; or call the League of Women Voters or Common Cause. Write your Senators care of the Senate Office Building; and your Congressman care of the House Office Building, both in Washington, D.C. If you write their names and these addresses your letters will get to them.

Now for the State level, write your Governor, your State Senators and your State Representatives care of the State Capitol. That's Harrisburg, Pa., Trenton, N.J., or Dover, Del. You can reach state agencies—like the Public Utility Commission—at the State Capitol too. And if you don't know any of these men and women, you also can get their names from the local political parties, from the Board of Elections, from the League of Women Voters or Common Cause.

And be sure to include your name and address so that those public officials who care can contact you.

The next question is how to say what you want to tell them. And in our next editorial we'll give you some examples of how easy it is to do.

How To Complain—II

You asked, so we've been explaining how easy it is to send your elected officials a message. Last time we showed you how to find out who they are, and where they are—by checking the political parties, the Board of Elections in your town, the League of Women Voters, or Common Cause.

Now, let's talk about what you want to tell them. First, remember that they do work for you, and that the good ones really want to know what's on your mind. So tell them. And you don't have to be fancy. To give you an idea of how easy it is, here are some examples from letters you sent to us. What you tell us is exactly what you also should be telling those folks you elected to represent you.

Some letters are formal, typewritten, and run a couple of pages. We read from one of those on the air the other day. Remember the Maple Shade, N.J. mother who's fighting inflation?

Some people write on whatever is handy. Like the Palmyra, N.J. housewife who used the bag from 5 pounds of sugar, to complain about food prices. The price on the sugar was only $1.71—so you can tell we got that one a couple of weeks ago.

Another letter was written on the back of what looks like a grade school math test. But it's a heck of a letter—about a nasty SEPTA bus driver—and we'll be passing it on for action.

Letters should be brief. Just make your point. Here's one that wants the electric company to automatically provide return envelopes with the monthly bill. Another wants us to ask you to turn off the pilot light on your gas stove. This one says simply: "No to State gambling casinos."

Lots of people use post cards. They're a quick, easy way to tell 'em what you think.

Okay then. You saw or heard the President talk about inflation and new taxes. You know it affects you; and we know you've got some opinions.

So why not tell the President, and your Senators and Congressmen. They work for you, and what you say does count.

How To Complain—III

Things are always happening in the news, and you have your opinions about 'em. But if you're like most people, you keep it to yourself, and nobody knows how you feel or what you think.

But times are changing. And more and more of you are writing to us, and to your elected officials too. And you're finding out it really isn't so hard to do. What's more you get answers: from us and from some of the elected officials. Sometimes things even get changed.

But too many still don't write. You're tempted. But you're not sure how or who you should be writing.

First try to figure out who's responsible—whether it's a federal, state, or local problem. Then get the names and addresses from your local library.

Next, writing your letters. Be brief. A post card will do. Like this one from the Camden man, who wants bridge tolls reduced and he writes that "25¢ is enough" to pay. Or you can write formal, typewritten letters if that's your style.

Many people send us copies of their bills. This from a Mt. Laurel, N.J. homeowner who says he may be forced to turn off his lights, use a kerosene lamp and burn wood in his fireplace this winter. We hope he can find some cheap wood. That's not so easy these days either.

And be sure to add your name and address—if you want an answer.

One more thing. Those 10-cent stamps. It's expensive. But when your Senators and Representatives write you, they don't need stamps. It's free for them. So why not for you?

And that's our newest campaign—suggested to us by two women who wrote in. If you think it's a good idea too, why not join us?

HOW TO COMPLAIN—IV

Remember early this month when we were showing you how to complain by writing letters?

One of the examples, a letter we received, complained about a nasty SEPTA bus driver. And at the time, we told you we were passing it along to SEPTA for action. We did. And we got action. From no less than the Chairman of the Board of SEPTA.

That bus driver, he writes us, "has been thoroughly advised of the complaint, he has been re-instructed in the need for courtesy in all situations involving the public and in particular older people".

That bus driver would not stop for a very old man in the middle of the street because it wasn't a proper bus stop. But at the next corner, also not a proper bus stop, he left his bus to buy a newspaper.

We're going into all this, because there's a further lesson how to complain. The woman who wrote to us included details on what happened, where it happened, what the bus line was, and the time of day. It was easy to locate the driver and set him straight. And that's important when you have a complaint. Include all the facts.

In this case involving the SEPTA bus, the idea wasn't so much to get even with the bus driver, but to do something about more courtesy and helpful service on SEPTA lines. We know SEPTA wants that, and so do most SEPTA employees. But there are always some bad apples to spoil things, to discourage people from riding.

And that's true in a lot of operations—in government, in business. And if we put up with it, we keep getting poorer service.

So complain whenever you have a good case. For your own good. And for the good of everyone else.

NO STAMPS

The other day we started a new campaign: reverse franking privileges for you. When your U.S. Senators and Representatives write to you, they don't need stamps.

So what we've been proposing is to make it free when you write to them.

Many of you are writing to tell us what a great idea it is, and how you're supporting us.

One typical writer said she thinks free postage is "kind of like equal time on radio and television for opposing views."

A Wilmington man says he writes his representatives 5 or 6 times a month. And he said, "If they can offer me their views free of charge, I should be able to do the same with them."

And we have one letter we especially want to share with you because the writer really can do something about getting us free postage.

He's Representative Robert N. C. Nix of Philadelphia who just happens to be a senior member of the House Committee on Post Office and Civil Service and here's some of what he wrote us:

"I agree with you wholeheartedly that allowing constituents to write their congressmen free of charge would advance the cause of democratic government. I have already introduced a bill which would accomplish this objective . . . It is my intention to reintroduce legislation in the 94th Congress . . . I will see to it that this subject gets early attention." Thank you Congressman Nix.

So our campaign has barely started and already we're attracting solid support. We'll keep after it, and we'll let you know how we're doing.

TUITION SUPPLEMENTS FOR VETERANS

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. HELSTOSKI. Mr. Speaker, for many months we have wrestled with the problem of providing our Vietnam veterans with adequate education, compensation and training benefits. Now, after nearly 1 year of haggling, the executive branch has deemed the bill inflationary and given no indication whether the President will sign it.

Furthermore, one of the most important parts of the bill, the tuition supplement provision, was deleted in conference. This proposal would have helped equalize the disparity in tuition costs which exists at different colleges and universities throughout the Nation, and as chairman of the Veterans' Subcommittee on Education and Training, I intend to continue working to implement this measure.

Today, however, I share with my colleagues an article which recently came to my attention. Entitled "GI Bill Unfair, Report Says," the story was written by UPI and appeared in the Bergen Record, November 14. Among other things, the article focuses on the need for tuition supplement legislation. The article follows:

GI BILL UNFAIR, REPORT SAYS

WASHINGTON.—Vietnam-era veterans receiving education benefits to attend schools in the East or Midwest may be getting shortchanged under the GI Bill, according to a report prepared for the National Conference of Mayors.

The report said current veterans education benefits—which range from $220 a month for individuals to $270 for those with a family—discriminate against vets in Eastern and Midwestern schools because they don't compensate for higher tuition costs and expenses.

As things stand, a veteran can attend San Francisco State and spend only 19.2 per cent of his GI Bill for education, the report said. Then he's left with $1,600 for subsistence, or $178 per month.

"A veteran from the same (outfit) may have returned to Buffalo, where he will have to spend $1,116 for education costs . . . leaving him with $96 per month for subsistence.

"As a result, 41.4 per cent of California's veterans have used the GI Bill to attend college or junior college, and only 22.3 per cent of New York's vets have done so," the report said.

Returning World War II vets got up to $500 annually for college tuition and $75 a month for living expenses. While that seems small today, it exceeded the minimum wage, and many schools also provided housing and jobs.

"Only some Vietnam veterans who live in low-tuition states have sums for subsistence that equal those which World War II vets received," the report said.

"Annual tuition charges for a four-year public college range from $165 in California to $266–$378 in Texas, up to $1,050 in Pennsylvania and $1,088 at the University of Vermont.

"Because of a factor over which the veteran lacks control—the tuition structure of his state—some will in practical effect have no GI Bill."

Congress has passed a bill raising education allowances 23 per cent, but President Ford has threatened to veto it as inflationary. The report says the bill still would be inadequate.

WHAT'S RIGHT ABOUT AMERICA?

HON. HAROLD V. FROEHLICH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. FROEHLICH. Mr. Speaker, despite the pressing national and international problems that confront the United States today, we in America have much to be thankful for in our society. Unfortunately, dealing with our national and personal day-to-day problems does not leave much time to reflect upon the good side of our Nation, and it often takes a bright young individual to restore the proper perspective and remind us about what is right with America.

I wish to draw the attention of my colleagues today to a thoughtful statement by Julie Dratz, a senior student at Appleton High School-West in Appleton, Wis., composed for her talent entry in the Miss Wisconsin Teenager Pageant. The depth of feeling that Julie expresses in her composition led to the Americanism Award from the Society of Honness Grande Voiture which she received earlier this year. I think my colleagues will agree with me when I say the future of America is in good hands with young people like Julie Dratz.

The text of Julie's statement follows:

WHAT'S RIGHT ABOUT AMERICA?

(By Julie Dratz)

Freedom is right with America—freedom to say what's wrong with our country, and the liberty to change it.

Giving is right with America—giving is part of our long history of helping others.

Opportunity is right with America—where people have the opportunity to rise above their environment and be judged on their accomplishments.

These are the things that are right with America and I'm confident that our nation, with its diversity of people, will continue to pull together to assure that future generations will be blessed with the right to life, liberty and the pursuit of happiness.

DEFICIT SPENDING: A WELL-TRAVELED ROAD TO RUIN

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. LANDGREBE. Mr. Speaker, during my years in the House of Representatives I have repeatedly warned of the dangers of deficit spending, but my warnings have fallen on deaf ears, willfully deaf ears, I am afraid. We are now experiencing a taste of the consequences of deficit spending and inflation: The Chrysler Corp. intends to shut down virtually its entire operation during the month of December; the price of sugar has rocketed into the stratosphere; the price of all food has wrecked many household budgets during the past year.

I have consistently opposed the irresponsible spending policies of this Congress, only to be accused of voting against the workingman. Well, let the big spenders, the environmentalists, and the automobile-safety-at-any-price crowd tell the employees of Chrysler Corp. that they are in favor of the workingman. Let them tell the housewives of America that they are friends of the consumer. I, for my part, will continue to oppose the incredibly wasteful programs of this Government, and sooner or later, the workingman and the housewives will realize that the friends of the workers and the consumers are not those who promise them everything but give them inflation, but those who want to keep the dollar sound and strong, thereby guarding the hard-earned wages of the workers and consumers.

Recently two brief editorials appeared in the Michigan City, Ind., News Dispatch, and the Findlay, Ohio, Republican-Courier—editorials that deal with the closely related subjects of inflation and shortages. I ask that they be included in the RECORD at this point as one further reminder to the Members of this Congress that the policies they are pursuing will end in economic disaster just as those same policies have caused economic disaster in every other society that indulged in them.

Hopefully, as the warning signs grow larger, as the stock market continues its decline, as banks fail, as auto manufacturers stop and slow production, as unemployment increases, the Members of Congress who are now deliberately oblivious to the consequences of their spending programs will wake up. I only hope that it will be in time to avert a catastrophe that will wreck both our economy and our political system.

The editorials follow:

[From the Michigan City (Ind.) News Dispatch]

POSTPONING INEVITABLE

Deficit spending and moral decay—the old bread and circuses routine—the experts say, had a lot to do with the fall of the Roman Empire.

The same ominous inclinations are only too evident in the United States today. Some claim we are even now shuffling down the same path to oblivion the old Romans followed some 16 centuries ago.

The Gazette of Beaufort, S.C., points out that the City of Rome now may be setting another pattern that the U.S. would do well not to follow. The Gazette points out that "for years Rome has been borrowing money to meet its operating expenses until today its loans are estimated at more than $4 billion. Rome's annual debt-service costs exceed its revenues from taxes and other sources."

Unless the Italian government—also in financial trouble—bails the city out, it will be bankrupt.

Uncle Sam better watch it or he will be in the same boat. Eventually borrowing, or deficit spending as the federal budgeteers call it, catches up with everyone—even governments.

As the Gazette concludes, "Passing the buck to future generations simply postpones the inevitable—on the banks of the Tiber or the Potomac."

[From the Findlay (Ohio) Republican-Courier]

NOW YOU KNOW

American housewives may occasionally get a little miffed at the prices they find in their friendly neighborhood supermarkets, but at least they don't have to waste much time on their rounds, as shoppers do in some communist countries. A Polish newspaper (has) reported that a family in that country spends 6.5 hours a week standing in line for one thing or another. These were the average waits: To make a bank withdrawal, 45 minutes; to send a postal money order, 30 minutes; to buy a piece of meat, 40 to 45 minutes; to reach the friut and vegetable counter, 15 minutes. The annual total for the country is 2.5 billion man-hours, enough to increase Poland's gross national product by 20 per cent. All that waiting would not be tolerated in America, where people are so impatient they honk at the car ahead of them the moment the traffic light turns green. With the exception of long waits at the gas pump, that is.

GILMAN SEEKS VETERANS' BENEFITS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. GILMAN. Mr. Speaker, on several occasions I have risen to urge my colleagues to support increased educational and rehabilitation veterans' benefits contained in H.R. 12628, the Vietnam Era Veterans Readjustment Assistance Act of 1974, which was approved by Congress on October 10, 1974.

Along with the thousands of veterans across our Nation, I am dismayed over the President's threatened veto of this legislation, so critical to the needs of our veterans. In giving recognition to our veterans for their sacrifices and contributions on behalf of our Nation, we must also recognize our obligation to provide them with a means to learn skills which will assist them to earn their livelihoods for the rest of their lives. The President recently requested 70,000 Government jobs for veterans. It is inconceivable that the administration would not want them to be fully qualified to hold these jobs.

World War II veterans had by far more substantial assistance than our Vietnam-era veterans. This measure is an endeavor to provide a cost-of-living adjustment bringing them up to the level of benefits received by veterans of former wars. The administration's warning is an affront to our Nation's veterans who gave so much for their country.

The President, in labeling this bill inflationary, has failed to note that adequate educational assistance, keeping pace with the rising costs of living and education, will substantially increase economic output and earnings capabilities of our veterans, helping them to alleviate unemployment rolls. If we deny this increase in benefits, these men and women will be unable to avail themselves of the opportunity of learning new trades and skills, thereby adding to our swollen unemployment rolls. Having called upon these valiant men and women to fight our battles in Vietnam, we must not allow them to be used as scapegoats in the battle against inflation.

Accordingly, I call upon my colleagues to stand behind and support our House measure providing a 23 percent increase in basic educational benefits, an 18 percent increase in vocational rehabilitation benefits and I urge a vote to override any Presidential veto of this vital measure.

CAR RADIO MISCHIEF

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. ARMSTRONG. Mr. Speaker, the House will shortly consider H.R. 8266, legislation to require all new car and truck radios have both AM and FM receivers.

Although I will not be voting on this measure, since it represents a conflict of interest, I wish to state my unequivocal opposition to this ill-considered, inflationary legislation.

As the operator of an FM radio station, I personally would benefit from H.R. 8266. The FM radio industry might benefit—but that does not make H.R. 8266 good legislation.

At a time when Americans are facing more and more Government coercion, this bill would coerce producer and consumer alike. At a time when inflation is already rampant, this bill would inflate the prices of cars even more. At a time when Congress is already condemned, and rightly so, for placating and catering to special interests, this bill would grant special favors to a special interest.

And H.R. 8266 would more than double the cost of vehicle radios in a time of double digit inflation. This is just plain wrong.

As an FM broadcaster myself, I must say the FM sector of radio is hale and healthy; we do not need, and the public does not deserve, the helping hand of Big Brother.

The following editorial from the Rocky Mountain News on Sunday, November 17, points out this legislation as the absurdity it is:

CAR RADIO MISCHIEF

How about a law forcing every motorist who wants a $60 radio in his new car to buy a $125 radio instead?

Sounds crazy, but that's what would happen under a bill slated for final action in the House next Thursday.

The bill would make it illegal to sell a new car with a radio unless the radio were equipped for both AM and FM reception.

Since AM-FM radios cost about twice as much as ordinary AM radios, the extra expense to the consumer could run as high as $400 million a year, according to the American Automobile Association.

The Senate passed an equally bad bill last June requiring FM capability in any radio (home or car) selling for more than $15 on the retail market.

There's nothing mysterious about all this. *It's simply* an economic squeeze play by FM broadcasters and appliance dealers.

The real mystery is why Congress would even consider such legislation at a time when high-priced cars are selling like ice cubes in Alaska.

Dumb ideas are nothing new in Washington, but this one, obviously, is in a class by itself.

A BAD DEAL FOR VIET VETS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. WOLFF. Mr. Speaker, as most of my colleagues are aware, President Ford has sent a message to the Congress from the Far East stating that he will veto the Veterans Education and Rehabilitation Amendments Act if it is sent to him in its present form, which the President has labeled "inflationary."

Mr. Speaker, the President's threat is a direct contradiction of his past expressed support for our Vietnam veterans and of his avowed policy to work with Congress on key issues. Congress has already made a number of concessions on the veterans bill. Far from being a "give too much" measure, as the President indicates, the bill actually lacks several needed improvements in the GI bill, which Congress was willing to postpone in the interests of getting the basic increase in benefits enacted. As the bill finally passed the House, many of my colleagues, I am sure, were under the impression that it met the President's objections, since it had been pared down further in a second go-round with the conferees.

I frankly cannot understand how the President can claim this bill is inflationary when it has been proven that adequate educational support will increase the economic output and earnings capability of this Nation's veterans and when it has been proven further that the current GI bill does not provide adequate educational assistance. The improvements contained in the education bill are not excessive; quite the contrary, they should be viewed as a first step in an effort to bring the present GI bill up to a par with its WW II predecessor.

I also fail to understand a system of priorities which advocates hundreds of millions of dollars in aid to Vietnam, yet opposes well-deserved assistance to those who fought in Vietnam. Does not the President realize that his actions constitute an affront to this Nation's veterans?

Mr. Speaker, I have been conducting an independent survey of my colleagues in the House which leads me to believe that we have sufficient votes to override a possible veto. However, before the President makes this necessary, I think he should realize that a veto would not augur well for the future relationship between the Executive and the Congress. The President's credibility is on the line here, not only with our Vietnam veterans, but with the Congress as well.

BUREAU OF MINES DIRECTOR DR. THOMAS FALKIE OUTLINES THE NEED TO DOUBLE COAL PRODUCTION

HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. SLACK. Mr. Speaker, the need for a definitive action program to meet our long-range national energy goals and requirements has been often discussed in this Chamber during the past year. I believe we all realize that we cannot meet these goals without a vast increase in coal production. In this connection I would like to bring to your attention a very clear statement on the subject by Dr. Thomas V. Falkie, Director of the Bureau of Mines, at the West Virginia Coal Mining Institute meeting at White Sulphur Springs on November 1:

STATEMENT OF DR. THOMAS V. FALKIE

I appreciate this chance to talk to you about what is going on in the Bureau of Mines, and in other parts of the government in Washington—and to give you my views on how these activities affect coal policy.

By this time most of my colleagues in Washington, and indeed most informed observers in and out of the coal industry, agree that a clearly defined national coal policy is essential to the economic welfare of the country. Our reserves of coal are too vast, and our need for energy too great, for us to neglect this great national asset.

National policymakers recognize that fact. They are growing ever more sophisticated—about energy matters in general, and about coal in particular. They know that many perplexing details must yet be worked out before coal can start carrying more of the Nation's energy load. And they know that economic, environmental, and research considerations must inevitably play a part in the formulation of energy policy.

In their pursuit of a workable energy policy, they will have to grapple with questions such as these:

If policy forces a return to use of coal by American industry, how will Middle East oil producers respond? Could they not abruptly cut their prices, perhaps by as much as half? What would our options be if they did?

Or consider environment: Much of the coal now being mined contains more sulfur than will be allowed when State air quality regulations go into effect next summer. How much will those regulations reduce the available supply? Will the public stand for widespread relaxation of air quality standards? What about scrubbers? Are they feasible, as environmentalists insist, or not, as the power companies claim? If they do become operational, what do we do about the millions of tons of sludge they will be generating?

Of take transportation. Traditionally coal is moved by rail. But the Nation's railroads are in bad shape. How soon can they get themselves organized to handle greatly expanded coal traffic?

For leadership on some of the technical issues involved in coal policy, the public may look with some confidence to scientists in the Bureau of Mines. The Bureau is an old-line agency, with a fine record in research and development, but I believe its most exciting and challenging days lie just ahead.

The Bureau's budget for Fiscal Year 1975 totals over $221,000,000, and a sizable chunk of that is devoted to energy—both directly and indirectly.

For mining research by the Bureau, the budget figure is about $96 million. Roughly $67 million of that is for in-house and contract research that will make present-day coal mining methods more productive. Much of this effort will be aimed at mining the deep and difficult deposits that we know we will have to start mining between now and 1985.

Just over $57 million of the Bureau of Mines budget is for coal use research—the bulk of it to support laboratory- and demonstration-scale development of coal liquefaction and gasification technology. It is this kind of program—in which the Bureau has pioneered for many years—that will be moved to the new Energy Research and Development Administration.

Dollar signs outline the scope of the Bureau's work only in the roughest way, and don't begin to describe the importance—or the potential—of the major programs. For instance, in mining research, to speed up development operations for underground coal mines, we are starting to investigate the best ways in which tunnel-boring machines used in civil construction projects can be adapted for coal mining. Potentially, such a development could speed shaft installation by up to 50 percent, cut costs by as much as 25 percent, and increase the safety of the operation.

Important as technological advances are, however, they cannot be counted on to dispel all the question marks inherent in energy policy development. To deal with some of the broader questions of coal policy, the administration some months ago established the Project Independence Interagency Coal Task Force, which Secretary Morton named me to chair.

So far the Task Force has made numerous recommendations and passed them on to Secretary Morton. Although he has not yet made these recommendations public, he is expected to do so soon, and I can comment on them in a general way.

One of the most difficult aspects of defining something so amorphous as a national policy lies in bringing the problem into focus—that is, in setting some policy goal that all, or almost all, will agree is relevant and worthy of effort. Only when that happens can wheels begin to turn, subsidiary policy issues be decided, programs be set into action, and public support be solicited.

When President Ford launched his economic summit conference some weeks ago, he invited the views and opinions of spokesmen from throughout the ideological spectrum. But after each had had his say, White House experts were given a firm deadline—just ten days—by which to come up with a program.

The deadline aroused some anguish, of course, but the circumstances warranted it. That deadline was met, and a series of proposals that could have taken months to prepare was finished in days.

I might point out, too, that in the Presidential address that marked the meeting of the deadline, and the announcement of the Administration's program, President Ford established another goal that has some relevance to coal. He proposed that oil be eliminated as the fuel to be burned in major new powerplants built after 1980. This means an increased demand for coal, of course.

Coal policy is at a similar crossroad. The time has come to act, and a tangible, relevant goal is needed to give impetus for action. The Coal Task Force has recommended such a goal: The doubling of coal production in the United States by 1985, from our present 600 million tons per year to 1.2 billion tons per year.

Is this an unrealistic goal? I think not. It may well fall short of our energy needs ten years from now. But it provides a starting point, from which the many problems and uncertainties that face the industry and the Nation can be dealt with. I have already mentioned such barriers as imported oil, environmental restrictions, and inadequate transportation. To these we must add the problem of shortages of mining equipment. Manufacturers are expanding their output, but there is still a three- to four-year backlog in filling orders for major mining equipment.

Another possible threat to increased production—perhaps the most serious one—involves labor-management relations. Because of the volatile state of these relations, it is impossible to predict their effect on coal production, except to say that the effect will be considerable. We in government will try to help speed the mediation process.

To digress for a moment, one of the questions that often arises among coal policymakers, and one I am sure will be of interest here, is: Where does Appalachia stand with respect to western mining? Well, if we are going to meet our goal—if we are going to double coal production by 1985—then it strikes me as a foregone conclusion that there are going to have to be increases in Appalachian mining, in spite of the growth that will assuredly take place in the West and Midwest coal industries.

To summarize the National coal policy situation as it now stands: National policymakers are aware, and keenly so, of the need for a National coal policy. I feel that the essential first step is the establishment of a 1985 production goal. First, we must set a target—say, 1.2 billion tons of coal by 1985. Only then can we begin to make the decisions and shape the policies that will enable us to hit that target.

Even then, achieving the goal won't be easy. It will not be accompanied without the willing cooperation of people such as yourselves. I am confident that cooperation will be forthcoming. I look forward to the day when the coal industry can once again be a major contributor to our energy supplies, as purveyors of a fuel that is not merely acceptable, but indispensable to the Nation's independence and stability. Given the obstacles ahead, that point may take some time to gain; but once it has been achieved, your industry and the country will both be richer.

Thank you.

EXCESS CORPORATE PROFITS TAX URGED

HON. FRANK E. DENHOLM

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. DENHOLM. Mr. Speaker, there is a real need for an Excess Corporate Profits Tax to discourage unnecessary and unreasonable "price gouging" across this country.

I authored and introduced legislation that has been pending before the House Committee on Ways and Means since the 21st day of December 1973 (H.R. 12133). The proposal is probably not perfect but it is right in principle.

The purpose of the legislation that I introduced is to first discourage unreasonable price increases and second to provide corporate profits tax to monetize an energy trust fund on a continuing program of energy research to improve utilization of present sources, develop means for energy conservation, and to promote economic and effective techniques for preserving the environment of this Nation.

The people of America are not currently suffering a severe shortfall of petroleum products. However, it is common knowledge that the continued use of presently known sources of energy at the current rate will eventually exhaust existing resource supplies.

I respectfully request of my colleagues that my proposal or similar legislation be considered at this time as an equitable means to discourage unreasonable corporate profits and also to assure development of essential energy for future generations of Americans.

The threat of new hostilities in the Middle East and the possibility of renewed boycotts on imports of oil is cause for action in the public interest. I am hopeful that we can proceed without delay.

JOHN PORTER LASATER, JR., OUTSTANDING AND ACTIVE CITIZEN

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. JONES of Tennessee. Mr. Speaker, I would like to take this opportunity to include in today's RECORD a newspaper feature article on John Porter Lasater, Jr., of Paris, Tenn. Pete, as he is known by his many friends, has been active in Tennessee politics since Gov. Gordon Browning's first campaign in 1936. He continued his political relationship with Governor Browning and was district campaign manager in both the 1949 and 1952 campaigns. As well as helping others, Pete has held some public offices. He is a former mayor of Paris, a member of the county court for 8 years, a member of the county school board and is presently city judge.

Pete Lasater is an outstanding and active citizen of Henry County, and I am proud to count him as a personal friend.

At this point, I include the text of the feature article that appeared in the Paris, Tenn., Post-Intelligencer, on October 25, 1974:

JOHN PORTER LASATER, JR., OUTSTANDING AND ACTIVE CITIZEN

(By Wm. B. (Billy) McSwain)

If someone were to ask a number of people who John Porter Lasater, Jr. is, many would reply that they never heard of him. Ask the same ones who "Pete" Lasater is and most will know him.

Pete was born Feb. 2, 1902, the son of J. P. and Jeanne Matthewson Lasater, both natives of Henry County. Mr. Lasater was a bottler of soft drinks in Paris for many years, first of flavored drinks, and later Coca-Cola, holding one of the first franchised in this area.

Pete, following then standard routine, went to Lee, Atkins-Porter and Grove High in Paris. He also attended Columbia Military Academy before completing his secondary school education. After this he went on to Valparaiso University, Ind., and Bowling Green Business University in Bowling Green, Ky.

On finishing his college work, and following in his father's footsteps, Pete entered the business with his father and stayed in the Coke business until 1951. Pete then turned his attention to an entirely different field and went in the clay business with the Tennessee Absorbent Clay Co. here in Paris, and later had the Georgia-Tennessee Mining and Chemical Co. in Wrens, Ga.

Both these firms dealt in the same type clay, used as a filtering agent in the petroleum industry and as cat box absorbent. Pete stayed in the clay business until he retired in 1970.

Pete is known throughout the state of Tennessee due to his political activities. It started, he said, "when I managed Gordon Browning's Henry County campaign in 1936." This started a long friendship between these two which exists today.

The relationship was also political as Pete was district campaign manager for the governor in his races of 1949 and 1952. He needed no prodding to say, "I think Gordon Browning was the best governor we have ever had."

"He promised a hotel at Paris Landing State Park if elected in 1948; he was elected and the hotel was built. He always tried to live up to his promises."

Pete managed Congressman Ed Jones' campaign when he first ran in 1969, and says, "I am still trying to help him all I can."

Pete's "help" seems to be no small thing, as nearly all embryonic and seasoned office seekers in this neck of the woods usually ask for it. Find a political race, and somewhere in it will be the ubiquitous Pete.

In addition to helping others, Pete has also held some offices himself, having been mayor, a member of the County Court for eight years, a member of the county school board, and presently city judge.

Pete attended the Southern School of Law here, and on competition passed the bar exam in 1939. He practiced for several years in partnership with Charles G. Neese Jr., who is now a federal district judge. He quit practice when he was elected mayor.

A lifelong working Democrat, Pete avows, "I wouldn't vote for any Republicans. I'm working for Ray Blanton but don't have any active part in his campaign."

Other activities have been, in part, president of the Paris Lions Club, president of the Paris Country Club, a Mason for 50 years and once commander of the Paris Commandery of Knights Templar, president of the Tennessee State Bottlers Association for two terms and charter member of the Paris Elks Lodge.

While he was mayor, Camp Tyson construction was started. The first troops were M.P.'s. There being no housing at the camp for them, Pete said "I put them up at the city auditorium where they stayed for two years."

This contingent later grew to 15,000, and "we had to expand facilities to take care of them." Pete did not run again for mayor because "I thought I was going in the Army. This didn't develop."

In speaking of other things while mayor, he was proud that "Paris had the first civil defense committee in the state, and I helped organize it." While he was on the school board, "we started trying to get the new addition to Grove and Weston Hall was begun."

His hobbies have been mostly in sports, with hunting quail, doves and ducks being his favorites. "I like quail hunting best and once had kennels and raised bird dogs." He regretfully said, "I've about quit."

As to his golf, "I go out with my clubs, don't know whether you could call that golfing or not."

Ever hear of "Young Stribling"? Well, he was once leading contender for heavyweight boxing champion of the world. Pete once boxed him in a public exhibition. This is a fact, and the additional fact that they were both 14 years old at the time does not alter the fact.

Pete married the former Laurine Martin of Paris July 24, 1923, a very lucky day for Pete. They have three children, Gene Martin, M.D., a neurologist in Denver, Colo., and a Vanderbilt graduate; Martha Floy, wife of Marine Col. Kermit Andrus in Washington, D.C., and J. P. III (Jack), a graduate of Georgia Tech and an engineer in Houston, Tex.

John Porter Lasater, civic and politically minded citizen, fun loving with a wonderful sense of humor, and by anyone's standards, an interesting personality.

WAS JACKSON'S "VICTORY" STAGED?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. DERWINSKI. Mr. Speaker, as we note continuing diplomatic controversies, we must recognize that too often there is an interrelationship in domestic political plans and the pressures in foreign affairs. This will be a growing fear in the next 2 years as numerous Members of the U.S. Senate pursue their dreams to become the next President of the United States.

While there might be some of those who deny that domestic political strategy is on any statesman's mind when he dabbles in foreign affairs, I believe the column by Frank Starr of the Chicago Tribune of Friday, October 25, is an accurate summary of the political concern involved in the pending trade bill. The article follows:

Was Jackson's "Victory" Staged?

(By Frank Starr)

Washington.—Sen. Henry Jackson (D., Wash.) is claiming, and receiving high praise for achieving a major victory in his multiyear effort to link United States trade benefits to a liberalized Soviet emigration policy.

From the White House rostrum Jackson, a 1976 Presidential hopeful, was allowed to announce his victory and make public two documents as proof of it, an exchange of letters between himself and Secretary of State Henry Kissinger.

There is at least as much reason to believe that Jackson, one of the last bulwarks of skepticism toward Kissinger (and the Soviets), has become only the latest victim of Kissinger's talents of persuasion (and the Soviets'). At the very least the praise is premature.

There is at the moment only the two letters, one by Kissinger and one by Jackson. There is no trade bill yet. Reports from Moscow indicate that harassment of Jews continues. And in place of public acknowledgement of good faith in their treatment, there is the opposite.

Instead of crediting Jackson with a major victory, a true skeptic might conclude that the senator has been had, that Kissinger (and the Soviets) decided that the easiest way to get the trade bill they both want off dead center was to concede Jackson the appearance of victory and proceed.

It is true that Kissinger went over the contents of his letter to Jackson with the Soviets very carefully. He did not go over the more detailed contents of the Jackson letter with them. So Jackson's understandings remain Jackson's understandings. Only Kissinger's are operable. But they are full of holes.

Item one says "punitive actions against individuals seeking to emigrate from the U.S.S.R. would be violations of Soviet laws and regulations and will therefore not be permitted by the government of the U.S.S.R."

There are myriad well-known and documented violations of Soviet law by Soviet officials in the treatment of political dissidents, the most obvious being the constitutional guarantee of free speech and press to every Soviet citizen.

Another obvious problem is Kissinger's "assumption" that the rate of emigration "would rise promptly from the 1973 level and would continue to rise to correspond to the number of applicants."

Since there were about 40,000 emigrants last year [of which some 35,000 were Jews] a rise to the 60,000 figure cited by Jackson [but not embraced by the administration] is conceivable. The difficulty is the rise thereafter "to correspond to the number of applicants."

Since the number of applicants is kept secret, the burden of proof of compliance falls not on the Soviet Union but on the administration, which for the moment finds it in its best interest to find the Soviets in compliance.

Presumably the Congress will always have the option of finding the Soviets to have defaulted and rescinding the line of credit and tariff benefits at issue, but that is a cumbersome process at best.

There are other difficulties with the agreement outlined before it was announced by Moscow physicist Valentin Turchin, who generally approves of Jackson's effort.

But, he argues, uncertainly about the right of emigration creates a serf-like dependency on the state, on the one hand, while allowing the state, on the other hand, to use emigration to decimate the ranks of those who would work within the system for change.

"Thus," Turchin wrote on September 7, "totalitarianism turns out a double winner. To change that, each citizen must have a real possibility to emigrate—for a short or a long stay, or forever, and with the loss or the preservation of his citizenship."

The device of the letters, allowing the Soviets to avoid the appearance of having been pressured, was a typical Kissinger device. U.S. officials believe that the Soviets will find it in their interest to avoid rescission of the trade benefits the new law, when passed, will give them. But they may pretend the agreement doesn't exist.

It is safe to assume, the same officials say, that the Soviets will make every effort to minimize their compliance. While U.S. officials downplay the significance of Leonid Brezhnev's remark that such trade conditions were "utterly irrevelant and unacceptable," they also concede that the remark reflects accurately the visceral Soviet reaction.

Thus it remains to be seen what effect the Jackson effort will have. Fortunately there are two years remaining before the next Presidential election.

MONTHLY CALENDAR OF THE SMITHSONIAN INSTITUTION

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. SMITH of New York. Mr. Speaker, it is my privilege to insert in the Record each month the Monthly Calendar of the Smithsonian Institution. The November Calendar of Events follows:

November at the Smithsonian

FRIDAY, NOVEMBER 1, 1974

Rehabilitation Medicine Films: *Kevin Is Four*, distributed by the Ohio State University; *Toward Tomorrow*, Goodwill Industries. 12:30 to 1:30 p.m. Carmichael Auditorium, History and Technology Building. Similar films are shown each Friday in connection with the current exhibition *Triumph over Disability*. Free.

Exhibition: *Universal Postal Union Stamps*. Important portions of M. William Tyrrell's award-winning stamp collection, covering the history of the U.P.U. Museum of History and Technology, through November 30.

SATURDAY, NOVEMBER 2, 1974

Concert: *Music from Marlboro*. Selections by Mozart, Dvorak and Brahms directed by Rudolf Serkin and performed by musicians from the Marlboro Music Festival. 5:30 p.m. Baird Auditorium, Natural History Building. First in a series of three concerts; remaining programs will be held January 27 and April 5. Sponsored by the Division of Performing Arts. $5.50 general; $4 students and senior citizens; $5 Resident Associates. For reservations call 381–5395.

Concert: *Michel Piquet*, baroque oboe, baroque and Renaissance recorders, and *James Weaver* on harpsichord, performing selections by Praetorius, Hotteterre, Philidor, Telemann and Bach. 8:30 p.m. Hall of Musical Instruments, Museum of History and Technology. $3.50 general, $1 students and senior citizens, $3 Resident Associates. For reservations call 381–5395. Sponsored by the Smithsonian Division of Musical Instruments.

SUNDAY, NOVEMBER 3, 1974

Ragtime and Early Jazz: *Kenny Davern's Trio*, with piano rolls by Scott Joplin, Jelly Roll Morton, Fats Waller and James P. Johnson. First of three concerts representing the great eras of jazz, presented by the Division of Performing Arts. 5:30 p.m. Hall of Musical Instruments, History and Technology Building. $4 general; $3 students and senior citizens; $3.50 Resident Associates. For reservations call 381–5395.

MONDAY, NOVEMBER 4, 1974

Concert: *Theatre Chamber Players*, opening their first full season as resident chamber ensemble at the Smithsonian Institution, perform selections by Stefan Wolpe, Paul Hindemith, Franz Schubert and J. S. Bach, as well as the Washington premiere of a piece by the Swiss composer Jurg Wyttenbach. Violinist Pina Carmirelli and soprano Jeannette Walters will be featured. 8:30 p.m. Baird Auditorium, Natural History Building. For ticket information call 381–5395.

TUESDAY, NOVEMBER 5, 1974

Film: *Rube Goldberg . . . Or Doing It the Hard Way*. 1 p.m. Carmichael Auditorium, History and Technology Building. Free.

Film: *The New York School*. A survey of the first indigenously American school of painting, sometimes called Abstract Expressionism, that developed in New York City following WWII. 1:30 and 6:30 p.m. Hirshhorn Museum. Free.

WEDNESDAY, NOVEMBER 6, 1974

Free Film Theatre: *Ghost Town of the Westward March*—victims of the search for gold; *Nahanni*—the pursuit of a legendary lost mine; *The Legend of John Henry*—with lyrics sung by Roberta Flack; and *The Legend of Paul Bunyon*. 12:30 p.m. Carmichael Auditorium, History and Technology Building. Free.

THURSDAY, NOVEMBER 7, 1794

Films by *Rosalind Schneider*. A filmmaker who is also an artist explores the bonds between the different media. 1:30 and 6:30 p.m. Hirshhorn Museum. Free.

Creative Screen: Four color films shown in conjunction with the current exhibition *Figure and Fantasy*. *The Face*—engravings of a woman's face are manipulated into the bizarre and beautiful; *Les Escargots*—winner of three international awards; *Labyrinthe*—surrealist story of a lonely individual trapped in a desolate urban world; *The Critic*—a spoof of experimental, abstract films with Ernest Pintoff's abstract patterns and Mel Brooks' off-screen comments. Complete showings at 11 a.m., 12 noon and 1 p.m. The Renwick Gallery. Free.

Free Film Theatre: *Ghost Towns of the Western March; Nahanni; The Legend of John Henry; The Legend of Paul Bunyon*. See November 6 for details. Free.

Romantic Versus Classic Art: *Ingres*. Fourth in a new series of films by Lord Kenneth Clark, each surveying the life and work of an individual artist of the 18th or 19th century. 6:30 and 8:30 p.m. Baird Auditorium, Natural History Building. $2. Tickets sold at the door.*

FRIDAY, NOVEMBER 8, 1974

Exhibition: *From Reliable Sources*. The first exhibition in the new Gallery of the Archives of American Art. Selected items from the collections of letters, documents, sketch-books and photographs of 29 artists of the 18th, 19th and 20th centuries. The show commemorates the 20th anniversary of the founding of the Archives and the fifth year of its affiliation with the Smithsonian Institution. 1st floor, National Portrait Gallery.

Rehabilitation Medicine Films: *Everything but Hear*, distributed by Clark School for the Deaf; *The School That Love Built*, Abilities Inc. 12:30 to 1:30 p.m. Carmichael Auditorium, History and Technology Building. Free.

Lecture/Performance: *Kathakali: Indian Temple Dance*. Dr. Suresh Awasthi, Director of India's National Academy of Music, Dance and Drama, lectures on the ancient Hindu dance form. A demonstration of the movements and makeup is followed by a full-dress performance. 8 p.m. Carmichael Auditorium, History and Technology Building. $4.50.*

SATURDAY, NOVEMBER 9, 1974

Blacksmithing Demonstration: *Robert Seely*, professional blacksmith, will demonstrate the making of Colonial hardware, using no power equipment. He will discuss the historical place of the blacksmith in everyday life, 1 p.m. Parking lot of the Smithsonian "Castle" Building.

Film: Children's Series. Classics of animation, including *Gertie the Dinosaur* (1914), *Felix the Cat* (1924) and *Steamboat Willie* (1928). 12:30 p.m. Hirshhorn Museum. FREE.

SUNDAY, NOVEMBER 10, 1974

Jazz Heritage Concert: *Roy Eldridge*. 8 p.m. Baird Auditorium, Natural History Building. $4.50 general, $3 students and senior citizens; $4 Resident Associates. A free afternoon workshop will be presented at 4:30 p.m. For reservations call 381–5395. Presented by the Division of Performing Arts.

Sunday Shorts—a series of creative short films: *Genesis* by Jana Merglova; *Crystals* by Herbert Loebel; *County Hospital* with Laurel and Hardy; *John Muir's High Sierra* by Dewitt Jones; *Iran* by Claude Lelouch. 5 p.m. Carmichael Auditorium, History and Technology Building. $1.25.*

Banjos and Breakfast Brunch: Folk music with banjo guitar, mandolin, dulcimer and mouth bow, performed by Robin Johnson and Robert Clayton of the Smithsonian's Division of Musical Instruments. Concert 11 a.m.; breakfast/brunch 10 a.m. or 12 noon. $7 adults; $5 children under 14.*

MONDAY, NOVEMBER 11, 1974

Lecture Discussion: *Lillian Hellman*, author of books and plays including *Little Foxes* and *Toys in the Attic*, will be present for an informal discussion with the audience. She will be introduced by Richard Coe, Washington *Post* drama critic, who will also discuss her work. 8 p.m. Baird Auditorium, Natural History Building. $4.*

Concert: *Quartetto Esterhazy*. Selections by Boccherini, Haydn and Mozart, performed on antique instruments by Japp Schroder, violin; Alda Stuurop, violin; Will Peeters, viola; and Wouter Moller, cello. 8:30 p.m. Hall of Musical Instruments, Museum of History and Technology. $3.50 general, $1 students and senior citizens, 83 Resident Associates. For reservations, call 381–5395. Presented by the Division of Musical Instruments and directed by James Weaver.

Lecture: *Archives of American Art*. Garnett McCoy, Archivist, will discuss the history, purpose and functiotn of the Archives. 2 p.m., National Portrait Gallery. Refreshments will be served. $4.* (Note: The Archives of American Art has the largest collection of material on the history of visual arts in this country and an Archives gallery is being opened in the National Portrait Gallery Nov. 8.)

TUESDAY, NOVEMBER 12, 1974

Film: *Robert Motherwell; Larry Rivers*. Two film portraits by Michael and Christian Blackwood. 1:30 and 6:30 p.m. Hirshhorn Museum. Free.

Film: *An Independent Voice: The Community Newspaper in America*. 1. p.m. Carmichael Auditorium, History and Technology Building. Free.

Lecture: *Archives of American Art*. Repeat. See November 11 for details.

WEDNESDAY, NOVEMBER 13, 1974

Free Film Theatre: *The Real West*—still picture animation recreates the West as it really was. Narrated by Gary Cooper. 12:30 p.m. Carmichael Auditorium, History and Technology. Free.

THURSDAY, NOVEMBER 14, 1974

Film: *Aves* and *Izy Boukir*, films by Nancy Graves. 1:30 and 6:30 p.m. Hirshhorn Museum. Free.

Free Film Theatre: *The Real West*. Repeat. See November 13 for details.

Romantic Versus Classic Art. *Gericault* and *Constable*. See November 7 for details.

National Capital Shell Club. Monthly meeting and program. 8 p.m. Room 43, Natural History Building. The public is invited. Free.

FRIDAY, NOVEMBER 15, 1974

Rehabilitation Medicine Films: *Home for Supper*, distributed by the Berk Rehabilitation Center; *Within Our Grasp*, Veterans Administration. 12:30 p.m. Carmichael Auditorium, History and Technology Building. Free.

Lecture: *The Disciplines of Art*. Speaker: Marya Mannes, author, critic and TV personality. 8 p.m. Carmichael Auditorium, History and Technology Building. $3.50.*

SATURDAY, NOVEMBER 15, 1974

Film: Children's Series. Animated works by Canadian filmmaker Norman McLaren. 12:30 p.m. Hirshhorn Museum. Free.

SUNDAY, NOVEMBER 17, 1974

Lecture: *Nature of the Avant-Garde Today*. Speaker: Irving Sandler, Professor of Art, State University of New York. 2 p.m. Hirshhorn Museum and Sculpture Garden. Tickets are required and may be reserved by calling 381–6752 or picked up at the information desk. Free.

Man and His Culture: *Heen Baba*, Sri Lanka's greatest dancer, and his ensemble of drummers and dancers appear in their first tour of the United States. They will perform the best-known poetic and dramatic dances in praise of gods and the animal kingdom. 8 p.m. Baird Auditorium, Natural History Building. $5.50 general, $4 students and senior citizens, $5 Resident Associates. For reservations call 381–5395.

Sunday Shorts: *The Dove* by George Coe and Anthony Lover; *Introduction to Acupuncture; Threshold* with John Carradine; *Floorwalker* with Charlie Chaplin. 5 p.m. Carmichael Auditorium, History and Technology Building. $1.25.*

MONDAY, NOVEMBER 18, 1974

Audubon Lecture: Cleveland P. Grant screens and discusses his film *Lion Pride*, an intimate and sympathetic study of totally wild African lions. 5:30 and 8:30 p.m. Baird Auditorium, Natural History Building. $3 adults, $1.50 under 16. Co-sponsored by the Smithsonian Resident Associates and the National Audubon Society. Discounts available for members of both organizations. Call 381–5157.

TUESDAY, NOVEMBER 19, 1974

Film: *Isamu Noguchi and Spiral Jetty*. Film portraits contrasting two sculptors. 1:30 and 6:30 p.m. Hirshhorn Museum. Free.

Films: *Toccata for Toy Trains and Tops* by Charles Eames. 1 p.m. Carmichael Auditorium, History and Technology Building. Free.

Oriental Art Lecture: *Siva, Lord of the Dance*. Speaker: Dr. Aschwin Lippe, Curator Emeritus, Metropolitan Museum of Art. 8:30 p.m. The Freer Gallery. Free.

WEDNESDAY, NOVEMBER 20, 1974

Lunchbox Forum: *The American Aeronautical Community at the Turn of the Century*. Informal discussion led by Thomas D. Crouch, Assistant Curator of Astronautics, National Air and Space Museum. 12 noon. Room W531 (Botany Seminar Room), Natural History Building. Free.

Free Film Theatre: *In Search of the Lost World*—the history of civilization in the Americas. 12:30 p.m. Carmichael Auditorium, History and Technology Building. Free.

National Archives Gala: Dr. James B. Rhoads, Archivist of the United States, welcomes the group to the Archives and Dr. Frank G. Burke, Assistant to the Archivist, presents a slide presentation of the history of the Archives. 8 p.m. National Archives, 8th and Pennsylvania Avenue, N.W. Planned in conjunction with the Associates of the National Archives. $6.*

THURSDAY, NOVEMBER 21, 1974

Films: *Metamorphosis*, by Roy Colmer; *Moving Parts* by David Hykes. Two new works in abstract experimental films. 1:30 and 6:30 p.m. Hirshhorn Museum. Free.

Creative Screen: *The Face, Les Escargots; Labryinthe, The Critic*. Repeat program. See November 7 for details. Free.

Free Film Theatre: *In Search of the Lost World*. Repeat. See November 20 for details. Free.

Romantic Versus Classic Art: *Turner*. 6:30 or 8:30 p.m. See November 7 for details.

FRIDAY, NOVEMBER 22, 1974

Rehabilitation Medicine Films: *Harlem Hospital Center*, distributed by Columbia University; Rehabilitation film distributed by Texas Institute for Rehabilitation Medicine. 12:30 p.m. Carmichael Auditorium, History and Technology Building. Free.

Footnotes at end of article.

Exhibition: *Contemporary Textile Art from Austria.* Thirty-three wall hangings, tapestries, appliques, fabric sculpture and sewn objects by ten Austrian artists represent the expanded realm of textile arts in the 20th century. Coordinated by the Smithsonian Traveling Exhibition Service and sponsored by the Austrian Embassy. The Renwick Gallery, through March 9, 1975.

SATURDAY, NOVEMBER 23, 1974

Films: Children's Series. Animated films by Derek Lamb. 12:30 p.m. Hirshhorn Museum. Free.

Children's Drama: *Mortimer the Mortified Dragon.* Performed by Archaesus Productions.. 2 p.m. Carmichael Auditorium, History and Technology Building. $2.50.*

Classical Concert: Washington Performing Arts Society, featuring Abreu Brothers. 8:30 p.m. Cosponsored by the Division of Performing Arts. For further information call 381-5395.

SUNDAY, NOVEMBER 24, 1974

American Humor Series: *Mort Sahl*—a retrospective view of the country's social and political life. 8 p.m. Baird Auditorium, Natural History Building. $5.50 general, $4 students and senior citizens, $5 Resident Associates. Sponsored by the Division of Performing Arts. For reservations call 381–5395.

Sunday Shorts: *Les Mistons* by Francois Truffaut; *Sentinel: The West Face* by Summit Films; *Blotto* with Laurel and Hardy, and *Do-It-Yourself-Cartoon* by Bob Godfrey. 5 p.m. Carmichael Auditorium, History and Technology Building. $1.25.*

MONDAY, NOVEMBER 25, 1974

Concert: Jan de Gaetani, mezzo-soprano and *Gil Kalish*, piano, perform works of Schoenberg and Charles Ives. 8:30 p.m. Hall of Musical Instruments, History and Technology Building. Presented by the Smithsonian Division of Musical Instruments, under the direction of James Weaver. $3.50 general, $1 students and senior citizens, $3 Resident Associates. For reservations call 381–5395.

Monsters! Mysteries or Myths? 8 p.m. CBS–TV (Channel 9 in the Washington area.) See box for details.

TUESDAY, NOVEMBER 26, 1974

Films: *Jim Dine* and *David Hockney's Diaries.* Film portraits of two artists included in the Inaugural Exhibition, 1:30 and 6:30 p.m. Hirshhorn Museum and Sculpture Garden. Free.

Films: *Black Ships*—Admiral Perry's Expedition to Japan and *The Sawyer and His Mill.* 1 p.m. Carmichael Auditorium, History and Technology Building. Free.

THURSDAY, NOVEMBER 28, 1974

Films: *Premium* by Edward Ruscha; Selected films by Red Grooms. Films by two artists represented in the Inaugural Exhibition. 1:30 and 6:30 p.m. Hirshhorn Museum and Sculpture Garden. Free.

FRIDAY, NOVEMBER 29, 1974

Exhibition: *Eight from California.* Thirty-eight lithographs, etchings, woodcuts and screenprints by eight artists who have lived and worked in California. An element of humor is in almost all of the prints, ranging from the obvious to the subtle. Artists represented are Terry Allen, John Altoon, Robert Bechtle, Joe Goode, Kenneth Price, Edward Ruscha, Wayne Thiebaud, and William T. Wiley. National Collection of Fine Arts, through February 9, 1975.

Rehabilitation Medicine Films: *The Person Within,* distributed by Clark School for the Deaf; *So They May Walk,* Sister Kenny Institute. 12:30 p.m. Carmichael Auditorium, History and Technology Building. Free.

SATURDAY, NOVEMBER 30, 1974

Films: Children's Series. Animated works by Eliot Noyes, Jr. 12:30 p.m. Hirshhorn Museum. Free.

FOOTNOTE

*Indicates programs sponsored by the Smithsonian Resident Associate Program. Discounts are available for members. For attendance or other information call 381–5157. Unless otherwise indicated, tickets should be purchased in advance, and will be sold at the door only if available.

DEMONSTRATIONS

MUSEUM OF HISTORY AND TECHNOLOGY

No demonstrations Thanksgiving Day.

Spinning and Weaving. Tuesday through Thursday, 10 a.m.–2 p.m. 1st floor. No demonstration Nov. 7.

Printing and Typefounding. Monday, Tuesday, Thursday, Friday, 2–4 p.m., 3rd floor.

Musical Instruments. A selection of 18th and 19th century instruments, and American folk instruments, Hall of Musical Instruments, 3rd floor, 11 a.m. Mondays and Fridays—18th century keyboard; Wednesdays—lutes and guitars; Thursdays—Folk.

Machine Tools. Tuesday through Friday, 1–2 p.m. 1st floor.

DOMESTIC STUDY TOURS

For information on the following tours call 381–5910.

Weekend at Sturbridge: Jan. 17–19, 1975.

Baja Whale Watch: Feb. 6–15, 1975.

Georgia Mounds: March 20–25, 1975.

Death Valley—A camping experience: April 5–12, 1975.

OTHER ACTIVITIES

Sponsored by the Smithsonian Resident Associate Program. Call 381–5157 for information or reservations.

TOURS

Champagne, Caviar, and Cars—The General Motors Plant in Sparrows Point, Md. Nov. 20, 26, Dec. 11 or 18.

An Afternoon on the Farm—Ferguson Farm, Prince Georges County, Md. Nov. 16.

Post-Halloween at "House of Blood," Hughesville, Md. Nov. 2.

The National Cathedral. Nov. 19 or Dec. 3.

Philadelphia's Society Hill. Nov. 16 or 22.

Bethlehem Steel Factory, Sparrows Point, Md. Nov. 15, 22 or Dec. 16.

Thanksgiving Weekend in Colonial Williamsburg (2 days). Nov. 30–Dec. 1. Deadline for registration is Nov. 16.

Walking Tour of the Mall. Nov. 24, 30, Dec. 7 or 8.

Waterfowl Weekend. Coastal regions of Virginia, Maryland and Delaware (2 days). Nov. 30–Dec. 1.

CLASSES

The Working Architect: 8:10 p.m. Nov. 5, 12, 19, 26. $8 each lecture; $6 members.

Archeology of North America; 8:10 p.m. Nov. 6, 13, 20. $8 each lecture. $6 members.

The American Indian Speaks. 8:10 p.m. Nov. 4, 11, 18, 25. $7 each lecture. $5 members.

The Expanding Future. 8:10 p.m. Nov. 5, 12, 19, 26. $7 each lecture. $5 members.

Antique Furniture. 6:30 p.m. Nov. 7, 14, 21. $7 each lecture; $5 members.

CRAFTS

Holiday Greenery and Decorations. James Richard Buckler, Smithsonian Horticulturist. Four weeks beginning Nov. 20.

Jewelry (Simple Casting). Nancy Rosing, artist-designer. Four weeks beginning Nov. 21.

Creative Crochet. Ronald H. Goodman, designer-craftsman. Nov. 16 or 17.

Furniture Restoration. David Adamusko. Four weeks beginning Nov. 19.

CHILDREN'S WORKSHOP

Video View of the Smithsonian. A. Kenneth Showalter, instructor of video and film animation. Nov. 17.

RADIO SMITHSONIAN

Radio Smithsonian, a program of music and conversation growing out of the Institution's many activities, is broadcast every Sunday on WGMS–AM (570) and FM (103.56 from 9–9:30 p.m. The program schedule for November:

3rd—*Life Beyond Earth?* The prospects for extraterrestrial life, as reflected in an exhibit at the National Air and Space Museum. Guests include Dr. Cyril Ponnamperuma, Director, Laboratory for Chemical Evolution, University of Maryland; and Melvin Zisfein, Deputy Director, National Air and Space Museum.

10th—*Concert,* featuring the Concentus Musicus of Vienna, performing music of the Baroque era.

17th—*Humanizing Architecture.* A talk with Moshe Safdie, creator of the innovative *Habitat,* seen at Expo 67. *On Creativity.* Excerpts from a talk by violinist Yehudi Menuhin. *Unearthing the Past.* Gus Van Beek, Smithsonian Curator of Old World Anthropology, describes his excavations at Tell Jemmeh in Israel.

24th—To be announced.

MUSEUM TOURS

No tours are scheduled Thanksgiving Day.

National Portrait Gallery. Permanent collections on special exhibition. *In the Minds and Hearts of the People: Prologue to Revolution: 1760–1774.* Daily between 10 a.m. and 3 p.m. Group tours are available with prior arrangement—call 381–6347.

MUSEUM OF HISTORY AND TECHNOLOGY

Highlights—Monday through Friday: 10:30, 11:30 a.m. and 1:30 p.m.

Saturday and Sunday: 10:30 a.m., 12 noon, 1:30 and 3 p.m.

First Ladies Gowns—Monday through Friday: 10:15 and 11:30 a.m.

Spirit of 1776—Tuesday through Friday. Group tours only, call 381–5030.

Pre-arranged group tours are available by calling 381–6471 (schools), 381–5030 (adults).

PUPPET THEATRE

"The Book of Three," by Lloyd Alexander, performed by Allan Stevens and Company. A tale of enchantment, of good and evil, about an assistant pigkeeper, a boy of 13, who wants to become a hero. Performances are scheduled Wednesdays through Sundays at 10:30 and 11:30 a.m., with an added performance on Saturdays and Sundays at 1:30 p.m. $1.25 per person with discounts available for groups of 25. For information or reservations call 381–5395. Presented by the Smithsonian Institution Division of Performing Arts.

EXPERIMENTARIUM

AIR AND SPACE BUILDING

To See the Earth as it Truly Is. A journey that begins in Washington, D.C., goes past the moon, the solar system, the Milky Way galaxy to a hypothetical distant cluster of galaxies, and looks back at each point to see the earth and its place in the universe. Tuesdays through Fridays—2:30, 3:30, 4:30 p.m. Saturdays and Sundays—11 a.m., 12, 1, 2:30, 3:30, 4:30 p.m. Please note: The show lasts 33 minutes. Doors cannot be opened for late arrivals. The Experimentarium is an experimental version of the Spacearium that will be housed in the new National Air and Space Museum, opening in 1976. To confirm schedule for a specific time, call 381–6273.

MISCELLANEOUS

MONSTERS! MYSTERIES OR MYTHS?

(Nov. 25—8 P.M.—CBS–TV)

One-hour television special, narrated by Rod Serling, that investigates some of nature's most elusive riddles—the Abominable Snowman, the Loch Ness Monster, and the American Northwest *Bigfoot*. First in a series of specials produced for TV by David L. Wolper Organization, in association with the Smithsonian, to be broadcast as a presentation of the DuPont Cavalcade of Television. Other programs will cover the collections of the Air and Space Museum and the Hope Diamond.

HIGH SCHOOL PORTFOLIO DAY

(December 7, 1974)

All junior and senior high school students in the metropolitan Washington area are invited to bring portfolios of their own art and discuss them with representatives from art schools, colleges and universities with strong art programs. Representatives will also furnish information pertinent to careers in art. National Collection of Fine Arts.

THEATRE CHAMBER PLAYERS

(In Residence at the Smithsonian)

The 1974–75 season will consist of five Monday evening concerts scheduled for November 4, January 27, February 24, March 24 and May 19. Composers represented will include Bach, Bartok, Debussy, Stravinsky, Wolpe and others. Series tickets are available at $20 general, $12.50 students and senior citizens, $18 Associates. Individual tickets will also be sold. For further information call 381–5395.

HOURS

(Open 7 days a week)

Arts and Industries Building, National Air and Space Museum, National Museum of History and Technology, and the National Museum of Natural History. Freer Gallery of Art, National Collection of Fine Arts, National Portrait Gallery, The Renwick Gallery, Smithsonian Institution Building—10 a.m.-5:30 p.m.

Anacostia Neighborhood Museum—10 a.m.-6 p.m. Monday through Friday; 1–6 p.m. weekends.

National Zoo Buildings—a.m. to 4:30 p.m.

Dial-a-Phenomenon—737–8855 for weekly announcements on stars, planets and worldwide occurrences of short-lived natural phenomena.

Dial-a-Museum—737–8811 for daily announcements on new exhibits and special events.

Change of address or calendar requests; mail to Central Information Desk, Great Hall, Smithsonian Institution Building, Washington, D.C. 20560. For changes of address, please include mailing label.

Deadline for December calendar entries: November 5. The Smithsonian Monthly Calendar of Events is prepared by the Office of Public Affairs. Editor: Lilas Wiltshire.

Use of funds for printing this publication approved by the Director of the Office of Management and Budget, June 3, 1971.

SAFE DRINKING WATER—A REALITY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. FISH. Mr. Speaker, Americans all over the country have become alarmed over recent disclosures about carcinogenic materials that have been found in the drinking water of New Orleans.

H.R. 13002, the Safe Drinking Water Act, is a timely piece of legislation which can help update our purification technology and standards at the local level. This measure would empower the Federal Government to set minimum national standards for drinking water supplies, and authorizes financial, technical and other assistance related to the improvement of local water supplies. The Environmental Protection Agency would also establish a program of loan guarantees to help communities meet the Federal standards.

An important aspect of this bill is that the primary enforcement responsibility is with the State, and not the Federal Government. Only after a State has failed to institute compliance procedures may the Environmental Protection Agency bring a civil suit, and this action may be instituted only after the State has been given a 60-day notice by the Federal Government. This assures local control and responsiveness to the needs of particular local problems, while simultaneously providing for Federal authority when a State has been unable to protect water safety.

Mr. Speaker, many communities are financially and technologically unable to provide their citizens with pure drinking water. In fact a recent GAO study revealed that among small systems, 60 percent failed to meet Federal standards. Enactment of this legislation will be a major step in reducing this percentage and upgrading even the larger systems.

I am gratified by my colleagues' strong support for this important measure.

NURSING HOMES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. ROSENTHAL. Mr. Speaker, I am deeply disturbed by the scandalous situation that presently exists in nursing homes in New York State. Both the Federal Government's and the State's overall administration of the medicaid skilled nursing facility program is the most inefficient and inadequate of any major social program in the Nation.

I have written to New York Governor-elect Hugh Carey and HEW Secretary Caspar Weinberger asking them to establish a joint nursing home task force to correct these problems.

The report issued yesterday by the Senate Select Committee on Aging outlines severe problems with these facilities throughout the Nation and confirms the findings of my own limited investigation of nursing home care in Queens.

As a result of persistent violations of Federal standards governing the safety and well-being of nursing home residents, the HEW is cutting off all medicaid funds to five nursing homes in New York, two in the city and three upstate—the New York City facilities for which Federal funds will be terminated are the Towers Nursing Home in Manhattan and the Garden Nursing in Brooklyn; the upstate facilities are the Poskanzer Nursing Home in Albany, the Bida Convalescent Home in Oxford, and the Canajoharie Nursing Home in Canajoharie. Over 50 nursing homes in New York State and almost two dozen in the city have been persistent violators of Federal standards governing the safety and well-being of nursing home residents.

It is particularly distressing that between the time HEW first recommended an end to Federal aid at the Towers and Garden nursing homes last June and the just-ordered cutoff, these homes have continued to get new patients and have remained eligible to receive a combined total of $4.5 million in medicaid reimbursements.

I have asked Governor-elect Carey and Secretary Weinberger to cooperate in setting up the joint nursing home task force and asked that the task force give immediate consideration to the following:

That the results of all nursing home health and safety inspections be posted prominently in the nursing home facility;

That all decisions regarding withdrawal of Federal aid to nursing homes—including violations and waivers of violations of standards—be made under one roof, in HEW;

That nursing home inspections should be frequent and unannounced. Presently, 4 weeks advance notice is given to nursing home operators prior to a Health Department inspection;

That heavy fines should be authorized as a penalty for persistent nursing home violations. Now, only a total aid cutoff is available to the Federal Government.

Copies of my letters follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C. November 20, 1974.

Hon. HUGH L. CAREY,
Governor-Elect of the State of New York,
New York, N.Y.

DEAR MR. CAREY: I am writing to you about the scandalous situation that exists in nursing homes in the State of New York. The report issued yesterday by the Senate Select Committee on Aging outlines severe problems with these facilities throughout the nation and confirms the findings of my own limited investigation of nursing home care in Queens.

The Chairman of the Select Committee, in issuing the Senate report, declared that "Long-term care for older Americans stands today as the most troubled and troublesome component of our entire health care system." In my judgment, both the federal government's and the state's overall administration of the Medicaid skilled nursing facility program is the most inefficient and inadequate of any that I have studied.

I am enclosing for your consideration a copy of the Senate report together with a series of hearings and a report on nursing care safety, issued recently by the House Committee on Government Operations, of which I am a member.

My own inquiry into the administration of the Medicaid's long-term nursing home program reveals that over 50 nursing homes in New York State and almost two dozen in the City of New York have been persistent violators of federal standards governing the safety and well-being of nursing home residents. Three of these facilities are in my congressional district and while they are in compliance as of today, their "on-again, off-again" compliance, is simply inadequate performance.

I am reliably informed that the Department of Health, Education and Welfare is cutting off all Medicaid funds to five nursing homes in New York—two in the city and three upstate. The two facilities in New York City for which federal funds will be terminated are the Towers Nursing Home in Manhattan and the Garden Nursing Home in Brooklyn. The upstate facilities are the Poskanzer Nursing Home in Albany, the Bida Convalescent Home in Oxford and the Canajoharie Nursing Home in Canajoharie.

It is particularly distressing that between the time HEW first recommended an end to federal aid at the Towers and Garden nursing homes last June and the just-ordered cut off, they have continued to receive new patients and have remained eligible to receive a combined total of $4.5 million in Medicaid reimbursements.

In an effort to correct this deplorable situation, I respectfully recommend that you appoint immediately a "Nursing Home Task Force" to work with the Department of Health, Education and Welfare, Office of Long Term Care, to recommend changes in the joint administration of the nursing home program.

The Task Force should give consideration to the following:

1. Notwithstanding the fact that nursing homes require state certification to remain open, all decisions regarding the withdrawal of federal aid to nursing homes—including violations and waivers of violations of operational as well as life-safety standards—should be made under one roof, in HEW.

2. The results of nursing home inspections by the State Health Department should be prominently and publicly displayed in the nursing homes themselves and in central governmental offices.

3. There should be more frequent and *unannounced* inspections of nursing home facilities. At the present time, four weeks advance notice of inspections is given to nursing home operators prior to a Health Department visit.

4. Thought should be given to the establishment and certain imposition of heavy fines to nursing home operators who persistently violate federal standards. The only available federal remedy for violations at the present time, is termination of federal aid—a remedy sometimes too drastic to apply. Intermediate remedies should be available.

I am sending a companion letter to Secretary of Health, Education, and Welfare Weinberger urging that he cooperate with you in the establishment of a joint nursing home task force.

Thanking you for your consideration, I am,

Sincerely,

———— ————.

FLOYD E. KIRBY

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. NEDZI. Mr. Speaker, on November 19, 1974, Floyd E. Kirby passed away. Mr. Kirby had been captain of the U.S. Capitol Guide Force for over 30 years before he retired in 1972.

The Capitol Guide Force who worked with Floyd Kirby knew he was no ordinary man. He was a man of great strength and endurance. His sense of responsibility and loyalty gave the guides great comfort during his long term as captain of the U.S. Capitol Guide Force, and he has been missed exceedingly since his retirement.

Floyd Kirby served as an outstanding example to the guides, and will be fondly remembered.

In behalf of the guides I extend to the family our deepest sympathy.

THE PLO'S APPEARANCE BEFORE THE UNITED NATIONS

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. BADILLO. Mr. Speaker, there is little question that the status of hundreds of thousands of homeless Palestinians is one of the root causes of persistent and deep tensions in the Middle East. Clearly it is an issue which warrants the fullest discussion and debate and a just and equitable solution. However, the cause of peace in the Middle East was ill-served by the irresponsible rhetoric of Yasir Arafat, a person who neither represents any recognized government nor has any official standing in the world community.

It was a tragic sight at the United Nations last week when an international hoodlum stood before the representatives of some 135 nations and attempted to justify the existence of the terrorist organization he leads and the virtual dissolution of Israel through a poorly conceived proposal to establish a new state of Palestine. Is it possible that the world community has forgotten the wanton slaughter of thousands of innocent women and children, such as those massacred at Maalot and Kiryat Shmona? Is it possible that the United Nations sanctions a terrorist group such as the PLO or condones its unconscionable actions?

By affording the PLO the opportunity to spread its propaganda I fear the U.N. has simply helped to fan the fires of prejudice and dissension in the Middle East and that Arafat's performance needlessly exacerbated tensions in that strife-torn area of the world.

Saturday's Washington Post carries a very timely and perceptive column by Mr. George Will, in which Arafat's posturing is aptly compared to that of Hitler in the 1930's. I insert this article herewith and commend it to our colleagues' attention:

KNOWING ONE WHEN YOU SEE ONE

(By George F. Will)

The United Nations is as dull as "Apple's Way"—except when it is hosting a colorful thug like Khrushchev. Now comes Yasser Arafat, chairman of the Palestine Liberation Organization, to lend a little color. The U.N., nothing if not grateful, is a friendly audience for him.

The PLO, like the Nazi Party in 1930, is an army without a nation. Arafat, like Hitler in 1930, is a dictator without a state. And the poor Palestinians, who do not even have a country, already have a dictatorship administered by a terrorist.

The Palestinians, like the Germans in 1930, have grievances, real and imaginary, most of which derive from a lost war. Arafat broods about that war the way Hitler brooded about World War I—as a war that paused, but never ended:

"This war has just started. We are just beginning to get ready for what will be a long, long war, a war that will run for generations. . . . You asked: How long can we go on? The question was phrased wrong; what you should have asked is How long can the Israeli go on? We shall never stop until we can go back home and Israel is destroyed. . . . The goal of our struggle is the end of Israel, and there can be no compromises or mediations. . . . We don't want peace, we want victory. Peace for us means Israel's destruction and nothing else. . . . We . . . have the right to return to our homes without conditions or compromises. . . ."

If Arafat is trying to hide his aim—the destruction of Israel—he is doing so in accordance with Sherlock Holmes' axiom that the best way to hide a letter is to put it on the mantel in front of the clock. But, of course, Arafat sees no reason to hide his aim.

Arafat's message is clear. But platoons of civil servants, assuming that all politicians are like democratic politicians and thus do no take their own words seriously, will produce reams of memoranda analyzing what Arafat "really" means.

Actually, 20th-century political gangsters are sometimes candid. So great is their contempt for us that they do not trouble to deceive us. Thus we should take their words seriously, even—indeed, especially—when they speak barely coherent rot, as Arafat did to an interviewer in 1970:

Question: "What is Palestine? Its national identity has been lost a long time ago, its geographic boundaries erased. The Turks were here before the British mandate, before Israel. What do you mean by Palestine?"

Arafat: "The question of borders does not interest us. . . . From an Arab point of view one cannot talk of boundaries: Palestine is only a small drop in the great Arab ocean. Our nation is the Arab nation, extending from the Atlantic to the Red Sea, and beyond."

Of course, "and beyond." "Arab ocean," indeed. Arafat, like Hitler, is a romantic racialist, not a nationalist. His pan-Arab dreaming, like Hitler's pan-German "Aryan" dreaming, consists of the rubbish theories of the half-educated, theories that are almost comical when they are not swimming in the head of a man who has a machine gun in his hand. These theories are more real to Arafat than mundane boundary disputes.

The democracies thought Hitler was just a normal nationalist, perhaps a bit more excitable than most, but a chap with whom they could deal. They thought they could assuage his prickliness by tinkering with boundaries—in the Rhineland, Sudetenland, East Prussia. They didn't know a hate-inspired racialist when they saw one.

Like Hitler, Arafat knows how to nourish the illusions of appeasers. In his U.N. speech he promised that there will be no bloodshed if Israel is dismantled. He was not droll enough to announce that he was making his "last territorial claim" in the Middle East.

Arafat insists: "Boundaries don't matter, I keep saying." But people bent on appeasement will keep thinking they can deal with him by cutting a deal, by tinkering with boundaries. Such people probably think the Danzig controversy caused World War II. They don't know a hate-inspired racialist when they see one standing at the U.N. podium with a holster on his hip.

SECRETARY OF INTERIOR ADDRESSES AMERICAN MINING CONGRESS

HON. DAVID TOWELL

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. TOWELL of Nevada. Mr. Speaker, on October 7, Secretary of the Interior Rogers C. B. Morton addressed the American Mining Congress meeting in Las Vegas, Nev. I am pleased to bring to the attention of my colleagues the Secretary's remarks concerning the energy needs of this Nation and our existing mineral resources:

SPEECH BY HON. ROGERS C. B. MORTON

Ladies and gentlemen, it is a distinct pleasure for me to address the American Mining Congress. We, in the Department of the Interior, have counseled with the mining industry, with the labor unions which work in the mines, with all facets of the mining industry during the one and one-quarter centuries during which Interior has been America's Department of Natural Resources.

We have often worked together in the past, and we are working together now, sharing a wide commonality of interests. We are America's Department of Natural Resources—we have been for a century and a quarter. You are the people who make America's resources avialable to the American consumer—and you have been at your work longer than we have been at ours.

The economic upheavals which have shaken the entire world in the last two years have pointed up some weaknesses in the facade of this nation. I said "weaknesses in the facade"—not weakness in the nation. The facade I refer to is the front we put up—sometimes even a false front—like the old time fronts on frame buildings in the mountain west.

Crisis management has become a way of life for many of us. The shock waves which began with the Arab embargo on petroleum brought us face to face with the changes in the world, but mushrooming human populations and expanding needs of all nations were forcing changes—although not as dramatically. The crisis season is not over, evidently. Just last week we learned that Guyana intended to increase the tax on alumina by some 1600%.

But whether we feel that the changes were brought on by cartels or catastrophes or simply the slow—but sure—movements of the solid laws of economics—the new word in the 1970's has been "scarcity."

We are hit with a new scarcity every time we turn around.

The biggest jolt was the gasoline shortage which jumped right out of the mid-East war and grabbed us by the gas tank. Long gas lines were a nuisance; continued high prices have been much more than a nuisance.

But the gas shortage was only the most noticeable of the long list, which has caused some to refer to the "shortage of the week."

Let's get a couple of facts straight . . .

There are no shortages of minerals in this United States of ours.

There are many difficulties connected with getting the right minerals out of the earth's crust and making them available to the consumer.

If you want to tell me that I am oversimplifying, and that there are shortages of tin or platinum or chrome—I won't argue with you. But my point stands—we do not have any basic needs which cannot be met, or substituted for, in the United States. We have all the ingredients for the good life for Americans for centuries to come—and we have them right now in the earth's crust and in our soil.

The problem seems to be getting them into usable forms for the consumer.

This is where industry and labor must be partners with the Department of the Interior—not as we have been in the past—not as we are doing right now—but to a much greater degree than ever before.

When we talk about energy shortage, we are talking about a shortage of natural resources that are extracted from the environment and used to produce energy in the form of electricity flowing through a wire, or gasoline coming up into a carburetor or even uranium fueling an atomic generator.

Will anyone be foolish enough to tell the American people that we have a shortage of energy-producing minerals to meet our energy needs?

Will anyone really claim that we are short of fossil fuels when we have identified 1,600 billion tons of coal resources?

Will anyone really claim that we are short of fossil fuels—when we have identified oil shale deposits in the Rockies which add up to 400 billion barrels of oil in thick, high-grade deposits?

You people are professionals in the business of extracting natural resources from the earth and making them available. You are all aware of the mineral research and appraisal work being done by our Geological Survey. You know that our knowledge of this continent's resources is imperfect—but with its imperfections it is complete enough to indicate that we have only touched the potentials of this continent. We have only skimmed off the cream—taken the easily available. We have taken one barrel in three out of the oil fields and left the other two as being economically unrecoverable with yesterday's technologies.

We are surface mining coal, because it is easily and profitably available on top of the ground, and still we realize that most of our coal is in deep mines where we will eventually go after it.

I am belaboring the point, but it must be made strongly. There is no basic scarcity of minerals. There are only problems—and opportunities—in making these minerals available to the consumer.

That's where you come in and that's where the Department of the Interior comes in.

The Department of the Interior has had a hand in shaping congressional action on new surface mining legislation. Bills were introduced into the Congress calling for imposition of stricter regulations of surface mining. These bills varied widely and each had strong support from various sectors. The Congress has now resolved the differences and has come forth with a workable bill which will do the job of protecting the environment and still provide greatly increased supplies of coal—our most abundant fuel.

Interior's expertise has been available at the call of the Congress and has made valuable contributions to the drafting of the surface mining regulations. We confidently expect that the Congress will complete action on this important work this month.

One of the variables in this proposed legislation has been the rate of which we would attempt to cover the scars left by improper mining techniques. The Department of the Interior does not feel that the present generation should be made to pay exorbitant prices for their coal today, in order to pay for the sins of their ancestors. We do, however, realize that this nation must undertake the healing of the scars upon the land, and we have counselled that the amortization of this expensive program be spread out, so that the financial burden can be lessened. We are trying to reduce federal spending to control the inflationary pressures which the President has identified as our nation's number one enemy. We have counselled that the repair work be scheduled and begun without delay. The real question is just how much of this work is accomplished in each year to come.

We feel that the legislation enacted by the Congress will be a wise and good piece of legislation which will pay our debt to the past without unduly burdening the present —nor mortgaging the future.

We feel that this surface mining legislation is just one sign of the stiffening of attitudes regarding environmental safeguards over the mining industry. Yours is a very visible industry.

Everyone wants to reclaim surface mined land—but no one wants to pay for that reclamation—in direct governmental appropriation or in increased cost of coal.

Everyone wants to breathe clean air, free of the fumes which are formed when coal is burned—but everybody wants to have inexpensive electricity which often comes from coal-fired plants.

Everyone wants the nation to increase its refinery capacity—but no one wants a refinery built on their favorite beach.

Everyone wants pipelines to carry fuels from distant sources to the point of use, but no one wants a pipeline to go through their caribou herd, or across their farmlands, or through their orchard.

Obviously, there are going to be tradeoffs. There are going to be many instances of give and take—of balancing the needs of the nation for minerals against the needs of the nation for a livable environment.

Research and development work—both the R & D we do and the R & D you do—can soften the conflict of those necessary tradeoffs. But there will always be tradeoffs—always be a balancing of needs against abilities and supplies.

Let me give you an example of how research can soften the knife edge of those necessary give and take trades. Is it necessary to tradeoff foul air against lowering costs when burning coal? Not if we put our minds to the research and development work which is paying off such great dividends already. Our Office of Coal Research is going ahead full steam with the development of coal gasification and coal liquefaction methods which will allow us to unlock the tremendous potential of coal and make it available in non-polluting forms and through non-polluting delivery systems. Coal Research's budget has been beefed up from $123 million in fiscal 1974 to $261 million in fiscal 1975. Today, OCR has contracted with more than 60 organizations operating pilot plants and conducting research in coal gasification and liquefaction. The gasification pilot plant in Rapid City and the Hygas Project, which demonstrated the large scale conversion of coal to synthetic gas, are highlights of this work.

Our Bureau of Mines has made excellent progress in developing the citrate process for scrubbing sulfur out of stack gases. A demonstration plant at the Bunker Hill lead smelter in Kellogg, Idaho, is working now, and its application to power generation is being actively pushed.

I point to the resutls of this research—because it illustrates that research can ease the tradeoffs, can facilitate the balancing of viewpoints which are inevitably needed in a democracy as we go forward with the business of making a living—and having a standard of living that it worth living.

Research results, properly applied, can take the sting out of the tradeoffs between plentiful fuel on the one side and plentiful clean air and clean water on the other.

The people of the United States are not going to see the resources of this nation locked up and left unused—but the people of America are also intelligent enough to know that they must weigh the costs of each action and the results of that action. The American public is not going to be stampeded into environmental disaster by the energy shortage scare—they will not buy the slogan, "Let them freeze in the dark." We want to have light and have heat and still be able to see through the air and drink the water. They will have no sympathy for a wholly one-sided version of any tradeoff. That day is long since gone, if in fact it ever existed in this nation of individuals who prefer to think for themselves.

Just as there are individuals who say that we should scrap all our environmental safeguards in our headlong rush to extract more natural resources, so there are individuals who say we must go without automobiles, go without energy supplies, go without everything if it lowers the pristine purity of our world.

Those individuals—on both sides—are wrong!

The minerals man said that we had to have the Alaska pipeline, no matter what the environmental cost—to increase our oil supply. The environmentalist said that we had to preserve the Alaskan environment—no matter what the cost—no matter if our industry ground to a halt for lack of oil.

Both were wrong.

The Department of the Interior has issued the necessary permits and we are going forward with the construction of the Alaskan pipeline. The Department of the Interior is supervising the construction of that important pipleine with great care, making sure that environmental values are protected. We are going to have our cake and eat it too. We are going to have the oil from the North Slope of Alaska and we are still going to have the matchless beauty of the Alaskan scenery and the splendor of its wildlife—unhurt by the pipeline. Because most of the tradeoffs were within the purview of one agency, the Department of the Interior was able to consider both resources—the energy and the environmental questions—and protect both resources with a series of wise decisions.

We must protect both resources, for the Department of the Interior is charged not only with the development of the public *lands, but* with the preservation of the riches of those same public lands. To quote the final report of the National Commission on Materials Policy, "We must strike a balance between the need to produce and the need to protect."

And that balance, ladies and gentleman, puts the Department of the Interior right in the middle of it.

I am proud of the record the Department of the Interior has made—right in the middle of it.

I am proud of our efforts to develop our resources. We are moving ahead with the development of the large oil shale deposits in Colorado, Utah and Wyoming. Major development centers around Interior's prototype leasing program. Four tracts, two each in Colorado and Utah, were leased this year, involving 16,422 acres of public lands. We will move ahead, as fast as research results dictate. We will release the tremendous energy potential of this oil shale, and we will do it without ruining the land.

Our "Oil of the Future" search leads far beyond oil shale. We have already begun work on a project near Vernal, Utah, which will convert tar sands to oil through "in-situ" processes below the surface of the land. If this project meets our expectations, we will have the keys which unlock another huge reservoir of energy.

But while we work to shift the energy fuel load off of petroleum, we recognize that we must keep petroleum flowing to the huge inventory of equipment which can burn nothing else. The quickest and surest method of increasing our petroleum supplies is through the conventional domestic oil and gas program.

We have greatly expanded the amount of Outer Continental Shelf acreage we are offering for lease for oil and gas exploration. This year our offerings will triple the average of the past three years. Next year we plan to lease 10 million acres, about as much of the total Outer Continental Shelf as has been leased in all the years before 1974. We have every reason to believe that the accelerated OCS leasing will help bring a turn around in our declining rate of oil and gas production. We do not believe that there is a basic scarcity of oil and gas—although we realize that all fossil fuels are finite. There is an outer limit to fossil fuels. No matter how we conserve their use, no matter how we expedite their discovery and extraction—obviously, there will come a time when we have exhausted the fossil fuels.

But before that time comes around, we will have readied the technologies which will economically extract petroleum from oil shale and from tar sands. We will have harnessed the potential of our geothermal resources. Even now, geothermal leasing is proceeding in public land areas of the west, opening to commercial development a source of power which is already at work in Mexico, in Italy and in our own state of California.

Beyond that time frame, we see a steadily growing portion of the nations energy requirements coming from the nuclear field. Nuclear fission involves the mining industry directly, of course, because it consumes uranium. Unless the breeder reactor can be developed economically and safely, we doubt that the great amounts of uranium needed for extensive light water reactor development will be available. Perhaps you will prove me wrong on that.

But that doesn't rule out nuclear development. Advances in man's knowledge will make nuclear fusion available—a vast source of energy. The energy locked in the simple hydrogen atom may someday fuel the engines of civilization.

Am I overly-optimistic? After all my years in public office, I doubt that anyone would call me a "Pollyanna type." After my years in the Department of the Interior, no one has to tell me that there are pitfalls yawning in the path to the mineral-plentiful future I have sketched for you here.

It is not going to be easy. But it is going to be done—and you in the mining and mineral extraction industries gathered here today are going to have a big part in doing it.

You are going to have to explore for minerals and find minerals and extract minerals, because America needs them.

You are going to have to produce these minerals without ruining the face of the land, because America needs a healthy land to live in.

This nation is going to continue to balance environmental concerns against resource needs. The Arab embargo forced a re-evaluation. There will be many other re-evaluations. In fact, the balancing is a never-ending process, and the rules that governed yesterday will not suffice tomorrow. It is my opinion that that job of balancing and trading off can best be achieved through a Department of Energy and Natural Resources.

Legislation currently being considered by the Congress would create this needed Department of Energy and Natural Resources, putting under one roof the responsibility for both environment and energy—forcing one agency to take the blame for the tradeoffs which are a part of life from here on out on this small crowded planet.

If the responsibility for balancing these tradeoffs were entrusted to one agency, there would be a new sense of urgency about the research projects which are taking the rough edges off of those compromises.

If the responsibility for all natural resources were placed in one agency, there would be less likelihood of conflicting policies and programs—producing diametrically opposed results—coming from different agencies, each charged with a fragment of the problem.

If all the responsibility for the present and future management of our natural resources—energy and mineral resources together—were placed in one agency, there would be less reason for needing short term special agencies to handle special short term emergencies. The one agency charged with handling the entire problem could certainly plan ahead much better—and not need the emergency, crash type of programs which have resulted from fragmented responsibilities in the past.

Other legislation before the Congress includes the Organic Act for the Bureau of Land Management, legislation which will give guidance to the agency which manages more of our public lands than any other.

Legislation before the Congress now will revise the Mining and Mineral Leasing laws, provide for the establishment of deepwater ports, deregulate natural gas prices to encourage greater production and to discourage the waste triggered by prices which are unrealistically low. All of these changes will improve the availability of natural resources. It will unlock resources—and that is important.

The time has long passed when this nation can afford the luxury of locking things up and putting a fence around them. I am talking about resources now—and specifically I am talking about locking up resources under the seas, whether the key is turned by international treaty or by unilateral action of our own.

The United States has long supported the effort to create a stable climate for the deep seabed mining industry. I realize that many are critical of the slowness of international machinery, and I am well aware of the lead time involved in any such capital-intensive effort as deep sea mining. There are strong evidences that long-term supplies of nickel, copper, cobalt and manganese are present on the ocean floor in economically recoverable quantities.

It is my belief that we must be very careful in any actions which will limit or bar deep seabed activity. We must not lock ourselves out of the action in this world.

I am very much aware that the mining industry holds some strong opinions on the subject of deep seabed mining. I have appreciated receiving your opinions, and will remain willing to listen to new ideas for resolving what is a very complicated problem. But we must not let the size of the complications hide the size of the opportunity presented here—we must search out solutions to our problems which will allow those in the mineral extraction business to make their own investment decisions—decisions with a great potential for improving the world's supply of natural resources available for use.

There are solutions to all of our problems, if we conscientiously seek solutions.

The potential for the good life for all mankind is there—if we realize the goals we set for ourselves right now.

The Department of the Interior is anxious to have us reach that potential. We will continue to perform the research function which makes those tradeoffs possible. We will continue to seek ways to make mining more safe and more economic. We will seek to foster an economic climate which will make mineral extraction more attractive to the investment community—for that is one key to the storehouse of mineral wealth in the earth's crust. We will seek to make our nation less dependent upon unsure sources for its material needs of all kinds.

With your help, we will prove that there is no shortage of minerals—there is no shortage of energy.

This is the challenge facing us. With your continued help, we are confident of meeting that challenge.

RECOMMENDATIONS FOR BILINGUAL EDUCATION

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. O'BRIEN. Mr. Speaker, bilingual education programs are a relatively new and very useful concept in educating non-English-speaking students. These programs are still in the experimental stage and are subject to constant reevaluation to develop their full potential as teaching techniques.

Illinois superintendent of public education, Mr. Michael J. Bakalis, recently held public hearings to assist in reevaluating and improving State bilingual education programs. Among those testifying was my good friend from Joliet, Emly Medina, who presented her recommendations based on years of teaching both Spanish and English as second languages.

I am taking this opportunity to share Mrs. Medina's views with my colleagues:

Views and Recommendations Concerning Bilingual Education

(By Emly U. Medina)

The material in this report is a record of my involvement with readings about the philosophy and knowledge of the educational theories and teaching techniques, and the result of my personal experiences gained during the past nineteen years of teaching English and Spanish as second languages. Also my participation in the coordination of various programs and projects aimed at serving the Migrant workers and other Spanish-speaking people of Joliet, my foreign background, and the fact that I too learned English as a second language; all these factors permit me to have confidence in producing viewpoints which might be helpful for a more effective planning of bilingual education.

As I evaluate the actual situation in the elementary level, the bilingual programs are being carried successfully. The children from the lower grades have the advantage that the basic elementary language arts lend themselves easily for bilingual learning; they have ready available many books and audio-visual materials; generally children in their early years have more enthusiasm for learning; and there is much more parent participation in the school activities. The only recommendation I would make is that, especially at this level, the teacher teaching Spanish as a language should be able to pronounce it correctly or have a native Spanish speaking aide do it, so that there is no conflict between the Spanish spoken at their homes and the one taught at the grade schools.

In the upper grades and high schools the problem of the Spanish American students not getting through the educational system is more complicated. No doubt, the language barrier is a serious obstacle, but there are also other reasons to consider; the cultural differences in their educational backgrounds and other ways of life; also the general problems and apathy of the youngsters, in our modern society, to put forth the effort to learn. I feel that no matter the quality or quantity of the special programs available, if the students are not *motivated* to use their mental and physical capacities to learn, there is no way to dimish the scholastic drop out of school problems.

To alleviate somewhat the problems and in an attempt to find solutions, I think it would be very good to have bilingual counselors, at the high school level especially, so that they can create some enthusiasm in the Spanish speaking students and guide them better in their choice of subjects according do their need and interests, with career exploration, and some of the students perhaps would do better by going into vocational programs.

The Spanish American students should also be made to realize that if they decided to make United States their permanent home, it is of utmost importance to learn the English language. To explain to them that English is not going to replace their original language but add to their knowledge so that they might go on to higher education and function better in whatever they do.

It would also help to set meetings with other American students and have talks or films on the nature and process of "stereotyping" so that the students relations be improved. They should be made proud of their native language and ethnic background.

Students wanting to learn or improve their knowledge of the Spanish language, should take the classes offered in the Spanish department; they would also have the opportunity to learn some of the Spanish and Latin American cultures in the more advanced classes.

An important consideration would be to prepare programs of studies according to the different study, work, or social needs of the students, and to use a practical simplified grammar to teach English in a relative short time.

My suggestions for the bilingual teacher and teacher-aide would be that they take an especial training course to be aware of the differences in the educational systems and on the particular difficulties that the student has when learning English as a second language.

In what concerns the adult student I can say that the TESOL has to think of teaching informal conversational English rather than literary English; has to relate the classroom teaching of simple basic English to its practical application to fit into the mainstream of the community where they live.

OPENING THE SUEZ CANAL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. HAMILTON. Mr. Speaker, for the past several months the United States and some European states have been involved in an effort to clear the Suez Canal of mines and ships so that that waterway can again be open to international shipping and be an important source of revenue for the Egyptian Government.

The canal which has been closed for 7 years will hopefully open for the use by all nations sometime next year but it remains to be seen whether the new Suez Canal will regain the pre-eminence it once held. Before the 1967 Middle East war, one-fifth of all the oil shipped anywhere in the world passed through the Suez Canal. It may be difficult for the Egyptian Government to win back all of that business.

The international efforts to reopen the canal and the prospects for the canal once opened are the subject of a brief article which appeared in the British journal, New Scientist, in September 1974 and which I bring to the attention of my colleagues.

The article follows:

All Clear for the Suez Canal?

(By Lawrence McGinty)

(Immediately before the Six-Day war, one fifth of all the oil shipped anywhere in the world passed through the Suez canal. Next year, after seven years' closure, the canal will be clear of unexploded weaponry. But will the new Suez canal regain the pre-eminence it once held?)

The Nile Hilton is doing good business, thanks to the gaggle of bankers, financiers and industrialists practically falling over each other to help Egypt mount a huge £3000 million programme of reconstruction and industrial development. After the ceasefire of 22 October 1973 which ended the Yom Kippur war, no insurmountable obstacles to the reopening of the Suez Canal remained. The resulting prospect of an annual income exceeding £100 million from tankers taking the short cut round Africa revived Egypt's old plans to modernise the canal, creating an environment in which tourism and industry could flourish in the surrounding desert.

Before the Six-Day war brought traffic to a standstill, prospects for the canal looked good. In January 1967, a record 29 million tonnes of ships and cargo passed through the canal, mainly from the south (Suez) to the Mediterranean (Port Said). Over the previous 10 years, the amount of oil shipped through the canal had increased by 155 per cent, and the tonnage of dry cargo by 70 per cent.

But already, the Egyptians were beginning to realise the need to dredge and widen the canal. In the late 1950s the government drew up the Nasser Project to anticipate and avoid the potential economic damage that could result from the growth in the numbers of tankers so large as to be unable to use the canal route. The first stage in the project, deepening the canal so that ships of 38ft draught could pass through, was completed in February 1964. The Six-Day war halted work on the second stage (dredging to allow entry of ships drawing 40 ft of water), and the third stage never got off the ground.

Proposals even more ambitious than those are now abroad. Today's immediate objective is to restore the canal for laden ships of 70,000 tonnes deadweight and 150,000 tonnes in ballast. By the early 1980s, the Egyptians hope that even larger tankers (250,000 tonnes laden deadweight) will be passing through. All this is, however, only a beginning. Port Said and Suez harbours will be enlarged and will become free trade areas. Three new cities (one named after President Sadat) will be built near Cairo. Ismailia will be developed as a tourist resort (at the moment it boasts not a single hotel). An eight-lane road running the length of the canal and passing under it through five tunnels will be constructed. A $400 million pipeline (the SUMED) will be built by an Italian corporation between Suez and Alexandria, where a refinery is planned. Much of this will be financed by foreign capital. The U.S. Chase Manhattan and Orion banks have a stake in the SUMED pipeline, which will bring 120 million tonnes of oil a year to the Mediterranean. The Gulf oil states have also money invested in SUMED. The Japanese have offered hard cash for the grandiose £3000 million development projects. Honda plans a car plant in a customs-free zone, Goodyear is thinking of a tyre plant in Egypt, and even British Leyland has been reported to be thinking of a plant.

WAR SPOILS CANALS

Before any of this can begin, however, someone had to clean up the debris of two wars—admittedly brief, but between armies equipped with some of the most sophisticated weapons yet devised. Surprisingly the British were first to be accepted as "supersweeps" (some say they asked the Egyptians to ask). Naval attachés were queueing to offer their services as if for tickets of admission to the Ark. On 11 April, the 260-strong Royal Naval force of a mother ship (HMS Abdiel), and three minehunters (Maxton, Bossington, and the spanking new, plastic-hulled Wilton) arrived at Port Said to begin their unhealthy task. US and France (belatedly) were accepted gratefully, the Russians turned down—but later they were given the interesting job of sweeping their own mines laid by Egyptian forces in the Strait of Gubal (between the Gulf of Suez and the Red Sea). Seven Russian minesweepers are now clearing the minefields in splendid isolation.

This minefield was only one of five main obstructions in the canal. The most serious obstacles to free navigation are the 10 wrecks that have festered in the canal since 1967 at

Port Said, near Suez, and between Lake Timsah and the Great Bitter Lake. The improbable-sounding company of Murphy Pacific will cut up and cart away the wrecks using two salvage ships brought in from the Philippines and two German 500-tonne cranes. This part of the clearance (operation Nimrod Spar) should be complete in time for Murphy's men to jet home for Christmas.

Two causeways across the canal are proving the most intransigent barriers. That built by the Egyptians (between Ismailia and El Qantara) is not too difficult to clear, but the Israeli causeway at Deversoir (at the northern entrance to the Great Bitter Lake) is built of more permanent materials—sand, concrete slabs and the occasional mine.

But the most tedious and dangerous of all the operations is destroying the live ordnance cluttering up the canal and banks. The first half of the operation, clearing the banks for 500 m on either side, was completed on 22 July by the Egyptian Army, advised and trained by 100 US Army experts. Some 670,000 mines were cleared, along with a motley collection of anti-personnel rockets and cluster bombs. Officially, 14 Egyptians were killed and 40 injured in this operation.

At least on the banks the disposal men could see the mines they were playing with. On the canal bottom, more often than not, divers work blind, lovingly running their hands over an object to distinguish between beer cans and anti-personnel bombs that explode at the slightest pressure. As a preliminary sweep, US helicopters operating from USS Iwo Jima swept magnetic hydrofoils, which trigger mines, over the whole length of the canal and Suez Bay, completing operation Nimbus Star by June.

The dangerous job of actually diving to clear ordnance on the canal bottom was carried out by British, US, French, and Egyptian forces. The French were responsible for clearing mines in shallow water up to 3 metres deep from Kilometer 20 onwards. Over 40 *US divers adv*ised and trained Egyptian clearance divers. Theoretically, US divers were not allowed to touch mines—an accident in the country most Americans think at least half-communist would have been too embarrassing. US officers are reluctant to say how many Egyptians have been killed in the operation, but senior officers begrudgingly admit that the number is probably more than 80.

The Royal Navy was given probably the most difficult task of clearing the rest of the canal bottom. It rapidly learnt that visibility in water between three and eight metres deep is so bad that divers would have to go over this whole area at each side of the canal more or less by hand. The task fell to the 14-man Fleet Clearance Diving Team who used a "jackstay" technique—three divers roped together in the water inch their way forward, blowing up any mines they find.

Divers on the minehunters operate differently. The 450-tonne minehunter anchors in mid-channel and searches the bottom with a high-accuracy sonar beam that can be steered through 360°. When a contact is made (it could be as small as a beer can), two divers in a Gemini rubber dinghy are directed by radio to a position directly above. They drop a diablo—two metal cones, noses together—that acts as a sonar reflector. The officer in the sonar room can then see how far the contact is from the diablo and direct the diver who has to identify the contact. Usually it turns out to be a metal girder, or pile of rocks. If so, it is charted and the divers move on. If, however, the diver recognises a contact as ordnance, it is destroyed. Once the minehunter's sonar, which the Navy still considers secret even though it is 10 years old, has swept through 360°, the ship moves on 150 metres. The process is slow, the hunters covering only about 1 km a day. The list of explosives that have been destroyed in this way is formidable—458 sticks of gelignite, 69 missiles, 190 grenades, 125 anti-tank mines, 516 anti-personnel mines, one napalm bomb, and so on. To the Russians' chagrin, most of these weapons are theirs.

The clearance operation (due to end in November) has presented few technical problems—except in the Great Bitter Lake. Because the causeway at the northern entrance to the lake has prevented tidal movements, and because there is no shipping to disturb the lake's waters, a 1-2 metres thick layer of water saltier than that of the Dead Sea has formed over the bottom of the lake. Divers have found it almost impossible to penetrate the layer, so buoyant is the water. Sonar operators have seen contacts slowly disappear before their eyes, because of the effect of the dense layer on the sonar beam.

But no-one, least of all the Naval experts, is willing to guarantee the safety of the canal when re-opened. Once the joint clearance operation is complete, the US Navy will carry out an aerial magnetometer survey of the whole canal to spot any mines that may have been missed. But confidence in the comprehensiveness of that survey is not high. Privately, naval officers admit that it is only a matter of time before a dredger hits an unexploded weapon embedded in the canal bottom.

SAFE—BUT STABLE?

But the safety of the canal is only the first condition that has to be met before Egypt can once again capture the huge portion of world shipping that once passed through the Suez canal. The Middle East is hardly the most politically stable area in the world and Western oil companies will need some convincing that the picture has changed. This is one reason why the Egyptians are so anxious to involve foreign capital in the reconstruction projects—countries with heavy capital stakes in Egypt might be more concerned to maintain stability in the area. But the oil companies are certain that they can no longer trust a single navigational route to the Persian Gulf.

Even more ominous for the Egyptians is the acceleration of the trend toward larger oil (and other bulk) carriers. Some 40 per cent of all the tankers in the world are over 200,000 tonnes and draw more than 60 ft of water. They could not pass through the canal until the early 1980s, but by 1978, 55 per cent of the world's tankers will be more than 200,000 tonnes. Growth in the numbers of very large tankers may be outpacing the Egyptians' ability to widen and deepen the Suez canal.

The oil companies, basing their estimates on hard facts like these, are doubtful that they will ever route a significant portion of their oil through Suez. Dry cargo on passage to Australia, the Far East and India may thus make up a greater proportion of traffic through Suez than it did before the closure. There are undoubted advantages of the Suez route especially for 12,000 tonne general cargo vessels which can easily pass through the canal. For example, it reduces by 9 days the trip between Europe and Singapore.

Much will therefore depend on the delicate financial balance between the dues the canal authority chooses, and the ever-rising cost of fuel for tankers (which trebled between October 1972 and January 1974). Some understandably believe that the canal authority will not make the mistake of pricing itself out of the market. That may well be true, but the fact remains that Egypt's far-reaching plans for the canal and its hinterland are a massive gamble.

SHORT-CIRCUITING THE CHEAP POWER FANTASY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. BROWN of California. Mr. Speaker, all of us in this body have, at one time or another, had to concern ourselves with economic, energy, and environmental issues. We have, by choice and by chance, separated these issues in our deliberations. Yet they all interconnect, and those interconnections appear stronger as we get farther away from the situation.

On a global scale, the health of the economy is firmly connected to the health of the natural environment. There is some evidence, upon which more research needs to be done, that any further increase in energy use on a global scale will endanger the natural environment and undermine the most basic economy, agriculture.

This possibility is too serious to ignore. While I expect to say more about the need for greater research on global environmental problems in the near future, I would like to bring this potential problem to the attention of my colleagues at this time.

The October issue of Natural History magazine contained a cogent article on this subject that I would like to share. The central theme of the article is found in the following sentence:

> These facts taken together suggest that we have reached a point in the development of our current civilization where further increase in flows of energy through technology will cause a significant reduction in the capacity of the earth to support mankind.

I commend this article to my colleagues.

The article follows:

SHORT-CIRCUITING THE CHEAP POWER FANTASY

(By George M. Woodwell)

Energy drives our world. Energy from oil is sending me eastward at 600 miles per hour in a giant airplane flying 30,000 feet over the Wyoming desert. Energy from oil was used to smelt the aluminum to build the plane; more energy from oil was used to make the plastic tray I'm writing on, the plastic fiber of the seats; still more to freeze the ice in my lemonade, served in a plastic cup. Most of my world is fossil fueled—but not quite all.

A hitchhiking fly tickles my hand. I flick it away. It moves to the window, attracted by the sunlight reflected from the plane's wings. The fly's source of energy is, of course, the sun. This solar energy flows to the insect through green plants somewhere far away. And the energy I use in flicking my hand also comes from the sun, fixed in photosynthesis somewhere recently, perhaps in the great green circles of western Nebraska's irrigated farmland now passing below me. Outside my silver capsule, the sun dominates: warming the land, evaporating water, heating the air, circulating the oceans, making the weather, causing the winds—and providing the energy for all life.

These are the two sources of energy used by man. The first, principally fossil fuels—

but also including water power, nuclear power, and geothermal power, among other minor sources—drives our technology. The other source, the sun, drives the biosphere. A small fraction of the total energy from the sun, perhaps 0.1 percent of all the solar energy reaching the top of the atmosphere, is fixed in photosynthesis and becomes available to support life. Most of the balance is reflected immediately back into space. Both sources—energy in the technological segment and energy from biotic resources—are currently in short supply, locally and around the world. In addition, shortages of fossil fuels have profound implications for all biotic resources, including food.

The immediate problem is a decline in the rate of increase in oil production in the United States. Total production appears to have reached a peak just when worldwide demand is soaring. The decline in resources means that the United States no longer holds a dominant role in bargaining for oil elsewhere. As a result of this squeeze, prices are rising and gross changes are occurring in the relative costs of different sources of energy. What are the implications of these changes for biotic resources?

We should base our answer on a consideration of the size of these two energy flows, one through technology and one through life. Two recent studies are of help. The "Energy Policy Project," financed by the Ford Foundation, issued a preliminary report not long ago that summarized the various uses of nonbiotic energy. According to the report, the total energy use in 1973 from all nonbiotic sources, including fossil fuels, hydropower, geothermal sources, and nuclear power was about 66 trillion (66×10^{12}) kilowatt-hours. The United States consumed about one-third of this. Use has been increasing rapidly in recent years. It now takes about twelve years for total energy use to double; the U.S. doubling time has recently been estimated at about eighteen years.

The second study, by R. H. Whittaker and G. E. Likens of Cornell University, is a comprehensive appraisal of the total amount of energy fixed on earth by green plants. That total is thought to be equivalent to about 840 trillion kilowatt-hours per year. This is net primary production, the energy available to support animals, including man, and the organisms of decay. About two-thirds of this total is fixed in terrestrial ecosystems, mostly forests. Agriculture supplies about one-twentieth of the total. Contrary to popular belief, agriculture is not a cornucopia of new resources in support of man; it is simply a diversion of net primary production from one form and placed to another. The diversion is made by lavish use of energy in technology. Recent estimates suggest that several units of fossil fuel energy are required to produce each unit of food energy. This ratio demonstrates the importance of society's energy flows in maintaining modern agriculture.

The energy available worldwide as net primary production was probably ten to fifteen times the amount of energy used in the technological segment of society in 1973. How much of this solar energy is used to sustain human life? Direct use includes all of the energy fixed in agriculture for food production. Cultivated land supplies net primary production approximately equivalent to 40 or 50 trillion kilowatt-hours annually. We must add to that estimate the harvests of food from natural systems, including the harvests of grazing mammals. The magnitude of this entire segment might be as much again as the flow to man from cultivated land.

We also harvest fish from the oceans. The total yield of fish is about 70 million tons annually; it has not increased in recent years despite intensified efforts in fishing. While better management of fisheries might increase the yield somewhat, at present, fish are probably being harvested at about the maximum rate possible.

In addition to these uses of food, we harvest large quantities of lumber for fuel, pulp, and construction purposes from natural or lightly managed plant communities around the world. The total current harvest of forests probably exceeds the annual growth, since massive inroads are being made in this decade on old-growth forests. Such a drain on natural ecosystems cannot be sustained, of course. A conservative estimate suggests that as much as 30 to 50 percent of the net primary production of the earth is being diverted to direct use by man for support of the current population.

This estimate of the use of the biota does not take into consideration what I call the "public service functions of nature." These include the stabilization of water flows through river valleys, the purification of air and water, the amelioration of local climate, the control of plant and animal populations, the stabilization of soils, and the retention of nutrients in biotic cycles. These functions are commonly assumed to continue no matter how intensively biotic resources are exploited, but there is powerful evidence that these services performed by nature are now being lost.

The losses are due to two types of biotic changes. First, there has been an unprecedented decrease in numbers of species. We are living in a period in which the numbers of different plants and animals are being reduced more rapidly than at any other time in the history of the earth. Second, the losses of species are coincident with a systematic reduction in the structure of natural ecosystems around the world, especially in forests. Clear-cutting of old-growth stands reduces not only the standing crop of trees but may also reduce the capacity of the site for photosynthesis. Losses of nutrients, changes in the physical conditions of soils, erosion, and other changes in the site frequently reduce its capacity for supporting vegetation of any type. The spread of an impoverished Sahara southward in Africa, the reduction of tropical rain forests and their replacement with scrub, and the destruction of large areas of temperate-zone forests all reduce the capacity of the earth for sustaining human life, the arguments of exploiters notwithstanding.

The net effect of these changes is the gradual, cumulative, and largely irreversible biotic impoverishment of the earth. The extinction of species is an irreversible change. The loss of nutrients normally held in the biota of the uplands is irreversible in a time span that is of interest to us. The destruction of natural communities in lakes, streams, and coastal oceans by eutrophication and pollution, and the heedless redistribution of species by man also constitute irreversible change. In the Great Lakes, for example, the combined effects of human actions in changing drainage basins, modifying patterns of water flow, causing pollution, and carelessly introducing alien fish has grossly impaired the ability of the lakes to supply food and other services for man. The question is, how do we recognize the small steps that lead to such major changes?

The structure and function of natural communities follow clear and well-known patterms of change. The patterns of biotic impoverishment have been known in many cases for hundreds, even thousands, of years. One of the best modern examples is an experiment at Brookhaven National Laboratory, where for more than a decade the effects of ionizing radiation on a forest have been examined. A large source of ionizing radiation was set up in the center of a uniform stand of oak-pine forest. The radiation source was 9,500 curies of cesium 137, a radioactive by-product of the atomic energy industry that emits gamma radiation similar to X-rays. The source was large enough to provide a gradient of radiation intensity ranging from several thousand roentgens per day within a few yards of the point of emission to about 1 roentgen per day at 400 feet. The experiment was started in November, 1961, and has continued to the present.

Within six months of the start of irradiation, the pattern of damage to the vegetation had been established. There were five clear zones of effect. In a zone close to the radiation source, no higher plants survived. At slightly lower radiation exposures only certain hardy herbaceous plants of the forest floor survived, principally the sedge *Carez pensylvanica*. At lower exposures, the carex was joined by the shrubs of the forest: blueberries and huckleberries. At still lower exposures, about 160 feet from the source, certain trees survived, forming an impoverished oak forest zone. At exposures below a few roentgens per day, all of the higher plants of the forest survived, including the indigenous pine *Pinus rigida*. The pine, which is the most sensitive to ionizing radiation, was removed by very low exposures, leaving a forest that appeared otherwise intact.

This form of biotic change is not unusual. While the cause of the change in the Brookhaven experiment was an extraordinary exposure to ionizing radiation, parallel changes also take place where no such experiment has been conducted. A pattern of systematic change of structure occurs in forests exposed to wind, salt spray, and extremes of pollution. Similar changes in vegetation occur additionally around smelters that emit oxides of sulfur and heavy metals into the atmosphere. As human influences spread around the world, we find various stages of ecological impoverishment characteristic of regions that have long been inhabited by man. The vegetation of the Mediterranean region and the Levant are impoverished forests, reduced by the effects of human habitation over thousands of years.

The common assumption is that industrial energy has freed man from dependence on biotic resources. Nothing could be further from the truth. The real effect of industrial flows of energy has been to allow the transformation of net production from less useful to more useful forms. The transformations are maintained, in turn, only at considerable effort and expense. The replacement of forests by agricultural communities of various types is one such transformation. The use of energy in technology also allows the transport of net primary production around the world to convenient places for man.

But there are limits. In the fifteen years between 1951 and 1966, a 34 percent increase in food production was accompanied by a 146 percent increase in the use of nitrates and a 300 percent increase in the use of pesticides. There is every reason to believe that the further intensification of agriculture will require similarly disproportionate efforts as less fertile lands are put into production. Moreover, there is reason to fear that toxification of the environment over large areas will aggravate this problem. As food becomes more and more expensive, driven up in price by scarcities born of increasing population, the pressures on agriculture can be expected to increase. Because ever larger amounts of nitrates and pesticides are required to produce an improved agricultural yield, the intensification of agriculture will require additional energy. This energy will be applied less efficiently in the future than at present. Just as we appear to have reached the limits of oceanic fisheries so, in many instances, we may also have reached the limits of terrestrial agriculture, unless remarkable further advances are made in management techniques.

The problem is even more complicated. As demand for energy to feed the economic and technological segments of the still-growing industrialized nations mounts, there is increasing pressure to lower the standards for pollution control. Nuclear power is widely heralded as one important part of any possible solution to the energy squeeze. Advocates of nuclear power hope to find sites for power plants where there is abundant water for cooling. Nuclear power plants now in existence produce about 1,000 megawatts each and require cooling water in volumes of 30 to 50 million gallons per hour. There are few bodies of water or rivers in the continental United States that can supply this amount of water for once-through cooling to such power plants. The present hope is that these plants can be placed along the coasts, perhaps not on the shore at all but in the ocean, where there is abundant salt water for cooling. The plants, however, must necessarily be located in fairly shallow waters and will hence affect coastal fisheries. There is no possibility that these establishments will improve the fisheries; there are many reasons for believing that they will diminish them, perhaps greatly. The principal problem is the large volume of water that nuclear reactors use, pasteurizing it with heat.

Reactors also release toxic substances used to kill organisms that might foul their cooling coils. In addition, there is erosion of toxic metals from the reactors themselves in quantities that may approach several tons annually, as well as the continuous release of radioactivity. This latter problem is more severe in the oceans than on land because there is little possibility of cleaning up any offshore radioactive spill. Once radioactive nuclides are released into coastal waters, they will circulate in biotic systems and have the potential for affecting humans. This latter fact alone is sufficient reason to give serious pause to those who advocate offshore reactors. One large radioactive spill from such a reactor could render a segment of the coastal fisheries unfit for human consumption. Would the gain in energy be worth adding such a risk to other certain costs? Far from appearing as a boon, nuclear power looks more and more like an unacceptable burden.

Another example of the interrelationships between technology and natural systems helps to clarify this apparent dilemma. Rains over much of the eastern part of North America have become extremely acid. The acidity presumably comes from oxides of sulfur and nitrates formed in the combustion of fossil fuels. Apparently the burning of sulfur-containing oil and coal and the use of internal combustion automobile engines that fix nitrogen as a by-product have turned precipitation into a dilute mixture of sulfuric and nitric acid. The acidity is in the range of 3 to 4 on the pH scale, sufficient to leach nutrients from leaves and, over a period of years, from soils. Soil scientists recognize that continued leaching with a weak acid will reduce the productivity of agriculture and of other vegetations.

A 10 percent reduction in agricultural productivity is difficult to measure and might be recognizable only over a period of several years. Yet a reduction of that proportion in the productivity of forests and of agriculture in New England seems to be a realistic prediction if acid rains continue for ten years or more. A 10 percent reduction in the net primary productivity of natural vegetation and of agriculture in the New England states would represent a loss of energy equivalent to the power produced by fifteen 1,000-megawatt reactors.

The segments of society that are most closely dependent on natural resources, such as farmers and fishermen, would feel this loss most, but all of us would feel it to some degree. A reduction in the yields of forests and agriculture would raise the prices of all forest products and of food. Effects would extend to estuarine and coastal fisheries as well. This is simply another instance in which the use of nonrenewable resources has been, and continues to be, allowed to destroy renewable resources.

We cannot separate the squeeze on energy used in support of technology from the squeeze on biotic resources; nor can we separate the squeeze on these resources from the growing squeeze on food and the quality of life. Despite the dreams of technologists, the availability of cheap energy has not created new basic resources for human use; instead, the net effect has been a reduction in the net primary productivity of the earth and a concomitant and now soaring increase in the rate of loss of species.

These facts taken together suggest that we have reached a point in the development of our current civilization where further increase in flows of energy through technology will cause a significant reduction in the capacity of the earth to support mankind. The world cannot use more energy safely. The arguments for relaxation of controls on pollution or for the further diffusion of the deleterious effects of technology around the globe are clearly and simply wrong. So, too, are the dreams of continued economic growth in the patterns of past decades, using abundant new supplies of energy. We have reached the point where biotic resources are crashing—limits are with us now. Technology may alleviate some of the problems at present rates of energy use, but another doubling of energy consumption in the United States may be impossible—and a worldwide doubling is frightening.

My glistening aluminum capsule—low on fuel, empty of food, its tasteless movie spent—is sinking through the smoke and fog of New York City toward the concrete strip that was formerly part of Jamaica Bay, once one of the largest salt marshes in the world. We have just crossed the Hudson River, passed the towers of Manhattan, and are gradually descending over mile after square mile of brick tenements in Brooklyn. Energy makes this city possible—the same energy and technological genius that produced my plane, plus energy from natural systems, from the green of those irrigated plots in western Nebraska, the green of the forests of New York State's Catskill and Adirondack mountains, the greens and browns and reds of the ocean and beyond Far Rockaway.

The earth's surface—the land and the oceans—is an energy-fixing machine. From this point of view, what is the real cost of this city, measured in total space on a finite globe? No one knows for sure, but the cost reaches far beyond the city or the state or even the entire country to include a large segment of the North Atlantic and a large portion of the atmosphere. It includes, as well, a share of problems that are worldwide in scope—the energy crisis, the use of DDT and other poisons, the control of acid rains, the management of world fisheries and the impending worldwide crisis of biotic impoverishment. The earth is overpopulated and overdeveloped; the important problem now is ecology, not energy and not economics.

FURTHER EVIDENCE OF THE FOLLY OF THE DÉTENTE WITH COMMUNIST GOVERNMENTS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. ROONEY of New York. Mr. Speaker, under the permission heretofore granted me I include with these few remarks the following article from Newsweek magazine of November 25, 1974, entitled "The Communist World: Sneaking Up on Inflation." This gives us some evidence of the insincerity and untruths fed to the American people by the red atheistic Communist leader of Poland Mr. Gierek not too long ago when he was entertained and given an audience by the Foreign Affairs Committee of the House of Representatives, as well as at a luncheon at the National Press Club here in Washington and at other places.

The article follows:

THE COMMUNIST WORLD: "SNEAKING" UP ON INFLATION

While the rest of the world struggles with intractable inflation, the Communist nations seem to have reached an economic millennium. In Russia, prices of such necessities as milk, bread and rent remain virtually where they were more than a decade ago. In Prague, sugar prices—which have increased more than 300 per cent in the U.S. in the past year—are still at 1937 levels. In China, the prices of cotton cloth, medicines and watches are constantly being reduced.

But Westerners need feel no envy. Prices for staples in the Communist lands stay low only because of heavy government subsidies, and items that consumers in other countries have long considered necessities continue to be beyond the reach of the great majority of people. The average Eastern European wage earner, for example, has to fork over two and a half years' pay for an automobile vs. about six months' pay in the U.S. Furthermore, Communist governments do raise prices on all sorts of goods under the table while officially clinging to a fiction of price stability. In some Eastern European countries, prices of fuel and food are openly skipping ahead at a pace like the West's.

CONTROL

The key to price stability in the Communist world lies in tight government economic control. The bureaucracy simply dictates the price of a loaf of bread and of all the costs that go into producing it, from the price farmers get for their wheat to the wages paid to the bakers at the ovens. As costs rise along the line, they are absorbed by rising subsidies.

In limited areas where no subsidies exist, consumer-goods prices can be as painfully high as they are anywhere else around the globe. Farmers in the Soviet bloc, for instance, are allowed to sell on the free market any of their produce that isn't needed to fill their quotas to the government—and the prices shoppers pay are typically 60 per cent higher than those paid in government-controlled shops. Similarly, better-to-do Russians pay dearly for luxuries such as fur hats, tape recorders and French-made suits that are peddled without any controls at second-hand stores. Customers at the busy Komission store on Prospekt Mira in Moscow recently bought up a batch of ladies' boots that went for as much as $78 a pair.

When it suits their purpose—which is often—Communist governments raise prices readily through a thinly veiled process that the Czechs call "sneaking." Economist Harry Trend of Radio Free Europe explains: "They will take a shirt off the market, make only minor changes such as sewing on different buttons, and then put it back on the market as a 'new' shirt—at a higher price." Because the price of "old" shirts has theoretically been left unchanged, the official cost-of-living index isn't affected. Taking the same tack, a Hungarian manufacturer brought out a "new" frying pan with a slightly wider handle than the old model—and raised the price by 15 per cent. A Polish candymaker jacked up the price of one product 32 per cent after changing the name of the item from "milk" chocolate to "creme" chocolate.

HIDING

The Polish Government pulled off an even more blatant form of sneaking earlier this year when it raised the price of alcoholic drinks as much as 50 per cent. The state claimed that alcohol was not a "basic" and that it wanted to discourage drinking. "But since practically everyone drinks in Poland," says Harry Trend, "and they don't cut down because of the higher prices, the state actually collects more money this way."

But in Eastern European countries that increasingly must trade with the inflation-plagued West for technology and the Mideast for oil, there is simply no hiding severe price increases. Hungary, which gets 15 per cent of its oil from the Mideast, recently had to raise the price of gasoline 40 per cent because of the skyrocketing cost. "It would be an exaggeration to claim that Hungarians were glad about the announcement," Radio Budapest deadpanned. On top of that, food prices in some countries have started to jump. Fruits and vegetables at Hungarian farmers' markets rose between 30 and 40 per cent since last September because of poor harvests, and milk prices were raised as an incentive to producers.

As inflation, both visible and sneaky, continues, Communist citizens are becoming as downbeat as their counterparts in the U.S., Europe and Japan. "There are no *drozyzna* [increased prices] in Poland," the Poles joke, "providing you never eat out, don't drive, wear the same old suit, buy nothing for your home and never take a sip of vodka. So who wants to live without inflation?"

MALPRACTICE FEARS AND A DYING TEEN

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 20, 1974

Mr. HUBER. Mr. Speaker, it was perhap inevitable that exorbitant malpractice awards—and the fears of high-risk medical specialists that they could face unjustified malpractice suits—eventually would lead physicians to turn their backs on patients where the chance of successful treatment is minimal and the chance of costly legal involvement is maximum. Yet the lead article on the front page of the Detroit News on October 28 reported just such a case in Michigan.

I invite the attention of my colleagues to this article, reprinted herein, and urge their consideration of this growing national problem. They may wish to study my suggestion incorporated in H.R. 16555 for seeking an evenhanded approach fair to all concerned.

The article follows:

MALPRACTICE FEARS AND A DYING TEEN

(By Clark Hallas)

An almost futile, six-hour search in three Michigan cities to locate medical help for a 17-year-old Flint youth before he died of a critical head wound has dramatized doctors' fears of malpractice lawsuits.

The youth, Kirk Wright, was shot in the head about 3 a.m. Friday during an argument over a set of car keys, Flint police said. He died 7½ hours later in the University Medical Center in Ann Arbor, after doctors at Flint's Hurley Hospital were unable to find a neurosurgeon in Flint or Lansing willing to take the case.

Medical authorities generally agreed that the youth was so severely wounded that he probably would have died regardless of the availability of brain specialists.

However, they said, the case points out the crisis in medical care which has led many specialists to screen patients they think may sue.

"I'll be frank about it," said Flint neurosurgeon Dr. Frederick M. Somach, one of two specialists who refused to treat Wright. "I'm being forced to compromise my Hippocratic oath because of the temper of the times."

According to a Hurley Hospital spokesman, Wright, with a bullet hole in his head and breathing with the aid of a respirator, at 3:15 a.m. was brought into the hospital's emergency room where physicians began first aid.

After it was determined that special medical attention was needed, nurses at the hospital began telephoning neurosurgeons and neurologists in the area. Unable to find a specialist who would take the case, an emergency room doctor contacted the University Medical Center in Ann Arbor.

Doctors there also were reluctant to treat Wright and recommended Lansing because it is closer to Flint, the Hurley spokesman said.

When Lansing assistance failed, too, the Hurley staff contacted a neurosurgeon in Ann Arbor and Wright was sent there by ambulance shortly after 5 a.m.

He died in Ann Arbor about 10:30 a.m. The neurosurgeon who treated him at the University Medical Center said it appeared the youth had been beyond hope from the beginning.

"He was suffering from massive brain damage and all signs pointed to neurological death," the doctor said. "There was no spontaneous breathing, very slight pulse, the pupils were fixed and dilated and blood pressure was extremely low—50/100."

This opinion was shared by the youth's family doctor, Dr. Paul Markunas of Flint, who was contacted by the hospital but did not see Wright.

Dr. Markunas, a general practitioner who does not perform neurosurgery, said he was satisfied, after conferring with emergency room doctors, that nothing could have saved Wright.

"The slug entered one side of his head, went through the brain and exited through the other side of the head," he said. "All he had was a heartbeat. The absence of spontaneous breathing indicated massive brain damage."

Two of Flint's four neurosurgeons were out of town when the shooting occurred. One of those, Dr. J. Murray Day, announced Oct. 13 that he no longer would treat head and spinal injuries because of the threat of medical malpractice lawsuits and skyrocketing insurance premiums.

Hurley Hospital authorities were able to contact two specialists, Dr. Somach and Dr. Mark C. Levine, a Flint neurologist. But both refused the early morning call.

"I didn't like the circumstances of the case," Dr. Somach said. "It was a gunshot wound, a category which carries some of the highest risks for malpractice suits.

"It's the kind of case that draws police and lawyers. The whole situation is carried out in a medical-legal environment."

Dr. Somach said his insurance premiums have gone from $750 a year to nearly $11,000 a year in the last decade despite his being "legally clean as a whistle."

"The fact that the boy (Wright) was apparently a lost cause didn't enter into my decision," he said. "I'm being candid with you. You can't rely on a telephone diagnosis.

"Until a specialist examines a patient, there's no way of telling how serious the injury is. But I told the hospital that I just didn't need that kind of exposure to medical malpractice litigation."

Dr. Somach said, however, that within a few minutes after he turned down the Hurley case, he agreed to assist with another head injury case at Flint's McLaren General Hospital. In that case, a man had been hit on the head with a hammer during an argument.

"The man pulled through OK" Dr. Somach said. "But there were no police or lawyers involved. You have to be selective nowadays."

Dr. Levine said the hopelessness of the case, not malpractice fears, primarily determined his decision.

"Malpractice may have entered my mind, but the major factor was that the description of his injuries indicated strongly that he was already neurologically dead," he said. "I was exhausted when I got the call, having worked 16 hours a day all week.

"I needed to save my strength for patients for whom there was some possibility of saving—and that's what I told the hospital."

Dr. Levine said, however, that the malpractice situation has become so bad for neurosurgeons and other specialists that there is a "distinct possibility in the future" that patients who could be saved might find no doctor available.

Neurosurgeons, orthopedic physicians and anesthesiologists are particularly vulnerable to malpractice lawsuits and are considered high risks by insurance companies.

"It may just get to the point where Flint won't have a neurosurgeon," he said.

The Michigan State Medical Society and a group called the Physicians Crisis Committee are seeking legislative and insurance remedies to combat the malpractice problem, which recently was outlined in a series of articles in The Detroit News.

SENATE—*Thursday, November 21, 1974*

The Senate met at 12 o'clock meridian and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Father of our spirits, breathe upon our restless and anxious spirits the calmness of Thy presence and power. In the hush of this hallowed moment, may Earth's strident voices be stilled that Thine alone may be heard in forgiveness and renewal. In the ministry of public affairs as in private life, may we know the psalmist's promise, "He restoreth my soul."

In these days which try men's souls, save us from the pride of self-will, from the blindness of prejudice, from vagueness of purpose, from the discouragement of temporary failure, and unnecessary delays. May Thy wisdom instruct us and Thy hand direct us this day and evermore.

In the Redeemer's name, we pray. Amen.

THE JOURNAL

Mr. CANNON. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, November 20, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. CANNON. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROPOSED CHANGES IN THE CONSTITUTION

Mr. HUGH SCOTT. Mr. President, last September 5 was the 200th anniversary of the first meeting of the First Continental Congress. To mark the occasion, Senator JOE BIDEN spoke here on the Senate floor of ways to improve the operation of Congress. He discussed not only statutory and Senate rule changes, but constitutional amendments as well.

I would venture a guess that more Americans thumbed through the Constitution this year than ever before to seek guidance on the events of the day. Notwithstanding the various tragedies that befell the country, it was refreshing to hear that venerable document being discussed and quoted. We spoke about the 25th amendment dealing with Presidential succession. We spoke about the 22d amendment dealing with the length of Presidential service. And we spoke about article II, section 4, dealing with Presidential impeachment. The public was able to join in the national debate on these questions, and that was a good thing. However, the public also saw some shortcomings and began to think very seriously about further constitutional amendments.

Accordingly, I am today recommending that the Senate Judiciary Committee, perhaps under the auspices of its Subcommittee on Constitutional Amendments, initiate a round of hearings to explore some of these relevant problems. If there are to be changes in the Constitution, such changes must be subject to thorough research and public scrutiny. Only through such a process can there be public understanding of congressional action.

Of immediate interest is the operation of the 25th amendment insofar as congressional actions relating to the selection of a new Vice President are concerned. I have reviewed the legislative history of the 25th amendment and have found ample references to the necessity for filling this vacancy as quickly as possible. While the Senate floor manager of the amendment, Senator BIRCH BAYH, said he "could foresee the attempt to delay and stall the confirmation," Senator SAM ERVIN responded that patriotic and intelligent Members of Congress who love their country "will not jeopardize their country by holding up the consideration of a new Vice President."

In the House of Representatives, then-chairman of the Judiciary Committee, Representative Emanuel Celler—who served as House floor manager of the amendment, said:

> We dare not longer trifle with this situation by neglect. If there is a vacancy, the vacancy must and should be filled.

Representative John Lindsay noted that a delay in the Senate would put—

> The monkey on the back of the Congress to do its job. The President does his job in the selection of a proper person to fill the office of the Vice-Presidency and then Congress must answer to the country if it does not speedily perform its job.

During the congressional impeachment inquiry, I was concerned that the public did not see firsthand what was going on under the Capitol dome. One-sided leaks from whichever side, served no laudable purpose. And printed reports certainly did not give the full story, nor a totally objective one at that. Consequently, the majority leader and I instructed our respective staffs to draw up detailed plans for broadcast coverage of the impeachment trial, if one was determined by action of the House of Representatives.

Of course, there was no trial, but the Senate came closer than ever before to subjecting itself to firsthand public scrutiny in the same way Presidents are subjected to it.

With that background in mind, I support the recent recommendations of the Joint Committee on Congressional Operations providing for a 1-year broadcast test over a closed-circuit system. After a trial period, these floor broadcasts could be made available for use by commercial and public broadcasters.

Perhaps the most important cog in the congressional wheel is the committee system. Without it, Congress simply could not function. Over the years, the size and number of congressional committees have increased, and this has made for a very unworkable system. There is simply too much jurisdictional jealousy, too much duplication of effort. One reason given by political columnist David Broder for this state of affairs is that:

> In the Senate, every Democrat is emperor of his own subcommittee, and no move for consolidation is even considered.

Accordingly, I am today recommending that the Senate Committee on Rules and Administration under the auspices of its Subcommittee on Standing Rules, begin immediately to study the committee system in the Senate and make recommendations to the Senate by the 1st session of the 94th Congress. We must get our House in order or the public's business cannot get done.

Mr. President, it is time for Congress to heal itself. I hope that when we return in January, Senator BIDEN's thoughts on reform can be discussed. He believes that 1 week early in the new Congress should be reserved for Senators to exchange views and make proposals. It is an excellent suggestion, and I shall take it up with the majority leader to see if it can be arranged.

ORDER OF BUSINESS

Mr. HUGH SCOTT. Mr. President, I yield such time as remains to me to the distinguished assistant minority leader, the Senator from Michigan (Mr. GRIFFIN).

Mr. GRIFFIN. Mr. President, may I ask that the time allocated to the majority leader be made available?

Mr. ROBERT C. BYRD. Mr. President, on behalf of the majority leader, I yield to the distinguished Republican whip for 5 minutes.

Mr. GRIFFIN. I thank the Senator.

MICHIGAN'S PROBLEMS TODAY: THE NATION'S PROBLEMS TOMORROW

Mr. GRIFFIN. Mr. President, the auto industry and hundreds of thousands of auto related jobs are in trouble—and that spells serious trouble for the economy of the Nation as a whole.

If economic lessons of the past teach anything, it is that Michigan's problems today will be the country's problems tomorrow—unless decisive action is taken now to change the course of events.

I have no desire to be a prophet of gloom and doom—but I feel very strongly that we must recognize the gravity of the situation in the auto industry—and the danger it poses to every single American in the Nation. I hope I will not be just a voice crying in the wilderness.

Consider these stark facts:

Automobile sales during the first 60 days of the 1975 model year have plummeted. Compared to 1974,

Ford is down 12 percent.

Chrysler is down 18 percent.

General Motors is down 36 percent.

American Motors is down 46 percent.

Sales for the industry as a whole are down 24 percent for the first 60 days of the model year; but sales for November have fallen 38 percent.

Such trends translate into sales for the 1975 model year of less than 7 million vehicles—down about one-third from last year's slumping market—and far below the record year of 1973 when 11.8 million were sold.

By Christmas time an estimated 150,000 auto workers will be unemployed; that's about 20 percent of the total industry work force.

That means thousands of additional workers in auto-related industries also face the same grim prospects.

While we continue to hear expressions of concern about high profits in the oil industry, not much attention has focused on the 62-percent decline so far this year in auto industry profits.

In other words, the auto industry—and all who depend upon it—are in a recession—and now face the prospect of a depression.

As a Senator from Michigan, naturally, I have a special concern for the welfare of hundreds of thousands of workers in my State whose jobs depend on the State's most important industry.

But the time is long past—if ever there was such a time—when the rising problems of this industry could be dismissed as the problems of just one State.

Detroit is known as the Motor City and Michigan as the Motor State—but, the United States is the Motor Nation of the world.

The auto industry is not confined to Michigan; it reaches into every State, into every county and every city in the Nation. When it suffers, the economy of the whole country suffers; but of greater concern: the people suffer.

Let me cite a few facts about the importance of the automobile industry to the national economy.

Nearly 13 million, or about 1 in every 6 jobs in the United States are dependent on the manufacture, distribution, service and commercial use of motor vehicles.

Motor vehicles and related industries contribute $185 billion, or 17 percent of the total gross national product.

There are motor vehicle plants and facilities in 36 States, and assembly plants in 28.

More than 800,000 businesses throughout the country depend directly on the manufacture and use of motor vehicles.

On the average, about 18 percent of all State tax revenues come from motor vehicles.

The purchase and use of motor vehicles accounts for about 13 percent of personal consumption expenditures. Only food, housing, and related expenditures are higher.

These figures clearly demonstrate one point: The success or failure of the automobile industry is not limited to the economy of Michigan, but directly affects the economy of the entire Nation.

What can be done to relieve the plight and improve the prospects of those whose jobs depend on the auto industry?

First and most obviously—actions which help to restore the health of the economy as a whole will also help to restore the health of the auto industry.

If and when inflation eases—and consumer confidence returns—the economy will rebound from the current recession; and that will bring more auto sales which will generate more auto-related jobs.

The clear responsibility of Congress is to move now—to act. And a good place to begin is with those proposals already laid before the Congress by the President.

I am not about to suggest that President Ford's 31-point program is a complete or adequate answer. It may not go far enough; it may not be tough enough; but at least it provides Congress with a blueprint.

The President's program is before us. The election is over. Congress is back in session. And the question now is: What will Congress do?

Certain proposals in the President's economic program are of immediate special importance now. I refer, for example, to his proposals for extended unemployment compensation and for new public service jobs.

Other important steps can also be taken to more directly assist and stimulate the auto industry, and I shall address myself to them in the days and weeks ahead.

But for a beginning—for the sake of thousands of auto workers—and for the sake of the Nation's economic future—I urge the Congress to move now on the President's economic program.

I have another important suggestion. It has to do with attitude—the attitude here in Congress.

My suggestion is this: Congress should get off the back of the automobile industry—give it a breathing spell.

Unfortunately, it has become fashionable for politicians to shoot darts at the auto industry; it has become a convenient whipping boy—a scapegoat—for many of the ills of the Nation.

No one would suggest that the automobile industry is without its faults. But it is important to keep in mind that the automobile has done more to increase the mobility of Americans—to widen their horizons and enlarge their range of opportunities and personal experiences—than any other invention.

Yet, time and again, the automobile is cast as the villain of new American morality play.

First, it was concern about auto safety—so Congress mandated new and expensive requirements.

Next, it was clean air—and again, Congress imposed expensive new standards.

Then, it was concern about damageability—and Congress added yet another layer of Federal regulation.

More recently, it has been FM radios. And there is no indication that Congress will let up on its relentless attack on this one industry, which is already reeling.

Government-mandated gimmicks and gadgets have pushed costs up to the point where about $700 of the price of the average new car is attributable to safety and emissions controls mandated by the Government. And, unless we move soon to impose a moratorium in this area, new standards and requirements will raise that figure to $1,200 in 1977, that is in addition to price increases attributable to inflation.

In its rush to turn the automobile into a safe, accident-proof tank—which will not pollute and will play FM music—Congress is creating a nightmare for the average autoworker, who can no longer afford to buy a car—and whose job is either in jeopardy or has already been lost.

I suggest that it is time to ask whether this one industry and its workers have been forced to carry too many burdens—whether the excessive zeal to regulate and regiment has not been carried too far.

Mr. President, I shall have more to say on this subject in the days and weeks ahead. I shall continue to call the attention of my colleagues in Congress to the plight of the workers of my State and its No. 1 industry.

Unless this serious problem soon receives the attention it deserves and demands, make no mistake about it: The problems of Michigan today will be the Nation's problems tomorrow.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. GRIFFIN. Yes.

Mr. HARRY F. BYRD, JR. Is the Congress trying to legislate so that the average American citizen will find it impossible to have an automobile?

Mr. GRIFFIN. I suggest to the Senator from Virginia that we, unfortunately, have almost reached that point. When we add in the mandated costs that the Congress and the bureaucrats seeking to fulfill the directives of Congress, have built into the cost of the car, and what inflation has added to the price of a car, we have now gotten to the point where the average worker in this country cannot afford to buy an automobile.

Mr. HARRY F. BYRD, JR. I have been rather pleased that we have a standard of living in our country where the average citizen can own an automobile. We have one automobile for every two citizens in this country. In Russia, I was interested to learn from one of the members of the Russian Trade Commission, because I put the question to him, they have one automobile to every 200 persons. I like our standard of living better.

I hope that the Congress will go easy on making unreasonable demands that have had the effect and will continue to have the effect of pricing the average American out of the automobile market.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 12:30, with statements therein limited to 5 minutes.

The Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized.

Mr. CRANSTON. Will the Senator yield for a unanimous-consent request?

Mr. HARRY F. BYRD, JR. Yes, I yield.

Mr. CRANSTON. I thank the Senator for yielding.

PRIVILEGE OF THE FLOOR

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the consideration and the vote on the rehabilitation override, the following members of the staff of the Labor and Public Welfare Committee, representing the interests of various Senators in this matter, be given the privilege of the floor:

Jonathan Steinberg, Traer Sunley, Lisa Walker, Nik Edis, Judy Heumann, Bob Humphreys, Pat Forsythe, Jack Andrews; additionally: Murray Flandor.

I ask unanimous consent that during the consideration of the freedom of information matter, the following two members of my staff may be on the floor: Murray Flandor and Jo Fleming.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that J. *Philip Reberger* of my staff be granted the privilege of the floor during consideration of the Freedom of Information Act.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE TRADE BILL

Mr. HARRY F. BYRD, JR. Mr. President, the wisdom of the Committee on Finance in holding the trade bill until Secretary of State Kissinger can testify before the committee was dramatized by two news reports in national publications yesterday.

The first one was an Associated Press article on the trade bill, and the last two paragraphs of that article, distributed throughout the Nation, said this:

> Senator Jackson has said that under the Kissinger-Jackson agreement the U.S. pressures on Russia will result in the emmigration of at least 60,000 Soviet Jews a year.
>
> But the White House later insisted there is no assurance in the agreement that 60,000 Jews will be allowed to leave the Soviet Union.

Mr. President, that dramatizes the need to have the Secretary of State come before the committee and explain the agreement. Is Senator JACKSON'S interpretation the correct one, or is the White House accurate? Who is right?

Does Secretary Kissinger have a commitment from the Soviet Union that 60,000 Jews will be permitted to leave Russia annually, or is the agreement so nebulous as to be meaningless?

The news item to which I just refered is just one item that dramatizes the need to clear up points in that part of the trade bill.

Mr. President, the position of the Senator from Virginia is this: The Secretary of State wants to give Russia most-favored-nation treatment in regard to tariffs. He wants to make available to Russia vast sums of American tax dollars. I want to find out from Mr. Kissinger what the American taxpayer gets in return.

The second item that attracted my attention yesterday was a report in the New York Times of a panel on East-West trade held in New York on November 19—the day before yesterday—at the 61st National Foreign Trade Convention.

The report in the New York Times quotes Georges R. Potter, vice president of the Singer Co., as saying that—

> It is estimated that cumulative Soviet imports from the U.S. during the period 1974–1980 will amount to $9-billion, whereas total Soviet exports to the U.S. are likely to reach no more than $5-billion over the period.

The report continues that Mr. Potter noted that U.S. banking authorities has estimated that the U.S.S.R. would seek long-term U.S. financing for two-thirds or for about $6 billion of these projected imports.

What does that mean? Does that mean that Russia is going to buy our products with our money? That point ought to be cleared up.

Then, if most-favored-nation treatment is given, Mr. Potter says:

> Even after likely Eximbank support is included, it appears that a sizeable financing shortfall of as much as $1-to-$2-billion will result in the trade with U.S.S.R. alone.

There is another point, as I see it, that needs to be clarified. Does this report that Mr. Potter refers to indicate that the Export-Import Bank will make available to Russia $2 billion or $4 billion? If so, that means there will be a continued and increased upward pressure on interest rates, because the bank has to go out and borrow the money in order to make those loans to the Soviet Union.

Yes, the Finance Committee was wise to require the appearance of Secretary Kissinger. This question of most-favored-nation treatment for Russia needs clarification.

The PRESIDENT pro tempore. The Senator's time has expired.

MESSAGE FROM THE HOUSE

At 4:30 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 386) to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 342) to authorize the District of Columbia to enter into the Interstate Agreement on Qualification of Educational Personnel, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MAHON, Mr. WHITTEN, Mr. EVINS of Tennessee, Mr. BOLAND, Mr. FLOOD, Mr. STEED, Mr. SLACK, Mrs. HANSEN of Washington, Mr. MCFALL, Mr. CASEY of Texas, Mr. CEDERBERG, Mr. MICHEL, Mr. ROBISON of New York, Mr. SHRIVER, Mr. MCDADE, and Mr. TALCOTT were appointed managers of the conference on the part of the House.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 2743. A bill to establish a program of loan guarantees to enable independent refiners of crude oil to construct or acquire new or expanded refining facilities in the United States (Rept. No. 93–1293).

By Mr. HRUSKA, from the Committee on the Judiciary, with amendments:

S.J. Res. 224. A joint resolution to authorize and request the President to issue annually a proclamation designating January of each year as "March of Dimes Birth Defects Prevention Month" (Rep. No. 93–1294).

By Mr. NELSON, from the Committee on Labor and Public Welfare, with an amendment:

S. 3202. A bill to amend the Farm Labor Contractor Registration Act of 1963 to provide for the extension of coverage and to further effectuate the enforcement of such Act (Rept. No. 93–1295).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BROCK:

S. 4179. A bill to amend section 2 of the Tennessee Valley Authority Act of 1933 so as to require all meetings of the Board of Directors of the Tennessee Valley Authority to be open to the public. Referred to the Committee on Public Works.

By Mr. INOUYE:

S. 4180. A bill for the relief of Mr. and Mrs. Venkateswara Rao Yellapragada. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROCK:

S. 4179. A bill to amend section 2 of the Tennessee Valley Authority Act of 1933 so as to require all meetings of the Board of Directors of the Tennessee Valley Authority to be open to the public. Referred to the Committee on Public Works.

Mr. BROCK. Mr. President, today, I am introducing legislation which would require the Board of Directors of the Tennessee Valley Authority to open their meetings to the public.

Because I believe that the public's business should be transacted in public, I earlier sponsored the successful Senate resolution which opened up Senate committee meetings and markup sessions to the public.

The Tennessee Valley Authority has come under strong criticism from many quarters recently. In a report prepared at my request, the General Accounting Office found that it has failed to consult adequately with State and local officials in preparing contingency plans for possible mandatory power curtailments. The Authority is being criticized for its activities with regard to nuclear power, proposed acquisition of giant coal companies, and rapidly increasing power charges. Like all other utilities, today, it is facing stiff opposition from consumers over rate increases.

Not all of the criticism of TVA is justified. Over the course of the last 41 years, the Authority has done enormous good for the State of Tennessee and the people of the Tennessee Valley.

I believe that open board meetings will actually help dispel some of the criticism now being leveled at the TVA. Much of the present discontent appears to be a result of misunderstanding on the part of many of TVA's actions and policies. By opening up its doors to the public, TVA will improve communication between it and the people of the valley.

Mr. President, on the very day that I was releasing the GAO report critical of TVA, the Board of Directors was refusing to admit a reporter from a Tennessee paper to its meeting. This action only increases resentment and hostility at a time in which TVA must do all it can to build public confidence in its policies.

Perhaps, had TVA held open Board meetings in the past, the magnitude of the present energy shortage would have been brought home more forcefully to the people of the Tennessee Valley.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the Record at this point, together with an editorial from the Nashville Tennessean and an article from the Knoxville Journal.

There being no objection, the bill and editorial were ordered to be printed in the Record, as follows:

S. 4179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831a) is amended by adding at the end thereof the following new subsection:

"(i) As soon as practicable following the date of the enactment of this subsection, but in no event later than thirty days thereafter, the Board shall take such action, including the amendment of bylaws, adoption of rules, regulations, or procedures, as may be necessary, consistent with the national security, to assure that all meetings of the board involving the transaction of the business of the board shall be open to the public and that the public shall be notified with respect to each such meeting not less than twenty-four hours prior thereto.".

[From The Tennessean, Nov. 20, 1974]

TVA's Secret Meetings Should Be Ended Now

The Tennessee Valley Authority has been receiving some of the strongest criticism of its 41-year existence lately, and the attacks have been coming not so much from TVA's traditional detractors as from those it was set up to serve, its customers, the residents of the Tennessee Valley.

There is much unhappiness because the electric power supply is limited and rates are going up and TVA is criticized not only for raising the rates but also for the way in which they are raised. The agency is condemned for paying too much for coal in some cases, and in other cases for not paying enough to small independent mines to permit them to pay their employes a decent wage and, in the case of strip mines, to restore the land to its previous condition.

Right now, the TVA is being bitterly attacked for going ahead with its plans to construct a nuclear power plant at Hartsville while the safety of such plants is still in controversy. The agency is accused of being indifferent to the safety of those living in the vicinity of the plant and those downstream from the plant on the Cumberland River.

In connection with the same project, TVA is being criticized for failing to give enough financial assistance to the surrounding counties which will have their public service institutions severely tested by the influx of thousands of construction workers on the nuclear plant.

More and more TVA is being painted by those it serves as an unfeeling and a self-serving government bureaucracy, rather than the benevolent, responsive agency of the people it was set up to be, and which it has been for so many years.

Some of the criticism is justified and some of it is not. Much of that which is not justified seems to arise from misunderstandings of TVA's actions and a lack of information about TVA's purposes and policies. Of all the criticisms that may be directed at TVA, it seems that the most valid and the most damaging is that TVA's three-man board of directors insists on operating in secret and refuses to take the public into its confidence by holding its meetings in public.

Only last week, the General Accounting Office, a federal agency whose duty it is to keep an eye on other federal agencies, reported that TVA had not cooperated fully with state and local officials in preparing contingency plans for mandatory power curtailments.

On the day that this information was being disclosed by another government agency and not by TVA itself, the TVA board refused to admit a reporter for this newspaper to its meeting in Knoxville. Board Chairman Aubrey Wagner told the reporter that the board must keep the best interests of TVA consumers in mind and that for now that means closed door meetings.

This attitude helps account for the mood of suspicion and distrust which is spreading in the valley between TVA and those it serves. The people are deeply worried about the supply and cost of electric power, the possible threat of nuclear plants and other gloomy prospects, and they are voicing their concerns in rising volume.

The TVA board has reacted to this in predictable fashion. It has withdrawn deeper into its shell of secrecy and raised its defenses against the flow of adverse public comment. This is a typical bureaucratic method of attempting to avoid criticism, but it will not silence the voices of concern or contribute to public confidence in TVA.

The TVA board ought to open its meetings to the press and the public and do more than it has done to see that the people are informed about the agency's policies and activities.

When the people know the facts and are able to see the reasoning behind the formulation of policy or a course of action, they are more apt to be understanding of undesirable necessities and to accept inconvenience and adversity with composure.

It is natural for public officials to try to avoid criticism of themselves by keeping secret the facts which might bring criticism upon them. But in the existing climate of suspicion and anxiety over the future, it is foolhardy for the TVA board to keep up the pretense that TVA's consumers—or anyone else—are served by keeping them in the dark about any aspect of the agency's operations.

[From the Knoxville Journal, Aug. 25, 1974]

TVA Head for Open Meeting

(By Doug Morris)

TVA Director William L. Jenkins advocated opening to the press and public regular board meetings of The Tennessee Valley Authority, a colossal organization with 25,000 employees and an annual budget nearing $1 billion.

Jenkins, in an interview with The Knoxville Journal, also touched upon several other subjects, saying to eliminate strip mining would hemper TVA in coal acquisition, that it is untimely presently to start power generating projects that go beyond doubling the system, said Tellico will be a boom to economy, and said he hopes the agency will deemphasize the use of eminent domain.

TVA is contemplating erasing a 49-year policy of holding closed board meetings and, in that light, Jenkins said, "I am of the opinion that we have reached the point where our regular board meetings should be open to the press and to the public. This creates some problems for an agency such as this. An example would be thrashing out a delicate personnel matter in public view. There are other examples that could be put forth.

"I feel that the press and the public would understand if these matters were handled at informal executive meetings without press or public coverage.

"But the great majority of transactions that are decided involve the expenditure of taxpayers' and ratepayers' money and I feel that it is beneficial to this agency as well as the public in general that there be full knowledge concerning the decisions that are made. I feel that on occasions where board decisions are made on less than a unanimous vote, it is beneficial to this agency and to the public to have full knowledge of reasoning behind an individual board members' vote," Jenkins explained.

Faced with sky-rocketing coal prices, Jenkins explained that approximately 50 percent of the coal purchased by TVA comes from strip mines, and to eliminate this source of supply "would in my opinion place an unreasonable restriction on our capability to purchase an adequate coal supply."

He explained that as a member of the state legislature he voted for the first law ever enacted in Tennessee to require the reclamation of strip-mined lands. And, he explained, as Commissioner of Conservation, "I helped formulate for the Governor the Surface Mine Act of 1972 which greatly strengthened reclamation requirements."

Jenkins added that "we live so close together on this earth that it behooves all of us to want to reclaim land that is disturbed by surface mining. I believe in most instances effective reclamation can be accomplished. That land can be returned to a state in which it can serve as useful or a more useful purpose than it could prior to disturbance. In a nation where we have technology to send men to the moon and return them safely, I think we should feel a little embarrassment to say that we cannot remove dirt from a mineral, extract the mineral, and return the dirt to its original placement properly seeded and reforested."

TVA in 1969 paid an average price per ton of coal of $4.34. The most recent contract called for a ton of coal to cost $20.21 and Jenkins said, "there are serious questions about whether or not coal will be available even at that price. We have concerns that our coal supply may become inadequate in the winter months ahead."

Turning to the power program of the Tennessee Valley Authority, an area of especially keen interest of the Federal agency, Jenkins, a native of Hawkins County, expressed concern over the rise of inflation, and the costs of the program in general and the nuclear projects in particular. TVA has authorized or has under construction five nuclear plants scheduled for completion by the early 1980's, thus doubling the generating capacity of TVA, but cost overruns, the inflationary spiral, plus other factors are causing the costs of these plants to far exceed their original estimates.

"This agency has been assigned a $5 billion debt limitation by Congress. It was originally thought that these five plants and the corresponding doubling of the system could be accomplished within this ceiling. Unless circumstances change drastically, this is not likely to occur," Jenkins said.

He said he is extremely interested in the management decisions relative to this program because of the tremendous cost of the money TVA must borrow to accomplish it.

Jenkins continued, "In 1959 when the self-financing act was passed by Congress, the TVA system was essentially free of interest payments. When we reach our debt ceiling of $5 billion, we will have an annual interest payment that exceeds $589 million. We must have growth on the system in order to have the industrial, commercial and residential expansion that we need for the future. But I consider it untimely to start power generating projects at the present time that go beyond the doubling of the system. I recently voted against the awarding of four additional units beyond those that we have already authorized."

He said that "this tremendous interest cost coupled with an ever increasing cost of fuel for our plants is in my opinion the greatest management challenge in the future."

In 1958 the TVA power program was separated by Congress from the rest of the TVA programs and made self-sufficient, operating revenues from power and not from money appropriated from the U.S. Treasury.

Jenkins said that private utilities have from time to time been given breaks and credits for investments in such things as pollution equipment and it has been proposed in the past that TVA be given similar credits from payments to the Treasury made by TVA on an annual basis for investment in pollution control devices.

"I believe it is fair and equitable for us to be excused from certain payments for these purposes. It is on a par with the breaks given to private utilities in principle and in practice and it does provide some measure of relief to our taxpayers," he explained.

Concerning the Tellico project, Jenkins said. "Since $43 million has already been spent on the project, the only logical and reasonable conclusion that I can reach in my mind is to press forward to prevent inflation from taking an even greater bite. If I had been a member of the original board that authorized this project, I think I would have had some questions about at least certain portions of the project. But these questions are moot now and I believe upon completion this project will be an economic boon to this area. I think we should hasten the completion of the project and all the conflicting viewpoints reconciled."

Jenkins said that "I envision that water control projects will not bear the emphasis in the future that they have in the past. I am hopeful that future directions for this agency will deemphasize the exercise of the use of eminent domain and will employ greater scrutiny in every instance in which it must be exercised. This I think is necessary to maintain good relationship with the citizenry of this Valley who continue to enjoy an ever increasing price and desirability of their real estate."

Jenkins said "I guess during his life, TVA has bought up toward a million acres of land. But it's also been a boon to Federal, state and local governments with TVA turning over 300,000 acres to them."

Jenkins said he has interests in other phases of TVA such as conservation, recreation, aid to local governments and projects leading to betterment of health, welfare and morale of the communities.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

3. 3418

At the request of Mr. Percy, the Senator from New York (Mr. Javits) was added as a cosponsor of S. 3418, the Federal Privacy Board Act.

S. 4070

At the request of Mr. Stevens, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 4070, a bill to revise benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service not entitled to Indian preference, provide greater opportunity for advancement and employment of Indians, and for other purposes.

S. 4139

At the request of Mr. Cranston, the Senator from Minnesota (Mr. Mondale), the Senator from Michigan (Mr. Hart), and the Senator from Idaho (Mr. Church) were added as cosponsors of S. 4139, a bill to extend the basic eligibility for GI Bill educational assistance under chapter 34, of title 38, United States Code, from 36 to 45 months.

S. 4159

At the request of Mr. Talmadge, the Senator from Texas (Mr. Tower) was added as a cosponsor of S. 4159, a bill to provide that the sex discrimination guidelines prescribed under title XI of the Education Amendments of 1972 do not apply to fraternities and sororities.

S. 4172

At the request of Mr. Hugh Scott, the Senator from Idaho (Mr. Dominick) and the Senator from Kansas (Mr. Dole) were added as cosponsors of S. 4172, the freedom of information bill.

SENATE CONCURRENT RESOLUTION 121—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO ESTABLISHMENT OF THE NAVAL AND MARITIME MUSEUM, CHARLESTON, S.C.

(Referred to the Committee on Armed Services.)

Mr. THURMOND. Mr. President, in the summer of 1972, the General Assembly of the State of South Carolina established a committee to determine if a naval museum should be established in South Carolina. This committee made a report to the Governor and general assembly in January 1973, recommending that a museum be established in Charleston, on approximately 500 acres of land, bordering on Charleston Harbor, to be known as Patriot's Point.

This committee also recommended that a State authority be established to build the museum and to develop the remainder of Patriots Point. The general assembly passed a bill creating the Patriot's Point Development Authority, and it was signed by Gov. John West in April 1973.

In April 1974, the authority applied to the Department of the Navy for donation of the aircraft carrier U.S.S. *Yorktown*. This application was approved by the Navy and the Congress in July 1974.

On October 12, 1974, the donation contract for the *Yorktown* was signed by the attorney general of the State of South Carolina, Dan McLeod, and the chairman of the Patriot's Point Development Authority, Charles F. Hyatt. It is planned to tow the *Yorktown* from Bayonne N.J., to Charleston, and moor her at Patriot's Point, about April 1, 1975. The *Yorktown* will be dedicated and open to visitors on October 13, 1975, the 200th birthday of the U.S. Navy.

Mr. President, the *Yorktown* will be the first of a series of decommissioned ships comprising the Naval and Maritime Museum. The flight deck will be utilized for the display of Navy vintage planes, and equipment used in those planes. On the hangar deck will be models of Navy and maritime vessels, dating back to the Revolutionary War days. There will also be models of every type aircraft used by our Navy, and displays showing the development of naval weapons from early muskets to the Polaris missile.

Compartments in the superstructure and below decks will be opened for visitors, showing how the crews lived and worked aboard ship. There will be a library with a collection of private documents, papers, and artifacts and other written materials relating to the history of the Navy and the Merchant Marine. There will also be a theater for showing movies of past actions and historical events in which the Navy was involved.

The State of South Carolina is to be commended for initiating a project that will be of major State and National significance. With our Nation's Bicentennial about 1 year away, now would be a good time for Americans everywhere to revive some of that good old-fashioned patriotism. What the State of South Carolina is planning to do at Patriot's Point will help to do just this, by encouraging respect for our flag and national anthem, and by developing pride in our heritage and gratitude for our blessings.

Mr. President, on behalf of the State of South Carolina and the Patriot's Point Development Authority, it is a pleasure for Senator Hollings and me to introduce a concurrent resolution to support the establishment of the Naval and Maritime Museum in Charleston, S.C.

Mr. President, I ask unanimous consent that the resolution be printed in the Congressional Record at the conclusion of my remarks, and I urge immediate consideration and unanimous approval.

There being no objection, the concurrent resolution was ordered to be printed in the Record, as follows:

S. Con. Res. 121

Whereas the State of South Carolina has an old and historic naval and maritime heritage; and

Whereas the State of South Carolina has created the Patriots Point Development Authority for the purpose of establishing a Naval and Maritime Museum in the city of Charleston, South Carolina; and

Whereas the Patriots Point Development Authority has been advised by the Department of the Navy that the Navy will donate the aircraft carrier U.S.S. Yorktown to the Authority for use in the Naval and Maritime Museum; and

Whereas the establishment of this special museum is a timely project in view of the increasing importance of the seas to the economy and security of the United States; and

Whereas this museum will stimulate and further the knowledge of naval and maritime history, customs, and tradition, and increase the appreciation of the importance of naval air and sea power to the security and economy of the United States; and

Whereas this museum will serve to generate or increase the patriotism in the youth of this Nation, and stimulate in some of them the desire for a career in public service, and particularly the naval and maritime service; and

Whereas the Naval and Maritime Museum can make a significant contribution towards the efforts to achieve an all volunteer military service, through the promotion of pride and interest in the naval and maritime heritage of this Country; and

Whereas this museum, in addition to preserving our naval and maritime heritage, will make a major contribution to the Nation's Bicentennial Anniversary in 1976: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby expresses its approval and encouragement with respect to the establishment, by the State of South Carolina, of the Naval and Maritime Museum in the city of Charleston, South Carolina, and recognizes the historical importance of such museum and the patriotic purpose it is intended to serve.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 1975

Mr. CHILES. Mr. President, in introducing my amendment to the supplemental appropriations bill, providing for an emergency energy program for the elderly under title III of the Older Americans Act, I neglected to indicate the Senators who joined with me in cosponsoring this amendment. I wish to correct that oversight at this time. Also sponsoring the amendment were Senators WILLIAMS, HART, PERCY, KENNEDY, HUMPHREY, DOMENICI, CLARK, and ABOUREZK.

NOTICE OF HEARING

Mr. JACKSON. Mr. President, I wish to announce for the information of my colleagues and the interested public that the Subcommittee on Indian Affairs will conduct an informational hearing on the Bureau of Indian Affairs rules and regulations to the Johnson-O'Malley Act of 1934, promulgated August 16, 1974, and published in the Federal Register, August 21, 1974 (vol. 39, No. 163). The hearing will commence at 10 a.m. on Wednesday, December 11, in room 3110, Dirksen Senate Office Building, and is open to the public.

ADDITIONAL STATEMENTS

REMARKS OF SENATOR MIKE MANSFIELD BEFORE THE SENATE DEMOCRATIC CONFERENCE TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that some observations I made before the Senate Democratic conference this morning which are essentially the same as those I made before the Senate Democratic policy committee last Tuesday be printed in the RECORD at this point together with a resolution adopted unanimously by the conference.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMARKS OF SENATOR MIKE MANSFIELD, DEMOCRAT OF MONTANA, BEFORE THE SENATE DEMOCRATIC CONFERENCE, THURSDAY, NOVEMBER 21, 1974, ROOM S207, U.S. CAPITOL, 10 A.M.

Gentlemen, by way of introduction, I should like to repeat here some observations made before the Policy Committee which met on Tuesday last. First, the elections are behind us and the citizens have expressed their will. In many respects, it has been an overwhelming victory for the Democrats. Commencing in 1975, Democrats will hold a two-thirds majority in the House and more than three-fifths of the seats in the Senate. Democrats will govern 36 States, including eight of the ten largest where three-fourths of the population of this Nation resides. The story is the same regarding State legislatures.

Of equal significance about this election, however, is the fact that less than 40 percent of the electorate is reported to have voted at all. Any assessment of the election, therefore, must begin with recognition of the need to re-enlist the interest of millions of eligible voters who simply turned their backs on the political process.

It is fashionable to talk, now, of a Democratic domination of the Federal political structure. It is also superficial. We had our divisions before the elections as do the Republicans. We will have them afterwards. As in the past, we will strive, in this Conference and in the Policy Committee, to narrow the differences and to find the points of agreement. With a net increase of three Democrats in the Senate, I foresee some change regarding issues; not substantial, however, and, perhaps, less than in the House with its addition of 43 Democrats. None of this, in any event, will be reflected before January.

As for now, we have reconvened to finish the work of the 93d Congress, in the context of that Congress. The principal task for the next few weeks will be to wind up affairs and set the stage for the work of the 94th Congress.

What remains to be done? To begin with, there are the appropriations bills: foreign aid, military construction, and agriculture, the supplemental and Labor-HEW Conferences. We must dispose of each of these measures before adjournment. In addition, there is the nomination of Nelson Rockefeller to be Vice President. This should be voted up or down in as timely a fashion as possible. There is the trade legislation which has been pending for some time. I have been informed that the Finance Committee will report that measure by Thanksgiving—as a matter of fact, it has already done so—and it will be ready to be taken up after December 3 when Secretary Kissinger appears before the Finance Committee. In addition, there are a number of important conference reports dealing with such diverse matters as strip mining, the Export-Import Bank, toxic substances, consumer warranties and so forth. All of these should be acted on. Veto override votes are set for this afternoon. Likely to fall in the veto category later on will be the Veterans Assistance measure, and there will be a few additional legislative items to dispose of, including the emergency energy proposal which has been held on the calendar for some time.

The President has assigned priority to a number of items which he believes the 93rd Congress should complete prior to its adjournment. We will do our best to accommodate the President's request, but following the completion of the items which I have mentioned, I believe the essential and urgent work of the 93rd Congress will have finished and the way paved for the beginning of the 94th.

In the past 100 days of the Ford administration, unemployment has increased in America to 5.5 million or 6 percent of the total work force. It is now above that figure and is expected to jump 7 percent or more as the new Congress convenes in January. Automobile sales are down 38 percent from a year ago, but the cost of cars has increased by $386 on the average. Chrysler will shut down five more plants beginning Thanksgiving eve, cutting jobs of an additional 44,000 workers employed by that company alone. Assembly lines layoffs are beginning to snowball. The cost of living keeps going up. On election eve last month, wholesale prices increased at an annual rate of nearly 28 percent, wholesale prices for food by over 50 percent; the gross national product dropped 2.9 percent in the third quarter of this year, and Mr. Eckstein at Harvard, a reputable economist, predicts a GNP drop of 7 percent for the fourth. These statistics and more keep telling the economic story, a story lived daily by the great majority of the American people. So if we are to read into the election just passed any mandate at all, it could well be found in the 60 percent or more of the citizens who failed to vote—a recognition on their part that all efforts up to now control inflation or curtail job layoffs have failed.

What that 60 percent or more just might be telling us—here in Congress and in the Administration—is that rhetoric without action is not sufficient. No longer does a majority of Americans believe that calling for fuel conservation but proposing no means of achieving it is facing the problem.

How can a majority of Americans believe that a proposal for a surtax imposed on those hit hardest by inflation confronts the economic imperatives of the people?

Nor does a majority any longer believe that the program of voluntary restraint—in effect since President Nixon's Phase II was abandoned—is adequate to meet the economic crisis of the Nation.

What I believe is needed to break this impasse is a new spirit of cooperation; cooperation within—and I stress the "within"—and between parties, between branches and between Houses of Congress. What I fear is that without such cooperation we will find ourselves locked in an economic disaster every bit as serious as that produced in the decade commencing in 1929.

For us as Democrats, and as the Congressional Majority, it seems to me that our task for the remainder of the year will be to begin to shape a program of action that will enlist the support of sufficient numbers in the Congress without acquiring the all-out opposition of the Executive Branch. I would remind you that this Congress alone can do little. Congress, together with the President, can do much. The assistance of our Republican colleagues in the Congress in this process will also be more than welcome.

The Policy Committee suggests that the nucleus for an effective program lies within the principles of action approved by the Democratic Conference just prior to the adjournment for the election recess. To that end, a resolution was adopted by the Policy Committee for submission to the Conference which will be presented at the conclusion of these remarks. While each of us on the Committee did not agree on the dotting of every "i" and the crossing of every "t", we did feel, unanimously, that a program generally along the lines of our discussion was attuned to the possibilities of legislative action in the current situation.

You will recall that prior to adjournment, this Conference called for establishing, as needed, mandatory wage, price, rent and profit controls. I might add that this in no way was a political gesture.

Yesterday, on my own initiative as a Senator from Montana and not as Majority Leader, and not speaking for the Democrats, I introduced legislation that, in addition to granting the needed authority for controls, requires the Administration to provide Congress in 60 days with a draft framework for their implementation. Only in this way can Congress and all concerned be assured of equity and fairness in across-the-board application. I realize that perhaps even now a majority of the Congress may be against controls, but I point out that in an article written by Mr. Ernest B. Ferguson, an *independent* commentator, he states that on election day, NBC took one of the most extensive opinion surveys ever conducted. It asked some 8,000 voters as they left their balloting places how they felt about key issues. On wage-price controls, the verdict was 52 percent for, 31 against, and 17 no opinion.

Furthermore, later, the CBS took a poll on the subject. It asked Congressmen and candidates, rather than voters. Members of the outgoing Congress came down against giving the President power to impose controls by 57 to 43 percent. That is this Congress.

The incoming Members are for such power, but just barely, 51 to 49 percent.

I realize also that organized labor, big business, and the administration are against controls. But as I have said many times, it is time for us to face the facts of life, to bite a real bullet, and to endeavor to do something about it, because the people are expecting results from the Congress.

The Democratic Conference agreed before adjournment also to attempt to revive the Reconstruction Finance Corporation to deal with the credit needs of ailing businesses. As the economy worsens, such a need has become increasingly apparent. We cannot, in Congress, consider requests from businesses for financial aid on a case-by-case basis. We have neither the time nor the specialized analyses which are necessary to separate the wheat from the chaff and the need from the nonsense in such requests.

The Conference also agreed that credit should be allocated on a priority basis in the light of the Nation's most critical needs; unless the Federal Reserve acts to ease credit in those areas most highly strained, Congress may well have to act.

On the energy question, the Democratic Conference urged before the adjournment the beginning of allocations and, if need be, rationing, to meet our needs for energy and other scarce materials so that dependency on foreign sources might be reduced. An import reduction of petroleum equal to one *million* barrels per day has been suggested by the President. There must be a program to include measures to enforce the speed limit and to bring about a reduction of wastage in the utility and other industrial fields.

Another principle agreed upon was to move without delay to establish a Commission on Supplies and Shortages, legislation for which passed the Congress; Senate and House members have already been appointed. The administration has yet to act on its appointments. Once established, this body could form the nucleus of a common Administration-Congressional technological approach to economic needs.

Another point advanced by the Democratic Conference was a pledge to curb excessive profits and control the flow of investments abroad through the taxing power while conversely, cutting taxes on Americans hardest hit by inflation, those in low and moderate income categories and those on modest fixed incomes. We also agreed that a jobs program was in order. Mushrooming lay-offs have now made this a pressing priority.

What these and other proposals of the Senate Democratic party suggest is that the economy runs badly, as we have learned, without foresight and without direction and that orderly progress toward a more stable management of the economy to check both inflation and recession is far better than the endless instability that comes from trying to follow a hands-off policy with stop and start crash remedies—a policy that has already induced a recession on top of spiraling inflation.

One final note. As we endeavor to shape these proposals and set out the agenda for the 94th Congress, I am not unaware that many of the ideas mentioned have generated passionate responses from a variety of quarters. I hope, however, that judgment will be reserved during this formative period until the specifics are in. I would like to see all who are affected—labor and management, consumer and producer—make their respective contributions to the end that any program or policy is representative, is both fair and equitable, and that sacrifices are borne equally. The alternatives are catastrophic. They are written very large and they are written for all of us.

Between now and the adjournment sine die, therefore, the leadership intends to continue to meet with the House Majority Leadership regularly in an effort to harmonize the approaches of the two bodies and, also, to convene the Policy Committee and the Conference from time to time to report on the progress of efforts to shape a legislative agenda of economic action. The final form of that agenda is, largely, the task of the 93rd Congress; addressing it will be a major task of the 94th.

As a first step, the Policy Committee has met and provided an initial set of recommendations along the lines I have discussed. Your approval of this step should serve to assist those legislative Committees having jurisdiction in processing and shaping the legislative base of an integrated anti-inflation, counter-recession program for consideration by the full Senate.

Before the Secretary reads the resolution, I would only add that we might expect to remain in session through the week before Christmas and that as previously announced, the Thanksgiving recess will cover only two days.

The Secretary will now read the resolution.

Senate Majority Policy Committee Resolution On Economic Action: The First 6 Points

Resolved: That Congress consider a legislative agenda to develop remedies to counter recession and alleviate inflation including a nucleus of the following actions:

(1) Creating a job program and expanding unemployment benefits to mitigate the hardships of unemployment;

(2) Reviving the Reconstruction Finance Corporation to deal with the credit needs of ailing businesses during times of economic crisis;

(3) Establishing credit procedures so as to allocate credit on a priority basis in the light of the Nation's critical needs;

(4) Implementing mandatory allocations and, if need be, the equitable rationing of energy, enforcing other conservation measures, including a basic 55 miles per hour speed law and reducing wastage in the utility and other industrial fields to the end that dependency on foreign sources of petroleum can be reduced by *one million barrels per day* as the President has suggested;

(5) Formulating a system under which, when needed as a last resort, effective controls can be imposed to encompass prices, wages, rents and profits, and high interest rates, assuring that such a system is developed and enforced fairly and equitably and without discrimination in terms of the overall needs of the Nation;

(6) Curbing excessive profits and restraining the indiscriminate flow of capital abroad, through the taxing power while conversely, cutting taxes on Americans hardest hit by inflation, those in low and moderate income categories and those on modest fixed incomes.

Additional Point Adopted by the Senate Majority Conference on the Resolution on Economic Action

(7) And, generally, by adopting a budgetary policy that minimizes deficit financing by reducing inflationary federal spending while maintaining a federal commitment to increase productivity and human welfare.

Memorandum

Senator Stennis proposed at the Democratic Conference on Thursday, November 21, that the Senate Democratic Leadership contact the Senate Republican Leadership, proposing that the Joint Congressional Leadership meet with the President from time to time to discuss the economic situation and ways and means by which we could, cooperatively, seek for common solutions.

If the Republican Leadership were in accord, it was further suggested that the House Joint Leadership also be asked to join in this endeavor.

The resolutions were adopted unanimously.

IMPROVEMENTS TO THE INTERNAL COMBUSTION ENGINE

Mr. AIKEN. Mr. President, at a time when we are embarked on a national effort to conserve all energy supplies, I would like to call to the Senate's attention some very important research on ways to improve one of the major fuel users—the internal combustion engine.

Two Vermont brothers—Edward P. and Robert C. LaForce of Richmond, Vt.—have invented modifications for the internal combustion engine that have already shown some promising results.

On Monday of this week the LaForce brothers conducted tests of their engine for the Federal Energy Administration and I understand that other agencies of the Federal Government have also indicated interest in testing this invention.

I cannot predict whether this new Vermont invention will prove out as hoped, but I am very proud that Vermont inventive genius is once again leading the way to improve mankind.

I understand the LaForce brothers have developed their combustible engine modifications for improved fuel efficiency through private capital and already have 30 people at work in their manufacturing facility in Richmond, Vt.

We are all hopeful that we can meet the national goal of developing an automobile engine that will conserve fuel supplies—and it would not surprise me one bit if Vermonters lead the way.

For a more complete report on the tests conducted on this engine, I ask unanimous consent to have printed in the Record an article that appeared in the Washington Star-News on November 19.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star-News, Nov. 19, 1974]

They've Built a "Better" Engine

(By Robert Pear)

Two Vermont brothers say they have invented modifications of the standard internal-combustion engine that can improve fuel economy of automobiles by an average of 50 percent with no loss in power.

Edward P. and Robert C. LaForce of Richmond, Vt., ran a road test for reporters and federal officials yesterday on a 10-mile stretch of Interstate Route 70-S near Rockville.

At 30 m.p.h., an American Motors Hornet with a LaForce engine got 30.2 miles per gallon while a standard Hornet measured 19.2 miles a gallon.

The brothers said their engine was so clean that it would satisfy the strict federal emission standards for 1980 without using a catalytic converter. "This engine happens to be its own antipollution device," said Edward LaForce, the 59-year-old principal inventor.

The engine won praise from Donald P. Armstrong, acting director of the vehicle efficiency program of the federal energy administration, who visited the LaForce brothers in Vermont earlier this month. He said he was skeptical at first, but concluded, "It's the most promising approach to fuel economy I've seen."

The device seems to make possible at once the 40 percent improvement in fuel economy that President Ford set as a goal for 1980 model year cars, Armstrong said. He urged the inventors to have the car run through the 50,000-mile test required for government certification.

The LaForces were portrayed as paragons of Yankee ingenuity, toiling single-mindedly on their project for 30 years and having virtually no contact with engineers in Detroit. They operate a research and development company known as Ventur-E Inc., said to have been sustained by about 5,000 small investors. Sherwood Webster, spokesman for the company, estimated total investment at $5 million.

Edward LaForce, president of the firm, said his engine "maintained power despite using less fuel." The mileage improvement varies at different speeds, but averaged 50 percent over all in tests in Vermont, the brothers said.

The improved efficiency of the engine results from increasing the "expansion ratio" in the combustion cylinder and introducing a gasification process in the fuel-intake system, the LaForces said.

They have applied for patents on the engine and said they would make the technology available to any interested manufacturer. The modification could be incorporated in new auto engines and even added to old engines without great difficulty, they said.

A principle underlying the LaForce engine is that "pollution is a result of not having an efficient engine."

Preliminary tests indicate that the engine emits very low amounts of hydrocarbons and carbon monoxide, according to the brothers. Because it operates at a lower temperature than a conventional engine, it is expected to produce low amounts of nitrous oxide.

The LaForces said they could cut the cost of auto engines because additional pollution-control equipment would not be needed.

On a road test yesterday at 40 m.p.h., the standard car got 20 miles per gallon, compared with 28.8 for the LaForce engine—an improvement of 44 percent.

The average mileage of all 1974 cars is about 14 miles per gallon, according to federal energy officials.

Why, the LaForces were asked, had no one else thought of their improvements? When gasoline was plentiful and cheap, they said, there was little stress on fuel economy in Detroit.

In addition, in the course of their work, the brothers discovered that a key word had been translated incorrectly from the work of a 19th century French physicist who laid down basic laws of engine efficiency.

"What it took to produce these results is so simple that I'm almost ashamed to show it." Edward LaForce said. Several features help the engine achieve "more complete" combustion.

The fuel is "gasified" so it is more volatile, or eager to explode. A key part is a funnel-shaped device to separate the heavy and light parts of the gasoline, as a cream separator pulls out butterfat and whey from milk. The LaForces said they found that if a quart of heavy components was removed from a gallon of gasoline, the engine would get much better mileage from the remaining three quarts, with less air pollution.

In their engine, the light, volatile ingredients are delivered immediately to the combustion cylinders for explosion. The heavy components, which burn less readily, are circulated and heated until they are in a true gaseous state.

THE CLEAR AND PRESENT DANGER

Mr. SYMINGTON. Mr. President, I ask unanimous consent that a most interesting address given by Senator J. W. Fulbright, chairman of the Committee on Foreign Relations, at Westminster College on November 2, 1974, entitled "The Clear and Present Danger," be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

The Clear and Present Danger

(By Senator J. W. Fulbright)

President Purcell, ladies and gentlemen, and last but not least, Senator Symington.

It is a great privilege to be invited to the Green Lecture on this centennial anniversary of Winston Churchill's birth, at the same place where he delivered his famous speech, and to be introduced by a friend and colleague, who is also one of the wisest and most influential leaders of the Senate of the United States.

I am complimented that you should give me a degree as you did Churchill. I was born in Missouri and my children and grandchildren and sister live in Missouri, so this token of your respect has a very special meaning to me.

In the course of thirty years in the United States Senate I can recall few if any instances in which it has seemed to me that our national problems were beyond resolution. Far more often than not, a solution, or an approach, or an opportunity to advance in a creative way, has seemed both available and feasible. The obstacles, most often, have been political, and perhaps psychological: how can people and politicians be gotten to do what they ought to do, and what they usually very well *know* they ought to do, rather than do nothing, or do what is convenient or comfortable for the moment?

I have no answer to the question, my own powers of persuasion having been less over the years than I would have liked them to be. I have noted, however, that there are times—usually times of dramatic adversity—when human beings show a capacity for cooperation and sacrifice of which they had scarcely thought themselves capable. "Philosophy," wrote Shakespeare, "is adversity's sweet milk." And Thomas Carlyle wrote: "Adversity is sometimes hard upon a man; but for one man who can stand prosperity, there are a hundred that will stand adversity."

Winston Churchill became Prime Minister of Great Britain at a time of dramatic adversity, and he and his people together turned it into Britain's finest hour. Confronted with an adversary, Hitler, whom he could accurately describe as a "monster of wickedness," and "this bloodthirsty guttersnipe," Churchill offered his people "blood, toil, tears and sweat," and they rose magnificently to the occasion.

If adversity were all it took to get people to behave magnificently, or even sensibly, America and the West would be at this moment within minutes of their "finest hour." That, however, seems not to be the case, as we confront a different kind of adversity. In addition to his own courage and eloquence, Churchill had the added assist, in Hitler, of all that one could ask in the way of a villain. Today we face a different kind of adversary, not a tyrant but a condition and the ominous prospects to which it gives rise. The condition is economic crisis, and the prospects—unless immediate and drastic corrective measures are taken—are for economic depression, political breakdown, and perhaps war.

It is one of the perversities of human nature that people have a far greater capacity for enduring disasters than for preventing them, even when the danger is plain and imminent. Churchill, for all his prescience and eloquence, was powerless to prevent the Second World War: he wrote in 1936 of an England "decided only to be undecided, resolved to be irresolute, adamant for drift, solid for fluidity, all-powerful to be impotent."[1] The question for us today is whether we can succeed where Churchill failed—a tall order indeed—by preventing disaster so as not to have to endure it. Or in terms of Shakespeare's aphorism, can we draw the "sweet milk" of philosophy from the mere imminence of great troubles, or must we wait for tides of adversity to sweep over us?

The catalyst, if not the cause, of our current, mounting difficulties was the Middle East war of a year ago. Like the assassination at Sarajevo in 1914, the October war set loose a chain reaction of events. The war precipitated the oil embargo, and the embargo, combined with Arab military successes, gave the Arabs a whole new sense of their own power and capacity. The oil-producing countries, non-Arab as well as Arab, became suddenly and belatedly aware of the power they held in their hands. United in

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[1] *While England Slept.*

OPEC (the Organization of Petroleum Exporting Countries), they set out to redress the imbalance between cheap oil and costly imports, and also, in a psychological sense, to redress centuries of colonialism and exploitation. They did so with a vengeance, through huge and precipitous increases in the price of oil. It came like an avalanche, but as the old aphorism goes, great crises may issue from small events but never from small causes. A great deal of causal debris had ac*cumulated on* the Arab mountainside—the debris of mounting frustration over continued Israeli occupation of Arab lands, superimposed upon bitter memories of colonialism. All it took then was the sonic boom of the October war to send the rocks crashing down upon us.

The effect, within a single year, has been to bring the economies of the industrial countries to a degree of jeopardy no less than that of the Great Depression of the 1930's. And as national economies falter, democracy itself is threatened—in Europe, in the developing countries, and possibly even in North America. The immediate, compelling problem is runaway inflation, aggravated by—though by no means wholly the result of—the high cost of oil. There was no exaggeration in President Ford's warning in Detroit last September 23 of a "breakdown of world order and world safety." With inflation running at an annual rate of 12 percent in the United States and in excess of 20 percent in Japan, Great Britain, Italy and other countries, the industrial nations are threatened with depression, mass unemployment, and consequent civil disorder, while the poor countries, as Robert McNamara recently reported to the World Bank, face "appalling deprivation" and "the risk of death."

Depending upon their varying degrees of historic stability, the democracies of the world—rich as well as poor—will bend or break in the economic whirlwind. Japanese economists are openly predicting a depression, and they see no escape from it. Italy, with one of the most overstrained economies and a fragile parliamentary system, may conceivably succumb to communism or neofascism. Great Britain, on the other hand, with its strong parliamentary tradition, may weather the storm for a longer time, even though its economy is one of the most heavily strained. Whatever the circumstances of each individual country, the fact remains that inflation has become a clear and present danger to democracy, including our American democracy.

The major cause of accelerated inflation is the massive imbalancing of international payments caused by the quadrupling of the price of oil since the October war. The United States—far more fortunate than other countries because we produce nearly two-thirds of our own oil requirements—nonetheless will pay an estimated $25 billion for imported oil in 1974, more than triple the $7.5 billion paid in 1973. Meanwhile, the oil revenues of the producing countries will have risen from $15 billion in 1972 to nearly $100 billion in 1974, giving them surplus revenues on the order of $60 billion over and above their total import requirements. With this trend continuing and accelerating, the credit of consuming countries—rich as well as poor—will soon be exhausted, giving rise to economic collapse and political upheaval.

It would seem almost as if the Marxian prediction of breakdown resulting from the "contradictions" of capitalism were about to *become* a reality. Mr. Brezhnev himself said in a recent speech that inflation and economic crisis were "speeding up the disintegration of the political machinery of capitalist rule," and that this indeed was "unavoidable" because it stemmed from the "very nature of capitalism." [2]

Is this crisis of democratic capitalism indeed fated and beyond our control? The answer, most emphatically, is that it is not. The cure for inflation is to live within your means, which is something we are not doing before the increase of oil prices. That comes first—the elimination of the prodigal, outrageous waste of basic resources which has become endemic to the American way of life. Beyond that, through a wise and skillful foreign policy, we can bring peace to the Middle East, that fountainhead of so many of our troubles, and by so doing open the possibility of lower oil prices—for long enough at least to allow a gradual transition to new forms of energy. Although domestic political pressures have inhibited our leaders from exploring the possibility forthrightly, there is excellent reason to believe that resolution of the Arab-Israel conflict would bring a respite on oil prices.

In the remainder of these remarks I shall suggest what I believe to be rational and feasible courses of action, broadly as to domestic waste and inflation, somewhat more specifically as to the problems of the Middle East. I speak only, let me stress, of what we can and should do, not of what we will do. I am inhibited from prediction, as noted earlier, by a highly developed appreciation—the product of a long career in politics—of the human tendency to irrational behavior.

All indeed that can be predicted—and that with some certainty—is that as long as we temporize on inflation and the Middle East, these time bombs will keep ticking away. Palliatives will no longer suffice in either area. The truce of last year, followed by the disengagement agreements and the lifting of the embargo, which got our cars back on the road, lulled us into supposing that the crisis was over. In fact, the embargo did us less harm than the quadrupled oil prices which followed. At home we now face the threat of economic collapse, while in the Middle East the tide moves inexorably toward another war and another embargo. If that comes, as Secretary Kissinger knows better than anybody, it will take more than a renewal of "shuttle" diplomacy, more than disengagement agreements, more indeed than Mr. Kissinger's brilliant best, to retrieve the calamity.

We cannot blame the oil producers for the irresponsible rapacious extravagance of our vaunted "way of life." We Americans are not only living beyond our economic means; we are damaging the world's ecology by depleting irreplaceable raw materials, by consuming renewable resources such as forests and fish faster than the earth's natural processes can replace them, and by fouling the rivers and oceans beyond their natural capacity for cleansing themselves.

Even if we could afford our extravagant life style—the overpowered automobiles, the beefsteak diet—for dogs and cats as well as for humans—the throwaway boxes and bottles, the gadgets and whimsies that clutter our surroundings from the kitchen to the Pentagon and even the moon—it would still be important to conserve and cut back, to go back to living more simply. Over and above the material waste, our high living is also wasteful and destructive in the psychological sense. We have long passed the point of diminishing returns as between our gadgets and luxuries and the human satisfactions that they yield. Like spoiled children who have had too many toys, we are always looking for new playthings—and encouraged to do so by the massive advertising industry—but the gadgets only amuse us for a moment or two, and then we are off in search of something else.

Living affluently is not the same thing as living well. Living well requires a certain harmony with nature, a sense of pace about time, the taking of pleasure in simple things—the view of a mountain or the sea, a fine day, the company of family and friends. I recently visited the People's Republic of China, where I saw a great deal that I admired. The people move around on bicycles or on foot, and they wear simple clothes, but they look well-fed and healthy, and so far as I could tell, happy. We visited farms on which every square inch of arable land was cultivated, rice paddies on terraces sculptured out of hillsides which no American farmer would dream of cultivating. In China nothing is wasted because there is nothing to waste. I thought as I visited the Chinese cities and countryside that the American people must be fifty or a hundred times more affluent than the Chinese, but not—surely not—fifty or a hundred times happier.

It is being said these days in Washington—that most charitable of communities—that in calling for only voluntary restraints to curb inflation, President Ford shrank from "biting the bullet," offering up a "marshmallow" instead—a 5 percent surcharge on incomes over $15,000, but no gas rationing, and no price and wage controls. This may have been no more than a marshmallow, but as the President promptly retorted, Congress found even the marshmallow too tough for its tastes. It appears that no one is yet prepared to take the drastic steps—voluntary and mandatory—to curb inflation. It is almost as if we did not quite believe the evidence before our eyes, or our own words acknowledging that evidence. President Ford was not overstating the matter when he warned Congress that inflation threatens to "destroy our country, our homes, our liberties. . . ." Congress applauded the President's warning but rather in the way one applauds a Fourth of July speech, as oratory to be appreciated and then forgotten, but not as literal truth to be absorbed and acted upon. It is rather as if Churchill had qualified his clarion call for "blood, toil, tears and sweat" with a statement that of course he could never advocate compulsory military services or higher taxes, and as if the British people and Parliament had then set to squabbling over *whose* blood and toil would be offered up and in what exact amounts.

The German blitz did not allow the British that luxury, and we cannot afford it either. Our inability thus far to recognize the imminent danger to our most cherished institutions arises from the novelty of the circumstances which threatens us, from the absence of a recognizable "monster of wickedness" like Hitler to whom we can attribute our troubles and against whom we can organize our hatred and our fear. Because our troubles are primarily the result of our own misguided policies of several years and of the careless waste of our resources, and because our leaders have chosen to minimize the difficulties ahead rather than lay them candidly on the line, we have been unable to grasp the dimensions of the disaster which threatens us.

An intellectual effort of unprecedented magnitude is required to unite and inspire the American people to make the effort and the sacrifices required. We must prepare ourselves for even greater and more painful changes in our mode of living than we made during World War II. We can and should take the voluntary measures Mr. Ford called for—saving money, conserving energy, recycling scrap. We also can and should take mandatory measures, including a tax increase of more than the amount recommended by the President. Most important of all we must conserve energy, first and foremost by requiring the automobile industry to manufacture cars which will go 20 or more miles on a gallon of gasoline.

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[2] Quoted by Victor Zorza in "Kissinger's Global Scenario," *The Washington Post*, October 15, 1974, p. A20.

I am sure that our leaders underestimate the capacity of the American people for pulling together and modifying their life style in difficult times. During the acute oil shortage last winter, people did lower their thermostats, pool their cars and obey the lower speed limits, and they did it with a certain cheerfulness, with a kind of satisfaction in the sense of shared inconvenience and common effort to overcome it. We felt for a moment like a community again—as we had not since before Vietnam and Watergate. Then the embargo was lifted, the gas lines disappeared, and we went back to our old ways—while the crisis mounted. Now our leaders are asking for sacrifice, but their trumpet blows so feebly as to leave one in doubt that they expect or really want it. Fearing political retaliation if they ask for real austerity, they ask for no more than token self-denial; they are asking the least of people, and that, to their dismay, is what they are getting. In this respect they differ from those titans of a generation ago, Churchill and Roosevelt, who expected and asked the most of their people—and got it.

Turning now to the Middle East, I believe that the current situation is shaped by two central facts: One is the volatility of the Arab-Israel conflict, the high probability of another, greater war if the central issue of the occupied territories is not soon resolved. The second fact—which for domestic political reasons we are exceedingly reluctant to acknowledge—is the close relationship between the Arab-Israel conflict and the price and availability of oil.

The danger of a fifth Arab-Israel war is acute, and if such a war comes, it will almost certainly be more violent and more protracted than the previous wars. In the year of truce since the October war of 1973 both sides have rearmed heavily. The consensus of military experts is that the strategic balance is shifting to the Arab side, not only because of Soviet supplies but also because of the greatly improved training and technical competence of the Egyptian and Syrian armed forces. Egypt, and perhaps Syria, are now armed with Russian surface-to-surface "Scud" missiles, which would enable them to attack Israeli cities as well as Israel's vulnerable oil storage facilities. Israel, for her part, is generally assumed to have acquired nuclear weapons, and if Mr. Joseph Alsop—whose Israeli connections are excellent—is to be believed, Israel is prepared to use those weapons if her cities are attacked. In Mr. Alsop's view, Israeli warnings already issued amount to a veiled but unmistabable threat of nuclear war.[3]

The alternative to war—and the only alternative—is a general settlement. It is no derogation from Secretary Kissinger's great achievements to note that the disengagement agreements of the past year and the limited Israeli pullbacks in Sinai and the Golan Heights were no more than preliminary accomplishments. The difficult issues remain—especially Jerusalem and the West Bank. Unless they are resolved, there will almost certainly be war—a war that would devastate Israel, quite possibly provoke a Soviet-American confrontation, and most certainly bring on a new, ruinous oil boycott. This prospective crisis, let me emphasize, is not a remote or hypohetical one; it is closer to being a clear and present danger.

It cannot be permitted, and it is up to the United States, not alone but in collaboration with the Soviet Union and the United Nations, to prevent it. Israel, it appears, is stalling, and with nothing concrete in mind except to get all the arms and money she can get from the United States so as to try to hold off the inevitable. The Israeli leaders might have made good use of time gained since last year's truce to prepare for the necessary accommodations. They might have been telling their people, as Israel's first and wisest leader, David Ben-Gurion, tried to tell them in 1971, that peace is Israel's "great necessity," and "to get it"—Mr. Ben-Gurion said—"we must return to the borders before 1967." "As for security," Mr. Ben-Gurion added, "militarily defensible borders, while desirable, cannot by themselves guarantee our future. Real peace with our Arab neighbors—mutual trust and friendship—that is the only true security."

The shift of the balance of power gives added force to Mr. Ben-Gurion's prescient words. This shift is more than a matter of improved weapons and fighting skills on the Arab side. The rise of the Arabs is based upon two powerful and growing forces: money and nationalism—the enormous wealth which is accruing to the oil-producing states of the Persian Gulf, and the surging national feeling of the Arab peoples, especially the embittered, tenacious nationalism of the Palestinians. The brief, spectacular ascendancy of the Israelis in the Middle East has been based primarily on human assets which cannot be expanded—discipline, energy, bravery, and competence. Impressive as these human assets are, they do not and cannot overweigh the fact that Israel is a small country with modest natural resources and heavy liabilities—with no oil except that of the occupied Sinai fields, with an economy burdened by military costs and inflation, an economy so dependent on the United States as to make Israel—however little we or the Israelis may care to admit it—a client state of the United States.

What is taking place in the Middle East is a long-term historical unweighting of the scales of power, comparable, say, to the inexorable displacement of France by Germany as the paramount power of Europe in the nineteenth century. The difference in the Middle East is that it is all happening much faster. The friends of Israel in the United States do her no service by refusing to recognize these facts of power and change. Myopia among the Israelis, with their siege mentality, is perhaps understandable. It is much less so among Israel's supporters in the United States, who, by underwriting intransigence, are encouraging Israel on a course which must lead toward her destruction—and just possibly ours as well.

Israel, I am convinced, can and should survive as a peaceful, prosperous society—but within the essential borders of 1967 as called for by the Security Council's Resolution 242 of November 1967. That resolution calls as well for a settlement "guaranteeing the territorial inviolability and political independence of every state in the area. . . ." This provision, as I have suggested in the past, can be implemented to great power guarantees contracted through the United Nations Security Council, and in addition, by an explicit, binding American treaty guarantee of Israel.

That much we owe them, but no more. We do not owe them our support of their continued occupation of Arab lands, including old Jerusalem and the Palestinian West Bank. The Palestinian people have as much right to a homeland as do the Jewish people. We Americans—who have always professed adherence to the principle of self-determination—should be the first to appreciate that. But when the United Nations General Assembly voted on October 14 of this year, by 105 to 4 with 20 abstentions, to allow the Palestine Liberation Organization to participate in the Assembly debate on Palestine, the United States was in the minority of four—with Israel, Bolivia and the Dominican Republic.

So completely have the majority of our officeholders fallen under Israeli domination that they not only deny the legitimacy of Palestinian national feeling; but such otherwise fair-minded individuals as the two current candidates for Senator from New York engage in heated debate as to which one more passionately opposes a Palestinian state. We have nearly allowed our detente with the Soviet Union to go on the rocks in order to obtain an agreement on large-scale Jewish emigration—a matter of limited relevance to the basic issue of human rights in the Soviet Union, and of no relevance at all to the vital interests of the United States. Senator Jackson further obfuscates the matter with invocations of Article 13 of the Universal Declaration of Human Rights, which states that "Everyone has the right to leave any country, including his own, and to return to his country." Note that the Article refers not only to the right to leave but also to the right to return. Is the right of the Palestinians to return to homes from which they were expelled any less fundamental than the right of Soviet Jews to make new homes in a new land?

Within the broader question of the West Bank there is a special importance about Jerusalem. It is here especially that the Arab-Israel conflict converges with the question of the price and availability of oil. Let me explain why:

The oil countries, united in OPEC, appear to be on a kind of power "trip," and their lack of restraint is widely, and properly, condemned. Those most insistent on repeated price increases, however, have not been the Arab states, but two of the principal non-Arab producers, Iran and Venezuela. The largest oil exporter, Saudi Arabia, has shown a keen awareness of the dangerous disruptions threatened by the four-fold increase in the price of oil, and Saudi officials have made known—both publicly and privately in unmistakable terms—their strong desire to lower prices and to work out long term supply arrangements for the industrial nations, especially the United States. The Saudis are motivated by strong feelings of friendship and also of reliance upon the United States. Greatly fearing communism and Soviet and Chinese influence in the Arabian peninsula, Saudi Arabia looks to the United States as its mainstay against communism in the Middle East.

But the Saudis are caught in a dilemma. It is exceedingly difficult, if not impossible, for them to accommodate the United States while the United States provides the money and arms which enable Israel to occupy Arab lands. Further—and this is the heart of the matter—King Faisal feels a special responsibility—indeed a stewardship—for the holy places of Islam. Saudi Arabia is the most orthodox of Muslim societies: the holy city of Mecca is within its territory, and the Kingdom uses the Koran as its Constitution. Second only to Mecca in sanctity to Muslims is Jerusalem, where the Dome of the Rock is located, scarcely a hundred yards from the Wailing Wall, which is Judaism's holiest site, and within a half-mile of the Christian shrine, the Church of the Holy Sepulchre.

As a city sacred to three religions, Jerusalem warrants a special status. Under the original United Nations partition plan of 1947—to which the United States subscribed, and which, to my knowledge, it has never repudiated—Jerusalem was to be a "corpus separatum under a special international regime." After Israel annexed the old city of Jerusalem in 1967, the United Nations General Assembly condemned the action, on July 4, 1967, by a vote of 99 to 0, and then condemned it again on two subsequent occasions.

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[3] Joseph Alsop, "An Israeli Threat," *The Washington Post*, October 7, 1974.

In a world without effective international law, sovereign nations are often required to choose between justice and self-interest. A fair solution for Jerusalem, however, as indeed of the Arab-Israel conflict as a whole, requires no such choice, although uncritical supporters of Israeli policy have insisted that it does. The choice for the United States, they say, is one between Israeli democracy and Arab oil, between high morality—as they would have it—and the crassest greed. In fact, the withdrawal of Israel to her approximate borders of 1967 and the internationalization of Jerusalem would be wholly consistent with the principle of the self-determination of peoples, an international principle to which we have always professed to subscribe and one which is also central to the United Nations Charter.

An Arab-Israeli settlement will not put an end to the energy crisis. Nor could it be counted upon to bring about an immediate substantial reduction of oil prices. It would, however, eliminate the major irritant in relations between the United States and the Arab states—especially Saudi Arabia—and in so doing create a much improved environment for negotiations on oil supply and prices. A settlement making just provision for the old city of Jerusalem and for the other occupied territories would greatly increase the political influence of Saudi Arabia, and therefore its weight as a force for moderation within OPEC. Saudi Arabia would be liberated, in effect, to do what King Faisal and his ministers want very much to do: cooperate to keep the West, and especially the United States on which Saudi Arabia relies, prosperous and strong.

Such an approach would not constitute a "sellout" of Israel. Quite the contrary, it calls upon Israel to do nothing more than she ought to do anyway, even if there were not a drop of oil in the Middle East. Indeed it would be to Israel's advantage—probably her salvation—because there can be no lasting security for that small, beleaguered community without a settlement, and there can be no settlement without withdrawal. For the United States the occasion—if we rise to it—is one of those rare and happy ones in which justice and self-interest coincide.

Unfortunately, neither the Israelis nor their uncritical supporters in our Congress and in our media have appreciated what is at stake, and the enormous distortion of American interests in our present course. Endlessly pressing the United States for money and arms—and invariably getting all and more than she asks—Israel makes bad use of a good friend. Unlike the Saudis, the Israelis seem not to recognize that if the United States is gravely weakened, they themselves can hardly hope to survive.

For these reasons it has become incumbent upon the United States—working with the Soviet Union through the United Nations—to take the decisive lead in bringing the quarter century of crisis in the Middle East to a prompt and equitable solution. The general outlines of such a solution are clear and even obvious: explicit acknowledgement of Israel's right to exist by the Arabs, including the Palestinians; Israeli withdrawal to the approximate borders of 1967, with United Nations forces patrolling demilitarized zones on both sides of Israel's borders; self-determination for the Palestinian people of the West Bank, either as an independent state or in some form of confederation with Jordan, according to their own wishes; a special status for the old city of Jerusalem, providing equal and uninhibited access for members of all faiths; and a general great power guarantee of the settlement and its terms, under the auspices of the United Nations, reinforced by a direct American treaty guarantee of Israel's independence and territory. On the basis of unofficial soundings, there is reason to believe that the Soviet Union would be prepared to join in such a settlement, including the guarantee of Israel.

A solution in the Middle East is the key to a resolution of the mounting world economic and political crisis. Although it cannot be predicted with certainty, there is good reason to believe that Israel's withdrawal from old Jerusalem and the West Bank will lead to a significant lowering of oil prices, giving the West and others the time they so desperately need to adjust to the new world energy situation. There is even better reason to believe that the failure to achieve a solution will bring a new war, a new oil boycott, and possible consequences therefrom ranging from another Great Depression to Armageddon itself.

To state the matter with simple candor: The United States has done as much for Israel as one nation can do for another—we, and we alone, have made it possible for Israel to exist as a state. Surely it is not too much to ask in return that Israel give up East Jerusalem and the West Bank, as the necessary means of breaking a chain of events which threatens us all with ruin.

As we survey these great difficulties, we cannot fail to perceive that the only available solutions are cooperative solutions. If the world crisis is to be surmounted, unprecedented accommodations will be required, starting with the absolutely essential accommodation of Israel and the Arabs. Beyond that—and because of it—it will become possible to build the equally essential cooperation between oil producers and oil consumers, between rich nations and poor nations, industrial and developing nations. We must rededicate ourselves to the objectives proclaimed by Churchill and Roosevelt in their Atlantic Charter of 1941, including their desire "to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned," and the right of "access, on equal terms, to the trade and to the raw materials of the world. . . ."

The great speech which Winston Churchill delivered here at Westminster almost twenty-nine years ago is usually remembered for its warnings against war and tyranny and for its recognition that an "iron curtain" had rung down across the continent of Europe. But there is another theme in that speech, more hopeful and, I believe, more pertinent to the problems we face today. Churchill called as well for a new, cooperative world order. He called for a "good understanding on all points with Russia under the general authority of the United Nations Organization," and he called too for the arming of the new world body with an international force. Speaking of the United Nations, he said: "We must make sure that its work is fruitful, that it is a reality and not a sham, that it is a force for action, and not merely a frothing of words, that it is a true temple of peace in which the shields of many nations can some day be hung up, and not merely a cockpit in a Tower of Babel."

Churchill and his contemporaries tried to build a cooperative world order for the prevention of war. Today, three decades later, we are more than ever in need of a cooperative world order, not only to prevent war but to fuel our industries, to feed the world's proliferating millions, and to try to create an environment in which people can not only live or live affluently, but live decently and well. Secretary Kissinger stated the problem and the choice with simple eloquence in his address last winter to the Washington Energy Conference: "Will we consume ourselves," he asked, "in nationalistic rivalry which the realities of interdependence make suicidal? Or will we acknowledge our interdependence and shape cooperative solutions?"

I have no answer to that question, but perhaps a clue can be suggested. Lord Byron wrote that "The best of prophets of the future is the past." History casts no doubt at all on the *ability* of human beings to deal rationally with their problems, but the greatest doubt on their will to do so. The signals of the past are thus clouded and ambiguous, suggesting hope but not confidence in the triumph of reason. With nothing to lose in any event, it seems well worth a try.

SOME PROMISES TO KEEP

Mr. FANNIN. Mr. President, one of the most astonishing sights in the recent election was to see so many Democrats running on platforms stressing fiscal conservatism. It appears their pledges to cut Federal spending and balance the budget were effective. Evidently Democrats have done a better job of convincing the people they can bring inflation under control.

Inflation can be controlled only two ways. We can reduce Federal spending or we can increase taxes to eliminate the deficit. If any candidates in the November 5 election ran on a platform promising tax increases, I am not aware of it.

The mandate clearly is to reduce Federal spending.

Since the liberal majority in Congress created so many of the allegedly "uncontrollable" programs which are causing the Federal deficit and inflation, it is perhaps only right that they should be mandated to make the cuts and hopefully eliminate some of these programs. I look forward to working with my colleagues on both sides of the aisle during the 94th Congress to accomplish this goal.

Mr. President, on November 8, 1974, the Wall Street Journal published an excellent editorial regarding the election and the task facing Congress. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOME PROMISES TO KEEP

Now that the Democrats have a mandate from the voters they also have a small problem: how to remember the mandate clearly and act on it effectively when they return from the states and districts that elected them to the headier climate of Washington.

The problem is complicated by the fact that a good many Democrats were running on promises that are not exactly traditional with Democrats. Even the late Robert Taft would probably have admired the avowals of fiscal responsibility uttered during the campaign by, say, Birch Bayh or Gary Hart.

The voters were quite aware that they haven't had much fiscal responsibility in Washington, otherwise they wouldn't be having so much trauma in the supermarket aisles. So they have turned to the Democrats, as the traditional party of activism and change, to get some for them.

As Alan L. Otten remarked on this page yesterday, it is not a comfortable assignment for Democrats. They are better at waging expensive wars on poverty and unemployment than at balancing budgets and encouraging a responsible rate of money creation over at the Fed.

But there would seem to be very little argument about this reading of the mandate. One good test is how the voters responded in instances where they had a direct vote on government spending. They responded by rejecting about 55% of the bond issues proposed, even though proposed spending was off 20% from a year before.

A similar reading can be gotten from some of the upset victories. For example, David W. Evans, a 28-year-old school teacher with minimal financing dumped 71-year-old congressional veteran William Bray in Indiana's sixth district, which everyone had assumed was again safely Republican. Mr. Evans pulled off this feat with an intense grass roots campaign that emphasized federal budget cutting and no new federal spending without identifiable funding.

But can Mr. Evans and other Democrats who have campaigned on the same principles carry out their mandate? It is an interesting and doubt-ridden question. Aside from the traditional inclinations of the Democrats, the kind of economy the nation will have in the early months of the new congressional term makes the problem difficult.

The economy is riding into recession. This painful process is the only way the nation can overcome its other public enemy, inflation. There will be a strong temptation, as our Mr. Gannon has remarked, for the Congress to go out and commit overkill on the recession enemy once it is clearly identified. But expensive spending and monetary policy would set off a new round of inflation, this time taking off from a higher plateau.

The temptation at that point would be to fall back on that old favorite remedy, wage and price controls, which some Democrats love so well. Under recession conditions, such a remedy might even seem to be working for awhile, maybe even long enough to get through the 1976 elections before the economy fell into total disaster. Controls would temporarily relieve the pressure on the Democrats to do the difficult things, like balancing the budget, that they promised in their election campaigns.

It is a road ahead trapped with pitfalls, not just for the Democrats but for the nation. We can offer only one suggestion, particularly to the new boys like Mr. Evans: Ignore the sophistication to be found in Washington and remember the promises to the folks back home. They offer as good a prescription for the troubles ahead as for the ones we have just experienced.

EXPORT-IMPORT BANK ACT CONFERENCE REPORT

Mr. CANNON. Mr. President, for the past several months Congress has critically examined the operation of the Export-Import Bank and the Senate, in particular, wrote into the Bank's authorizing legislation a series of sharp new restrictions to place the Bank in its proper perspective in foreign policymaking.

Knowing the grave concern expressed by many Senators of varying persuasions with the Bank's present activity in U.S. economic and foreign policymaking, the Bank has come precipitously close to total disregard to clear warnings issued in recent Senate floor debate.

I learned this week that despite the adverse impact on domestic commercial aviation, the Eximbank during the period of August 27, 1974 through November 11, 1974 loaned $308 million to foreign air carriers at rates of generally 7 percent. Mr. President, time and again I expressed my dismay that while Pan Am, our flagship airlines, was asking the Congress for $10 million a month survival loans, the Eximbank was subsidizing their foreign competitors with cut-rate loans on purchases of nearly $1 billion. The Congress is now asked to give taxpayer dollars to help float our domestic aviation industry on one hand, and on the other, shell out dollars to its competitors who are responsible for putting Pan Am in its critical financial condition. I think it is about time we stopped this ridiculous merry-go-round.

The Export-Import Bank has consistently operated independently from legitimate foreign policymaking segments of our Government. It grants loans and guarantees around the world, dumping U.S. credit and taxpayer dollars into Soviet energy loans, nuclear reactors and whatever else a foreign government wants to purchase cut-rate from the United States.

I might point out the Exim's Midas touch is not strictly overseas; Chase Manhattan in conjunction with the Eximbank recently loaned $172 million to Kama River truck complex. While Exim made a loan of $86.2 million of the taxpayer's money at 6 percent, Chase Manhattan loaned its share at a higher rate—one they feel must remain confidential. The catch of course is that Chase Manhattan will get its money back first. The taxpayers will have to wait until 1983 before the first dollar is repaid.

Mr. President, I for one am fed up with this overgrown bureaucracy that serves no one but large banking institutions and then at taxpayer expense. I will strongly support the move of my colleagues to reject the conference report when it comes to the floor of the Senate.

MORE SUPPORT FOR ERTS-1

Mr. MOSS. Mr. President, evidence of the value of the first Earth resources technology satellite, known as ERTS-1, continues to mount. The fall 1974 issue of Limestone, published by the National Limestone Institute, is one more case in point. I ask unanimous consent that the article from that publication entitled "NASA EROS ERTS" by Robert M. Koch, president of the National Limestone Institute, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NASA EROS ERTS

(By Robert M. Koch)

We have been deluged, as the saying goes, with alphabet soup from Washington during the last forty years. Most of us have heard about the first acronym at the head of this article NASA (National Aeronautics and Space Administration). The second one has received a lot of publicity recently as we have had more widespread discussions of various sex forms from the birds and the bees to pornography. But in this instance, it means something else. EROS stand for the Earth Resources Observation Systems which is a product of ERTS or Earth Resources Technology Satellite.

One of the many by-products of this Satellite which circles the Earth every 103 minutes or 14 times a day, is that its cameras record not only what is visible to the eye but many things that are not. After 18 days or 252 passes, it is back to the original position and starts all over again. These passes over the same spot every 18 days record such things as growth of plant life and, in time, animal life as well. And the pollution of the World's waterway can also be monitored just to cite a few of the many uses these records can be put to.

Recently the Department of Interior put out a release on Eros Reprint 174, which they said may aid future mineral and water exploration in the State of Tennessee. Between the X's shown on the map, there is a major earth fracture. In this one to four mile belt now known as the "Beech Grove Lineament," there are major deposits of zinc and limestone.

EARTH RESOURCES TECHNOLOGY SATELLITES

A new view of Earth is required to cope with the problems posed by a deteriorating environment, dissipation of natural resources and expanding population. This view must be more comprehensive than any man has had before. Moreover, Earth must be visualized in its entirety. The problems of the air-ocean-land system that supports life are global and it is in getting global information that Earth-orbiting satellites excel.

Satellites can collect global data on the condition of the atmosphere and oceans, on agriculture and geology, and on man and many other living things. They can gather much data directly and then can acquire other information from unattended sensors on the Earth's surface.

They can provide views of the Earth synoptically—all at once. Large scale features and interrelationships are revealed in a single pictorial sweep of a vast area, taken under uniform lighting conditions, while much detail and contrast is lost in a mosaic made from airplane surveys.

NASA's Earth Resources Technology Satellites (ERTS) will obtain this comprehensive view of the Earth.

Structurally, the Earth Resources Technology Satellites are modified versions of the Nimbus experimental weather satellites, which they resemble in appearance. Each weighs about 950 kilograms (2,100 pounds). Delta launch vehicles will rocket them into polar orbits about 910 kilometers (575 miles) above Earth, circling the globe every 103 minutes or 14 times a day. In these orbits, they will be able to see any point on Earth except for small areas around the Poles. Every 18 days they will be capable of viewing the same spot anywhere in the world at the same time of day local time. Each satellite will view a 185-kilometer (115-mile) swath running north/south as it orbits Earth.

The spacecraft will carry television cameras as well as radiometric scanners to obtain image data in various spectral ranges of visible light (red, blue or green) and infrared. The spectral ranges were checked out earlier by aircraft and in an experiment aboard the manned Apollo 9 flight. The data to be obtained will provide information relating to crop species, crop health, geologic structure and rock types. Soil types, moisture content of the ground, coastal processes, surface water distribution, and water pollution information will also be obtained.

In addition, the satellites will carry receiver/relay equipment to collect data from ground-based, remotely-located and unattended sensors. The sensors are designed and emplaced to report on such phenomena as the water level of lakes, streams, and reservoirs; soil moisture content; snow depth; surface temperature; ocean salinity; ice pressure; ocean currents; and atmospheric pollution. The satellites will gather this information from hundreds of different reporting stations and re-transmit the information to ground receiving stations.

The satellites will be oriented so they constantly aim their instruments at Earth. They are designed for a lifetime of a year to cover all four seasons and to account for seasonally induced variations on the Earth's surface. The results of the satellite experiments will help to determine the practicability and need for an operational Earth resources satellite system.

The key tracking stations for acquiring data from ERTS are at Fairbanks, Alaska; Goldstone, California; and Greenbelt, Maryland. The Operation Control Center and Data Processing Facility for ERTS is at the NASA Goddard Space Flight Center, Greenbelt, Maryland.

As its name implies, ERTS is essentially a technology development program. The data it gathers will be used by hundreds of scientists in universities, state and local governments, and federal agencies to conduct experiments to determine the usefulness of the information in solving problems on Earth.

As techniques are developed to assure that such information is reliable and suitable for making significant decisions, the nation can begin moving toward development of an operational Earth resource survey system.

To reach this goal, NASA is working with user agencies, such as the Departments of Agriculture, Commerce, Interior, Corps of Engineers, and the Environmental Protection Agency. NASA is seeking to identify requirements for Earth resources data and to conduct the research and development required to establish the capabilities and value of experimental and operational systems.

PRACTICAL APPLICATION OF ERTS

William Fischer of the U.S. Geological Survey, Department of Interior, says in connection with Land Resources,

"The results of the (ERTS) investigation are relevant to three national problems: the need to accelerate the identification of minable minerals, the need to accelerate the finding and development of petroleum, and the need to preserve the environment."

Dr. David Lindgren, Dartmouth College, Hanover, New Hampshire, says in connection with Land Use,

"Also . . . ERTS is cost effective. By the most conservative estimates, land use mapping by satellite is cheaper by more than an order of magnitude over land use mapping from conventional, medium altitude aerial photography."

". . . It is for the first time economically possible to acquire land-use data quickly and efficiently over large areas. This is an indispensable capacity if we are ever to control urban growth and protect our land resources."

". . . The value of ERTS to the countries of the developing world is inestimable. In some parts of these nations the ERTS photos themselves are better than any existing *map*."

Mr. Vincent Salomonson, NASA Goddard Space Flight Center, Greenbelt, Maryland says in connection with Water Resources,

". . . The fields of water resources and hydrology have been reaping benefits from the application of technology from space since the launch of TIROS 1 on April 1, 1960."

"With ERTS one can say that a very clearly valuable and beneficial observation tool is now available to the hydrological and water resources management community."

". . . Our principal challenge lies in conserving the quality and quantity of our waters so that they can be used to maximum advantage in the sustaining of our lives and the life upon which we depend."

Alden P. Colvocoresses, U.S. Geological Survey, Department of the Interior, says in connection with Mapping and Charting,

"From the mapping viewpoint, ERTS has exceeded expectations. For the first time in history mapmakers have now the source material from which image maps of small scale can be produced efficiently and accurately."

". . . Image quality permits meaningful products to be produced up to at least 1:250,000. However . . . there is evidence that by applying corrections based on ground control, geometric accuracy can be improved without sacrificing quality."

Gifford Ewing, of Woods Hole Oceanographic Institution, Cape Cod, Massachusetts, says in connection with Oceanography.

". . . Information (from oceanographic ships) has been discontinuous in space and in time. Now that has gone out the window, at least with respect to things that happen in the upper parts of the sea, with the advent of the satellite."

Charles E. Poulton, Oregon State University, Corvallis, Oregon, says in connection with Range Resources,

". . . One of the greatest benefits to agriculture, range resources and forestry is the repetitive coverage of ERTS. In some disciplines repetitive coverage is not important, but in agriculture, forestry and range resources it's critical . . . *we can't live without it!*"

"ERTS provides a perspective and a view of the interrelationships between problems and between man and his environment that we've never had before."

[The following text describes photographs included in the article which cannot be printed in the Record.]

Figure 3 is a color composite photo from the Earth Resources Technology Satellite–1 (ERTS–1), taken from an altitude of 914 kilometers (568 statute miles) of the area. Three colors, green, red and infrared seen and recorded separately by the satellite were combined at NASA's Goddard Space Flight Center, Greenbelt, Maryland. Healthy crops, trees and other green plants which are very bright in the infrared but invisible to the naked eye are shown as bright red. Suburban areas with sparse vegetation appear as light pink and barren land as light gray. Cities and industrial areas show as green or dark gray and clear water is black/dark blue. Some of the notable geographical landmarks are:

Indianapolis (below and right of center)

Kokomo (slightly above center)

Anderson partially obscured by clouds (far right center)

Lafayette (left center)

Lake Freeman (upper left quadrant)

Wabash River (from upper center to lower left)

Figure 4 is a color composite photo taken of the Finger Lakes area of New York about 11:00 a.m. EDT, August 19, 1972. Some of the notable geographical landmarks are:

Lake Ontario (upper left)

City of Rochester, N.Y. (far left center)

City of Syracuse, N.Y. (far right center)

Oneida Lake (far right center)

Finger Lakes (bottom)

Figure 5 is a color composite photo of the Western Indiana area about 11:a.m. EST, January 16, 1973. Some of the notable geographical landmarks are:

Indianapolis (upper right center)

Wabash River (left top to bottom)

Terre Haute (left center)

White River (top right center to bottom left center)

Bloomington (lower right center) and

Monroe Reservoir (lower right center)

Figure 6 is a color composite photo taken of the area about 11:00 a.m. EDT, October 10, 1972. Some of the notable geographical landmarks are:

Hudson River (upper left center to bottom right center)

Mohawk River (extreme left center to just below center)

Troy, New York (at river junction)

Schenectady, N.Y. (to left of Troy)

Albany, N.Y. (below Troy on Hudson River)

Pittsfield, Mass. (lower right)

Lake George (top center)

Sacandaga Reservoir (left of center)

Saratoga Lake (center)

Adirondack Mountains (upper left quadrant)

Figure 7 is a color composite photo from the Earth Resources Technology Satellite-1 (ERTS–1) taken from an altitude of 905 kilometers (560 statute miles) of the area about 10:00 a.m. EST, February 22, 1973. Some of the notable geographical landmarks are:

Mississippi River crosses from left center to lower center. Ohio River enters from right at upper right, joins Mississippi at lower center

Light blue coloration of rivers indicates sediment

Kentucky Dam forms Kentucky Lake in Tennessee River at lower right; slightly above it, Barkley Dam forms Lake Barkley in Cumberland River

Smoke plume from industrial plants on south bank of Tennessee River just west of Kentucky Dam

Paducah, Kentucky just west of confluence of Tennessee and Ohio Rivers; Route 124 under construction west of Paducah, crossing Ohio River and continuing into Illinois, shows as white line

White area on Cumberland River bank just above confluence with Ohio River is mining site

Wabash River enters at upper right, flows into Ohio River

Figure 8 is a composite image of eastern Michigan and northern Ohio. It was taken from an altitude of 905 kilometers (560 statute miles) on June 7, 1973, by NASA's Earth Resources Technology Satellite–1 (ERTS–1).

Striking in this image are Lakes St. Clair (A) and Erie (B), the city of Detroit (C) the checkered black agricultural pattern, and the many small lakes northwest of Detroit. In Lake Erie, the near-short light patterns at the mouth of the Maumee (D) and Sandusky (E) Rivers are caused by silt indicating a large amount of soil erosion inland as a result of recent rainfall. The rainfall on newly cultivated fields (F) makes them appear black, as the high amount of moisture in the soil reduces the near infrared radiation reflected back into the atmosphere. It is probable that many of these newly cultivated fields are planted with tomatoes and sweet corn, both late spring crops important to the area.

The highly industrial city of Detroit appears dark gray. Visible are major roads radiating from its center to surrounding cities. Detroit suburbs appear whitish indicating the heavier growth of grass and trees. The many lakes (G) to the north and west of Detroit were formed from debris deposited by the continental glaciers during the ice age. Today the lakes provide year round recreation. for nearby Detroit and surrounding communities. Other cities are Ann Arbor (H) and Pontiac (I), Michigan (J) and Toledo, Bowling Green (K) and Sandusky (L), Ohio.

Monitoring of ecological change . . . rapid evaluation of agricultural production . . .

proper management of urban land areas ... prudent use of existing and newly discovered resources . . . all can be done from space.

As man and nature change the face of the earth, observation satellites provide a method to view these changes on a regular and objective basis.

ERTS-1 is the "pathfinder" in the use of space technology to help solve "down-to-earth" problems.

RESOLUTIONS ADOPTED BY THE NATIONAL GUARD ASSOCIATION CONFERENCE HELD SEPTEMBER 23-26, 1974

Mr. THURMOND. Mr. President, the National Guard Association of the United States has recently released resolutions adopted by the 96th General Conference held in San Juan, Puerto Rico last September.

The Guard Association, through its membership in 50 States and its national office in Washington, is rendering a distinct service in our national defense posture.

Hundreds of Army ground units and Air Force squadrons are being maintained at high levels of readiness for only one-sixth the cost of that required for active forces. The dedication of these citizen soldiers is an inspiration to all of us and deserves the recognition and commendation of the Congress.

During the San Juan conference a number of resolutions were adopted. These resolutions represent considerable deliberation by the Guard members and should be given careful attention by the Congress.

Mr. President, I ask unanimous consent that those resolutions as attached to this statement be printed in the RECORD at the conclusion of my remarks.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS, 96TH GENERAL CONFERENCE OF THE NATIONAL GUARD ASSOCIATION OF THE UNITED STATES, SEPTEMBER 26, 1974, SAN JUAN, PUERTO RICO

RESOLUTION NO. 1

(Submitted by the Resolutions Committee, expressing condolence on the death of General Creighton W. Abrams.)

Whereas, General Creighton W. Abrams died on 3 September 1974 while serving as Chief of Staff, United States Army; and

Whereas, General Abrams served our nation for a period of 38 years as a soldier, commander and statesman. He demonstrated in combat and while serving in highly critical staff positions outstanding professionalism and dedication to mission, displaying the highest qualities of leadershp and courage, thereby giving inspiration to all who were privileged to serve in his commands; and

Whereas, In the difficult time following withdrawal of United States Forces from Southeast Asia he provided spirited leadership and encouragement to an Army torn by personnel turbulence and lacking in public support. As Chief of Staff he instilled pride, restored confidence and regained public support for the Army, bringing it to a high level of effectiveness; and

Whereas, he was a strong and understanding supporter of the Army National Guard, having great faith in its ability to achieve required levels of combat readiness; now

Therefore, be it resolved, by the 96th General Conference of the National Guard Association of the United States convened in San Juan, Puerto Rico, this 26th day of September 1974, that the truly dedicated and outstanding service of General Abrams be hereby memorialized; and

Be it further resolved, That the deep and sincere sympathy of the National Guard Association of the United States be conveyed to the family of General Abrams in properly inscribed copy of this resolution.

RESOLUTION NO. 2

(Submitted by Wisconsin, acknowledging the contribution made to the military service by the Armed Forces Institute (USAFI).)

Whereas, the Congress of the United States recently deleted budgetary appropriations for the continued operation of the United States Armed Forces Institute (USAFI); and

Whereas, since 1942 USAFI has provided the vehicle through which some estimated 8.2 million men and women of the Armed Forces of the United States have been able to complete educational equivalents of formal schooling interrupted, by necessity, to serve in the Armed Forces; and

Whereas, the required educational level of members of the Armed Forces is continually being raised due to increasing complexity and technicality of modern warfare systems used within the military; and

Whereas, the return of military personnel to civilian life has required increased preparedness to cushion the transition from soldier to private citizen; and

Whereas, the USAFI has assisted so many in the past in making the adjustment to civilian life through preparation for the demands of civilian society; now

Therefore, be it resolved, That the National Guard Association of the United States extends its wholehearted and sincere appreciation to USAFI for its many years of outstanding performance and service to members of the Armed Forces in the attainment of their educational goals and, further, that this resolution be forwarded to the Secretary of Defense, the Secretary of the Air Force and Chairmen of the Armed Services Committees.

RESOLUTION NO. 3

(Submitted by Alabama, Arizona, California, Connecticut, Indiana, Maine, Michigan, Nebraska, Pennsylvania, Washington and West Virginia, relating to support of legislation to provide enlistment and re-enlistment bonuses for National Guard and Reserve components.)

Whereas, Re-enlistment bonuses have proven to be effective in the Active Forces; and

Whereas, Enlistment and re-enlistment bonuses in the National Guard and Reserve Components would provide strong recruiting and retention incentives; and

Whereas, Further experience in the zero draft environment indicates further recruiting and retention incentives are essential to a vital manpower program for the Reserve Components; and

Whereas, Retention of a skilled Guardsman and Reservist is sound economically when compared to the costs of training replacements; now

Therefore, be it resolved, That the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974, does hereby join with all State National Guard Associations and all State Adjutants General in support of legislation to provide enlistment and re-enlistment bonuses for Guardsmen and Reservists; and

Be it further resolved, That a copy of this resolution be sent to the Chairman of the Armed Services Committees, the Secretary of Defense and the Chief of the National Guard Bureau.

RESOLUTION NO. 4

(Submitted by Alabama, Arizona, California, Connecticut, Indiana, Maine, Michigan, Nebraska, Pennsylvania, South Dakota, Washington and West Virginia, relating to "G.I. Bill" benefits for Guardsmen and Reservists.)

Whereas, Title 38, United States Code Annotated, Section 101, defines the term "Veteran" as being a person who has served as a member of the Active Military and discharged under conditions other than dishonorable; and

Whereas, such veterans are entitled to benefit under the so-called G.I. Bill of Rights including but not limited to farm and home loans, educational and other fringe benefits; and

Whereas, the Veterans' Administration, the Congress, other spokesmen for the United States Government, and educators have long recognized and acknowledged that the World War II Bill of Rights and subsequent amendments thereto including such benefits to Veterans of the Vietnam era have proven to be investments rather than expenditure of public funds; and

Whereas, the substantial reduction of the size of the Regular Army and Air Force will, of necessity, require well-equipped, trained, and ready Reserves including the Army and Air National Guard for the several States; and

Whereas, the zero draft, and the prevailing unfavorable national image which has been placed upon the military, have proven obstacles in the enlistment and retention of men and women for the Regular and Reserve Components of the Armed Forces, including the National Guard; and

Whereas, title 10, USCA, Section 262, provides that the purpose of each Reserve Component is to provide trained units and qualified persons available for Active Duty in the Armed Forces, in time of war or national emergency and at such other times as the National Security requires, to fill the needs of the Armed Forces whenever, during and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization, more units and persons are needed than are in regular components; and

Whereas, title 32, USCA, Section 102, established that the National Guard is a part of America's first line of defense, while the President, the Congress, and the Judiciary recognize that the National Guard, a vital part of the Reserve Components, is generally the several States' only major statewide peace officer force for use in all civil disturbances and natural disasters; and

Whereas, present Federal law permits persons on active military duty for 181 days or more to qualify for Veterans' benefits although a Guardsman who will ordinarily perform 180 days' basic and branch training, field training of 75 days, and weekend training assemblies or drills of 264 training periods, or an aggregate of 519 days over a six-year enlistment; and

Whereas, Some real and lasting incentives must forthwith be proved to insure the necessary manpower to staff the Reserve Components in the ensuing months and years, and that the Congress, which provides the necessary military equipment supplies, training assembly, field training, and educational improvement pay, is the only source of funding recruitment and retention incentives for membership of the Reserve Force, which includes the Army and Air National Guard; now

Therefore, be it resolved, That the National Guard Association of the United States in Conference at San Juan, Puerto Rico, this 26th day of September 1974, recommend to the Congress that it enact legislation to obtain for Guardsmen and Reservists benefits under the existing "G.I. Bill," by according credit for both active duty for training and inactive duty training.

RESOLUTION NO. 5

Submitted by Alabama, Arizona, California, Connecticut, Indiana, Michigan, Nebraska, Pennsylvania, Washington and West Virginia, relating to legislation which would amend Chapter 67, Title 10 U.S.C., to provide a survivors annuity for the dependents of persons who perform the service required under Chapter 67, Title 10, U.S.C., and die before being granted retired pay.)

Whereas, Chapter 67, Title 10, United States Code, sets forth the retirement benefits available to members of the retired reserve; and

Whereas, These retirement benefits are usually computed in the total retirement program of the individual retired reservists; and

Whereas, The retired reservist has earned these entitlements during his years of active service; and

Whereas, The present provisions of this code require an individual retired reservist to attain age sixty (60) before receiving these benefits; and

Whereas, If a retired reservist dies prior to the attainment of his sixtieth birthday, no benefits will be paid to his dependents nor are they eligible for such benefits at the time the deceased reservist would have attained age sixty (60); and

Whereas, Legislation should be introduced in the 94th Congress of the United States which would correct this inequity in Chapter 67, Title 10, United States Code, by providing survivors annuity benefits to dependents of retired reservists who decease prior to attainment of their eligibility birthday; now

Therefore, be it resolved, That the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974, does herewith offer its full support of the aforesaid legislation and requests the Department of Defense and the Congress of the United States to support this worthwhile incentive.

RESOLUTION NO. 6

(Submitted by Alabama, Arizona, Indiana, Michigan, Nebraska, Wahington and West Virginia, relating to support of legislation to reduce the age for commencement of retired pay.)

Whereas, Several bills were introduced in the 93rd Congress embodying a reduced retirement age concept; and

Whereas, Guardsmen and Reservists qualify for retired pay after twenty (20) years of service, but actual payment of retirement annuity does not begin until they reach age sixty (60); and

Whereas, The President's Interagency Committee on Military Retirement has recommended that the age be reduced to fifty-five (55) for those with twenty-five (25) or more years of service; and

Whereas, Legislation also has been proposed that retired pay commence as early as age fifty (50) with reduced payment; and

Whereas, The Reserve Components attach great importance to the proposal that retirement annuities commence after twenty (20) years or more of service, at an age below sixty (60), and strongly urge the Department of Defense and the National Guard Association of the United States to take a strong position in support of such legislation, recognizing that such legislation is just, equitable, and will increase the vitality among officers and non-commissioned officers as well as assisting in recruiting and retention of qualified personnel; now

Therefore, be it resolved, That the National Guard Association of the United States, assembled in San Juan, Puerto Rico, this 26th day of September 1974, urges favorable consideration of legislation in the 94th Congress to reduce to fifty-five (55) the age when members of the Reserve Components can receive *full* annuity benefits and that the study of such legislative proposals be accelerated and the position of the "Military" be communicated to the Congress in support of this very vital legislation; and

Be it further resolved, That a copy of this resolution be sent to the Chairmen of the Armed Services Committees and the Secretary of Defense.

RESOLUTION NO. 7

(Submitted by California, Connecticut and Pennsylvania, relating to granting of certain privileges for retired reservists before age 60.)

Whereas, Retired personnel of the Armed Forces of the United States, whether retired from active duty or from reserve status, are issued an identification card (DD Form 2A, Ret) upon becoming entitled to receive retired pay under any provision of law; and

Whereas, Retired personnel eligible for said DD Form 2A (Ret) are entitled to certain medical, commissary, exchange and other privileges, of which said identification card is evidence; and

Whereas, Retired reservists who have completed all requirements for retired pay except the attainment of age 60 have neither pay nor privileges during the period between the termination of their active participation in the Reserve Forces and their attainment of age 60, while the active duty retiree has both pay and privileges immediately upon the termination of his period of active duty; and

Whereas, The granting of medical, commissary, exchange and other privileges to the retired reservist and the issuance to him of DD Form 2A (Ret) as evidence of those privileges, during the period between active participation and the attainment of age 60, would be of great value to the retired reservist and it would encourage participation in the Reserve Forces until he achieves eligibility for retirement; now

Therefore, be it resolved, That the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974 urge the Congress of the United States be requested to modify existing law to provide that members of the Retired Reserve be granted the medical, commissary, exchange and other privileges of retired military personnel, and issued DD Form 2A (Ret) as evidence of eligibility for such privileges, upon attaining Retired Reserve Status in all respects except the attainment of age 60.

RESOLUTION NO. 8

(Submitted by Alabama, Arizona, California, Maine, Michigan, Pennsylvania, Washington, and West Virginia, relating to support of legislation to improve medical, dental and death benefits.)

Whereas, A bill authorizing additional medical and related benefits for military hospitalization for injuries sustained while performing inactive duty training and annual training has been introduced in Congress, to include a "portal-to-portal" coverage of Guardsmen and Reservists; and

Whereas, The Department of Defense strongly supports this legislation, and has done so for the past six years, and the House of Representatives has previously passed similar legislation, and the Senate Armed Services Committee has not scheduled hearings; and

Whereas, This pending legislation is of great importance and concern to the Reserve Components, and should be supported and followed carefully through the legislative process; now

Therefore, be it resolved, That the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974, urges the enactment of such legislation; and

Be it further resolved, That copies of this resolution be forwarded to the Chairmen of both Armed Services Committees and other appropriate members of Congress for their information and guidance.

RESOLUTION NO. 9

(Submitted by Arizona, Nebraska, South Dakota, and Tennessee, relating to proposed cuts in National Guard and Reserve Forces.)

Whereas, The Department of Defense has directed the inactivation of all eleven remaining battalions of the Army National Guard NIKE-HERCULES units and flying orgnizations of the Air National Guard, to be accomplished in fiscal years 1974, 1975, and 1976; and

Whereas, There are strong indications that the Department of Defense proposes to eliminate additional units of the Army National Guard and the Air National Guard, and thereby reduce the strength of each; and

Whereas, The ability of the National Guard to perform two vital functions—quick-reaction backup for the Armed Forces in defense of the nation, and swift response in aid of civil authorities in State and local catastrophes—results in a major savings of public funds; and

Whereas, The steady expansion in Soviet Russian and Warsaw Pact military power suggest strongly that any further reduction of United States military forces will expose this nation to unwarranted risk; and

Whereas, Inactivation of a National Guard unit, Army or Air, results in the wastage of a valuable defense asset, as represented in the experience, teamwork dedication, trained leadership, individual skills, and recruiting know-how, produced only after years of laborious effort and sizable expenditures of public funds; and

Whereas, The demonstrated ability of the National Guard to maintain authorized strength levels at a time when all other Reserve Components have experienced steady strength shortfalls makes it highly undesirable that the National Guard should now experience further structure reductions with the resultant reduction of the recruiting base; now

Therefore, be it resolved, That the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974 does express its strong opposition to any reduction in either force structure as being unwarranted and erosive in its effect on the National Guard's ability to discharge its vital dual mission; and

Be it further resolved, That this Association urges most strongly that:

The Army National Guard and Air National Guard be maintained at not less than their existing levels in numbers of units and authorized manning;

The existing flying units in the Air National Guard be maintained in order to avoid wastage of sophisticated job skills, pilot experience and other highly technical skills acquired at high cost and requiring long lead-time training requirements;

Modern and viable missions be assigned to the Air National Guard in order to utilize the wealth of pilot experience, technical skills and training, and

Present Air National Guard manning and equipment be continued until such time as new missions and aircraft are assigned to the several States; and

Be it further resolved, That this resolution be conveyed to the Secretary of Defense, the Chairman of the Armed Services Committees of the House and Senate, and the Secretaries of the Army and Air Force.

RESOLUTION NO. 10

(Submitted by Alabama, Arizona, California, Indiana, Michigan, Nebraska, North Carolina, Pennsylvania, Washington and West Virginia, relating to lifting 60 point retirement ceiling.)

Whereas, Guardsmen and Reservists currently may be credited with no more than sixty (60) retirement points per year for a combination of inactive duty training and the fifteen (15) points credited for membership in the Ready Reserve; and

Whereas, This results in a maximum of forty-five (45) points being creditable for training assemblies or "drills," despite the fact that forty-eight (48) drills per year are required by law to be scheduled, and despite the fact that thousands of Guardsmen and Reservists perform each year additional training assemblies, including those for flight training, airborne training, civil disturbance training, etc.; and

Whereas, The Reserve Components are unified in their agreement that lifting the sixty (60) point ceiling would offer a significant incentive for retention in the Reserve Components; and

Whereas, It is most important that the Armed Services and the Department of Defense establish and support appropriate legislation to accomplish the lifting of the sixty (60) point ceiling; now

Therefore, be it resolved, That the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974, urges the Services and the Department of Defense to establish an official position to support appropriate legislation to accomplish the lifting of the sixty (60) point limit.

RESOLUTION NO. 11

(Submitted by Alabama, California, Connecticut, Michigan, Nebraska, North Carolina, Pennsylvania, Washington and West Virginia, relating to an amendment of Public Law 90–486 to provide full credit for past technician service for purposes of computing retirement annuity.)

Whereas, Public Law 90–486, 90th Congress, S. 3865, was enacted on August 13, 1968, to clarify the status of National Guard technicians by converting these technicians to Federal employee status; and

Whereas, One provision of this law limits credit for past technician service to fifty-five percent (55%) for retirement annuity computation purposes, which has created an inequitable situation; and

Whereas, Legislation was introduced in the 93rd Congress to correct this inequity by granting 100% credit for prior service, and this bill was passed by the Senate and was favorably reported by the subcommittee to the full House Post Office and Civil Service Committee; and

Whereas, The legislation was not considered by the full House Post Office and Civil Service Committee in the 93rd Congress; and

Whereas, This bill is of vital interest and concern to National Guard technicians to assure a just and honorable retirement and to vitalize the technician program by allowing older technicians to retire when they first become eligible; now

Therefore, be it resolved, By the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974, that this Association supports this legislation and urges its introduction in the 94th Congress at the earliest possible date; and

Be it further resolved, That copies of this resolution be forwarded to the Speaker of the House and the Chairmen and all members of the Senate and House Post Office and Civil Service Committees.

RESOLUTION NO. 12

(Submitted by Arizona, relating to steps to be taken to account for American MIA's in Southeast Asia.)

Whereas, American military involvement in Southeast Asia has drawn to a close with the signing of a truce agreement calling for return of all American prisoners of war; and

Whereas, American military forces in the Republic of Vietnam have been withdrawn to that truce agreement; and

Whereas, Although almost five hundred Americans missing in action and held as prisoners of war have been accounted for and released from captivity, there remains at least twelve hundred of their fellow Americans yet unaccounted for in Southeast Asia; and

Whereas, It is the responsibility of the people of this nation to do everything in their power to determine whether these men are still alive and, if so, to secure their immediate release from captivity; now

Therefore, be it resolved, By the National Guard Association of the United States, in annual General Conference assembled this 26th day of September 1974 at San Juan, Puerto Rico, that the President and the Congress of the United States be requested and urged to take every possible step and make every possible effort to account for the more than twelve hundred American servicemen still missing in Southeast Asia and to secure the immediate release from captivity of those still alive; and

Be it further resolved, That the President of this Association be hereby authorized and directed to send a copy of this Resolution to the President of the United States, the President of the Senate, the Speaker of the House and the Secretary of Defense.

RESOLUTION NO. 13

Submitted by Indiana, relating to reducing period of active participation to three years in the Air National Guard for nonprior service enlistees.

Whereas, The military is now operating in an all volunteer environment; and

Whereas, The National Guard, under the Total Force Policy, must maintain its strength; and

Whereas, Six years of active participation in the National Guard, as now required by Department of the Air Force policy, with exception of certain skills, is keeping non-prior service Air Guard prospects from enlisting; and

Whereas, With a six-year enlistment in the Air National Guard, but only three years of active participation, with remaining three years spent in a non-participating Reserve status, enlistment would be more appealing; and

Whereas, During the first three years of service many Guardsmen will have learned a valuable trade, enjoyed the benefits of the pay and allowances, attained self-satisfaction; and will thereby continue active participation beyond three years; and

Whereas, Those who do not participate beyond three years will provide a Reserve Force of trained personnel available for active duty in a National emergency until completion of other military service obligations; now

Therefore, be it resolved, That the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974, request the Department of the Air Force to authorize, as an option, a three (3) year obligated service enlistment with a three (3) year commitment to be served in a non-participating status available for active duty in a national emergency; and

Be it further resolved, That copies of this Resolution be forwarded to the Secretary of the Air Force and Chief, National Guard Bureau.

RESOLUTION NO. 14

(Submitted by Indiana, North Carolina and South Dakota, relating to support of Ohio National Guardsmen and former Ohio National Guardsmen indicted as a result of Kent State University events.)

Whereas, In May 1970, Ohio National Guardsmen were called to assist at Kent State University where riotous persons were assembled and creating disturbances; and

Whereas, Many unlawful acts, to include the burning of a public building containing state and federal property, had been attributed to these persons, including mob demonstrations; and

Whereas, Ohio National Guardsmen were called upon to assist in the restoring of order and protection of property at Kent State University; and

Whereas, Recently a federal grand jury did indict several Ohio National Guardsmen and former Ohio National Guardsmen for unfortunate circumstances occurring during their duty at Kent State University as duly ordered; now

Therefore, be it resolved, That the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974, does lend its support to the defense of these Guardsmen and former Guardsmen who appeared to be acting as prudently as possible under most difficult circumstances and does call upon its members to lend whatever support possible to aid these Guardsmen and former Ohio National Guardsmen so involved.

(NOTE.—Monetary contributions may be sent to: Ohio National Guard Assistance Fund, P.O. Box 660, Worthington, Ohio 43085.)

RESOLUTION NO. 15

(Submitted by California, relating to equipment modernization in the Army National Guard.)

Whereas, The concept of peace through preparedness is sound and viable and must continue to receive vigorous support in the future. Preparedness, with all its connotations relates most directly to readiness, readiness of personnel and equipment; and

Whereas, During this period of mandated reductions in strength, coupled with the various commitments which impact upon equipment resources, combat effectiveness of all our forces must be the prime consideration; and

Whereas, The imposed reductions of all Armed Forces has directed greater reliance upon the Reserve Components. To comply with the mandate to maintain fully manned, fully deployable units, it is considered most esesntial that the Army National Guard be fully equipped and re-equipped continually with modern assets to attain and maintain the required readiness posture; and

Whereas, more than 650 M48A3 and M60 tanks which could have been available for issue to the ARNG have been diverted to other nations thus removing from inventory modern equipment for more than 10 Armor Battalions; and

Whereas, more than 150 self-propelled artillery pieces have been diverted from the U.S. Army inventory which could equip almost 10 ARNG Artillery Battalions; and

Whereas, more than 1,000 URC–12 series radios have been diverted from U.S. Army inventory at a time when ARNG readiness is hampered by lack of communications equipment; and

Whereas, Army National Guard strength goals and training objectives are being achieved. Sustaining and maintaining the preparedness of personnel is dependent upon, to a high degree, the provisioning of adequate quantities of modern equipment in a timely fashion; now

Therefore, be it resolved, That the National Guard Association of the United States in Conference at San Juan, Puerto Rico, this 26th day of September 1974, insists on a program for distribution to the Army National Guard of modern equipment essential to the combat readiness of the ARNG and urge that positive action be taken to achieve complete modernization in consonance with the Nation's industrial capability, and the essential role of the ARNG in the defense of this Nation.

RESOLUTION NO. 16

(Submitted by Connecticut, relating to the awarding of the National Defense Service Medal to Active National Guardsmen and Ready Reservists.)

Whereas, The present Department of Defense policy is to award the National Defense Service Medal to any person who serves on active duty, but not to include active duty for training; and

Whereas, The Departments of Defense, Army and Air Force have stated that high levels of mobilization-readiness will be required of the National Guard and Reserve since it is now national defense policy to consider the National Guard and other reserve components as the first resources for augmentation of the active forces in future national emergencies; and

Whereas, National Guardsmen and Ready Reservists are required to and do maintain combat-readiness equal to that of active service and perform a valuable service to the nation by providing a standby force ready for immediate service if and when such need should arise; now

Therefore, be it resolved, By the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974, that this Association requests the National Guard Bureau to initiate such action as required to authorize the awarding of the National Defense Service Medal to all active Guardsmen and Ready Reservists; and

Be it further resolved, That copies of this resolution be referred to the Army and Air Reserve Forces Policy Committees as an Agenda item.

RESOLUTION NO. 17

(Submitted by Indiana, relating to drill pay for Air National Guard high school seniors prior to entering Air Force basic training.)

Whereas, High school seniors in the Army National Guard are authorized drill pay while waiting Army Basic Training; and

Whereas, High school seniors in the Air National Guard are not authorized drill pay while awaiting Air Force Basic Training; and

Whereas, The motivations of prospective recruits in a no-draft environment have changed so completely that additional incentives are needed; and

Whereas, The authorization of drill pay for ANG high school seniors awaiting active duty for training would:

Provide a strong incentive to the prospective recruit, namely the opportunity to earn additional money;

Satisfy the inequity now existing between the Army National Guard and the Air National Guard;

Allow the Air National Guard commander to assist trainees in making a gradual transition into the military through orientation periods in order to insure rapid progress upon entry on active duty for training, and

Give the new recruit his first experience of military life which begins on the date of enlistment by requiring attendance at important training assemblies; now

Therefore, be it resolved, That the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974, strongly urge the Secretary of the Air Force to authorize drill pay for Air National Guard high school seniors prior to initial entry on active duty for training; and

Be it further resolved, That a copy of this resolution be sent to the Chief of the National Guard Bureau and to the Secretary of the Air Force.

RESOLUTION NO. 18

(Submitted by Connecticut, relating to granting stand-by privileges to National Guard and Reserve personnel on DOD aircraft to all overseas points.)

Whereas, The National Guard Association of the United States is vitally interested in resolving the problems of recruiting and retaining qualified individuals in the Army National Guard and Air National Guard; and

Whereas, The National Guard Bureau repeatedly has expressed concern about maintaining authorized strength levels; and

Whereas, With the all-volunteer environment and the zero draft, the National Guard and Reserves are confronted with serious problems of recruiting and retaining qualified personnel; and

Whereas, The States already are experiencing serious difficulty recruiting and retaining qualified personnel; and

Whereas, The members of the National Guard and Reserve are a vital part of the national defense posture; and

Whereas, Members of the Armed Forces on active duty are allowed to fly on a space-available basis as passengers between the CONUS and all overseas areas on DoD-owned or controlled aircraft; and

Whereas, Members of the Reserve Components are allowed to travel on a space-available basis as passengers only between Alaska, Hawaii, Puerto Rico, and the CONUS on Dod-owned or controlled aircraft; now

Therefore, be it resolved, That the National Guard Association of the United States assembled in San Juan, Puerto Rico, this 26th day of September 1974, does hereby request that the Department of Defense take such action as necessary to change DoD Regulation 4514.13-R to allow members of the National Guard and Reserves to fly on a space-available basis as passengers between the CONUS and all overseas areas on DoD-owned or controlled aircraft in accordance with privileges equal to those available to Armed Forces Active Duty personnel; and

Be it further resolved, That copies of this resolution be forwarded to the Chief, National Guard Bureau; Assistant Secretary of Defense for Reserve Forces and the Army and Air Reserve Forces Policy Committees.

RESOLUTION NO. 19

Submitted by California, relating to usage of military rank by the Veterans Administration.

Whereas, The Veterans Administration traditionally has used the deceased veterans' military rank on markers and headstones; and

Whereas, This is the veteran's highest rank for his period of active federal service; and

Whereas, This procedure fails to take into account any higher rank the veteran may be entitled to by virtue of further military service in the National Guard or Reserve; and

Whereas, This procedure is discriminatory and does result in a headstone or marker with less than the highest federally recognized military rank earned by such veteran; now

Therefore, be it resolved, That the National Guard Association of the United States, in Conference in San Juan, Puerto Rico this 26th day of September 1974, petition the Congress to direct the Veterans Administration henceforth to use the highest federally recognized military rank on all headstones, markers and related documents for deceased veterans entitled to such veterans' benefits.

RESOLUTION NO. 20

Submitted by Virginia, relating to DOD reassuming the funding of the selective service ssytems' national guard training program.

Whereas, The Department of Defense places full reliance upon the Selective Service System, to meet its manpower mobilization requirements in a national emergency; and

Whereas, The DoD would find it next to impossible to meet its manpower requirements in an orderly, equitable and timely manner in a national emergency without the services of the specially trained Selective Service National Guard officers; and

Whereas, The DoD has utilized the services of these Selective Service National Guard officers in national emergencies from 1940 to the present date, during which time 14,915,741 men were inducted into the Army, Navy and Marine Corps, and thousands of others were induced to enlist in all services including the Air Force and Coast Guard; and

Whereas, The DoD now exercises full control over these comparatively few designated Selective Service National Guard officers earmarked for duty with the Selective Service System in a national emergency, including almost all aspects of their service, including rentention, promotion, conduct, wearing of the uniform and educational requirements; and

Whereas, The Selective Service System will at best only derive corollary benefits from this force of National Guard officers and the DoD stands to be the principal beneficiary of this specially trained force; and

Whereas, The reason for existence of these designated National Guard officers is derived entirely from the prospective mobilization requirements of the Armed Services; and

Whereas, The DoD has funded the costs incident to the maintenance of this Selective Service National Guard force from 1936 to June 1972, and even now has never publicly stated this funding should not be continued as a proper DoD budget item; and

Whereas, The Selective Service System never was required by any department or agency to provide funds for this National Guard program from its own appropriations until directed to do so in June 1972 by the Deputy Director, Office of Management and Budget; and

Whereas, The current requirement for the Selective Service System to fund this National Guard program for the DoD has no more basis or validity than requiring the DoD to reimburse the Selective Service System for costs it incurs incident to delivery of registrants to the Armed Forces Examining and Entrance Stations for physical examination and induction; now

Therefore, be it resolved, That the National Guard Association of the United States recommends that the Director, Office of Management and Budget, direct the Department of Defense to resume the funding through the National Guard Bureau of the Selective Service Sections of the several State Headquarters and Headquarters Detachments.

RESOLUTION NO. 21

Submitted by Minnesota, relating to Department of Army mandatory promotion consideration.

Whereas, Section 3366, Title 10, United States Code, specifies consideration for promotion on a "best qualified" basis for all Reserve Component officers in grades of First Lieutenant, Captain and Major, and requires that 80% of those considered for the first time be recommended by the Board; and

Whereas, Sections 3843 and 3848, Title 10, United States Code, specifies age and service criteria for mandatory removal from an active status of Reserve Component officers in the grade of Lieutenant Colonel or below; and

Whereas, The separate States devise and operate Officer Career Guidance Programs for National Guard officers, based on the criteria established by the above cited laws; and

Whereas, Data now compiled makes it apparent that selection boards convened under the provisions of Section 3366, Title 10, United States Code, for consideration of promotions from Captain to Major and Major to Lieutenant Colonel, recently have used some type of artificial or arbitrary age criteria in considering officers being fully qualified; and

Whereas, Selection boards, so convened,

have failed to comply with the legal requirement to recommend 80% of those considered for the first time; and

Whereas, It is not possible for the separate States to operate reasonable and meaningful Officer Career Guidance Programs when criteria other than that established by law is used by the convening authority; now

Therefore, be it resolved, That the National Guard Association of the United States, in Conference at San Juan, Puerto Rico, this 26th day of September 1974, urges the Department of Defense and the Department of Army to refrain from the use of arbitrary or artificial age criteria in consideration of recommending fully qualified officers for promotion and urge compliance with the statutory requirement that 80% of those considered for the first time be recommended.

RESOLUTION NO. 22

(Submitted by Maine, relating to an amendment to the Aviation Career Incentive Act of 1974 with respect to the saved pay entitlement for members of Reserve components not serving on active duty.)

Whereas, The saved pay provision of Public Law (PL 93–294) has been interpreted to limit the saved pay entitlement for Reserve members not serving on active duty to the new rates; and

Whereas, This established a precedent for distinguishing between inactive duty and active duty hazardous duty pay entitlements; and

Whereas, Officers and warrant officers of the Army and Air National Guard are called on to make frequent flights while in an inactive duty status; and

Whereas, The exposure to hazard is the same regardless of duty status of the individuals involved; and

Whereas, These officers and warrant officers may be compensated at a lower rate than their counterparts who are in an active duty status; now

Therefore, be it resolved, That the National Guard Association of the United States, assembled at San Juan, Puerto Rico, this 26th day of September 1974, strongly urges the Department of Defense to establish an official position to support appropriate legislation lifting this discriminatory provision of Public Law (PL 93–294) which precludes equality of entitlements for inactive duty service under the Aviation Career Incentive Pay Act of 1974.

RESOLUTION NO. 23

(Submitted by Georgia, relating to the requirement for increasing the Air National Guard technical ceiling.)

Whereas, The Air National Guard is being equipped with modern, sophisticated weapon systems which greatly improve the combat capability of the Air National Guard as an essential element of the Total Force; and

Whereas, The operation and maintenance of these more sophisticated weapon systems require a significant increase in the number of Air National Guard technicians; and

Whereas, The number of Air National Guard technicians which may be employed is limited to 22,550 by the Legislative Report on P.L. 92–119; and

Whereas, The Air Force recognized a requirement of 23,500 Air National Guard technicians as essential for the production of required combat readiness; now

Therefore, be it resolved, That the National Guard Association of the United States, in Conference assembled in San Juan, Puerto Rico this 26th day of September 1974, does direct the President of this Association to seek legislation to increase the number of Air National Guard technicians which may be employed; and

Be is further resolved, That copies of this resolution be forwarded to the Chairman of the Senate Armed Services Committee, the Chairman of the House Armed Services Committee, the Secretary of Defense, the Secretary of the Air Force, and the Chief, National Guard Bureau.

RESOLUTION NO. 24

(Submitted by Georgia and Oklahoma, the the Deputy Assistant Secretary for Reserve Affairs be made an Assistant Secretary of Reserve Affairs, reporting directly to the Secretary of Defense.)

Whereas, The Secretary of Defense has directed a greater reliance on the Guard and Reserve in our national defense establishment; and

Whereas, Issues within the Department of Defense regarding force reductions, programs, procurement, funding, personnel actions, etc., are resolved within the Services, with decisions recommended to the Department of Defense; and

Whereas, The single spokesman for the Guard and Reserve is not at a level where his voice can be heard; and

Whereas, Total Force implementation requires that the Guard and Reserve be considered on the same basis as the Regular establishment; and

Whereas, There are Assistant Secretaries of Defense in Comptroller, Health and Environment, Installations and Logistics, Intelligence, International Security Affairs, Public Affairs, Telecommunications, and Manpower, the latter including Reserve Affairs, at the Deputy Assistant Secretary level; now

Therefore, be it resolved, That the National Guard Association of the United States, in Conference assembled in San Juan, Puerto Rico, this 26th day of September 1974, strongly urges the Congress of the United States to support the recommendation that the Deputy Assistant Secretary for Reserve Affairs be made an Assistant Secretary of Reserve Affairs, reporting directly to the Secretary of Defense.

RESOLUTION NO. 25

(Submitted by New Jersey, relating to authority for the award of the Air Force commendation and meritorious service medals.)

Whereas, In March of 1974, the Department of the Army delegated to State Adjutants General and to Army National Guard Commanders in the grade of Brigadier General or higher, authority to approve awards of Army Commendation Medals to members of the Army National Guard in the grade of Colonel and below under their command or staff jurisdiction; and

Whereas, Also in March 1974, the Department of the Army further delegated to State Adjutants General and to Army National Guard Commanders in the grade of Major General, authority to approve awards of the Army Meritorious Service Medal to retiring or deceased personnel of the Army National Guard in the grade of Colonel and below and to non-retiring personnel regardless of grade under their command or staff jurisdiction; and

Whereas, The standards for the respective award of the Army Commendation Medal and the Army Meritorious Service Medal and the Air Force Commendation Medal and the Air Force Meritorious Service Medal are similar; and

Whereas, It is desirable for the State Adjutants General and National Guard General Officer Commanders to have, insofar as practicable, consistent policy and authority for the members of the Army and Air National Guard; now

Therefore, be it resolved, That this Association forward copies of this resolution to the Chief, National Guard Bureau and the Air Reserve Forces Policy Committee with the request that they intercede with the Department of the Air Force to secure delegation of authority for the award of the Air Force Commendation Medal and the Air Force Meritorious Service Medal to the same level as has been done by the Department of the Army.

RESOLUTION NO. 26

(Submitted by Florida, Massachusetts, Michigan, Montana, and New Jersey, relating to the enhancement of the F–106 weapon system.)

Whereas, The F–106 is an aircraft which has been otpimized for bomber interception; and

Whereas, The F–106 has a MACH 2 tactical environment capability with a 500-mile combat radius and can achieve a rapid scramble with a single operator; and

Whereas, There have been no new modifications programmed since 1970 when the F–106 was first introduced into the ANG; and

Whereas, Aircraft fatigue tests indicate the basic airframe can exceed the 1990 time period of life span; and

Whereas, There also exists a known capability for the upgrading of weapon systems to include a look down capability, digital design, clean scope, all aspects of high altitude encounter capability, and large volume air space surveillance; now

Therefore, be it resolved, That the National Guard Association of the United States recommends that the National Guard Bureau aggressively support the Air Force in enhancing the F–106 weapon system by modifying the MA–1 system with APG 63 radar; and

Be it further resolved, That copies of this resolution be forwarded to the Secretary of the Air Force, Secretary of Defense, Chairmen of the Armed Services Committees, Chief, National Guard Bureau, and CINCNORAD/Commander ADC.

RESOLUTION NO. 27

(Submitted by Minnesota, relating to the examination for Federal recognition in the next higher grade.)

Whereas, Officers of the National Guard are prohibited from wearing the insignia of the higher grade when promoted on State orders until federal recognition of their promotion has been granted; and

Whereas, Delay of several months in being able to wear the insignia of the higher grade is being experienced by officers promoted on State orders due to administrative processing; and

Whereas, The board of officers determines whether the applicant for promotion meets the medical, moral, and professional qualifications to perform the duties of the grade and position for which recommended; now

Therefore, be it resolved, That the National Guard Association of the United States, assembled in San Juan, Puerto Rico, this 26th day of September 1974, requests that the National Guard Bureau initiate such proposed changes as may be necessary to amend Sections 3363 and 8363 of Title 10, United Stats Code, so as to permit examination for federal recognition in the next higher grade prior to completing minimum years of promotion service.

RESOLUTION NO. 28

(Submitted by the Commonwealth of Puerto Rico, relating to the support of the Nation of Honduras.)

Whereas, The people of Honduras have suffered a staggering blow from the impact of Hurricane FiFi; and

Whereas, This tragedy included the loss of life of several thousands of citizens and material losses of millions of dollars to this great country; and

Whereas, These great losses will adversely affect the entire economy and well being of the fine people of Honduras; and

Whereas, The National Guard of the United States, throughout the centuries, have always responded both spiritually and materially to all in dire need of aid and comfort; now

Therefore, be it resolved, That the National Guard Association of the United States assembled in San Juan, Puerto Rico this 26th day of September 1974, urges all State delegations to do their utmost with whatever means are available to them and at their disposal, to help the people of Honduras in this tragic chapter of their history.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the fight for human rights has been an important part of our national history. Americans can be very proud of our heritage of struggle against domestic racial, religious, and economic discrimination. These efforts in the field of human rights, however, must not become a source of smug satisfaction. There is always more to be done, both here and abroad.

A quarter-century ago the United Nations General Assembly endorsed the Genocide Convention, the first human rights document which that body considered. The United States was one of the principal leaders in drafting that document. Indeed, President Truman took the major leadership in pushing for a genocide convention. In the intervening years, every President of the United States, has supported the Genocide Convention. Seventy-five nations, including all our major allies, have ratified this treaty. It seems an anomaly, therefore, that a nation which was a pioneer in the field of human rights would fail to ratify this basic and fundamental document of liberty.

Mr. President, that treaty is on the calendar. That treaty is not up to the President of the United States now, not up to the House of Representatives, not up to any other body but the Senate of the United States. We can ratify it. It is up to us. The United States must not delay any longer. The time to reassert our leadership in this field is long past due. We should act.

HAWAII SUPPORTS ERTS CONTINUITY

Mr. MOSS. Mr. President, Hawaii is one of our smallest States and, while this lends to ERTS imagery that is of "thumbnail" proportions, Acting Gov. George R. Ariyoshi nevertheless supports the intent of the legislation currently before the Committee on Aeronautical and Space Sciences. Let me read part of what he wrote me:

> [W]e fully support the intent of S. 2350 and S. 3484 to assign the ERTS system to a Federal mission agency, thereby assuring the continuing availability of a valuable information source and decisionmaking tool.

Mr. President, I ask unanimous consent that the letter of the Acting Governor of Hawaii be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HONOLULU, HAWAII, *July 25, 1974.*

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: Thank you very much for your letter and enclosures of June 24, 1974, addressed to Governor Burns, informing us of the capabilities of the Earth Resources Technology Satellite (ESTS) and requesting our opinion regarding the merits of establishing an operational ERTS system.

We have been apprised of the many applications of this remarkable spacecraft by representatives of both NASA and the AMES Research Center. In addition, representatives from our Legislature as well as our Department of Planning and Economic Development have attended ERTS seminars on land use application and sensor imagery interpretation both at Moffett Field, California, and Sioux Falls, South Dakota.

Unfortunately, we have not been able to enjoy the full benefits of ERTS imagery, which reduces each of our eight islands to thumbnail proportions, because of the smallness of our Island State. We are optimistic, however, that future interpretative refinements through electronic expansion will be more fruitful in this regard.

Of more immediate promise is the hard copy photo imagery currently offered by NASA-AMES employing U-2 high level aircraft. Land use inventories, photo mapping, and shoreline definition are but a few of the benefits we soon hope to realize upon completion of flights scheduled for Hawaii in September of this year.

In conclusion, we fully support the intent of S. 2350 and S. 3484 to assign the ERTS system to a Federal mission agency, thereby assuring the continuing availability of a valuable information source and decisionmaking tool.

We very much appreciate the opportunity to comment upon the most worthwhile legislation and wish you the best of luck in achieving its early enactment. If we can be of any further assistance, please feel free to contact us at any time.

With warm personal regards, I remain,
Yours very truly,
GEORGE R. ARIYOSHI,
Acting Governor.

INDEPENDENT REFINERS' CRUDE OIL SUPPLY

Mr. METCALF. Mr. President, Monday the Subcommittee on Budgeting, Management and Expenditures conducted an all-day hearing on the problems encountered by independent refiners in obtaining crude oil. Their basic problem is indecision at the Federal Energy Administration. It has delayed issuing regulations essential to equitable sharing of crude.

This morning I sent a letter to FEA Administrator Sawhill in which the impressive testimony is summarized. I asked that he implement the regulations by Monday, November 25.

So that Members may be kept informed on this matter I ask unanimous consent to have printed in the RECORD my letter to Mr. Sawhill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 21, 1974.

Hon. JOHN C. SAWHILL,
Administrator, Federal Energy Administration, Washington, D.C.

DEAR ADMINISTRATOR SAWHILL: On Monday, 18 November, the Subcommittee on Budgeting, Management and Expenditures held a hearing on the problems of independent refiners under the present system of pricing and allocation of crude oil, and on the dilatory manner in which the Federal Energy Administration has sought to resolve these problems through additional and necessary regulations.

A copy of the transcript of the hearing is enclosed for your information.

With virtual unanimity, those testifying advocated immediate FEA action to provide old oil entitlements to independent and small refiners. While certain of those testifying suggested possible improvements to the proposed regulations and advised the subcommittee that they would bring their suggestions to the attention of your agency by the 22 November deadline for comments, these witnesses all felt strongly that immediacy of FEA action to implement the program was more important than delay to perfect the regulations. In this regard the testimony adduced at our hearing demonstrated without exception that this matter has been under careful study by FEA for many months, that repeated commitments to take action have not been honored, and that agency inaction has strongly contributed to a very detrimental competitive situation for the independent and small refiners and their independent marketer customers.

William Johnson a former FEA assistant administrator testified as to the serious plight of the independent refiners particularly along the northern tier of states, and while he favored elimination of the two-tier pricing system and other longer term measures as a means of achieving crude oil price equalization he agreed that awarding old oil entitlements to refiners may be a necessary interim action.

The immediate concern of the witnesses who appeared was the current economic impact of the two-tier price system on independent refiners and marketers who lack adequate access to domestic old oil. The subcommittee heard that reductions in refinery runs are severe in many parts of the country. A state official and other witnesses evinced a serious doubt whether there would be sufficient available heating oil and residual fuel if severe weather conditions developed during the winter with independent refineries operating at such reduced rates. A number of important independent refiners also pointed out that they have experienced substantial operating losses or substantially reduced earnings in the last calendar quarter as a result of the government's failure to act. The actual collapse or imminent collapse of independent marketers reliant upon high priced product in times in which products are in relative surplus was also detailed.

Also, in the course of our hearing, we found that FEA has failed to provide for those small refiners with an old oil supply greater than the national average, but rather treats them as if they were major integrated oil companies. The number of such firms and their total refining capacity may be a small percentage of the national total, but the additional expense of purchasing entitlements could wreak hardships on them far beyond any "equalization" benefits derived therefrom. Indeed, some of them will be driven out of business altogether. It was urged strongly that FEA amend its final regulation slightly by exempting small refiners from the requirement of buying entitlements in cover any excess old oil. This should not cause a delay in implementing the program since a simple proviso would take care of the matter.

After hearing the testimony, it is my conclusion that enough time has been taken in moving these new regulations to final issue, and that FEA has both the authority and the basic information with which to act immediately.

Therefore, I strongly urge that the final regulations with respect to the allocation of old oil to independent refiners be issued by FEA by 25 November. Every day lost in the process may postpone by months their relief to the smaller refiners, many of whom are in the northern tier states. For them, it has become a serious matter of economic existence.

I appreciate your immediate consideration of this matter, and await your timely decision with special concern.

Very truly your,

Lee Metcalf.

A FEDERAL DOMESTIC DEVELOPMENT BANK

Mr. HATHAWAY. Mr. President, I would like to join today with my distinguished colleagues, Senator Javits and Senator McIntyre in support of a bill recently introduced by them, S. 3983, the Federal Domestic Development Bank Act. This bill would establish a Federal Domestic Development Bank to provide loans, loan guarantees, and technical assistance for the support and expansion of public facilities and private businesses in economically depressed urban and rural areas of the country.

The need for such an entity is obvious—and is becoming more critical each day as our economic situation worsens. The cost of capital, even for the most "blue-chip" projects, is at an all time high and in many cases is simply unavailable at any price. This means venture capital is even tighter and such capital in those areas where the economy is in the worst shape is virtually nonexistent. As a result, we are being backed into a corner where capital-starved areas are trapped in a situation over which they have no practical control. An adequately funded financing entity directed particularly at those areas in the most trouble could provide a key—both for those areas and, by increasing overall productivity, for the economy as a whole.

I have been interested in the subject of economic development for some time. My study of the subject has led me to conclude that the availability of capital—particularly venture or risk capital is, along with entrepreneurship, the secret of such development. This conclusion naturally led to an interest in development banking. The bill introduced by Senators McIntyre and Javits represents a well conceived approach to this problem and it is my hope that the Committee on Banking, Housing and Urban Affairs will give serious consideration to this proposal early in the next Congress.

When the bill is under consideration, I hope to raise several possible amendments designed to accomplish three major purposes: First, narrow the focus of the bank's activities to those projects most likely to expand employment opportunities in depressed rural or urban areas; second, increase the levels of funding available to the bank; and third, assure that the bank will operate in close proximity with those it is intended to serve and will maintain a risk-loving posture as benefits an entity intended to be a source of venture capital.

Mr. President, I applaud my colleagues from New Hampshire and New York for their creative and much needed initiative in this area; I look forward to working with them on it.

COST-BENEFIT ASSESSMENT OF POLLUTION AND SAFETY REQUIREMENTS ON AUTOMOBILES

Mr. HART. Mr. President, it is no secret, especially to Michigan residents, that the American automotive industry is in a deep economic recession.

As sales plummet, major car manufacturers lay off workers, and the effects of plant shutdowns and slowdowns are felt throughout the economy.

As usual, there has been no long-range planning on how to counter effectively a recession in an industry on which the good health of the entire economy rests.

And of course, with each new layoff, the sense of urgency to act quickly increases and long-range considerations are put off for still another day.

It has been suggested that a moratorium on Government-mandated safety and pollution devices would help keep down the price of buying and operating new cars, thereby encouraging more people to buy new cars.

While I trust that Congress will not miss this moment to launch serious consideration of how this Nation can achieve a viable economy not based on ever-increasing sales of new cars, the question at hand is whether Congress should impose a moratorium on safety and pollution control requirements and whether such a moratorium would boost car sales.

As much as each of us want to reverse the current economic recession, I believe that few advocate the scrapping of safety and pollution requirements whose benefits exceed their costs.

So that Congress need not act during this time of stress without the benefit of an impartial cost-benefit assessment of pollution and safety requirements, last month I asked the Office of Technology Assessment to study and provide firm conclusions on which requirements reviewed are cost justified.

It is my understanding that the congressional board which decides which projects the office undertakes will consider my request at its December meeting.

I ask unanimous consent that my letter to Senator Edward Kennedy, Chairman of the Technology Assessment Board, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

October 17, 1974.

Hon. Edward M. Kennedy,
Chairman, Technology Assessment Board,
Office of Technology Assessment,
Russell Senate Office Building,
Washington, D.C.

Dear Mr. Chairman: Questions have been raised with respect to government-mandated application of safety and emission technology in the automobile industry which I hope will interest you in your capacity as Chairman of the Technology Assessment Board of the Office of Technology Assessment.

In a series of recent speeches, Richard C. Gerstenberg, Chairman of the General Motors Corporation called for a three-year moratorium on new government safety and antipollution equipment for cars and asked Congress to review the "cost-benefit relationship of equipment already on our cars with an eye to which of it can be removed." Citing inflation and rising costs, Mr. Gerstenberg contended that some government-mandated equipment may represent "cost without value." We claimed that government-mandated devices added to GM cars in the last four model years cost an average of $270 a car over the past four years.

In view of the mounting concern about inflation and critical role of automobile production in the American economy, I believe that it is incumbent upon Congress to assess the costs and benefits of the consumer and environmental protection requirements which have been imposed on the automobile industry over the years. In addition, I believe that it would be wise to assess the cost-benefit relationship of automotive equipment such as air bags and improved antipollution devices which will be required in the future under existing legislation.

It would appear that the Office of Technology Assessment might be the most appropriate agency to undertake the proposed cost-benefit studies. As stated in the Technology Assessment Act of 1972 (CPL 92-484), which established OTA, the purpose of this agency is to equip Congress "with new and effective biological, economic, social, and political effects" of technological applications; and to serve as an aid "in the legislative assessment of matters pending before the Congress, particularly in those instances where the Federal government may be called upon to consider support for, or management or regulation of, technological applications." Since Congress is responsible for the requirements in question, Congress should undertake their reassessment. As an advisory arm of Congress, OTA would seem the logical and appropriate agency to assume this responsibility.

Of course, a thorough evaluation of the government-mandated equipment should include reference not only to the concerns about inflation expressed by Mr. Gerstenberg and others in the automobile industry but also to the health, safety, economic, and environmental implications of allowing cars to be manufactured without such equipment. It is clear that no cost-benefit analysis will be adequate which fails to include every signficant element of cost or benefit, however unquantifiable some of these may be.

In its assessment of the automotive equipment described, I would expect that OTA would wish to review data provided by the Nation's automakers and other manufacturers of this equipment. In addition, it is my understanding that cost-benefit analyses of passive restraint systems have been undertaken by the insurance industry. There may also be numerous agencies within government, such as DOT and EPA, that would be able to contribute relevant data in this area.

Finally, it would be helpful if OTA could provide a firm conclusion as to whether each of the requirements it examines are cost-justified. The assumptions involved in such conclusions should of course be stated and where doubt exists, it should be admitted. Yet I do believe that Congress needs a judgment on these questions, not a mere listing of the factors that should be involved in any such judgment.

We are entering an age of increasing concern about the state of our economy; but that does not mean that we must end an age of progress in automotive safety and improvement in our environment. If the benefits of the equipment we have mandated outweigh the costs, then Congress should proceed as planned. If they do not, it should act accordingly. I commend this vital task to you as Chairman of the Technology Assessment Board.

With best wishes.

Sincerely,

Philip A. Hart,
Chairman,
Subcommittee on the Environment.

NATIONAL CONFERENCE OF CATHOLIC CHARITIES

Mr. HARTKE. Mr. President, we all share a concern over excessive Federal spending, but there is a difference of opinion as to where cuts should be made. There are many worthy social programs funded in whole or in part by the Federal Government. These programs reach out to people in need. They seek to make good on the commitment our Founding Fathers made to promote the general welfare.

Mr. President, recently Rev. Msgr. Lawrence J. Corcoran, executive director of the National Conference of Catholic Charities, wrote to President Ford recommending an increase in the budgets of social programs and several other suggestions which are most appropriate. I ask unanimous consent that the text of Monsignor Corcoran's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

National Conference
of Catholic Charities,
Washington, D.C., October 7, 1974.

The President,
The White House,
Washington, D.C.

Dear Mr. President: On behalf of the National Conference of Catholic Charities, I wish to express our sincere gratitude for the opportunity to participate in the Summit Conferences on The Economy. We applaud your inclusion of the human welfare sector of society in these discussions.

As a result of our participation in these conferences, however, our concern over the direction federal economic policies may take has been enhanced rather than alleviated. We do, therefore, respectfully submit the enclosed set of policy recommendations on behalf of our nearly 1,000 charitable agencies and institutions who serve low-income workers, the elderly, the poor, and those on fixed incomes, who suffer a disproportionate share of the burdens resulting from the current state of the economy.

It is true indeed that the economy belongs to all people, not just certain special interests. It was in the spirit of this sentence that these recommendations were developed and adopted at the 60th Annual Meeting of the National Conference of Catholic Charities on October 3, 1974.

In summary, Mr. President, we recommend that you:

increase, rather than decrease, the budgets of social programs aimed at those workers and citizens at the low end of the economic ladder.

establish controls on energy and fuel prices, and where appropriate, roll them back.

encourage fair and vigorous anti-trust enforcement against the agri-business firms and conglomerates whose dominance artificially maintains high food prices.

urge the Federal Reserve Board to ease its restraint on credit, especially in the housing industry, and support a requirement of banks to channel a meaningful share of their loans to finance low and middle income housing at reasonable rates.

encourage early passage of the proposed amendment to the Comprehensive Employment and Training Act that would provide $4 billion for public employment.

support the implementation of a program of comprehensive health insurance covering the total population, with a strong emphasis on preventive care.

appoint a new team of your own economic advisors, men and women whose compassion and sensitivity will naturally lead them to recommend and implement policies consistent with the need for an economy which belongs to all of the people.

Mr. President, the economic policies you adopt will have immediate and lasting impact on millions of people in the United States and around the world. Our prayers are with you as you chart our nation's course to economic recovery.

Sincerely yours,

Rev. Msgr. Lawrence J. Corcoran,
Executive Director.

A HAPPY ENDING

Mr. HUGH SCOTT. Mr. President, the story of Simas Kudirka, the Lithuanian seaman who jumped ship off Martha's Vineyard in 1970 and was subsequently returned to Moscow in chains to serve a prison sentence at last has a happy ending. And that happy ending is due, in good part, to the extraordinary efforts of a Glenside, Pa., housewife named Ausra Zerr.

Mr. President, I ask unanimous consent that an article from the Philadelphia Inquirer relating this remarkable story be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Housewife Challenged a Nation

(By Harold J. Wiegand)

It had its beginning four years ago in the waters off Martha's Vineyard, moved to a Soviet prison camp, and had a happy ending just a few days ago on a farm in North Jersey.

It is the story of Simas Kudirka, a Lithuanian seaman who jumped from a Russian trawler on Nov. 23, 1970; was denied asylum on a U.S. Coast Guard cutter; was beaten, dragged back to his ship, and returned in chains to Moscow. There he was convicted of treason and sentenced to 10 years in a labor camp.

It became a Philadelphia Story when the Lithuanian community here, outraged by the Coast Guard's refusal of sanctuary, took up Kudirka's cause. A militant leader in the struggle to help the seaman was a Glenside housewife, Ausra Zerr. She is vice president of the national executive committee of the Lithuanian-American Community of the USA, Inc., which has its headquarters in this city.

She is a refugee from Communist-controlled Lithuania. At the age of 12 she had been smuggled out of the country on a coal cargo ship. So she has an ingrown sympathy for human beings seeking freedom.

Mrs. Zerr went to Washington, along with like-minded Philadelphians like Joseph Gaila, Rimos Chesonis and Anthony Novasitis. They bombarded the State Department with arguments and pleadings. They were not satisfied with the forced retirement of the two Coast Guard officers responsible for the incident at Martha's Vineyard.

They wanted help for Kudirka and his family. They received assistance from Sen. Hugh Scott and Rep. Robert Hanrahan of Illinois. They interested the Lithuanian-language press in the case, and newspapers in Chicago, Cleveland and New York pressured the government for action.

Suddenly, by an almost incredible stroke of fortune, they hit the jackpot. It was discovered that Kudirka's mother had been born in Brooklyn, and had been taken to Lithuania when she was six-years-old. Verification was found in the baptismal records of the Church of St. Mary of the Angels in the Williamsburg section.

The new evidence changed the picture completely. It meant that Kudirka's mother is an American citizen, with all the rights that go with it—and so is Kudirka. It gave the State Department, the U.S. Embassy in Moscow and the news media something new and significant to work with.

The results were rapid and startling. Perhaps they would have been different before today's atmosphere of detente, when requests for the seaman's release might have been rejected out of hand.

But at this particular time, U.S. citizen Kudirka was in luck. His release from prison and exit visas for him and his family were approved by the Soviet Parliament.

On Nov. 5 he walked from a plane at New York's Kennedy Airport with his Brooklyn-born mother, Marija; his wife Genovaite, his son Evaldos, and his daughter Lolita. Ausra Zerr was there to meet him for the first time, and to welcome him to a land where, as he told her, "Nowhere do I see towers and border patrols."

Free at last, Simon Kudirka has found safe haven on a farm belonging to old friends of the family, near Locust, N.J.

He has no intention, however, of becoming a farmer. He wants to repay his rescuers by devoting himself to helping other dissidents get out of the Communist prison the Soviets have made of his homeland.

That is just fine with Ausra Zerr.

A SAFE BLOOD SUPPLY

Mr. HARTKE. Mr. President, for the past 3 years, I have urged my colleagues in the Senate to adopt legislation which would assure this Nation a safe blood supply. There are a significant and alarming number of cases of hepatitis and other related diseases which result from contaminated blood used during transfusions.

Over 2 years ago, I spoke before the American Association of Blood Banks on this subject. My remarks then are equally appropriate now.

Mr. President, I ask unanimous consent that the text of my remarks on that occasion be printed in the Record.

There being no objection, the text of the remarks was ordered to be printed in the Record, as follows:

A Safe Blood Supply

(By Vance Hartke)

There is too much bad blood in this country today. We could say that figuratively, and we can say it realistically, because of the more than two million blood transfusions which will be performed in the United States this year, one out of every 150 will cause a death from serum hepatitis in those who are over the age of 40, and, in many transfusions, will cause sickness in younger people. People are dying after surgical operations not because we lack the medical technology to perform these operations, but because we do not have the good common sense to make sure that we have an adequate safe blood supply.

You're profesionals, and I do not need to take the time to explain the magnitude of this problem to you. I come here today to let you know that Congress is gradually, but surely, becoming sensitive to the issue of bad blood. It was last year that I introduced the National Blood Bank Act in the Senate. What this bill does is to create a federal program to establish minimum standards for blood banks and to encourage the voluntary donation of blood.

I know that you are aware of the tragedy which is associated with bad blood. Recently one of my constituents from Indiana wrote to me and told me about her husband who was operated on for a sinus infection in a public hospital. He recovered from the operation quite well, but a month later he became ill. After two more weeks back in the hospital, he passed away. The autopsy showed he had died of serum hepatitis. The manager of my campaign in Indiana came from his hospital bed, where he'd had an extremely severe operation involving the cleaning out of all of his arteries. The scars were quite visible on his neck, but he was feeling quite well. He left me, and said he had to go back to the hospital for a checkup. When he went back in, he was back in the hospital for seven weeks. He didn't die, but he came very close to it, because of serum hepatitis. I think it is probably something of a reminder to each and every one of us of the old facetious remark, that the operation was a success, but the patient died. What my National Blood Bank Act does is to try to put an end to this needless and tragic cause of death.

First and foremost, I want to encourage voluntary donation of blood, I want to cut down as much as possible on the crude business of buying human blood and thus to minimize the danger of hepatitis. The studies are showing that the risk of serum hepatitis is between 10 and 20 times greater from commercial blood than from blood which is received from volunteer donors. About 20% of this nation's blood supply comes from commercial banks. Unfortunately many of these, which are profit-making establishments, make little effort to control anything about the donors that they accept. Testing blood for hepatitis, frankly is not enough, because in the first place the tests which are used today are about 25% effective. Efforts must be made to weed out donors who are likely to be disease carriers, especially when we consider their past medical history and when we consider their current life style. And yet a check of the telephone book will reveal that many commercial banks today are located in the ghettos, where there is easy access to those people who need the five or the ten dollars to go ahead and do what else they want to do simply for a pint of blood. Now I see no reason for this nation to perpetuate a system which trades dollars for the lives of human beings.

A second major goal is to establish federal supervision of blood banking in an effort to promote minimum reasonable standards. At the present time there is little government regulation of blood banks, and only seven states which license banks. Five inspect them, and 21 actually have laws which protect blood banks and hospitals from any liability in the event that the patient is transfused with tainted blood. That leaves 17 states with absolutely no laws at all concerning blood banks. On the federal level, the only regulation comes from the Division of Biologics Standards which, beginning in 1946, was charged with licensing and inspecting of all blood banks engaged in interstate transactions. While this covers 85% of the blood which is drawn in this country every year, the Division has licensed only 176 of the more than 7000 blood banks in the nation. Federal regulation is further dissipated by the fact that it is divided among three regulatory agences: The Division of Biologics Standards, within the National Institutes of Health, is responsible for insuring, in their language, "the safety, the purity and potency of blood". The Food and Drug Administration oversees the quality of blood containers and related equipment; and the Center for Disease Control is responsible for the standards followed by the laboratories in testing and processing interstate blood.

With all this bureaucracy, it's very clear that the job is not being done. In face of increasing Congressional and professional pressures, the Food and Drug Administration last week announced that it was prepared to exercise licensing authority over all intrastate blood banks. As meritorious as this proposal may be, I frankly am dismayed that it has left no role for the American Association of Blood Banks and the American Red Cross. These are two organizations whose dedication to an ample supply of safe blood is beyond reproach, and I personally intend to examine the FDA's proposed regulations with the greatest of scrutiny, and to consult with professionals such as yourselves before making any formal comments on the agency's proposal. I do know, however, that the FDA's proposal falls far short of the provisions of the Bill which I introduced in the Congress, and which is cosponsored by 13 other Senators, because it does nothing to encourage an increase in the supply of blood from voluntary donors. Until we make a national commitment to voluntary blood, the twin problems of an inadequate supply and bad blood will continue to plague this nation.

My National Blood Bank Act establishes a blood bank program within the Department of Health, Education and Welfare. The bill specifically takes jurisdiction over blood banks away from the National Institutes of Health. It does so for the reason, first, that the fact is, that despite everything that has been done since 1942, the federal government has had the authority to regulate the intra-state aspects of intrastate activities, yet despite the authority of the Division of Biologics Standards to regulate the purity and potency and safety of the nation's blood supply, the Division has contended it cannot supervise the intra-state blood supply, and that it does not want Congress to give it that responsibility. And second, in the face of sound medical evidence, the Division of Biologics Standards has refused to restrict the use of paid donors so that unseemly and dangerous practices are eliminated. One such practice was exposed by the principal sponsor of this measure in the House of Representatives, Victor Veysey. He found a blood bank in Washington, D.C. which paid its donors in vouchers which can only be cashed in a local liquor store in the heart of Washington's skid row. This blood bank, incidentally, is licensed and inspected by the Division of Biologics Standards. Third, substantial amounts of blood are imported into the United States each year, and the Division of Biologics Standards concedes that it has jurisdiction of this supply of blood, but delegates its inspection responsibilities to those companies which import the blood. Now, has the Division recognized the need to promote the voluntary supply of blood so that imported blood would no longer be needed?

Under my Bill, within the Department of Health, Education and Welfare, the director of the national blood bank program would be responsible for the inspection, licensing and regulation of all blood banks. He would be assisted by an advisory council composed of a representative of blood banks, consumers and the public relations industry. The council would advise in the long-range policy of the blood bank program and provide expert advice on proposed regulations and voluntary recruitment efforts. My Bill would require that all blood be labeled as to its origin—either paid or nonpaid. I frankly believe in clear labeling for all products. People have a right to know the source of blood being put into their bodies.

At the same time, my Bill provides for increasing the supply of volunteers—those who will give nonpaid blood. It authorizes 9 million dollars for a national effort to recruit voluntary donors, including efforts to develop new procedures and techniques to inform the public of the need to donate blood voluntarily. These two provisions go hand in hand. As we discourage the use of paid blood from certain commercial banks, we would increase the supply of volunteer blood.

Recognizing that the national blood bank systems of the American Red Cross and the American Association of Blood Banks deserve special attention, my Bill authorizes the director to accept their inspection and accreditation programs in lieu of federal inspections. Some have said that this will lead to a monolithic system dominated by these two organizations. I say that this will wipe out commercialism and the shoddy practices of some commercial blood banks.

Among the other provisions, the Bill would establish two classes of blood banks. Class A banks would be those having a maximum percentage of voluntary donors. All other banks would be listed in Class B. The director of the national blood bank program would be required to update annually the percentage which is necessary to qualify for Class A and give them that status to the highest level consistent with an adequate national blood supply. Federal agencies would be prohibited from securing blood from other than Class A blood banks.

The Bill also establishes a range of penalties for failure to comply with its provisions. In other words, it is a Bill which will have teeth, and I intend to make sure that it is enforced. The term "blood transfusion" clearly means an attempt to save lives—but when you think that for one out of every 150 people, blood transfusions can mean death from hepatitis, then you know that we had better put some teeth into the National Blood Bank Bill.

Now, most of you know that I am vitally interested in saving lives. That's why I came out against the war back in 1965 when less than 150 people had died. Now there are 55,000 dead, and more than a quarter of a million that have suffered wounds over there. I frankly think that was a needless sacrifice of lives, and I cannot condone that in my field of activity in which the government is involved. If we can save any of those lives which are lost as a result of bad blood, or if we can reduce that 455,000 number of hospital beds which are occupied by hepatitis victims, then I would say that the 9 million dollars would be well spent.

Last among the provisions of this Bill is the establishment of a registry of donors to allow cross-checking by blood banks for hepatitis carriers. I tried to cover all the bases in this proposal for our National Blood Bank Program. I know, as well as you, that blood is a very precious commodity, and science has as yet to come up with a substitute. It cannot be manufactured anywhere except for the human body. And when a price is put on it, blood ceases to be a lifegiving service, becoming instead a product to be bought and sold and priced according to the law of supply and demand. And because of the critical shortage of blood in some communities—just two weeks ago in the Washington area alone, a local hospital had to release an emergency call for type O blood—many hospitals have to depend upon the blood supplied by profit-making blood banks despite the hepatitis risks that are involved. Of course, many for-profit blood banks are highly reputable. They have performed valuable service to those in need and will continue to do so. My bill makes allowance for those banks. But far too many of the profit-making banks have put profit-making ahead of the quality of their service.

To them, a pint of blood is a pint of blood. It is another entry on the black side of the ledger, and filling quotas means that they have done a good day's work. There's very little communication between these banks making it possible for a money-needy diseased donor to peddle his blood at one bank one day, and to show up at another center a couple of days later. This happens because blood has become big business. A big business with far too little supervision

So I say it's high time that the federal government acted to protect the health of the American public and to end the crisis in the quantity and quality of the available blood. That's why I have introduced the National Blood Bank Act. I think it is an important beginning in a national commitment to untainted blood. We're going to have hearings on this Bill in the next year. We'll not get it passed in the remaining months of this year, but I am equally confident that by this time next year that Bill will be the law of the land.

S. 2743—NATIONAL INDEPENDENT REFINERY DEVELOPMENT ACT OF 1974

Mr. JOHNSTON. Mr. President, the report of the Committee on Interior and Insular Affairs on the National Independent Refinery Development Act of 1974, S. 2743, which Senator HASKELL and I introduced on November 27, 1973, has been filed today. This bill would provide, under certain prescribed conditions, for Federal loan guarantees to independent refiners for the construction, expansion, improvement or purchase of new or existing refinery capacity. The purpose of this program is to promote competition in the refinery sector of the oil industry, to provide a source of capital that is otherwise unavailable, to enlarge our refinery capacity and to reduce imports. The guarantees would be granted independent refiners in limited circumstances when they meet the requirements of the act. The guarantee would go into effect only in the event that a default occurred as the result of the refiner being unable, after bona fide efforts, to obtain sufficient supplies of crude oil to operate the refinery in question. This limited and circumscribed protection for the independent sector of the refining industry assures its continued viability during periods of crude oil shortages. I hope that the Senate will act expeditiously on this legislation.

A NEW DAY

Mr. PELL. Mr. President, last Saturday Elizabeth Powell of my staff was tragically slain on a Maryland highway in an automobile accident when a car which I understand was being driven at excessive speed jumped the median strip and crashed head on into hers.

A wonderful creative young life was thus abruptly cut off.

She was a remarkably dedicated young person. Among her many abilities was a talent for self-expression.

At her funeral service in Rhode Island, I was deeply impressed by a poem which was read to those who mourned her death, a poem composed by her when she was in high school. It seemed to me so exceptional in its purity and in its depth of perception that I ask unanimous consent that its text be placed in the RECORD.

There being no objection, the text of the poem ordered to be printed in the RECORD, as follows:

A NEW DAY

Watch as the brightness slinks silently by
  Until the light is seen no more
And darkness swallows the earth and sky
  While shadows prey on the valley floor.

And so alike is all this life
  It, but a shadow of a passing dream
Swiftly vanishes midst the strife
  Sustained along life's turbulent stream.

Wait, for tomorrow a new day will break
  And hope for new life will spring forth,
The soul from its sleep will wake
  And undress the flesh death wor'th.

So farewell dear friend the time has come
  I leave, and from this world do run.

ELIZABETH ANN POWELL.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the vote to override the President's veto on the vocational rehabilitation measure, and that immediately after the message has been stated by the clerk, the Senator from Missouri (Mr. EAGLETON) be permitted to speak for not to exceed 10 minutes out of order, and that the Senator from New York (Mr. JAVITS) then be permitted to speak for not to exceed 5 minutes out of order.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. May I say that the problem here arose, because Senator EAGLETON, on yesterday, had notified the cloakroom through my office that he wanted a 15-minute order this morning. The cloakroom failed to advise me of that fact, and consequently the order was not entered for him; so if he could have 10 minutes to speak now, and Mr. JAVITS could have 5 minutes on the same matter the problem might be worked out in that fashion.

Mr. GOLDWATER. Will the Senator yield for an inquiry?

Mr. ROBERT C. BYRD. I yield.

Mr. GOLDWATER. I have just read the remarks the Senator proposes to make, and I wanted to answer them. Would it be possible to answer them this morning, or would it be better to wait until tomorrow? If there is some need for hurrying here, I am not bound to answer today, although I would like to, because his speech is filled with a lack of facts, and I would like to make the record clear.

Mr. ROBERT C. BYRD. Could the Senator do it in 5 minutes?

Mr. GOLDWATER. To completely cover the matter, I would need more than 5 minutes. However, I could summarize the main points.

Mr. ROBERT C. BYRD. Would it be agreeable, then, that the Senator from Arizona also have 5 minutes to speak out of order?

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HRUSKA. This Senator has concern that we will not get to a vote at 2 o'clock on the vetoes, as arranged yesterday by unanimous consent. So I would suggest that whatever arrangements can be worked out here not prejudice that commitment.

Mr. ROBERT C. BYRD. It will not prejudice the vote at 2 o'clock.

Mr. HRUSKA. Out of whose time will this time come?

Mr. ROBERT C. BYRD. I think probably a little of the time might come out of the debates on both veto messages.

Mr. HRUSKA. I will be agreeable to cooperate to the extent that I can.

Mr. SYMINGTON and Mr. CANNON addressed the Chair.

Mr. ROBERT C. BYRD. I yield first to the Senator from Missouri, and then to the Senator from Nevada.

Mr. SYMINGTON. Mr. President, it is my understanding that my distinguished colleague asked for time yesterday, and at this time other Senators are asking for time. Inasmuch as it is necessary for me to miss one of the votes this afternoon, I would certainly agree with my distinguished friend from the great State of Nebraska that we should not do anything which would interfere with the time schedule on the votes in question.

Mr. ROBERT C. BYRD. The Senator may be assured that the votes will begin at 2 o'clock, as originally ordered.

Mr. CANNON. Mr. President, I, too, have just learned about the speech of the Senator from Missouri, and have not had a chance to see it, but I am informed by my staff, as well as by the distinguished Senator from Arizona, that it is full of inaccuracies, and so I would want some time to answer it at a later time, myself. I will be willing to accept time later in the day, but I most certainly would not want it to go by assuming that I had acquiesced in the inaccuracies that apparently he is about to commit upon this body.

Mr. ROBERT C. BYRD. The able Senator will certainly have an opportunity later in the day to respond, if he desires.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

EXTENSION OF THE REHABILITATION ACT OF 1973—VETO

The PRESIDENT pro tempore laid before the Senate a message from the House of Representatives, which was read, as follows:

The House of Representatives having proceeded to reconsider the bill (H.R. 14225) entitled "An Act to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for one year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, to make certain technical and clarifying amendments, and for other purposes; to amend the Randolph-Sheppard Act for the blind; to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The PRESIDENT pro tempore. The question is, Shall the bill pass, the objection of the President of the United States to the contrary notwithstanding?

THE COMPARATIVE AIR COMBAT CAPABILITIES OF THE F–14 AND THE F–15 FIGHTER PLANES

Mr. EAGLETON. Mr. President, pursuant to the unanimous-consent request just agreed to, I will begin my speech. At the outset, I want to thank the distinguished assistant majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD) for his courtesy in arranging for the colloquy which will now ensue.

Mr. President, on October 11, I sent a letter to the Secretary of Defense inquiring about "extensive tests—performed to determine the comparative air combat capabilities of the F–14—the Navy fighter—and the Air Force fighter, the F–15." I expressed my concern to Secretary Schlesinger that the results of these tests were being kept from him in order to conceal the embarrassing inferiority of the F–14 as an air combat fighter.

I asked Secretary Schlesinger how the F–14, which costs at least 50 percent more than the F–15, could be 50 percent less effective. Since there has been some criticism of the cost comparison I used, I should point out that the cost figures I quoted were from the Defense Department's own selected acquisition report of January 1974. In a June 11, 1974, letter to Senator Symington, the Director of Defense Research and Engineering, Dr. Currie, said the program unit cost of the F–14 was $19.8 million, as opposed to $11.1 million for the F–15. That represents a differential even larger than 50 percent.

The briefing charts, copies of which I have in my possession, plot the planes' performance at 10,000, 20,000, and 30,000 feet. The charts measure the performance of the two planes while using maximum after-burner and military power in such vital air combat categories as sustained and maximum G-force, turn rate, turn radius, and specific excess thrust. In each category, the F–14 was vastly inferior.

The Pentagon's reaction to my letter has been just as disturbing to me as the F–14's poor performance. Until as recently as last week, the Navy and Air Force denied the existence of the briefing charts to which I have referred. Not knowing whether I actually possessed the charts, they apparently felt they could continue to keep the comparison of the planes from the Congress and the Secretary of Defense.

I understand that these charts have now been found and that a response to my letter is now being prepared. I hasten to add, the explanation should be interesting.

The integrity of Pentagon officials is not, however, the primary subject of my remarks today. I am more immediately concerned about the attempt being made by the Navy to expand the mission of the F–14 far beyond its capacity in order to justify buying a greater number of planes. This effort, if it succeeds, can only bring danger to the Navy's own pilots and more waste and less security to the American taxpayer.

I am referring to a request the Navy has made to the Secretary of Defense to increase the number of F–14 squadrons from 16 to 18. That represents a drastic change in the total planned procurement of 334 planes to 390, and will mean a significant monetary increase in the $6.3 billion program.

Mr. President, at a time when our economy is beset with problems and when other vitally needed weapons are being reduced in quantity and quality, we cannot afford to ignore the original deployment premise on which the F–14 program was based. Secretary Schlesinger explained the official deployment rationale for the F–14 last year in his quote from his posture statement on the 1975 budget.

Here is what Secretary Schlesinger said:

> We now plan to buy a total of 334 F–14s, enough to equip 12 squadrons for the Navy carrier air wings and four squadrons for the Marine Corps wings. While some minimum number of F–14As is clearly essential for fleet air defense, we cannot afford, nor do we need, an all F–14A carrier or Marine Corps fighter force.

Mr. President, the Navy's effort to increase from 16 to 18 squadrons directly contradicts the Secretary's statement. This effort is extraordinary in light of the planned reduction of the Navy's carrier force from 15 to 12 beginning in 1976. Using the deployment rationale of one F–14 squadron per carrier and including four squadrons for the Marine Corps—which, by the way, the Marine commandant testified on one occasion, were unnecessary—16 squadrons is the only valid requirement.

It is apparent, therefore, that the Navy seeks to expand the F–14 buy at a time when the Secretary of Defense, by reducing the carrier force, has seemingly recognized that carriers have a limited utility, especially in high-threat areas. In addition, this attempt is being made in the face of strong evidence that the F–14 could not adequately fulfill its secondary role—air superiority—against modern Warsaw Pact fighters. This second point is dramatized by the F–14, F–15 comparison and by additional information which I will discuss today.

Mr. President, before getting into a discussion of the air combat capabilities of the F–14, I would like to state that the plane appears to be adequate for its primary role—fleet air defense. In performing this mission, the F–14 can make good use of the long-range missiles of the Phoenix system to counter enemy attacks and possibly even cruise missiles.

Parenthetically, I would have to seriously question the judgment of those who decided to use the F–14 as the platform for the Phoenix. A long-range system such as Phoenix could have been more efficiently and economically deployed on a long-endurance, subsonic aircraft such as the A–6. It is likely that many of the F–14's problems today can be traced to this unfortunate decision—a decision apparently based solely on the navy tradition that the best aircraft on the carrier has the primary responsibility for the defense of the fleet. The F–14, therefore, had to have the best—and most expensive—fleet-defense weapon available—the Phoenix.

As I mentioned in my letter to Secretary Schlesinger, the Phoenix, which does not distinguish between friend and foe in a crowded air theater, cannot be used in a dog fight situation. In fact, it becomes a very heavy burden for the F–14.

A subsystem which the Navy argues can be used in air combat—and in theory will compensate for the F–14's poor maneuverability—is the AWG–9, a look-down, shoot down radar system. The AWG–9 has the capability to simultaneously track 24 targets at long-range, providing fire control for the Sparrow, Sidewinder, and M61 Vulcan, as well as the Phoenix. The AWG–9, is, therefore, the very heart of the F–14.

As is characteristic of so many of our weapons systems, however, the F–14 is overly dependent upon a subsystem which is so sophisticated it is rarely operable. The specifications for the AWG–9 system require that it operate an average of only 33 hours between failures. Just imagine the outcry if home appliances were to fail an average of once every 33 hours. Congress would certainly have less trouble passing consumer protection legislation. The most appalling aspect is that with military equipment such as the AWG–9, the very lives of our pilots are at stake.

But the Navy would be ecstatic if it could get a meantime between failure of 33 hours out of the AWG–9. In tests conducted on the F–14 by the Navy's Board of Inspection Survey between January 1, 1973, and September 30, 1973, the meantime between failure of the AWG–9 was only 2.2 hours.

And this poor performance continues. The Navy is now asking for approximately $100 million for a reliability and improvement program for the F–14.

The large bulk of this money will be used to perform extensive modifications on the AWG–9 radar system. We are, in short, being asked to spend $100 million to correct the mistakes made by the contractor.

Mr. President, it is unwise to depend so heavily on a radar subsystem. Even if the AWG–9 is operable, it can be jammed any number of ways in an air combat situation. Without his radar, the pilot is left with the air combat maneuvering capabiliy of his aircraft—which brings me back to the air combat comparison of the F–14 and the F–15 and the Navy's request to increase the F–14 buy.

The poor performance of the F–14 in the air combat mode can be attributed to a number of factors, most of which stem from a fundamental mistake—the Navy wanted a plane that would be all things to all missions. They ended up with a very expensive platform for the Phoenix missile which is so heavy it cannot fulfill its secondary missions.

According to the most recent selected acquisition report, the F–14 now weighs 3,750 pounds more than the original specification. At 69,171 pounds, it is a ponderous aircraft now weighing more than the ill-fated F–111B, which was scrapped because the Navy said it was too heavy for carrier use. The weight penalties of the swing-wing design have greatly undermined the maneuverability that that sophisticated system was supposed to provide.

But perhaps the most important cause of the F–14's poor performance is the 12-year-old TF–30 engine. The TF–30 is not a bad engine, but with a thrust of only 20,000 pounds, it cannot provide the thrust-to-weight ratio the F–14 needs to compete with other modern fighters. With the cancellation of the disastrous F–401 program, there is no alternative engine available and there will be no F–14B—the improved version originally planned.

For these reasons and others, the F–14 has failed in every important respect to meet its performance specifications. According to the latest report to Congress, the heavier F–14 fails to meet maximum speed specifications by 6.2 percent. Its maximum ceiling is down by 5.2 percent. The sustained load factor is short by 3.1 percent. And its acceleration is off by 5 percent. Perhaps most importantly, the combat time of the F–14 in performing carrier air patrols is down by 20 percent—which may explain why the Navy feels it must purchase 20 percent more aircraft—to perform the fleet defense role. It should be pointed out, Mr. President, that the original specifications were set by way of negotiation and agreement between the Government and the contractor and were not in themselves very demanding.

The question we must now ask on behalf of the taxpayer is what kind of plane are we getting for our investment? The research and development costs of the F–14 program rose from approximately $900 million to $1.5 billion. Yet when we compare the F–14 with the F–111B, the predecessor to the F–14 which was canceled, because of its failure to meet performance goals, we find that the 60-percent R. & D. cost overrun has hardly resulted in a 60-percent better plane. To the contrary, when comparing such crucial fleet defense factors as maximum mach number, service ceiling, combat radius, and range, The F–111B is in each case superior.

Mr. President, the controversy over which is the best fighter aircraft in the world continues. The French with their new Mirage have challenged the lightweight fighters, and the president of Grumman, the company which makes the F–14, has reportedly agreed—reluctantly, I understand—to fly his plane in a more exacting test against the F–15. In my opinion, the cutthroat competition among allies to sell conventional weapons is a highly destructive element in a Western world of diminishing resources. But if we are going to get at the real facts about these aircraft and eliminate those unworthy of the expense, then we should fly the modern fighters against one another under carefully monitored conditions.

Even with a 16-squadron F–14 force, the aircraft will have certain air combat requirements. The F–14 will provide an escort for attack aircraft and the Marine Corps will use the F–14 in a beachhead operation. In each case, the F–14 will engage land-based aircraft. It is, therefore, all the more important that we resolve once and for all the conflicting claims about the effectiveness of the F–14 in air combat. If, as the charts which I possess clearly indicate, the F–14 has severe limitations in dogfights against modern aircraft such as the F–15, then it is better now to ascertain those limitations rather than to risk the lives of our pilots in the future simply because we believed our own erroneous propaganda.

I would, therefore, recommend that a carefully measured flyoff take place between the F–15 and the F–14 at the Air Combat Maneuvering Range at Yuma, Ariz. The scientific facilities at Yuma would be perfect for measuring the capabilities of the two aircraft in an objective manner.

Since the F–15 is not a carrier-based fighter alternative, it would also be worthwhile to have the F–14 fly against the two lightweight fighter prototypes. These planes will closely represent the Soviet threat of the 1980's. I feel confident that the results of these tests would effectively rule out any increased buy of F–14's for us in an air superiority role. If the Defense Department refuses to fly these planes against one another, the taxpayers can only deduce that their defense dollars are being spent by those who do not really want their decisions to be affected by the facts.

Mr. President, I am pleased today that the distinguished Senator from Wisconsin (Mr. PROXMIRE) has joined me to discuss the F–14 program. Senator PROXMIRE has watched this program very closely over the years and has asked some of the more pertinent questions about why the Navy insists upon buying such an expensive plane. I yield the remainder of my time to Senator PROXMIRE.

THE F–14 PROGRAM—TIME TO SAY "NO MORE"

Mr. PROXMIRE. Mr. President, the Senator from Missouri (Mr. EAGLETON) has made a strong case for reconsidering our commitment to the F–14 program. I would like to add a few additional comments.

The crisis facing the U.S. military establishment is one of its own making. We have heard the preliminary cries of anguish from Defense spokesmen that inflation is having a peculiarly hard impact on the defense budget.

I do not deny the severe impact of inflation on the country although I would argue with the Defense Department over its statistics. Nonetheless, debating whether there is a $4 or $10 billion impact skirts and even camouflages the real issue.

We are faced with a rising cost–declining force level dilemma. With each succeeding year, our force levels drop in tactical aircraft. And what has been the response from the Department of Defense? They have decided to build evermore expensive aircraft. And what does that lead to? Ever lower force levels because we cannot afford to make one-for-one replacements.

Make no mistake about it. We are buying ourselves out of an adequate defense. The Defense Department is engaging in a concerted campaign of unilateral disarmament. Every year that we concentrate on high-cost, supersophisticated weapons, we reduce the capacity of this country to respond to wartime situations.

What good is the most exotic plane in the world if it is faced with an adversary that can field 10 or 20 times more aircraft. Let the Navy explain what will happen when the F–14 goes into the air against a ground control intercept radar network which can field 10 old Mig–21's. Even granting the Phoenix system a perfect accuracy and 100 percent reliability factor, which is a dream by any standards, we are going to lose that exchange.

What happens the next time we are faced with aggression by North Korea and find out that they can fly more aircraft than we have on all of our aircraft carriers—all of our carriers?

Mr. President, we are disarming and the American public does not even know it. The rule of thumb for the Defense Department is build it expensive, build it sophisticated, build it without regard to its impact on the force levels.

There could be no better example of this unilateral disarmament than the F–14. Leaving aside the question of whether or not this is a good air combat system—which the Senator from Missouri has convincingly called into question—this aircraft will lower our defensive posture.

We simply cannot afford to replace all of the effective F–4s with the 5 times more expensive F–14. And so year by year we will replace fewer planes. This is the disarmament I am talking about—a deliberate decision to reduce force levels by overreliance on sophistication.

In my opinion, we should halt all further purchases of the F–14. With the 235 already financed by Congress, we could have operational squadrons deployed on 11 or 12 carriers. This obviously would eliminate the Marine Corps four squadrons, which they did not want in the first place and only accepted under great pressure from the Navy.

With the decline in the number of first line carriers to 12 in 1977, the present number of F–14's would be an adequate mix of long range interceptor capability if complemented with a good light weight fighter.

The Pentagon's allegiance to the "high-low" mix has been an illusion—an appealing bit of jargon designed to allow continued reliance on super sophistication.

The best proof of this is the possibility that the Secretary of Defense may give approval for two more squadrons of F–14's from 16 to 18. Under intense Navy pressure it is hard to say what the Secretary will do. This decision will be a clue to just how seriously the Defense Department is seeking a solution to the declining force levels dilemma. If we are to buy more F–14's, then unilateral disarmament will continue. If we switch to a lightweight fighter replacement for the ambidextrous F–4, then we may be on the right track.

I urge Secretary Schlesinger to make the farsighted decision and reverse the trend toward lower force levels. He can do this by forcing the Services to develop and deploy cheaper reliable fighter systems in the numbers necessary to meet immediate and potential threats.

The Secretary sardonically has said that if we are to be a second-class power then we should do it with awareness instead of by creating inflation. His F–14 choice will turn the question back on him.

Mr. JAVITS addressed the Chair.

The PRESIDENT pro tempore. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, this controversy between the F–14 and the F–15 has been raging for some time, and I have indicated constantly a need to resort to the factual information on the subject, on the question of capability and on the question of costs.

But, it seems to me, Mr. President, that the most critical factor, the most critical weight in respect of this whole matter is to proceed on the basis of established facts—incidentally, I hark back to the time of the investigation by the Investigations Subcommittee of the Government Operations Committee on the TFX which was carried on, and the long arduous struggle which ensued about the development of this particular plane.

I feel that the enormous range of information which has now been obtained by the Navy, especially in respect to carrier operations, which appeared to be the unique aspect of this particular airplane, is such that we really would be flying in the face of the professional expertise should we try to dismantle a situation which now, largely through controversy, has been proved so very thoroughly.

Apparently, the difficulty which is created is that considering the type of mission which the F–14 is expected to engage in, the view of the Navy simply is that the differences between the F–14 and the F–15 are that they are different airplanes for different missions. In addition, as expressed to us, the F–14 has to operate from carriers, which is demanding and makes an airplane cost more.

If we are going to have yet another flyoff, it would have to be under a fixed set of engagement rules so that one could truly estimate the competition between the two.

The Navy feels that it has done everything that any reasonable person could ask it to do with respect to proving its case, and that from now on it is simply a matter of rearguing the same issues, trying to re-prove the same things which have been proved, and simply resulting in delay in an established weapons system—one which has been fully agreed to and the advantage of which is that it is underway and producing at a time when being underway and producing is critically important.

While these arguments may be satisfying to various Senators—the arguments that are set forth on the floor—for practical effect in the final result the issue has been decided.

Now, obviously, Senators are at liberty to raise these matters by amendment or in any other way to reargue the issues so that the Senate—or if it is raised in the other body, the House—may pass on it. But I think that it is our duty and, considering the fact that the Navy cannot be heard here except through any of us, to put into the Record the various points of reply which go specifically to the contentions made, and I am doing that in the time today through the cooperation of the leader and of Senator Eagleton.

With regard to the specific criticism of the technical capability of the F–14, I bring to your attention data supplied by the Department of the Navy which refutes all of Senator Eagleton's claims.

Senator Eagleton strongly challenges a Navy request to increase the procurement of F–14's from 16 squadrons to 18.

The Senator calls the Navy effort to increase the F–14 buy from 344 to 390 "extraordinary" and argued that it directly contradicts the Secretary of Defense's order to reduce the Navy carrier force from 15 to 12 beginning in fiscal year 1976.

The Navy and Marine Corps needs fighters; for sea control—against Soviet-built antiship missiles and bombers—for the longrange escort of attack airplanes, and for air combat against enemy fighters. The Secretary of Defense, in his August 22, 1974 direction to the Navy, established the increase from 334 to 390 F–14's. With fewer carriers to do the same job against an increasing threat requires better equipment. The Navy asked for 722 F–14's to do their job. The 390 number represents a substantial risk for the Nation in maintaining control of the critically important sealanes of commerce, as well as protecting Marines on the beachheads of an amphibious assault.

Senator Eagleton urges the Pentagon to fly the F–14 "in a more exacting test against the F–15" to "resolve once and for all the conflicting claims about the effectiveness of the F–14 in air combat. If, as the charts he possesses clearly indicate, the F–14 has severe limitations in dogfights against modern aircraft such as the F–15, then it is better now to ascertain those limitations rather than to risk the lives of our pilots in the future simply because he believes our own erroneous propaganda."

"A more exacting test against F–15" as urged by Senator Eagleton "to resolve once and for all the conflicting claims about the effectiveness of the F–14 in air combat" would have to be conducted in all missions of the F–14 and the F–15. A true test would require one F–14 and then one F–15 to engage four to six enemy fighters or air-to-surface missiles starting at about 200 miles from the enemy. That is an F–14 mission, and in that mission, the F–14A is many times more effective than the F–15. The F–14 has more firepower, greater detection and track capability, and more internal fuel. Moreover, the mission should be flown from a carrier. The F–15 cannot do that.

The allegation that the F–14 has severe limitations in dogfights against modern fighters simply is not true. This statement is not supported by actual air combat training flights conducted by the F–14.

Although stating that the F–14 should adequately fulfill its fleet defense mission, Senator Eagleton warns that the F–14 should avoid air combat situations in "high-threat areas" where tests show the plane would be highly vulnerable because of poor maneuverability.

The F–14 is indeed fulfilling its fleet defense mission, to a degree not possible by any other aircraft in the world. The airmen who commit their professional reputation to that airplane and those who fight against it in training consider the F–14 the most capable adversary in the world. Many capabilities must be combined to make a good fighter. The F–14 has the optimum balance for the Navy. F–14 aircrews are eager to engage any adversary.

He cites serious problems with the F–14's AWG–9 radar system which, according to Navy data, breaks down once every 2.2 hours on the average. He indicates that the Navy has asked for $100 million to correct the AWG–9 and other subsystems.

The Navy is unable to identify the source of Senator Eagleton's average 2.2 hour AWG–9 breakdown data.

The F–14/AWG–9 system reliability is substantially higher than that of its predecessors—that is, the F–4/AWG–10 system—based on Navy experience with predecessor systems at a comparable phase of fleet introduction. The true yardstick by which to gage system reliability is mean time between failure—MTBF—of mission essential equipment. Based on a recent limited sample of a shore based training squadron, the system far exceeded the current 18 hour MTBF specification. The continuing reliability improvement efforts on the Navy's latest AWG–9 configuration will provide an MTBF rate of approximately 22 hours.

As the AWG–9 continues to mature in service, the Navy and OSD are initiating several additional reliability and maintainability improvement programs designed to increase MTBF to 25 or as high as 31 hours. This is compared to the mature AWG–10 of the F–4J at about 5.6 hours MTBF. This initiative is being pursued in the interest of identifying early in the system life cycle, those cost effective changes which could continue to reduce life cycle cost. This approach is hundreds of times less costly than the "Apollo Project" approach where the first flight had to be flawless. The reliability of the F–14 is much greater than that of its predecessor and is still improving.

Senator Eagleton charges that a weight gain of 3,750 pounds over the specifications—14,171 pounds over the 55,000-pound plane originally planned—and an aging 20,000-pound thrust engine were the main cause of the F–14's poor performance.

The original specification weight for the F–14A was 53,500 pounds with 14,391 pounds of internal fuel and an armament load of 4 Sparrow and internal M–61 Vulcan *cannon*. Today that weight for a production F–14A aircraft is 58,242 pounds with 16,200 pounds of internal fuel. The additional weight provides 1,800 pounds more internal fuel, a real plus for a carrier aircraft. For fleet air defense with an armament load of six Phoenix missiles and two external tanks the takeoff weight was projected to be 65,421 pounds. Today that weight is 69,103 pounds. The weight empty has increased over the original specifications by less than 8 percent—from 35,979 pounds to 38,648 pounds, providing more strength and fuel capacity than thought possible. That is about one-half of the empty weight increase of the F–4 at a comparable time period. The reported 14,171-pound gross weight increase is from the original design goal of the F–14A with four Sparrows to the current F–14A with six Phoenix and two external fuel tanks, a misleading comparison of an airplane equipped for two separate missions.

The TF30–P412 engine was intended to be in the first 67 aircraft with the option to turn to the F–14B's with the higher thrust F–401 engine. Rising costs and development problems have delayed the completion of the F–401. At the same time the TF30 engine in the F–14A has exceeded anticipated performance

If threat fighters increase in performance beyond that expected, the F–401 can be produced to provide the F–14—as the B version—with increased maneuvering capability to outfight any higher performance threat.

Senator EAGLETON says that at 69,117 pounds, it—the F–14—is a ponderous aircraft now weighing more than the ill-fated F–111B, which was scrapped because the Navy said it was too heavy for carrier use.

The original TFX specification weight for the fleet air defense mission—6 Phoenix—was 62,788 pounds at takeoff. When finally canceled, the F–111B weight in that configuration was 79,200 pounds—no external fuel—and estimated to be over 80,000 pounds at production, too heavy for its structural strength in the carrier environment. The F–14A weight with a full load of 6 Phoenix is 65,371 pounds at takeoff—69,103 pounds with two external tanks), or approximately 15,000 pounds less than the F–111B takeoff weight. Because of its landing weight and slow speed flying qualities, the F–14 is far superior to the F–111B for every mission and can accomplish missions not possible for the F–111B.

"The F–14 has failed in every important respect to meet its performance specifications," EAGLETON says, citing the latest Navy report to Congress.

The F–14A has proven to be a most capable fighter in all of its assigned missions. It has in many areas far exceeded performance expectations—that is, maneuvering performance, high angle of attack flying qualities, carrier suitability and weapons system performance. It has also failed to meet some original stringent design specifications, but by insignificant amounts and not to the extent Senator EAGLETON refers to. For example, maximum speed is now expected to be 2.5 percent—or less than 0.1 mach—below specification, although an early research and development test aircraft demonstrated greater than the specification. The maximum ceiling is only 2 percent less than specification—or 600 feet, not 5.2 percent. The sustained load factor is 2 percent less—or less than 0.05g, not 3.1 percent. Its acceleration is off by 3 percent—or less than 4 seconds, not 5 percent. The combat loiter time is down by 15 percent—or about 18 minutes, not 20 percent; this difference was early in the program when the size and location of the external fuel tanks was changed from two 450-gallon tanks to two 267-gallon tanks. Thus, these shortfalls are small and do not have a significant impact on the F–14A's fleet capabilities. In many cases, the F–14A has exceeded performance specifications in significant parameters such as escort radius—up by more than 4 percent.

After over 22,000 hours of flight time in development, test, and evaluation, Board of Inspection and Survey Trials, and operation of fleet pilots in five squadrons now operational, all reports from the Navy indicate that the F–14 is an unqualified success, and they believe it has the greatest total fighting capability of any fighter airplane in the world today. The Navy is no longer talking about a paper airplane—they are talking about the F–14 as it exists—the airplane they are flying off the deployed carrier.

The contractor has, through his design effort, attained several very meaningful pluses in the performance of the F–14. These include the additional internal fuel capacity to give the Navy its required range; additional structural strength to make the F–14 essentially a 7.5G airplane for greater life, and the absolutely superb performance of the variable sweep wing giving the F–14 superior performance over such a wide range of flight regimes. The spin resistant charactertistics of the F–14 and the extremely fine handling characteristics of the airplane throughout the flight envelope, and particularly in high angle of attack flight; and the capabilities and performance of the AWG–9 fire control system and the Phoenix missile are recognized as an unparalleled success in weapon system/missile development. The Navy is extremely pleased with all facets of the fine performance it is experiencing with the F–14 and is convinced that the F–14 will meet all of its mission requirements.

Senator EAGLETON says that despite a research and development cost overrun of 60 percent, the F–14 is in many important respects inferior to the F–111B, the canceled carrier-based Navy fighter.

The Navy acknowledges that total R.D.T. & E. costs have risen about 50 percent over the 1969 development estimate. However, approximately one-half of that increase is attributable to a congressional decision in 1969 to procure six additional aircraft with R.D.T. & E. funds against procurement funds. Meanwhile, the Navy's test and evaluation program as well as extensive operational experience have disclosed that the F–14 is significantly superior to the F–111B in all fighter missions including:

Carrier suitability, air combat maneuvering, fleet air defense, aircraft safety, combat range, survivability, acceleration, and crew visibility.

Senator EAGLETON says:

> When comparing such crucial fleet defense factors as maximum mach number, service ceiling, combat radius and range, the F–111B is in each case superior.

The maximum speed of the F–111B was mach 2.23; the F–14A had demonstrated mach 2.41. The F–111B service ceiling was 29,000 feet—below required 35,000-foot loiter altitude; the F–14A has demonstrated more than 37,000 feet with equivalent loads. The F–111B could carry 25,000 pounds of internal fuel, but used half of its fuel for acceleration to supersonic intercept speeds and then could not fight. The F–14 carries 16,200 pounds of internal fuel and can do all the fighter missions. The F–14A escort radius has increased to 521 NM—the specification was 500 NM; this was not a design criteria for the F–111B since it was not capable of satisfying escort mission requirements. With a load of 6 Phoenix the acceleration of the F–111B from loiter speed to mach 1.8 to 35,000 feet required about 10 minutes and 11,000 pounds of fuel; the F–14A accelerates from mach 0.8 to 1.8 in about half the time with half the fuel. Because of its extremely slow supersonic acceleration, and therefore, unusuable supersonic speeds, the F–111B was in essence a subsonic missile platform. The maneuvering performance of the F–14A far exceeds that of the F–111B.

With regard to the briefing charts and the "secret fly-off" alleged by Senator EAGLETON which he cites as the source of his information and which formed the basis of his attacks on the F–14 last October, I would like to bring to the attention of Senators several official statements from the Department of Defense.

Senator EAGLETON indicated 6 weeks ago that secret tests showed the F–14 to be vastly inferior to the Air Force's F–15 in air combat. He charged that briefing charts showing the comparison were being kept from the Secretary of Defense "until as recently as last week." EAGLETON said he had copies of the classified charts.

The secret tests referred to by Senator EAGLETON were neither secret nor comparative. The tests were exchange flights by one Navy and one Air Force test pilot in the other services airplane to exchange technical information. The airplanes were not flown on the same missions and were not flown even near each other. The "briefing charts" were some performance parameter comparisons put together by the Air Force test pilot specifically to show where the F–15 had maneuvering advantages over the F–14. Those charts were not "withheld" from the Secretary of Defense, they were just a part of the report submitted by the Air Force test pilot. When the Air Force finally determined to what Senator EAGLETON was referring by "secret briefing charts" the data was extracted from the files at Wright-Patterson Air Force Base, Ohio. These "briefing charts" were only a small part of the total comparison. Taken out of context as the only comparison of the F-14 and F-15 would indeed suggest that the F-15 should win in a dogfight. It was built for that. The total picture was provided in the full report, including the areas where each fighter was better than the other. The advantages of each reflect the different missions of the two fighters.

Second, I obtained a statement from Admiral Zumwalt on October 17, 1974 which indicates:

> There was no fly-off between the F-14 and the F-15 during the period of my four years as Chief of Naval Operations which ended on 30 June 1974. There were many paper evaluations and operational reports concerning both airplanes which came to my attention. Based on everything, I have evaluated, and I have done so with care and detail, there is no question in my mind but that the F-14 aircraft is the best fighter airplane in the world today. The recent decision of the Iranian Government to procure only F-14's rather than a mix of F-14 and F-15's suggests to me that at least one other independent set of military experts has come to the same conclusion that I have.

In addition, I have just spoken to Secretary of Defense Schlesinger who confirms these facts.

With regard to the cost-effectiveness of the F-14, Senator EAGLETON quotes the Department of Defense as the source of his cost-estimate; but, the Department of Defense can also be quoted to produce equally correct, but vastly different figures contradicting the conclusions reached by Senator EAGLETON. For example, the selected acquisition reports on the F-14 and F-15 can be compared on the cost of the first 184 F-14's and F-15's.

In this case, the actual cost of the first 184 aircraft of each type is very nearly the same. In this comparison, the F-15 is 10 percent more expensive than 50 percent cheaper. The point is that you can make either airplane look bad from a cost viewpoint if you do not pick the proper comparisons. The facts are that both the F-14 and the F-15 are very effective fighters and they cost about the same if you buy them at the same rates and in similar quantities .They are different airplanes, for different missions. The F-14 has to operate from carriers which is quite demanding and makes an airplane cost more. I believe that Navy is doing a good job in holding the cost down for an airplane which has to do and can do so much more than other fighter airplanes are required to do.

With regard to the fly-off demanded by Senator EAGLETON, Grumman and the Navy have consistently indicated a willingness to engage in a fly-off but have properly indicated that only a restrictive set of engagement rules can enable the F-15 to compete with the F-14; each plane was designed to accommodate different missions and any fly-off must be reflective of these different missions.

In conclusion, I would be most anxious to have Senator EAGLETON and Senator PROXMIRE testify before Senator CANNON's Tactical Airpower Subcommittee at the next set of hearings on these defense systems, as this is the only proper forum for these criticisms to be lodged and refuted by the experts from the Department of Defense.

Mr. EAGLETON. Mr. President, I yield to my colleague from Missouri. He has to go elsewhere.

Mr. SYMINGTON. Mr. President, I commend my colleague for bringing this matter to the attention of the Senate.

I do not pretend to be an expert in the field of aeronautics but I have had some experience in that field.

I received a letter from the top man in the Pentagon on research and development that the program cost of the F-14 was $19.3 million and that the program cost of the F-15 was $11.8 million. It is my understanding that government to government the price quoted by this Government on the F-14 was almost identical with the price quoted on the F-15.

This has never been fully explained to me by anybody and I would hope that the Armed Services Committee would summon witnesses to explain, under oath, the offers made on the F-14 and F-15 by our Government to the Iranian Government.

So, again, I commend my colleague for bringing this matter to the attention of the Senate.

If there is one place we do not want to see politics, it is in the placing of business ostensibly for the interests and the security of the United States and our friends and allies.

Mr. GOLDWATER. Mr. President, I apologize to my colleagues for not having more time to prepare remarks in answer to the Senator's comments. I only learned of his remarks a few moments before he took the floor and I will answer it at greater length in due time.

Mr. President, first I want to make it clear I have no argument about the cost question. I am not any more happy with the extremely high cost of these two fighters than any Member of this body and I lean very heavily toward the idea that we will buy lightweight fighters at much reduced cost in the coming Congress.

But Mr. President, when I pick up the release the Senator has quoted from, I see, for example, some very glaring mistakes and I think it is wrong to submit technical mistakes to this Chamber, particularly in a field that so few of our Members understand.

For example, the Senator from Missouri states that the F-14 is a heavier aircraft than the 111-B. The truth is that the 111-B weighs 80,000 pounds and the F-14 weighs 69,000 pounds.

He goes on to say that the F-14 has failed in every important respect to meet its performance specification.

Mr. President, this is not true. It has succeeded in every respect that the Navy asked for and that the Tactical Air Subcommittee, of which I am a member, has religiously reviewed from time to time.

The Senator from Missouri places emphasis today, as he did during his campaign, on a supposed test that was flown between these two aircraft.

Now, I want to put this record straight. First of all, there were two different pilots, one a Navy pilot, one an Air Force pilot. They flew these different planes, not assigned to their service. They did not fly against each other. No tests were flown at all.

I do know in the facilities in Rockwell International, McDonnell Douglas, and I should say now, in St. Louis, they have a computer into which one can put the supposed abilities of each aircraft and come out with a computerized visual answer as to what one plane would do to another.

I personally have flown missions recorded in that computer, but this is not a test of one aircraft against another, and I will point out to my colleagues we are comparing apples and oranges. The F-15 is a fixed wing aircraft. The F-14 is a swept-wing aircraft. The wings can be moved back and forth and there is no way in the world these two aircrafts can be tested against each other until the F-14 is placed in a wing configuration that would be substantially the same as the F-15.

At such a time, I think a fly-off could be arranged, but there has been no fly-off in spite of what my friend says.

The only records I know of that show any comparison are these computerized records. And let me say to my colleagues, we can have the best computerized records in the world, but it is the fellow in that cockpit that makes one airplane better than another.

I have seen the top fighter aircraft of the world theoretically shot down by inferior aircraft flown by superior pilots.

Mr. President, I have a little advantage in that I have flown in both aircraft.

Now, on the F-14, there is no stick in the back seat, so one sits there and watches the pilot go through his act.

We flew combat against an F-4 and this F-4 is the same aircraft which has defeated Mig aircraft in the air over Vietnam.

We flew at altitudes from 20,000 feet to 35,000 feet and in every instance the F-14 turned inside the F-4, which is the ultimate test of a fighter plane; which is, will it turn inside the other one.

As I say, until we get the F-14 with a wing position comparable to the F-15, there will be no way of testing this adequately.

In the F-15, there was a stick in the back seat and I was allowed to fly combat against an enemy and we turned inside this enemy aircraft which flies very comparably to most of the modern Mig fighters.

Mr. President, later in his speech the Senator said that the radar dependability was about 2.2 hours. Actually, the radar dependability is now up to about 22.5 hours, which exceeds the specification requirement of 22 hours.

Mr. President, my point in rising today is to make as immediate a reply as I can to the assertions made by my good friend from Missouri about the F-14 aircraft and the F-15 and in another way.

It is true that the F-14 is using an older engine. I will remind my friend, even if they installed the new engine it would only increase its speed about two-tenths a mach number and that is now in excess of mach II, which is the requirement put down by the Navy. It would increase its climb rate somewhat——

The PRESIDENT pro tempore. The time of the Senator from Arizona has expired. The remaining time is controlled and equally divided by the majority and minority leaders.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that an answer to the speech, prepared by the Navy, be inserted at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANSWER TO SPEECH PREPARED BY THE NAVY

Senators Thomas F. Eagleton (D-Mo.) and William Proxmire (D-Wisc.) today strongly challenged a Navy request to increase the procurement of F–14's from 16 squadrons to 18.

In Senate speeches the two Senators called the Navy effort to increase the F–14 buy from 334 to 390 "extraordinary" and argued that it directly contradicts the Secretary of Defense's order to reduce the Navy carrier force from 15 to 12 beginning in FY–76.

The Navy and Marine Corps need fighters; for Sea Control (against Soviet built anti-ship missiles and bombers) for the long range escort of attack air planes, and for air combat against enemy fighters. The Secretary of Defense, in his 22 August 1974 direction to the Navy, established the increase from 334 to 390 F–14s. With fewer carriers to do the same job against an increasing threat requires better equipment. The Navy asked for 722 F–14s to do their job. The 390 number represents a substantial risk for the nation in maintaining control of the critically important sea lanes of commerce, as well as protecting Marines on the beachheads of an amphibious assault.

Eagleton revealed six weeks ago that secret tests showed the F–14 to be vastly inferior to the Air Force's F–15 in air combat. He charged that briefing charts showing the comparison were being kept from the Secretary of Defense "until as recently as last week." Eagleton said he had copies of the classified charts.

The "Secret Tests" referred to by Senator Eagleton were neither secret nor comparative. The "tests" were exchange flights by one Navy and one Air Force test pilot in the other services airplane to exchange technical information. The airplanes were not flown on the same missions and were not flown even near each other. The "briefing charts" were some performance parameter comparisons put together by the Air Force test pilot specifically to show where the F–15 had maneuvering advantages over the F–14. Those charts were not "withheld" from the Secretary of Defense, they were just a part of the report submitted by the Air Force test pilot. When the Air Force finally determined to what Senator Eagleton was referring by "secret briefing charts" (which his staff would not identify), the data was extracted from the files at Wright-Patterson Air Force Base, Ohio. These "briefing charts" were only a small part of the total comparison. Taken out of context as the only comparison of the F–14 and F–15 would indeed suggest that the F–15 should win in a dogfight. It was built for that. The total picture was provided in the full report, including the areas where each fighter was better than the other. The advantages of each reflect the different missions of the two fighters.

Eagleton urged the Pentagon to fly the F–14 "in a more exacting test against the F–15" to "resolve once and for all the conflicting claims about the effectiveness of the F–14 in air combat. If, as the charts I posses clearly indicate, the F–14 has severe limitations in dogfights against modern aircraft such as the F–15, then it is better now to ascertain those limitations rather than to risk the lives of our pilots in the future simply because we believed our own erroneous propaganda."

"A more exacting test against F–15" as urged by Senator Eagleton "to resolve once and for all the conflicting claims about the effectiveness of the F–14 in air combat" would have to be conducted in all missions of the F–14 and the F–15. A true test would require one F–14 and then one F–15 to engage four to six enemy fighters or air-to-surface missiles starting at about two hundred miles from the enemy. That is an F–14 mission, and in that mission, the F–14A is many times more effective than the F–15. The F–14 has more fire power, greater detection and track capability and more internal fuel. Moreover, the mission should be flown from a carrier. The F–15 can't do that.

The allegation that the F–14 has severe limitations in dogfights against modern fighters simply is not true. This statement is not supported by actual air combat training flights conducted by the F–14.

Although stating that the F–14 should adequately fulfill its fleet defense mission Eagleton warned that the F–14 should avoid air combat situations in "high-threat areas" where tests show the plane would be highly vulnerable because of poor maneuverability.

The F–14 is indeed fulfilling its fleet defense mission, to a degree not possible by any other aircraft in the world. The airmen who commit their professional reputation to that airplane and those who fight against it in training consider the F–14 the most capable adversary in the world. Many capabilities must be combined to make a good fighter. The F–14 has the optimum balance for the Navy. F–14 air crews are eager to engage any adversary.

He cited serious problems with the F–14's AWG–9 radar system which, according to Navy data, breaks down once every 2.2 hours on the average. He said the Navy has asked for $100 million to correct the AWG–9 and other subsystems.

The Navy is unable to identify the source of Senator Eagleton's average 2.2 hour AWG–9 breakdown data.

The F–14/AWG–9 system reliability is substantially higher than that of its predecessors (e.g., the F–4/AWG–10 system) based on Navy experience with predecessor systems at a comparable phase of fleet introduction. The true yardstick by which to gauge system reliability is Mean Time Between Failure (MTBF) of mission essential equipment. Based on a recent limited sample of a shore based training squadron, the system far exceeded the current 18 hour MTBF specification. The continuing reliability improvement efforts on the Navy's latest AWG–9 configuration will provide an MTBF rate of approximately 22 hours.

As the AWG–9 continues to mature in service, the Navy and OSD are initiating several additional reliability and maintainability improvement programs designed to increase MTBF to 25 or as high as 31 hours. This is compared to the mature AWG–10 of the F–4J at about 5.6 hours MTBF. This initiative is being pursued in the interest of identifying early in the system life cycle, those cost effective changes which could continue to reduce life cycle cost. This approach is hundreds of times less costly than the "Apollo Project" approach where the first flight had to be flawless. The reliability of the F–14 is much greater than that of its predecessor and is still improving.

Eagleton charged that a weight gain of 3,750 pounds over the specifications (14,171 pounds over the 55,000 pound plane originally planned) and an aging 20,000 pound thrust engine were the main cause of the F–14's poor performance.

The original specification weight for the F–14A was 53,500 pounds with 14,391 pounds of internal fuel and an armament load of 4 SPARROW and internal M–61 Vulcan cannon. Today that weight for a production F–14A aircraft is 58,242 pounds with 16,200 pounds of internal fuel. The additional weight provides 1800 pounds more internal fuel, a real plus for a carrier aircraft. For fleet air defense with an armament load of 6 PHOENIX missiles and two external tanks the takeoff weight was projected to be 65,421 pounds. Today that weight is 69,103 pounds. The weight empty has increased over the original specifications by less than 8% (from 35,979 lbs to 38,648 lbs), providing more strength and fuel capacity than thought possible. That is about ½ of the empty weight increase of the F–4 at a comparable time period. The reported 14,171 pound gross weight increase is from the original design goal of the F–14A with 4 SPARROWs to the current F–14A with 6 PHOENIX and two external fuel tanks, a misleading comparison of an airplane equipped for two separate missions.

The TF30–P412 engine in the F–14A was intended to be in the first F–14A aircraft with the option to turn to be F–14Bs with the higher thrust F–401 engine. Rising costs and development problems have delayed the completion of the F401. At the same time the TF30 engine in the F–14A has exceeded anticipated performance.

If threat fighters increase in performance beyond that expected, the F–401 can be produced to provide the F–14 (as the B version) with increased maneuvering capability to outfight any higher performance threat.

"At 69,171 pounds, it (the F–14) is a ponderous aircraft now weighing more than the ill-fated F–111B, which was scrapped because the Navy said it was too heavy for carrier use," Eagleton said.

The original TFX specification weight for the fleet air defense mission (6 Phoenix) was 62,788 pounds at takeoff. When finally cancelled the F–111B weight in that configuration was 79,200 pounds (no external fuel) and estimated to be over 80,000 pounds at production, too heavy for its structural strength in the carrier environment. The F–14A weight with a full load of 6 Phoenix is 65,371 pounds at takeoff (69,103 pounds with two external tanks) or approximately 15,000 pounds less than the F–111B takeoff weight. Because of its landing weight and slow speed flying qualities, the F–14 is far superior to the F–111B for every mission and can accomplish missions not possible for the F–111B.

". . . the F–14 has failed in every important respect to meet its performance specifications," Eagleton said, citing the latest Navy report to Congress.

The F–14A has proven to be a most capable fighter in all of its assigned missions. It has in many areas far exceeded performance expectations (i.e., maneuvering performance, high angle of attack flying qualities, carrier suitability and weapons system performance). It has also failed to meet some original stringent design specifications but by insignificant amounts and not to the extent Senator Eagleton refers to. For example, maximum speed is now expected to be 2.5% (or less than 0.1 Mach) below specification although an early R&D test aircraft demonstrated greater than the specification. The maximum ceiling is only 2% less than specification (or 600 feet), not 5.2%. The sustained load factor is 2.0% less (or less than 0.05g), not 3.1%. Its acceleration is off by 3% (or less than 4 seconds), not 5%. The combat loiter time is down by 15% (or about 18 minutes), not 20%; this difference was early in the program when the size and location of the external fuel tanks was changed from two 450-gallon tanks to two 267-gallon tanks. Thus, these shortfalls are small and do not have a significant impact on the F–14A's fleet capabilities. In many cases, the F–14A has exceeded performance specifications in significant parameters such as escort radius (up by more than 4%).

After over 22,000 hours of flight time in development test and evaluation, Board of Inspection and Survey Trials, and operation by fleet pilots in 5 squadrons now operational, all reports from the Navy indicate that the F–14 is an unqualified success, and they believe it has the greatest total fighting capability of any fighter airplane in the world today. The Navy is no longer talking about a paper airplane—they are talking about the F–14 as it exists—the airplane they are flying of the deployed carrier.

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Eagleton said that despite an R. & D. cost overrun of 60 per cent, the F–14 is in many important respects inferior to the F–111B, the cancelled carrier-based Navy fighter.

The Navy acknowledges that total RDT&E costs have risen about 50% over the 1969 development estimate. However, approximately one-half of that increase is attributable to a Congressional decision in 1969 to procure 6 additional aircraft with R.D.T.&E. funds vs. procurement funds. Meanwhile, the Navy's test and evaluation program as well as extensive operational experience have disclosed that the F–14 is significantly superior to the F–111B in all fighter missions including:

Carrier Suitability.
Air Combat Maneuvering.
Fleet Air Defense.
Aircraft Safety.
Combat Range.
Survivability.
Acceleration.
Crew Visibility.

". . . when comparing such crucial fleet defense factors as maximum mach number, service ceiling, combat radius and range, the F–111B is in each case superior," he said.

The maximum speed of the F–111B service ceiling was 29,000 feet (below required 35,000 foot loiter altitude); the F–14A has demonstrated more than 37,000 feet with equivalent loads. The F–111B could carry 25,000 pounds of internal fuel, but used half of its fuel for acceleration to supersonic intercept speeds and then could not fight. The F–14 carries 16,200 pounds of internal fuel and can do all the fighter missions. The F–14A escort radius has increased to 521 NM (the specification was 500 NM); this was not a design criteria for the F–111B since it was not capable of satisfying escort mission requirements. With a load of 6 Phoenix the acceleration of the F–111B from loiter speed to Mach 1.8 at 35,000 feet required about 10 minutes and 11,000 pounds of fuel; the F–14A accelerates from Mach 0.8 to 1.8 in about half the time with half the fuel. Because of its extremely slow supersonic acceleration, and therefore, unusable supersonic speeds, the F–111B was in essence a subsonic missile platform. The maneuvering performance of the F–14A far exceeds that of the F–111B.

Mr. CANNON. Mr. President, the Senator from Missouri, Mr. EAGLETON, has made serious charges concerning the F–14 airplane. While the Congress was recessed for the elections, the Senator from Missouri issued a series of statements regarding what he claims was a secret flyoff between the F–14 and F–15. After the dust had settled and the facts emerged, it turned out that there was no flyoff between these two airplanes as the Senator originally had claimed, secret or otherwise. Instead a Navy test pilot had flown a short five-flight evaluation in the F–15, and likewise an Air Force pilot had flown a five-flight evaluation in the F–14. Both pilots wrote engineering test pilot-type reports on the performance and weapon system operation of the planes.

I, for one, was glad to see this exchange take place. I think there should be a great value for the services to have their own test pilots give an evaluation of the other services' airplanes because it can result in an awareness at all levels within that service, based on hard test data rather than rumor or innuendo, of the strong points and weak points of the other airplanes. If the information is evaluated in a judicious manner within the services it can result in the adaptation of the strong points of other airplanes into future aircraft designs. Also, it possibly can lead to the adaptation of the other airplane for use within the service should it fulfill the needed requirements.

I believe this was the theory behind these mutual evaluations and I think that the idea was a good one. However, I also believe that if the resulting test reports are used as a basis for irresponsible and uninformed public charges, then the value of the exchange will be lost and such exchanges most probably will not take place again in the future.

The Senator from Missouri has claimed that the F–14 procurement should be limited and has stated that a recent secretarial decision increased the total planned procurement of F–14's from 334 to 390. I want to point out to him that 234 F–14's have been approved by the Congress through fiscal year 1975 and that the recent increase in quantity relates to planning for fiscal years 1979 and 1980, a very long time in the future. I am informed that the fiscal year 1976 budget request presently is planned for 36 more F–14's, which will bring the total up to 270 if the 36 are approved by Congress.

I can assure the distinguished Senator that the Tactical Air Power Subcommittee will hold a thorough review of the F–14 program and the request for 36 more airplanes during the budget review process which starts next January. At that time we will call in the Navy program managers for an updating of the financial, production, and technical status of the F–14 program, and I would anticipate receiving testimony on the operational employment status from the Navy pilots now flying the F–14 off the carrier *Enterprise* out in the Pacific. Rather than rebut on a point-by-point basis all of the factual errors in the Senator's speech, I would rather offer an invitation to the Senator from Missouri to testify before our subcommittee with any facts or opinions that he has regarding the F–14 airplane and its value to the Navy so that the subcommittee can consider all of the information available regarding this program. I think that the subcommittee's hearings would be the best forum for receiving reports on the F–14, rather than engaging in inaccurate press releases and statements on the floor of the Senate.

Mr. THURMOND. Mr. President, I wish to associate myself with the remarks of Senator CANNON and Senator GOLDWATER, my colleagues on the Tactical Air Power Subcommittee of the Senate Armed Services Committee.

The F–14 has recently been deployed on the aircraft carrier U.S.S. *Enterprise* and this deployment greatly strengthens America's defense arm on the high seas.

This aircraft, with its long-range radar, uses the Phoenix missile system in defeating approaching enemy aircraft as far away as 50 miles. No other airplane in the world has this capability and our best intelligence indicates this unique advantage will be enjoyed by the United States for a number of years. Further, after the Phoenix missiles are fired to destroy enemy aircraft at these extraordinary ranges the F–14 then becomes a nimble fighter and will be able to defeat Soviet-built aircraft in close air-to-air combat.

Mr. President, some of the charges made against the F–14 appear to be based on misinformation. I am as interested as any other Senator in seeing that our defense dollars are prudently spent and that the weapons systems we buy meet the requirements of our services.

However, it is a disservice to the Navy and the Nation when questions are raised on the floor that should be handled perhaps in the committee forum. It is my feeling Senator CANNON and all members of the Armed Services Committee would welcome any testimony on this subject which the distinguished junior Senator from Missouri may wish to offer.

Early next year our committee will consider the F–14 request for fiscal year 1976 and at that time the points raised in the debate today can be fully explored.

EXTENSION OF THE REHABILITATION ACT OF 1973—VETO

The Senate continued with the reconsideration of the bill H.R. 14225, an act to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for 1 year, and for other purposes.

The PRESIDING OFFICER (Mr. TALMADGE). The question is, Shall the bill pass, the objection of the President of the United States notwithstanding.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, on behalf of the majority leader, I yield to the distinguished Senator from California (Mr. CRANSTON) from the time under the control of the majority leader.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. STAFFORD. Mr. President, I wonder if the Senator will yield so I may make a unanimous-consent request.

Mr. CRANSTON. Certainly.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Michael Francis of my staff may be allowed privilege of the floor during the debate on the veto message and the vote following the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator has 6 minutes.

Mr. RANDOLPH. Mr. President, I was going to make a similar request.

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from West Virginia?

Mr. CRANSTON. Of course.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I would like to make a similar request for Ann Hocutt of the staff of the Labor and Public Welfare Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, if the Senator from West Virginia is prepared to speak now, I will be delighted to yield to him since he has been such a great leader in this field and, basically, he has been the man who has pioneered so very effectively and carried on so wonderfully this terribly important work in the field of rehabilitation.

Mr. RANDOLPH. Mr. President, on October 29 the President returned to the Congress without his approval H.R. 14225, the Rehabilitation Act Amendments of 1974. The veto of this important measure was unwarranted and unnecessary.

It is a tragic situation, as I see it, and I am not a carping critic of the President's action. In this situation, I think that he, as the Chief Executive, is the recipient of a very bad counsel on the part of the members of the executive branch with whom perhaps conferences were held. Had he been fully appraised of the substance of this bill, I feel certain he would not have disapproved it.

I will not go into the details of legislation as it concerns the various titles, three in number, of the bill.

NATURE OF THE VETO

Before discussing the substance of H.R. 14225 and the elements contained in the veto message, I want to attempt to clarify some procedural questions that have arisen as a result of the veto. I hope that an assessment of the nature of the veto from a purely logical standpoint will help to convince those who assert otherwise that the President's action on H.R. 14225 was in the nature of a veto, and was not a pocket veto.

First, the bill was sent to the White House on October 17. The Constitution requires that a bill must be returned to the Congress by the President within 10 days after its presentation, Sundays excluded, or it becomes law without his signature. The President returned the bill without his approval on October 29, within the 10-day limit established by the Constitution.

If, as the President suggests in his veto message, the intention was that the veto of H.R. 14225 was to be a pocket veto, he need not have returned it. The Constitution further states that if Congress by its adjournment prevents the return of a disapproved bill within the 10-day period, it shall, in the absence of the President's signature, not become law.

By its adjournment resolution the Congress specified that its officers would be authorized, during the period it was not in session, to receive messages from the President. The resolution was deliberately worded in this way in order to insure against any claims of pocket veto authority during the recess by the President.

It must be concluded that by returning H.R. 14225 with a veto message to the Congress, making reference to the congressional resolution, and by returning the bill within the time period specified in the Constitution for measures disapproved, the President has acknowledged that his veto was a true one, and not a pocket veto. I want to be very well reasoned in these remarks.

The President cannot have it both ways. I do not believe he should have it both ways. Had he believed that a pocket veto in this instance was correct and appropriate, he would not have returned the bill to Congress with his disapproval. Particularly, he would not have returned it within 10 days of its presentation to him. It would appear that he recognized that, had he not returned the bill, it would have become law without his signature.

Having returned H.R. 14225 to the Congress for final disposition, the President could not now support the argument that an override of his veto would be a nullity. If, as I hope and expect, the Senate joins the House in overriding this veto, I believe the President will, in accordance with his constitutional mandate, take care that this law be faithfully executed.

In order to avoid any further confusion on this issue, in the event that the veto of H.R. 14225 is overridden by Congress, I urge the President immediately to declare that he will implement the provisions of the Rehabilitation Act Amendments of 1974.

ISSUES PRESENTED BY THE VETO

As I suggested at the outset of this statement, H.R. 14225 never should have been vetoed. It is an excellent bill. It is a sound bill. And it is not inflationary. Both Houses of Congress have expressed unanimous support of the measure. The Senate adopted the conference report by unanimous voice vote. The House of Representatives approved it by record vote of 334 to 0. The President acted on very bad advice when he decided to veto this necessary measure.

The reasons for the veto set forth in the President's message are as incomprehensible as the act of disapproval itself. Positive statements of fact are made, but are not substantiated. The truth is that many of the statements made in the message cannot be substantiated. They are not factual.

For example, the veto message states that "the bill passed House of Representatives without having hearings." The facts are that the House Select Subcommittee on Education held 3 days of hearings on the administration and operation of the rehabilitation program. The Senate Subcommittee on the Handicapped held a day of hearings and took written statements on the House-passed bill, and 3 days of hearings on S. 2581, the Randolph-Sheppard Act amendments, which ultimately were incorporated into H.R. 14225 as title II.

The message also asserts that the bill would force the President to "create a new 250-man bureaucracy in HEW to duplicate functions carried out elsewhere in the executive branch." Nowhere in H.R. 14225 is there a requirement that such a bureaucracy be established. It is difficult to conceive a justification for such a manpower need. Certainly we in the Congress never had in mind anything approaching that level. Further, it is my understanding that not even the planners in the Department of Health, Education, and Welfare contemplated the need for nearly that many new personnel.

The thrust of the veto message, to the extent that a thrust is discernible, seems to be that H.R. 14225 would upset the administrative mechanisms by dictating minute departmental decisions, by blurring accountability, by transferring the Rehabilitation Services Administration without good reason, by requiring the establishment of a large new bureaucracy, and by promoting wasteful duplication of activities in the executive branch.

Mr. President, it is my strong belief that none of these veto arguments is valid. I further cannot understand how any of the arguments—either individually or taken together—could have been thought by the President to have been adequate justification for a veto.

Each of the statements made in the veto message should be carefully examined. I propose to make such an examination now.

I ask unanimous consent that the text of the veto message on H.R. 14225, issued October 29, 1974, appear at this point in the RECORD.

There being no objection, the veto message was ordered to be printed in the RECORD, as follows:

To the House of Representatives:

I am today returning, without my approval, H.R. 14225, The Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974, and the White House Conference on Handicapped Individuals Act. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

The Vocational Rehabilitation Amendments of 1974 pose some fundamental issues which far transcend this particular bill. No group in our country is more in need of supportive services than the handicapped. Our handicapped citizens have demonstrated time and again that, given a fair break, they can lead as full and productive lives as other citizens.

Throughout my years in Congress I consistently supported good Federal programs designed to assist the handicapped.

During the last two years spending on the basic great programs for Vocational Rehabilitation has grown from $589 million to $680 million. The key issue posed by this bill is not how much money will be spent. The issue posed is how well the programs will be run.

This bill passed the House of Representatives without any hearings. Had hearings been held we would have explained the disruption that would result from such a massive legislative incursion into the administration of a program.

The Congress has the responsibility to legislate, but I have the responsibility for the successful administration of the programs they enact. This bill is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason—indeed for very bad reasons It dictates where in HEW minute decisions must be made: it creates independent organizational units at subordinate levels that are wasteful and duplicative, and it sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man bureaucracy in HEW to duplicate functions carried out elsewhere in the Executive Branch.

Most importantly, the bill blurs accountability. I cannot be responsible for the good management for all Federal programs if I cannot hold my Cabinet Secretaries accountable. Under this legislation accountability would be diffused. I find myself obliged to return to the Congress unsigned a bill that would disrupt existing Federal programs and ill serve the needs of the Nation's handicapped citizens. The present vocational rehabilitation legislation does not expire until mid 1975.

Plenty of time remains for us to work out a bill which will improve Federal programs for the handicapped rather than create the disruptions that will inevitably result from this hastily drawn piece of legislation. I have requested HEW Secretary Weinberger to meet with congressional leaders immediately upon their return to initiate this process.

GERALD R. FORD.

THE WHITE HOUSE, *October 29, 1974.*

Mr. RANDOLPH. Aside from the procedural issue, which I have discussed previously, the arguments in support of the veto are presented in the final four paragraphs. The first of these, alleging that hearings were not held, have been disposed of earlier in my statement. Thus it is only necessary to review the last three paragraphs.

The message states:

> This bill is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason—indeed for very bad reasons.

The transfer of the Rehabilitation Services Administration — RSA — from the Social and Rehabilitation Service—SRS—has the broad and virtually unanimous support of the rehabilitation community. Ninety-six percent of the State rehabilitation agencies voiced their approval of the transfer. The House of Representatives adopted the original H.R. 14225, the major provision of which was the transfer of RSA, by a vote of 400 to 1.

There has been a widespread belief in the rehabilitation community that the administration of the rehabilitation program under SRS has faltered, and can be improved only by transfer of the subsidiary agency. SRS is concerned, in a philosophical sense, primarily with welfare programs and not rehabilitation, a human development program. The rehabilitation program, and the handicapped people it helps, would be better served by moving the program's administrative agency out of the welfare-oriented SRS. It is important to note that the conference bill does not direct the specific assignment of RSA to a particular office.

Rather, it gives the Secretary wide flexibility in this regard by making the Commissioner of RSA responsible to the Secretary, the Under Secretary, or an appropriate Assistant Secretary, as designated by the Secretary. Congress has thus left to the Secretary broad discretion to place RSA where, in his opinion, it would be most effective in serving handicapped individuals.

Manifestly, then, Congress did not in this legislation mandate the transfer of RSA for "very bad reasons."

The President's message further states that the bill "dictates where in HEW minute decisions must be made."

In response to concerns expressed by the Department of Health, Education, and Welfare, the conferees on H.R. 14225 specifically accepted a list of clarifications submitted by the Department which outline the routine administrative services which need not be performed within RSA but which can be centralized. That list may be found in the Joint Explanatory Statement, page 22, with respect to H.R. 14225.

Thus, the minutiae referred to in the veto message were reflected in the conference report statement at HEW's request, and were not imposed by the Congress. The intention of the bill is clearly expressed that the Commissioner of RSA is to have policy and program authority over budget formulation, grant administration, financial administration, and personnel administration.

The Rehabilitation Act of 1973 which became law on September 26, 1973, clearly intended to give independence of program operation to the RSA Commissioner. In the year intervening it has become clear that the Department had subverted that clear legislative intent. The greater specificity outlined in the conference bill and statement of managers was designed to insure that the original legislative directive of the 1973 act is carried out with fidelity. As every Member of Congress knows, there have been too many examples of executive agencies ignoring or perverting legislative imperatives.

The message of the President further states that the bill "creates independent organizational units at subordinate levels that are wasteful and duplicative." As an author of H.R. 14225, I have again carefully reviewed the measure, and cannot ascertain where in the legislation any "independent organizational units at subordinate levels" may have been created. Such an assertion is one to which I cannot respond, for I cannot identify that to which it purports to allude.

The veto message continues, stating that:

> The bill "sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man bureaucracy in HEW to duplicate functions carried out elsewhere in the Executive Branch.

Since the reference is not clear, I can only assume that the objection is either to the requirement under title II of the bill that all newly occupied or renovated Federal buildings contain sites for blind vending facilities, or to the compliance mechanism provided to the Architectural and Transportation Barriers Compliance Board to insure that federally occupied buildings meet standards of accessibility for handicapped individuals.

In either case, Congress did not contemplate, nor does it expect, the establishment of a new 250-man bureaucracy. Undoubtedly these functions will require some additional personnel. If rights are expected to be secured for handicapped people through new Federal programs, it cannot be done without the expenditure of effort and some additional personnel. I find it difficult to believe, however, that some minor reductions in force among the bloated, personnel-poor agencies cannot be effected, and worthwhile replacements made under existing personnel levels to accomplish these vitally important new functions.

The veto message continues.

> More importantly the bill blurs accountability. I cannot be responsible for the good management of all Federal programs if I cannot hold my Cabinet Secretaries accountable. Under this legislation accountability would be diffused.

Taken in the context of what H.R. 14225 does and does not do, I find this statement incomprehensible. Nothing in the measure dictates organizational changes or modifies accountability to the President on the part of any Federal agency. Responsibilities of each agency head affected by H.R. 14225 are clear. Adequate flexibility is provided to the Secretary of HEW and other agency heads to assure direct lines of authority and responsibility for program operation.

Title II of the bill, the Randolph-Sheppard Act Amendments, does require HEW regulations governing the operation of the blind vendor program throughout the Government. It also requires consultation by HEW with each agency potentially affected by such regulations. Under existing laws, the President is authorized to review and approve agency regulations dealing with the blind vendor program. By Executive order of the President, this authority is redelegated to the Secretary of Health, Education, and Welfare. Thus, even if H.R. 14225 did not become law, HEW now has the authority to examine, review, and presumably reject, agency regulations concerning the blind vendor program.

If this is the area to which the President is alluding in his veto message, lines of accountability would not, under Title II, be blurred to any greater extent than they are under existing law, and by Presidential Executive order.

President Ford has said that this legislation would "disrupt existing Federal programs and ill serve the needs of the Nation's handicapped citizens."

The President apparently did not read the letters and telegrams sent to him by scores of organizations and individuals whose life work is to aid handicapped citizens, or who are themselves handicapped. Handicapped people, rehabilitation organizations, service organizations, and public agencies, have uniformly urged that the President sign H.R. 14225. They do not believe that the measure would "ill serve the needs" of handicapped individuals; quite the contrary. Nor, judging by the magnitude of the vote for this measure, does the Congress believe it.

Finally, Mr. President, the veto message states that "the present vocational rehabilitation legislation does not expire until mid-1975," and that "plenty of time remains" to work out a bill that is not "hastily drawn."

Although it is true that authorizations for the Rehabilitation Act expire on June 30, 1975, it is not a fact that plenty of time remains to work with the administration to develop another bill.

One of the unique features of the rehabilitation program is that the allocations to States for grant funds for basic rehabilitation services are based on authorization levels, and not on appropriations. States cannot adequately plan their programs or establish the State share for matching purposes without a specific authorization figure. Because of this, only 7 months remain, assuming H.R. 14225 were to become law this month, for States to plan and arrange for funding of fiscal 1976 programs.

To characterize H.R. 14225 as "hastily drawn" is to belittle months of effort by two Congressional Committees. I have previously indicated that several days of hearings were held, plus periodic interchanges between Congress and HEW. H.R. 14225 was introduced in March of 1974. It was adopted by the House of Representatives on May 21 by a vote of 400 to 1. The Senate, after careful deliberation, passed its version of the measure on September 10, and the Committee of Conference met on October 9.

Insofar as title II of H.R. 14225 is concerned, the Randolph-Sheppard Act Amendments are anything but "hastily drawn." I first introduced a bill, S. 2461, to amend the blind vendor law on June 20, 1969. Since that time, the Senate has agreed to the act on no fewer than four separate occasions. I need not at this time recount the long and tedious metamorphosis through which these amendments have passed, but only wish to say that title II of the pending measure has been very carefully drawn.

Title III of the bill, the White House Conference on Handicapped Individuals, has received careful consideration. A predecessor bill was first introduced in 1972.

CONCLUSION

Mr. President, a recitation of the provisions of H.R. 14225 is not necessary. Senators are, I think, well versed in the substance of the bill, having adopted S. 3108, the Senate measure, on September 10, and subsequently the conference report on H.R. 14225. It is unfortunate that we must vote on this measure again. It is more unfortunate still that the handicapped citizens of our Nation have been put through the torment of uncertainty that resulted from the President's veto of this worthwhile legislation.

At this point I express genuine appreciation to our colleagues who have worked so diligently and effectively on this measure and I commend them for their efforts. The Senator from California (Mr. Cranston) has made vital contributions to this important measure. He has chaired the hearings, executive sessions, and the conference committee meetings and floor managed this legislation on behalf of the Subcommittee on the Handicapped. Joining in these efforts was the able Senator from Vermont (Mr. Stafford), ranking minority member of our subcommittee, whose constant attention to this bill has been significant in moving it forward. I express also thanks to the capable chairman of the Committee on Labor and Public Welfare, Senator Williams, for his continuing efforts and cooperation. The members of our subcommittee, Senators Pell, Kennedy, Mondale, Hathaway, Taft, Schweiker, and Beall worked closely and effectively during the hearings and committee meetings to insure that we could bring this important measure to finalization. Additionally, I express appreciation to those colleagues who assisted in the development of Rehabilitation Act at the full committee level, Senator Javits, ranking minority member of the committee, Senators Nelson, Hughes, Eagleton, and Dominick. Without the cooperative and effective efforts of these Senators, we would not have been able to bring this legislation to realization.

Finally, I offer sincere thanks for the cooperation demonstrated by the Members in the House of Representatives: John Brademas, chairman of the Select Subcommittee on Education, Chairman Carl Perkins of the Education and Labor Committee, and Albert Quie, ranking minority member of the committee. Their endeavors have been truly substantial.

Mr. President, let us vote now to help our handicapped citizens in their quest for dignity, self-sufficiency, and security. I urge my colleagues to vote H.R. 14225 into law, the objections of the President notwithstanding.

Mr. President, I ask unanimous consent to have printed at this point in the Record a letter dated November 20, 1974, addressed to Senators and signed by Senator Cranston, Senator Stafford, and myself, as chairman of the Subcommittee on the Handicapped.

There being no objection, the letter was ordered to be printed in the Record, as follows:

November 20, 1974.

Dear Colleague: The House of Representatives today voted to override the President's veto of H.R. 14225, the Rehabilitation Act Amendments of 1974, by a vote of — to —. The Senate will vote tomorrow—tentatively scheduled at approximately 2:00 p.m.

H.R. 14225 contains amendments to the Rehabilitation Act of 1973 which seek to carry out the original compromise agreement and to provide a one-year extension of the authorizations in order to assure stability for this program for an additional year. It also makes long overdue improvements in the Randolph-Sheppard blind vending facility legislation and provides for a White House Conference on Handicapped Individuals.

For the sake of the continuity of the vocational rehabilitation program and the welfare of the blind vendor program and handicapped persons generally, we urge you to vote to override this veto. The President in his message makes clear that there is no monetary issue involved. We believe that the reasons given for the veto are not substantial.

We are enclosing a summary of responses to the points made in the veto message. Should you have additional questions about this matter, or desire additional information, please contact Bob Humphreys (47673), Jon Steinberg (47651), Mike Francis (45141), Lisa Walker (49161), or Jack Andrews (47682).

With best wishes.

Sincerely,

Jennings Randolph,
Chairman, Subcommitee on the Handicapped.
Robert T. Stafford,
Alan Cranston,
Harrison A. Williams,
Chairman.
Jacob K. Javits.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. Mr. President, I will yield 1 minute to the distinguished Senator from California (Mr. Cranston).

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. CRANSTON. I thank the Senator for his generosity. I want to state that we have had the utmost cooperation between Senator Randolph, with his great leadership, and Senator Stafford, with his great leadership on the minority side, and many others who have worked very hard on this legislation which will meet some very desperate needs.

Mr. President, the business pending before us today—to consider the advisability of overriding the President's veto of H.R. 14225—has considerable consequence beyond simple enactment of legislation to extend the appropriations authorizations in the Rehabilitation Act of 1973 and to make certain improvements in the Randolph-Sheppard blind vendor program and to convene a White House Conference on Handicapped Individuals. The exercise of responsibility—legislative and executive—is also at issue, according to the President's veto message.

FULL CONGRESSIONAL CONSIDERATION

The congressional process for consideration of legislation is a most serious responsibility, governed by a set of carefully sequenced procedures designed to insure the best possible crafting of law. Such procedures have been fully followed in the development of the legislation now before us.

As my colleagues know, we—and I refer principally to the Senator from West Virginia (Mr. Randolph), the Senator from Vermont (Mr. Stafford), the Senator from New Jersey (Mr. Williams), and the Senator from New York (Mr. Javits), with whom I joined in authorizing the Rehabilitation Act of 1973—have labored over the past 3 years to provide a new design for the Nation's Federal-State vocational rehabilitation program. When the Rehabiltiation Act of 1973 was finally signed into law on September 26, 1973, as Public Law 93-

112, it represented the seventh attempt on the part of the Senate to enact such legislation over the steadfast opposition of the Nixon administration to our legislative efforts to improve the provision of rehabilitation services to handicapped individuals. Our work in the Congress has always been totally bipartisan.

Now, the administration has again raised opposition to legislation to benefit handicapped individuals and, totally contrary to the Record, it has done so in part on grounds that the legislation was "hastily drawn."

Here are the facts, Mr. President: H.R. 14225 was originally introduced in March of 1974; it passed the House May 21 and the Senate not until September 10. The conference met fully 1 month later. Much consideration occurred with various officials in HEW throughout this period.

The Randolph-Sheppard and White House Conference on Handicapped Individuals legislation has been considered and unanimously passed by the Senate twice previously. Both Houses have been involved in review of the Randolph-Sheppard program since 1969.

In addition, Mr. President, the subcommittee in the other body held hearings on the administration and operation of the vocational rehabilitation program on August 3, 1973, November 30, 1973, and December 10, 1973. These hearings formed the basis for consideration of H.R. 14225.

The Senate Subcommittee on the Handicapped, on June 27, 1974, held a hearing on H.R. 14225, S. 3108, and S. 3381, at which HEW testified at length. More than 40 additional detailed questions concerning the administration and operation of the rehabilitation program were submitted to which the Department responded in detail. The committee reported S. 3108 with appropriate modifications based on these hearings and committee oversight.

Three days of hearings were held in late 1973 on the Randolph-Sheppard amendments.

Mr. President, I believe this record reflects the fullest compliance with legislative procedures, and vindicates the actions of both Houses in passing H.R. 14225 with near unanimous approval: H.R. 14225 passed the House 400 to 1 and the Senate unanimously. The conference report was adopted by the House 334 to 0 and the Senate unanimously. Yesterday, the House voted 398 to 7 to override the veto.

FAILURE TO SPECIFY JUSTIFICATION FOR VETO

I submit, however, Mr. President, that the same record of responsible consideration is not evidenced by the President in the exercise of his authority to veto legislation passed by the Congress. The exercise of Presidential veto authority is a solemn and grave responsibility. Legislation should be vetoed only for the most compelling reasons, and the Constitution requires that the President explain those reasons to the Congress.

Yet the veto message makes objections which in many instances are inaccurate or misrepresent the issues; and which, on the whole, do not constitute valid reasons for the use of the veto power. If the President has good reasons for the veto, and I am not aware of any, he has not stated them in his message, as I will try to demonstrate.

Before I turn to the veto message, Mr. President, I would like to summarize the provisions of the bill:

Brief Summary of H.R. 14225, Rehabilitation Act Amendments of 1974

TITLE I. REHABILITATION ACT AMENDMENTS

Extends authorizations of appropriations in the Rehabilitation Act for one year until June 30, 1976, and raises certain authorizations minimally;

Transfers the Rehabilitation Services Administration (RSA) from the Social and Rehabilitation Service to the Office of the Secretary of H.E.W., and provides that the RSA Commissioner shall be responsible only to the Secretary, the Under Secretary, or an appropriate Assistant Secretary;

Clarifies the definition of handicapped individual for purposes of provisions relating to affirmative action for employment under Federal contracts and non-discrimination under Federal grants, and other provisions;

Requires affirmative action in employment in State agencies and facilities;

Includes provisions requiring review of individuals deemed ineligible for vocational rehabilitation services, and collection of data so that ineligibility determinations may be evaluated by H.E.W.; and

Provides for a Consumer Advisory Panel of the Architectural Barriers Compliance Board, and creates a compliance mechanism for the Board.

TITLE II: RANDOLPH-SHEPPARD ACT AMENDMENTS

Makes certain changes in the Act, including priority to blind persons in operating vending facilities on Federal property, assignment of income of vending facilities, complaints and arbitration procedures, and training for upward mobility for blind vendors.

TITLE III: WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

Authorizes the President to call a White House Conference on Handicapped Individuals within two years from date of enactment, includes a National Planning Council (at least 10 individuals with handicaps and five parents); authorizes grants to States (at least $10,000 but no greater than $25,000) to run at least one State conference prior to White House Conference.

DISCUSSION OF VETO MESSAGE AND REBUTTAL

Mr. President, I would like to examine the objections raised in the veto message and comment on them briefly.

MONEY NOT AN ISSUE

At the outset, it should be noted that nowhere in the Presidential veto message is money raised as an issue.

PROGRAM DISRUPTION

The message states that the bill would "disrupt existing Federal programs and ill serve the needs of our Nation's handicapped citizens."

But, Mr. President, this legislation was designed specifically to protect against disruption of existing Federal programs by extending the authorizations of appropriations for an additional year so that State rehabilitation agencies would have the opportunity to plan their budgets for fiscal year 1976 during the coming fiscal year rather than having to wait for the usual last minute congressional action to extend the program for fiscal year 1976. The allotments to the States under title I of the Rehabilitation Act are entitlements which the States are guaranteed if they appropriate the necessary State matching money.

Further, this legislation has had the strong support of 96 percent of the directors of State agencies for rehabilitation as well as concerned groups and organizations.

LEGISLATING ADMINISTRATIVE STRUCTURE

The message states that the bill "is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason—indeed for very bad reasons."

This is a curious statement, Mr. President. The Congress has both the responsibility to write laws and to carry out oversight functions to assure that programs are administered according to the law. The Senate committee report states:

> The committee has formulated its decision . . . on the basis of policy and philosophy. The committee views the vocational rehabilitation program as a human development program and not a welfare program. As such, it should not be subsumed within an administrative entity whose major program responsibilities relate to welfare. S. 3108, as introduced, would have transferred R.S.A. to the Office of the Assistant Secretary for Human Development. Though such a transfer might be appropriate, the committee has provided the Secretary with sufficient flexibility to effectuate a transfer to an organizational arrangement within his office which, in his view, would be most appropriate and beneficial for R.S.A. and the programs it administers.

I also want to stress, Mr. President, that in providing for a transfer of the vocational rehabilitation program away from the welfare programs, Congress was implementing a suggestion first proposed by the administration of Richard Nixon.

My colleagues will recall, I am sure, that in 1971 the administration submitted a number of bills to the 92d Congress to reorganize the Federal Government.

These proposals were first generated by the Ash Commission which studied Federal Government organization. Mr. Ash is now Director of the Office of Management and Budget. One of these proposals, H.R. 6961, was a bill to create a Department of Human Resources which would have included three major agencies: The Human Development Administration, the Health Administration, and the Income Maintenance Administration.

The result of the administration's own plan for the social and rehabilitation service, Mr. President, would have been to move vocational rehabilitation, aging, and juvenile delinquency from SRS to the proposed Human Development Administration, and to merge SRS's remaining welfare programs with the social security program into a proposed Income Maintenance Administration.

Clearly, Mr. President, the services programs of SRS were to be separated from the welfare and medicare programs under that administration proposal. That was one of the major conceptual changes proposed in the organization of the Department, and that is precisely what the legislation before us today tries to accomplish.

As a result, the veto of H.R. 14225 on

the ground that the Executive should be able to manage its organizational problems without legislation, seems most ill-the ground that the Executive should be advised. First, H.R. 14225 only seeks to accomplish some of the objectives of the administration's own bill on the reorganization of HEW. Second, as the reorganization bills establish, the administration desired to remove rehabilitation from SRS and the welfare programs. *Third, the* reorganization bills proposed at that time recognized the need for congressional participation in major organizational decisions and that the question was not one of Executive power alone.

Finally on the transfer, Mr. President, there is one other most sound reason for moving this program—which for so long has meant so much to so many handicapped persons—from SRS into the office of the Secretary.

I refer to what I can only call a shocking and scandalous pattern within SRS of mismanagement and flagrant disregard of the law with respect to the rehabilitation program.

Consider, Mr. President, the following *facts* which came to light during congressional hearings and investigation:

HEW seriously considered phasing out the rehabilitation program and replacing it with a cash assistance scheme so that handicapped people might purchase the services and equipment they need. The written memorandum proposing this scheme acknowledged that congressional approval by law would be required, but suggested administrative implementation of the plan without legislation;

SRS forced RSA to ignore the statutory requirement that identifiable agencies within each State be responsible for Federal rehabilitation funds—SRS, that is to say, forced RSA to violate statutory requirements;

Today, fully 15 months after the Rehabilitation Act of 1973 was enacted, final regulations to implement the law have not been published.

The Rehabilitation Services Administration operated for over 1 full year without a Commissioner;

Finally, Mr. President, I must tell my colleagues that in August the Civil Service Commission issued a report ending a 1-year investigation of SRS that indicated widespread violations of Federal law with respect to hiring personnel and the merit principles of Government service.

Because of these violations, the Civil Service Commission has suspended the right of James S. Dwight, Jr., Administrator of SRS, to hire personnel above the GS–13 level.

Mr. President, let me dwell for just a moment on the Civil Service Commission's report.

The report found that in spite of repeated warnings from CSC, HEW had taken no action to see that the illegal hiring practices of SRS cease. The CSC report states:

> There is clear evidence that SRS has engaged in employment practices which circumvented merit principles. There is also evidence that these improper practices had not completely ceased even after HEW and SRS gave the commission assurances that they had.

Mr. President, because of the preselection of applicants and the hiring of cronies that ran rampant within SRS, Local No. 41 of the American Federation of Government Employees, has written to the U.S. attorney for the District of Columbia to urge that the Justice Department review the report with a view toward bringing criminal charges.

My colleague from California in the other body, Mr. Moss, has made the same request of Attorney General William B. Saxbe.

So, Mr. President, when the President claims, as he does, that moving RSA out of SRS would "disrupt" the administration of this Federal program, I think he has been sadly and badly misadvised and misguided by his advisers—who themselves in some instances are part of the very source of program disruption which we are trying to eliminate.

WASTEFUL DUPLICATION

The message next states that the bill "dictates where in HEW minute decisions must be made; it creates independent organizational units at subordinate levels that are wasteful and duplicative."

Again, Mr. President, this legislation, except for the transfer, requires no changes in organizational structure which were not intended with respect to the agreement between Congress and the administration in the final version of the Rehabilitation Act of 1973. Furthermore, in response to the HEW request, certain clarifications were made, in Senate floor debate and in the conference report joint statement, respecting routine administrative services which may be centralized.

When the conference report was written, an effort was made to accommodate in the joint explanatory statement HEW's concerns that language in the bill might conceivably create a requirement for certain duplicative and independent administrative mechanisms. After consultation with the Under Secretary, the Office of the Assistant Secretary for Legislation, and the Office of the General Counsel of HEW, the following language was included in the joint explanatory statement. This was based on clarifications which both Senator STAFFORD and I had made during consideration on the Senate floor. The explanation is as follows starting on the top of page 22 of conference report 93–1457:

> The conferees stress that the clarified language with respect to delegation of functions does not prohibit the centralized administration of certain routine administrative services by the Department of Health, Education, and Welfare in support of RSA functions and programs in the categories of budget formulation, grant administration, financial administration, and personnel administration. However, the conferees intend that the RSA Commissioner is to be responsible for all policy decisions in these four areas and that this policy-making responsibility cannot be delegated beyond persons directly responsible to him, both at headquarters and at regional offices. Where routine administrative functions and policy are intertwined, then the Committee intends that the functions be carried out within RSA, both at headquarters and at regional offices. The conferees have thus agreed to the Senate provision in this regard with full knowledge of its intention and the legislative history surrounding it.
>
> The conferees are in agreement with the following clarifications submitted by HEW as to what are considered to be routine administrative services that can be centralized:
>
> "In the area of budget formulation, provision of technical assistance to the RSA budget officer to assure that budget documents conform to applicable O.M.B. and Department instructions in matters of form and timing of submission.
>
> "Preparation for RSA approval of testimony for presentation to the pertinent Appropriations subcommittees on the amounts sought for RSA.
>
> "In the area of grant administration, the processing of the necessary grant documents required to implement an RSA decision to award a project grant. This involves, among other things assuring that the award complies with the Department's Grants Administration Manual and with opinions of legal counsel respecting grants administration.
>
> "The preparation of the documents required to obligate RSA formula grant allotments.
>
> "Monitoring of the application of Department regulations governing the determination of amounts chargeable to grant awards and the expenditure of obligated funds under Treasury warrants.
>
> "In the area of financial management, assistance to RSA in the administration of accounting systems, and the preparation of documents required to obligate and expend salaries and expenses appropriations required for the operation of RSA."

By this language and the specific examples, the conferees were attempting to deal with HEW's concerns and not to limit them in areas of routine administrative services. The conferees thus stated:

> While these are not all th areas, the conferees believe they cover the general areas into which routine administrative services fall.

Thus, the Congress obviously did not attempt, in the words of the veto message, to—

> Dictate where in H.E.W. minute decisions must be made . . . [or to] create . . . independent organizational units at subordinate levels that are wasteful and duplicative. . . .

Possibly, some Presidential adviser has misinterpreted the third sentence of the first paragraph on page 22 which states:

> Where routine administrative functions and policy are intertwined, then the Committee intends that the functions be carried out within RSA, both at headquarters and at regional offices.

This statement was added so as to preclude frustration of our intention vis-a-vis policy formulation and major administrative and personnel decisionmaking being solely an RSA responsibility, not in any way to negate the language that followed which permits centralization of "routine administrative services." In the paragraph before that, the conferees stressed that centralization of administration of routine administrative services was not prohibited. We said that in the four areas—budget formulation, grant administration, financial administration, and personnel administration—the RSA Commissioner was to be responsible for all policy and personnel decisions and that this responsibility not be delegated to persons not directly responsible to him in both headquarters and regional offices.

In the area of personnel management, provision of general personnel management support services. Although RSA is responsible for the selection of persons for employment and promotion within RSA and for such selection and promotion decisions as to Regional Office personnel carrying out responsibilities under the Rehabilitation Act of 1973, the requisite appointment papers may be prepared and approved centrally in headquarters and in the region.

Maintenance of RSA personnel records, advice to RSA employees on personnel matters, and administration of the equal employment opportunity program.

While these are not all the areas, the conferees believe they cover the general area into which routine administrative services fall.

NEW INDEPENDENT UNITS

There is no requirement in the bill that any new "independent organizational units" be established.

The message states that the bill "sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man bureaucracy in HEW to duplicate functions carried out elsewhere in the Federal branch."

But, Mr. Persident, there is no provision in H.R. 14225 requiring so much personnel and no monitoring responsibility requiring so much personnel.

BLURRED ACCOUNTABILITY

The message states that the bill "most importantly—blurs accountability. I cannot be responsible for the good management of all Federal programs if I cannot hold my Cabinet Secretaries accountable."

But, Mr. President, the legislation requires no organizational changes with regard to secretarial responsibilities in carrying out any provisions of this bill or existing law. The roles of each appropriate official under this legislation are specified, and adequate flexibility is provided the Secretary of HEW and others to assure direct lines of authority and responsibility for program operation.

CONCLUSION

Such is the lack of substance and validity of the veto message, Mr. President. It is alarming to see the responsibility of justifying and exercising Presidential vetoes taken so lightly. I urge my colleagues to join in an overwhelming vote to override the President's veto. Our action will signify not only that we reject the reasons for and substance of the President's action, but that we once again stand steadfast behind our commitment to seek to alleviate the unfair burdens that disabled persons in our country must bear.

In closing, Mr. President, I want again to express my appreciation and admiration for the tremendous work done on this legislation by the Senator from West Virginia (Mr. Randolph), who has for so long been a champion of the interests of handicapped Americans, by the Senator from Vermont (Mr. Stafford), by the Senator from New Jersey (Mr. Williams), and by the Senator from New York (Mr. Javits). Their work has been indispensably aided by the following staff members: Bob Humphreys, Pat Forsythe, Ann Hocutt, Mike Francis, Lisa Walker, Judy Heumann, Nik Edes, Jon Steinberg, and Traer Sunley. I also believe that we have had great teamwork on this legislation with the other body, and its leadership on this matter has been of greatest assistance. Thus, I want to pay tribute to the chairman of the committee in the House, Mr. Perkins, the subcommittee chairman, Mr. Brademas, and the ranking minority member, Mr. Quie, and recognize the contributions of their staffs, Bill Gaul, Jack Duncan, and Marty LaVore.

I thank my colleague for his generosity.

Mr. STAFFORD. Mr. President, I rise to urge my colleagues to vote to override the President's veto of H.R. 14225. I do this with regret.

As my colleagues are aware, the House yesterday by a vote of 398 to 7 voted to override the veto of this particular bill.

The House passed this bill originally on a vote of 400 to 1, and the Senate passed it unanimously. The conference report was passed by the House on a vote of 334 to 0 and passed by the Senate unanimously.

The bill contains a 1-year extension of the authorization for the appropriations for the vocational rehabilitation program. It is pressing that we enact this legislation since delay would damage the ability of the States to properly plan their programs. This is especially important since the States administer the vocational rehabilitation program and the amount of money the States must put up to receive Federal funds is based on the authorized appropriations.

The original Senate bill, S. 3108, was introduced by this Senator in March of this year and has been thoroughly deliberated here in the Senate. The purpose is to transfer the Rehabilitation Services Administration, which administers the vocational rehabilitation program, to a more appropriate agency within HEW, because it is the view of the committee, the Senate, and the House that this program is a human development program, and under the present administrative structure, it has been submerged in the welfare bureaucracy.

The reasons for the President's veto message have been reviewed by myself and several other members of the committee, including the Senator from California (Mr. Cranston), who are deeply involved in this legislation, and we have jointly put out a statement which is on each Member's desk. I would hope that the Members would take the time to review this document, which I believe will show them that the action taken by the administration is not really in the best interest of our handicapped citizens.

Mr. President, I ask unanimous consent that a copy of this be placed at this point in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

[From the offices of Senators Randolph, Cranston, Stafford, Williams, and Javits]

Reasons Congress Should Override the President's Veto of H.R. 14225

H.R. 14225 contains a one-year extension of appropriations authorizations in the Rehabilitation Act of 1973, making minor changes in the amounts and substantive changes which both Houses have considered necessary; certain modifications in the Randoph-Sheppard program agreed to by blind organizations and employee union representatives; and provision for a White House Conference on Handicapped Individuals. MONEY IS NOT THE ISSUE. The following are the objections and answers to the objections.

I. Haste: The message states that the legislation is "hastily drawn".

Response: This legislation was originally introduced in March of 1974; passed the House May 21 and the Senate not until September 10. The Conference did not meet until one month later. Opportunity was provided to the Administration to meet and discuss this legislation, and such meetings were held.

The Randolph-Sheppard and White House Conference on Handicapped Individuals legislation has been considered and unanimously passed by the Senate twice previously. Both Houses have been involved in review of the Randolph-Sheppard program since 1969.

H.R. 14225 passed the House 400 to 1 and the Senate unanimously. The Conference Report passed the House 334 to 0 and the Senate unanimously.

II. Disruption of programs: This bill would "disrupt existing Federal programs and ill serve the needs of our nation's handicapped citizens."

Response: This legislation has the overwhelming support of 96% of the Directors of state agencies for vocational rehabilitation and concerned groups and organizations.

III. Absence of hearings: "The bill passed the House of Representatives without having hearings. Had hearings been held we would have explained the disruption that would result. . . ."

Response: The House Subcommittee held hearings on the administration and operation of the rehabilitation program on August 3, 1973, November 30, 1973, and December 10, 1973. These hearings formed the basis for consideration of H.R. 14225.

The Senate Subcommittee on the Handicapped on June 27, 1974, held a hearing on H.R. 14225, S. 3108, and S. 3381, at which H.E.W. testified at length. More than 40 additional detailed questions concerning the administration and operation of the rehabilitation program were submitted to which the Department responded in detail. The Committee reported S. 3108 with modifications based on these hearings and Committee oversight.

Three days of hearings were held in late 1973 on the Randolph-Sheppard amendments.

IV. Administration through legislation: "This bill is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason—indeed for very bad reasons."

Response: The Congress has both the responsibility to write laws and to carry out oversight functions to assure that programs are administered according to the law. The Senate Committee report states: "The Committee has formulated its decision . . . on the basis of policy and philosophy. The Committee views the vocational rehabilitation program as a human development program and not a welfare program. As such, it should not be subsumed within an administrative entity whose major program responsibilities relate to welfare. S. 3018, as introduced, would have transferred RSA to the Office of the Assistant Secretary for Human Development. Though such a transfer might be appropriate, the Committee has provided the Secretary with sufficient flexiblity to effectuate a transfer to an organizational arrangement within his office which, in his view, would be most appropriate and beneficial for RSA and the programs it administers." The Administration's strong objection to this program transfer is particularly difficult to understand since the Administration in 1971 proposed a similar realignment in its proposed Department of Human Resources legislation (H.R. 6961).

V. Dictation of minute decisions; wasteful duplication: "It dictates where in HEW minute decisions must be made; it creates independent organizational units at subordinate levels that are wasteful and duplicative. . . ."

Response: This legislation, except for the transfer, requires no changes in organizational structure which were not intended with respect to the agreement between Congress and the Administration in the final version of the Rehabilitation Act of 1973. Furthermore, in response to the HEW request, certain clarifications were made, in Senate floor debate and in the Conference Report statement, respecting routine administrative services which may be centralized.

There is no requirement in the bill that any new "independent organizational units" be established.

VI. The 250-man bureaucracy: ". . . it sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250 man bureaucracy in HEW to duplicate functions carried out elsewhere in the Federal branch."

Response: We do not know what this refers to. There is certainly no provision in H.R. 14225 requiring so much personnel and no monitoring responsibility requiring so much personnel.

VII. Blurring of accountability: "Most importantly, this bill blurs accountability. I cannot be responsible for the good management of all Federal programs if I cannot hold my cabinet Secretaries accountable."

Response: The legislation requires no organizational changes with regard to Secretarial responsibilities in carrying out any provisions of this bill or existing law.

The roles of each appropriate official under this legislation are clear, and adequate flexibility is provided the Secretary of HEW and others to assure direct lines of authority and responsibility for program operation.

VIII. Expiration of the act: "The present vocational rehabilitation legislation does not expire until mid-1975. Plenty of time remains for us to work out a bill which will improve Federal programs for the handicapped. . . ."

Response: The Rehabilitation Act's title I funding entitlements are computed on the basis of the authorized level of appropriations, and states must contribute 20 percent of their allocation. States cannot plan in advance the state share under the rehabilitation program if the authorized level is not established. The FY 1976 budget request will be submitted in 2 months. As it is, States will have only eight months to plan their FY 1976 programs and obtain State funding. There is not "plenty of time".

Mr. STAFFORD. I would like to close my remarks in support of the override by reminding my colleagues that we do have the responsibility to write laws and carry out oversight functions to assure that programs we create are administered properly.

I hope for the reasons stated that the Senate will once again today give overwhelming support to this important bill.

Mr. BEALL. Mr. President, the Senate directs its attention today to our responsibility in enacting a measure which was recently passed unanimously by the Senate, and 400 to 1 in the House—the Rehabilitation Act Amendments of 1974. Even during the past few days I have received several hundred calls and dozens of letters expressing concern that this bill not be delayed further.

Certainly the crucial importance of this legislation which means so much to so many handicapped individuals cannot be minimized. The administrative details cited as justification for the President's veto of this act is not, in my opinion, sufficient cause to delay enactment into law. The bill extends appropriation authority for all programs of the Vocational Rehabilitation Act for 1 year. If this is not done promptly the likelihood is that next June 30 will find us without appropriate authorizations to allow ongoing planning for the various programs supported under the bill. In his message accompanying his return of this bill, the President stated that "Plenty of time remains for us to work out a bill which will improve Federal programs for the handicapped" since the present vocational rehabilitation legislation does not expire until mid-1975. The fact is that the Rehabilitation Act's title I funding entitlements are computed on the basis of the authorized level of appropriations, and States must contribute 20 percent of their allocation. States cannot plan in advance the State share under the rehabilitation program if the authorized level is not establshed. The fiscal year 1976 budget request will be submitted in 2 months. As it is, States will have only a few months to plan their fiscal year 1976 programs and obtain State funding. I agree with my colleagues on the Senate Labor and Public Welfare Committee. There is not "plenty of time" in view of the process under which these programs are carried out.

In my judgment, we have only one recourse in insuring the continued continuity of the vocational rehabilitation program—and that avenue open to us at this time is through the only legislative mechanism available—that of reiterating our overwhelming approval to this legislation as passed before the recess—by overriding the President's proposed veto. I urge my colleagues to join with me in doing so.

Mr. MONDALE. Mr. President, I rise in support of the motion to override the President's veto of the Rehabilitation Act Amendments of 1974.

This is the third time in 3 years that the Congress has been called upon to take such action. Senators CRANSTON, WILLIAMS, STAFFORD, and RANDOLPH, and Representatives BRADEMAS and QUIE in the House have dedicated an immense amount of time and hard work to their effort to improve this vital program. I am distressed that, despite their fine efforts, the only way we seem to make progress is through outright confrontation with the administration.

There is no question about the value of these programs. In Minnesota, more than 40,000 persons are being served this year. I am told by the head of our agency, Gus Gehrke—the new president of the National Rehabilitation Association—that last year more than 6,600 Minnesotans became employable through the vocational rehabilitation program. Of these, nearly one-fourth were able to go off the welfare rolls when they began to work. It has been estimated that, nationally, we get back from $3 to $5 for every dollar spent training through vocational rehabilitation.

The amendments we support by an override vote today are modest, but important. Basically, they extend the State grant program for 1 year and other authorizations for 2 years. They also resolve a number of issues which have been before Congress for some time.

One of these is shifting the program from the Social and Rehabilitation Service to the Office of the Secretary. I and my colleagues on the Labor Committee are completely convinced that this is necessary. As the report says:

> Many of the so-called "consumer groups" of handicapped individuals, as well as many state rehabilitation agencies, have for some time expressed dissatisfaction with the current administrative arrangement within the Department of Health, Education and Welfare. They believe that the rehabilitation program has been submerged within SRS and consequently has suffered in terms of time devoted to the program, and program operation . . . (and) The Committee views the vocational rehabilitation program as a human development program and not a welfare program. As such, it should not be subsumed within an administrative entity whose major program responsibilities relate to welfare.

This bill also includes the Randolph-Sheppard amendments of 1974, including measures designed to discourage documented abuses in the operation of the blind vendor program. The Secretary of Health, Education, and Welfare is required by these amendments to prescribe regulations to protect the priority of blind vendors on Federal property, including assignment of vending machine income. This section is the result of long and careful negotiations with groups representing the blind and with the postal union.

Another section of the amendments authorizes the President to convene a White House Conference on Handicapped Individuals, a proposal which has my enthusiastic support. Handicapped individuals and the organizations representing them have made great progress in recent years in increasing the sensitivity of the public and Government to their needs. But they have also pointed out how far we have to go in this field. A well-planned conference—as the Senate report says—"for, of, and about individuals with handicaps" can provide important guidance for future policymaking in this area.

Finally, the amendments include some important clarifications of congressional intent concerning the definition of "handicapped individual," an affirmative action by State agencies.

It is important that we complete action on this legislation now. Our State vocational rehabilitation agencies and their clients have suffered from uncertainty about future funding long enough. Further delay will hamper the planning process and could also impair effectiveness of programs in the coming year.

I am gratified at the strength of the override vote in the House yesterday, and I urge my Senate colleagues to override the President's veto.

Mr. BIDEN. Mr. President, I am dismayed by President Ford's veto of the Rehabilitation Act Amendments of 1974, which I cosponsored.

And, I might add, I am confused by the President's action. In his veto message the President says that Congress, which has the power to legislate, has usurped the Executive's responsibility for administration of enacted programs. This statement is puzzling, because Congress has the responsibility to write laws, as well as to carry out oversight of the programs to insure their lawful administration.

The President's objection, in this regard, presumably is based on the proposed transfer of the Rehabilitation Services Administration from the Social Rehabilitation Service to the Office of the Assistant Secretary for Human Development.

There is good reason for this transfer. Vocational rehabilitation is not a function of a welfare program. It is, as the Senate Labor and Public Welfare Committee has pointed out, a human development program. As such, vocational rehabilitation program growth has been impeded, because it has been obscured within an agency whose primary tasks relate to welfare.

With the exception of the intended transfer of RSA to the Office of the Assistant Secretary for Human Development, there are no alterations in organizational structure, as President Ford seems to think there are.

Generally, it seems that President Ford has based his veto of the rehabilitation amendments on misinformation and misrepresentations.

I was distressed by the veto of the Vocational Rehabilitation Act of 1973, as I am distressed by the present veto. The crucial programs assisted by this legislation should be viewed as an investment which will result, has resulted, in financial gain for the Federal Government and the Nation. But more important, through rehabilitation programs handicapped individuals have received, and continue to receive, the necessary training to enable them to compete in the private enterprise system—to hold the jobs they would otherwise be denied.

Mr. President, the Vocational Rehabilitation Act should be a source of pride to the Congress. I urge my colleagues in the Senate to recognize the value of the rehabilitation amendments of 1974, and, in so doing, to override President Ford's veto of this legislation.

Mr. WILLIAMS. Mr. President, yesterday the House of Representatives, by an overwhelming vote of 398 to 7, voted to override the President's veto of H.R. 14225, extending the Rehabilitation Act of 1973, amending the Randolph-Sheppard Act, and calling for a White House Conference on Handicapped Individuals. I strongly urge all of my colleagues to register a similar vote here in the Senate, so we might send a clear message to the White House that a needless veto has occurred on this bill.

In the statement I put in the RECORD yesterday, I pointed out the inaccuracies in the President's veto message and responded point by point to the President's criticisms of this legislation. I reemphasize that I do not believe that the President's reasons for vetoing this bill are substantial and are not based on facts.

The criticisms hurled at the Senate Committee on Labor and Public Welfare and at the House Committee on Education and Labor by the President in his veto message are, indeed, so misleading I believe that these points must be responded to so that all Senators are aware of what the situation actually is.

This legislation has been before the Congress since March of 1974; a full 9 months. Furthermore, the Congress and the administration have been in contact over this period of time. Following enactment of the Rehabilitation Act of 1973, numerous letters and other communications have been formally transmitted to the Department, and they have returned their responses to the Congress. The committees spent countless hours in meetings with the Department on intent of the 1973 act and in reviewing draft regulations. There can be no question that the Department understood the intent of the Congress, and H.R. 14225 actually contains provisions for clarification of the intent where the Department and other administering agencies and the Congress disagreed as to the actual meaning of the language of the law. The House, in oversight hearings in August, November, and December of last year, and the Senate, in hearings on H.R. 14225, S. 3108, and S. 3381, reviewed the implementation of the 1973 act and heard administration testimony. As a matter of fact, in the hearings on H.R. 14225 in June, members of the House committee staff participated with the Senate, and there can be no question that the administration was heard, listened to, and responded to.

Mr. President, with the passage of 1 year and 2 months following the date of enactment, and no final regulations by which State agencies should carry out their responsibilities, the question must be raised as to the willingness of the executive branch to fairly implement the language of the law. I do not want to say that the process of meeting with the Department has met with lack of cooperation in all cases. It has resulted, however, in slow movement, producing lack of direction for programs in the States, and uncertainty as to States responsibilities for implementation.

The President has said that there is plenty of time for the Congress and the administration to meet and work out a favorable year. I say to the President, with all due respect, that there has already been plenty of time, and that the Congress has acted. This program, as my colleagues know, is a matching grant program in which the State share is based on the authorizations of appropriations. Without knowing what the authorizations are for this legislation, States have no way of planning and no way of estimating for their legislatures how much in State funds must be appropriated. Legislatures are meeting now. Many are already out of session and will not have the opportunity to make alterations in their own State funding. Others, unless this legislation is enacted today, will not be able to make those judgments for fiscal year 1976, and will be forced to operate programs without the necessary funding to enable more handicapped individuals to participate.

The President says that this bill is disruptive. Well, I will tell you what is disruptive: Following the two vetoes in 1972 and 1973, the vocational rehabilitation agencies in many States closed their doors after April. This means that many individuals could not participate in this program, and they were denied the important services they needed to go out and get jobs, to have self-respect, and to avoid the "welfare trap." This morning I received the annual report of the Department on the administration of the Rehabilitation Act of 1973.

That report cites:

> That in this fiscal year, successfully closed cases are down 45% from the previous year; thus to July 1, 1974, 11,676 cases were closed successfully compared to over 21,000 cases in the same period last year.

That is not what we expect of this program and not what is needed from this program.

This legislation has the overwhelming support of the State directors of rehabilitation programs and of every group and organization I am aware of. Indeed, the mail and phone calls I have received on this veto have been gravely concerned about the future of the program and the problems that disabled individuals will face if this situation is not resolved.

It is time that we allow the Rehabilitation Services Administration to get down to work and to successfully implement this program. With this in mind, I strongly urge my colleagues to vote to override this unnecessary veto.

Mr. KENNEDY. Mr. President, I give my full support to the Senate effort today to override the President's distressing veto of the Rehabilitation Act Amendments of 1974.

On the merits, the veto was an unjust and unfair denial of hope for millions of handicapped Americans. The Rehabilitation Act is a major effort by Congress to provide a better life for the handicapped. In its numerous significant provisions, it offers important new assistance toward equality for the handicapped in critical areas like education, employment, and other basic rights. As such, the act is a key step toward the goal of enabling every handicapped person to enjoy the rights and opportunities of a normal citizen.

In light of the great purposes and carefully drawn provisions of the act, the President's objections are miserly and insubstantial. The objections to the provisions mandating certain organizational changes in HEW are particularly disingenuous, since they ignore the obvious fact that present HEW arrangements for the handicapped are ineffective, unsatisfactory and self-defeating. Through the sort of modest changes proposed by Congress, the program can shed its "welfare" image and become what it is supposed to be—a rehabilitation program to help the handicapped find jobs and do all the other things that will enable them to lead normal lives.

Equally distressing is the President's

arrogant and promiscuous attempt to use a pocket veto to nullify this significant legislation. The problem is compounded by the obvious threat in the President's message to Congress earlier this week, suggesting that there could be "prolonged legal uncertainty" over this bill unless Congress acquiesces in the pocket veto.

In my view, the President's use of the pocket veto power flouts both the spirit *and the letter* of a Federal court of appeals decision in Washington last August. In that case, in which I was the plaintiff, the court of appeals ruled unanimously that a pocket veto was unconstitutional during any recess of Congress within a session.

The administration has until January 1, 1975 to seek Supreme Court review of the decision. Until reversed, however, that decision is the law in the District of Columbia. The administration has only two courses available—obey the law or appeal it.

Yet, *there* are signs that the administration plans to pursue a more dubious course, by declining to appeal the decision while continuing to use the pocket veto power. Thus, in his message to Congress on the Rehabilitation Act, President Ford claims he still has the pocket veto power, even though the current recess is clearly governed by the court's decision, and even though he indicates no intention to appeal the decision.

I urge the administration to abandon the course it is now pursuing. If the veto is overridden, I urge the administration to accept the Rehabilitation Act as law, and to state forthrightly that it intends to comply with the court decision. For the administration to persist in its present course would be to show its disregard not only of the courts, but also of the Constitution and the Congress. By such discredited legal gymnastics, the administration would defeat the rights of the handicapped and negate the rule of law.

The unwise nature of the administration's position is clearly shown in a recent letter I have received from Prof. Paul A. Freund of Harvard Law School, the preeminent constitutional scholar in the Nation. In his letter, a copy of which is attached, Professor Freund states that the court of appeals decision clearly governs the present recess and prohibits the use of a pocket veto. Professor Freund also states that it would be inconsistent for the administration to continue to assert the pocket veto power during the recess yet decline to ask the Supreme Court to reverse the court's ruling.

If, as now appears likely, the administration persists in its present course and refuses to treat the bill a valid law once the veto is overridden, it would be my intention to take the issue immediately to court, by adding it to separate litigation already in the district court and by asking expeditious consideration by the court. An early ruling should be possible, since the appellate court has already thoroughly considered the issue.

In the meantime, it will also be appropriate to seek the passage of new legislation. If such legislation can be approved before the final adjournment of Congress in December, and if it can be approved without the necessity for any compromise that would seriously weaken the purpose of the bill, then our purpose will be accomplished.

For now, however, I believe the President's unfair action and unwise legal course compels us to pursue two avenues of redress—through Congress and through the courts. Only in this way can we insure that our highest priority on this issue, effective legislation for the handicapped, becomes law at the earliest possible opportunity.

Mr. President, I ask unanimous consent that the following materials may be printed in the Record: My exchange of correspondence with Professor Freund, a letter I have written to Solicitor General Bork on the issue, an editorial from the New York Times questioning the use of the pocket veto on another bill during the recent election recess, and the text of the court of appeals decision.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., November 15, 1974.

Prof. Paul A. Freund,
Harvard Law School,
Cambridge, Mass.

Dear Professor Freund: I am writing to request your views on a question that has arisen over a recent decision of the United States Court of Appeals for the District of Columbia Circuit, interpreting the Pocket Veto Clause, Article I, Section 7, Clause 2 of the Constitution.

In *Kenndy* v. *Sampson,* decided on August 14, 1974, a case in which I was the plaintiff, the Court of Appeals held that the use of a pocket veto during a 5-day recess within a session of Congress was unconstitutional. Recently, the Solicitor General requested and was granted an extension of time, to January 11, 1975, in which to file a petition for a writ of certiorari.

During the current 32-day election recess of Congress, President Ford has disapproved a number of bills, including the important Vocational Rehabilitation Act, H.R. 14225. Although the President has returned the bills to Congress in the manner of normal vetoes, the accompanying messages from the President make clear that he is also asserting that the bills have been pocket vetoed.

My question is whether the Court of Appeals decision, as the applicable law in the District of Columbia, clearly prohibits the use of a pocket veto during the current Congressional recess? If so, would it be consistent for the Administration to continue to assert the pocket veto power during the current recess, yet decline to ask the Supreme Court to reverse the Court of Appeals decision?

I am enclosing a copy of the Court of Appeals decision, together with a copy of the President's message of disapproval on the Vocational Rehabilitation Act. I appreciate your consideration of this matter, and I look forward to hearing from you.

Sincerely,

Edward M. Kennedy.

Harvard Law School,
Cambridge, Mass., November 19, 1974.

Hon. Edward M. Kennedy,
U.S. Senate,
Washington, D.C.

Dear Senator Kennedy: I am glad to reply to your letter of November 15 concerning the meaning and application of the opinion of the Court of Appeals in the recent pocket-veto case, *Kennedy* v. *Sampson.* You have asked for my view on two questions. First, whether the decision clearly prohibits the use of a pocket veto during the current Congressional recess. Second, whether it would be consistent for the Administration to continue to assert the pocket-veto power during the current recess, yet decline to ask the Supreme Court to reverse the Court of Appeals decision.

My answer to the first question is in the affirmative, and to the second question, consequently, in the negative.

First. The Court of Appeals, in its unanimous opinion, was at some pains to point out that its decision, holding invalid a pocket veto during a Christmas recess of both Houses, did not turn on the length of the intrasession recess. Rather, the question is, in the terms of the Constitution, whether the recess "prevented" the return of the bill by the President; and this, in turn, depends on whether here is a practice, during an intrasession recess, of maintaining an officer of a House who is authorized to receive the bill upon its return.

The Court of Appeals was explicit regarding the scope of its decision. The opinion states: "The length of an intrasession adjournment *per se* does not prevent the return of a disapproved bill for reconsideration. The Constitution sets no time limit on the right of Congress to override a presidential veto." (Footnote 36). At the end of the opinion, after stating that the result could be reached by a slight extension of the *Wright* case (involving a recess of one House for three days), the opinion proceeds: "Second, the case is an appropriate one for disposition of the question of whether any intrasession adjournment, as that practice is presently understood, can prevent the return of a bill by the President where appropriate arrangements have been made for receipt of presidential messages during the adjournment—a question which must be answered in the negative."

Moreover, any reading of the opinion as turning on the length of the recess would defeat the express purpose of the decision, namely, to eliminate the ambiguity that was felt to becloud the status of bills vetoed during a recess. After pointing out that this legal uncertainty, and not any defect in communication, was the beclouding facor, the Court stated: "The only possible uncertainty about this situation arises from the absence of a definitive ruling as to whether an intrasession adjournment "prevents" the return of a vetoed bill. Hopefully, our present opinion eliminates that ambiguity."

Second. Given the foregoing understanding of the decision, it seems evident that either it should govern the present recess or it should be carried by the Administration to the Supreme Court for review. The decision, unreviewed, is the law in the District of Columbia, and any controversies over pocket vetoes are likely to be centered in this Circuit. There is no point in refusing to accept the decision while seeking a possibly different result elsewhere. Either compliance on the one hand, or a petition for certiorari on the other, is called for in the circumstances.

Sincerely,

Paul A. Freund.

U.S. Senate,
October 31, 1974.

Hon. Robert H. Bork,
Solicitor General of the United States, Department of Justice, Washington, D.C.

Dear Mr. Solicitor General: I am writing to urge that the Administration seek Supreme Court review of a recent Court of Appeals decision and thereby avoid a needless further constitutional dispute with Congress over the scope of the President's pocket veto power.

The case in question is *Kennedy* v. *Sampson,* —— U.S. App. D. C. —— (August 14, 1974), involving an action in which I am the plaintiff. In its decision, the Court of Appeals held unanimously that a pocket veto by President Nixon during a 5-day Congressional recess in 1970 was unconstitutional. The plain language of the Court's decision prohibits a pocket veto during any recess of Congress within a session, including the current 32-day election recess.

Yet, in recent messages disapproving important environmental (H.R. 11541), vocational rehabilitation (H.R. 14225), and farm labor (H.R. 13342) bills, President Ford maintains that he has pocket vetoed the legislation during the current recess.

To be sure, the President has also returned each bill to Congress with a message of disapproval, thereby inviting Congress to treat the disapproval as a normal veto, which Congress may attempt to override when the session resumes. But the invitation is less than meets the eye, since the President's messages also claim that the bills have been pocket vetoed.

Until the Court of Appeals decision is reversed, however, it governs the present recess, and the pocket veto claim must fail. If the Administration does not intend to seek such reversal through Supreme Court review, then in my view the Administration cannot in good faith maintain that it has pocket vetoed the bills. If Congress proceeds to override the vetoes, the Administration is obliged to enforce the bills as valid laws. It cannot refuse to enforce them on the ground that the override is a nullity and that the bills were properly pocket vetoed; yet the clear implication of the recent messages of disapproval is that the President intends to take this course, insist on his pocket veto, and refuse to enforce such laws.

Therefore, if the Administration intends to persist in this view of the scope of the President's pocket veto power, I would expect the Administration to ask the Supreme Court to reverse the Court of Appeals decision. To do otherwise would be to flout both the spirit and the letter of the Court of Appeals decision, by purporting to accept the decision and then continuing to exercise pocket vetoes during adjournments within a session of Congress.

In its losing argument in the Court of Appeals, the Administration claimed that the pocket veto was available during any recess longer than three days. Where would the Administration now seek to draw the pocket veto line? 6 days? 10 days? 14 days? 21 days? 30 days? What justification could there be for such a strained interpretation? The Court of Appeals has already ruled that there is no logical constitutional dividing line and that there can be no pocket veto during any adjournment within a session of Congress.

Yet, the Administration appears to be heading toward the unseemly position that the Court's decision applies only to a 5-day recess, that the Court's language on longer recesses is mere dictum", and that the scope of the pocket veto in these longer recesses is still an open question. Such a purported distinction in these longer recesses would be not only excessively legalistic, but highly dubious, and would be seen as an unwise, even cynical, attempt by the Administration to circumvent the plain ruling of the Court of Appeals.

As you know, the Court of Appeals decision was rendered on August 14, 1974, so that the time in which the Administration may seek review by certiorari in the Supreme Court expires on November 12, 1974. In your position both as Solicitor General and as a distinguished constitutional scholar, I urge you to give the issue your own close personal attention and judgment, in order to avoid a constitutional inconsistency in the Administration's position and unnecessary friction and litigation in future relations between Congress and the Executive Branch.

I would, of course, support a petition for certiorari filed on behalf of the Administration. So that you may have the most relevant materials and research, I am enclosing the text of the Court of Appeals decision, the briefs filed in the Court, and the text of the President's messages on the three bills I mentioned in the third paragraph of this letter.

Respectfully,

/s/ Edward M. Kennedy.

[From the New York Times, Oct. 27, 1974]

Ominous Veto

In terms of substance and of constitutional practice, President Ford's veto of a little-noticed bill concerning wildlife refuges sets an ominous precedent for his young Administration.

The measure passed overwhelmingly by both houses of Congress would give the nation's network of wildlife refuges additional protection by requiring that the Secretary of the Interior consider "all reasonable alternatives" before permitting a right-of-way across a refuge for an incompatible use such as gas pipelines, telephone poles, and electric power lines. The Secretary would have to determine that the proposed right-of-way is "the most feasible and prudent alternative" available. A section of a law enacted by congress a year ago had already established these criteria with regard to any proposed highway across a refuge.

In vetoing the bill, President Ford objected to any changes that "could create further obstacles and delays in the construction of vitally needed facilities, particularly those designed to help meet urgent energy needs." Informed speculation in Washington is to the effect that the push for the veto came from the oil industry which hopes to build a natural gas pipeline through the Arctic Game Refuge in Alaska.

The President's stated reason indicates—as does his dismal voting record on environmental issues as a member of the House of Representatives—that Mr. Ford holds the dangerous and outmoded belief that environmental values are a secondary or even marginal concern that must not be allowed to get in the way of economic development. If that remains his belief now that he has assumed the responsibilities of national office, it augurs poorly for more important and urgently needed measures such as a land use bill and a genuinely effective strip mining bill.

In constitutional terms, it is astonishing that President Ford seeks to get his way on this bill by resorting to the tricky device of a pocket veto, Congress and the Presidency have recently been testing this device in the courts, with the judiciary coming down squarely on the side of Congres.

At issue is the question whether a President can deprive Congress of a chance to override his veto if he allows the bill to die without his signature—not after Congress has adjourned but when, as now, it is only in recess. In August, the U.S. Court of Appeals for the District of Columbia ruled in favor of Congress.

The pocket veto was permissible in the 19th century when Congress adjourned for long periods and transportation and communication were poor. It serves no purpose today when Congress, in effect, stays in session almost continuously throughout the year. Having come so recently from long service in the House, Mr. Ford might have been expected to be more aware of Congress rights and not have recourse so soon to Presidential arbitrariness.

(Notice: This opinion is subject to formal revision before publication in the Federal Reporter or U.S. App. D.C. Reports. Users are requested to notify the Clerk of any formal errors in order that corrections may be made before the bound volumes go to press.)

[United States Court of Appeals for the District of Columbia Circuit, No. 73-2121]

Edward M. Kennedy versus Arthur F. Sampson, Acting Administrator, General Services Administration, et al., appellants.

[No. 73-2122]

Edward M. Kennedy versus Arthur F. Sampson, Acting Administrator, General Services Administration, et al., appellants.

Appeals from the United States District Court for the District of Columbia, Decided August 14, 1974.

James C. Hair, Jr., Attorney, Department of Justice, with whom *Irving Jaffe*, Acting Assistant Attorney General, *Earl J. Silbert*, United States Attorney and *Robert E. Kopp*, Attorney, Department of Justice, were on the brief for appellants. *Morton Hollander*, Attorney, Department of Justice, also entered an appearance for appellants.

Edward M. Kennedy, appellee, *pro se*.

Before: Bazelon, *Chief Judge*, Fahy, *Senior Circuit Judge* and Tamm, *Circuit Judge*.

Tamm, *Circuit Judge*, delivered the opinion for the court in which Bazelon, *Chief Judge*, and Fahy, *Senior Circuit Judge* joined.

Fahy, *Senior Circuit Judge*, filed a concurring opinion in which Bazelon, *Chief Judge*, joined.

Tamm, *Circuit Judge:* Appellee, a United States Senator, filed suit against the Administrator of the General Services Administration and the Chief of White House Records seeking a declaration that the Family Practice of Medicine Act (hereinafter, S. 3418) [1] became law on December 25, 1970, and an order requiring the appellants to publish the Act as a validly enacted law.[2] S. 3418 was passed by overwhelming majorities in both the House and Senate in the Fall of 1970.[3] Appellee was among those Senators who voted in favor of the bill which was presented to the President on December 14, 1970.[4] On December 22 both Houses of Congress adjourned for the Christmas holidays, the Senate until December 28 and the House until December 29.[5] Before adjourning, the Senate authorized the Secretary of the Senate to receive messages from the President during the adjournment.[6] On December 24, the President issued a memorandum of disapproval announcing that he would withhold his signature from S. 3418.[7] The President took no further action with respect to the bill. Appellants maintain that this series of events resulted in a "pocket veto" under article I, section 7 of the United States Constitution. Appellee, relying upon the same provision, contends that the bill became law without the President's signature at the expiration of the ten-day period following its presentation to him.

Upon cross motions for summary judgment, the district court granted judgment in favor of appellee. The order of the district court declares that S. 3418 became a law of the United States on December 25, 1970 and that "defendants are under a ministerial, nondiscretionary duty to publish said law. . . ."[8] Although the district court has retained jurisdiction for the purpose of adjudicating appellee's request for injunctive relief in the nature of a mandamus, further action has been postponed pending this appeal.[9]

Two questions are presented for review: (1) does appellee have standing to maintain this suit; and (2) did S. 3418 become a law? We conclude that both questions must be answered in the affirmative.

I

The requirement of standing derives from the limitation upon judicial power expressed in the "case" or "controversy" formula of article III of the Constitution. The concept was recently treated by the Supreme Court

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Footnotes at end of article.

in *Sierra Club v. Morton,* 405 U.S. 727, 731–32 (1972):

> "Whether a party has a sufficient stake in an otherwise justiciable controversy to obtain judicial resolution of that controversy is what has traditionally been referred to as the question of standing to sue. Where the party does not rely on any specific statute authorizing invocation of the judicial process, the question of standing depends upon whether the party has alleged such a 'personal stake in the outcome of the controversy,' *Baker v. Carr,* 369 U.S. 186, 204, as to ensure that 'the dispute sought to be adjudicated will be presented in an adversary context and in a form historically viewed as capable of judicial resolution.'" *Flast v. Cohen,* 392 U.S. 83, 101.

Although he has not been authorized to prosecute this suit on behalf of the Senate or the Congress, appellee offers several alternative theories of standing.[10] We agree with the district court that appellee has standing to maintain this suit in his capacity as an individual United States Senator who voted in favor of S. 3418. This conclusion follows from any of the traditional methods of evaluating the standing of a party to sue.

One approach to the question is to inquire whether a "logical nexus" exists between the status asserted by a litigant and the claim sought to be adjudicated. *Flast v. Cohen,* 392 U.S. 83, 102 (1968). Examination of appellee's complaint reveals that such a nexus is present in this case. While the complaint is literally addressed to the ministerial duties of certain officials, the legal issue turns on the validity of executive action which purports to have disapproved an Act of Congress by means of a constitutional procedure which does not permit Congress to override the disapproval. If appellants' arguments are accepted, then appellee's vote in favor of the bill in question has been nullified and appellee has no right to demand or participate in a vote to override the President's veto. Conversely, if appellee's interpretation of the veto clause is correct, then the bill became law without the President's signature. In short, disposition of the substantive issue will determine the effectiveness *vel non* of appellee's actions as a legislator with respect to the legislation in question. This demonstrates a relationship between appellee and his claim which is not only "logical" but real, a relationship which assures that the issues have been litigated with the vigor and thoroughness necessary to assist the court in rendering an informed judgment.

A somewhat different analysis of standing has been employed with respect to parties who challenge administrative action. In *Association of Data Processing Service Organizations, Inc. v. Camp,* 397 U.S. 150 (1970) the Supreme Court framed the standing issue as follows: (1) does the plaintiff allege that the challenged action has caused him "injury in fact, economic or otherwise;" (2) is the interest sought to be protected "arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question." *Id.* at 152–53. Appellee's pleading satisfies both inquiries. The complaint alleges an injury to him in his capacity as a United States Senator:

> "The acts of the defendants have injured the plaintiff as a United States Senator by denying him the effectiveness of his vote as a member of the United States Senate. The plaintiff . . . was among 64 Senators voting in favor of S. 3418. . . ."[11]

Appellee's asserted interest plainly falls among those contemplated by the constitutional provision upon which he relies. That provision, article I, section 7, is one of several in the Constitution which implement the "separation of powers" doctrine. Taken together, these provisions define the prerogatives of each governmental branch in a manner which prevents overreaching by any one of them. The provision under discussion allocates to the executive and legislative branches their respective roles in the lawmaking process. When either branch perceives an intrusion upon its legislative power by the other, this clause is appropriately invoked. The gist of appellee's complaint is that such an intrusion has occurred as a result of the President's misinterpretation of this clause and that a consequence of this intrusion is the nullification of appellee's vote in favor of the bill in question; hence, the complaint alleges injury to an interest of appellee as a member of the legislative branch of the government, and interest among those protected by article I, section 7. Appellants insist that only the interests of the Congress or one of its Houses as a body are protected by this provision.

Our conclusion with respect to appellee's standing finds support in *Coleman v. Miller,* 307 U.S. 433 (1939), which held, *inter alia,* that twenty state senators who had voted against ratification of a constitutional amendment had standing to challenge the legality of a tie-breaking vote in favor of ratification which was cast by the Lieutenant Governor, the presiding officer of the Senate of Kansas. The Court concluded that the interest of the legislators in protecting the effectiveness of their votes conferred standing to maintain the suit:

> "Here, the plaintiffs include twenty senators, whose votes against ratification have been overridden and virtually held for naught although if they are right in their contentions their votes would have been sufficient to defeat ratification. We think that these senators have a plain, direct and adequate interest in maintaining the effectiveness of their votes."

Id. at 438. Appellants correctly point out that the votes of the twenty plaintiffs in *Coleman* had peculiar legal significance *as a bloc, i.e.*: these votes were sufficient to prevent ratification absent the challenged vote of the Lieutenant Governor. Appellants read *Coleman* as holding that the plaintiff legislators had standing only as a group for the purpose of protecting the collective effectiveness of their votes. In a like vein, appellants contend that appellee's vote in favor of S. 3418 has no legal significance independent of the other votes in favor of the bill. Any injury to him occasioned by the President's action, it is argued, is "derivative" in nature.[12] In appellants' view, only the Senate or the Congress has sustained the "direct" injury necessary to confer standing (assuming that the veto of S. 3418 was invalid).[13]

The *Coleman* opinion neither confirms nor rejects appellants' interpretation. It does not express reliance upon the fact that all nay-voters had joined as plaintiffs in the action, nor does it contain any hint as to whether one of the plaintiffs might have maintained the suit alone. Although references to the parties and their votes are, quite naturally, in the plural form, the opinion does not disclose whether the Court was considering them collectively or severally. In light of the purpose of the standing requirement, however, we think the better reasoned view of both *Coleman* and the present case is that an individual legislator has standing to protect the effectiveness of his vote with or without the concurrence of other members of the majority.

The policy underlying the doctrine of standing is identified in the following passage from *Baker* v. *Carr,* 369 U.S. 186, 204 (1962):

> "Have the appellants alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for the illumination of difficult constitutional questions? This is the gist of the question of standing."

Another discussion describes the purpose of the standing doctrine as follows:

> "Under such circumstances, we feel confident that the questions will be framed with the necessary specificity, that the issues will be contested with the necessary adverseness and that the litigation will be pursued with the necessary vigor to assure that the constitutional challenge will be made in a form traditionally thought to be capable of judicial resolution."

Flast v. Cohen, supra at 106. Appellee's interest in the present controversy provides the same assurance that he is an appropriate advocate.

Appellants' argument to the contrary is based upon a distinction which is more formal than substantive. While conceding that Congress as a whole (or even one of its Houses) has standing to challenge the President's purported use of the pocket veto,[14] appellants insist that an individual member of Congress does not, even if he voted for the bill in controversy. The interest of the Congress in preserving its role in the law-making process is said to be "direct" while that of appellee is labeled "indirect or derivative."[15] Appellants base this distinction upon the self-evident proposition that appellee is not the Congress:

> "As an individual senator appellee can at best be said to have sustained only indirect injury as the result of the pocket veto, *for his vote for S. 3418 is in no sense the legal or political equivalent of the passage of the bill by the Congress . . . .*"[16]

The italicized observation is undoubtedly correct but it does not help appellants' argument. The prerequisite to standing is that a party be "among the injured," in the words of *Sierra Club,* not that he be the *most* grievously or *most* directly injured. We think that appellee is "among the injured" in this case.

The subject matter at stake in this litigation is legislative power. The court is presented with conflicting views of the pocket veto power, one which is expansive, and another which is restrictive. Over the long term, appellants' broad view of the pocket veto power threatens a diminution of congressional influence in the legislative process.[17] It seems to this court axiomatic that, to the extent that Congress' role in the government is thus diminished, so too must be the individual roles of each of its members. Put another way, the influence of any one legislator upon the political process is in great measure dependent upon the stature of the governmental branch of which he is a member.

In a sense, therefore, the contention that appellee's interest in the pocket veto controversy is "derivative" is correct. It is derivative, but it is nonetheless substantial. When asserted in the context of a particular dispute about specific legislation, such an interest may be sufficient to confer standing. Appellee's stake in this litigation is a quantum of his official influence upon the legislative process. To be sure, that influence can never be "the legal or political equivalent of the passage" of a bill, for only Congress as a body has that authority. Nevertheless, the office of United States Senator does confer a participation in the power of the Congress which is exercised by a Senator when he votes for or against proposed legislation. In the present case, appellee has alleged that conduct by officials of the executive branch amounted to an illegal nullification not only of Congress' exercise of its power, but also of appellee's exercise of his power. In the language of the *Coleman* opinion, appellee's object in this lawsuit is to vindicate the effectiveness of his vote. No more essential interest could be asserted by a legislator. We are satisfied, therefore, that the purposes of the standing doctrine are fully served in this litigation.

Footnotes at end of article.

Article I, section 7, paragraph 2 of the United States Constitution prescribes the manner in which laws of the United States are enacted:

"Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, *unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a law*." (Emphasis added.)

At issue in this case is whether the Christmas adjournment of 1970 was one which "prevented" the return of S. 3418 by the President. If so, then the President's failure to approve the bill within ten days of its presentation to him constituted a pocket veto. If the adjournment did not prevent the return of S. 3418, then the bill became law without the President's signature. Our study of the constitutional text itself, its history and previous judicial interpretations of it convinces us that an intrasession adjournment of Congress does not prevent the President from returning a bill which he disapproves so long as appropriate arrangements are made for the receipt of presidential messages during the adjournment. Since the adjournment in question falls into this category, we affirm the district court's declaration that S. 3418 became law on December 25, 1970.

Our analysis begins with the premise that the pocket veto power is an exception to the general rule that Congress may override presidential disapproval of proposed legislation. Rejection of an absolute presidential veto is explicit both in the proceedings of the Constitutional Convention [18] and in contemporaneous commentary. Alexander Hamilton, himself an advocate of the absolute veto during the Convention,[19] later took pains to distinguish the presidential veto power from that of the King of England:

"The President of the United States is to have power to return a bill, which shall have passed the two branches of the Legislature, for reconsideration; but the bill so returned is to become a law, if upon that reconsideration it be approved by two-thirds of both houses. The King of Great Britain, on his part, has an absolute negative upon the acts of the two houses of Parliament. The disuse of that power for a considerable time past, does not affect the reality of its existence; and is to be ascribed wholly to the crown's having found the means of substituting influence to authority, or the art of gaining the majority in one or the other of the two houses, to the necessity of exerting a prerogative which could seldom be exerted without hazarding some degree of national agitation. The qualified negative of the President differs widely from this absolute negative of the British sovereign . . ."

The Federalist No. 69, at 463–64 (J. Cooke ed. 1961) (A. Hamilton). Since it operates as an "absolute negative", the pocket veto power is a departure from the central scheme of the Constitution. As such, it must be limited by the specific purpose it is intended to serve, a purpose explained in the following passage from Story's *Commentaries:*

"But the President might effectually defeat the wholesome restraint [*i.e.* congressional override], thus intended, upon his qualified negative, if he might silently decline to act after a bill was presented to him for approval or rejection. The Constitution, therefore, has wisely provided, that, "if any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it." But if this clause stood alone, Congress might, in like manner, defeat the due exercise of his qualified negative by a termination of the session, which would render it impossible for the President to return the bill. It is therefore added, 'unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law'." [20]

The pocket veto power is one component of a constitutional mechanism designed to enforce respect on the part of each of the law-making branches of the government for the legislative authority of the other. This understanding of the purpose of the clause has led the Supreme Court to adopt a rule of construction which governs in this case:

"The constitutional provisions [*i.e.*, article I, section 7, paragraph 2] have two fundamental purposes: (1) that the President shall have suitable opportunity to consider the bills presented to him, and (2) that the Congress shall have suitable opportunity to consider his objections to bills and on such consideration to pass them over his veto provided there are the requisite votes. *Edwards* v. *United States,* 286 U.S. 482, 486. We should not adopt a construction which would frustrate either of these purposes."

Wright v. *United States,* 302 U.S. 583, 596 (1938). Where possible, then, the pocket veto clause should be construed in a manner which preserves both purposes. Since a pocket veto always has the effect of frustrating Congress' right to reconsider a vetoed bill,[21] the preferred construction of the clause is that return of a bill was not "prevented" by an adjournment. Only two decisions of the Supreme Court have addressed the question of whether an adjournment prevented the return of a bill. Appellant relies upon the first of these and seeks to distinguish the later decision from the present case.

The decision relied upon by appellant is *The Pocket Veto Case,* 279 U.S. 655 (1929), which held that the intersession adjournment of the 69th Congress prevented the return of a bill which had been presented to the President eight days (excluding Sunday) before the adjournment of the first session. The opinion states two reasons for the holding: (1) the word "House" in the return veto clause means "House in session" and does not permit return of a bill to an officer or agent of the originating House during an adjournment; (2) return of a bill during an intersession adjournment would result in a long delay in the final disposition of the bill attended by public uncertainty as to its status. *Id.* at 682–84.[22] A significant exception to this holding was established in the Supreme Court's only other pocket veto decision, *Wright v. United States, supra* at 589–90.[23] Addressing the first part of the *Pocket Veto Case* rationale, the Court held that the return of a bill may, in certain instances accomplished by delivery to an appropriate agent of the originating House:

"Nor was there any practical difficulty in making the return of the bill during the recess. The organization of the Senate continued and was intact. The Secretary of the Senate was functioning and was able to receive, and did receive, the bill. Under the constitutional provision [article I, section 5, paragraph 4] the Senate was required to reconvene in not more than three days and thus would be able to act with reasonable promptitude upon the President's objections. There is no greater difficulty in returning a bill to one of the two Houses when it is in recess during the session of Congress than in presenting a bill to the President by sending it to the White House in his temporary absence. Such a presentation is familiar practice. The bill is sent by a messenger and is received by the President. It is returned by a messenger, and may it not be received by the accredited agent as the legislative body? To say that the President cannot return a bill when the House in which it originated is in recess during the session of Congress and thus afford an opportunity for the passing of the bill over the President's objections, is to ignore the implying a requirement of an artificial formality to erect a barrier to the exercise of a constitutional right."

Id. at 589–90. The Court then discussed the dangers it had foreseen at the time of its earlier decision:

"However real these dangers may be when Congress has adjourned and the members of its Houses have dispersed at the end of a session—the situation with which the Court was dealing—they appear to be illusory when there is a mere temporary recess. Each House for its convenience, and during its session and the session of Congress, may take, and frequently does take, a brief recess limited, as we have seen, in the absence of the consent of the other House, to a period of three days. In such case there is no withholding of the bill from appropriate legislative record for weeks or perhaps months, no keeping of the bill in a state of suspended animation with no certain knowledge on the part of the public whether it was seasonably delivered, no causing of any undue delay in its reconsideration. When there is nothing but such a temporary recess the organization of the House and its appropriate officers continue to function without interruption, the bill is properly safeguarded for a very limited time and is promptly reported and may be reconsidered immediately after the short recess is over. The prospect that in such a case the public may not be promptly and properly informed of the return of the bill with the President's objections, or that the bill will not be properly safeguarded or duly recorded upon the journal of the House, or that it will not be subject to reasonably prompt action by the House, is we think wholly chimerical. If we regard the manifest realities of the situation, we cannot fail to see that a brief recess by one House, such as is permitted by the Constitution without the consent of the other House, during the session of Congress, does not constitute such an interruption of the session of the House as to give rise to the danger which, as the Court apprehended, might develop after the Congress has adjourned."

Id. at 595–96. Appellants emphasize two factual distinctions between *Wright* and the present case: (1) *Wright* involved an adjournment of only three days, a shorter period than the five-day adjournment at issue in this case; (2) only the Senate had adjourned in the former case whereas both Houses were in recess at the time S. 3418 was disapproved. These distinctions fail to overcome the logic and reasoning of the *Wright* decision.

The five-day recess in this case was only two days longer than that considered in *Wright*. Moreover, the most significant portion of the recess, that which extended beyond the ten-day period for return of a bill, was only one day longer than that which occurred in *Wright*,[24] and was actually within the maximum delay explicitly approved in

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Footnotes at end of article.

Wright.[25] As in the former case, the Senate continued in existence during the Christmas recess of 1970 and the Secretary of the Senate was available to receive messages from the President during the adjournment.[26] There was no danger that the bill could not be reconsidered "with reasonable promptitude" should it be returned by the President during the adjournment.[27] For these reasons, the mere fact that the Senate was not in session to physically receive the President's objections does not require the conclusion that the Congress had, by its adjournment, prevented the return of S. 3418.

The fact that the House of Representatives had not adjourned in the *Wright* case is also a distinction without a difference.[28] Assuming that the conclusion of the foregoing paragraph is correct, it is difficult to see how the presence or absence of the non-originating House at the time of the return could affect our decision. To hold that a return veto is possible while the originating House alone is in brief recess but not when both Houses are in recess would embrace ritual at the expense of logic.[29]

As the foregoing discussion demonstrates, the present case falls within the exception—or, at least, within a logical extension of the exception—to the *Pocket Veto Case* established in *Wright*. Even if *Wright* were not applicable, however, appellants' reliance upon the *Pocket Veto Case* would be misplaced. The modern practices of Congress with respect to intrasession adjournments creates neither of the hazards—long delay and public uncertainty—perceived in the *Pocket Veto Case*.

First of all, intrasession adjournments are much shorter than the intersession adjournment considered in the *Pocket Veto Case*. At the time of that decision, intersession adjournments of five or six months were still common.[30] By contrast, only four intrasession adjournments in the history of the Congress have exceeded sixty days in duration. Of these, only two occurred in this century—a sixty-seven day recess in 1943 and a sixty-four day recess in 1950.[31] Aside from these four, there have been one hundred twenty-nine intrasession adjournments of more than three days as of June, 1974: two of them for periods of fifty to sixty days; seven for periods of thirty to forty days; and two for periods of twenty to thirty days. The remaining one hundred eighteen were for periods of less than twenty days.[32] Until 1932, practically every one of these adjournments was a Christmas holiday recess.[33] In 1933 the twentieth amendment took effect, setting January 3rd as the customary date for commencement of each session of Congress. As a consequence, the pattern of intrasession recesses was altered somewhat over the ensuing years. In the last decade, however, a consistent pattern of intrasession adjournments has again developed. Typically, there are several recesses of approximately five days for various holidays and a summer recess (or recesses) lasting about one month.[34]

Plainly, intrasession adjournments of Congress have virtually never occasioned interruption of the magnitude considered in the *Pocket Veto Case*.[35] More importantly, return of a bill during an intrasession adjournment, whatever its length, can no longer cause the public uncertainty envisioned in the *Pocket Veto Case*. Modern methods of communication make it possible for the return of a disapproved bill to an appropriate officer of the originating House to be accomplished as a matter of public record accessible to every citizen. The status of such a bill would be clear; it has failed to receive presidential approval but may yet become law if Congress, upon resumption of its deliberations, passes the bill again by a two-thirds majority. This state of affairs generates no more public uncertainty than does the return of a disapproved bill while Congress is in actual session.[36] The only possible uncertainty about this situation arises from the absence of a definitive ruling as to whether an intrasession adjournment "prevents" the return of a vetoed bill.[37] Hopefully, our present opinion eliminates that ambiguity.

Appellants' brief directs our attention to the "consistent executive practice" regarding pocket vetoes during intrasession adjournments. The court has considered this argument and finds it unpersuasive. As appellants admit, consistent practice cannot create or destroy an executive power. Appellants' Br. at 37–38.

In addition, the precedents cited by appellants are not strong. Of only thirty-eight intrasession pocket vetoes in the nation's history, thirty (or 78%) have occurred since the inauguration of President Franklin Roosevelt.[38] None occurred prior to 1867.[39] The intrasession pocket veto is, therefore, a relatively modern phenomenon. Moreover, it is a phenomenon which has gained new significance in recent years as brief, intrasession recesses have become more frequent.[40] The present case arises from the shortest intrasession recess ever relied upon by any President as having prevented the return of a disapproved bill.[41] It is also significant that, in the single case which presented the issue of whether an intrasession adjournment precluded a return veto, the Supreme Court ruled that it had not. *Wright v. United States, supra*. In our view, therefore, the question raised in this case is still very much an open one, prior executive practice notwithstanding.

In summary, we hold that the Christmas recess of 1970 did not prevent the return of S. 3418—a conclusion which may be reached by either of two routes. First, the present case is governed by the logic, if not the precise holding, of the *Wright* decision. Second, the case is an appropriate one for disposition of the question of whether any intrasession adjournment, as that practice is presently understood, can prevent the return of a bill by the President where appropriate arrangements have been made for receipt of presidential messages during the adjournment—a question which must be answered in the negative.

Affirmed.

FOOTNOTES

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[1] S. 3418, 91st Cong., 2d Sess. (1970).

[2] Appellee contends that appellant Jones is required to deliver and appellant Sampson to publish in slip form and in Statutes at Large all newly enacted laws of the United States. Kennedy v. Sampson, C.A. No. 1583–72, Complaint, ¶¶ 4, 5 (D.D.C., filed Aug. 9, 1972), *citing* 1 U.S.C. §§ 106a, 112, 113 (1970). This question was not decided by the district court.

[3] Passed in the Senate September 14, 1970 by a vote of 64–1, 116 CONG. REC. 31508 (1970); in the House of Representatives on December 1, 1970 by a vote of 346–2, *id.* at 39379. The Senate House Conference Report, H.R. REP. No. 91–1668, 91st Cong., 2d Sess., was agreed to by the House on December 8, 116 CONG. REC. 40289–92 (1970), and by the Senate on December 10, *id.* at 40867.

[4] 116 CONG. REC. 41289 (1970).

[5] S. Con. Res. 87, 91st Cong., 2d Sess., *id.* at 43250.

[6] 116 CONG. REC. 43221 (1970).

[7] 6 PRESIDENTIAL DOCUMENTS 1726–27 (December 28, 1970).

[8] Kennedy v. Sampson, 364 F. Supp. 1075, 1087 (D.D.C. 1973).

[9] Pursuant to Rule 54(b), FED. R. CIV. P. the district court found that there was no just reason for delay and directed entry of a final order granting appellee's request for declaratory relief. Kennedy v. Sampson, *supra* note 2, Order dated September 24, 1973.

[10] Appellee claims standing in his capacity as a citizen, as a taxpayer, and as a member of the United States Senate. The district court agreed with the latter contention and did not reach the alternative arguments. Kennedy v. Sampson, *supra* note 8 at 1077–79.

[11] Kennedy v. Sampson, *supra* note 2, Complaint, ¶ 15.

[12] Appellants' Br. at 24–27; Appellants' Reply Br. at 2–3.

[13] Appellants' Reply Br. at 2. Appellants suggest that the Senate might have standing because it was "improperly deprived of the initial opportunity to override the veto. . . ." *Id.* Appellee makes a similar argument in favor of his own individual standing. Appellee's Br. at 13. Both parties misconceive the issue. The only possible effects of the President's action with respect to S. 3418 are that the bill became law, in which case there is no need to override, or it did not become law because Congress prevented its return, in which case there is no right to override. *See Hearings on the Constitutionality of the President's "Pocket Veto" Power Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary,* 92nd Cong., 1st Sess. 4–5 (1971).

[14] Appellants' Reply Br. at 2.

[15] *Id.* at 2–3.

[16] *Id.* (emphasis added).

[17] Appellants dispute the contention that a broad construction of the pocket veto clause can affect the legislative balance of power. Two defenses are suggested whereby Congress can maintain legislative supremacy: (1) if disapproval is anticipated, Congress may delay the presentation of a bill until after the recess in order to preserve its right to override; (2) Congress may reenact a pocket-vetoed bill and present it to the President a second time. Appellants' Br. at 44–45. While both of these procedures might be effective, they would not change the fact that the pocket veto power will have been used as an obstacle—however temporary—to the implementation of the will of Congress. Moreover, such delays may for practical purposes become permanent. As appellee points out in his brief at 54:

"It is no answer to say that if Congress wishes, it can simply pass a pocket-vetoed bill again and present it to the President at a time when the pocket veto cannot be used. At best, the legislative route is arduous and time-consuming, involving numerous subcommittee, full committee, and other proceedings in both the Senate and the House. At worst, if delay has dimmed the constellation of public and private interests that facilitated the original passage of the bill, if the unique alchemy that enabled the legislative process to function successfully the previous time around has disappeared, the result may be that the bill cannot be passed at all."

It is significant, too, that the utilization of a broadly construed pocket veto power is likely to grow with the increasing frequency of brief, intrasession adjournments. *See infra* note 40 and accompanying text.

[18] 1 M. Farrand, The Records of the Federal Convention of 1787, at 104, 106 (Rev. ed. 1937) [hereinafter cited as M. Farrand]; 2 M. Farrand at 71, 200, 301, 582, 585 (the last page recording the opinion of one delegate that even a provision requiring a three-fourths vote to override "puts too much in the power of the President").

[19] 1 M. Farrand at 192, 300. *See also* 3 M. Farrand at 624, 627.

[20] 1 J. Story, Commentaries on the Constitution of the United States § 891 (5th ed. 1905) (footnotes omitted).

[21] Where a pocket veto is appropriate there is, by definition, no congressional right to override. *See supra* note 13.

[22] The Court also cited "the practical construction that has been given to [the clause] by the Presidents through a long course of years, in which Congress has acquiesced." 279 U.S. at 688–89. A similar argument was made in this case and is treated below.

[23] In that case, a bill was return-vetoed by the President during a brief recess of the Senate, the originating House. The petitioner, who relied upon the bill as the jurisdictional basis for his unsuccessful claim in the Court of Claims, argued that no valid return had been effected. It was apparently his simultaneous contention that no pocket veto was possible because "Congress" as a whole had not adjourned within the meaning of the phrase "unless the Congress by their Adjournment prevent its return." *See* 302 U.S. at 597. *See also* Comment, *The Veto of S. 3418: More Congressional Power in the President's Pocket?*, 22 Catholic L. Rev., 385, 391 (1973).

[24] The Senate's 1970 Christmas recess extended from Tuesday, December 22 to Monday, December 28—a period of five days (excluding Sunday). *See supra* note 5. The *Wright* case involved an adjournment by the Senate of less than three days from Monday, May 4, 1936 until Thursday, May 7, 1936. 302 U.S. at 585. The last day for return of S. 3418 was December 25, 1970, two days (excluding Sunday) before the end of the Senate recess. In *Wright*, the tenth day fell on May 6, 1936, the day before the Senate's return, 302 U.S. at 592.

[25] Even a narrow construction of *Wright* permits return of a bill during a recess of the originating House which began at the end of the ninth day of the President's ten-day period for consideration. In such a case, Congress' reconsideration of the bill would be delayed at least two days. *See* Kennedy v. Sampson, *supra* note 8 at 1086.

[26] Unlike the *Wright* case, the Secretary of the Senate was expressly authorized to receive messages from the President during the 1970 Christmas adjournment. *See supra* note 6.

[27] The *Wright* opinion emphasized that a brief recess does not occasion long delay of Congress' reconsideration of a bill returned during the recess—a problem envisioned in the case of the months-long intersession adjournment considered in the *Pocket Veto Case*. As demonstrated above, the Christmas recess of 1970 comes within the reasoning of *Wright* on this point. We do not thereby intimate, however, that prompt reconsideration of a returned bill is constitutionally required in order to override a return veto. The Constitution itself sets no time limit upon Congress' right to override a presidential veto. By the same token, as we indicate in our alternative discussion, *infra*, the mere duration of an intrasession adjournment will not "prevent" the return of a bill absent some constitutional evil such as the danger of public uncertainty perceived in the *Pocket Veto Case*.

[28] The House of Representatives was in recess from December 22, 1970 until December 29, 1970, the day after the Senate's return. *See supra* note 5.

[29] *See* Note, *The Presidential Veto Powers: A Shallow Pocket*, 70 Mich. L. Rev. 148, 161–62 (1971). The *Wright* opinion does state at the outset that the return of the disapproved bill was not prevented because "Congress" (*i.e.* both Houses) had not adjourned. This clearly was not the basis for its decision, however, since the Court expressly reserved the question of whether a more extended one-House adjournment might "prevent" the return of a vetoed bill. 302 U.S. at 598. The Court relied, rather, upon the reasoning which we have outlined above; the brevity of the recess and the availability of efficient methods for delivery of the President's veto message.

[30] The intersession adjournments of the 68th, 69th and 70th Congresses lasted six months respectively. 1974 Congressional Directory 396. These Congresses covered the period from December, 1923 to March, 1929. The *Pocket Veto Case* was decided in 1929.

[31] The other two adjournments occurred in 1867 (94 days and 123 days). *See* Appendix herein.

[32] *See* Appendix.

[33] *Id.* The exceptions are numbered 9, 12, 13, 61 and 70 in Appendix.

[34] *See* items 88–133 in Appendix.

[35] The only intrasession adjournment approaching this occurred in 1867. *See supra* note 31.

[36] The length of an intrasession adjournment *per se* does not prevent the return of a disapproved bill for reconsideration. The Constitution sets no time limit on the right of Congress to override a presidential veto.

[37] *Hearings, supra* note 13 at 14, 15.

[38] *See* Appendix.

[39] *Id.*

[40] *Id.*

[41] *Id.*

APPENDIX

INTRASESSION ADJOURNMENTS OF MORE THAN 3 DAYS BY CONGRESS (1789–JUNE 1974), INDICATING THE NUMBER OF POCKET VETOES DURING EACH ADJOURNMENT[1]

Congress/Session	Dates of adjournment[2]	Length of of adjournment (days)	Number of pocket vetoes
6/2	1. Dec. 24–Dec. 30, 1800	6	0
15/1	2. Dec. 25–29, 1817	4	0
20/2	3. Dec. 25–29, 1828	4	0
35/1	4. Dec. 24, 1857–Jan. 4, 1858	11	0
35/2	5. Dec. 24, 1858–Jan. 4, 1859	11	0
37/3	6. Dec. 24, 1862–Jan. 5, 1863	12	0
38/1	7. Dec. 24, 1863–Jan. 5, 1864	12	0
38/2	8. Dec. 23, 1864–Jan. 5, 1865	13	0
39/1	9. Dec. 7–11, 1865	4	0
	10. Dec. 22, 1865–Jan. 5, 1866	14	0
39/2	11. Dec. 21, 1866–Jan. 3, 1867	13	0
40/1	12. March 31–July 1, 1867	92	1
	13. July 21–Nov. 21, 1867	123	1
40/2	14. Dec. 21, 1867–Jan. 7, 1868[3]	16	2
40/3	15. Dec. 22, 1868–Jan. 5, 1869	14	0
41/2	16. Dec. 23, 1869–Jan. 10, 1870	18	0
41/3	17. Dec. 23, 1870–Jan. 4, 1871	12	0
42/2	18. Dec. 22, 1871–Jan. 8, 1872	17	0
42/3	19. Dec. 21, 1872–Jan. 6, 1873	16	0
43/1	20. Dec. 20, 1873–Jan. 5, 1874	16	0
43/2	21. Dec. 24, 1874–Jan. 5, 1875	12	0
44/1	22. Dec. 21, 1875–Jan. 5, 1876	15	0
45/2	23. Dec. 16, 1877–Jan. 10, 1878	25	0
45/3	24. Dec. 21, 1878–Jan. 7, 1879	17	0
46/2	25. Dec. 20, 1879–Jan. 6, 1880	17	0
46/3	26. Dec. 23, 1880–Jan. 5, 1881	13	0
47/1	27. Dec. 22, 1881–Jan. 5, 1882	14	0
48/1	28. Dec. 25, 1883–Jan. 7, 1884	13	0
48/2	29. Dec. 25, 1884–Jan. 5. 1885	11	0
49/1	30. Dec. 22, 1885–Jan. 5, 1886	14	0
49/2	31. Dec. 23, 1886–Jan. 4, 1887	12	0
50/1	32. Dec. 23, 1887–Jan. 4, 1888	12	0
50/2	33. Dec. 22, 1888–Jan. 2, 1889	11	0
51/1	34. Dec. 22, 1889–Jan. 6, 1890	15	0
52/1	35. Dec. 24, 1891–Jan. 5, 1892	12	0
52/2	36. Dec. 23, 1892–Jan. 4, 1893	12	1
53/2	37. Dec. 22, 1893–Jan. 3, 1894	12	0
53/3	38. Dec. 23, 1894–Jan. 3, 1895	11	0
54/2	39. Dec. 23, 1896–Jan. 5, 1897	13	2
55/2	40. Dec. 19, 1897–Jan. 5, 1898	17	0
55/3	41. Dec. 22, 1898–Jan. 4, 1899	13	0
56/1	42. Dec. 21, 1899–Jan. 3, 1900	13	0
56/2	43. Dec. 22, 1900–Jan. 3, 1901	12	0
57/1	44. Dec. 20, 1901–Jan. 6, 1902	17	0
57/2	45. Dec. 21, 1902–Jan. 5, 1903	15	0
58/2	46. Dec. 20, 1903–Jan. 4, 1904	15	0
58/3	47. Dec. 22, 1904–Jan. 5, 1905	14	0
59/1	48. Dec. 22, 1905–Jan. 4, 1906	13	0
59/2	49. Dec. 21, 1906–Jan. 3, 1907	13	0
60/1	50. Dec. 22, 1907–Jan. 6, 1908	15	0
60/2	51. Dec. 20, 1908–Jan. 4, 1909	15	0
61/2	52. Dec. 22, 1909–Jan. 4, 1910	13	0
61/3	53. Dec. 22, 1910–Jan. 5, 1911	14	0
62/2	54. Dec. 22, 1911–Jan. 3, 1912	12	0
62/3	55. Dec. 20, 1912–Jan. 2, 1913	13	0
63/2	56. Dec. 24, 1913–Jan. 12, 1914	19	0
63/3	57. Dec. 24–29, 1914	5	0
64/1	58. Dec. 18, 1915–Jan. 4, 1916	17	0
64/2	59. Dec. 23, 1916–Jan. 2, 1917	10	0
65/2	60. Dec. 19, 1917–Jan. 3, 1918	15	0
66/1	61. July 2–8, 1919	6	0
66/2	62. Dec. 21, 1919–Jan. 5, 1920	15	0
67/2	63. Dec. 23, 1921–Jan. 3, 1922	11	0
68/1	64. Dec. 21, 1923–Jan. 3, 1924	13	0
68/2	65. Dec. 21–29, 1924	8	0
69/1	66. Dec. 23, 1925–Jan. 4, 1926	12	0
69/2	67. Dec. 23, 1926–Jan. 3, 1927	11	0
70/1	68. Dec. 22, 1927–Jan. 4, 1928	13	0
70/2	69. Dec. 23, 1928–Jan. 3, 1929	11	1
71/1	70. June 20–Aug. 19, 1929	60	0
71/2	71. Dec. 22, 1929–Jan. 6, 1930	15	0
71/3	72. Dec. 21, 1930–Jan. 5, 1931	15	0
72/1	73. Dec. 23, 1931–Jan. 4, 1932	12	0
74/2	74. June 9–15, 1936	6	0
76/3	75. July 12–22, 1940	10	0
78/1	76. July 9–Sept. 14, 1943	67	3
78/2	77. Apr. 2–12, 1944	10	1
	78. June 24–Aug. 1, 1944	38	5
	79. Sept. 22–Nov. 14, 1944	53	1
79/1	80. Aug. 2–Sept. 5, 1945	34	0
80/1[4]			
80/2[5]			
81/2	81. Sept. 24–Nov. 27, 1950	64	6
83/2[6]			
84/1	82. Apr. 5–13, 1955	8	0
84/2	83. Mar. 30–Apr. 9, 1956	10	1
85/1	84. Apr. 19–29, 1957	10	0
85/2	85. Apr. 4–14, 1958	10	0
86/1	86. Mar. 27–Apr. 7, 1959	11	0
86/2	87. July 4–Aug. 8, 1960	35	6
88/2	88. July 11–20, 1964	9	0
	89. Aug. 22–31, 1964	9	1
89/2	90. Apr. 8–13, 1966	5	0
	91. July 1–11, 1966	10	0
90/1	92. Mar. 24–Apr. 3, 1967	10	0
	93. June 30–July 10, 1967	10	0
	94. Sept. 1–11, 1967	10	0
	95. Nov. 23–27, 1967	4	0
90/2	96. Apr. 12–17, 1968	5	0
	97. May 30–June 3, 1968	4	0
	98. July 4–8, 1968	4	0
	99. Aug. 3–Sept. 4, 1968	32	1
91/1	100. Feb. 8–17, 1969	9	0
	101. Apr. 4–14, 1969	10	0
	102. July 3–7, 1969	4	0
	103. Aug. 14–Sept. 3, 1969	20	0
	104. Nov. 27–Dec. 1, 1969	4	0
91/2	105. Feb. 11–16, 1970	5	0
	106. Mar. 27–31, 1970	4	0
	107. Sept. 3–8, 1970	5	0
	108. Oct. 15–Nov. 16, 1970	32	1
	109. Nov. 26–30, 1970	4	0
	110. Dec. 23–28, 1970	5	2

Congress/Session	Dates of adjournment[2]	Length of of adjournment[1] (days)	Number of pocket vetoes
92/1	111. Feb. 21–27, 1971	5	0
	112. Apr. 8–14, 1971	6	0
	113. May 28–June 1, 1971	4	0
	114. July 2–6, 1971	4	0
	115. Aug. 7–Sept. 8, 1971	32	1
	116. Oct. 22–26, 1971	4	0
	117. Nov. 25–29, 1971	4	0
92/2	118. Feb. 10–14, 1972	4	0
	119. Mar. 31–Apr. 4, 1972	4	0
	120. May 26–30, 1972	4	0
	121. July 1–17, 1972	16	0
	122. Aug. 19–Sept. 5, 1972	17	1
93/1	123. Feb. 9–15, 1973	6	0
	124. Apr. 20–30, 1973	10	0
	125. May 25–29, 1973	4	0
	126. July 1–9, 1973	8	0
	127. Aug. 4–Sept. 5, 1973	32	0
	128. Oct. 19–23, 1973	4	0
	129. Nov. 22–26, 1973	4	0
93/2	130. Feb. 9–13, 1974	4	0
	131. Mar. 14–19, 1974	5	0
	132. Apr. 12–22, 1974	10	0
	133. May 24–28, 1974	4	0
	Total		38

[1] Source: 1974 Congressional Directory 392; "Presidential Vetoes, Record of Bills Vetoed and Action Taken Thereon by the Senate and House of Representatives, 1789–1968" (Compiled by Senate Library, 1969); Calendar, 93d Cong. (June 24, 1974).

[2] The date of the beginning of each adjournment is the 1st day on which neither House was in session; the date of the end of each adjournment is the day on which one or both Houses resumed the session.

[3] There were additional adjournments in this session, from July 27, 1868, to Sept. 21, to Oct. 16, and to Nov. 10. No business was transacted subsequent to July 27, 1868, and the session adjourned sine die on Nov. 10. In effect, the adjournment on July 27 was a sine die adjournment. President Andrew Johnson pocket vetoed 2 bills presented to him after the adjournment of July 27, 1868.

[4] The Senate and the House of Representatives adjourned on July 27, 1947, under a "conditional *final adjournment" resolution*, S. Con. Res. 33; 93 Cong. Rec. 10400. Pursuant to the resolution, the 2 Houses were to stand in adjournment until Jan. 2, 1948, unless recalled into session earlier by specified Senate and House leaders. In effect, the adjournment was a sine die adjournment, not an intrasession adjournment. On Nov. 17, 1947, Congress convened pursuant to proclamation of President Truman, and adjourned sine die on Dec. 19, 1947. The President pocket vetoed 19 bills presented to him after the adjournment of July 27, 1947.

[5] The Senate and the House of Representatives adjourned on June 20, 1948, under a "conditional final adjournment" resolution, H. Con. Res. 218; 94 Cong. Rec. 9158. Pursuant to the resolution, the 2 Houses were to stand in adjournment until Dec. 31, 1948, unless recalled into session earlier by specified Senate and House leaders. In effect, the adjournment was a sine die adjournment, not an intrasession adjournment. On July 26, 1948, Congress convened pursuant to a proclamation of President Truman. The President pocket vetoed 14 bills presented to him after the adjournment of June 20, 1948.

[6] The House adjourned sine die on Aug. 20, 1954. Thereafter President Eisenhower pocket vetoed 25 bills. Although the Senate remained in session until Dec. 2, 1954, these were not intrasession pocket vetoes since the House had already finally adjourned.

Fahy, *Senior Circuit Judge*, with whom Bazelon, *Chief Judge*, joins: I concur in the opinion of Judge Tamm for the court, adding only a few notes.

Appellants contend in this court only that Senator Kennedy lacks standing to obtain the adjudication he seeks, and that the proposed legislation never became law because of a valid pocket veto. The opinion of Judge Tamm meets these contentions. The position asserted in the District Court that the President was an indispensable party has not been renewed in this court; nor is any issue of jurisdiction or justiciability now raised, aside from the problem of standing as it might bear upon jurisdiction or justiciability.

I do not think the standing of Senator Kennedy is quite the same as the 20 senators of the State of Kansas, the plaintiffs in *Coleman* v. *Miller*, 307 U.S. 433 (1939). Ratification by Kansas of the Child Labor Amendment depended upon the validity of the vote of the Lieutenant Governor which the senators challenged. If his vote should not have been counted the Senate was equally divided, 20–20, and ratification by Kansas would have failed. In the present case, Senator Kennedy's vote did not control passage of S. 3418. Nevertheless, his interest is substantial. As a United States Senator he represents a sovereign State whose people have a deep interest in the Act and look to their Senators to protect that interest; and he, as Senator, it seems to me, has a legal right not only to seek judicial protection of those interests, believed by him to be threatened by an invalid veto, but also, in the circumstances, to protect his own interest as a national legislator in the bill for which he voted. These interests I think do not depend for their protection upon affirmative approval by the Senate itself of efforts to obtain judicial relief. Moreover, as Judge Tamm points out, the Senator's stake in the outcome of the controversy meets the adversary test of standing under *Baker* v. *Carr*, 369 U.S. 186, 204 (1962), and subsequent decisions of the Court.

The aliveness of the controversy also seems clear. Whether the Act is to continue in its present form of course is for Congress to decide, but it has not been abandoned. Although its uncertain status necessarily affected congressional appropriations, the Second Supplemental Appropriations Act, 1973, 87 Stat. 106, includes a $100,000 appropriation to carry out the purposes of the Family Practice of Medicine Act, S. 3418, to remain available until expended. S. Rep. No. 160, 93d Cong., 1st Sess. 48–49 (1973).

MORE HELP FOR THE HANDICAPPED

Mr. DOLE. Mr. President, today I am supporting the enactment of the Rehabilitation Act of 1974 by voting to override the President's veto. I have read the President's veto message carefully and have considered the points he raises. However, this bill includes a number of significant improvements for handicapped people and although I have reservations about the measure, I believe that the positive improvements in it outweigh the reservations about it.

SUBSTANTIAL IMPROVEMENTS

The funding authorization in this bill is substantially improved. The additional funds provided for in this measure should benefit handicapped people greatly. The amount of funds for State grants has been raised so that Kansas' share will increase from $6.9 to $7.3 million. These funds will be available to the State on a matching fund basis with the Federal share at 80 percent and the State share at 20 percent.

The authorization of these funds at this time for the fiscal year 1976 will give the State government more adequate time to prepare its own budget. I have worked to accomplish this same idea in other areas, principally in the area of revenue sharing, and I applaud the early actions of Congress to give the State governments more time to design their own budgets to meet matching funds from the Federal Government.

MORE ATTENTION TO HANDICAPPED

The inclusion of the establishment of the White House Conference on the Handicapped in this measure is also significant. This means that the needs of the handicapped will be better recognized at the national level.

In the past, we have had White House conferences on numerous other important areas, but never on the needs of handicapped people. It is my feeling that this is an important step in the right direction and that it will benefit handicapped people in Kansas and the Nation as a whole.

OTHER PROVISIONS

Two other provisions in this bill are of great personal interest to me and will greatly benefit handicapped people in Kansas. This bill strengthens the authority of the Architectural and Transportation Barriers Compliance Board. Handicapped people have had difficulty using public buildings and public transportation for many years. As I said several years ago, "Now is the time to plan, to design, and to control the construction of buildings, recreation areas and equipment that will serve not just part, but all, of our citizens," and that includes handicapped people, too. This statement is as valid today as it was when first made several years ago.

Access of handicapped people to buildings and to transportation has been a longstanding interest of mine. I hope the change in the compliance Board's authority will be beneficial to the handicapped in Kansas in helping them to lead a more constructive and normal life in our society.

The Randolph-Sheppard Act amendments which I cosponsored should also improve conditions for blind people. These provisions will give blind individuals a greater opportunity to lead a productive life. I believe that all Federal employees who use the vending facilities of blind vendors should receive an immense amount of satisfaction from helping their fellow citizens lead a more full and productive life.

This bill receives my support in spite of reservations about constraints placed on the President's ability to administer the program. In my opinion, every President, Republican or Democrat, should have the flexibility to administer each program in the most effective and cost-efficient manner. The objections expressed by the President in his veto message raises doubts about the improvements this measure will make in implementation of the program. It is my hope that Federal assistance to the handicapped will not be jeopardized by the administrative changes provided for in this bill. However, it is my belief that if it becomes apparent that the changes provided for in this bill are detrimental to the quality of Federal programs, corrective actions should be taken immediately.

On the whole, I believe that the measure will provide positive and productive improvements in the quality of life for handicapped people. It is on that basis that I support enactment of the Rehabilitation Act.

FREEDOM OF INFORMATION ACT—VETO

The PRESIDING OFFICER. Under the previous unanimous consent agreement, the hour of 1 o'clock having arrived, the Senate will now proceed to the consideration of the veto message on H.R. 12471.

The PRESIDING OFFICER (Mr. TALMADGE) laid before the Senate a message from the House of Representatives, which was read, as follows:

> The House of Representatives having proceeded to reconsider the bill (H.R. 12471) entitled "An Act to amend section 552 of title 5, United States Code, known as the Freedom of Information Act", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was
>
> *Resolved*, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The time for debate will be limited to 1 hour, to be equally divided between and controlled by the majority leader and the minority leader or their designees.

Who yields time?

Mr. ROBERT C. BYRD. I yield myself 1 minute.

Mr. President, on behalf of the distinguished majority leader, I take this time merely to express appreciation to Mr. STAFFORD, Mr. RANDOLPH, and Mr. CRANSTON, for their consideration of the time element that developed as a result of the desire on the part of various Senators to speak earlier this morning on another subject. These Senators—Mr. STAFFORD, Mr. RANDOLPH, and Mr. CRANSTON—certainly deprived themselves of time which they had hoped to use in their discussions of the necessity of overriding the President's veto.

I want to express appreciation on behalf of the leadership for their understanding and their splendid cooperation.

Mr. President, how much time does the distinguished Senator from Massachusetts desire?

Mr. KENNEDY. Is the minority leader going to control the time?

Mr. ROBERT C. BYRD. Mr. President, on behalf of the majority leader, I yield the time to the distinguished Senator from Massachusetts (Mr. KENNEDY) for his control on this side of the aisle.

Mr. KENNEDY. I thank the Senator from West Virginia.

Mr. President, at the outset, I ask unanimous consent that the following persons, who are members of staffs of affected committees in connection with this measure, be permitted the privilege of the floor: Bert Wise, James Davidson, Al From, Jan Alberghini, and Mr. Sussman.

Mr. HRUSKA. Mr. President, will the Senator yield for the purpose of adding the name of Douglas Marvin, a member of the staff of the Committee on the Judiciary?

Mr. KENNEDY. I add that name, Mr. President. I ask unanimous consent that those persons have the privilege of the floor during the discussion of this matter and the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield myself such time as I may take.

Mr. President, the Senate is today faced with an important challenge. We are moving out of the "Watergate era," and are focusing our attention and our energies on the pressing economic issues of the day. But one question that our children, and our children's children, will surely ask in the years to come is how our Nation and its elected representatives responded to the abuse and misuse of the institutions of government, and to the corruption of the political processes, that characterized Watergate.

We will surely tell them about how the Senate Watergate Committee and the House Judiciary Committee laid bare the evidence of official misfeasance and malfeasance, leading to the resignation of a President and the prosecution of some of the highest officials in the executive branch.

We will tell them that Congress enacted campaign finance reforms to begin to free our election processes from the corroding influence of large private campaign donors.

I hope we can tell them about legislation enacted to protect individual privacy, and to guard against future misuse of governmental institutions.

I also hope, Mr. President, that we can tell them about how Congress stood up against a hostile bureaucracy and passed, over a Presidential veto, legislation to give the public greater access to Government information.

President Ford last summer promised the American people an "open Government." Congress gave him a chance to give substance to that promise when it sent to the White House last month H.R. 12471, a bill to strengthen the Freedom of Information Act. With his veto of this bill, however, returned to the Congress just minutes before our recess on October 17, the President yielded to the pressures of his bureaucracy to keep the doors shut tight against public access in many areas.

I do not believe that President Ford personally harbors any desire to perpetuate the kind of insidious secrecy that characterized the Watergate years. But that is precisely the result of his veto of the Freedom of Information Act amendments. The President's former press secretary, Mr. terHorst, stated the problem most clearly in the Star-News earlier this month when he wrote:

> The Nixon holdovers in the Administration have sandbagged the new President's pledge of new openness in government. . . . The lesson for Ford is that there still remains an excessive amount of anti-media zeal among the Nixonites in government, despite his own desire that federal agencies make more, not less, information available to the public.

I think that a vote today to override the President's veto must be viewed not as any affront to the President, but rather as a visible and concrete repudiation by Congress of both the traditional bureaucratic secrecy of the federal establishment and the special antimedia, antipublic, anti-Congress secrecy of the Nixon administration.

The late Chief Justice Earl Warren made the need for this override clear last year when he observed—

> If we are to learn from the debacle we are in, we should first strike at secrecy in government whenever it exists, because it is the incubator for corruption.

Extensive hearings in both the House and Senate have brought out clearly the need to broaden and strengthen the 1966 Freedom of Information Act. Court construction of some loosely drafted provisions in the law have opened gaping loopholes which have engulfed entire buildings of Government files. Even where the law clearly and unambiguously requires disclosure of certain documents, bureaucratic sleights of hand continue to keep them out of reach of the public and the press.

Our hearings identified the problems. In the course of extensive subcommittee, committee, floor, and conference deliberations the legislation was sharpened, clarified, adjusted, and readjusted. At each stage, agency views were heard, considered, debated, and accommodated.

The end product was H.R. 12471. The bill was passed by the House and Senate overwhelmingly; the conference report was approved by both bodies again overwhelmingly. This legislation, Mr. President, was given close attention at each stage of the legislative process.

President Ford objects to the legislation. Last week before a journalists' group he called his objections "minor differences" that could be ironed out if Congress would go along. He intimated that his proposed changes were fresh and new and that Congress should look at them carefully, as if for the first time.

Unfortunately, the President's proposals, which he sent up a few weeks ago, are simply warmed-over agency suggestions which have been made time and again at each level of congressional deliberation. They involve the shopworn incantation that our bill threatens national security and imposes extreme burdens on the already overworked Federal bureaucracy. The difference is that now the old national security scare tactic and the bureaucrat's perennial lament of overwork have been emblazoned with a Presidential seal.

These proposals would give us more of precisely what our bill was carefully designed to avoid—more secrecy, more footdragging, and ultimately more Government irresponsibility. Let me discuss each of the administration objections and suggested changes in turn.

First, the administration wants to tie the hands of Federal judges in reviewing executive classification decisions. This, we are told, is necessary to protect our national security.

This national security argument should be placed in its proper perspective. John Ehrlichman gave us a clue to how the executive branch views national security when he told President Nixon, during a discussion of the Ellsberg break-in, "I would put the national security tent over this whole operation." National security improvements to the San Clemente swimming pool; national security wiretaps on journalists; national security burglaries. The White House taped conversation of April 17, 1973, has the President summing up the Watergate coverup thusly.

It is national security—national security area—and that is a national security problem.

What about the operation of the formal classification system, carried out under Executive order by Federal officials with specially delegated authority? The former President shed some light on this system too, when he said:

> The controls which have been imposed on classification authority have proved unworkable, and classification has frequently served to conceal bureaucratic mistakes or to prevent embarrassment to officials and administrations.

We know too well how the classification system has been overused and misused. We know too well that of the millions of documents marked "secret," most should rightfully be open to scholars, journalists, and the interested public.

Yet the administration proposes to limit review of classification decisions, allowing courts to require disclosure only if the Government had no reasonable basis whatsoever to classify them. This would make the secrecy stamp again practically determinative.

The President writes the classification rules in his Executive order. If those rules are inadequate to protect important information vital to our national defense, then let the President change the rules. But make the Government abide by them. Judicial review means executive accountability. Judicial review will be effective only if a Federal judge is authorized to review classification decisions objectively, without any presumption in favor of secrecy. That is what our system of checks and balances is all about.

I think Senator ERVIN best presented the issue of judicial review standards to the Senate during our debate on the original legislation—

> The ground ought to be not whether a man has reached a wrong decision reasonably or unreasonably. It ought to be whether he had reached a wrong decision.

This bill is not going to endanger military secrets or defense information. It will not require disclosure of sensitive international negotiations or confidential military weapons research.

Our conference statement of managers makes clear that we expect an agency head's affidavit to be given considerable weight in judicial determinations on classified material. But if the agency cannot produce enough evidence to justify keeping a document secret, then that document should be released. If the agency can show that it has properly classified the document in the interest of national defense or foreign policy, then that document should be withheld, and the courts will so rule.

I therefore reject out of hand the President's argument against this bill's provisions for de novo judicial review of classified material, and I reject along with it his proposed changes.

Second, there is the issue of time limits. Our bill provides an agency 10 working days to respond initially to a request for information, 20 working days on appeal, and an additional 10 working days where unusual circumstances are present. That gives the agency 40 working days, or almost two calendar months—more than enough time for any agency to complete the process of finding and reviewing requested documents.

If a person sues the agency after that time, and the agency is still diligently trying to complete review of the materials under exceptional circumstances, then we have another escape valve in the bill—added by specific request of the Administration during our conference. The agency may ask for, and the court is authorized to grant, additional time pending completion of such review.

The President has asked Congress to add 25 working days to the time limits in our bill. This, Mr. President, is even more time than the administration asked for when the bill was before the Judiciary Committee. And it is certainly longer than any journalist or member of the public should have to wait to get information from the Government.

Let me give a most recent example of agency delays. The IRS just released documents relating to the Special Services Group requested over a year ago. Little wonder that this agency, which is probably the most dilatory of all in responding to citizen requests for information, waited a year before handing over the documents; they show that the IRS had been gathering intelligence, at White House request, on groups like the Americans For Democratic Action, the National Council of Churches, the Congress of Racial Equality, the Urban League, the Unitarian Society, and the John Birch Society. I should note for the record that even after a year, it took a law suit to disgorge the requested records.

The administration also wants us to allow the agency to go to court on its own initiative to get unlimited extensions of time to respond to an information request. This suggestion may not only be unconstitutional—since it puts the Government in Federal court where no "case or controversy" exists—but it is assuredly unconscionable. With information, like justice, delay can be tantamount to denial. That is just what we want to avoid, and that is just what the administration's proposal would give us.

The third issue relates to the cost of Freedom of Information Act implementation. Extensive testimony during our hearings made clear that fees and charges have been imposed by agencies as "toll gates on public access," and H.R. 12471 attempts to remedy this problem. Yet the administration would allow charges in excess of $100 to be levied against a person requesting information where agency review and examination of records is involved. This $100 minimum is totally meaningless. An agency could easily drive up the cost of access to any record simply by adding layers of review and examination, or by convening committees or using higher-level officials to discuss the matter. And then when this review and examination is through, the documents may not even be turned over.

I should note that this is one issue where we thought we had met the administration's objections way back at the committee stage. For we had heard no complaint on this point until the President sent up his suggested changes to the vetoed bill. This is just one more indication that the administration is not just proposing last minute changes to iron out minor differences, but is really trying to reopen the entire bill and start from scratch again.

There is no evidence that excessive or unreasonable expenditures have been required to implement the Freedom of Information Act over the past 7 years. In fact, the evidence points in just the opposite direction—that agencies have been overcharging and using fees to block release of public records. We continue specific authorization for agencies to charge for search and copying, and these, with the requirement that records be reasonably described in the request, should serve as an adequate deterrent to any idle request by the curious busybody for voluminous files.

Government agencies spend millions of dollars to promote dissemination of information they want the public to have. It is not too much to ask that they use some of these funds to provide the public and press with information they specifically request.

Speculation on future costs cannot justify our taking the chance or imposing the substantial barriers to access contained in the administration's proposal. In any event, freedom of information should not be for sale only to the highest bidder.

Finally, the President has asked that we allow agencies to deny access to records where the agency considers a review of the records to be impractical and concludes that they probably contain only investigatory records. This is but another attempt, hardly disguised, to shut the door to access to FBI files, and Congress should reject it resoundingly.

I would like to point out and emphasize that the President does not object to our opening investigatory files to public access. We have been most careful to protect privacy and law enforcement interests to the utmost in the bill we passed. The objection in this area is stated solely in terms of administrative burden, an argument we have heard before—first when Congress passed the Administrative Procedure Act in 1945, and again in 1966 when we enacted the Freedom of Information Act. That argument is even less sound today, where we have such a recent history of documented abuses of investigatory processes of Government.

Two cases clearly illustrate why even some administrative burden is worth the cost, where it results in greater public disclosure. In the case where NBC newsman Carl Stern took the FBI to court to obtain documents relating to counterintelligence programs, the Bureau took the position that those documents were "investigatory files." The FBI argued this point strongly, but a Federal judge even more forcefully found it lacking in substance. The judge responded:

> The government has not demonstrated that the requested documents, which are couched in broad generalities, relate to any ongoing investigation or that disclosure would jeopardize any future law enforcement proceedings.

No doubt this is just the kind of document—revealing a program that earlier this week the Justice Department itself characterized as involving "practices that can only be considered abhorrent in a free society"—that the FBI would find impractical to review and unlikely to be available for release. Yet this is also precisely the kind of Government activity which the public has the greatest interest in knowing about.

Then there is the case of Congressman Koch and two of his colleagues who requested access to their own FBI files. The FBI first denied it had such files. Only after suit was filed did the Bureau turn over some correspondence and newspaper clippings from those so-called "investigatory" files. Only court action in this instance forced the FBI to even admit that it had the requested files.

As these cases illustrate, not even the FBI should be placed beyond the law, the freedom of information law. Watergate has shown us that unreviewability and unaccountability in Government agencies breeds irresponsibility of Government officials. In this light, Mr. President, I would think the FBI would welcome the reviewability and accountability which the Freedom of Information Act amendments carry with them.

Mr. President, the list of groups and individuals urging Congress to override the veto of the Freedom of Information Act amendments is lengthy. Some of the media, consumer, and public interest groups, and labor organizations, which have taken a special interest in seeing this legislation enacted over the President's veto include the National Newspaper Association, the Radio-Television News Directors Association, the American Society of Newspaper Editors, the Consumer Federation of America, the American Civil Liberties Union, Common Cause, Public Citizen, the United Auto Workers, and AFL–CIO.

Hundreds of editorials across the Nation supporting override attest to the interest of the American press in this vital legislation. I ask unanimous consent that following my remarks a list of newspapers giving editorial support to this legislation be printed in the Record, along with a sampling of some of the columns that have recently appeared.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. KENNEDY. Mr. President, this is far from special-interest legislation, Mr. President. Its beneficiaries will include every American who wants to keep his Government accountable, his society open, and his Nation free. I urge my colleagues today to vote to override the President's veto of the Freedom of Information Act amendments.

EXHIBIT 1

[From the Arizona Daily Star, Oct. 27, 1974]

THE INFORMATION VETO

The President has vetoed proposed amendments to the Freedom of Information Act that would have gone far in holding accountable the headless mass of federal bureaucracy. His veto must be overridden.

The amendments would have required agencies to keep an index of the tons of information they record each year for use by the consumer-taxpayer. It would have required agencies to produce information on request by general subject matter rather than much less-accessible file numbers. It would have provided for court review of each refusal of information.

Bureaucrats would be required to report annually to Congress the number of times information was withheld, by whom and why, whether appeals were made under the act and the outcomes of those appeals. The law was specifically applied to the executive department, the Pentagon, government corporations, government-controlled corporations and independent regulatory agencies. Those individuals who withheld information without firm basis would be subject to civil service discipline.

But President Ford was persuaded by the FBI, the CIA and others that such law would dangerously inhibit them in their work. They want to be totally exempted.

In fact, the amendments provide numerous safeguards to the conduct of active police investigations, foreign intelligence and counter-intelligence. Specifically exempted was information classified for national defense, information that would foul a criminal case, deprive a defendant of fair trial, constitute an unwarranted invasion of privacy, disclose the identity of a confidential source, disclose unusual procedures and techniques or endanger the life of an officer.

If all that failed there would be the courts to make the determination behind closed doors.

The American system of government can afford no isolated enclaves of nonresponsiveness—certainly not after the revelations of the past two years that the FBI and CIA have been employed for extensive political services.

The conduct of criminal law enforcement and legitimate foreign intelligence would not be hampered by the amendments. It would make agencies like the FBI and CIA, not used to being held accountable, accountable, and that is their real objection.

[From the Des Moines (Iowa) Register, Oct. 22, 1974]

ENDORSING COVER-UP

The Freedom of Information Act adopted by Congress in 1966 listed among the documents that could be kept from the public those "specifically required by executive order to be kept secret in the interest of the national defense or foreign policy."

President Ford's veto last week of amendments to the Freedom of Information Act is an indefensible effort to preserve this massive loophole.

The U.S. Supreme Court ruled in 1973 that not even the courts could question the validity of the secrecy stamps placed on government documents.

The high court agreed that the purpose of the Freedom of Information Act is to provide greater public access to government information, but it said the legislative history prevented the courts from reviewing the classifications given to documents. The court made clear that Congress could change the law and authorize judicial review.

The judicial review provision is one of several amendments to the Freedom of Information Act intended to make it easier for the public to learn about government actions.

In vetoing the measure, President Ford was critical chiefly of the court review provision. He declared that it would have an adverse impact on national security by permitting courts to pass on matters in which they lack expertise.

A major function of the courts is to hear arguments on disputed issues and rule on the validity of the arguments. The courts do this on a vast array of complex issues. Judges are no less capable of ruling on the validity of security classification decisions than on other decisions by government officials.

It is essential that government officials not be vested with unreviewable power to hide information. Justice Potter Stewart declared in the 1973 opinion that Congress:

"... has built into the Freedom of Information Act an exemption that provides no means to question an executive decision to stamp a document 'secret,' however cynical, myopic, or even corrupt that decision might have been. ... Without disclosure ... factual information available to the concerned executive agencies cannot be considered by the people or evaluated by the Congress. And with the people and their representatives reduced to a state of ignorance, the democratic process is paralyzed."

Government officials notoriously overclassify documents and misuse secrecy stamps to hide their mistakes. "National security" has become almost a catch-all phrase to justify keeping Congress and the public in the dark about matters they have a right to know.

The Watergate scandal revealed how government officials used "national security" to justify illegal wiretaps and a host of other improper activities. It is distressing to find President Ford ignoring this recent history and invoking "national security" to defend the same old secrecy practices which enabled the White House "horrors" to occur.

He is the man who promised open government when he took over in the wake of the Nixon secrecy and distortion of facts about government.

Congress has an obligation to override the veto and declare in unmistakable terms that it has had enough of cover-up by secrecy stamp.

[From the Kansas City Star, Oct. 21, 1974]

AN UNFORTUNATE FORD VETO ON INFORMATION FREEDOM

President Ford's veto of a good bill to strengthen the Freedom of Information Act of 1966 is puzzling. We can only assume that he got some bad advice from the executive agencies for which most routine disclosures of business would be inconvenient or embarrassing or both.

The proposed amendments to the 1966 act were entirely in order, and language was changed in the conference committee a few days ago to take account of the President's reservations. Nevertheless the veto has fallen, and it has wiped out a lot of good work. If the veto stands or unless Congress can come back with a good bill that can survive, the people will continue to remain in the dark concerning a lot of subjects they need to know more about.

The essential purpose of the law and its refinements was to prevent federal agencies, their political overseers and vested bureaucrats from hiding information from the public under the guise of "national security" or classifications with even less to recommend them. A 1973 Supreme Court decision had said, in effect, that if a document is stamped "classified," a citizen can do little but accept the label. The document is exempt from the law.

That gets to the heart of the question. Proponents of a more open policy are not trying to pry top secret material from the Pentagon or the Department of State. If they were, they hardly would pursue such a public route to covert knowledge. They are trying, instead, to find examples of the bureaucratic waste and political excess that abound in both the military and civilian sectors of the great Washington scene. They are, in fact, trying to get at the very information that is conveniently stamped "classified" and hidden away from the public.

It is difficult to imagine that Mr. Ford really was cognizant of the bill or what was involved beyond bureaucratic discomfiture. The language in the message does not sound like his. There is talk of a "federal district judge" being able to "overturn a determination by the secretary of defense that disclosure of a document would endanger our national security." Of course this is nonsense. The proposal would allow a judge to examine contested materials privately (*in camera*) to determine if they were properly *exempted* under any legal category. It ought to be assumed that our federal judges can be trusted not to betray the security of the country.

And if, indeed, any document is sheltered by the secretary of defense, it is hard to believe that a federal judge would not be reasonable. The act is not intended to put the secretary of defense in an untenable position regarding state secrets. It is intended to nail the petty (and sometimes not so petty) brass that may be trying to hide behind the authority of the secretary of defense.

But it is in the civil sector that the act could take on its greatest significance. The nation has just gone through a tumultuous era in which a President was overthrown because information was hidden and lied about. There was a concerted effort to pass off the Watergate break-in as an operation of the Central Intelligence Agency and thereby foist off investigation by the Federal Bureau of Investigation. If this was not a matter that would have been uncovered by the Freedom of Information Act, at least the direction of malfeasance was in the same spirit.

This is hardly the time for the executive branch to act as if it can be business as usual in secreting what ought to be public information.

The Freedom of Information Act is useful only in so far as the people can use it. As it stands, the individual citizen has had no luck in running up against the great brick wall of government reticence and concealment unless he is able to spend a fortune on lawyers.

President Ford has vetoed a good bill and has not given good reasons for his most disappointing action.

[From the Louisville (Ky.) Times, Oct. 24, 1974]

A Ford Veto That Congress Should Upset

By the time they return to Washington after the election recess, most congressmen will surely have heard enough about the widespread distrust of government to convince them of the importance of overriding President Ford's veto of important amendments to the Freedom of Information Act.

The bill, which would strengthen the basic law passed in 1966, was passed by majorities of more than two thirds in both the House and the Senate. Members of both houses should stick to their guns when they act on the veto during the lame-duck session in November and December.

It was to combat the federal bureaucracy's inclination toward secrecy that Congress passed the original act. The purpose of the law was to help citizens keep track of what their government was doing by giving them access to the documents, reports, records and files that are the life's blood of official Washington. Nine categories of material are exempt, including national security information, trade secrets and law enforcement investigatory files.

Because civil servants have an unfortunate instinct for delay and concealment, reenforced no doubt by similar tendencies in the Nixon White House, the law has turned out to be less effective than Congress intended. Requests for information sometimes go unanswered for months. Controversial material that ought to be available to the public can be hidden behind a national security classification.

The high cost of litigation has discouraged journalists and others from challenging an agency's decision to withhold a document.

The bill Mr. Ford vetoed contains a number of amendments designed to remedy these problems. One of the more controversial amendments, and one to which the President objected in his veto message, would permit federal judges to examine classified documents in secret to determine whether the classification is justified by the government's undisputed need to keep some material confidential. Under the law now, the courts cannot review a security classification.

Congress has recognized that there must be some procedure for balancing the public's right to know with the need to keep certain national defense and diplomatic matters secret. Mr. Ford said that federal judges lack the expertise to make such decisions. But as Sen. Sam Ervin has pointed out, if a federal judge can't recognize a national secret after hearing arguments for and against the release of a document, then he has no business being a judge.

Other important provisions would require government officials to reply to a request for information within 10 days, provide for disciplinary action against federal employes who arbitrarily withhold information, and require the government to pay the legal fees of citizens who successfully challenge bureaucratic secrecy in court.

It is indeed unfortunate that a government established to work for the people should have to be forced to let the people know what it is doing. But the obstacles encountered by citizens who ask for information, particularly information that might cast the agency involved in a disadvantageous light, convinced Congress of the need for a freedom of information law. The proposed amendments should make the law work better and would give the citizen new tools for extracting the material he needs from an often unwilling bureaucracy. Congress would be derelict if it did not override Mr. Ford's totally unjustified veto.

[From the Detroit (Mich.) Free Press, Oct. 26, 1974]

Ford Lapses on Promise To Open Up Government

In light of the new era of openness President Ford has pledged to bring to the federal bureaucracy in Washington, his recent veto of changes in the Freedom of Information Act was unfortunate and misguided.

The act was passed in 1966, and was designed to make it easier, not harder, for the public to know what its government was doing. The law, however, contained numerous loopholes which have allowed insensitive federal agencies to continue the aura of secrecy which for far too long has permeated government thinking.

The new amendments to the act were designed to eliminate some of the key loopholes, and were passed overwhelmingly by both houses of Congress.

The amendments would put a time limit of 10 working days on a federal agency to decide whether it would honor a request to make information public, and 20 working days to decide appeals when access to information is denied. These are not unreasonable limits, and they would force agencies to come to grips with the public's right to know, instead of indulging in bureaucratic foot-dragging. Another amendment called for judicial review of classified national security information, if its release is sought, before it could be withheld.

Within the government, opposition to the amendments has come mainly from officials connected with foreign policy and national defense policy. It was on their objections that President Ford apparently acted in announcing his veto.

The president said he would submit proposals of his own to Congress. We hope he will do so, and soon, for there are good reasons otherwise why Congress should try to override this veto. While it is true that newsmen and newswomen are among those who have been pressing for passage of the amendments, all of the public has a stake in them.

Over the last decade, we have seen the fruits of government secrecy—in the conduct of the war in Vietnam, the decisions that led to and increased American involvement there, in the secret decisions to bomb Cambodia, and in the aftermath of the Watergate scandals. What all of these events have shown is that government governs worst when it does not trust the people, and is unwilling to tell the people what it is doing. That is why the public should support efforts to strengthen the Freedom of Information Act, and why President Ford is wrong to veto such efforts.

[From the Charlotte (N.C.) Observer, Oct. 28, 1974]

Keep It Secret—This Veto Does Just That

Take away Linus's blanket and this usually mild-mannered inhabitant of the Peanuts comic strip becomes a tiger. Bureaucrats sometimes react similarly when someone threatens to take away their precious "top secret" clasification stamps. In their efforts to keep information from the people, they now have received a boost from President Ford.

Aware when he assumed office that people were sick and tired of secrecy, of being lied to, and of finding that Washington was a Byzantium on the Potomac, President Ford promised to make candor and openness the touchstones of his Administration. But now he is buying the tried arguments that have been invoked so many times to defend secrecy.

In his veto of a bill to strengthen the Freedom of Information Act, he said it was a threat to American "military intelligence secrets and diplomatic relations." He also said it would give the courts power in an area they were unfamiliar with and complained that it would require too much bureaucratic work to go through those mountains of classified documents in complying with requests for information.

The intent of the amendments was to strengthen the bill, particularly by putting the burden not on the citizen seeking information but the bureaucrat withholding it. When the act passed in 1966, it was hailed as a breakthrough for citizens and newsmen anxious to know what their government was up to. But the act has not lived up to its billing, and part of the reason is that bureaucrats are able to frustrate requests for information through administrative hurdles and the courts.

The bill would have changed this by cutting the time limit for agency responses to requests for information, setting administrative penalties for arbitrary refusal and permitting recovery of legal fees by successful petitioners. The courts would have been allowed to review classified documents and classification procedures. And a bureaucrat would have been criminally liable if the court found he "arbitrarily or capriciously" withheld desired information. In short, the act would have some teeth.

Attorney General William Saxbe also recently moved to put shrouds around government information. He in effect has reversed a 15-month old decision by his predecessor. Elliot Richardson, which gave authorized scholars access to investigatory files more than 15 years old. A scholar writing a book on the Alger Hiss case obtained FBI files that had numerous deletions, apparently made because of the scholar's request. Mr. Saxbe backed up the FBI on this, thereby violating the spirit if not the letter of Mr. Richardson's policy.

For weeks now, we have been hearing about the "lessons of Watergate," and we will undoubtedly hear more as moralists of every type look for Watergate lessons like shamans examining entrails for signs. But there is one lesson that must be obvious to all: Secrecy creates the environment for a Watergate, a Vietnam, a Bay of Pigs. The power of a bureaucrat or Administration official to cover his mistakes with a classification stamp is inherently anti-democratic. President Ford could not see that. Congress should override his veto of the Freedom of Information bill when it returns in November.

[From the Chicago Daily News, Oct. 24, 1974]

Pushing Secrecy Too Far

One of Congress' first actions when it reconvenes should be to override President Ford's veto of legislation amending the Freedom of Information Act. An override shouldn't be difficult in this case: The House passed the bill 349 to 2, and the Senate approved it by voice vote without a roll-call.

The amendments were designed to make the Freedom of Information Act work. The reason it hasn't worked properly is that government departments and agencies have never allowed it to work. Since its passage in 1966, over bureaucratic opposition, the wielders of the "classified" stamps have blocked access to public records at every turn. Congress worked long and hard to devise amendments that would overcome these barriers, only to encounter the Ford veto.

There are some government documents and records, obviously, that ought to be held close to the vest. When it comes to foreign policy and national security in particular, a certain amount of secrecy over a period of time is doubtless in the best interests of the nation. But the law allows for such exceptions. It also recognizes that trade secrets filed with the government deserve protection, and such things as individual personnel files and medical records ought not to be laid out for everyone to see.

Many kinds of records that should be public property, however, are being hidden without cause or reason, and it was this supersecrecy that the bill sought to overcome. It is disappointing to find President Ford, who has pledged a candid and open administration, going along with the crowd that prefers to squirrel away the government records where no one can see them.

His principal objection, apparently, was to a provision that would allow courts to determine whether a "secret" or "top secret" classification was justified. The courts already have this power when the documents pertain to criminal trials, however, and the Supreme Court held last year that Congress could broaden that authority to cover other cases if it chose to do so.

The fact that Congress did so choose, and that President Ford chose to use a veto on a bill passed so overwhelmingly, creates a needless confrontation at a time when the legislative and executive branches should be striving to work in harmony. But since the President has posed the challenge, it is up to Congress to reply. Its response should be another overwhelming vote to pierce the veil of secrecy. The events of the past provide ample reason for doing so.

[From the Washington Post, Oct. 21, 1974]

A Regrettable Veto

President Ford's assurances of openness in government were dealt a serious blow by his decision Thursday night to veto the amendments to the Freedom of Information Act. Those amendments, intended to make it easier for citizens and the press to learn what is going on within government, could have played an important role in bringing about that promised openness. Congress was willing; the amendments passed both houses by substantial margins. But Mr. Ford chose instead to accept the counsel of the bureaucracy that these changes in the law somehow menaced the operation of government.

The section that caused the President to bring down the weight of his veto power provides that documents that are stamped "secret" must be proved to contain valid secrets if a citizen or a reporter seeks to inspect them. An orderly mechanism was provided for seeing this purpose through. The legislation required that, when a dispute arose over such a document, a federal district court judge would inspect the document in private and determine whether it was in the public interest for the document to be released.

There were other provisions of the act, all of them of paramount importance in the effort to make the government more accountable to those it seeks to serve. The new legislation would have reduced the number of days within which an agency would be required to say whether it intended to provide the public with a previously withheld document. The FBI and other investigative agencies would no longer have been able to withhold material unless they could justify doing so on the grounds that a current investigation or a defendant's rights would be compromised. And, perhaps most important of all from the bureaucrat's vantagepoint, if an official withheld a document and the court decided the document should not have been withheld, the official might be required by the Civil Service Commission to give an account of his actions.

All of these provisions were in the spirit of the kind of relationship between government and the public that Mr. Ford assured the Congress he wanted when he made his first appearance before a joint session only days after taking office. Now he has vetoed a piece of legislation that sought to overhaul a well-intentioned law that has languished ineffectively for nearly a decade. In so doing, the President has put it up to both houses of Congress to muster the votes to make the Freedom of Information Act a more effective servant of the public's right to know.

[From the Sacramento Bee, Oct. 30, 1974]

Freedom of Information

President Gerald Ford missed an opportunity to strike a blow for openness in government by vetoing a bill which would open up the public files and documents pertinent to government actions.

Congress approved a number of amendments to the Freedom of Information Act which would have made it much easier for the citizens and representatives of the media to find out what the government is doing, both good and bad.

The Freedom of Information Act, although it embodies a sound idea, is too cumbersome to be effective. There are major gaps in the law through which agencies are able to justify unnecessary delays, to place unreasonable obstacles in the way of public access and to withhold information which should be released to the public.

For example, the Tennessee Valley Authority came up with an innovative wrinkle under the act. It charged a citizen $6.75 an hour for every hour a clerk had to spend checking the files for data the citizen requested.

The TVA levied the $6.75-an-hour charge against reporter James Branscome of the Mountain Eagle, a weekly in Letcher County, Ky., a paper which could ill afford to pay the tariff for information about the TVA operation.

In addition to doing away with any such practice as charging for government agency information, the new amendments would have required agencies to keep an index of the documents they generate so citizens, for the first time, would have some sensible way of keeping track of what the government agency is doing.

A government agency then would have 30 days to respond to a suit claiming that valid information had been denied a citizen or a journalist.

Government officials who withheld information the court believed they should have provided could be held to answer for their actions before the US Civil Service Commission.

Confidential sources and investigative information involving current prosecutions would be protected, but judges, not executive officials, would decide the legitimacy of the security claim.

Congress expressed its clear intent that citizens should have relatively easy access to government information.

The President was wrong in vetoing the bill. It is hoped Congress will override the veto in the name of the people's freedom to know more about their government.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Maine.

Mr. MUSKIE. Mr. President, first, I express my appreciation to the distinguished Senator from Massachusetts for taking the leadership with respect to this issue and this piece of legislation. I wish to express the satisfaction I have had in working with him in advancing this measure and now defending it and urging the override of the President's veto.

Mr. President, the vote before us this afternoon is, in my opinion, one of the most important we will consider during this postelection session.

Throughout the campaign period this fall flowed an increasingly visible undercurrent of voter frustration with government and politics as usual. Among many signals transmitted by the voting public on November 5 was that government has become too big, too unresponsive, and too closed to the people it is supposed to serve.

Candidates across the Nation were confronted with demands for openness and candor to a degree unparalleled in recent years. To many observers, these demands reflect the voters' cynical belief that most of the public's business is conducted far from the public's eye.

If this reading is correct—and I believe it is—then one of the best ways to deal with such cynicism is to open up the business of government to greater public scrutiny. The legislation before us now—the amendments to the Freedom of Information Act of 1966—is intended to do just that.

During joint hearings on the Freedom of Information Act held last year by Senators Ervin and Kennedy and myself, it became evident that loopholes in the original 1966 act were interfering substantially with the public's right to know.

The cost of challenging Government secrecy claims in court remained too great for most citizens to bear.

Red tape and delay generated in response to a request for information tested both the patience and endurance of the citizen making the request.

And, as demonstrated in the case of Environmental Protection Agency against Patsy Mink, there was no mechanism for challenging the propriety of classifications under the national defense and foreign policy exemptions of the 1966 act. Thus, the mere rubberstamping of a document as "secret" could forever immunize it from disclosure.

The legislation before us today is designed to close up the loopholes which have led to such abuse of both the spirit and the letter of the law. It will enable courts to award costs and attorneys' fees to plaintiffs who successfully contest agency withholding of information. It will require agencies to respond promptly to requests for access to information, and thereby help bar the stalling tactics which too many agencies have used to frustrate requests for information. And most importantly, the legislation will establish a mechanism for checking abuses by providing for review of classification by an impartial outside party.

These amendments are not just a hasty, patchwork effort. On the contrary, they represent many months of careful study by three subcommittees in the Senate, and the Subcommittee on Foreign Operations and Government Operations in the House. And they were sent to the President with the overwhelming support of both Houses of Congress.

Unfortunately, the same President who began his administration with a promise of openness, sided with the secret-makers on the first big test of that promise.

The President claims to have several problems with the legislation we sent to him. But his major problem goes to the heart of what these amendments are all about.

When the Freedom of Information Act amendments were first considered by the Senate, I offered a change which would authorize the courts to conduct in camera a review of documents classified by the Government to determine if the public interest would be better served by keeping the information in question secret or making it available to the public.

My amendment was a response to the increased reliance by former administrations to use national security to shield errors in judgment or controversial decisions.

It was a response as well to the mounting evidence, more recently confirmed in tapes of Presidential conversations, that national security reasons were deliberately used to block investigations of White House involvement in Watergate.

That amendment was incorporated in the legislation sent to the President for his signature. And it is primarily that amendment which caused the President to veto the legislation.

The President does not seem to object to the concept of judicial review of classified documents. The changes he proposed in returning the bill to Congress adopted the same mechanism of in camera review.

What the President does object to is the standard to be used in reviewing such documents. And on this point his proposals would deal another setback to the public's right to know.

The legislation passed by Congress would call for a determination by the judge reviewing the documents in question that the documents were properly classified, in accordance with rules and guidelines for classification set out by the executive branch itself.

The judge would be required to give susbtantial weight to the classifying agency's opinion in determining the propriety of the classification.

The President's counterproposal on this point would make it even more difficult to extract information of questionable classification from the executive branch. Under his proposal, the court could only enjoin an agency from withholding agency records after finding the agency had no reasonable basis whatsoever for classifying them in the first place. Thus, in spite of the record of abuse, we are being asked once again to assume that the Government is right, on the basis of a very vague standard indeed, and to accept that the stamp of secrecy is challengable only in the most blatant cases of misuse.

The conflict on this particular point boils down to one basic concern—trust in the judicial system to handle highly sensitive material. The administration seems to feel that only the agency dealing with specific information is capable of passing judgment on the legitimacy of classification, except in cases where that judgment has been found to be grossly inappropriate.

The bill passed by Congress recognizes that special weight should be given agency judgments where highly sensitive material is concerned.

But that bill also expresses confidence in the Federal judiciary to decide whether the greater public interest rests with public disclosure or continued protection.

I cannot understand why we should trust a Federal judge to sort out valid from invalid claims of executive privilege in litigation involving criminal conduct, but not trust him or his colleagues to make the same unfettered judgments in matters allegedly connected to the conduct of foreign policy.

As a practical matter, I cannot imagine that any Federal judge would throw open the gates of the Nation's classified secrets, or that they would substitute their judgment for that of an agency head without carefully weighing all the evidence in the arguments presented by both sides.

On the contrary, if we constrict the manner in which courts perform this vital review function, we make the classifiers themselves privileged officials, immune from the accountability necessary for Government to function smoothly.

A final point that needs to be made about the President's opposition to this legislation concerns his claim that the bill is unconstitutional.

On Tuesday I placed in the Record an opinion I solicited from Prof. Philip Kurland on this question. I would like to quote from Professor Kurland's letter again, because he has so succinctly and finally laid the President's claim to rest.

> I would repeat that the issue between Congress and the President here is not whether there is or should be a privilege for military and state secrets. Both are in agreement that there should be such a privilege. Nor is the issue between the President and the Congress the question whether the federal courts should have the power of in camera inspection in order to determine whether the materials that are classified should retain their privilege. Both are in agreement that in camera inspection is appropriate. The controversy is solely over the question of the standard to be applied by the courts in making determinations of availability. Congress says that the materials in question must in fact have been properly classified in accordance with the executive's own standards for classification. The President wants the secrecy maintained if the court finds a "reasonable," if erroneous, basis for the classification . . . I do not see how it is possible to say that the Presidential position is constitutional, but the congressional position unconstitutional.

The President's charge that this bill is unconstitutional is a serious one to make. I hope that my colleagues will not be swayed by it, for I believe it to be without foundation.

In closing, I want to underscore my feeling that this legislation represents a unique opportunity to bring the people of this country closer to the facts and figures on which governmental decisions are based.

We must not delay any further the people's opportunity to know more about their Government. For too long that opportunity has been eroded by not enough candor and too much secrecy.

The people are saying that they want to know more. I hope that by our action today, we will give them that chance.

The PRESIDING OFFICER (Mr. Biden). Who yields time?

Mr. HART. If I may have 2 minutes, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. HART. Mr. President, I rise under a very limited request to suggest that we be aware that the position of the administration with respect to the treatment of disclosure of investigatory files has shifted. Initially, and through a very long conference, they insisted that the safeguards were inadequate to protect against the identification of an informant. Language was incorporated in the conference report to insure against that possibility. Now the objection with respect to the investigative files is that there is an administrative burden too great to be imposed.

Mr. President, I suggest that the burden is substantially less than we would be led to believe by the President's message, but I conclude on the point, Mr. President, that the price of some administrative inconvenience is not too much to pay to increase public confidence in and the accountability of government. That is precisely the issue that confronts us.

Mr. President, in September, when President Ford made his forthright assurances of openness in Government, I welcomed them as another sign that a fresh wind was blowing through the White House. I did not expect that 2 months later, I would be asking my colleagues to override his veto of the Freedom of Information Act amendments.

The veto was even more of a surprise because of the major efforts to accommodate the President's views which were made by the conferees from the House and Senate in the conference.

One of the reasons given by the President for his veto is that the investigatory files amendment which I offered would hamper criminal law enforcement agencies in their efforts to protect confidential files. We made major changes in the conference to accommodate this concern.

My amendment to the Freedom of Information Act permits the disclosure of investigatory files only after elaborate safeguards are met—that is, that disclosure will not—

> (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement per personnel;.

After lengthy negotiations during the conference on the bill, the Justice Department apparently agreed that these safeguards are adequate. The major change in conference was the provision which permits law enforcement agencies to withhold "confidential information furnished only by a confidential source". In other words, the agency not only can withhold information which would disclose the identity of a confidential source but also can provide blanket protection for any information supplied by a confidential source. The President is therefore mistaken in his statement that the FBI must prove that disclosure would reveal an informer's identity; all the FBI has to do is to state that the information was furnished by a confidential source and it is exempt. In fact, this protection was introduced by the conferees in response to the specific request of the President in a letter to Senator KENNEDY during the conference. All of the conferees endorsed the Hart amendment as modified.

Now the administration has shifted its ground and argues that compliance with the amendment will be too burdensome. Specifically the President's message singles out investigatory files for exemption from the amendment's command that "any reasonably segregable portion of a record shall be provided—after deletion of the portions which are exempt." The Presidential substitute allows the agency to classify a file as a unit without close analysis, alleging that the time limits and staff resources are inadequate for such intensive analysis. This would allow an agency to withhold all the records in a file if any portion of it runs afoul of the safeguards above. It is precisely this opportunity to exempt whole files which gives an agency incentive to commingle various information into one enormous investigatory file and then claim it is too difficult to sift through and effectively classify all of that information.

This "contamination technique" has been widely used by agencies to thwart access to publicly valuable information in their files. If investigatory files are unique in terms of length and complexity, an agency's logistical difficulty in conducting a thorough analysis would strongly influence a court to extend the time for agency analysis, as is authorized by the bill. Therefore, a procedure is already available to provide for accurate and thorough analysis.

The President's objection to the Hart amendment, as was the objection to the time limits, is one of degree. In light of the fact that "[t]he FOIA was not designed to increase administrative efficiency, but to guarantee the public's right to know how the government is discharging its duty to protect the public interest," *Wellford* v. *Hardin,* 444 F. 2d 21, 24 (1971) disclosure of severable portions of investigatory documents does not appear to create an unreasonable burden.

In conclusion, the agencies will not be overburdened for the following reasons:

First. The agencies will be able to charge search and copying fees—up to $5 an hour, 10 cents per page—which will, in most cases, be more than enough to discourage frivolous requests;

Second. The Hart amendment has six pigeonholes into which the agencies can place information that they do not want to release. It is reasonable to expect that they will find plenty of scope in these excuses for nondisclosure to keep them from being overburdened by public requests for access to their files;

Third. The fact that the agencies can withhold information furnished by a confidential source relieves it of the burden of showing that disclosure would actually reveal the identity of a confidential source.

Fourth. The clauses providing for "segregation of records" and "search fees" are ambiguous and doubtlessly will be subject to litigation. If the requests prove unnecessarily burdensome, I suspect that the agencies will find a sympathetic ear in the courts when the time comes for interpreting those sections.

If the agencies can show after 6 months or so that the cost threshold is inadequate and that the benefits from disclosure are outweighed by their cost, I would support supplemental appropriations for the additional staff and if necessary an amendment to the act to permit the agency more discretion in assessing fees for extraordinary requests.

Finally, we must keep our sense of proportion in considering the President's objections to the Freedom of Information Act amendments. No one suggests that our citizens' right to know about their Government can be protected without some cost. It is my conviction that, in the aftermath of Watergate and the recent disclosures about the FBI's counter-intelligence activities, the price of some administrative inconvenience is not too much to pay to increase public confidence in—and the accountability of—Government.

This conviction has been bolstered by recent disclosures that the Nixon White House instigated Internal Revenue Service investigations of social action groups on the left and in the black community. As the Washington Post noted,

> The absurdity of the exercise is illustrated by the fact that the Urban League was among the targets, lumped in as "radical" along with several social organizations that hardly merit either the label or the attention they were given by IRS.

The tax laws were not intended to be used for political harassment. The interesting point about these disclosures is that they were made possible by the utilization of the Freedom of Information Act.

Second, the Justice Department recently released a report on the operations of the counter intelligence operations of the FBI. Much of this information about the use of dirty tricks against the far left and the far right had been revealed earlier this year, again because of action taken under the Freedom of Information Act.

It is important that this country have a strong freedom of information law that will make it possible for the public to learn of such activities—and to learn of them as quickly as possible.

Finally, we should remember that these amendments were necessary because the agencies have not made a good faith effort to comply with the act. The President is asking that the agencies be given more discretion, not less, to undermine the act.

The American Civil Liberties Union which has studied the FBI's response to requests for historical information from scholars over the last 2 years. The ACLU concludes that the FBI's historical records policy has been a dismal failure. In case after case, significant historical research has been curtailed by administrative restrictions which often seem arbitrary and unnecessary and heavy costs of time and money have been imposed on the persons requesting access. One example will suffice:

Prof. Sander Gilman, chairman of the Department of German Literature at Cornell University, is preparing a biography of the German playwright and poet, Bertolt Brecht. On December 14, 1973, the FBI responded to Gilman's request for access to Brecht materials by informing him that it had "approximately 1,000 pages" in its files on Brecht, and stating initially that if Gilman would "submit letters from Brecht's heirs granting their approval" to his research, the FBI would provide him with the materials at a "processing" cost of $160.

On January 16, 1974, Professor Gilman sent the Bureau a deposit and a letter to him from Brecht's only son, dated a week earlier, stating that the son had "no objection to your use of FBI files on my father." Two months later the FBI provided Gilman with 30 heavily deleted pages from its Brecht files as the "final disposition" of his request. It refused to produce the bulk of the files on the ground that Gilman had not provided the Bureau with written authorization *from the heirs* of each of the hundreds of persons—many of them public figures, such as Thomas Mann—whose names appear in the files. Included within the 30 pages—3 percent of the entire file, for which Gilman paid $40, were 8–10 magazine and newspaper clippings on Brecht's well-publicized travels in the United States.

Mr. President, I urge that the Senate override the veto.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 4 minutes.

Mr. President, I supported the freedom of information bill as it was reported out of the Senate Judiciary Committee. It was—and is—my belief that amendments to the Freedom of Information Act are necessary to remove the obstacles to full and faithful compliance with the mandate of the act to grant citizens the fullest access to records of Federal agencies that the right of privacy and effective Government will permit.

The bill was amended on the floor, however, in a way that could open confidential files to any person who requested them at the expense of our Nation's interest in foreign relations and defense and every individual's interest in law enforcement, the right of privacy and of personal security. Because of these amendments, the President was compelled to veto this bill.

I. DEFENSE AND FOREIGN RELATIONS INFORMATION

The first objectionable feature of the bill concerns the review of classified documents. It is important to stress just what is and what is not the issue here. The issue is not whether a judge should be authorized to review classified documents in camera. As reported by an unanimous Judiciary Committee, the bill contained a provision which enabled the courts to inspect classified documents and review the justification for their classification. And the President, in his veto message, stated that he was prepared to accept such a provision.

No, the issue is not whether a court should be able to question an agency's decision to affix a classification stamp to a document. Instead, the issue is whether this judicial scrutiny should be unchecked. It is one thing to empower a court to review a document to determine whether the executive's decision to classify was arbitrary or clearly unreasonable. It is patently different to authorize a court to determine in the first instance whether a document should be classified or released to the public. The courts have the facilities and expertise to review executive determinations but they do not have the facilities or expertise to make executive determinations. That is the sole province of the executive branch.

The vetoed bill does not check judicial authority. There are no standards, such as guarding against the arbitrary and capricious, or requiring a reasonable basis, to guide the judge's decision. The judge can disclose a document even where he finds the classification to be reasonable if he also finds that the plaintiff's case for disclosure is equally reasonable. This is not the general rule in cases of court review of any regulatory body or executive agency.

It is clear that the President has a "constitutionally based" power to withhold information the disclosure of which could impair the President's conduct of our foreign relations or maintenance of our national defense. As Justice Stewart observed in *New York Times* v. *United States*, 403 U.S. 713, 729–30 (1971):

> It is clear to me that it is the constitutional duty of the Executive—as a matter of sovereign prerogative and not as a matter of law as the courts know law—through the promulgation and enforcement of executive regulations, to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and defense.

In *C. & S. Air Lines* v. *Waterman Corp.*, 333 U.S. 103, (1948), the Supreme Court stated that the

> President . . . possesses in his own right certain powers conferred by the Constitution on him as Commander-in-Chief and as the Nation's organ in foreign affairs.

Acting in these capacities, the Supreme Court added:

> The President has available intelligence services whose reports are not and ought not to be published to the world.

Just this past summer, in a unanimous decision in the *United States* v. *Nixon* case, 94S.Ct. 3090, 3108 (1974), the Supreme Court expressly recognized that the President has a "constitutionally based" power to withhold information the disclosure of which could impair the effective discharge of a President's responsibility. As the Court stated,

> As to these areas of Art. II duties (military or diplomatic secrets) the courts have traditionally shown the utmost deference to presidential responsibilities . . . Nowhere in the Constitution, as we have noted earlier, is there any explicit reference to a privilege of confidentiality, yet to the extent this interest relates to the effective discharge of a President's powers, it is constitutionally based.

Another recent court decision, *United States* v. *Marchetti*, 466 F.2d 1309 (4 Cir. 1972) is particularly noteworthy. The Court summarized the law in this area as follows:

> Gathering intelligence information and the other activities of the Agency, including clandestine affairs against other nations, are all within the *President's constitutional responsibilities for the security of the Nation* as the Chief Executive and as Commander in Chief of our Armed forces. Const., art. II, § 2. Citizens have the right to criticize the conduct of our foreign affairs, but the Government also has the right and the duty to strive for internal secrecy about the conduct of governmental affairs in areas in which disclosure *may reasonably be thought* to be inconsistent with the national interest . . . (Emphasis supplied.) 466 F.2d at 1315.

It is clear then that the Constitution vests in the Chief Executive the authority to maintain our national defense and to conduct our foreign relations. It is also clear that in order to discharge these responsibilities effectively, the President must take measures to insure that information the disclosure of which would jeopardize the maintenance of our national or the conduct of our foreign relations is not disclosed to all the world.

From these two points, it should also be clear that an attempt to empower a judge to determine, on his own, whether this same type of information should be disclosed to the public infringes on the constitutional power of the President to maintain our national defense and conduct our foreign relations. To authorize a court to make its own decision whether a document should be classified is to empower a court to substitute its decision for that of the agency and, in certain cases, the President.

Attempts to grant courts unfettered powers of judicial scrutiny of classified documents have been criticized in several recent law reviews. The 1974 Duke Law Journal, in an article on "Developments Under the Freedom of Information Act—1973," states that the amendment of the Senator from Maine (Senator MUSKIE) unduly infringes upon the privilege of the Executive to protect national secrets:

> In this regard, Senator Muskie recently proposed an amendment to the FOIA which would broaden the scope of de novo judicial review. Pursuant to the proposed amendment a court would be empowered to question the Executive's claim of secrecy by examining the classified records *in camera* in order to determine whether "disclosure would be harmful to the national defense or foreign policy of the United States." This proposal, however, extends judicial authority too far into the political decision-making process, a field not appropriately within the province of the courts. *A more satisfactory legislative solution would be a judicial procedure which would not unduly restrict the Executive's prerogative to determine what should remain secret in the national interest but which would simultaneously provide a limited judicial check on arbitrary and capricious executive determinations.* An acceptable compromise of these competing interests might be a procedure whereby the agency asserting the privilege would separately classify each document and portions thereof and prepare a detailed itemization and index of this classification scheme for the court. *Thus, the court could adequately ascertain whether the claim of privilege was based upon a reasoned determination rather than an arbitrary classification without sub-*

> jecting the material to in camera scrutiny. *Such a procedure would prevent indiscriminate and arbitrary classification yet not unduly infringe upon the privilege of the Executive to protect national secrets.* (Emphasis supplied.) 74 Duke L.J. 258–259.

The Columbia Law Review's June 1974 issue, in a comprehensive study entitled "The Freedom of Information Act: A Seven Year Assessment," says:

> *To advocate some form of judicial scrutiny is not to say that power should be unchecked. That a court should assume the burden of declassifying documents seems altogether improper.* Judgments as to the independent classification of genuinely secret information should be left to the executive. Little can be said, however, for exempting from disclosure non-classified information solely because of its physical nexus with a classified document. To assign to the judiciary the function of winnowing the state secret from the spuriously classified document does violence neither to the language of the Act as an integrated statute, nor to the declaration of policy implicit in the first exemption. Even conceding that excising interspersed but non-secret from secret matter necessarily implies the exercise of some substantive judgment, this does not amount to a de facto power of declassification. *Only materials that would not have been independently classified as secret should be deleted and disclosed on the court's initiative. In close cases, the court, cognizant of the "delicate character of the responsibility of the President in the conduct of foreign affairs," should defer to the executive determination of secrecy.* (Emphasis supplied.) 74 Col. L. Rev. 935.

A "Developments in the Law—Note on National Security" by the Harvard Law Review reaches the same conclusion. In discussing the role of the courts in reviewing classification decisions, it states that—

> There are limits to the scope of review that the courts are competent to exercise.

And concludes that—

> A court would have difficulty determining when the public interest in disclosure was sufficient to require the Government to require the Government to divulge information notwithstanding a substantial national security interest in secrecy." 85 Harvard Law Review 1130, 1225–26 (1972).

Mr. President, every practitioner in administrative law knows that judicial review of agency decisions is not unlimited. The courts review agency decisions to determine whether they are reasonably based or whether they are arbitrary or capricious. This enrolled bill would establish a different type of review, however. It would empower a court to substitute its own decision for that of the agency. This is not review of agency decisions but the making of the decision itself.

I simply cannot understand why a different standard should be applied to agency decisions to classify certain documents.

By conferring on the courts unchecked powers to declassify documents, the enrolled bill is not only unwise but apparently also unconstitutional.

II. LAW ENFORCEMENT INVESTIGATORY INFORMATION

The second issue relates to the criminal and civil files of law enforcement agencies. The confidentiality of countless law enforcement files containing information of the highest order of privacy is jeopardized by this bill. At stake here is not simply the issue of effective law enforcement but the individual's right to privacy, assurance of personal security, and to be secure in the knowledge that information he furnishes to a law enforcement agency will not be disclosed to anyone who requests it.

The enrolled bill requires the FBI and other law enforcement agencies to respond to any person's request for investigative information by sifting through pages and pages of files within strict limits. If the agency believes that information must be withheld from the public, it must prove to a court line-by-line that disclosure would disclose the identity of a source of confidential information furnished by him, would impair the investigation or would constitute an invasion of personal privacy.

Mr. President, it is extremely difficult if not impossible to prove that information, if disclosed, would invade a person's privacy or would impair the investigation. The magnitude of such a task and the standards of harm that are defined in the amendment create serious doubt as to whether such a provision is workable aside from its questionable wisdom. Where the rights of privacy and personal security are at stake, measures should not be adopted that even tend indirectly to undermine these fundamental rights.

Mr. President, the issue here does not involve a denial or rejection of "freedom of information." This concept has the active support of most, if not all of us.

The real issue relates to the provisions for determining how the right to know can be exercised without impairing the effective operation of our Government and also infringing the rights of privacy and security.

Mr. President, as I stated at the outset, I believe that amendments to the Freedom of Information Act are necessary. Freedom of information is basic to the democratic process. It is elementary that the right of the citizen to be informed about the actions of his Government must remain viable if a government of the people is to exist in practice as well as theory.

Yet, it is also elementary that the welfare of our Nation and that of its citizens may require that some information in the possession of the Government be held in the strictest confidence. The right to know must be balanced against the right of the individual to privacy. Likewise the right to know must be balanced against the interest of our Nation to conduct successful foreign relations and to maintain our military secrets in confidence.

I cannot support the enrolled bill because it emphasizes the right to know to the detriment of the right of privacy and security and the interests of us all in a responsive government. These interests must be accommodated. One cannot be elevated above the others because all of these interests are so important.

The enrolled bill does not balance and protect all of these interests. Therefore, I urge my colleagues to vote to sustain the veto of the President. And, in turn, I urge my colleagues to reenact the bill with the amendments proposed by the President so that we will have legislation that balance and protects all of the interests while insuring the fullest responsible disclosure of Government records. Such a bill is S. 4172, introduced by the Senator from Pennsylvania (Mr. SCOTT) and now pending.

Its provisions will improve the present statute on making Government held information available, without violating the Constitution, and yet in a fashion that will not result in interrupting orderly and effective conduct of the Nation's business. It will protect the privacy and personal security of those who cooperate with the State and Justice Departments by furnishing necessary, vitally needed information. It will enable law enforcement to proceed without impairment in that it will instill in informants the necessary confidence that they will not be endangered by disclosure. S. 4172 should be enacted.

The veto should be sustained.

The **PRESIDING OFFICER**. Who yields time?

Mr. **HRUSKA**. I yield 4 minutes to the Senator from Ohio.

Mr. **TAFT**. Mr. President, I appreciate the Senator's yielding, and I appreciate also the, I think, good sense and reasonableness of his approach in his remarks.

Mr. President, I intend to vote to sustain the veto of the President. In casting this vote, I want to make it clear that I am not less committed to the right of the public to know the actions of their Government than any other advocate of democratic government. In this regard, I voted for final passage of the bill during Senate floor consideration although I urged my colleagues to approve it without amendment in accordance with the Judiciary Committee's recommendations.

Freedom of information is the hallmark of a democratic society. It is elementary that the people cannot govern themselves—that this cannot be a Government of the people—if the people cannot know the actions of those in whom they trust to discharge the functions of Government.

But, Mr. President, the right to know, like any other right, cannot be exercised at the expense of other rights that are also fundamental. Some information in the possession of the Government must be held in the strictest confidence. For example, the individual's right of privacy requires that certain information collected by the Government in either census reports or law enforcement investigations must be protected from disclosure. Information bearing on our Nation's endeavors to pursue peace through negotiations with foreign nations must also be held in confidence if the discussions are to be frank and complete. And, of course, our military secrets must be safeguarded.

In this respect, the President objects to, and I voted against, the floor amendment offered by Senator MUSKIE on May 30, 1974, which granted a court the authority to disclose a classified document even where there is a reasonable basis for the classification. Most courts are not knowledgeable in sensitive foreign policy and national defense considerations that must be weighed in determining whether material deserves, or indeed, requires classification.

I am sure those of us in the Senate who take a part in the naming and selection of those who are to serve in judicial capacities in the courts around the country do not select those men for their knowledge of military matters and national security, or even foreign affairs. We choose them for their legal expertise to judge, in accordance with standards established by law, as to just what the application of the law ought to be to situations; but not to give judgment themselves, to make the decisions, in areas properly reserved by the Constitution to the other branches of the Government.

Notwithstanding this fact, the bill, as passed, calls for a de novo weighing of all these factors by the court which creates confusion and vagueness and, in my view, will not serve the interests of clear legislation or assist in the process of making available sensitive classified material.

I preferred the Judiciary Committee's approach to this problem which compelled a court to determine if there is a reasonable basis for the agency classification. If there is a reasonable basis, then the document would not be disclosed. Certainly the standard "reasonable basis" is not vague, it having been applied in our judicial system for centuries. This standard and procedure correctly accord foreign policy and national defense considerations special recognition and provides the executive branch with sufficient flexibility in dealing with these sensitive matters.

Mr. President, we must recognize the competing interests in disclosure and confidentiality. While a judge should be able to review classified documents to determine whether there is a reasonable basis for the classification, he should not be empowered to second-guess foreign policy and national defense experts. While a law enforcement agency should not be authorized to hide all types of information, it should be given the tools to protect information the disclosure of which could likely invade a person's privacy, or impair the investigation.

I believe that the competing interests in disclosure and confidentiality are accommodated only if the enrolled bill is amended with the changes proposed by the President.

The Senate and the House of Representatives should have no trouble in doing that. It is, therefore, my hope that the veto of the enrolled bill is sustained so that we can reenact this legislation with necessary amendments.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts controls 13 minutes.

Mr. KENNEDY. I yield myself 3 minutes.

I ask unanimous consent that Dorothy Parker of Senator FONG's staff be accorded the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the Senator from Michigan has correctly stated the situation which occurred with respect to his amendment to this legislation which was adopted on the floor. His amendment initially protected against the disclosure of the identity of an informer. We decided in conference, however, as a result of a specific request from the President, to change that to protect confidential sources, which broadened it and provided a wider degree of protection.

Then we also provided that there be no requirement to reveal not only the identity of a confidential source, but also any information obtained from him in a criminal investigation. The only source information that would be available would be that compiled in civil investigations. The arguments made about this particular issue today sounded like arguments directed more toward the initial amendment of the distinguished Senator from Michigan rather than actually to the resulting language that emerged from the conference.

I might add parenthetically, Mr. President, that this was actually language suggested by the distinguished Senator from Nebraska in behalf of the administration. So it really could not be all that bad.

On the second question, Mr. President, which the Senator from Ohio mentioned, and which has been discussed here with respect to the examination in camera of certain information, the Senator from Maine, I think, has provided a rather complete response in his statement which makes the record complete. But it is important to note that today judges are examining extremely sensitive information and carrying out that judicial review responsibility very well. We can think of recent cases—the Pentagon Papers case, the Ellsberg case, the Watergate case, the Keith case where the key issue involved national security wiretaps, the Knopf case involving CIA material in a book written by a former CIA official—where courts have met these responsibilities, and have been extremely sensitive to the whole question of national defense and national security.

I mention at this point here what the Supreme Court said in the Keith case. The Court said:

> We cannot accept the Government's argument that internal security matters are too subtle and complex for judicial evaluation. Courts regularly deal with the most difficult issues of our society. There is no reason to believe that federal judges will be insensitive to or uncomprehending of the issues involved in domestic security cases.

This is important:

> If the threat is too subtle or complex for our senior law enforcement officers to convey its significance to a court, one may question whether there is probable cause for surveillance.

Mr. President, on both of these matters I want the record to be extremely clear that, in our Administrative Practice Subcommittee, the full Judiciary Committee, and on the Senate floor, they were considered in great detail. They were the principal matters discussed in the course of the conference.

We have been extremely sensitive to these objections raised by the administration and, it seems to me, the bill we are considering is a reasonable accommodation of the views of the administration. However, it also carries forward the central thrust of the legislation passed by the Senate. I would hope those arguments which have been made in opposition to those provisions would be rejected.

If I may, I would like to yield 3 minutes to the Senator from Tennessee and then to the Senator from North Carolina.

Mr. BAKER. Mr. President, I thank the distinguished senior Senator from Massachusetts for yielding.

Mr. President, events of the past 3 years have dealt harshly with the concept of "secrecy" in Government. We have witnessed two national tragedies—Watergate and the Vietnam war—which might not have occurred, and surely would have suffered an earlier demise had not the President and his advisers been able to mask their actions in secrecy.

This experience, coupled with my belief in the axiom that "sunshine is the most effective disinfectant," prompted my support for H.R. 12471, the Freedom of Information Act Amendments of 1974. I regret that President Ford returned this legislation to the Congress without his approval, and I shall vote to override his veto. While I believe that the President's action was taken in good faith, I particularly disagree with his proposal that judicial review of classified documents should uphold the classification if there is a reasonable basis to support it.

During my tenure as a member of the Senate Select Committee on Presidential Campaign Activities, I reviewed literally hundreds of Watergate-related documents that had been classified "secret" or "top secret" or the like. It is my opinion that at least 95 percent of these documents should not have been classified in the first place and that the Nation's security and foreign policy would not be damaged in any way by public disclosure of these documents. Yet, despite several formal requests by the Senate Watergate Committee, the Central Intelligence Agency, in particular, has not declassified these documents and evinces no intent of so doing.

In short, recent experience indicates that the Federal Government exhibits a proclivity for overclassification of information, especially that which is embarrassing or incriminating; and I believe that this trend would continue if judicial review of classified documents applied a presumption of validity to the classification as recommended by the President. De novo judicial determination based on in camera inspection of classified documents—as provided by the Freedom of Information Act amendments passed by the Congress—insures confidentiality for genuine military, intelligence, and foreign policy information while allowing citizens, scholars, and perhaps even Congress access to information which should be in the public domain.

In balancing the minimal risks that a Federal judge might disclose legitimate national security information against the potential for mischief and criminal activity under the cloak of secrecy. I must conclude that a fully informed citizenry provides the most secure protection for democracy.

Consequently, I urge that the veto of H.R. 12471 be overridden.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 3 minutes to the Senator from North Carolina.

Mr. ERVIN. Mr. President, the executive agencies of the U.S. Government remind me of a young lawyer in Charlotte, N.C. Years ago he brought suit for damages against Western Union Telegraph Co. Mr. C. W. Tillotson, a very eminent lawyer, represented the telegraph company, and he filed a motion to require the plaintiff to make his complaint more specific.

The judge who had to pass on the motion happened to see this young lawyer and suggested to him that he go ahead and make his complaint more specific in the respects that had been asked for. The young lawyer told the judge he would not do it.

He said:

> If Mr. Tillotson is going to want me to tell him what this lawsuit is all about he is just a damn fool.

Every time Congress or the American people or the American press seek information from the executive branch of Government they have an equivalent reply in most cases from the executive branch of the Government.

For some reason that begs understanding, the executive branch of the Government thinks that the American people ought not to know what the Government is doing.

I have been a believer in the right of the people to know what the truth is about the activities of their Government. For that reason I supported the original Freedom of Information Act of 1966. We had a good bill when we started out. But, as a result of the limitations and exemptions that were inserted in the bill and, as a result of the reluctance of the executive branch of the Government to observe that part of the bill which survived, the existing law is totally ineffective for the purpose that was sought to be accomplished.

Now, the distinguished Senator from Massachusetts just stated what I think is the truth about this matter. Every one of the objections which were set forth by the President in his veto message was considered at length by the Senate committee during the original hearings on the bill. They were considered minutely and carefully by the conference committee. Every one of those legislators who, after all, are the people who are supposed to enact our laws, came up with, a majority of them came up with, the conclusions that these objections did not merit the defeat of the bill or the alteration of the bill.

I ask unanimous consent that a copy of the letter written on October 31, 1974, by the distinguished Senator from Maryland (Mr. Mathias), the distinguished Senator from New Jersey (Mr. Case), the distinguished Senator from New York (Mr. Javits), the distinguished Senator from Tennessee (Mr. Baker), the distinguished Senator from Massachusetts (Mr. Kennedy), the distinguished Senator from Maine (Mr. Muskie), the distinguished Senator from Michigan (Mr. Hart), and myself be inserted in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, D.C., *October 31, 1974.*

Dear Colleague: We are enlisting your support to override President Ford's veto of the Freedom of Information Act Amendments (H.R. 12471) when the Congress returns from the current recess. We believe that this veto is unjustified and urge that the legislation be enacted as previously approved by Congress.

The 1966 Freedom of Information Act has worked neither efficiently nor effectively. There are loopholes in the statute. Agencies have engaged in delaying and obstructionist tactics in responding to requests for government information. The Freedom of Information Act Amendments will facilitate public access to information, while preserving confidentiality where appropriate.

The President has proposed numerous specific changes to this legislation. Similar proposals were made by government agencies time and again over the past year and a half. These proposals were considered, they were debated, and in the end they were rejected during the legislative process.

The President has suggested that the Freedom of Information Act Amendments pose a threat to our national security because they do not sufficiently restrict federal court review of executive classification decisions. As an alternative, the President has proposed that courts be allowed to require disclosure of classified documents only if the agency had no reasonable basis whatsoever to classify them. We do not believe a secrecy stamp should be that determinative.

We believe that the approach taken in the Amendments is the correct one. Federal courts should have the authority to review agency classification of documents and make their findings on the weight of the evidence.

The Executive writes the classification rules, since documents are classified under an Executive order, not a statute. A federal judge should be empowered to review classification decisions as an objective umpire, and he should determine whether Executive branch officials have complied with their own rules. This is consistent with administrative due process and the tradition of checks and balances. We are confident that the legislation poses no threat to this nation's security interests.

The President has also decried the possibility of an administrative burden placed on law enforcement and other agencies by the new amendments, although we are pleased to note that he did *not* object to the opening of some new investigatory materials to the public. We believe, however, that the additional delays, charges, and exclusions requested by the President do more than alleviate administrative burdens—they would effectively bar access to some records by the press, the nonaffluent, and the scholar.

Freedom of Information is too precious a right to be sacrificed to false economy. Like due process, it may carry some cost; but that is a cost to be borne by all Americans who would keep our government open and accountable and responsible.

Government agencies universally opposed original enactment of the Freedom of Information Act in 1966, and they likewise opposed enactment of amendments to the Act this year. As a practical matter, with our heavy workload for the remainder of this session and continuing agency hostility to any strengthening of the Information Act, failure to override the President's veto next month will result in postponement of any improvements to the Act for a substantial period of time.

We have too recently seen the insidious effects of government secrecy run rampant. Enactment of H.R. 12471 can do much to open the public's business to public scrutiny, while providing appropriate safeguards for materials that should remain secret. We therefore urge you to join us when Congres returns in voting to enact the Freedom of Information Act Amendments over the President's veto.

Sincerely,

Charles McC. Mathias, Jr., Clifford P. Case, Jacob K. Javits, Howard H. Baker, Jr., Edward M. Kennedy, Edmund S. Muskie, Philip A. Hart, Sam J. Ervin, Jr.

Mr. ERVIN. Mr. President, I ask unanimous consent that an editorial from the Washington Post dated November 20, 1974; and the speech I made on the bill be printed in the Record. I thank the Senator from Massachusetts.

There being no objection, the editorial and speech were ordered to be printed in the Record, as follows:

Federal Files: Freedom of Information

Just before the election recess, President Ford used his power of veto and sent back to the Congress a piece of very important legislation, the 1974 amendments to the Freedom of Information Act. Those amendments were important because they strengthened a law that was fine in principle and purpose but poor in practical terms. The Freedom of Information Act had been enacted in 1966 in the hope of making it possible for the press and the public to obtain documents from within government to which they are entitled. Because of cumbersome provisions of the act, however, obtaining such information proved very difficult.

This year, after long hearings, much haggling between House and Senate and two resounding votes, a series of amendments was ready for presidential signature. They shortened the amount of time a citizen would be required to wait for the bureaucracy to produce a requested document. They removed some restrictions on the kinds of information that could be obtained; and they placed sanctions on bureaucrats who tried to keep information secret that should be released in the public interest. In light of President Ford's previous statements in support of openness in government, it was assumed that the President would welcome this legislation and sign it into law. Instead, sadly, Mr. Ford yielded to the arguments of the bureaucracy and vetoed the legislation.

Since then, a number of journalists' and citizens' groups have criticized that action by the President and urged Congress to override the veto. Today in the House and tomorrow in the Senate, those votes are scheduled to take place. We would urge a strong vote in support of the legislation, particularly in light of two recent disclosures made possible by the Freedom of Information Act.

Recently, a Ralph Nader-supported group on tax reform turned up the fact the Nixon White House instigated Internal Revenue Service investigations of social action groups on the left and in the black community. The absurdity of the exercise is illustrated by the fact that the Urban League was among the targets, lumped in as "radical" along with several social organizations that hardly merit either the label or the attention they were given by IRS. As we have had occasion to say in the past, the tax laws were not intended to be used for political harassment. The interesting point about these latest disclosures is that they were made possible by the utilization of the Freedom of Information Act.

In the same vein, the Justice Department released a report earlier this week on the operations of the counter intelligence operations of the FBI. Much of this information about the use of dirty tricks against the far left and the far right had been revealed earlier this year, again because of action taken under the Freedom of Information Act. Attorney General William Saxbe felt compelled, on the basis of what the Justice Department had been forced to release about the program, to order a study of what the FBI had done. Mr. Saxbe found aspects of the program abhorrent. But FBI *director Clarence* M. Kelley actually defended the practices of his predecessor, J. Edgar Hoover. This is a good example of how important it is that this country have a strong Freedom of Information law that will make it possible for the public to learn of such activities—and such attitudes on the part of officials in sensitive and powerful jobs—and to learn of them as quickly as possible.

The Freedom of Information Act is not a law to make the task of journalists easier or the profits of news organizations greater. It is, in other words, not special interest legislation in the sense that the term is ordinarily used. It is special interest legislation in that it is intended to assist the very special interest of the American people in *being better* informed about the processes and practices of their government. This is a point President Ford's advisers missed badly at the time of the veto. One of them is alleged to have said that if the President vetoed the bill, "who gives a damn besides The Washington Post and the New York Times?" The truth of the matter is that this legislation goes to the heart of what a free society is about. When agencies of government such as the FBI and IRS can engage in the kind of activity just revealed, it is serious business. That's why we should all give a damn—especially those who are to cast their votes today and tomorrow.

SPEECH BY SENATOR ERVIN

Mr. President, I rise in support of this amendment. It seems to me that we ought not to have artificial weight given to agency action, which the bill in its present form certainly would do.

It has always seemed to me that all judicial questions should be determined de novo by a court when the court is reviewing agency action. One of the things which has been most astounding to me during the time I have served in the Senate is the reluctance of the executive departments and agencies to let the American people know how their Government is operating. I think the American people are entitled to know how those who are entrusted with great governmental power conduct themselves.

Several years ago the Subcommittee on Constitutional Rights, of which I have the privilege of being chairman, conducted quite an extensive investigation of the use of military intelligence to spy on civilians who, in most instances, were merely exercising their rights under the first amendment peaceably to assemble and to petition the Government for redress of grievances. At that time, as chairman of that subcommittee, I was informed by the Secretary of Defense, when the committee asked that one of the commanders of military intelligence appear before the committee to testify that the Department of Defense had the prerogative of selecting the witnesses who were to testify before the subcommittee with respect to the activities of the Department of Defense and the Department of the Army.

On another occasion I was informed by the chief counsel of the Department of Defense that evidence which was quite relevant to the committee's inquiry, and which had been sought by the committee, was evidence which, in his judgment, neither the committee nor the American people were entitled to have or to know anything about.

And so the Freedom of Information Act, the pending bill, is designed to make more secure the right of the American people to know what their Government is doing and to preclude those who seek to keep the American people in ignorance from being able to attain their heart's desire.

I strongly support the amendment offered by the distinguished Senator from Maine, of which I have the privilege of being a cosponsor, because it makes certain that when one is seeking public information, or information which ought to be made public, the matter will be heard by a judge free from any presumptions and free from any artificial barriers which are designed to prevent the withholding of the evidence; and I sincerely hope the Senate will adopt this amendment.

Mr. MUSKIE. Mr. President I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, the question involved here would be whether a court could determine this is a matter which does affect national security. The question is whether the agency is wrong in claiming that it does.

The court ought not to be required to find anything except that the matter affects or does not affect national security. If a judge does not have enough sense to make that kind of decision, he ought not to be a judge. We ought not to leave that decision to be made by the CIA or any other branch of the Government.

The bill provides that a court cannot reverse an agency even though it finds it was wrong in classifying the document as being one affecting national security, unless it further finds that the agency was not only wrong, but also unreasonably wrong.

With all due respect to my friend, the Senator from Nebraska, is it not ridiculous to say that to find out what the truth is, one has to show whether the agency reached the truth in a reasonable manner?

Why not let the judge determine that question, because national security is information that affects national defense and our dealings with foreign countries? That is all it amounts to.

If a judge does not have enough sense to make that kind of judgment and determine the matter, he ought not to be a judge, and he ought not to inquire whether or not the man reached the wrong decision in an unreasonable or reasonable manner.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

Mr. President, will the Senator respond to a question on that subject? He and I have discussed this matter preliminarily to coming on the floor.

If a decision is made by a court, either ordering a document disclosed or orderng it withheld, is that judgment or order on the part of the district court judge appealable to the circuit court?

Mr. ERVIN. I should think so.

Mr. HRUSKA. What would be the ground of appeal?

Mr. ERVIN. The ground ought to be not whether a man has reached a wrong decision reasonably or unreasonably. It ought to be whether he had reached a wrong decision.

Mr. HRUSKA. I did not hear the Senator.

Mr. ERVIN. The question involved ought to be whether an agency reached a correct or incorrect decision when it classified a matter as affecting national security. It ought not to be based on the question whether the agency acted reasonably or unreasonably in reaching the wrong decision. That is the point that the bill provides, in effect. In other words, a court ought to be searching for the truth, not searching for the reason for the question as to whether someone reasonably did not adhere to the truth in classifying the document as affecting national security.

Mr. HRUSKA. The bill presently provides that a judge should not disclose a classified document if he finds a reasonable basis for the classification. What would the Senator from North Carolina say in response to the following question: Should a judge be able to go ahead and order the disclosure of a document even if he finds a reasonable basis for the classification?

Mr. ERVIN. I think he ought to require the document to be disclosed. I do not think that a judge should have to inquire as to whether a man acted reasonably or unreasonably, or whether an agency or department did the wrong thing and acted reasonably or unreasonably.

The question ought to be whether classifying the document as affecting national security was a correct or an incorrect decision. Just because a person acted in a reasonable manner in coming to a wrong conclusion ought not to require that the wrongful conclusion be sustained.

Mr. HRUSKA. Mr. President, I am grateful to the Senator for his confirmation that such a decision would be appealable.

However, on the second part of his answer, I cannot get out of my mind the language of the Supreme Court. This is the particular language that the Court has used: Decisions about foreign policy are decisions "which the judiciary has neither aptitude, facilities, nor responsbility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry." *C. & S. Air Lines* v. *Waterman Corp.*, 333 U.S. 103 (1948).

That is not their field; that is not their policy.

Mr. ERVIN. Pardon me. A court is composed of human beings. Sometimes they reach an unreasonable conclusion, and the question would be on a determination as to whether the conclusion of the agency was reasonable or unreasonable.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. HRUSKA. Mr. President, I yield 3 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, the Freedom of Information Act, H.R. 12471, was vetoed by President Ford on October 17, 1974. I rise in support of the President's veto decision and ask that my colleagues join me in this effort.

My decision to support the President on this veto is based upon several key objections which the President expressed regarding this legislation.

If this bill is allowed to become law, classified documents relating to our national defense and foreign relations would be subjected to an in camera judicial review.

In his veto message, the President stated that he was willing to accept the provision which would enable courts to inspect classified documents and review the justification for their classification.

However, the issue is not whether a judge should be authorized to review in camera classified documents relating to the national defense and foreign relations. Instead, the issue is whether a standard should be established to guide the judge in making a decision as to whether a document is properly classified. In its present form, there are no guidelines for a judge to determine if a document is classified in a proper manner.

Mr. President, a judge should be authorized to disclose a classified document if he discovered that there was no reasonable basis for the classification. It should not be within the power of a judge to reveal a classified document where there is a reasonable basis for the classification.

Another objectionable area of H.R. 12471 deals with the compulsory disclosure of the confidential investigatory files of the Federal Bureau of Investigation and other law enforcement agencies.

Under this bill, Mr. President, these investigatory files would be exempt from disclosure only if the Government could prove that the release would cause harm to certain public or private interests. The President objected to this portion of H.R. 12471, since it would be almost impossible for the Government to establish in every instance that harm would result from a release of information.

Instead, the President suggested that investigatory records of the Federal Bureau of Investigation and other law enforcement agencies should be exempt from the act if there is a "substantial possibility" of harm to any public or private interest.

This is an area in which the rights of privacy and personal security are hanging in the balance, and no measures should be enacted to erode these basic and fundamental rights.

Due to these objections which have been raised, I agree with the President's decision to veto this bill, and I call upon my colleagues in the Senate to vote to sustain this veto.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 4 minutes to the Senator from California.

Mr. CRANSTON. Mr. President, I thank the Senator for yielding and for the great work in committee that has led to this very important legislation which is before us.

I support the Freedom of Information Act amendments because I believe in the freest possible flow of information to the people about what their Government is doing, and why. The people must have access to the truth if they are to govern themselves intelligently and to prevent people in power from abusing the power.

Under the amendments in the vetoed bill, our courts, not our bureaucrats, will have the final say as to what information can legitimately be kept secret without violating the basic right of a democratic people to know what is going on in their Government.

What are some of the objections raised?

First. That a judge is not sufficiently knowledgeable to determine whether a document should be kept secret or not.

I maintain that a judge is at least as competent as some Pfc or some low echelon civilian bureaucrat who classified the document in the first place.

Presently, and this is incredible, presently in tens of thousands of cases, there is often no review by anyone higher of a classification made by a Pfc or a very low echelon bureaucrat, and these classifications remain in effect for a minimum of 10 years.

I also maintain that the Pfc and that bureaucrat will do a better job, and a more honest and thoughtful job, of classifying documents in the future if they know their decision may be reviewed by an independent judiciary.

Second. Some people object to giving so much discretion to a single judge.

There is little reasonable ground for fear.

If the judge ruled against the Government in a particular case and the Government felt strongly that the decision to disclose was unwise, the Government can, of course, appeal. Thus in actual practice, many of the top minds of our country—at the various appellate levels of our courts—would in fact be passing on the decision to disclose.

If we can not trust their wisdom and good judgment, whose can we trust?

Third. Some people say the time limits imposed by the amendments are too brief, that agencies need more time to determine whether a document being sought should be made public.

I say that reasonable speed is of the essence where public information is concerned. Speed of disclosure is the enemy of the coverup. Delay is its ally.

Concern over too much speed is hardly a compelling matter when you consider that under present procedures, for example, it took 13 months—yes, 13 months—before the Tax Reform Research Group was able to get released to the public earlier this week 41 documents showing how the Internal Revenue Service's special services staff investigated dissident groups.

Fourth. Finally, some people fear that increased emphasis on freedom of information, on the people's right to know, may harm the national interest in some instances.

I, myself, believe the national interest demands more emphasis on openness in government and less emphasis on government secrecy.

Nothing is more important in a democratic society—nothing is more vital to the strength of a democratic society—than for a free people to be told by its government what that government is doing. And why.

Of course, we must have proper safeguards to protect our legitimate secrets. Our amendments provide such safeguards.

But we have too many governmental secrets; too many governmental decisions are being made behind closed doors by people with closed minds.

Our amendments provide a sensible, workable solution to the problem of how to protect legitimate secrets in an open society.

Turning to the courts as a disinterested third party to resolve disputes between individuals or between individuals and the government is in keeping with centuries of American tradition.

The courts have served us well. I have full confidence in their continued competence, integrity, and patriotism.

I strongly urge that we vote to override the President's injudicious veto of this legislation.

The PRESIDING OFFICER. The Senator from Nebraska has 13 minutes remaining under his control.

Mr. HRUSKA. Mr. President, at this time I have no further requests for time. There is one other possibility. I would be willing to call for a brief quorum call on equal time, if that is agreeable with the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts has used all of his time on the bill. There are 13 minutes remaining.

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I yield 4 minutes to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the able Senator for yielding.

When H.R. 12471, the Freedom of Information Act amendments, was passed by the Senate on May 16, 1974, I voted against the bill because I was concerned that passage of the bill would severely hamper law enforcement agencies in the gathering of information from confidential sources in the course of a criminal investigation

The Senate-passed version of the bill contained an amendment which would have required disclosure of information from a law enforcement agency unless certain information was specifically exempted by the act. What particularly disturbed me was that while the identity of an informer would be protected, the confidential information which he had given the agency would not have been protected from disclosure. Another matter that disturbed me was the use of the word "informer", since that could be construed to mean that only the identity of a paid "informer" was to be protected and not the identity of an unpaid confidential source. I was deeply concerned that without such protection, law enforcement agencies would be faced with a "drying-up" of their sources of information and their criminal investigative work would be seriously impaired.

The bill in the form now presented to the Senate has been significantly changed by the conference on these critical issues. The language of section 552(b) (7) has been changed from protecting from disclosure the identity of an "informer" to protecting the identity of a "confidential source" to assure that the identity of a person other than a paid informer may be protected. The language has also been broadened substantially to protect from disclosure all of the information furnished by a confidential source to a criminal law enforcement agency if the information was compiled in the course of a criminal investigation. *Thus, not only* is the identity of a confidential source protected but also protected from disclosure is all the information furnished by that source to a law enforcement agency in the course of a criminal investigation.

There are two other substantive changes in the bill now before the Senate as compared with the bill originally passed by the Senate. First, the bill now provides an exemption from disclosure of investigative records which would "endanger the life and physical safety of law enforcement personnel." The bill as originally passed by the Senate contained no such exemption.

Second, the original bill included an *exemption from* disclosure for investigatory records which constituted a "clearly unwarranted invasion of personal privacy." The bill as it is now before the Senate strikes the word "clearly" and exempts from disclosure investigatory records which constitute an "unwarranted invasion of personal privacy." Thus, the agency could withhold investigatory records which would constitute an unwarranted invasion of privacy rather than be forced to show that the material was a "clearly" unwarranted invasion of privacy.

The conference changes from the language of the original bill satisfy my objections to the bill, as they have overcome the substantive objections I had to the bill in its original form, and I shall now support the bill and vote to override the Presidential veto.

I again thank the Senator for yielding.

Mr. BAYH. Mr. President, the American system is built on the principle of the openness of public debate and the accountability of the Government to the people. The greatest danger to both these fundamental principles lies in excessive Government secrecy. As the power and size of the executive branch has grown in recent years, so has its ability to cloak its actions which broadly affect the American people and to conceal those who are responsible for them.

It was 16 years ago that we in the Congress first recognized the dangers of bureaucratic secrecy when we enacted a one sentence amendment to a 1789 "housekeeping" law which gave Federal agencies the authority to regulate their business. It read:

> This section does not authorize withholding information from the public or limiting the availablity of records to the public.

It quickly became clear, however, that this rather broad language was not sufficient. Therefore in 1966, after more than a decade of hearings, investigations, and studies, we enacted much more comprehensive legislation which we termed the "Freedom of Information Act." But the bureaucracy was not to be so easily unveiled. There were many loopholes which legions of bureaucratic lawyers, with some help from the courts, managed to enlarge into gaping and blanket exemptions. For example, take the exemption contained in the 1966 act for "Law Enforcement Activities." This exemption came to be interpreted as including such things as meat inspection reports, reports concerning safety in factories, correspondence between the National Highway Traffic Safety Administration and the automobile manufacturers concerning safety defects, and reports on safety and medical care in nursing homes receiving federal funds.

That is not to say, Mr. President, that the 1966 act did not accomplish some significant breakthroughs. Recently, for example, a Freedom of Information Act suit uncovered the fact that the Nixon White House had instigated Internal Revenue Service investigations of social action groups on the left and in the black community. Included among these "radical" groups was the Urban League. In the same vein, the Justice Department earlier this week released a report on the counterintelligence operations of the FBI. The initial aspects of this police state-type of operation were revealed by a Freedom of Information Act lawsuit. But the loopholes remain.

Congress then responded this year with a bill to provide for some 17 amendments to the 1966 law. Lengthy and full hearings were held in both Houses. All of the competing interests were heard. Once the legislation reached the Senate-House conference committee, of which I was a member, significant concessions were made to the administration's objections. Yet almost inexplicably President Ford heeded the advice of the self-interested bureaucracy, who had likewise opposed the first legislation in 1966, and he vetoed the bill. In doing so, he dealt another crushing blow to his self-professed image of openness and candor in Government.

Let me examine, briefly, the stated reasons for the President's veto. They are basically two. First, that the bill would have unconstitutionally compromised our military or intelligence secrets and diplomatic relations by allowing a U.S. district court to review classified documents. Second, that the bill would have placed unrealistic burdens on agencies by requiring them to respond within a finite period of time to requests for information. To me it is abundantly clear, after carefully examining all of the arguments, that these concerns are completely misplaced and without merit.

The first exemption to the present Freedom of Information Act states that the act does not apply to matters that are "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." That section has been interpreted by the Supreme Court to mean that Congress granted to the Executive, sole discretion to classify documents—*Environmental Protection Agency* v. *Mink*, 410 U.S. 73 (1973). The Court went on to say that because of this statutory construction the courts could not review the decision of an executive branch employee to classify nor could the court even examine the document in camera. However, the court also indicated that there were no constitutional barriers to full court review, and that Congress had the power to change the law if it saw fit to do so. The proposed amendments before us today provide for full court review of classification decisions made pursuant to Executive order. The executive branch still would have the power to make the rules and decision governing classification. This bill merely makes it clear that the courts may determine whether those rules are being followed.

The President wants documents that are claimed to fall within the national security exemption treated differently than documents that are claimed to fall within the other exemptions. He wants a court to ignore whether or not the classification decision was right or wrong and only determine whether the agency official acted reasonably or unreasonably. Under this approach a situation could arise where a judge determines that a document is not properly classified and should be public, but that the Secretary of State acted reasonably in classifying the document and therefore it remains secret. In other words, for a document to be released a judge must find that the Secretary of State acted unreasonably. There is no constitutional basis to support this result, and it is contrary to the spirit of the Freedom of Information Act.

Second, President Ford objects to the finite time limits provided for by the bill and seeks to have them relaxed, especially as they apply to law enforcement agencies. The time limits would allow 10 working days, 2 weeks, for an initial response and 20 working days, 4 weeks, to respond to administrative appeals. In addition an agency can extend the time for up to 10 working days, 2 weeks. This adds up to 2 months time in which an agency has to respond to a request for information. The President calls this "simply unrealistic." Two months is more than adequate. To allow more time would be to allow agencies to continue their current practice of using delay to discourage requests for information. Moreover, the bill permits a court in exceptional circumstances to delay its review of a case until an agency has had sufficient time to review its records. In other words, after the 2 months of administrative deadlines have lapsed and after a complaint has been filed with the court, the court still has the discretion to grant the agency more time if exceptional circumstances warrant. These provisions more than adequately satisfy the President's concern for flexibility.

In short, Mr. President, a close examination of the administration's objections to this bill reveal their insubstantiality. If we have learned anything from the political events of the past 2 years, it should be that openness and accountability in Government are crucial to the preservation of our democracy. Yesterday the other body acted overwhelmingly to reassert this principle by overriding this ill-advised veto. I urge my colleagues to do likewise.

Mr. METCALF. Mr. President, the

leaders of the free and responsible press have joined the drive to make the freedom of information law a more workable tool to dig out Government information, not because it means money in their pockets but because they truly believe in the ideals of a democratic society. They know that democracy can survive only if the public has access to the facts of government. Stories about Government problems do not sell newspapers, do not influence the public to watch television or listen to radios. The public would rather not listen to or read about the bad news which most Government stories report.

Those dedicated newsmen fighting for the people's right to know are not fighting for their own special interest. This fact is emphasized by looking at the organizations and individuals supporting the drive to override President Ford's veto of the amendments which would make the freedom of information law a more effective tool. The representatives of the business side of the news industry—the American Newspaper Publishers Association—do not want us to override President Ford's veto of the freedom of information law amendments. The representatives of the news side of the information business—the American Society of Newspaper Editors—have gone all-out to urge overriding of President Ford's veto. The ASNE is interested in the people's right to know, not the publishers' desire to make a profit.

This point is emphasized in an editorial from the Denver Post. William Hornby, executive editor of the newspaper, also serves as chairman of the freedom of information committee of ASNE. He and other leaders of the information industry have rallied the members of their profession to fight for the right of the people to know, not the right of the press to publish. I urge you to consider carefully the cogent points made in the recent editorial in Bill Hornby's newspaper.

Mr. President, I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Nov. 7, 1974]

CONGRESS MUST OVERRIDE VETO OF INFORMATION ACT CHANGES

When Congress reconvenes after the election recess, it ought to act promptly—and decisively—to override President Ford's veto of essential amendments to the Freedom of Information Act.

The amendments, embodied in the bill H.R. 12471, are designed to improve the seven-year-old FOI law by removing bureaucratic obstacles in the way of freer public access to governmental documents.

Mr. Ford's veto of H.R. 12471 is in direct contradiction of his avowal of an "open administration." Further, his demands for more concessions from Congress on FOI amendments raise additional questions about the credibility of his openness pledge.

Congress has gone more than halfway to meet administration objections to the original FOI changes considered on Capitol Hill.

The House-Senate conference committee bill that emerged was a genuine compromise between congressional representatives and Justice Department experts.

Mr. Ford got four out of the five changes he recommended to the committee. Yet not only did Mr. Ford veto the final bill, but he added a new demand to his original proposals.

In his veto message, President Ford contended for the first time that lengthy investigatory records should not be disclosed on the grounds that law enforcement agencies do not have enough competent officers to study the records. He also restated his earlier demand that Congress should not give the courts as much power as the bill provides to decide on whether documents should be withheld for reasons of national security.

Mr. Ford's veto also prevented other improvements in the FOI law ranging from the setting of reasonable time limits for federal agencies to answer requests for public records to requiring agencies to file annual reports on compliance of the law.

The amendments to strengthen the FOI law represent a true consensus of Congress: H.R. 12471 passed the House with only two dissenting votes and there was no opposition in the Senate.

If Mr. Ford will not follow through on his open administration pledge, then Congress ought to do it for him by overriding his veto.

Mr. MONDALE. Mr. President, over a century ago, one of the greatest leaders our Nation ever produced, Abraham Lincoln, expressed his faith in the American people. Lincoln said:

> I am a firm believer in the people, if given the truth, they can be depended upon to meet any national crisis. The great point is to bring them the real facts.

Eight years ago, the Congress passed and President Lyndon Johnson signed the Freedom of Information Act, which was intended to aid the people in their search for the truth. The act was a recognition of the sad fact that all too often our Government's desire to cover up the truth from public view took precedence over the need to bring this truth to the people. The Freedom of Information Act held out great promise for the Nation's media and for every American citizen to gain the information they needed from the Federal Government, information which is often vital to their livelihood, their welfare, and even their freedoms. The act sought to place into law one more concrete manifestation of our society's respect for the truth and our willingness, if need be, to sacrifice convenience in order to uncover the facts.

Sadly, the years since 1966 have not produced the increase in Government responsiveness which we had hoped would follow enactment of the Freedom of Information Act. Indeed, secrecy has become even more of a hallmark of Government actions in recent years than ever before in our history. And for the first time in 200 years, a President was forced to resign because he refused to give the Nation the facts we deserved about Government wrongdoing at the highest level.

Every day, at lower levels of Government, Federal agencies have regrettably undertaken coverups which have also undermined the confidence of the American people in their Government. While the substantive provisions of the Freedom of Information Act have stood the test of time, the agencies whose job it is to comply with requests for information under the act have demonstrated their ingenuity in using the procedural provisions of the act to frustrate the legislation's intent. Former Attorney General Elliot Richardson, testifying before the Senate Administrative Practice and Procedure Subcommittee, noted that—

> The problem in affording the public more access to official information is not statutory but administrative . . . The real need is not to revise the act extensively but to improve compliance.

The Freedom of Information Act amendments of 1974 are an attempt to improve compliance with the act, which is needed to make it a better vehicle for learning the truth. Under the outstanding leadership of the distinguished Senator from Massachusetts (Mr. KENNEDY), the Congress has made every attempt to fashion legislation which will remove the procedural loopholes through which Federal agencies avoided compliance in the past, while at the same time affording adequate protection for vital governmental interests in sensitive or national security information.

I believe that the Congress has done this job well, and I was, therefore, distressed and disappointed that President Ford saw fit to veto this bill. Only 3 months ago, President Ford came into office on the heels of the most secretive and repressive administration in our history. His pledge was to open up Government and make it more responsive to the people. And yet the President, while espousing the rhetoric of openness has chosen to implement the policy of secrecy through his veto of this legislation. His principal objections—to those sections of the bill dealing with in camera inspection of classified documents and the disclosure of agency investigative files—are, I believe, without justification. In fact, the Congress has made every attempt to overcome any legitimate objections based on national security or law enforcement grounds, and has accepted many modifications in language designed to accomplish these ends. The legislation on which we will shortly be voting is a balanced compromise, which safeguards the legitimate interests of the Government while expanding the ability of citizens to obtain the information they need to maintain a vital and free society.

I am hopeful that the Senate will override this most unfortunate veto, and in so doing will reaffirm our commitment to openness in government. The American people are tired of the politics of secrecy. They are demanding a politics of honesty and openness. And enactment of the Freedom of Information Act amendments of 1974 will be an important step toward restoring the faith of a free people in their Government.

Mr. President, I ask unanimous consent that an excellent editorial from the Minneapolis Tribune, outlining some of the principal issues involved in this vote to override, be inserted in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Minneapolis Tribune, Oct. 21, 1974]

MR. FORD AND THE "RIGHT TO KNOW"

In 1966, when the first Freedom of Information Act was passed, Gerald Ford, then a congressman, voted in favor, along with 306 other House members, despite the opposition of many federal agencies. Passage put Lyndon Johnson on the spot, but he took the heat and signed the bill.

Now President Ford is on a similar spot. Early this month Congress passed a bill to close major loopholes in the 1966 "right-to-know" act and make it a sharper tool for citizens to dig out government secrets. As in 1966, the bill was opposed by virtually all government agencies, but had the support of many House Republicans, including Minnesota Reps. Quie and Franzel (Nelsen and Zwach did not vote). On Thursday, Mr. Ford vetoed the bill as "unconstitutional and unworkable."

The bill's key provision empowers federal courts to go behind a government secrecy stamp and examine contested material *in camera* to see if it has been appropriately classified. The bill exempted nine categories of material ranging from secret national-security information to trade secrets and law-enforcement investigatory records.

Despite the exemptions—and despite the fact that federal judges already have the right to review classified information in criminal cases—Mr. Ford objected. The provision, his veto message said, would mean that courts could make what amounted to "the initial classification decision in sensitive and complex areas where they have no expertise." It could adversely affect intelligence secrets and diplomatic relations. "Confidentiality would not be maintained if many millions of pages of FBI and other investigatory law-enforcement files" were not protected.

The veto has met with strong congressional criticism. Sen. Kennedy, one of the bill's major backers, called it "a distressing new example of the Watergate mentality that still pervades the White House." Rep. Moss, an author of the 1966 act, said there is "no *validity to* the fears expressed by the president . . . He is buying the old line of the intelligence and defense community that all information they have is sacrosanct."

Coming from a president who has promised "open" government, the veto surprised those who had expected him to sign, especially since Congress had already incorporated in the bill modifications he suggested last summer. But, according to reports from Washington, Mr. Ford finally bent to the wishes of the National Security Council, which led the federal agencies' opposition. Mr. Ford says he will submit new proposals next session, but it is unlikely that they will do as much for the public's "right to know" as the vetoed bill.

There is a good chance Congress will override the veto. It has the votes. We hope it uses them.

Mr. HUGH SCOTT. Mr. President, just prior to the recess, President Ford vetoed the Freedom of Information Act amendments. In his veto message, the President cited several objections, including adverse impact on military or intelligence secrets and diplomatic relations, loss of confidentiality in law enforcement matters, and inflexibility with regard to procedures associated with the release of information to the public.

I am sympathetic with the President's objections. I agree with him the "the courts should not be forced to make what amounts to the initial classification decision in sensitive and complex areas where they have no particular expertise." I agree with him that it would be very difficult for the Government to prove to a court that disclosure of detailed law enforcement investigatory files would be harmful. And I agree with him that "additional latitude" must be provided Government agencies during the information release period.

However, in spite of my sympathy with the purpose of the veto, I am convinced that I must vote to override. The bill proposed 17 specific amendments to the Freedom of Information Act; 14 of these pick up the slack that has developed since 1966 to facilitate public access to information. The balance of the bill tilts in a responsible direction, and the good provisions should not be discarded because there are a few bad provisions.

In fairness to the President, and if the bill becomes law over his objections, Congress has an obligation not to lose sight of his objections in the interest of national welfare. Therefore, I have submitted a new bill, which is drafted to reflect the changes proposed by the President. If, after a trial period, the law proves defective as the President insisted that it would, Congress must respond quickly and in a responsible way.

I have been in Congress a long time. I have seen Presidents of both political parties misuse secrecy stamps. On balance, too much information is withheld from public scrutiny, and the trend must be reversed. The President and the Congress have a duty to protect the public from unwarranted secrecy and to protect the Nation from losing its ability to protect itself.

Mr. RIBICOFF. Mr. President, on October 17, President Ford vetoed the Freedom of Information Act Amendments which were overwhelmingly approved in both Houses of Congress. Yesterday, by a vote of 371 to 31, the House of Representatives reaffirmed that mandate.

In his veto message, Mr. Ford's conviction was that the bill is unconstitutional and unworkable.

The President's objections to the bill seem to be three: First, that our military secrets and foreign relations could be endangered. Second, that a person's right to privacy would be threatened by provisions of the bill requiring disclosure of FBI files and investigatory law enforcement files. Third, that the 10-day deadline imposed upon Government agencies to reply to requests for documents and the 20 days afforded for determinations appeal are unrealistic.

A closer examination will show these fears are unfounded. The President contends that the amendments will jeopardize our national security interests. The President said that he objected to forcing the courts to make initial classification decisions "in sensitive and complex areas where they have no particular expertise." The FOIAA does not require the courts to render initial classification decisions. The act allows the courts to inspect in camera classified records and review the classification to determine if the material sought is "in fact properly classified."

The bill empowers the courts to declassify such records if they determine that an agency acted arbitrarily. The bill places faith in the ability of the judiciary to promote both the national interest and the public's right to information, while also encouraging the Federal courts in making de novo determinations to "accord substantial weight to an agency's affidavit concerning the details of the classified status of a disputed record."

Presently, the executive branch alone retains the power to declassify documents. It appears that Mr. Ford regards such in camera inspection of classified documents as a usurpation of his constitutional authority to be final arbiter.

The Supreme Court, however, has suggested in the case of EPA against Mink that Congress has the constitutional power to grant in camera authority to the courts when questions arise concerning the classification of documents. In the Mink case, the Court held that the judiciary lacks the power to review classified documents. However, the majority opinion suggested that Congress could legislate this power to grant such authority to the courts. Mr. Justice Stewart, in a concurring opinion in the Mink case, noted that under the Freedom of Information Act, a court has no power to disclose information "specifically required by Executive order to be kept secret in the interest of national defense of foreign policy." Mr. Stewart continues:

> It is Congress, not the Court, that . . . has ordained unrequestioning deference to the Executive's use of the "secret" stamp . . . Without such disclosure, factual information available to the concerned Executive agencies cannot be considered by the people or evaluated by the Congress. And with the people and their representatives reduced to a state of ignorance, the democratic process is paralyzed.

The House-Senate conferees have clarified the intent of Congress for in camera examination of contested records in FOI cases. The vetoed bill, in fact, answers the present weaknesses of the FOIA, as evidenced in the Mink case, Congress and the courts have voiced the belief that the President's sole power to classify documents is not absolute.

A second objective offered by the President is that FBI files and other law enforcement agency files would be open to inspection on demand. Both the FOIAA and existing statutes provide adequate guidelines to insure that an individual's right to privacy will not be endangered. The FOIAA's exempt from the rule of mandatory disclosure the files of law enforcement and investigatory agencies if their production interferes with enforcement proceedings, deprives a person of his right to a fair trial, constitutes an unwarranted invasion of privacy, endangers law enforcement personnel or discloses the identity of a confidential source. It also safeguards information involving current prosecutions.

The President's third objection is that it sets an unrealistic time limit for an agency to reply to a request for information. The time limit prohibits an agency's use of delaying tactics. Just this week, the Tax Reform Research Group listed 99 organizations which were IRS targets for harassment. This information was obtained under the FOA 13 months after it was first requested. There is no excuse for such unnecessary bureaucratic delays when abuses such as this are occurring in our government.

I believe the President's veto of the Freedom of Information Act Amendments is unfortunate. Unfortunate at a time when confidence in our Government has dramatically declined and the principles of openness and honesty are urgently needed. I will vote to override this veto.

Mr. CLARK. Mr. President, the Senate is about to vote on one of the most important issues we have considered all year: the Freedom of Information Act amendments. This bill corrects some of the deficiencies in the current law to insure that the public and the news media have access to the information the public is entitled to know. For example, it cuts down the length of time a citizen will have to wait for the Government to release a requested document. It also eliminates some of the more questionable restrictions on what information is available to the public. Finally, it rightfully provides for penalties against the people who withhold requested information which should be in the public domain.

As we consider this legislation, I am reminded of a remarkable definition of democracy which I once read. It originated within an agency of the U.S. Government and went as follows:

> Democracy: A government of the masses. Authority derived through mass meeting or any other form of direct expression. Results in mobocracy. Attitude toward property is communistic . . . negating property rights. Attitude toward law is that the will of the majority shall regulate, whether it is based on deliberation or governed by passion, prejudice, and impulse, without restraint or regard to consequences. Result is demagogism, license, agitation, discontent, anarchy.

The definition is from a U.S. Army Training Manual No. 20005-25 in use from 1928-32. The manual was published 38 years before the Freedom of Information Act became law.

But it is interesting to note that the manual was withdrawn almost immediately after a newspaper story on the manual because of the public furor, and it is just this kind of public accountability that is the central purpose of the Freedom of Information Act.

Mr. President, the strength of a democracy is derived directly from the ability of the entire populace to make its own judgments about the Government's policy decisions and the leaders selected to make and implement them. If those judgments are to be sound, it is essential that people have access to the information it takes to evaluate Government performance. Openness, candor, and access to information are not luxuries; they are vital to the democratic process.

Mr. President, the recognition of this essential principal led to the initial passage of the Freedom of Information Act. For too long the Government had been publishing—and acting upon—questionable documents that the Army Training Manual I referred to earlier. For too long, Government has classified and reclassified reams of information, much of it needlessly and succeeded in hiding embarrassing information from the public. For far too long, Government agencies have been impervious to the needs and requests of the people they supposedly are serving, and Congress passed the original Freedom of Information Act in an effort to solve those problems.

Since its passage in 1966, many of these unnecessary barriers to gaining information have been eliminated. The act has played a vital role in protecting some fundamental rights. For example, it was the Freedom of Information Act which recently led to the disclosure of the Internal Revenue Service investigation of political and social groups in the country in direct violation of their constitutional rights. By the same token, the Freedom of Information also has been cited as the primary vehicle for revealing the improper counter-intelligence operations of the FBI. Finally, the act opened the door for every American citizen to a wide range of information that the public is entitled to receive.

The act was not perfect. It did not completely eliminate all of the barriers which had been erected over a period of decades. For example, agencies often were reluctant to provide indexes of relevant information so the public could ascertain what was available, and they were reluctant to establish reasonable procedures to help identify and obtain pertinent records. Many Federal agencies engaged in delaying tactics in response to legitimate requests for information by the public, placing an unfair financial burden on the individuals requesting the information as well as an unnecessary burden on the courts to resolve the dispute. In addition, the Watergate scandal revealed numerous instances of the misuse of the law's various exemptions—such as the national security exemption—and it highlighted the need for an independent review of such exemptions to prevent agencies from making unilateral and arbitrary classification to violate the intent of the law.

With these deficiencies in mind, Congress has attempted to improve the law. On March 14, the House approved the 1974 amendments by a resounding vote of 382 to 8. The Senate followed shortly thereafter and voted overwhelmingly in favor of the new amendments, 64 to 17. Given that congressional mandate, as well as President Ford's repeated assertions of his commitment to openness and candor, many people were stunned by the President's veto of this legislation. While the President's public position is that the new amendments are unconstitutional, it is clear that such a position is untenable in light of the facts, and that he has bowed to the wishes of the bureaucracy at the expense of the public. The constitutional issue is no issue at all. As the eminent law professor, Philip Kurland of the University of Chicago, recently observed in a letter to Senator MUSKIE:

> Although President Ford states that the provision to which he takes exception is unconstitutional, not surprisingly, he refers neither to provision of the Constitution nor to any judicial decision on which such a conclusion could rest. It is not surprising, beause there is neither constitutional provision nor Supreme Court decision to support his position.
>
> My considered opinion is that the issues between the Congress and the President in this regard are really issues of policy and not at all issues of constitutionality. To me, it is clear that the bill does not offend the Constitution in any way.

Mr. President, we needed the Freedom of Information Act back in 1928 when the Army Training Manual was first printed. It became even more imperative as more and more information became harder and harder to get as the bureaucracy grew. Certainly now, after the abuses of the past administration and the misuse of so many agencies at the expense of the public, it has become essential to the very future of democracy that we guarantee every citizen maximum access to information.

I urge my colleagues to follow the action of the House yesterday and override this dangerous veto.

Mr. DOLE. Mr. President, I would like to take this opportunity to express my concern that the President's veto of he Freedom of Information Act should be upheld.

I have consistently supported the intent of the Freedom of Information Act and have worked to achieve passage of the bill. However, amendments were added in the Senate which are objectionable. I voted against the amendment concerning investigatory records when it came before the Senate and had hoped that this amendment would be dropped in the joint Conference Committee. It was not, and because of the serious harm it could cause to the crime fighting agencies in this country, I am compelled to uphold the President's veto.

REASONABLE CHANGES

I have read the President's veto message carefully and feel that his obligations and suggested changes are reasonable. This is why I have cosponsored the substitute Freedom of Information Act introduced by the senior Senator from Pennsylvania (Mr. HUGH SCOTT).

The changes suggested by the President are relatively minor and would not derogate from the benefits provided by the act. I support the substitute bill which contains these amendments.

Considering that crime is rising in this country, it is mportant that we should not jeopardize the ability of the FBI and other crime fighting organizations to control crime. The substitute bill would prevent a derogation of the FBI's ability to combat crime while not restricting the basic improvements in the freedom of information provided under the bill.

Similar questions have been raised about the detrimental impact this measure could have on our national security. Freedom of information is a basic right in this country; however, national defense does clearly require some security precautions. National security remains a vital national requirement in the tense and adversary-oriented environment existing in the world. The changes suggested by the President in this respect would not decrease the basic improvements in freedom of information under this act but would prevent jeopardizing our national defense.

Mr. President, for these reasons, I believe the President's veto should be upheld and that the substitute bill which would include all the basic provisions and improvements in the freedom of information contained in this act should be passed, and I urge the Senate to adopt this substitute measure.

The **PRESIDING OFFICER.** Who yields time?

Mr. **HRUSKA.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. Helms). Without objection, it is so ordered.

Under the previous order, the hour of 2 p.m. having arrived, the Senate will now proceed to vote on overriding the President's veto of H.R. 12471. The question is, Shall the bill pass, the objections of the President of the United States to the contrary not withstanding?

The yeas and nays are required under the Constitution, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **ROBERT C. BYRD.** I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from South Dakota (Mr. McGovern), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from South Dakota (Mr. McGovern) would each vote "yea."

Mr. **GRIFFIN.** I announce that the Senator from Utah (Mr. Bennett) is necessarily absent.

I also announce that the Senator from New York (Mr. Buckley) and the Senator from Maryland (Mr. Mathias) are absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) and the Senator from Maryland (Mr. Mathias) would each vote "yea."

The yeas and nays resulted—yeas 65, nays 27, as follows:

[No. 494 Leg.]

YEAS—65

Abourezk
Allen
Baker
Bayh
Beall
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Domenici
Eagleton
Ervin
Fong
Gravel
Hart
Hartke
Haskell
Hathaway
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
McGee
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams
Young

NAYS—27

Aiken
Bartlett
Bellmon
Cook
Cotton
Curtis
Dole
Dominick
Eastland
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
Long
McClellan
McClure
Nunn
Scott, William L.
Stennis
Taft
Talmadge
Thurmond
Tower

NOT VOTING—8

Bennett
Buckley
Fulbright
Hatfield
Humphrey
Mathias
McGovern
Sparkman

The **PRESIDING OFFICER.** On this vote the yeas are 65 and the nays, 27. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

EXTENSION OF THE REHABILITATION ACT OF 1973—VETO

The Senate continued with the reconsideration of the bill H.R. 14225, an Act to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for 1 year, and for other purposes.

The **PRESIDING OFFICER.** Under the previous order, the Senate will now proceed to vote on overriding the veto of H.R. 14225. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The yeas and nays are required under the Constitution, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. **ROBERT C. BYRD.** I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from South Dakota (Mr. McGovern), the Senator from Alabama (Mr. Sparkman), and the Senator from Missouri (Mr. Symington) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Humphrey) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), and the Senator from Missouri (Mr. Symington) would each vote "yea."

Mr. **GRIFFIN.** I announce that the Senator from Utah (Mr. Bennett) is necessarily absent.

I also announce that the Senator from New York (Mr. Buckley) and the Senator from Maryland (Mr. Mathias) are absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) and the Senator from Maryland (Mr. Mathias) would each vote "yea."

The yeas and nays resulted—yeas 90, nays 1, as follows:

[No. 495 Leg.]

YEAS—90

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—1

Scott, William L.

NOT VOTING—9

Bennett
Buckley
Fulbright
Hatfield
Humphrey
Mathias
McGovern
Sparkman
Symington

The **PRESIDING OFFICER.** On this vote, the yeas are 90, the nays are 1. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

PROTECTION OF THE RIGHT OF PRIVACY

The **PRESIDING OFFICER.** Under the previous order, the Senate will now proceed to consider S. 3418, which the clerk will report.

The Senate will be in order.

The legislative clerk read as follows:

Calendar No. 1127, S. 3418, to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, and so forth, and for other purposes.

The Senate proceeded to consider the bill.

VISIT TO THE SENATE BY MEMBERS OF THE COMMITTEE ON FINANCE OF THE GERMAN BUNDESTAG

Mr. **LONG.** Mr. President, I wish Senators would remain present for a few moments while I address a message in which they are very much interested.

Mr. President, we have in our Chamber today some of the outstanding parliamentarians of the world. I refer to the members present in the Chamber of the Committee on Finance of the Bundestag of the Federal Republic of Germany.

I would like to ask our guests to stand so that Senators may see them.

[Applause.]

I would like to ask that those whom I introduced raise their hands as they are introduced so that the Members might know them First is the chairman of that committee. one of the world's great women, Frau Huber, the chairman of the committee; Mr. Alten-Nordheim, Mr. Bremer, Mr. Schedl, Mr. Schreiber, Dr. Vohrer, Dr. Wagner, Dr. Weber; they are accompanied by Minister Matthias, Minister Noebel, Mr. Winkelmann. Dr. Roesner, and Mr. Kuhnke.

RECESS

Mr. LONG. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes so that Members might meet our friends from West Germany.

There being no objection, the Senate, at 2:32 p.m., recessed until 2:37 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HELMS).

ORDER FOR CONSIDERATION OF H.R. 5463

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the disposition of the bill to establish a Federal Privacy Board, S. 3418, that the Senate proceed to the consideration of H.R. 5463, an act to establish rules of evidence for certain courts and proceedings. I do this at the request of Mr. HRUSKA and it has been agreed to, I believe, by Mr. ERVIN.

Mr. CURTIS. Mr. President, reserving the right to object, what bill was that the Senator was going to take up?

Mr. ROBERT C. BYRD. The second bill would be Calendar No. 1211, H.R. 5463, an act to establish rules of evidence for certain courts and proceedings.

Mr. CURTIS. Very well. I thank the Senator.

Mr. COTTON. Mr. President, will the distinguished assistant leader yield for a question?

Mr. ROBERT C. BYRD. Yes, sir.

Mr. COTTON. I guess I am interrupting or perhaps the Senator was just about to answer what I was going to ask.

Mr. ROBERT C. BYRD. Will the Senator please proceed.

Mr. COTTON. The cargo preference bill, when is that going to be taken up?

Mr. ROBERT C. BYRD. I was talking with the distinguished chairman of the Finance Committee a moment ago, and indications I have were that that would not come up today even though it is a privileged matter.

Mr. COTTON. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, will the Senator obtain the floor and yield to me?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. ERVIN. Mr. President, I yield to the distinguished majority whip.

The PRESIDING OFFICER. The Senate will suspend. The Senate is not in order.

The Senator may proceed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from North Carolina (Mr. ERVIN) not lose his right to the floor by virtue of his yielding to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of three measures that have been cleared on both sides of the aisle. They are Calendar No. 1216, Calendar No. 1223, and Calendar No. 1224.

ASSURING COMPENSATION FOR DAMAGES CAUSED BY NUCLEAR INCIDENTS INVOLVING NUCLEAR REACTORS OF U.S. WARSHIPS

The joint resolution (S.J. Res. 248) assuring compensation for damages caused by nuclear incidents involving the nuclear reactor of a U.S. warship was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

Whereas it is vital to the national security to facilitate the ready acceptability of United States nuclear powered warships into friendly foreign ports and harbors; and

Whereas the advent of nuclear reactors has led to various efforts throughout the world to develop an appropriate legal regime for compensating those who sustain damages in the event there should be an incident involving the operation of nuclear reactors; and

Whereas the United States has been exercising leadership in developing legislative measures designed to assure prompt and equitable compensation in the event a nuclear incident should arise out of the operation of a nuclear reactor by the United States as is evidenced in particular by section 170 of the Atomic Energy Act of 1954, as amended; and

Whereas some form of assurance as to the prompt availability of compensation for damage in the unlikely event of a nuclear incident involving the nuclear reactor of a United States warship would, in conjunction with the unparalleled safety record that has been achieved by United States nuclear powered warships in their operation throughout the world, further the effectiveness of such warships: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the United States that it will pay claims or judgments for bodily injury, death, or damage to or loss of real or personal property proven to have resulted from a nuclear incident involving the nuclear reactor of a United States warship: *Provided,* That the injury, death, damage, or loss was not caused by the act of an armed force engaged in combat or as a result of civil insurrection. The President may authorize, under such terms and conditions as he may direct, the payment of such claims or judgments from any contingency funds available to the Government or may certify such claims or judgments to the Congress for appropriation of the necessary funds.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93–1281), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND

The Joint Committee has received testimony at various times concerning restrictions on entry of U.S. nuclear warships into ports of foreign countries. Concerns over liability in the event of a reactor accident have been offered by some nations, as a reason for restricting access to their ports. Hearings on this matter were held on June 14, 1972, at which time testimony was received from the following individuals:

Admiral Elmo R. Zumwalt, Chief of Naval Operations;

Hon. U. Alexis Johnson, Under Secretary of State for Political Affairs;

Admiral Hyman G. Rickover, Deputy Commander for Nuclear Propulsion, Naval Warships Systems Command, Navy Department; Director, Division of Naval Reactors, AEC; and

Mr. Benjamin Forman, Assistant General Counsel for International Affairs, Department of Defense.

On July 16, 1974, Rep. Craig Hosmer filed a proposed joint resolution (H.J. Res. 1089) which was aimed at removing any question of congressional intent relative to the assumption of liability in the event of a reactor incident in a foreign port. The Joint Committee expressed a desire to receive the views of the Departments of State and of Defense concerning this problem before proceeding on the resolution. By letter dated September 4, 1974, (see Appendix A) the Secretary of Defense expressed his Department's support of the resolution, and suggested minor alterations in language. By letter dated September 17, 1974 (Appendix B) over signature of Ambassador-at-Large McCloskey, the Department of State supplied its comments on the resolution. Finally, on September 26, 1974, in testimony before the Joint Committee in executive session, Secretary of Defense Schlesinger and Dr. Dixy Lee Ray, Chairman, AEC, expressed their support of the resolution and termed it necessary and urgent.

On October 9, 1974, "clean" resolutions, incorporating the DOD recommendations, were introduced in the Senate by Vice-Chairman Pastore as S.J. Res. 248, and in the House of Representatives by Mr. Hosmer, as H.J. Res. 1161. These resolutions were referred to the Joint Committee. On October 10, 1974, the Joint Committee met in executive session and voted unanimously to approve these resolutions and to adopt this report.

NEED FOR RESOLUTION

In the opinion of the committee, this resolution is long overdue. While the Navy has been negotiating foreign port entry of U.S. nuclear powered warships for nearly twenty years, it has done so without the aid of the legal assurance of liability protection it provides for. That this could be done is a tribute to the remarkable safety record of these ships. With 127 naval reactors currently in operation, naval reactors have amassed over 1,200 years of nuclear accident free operation. This unblemished safety record is especially remarkable in light of the fact that the naval nuclear power program is the oldest and largest power reactor program in the world.

From the beginning of the commercial nuclear power program the Congress recognized the need to establish liability provisions for potential reactor accidents as a prerequisite to national acceptance of this new technology. Based on the almost unanimous opinion of legal experts in the technically advanced countries, the principle of strict or absolute liability for commercial reactor accidents was incorporated into the U.S. Atomic Energy Act. This principle was further extended to cover the NS *Savannah,* our first nuclear powered merchant ship, and became part of the guarantee the United States gave each country with whom a bilateral agreement for its port of entry was negotiated. The U.S. has clearly adopted a standard practice for reactor accident liability in every area except nuclear powered warships.

America's nuclear powered submarines and surface warships represent the most versatile and potent element of United States seapower. These ships operate at a higher tempo than any other ships in the fleet. Foreign port access is therefore essential to efficient ship utilization and to provide a place for the members of the crew to rest from their demanding duty. These ships should not be denied access to the ports of our friends and allies over a legal question for which there is a simple solution. Certainly, the Joint Committee never intended to interpose any legal difficulties for the nuclear fleet, which carries such a national security burden on behalf of this country and the free world.

During the past decade, the nations of the world have begun to utilize nuclear-powered generating stations in ever increasing numbers. Following the lead of the United States, these countries have enacted national legislation to stipulate the liability and indemnity arrangements which will assure prompt and adequate compensation for nuclear damage in the event of a nuclear accident involving their various nuclear facilities. Many of the laws extend the liability provisions to include nuclear substances in transit and to nuclear ships, both merchant and warships, in the territorial waters or ports of the country.

The general standard of liability prescribed in the various national legislation or international conventions relative to nuclear accidents is one in which the operator of a nuclear installation is liable for resulting damage without fault or negligence. This standard is generally referred to as absolute liability. Section 170 of the Atomic Energy Act of 1954, as amended, achieves an analogous result by requiring waivers of available defenses. The indemnity provisions of the Act, however, do not extend to U.S. nuclear warships.

As a result of national legislation or International Conventions such as the Paris Convention of Third Party Liability in the Field of Nuclear Energy of July 29, 1960, as amended, many nations have questioned the United States concerning the liability of U.S. nuclear powered warships with respect to a nuclear accident. Some have made a guarantee of absolute liability by the U.S. a prerequisite for nuclear powered warship port visits to their country. Others have accepted nuclear powered warships into their ports in support of free world security interests, but have indicated a strong desire for clarification of this liability aspect. The good faith and ability of the United States to pay claims for nuclear damage is not at issue. Rather, foriegn governments have indicated a desire to satisfy a national legislative requirement or to avoid any possible question over the liability aspects of a nuclear powered warship visit.

The ability of the Executive Branch to provide such a guarantee would greatly facilitate the entry of nuclear powered warships, in support of national policy, to foreign ports throughout the world. However, existing U.S. law does not provide a basis to guarantee to friendly foreign governments that the U.S. will pay valid claims for nuclear damage involving its nuclear powered warships promptly and on a fair and equitable basis, applying the same standard of absolute liability used for other reactor applications. The proposed resolution would accomplish this purpose.

ANALYSIS OF PROPOSED RESOLUTION

The intent of the Resolution is to enable the U.S. to give a straightforward unqualified assurance that any nuclear damages claims involving the reactor of a nuclear powered warship would be handled on an absolute liability basis regardless of whether or not a foreign government had enacted legislation to that effect. The normal exception in the case of damages incurred by acts of war or civil insurrection is included. The operative portion of the Resolution applies to domestic as well as foreign accidents.

The Resolution would authorize the President and, in, turn, the Defense Department, the necessary discretion on subsidiary aspects of settling claims. Specific terms and conditions contemplated include the following:

(*a*) Designation of the Secretary of the Navy as agent for administration, settlement, and payment of claims submitted under this resolution.

(*b*) Provision for a statute of limitations for submission of claims.

(*c*) Provision to prevent a person or his heirs or assignees from recovering damages from a nuclear accident which he intentionally caused.

(*d*) Provision to exclude claims not directly related to nuclear damage. It is intended that claims not resulting from the hazardous properties of nuclear material will be treated or administered in the manner otherwise prescribed or available for such claims. For example, a claim resulting from a collision involving a nuclear powered warship but which did not result in a nuclear accident would be determined by application of a normal liability standard. If, as a result of such collision and resultant damage, suit were brought in Admiralty in a U.S. court, proof of fault on the part of the United States would have to be established and the U.S. Government would be entitled to all exemptions and limitations of liability extended to other ship owners or operators.

(*e*) Provision to insure that technical and security information, disclosure of which is prohibited by U.S. statute or administrative regulation, is not disclosed to or exchanged with unauthorized persons in the course of investigations or proceedings resulting from a nuclear accident.

(*f*) Provision to take into account the variations in arrangements the U.S. has with allies on the mechanics for handling claims arising out of U.S. armed forces activities in peacetime, i.e.

(*1*) authorization to reimburse a foreign country for a pro rata share, including costs, of claims which are processed and settled either administratively or judicially by the foreign country according to its laws and regulations.

(2) alternatively, authorization to process and pay meritorious claims directly to the claimant up to full value of the claim.

(*g*) Authorization to use contingency funds, in an amount not exceeding that budgeted by the Department of Defense for contingency payments for that fiscal year, to pay meritorious claims.

SOURCE OF FUNDS

The Resolution is intended strictly as a claims settlement authority and does not authorize any new funds. Nuclear powered warships have an unparalleled safety record and all possible precautions are taken to reduce any possibility of a nuclear accident. Since the likelihood of such an accident is extremely remote, the committee does not consider that there is a need to encumber funds available to the President and the agencies.

The Resolution would merely sanction the use of available money to pay an agreed settlement and would indicate that the Congress would not reject a request for additional appropriations simply because the case was being disposed of on the basis of absolute liability.

The Resolution would not alter agency authority under existing claims settlement and payment legislation. All such authorities would remain intact. The authority under the resolution would simply supplement that provided by other legislation.

The resolution would *not* preclude the Congress from questioning the amount of a proposed settlement or the merits of the findings on damages or causal connection, if the Congress felt the agencies had not done their job properly.

The Resolution avoids mentioning any particular dollar ceiling on the amount of U.S. liability. It is important to be flexible on this so that domestic needs are not governed by practice in other countries. A specific sum would serve only as a target, and the U.S. Government has stated that it will take care of whatever damage its ships cause. The absence of a figure does not jeopardize the congressional role, since the Executive will necessarily have to obtain congressional action on payment of claims which exceed the contingency funds available to the Defense Department.

COST OF LEGISLATION

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510), the Joint Committee states that this resolution does not authorize the expenditure of any new funds, but merely sanctions the use of contingency funds available within the Department of Defense, with the understanding that separate congressional authorization would be required for payments in excess of such funds.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON PUBLIC WORKS

The resolution (S. Res. 428) authorizing supplemental expenditures by the Committee on Public Works was considered and agreed to, as follows:

Resolved, That S. Res. 261, Ninety-third Congress, agreed to March 1, 1974, is amended as follows:

In section 2, line 7, strike out "$744,900" and insert in lieu thereof "$795,900", and line 8, strike out "$20,000" and insert in lieu thereof "$24,000".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–1289), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 428 would amend Senate Resolution 261, 93d Congress, agreed to March 1, 1974 (the annual expenditure-authorization resolution of the Committee on Public Works), by increasing by $51,000—from $744,900 to $795,900—funds available to the committee for inquiries and investigations. Of the $51,000 increase, $4,000 could be expended for the procurement of consultants, increasing funds available for that purpose from $20,000 to $24,000.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

The resolution (S. Res. 435) authorizing additional expenditures by the Committee on Rules and Administration for routine purposes was considered and agreed to as follows:

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, during the Ninety-third Congress, $30,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in S. Res. 317, Ninety-third Congress, agreed to May 7, 1974.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–1290), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 435 would authorize the Committee on Rules and Administration to expend from the contingent fund of the Senate, during the 93d Congress, $30,000 in addition to the amount, and for the same purposes, specified in said section 134(a). Pursuant to Senate Resolution 317, agreed to May 7, 1974, the Committee on Rules and Administration received an additional $10,000 for such routine purposes. Approval of Senate Resolution 435 would increase to $40,000 the amount which that committee could expend during the 93d Congress in addition to and for the same purposes as its statutory $10,000 per Congress.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the votes by which the three measures were passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the votes by which the three measures were passed.

Mr. GRIFFIN. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table [Putting the question].

The motion was agreed to.

PROTECTION OF THE RIGHT OF PRIVACY

The Senate continued with the consideration of the bill (S. 3418) to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State and local governments, and other organizations regarding such information, and for other purposes.

Mr. HRUSKA. Mr. President, I ask unanimous consent on behalf of the Senator from Arkansas (Mr. McClellan) and of myself for the privilege of the floor during consideration of S. 3418 and voting thereon of Mr. Paul C. Summitt, Dennis C. Thelan, J. C. Argetsinger, and Douglas Marvin.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that during the proceedings this afternoon on S. 3418 my legal assistant, Terry Emerson, be allowed the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. ERVIN. Mr. President, I ask unanimous consent that Robert B. Smith, Jr., Al From, W. P. Goodwin, Jr., David Johnson, Bob Vastine, Mark Bravin, Marilyn Harris, Wright Andrews, Jim Davidson, Gretchen MacNair, Mark Gitenstein, W. Thomas Foxwell, and Elizabeth Preast of the staff of the Committee on Government Operations be allowed the privilege of the floor at all times during the consideration of S. 3418, including all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, S. 3418 was originally introduced by myself with the cosponsorship of the distinguished Senator from Illinois (Mr. Percy), the distinguished Senator from Maine (Mr. Muskie), the distinguished Senator from Connecticut (Mr. Ribicoff), the distinguished Senator from Washington (Mr. Jackson), the distinguished Senator from Arizona (Mr. Goldwater), and the distinguished Senator from Tennessee (Mr. Baker).

Since that time the following Senators have been made cosponsors of the bill: the distinguished Senator from Tennessee (Mr. Brock), the distinguished Senator from Michigan (Mr. Hart), the distinguished Senator from California (Mr. Cranston), the distinguished Senator from Massachusetts (Mr. Kennedy), the distinguished Senator from New York (Mr. Buckley), the distinguished Senator from Minnesota (Mr. Humphrey), and the distinguished Senator from Maryland (Mr. Mathias).

Mr. President, to facilitate the consideration of the bill, I ask unanimous consent that the committee amendment of the Committee on Government Operations in the nature of a substitute be agreed to and that the committee amendment as agreed to be considered original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

The committee amendment in the nature of a substitute is as follows:

Strike all after the enacting clause and insert:

TITLE I—PRIVACY PROTECTION COMMISSION

ESTABLISHMENT OF COMMISSION

Sec. 101. (a) There is established as an independent agency of the executive branch of the Government the Privacy Protection Commission.

(b) (1) The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate, from among members of the public at large who, by reason of their knowledge and expertise in any of the following areas: civil rights and liberties, law, social sciences, and computer technology, business, and State and local government, are well qualified for service on the Commission and who are not otherwise officers or employees of the United States. Not more than three of the members of the Commission shall be adherents of the same political party.

(2) One of the Commissioners shall be appointed Chairman by the President;

(3) A Commissioner appointed as Chairman shall serve as Chairman until the expiration of his term as a Commissioner of the Commission (except that he may continue to serve as Chairman for so long as he remains a Commissioner and his successor as Chairman has not taken office). An individual may be appointed as a Commissioner at the same time he is appointed Chairman.

(c) The Chairman shall preside at all meetings of the Commission and a quorum for the transaction of business shall consist of at least three members present (but the Chairman may designate an Acting Chairman who may preside in the absence of the Chairman). Each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct.

(d) Each Commissioner shall be compensated at the rate provided for under section 5314 of title 5 of the United States Code, relating to level IV of the Executive Schedule.

(e) Commissioners shall serve for terms of three years. No Commissioner may serve more than two terms. Vacancies in the membership of the Commission shall be filled in the same manner in which the original appointment was made.

(f) Vacancies in the membership of the Commission, as long as there are three Commissioners in office, shall not impair the power of the Commission to execute the functions and powers of the Commission.

(g) The members of the Commission shall not engage in any other employment during their tenure as members of the Commission.

PERSONNEL OF THE COMMISSION

Sec. 102. (a) (1) The Commission shall appoint an Executive Director who shall perform such duties as the Commission may determine. Such appointment may be made without regard to the provisions of title 5, United States Code.

(2) The Executive Director shall be compensated at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Commission is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the provisions of this Act.

(c) The Commission may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

FUNCTIONS OF THE COMMISSION

Sec. 103. (a) The Commission shall—

(1) publish annually a United States Directory of Information Systems containing the information specified to provide notice under section 201(c) (3) of this Act for each information system subject to the provisions of this Act and a listing of all statutes which require the collection of such information by a Federal agency;

(2) investigate, determine, and report any violation of any provision of this Act (or any regulation adopted pursuant thereto) to the President, the Attorney General, the Congress, and the General Services Administration where the duties of that agency are involved, and to the Comptroller General when it deems appropriate; and

(3) develop model guidelines for the implementation of this Act and assist Federal agencies in preparing regulations and meeting technical and administrative requirements of this Act.

(b) Upon receipt of any report required of a Federal agency describing (1) any proposed information system or data bank, or (2) any significant expansion of an existing information system or data bank, integration of files, programs for records linkage within or among agencies, or centralization of resources and facilities for data processing, the Commission shall—

(A) review such report to determine (i) the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the confidentiality of information relating to such individuals, and (ii) its effect on the preservation of the constitutional principles of federalism and separation of powers; and

(B) submit findings and make recommendations to the President, Congress, and the General Service Administration concerning the need for legislative authorization and administrative action relative to any such proposed activity in order to meet the purposes and requirements of this Act.

(c) After receipt of any report required under subsection (b), if the Commission determines and reports to the Congress that a proposal to establish or modify a data bank or information system does not comply with the standards established by or pursuant to this Act, the Federal agency submitting such report shall not proceed to establish or modify any such data bank or information system for a period of sixty days from the date of receipt of notice from the Commission that such data bank or system does not comply with such standards.

(d) In addition to its other functions the Commission shall—

(1) to the fullest extent practicable, consult with the heads of appropriate departments, agencies, and instrumentalities of the Federal Government, of State and local governments, and other persons in carrying out the provisions of this Act and in conducting the study required by section 106 of this Act;

(2) perform or cause to be performed such research activities as may be necessary to implement title II of this Act, and to assist Federal agencies in complying with the requirements of such title; and

(3) determine what specific categories of information should be prohibited by statute from collection by Federal agencies on the basis that the collection of such information would violate an individual's right of privacy.

CONFIDENTIALITY OF INFORMATION

SEC. 104. (a) Each department, agency, and instrumentality of the executive branch of the Government, including each independent agency, shall furnish to the Commission, upon request made by the Chairman, such data, reports, and other information as the Commission deems necessary to carry out its functions under this Act.

(b) In carrying out its functions and exercising its powers under this Act, the Commission may accept from any Federal agency or other person any identifiable personal data if such data is necessary to carry out such powers and functions. In any case in which the Commission accepts any such information, it shall provide appropriate safeguards to insure that the confidentiality of such information is maintained and that upon completion of the purpose for which such information is required it is destroyed or returned to the agency or person from which it is obtained, as appropriate.

POWERS OF THE COMMISSION

SEC. 105. (a)(1) The Commission may, in carrying out its functions under this Act, conduct such inspections, sit and act at such times and places, hold such hearings, take such testimony, require by subpena the attendance of such witnesses and the production of such books, records, papers, correspondence, and documents, administer such oaths, have such printing and binding done, and make such expenditures as the Commission deems advisable. Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by the Chairman and shall be served by any person designated by the Chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) In case of disobedience to a subpena issued under paragraph (1) of this subsection, the Commission may invoke the aid of any district court of the United States in requiring compliance with such subpena. Any district court of the United States within the jurisdiction where such person is found or transacts business may, in case of contumacy or refusal to obey a subpena issued by the Commission, issue an order requiring such person to appear and testify, to produce such books, records, papers, correspondence, and documents, and any failure to obey the order of the court shall be punished by the court as a contempt thereof.

(3) Appearances by the Commission under this Act shall be in its own name. The Commission shall be represented by attorneys designated by it.

(4) Section 6001(1) of title 18, United States Code, is amended by inserting immediately after "Securities and Exchange Commission," the following: "the Privacy Protection Commission,".

(b) The Commission may delegate any of its functions to such officers and employees of the Commission as the Commission may designate and may authorize such successive redelegations of such functions as it may deem desirable.

(c) In order to carry out the provisions of this Act, the Commission is authorized—

(1) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel;

(2) to adopt, amend, and repeal interpretative rules for the implementation of the rights, standards, and safeguards provided under this Act;

(3) to enter into contracts or other arrangements or modifications thereof, with any government, any agency or department of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(4) to make advance, progress, and other payments which the Commission deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(5) receive complaints of violations of this Act and regulations adopted pursuant thereto; and

(6) to take such other action as may be necessary to carry out the provisions of this Act.

COMMISSION STUDY OF OTHER GOVERNMENTAL AND PRIVATE ORGANIZATIONS

SEC. 106. (a)(1) The Commission shall make a study of the data banks, automated data processing programs, and information systems of governmental, regional, and private organizations, in order to determine the standards and procedures in force for the protection of personal information, and to determine the extent to which those standards and procedures achieve the purposes of this Act.

(2) The Commission periodically shall report its findings to the President and the Congress and shall complete the study required by this section not later than three years from the date this Act becomes effective.

(3) The Commission shall recommend to the President and the Congress the extent, if any, to which the requirements and principles of this Act should be applied to the information practices of those organizations by legislation, administrative action, or by voluntary adoption of such requirements and principles. In addition, it shall submit such other legislative recommendations as it may determine to be necessary to protect the privacy of individuals while meeting the legitimate needs of government and society for information.

(b)(1) In the course of such study and in its reports, the Commission shall examine and analyze—

(A) interstate transfer of information about individuals which is being undertaken through manual files or by computer or other electronic or telecommunications means;

(B) data banks and information programs and systems the operation of which significantly or substantially affect the enjoyment of the privacy and other personal and property rights of individuals;

(C) the use of social security numbers, license plate numbers, universal identifiers, and other symbols to identify individuals in data banks and to gain access to, integrate, or centralize information systems and files; and

(D) the matching and analysis of statistical data, such as Federal census data, with other sources of personal data, such as automobile registries and telephone directories, in order to reconstruct individual responses to statistical questionnaires for commercial or other purposes, in a way which results in a violation of the implied or explicitly recognized confidentiality of such information.

(2) The Commission shall include in its examination information activities in the following areas: medical, insurance, education, employment and personnel, credit, banking and financial institutions, credit bureaus, the commercial reporting industry, travel, hotel, and entertainment reservations, and electronic check processing. The Commission may study such other information activities necessary to carry out the congressional policy embodied in this Act, except that the Commission shall not investigate information systems maintained by religious organizations.

(3) In conducting the study, the Commission shall—

(A) determine what laws, Executive orders, regulations, directives, and judicial decisions govern the activities under study and the extent to which they are consistent with the rights of privacy, due process of law, and other guarantees in the Constitution;

(B) determine to what extent governmental and private information systems affect Federal-State relations or the principle of separation of powers;

(C) conduct a thorough examination of standards and criteria governing programs, policies and practices relating to the collection, soliciting, processing, use, access, integration, dissemination, and transmission of personal information;

(D) to the maximum extent practicable, collect and utilize findings, reports, and recommendations of major governmental legislative and private bodies, institutions, organizations, and individuals which pertain to the problems under study by the Commission; and

(E) receive and review complaints with respect to any matter under study by the Commission which may be submitted by any person.

REPORTS

SEC. 107. The Commission shall, from time to time, and in an annual report, report to the President and the Congress on its activities in carrying out the provisions of this Act.

TITLE II—STANDARDS AND MANAGEMENT SYSTEMS FOR HANDLING INFORMATION RELATING TO INDIVIDUALS

SAFEGUARD REQUIREMENTS FOR ADMINISTRATIVE, INTELLIGENCE, STATISTICAL-REPORTING, AND RESEARCH PURPOSES

SEC. 201. (a) Each Federal agency shall—

(1) collect, solicit, and maintain only such personal information as is relevant and

necessary to accomplish a statutory purpose of the agency;

(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs; and

(3) inform any individual requested to disclose personal information whether that disclosure is mandatory or voluntary, by what statutory authority it is solicited, what uses the agency will make of it, what penalties and specific consequences for the individual, which are known to the agency, will result from nondisclosure, and what rules of confidentiality will govern the information.

(b) Each Federal agency that maintains an information system or file shall, with respect to each such system or file—

(1) insure that personal information maintained in or disseminated from the system or file is, to the maximum extent possible, accurate, complete, timely, and relevant to the needs of the agency;

(2) refrain from disclosing any such personal information within the agency other than to officers or employees who have a need for such personal information in the performance of their duties for the agency;

(3) maintain a list of all categories of persons authorized to have regular access to personal information in the system or file;

(4) maintain an accurate accounting of the date, nature, and purpose of all other access granted to the system or file, and all other disclosures of personal information made to any person outside the agency, or to another agency, including the name and address of the person or other agency to whom disclosure was made or access was granted, except as provided by section 202(b) of this Act;

(5) establish rules of conduct and notify and instruct each person involved in the design, development, operation, or maintenance of the system or file, or the collection, use, maintenance, or dissemination of information about an individual, of the requirements of this Act, including any rules and procedures adopted pursuant to this Act and the penalties for noncompliance;

(6) establish appropriate administrative, technical and physical safeguards to insure the security of the information system and confidentiality of personal information and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom personal information is maintained; and

(7) establish no program for the purpose of collecting or maintaining information describing how individuals exercise rights guaranteed by the first amendment unless the head of the agency specifically determines that such program is required for the administration of a statute which the agency is charged with administering or implementing.

(c) Any Federal agency that maintains an information system or file shall—

(1) make available for distribution upon the request of any person a statement of the existence and character of each such system or file;

(2) on the date on which this Act becomes effective and annually thereafter, notify the Commission and give public notice of the existence and character of each existing system or file simultaneously, and cause such notice to be published in the Federal Register; and

(3) include in such notices at least the following information:

(A) name and location of the system or file;

(B) nature and purposes of the system or file;

(C) categories of individuals on whom personal information is maintained and categories of personal information generally maintained in the system or file, including the nature of the information and the approximate number of individuals on whom information is maintained;

(D) the confidentiality requirements and the extent to which access controls apply to such information;

(E) categories of sources of such personal information;

(F) the Federal agency's policies and practices regarding implementation of sections 201 and 202 of this Act, information storage, duration of retention of information, and elimination of such information from the system or file;

(G) uses made by the agency of the personal information contained in the system or file;

(H) identity of other agencies and categories of persons to whom disclosures of personal information are made, or to whom access to the system or file may be granted, together with the purposes therefor and the administrative constraints, if any, on such disclosures and access, including any such constraints on redisclosure;

(I) procedures whereby an individual can (i) be informed if the system or file contains personal information pertaining to himself or herself, (ii) gain access to such information, and (iii) contest the accuracy, completeness, timeliness, relevance, and necessity for retention of the personal information; and

(J) name, title, official address, and telephone number of the officer immediately responsible for the system or file.

(d) (1) Each Federal agency that maintains an information system or file shall assure to an individual upon request the following rights:

(A) to be informed of the existence of any personal information pertaining to that individual;

(B) to have full access to and right to inspect the personal information in a form comprehensible to the individual;

(C) to know the names of all recipients of information about such individual including the recipient organization and its relationship to the system or file, and the purpose and date when distributed, unless such information is not required to be maintained pursuant to this Act;

(D) to know the sources of the personal information, or where the confidentiality of such sources is required by statute, the right to know the nature of such sources;

(E) to be accompanied by a person chosen by the individual inspecting the information, except that an agency or other person may require the individual to furnish a written statement authorizing discussion of that individual's file in the person's presence;

(F) to receive such required disclosures and at reasonable standard charges for document duplication, in person or by mail, if upon written request, with proper identification; and

(G) to be completely informed about the uses and disclosures made of any such information contained in any such system or file except those uses and disclosures made pursuant to law or regulation permitting public inspection or copying.

(2) Upon receiving notice that an individual wishes to challenge, correct, or explain any personal information about him in a system or file, such Federal agency shall comply promptly with the following minimum requirements:

(A) investigate and record the current status of the personal information;

(B) correct or eliminate any information that is found to be incomplete, inaccurate, not relevant, not timely or necessary to be retained, or which can no longer be verified;

(C) accept and include in the record of such information, if the investigation does not resolve the dispute, any statement of reasonable length provided by the individual setting forth his position on the disputed information;

(D) in any subsequent dissemination or use of the disputed information, clearly report the challenge and supply any supplemental statement filed by the individual;

(E) at the request of such individual, following any correction or elimination of challenged information, inform past recipients of its elimination or correction; and

(F) upon a failure to resolve a dispute over information in a system or file, at the request of such individual, grant a hearing before an official of the agency, which shall be conducted as follows:

(i) such hearing shall be held within thirty days of the request at which time the individual may appeal with counsel, present evidence, and examine and cross-examine witnesses;

(ii) any record found after such a hearing to be incomplete, inaccurate, not relevant, not timely nor necessary to be retained, or which can no longer be verified, shall within thirty days of the date of such findings be appropriately modified or purged; and

(iii) the action or inaction of any agency on a request to review and challenge personal data in its possession as provided by this section shall be reviewable by the appropriate United States district court.

(e) When a Federal agency provides by a contract, grant, or agreement the specific creation or substantial alteration of an information system or file and the primary purpose of the grant, contract, or agreement is the creation or substantial alteration of such an information system or file, the agency shall, consistent with its authority, cause the requirements of subsections (a), (b), (c), and (d) to be applied to such system or file. In cases when contractors and grantees or parties to an agreement are public agencies of States or the District of Columbia or public agencies of political subdivisions of States, the requirements of subsections (a), (b), (c), and (d) shall be deemed to have been met if the Federal agency determines that the State or the District of Columbia or public agencies of political subdivisions of the State have adopted legislation or regulations which impose similar requirements.

(f) (1) Any Federal agency maintaining or proposing to establish a personal information system or file shall prepare and submit a report to the Commission, the General Services Administration, and to the Congress on proposed data banks and information systems or files, the proposed significant expansion of existing data banks and information systems or files, integration of files, programs for records linkage within or among agencies, or centralization of resources and facilities for data processing, which report shall include—

(A) the effects of such proposals on the rights, benefits, and privileges of the individuals on whom personal information is maintained;

(B) a statement of the software and hardware features which would be required to protect security of the system or file and confidentiality of information;

(C) the steps taken by the agency to acquire such features in their systems, including description of consultations with representatives of the National Bureau of Standards; and

(D) a description of changes in existing interagency or intergovernmental relationships in matters involving the collection, processing, sharing, exchange, and dissemination of personal information.

(2) The Federal agency shall not proceed to implement such proposal for a period of sixty days from date of receipt of notice

from the Commission that the proposal does not comply with the standards established under or pursuant to this Act.

(g) Each Federal agency covered by this Act which maintains an information system or file shall make reasonable efforts to serve advance notice on an individual before any personal information on such individual is made available to any person under compulsory legal process.

(h) No person may condition the granting or withholding of any right, privilege, or benefit, or make as a condition of employment the securing by any individual of any information which such individual may obtain through the exercise of any right secured under the provisions of this section.

DISCLOSURE OF INFORMATION

SEC. 202. (a) No Federal agency shall disseminate personal information unless—

(1) it has made written request to the individual who is the subject of the information and obtained his written consent;

(2) the recipient of the personal information has adopted rules in conformity with this Act for maintaining the security of its *information* system and files and the confidentiality of personal information contained therein; and

(3) the information is to be used only for the purposes set forth by the sender or the recipient pursuant to the requirements for notice under this Act.

(b) Section 201(b)(4) and section 202(a)(1) shall not apply when disclosure would be—

(1) to those officers and employees of that agency who have a need for such information in ordinary course of the performance of their duties;

(2) to the Bureau of the Census for purposes of planning or carrying out a census or survey pursuant to the provisions of title 13, United States Code;

(3) where the agency determines that the recipient of such information has provided advance adequate written assurance that the information will be used solely as a statistical research or reporting record, and is to be transferred in a form that is not individually identifiable; or

(4) pursuant to a showing of compelling circumstances affecting health, safety, or identification of an individual, if upon such disclosure notification is transmitted to the last known address of such individual.

(c) Section 202(a) (1), (2), and (3) and section 201(b)(4) shall not apply when disclosure would be required or permitted pursuant to subchapter II of chapter 5 of title 5 of the United States Code (commonly known as the Freedom of Information Act of 1966).

(d) Section 201(b)(4) and paragraphs (1), (2), and (3) of subsection (a) of this section shall not apply when disclosure would be to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office. Nothing in this Act shall impair access by the Comptroller General, or any of his authorized representatives, to records maintained by an agency, including records of personal information, in the course of performance of such duties.

(e)(1) Nothing in this section shall be construed to limit the efforts of the Government pursuant to the provisions of chapter 35, title 44 of the United States Code(commonly known as the Federal Reports Act) or any other statute, to reduce the burden on citizens of collecting information by means of combining or eliminating unnecessary reports, questionnaires, or requests for information.

(2) Nothing in this section shall be construed to affect restrictions on the exchange of information between agencies as required by chapter 35, title 44 of the United States Code (commonly known as the Federal Reports Act).

(f) Subsection (a)(1) of this section shall not apply when disclosure would be to another agency or to an instrumentality of any governmental jurisdiction for a law enforcement activity if such activity is authorized by statute and if the head of such agency or instrumentality has made a written request to or has an agreement with the agency which maintains the system or file specifying the particular portion of the information desired and the law enforcement activity for which the information is sought.

EXEMPTIONS

SEC. 203. (a) The provisions of section 201 (c)(3)(E), (d), and section 202, shall not apply to any personal information contained in any information system or file if the head of the Federal agency determines, in accordance with the provisions of this section, that the application of the provisions of any of such sections would seriously damage national defense or foreign policy, where the application of any of such provisions would seriously damage or impede the purpose for which the information is maintained.

(b) The provisions of section 201(d) and section 202 shall not apply to law enforcement intelligence information or investigative information if the head of the Federal agency determines, in accordance with the provisions of any of such sections would seriously damage or impede the purpose for which the information is maintained: *Provided*, That investigative information may not be exempted under this section where such information has been maintained for a period longer than is necessary to commence criminal prosecution. Nothing in this Act shall prohibit the disclosure of such investigative information to a party in litigation where required by statute or court rule.

(c)(1) A determination to exempt any such system, file, or information may be made by the head of any such agency in accordance with the requirements of notice, publication, and hearing contained in sections 553 (b), (c), and (e), 556, and 557 of title 5, United States Code. In giving notice of an intent to exempt any such system, file, or information, the head of such agency shall specify the nature and purpose of the system, file, or information to be exempted.

(2) Whenever any Federal agency undertakes to exempt any information system, file, or information from the provisions of this Act, the head of such Federal agency shall promptly notify the Commission of its intent and afford the Commission opportunity to comment.

(3) The exception contained in section 553(d) of title 5, United States Code (allowing less than thirty days' notice), shall not apply in any determination made or any proceeding conducted under this section.

ARCHIVAL RECORDS

SEC. 204. (a) Federal agency records which are accepted by the Administrator of General Services for storage, processing, and servicing in accordance with section 3103 of title 44, United States Code, shall, for the purposes of this section, be considered to be maintained by the agency which deposited the records and shall be subject to the provisions of this Act. The Administrator of General Services shall not disclose such records, or any information therein, except to the agency which maintains the records or pursuant to rules established by that agency.

(b) Federal agency records pertaining to identifiable individuals which were transferred to the National Archives of the United States as records which have sufficient historical or other value to warrant their continued preservation by the United States Government shall for the purposes of this Act, be considered to be maintained by the National Archives and shall not be subject to the provisions of this Act except section 201(b) (5) and (6).

(c) The National Archives shall, on the date on which this Act becomes effective and annually thereafter, notify the Commission and give public notice of the existence and character of the information systems and files which it maintains, and cause such notice to be published in the Federal Register. Such notice shall include at least the information specified under section 201 (c)(3) (G), (I), and (J).

EXCEPTIONS

SEC. 205. (a) No officer or employee of the executive branch of the Government shall rely on any exemption in subchapter II of chapter 5 of title 5 of the United States Code (commonly known as the Freedom of Information Act) to withhold information relating to an individual otherwise accessible to an individual under this Act.

(b) Nothing in this Act shall be construed to permit the withholding of any personal information which is otherwise required to be disclosed by law or any regulation thereunder.

(c) The provisions of section 201(d)(1) of this Act shall not apply to records collected or furnished and used by the Bureau of the Census solely for statistical purposes or as authorized by section 8 of title 13 of the United States Code.

MAILING LISTS

SEC. 206. (a) An individual's name and address may not be sold or rented by a Federal agency unless such action is specifically authorized by law. This provision shall not be construed to require the confidentiality of names and addresses otherwise permitted to be made public.

(b) Upon written request of any individual, any person engaged in interstate commerce who maintains a mailing list shall remove the individual's name and address from such list.

TITLE III—MISCELLANEOUS

DEFINITIONS

SEC. 301. As used in this Act—

(1) the term "Commission" means the Privacy Protection Commission;

(2) the term "personal information" means any information that identifies or describes any characteristic of an individual, including, but not limited to, his education, financial transactions, medical history, criminal or employment record, or that affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual; and the record of his presence, registration, or membership in an organization or activity, or admission to an institution;

(3) the term "individual" means a citizen of the United States or an alien lawfully admitted through permanent residence;

(4) the term "information system" means the total components and operations, whether automated or manual, by which personal information, including name or identifier, is collected, stored, processed, handled, or disseminated by an agency;

(5) the term "file" means a record or series of records containing personal information about individuals which may be maintained within an information system;

(6) the term "data bank" means a file or series of files pertaining to individuals;

(7) the term "Federal agency" means any department, agency, instrumentality, or establishment in the executive branch of the Government of the United States and includes any officer or employee thereof;

(8) the term "investigative information" means information associated with an identifiable individual compiled by—

(A) an agency in the course of conducting a criminal investigation of a specific criminal act where such investigation is pursuant to a statutory function of the agency. Such information may pertain to that criminal act and be derived from reports of informants and investigators, or from any type of surveillance. The term does not include criminal history information nor does it include initial reports filed by a law enforcement agency describing a specific incident, indexed chronologically and expressly required by State or Federal statute to be made public; or

(B) by an agency with regulatory jurisdiction which is not a law enforcement agency in the course of conducting an investigation of specific activity which falls within the agency's regulatory jurisdiction. For the purposes of this paragraph, an "agency with regulatory jurisdiction" is an agency which is empowered to enforce any Federal statute or regulation, the violation of which subjects the violator to criminal or civil penalties;

(9) the term "law enforcement intelligence information" means information associated with an identifiable individual compiled by a law enforcement agency in the course of conducting an investigation of an individual in anticipation that he may commit a specific criminal act, including information derived from reports of informants, investigators, or from any type of surveillance. The term does not include criminal history information nor does it include initial reports filed by a law enforcement agency describing a specific incident, indexed chronologically by incident and expressly required by State or Federal statute to be made public;

(10) the term "criminal history information" means information on an individual consisting of notations of arrests, detentions, indictments, informations, or other formal criminal charges and any disposition arising from those arrests, detentions, indictments, informations, or charges. The term shall not include an original book of entry or police blotter maintained by a law enforcement agency at the place of an original arrest or place of detention, indexed chronologically and required to be made public, nor shall it include court records of public criminal proceedings indexed chronologically; and

(11) the term "law enforcement agency" means an agency whose employees or agents are empowered by State or Federal law to make arrests for violations of State or Federal law.

CRIMINAL PENALTY

SEC. 302. (a) Any officer or employee of any Federal agency who willfully keeps an information system without meeting the notice requirements of this Act set forth in section 201(c) shall be fined not more than $10,000 in each instance or imprisoned not more than five years, or both.

(b) Whoever, being an officer or employee of the Commission, shall disseminate any personal information about any individual obtained in the course of such officer or employee's duties in any manner or for any purpose not specifically authorized by law shall be fined not more than $10,000, or imprisoned not more than five years, or both.

CIVIL REMEDIES

SEC. 303. (a) Any individual who is denied access to information required to be disclosed under the provisions of this Act may bring a civil action in the appropriate district court of the United States for damages or other appropriate relief against the Federal agency which denied access to such information.

(b) The Attorney General of the United States, or any aggrieved person, may bring an action in the appropriate United States district court against any person who has engaged, is engaged, or is about to engage in any acts or practices in violation of the provisions of this Act, to enjoin such acts or practices.

(c) Any person who violates the provisions of this Act, or any rule, regulation, or order issued thereunder, shall be liable to any person aggrieved thereby in an amount equal to the sum of—

(1) any actual damages sustained by an individual;

(2) punitive damages where appropriate; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(d) The United States consents to be sued under this section without limitation on the amount in controversy.

JURISDICTION OF DISTRICT COURTS

SEC. 304. (a) The district courts of the United States have jurisdiction to hear and determine civil actions brought under section 303 of this Act and may examine the information in camera to determine whether such information or any part thereof may be withheld under any of the exemptions in section 203 of this Act. The burden is on the Federal agency to sustain such action.

(b) In any action to obtain judicial review of a decision to exempt any personal information from any provision of this Act, the court may examine such information in camera to determine whether such information or any part thereof is properly classified with respect to national defense, foreign policy or law enforcement intelligence information or investigative information and may be exempted from any provision of this Act. The burden is on the Federal agency to sustain any claim that such information may be so exempted.

EFFECTIVE DATE

SEC. 305. This Act shall become effective one year after the date of enactment except that the provisions of title I of this Act shall become effective on the date of enactment.

AUTHORIZATION OF APPROPRIATIONS

SEC. 306. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. ERVIN. Mr. President, after the committee had reported the bill, the committee staff worked out a number of amendments with the Office of Management and Budget and also other perfecting amendments which I send to the desk at this time and ask they be voted on en bloc.

The PRESIDING OFFICER. The clerk will report the amendments.

The legislative clerk read as follows:

On page 26, line 21 immediately after the period insert the following new sentence: "A subpena shall be issued only upon an affirmative vote of a majority of all members of the Commission.".

On page 31, line 1, strike out "travel, hotel, and entertainment res-" and insert in lieu thereof "cable television and other telecommunications media, travel, hotel, and entertainment res-".

On page 33, line 10, strike out all after "(1)" up to the semicolon on line 13, and insert in lieu thereof the following: "insure that personal information maintained in the system or file is accurate, complete, timely, and relevant to the purpose for which it is collected or maintained by the agency at the time any access is granted to the file, material is added to or taken from the file, or at any time it is used to make a determination affecting the subject of the file."

On page 34, line 22, strike out all that follows through the period on line 24, and insert in lieu thereof the following: "Such information is relevant and necessary to carry out a statutory purpose of the agency."

On age 37, line 15, strike out all through the semicolon on line 17 and insert in lieu thereof the following new subparagraph;

"(D) to know the sources of personal information (i) unless the confidentiality of any source is required by statute, then the right to know the nature of such source; or (ii) unless investigative material used to determine the suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, is compiled by a Federal agency in pursuit of an authorized investigative responsibility, and in the course of compiling such materials, information prejudicial to the subject of the investigation is revealed through a source who furnishes such information to the Government under the express provision that the identity of the source will be held in confidence, and where the disclosure of such information would identify and be prejudicial to the rights of the confidential source, then the right to know the nature of such information and to examine that information if it is found to be material or relevant to an administrative or judicial proceeding by a Federal judge or Federal administrative officer. Provided, that investigative material shall not be made available to promotion boards which are empowered to promote or advance individuals in Federal employment, except when the appointment would be from a noncritical to a critical security position."

On page 38, line 15, after "relevant" strike the comma and insert the following: "to a statutory purpose of the agency,".

On page 39, line 5, strike out all after "(F)" through line 8, and insert in lieu thereof the following. "Not later than sixty days after receipt of notice from an individual making a request concerning personal information, make a determination with respect to such request and notify the individual of the determination and of the individual's right to a hearing before an official of the agency which shall if requested by the individual, be conducted as follows:".

On page 39, line 9, immediately after "hearing" insert "shall be conducted in an expeditious manner to resolve the dispute promptly and".

On page 39, line 10, strike out "at which time" and insert the following:

"and, unless the individual requests a formal hearing, shall be conducted on an informal basis, except that".

On page 39, line 11, strike out "appeal" and insert in lieu thereof "appear".

On page 39, line 22, immediately after "reviewable" insert "de novo".

On page 39, between lines 23 and 24, insert the following: "An agency may, for good cause, extend the time for making a determination under this subparagraph. The individual affected by such an extension shall be given notice of the extension and the reason therefore."

On page 39, line 25, immediately after "agreement" insert "for", and.

On page 40, line 1, immediately before "of" insert ", or the operation by or on behalf of the agency".

On page 40, line 2, strike out "or" the second time it appears and insert in lieu thereof a comma.

On page 40, line 3, immediately after "alteration" insert ", or the operation by or on behalf of the agency".

On page 42, line 19, strike out "or the recipient".

On page 42, line 21, strike out "201(b)(4) and section".

On page 43, line 6, strike out "research or reporting" and insert in lieu thereof "reporting or research".

On page 43, line 10, strike out "safety, or identification" and insert in lieu thereof "or safety".

On page 43, line 13, strike out all through the period on line 17.

On page 43, line 18, strike out "(d)" and insert in lieu thereof "(c)".

On page 44, line 1, strike out "(e)" and insert in lieu thereof "(d)".

On page 44, line 12, strike out "(f)" and insert in lieu thereof "(e)".

On page 45, line 2, strike out the comma and insert in lieu thereof "or".

On page 45, line 10, after the colon insert the following: "Provided that investigatory records shall be exempted only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of a confidential source, and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose confidential investigative techniques and procedures which are not otherwise generally known outside the agency, or (F) endangers the life or physical safety of law enforcement personnel."

On page 47, line 7, strike out "section 201(c)(3) (G), (I), and (J)" and insert in lieu thereof "sections 202(c)(3) (A), (B), (D), (E), (F), (G), (I), and (J)."

On page 47, between lines 23 and 24, insert the following new subsection:

"(d) The provisions of this Act shall not require the disclosure of testing or examination material used solely to determine individual qualifications for appointment or promotion *in the* Federal service if the disclosure of such material would compromise the objectivity or fairness of the testing or examination process.".

On page 48, between lines 8 and 9, insert the following new section:

REGULATIONS

Sec. 207. Each Federal agency subject to the provisions of this Act shall, not later than six months after the date on which this Act becomes effective, promulgate regulations to implement the standards, safeguards, and access requirements of this title and such other regulations as may be necessary to implement the requirements of this Act.

On page 52, line 5, strike out "$10,000" and insert in lieu thereof "$2,000."

On page 52, line 6, strike out "five" and insert in lieu thereof "two".

On page 52, lines 22 and 23, strike out "has engaged, is engaged," and insert in lieu thereof "is engaged."

On page 53, line 1, strike out "Any" and all that follows through "liable" on line 3, and insert in lieu thereof the following: "The United States shall be liable for the actions or omissions of any officer or employee of the Government who violates the provisions of this Act, or any rule, regula*tion, or order* issued thereunder in the same manner and to the same extent as a private individual under like circumstances".

On page 53, line 12, immediately after the period insert the following: "A civil action against the United States under subsection (c) of this section shall be the exclusive remedy for the wrongful action or omission of any officer or employee."

On page 47, between lines 23 and 24, insert the following:

(d) "The provisions of this Act, with the exception of Sections 201(a)(2), 201(b) (2), (3), (4), (5), (6), and (7), 201(c)(2), 201(c) (3) (A), (B), (D), and (F), and 202(a) (2) and (3) shall not apply to foreign intelligence information systems or to systems of personal information involving intelligence sources and methods designed for protection from unauthorized disclosure pursuant to 50 U.S.C.A. 403."

Mr. ERVIN. I might state to the Senate that none of these amendments makes any fundamental alteration in the bill. They merely clarify certain sections and make certain adjustments to satisfy some of the requests made by the Office of Management and Budget.

The amendments were agreed to en bloc.

Mr. ERVIN. Mr. President, I yield to the distinguished Senator from Connecticut with the understanding I do not thereby lose my right to the floor.

Mr. WEICKER. Mr. President, I ask unanimous consent that Mr. Bob Dotchin, Geoffrey Baker, and John Harvey of my staff be permitted the privilege of the floor during debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. ERVIN. Mr. President, I ask unanimous consent to insert in the Record at this point a memorandum which explains in detail the amendments to the bill that the Senate has just adopted.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

AMENDMENTS TO THE FEDERAL PRIVACY ACT

Attached are both technical and substantive Committee amendments to S. 3418 which have been drafted since this legislation was reported August 20 by the Committee on Government Operations. These amendments reflect an effort to improve S. 3418 and in part are based upon suggestions offered by OMB director, Roy Ash in a letter to Senator Ervin dated September 18, 1974.

TECHNICAL AND SUBSTANTIVE COMMITTEE AMENDMENTS

1. Section 105(a)(1) on page 26, line 21. It was intended in the bill as reported by the Government Operations Committee that no subpoena shall be issued by the Federal Privacy Protecton Commission unless it was approved by a majority vote by all members of the Commission. While this point was covered indirectly in another section governing action by the Commission, it was felt necessary to clear up any ambiguity with an amendment which specfically states that requirement.

2. Section 201(b)(1) on page 33, line 10. As reported the bill requires that information maintained in agency systems or files be accurate, complete, timely, and relevant. Under these standards agencies would be required to search through all of their files and clean out any "dirty", inaccurate, or irrelevant material. In order to reduce the cost and administrative burden of such a requirement this amendment proposes to require the "cleaning up" of files at the time any access is granted to a file, material is added to or taken from a file, or at any time the file is used to make a determination affecting the subject of the file.

There may be an Administration amendment which would seek to require the cleaning up of files only at the time a determination is made affecting the subject of the file—a much weaker standard than proposed here.

3. Section 201(b)(7) on page 34, line 22. This section would prohibit agencies from establishing programs to collect or maintain information about how individuals exercise First Amendment rights. An exception is provided if an agency head specifically determines that the program is required for the administration of a statute which the agency is charged with administering. It seemed that a much tighter standard would be that used throughout the rest of the Act which would permit an exception only when "such information is relevant and necessary to carry out a statutory purpose of the agency."

4. Section 201(d)(1)(D) on page 37, line 15. This section requires that agencies disclose the sources of personal information unless the confidentiality of such sources is required by statute. In any other instance, however, agencies would be required under this Act to make available to the subject of the file any comments by third parties and identify those third parties in the record. While this requirement is not without merit the Civil Service Commission and other agencies express concern that confidentiality is necessary in soliciting candid comments during background investigations of persons to determine their suitability for employment for military service, to receive Federal contracts or to gain access to classified materials.

Should it be decided that protection is needed for certain third party comments, the attached amendments include a fairly restrictive draft amendment which would, in a case where disclosure of third party information would identify and be prejudicial to the rights of the confidential source, permit the subject of the file to know only the nature of the information provided. However, if the information were to be found material or relevant to an administrative or judicial proceeding the judge or federal administrative officer could make it available to the subject of the file. A further proviso would require that such investigative material could not be made available to promotion boards unless the appointment under consideration would be from a non-critical to a critical security position.

5. Section 201(d)(2)(F) on page 39, line 5. As the bill was reported, there was no time limit for the agency to respond to an initial request for information about his file. This amendment would set a limit for sixty days after receipt of notice from an individual requesting certain personal information for the agency to make a determination with respect to such request and notify the individual whether the agency will provide the information and of his right to a hearing within the agency.

6. Section 201(d)(2)(F) on page 39, lines 9 and 10. These amendments require the agency to conduct hearings in an expeditious manner and permit the individual to request either a formal or informal hearing before the agency regarding requests to challenge certain information within a file.

7. Section 201(d)(2)(F)(iii) on page 39, line 22. This amendment provides for a Federal district court to review a petition to challenge personal data in a *de novo* proceeding. This is a technical amendment—albeit an important one—since it has always been assumed that appeals would be *de novo* in fact was so discussed in the Committee report. The actual wording was merely left out of the final draft.

8. Section 201(e) on page 40, line 1. It was felt that an amendment was needed to permit agencies to extend the safeguards of this Act to those private or State and local government contractors or grantees, in those limited situations covered by the bill where the contract or grant is for the specific purpose of creating or altering an information system, to the additional case where the contract or grant might specifically be for the operation by or on behalf of the agency. Apparently, Federal agencies do contract with private firms on a regular basis for the use of data processing and information facilities and this coverage is therefore necessary.

9. Section 202(b) on page 42, line 21. Strike out the words "201(b)(4) and Section". Under this general section, an agency would have to obtain the consent of an individual before it could transfer information out of its files about that individual to offices and employees of the agency in the ordinary course of their duties; to the Bureau of the Census to carry out a census or survey under the provisions of its act; where advance written notice has been obtained that the information provided will be used only as a statistical record; or whether it is a compelling circumstance affecting the health or safety of the subject of the file. As reported,

the bill would also excuse the agency in the aforementioned circumstances from recording the persons or agencies to whom the information was distributed. On reflection, it was determined that this would not be a desirable feature and that all disclosures of information outside of the file should be recorded.

10. Section 203(b) on page 45, line 10. In the bill as recorded criminal investigative information would have had to be released after a period necessary to commence criminal prosecution. It was felt that the language of the Hart Amendment, adopted when the Congress passed the recent Amendments to the Freedom of Information Act, was a much more specific and carefully drawn provision for the ultimate release of criminal investigative records and that its language be substituted here since it had already received Justice Department approval.

11. Section 205 on page 47, between lines 23 and 24. The Civil Service Commission has made what appears to be a reasonable request that the Act not permit the disclosure of testing or examination material used solely to determine qualifications of an individual for appointment or promotion in the Federal service. In those instances where the disclosure of that material would compromise the testing of examination process—in other words, where the release of test scores would permit the transfer of that information outside an agency and require the frequent changing of Civil Service Commission exams.

12. Section 207. This would be a new section adding a specific requirement that Federal agencies subject to the provisions of this Act, within six months after the date on which the Act becomes effective—this would be one year and six months after the bill is signed into law—would be required to promulgate regulations to implement the standards, safeguards, and access requirements of the Act.

13. Section 303(c) on page 53, line 1 and On page 52, line 5, strike out "$10,000" and civil liability under the Act runs against an individual employee of a Federal agency who might violate the provisions of the Act or a rule issued thereunder. It has been suggested that this is an unusual provision and that civil liabilities should run only against the agency itself. An individual suing under the Act, however, should be able to recover both actual and general damages and there should be included a provision for liquidated damages of say $1,000 into the assessed against the agency for a violation of the Act.

Mr. ERVIN. Mr. President, I think this bill as amended by the amendments just adopted, as well as by the committee substitute, constitutes landmark legislation.

Mr. President, S. 3418 represents the culmination of many months of work by the Committee on Government Operations to fashion legislation that will guarantee the rights of all Americans with respect to the gathering, use, and disclosure of information about them by the Federal Government. I might also add inferentially that this bill also represents the culmination of many years of work by the Judiciary Subcommittee on Constitutional Rights.

A debt of gratitude is owed to two members of the committee in particular—Senator PERCY of Illinois, the ranking minority member, and Senator MUSKIE of Maine, the chairman of the Subcommittee on Intergovernmental Relations.

Senator PERCY supplied much of the initiative behind the introduction of the bill and much of the manpower behind its development in the committee.

Senator MUSKIE's contributions to the the bill have been invaluable. He and his able staff on the Subcommittee on Intergovernmental Relations have been largely responsible for the reasonable and sensible approach that is embodied in the bill before us today.

Of course, praise must go to all members of the Committee on Government Operations. Without their many valuable contributions, we would have been unable to develop the sensible bill that the committee reported unanimously to the Senate.

Mr. President, S. 3418 establishes a Federal Privacy Commission and provides for safeguards and standards which Federal agencies must follow in the collection, maintenance, and dissemination of information about individual Americans.

The bill applies to the departments and agencies of the Federal executive branch.

In addition, a department or agency may apply its provisions to a personal data bank or a personal information system which is specifically created or substantially altered through a grant, contract, or agreement with that department or agency.

The reforms wrought by S. 3418 have been a long time coming. This is true despite the fact that the principles it implements, of fair, honest, and responsible behavior by Government toward its citizens, are those recognized values of Western jurisprudence and democratic constitutional government. More important, they are the principles upon which our own Constitution rests. Their restatement as legislative guarantees are vital today.

Somehow, the varied and wide-ranging functions which have been thrust very rapidly upon the Federal management machinery of an earlier time, have left great loopholes for the gathering, use and disclosure of information about Americans in ways and for reasons that should give us serious pause. The advent of computer technology and new ways of information storage and sharing which have made it possible for government to provide new services and to carry out new programs, have also encouraged the extension of some practices of doubtful wisdom or constitutionality. These practices have been sanctioned or tolerated by administrations regardless of the party in power. For this reason the concern over the resulting threats to freedom has brought complaints to Congress from Americans in all walks of life.

These complaints have been examined by congressional committees, special Government studies, commissions, boards, and groups. They have been examined by private organizations and professional associations. Throughout our land, the subject of privacy has been debated as it applies for all citizens and as it applies to the needs of special groups.

Mr. President, it is my opinion that there is very little left to debate. I believe S. 3418 contains the minimum recommendations made for protecting privacy and for establishing constitutional rules for Government's use of computer technology for personal data systems.

This bill provides an information bill of rights for the citizen and a code of fair information practice for the departments and agencies of the executive branch. There have been many bills introduced to protect the privacy of certain groups of citizens. S. 3418 is legislation aimed at protecting the privacy of all Americans, whenever the Federal Government collects, keeps, or uses personal information from or about them.

Although many witnesses have said that the disclosures of Watergate highlighted the need for this bill, the committee report makes clear that the bill is based on long-standing complaints of governmental threats to privacy which will haunt Americans in the years ahead unless this legislation is enacted.

According to the report of the Government Operations Committee, the purpose of the bill is to:

> Promote governmental respect for the privacy of citizens by requiring all departments and agencies of the executive branch and their employees to observe certain constitutional rules in the computerization, collection, management, use and disclosure of personal information about individuals.
>
> It is to promote accountability, responsibility, legislative oversight, and open government with respect to the use of computer technology in the personal information systems and data banks of the Federal government and with respect to all of its other manual or mechanized files.
>
> It is designed to prevent the kind of illegal, unwise, over-broad, investigation and record surveillance of law-abiding citizens which has resulted in recent years from actions of some over-zealous investigators, from the curiosity of some government administrators, and from the wrongful disclosure and use of personal files held by Federal agencies.
>
> It is to prevent the secret gathering of information or the creation of secret information systems or data banks on Americans by employees of the departments and agencies of the Executive branch.
>
> It is designed to set in motion a long-overdue evaluation of the needs of the Federal government to acquire and retain personal information on Americans, by requiring stricter review within agencies or criteria for collection and retention of such information.
>
> It is also to promote observance of valued principles of fairness and individual privacy by those who develop, operate and administer other major institutional and organizational data banks of government and society.

The bill accomplishes these purposes in five major ways:

First, title I of the bill establishes an independent Privacy Protection Commission with subpena power and authority to receive and investigate charges of violations of the act and report them to the proper officials; to develop model guidelines and assist agencies in implementing the act; and to alert the President and Congress to proposed Federal information programs and data banks which deviate from the standards and requirements of the act.

The Commission is also directed to make a study of the major data banks and computerized information systems of other governmental agencies and of private organizations and to recommend any changes in the law governing their practices, including the application of all or part of this legislation in order to protect the privacy of the individual.

Second, it requires agencies to give detailed notice of the nature and uses of their personal data banks and information systems and their computer resources. It requires the new Privacy Commission to maintain and publish a directory for the public of Federal data banks and personal information systems, a citizen's guide to personal files; to examine executive branch proposals for new personal data banks and systems, and to report to Congress and the President if they adversely affect privacy and individual rights. It penalizes those who keep secret such a personal information system or data bank.

Third, the bill establishes certain minimum information-gathering standards for all agencies to protect the privacy and due process rights of the individual and to assure that surrender of personal information is made with informed consent or with some guarantees of the uses and confidentiality of the information. To this end, it charges agencies to do the following things:

To collect, solicit, and maintain only personal information that is relevant and and necessary for a statutory purpose of the agency;

To prevent hearsay and inaccuracies by collecting information directly from the person involved as far as practicable;

To inform people requested or required to reveal information about themselves whether their disclosure is mandatory or voluntary, what uses and penalties are involved and what confidentiality guarantees surround the data once Government acquires it; and

To establish no program for collecting or maintaining information on how people exercise first amendment rights without a strict reviewing process based on a statutory duty.

Fourth, title II of the bill establishes certain minimum standards for handling and processing personal information maintained in the data banks and systems of the executive branch; for preserving the security of the computerized or manual system; and for safeguarding the confidentiality of the information. To this end, it requires every department and agency to insure, by whatever steps they deem necessary:

That the information they keep, disclose or circulate about citizens is as accurate, complete, timely and relevant to the agency's needs as possible.

That they refrain from disclosing it within an agency unless necessary for employee duties, or from making it available outside the agency without the consent of the individual and proper guarantees for confidentiality, unless pursuant to open records laws or unless it is for certain law enforcement or other purposes which are cited in the bill.

That they establish rules of conduct with regard to the ethical and legal obligations of all employees and others involved in handling personal data, and take action to instruct all employees of such duties and of the requirements of this act.

That they issue appropriate administrative orders, provide personnel sanctions, and establish appropriate technical and physical safeguards to insure the security of the information systems and the confidentiality of the data.

That they not sell or rent the names and addresses of people whose files they hold.

That a person may, upon request, have his or her name removed from a mailing list maintained by a private organization.

That agencies make an effort to notify a person before surrendering personal data in response to compulsory legal process.

That they take positive steps to assure that the technological features of their automated data systems reflect the needs of Government to prevent unauthorized access and dissemination.

That they report to the Commission and to Congress when they propose centralizing computer resources and facilities involving storage, processing, or use of personal information.

Fifth, to aid in the enforcement of these legislative restraints, the bill provides administrative and judicial machinery for oversight and for civil remedy of violations. To this end, the bill gives the individual the rights, with certain exceptions, to be told upon request whether or not there is Government information on him or her, to have access to it to determine its accuracy and relevance, and to challenge it with a hearing upon request, and with judicial review in the Federal court—section 201(d).

The provisions of title III establish judicial remedies for the enforcement of the act through the courts by individuals and organizations in civil actions challenging denial of access to personal information or through civil suits by the Attorney General or any aggrieved person to enjoin violations of the act.

Mr. President, Senate Report No. 93-1183 contains a section-by-section analysis of the provisions of the bill. I commend this analysis to critics of this proposal.

I believe the committee's careful explanation of the background and purpose of the text of the bill provides a satisfactory response to most questions about the effect of the bill.

In many instances, this language reflects testimony and advice from witnesses, expert consultants, and advisers, as well as consultation with agencies and groups concerned about the possible impact of the legislation.

EXECUTIVE BRANCH VIEWS

The bill has been revised to deal with some legitimate problems raised by some private organizations and by some departments and agencies of the executive branch.

Despite these extensive revisions, some in the Federal Government still see legal ghosts. From the administration's lengthy list of objections to S. 3418, it almost appears that nothing but deletion of the major provisions of the bill will satisfy some people in the executive branch.

Mr. Philip Buchen testified before the committee on behalf of the White House Domestic Council on Privacy. The burden of his testimony was that the problems of privacy and confidentiality are so varied and complex that they are beyond the legislative capacities of Congress to address in a comprehensive bill imposing similar standards on all agencies.

I disagree with those who hold this view. I believe the need has been demonstrated for a rule of law concerning the technology, policies, and practices of Government which affect the freedoms of Americans.

The committee asked the Office of Management and Budget for a report on S. 3418. They replied with a draft of a bill which represented their approach to these "complex" matters, by doing little more than affording the individual the opportunity to challenge inaccurate information used to make a decision about the person.

Mr. President, the committee response to the administration views and to this counterproposal from the Office of Management and Budget is set forth in the committee report on page 16 as follows:

> The Committee is convinced that effective legislation must provide standards for and limitations on the information power of government. Providing a right of access and challenge to records, while important, is not sufficient legislative solution to threats to privacy. Contrary to the views of Administration spokesmen, it is not enough to tell agencies to gather and keep only data which is reliable by their rights for whatever they determine is their intended use, and then to pit the individual against government, armed only with a power to inspect his file, and a right to challenge it in court if he has the resources and the will to do so.
>
> To leave the situation there is to shirk the duty of Congress to protect freedom from the incursions by the arbitrary exercise of the power of government and to provide for the fair and responsible use of that power. For this reason, the Committee deems especially vital the restrictions in section 201 which deal with what data are collected and by what means. For this reason, the establishment of the Privacy Commission is essential as an aid to enforcement and oversight.

Mr. President, a month after this bill was unanimously approved by the Government Operations Committee, we received a second communication concerning S. 3418 from Mr. Roy Ash, Director of the President's Office of Management and Budget. He expressed concern about the wisdom of passing the bill in its present state.

His first objection was to the coverage of the bill to State and local government and the private sector. This coverage has now been deleted.

His second objection was that the creation of an independent agency to implement the act was unnecessary and counterproductive, and would fragment responsibility. He advised us to delete title I of the bill establishing the Privacy Commission, and "thus let the agencies police themselves."

It is, however, the judgment of the committee that such a Commission is necessary to assist in implementing the bill, to police violations, and to assist both Congress and the executive branch in controlling the Federal Government's incursions of the privacy of Americans. Clearly, responsibility could not be more fragmented than has been demonstrated in recent years. The Commission's efforts would coordinate efforts to protect privacy and would develop the kind of systematic reporting and information to allow all branches of Government and all levels of Government to perform the duties assigned them by the constitutions and laws of this country.

The White House also objected to section 201(a)(3) which requires the department or agency to tell the person requested or ordered to disclose information, whether that disclosure is mandatory or voluntary, what penalties or consequences will result from nondisclosure, and what confidentiality rules will govern the response.

Administration spokesmen felt this would have "the adverse effect of encouraging coercive data-gathering practices by emphasizing the penalties of not answering a request."

In my view, this argument is on a par with old-fashioned horsetrading. I believe the committee has answered it at length on pages 48 and 49 of the committee report.

The administration also objected to section 201(b)(1) which established for the first time a standard for all departments and agencies in the quality of their management of personal records. It is a management principle which has been largely ignored in the rapid growth of the Federal Government's size and services. With the intense efforts by the General Services Administration and the Office of Management and Budget to create uniform standards and to extend automation of records in all agencies, there is an immediate need for such a legislative mandate so that administrators make such considerations an essential element of management for all records systems. It is no longer sufficient to wait until one individual file is produced for the purpose of making a decision on one individual. There is something more than efficiency at stake here. The ease of producing computer printouts with information about many people, the technological ease of producing "enemies lists" from great masses of stored information, should give serious pause to those who agree too quickly with the White House argument.

The administration has also objected to section 201(f)(1) requiring reporting of proposed data banks on people and proposed sharing and centralizing of computer facilities. They urge instead, "that agencies be held accountable by a system of public scrutiny, for assuring that privacy concerns are assessed before any personal record-keeping system is implemented." They claim that regulations to this effect are being developed by the Domestic Council Privacy Committee. It is clear that public scrutiny is not sufficient to protect our constitutional liberties in the face of the complex scientific and administrative problems which make it difficult for anyone other than an expert in this field to understand what is going on until it is almost too late.

President Ford himself, as Vice President, explained the dangers to freedom when agencies are left to their own pursuits where computers and data are involved. He has stated about the recent proposal for FEDNET:

> I am concerned that Federal protection of individual privacy is not yet developed to the degree necessary to prevent FEDNET from being used to probe into the lives of individuals. Before building a nuclear reactor, we design the safeguards for its use. We also require environmental impact statements specifying the anticipated effect to the reactor's operation on the environment. Prior to approving a vast computer network affecting personal lives, we need a comparable privacy impact statement. We must also consider the fallout hazards of FEDNET to traditional freedoms.

I think this is too vital an issue to be left to an ad hoc committee of the Domestic Council. It is a matter in which Congress has the duty and the right to establish the procedures for effective oversight and for accountability to the rights of the American people.

Mr. President, the background of this legislation, going back many years, is described in the committee report. It is also set forth in the two volumes of the published hearings conducted by the Government Operations ad hoc Subcommittee on Information Systems and the Judiciary Subcommittee on Constitutional Rights.

I might state that there have never been more complete hearings held on any legislative proposal than have been held by the subcommittees.

The support for this legislation is found in these hearings and in the investigations conducted over many years by the Subcommittee on Constitutional Rights, whose members have diligently and patiently pursued governmental invasions of privacy wherever they arose.

Mr. President, pages 3 through 17 of the committee's report describe the background of this legislation and sets forth some examples of unwarranted invasions of privacy.

I wish to direct attention to a clerical error in the report on page 13 in the section entitled, "First Amendment Programs: The Army."

The first sentence should read:

> Section 201(b)(7) prohibits departments and agencies from undertaking programs for gathering information on how people exercise their First Amendment rights unless certain standards are observed.

Mr. President, S. 3418 as reported by the Committee on Government Operations represents a very sensible approach to the protection of the individual right of privacy with respect to information collected, used, and maintained by the Federal Government. It represents an important first step in the protection of our individual right to be left alone, and I strongly urge all Senators to vote for this important legislation.

Mr. President, I would like to express my appreciation for the outstanding work of the staff of the Committee on Government Operations in perfecting this bill. Robert Bland Smith, Jr., the chief counsel and staff director, and J. Robert Vastine, the minority counsel, exerted formidable leadership over the efforts of the staff. They were extremely instrumental in securing consideration of this bill by the committee.

They were assisted most admirably by Jim Davidson, counsel to the Subcommittee on Intergovernmental Relations; W. P. Goodwin, Jr., counsel to the committee; and W. Thomas Foxwell, the committee's staff editor who had the burden of producing the voluminous printed record of the bill compiled by the committee.

Marcia J. MacNaughton, the committee's chief consultant on this bill—who, incidentally, spent several years on the staff of the Subcommittee on Constitutional Rights—and Mark Bravin, special consultant to the minority, made monumental contributions to the bill. Al From, aide to Senator MUSKIE, was also of great assistance to the committee.

Mr. PERCY. Mr. President, in 1890, Louis Brandeis wrote an historic essay for the Harvard Law Review. In that essay he noted that an advancing communications technology imperiled the individual's right of privacy. Brandeis pointed to the development of the telephone and the snapshot camera as mechanical devices that would seriously and irrevocably alter a person's fundamental right to be let alone. He warned legislators and legal scholars of his time that a "next step" was needed to protect that right. That "next step" is long overdue.

Today, 84 years later, now that we have very sophisticated electronic bugging devices, we have computers, the type of devices Brandeis probably never even conceived of, I hope that we are prepared to take that next step by passing legislation to safeguard privacy.

Communications technology has now achieved a speed and facility that far outstrips anything Brandeis may have dreamed possible. It is increasingly apparent that in the long series of technological breakthroughs that have made the gathering, use and trading of personal data both efficient and economical, privacy safeguards have simply not kept pace. This has resulted in a tremendously increased potential for damaging misuse of personal information, and burgeoning abuses of our privacy.

Today, almost every fact about us is on file somewhere in this country. Federal census surveys record our household, family, and personal lives. The Internal Revenue Service gathers our income tax data. Motor Vehicle Registries keep track of our driving records and automobile ownership. Credit card files reveal how we spend our money and credit reporting companies monitor how we pay our bills. Hospital and physician files register intimate facts about our physical and mental well-being. Police agencies account for our dealings with the law and law enforcement agencies. Schools retain teachers' comments and records of our academic achievement and social adjustment. The list may be virtually endless because new systems of files are constantly being created.

In and of itself, any one of these personal files is not particularly ominous. Most people readily accept the fact that data gathering systems are necessary to our institutions if they are to keep pace with the complex needs of a modern society. Without records there would be chaos. The real problem comes, however, when these information systems are linked with one another and are used to exchange information without the knowledge or consent of the individuals concerned. When personal data collected by one organization for a stated purpose is used and traded by another organization for a completely unrelated purpose, individual rights could be seriously threatened.

I hope that we never see the day when a bureaucrat in Washington or Chicago or Los Angeles can use his organization's computer facilities to assemble a complete dossier of all known information about an individual. But, I fear that is the trend. Many of our Federal agencies have become omniverous fact collectors—gathering, combining, using, and trading information about persons without regard for his or her rights of privacy. Simultaneously, numerous private institutions have also amassed huge files and information retrieval systems containing millions of files of unprotected information on millions of Americans. Our ability as individuals to control access to personal information about us has all but completely faded.

To illustrate our inability to control personal data, consider the term "data banks." This metaphor is really inappropriate. Unlike the usual banks where an individual generally has the sole right to determine the contents of his accounts, the contents of a data bank are seldom deposited exclusively by the individual and they seldom, if ever, can be withdrawn by him. Instead, information is collected from multiple sources by numerous organizations and it is drawn upon by whoever purchases or otherwise acquires access to it.

Unlike our personal bank statement which is checked for inaccuracies at least monthly by us and as often as daily by the institutions who keep our accounts, our data bank accounts are seldom if ever checked for accuracy and completeness.

Thus the individual is not the depositor, not the beneficiary, and not the guardian of personal information stored in a data bank. He is given little or no opportunity to see the information kept on him, and only rarely can he challenge the accuracy of that information. And yet this same information is used by all manner of organizations to make important decisions that may personally affect him. This must be corrected.

Where personal rights, benefits, privileges and opportunities are determined by the contents of an individual's file, he should be given the rights necessary to assure these determinations are based upon accurate up-to-date and relevant information. He should be kept fully aware of the uses to which personal data he is asked to disclose will be used. And this includes knowing what organizations will have access to his file and knowing the purposes for which they will use his data.

We have the opportunity here today to make an important beginning. The bill we are about to debate directs Federal employees to treat personal files with respect. Federal agencies are given a mandate to hold open public hearings to establish rules to protect the confidentiality of personal information they maintain. These open proceedings are an essential means of obtaining the input of trained privacy experts and private citizens, to assure that agency rules are responsible and equitable. Once these rules are determined, all Federal employees involved in the design and operation of systems of records on individuals must be trained to understand and to obey these rules.

When substantial changes or entire new computer systems are proposed by an agency, careful attention must at least be paid to their potential impact on personal privacy. These proposals must be evaluated by the Administration, by Congress and by privacy experts before they are so far along that they cannot be stopped even if they pose a serious and unwarranted threat to our personal privacy. If a proposal does not comply with the privacy standards in this act or with the privacy regulations of the agency involved, it will be set aside for 60 days. This will afford Congress and responsible executive branch officials an opportunity to decide what additional safeguards are needed or whether the project should be halted completely. Our proposed oversight mechanism is designed to force adequate consideration by Federal agencies of the privacy impact of their proposals. President Ford has strongly endorsed this analysis of new systems. It is intended to give high visibility to the trend toward more centralized files and to permit us to make informed decisions about our information practices in this country.

S. 3418 will cause the Federal Government to exercise caution and a new balanced judgment when considering proposals to implement new computer data systems and new techniques for handling personal information. This is essential to the broader purposes of the bill, which must be emphasized. First, the bill establishes legal rights that permit the individual to exercise considerable control over his personal data. These rights are given substance through a carefully drawn set of information management requirements for Federal agencies backed by court review and enforcement. These individual rights and their corresponding agency requirements have been carefully studied by an impressive number of organizations, both in and out of Government. The chief recommendations of the 1973 HEW privacy report, perhaps the most widely cited of all privacy studies, have been embodied in S. 3418.

To understand how our bill provides these rights to every individual, I think we might consider a hypothetical example. Let us suppose, once S. 3418 is put into effect, that an individual hears about an information system called the National Driver Register. He could consult the U.S. Directory of Information Systems, which must be compiled by the Privacy Commission, and learn that this particular data system is maintained by the Department of Transportation. Reading the directory he would learn that this particular information system holds approximately 3,300,000 files on persons whose licenses have been denied, suspended, or revoked in any State. He could see that the main office of the system is located here in Washington and he would find the name, address, and telephone number of the Department of Transportation official directly responsible for the maintenance and activity of the system. He would also find other pertinent facts about these files including why they are kept, what they are used for, and who has access to them.

Let us now suppose that this individual wants to know whether his name is in the National Driver Register or in other files kept by the Department of Transportation. Following procedures explained in the information systems directory, he could write to the Secretary of Transportation or the appropriate official in that Department and ask what files exist on him. Their reply must include a complete list of all files about him. Then, if he wishes, he may request to see his file. He may be required to pay for the production of copies if he wants them, but the fee can be no greater than the actual cost of reproduction.

Suppose that the DOT file indicates a conviction for a drunken driving offense for which he was actually acquitted. In this case, the individual can ask the Department of Transportation to investigate the facts and make necessary corrections. If he gets no satisfaction from the Department within a reasonable period of time, he can demand an informal or formal hearing before the Agency. If even the hearing fails to resolve the dispute to his satisfaction, the individual may appeal his case to a district court of the United States. If the court decides in his favor, it may direct the Department to take appropriate corrective action and it may award damages to him, including reasonable attorney's fees.

Mr. President, these are the steps that our bill entitles a person to take to correct inaccurate or incomplete data kept about him by a Federal agency. This illustration demonstrates that the bill requires the Federal Government to be responsive to the rights of privacy and confidentiality. We cannot and do not allow an individual to be caught up in an endless struggle with the Federal bureaucracy to enforce these rights. This is the first and most important contribution of S. 3418.

Another major purpose of S. 3418 is to establish a nonregulatory Commission. The Commission will perform two crucial roles, both as an adviser to Federal agencies who must implement this legislation, and as an adviser to Congress, recommending legislative solutions to the chief privacy problems of the private sector.

I believe that the Commission is a necessary part of this legislation, even though there has been strong controversy about its advisability. Our Federal agencies have expanded their information-gathering and surveillance activities to such an extent that they pose serious threats to our basic privacy rights. Until the agencies develop and adopt adequate rules and procedures, effective oversight can and must be performed by experts who understand the technology and yet who are sensitive to the basic question of how to safeguard privacy. This is a central reason for establishing the Commission. Equally important, I believe, is the need to develop effective solutions to privacy problems outside the realm of the Federal Government. This effort requires a concentration of talent and attention in a single unit. It also requires a clear mandate and adequate power to seek access to files, plans, and computer facilities. We have granted the Commission a limited authority to conduct studies and make recommendations to Congress and to the President. If this authority is exercised fully and properly, major questions of policy will be resolved by the Commission years before Congress could act through the committee hearing process.

An example of this need for the Commission to make informed policy decisions involves what I believe to be one of the most important symbols of the trend toward centralized records. I am speaking of the growing abuse of the social security number, for purposes completely unrelated to the social security system. The senior Senator from Arizona Mr. GOLDWATER, and I have introduced an amendment to S. 3418 to curb the expanding use of the social security number as a universal identifier, a single number that identifies each of us uniquely for all purposes. We are joined by the distinguished senior Senator from Washington, Mr. MAGNUSON. Our amendment will make it unlawful for any governmental body at the Federal, State, or local level to deny any person a right, benefit, or privilege simply because that individual does not want to disclose his social security number. The amendment also prohibits discrimination against a person in any business or commercial dealing because he chooses not to disclose his number. What we propose is to phase in restrictions so that any new use of the social security number initiated after January 1, 1975, will be subject to this amendment. Existing uses of the number will be allowed to continue pending the recommendations resulting from the formal study of the issue required of the Privacy Commission. But we must hold the problem to a constant size to permit this study to be complete and balanced.

Mr. President, the connection between the social security number and privacy is not at all obscure. Our number is used much as our name to identify us and to index our personal data. A striking example is contained in a report issued last year by the Federal Trade Commission. This report contains a formal Commission interpretation on the sale of lists of individual credit ratings in what are called credit guides. These published credit guides, according to the FTC, demonstrate a lack of "respect for the consumer's right to privacy" and therefore constitute a violation of the Fair Credit Reporting Act.

The FTC opinion goes on to say that although publication of an individual's name together with his credit rating is an unacceptable invasion of privacy, it is perfectly permissible to publish the credit information together with individual social security numbers. I cannot understand how it is less of an invasion of privacy to use the social security number in this situation, especially when the number is so widely accessible.

Other examples exist in which an individual is actually deprived of the right to vote in a State or Federal election or to register for a driver's license if he refuses to disclose his social security number. There is the case of a telephone company in the Rocky Mountain area that has charged its customers a higher phone rate for failure to supply that number. Many of these coercive efforts to force an individual to supply this personal information have no basis in law. They certainly fly in the face of recommendations of the Social Security Administration and HEW and they defy my understanding of what is reasonable. Senator GOLDWATER and I have thus included a provision in our amendment that requires any government or private organization that requests an individual to disclose his social security number to inform that individual whether that disclosure is mandatory, or voluntary, by what statutory or other authority the number is solicited, what uses will be made of it, and what rules of confidentiality will govern it.

This provision is identical to a parallel provision in S. 3418. It is designed to promote openness by removing the element of intimidation from requests for personal data. It is intended to give back to each of us the freedom to choose the recipients and the circumstances in which our personal information is disclosed.

Mr. President, this bill is directly responsive to the publicly stated priorities of President Ford. Last March, the President promised delegates to the National Governors' Conference that action was soon to come. In June, he called for congressional action this year to pass a privacy bill. And on August 12 before a joint session of Congress, President Ford said:

> There will be hot pursuit of tough laws to prevent illegal invasions of privacy in both government and private activities.

Mr. President, the bill we have before us today is tough, yet reasonable. It is the product of years of research, both in and out of Government, and it is the product of several thousand man-hours of drafting effort by our staff, by the administration, and by a wide variety of private organizations. This bill is certainly not the final word on privacy. There will be additional laws needed to solve particular problems in such areas as medical files, records of scientific and statistical research, and credit files. But this bill is a historic beginning, a beginning which we owe in very great part to the distinguished Senator from North Carolina, Senator ERVIN, who has devoted so much of a remarkable career to protecting personal freedoms.

In closing I would particularly like to commend the initiative of Robert Smith, chief counsel of the committee, and Robert Vastine, chief counsel to the minority, in expediting consideration of this bill. It was introduced as late as May 1 this year, and hearings were held on June 18. We have moved with deliberate speed to produce a carefully drafted bill. A great deal of the credit for this solid workmanship goes to Mark Bravin, of the minority staff, and James Davidson, of the majority staff, who made an especially important contribution to this effort. Marcia McNaughton and Marilyn Harris, both of the majority staff, each played an important role in preparation of this bill for our consideration today.

I might say also it is one other capstone that Senator ERVIN places on a very distinguished career of service to the American people.

Mr. ERVIN. I commend the Senator from Illinois on the fine work that he did in this field. No Senator has been more interested in this subject or has devoted more hard work and study for this in the Senate bill and it merits the thanks of the American people for his services in respect to this.

Mr. President, as chairman of the Subcommittee on Constitutional Rights of the Committee on the Judiciary, as well as the chairman of the Committee on Government Operations, I have studied this problem of privacy for many years, have conducted many hearings on the subject, have had the benefit of wise counsel of many experts in this field, and have read in large part the voluminous literature which has grown up around the question of privacy.

I think that this bill, in its present form, is about as fine a piece of legislation as can be drawn on this subject until we have the Privacy Board's experience to assist us in further refining the law.

I yield to the distinguished Senator from Nebraska.

Mr. CURTIS. I thank the distinguished Senator.

Mr. President, I wish to commend my distinguished friend for the thoroughness with which he has gone into this subject. It is a matter that merits the attention of the Congress. I wish to ask a question or two concerning the Bureau of the Census.

The junior Senator from Nebraska receives many complaints about the conduct of the Bureau of the Census. They sent out questionnaires consisting of many, many pages. Apparently, it is a selected list; it is not part of the 10-year enumeration. It asks for all sorts of information. Our citizens have two complaints against it. One is that it invades privacy. It asks all kinds of questions about their manner of living.

The second complaint is that it takes hours and hours to fill out the questionnaires, and there is a penalty imposed, a rather stiff penalty, if it is not filled out and returned.

Does this proposal repeal any of those laws that permit that?

Mr. ERVIN. Yes; I am glad that the Senator from Nebraska has called the attention of this Senator to this problem. I might state that, as he, I have received letters over the years.

In addition to that, I introduced a bill at one time to require the Bureau of the Census, when they send out a questionnaire, to advise the person to whom it is sent whether it is mandatory for him to answer it or not. I was unable to get that bill passed.

There is a provision of law that if one fails to give the Bureau of the Census information which they are required by law to collect, he is guilty of a criminal offense and can be sent to jail for a relatively short period of time. As the Senator from Nebraska has indicated, the Bureau of the Census, on far too many occasions, sends out questionnaires about things that it is not required to investigate by law, and they fail to tell the people that they are not required to answer them.

I have had small businessmen in North Carolina inform me that they have been compelled on occasion to pay out substantial sums of money and devote many man-hours to answering these questionnaires, when, as a matter of fact, under the law, the Bureau of the Census has no right to compel them to answer. This bill deals with the subject by saying that no agency of the Government is allowed to solicit information from the American people unless the securing of such information is reasonable and necessary to enable an agency to perform some function that the law imposes upon it.

It further provides that when an agency, such as the Bureau of the Census, sends out a questionnaire, it must inform the people to whom the questionnaire is directed whether or not it is a mandatory or a voluntary questionnaire, and whether or not they are obliged by law to answer it. That will take care of the situation in large measure that the Senator is concerned about. I share his concern.

Mr. CURTIS. On every inquiry I have ever made, they come back and say that it is mandatory and threaten the people with punishment for not filling it out. It has nothing to do with the 10-year census. It is a total invasion of people's privacy.

Furthermore, it costs a lot of time and money to comply.

Mr. ERVIN. The Bureau of the Census, a few years ago, sent out a questionnaire to selected lawyers throughout the United States, just because some official of the American Bar Association suggested that it would be desirable for the American Bar Association to have the information. They wanted to know how much of a lawyer's practice was civil, how much was criminal, how much was counseling, and they wanted to know what he paid the secretaries, and things like that. They had no power to send out that questionnaire. This bill will put an end to that kind of questionnaire, because they have to tell the people whether they are required to answer it and under what law.

Mr. CURTIS. If the Senator will yield further, I shall submit another example. Fortunately, in this case, the Government bureau retreated and discontinued the practice.

The Committee on Finance has had the matter before it many times concerning the qualifications of individuals who assist citizens in making out their tax returns. The problem is very narrow. It consists of a not-too-large number of fly-by-night operators that advertise that they will save so much money on one's taxes. That is what the Committee on Finance had in mind when they talked about it.

It ended up in practice that the Internal Revenue Service moved into a small community in the State of Nebraska. This town has less than 1,500 people. It has a very distinguished lawyer there. They came into his office and asked to see his files concerning every income tax he had made out. Then the Government proceeded to contact every one of his clients.

Nebraska is a very law-abiding State. People have respect for their Government. All they had to do to ruin this fine citizen was to state that the Government of the United States was investigating his practice, interviewing every one of his clients. He was an upright, law-abiding citizen of excellent reputation.

He secured a lawyer. I was advised of the matter. It was taken up with the Internal Revenue Service, and they discontinued it entirely. But we are not always that lucky. I have never gotten the Bureau of the Census to discontinue anything.

I wish there were something a little more specific here that really clips their wings and provides that when they send these scattered qustionnairs out that go to just a few people, there absolutely could not be any penalty whatever.

Mr. ERVIN. There cannot. Under the law, there can be no penalty placed on any person for failing to respond to a questionnaire unless that questionnaire calls for information that the Bureau of the Census is required by law to collect.

Mr. CURTIS. They can always slip in one sentence of that. They come back to my citizens every time and say, "This is required by law and you are subject to a penalty."

Mr. ERVIN. If the Senator will pardon me, the Senator from Maine has an amendment and he has to leave at 4 o'clock. If the Senator from Nebraska will yield now, we shall let him introduce his amendment and then we shall return to the colloquy, because I am very much interested in this subject.

Mr. CURTIS. I thank the distinguished Senator.

Mr. MUSKIE. Mr. President, I thank the distinguished floor manager of the bill (Mr. ERVIN).

I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 16, strike out "and".

On page 25, line 21, strike out the period and insert in lieu thereof a semicolon and "and".

On page 25, between lines 21 and 22, insert the following new paragraph:

"(4) prepare model legislation for use by State and local governments in establishing procedures for handling, maintaining, and disseminating personal information at the State and local level and provide such technical assistance to State and local governments as they may require in the preparation and implementation of such legislation."

Mr. MUSKIE. Mr. President, as a cosponsor of S. 3418 and one who has followed the progress of Federal privacy legislation with great interest for several years, I wish to express my support for this most important bill which is before the Senate today.

Many observers have characterized the 93d Congress as the "Privacy Congress." That appellation has been earned in large part by the effort and dedication of the foremost leader on this issue of individual rights—the distinguished Senator from North Carolina (Senator ERVIN).

His concern, his persistence and his great knowledge built on years of judicial and legislative experience in this field, have brought us to the consideration of what could become a hallmark of his career—the Federal Privacy Act of 1974.

The privacy of our citizens has been a fundamental concern since the founding of our Republic. Two hundred years ago, William Pitt expressed this with regard to the rights of citizens in the colonies still under English rule:

> The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storms may enter—but the King of England cannot enter; all his forces dare not cross the threshold of the ruined tenement.

While the concern for the rights of American citizens to be secure from government invasion has run from the adoption of the Bill of Rights to present day times, it has not found widespread recognition in the courts outside of the area of criminal law. In applying the provisions of the fourth amendment to the Constitution to this issue, Mr. Justice Frankfurter observed in *Wolf* v. *Colorado* (338 U.S. 25, 27–28 1949):

> The security of one's privacy against arbitrary intrusion by the police—which is at the core of the Fourth Amendment—is basic to a free society ... The knock at the door, whether by day or by night, as a prelude to a search, without authority of law but solely on the authority of the police, did not need the commentary of recent history to be condemned as inconsistent with the conception of human rights enshrined in the history and the basic constitutional documents of English-speaking peoples.

In a famous dissenting opinion in *Olmstead* v. *United States* (277 U.S. 438, 478 1938), Mr. Justice Brandeis characterized the "right to be let alone" by the Government as "the most comprehensive of rights and the right most valued by civilized men."

In his book, "The Assault on Privacy," Prof. Arthur Miller observed that while the fourth amendment was probably conceived to protect tangible objects, it has since been extended in *Katz.* v. *United States* (389 U.S. 347, 353 1967) to restrict the Government's right to seize personal information.

While the courts have begun to recognize the capacity of Government to invade individual privacy by the gathering or misuse of information, it is the responsibility of the Congress to develop specific legislative guidelines in this area.

The Federal Privacy Act draws upon the constitutional and judicial recognition accorded to the right of privacy and translates it into a system of procedural and substantive safeguards against obtrusive Government information gathering practices.

Up until now we have allowed technological advances in Federal recordkeeping to outpace our efforts to control and safeguard the use of the information we have collected. This act would balance those advances with specific safeguards and add a new dimension of rights to the citizen. In effect it would bring the law in line with a concept endorsed by then Secretary of Health, Education and Welfare, Elliot Richardson, that "Government is not the owner of information on individuals, but only the trustee."

Almost a year ago, the Subcommittee on Intergovernmental Relations, of which I am chairman, released a survey of individual attitudes toward their Government prepared by Louis Harris and Associates. That survey, revealed that the American people's loss of confidence in their Government had reached severe proportions. Forty-five percent of the public described themselves as alienated and disenchanted, feeling profoundly impotent to influence the actions of their leaders. The relationship between this feeling and the Government's invasion of individual privacy is underscored by a report by the Committee on Security and Privacy, of the Project Search task force authorized by the Department of Justice to examine the handling of criminal records. Calling for citizen right of access and challenge to certain law enforcement records, the search report stated:

> An important case of fear and distrust of computerized data systems has been the feelings of powerlessness they provoke in many citizens. The computer has come to symbolize the unresponsiveness and insensitivity of modern life. Whatever may be thought of these reactions, it is at least clear that genuine rights of access and challenge would do much to disarm this hostility.

S. 3418 is addressed to that very point. Under title II of this bill we have inserted the individual citizen into an active role regarding the collection, use and dissemination of his personal data by Federal agencies.

If an agency asks a citizen for information he would have the right to know if he is required to divulge it and to know what use the agency will make of it.

He would be entitled to know what information systems or files a Federal agency operates and whether those systems or files contain information about him.

He would be entitled to see what is in those files and if necessary to challenge the accuracy, the completeness, the timeliness and the relevancy to the needs of the agency of their contents.

He would be entitled to know who has seen information about him, and if the agency makes changes at his request, to inform past recipients of that data about those changes.

Finally, each citizen would be entitled to enforce this right of access and challenge in a Federal district court and to seek an award of damages for injuries resulting from the misuse of personal information.

These are fundamental rights to be included in any privacy legislation, and they should help begin to restore public faith in our Government's information practices.

The remarks which follow relate specifically to my amendments.

In considering this legislation it was understood that privacy considerations do not stop at the Federal Government. Our concern for the handling of information about individuals extends beyond Federal agencies to State and local government and to the private sector.

State government witnesses at the Government Operations Committee hearings in S. 3418 indicated the need to incorporate privacy safeguards in their information systems. Andre Atkinson, representing State and local government information system managers said:

> Effective solutions will come only from administrative and statutory regulations which can interact in concert at all levels of government—Federal, State and local.

While there have been extensive studies of information gathering systems operated by the Federal Government and the need for safeguards and regulation of those systems, the record still is incomplete about the information practices of State and local governments.

We have asked the Privacy Protection Commission established by this bill to examine those systems and recommend what legislation might be necessary in that area.

In the interim we can help those States and local governments which are attempting to deal with this issue now. I am offering an amendment to S. 3418 along with the distinguished Senator from Illinois, which would authorize the Commission to draft model privacy legislation for State and local governments and to make available to State and local officials the technical services of the Commission to aid in the preparation of privacy legislation to meet their needs.

I recognize that the establishment of the Privacy Commission has been the focus of some objection by the administration.

The need for an independent authority to examine Federal, State, and local and private information practices has received substantial support from the many witnesses who have testified in behalf of this bill.

It is not only essential to help the Congress and the executive branch to examine Federal practices, it can help bridge the gap between the standards we are setting for the Federal agencies and those we want to see adopted by other information systems outside the Government.

The assistance to State and local governments which would be provided by our amendment is but one example.

Mr. President, this is an important piece of legislation. I hope that this Congress will meet its responsibility and earn the label which it has already received as the Privacy Congress by passing S. 3418.

This, I think, Mr. President, is a very modest response to considerable pressures to expand this legislation to cover State and local governments as well as the private sector. It is for that reason that I submit the amendment to the Senate and urge its adoption.

I have discussed this proposal with Senator Ervin and with Senator Percy, who is a cosponsor of the amendment, and I believe they are in a position to accept it.

Mr. PERCY. Mr. President, as a cosponsor of the amendment, I would simply like to indicate that, as a result of my work as a member of the Intergovernmental Commission, I believe certainly it is in the best interests of State and local governments to have the benefits now of all the magnificent work done by Senator Ervin through the years in preparing a piece of legislation at the Federal level. Certain of the States are moving in this direction now, but we ought to provide this as a service to all the States, and I am pleased to support the amendment as a cosponsor.

Mr. ERVIN. Mr. President, I think this is a very wise amendment. As I see it, the amendment would simply empower the Federal Privacy Board to assist the States in establishing privacy laws and privacy boards at the State level. It is not obligatory on anyone; it would merely enable the Federal Privacy Board, out of their experience and knowledge of the subject, to be of assistance to the States, and I would urge the Senate to adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

AMENDMENT NO. 1945

Mr. NELSON. Mr. President, I call up my amendment No. 1945.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. Nelson's amendment is as follows:

At the end of the bill, add the following new title:

"TITLE IV—JOINT COMMITTEE ON GOVERNMENT SURVEILLANCE AND INDIVIDUAL RIGHTS

"ESTABLISHMENT

"Sec. 401. (a) There is hereby established a Joint Committee on Government Surveillance and Individual Rights (hereinafter referred to as the "joint committee") which shall be composed of fourteen members appointed as follows:

"(1) seven Members of the Senate, four to be appointed by the majority leader of the Senate and three to be appointed by the minority leader of the Senate; and

"(2) seven Members of the House of Representatives, four to be appointed by the majority leader of the House of Representatives and three to be appointed by the minority leader of the House of Representatives.

"(b) The joint committee shall select a chairman and a vice chairman from among its members.

"(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

"FUNCTIONS

"SEC. 402. (a) It shall be the function of the joint committee—

"(1) to make a continuing study of the extent and the method of investigation or surveillance of individuals by any department, agency, or independent establishment of the United States Government as such investigation or surveillance relates to the right of privacy, the authority for, and the need for such investigation or surveillance, and the standards and guidelines used to protect the right to privacy and other constitutional rights of individuals;

"(2) to make a continuing study of the intergovernmental relationship between the United States and the States insofar as that relationship involves the area of investigation or surveillance of individuals; and

"(3) as a guide to the several committees of the Congress dealing with legislation with respect to the activities of the United States Government involving the area of surveillance, to file reports at least annually and at such other times as the joint committee deems appropriate, with the Senate and the House of Representatives, containing its findings and recommendations with respect to the matters under study by the joint *committee*, and, from time to time, to make such other reports and recommendations to the Senate and the House of Representatives as it deems advisable; except that nothing in the foregoing provisions shall authorize the joint committee, or any subcommittee thereof, to examine lawful investigative or surveillance activities related to the defense or national security of the United States conducted within the territorial boundaries of the United States citizens. For purposes of this subsection, lawful investigative or surveillance activities related to the defense or national security of the United States means investigative or surveillance activities carried on by duly authorized agencies to obtain information concerning unlawful activities directed against the Government of the United States which are substantially financed by, directed by, sponsored by, or otherwise involving the direct collaboration of foreign powers.

"(b) Nothing in this title shall give the joint committee, or any subcommittee thereof, jurisdiction to examine any activities of agencies and departments of the United States Government conducted outside the territorial boundaries of the United States.

"REPORTS BY AGENCIES

"SEC. 403. In carrying out its functions, the joint committee shall, at least once each year, receive the testimony, under oath, of a representative of every department and agency of the Federal Government which engages in investigations or surveillance of individuals, such testimony to relate to the full scope and nature of the respective agency's or department's investigations or surveillance of individuals, subject to the exceptions provided for in subsections 402 (a) (3) and 402(b).

"POWERS

"SEC. 404. (a) The joint committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (6) to subpena witnesses and documents, (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency, (8) to procure printing and binding, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony. No rule shall be adopted by the joint committee under clause (3) providing that a finding, statement, recommendation, or report may be made by other than a majority of the members of the joint committee then holding office.

"(b) (1) Subpenas may be issued under the signature of the chairman of the committee or of any subcommittee, or by any member designated by such chairman, when authorized by a majority of the members of such committee, or subcommittee, and may be served by any person designated by such chairman or member.

"(2) Each subpena shall contain a statement of the committee resolution authorizing the particular investigation with respect to which the witness is summoned to testify or to produce papers, and shall contain a statement notifying the witness that if he desires a conference with a representative of the committee prior to the date of the hearing, he may call or write to counsel of the committee.

"(3) Witnesses shall be subpenaed at a reasonably sufficient time in advance of any hearing in order to give the witness an opportunity to prepare for the hearing and to employ counsel, should he so desire. The chairman of the joint committee or any member thereof may administer oaths to witnesses.

"(c) The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon vouchers signed by the chairman of the joint committee or by any member of the joint committee outhorized by the chairman.

"(d) Members of the joint committee, and its personnel, experts, and consultants, while traveling on official business for the joint committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses if an itemized statement of such expenses is attached to the voucher.

"(e) (1) The District Court of the United States for the District of Columbia shall have original jurisdiction, without regard to the sum or value of the matter in controversy, of any civil action heretofore or hereafter brought by the joint committee to enforce or secure a declaration concerning the validity of any subpena heretofore or hereafter issued by such joint committee, and the said District Court shall have jurisdiction to enter any such judgment or decree in any such civil action as may be necessary or appropriate to enforce obedience to any such subpena.

"(2) The joint committee shall have authority to prosecute in its own name or in the name of the United States in the District Court of the United States for the District of Columbia any civil action heretofore or hereafter brought by the joint committee to enforce or secure a declaration concerning the validity of any subpena heretofore or hereafter issued by such committee, and pray the said district court to enter such judgment or decree in said civil action as may be necessary or appropriate to enforce any such subpena.

"(3) The joint committee may be represented by such attorneys as it may designate in any action prosecuted by such committee under this title.".

On page 3, line 23, after "Act", insert "(other than title IV)".

On page 4, line 6, after "Act", insert "(other than title IV)".

On page 6, line 9, immediately after "of", insert "titles I, II, and III of".

On page 6, line 12, after "under", insert "titles I, II, and III of".

On page 7, line 1, immediately before "this", insert "titles I, II, and III of".

On page 7, line 2, immediately before "this", insert "title I, II, or III of".

On page 12, line 9, immediately before "this", insert "title I, II, or III of".

On page 16, line 13, immediately before "this", insert "titles I, II, and III of".

On page 18, line 3, immediately before "this", insert "title I, II, or III of".

On page 18, line 14, immediately before "this", insert "title I, II, or III of".

On page 18, line 23, immediately before "this", insert "titles I, II, or III of".

On page 19, line 1, immediately before "this", insert "title I, II, or III of".

On page 19, line 21, immediately before "this", insert "title I, II, or III of".

On page 20, line 2, immediately after "Act" insert "(other than title IV)".

On page 20, line 6, immediately before "this" insert "titles I, II, and III of".

Mr. ERVIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. NELSON. I yield.

Mr. ERVIN. I ask unanimous consent that Brian Conboy, an aide to Senator JAVITS, and Barbara Dixon, an aide to Senator BAYH, have the privilege of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I have an inquiry of the distinguished Senator from Wisconsin. We did go a little out of order in order to accommodate the schedule of the Senator from Maine (Mr. MUSKIE). We have not finished our opening statements yet. Unless the Senator has a time problem himself, I would like to complete our opening statements so we can proceed in an orderly manner, and I had indicated that I would yield to the Senator from Arizona (Mr. GOLDWATER) immediately after that, to present an amendment.

Mr. NELSON. My reason for calling up this amendment now is that the Senator from Maine (Mr. MUSKIE) will participate in a brief colloquy in connection with it.

Mr. PERCY. Does the Senator have any idea how long that brief colloquy may take?

Mr. NELSON. Just a few minutes. Senator JACKSON has a brief statement. I will submit my statement for the RECORD.

Mr. President, I have a modification of the amendment as printed. I withdraw the amendment that is at the desk, and submit a clean copy that modifies that amendment. I ask for the immediate consideration of the amendment as modified.

Mr. NELSON's amendment No. 1945, as modified, is as follows:

At the end of the bill, add the following new title:

"TITLE IV—JOINT COMMITTEE ON GOVERNMENT SURVEILLANCE AND INDIVIDUAL RIGHTS

"ESTABLISHMENT

"SEC. 401 (a) There is hereby established a Joint Committee on Government Surveillance and Individual Rights (hereinafter referred to as the "joint committee") which shall be composed of sixteen members appointed as follows:

"(1) eight Members of the Senate, four to be appointed by the majority leader of the Senate and four to be appointed by the minority leader of the Senate; and

"(2) eight Members of the House of Representatives, four to be appointed by the majority leader of the House of Representatives and four to be appointed by the minority leader of the House of Representatives.

"(b) The joint committee shall select a chairman and a vice chairman from among its members.

"(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

"FUNCTIONS

"SEC. 402. (a) It shall be the function of the joint committee—

"(1) to make a continuing study of the extent and the method of investigation or surveillance of individuals by any department, agency, or independent establishment of the United States Government as such investigation or surveillance relates to the right to privacy, the authority for, and the need for such investigation or surveillance, and the standards and guidelines used to protect the right to privacy and other constitutional rights of individuals;

"(2) to make a continuing study of the intergovernmental relationship between the United States and the States insofar as that relationship involved the area of investigation or surveillance of individuals; and

"(3) as a guide to the several committees of the Congress dealing with legislation with respect to the activities of the United States Government involving the area of surveillance, to file reports at least annually and at such other times as the joint committee deems appropriate, with the Senate and the House of Representatives, containing its findings and recommendations with respect to the matters under study by the joint committee, and, from time to time, to make such other reports and recommendations to the Senate and the House of Representatives as it deems advisable; except that nothing in the foregoing provisions shall authorize the joint committee, or any subcommittee thereof, to examine lawful investigative or surveillance activities related to the defense or national security of the United States conducted within the territorial boundaries of the United States. For purposes of this subsection, lawful investigative or surveillance activities related to the defense or national security of the United States means investigative or surveillance activities carried on by duly authorized agencies to obtain information concerning unlawful activities directed against the Government of the United States which are substantially financed by, directed by, or otherwise involving the direct collaboration of foreign powers.

"(b) Nothing in this title shall give the joint committee, or any subcommittee thereof, jurisdiction to examine any activities of agencies and departments of the United States Government conducted outside the territorial boundaries of the United States.

"REPORTS BY AGENCIES

"SEC. 403. In carrying out its functions, the joint committee shall, at least each year, receive, subject to the exceptions provided for in sections 402(a)(3) and 402(b), the testimony, under oath, of a representative of every department, agency, instrumentality or other entity of the Federal Government, which engages in investigations or surveillance of individuals, such testimony to relate to

(a) the full scope and nature of the respective department's, agency's instrumentality's, or other entity's investigations or surveillance of individuals; and

(b) the criteria, standards, guidelines or other general basis utilized by each such department, agency, instrumentality or other entity in determining whether or not investigative or surveillance activities carried out or being carried out by such department, agency, instrumentality, or other entity were or are related to the defense or national security of the United States and thus within the purview of the exception provided for in such sections 402(a)(3) and 402(b).

"POWERS

"SEC. 404. (a) The joint committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (5) to subpena witnesses and documents, (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency, (8) to procure printing and binding, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony. No rule shall be adopted by the joint committee under clause (3) providing that a finding, statement, recommendation, or report may be made by other than a majority of the members of the joint committee then holding office.

"(b)(1) Subpenas may be issued under the signature of the chairman of the committee or of any subcommittee, or by any member designated by such chairman, when authorized by a majority of the members of such committee, or subcommittee and may be served by any person designated by any such chairman or member.

"(2) Each subpena shall contain a statement of the committee resolution authorizing the particular investigation with respect to which the witness is summoned to testify or to produce papers, and shall contain a statement notifying the witness that if he desires a conference with a representative of the committee prior to the date of the hearing, he may call or write to counsel of the committee.

"(3) Witnesses shall be subpenaed at a reasonably sufficient time in advance of any hearing in order to give the witness an opportunity to prepare for the hearing and to employ counsel, should he so desire. The chairman of the joint committee or any member thereof may administer oaths to witnesses.

"(c) The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon vouchers signed by the chairman of the joint committee or by any member of the joint committee authorized by the chairman.

"(d) Members of the joint committee, and its personnel, experts, and consultants, while traveling on official business for the joint committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses if any itemized statement of such expenses is attached to the voucher.

"(e)(1) The District Court of the United States for the District of Columbia shall have original jurisdiction, without regard to the sum or value of the matter in controversy, of any civil action heretofore or hereafter brought by the joint committee to enforce or secure a declaration conerning the validity of any subpena heretofore or hereafter brought by the joint committee, and the said District Court shall have jurisdiction to enter any such judgment or decree in any such civil action as may be necessary or appropriate to enforce obedience to any such subpena.

"(2) The joint committee shall have authority to prosecute in its own name or in the name of the United States in the District Court of the United States for the District of Columbia any civil action heretofore or hereafter brought by the joint committee to enforce or secure a declaration concerning the validity of any subpena heretofore or hereafter issued by such committee, and pray the said district court to enter such judgment or decree in said civil action as may be necessary or appropriate to enforce any such subpena.

"(3) The joint committee may be represented by such attorneys as it may designate in any action prosecuted by such committee under this title."

"DISCLAIMER

"SEC. 405. The provisions of this title shall not in any way limit or otherwise interfere with the jurisdiction or powers of any committee of the Senate, or the House of Representatives, or of Congress to request or require testimony or the submission or information from any representative of any department, agency, instrumentality or other entity of the Federal Government.

On page 3, line 23, after "Act", insert "(other than title IV)".

On page 4, line 6, after "Act", insert "(other than title IV)".

On page 6, line 9, immediately after "of", insert "titles I, II, and III of".

On page 6, line 12, after "under", insert "titles I, II, and III of".

On page 7, line 1, immediately before "this", insert "titles I, II, and III of".

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On page 20, line 6, immediately before "this" insert "titles I, II, and III of".

Mr. NELSON. Mr. President, last November, the Senator from Washington (Mr. JACKSON) and I introduced legislation to create a joint committee of the Senate and the House of Representatives to provide legislative oversight over the surveillance activities of all the various agencies of the Federal Government, including the FBI, military intelligence, and the IRS.

The purpose, of course, is quite obvious: there is great potential for abuse of authority and invasions of privacy, which we have seen extensively engaged in in recent years, and Congress at present has no effective way to maintain a continuing oversight function to determine whether agencies were abusing their power and whether there need to be modifications or changes in current law.

The principal function of this joint committee would be to require that these respective agencies appear before the joint committee in public session or executive session when necessary, under whatever procedures would be established by that joint committee, and that the representatives of these agencies, such as the FBI, be put under oath, bring their records, show the committee what surveillance activities they have engaged in. For example, the FBI would show what wiretaps they have used, and whether the wiretaps in fact were secured pursuant to law, particularly the fourth amendment, which requires that searches and seizures are authorized only upon presentation of probable cause to an appropriate court, which may then issue the warrant.

Unless we bring these activities under congressional supervision, then, of course, the opportunities exist, as they have in the past, for very serious invasions of privacy of individuals, and freedom itself is endangered.

That, therefore, is the purpose of this amendment: to create this kind of a joint committee, with the authority which I have previously mentioned.

Hearings were conducted on the measure by the distinguished Senator from Maine (Mr. MUSKIE). Those proceedings have not all been completed.

Senator JACKSON and I offered this as an amendment to the bill offered by the distinguished Senator from North Carolina (Mr. ERVIN) some time ago because we thought it urgent and timely that this issue be raised, debated, and voted upon because we believe that Congress has to oversee Government surveillance activities on a continuing basis.

However, we have no desire to impair the possibilities of the adoption of the very fine piece of legislation that was designed by the distinguished Senator from North Carolina, and since it is now late in the session, the adoption of this amendment may very well cause the downfall of the whole bill.

If it were some time back, with plenty of room to maneuver in in terms of time, I would want to have the full debate and a rollcall vote.

I know that the distinguished Senator from North Carolina, as we all do, has been a leader in this whole field of protecting individual rights, especially the rights of privacy and other constitutional rights, and that he agrees certainly with the principle of the bill, although I have not asked him about the details. But Senator JACKSON and I did not want to, in any way jeopardize the possibilities of the adoption of his measure.

I would therefore like to ask the distinguished Senator from Maine if he might be able to advise us what his future plans would be in his committee for consideration of this particular subject matter.

Mr. MUSKIE. I would be delighted to do so.

First I compliment the distinguished Senator from Wisconsin and the distinguished Senator from Washington for their concern in the subject. It is one, I think, that is of increasing interest to Members of Congress and to the Members generally. It is deserving of the most extensive and comprehensive kinds of hearings.

Already we have had 6 days of hearings in the Government Operations Committee on national security secrecy, and the distinguished Senator from Wisconsin, as a matter of fact, testified at those hearings on his bill.

But we proceed from here. There are before us the Nelson-Jackson bill, to which the Senator is addressing himself, the Baker-Weicker bill on the same subject, and the Mathias-Mansfield resolution to have a study committee on oversight.

All of these have been referred to my subcommittee, and we will hold hearings and, I think, it is reasonably certain that the hearings will begin on December 9 and 10 of this year. There may be further hearings in addition to those, but I am committed to those, and I assure the Senator that we will pursue those hearings and the subject until the committee is in position to form some judgments.

Mr. NELSON. I appreciate the comments of the Senator from Maine. I also know, as we all do, of his concern about individual rights and constitutional rights, and I know that the measure is in good hands in his committee and that he recognizes the importance of Congress doing something about managing this problem that has arisen and received so much publicity in recent years.

Mr. President, more than 20 years ago, Supreme Court Justice Felix Frankfurter described the evolution of tyrannical power in the executive branch:

> The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority.

Unfortunately, Justice Frankfurter's observation does much to explain why individual liberty has been eroded by an expanding web of snooping conducted at all levels of government. For many years now, the Government has used both simple and sophisticated techniques to exercise almost unlimited power over the individual. The Government installs wiretaps, plants electronic bugs, uses computerized information to assemble dossiers on individuals, and engages in other surveillance activities which make a mockery of the individual freedoms guaranteed by our Constitution.

The dangers of uncontrolled Government surveillance were exposed again only this past week. The Justice Department released a report detailing the "cointelpro" program—the FBI's secret surveillance and disruption of organizations which the FBI considered to be a threat. These organizations included the Urban League, the Southern Christian Leadership Conference, the Congress on Racial Equality and other politically active groups. It was not shown that the individual members of these organizations were violating the law, and the FBI did not seek or receive the approval of the Attorney General or the President. Acting entirely on its own, the FBI engaged in these activities between 1956 and 1971. They were terminated when the "Media Papers" publicly exposed some of the FBI activities in 1971. And it was understandable why such public exposure would be a deterrent. The Justice Department's study called some of those activities "abhorrent to a free society," and for good reason. These activities included sending false and anonymous letters to discredit selected individuals in the eyes of their peers, informing an employer of the individual's membership in a particular group so that the individual might be fired, and passing on information to credit bureaus to harm the individual economically.

These revelations concerning the FBI coincided with other revelations concerning the surveillance activities of the Internal Revenue Service. According to recently disclosed documents, the IRS—acting at the behest of the White House—monitored the tax records and political activities of 3,000 groups and 8,000 individuals between 1969 and 1973. The groups monitored included the Urban League, Americans for Democratic Action, the National Student Association, the Unitarian Society and the National Council of Churches. These IRS activities did not reflect a neutral enforcement of the tax laws; they represented instead a blatant attempt to secure private information about the politics of people whose views did not coincide with those of the White House. Indeed, these secret activities were continued for 4 years despite the fact that there was little information to show violation of the tax laws.

These FBI and IRS actions, as well as other surveillance activities, make clear the need for congressional controls of Government spying. To this end, Senator JACKSON and I are introducing an amendment to S. 3418 which would establish a bipartisan joint committee of Congress to oversee all Government surveillance activities. At least once each year, representatives of the FBI, the IRS, and every Governmental agency that engages in surveillance would be required to testify before the joint committee under oath about the full scope and nature of their respective agency's spying activities. The joint committee, moreover, would be entitled to all relevant information concerning those activities and practices. There is only one narrowly defined exception to the committee's broad jurisdiction over Government surveillance: those cases directly involving foreign powers who are engaged in unlawful activities which endanger this country's security. However, the committee would be explicitly directed to obtain information from the Government concerning the criteria used to determine whether an activity qualifies under the exception. This, in turn, would help insure that the exception is not misused or interpreted too broadly.

As part of its responsibilities, the joint committee would be obligated to report to the full Congress as often as it deems necessary, but in any event, at least once a year. The report would include the committee's findings as to whether the Government is complying fully with the law, whether the courts are exercising their review powers diligently, and whether additional legislation is needed to protect the right to privacy and other fundamental liberties from Government snooping.

The need for this continuing and comprehensive congressional oversight is beyond question. The FBI and IRS activities I cited earlier are not isolated incidents. Indeed, other examples make clear that there is an incredibly broad system of Government surveillance which can and often does escape congressional scrutiny. Among these examples are the following:

In 1970, President Nixon approved the "Huston Plan," an interagency scheme for domestic surveillance which provided for the use of wiretaps, electronic bugs, break-ins and other activities which a staff assistant described as "clearly illegal." Although the plan was revoked 5 days later, because of the objections by FBI Director Hoover, President Nixon's continued interest in the idea ultimately led to the creation of the "Plumbers," a White House unit which carried out the break-in at Daniel Ellsberg's psychiatrist's office and engaged in other questionable surveillance activities. Indeed, one recent article reported that there had been at least 100 illegal break-ins conducted by the "plumbers" and other secret Government units.

A 1973 Senate subcommittee report detailed the extensive spying secretly conducted by 1,500 agents of the U.S. Army on more than 100,000 civilians in the late 1960's. This surveillance was directed principally at those suspected of engaging in political dissent. No one in the Congress knew about this spying. No one in the executive branch would accept responsibility for it. Again, there is no guarantee that this sorry episode will not be repeated. In fact, a Senate committee learned recently that in the last 3 years—after the administration assured the public that the military would no longer spy on civilians—the U.S. Army has maintained numerous surveillance operations on civilians in the United States. And an article in the New Republic magazine of March 30, 1974, detailed the U.S. Army's use of wiretaps, infiltrators, and other surveillance techniques to spy on American citizens living abroad who supported the Presidential candidacy of George McGOVERN. The Army's spying was reportedly so extensive that it even intercepted a letter from a college librarian in South Carolina who requested information about a German publication.

On April 14, 1971, it was revealed that the FBI had conducted general surveillance of those who participated in the Earth Day celebrations in 1970. These celebrations involved tens of thousands of citizens, State officials, representatives of the Nixon administration, and Members of Congress. As the one who planned that first Earth Day, I cannot imagine any valid reason for spying on individuals exercising their constitutional rights of speech and assembly in a peaceable manner. There is still no satisfactory explanation of the surveillance. Nor is there any guarantee it will not be repeated in the future.

Innumerable Government officials, including President Lyndon Johnson, Supreme Court Justice William O. Douglas, Congressman Hale Boggs, and Secretary of State Henry Kissinger, believed that their private telephones had been secretly wiretapped. These concerns coincide with known facts regarding other citizens. In May 1969, for example, the White House secretly authorized wiretaps on 17 Government officials and newspapermen without first obtaining an approving judicial warrant. The purported basis of these "taps" was a concern that these individuals were involved in "leaks" of sensitive information. The Government allegedly believed that publication of this information did or would jeopardize "national security." There is still no public evidence to justify that belief. Indeed, there is no public evidence to demonstrate that all of the individuals tapped even had access to the information leaked.

The Justice Department still maintains a practice of installing warrantless wiretaps on American citizens and others when it feels "national security" is involved. This practice violates the plain language of the fourth amendment—which requires a judicial warrant based on probable cause before the Government can invade an individual's privacy. There is no public information concerning the number of warrantless wiretaps installed in the last year or presently maintained. Incredibly enough, the Department has refused to provide this information—even in executive session—to legislative subcommittees of the House and Senate. However, it is known that some of these wiretaps were authorized even though there was no direct collaboration of a foreign power. The tap installed on newspaper columnist Joseph Kraft's home telephone is perhaps the best known example. Under our proposal, the joint committee would be required to interrogate Government officials about "national security" wiretapping and uncover the actual criteria used by the Government in determining that a foreign power is directly involved.

The Senate Watergate and Senate Judiciary Committees received evidence that in 1969 the White House established a special unit in the Internal Revenue Service to provide the administration with secret access to the confidential tax records of thousands of its "enemies." The dissemination of these private records was so flagrant and so widespread that one investigating Senator likened the IRS to a public lending library.

These examples are only the tip of the iceberg. As early as 1967, Prof. Alan Westin reported in his book, "Privacy and Freedom," that:

> At least fifty different federal agencies have substantial investigative and enforcement functions, providing a corps of more than 20,000 "investigators" working for agencies such as the FBI, Naval Intelligence, the Post Office, the Narcotics Bureau of the Treasury, the Securities and Exchange Commission, the Internal Revenue Service, the Food and Drug Administration, the State Department, and the Civil Service Commission. While all executive agencies are under federal law and executive regulation, the factual reality is that each agency and department has wide day-to-day discretion over the investigative practices of its officials.

The numbers—and dangers—of this official spying have surely increased since 1967. But even those 1967 figures, as well as the examples I have described, should be more than sufficient to demonstrate what should be clear to everyone: uncontrolled Government snooping is a dangerous assault on our constitutional liberties. Those liberties are the cornerstone of our democratic system and any assault on them cannot be treated lightly. A society cannot remain free and tolerate a Government which can invade an individual's privacy at will.

Government snooping is particularly dangerous because often it is executed without the knowledge or approval of those officials who are accountable to the public. This, in turn, increases the probability that Government invasions of individual privacy, as well as other fundamental constitutional liberties, will be accomplished by illicit means and for illegitimate purposes.

The FBI's "cointelpro" activities are a clear illustration of the problem. Another example is the break-in of Daniel Ellsberg's psychiatrist's office. This illegal act was perpetrated in September 1971 by members of the "plumbers," a special unit established within the White House and ultimately accountable to the President himself. After the break-in was publicly exposed, the "plumbers" claimed that they were acting under the explicit authority of the President in an effort to protect "national security." But available public evidence suggests that Mr. Nixon did not give his approval to the break-in. Indeed, the White House transcripts indicate that President Nixon did not learn of the break-in until March 1973—18 months after it occurred. In short, a blatant criminal act—which included the violation of one doctor's privacy—was perpetrated by Government agents and those with ultimate responsibility had no procedure to stop it.

The central question is how many other incidents of illegal spying by the Government remain undisclosed? And how many more such incidents must be disclosed before Congress recognizes the need for immediate action?

There is no question, however, that those sensitive to civil liberties have long understood the need for congressional action to end the dangers of Government snooping. As early as 1971 I introduced legislation for that purpose. Now the public at large has also awakened to the need for legislation to protect their rights against Government snooping. Numerous opinion polls indicate that the people's principal concern today is the preservation of their freedom—freedom which is too easily and too often taken for granted. These polls, including some conducted by Louis Harris, have made the following findings:

> Fifty-two percent of the public believes that "things have become more repressive in this country in the past few years;"
>
> Seventy-five percent of the public believes that "wiretapping and spying under the excuse of national security is a serious threat to people's privacy;"
>
> Seventy-seven percent of the public believes Congress should enact legislation to curb government wiretapping;"
>
> Seventy-three percent of the public believes Congress should make political spying a major offense.

On the basis of these and other findings, pollster Harris drew two basic conclusions. First, "government secrecy can no longer be excused as an operational necessity, since it can exclude the participation of the people in their own government, and, indeed, can be used as a screen for subverting their freedom." Second, "the key to any kind of successful future leadership must be iron bound integrity."

The message of these opinion polls is clear: Congress must enact legislation to end abusive government surveillance practices which violate the fundamental rights and liberties guaranteed by our Constitution. The government should not be able to use wiretaps and other electronic devices to eavesdrop on citizens for "national security" purposes when there is no involvement of a foreign power and no judicial warrant. The Government should not be able to use income tax returns and other computerized, confidential information for political purposes. The Government should not be able to conceal its illicit activities by invoking the "separation of powers" or the need for secrecy. In a word, the Government should not be able to escape its obligation to the Constitution and the rule of law. Otherwise, we shall find that unrestrained Government power has replaced individual liberty as the hallmark of our society.

One does not have to attribute malevolent motives to Government officials in order to realize the need for congressional action. Good intentions are not the criteria for judging the lawfulness of propriety of Government action. In fact, the best of intentions often produce the greatest dangers to individual liberty. As Supreme Court Justice Brandeis once observed:

> Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasions of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.

Relying on this historical judgment, the Supreme Court held in the 1972 Keith case that the Government cannot wiretap American citizens for "domestic security" purposes without court authorization. In issuing this decision, the court declared, as a matter of constitutional law, that the Government's self-discipline is inadequate to protect the individual freedoms guaranteed by the fourth amendment. The Court's judgment was not premised on the malicious dispositions of those who inhabit the executive branch. Rather, the judgment flowed from the conflicting interests which the Government is required to serve. Speaking for a unanimous Court, Justice Lewis Powell examined the evolution and contours of the freedoms protected by the fourth amendment. He then stated:

> These Fourth Amendment freedoms cannot properly be guaranteed if domestic security surveillances may be conducted solely within the discretion of the executive branch. The Fourth Amendment does not contemplate the executive officers of Government as neutral and disinterested magistrates. Their duty and responsibility is to enforce the laws, to investigate and to prosecute. . . . The historical judgment, which the Fourth Amendment accepts, is that unreviewed executive discretion may yield too readily to pressure to obtain incriminating evidence and overlook potential invasion of privacy and protected speech.

In this context, a congressional oversight committee would be a two-edged sword in the effort to end the abuses of Government snooping. On the one hand, this committee could provide assurances to the public that Government surveillance activities are limited to those conducted by lawful means and for legitimate purposes. On the other hand, the oversight committee could help the executive branch to insure that Government agents do not misuse the public authority entrusted to them. Fulfillment of these two functions by the oversight committee would do much to eliminate illegal and unethical Government spying.

In considering creation of a congressional oversight committee, Congress should not yield to self-serving assertions by the executive branch that the power to investigate and conduct surveillance is exclusively within its jurisdiction and that Congress has no right to sensitive information concerning such investigations and surveillance activities. This argument is nonsense. Certainly there is no language in the Constitution which allows Government surveillance activities to escape congressional scrutiny. Indeed, such an escape clause would be at odds with the fundamental premise of our constitutional system that all power is "fenced about," that every coordinate branch of Government is subject to the check of the other branches. If Government investigative and surveillance activites can be maintained by Government secrecy, there would be no way for the Congress to know whether it should exercise its power to check the executive branch.

Moreover, a lack of congressional oversight would cripple Congress ability to protect those individual freedoms guaranteed to everyone by the Constitution. In the Federalist Papers, James Madison acknowledged Congress as "the confidential guardians of the rights and liberties of the people." Congress cannot fulfill its responsibility to protect those rights and liberties unless it first has the facts concerning the scope and nature of Government investigative and surveillance activities. Access to those facts is also important if Congress is to exercise its other responsibilities. Thus, the Constitution empowers Congress—not the President—to regulate interstate commerce; the Constitution empowers Congress—not the President—to appropriate public moneys for Government operations, including investigative and surveillance activities; the Constitution empowers Congress—not the President—to enact laws concerning the punishment of criminal offenses and the protection of individual privacy. Having been granted these powers, the Congress should obtain the information necessary to insure that they are exercised wisely.

The need for this congressional oversight committee, then, should not be underestimated. The individual's right to privacy is one of our most cherished liberties. It is fundamental to the concept of democratic self-government where each individual's private thoughts and beliefs are beyond the reach of Government. Without that right to privacy, the individual's freedom to participate in and guide his Government is jeopardized. Government then becomes a monster to be feared rather than a servant to be trusted.

As Justice Stephen Field stated in 1888:

> Of all the rights of the citizens, few are of greater importance or more essential to his peace and happiness than the right of personal security, and that involves not merely protection of his person from assault, but exemption of his private affairs, books and papers from the scrutiny of others. Without enjoyment of this right, all others would lose half their value.

A right so vital to individual liberty and, indeed, to our constitutional system deserves rigorous protection by Congress—the people's chosen representatives. The amendment being offered today provides a timely opportunity to establish that protection and assure the American public that individual freedom is still the foundation of our political system.

Mr. JACKSON. Mr. President, last November Senator Nelson and I introduced S. 2738 to establish a watchdog joint congressional committee to oversee activities of the Federal Government affecting the right to privacy of all American citizens. Our purpose was to create and focus in one congressional committee the responsibility for overseeing domestic surveillance and investigative activities of Federal agencies as those activities relate to the need to protect and defend individual privacy and freedom for all American citizens from serious and destructive erosion. Today I am pleased to join with Senator Nelson to offer a modified version of this legislation as an amendment to S. 3418, a bill to create a Federal Privacy Commission to monitor and regulate data banks.

Individual privacy and freedom, which are at the heart of our system of democratic self-government, are under severe pressure today. Modern technology has vastly increased the ease with which intrusions on individual privacy may be conducted. By 1967 over 50 Federal agencies were engaged in investigative activities employing over 20,000 investigators. These included such diverse agencies as the Food and Drug Administration, the Securities and Exchange Commission, the Treasury Department, the Justice Department, and many others. Since that time the number of agencies and investigators has almost certainly increased and it has become clear to the American people that there is a danger that the power of the Federal Government may be abused to indiscriminately employ modern techniques of surveillance for illegitimate purposes or by unregulated procedures. This danger represents a serious threat to the integrity of individual rights and, therefore, to our entire way of life in America.

The American people are deeply disturbed about evidence that has accumulated in recent years of widespread Government insensitivity and disregard for the rights of individual citizens. Watergate and related scandals have brought to light a callous disregard for the law and for the sanctity of individual rights within the highest circles of government. Such activities as the formation of the "Plumbers" for the purpose of carrying on internal security operations which included wiretapping and burglary smacks of a secret police operation that has no place in American life.

Over the past week there have been new revelations that Government agencies have engaged in secret intelligence gathering and "dirty tricks" operations aimed at political and activist organizations. These revelations have further shaken the confidence of the American people in the integrity and methods of Federal investigative agencies.

A lawsuit filed by a public interest law firm brought the disclosure that a secret unit within the IRS named the "Special Service Staff" began gathering intelligence in the summer of 1969 as a result of direct White House pressure. The Special Service Staff unit collected intelligence and investigated 99 political and activist organizations and was not disbanded until after the Watergate scandals became public. The use of the IRS to perform unauthorized law enforcement type functions for essentially political purposes is a flagrant and inexcusable abuse of power. This action undermines public confidence which is absolutely essential if the IRS is to perform its job of administering the tax laws. More importantly, it runs counter to fundamental values of freedom of expression and equal treatment under the law to have an agency of Government collecting data to be used against organizations with political views that are not favored by the current administration.

The purpose of the Joint Committee which Senator NELSON and I have suggested would be to assure public accountability of Federal investigative agencies by assuring better congressional oversight of their activities. As was noted editorially in the Washington Star on November 20:

> It is imperative that Congress begin exercising much closer oversight of operations for which it provides the legal basis and the financing. It should not be left to high-level bureaucrats, especially in the agencies with awesome investigative authority, nor to White House politicians to decide what is or is not good for the people and then use highly questionable means to excise that which they consider bad.

I firmly believe that the Congress does bear a heavy responsibility to assure that Federal investigative agencies do not disregard the civil liberties of the American people. The legislation which Senator NELSON and I have suggested will give us the tools to do this job.

Senseless violations of individual rights have occurred, in part, because we in the Congress have not pursued with sufficient vigor our responsibility to closely oversee the activities of the innumerable Federal agencies which have an impact on the right to privacy of millions of Americans. As a result, the American people are very much concerned about the need for increased efforts to protect our cherished tradition of individual liberty in the wake of disclosures of such blatant abuses. Recent polls indicate that 75 to 80 percent of the American people favor tough new laws making unlawful wiretapping a major criminal offense.

I am pleased that the Congress has begun to respond to the need for legislation designed to better protect individual rights. S. 3418 is an important bill which will do a great deal to assure the right to privacy for millions of Americans about whom the Federal Government has collected and maintains records in computer data banks. For this reason, I have been active in the development and joined as a cosponsor of this legislation.

I believe the amendment that Senator NELSON and I are now offering would strengthen and broaden the scope of S. 3418 by addressing the equally important issue of regulating and overseeing the activities of Federal investigative agencies. The committee we are suggesting would be invaluable as a means of focusing and improving congressional oversight of Federal agencies to assure that they do not overstep their statutory and constitutional authority in ways that have an adverse impact on individual freedom. At present, 12 or more congressional committees oversee the activities of the uncounted but innumerable Federal agencies which conduct investigative activities. The comprehensive overview of these agencies that would be provided by our legislation would provide a more effective safeguard against the use of investigative and surveillance powers in ways that fly in the face of our traditional commitment to personal freedom and liberty.

I am pleased that Senator MUSKIE will hold hearings on this amendment on the 9th and 10th of December.

Mr. ERVIN. Mr. President, will the Senator from Wisconsin yield?

Mr. NELSON. I yield to the Senator.

Mr. ERVIN. I thank the Senator for his very complimentary statement of my work in the field of individual rights. I have always had the aid of the distinguished Senator from Wisconsin on that, and I am proud to be, along with him and one or two other Members of the Senate, one of the authors of the bill to repeal the no-knock law.

I wish to commend his action in this matter and the action of the distinguished Senator from Maine. I think that is the proper course to take because if we sometimes put too big a load on one little legislative nag he has a hard time making the journey to his ultimate destination.

I thank the Senator for his course of action and the Senator from Maine for giving the assurance that he will hold hearings on the proposal which, I think, deserves wise and careful thought.

Mr. NELSON. I thank the Senator from North Carolina. I only regret that he has decided voluntarily not to join us again in the next session because I think that about 90 percent of the influence I have on this kind of an issue is as a result of my association with the Senator from North Carolina, which I now lose.

Mr. WEICKER. If the Senator from Wisconsin will yield for one moment. I commend the Senator from Wisconsin and the Senator from Washington for their legislation.

I want to thank the distinguished Senator from Maine for proposing hearings on this bill, and also on the bill proposed by Senator BAKER and myself.

As each week goes by and more of these abuses come to the public's knowledge, I think it is terribly important that we act. We all realize the difficulties that this type of legislation, the type proposed by Senator NELSON and Senator BAKER, have had in the past. But it has got to be clear to this body that nobody has been taking responsibility for any oversight relative to these various agencies.

We owe it to the public now to take this entire area of law enforcement and intelligence gathering and make it accountable to the people of the United States through their elected representatives.

I would hope that we not only have the hearings but also we make this one of the first orders of business for Congress in the months ahead.

I thank the Senator from Wisconsin.

Mr. NELSON. I thank the Senator.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

Mr. NELSON. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The Senator's amendment is withdrawn.

Mr. GOLDWATER. Mr. President, by a happy coincidence, the House at this very moment is considering almost identical legislation to this, legislation introduced by my son who represents the 20th District of California.

Mr. President, I am very happy to be a cosponsor of this legislation and happy to have introduced a piece of legislation quite similar to it.

Mr. President, I am proud to rise today in support of the committee bill to protect individual privacy in the collection and use of personal data by Federal agencies.

Mr. President, the need for protection of personal privacy has come to the fore only in recent years, although its source is found in the Constitution itself.

Reports uniformly calling for the adoption of safeguards for the fair storing and handling of personal information have been published by the Departments of Communications and Justice in

Canada in 1971, the Younger Committee on Privacy in Great Britain in 1972, the International Commission of Jurists in 1972, the National Academy of Sciences Project on Computer Databanks, also in 1972, and the Secretary's Advisory Committee on Automated Personal Data Systems of the Department of Health, Education, and Welfare in 1973.

In late 1973, legislation was introduced in the House of Representatives (H.R. 10042) by Congressman GOLDWATER, JR., and in the Senate (S. 2810) by me, to implement the common principles shared by these various studies. I believe the committee bill before us today includes these same safeguards insofar as the operations of Federal agencies and departments are concerned. The basic safeguards are:

First. There must be no personal data system whose very existence is secret.

Second. There must be a way for an individual to find out what information about him is in a record and how that information is to be used.

Third. There must be a way for an individual to correct information about him, if it is erroneous.

Fourth. There must be a record kept of every significant access to any personal data in the system, including the identity of all persons and organizations to whom access has been given.

Fifth. There must be a way for an individual to prevent information about him collected for one purpose from being used for other purposes, without his consent.

Mr. President, it is my belief that in order for the individual to truly exist, some reserve of privacy must be guaranteed to him. Privacy is vital for the flourishing of the individual personality and to "the imaginativeness and creativity of the society as a whole." So said the Report of the Committee on Privacy of Great Britain in 1972.

By privacy, Mr. President, I mean the great common law tradition that a person has a right not to be defamed whether it be by a machine or a person. I mean the right "to be let alone"—from intrusions by Big Brother in all his guises. I mean the right to be protected against disclosure of information given by an individual in circumstances of confidence, and against disclosure of irrelevant embarrassing facts relating to one's own private life, both rights having been included in the authoritative definition of privacy agreed upon by the International Commission of Jurists at its world conference of May, 1967.

By privacy, I also mean what the U.S. Supreme Court has referred to as the embodiment of "our respect for the inviolability of the human personality," and as a right which is "so rooted in the traditions and conscience of our people as to be ranked as fundamental."

What we must remember today is that privacy in the computer age must be planned. Privacy, as liberty, is all too easily lost. We must act now while there is still privacy to cherish.

AMENDMENT NO. 1914

Mr. GOLDWATER. Mr. President, I call up for myself and the senior Senator from Illinois (Mr. PERCY), our amendment No. 1914, to halt the spread of the social security number as a universal population identifier.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> MORATORIUM ON USE OF SOCIAL SECURITY NUMBERS
>
> SEC. 307. (a) It shall be unlawful for—
>
> (1) any Federal, State, or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number, or
>
> (2) any person to discriminate against any individual in the course of any business or commercial transaction or activity because of such individual's refusal to disclose his social security account number.
>
> (b) The provisions of subsection (a) shall not apply with respect to—
>
> (1) any disclosure which is required by Federal law, or
>
> (2) any information system in existence and operating before January 1, 1975.
>
> (c) Any Federal, State, or local government agency which requests an individual to disclose his social security account number, and any person who requests, in the course of any business or commercial transaction or activity, an individual to disclose his social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, what uses will be made of it, and what rules of confidentiality will govern it.

Mr. GOLDWATER. Mr. President, when parents cannot open bank accounts for their children without obtaining social security numbers for them; when all schoolchildren in many ninth grade classes are compelled to apply for social security numbers; when a World War I veteran is asked to furnish his social security number in order to enter a Veterans' Administration hospital; and when the account number is used and required for numerous other purposes totally unrelated to the original social security program; then I believe it is time for society to stop this drift toward reducing each person to a number.

There already have been issued a total of over 160 million social security numbers to living Americans. The total number issued in 1972 increased almost 50 percent over 1971, while the number issued to children age 10 and younger rose 100 percent.

There is no statute or regulation which prohibits, or limits, use of the account number. To the contrary, a directive issued by President Roosevelt 32 years ago, is still in effect requiring that any Federal agency which establishes a new system of personal identification must use the social security number.

Numerous Americans deplore this development. They resent being constantly asked or required to disclose their social security number in order to obtain benefits to which they are legally entitled. They sense that they are losing their identity as unique human beings and are being reduced to a digit in some bureaucratic file.

Scholars who have studied the situation have fears which run far deeper. These writers believe that the growing use of the social security number as a population number will brand us all as marked individuals.

What is meant is that when the social security number becomes a universal identifier, each person will leave a trail of personal data behind him for all of his life which can be reassembled to confront him. Once we can be identified to the Administrator in government or in business by an exclusive number tied to each of our past activities—our travels, the kinds of library books we have checked out, the hotels we have stayed at, our education record, our magazine subscriptions, our health history, our credit and check transactions—we can be pinpointed wherever we are. We can be manipulated. We can be conditioned. And we can be coerced.

Mr. President, the use of the social security number as a method of national population numbering is inseparable from the rapid advances in the capabilities of computerized personal data equipment. The state of the art in computer data storage is now so advanced that the National Academy of Sciences reported in 1972:

> That it is technologically possible today, especially with recent advances in mass storage memories, to build a computerized, online file containing the compacted equivalent of 20 pages of typed information about the personal history and selected activities of every man, woman, and child in the United States, arranging the system so that any single record could be retrieved in about 30 seconds.

The concern I have about the spread of the social security identifier is also tied to the ravenous appetite of the Washington bureaucracy for information. A House Post Office and Civil Service Subcommittee reported in 1970 that Washington's paperwork files would fill 12 Empire State buildings stacked on top of each other. These files already include over 2 billion records traceable to personal individuals.

Where will it end? Will we allow every individual in the United States to be assigned a personal identification number for use in all his governmental and business activities? Will we permit all computerized systems to interlink nationwide so that every detail of our personal lives can be assembled instantly for use by a single bureaucrat or institution?

The time to think about the future is now. We must build into the law safeguards of human privacy while a national numbering system is not yet an accomplished fact. Accordingly, Senator PERCY and I propose to place a moratorium on the use of social security numbers for purposes unrelated to the original program.

Our amendment will make it unlawful for any governmental body at the Federal, State, or local level to deny to any person a right, benefit, or privilege because the individual does not want to disclose his social security account number. The amendment also provides that it shall be unlawful for anyone to discriminate against another person in any business or commercial dealings because the person chooses not to disclose his account number.

The prohibitions of our amendment would take effect beginning on January

1, 1975. Any information system started after that date will be subject to the amendment, but any information system in existence before then is exempt.

Mr. President, medical and sociological evidence proves that the need for privacy is a basic, natural one, essential both to individual physical and mental health of each human being and to the creativity of society as a whole. The Supreme Court of the United States has stated on repeated occasions that personal privacy is also a fundamental right of U.S. citizenship, guaranteed by the Constitution to every citizen. Mr. President, it is for us to determine today just how much privacy shall remain for the individual in the future, and I hope the Senate will act favorably upon both our amendment and the committee bill.

Mr. President, I ask unanimous consent that Senator HELMS' name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Will the Senator yield?

Mr. GOLDWATER. I yield to the Senator.

Mr. PERCY. Mr. President, I shall be very brief. Mr. President, it is a distinct pleasure to join Senator GOLDWATER, together with my esteemed colleague, Senator RIBICOFF, who asked to be included as a cosponsor of the pending amendment, in offering an amendment to limit use of the social security number. The senior Senator from Arizona is an acknowledged leader in the Senate on matters relating to the social security number and privacy. On the same matters, I have had long extended discussions with Congressman BARRY GOLDWATER, JR., from California, who is a principal author in the House of the privacy legislation shortly to be considered by that body.

I consider him to be vigilant defender of citizens' individual rights of privacy.

Our concern is that the social security number is fast becoming the single common identification number for each and every American citizen. For many years we have heard proposals to compel all school children of a certain grade level to receive a social security number. It has even been suggested that every newborn infant be labeled with such a number. To a great many Americans, the image of such a policy put into practice is abhorrent. Yet the problems surrounding the misuse of the social security number are more than symbolic of our new era of data banks and our fears of a centrally controlled Big Brother society.

In 23 States, it is impossible to vote in a local, State or even national election without first supplying a social security number. In the State of Virginia, for example, you cannot vote, register an automobile, or even obtain a driver's license unless you first disclose your social security number.

In West Virginia, it is required for fishing licenses. The Federal Reserve Board requires it to join their car pool. Senate wives once had to give it before entering the White House when visiting with Mrs. Nixon for tea. The social security number appears on every Senate staff member's identification card. The number is used widely throughout the Government, and it is even used as the principal identification number by the U.S. Army. All of these uses continue, and yet if you look at your own social security card, at the bottom, it reads,

> For social security and tax purposes—not for identification.

The social security number was clearly not intended by its creators to become the universal identifier. But in the race to computerize every known fact stored by the Government about its citizens, the warning on our cards has been ignored. It is not so much that the social security number had to be used by the computer programmers and data collectors. It was there and it was convenient. Apparently no one gave thought 15 or 20 years ago to the possibility that massive computerization of personal data files on the basis of a single unprotected number could someday pose a problem.

That lack of foresight was unfortunate—for now hundreds of Government computer systems and thousands of private computer systems use the social security number in the indexing and identification of individuals. The possibility is growing that anyone with access to the proper computer terminal could type in a social security number and thereby order the computer to print out details concerning what cars we own, and what our driving record is like, how we spend our money and how we pay our bills, how we did in school, what we tell our doctor and what he tells us in return.

The amendment that we offer is a modest proposal to limit the expansion of the use of the social security number. We recognize that we cannot yet justify a law requiring the reprograming of massive computer systems maintained by the military, by universities, and by private employers. After careful consideration, we have determined that a moratorium ought to be placed on the ability of both Government and private organizations to develop new programs and new procedures that require an individual to furnish his social security number.

Under our amendment, Federal Government and private organizations that begin using the social security number after January 1, 1975, cannot deny a right, benefit, or privilege to an individual who refuses to disclose his number, unless the disclosure is required by Federal law. Furthermore, all requests by an organization of an individual for his social security number must be accompanied by the following information: whether disclosure is mandatory, what is the legal authority for the request, what uses will be made of the number, and what rules of confidentiality will apply.

Mr. President, these provisions directly reflect the specific recommendations of the oft-cited text "Records, Computers, and the Rights of Citizens," which was published in 1973 by the Secretary of HEW's Committee on Automated Personal Data Systems. The amendment is also consistent with the general position presented in the Social Security Administration's "1971 Task Force Report on the Social Security Number."

Our amendment overcomes the questions raised earlier by several of my colleagues. These questions centered around the disruption of established procedures and the uncertain but large cost involved in changing recordkeeping procedures nationwide. The amendment will not require redesigning forms and reprograming computers. It will not disrupt established procedures and it will not create unwarranted cost burdens, because it specifically exempts any disclosure of the social security number which is required by Federal law, or any use which is in existence and operation prior to January 1, 1975.

Mr. President, the amendment that we now propose is but a small tribute to the tireless efforts over many years by the most respected senior Senator from North Carolina, Senator ERVIN, to beat down invasions of privacy on numerous fronts. Our amendment does not pretend to solve all of the problems raised by abuses of the social security number, but it will halt the unchecked spread of these abuses and bring us to a uniform national policy.

Mr. ERVIN. Will the Senator from Arizona yield?

Mr. GOLDWATER. I will be happy to yield.

Mr. ERVIN. I think the amendment offered by the Senator from Arizona, cosponsored by the distinguished Senator from Illinois, is very meritorious, and I hope the Senate will adopt it. I want to take this occasion to commend the Senator from Arizona for the good work he has done in supporting this entire legislation.

Mr. GOLDWATER. I thank the Senator.

Mr. HRUSKA. Mr. President, has the amendment been disposed of?

Mr. GOLDWATER. I was wondering if it had been disposed of.

The PRESIDING OFFICER. The amendment is still pending. The Chair was not certain whether the Senator from Nebraska wanted to address the amendment.

If not, the question is on the amendment of the Senator from Arizona (putting the question).

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise to address some questions and express some misgivings about the pending measure. It is a measure which seeks to establish a Federal privacy board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State and local governments, and other organizations, regarding such information, and for other purposes.

It seeks to gain these objectives, Mr. President, by granting very extensive powers and duties to the Privacy Commission which the legislation creates.

Mr. President, the general declared objectives of the bill are desirable and worthy. I support these objectives. There have been many abuses in the area of privacy with which this bill deals. Many past abuses have been identified and have been corrected. As new abuses of privacy appear, there have been good faith efforts by both the congressional and executive branch to remedy them.

But notwithstanding such efforts, there are still a number of areas in which great improvement can be made, to protect the privacy of individual data collected and maintained by the Government, by proper statutory authority and other regulatory efforts. There is little doubt that there is much room for improvement in the manner in which our Government treats the personal information of its citizens.

It is, however, Mr. President, the effectiveness, the propriety, and the wisdom of the form which this bill takes in order to safeguard personal information which raises some question.

While there are other observations which could be addressed to various specific provisions of the bill, I shall briefly refer only to two major aspects of the *legislation in* my present remarks.

One aspect has to do with the nature and scope of the duties and responsibilities of the Federal Privacy Commission provided for in the bill.

The second major aspect pertains to the inclusion of criminal justice and the law enforcement records and files within the purview of the legislation.

As to the first, Mr. President, it should be noted that the scope and range of activities permitted the board are very broad. The board may concern itself not only with Federal agencies and offices, but also with organizations in the private sector, in State and regional government, and in charitable and political organizations.

Happily, it is excluded from examining religious organizations, but aside from that I doubt very much that any system of data gathering would escape the microscopic as well as the macroscopic eye of the Federal Privacy Commission.

Mr. President, the present law, together with many longstanding precedents, assigns oversight responsibilities regarding many of the Federal agencies and activities to the Congress. There are, for example, oversight powers, presently being exercised by the Committees on the Judiciary, in both bodies of Congress, dealing with the Federal Bureau of Investigation and its related information gathering activities.

Similarily, there are the Committees on Commerce in both bodies of Congress which concern themselves, and have for many decades, with the regulatory bodies, such as the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Trade Commission.

We also have the Committee on Finance in the Senate and the Ways and Means Committee in the House which concern themselves with the Internal Revenue Service and with the various activities that are lodged in the Treasury Department.

These are examples where, through the years—either by statute or by inherent constitutional powers, Congress has exercised oversight on Federal activities and agencies.

Normally when Congress seeks to delegate its powers and responsibilities it does so in a limited fashion. But here, Mr. President, under the terms of this bill, the Federal Privacy Board would be vested with vast responsibility and supervisory power.

Such a delegation of responsibility as is represented in this bill is a little at variance with what we like to see. This is because when we create powers in bodies of this kind Congress has generally tried to define in more or less precise language—preferably more precise—the bounds of such power.

Mr. President, the Board created by this act would supersede and impose itself upon all existent statutory, or actual, oversight and supervision of the various other agencies and activities that are involved. It would create another layer of Federal officials who would go abroad and interest themselves in getting into almost limitless numbers of activities and areas of human conduct in this country. It would indeed be far flung in its organization. It would have to be, of course, if it were going to be effective for its declared purposes. It would be armed with money and with penetrating powers—power to get witnesses and records in almost any public or private area in which it might care to interest itself.

Mr. President, it is respectfully suggested that this type of supervisory activity will tend to result in confusion and conflict and indecision. It may tend to diminish the immediate and direct interest of Congress in the exercise of its oversight role.

As indicated the scope of coverage of the Commission covers virtually all of the data collecting activity of the Government. It includes civil as well as criminal data.

The remainder of my remarks pertain to the assignment to the Federal Privacy Commission of criminal justice records and of law enforcement records in their totality, barring none. The field of criminal justice records I submit is of such complexity that it should not be dealt with on the same terms as civil records. It should be the subject of separate regulation.

The field of criminal justice records and the related information, if it were not handled properly, would be dangerous to informants, operatives, agents, and officers of the law.

Mr. President, there is no need for this legislation to get into the regulation of criminal justice records. There is presently pending in Congress legislation—which now is narrowing down to its final stages—that deals specifically with criminal justice history, with criminal information centers, with data banks, court records, and all the other information which pertains to law enforcement.

This legislation, S. 2963 and S. 2964, is well along, and it is near resolution. It has been the subject of extensive hearings. Many hours have gone into perfecting its provisions.

It is a difficult field in itself and with its specific points—very difficult. Because of its complexity, the legislation has not been treated superficially and has therefore taken a period of time in which to reach the near completion stage it now occupies.

With all this effort, in the passage of the pending bill, S. 3418, we would have superimposed upon the criminal justice field very general rules which were designed for civil record systems and do not properly fit law enforcement. This would cause no end of confusion and no end of conflict.

> Generally, it has been assumed that criminal justice or law enforcement information (whether used by Government or in the private sector) gives rise to problems requiring treatment different from that of information used to carry out social, health, or money benefit programs, to administer revenue and regulatory laws, to select and manage employees and outside contractors, and to conduct the multiplicity of other operations by Government or business. However, even within the broad range of separate informational relationships between individuals and Government or between individuals and business, where criminal detection and apprehension or enforcement of regulatory laws is not the object, wide differences occur. Material differences occur in the kinds and volume of information used, in the manner of collecting and disseminating information, in the degrees of data sensitivity, in the uses made of the information, and in the risks of possible abuse.

The Committee on the Judiciary is formulating this criminal justice data legislation, S. 2963 and S. 2964. The Judiciary Committees of the House and the Senate, have, through the years, acquired a great deal of experience and seasoning in this area. I submit that it is only fitting and proper, as well as wise, to reserve the responsibility of drafting complex legislation to those committees which developed background and expertise on the topic in question.

The job can be done, Mr. President, to protect privacy in the area of law enforcement records and criminal information centers. It can be done in a way to assure privacy and to assure relevance, to assure timeliness and completeness and accuracy of the data involved. That will be done. But it can be done best by those who are versed and knowledgeable in that field.

It is imperative that competent, seasoned, and expert authorities handle situations of that kind. The goal, after all, in law enforcement is good police work, good investigation work, good prosecution, sentencing, and correction. Legislation should be enacted which considers these various aspects of law enforcement. In acting in this area we must insure that we have struck a proper and equitable balance between the individual's right to privacy and society's interest in good and effective law enforcement.

Mr. President, again I say that I do believe that the thrust of this bill, with its broad regulatory Commission and its effort to apply the same regulations to civil and criminal data—arrest records as well as intelligence information—is the wrong means to approach the problem with which we are attempting to deal. Happily, in the other body, there is being perfected a companion bill which has approached the matter in a vastly different way. It is my hope that in due time, rather than trying to amend this bill on the floor of the Senate, which would be a mighty poor way of trying to legislate in such a complex field, that we should make an effort to consider the product of the other body.

Again, I want to say that the objectives of S. 3418 are good. They are fine, and there will be a great deal of popular support for an attempt to correct practices which sometimes result in abuse of privacy. But it is not the label of the bill, it is not its declared programs for which we should vote; it is rather the fashion in which it is sought to achieve those objectives that really counts.

Mr. President, I yield the floor.

Mr. PERCY. Mr. President, I certainly think that the remarks of our distinguished colleague, Senator HRUSKA, are worthy of comment and the concerns he has raised are worthy of consideration. S. 3418 requires that criminal history and arrest records—that is, routine records of arrest and court decisions or rap sheets—be subject to the requirements of the bill.

But our bill does make a careful, proper distinction between this type of criminal record and another type. The latter type are criminal intelligence and investigative files.

These files, of course, are of a sensitive nature, and S. 3418, in section 203, provides that agencies maintaining such files may exempt them from the provisions of the bill providing that people may have access to their own records. We believe this exception to be proper and ample to meet the legitimate concerns of the law enforcement agencies.

The kinds of exception that arose, that have given such great emphasis to this bill, are the kind of situation which a mail cover picks up the fact that a high school girl—in this case, it was a girl by the name of Lori Paton—wrote a letter in connection with a high school theme to an agency that happened to be on the FBI's subversive list. The mail surveillance picked up that she was corresponding with such an agency, and she was therefore named in the record, and a high school girl had an FBI record.

All she was doing was writing a high school theme. She was not a subversive, but there she was, she had a file with the FBI. The family literally had to go to court and sue the Government in order to have that record taken out, along with all the other people that might be in such a position.

Our bill is so carefully drafted, that it would permit her to obtain access to her file. However, if the information in her file were in fact criminal intelligence information, part of a current investigation of criminal activities, our bill would safeguard the ability of law enforcement personnel to withhold information until the possibility of prosecution had passed.

Certainly, we have no intention of interfering with criminal records and that type of thing, which the distinguished Senator pointed out must be preserved.

I think the bill has been carefully drawn in this regard. Nothing in S. 3418 would do damage to the quality of arrest records, for instance.

No excessive burdens for law enforcement agencies are created by this bill. Indeed, the specific legislation that the administration has sent to Congress to deal with criminal arrest records, and the two Senate bills—ERVIN and HRUSKA—all of which are far more detailed and comprehensive in their treatment of arrest records, are not inconsistent with the treatment provided by S. 3418. All of these bills provide the same basic protections: an individual can see his own "rap sheet," the information must be accurate and up-to-date, and standards are established to regulate the disclosure and access to arrest record files.

S. 3418 provides these same minimum safeguards, to become effective 1 year after enactment. This delay allows time to permit a more explicit criminal records bill to be passed. However, until a bill passes there is no reason not to provide minimum standards.

The need for criminal records coverage is demonstrated by the NCIC—National Crime Information Center—a centralized national computer center that collects and disburses information about wanted persons, stolen property, and criminal history records, now operates without legal privacy restrictions. As of December 1, 1973, there were more than 5 million active files in this system. Computer terminals located in cities and towns all across the nation create easy access to these records. "They could lead to access by more users and for checking on more individuals than is socially desirable"—from the July 1973 HEW report on privacy. If harmful information about a person were placed in the file, it would be disseminated and available nationwide.

The HEW report says:

> In practice, the NCIC does not have effective control over the accuracy of all the information in its files. If a subscribing system enters a partially inaccurate record, or fails to submit additions or corrections to the NCIC files (e.g., the return of a stolen vehicle or the disposition of an arrest), there is not much that the NCIC can do about it.

Our bill would require the FBI, which administers the NCIC, to develop procedures to insure that information disseminated by NCIC is accurate, complete and up-to-date.

The HEW report continues to say that—

> Once a subscribing police department contributes an arrest report to the NCIC, that report is available to any "qualified requestor" in the system.
>
> In some states, this means employers and licensing agencies (for physicians, barbers, plumbers and the like). Thus, unless a criminal record information system is designed to keep track of all the ultimate users of each record released, and of every person who has seen it, any correction or emendation of the original record can never be certain to reach holder of a copy.

Our bill requires a complete log of all disclosures of personal information to individuals outside the agency maintaining the data.

Mr. HRUSKA. On that score, my main point pertains. To do something like that should be not through some board that has no expertise or exposure to that type of thing; the Congress, through its oversight powers over the FBI and the Department of Justice and so on, would be able to take care of that. The proposed legislation, S. 2963 and S. 2964 does, and if it is in the field of security, or if it is in the field of something else, the proper legislative body, oversight body, can deal with that very satisfactorily, without getting into this nebulous and innovative area and something really new that would be loosed upon the width and breadth of the land.

Mr. ERVIN. Mr. President, I wish to reply very briefly to the distinguished Senator from Nebraska (Mr. HRUSKA).

This bill does not empower the Privacy Commission to have any jurisdiction over any other agency of Government except to the extent that that other agency of Government is engaged in collecting or storing or disseminating personal information about individuals. Outside of that, it has no jurisdiction whatever.

The term, "personal information" is defined in subsection 2 of section 301 of the bill, on page 48.

The bill is a very simple bill when you stop to analyze it sufficiently. In the first place, it says that Government shall not call on individuals for any information unless that information is reasonable or necessary to enable the agency asking for it to perform its statutory duties. Then it requires Federal agencies to restrict that information—that is, personal information only. They will restrict its disclosure to officials who have some public duty to perform that requires them to have access to that information.

Then it provides that no information will be released to unauthorized persons.

Those are very simple requirements.

With reference to law enforcement provisions, it expressly provides that the head of any law enforcement agency can exempt the agency from certain crucial provisions of the bill. It will not impede the agency's operations as a law enforcement agency.

With reference to the CIA, the Senate has adopted an amendment today, among other amendments, which virtually relieves the CIA from coverage by the act, except to the extent that it must file some reports.

This is a very simple bill, with simple features. It is necessary to give the Privacy Commission some power to enforce it; otherwise, it will be just a hollow piece of legislative mockery on the statute books. I sincerely hope that the Senate will pass it.

AMENDMENT NO. 1992

Mr. WEICKER. Mr. President, I call up my amendment No. 1992, and ask for its immediate consideration.

The legislative clerk proceeded to read the amendment.

Mr. WEICKER. I ask unanimous consent that further reading of the amendment be waived, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER (Mr. PEARSON). Without objection, it is so ordered.

Mr. WEICKER's amendment (No. 1992) is as follows:

> On page 54, line 8, strike out "This Act" and insert in lieu thereof "Titles I, II, and III of this Act".
>
> On page 54, line 14, strike out "this Act"

and insert in lieu thereof "titles I, II, and III of this Act".

On page 54, immediately below line 14, insert the following new title:

"TITLE IV—FINANCIAL DISCLOSURE

"SEC. 401. This title may be cited as the 'Net Worth Disclosure Act'.

"SEC. 402. (a) Each individual referred to in subsection (b) shall file annually with the Comptroller General of the United States a full and complete statement of net worth to consist of:

"(1) A list of the identity and value of each asset held by him, or jointly by him and his spouse or by him and his child or children, and which has a fair market value in excess of $1,500 as of the end of the calendar year prior to that in which he is required to file a report under this Act.

"(2) A list of the identity and amount of each liability owed by him, or jointly by him and his spouse or by him and his child or children, and which is in excess of $1,500 as of the end of the calendar year prior to that *in which he is* required to file a report under this Act.

"(b) The provisions of this Act apply to the President, the Vice President, each Member of the Senate, each Member of the House of Representatives (including Delegates and the Resident Commissioner from Puerto Rico), and each officer and employee of the United States within the executive and legislative branches of Government receiving compensation at an annual rate in excess of $30,000.

"(c) Reports required by this Act shall be in such form and shall contain such information in order to meet the provisions of this Act as the Comptroller General may prescribe. All reports filed under this Act shall be maintained by the Comptroller General as public records, open to inspection by members of the public, and copies of such records shall be furnished upon request at a reasonable fee

"SEC. 403. Each person to whom this Act applies on January 1 of any year shall file the report required by this on or before February 15 of that year. Each person to whom this Act first applies during a year after January 1 of that year shall file the report required by this Act on or before the forty-fifth day after this Act first applies to him during that year.

"SEC. 404 Any person who knowingly and willfully fails to file a report required to be filed under this Act, or who knowingly and willfully files a false report required to be filed under this Act, shall be fined not more than $2,000, or imprisoned for not more than two years, or both.

"SEC. 405. This title shall become effective on January 1, 1975.".

Mr. WEICKER. Mr. President, to digress briefly, I do not know how many more occasions I will have to speak of my admiration for the distinguished Senator from North Carolina, an admiration that has grown during my years here in the Senate, as I have seen him devote his energies to a piece of paper that, very frankly, has almost been forgotten, specifically, the Constitution of the United States.

You know, there is no greatness in this land that does not spring from that document. That which is good, tangibly good, that we see around us, is the manifestation of its great concepts and its great ideals. At a time when so many people had forgotten those concepts and ideals, it was the Senator from North Carolina who gave them legislative meaning and, indeed, very practical meaning, to the people of this country.

So, regardless of our respective positions on any amendments that I have to offer to this bill, the fact is that I want to express now my humble admiration for Senator ERVIN's great contribution to this Nation, at a time when such was very specifically called for. He was the only one, at a certain time, to stand up and be counted.

I am today offering an amendment to the Federal Privacy Board Act to require the full disclosure of net worth by high-ranking officials in the executive and congressional branches of Government. This amendment is the same as the net worth disclosure bill, S. 4059, which I originally introduced before the Senate on September 30.

I ask unanimous consent that the name of the distinguished Senator from Oklahoma (Mr. BARTLETT) be added as a cosponsor of the amendment.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. WEICKER. It is a matter of particular concern to me that the Congress has not yet enacted legislation to guarantee to the public the right to know the financial interests of those who guide their Government. I strongly believe that the public has that right and that the disclosure of financial worth by policymakers is one step toward strengthening the public trust in Government.

Obviously, we consider this matter of the financial interests of public officials to be of importance, otherwise we would not be spending the time spent already in making such inquiries of a potential Vice President of the United States. There is not one single confirmation hearing that we conduct in the Senate that does not have as a key part of the hearing a statement of assets and liabilities and the elimination of any assets and liabilities which we demand, where any conflict of interest might arise.

During floor consideration of the Federal Election Campaign Act, I supported and the Senate passed an amendment that would have required public reporting by elected Federal officials of personal financial affairs. This amendment would have covered each candidate for election to Congress, Members of Congress, the President, the Vice President and certain U.S. officers and employees, at GS-16 level or earning more than $25,000 per year.

Reports of financial interests would have been filed with the Federal Election Commission and would have included:

First, amounts of Federal, State, and local income or property taxes paid;

Second, amount and source of each item of income or gift over $100;

Third, identity of assets and liabilities over $1,000;

Fourth, all dealing in securities and commodities over $1,000; and

Fifth, all purchases or sales of interest in real property involving over $1,000, except for personal residence.

However, this amendment, passed in the Senate by voice vote, was deleted afterwards during conference consideration of the Federal Election Campaign Act. The Federal Election Campaign Act, as passed into law, contained no provision for financial disclosure—public financial disclosure—by elected and appointed Federal officials.

The amendment that I am proposing today is simple and straightforward. It is not as comprehensive as the previous disclosure amendment that was deleted in conference—but seeks to establish in law minimal disclosure requirements for elected Federal officials.

Those covered by the act would be the President, the Vice President, Members of the Senate, Members of the House of Representatives, and all employees of the executive and legislative branches receiving compensation at an annual rate of more than $30,000.

What and when do they have to file? Annually with the Comptroller General a list of all assets and liabilities over $1,500, on the basis of fair market value as of December 31 of the previous year. All reports filed with the Comptroller General are to be maintained by the Comptroller General as public records, open to inspection by members of the public.

The act would become effective as of January 1975. The time period covered would be the preceding calendar year. Therefore, by February 15 of 1975, all persons covered by this legislation would have to indicate what their net worth was as of December 31, 1974. Anyone who had been appointed or elected in a public election during the course of 1975 would have to file such a statement within 45 days of his election or appointment.

I recognize that the bill we are dealing with concerns privacy, a need for which, as I have already indicated, has always been of deep concern to the distinguished Senator from North Carolina. Indeed, the distinguished Senator from Illinois has also been a leader in assuring this most basic right.

I predict right now that the question of the right to privacy will be one of the great issues of the 1970's and 1980's. It goes to the very basis of the Constitution which the Senator from North Carolina has so ably defended over the years.

I think it is important to point out on every occasion that we can that the difference between our political system and that of any other nation in today's world, or indeed throughout history, is that our Constitution and our political system focus on the individual, not on society as a whole—not on the mass, but on the individual.

If we want something that is efficient, trouble free, and expeditious, it cannot be the Constitution of the United States. How can we have something that is quiet, efficient, and trouble free when it concerns itself with 210 million people? It is impossible. That is why the issue of privacy is important—so that we preserve that spirit which has guaranteed to each human being in this country a full flowering of their abilities and their aspirations and their hopes. That opportunity for individual flowering has given us a magnificent historical experience.

So this is not an academic issue, to be debated by scholars and professors, but indeed it goes to the very heart of our experience as a nation.

Mr. President, just to wrap up my comments relative to this amendment, there are those areas, however, where I think that what we do not want is privacy and secrecy. We want openness; we want sunshine. Specifically, I speak of that which deals with those in positions of public trust.

I find it rather ironic that we have recently sat through a number of well-publicized Senate hearings and still do not impose upon ourselves the same requirements we have been imposing upon those being investigated. If we want credibility in this country, indeed, what is sauce for the goose is sauce for the gander. I think quite properly this must be so in this country, so that people might understand our actions in relation to our economic interests.

This is the reason that, despite my desire to guarantee the privacy of individuals, I want our lives as elected officials to be totally open to scrutiny by the American people.

I propose to achieve such an end by virtue of this amendment which is very, very simple, a listing of those assets and liabilities over $1,500 once a year by every one of us, by the President, the Vice President, his Cabinet officers, those highly paid staff members, which documentaton would be available to the public upon request.

I would hope, Mr. President, that my colleagues would see fit to impose this obligation on themselves, and I think it would do a great deal to bring us up the ladder of respect in the eyes of the American people.

I might add that I believe most of the individuals whom I see in this Chamber have done that anyway. I am not pointing any finger, but I would just like to see us go ahead and make it a matter of law rather than a matter of individual discretion.

Mr. ERVIN. Mr. President, as I observed earlier, if we take one legislative nag and put too heavy a load on it, the nag might not be able to reach its intended destination.

Ever since I have been in the Senate there have been amendments proposed from time to time on the floor with reference to disclosure of the assets of Senators.

I have never known, however, of any committee to conduct any hearing on any bill of that kind, and I think it is a matter that ought to be explored by the appropriate committee, or there ought to be a hearing, or there ought to be a decision based on a hearing on this subject.

I respectfully submit that this amendment is not really germane to this bill. This bill is a bill to regulate how the agencies of the Federal Government shall conduct themselves in respect to the collection, the storage, the use and the dissemination of personal information, and I hope that the Senator from Connecticut will not press his amendment for that reason.

I do not want to jeopardize this bill. I think we have got a good bill here.

I am going to introduce in a few days a bill encompassing some of the election reforms recommended by the Senate Select Committee on Presidential Campaign Activities which have not been enacted into law, and I think the Senator's amendment would be quite appropriate for consideration in connection with that legislation.

I will cease to be chairman of the Government Operations Committee on the expiration of my present term in the Senate. I trust, according to all the precedents, that my colleague, the distinguished Senator from Connecticut (Mr. RIBICOFF), will be my successor. I hope that he can give the Senator assurance that it would be considered, either in the introduction of legislation to implement the recommendations of the Senate select committee or as an independent bill.

I hope that the Senator from Connecticut (Mr. WEICKER) will not press his amendment because it might jeopardize this particular bill which is restricted in its nature to Government action rather than action of individuals.

I want to thank the distinguished Senator from Connecticut (Mr. WEIKER) for his most gracious and generous remarks that he made concerning my activities as a Member of the Senate.

Ever since he came to the Senate, he has had offices across the hall from my offices, and I have had very many contacts with him.

I do not know any Senator who has ever rendered more intelligent and more courageous service in any particular field that the Senator from Connecticut (Mr. WEICKER) rendered to this country and to this Senate as a member of the Senate select committee. I cannot pay him too high a tribute for his intelligent and courageous actions in that respect.

Mr. WEICKER. I thank the Senator.

Mr. RIBICOFF. I have been apprised of the colloquy between the Senator from North Carolina, the chairman of the Government Operations Committee, and my esteemed colleague from Connecticut, Senator WEICKER.

First, I can only make assurances, subject to the Senate naming me to succeed our esteemed chairman, Mr. ERVIN, chairman of the Government Operations Committee.

But should I be designated as chairman of the Government Operations Committee when we meet in session next year, I assure my colleague from Connecticut that in connection with the hearings on the Ervin bill, which is an outgrowth of the important reforms suggested by the Select Committee on Presidential Campaign Activities, I would also believe it appropriate to have hearings on the proposal of my colleague from the State of Connecticut.

I would assure him that, in conjunction with the hearings on the Ervin bill, we could proceed with hearings on the Weicker bill and adopt it, if the committee so agrees, Mr. WEICKER.

Mr. WEICKER. I thank my colleague.

Mr. BAYH. Mr. President, will the Senator from Connecticuit (Mr. WEICKER) yield to the Senator from Indiana?

Mr. WEICKER. Yes.

Mr. BAYH. I listened with a great deal of interest to what I thought was a very eloquent, appropriate, and on-the-mark assessment of the validity behind the amendment of my distinguished friend and colleague, the Senator from Connecticut.

This is very much along the same lines of a measure introduced by the Senator from Indiana some time ago, and I would like to suggest to my other distinguished colleague, the Senator from Connecticut, that if we are exploring that situation next year, which I certainly hope we will, we look at the need to broaden disclosure beyond the current boundary lines as well as examining our measure suggested by our distinguished colleague from Connecticut.

As the Senate may recall, we had a very difficult battle on this floor relative to the merits of a certain Supreme Court judge. One of the significant aspects of that debate, and one of the issues which I feel we did not agree upon, was a conflict of interest that concerned many of us and led to his not being confirmed by the Senate.

At that time, it seemed to me that we should deal with judicial conflicts of interests as well as in the legislative and executive branches.

So I would suggest that in looking into this, we include the importance of disclosure with regard to judicial conflicts of interest, as to their propriety or appearance of propriety, and that we also explore lowering that dollar figure down to $1,800. We have a number of people on our staffs and in executive positions who are making decisions behind closed doors, away from public assessment and disclosure to our constituents generally, who have, perhaps, as much influence in making decisions as some of the rest of us who are in the limelight all the time.

So I want to compliment my distinguished colleague, the Senator from Connecticut, and I would like to join with him and ask him to join with me in studying this.

I also hope that my other friend and colleague, the Senator from Connecticut, who has been here now for 12 long years with the Senator from Indiana, will start the 13th by exploring the very important aspects of putting it all on top of the table and letting our constituents then judge whether this really is a conflict of interest.

Mr. RIBICOFF. May I respond to my distinguished colleague from Indiana that should such a proposal be included in the bill to be presented by the Senator from Connecticut or by the Senator from Indiana, and it is referred to the Government Operations Committee, we could certainly explore through hearings the proposal of the Senator from Indiana at the same time. I would certainly so assure the Senator from Indiana.

Mr. WEICKER. Mr. President, I certainly accept the assurances of my distinguished colleague from Connecticut and the Senator from North Carolina.

Mr. PERCY. And the Senator from Illinois, as ranking minority member, would like to join in assuring the Senator from Connecticut that hearing will be held.

Mr. WEICKER. Mr. President, under those circumstances, admittedly it is certainly less than germane. You see, the last time the amendment was offered it was on a bill which it was said was not germane either, so I thought we might try something that was less than germane to have it become law.

I know that we will have hearings and believe me, it would certainly enhance the image of this body. The eyes of the American people should be addressed to this separate subject, and legislation should be enacted right away. With those remarks, I ask that the amendment which I have offered be withdrawn.

The PRESIDING OFFICER (Mr. HELMS). The Senator has the right to withdraw his amendment.

Mr. ERVIN. Mr. President, I ask for the yeas and the nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and the nays were ordered.

Mr. WEICKER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

On page 43, line 2, strike the (;) and insert the following:

", provided such personal information is transferred or disseminated in a form not individually identifiable."

On page 47, line 23, strike the (-) and insert the following:

", provided such personal information is transferred or disseminated in a form not individually identifiable."

Mr. ERVIN. Mr. President, the amendment referred to by the Senator from Connecticut is meritorious and I hope the Senate will adopt it.

Mr. WEICKER. I thank the Senator from North Carolina. What this does is attack the confidentiality of our income tax returns. It is as simple as that. With my amendment—the relevant information is available. However, as far as the individual return and identity of the return is concerned, no, it is not available to the Census Bureau, and should not be. I am delighted my amendment is acceptable to the Senator from North Carolina.

I hope we can get the point home to the people downtown. I file my tax return for the purposes of collection of taxes and nothing else.

This amendment does that. The generalized information is available, but not the specific return.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Mr. President, we are not operating under controlled time?

The PRESIDING OFFICER. That is correct.

Mr. BAYH. Mr. President, I would like to add my word of commendation to the distinguished Senator from North Carolina for the significant contribution he has made as represented here in this bill.

I would like to go further, if I might, as one who has had the good fortune of sitting with him as a member of the Constitutional Rights Subcommittee for a number of years, to suggest that the product of this bill is like one acorn in the forest compared to the hours of work contributed by our distinguished friend from North Carolina.

My friend from North Carolina and I have not always agreed on issues that have been before this body, but I must say it has been like a breath of fresh air for some of us who believe that the first 10 amendments of the Constitution are as absolutely indispensable today as when they were introduced long ago, to see a champion like the distinguished Senator from North Carolina stand up and lead the charge in defending these rights from attack.

I must say, I have a lump in my throat, if I might say it as unemotionally as I know how, to think of the void that will exist when he leaves the Congress.

I suppose most of us here are dedicated to the principles of the Bill of Rights, but I know of no other person who has had a greater feel for the indispensability of these amendments and a willingness to put the work and the effort behind that dedication. I just cannot thank him enough.

He has been more prominently on the national scene as a result of his work in the Watergate hearings, and we owe him a debt for that, but I think perhaps an even greater debt goes to the effort he has been leading a long time before anybody heard of Watergate.

I think if this Nation and this body had listened to what the Senator from North Carolina was trying to say over the years, and certainly if the Department of Justice and some of those folks who succumbed to temptation down at the White House had listened to what he was trying to say, there would never have been a Watergate.

Now, may I ask my distinguished colleague from North Carolina if he would care to give us his opinion, for the record, relative to the importance of the Committee on the Judiciary continuing to explore any violations of our individual rights, privacy, and the area of personal information systems and data banks?

I note this is a joint effort of governmental operations and the Judiciary Subcommittee of which he was chairman.

I would not, by default, want the Judiciary Committee, which he served so faithfully through the years and which was moving in this area, to lose jurisdiction or the opportunity to continue the vigilance he established at quite a high level.

Mr. ERVIN. Mr. President, first I want to thank my good friend from Indiana for his most generous and gracious remarks.

I also want to say that while he and I have differed at times on certain issues, that we have never disagreed about the value of the Bill of Rights as a guarantee of the freedom of all Americans.

On all occasions when I have been fighting for the Bill of Rights, he has been by my side.

The Government Operations Committee had jurisdiction of this particular bill because it does affect the structure of the Government in that it creates a Federal Privacy Board.

I recognize also in the sense that the Judiciary Committee, through its Subcommittee on Constitutional Rights, had a concrete jurisdiction because this involves some of the basic constitutional rights of Americans.

I do not think passage of this bill will alter in any way the provisions of the rules which give the Subcommittee on Constitutional Rights as part of the Judiciary Committee jurisdiction to investigate and initiate legislation dealing with constitutional rights in the field of privacy or any other field where they exist.

Mr. BAYH. I appreciate the Senator's assessment in this area.

Might I also ask him to give us the benefit of his thoughts or feeling in some additional areas. I understand there are restrictions between what we might like to accomplish and what we feel we have 51 votes for. One of the concerns that the Senator from Indiana had addressed in other legislation is the existence of other kinds of information-gathering systems that are now under the jurisdiction of State or local governments, or indeed in the private sector with particular concern expressed about the credit rating business. Could the Senator give us his thoughts on this?

Mr. ERVIN. Well, the Government Operations Committee and the Subcommittee on Constitutional Rights agreed to restrict the provisions of this bill very narrowly and to make it apply primarily to the information-gathering activities affecting an individual on the part of the Federal agencies.

We originally did have provision to apply it to the States, but there was some considerable opposition to it. As a pragmatic matter we restricted coverage of the bill, as far as States are concerned, to a study of State agencies. The provisions of the bill do apply to a State agency which is created by a grant or contract with the Federal agency where it sets up a computer system. Otherwise, it does not apply to States.

We also restricted its application insofar as individuals' private affairs are concerned for the pragmatic reason we felt that if we tried to deal with the whole subject in one bill, we would be inviting considerable opposition.

I agree with the Senator from Indiana that it is a very serious question which arises as to the privacy of Americans by the activities of credit corporations and that there should be some legislation in the Federal field to safeguard the individual's right of privacy in respect to such credit organizations and similar organizations engaged in commercial business.

Mr. BAYH. I certainly appreciate the Senator's thoughts on this. Might I ask him to give his attention to one other area?

I am quite concerned about the exemption clause in section 203, subsections (a) and (b). I am concerned because whenever you set up an exemption, the question is how broad is the exemption.

As the Senator from Indiana reads this, we are talking specifically about national defense and foreign policy, and intelligence and investigation information.

Does the Senator suggest that this should be narrowly defined, particularly when we look at foreign policy? It is a rather broad construction that could be interpreted from this exemption.

Mr. ERVIN. I think that "national security" embraces foreign policy in a sense. There is an executive order which says that national security embraces only two things: our national defense, that is, our defense posture, our armed services and plans in that connection; and our sensitive dealings with foreign countries.

I think that the first one of these exemptions would include those things.

While the bill does allow the head of an agency engaged in investigatory work for criminal law enforcement purposes to exempt the agency if he finds the provisions regulating the dissemination of these records, and so on, of individuals would impede the accomplishment of his department's professional duties or statutory duties.

I think those are narrow restrictions. I think they are essential if we are going to get a bill that will command the majority of both Houses of Congress, and one that will be signed into law by the President. We have to take those practical considerations into effect.

Also, I would doubt the advisability of Congress' creating a new agency and giving it some jurisdiction to veto the action of long-established law enforcement agencies.

Mr. BAYH. My concern, as I am sure the Senator from North Carolina understands, is based on the fact that it is some of those agencies that have been the primary culprits in violating these rights which he cherishes and has done so much to protect in the past.

Mr. ERVIN. Yes. Of course, that is one trouble: wherever power is lodged, it is always subject to be abused. But you have to lodge power somewhere in order to get things done.

Mr. BAYH. In talking about national defense and foreign policy, and in talking about intelligence and investigative information, is it the Senator's assessment that we are talking about three agency heads there, or three general departments?

Mr. ERVIN. The FBI, in the first place. Also, the Secret Service. Also, the Customs people who have certain law enforcement powers. Generally, you would have the CIA also.

However, we offered an amendment which was adopted and which only requires the CIA to make reports to the Commission with respect to its installations and does not require them to divulge information. When they stay within their field, as they apparently did not do in the case of Chile, they are concerned solely with national security in foreign areas.

Mr. BAYH. I assume we are also talking about the Secretary of Defense? And the Secretary of State, perhaps?

Mr. ERVIN. Yes, to a limited degree, where he is engaged in enforcing military law.

Mr. BAYH. What concerns me is that it could not be a reasonable interpretation that, for example, the Secretary of Agriculture or somebody dealing with Public Law 480 which affects our foreign policy, or the Secretary of Commerce, which, in some instances, would also be affecting our foreign policy, to be able to utilize these two exemptions as a way to get themselves out from under the restrictions of this legislation.

Mr. ERVIN. I do not think it would bother anybody except those engaged in investigative work either to protect national security or the enforcement of the criminal laws. That is not the function of the Department of Agriculture.

Mr. BAYH. I share that belief, but I think it makes a lot more sense and makes better legislative history coming from my distinguished friend from North Carolina.

One last question: In subsection (c) on page 45, where we talk about a determination to exempt any such system, and go on and talk about the head of any such agency on line 23, are we talking specifically and only about those agencies covered in subsection (a) and (b)?

Mr. ERVIN. That is right.

The word "such" there is just like we lawyers so frequently say the said agencies or aforesaid agencies specified in those two preceding sections.

Mr. BAYH. I appreciate the patience of my good friend as well as his great contribution.

Mr. ERVIN. Thank you very much.

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I understand that both the majority and minority members have agreed to this amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 22, line 17, insert the following new section:

"h(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that request to Congress.

(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress."

Mr. BIDEN. Mr. President, the amendment I have offered would help to insure that the Privacy Protection Commission which would be established by this bill would truly be an independent regulatory agency. The amendment would require that the Commission submit to Congress a copy of virtually every communication it has with the President or the Office of Management and Budget in regard to budgetary or policy matters.

Furthermore, when the Commission offered legislative recommendations to Congress, neither the President, the Office of Management and Budget nor any other Federal agency or officer—could require that the Commission clear its remarks with them first.

Mr. President, as events of the last 2 years have indicated, we can ill afford to allow the executive branch to control our supposedly independent agencies.

These agencies are instruments not only of the executive, but also of the Congress. This amendment will allow Congress to act as a watchdog to determine that it receives the agencies' views as to policy and budget, not the executive's. In other words, we will be able to determine for ourselves not only the needs of the Commission, but its advice and its problems.

Furthermore, by playing this watchdog role, perhaps we can curtail the common practice of an agency submitting an overly large budget knowing full well that the Office of Management and Budget would cut it.

This amendment would not only allow us to scrutinize the actions of the Executive regard to the Commission, but to also scrutinize the actions of the Commission itself.

In 1972, an identical provision was enacted as part of the legislation creating the Consumer Product Safety Commission. The provision has apparently proved to be very effective. For the first time, discussions between the budget office and a regulatory agency have been transmitted to Congress. Since we must vote on the appropriations for such agencies, it seems only natural that we be able to see budget estimates from the agencies themselves, not after they have been sifted through the executive branch.

Mr. President, in this Congress we have taken great strides toward reasserting our control over such things as the budget. We have attempted to assure that the three branches of Government are truly coequal. My amendment to this bill would be one more step in that direction.

Mr. ERVIN. Mr. President, as I understand, this amendment merely requires the Privacy Board to be created by this legislation to file with the Congress its budget at the same time it files its budget request with the President. I think it is a wholesome, meritorious amendment. I hope the Senate will adopt it.

Mr. BIDEN. Everybody has been complimentary to the Senator from North Carolina. I would like to add my compliments, though I have not shared any lengthy amount of time with him in the Senate.

I compliment him on one thing that has been in short supply here—consistency.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ERVIN. Mr. President, I would like to ask to be printed in the Record at this point the marked portions of the committee report as marked by me from page 4 through page 14, which shows why we need this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

COMMITTEE OVERSIGHT

These hearings continued the oversight by the Government Operations Committee of the development and proper management of automated data processing in the Federal Government and its concern for the effect of Federal-State relations of national and intergovernmental data systems involving electronic and manual transmissions, sharing, and distribution of personal information about citizens.

Senator Ervin announced the joint hearings as Chairman of both subcommittees, in a Senate speech on June 11 in which he summarized the issues and described some of the complaints from citizens which have been received by Members of Congress, as follows:

"It is a rare person who has escaped the quest of modern government for information. Complaints which have come to the Constitutional Rights Subcommittee and to Congress over the course of several administrations show that this is a bipartisan issue which effects people in all walks of life. The complaints have shown that despite our reverence for the constitutional principles of limited Government and freedom of the individual, Government is in danger of tilting the scales against those concepts by means of its information-gathering tactics and its technical capacity to store and distribute information. When this quite natural tendency of Government to acquire and keep and share information about citizens is enhanced by computer technology and when it is subjected to the unrestrained motives of countless political administrators, the resulting threat to individual privacy make it necessary for Congress to reaffirm the principle of limited, responsive Government on behalf of freedom.

"The complaints show that many Americans are more concerned than ever before about what might be in their records because Government has abused, and may abuse, its powers to investigate and store information.

"They are concerned about the transfer of information from data bank to data bank and black list to black list because they have seen instances of it.

"They are concerned about intrusive statistical questionnaires backed by the sanctions of criminal law or the threat of it because they have been subject to these practices over a numbers of years."

S. 3418 provides an "Information Bill of Rights" for citizens and a "Code of Fair Information Practices" for departments and agencies of the executive branch.

Testimony and statements were received from Members of Congress who have sponsored legislation and conducted investigations into complaints from citizens; from Federal, State, and local officials including representatives of the Administration and certain departments and agencies, the Domestic Council Committee on Right to Privacy, the Commerce Department, Bureau of the Census. National Bureau of Standards, the General Services Administration, the Office of Telecommunications Policy; the National Governors Conference, the National Legislative Conference, the National Association for State Information Systems, and the Government Management Information Sciences. Many interested organizations and individuals with expert knowledge of the subject advised the Committee. These included the former Secretary of Health, Education, and Welfare, Elliot Richardson, authors of major studies, experts in computer technology, constitutional law, and public administration. the American Civil Liberties Union, Liberty Lobby, the National Committee for Citizens in Education, the American Society of Newspaper Editors, and others.

The provisions of the bill as reported, reflect the bill as introduced, with revisions based on testimony of witneses at hearings, consultations with experts in privacy, computer technology, and law, representatives of Federal agencies and of many private organizations and businesses, as well as the staffs of a number of congressional committees engaged in investigations related to privacy and governmental information systems.

The Committee finds that the need for enactment of these provisions is supported by the investigations and recommendations of numerous congressional committees, reports of bar associations, and other organizations, and conclusions of governmental study commissions.

To cite only a few, there are:

Earlier studies of computers and information technology by the Senate Committee on Government Operations and the current hearings and studies relating to S. 3418;

The hearings and studies on computers, data banks and the bill of rights and other investigations of privacy violations before the Constitutional Rights Subcommittee;

The hearings and studies of computer privacy and government information-gathering before the Judiciary Administrative Practices Subcommittee;

The hearings on insurance industries and other data banks before the Judiciary Antitrust Subcommittee;

The hearings on abuses in the credit reporting industries and on protection of bank records before the Senate Banking, Housing and Urban Affairs Committee;

Investigations over many years by the House Government Operations Committee; and

Finally, there are many revelations during the hearings before the Select Committee on Watergate of improper access, transfer and disclosure of personal files and of unconstitutional, illegal or improper investigation of and collection of personal information on individuals.

Particularly supportive of the principles and purposes of S. 3418 are the following reports sponsored by Government agencies:

1. "Legal Aspects of Computerized Information Systems" by the Committee on Scientific and Technical Information, Federal Council of Science and Technology, 1972.
2. "Records, Computers and the Rights of Citizens", Report of the Secretary's Advisory Committee on Automated Personal Data Systems, Department of Health, Education and Welfare, July 1973.
3. "Databanks in a Free Society, Computers, Record-Keeping and Privacy", of the Computer Science and Engineering Board, National Academy of Sciences, by Alan F. Westin and Michael Baker.
4. Technical Reports by Project Search Law Enforcement Assistance Administration, Department of Justice.
5. A draft study by the Administrative Conference of the United States on Interagency Transfers of Information.
6. Report by the National Governors Conference.
7. Reports by international study bodies.

The ad hoc subcommittee has initiated two surveys of the Governors and of the attorneys general of the States which are producing responses supportive of congressional legislation on privacy and Federal computers and information technology. They also reveal strong efforts in State and local governments to enact similar or stronger legislation to protect privacy.

The need for the bill is also evident from the sample of legal literature and public administration articles and press articles reprinted in the appendix of the subcommittee hearings.

Finally, there are the complaints of information abuses received by many Members of Congress and diligently investigated by each of them.

Dr. Alan F. Westin, director of the 1972 National Academy of Sciences Project, reported that the study suggested "six major areas of priority for public action: laws to give individuals a right of notice, access, and challenge to virtually every file held by local, State, and national government, and most private record systems as well; promulgation of clearer rules for data-sharing and data-restriction than we now have in most important personal data files; rules to limit the collection of unnecessary and overbroad personal data by any organization; increased work by the computer industry and professionals on security measures to make it possible for organizations to keep their promises of confidentiality; limitations on the current, unregulated use of the Social Security number; and the development of independent, 'information-trust' agencies to hold especially sensitive personal data, rather than allowing these data to be held automatically by existing agencies."

Witnesses cited the failure of legislation and judicial decisions to keep pace with the growing efficiency of data usage by promulgating clear standards for data collection, data exchange, and individual access rights. Similarly, many other witnesses before Congress agreed with his judgment that the mid-1970's is precisely the moment when such standards need to be defined and installed if the managers of large data systems, and the specialists of the computer industry, are to have the necessary policy guidelines around which to engineer the new data systems that are being designed and implemented.

Dr. Westin cautioned:

"To delay congressional action in 1974–75, therefore, is to assure that a large number of major data systems will be built, and other existing computerized systems expanded, in ways that will make it extremely costly to alter the software, change the file structures, or reorganize the data flows to respond to national standards. And beyond the money, such late changes threaten to jeopardize many operations in vital public services that will be increasingly based on computerized systems—national health insurance, family assistance plans, national criminal-offender records, and many others. In fact, these systems may become so large, so expensive, and so vital to so many Americans that public opinion will be put to a terrible choice—serious interruption of services *or* installation of citizen-rights measures."

The spread of the data bank concept, the increasing computerization of sensitive subject areas relating to people's personal lives and activities, and the tendency of government to put information technology to uses detrimental to individual privacy were detailed by Professor Authur Miller. He stated:

"Americans today are scrutinized, measured, watched, counted, and interrogated by more governmental agencies, law enforcement officials, social scientists and poll takers than at any other time in our history. Probably in no Nation on earth is as much individualized information collected, recorded and disseminated as in the United States.

"The information gathering and surveillance activities of the Federal Government have expanded to such an extent that they are becoming a threat to several of every American's basic rights, the rights of privacy, speech, assembly, association, and petition of the Government.

* * * * *

"I think if one reads Orwell and Huxley carefully, one realizes that "1984" is a state of mind. In the past, dictatorships always have come with hobnailed boots and tanks and machineguns, but a dictatorship of dossiers, a dictatorship of data banks can be just as repressive, just as chilling and just as debilitating on our constitutional protections. I think it is this fear that presents the greatest challenge to Congress right now."

Professor Miller characterized the reported bill as "a major step in developing a rationale regulatory scheme for achieving an effective balance between a citizen and the Government in the important field of information privacy. The creation of a Privacy Protection Commission with broad power of investigation, reporting, and suasion seems to me to be an effective way of developing policy in this rapidly changing environment. Also worthy of enthusiastic support is Title II of the proposed legislation. We simply cannot allow more time to pass without developing standards of care with regard to the gathering and handling of personal information. In that regard, S. 3418 goes a long way to establish the much needed information bill of rights."

The four-year survey by the Constitutional Rights Subcommittee, intended as an aid to Congress in evaluating pending legislation, demonstrates the need for requiring the following Congressional action:

Explicit statutory authority for the creation of each data bank, as well as prior examination and legislative approval of all decisions to computerize files;

Privacy safeguards built into the increasingly computerized government files as they are developed, rather than merely attempting to supplement existing systems with privacy protections;

Notification of subjects that personal information about them is stored in a Federal data bank and provision of realistic opportunities for individual subjects to review and correct their own records;

Constraints on interagency exchange of personal data about individuals and the creation of interagency data bank cooperatives;

The implementation of strict security precautions to protect the data banks and the information they contain from unauthorized or illegal access; and

Continued legislative control over the purposes, contents and uses of government data systems.

HEW REPORT

Another report reflecting major provisions of S. 3418 is that rendered by the Secretary's Advisory Committee on Automated Personal Data Systems to the Department of Health, Education and Welfare. Former Secretary Elliot Richardson described their findings in his testimony.

The report found that "concern about computer-based record keeping usually centers on its implications for personal privacy, and understandably so if privacy is considered to entail control by an individual over the uses made of information about him. In many circumstances in modern life, an individual must either surrender some of that control or forego the services that an organization provides. Although there is nothing inherently unfair in trading some measure of privacy for a benefit, both parties to the exchange should participate in setting the terms."

"Under current law, a person's privacy is poorly protected against arbitrary or abusive record-keeping practices." For this reason, as well as because of the need to establish standards of record-keeping practice appropriate to the computer age, the report recommends the enactment of a Federal "Code of Fair Information Practice" for all automated personal data systems. The Code rests on five basic principles that would be given legal effect as "safeguard requirements" for automated personal data systems.

There must be no personal data record-keeping systems whose very existence is secret.

There must be a way for an individual to find out what information about him is in a record and how it is used.

There must be a way for an individual to prevent information about him that was obtained for one purpose from being used or made available for other purposes without his consent.

There must be a way for an individual to correct or amend a record of identifiable information about him.

Any organization creating, maintaining, using, or disseminating records of identifiable personal data must assure the reliability of the data for their intended use and must take precautions to prevent misuse of the data.[1]

The Advisory Committee recommended "the enactment of legislation establishing a Code of Fair Information Practice for all automated personal data systems as follows:

The Code should define "fair information practice" as adherence to specified safeguard requirements.

The Code should prohibit violation of any safeguard requirement as an "unfair information practice."

The Code should provide that an unfair information practice be subject to both civil and criminal penalties.

The Code should provide for injunctions to prevent violation of any safeguard requirement.

The Code should give individuals the right to bring suits for unfair information practices to recover actual, liquidated, and punitive damages, in individual or class actions. It should also provide for recovery of reasonable attorneys' fees and other costs of litigation incurred by individuals who bring successful suits."

Pending the enactment of a code of fair information practice, the Advisory Committee also recommended that all Federal agencies apply these requirements to all Federal systems, and assure through formal rulemaking that they are applied to all other systems within reach of the Federal government's authority. Beyond the Federal Government, they urged that state and local governments, the institutions within reach of their authority, and all private organizations adopt the safeguard requirements by whatever means are appropriate.

Revolutionary changes in data collection, storage and sharing were described by Senator Goldwater, who was one of many witnesses who called for enactment of the recommendations of the HEW Advisory Committee. He stated:

"Computer storage devices now exist which make it entirely practicable to record thousands of millions of characters of information, and to have the whole of this always available for instant retrieval . . . Distance is no obstacle. Communications circuits, telephone lines, radio waves, even laser beams, can be used to carry information in bulk at speeds which can match the computer's own. Time-sharing is normal . . . we are now hearing of a system whereby it is feasible for there to be several thousands of simultaneous users or terminals. Details of our health, our education, our employment, our taxes, our telephone calls, our insurance, our banking and financial transactions, pension contributions, our books borrowed, our airline and hotel reservations, our professional societies, our family relationships, all are being handled by computers right now. Unless these computers, both governmental and private, are specifically programmed to erase unwanted history, these details from our past can at any time be reassembled to confront us . . . We must program the programmers while there is still some personal liberty left."

The Committee has found that the concern for privacy is a bipartisan issue and knows no political boundaries. President Ford, as Vice-President, chaired a Domestic Council Committee on the Right of Privacy which was established by President Nixon in February 1974. In a recent address on the subject, he stated:

"In dealing with troublesome privacy problems, let us not, however, scapegoat the computer itself as a Frankenstein's monster. But let us be aware of the implications posed to freedom and privacy emerging from the ways we use computers to collect and disseminate personal information. A concerned involvement by all who use computers is the only way to produce standards and policies that will do the job. It is up to us to assure that information is not fed into the computer unless it is relevant.

"Even if it is relevant, there is still a need for discretion. A determination must be made if the social harm done from some data outweighs its usefulness. The decision-making process is activated by demands of people on the government and business for instant credit and instant services. Computer technology has made privacy an issue of urgent national significance. It is not the technology that concerns me but its abuse. I am also confident that technology capable of designing such intricate systems can also design measures to assure security."

FEDNET

In the same address, the Vice-President called attention to FEDNET and problems involved in a proposed centralization of computer facilities which concerned several Congressional committees and which provisions in S. 3418 would correct. He stated:

"The Government's General Services Administration has distributed specifications for bids on centers throughout the country for a massive new computer network. It would have the potential to store comprehensive data on individuals and institutions. The contemplated system, known as FEDNET, would link Federal agencies in a network that would allow GSA to obtain personal information from the files of many Federal departments. It is portrayed as the largest single governmental purchase of civilian data communication in history.

"I am concerned that Federal protection of individual privacy is not yet developed to the degree necessary to prevent FEDNET from being used to probe into the lives of individuals. Before building a nuclear reactor, we design the safeguards for its use. We also require environmental impact statements specifying the anticipated effect of the reactor's operation on the environment. Prior to approving a vast computer network affecting personal lives, we need a comparable privacy impact statement. We must also consider the fallout hazards of FEDNET to traditional freedoms."

Examples

The revelations before the Select Committee to Investigate Presidential Campaign Activities concerning policies and practices of promoting the illegal gathering, use or disclosure of information on Americans who disagreed with governmental policies were cited by almost all witnesses as additional reasons for immediate congressional action on S. 3418 and other privacy legislation. The representative of the American Civil Liberties Union stated:

"Watergate has thus been the symbolic catalyst of a tremendous upsurge of interest in securing the right of privacy: wiretapping and bugging political opponents, breaking and entering, enemies lists, the Huston plan, national security justifications for wiretapping and burglary, misuse of information compiled by government agencies for political purposes, access to hotel, telephone and bank records; all of these show what government can do if its actions are shrouded in secrecy and its vast information resources are applied and manipulated in a punitive, selective, or political fashion."

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[1] *Records, Computers, and the Rights of Citizens*, U.S. Department of Health, Education and Welfare, 1973, p. xx.

Despite such current concern, Congressional studies and complaints to Congress show that the threats to individual privacy from the curiosity of administrators and salacious inquiries of investigators predated "Watergate" by many years. These have been described at length in the hearing record on S. 3418.

For example, under pain of civil and criminal sanctions, many people have been *selected and told* to respond to questions on statistical census questionnaires such as the following:

How much rent do you pay?

Do you live in a one-family house?

If a woman, how many babies have you had? Not counting still births.

How much did you earn in 1967?

If married more than once, how did your first marriage end?

Do you have a clothes dryer?

Do you have a telephone, if so, what is the number?

Do you have a home food freezer?

Do you own a second home?

Does your TV set have UHF?

Do you have a flush toilet?

Do you have a bathtub or shower?

The studies show that thousands of questionnaires are sent out yearly asking personal questions, but people are not told their responses are voluntary; many think criminal penalties attach to them; it is difficult for them to find out what legal penalties attach to a denial of the information or what will be done with it. If they do not respond, reports show that they are subjected to telephone calls, certified follow-up letters, and personal visits. Much of this work is done by the Census Bureau under contract, and many people believe that whatever agency receives the responses, their answers are subject to the same mandatory provisions and *confidentiality* rules as the decennial census replies. A Senate survey revealed that in 3 years alone the Census Bureau had provided their computer services at the request of 24 other agencies and departments for conducting voluntary surveys covering over 6 million people. Other independent voluntary surveys were conducted by the agencies themselves on subjects ranging from bomb shelters, to smoking habits, to birth control-methods, to whether people who had died had slept with the window open. The form usually asked for social security number, address and phone number.

One such survey technique came to light through complaints to Congress from elderly, disabled or retired people in all walks of life who were pressured to answer a 15-page form sent out by the Census Bureau for the Department of Health, Education and Welfare which asked:

What have you been doing in the last 4 weeks to find work?

Taking things all together, would you say you are very happy, pretty happy, or not too happy these days?

Do you have any artificial dentures?

Do you—or your spouse—see or telephone your parents as often as once a week?

What is the total number of gifts that you give to individuals per year?

How many different newspapers do you recive and buy regularly?

About how often do you go to a barber shop or beauty salon?

What were you doing most of last week?

Applicants for Federal jobs in some agencies and employees in certain cases, have been subjected to programs requiring them to answer forms of psychological tests which *contained* questions such as these:[2]

I am seldom troubled by constipation.

My sex life is satisfactory.

At times I feel like swearing.

I have never been in trouble because of my sex behavior.

I do not always tell the truth.

I have no difficulty in starting or holding my bowel movements.

I am very strongly attracted by members of my own sex.

I like poetry.

I go to church almost every week.

I believe in the second coming of Christ.

I believe in a life hereafter.

My mother was a good woman.

I believe my sins are unpardonable.

I have used alcohol excessively.

I loved my Mother.

I believe there is a God.

Many of my dreams are about sex matters.

At periods my mind seems to work more slowly than usual.

I am considered a liberal "dreamer" of new ways rather than a practical follower of well-tried ways. (a) true, (b) uncertain, (c) false.

When telling a person a deliberate lie, I have to look away, being ashamed to look him in the eye. (a) true, (b) uncertain, (c) false.

First Amendment Programs: the Army

Section 201(b)(7) prohibits departments and agencies from undertaking programs for gathering information on how people exercise their First Amendment rights. Section 201(a) prevents them from collecting and maintaining information which is not relevant to a statutory purpose.

The need for these provisions have been made evident in many ways. In addition to federal programs for asking people questions such as whether they "believe in the second coming of Christ," there have been numerous other programs affecting First Amendment rights.

One of the most pervasive of the intrusive information programs which have concerned the Congress and the public in recent years involved the Army surveillance of civilians, through its own records and those of other federal agencies. The details of these practices have been documented in Congressional hearings and reports and where summarized by Senator Ervin as follows:[3]

Despite First Amendment rights of Americans, and despite the constitutional division of power between the federal and state governments, despite laws and decisions defining the legal role and duties of the Army, the Army was given the power to create an information system of data banks and computer programs which threatened to erode these restrictions on governmental power.

"Allegedly for the purpose of predicting and preventing civil disturbances which might develop beyond the control of state and local officials, Army agents were sent throughout the country to keep surveillance over the way the civilian population expressed their sentiments about government policies. In churches, on campuses, in classrooms, in public meetings, they took notes, taperecorded, and photographed people who dissented in thought, word or deed. This included clergymen, editors, public officials, and anyone who sympathized with the dissenters.

"With very few, if any, directives to guide their activities, they monitored the membership and policies of peaceful organizations who were concerned with the war in Southeast Asia, the draft, racial and labor problems, and community welfare. Out of this surveillance the Army created blacklists of organizations and personalities which were circulated to many federal, state and local agencies, who were all requested to supplement the data provided. Not only descriptions of the contents of speeches and political comments were included, but irrelevant entries about personal finances, such as the fact that a militant leader's credit card was withdrawn. In some cases, a psychiatric diagnosis taken from Army or other medical records was included.

"This information on individuals was programmed into at least four computers according to their political beliefs, or their memberships, or their geographic residence.

"The Army did not just collect and share this information. Analysts were assigned the task of evaluating and labeling these people on the basis of reports on their attitudes, remarks and activities. They were then coded for entry into computers or microfilm data banks."

Mr. HUDDLESTON. Mr. President, as a member of the Government Operations Committee, I am pleased to support S. 3418, which is designed to protect the right of privacy of individual citizens in the collection, maintenance and dissemination of personal information.

The right of individual privacy is vital to any free society.

That right is a basic concept which permeates the very fiber of our Constitution, even though it is not an explicit constitutional guarantee. The freedoms guaranteed by the first amendment—free speech, a free press, and freedom of assembly and religion—at the very least imply the right to be "let alone" by the Government. The principle is further demonstrated by the constitutional prohibition against the Government invading the privacy of homes or businesses by conducting unreasonable search and seizure and the right against self-incrimination is another section that deals with privacy.

The individual's right to privacy has long been recognized by the courts which have consistently protected it from both governmental and nongovernmental intervention. As technological advances—cameras, wiretaps, sound recordings, and so forth—provided new opportunities for infringement upon these rights, the courts responded in an affirmative manner. Unfortunately, due to the nature of the courts, this response has often been slow and incomplete. Case law is built gradually over a period of years and is often incomplete because it is usually decided on narrow issues of law. Thus, what is needed now is a coordinated and comprehensive approach to the problems that can be provided only by the Congress.

Technology is again advancing, this time in the form of computers. This new technology brings with it, as advancements often do, the possibility for negligent use or deliberate misuse. This is what we must guard against. With the development of the computer it has become possible to collect, instantly retrieve and analyze vast amounts of personal information. Access to this personal data has been expanded by the computer's ability to retrieve data across agency, institutional, governmental and geographic boundaries.

A prime example of the type of advanced computer system we may be dealing with in the future is the proposed

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[2] Senate Report 93–724, to accompany S. 1688. "To Protect the Privacy and Rights of Federal Employees." The report describes other similar programs for soliciting, collecting or using personal information from and about applicants and employees. S. 1688 has been approved by the Senate five times.

[3] *Hearings* before the Subcommittee on Constitutional Rights of the Judiciary Committee, 4 *Columbia Human Rights Review* (1972) Hearings, 92d Cong., 2d sess. February 1971.

FEDNET. This giant computerized information system, brainchild of the General Services Administration, was designed to centralize the data processing and telecommunications operations of numerous Federal agencies. Without proper safeguards, vast amounts of personal information retained by the various agencies would be instantly available at hundreds of terminals scattered throughout the United States. And that information covers every spectrum—educational, medical, financial and judicial—of the lives of hundreds of thousands of private citizens. Fortunately this system has been temporarily sidetracked. But the threat of "Big Brother" was clearly there.

Our recent experience with Watergate and related matters points up the need for enacting safeguards to protect the collection and use of such information. The compilation of an enemies list, for example, must be viewed as only the first step in an abuse of power, for the next logical step would be the compilation of "useful" information about those on the list. And what more ready source exists than the bulging files of the Federal Government.

The need for protective legislation is well documented. The record is replete with calls for safeguards in this area. Congress has been probing this problem for years with the leadership of such members as the distinguished Senator from North Carolina (Mr. ERVIN). In June of this year, the Committee on Government Operations ad hoc Subcommittee on Privacy and Information Systems in conjunction with the Judiciary Committee's Subcommittee on Constitutional Rights conducted hearings on S. 3418. The roster of witnesses included high ranking civil servants and recognized nongovernment experts. The general consensus of those testifying was that there is a definite need to protect individual privacy in this area. Former Attorney General Elliot Richardson, for example, stated at those hearings:

> I certainly hope . . . a major bill will be enacted to establish in law the fundamental principles of fair information practice that are necessary to safeguard the right of personal privacy as it relates to record keeping about individual Americans.

Several major studies drew the same conclusion.

The HEW Advisory Committee on Automated Personal Data Systems issued its report, "Records, Computers, and The Rights of Citizens," in 1973. This committee determined that under current law, a person's privacy is not adequately protected against arbitrary or abusive recordkeeping practices and that there is a need to establish standards of recordkeeping practices which are appropriate to the computer age.

Another study, made by the Judiciary Committee's Subcommittee on Constitutional Rights, entitled "Federal Data Banks and Constitutional Rights," produced some sobering statistics. Agencies maintaining 84 percent of the Federal data banks analyzed—858—were unable to cite explicit statutory authority for their existence and 18 percent could not cite any statutory authority.

While the actual and potential abuses of personal information systems have been well documented, we should not view all such systems as sinister threats to personal privacy. Information regarding private individuals is a vital element of any government. Officials must have certain information and statistics if they are to devise and implement programs and policies which fit the needs of the people. This requires the collection, analysis, and dissemination of some personal information. Most agencies accomplish this without infringing upon individual rights. However, the need for safeguards is not negated by this. The threat still exists and must be dealt with.

I believe that S. 3418 would promote accountability and responsibility in Federal agencies by establishing minimum standards for gathering, handling, and processing personal information by Federal departments and agencies. Only information that is relevant and necessary for a statutory purpose of the agency could be collected, solicited, and maintained.

Furthermore, information would have to be accurate, complete, timely, and relevant to the agencies' needs. Disclosure of information could only be made under certain defined conditions.

With some necessary exceptions—for example, if national defense would be endangered—an individual would be allowed to review his or her files and challenge the content. To enforce his or her rights under the act, the individual would have access to the courts.

A significant feature of the bill is the creation of the Privacy Protection Commission to assist agencies in complying with the letter and spirit of the act; investigate abuses; and make recommendations to Congress regarding the need for additional legislation to protect individual privacy in a computer age. The Commission would also compile an annual directory of Federal personal information files such as those maintained on civilians by the military several years ago.

There even would be some relief for those who find themselves inundated with unwanted or junk mail. An individual could have his or her name removed from a mailing list.

I believe that the time to act on this matter is now. Delay may well be costly in terms of freedoms lost and increased financial burdens.

Dr. Alan Westin, professor of public law and government, Columbia University, has warned in his testimony before the Committee on Government Operations, that a delay will assure that a large number of major data systems will be built in ways that will make it extremely expensive to alter the software, change the file structures or reorganize the data flows. Let us not delay at our own expense.

Mr. BAKER. Mr. President, it is my privilege to join my colleagues from North Carolina (Mr. ERVIN), Illinois (Mr. PERCY), Maine (Mr. MUSKIE), Connecticut (Mr. RIBICOFF), Washington (Mr. JACKSON), and Arizona (Mr. GOLDWATER) in cosponsoring S. 3418, the so-called privacy bill.

I tihnk it is fair to term S. 3418 a "privacy" bill because it seeks to reduce, if not eliminate, the peril to personal privacy and individual rights presented by governmental data banks and information gathering systems. Moreover, traveling in the wake of the recent disclosures of the dubious uses to which Internal Revenue Service files, FBI data banks, and military information systems have been directed, and in light of the massive information recording facilities possessed by other Federal agencies, privacy legislation designed to effect fair information practices and to provide for a single mission oversight and clearinghouse Privacy Protection Commission is particularly appropriate.

As an advocate of increased congressional and Presidential oversight of Federal intelligence gathering, surveillance, and law enforcement agencies, I believe that an independent Privacy Protection Commission, as proposed by S. 3418, will facilitate legislative and executive oversight through creating a central clearinghouse for ascertaining the character and existence of all Federal information systems and by bearing a positive responsibility to monitor governmental data system procedures and policies. Perhaps more importantly, title II of S. 3418 outlines Federal standards governing the gathering and distribution of information relating to U.S. citizens and permanent resident aliens. These standards affirm that the existence of governmental recordkeeping systems should be public knowledge; that governmental agencies should maintain only such records as are related to and permitted by its statutory authority; that Federal information systems containing personal data are accurate, relevant, and complete; that personal files be kept secure and confidential; and that interagency pooling or transfers of personal data be recorded, disclosed, and relevant to the needs of the agency to which the information is transferred. The standards provided in title II of the bill also strictly limit the collection of information regarding a citizen's exercise of his first amendment rights—thereby reaching the concern produced by ongoing revelations of FBI, IRS, and military compilations of information concerning dissident or political action groups.

To those of my colleagues who may be concerned regarding the impact of S. 3418 upon the intelligence and law-enforcement community, I would note that section 203 of the bill provides responsible foreign policy, national defense, and law enforcement related exemptions from the bill's personal information disclosure requirements, disclosure of the source of personal information, and the right of the individual to be informed of the existence of personal information on file. It should be emphasized that the standards and sanctions imposed by S. 3418 pertain only to personal information regarding American citizens and resident aliens and should not impair the ability of U.S. intelligence agencies to collect and keep confidential information regarding foreign agents and nonresident aliens.

Senate passage, and I hope it will

pass, of this privacy bill should not be construed as imputing any unworthy motives to the executive branch or the officials of Federal agencies currently involved in information collection and data bank operations. What this bill is designed to do is to limit personal data collection to a necessary minimum, to apprise the citizenry of the existence and character of all governmental data systems, to insure that data collection does not impair individual constitutional rights, and to provide the public with an awareness of how much and under what authority personal information is being assembled and assimilated by the Federal Government.

Mr. RIBICOFF. Mr. President, 41 years ago, George Bernard Shaw, in a speech, commented:

> There is no such thing as privacy in this country.

Unfortunately, the statement remains true today.

Over the past two decades, the computer has allowed the Government to expand its information-gathering facilities. In 1972, the National Academy of Sciences reported:

> That it is technologically possible today, especially with recent advances in mass storage memories, to build a computerized, online file containing the compacted equivalent of 20 pages of typed information about the personal history of selected activities of every man, woman, and child in the United States, arranging the system so that any single record could be retrieved in about 30 seconds.

This possibility requires that we ask a fundamental question about the rights of the individual citizen in our society. Is it in our best interests to allow the Government to continue to expand its files on citizens and to gather detailed information on any citizen without proper safeguards for the privacy of those individuals?

As early as 1967, the Senate Administrative Practices Subcommittee revealed that—

> Our names alone are in government files 2,800 million times. Our social security numbers are listed 2,800 million times. Police records number 264,500 million; medical histories, 342 million; and psychiatric histories, 279 million.

The Federal Government now maintains over 800 data-collection systems. These data systems contain over 1 billion records on individuals. Yet, of the over 800 Federal data collection systems, only 10 percent are specifically authorized by law—more than 40 percent do not inform individuals that records are being kept on them—half the systems do not permit individuals to review or correct their own files.

Today, the Government maintains "files" on a large majority of Americans. Often, these files contains information of a most personal nature. Often the information is outdated and incorrect. Yet, decisions affecting people's lives are made based on these same files. It appears that a large and unmeasured toll appears to be taken on the constitutional principles of accountability, responsibility, and limited government.

Both the Republican and Democratic policy platforms have placed privacy as a high priority concern. President Ford, in his speech before the joint session of Congress on August 12, 1974, commented:

> There will be hot pursuit of tough laws to prevent illegal invasions of privacy in both government and private activities.

The HEW Advisory Committee on Automated Personal Data Systems recommended the enactment of a Federal "Code of Fair Information Practice," based on five basic principles, for all automated personal data systems. The principles are incorporated into the individual rights guaranteed in S. 3418, the bill before us today, which I am pleased to be a sponsor:

To know that no secret data system exists;

To know what information about that individual is in a record and how it is used;

To prevent information obtained for one purpose from being used for other purposes without consent of the individual; and

To correct or amend information about that individual.

S. 3418 establishes an independent Privacy Protection Commission to deal systematically with the range of administrative and technological problems throughout Federal Government agencies and to study privacy abuses in the private sector as well as in State and local government agencies. The commission will serve as an effective balance between citizens and the Government in order to further develop policy in our rapidly changing technological environment. There is a need for a staff of experts to furnish assistance to Government agencies and to inform Congress and the public of the scope and kinds of data-handling used by Government and private organizations. The commission would continually check the need for new or expanded data systems and provide citizens with adequate information about which agencies maintain, distribute, or use information about them.

The bill requires that an individual be informed when a file is kept on him and that he be given an opportunity to challenge information in the file. The bill requires that all files be regularly updated, that information be disclosed only in accord with strict guidelines, and that records be kept of all such disclosures.

New advances in computer technology doubtless provide our society with advantages. Our technology allows Government and industry to operate more efficiently and cheaply. It allows quick access to information—information that becomes too easily available. We would be foolish to contend that the computer presents us with no dangers. We would be wrong not to consider the very real threats presented by loosely controlled or unregulated computer data systems. I believe S. 3418 is a necessary check on Government data systems.

Justice Brandeis' wisdom in his dissenting opinion in the first wiretap case to reach the Supreme Court, *Olmstead* v. *United States* (1927), in crediting the framers of the Constitution with having "conferred, as against the Government, the right to be left alone—the most comprehensive of rights and the right most valued by civilized man" must be remembered. He urged that privacy must be protected by nothing less than the prevention of "every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed."

No specific statute allowed the Army to blacklist persons involved in the antiwar movement. No act of Congress authorized the Army to send the names of blacklisted persons to numerous State and Federal agencies. Congress never intended that persons be subjected to surveillance and intimidation, because they chose to exercise their first amendment rights.

I lend my support to S. 3418 and will vote for its passage.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the names of Mr. CRANSTON and Mr. NELSON be added as cosponsors of the bill under consideration (S. 3418) to establish a Federal Privacy Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I commend the distinguished Senator from Connecticut (Mr. RIBICOFF) for the great contribution which he has made to the development of this bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), and the Senator from Arizona (Mr. FANNIN) are necessarily absent.

I also announce that the Senator from New York (Mr. BUCKLEY) and the Senator from Maryland (Mr. MATHIAS) are absent on official business.

I further announce that the Senator

from Oregon (Mr. HATFIELD) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 74, nays 9, as follows:

[No. 496 Leg.]

YEAS—74

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bible
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Ervin
Fong
Goldwater
Gravel
Griffin
Gurney
Hart
Hartke
Haskell
Hathaway
Helms
Hollings
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McClure
McGee
McIntyre
Metcalf
Metzenbaum
Moss
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Tunney
Weicker
Williams
Young

NAYS—9

Aiken
Cotton
Curtis
Hansen
Hruska
McClellan
Scott, William L.
Thurmond
Tower

NOT VOTING—17

Bennett
Bentsen
Buckley
Dominick
Eastland
Fannin
Fulbright
Hatfield
Humphrey
Mathias
McGovern
Mondale
Montoya
Muskie
Pastore
Sparkman
Symington

So the bill (S. 3418) was passed, as follows:

An act to establish a Privacy Protection Commission, to provide management systems in Federal agencies and certain other organizations with respect to the gathering and disclosure of information concerning individuals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PRIVACY PROTECTION COMMISSION

ESTABLISHMENT OF COMMISSION

SEC. 101. (a). There is established as an independent agency of the executive branch of the Government the Privacy Protection Commission.

(b) (1) The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate, from among members of the public at large who, by reason of their knowledge and expertise in any of the following areas: civil rights and liberties, law, social sciences, and computer technology, business, and State and local government, are well qualified for service on the Commission and who are not otherwise officers or employees of the United States. Not more than three of the members of the Commission shall be adherents of the same political party.

(2) One of the Commissioners shall be appointed Chairman by the President:

(3) A Commissioner appointed as Chairman shall serve as Chairman until the expiration of his term as a Commissioner of the Commission (except that he may continue to serve as Chairman for so long as he remains a Commissioner and his successor as Chairman has not taken office). An individual may be appointed as a Commissioner at the same time he is appointed Chairman.

(c) The Chairman shall preside at all meetings of the Commission and a quorum for the transaction of business shall consist of at least three members present (but the Chairman may designate an Acting Chairman who may preside in the absence of the Chairman). Each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman) shall be the official spokesman of the Commission in its relations with the Congress. Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct.

(d) Each Commissioner shall be compensated at the rate provided for under section 5314 of title 5 of the United States Code, relating to level IV of the Executive Schedule.

(e) Commissioners shall serve for terms of three years. No Commissioner may serve more than two terms. Vacancies in the membership of the Commission shall be filled in the same manner in which the original appointment was made.

(f) Vacancies in the membership of the Commission, as long as there are three Commissioners in office, shall not impair the power of the Commission to execute the functions and powers of the Commission.

(g) The members of the Commission shall not engage in any other employment during their tenure as members of the Commission.

(h) (1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that request to Congress.

(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review to the submission of such recommendations, testimony, or comments to the Congress.

PERSONNEL OF THE COMMISSION

SEC. 102. (a) (1) The Commission shall appoint an Executive Director who shall perform such duties as the Commission may determine. Such appointment may be made without regard to the provisions of title 5, United States Code.

(2) The Executive Director shall be compensated at a rate not in excess of the maximum rate of GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Commission is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the provisions of this Act.

(c) The Commission may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

FUNCTION OF THE COMMISSION

SEC. 103. (a) The Commission shall—

(1) publish annually a United States Directory of Information Systems containing the information specified to provide notice under section 201(c) (3) of this Act of each information system subject to the provisions of this Act and a listing of all statutes which require the collection of such information by a Federal agency;

(2) investigate, determine, and report any violation of any provision of this Act (or any regulation adopted pursuant thereto) to the President, the Attorney General, the Congress, and the General Services Administration where the duties of that agency are involved, and to the Comptroller General when it deems appropriate; and

(3) develop model guidelines for the implementation of this Act and assist Federal agencies in preparing regulations and meeting technical and administrative requirements of this Act.

(b) Upon receipt of any report required of a Federal agency describing (1) any proposed information system or data bank, or (2) any significant expansion of an existing information system or data bank, integration of files, programs for records linkage within or among agencies, or centralization of resources and facilities for data processing, the Commission shall—

(A) review such report to determine (i) the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the confidentiality of information relating to such individuals, and (ii) its effect on the preservation of the constitutional principles of federalism and separation of powers; and

(B) submit findings and make recommendations to the President, Congress, and the General Services Administration concerning the need for legislative authorization and administrative action relative to any such proposed activity in order to meet the purposes and requirements of this Act.

(c) After receipt of any report required under subsection (b), if the Commission determines and reports to the Congress that a proposal to establish or modify a data bank or information system does not comply with the standards established by or pursuant to this Act, the Federal agency submitting such report shall not proceed to establish or modify any such data bank or information system for a period of sixty days from the date of receipt of notice from the Commission that such data bank or system does not comply with such standards.

(d) In addition to its other functions the Commission shall—

(1) to the fullest extent practicable, consult with the heads of appropriate departments, agencies, and instrumentalities of the Federal Government, of State and local governments, and other persons in carrying out the provisions of this Act and in conducting the study required by section 106 of this Act;

(2) perform or cause to be performed such research activities as may be necessary to implement title II of this Act, and to assist Federal agencies in complying with the requirements of such title;

(3) determine what specific categories of information should be prohibited by statute from collection by Federal agencies on the basis that the collection of such information would violate an individual's right of privacy; and

(4) prepare model legislation for use by State and local governments in establishing procedures for handling, maintaining, and disseminating personal information at the State and local level and provide such technical assistance to State and local governments as they may require in the preparation and implementation of such legislation.

CONFIDENTIALITY OF INFORMATION

SEC. 104. (a) Each department, agency, and instrumentality of the executive branch of the Government, including each independent agency, shall furnish to the Commission, upon request made by the Chairman, such data, reports, and other information as the Commission deems necessary to carry out its functions under this Act.

(b) In carrying out its functions and exercising its powers under this Act, the Commission may accept from any Federal agency or other person any identifiable personal data if such data is necessary to carry out such powers and functions. In any case in which the Commission accepts any such information, it shall provide appropriate safeguards to insure that the confidentiality of such information is maintained and that upon completion of the purpose for which such information is required it is destroyed or returned to the agency or person from which it is obtained, as appropriate.

POWERS OF THE COMMISSION

SEC. 105. (a)(1) The Commission may, in carrying out its functions under this Act, conduct such inspections, sit and act at such times and places, hold hearings, take such testimony, require by subpena the attendance of such witnesses and the production of such books, records, papers, correspondence, and documents, administer such oaths, have such printing and binding done, and make such expenditures as the Commission deems advisable. A subpena shall be issued only upon an affirmative vote of a majority of all members of the Commission. Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by the Chairman and shall be served by any person designated by the Chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) In case of disobedience to a subpena issued under paragraph (1) of this subsection, the Commission may invoke the aid of any district court of the United States in requiring compliance with such subpena. Any district court of the United States within the jurisdiction where such person is found or transacts business may, in case of contumacy or refusal to obey a subpena issued by the Commission, issue an order requiring such person to appear and testify, to produce such books, records, papers, correspondence, and documents, and any failure to obey the order of the court shall be punished by the court as a contempt thereof.

(3) Appearances by the Commission under this Act shall be in its own name. The Commission shall be represented by attorneys designated by it.

(4) Section 6001(1) of title 18, United States Code, is amended by inserting immediately after "Securities and Exchange Commission," the following: "the Privacy Protection Commission,".

(b) The Commission may delegate any of its functions to such officers and employees of the Commission as the Commission may designate and may authorize such successive redelegations of such functions as it may deem desirable.

(c) In order to carry out the provisions of this Act, the Commission is authorized—

(1) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel;

(2) to adopt, amend, and repeal interpretative rules for the implementation of the rights, standards, and safeguards provided under this Act;

(3) to enter into contracts or other arrangements or modifications thereof, with any government, any agency or department of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(4) to make advance, progress, and other payments which the Commission deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(5) receive complaints of violations of this Act and regulations adopted pursuant thereto; and

(6) to take such other action as may be necessary to carry out the provisions of this Act.

COMMISSION STUDY OF OTHER GOVERNMENTAL AND PRIVATE ORGANIZATIONS

SEC. 106. (a)(1) The Commission shall make a study of the data banks, automated data processing programs, and information systems, of governmental, regional, and private organizations, in order to determine the standards and procedures in force for the protection of personal information, and to determine the extent to which those standards and procedures achieve the purposes of this Act.

(2) The Commission periodically shall report its findings to the President and the Congress and shall complete the study required by this section not later than three years from the date this Act becomes effective.

(3) The Commission shall recommend to the President and the Congress the extent, if any, to which the requirements and principles of this Act should be applied to the information practices of those organizations by legislation, administrative action, or by voluntary adoption of such requirements and principles. In addition, it shall submit such other legislative recommendations as it may determine to be necessary to protect the privacy of individuals while meeting the legitimate needs of government and society for information.

(b)(1) In the course of such study and in its reports, the Commission shall examine and analyze—

(A) interstate transfer of information about individuals which is being undertaken through manual files or by computer or other electronic or telecommunications means;

(B) data banks and information programs and systems the operation of which significantly or substantially affect the enjoyment of the privacy and other personal and property rights of individuals;

(C) the use of social security numbers, license plate numbers, universal identifiers, and other symbols to identify individuals in data banks and to gain access to, integrate, or centralize information systems and files; and

(D) the matching and analysis of statistical data, such as Federal census data, which other sources of personal data, such as automobile registries and telephone directories, in order to reconstruct individual responses to statistical questionnaires for commercial or other purposes, in a way which results in a violation of the implied or explicitly recognized confidentiality of such information.

(2) The Commission shall include in its examination information activities in the following areas: medical, insurance, education, employment and personnel, credit, banking and financial institutions, credit bureaus, the commercial reporting industry, cable television and other telecommunications media, travel, hotel, and entertainment reservations, and electronic check processing. The Commission may study such other information activities necessary to carry out the congressional policy embodied in this Act, except that the Commission shall not investigate information systems maintained by religious organizations.

(3) In conducting the study, the Commission shall—

(A) determine what laws, Executive orders, regulations, directives, and judicial decisions govern the activities under study and the extent to which they are consistent with the rights of privacy, due process of law, and other guarantees in the Constitution;

(B) determine to what extent governmental and private information systems affect Federal-State relations or the principle of separation of powers;

(C) conduct a thorough examination of standards and criteria governing programs, policies, and practices relating to the collection, soliciting, processing, use, access, integration, dissemination, and transmission of personal information;

(D) to the maximum extent practicable, collect and utilize findings, reports, and recommendations of major governmental, legislative and private bodies, institutions, organizations, and individuals which pertain to the problems under study by the Commission; and

(E) receive and review complaints with respect to any matter under study by the Commission which may be submitted by any person.

REPORTS

SEC. 107. The Commission shall, from time to time, and in an annual report, report to the President and the Congress on its activities in carrying out the provisions of this Act.

TITLE II—STANDARDS AND MANAGEMENT SYSTEMS FOR HANDLING INFORMATION RELATING TO INDIVIDUALS

SAFEGUARD REQUIREMENTS FOR ADMINISTRATIVE, INTELLIGENCE, STATISTICAL-REPORTING, AND RESEARCH PURPOSES

SEC. 201. (a) Each Federal agency shall—

(1) collect, solicit, and maintain only such personal information as is relevant and necessary to accomplish a statutory purpose of the agency;

(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs; and

(3) inform any individual requested to disclose personal information whether that disclosure is mandatory or voluntary, by what statutory authority it is solicited, what uses the agency will make of it, what penalties and specific consequences for the individual, which are known to the agency, will result from nondisclosure, and what rules of confidentiality will govern the information.

(b) Each Federal agency that maintains an information system or file shall, with respect to each such system or file—

(1) insure that personal information maintained in the system or file is accurate, complete, timely, and relevant to the purpose for which it is collected or maintained by the agency at the time any access is granted to the file, material is added to or taken from the file, or at any time it is used to make a determination affecting the subject of the file;

(2) refrain from disclosing any such personal information within the agency other than to officers or employees who have a need for such personal information in the performance of their duties for the agency;

(3) maintain a list of all categories of persons authorized to have regular access to personal information in the system or file;

(4) maintain an accurate accounting of the date, nature, and purpose of all other access granted to the system or file, and all other disclosures of personal information made to any person outside the agency, or to another agency, including the name and address of the person or other agency to whom disclosure was made or access was granted, except as provided by section 202(b) of this Act;

(5) establish rules of conduct and notify and instruct each person involved in the design, development, operation, or maintenance of the system or file, or the collection, use, maintenance, or dissemination of information

about an individual, of the requirements of this Act, including any rules and procedures adopted pursuant to this Act and the penalties for noncompliance;

(6) establish appropriate administrative, technical and physical safeguards to insure the security of the information system and confidentiality of personal information and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom personal information is maintained; and

(7) establish no program for the purpose of collecting or maintaining information describing how individuals exercise rights guaranteed by the first amendment unless the head of the agency specifically determines that such information is relevant and necessary to carry out a statutory purpose of the agency.

(c) Any Federal agency that maintains an information system or file shall—

(1) make available for distribution upon the request of any person a statement of the existence and character of each such system or file;

(2) on the date on which this Act becomes effective and annually thereafter, notify the Commission and give public notice of the existence and character of each existing system or file simultaneously, and cause such notice to be published in the Federal Register; and

(3) include in such notices at least the following information:

(A) name and location of the system or file;

(B) nature and purposes of the system or file;

(C) categories of individuals on whom personal information is maintained and categories of personal information generally maintained in the system or file, including the nature of the information and the approximate number of individuals on whom information is maintained;

(D) the confidentiality requirements and the extent to which access controls apply to such information;

(E) categories of sources of such personal information;

(F) the Federal agency's policies and practices regarding implementation of sections 201 and 202 of this Act, information storage, duration of retention of information, and elimination of such information from the system or file;

(G) uses made by the agency of the personal information contained in the system or file;

(H) identity of other agencies and categories of persons to whom disclosures of personal information are made, or to whom access to the system or file may be granted, together with the purposes therefor and the administrative constraints, if any, on such disclosures and access, including any such constraints on redisclosure;

(I) procedures whereby an individual can (i) be informed if the system or file contains personal information pertaining to himself or herself, (ii) gain access to such information, and (iii) contest the accuracy, completeness, timeliness, relevance, and necessity for retention of the personal information; and

(J) name, title, official address, and telephone number of the officer immediately responsible for the system or file.

(d)(1) Each Federal agency that maintains an information system or file shall assure to an individual upon request the following rights:

(A) to be informed of the existence of any personal information pertaining to that individual;

(B) to have full access to and right to inspect the personal information in a form comprehensible to the individual;

(C) to know the names of all recipients of information about such individual including the recipient organization and its relationship to the system or file, and the purpose and date when distributed, unless such information is not required to be maintained pursuant to this Act;

(D) to know the sources of personal information (i) unless the confidentiality of any such source is required by statute, then the right to know the nature of such source; or (ii) unless investigative material used to determine the suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, is compiled by a Federal agency in pursuit of an authorized investigative responsibility, and in the course of compiling such materials, information prejudicial to the subject of the investigation is revealed through a source who furnishes such information to the Government under the express provision that the identity of the source will be held in confidence, and where the disclosure of such information would identify and be prejudicial to the rights of the confidential source, then the right to know the nature of such information and to examine that information if it is found to be material or relevant to an administrative or judicial proceeding by a Federal judge or Federal administrative officer: *Provided,* That investigative material shall not be made available to promotion boards which are empowered to promote or advance individuals in Federal employment, except when the appointment would be from a noncritical to a critical security position;

(E) to be accompanied by a person chosen by the individual inspecting the information, except that an agency or other person may require the individual to furnish a written statement authorizing discussion of that individual's file in the person's presence;

(F) to receive such required disclosures and at reasonable standard charges for document duplication, in person or by mail, if upon written request, with proper identification; and

(G) to be completely informed about the uses and disclosures made of any such information contained in any such system or file except those uses and disclosures made pursuant to law or regulation permitting public inspection or copying.

(2) Upon receiving notice that an individual wishes to challenge, correct, or explain any personal information about him in a system or file, such Federal agency shall comply promptly with the following minimum requirements:

(A) investigate and record the current status of the personal information;

(B) correct or eliminate any information that is found to be incomplete, inaccurate, not relevant to a statutory purpose of the agency, not timely or necessary to be retained, or which can no longer be verified;

(C) accept and include in the record of such information, if the investigation does not resolve the dispute, any statement of reasonable length provided by the individual setting forth his position on the disputed information;

(D) in any subsequent dissemination or use of the disputed information, clearly report the challenge and supply any supplemental statement filed by the individual;

(E) at the request of such individual, following any correction or elimination of challenged information, inform past recipients of its elimination or correction; and

(F) not later than sixty days after receipt of notice from an individual making a request concerning personal information, make a determination with respect to such request and notify the individual of the determination and of the individual's right to a hearing before an official of the agency which shall if requested by the individual, be conducted as follows:

(i) such hearing shall be conducted in an expeditious manner to resolve the dispute promptly and shall be held within thirty days of the request and, unless the individual requests a formal hearing, shall be conducted on an informal basis, except that the individual may appear with counsel, present evidence, and examine and cross-examine witnesses;

(ii) any record found after such a hearing to be incomplete, inaccurate, not relevant, not timely nor necessary to be retained, or which can no longer be verified, shall within thirty days of the date of such findings be appropriately modified or purged; and

(iii) the action or inaction of any agency on a request to review and challenge personal data in its possession as provided by this section shall be reviewable de novo by the appropriate United States district court.

An agency may, for good cause, extend the time for making a determination under this subparagraph. The individual affected by such an extension shall be given notice of the extension and the reason therefor.

(e) When a Federal agency provides by a contract, grant, or agreement for, and the specific creation or substantial alteration, or the operation by or on behalf of the agency of an information system or file and the primary purpose of the grant, contract, or agreement is the creation, substantial alteration, or the operation by or on behalf of the agency of such an information system or file, the agency shall, consistent with its authority, cause the requirements of subsections (a), (b), (c), and (d) to be applied to such system or file. In cases when contractors and grantees or parties to an agreement are public agencies of States or the District of Columbia or public agencies of political subdivisions of States, the requirements of subsections (a), (b), (c), and (d) shall be deemed to have been met if the Federal agency determines that the State or the District of Columbia or public agencies of political subdivisions of the State have adopted legislation or regulations which impose similar requirements.

(f)(1) Any Federal agency maintaining or proposing to establish a personal information system or file shall prepare and submit a report to the Commission, the General Services Administration, and to the Congress on proposed data banks and information systems or files, the proposed significant expansion of existing data banks and information systems or files, integration of files, programs for records linkage within or among agencies, or centralization of resources and facilities for data processing, which report shall include—

(A) the effects of such proposals on the rights, benefits, and privileges of the individuals on whom personal information is maintained;

(B) a statement of the software and hardware features which would re required to protect security of the system or file and confidentality of information;

(C) the steps taken by the agency to acquire such features in their systems, including description of consultations with representatives of the National Bureau of Standards; and

(D) a description of changes in existing interagency or intergovernmental relationships in matters involving the collection, processing, sharing, exchange, and dissemination of personal information.

(2) The Federal agency shall not proceed to implement such proposal for a period of sixty days from date of receipt of notice from the Commission that the proposal does not comply with the standards established under or pursuant to this Act.

(g) Each Federal agency covered by this Act which maintains an information system or file shall make reasonable efforts to serve advance notice on an individual before any personal information on such individual is made available to any person under compulsory legal process.

(h) No person may condition the granting or withholding of any right, privilege, or benefit, or make as a condition of employment the securing by any individual of any information which such individual may obtain through the exercise of any right secured under the provisions of this section.

DISCLOSURE OF INFORMATION

Sec. 202. (a) No Federal agency shall disseminate personal information unless—

(1) it has made written request to the individual who is the subject of the information and obtained his written consent;

(2) the recipient of the personal information has adopted rules in conformity with this Act for maintaining the security of its information system and files and the confidentiality of personal information contained therein: and

(3) the information is to be used only for the purposes set forth by the sender pursuant to the requirements for notice under this Act.

(b) *Section* 202(a) (1) shall not apply when disclosure would be—

(1) to those officers and employees of that agency who have a need for such information in ordinary course of the performance of their duties;

(2) to the Bureau of the Census for purposes of planning or carrying out a census or survey pursuant to the provisions of title 13, United States Code: *Provided*, That such personal information is transferred or disseminated in a form not individually identifiable.

(3) where the agency determines that the recipient of such information has provided advance adequate written assurance that the information will be used solely as a statistical reporting or research record, and is to be transferred in a form that is not individually identifiable; or

(4) pursuant to a showing of compelling circumstances affecting health or safety of an individual, if upon such disclosure notification is transmitted to the last known address of such individual.

(c) Section 201(b) (4) and paragraphs (1), (2), and (3) of subsection (a) of this section shall not apply when disclosure would be to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office. Nothing in this Act shall impair access by the Comptroller General, or any of his authorized representatives, to records maintained by an agency, including records of personal information, in the course of performance of such duties.

(d) (1) Nothing in this section shall be construed to limit the efforts of the Government pursuant to the provisions of chapter 35, title 44 of the United States Code (commonly known as the Federal Reports Act) or any other statute, to reduce the burden on citizens of collecting information by means of combining or eliminating unnecessary reports, questionnaires, or requests for information.

(2) Nothing in this section shall be construed to affect restrictions on the exchange of information between agencies as required by chapter 35, title 44 of the United States Code (commonly known as the Federal Reports Act).

(e) Subsection (a) (1) of this section shall not apply when disclosure would be to another agency or to an instrumentality of any governmental jurisdiction for a law enforcement activity if such activity is authorized by statute and if the head of such agency or instrumentality has made a written request to or has an agreement with the agency which maintains the system or file specifying the particular portion of the information desired and the law enforcement activity for which the information is sought.

EXEMPTIONS

Sec. 203. (a) The provisions of section 201 (c) (3) (E), (d), and section 202, shall not apply to any personal information contained in any information system or file if the head of the Federal agency determines, in accordance with the provisions of this section, that the application of the provisions of any of such sections would seriously damage national defense or foreign policy or where the application of any of such provisions would seriously damage or impede the purpose for which the information is maintained.

(b) The provisions of section 201(d) and section 202 shall not apply to law enforcement intelligence information or investigative information if the head of the Federal agency determines, in accordance with the provisions of any of such sections would seriously damage or impede the purpose for which the information is maintained: *Provided*, That investigatory records shall be exempted only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of a confidential source, and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (D) disclose confidential investigative techniques and procedures which are not otherwise generally known outside the agency, or (E) endangers the life or physical safety of law enforcement personnel: *Provided*, That investigative information may not be exempted under this section where such information has been maintained for a period longer than is necessary to commence criminal prosecution. Nothing in this Act shall prohibit the disclosure of such investigative information to a party in litigation where required by statute or court rule.

(c) (1) A determination to exempt any such system, file, or information may be made by the head of any such agency in accordance with the requirements of notice, publication, and hearing contained in sections 553 (b), (c), and (e), 556, and 557 of title 5, United States Code. In giving notice of an intent to exempt any such system, file, or information, the head of such agency shall specify the nature and purpose of the system, file, or information to be exempted.

(2) Whenever any Federal agency undertakes to exempt any information system, file, or information from the provisions of this Act, the head of such Federal agency shall promptly notify the Commission of its intent and afford the Commission opportunity to comment.

(3) The exception contained in section 553 (d) of title 5, United States Code (allowing less than thirty days' notice), shall not apply in any determination made or any proceeding conducted under this section.

ARCHIVAL RECORDS

Sec. 204. (a) Federal agency records which are accepted by the Administrator of General Services for storage, processing, and servicing in accordance with section 3103 of title 44, United States Code, shall, for the purposes of this section, be considered to be maintained by the agency which deposited the records and shall be subject to the provisions of this Act. The Administrator of General Services shall not disclose such records, or any information therein, except to the agency which maintains the records or pursuant to rules established by that agency.

(b) Federal agency records pertaining to identifiable individuals which were transferred to the National Archives of the United States as records which have sufficient historical or other value to warrant their continued preservation by the United States Government shall for the purposes of this Act, be considered to be maintained by the National Archives and shall not be subject to the provisions of this Act except section 201(b) (5) and (6).

(c) The National Archives shall, on the date on which this Act becomes effective and annually thereafter, notify the Commission and give public notice of the existence and character of the information systems and files which it maintains, and cause such notice to be published in the Federal Register. Such notice shall include at least the information specified under sections 201 (c) (3) (A), (B), (D), (E), (F), (G), (I), and (J).

EXCEPTIONS

Sec. 205. (a) No officer or employee of the executive branch of the Government shall rely on any exemption in subchapter II of chapter 5 of title 5 of the United States Code (commonly known as the Freedom of Information Act) to withhold information relating to an individual otherwise accessible to an individual under this Act.

(b) Nothing in this Act shall be construed to permit the withholding of any personal information which is otherwise required to be disclosed by law or any regulation thereunder.

(c) The provisions of section 201(d) (1) of this Act shall not apply to records collected or furnished and used by the Bureau of the Census solely for statistical purposes or as authorized by section 8 of title 13 of the United States Code: *Provided*, That such personal information is transferred or disseminated in a form not individually identifiable.

(d) The provisions of this Act shall not require the disclosure of testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service if the disclosure of such material would compromise the objectivity or fairness of the testing or examination process.

(e) The provisions of this Act, with the exception of sections 201(a) (2), 201(b) (2), (3), (4), (5), (6) and (7), 201(c) (2), 201 (c) (3) (A), (B), (D), and (F), and 202(a) (2) and (3) shall not apply to foreign intelligence information systems or to systems of personal information involving intelligence sources and methods designed for protection from unauthorized disclosure pursuant to 50 U.S.C.A. 403.

MAILING LISTS

Sec. 206. (a) An individual's name and address may not be sold or rented by a Federal agency unless such action is specifically authorized by law. This provision shall not be construed to require the confidentiality of names and addresses otherwise permitted to be made public.

(b) Upon written request of any individual, any person engaged in interstate commerce who maintains a mailing list shall remove the individual's name and address from such list.

REGULATIONS

Sec. 207. Each Federal agency subject to the provisions of this Act shall, not later than six months after the date on which this Act becomes effective, promulgate regulations to implement the standards, safeguards, and access requirements of this title and such other regulations as may be necessary to implement the requirements of this Act.

TITLE III—MISCELLANEOUS

DEFINITIONS

Sec. 301. As used in this Act—

(1) the term "Commission" means the Privacy Protection Commission;

(2) the term "personal information" means any information that identifies or describes any characteristic of an individual, including, but not limited to, his education,

financial transactions, medical history, criminal or employment record, or that affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual; and the record of his presence, registration, or membership in an organization or activity, or admission to an institution;

(3) the term "individual" means a citizen of the United States or an alien lawfully admitted through permanent residence;

(4) the term "information system" means the total components and operations, whether automated or manual, by which personal information, including name or identifier, is collected, stored, processed, handled, or disseminated by an agency;

(5) the term "file" means a record or series of records containing personal information about individuals which may be maintained within an information system;

(6) the term "data bank" means a file or series of files pertaining to individuals;

(7) the term "Federal agency" means any department, agency, instrumentality, or establishment in the executive branch of the Government of the United States and includes any officer or employee thereof;

(8) the term "investigative information" means information associated with an identifiable individual compiled by—

(A) an agency in the course of conducting a criminal investigation of a specific criminal act where such investigation is pursuant to a statutory function of the agency. Such information may pertain to that criminal act and be derived from reports of informants and investigators, or from any type of surveillance. The term does not include criminal history information nor does it include initial reports filed by a law enforcement agency describing a specific incident, indexed chronologically and expressly required by State or Federal statute to be made public; or

(B) by an agency with regulatory jurisdiction which is not a law enforcement agency in the course of conducting an investigation of specific activity which falls within the agency's regulatory jurisdiction. For the purposes of this paragraph, an "agency with regulatory jurisdiction" is an agency which is empowered to enforce any Federal statute or regulation, the violation of which subjects the violator to criminal or civil penalties;

(9) the term "law enforcement intelligence information" means information associated with an identifiable individual compiled by a law enforcement agency in the course of conducting an investigation of an individual in anticipation that he may commit a specific criminal act, including information derived from reports of informants, investigators, or from any type of surveillance. The term does not include criminal history information nor does it include initial reports filed by a law enforcement agency describing a specific incident, indexed chronologically by incident and expressly required by State or Federal statute to be made public;

(10) the term "criminal history information" means information on an individual consisting of notations of arrests, detentions, indictments, informations, or other formal criminal charges and any disposition arising from those arrests, detentions, indictments, informations, or charges. The term shall not include an original book of entry or police blotter maintained by a law enforcement agency at the place of an original arrest or place of detention, indexed chronologically and required to be made public, nor shall it include court records of public criminal proceedings indexed chronologically; and

(11) the term "law enforcement agency" means an agency whose employees or agents are empowered by State or Federal law to make arrests for violations of State or Federal law.

CRIMINAL PENALTY

Sec. 302. (a) Any officer or employee of any Federal agency who willfully keeps an information system without meeting the notice requirements of this Act set forth in section 201(c) shall be fined not more than $2,000 in each instance or imprisoned not more than two years, or both.

(b) Whoever, being an officer or employee of the Commission, shall disseminate any personal information about any individual obtained in the course of such officer or employee's duties in any manner or for any purpose not specifically authorized by law shall be fined not more than $10,000, or imprisoned not more than five years, or both.

CIVIL REMEDIES

Sec. 303. (a) Any individual who is denied access to information required to be disclosed under the provisions of this Act may bring a civil action in the appropriate district court of the United States for damages or other appropriate relief against the Federal agency which denied access to such information.

(b) The Attorney General of the United States, or any aggrieved person, may bring an action in the appropriate United States district court against any person who is engaged or is about to engage in any acts or practices in violation of the provisions of this Act, to enjoin such acts or practices.

(c) The United States shall be liable for the actions or omissions of any officer or employee of the Government who violates the provisions of this Act, or any rule, regulation, or order issued thereunder in the same manner and to the same extent as a private individual under like circumstances to any person aggrieved thereby in an amount equal to the sum of—

(1) any actual damages sustained by an individual;

(2) punitive damages where appropriate; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(d) The United States consents to be used under this section without limitation on the amount in controversy. A civil action against the United States under subsection (c) of this section shall be the exclusive remedy for the wrongful action or omission of any officer or employee.

JURISDICTION OF DISTRICT COURTS

Sec. 304. (a) The district courts of the United States have jurisdiction to hear and determine civil actions brought under section 303 of this Act and may examine the information in camera to determine whether such information or any part thereof may be withheld under any of the exemptions in section 203 of this Act. The burden is on the Federal agency to sustain such action.

(b) In any action to obtain judicial review of a decision to exempt any personal information from any provision of this Act, the court may examine such information in camera to determine whether such information or any part thereof is properly classified with respect to national defense, foreign policy or law enforcement intelligence information or investigative information and may be exempted from any provision of this Act. The burden is on the Federal agency to sustain any claim that such information may be so exempted.

EFFECTIVE DATE

Sec. 305. This Act shall become effective one year after the date of enactment except that the provisions of title I of this Act shall become effective on the date of enactment.

AUTHORIZATION OF APPROPRIATIONS

Sec. 306. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

MORATORIUM ON USE OF SOCIAL SECURITY NUMBERS

Sec. 307. (a) It shall be unlawful for—

(1) any Federal, State, or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number, or

(2) any person to discriminate against any individual in the course of any business or commercial transaction or activity because of such individual's refusal to disclose his social security account number.

(b) The provisions of subsection (a) shall not apply with respect to—

(1) any disclosure which is required by Federal law, or

(2) any information system in existence and operating before before January 1, 1975.

(c) Any Federal, State, or local government agency which requests an individual to disclose his social security account number, and any person who requests, in the course of any business or commercial transaction or activity, an individual to disclose his social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, what uses will be made of it, and what rules of confidentiality will govern it.

The title was amended so as to read: "A bill to establish a Privacy Protection Commission, to provide management systems in Federal agencies and certain other organizations with respect to the gathering and disclosure of information concerning individuals, and for other purposes."

POLLUTION CONTROL FACILITIES AT TVA

Mr. RANDOLPH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11929.

The PRESIDING OFFICER (Mr. Clark) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 11929) to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. RANDOLPH. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Randolph, Mr. Montoya, Mr. Gravel, Mr. Baker, and Mr. Domenici conferees on the part of the Senate.

JUDICIAL DISQUALIFICATION

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1064.

The PRESIDING OFFICER (Mr. Clark) laid before the Senate the amendments of the House of Representatives to the bill (S. 1064) to improve judicial machinery by amending title 28, United States Code, to broaden and clarify the grounds for judicial disqualification, as follows:

Page 1, line 5, strike out "Disqualification of justice or judge," and insert: "Disqualification of justice, judge, magistrate, or referee in bankruptcy."

Page 1, line 6, strike out "or magistrate," and insert: "magistrate, or referee in bankruptcy."

Page 4, line 15, strike out "or magistrate," and insert: "magistrate, or referee in bankruptcy."

Page 4, lines 22 and 23, strike out "Disqualification of justice or judge.", and insert: "Disqualification of justice, judge, magistrate, or referee in bankruptcy."

Mr. BURDICK. Mr. President, S. 1064, the judicial disqualification bill, would amend section 455 of title 28, United States Code, which specifies the grounds upon which a judge must disqualify himself from presiding in a particular case. The amendment language would have the Federal statutes conform quite closely to the grounds of disqualifications specified in the recently adopted Canon on Disqualification contained in the new Code of Judicial Conduct adopted by the House of Delegates of the American Bar Association in August of 1972.

This bill was passed by the Senate on October 4, 1973, and as set forth in the message from the House the Senate bill was passed by that body on November 18, 1974, with one principal amendment. The bill, as passed by the Senate, defines the grounds for qualification of any "judge, judge or magistrate" of the United States. The amendment made by the House would add referees in bankruptcy to the judges and judicial officers bound by the provisions of the bill. The House amendment appears at lines 1 and 2 on page 2 of the act and again at lines 21 and 22 on page 4 of the act, together with the same changes in the title of section 455 and in the chapter analysis.

The amendment made by the House is a proper one and will make the bill conform to the actual situation inasmuch as the Judicial Conference of the United States has previously directed that referees in bankruptcy, being judicial officers, must comply with the Federal statutes and Code of Judicial Conduct the same as any judge of a court of the United States.

Mr. President, final passage of S. 1064 will culminate over three years of effort by the Congress to adopt modern standards governing the question of when a judge should disqualify himself for conflict of interest. In the Senate this effort was initiated by Senators BAYH and HOLLINGS and throughout the hearings held by the Subcommittee on Improvements in Judicial Machinery, which I am privileged to chair, the proposal received strong bipartisan support. In addition, Mr. President, Roger J. Traynor, former chief justice of the California Supreme Court, Prof. E. Wayne Thode and Attorney John P. Frank are entitled to special notice at this time. For these reasons, Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

AMENDMENT OF THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 17434.

The PRESIDING OFFICER laid before the Senate H.R. 17434, an act to amend the National Wildlife Refuge System Administration Act of 1966 to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses, and for other purposes, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

EXTENSION OF THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 16757.

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate H.R. 16757, an act to extend the Emergency Petroleum Allocation Act of 1973 until August 31, 1975, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

JOINT FUNDING SIMPLIFICATION ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2299.

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate the amendment of the House of Representatives to the bill (S. 2299) to provide authority to expedite procedures for consideration and approval of projects drawing upon more than one Federal assistance program, to simplify requirements for operation of those projects, and for other purposes as follows:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Joint Funding Simplification Act of 1974".

PURPOSE

SEC. 2. The purpose of this Act is to enable State and local governments and private, nonprofit organizations to use Federal assistance more effectively and efficiently, and to adapt that assistance more readily to their particular needs through the wider use of projects drawing upon resources available from more than one Federal agency, program, or appropriation. It is the further purpose of this Act to encourage Federal-State arrangements under which local government and private, nonprofit organizations may more effectively and efficiently combine State and Federal resources in support of projects of common interest to the governments and organizations concerned.

BASIC RESPONSIBILITIES OF THE PRESIDENT AND HEADS OF FEDERAL AGENCIES

SEC. 3. (a) The President shall promulgate such regulations as may be necessary or appropriate to assure that this Act is applied by all Federal agencies in a consistent manner and in accordance with its purposes. He may, for this purpose, require that Federal agencies adopt or prescribe procedures that will assure that applicants for assistance to projects funded pursuant to the provisions of this Act make appropriate efforts (1) to secure the views and recommendations of non-Federal agencies that may be significantly affected by such projects, and (2) to resolve questions of common interest to those agencies prior to submission of any application.

(b) Subject to such regulations as the President may prescribe, and to other applicable law, the heads of Federal agencies, by internal agency order or interagency agreement, may take the following actions:

(1) Identification of related programs likely to be particularly suitable or appropriate for providing joint support for specific kinds of projects thereunder.

(2) Development and promulgation of guidelines, model or illustrative projects, joint or common application forms, and other material or guidance to assist in the planning and development of projects drawing support from different programs.

(3) Review of administratively established program requirements in order to determine which of those requirements may impede joint support of projects thereunder and the extent to which such requirements may be modified, making such modifications where appropriate.

(4) Establishment of common technical or administrative rules with respect to related programs to assist in the joint use of funds in the support of specific projects or classes of projects under such programs.

(5) Creation of joint or common application processing and project supervision procedures or mechanisms including procedures for designating lead agencies to assume responsibilities for processing applications on behalf of several agencies and for designation of managing agencies to assume responsibilities for project supervision on behalf of several agencies.

(c) The head of each Federal agency shall be responsible for taking actions, to the maximum extent permitted under applicable law, that will further the purpose of this Act with respect to Federal assistance programs administered by his agency. Each Federal agency head shall also consult and cooperate with the heads of other Federal agencies in order similarly to promote the purposes of this Act with respect to Federal assistance programs of different agencies that may be used jointly in support of projects undertaken by State or local governments, or private, nonprofit organizations.

APPLICATION PROCESSING

SEC. 4. Actions taken by Federal agency heads pursuant to this Act that relate to the processing of applications or requests for assistance under two or more Federal programs in support of any project shall be designed to assure, so far as reasonably possible, that (1) all required reviews and approvals are handled expeditiously; (2) full account is taken of any special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly funded project; (3) the applicant is required to deal with a minimum number of Federal representatives, acting separately or as a common board or panel; (4) the applicant is promptly informed of decisions with respect to an application and of any special problems or impediments that may affect the feasibility of Federal provision of assistance on a point basis; and (5) the applicant is not required by representatives of any one Federal agency or program to obtain information or assurances concerning the requirements or actions of another Federal agency that could more appropriately be secured through direct communication among the Federal agencies involved.

SPECIAL AUTHORITIES—BASIC CONDITIONS

SEC. 5. Where appropriate to further the purposes of this Act, and subject to the conditions prescribed in this section, heads of Federal agencies may use the authorities described in sections 6, 7, and 8 (relating to the establishment of uniform technical or administrative requirements, delegation of powers and responsibilities, and establishment of joint managerial funds) with respect to projects assisted under more than one Federal assistance program. These authorities shall be exercised only pursuant to regulations prescribed by the President. Those regulations shall include criteria or procedures to assure that the authorities are limited in use to problems that cannot be adequately dealt with through other actions pursuant to this Act or other applicable law, that they are applied only as necessary to promote expeditious processing of applications or effective and efficient administration of projects, and that they are applied in a manner consistent with the protection of the Federal interest and with program purposes and stautory requirements.

ESTABLISHMENT OF UNIFORM TECHNICAL OR ADMINISTRATIVE REQUIREMENTS

SEC. 6. (a) In order to provide for projects that would otherwise be subject to varying or conflicting technical or administrative rules and procedures not required by law, the heads of Federal agencies may adopt uniform provisions with respect to—

(1) inconsistent or conflicting requirements relating to financial administration of such projects, including accounting, reporting and auditing, and maintaining separate bank accounts, but only to the extent consistent with the requirements of section 8;

(2) inconsistent or conflicting requirements relating to the timing of Federal payments for such projects where a single or combined schedule is to be established for the project as a whole;

(3) inconsistent or conflicting requirements that assistance be extended in the form of a grant rather than a contract, or a contract rather than a grant; and

(4) inconsistent or conflicting requirements relating to accountability for, or the disposition of, records, property, or structures acquired or constructed with Federal assistance where common rules are established for the project as a whole.

(b) In order to permit processing of applications in accordance with the purposes of this Act, Federal agency heads may provide for review of proposals for projects by a single panel, board, or committee in lieu of review by separate panels, boards, or committees except when such review is specifically required by law.

(c) In promoting the more effective and efficient use of Federal assistance resources, Federal agency heads may waive requirements that a single or specific public agency be utilized or designated to receive, supervise, or otherwise administer a part of the Federal assistance drawn upon by any jointly funded project to the extent that administration by another public agency is determined to be fully consistent with applicable State or local law and with the objectives of the Federal assistance program involved. This authority may be exercised only (1) upon request of the head of a unit of general government, with respect to agencies that he certifies to be under his jurisdiction, or (2) with the agreement of the several State or local public agencies concerned.

DELEGATION OF POWERS

SEC. 7. With the approval of the President, agency heads may delegate to other Federal agencies powers and functions relating to the supervision or administration of Federal assistance, or otherwise arrange for other agencies to perform such activities, with respect to projects or classes of projects funded under the terms of this Act. Delegations under this section shall be made only on such conditions as may be appropriate to assure that the powers and functions delegated are exercised in full conformity with applicable statutory provisions and policies, and shall not relieve agency heads of responsibility for the proper and efficient management of projects funded by their agencies.

FUNDING ARRANGEMENTS AND PROCEDURES

SEC. 8. (a) In order to provide for the more effective administration of funds drawn from more than one Federal program or appropriation in support of projects under this Act, there may be established joint management funds with respect to such projects. There shall be transferred to the joint management fund from each affected program or appropriation, from time to time, its proportionate share of amounts needed for payment to the grantee. Any unexpended amounts shall be returned to the joint management fund by the grantee at the completion of the project.

(b) Any account in a joint management fund shall be subject to such agreements, not inconsistent with this section and other applicable law, as may be entered into by the Federal agencies concerned with respect to the discharge of the responsibilities of those agencies and shall assure the availability of necessary information to those agencies and to the Congress. These agreements shall also provide that the agency administering a joint management fund shall be responsible and accountable by program and appropriation for the amounts provided for the purposes of each account established in the fund; and shall include procedures for determining, from time to time, whether amounts in the account are in excess of the amounts required, and for returning that excess to the participating Federal agencies according to the applicable appropriations, subject to fiscal year limitations. Excess amounts applicable to expired appropriations will be lapsed from that fund.

(c) For each project financed through an account in a joint management fund established pursuant to this section, the recipients of moneys drawn from the fund shall keep such records as the head of the Federal agency responsible for administering the fund will prescribe. Such records shall, as a minimum, fully disclose the amount and disposition by such recipient of Federal assistance received under each program and appropriation, the total cost of the project in connection with which such Federal assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(d) The head of the Federal agency responsible for administering such joint management fund and the Comptroller General of the United States or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the moneys received from such fund.

(e) In the case of any project covered in a joint management fund, a single non-Federal share may be established according to the Federal share ratios applicable to the several Federal assistance programs involved and the proportion of funds transferred to the project account from each of those programs.

AUXILIARY PROVISIONS

SEC. 9. Appropriations available to any Federal assistance program for technical assistance or the training of personnel may be made available for the provision of technical assistance and training in connection with projects proposed or approved for joint funding involving that program and any other Federal assistance program.

FEDERAL-STATE ASSISTANCE AND AGREEMENTS

SEC. 10. Subject to such regulations as the President may prescribe, Federal agencies may enter into agreements with States as appropriate to extend the benefits of this Act to projects involving assistance from one or more Federal agencies and one or more State agencies. These agreements may include arrangements for the processing of requests for, or the administration of, assistance to such projects on a joint basis.

REPORTING

SEC. 11. At least one year prior to the expiration of this Act, the President shall submit a comprehensive report to the Congress on actions taken under this Act, and make recommendations for its continuation, modification, or termination. The report shall provide a detailed evaluation of the functioning of this Act, including information regarding the benefits and costs of jointly funded projects accruing to the participating State and local governments and private, nonprofit organizations, and to the Federal Government.

DEFINITIONS

SEC. 12. As used in this Act—

(1) the term "Federal assistance programs" means programs that provide assistance through grant or contractual arrangements, but does not include assistance in the form of revenue sharing, loans, loan guarantees, or insurance;

(2) the term "applicant" means any State or local government or private, nonprofit organization acting separately or together in seeking assistance with respect to a single project;

(3) the term "project" means any undertaking, whether of a temporary or continuing nature that includes components proposed or approved for assistance under more than one Federal program, or one or more Federal and one or more State programs, if each of those components contributes materially to the accomplishment of a single purpose or closely related purposes;

(4) the term "Federal agency" means any agency, department, corporation, independent establishment, or other entity of the executive branch of the Government of the United States;

(5) the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, and any tribe as defined in section 3(c) of the Indian Financing Act (88 Stat. 77);

(6) the term "local government" means a local unit of government including a city, county, parish, town, township, village, school district, council of governments, or other agency or instrumentality of a local unit of government.

EFFECTIVE DATE AND EXPIRATION

SEC. 13. This Act shall become effective sixty days following the date of enactment, and shall expire five years following the date upon which it becomes effective; except that the expiration of this Act shall not affect the status of any project approved prior to the date of such expiration.

Mr. MUSKIE. Mr. President, earlier this week the House passed S. 2299, the Joint Funding Simplification Act, a bill designed to streamline certain Federal assistance to State and local governments and to adapt that assistance more readily to the needs of the recipients. A similar version of S. 2299 passed the Senate last year.

The passage of this legislation has gone largely unnoticed. Its provisions are relatively technical, and not very controversial.

Nevertheless, joint funding is an important concept whose enactment should be noted. Not only does it offer the prospect of a more efficient and effective Federal grant system, it also promises to be a substantial aid in the battle against inflation.

At the State and local conference on inflation, held this fall as a preliminary to the economic summit, it became clear to all participating that inflation is going to have a severe impact on State and local governments in the near future.

At this conference, we heard convincing testimony that prices paid for goods and services by State and local governments have risen faster than the general price level. We learned that local revenue sources are hard pressed to keep up with rapidly escalating costs. And we learned that a principal concern of State and local officials was the inflationary demands placed on their budgets by redtape, bureaucratic delays, and excessive administrative requirements of Federal grant programs.

Repeatedly, participating State and local officials urged Congress and the administration to redouble their efforts to reform and streamline the Federal grant system, as an important way to fight inflation. As part of this reform effort, the conference urged passage of joint funding simplification.

I am pleased that the Congress has responded so rapidly to this sensible request.

Joint funding simplification is relevant to the fight against inflation in two major ways.

First, it will help State and local governments meet their interrelated needs with one comprehensive plan for receiving grants from several Federal agencies, through one Federal funding source. It will thereby insure assistance geared more to the needs of recipients, rather than to the demands of Washington.

And second, joint funding will reduce substantially the amount of redtape and bureaucratic inconvenience now synonymous with Federal aid. This simplification will be accomplished by:

First, standardizing administrative requirements for different programs;

Second, synchronizing receipt of Federal funds with the grantee's own planning and funding cycle;

Third, substituting a single agency audit for present separate audits where more than one agency is involved in a particular grant; and

Fourth, permitting State and local governments to report to one Federal center rather than several, as now required for different agencies.

The joint funding legislation passed by the House this week is basically the same as that passed by the Senate, with two exceptions. Whereas the Senate bill would have established a permanent authorization for joint funding, the House bill provides for a 5-year authorization only.

And whereas the Senate bill authorized the establishment of joint management funds to be administered as if from a single appropriation, the House bill requires that separate fund sources be maintained by each Federal agency participating in jointly funded projects.

These changes enacted by the House do not deviate from the fundamental purpose of the legislation. Therefore, as the sponsor of the Senate bill and as chairman of the Intergovernmental Relations Subcommittee which first considered S. 2299, I am prepared to accept the House version of the legislation.

The reforms embodied in S. 2299 can go a long way toward reducing the time, man-hours, and money that State and local governments now spend in their efforts to secure Federal aid. To be sure, more remains to be done, and I intend to offer additional grant reform proposals in the 94th Congress. In the meantime, the Joint Funding Simplification Act is a useful step in our efforts to reform and rationalize Federal aid.

Mr. ROBERT C. BYRD. Mr. President, by request, I move that the Senate concur in the House amendment.

The motion was agreed to.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING COMMITTEE REPORT ON S. 3202

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare have until midnight tonight to file its report on S. 3202.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING COMMITTEE REPORT ON S. 1988

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Commerce have until November 27 to file its report on the fisheries bill, S. 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF REFERENCE—S. 4070

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Alaska (Mr. STEVENS), I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of S. 4070, to revise retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service, and that the bill be rereferred to the Committee on Post Office and Civil Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARCH OF DIMES BIRTH DEFECTS PREVENTION MONTH

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from New Mexico (Mr. MONTOYA) I ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 224.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 224) to authorize and request the President to issue annually a proclamation designating January of each year as "March of Dimes Birth Defects Prevention Month."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on the Judiciary with amendments on page 1, in line 4, strike out "annually".

On page 1, in line 5, after "January" insert a comma and "1975", so as to make the joint resolution read:

S.J. RES. 224

Joint resolution—To authorize and request the President to issue a proclamation designating January 1975, as "March of Dimes Birth Defects Prevention Month"

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation—

(1) designating January 1975, as "March of Dimes Birth Defects Prevention Month";

(2) inviting the Governors of the States and territories of the United States to issue proclamations for like purposes; and

(3) urging the people of the United States to consider fully the nationwide problem of birth defects and their effect on future generations, and to support all essential programs to prevent their occurrence.

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read "To authorize and request the President to issue a proclamation designating January 1975, as 'March of Dimes Birth Defects Prevention Month'."

ORDER FOR RECOGNITION OF SENATOR MANSFIELD, AND DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow under the standing order, the distinguished majority leader (Mr. MANSFIELD) be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 15 minutes, at the conclusion of which the Senate resume the consideration of the bill (H.R. 5463), an act to establish rules of evidence for certain courts and proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has that bill been laid before the Senate?

The PRESIDING OFFICER. It has not.

RULES OF EVIDENCE FOR CERTAIN COURTS AND PROCEEDINGS

Mr. **ROBERT C. BYRD**. Mr. President, under the previous order, I ask that the Senate proceed to the consideration of H.R. 5463.

The **PRESIDING OFFICER**. Under the previous order, the Chair lays before the Senate H.R. 5463, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings.

The **PRESIDING OFFICER**. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments on page 4, in the table of contents under rule 803, insert subparagraph "(24) Other exceptions."

On page 4, under rule 804, insert two subparagraphs as follows:

"(5) Criminal law enforcement records and reports.

"(6) Other exceptions."

On page 6, in line 24, strike out "judge" and insert in lieu thereof "court".

On page 10, in line 13, strike out "the".

On page 10, in line 13, after "evidence", strike out "and, even though met with contradicting evidence, a presumption is sufficient evidence of the fact presumed, to be considered by the trier of the facts," and insert "to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast."

On page 12, in line 23, after "Reputation," insert "or opinion."

On page 14, at the end of line 5, strike out "admissions of liability or opinions given during" and insert in lieu thereof "conduct or statements made in."

On page 14, beginning with line 8, strike out "Evidence of facts disclosed during compromise negotiations, however, is not inadmissible by virtue of having been first disclosed in those negotiations." and insert in lieu thereof "This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations."

On page 14, in line 13, after "rule", insert "also".

On page 14, in line 13, after "when" insert "the".

On page 14, beginning with line 14, strike out "of conduct or statements made in compromise negotiations".

On page 15, in line 6, after the period, insert "This rule shall not apply to the introduction of voluntary and reliable statements made in court on the record in connection with any of the foregoing pleas or offers where offered for impeachment purposes or in a subsequent prosecution of the declarant for perjury or false statement."

On page 16, beginning with line 3, strike out "with respect to an element of a claim or defense as to which State law supplies the rule of decision," and insert in lieu thereof "arising under 28 U.S.C. § 1332 or 28 U.S.C. § 1335, or between citizens of different States and removed under 28 U.S.C. § 1441(b)."

On page 16, in line 8, strike out "shall be" and insert in lieu thereof "is".

On page 16, in line 9, after "State", strike out "law." and insert in lieu thereof "law, unless with respect to the particular claim of defense, Federal law supplies the rule of decision."

On page 16, in line 15, after "proceedings", strike out "with respect to an element of a claim or defense as to which State law applies the rule of decision," and insert in lieu thereof "arising under 28 U.S.C. § 1332 or 28 U.S.C. § 1335 or between citizens of different States and removed under 28 U.S.C. § 1441(b),".

On page 16, in line 19, strike out "shall be" and insert in lieu thereof "is".

On page 16, in line 20, after "State", strike out "law." and insert in lieu thereof "law, unless with respect to the particular claim or defense, Federal law supplies the rule of decision."

On page 18, in line 2, strike out "concerning" and insert in lieu thereof "as to any matter or statement occurring during the course of the jury's deliberations or to".

On page 18, in line 7, strike out "therewith." and insert in lieu thereof "therewith, except that a juror may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror."

On page 18, in line 11, strike out "with" and insert in lieu thereof "may".

On page 18, in line 12, after "him", strike out "indicating an effect of this kind be received for" and insert in lieu thereof "concerning a matter about which he would be precluded from testifying be received for".

On page 18, in line 22, strike out "opinion or".

On page 19, in line 21, strike out "is admissible" and insert in lieu thereof "may be elicited from him or establish by public record during cross-examination but".

On page 19, in line 23, after "crime" insert "(1)".

On page 19, in line 23, after "statement", insert "or (2) in the case of witnesses other than the accused was punishable by death or imprisonment in excess of one year under the law under which he was convicted, but only if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect".

On page 20, in line 8, after "later", strike out "date." and insert "date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect".

On page 28, at the end of line 2, strike out "and was given under oath subject to cross-examination, and subject to the penalty of perjury at a trial or hearing or in a deposition".

On page 28, in line 8, strike out "or (C) one of identification of a person made after perceiving him; or".

On page 30, in line 19, strike out "business".

On page 30, in line 25, after the period, strike out "The term 'business' as used in this paragraph includes business, profession, occupation, and calling of every kind."

On page 31, in line 20, after "personnel" insert "unless admissible under Rules 804(b)(5).

On page 35, beginning with line 19, insert

(24) Other exceptions.—A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence.

On page 36, in line 20, strike out (or in the case of a hearsay exception under subdivision (b) (2), (3), or (4), his attendance or testimony)".

On page 37, in line 23, strike out "civil or".

On page 37, at the end of line 23, after the comma, insert "or to render invalid a claim by him against another,".

On page 38, in line 5, after the period, strike out "A statement or confession offered against the accused in a criminal case, made by a codefendant or other person implicating both himself and the accused, is not within this exception."

On page 38, beginning with line 21, insert:

(5) Criminal law enforcement records and reports.—Records, reports, statements, or data compilations, in any form of police officers and other law enforcement personnel where such officer or person is unavailable, as unavailability is defined in subpart (a) (4) or (a)(5) of this Rule.

(6) Other exceptions.—A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence.

On page 39, in line 17, after the comma, insert "or a statement defined in rule 801(d)(2), (C), (D), or (E),".

On page 52, at the end of line 24, strike out "one hundred and eighty", and insert in lieu thereof "three hundred and sixty-five".

On page 53, in line 3, after the period, insert, "The effective date of any amendment so reported may be deferred by either House of Congress to a later date or until approved by Act of Congress. Any rule whether proposed or in force may be amended by Act of Congress."

On page 53, in line 10, after the period, strike out "Any such amendment creating, abolishing, or modifying a privilege shall have no force or effect unless it shall be approved by act of Congress".

Mr. **HRUSKA**. Mr. President, in this bill the Senate considers what I believe to be landmark legislation in the improvement in the Federal judicial process. This legislation is embodied in H.R. 5463 which creates, for the first time in our history, a comprehensive and uniform code of evidence.

There is a very real need for the codification of rules of evidence to govern the admissibility of proof in all trials before the Federal courts. This need arises from the lack of uniformity and clarity in the present law of evidence on the Federal level. Presently, the law of evidence is scattered throughout the cases, often with one circuit differing from another. In criminal cases and civil cases based on Federal question jurisdiction, the Federal courts now apply Federal statutes, rulings on evidence previously decided in suits in equity, or the general common law as interpreted by the Federal courts. In civil cases based on diversity of citizenship, the courts apply State rules of evidence contained in State statutes, and sometimes State decisional law, unless there is found to be an overriding Federal policy to the contrary. Consequently, the law of evidence varies *from case* to case, court to court, and circuit to circuit.

This lack of uniformity unduly complicates the practice of law, particularly in this age where the lawyer is more disposed to travel throughout the Nation to try cases. Uniform rules would also be of assistance to the judges who are assigned to districts or circuits other than their own to assist with congested calendars. In short, a uniform set of rules is necessary to eliminate the confusion that now exists as a result of the application of inconsistent and conflicting rules of evidence in our Federal courts.

But uniformity is not the only advantage of a code of evidence. Accessibility and clarity are also paramount features of a code. Case-by-case development of the law is not particularly apt for rules of evidence. Rulings on evidence, unlike most other legal rulings, must often be made quickly from the bench during the course of the questioning of a witness. We should arm our judges and lawyers with a handbook of rules that they can turn to quickly for guidance during the trial.

Mr. President, H.R. 5463 is intended to respond to these shortcomings of our present state of evidence law by providing a uniform, accessible and intelligible set of rules. The bill is the culmination of an enormous amount of hard work and careful thought spread over some 13 years by a large number of distinguished and concerned individuals. Indeed, H.R. 5463 represents an example of the best kind of legislative development by private and public bodies and individuals.

The groundwork for this bill began in 1961 when the Judicial Conference of the United States authorized the Honorable Earl Warren, then Chief Justice of the United States, to appoint an advisory committee to study the advisability and feasibility of uniform rules of evidence for use in the Federal courts. The Chief Justice appointed a special committee which concluded that uniform rules of evidence were advisable and feasible, and recommended that such rules should be promulgated promptly.

In 1965, a distinguished Advisory Committee composed of judges, lawyers and teachers was appointed and assigned the monumental task of developing a uniform code of evidence for use in the Federal courts. Approximately 4 years later in March 1969, the Judicial Conference's Standing Committee on Rules of Practice and Procedure printed and circulated widely for comment a preliminary draft of proposed rules of evidence which had been developed by the Advisory Committee.

After reviewing the numerous comments and suggestions, the Advisory Committee and, in turn, the Judicial Conference, approved a revised draft which it submitted to the Supreme Court in October 1970. The Supreme Court returned the draft for further public circulation and in October 1971, the final work product was forwarded to the Supreme Court.

The Court promulgated the rules pursuant to the various enabling acts and transmitted the proposed rules to the Congress. Under the enabling acts, the rules would have taken effect in 90 days. However, because of the general importance of these rules as well as serious questions which were raised with respect to certain rules on privileges in particular, the Congress enacted Public Law 93–12 to insure that Congress had a full opportunity to review them. This law deferred the effectiveness of the rules until expressly approved by Congress.

The Subcommittee on Criminal Justice of the House Judiciary Committee held 6 days of hearings on the proposed rules and after extensive consideration in executive session published a committee print of H.R. 5463 and circulated it widely to the bench and bar for consideration. After careful evaluation of these comments, the subcommittee revised the print and H.R. 5463 was approved by the full committee and subsequently passed by the House.

At the outset, it was evident that the members of the Senate Judiciary Committee viewed with general favor the efforts of the House, particularly Congressman HUNGATE's subcommittee. Rather than returning to the rules as promulgated as a work basis for Senate action, the committee focused upon the bill as passed by the House so as to build logically upon the substantial efforts exerted there.

H.R. 5463, as reported by the Senate Judiciary Committee, is indeed built upon these substantial efforts. In the House, more than 50 percent of the rules were left unchanged from those submitted by the Supreme Court. The members of the Senate Judiciary Committee found it necessary to make substantive changes to only 12 of the 62 rules embodied in H.R. 5463 as passed by the House. And of these 12 rules, the committee decided to reinstate six of the rules as proposed by the Supreme Court. I believe that these figures are a tribute to the fine work of the Judiciary Conference, the Supreme Court and Congressman HUNGATE's subcommittee.

Mr. President, as should be evident from this brief history, the Federal Rules of Evidence as they reach the Senate have been subjected to the most careful scrutiny by many persons of differing philosophies and backgrounds. As a result of this effort, I believe that we have before us a bill that will improve the quality of our system of justice.

The rules of evidence bill, itself sets lofty goals. As stated in rule 102, the purpose of the rules is to "secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined." H.R. 5463 will serve to promote each of these goals.

This package of rules cannot be characterized as either a liberal or conservative product. These rules defy attempts to label. Instead, what we have here are rules, each of which is designed to assist in reaching the objectives in every trial—truth and justice.

Mr. President, one of our most successful lawyers, Clarence Darrow, observed that laws should be like clothes—tailored to fit the people they are to serve. We have found, though, that our laws on evidence are ill-fitting. I urge my colleagues to support this bill so that we may have rules of evidence tailored to serve the public well as we search for truth and justice in our courts.

It is my hope that as we proceed, we can process the bill to an early conclusion, so that approval in this body can be submitted to a conference with the other body and final enactment can be achieved this calendar year, before adjournment sine die.

Mr. President, I yield the floor.

CONGRESSIONAL OVERSIGHT OF CONGRESSIONAL COMMITTEES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the measure having been cleared on both sides of the aisle, the Senate now proceed to the consideration of Calendar No. 1221.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3830) to help preserve the separation of powers and to further the constitutional prerogatives of Congress by providing for congressional review of executive agreements.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments on page 7, in line 10, strike out "specific"; and on page 7, in line 11, strike out "specific"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress declares that the Constitution of the United States established a system of shared powers between the legislative and executive branches of the United States Government in the making of international agreements; the powers of Congress have been substantially eroded by the use of so-called executive agreements, and the Senate is thereby prevented from performing its duties under section 2, article II, of the Constitution, which provides that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur".

SECTION 1. (a) In furtherance of the provisions of the United States Constitution regarding the sharing of powers in the making of international agreements, any executive agreement made on or after the date of enactment of this Act shall be transmitted to the Secretary of State, who shall then transmit such agreement (bearing an identification number) to the Congress. However, any such agreement the immediate disclosure of which would, in the opinion of the President, be prejudicial to the security of the United States shall instead be transmitted by the Secretary to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate written injunction of secrecy to be removed only upon due notice from the President. Each committee shall personally notify the Members of its House that the Secretary has transmitted such an agreement with an injunction of secrecy, and such agreement shall thereafter be available for inspection only by such Members.

(b) Except as otherwise provided under subsection (d) of this section, any such executive agreement shall come into force with respect to the United States at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the executive agreement is transmitted to Congress or such committees, as the case may be, unless, between the date of transmittal and the end of the sixty-day period, both Houses agree to a concurrent resolution stating in substance that both Houses do not approve the executive agreement.

(c) For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

(d) Under provisions contained in an executive agreement, the agreement may come into force at a time later than the date on which the agreement comes into force under subsections (b) and (c) of this section.

SEC. 2. For purposes of this Act, the term "executive agreement" means any bilateral or multilateral international agreement or commitment, other than a treaty, which is binding upon the United States, and which is made by the President or any officer, employee, or representative of the executive branch of the United States Government.

SEC. 3. (a) This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions described by subsection (b) of this section; and it supersedes other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(b) For the purposes of this section, "concurrent resolution" means only a concurrent resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the executive agreement numbered transmitted to (Congress) (the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives) by the President on , 19 .", the blank spaces therein being appropriately filled, and the appropriate words within one of the parenthetical phrases being used; but does not include a concurrent resolution which specifies more than one executive agreement.

(c) A concurrent resolution with respect to an executive agreement shall be referred to a committee (and all concurrent resolutions with respect to the same executive agreement shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives as the case may be.

(d) (1) If the committee to which a concurrent resolution with respect to an executive agreement has been referred has not reported it at the end of twenty calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the concurrent resolution or to discharge the committee from further consideration of any other concurrent resolution with respect to the executive agreement which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the concurrent resolution, is highly privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same executive agreement), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same executive agreement.

(e) (1) When the committee has reported, or has been discharged from further consideration of, a concurrent resolution with respect to an executive agreement, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on the concurrent resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

(f) (1) Motions to postpone, made with respect to the discharge from committee, or the consideration of a concurrent resolution with respect to an agreement, and motions to proceed to the consideration of other business, shall be decided without debate.

(2) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution with respect to an executive agreement shall be decided without debate.

SEC. 5. The provisions of section 1 of this Act shall not apply to any executive agreements entered into by the President pursuant to a provision of the Constitution or prior authority given the President by treaty or law.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-1286), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF AMENDMENT

The purpose of the amendment, to strike the word "specific" in Section 4 of the bill, is to make clear that the bill would not deprive the President of any implied powers which he may have to make executive agreements.

PURPOSE

The purpose of this bill is to help to preserve the separation of powers and to further the constitutional prerogatives of Congress by providing for congressional review of executive agreements. Its provisions are simple. The bill recognizes that the concept of shared powers in the area of international agreements which the framers of the Constitution so carefully incorporated in Article II, section 2 of the Constitution, has been substantially eroded by the use of so-called executive agreements. In plain and clearly understandable language, the measure defines executive agreements and requires that the Secretary of State shall transmit each such agreement to both Houses of Congress. It provides that any such agreement which, in the opinion of the President, would be prejudicial to the security of the United States, if disclosed, shall be transmitted to the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives, under an appropriate injunction of secrecy. Under this injunction of secrecy, only the Members of both Houses of the Congress shall be permitted to inspect the document.

The bill further provides that each executive agreement transmitted to the Congress shall come into force and be made effective after 60 days, unless both Houses pass a concurrent resolution expressing disapproval of the executive agreement between the date it is transmitted to the Congress and the end of the 60-day period, or unless the terms of the agreement provide a later effective date. The bill defines "executive agreement" and further specifies the procedures to be followed when such agreements are transmitted to the Congress.

The Committee urges passage of S. 3830, which would go far toward enabling the Congress to exercise fully the "advice and consent" role in the making of treaties which the framers of the Constitution assigned it under Article II, section 2 of the Constitution.

LEGISLATIVE HISTORY

This legislation was first introduced by Senator Ervin, Chairman of the Senate Committee on the Judiciary's Subcommittee on Separation of Powers, on April 11, 1972. Hearings on the bill, S. 3475, of the 92d Congress, second session, were held by the subcommittee on April 24 and 25 and May 12, 18, and 19, 1972, and subsequently were published. Thereafter the bill was reintroduced in substantially identical form in the 93d Congress, first session, as S. 1472; and on July 13, 1973, the Subcommittee on Separation of Powers reported the measure to the Committee on the Judiciary without amendment.

On July 30, 1974, Senator Ervin introduced S. 3830 which was referred to the Committee on Foreign Relations. On August 19, 1974, the Committee on Foreign Relations discharged S. 3830 and referred it to the Committee on the Judiciary. S. 3830 is substantially identical to S. 1472 except for the addition of Section 4 and certain technical language *changes.* Section 4 would have exempted from the applicability of the procedures set out in Section 1 of S. 3830, any executive agreements entered into by the President pursuant to a provision of the Constitution or prior specific authority given the President by treaty or law.

COMMITTEE ACTION

The Committee on the Judiciary in executive session unanimously approved S. 3830 with an amendment by Senator Hugh Scott on October 2, 1974. The amendment, which was offered by Senator Scott struck the word "specific" from Section 4, line 10 and line 11 of the bill.

The word "specific" was removed from Section 4, line 10 and line 11 so that Section 4 would not be interpreted as depriving the *President of any* implied powers which he may have to make executive agreements.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, Mr. MANSFIELD will be recognized for not to exceed 15 minutes. There will then be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited, by unanimous consent, to 5 minutes each.

At the conclusion of routine morning business, the Senate will resume consideration of H.R. 5463, an act to establish rules of evidence for certain courts and proceedings.

Other measures which may be called up tomorrow, but not necessarily in the order stated, are S. 3639, a bill to provide for the development and implementation of programs for youth camp safety; and S. 2994, a bill to amend Public Health Service Act to assure the development of a national health policy and of effective State health regulatory programs and area health planning programs, and for other purposes.

The agenda for tomorrow is not necessarily confined to the aforementioned measures. Other measures on the calendar that have been cleared for action may be called up. Conference reports, being privileged matters, may be called up. Rollcall votes can be anticipated.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 5:34 p.m., the Senate adjourned until tomorrow, Friday, November 22, 1974, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, November 21, 1974*

The House met at 12 o'clock noon.

Dr. Frederick A. Shippey, professor of sociology of religion, Drew University, Madison, N.J., offered the following prayer:

Eternal God, keeper of the destiny of men and nations, unite us in the miracle of prayer. Reveal Thyself through the season's pageantry and through the gift of Thy spirit.

Our lives become the daily journals of Thy providence. In faith, we put our hands to the familiar plow of duty. Our existence is blessed, not by what our mendicant nature has asked for, but by the bestowal of something better.

Remember, O God, the needs of our Nation. In the dismal affairs of our beleaguered generation, teach us all how to be worthy of the high privilege of living in a portentous time. Enable men and women in positions of eminent leadership to treasure the agenda which they handle daily. Grant us wisdom to trust their gallantry, their nobility, and their righteousness of life. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 16900. An act making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 16900) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McClellan, Mr. Magnuson, Mr. Stennis, Mr. Pastore, Mr. Bible, Mr. Robert C. Byrd, Mr. Proxmire, Mr. Montoya, Mr. Young, Mr. Hollings, Mr. Hruska, Mr. Cotton, Mr. Case, Mr. Brooke, Mr. Stevens, Mr. Mathias, and Mr. Bellmon to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 15223) entitled "An act to amend the Federal Railroad Safety Act of 1970 and the Hazardous Materials Transportation Control Act of 1970 to authorize additional appropriations, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Hartke, Mr. Cannon, Mr. Baker, and Mr. Beall to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2093. An act to amend the Horse Protection Act of 1970 to better effectuate its purposes; and

S. 3574. An act to relinquish and disclaim any title to certain lands and to authorize the Secretary of the Interior to convey certain lands situated in Yuma County, Ariz.

THE REVEREND DR. FREDERICK A. SHIPPEY

(Mr. FRELINGHUYSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRELINGHUYSEN. Mr. Speaker, I take this opportunity to thank the Reverend Dr. Frederick A. Shippey, who serves as the James W. Pearsall professor of sociology of religion at Drew University in Madison, N.J., for the opening prayer he has just offered.

Dr. Shippey is a noted author in his field and has served as the first editor of the official journal of the Religious Research Association. Among other honors, he is listed in "American Men of Science" and "Who's Who in America." He served 7 years on the Commission of Institutionalism of the World Council of Churches, and another 9 years in the creation and development of the Department of Research and Surveys of the Methodist Board of Missions. Dr. Shippey has been honored further as an American delegate to the Conference on Significance of Sociology of Religion, held at Chateau de Bossey, Switzerland, and as a delegate to the World Council of Churches' Faith and Order Conference in Montreal, Canada.

Mr. Speaker, I am very pleased that Dr. Shippey was able to be with us today and I am certain that my colleagues in the House share in that feeling.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 15580, DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, APPROPRIATIONS, 1975

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 15580) making appropriations for the Departments of Labor, Health, Education, and Welfare and related agencies, for the fiscal year ending June 30, 1975, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 93–1489)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15580) "making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 8, 51, 55, 59, 64, 65, 77, 90, 93, 96, 97.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 6, 10, 12, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 34, 36, 39, 41, 43, 50, 63, 67, 68, 69, 70, 71, 72, 75, 76, 78, 79, 81, 84, 85, 86, 87, 88, 89, 91 and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$68,009,000"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,400,000,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$12,000,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$928,900,000"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$102,006,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$29,675,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$493,455,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$136,443,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$691,666,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$324,130,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$49,864,000"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$173,121,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$142,498,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$119,452,000"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$187,400,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$141,966,000"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$44,133,000"; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$34,949,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$127,200,000"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,589,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$28,450,000"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$781,358,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$30,215,000"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$107,600,000"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$12,000,000"; and the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($438,978,000)"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($35,994,000)"; and the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($9,849,000)"; and the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($9,000,000)"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($2,131,271,000)"; and the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$660,000,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($49,155,000)"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($7,500,000)"; and the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$72,224,000"; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$771,820,000"; and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$23,000,000"; and the Senate agree to the same.

Amendment numbered 80: That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$177,950,000"; and the Senate agree to the same.

Amendment numbered 83: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$82,722,000"; and the Senate agree to the same.

Amendment numbered 92: That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$57,000,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 9, 53, 57, 58, 66, 82, 94, 95, 98.

Daniel J. Flood,
William H. Natcher,
Neal Smith,
Bob Casey,
Edward J. Patten,
David R. Obey,
Edith Green,
George H. Mahon,
Robert H. Michel,
Garner E. Shriver
(except as to amendments 9 and 96),
Silvio O. Conte,
J. Kenneth Robinson
(except as to amendments 9 and 96),
Elford A. Cederberg,
Managers on the Part of the House.

Warren G. Magnuson,
John C. Stennis,
Alan Bible,
Robert C. Byrd,
William Proxmire,
Joseph M. Montoya,
Ernest F. Hollings,
Thomas F. Eagleton,
John L. McClellan,
Norris Cotton,
Clifford P. Case,
Hiram L. Fong,
Edward W. Brooke,
Ted Stevens,
Richard S. Schweiker,
Milton R. Young,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1975, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF LABOR

Manpower Administration

Amendment No. 1: Appropriates $68,009,000 for "Program administration" instead of $67,759,000 as proposed by the House and $68,259,000 as proposed by the Senate.

Amendment No. 2: Appropriates $2,400,000,000 for "Comprehensive manpower assistance" instead of $2,450,000,000 as proposed by the House and $2,325,000,000 as proposed by the Senate.

Amendment No. 3: Appropriates $12,000,000 for "Community service employment for Older Americans" instead of $10,000,000 as proposed by the House and $20,000,000 as proposed by the Senate. It is the intent of the conferees that a portion of these funds be utilized to pay the increase in the minimum wage established by the 1974 amendments to the Fair Labor Standards Act, to all enrollees in Operation Mainstream national contracts programs. The current estimate is that $3,000,000 will be required for this purpose.

Amendment No. 4: Appropriates $928,900,000 to be expended from the Employment Security Administration account in the Unemployment Trust Fund for "Grants to States for unemployment insurance and employment services" instead of $845,400,000 proposed by the House and $975,400,000 proposed by the Senate. The increase over the amount proposed by the House includes $65,000,000 for unemployment insurance services and $18,500,000 for employment services. The conferees are agreed that the current staffing levels of the Employment Service should be maintained.

Labor-Management Services Administration

Amendment No. 5: Appropriates $27,745,000 for "Salaries and expenses" as proposed by the Senate instead of $27,890,000 as proposed by the House.

Employment Standards Administration

Amendment No. 6: Appropriates $69,150,000 for "Salaries and expenses" as proposed by the Senate instead of $69,362,000 as proposed by the House.

Occupational Safety and Health Administration

Amendment No. 7: Appropriates $102,006,000 for "Salaries and expenses" instead of $100,816,000 as proposed by the House and $105,206,000 as proposed by the Senate. The amount agreed to will provide support for a total of 1,100 positions for compliance inspection, instead of 920 positions proposed by the House and 1,420 proposed by the Senate.

Amendment No. 8: Deletes language proposed by the Senate which would have prohibited consultation services to employers from being performed by the same persons authorized to carry out the inspection provisions of the Act. While the conferees are in general agreement with the objectives of the Senate amendment, bill language is unnecessary since the Labor Department already plans to utilize separate staffs to carry out consultation and inspection services. The Conferees are agreed that the $5,000,000 included in the bill for consultation services should be provided from the amounts budgeted for State programs.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which will insert language providing that none of the funds appropriated by this Act shall be used to require recordkeeping and reporting under the Occupational Safety and Health Act of 1970 from employers of ten or fewer employees, and such exclusion shall be governed by the current rules and regulations in CFR, Title 29, Chapter XVII, Part 1904.15. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Bureau of Labor Statistics

Amendment No. 10: Appropriates $52,872,000 for "Salaries and expenses" as proposed by the Senate instead of $53,000,000 as proposed by the House.

Departmental Management

Amendment No. 11: Appropriates $29,675,000 for "Salaries and expenses" instead of $30,290,000 as proposed by the House and $28,375,000 as proposed by the Senate.

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

Amendment No. 12: Inserts legal citation permitting appropriations for "Health services" to be used for medical care of former Lighthouse Service employees as proposed by the Senate.

Amendment No. 13: Appropriates $493,455,000 for "Health services" instead of $481,860,000 as proposed by the House and $508,455,000 as proposed by the Senate. The change from the amount proposed by the House includes increases of $5,000,000 for maternal and child health grants to States, $4,000,000 for research and training in maternal and child health, $1,000,000 for programs relating to sudden infant death syndrome, and $3,500,000 for staffing of the Public Health Service hospitals and clinics, and a decrease of $1,905,000 for program direction.

Center for disease control

Amendment No. 14: Appropriates $136,443,000 for "Preventive health services" instead of $134,910,000 as proposed by the House and $140,443,000 as proposed by the Senate. The change from the amount proposed by the House includes an increase of $2,000,000 for project grants for prevention and control of venereal disease and a reduction of $467,000 in program direction. The conferees are agreed that the increase of $700,000 and 40 positions for laboratory improvement provided by both the House and the Senate is to be used to expand the development of product class standards in cooperation with the Food and Drug Administration. The conferees are further agreed that the comprehensive study of the Nation's coal-mining areas, directed by the Senate, is not needed at this time but will be considered in the future.

National Institutes of Health

The conferees have agreed upon a total of $2,041,968,000 for the research institutes and divisions of the National Institutes of Health. These appropriations are covered by Amendments Nos. 15 through 38. This compares with the 1974 operating level of $1,739,078,000, the budget estimate for 1975 of $1,785,922,000, the House bill of $1,744,666,000, and the Senate bill of $2,144,000,000. The conferees have agreed to the full budget estimate of $246,293,000 for research contracts included in the Senate bill but not considered by the House. The earmarkings included in the Senate Committee report should be used as a guideline in allocating the remaining increases over the amounts proposed by the House, except in those instances where more specific instructions are contained in this statement.

Amendments Nos. 15 and 16: Adjust legal citations as proposed by the Senate and appropriate $691,666,000 for "National Cancer Institute" instead of $479,506,000 as proposed bv the House and $755,000,000 as proposed by the Senate.

Amendments Nos. 17 and 18: Adjust legal citations as proposed by the Senate and appropriate $324,130,000 for "National Heart and Lung Institute" instead of $321,196,000 as proposed by the House and $330,000,000 as proposed by the Senate.

Amendments Nos. 19 and 20: Adjust legal citations as proposed by the Senate and appropriate $49,864,000 for "National Institute of Dental Research" instead of $44,388,000 as proposed by the House and $51,000,000 as proposed by the Senate.

Amendments Nos. 21 and 22: Adjust legal citations as proposed by the Senate and appropriate $173,121,000 for "National Institute of Arthritis, Metabolism and Digestive Diseases" instead of $162,207,000 as proposed by the House and $178,000,000 as proposed by the Senate.

Amendments Nos. 23 and 24: Adjust legal citations as proposed by the Senate and appropriate $142,498,000 for "National Institute of Neurological Diseases and Stroke" instead of $131,960,000 as proposed by the House and $144,000,000 as proposed by the Senate.

Amendments Nos. 25 and 26: Adjust legal

citations as proposed by the Senate and appropriate $119,452,000 for "National Institute of Allergy and Infectious Diseases" instead of $105,843,000 as proposed by the House and $122,000,000 as proposed by the Senate.

Amendments Nos. 27 and 28: Adjust legal citations as proposed by the Senate and appropriate $187,400,000 for "National Institute of General Medical Sciences" instead of $178,108,000 as proposed by the House and $198,000,000 as proposed by the Senate.

Amendments Nos. 29 and 30: Adjust legal citations as proposed by the Senate and appropriate $141,966,000 for "National Institute of Child Health and Human Development" instead of $120,232,000 as proposed by the House and $145,000,000 as proposed by the Senate.

Amendments Nos. 31 and 32: Adjust legal citations as proposed by the Senate and appropriate $44,133,000 for "National Eye Institute" instead of $38,878,000 as proposed by the House and $50,000,000 as proposed by the Senate.

Amendments Nos. 33, 34 and 35: Adjust legal citations as proposed by the Senate and appropriate $34,949,000 for "National Institute of Environmental Health Sciences" instead of $32,594,000 as proposed by the House and $35,000,000 as proposed by the Senate. It is the intent of the conferees that a portion of the Congressional increase be used on research on the effects of vinyl chloride and related plastic components. This research is an important investment in the health and safety of workers and their families, and can serve as a model for future research should the vinyl chloride episode be not simply a unique event in the chemical industry but a harbinger of still undiscovered industrial health hazards.

Amendments Nos. 36 and 37: Adjust legal citations as proposed by the Senate and appropriate $127,200,000 for "Research resources" instead of $124,370,000 as proposed by the House and $130,000,000 as proposed by the Senate.

Amendment No. 38: Appropriates $5,589,000 for "John E. Fogarty International Center for Advanced Study in the Health Sciences" instead of $5,384,000 as proposed by the House and $6,000,000 as proposed by the Senate.

Amendments Nos. 39 and 40: Adjust legal citations as proposed by the Senate and appropriate $28,450,000 for "National Library of Medicine" instead of $21,768,000 as proposed by the House and $29,350,000 as proposed by the Senate. The entire increase over the amount proposed by the House is for the medical library assistance program, including $400,000 to initiate in cooperation with the Maternal and Child Health, Cancer, and Medicaid programs, 6 experimental efforts to serve medically underserved rural areas.

Amendment No. 41: Appropriates $17,000,000 for "Office of the Director" as proposed by the Senate instead of $17,894,000 as proposed by the House.

Alcohol, Drug Abuse, and Mental Health Administration

Amendment No. 42: Appropriates $781,358,000 for "Alcohol, drug abuse, and mental health" instead of $761,601,000 as proposed by the House and $811,114,000 as proposed by the Senate. The changes from the amounts proposed by the House include increases of $3,106,000 for mental health research, $9,499,000 for mental health training, $1,535,000 for drug abuse training, $592,000 for alcoholism research, $1,023,000 for alcoholism training, and $6,000,000 for alcoholism project grants and contracts, and net reductions in management, information, and program direction totalling $1,998,000, including an increase of $300,000 for the National Institute of Alcohol Abuse and Alcoholism.

Health Resources Administration

Amendment No. 43: Appropriates $7,500,000 for "Health resources" for carrying out the District of Columbia Medical and Dental Manpower Act of 1970, as proposed by the Senate.

Assistant Secretary for Health

Amendment No. 44: Appropriates $30,215,000 for "Assistant Secretary for Health" instead of $42,628,000 as proposed by the House and $23,215,000 as proposed by the Senate. The increase over the amount proposed by the Senate is for professional standards review organizations.

Office of Education

Amendment No. 45: Appropriates $107,600,000 for "Elementary and secondary education" instead of $105,600,000 as proposed by the House and $113,100,000 as proposed by the Senate.

Amendment No. 46: Earmarks $12,000,000 for educational broadcasting facilities instead of $10,000,000 as proposed by the House and $16,000,000 as proposed by the Senate.

Amendments Nos. 47, 48 and 49: Provide the following earmarks for programs authorized by the Vocational Education Act of 1963: $438,978,000 for parts B and C instead of $433,978,000 as proposed by the House and $445,012,000 as proposed by the Senate; $35,994,000 for consumer and homemaking programs under Part F instead of $30,994,000 as proposed by the House and $46,000,000 as proposed by the Senate; and $9,849,000 for work study programs under Part H instead of $7,849,000 as proposed by the House and $10,524,000 as proposed by the Senate.

Amendments Nos. 50, 51, and 52: Provide the following earmarks for programs authorized by the Education Professions Development Act: $8,139,000 for part D as proposed by the Senate instead of $32,655,000 as proposed by the House; $2,100,000 for part E as proposed by the House instead of $5,000,000 as proposed by the Senate; and $9,000,000 for part F instead of $7,000,000 as proposed by the House and $11,860,000 as proposed by the Senate.

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which will appropriate $612,376,000 for "Occupational, vocational, and adult education" instead of $622,892,000 as proposed by the House and $634,851,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 54: Appropriates $2,131,271,000 for "Higher education" instead of $2,145,271,000 as proposed by the House and $2,117,591,000 as proposed by the Senate. The conferees are agreed that the total appropriation includes $660,000,000 for basic opportunity grants, $10,750,000 for cooperative education, $321,000,000 for national direct student loans, $20,000,000 for State student incentive grants, $110,000,000 for strengthening developing institutions, $14,000,000 for foreign language training and area studies, $9,500,000 for land grant college assistance under the Bankhead-Jones Act, $3,000,000 for State postsecondary commissions, and $1,500,000 for mining fellowships under part D of Title IX of the Higher Education Act.

Amendment No. 55: Restores language which the Senate proposed to delete relating to amounts reallotted for work study.

Amendment No. 56: Earmarks $660,000,000 for basic opportunity grants instead of $650,000,000 as proposed by the House and $685,000,000 as proposed by the Senate.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which provides that $648,500,000 for basic opportunity grants shall remain available through June 30, 1976 instead of $673,500,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment deleting language which prohibits the payment of basic opportunity grants to part-time students. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 59: Deletes language proposed by the Senate which would have extended the availability of the 1974 appropriation for work study until June 30, 1975.

Amendments Nos. 60, 61, and 62; Appropriate $72,224,000 for "Library resources" instead of $63,724,000 as proposed by the House and $99,857,000 as proposed by the Senate; and earmark $49,155,000 for public library services instead of $44,155,000 as proposed by the House and $66,906,000 as proposed by the Senate, and earmark $7,500,000 for undergraduate instructional equipment instead of $5,000,000 as proposed by the House and $12,500,000 as proposed by the Senate. The conferees are agreed that the total appropriation includes $3,000,000 for library training and demonstration programs.

Amendment No. 63: Appropriates $114,400,000 for "Salaries and expenses" as proposed by the Senate instead of $120,808,000 as proposed by the House. The conferees expect a portion of the funds provided under this appropriation to be used to continue support at the current annual rate of $950,000 for the educational policy research centers, which were recently transferred to the Assistant Secretary for Education. The conferees also direct that sufficient funds be used within this appropriation to finance a comprehensive evaluation of the cooperative education program relating to higher education institutions.

Amendments Nos. 64 and 65: Delete language proposed by the Senate authorizing not to exceed $3,000,000 from funds previously appropriated for higher education facilities loans and restore language proposed in the House bill.

National Institute of Education

Amendment No. 66: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will appropriate $70,000,000 for "National Institute of Education", instead of $80,000,000 as proposed by the House. The Senate bill deleted the entire appropriation. The amendment will also provide that none of the funds appropriated under this heading may be used to award a grant or contract to any educational laboratory, research and development center, or any other project if any employee of said laboratory, center, or project is compensated, directly or indirectly, in whole or in part from Federal funds at an annual salary in excess of the salary paid to the U.S. Commissioner of Education or the Director of the National Institute of Education. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Office of the Assistant Secretary for Education

Amendment No. 67: Appropriates $2,307,000 for "Salaries and expenses" as proposed by the Senate instead of $2,437,000 as proposed by the House.

Social and Rehabilitation Service

Amendment No. 68: Appropriates $12,111,731,000 for "Public assistance" as proposed by the Senate instead of $12,402,864,000 as proposed by the House.

Amendment No. 69: Earmarks $50,000,000 for child welfare services as proposed by the Senate instead of $47,500,000 as proposed by the House.

Amendments Nos. 70 and 71: Provide for making, after March 31 of the current fiscal year, payments to States under various titles of the Social Security Act for the last three months of the current fiscal year as proposed by the Senate instead of making, after May 31 of the current fiscal year, such payments for the last thirty days of the current fiscal year as proposed by the House.

Amendment No. 72: Appropriates $210,000,000 for "Work incentives" as proposed by the Senate instead of $280,000,000 as proposed by the House.

Amendment No. 73: Appropriates $771,820,000 for "Rehabilitation services" instead of $768,600,000 as proposed by the House and $784,120,000 as proposed by the Senate. The conferees are agreed that the increase over the amount proposed by the House includes $3,000,000 for innovation and expansion grants and $220,000 for the National Center for Deaf-Blind Youths and Adults.

Amendment No. 74: Provides that $23,000,000 of this appropriation shall be for sections 120 and 130 of the Rehabilitation Act of 1973 instead of $29,000,000 as proposed by the Senate.

Amendment No. 75: Appropriates $63,819,000 for "Salaries and expenses" as proposed by the Senate instead of $72,020,000 as proposed by the House. The conferees are agreed that the reduction from the amount proposed by the House should be made in accordance with the directives and guidelines contained in the Senate Committee report, but in no way should this result in reductions-in-force among existing staff.

Social Security Administration

Amendment No. 76: Authorizes $2,004,729,000 for "Limitation on salaries and expenses" from the social security trust funds as proposed by the Senate instead of $1,992,107,000 as proposed by the House.

Amendment No. 77: Deletes language proposed by the Senate which would have established a limitation of $64,622,000 for payments of standard level user charges. The conferees are agreed that the Social Security Administration shall not use trust funds to pay the General Services Administration, or any other landlord, more than the actual cost of space that it actually occupies. The language proposed by the Senate is deleted because of the difficulty in estimating the actual amounts required for the cost of office space. The conferees are agreed on the intent of the language proposed by the Senate.

Special Institutions

Amendment No. 78: Appropriates $27,543,000 for "Gallaudet College" as proposed by the Senate instead of $27,476,000 as proposed by the House.

Amendment No. 79: Appropriates $79,650,000 for "Howard University" as proposed by the Senate instead of $79,194,000 as proposed by the House.

Assistant Secretary for Human Development

Amendment No. 80: Appropriates $177,950,000 for "Human development" instead of $170,530,000 as proposed by the House and $179,950,000 as proposed by the Senate. The conferees are agreed that the changes from the amount proposed by the House include an increase of $9,000,000 for community services programs under Title III of the Older Americans Act and a reduction of $1,580,000 for salaries and expenses.

Office of the Secretary

Amendment No. 81: Appropriates $22,207,000 for "Office for Civil Rights" as proposed by the Senate instead of $22,321,000 as proposed by the House.

The conferees have received reports that the Department of Health, Education, and Welfare is interpreting the provisions of Title IX of the Education Amendments of 1972 (P.L. 92-318), which prohibits sex discrimination in education, in such a manner as to apply these provisions to such organizations as Boy Scouts, Girl Scouts, Campfire Girls, Boys Club, Girls Club, YMCA, YWCA, sororities, fraternities, and similar organizations.

The conferees are agreed that this is an improper interpretation of the law and direct that none of the funds appropriated in this bill are to be used to enforce the provisions of Title IX with respect to such organizations.

The conferees also are agreed that none of the funds appropriated in this bill are to be used to enforce the integration of physical education classes by sex.

The conferees also believe that in enforcing the provisions of Title IX with respect to educational institutions, the Department is imposing an unreasonable amount of paperwork on these institutions. It was clearly not the intent of Congress to require educational institutions to submit a report on each and every rejected applicant for employment giving background, experience, and the reasons why he or she was not hired. Even small institutions may have a thousand or more applicants each year.

Such a requirement should not be imposed on educational institutions, most of which are having financial problems. The conferees direct the Secretary to see to it that this requirement is discontinued and to take steps to assure that the law is administered more rationally in the future.

Amendment No. 82: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts language requiring that the enforcement of orders to desegregate local schools shall be carried out in the same manner and under the same circumstances, in the northern, eastern, western, and southern parts of the United States.

Amendment No. 83: Appropriates $82,722,000 for "Departmental management" instead of $93,970,000 as proposed by the House and $78,754,000 as proposed by the Senate.

General Provisions

Amendment No. 84: Deletes section 208 proposed by the House which would have prohibited the use of funds in the bill for HEW to force any school district to force the busing of students; to force on account of race, creed, or color the abolishment of any school; or to force the transfer or assignment of students over the protest of the parent.

Amendment No. 85: Deletes Section 209 proposed by the House which would have prohibited the use of funds in the bill for HEW to force any school district to force the busing of students; to require the abolishment of any school; or to force on account of race, creed, or color the transfer of students as a condition precedent to obtaining Federal funds.

Amendment No. 86: Deletes Section 210 proposed by the House which would have prohibited the use of funds appropriated for any applicable program for the transportation of students or teachers in order to overcome racial imbalance or to carry out a plan of racial desegregation.

Amendment No. 87: Inserts Section 208 as proposed by the Senate which prohibits the use of funds in the bill for HEW to force any school district which is desegregated as defined by Title IV of the Civil Rights Act to force the busing of students; to force on account of race, creed, or color the abolishment of any school; or to force the transfer or assignment of students over the protest of the parent.

Amendment No. 88: Inserts Section 209(a) as proposed by the Senate which prohibits the use of funds in the bill for HEW to force any school district which is desegregated as defined by Title IV of the Civil Rights Act to force the busing of students; to require the abolishment of any school; or to force on account of race, creed, or color the transfer of students as a condition precedent to obtaining Federal funds.

Amendment No. 89: Inserts Section 209(b) as proposed by the Senate which prohibits the use of funds appropriated in this Act for the transportation of students or teachers to overcome racial imbalance or to carry out a plan of racial desegregation.

Amendment No. 90: Deletes Section 210 as proposed by the Senate which would have prohibited the use of funds in the bill to pay any Medicare carrier or their subcontractor for costs of administration, including start up costs, any amount in excess of reasonable costs as determined by competitive bidding procedures.

The Committee is concerned about testimony given during the course of the hearings on this bill that the current provisions of Title XVIII of the Social Security Act can result in the application of different standards for Government reimbursement of Medicare prime contractors, as opposed to the standards and requirements for reimbursement by the prime contractors of organizations which are their subcontractors in the administration of Part "B" of the Medicare program. This difference in reimbursement practices arises from the fact that prime contractors (Medicare carriers) are entitled under the law to cost reimbursement for the reasonable costs of all phases of their Medicare services. If they desire to subcontract any part of their contract obligations, they are required by the Government to secure competitive fixed-price bids from qualified subcontractors and enter into fixed-price subcontracts for the desired services. (The subcontract charges are then translated into reimbursable costs of the carrier.) Such subcontracts are subject to the approval of the Secretary.

If at the end of the term of such an approved subcontract, the prime contractor, or carrier, decides to resume providing the formerly subcontracted service by employing its own facilities and personnel, it cannot guarantee that the Government will receive the services at the lowest reasonable cost because the present law does not bind a carrier to a prospective fixed price. The Committee strongly urges that the appropriate Committees of the Congress give consideration to a substantive amendment which would remove any anomalies from the existing law.

Until such time as the appropriate Committees have acted those carriers which have previously subcontracted for the services they are obliged to provide should not receive the approval of the Secretary to a proposal to resume performance of the subcontracted services on their own at the end of a subcontract period, unless the Secretary finds that such a change will be cost effective and in the best interests of the Government. In reaching a judgment as to the cost effectiveness of such a proposal the Secretary shall evaluate the cost projections of the carrier, the amount previously incurred as costs under the subcontract adjusted to the future contract period, as well as the costs incurred by comparable carriers (i.e., those carriers with a comparable workload size and composition which, through direct or subcontracted performance of their Medicare responsibilities, have met and are meeting the performance standards applied to all carriers), and the probability of achievement of the projected costs. Such administrative action on the part of the Secretary will serve to protect the Government's interests pending any substantive legislative action.

The Committee reiterates its concern that the Social Security Administration will promote competition, reduce costs in its administration of the program without sacrificing quality and will embark on carrying out the recommendations of the Advisory Committee on Medicare Administration, Contracting and Subcontracting and report back on their efforts to the appropriate committees of the Congress.

TITLE III—RELATED AGENCIES

Action

Amendment No. 91: Appropriates $100,000,000 for "Operating expenses, domestic programs" as proposed by the Senate instead of $96,000,000 as proposed by the House.

Corporation for Public Broadcasting

Amendment No. 92: Appropriates $57,000,000 for "Payment to the Corporation for Public Broadcasting" instead of $55,000,000 as proposed by the House and $60,000,000 as proposed by the Senate.

Occupational Safety and Health Review Commission

Amendment No. 93: Appropriates $5,512,000 for "Salaries and expenses" as proposed by the House instead of $5,700,000 as proposed by the Senate. The conferees note that the workload of the agency is expected to increase sharply in fiscal year 1975. The Commission should fill as many of its vacant authorized positions as is necessary to avoid a backlog in caseload.

Railroad Retirement Board

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that, notwithstanding any other provisions of law, no portion of the "Limitation on salaries and expenses" shall be available for payments of standard level user charges to the General Services Administration.

TITLE IV—GENERAL PROVISIONS

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which authorizes the Secretary of Labor and the Secretary of HEW to each make available $7,500 from funds available for salaries and expenses under the Labor and HEW titles of the bill, for the purpose of official reception and representation expenses.

Amendment No. 96: Deletes section 412 proposed by the Senate which would have provided that no part of the funds appropriated under the Act shall be used in any manner directly or indirectly to pay for or encourage the performances of abortions except such abortions as are necessary to save the life of a mother.

A majority of the Conferees strongly support the apparent intent of the Senate amendment to prohibit the use of public funds to pay for or encourage abortions. Nevertheless, they are persuaded that an annual appropriation bill is an improper vehicle for such a controversial and far-reaching legislative provision whose implications and ramifications are not clear, whose constitutionality has been challenged, and on which no hearings have been held. The rules and traditions of both the House and the Senate militate against the inclusion of legislative language in appropriation bills. The Conferees urge the appropriate legislative committees of the Congress to give early consideration to the enactment into basic law of carefully drawn legislation dealing with the subject of abortion.

Amendment No. 97: Deletes section 413 proposed by the Senate which would have provided that no provision or prohibition in this Act shall prohibit the implementation of rights guaranteed by the Constitution.

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment which will adopt the section inserted by the Senate dealing with research involving human participants and change the section number. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Reduction in Budget Authority

The total new budget (obligational) authority included in the Bill, as agreed to by the Conferees, is $33,045,856,000, a reduction of $485,239,000 from the budget request. The Conferees are aware of the possibility that the amount included in the bill for "Public assistance" may not be sufficient to meet payments required by law for these grants for fiscal year 1975. Any additional amount required would necessarily be provided in supplemental appropriations or by borrowing from the appropriation for the subsequent fiscal year, which might cause total obligations and expenditures for programs funded in the bill to exceed the amount proposed in the budget.

The Conferees are acutely aware of the need to control inflation and of the need to restrain federal spending as one means to achieve this objective. The Conferees have no intention of approving new budget (obligational) authority which will ultimately result in spending in excess of the total budget estimate for the bill. Therefore, in view of the present uncertainties with respect to public assistance grants, the Conferees direct the Comptroller General in cooperation with the Congressional Research Service tc present to the Appropriations Committees of the House and Senate, not later than five days after the submission of the President's fiscal year 1976 budget to the Congress, a report as to his best estimate of amounts required for "Public assistance" for fiscal year 1975. The Conferees further call attention to the President's authority under the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93–344) to propose deferral and rescission of budget authority, and they agree to give full consideration to such rescissions and deferrals as the President shall recommend, in the light of the Comptroller General's report as to amounts required for public assistance grants, as well as in the light of general economic conditions and the latest estimates of total federal spending. In the meantime, the Conferees would expect the President, in consultation with Appropriations Committees of the House and Senate, and in accordance with the procedures established in P.L. 93–344 to propose deferral or rescission of that portion of budget authority for programs in this bill which would otherwise cause total obligations and expenditures to exceed the amount proposed in the budget. Under no circumstances, however, should such deferrals be applied so as to eliminate entirely funds for programs provided for under this bill, since such action is defined as a rescission under Public Law 93–344.

Conference total—with comparisions

The total new budget (obligational) authority for the fiscal year 1975 recommended by the committee of conference, with comparisons to the fiscal year 1974 amount, the 1975 budget estimate, and the House and Senate bills follows:

New budget (obligational) authority, fiscal year 1974	$29, 254, 546, 000
Budget estimates of new (obligational) authority, fiscal year 1975	33, 531, 095, 000
House bill, fiscal year 1975	33, 156, 541, 000
Senate bill, fiscal year 1975	33, 111, 142, 000
Conference agreement	33, 045, 856, 000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1974	+3, 791, 310, 000
Budget estimates of new (obligational) authority, fiscal year 1975	−485, 239, 000
House bill, fiscal year 1975	−110, 685, 000
Senate bill, fiscal year 1975	−65, 286, 000

Daniel J. Flood,
William H. Natcher,
Neal Smith,
Bob Casey,
Edward J. Patten,
David R. Obey
(except as to the statement under the heading "Reduction in Budget Authority"),
Edith Green,
George H. Mahon,
Robert H. Michel,
Garner E. Shriver
(except as to amendments 9 and 96),
Silvio O. Conte,
J. Kenneth Robinson
(except as to amendments 9 and 96),
Elford A. Cederberg,
Managers on the Part of the House.

Warren G. Magnuson,
John C. Stennis,
Alan Bible,
Robert C. Byrd,
William Proxmire,
Joseph M. Montoya,
Ernest F. Hollings,
Thomas F. Eagleton,
John L. McClellan,
Norris Cotton,
Clifford P. Case,
Hiram L. Fong,
Edward W. Brooke,
Ted Stevens,
Richard S. Schweiker,
Milton R. Young,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 16900, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE 30, 1975

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Mahon, Whitten, Evins of Tennessee, Boland, Flood, Steed, Slack, Mrs. Hansen of Washington, Messrs. McFall, CASEY of Texas, CEDERBERG, MICHEL, ROBISON of New York, SHRIVER, MCDADE, and TALCOTT.

RESIGNATION AS A MEMBER OF THE COMMITTEE ON THE JUDICIARY

The SPEAKER laid before the House the following resignation as a member of the Committee on the Judiciary.

WASHINGTON, D.C.
November 21, 1974.

Hon. CARL ALBERT,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I hereby submit my resignation from the Committee on the Judiciary, effective this date.

Sincerely yours,
DELBERT L. LATTA,
Representative to Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

ELECTION TO COMMITTEE ON THE JUDICIARY

Mr. RHODES. Mr. Speaker, I ask unanimous consent for the immediate consideration of House Resolution 1471.

The Clerk read the resolution as follows:

H. RES. 1471

Resolved, That the following-named Member be, and is hereby elected a member of the Committee on the Judiciary: PAUL N. MCCLOSKEY, JR., of California.

The SPEAKER. Is there objection to the request of the gentleman from Arizona (Mr. RHODES)?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

(Mr. MEEDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEDS. Mr. Speaker, yesterday the House voted on a motion to override President Ford's veto on H.R. 6624, a private bill. The rollcall vote was roll No. 635. I was present and voted to override the veto. However, the RECORD listed me as being paired for the vote. I therefore ask that the RECORD state that I voted "aye" on rollcall No. 635.

AMERICANS BUYING GOLD NEED PROTECTION

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, once again I rise to urge the Congress and our money managers to do something while there is still time to prevent the defrauding, the fleecing, the robbing of thousands of Americans, when we go back into the speculative markets of gold in Europe and other places in the world at a distinct disadvantage, because neither the Congress nor our administrative leaders have done anything to protect the American public once we go into the gold market after January 1.

The Wall Street Journal, on November 18, 1974, said:

> The impact could be especially stunning at this time because United States citizens are once again going to be allowed to speculate in bullion with the new year. Mr. De Jongh, who is the Governor of the Central Bank of South Africa, estimated that Americans next year may buy between 1 million to 8 million ounces of gold.

At the prevailing price, Mr. Speaker, that is better than $1½ billion that we will be draining out of this country with no protection. Where there is no vision the people perish.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT ON TODAY DURING AMENDMENT PROCESS ON H.R. 17048

Mr. DOWNING. Mr. Speaker, I ask unanimous consent for the Committee on Merchant Marine and Fisheries to sit on today on H.R. 17048 while the House is reading the bill for amendment under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

ARMY BECOMES TRULY ALL-VOLUNTEER FORCE NOVEMBER 22

(Mr. STEIGER of Wisconsin asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. STEIGER of Wisconsin. Mr. Speaker, back in October the Secretary of the Army, "Bo" Callaway, announced that as of November 22, tomorrow, the Army will be a truly all-volunteer force for the first time since 1940. I take this time to pay tribute to the Congress of the United States and to those in the Department of Defense who have made it possible for this country to end involuntary servitude. And also to pay tribute to those who have managed the Army and who have successfully enabled the Army of the United States in the period January 1, 1973, to September 30, 1974, to recruit 337,700 volunteers who have come into the Army of the United States.

This Nation can be proud of the fact that the draft is ended, and I think this House can be proud of the role that it has played in aiding in this effort. Tomorrow should not go unnoticed.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 638]

Andrews, N.C.
Armstrong
Aspin
Bergland
Blatnik
Boggs
Bolling
Brasco
Burke, Calif.
Butler
Camp
Chappell
Chisholm
Clark
Cohen
Conable
Conyers
Drinan
Dulski
Esch
Eshleman
Foley
Fraser
Froehlich
Giaimo
Grasso
Gray
Gubser
Hébert
Heckler, Mass.
Hogan
Holifield
Jarman
Jones, N.C.
Kemp
Kuykendall
Landrum
Lehman
Litton
Long, Md.
Luken
McCormack
Maraziti
Martin, Nebr.
Mathias, Calif.
Melcher
Minshall, Ohio
Mosher
Obey
Patman
Poage
Podell
Rarick
Reid
Riegle
Robison, N.Y.
Rooney, N.Y.
Rose
Runnels
Sandman
Sarbanes
Sebelius
Seiberling
Shipley
Shoup
Sikes
Smith, N.Y.
Staggers
Steele
Stuckey
Teague
Thompson, N.J.
Tiernan
Udall
Van Deerlin
Whitten
Wiggins
Wydler
Wyman
Young, Ga.

The SPEAKER. On this rollcall 345 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, in order that I may expedite the matter as to what is going to transpire today, this is today's program only.

The conference report on S. 386, Urban Mass Transportation Assistance Act of 1974, will be considered. There is an hour on the rule, and, I guess, an hour for debate.

Then we will have further consideration of H.R. 16373, the Privacy Act, and we will continue with that and hope to complete it today.

We will then consider the farm labor contractor registration, H.R. 13342, but instead of considering overriding the veto, it will be referred back to committee.

Those are the only items that we intend to complete today. The remainder of the items that we have scheduled for the rest of the week will be placed on the calendar for Monday.

There will be no session on Friday.

FARM LABOR CONTRACTOR REGISTRATION ACT OF 1963—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President on the bill H.R. 13342, to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement.

MOTION OFFERED BY MR. FORD

Mr. FORD. Mr. Speaker, I move that the message, together with the bill, be referred to the Committee on Education and Labor.

The motion was agreed to.

URBAN MASS TRANSPORTATION ACT OF 1964

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1470 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1470

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill, S. 386, to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and all points of order against the conference report for failure to comply with clause 3, rule XXVIII, are hereby waived.

The SPEAKER. The gentleman from New York is recognized for 1 hour.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), and I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1470 provides for a rule waiving all points of order against the conference report on the the bill S. 386 for failure to comply with clause 3, rule XXVIII of the Rules of the House of Representatives. The waiver is required because the conference report has gone beyond the scope of the original bills.

S. 386 provides for a 6-year capital grant program of $7,825,000,000 of which $500 million will be reserved for a new rural public transportation capital assistance program.

The conference report also authorizes $3,975,000,000 for a new formula grant program over the next 6 years. Specifically, it authorizes $300 million for 1975, $500 million for 1976, $650 million for 1977, $775 million for 1978, $850 million for 1979 and $900 million for 1980. These funds would be available to be allocated to States or urbanized areas on a formula basis and would be available to finance capital projects or pay operating costs of public transportation systems.

The conference report provides that in urbanized areas of 200,000 population, a designated recipient will be selected by the Governor, local officials, and officials of the transportation authority for grants under a formula using the factors of population and population weighted by density, counted equally. In urbanized areas under 200,000 population the State will be the recipient of the funds.

The apportioned funds, if used by the Governor or designated recipient for capital purposes, shall be on an 80-percent Federal share. Where the Governor or designated recipient uses these funds to pay operating expenses, they shall be on a 50-percent share basis.

Mr. Speaker, enactment of S. 386 will bring much-needed relief to our urban mass transit systems.

Mr. Speaker, I would like at this time to pay tribute to the gentleman from Alabama, Mr. BOB JONES, of the Committee on Public Works. Mr. JONES has worked for almost a year, and I think he put in 6 solid months of work in bringing a bill to the floor. While this is not the exact bill, it does embody the principles that Mr. JONES devised in his bill and the body and soul and feeling of what he put into his bill is contained in this compromise.

Mr. Speaker, I urge adoption of the resolution (H. Res. 1470) in order that we may discuss, debate, and pass S. 386.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 7 minutes to the distinguished ranking minority member of the House Committee on Public Works, the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Speaker, I rise in opposition to this rule.

However well intentioned the proposition before us today, it is utterly wrong from a procedural standpoint. It does violence to the intent of the House on jurisdictional grounds and creates the risk of the House being stampeded into the approval of a mass transit bill irrespective of the merits.

Aside from the question of the merits, or jurisdiction, in my judgment it would be a tragic mistake for the House to approve this rule and thereby give sanction to the most outrageous violation of rules and precedents of the House to occur during my many years in the Congress.

S. 386 has never been considered under regular procedure by any standing committee of either the House or the other body. It has never been considered or subjected to the will of the Membership of either House through regular floor procedure permitting amendments. It, therefore, represents the product of a handful of Members working alone, working subject to intense outside lobbying pressure and working in haste, and, we are asked to take it or leave it and vote it up or down on its initial consideration by this body under what amounts to a closed rule.

Mr. Speaker, if this House takes this ill-considered action, we may as well forget all about the reforms we have enacted, to our credit, in recent years. This would be a step backward and to the extent we are bound by our precedents—and we are—our action will come back to haunt us. The leadership, the committees, and the individual Members will be depriving themselves of the opportunity to work their will over legislation under procedures we have evolved over so many years to assure that this House functions as a truly representative body.

It has been suggested by the proponents of S. 386 that the original $11.3 billion, 6-year program of capital and operating subsidies produced by the Committee on Public Works represents a jurisdictional power grab. Nothing could be further from the case. In fact, we can make a case that precisely the reverse is true. On October 8, this body approved the Hansen subcommittee jurisdictional realignments shifting responsibility over mass transit from the Committee on Banking and Currency to the Committee on Public Works. Both the Select Committee on Committees and Hansen subcommittee recommendations to this effect had been introduced well prior to this action. Indeed, both proposals were before this House for general debate and amendment between September 30 and October 8. It was during this time, on October 3, that the banking and currency conferees wrote their bill.

Their bill would lock us into a six-year program virtually immune from change and reflecting the views of a mere handful of Members of the committee whose jurisdiction over mass transportation had expired.

Regardless of what the proponents of S. 386 may say, the real question before the House is not whether we enact this bill, or no bill during the final days of the second session of the 93d Congress. The real question is whether we accept S. 386 with all the defects arising from the haste and irregular procedure through which it was produced, or a far superior piece of legislation, H.R. 12859. I am completely confident that if we reject this rule and reject S. 386 that it will be possible to bring the Senate to a conference that will produce a better bill capable of being enacted into law in this session.

Let me just point out one facet of this bill which we had an opportunity to vote on in the other legislation the Committee on Public Works had before us, that is the issue dealing with operating assistance. In this bill the operating assistance is on a 50–50 basis and this House turned that measure down when it dealt with the public works bill. It voted overwhelmingly to reduce the operating subsidy to 33⅓, therefore we are again being denied to express the will of the House.

In the time remaining I wish to return to the question of proper legislative procedure. We have had considerable trouble in the past in dealing with the Senate insisting on attaching nongermane amendments in the conference process. If we approve this rule, we are merely inviting more of the same. Any time a comparatively minor bill is passed in different versions by both sides and referred to conference for resolution, all Members in all committees will be entitled to feel great concern whether the conferees of either the House or the other body have a particular axe to grind.

Mr. JONES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. Mr. Speaker, I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Speaker, some time ago I had occasion to speak to Senator WILLIAMS. Senator WILLIAMS and I agreed that we would go to conference. We engaged in issuing a press release to the effect that we would go to conference. I announced then, and to every subsequent inquiry that came to me, I responded in emphatic and definite terms that we would go to conference any time the Senate wants a conference.

I will go to conference in 40 minutes with the Senate on our bill we just passed. This business of coming back and saying that the House is not agreeable to a conference is a bunch of hogwash.

Mr. HARSHA. Even aside from that,

we are inviting a chaotic situation if we ratify any gross departure from normal procedure in bringing bills to the floor, as the effort on S. 386 exemplifies. Our procedures are not roadblocks. They are safeguards maintained to assure that legislative proposals are fully subjected to the scrutiny of our subcommittees, our full committees and the membership of this body at large. If this rule is adopted, the House would be in a very different place indeed.

A final note: We have an alternative bill which has benefited from an exhaustive series of hearings in Washington, field hearings, markup in committee, and amendments on the House floor where each Member had the opportunity to participate. Each Member is being denied this same opportunity by this procedure today. That was a legitimate vehicle, and the only legitimate vehicle for achieving our mass transportation objectives. We should reject this rule and reject an inferior bill.

Mr. DELANEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I reluctantly rise in support of S. 386 and in support of the rule waiving points of order. I am supporting the bill because it is better than nothing; I am reluctant because it is so woefully inadequate.

The urgency for mass transit operating assistance is in no way reflected by the meager sums to be available under this bill. In 1966 State and local governments were subsidizing less than two dozen systems costing $200 million. By 1973, the subsidy bill had risen to $600 million, and before 1975 it is expected that 180 transit systems will require $900 million to break even.

New York City is facing a $252 million deficit this year if it is to maintain the 35-cent fare. As bad as the subways are, that 35-cent fare is essential to prevent hardship and to keep the present ridership from switching to other forms of transportation.

Today marks the end of mass transit legislation's rollercoaster ride through the 93d Congress. It is too bad the ride could not have been smoother, and the result more significant. We have witnessed unfortunate procedural disputes between congressional committees, and we have been faced with the administration's announced intention to veto the original Minish-Williams bill. Now we are faced with a situation where we seem to be forced to accept on unsatisfactory compromise.

Historically, the quest for mass transit money has been arduous and by no means is it complete. Since the 89th Congress, I have been associated with efforts to widen the scope of Federal support for mass transit which finally led to the opening of the Highway Trust Fund for mass transit use in 1973. Because it was *generally* understood that making a small percentage of Highway Trust Fund dollars available for capital expansion of mass transit would be insufficient to remedy the pervasive decline in public transportation facilities and service, the 93d Congress began work on comprehensive mass transit assistance legislation.

H.R. 12859, as reported out by the Public Works Committee, would have provided $20 billion for capital grants and for operating subsidies, 54 percent of which would have gone to the nine major cities already operating regularly scheduled public transportation systems. Because of strong administration opposition and objections from rural Congressmen, the bill was pared down in the House to $11.3 billion and the matching ratio for transit operating subsidies raised from a 50-percent local share to a two-thirds local contribution requirement.

S. 386 was originally conceived as a 2-year emergency operating assistance measure to pump 800 million badly needed dollars into metro-area public transit. The need S. 386 sought to address still exists. The rewriting of S. 386 to meet administration and rural objections similar to those voiced when the House considered H.R. 12859 is a disservice to the needs of urban Americans.

The $20 billion bill originally reported by Public Works, in conjunction with the $800 million emergency subsidy legislation authored by Representative MINISH, would in my view have constituted a satisfactory assistance package. We are getting neither.

What we get instead is $11.8 billion over the next 6 years; $7.8 billion is earmarked for capital projects, including planning and research. Federal money may be used to pay for up to 80 percent of these projects. The remaining $3.9 billion may be used either for capital or operating costs. However, the Federal share is restricted to 50-percent participation for operating subsidies, as compared to 80 percent for capital projects.

Section 110 of S. 386 would allow the use of up to 50 percent of the traditional capital grant funds authorized under the 1964 Urban Mass Transportation Act for operating subsidies at the option of the grantee if the Secretary of Transportation finds that effective arrangements have been made to replace these funds with State and local funds so that the project for which the Federal funds were obligated can be completed. Congresswoman ABZUG, Congressman KOCH, and other members of the New York City delegation, along with Mayor Beame of New York, are in large part responsible for this innovative section freeing some $3.6 billion additional for operating assistance payments. For NYC this means that half of the $250 million UMTA capital grant will be available this year. There is obviously not a satisfactory solution in view of the city's urgent capital funds needs. And what happens next year when the deficit is even bigger?

From the operating subsidy funds in S. 386, I am told that approximately 18 percent would go to the Metropolitan New York area. In other words, out of a total operating subsidy pool of $300 million in fiscal year 1975 only $54 million would be available to the region, and only about $40 million for NYC.

For the country as a whole the $300 million authorized covers only one-third of the $900 million needed for subsidies, for NYC it represents less than one-sixth of the amount needed to save the fare. This is far from enough.

Therefore, while I am, as I said, reluctantly going to vote in favor of this bill, the job remains essentially unfinished; and as such should be high on the 94th Congress list of legislative priorities.

Mr. DELANEY. Mr. Speaker, I yield 8 minutes to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, it is with a mixture of reluctance and great sadness that I rise in opposition to this rule. It is not because I oppose the substance of the legislation that I oppose this rule. I favor the basic substance of this legislation. As the gentleman from New Jersey (Mr. MINISH) will be able to tell the Members, I actively supported his effort to pass on this House floor 1 year ago the $800 million 1-year authorization which we passed.

As the gentleman from New Jersey (Mr. MINISH) will tell the Members, I actively supported his efforts all the way through to get a bill of that type, a 1-year or 2-year shot in the arm, passed by this House, and a conference committee report enacted.

But, there is something far more profound and far more important for the long run, and that is the question of whether or not we shall sit still or lie supinely and permit the will of the House to be subverted, the rules of the House to be contraverted, and the House to be denied the privilege of going to conference on another bill that the House has passed. That is what this amounts to—a bold and brazen effort on the part of the other body to avoid going to conference with the House on a bill that the House has passed—the 6-year, long-term bill from which many basic provisions have been engrafted by the conference committee onto the two smaller and shorter range bills which went to conference.

I do not know whether this procedure is without precedent. I know that it should be without precedent. I, for one, cannot be a party to setting this kind of a precedent today.

The conference committee went far beyond the legal scope of its jurisdiction and denied the House its basic rights to negotiate with the other body on the long-term legislation.

This House acted affirmatively many weeks ago on a 6-year mass transit authorization for both public construction aid and assistance in operating subsidies. The other body has refused to go to conference with us on that bill. Instead, they have done by indirection what the rules expressly forbid them to do by direction.

They have taken a 1-year bill which involved only $800 million in operating subsidies and have arbitrarily substituted for that bill in conference their own last-minute version of a 6-year $11.8-billion mass transit authorization for all purposes.

Not only does it contravene the will of the House by depriving the House of the right to go to conference; it contravenes the express will of the House as determined only a very few weeks ago in the Hansen committee report. This action could, for all practical purposes, foreclose the committee on public works and transportation from any involvement in mass transit for the next 6 years.

The basic question, however, is not the traducing of the rights of a committee. The basic question involves the traducing of the rights of the House.

If we want to lie down and let this steamroller go over us, I just want the Members to know what they are agreeing to. I am asking the Members to vote down this rule and promising, if it is voted down, that those of us on the House side will present an alternative and go to conference on this bill this afternoon or tomorrow morning, or just as soon as the other body will meet with us.

If the rule is adopted, I am not asking you to vote against the conference committee report. But I am asking, as a matter of the integrity of the House, to vote against the rule, because as every Member knows, it is highly irregular.

Let me tell you why they did it. The manager of this bill on the part of the Senate refused to go to conference with the House on our own 6-year bill because the White House told him the administration wanted this bill, identical, word for word. This bill is supported in its present form by the League of Cities. It is supported by the Mass Transit Association. They want no change in the bill. Therefore, they want no legitimate conference on the subject of a 6-year-bill. But I submit to the Members that it is not the prerogative of the White House or of any lobbying organization, whatever its interest or description, to write legislation or to deprive the House of Representatives of its lawful prerogatives of going to conference with a bill that this House has passed. It is our responsibility, not theirs, to write legislation. We are giving it away if we adopt this rule.

As I say, I am not opposed to the bill. I am for the bill. As the gentleman from New Jersey knows, I support the basic substance of the bill, but I am definitely opposed to this procedure. If we allow it to stand today, we are setting a precedent that we will live to regret.

Mr. MINISH. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman.

Mr. MINISH. It is my understanding that the Hansen report does not go into effect until the new Congress. That being the fact, my subcommittee has jurisdiction over this legislation.

Mr. WRIGHT. I am suggesting to the gentleman that the Committee on Public Works, first, will be deprived of any meaningful input into the subject matter since this authorization extends over the next 6 years. I am suggesting, secondly, that the Committee on Public Works was, indeed, given jurisdiction over the 6-year broad mass transit authorization this year. But that is not my principal objection. I do not care anything about jurisdictional squabbles. This is far bigger than the question of jurisdiction between committees. As the gentleman from New Jersey knows, I have supported him in everything he has tried to do. What is involved is the right of the House of Representatives, and I do care about that.

Mr. CAREY of New York. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from New York.

Mr. CAREY of New York. I commend my colleague from Texas for a very positive attitude on this bill and I share his concern, because we need the bill, and I would just remind my friend that jurisdictional matters and the input of the Committee on Public Works are most welcome. They will have to carry the burden on this bill for many years ahead and will be given the opportunity to do so. The great Committee on Public Works will be working its will in the years ahead on this matter. I would remind the gentleman that we do not lose the jurisdiction of the bill from here on in because of this act on this rule today. I remind him of the situation where the Committee on Ways and Means initiated in the past the first revenue sharing bill, and now a revenue sharing bill is in the Committee on Government Operations and will be on the Hansen report.

I hope that is going to be for the betterment of that program.

Nothing is sacred around here, but at this moment, at this time, I make an appeal to my colleague from Texas, do not stop the passage of this bill and this rule, because it is the one single act that will help to put a brake on inflation and tell the people of the United States that we have to do something to conserve energy and get to work. If we hold back on this rule, we are telling the people that the jurisdiction of the committee is more important than the immediate needs of the American people.

Mr. WRIGHT. Mr. Speaker, I am not asking defeat of the bill but of the rule.

Mr. CAREY of New York. Will the gentleman yield?

Mr. WRIGHT. I do not yield further.

I am asking to defeat this rule, which is unprecedented, or it should be, in that it denies the rights of the House to a conference. We are prepared to go to conference. If we are permitted to go to conference, under the rules of the House, with the rights of the House preserved and protected, we still can report and pass this bill this year.

Mr. CAREY of New York. Mr. Speaker, if my colleague will yield, I simply wish to reiterate that at this time we must do something to correct this situation.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Speaker, I thank the gentleman for yielding this time to me.

Let us examine the prior speaker's arguments. Is the rule unprecedented? No.

In the past, we clearly have brought conference reports to the floor of this House and waived points of order in situations where the conference report incorporated something that was not before the conference.

So is the conference report unprecedented? Is it unprecedented in the way it is being brought to the floor? No.

Second, I will ask, who first had jurisdiction of the substance of what we are talking about here today? The Subcommittee on Urban Mass Transit and the Committee on Banking and Currency had jurisdiction.

The pattern and the general outline of the proposal before us today in great part was offered by me in the Subcommittee on Mass Transportation of the Committee on Banking and Currency long before the Administration brought forth its UTAP proposal as part of a comprehensive transportation plan, and the Speaker, because the latter was a comprehensive transportation package, including highways, referred the entire bill to the Committee on Public Works.

But has the Committee on Public Works worked on that comprehensive bill? It has not touched the highway portion of it. It pulled out the urban mass transit part of it because it had jurisdiction over the whole bill. It pulled out that part in order to preempt the operation of the Subcommittee on Urban Mass Transit of the Committee on Banking and Currency.

Now, if there is a "Johnny-come-lately" concerning the jurisdiction and the substance of this legislation, it is not the Subcommittee on Urban Mass Transit of the Committee on Banking and Currency; it is the Committee on Public Works.

Mr. DELANEY. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. MINISH).

Mr. MINISH. Mr. Speaker, I thank the gentleman from New York (Mr. DELANEY).

Let me, Mr. Speaker, put to rest some of the arguments which some of the previous speakers have made.

First of all, I think that both the gentleman from Ohio (Mr. HARSHA) and the gentleman from Texas (Mr. WRIGHT) know that we on the Banking and Currency Committee do have jurisdiction. We will not have jurisdiction in January, but that is a long time away. Maybe the good Lord will decide that some of us should not be here in January. So we should not be concerned about that; we should just pray we will be here.

Mr. Speaker, I wish to read a letter that was signed by both Senator TOWER and Senator WILLIAMS. That letter deals with the Public Works Committee bill and speaks of the inaction I think the Senate will take on the bill.

The letter reads as follows:

COMMITTEE ON BANKING,
HOUSING AND URBAN AFFAIRS,
Washington, D.C., November 21, 1974.

Hon. WRIGHT PATMAN,
Chairman, the House Banking and Currency Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On November 19, 1974, the Senate overwhelmingly passed the Conference Report on S. 386. The Urban Mass Transportation Assistance Act of 1974, by a 64–17 vote. In our opinion, it is imperative that the House of Representatives also act affirmatively on this Report, since there is an urgent need for urban mass transportation legislation providing federal funds for operating assistance and long-term assurances for funding for transit systems throughout our Nation this year.

In the past, one of the alternatives to S. 386 suggested by certain members of the House was that the Senate pass legislation similar to H.R. 12859. However, we have been informed by various public interest groups that Senate consideration of H.R. 12859 would lead to a divisive floor fight over many of its provisions. In addition, both President Ford and Secretary of Transportation Brinegar have voiced their opposition to the operating assistance provisions contained in H.R. 12859, and we have been informed that the Administration would urge amendments to that bill, both during Committee consideration and on the Senate floor.

In view of the fact that no Senate hearings have ever been held on H.R. 12859, consideration of this legislation would entail Committee hearings, Subcommittee executive sessions, full Committee executive sessions, floor action and another House-Senate Conference.

As we all know, only limited time is available during this session of the Congress and due to the legislative schedule of both the Senate Banking Committee and the Senate itself, consideration of H.R. 12859 would not be possible this year.

It is, therefore, our opinion that if urban mass transportation legislation is to be enacted during this session of the Congress, the House of Representatives should give approval to the Conference Report on S. 386, rather than delaying Congressional action on this urgently needed urban mass transportation assistance legislation.

With every good wish, we remain

Sincerely,

Harrison A. Williams, Jr.
John Tower.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 5 minutes.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding.

I would like to ask the gentleman a question concerning the $500 million in the bill for rural transportation. In the Senate debate on Tuesday, Senator Dole asked Senator Tower and I quote "What dollar figures are earmarked in the report for the smaller urban and rural communities?". Mr. Tower's answer was that of the $7.8 billion to be used exclusively for capital grants $500 million is set aside to be used exclusively in rural areas.

However, my reading of the report indicates that Senator Tower's answer to Senator Dole was in error. The language says quite clearly on page 2 of the conference report and I quote, "not to exceed $500,000,000 shall be available for assistance in areas other than urbanized areas." The language "not to exceed" is quite clear and indicates that this amount is not earmarked, it is at the Secretary's discretion and if he so chooses he can spend absolutely nothing in the rural areas. Under H.R. 12859 the bill which was passed by this body, $500 million was not only earmarked to the States but apportioned on the basis of rural population. It would appear that H.R. 12859 guarantees this money to rural population. Can the gentleman provide any assurance that the opposite is true? It would appear that H.R. 12859 guarantees this money to rural areas and S. 386 makes it highly unlikely that they will get much if any.

Further H.R. 12859 permits use of 50 percent of this money for operating assistance which is urgently needed in rural transportation and S. 386 does not. Will the gentleman also address himself to this point?

Finally to stress my concern over this point, I have in my hand a summary of S. 386 put out by the administration shortly after the conference committee released its report. This summary states with respect to this $500 million that there is no requirement to spend those funds within the 6 years, that the $500 million is without any time limits and that it probably could not be spent within 6 years.

I am concerned that the rural program in S. 386 is for all intents and purposes nonexistent.

Mr. MINISH. Will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New Jersey.

Mr. MINISH. To answer the question of the gentleman from Arkansas it is my understanding that the $500 million is mandatory. As to the question of whether it will be spent, I assume that it will be spent if there are enough applications for that much money.

Mr. ALEXANDER. Then why does the summary state that in respect to the $500 million, there is no requirement to spend those funds within the 6 years of the bill, the $500 million, and without any time limits, that it probably would not be spent within 6 years?

Mr. MINISH. To answer the gentleman, if the funds are spent, they must be spent in rural areas.

Mr. ALEXANDER. And the gentleman is assuring me that it is his intent and the intent of this bill that the money shall be and will be spent in the rural areas?

Mr. MINISH. I am not prepared to assure the gentleman that it will be spent. I will assure the gentleman that it is the intent of the conferees that that money shall be spent in rural areas.

Mr. ALEXANDER. I thank the gentleman.

Mr. ANDERSON of Illinois. Mr. Speaker, to continue the point the gentleman from Arkansas just raised, I certainly come from an area that is not only urbanized but has a large rural population. As a result, I share his hope that in the administration of this program, this discretionary grant part of the program dealing with the $500 million he referred to, will, in fact, be allocated for the benefit of rural areas as well.

This is not a big cities' bill.

The reason we rejected S. 386 earlier, and the gentleman from Ohio (Mr. Wylie) led that fight successfully was that it was a big-city bill. Twenty percent of the money, as I remember, was going to go to New York City. Seven percent of it that was going to go to my own State of Illinois, but there were rightfully feelings in this Chamber that we ought to have a balanced program that would be of assistance to rural as well as city areas.

Therefore, I think I can, without being a member of the committee, assure the gentleman that I share the same hope that he does, that in the administration of the program, we will not ignore the needs of the kind of constituency he represents.

I want to take just a minute, Mr. Speaker, to say that those of us on the Committee on Rules are always acutely embarrassed when we find ourselves in the middle of the kind of jurisdictional dispute that has flared once again here on the floor of the House this afternoon.

I have some very dear and good friends on the Committee on Public Works, and likewise some very good and very respected friends on the Committee on Banking and Currency, and this I wish were one of those situations where I could simply say I am for my friends and not take a position, but I think the position we have to take this afternoon is that we want a bill, and we will not get a bill, or relief in this area, unless we enact this conference report.

Mr. Speaker, I have been provided by the minority leader, the gentleman from Arizona (Mr. Rhodes), with a copy of a telegram that was just received from the President of the United States, and I would like to read it.

The SPEAKER. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, the telegram reads as follows:

> I understand that the U.S. House of Representatives will consider today the National Mass Transportation Assistance Act of 1974, S. 386. As you know, I fully support this six-year, $11.8 billion transit bill. It represents a responsible step in our efforts to reduce energy consumption and control inflation. This is a good bill and I commend the efforts of you and other leaders in the House who are working hard for its passage. I am very hopeful that action you take today will result in passage of S. 386 so that it will be on my desk for signature when I return from abroad.

And that is signed, Gerald R. Ford, President of the United States.

Have we all forgotten, I will say to the Members of the House, why it is that this is legislation of an urgent character? It is for the reason the President has spelled out in his telegram to the minority leader, and that is that this is needed if we are going to produce a meaningful and credible conservation program. If we are serious about trying to do something to fight inflation and to cut down the amount that we are paying for imported oil from abroad, then we have to go to the assistance of the mass transit systems of our country that would be aided under the various formulae grant provisions of this legislation.

So if the Members are interested in

doing something about the energy crisis, if they want to fight inflation, and if they want a bill at this session of the 93d Congress, then I think, regretful as we may find it to have to do, we are going to have to accept the fact that by only voting affirmatively today on this conference report are we going to get legislation for the assistance of mass transportation systems at this session of the Congress.

Let me very quickly say that the gentleman from Michigan (Mr. BROWN) has already pointed out, I believe, that it was his proposal, the forerunner of the administration's own UTAP proposal that was considered extensively in the Committee on Banking and Currency. We had many weeks of hearings before the House Committee on Public Works on the UTAP proposal itself.

The SPEAKER. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. I yield myself 1 additional minute.

Mr. Speaker, I testified myself before that committee, so we are, in effect, not considering matters on the floor of the House today in a manner that bypasses the House, because we have given careful and full consideration to the substantive questions that are dealt with in this legislation, and even though we have to in a sense short circuit and bypass the normal procedures of the House, I submit the objective that we are attaining is so important and so overriding that we must today act affirmatively and promptly on this conference report.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I appreciate the gentleman from Illinois yielding to me.

Referring back to what the gentleman from Illinois said regarding the administration's UTAP proposal which was the foundation for the Committee on Public Works' consideration of transit legislation—the legislative foundation—when the administration sent its proposal to the House, they walked into my office and they said, "Mr. BROWN, you probably will not recognize this proposal because it is substantially the amendment you offered on urban mass transportation in the subcommittee this summer." And this conversation occurred last fall.

The SPEAKER. The time of the gentleman has again expired.

Mr. ANDERSON of Illinois. I yield myself 1 additional minute.

Mr. BROWN of Michigan. If the gentleman will yield still further, what happened was that when the administration sent the comprehensive transportation proposal to the House, title I was the highway portion, and title II was the urban mass transit portion, and the Speaker, because it involved highways in title I, referred the bill to the Committee on Public Works, and if the Committee on Public Works had considered the whole comprehensive transportation package they would have had an argument to make today, but they did not.

When they saw our committee was moving on mass transit legislation and they had title II of the administration's proposal in their lap, they decided to take out the urban mass transportation part and report it as a separate bill, but if it had been known they were going to do that they would never have gotten jurisdiction in the first place.

Mr. ANDERSON of Illinois. Mr. Speaker, I will conclude by urging the adoption of the conference report.

Mr. DELANEY. Mr. Speaker, I yield 5 minutes to the chairman of the Committee on Public Works, the gentleman from Minnesota (Mr. BLATNIK).

Mr. BLATNIK. Mr. Speaker, first, for the record, may I ask a few questions?

The only piece of legislation material that I have in my hands is entitled "Urban Mass Transportation Assistance Act of 1974." It is dated October 3, 1974. May I ask someone from the other committee, maybe the gentleman from New Jersey, just for the record, what are we voting on?

Mr. MINISH. If the gentleman will yield, S. 386.

Mr. BLATNIK. A conference report on S. 386?

Mr. MINISH. Yes, sir.

Mr. BLATNIK. Passed on October 3?

Mr. MINISH. No; it was filed October 3, but it passed the Senate Tuesday, I believe it was.

Mr. BLATNIK. Is it the same version?

Mr. MINISH. Yes.

Mr. BLATNIK. Where is the print that passed the Senate? I have never yet in my life voted on something I did not know was available in print.

Mr. MINISH. This is a conference report. This is what passed the Senate.

Mr. BLATNIK. I will take the gentleman's word, of course. It is identical to that? Is there any other version of this?

Mr. MINISH. This is identical to the report that the Senate filed.

Mr. BLATNIK. But how in the world do you get a House-Senate conference report with no Senate bill to confer about? Mr. Speaker, I say this with no joy or enthusiasm, but I certainly do so with a great deal of strong objection to this kind of procedure, these kinds of shenanigans. I have seen orderly legislative process that has resulted in Federal laws—thousands of acts of Congress in the 20 years that I have had the privilege to serve under my seniors and great Speakers, the alltime great Speaker Sam Rayburn, and Speaker John McCormack, and now my dear friend and respected leader of this great body, Speaker CARL ALBERT—such a situation as we face today when we consider this so-called conference report on S. 386.

This report violates every rule and orderly legislative regular procedure of the Congress. It is a conference report that was debated by a handful of Members of both bodies which changed a simple 2-year, $800 million authorization into a long-term, 6-year, $11 billion program.

It is a report on which no hearings were held in either body; on which neither body acted on the floor; and which comes to us today on an up or down vote. It cannot be amended. It cannot be recommitted.

We are asked to buy a pig in a poke.

It is legislation in the worst possible form.

If allowed to pass, it would establish a precedent that will come back to haunt us in years to come.

Never in my 28 years in Congress, as far as I can recall, have we considered legislation of this multibillion-dollar magnitude, on which the Members of both bodies have had no opportunity at all to act in proper fashion—to debate in proper fashion—and to offer necessary amendments.

It is a conference report that must be defeated simply for this reason alone. Without regular order and regular procedure, if this is allowed to stand, then the legislative process would turn to an improvision to suit the wishes of a handful to leapfrog the will of the majority of this House.

Let me state further that the House Public Works Committee held months of hearings here in Washington and in the field on a major mass transportation bill, H.R. 12859. It was fully and properly debated for three days on the floor of this House. It was amended in proper fashion. It went to the other body in August, and for reasons beyond my comprehension, it languishes in that other body still.

There are those who would say that it is this conference report or nothing if we want mass transit legislation this year. This is totally untrue.

There is time in this session, if we defeat this conference report, for the other body to take up a bill of its own choosing; to act in regular order; to substitute the House passed bill number, and to go to conference with the House Public Works Committee. This is the procedure that should and must be followed.

Anything less than this brings us to what I have said before—it violates all procedures and precedents in the history of the House of Representatives. It would destroy this House as a deliberative body. It flaunts the will of the House which spent 3 days on mass transit legislation by saying—forget what you have done—we will not consider what you have done—simply take this or leave it.

I have personally assured all those within the sound of my voice and my great and good friends who led this fight—BOB JONES of Alabama and BILL HARSHA of Ohio—have indicated their willingness and readiness to sit down in conference with the other body to hammer out a bill that will be fair and equitable to all.

I will not even go into the merits of this conference report that is before us today except to say this—that it is not what it seems, and it is not the answer to the transportation problems; nor will it give the necessary funding that is needed for the program.

I conclude by simply saying this—the integrity of the House of Representatives is at stake today, and I ask every Member to search his conscience to protect this House that we all love, and to vote down this abominable procedure, and—with it—the conference report.

But in all of those years I have never come across a situation such as we now have to consider this conjured conference report. How can we have a House-Senate conference report with no Senate bill to confer on? How was this so-called conference report conjured up? It violates, I charge, every rule of orderly legislative procedure, and I want the RECORD to show it. I will stand to be subjected to any correction or criticism. It violates every rule and every step of orderly legislative regular procedure of the Congress.

This is a conference report that was conjured up by a handful, a few Members, especially of the other body who changed a simple 2-year, $800 million House committee authorization into a multibillion-dollar, $11 billion, 6-year program. How that piece of legerdemain was done, I do not know. It has yet to be explained.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BLATNIK. I will be pleased to yield to my friend and neighbor, the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

It has been stated here by those who support this that it is necessary because the conference report goes beyond the scope of the legislation; but no one has bothered to explain in what way it goes beyond the scope. I should think that, before more consideration of this rule, someone would get up and inform the Members of this House with some specificity in what way, how, and where, it violates the rules of the House, for it certainly does.

Mr. BLATNIK. The gentleman from Iowa raises a very important point. He has put his finger right on it. On this report on S. 386, no hearings were held in either committee of either the House or the other body.

It was not acted on by either the House or the other body. And all of a sudden out of some strange synthesis they have conjured up an $11 billion bill and there is no record of how it has gotten into existence. It cannot be amended. It cannot be recommitted. We are not sure exactly what the final version really is. From whence stems this report? I repeat: From whence stems this report?

It is like asking us to buy a pig in a poke. I say it is legislation in the worst possible form. I do not mean to be facetious, but in my honest opinion this is legislation by artificial insemination of the first order.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. BLATNIK. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

In response to the question asked by the gentleman from Iowa (Mr. GROSS) this conference report clearly is in violation of rule XXVIII, clause 3, germane modification.

In support of that I would point out that the bills committed to conference from which this bill grew, both the House bill and the Senate bill were limited to 2-year programs. Both the House bill and the Senate bill were limited to operating subsidies. But the House bill and the Senate bill were limited in total amount to $800 million.

We have coming out of that a conference report which improperly enlarges that $800 million to $11.8 billion, and enlarges the 2-year span to 6 years, and includes capital expenditures as well as operating subsidies. So obviously there had to be a rule waiving points of order so they could bring this kind of conference report to the House.

Mr. DELANEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Speaker, as most of the Members in this body know, I am a member of the House Public Works Committee and as most of the Members of this House know, I am a strong advocate of Federal assistance for mass transportation. Never in my experience or even in my wildest hopes would I have believed the Public Works Committee could have done such a magnificent job in this bill it produced. This is the direct result of the leadership of the committee—the gentleman from Minnesota (Mr. BLATNIK) and the gentleman from Alabama (Mr. JONES), the gentleman from Texas (Mr. WRIGHT), and all the other hard-working members of the committee and the staff.

We have heard much discussion from members of my committee explaining the nature of our bill, which is a very good bill, and explaining why they oppose the rule here today. I, too, oppose the process by which the legislation has come before us. The statements that have been made by the members of my committee and others objecting to the process are perfectly valid. The reason I object to this process is that the public works bill, which is, by far, the better bill, is cut off from further action by the Congress at this time.

The public works bill is a good bill.

Had we gone into the conference with the bill before us, it would have become an even better bill. And that could have been a greater vehicle for the Nation's first major mass transit bill so needed not only for urban areas but for rural areas as well.

However, this legislation has come before us in this way. As we vote today we must make certain that we will never permit this to happen again. It seems to me that particularly the members of the conference committee that bring this legislation before us have a special responsibility to see to it that in the future mass transit will be permitted to reside within the jurisdiction of those who have spent the time and the energy to obtain the understanding and the expertise in the field. I hope that they and the leadership of this House will help the Public Works Committee assert their oversight of this bill and will help the Public Works Committee improve this bill, because surely this bill we vote upon today must and can be improved. I trust that we can look forward to the cooperation of this body in all of our future efforts to bring federally aided mass transportation to this Nation.

I urge the Members of this Congress to vote for the rule because our situation is pressing not only in the cities of our Nation but also in the rural areas of our Nation. We require an immediate response to the transportation needs of the elderly and to the transportation needs of the poor and to the transportation needs of our working people.

We must do this even though this measure was moved improperly through this House. We are in an emergency; we have only this bill. A conference would have permitted us to put the best of both bills together, but every effort to bring this about was thwarted.

I shall vote for the rule and the bill and though the members of my committee share the same objectives, I know that they will understand that we sometimes have to approach them differently.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 1 minute.

I take this time merely to reply to the suggestion that was made earlier by the distinguished chairman of the Committee on Public Works that no hearings have been held in this particular legislation, S. 386. I would call attention to the fact, I hold in my hand a 111-page document entitled "Joint Hearing Before the House and Senate Conference Committee on the Emergency Urban Mass Transportation Act," and in that particular document I find the statements and testimony of no less than 14 mayors from around the country, four distinguished Members of the House of Representatives, two Governors, two Members of the other body.

I would suggest to correct the misimpression, that there have been hearings on this matter and that this 111-page document I have in my hand is proof of that fact.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I have opposed operating subsidies every chance I had. Subsidies are a poor allocation of scarce transit resources. I still oppose them.

I support the good fork of the Commitee on Public Works. They did an excellent job. My own Committee on Banking and Currency, despite its lofty aspirations, did a comparatively lousy job. The House agreed with both these decisions. We passed the Public Works bill and we set aside the Banking and Currency bill.

I agree with my distinguished colleagues, the gentleman from Minnesota (Mr. BLATNIK), the gentleman from Ohio (Mr. HARSHA), the gentleman from Alabama (Mr. JONES), and the gentleman from Texas (Mr. WRIGHT). This proposed rule does violence to the rules of this House, I think, in a most improper manner. Almost invariably I would vote against this kind of rule because, in addition to the procedural flaws which have already been pointed out, I think there are important substantive flaws. A vote against the rule can be justified.

But, in spite of those flaws, and in spite of my strong feeling, I am going to vote for this rule. I do not think we have any choice. We are not going to get a better bill, and we will certainly lose a full year if we vote down this rule.

In addition to the flaws in this bill, there are some darn good features. This bill can be passed and it can be signed. We need the bill. I urge passage of the rule and the bill so that we may begin the pressing priority of improving our mass transit systems.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. HARSHA. I just want to ask the Members to ask themselves this question. Why did this committee bring this bill to us under this procedure, denying us the right and the opportunity to express our will under any phase of the bill and to further implement this railroading in violation of the rules? This blocks the conferees from even offering a motion to recommit the conference report without instructions. We are denying them even the opportunity to participate in this legislative process, to work our will to defend or criticize the bill in any way, shape or form.

I want us to ask when we vote, why is this procedure being used?

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I rise in support of this rule and of this bill. As the gentleman from Illinois (Mr. ANDERSON) pointed out a little earlier, I did oppose the earlier bill reported from the Committee on Banking and Currency which provided for operating subsidies only and I thank him for crediting me with contributing to its defeat. Later the House passed an urban mass transit bill which was brought from the Committee on Public Works, which was not too much different from the bill we have before us today and which I supported. That is one reason why I support the bill before us now.

At the turn of the century, urban mass transportation was an accepted way of life.

But, with the development of the automobile fueled by cheap and plentiful gasoline, this spelled the end of the nickel trolley. Today, our city streets are congested, our air is polluted by the fumes of millions of internal combustion engines, and gasoline is neither cheap nor plentiful. The gentleman from Illinois made a valid point when he said that there is indeed a crying need for well-developed urban mass transportation systems. The bill we are considering provides for long-term, effective support to allow sound development. It provides enough money to get the job done while remaining fiscally sound.

I do not feel that we should get in a quarrel about whether an urban mass transit bill should be credited to the Committee on Public Works or the Committee on Banking and Currency. We need to pass a bill this year. While I, like the gentleman from Minnesota (Mr. FRENZEL), oppose operating subsidies in concept, this bill does give us a choice between operating subsidies and capital needs to local communities. The cities must help themselves through matching funds. It does not impose solutions on those communities which they neither want nor can use.

In addition, it seems to me that sufficient safeguards have been built in to insure the subsidies, if they are used, will improve service. This is a bill that treats cities fairly regardless of size which the operating subsidies bill did not do. I therefore suggest that the House should support this rule and this bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, there are two points I would make here today.

The first is that if we pass this bill, we are simply being steamrollered by the Senate with a bill which the House did not work its will upon. There is absolutely no question but that this bill was not before us. We did not have an opportunity to make amendments to it, and the House has not worked its will on this bill.

If we pass it, we are being steamrollered by the Senate. But, if we defeat this rule—if we defeat this rule, we can go to conference and the leadership of the Committee on Public Works has already indicated that they are prepared to go to conference to get a mass transit bill which this House already did pass.

To those members who say that we must have mass transit, those Members who say that we cannot afford delays, to them I would point out that it is not the House that is causing the delays; it is the Senate. It is the Senate which has refused—refused to go to conference on the bill which was passed by this House.

Therefore, I say defeat this rule, and we can go to conference with the Senate and have a mass transit bill.

The last point I would make is that, if any Member happens to be from rural America; if any Member happens to be from rural America, make no mistake about it, there is not one cent in this bill which is assured to rural America. This bill, contrary to the bill which this House passed that did provide funds for rural America, does not assure one penny to rural America.

What do the rural Members think it is going to be like when they try to get a highway bill next year after we pass this big city bill, having let ourselves be steamrollered by the Senate? I urge the defeat of this rule.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, various Members speaking here today say they do not like the conference report or the rule but they will vote for both. They remind me of the former Member of Congress who said, "I am a man of the highest principle, but I always keep my principles flexible."

Mr. SHUSTER. I agree with the gentleman from Iowa.

Mr. MINISH. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from New Jersey.

Mr. MINISH. Mr. Speaker, did I understand the gentleman to say that it does not provide a single penny for rural America?

Mr. SHUSTER. I said it does not assure. The language in there is permissive.

If there is anything which I think we have learned in this House, that is the enormous difference between permissive language and assuring funds to rural America.

Mr. MINISH. What is so different from the 7.9 as it relates to the cities? That is not mandatory either.

Mr. SHUSTER. Most of this money is assured to the cities, but what about the bill that did pass this House?

Mr. MINISH. I am talking about this bill here, not what passed.

Mr. SHUSTER. Not one cent assured for rural America, and if you are from rural America, I would respectfully suggest that you pay special attention to that point.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. VEYSEY).

Mr. VEYSEY. I thank the gentleman for yielding to me, and I take this time for the purpose of posing two questions to the distinguished chairman of the subcommittee, the gentleman from New Jersey (Mr. MINISH).

Mr. Speaker, recently a mass transit strike, which completely shut down the southern California rapid transit district, for almost 10 weeks, was finally settled.

During the shutdown, 650,000 daily riders were forced to clog the freeways, burning scarce gasoline and polluting our air. During this period of inconvenience, taxpayers noted that local, State, and Federal revenue sharing funds continued to be received by the district, although no transportation was provided.

This conference report that we are debating today will be including Federal operating subsidies, for the first time, and I am gravely concerned that the taxpayers should be assured that their tax dollars will indeed produce transit service.

I notice that this report does not specifically address itself to the question of whether or not a transit system should be entitled to Federal funds if, for whatever reason, the services are not provided.

I would like to address my question to the gentleman from New Jersey (Mr. MINISH).

Under section 5(d)(2), authority is given to the Secretary to "issue such regulations as he deems necessary to administer this subsection and subsection (e)".

May I ask the Chairman the following

questions: Is it the intent of this Congress to give the Secretary the authority to cease operating subsidies to a mass transit system if such system, for any reason, does not provide the services?

Mr. MINISH. Mr. Speaker, will the gentleman yield?

Mr. VEYSEY. Yes, I yield to the gentleman.

Mr. MINISH. That is entirely up to the Secretary. It is his responsibility.

Mr. VEYSEY. Exploring the matter further, then, the second question is: Would it be the intent that the regulations promulgated by the Secretary should provide that unless these services were furnished there would not be operating subsidies?

Mr. MINISH. It is up to the Secretary.

Mr. VEYSEY. Can the gentleman give me assurance that we might not find ourselves in the situation of the taxpayer dollars being disbursed in operating subsidies and failing to provide transportation services?

Mr. MINISH. I have complete faith in the Secretary to do the right thing in using the taxpayers' money.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. VEYSEY. I yield to the gentleman.

Mr. BROWN of Michigan. I think, being fairly sensitive to urban mass transit, that at the Secretary's discretion of holding any funds for the purpose of operating mass transit systems if there is not a system in being, operating, I would presume, and no planning to authorize the fund, that they would not be funded.

Mr. VEYSEY. I thank the gentleman for this clarification and assurance.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 1 minute.

I want to point out one thing that was mentioned by the gentleman from Iowa a minute ago. The waiver in this connection is not a waiver of all points of order. It is merely a waiver for failure to comply with clause 3 of rule XXVIII; in other words, because the legislation before us, S. 386, goes beyond the scope of the conference, but it is not an unlimited waiver of all points of order.

I would hope, therefore, that, given the gravity of the situation, the request of the President for a bill before we adjourn this session of Congress, the Members will join me in voting for this resolution so that we can take up the conference report.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Iowa.

Mr. GROSS. I thought Members of the House were disturbed and irritated by the nongermane amendments which the Senate puts on measures sent to the House, whether by way of conference reports or bills. They have no rule of germaneness in the Senate. I thought we were irritated and opposed to such procedures but evidently that was just so much talk.

Mr. MINISH. Mr. Speaker, I yield the remainder of my time to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I rise in support of adopting the conference report on urban mass transit, which will provide $11.8 billion in mass transit construction and operating assistance over a 6-year period, and which is desperately needed by our major urban areas.

I support this bill because it is the only bill, the only mass transit legislation we can approve before the end of this Congress.

We owe it to our urban constituents to give them this vitally needed assistance in order to meet current operating deficits and to meet the challenge of increased auto congestion and pollution in our major cities. We cannot wait any longer.

Mr. Speaker, I am only too well aware of the procedural difficulties which have existed in trying to adopt an urban mass transit bill in this Congress. I appreciate the fact that under the new Bolling-Hansen reforms this kind of jurisdictional squabble will not reoccur.

I am sure the gentleman who is the chairman of the Committee on Public Works and the gentleman who is the chairman of the subcommittee have done their part. They have labored arduously on a bill of this type, and that bill passed the House, but they failed to get action in the Senate.

I did everything on my part to try to work out a compromise. I talked to the majority leader of the Senate and I talked to the chairman of the Senate committee, and at one time I thought I had in effect a compromise whereby both the legislation that is pending today and the legislation that had been adopted by this House, which was reported out of the Committee on Public Works, would have a joint action in the Senate, and would result in some kind of an agreement that both parties could work out together. I thought we had it resolved. However, it failed in the ultimate.

So we are now in this position: Do we get mass transit at all this year, or does it fail for another 6 months?

I appreciate the merits of the bill from the gentleman's committee. I think it is an excellent bill, and I would like today to be supporting it.

In view of the fact that this is the only piece of mass transit legislation that we can get approved at this time, I am taking the well to ask you to set aside your differences, though legitimate and understandable, and support this conference report. I think it behooves us as Members of Congress, on both sides of the aisle, not to go home without passing this legislation.

Mr. JONES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Speaker, the majority leader is stating in effect that we in the House will have to abdicate our position on every proposition that the Senate puts forward.

The gentleman is aware of the fact that the Committee on Public Works, in considering the mass transit bill, was lacking in experience. So we dispatched our subcommittee to Boston, to New York, to Philadelphia, to Atlanta, to Chicago, to San Francisco, and to Los Angeles in order to try to make an assessment of the needs and of the method by which we could go about providing a sound and a sensible bill.

Mr. O'NEILL. Mr. Speaker, I cannot yield further.

Mr. JONES of Alabama. Mr. Speaker, in view of that, we in this House are ready to go to conference at this moment.

Mr. O'NEILL. Mr. Speaker, I cannot yield further. I do not have the time.

Let me say to the gentleman that the arguments he just used are the same arguments I used when I spoke with the majority leader of the Senate. They are the same arguments I used with all the members of both committees that handled this legislation, the Democratic Members, and the Members on the opposite side of the aisle.

I want to commend the gentleman's committee; I want to commend the members of both committees for sticking to your guns that we must have urban mass transit legislation. I think the Public Works Committee's bill is excellent, in my mind. There is no question about it.

But let us face the facts. All of you, on both committees did it alone without any help from the administration, which fought you tooth and nail, supporting a bill which, in my opinion, was inadequate and underfinanced.

We would have had an urban mass transit bill 2 years ago if it had not been for the unyielding opposition of both the Nixon and Ford administrations. Finally, 2 years later and long overdue, the administration has come around.

The fact of the matter is that there is a crisis in this country regarding mass transit systems.

I think in the best interest of the gentleman's committee and in the best interest of the Committee on Banking and Currency, as well as in the best interest of the Democrats on this side of the aisle and the Republicans on that side of the aisle, we ought to stop squabbling in this particular matter. It is urgent, and it is necessary legislation to give some relief to local communities which are trying to resolve their public transportation problems. These cities cannot wait until the 94th Congress. I think we ought to adopt the rule, and we ought to pass this legislation.

Mr. KOCH. Mr. Speaker, I want to urge my colleagues to support the revised conference report on S. 386, the Urban Mass Transit Assistance Act of 1974. This bill would provide $11.8 billion over 6 years for mass transit construction and operating costs.

The conference report would provide an additional $7.9 billion for the capital grant program and a $3.9 billion for a new program of optional operating or capital grant funds on a formula basis. Of the $7.9 billion in new capital grant authority, $500 million will be available to communities of under 50,000 population.

In a time of high inflation, it is ironic and unconscionable that public mass transit is in crisis. This bill seeks to assist cities and towns trying to maintain mass transit systems with current fiscal problems. Up to one-half of the $7.9 billion in capital grant contract authority contained in this bill may also be used for operating assistance, at the discretion of the recipient, provided that these funds are repaid with State or local money within 2 years.

Mr. Speaker, this is a very important bill to the millions of people of this country who use mass transit. It is also important to the people in the House who have worked hard in seeking its enactment. The chairman of the subcommittee on which I have the pleasure of serving, Mr. Minish, held hearings on this bill a year ago.

Let me address myself to some of the problems that are being raised today. One relates to the question of inflation. I appreciate that problem, but I would submit that this bill, in fact, is anti-inflationary in that it will help to maintain transit fares. The alternative is to let transit fares go up—pushing higher a very basic cost of labor.

I remember when my good friend, the gentleman from Arkansas (Mr. Alexander) took the floor last year and urged that we help rural Americans by effectively reducing the price of methane gas which they were having to use for heating. I supported him. I did that because I am a national legislator as is every Member of this House.

If we do not pass this bill, cities across the country are going to suffer. Some may say this is a big city bill. That is not true. The fact is that the mayor of San Diego, a Republican mayor, came before our committee and said he was for this bill. Why? Because it will help not only a city which has subways and commuter passenger railroads but it will help also the cities like San Diego that have buses.

The Senate voted 64 to 17 on Tuesday in favor of this conference report, and the President has announced support for the bill. I urge my colleagues to support this bill rather than placing mass transit in deeper crisis by further delay.

So what I am saying is we must put our sectional and political prejudices aside and we have to legislate on what as good for this whole country and its parts. Is it important that we help agriculture and pass a bill for $13.5 billion? Yes, it is important. Is it important that we help the cities—small and large—of this country by passing a bill for mass transit? Yes, it is important.

I urge the Members to support this rule and the conference report.

Mr. DELANEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. JONES of Alabama. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 154, not voting 39, as follows:

[Roll No. 639]

AYES—241

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bell
Biaggi
Biester
Bingham
Boland
Bolling
Brademas
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carey, N.Y.
Carney, Ohio
Chamberlain
Chisholm
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Delaney
Dellums
Dent
Diggs
Dingell
Donohue
Drinan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Fish
Flood
Flynt
Ford
Forsythe
Fraser
Frelinghuysen
Frenzel
Fuqua
Gaydos
Gettys
Gilman
Gonzalez
Green, Oreg.
Green, Pa.
Grover
Gubser
Gude
Hamilton
Hanley
Hanna
Hansen, Idaho
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Howard
Hungate
Hunt
Jordan
Karth
Kastenmeier
Kazen
Kemp
King
Kluczynski
Koch
Kyros
Lehman
Lent
Litton
Long, La.
McCloskey
McDade
McFall
McKinney
Macdonald
Madden
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Nedzi
Nelsen
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Patten
Pepper
Perkins
Peyser
Pike
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Randall
Rangel
Rees
Regula
Reid
Reuss
Rhodes
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sandman
Sarasin
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shriver
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Stanton, J. William
Stanton, James V.
Stark
Steele
Steelman
Stokes
Stratton
Stuckey
Sullivan
Symington
Teague
Thompson, N.J.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waldie
Walsh
Ware
Whalen
Widnall
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Zablocki
Zwach

NOES—154

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Bafalis
Baker
Bauman
Beard
Bennett
Bevill
Blackburn
Blatnik
Bowen
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broyhill, N.C.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey, Tex.
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collier
Collins, Tex.
Conlan
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Denholm
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
Erlenborn
Evins, Tenn.
Fisher
Flowers
Fountain
Frey
Froehlich
Fulton
Gibbons
Ginn
Goldwater
Goodling
Gray
Gross
Gunter
Guyer
Haley
Hammerschmidt
Hanrahan
Harsha
Hastings
Hays
Henderson
Hicks
Holt
Hosmer
Huber
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Ketchum
Lagomarsino
Landgrebe
Latta
Long, Md.
Lott
McClory
McCollister
McEwen
McKay
McSpadden
Madigan
Mahon
Mallary
Mann
Mathis, Ga.
Mayne
Michel
Milford
Miller
Mills
Mizell
Montgomery
Myers
Natcher
Nichols
Passman
Pettis
Pickle
Railsback
Roberts
Robinson, Va.
Rogers
Rousselot
Ruppe
Ruth
Satterfield
Scherle
Shuster
Skubitz
Snyder
Spence
Steed
Steiger, Ariz.
Steiger, Wis.
Stubblefield
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Traxler
Treen
Waggonner
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wright
Young, Fla.
Young, S.C.
Young, Tex.
Zion

NOT VOTING—39

Armstrong
Bergland
Boggs
Brasco
Camp
Clark
Conable
Crane
Dulski
Eshleman
Findley
Foley
Giaimo
Grasso
Griffiths
Hansen, Wash.
Hébert
Hudnut
Jones, N.C.
Kuykendall
Landrum
Leggett
Lujan
Luken
McCormack
Mosher
Patman
Poage
Podell
Rarick
Riegle
Rooney, N.Y.
Runnels
Sarbanes
Sebelius
Sikes
Staggers
Stephens
Wyman

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Luken.
Mrs. Boggs with Mr. Rooney of New York.
Mr. Giaimo with Mr. Bergland.
Mr. Jones of North Carolina with Mr. Clark.
Mr. Landrum with Mr. Dulski.
Mr. McCormack with Mrs. Grasso.
Mr. Leggett with Mrs. Griffiths.
Mr. Patman with Mr. Camp.
Mr. Sarbanes with Mr. Eshleman.
Mr. Sikes with Mrs. Hansen of Washington.
Mr. Stephens with Mr. Crane.
Mr. Riegle with Mr. Findley.
Mr. Staggers with Mr. Conable.
Mr. Runnels with Mr. Hudnut.
Mr. Foley with Mr. Lujan.
Mr. Mosher with Mr. Rarick.
Mr. Sebelius with Mr. Wyman.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MINISH. Mr. Speaker, I call up the conference report on the bill (S. 386) to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to

the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 3, 1974.)

Mr. MINISH (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The gentleman from New Jersey (Mr. MINISH) will be recognized for one-half hour and the gentleman from Michigan (Mr. BROWN) will be recognized for one-half hour.

The Chair recognizes the gentleman from New Jersey (Mr. MINISH).

Mr. MINISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on S. 386, the National Mass Transportation Assistance Act of 1974.

As you and many of the Members know, a previous conference report on this bill was recommitted in July. We are now bringing before you a revised and expanded report which enjoys near unanimous support from individuals and organizations concerned with the future of our urban areas, our environment, and our energy status.

In addition, this conference report now has the wholehearted support of the President and of his administration. It has been a slow, tortuous process during this Congress to develop legislation that the House and the White House could accept without compromising basic principles, but in the form of S. 386, the National Mass Transportation Assistance Act of 1974, we at last have the vehicle which will lead the way to improved transit service for all sections of our Nation—the cities, the suburbs, and rural America also.

This is a good bill, initiated by the needs of transit, tempered by fiscal restraint and threats of veto, and designed to pass, be signed into law, and do the job it was intended to do—expeditiously and sensibly.

Although the process by which the conference report was reached is extraordinary, these are extraordinary times, and this is an extraordinary problem. The final product presented here today is of exceptional quality in that it reflects the interests of numerous concerned groups. This is the real test of the success of the legislative process.

S. 386, Mr. Speaker, was a short-term emergency mass transit measure designed to provide immediate assistance to the Nation's mass transit systems. It still is. However, it now also is a long-range comprehensive approach to the solution of our country's problems in the mass transit field.

Two months ago, the conferees on S. 386 held an unprecedented joint hearings in an effort to find ways of improving S. 386 so this Congress might be able to pass mass transit legislation before adjournment.

Witness after witness, including mayors, Governors, transit industry, and union spokesmen, appeared before us and stressed the desperate need for both a short-term and a long-term approach to mass transit legislation. In particular, the administration testified that they were pleased with the various compromises that the conference committee had proposed. However, the administration stated that our bill was still deficient in one critical sense and they would support only a more comprehensive approach.

When the Nation's mayors, industrialists, and union leaders met with President Ford a week later, they received the same message—the President wanted a long-term, not just a short-term, bill.

In the belief that this Congress should respond to the plight of mass transit across the country, the conference went back into session and, in a spirit of cooperation and of compromise with our new President, reported the bill we have before us today.

The conference report amends the Urban Mass Transportation Act of 1964 by striking $6.1 billion and inserting $10,925 million. Of this $3.1 billion was obligated as of the end of fiscal year 1974; $3 billion is previously authorized authority. Thus, this conference report provides $4,825 million of new authority. This provides for a 6-year capital program of $7,825 million available for obligations of which $500 million will be reserved for a new rural public transportation capital assistance program. By combining the existing authority and the new authority in this conference report, approximately $1.2 billion on the average per year will be authorized for the existing capital grant program.

The obligation for capital fiscal year 1974 for this program was $1.2 billion and the estimate for 1975 is $1,350 billion. Thus, no substantial major increases are anticipated in the existing capital grant program and the administration has stated that the conference report will have little or no budgetary impact during fiscal year 1975.

The capital grant money would be distributed at secretarial discretion on and 80/20 Federal/local share basis.

We have not included a liquidation schedule for the capital grant funds and I should like to explain our rationale in dropping this provision.

Initially under the mass transit program, the liquidation schedule was envisioned as a method of program control. However, in practice, it was discovered there was wide and unpredictable range between the time of obligation and the time when the obligation was liquidated into cash.

The billions of dollars of authorized contract authority required some means of control, though. Thus OMB, DOT, and the congressional appropriations committees developed the concept of administrative reservation as a means of program control. The budget contains a sum that the administration declares it intends to reserve—obligation—during the fiscal year. The Congress acts on this proposed level and is free to accept, raise, or lower the amount.

After several budget appropriation cycles, the liquidation schedule has become obsolete as a control mechanism and its elimination is requested by DOT. In fact, cash liquidations are so far behind administrative reservations that the schedules provided in the initial $3.1 billion and the additional $3 billion in the 1973 legislation are in no way a limit on the program.

In addition, under the new budget appropriation procedures, such schedules will have significance for 2-year periods. If, under these procedures, the Congress wishes to use a liquidation schedule as an additional control to administrative reservations, substantial reductions should be made in the existing schedule. But, this should be done only after extensive review of reservation/liquidation relationships.

The other major section of our conference report establishes a new formula grant program of optional operating or capital assistance for mass transportation. This section authorizes a total of $3.975 billion over 6 years and eventually growing to $900 million in fiscal year 1980.

This multiple purpose of these funds and the development levels of funding are very similar to the formula grant program embodied in the administration's UTAP proposal.

One of the bases of criticism of the original S. 386 was the distribution formula. The use of revenue passenger and vehicle miles as factors in the formula were criticized, because they were not reliably ascertainable numbers and were potentially susceptible to manipulation. Therefore, the conference adopted the factors of population and population weighted by density that are based upon the 1970 census figures. The 50-percent population and 50 percent population weighted by density factor formula was initially recommended by the administration.

In urbanized areas of over 200,000 population, a designated recipient will be selected by the Governor, local officials, and officials of the transportation authority. In any case in which a State agency is responsible under State law for financing, construction, and operation, directly by lease, contract, or otherwise public transportation services, the Secretary shall designate such State agency as the designated recipient to receive and dispense funds apportioned. For example, in the State of New Jersey, the State Department of Transportation would be the sole designated recipient for the formula grant funds under this provision.

In urbanized areas under 200,000 population, the State likewise will be the recipient. The selection of a recipient of the formula grant program funds is a difficult one to legislate. For the past 10 years eligible applicants for capital grants have been States and local public bodies. As a result of this a variety of institutional arrangements have evolved at the State and local level to provide for the operating, financing, and construction of urban mass transit systems. Therefore, the committee chose to provide a procedure to select a recipient.

Under this bill, the Governors, responsible local officials, and publicly owned operators of mass transportation services, operating in coordination with the metropolitan planning organization designated by the Governor as responsible for carrying out the metropolitan transportation planning function, shall designate the recipient of the funds. There could, of course, be more than one recipient in an urbanized area. We envision a process under which all concerned parties participating in the planning process will concur on the identity of the recipients.

In the event that they cannot agree, the Secretary will, of course, have the authority to designate a recipient, in order to allow needed funds to flow to the area. Where a statewide or regional agency or district has been created under State laws to carry out the financing, construction, and operation of public transportation services, that agency must be a recipient of funds. Where, in other words, State laws have already made a choice of instrumentalities to carry out mass transportation services, those choices are not meant to be disturbed by this new legislation.

The apportioned funds, if used by the Governor or designated recipient for capital purposes, shall be on an 80-percent Federal share. Where the Governor or designated recipient uses these funds to pay operating expenses, they shall be on a 50-percent share basis.

To be eligible for grants under this provision, the recipient must continue to maintain State and local operating and capital funds, and the transit system must maintain other revenues such as advertising, concessions, and property leases. This maintenance of effort provisions is to be a 2-year average of the total of State and local funds used to finance operating costs and other nonfare box income. The State and local revenues and other incomes can be used as local matching share, but that revenues gained by farebox shall not be eligible.

Mass transportation systems receiving assistance under this provision must charge no more than half-fares to the elderly and the handicapped during nonpeak hours. In the case of areas served by privately owned public transportation systems, the applicant will be the Governor or designated who by lease contract or otherwise shall make the funds available to these privately owned public transportation systems.

The Governor or designated recipient of the urbanized area shall submit to the Secretary for his approval such surveys, plans, specifications, and estimates for each proposed project as the Secretary may require. In addition, the Governor or the designated recipient must certify to the Secretary that he has conducted public hearings or afforded the opportunity for such hearings.

There is one other provision in the bill which, while it will not increase the spending under the bill and will not increase the share of a city, does deserve comment. This is section 110, alternate use of captal grants.

Under this provision, up to one-half of any financial assistance provided under the discretionary capital grant provisions of the Urban Mass Transportation Act of 1964 may be used, at the option of the guarantee, for the payment of operating expenses, if the locality agrees to pay this amount back from its own sources within 2 years.

Mr. Speaker, with our present energy situation and the threat of a renewed crisis in this area, the need for mass transit aid has become ever more critical. Buses and rail cars consume only a fraction of the energy that a private automobile does, yet we cannot expect the commuting public to reduce significantly its use of private cars if we do not provide suitable alternative sources of transportation.

In conclusion, let me say there is a great national stake in maintaining and improving our mass transit systems. The issue here is the quality of life afforded to millions of our citizens. To take no action at this point, or to defer action, would be, in effect, to condone further deterioration of our environment, our energy status, and our quality of life. This must not be permitted to happen.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MINISH. I yield to the gentleman.

Mr. WRIGHT. Mr. Speaker, the gentleman has made a very clear and lucid statement on the bill, and I want to congratulate him on the work he has done on this legislation. Notwithstanding my earlier objection to the procedure under which this conference report was brought to the floor, I should like to say that I agree fully with the gentleman that there is a need for some meaningful legislation in the field of mass transit.

Notwithstanding the fact that I object to the procedures, I will support the conference report at this time. In spite of the fact that it differs in certain respects from the bill passed by the House, this is basically a good bill. It embodies many of the good things that were contained in the bill that was passed by this House. I join with the gentleman from New Jersey in urging support at this point, now that we have resolved the question of procedure even though not in the way I would have preferred, so that the Nation may have the benefits of this needed legislation.

Mr. MINISH. I thank my friend.

Mr. BARRETT. Mr. Speaker, will the gentleman yield?

Mr. MINISH. I yield to the gentleman from Pennsylvania.

Mr. BARRETT. Mr. Speaker. I rise in strong support of the conference report to accompany the bill, S. 386, the National Mass Transportation Assistance Act of 1974.

I do, Mr. Speaker, want to commend the gentleman from New Jersey for his very fine presentation here and the good work he has done in the past.

Mr. Speaker, this mass transit bill has been long in the making. Its course through the Congress has been a difficult one, but the resulting efforts of the conferees, particularly my distinguished colleague from New Jersey, Joe Minish, is one that deserves the great praise by all the Members of the House.

This conference report provides for a 6-year $11.8 billion program of Federal assistance to public transportation systems, both in urban and rural areas throughout this country. It provides, for the first time, a program of operating subsidies for public transportation systems based on a formula allocation which will take into consideration population of the area served and the population density of the area served. We have recognized in this conference report that the needs of public transportation are just as great in our rural communities, as well as in our large urban areas, and have provided some $500 million in capital grant funds for communities of under 50,000 population.

The conference report provides for $7.8 billion in funds for the capital grant program which will be used over the next 6 years to assist public transportation systems in their capital requirements, and would provide, for the first time, some $3.9 billion in funds to be used for either capital purposes or for operating subsidy. The Philadelphia urbanized area over the 6-year period would receive under this operating subsidy funding $131,291,000.

LONG-RANGE COMMITMENTS

We realize that one of the principal impediments to sound mass transit development at the State and local level has been the absence of a long-term, predictable Federal commitment. This bill will rectify that in two ways: It will create a formula grant program that will make available a stable, steady stream of Federal assistance; and it will give the Secretary authority to enter into long-term multiyear commitments for major capital projects. When we enacted the Urban Mass Transportation Assistance Act of 1970 we gave the Secretary contract authority expressly so that he could enter into multiyear commitments; however, for a variety of reasons the authority has never been used. In this legislation we reaffirm our intention that the Secretary should enter into such commitments, to insure that the funds authorized will be made available to the local areas on a steady, reliable basis. Under this bill, the entire amount of new authority is available immediately upon passage of the bill. While we understand that it will have to be budgeted year by year, there is nothing to prevent the Secretary from deciding to fund an entire major project and entering into a contract committing the entire Federal share of the project, to become available over a period of years.

Mr. Speaker, this conference report recognizes that urban mass transportation is a public service as important as fire and police protection, and that both Federal and local governments have the responsibility to provide the financial assistance to see that public transportation is to be available to all. I strongly support this bill, Mr. Speaker, and again salute the distinguished gentleman from New Jersey, my colleague Joe Minish, for his unstinting and persisting efforts in seeing the most important domestic piece of legislation through to a final victorious conclusion.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. MINISH. I yield to the gentleman.

Mr. ANNUNZIO. Mr. Speaker, I deeply appreciate the gentleman from New Jersey yielding to me, and I want to commend him for his dedication and devotion to this problem that is so crucial at this time to the people of the large cities of America and, in fact, of the entire Nation.

Mr. Speaker, I rise in strong support of this conference report to accompany the bill S. 386. Almost every Member of this body realizes that mass transportation is one of the most critical needs that our Nation is facing today.

The energy crisis and our efforts to provide for a cleaner environment have clearly demonstrated the vital necessity for improved urban mass transportation systems.

S. 386 provides for a 6-year program for a funding level of $11.8 billion for Federal assistance to urban mass transportation. While I believe the need across the Nation requires a higher funding level, I recognize that the funds contained in this bill are significantly greater than I had expected to be enacted. The most important provision of this bill in my congressional district is the provision contained in section 103 of the conference report, which provides for the first time for a program of operating subsidies for mass transit systems.

The subsidy needs of our large transit systems such as the Chicago Transit Authority, are at a point now that unless the Federal Government comes to the assistance of public mass transit agencies, the strong possibility exists that they could no longer provide this essential transportation service to the citizens of the Chicago area. Under the operating subsidy provision, the Chicago urbanized area, which is served by the Chicago Transit Authority, will be eligible, over a 6-year period, for $239,062,000, to be used to assist the CTA in meeting its large annual deficits.

The bill also provides for authorizations totaling $7.9 billion to assist transit systems to meet their capital needs. The Chicago Transit Authority has long been in the forefront of building new railway lines to meet the growing needs for mass transportation service, and I am sure that this greatly increased capital grant funding level will be used by the CTA.

Mr. Speaker, I wish to commend my distinguished colleague, the chairman of the Urban Mass Transportation Subcommittee, Joe Minish, who has persisted and fought against all odds in seeing this most important bill through. Without his efforts, we would not have the opportunity to be voting on this important matter today. I would also like to commend the distinguished ranking Republican of the subcommittee, my colleague from Michigan, Garry Brown, who along with Joe Minish fought the long, hard battle to see this legislation to victory.

Mr. Speaker, I urge the adoption of this conference report.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. MINISH. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I, too, wish to join my colleagues in their commendation of the efforts of the gentleman from New Jersey, the gentleman in the well. He has been faced with just about all the adversity one could imagine, he went through many frustrating "dog days" in this effort, which sometimes seemed like a hopeless venture. It is only through his leadership and conscientious devotion that we reach this point today.

Mr. Speaker, I rise in unqualified support of this legislation. I consider its passage today will be one of the most significant accomplishments of this or any other Congress, for it will insure that the vitally important mass transit systems of our Nation will not succumb to acute fiscal starvation in the coming years.

The 93d Congress has already etched a place in history through its earlier work on behalf of mass transit and the millions of Americans who rely on it for their daily well-being. We have already been successful in enacting legislation which tapped the previously untouched Highway Trust Fund and allowed some $3 billion to be used for mass transit assistance.

Yet today's bill is even more significant for it also represents the fulfillment of a 2-year dream for many of us here today; namely, developing legislation which would provide Federal funds which could be used to assist mass transit systems in their daily operations. I along with several other Members introduced such legislation very early in the 93d Congress.

After a long and oftentimes bruising legislative battle we have emerged with this legislation today which will provide $11.8 billion over 6 years for operating and capital grants for mass transit systems. I would be less than candid if I were to say that I am totally satisfied with the final figure. It admittedly represents a sizable reduction over what I feel is needed, but the paramount concern now is to get some legislation passed which can get moneys into those mass transit systems which face fiscal disaster in the near future.

I am also pleased to note that the legislation contains $40 million over the next 2 years for demonstration projects to determine the feasibility of free fare urban mass transit systems. I happen to be an ardent supporter of this concept, and hope it is given serious consideration by States and localities across this Nation, and if deemed successful, will be adequately funded in the future.

As a member of the New York City delegation which has fought so hard for the passage of mass transit legislation, I am especially gratified to support legislation which is virtually certain to save the 35-cent bus and subway fare in New York City. Under the bill the city will be able to receive almost 85 percent of the Federal funds necessary to maintain the fare at present levels and prevent any additional financial hardships for millions of New Yorkers.

This legislation will not benefit New York exclusively. Many other major cities face financial problems in operating their mass transit systems, and this bill will be important to them as well. The Nation as a whole will benefit, for if we are able to develop and encourage more people to utilize mass transit, we will be taking better advantage of our available energy resources. We must strive to make it more profitable for the individual commuter to use mass transit instead of the automobile.

We stand on the threshold of history here today. We are establishing a precedent of providing local and State mass transit systems with Federal aid for their operations. On this occasion, I wish to pay a special tribute to my distinguished friend and colleague from New Jersey (Mr. Minish), whose untiring efforts on behalf of this bill, has brought us to this point today.

We are but one step away from turning this bill into a landmark law. The Senate has already overwhelmingly approved this bill, and the President's signature is almost certain. Therefore, the eyes of millions of Americans are on us this afternoon as we determine the future of this bill and with it mass transit. We have exhausted the words on this subject, action and not rhetoric is needed if we are to insure the financial future of mass transit. I urge that this bill be passed, so that we can begin to pump in some lifesaving money into our mass transit systems before it is too late.

Mr. BROWN of Michigan. Mr. Speaker, at this time I yield 3 minutes to the ranking member of the full committee, the gentleman from New Jersey (Mr. Widnall).

Mr. WIDNALL. Mr. Speaker, at long last we have come to grips with final action on a mass transit bill, one that is very meaningful and one that the members of the committee have worked on for many months. I believe that this is going to achieve final passage.

This will be supported by the Members of the House when they realize what is contained in the legislation. I hope that the Members will approve S. 386, which is the National Mass Transportation Act of 1974 and which will serve the needs of our urbanized population in an efficient and equitable manner.

Mr. Speaker, our committee has been around the horn several times in several forms on this piece of legislation. This time, with administration support, I believe we have worked out a compromise which forms a comprehensive package of over $11 billion addressed to the needs of mass transit across the country—not just in one area, but across the country.

I do not want to take up very much time. All that can be said has been said over the course of the last year. But, it has been said that "politics is the art of the possible" and in this bill we have what appears to be the only possible assistance mass transportation can expect this year.

I want to help mass transit. I sponsored the original Urban Mass Transportation Act and have supported subsequent increases and improvements in transit assistance. I voted for the public works transit bill, but it now looks like it will be impossible to complete Senate action this year. Rather than let mass transit die, we must all pull together behind legislation which the administration supports and pass vitally needed assistance for a very important segment of our economy, one that is faltering badly now. A segment which helps reduce our dependence on petroleum resources and fights pollution. Do we need another gasoline crisis to wake us up to the critical need for mass transit? Without the shift of automobile drivers to mass transit last winter, I believe our gasoline lines would have been longer and our supplies shorter. We must not permit that to happen again, and viable mass transit facilities are vital to that end.

Mr. Speaker, at this time I would like to compliment the gentleman from New Jersey (Mr. MINISH) for the excellent work he did as chairman of the subcommittee in pushing on and on against heavy odds to see that final legislation would come before the House and be enacted.

I would like also to compliment the gentleman from Pennsylvania (Mr. BARRETT) for his help throughout the many months, and I would like particularly to compliment on our side of the aisle the gentleman from Michigan (GARRY BROWN) who was very, very active in leading the minority forces on the committee toward the final bill that is now before us.

Our colleague from Connecticut (Mr. MCKINNEY) deserves commendation for his hard constructive work. He faithfully attended the meetings and made many important contributions.

Mr. BROWN of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. MINISH. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from New Jersey.

Mr. MINISH. Mr. Speaker, I would like to commend the work of our colleague, the gentleman from New Jersey, BILL WIDNALL, who is one of the chief architects of the mass transit legislation. Unfortunately, he will not be with us in the next session.

I do wish to say on behalf of myself and the committee that we appreciate all the help and the work that the gentleman from New Jersey, BILL WIDNALL, put into the legislation.

Mr. Speaker, I thank the gentleman for yielding.

Mr. BROWN of Michigan. Mr. Speaker, at this time I yield 3 minutes to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. McKINNEY. Mr. Speaker, I too would like to commend the gentleman from New Jersey (Mr. MINISH) at the end of what has been a long, 2-year fight for this most needed legislation.

One of the things that disturbed me so much was that as Congress sat here in its jurisdictional fights, in its rules fights, and in its problem of just who was going to handle the situation of mass transit, that our Nation's cities were in crisis. In fact we had come before us in our conference committee the mayor of almost every major city in the United States, to tell us of the dire and devastating consequences faced by their cities if mass transportation were to collapse.

We had an administration that had been violently opposed to operating subsidies come before us and tell us that they now realized that they were a necessity, in fact, because in mass transportation, as we have so often argued before on this floor, you must have the system, you must have a clean system, you must have a safe modern system that runs on schedule and often before you can attract the ridership that will make it pay its way.

This bill is the result of a tremendous amount of compromise, compromise between a bill passed on the floor of this House from the Committee on Public Works, compromise with the Senate which, in many ways, it seemed to me, obstructed the will of this House, and compromise with the administration.

Mr. BLATNIK. Mr. Speaker, will the gentleman yield at that point?

Mr. McKINNEY. Yes, I yield to the gentleman from Minnesota.

Mr. BLATNIK. The gentleman mentioned a compromise on a Senate bill. There was no Senate bill. There was not at that time. There is not now, and the answer still has not been given to the question of how we can have a conference report, when there is no Senate bill, and when a clear-cut House bill, that has been debated 3 days and amended for the House Floor, has been totally ignored.

As to the conference, there never was a conference. I thank the gentleman for yielding.

Mr. McKINNEY. I know the gentleman's views, and I can understand his irritation, but I think that the point that I was trying to make very clearly was that most of the people in this country were looking to our leaders in this House and in the other body and were not interested in our jurisdictional fights, were not interested in what was going to be the precedent of the House but were very clearly stating to us, as leaders of this country, that we could no longer exist any further—certainly not until next year—without a bill that would solve the question of mass transportation and the energy crisis in our major cities, and in fact the rest of our Nation.

It appears to me that this bill has done that. I, of course, am not happy with the rule. I have never before voted for a rule that did the things that this rule does, but I think the bill is badly needed. I have supported it. I have sat through hours of testimony on it.

I think everybody in the Nation agrees that we cannot wait, and I would urge that the House pass the bill with an overwhelming majority.

Mr. BROWN of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, we have just heard that a great battle has been won; passage of this $12 billion bill is the culmination of a long fight, and everything is lovely and the goose hangs high.

The struggle is just beginning for the taxpayers of this country, for they will have to put up the money for this boondoggle.

I thought when Congress approved revenue sharing that it was designed to take care of just such situations as mass transit. What happened? Why should Congress fleece the taxpayers again, and so soon after the passage of revenue sharing?

Where is it proposed to get this $12 billion? Is it proposed to start the printing presses and print the money? I would welcome an answer?

I thought most of the Members had just gone through election campaigns in which inflation was an issue and in which the bankruptcy of the U.S. Treasury was also an issue. Apparently there were no lessons learned from the recent campaign.

It is very fine to help balance the budgets of the big cities of this country but the Treasury of the United States is bankrupt and this $12 billion is another mortgage plaster on all our citizens.

I am surprised, too, at this late stage in the fight against inflation, that the President of the United States would endorse this bill. I simply do not understand how he proposes to fight inflation and spew out $12 billion for this purpose. I wonder if the municipalities are going to take this money and lend it out as some of them did their revenue-sharing funds, and collect interest on the money that they were handed for purposes of doing something about mass transit and other problems.

I ask the sponsors of the bill if this money is going to be loaned out by the municipalities so they can collect interest on it while the Federal Government pays interest on the money it borrowed to make available to them?

This legislation is unjustified by any test and it ought to be defeated. The Federal Government is in no position to assume a $12 billion obligation that is the responsibility of the big cities.

Mr. MINISH. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. KOCH).

Mr. KOCH. Mr. Speaker, this legislation really has had more lives than the proverbial cat on the hot tin roof, and due note must be taken of the fact that, had we not had as the subcommittee chairman, the gentleman from New Jersey, Mr. JOE MINISH, pressing and pushing and keeping this constantly before the Congress, we would not be on the verge of enacting this legislation. Legislation which really will open the age of mass transit for this country. This is the era of mass transit coming of age and we all owe a great debt, those of us—and that includes most of the Members of this body who will, I am sure, on final passage vote for this legislation, to Chairman JOSEPH MINISH.

I think that after all the arguments have been made—and there was merit to the arguments on both sides of this jurisdictional squabble—that people will conclude that the substance of the legislation is more important than jurisdictional disputes and that is the heart of it.

The fact is that when this legislation is enacted, as I trust it will be at the end of this debate, we are committing the care of this legislation to the tender and loving care of the members of the Committee on Public Works, because they will have jurisdiction in January of next year. And they are committed to expanding and extending and improving mass transit legislation.

Mr. Speaker, I cannot recall too many moments in this Congress when I felt as pleased as I feel at this moment, rising in support of legislation that is so much needed and now supported by some of those who had not supported it for jurisdictional reasons at the time we were discussing the rule.

Just to conclude, Mr. Speaker, may I repeat that we are in the age of mass transit. The automobile has strangled the cities, and we need an alternative which is mass transit. This legislation will provide the possibility of taking our people out of their cars and into the subway vehicles and buses of this country.

Mr. MINISH. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. Young).

Mr. YOUNG of Georgia. Mr. Speaker, I, too, should like to commend the entire leadership of this House and the executive branch for working out the problems that have brought us to the place where we can do the will of the American people. I heard the American people concerned about inflation, but I also heard them concerned about recession. I think if there is any one piece of legislation that can meet the problems of both inflation and recession, this is it.

One of the major causes of the recent inflation is the increased price of oil. We will pay out some $80 billion of revenue in the coming year to the oil-producing nations to meet the needs of this Nation. I think when we develop a mass transit system, we will in fact diminish the need for oil in this country, and use that oil that we get much more productively.

The other thing I want to say is that in our district of Atlanta, Ga., where we are already under a Federal commitment for a $2 billion mass transit system, what we found is that the $2 billion of Federal money which is promised over the next 10 years has already merited some $5 billion in private capital coming into the city, and that $5 billion of private capital has kept our city with a much lower unemployment rate, which means that we do not need the Federal jobs program nearly as badly as some cities. But it also has meant that we have a thriving tax base and that that tax base will continue to provide an increase in the Federal revenues. We cannot stop inflation and a recession if we do not have American people working, paying taxes, and putting money into the Federal Government.

I think that this bill meets some of the problems of both inflation and recession, and I think for once the leadership of this House, especially that of Speaker Carl Albert and the executive branch working together, have resolved some of these jurisdictional disputes and have made it possible for the needs and the will of the American people to be served.

I, for one, am grateful.

Mr. BROWN of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. Gude).

Mr. GUDE. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report on S. 386, the "National Mass Transportation Assistance Act of 1974." This measure, which provides a total of over $12 billion over the next 6 years for assistance to public mass transportation systems, is obviously needed desperately. While it is not as much money as I and many others had pushed, it is nevertheless a significant step forward in this Nation's efforts to meet transportation needs. The bill provides $7.8 billion for a capital grants program, and nearly $4 billion for operating subsidies.

Cities across America are discovering that the people are demanding more and better public transportation. Cities are also discovering that they cannot, on their own, supply the kind of transportation services which can make an impact in terms of cleaner air and fuel economy.

It is unfortunate that the Congress finds itself in the midst of a jurisdictional dispute on this legislation. As I mentioned earlier, it is also unfortunate that more funds could not be included, for surely the needs are greater than the ability of this legislation to meet them.

Despite all of these problems, I call upon my colleagues to put aside for a moment such consideration as it is sometimes difficult to see the forest for the trees, and take a hard look at our country's transportation needs. Consider for a moment that, if this measure is not approved, there will be no mass transit bill in this Congress. If we do not act favorably, we will have failed to meet and help solve a serious problem.

Let us at least make a beginning today. I intend to support this bill, despite the fact that it is not all I had hoped and worked for. I strongly urge all of you to do the same.

Mr. MINISH. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Public Works, the gentleman from Minnesota (Mr. Blatnik).

Mr. BLATNIK. Mr. Speaker, I rarely speak in the well of the House, but I have never felt so deeply about anything as I do this afternoon.

There is not one bit of reason why the Senate could not have passed a clear-cut bill, clearly reflecting the will of that body, since they have had one House bill since last August, 3½ months. I guarantee my colleagues that our Public Works Committee membership, the Republicans from the gentleman from Ohio (Mr. Harsha) on down, as well as the gentleman from Alabama (Mr. Jones), who did so much work, would have worked with the other body, and bent over backwards to include the best of House and Senate bills and come in with a better bill. We could have passed that conference report within 1 hour on the floor, with no confusion.

This is not a matter of jurisdiction. I have great respect for the gentleman from New Jersey (Mr. Minish), but I must speak out. While the other body was held up by one man's dictates, knowing that their actions would be contrary to the rules of the House, the proper business of that committee—the Nation's economy—has spiraled downward with no effort whatsoever to control it.

We cannot even control the price of sugar, for God's sake.

The biggest issue before this country is inflation. We have great problems with our banks, our financial situation at home and abroad, and with our currency. The world monetary system is in chaos. The yen is floating. The dollar goes up and down like a yo-yo. The stock market goes up and down all the time. Yet there has been no legislation for Congress to act upon—because those charged with that responsibility have been preoccupied with mass transit. This body should have been working night and day on legislation addressing these vexing problems of our Nation. I would gladly have given my support to solving those problems; but I will have no part in this highly questionable procedure and I want the record to show that.

Mr. MINISH. I yield to the gentleman from California (Mr. Anderson) such time as he may consume.

Mr. ANDERSON of California. Mr. Speaker, I rise in support of the conference report on S. 386, the Urban Mass Transportation Assistance Act of 1974.

This measure, I feel, is a major victory for the urban areas of our country—but especially, those areas which have not received their fair share of transit funds in the past.

As a member of the Public Works Committee which under the strong and progressive leadership of our chairman, John Blatnik, and our ranking member, Bob Jones, thoroughly investigated the transit needs of our country, with hearings in all parts of the Nation, we found that Federal transit moneys were being funneled into only a few, select urban areas. We found that since the beginning of the transit program 72 percent of Urban Mass Transportation Administration grants were going to only nine cities, while other areas—with transportation problems equally severe, were virtually neglected. For example, since 1964, the beginning of the Federal transit program, the Los Angeles area—with the worse smog problem in the Nation, with traffic congestion as bad as any city—received only $39 million in Federal mass transit grants.

As a result of this investigation by the Public Works Committee, we devised a method of assuring proper transit funding to all urban areas—not just a select few—and the House adopted that long-range program allocating over $11 billion through the next 6 years.

Meanwhile, the Banking and Currency Committee was also working on a transit proposal; but rather than allocate adequate funds to areas which were previously neglected, they devised a formula allocating funds based on current transit usage—thus favoring that handful of cities which had been reaping the lion's share of transit grants from the beginning of the program. For example, under the first conference report on S. 386—adopted by the conferees last February—the Los Angeles area would have received only 5 percent of the $800 million authorized, while the New York area would have received 25.2 percent of the funds.

But thanks to the Public Works Committee—especially Mr. Jones—this inequity was pointed out, and the House rejected that conference report on July 30, 1974.

And, now, the Banking and Currency Committee and the Senate counterparts have gotten away from the notion that mass transit is only a problem affecting a handful of cities. Now, and the credit should go to the Public Works Committee, the conferees have adopted a formula based on population and density—a formula that allows other cities, which have for too long been neglected, to build or construct mass transit systems. Now, the conferees have agreed to a long-term bill—covering 6 years—that allocates $11.8 billion for both operating expenses and capital outlay—to a great extent what we in the Public Works Committee have been advocating.

As a result, the conferees have agreed to a much improved version of transit assistance; they have taken the recommendations of the Public Works Committee and incorporated them into this conference report; and they have given us a transit program which is equitable to all areas of the country.

I support this measure, and I want to again commend Mr. BLATNIK and Mr. JONES for their unparalleled outstanding work on mass transit legislation—without their vigorous advocacy on behalf of the neglected areas of our country—we would have no balanced transit bill today. Without their program designed to help all urban areas— the forerunner of this conference report—we would either have no transit proposal, or we would have one which continued to send 72 percent of Federal transit funds to only 9 cities; without their tireless work, the Los Angeles area would continue to receive only "peanuts" in transit aid, instead of the $316 million in formula grants and an estimated additional $900 million in grants from the Secretary, as proposed under this conference report.

I urge my colleagues to join me in supporting this legislation which will help our cities construct and operate rapid transit systems.

Mr. MINISH. Mr. Speaker, I yield to the gentlewoman from New York (Ms. ABZUG) such time as she may consume.

Ms. ABZUG. Mr. Speaker, I support this conference report.

Approval of this mass transit legislation will be welcomed by all of us who have sought for so long to get a significant Federal commitment to public mass transportation.

This commitment to aid and expand existing mass transit systems and develop new ones is an essential ingredient of a rational Federal policy on energy use, economic development in the large urban areas as well as rural areas, and protection of the environment. It is needed as a response to human needs and to human rights.

This bill represents a commitment toward the principle of operating subsidies and recognition of the fact that highway spending is the most expensive way to move the least number of people, at a terrible price to masses of our citizens, the viability of our cities, and the quality of our environment.

Increased mass transit assistance is needed not just as a political response, but as an urgent initiative. It is needed not just to prevent long lines at the gas stations but for the positive good that it can create.

Transportation affects every segment of our economy and our lives. It affects where people work and what kind of jobs they can get. For the carless poor, it means very basically the right to work because without public transit they cannot get to their jobs. In rural areas, the complete absence of transit services means that the poor cannot have access to health clinics, educational opportunities and jobs. In the cities, it means that low-income groups, the handicapped, the elderly, and the young, all those who are transit dependent, cannot enjoy the quality of life shared by those who drive. In the cities, too, the existence of highways alone, without comparable mass transit facilities, serves as a dividing line dictating housing patterns, creating ethnic concentrations and preventing social mobility.

Enactment of this 6-year, $11.8 billion legislation will not, of course, produce an immediate shift to reliance on mass transit facilities or even provide a significant transformation of mass transit facilities that have been so long neglected. It represents, however, an important beginning.

Residents of New York look to it for immediate relief from the threat of an increase in the 35-cent subway and bus fare, an increase that would place an impossible burden on working people and the unemployed who are trying to cope with inflation and recession.

This bill is expected to provide $170 million of the $200 million in operating subsidies sought by New York City for this fiscal year to maintain the fare at its present level. It would also provide the city with $125 million for capital expenditures in the same period.

It will now be up to the new Carey administration of New York State and the Beame administration in New York City to provide the additional funds to hold the fare at 35 cents, and I am certain that they will make every effort to do so. If it is necessary to place tolls on bridges within New York City to raise the additional funds, then this should be done, but under no circumstances can the people of New York City afford to pay any more money for the basic necessity of transportation. I also support the proposal by Governor Byrne of New Jersey for an independent investigation into the finances and operations of the New York Port Authority, which should be using its huge reserves to subsidize and develop mass transit lines within the metropolitan New York area.

Although I am supporting and voting for S. 386, I must express my deep regret at the highly unusual procedure that has developed in connection with mass transit legislation and the totally unnecessary bypassing of the $11 billion mass transit bill approved earlier by this House. It is most unfortunate, particularly since there is no reasonable explanation for the refusal of Senate sponsors of this bill to go to conference with members of the House Public Works Committee, or for the House sponsors to urge it.

It should be noted that the House Public Works Committee was charged with the task of producing a transit bill. The committee discharged that task by holding unprecedented nationwide hearings and 6 weeks of hearings in Washington. Rural members of my committee even shared with me the dubious pleasure of riding in a New York subway morning rush hour, an experience which they tell me was both unforgettable and indescribable.

In my judgment, the public works bill addressed every aspect of the mass transit dilemma and was a good, long-range, comprehensive approach to the problem. I did not agree with all the provisions of the House bill, just as I do not agree with all the provisions of the Senate bill, which, in my view, is a considerably weaker piece of legislation. I regret that we lost the opportunity to reconcile in conference the differences between these two bills and that we could not adopt the best features of both.

I believe the House bill was more advantageous because of its provisions on declared mandatory, soft matching, technological advances, its flexible formula approach, and its criteria as to discretionary grants and other measures. The Senate bill is especially weak in that it does not mandate allocation of capital funds, and some urban areas may find their expectations unfulfilled.

The Senate bill also employs a gimmick for meeting New York City's immediate needs for operating subsidies. S. 386 basically provides only $40 million in operating subsidies for our city, far less than was provided in the House bill. Under an amendment approved as part of Senate enactment of the bill, however, the city can apply half of a $250 million capital grant to operating expenses for the current fiscal year. The problem with this is that it means a loss in urgently needed capital funds for New York City and the borrowed capital funds will have to be repaid. Thus, this is only a 1-year solution to New York City's perennial operating deficit. The problem will have to be faced again next year, and it will be even more severe.

Nevertheless, it appears that this bill is the best we can hope for at the moment, and time is running out. The House Public Works Committee will have total jurisdiction over all mass transit legislation in the 94th Congress, and it is my hope that we will be able to remedy many of the problems that have not been faced adequately in the Senate-approved bill. I vote for this measure in the belief that it is essential for mass transit systems throughout the Nation, and pledge to continue to work hard next year for a more adequate Federal program of aid for public transportation.

Finally, I would like to insert in the RECORD an editorial which appeared in this morning's New York Times:

NO TRANSIT BAILOUT

The overwhelming 64-to-17 vote for a six-year $11.8-billion mass transit bill in the Senate conclusively demonstrates that the constituency for increased Federal aid for public transportation is nationwide and not just confined to New York and a few other large cities. That message and the sense of urgency it conveys was apparently not lost on the House Rules Committee, which, after stalling for months, cleared companion legislation yesterday.

No one, especially New Yorkers, should be under illusions about what the Senate bill contains, however. It does not represent the massive new Federal commitment to mass transit that would be the logical response to the nation's energy and environmental crises. In these terms, the bill's provisions are, as Senator Weicker of Connecticut observed, "totally inadequate."

Despite expectations voiced by Mayor Beame and his aides, the measure does not offer any real bailout for this city's endangered 35-cent fare. Transit officials recently estimated that $252 million in Federal assistance will be needed next year to save the fare. This bill would provide about $40 million in operating subsidies, less than any of the other transit proposals that have been buffeted around Congress for the past year.

City Hall argues that the remaining gap could be substantially closed through an amendment to the Senate bill, introduced by Mayor Beame and city legislators, that would enable the city to apply half of a $250-million capital grant to operating expenses. Aside from the fact that it doesn't appear to offer nearly enough, there are two basic problems with this fiscal sleight-of-hand:

The city needs all the capital funds it can get to continue construction on the already delayed Second Avenue Subway and, even more urgently, to make the dilapidated existing system safe and rideable. It won't help much to save the fare on a system so noisome that growing numbers of New Yorkers won't ride it at any price.

The $125-million transfer of capital funds to operations is a one-shot deal. It cannot be repeated the following year, when the city's transit deficit is expected to be higher than ever. Furthermore, the borrowed capital money will have to be repaid by the city one year later. Where will the money come from? Will Mayor Beame resort once again to borrowing to pay off current expenses of running the subways, thus increasing the already heavy burden of debt service? That surely is the road to insolvency.

The Senate transit bill is certainly better than none at all. It is undoubtedly the best that can be expected this year from a lame-duck Congress. But this legislation cannot solve the city's fare problem in any fiscally responsible way.

Mr. MINISH. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Speaker, I rise in support of the conference report on the National Mass Transportation Act of 1974, a measure which will funnel vital Federal funds to the Nation's hard-pressed mass transit systems. This legislation has been pending business in one form or another for more than a year now, a year in which several big-city transit systems have come close to bankruptcy and in which virtually no new public transportation systems have been started for lack of funding.

I urge the immediate approval of the conference report as one of the most significant measures we will have before us in this Congress. The $4.8 billion in new authority for capital grants will at last enable urbanized areas without public mass transit to begin planning for new systems, as well as make it possible to make overdue improvements in existing systems. The $4 billion in formula grants will give local units of government the flexibility they need to decide on whether to undertake capital projects or help pay for their operating deficits. This is the proper level of government for such decisionmaking, and I congratulate the conferees for this important advance over past practices of making all such decisions at the Federal level.

The National Mass Transportation Act will have an impact on every part of the country. While the bulk of its authority will be made available to urbanized areas where the need is most critical, rural units of government may also apply for assistance for public transportation under its provisions. The measure will serve several purposes besides providing improved transportation. It will lessen dependence on the automobile and thereby lead to energy savings as well as relieve urban congestion. By making it possible for mass transit ridership to increase, the bill's provisions should also lead to a lessening of the critical air pollution levels caused in cities by heavy automobile use.

I am pleased to see the bipartisan support which has finally evolved for legislation so clearly in the national interest. This act will not solve all of the Nation's transportation problems overnight, but it is a major step forward. With its authority for $11.8 billion spread over the next 6 years, we will have ample opportunity to exercise oversight on its impact and make needed changes or additions to its provisions at any time they appear necessary.

The people of New York City will be pleased to see this legislation finally enacted, dependent as they are on the country's largest mass transit system. But residents of Pittsburgh, Cleveland, Atlanta, and communities large and small throughout America will reap the benefits of this new approach as well. I am gratified that public mass transportation has finally been recognized as a national priority, and that we finally have a chance to address the nationwide need for assistance in the operation and construction of such systems.

I urge an overwhelming vote of approval for the National Mass Transportation Act of 1974 as a sign of our commitment.

Mr. BROWN of Michigan. Mr. Speaker, I yield myself such time as I may consume to close the debate.

Mr. Speaker, I commend the gentleman from New Jersey (Mr. MINISH) for the fine work he has done on this legislation. The legislation has had a rather rocky course through the legislative process. However, I think it is entirely within the rules and it has been properly handled up to this time.

Mr. Speaker, it has been said by opponents of this bill that our committee has not given enough consideration to this conference report. What they fail to recognize is that I offered a very similar proposal which was considered in the committee. Unfortunately partisan considerations and floor maneuvers kept it from passage originally. As a result of changes in the administration's position and subsequent House votes, it was apparent that a compromise along the lines of what I originally proposed was the only way to enact urgently needed mass transit assistance in this Congress.

Virtually every group which has been involved with mass transit over the years agrees on the merits of S. 386. President Ford listed it as a priority item for this Congress; the mayors and Governors say it is must legislation; and it has strong bipartisan support as evidenced by the 64-to-17 vote in the Senate.

Let me briefly explain what S. 386 does and why it should be passed. First, it responds to the needs of mass transit but in a way that the total dollar level is within the limits of fiscal responsibility. It establishes a sound, long-term comprehensive program of Federal assistance to the operation of urban mass transportation in a manner acceptable to the administration. This is done through a flexible funding arrangement of $7.825 billion obligational authority for a 6-year capital program, a $500 million capital program for rural public transportation, and $3.975 billion formula grant program for capital or operating expenses. For the formula distribution, only the factors of urbanized area population and population weighted by density would be used. This will result in an equitable, easy-to-administer allocation of funds regardless or whether the recipient happens to already have an extensive transit system. The Federal share would be 80 percent if the funds are used for capital expenses and 50 percent if used for operating expenses.

As for the actual distribution of the funds, the capital program is unchanged. In the formula grant program, for urbanized areas of 200,000 population and above, the Governor, local officials, and officials of the transportation authority would designate a recipient; where a State agency is responsible under State law for public transportation services that State agency would be the recipient of the funds apportioned. In urbanized areas under 200,000 population, the State would be the recipient of these funds and would make the further allocation.

In closing, let me just say that S. 386 would distribute 35 percent of the urban funds by formula. The administration had originally proposed to distribute 55 percent of the funds by formula. H.R. 12859, the Public Works Committee bill, would distribute less than 20 percent of the urban funds by formula, and would make all grants for both capital and operating assistance for the nine rail-oriented cities discretionary with the Secretary, giving them no entitlement at all.

The legislation has broad support, examples of which I incorporate in these remarks as I urge my colleagues to cast an affirmative vote:

TELEGRAM FROM THE PRESIDENT TO THE HONORABLE GARRY BROWN

I understand that the U.S. House of Representatives will consider today the National Mass Transportation Assistance Act of 1974, S. 386. As you know, I fully support this six-year, $11.8 billion transit bill. It represents a responsible step in our efforts to reduce energy consumption and control inflation. This is a good bill and I commend the efforts of you and other leaders in the House who are working hard for its passage. I am very hopeful that action you take today will result in passage of S. 386 so that it will be on my desk for signature when I return from abroad.

GERALD R. FORD,
President of the United States.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., November 21, 1974.
Hon. GARRY BROWN,
Committee on Banking and Currency, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN BROWN: This is to advise you of the very strong support of the Urban Affairs Committee of the National Association of Counties for the Conference Report S. 386, the National Mass Transportation Assistance Act of 1974. The Urban Affairs Committee is composed of the 40 largest urban counties in the United States.

S. 386, the result of nearly four years of Congressional consideration and bipartisan compromise, represents in our view a sound approach to a balanced and comprehensive transit policy for our nation's urban areas.

Approval of S. 386 by the 93d Congress is absolutely essential in order that our existing mass transit systems may be saved from severe financial hardships and to allow the construction of new systems where appropriate to meet the needs of our urban areas.

We urge you and your colleagues to support this vitally needed legislation when it comes before the House for a vote.

Sincerely,

ALFRED B. DELBELLO,
Westchester County Executive, Urban Affairs Committee Chairman.

I commend all those on the minority, the staff who worked so hard to put together a bill that will have, I am sure, the unanimity this bill will have on its final passage.

Mr. MOAKLEY. Mr. Speaker, I am especially pleased that the House is considering today the conference report on S. 386, the National Mass Transportation Assistance Act of 1974. As you know, this report has been the product of years of work by the respective House and Senate committees. With strong support from the Ford administration, the U.S. Conference of Mayors and many, many others, I hope to see this measure become a reality shortly.

Without a doubt, our country's urban mass transit systems need the passage of this bill to operate effectively. If we improve our urban mass transportation system, we may see a decline in the serious energy shortage we faced last winter. This improved system would certainly make transportation available to far more of our citizens.

Unfortunately, the increasing costs of urban mass transit has forced the very people who need it to find alternative transportation. Few poor or elderly persons can afford the 50- and 60-cent fares in most of the Nation's cities. We on the Federal level, have to be prepared to provide an assist to our ailing mass transit systems all over the country, including my own MBTA system in Greater Boston.

As my colleagues know, many systems are now close to bankruptcy and it has been made abundantly clear that public takeovers in many of these cities just does not provide the answer to the problem of an efficient mass transit program. I believe the Federal funds provided in this legislation will do much to give both capital grants and operating assistance to these ailing systems.

My own MBTA system in Boston, Mr. Speaker, stands to gain millions of dollars in badly needed revenue from this measure and I urge its adoption by my colleagues.

We must be just as willing to commit the necessary funds to properly support public transportation expansion as we have been in sustaining interstate highway systems. This bill is a comprehensive measure covering the full range of transit requirements from construction grants to operating assistance.

As a House conferee, I do believe that the funding level is inadequate. However, realistically, I know that we could not get a larger bill approved by the White House. This level is inadequate for helping us really solve our energy crisis and we all know that even the Department of Transportation admits that the funding is not sufficient to do the job that we all believe needs to be done.

I would hope that in the 94th Congress, we will take another look at this measure and provide the dollars necessary to really make a dent in the problems facing our urban mass transit systems throughout the country.

I am, however, pleased by the feature in the bill where there is an opportunity for an acceleration of the expenditure of those funds within the 6-year period. I certainly hope my colleagues will see the need to provide more money for mass transit since they have that authority within the framework of this conference report.

Again, Mr. Speaker, I enthusiastically urge its adoption by this body and the swift approval of the President.

Mrs. HOLT. Mr. Speaker, I regret having to vote against the conference report of S. 386, the Urban Mass Transportation Act, but this legislation continues to have grave faults that will surely cause grave fiscal problems in future years.

I refer, of course, to the provisions which would authorize the use of nearly $4 billion for operating expenses of mass transit systems.

Mr. Speaker, it is an extremely dangerous precedent for this Congress to be considering Federal subsidies for operating expenses of mass transit systems.

Once we begin allocating Federal funds for that purpose, there will be no end to the pressure for increasing appropriations for operating costs, while critical capital needs are neglected.

This legislation will actually encourage inefficiency in the operation of mass transit systems. If operating deficits are a serious problem in some areas now, just imagine the size of the deficits after local managers get a taste of Federal subsidies.

This legislation opens a bottomless pit, Mr. Speaker, and it is impossible for me to vote for it, although I wholeheartedly endorse the provisions for $7.8 billion in capital grants.

Helping States and local governments to meet the colossal costs of construction and equipment is a legitimate and needed Federal program, particularly for the transit needs of suburban and rural areas of our country.

We need buses, and we need to build exclusive busways for fast and efficient mass transit service.

If this legislation is defeated, Mr. Speaker, I hope this House will produce legislation that will help meet the critical need for capital funds, but not divert billions to a mere handful of cities for transit operating expenses.

Mr. ROSTENKOWSKI. Mr. Speaker, the consideration by the House of the conference report to accompany S. 386 marks the end of a 5-year effort to enact legislation embodying a firm commitment to the future of mass transportation in this country. This bill is a composite of both new and old. It contains provisions that many of us have advocated or several years. Just as importantly, it has the support of almost all groups concerned with the future vitality of our urban areas.

In particular, I am pleased to see that the conferees have voted to preserve in the legislation, the flexibility embodied in the original House bill. The provisions that will enable municipalities to utilize formula grants for operating assistance, will be appreciated by many cities whose commitment to mass transportation began long before the 1964 Mass Transportation Act. These cities embarked on mass transit programs before the Federal Government had even contemplated giving matching funds for construction purposes. As a result, today they are in great need of not only capital grants for modernization, but operating funds to enable them to retire their existing debt without further raising fares.

The $11.8 billion authorized in this legislation is a recognition by the Congress that a serious effort is necessary to develop the efficient transit systems that will in turn attract the ridership that is ultimately necessary to make any urban transportation system self-sustaining.

Without again raising the issues that we have discussed so many times in connection with this matter, I urge my colleagues to support this conference report. It is essential that we delay no longer in providing urban America with a cure for the transportation ills that have plagued it for so long.

Mr. FRENZEL. Mr. Speaker, like most bills, the conference report on S. 386, the Urban Mass Transportation Act contains some good news and some bad news.

Perhaps the best of the good news is that we finally are passing an urgently needed mass transit bill after months and months of disagreement and delay. The bill as it now stands provides $7.8 billion in capital grant funds to be dispensed in the usual manner at the discretion of the Secretary of Transportation.

I am also pleased to see the provision setting aside $4 billion in formula grant funds for use at the discretion of State and local officials. This kind of built-in flexibility marks an important step forward in the administration of the mass transit program.

I am also very pleased that the conferees adopted the language of the House Public Works bill requiring the establishment of data and financial reporting systems. This provision of the bill incorporates some of the provisions of my bill, the Urban Transport Data Act of 1974. Those provisions will result in a better understanding of how to make public transit more competitive with the automobile.

The bad news is both procedural and substantive. Even the most ardent advocate of mass transit would be hard put to defend the procedures under which we are having to consider this bill today. Neither the House or Senate legislating committees have held a minute's worth of hearings on the bill in its present form, nor has either House had an opportunity to consider anything but a conference report under a gag rule. Under normal circumstances, the bill should be voted down simply on procedural grounds but I hope a majority of us will overlook these serious procedural indiscretions and support the bill. The hour is late. The need to deal with the urban transit problem is urgent.

The most objectionable aspect of the bill in my judgment is the section providing funds which will be made available for operating subsidies. There is no doubt that our urban transit systems are in deep financial trouble. The current annual transit operating deficit is $600 million and is climbing at the astonishing rate of 33 percent per year. Unless we find a way to counteract this alarming trend, we will be looking at multibillion-dollar annual deficits in a handful of years.

There is nothing in the operating deficits portion of this bill which will do anything but exacerbate the problem. There are no performance incentives, no meaningful requirements to make transit systems more efficient or competitive and unless we tie this payments to incentives, we will indeed find ourselves in a bottomless pit.

The precedent established by the operating subsidy provisions is a dangerous one. Under this bill, those subsidies are limited, and they are subject to local decisionmaking on the trade-offs between capital and operating needs. This is the absolute limit to which we should go. Indeed, I hope we can come back to our senses by either removing the subsidies in the future, or by providing an incentive to upgrade systems, services, and routes.

On balance, I believe this is about the best bill that Congress is capable of producing at this time and I urge its adoption. Hopefully the next Congress will begin to address the problem of transit performance incentives and the need to modernize transit service characteristics so that it will become far more competitive in the marketplace. The bill before us today is a pretty good start. But there is a good deal of work to be done if we are ever going to achieve that balanced transportation system which we all desire.

Mr. BROOMFIELD. Mr. Speaker, I rise to express my support of the Urban Mass Transportation Assistance Act.

This bill strikes a fine balance between the urgent need for a comprehensive, long-range approach to solving urban mass transportation problems and our desire to curb inflationary spending.

Certainly, the problem of the future of mass transit is one of the most important facing our country. The bill before us reaffirms our commitment to mass transit by providing a comprehensive 6-year plan for financing transit programs around the country.

Although I have reservations about allowing these funds to be used as operating subsidies, I realize that current conditions call for such measures. States and local governments are in dire need of funds to help pay for rising operating costs, and this legislation provides them with the alternative of using the funds provided for that purpose. But I do hope the Federal Government will not be forever subsidizing the operating costs of these transit systems.

In view of our Nation's need to conserve fuel and clean up our environment, as well as provide viable mass transportation, passage of this legislation is of utmost importance.

I urge my colleagues to join me in supporting enactment of this important bill.

Mr. HUDNUT. Mr. Speaker, I rise in support of the conference report on S. 386. As reported to us, this legislation includes provisions similar to H.R. 12859, the Public Works bill, which we passed on August 20, 1974, by a vote of 324 to 92.

The conference report provides $4.825 billion in new obligational authority for regular UMTA capital grants, which will combine with $3 billion authorized by existing legislation to provide a total of $7.825 billion in capital grants for fiscal years 1975–80. In addition, a new formula grant program will be established authorizing $3.975 billion over 6 fiscal years. This money may be used for either capital grants or operating expenses.

I am pleased that the conference report specifically requires any transit authority receiving Federal funds to charge no more than half fare to the elderly and handicapped during nonpeak hours. In our cities older Americans must rely to a great extent on public transportation to get around.

Over the past few years practically all of the public transportation facilities in our cities have had to revert from private to public ownership or subsidization because the fares cannot support operating expenses, capital improvements, and still provide a profit to the stockholders. At the same time, our cities and local governments do not have the necessary funds or tax base to support public transportation. Therefore, I feel this bill will mean much to my own city of Indianapolis as well as other cities in our country.

We also must provide better public transportation for environmental reasons and to save on gasoline consumption.

Mr. BAUMAN. Mr. Speaker, with inflation at an all-time high in this country, it is inconceivable to me that the Congress of the United States should be asked to appropriate nearly $12 billion for a new and expanded urban mass transit program. It is equally surprising to me that the administration after its many protestations about fighting inflation and cutting Government spending would be willing to embrace this legislation.

We simply do not have the funds to finance this program, and one way or another all American taxpayers will pay for this either through additional taxes or further inflation.

There might be an argument in favor of this legislation if its benefits were spread equally across the country, but the funding provided is primarily aimed at certain urban areas at the expense of the rest of America, particularly rural areas which get little or nothing from this bill.

I, therefore, will oppose the conference report.

Mr. COTTER. Mr. Speaker, I rise in support of both the rule and the conference report on S. 386, the Urban Mass Transit Assistance Act of 1974.

As a member of the Urban Mass Transit Subcommittee, I would be remiss if I did not note the outstanding work of our chairman, Joe Minish, who has labored almost day and night for 2 years to bring this legislation before the House.

I am well aware of the jurisdictional disputes that have enmeshed this bill, and I want to assure my friends on the Public Works Committee that I supported the transfer of jurisdiction to their committee. But I do not believe that this opportunity to pass a meaningful and necessary mass transit bill should be lost because of this type of fight. Therefore, I urge my colleagues to support the conference report since it offers the only opportunity in this Congress to give tangible assistance to mass transit systems in each of our districts.

The energy crisis has heightened our awareness of the need for effective and efficient mass transportation. We cannot afford to wait another 2 years to provide meaningful Federal assistance. The House Public Works Committee in the next Congress will have more than enough work overseeing the implementation of this legislation and, if necessary, rewriting sections of the Urban Mass Transit Act to make sure this law works equitably and well. Therefore, I am asking my colleagues to support this needed legislation now. I do not want the 93d Congress to be remembered as the Congress that turned its back on mass transportation.

This bill has the support of President Ford, Secretary of Transportation Brinegar, the National Conference of Mayors, the National League of Cities, the National Association of Counties, the AFL–CIO, and many of our State Governors. This widespread support indicates to me that this legislation should not be put off to an indefinite future but passed now.

Mr. Speaker, as a member of the Urban Mass Transit Subcommittee, I can assure the Members that this legislation has been improved by the lengthy negotiations and debates that have taken place over the last 2 years.

The bill as it now stands requires the distribution over 6 years of $3.9 billion on the basis of a new formula based on population and population density per square mile. This new formula assures areas that do not have publicly owned mass transit a fair share of the formula grants. This feature is vital for my own State of Connecticut because most mass transit systems are privately owned. Now they will be assured of Federal help. For example, under the formula program for 1975, the Hartford area would receive an estimated $1,095,000 and for the 5-year period from 1975 to 1980, $14,508,750 according to the latest figures. These funds can be used for operating expenses or ordinary capital needs, and come from the $3.9 billion formula grant part of the bill.

In addition, this new bill provides $4.825 billion in new contract authority to help expand mass transit service. This new figure when added to the existing $3 billion contract authority means that over $7.8 billion will be available in new capital grant authority during the next 6 years.

Thus, this new bill provides over $11.8 billion in mass transit assistance over the next 6 years.

I will not take the time of the House in explaining all of the other provisions in this act, which has already been ably done by the chairman of our subcommittee. But I will urge the Members to vote to pass this bill since both the President and our State and local leaders have expressed approval of it, and members of the Urban Mass Transit Subcommittee have labored so hard to get a fair and equitable bill.

We should not miss this opportunity to pass vitally needed mass transit legislation.

Mr. SARASIN. Mr. Speaker, I rise in support of the conference report accompanying S. 386, the Urban Mass Transit Assistance Act of 1974.

I would like to take this opportunity to urge every one of my colleagues to support this vital legislation which will directly help ease the major problems of energy, environment, and inflation facing our cities.

For the first time ever, we are considering legislation which would provide funds for operating subsidies to metropolitan areas so that fares will not have to increase because of rising operating costs.

This will mean that those most reliant on mass transit, the poor and the elderly, will not be faced with increased transportation costs.

The funds provided in this legislation will allow mass transit systems that have been operating effectively to expand and those that have had to operate at a loss can at least approach the break-even point.

In my most recent survey of my constituents' opinion, an overwhelming 64.7 percent responded that they favored direct Federal subsidies for mass transit as a means to alleviating the energy crisis.

In an earlier survey, three out of four of my constituents would prefer using mass transit if it were convenient and economical.

Reports of increasing deficits by the companies and localities engaged in mass transit, the effects of automobile emissions on the quality of the air we breathe, the unavailability of adequate parking in our major cities and the gasoline shortage, make congressional support of mass transit programs imperative.

Mr. LEHMAN. Mr. Speaker, this conference report will provide Miami with almost twice the funds as the bill that the House passed last August, and that is pretty important to me and my constituents. This conference report will provide Miami with over $43 million in much-needed transit assistance, while the bill we passed previously would provide my area with only about $23 million.

In addition to Miami's $43 million in formula grant funds, the conference report also includes $7.9 billion for capital projects across the Nation, and these funds would be assigned on a project-by-project basis at the Secretary's discretion.

To say that Dade County needs mass transit assistance is to understate the severity of the problem we face. The difficulties caused by an inadequate mass transportation system in Dade County is evidenced by the fact that as much as 2 years ago, there were already at least 50 miles of arterial streets and freeways carrying half again as much traffic as they were designed to hold.

We are not totally without a mass transportation system, but in our publicly owned bus system service is often slow, and between many points unavailable. Consequently, for the elderly, many of whom do not drive, as well as the young, transportation problems severely restrict their mobility.

Last winter, when the gasoline shortage was reaching its peak, Dade County was in trouble, because Dade County runs, for the most part, on automobiles. The downtown Miami business district provides only 8 percent of the jobs—the 12 remaining major employment centers are scattered throughout the urbanized area. Residents were worried that they would not be able to get to work.

The situation in Dade County being what it is at the present, we cannot realistically expect these people to give up their cars, and consequently their jobs, their contact with the cultural offerings of the city, and the marketplace in general.

But we can give them an alternative to the automobile, and the conference report we are considering today makes that alternative available.

Our cities cannot wait. They are being strangled by traffic jams and air pollution. If this conference report is not passed, millions of our urban residents will suffer at the hands of jurisdictional squabbles.

Mr. Speaker, I urge the support of my colleagues for this vital legislation.

Mr. DON H. CLAUSEN. Mr. Speaker, as a member of the Public Works Committee that developed and advanced H.R. 12859, the comprehensive mass transit bill, approved by this House on August 20, 1974, by a vote of 324 to 92, I stand strongly in support of our bill because I am convinced it is by far the better bill for mass transit programs throughout the country.

Because of these strong feelings I must oppose the rule, the procedure and the conference report on S. 386 for the following reasons:

Consideration of this legislation—under this rule—would run directly counter to the repeatedly expressed intent of a majority of this House concerning jurisdiction over public mass transportation now and in the future.

This is not a new issue, nor do I raise it on my own. That was done as recently as this week by the gentleman from New Jersey (Mr. MINISH) in his assertion that the original $11.3 billion, 6-year program produced by the Committee on Public Works, H.R. 12859, was designed to claim jurisdiction over a bill that by itself would rightfully be under the jurisdiction of the House Banking and Currency Committee.

Since the issue has been raised, I intend to meet it head on. Strictly from a jurisdictional standpoint, the case for H.R. 12859—and against this rule and S. 386—rests on, first, the positive and constructive performance of the Committee on Public Works in matters of urban mass transportation; second, the House of Representatives in approving these actions; and third, the transfer of jurisdiction over mass transit voted by this body with adoption of the Hansen subcommittee reorganization reforms, in effect a recognition of the committee's legislative role and capabilities in this field, as evidenced by our extensive field hearings in Sacramento, San Francisco, Los Angeles, and the other areas of the country.

As to the performance of the Committee on Public Works, you can look back to the landmark Federal-Aid Highway Act of 1973. Building on earlier broadening of project eligibility in our committee's 1970 act, last year's measure made all Federal-aid highway system funds available for construction of exclusive bus lanes, traffic control devices, bus shelters and parking facilities in support of mass transit.

The 1973 act also made urban system funds available for both bus and rail rapid transit capital assistance, permitted substitutions of mass transit capital spending for urban system and interstate projects, and increased capital grant and loan authority under the Urban Mass Transportation Act of 1964 to $6.1 billion.

And this year, the whole banking and currency approach was limited to a $600 million to $800 million operating subsidy bill, the committee launched the exhaustive series of hearings and came up with a comprehensive mass transit bill more in line with the dimensions of the urban transportation crisis for metropolitan, urbanized and rural areas. To be sure, floor action reduced the $20 billion cost over 6 years to $11.3 billion on grounds of budget constraints, priorities and limitations. Yet this package confirmed the wisdom of the House in waiting for the final outcome of the Public Works Committee's work. And that is the bill the House passed.

In the same vein, the House adopted on October 8 the Hansen subcommittee reorganization proposal, by a vote of 203 to 165, as an amendment to House Resolution 988, and then adopted the entire amended package of House reforms by a vote of 359 to 7. It reconstituted the Committee on Public Works as the Committee on Public Works and Transportation, assigning jurisdiction over mass transportation from the Committee on Banking and Currency.

It is significant that this reform recommendation was proposed by both the original Bolling Select Committee on Committees' amendments reported last March, and the Hansen subcommittee substitute introduced in late July. Both were before the House for debate and amendment beginning on September 30. Yet between then and final action on October 8, the conference committee of the House and Senate Committees on Banking and Currency wrote an entire new bill on October 3.

Its effect would be to lock in a program for 6 years with virtually no opportunity for amendment, directly contrary to the realinement of committee jurisdiction.

The rationale for the Public Works jurisdiction in this respect was compellingly stated in the select committee report:

> With its experience in highways and roads legislation, the new committee will be challenged by a broadened transportation responsibility and be able to achieve the select committee's objective of an integrated approach to this important public policy.

Granted, the final Hansen package left jurisdiction over rails with the Committee on Commerce and Health. But the select committee's rationale was ratified by the House in respect to the jurisdiction over urban mass transit.

To this, I would add the observation that the Committee on Public Works has also gained valuable experience in another undertaking—the Water Pollution Control Act, which eventually will surpass highway construction as a public works program—which enhances its capability in dealing with massive construction efforts.

In summary, Mr. Speaker, the Committee on Public Works has in gradual and orderly fashion expanded its constructive role on the urban public transportation scene to the point where it has been voted exclusive jurisdiction in the field. It has produced a $11.3 billion, 6-year program of capital and operating subsidies for mass transit which this House has already passed on August 20 by an overwhelming vote of 324 to 92.

By contrast, we are confronted here today with the product of a rump session of conferees locking in a program for 6 years beyond the expiration of the jurisdiction of the Committee on Banking and Currency.

A great matter of principle is involved in what happens today. We are witnessing a procedural end-run around our committee that will come back to haunt you. If you vote for this I predict, here and now, that the leadership of the Executive and the House will be back—asking our Public Works Committee to help straighten out this expedient "mess" transit bill.

It has been said that an act of Parliament can do no wrong though it may do several things that look pretty odd. I must say that certainly is the case today. What we have been asked to do is odd in the extreme from a parliamentary procedural point of view.

When one refers to Jefferson's manual and the Rules of the House of Representatives, I must say the gentleman from Albemarle who left his most important procedures on the House of Representatives for almost 200 years must be overseeing our operations today with a sense of scorn.

For too long, Congress has been criticized for abdicating its powers to legislate to the judicial and executive branches. I submit to you that we will continue to lose our influence unless we do a better job of legislating. It is incumbent upon us to review and evaluate thoroughly our action. This includes thorough hearings, extensive debate in the committee, preparation of thorough committee reports, debate of the merits on the floor, reconciliation of the differences of the two bodies in conference, and review of the conference report. This is the time-honored method for the two bodies to produce the type of legislation our Nation requires and deserves. It also provides a legislative history which provides a guide to the implementing departments.

I submit that the old adage that haste makes waste is applicable to that which we are being asked to do today. We have the opportunity to utilize proper procedures and to provide a proper legislative history. That is why we asked you to turn aside this restrictive rule and support the opportunity of having our bill considered in the other body.

How many Members of this distinguished body have been offended in the past when the Senate has returned legislation with nongermane amendments and demanded their passage? How many times has this House been offended by the overtures of the Senate suggesting we forget our rules?

I know each of us has seen the other body attempt to impose its poorly structured rules on this body. Admittedly, the situation at this time is slightly different, but we are now faced with a gross departure from our normal rules as well as refusal in the other body to consider the comprehensive and detailed mass transit legislation which was approved in this House by an overwhelming vote.

I submit if we allow major legislation of this type to be drafted in a committee on conference we shall rue the day. I am sure if we allow the other body to prevail we shall be faced with a similar situation in the future.

If so many are enamored with the provisions of S. 386 it would be a relatively simple parliamentary process to bring about a conference on the differences between the comprehensive mass transit legislation passed by this body and the conference report language which was approved in the other body this week.

I strongly urge my colleagues to support the Public Works Committee efforts to retain, for the House, the time-honored procedures for providing the mass transit legislation our Nation deserves.

Mr. **MINISH**. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The **SPEAKER**. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **MINISH**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 288, nays 109, not voting 37, as follows:

[Roll No. 640]

YEAS—288

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bell
Biaggi
Biester
Bingham
Boland
Bolling
Brademas
Breaux
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carey, N.Y.
Carney, Ohio
Carter
Cederberg
Chamberlain
Chisholm
Clancy
Clark
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Delaney
Dellenback
Dellums
Dent
Derwinski
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Fascell
Fish
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hays
Hechler, W. Va.
Heinz
Helstoski
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Howard
Hudnut
Hungate
Hunt
Jordan
Karth
Kastenmeier
Kazen
Kemp
King
Kluczynski
Koch
Kyros
Lagomarsino
Leggett
Lehman
Lent
Litton
Long, La.
McClory
McCloskey
McCormack
McDade
McFall
McKinney
Macdonald
Madden
Madigan
Maraziti
Martin, N.C.
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Mills
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Rangel
Rees
Regula
Reid
Reuss
Rhodes
Rinaldo
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sandman
Sarasin
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shriver
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Stanton, J. William
Stanton, James V.
Stark
Steele
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Teague
Thompson, N.J.
Thone
Thornton
Tiernan
Towell, Nev.
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waldie
Walsh
Ware
Whalen
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Zablocki
Zwach

NAYS—109

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Bafalis
Baker
Bauman
Beard
Bennett
Bevill
Blackburn
Blatnik
Bowen
Bray
Brinkley
Broyhill, N.C.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Casey, Tex.
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collier
Collins, Tex.
Conlan
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Denholm
Dennis
Devine
Dickinson
Evans, Colo.
Evins, Tenn.
Findley
Fisher
Fountain
Goodling
Gross
Hammerschmidt
Henderson
Hicks
Holt
Hosmer
Huber
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Ketchum
Landgrebe
Latta
Long, Md.
Lott
McCollister
McEwen
McKay
McSpadden
Mahon
Mallary
Mann
Martin, Nebr.
Mathis, Ga.
Mayne
Miller
Mizell
Montgomery
Nichols
Passman
Price, Tex.
Quillen
Randall
Roberts
Robinson, Va.
Rousselot
Ruppe
Ruth
Satterfield
Scherle
Shuster
Spence
Steed
Steiger, Ariz.
Stubblefield
Symms
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Treen
Waggonner
Wampler
Whitten
Young, S.C.
Young, Tex.
Zion

NOT VOTING—37

Armstrong
Bergland
Boggs
Brasco
Camp
Conable
Crane
Dulski
Eshleman
Giaimo
Grasso
Griffiths
Hanna
Harsha
Hébert
Heckler, Mass.
Jones, N.C.
Kuykendall
Landrum
Lujan
Luken
Minshall, Ohio
Patman
Poage
Podell
Powell, Ohio
Rarick
Riegle
Roncalio, Wyo.
Roncalio, N.Y.
Rooney, N.Y.
Runnels
Sarbanes
Sebelius
Sikes
Staggers
Wyman

So the conference report was agreed to.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Dulski.

Mr. Hébert with Mrs. Grasso.

Mr. Sikes with Mr. Luken.

Mr. Riegle with Mrs. Griffiths.

Mr. Rooney of New York with Mr. Hanna.

Mr. Giaimo with Mr. Rarick.

Mr. Staggers with Mr. Kuykendall.

Mr. Sarbanes with Mr. Crane.

Mr. Bergland with Mr. Harsha.

Mr. Jones of North Carolina with Mr. Camp.

Mr. Landrum with Mr. Eshleman.

Mr. Roncalio of Wyoming with Mr. Conable.

Mrs. Heckler of Massachusetts with Mr. Lujan.

Mr. Runnels with Mr. Minshall of Ohio.

Mr. Sebelius with Mr. Patman.

Mr. Roncallo of New York with Mr. Powell of Ohio.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the conference report to accompany S. 386, the Urban Mass Transportation Assistance Act of 1974, just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, TUESDAY, NOVEMBER 26, 1974, TO FILE A REPORT, ALONG WITH MINORITY AND/OR SEPARATE VIEWS, ON H.R. 17488

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Tuesday, November 26, 1974, to file a report on the bill, H.R. 17488, the Energy Tax and Individual Relief Act of 1974, along with any minority and/or separate views.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

PERSONAL EXPLANATION

Mr. RONCALIO of Wyoming. Mr. Speaker, I wish to state that I would like the record to show that on the vote on the conference report on S. 386, the Urban Mass Transportation Assistance Act of 1974, just completed, I was unable to return to the floor in order to record my vote. I was in conference on the strip mine bill.

Had I been present and voted, I would have voted against the conference report.

SENATE OVERRIDES PRESIDENTIAL VETO ON FREEDOM OF INFORMATION ACT

(Mr. MOORHEAD of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I take this occasion to advise the Members of the House that the other body has followed the leadership of the House and has voted to override the veto on the Freedom of Information Act.

PRIVACY ACT OF 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 16373) to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. Moorhead).

The motion was agreed to.

The SPEAKER. The Chair requests the gentleman from Tennessee (Mr. Fulton) to assume the Chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 16373, with Mr. Fulton (Chairman pro tempore) in the chair.

The CHAIRMAN pro tempore. When the Committee rose on yesterday, the amendment in the nature of a substitute to the bill was subject to amendment at any point.

Are there further amendments?

AMENDMENT OFFERED BY MR. MOORHEAD OF PENNSYLVANIA

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moorhead of Pennsylvania: On page 31, strike lines 5 through 9 and insert in lieu thereof the following:

"(3) In a suit brought under the provisions of subsection (g)(1) (B) or (C) of this section in which the court determines that the agency failed or refused to comply with any provision of subsection (g)(1) (B) or (C) of this section, the United States shall be liable to the individual in an amount equal to the sum of—"

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the purpose of this amendment is to insure that persons who are actually damaged by the failure of the Government agency to comply with the provisions of subsection (g)(1) (B) or (C) are compensated for their losses.

The amendment does not contain a provision for punitive damages, which was objected to yesterday. There is nothing in this amendment, therefore, which subjects the Government to an undue burden. The burden is on the citizen. The citizen must prove that there was a violation of the provision of this act. He must then prove that the adverse determination which damaged him was caused by the above violation. He must finally prove the damages caused by the violation.

With this substantial burden already placed on the litigant, I see no reason to require that proof also be offered of willful, arbitrary, or capricious action by the defendant agency.

This amendment was suggested as a reasonable compromise by the gentleman from Texas (Mr. Eckhardt), and I now yield to him.

Mr. ECKHARDT. Mr. Chairman, I thank the distinguished subcommittee chairman.

It will be recalled by those who heard the debate yesterday that the primary objection to the Fascell amendment was that the Government should not be subjected to punitive damages. I think that that was the major ground upon which that amendment was defeated.

Frankly, had I thought that the Government would practically be so jeopardized, I would have voted against it too. I did not think that it was a practical danger, but this amendment completely removes that proposition.

However, the amendment does afford a correction of what seemed to me to be a very bad defect in the existing language, and that is that even though a person may not be able to get a job because his record falsely indicated his having been discharged when he had in fact resigned, if an agent of Government made an innocent mistake in failing to go through with the procedure provided in this bill and the person whose record was falsely stated lost a job and therefore lost the money that he would have made on that job, he could still not sue because he could not show that the action was willful, arbitrary, or capricious.

It seems to me to be a matter of basic justice to permit a person who is actually injured by some act of an agent of the Government which is in violation of this subsection to recover on ordinary bases, that is, by showing that the act was violated and that he sustained injury.

There is nothing in this that would provide for any damages beyond his actual out-of-pocket expenses because of the flaw.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I would like to ask the gentleman from Texas (Mr. ECKHARDT) as to what is the standard of conduct that would cause the Government to be liable? Would the Government be liable? I would ask the gentleman from Texas this question: If there was an innocent mistake made in violation of this bill, would the Government be liable?

Mr. ECKHARDT. I do not know what "innocent mistake" means. As the gentleman knows, the act provides that if I ask for information concerning what is in my record I am entitled to have it. Having received that, and finding something that is erroneous in that information, I may then submit the correction. The agency must then either correct or must file reasons why it does not correct it.

Let us assume, for instance, that the agency, after I request the information, misplaces my letter and does not send me the information and, in the meantime, I seek a position with another government agency, and I am denied employment on the grounds that I have been discharged, when in fact I was not discharged. I think I am entitled to recover even though the action of the governmental agency may not have been willful; it is just a question of determining what the fact was.

Mr. ICHORD. There would be an element of negligent conduct, or unreasonable conduct, would there not?

Mr. ICHORD. I think so; yes.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think the gentleman from Missouri (Mr. ICHORD) has asked a very good question as to standards of conduct. There are no standards of conduct required under this amendment. This amendment would make the Government a guarantor of the accuracy of everything that it has in its files.

The amendment says that any suit brought under subsection (g)(1) (B), (C) of this section does not have to refer to any standards of conduct. What do (g)(1) (B) and (C) require? (B) requires that the agency maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness.

Now, if there is any inadvertent inaccuracy in a government file, a suit could be filed under this amendment, and damages asked and recovered.

(C) says:

> . . . fails to comply with any other provision of this act, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual, the individual may bring a civil action against the agency. . . .

Again, this provision prescribes no standard of conduct. If a Government agency inadvertently violated any rule—whether a mistake be inadvertent or willful—a suit could be brought under this amendment for damages. This exposes the Government to undue liability. It makes the Government the guarantor of every piece of information that it has in every one of its files. It is not even prospective; this would be retroactive—Government employees would have to go through and clean up all their files so that they would not expose themselves to such liability.

I am surprised that the gentleman from Pennsylvania would offer this amendment at the last minute, without any warning. This was not reported out by the committee. This was not supported by the committee. Even though the gentleman is the manager of the bill, the gentleman does this on his own, and I am sure that he would tell the Members that that is correct.

Mr. MOORHEAD of Pennsylvania. If the gentleman will yield, I would not like to leave the inference in the record that this is a committee amendment. It is an amendment that was proposed by the gentleman from Texas (Mr. ECKHARDT) as a reasonable compromise between the bill language on page 31—"willful, arbitrary, or capricious." I feel this compromise is necessary since punitive damages are not authorized in this bill because of the defeat of the Fascell amendment yesterday.

This is just to try to make a citizen whole when the Government has damaged him.

Mr. ERLENBORN. I am afraid the gentleman has just gone much too far on this in making the Government liable.

I read yesterday a statement that the President firmly supports this bill with only one reservation, and that reservation was taken care of by the adoption of the amendment I offered yesterday. But I am telling the Members if we adopt this amendment, we would be exposing the Government to blanket liability as a guarantor of every piece of personal information in its files, and I, for one, would recommend to the President—as important as this bill might be—that he veto it. We just cannot afford to have that kind of liability, leaving the Government so exposed. I hope the amendment will be defeated.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

I do not believe the gentleman's fears are justified. This amendment does not require that the Government be the guarantor of every fact determined. The Government need only comply with the standards set out in (g)(1) and (B) and (C). Certainly the Government ought to assure fairness in any determination. Surely the Government ought to be fair, and if it is unfair, the matter should be reviewable in court. Certainly the Government should do the things that are required under the standards here. Certainly the Government should supply the material. Certainly the Government should give the reasons, if it refuses to correct an asserted error.

If the Government does all of those things and acts in compliance with the language of the bill, the Government is not subjected to any liability whatsoever. There is no requirement of an assurance that the Government be absolutely correct with respect to every fact which is listed in a person's record. The Government need only be fair, and it need only comply with the standards of the act.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

As I understand, in the proposed amendment there is an addition to the discretionary authority which is in the court to assess reasonable attorneys' fees where the plaintiff substantially prevails; is that correct? So this would provide for actual damages in those situations as a matter of right, knowing that the law has not been complied with. Is there a precedent in other legislation by this automatic assessment of actual damages by a citizen against the U.S. Government?

Mr. ECKHARDT. Yes, there are several. I do not have bills in which this comes to mind immediately, but I know that we have had several here recently out of the Committee on Interstate and Foreign Commerce. I believe there was a provision of that nature with respect to citizens' suits regarding the products safety bill. I am not absolutely sure of that.

Mr. BUTLER. Is the Federal Government obligated under the products safety bill?

Mr. ECKHARDT. No, no.

Mr. BUTLER. I am talking about the Federal Government. Is there a law saying that a citizen can recover damages when a minor clerk fails to perform his duties timely and completely, fairly accurately, and so forth? Is there a precedent for that?

Mr. ECKHARDT. I do not know whether there is or not, but I would answer the gentleman in this way. I would say that if the Federal Government acts in violation of its own statutory obligations, I can think of no agency that should be called upon more to pay attorneys' fees, because the public pays the Federal Government attorneys' fees.

Mr. BUTLER. We are plowing new ground, then.

Mr. MOORHEAD of Pennsylvania. If the gentleman will yield, when this was taken up yesterday, there was great argument that punitive damages had no precedent. I think that was one of the reasons that that amendment was defeated. But the inference is clearly left that there are other statutes under which actual damages can be awarded against the Government.

Mr. ECKHARDT. I might also say that we do not affect that portion of the bill. Attorneys' fees are provided in the bill, whether this amendment is passed or not. If the gentleman wishes to strike that, he might still do it by amendment, even if this amendment is agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ICHORD: Page 28, line 16, strike out the period after the word "maintained" and add the following: "; *Provided, however*, that the provisions of this paragraph shall not be deemed to prohibit the maintenance of any record of activity which is pertinent to and within the scope of a duly authorized law enforcement activity."

Mr. ICHORD. Mr. Chairman, as I pointed out in general debate this amendment can be described as a clarifying amendment. The managers of the bill have stated that they did not intend to do what I questioned they might be doing, and this language was worked out in cooperation with the managers of the bill. It is really to make certain that political and religious activities are not used as a cover for illegal or subversive activities.

In its present form paragraph (4) would prohibit any agency from maintaining any record concerning the "political or religious belief or activity" of any individual, unless "expressly authorized by statute" or by the individual. The use of the terms "expressly authorized by statute" would seem to indicate that unless the statute by specific terms—rather than by "implication"—authorized the agency to maintain such a record, maintenance would be prohibited, and that this would therefore have the effect of prohibiting the maintenance of records concerning Communist and other subversive organizations on the theory that they are engaged in "political" activities.

We may well recognize that the purpose of the provision is commendable and legitimate in prohibiting the disclosure of such records with respect to conventional political and religious beliefs and activities, but that it can be construed to cover activities which are properly within the scope of legitimate law enforcement. For example, the Communist Party and similar groups may claim that they are within the scope of the provision of this paragraph as a "political" activity. Similarly, certain sects within the Black Muslim movement, which are engaged in activities described by the Director of the FBI as endangering the internal security, may claim exemption as a "religious" belief.

It is the purpose of the amendment to make clear that such activities as are pertinent to, and within the scope of, duly authorized law enforcement activities are not meant to be excluded by the broad terms of paragraph (4). It is simply a clarifying amendment, so that we obviate any necessity for litigation on the reach of the paragraph.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I understand that this amendment should be construed in the light of the colloquy we had yesterday, that there was no intention to interfere with the first amendment rights of citizens.

Mr. ICHORD. I state emphatically to the gentleman from Pennsylvania that this amendment is not intended to hurt in any way the exercise of the first amendment rights.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I have no objection on this side of the aisle to the amendment.

Mr. ICHORD. Mr. Chairman, before yielding back the balance of my time, there is one further clarification that I would like to have from the gentleman from Pennsylvania as a matter of legislative history.

I state to the gentleman that I have expressed the concern that this measure might adversely affect the operations of the industrial security program or might even destroy the operation of the industrial security program. The gentleman from Pennsylvania and the gentleman from Illinois have assured me privately that this was not intended, but I do think we should have some legislative history.

How will the provisions of this bill affect the operation of the industrial security program?

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if the gentleman will yield, the gentleman has raised an important question and I am pleased to explain its application. This bill would not disturb current procedures used in industrial security investigations, in the transfer of classified or unclassified information in such matters, in security clearances, or other related industrial security needs. Our subcommittee recently conducted hearings on the industrial security program as related to the security classification system, so that we are quite familiar with the program.

Subsection (e)(2)(D) on page 27 of the bill permits any agency, including an agency involved in industrial security activities, to publish in the Federal Register a notice for each system of records it maintains. This notice would list the "routine purpose" for which the records are used or are intended to be used. Thus, a Federal agency engaged in industrial security matters would state that one of the "routine purposes" for which information about an individual is collected and used for security clearances or other uses is to carry out its responsibilities under the industrial security program. It could then transfer, use or maintain information about individuals, or otherwise operate its industrial security program just as it has in the past. I trust that this explanation answers the gentleman's question.

I trust that this explanation satisfies the gentleman from Pennsylvania.

Mr. ICHORD. I thank the gentleman for his clarification.

I would also like to ask the gentleman from Illinois, is that his understanding or interpretation? The term "routine use" is rather ambiguous without further legislative clarification.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I agree with the interpretation given the language by the gentleman from Pennsylvania. I think it will be the obligation of each agency which maintains such a system to list what the uses of the records in that system will be. The word "routine," then, while itself a little ambiguous, will be definitely clarified by publication in the Federal Register of what actual uses will be the routine uses to which each record is put.

Mr. ICHORD. Mr. Chairman, I thank the gentleman for his explanation. I move the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. GUDE: On page 23, strike out lines 18 through 21 and insert in their place the following:
>
> "(7) to a person who is actively engaged in saving the life of such individual, if upon such disclosure notification is transmitted to the last known address of such individual; or".

Mr. GUDE. Mr. Chairman, the purpose of this amendment is to clarify one item I believe to be ambiguous in intent. In restricting the circumstances under which information on individuals could be disclosed by Federal agencies, it was the intention of the committee to exclude information which would be vital to the health or safety of an individual. For example, if there had been an accident, and the attending doctor needed the victim's medical history before proceeding with treatment which might be necessary to save his life, we would not want the Federal Government to be forbidden to transmit that information, nor would we want to require a time consuming approval process which might result in the individual's death before the information could be provided.

However, I believe the current language of the bill is too vague in this regard, in that it would permit such disclosures without prior permission in less than emergency cases, and it does not make clear to whom the information could be disclosed. My amendment would simply leave no doubt as to the intent of the bill to restrict this kind of disclosure only to truly life-threatening emergencies, and then only to disclose the information to those actively engaged in trying to save the life of the individual in question.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for yielding. I am not sure the amendment is necessary. I have no objection to the amendment and, as far as I know, on this side of the aisle we accept it.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Illinois.

Mr. ERLENBORN. We have had a copy of the amendment and we have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. GUDE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: On page 35, after line 20, insert the following new subsection (m) to read as follows:

"(m) (1) Moratorium on the use of the social security account number. —no Federal agency, or any State or local government acting in compliance with any Federal law or federally assisted program, shall deny any individual any right, benefit, or privilege provided by law by reason of such individual's refusal to disclose his social security account number.

"(2) This subsection shall not apply—

"(A) with respect to any system of records in existence and operating prior to January 1, 1975; and,

"(B) when disclosure of a social security account number is required by Federal law.

"(3) No Federal agency, or any State or local government acting in compliance with any federal law or federally assisted program, shall use the social security account number for any purpose other than for verification of the identity of an individual unless such other purpose is specifically authorized by Federal law."

And, re-letter the succeeding subsection accordingly.

Mr. GOLDWATER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GOLDWATER. Mr. Chairman, I offer this amendment dealing with the use of the social security number in an attempt to bring it into proper perspective and to, in essence, put limitations upon its further use.

Every major report on the subject of personal privacy and the collection, maintenance, use and dissemination of personal information has expressed concern for the ever-growing use of the social security number as a universal numeric identifier. Almost without exception they cite the threat the unrestricted universal numeric identifier poses to the freedom and privacy of individuals. Private citizens resent the use of this number as an arbitrary precondition to the receipt of services, privileges, and benefits that are essential to their daily lives and activities. The average citizen finds the use of the number dehumanizing and threatening. Even the widely cited report of the Secretary of HEW—entitled "Records, Computers, and Rights of Citizens"—notes that there is no statutory authority for the ever-growing use of this number as an identifier. They point out that the average citizen has no legal remedy for such a use of the number. The report notes that the universal use of a numeric identifier permits the linking of files and the tracing of a person from cradle to grave. A soon to be published report—"Roscoe Pound—American Trial Lawyers Foundation Report"—notes the negative psychological impact that has resulted from the unregulated use of this number.

In most cases, the use of this number has been resorted to in the name of efficiency. Little concern has been given for the human impact such a practice has. Everything distinctive, individual, or superior in terms of quality of a man's mind is not relevant. Everything centers on the quantitative, down with qualitive dimensions or values. The use of this number has removed the individual from the modern personal information transaction process. Records are exchanged without his knowledge and occasionally to his serious detriment. Errors are perpetuated and integrated with new records. And all of this is occurring because of administrative decisions which never analyze the larger implications of the use of the number. Simply put, the use of the number has not been subjected to the aggressive give and take that occurs in a legislative form.

Originally, the discussion draft of H.R. 16373 contained language prohibiting the further use of the social security account number as a universal numeric identifier. Objections were raised to that language. The objections centered on the following concerns:

First, outright prohibition would necessitate a total revamping of all Federal record systems at tremendous cost.

Second, outright prohibition is not consistent with all the best interests of citizens as it would cause chaos in many Federal programs.

The amendment I offer today remedies these problems. My amendment does the following things:

First, prohibits the denial of rights, benefits, or privileges provided by law if a citizen refuses to disclose his social security number, with the following exceptions:

The amendment exempts all systems in existence and operating prior to January 1, 1975, and would not apply when the Congress authorizes the use of the number.

The amendment restores to Congress the control over use of the number.

This amendment will fill important voids in the current legislation. It cites a reasonable, basic compromise between the right of a citizen to protect his privacy and the need of the Federal Government to be a proper and effective servant.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I want to commend the gentleman for offering this amendment, the principle of which was certainly intended by the committee, but the gentleman's amendment removes any ambiguity.

I want to commend the gentleman for his diligent work, cooperation, and assistance to the subcommittee and the full committee. As far as we are concerned on this side, we will accept the amendment.

Mr. GOLDWATER. I thank the gentleman from Pennsylvania.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to my colleague from California.

Mr. LAGOMARSINO. Mr. Chairman, I would like to commend the gentleman for his amendment, and assure him of my support. I would also like to commend him for his work on the general subject.

Mr. Chairman, last year a Presidential Executive order was issued allowing the Department of Agriculture to inspect the individual tax returns of 3 million farmers—for the alleged purpose of compiling mailing lists and statistical information.

Although that order was eventually rescinded after widespread public indignation, it is a good example of the type of abuse we are trying to prevent with this bill. Not every Member of this House has a large agricultural constituency, but I ask the Members to consider that if the Department of Agriculture can obtain individual tax returns of 3 million farmers by the device of an Executive order, how many other agencies can get the individual tax returns of housewives, or barbers, or truckdrivers, on the same flimsy excuse of a need for mailing lists.

The law provides that tax returns are confidential, and the information they contain is not to be disclosed without permission. Given the events of the past few years, when tax returns become weapons to be turned against individual citizens or to punish political foes, I wonder how on Earth we can expect the ordinary citizen to comply with our income tax laws. Our system of taxation, in which we ask the individual to personally report his income and compute his tax due, relies heavily on the voluntary cooperation and basic honesty of the individual. In this respect, it is perhaps unique in the world.

Where else would you find an entire nation of people willing to report the most intimate details of their income and expenditures every year? If we had to resort to the European system of taxation, where an inspector comes by to check on your wealth and living situation, or if we had to make a detailed check of the basic facts of every income tax return filed in this country, we would be spending as much collecting this tax as we gain from it. Yet our entire system of taxation is based on the Government's assurance that individual tax returns will remain confidential—an assurance which we have seen is not always truthful.

We all remember the story of the golden goose. Well gentlemen and ladies, if we are not careful, we are going to kill the golden goose. If we do not act now to insure the confidentiality of Government records, including private income tax returns, no one will ever again tell the truth to their Government. We have come dangerously close, I believe, to exhausting the reservoir of good will and basic honesty of the people toward their Government. If we are not honest with the public, the public will not be honest with us. One way we can assure the people that we will honor our commitments of confidentiality whenever we ask for necessary information, is to pass this bill.

Mr. Chairman, over 2,400 years ago, the Greek leader Pericles proclaimed one of the signs of a free society to be "mutual toleration of privacy." The right of privacy finds expression in both the English Magna Carta and the U.S. Bill of Rights. I believe it is time for us to lend substance to those guarantees with a statute such as the one before us today. This bill will not hamper the operation of Government, it will only make it work better, because the individual citizen will be more willing to cooperate if he knows that his privacy will remain protected. For the sake of good government, and for the sake of the people we serve, I urge an "aye" vote on this bill.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, I want to commend the gentleman, my good friend from California. He has led the fight to prevent the establishment of a universal identifier number. To see that fight successfully concluded on the floor today must give him a great deal of pride and pleasure. I take pride and pleasure in his success and in having worked with him on this legislation.

Mr. GOLDWATER. I thank my friend for his support in this effort, and I urge adoption of the amendment.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the subcommittee, in considering the drafting of this bill, did consider taking under advisement whether we should include the prohibiting of a universal numeric identifier. Of course, the social security number is the most commonly used universal numeric identifier.

The problem is that to my knowledge—and I think to the knowledge of the subcommittee—there has been no study as to how many local governments or private agencies or, even, for that matter, Federal agencies, which use the universal numerical identifier or the social security number. We are not certain what effect this sort of amendment would have. I know, for instance, it is quite customary to use the social security number as the identifier on State driver's licenses. Just what effect this amendment would have, I do not think we really know, and I do not think we should pass it without knowledge. I think it would be a mistake to do this, before hearings have been held to get the facts on which to base action.

One part of the amendment would allow an exception for systems of records in operation prior to January 1, 1975. That means if a new system were to be adopted by a State or local government, it might be wholly incompatible with an existing system which is the subject of the exemption. I think we would be acting without sufficient knowledge if we were to adopt the amendment now.

I think we all want to be known by our names rather than by number so-and-so. Certainly the purpose of this amendment is worthy, but I am afraid we are acting now out of emotion rather than knowledge. We have not had any hearings on which to base action on this amendment; therefore, I think the proposal should be defeated. We should hold hearings on this subject in the near future.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was agreed to.

Mr. COLLIER. Mr. Chairman, I move to strike the requisite number of words.

I do so only for one question, if I may.

Throughout the bill, the word "agency" is used, and I would like to know whether or not the word "agency" is interchangeable with the word "commission" throughout the bill.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. Yes, I yield to the gentleman.

Mr. ERLENBORN. As I understand the gentleman's question, it is whether regulatory commissions would be considered agencies?

Mr. COLLIER. As well as any duly appointed commissions that were authorized by the Congress, whether through Congress or through Executive appointment.

Mr. ERLENBORN. The definition of the word "agency" would be contained in the basic Freedom of Information Act, and this is the amendment to the Freedom of Information Act. My recollection is that the word "agency" defined in the act would include regulatory commissions.

Such things as study commissions, interim study commissions, or short-term study commissions, I do not believe they would be.

Mr. COLLIER. They would be excluded, notwithstanding the fact that they contain, in many instances, substantial confidential records of a personal nature?

Mr. ERLENBORN. This is only my recollection, without having a copy of the law before me. I think regulatory commissions would be included within the definition, something like the President's Commission on Population Growth in America, on which I served.

Mr. COLLIER. That is not included?

Mr. ERLENBORN. I do not believe that is included within the definition.

Mr. COLLIER. I thank the gentleman.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 23, after line 25, insert the following:

"(9) pursuant to the order of a court of competent jurisdiction."

Mr. BUTLER. Mr. Chairman, this is an amendment to the section of the bill dealing with conditions of disclosure. It is introduced for the purpose of making it perfectly clear that a lawful order of a court of competent jurisdiction would be an appropriate condition of disclosure.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the gentleman has discussed his amendment with us, and we find no objection to the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: On page 26, line 17, after the word "disclosure", strike out the period and add the following: "; and (5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding."

Mr. BUTLER. Mr. Chairman, this amendment is directed to the section dealing with access to records. It is introduced for the purpose of making it perfectly clear that an investigation of an accident or other procedures incident to problems of that nature will not be subject to inquiry or access under this section.

The amendment says:

Nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, again the gentleman has been good enough to discuss this amendment with us, and we find no objection to it.

However, I would ask the gentleman this: What does he contemplate concerning the third amendment we discussed?

Mr. BUTLER. Mr. Chairman, I do not intend to introduce the third amendment the gentleman refers to.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I thank the gentleman.

We have no objection to the amendment.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, as I understand it, the purpose of the amendment is to protect, as an example, the file of the U.S. attorney or the solicitor that is prepared in anticipation of the defense of a suit against the United States for accident or some such thing?

Mr. BUTLER. That is the subject we have in mind.

Mr. ERLENBORN. I appreciate the gentleman's concern. I think it is a real concern, and that protection ought to be afforded.

The only problem I find with that amendment is this: It would presuppose we intended the defining of "record system" to preclude that type of record. I do not think we did.

If these sorts of records are to be considered a record system under the act, then the agency would have to go through all the formal proceedings of defining the system, its routine uses, and publishing in the Federal Register.

Frankly, I do not think the attorney's files that are collected in anticipation of a lawsuit should be subject to the application of the act in any instance, much less the access provision. It is our concern in the access provision that it may then presuppose it is covered in the other provisions, and I do not think it should be.

Mr. BUTLER. Mr. Chairman, I share the gentleman's concern. When this amendment was originally drafted, it stated "access to any record" and we struck the word, "record," and inserted "information."

So we made it perfectly clear we were not elevating an investigation with the word, "record," to the status of records. We did want to make it clear there was not to be such access, because that access would be within the usual rules of civil procedure.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield further, it is the gentleman's contention, under his interpretation of the act, that the other provisions would not apply to the attorney's files as well; is that correct?

Mr. BUTLER. The gentleman is correct.

Mr. ERLENBORN. I wonder if the gentleman would ask the gentleman from Pennsylvania (Mr. MOORHEAD) what his opinion is concerning that, just to clarify the record.

Mr. BUTLER. Mr. Chairman, I will yield to the gentleman from Pennsylvania for that purpose.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I agree with the limitation which has been placed on the amendment by the gentleman.

The **CHAIRMAN** pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. ABZUG: Page 33, line 3, strike out lines 3 and 4.

Ms. ABZUG. Mr. Chairman, we are dealing in this bill before us today with the right to privacy and any exemption from the safeguard provisions of this bill must be the exception rather than the rule. It should be justified only where there are overwhelming societal interests.

What are the overwhelming interests of society that this exemption protects which would justify an infringement on individual liberty?

Under other exemption provisions of this bill, we have already protected from disclosure information related to law enforcement investigative matters and national security.

I have agreed to support such specific exemptions. But the general exemption as to all records, regardless of what they contain, maintained by the CIA, goes too far. By allowing the CIA to exempt all systems of records, even those which contain no sensitive data, we are unnecessarily denying individuals the rights guaranteed by this bill and indeed rights guaranteed by the Constitution.

There is grave danger inherent in granting any such broad exemption. No agency should be given a general license to exempt any and all of its records or record systems.

Rather than base exemptions on the functions of an agency which maintains records, we should define exemptions, as we tried to in this bill, in terms of the kind of data sought to be protected from disclosure. We have done this in subsections (k) and (l) (1), and (2) of the bill.

If the records of the CIA contain sensitive material, these records will be protected from disclosure by the specific exemptions already referred to, information related to either foreign policy or national defense or related to investigatory material which is being compiled for law enforcement purposes.

We would weaken this bill if we established a precedent by allowing an agency to exempt itself entirely from requirements that would protect and reinforce the fundamental constitutional rights of privacy.

By setting up a general exemption guaranteeing and allowing the CIA to exempt even sensitive records from virtually every provision of the bill, the bill goes far beyond what is necessary to protect such records from disclosure. Why should not the agency be required, for example, to keep records which are accurate, timely, and relevant, which are requirements of this bill?

Why should the agency be exempted from a bar against maintaining political or religious data if other agencies are not, and why should individuals be denied rights to civil remedies and court review?

This is the effect of the "general exemption" section of the bill, which goes far beyond the "specific exemption" section in allowing agencies to disregard the safeguard provisions of the bill.

I might tell the Members that the other body's bill does not contain any such general exemption section. It provides solely for specific exemptions, with only two of the specific ones we have, by the way, and that is for national security and law enforcement purposes.

I urge that we strike this general exemption for the CIA since the CIA's sensitive records and activities are amply protected by other provisions of this bill.

To do otherwise would be to deny unnecessarily to one group of individuals the privacy rights protected by this bill.

Mr. Chairman, I urge that my amendment be adopted.

Mr. GUDE. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. Yes, I yield to the gentleman from Maryland.

Mr. GUDE. I want to commend the gentlewoman for this amendment.

Certainly, there is no logic in gathering information, and regardless of its sensitivity, putting it off bounds merely because it happens to be stored within a particular agency.

The gentlewoman's amendment makes a great deal of sense, and I certainly urge its adoption.

Mr. KOCH. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from New York.

Mr. KOCH. I also want to commend the gentlewoman from New York, who has pointed out this particular deficiency of this legislation, which I hope will be corrected.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there are many reasons why I would oppose this amendment.

I think it is quite obvious that the activities of the Central Intelligence Agency are not the sort of activities that are supposed to be conducted in a fishbowl.

Let me make this one observation. Under this bill we are allowing any individual access to records that are maintained by the Government relative to himself. In other words, any person, any individual can go to the agency that is subject to this act and say, "I want copies of anything that you have relating to me."

In the committee we discussed whether we would extend this right to corporations. We decided we would not; we would grant it only to individuals.

We did not limit this access to U.S. citizens.

Just stop and think about this for a moment. The Central Intelligence Agency prepares and maintains files relative to people all over this country who are our potential or actual enemies.

We are not limiting access, under this law, to citizens so that Chou En-lai or whoever it might be could come over here and knock at the door of the CIA and say, "Under the new privacy bill, I want to see all the files that you have maintained concerning me."

I think this situation would be utterly ridiculous. The amendment ought to fall of its own weight.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I just want to refresh the recollection of the gentleman from Illinois about who is covered under this bill. We have a very specific definition of individuals who are granted rights under this bill and I will quote from subsection (a)(2)—Such an individual "means a citizen of the United States or an alien lawfully admitted for permanent residence." As far as I know Chou En-Lai is not a citizen of the United States or an alien lawfully admitted for permanent residence. This is just another big, big red herring.

Mr. ERLENBORN. Then maybe it would be the Ambassador of Russia; who is to say? The fact is, we ought not limit the United States to carrying on the activities of the Central Intelligence Agency in such a way that its files are kept under cellophane.

Mr. HOLIFIELD. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I realize that there are people in this country who have a great antagonism to the CIA. I might say that back in 1947 this committee handled the legislation that established the CIA in the Defense Department bill.

We are in a dangerous world, and other countries of the world are using all the methods that they can develop for the collection of information which happens to be favorable to their objectives. Many times those objectives do not coincide with the objectives of this country, so that we, likewise, in order to protect ourselves, are collecting information on these people overseas, or the emissaries who come into this country if it deals with the national security of the United States. I believe that the better part of valor right now is to leave this alone.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I would just like to refresh the recollection of the gentleman from California, and since he is my honorable chairman I hesitate to do this, but, nevertheless, I have pointed out that the bill provides in section (k)(1)(2) for an exemption of anything which would in any way affect the national defense or foreign policy of this Nation, so that any of the national security or foreign policy records about which the gentleman from California has expressed some concern would be amply covered. No information which in any way affects the national security or foreign policy of this Nation could, under the specific provisions of section (k) of this act, be made available.

My objection to this general blanket exemption for the CIA is that there is much information, and I am sure the gentleman from California would agree with this, that the CIA collects about individuals that is totally unrelated to the national security functions of the CIA.

Mr. HOLIFIELD. I do not know that. I am not in possession of that knowledge.

Ms. ABZUG. Even if that were not so, if an individual seeks access to his or her records and the CIA makes a determination or the agency makes a determination that access to those records would endanger our national security, then the agency would have the right to assert that reason for not providing access to the information.

All I am suggesting is that to single out one agency and exempt all its records, just because it is this agency, is quite contrary to what our purposes are, and to what our intentions are in this bill. I might also mention that the legislation in the other body has only the specific exemptions that I mentioned before. A blanket exemption for any agency—even or especially this one agency has no place in this bill.

Mr. HOLIFIELD. Mr. Chairman, let me add that this agency is charged with the security of the United States in relation to its foreign policy, and therefore important to the United States. The agency does collect information on people who are emissaries from those nations that are here, and are acting in behalf of other nations, and I just do not believe that anyone has the right or should have the right to go in and expose the most sensitive area in the protection of our national security. Therefore I must oppose the amendment.

I think we are going pretty far in this bill, and I think this is just a little bit too far.

Mr. DELLUMS. Mr. Chairman, I would like to make a point of order, and I do so because I think this matter is of such importance and such gravity that it should not be disposed of by a handful of Members, and I note that there is not a quorum present on the floor.

Therefore, Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. McFALL). One hundred and four Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from New York (Ms. ABZUG). I do so with considerable regret, because of the great contribution that the gentlewoman has made in the drafting of this legislation. The gentlewoman was one of the authors of the original privacy legislation we considered. But I think in this legislation we must take a step at a time in a delicate field like that involving the Central Intelligence Agency.

Let me explain to the Members that the CIA is not entirely exempt under this bill. The agencies listed under general exemptions are affirmatively subject to the major disclosure and the requirement section of the act. The CIA must follow the conditions of disclosure, or I should say nondisclosure, as enumerated in subsection (b) of the bill. This is a major provision of the bill with which the Agency must be in compliance—with what the Agency may or may not do with their records.

The CIA is also subject to subsection (e)(2), (A) through (F) to publish in the Federal Register at least annually a notice of the existence and character of each system of records. Thus, even under the general exemption sections, they must do this.

This covers two unique circumstances: First, the Central Intelligence Agency maintains various intelligence systems, as defined by the act. Those systems maintained by the CIA are primarily personnel records. By statute the Central Intelligence Agency is prohibited from releasing any detailed information on its personnel.

The committee does not feel it should repeal other statutes by implication. Let me say also that there was an earlier colloquy between the gentlewoman from New York and the gentleman from Illinois about who is covered by the act.

On page 21, line 14, in the definitions:

> The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence . . .

So, Mr. Chairman, I urge the defeat of the amendment.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I am very disappointed that the gentleman from Pennsylvania has to rise in opposition to my amendment. I disagree with him. I think this exemption is really out of line with the original purpose of the bill.

I had no recollection, by the way, Mr. Chairman, that the CIA ever requested this exemption, certainly not since the bill was clarified to apply only to citizens and permanent residents.

Although the gentleman has indicated what provisions the CIA, as an agency, might be subjected to, he has neglected to mention the more significant and meaningful provisions it will not be subjected to as a result of having its general exemption. I have already mentioned some of those basic provisions, such as the requirement of agencies to maintain accurate, relevant, and timely data, and I will not respect them all here.

There are many others such as this, so I do not think it is fair, even though the gentleman may oppose my amendment, for him, to suggest that a general exemption doesn't deprive individuals of basic rights provided by the act. In fact, one very seriously deprived group of individuals will be those on whom the CIA may be keeping records which have nothing at all to do with the security of this Nation.

Mr. ECKHARDT. Mr. Chairman, I rise in favor of the amendment.

Mr. Chairman, I should like to clarify that other provisions of this bill fully take care of questions having to do with security. The bill provides two types of exemptions: First the general exemption of agencies. In fact, only one agency is generally exempted, the Central Intelligence Agency. This is in subsection (j), "General Exemptions."

But in (k), "Specific Exemptions," it is provided on page 34, item (1) that the records within the agency are exempted from this section if the system of records is, (1) subject to the provisions of section 552(b)(1) of this title."

Now, 552(b)(1) of this title is found in the present act, and what that says is:

> This section does not apply to matters that are, (1) specifically required by Executive order to be kept secret in the interests of the national defense or foreign policy."

Executive Order 652, issued on March 8, 1972, and effective on June 1, 1972, exempts 37 agencies with respect to all matters having to do with national defenses or foreign policy. It includes, of course, the CIA. It includes the Atomic Energy Commission. It includes the State Department; it includes the Department of Defense; it includes the Justice Department.

I cannot see, for the life of me, why the CIA should be generally exempt from all provisions having to do with access if these other agencies, just as sensitive, are not also generally exempt. They deal with just as sensitive material in the area of national security as the CIA does. The point is, though, if we generally exempt the CIA from access, then the CIA does not have to come out and say that if they revealed the information, that they refuse access to, it would affect national defense or foreign policy, that it has to do with the security of the United States.

I happen to know of a case in which an employee of the CIA has been shabbily treated. I think the particular case did not have to do with security. It had to do with a girl. Some boss did not much like an inferior officer seeing her. But I shall not assert that as a fact here but as a hypothetical illustrating the evil of giving the CIA complete exemption from access provisions of this Act. The CIA can come in and say at any time, "This affects foreign affairs." But let us, at least, make them say that, because many people working for the CIA are subject to exactly the same discriminations as those working for other agencies. The CIA is going to be believed when they raise the contention that foreign affairs are affected, but at least let us make them come in and say it. Presumably, there would be some reluctance to lie about it. But if all they have to say is, "We are blanketly exempt from any access to the information which you seek," we are absolutely protecting them in matters in which the grossest discrimination could occur.

Let me just say once again that I am not talking in favor of opening up access to CIA's files with respect to matters of security, because the second exemption, the specific exemption provisions provided for in this act, refers to 552(b)(1). That says that nothing may be obtained which the Executive order requires to be kept secret in the interest of national defense or foreign policy and an Executive Order 652 has been issued and totally, blanketly covers all such matters pertaining to national defense and foreign policy.

The CHAIRMAN pro tempore (Mr. McFALL). The question is on the amendment offered by the gentlewoman from New York (Ms. ABZUG).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ICHORD: On page 34, strike lines 7 through 11 and insert the following in lieu thereof:
>
> "(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: *Provided, however,* That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence."

Mr. ICHORD. Mr. Chairman, again I wish to commend the gentleman from Pennsylvania (Mr. MOORHEAD) and the gentleman from Illinois (Mr. ERLENBORN), as well as the members of the committee and the staff, for the very superb job they have done in balancing the rights of the individual against the rights of society in general and protecting the privacy of the individual.

All this amendment does is to protect the investigatory material of investigating agencies such as the FBI from being raided by thousands and perhaps tens of thousands of persons for no legitimate purpose.

I explained the amendment in general debate, and, Mr. Chairman, the language of this amendment has been worked out in conjunction with the managers of the bill, the gentleman from Pennsylvania (Mr. MOORHEAD) and the gentleman from Illinois (Mr. ERLENBORN).

The purpose of this amendment is to protect our investigative agencies from activities which I do not believe is an exaggeration to say might seriously impair if not destroy their function in carrying out their vital work. The amendment would both protect this work and, at the same time, do so consistently with the attainment of the purposes and objectives of the bill. The provisions of the bill, particularly subsection (b), provides complete and adequate protection against improper or injurious dissemination of information beyond the legitimate uses of the Federal agencies maintaining them. My amendment in no way affects this laudable purpose, or those provisions against disclosure which fully protect the individual affected by prohibiting any improper use of investigatory material.

All that the amendment does is to protect the investigatory material from being raided by thousands and perhaps tens of thousands of persons for no legitimate purpose. I assure the Members that the investigative materials would be raided by the host of persons, including subversives, who would merely seek to ascertain the extent of coverage and method and adequacy of operation of our intelligence forces. This improper raiding of the investigatory files will be prohibited by my amendment, but at the same time individuals who have the legitimate need and purpose for the disclosure to them of the information is preserved. The amendment provides that in any case where an individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, as a result of the maintenance of such material, he will be entitled to the information, to the extent, of course, that the identity of confidential sources will be protected.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I understand that this amendment is also subject to the colloquy we had in general debate concerning protection of dissenters under the first amendment; is that correct?

Mr. ICHORD. The gentleman is correct. This is meant in no way to harm the first amendment rights of any American.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, with that understanding, I have no objection to the amendment.

The CHAIRMAN pro tempore (Mr. McFALL). The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. GUDE: Page 36, line 6, after the period, insert the following:
>
> "(n) Federal Privacy Commission
>
> "(1) Establishment of Commission—
>
> "(A) There is established as an independent agency of the executive branch of the government the Federal Privacy Commission.
>
> "(B)(1) The Commission shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate, from among members of the public at large who, by reason of their knowledge and expertise in any of the following areas: civil rights and liberties, law, social sciences, and computer technology, business, and State and local government, are well qualified for service on the Commission and who are not otherwise officers or employees of the United States. Not more than three of the members of the Commission shall be adherents of the same political party.

"(ii) One of the Commissioners shall be appointed Chairman by the President.

"(iii) A Commissioner appointed as Chairman shall serve as Chairman until the expiration of his term as a Commissioner of the Commission (except that he may continue to serve as Chairman for so long as he remains a Commissioner and his successor as Chairman has not taken office). An individual may be appointed as a Commissioner at the same time he is appointed Chairman.

"(C) The Chairman shall preside at all meetings of the Commission and a quorum for the transaction of business shall consist of at least three members present (but the Chairman may designate an Acting Chairman who may preside in the absence of the Chairman). Each member of the Commission, including the Chairman shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman) shall be the official spokesman of the Commission in its relations with the Congress. Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct.

"(D) Each Commissioner shall be compensated at the rate provided for under section 5314 of title 5 of the United States Code, relating to level IV of the Executive Schedule.

"(E) Commissioners shall serve for terms of three years. No Commissioner may serve more than two terms. Vacancies in the membership of the Commission shall be filled in the same manner in which the original appointment was made.

"(F) Vacancies in the membership of the Commission, as long as there are three Commissioners in office, shall not impair the power of the Commission to execute the functions and powers of the Commission.

"(G) The members of the Commission shall not engage in any other employment during their tenure as members of the Commission.

"(2) Personnel of the Commission—

"(A) The Commission shall appoint an Executive Director who shall perform such duties as the Commission may determine. Such appointment may be made without regard to the provisions of title 5, United States Code.

"(B) The Executive Director shall be compensated at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

"(C) The Commission is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the provisions of this section.

"(D) The Commission may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(3) Functions of the Commission. The Commission shall—

"(A) publish annually a United States Directory of Information Systems containing the information specified to provide notice under subsection (e)(2) of this section for each information system subject to the provisions of this section and a listing of all statutes which require the collection of such information by a Federal agency;

"(B) investigate, determine, and report any violation of any provision of this section (or any regulation adopted pursuant thereto) to the President, the Attorney General, the Congress, and the General Services Administration where the duties of that agency are involved, and to the Comptroller General when it deems appropriate; and

"(C) develop model guidelines for the implementation of this section and assist Federal agencies in preparing regulations and meeting technical and administrative requirements of this section.

"(D) In addition to its other functions the Commission shall—

"(i) to the fullest extent practicable, consult with the heads of appropriate departments, agencies, and instrumentalities of the Federal Government in carrying out the provisions of this section;

"(ii) perform or cause to be performed such research activities as may be necessary to implement the provisions of this section and to assist Federal agencies in complying with the requirements of this section;

"(iii) determine what specific categories of information should be prohibited by statute from collection by Federal agencies on the basis that the collection of such information would violate an individual's right of privacy.

"(4) Confidentiality of Information—

"(A) Each department, agency, and instrumentality of the executive branch of the Government, including each independent agency, shall furnish to the Commission, upon request made by the Chairman, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

"(B) In carrying out its functions and exercising its powers under this section, the Commission may accept from any Federal agency or other person any identifiable personal data if such data is necessary to carry out such powers and functions. In any case in which the Commission accepts any such information, it shall provide appropriate safeguards to insure that the confidentiality of such information is maintained and that upon completion of the purpose for which such information is required it is destroyed or returned to the agency or person from which it is obtained, as appropriate.

"(5) Powers of the Commission—

"(A) The Commission may, in carrying out its functions under this section, conduct such inspections, sit and act at such times and places, hold such hearings, take such testimony, require by subpena the attendance of such witnesses and the production of such books, records, papers, correspondence, and documents, administer such oaths, have such printing and binding done, and make such expenditures as the Commission deems advisable. Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by the Chairman and shall be served by any person designated by the Chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

"(i) In case of disobedience to a subpena issued under subparagraph (A) of this subsection, the Commission may invoke the aid of any district court of the United States in requiring compliance with such subpena. Any district court of the United States within the jurisdiction where such person is found or transacts business may, in case of contumacy or refusal to obey a subpena issued by the Commission, issue an order requiring such person to appear and testify, to produce such books, records, papers, correspondence, and documents, and any failure to obey the order of the court shall be punished by the court as a contempt thereof.

"(ii) Appearances by the Commission under this section shall be in its own name. The Commission shall be represented by attorneys designated by it.

"(B) Section 6001(1) of title 18, United States Code, is amended by inserting immediately after "Securities and Exchange Commission," the following: "the Federal Privacy Commission."

"(C) The Commission may delegate any of its functions to such officers and employees of the Commission as the Commission may designate and may authorize such successive redelegations of such functions as it may deem desirable.

"(D) In order to carry out the provisions of this section, the Commission is authorized—

"(i) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel;

"(ii) to adopt, amend, and repeal interpretative rules for the implementation of the rights, standards, and safeguards provided under this section;

"(iii) to enter into contracts or other arrangements or modifications thereof, with any government, any agency or department of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (51 U.S.C. 5);

"(iv) to make advance, progress, and other payments which the Commission deems necessary under this section without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

"(v) receive complaints of violations of this Act and regulations adopted pursuant thereto; and

"(vi) to take such other action as may be necessary to carry out the provisions of this section.

"(6) Reports—

"The Commission shall, from time to time, and in an annual report, report to the President and the Congress on its activities in carrying out the provisions of this section."

Mr. GUDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. GUDE. Mr. Chairman, this amendment establishes a Federal Privacy Commission which is a vital necessity if privacy legislation is to become a meaningful statute. Clearly the key to the maintenance of successful privacy standards will be the degree of cooperation provided by federal agencies which have to implement the program. This Commission, which would coordinate and assist in those efforts, will be an important tool for gaining the necessary agency cooperation.

The Commission would be composed of five full time members appointed by the President with the advice and consent of the Senate. The functions of the Commission would be to:

First, publish annually a Directory of Information System containing data on Federal agency information systems and the statutes which require the collection of information;

Second, investigate and report agency violations of this section of the bill;

Third, develop model guidelines and provide assistance to federal agencies for the implementation of this section;

Fourth, provide consultation and research services to aid agencies in carrying out the provisions of this section; and

Fifth, determine what categories of information Federal agencies should be forbidden to collect.

To fulfill these responsibilities the Commission would have rulemaking authority, the power to hold hearings, administer oaths and receive evidence, including complaints of violations of provisions of the Act, and subpena power. Additionally the Commission could gain access to any agency information system and any identifiable information, so long as appropriate safeguards are maintained to insure confidentiality.

The Commission's powers are more limited than those provided in other earlier proposals. For example, its activities are limited to concern with the provisions of this act and not any other freedom of information legislation; and it will not be able to issue orders directing an agency to comply with the requirements of the act. However, the Commission will serve as a focus of attention for information and privacy issues and will also be a watchdog over agencies which are responsible for implementing the provisions of the act.

In my view, this Commission would be an essential element in the implementation of privacy legislation. As the bill presently reads, it contains no provision for the establishment of an administrative body to oversee implementation of the legislation. I know some say we should take a "wait and see" attitude about a privacy commission.

However, such a "wait and see" attitude is exactly the opposite of what is needed, because the major problems of implementation and the inevitable adjustments in the ways agencies work are going to occur at the beginning of the program, not later on. At a minimum, this Commission should be established to oversee, monitor, and evaluate the newly legislated safeguard requirements and to offer information and assistance to Federal agencies in their efforts to comply with the act. As with any new program, there will be problems and these problems will occur in the beginning when the program is being set up. A central source of expertise and guidance and a coordinated approach to these problems should serve to reduce rather than increase administrative costs over the long run.

Moreover, we would be more than naive if we failed to recognize that individual Federal agencies cannot be expected to take an aggressive role in enforcing privacy legislation. Enforcement of the provisions of this bill will be secondary to each agency's legislative mandate and will, of necessity, cause some inconvenience. I believe it is clear that making administration of privacy standards every agency's responsibility really means making it no agency's responsibility. Only by providing a separate independent agency to act as a focus for privacy activities and concerns and for coordinating the privacy programs of the various Federal agencies can we be assured to uniform effective enforcement of the rights guaranteed by this bill.

Mr. Chairman, this Commission is very much in the interest of getting legislation which affects the privacy of all American citizens and specifically Federal employees. I very much hope and urge that the committee will adopt this amendment.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to this amendment with great regret, because the gentleman from Maryland was one of the most productive members of the subcommittee in helping draft this legislation.

I do have to oppose the amendment, first, because it was considered in subcommittee and voted down. Second, it was considered in the full committee, and it was voted down.

I can understand why the gentleman from Maryland asked unanimous consent to dispense with the reading of the amendment, because it is a long, three-page amendment. It is really a bill in and of itself.

I do oppose this amendment to create a Federal privacy commission for a number of important reasons.

First, as I say, it was voted down at the markup session. It was overwhelmingly defeated.

Second, it would add to the overall cost of the bill and create another level of bureaucracy between the citizen and the Federal agency and his right to his own personal records.

Third, it could impede the operation of the various civil remedies afforded to individual Americans in the courts.

Fourth, as President Ford stated in his remarks referred to earlier in the debate:

> I do not favor establishing a separate commission or board bureaucracy empowered to define privacy in its own terms and to second-guess citizens and agencies.

It seems to me that it would be better to have an independent branch of the Government, that is, the judicial branch, oversee the Executive rather than another branch of the executive overseeing the Executive.

Finally, if, in this instance, the courts do not do the excellent job they have done under the Freedom of Information Act, then we in Congress can always in the future create a privacy board.

But if we create this commission it will surely develop its own constituency, and be extremely difficult to reverse if we have made a mistake.

Instead, Mr. Chairman, this bill, patterned after the Freedom of Information Act, makes each agency directly responsible, and publicly and legally accountable for its faithful administration of this law. I am sure that the courts will do their duty. Vigorous congressional oversight will also help keep the bureaucracy in line.

I can assure the Members that our committee will fully exercise such authority. Therefore, I urge the defeat of the amendment.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, I am pleased with the statement made by the gentleman from Pennsylvania. As the gentleman has stated, this creates another bureau to watch the watchers, one might say, and it also gives this commission some powers to make recommendations, rules, and regulations on the basis of their judgment rather than upon the basis of the language of the bill, which I think is adequate enough to give the citizens a right.

It also would mean that undoubtedly people who were dissatisfied would go to the commission for relief, rather than to let their wishes be known to the courts, or if they did not want to go to the courts to go to the committee, which will have continuing oversight over this.

This is a committee which has had the interest to hold the hearings, and develop this bill after a great many consultations with people in the Department of Justice and other departments of the Government, and also with representatives of the administration. The President even went out of his way in his message on October 9 to say specifically that we should not create a commission, as the gentleman from Pennsylvania has mentioned.

So, for that reason, as well as others, I think this ought to be voted down. In making that statement, may I add further that I certainly do not want to disparage the attitude or the industry of the gentleman from Maryland (Mr. GUDE), who has been a fine member of our committee.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I join the gentleman from Pennsylvania (Mr. MOORHEAD) in opposing the amendment. I think the gentleman from Pennsylvania has very well articulated the reasons the amendment should be opposed. Therefore, I hope the amendment will be defeated.

Ms. ABZUG. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

Mr. Chairman, I really am somewhat surprised to hear the gentlemen oppose this Commission, since this commission was modeled on a bill, H.R. 4960, which was introduced in February 1973, by Mr. HORTON, and cosponsored by Mr. ERLENBORN, and of course Mr. GUDE, who is the author of the amendment, Mr. HANRAHAN, Mr. MCCLOSKEY, Mr. MOORHEAD, my distinguished chairman, Mr. PRITCHARD, Mr. REGULA, and Mr. THONE. It is basically the same Commission that was proposed in the legislation originated by these gentleman, and I am finding it very difficult to figure out why they have changed their minds.

Mr. ERLENBORN. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. Well, I guess so.

Mr. ERLENBORN. Mr. Chairman, I thank the gentlewoman for her gracious yielding to me.

The bill that the gentlewoman has referred to, of course, was not a privacy commission because we did not have a privacy bill before us at the time, or a privacy act; that was a Freedom of Information Commission.

Ms. ABZUG. I understand it was a freedom of information commission, and the fact is that the same reasons that it was proposed there are the same reasons it was proposed here. I believe we should have a commission which covers both the Freedom of Information Act and this Privacy Act. But this Commission is being proposed by the gentleman from Maryland (Mr. Gude) only for the privacy act, and there is good reason for this.

For example, the bill which is before the other body, which is the counterpart of our bill, provides for a privacy commission. We are charting an important course and, quite contrary to what my colleagues have suggested, we have not proposed any judicial or quasi-judicial functions for this Commission.

We are not proposing a superagency with enforcement powers over other agencies. Quite to the contrary, what we are doing is suggesting that there be a mechanism established which will help us in the implementation of this very important Privacy Act. One of the specific needs will be to insure that in developing rules and guidelines relating to personal information systems, agencies will have the benefit of some expertise and will achieve some degree of uniformity.

So it will really make it easier and more economical to implement this legislation.

I find it very interesting that it was suggested that we had a full hearing on this matter before our full committee. If I may refresh the recollection of my subcommittee chairman, it is true that we raised it in the subcommittee. It is true it was defeated in the subcommittee. As a matter of fact, when I pointed out that this was patterned after the bill of the members of the committee, they thought they would like to reconsider it. But this amendment was never considered in full committee, because I was interested in helping the bill get to the floor, and I said we would bring these amendments up on the floor instead.

I am a little surprised, if I may have the attention of the Chairman. I was contradicting him, and I thought he should hear me contradict him. It would be impolite of me not to call it to his attention. We certainly did not have action on this in the full committee, but only in the subcommittee. In the full committee, if the Chairman will recall, I yielded to the desire of everyone to bring a bill to the floor, and we said we would bring up amendments on the floor.

As a matter of fact, I had the impression that this amendment would be favorably supported by the ranking members of the committee, as well as the Chairman, when the gentleman from Maryland (Mr. Gude) proposed it.

If we want to make this bill significantly workable and effective, it needs just such a commission. Without it, there will be confusion; there will be chaos. Each agency will act like a lord making different regulations come about in different ways. This amendment would furnish a mechanism which could really help this act to become effective.

I heartily support this amendment.

Mr. GUDE. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from Maryland.

Mr. GUDE. I thank the gentlewoman for yielding.

I want to thank the gentlewoman for her remarks. Certainly there is no Member of Congress who is not aware of the variation of the agencies of the Federal Government as far as their interest in the sensitivity of citizens' rights. We can see some agencies going off in one direction, unconcerned about privacy, and others complying with this bill. We need this commission desperately.

Mr. KOCH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Maryland (Mr. Gude).

The Federal Privacy Board was incorporated into the original legislation which I first initiated, and I have always supported that Board. I recognize that reasonable people can disagree on any matter, and I recognize the disagreement here. Arguments have been given on both sides, and while I support the Federal Privacy Board, I do not for a moment believe that those who are in opposition do so because they want to weaken the legislation. It is a philosophical matter as to whether or not we want to introduce what some have called another layer of Government.

What I should like to point out to the Members is that whether we call it a Federal Privacy Board and give it independent status, or pass the legislation without the Federal Privacy Board in accordance with the Gude amendment, we must have some kind of a privacy board to regulate what will happen, and the functions of the Federal Privacy Board will be executed probably by OMB. But they will not be able to execute them as well, as efficiently, as ably as a Federal Privacy Board given the powers that the Gude amendment would give to it. I think it is a very important amendment, I am pleased that the Senate has that provision in its bill.

I would hope that ultimately whatever legislation is enacted by both Houses of this Congress we will incorporate this in the Federal privacy bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. Gude).

The question was taken; and on a division (demanded by Mr. Gude) there were—ayes 9, noes 29.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. KOCH

Mr. KOCH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Koch: Page 29, line 24, immediately after "subsection" insert "and agency notices published under subsection (e)(2) of this section".

Mr. KOCH. Mr. Chairman, I discussed this amendment with both sides of the aisle and if I understand it correctly it is acceptable to them, so I will not belabor the point. It merely requires that the Office of the Federal Register shall annually compile and publish rules and notices as opposed to rules as now provided in the bill itself.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, if the gentleman will yield, we have no objection to the amendment.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, we have no objection.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I rise in support of the amendment presented by my colleague from New York (Mr. Koch). A directory describing each personal information system is a vital tool for the citizen. Without it, he could search fruitlessly for particular data banks among the more than 850 in the Federal Government. We must require the Government to do more than end secrecy about the existence of personal information they keep. We must pull away the cloak of mystery about how to get access to personal files or obtain a copy by mail.

The legislation before us provides only for printing the existence and character of these personal information systems in the Federal Register? This would mean up to 900 different entries could be spread over a 12-month period. Asking individuals to wade through copies of the Federal Register is foolhardy. Simply cataloging agencywide regulations will similarly frustrate the citizen searching for a specific system.

Mr. Chairman, the corrective language proposed by Mr. Koch will give us the directory of Federal data banks we need and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Koch).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Abzug: Page 34, line 12, strike out line 12 and all that follows through line 14.

Page 34, line 15, change "(4)" to "(3)".

Ms. ABZUG. Mr. Chairman, I object to this exemption for many of the same reasons that I objected to the general exemption for the CIA. Exemptions should be defined in specific terms and in terms related to the societal interest or public policy to be served.

Yet, here again, we have defined the exemption in terms of the function of the agency rather than in terms of the nature of the records. What sensitive data are we seeking to protect by allowing the Secret Service to exempt all its records from the requirements of the bill?

The committee report tells us on page 19 that:

> Access to Secret Service intelligence files on certain individuals would vitiate a critical part of Secret Service work which was specifically recommended by the Warren Commission. . . .

This is ridiculous. I read the Warren Commission report. What did it recommend? What it recommended was that there be maintenance of more selective files in a more efficient and sophisticated manner, specifically, for example, by conversion to automatic data processing.

I am not convinced that the maintenance of some 84,000 files—which is the number of files maintained by the Secret Service, according to the Ervin Subcommittee on Constitutional Rights report just issued—is any indication that the Secret Service is now doing a better job of "attempting to identify those persons who might prove a danger to the President." The mere size of this group may indicate quite the contrary; but that also is not the point.

Even assuming that these files must be maintained and perhaps there is justification for maintaining some 300 or 400 files I fail to see the connection between this exemption and the Warren Commission recommendations. How would access to one's files interfere with the mandate of the Secret Service?

As a matter of fact, the Ervin Subcommittee on Constitutional Rights made a comment about this and they said that withholding permission for revision of files by individuals concerned would seem to serve no valid purpose. Surely the Secret Service has nothing to gain by maintaining erroneous information that can be corrected by individuals—and that is one of the prime rights under this act. If we are trying to prevent acts of violence, how does disclosure of information defeat that goal? An argument could well be made that such disclosure would, in fact, act as a deterrent.

So before voting on this amendment, it should be clear to all of you that the striking of the proposed exemption will have absolutely no effect on the essential work of the Secret Service, which is the maintenance of accurate and selective files. It will have no effect on its functions. All I am saying is, if there are Secret Service files, as indeed there are, they have enough protection under the exemption provisions of this act. But if there are people's names listed galore, as we know there are in their files, because they said they disagreed with what somebody in Government said, they have a right to know what cranks are making statements against them. They have a right to correct their files. They have a right to know whether their privacy is being invaded.

I think it is shocking that we should take a particular agency and give it a blanket exemption, when there is ample protection under the act. We are again sacrificing basic individual rights of privacy for some strange reason that is mumbo-jumbo.

If one mentions the CIA, he cannot do a thing. If one mentions the Secret Service, he cannot do a thing. It is time we stopped this mindless mentioning of agencies and accomplish the real purposes of this bill.

I urge support of my amendment.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment would strike the specific exemption provision on page 34, lines 12 through 14, of the protective services of the President of the United States.

This does not exempt particularly from the operation of the bill the maintenance of these records. The sections that could be under regulations exempted are (c)(3), (d), (e)(1)(2) (G) and (H).

Now, if I am interpreting this correctly, and I think I am, this still would require an identification of the system under section (e)(1), lines 11 through 24.

That would require that in the Federal Register the following things be published:

> "(A) the name and location of the system;
>
> "(B) the categories of individuals on whom records are maintained in the system;
>
> "(C) the categories of records maintained in the system;
>
> "(D) each routine purpose for which the records contained in the system are used or intended to be used, including the categories of users of the records for each such purpose;
>
> "(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;
>
> "(F) the title and business address of the agency official who is responsible for the system of records;

That means that many of the provisions of the act, and I think also including the prohibition of transfer to other agencies, except for those purposes that have been identified as routine uses, will be applicable to these records.

I think the only real harm we could envision would be transfer of this information to some other agency where the person would be harmed in his application for employment or some other right or privilege under the laws of the United States.

Since these other provisions are still applicable to the system, I think that the specific exemption here providing that access not be made available to the persons who are named in the system is a valid exemption, one that is necessary. It falls under the same general category of law enforcement where we already have an exemption. Therefore, I think the amendment should be defeated.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is much of the criticism of the Secret Service by the gentlewoman from New York that is correct. The list of the protective service by the Secret Service has gotten too broad. It does contain names of people who are not a real threat, but merely dissidents exercising the American right of dissent.

But, on the other hand, the list also contains the names of people who are a real threat, and they contain informers and information about the techniques of protection. We have to recognize that in this day and age, unfortunately, assassination, holding hostage and killing has become too prevalent so that an amendment which completely eliminates the secrecy of the legitimate protective right of the Secret Service just goes too far.

As I have discussed with the gentleman from Illinois (Mr. ERLENBORN) and as we have said to the gentlewoman from New York (Ms. ABZUG), we intend to hold a hearing and hold the feet of the Secret Service to the fire to weed out and make this list really something small so that they can be effective. If it is a broad list, it really does not do the job we want to have done to protect not only the President, but other officers of the Government and visiting dignitaries.

It seems to me that the amendment goes too far. We cannot be sure they would be exempt under other exemptions, and I think the correct way to proceed, as I have promised, is to hold intensive, hard-hitting hearings next year.

I would ask the gentleman from Illinois if, as he told me in private, he would cooperate fully in this endeavor.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I agree with the gentleman, and I hope we will hold those hearings early in the next Congress.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I thank the gentleman, and I urge the defeat of the amendment.

The CHAIRMAN pro tempore (Mr. BRADEMAS). The question is on the amendment offered by the gentlewoman from New York (Ms. ABZUG).

The amendment was rejected.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before the Committee rises, I wish to summarize briefly the present situation on the privacy bill. On October 9, President Ford issued a statement, which I include at this point in the RECORD, endorsing H.R. 16373, the Privacy Act of 1974:

STATEMENT BY THE PRESIDENT

Legislation to protect personal privacy is making significant progress in the Congress. I am delighted about the prospect of House and Senate action at this session.

Renewed national efforts to strengthen protections for personal privacy should begin in Washington. We should start by enacting uniform fair information practices for the agencies of the Federal government. This will give us an invaluable operating experience as we continue to examine and recommend needed actions at the State and local level and in the private sector.

The immediate objective should be to give every citizen the right to inspect, challenge and correct, if necessary, information about him contained in Federal agency records and to assure him a remedy for illegal invasions of privacy by Federal agencies accountable for safeguarding his records. In legislating, the right of privacy, of course, must be balanced against equally valid public interests in freedom of information, national defense, foreign policy, law enforcement, and in a high quality and trustworthy Federal work force.

> Immediately after I assumed the chairmanship, as Vice President, of the Cabinet-level Domestic Council Committee on the Right of Privacy, I asked the Office of Management and Budget to work jointly with the Committee staff, the Executive agencies and the Congress to work out realistic and effective legislation at the earliest possible time. Substantial progress has been made by both the Senate and the House on bills extending personal privacy protections to tens of millions of records containing personal information in hundreds of Federal data banks.
>
> H.R. 16373, the Privacy Act of 1974, has my enthusiastic support, except for the provisions which allow unlimited individual access to records vital to determining eligibility and promotion in the Federal service and access to classified information. I strongly urge floor amendments permitting workable exemptions to accommodate these situations.
>
> The Senate, also, has made substantial progress in writing privacy legislation. S. 3418 parallels the House bill in many respects, but I believe major technical and substantive amendments are needed to perfect the bill. I do not favor establishing a separate Commission or Board bureaucracy empowered to define privacy in its own terms and to second guess citizens and agencies. I vastly prefer an approach which makes Federal agencies fully and publicly accountable for legally mandated privacy protections and which gives the individual adequate legal remedies to enforce what he deems to be his own best privacy interests.
>
> The adequate protection of personal privacy requires legislative and executive initiatives in areas not addressed by H.R. 16373 and S. 3418. I have asked Executive branch officials to continue to work with the Congress to assure swift action on measures to strengthen privacy and confidentiality in income tax records, criminal justice records and other areas identified as needed privacy initiatives by the Domestic Council Committee on the Right of Privacy.

He made two points on which this endorsement was conditioned—

First, adoption of what has been embodied in the Erlenborn amendment; and

Second, defeat of any amendment calling for creation of a so-called Privacy Commission.

Mr. Chairman, both of these conditions have been met. While I personally opposed the Erlenborn amendment and voted against it, it was nevertheless adopted yesterday on a 192 to 177 recorded vote. The amendment to establish a Privacy Commission, offered by the gentleman from Maryland (Mr. GUDE) earlier today, was defeated.

Mr. Chairman, this bill, as now before us, therefore meets the specific criteria set forth for privacy legislation by President Ford last month. I urge Members on both sides of the aisle to give it the same enthusiastic support as that expressed by President Ford and by many others from all parts of the political spectrum. We do not claim that will solve all of the privacy problems which abound in modern society. It is not a perfect bill: But it is a start and an important first step in the right direction.

Mr. Chairman, section 522a(b)(2) of the bill allows an agency to disclose records contained in a system of records "for a routine use described in any rule * * *."

It would be an impossible legislative task to attempt to set forth all of the appropriate uses of Federal records about an identifiable individual. It is not the purpose of the bill to restrict such ordinary uses of the information. Rather than attempting to specify each proper use of such records, the bill gives each Federal agency the authority to set forth the "routine" purposes for which the records are to be used under the guidance contained in the committee's report.

In this sense "routine use" does not encompass merely the common and ordinary uses to which records are put, but also includes all of the proper and necessary uses even if any such use occurs infrequently. For example, individual income tax return records are routinely used for auditing the determination of the amount of tax due and for assistance in collection of such tax by civil proceedings. They are less often used, however, for referral to the Justice Department for possible criminal prosecution in the event of possible fraud or tax evasion, though no one would argue that such referral is improper; thus the "routine" use of such records and subsection (b)(2) might be appropriately construed to permit the Internal Revenue Service to list in its regulations such a referral as a "routine use."

Again, if a Federal agency such as the Housing and Urban Development Department or the Small Business Administration were to discover a possible fraudulent scheme in one of its programs it could "routinely," as it does today, refer the relevant records to the Department of Justice, or its investigatory arm, the FBI.

Mr. Chairman, the bill obviously is not intended to prohibit such necessary exchanges of information, providing its rulemaking procedures are followed. It is intended to prohibit gratuitous, ad hoc, disseminations for private or otherwise irregular purposes. To this end it would be sufficient if an agency publishes as a "routine use" of its information gathered in any program that an apparent violation of the law will be referred to the appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

It should be noted that the "routine use" exception is in addition to the exception provided for dissemination for law enforcement activity under subsection (b)(6) of the bill. Thus a requested record may be disseminated under either the "routine use" exception, the "law enforcement" exception, or both sections, depending on the circumstances of the case.

Mr. Chairman, section 552a(b)(6) authorizes dissemination of records contained in a system of records "to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request * * *."

The words "head of the agency" deserve elaboration. The committee recognizes that the heads of Government departments cannot be expected to personally request each of the thousands of records which may properly be disseminated under this subsection. If that were required, such officials could not perform their other duties, and in many cases, they could not even perform record requesting duties alone. Such duties may be delegated, like other duties, to other officials, when absolutely necessary but never below a section chief, and this is what is contemplated by subsection (b)(6). The Attorney General, for example, will have the power to delegate the authority to request the thousands of records which may be required for the operation of the Justice Department under this section.

Mr. Chairman, "agency" is given the meaning which it carries elsewhere in the Freedom of Information Act, 5 United States Code, section 551(1), as amended by H.R. 12471 of this Congress, section 552(e), on which Congress has acted to override the veto. The present bill is intended to give "agency" its broadest statutory meaning. This will permit employees and officers of the agency which maintains the records to have access to such records if they have a need for them in the performance of their duties. For example, within the Justice Department—which is an agency under the bill—transfer between divisions of the Department, the U.S. Attorneys' offices, the Parole Board, and the Federal Bureau of Investigation would be on a need-for-the-record basis. Transfer outside the Justice Department to other agencies would be more specifically regulated. Thus, transfer of information between the FBI and the Criminal Division of the Justice Department for official purposes would not require additional showing or authority, in contrast to transfer of such information from the FBI to the Labor Department.

Mr. Chairman, this bill is not designed to interfere with access to information by the courts. Thus a court is not defined as an "agency" nor is it intended to be a "person" for purposes of this legislation. Therefore, the necessary orderly flow of information from Government agencies to the courts will not be impeded. The Congress is treated similarly to the courts; it is also excluded from the definition of "agency."

Mr. **HOLIFIELD.** Mr. Chairman, will the gentleman yield?

Mr. **MOORHEAD** of Pennsylvania. I yield to the distinguished chairman of the full committee, the gentleman from California (Mr. HOLIFIELD).

Mr. **HOLIFIELD.** Mr. Chairman, at this time I would like to pay tribute to the chairman of the subcommittee and the ranking minority member of that subcommittee, and all of the members of the subcommittee who participated in this very long and laborious and important bill. It is a complicated bill and treads new ground, as the subcommittee chairman has said. It may not be as complete as some would want, and it may have some things in it others do not want.

It is something I think that the House can get behind, and I do know the deep interest of the gentleman from Pennsylvania and the gentleman from Illinois in this subject matter, as well as the other Members of the committee, and I know that their oversight on this will be an active and living oversight in the days to come. You cannot grow a full-grown oak by one act, planting. Every piece of legislation that I have worked on in the 32 years I have been here has had to be supervised by the committee or attended to and changed from time to time, with changing conditions, or with information that comes in that indicates changes are necessary. I want to commend both of the gentlemen and members of the committee for work they have done on this. I believe it is a good bill and I intend to vote for it.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for his kind remarks.

Mr. KEMP. Mr. Chairman, I rise in support of the bill H.R. 16373, the proposed Privacy Act of 1974, and the principles embodied within it. The American people deserve the type of protection of their privacy provided by this legislation and I ask that it be passed overwhelmingly.

This is not a new subject area to me.

During this Congress I have sponsored or cosponsored 16 separate measures relating to the right of privacy. These measures would tighten policy and procedures in such practices as the exchange of information about individuals between Government agencies and Government and industry; the use of social security numbers and other coding systems as universal identifiers; the procedures for approval of wiretaps and other forms of electronic surveillance; the inspection of confidential Federal income tax returns by unauthorized parties; the scope of the exclusions from the Freedom of Information Act; and, various forms of surveillance.

As a member of the Task Force on Privacy, the extensive final report of which was released several months ago, I had an opportunity to participate in the formulation of specific recommendations on what actions the Congress ought to take to further assure the adequacy of law as to the right of privacy.

And, as a member of the Committee on Education and Labor, I was deeply involved in—and supportive of—the enactment of the recent amendment to the Elementary and Secondary Education Act, an amendment tightening procedures for disclosure of information from student records maintained by school systems. Offered in the Senate by the distinguished and learned Senator from New York, JAMES L. BUCKLEY, this amendment, known as the Family Educational Rights and Privacy Act of 1974, is now law and became effective yesterday.

I regard the consideration of this bill today—the first comprehensive privacy bill to be reported by a House committee—as an indication both of the actual need for the protections embodied within it and of the growing awareness among legislators of that need.

THE PRIVACY ACT OF 1974

The bill before us, the Privacy Act of 1974, injects a new sensitivity to individual rights into all the recordkeeping practices of the Federal Government.

These fair information practices assert that there should be no recordkeeping system whose existence is a secret; that personal information in all files should be accurate, complete, relevant and up-to-date; that individuals should be able to review and correct almost all Federal files about themselves; that information gathered for one purpose should not be used for another without the individual's consent; and, that the security and confidentiality of personal files should be assured.

The adoption of these rules as Federal policy is of historic dimensions.

In amending title 5, Government organization and employees, of the United State Code, to reflect these rules, the following specific requirements would be given force of law:

Permits an individual to have access to records containing personal information on him kept by Federal agencies, for purposes of inspection, copying, supplementation and correction—with certain exceptions, including law enforcement and national security records.

Allows an individual to control the transfer of personal information about him from one Federal agency to another for nonroutine purposes by requiring his prior written consent.

Makes known to the American public the existence and characteristics of all personal information systems kept by every Federal agency.

Prohibits the maintenance by Federal agencies of any records concerning the political and religious beliefs of individuals unless expressly authorized by law or an individual himself.

Limits availability of records containing personal information to agency employees who need access to them in the performance of their duties.

Requires agencies to keep an accurate accounting of transfers of personal records to other agencies and outsiders and make such an accounting available, with certain exceptions to the individual upon his request.

Requires agencies, through formal rulemaking, to list and describe routine transfers and establish procedures for access by individuals to records about themselves, amending records, handling medical information, and charging fees for copies of documents.

Makes it incumbent upon an agency to keep records with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual in making determinations about him.

Provides a civil remedy by individuals who have been denied access to their records or whose records have been kept or used in contravention of the requirements of the act. The complainant may recover actual damages and costs and attorney fees if the agency's infraction was willful, arbitrary, or capricious.

Makes unlawful possession of or disclosure of individually identifiable information by a government employee punishable by a fine not to exceed $5,000.

Provides that any person who requests or obtains such a record by false pretenses is subject to a fine of not to exceed $5,000.

And, sets forth statutory provisions relating to archival records; requires annual report from the President on agency uses of exemptions; and provides that the law would become effective 180 days following enactment.

On the whole, these are the recommendations arising from the initial protection of privacy bill introduced this Congress, the Goldwater-Koch-Kemp bill, particularly as those recommendations relate to access, inspection, copying, supplementation, and correction of records.

The few problems associated with the bill reported by the Committee are susceptible, I believe, to remedy through the amendment process this afternoon.

PRIVACY OF MEDICAL RECORDS AND MEDICAL INFORMATION

Subsection (f) (3) of the proposed section 552a of title 5 would require that each agency maintaining a system of records to promulgate rules to establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him.

The committee's report clarifies this section with the following language:

> If, in the judgment of the agency, the transmission of medical information directly to a requesting individual could have an adverse effect upon such individual, the rules which the agency promulgates should provide means whereby an individual who would be adversely affected by receipt of such data may be apprised of it in a manner which would not cause such adverse effects. An example of a rule serving such purpose would be transmission to a doctor named by the requesting individual.

As one who is particularly concerned with the right of privacy as it pertains to medical records and information—those records and that information held by the Federal agencies as well as those held within the States—I am encouraged by the direction of the committee's action in this regard. But, more should be done.

It is for that reason that I introduced, on October 11, the bill, H.R. 17323, to establish a Federal Medical Privacy Board with responsibility for promoting protection of the right of privacy as it relates to personal medical information.

That bill would establish a comprehensive, mandatory program of protection of the confidentiality of medical records held by Federal agencies and would establish a financial assistance program to States which develop adequate programs for the protection of non-Federal records, held by Government or within the private sector, in their respective States.

This subject is too serious—and potentially too far-reaching—to be dealt with as just one of many items to be covered by a more comprehensive act. I support, as I indicated earlier, the provision in the bill now before us as to medical records, but I do not feel it is adequate.

Neither do I feel that amendments to that section which will be offered this afternoon—although I may support them because they do enhance this section of the bill—can adequately deal with this issue. Only the enactment of a comprehensive measure, like that contained in the proposed Medical Records Privacy Act, is required.

H.R. 17323 was introduced for the expressed purpose of soliciting the views of those to be affected by it—patients, hospital administrators, doctors, associations, insurance companies, attorneys, et cetera. Those comments are now coming in, and they will add immeasurably in the preparation of a perfected bill before the end of the session.

Mr. DRINAN. Mr. Chairman, this bill and the right to privacy have been long aborning. Over 80 years ago, Samuel Warren and Louis Brandeis published their seminal article on "The Right to Privacy" in the Harvard Law Review. In exalting the "right to be let alone," they identified the need to insulate from outside intrusion the "sacred precincts of private and domestic life."

Warren and Brandeis predicted that the "question whether our law will recognize and protect the right to privacy must soon come before our courts for consideration." The expectation that the judiciary would secure these rights has not been fully realized. To be sure, the courts have ventured into the area to some degree. But the judicial attempts to protect privacy have been slow and uneven. They have not been adequate to meet the concerns of contemporary society, partly because technology has outdistanced the common law and partly because Government has out-distanced the common man.

The present need for legislation is quite plain. Through the unceasing efforts of Chairman MOORHEAD, Congressman KOCH, and others, the Privacy Act of 1974 is now before us. As a cosponsor of earlier versions of this bill and a participant in the drafting process through its principal sponsors, I have a particularly keen interest in it.

H.R. 16373 deals with a subject in which I have regularly expressed concern over the years. In the first days of my service in the House, I spoke to this body on the pernicious effects generated by the record-keeping activities of the Internal Security Committee. That practice and other recordations about the lives of our citizens continue on a daily basis by the agencies of the U.S. Government. Personal data which find their way into Government files often find their way out and into the hands of others.

The Privacy Act of 1974 seeks to arrest and control the dissemination of information already collected and stored. It does not purport to regulate the flow of data into Government files nor does it seek to affect the storage of such material. In this analytical sense it is a limited measure. But its importance cannot be overstated. Providing access for persons to examine their files and restricting the distribution of the information contained in them should receive the highest commendation.

H.R. 16373 is a major step in regulating individual files maintained by the Government. It would give individuals access to their files, allow copies to be made, and permit corrections to be inserted. The bill restricts access to records by agency employees on a "need-to-know" basis. Federal workers who could not demonstrate that threshold requirement would be prohibited from examining individual records. The bill would also severely limit the transfer of files from one agency to another. Finally it would require the agency to record the names of all persons who are given access to a person's file.

The bill also provides civil remedies and criminal penalties for violations of its commands. A person who has been aggrieved by agency action may bring suit in the United States District Court to correct any unlawful practice. During the course of that litigation, the district judge is authorized by section (g) (2) (A) to review de novo any determination by an agency, for example, that a record should be withheld. In deciding the case, the judge may order an in camera inspection to make sure that the agency, in refusing to disclose a record, has complied with the law.

These provisions for de novo review and in camera inspection of documents are extremely important. Because of them, the agency cannot hide behind an executive classification which seeks to place the file beyond the reach of the citizen and the Federal court. Under this section, the judge may require any agency, including the Central Intelligence Agency and law enforcement authorities, to produce the records in question for his examination to determine if they are properly within the scope of the claimed exemption.

It may be, for example, that an executive agency might seek to conceal some of its records by transferring them to the CIA for safekeeping. If those files were then sought by an individual, the CIA would undoubtedly resist turning them over to that person. If a suit were then instituted to compel disclosure, the judge could order the records produced for his in camera inspection to determine whether they were in fact CIA records exempted by the statute. In essence this provision achieves the same result as H.R. 12471, the Freedom of Information Act amendments, which we recently passed. In that bill, we included a similar section to overturn the decision of the Supreme Court in *Environmental Protection Agency* v. *Mink*, 410 U.S. 73 (1973). Section (g) (2) (A) of this bill has an identical thrust.

There are, to be sure, provisions in this bill which should give us pause. The general exemptions for the Central Intelligence Agency and for law enforcement authorities are unwarranted and unnecessary. There is no provision for the establishment of a Federal privacy board which was in the predecessor bill, H.R. 667. The 180-day delay in the effective date of this bill could reasonably be cut in half. But even so, it is still a good proposal.

The recent inquiry by this House into the office of the President disclosed a number of practices which invaded the privacy of American citizens. By regulating the manner in which Government agencies conduct their business, as this bill does, we take another important step in protecting the "sacred precincts of private and domestic life." H.R. 16373 does not guarantee that abuses will no longer occur, but it does place checks upon those who would exercise power improperly. I urge my colleagues to vote in favor of this measure.

Mr. MOAKLEY. Mr. Chairman, the bill that was brought before us today was a landmark piece of legislation. It was an essential first step toward the protection of every American's right to privacy.

Unfortunately, the bill on which we are about to vote is no longer such a landmark. We have reneged on our promise to the American people that we would pass legislation to protect the right of every individual to privacy.

We have exempted Federal employees from the protections offered in the provisions of this bill, and we have allowed those Federal agencies afraid to conduct their business in the light of day to continue to work under a cloak of secrecy.

I am voting for this bill, but I do so with the sincere hope that when we return in January as the 94th Congress we will keep the promise that we have made. I, for one, will continue to fight for strong legislation in the area of privacy.

We must establish through legislation an agency with direct oversight of privacy statutes and regulations.

We must reconsider the exceptions to this law, and we must severely narrow those exemptions.

I deeply regret that I cannot offer my wholehearted support for this legislation, legislation which in its former strong and comprehensive state I supported every step of the way since coming to Congress.

Mr. KOCH. Mr. Chairman, the first privacy legislation on the subject matter covered by the legislation on the floor today was the bill H.R. 7214 which I introduced on February 19, 1969. There is no legislation in which I have been involved here in the Congress that has given me greater satisfaction and a sense of accomplishment than this. The bill before us does not contain all of the safeguards that I would like to see in privacy legislation. I have some differences with respect to some provisions of the bill, but I do believe the bill to be one well worth supporting.

The basic weaknesses as I see them have to do with several areas. The bill is deficient in the area covering law enforcement agencies. However, that comes about because the House Judiciary Committee under the subcommittee chairmanship of DON EDWARDS is considering comprehensive legislation covering the entire criminal justice field. The Senate provision of the comparable bill which covers this particular area is preferable and yet that too is deficient when compared to the needs. Until the Justice Department can come forward with a proposal that the Congress can agee upon, criminal justice systems should be included in this privacy legislation. It would be completely unjustifiable to exempt criminal justice systems. Privacy legislation must affect law enforcement records. What is significant is section 3(e)(4) of the bill which applies to agency requirements which states that no agency, including law enforcement agencies, is permitted to maintain a record concerning the political or religious beliefs or activities of any individual unless expressly authorized by statute or by the individual himself.

The exemptions section should be limited only to those files having to do with national defense and foreign policy, information held pursuant to an active criminal investigation, and records maintained for statistical purposes not identifiable to an individual. I regret that the amendment to allow court assessment of punitive damages failed in a vote, and I also regret that the Erlenborn amendment to withhold from an individual the source of confidential information in his file carried.

There is one other area which is included in the Senate bill and that is the establishment of a Federal Privacy Commission which I hope will ultimately be incorporated in the final bill. Key to the concept of enforcing this privacy legislation, insuring the individual's privacy and the Federal agencies' carrying out of this function, is a Privacy Commission. Rather than fight the battle at this point, I would prefer that the legislation before us with its imperfections is sent to conference with the Senate, is perfected there and voted out before the 93d Congress adjourns. However, since the amendment to establish a Commission was voted down today, the House must be prepared to insure that the Commission's functions are absorbed in the privacy bill. The functions of the Commission are:

First, a directory of information systems;

Second, management of systems, oversight and privacy impact statements;

Third, research on the scope and effect of the systems; and

Fourth, an ombudsman role for the individual.

Basic to my 5-year effort to establish privacy standards for all Federal agencies has been the requirement that a directory of data banks be published and available to the general public. Provisions to this effect were part of the bipartisan measure which Congressman GOLDWATER and I introduced in April. Most regrettably, H.R. 16373 as reported contains no specific provision for the publication of a directory of the existence and character of personal systems of records in the executive branch. This can be remedied by minor changes to the agency notice and rule requirements sections of the bill.

The present agency requirements simply call for the annual noticing in the Federal Register of the existence and character of the systems of personal records together with important particulars about the location, categories of information, purpose, policies, practices address and procedures for notification and access. Under agency rules, all rules promulgated to carry out the requirements of the act, in compliance with section 553 of title 5 on rulemaking and public comment, must be published in the Federal Register and made available to the public. This language fails to require the publication of the character of each personal register with these rules. Therefore the public would not have any indication as to the different information systems to which they refer.

I understand there have been objections to an annual catalog of data banks by persons who claim it would be an unwieldy series of volumes. If a separate publication for agency rules were produced there would be two extensive documents. Convenience, uniformity, and likelihood of the general public's use of this information would be impaired. The cost might be prohibitive. As far as I know the so-called unworkability factor, duplication, and cost are the only OMB reasons for opposing a directory.

In an effort to learn the true operating situation, the mechanics of preparing and publishing such directories, I have consulted with officials of the Federal Register. Strangely, mine was the first inquiry from Congress about how to sort out these questions and see that H.R. 16373 is written in a prudent, clear form. These discussions provided me with several important conclusions;

First. An annual directory is not necessary once the basic catalog is published, after that annual updatings can be printed to list changes in registers or note totally new ones.

Second. The language providing for agency notice requires so much detail on procedures for access and notification, policies for storage and practices over such things as disposal of records, that this overlaps significantly into the rulemaking area. It would be impractical to separate the notice requirement and agency rules requirement, therefore they should be printed in the Federal Register concurrently and published in a directory in similar form.

Third. For the original implementation of reporting requirements, it would be wise to involve the Administrative Committee on Federal Reports composed of the Archivist, Attorney General, Public Printer with the Director of the Federal Register serving as its secretary. This committee could prepare a model notice and rule formats for the agencies thus helping to assure uniformity and consistency in presentation. Experience with the reports requirement of the Freedom of Information Act proves that a meaningful public document will need expert advice by the officials represented on this committee.

Mr. Chairman, I offered an amendment so an efficient and economical Directory of Federal Data Banks will be required in the Privacy Act of 1974. We cannot succeed in protecting privacy with a code of fair information practices which does not call for a publically available directory of personal registers.

I do feel that any agency establishing a new data system or substantially changing an existing one should obtain from the National Bureau of Standards an assessment of that system's security safeguards and that the agency should report on this to the Office of Management and Budget and the Congress.

With no Privacy Commission in the House bill, we must be concerned with how the function that the Commission would have performed by way of assessing the privacy impact of systems will be taken care of. The National Bureau of Standards should be consulted with and give an assessment of the security safeguards.

My office has consulted with NBS on this issue. NBS has the authority to issue standards and under the Brooks legislation, NBS with OMB does have input in regards to the procurement of data systems. However, at the present time it is totally permissive for agencies to come to the NBS for technical safeguard assessment before the agency launches new personal information systems. In fact, NBS has yet to be called in on one new start. This was particularly dramatic in the case of the FEDNET plan, advanced by GSA. We should specify that NBS should perform this assessment function, particularly in the area of security safeguards.

Doug Metz, deputy executive director of the Domestic Council Committee on the Right of Privacy has said that one of the task force recommendations made to the committee has been that the Federal Government establish policies and procedures to insure the establishment of privacy safeguards in new telecommunications and data processing systems or substantial modifications to existing systems. OMB is now clearing with Government agencies interim guidelines for such privacy screening.

Agencies should report on the security safeguards to the Congress and OMB prior to the establishment of a new system. In this way we will avoid the situation of another FEDNET being contemplated and the Congress not knowing until the proposal has reached the appropriation stage. At the moment there is no proper way in the early stages of a contemplated system for Congress to be notified. I see no reason why a similar report as the one now formally required by agencies for OMB cannot be furnished the Congress. Without such advance notice, in the preapproval stage, Congress will be left to search the Federal Register and may be relegated to commenting on new or modified systems, rather than to stop or redirect them.

Contained in all measures I have introduced to protect individual records and require open-access practices, is the establishment of a board to regulate, monitor, and hear public grievances. H.R. 16373 contains no privacy agency and leaves individuals largely adrift if they need assistance or wish to protest inability to exercise access or other rights to their personal records. The Senate bill does have a board exercising this function which I favor.

I have looked into the Office of Consumer Affairs possible role as an "ombudsman" for privacy complaints as Mrs. Knauer's office serves in the consumer protection area. Aside from good work in developing and circulating a code of fair information practices for retail stores and other businesses, the Office of Consumer Affairs is not well equipped with statutory authority, technical competence, or access to operating agencies.

This vacuum must be filled and I am hopeful that a Privacy Commission having these duties will prevail. The legislative history must indicate a public repository for assistance and complaints on compliance with data protection standards.

Congress has been plagued by lack of information on problems involving technology and practices of State and private personal records systems. No research dimension is called for in the House bill. In the Senate measure a well-formulated research program is provided. We are told that the Domestic Council Committee on Right to Privacy is now doing much of this job. That is fine. But Congress and the American people cannot be expected to rely on a temporary committee operating under the nonstatutory Domestic Council, at the behest of the sitting President, in the purview of regularly exercised executive privilege. While I have a high regard for the committee, the fact is they cannot give Congress assurance that the reports and background documents related to their several studies will be made public.

Mr. Chairman, I bring up these deficiencies, along with the need for clear language authorizing a directory, as constructive suggestions for consideration.

I am particularly proud of the fact that this legislation moved ahead in the year of the 93d Congress because it received across the board political support. It became known initially as the Koch-and Goldwater privacy bill. And, while it might have seemed strange to some that Koch and Goldwater could join together on some piece of legislation, those who understand the basic premise of conservative and liberal ideology appreciate the fact that on the issue of privacy there is a commonality of interest and concern. The bill before us is the work product of a great number of persons on the committee.

However, I again want to take special note of the enormous support and efforts that subcommittee Chairman William Moorhead and Congresswoman Bella Abzug gave in shaping the legislation, on the Democratic side in committee, as did all the members on that committee. And I also especially want to thank the ranking minority members, John Erlenborn and Frank Horton who worked so diligently to bring this legislation to the floor. The bipartisanship shown was reflected in the Government Operations Committee vote when it passed the bill out of committee 39 to 0. I also want to give special thanks to Senators Ervin, Percy, Bayh, Muskie, and Ribicoff for their efforts on the Senate side, which side is today considering companion legislation.

I shall now list the major areas that the bill covers:

First, it permits an individual to gain access to a file held on him by any Federal agency;

Second, permits any person to supplement the information contained in his file;

Third, permits the removal of erroneous or irrelevant information and provides that agencies and persons to whom the erroneous or irrelevant material has been previously transferred, be notified of its removal;

Fourth, prohibits records from being disclosed to anyone outside a Federal agency, except on an individual's request and when permitted by this act in some specified cases;

Fifth, requires an agency to inform an individual of his or her rights when supplying information to the agency;

Sixth, requires an agency to publish notice in the Federal Register of the existence of any system of records held by that agency so that no system will be secret;

Seventh, requires an agency to set rules for access to records, describe the routine uses of the records, establish procedures whereby an individual can amend his record, keep an accurate accounting of disclosures, and keep records in a timely, relevant and accurate manner;

Eighth, prohibits an agency from maintaining a record of political and religious beliefs or activities on an individual, unless expressly authorized by statute or by the individual himself;

Ninth, provides for certain exemptions for CIA files, law enforcement files, secret service files and statistical reporting systems; and

Tenth, provides for a civil remedy for an individual who has been denied access to his records, or whose record has been maintained and used in contravention of this act and an adverse effect results.

Mr. ASHBROOK. Mr. Chairman, I have long had an intense interest in the issue of privacy. In 1962 I introduced a bill to curb the brainpicking tests being given to our Nation's school children. All too often these psychological tests constituted an outright invasion of the privacy of the home and family life. Therefore my bill specifically required that parents be apprised of tests of a nonacademic nature which are administered to their children.

More recently, I helped enact the Buckley-Ashbrook amendment to the Elementary and Secondary Education Amendments of 1974. This amendment denies funds to school districts that do not restrict outside access to student records. It also gives parents and students in higher education the right of access to their files.

The threat of government intrusion into the lives and privacy of individuals has particularly grown during the past 40 years. During that time liberal politicians have consistently promoted a large Federal Government as the solution to all of our Nation's problems. It is somewhat ironic that liberals are now discovering that big government can also create problems.

A prime example of this is the area of individual privacy. As the Federal Government has grown in power, it has increasingly intruded into the personal lives of its citizens.

Particularly disturbing is the vast amount of personal information that is being collected and stored by the various Federal agencies. This information, which is usually hidden from the individual's view, is subject to great abuse. With the advent of computer technology and the ability to store almost unlimited amounts of data, the potential threat has become all the greater.

The bill before us—H.R. 16373—is necessary to reduce that threat. It establishes safeguards to help prevent the misuse of personal information by the Federal Government.

Specifically, H.R. 16373 will in most cases allow an individual to see and correct the personal information that is kept on him by Federal agencies. It will also require an individual's prior written consent before personal information can be transferred from one Federal agency to another. Furthermore, agencies must make public the existence of all personal information systems. These and other safeguards provided for in this bill will help reassure the right of personal privacy for our Nation's citizens.

I am proud to support this legislation and I urge its adoption.

Mr. BROOMFIELD. Mr. Chairman, privacy is a right long cherished by Americans and inherent in the Constitution and the Bill of Rights. But, as events in the last decade have shown, there is a tremendous need to enact legislation that will guarantee the ability of all American citizens to determine who will have knowledge of their own private lives. H.R. 16373, the privacy bill of 1974, is an enormous step forward toward meeting this need and I am proud to be a cosponsor of this legislation.

Approximately three out of every four Americans have part of their life histories recorded in computer data banks throughout the country, 7,000 of which are operated by the Federal Government. Yet no Federal law currently exists which permits citizens access to those files in order that they may insure the accuracy of the personal information that is contained on them. Neither can an individual control the transfer of personal information from agency to agency or even to people totally outside the Federal Government.

The implications of this lack of regulation are terrifying. The specter of 1984 has been raised so often that for some, it seems only a scare tactic. But the case of a 16-year-old schoolgirl proves otherwise. Because of a misaddressed letter that was sent to an organization on which the FBI had placed a mail-cover, Lori Paton became the subject of an FBI investigation. Fortunately, she was able to obtain destruction of her file through court action, but others may not be so lucky.

H.R. 16373 is a crucial start toward guaranteeing that other Americans will not undergo experiences similar to those of Lori Paton. The provisions of H.R. 16373 provide basic safeguards of personal privacy to the American people. At the same time, the framework of law it creates to protect the individual does not interfere unduly with the legitimate need of the Government for information about individuals in order to perform its required functions.

The Privacy Act of 1974 has grown from a series of intensive hearings and studies by the House Foreign Operations and Government Information Subcommittee and was approved unanimously. Its support is broad based and bipartisan. I urge all my colleagues to support this bill so that the assurance of all Americans to what Justice Holmes called "the right most valued by civilized men" can be strengthened under law.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in strong support of H.R. 16373.

The bill, as its name so rightly indicates, is for the purpose of insuring a higher degree of privacy for the individual. It establishes much-needed standards for the collection, maintenance, and dissemination of personally identifiable records maintained by Federal agencies and permits the individual access to these records and an opportunity to correct errors in them.

The need to protect the individual's right to privacy has become increasingly more important with the expanded use of interconnected computer systems and has been exemplified by an alarming increase in the number of abuses.

In particular, I wholeheartedly support the effort being led by my distinguished colleague from California (Mr. GOLDWATER) to prohibit a person from being required to disclose his or her social security number for any purpose not related directly to the operation of the social security program. I am a cosponsor of this proposal.

A limitation on the use of the social security number is necessary to protect the individual from the impersonal data banks which can threaten his right to privacy of information about his activities, his finances, and his lifestyle in general. The prohibition will not prevent the accumulation of such information but it will make the exchange of the information between computers much more difficult than it is at the present time when nearly everyone is asked to include his social security number on nearly every form he fills out.

Social security numbers were originally for the exclusive use of the social security people, looking out for each person's individual equity and benefits. Now it has reached the point where computers ers talk to computers, and the potential invasion of a person's entire private life has become a matter of grave concern to the people.

This legislation is an important step forward in our fight to secure the right of privacy for the individual and I urge my colleagues to support it. It is too easy for government to intimidate, harass or monitor the individual—we must end this possibility in whatever way we can. The adoption of this bill, as amended, is really striking a blow for freedom and the retention of our cherished privacy. I am pleased and proud of the Congress' efforts to advance and accept our legislative proposal.

Mr. GOLDWATER. Mr. Chairman, I am proud and pleased to state to my colleagues in the House that the Republican Task Force on Privacy played an important part in the successful enactment of the Privacy Act of 1974. It is therefore fitting that the product of their investigations be a part of the proceedings:

(BY HOUSE REPUBLICAN RESEARCH COMMITTEE, RECOMMENDATIONS OF PRIVACY TASK FORCE)

The House Republican Research Committee has approved the following recommendations of the Task Force on Privacy which deal with the following areas: Government Surveillance, Federal Information Collection, Social Security Numbers/Standard Universal Identifiers, Census Information, Financial Information, Consumer Reporting, School Records, Juvenile Records, Arrest Records, Medical Records, Computer Data Banks, Code of Ethics.

The House Republican Task Force on Privacy believes that the right to privacy is an issue of paramount concern to the nation, the public and the Congress. Recently publicized incidents of abuses have begun to focus attention on this long neglected area. Public awareness must be heightened and the legislative process geared up to address the full range of problems posed by the issue.

Modern technology has greatly increased the quantity and detail of personal information collection, maintenance, storage, utilization and dissemination. The individual has been physically by-passed in the modern information process. An atmosphere exists in which the individual, in exchange for the benefit or service he obtained, is assumed to waive any and all interest and control over the information collected about him. On the technical and managerial levels, the basic criteria in many decisions relating to personal information practices are considerations of technological feasibility, cost-benefit and convenience. The right to privacy has been made subservient to concerns for expediency, utility and pragmatism.

The trend in personal information practices shows no signs of abating. Twice as many computer systems and seven times as many terminals—particularly remote terminals—will be in use by 1984 as are in use today. And, with each federal service program that is initiated or expanded, there is a geometrically proportionate increase in the quantity and detail of personal information sought by the bureaucracy. The theory is that the broader the information base, the more efficient and successful the administration of the program.

Such a situation demands the attention of Congress and of the American public. The computer does not by definition mean injury to individuals. Its presence has greatly contributed to the American economy and the ability of government to serve the people. Under present procedures, however, the American citizen does not have a clearly defined right to find out what information is being collected, to see such information, to correct errors contained in it, or to seek legal redress for its misuse. Simply put, the citizen must continue to give out large quantities of information but cannot protect himself or herself from its misappropriation, misapplication or misuse. Both government and private enterprise need direction, because many of their practices and policies have developed on an isolated, ad hoc basis.

The House Republican Task Force on Privacy has investigated the following general areas involving the investigation and recording of personal activities and information: government surveillance, federal information collection, social security numbers and universal identifiers, census information, bank secrecy, consumer reporting, school records, juvenile records, arrest records, medical records, and computer data banks. These inquiries have resulted in the development of general suggestions for legislative remedies. Each statement is accompanied by a set of findings.

All findings and recommendations are presented with the intent of being consistent with these general principles:

1. There should be no personal information system whose existence is secret;

2. Information should not be collected unless the need for it has been clearly established in advance;

3. Information should be appropriate and relevant to the purpose for which it has been collected;

4. Information should not be obtained by illegal, fraudulent, or unfair means;

5. Information should not be used unless it is accurate and current;

6. Procedures should be established so that an individual knows what information is stored, the purpose for which it has been recorded, particulars about its use and dissemination, and has the right to examine that information;

7. There should be a clearly prescribed procedure for an individual to correct, erase or amend inaccurate, obsolete, or irrelevant information;

8. Any organization collecting, maintaining, using, or disseminating personnel information should assure its reliability and take precautions to prevent its misuse.

9. There should be a clearly prescribed procedure for an individual to prevent personal information collected for one purpose from being used for another purpose without his consent;

10. The Federal Government should not collect personal information except as expressly authorized by law; and

11. That these basic principles apply to both governmental and non-governmental activities.

Each recommendation of the Task Force seeks to contribute to a broader, more intelligent, viable understanding of the need for a renewed concern for personal privacy. An awareness of personal privacy must be merged with the traditional activities of the free marketplace, the role of government as a public servant, and the need for national security defense, and foreign affairs.

SURVEILLANCE

The Task Force is deeply disturbed by the increasing incidence of unregulated, clandestine government surveillance based solely on administrative or executive authority. Examples of such abuses include wiretapping, bugging, photographing, opening mail, examining confidential records and otherwise intercepting private communications and monitoring private activities. Surveillance at the federal level receives the most publicity. However, state and local government, military intelligence and police activities also must be regulated.

The Fourth Amendment of the Constitution clearly specifies "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures." The First Amendment guards against abridgement of the rights of free speech, free press, and assembly for political purposes. The Fourteenth Amendment states that none of a citizen's rights may be taken from him by governmental action without the due process of law.

The direct threat to individual civil liberties is obvious in those cases in which a person is actually being monitored, but even more alarming is the "chilling effect" such activities have on all citizens. A person who fears that he will be monitored may, either subconsciously or consciously, fail to fully exercise his constitutionally guaranteed liberties. The mere existence of such fear erodes basic freedoms and cannot be accepted in a democratic society.

The various abuses of discretionary authority in the conduct of surveillance provide ample evidence that current safeguard mechanisms do not work. Procedures allowing the executive branch to determine whether a surveillance activity is proper or not pose certain conflict of interest questions.

A degree of controversy surrounds the question of the authority of the President to initiate electronic surveillance without the safeguards afforded by court review. Present law is clear on this point: the Omnibus Crime Control and Safe Streets Act of 1968 lists those specific crimes in connection with which electronic monitoring may be instituted and requires that court approval be obtained in these cases. However, dispute has arisen over Executive claims of Constitutional prerogatives to implement wiretaps for national security purposes. The Supreme Court has ruled that, if such prerogative exists, it does not apply to cases of domestic surveillance unrelated to national security. The Court has not yet ruled on the constitutionality of national security wiretaps unauthorized by a court. Cases are pending before the courts at this time which raise this issue. The Task Force agrees with the movement of the Judiciary to circumscribe unauthorized wiretaps and hopes it will proceed in this direction.

The Task Force feels that surveillance is so repugnant to the right to individual privacy and due process that its use should be confined to exceptional circumstances. The Task Force further feels that no agent of federal, state, or local government should be permitted to conduct any form of surveillance, including wiretapping of U.S. citizens in national security cases, without having demonstrated probable cause and without having obtained the approval of a court of competent jurisdiction. The Task Force recommends enactment of new legislation to prohibit the unauthorized surveillance by any means, and further recommends that existing laws be clarified to the extent this may be necessary to ensure that no agent of the government, for any reason, shall have the authority to conduct any surveillance on any American citizen for any reason without first obtaining a court order.

The Task Force believes that this proposal would not lessen the capability of the government to protect and defend the American people, but would go a long way toward assuring the individual citizen that his constitutional rights will not be abridged by government without due process of law.

FEDERAL INFORMATION COLLECTION

Recently, there has been a pronounced increase in federal data and information collection. Over 11.5 million cubic feet of records were stored in Federal Records Centers at the beginning of FY 1973. Accompanying this increase has been a rise in the potential for abuse of federal information collection systems.

The Federal Reports Act of 1942 was enacted to protect individuals from overly burdensome and repetitive reporting requirements. The agency entrusted with the responsibility for implementing the Act has ignored the legislative mandate and failed to hold a single hearing or conduct any investigations. With the exception of the Bureau of the Census and the Internal Revenue Service, there are few restrictions on the collection or dissemination of confidential information compiled by federal agencies.

The Task Force recommends that the Office of Management and Budget immediately begin a thorough review and examination of all approved government forms and eliminate all repetitive and unnecessary information requirements.

Legislation setting down clear guidelines and spelling out restrictions is needed to protect the individual from unrestricted and uncontrolled information collection. Individuals asked to provide information must be apprised of its intended uses. Individuals supplying information which will be made public must be notified of that fact at the time the information is collected or requested. Public disclosure (including dissemination on an intra- or inter-agency basis) of financial or other personal information must be prohibited to protect the privacy of respondents.

Returning the use of the Social Security Number (SSN) to its intended purpose (i.e. operation of old-age, survivors, and disability insurance programs) is a necessary corollary to safeguarding the right of privacy and curtailing illegal or excessive information collection.

The use of the Social Security Number has proliferated to many general items including state driver licenses, Congressional, school and employment identification cards, credit cards and credit investigation reports, taxpayer identification, military service numbers, welfare and social services program recipients, state voter registration, insurance policies and records and group health records.

There are serious problems associated with the use of the SSN as a standard universal number to identify individuals. A standard universal identifier (SUI) will relegate individuals to a number; thereby, increasing feelings of alienation. The SSN's growing use as an identifier and filing number is already having a negative, dehumanizing effect upon many citizens. In addition, the use of a SUI by all types of organizations enables the linking of records and the tracking of an individual from cradle to grave. This possibility would negate the right to make a "fresh start", the right of anonymity, and the right to be left alone, with no compensating benefit.

A well-developed SUI system would require a huge, complex bureaucratic apparatus to control it and demand a strict system of professional ethics for information technicians. The technology needed to protect against unauthorized use has not yet been adequately researched and developed. A loss, leak or theft would seriously compromize a system and official misappropriation could become a political threat. The following Congressional action is needed:

1. legislation should be enacted that sets guidelines for use of the SSN by limiting it to the operation of old-age, survivors, and disability insurance programs or as required by federal law;

2. any Executive Orders authorizing federal agencies to use SSN's should be repealed, or alternatively, reevaluated and modified;

3. legislation should be enacted restricting the use of the SSN to well-defined uses, and prohibiting the development and use of any type of SUI until the technical state of the computer can ensure the security of such a system. At that time, a SUI system should have limited applicability and should be developed only after a full congressional investigation and mandate; and

4. new government programs should be prohibited from incorporating the use of the SSN or other possible SUI. Existing programs using the SSN without specific authorization by law must be required to phase out their use of the SSN. State and local governmental agencies, as well as the private sector, should follow this same course of action.

A review should be conducted of the Internal Revenue Service in both its collection and dissemination policies. Leaks must be ended. The need for stricter penalties for unauthorized activities should be reviewed.

CENSUS BUREAU

The greatest personal data collection agency is the Bureau of Census. Created to count the people in order to determine congressional districts, this agency has mushroomed into a vast information center which generates about 500,000 pages of numbers and charts each year.

Under penalty of law, the citizen is forced to divulge intimate, personal facts surrounding his public and private life and that of the entire family. These answers provide a substantial personal dossier on each American citizen. The strictest care must be taken to protect the confidentiality of these records and ensure that the information is used for proper purposes.

The Census Bureau sells parts of its collected data to anyone who wishes to purchase such information. Included are all types of statistical data that are available on population and housing characteristics. As the questions become more detailed and extensive, broadscale dissemination becomes more threatening and frightening. When used in combination with phone directories, drivers' licenses and street directories, census data may enable any one interested to identify an individual. Therefore, it is vitally important that rules and regulations governing the access to and dissemination of this collected data be reviewed, clarified and strengthened.

Legislation is needed to guarantee the confidentiality of individual information by expanding the scope of confidentiality under existing law and by increasing the severity of punishment for divulging confidential information. These provisions should be specifically directed at the officers and employees of the Bureau of Census, all officers and employees of the Federal government and private citizens who wrongfully acquire such information. In addition, the Bureau of the Census must use all available technological sophistication to assure that individuals cannot be inductively identified.

FINANCIAL INFORMATION

On October 26, 1970, sweeping legislation known as the Bank Secrecy Act became law. The Act's intention was to reduce white collar crime by making records more accessible to law enforcement officials. However, in accomplishing its purpose, it allowed federal agencies to seize and secure certain financial papers and effects of bank customers without serving a warrant or showing probable cause. The Act's compulsory recordkeeping requirements, by allowing the recording of almost all significant transactions, convert private financial dealings into the personal property of the banks. The banks become the collectors and custodians of financial records which, when improperly used, enable an individual's entire life style to be tracked down.

The general language of the Act allowed bureaucrats to ignore the intent of the law and neglect to institute adequate privacy safeguards. The Supreme Court affirmed this approach by upholding the constitutionality of both the law and the bureaucratic misinterpretation of it.

Congress must now take action to prevent the unwarranted invasion of privacy by prescribing specific procedures and standards governing the disclosure of financial information by financial institutions to Federal officials or agencies. Congress must enact legislation to assure that the disclosure of a customer's records will occur only if the customer specifically authorizes a disclosure or if the financial institution is served with a court order directing it to comply. Legislation must specfy that legal safeguards be provided requiring that the customer be properly notified and be provided legal means of challenging the subpoena or summons.

Passage of such legislation would be an important step forward in reaffirming the individual's right to privacy.

CONSUMER REPORTING

The consumer reporting industry, through its network of credit bureaus, investigative agencies, and other reporting entities is in growing conflict with individual privacy. Most Americans eventually will be the subject of a consumer report as a result of applying for credit, insurance, or employment. The problem is one of balancing the legitimate needs of business with the basic rights of the individual.

Consumer reports fall into two categories. First, there are the familiar which contain "factual" information on an individual's credit record such as where accounts are held and how promptly bills are paid. 100 million consumer reports are produced each year by some 2600 credit bureaus.

The second ones go beyond factual information to include subjective opinions of the individual's character, general reputation, personal characteristics, and mode of living. These are often obtained through interviews with neighbors, friends, ex-spouses and former employers or employees. An estimated 30 to 40 million such reports are produced annually.

The first Federal attempt at regulating the collection and reporting of information on consumers by third-party agencies came in 1970 with the enactment of the Fair Credit Reporting Act (FCRA). In theory, the Act had three main objectives: to enable consumers to correct inaccurate and misleading reports; to preserve the confidentiality of the information; and to protect the individual's right to privacy.

The specific safeguards provided by the FCRA are: A consumer adversely affected because of information contained in a consumer report must be so notified and given the identity of the reporting agency. The consumer is entitled to an oral disclosure of the information contained in his file and the identity of its recipients. Items disputed by the consumer must be deleted if the information cannot be reconfirmed. The consumer may have his version of any disputed item entered in his file and included in subsequent reports.

The FCRA needs to be strengthened in two major areas: disclosure requirements and investigative reports. The individual should be entitled to actually see and inspect his file, rather than rely on an oral presentation. Further, he should be allowed to obtain a copy of it by mail (the consumer is often geographically distant from the source of the file). Users of consumer reports should be required to specifically identify the information which triggered any adverse action.

The FCRA protects the sources used in investigative reports. The Task Force believes that this is contrary to the basic tenets of our system of justice and that the information source must be revealed upon the subject's request. Furthermore, the Task Force recommends that advance written authorization be required from any individual who is the subject of an investigative report for any purpose.

SCHOOL RECORDS

The recent increase in popular awareness of the seriousness of the privacy issue has been accompanied by an increase in the general concern over loose, unstructured and unsupervised school recordkeeping systems and associated administrative practices. There has also been general discussion about what information should be kept on a child and considered part of his or her "record". Parents are frequently denied access to their own child's record, or are prohibited from challenging incorrect or misleading information contained in his file. At the same time, incidents of highly personal data being indiscriminately disseminated to inquirers unconnected with the school system are not uncommon.

Remedial measures are available to the Congress in the form of legislative actions. The sanctions under which such provisions would operate, however, are the key to their effectiveness. The Task Force proposes the Congress adopt as a general policy the rule that federal funds be withheld from any state or local educational agency or institution which has the policy of preventing parents from inspecting, reviewing, and challenging the content of his or her child's school record. Outside access to these school records must be limited so that protection of the student's right to privacy is ensured. It is recommended that the release of such identifiable personal data outside the school system be contingent upon the written consent of the parents or court order.

All persons, agencies, or organizations desiring access to the records of a student must complete a written form indicating the specific educational need for the information. This information shall be kept permanently with the file of the student for inspection by parents of students only and transferred to a third party only with written consent of the parents. Personal data should be made available for basic or applied research only when adequate safeguards have been established to protect the students' and families' rights of privacy.

Whenever a student has attained eighteen years of age, the permission or consent required of and the rights accorded to the parents should be conferred and passed to the student.

Finally, the Secretary of HEW should establish or designate an office and review board within HEW for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions set forth by the Congress.

JUVENILE RECORDS

The Task Force supports the basic philosophy underlying the existence of a separate court system for juvenile offenders, which is to avoid the stigmatizing effect of a criminal procedure. The lack of confidentiality of such proceedings and accompanying records subverts this intent and violates the individual's basic right of privacy.

Most states have enacted laws to provide confidentiality. Yet the Task Force finds that due to a lack of specific legislation, and contrary to the intent of the juvenile justice system, the individual's right of privacy is often routinely violated. Juvenile records are routinely released to the military, civil service, and often to private employers as well. This occurs in cases in which the hearing involves non-criminal charges, in cases of arrest but no court action, in cases in which the individual is no longer under the jurisdiction of the juvenile court, and in cases where this file has been administratively closed.

Legislation governing the confidentiality of juvenile court and police records varies widely from state to state. Only 24 states control and limit access to police records, therefore enabling a potential employer who is refused access to court records to obtain the information from the police. Only 16 states have expungement laws providing for the destruction of such records after a specified period of good behavior. Only 6 states make it a crime to improperly disclose juvenile record information. And, one state, Iowa, in fact provides that juvenile records must be open to the public for inspection. The Task Force finds that even in those states whose laws provide adequate protection, actual practices are often inconsistent with legislation.

Many new questions about confidentiality, privacy and juvenile rights are being raised, and the Task Force finds that the establishment of safeguards has lagged significantly behind technological developments. For example, presently no state has enacted legislation regulating the use of computers in juvenile court; as a rule, each system establishes its own guidelines for data collection, retention, and distribution.

The Task Force finds that with the use of computers, the juvenile's right to privacy is additionally threatened by the increased accessibility to his record and therefore increased possibility of misuse. Staff carelessness, less than strict adherence to rules of limited access, and electronic sabotage must now be added to the existing threats to the juvenile's right to privacy.

The Task Force recommends the establishment of minimum federal standards for state laws to include the following provisions:

1. all records of the juvenile court and all police records concerning a juvenile shall be considered confidential and shall not be made public. Access to these records shall be limited to those officials directly connected with the child's treatment, welfare, and rehabilitation;

2. dissemination of juvenile records, or divulgence of that information for employment, licensing, or any purpose in violation of statutory provisions shall be subject to a criminal penalty:

3. to protect the reformed delinquent from stigma continuing into his adult life, provisions should specify a procedure for either the total destruction or the sealing of all juvenile court and police investigative and offender records at the time the youth reaches his majority, or when two years have elapsed since he has been discharged from the custody or supervision of the court. Subsequent to this expungement, all proceedings and records should be treated as though they had never occurred and the youth should reply as such to any inquiry concerning his juvenile record; and

4. all police records on juveniles arrested but where no court action was taken should be systematically destroyed when the incident is no longer under active investigation.

The Task Force recommends the enactment of legislation specifically prohibiting federal agencies from requesting information relating to juvenile record expungement from employment applicants or from requesting such information from the courts or the police.

The Task Force further recommends the cessation of all Federal funding for computerized systems which contain juvenile records unless it can be demonstrated that these systems provide adequate safeguards for the protection of the juvenile's right of privacy. These standards must fulfill all the requirements of the minimum standards for state legislation previously enumerated, including special provisions to strictly limit data accessibility.

ARREST RECORDS

A large percentage of arrests never result in conviction. Yet, in over half the states, individual's arrest records are open to public inspection, subjecting innocent parties to undue stigma, harrassment, and discrimination.

Persons with arrest records often find it difficult, if not impossible to secure employment or licenses. A study of empolyment agencies in the New York City area found that seventy-five percent would not make a referral for any applicant with an arrest record. This was true even in cases in which the arrest was not followed by a trial and conviction. This is just one example of the widespread practice of "presumption of guilt" based on the existence of an arrest record.

The Task Force holds that release of information about arrests not followed by conviction is a direct violation of the individual's rights of privacy. It therefore recommends that legislative efforts be directed toward:

1. establishing minimum standards for state laws calling for the automatic sealing of all individual arrest records which were not followed by conviction and which are no longer under active investigation;
2. requiring the FBI to seal arrest records not followed by conviction; and
3. prohibiting inclusion of arrest records not followed by conviction on computerized systems involving more than one state or using federal funds.

MEDICAL RECORDS

Medical records, which contain sensititive and personal information, are especially in need of privacy safeguards to maintain basic trust in the doctor-patient relationship. Yet, development of automated data processing systems has enhanced the ability of government and private organizations to store, analyze and transfer medical records. Increasingly, this occurs without the individual's knowledge or consent. Abuse of such information systems can have a deleterious effect on doctor-patient relations.

To guarante the privacy of medical records, the Task Force recommends that:

1. the federal government provide dollar grants and incentives to States for the voluntary adoption and execution of State plans to insure the right to privacy for computerized medical information systems. Such a plan would place principal responsibility on the States, giving the federal government the right to set minimum standards;
2. Congress review the recently enacted Professional Standards Reviews Organizations (PSRO) legislation. There are increasing numbers of reports and complaints regarding Review Board uses of medical files and the threat this poses to privileged, confidential doctor-patient relationships; and
3. provisions be included in national health insurance legislation which specifically ensure the individual's privacy. The institution of a national health insurance plan will create a vast medical information network which will require stringent safeguards to prevent abuses of the patients' right to privacy.

COMPUTER DATA BANKS

The use of the computer has brought great commercial and social benefits to modern America. Greater reliance on the computer, however, increases its integration into all aspects of daily life. The result is increased vulnerability to abuse or misuse of computerized information.

The Task Force finds that the individual possesses inadequate remedies for the correction of such abuses. In fact, the Task Force considers it probable that many abuses have gone unreported simply because the individual involved did not know of the data being collected about him.

Even if the individual is aware that data is being collected about him, he faces several obstacles if he wishes to expunge purely private information or to correct erroneous information. Among his obstacles are the following: the lack of statutory support for legal action (except in the credit reporting area), the cost of litigation, and even fear of retaliation by the company or agency being challenged.

Despite their potential for abuse, data banks remain an inescapable fact of life in a society growing more complex and more technological. The Task Force does not oppose data banks as such, but favors strong safeguards against their misuse, and recommends that:

1. rights under the Fair Credit Reporting Act of 1970 be extended to all data collection. The individual must have and be informed of his right to review information in any collection of data about himself (excluding national security and criminal justice files);
2. Congress establish categories (i.e. in-depth biographical, financial, medical, etc.) of information which may not be included in reports on an individual unless the individual knowingly gives his uncoerced consent;
3. limited exceptions be granted for national security and criminal justice investigations;
4. criminal and civil penalties be established for any use of statistical data (collected for collective analysis) to wrongfully acquire information on individuals;
5. transfer of personal information between governmental agencies be strictly limited;
6. the creation of a centralized Federal data bank (except for national security and criminal justice purposes) be prohibited; and
7. a federal "privacy protection agency" be established to enforce the proposed legislation.

CODE OF ETHICS AND STANDARD OF CONDUCT

The Republican Task Force on Privacy believes there to be a definite need for the development of a universal code of ethics and standard of conduct for the technical, managerial and academic personnel involved in the development and use of personal information systems. The Task Force regards this to be essential for the automated and computerized information systems. Personal information systems are becoming an integral aspect of the daily life of every individual in our society. This sensitive relationship demands and merits the development of an attitude of professionalism. It is recognized that some efforts have been made to develop and foster such atttiudes. But, the information industry as a whole has not supported such efforts as a matter of policy. The Task Force declares its commitment to the development, maintenance, management and use of personal information systems.

CONCLUSION

The Task Force is aware that this is a relatively new area of concern. Some recommendations may go too far and some not far enough. Some areas may have been overlooked. But there is no question that now is the time to address ourselves to this important and far reaching issue. If we fail— George Orwell's 1984 may become a reality by 1976.

BIBLIOGRAPHY

Breckenridge, Adam Carlyle. *The right to privacy*. Lincoln, University of Nebraska Press, 1970.

Canada. Department of Communication and the Department of Justice. *Privacy and computers*. A report of a task force established jointly by the Canadian Department of Communication and the Department of Justice. Ottawa, Canada, Information Canada, 1972.

Campaigne, Howard and Lance J. Hoffman. Computer privacy and security. *Computers and automation*, v. 22, July 1973.

Cashman, Charles E. Confidentiality of juvenile court proceedings: A review. *Juvenile Justice*, v. 24, August 1973.

Cohen, Richard E. Justice report/hearings focus on privacy, limitations on use of FBI data. *National journal reports*, Feb. 16, 1974.

Computer applications in the juvenile justice system, National Council of Juvenile Court Judges, 1974.

Countryman, Vern. The diminishing right of privacy: The personal dossier and the computer. *Texas Law Review*, May 1971.

Curran, William J., *et. al*. Protection of privacy and confidentiality. *Science*, v. 182, Nov. 23, 1973.

De Weese, J. Taylor. Giving the computer a conscience. *Harper's*, Nov. 1973.

Gotlieb, Calvin. Regulations for information systems. *Computers and automation*, v. 19, Sept. 1970.

Gough, Aidan R. The expungement of adjudication records. *Washington University Law Quarterly*, 1966.

Hunt, M. K. and Rein Turn. *Privacy and security in data bank systems: an annotated bibliography*. 1969–1973. R–1044–NSF. Santa Monica, Calif., Rand Corp., 1974.

Hoffman, Lance J. *Security and privacy in computer systems*. Los Angeles, Calif., 1973.

Hoglund and Kahan. Invasion of privacy and the freedom of information act: Geman v. NLRB, 40 *Geo. Washington Law Review*, 1972.

Koehn, E. Hank. Privacy, our problem for tomorrow. *Journal of systems management*, v. 24, July 1973.

Kraning, Alan. Wanted: new ethics for new techniques. *Technology review*, v. 70, Mar. 1970.

Kuhn, David. Your life: how private? Reprint from *Minneapolis Tribune*, Oct. 7–12, 1973 by the Project on Privacy and Data Collection of the American Civil Liberties Union Foundation, Washington, D.C.

Lapidus, Edith J. *Eavesdropping on trial*. Rochelle Park, New Jersey, Hayden Book Co., 1974.

Levin, Eugene. The future shock of information networks. *Astronautics and aeronautics*, Nov. 1973.

Lusky, Louis. Invasion of privacy: a clarification of concepts. *Columbia Law Review*, v. 72.

Miller, Authur R. *The assault on privacy: computers, databanks, and dossiers*. Ann Arbor, University of Michigan Press, 1971.

Miller, Herbert S. *The closed door*. U.S. Dept. of Labor, 1972.

National Committee for Citizens in Education. *Children, parents and school records*. Columbia, Md., National Committee for Citizens in Education, 1974.

Organization for Economic Co-operation and Development. *Toward central government computer policies*. OECO Information Studies, 1973.

Pennock, J. Roland and John W. Chapman. *Privacy*. New York, Atherton Press, 1971.

Privacy in the First Amendment. *The Yale Law Journal*, June 1973.

Project Search Staff. Committee on Security and Privacy. *Security and privacy considerations in criminal history information systems*. Technical Report No. 2. Sacramento, Calif., Project Search. California Crime Technological Research Foundation, July 1970.

Ralston, Anthony G. Computers and democracy. *Computers and automation*, v. 22, April 1973.

Reed, Irving S. *The application of information theory to privacy in data banks*, Santa Monica, Calif., Rand Corp., 1973.

Rule, James B. *Private lives and public surveillance*. London, Allen Lane, 1973.

Sargent, Francis W. Centralized data banks—where public technology can go wrong. *Astronautics and aeronautics*, v. 11, Nov. 1973.

Schrag, Peter. Dossier dictatorship. *Saturday Review*, April 17, 1971.

Social Security Administration. *Social Security Number Task Force: Report to the Commissioner*. Department of Health, Education and Welfare, 1971.

Springer, Eric W. *Automated medical records and the law*. Pittsburgh, Aspen Systems Corporation, 1971.

Stone, Michael and Malcolm Warner. *The data bank society: organizations, computers, and social freedom*. London, George Allen and Unwin LTD, 1970.

Thomas, Uwe. *Computerized data banks in public administration*. Paris, France, Organization for Economic Co-operation and Development, 1971.

Turn, Rein. *Privacy and security in personal information databank systems*. Prepared for the National Science Foundation. R–1044–NSF. March 1974. Santa Monica, Calif., Rand Corp., 1974.

U.S. Congress. House. Committee on Government Operations. *Federal information systems and plans—Federal use and development of advanced technology.* Hearings before the Subcommittee on Foreign Operations and Government Information. 93rd Cong. 1st and 2d session, Washington, U.S. Govt. Printing Office, 1973, 1974.

U.S. Congress. Senate. Committee on the Judiciary. *Federal data banks, computers and the Bill of Rights.* Hearings before the Subcommittee on Constitutional Rights. 92nd Cong. 1st session, Washington, U.S. Govt. Printing Office, 1971.

U.S. Department of Health, Education, and Welfare. Secretary's Advisory Committee on Automated Personal Data Systems. *Records, computers, and the rights of citizens.* Washington, U.S. Govt. Printing Office, 1973.

Westin, Alan F. and Michael A. Baker. *Databanks in a free society: computers, record-keeping, and privacy.* Report of the project on Computer Data-banks of the Computer Science and Engineering Board. National Academy of Science. New York, Quadrangle Books, 1972.

Wheeler, Stanton. *On record: files and dossiers in American life.* New York, Russell Sage Foundation, 1969.

The CHAIRMAN. Are there any further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair (Mr. BRADEMAS) Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 16373 to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, pursuant to House Resolution 1419, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If no, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ERLENBORN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 353, nays 1, not voting 80, as follows:

[Roll No. 641]

YEAS—353

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashley
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Bolling
Bowen
Brademas
Bray
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Derwinski
Dickinson
Dingell
Donohue
Dorn
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Harrington
Hawkins
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Kemp
Ketchum
King
Koch
Kyros
Lagomarsino
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Milford
Miller
Mills
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Railsback
Randall
Rees
Regula
Reid
Reuss
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruppe
Ruth
Ryan
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Seiberling
Shipley
Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—1

Landgrebe

NOT VOTING—80

Armstrong
Ashbrook
Aspin
Bell
Bergland
Boggs
Boland
Brasco
Breaux
Brooks
Burke, Calif.
Camp
Carey, N.Y.
Chappell
Clancy
Clay
Conable
Crane
Daniels, Dominick V.
Danielson
Dent
Devine
Diggs
Dulski
Eshleman
Evans, Colo.
Froehlich
Giaimo
Grasso
Grover
Hansen, Wash.
Harsha
Hastings
Hays
Hébert
Heckler, Mass.
Hillis
Hogan
Hunt
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Kluczynski
Kuykendall
Landrum
Latta
Luken
McSpadden
Metcalfe
Minshall, Ohio
Moss
Murphy, N.Y.
Patman
Poage
Podell
Powell, Ohio
Quillen
Rangel
Rarick
Rhodes
Riegle
Roe
Roncallo, N.Y.
Rooney, N.Y.
Runnels
St Germain
Sebelius
Shoup
Sikes
Staggers
Stephens
Symms
Teague
Tiernan
Traxler
Waldie
Wyman
Young, Ga.
Young, S.C.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Dulski.

Mrs. Boggs with Mr. Aspin.

Mr. Moss with Mr. Luken.

Mr. Sikes with Mr. McSpadden.

Mr. Boland with Mr. Young of Georgia.

Mr. Rooney of New York with Mr. Tiernan.

Mr. Giaimo with Mr. Traxler.

Mr. Staggers with Mr. Patman.

Mr. Hays with Mr. Minshall of Ohio.

Mr. Bergland with Mr. Kuykendall.

Mr. Chappell with Mr. Hunt.

Mr. Carey of New York with Mr. Hogan.

Mr. Brooks with Mr. Camp.

Mrs. Burke of California with Mr. Froehlich.

Mr. Breaux with Mr. Ashbrook.

Mr. Kluczynski with Mr. Grover.

Mr. Landrum with Mr. Devine.

Mr. Metcalfe with Mrs. Grasso.

Mr. Murphy of New York with Mr. Conable.

Mr. Teague with Mr. Hillis.

Mr. St Germain with Mr. Powell of Ohio.

Mr. Riegle with Mr. Bell.

Mr. Latta with Mr. Hastings.

Mr. Rangel with Mrs. Hansen of Washington.

Mr. Roe with Mr. Crane.

Mr. Jones of Alabama with Mr. Harsha.

Mr. Kastenmeier with Mr. Eshleman.

Mr. Karth with Mr. Clancy.

Mr. Jones of North Carolina with Mr. Quillen.

Mr. Diggs with Mr. Roncallo of New York.

Mr. Evans of Colorado with Mr. Sebelius.

Mr. Dent with Mr. Shoup.

Mr. Dominick V. Daniels with Mr. Stephens.

Mr. Clay with Mr. Waldie.

Mr. Danielson with Mr. Symms.

Mr. Runnels with Mr. Wyman.

Mr. Rhodes with Mr. Young of South Carolina.

Mrs. Heckler of Massachusetts with Mr. Rarick.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT FRIDAY, NOVEMBER 22, 1974, TO FILE A REPORT ON H.R. 17045, TO AMEND THE SOCIAL SECURITY ACT

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight Friday, November 22, 1974, to file a report on the bill, H.R. 17045, to amend the Social Security Act to establish a consolidated program of Federal financial assistance to encourage provision of services by the States, along with any supplemental and/or separate views.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. ARENDS asked and was given permission to address the House for 1 minute.)

Mr. ARENDS. Mr. Speaker, I take this time to ask the majority whip to kindly advise us of the program for next week.

Mr. McFALL. Mr. Speaker, if the gentleman from Illinois will yield, I will be glad to provide this information.

There is no further legislative business for today. Upon the announcement of the program for next week, I will ask unanimous consent to go over until Monday.

The program for the House of Representatives for the week of November 25, 1974, is as follows:

Monday is District day, and there is one bill,

H.R. 17450, People's Counsel for District of Columbia Public Service Commission.

The other measures to be considered are:

House Resolution 1387, place for amendments in Congressional Record;

H.R. 16609, AEC supplemental authorization, under an open rule, with 1 hour of debate;

House Joint Resolution 1161, entry into foreign ports of U.S. nuclear ships, under an open rule, with 1 hour of debate; and

H.R. 16074, nuclear information for Congress, under an open rule, with 1 hour of debate.

On Tuesday there will be considered:

H.R. 15580, Labor-HEW appropriations, fiscal year 1975, a conference report; and

H.R. 17468, military construction appropriations, fiscal year 1975.

Conference reports may be brought up at any time, and any further program will be announced later.

The House will recess at the close of business Tuesday, November 26, until noon, Tuesday, December 3.

ADJOURNMENT OVER TO MONDAY, NOVEMBER 25, 1974

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. GROSS. Mr. Speaker, reserving the right to object, I do so only to ask the gentleman a question. I thought perhaps I could ask the question before he made this request.

Does the gentleman anticipate that there will be legislation for a pay increase for Members of Congress, members of the judiciary, and some of the other employees of Government in the remainder of the 93d Congress?

Mr. McFALL. If the gentleman will yield for that purpose, I am sorry to say I have not heard of any.

Mr. GROSS. The gentleman has heard of no intention?

Mr. McFALL. I am sorry to say that I have not heard of any, and I regret that there is not legislation, not just for the Members of Congress, but for the 10,000 other people in the executive branch. I believe that it is necessary for the whole civil service structure that such legislation be considered, but I am sorry to say I have not heard of any.

Mr. GROSS. I will say to my friend, the gentleman from California, that I am sorry to say that I have heard of proposals to that end, and that is the reason for my inquiry.

Mr. McFALL. In response to what the gentleman stated just a moment ago, those who retire will get a raise in their retirement because of the cost-of-living escalator clause.

Mr. GROSS. No, I had not heard of that. How do we go about that?

I will not take the time of the House but I will sit down with the gentleman and find out how we go about obtaining that, at the gentleman's leisure.

Mr. McFALL. I think it is automatic.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL MIDNIGHT TO FILE CONFERENCE REPORT ON S. 425, STRIP MINING

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight to file a conference report on S. 425, strip mining.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERSONAL EXPLANATION

Mr. DANIELSON. Mr. Speaker, I wish to announce that I missed the rollcall 641 on the bill H.R. 16373, the Privacy Act of 1974. Had I been present, I would have voted "aye."

TRIBUTE TO THE BLOUNT COUNTY PATRIOTIC YOUTH FESTIVAL

(Mr. BEVILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. BEVILL. Mr. Speaker, last August 24, a unique patriotic rally to dramatize what is good about America was held in Blount County, Ala., which is in my congressional district.

The program was planned and carried out by young people from several high schools in Blount County. The message they brought was: get involved in politics, register to vote, and join in the process of making decisions that move the country.

The project proved to be a huge success and has drawn praise from people throughout the State of Alabama. President Ford sent a telegram of greetings and support.

Representatives of the Patriotic Youth Festival have been invited by the White House to come to the Nation's Capital to present the resolution of patriotism from the youth of Blount County.

In Washington Wednesday to present the resolution to a representative of President Ford were Steve Jones, president of the student council of Oneonta High School; Beverly Latham, festival treasurer and function chairman; Randy Vaughn, author of the resolution and Tri-State winner of the FFA public speaking contest. Mr. Brice Marsh, who assisted with the production of the festival, his wife Mary, and 10-year-old daughter, Terri, accompanied the group to the White House.

The resolution that was presented reads as follows:

A Resolution From the Youth of Blount County, Ala., to President Gerald Ford

Be it hereby resolved that I stand with renewed faith in America. I desire to rekindle the spirit of patriotism and pride that has been tarnished by the apathy, distrust and dishonesty that have become so apparent in current events.

We, the people, must share the responsibility for the state in which we find ourselves. Only through our interest and involvement can we hope for an improvement in our state of affairs. We must humble our-

> selves and look to God for leadership, and then be willing to do whatever is right . . . even if it means personal inconvenience and sacrifice.
>
> I promise to do my part to cultivate pride in America and to be more patriotic in my personal activities. I am proud to be an American.

In these times, Mr. Speaker, when there is an overabundance of cynicism and distrust, it is, indeed, refreshing to see such an enthusiastic expression of what is good about America.

I am pleased to have this opportunity to bring to the attention of my colleagues in the U.S. House of Representatives the success of the Blount County Patriotic Youth Festival. I again commend and congratulate the young people of Blount County and the other citizens who participated in this most worthwhile project. It is my earnest hope that these young people will continue to work for those things they believe in, and through their actions will be an example for others throughout the Nation who wish to show what is good about America.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. Mr. Speaker, I yield to my colleague from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, I join with my colleague from Alabama in commending his constituents for the example they have set and the leadership they have given.

I also commend my colleague, and associate myself with his remarks.

PERSONNEL CUTS IN COUNTY ASCS OFFICES BEYOND UNDERSTANDING

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. DE LA GARZA. Mr. Speaker, the purpose of the Department of Agriculture in ordering further personnel cuts in the county ASCS offices is beyond my understanding.

The workload of these offices has not decreased—certainly not in those located in my district, the 15th Congressional District of Texas. The nature of some of the work has changed, to be sure, due to changes in the crop adjustments program. But the volume of work has not diminished.

For example, one county in my district has approximately 12,000 farmowners and operators who received some $750,000 in disaster payments this year. I am assured that the county ASCS office has necessarily spent more man-hours in dealing with these loans that were needed to handle $8 million in cotton adjustment payments last year. They had to get the work done.

The situation in this county is illustrative of that prevailing in virtually all of the counties of my south Texas district. They are being ordered to do as much work as they have done in the past, or even more, with a sharply reduced number of persons to accomplish their task.

No computer service is available to the local offices, such as was used in past years in Washington to handle such payments. Most of their work must be done on a person-to-person basis. There is no other way that they can adequately serve the farmers of their counties.

And yet these county offices suffered substantial reductions in personnel last year and now are being ordered to make further cuts this year.

Mr. Speaker, this does not make sense. I am fully aware of the need for seeking every feasible reduction in spending by the Federal Government. The people of my district, like those in other areas throughout the Nation, are suffering from inflation. I will continue to support every proposal to reduce or eliminate unnecessary Federal spending.

But it is surely a penny-wise and pound-foolish policy that arbitrarily cuts down service to our farmers at a time when U.S. agriculture is being urged to work as never before to help feed the world's starving millions.

What is the alternative? If our farmers are discouraged in their continuing effort to produce food and fiber, who will be affected? Everybody.

This is a matter that concerns not alone the farmers depending on the services of ASCS offices. It concerns urban dwellers as well—concerns them directly and vitally. All of us, no matter where we live, depend on agricultural producers to keep us alive and healthy.

The head of one county ASCS office in my district said to me, with pain in his voice:

> I don't want to have a sloppily run office. I don't want to give sloppy service to our farmers. Can you help?

I am trying to help and I appeal to my colleagues to join in the effort to keep the county ASCS offices alive and serviceable.

U.S. EXPORT TAX TO FIGHT PRICE-GOUGING CARTELS

(Mr. HUBER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBER. Mr. Speaker, few weeks go by without some country or cartel of nations trying to gouge the United States on raw materials or commodities.

The most devastating example, of course, is the blackmail price that continues to be charged us for oil by Arab and several other nations including Canada.

Jamaica, Guyana, Dominican Republic, and other bauxite producers in recent months have banned together and increased severalfold the price of this all-important aluminum ore.

We also read of the decision by six nations, led by Algeria, to fix a substantially higher cartel price on mercury. And attempts are even underway by Brazil to set up cartel-control of coffee prices while other Latin American countries are trying to get agreement on a new export tax on bananas of a dollar a box.

Then, just this month, the Associated Press reported that 12 iron ore producing nations met in Geneva to "coordinate price strategy" that will increase the prices of the iron and steel we use.

Our only weapons to combat this international price gouging is diplomatic persuasion, which has not been very successful of late, and a compensatory or retaliatory embargo, which is both an extreme measure and one that under many circumstances can cause hardships for our workers, our industry, and our farmers.

I propose that the United States provide itself with another means of protecting itself from nations seeking to charge unfair, blackmail prices for their products. I propose a constitutional change which would permit imposition of export taxes on our products. This levy could be applied only to carefully selected products sold to specified nations. The knowledge that the United States could retaliate with export taxes, in my opinion, would be persuasion enough in most cases to keep another nation from gouging us. If they persist in this form of economic blackmail, then we have a selective weapon to use in our defense.

I will be circulating a "Dear Colleague" letter asking for your support. The United States must further defend itself economically or an increasing number of nations will play us for a patsy, a nation ripe for plundering economically.

COUGHLIN PROPOSES SELECT COMMITTEE ON FOOD PRICES

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. COUGHLIN. Mr. Speaker, having becoming increasingly troubled during recent months over the soaring costs of food, I am today introducing a resolution to create a Select Committee on Food Prices. The Federal Government has paid but lip service to the plight of the consuming public and I am dismayed by the failure to take any real action to alleviate the situation. In fact, there is a deplorable lack of initiative by the Federal Government in this vital field.

The committee I have proposed would be a nine-member body authorized and directed to conduct a full and complete investigation and study of food prices in the United States in order to determine the reasons behind the record increases afflicting American consumers. Armed with subpena power, the committee would be able to require attendance and testimony of such witnesses and production of such books, records, and other documents deemed necessary.

For what seems to me like an eternity, officials in Washington have been calling on the taxpayers to sacrifice whether in the battle against inflation or in the conservation of energy. Yet, the Government itself has been unwilling to carry that message to sectors of private industry and has succeeded in displaying a double standard to the American people; you sacrifice while business as usual will go on for everyone else.

Reluctant as I am to create special committees, I am convinced that this committee would prove invaluable in fulfilling a primary purpose of the food price investigation. This is to focus the hard, clear glare of publicity on those firms and individuals taking advantage of the consuming public by reaping excessive profits from the food situation. Such public illumination is long overdue.

Another important aspect of the probe would be to lay the groundwork for possible legal actions should violations be revealed. Furthermore the committee could determine what legislative remedies might be taken by the Congress in order to repeal repressive Government regulations which hamper food production or distribution and which unfairly encourage manipulation of the wholesale and retail markets to the detriment of the buying public.

In assessing what corrective legislation is needed, I think there is no doubt that the present rules on trucking of the Interstate Commerce Commission must be revised immediately. The administration has recognized this, but the changes are painfully slow in coming. These costly regulations have long outlived the real reasons for their existence; they should be removed from the books and more realistic regulations instituted.

While these needlessly high transportation costs quite obviously contribute to the high price of retail food, they certainly do not represent the sole factor behind the 15 percent rise in costs which we have witnessed this past year. Unfortunately, the solution to the problem is not that simple. Although I completely agree with Agriculture Department officials who repeatedly refer to the complexity of the situation, I am not content to throw up my hands in frustration without making a concerted effort to unravel the maze of contributing factors.

The problem which concerns me most is the spread between raw farm product prices and the retail cost to the consumer. The buying public is entitled to know why farmers and cattle raisers are being hurt as badly as shoppers, while the gap between farm and retail prices increases at such an unexplained and incredulous rate.

Department of Agriculture statistics released just last week cite the fact that the average cost of a market basket of food for a family of 3.2 persons has risen $197 in the first 9 months of 1974, to a total of $1,734 yearly. The lion's share of this additional sum—84 percent or $166—goes to the middleman. Only $31 is returned to the farmer.

And to make the picture even more grim, Agriculture officials have acknowledged that the price spread between farm and retail levels may widen to a record 21 percent from last year by the time final 1974 figures are computed. These statistics by themselves mean nothing, but they are placed quite properly in perspective when one considers that the middleman spread in 1973 was 6.5 percent. In fact, the previous record for this margin was set at 7.5 percent in 1970, and now it appears that this may be tripled.

The commodity on which much attention has been focused recently is sugar. The profit picture in this industry is most disturbing to me, as an advocate of consumer interests. At least one refiner has upped net income as much as 250 percent in the third quarter of the year at the same time sugar prices have tripled for the average consumer in the past 12 months. To note a much more dramatic surge, it was reported that one sugar company's profits in September alone were three times those the company had reported in all 12 months of 1973. In fact, the same stock which earned a penny a share interest just a year ago is now returning $6.27 to the investor.

I am pleased with President Ford's recently announced decision to set a worldwide quota system on sugar imports, which I previously had advanced, rather than the country-by-country quota system imposed under the authority of the Sugar Act, which is due to expire on December 31. The President's actions also will prevent a tripling of tariffs which would have been passed onto the consumer.

As many of you may know, the Council on Wage and Price Stability plans to hold hearings next week on sugar prices. In addition, the Justice Department has a grand jury probe underway in San Francisco involving sugar firms, but it is not expected to complete its proceedings for another 3 months.

Similarly, the Federal Trade Commission allegedly is investigating possible collusion and price fixing in the food industry. It has demonstrated, in my opinion, total disregard for the plight of millions of American caught in double-digit inflation while it continues along at a snail's pace in what it claims to be its "top priority" probe. In April, I urged the FTC to accelerate this investigation. I was advised that it was a time-consuming process, but that the project did have precedence over all other FTC activities. Later, I was advised that at the time of my inquiry and the subsequent response, only four persons were actively engaged in this "top priority" investigation which so vitally affects all our citizens.

Because I feel that the American people have been so ill-served by the Federal agencies charged with protecting their interests, I feel that creation of the Select Committee on Food Prices is more than warranted, considering my reluctance generally establishing such special bodies. What is desperately needed is coordinated effort by either the Congress or the administration to pinpoint areas of abuse, as well as those taking advantage of the public.

At a time when the President is exhorting the public to examine its buying habits to help check inflation, it is the height of hypocrisy for the Government to take a passive role in ferreting out the areas of abuse in food industry pricing. The reluctance of the Congress to provide the initiative is even more disturbing than the inertia of governmental agencies in protecting the taxpayer consumer. We have an obligation to our constituents and to all Americans—to get to the bottom of skyrocketing food prices—and I respectfully urge you to support my proposal which will contribute significantly toward searching out the truth behind this national dilemma.

ADMISSION OF THE PALESTINIAN LIBERATION ORGANIZATION TO THE UNITED NATIONS

(Mr. GOLDWATER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GOLDWATER. Mr. Speaker, I view the recent United Nations' decision to admit the Palestinian Liberation Organization to participant status and the decision to exclude the Republic of South Africa from further participation in the United Nations to be a gross violation of the U.N. Charter and the spirit within which the United States participates in the U.N. were it not for the fact that I still hold a fast-vanishing hope in the ability of the U.N. to foster peace in the world, I would call for the immediate resignation of the United States from that body.

The PLO and its leader, Yasir Arafat, have been elected by no one. They are terrorists and revolutionaries of the worst order. There is every indication they are an activist minority, dedicated to the annihilation of a legitimately recognized nation, Israel. The PLO has bombed school buildings, hospitals, and public markets. Its love of violence and destruction is as horrifying as that of Tkachev and Lenin. For the United States to permit the inclusion of this organization in the U.N. cannot be justified or excused. By permitting and encouraging the participation of the PLO, the U.N. has revealed itself to be dedicated to the playing of seedy world politics. It has thrust aside the honorable pursuit of world peace. I wonder how the U.N. can take pride in inviting into its midst, an individual who is personally armed and who flaunts such a bloodstained record. The U.N.'s action is a little like inviting a barbarian to use a finger bowl.

The vote to exclude the Republic of South Africa confirms the devotion to double standards and situation ethics that has come to characterize the U.N. The U.N. has steadfastly refused to address such internal issues as the slave labor system of the Soviet Union or the persecution of non-Africans in Tanzania. To decry apartheid in South Africa—a matter that is by international law purely internal—while ignoring these other problems in the rest of the world is despicable. The Republic of South Africa is moving to deal with the problem of apartheid. That nation is a friend of the United States and has a clear record of healthy and positive national and international activity. To single it out is patently discriminatory.

I am disgusted with these two recent actions by the U.N. and intend with the new Congress to introduce legislation to reduce the level of American funding to the U.N. An organization which persists in actions such as these, does not deserve to be supported by the hard-working American taxpayers.

MORE ON GEN. GEORGE BROWN

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, the controversy involving Gen. George Brown continues. I have had correspondence with the general in regard to his remarks

of October 10, before the Duke University School of Law. I thought our colleagues might be interested in the correspondence and also today's article in the Washington Post stating some facts and revealing some myths which bear upon the subject.

House of Representatives,
Washington, D.C., November 21, 1974.
Gen. George S. Brown,
Chairman, Joint Chiefs of Staff, Washington, D.C.

Dear General Brown: I have your response of November 19, to my letter of November 13. I now know how a constituent must feel when he receives a form response—angrier than when he first wrote on a matter of great importance.

In your response you failed to answer the questions that I raised in my letter, to wit, the statistics that you relied upon to support your statements concerning Jewish ownership of banks and newspapers. Fortunately those statistics were furnished in today's Washington Post which I trust you have read. And I am distressed that you did not comment on the even more fundamental problem concerning the intrusion of the military into the body politic. While you obviously regret the occurrence and say you were "guilty of a regrettably inarticulate and unthinking shorthand answer to a complex question," nowhere do you admit error with respect to your facts. You say you "meant no offense." Of course you meant no offense but you offended and most important, did incalculable damage not only to the people who were the subject of your attack, but also to the military.

While it is nice to know that you "enthusiastically support national policy as it concerns the State of Israel and peace in the Mid East" I want you to know that your personal opinion is not my concern in this case. My primary concern is that you violated a fundamental concept of our government, i.e., interjecting the military into the political sphere of our nation. If this practice were allowed to continue it would have a devastating impact upon our nation and could change its very form.

President Ford has expressed his sense of outrage but notwithstanding the regrettable incident, has said he will not require your resignation. Sadly enough I believe that the incident will always be remembered by the antisemites who will repeat your ill-considered remarks despite your apology and also by those who were the subject of your calumny. They will never forget that the Chairman of the Joint Chiefs of Staff who in one unguarded moment unveiled the darkest feelings within his soul.

Sincerely,
Edward I. Koch.

Chairman of the Joint
Chiefs of Staff,
Washington, D.C., November 19, 1974.
Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Mr. Koch: Your letter of 13 November 1974 referring to my response to a question posed by a student during my October visit to Duke University has been received.

I have enclosed a copy of the address I made at Duke, together with my response to the question at issue.

I understand and appreciate your concern. I was guilty of a regrettably inarticulate and unthinking shorthand answer to a complex question. I was indeed insensitive to the significance attached to an unfounded phrase chosen at random without knowledge of its emotional impact. I meant no offense.

It goes without saying that I enthusiastically support national policy as it concerns the State of Israel and peace in the Mid East. Not only do I do so out of a sense of duty, but out of personal conviction.

On 11 January 1974, in an address to the Commonwealth Club of California in San Francisco, I stated:

"Before I leave the question of U.S. resupply for Israel, I would like to offer one personal thought. Regardless of the emotions or politics involved, I think we can all be proud of America for taking a stand and basing that stand on what it believed was right and proper, and to me, that sort of thing is what being an American is all about."

I have, as you know, dispatched the attached telegram to the National Commander of the Jewish War Veterans and released the attached statement to the Press. I hope that these expressions of regret will begin the process of undoing the damage that has been done.

Sincerely,
George S. Brown,
General, USAF.

House of Representatives,
Washington, D.C., November 13, 1974.

Dear General Brown: I was distressed to read the report of your remark apparently given at Duke University on October 10th (and reported in today's press). You are quoted as having said:

"Now in answer to the question of would we use force in the Middle East, I don't know. I hope not. We have no plans to. It is conceivable. I guess, it's kind of almost as bad as the 'Seven Days in May' thing, but you can conjure up a situation where there is another oil embargo and people in this country are not only inconvenienced and uncomfortable, but suffer and they get tough-minded enough to set down the Jewish influence in this country and break that lobby. It is so strong you would not believe now. We have the Israelis coming to us for equipment. We say we can't possibly get the Congress to support a program like that. They say, 'Don't worry about the Congress. We'll take care of the Congress.'"

"Now this is somebody from another country, but they can do it. They own, you know the banks in this country, the newspapers, you just look at where the Jewish money is in this country."

I think you will understand when I tell you that I am not only offended by the remarks as one who is Jewish and who happens to be a Congressman, but I am also interested in what this means in terms of military involvement in the political affairs of our country.

In addition to that, I would like to pose several questions which I hope you will answer expeditiously. You allege that the Jews own the banks and the newspapers in this country. I should like to know whether you have access to statistical records which would support that statement and if you do, would you please provide me with the numbers of banks in this country owned by Jews and the number owned by non-Jews. And if you can provide the statistics on the number of Catholics and Protestants who have such ownership I would appreciate having that information too.

As you may not know, there are presently 12 Members of the House of Representatives who happen to be Jewish and 3 Members of the Senate. The legislation which has provided aid to Israel, in particular the $2.2 billion Emergency Security Assistance Act, was passed in the House by a vote of 364 to 52 and in the Senate by 66 to 9 and signed into law by President Nixon. The assistance was provided to Israel by Congress because it was in the national interest of the United States to do so. For you to disparage the motives of the Members of Congress by implying their being subject to the power of "Jewish money" is an insult and does you little credit. I know that you have concluded that your remarks, while not intended to denegrate Jewish citizens of the United States might be so interpreted, but that really is of little moment since there is no other interpretation to be made.

Your comments are very reminiscent of another military figure, Charles Lindbergh, who when leading the America First Rally in Madison Square Garden in New York City in support of Nazi Germany took the occasion to talk of Jewish money and power.

I have always believed that the great strength of this country which has permitted us to overcome problems which have toppled other governments, was the fact that we had established a system where the military were non-political and did not seek to have influence on the body politic. Obviously because of the high position that you now hold that is no longer the case. And so the question must be raised as to whether with such an attitude on your part implied by your comments, you are fit to continue in your appointed position.

I would very much like to have the benefit of your point of view on this entire matter.

Sincerely,
Edward I. Koch,
M.C., 18th District, New York.

[From the Washington Post, Nov. 21, 1974]

Jewish Bank, Newspaper Control Myth Continues

(By Stephen Isaacs)

The notion that Jews control the banks and newspapers of this country is among the most enduring of myths.

That was the notion put forward by Gen. George S. Brown, chairman of the Joint Chiefs of Staff, in a public talk recently for which he later apologized.

The Jews, he said in a question-and-answer session following prepared remarks, "own, you know, the banks in this country, the newspapers."

Sen. James Abourezk (D-S.D.), the only senator of Arab descent and an ardent opponent of pro-Israel lobbying on Capitol Hill, called Gen. Brown's articulation of the notion "very stupid." "That's the kind of stuff anti-Semites are very fond of popping out," he said.

Although Brown subsequently said he regretted his remarks, saying "they were both unfortunate and ill-considered and certainly do not represent my convictions," his words raised the idea anew.

The most recent survey of American banks was undertaken last year by the American Jewish Committee. Twenty-five of the nation's largest banks outside New York City were studied.

Those banks employed 377 persons in senior management positions. Of those, one was a Jew.

Of the 3,027 persons in middle management positions, 38 were Jewish.

Of the 491 nonofficers, 26 were Jews.

In a 1966 study of the 50 largest banks in the United States, 45 had no Jews in senior management jobs.

Of the 50 banks, 38 had no Jews in middle management.

In the country as a whole, Jews make up about 8 per cent of college graduates each year—the pool from which potential bank employees normally would be hired. And Jews make up 15 percent of the graduates of business and professional schools, the likely pool of people trained for executive jobs.

In heavily Jewish New York City, the same pattern persists. A 1967 study of New York banking executives showed 4.4 per cent to be Jewish. About half of all college graduates in New York are Jews.

In 1961, the Anti-Defamation League (ADL) of B'nai B'rith, a Jewish service organization, examined employment in the eight largest New York City banks and found that, of the 844 officers with the rank of vice president or above, 30 were Jewish.

Of those, 22 were concentrated in two banks and seven in a third. Four of the eight banks had no Jewish executives.

Jews are rarely found in banks' management, so ownership control of large banks in America is almost totally non-Jewish. In the ADL survey, for instance, the eight banks' boards of directors together had 197 members. Of those, three were Jewish.

In a 1965 survey of mutual savings banks in New York, the American Jewish Committee found that fewer than 2.5 per cent of the key officers were Jews. And, again, as to control—fewer than 3.5 per cent of the savings banks' trustees were Jewish.

Jews have played a larger role in investment banking—organizations that help companies find financing.

German-Jewish investment firms played a role in the United States in the mid and late-1800s during the industrial revolution.

Old firms included names like Kuhn; Loeb; J. & W. Seligman & Co., and Goldman, Sachs & Co. The larger control of investment banking, as detailed in a number of books about that period, remained with the so-called "Yankee" firms, like J. P. Morgan & Co. and Dillon, Reed & Co. The Jewish firms generally were limited to financing Jewish-owned businesses, like garment manufacturers and retail merchants.

The well-known firm of Lehman Brothers (in which the late New York governor and senator Herbert Lehman was a partner sprang from a peddling business, conducted from a horsedrawn wagon, in Alabama.

The peddling evolved into cotton brokering and, later, into investment banking.

New York's investment banking world no longer has a sharp distinction, however, between "Yankee" and "Jewish" firms, partly because stringent economic conditions have put a premium on the ability to generate business, no matter what the origin.

An example of the breaking down of the barriers is the Lehman Brothers firm, which now includes among its partners former State Department official George W. Ball and retired Gen. Lucius D. Clay.

A further indication of the elimination of the barriers is the fact that two of the most recent chairman of the New York Stock Exchange have been Jewish—Bernard J. Lasker of Lasker, Stone & Stern and Gustave L. Levy of Goldman, Sachs. Furthermore, Lasker's successor as chairman was Ralph D. DeNunzio of Kidder, Peabody & Co., the first Stock Exchange chairman of Italian descent.

Despite the facts, the myth persists that Jews control banking. The perpetuation of that myth, Rabbi Arthur Hertzberg, president of the American Jewish Congress, told President Ford in a letter asking for the removal of Gen. Brown, "has been a classical aspect of out-and-out, virulent anti-Semitism for a century. It was the backbone of the propaganda poured out by Joseph Goebbels for Hitler."

George Salomon of the American Jewish Committee, in analyzing the durability of the myth, notes that in the Middle Ages, Jews were "small-time lenders" but the big financiers were "the German and Italian financiers of the Renaissance, who created the modern banking system (but who) have not left Germans and Italians with a reputation for special financial power or canniness."

Further, said Salomon, "the old stock bankers of America—with names like Chase or Morgan" have somehow escaped being stigmatized. The source for the Jewish stereotype, he says, lies deeper.

He noted that Catholic scholar Claire Huchet Bishop found that the image of Jews as money men "stems in large part from the early Christian teaching that Jews are materialists—that they must be such, for why else would they reject the spiritual riches of Christianity?"

Salomon summarizes Mrs. Bishop's thinking by pointing out that this "becomes self-fulfilling prophecy." In the Middle Ages, Jews were forced into being economic middle-men because Christians were forbidden to lend money for interest. Money-lending was necessary, however, and as Salomon puts it, "since the Jews were already assumed to be materialists, they were the obvious candidates to fill the role."

As for Jewish ownership of newspapers, a survey conducted by this reporter for a recent book showed that, of the 1,748 daily newspapers in the United States in 1972, 3.1 percent were owned by Jews (who make up about 3 percent of the American population). Those newspapers published 8 percent of all the newspapers printed each day in the country.

The survey found that most of the newspaper owners who were Jewish generally leaned over backward to be "non-Jewish" and most made sure that Jews were not hired as chief editors.

Over half of the 8 per cent circulation comes from the Newhouse chain of newspapers, which outside of the immediate Newhouse family—employs no Jews as top editors. When Newhouse in 1951 was seeking an editor for his newspaper in Harrisburg, Pa., the recruiter specifically said that a Jew would not be suitable.

On the other hand, all three of the national commercial television networks were created principally by Jews—NBC by David Sarnoff, CBS by William Paley, ABC by Leonard Goldenson.

And there is a considerable presence of Jews in the reporting trade; Jews are disproportionately involved in the media as middle-level editors and reporters.

But none of the networks has ever put forward a "Jewish" face in their key, evening news anchor positions and few of the nation's top newspaper editors are Jews. Of the more than 800 members of the American Society of Newspaper Editors, which limits membership to directing editors of newspapers, fewer than 20 are Jewish.

"It is interesting to note," said Bertram Gold, executive vice president of the American Jewish Committee, "that charges of undue Jewish influence continue to be raised whenever there are periods of economic or political tension."

Gold has been warning for the last year or so that Jews must be wary of a possible increase of anti-Semitism with the growing economic malaise in the world. Senate Majority Leader Mike Mansfield (D-Mont.) struck the same note when he said "I'm always afraid of latent anti-Semitism and there are groups in this country that make a profession out of finding fault with the Jewish people. It's always something that's in the back of my mind."

Other data are available about Jewish influence in some key industries. In a 1970 article, Business Week magazine noted that only two-thirds of a per cent of all white-collar jobs at the three major automobile companies were held by Jews.

That article noted that, in Hartford, Conn., and its busy insurance industry, only 1.2 per cent of the insurance firms' managers were Jews, despite the fact that 10 per cent of Hartford's population is Jewish.

The percentages of Jews were even lower in the shipping, oil, chemical and electronics industries, according to that article. It added that a 1960 study of 1,500 American corporations found only .5 per cent of all managers to be Jews.

BEEF CRISIS

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, I am today urging the Department of Agriculture, the Justice Department, and the Federal Trade Commission to investigate the beef price spread between the price received by producer and the exhorbitant prices paid by the consumer. The time has come for remedial action. In calling for an investigation, Mr. Speaker, I wish to commend Chairman Poage and his great Committee on Agriculture for holding hearings on current meat prices.

Mr. Speaker, the cattleman and indeed the entire beef-producing industry is in a recession of crisis proportions. This is the worst farm-related depression since the early 1930's The cattle farmer is receiving less for cattle compared to the cost of production than at any time in American history. In the summer of 1973, the cattleman enjoyed the highest prices ever for his cattle. Then, he suffered the greatest drop in prices in history.

Today, cattle are being sold for dog food, calves are being destroyed, and cattle given away. Buyers in most cases simply cannot be found, yet the consumer is paying an alltime high price for retail cuts of beef. While he suffers an incredible drop in the market price for cattle, the farmer pays three times more for fertilizer, more for fuel, farm equipment and insecticides. Taxes paid by the farmer increased dramatically.

The cattle farmer cannot afford to carry many brood cows and young calves through the winter. Feed is extremely high and nonexistent in some areas. Thousands of cattle producers are being forced out of business. We do not have a surplus of cattle or feed grain, yet prices to the farmer continue down while the consumer pays more. Young farmers are being put out of business and others completely discouraged to engage in farming. The average age of the American farmer is 60 years. Unless we act now the American people will be faced with food shortages, hunger and food riots in a very few years. The consumer will suffer the most.

The once growing cattle industry in South Carolina is facing disaster. Most of our cattle are produced by farmers with less than 50 head. Most are in debt and now forced to liquidate and go out of business. They cannot borrow money at high interest rates to pay more for high cost feed.

This tragic situation was largely brought on by a Government policy of price fixing, and unwise policies which permitted unfair imports. Mr. Speaker, the cattle farmer needs help now. Tomorrow will be too late. It is time for positive action to help keep this vital industry alive.

A MESSAGE TO AMERICA'S CARMAKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, recently, General Motors has been running advertisements in the form of a "message to America's car buyers" from Mr. R. C. Gerstenberg, corporation chairman. The message is simple: People should buy new cars now to keep "the wheel of progress rolling."

Coming from the Cleveland, Ohio, area, I am particularly concerned about the need to maintain auto production. Automobile manufacturing is the backbone of the economy of my part of the country.

For this reason, I am particularly upset at the wasteful stupidity of Detroit's auto management. The American automobile manufacturing industry is just about the last segment of our economy to recognize the oil crisis overwhelming the Nation. Industry oversight of the problem is almost belligerent. Our industry has insisted on perpetuating the production of gasoline-guzzling monsters. By this decision, one-sixth of the American automobile market has been "given away" to foreign imports.

In particular, Lynn Townsend, chairman of Chrysler, announced earlier this year that the company had "put back" any possible introduction of a subcompact car until 1977 at the earliest. And now, Chrysler's 100,000 workers and thousands of stockholders are paying for this shortsighted policy.

Today, while assembly lines come to a halt in the automobile industry, a tremendous market for an American-made gasoline-efficient automobile remains untouched. This market potential varies between 10 and 20 million new units and will keep growing while America converts to more miles per gallon.

The American automobile manufacturers blame low gasoline mileage on air pollution and safety standards. However, the foreign automobile manufacturers meet these same standards with vehicles which produce as much as 38 to 40 miles per gallon.

If America could move to a 20-mile-per-gallon automobile, our foreign oil imports could be reduced by one-quarter or 2 million barrels per day without disturbing established patterns of American motor vehicle use.

After a short spurt of production of more efficient automobiles last year, the American industry returned to the production of large automobiles. This year, the automobile industry cut back on several lines of gasoline-efficient automobiles and substituted larger motors for smaller engines and then loaded the smaller, lighter cars down with expensive options. The smaller automobiles end up with the lion's share of the recently announced price increases.

I have just completed a comparative study of 1974 and 1976 new car prices with data available from the National Automobile Dealers Association. This study shows that the well-publicized price increases in 1975 models were disproportionally concentrated in the smaller models.

Why? Because the bigger, more expensive cars bring in more profit per car to Detroit. Therefore, I believe that Detroit has driven up the prices of its compact models so that the price difference between small- and medium-size cars would be eliminated. As a result, customers would be encouraged to "step up" to the bigger car.

The pricing policy contributes to inflation, encourages consumers to buy the less-energy-efficient cars, and makes car ownership by low-income families and young families more difficult.

Some examples show how this pricing policy has blurred the distinction between big and small cars and removed the low-cost, American-built car from the marketplace. American Motors increased the price of its six-cylinder Gremlin by $662, or 29 percent, between the start of model year 1974 and model year 1975. Yet it increased the price of its Matador—which weighs nearly a half ton more—by $530, or 17 percent. Chevrolet's Vega was increased in price $562, or 25 percent, while the Monte Carlo, some 1,500 pounds heavier—went up $594, or 16 percent. Dart Sport went up $738, or 29 percent. The Dodge Monaco Brougham—1,400 pounds heavier—went up $777, or 17 percent.

Last year, my Cleveland staff did a survey of area dealerships. They found that there was a glut of large model cars and up to 3 or 4 months waiting periods for small cars. I have just completed another study of 17 Cleveland area auto dealerships. Now the situation is reversed. There are too many small cars on the lots. People are not buying these cars. Why? I believe it is because Detroit has placed intolerably high price tags on them.

Some dealers reported a shortage of big luxury cars and a "heavy" demand for these vehicles. Mr. Speaker, it should be obvious that this is a very limited demand. How many American families can afford a $5,000 or $6,000 car today? The great mass market is the small economy car market—and Detroit has manipulated price structures to eliminate those cars.

If we had a truly competitive automobile market, the price of small cars would go down, more people would buy them, and Detroit would be back to full employment.

The United States started the automotive age. I believe that we can still produce the best, low-cost cars in the world. It is shameful that Detroit's management has failed to keep pace with foreign competition. Foreigners have been able to produce low-cost cars which meet air pollution standards and get good mileage. Why cannot Detroit do the same? I believe that they have become fat and indifferent with their high-priced, high-profit luxury, gas guzzling models. The American people deserve a better idea from Detroit.

Following are the comparative figures as determined from the National Automobile Dealers Association data:

Co. and model	Model number	1975 weight	1974 price	1975 price	Dollar difference	Percent change
American Motors:						
Gremlin, 6 Cylinder	46-5	2,694	$2,159	$2,781	$622	29
Hornet 6 Cylinder	05-7	2,881	2,399	3,124	725	30
Matador 6 Cylinder	16-7	3,562	2,996	3,526	530	17
Buick:						
Apollo sedan 6 Cylinder	B69	3,366	2,778	3,449	671	24
Century wagon, V8	F45	4,370	3,994	4,930	936	23
Le Sabre, V8	N69	4,355	4,046	4,784	738	18
ElectraV8	V39	4,706	5,178	6,214	1,036	20
Chevrolet:						
Vega notchback 4 Cylinder	V11	2,415	2,237	2,799	562	25
Vega Estate wagon 4 Cylinder	V15	2,531	2,701	3,257	556	20
Nova, 6 Cylinder	X69	3,306	2,557	3,222	665	26
Malibu, 6 Cylinder	C29	3,713	2,785	3,415	630	22
Malibu station wagon, V8	D35	4,207	3,820	4,714	894	23
Monte Carlo "S" 2 door V8	H57	3,927	3,668	4,262	594	16
Impala, V8	L69	4,218	3,777	4,561	784	21
Caprice, V8	N69	4,311	4,100	4,832	732	18
Corvette, V8	Z37	3,433	5,735	6,810	1,075	19
Chrysler:						
Newport, V8	Cm41	4,410	$4,532	$5,254	$722	15
New Yorker, V8	Cs41	4,565	5,497	6,277	780	14
Dodge:						
Dart sport, 6 cyclinder	LL29	2,980	2,559	3,297	738	29
Dart 6, 6 cyclinder	LL41	3,060	2,639	3,269	630	24
Coronet 6, 6 cyclinder	WL41	3,595	2,880	3,641	761	26
Monaco brougham, V8	DP41	4,365	4,485	5,262	777	17
Ford:						
Pinto sedan	10	2,495	2,292	2,919	627	27
Pinto wagon	12	2,692	2,543	3,178	635	25
Torino, V8	27	4,053	2,811	3,957	1,146	41
Mercury:						
Comet, V8	30	3,193	2,654	3,270	616	23
Montego, V8	02	4,066	2,939	4,128	1,189	40
Oldsmobile:						
Omega—6, 6 cyclinder	B69	3,361	2,955	3,463	508	17
Toronado custom, V8	Y57	4,647	5,560	6,536	976	17

LET'S NOT KILL THE GOOSE THAT LAID THE GOLDEN EGG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRAY) is recognized for 10 minutes.

Mr. BRAY. Mr. Speaker, reports coming from the recent World Food Conference in Rome place the United States in a very unfair light, despite the fact that the United States has done more to feed the hungry and the poor of the world than any other nation or combinations of nations. Many of the nations of the world that have been sustained by the bounty of the American taxpayer were also the most aggressive in presenting America as a modern day

Simon Legree. Kind words about American assistance to the hungry of the world were all but nonexistent.

There is but little to be gained by pointing out the aid that the United States has given the people of the world since 1946, but the figures are interesting. According to Congressman OTTO E. PASSMAN, chairman of the Subcommittee on Foreign Operations of the House Committee on Appropriations, the grand total costs of foreign assistance from 1946 to 1971 was $218,880,797,000 an amount that defies comprehension. This money was given under many programs, such as military aid, food, education, and technical assistance. This money and aid was unselfishly given by the American taxpayer with the best of intentions.

As one good example, the United States, in various programs, granted economic aid to India, in the amount of $9 billion, and many of us were shocked to learn that the country was using a substantial amount of that money toward the development of an atomic bomb, despite the fact that starvation is rampant in that country. Despite all the assistance that our country has given and is still giving for the poor, the hungry, and to the undeveloped countries of the world, the press reports emanating from the World Food Conference in Rome read almost like an indictment of the United States for not contributing more to the starving people of the world.

If America is to be able to continue to provide the help the world needs, we must cease to demean ourselves, among other things. We must restore confidence in ourselves; confidence in the great things we are doing for the world. Perhaps one of the best services we can render to the hungry people of the world and to the undeveloped nations is for us to restore the vigor of our own economy and confidence in the greatness of America.

The least the Americans at the World Food Conference could have done was to have told the world what our country is unselfishly doing for mankind. Demands were made that the United States guarantee to the world an additional million tons of grain, grain that we may not even have available. There was not a word of gratitude expressed for the fact that from 1965 to 1972 the United States had furnished 84 percent of all food that was provided to the undeveloped countries.

Our great country, partly because of our aid abroad, is suffering a mammoth deficit in our balance of payments. If we do not have this grain to sell abroad, where will we get the money to buy the oil that we must obtain to keep America warm and the wheels of American industry turning.

Despite attacks being made against our country, President Ford, fortunately, refused to make this additional commitment at this time. Now, there is no doubt that the world food situation is bad and in some areas approaching crisis proportions, with mass famines in some parts of the world bleakly projected for the near future. Yet, this country simply cannot be looked upon as the world grocer. Troubles with our own crops have drastically reduced our grain surpluses. Again, we must keep America strong if we are to continue to perform the mission of assisting the needy of the world. We must see to it that we not allow misguided Americans or selfish foreign interests to destroy the great American economy that is a haven for the poor and oppressed. "Let's not kill the goose that laid the golden egg."

PRIVILEGED RESOLUTION DIRECTS INTERROGATORIES TO THE SMALL BUSINESS ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HINSHAW) is recognized for 30 minutes.

Mr. HINSHAW. Mr. Speaker, I have today introduced a privileged resolution directing interrogatories to the Administrator of the Small Business Administration.

The text of the resolution follows:

H. RES. 1473

Resolved, That the Administrator of the Small Business Administration is directed to furnish to the House of Representatives, within one week following the adoption of this resolution, the requested information since the enactment of the Small Business Act of 1958, as amended, and the Small Business Investment Company Act of 1958, as amended, both hereinafter referred to as the "Act":

1. The number of Small Business Investment Companies licensed under the Act, hereinafter called "SBIC"s, identifying each such SBIC by name, last known principal office location, last known telephone number, last known chief executive or other managing officer, and his or her last known address and telephone number.

2. Identify each SBIC whose license has been forfeited.

3. Identify each SBIC which has been subjected to liquidation procedures conducted by the Small Business Administration, hereinafter referred to as the "SBA". Liquidation proceedings are herein defined to mean any proceedings commenced and/or conducted with or pursuant to SBA standard operating procedures 50–51 or 50–53, or any other proceeding wherein a plan, contract, agreement, order or instruction for the disposition of assets of an SBIC with a view to satisfying in whole or in part the debt of said SBIC to the SBA was entered or made.

4. For each SBIC with respect to which liquidation proceedings were commenced, state whether a Receiver or Trustee of the assets of said SBIC was appointed, and if so, provide the name of each such Receiver and/or Trustee, identifying those who were employees of the SBA at the time of appointment, and provide the last known address and telephone number of each.

5. The initial capitalization upon licensing of each SBIC, the total amount of leverage granted to each SBIC, identifying that amount of leverage granted during each United States government fiscal year from the date of licensing through the fiscal year ending June 30, 1974. Leverage as used herein is defined to mean financial assistance provided to an SBIC by SBA through direct lending, through the purchase or guaranty of debentures, or through the purchase of preferred securities, or by any other means of any kind or nature whatsoever.

6. The impairment percentage of each SBIC as reflected in or by their 468 reports during each United States government fiscal year from the date of licensing through the fiscal year ending June 30, 1974. The term "468 Report" is defined herein to mean that annual audited year-end report required by SBA of each SBIC in accordance with the Regulations from time to time adopted and as presently described in "SBA's Audit Guide System of Account Classification and Instructions for Preparation of the Financial Report, SBA Form 468", and any predecessor to said report.

7. Identify each SBIC licensed for a special purpose, and describe each and every such special purpose for which each such SBIC was so licensed. The term Special Purpose is herein defined to mean any statement or provisions contained in the license of any SBIC or in its Articles of Incorporation or By-Laws, describing any limitation, restriction, or purpose with respect to the financing of a particular economic group, industry or class, or the engaging in any particular type or classification of investment activity. Special purpose includes any SBIC characterized as a "MESBIC" or a Section 301(d) SBIC.

8. Identify each SBIC which has been subjected to an investigation or examination under the provisions of Title 15, U.S. Code Section 687(b), excluding the regular annual SBIC examination conducted thereunder.

9. For each SBIC which has been subjected to any such investigation or examination described in the immediately preceding question, state the date upon which each such investigation or examination was commenced and the date of its completion or termination.

10. For each SBIC which has been subjected to any liquidation proceeding, provide the date upon which such proceeding was commenced and the date of its completion or termination.

11. For each SBIC for which any Receiver or Trustee was appointed, provide the date upon which such Receiver or Trustee was appointed.

12. For each SBIC whose license was forfeited, provide the date upon which the license was forfeited.

13. In each and every liquidation proceeding in which or as a result of which there was a disposition of any of the assets of any SBIC, provide:

(a) the name of each such SBIC.

(b) The total cost basis of all such assets appearing on the books of each such SBIC at the earlier of the times of (i) commencement of investigation, (ii) commencement of liquidation, or (iii) the date of forfeiture of license. If any such assets were disposed of subject to encumbrances or liens, state the total amount of same.

(c) The total amount of consideration received by SBA in connection with the disposition of all such assets.

(d) If any of the assets purchased upon such disposition were acquired by other SBIC's or any associates of other SBIC's, indicate the name of each such SBIC or associate acquiring any such asset, the book value of each such asset at the earlier of the times of (i) commencement of liquidation, (ii) commencement of investigation, or (iii) the date of forfeiture of license, and indicate the consideration paid for each such asset, a description of each such asset acquired, the amount of any encumbrance or liens if such asset was acquired subject thereto.

14. In each and every liquidation proceeding in which or as a result of which there was a disposition of the SBA debt owed by such SBIC, provide:

(a) The name of each such SBIC.

(b) The total amount of said debt, including accrued interest upon the date of disposition.

(c) The total amount of consideration received by SBA in disposition of said debt.

If any of said debt purchased upon said disposition was acquired by other SBIC's or any associates of other SBIC's, indicate the name of each such SBIC or associates acquiring such debt, the amount of said debt acquired, and the consideration paid for said debt.

15. Is there a prospective purchaser roster of or related to the assets of SBIC's or the debt of SBIC's owed to SBA in connection with SBIC liquidation proceedings? Forward a copy of each such roster from the date of the creation of the first such roster to the present time.

16. For each SBIC which has been subjected to liquidation proceedings:

(a) Provide its balance sheet most recently preceding the commencement of liquidation.

(b) Provide its year-end operating financial statement for the fiscal year most recently preceding the commencement of liquidation.

17. For each SBIC which has been subjected to a special examination or investigation as described hereinabove, state whether or not there were one or more opinions or findings of fact of SBA legal counsel rendered and identify each; forward a copy of each such opinion and/or findings of fact.

18. For each SBIC which has been subjected to forfeiture of its license, state whether there was a formal hearing conducted by SBA in connection with the forfeiture, the date of the hearing, the name of the hearing officer, the name of counsel or other agent representing the SBIC, and his last known address, and whether or not there was a formal opinion and findings of fact rendered in connection with said hearing; forward a copy of each such opinion and/or finding of fact.

19. For each SBIC against which litigation was commenced in connection with the liquidation and/or forfeiture of its license in the Court of any State or in any Court of the United States of America, state the title of the action, the number of the action, the place of filing, and the date of filing.

20. Identify each SBIC entering any voluntary contract or settlement, formal or informal, for liquidation. Provide a copy of each and every such contract. If the settlements were informal, state whether or not the settlement provided for the forgiveness of all or any part of any debt owed by any such SBIC to SBA.

21. Identify each SBIC with respect to which liquidation proceedings were commenced that was, upon termination or completion of such liquidation proceedings, allowed to continue its operations as an SBIC.

22. Identify any standards, whether formally adopted or informally followed by the SBA's Investment Division in the exercise of credit judgments related to granting leverage, including without limitation, standard operating procedures, policy memorandums, letters, opinions of legal counsel; identify and describe the changes in any and all such standards and the effective date of each such change; forward a copy of each such standard, policy memorandum, standard operating procedure, letter, and opinion of legal counsel, and the changes thereto.

23. Describe each and every consideration, factor, concern and fact presently taken into account in the making of any such credit judgments and the weight given to each such consideration, factor, fact, or concern.

24. Identify and describe any standards, whether formally adopted or informally followed by SBA, in the commencement and conduct of SBIC liquidation proceedings, including without limitation standard operating procedures, policy memorandums, letters, opinions of legal counsel, and identify and describe the changes in any and all such standards, and the effective date of such changes; forward a copy of each such standard, policy memorandum, standard operating procedure, letter, and opinion of legal counsel, and the changes thereto.

25. Describe each and every consideration, factor, concern and fact presently taken into account in the making of any such decision to commence an SBIC liquidation, and the weight given to each such consideration, factor, fact or concern.

26. In the event that there is presently any variation between the established standards for the exercise of credit judgments and the standards presently applied as a matter of practice, describe each such variation.

27. In the event that there is presently variation between the established standards for the commencement and conduct of liquidation procedures and the standards presently applied as a matter of practice, describe each such variation.

28. State whether there is or has been any SBA written policy, memorandum or written legal opinion of counsel which takes or asserts a position that the Administrator of the SBA is precluded, inhibited or impaired from compromising claims of SBIC's, whether in liquidation or not. Submit a copy of each such written policy, memorandum or written legal opinion.

29. Identify each such policy, procedure, practice, or opinion of counsel described in the answer to the immediately preceding question, provide the date of its effectiveness, and state whether or not such policy, procedure, or practice is effective at the present time.

30. Identify any suit for damages and/or declaratory or injunctive relief brought against the SBA, the Administrator of the SBA, or any employee, representative or agent of the SBA by any SBIC or any representative, officer, director or shareholder of an SBIC, in which a claim was made by said SBIC or any officer, director, shareholder or representative thereof, that the complaining SBIC or SBICs suffered through the acts, omissions, conduct, procedures, policies, or decisions of the SBA, its employees, agents or representatives, in connection with and arising from the granting of the SBIC license, the providing or failing to provide leverage, and/or the general administration and implementation of the SBIC program, the Act and the Regulations pertaining thereto. For each such suit, describe the title and number of the action, the place of filing, the date of filing, and the court in which filed.

31. Has the SBA ever forgiven, officially or unofficially, directly or indirectly, any SBIC of all or any part of the debt owed by said SBIC to the SBA? If so, state whether or not such a forgiveness occurred in connection with a liquidation or not, and identify each such SBIC, the amount of the debt forgiven, whether such a forgiveness was of principal, interest, or both; identify any letter, memorandum, agreement or correspondence related to any such forgiveness, and forward a copy of each.

32. Has the SBA ever subordinated all or any portion of its debt to capital newly injected into an SBIC or to existing SBIC capital? If so, state whether such subordination was to new or existing capital, identify each such SBIC, the amount of the SBA debt so subordinated, and the amount of the new or existing capital preferred to the SBA debt.

33. Identify each and every moratorium on the payment of principal and/or interest granted by the SBA to any SBIC, and provide the date and period of each such moratorium, the amount thereof, identify the SBIC to whom the moratorium was granted, and identify any letter, memorandum or agreement related to the granting of said moratorium on the payment of principal or interest, and forward a copy of each.

34. Does SBA regularly publish copies of its findings, the opinions of its legal counsel, and its administrative decisions in connection with its supervision, administration and regulation of SBIC's? If not, is it the policy of SBA to apply any of such unpublished findings, opinions of legal counsel, or administrative decisions as precedents in the handling of subsequent related and/or similar problems?

35. Does the SBA regularly publish copies of its operating procedures, policies, procedural memorandums, or responsibility memorandums related to the supervision, regulation and administration of SBIC's. Excluding violations of the Act or Regulations, has the SBA ever considered any violation or any number of violations of any such operating procedures, policies, procedural or responsibility memorandums to constitute a basis or ground for withholding leverage, forfeiture of an SBIC license, or making negative credit judgments? If so, describe each such violation and identify the SBIC affected thereby.

36. Has the SBA created, promulgated and published or otherwise distributed any promotional or informational materials, whether in the form of pamphlets, newsletters or newspaper releases, or public addresses by the officers or staff of the SBA, related to the creation, formation and regulation of SBIC's? If so, identify each such pamphlet, newsletter or newspaper release, including the date of its preparation and any modification thereto, describing any changes made therein; the date of each publication, promulgation or news release, and the name of any such newspaper to which such news release was given; and the date of each public address, the place where given, and the name of the group to whom any such address was made; forward a copy of each.

STRATEGIC IMPLICATIONS OF THE ENERGY GAP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 30 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, most Americans think of the energy crisis in terms of inconvenience, increasing fuel costs, and the personal sacrifices we might be required to make for the fuel conservation effort. Many of us are beginning to recognize the enormous scientific effort and capital requirements that will be necessary for our national energy program. Far too few of us have come to grips with the most significant aspect of the energy problem—that of the implications of a growing energy imbalance between the United States and the Soviet Union.

The Soviet threat has occupied our national attention for many years. Military, economic and political policies have been formulated with a keen regard for the potential of conflict developing between our two nations. We have relied on military and economic superiority as a mainstay against Soviet aggression. It is now apparent that the real threat to American security lies within our borders. In fact, it lies at the heart of what we cherish as the "American way of life."

If we lose the balance of power to the Russians, our loss will surely be based on our inability to grasp the hard fact that our lifestyle of conspicuous consumption is depleting our fuel resources at a rapid rate; that we have failed to heed the warnings of this eventuality over the years; and that we did not develop an effective national energy policy until we were almost at the brink of an energy disaster. If we fail to close the long-term energy gap, the Russians will surpass us on every front—in effect, they can bury us.

Those that are trying to distract us with claims of a contrived energy crisis will not help us to win this crucial contest. Those who dismiss the crisis by claiming that technological miracles can be achieved overnight are also doing us no favors. Let there be no doubt about it—this is the most serious challenge we will face in the coming decade and beyond.

Let us not be allayed by glib predictions from nonscientists about the adequacy of our coal and oil shale to provide long-term energy needs. Right now a lot of people are extolling the virtues of our yet undiscovered resources. Unfortunately, their happy predictions of sustained American economic growth—and accompanying standard of living—do not include a projection for exponential population growth and demand. Nor do they include in their statements an accurate assessment of the enormous costs of this energy program and the scientific skill that will be required to overcome some formidable technological problems. And even if we can provide for our present energy needs, what about the needs of our children and generations of Americans yet unborn? Will our present actions—or inactions—weaken America's future? These are hard questions, and we should be suspicious about simple answers.

Should we base the future of our national security on optimistic predictions that will depend on the timely achievement of a long series of goals—with no margin for error? Or should we instead confront the reality of the problem, define its dimensions and root causes, and develop a long-term energy program, and contingency plans, based on good economic and social sense?

The directions we take on the energy crisis today will influence—for better or for worse—the lives of all future Americans. These actions we institute today will determine what America's future will be. These actions should include an appreciation of exactly what we are up against in the international energy challenge.

The first step should be to compare the energy resource banks of the United States and the Soviet Union:

Total resources	Russia	United States
Oil (billions of barrels)	400	100
Gas (trillions of cubic feet)	3,000	1,000
Coal (billions of tons)	4,000	1,500
Hydroelectric (billions of watts)	240	160
Uranium (tons)	1,000,000	660,000

As you can see, we trail behind the Russians in every resource. A breakdown according to population is even more revealing. For purposes of comparison, I shall include China in this projection:

FOSSIL FUELS RELATIVE TO POPULATION

	U.S.S.R.	United States	China
Oil (barrels per person)	1,700	500	110
Gas (1,000 cubic feet per person)	13,000	5,000	Unknown
Coal (tons per person)	17,000	7,500	1,200

Russia not only has a vast natural resource base in timber, water, iron, coal, and minerals, but she has these in high proportion to her 240 million people. Of all nations, Russia is by far the most self-sufficient in all the resources that go into a modern technology. Her research in power technology is also the highest in the world. Russia has already made significant progress in magneto-hydrodynamics, MHD, the fast breeder reactor in fusion research.

Russia faces an oil shortage in 30 to 50 years—not now like the United States. Russia's oil consumption is 60 percent of our own, but her reserves are four times greater. At the present rates of domestic oil production, Russia will surpass us by 1978, at which time she will be producing 5 billion barrels per year. While our oil production capacity is leveling off, Russia's is rising at a rate of 8 percent per year. After Russia surpasses us in production in 1978, she will still have four time our oil reserves remaining to be tapped.

Russia has about three times the natural gas we do. Since most of her gas reserves are located far from her industrial cities in the West, Russia's need to ship gas over 1,000 miles has led to research in large diameter gas pipeline transmission systems that transmit gas under high pressure. Our largest proposed pipeline will be about 42 inches in diameter. The Russians use 40-, 48-, and 56-inch pipe and are experimenting with a 99-inch pipe. They have just signed a contract with Occidental Petroleum for technical assistance in the development of their oil and gas fields. Russia's gas consumption is about 7 trillion cubic feet per year. She has over a 400-year supply on the basis of her current reserves. While Russia's gas consumption rate is rising, like our own, she will not face a gas shortage until well after 2000, while we face one today.

Russia has three times our coal reserves: 4,000 billion to our 1,500 billion tons. As in the case of gas, her coal fields are located far from the urban centers where it is required. Although a fraction of the coal is burned to generate electricity in plants near the coal deposits, the Russians are working to develop long-distance transmission lines. For example, a direct current 1,500-kilovolt line will connect the power plants in the Ekibastuz coal fields with the cities of the west. Transmission of direct current will probably be the chosen technique should fusion power be developed; hence, this technology will serve them well in the future. In contrast, we use alternating current transmission lines which are much less efficient.

The Russians will not have to develop a synthetic fuel program from coal because her oil and gas reserves will last until fusion power is developed.

Russian hydroelectric power potential is 1.5 times our own. Electrical output in Russia has risen from 16 billion watts in 1951 to her present 170 billion watts; our own is 375 billion.

While the Russians are forging ahead in magnetohydrodynamics, direct current transmission over long distances, and large diameter pipeline transmission systems, they appear to be not rushing into an area that is strictly defined by the laws of physics—that is, the breeder reactor program. One must note that our present R. & D. budget places highest priority on the breeder reactor as a future source of energy.

We should also compare the United States and Soviet fusion program:

First. The United States has spent $400 million on fusion research to date; the Russians have spent over $800 million;

Second. Fifteen percent of all fusion scientists in the world are Americans; 35 percent are Russian; and

Third. One of the most advanced fusion reactors in the world is Tokamac, a toroidal configuration developed by the Russians at the I. V. Kurchatov Institute of Atomic Energy in Moscow in 1969, and subsequently followed in similar reactors at Princeton, MIT, and Oak Ridge.

The Russians could achieve a higher standard of living than ours within 20 to 30 years. Based on our fuel self-sufficiency being down about 30 percent in the 1980's, our nuclear capacity and synthetic fuels not ready until after 2000, and our having to work hard to just stand still, it is likely that we will enter an era of decreased economic growth that may level off, or at best, provide a gain of about 12,000 to 15,000 watts per person "living standard" over our present 10,000-watt level. The Russians, on the other hand, face no such problem. Their energy deployment is doubling every 10 years; from 1960 to 1970, their rate of oil, gas, and coal consumption has doubled as has their rate of hydroelectric power consumption.

Their energy growth is about 7 percent per year. While this rate approximates ours, they have the resources to sustain it. We do not. The Russians face the happy prospect of continued growth with no fuel shortages developing until well after 2000. Russia has the potential to be the ranking superstate and the possessor of the world's highest standard of living by the late 1980's. If you extrapolate Russia's compounding growth rate for 20 years, compared with our projected declining growth rates, it is fairly obvious that by the end of the century we might lose our ability to influence world events.

As we have seen, Russia need only wait to achieve her supremacy. But she could also become actively involved in an international energy strategy that would result in energy-impoverished nations becoming dependent on Russia for energy resources.

It is likely that by the end of the 1980's, we will be competing with other Western nations for the same Middle East oil. If we develop our synthetic fuel industry in the United States, we might also be called upon to assist Europe and Japan rather than see them lean toward the Russians for energy supplies.

It is also likely that some intervention by China and Russia in the Middle East could occur, to our detriment. They could also seek to cultivate the other oil-rich nations of Venezuela, Indonesia, Nigeria, and Canada with trade arrangements.

Some recent developments are worthy of note:

Russia has recently concluded agreements with West Germany, France and Italy to supply 400 billion cubic feet of natural gas per year by the second half of the 1970's. At the same time, she has concluded agreements with Iran and Afghanistan to import 479 billion cubic feet per year—which makes Russia a net importer even though she has the world's largest reserves.

Russia has proposed to Japan to build a 4,000-mile oil pipeline from Tyuamen—a rich oil field—to Nakhodka—a seaport facing Japan. In return for paying $1 billion of the $3 billion cost, Japan will receive a 20-year supply of oil of up to 35 million tons per year.

Russia has concluded an agreement with Libya to jointly develop and refine Libyan oil—which represents a major breakthrough against the Western monopoly over Libyan oil. If Russia purchased just 20 or 30 percent of the total Libyan production of 1.8 billion barrels per year—which supplies 42 percent of the oil needs of Western Europe—she could exert a strangle hold on the European countries.

The Arabs have announced their intention to purchase technology with oil money, and the Russians are at the forefront of the great technology sale.

Iraq recently announced an agreement to develop her oil resources in concert with the Russians. The recent nationalization of Western oil interests by Iraq, and the resultant boycott of Iraq oil by the Western parent companies, has driven Iraq into the arms of the Russians.

The remaining Arab countries have already embarked on a national porgram to nationalize their oil industries. Is this the first step to a "pro" and "anti" West polarization?

And what about the other nations of the world? How do they stand in relation to the United States and the Soviet Union in energy resources? To what extent will their future policies be shaped by their dependence on outside energy sources? Do any of them possess the energy resources and technological base necessary to make them into "superpowers"?

China is striving to be a military superstate. She will never be an economic superstate because of the low level of her energy base. China possesses two-thirds of our coal reserves and one-tenth of our oil reserves; she also has a population that is over four times that of the United States. Her greatest asset is manpower, but without energy, her expanding technology will not be able to lift the standard of living of her 800 million people. It is not surprising that China and Russia are now involved in a dispute over certain oil-rich lands in Siberia. There is a possibility that the Sino-Soviet conflict will intensify this year. The Chinese involvement in this serious situation is quite apparent—her future could change dramatically with an improved energy base promised by the Siberian oil.

The Middle East has vast oil resources, but not the technological base required to launch those countries into a world leadership position. The Middle East will have to accelerate policy development, because her energy asset could be depleted in two to three decades, or rendered useless by energy self-sufficiency in the industrialized nations. These realities are forcing the Middle Eastern oil exporting nations to develop policies that will extend the life expectancy of their sole resource, and increase its worth. This can best be done by moving into petrochemical production and related industrialization. The Shah of Iran recently announced that his country would be out of the "oil business" within 2 years, and that Iran's oil would be used to build a technological and industrial base competitive with the Western nations. By using their oil reserves in this manner, the Middle East countries can insure the economic viability of their economies for an extended time.

Latin America possesses about twice the oil reserves of the United States—approximately 200 billion barrels. Her population base of 300 million consumes about 1 billion barrels of oil per year. Theoretically, her oil could last for over two hundred years if the standard of living remains at a low level. If the Latin American countries strive to emulate the American standard of living, however, their reserves could be depleted in 20 to 30 years. Latin American coal reserves stand at one seventy-fifth that of the United States, so her capacity for synthetic fuel is even less than that of Europe. Nuclear planning is also hampered by the fact that there are no uranium reserves in Latin America, nor the technological skill required to embark on a nuclear energy program.

Africa has large oil reserves in Libya, Algeria and Nigeria—large, that is, in comparison with her needs. Africa has coal reserves of about one-fifteenth that of the United States, while her uranium reserves just about equal the United States. However, Africa does not possess the technological skill to utilize this resource. One possibility for an expansion of power generation in Africa lies in a vast hyroelectric potential, which, if fully utilized, could theoretically deliver on a per capita basis about 4,000 watts—compared with the 10,000-watts American living standard. It is unlikely, however, that the political cohesion required to utilize this resource will be achieved.

Japan is the most vulnerable of the energy consuming countries. She imports to live—80 percent of her coal; 99 percent of her oil and 98 percent of her iron ore. Without Middle East oil and American coal, Japan would be out of business. Japan could embark on an accelerated nuclear energy program, since she has the technological base, but again, she would be dependent upon either the United States or Russia for uranium. Russia is already negotiating a joint oil venture with the Japanese, and it is likely that some nuclear fuels arrangement will also be forthcoming.

Western Europe could collapse without oil from Libya and the Persian Gulf. North Sea reserves might last for about 5 years at 1970 consumption rates. Europe has coal to develop a synthetic fuel industry—her coal reserves are about one-fourth that of the United States. She could also launch an effective nuclear energy program, since she has the technological base. However, Europe lacks uranium for the nuclear program and copper that will be required for electrical transmission lines if nuclear power is expanded. Thus, Europe is in the same predicament as Japan, except the she has a little more coal. Even if Europe and Japan can make it into the nuclear fusion age, will they not have to compete with each other for copper for electrical transmission? In the interim, Europe is turning increasingly to the Soviet Union for enriched uranium sources.

Canada has one-tenth our population, but only one-twentieth of our coal reserves. However, she has one-third of our oil and one-fourth of our hydroelectric potential. Relative to her population, Canada has three times our oil and gas, and theoretically would not face a shortage of oil and gas for about 50 to 70 years—if per capita consumption remains the same and if she were to discontinue exporting oil and gas to the United States. Russia and Canada are in the same favorable position with regard to energy resources per capita. It is likely that Canada will not advance to superstate status because she cannot effectively compete with Russia either militarily or technologically. However, she will be able to provide a high standard of living for her people for some time.

An anology can be developed to compare the fossil fuel energy reserves to populations in the United States, China and Russia. On this basis, if America is 6 feet tall, Russia is 12 and China is 1—or possibly 2 if her claims to Siberian oil are achieved. Possessing superior resources and a massive technological base, Russia could be a very formidable foe in the next 20 years. The Soviets have already embarked on a program to increase the energy dependence of Europe and Japan on Russia. She is also making moves to solidify her position in the Middle East. Africa and Latin America could easily swing toward the Soviet Union for technological assistance.

Thus, we could be moving into a very dangerous era, not only for the United

States, but for the rest of the free world. How do we contend with this Soviet energy offensive? The balance of power might easily swing over to the culture with the superior technology to build and sustain a massive economic and military base. This swing in the balance could be vitally affected by the success of nuclear fusion.

It is clear that the entire world has a stake in the development of nuclear fusion—it appears to be the ultimate answer for Western Europe, Japan, the United States and eventually, the whole world. Water, which contains deuterium, is everywhere, and each gallon of sea water could yield the equivalent of 300 gallons of gasoline.

We are going to have to work hard to keep pace with the Russians in the nuclear field. Scientific research, both basic and applied, must be stimulated if we are to successfully bridge the energy gap. I believe we can successfully compete on the basis of our technological skill. The stakes are high. If we do not close the energy gap, we could end up as a second-rate power before the end of the century.

Our energy policies, both at home and abroad, must take into account the possibility of Russian leadership in the energy field—and the consequences of such a development.

Détente is possible, and desirable, only as long as equilibrium is maintained. If our energy position is weakened, and with it our economic base and military capacity, there will be less reason for Russia to adhere to the concepts of détente.

Only the promise of nuclear power can keep the balance of power in extended equilibrium. Every day that we argue among ourselves about the reality of the energy situation—every day that we waste intellectual energy and time in the pursuit of imaginary energy scapegoats—every day that we delay funding for vital aspects of the nuclear energy program—every day that we continue to value personal convenience over ultimate national security—puts us closer to the day when the power balance could shift away from us.

Progress can only be achieved when people pull or push together—not against each other. Russia is watching to see which way we will turn. If we falter or deflect from our national energy course by just a step, she could move ahead of us on the path to world supremacy.

WHITE HOUSE CONFERENCE ON LIBRARIES AND THE LIBRARY OF CONGRESS MADISON BUILDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. PRITCHARD) is recognized for 5 minutes.

Mr. PRITCHARD. Mr. Speaker, I am sure that when the resolution—Senate Joint Resolution 40—authorizing the White House Conference on Libraries reaches the floor for consideration it will pass with an overwhelming margin.

However, it should be noted that the Senate passed this resolution almost 1 year ago to the day. With considerable political foot-dragging, the House has managed to delay the date of the Conference from 1976 to 1977—well after the 1976 Presidential election. This measure is long overdue, to say the least.

On this occasion, I would like to urge my colleagues to review their position regarding the proposed takeover of the Madison Annex of the Library of Congress for use by Members of Congress.

I have repeatedly opposed diverting any of the new building's space for any but library use. The Madison building was authorized by this body to provide badly needed space and security for the Library of Congress' books and priceless collections. That need has become even more critical.

Rumors are still floating about the proposed takeover. The building's fate remains uncertain because 225 Members are on record in favor of this piracy. I only hope that this body is as successful in stalling on this measure as it was on the proposed White House Conference on Libraries. Unlike the Conference, the pilfering of the Madison Annex by the House should be laid to rest forever.

For the benefit of my colleagues, I would like to insert a recent New York Times editorial and an article by Rusty Todd into the RECORD:

[From the Progressive magazine, October 1974]

HOW TO STEAL A LIBRARY

(By Rusty Todd)

Some members of Congress have decided that enlarging their offices is more important than maintaining the Library of Congress as one of the world's foremost research facilities.

With construction under way on the Library's new James Madison Memorial annex, 230 members of the House have signed a petition asking to have the structure transformed into yet another Congressional office building. The idea is an exhumation of a similar proposal that was buried when the Madison building was authorized in 1965. There was clamor then to use the land for a House office building instead of a library, but Senate opposition blocked the move.

Representative Fortney H. (Pete) Stark, the California Democrat who circulated the petition, has publicly dismissed the Library as a mere "book warehouse." Among other things, the "warehouse" runs the world's largest library, the 500-person Congressional Research Service, the U.S. Copyright Office, and the national law library. All of these branches are now operating in cramped and nearly intolerable conditions; to say the Library needs the new Madison building is an embarrassing understatement.

The Library has been asking Congress for more room since 1958. Responding in its usual expeditious manner, Congress got around to approving the project in 1965, but appropriated no money for construction until 1970.

Meanwhile, the Library's research capability has steadily deteriorated as its two buildings have become more crowded. In 1973, more than 300,000 volumes were stored on the floors of the Library. The Library has been renting all the shelf space it can find, and more than fourteen million books, tapes, and films are now housed in temporary quarters—at a cost of more than $3 million a year. The storage problem grows inexorably, since an average of 100,000 new items arrive at the Library each month.

The plight of Library researchers, who work in quarters that make any Congressional office seem palatial by comparison, will continue to worsen if the House succeeds in pilfering the Madison building. Many Congressional Research Service senior specialists, most of whom hold doctorates and draw salaries equivalent to a Representative's administrative assistant, are already compelled to work at drawerless desks jammed between library stacks.

The cost of converting the specialized Madison building to office space would be substantial. Library officials say modifying the specialized air conditioning, security controls, and other systems would set completion back from 1977 to 1980, and would add millions of dollars to the present $90 million construction cost.

These considerations notwithstanding, Speaker Carl Albert has decided to take the petition seriously. As chairman of the House Building Commission, he has proposed a compromise—that the House take for office use only two of the Madison's nine floors.

Library administrators say privately that losing even two floors of the Madison would undermine their plans to reorganize operations so that no new construction would be needed for about twenty years. But the fact that the House must approve the Library's yearly budget makes them understandably reticent to attack the confiscation proposal in public.

It is astonishing that Congress would even consider stealing space from a national library threatened with debilitation because of overcrowding. If more Congressional office space is really needed, Congress should approve funds to build another House office building. It would be interesting to see whether such a project would take as long as the twelve years that were required to get the new Library of Congress building started.

[From the New York Times, Nov. 11, 1974]

ILLEGAL RAID ON BOOKS

When Congress approved the construction of the James Madison Memorial Building as a much-needed addition to the Library of Congress nine years ago, the legislation specified: "Nothing contained in the Act . . . shall be construed to authorize [its] use . . . for general office building purposes."

Disregarding that unambiguous statement, 230 Representatives have been attempting to do precisely what the legislation forbids—seize part or all of the facility, which is nearing completion and is slated for occupancy in 1977, for further additions to already lavishly expanded House office space.

Efforts to prepare for such a take-over have been mounted sporadically for some time, with some encouragement from Speaker Carl Albert. House members greedily seeking additional amenities for themselves blithely ignore nine years of planning to provide a suitable home for books, historic documents and, most important, vital research including the Congressional Research Service whose work is indispensable to an informed legislative process.

The Library of Congress, which was born with a $5,000 appropriation in 1800 to purchase books deemed necessary for the conduct of Congressional business, today is one of the world's great collections. Its services are crucial to the nation's universities, and the effects of any setback to the Madison Library would be felt in academic libraries from coast to coast.

Any efforts to subvert the original purpose of this essential addition to the Library of Congress must be turned back in the name of American culture and scholarship and in the best interests of Congress itself.

EASING CRITICAL WORLD FOOD SHORTAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. Mezvinsky) is recognized for 5 minutes.

Mr. MEZVINSKY. Mr. Speaker, the World Food Conference in Rome made some progress on the long-range aim of solving the world food problem by establishing a World Food Council. But little was done to deal with the immediate problem of how to save 500 million people from threatened starvation next year.

I cosponsored legislation earlier this year urging the United States to substantially increase its pledge to world food programs. I am introducing another piece of legislation today which I believe also speaks to the urgent need for immediate measures to prevent widespread starvation. This measure—which was introduced yesterday in the Senate by Senator Dick Clark of Iowa—is aimed at easing the critical world food shortage by curbing the wasteful use of fertilizer for nonfood purposes.

About 15 percent of the fertilizer consumed today in the United States is used for such ornamental purposes as the improvement of suburban lawns, cemeteries, and golf courses. This is approximately 4 percent of total world fertilizer use. It is as much as the entire nation of India uses and more than is used yearly by most of the other less developed nations of the world.

There is currently a severe shortage of fertilizer throughout the world. Prices have skyrocketed and many farmers—especially in poor nations—have been unable to obtain fertilizer at any price. This has drastically reduced production throughout the world, exacerbating already short food supplies.

I believe that the American people would be willing to curtail their use of ornamental fertilizer—just as they turned down their thermostats last winter. But it is up to the Federal Government to set the example. This legislation requires the Federal Government to reduce its use of fertilizer for decorative purposes to not more than 10 percent of its average annual use for such purposes during the preceding 3 years. It directs the President to urge all State and local governments, businesses and private individuals to do the same. Finally, it calls on the President to establish a commission to determine methods of increasing fertilizer production.

I think this measure is a step in the right direction and I am hopeful that it will mark the beginning of a new sense of responsibility by the American Government and the American citizens toward the world's less fortunate people.

THE 11TH ANNIVERSARY OF VISIT OF PRESIDENT JOHN F. KENNEDY TO SAN ANTONIO, TEX.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, today marks the anniversary of a happy and triumphant day when President John F. Kennedy was very warmly received in my home city of San Antonio 11 years ago, but those wonderful moments have, unfortunately, always been eclipsed by that tragic and fateful day which followed.

And, unfortunately, although the passage of 11 years has helped to erase the trauma of that November 22, there are still some aspects of that day which some of us shall never forget, and perhaps to some extent we should not forget.

I never shall forget the chaos which took place at Parkland Hospital, and finding Mrs. Kennedy completely abandoned at one point and trying to comfort her.

The shock and confusion of what happened left all of us really not sure of what caused it to take place. We relied on the usual law enforcement bodies to investigate and a special national commission was later appointed.

No one in a responsible position seriously considered a conspiracy—at least not at that time. Everyone wanted to believe the results of the official conclusion—Lee Harvey Oswald, and Lee Harvey Oswald alone, killed President Kennedy, even though Oswald became the victim of murder himself before he had the chance to speak.

However, some of us have begun to have serious doubts, and I, for one, have for some time now had serious doubts about the thoroughness of the Warren Commission's findings.

My suspicions last year were greatly aroused as the result of some of the Watergate testimony regarding CIA-related activities and the Bay of Pigs.

A large body of scholarly and responsible people throughout the country have raised serious questions regarding aspects surrounding the assassination of President Kennedy, and I know that at least some of my colleagues would like to have some of their questions answered concerning the assassination.

For several months I have been studying the possibility of asking that Congress restudy the assassination of President Kennedy.

The official verdict is, I feel, unfortunately, inconclusive.

COPYRIGHT HEARING SET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Kastenmeier) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, the Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, which also has responsibility for copyright law revision legislation, announces that a public hearing has been scheduled to be held on Tuesday, November 26, 1974, at 9 a.m., in room 2237, Rayburn House Office Biulding, on S. 3976, an act to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyrighted Works, and for other purposes.

The subcommittee will hear testimony of the Register of Coyprights, Ms. Barbara Ringer, on the following:

First. The proposed establishment of a National Commission on New Technological Uses of Copyrighted Works;

Second. The proposed extension of the duration of expiring copyrights in certain cases, including testimony concerning the beneficiaries of such extension; and

Third. A review of the present status of the pending copyright law revision (S. 1361).

Inasuch as the House has recently passed my bill, H.R. 13364, dealing with the piracy of sound recordings, the Register will not be expected to discuss that subject.

REPORT ON DAIRYLEA AND THE NEED FOR FURTHER INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Koch) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, I should like to keep our colleagues advised of the Dairylea Milk Cooperative investigation now going on in New York. Last week 12 former and present employees were indicted by a grand jury in New York. The cooperative was charged with 89 counts of possessing false reports on milk processing and with 89 counts of filing those reports with the State of New York. These are felony counts carrying several fines in addition to criminal penalties that could total $1.78 million. I think it would be helpful for our colleagues interested in consumer fraud to be aware of the ongoing record of correspondence which I have had and continue to have with various agencies in this matter. This correspondence is appended.

While New York State is now apparently pursuing this matter with diligence, having failed to do so for a considerable period of time, it is important that there be a nationwide investigation to detect what other consumer frauds exist in the agricultural area. I have requested the Agriculture Committee to initiate such an investigation and renew my request particularly in view of the New York indictment.

Mr. J. R. Donnan, president of Dairylea Cooperative Inc., took exception to my correspondence on this matter with the House Agriculture Committee in his letter of October 25 stating therein:

> I hope you will not be moved to action by Mr. Koch's letter, which unfairly reflects upon rural America, its organizations and its public officials.

It is not my intention to unfairly reflect on rural America but rather on the bad apples in rural America who ruin it for the good farmers and abuse consumers. At this time I would like to renew my request of that committee as well as that of the Judiciary Committee which has jurisdiction in this matter as it relates to exemption provided to nationwide milk cooperatives, through normal statutory prohibitions against restraints of trade and price fixing.

In my letter to the Judiciary Committee, which is part of the correspondence appended, I have requested Chairman RODINO to consider a broad investigation into the cartels which are manipulating prices and which are responsible for much of our inflation; citing in particular those cartels controlling oil and sugar, as well as the industries providing other raw materials and food stuffs in this country. That investigation should include not only the farmer but the processors and the middlemen all the way up to the ultimate retail sale:

WASHINGTON, D.C.,
November 21, 1974.

Mr. JOHN V. GRAZIANO,
Director, Office of Investigation, Department of Agriculture, Washington, D.C.

DEAR MR. GRAZIANO: With reference to your letter of October 11th in which you state that your office "is considering investigation of possible adverse effects of Dairylea irregularities upon other USDA programs in which dairy products are used", I am writing to ascertain if any such investigation has been initiated. I am prompted to write at this time because of the indictments of the Dairylea milk cooperative and 12 former and present employees recently handed up by an Albany, New York grand jury. The cooperative was charged with 89 counts of possessing false reports on milk processing, and with 89 counts of filing those false reports with the state.

Now that the cooperative has been indicted, wouldn't it be advisable for the Department to determine whether it may have been the victim of similar fraudulent actions by the cooperative in the execution of the federal school lunch program? If such actions were found to have occurred in the State of New York, isn't it likely that similar practices could exist elsewhere in the United States.

I would appreciate your comments as to the possibility of initiating an investigation covering all the states, pursuing the Dairylea matter further.

Sincerely,

EDWARD I. KOCH.

WASHINGTON, D.C.,
November 21, 1974.

Hon. PETER RODINO,
Chairman, House Judiciary Committee, Rayburn House Office Building.

DEAR MR. CHAIRMAN: I don't have to tell you how the cost of raw sugar has escalated in the last twelve months by 500% from $11.15 to $56.54 a pound. Many consumers, myself included, do not believe that the price rises are due simply to real shortages. We believe the prices are artificially administered and set by international cartels in which U.S. corporations in the suger industry participate. I feel that it is not only the sugar industry which is engaged in this horrendous practice but a whole host of others with one of the most dramatic being the oil industry.

Certainly this Congress must address itself to a number of alternatives dealing with inflation including controls on the economy and an excess profits tax. However, we must also undertake a thorough Congressional investigation into these cartels and those other basic food producing industries such as the milk industry.

I urge you to give a priority to this issue and to have the appropriate subcommittee initiate such investigation immediately. I know your committee is concerned at this time with the Vice Presidential confirmation hearings. I would hope that not withstanding that matter, you could assign staff to begin the preliminary investigation into these cartels now.

Sincerely,

EDWARD I. KOCH.

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C.

Mr. SAM D. FINE,
Associate Commissioner for Compliance, Food and Drug Administration, Rockville, Md.

DEAR MR. FINE: I have received the letter written by Robert C. Wetherell, Director of the Office of Legislative Services, in response to mine of September 25 on the subject of the FDA's responsibility to consumers with regard to the adulteration of milk. I find the response unacceptable.

Dairylea has admitted to adulterating milk for over five years. Such adulteration is in direct violation of Section 307 of the Federal Food, Drug and Cosmetic Act. This section makes it a violation to introduce into interstate commerce food that has been adulterated. Clearly, this is what Dairylea has done.

While it may be true that "most fluid milk products on the market do not move in interstate commerce," as stated by Mr. Wetherell, and thus the FDA has "traditionally left the regulation of such products to State and local authorities," this cannot be used as an excuse for inaction by the FDA in the Dairylea case. Adulterated food did cross state lines and thus the company's corporate officials should be subject to criminal proceedings as provided by the Act. It is my understanding that violators of the Act are subject to not more than 1 year in jail or a $1,000 fine or both. Despite what is suggested by Mr. Wetherell in his letter, a year's imprisonment of Dairylea officials would be a greater penalty than the $150,000 fine paid out of corporate funds.

The reason such corporate violations occur is because of the very bureaucratic buck-passing we have witnessed in this case. The federal agencies say that the states should handle the matter, the state agencies say its up to local prosecutors, and then local officials say the scope of the offense extends beyond their jurisdiction. The result is that the violators effectively rest immune from prosecution. What instead should be happening is that corporate violators are subject to prosecution from all levels of government for the laws they violate. Thus, while New York's Attorney General is now investigating this matter, the federal government should nevertheless be prosecuting violations of the federal law.

The courts have upheld the FDA's right to hold corporate executives accountable for violations of the Food, Drug and Cosmetic Act committed by their companies. The Dairylea case is one in which a violation was clearly committed and one in which intent was involved and not simply the product of a breakdown in the maintenance of a plant; it also is something that went on for a long time.

The FDA will never get full compliance from those it regulates if it doesn't seek prosecution of offenders. As far as I know, the FDA has not even had a hearing on this matter with Dairylea officials as is provided by Section 305 of the Act before the matter is referred to the Justice Department.

The FDA, if it is indeed concerned with protecting the interests of the public—and surely milk is a common food, it should be doing three things. First, referring the violations committed by Dairylea to the Justice Department for prosecution. Second, conducting a nationwide investigation to determine if there are other cases of milk adulteration by large milk producers. And third, including in the FDA's milk inspection program tests for the watering down of milk—something which I recommended in my letter of September 25, but which was not commented on in your agency's response.

Sincerely,

EDWARD I. KOCH.

FOOD AND DRUG ADMINISTRATION,
Rockville, Md., November 8, 1974.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: This replies to your letter of October 23, 1974, regarding the practices of Dairylea Cooperative.

In the Dairylea case, the public was not deprived of the food for which it had paid. The milk had not been watered but had been standardized using reconstituted skim milk which has the same food value as the skim milk usually used. We see no way of demonstrating to a court that the consuming public was injured by this practice.

As public officials concerned with protecting the public interest as it relates to foods we all consume, it is necessary that we enlist the help of officials at all levels of Government. It is impossible for the Food and Drug Administration (FDA) to do the job alone. In this case, it appears that the State is doing its part.

As to the prosecution of officials of Dairylea Cooperative, under the Federal Food, Drug, and Cosmetic Act, with the aim of subjecting them to jail sentences, please let us explain. An investigation for this purpose would be both expensive and time consuming. If the necessary evidence was developed and presented to the court there is little likelihood of the imposition of a jail sentence, particularly in view of our inability to show injury to the public. Very few convictions for violation of the food provisions of the law result in the imposition of jail sentences, and in the majority of even those few cases, the sentences are suspended.

We see no reason to conduct a nationwide investigation to determine if milk is being watered by large milk producers. The authorities, who are presently monitoring the milk supply, are well aware of the possibility of watering, and their people are adequately trained and equipped to detect and correct this type of adulteration.

Neither do we see any reason for FDA to duplicate the examination of milk supplies for watering which is now being done by State and local authorities. Such duplication would be wasteful, unwarranted and would necessitate the diversion of our already severely limited manpower and other resources from activities now being conducted by FDA which are vital to the public safety and which cannot be handled at State and local levels.

If we can be of further assistance, please let us know.

Sincerely yours,

ROBERT C. WETHERELL, Jr.,
Director, Office of Legislative Services.

WASHINGTON, D.C.,
October 29, 1974.

To Members of the House Agriculture Committee:

I have just received a copy of the letter to you by Dairylea Cooperative, Inc., dated October 25, 1974, in which they urge you not take the action proposed in my letter of

October 10th, 1974. I had recommended that your Committee undertake a national investigation of possible corrupt practices in other milk co-ops similar to what has been uncovered in New York.

I am amazed that the Dairylea Cooperative, Inc., would think it to be in the best interest of themselves or "rural America" to continue the coverup of the consumer fraud.

I believe that white collar consumer fraud is as dangerous to our citizens as street crime. For too long we have permitted corporate executives to hide behind the corporate veil when committing crimes now defined in the penal code. A corporation cannot be sent to jail, only fined. And I am certain on many occasions the fines levied do not even approximate the profits made as a result of the consumer fraud. But if one corporate officer spent one night in jail for having violated the law, we would see a diminution of consumer fraud. We send a shoplifter to jail for stealing $5.00 in merchandise, shouldn't we send someone who robs the very essence of the consumer's milk to jail? I think so.

Every agency, State and Federal, seems to be reluctant to press this matter vigorously to its ultimate conclusion. I am convinced that unless and until your Committee holds hearings on this matter and determines whether similar adulteration is being practiced by co-ops across the country, we will not get all the facts nor will the individuals who have violated the law be held accountable.

From "rural America's" point of view, it would be helpful to restore consumer confidence. It is the bad apple that ruins the barrel. The fraud practiced by Dairylea Cooperative in adulterating milk and mislabeling merchandise has brought the honest milk farmers into disrepute. To save the honest milk farmers, let's make certain that the bad apple is separated from the barrel.

I think this matter deserves the immediate attention of your Committee. If you don't do it, who will?

EDWARD I. KOCH.

DAIRYLEA COOPERATIVE, INC.,
Pearl River, N.Y., October 25, 1974.

To Members of the House Agriculture Committee:

On October 11, 1974, Representative Edward I. Koch, New York City, entered into the *Congressional* Record a copy of a letter sent to you as a member of the House Agriculture Committe. In it he called to your attention action taken against our cooperative for the irregular standardization of fluid milk, and he charged that the proper officials of the State of New York were negligent or deliberately corrupt in their prosecution of this matter.

I think it is evident that Mr. Koch has dealt with this in a manner calculated to advance his own political ambitions. He liberally quotes Robert Abrams, Bronx Borough President, in Mr. Abrams' attack upon the New York Commissioner of Agriculture. He neglects to point out that Mr. Abrams is the candidate for Attorney General of the State of New York and has widely exploited this issue in his attack upon the incumbent administration.

This charge, although of serious consequence to me, our members and employees, is not new. Earlier this year I wrote to the members of Congress from our area and other public officials, and set forth all the details. I enclose a copy of that letter which *I hope* you will read.

The use by Mr. Koch of the words "scandal" and "corrupt" are without factual basis, and are an unwarranted smear upon the integrity of Commissioner Walkley. Our farmers who paid the $150,000 fine and $230,000 adjustment to the federal order pool, do not view that fine as "relatively minor".

This organization has a long and proud history of dedication to the dairy farmers of the northeast. We are not used to defending ourselves in the courts or before the public. This matter has already severely damaged our customer relations and our membership loyalty. It threatens the livelihood of many innocent employees. Our ability to serve our members and to provide milk for consumers is seriously threatened by the "overkill" practiced by Mr. Koch and others, who would destroy our organization or further their own personal ambitions at our expense.

I hope you will not be moved to action by Mr. Koch's letter, which unfairly reflects upon rural America, its organizations and its public officials.

My members, at our annual meeting last week, asked me to try to tell our side of the story. I would be pleased, at any time, to meet with you or your associates for that purpose.

Sincerely

JAMES R. DONNAN,
President.

WASHINGTON, D.C.,
October 23, 1974.

Hon. PETER RODINO,
Chairman, House Judiciary Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to bring to your attention a matter involving the Dairylea Corp. Inc. and its having engaged in consumer fraud. I will not recite the background of the case which is set forth in detail in the enclosed copies of correspondence I have had with others on this matter. But, I do believe it is one which warrants an investigation by the Judiciary Committee because I do not believe that the consumer fraud involved is limited to the States of New York and New Jersey, but may very well be engaged in throughout the country by other dairy co-ops. The reason that I think your Committee could appropriately investigate this matter is that as I understand it, this milk co-op and others are provided exemptions under the law from normal statutory prohibitions against restraints of trade and price fixing. If these companies' prices are protected by statutory exemptions enacted by Congress, they should be held accountable by the Congress.

I know of the great demands being made upon the Judiciary Committee in so many areas, but I believe this is one that requires attention. I would ask that you have your staff make an investigation to determine if this is a matter of nationwide proportions sufficent to require the holding of hearings by the Judiciary Committee.

Sincerely,

EDWARD I. KOCH.

FOOD AND DRUG ADMINISTRATION,
Rockville, Md., October 17, 1974.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: This replies to your letter of September 25, 1974, addressed to Mr. Robert Brandenberg, concerning the addition of water to milk, a practice recently employed by the Dairylea Cooperative in New York State, and the prohibition of such practice by State and Federal authorities.

All foods, including fluid milk and milk products, which move in interstate commerce are subject to the requirements of the Federal Food, Drug, and Cosmetic Act, and may not be adulterated within the meaning of the Act. Federal standards of identity have also been established for milk, lowfat milk and skim milk and require, among other things, that all three products contain not less than 8.25 percent milk solids not fat. Milk is required to contain a minimum of 3.25 percent milk fat, lowfat milk must contain between 0.5 and 2.0 percent milk fat and skim milk shall contain less than 0.5 percent milk fat.

In addition, the Food and Drug Administration has published a recommended "Grade A Pasteurized Milk Ordinance" which has been adopted either totally or substantially by most of the States and a number of counties and municipalities as the national standard for milk sanitation. The Ordinance does state that "any milk or milk product shall be deemed to be adulterated * * * (6) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is."

We are advised by our offices in Brooklyn and Buffalo, New York, that, rather than simply adding water to their fluid milk products, the Dairylea Cooperative was adjusting their incoming raw milk with reconstituted skim milk, (reconstituted skim milk is made by blending water and nonfat dry milk in the same proportion as that found in ordinary skim milk). The use of reconstituted skim milk is not permitted by either the Federal standards of identity for fluid milk products or the "Grade A Pasteurized Milk Ordinance." Since most of the States have adopted the "Grade A Pasteurized Milk Ordinance" and established strict regulations for its enforcement, and since most fluid milk products on the market do not move in interstate commerce, we have traditionally left the regulation of such products to State and local authorities. We understand that the investigation of the Dairylea case by the State of New York has resulted in a fine of $150,000 which is substantially more than that which could be achieved under the Federal Food, Drug, and Cosmetic Act.

Since the primary purpose of the Ordinance is to remove violative milk products from the market, it does not speak to the imposition of criminal penalities. However, we have been advised that the matter involving Dairylea has been referred to the New York State Attorney General for consideration of possible criminal action against this firm.

If we can be of further assistance, please let us know.

Sincerely yours,

ROBERT C. WETHERELL, Jr.,
Director, Office of Legislative Services.

WASHINGTON, D.C.,
September 25, 1974.

Mr. ROBERT BRANDENBERG,
Associate Commissioner for Compliance, Food and Drug Administration, Rockville, Md.

DEAR MR. BRANDENBERG: Ten months ago the Dairylea Cooperative in New York State admitted adulterating thousands of gallons of milk and falsifying records to cover it up. Since that admission, neither state nor federal law enforcement agencies have initiated criminal proceedings against the individuals responsible.

Obviously, those who are hurt most by this sort of white collar crime are the unwitting consumers, who have paid high prices for what they believed to be whole milk. I understand that while the Food and Drug Administration audits the operation of state and local inspection facilities which test for bacteria and other contamination in milk, no test is given by the local facilities to check on the watering down of milk, after it has been processed.

I would like to propose that the Food and Drug Administration include the watering down of milk in its oversight activities, and would appreciate your comments on this matter.

Sincerely,

EDWARD I. KOCH.

U.S. CHEMICAL WARFARE POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 10 minutes.

Mr. OWENS. Mr. Speaker, since I have been associated with recent efforts to secure an open and careful examination of the rationale of U.S. chemical warfare policies, I believe it is worthwhile to spend just a few minutes more offering some additional comments for the Members with regard to my specific concerns.

As I reviewed the various statements I have made on this subject, I could not discern any deliberate effort on my part to strip from the U.S. Armed Forces any chemical warfare capabilities which they currently possess. These capabilities are as potent today, and certainly will be for the next few years, as they have been during the many years that the Congress has been providing all of the funds desired by the Army for constructing existing stockpiles. In fact, none of the Members, to the best of my knowledge, has advocated the total destruction of these stockpiles before acceptable negotiations are completed at Geneva. Instead, the majority of the statements provided in public debate before the House, or offered for the information of the Members, have been quite conservative in my opinion—recommending instead that the U.S. Army delay the procurement of the binary chemical agents for several reasons: First, in order to provide the best possible political atmosphere for ratification of the Geneva Protocol; second, to avoid placing the Congress in the position of appropriating funds and thus approving the procurement of a new weapon which has not even been thoroughly evaluated and definitely accepted by the Department of Defense—as evidenced by the statements from executive agency witnesses; and third, to support the expressed opinion of the Director of the Arms Control and Disarmament Agency that the initiation of procurement steps for production of the binary munition would not be in the best interests of negotiations at Geneva. Peripheral to these points, but of equal interest, is the fact that there has been concern expressed about the potential for further proliferation of chemical weapons if such a munition were to be standardized by the United States and the suggestion, amply supported by the American Chemical Society and other public witnesses, that the threat of modern chemical weapons has moved from the isolated battlefield to the potential for harm to enormous civilian populations.

That this public concern is not without basis can be seen by an examination of the Army R.D.T. & E. plans for other binary weapons designed for wide area attack including missiles, rockets, and aircraft spray tanks. This aspect of the problem, it seems to me, adds a new dimension to the need for careful examination of the impact of U.S. chemical warfare policies on foreign affairs generally. I should add, however, in all due candor, that I have had a difficult time in understanding the military belief in the deterrence value of a chemical warfare offensive capability in the face of the strong evidence that the potential opponent held a superior defensive capability. This leads me to the next point I would like to make and which I believe warrants further discussion at this time.

We are again being advised, in a recent article by Lt. Col. R. S. Malooley, U.S. Army, of Soviet interests and capabilities in chemical warfare. The arguments about Soviet defense capabilities are presented by Lieutenant Colonel Malooley in a way which might lead the less than knowledgeable Member to believe that we have suddenly been confronted with strange and new capabilities and that these discoveries must be countered with new and strenuous efforts. The article suggests that the data on Soviet chemical defense equipment captured during the October 1973 Mid-East war have changed significantly our analysis of Soviet intentions and capabilities. I believe that the Members should be aware of certain basic facts, however, before they are misled by this information.

While it may be true that there were greater quantities of the various types of chemical defense equipment captured during the October 1973 war in the Middle East—just as there were greater quantities of all other weapon systems—it is very doubtful that U.S. forces learned anything really new about the characteristics or quality of this chemical equipment as a result of this particular engagement. It has been known for some time that the Soviets have provided all of the East European bloc countries with extensive quantities of line items of all this chemical warfare defensive equipment. It has also been known that the Egyptian forces had been provided with similar equipment prior to the October war. Such equipment certainly must have been captured during the 6-Day war in June 1967 and would thus have been available for analysis. Even prior to 1967, it was known from articles published in Egyptian newspapers, that the Soviet Union had provided CBR protection equipment to Egyptian forces.

To the best of my knowlege, which is limited to unclassified articles and discussions, there has been no public evidence that the Soviet Union had provided the Egyptians with any capability to launch an offensive chemical attack in either the 6-Day war or the October 1973 war. The availability of protective equipment in Egyptian hands thus would logically lead to the assumption that there was concern that Israeli forces might use chemical weapons against the Egyptian forces. Again, I must add that neither do I have any data which would indicate that the Israeli forces possessed the capability to launch an offensive attack with chemical agents. It is pertinent to note, however, that most of the Soviet so-called chemical warfare defensive equipment is also used as defense equipment in a nuclear war and there has been much public speculation as to whether the Israeli forces might or might not have a nuclear capability. Actually, as noted somewhat briefly in the Malooley article, the Soviets and other Soviet equipped forces do train with this defensive equipment in simulated nuclear environments as well as in simulated chemical environments. This approach fits the overall concept of the Soviets as treating nuclear, chemical, and biological warfare as "weapons of mass destruction" but it also makes it more difficult to assess the significance of the availability of the defense equipment in any specific situation.

A point of primary interest in my remarks about the continuing Army emphasis at this time on Soviet chemical defense capabilities is this. The Members of Congress, through their support of appropriations, have been funding research and development and procurement of defensive equipment—as well as offensive chemical weapons—for more than two decades now. I do not believe that any justifiable case can be made that the reason that U.S. forces do not have the defensive capability that is estimated for Soviet forces is due to an absence of financial support or a lack of knowledge about Soviet capabilities.

If we are in an inferior defensive position vis-a-vis the Soviet forces with regard to Soviet or Soviet ally capabilities, it is the U.S. Army which has been remiss in transplanting the results of research and development into an acceptable front line capability to defend in a toxic environment. If the emphasis on the need for defensive equipment is being presented as a sudden discovery last year of Soviet defensive capabilities, then I must insist that the Members are being seriously misled. Such a warning is a poor reflection on either the technological capability of the United States to design, develop, test, and produce adequate equipment for chemical defense, which I seriously doubt, or it is due to a difference in estimates of the real threat from chemical weapons as perceived by the Intelligence-Chemical Corps evaluations as compared with the tactical forces commanders concept of the situation. I cannot conceive of any of our capable force commanders accepting a situation in which equivalent or superior chemical defense equipment is available and not demanding and receiving entirely adequate quantities to fully equip their forces if they indeed perceive the threat of chemical weapons use against their forces as a very real and highly possible option of an enemy. If instead, these commanders place full credence in the deterrence capability of offensive chemicals weapons in their stockpile, then they are not following the general concept of being fully equipped defensively before engaging in offensive chemical operations; particularly against a force which we are told is as well equipped defensively as Soviet forces are said to be. This disparity between R. & D. capability and the translation of this capability to the front line forces is another one of the reasons why I believe that this issue warrants a full and careful examination by the Congress before further restructuring of offensive weapons systems should be authorized. In any event, a discussion of Soviet defensive capability is certainly not an adequate argument for a switch in chemical weapons systems. The new binary does not overcome the Soviet defensive capability about which the Army seems so concerned.

One final remark which I would like to offer also has to do with the article by Lieutenant Colonel Malooley. This article is couched in terms which would lead us to believe that the discoveries are new—whether discovered in the October 1973 engagement or the 6-Day War in 1967. I ask the Members to keep in mind that this author's story is the same estimate and in essentially the same language which has been used for years to support the requests for appropriations for chemical warfare programs. The very fine and detailed hearings held by the Committee on Science and Astronautics in 1959, and as summarized in their House Report No. 815, August 10, 1959, contains language which is quite similar to the discussion presented in this 1974 article. The resurrection of this "threat" to world security as posed by the emphasis on Soviet chemical defense capabilities, and as extended to an interpretation of their intention to do battle with chemical weapons, can only be viewed at this time as another attempt to support the procurement of the binary weapon. I cannot alone evaluate the full implications, or the pros or cons, of this Army desire. I reiterate, however, that: First, the discoveries about the characteristics of Soviet defense equipment in the Middle East last year are not essentially new and do not change the basic estimates about Soviet capabilities; second, the proposals for conversion of existing stockpiles into new binary munitions requires more intensive public examination so that we may make informed decisions; third, the executive branch still has not reported the results of their own internal evaluation of the need for the binary weapon although during hearings we were advised that these results would be available "in a few months"; fourth, the United States still has not ratified the Geneva protocol, primarily due to a reluctance of the Army to change its position with regard to herbicides; fifth, there is still some hope that negotiations at Geneva on a new chemical warfare treaty may produce terms acceptable to the United States; and sixth, the recent action by the Congress on postponement of the procurement of the binary weapon should provide us time for an evaluation of U.S. chemical warfare policies if we use this time wisely.

As I have indicated before, and have expressed this concern to the Secretary of Defense, I believe that the U.S. Armed Forces should have the best available to defend themselves in a toxic environment. I am disturbed that this situation does not currently exist. Further, we have not jeopardized the status quo by delaying the binary chemical munition because it is the same nerve agent which we currently have in our stockpiles. We do not give away any technological edge through this delay and we have provided significant levels of funding support to continue R.D.T & E. on this system. We may encourage not only arms control negotiations but also discourage other nations from embarking on their own production of CW weapons. We, as world leaders, have indicated our willingness to take more time to discuss this issue before committing more resources to further chemical weapons construction. This delay cannot be misconstrued as a weakness on our part for we still retain our enormous stockpiles of nerve agents and munitions.

We do continue to reveal our defensive weaknesses through the continual emphasis by the Army on Soviet capabilities in this area when these discussions are coupled with the failure to provide our forces with an equivalent or superior defensive capability. This latter factor is not due to congressional unwillingness to support the development of defensive capabilities. One has only to examine past and current budgets to note the great expenditures which have already occurred in this area. An appropriate question is: Why has not the Army outfitted its forces with the defensive equipment which the Congress has provided for in its appropriations? If these actions had been completed, this disparity between United States and Soviet defensive capabilities, about which we hear so much, could have been eliminated long ago.

ON THE PASSING OF JACK FLYNN

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, last week brought the unfortunate death of Francis M. "Jack" Flynn, who for 27 years was president, publisher, and then chairman of the board of the New York News. Mr. Flynn was an outstanding newspaperman, and a vigorous defender of a free press. He championed the causes of the common man in his newspaper, and believed that the primary purpose of the press "should not be profits at the expense of service."

Jack Flynn was also a very able businessman who mastered both the financial and editorial aspects of the newspaper industry. Under his leadership, the News prospered as one of New York's leading newspapers.

What will be remembered most about Jack Flynn are his strong beliefs about the independent nature of the press. He once said:

> Criticize the press, yes. Disagree with the press, yes, Improve the press, yes. Do any and all of these things which free men wish to do, but never, never take one step toward regulation by government, by commission, or other quasi-governmental bodies.

New York and the national press mourn the passing of Jack Flynn, a great leader and journalist.

ON HOME HEALTH CARE FOR THE ELDERLY AND HANDICAPPED

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the House Government Operations Committee's Subcommittee on Special Studies, chaired by Representative HICKS, has just completed 3 days of hearings on housing for the elderly and alternatives to nursing homes. I am pleased that I was afforded the opportunity to testify. These problems are in great need of improvement.

You may be aware of recent reports in the New York Times and elsewhere calling our care of the elderly, and especially the elderly poor, "a growing scandal." I have sadly concluded that these reports are accurate.

In a letter to New York Governor Malcolm Wilson on November 14 of this year, I pointed out that while the level of care in nursing homes can and should be raised, most gerontologists believe that it is better for an older person to remain in a family setting. Unfortunately, the trend in New York City and across the country is to expand rather than decrease the number of voluntary and proprietary nursing homes, at enormous expense to the city's taxpayers, and not to focus attention on alternative methods of servicing the elderly population, even though these methods may be cheaper and better. If current plans for constructing nursing homes are implemented, New York City's complement of voluntary and proprietary nursing home beds would rise by 6,963, or more than 25 percent. Moreover, the complement of privately owned health-related facilities would increase in the city by 12,390—thereby tripling the complement.

At a time when inflation is eating away mercilessly at our family budgets, this flooding of the private nursing home market will bear a staggering price tag for New York City and the Nation. The proposed beds in New York City alone, if reimbursed by medicaid at a rate of $65 a day, will cost city taxpayers a total of $106.7 million a year in city taxes, another $53.4 million in State taxes, and an additional $10.7 million in Federal taxes. This would mean that in 1975 New York City taxpayers will have to provide $170.8 million in medicaid to pay for the patients occupying these new beds.

Current national figures are equally staggering. The Library of Congress estimates that 1 million elderly or handicapped persons are in nursing homes, a figure which excludes mental hospitals or institutions for the mentally retarded. Medicaid expenditures for the elderly and handicapped in nursing homes are $2 billion per year, and the annual medicare expenditure is $250 to $300 million.

The real tragedy of this situation, however, is that an increase in the number of beds may be unnecessary. Twenty home health care agencies, approximately one-half of the counties of the United States have no home health services. In addition, no funding for collateral services is provided by either the House or Senate version, yet such services as walking assistance, homemaking,

The idea of home care stems from the well-founded belief that the elderly and the chronically ill need homemaking and visiting nurse services, and only periodic major medical attention, rather than institutional medical attention. Home care would provide the necessary housekeeping services and other daily necessities within the privacy and comfort of the patient's own home. In so doing, it helps to ward off the malnutrition and physical decline that send our elderly into the impersonal and oftentimes demeaning nursing home setting.

Under present medicaid regulations, the Government covers most of the medical expenses incurred by an indigent person. If the patient lives at home, Government payments meet the greatest part of most medical services—but not home care services. However, when the patient is placed in a nursing home, medicaid covers not only all of these medical expenses but also the cost of lodging, meals, and custodial care normally borne by the patient or his family. This creates a powerful incentive to place an aged or infirm person in an institution, even though better, and certainly cheaper, care might be available at home.

Let me illustrate the point. An intensive home care program, providing three nurse or social worker visits a month, 30 hours of housekeeping a week, and 3 hours of service from a home health aide per week would cost a total of $600 a month. A more moderate home care program would involve one monthly nurse or social worker visit, 5 hours of housekeeping a week and 4 hours of home health aide service per week; the cost for these services would total $200 a month. A minimal level of home care, involving 3 hours of housekeeping a week, one monthly nurse or social worker visit and a food service program would cost $130 a month. Yet any of these home care programs would cost a mere fraction of the $2,000 it now takes to place a patient in a nursing home for a period of 1 month.

I believe that this is wrong not only in terms of expense but also in the emotional cost to the patient and his family. New approaches are needed and I hope that my colleagues will consider the following proposals, which I am currently developing into legislation and intend to introduce in the next couple of weeks:

First. Home health care for the elderly and the handicapped, to be covered by medicaid and medicare and to include homemaking services, such as cleaning and shopping, and to provide assistance in accompanying the elderly in walks outdoors. Such walks might be 1 or 2 hours a day, 2 or 3 days a week. While the Senate version of the Health Services Act, now in conference, would appropriate $78 million in funding over the next 4 years for the development of thousand new nursing and health-related facilities are being built in New York City, and many thousands more throughout the Nation, despite the existence of a far more effective, humane, and ultimately less expensive health care facility for the aged—home care.

and shopping can be the difference between an elderly person's ability to live at home and the need to be in a nursing home. I hope that the Senate version of the Health Services Act will be accepted but that additional legislation will also be enacted providing these collateral services.

Second. Visiting nurse services as required, which are less costly and more appropriate in many cases than the services of physicians, or surely institutionalization.

Third. Federal payment of home rent for an elderly person whose physician confirms would otherwise require nursing home care. The need for this service would be subject to the same verification procedures as now used for medicaid payments covering current nursing home care. The rent paid would be the fraction of the total household represented by the elderly person or persons involved. A rent ceiling would be prescribed by the Secretary of Housing and Urban Development to conform with those in current federally assisted housing.

Fourth. Expanded Federal funding for congregate housing for the elderly and the handicapped. In the Banking and Currency Committee markup, I placed a provision into the Housing and Community Development Act, now public law, providing an additional $10,000,000 from HUD appropriations for the housing needs of the elderly, the handicapped—including the mentally retarded—the displaced, single individuals, broken families, and large households. Such projects will provide an alternative to institutional care, but only on a demonstration basis for a very limited number and for a broader group than the elderly and handicapped. Since 1 million persons are currently in nursing homes, these funds are obviously a drop in the bucket and should be greatly increased.

While these proposals call for additional funding, the gain both to the patients and our economy will be great in the long term. The Senate report on the Health Services Act, Senate Report 93–1137; the American Academy of Political and Social Sciences, Annals, September 1974; the Comptroller General's Report to the Congress on Home Health Care Benefits, July 9, 1974, and the Senate Special Committee on Aging, Committee Print: "Alternatives to Nursing Home Care," October 1971, are in accord in pointing out that there are significant cost benefits in home health care. The Health Services Research Center in Portland, Oreg., reported the following average comparative daily costs: $5.26—not including rent—for home health care, $39.08 for an extended care facility, and $72.62 for a hospital for similar patients.

Extended home health care and related services are more satisfying for the individuals involved and less expensive for the Government. I hope that the Congress will pass appropriate legislation to provide alternatives to nursing homes.

The adoption of these proposals would go a long way toward providing better care for the elderly and handicapped in their declining years and, at the same time, save an enormous amount of money.

I want to acknowledge that several of the ideas contained in my statement and the letter to Governor Wilson were provided by Martyn Hochbaum of the American Jewish Congress, Nelson Cruikshank of the National Council of Senior Citizens, and Richard Morris, an expert in the field.

TRADE BILL IS PRIORITY ITEM

(Mr. DORN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DORN. Mr. Speaker, final passage of the 1974 trade bill is a priority item for this Congress. As the domestic and international economic conditions continue to deteriorate it becomes even more important. I commend to the Congress and to the American people the following editorial from the Greenville, S.C., News.

TRADE BILL IS PRIORITY ITEM

The agreement finally reached between Congress and the Ford administration on the issue of Soviet emigration policy should break the logjam that has prevented passage of the economically essential foreign trade bill for more than a year.

Secretary of State Henry Kissinger apparently has convinced Sen. Henry Jackson and other congressional critics that the Soviet Union now is willing to provide more exit visas to its citizens who want to emigrate. Thus the threat of amendments to the bill that would sharply restrict trade between the U.S. and the Soviet Union seems to have been removed.

Congress should, however, include provisions in the bill to give the President authority to cancel any trade agreements if the Russians fail to live up to their promises. Experience has proven the necessity of such authority.

The trade legislation has the potential to improve the American trade position not just with the Soviets but, perhaps more important, with our major trading partners such as Japan, Canada and the European community. A wholesale reform of American trading policies could not come at a better time.

The quadrupling in the past year of foreign crude oil prices paid by the United States has played havoc with our trade balance. The $2.4 billion deficit reported for the first nine months of 1974 could make this the second worst trade year in the nation's history.

To prevent mounting deficits that in time could wreck the American economy, every avenue must be explored for keeping U.S. exports in line with imports.

The President now lacks the authority to deal realistically with situations where other nations export goods in large volume to this country but restrict importation of American made goods. The proposed trade measure will allow the President to raise—or lower—tariffs or other trade barriers to match parallel policies of other nations or to control deficits in this country's trade balances.

The bill's provisions for encouraging U.S.-Soviet trade can prove important in reducing our trade deficit, provided the bill contains some muscle to force the Soviets to stick to their agreements.

In giving in to the Jackson demands on their emigration policies, the Russians indicate a determination to find more avenues for trade with this country. Presently, the Soviet Union takes less than 2 per cent of all U.S. exports, and Soviet sales to the United States barely exceed $200 million annually.

By ending high tariffs on most Russian exports, the trade bill provides the machinery for substantially enhancing trade in both directions. As the Soviet trade minister recently commented, "If we sell more to the United States, then we will buy more from the United States."

The trade bill is important. Now that the emigration issue has been settled, Congress should make the measure its first order of business when it returns to work after the election recess.

ANNOUNCEMENT OF CHAIRMAN MILLS CONCERNING THE TAX BILL REPORTED BY THE WAYS AND MEANS COMMITTEE AND THE RULE TO BE REQUESTED WITH REFERENCE THERETO

(Mr. MILLS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLS. Mr. Speaker, I take this occasion to announce to my Democratic colleagues in the House certain decisions made by the Committee on Ways and Means concerning the tax bill which we have just today ordered favorably reported to the House, and decisions which the committee made as to the type of rule which I am instructed by the committee to seek from the Committee on Rules. I am making this announcement so as to be in full compliance with rule 17 of the Democratic Caucus by putting my Democratic colleagues on notice as to these matters.

First, I am attaching a very brief overall summary of the principal provisions which are included in H.R. 17488, which the committee has today ordered favorably reported.

Second, I am announcing that the committee has instructed me, as chairman, to seek from the Committee on Rules a modified closed rule which will have the following effect: the usual type closed rule, but providing that any Member who so desires can move to strike that portion of the bill which reduces the depletion rate on oil from 22 percent to 15 percent for calendar year 1974; providing for 4 hours of general debate, to be equally divided; providing for a waiver of points of order relative to compliance with the Ramseyer rule; and providing for the usual motion to recommit.

Mr. Speaker, it is our intention to file the report on this bill not later than midnight Tuesday, November 26, and it is our hope that the Rules Committee will hear us not later than Tuesday, December 3, and that the leadership will schedule the bill not later than Wednesday, December 4, if a rule is granted. Copies of the printed bill will be available tomorrow. A copy of the clean draft of the bill as introduced is available for examination in the main office of the Committee on Ways and Means, room 1102, Longworth House Office Building.

There follows a brief overall statement of the contents of the bill:

SUMMARY OF H.R. 17488, THE ENERGY TAX AND INDIVIDUAL RELIEF ACT OF 1974

Title I of this bill imposes a windfall profits tax effective for 1974 and the next four years. This tax is phased out over this five-year period, and investments in energy-related production may offset the tax, except to the extent of half of the production in 1974 above the level of 3,000 barrels a day.

Percentage depletion is reduced by the bill for domestic oil and unregulated gas (not subject to a long-term fixed contract) from 22 percent to 15 percent for 1974 and to zero for 1975 and subsequent years. Cost depletion, however, will still be available.

In addition, changes are also made with respect to foreign oil and gas production. Percentage depletion for foreign oil and gas is repealed for 1974 and subsequent years. The foreign tax credit which may be claimed in the case of foreign oil and gas extraction income is limited to 52.8 percent (10 percent above the domestic rate of 48 percent). Finally, DISC tax deferral benefits are denied for 1974 and subsequent years with respect to energy produced in the United States and sold abroad.

Title II deals primarily with individual income taxes. For 1975 and subsequent years, it raises the low income allowance for single people from $1,300 to $1,600 and for married couples from $1,300 to $1,900. The personal exemptions are in addition to this. Also, the maximum percentage standard deduction is raised from 15 percent to 16 percent, and the maximum dollar limitation on the standard deduction is raised from $2,000 to $2,300. Changes are made in the withholding tables to reflect these decreases in individual taxes effective March 1, 1975. The bill also provides a three-year carryback of capital losses for individuals.

Also included in Title II are provisions relating to the investment credit for public utilities. Electric companies, local gas distribution companies, and telephone companies will have the investment credit which they may claim increased from 4 percent to the generally available 7 percent. For telephone companies the increase is to 5 percent from August 2, 1974 through 1975, to 6 percent in 1976, and 7 percent in 1977 and subsequent years. For the other utilities, the increase to 7 percent occurs with respect to investment after August 2, 1974. For all of these utilities referred to here, the provision of present law which limits the credit which may be taken to 50 percent of income above the first $25,000 is increased to 75 percent for 1974 and 1975 and decreases 5 percentage points a year thereafter until in 1980, the 50 percent limitation is restored.

Other lesser changes included in Title II provide for a one-year extension of a series of existing provisions relating to five-year amortization, a provision providing for the deduction of accrued vacation pay under certain circumstances, provision that the so-called class life system is not to apply to real property, certain revisions in the tax treatment of real estate investment trusts, modification of the tax treatment of political organizations, and an increase in interest to be charged on deficiencies and refunds of taxes from 6 percent to 9 percent.

Title III deals with the tax treatment of foreign income. The exclusion for income earned abroad is phased out over the three years 1975 through 1977. In addition, tightening amendments are made with respect to foreign trusts and excise taxes relating to transfers of property to foreign persons.

A series of amendments are also made to the tax treatment of controlled foreign corporations and their shareholders. Here the so-called minimum distribution exception is repealed, sales income from foreign manufacturing is excluded from the foreign base company sales income provision of present law, the exception from current taxation of Subpart F income for reinvestment in less developed countries is repealed, investments in United States property is permitted in certain cases by United States corporations without dividend consequences, the exclusion from earnings and profits of less developed country corporations for purposes of dividend tax consequences is repealed, and shipping profits of controlled foreign corporations are to be taxed currently unless they are reinvested in shipping operations.

In addition, DISC deferral benefits are denied in the case of agricultural products and natural resources. Also, the President is given authority to terminate the application of the DISC tax deferral provisions in connection with trade agreements in order to reduce barriers to international trade.

Other foreign income modifications are also made. The foreign tax credit is to be determined only on an "overall" and not on a "per country" basis and foreign losses offset against United States income are to be recaptured from subsequent foreign earnings. In addition, dividends from less developed country corporations are to be "grossed up" for purposes of determining the foreign tax credit available. Capital gains also are to be included in the foreign tax credit base only if taxable in the foreign country.

Other modifications provide that portfolio debt investments in the United States of nonresident aliens and foreign corporations in the case of earnings on such investments are not to be subject to the generally applicable 30 percent tax, withheld at source. Modifications are also made with respect to section 367 and the treatment of certain mutual insurance companies operating abroad.

Finally, the Western Hemisphere Trade Corporation trade provisions of present law are to be phased out over a four-year period from 1975 through 1978, and the tax treatment of corporations conducting business in Puerto Rico and possessions of the United States is to be modified so as to not require the retention of the funds abroad in order to be eligible for the exclusion from United States tax.

It is anticipated that these provisions will either raise revenue in each of the years ahead or at least represent a balance of increases and reductions for these years.

PUSHOUTS: NEW OUTCASTS FROM PUBLIC SCHOOLS

(Mrs. CHISHOLM asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. CHISHOLM. Mr. Speaker, an increasingly serious problem in our Nation's public schools is the use of arbitrary and unfair disciplinary procedures by often insensitive school officials. Black and other minority students are most often victimized, and their so-called crimes may be nothing more than talking in class, loitering, impolite language, or littering. The punishment for these minor offenses is all too often either suspension or expulsion, and the indiscriminate use of these disciplinary tools has created a new category of outcasts from the public schools: the pushout.

Pushouts are not dropouts, they are kids who are being unfairly and unnecessarily deprived of educational opportunity by school officials who are unprepared for—and often hostile to—school desegregation.

The problem of pushouts was given national attention at hearings before the House Subcommittee on Equal Opportunities of which I am a member. Recently, national attention was again brought to bear on this serious problem on "Pushouts: New Outcasts From Public Schools," a 1-hour radio program produced by the Institute for Educational Leadership of the George Washington University. The program, part of the "Options on Education" series, was broadcast over National Public Radio's 175 affiliated stations.

Because the problem of pushouts is one which deserves our most serious attention, I insert the transcript of "Pushouts: New Outcasts From Public Schools" in the RECORD:

"PUSHOUTS: NEW OUTCASTS FROM PUBLIC SCHOOL."

KEY

S: Student
M. Moderator
(In order of appearance)
PH: Peter Holmes, Director, Office for Civil Rights, Department of Health, Education, and Welfare
JJ: John Jordan, Attorney, Dallas, Texas
NE: Nolan Estes, Superintendent of Schools, Dallas, Texas
NJ: Mrs. Nancy Judy, Dallas School Board
EC: Dr. Emmett Conrad, Dallas School Board
HM: M. Hayes Mizell, Director, South Carolina Community Relations Program, American Friends Service Committee
LH: Leon Hall, Southern Regional Council, Atlanta, Georgia
BL: Brian Landsberg, former chief prosecutor for education cases, Civil Rights Division, U.S. Department of Justice
LC: Lennie Conway, Robert F. Kennedy Memorial

M. From National Public Radio in Washington this is "Options on Education."

S. My high school was desegregated in 1971. Some of the black students were branded as Black Militants and troublemakers by the White Administration. There was even what was known as the Black List on which many of these students names appeared. These students in many cases were bullied by the White Administration. These were students fighting for their rights. Many blacks were suspended or expelled for such things as chewing gum in class, waving to someone outside the classroom, being suspected of fighting, being suspected of burning a poster and supposed insubordination. After being bullied and suspended or expelled so many times some of these students left school, never to return.

M. Many of these students now show up in the statistics as drop outs, expulsions or suspensions. Several years from now the non-graduate may show up on welfare roles, in unemployment offices, or in jail. But it may be that a new classification—not drop outs, not expulsions not extended suspensions—is required to adequately describe these students. Such students are often referred as "pushouts," victims of discriminatory discipline procedures in public schools. Pushouts first came into view with the publication of a book by the Robert F. Kennedy Memorial and the Southern Regional Council. The book is called *The Student Pushout: Victim of Continued Resistance to Desegregation*. On this program we will try to find out whether a pushout problem exists, how severe it might be, and what is being done about it. I asked Peter Holmes, Director of the Office for Civil Rights in the Department of Health, Education and Welfare just how severe the pushout problem is.

PH. John, to be quite frank we don't know how severe the pushout problem is on a national scale. We have in the last several years at the Office for Civil Rights in the Department of Health, Education and Welfare been collecting statistical information regarding subjective determinations based upon race that enter into disciplinary actions that result in the pushing out of students from schools. The figures indicate that the percentage of minorities subject to disciplinary action, suspensions or expulsions, exceed their percentages in school systems. Now that's statistical information, raising a red flag.

Let's look at some of the red flags Holmes mentioned. These statistics come from Holmes' own Office for Civil Rights. They are school enrollment figures from the previous. year

[In percent]

City	Black enrollment	Black suspension
Mobile	46.0	64.0
Indianapolis	41.4	60.3
Pittsburgh	42.4	60.0
Prince Georges County, Md	28.0	43.0
Boston	34.1	47.0
Dade County, Fla	26.0	53.0

Not every suspended student is being pushed out, of course. These numbers are not to be considered a one to one documentation of the pushout phenomenon. You will hear Leon Hall of the Southern Regional Council argue that suspension is being used as a weapon to resist school desegregation. Brian Landsberg of the Justice Department raises the possibility that the disproportionate suspension statistics may actually reflect behavior. In one school district the school superintendent testified in open court that institutional racism was the reason for the disproportion. That school district in Dallas, Texas. The Superintendent Dr. Nolan Estes, . . . Dallas has 150,000 students, 49.4% of whom are black. 68.5% of those suspended are black. In the previous year 39% of the students were black and 60.5% of those suspended were black. That disproportion led to a lawsuit in 1972 which I discussed with John Jordan, one of the two attorneys for the plaintiff, a black student who had been suspended.

JJ. Well, the specific incident that led to a filing of the suit was a fight that occurred between a black student and a white student at a recently desegregated junior high school. The fight, at least in our version of it, was started by the white student, yet both students were suspended. We felt that the immediate incident raised first a question of procedural fairness and secondly raised a question of whether or not this was part of a pattern, which we felt at that time was emerging in the recently desegregated Dallas system in that the black student was receiving harsher discipline and more frequent discipline than the white student. At that time we had no real statistics. We only had the numerous client complaints that were coming in.

M. Then the suit was a class action lawsuit?

JJ. Yes, we filed a class action lawsuit on behalf of a class of black students who were defined as those black students attending recently desegregated schools. We found that while at all levels for the 1972–73 school year the Dallas school system was 38% black or roughly 39% black, black students accounted for 60% of the suspensions.

M. What did the judge rule on the case, Mr. Jordan?

JJ. The judge found that the statistics evidence racial discrimination, that this disproportionate figure definitely was the result of institutional racism, and that the school system was going to have to take affirmative action to remedy this problem.

M. Is that an unprecedented decision?

JJ. Yes, this is essentially a problem which was begun to be detected in the last 4 or 5 years. It was only this spring that an initial study was released in the student pushout book, which was released through the Robert F. Kennedy Memorial. It essentially found that in school systems that are under desegregation orders or have recently attempted desegregation there seems to be a dramatic rise in the suspension of black students. This problem has been raised in litigation to my knowledge only once that had gone to any kind of court hearing, prior to our case. In that particular case the court chose not to deal with the issue, so this was the first time to my knowledge that the court has dealt squarely with the issue of whether or not this rise in black suspensions constitutes racial discrimination.

Now, I am not certain that a lot of people understand what they are saying when they say this, so let me sit back and explain it. Our expert witnesses testified that when you see this rise in black suspensions in a desegregated situation, that you are seeing one of two things. Either you are seeing perception and bias against black students which is clearly race discrimination, or you are seeing a rise in suspendable conduct on behalf of black students which is a reaction of a black student to a hostile environment. Either way it is the affirmative duty of the school system to solve this problem, because this kid is having trouble enough dealing with the system, so he's really not in a position to adjust, so the system has got to.

M. What do you anticipate Dallas will do to end its problem of institutional racism or of pushouts, whatever you want to define the problem as?

JJ. Well, one of our expert witnesses laid out the principles and the court officially ordered them to look at what he said and to attempt to tailor a program based on his principles for the Dallas school system. First, he said that Dallas needs institutional and structural changes. Secondly, they need training of teachers and counselors. Thirdly, they must train students to deal with the racist system and fourth, they must alter or attempt to alter the community environmental pressures there on the system. Now to go back to these things, institutional and structural changes of course mean not only to review all your rules and procedures and methods of handling things to be certain they are not biased against whatever group you are attempting to solve a problem with but also to add positive checks in terms of making a positive evaluation of a principal's ability to deal with members of another race. In other words, not only is he a good principal in terms of whether he keeps his school operating correctly, but to look at specifically how he is handling the race problem at his school. How is he dealing with suspendable conduct on behalf of black students? Make this a portion of the facts considered in promotion and in salary raises and in other things. In other words, be an affirmative part of the job. Now training is an area which is extremely important, in that there must be an effort to reach teachers, to make teachers understand that they have racist attitudes, which is something Dr. Estes said on the stand. He said "I, because of my background and training am a white racist." In other words, these attitudes are prevalent in all of us simply because we were raised that way. We were raised in a system. And the Dallas school system up until—hopefully their affirmative action problem will deal with this now—in the past dealt with these attitudes voluntarily, and there haven't been very many teachers that have come forward and have said "I'm a racist" because that is hard to say, and secondly it immediately makes you suspect in the eyes of all these other people if you come forward and say "I'm a racist." So there was no rush to deal with these attitudes. Now the third step is of course that you can't solve these problems overnight so you must also deal with your black students and tell them what to expect in the system and how to deal with it, so that instead of engaging in suspendable conduct when faced with institutional racism he learns to deal within the system; he learns how to make himself effective, though of course you have to give him methods to become effective in dealing with it. And then lastly you've got to get any institution which is attempting to solve its own internal problems to deal with the pressures on it from its community and environment.

M. In the middle of the situation is Dallas superintendent Nolan Estes. I asked Dr. Estes if a disproportionate number of black students were being suspended from Dallas schools.

NE. Yes, there's ample evidence to indicate that it is disproportionate.

M. Why is that happening in Dallas?

NE. Well there are a number of reasons and we've listed these for the court. Socioeconomic background, achievement motivation, health, educational level of parents, a number of different reasons including institutional racism.

M. What do you mean by institutional racism?

NE. We mean any policy, procedure or practice which subordinates an individual or a group because of his race or in the case of institutions discrimination that subordinates any individual or his group because of his age, sex, race.

M. Dallas has policies and procedures then that are in effect racist, is that what you are saying?

NE. No, that's not what I said. I said institutional racism, and there's a difference between institutional racism and individual racism.

M. But policies are made by people and not by institutions?

NE. No, you see, individual racism as we define it is an overt act. These are observable *phenomena that* occur: violence, things that you watch on television. That's individual overt acts which represent bias, prejudice and racism. On the other hand, that's to be distinguished from institutional racism, which is more covert. It's more subtle; it's unconscious; it's unintentional, but nonetheless it has the same impact on the outcome. For many years in the state of Texas we had a state law that said Spanish could not be used as a medium of instruction, and many school districts interpreted that to mean that Spanish could not be spoken in school or on the school campus. Now I would submit to you that that's the rankest form of institutional discrimination or institutional racism. As a result of that, many of our Mexican-American students were short-changed, their futures have been sabotaged, and to answer the question what are we doing, well, we're spending over a million dollars on a bilingual program designed to help these young people who come into our schools where there is a language other than English used in the home.

M. The institutional racism, at least in the court case we're talking about right now, has apparently manifested itself in a high number of suspensions and expulsions, particularly falling on blacks and other minorities. Just how severe is that problem, and is it likely to continue?

NE. Well, number one, I ought to point out that the percentage of minorities suspended in Dallas is not any greater than in any of the other major school districts in the south.

M. Perhaps even in the nation.

NE. And in the nation. That's exactly right. For instance, I read in the paper this last week that Ft. Worth, our sister city, 81% of the suspensions were minority and they only have about 30% minority in the school district, so there's obvious problems there. If you read the percentages from Atlanta, from New Orleans, from Little Rock, from Detroit, Boston, there's obvious disproportionate numbers.

M. If we can generalize that in many cases repeated suspension does not work as a disciplinary tool, what alternatives are available to the school in the case of severe discipline problems?

NE. Now you're getting to the real crux of the matter. We need to take a new look at what discipline is and how discipline is learned, and based on that we need to determine whether suspension will really accomplish what we hope it will, or if corporal punishment accomplishes what we hope it will. Now the school needs a number of alternative programs and approaches. We need alternative schools outside the school for the student, and that of course, is the direction in which we're moving. It seems to me that it's cheaper for our society to educate these children, than it is to put them out on the street so that they become tax eaters rather than tax payers or send them to a juvenile detention home where the cost is $5-10,000 a year for care.

M. The judge's finding is the first case in the nation in which the federal judge is found for the plaintiff. Do you expect this to happen other places in the country?

NE. Well, I would not be surprised if other school districts all over the country were not sued on the same basis, and if the other district courts follow Judge Hughes' ruling, then they will be facing the same problems that we're having.

M. Why did it take a court case for the pushout suspension-expulsion action to be taken?

NE. I don't think it took a court case. We have been working on this now for two or three years. With or without a court case we would have been developing and perfecting our affirmative action plan. I'm saying that even if we did not have a court order we would have been working on these things. In fact, we have been. This simply is another bit of evidence, indeed it's of assistance that we have this confirming our own beliefs and assisting us to move ahead.

M. Apparently not everyone was as aware of the institutional racism as Dr. Estes says he was. The *Dallas Morning News* immediately attacked Judge Hughes' decision and the superintendent's testimony. When I interviewed school board members Dr. Emmett Conrad and Mrs. Nancy Judy, I asked Mrs. Judy if she had been surprised by Dr. Estes' admission.

NJ. Yes, I was. I don't think that most of us are familiar with the term unless we are a member of a minority group. I would say that basically the reaction of the community that is, the white community and also the teaching community in Dallas was one of bewilderment and outrage. They didn't understand what was meant.

M. Why did it take a court decision for you, for Dallas school systems, for the superintendent, for the board to become aware of institutional racism?

NJ. Well, it was the superintendent who volunteered the idea that institutional racism was responsible. In other words this was an admission on his part. This had not been discussed with the board prior to his testimony.

M. You are saying that the board was not at all aware of any kind of institutional racism before Dr. Estes mentioned it?

NJ. That's correct.

M. Dr. Conrad?

EC. I was not at all surprised. In fact, I couldn't understand why the great majority could not see it. After 100 years of separate but unequal education, the vestiges of a two-part school system remain. Any time over 16,000 students are excluded from our school system and 12,500 happen to be minorities, something is wrong. At the time our system was approximately 42% minority. This indicated to me that something was wrong. I think the whole thing stems back to the attitude of the board regarding the court desegregation order. I think our general philosophy was "it shall not succeed." And one of the things that happens to the black child who would come to the majority area via bus, he would be met with the authoritative source of the principal stating, "you are in *our* school, *you* will act in this manner," with the total lack of sensitivity to cultural differences, to the fact that he was in a new surrounding, that he had to get accustomed to the lock step existence of many of the majority schools that did not exist in the minority schools. It would take some time.

M. Clearly the number of suspensions in Dallas and in many, many cities around the country plus the number of repeated suspensions indicate that suspension as a disciplinary tool is not working. What will the board recommend to the Dallas schools as a substitute disciplinary procedure?

NJ. We've asked our staff to come up with numerous suggestions that we can consider and some of course that will come about. Also in discussing this with administrators the emphasis will be there has to be a two way move, there has to be an attempt to counsel the student and give him the guidance he needs in order to work within the institution to extract the education that he deserves.

M. But the judge declared a finding of institutional racism, not student misbehavior. What are you going to do about the institutional racism that exists. I mean, how is the institution going to change?

NJ. The institution can, for example, work with the student in helping him adjust in the mainstream of society. For example, if habitual tardiness is causing a student ultimately to be suspended, you can't go on letting one student wander into a class 10 or 15 minutes late every day, but you can counsel him and perhaps his peers and groups that have the same problem, on the importance of time in our society and the importance of time in the working world.

M. Dr. Conrad?

EC. Well, I think we have to look at all of the things that I've entitled broadly institutional racism: Our textbooks, attitudes of our teachers, the attitude of our administration and our community attitude. I think it covers a broad spectrum of things, and we need to work out all of them. One thing I strongly encourage and that's the use of counseling services, because many of the problems we are excluding young people about, and many of the things that end up with young people getting corporal punishment are problems that are psychiatric problems, psychological problems and sometimes social problems and economic problems at home—which no amount of corporal punishment, no amount of exclusion will cure. This is one of the things we need to point out to the business community of America, that the dropout, the copout, usually end up in an institution where we have to care for them in other manners or on welfare. So it's fiscally sound to give a young person a chance at making it in the system, rather than trying to correct the problem. I think remedial work is always much more expensive than preventive.

M. What is likely to happen in Dallas now? Dr. Estes, Attorney John Jordan and others share the fear that whites will continue to abandon the Dallas schools in the current year. Dallas was 39% minority in 1972–73. Last year the system was 49.4% minority, and this year white students are in the minority. At one point in our interview Dr. Estes asked plaintively, "How do I persuade white parents not to abandon the public schools?" Attorney Jordan asks the same question. Neither man has a clear answer. One experienced superintendent predicted that the Dallas white power structure would try to ignore the reality of the court decision. "They will bury their heads in the sand," he predicted, "and try to get the superintendent to retract his admission or at least to ignore it."

Dallas recently issued the affirmative action plan ordered by the court. The plan seems to follow the expert witness' suggestions fairly closely. The witnesses' own reaction to the plan: "I don't think this is a bad start given where the Dallas independent school district is now. My only question is, "does the Dallas independent school district see this is a start or as the minimum they can get away with?" Attorney Jordan called the plan a "good start" but lamented the lack of student involvement. Among the specifics of the plan: immediate distribution of the book, *The Student Pushout*, to all principals and central staff. Dallas recently ordered 500 copies.

Hayes Mizell is a seasoned observer of school desegregation. Mr. Mizell is a member of the Richmond County, South Carolina, school board and director of the South Carolina Community Relations Program of the American Friends Service Committee. I asked Mr. Mizell for an explanation of the pushout phenomenon.

HM. Well, I think a lot of it, there are various reasons, and it's easy to be kind of glib and superficial about, but I think it's a little more complex perhaps than some folks would have you bleieve. I think, really the primary reason is what I would refer to as cultural conflict, which simply means that you have a middle class school system with people teaching in it and administering it (both black and white) who are middle class people. They have in their school system students who are from a different cultural orientation and you have different orientations among the kids as to how you resolve conflict. Well, there are going to be some kids that come to school with the way you resolve conflict is that you beat them up, and the way you resolve conflict is to shout and holler at somebody and cuss them out.

M. Now do you think that suspension and expulsion are effective techniques for dealing with behavior problems in the schools?

HM. Well, I think it's very clear, at least to me, that short term suspensions have reached such a proportion that it's very clear that it just doesn't work, it's not an effective technique. Now our school officials say that suspension is not a punishment but rather a last ditch effort to get the parents to intervene in the behavior problem, which again is based on a certain set of middle class assumptions about the parents and their ability to become involved and their willingness and how they view education, and many other factors.

M. I think you are saying essentially that the schools are up against it, that it's very much a problem *for* them, and it's not so simple that you can just point your finger at the schools and blame them. Is that correct?

HM. Well, yes, I think there are a number of factors involved and certainly that the schools have to bear a major responsibility for failing to recognize that this disciplinary technique is not corrective but remains punitive.

M. Is institutional racism to blame?

HM. Well, it may be, as manifest through people's own racism that they can't recognize and deal with. I think that in many of these cases frankly that is no overt ill will and overt racism in terms of the guys standing there just waiting to get somebody who's black, I mean, it's really not that kind of situation in most cases. That's why I've put such an emphasis on the cultural conflict, because you have people who have come at conflicts and problems from two entirely different directions. For the white middle class teacher or even black middle class teacher who genuinely has a problem of how to teach in a classroom, if you have some kid she speaks to and the kid says, no he's not going to do that, and then proceeds to curse her out in front of the class, then obviously you've got a problem. I'm not sure that's racism in the sense that we generally understand it. I think that is real cultural conflict. But regardless of whatever it is, my concern is that we try to develop alternatives to really deal with it.

M. Developing alternatives in the schools is a local responsibility. At the Federal level the responsibilities are somewhat different. Various Civil Rights legislation prohibits discrimination, and the job for enforcing those laws falls to the Office for Civil Rights in the Department of Health, Education and Welfare and to the Civil Rights Division in the U.S. Department of Justice. The Office for Civil Rights, or OCR as it is often called, has 900 employees, over 300 of whom work in the Education Division. The Civil Rights Division of the Justice Department has 30 full time attorneys, 8 of whom are in the special unit to look at the enforcement problems of school systems that are under court order to desegregate. I asked Peter Holmes, Director of OCR, to describe the responsibilities of that office.

PH. Well, the Office for Civil Rights, which has been in existence since 1965, John, is charged with enforcing the non-discrimination requirements of Title VI of the 1964 Civil Rights Act. Those requirements simply say—the language is very brief and to the point—Title VI prohibits discrimination on the grounds of race, color, or national origin in programs or activities receiving federal financial assistance. Thus our responsibility is to insure that where recipients of federal funds from the Department of Health, Education and Welfare have programs, in effect that they are operated in a non-discriminatory manner. It's a very broad mandate.

M. What if the programs are not operated in a non-discriminatory manner?

PH. The procedures are essentially this: we undertake investigations either as a result of complaints or as a result of our own self-initiated investigations, on site reviews of recipients of federal funds. If we find discrimination, we notify the recipient, we ask them within a set time period to take corrective action to eliminate discrimination. If they fail to do that then we can take steps to initiate administrative enforcement proceedings, which grant the district a right to a hearing before an independent federal hearing examiner. All of which could ultimately lead to the withdrawal of federal financial assistance from the recipient.

M. Has that ever happened?

PH. Oh yes, in many, many cases. At one point in time over 200 school districts primarily in the south had their federal financial assistance terminated. There are a large number of districts right now in the administrative proceedings. At this point in time there is only one school district in the country that has its federal financial assistance terminated, and that's Ferndale, Michigan.

M. Why has the Office for Civil Rights come under such severe criticism from, for example, the Southern Regional Council and the Robert F. Kennedy Memorial. They wrote in their book *The Student Pushout*, "the overall record of the federal leadership shows an abdication of Congressional mandate to seek quality unitary education." Throughout this book there is severe criticism of the Office for Civil Rights generally. Why is that?

PH. John, it's difficult for me to tell. In this area of Civil Rights which is still emotional sometimes there's excessive verbage or rhetoric used in addressing the accomplishments or lack of accomplishments of the Office for Civil Rights. I feel much progress has been made in enforcing Title VI and much more progress will be made.

M. While I was talking to Mr. Holmes, Leon Hall of the Southern Regional Council in Atlanta was on the telephone. He responded to Holmes' defense by questioning whether OCR's annual survey of public school systems even asked the right questions.

LH. In the survey, the Office for Civil Rights previous to this last year never raised the question of the actual number or the incidence of suspensions in the school districts. The data that was actually sought from local school systems left no real solid foundation, a bare minimum foundation for the Office for Civil Rights to draw conclusions.

PH. Leon is quite right with regard to the discipline issue, suspensions and expulsions. It's been that only in the last two years that we began focusing in our annual school survey which is a form we send out to school districts asking for racial data. But to put the matter in perspective, let me go back and try to focus on the priorities of Civil Rights enforcement. What I'm trying to do when I say put this in perspective is, the first priority back in the mid 60's was eliminating the student desegregation between schools. That continued into the early 70's and then we attempted to focus (and I regret that it wasn't a focus before) on the problem of faculty dismissals, discriminatory firings and dismissals.

Now we've continued on that effort as well as adding the focus on in-school or second generation type of desegregation problems, classroom desegregation. Now we are adding to that effort the issue of discipline, as we should be. It is regrettable in hindsight that those couldn't have all been priorities since passage of the 1964 Civil Rights Act. But the fact of the matter is that they weren't priorities at the same time.

M. Later on in our interview, Holmes spoke more candidly about OCR's priorities.

PH. Now what I was trying to do in laying out the perspective of the thing is that we've made progress in the physical desegregation between schools. We have had the time and the staff and the energies to focus on the problems of teachers. As we've been able to focus on that we've had the time, the staff and the energy to focus on second generation problems. The director of my secondary and elementary education division he believes that while discipline is an important matter, we should not devote substantal parts of our energy to that problem, because he feels as a matter of priority that a more important thing to do is to worry about kids in the 1st, 2nd, 3rd, 4th, 5th, and 6th grades who are being discriminatorily assigned to ability groupings who are experiencing frustration that by the time they get to the 10th grade, they're going to punch the first white kid they see in the face and get kicked out of school. And if you can eliminate that frustration in the formative years of the kids as a matter of priority, and it's sort of a cruel hard fact. We're not going to say that we're not going to do anything else but discipline them. No, we're going to try to develop a program in discipline. It's getting national focus. It is a problem that we feel may be somewhat severe. I don't think it's as severe quite frankly as some people may, as Leon may, but I think it's a problem, again talking about degrees. But again I think that our focus over the last several years on the assignment of students to classes in elementary schools, as well as junior and senior high schools, is going to result in the long run in a lessening of this disproportion.

M. I asked Holmes to explain how pushouts became an official concern.

PH. First of all, I think that the Southern Regional Council's report has been extremely beneficial in focusing public attention on the problem. It got a lot of publicity, as it should have, and I think national publicity. Then the issuance of that report was followed by the holding of Congressional hearings by the Equal Opportunity Subcommittee in the House of Representatives, which again focussed national attention on it. We have begun as I have testified before the Congress, to do a number of pilot investigations around the country into the problems of discipline, and I might note too that we've just begun the on-site review in August in Anne Arundel County, Maryland. That is the first of our pilot reviews, and there'll be a number more that will be undertaken in the course of this fiscal year. Our hope is from that effort to gain a greater awareness of the problems and to attempt to develop a national policy that will ensure non-discrimination in the meting out of disciplinary sanctions.

M. Mr. Hall, what increased efforts would you bring about to end or deal with the problem of pushouts?

LH. I would certainly pursue several of the things Peter has pointed out that the Office for Civil Rights is in the process of doing now, which I think are extremely effective, based upon some responses we have seen in the Southern region since the House Subcommittee hearings. I would also strongly consider seeking punitive action against some school administrators, some teachers, some school boards, who have shown a long history in many cases of recalcitrance toward desegregation generally and toward Civil Rights overall. I would certainly consider dragging some of these individuals into court to get some strong court orders against the individuals. I'm saying from the outset some effort must be made to sensitize these teachers of what they're doing. I suspect from having encountered a fair number of those type teachers and educators, that these are the same type teachers who are holding to the belief that they will never succumb to the court order, that they will never see integration proceed smoothly. Since often times these teachers are quite obvious upon encountering them. I think that some efforts should be made to sensitize these teachers and get them to change. Often it is the case that these teachers and administrators know what they're doing, are very conscious of it and have decided that they will get rid of minority students and minority educators wherever they can.

M. Mr. Holmes, you've heard Mr. Hall suggest that the pushout problem, that the Office for Civil Rights could do a better job if it took some teachers and administrators into court. Could the Office for Civil Rights do that?

PH. No, under our legislative jurisdiction we can't take people into court. The Department of Justice can.

M. I asked Brian Landsberg, formerly the Chief Education Prosecutor in the Civil Rights Division in the Justice Department, to explain the relationship between his office and the Office for Civil Rights.

BL. We could receive a complaint from a parent, and HEW could receive a complaint from the parent. We would both have a responsibility to look into it, and in a case like that we would try to work something out with them so that we don't overlap, we don't duplicate effort.

M. Do you ever bring suit at the request of the Office for Civil Rights in HEW?

BL. Yes, we have filed a large number of lawsuits at the request of HEW. I don't know the precise number. I would guess that we have sued in the neighborhood of 40 or 50 school districts at the request of HEW. I don't believe any of these lawsuits were so-called "pushout" lawsuits.

M. How many pushout cases is the Justice Department involved in now?

BL. We have several under active investigation. We do not have any pending motions relating to pushouts.

M. Suppose someone listening to this program right now recognizes himself or herself as a pushout. What do you as a Justice Department lawyer suggest?

BL. Well, I would say that somebody in that situation should tell . . ., the easiest thing for them to do would be to tell the closest Office for Civil Rights at HEW. At the same time they could write a letter to the Attorney General, a very simple letter saying: "Dear Mr. Attorney General, My name is Johnny Jones and my address is so-and-so and I feel that I have been discriminatorily expelled from school" and name the school system. Now the Attorney General's authority to do something about that might depend on if there were an existing court order against that school system. I think that it does not hurt to tell both HEW and the Justice Department, to ensure that the proper agency that has jurisdiction over that particular school system will take some action.

M. Do you get many such letters?

BL. I don't have the statistics; we get some. I think that the total number in any given year of letters relating to pushouts would number maybe 20–25 at most but I don't have the statistics.

M. Do you think pushouts are a major educational problem?

BL. Well, I think that when school age children are out of school, for whatever reason, whether they've been pushed out by the school authorities or by any other circumstances, it is a serious problem. It's a failure on the part of the educational institutions.

M. Let's assume that Johnny Jones does write the Office for Civil Rights and the Attorney General. What's the history of attempts to prove "pushout"? Are statistics enough? Leon Hall sees it this way.

LH. It's like a roller coaster. Through some periods we got the response that statistical evidence on its face does not hold enough weight to go in court, though OCR cannot go into court. In other instances we gather from OCR that they know discrimination is taking place and it's a difficult task to tie down the actual case. Regarding the statistics over all, we were informed that you must bring statistical evidence. We could go, and I can never forget, we would offer presentations before federal representatives; we would point to a particular case; we were told that this kind of data doesn't hold water in court. "You can't go to court with that." I think some systematical approach is necessary. I am seeking to urge the Department of Justice to make cases such as the Dallas case, or to pick up where the Dallas case left off and carry it to the next step. Until we have this happening, until we see that type of vigilance in OCR, I think we will be putting out brush fires throughout the coming year.

M. A statistical proportion was not enough for OCR, according to Holmes.

PH. The gist of this discussion concerns me somewhat. It is significant. I am simply saying that in and of itself it does not prove discrimination, and we feel, I'm advised constantly by my attorneys in the Department of Health, Education, and Welfare that we will *not* win a hearing on the basis of mere statistics alone, that we must have more proof, more evidence than mere statistics alone.

M. Lansberg of the Justice Department agrees.

BL. Very early, as long ago as 1970 we tried our hand at getting relief for student pushout problems, and we found that it is very difficult to win that kind of lawsuit The lawsuits we tried at that time we lost. What we need is to prove that the pushout phenomenon is the result of racial discrimination by the school authorities.

M. Now, let me pose a hypothetical situation. Suppose the student body of a school is 25% minority students and the suspension rates are 80% minority students. Is that on its face racial discrimination?

BL. Well, I think that's a question that the courts have not yet decided. I would say that where it's been presented so far, the courts have required something more than that. How much more one would have to prove, I think, is still up in the air. Some lawyers have suggested that there might be a distinction between cases where the school system has been operating under a desegregation order and cases where it was not. That if a school system had to be sued to be desegregated, and then thereafter there were disproportionate expulsions of black students, that should be proof of racial discrimination, but so far I don't know of any court that has bought that argument. In every case where there has been relief granted that I know of there has been proof over and above statistics. The question is whether the statistics are a result of some discriminatory conduct on the part of the school authorities or whether they're the result of the way the students act.

M. The importance of the statistics resides in the legal concept of the "burden of proof," meaning who has to prove the case. Where there is a disproportionate suspension rate for minorities, should the alleged pushout have to prove discrimination, or should the school district have to prove that it has *not* discriminated? I asked Lenny Conway of the Robert F. Kennedy Memorial to explain the position taken in the RFK/SRC book.

LC. What we're talking about is, where there has been a history of past racial discrimination and that takes in a majority of the South that has been under the different federal civil rights acts as well as the desegregation orders. Where the plaintiff can establish statistically large disproportionate numbers of suspensions, so if you have for example a school district that has 30% black but 60% of the suspensions in that district. Our position and the position of Southern Regional Council in our book on pushouts is that these statistics should be enough, given the past history of racial discrimination, to shift the burden of proof of discrimination from an affirmative burden on the plaintiff to a burden on the defendant school district.

M. Do you expect the court to accept that position?

LC. Well, we feel that in the past this argument has not been raised. It has been raised most recently in a case in Dallas, and the decision that has come down has been fairly unclear as to exactly whether the judge has accepted it or not accepted it. But we feel it is a very viable argument. We feel there is no reason why an argument such as this which has been applied to teachers and in labor situations in general cannot be applied as well to the student pushout.

M. Now I understand that in Dallas, the reason that it's unresolved is that in fact the defendants accepted the contention of the plaintiff that there had been discrimination, and therefore the judge was not forced to resolve it.

LC. Exactly, we feel that the Dallas case presented a very strong possibility for the acceptance of this principle, and I think that the school officials must have agreed with us on that and with Dallas legal services, since they have accepted a negotiated settlement on the case.

M. So let me make sure I understand this completely now. The burden of proof argument falls normally on the plaintiff, on the people who are bringing the case, and what you are saying, what your book is arguing is that in instances where there's a history of discrimination and in which the statistics are disproportionate (that is, minority enrollment of 30% and suspension figure of 60%), you are arguing that the burden of proof should be shifted, so that the defendant should have to prove in court that they are not discriminating. In other words, they are guilty until proven innocent?

LC. Well, not necessarily guilty until proven innocent, but that the defendant's actions on the basis of statistics should be enough to establish that they must prove that they have *not* been discriminating against students. This is clearly what's been established. The burden of proof of discrimination of motive, of calculated planning, is an extremely harsh one, and to put that on plaintiffs, on individual students or in a class action suit involving students, is almost an impossible burden. It's been the primary reason HEW has maintained they cannot establish discriminatory suspension policies. We feel it's a major stumbling block which the courts have removed in other types of suits. We see no reason why that shifting of burden of proof should not take place in a case dealing with students.

M. So that's pushouts, a new category of classroom exiles. It is not an exclusively southern problem. In fact, black and other minority kids are being pushed out of schools across the country as the statistics from Dallas, Pittsburgh, Indianapolis, Boston, and Dade County, Florida, indicate.

Several concluding notes are in order: the suspension and expulsion statistics only *reflect* the pushout problem, they are not an exact mirror image. Many school systems have substituted indefinite suspension for expulsion, so that the expulsion statistics are not particularly meaningful. The Office for Civil Rights reports that *no* students were expelled from public schools last year in New York City, Chicago, Houston, New Orleans, St. Louis, and Washington, D.C. But suspension remains a popular disciplinary tool, although there are serious questions about its effectiveness. Suspension is used most often on, or against, minority students, north, south, east, and west. To the Office for Civil Rights and the Justice Department a disproportionate number of suspension of minority students, as in Dallas, New York, Pittsburgh, Mobile, Boston, and Dade County, Florida, are "red flags," signals that something may be wrong. Whether those two federal agencies responded properly to the "red flags" is open to serious question. In the Adams vs. Richardson case a U.S. District Court ruled in 1972 that HEW, that is, the Office for Civil Rights, had "massively defaulted" in the enforcement of Title VI of the Civil Rights Act.

The Court of Appeals affirmed the decision, which means that HEW has not been enforcing the law of the land.

You have heard Peter Holmes of OCR explain the priorities of his office. You have been told that the Justice Department has no pushout cases in court now. You did not hear, as I did, the Justice Department Official recently promoted to Chief Prosecutor in the Civil Rights Division, joke about pushouts. "Pushouts," he said, "I thought that was some kind of exercise." The joke isn't funny. Too many young lives are literally at stake. The young person who leaves school for whatever reason is more likely to become a social burden, in jail, on welfare, or unemployed. The costs in lost income of nongraduation from high school can be measured in dollars, of course. Typically, a male high school graduate will earn $113,000 more than a nongraduate during the working years from 18 to 65. That means the total national costs of non-completion of high school amount to billions of dollars annually.

Additional costs are beyond measurement: the level of learning associated with a high school education and a diminished awareness of one's human dignity.

A Congressional subcommittee recently drafted legislation which was subsequently approved by both House and Senate. The legislation, called "The Juvenile Justice and Delinquency Prevention Act of 1974", contains a provision about pushouts. The provision calls for providing resources, meaning money, to help prevent unwarranted and arbitrary suspensions and expulsions. "This is only a first small step," a subcommittee spokesman said, "but it brings the problem more clearly into view." It seems doubtful that new Federal legislation will help. It would be enough to enforce the existing laws.

Many times on this program the Robert F. Kennedy Memorial Southern Regional Council Book, *The Student Pushout*, has been mentioned. You may get a copy for $1 from either The Robert F. Kennedy Memorial, 1035 30th Street, N.W., Washington, D.C. 20007, or the Southern Regional Council, 52 Fairley Street, N.W., Atlanta, Georgia 30303. Let Leon Hall explain why the book was written.

L.H. "The prime reason for the Southern Regional Conference and the Robert F. Kennedy Memorial coming up with this was that there were across the land, private agencies, community groups, young people, screaming and bemoaning the fact that young people, black students were being driven out of the schools because of color. We found that we have sought to get the bodies mixed, getting black and white children in the same physical setting. In many instances this was under great strain and was under great force before school people would mix the bodies. These same school people have now agreed to mix them for a second. It is like a conveyor belt—they come in and they keep on going—keep minority kids going right back out."

(Music)

M. For "Options on Education," I'm John Merrow. This program was produced by Midge Hart and John Merrow. If you want a transcript or information about future programs, write to "Options on Education, 1001 Connecticut Avenue, N.W., Room 310, Washington, D.C. 20036.

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COMMON CAUSE SURVEY ON CONGRESSIONAL REFORM

(Mr. FRASER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FRASER. Mr. Speaker, during the 1974 election campaign, Common Cause asked congressional candidates to put themselves on record with regard to key congressional reform issues. The results of that survey, released earlier this week by Common Cause Chairman John Gardner, shows that a large majority of House Democrats want changes made in Democratic caucus policies when the new caucus meets for the first time on December 2.

The Common Cause survey indicates strong support for the proposal to transfer the responsibility for making committee assignments away from the Democratic members of the Ways and Means Committee to the Democratic Policy and and Steering Committee. Of those Democrats responding to the survey, 146 favored this transfer of the Committee on Committees function, while 33 were opposed and 27 were undecided.

The survey also shows that House Democrats want open conference markups and recorded caucus votes. Of those responding, 184 Democrats favored extending the House policy for open markups to cover conference meetings, while 19 were opposed and 12 were undecided. Recorded caucus votes were supported by 148 Democrats and opposed by 39, with 26 undecided.

House Members of both parties, according to the Common Cause survey, also supported public financing for congressional campaigns, stronger lobby disclosure laws, and the establishment of special prosecutor to protect against misconduct by Government officials. Only one reform proposal, an 8-year limitation on committee membership, was opposed by a majority of House Members.

Mr. Speaker, John Gardner put the issue of congressional reform in proper perspective when he said:

> The Democratic majority in Congress was elected largely in response to a devastating failure on accountable government. To keep faith with the electorate, the Democratic congressional leadership must now act to deal with that failure.

Mr. Gardner went on to say that—

> The first test of the (leadership's) will and their purpose will come on December 2 when the Democrats hold their organizing caucus in the House. The way they conduct themselves then will tell us whether they intend to accept the responsibility they asked for and were given by the electorate—or whether they are going to fail the test.
>
> For the sake of the nation, they had better not fail.

Common Cause has performed a useful function by focusing attention on the way the House organizes itself to conduct congressional business. Too often in the past, these important internal issues have been hidden from public view.

Our response at the December caucus meetings to the issues raised by Common Cause could have a profound impact on the next Congress and its legislative record.

At this point, I would like to insert the results of the Common Cause survey in the Record:

Responses to "Common Cause" Open Up the System Program

(Analysis of Replies from House Members for the 94th Congress, as of November 20, 1974)

HOUSE BACKGROUND INFORMATION

Number in party and majority of party

Democrats: 291 and 146.
Republicans: 144 and 73.
Total: 435.

Number in the 94th Congress responding to Common Cause questionnaire: Democrats, 221; Republicans, 123; Total, 344.

RESULTS*

*The survey listed an "undecided" category. Members who did not respond at all, however, are not under "undecided."

1. Democratic Committee Assignments (question put to Democrats only)—Transfer responsibility from Ways and Means Com-

mittee to the Democratic Steering and Policy Committee.

Democrats

Yes, 146; No, 33; Undecided, 27.

2. Secrecy—Open conference committee meetings.

House Totals

Yes, 275; No, 33; Undecided, 21.

Democrats

Yes, 184; No, 19; Undecided, 12.

Republicans

Yes, 91; No, 14; Undecided, 9.

3. Secrecy—Recording and making public votes in party caucus on substantive and procedural issues.

Democrats

Yes, 148; No, 39; Undecided, 26.

4. Campaign Finance Reform*—Mixed system of public financing for congressional general elections.

House Totals*

Yes, 242; No, 89; Undecided, 24.

Democrats

Yes,* 183; No, 39; Undecided, 12.

Republicans

Yes,* 59; No, 50; Undecided, 12.

5. Creating an Independent Office of Special Prosecutor.

House Totals

Yes, 233; No, 57; Undecided, 37.

6. Lobby Disclosure—Comprehensive public disclosure of lobbying activities directed at Congress and the executive branch.

House Totals

Yes, 318; No, 2; Undecided, 23.

7. Conflicts of Interest—Comprehensive public disclosure of financial holdings and interests of Representatives and executive branch officials.

House Totals

Yes, 266; No, 29; Undecided, 34.

8. Open Government—Establishment of open meetings laws for the executive branch and the independent regulatory agencies.

House Totals

Yes, 290; No, 11; Undecided, 23.

9. Committee Rotation—Rule to require that no Representative can serve longer than 8 years on a particular committee before being required to change to a different committee.

House Totals

Yes, 109; No, 161; Undecided, 40.

Committee Nomination Process (for Democratic Candidates)

Will you support an effort in the Democratic Caucus to shift the responsibility for nominating committee members from the Democratic members of the Ways and Means Committee to the elected Steering and Policy Committee of the Democratic Caucus?

YES

Arizona: Udall.
California: Burton, J., Miller, Dellums, Stark, Edwards, Ryan, Mineta, Rees, Roybal, Burke, Wilson, C., Anderson, Hannaford, Brown.
Colorado: Schroeder, Wirth.
Connecticut: Dodd, Giaimo, Moffett.
Florida: Bennett, Haley, Lehman, Pepper, Fascell.
Georgia: Ginn, Young.
Hawaii: Matsunaga, Mink.
Illinois: Russo, Mikva, Hall, Shipley, Price, Metcalfe.
Indiana: Fithian, Brademas, Roush, Evans, Hayes, Hamilton, Sharp, Jacobs.
Iowa: Mezvinsky, Blouin, Harkin.
Kansas: Keys.
Kentucky: Perkins.
Louisiana: Long.
Maryland: Long, Sarbanes, Spellman, Mitchell.
Massachusetts: Boland, Early, Drinan, Tsongas, Moakley, Burke, Studds, Harrington.
Michigan: Conyers, Vander Veen, Carr, Riegle, Traxler, O'Hara, Diggs, Nedzi, Ford, Brodhead, Blanchard.
Minnesota: Fraser, Nolan, Bergland.
Missouri: Symington, Randall, Bolling, Hungate.
Montana: Baucus, Melcher.
New Jersey: Florio, Hughes, Thompson, Maguire, Roe, Helstoski, Rodino, Patten.
New York: Downey, Ambro, Wolff, Rosenthal, Biaggi, Chisholm, Scheuer, Solarz, Koch, Abzug, Badillo, Bingham, Ottinger, Pattison, LaFalce, Nowak.
North Carolina: Andrews, Preyer.
Ohio: Seiberling, Stanton, J.V., Mottl.
Oklahoma: Jarman, English.
Oregon: AuCoin.
Pennsylvania: Eilberg, Yatron, Edgar, Flood, Moorhead, Rooney, Vigorito.
Rhode Island: Beard.
South Carolina: Mann, Holland, Jenrette.
Tennessee: Ford.
Texas: Eckhardt, Wright, Jordan, Krueger, Milford, Wilson.
Utah: Howe.
Virginia: Harris, Fisher.
Washington: Meeds, Bonker, McCormack, Foley, Adams.
West Virginia: Hechler.
Wisconsin: Aspin, Kastenmeier, Baldus, Reuss, Cornell.
Wyoming: Roncalio.

NO

Arkansas: Mills.
California: Sisk, Corman, Danielson.
Connecticut: Cotter.
Florida: Fuqua, Rogers.
Georgia: Brinkley, Flynt, Stephens.
Illinois: Murphy, Annunzio.
Louisiana: Breaux.
Maryland: Byron.
Minnesota: Oberstar.
Mississippi: Bowen.
New Mexico: Runnels.
New York: Pike, Addabbo, Rangel.
North Carolina: Taylor.
Ohio: Ashley, Vanik, Stokes.
Oklahoma: Risenhoover.
Oregon: Weaver.
Pennsylvania: Nix.
South Carolina: Derrick.
Tennessee: Lloyd, Fulton.
Utah. McKay.
Virginia: Downing.
Wisconsin: Zablocki.

UNDECIDED

California: Moss, Burton, P., Leggett, Waxman, Krebs, Patterson, Van Deerlin.
Georgia: McDonald.
Iowa: Bedell.
Kentucky: Hubbard, Natcher, Mazzoli, Breckinridge.
Louisiana: Boggs.
Minnesota: Karth.
Nevada: Santini.
New York: Holtzman, Richmond, Stratton, Hanley, McHugh.
North Carolina: Neal, Hefner.
Oklahoma: Jones, Albert.
Oregon: Duncan.
South Carolina: Davis.

Secrecy—Open Conferences

Will you vote to establish rules requiring House-Senate conference committee meetings to be open to the public, except in cases of national security and personal privacy?

YES—DEMOCRATS

Arizona: Udall.
Arkansas: Mills.
California: Leggett, Burton, J., Miller, Dellums, Stark, Edwards, Ryan, Mineta, Sisk, Krebs, Ketchum, Corman, Roybal, Burke, Danielson, Wilson, C., Anderson, Hannaford, Lloyd, Brown, Patterson, Van Deerlin, Waxman.
Colorado: Schroeder, Wirth.
Connecticut: Cotter, Dodd, Giaimo, Moffett.
Florida: Bennett, Haley, Rogers, Lehman, Pepper, Fascell, Frey.
Georgia: Ginn, Brinkley, Levitas, Young, McDonald, Stephens.
Hawaii: Matsunaga, Mink.
Illinois: Murphy, Russo, Mikva, Annunzio, Hall, Shipley, Price, Simon.
Indiana: Madden, Fithian, Brademas, Roush, Evans, Hayes, Hamilton, Sharp, Jacobs.
Iowa: Mezvinsky, Blouin, Harkin, Bedell, Smith.
Kansas: Keys.
Kentucky: Perkins, Hubbard.
Louisiana: Boggs, Breaux.
Maryland: Long, Sarbanes, Spellman, Byron, Mitchell.
Massachusetts: Early, Drinan, Tsongas, Harrington, O'Neill, Moakley, Burke, Studds.
Michigan: Conyers, Carr, Riegle, Traxler, Blanchard, Diggs, Nedzi, Ford, Brodhead.
Minnesota: Karth, Fraser, Nolan, Oberstar.
Missouri: Symington, Randall, Clay.
Montana: Baucus, Melcher.
Nevada: Santini.
New Jersey: Florio, Hughes, Thompson, Maguire, Roe, Helstoski, Rodino, Patten.
New Mexico: Runnels.
New York: Pike, Wolff, Rosenthal, Downey, Biaggi, Chisholm, Solarz, Rangel, Richmond, Koch, Abzug, Badillo, Bingham, Ottinger, McHugh, Pattison, Hanley, LaFalce, Nowak, Scheuer, Holtzman.
North Carolina: Andrews, Neal, Hefner.
Ohio: Seiberling, Stanton, James, Vanik, Mottl, Ashley, Stokes.
Oklahoma: Jones, Jarman, English.
Oregon: AuCoin, Duncan, Weaver.
Pennsylvania: Nix, Greeen, Eilberg, Yatron, Edgar, Moorhead, Rooney, Vigorito, Murtha.
Rhode Island: Beard.
South Carolina: Derrick, Mann, Holland, Jenrette.
Tennesseee: Lloyd, Fulton, Ford.
Texas: Wright, Krueger, Milford.
Utah: Howe.
Virginia: Harris, Fisher.
Washington: Meeds, Bonker, Foley, Adams.
West Virginia: Hechler.
Wisconsin: Aspin, Kastenmeier, Zablocki, Reuss, Cornell, Baldus.
Wyoming: Roncalio.

NO—DEMOCRATS

California: Burton, P., Rees, McFall.
Georgia: Stuckey, Flynt.
Illinois: Metcalfe.
Kentucky: Natcher.
Massachusetts: Boland.
Mississippi: Bowen.
New York: Stratton.
Pennsylvania: Flood, Dent.
Texas: Wilson, C., Eckhardt, Poage, Jordan.
Utah: McKay.
Virginia: Downing.
Washington: McCormack.

UNDECIDED—DEMOCRATS

Arkansas: Alexander.
California: Moss.
Kentucky: Mazzoli, Breckinridge.
Minnesota: Bergland.
New Jersey: Meyner.
New York: Addabbo, Ambro.
North Carolina: Preyer.

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*Included in these totals are 15 members of the new Congress—13 Democrats and 2 Republicans—who did not answer the questionnaire, but who are on public record in favor of Congressional public financing as a result of their vote for the Anderson-Udall amendment in the 93d Congress.

Oklahoma: Risenhoover, Albert.

West Virginia: Staggers.

Secrecy—Open Conferences

Will you vote to establish rules requiring House-Senate conference committee meetings to be open to the public, except in cases of national security and personal privacy?

YES—REPUBLICANS

Alabama: Buchanan.

Alaska: Young.

Arizona: Rhodes.

California: McCloskey, Ketchum, Lagomarsino, Goldwater, Moorhead, Rousselot, Bell, Pettis, Wiggins, Burgener.

Colorado: Johnson, Armstrong.

Connecticut: McKinney, Sarasin.

Delaware: du Pont.

Florida: Kelly, Young, Burke.

Idaho: Symms.

Illinois: Hyde, Anderson, Michel, Findley, Madigan, Erlenborn.

Indiana: Hillis.

Iowa: Grassley.

Kansas: Sebelius, Winn, Shriver.

Kentucky: Carter.

Maine: Cohen.

Maryland: Holt, Gude.

Massachusetts: Conte, Heckler.

Michigan: Esch, Brown, Hutchinson, Vander Jagt, Ruppe.

Minnesota: Quie, Hagedorn.

Mississippi: Lott.

Nebraska: Thone, Smith.

New Jersey: Fenwick, Rinaldo.

New Mexico: Lujan.

New York: Lent, Wydler, Peyser, Fish, Gilman, Mitchell, Walsh, Horton, Hastings.

North Carolina: Martin.

North Dakota: Andrews.

Ohio: Gradison, Clancey, Whalen, Guyer, Latta, Stanton, J. William, Mosher, Wylie, Regula.

Pennsylvania: Schulze, Biester, Shuster, Eshleman, Schneebeli, Heinz, Johnson, Myers.

South Dakota: Pressler.

Tennessee: Quillen.

Texas: Steelman, Archer.

Vermont: Jeffords.

Virginia: Daniel, Robt. W., Whitehurst, Butler, Wampler.

Washington: Pritchard.

Wisconsin: Kasten.

NO—REPUBLICANS

Arizona: Steiger.

California: Talcott.

Idaho: Hansen.

Indiana: Myers.

Michigan: Broomfield.

Missouri: Taylor.

Nebraska: McCollister.

New Jersey: Forsythe.

New Nork: McEwen, Conable, Kemp.

Pennsylvania: McDade.

Virginia: Robinson.

Wisconsin: Steiger.

UNDECIDED—REPUBLICANS

Alabama: Edwards.

Arizona: Conlan.

Illinois: Derwinski, Crane, Railsback, O'Brien.

Minnesota: Frenzel.

Michigan: Cederburg.

Ohio: Devine.

Pennsylvania: Coughlin.

South Carolina: Spence.

Secrecy—Recorded Caucus Vote

Will you vote to have substantive and procedural matters in your party caucus voted on by individual recorded ballot and have these votes made available to the public?

YES—DEMOCRATS

Arizona: Udall.

Arkansas: Mills.

California: Leggett, Burton, J., Miller, Dellums, Edwards, Mineta, Sisk, Krebs, Roybal, Burke, Anderson, Hannaford, Brown, Patterson, Van Deerlin.

Colorado: Schroeder, Wirth, Evans.

Connecticut: Cotter, Dodd, Moffett.

Florida: Bennett, Haley, Rogers, Lehman, Fascell.

Georgia: Ginn, Brinkley, Young, Stuckey.

Hawaii: Matsunaga.

Illinois: Metcalfe, Murphy, Russo, Mikva, Annunzio, Hall, Shipley, Price.

Indiana: Fithian, Brademas, Roush, Evans, Hamilton, Sharps, Jacobs.

Iowa: Mezvinsky, Blouin, Harkin, Bedell.

Kansas: Keys.

Kentucky: Hubbard, Mazzoli, Perkins.

Maryland: Spellman, Mitchell.

Massachusetts: Early, Drinan, Tsongas, Harrington, O'Neill, Moakley, Studds.

Michigan: Conyers, VanderVeen, Carr, Traxler, Diggs, Nedzi, Ford, Brodhead.

Minnesota: Karth, Fraser, Nolan, Bergland, Oberstar.

Missouri: Symington, Randall, Bolling, Litton.

New Hampshire: D'Amours.

New Jersey: Florio, Hughes, Maguire, Helstoski, Rodino, Patten.

New Mexico: Runnels.

New York: Downey, Ambro, Wolff, Addabbo, Rosenthal, Biaggi, Chisholm, Solarz, Scheuer, Richmond, Holtzman, Koch, Rangel, Abzug, Badillo, Bingham, Ottinger, McHugh, Stratton, Pattison.

North Carolina: Andrews, Neal, Preyer.

Ohio: Stanton, Stokes, Vanik, Mottl.

Oklahoma: Jarman, English.

Oregon: AuCoin, Weaver.

Pennsylvania: Green, Eilberg, Yatron, Edgar, Murtha, Moorhead, Rooney.

Rhode Island: Beard.

South Carolina: Mann, Holland, Jenrette.

Tennessee: Ford.

Texas: Wilson, Wright, Jordan.

Utah: Howe.

Virginia: Harris, Fisher.

Washington: Meeds, Bonker, Foley, Adams.

West Virginia: Hechler.

Wisconsin: Kastenmeier, Baldus, Reuss, Cornell.

NO—DEMOCRATS

California: Stark, McFall, Corman, Rees, Danielson, Wilson, Lloyd.

Connecticut: Giaimo.

Florida: Fuqua.

Georgia: Flynt, Stephens.

Hawaii: Mink.

Illinois: Collins.

Indiana: Madden, Hayes.

Maryland: Long, Byron.

Massachusetts: Boland, Burke.

Mississippi: Bowen.

Missouri: Clay.

Montana: Baucus.

New Jersey: Thompson, Roe.

New York: Pike, Hanley.

Ohio: Ashley, Seiberling.

Oklahoma: Jones.

Pennsylvania: Nix, Flood, Dent.

South Carolina: Davis.

Tennessee: Lloyd, Fulton.

Texas: Milford.

Utah: McKay.

Virginia: Downing.

Washington: McCormack.

Wisconsin: Zablocki.

UNDECIDED—DEMOCRATS

Arkansas: Alexander.

California: Moss, Burton, P., Waxman, Ryan.

Florida: Pepper.

Georgia: McDonald.

Kentucky: Breckinridge.

Louisiana: Boggs.

Maryland: Sarbanes.

Michigan: Blanchard.

Montana: Melcher.

Nevada: Santini.

New Jersey: Meyner.

New York: LaFalce, Nowak.

Oklahoma: Risenhoover, Albert.

Oregon: Duncan.

Pennsylvania: Vigorito.

Texas: Eckhardt, Krueger.

Wisconsin: Aspin.

Wyoming: Roncalio.

Clean Elections—A Mixed System for Congressional Campaign Financing

Will you support legislation creating a mixed campaign finance system involving small private contributions and limited federal funds for congressional general elections?

YES

Alabama: Buchanan.

Arizona: Udall, Conlan.

California: Leggett, Burton, John, Burton, Phillip, Miller, Dellums, Stark, Edwards, McCloskey, Mineta, Krebs, Corman, Rees, Waxman, Roybal, Bell, Burke, Danielson, Wilson, Charles, Anderson, Hannaford, Lloyd, Brown, Pettis, Patterson.

Colorado: Schroeder, Wirth.

Connecticut: Cotter, Dodd, Giaimo, McKinney, Sarasin, Moffett.

Delaware: du Pont.

Florida: Haley, Lehman, Pepper, Fascell.

Georgia: Levitas, Young.

Hawaii: Matsunaga.

Illinois: Metcalfe, Russo, Collins, Mikva, Annunzio, Hall, Anderson, Railsback, Madigan, Shipley, Price, Simon, O'Brien.

Indiana: Fithian, Brademas, Roush, Hillis, Evans, Hayes, Hamilton, Sharp, Jacobs.

Iowa: Mezvinsky, Blouin, Smith, Harkin, Bedell.

Kansas: Keys, Winn, Shriver.

Kentucky: Mazzoli, Breckinridge, Hubbard.

Louisiana: Boggs.

Maine: Cohen.

Maryland: Sarbanes, Spellman, Mitchell, Gude.

Massachusetts: Conte, Boland, Early, Drinan, Tsongas, Harrington, Moakley, Heckler, Burke, Studds.

Michigan: Conyers, Esch, Vander Veen, Carr, Riegle, Traxler, Ford, Broadhead, Blanchard, Broomfield.

Minnesota: Quie, Karth, Fraser, Nolan, Bergland, Oberstar.

Mississippi: Bowen.

Missouri: Symington, Randall.

Montana: Baucus, Melcher.

Nebraska: Thone, Smith.

Nevada: Santini.

New Hampshire: Cleveland.

New Jersey: Florio, Hughes, Thompson, Fenwick, Forsythe, Maguire, Roe, Helstoski, Rodino, Rinaldo, Meyner, Patten.

New York: Pike, Downey, Ambro, Lent, Wydler, Wolff, Addabbo, Rosenthal, Chisholm, Solarz, Richmond, Holtzman, Koch, Rangel, Abzug, Badillo, Bingham, Ottinger, Fish, Gilman, McHugh, Stratton, Pattison, McEwen, Mitchell, Hanley, Walsh, Horton, Conable, LaFalce, Kemp, Hastings, Nowak.

North Carolina: Andrews, Neal, Preyer, Taylor.

North Dakota: Andrews.

Ohio: Gradison, Whalen, Ashley, Stanton, J. W., Mosher, Seiberling, Regula, Stokes, Vanik, Mottl, Miller, C.

Oklahoma: Jones, Risenhoover.

Oregon: AuCoin, Duncan, Weaver.

Pennsylvania: Nix, Green, Eilberg, Edgar, Yatron, Biester, McDade, Coughlin, Moorhead, Rooney, Eshleman, Heinz, Johnson, Myers.

Rhode Island: Beard.

South Carolina: Spence, Holland, Jenrette.

South Dakota: Pressler.

Tennessee: Lloyd, Ford.

Texas: Wilson, C., Eckhardt, Jordan.

Utah: McKay.

Virginia: Downing, Whitehurst, Harris, Fisher.

Washington: Pritchard, Meeds, Bonker, McCormack, Foley, Adams.

West Virginia: Hechler.

Wisconsin: Aspin, Kastenmeier, Baldus, Zablocki, Reuss, Steiger, Cornell.

Wyoming: Roncalio.

Members of the New Congress Who Did Not Respond to the Questionnaire But Voted for Anderson/Udall Amendment in the 93d Congress:

California: Hawkins.

Illinois: Yates.

Louisiana: Long.

Mississippi: Cochran.

Missouri: Clay, Bolling, Litton, Hungate, Burlison.

New Jersey: Minish.

North Carolina: Henderson.

Ohio: Harsha.

Rhode Island: St Germain.

Washington: Hicks.

Wisconsin: Obey.

NO

Alabama: Edwards.

Alaska: Young.

Arizona: Rhodes, Steiger.

California: Moss, Ryan, McFall, Sisk, Ketchum, Lagomarsino, Goldwater, Moorhead, Rousselot, Wiggins, Burgener.

Colorado: Johnson, Armstrong.

Florida: Fuqua, Bennett, Young, Befalis, Burke.

Georgia: Ginn, Flynt, McDonald, Stuckey, Stephens.

Hawaii: Mink.

Idaho: Symms, Hansen, G.

Illinois: Murphy, Derwinski, Erlenborn, Michel, Findley, Crane.

Indiana: Myers.

Kansas: Sebelius.

Kentucky: Carter, Perkins.

Louisiana: Moore, Breaux.

Maine: Emery.

Maryland: Long, Holt, Byron.

Michigan: Hutchinson, Cederburg, Ruppe, Nedzi.

Minnesota: Hagedorn, Frenzel.

Mississippi: Lott.

Missouri: Taylor, Clay.

Nebraska: McCollister.

New Mexico: Runnels.

New York: Biaggi, Scheuer.

North Carolina: Hefner, Martin.

Ohio: Clancy, Guyer, Latta, Stanton, James.

Oklahoma: Albert, Jarman, English.

Pennsylvania: Schulze, Flood, Murtha, Schneebeli, Dent.

South Carolina: Davis, Derrick, Mann.

Tennessee: Quillen, Fulton.

Texas: Steelman, Roberts, Poage, Wright, Krueger, Milford.

Utah: Howe.

Vermont: Jeffords.

Virginia: Daniel, Robert, Butler, Robinson.

Wisconsin: Kasten.

UNDECIDED

Arkansas: Alexander, Mills.

California: Talcott, Hinshaw, Van Deerlin.

Colorado: Evans.

Florida: Kelly, Frey, Rogers.

Georgia: Brinkley.

Iowa: Grassley.

Illinois: Hyde.

Kentucky: Natcher.

Massachusetts: O'Neill.

Michigan: Brown, Vander Jagt, Diggs.

New Hampshire: D'Amours.

New Mexico: Lujan.

Ohio: Devine, Wylie.

Pennsylvania: Shuster, Vigorito.

West Virginia: Staggers.

SPOTLIGHTING LOBBYISTS

Will you vote for legislation that would require comprehensive public disclosure of lobbying activities by individuals and groups spending money to influence legislative actions and executive branch actions?

NOTE: *Legislative only; **executive only.

YES

Alabama: Edwards, Buchanan.

Alaska: Young.

Arizona: Udall, Steiger, Conlan.

Arkansas: Alexander, Mills.

California: Leggett, Burton, J., Burton, P., Miller, McCloskey, Dellums, Stark, Edwards, Mineta, Sisk, Talcott, Krebs, Ketchum, Lagomarsino, Goldwater, Corman, Moorhead, Rees, Waxman, Roybal, Rousselot, Bell, Burke, Danielson, Wilson Charles, Anderson, Hannaford, Brown, Pettis, Patterson, Wiggins, Van Deerlin, Burgener.

Colorado: Evans, Schroeder, Wirth, Johnson.

Connecticut: Cotter, Dodd, Giaimo, McKinney, Sarasin, Moffett.

Delaware: du Pont.

Florida: Bennett, Kelly, Young, Haley, Bafalis, Rogers, Burke, Lehman, Pepper, Fascell, Frey.

Georgia: Ginn, Brinkley, Levitas, Young, Flynt, McDonald, Stuckey, Landrum.

Hawaii: Matsunaga, Mink.

Idaho: Hansen, G.

Illinois: Metcalfe, Murphy, Russo, Hyde, Mikva, Annunzio, Crane, Erlenborn, Hall, Anderson, Michel, Railsback, Findley, Madigan, Shipley, Price, Simon.

Indiana: Madden, Fithian, Brademas, Roush, Hillis, Evans, Myers, Hayes, Hamilton, Sharp, Jacobs.

Iowa: Mezvinsky, Blouin, Grassley, Smith,* Harkin, Bedell.

Kansas: Sebelius, Keys, Winn, Shriver.

Kentucky: Natcher, Mazzoli, Carter, Breckinridge, Perkins, Hubbard.

Louisiana: Boggs, Moore, Breaux.

Maine: Emery, Cohen.

Maryland: Long, Sarbanes, Spellman, Mitchell, Gude.

Massachusetts: Conte, Boland, Early, Drinan, Tsongas, Harrington, Moakley, Heckler, Burke, Studds.

Michigan: Conyers, Esch, Brown, Hutchinson, Vander Veen, Carr, Riegle, Traxler, Vander Jagt, Cederberg,* Ruppe,* Diggs, Nedzi, Ford, Dingell, Brodhead, Blanchard, Broomfield.

Minnesota: Quie, Hagedorn, Karth, Fraser, Nolan, Bergland, Oberstar, Frenzel,.

Mississippi: Bowen, Lott.

Missouri: Symington, Randall,* Taylor.

Montana: Baucus.

Nebraska: Thone, McCollister, Smith.

Nevada: Santini.

New Hampshire, D'Amours, Cleveland.

New Jersey: Florio, Hughes, Thompson, Fenwick, Forsyth, Maguire, Roe, Helstoski, Rodino, Rinaldo, Meyner, Patten.

New Mexico: Lujan, Runnels.

New York: Downey, Pike, Ambro, Lent, Wydler, Wolff, Addabbo, Rosenthal, Biaggi, Chisholm, Solarz, Richmond, Koch, Abzug, Badillo, Bingham, Ottinger, Scheuer, Rangel, Fish, Gilman, McHugh, Stratton, Pattison, McEwen,* Mitchell, Hanley, Walsh, Horton, Conable, LaFalce, Kemp, Hastings, Holtzman, Nowak.

North Carolina: Andrews, Neal, Preyer, Martin, Taylor.

North Dakota: Andrews.

Ohio: Gradison, Clancy, Whalen, Guyer, Latta, Ashley, Stanton, J. Wm., Devine, Mosher, Seiberling, Wylie, Regula, Stanton, James V., Vanik, Mottl, Stokes.

Oklahoma: Jones, Risenhoover, Albert,* Jarman, English.

Oregon: AuCoin, Weaver.

Pennsylvania: Nix, Green, Eilberg, Schulze, Yatron, Edgar, Biester, Shuster, McDade, Murtha, Coughlin, Moorhead, Rooney, Eshleman, Schneebeli, Heinz, Dent, Johnson, Vigorito, Myers.

Rhode Island: Beard.

South Carolina: Spence, Derrick, Mann, Holland, Jenrette.

South Dakota: Pressler.

Tennessee: Quillen, Lloyd, Ford.

Texas: Wilson, C., Steelman, Archer, Eckhardt, Wright, Jordan, Krueger, Milford.

Utah: Howe, McKay.

Vermont: Jeffords.

Virginia: Downing, Whitehurst, Daniel, Robert W., Butler, Harris, Wampler, Fisher.

Washington: Pritchard, Meeds, Bonker, McCormack, Foley, Adams.

West Virginia: Hechler.

Wisconsin: Aspin, Kastenmeier, Baldus, Zablocki, Reuss, Steiger, Cornell, Kasten.

Wyoming: Roncalio.

NO

Idaho: Symms.

Michigan: Ruppe.**

UNDECIDED

Arizona: Rhodes.

California: Moss, Ryan, Hinshaw.

Colorado: Armstrong.

Florida: Fuqua.* *

Georgia: Stephens.

Illinois: Derwinski.

Maryland: Holt, Byron.* *

Massachusetts: O'Neill.

Michigan: Hutchinson.**

Montana: Melcher.

New York: McEwan.* *

North Carolina: Hefner.

Oklahoma: Albert.* *

Oregon: Duncan.

Pennsylvania: Flood.

South Carolina: Spence.

Tennessee: Fulton.

Texas: Poage.

Virginia: Robinson.

West Virginia: Staggers.

REMOVING CONFLICTS OF INTEREST

Will you vote for legislation requiring comprehensive annual, public disclosure of financial holdings and interests by Members of Congress and their professional staff, and by high level officials of the Executive and Judicial branches?

NOTE: * Legislative only; ** executive only.

YES

Alabama: Edwards, Buchanan.

Arizona: Udall, Steiger, Conlan.

Arkansas: Mills.

California: Moss, Leggett, J. Burton, P. Burton, G. Miller, Dellums, Stark, Edwards, McCloskey, Mineta, Sisk, Talcott, Krebs, Ketchum, Goldwater, Corman, Moorhead, Rees, Waxman, Roybal, Rousselot, Bell, Burke, Chas. Wilson, G. Anderson, Hannaford, Lloyd, G. Brown, Pettis, Patterson, Burgener, Lagomarsino.

Colorado: Schroeder, Wirth, Armstrong.**

Connecticut: Cotter, Dodd, Giaimo, McKinney, Sarasin, Moffett.

Delaware: du Pont.

Florida: Bennett, Kelly, Young, Haley, Bafalis, Rogers, Burke, Lehman, Pepper, Fascell, Frey.

Georgia: Ginn, Brinkley, Levitas, A. Young, Flynt, Stuckey, Stephens.

Hawaii: Matsunaga, Mink.

Illinois: R. Metcalfe, M. Murphy,** Russo, Mikva, Annunzio, Hall, Anderson, Railsback,* Findley, Madigan, Shipley, Price, Simon.

Indiana: Fithian, Brademas, Roush, Hillis, Evans, Hayes, Hamilton, Sharp, Jacobs.

Iowa: Mezvinsky, Blouin, Grassley, Harkin, Bedell, Smith.

Kansas: Winn, Shriver, Keys.

Kentucky: Mazzoli, Carter, Breckinridge, Perkins, Hubbard.

Louisiana: Boggs.

Maine: Cohen.

Maryland: Sarbanes, Spellman, Mitchell, Gude.

Massachusetts: Conte, Boland, Early, Drinan, Tsongas, Harrington, Moakley, Heckler, Studds, J. Burke.

Michigan: Conyers, Esch, Carr, Traxler, Ford, Brodhead, Blanchard, Brown, Riegle, Vander Jagt, Cederburg, Diggs, Nedzi, Broomfield.

Minnesota: Quie, Fraser, Nolan, Hagedorn, Bergland, Oberstar.

Mississippi: Bowen, Lott.

Missouri: Randall, Taylor, Clay.

Montana: Baucus.

Nebraska: Thone, McCollister, V. Smith.

Nevada: Santini.

New Jersey: Florio, Hughes, Thompson, Maguire, Roe, Helstoski, Rodino, Rinaldo, Patten, Fenwick, Forsythe, Meyner.

New Mexico: Runnels.

New York: Downey, Ambro, Wolff, Rosenthal, Chisholm, Solarz, Koch, Abzug, Badillo, Bingham, Ottinger, Fish, Gilman, McHugh, Pattison, Mitchell, Walsh, Horton, LaFalce, Nowak, Hastings, Lent, Wydler, Addabbo, Biaggi, Richmond, Holtzman, Stratton, Hanley, Kemp, Rangel.

North Carolina: Neal, Preyer.

North Dakota: Andrews.

Ohio: Gradison, Clancy, Whalen, Guyer, Latta, J. W. Stanton, Mosher, Seiberling, Wylie, Mottl, J. V. Stanton, Vanik.

Oklahoma: English, Risenhoover.

Oregon: AuCoin, Weaver.

Pennsylvania: W. Green, Eilberg, Yatron, Edgar, Biester, McDade, Coughlin, Rooney, Eshleman, Heinz, A. Johnson, Myers, Nix, Flood, Moorhead,** Schneebeli,** Vigorito.

Rhode Island: Beard.

South Carolina: Derrick, Mann, Holland, Spence, Jenrette.

South Dakota: Pressler.

Tennessee: Ford, Lloyd.**

Texas: Wilson, Steelman, Poage, Wright, Jordan, Krueger, Milford.

Utah: Howe, McKay.

Vermont: Jeffords.

Virginia: Robert Daniel, Harris, Wampler, Fisher, Whitehurst.

Washington: Pritchard, Meeds, Bonker, Adams, McCormack, Foley.

West Virginia: Hechler.

Wisconsin: Aspin, Kastenmeier, Baldus, Reuss, Cornell, Steiger.

Wyoming: Roncalio.

NO

Alaska: Young.

Arizona: Rhodes.

Arkansas: Alexander.

California: Danielson, Wiggins, Hinshaw, Van Deerlin.

Colorado: J. Johnson.

Illinois: Collins, Erlenborn, Michel.

Indiana: Myers.

Louisiana: Breaux.

Maryland: Byron.

Massachusetts: O'Neill.*

Minnesota: Frenzel.

Michigan: Hutchinson, Ruppe.

Missouri: Symington.

Ohio: Stokes.

New York: Scheuer.

Pennsylvania: Murtha, Moorhead,* Schneebeli,* Dent.

Virginia: Downing, Butler.

Wisconsin: Zablocki.

UNDECIDED

California: Ryan.

Florida: Fuqua.

Georgia: McDonald.

Idaho: Symms, G. Hansen.

Illinois: Derwinski, Hyde, Crane, Railsback.**

Kansas: Sebelius.

Kentucky: Natcher.

Maryland: Long, Holt.

Minnesota: Karth.

Montana: Melcher.

New Mexico: Lujan.

New York: Pike, McEwen, Conable.

North Carolina: Andrews, Hefner, Martin.

Ohio: Ashley, Devine, Regula.

Oklahoma: Jones.

Oregon: Duncan.

Pennsylvania: Schulze, Shuster.**

Tennessee: Quillen, Fulton.

Texas: Eckhardt.

Virginia: Robinson.

West Virginia: Staggers.

CREATING AN OFFICE OF SPECIAL PROSECUTOR

In order to increase accountability of government officials, will you support legislation establishing an independent special prosecutor for crimes committed by government officials?

YES

Alabama: Buchanan.

Arizona: Conlan, Udall.

California: Moss, Leggett, Burton, J., Miller, Dellums, Stark, Edwards, Mineta, Sisk, Krebs, Ketchum, Lagomarsino, Goldwater, Corman, Moorhead, Rousselot, Bell, Burke, Danielson, Wilson, C., Anderson, Hannaford, Brown, Patterson, Wiggins, Van Deerlin, Burgener.

Colorado: Schroeder, Wirth.

Connecticut: Cotter, McKinney, Sarasin, Moffett.

Florida: Bennett, Haley, Bafalis, Rogers, Lehman, Pepper, Fascell.

Georgia: Ginn, Brinkley, Levitas, Young, Flynt, McDonald.

Hawaii: Mink.

Illinois: Metcalfe, Murphy, Russo, Mikva, Anderson, Findley, Madigan, Shipley, Price, Simon, Hyde.

Indiana: Madden, Fithian, Brademas, Roush, Hillis, Evans, Myers, Hayes, Hamilton, Sharp, Jacobs.

Iowa: Mezvinsky, Blouin, Grassley, Smith, Harkin, Bedell.

Kansas: Sebelius, Keys, Winn, Shriver.

Kentucky: Natcher, Carter, Perkins.

Louisiana: Boggs.

Maryland: Long, Sarbanes, Spellman, Mitchell, Gude.

Massachusetts: Conte, Early, Drinan, Tsongas, Harrington, Moakley, Heckler, Studds, Burke.

Michigan: Conyers, Esch, Carr, Riegle, Traxler, Vander Jagt, Diggs, Ford, Brodhead, Blanchard, Broomfield.

Minnesota: Quie, Hagedorn, Karth, Fraser, Nolan, Bergland, Frenzel.

Mississippi: Bowen.

Missouri: Randall, Clay.

Montana: Baucus.

Nebraska: Thone, Smith.

Nevada: Santini.

New Jersey: Florio, Hughes, Thompson, Fenwick, Maguire, Roe, Helstoski, Rodino, Rinaldo, Meyner, Patten.

New Mexico: Runnels.

New York: Ambro, Wolff, Addabbo, Rosenthal, Chisholm, Solarz, Holtzman, Scheuer, Abzug, Badillo, Bingham, Ottinger, Fish, Gilman, McHugh, Pattison, Mitchell, Hanley, Horton, Conable, LaFalce, Downey, Hastings.

North Carolina: Andrews, Neal, Preyer.

North Dakota: Andrews.

Ohio: Clancy, Guyer, Latta, Ashley, Stanton, J. W., Mosher, Seiberling, Wylie, Regula, Vanik, Mottl, Stokes.

Oklahoma: Jones, Risenhoover, Jarman, English.

Oregon: AuCoin, Weaver.

Pennsylvania: Green, Eilberg, Schulze, Yatron, Edgar, Biester, McDade, Flood, Coughlin, Moorhead, Rooney, Eshleman, Schneebeli, Heinz, Dent, Johnson, Vigorito, Myers.

Rhode Island: Beard.

South Carolina: Spence, Mann, Holland, Jenrette, Davis.

South Dakota: Pressler.

Tennessee: Lloyd, Fulton, Ford.

Texas: Wilson, Krueger, Steelman, Poage, Wright, Jordan, Milford.

Utah: Howe.

Vermont: Jeffords.

Virginia: Daniel, Robert, Harris, Fisher.

Washington: Bonker, McCormack, Adams.

West Virginia: Hechler.

Wisconsin: Aspin, Kastenmeier, Baldus, Zablocki, Reuss, Cornell, Kasten.

Wyoming: Roncalio.

NO

Arizona: Rhodes, Steiger.

California: Rees, Roybal, Hinshaw, McFall.

Colorado: Johnson, Armstrong.

Connecticut: Dodd, Giaimo.

Florida: Fuqua, Kelly, Burke, Frey.

Georgia: Stuckey, Stephens.

Hawaii: Matsunaga.

Idaho: Symms, Hansen, G.

Illinois: Derwinski, Collins, Annunzio, Erlenborn, Michel.

Louisana: Breaux.

Maine: Cohen.

Maryland: Byron.

Massachusetts: Boland, O'Neill.

Michigan: Hutchinson, Cederberg, Ruppe, Nedzi.

Mississippi: Lott.

Missouri: Symington, Taylor.

Nebraska: McCollister.

New Jersey: Forsythe.

New Mexico: Lujan.

New York: Pike, Lent, Biaggi, Koch, McEwen.

North Carolina: Martin.

Ohio: Whalen, Devine, Stanton, James V.

Oklahoma: Albert.

Oregon: Duncan.

Pennsylvania: Nix.

Tennessee: Quillen.

Texas: Eckhardt.

Virginia: Downing, Whitehurst, Butler, Robinson.

UNDECIDED

Alabama: Edwards.

Alaska: Young.

Arkansas: Mills.

California: Burton, P., Ryan, McCloskey, Talcott, Waxman, Lloyd, Pettis.

Delaware: du Pont.

Florida: Young.

Illinois: Crane, Railsback.

Kentucky: Mazzoli, Breckinridge.

Maryland: Holt.

Michigan: Brown.

Minnesota: Oberstar.

Montana: Melcher.

New York: Wydler, Richmond, Stratton, Walsh, Rangel, Kemp, Holtzman.

North Carolina: Hefner.

Ohio: Gradison.

Pennsylvania: Shuster.

South Carolina: Derrick.

Utah: McKay.

Virginia: Wampler.

Washington: Pritchard, Foley.

West Virginia: Staggers.

Wisconsin: Steiger.

NEW HIGH ENERGY PHYSICS PARTICLE

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, for many years, experimental and theoretical high energy physicists have sought a single comprehensive theory that could tie together three natural forces. The hoped for unified theory has been a sort of "pie-in-the-sky" since the working days of Prof. Albert Einstein. A scientific breakthrough has been given those questing a way to correlate electromagnetic force with strong and weak nuclear forces by the essentially simultaneous discovery at Brookhaven Laboratory, N.Y., and the Stanford Linear Accelerator Laboratory, Calif., of a new high energy particle.

I recall that during the fiscal year 1973 AEC authorization hearings, which I chaired, Dr. Robert R. Wilson, director of the Fermilab in Illinois, discussed the goals and benefits of high energy research. Dr. Wilson quoted a statement attributed to Michael Faraday after he had discovered electromagnetic induction, which eventually led to electricity. When asked what good his discovery was Faraday replied: "Sir, some day you will tax it."

At this point, I would like to enter into the Record, a letter from Dr. John Teem, AEC Assistant General Manager for Physical Research, and a press release which describes the discovery of the new particle.

U.S. Atomic Energy Commission,
Washington, D.C., November 20, 1974.
Hon. Melvin Price,
Chairman, Joint Committee on Atomic Energy, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: This is to apprise you of a new particle, with rather surprising properties, discovered essentially simultaneously at the Brookhaven National Laboratory and the Stanford Linear Accelerator Center. The fact that the particle has been found under two sets of differing experimental conditions considerably increases the value of the new information.

The new particle state, a "vector meson," has a mass very close to 3.1 GeV—more than three times the mass of the proton—and a lifetime greater than 10^{-21} sec. and perhaps longer than 10^{-20} sec. Although these sound like very short lifetimes, compared to the pion, for example, they are long compared to the lifetimes of comparable rho, omega and phi mesons of lower mass discovered earlier. It is believed that the existence of such a high mass, with large relative stability, is indicative of a new stability law, possibly associated with a new quantum number. The discovery is leading to new experiments, which are currently underway, and a number of theoretical speculations which are related to unification of the weak, electromagnetic and strong interactions, and to particle substructure.

This discovery is generating a sense of great excitement in the high energy physics community. Enclosed are copies of the two articles which are to be published in the December 2 issue of *Physical Review Letters*. Originally no public announcement was planned until after the publication of these scientific reports; however, the internal scientific excitement led to the story being published in a student newspaper and other leaks. Subsequently it was decided last Saturday to issue a press release jointly agreed to by LBL, SLAC, MIT, BNL, AEC and the editors of *Physical Review Letters*. A copy of the contents of the press release is enclosed for your information.

Sincerely,

John M. Teem,
Assistant General Manager for Physical Research.

Press Release, Nov. 16, 1974

A new kind of elementary particle, unexpected and unpredicted, has been discovered at two national laboratories on opposite sides of the continent.

Stemming from research sponsored by the U.S. Atomic Energy Commission, the discovery was announced simultaneously Saturday, Nov. 16, by the physicists involved.

At the Stanford Linear Accelerator Center (SLAC) in California, a group of Stanford and Lawrence Berkeley Laboratory (LBL) physicists found the particle while experimenting with colliding beams of electrons and positrons—matter and antimatter.

At the Brookhaven National Laboratory (BNL) in New York, a group of physicists from Massachusetts Institute of Technology (MIT) and from BNL found the particle in the course of a systematic search for such phenomena while bombarding a proton target with protons.

Prof. Samuel C. C. Ting of MIT's Laboratory for Nuclear Science headed the team of physicists at BNL, which included Profs. U. J. Becker, Min Chen and others from MIT and Dr. Y. Y. Lee of BNL.

Prof. Burton Richter led the SLAC team, which included Prof. Roy F. Schwitters and Dr. Rudolf R. Larsen of SLAC and Profs. William Chinowsky, Gerson Goldhaber, and George H. Trilling of LBL.

Richter and Ting said: "The suddenness of the discovery, coupled with the totally unexpected properties of the particle, are what make it so exciting. It is not like the particles we know and must have some new kinds of structure.

"The theorists are working frantically to fit it into the framework of our present knowledge of the elementary particle. We experimenters hope to keep them busy for some time to come."

Although discoveries of a new particle usually await a second experimental verification before they are accepted as valid, the fact two independent groups using very different techniques, observed the same phenomenon leads the physicists to believe the evidence is conclusive that a new kind of particle has been found.

The findings of both groups will be reported simultaneously in the Dec. 2 issue of *Physical Review Letters*, a professional journal of physics. Both report the new phenomenon at essentially the same energy, just over three billion electron volts (Gev).

The MIT–BNL team made their discovery while bombarding protons with protons accelerated to an energy of 30 Gev in the alternating gradient synchrotron (AGS) at BNL. They used an elaborate detector specially designed to detect pairs of electrons and positrons in the presence of millions of other unwanted particles.

A large number of such pairs was observed to be produced with an energy of 3.1 Gev, indicating the creation of a new particle of the corresponding mass. The apparatus used to make these observations is an extension of techniques which the MIT group had developed in an earlier series of experiments carried out at the German synchroton laboratory (DESY) in Hamburg.

The SLAC–LBL group observed the new particle while studying colliding beams in the SPEAR storage ring. SPEAR stores high energy electrons and positrons from the two-mile SLAC accelerator in two counter-rotating particle beams. When the electron and positron—particle and anti-particle—collide head on in the ring, they annihilate each other in a flash of energy which can create other particles.

As the energy of the colliding beams was raised to 3.105 Gev, the SLAC–LBL physicists saw a sudden, enormous increase in the number of heavy particles produced. Then, as the beam energies continued to rise, the excess production of heavy particles vanished.

The newly created particle decays into other heavy particles, called hadrons, or leptons in a time which may be one hundred billionth of a second. On a nuclear time scale, this is a remarkably long life, totally unexpected for a particle of such large mass. This indicates that it must have some novel, as yet not understood properties, which prevent it from decaying in the much shorter time which would have been expected from a conventional particle.

Measurements are continuing at SLAC, BNL and other laboratoriets to detect and pinpoint the new particles' lifetime, spin, charge, and decay modes. The MIT group is also searching for additional particles at BNL and is preparing a new experiment at the CERN laboratory in Switzerland, extending the search to much higher energies.

The energy of SPEAR has recently been increased from 2.7 Gev to over 4 Gev, which will allow searches for such particles of much higher energy to be made there also.

NUCLEAR INDEMNITY LEGISLATION

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, by an unfortunate linkage of events, the bill recommended by the Joint Committee on Atomic Energy to extend and improve the statutory system of nuclear insurance, indemnity, and assured protection for the public—a system which bears my name and that of a distinguished former colleague, Clinton Anderson—was passed by the Congress with a procedural appendage that caused the President to veto the measure as constitutionally objectionable notwithstanding his support for the substance of the bill.

H.R. 15323 was vetoed by the President last month. On November 19, the Joint Committee considered the President's veto message, and decided not to recommend a congressional override, but rather to seek reenactment of the bill, without the procedural aspects in question, as a first order of committee business after the 94th Congress convenes in January.

The unfortunate linkage of events responsible for the failure of H.R. 15323, as favorably reported by the Joint Committee June 18, 1974, to become law, began with the addition to the bill, when it was passed by this body, of a new section coupling the effective date of the measure to the completion of a reactor safety study commissioned by the AEC. Subsequent to House action on the bill, the Senate added a feature that would have permitted the Congress, after the bill became a statute, to nullify the law by a concurrent resolution following the Joint Committee's submittal of its evaluation of the reactor safety study.

The results of the study—commonly known as the Rasmussen study, because it was conducted under the directorship of Dr. Norman C. Rasmussen of the Massachusetts Institute of Technology—were disseminated in August for widespread review and for return comments to the study group by November 1. It should now be completely clear to everyone that the Rasmussen study does not pertain to the substantive aspects of the Price-Anderson Act or to any of the further improvements to that system that H.R. 15323 would have effected. It does not deal with nuclear insurance or indemnity or desirable legal mechanisms for affording the public protection against monetary damages from possible nuclear incidents. Essentially, the Rasmussen study is a technical study of the probabilities of accidents involving present generation nuclear power reactors. It shows that the likelihood of a serious accident involving such a plant is extremely remote.

Yesterday, the Joint Committee issued a statement respecting the committee's determination to seek enactment of the substantive features of H.R. 15323. Section 12 of the bill the President vetoed is wholly unnecessary in my opinion. I would like to insert in the RECORD the committee's statement and several letters the committee has received.

Joint Committee on Atomic Energy Announces Proposed Action on Price-Anderson Extension

Chairman Melvin Price and Vice Chairman John O. Pastore of the Joint Committee on Atomic Energy announced today the decision of the Joint Committee not to seek to override the President's veto of H.R. 15323, the bill to amend the Price-Anderson provisions of the Atomic Energy Act. In his veto message the President supported the substantive provisions of the bill, but considered unconstitutional the feature in Section 12 which would permit the Congress, subsequent to the enactment of the bill into law, to stop the Act from becoming effective by adoption of a concurrent resolution to that effect.

The members of the Joint Committee expressed their complete endorsement of the substantive features of H.R. 15323 and recommended that Congressman Price and Senator Pastore give this legislation priortiy consideration upon the convening of the 94th Congress. It was decided not to pursue this matter during the remainder of this session of the 93rd Congress due to the limitation of time and the pressures of other legislation and the Vice Presidential confirmation before sine die adjournment.

The full statement of the two Joint Committee leaders was as follows:

"On October 12, President Ford vetoed H.R. 15323, a bill to extend the present term of the Price-Anderson Act from 1977 to 1982 and to amend several facets of this statutory system of nuclear insurance, indemnification, and assured protection for the public. The veto was directed against a procedural aspect of the bill, which would have permitted Congress, following the enactment of the bill into law, to cause the statute to become null and void by a further action of the Congress that would not be subject to Presidential veto.

"The extension of the protection for the public afforded by the Price-Anderson system, as further improved by this legislation, is important in the national interest. The President recognized this in his veto message when he called for reenactment of the bill without the procedural provision in question.

"After careful consideration of the overall legislative situation, the Committee has decided not to seek to override the President's veto, and to schedule the substantive provisions of the bill for renewed support by the Committee as the first order of business when the 94th Congress convenes next year."

NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION,
Washington, D.C., November 15, 1974.
Hon. MELVIN PRICE, *Chairman,*
Joint Committee on Atomic Energy,
Washington, D.C.

DEAR CONGRESSMAN PRICE: We are writing to you to urge that you and all other members of the Joint Committee on Atomic Energy (JCAE) renew your effort to achieve enactment this year of legislation to extend the Price-Anderson nuclear indemnity program. We respectfully suggest that one good alternative is to pass legislation identical to that vetoed by President Ford on October 12 omitting the constitutionally defective Section 12.

As you know, NRECA supported a ten year extension of the present Price-Anderson Act in its testimony before the JCAE last summer. We feel, however, that since it was not possible to simply renew the old program for an additional ten years, the five year extension of a modified Price-Anderson Act is acceptable to our people and is vital to the continued well-being of this nation because without nuclear power plants our energy base for the future is catastrophically deficient.

The now completed Rasmussen Report carefully addresses the public concerns about nuclear safety raised in Section 12 of the vetoed bill, and demonstrates that nuclear generating stations are among the very safest elements of our technological economy, and that the risks to public safety posed by such stations have been consistently exaggerated.

This legislation has been thoroughly considered by all interested parties through the Price-Anderson Planning Committee meetings, hearings before the JCAE, and through opportunities to file written comments on the proposed legislation. We, therefore, believe that Congress should promptly reenact an extension of the Price-Anderson Act.

Very truly yours,
CHARLES A. ROBINSON, Jr.,
Corporate Counsel.

NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION,
Washington, D.C., November 14, 1974.
Mr. SAUL LEVINE,
Project Director, Reactor Safety Study, U.S. Atomic Energy Commission, Washington, D.C.

DEAR MR. LEVINE: The NRECA staff has reviewed the set of draft reports WASH-1400 (Rasmussen Report) which comprise the Reactor Safety Study completed by the Atomic Energy Commission in August of 1974, and respectfully submit the following comment thereon.

We are impressed with the thoroughness of this study, and heartily commend the work of Professor Norman Rasmussen of MIT and the 60 highly trained technical specialists from laboratories, a number of universities, and ten experienced AEC employees who participated in this study. This report should once and for all time lay to rest mistaken fears that nuclear power plants are unsafe. The "Rasmussen Report" indicates quite clearly that these plants are among the most carefully engineered and safest elements of our entire industrialized economy.

The scope of the "Rasmussen Study" reflects careful planning and attention to detail. It required vision and constructive imagination to devise analytical methodology which appears to have been effectively substituted for the lack of long term operational experience to completely support risk assessments. We note that both pressurized and boiling water reactors are covered in detail, and that great care was exercised in the handling of failure data used to perform the quantitative reliability estimates including component behavior and repair times.

The study team also thoroughly investigated the probability of common mode failures which result from a single cause, and which would be prerequisite to any nuclear accident. The validity of the investigation team's work was substantially strengthened by its use of a mathematical model to compute the spectrum of accident consequences and associated probilities, and by the detailed investigations on (1) the possible release of radioactivity in reactor accidents, (2) the physical process in reactor meltdown accidents, (3) the safety design requirements for both pressurized and boiling water reactors, and (4) the design adequacy of both kinds of nuclear power plants currently in utility use.

As you know, risks to health and safety from nuclear power plants arise only in the event a series of simultaneous plant malfunctions permits release of uncontrolled radioactive material from the containment area. During normal plant operation, the amounts of material released are well below even background levels of radioactivity and constitute no threat whatsoever. The Report clearly concludes that the safety design of reactors includes a series of redundant systems to prevent overheating of the fuel and to control potential releases of radioactivity. We agree with the statement in the Report that any large accidental release of radioactivity to the environment would require an improbable series of sequential failures that cause the fuel to overheat and breach the redundant protective mechanisms. We agree with Rasmussen's conclusion that the only way very large amounts of radioactivity would be released would be by a "meltdown" of the fuel in the core of the reactor. This would come about if there were a simultaneous failure in the primary cooling system, and in the several emergency backup cooling systems, which might be followed several hours later by a failure of the concrete containment building.

We note from the report that even if these most unlikely events should ever occur, the chance that an individual living near a power plant would be killed by a nuclear reactor accident is one in 300 million. This compares with one in 1,600 for all other types of accidents, one in 2.5 million for hurricanes or tornadoes, one in 2 million for lightning, one in 100 thousand for air travel, one in 10 thousand for falls and one in 4 thousand in motor vehicle accidents. The study also reveals that nuclear plants are about 100 to 1,000 times less likely to cause comparable large dollar value accidents than other sources. So, in terms of the probability of a nuclear accident, and in terms of the measure of damages caused by such an event, Rasmussen concludes that nuclear power plants are far safer than most other natural and man-made phenomena and devices which pose a remote potential threat to public health and safety.

The Rasmussen Report (WASH-1400), to our way of thinking, should help erase the invalid fears aroused by the very hypothetical study which AEC performed some 17 years ago (WASH-740) entitled "Theoretical Possibilities and Consequences of Major Accidents in Large Nuclear Power Plants". As you well know, the 1957 report presented information as to the consequences of nuclear accidents but only evaluated the probability of such events in a qualitative manner. The old 1957 report showed that a hypothetical catastrophic "meltdown" of a 500 megawatt thermal reactor might cause fatalities ranging between 0 and 3,400, and injuries ranging between 0 and 43,000. This information has often been cited in attempts to discredit the nuclear industry, and influence the public against development of civilian nuclear power stations. We observe that the 1974 Reactor Study (WASH-1400) refigures the most extreme example presented in the old 1957 report to the end that the results presented show only 92 fatalities instead of 3,400 and 200 very serious illnesses instead of 43,000.

Moreover, the possibility of such an accident occurring is calculated in the new report as one out of 500 million per year for each nuclear power plant in operation. Furthermore, the new study reveals that, on the average, an accident would occur once in each 50,000 reactor years and would involve minimal casualties—0.05 deaths and 0.10 injuries. In other words, this new Report shows that, on the average, the probabilities of an accident when there are 500 U.S. nuclear power plants in operation will be one in a hundred reactor years with one chance in twenty of a single fatality and one chance in ten of an injury.

The findings of the Rasmussen report fully corroborate the fact that the AEC has been extremely vigorous and extremely successful in carrying out the safety requirements of the Atomic Energy Act of 1954. The Act emphasizes that the health and safety of the public are always to be of prime concern.

The results of the study are impressive. NRECA has already taken steps to apprise its membership of the findings of this report on the assessment of accident risk in United States commercial nuclear power plants. We recognize the indispensable role that nuclear power will play in meeting the expanding power requirements of our nation at relatively reasonable costs, and we understand the public demand that such plants be safe.

It is our understanding that from the inception of utility type civilian nuclear power plants in the United States, not one single person has been killed or injured by a nuclear accident at any such plant despite the fact that at the beginning of this year there already had been achieved approximately 200 reactor years of civilian nuclear power plant experience.

In summary, we commend the foresight of AEC in preparing this report and believe it will go a long way in answering questions raised as to the safety of civilian nuclear power plants.

Very sincerely yours,

CHARLES A. ROBINSON, Jr.,
Corporate Counsel.

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, D.C., November 18, 1974.
Hon. MELVIN PRICE,
Chairman, Joint Committee on Atomic Energy, Washington, D.C.

DEAR CHAIRMAN PRICE: I understand that the Joint Committee on Atomic Energy will be considering soon the question of what to do about H.R. 15323, to revise and extend the Price-Anderson nuclear insurance and indemnity program, which was vetoed by President Ford on October 12 because of Constitutional concerns involving Section 12.

President Ford indicated that he would "be glad to approve" the first 11 sections of H.R. 15323 if they stood alone, but objected to language in Section 12 which states that "the provisions of this Act shall become effective thirty (30) days after the date on which the Joint Committee on Atomic Energy submits to the Congress an evaluation of the Reactor Study, entitled 'An Assessment of Accident Risks in U.S. Commercial Nuclear Power Plants', AEC Report Number WASH-1400, except that it shall not become effective if within the thirty (30) day period after the Joint Committee submits its evaluation, the Congress adopts a concurrent resolution disapproving the extension of the Price-Anderson Act."

American Public Power Association urges that the Congress act promptly to resolve the issue raised by President Ford's action. A decision during this Congress seems logical and desirable for the following reasons:

1. The question of revision and extension of the Price-Anderson Act has been thoroughly examined during the second session of the 93d Congress, including eight days of hearings held by the Joint Committee on Atomic Energy.

2. Beyond modifications in the original Atomic Energy Commission proposals made by the Joint Committee on Atomic Energy, several major amendments (in addition to Section 12) were adopted as the result of floor and conference action, including a provision for a study of inclusion of nuclear material "illegally diverted from its intended place of confinement" under the Price-Anderson program and limitation of the extension to five years instead of 10. Thus, critics of the committee-reported measure had an impact in re-shaping it and securing features which they desired.

3. The conference report embodying agreement between House and Senate members was accepted by the Senate on a voice vote and approved by the House 376–10, indicating widespread acceptance of the compromise bill by Congress.

4. Dr. Norman Rasmussen of MIT, who directed the study referenced in Section 12, has described the basic proposal embodied in H.R. 15323 as "a reasonable way" to phase out the government's existing responsibility. Dr. Rasmussen also testified earlier this year that the current $560 million liability limit "will cover all combinations of circumstances which can reasonably be considered credible". However, this ceiling in the present program will "float" upward under H.R. 15323, expanding funds available to satisfy claims through a "secondary" layer of insurance provided by utility retrospective premiums.

5. The 248-page Rasmussen report, which cost $3 million and is backed by 3,300 pages of technical appendices, indicates that (a) the consequences of potential nuclear reactor accidents are no larger, and in many cases, are much smaller than those of non-nuclear accidents, and (b) the likelihood of reactor accidents is much smaller than many non-nuclear accidents having similar consequences. Scientist Ralph Lapp has labeled the study "an honest report."

6. The "safeguards" issue raised during Congressional debate earlier this year is the subject of new AEC regulations designed to strengthen security surrounding special nuclear materials in plants and in transit. Such steps are aimed at prevention of illegal diversion and are independent of the Price-Anderson program. Delay of Congressional action on H.R. 15323 will not enhance safeguards.

7. It is anticipated that nuclear power will play an important role in dealing with the nation's fuels problems by supplying an economic advantage over oil and coal, the price of which has soared in recent months to the detriment of all consumers and the supply of which is not assured to utilities. The higher capital requirements for construction of nuclear power plants are increasingly offset by much lower fuel costs, which result in substantial savings for users of electricity.

8. As I pointed out in a letter of July 8 to you, H.R. 15323 preserves such public protections as the "no fault" feature and emergency payments of existing law, while revising the program to extend the risk-sharing responsibilities of the insurance and electric industries so as to gradually replace government indemnity. In the absence of a Price-Anderson program, claimants would be forced to rely for recovery on tort law of the 50 States, and available insurance coverage would represent about 20% of present liability limits. While the current Price-Anderson program does not expire until 1977, it is desirable to act now in order to permit needed long-range planning and commitments. Some architect-engineers are already inserting escape clauses in contracts to permit cancellation in the event Price-Anderson or a similar program is not available, indicating that Congressional action this year is not premature.

9. Enactment now of the basic program provided for in H.R. 15323 would eliminate an uncertainty which interferes with planning for nuclear power plants. Utilities must make decisions today on plants which will not be on line for 10 years. Postponement of a decision will simply add to the unknowns which plague our energy equation. During debate in August on H.R. 15323 Senator Baker rejected the position that enactment be delayed pending review of the Rasmussen study, asserting that: "Indeed, in the interest of continuity, I believe we should extend Price-Anderson with the option of always amending or repealing it should the conclusions of our broader study of safety warrant such a course of action." APPA believes that this is a sound position, and urges that the Congress re-enact H.R. 15323 minus the provision objected to by President Ford.

Sincerely,

ALEX RADIN.

BABCOCK & WILCOX,
New York, N.Y., November 12, 1974.
Mr. EDWARD J. BAUSER,
Executive Director, Joint Committee on Atomic Energy, Washington, D.C.

DEAR MR. BAUSER: We, at Babcock & Wilcox, were surprised and dismayed to learn of President Ford's veto of H.R. 15323, the bill to amend the Atomic Energy Act to revise the method of providing public remuneration in the event of a nuclear incident.

The President, in his veto message, supported the purpose of the bill and urged its prompt reenactment without the provision which, in his opinion, created a constitutional infirmity. We wholeheartedly endorse the President's recommendation.

The need for prompt action cannot be overemphasized.

Because of the impending expiration of the Price-Anderson Act, nuclear power plants for which we are now proposing to furnish equipment will not be subject to the limitation of liability and government indemnity provisions of that Act. We have therefore made those proposals and any resulting contract conditional upon enactment of H.R. 15323 or its equivalent. A contract recently concluded between Babcock & Wilcox and The Power Authority of the State of New York for the supply of a nuclear steam system allows either party to cancel in the event that protection from liability claims substantially equivalent to that now afforded by the Price-Anderson Act does not apply to the facility.

These provisions have been necessary because Babcock & Wilcox has not yet decided that it is willing to maintain its present role in the nuclear power industry in the absence of Price-Anderson type protection.

As the period of uncertainty over the extension of Price-Anderson continues, the disruption to our business and that of our customers and suppliers increases exponentially. As a consequence, this will seriously interfere with the construction of sorely needed nuclear plants. These plants are required to meet the public's demand for electric energy and their completion will contribute significantly to reducing our dependency on Mideast oil.

Accordingly, we urge the Joint Committee to promptly report out a bill incorporating the substantive provisions of H.R. 15323.

Sincerely,

GEORGE G. ZIPF,
Chairman and President.

ATOMIC INDUSTRIAL FORUM, INC.,
New York, N.Y., October 29, 1974.
Hon. MELVIN PRICE,
Chairman, Joint Committee on Atomic Energy, Washington, D.C.

DEAR CHAIRMAN PRICE: More than a year ago we wrote to you regarding the need for prompt resolution of whether the Price-Anderson Indemnity Act would, in some form, be extended beyond the currently scheduled expiration date of August 1, 1977. The reason for our concern was the uncertainty which this matter had then already begun to cause in the industry's planning, contracting and financial arrangements. The validity of these concerns has been well documented in the indemnity hearings before the Joint Committee during the current session of Congress. I am sure you are aware, as we are, that even more recent events in the energy and financial areas have increased the urgency that such unnecessary uncertainties in the planning process be eliminated without further delay. The advancement of the goals of Project Independence and of a rational energy policy upon which our nation may depend for years to come logically calls for prompt action.

The Joint Committee now has before it an indemnity bill which was returned by the President without signature. In his veto message the President urged the Congress to reenact the bill promptly while ameliorating the offending Section 12 which allowed the bill's taking effect to depend in some circumstances on further Congressional deliberation. Implicit in the President's message is an expression that the extension act, minus the alleged constitutionally infirm provision, constitutes a valuable part of the Administration's national energy policy. Moreover, with the Rasmussen Reactor Safety Study now in print and assuring, contrary to the previously expressed vocal fears of the bill's opponents, that dangers beyond the magnitude of the extended Price-Anderson coverage are indeed highly improbable, it is clear that a delayed effective date to assimilate the study's results would be contrary to the public interest.

The Forum as a matter of policy does not take positions with respect to specific bills pending before the Congress. Accordingly, I am not now making any recommendations as to how the Committee should modify the bill to accommodate the President's viewpoint. However, as we have stated in the past, we believe it is appropriate and in the public interest for the matter to be resolved in a definitive fashion in this session of Congress.

Sincerely,

John W. Simpson.

Sacramento Municipal
Utility District,
Sacramento, Calif., October 28, 1974.

Hon. Melvin Price,
Chairman, Joint Committee on Atomic Energy, Washington, D.C.

Dear Mr. Price: We recently learned of President Ford's veto of H.R. 15323, which would have amended the Atomic Energy Act of 1954 to revise the method of providing for public remuneration in the event of a nuclear incident. As we understand, the President said the measure had a "constitutional infirmity" because it contained a section that provided for consideration by the Joint Committee on Atomic Energy before the bill could be effective.

Naturally we are quite disappointed by the President's action; however, we are hopeful that Congress will take swift action when it reconvenes after the November elections to re-enact the bill to remove this provision, otherwise leaving the bill intact. Prompt action is necessary to avoid disruption in the planning process for construction of nuclear generating plants and to assure that the goals of Project Independence are met by developing nuclear generation to meet the electric power needs of the future.

Sincerely yours,

E. K. Davis,
General Manager.

American Mutual Insurance Alliance,
Washington, D.C., October 21, 1974.

Subject H.R. 15323.

Hon. John O. Pastore,
New Senate Office Building,
Washington, D.C.

Dear Senator Pastore: The Alliance is the voluntary association representing the mutual insurance companies in the property and casualty insurance business. In this instance, we write on behalf of our members who are organized as "Mutual Atomic Energy Liability Underwriters".

As you know, on October 12 President Ford vetoed this bill on the ground that he viewed it as constitutionally defective since, at section 12, it required or permitted action by Congress subsequent to his own action.

The insurance industry views the insurance and indemnity mechanism provided by the Price-Anderson Act as vital legislation, offering encouragement for utilities to utilize the full resources of nuclear power to meet our nation's energy needs, while also affording maximum protection to the public from any hazards associated with the industry.

We believe the proper concerns about nuclear safety expressed in clause 12 have been satisfied by the draft Rasmussen Report which demonstrates that the risks from the operation of a nuclear power plant are far less than those of many other activities in our society.

Consequently, we urge that the Congress promptly reenact the extension of the Price-Anderson Act without the restrictive language of Section 12.

Cordially yours,

Bert Thompson,
General Attorney-Federal Affairs.

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

[Mr. PRICE of Illinois' remarks will appear hereafter in the Extensions of Remarks.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Jones of North Carolina (at the request of Mr. O'Neill, for November 20 and 21, 1974, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Rogers, for 10 minutes, and to revise and extend his remarks and to include extraneous matter.

Mr. Vanik, for 10 minutes, today; and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. McCollister) to revise and extend their remarks and include extraneous matter:)

Mr. Bray, for 10 minutes, today.

Mr. Hinshaw, for 30 minutes, today.

Mr. Hansen of Idaho, for 30 minutes, today.

Mr. Pritchard, for 5 minutes, today.

(The following Members (at the request of Mr. Charles Wilson of Texas) to revise and extend their remarks and include extraneous material:)

Mr. Mezvinsky, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Kastenmeier, for 5 minutes, today.

Mr. Alexander, for 15 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Fraser, for 15 minutes, today.

Mr. Koch, for 10 minutes, today.

Mr. Drinan, for 5 minutes, today.

Mr. Dent, for 30 minutes, November 25, 1974.

Mr. Gaydos, for 30 minutes, November 25, 1974.

Mr. Flood, for 60 minutes, November 26, 1974.

Mr. Owens, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Koch and to revise and extend his remarks immediately prior to the vote on the conference report on S. 386 in the House today.

Mr. Goldwater, and to include extraneous material, immediately prior to the vote on H.R. 16373 today.

Mrs. Chisholm, to extend her remarks in the body of the Record, notwithstanding the fact it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,251.

Mr. Fraser, to extend his remarks in the body of the Record, notwithstanding the fact it exceeds two pages of the Record and is estimated by the Public Printer to cost $973.

Mr. Madden.

(The following Members (at the request of Mr. McCollister) and to include extraneous matter:)

Mr. Gilman in two instances.

Mr. Derwinski in three instances.

Mr. Coughlin.

Mr. Hanrahan.

Mr. Hosmer in two instances.

Mr. Collins of Texas in four instances,

Mr. Lagomarsino.

Mr. Lent.

Mr. O'Brien.

Mr. Sarasin in four instances.

Mr. Steiger of Arizona.

Mr. Price of Texas.

Mr. Clancy in two instances.

Mr. Huber in four instances.

Mr. Bauman.

Mr. Wydler.

Mr. Pettis.

Mr. Veysey.

Mr. Whalen.

Mr. Hudnut.

Mr. Kemp.

Mr. Robert W. Daniel, Jr.

Mr. Young of Illinois.

(The following Members (at the request of Mr. Charles Wilson of Texas) and to include extraneous material:)

Mr. Helstoski.

Mr. Gaydos in two instances.

Mr. Mitchell of Maryland.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Anderson of California in three instances.

Mr. Carney of Ohio.

Mr. Brinkley.

Mr. Jones of Tennessee.

Mr. Teague in two instances.

Ms. Abzug.

Mr. Cotter.

Mr. Charles Wilson of Texas in 10 instances.

Mr. de Lugo in 10 instances.

Mr. Bowen.

Mr. Fraser in five instances.

Mr. Eilberg.

Mr. Denholm.

Mr. Ford.

Mr. Adams.

Mr. Roybal.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2093. An act to amend the Horse Protection Act of 1970 to better effectuate its purposes; to the Committee on Interstate and Foreign Commerce.

S. 3574. An act to relinquish and disclaim any title to certain lands and to authorize the Secretary of the Interior to convey certain lands situated in Yuma County, Ariz.; to the Committee on Interior and Insular Affairs.

S. 4040. An act to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes; to the Committee on Veterans' Affairs.

ADJOURNMENT TO MONDAY, NOVEMBER 25, 1974

Mr. CHARLES WILSON of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 20 minutes p.m.), under its perivous order, the House adjourned until Monday, November 25, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2989. A letter from the Adjutant General, Veterans of Foreign Wars of the United States, transmitting the audit of the accounts of the Quartermaster General of the Veterans of Foreign Wars for the fiscal year ended August 31, 1974, pursuant to Public Law 74-630; to the Committee on Armed Services.

2990. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the Secretary of the Treasury to continue the minting of dollars, half-dollars and quarter-dollars bearing the current design and coinage date during calendar year 1975, and for other purposes; to the Committee on Banking and Currency.

2991. A letter from the Secretary of the Interior, transmitting a proposed plan for the use and distribution of the judgment funds awarded to the Lummi Tribe of Indians in Indian Claims Commission docket No. 110, pursuant to section 2(a) of Public Law 93-134; to the Committee on Interior and Insular Affairs.

2992. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed grant agreement with Carnegie-Mellon University, Pittsburgh, Pa., for a research project entitled "Low Interfacial Tension and Miscibility Studies for Surfactant Tertiary Oil Recovery Processess," pursuant to Public Law 85-934; to the Committee on Interior and Insular Affairs.

2993. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Foster-Miller Associates, Inc., Waltham, Mass., for a research project entitled "Study and Report on the Evaluation of Coal Thickness Sensors," pursuant to section 1(d) of Public Law 89-672 [42 U.S.C. 1900(d)]; to the Committee on Interior and Insular Affairs.

2994. A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting the comprehensive development plan for Pennsylvania Avenue between the Capitol and the White House, pursuant to section 5(d) of Public Law 92-578 [40 U.S.C. 874(d)]; to the Committee on Interior and Insular Affairs.

2995. A letter from the Treasurer, American Chemical Society, transmitting the annual report of the society for calendar year 1973, pursuant to section 8 of Public Law 358, 75th Congress; to the Committee on the Judiciary.

2996. A letter from the National Adjutant, Disabled American Veterans, transmitting the report of the proceedings of the organization's national convention including a report of activities during the year ended June 30, 1974, and a report of receipts and expenditures as of December 31, 1973, pursuant to Public Law 77-668 (H. Doc. No. 93-376); to the Committee on Veterans' affairs and ordered to be printed with illustrations.

RECEIVED FROM THE COMPTROLLER GENERAL

2997. A letter from the Comptroller General of the United States, transmitting the report on the audit of payments from the special bank account to the Lockheed Aircraft Corp., for the C-5A aircraft program during the quarter ended September 30, 1974, pursuant to section 802(b) of Public Law 93-155; to the Committee on Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FLOOD: Committee of conference. Conference report on H.R. 15580 (Rept. No. 93-1489). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MILLS:

H.R. 17488. A bill to provide a windfall profits tax on oil, to phase out percentage depletion on oil and natural gas, to increase the low-income allowance, to make changes in the treatment of foreign income, and to make certain other adjustments in the tax laws; to the Committee on Ways and Means.

By Mr. ASHBROOK:

H.R. 17489. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

By Mr. CARNEY of Ohio:

H.R. 17490. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to provide that an individual who has attained age 65 may elect to treat any employment or self-employment performed by him as not covered for social security benefit purposes and exempt from social security taxes; to the Committee on Ways and Means.

By Mr. CLANCY:

H.R. 17491. A bill to declare certain flooding in Hamilton County, Ohio, to be a major disaster; to the Committee on Public Works.

By Mr. DELANEY:

H.R. 17492. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. FLYNT (for himself, Mr. LANDRUM, and Mr. STEPHENS):

H.R. 17493. A bill to establish a Department of Education; to the Committee on Government Operations.

By Mr. MEZVINSKY:

H.R. 17494. A bill to make more chemical fertilizer available throughout the world for the production of food during 1975 by substantially reducing the amount of such fertilizer used in the United States for nonfood growing purposes; to the Committee on Agriculture.

By Mr. MOSHER (for himself, Mr. ANDREWS of North Dakota, Mr. MATSUNAGA, Ms. ABZUG, Mr. CONYERS, Mr. REGULA, Mr. CONTE, Mr. SARASIN, and Mr. SEIBERLING):

H.H. 17495. A bill to require in all cases court orders for the interception of communications by electronic and other devices, for the entering of any residence, for the opening of any mail, for the inspection or procurement of certain records, and for other purposes; to the Committee on the Judiciary.

By Mr. STEPHENS:

H.R. 17496. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

By Mr. HECHLER of West Virginia:

H.R. 17497. A bill to regulate lobbying and related activities; to the Committee on the Judiciary.

By Mr. RAILSBACK (for himself, Mr. OWENS, Mr. MITCHELL of New York, and Mr. PRITCHARD):

H.R. 17498. A bill to regulate lobbying and related activities; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 17499. A bill to amend the Economic Opportunity Act of 1964 to provide for demonstration projects to combat rural poverty, to restore community land grants, to promote rural community bilingualism, to revive rural Mexican-American culture, and for other purposes; to the Committee on Education and Labor.

By Mr. STEIGER of Arizona:

H.R. 17500. A bill to authorize the Secretary of Agriculture to compensate employees for losses sustained in the value of personal housing due to closing the headquarters of the Sitgraves National Forest in Holbrook, Ariz.; to the Committee on the Judiciary.

By Mr. HUBER:

H.J. Res. 1169. Joint resolution proposing an amendment to the Constitution of the United States to permit the imposition of duties on exports from the United States; to the Committee on the Judiciary.

By Mr. LEGGETT (for himself, Ms. ABZUG, Mr. MATSUNAGA, Mr. RODINO, and Mr. UDALL):

H. Con. Res. 686. Concurrent resolution expressing the sense of Congress with respect to decontrol of certain domestic crude oil; to the Committee on Interstate and Foreign Commerce.

By Mr. COUGHLIN:

H. Res. 1472. Resolution creating a select committee to conduct an investigation and study of food prices in the United States; to the Committee on Rules.

By Mr. HINSHAW:

H. Res. 1473. Resolution directing the Administrator of the Small Business Administration to furnish certain facts pertaining to small business investment companies; to the Committee on Banking and Currency.

By Mr. HORTON:

H. Res. 1474. Resolution concerning the safety and freedom of Valentyn Moroz, Ukrainian historian; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 17501. A bill for the relief of Emily Gayanes Gaufo and her children Joselyn G. Gaufo and Favio G. Gaufo, Jr.; to the Committee on the Judiciary.

By Mr. COCHRAN:

H.R. 17502. A bill for the relief of Weathersby Godbold Carter, Jr. and Richard T. Harriss, III; to the Committee on Interior and Insular Affairs.

By Mr. HANNA:

H. Res. 1475. Resolution to commend Nathan and Lilly Shapell; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

564. The SPEAKER presented a petition of Gaymond E. Milligan, Houston, Tex., relative to redress of grievances; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

"ING"

HON. FRANK CHURCH

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Thursday, November 21, 1974

Mr. CHURCH. Mr. President, Idaho has lost one of its most colorful and delightful citizens, a man who devoted a lifetime to a career in journalism, and became in the process one of our best-known editors and columnists.

I refer to Nicholas G. Ifft, who will forever be known to his readers as "Ing" the name under which he signed his column for the Idaho State Journal in Pocatello.

Nicholas Ifft was an old-fashioned newspaperman: the kind who knew just about everybody and an awful lot about everything. He never stopped learning. He had a few favorite causes, of which one was preserving the trees of the city he loved so well.

As the Journal pointed out in an editorial following his death, Ing also took delight in deflating the egos of the "big shots," including politicians, with a deft wit. But he also let his critics have their say, turning over his column repeatedly to let the other side of the story be told.

Mr. President, Idaho is the poorer for the loss of Nicholas G. Ifft.

I ask unanimous consent that the editorial which appeared in the Idaho State Journal on October 31 be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

"30" FOR MR. IFFT

Mr. Ifft will not be in today, nor ever again, a sprig of flower in his lapel and murmuring a warm "good morning" to all his co-workers at the Journal.

His pipe tobacco rests, unopened, on a desk piled with letters and notes for his column, "Buzz of the Burg." A desk lamp, which he accepted as a grudging compromise to failing eyesight, will not be lit.

Death came suddenly to Mr. Ifft, and it will be a while before we at the newspaper grow accustomed to his absence. It will not be easy, for he occupied a special place here.

We called him Mr. Ifft, but it was a measure of respect, not of formality. On occasions, of course, he was called Nick, and he was one of the guys. It was characteristic that he shunned a private office, working instead at his desk in the center of the newsroom, pounding away at his own typewriter as he had done as a reporter and editor for more than 50 years.

Readers often knew Mr. Ifft as Ing, and they knew they had in him a champion against the so-called "big shots" and insensitive public officials, price gougers and rude clerks. If Mr. Ifft had the common touch, it was because he identified with ordinary people. He frequently referred to his home as in the "tenement district" and he counted waitresses and working men among his many friends, although he associated easily with presidents and celebrities as well.

Readers learned to appreciate Mr. Ifft's deft wit, which deflated many an oversized ego. But they also learned they could count on his column to have their say. He was generous with space, sometimes to a fault, and did not hesitate to publish the most acrimonious criticism of the newspaper.

Those of us who worked daily with Mr. Ifft never heard him utter a word of personal complaint, yet he was a sympathetic listener to others, and a soft touch to many who came to him for a small handout in time of need.

It is fitting that several memorials to Mr. Ifft already exist in the form of trees, and a city park, for he was always ready to condemn the "tree butchers" and praise those who planted and cared for a bit of greenery.

He loved to read, he loved the theater, and he loved to travel. But when he returned home, it was always with the declaration that Eastern Idaho and Pocatello especially, were the prize spots on this Earth.

We think Pocatello will miss Mr. Ifft, as we at the Journal do, but we can console ourselves that we are immeasureably better for the time he spent among us.

GEN. GEORGE BROWN SHOULD RESIGN

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. LENT. Mr. Speaker, like many of my colleagues, I was deeply distressed by the report of remarks made by Gen. George Brown, Chairman of the Joint Chiefs of Staff. His remarks discussing the influence of the Jewish community in the United States were distasteful, intemperate, and worst of all, inaccurate, and they have raised serious doubts about his capacity to fill the second most important position in the Department of Defense. I believe his resignation would be in the Nation's best interest.

As the highest ranking military officer in the United States, any remarks made by General Brown must be looked upon with credibility by other nations of the world. His statements about what he feels to be undue Jewish influence in the financial and publishing institutions of the Nation came at a time when tensions in the Middle East were high and the Arab world had to be convinced that U.S. support of Israel was a strong and steadfast as ever. They represented an unwarranted intrusion into the affairs of state by an officer of the military, and I am pleased that President Ford and Secretary of Defense Schlesinger acted promptly to repudiate them.

Frankly, General Brown's subsequent apology, which stopped short of a retraction, does not ease my doubts about his ability to effectively function in his current position, nor do I believe that it has sufficiently soothed the hard feelings his original statement caused. We as a nation have experienced enough division in the past 2 years, and we do not need at the top echelon of our military establishment an individual whose private, outmoded prejudices promote continued division.

I see no real alternative to General Brown's resignation or dismissal from the Chairmanship of the Joint Chiefs of Staff.

U.S. PUBLIC HEALTH SERVICE FUNDS STUDY TO REDISCOVER THE WHEEL

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. HUBER. Mr. Speaker, it recently came to my attention that the U.S. Public Health Service has already spent $100,000 on a study to discover that men and rats do very poorly under crowded conditions and that women adjust to the situation somewhat better. This, I think, we all knew that the "territorial imperative" is strong in the male due to masculine characteristics and it was meant to be so for the sake of survival. In my view, to spend money to discover this is just to reinvent the wheel. The article from the Detroit Sunday News of October 6, 1974, follows:

STUDY FINDINGS: MEN, RATS ADJUST POORLY

(By David Taylor)

Pack six men into a tiny room, so tiny that elbows bump and knees knock and it's all too obvious if the guy on your right had garlic for lunch.

Do the same thing with six women, room just as small and quarters just as tight.

Then, after telling them not to smoke and not to talk, let each group stew in its own uncoziness for a half hour and interesting things begin to happen.

The women, it seems, tend to adjust readily and positively to what is obviously a stress situation, communicating a sense of warmth through gestures and facial expression, and developing a sense of camaraderie.

The men, however, tend to withdraw and look away, to act tough, throw up masculine masks and generally fragment as a group.

That, at least, is what Dr. Yakov Michael Epstein, a Rutgers University experimental social psychologist, has found in the initial stages of a $100,000 study. The study is on the effects of overcrowding on human behavior for the U.S. Public Health Service.

The difference in reaction by each sex to being placed in a 4-by-4-feet room has been "fairly constant," reports Epstein, an associate professor in Rutgers' University College.

And he thinks it stems from the way men and women are traditionally trained to behave in today's society.

"Very different things happen to each group," he says. "The women become a cohesive group, communicating their concern for each other in their facial expressions and even showing they like people better than when not crowded.

"The men react more negatively. They put on a stony face. They become alienated and assume the 'tough guy' male approach.

"Perhaps," speculates Epstein, "part of this is due to the fact that women are allowed to show their emotions more openly in our society. Men are trained to 'act cool' and not show their emotions."

Epstein has found that the female approach—smiling, developing a warmth of communication—helps members of the group to relax in the crowded room while the men just did not.

Men need not feel too badly about their poor showing in Epstein's experiments. It seems that rats have had their problems in similar projects.

According to Epstein, pioneer work in the area of crowding, conducted by Dr. John Calhoun of the National Institute of Mental Health, showed that placing rats in such an environment resulted in increased aggression, bizarre sexual behavior and a breakdown of the rat community.

"The effects of crowding on animals seems to be devastating," says Epstein. "And when we entered into this study we found that among things ascribed to overcrowding among humans were aggressive behavior, juvenile delinquency and public health problems.

"But," he says, "there has not been enough solid work with humans to tell whether this is in fact true. After all, it's a long way from rats to humans."

He says there are occasions—a Woodstock or a cocktail party for instance—where crowding seems to be a necessary social stimulant.

STRENGTHENING THE RIGHT TO KNOW

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. HANRAHAN. Mr. Speaker, as we all know, the House voted to override the President's veto of the Freedom of Information Act. I am basically in favor of the Freedom of Information Act; however, I found it necessary to sustain President Ford's veto because of certain amendments. According to this, Federal judges can reverse classification decisions if the judges find the arguments against the decisions equally reasonable. I do not think this amendment should be law. For the interest of my colleagues, I would like to insert the following Wall Street Journal editorial which expresses similar views to mine:

STRENGTHENING THE RIGHT TO KNOW

When the Freedom of Information Act was signed into law eight years ago, the hope was that it would usher in a new era of openness in government operations. The law still permitted government agencies to withhold secret national security or foreign policy information, and it still protected trade secrets and other confidential commercial or financial information. But requiring federal agencies to make documents and records available upon request represented an important departure from the attitude that public records were a private matter.

The act probably restrained some of the desire to shroud government business in secrecy, but it wasn't long before bureaucrats learned how to circumvent the spirit of the law. They raised the art of delay to new heights, charged high prices for providing the requested information, and in some cases simply refused to hand over documents until they were ordered by the courts to do so. Moreover, it didn't help any when the Supreme Court ruled that any requested information with a "classified" stamp was legally exempt.

In order to rectify these shortcomings, Congress recently passed a series of amendments to the FOI Act. But President Ford vetoed the bill, expressing support for the legislative intent but citing concern over some of the bill's provisions. Nevertheless, even before this week's election it was widely predicted that the bill, approved by voice vote in the Senate and with only two dissenting votes in the House, had sufficient support in Congress to pass over Mr. Ford's veto.

Mr. Ford claims that the deadlines written into the new law, allowing 10 days for agency responses to requests for documents and 20 days for decisions appealing refusal to provide information, are "simply unrealistic." Maybe so, but Congress already extended the time limits for compliance. And the kind of information most often requested does not have to be dug out of the archives, since most of the documents are more-or-less routine.

We are somewhat more sympathetic with Mr. Ford's argument that the courts should have to uphold the validity of classified documents if there is a "reasonable basis" for classification. In the amendments he vetoed, federal judges could reverse classification decisions if they found the arguments against them equally reasonable. Maybe that isn't such a bad idea, in view of the way the classification process has been routinely abused. But, abuses aside, it seems to us that if the classification system itself has any validity, the government probably should be accorded the benefit of reasonable doubt. However, we stress the word "reasonable" to distinguish it from the unreasonable way government agencies have employed the system for narrow partisan ends.

There is a danger that Congress could overreact to Executive secrecy by insisting upon total openness. Obviously, no administration can realistically be expected to conduct all its affairs in full public view. But the pattern of the past several decades strongly suggests that the theoretical dangers of government-by-fishbowl are greatly outweighed by the actual fact of excessive secrecy. Congress might well reconsider altering some of the language of the FIO amendments along lines suggested by Mr. Ford, but not at the expense of the public's right to know.

SALUTE TO THE SCHJANG FAMILY

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. DE LUGO. Mr. Speaker, the October 2, 1974 St. Croix Mirror contained an editorial congratulating the Schjang family for their "unselfish contribution to the social sporting life" of St. Croix. This is a justly merited expression of the deep appreciation which the community holds for the Schjang family's generosity.

Through the donation of land, by the Schjang family, the extremely popular and successful Alphonso Gerard Softball League has developed. As the editorial notes, this is an example of what people working together can accomplish on their own. It also illustrates the type of activity necessary to interest young people in athletics and give them the opportunity to develop their potential skills.

It is a pleasure to place the entire editorial in the RECORD at this point:

KUDOS TO THE SCHJANG FAMILY

Today, we express our heartfelt congratulations to the Schjang family of Estate St. John for their unselfish contribution to the social and sporting life of this island.

Oftentimes, nowadays, most of us take many things for granted. Such is the case with the Alphonso Gerard Softball League—we've had it for so long that it has now become an institution. But we would like to remind one and all that the success of the League is due primarily to the generosity of the Schjang family.

For this we should be extremely proud, not because they provide the acreage for the game, but because they do it out of pure, unadulterated love for this community and of the game. More than that, they do not shout this from every hilltop, its simply attributed as their contribution to society in which they live.

Sunday's trophy presentation function, marked the completion of another successful season of good and inspiring softball. One very positive aspect afforded by this function, was the fact that people, you and me, can contribute a great deal to our own people, if we set our minds to it. There was no government to this League handout, it was a matter of doing your own thing, which just goes to prove that people on this island must break out of their lethargic slumber and get up and get for everyone's sakes.

By advocating this, we do not mean to let the government off the hook, we hope, that as the Governor and the many politicians observed the great deal of organization and professionalism which went into the making of the function, thoughts would surface as to how the Department of Recreation, could come into 'real play' by getting leagues of this caliber moving, and to encourage our young people to become more active in sports and related activities.

We hope too, that much greater effort will be made this year to have full use made of all the play areas which are already in existence and those which are now being built. It has been proven again and again that these Virgin Islands are capable of producing world class athletes, but they first must be discovered, trained and then made good.

This can only be achieved when we become a more active society, the private sector complementing the government with both working towards one common goal—high caliber athletes. We also call upon some of the larger industries to live up to their social responsibility, not only by providing play areas, but by actively organizing and executing one or other sporting programs.

Again we want to express our deepest thanks to the Schjang family for their contribution and devotion in furthering the aspirations of the many people who play the game and the many more who have benefited from their enthusiasm. . . . Hats off to great people.

LT. COL. PAUL J. RANDALL RETIRES FROM MARYLAND STATE POLICE

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. BAUMAN. Mr. Speaker, on December 1, 1974, Lt. Col. Paul J. Randall of the Mayland State Police will end 41 years of distinguished service to the State of Maryland. I know Colonel Randall both as a fellow resident of Easton, Md., and as a superior State official with whom I had contact during my term in the Maryland State Senate. He has compiled an excellent record of service to his State and its citizens, and he and his family can be justifiably proud of his career.

I wish all the best for Colonel Randall in his retirement, and I only hope that future Maryland State Policemen can live up to the example which he has established. I insert an article from the Salisbury Times regarding Colonel Randall's retirement.

[From the Salisbury (Md.) Times, Nov. 12, 1974]

COLONEL RANDALL, "LAST OF HORSEMEN," TO RETIRE

PIKESVILLE.—The Maryland State Police will mark the end of an era on Dec. 1 when the last of their horsemen retires.

Lt. Col. Paul J. Randall, who signed on the force as a probationary horseman in 1933, is retiring after 41 years of service.

During this time, he rose through the ranks to the position of deputy superintendent which makes him the highest ranking uniformed member of the State Police.

Col. Randall was born and raised in Washington, D.C. and he attended public and parochial schools there. He worked as a journeyman printer and linotype operator for the Washington Evening Star before being appointed to the Maryland State Police on June 6, 1933.

He received three weeks instruction at the 110th Field Artillery Regiment in Pikesville before being assigned his horse "Tom," and with a pair of spurs was ordered to report to duty at Sub-Station "I" in Easton.

Randall was promoted shortly thereafter to motorcycle officer as the State Police began to phase out their horses, using the rationale that "horses eat hay while standing still, but motors only burn gasoline while they are running."

Officer Randall was assigned for a short time during 1935 to the Frederick Sub-Station before being ordered back to Easton, an area which became his permanent home. Randall's sub-station commander highly recommended him for promotion to officer first class in 1936 and made the following observation about the young man.

"His reports are complete in detail, neat and concise, and always promptly submitted."

This is as true today as it was back in the mid-thirties.

The majority of his law enforcement career continued to center on Maryland's Eastern Shore. In May 1940 he was placed in charge of the Easton Barrack and the following year was promoted to sergeant and was named acting troop commander for the entire Eastern Shore. He received periodic promotions and continued to hold ever-expanding responsibilities as Troop "D" commander, rising to the rank of captain in 1949.

After serving a 3½ year stint as adjutant for the entire department at headquarters in Pikesville from 1955 to 1959, he returned to Easton as Troop "D" Commander.

Again being needed at headquarters, he was promoted to major in May 1968 and was named chief of the field forces. Two years later he was promoted to lieutenant colonel and was named chief of operations. Five months later in December 1970, Lt. Col. Randall was appointed deputy superintendent and chief of the Services Bureau.

During his long law enforcement career, Lt. Col. Randall has battled lynch mobs, directed rescue efforts at disasters, such as plane crashes and the 1954 Kent Manufacturing Co. explosion, and has coordinated the evacuation of many persons from severe storms and heavy snows.

Gov. William Preston Lane, Jr. awarded Randall a highly-coveted citation for "his ability and energy in directing the solving of many important cases." He has received many letters of recognition from the State Police superintendents, Maryland governors, other public officials and citizens for his handling of a wide variety of situations.

He was named "Policeman of the Year" by the Salisbury Exchange Club in 1965 and was recognized on the floor of the U.S. House of Representatives in 1968 by then Congressman Rogers C. B. Morton for being an outstanding law enforcement official.

Reflecting on his career with the State Police, Lt. Col. Randall said he is ready to hang up his "spurs" and enjoy life in retirement. His experience has been one of the rare ones in policing, truly spanning law enforcement from its pioneer days to the present complex systems. And for the future, no other Maryland State policeman will ever experience such a career, from horseback to helicopters.

A gala farewell party has been planned to honor Lt. Col. Randall's retirement. The reception and dinner dance will be held at Blue Crest North in Pikesville Nov. 22.

POLITICAL CAMPAIGNS

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. BRINKLEY. Mr. Speaker, may I pay tribute to an outstanding segment of America which is comprised of those individuals who participate in the campaigns of men and women for elective office. Often, it seems to be a tiring and thankless task and these people risk the agony of defeat in reaching for the pinnacle of victory. Most importantly, they are the ingredient which makes our political system work competitively and well. I am personally grateful to all of them and in testimony to the key role which they play wish to dedicate the following quotation from Theodore Roosevelt:

It is not the critic who counts, not the man who points out how the strong man stumbled, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena; whose face is marred by dust and sweat and blood; who strives valiantly; who errs and comes short again and again; who knows the great enthusiasms, the great devotions, and spends himself in a worthy cause; who, at the best, knows in the end the triumph of high achievement; and who, at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat.—THEODORE ROOSEVELT.

CRISIS AT THE CROSSROADS

HON. FRANK E. DENHOLM

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. DENHOLM. Mr. Speaker, I have read with a sense of sadness the published reports of additional thousands of employees in the automobile industry being suspended from employment as the economy of this Nation continues its downward trend.

There are no manufacturers of automobiles in the State of South Dakota but the impact of unemployment is not unknown to the families of rural America.

The recession that has now been acknowledged by the President has been recognized by farmers and ranchers and the people of rural communities each time the fruit of their labor has been sold at prices below the cost of production. However, they cannot cut back or shut down production to save themselves from economic disaster.

The economy of rural America is reflected in the broken windows of thousands of empty farm houses, abandoned at close-out sales.

The impact of the unemployment of automobile workers and other industrial employees will be felt in rural America just as the bankruptcy of farmers and ranchers is equally paid for at the grocery counters of suburban and urban America.

Fewer and fewer producers of food will result and has resulted in higher food prices and ultimately will produce shortages of food products in the marketplace of the American consumers.

I have continuously urged my colleagues to recognize the interdependence of the economy of rural America with that of the urban and industrial centers of our country. Many of you have responded by understanding that farm subsidies were really food subsidies that historically gave consumers an abundance of food at reasonable prices.

I need not remind you today that it was this Congress that voted against the extension of the Sugar Act in 1974. I need not remind you that by the majority vote of this Congress the insignificant savings of farm subsidies to sugar beet and cane producers was saved but a whopping 1,200 percent increase in the cost of sugar is now paid by consumers at the checkout counters of the supermarkets across America.

The choice is ours—we can continue the philosophy of "penny wise and dollar foolish" or we can formulate a national farm and food policy that will reverse the ever-increasing cost of living as the first positive action to control inflation in America.

Mr. Speaker, it is clear that our national economy is at the crossroads of a serious crisis. Unemployment is on the rise—food prices continue to rise, inflation continues uncontrolled to the disadvantage of everyone and I ask again and again—why must we have a national crisis instead of constructive national policy?

The people have not forsaken our system of government and this is no time for our representative system of government to forsake our people.

I am hopeful that someday a farm and food policy will have the full attention of this Congress that will deter all Americans from the economic crisis at the crossroads of the future.

E. DONALD STEINBRUGGE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. RINALDO. Mr. Speaker, during our recent recess, the people of Union County, N.J., lost one of their most distinguished citizens. Union County Judge E. Donald Steinbrugge died on November 6. Judge Steinbrugge, a close personal friend, whom I had known well for many years, was not only an exceptionally fine jurist, but a dedicated and compassionate human being.

I would like to enter into the RECORD the editorial comments about Judge Steinbrugge that appeared in the Summit, N.J., Herald:

E. DONALD STEINBRUGGE

Judge E. Donald Steinbrugge who died last week after a somewhat brief illness will be long remembered by residents here, the county and the state as a man who believed in life and the basic decency of his fellowmen.

Following a successful career as an attorney, Judge Steinbrugge brought his knowledge of the law to the bench where he served for over two years as a judge in the Union County Court. Some of his decisions were precedent-setting landmarks that brought the concept of government by law closer to the people.

As a civic leader who took pride in his community, Judge Steinbrugge was known and admired by all he came into contact with. He was a man of great warmth, understanding and compassion.

Now that he is gone, the community is poorer. We are sorry he is no longer among us, but happy in the fact that we were among the many who were fortunate in knowing him in life.

Our heartfelt sympathies go out to his family and many friends. Although our community is poorer now that Judge Steinbrugge is no longer with us, our community is indeed richer since, in life, he was an important part of it. He will be missed as all good neighbors are when they depart.

IN COMMEMORATION OF LATVIA'S DAY OF INDEPENDENCE

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. WYDLER. Mr. Speaker, 56 years ago a proud people proclaimed its independence from centuries of foreign domination. On Nov. 18, 1918, the independent state of Latvia came into being. In this era of détente, let us not overlook the continued, illegal occupation of this land by the Soviet Union.

The spirit of Latvian nationalism steadily grew in intensity throughout the years of occupation by foreign powers. During World War I, the Latvians took advantage of the domestic turmoil within Russia and established the First Latvian National Assembly, which convened on November 16, 1917. This body subsequently issued a resolution that sounded the note of Latvian independence. But obstacles remained. The Latvians were forced to struggle against both German and Russian attempts to suppress their rightful claim to nationhood during the 3 years that followed. Yet, the undaunted determination of this strong-willed people kept the hope of freedom alive.

The struggle was not in vain. Exactly 1 year after the creation of the Provisional National Council, an independent Latvian Government was established in Riga on Nov. 18, 1918. Finally, the Soviet Union signed a peace treaty with Latvia on Aug. 11, 1920. The aggressor renounced all rights over the Latvian people and territory. Latvia assumed its rightful place as a full member of the League of Nations in 1921. Shortly thereafter, the United States extended diplomatic recognition to Latvia.

However, the events of World War II abruptly terminated Latvia's life as an independent nation. Once again, its territory was violated by Soviet troops. In June 1940, the Soviet Union reestablished a puppet regime, which was subsequently ousted by the Nazis. But the Soviet forces returned. Against its will, Latvia was incorporated into the Soviet Union. This act of aggression will never be forgotten by the Free World. The United States will never recognize this illegal occupation.

Today the heroic Latvians struggle to maintain their distinctively rich cultural identity in spite of Soviet oppression. The character of the Latvian people is reflected in their higher standard of living. Memories of their past existence as an independent nation kindle hope for the future.

Nov. 18, 1918 holds a special place in the hearts and minds of those who cherish freedom. We Americans echo the call made by President Woodrow Wilson for national self-determination. We shall continue to express our outrage over this blatant denial of Latvia's right to sovereignty. Let the commemoration of Latvia's national day of independence remind us of the injustice inflicted on this noble people and serve as an inspiration to further the progress of freedom.

CONGRESSIONAL ACTION NECESSARY ON UNEMPLOYMENT NOW?

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. MADDEN. Mr. Speaker, when I was home during the election recess I was contacted by a great number of constituents and organizations regarding unemployment and the economically depressed conditions in the industrial Calumet region of Indiana.

Many complaints were registered concerning the impounding of funds for housing, education, and highway construction, the delay of final passage of mass transit legislation, curtailment of the small business program, and so forth. Unemployment in the Calumet region has been rising monthly during the years 1973 and 1974, and continues to rise.

This Congress should do everything possible before adjournment in December to complete all pending legislation that will affect and stimulate industry, and enact legislation to curb the further rise of the cost of living, along with providing work and income for the families that will need help during the winter months.

This morning I received the following letter from George Tichac, secretary-treasurer of the Indiana State Council of Carpenters, setting out the thoughts of his organization concerning the necessity for immediate action on the part of the administration and the Congress, which I include with my remarks:

INDIANA STATE COUNCIL
OF CARPENTERS,
November 18, 1974.

Hon. RAY J. MADDEN,
U.S. Representative,
Washington, D.C.

DEAR RAY: The Officers and Membership of the Indiana State Council of Carpenters are very disturbed by the Administration in Washington withholding the funds that are allocated for highway construction and etc.

At the recent Statewide meeting of this State Council, which was attended by representation from all eleven Congressional Districts of our State, this meeting was held on Wednesday, November 13, 1974, in the Hilton Hotel in Indianapolis, Indiana, it was by unanimous consent of all persons in attendance at this meeting that you be contacted and asked for your support in urging the Administration in Washington to release these Highway funds, which are being held up and that they be forwarded to the State requesting them.

We further believe that these "Held-up Highway Funds" if released will not only increase job opportunities for our Membership, but will stimulate the Building Trades Industry and increase work activity in the mentioned areas, but will help the economic picture for our entire State.

Your immediate concern in this situation is appreciated by the Indiana Carpenters and once again, we strongly urge you to help rectify this situation and help us to get our country's economy turned around.

With kindest regards from the Indiana State Council of Carpenters and its Membership, we now trust that we will hear from you favorably and also with ideas regarding this situation, we remain.

Indiana State Council of Carpenters—UBCJA.

Sincerely yours,

GEORGE TICHAC,
Secretary-Treasurer.

YOUNGSTOWN, OHIO, REDEDICATES "MAN ON THE MONUMENT" MEMORIAL TO WAR DEAD

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. CARNEY of Ohio. Mr. Speaker, on Columbus Day, October 12, 1974, I had the pleasure and the privilege of attending the rededication of the "Man on the Monument" on Public Square in Youngstown, Ohio.

During the ceremonies in honor of Youngstown's sons who gave their lives for their country, Attorney Thomas M. Moore delivered an excellent speech about the history and significance of this Civil War monument.

Mr. Speaker, I believe that Attorney Moore's speech will be of interest to every patriotic American. I, therefore, would like to insert his speech in the RECORD at this time:

SPEECH BY ATTORNEY THOMAS M. MOORE

This Civil War monument was provided by the people of Youngstown Township as a fitting memorial to the Civil War dead from this Township. It was a saddened community. It was dedicated on July 4, 1870. If nothing further had been associated with this Civil War monument it undoubtedly would have passed into oblivion like all other war memorials. However, after its dedication it is said that this Civil War monument, later referred to as the Man on the Monument, could boast of outstanding companions associated with future dedications, namely: three Presidents of the United States. This is what made it historical.

Near the end of the Civil War, Youngstown Township was composed of a population of about ten thousand people. Out of the 10,000 there were 115 young men who died in the Civil War. Their names are inscribed on the monument. The Veterans Administration publicize that there were 374,000 war dead from the North alone. If a comparable amount of young men died in the Confederacy, we would have a total Civil War dead of the young men of this country of about 750,000.

It is reported that the outstanding public community service at that time was graveside ceremonies for both the burial and the decoration of the graves, which was done in every community on the day they saw fit. In response to this unorganized graveside activity, Grand Commander General John Logan of the G.A.R., who had roots in Youngstown, issued his famous Order No. 11 directing that all G.A.R. units should cause the decoration of all veterans' graves on May 30th of each year, commencing 1868. This became known as Decoration Day, now Memorial Day.

Immediately after the war there was community activity to install a war memorial in memory of the young men who died from this community. Governor Tod of Ohio, a resident of this community, was appointed to direct the campaign for subscription to obtain the necessary funds to install and dedicate the monument. The first subscription obtained was about $6,000.00. This encouraged the citizenry to enter into a proposal for the purpose of building the memorial. The estimate was about $10,000.00. The cornerstone was immediately laid two blocks from the Central Square in Youngstown, at the corner of Wick and Wood Street, in which the dedicating ceremony was conducted with Masonic ritual and Governor Rutherford Hayes the dedicating speaker.

Shortly after, it was proposed that the site selected would be used as a new county courthouse and when appropriate provision was made to acquire the land the original site of the Civil War monument was moved to its present location in the Central Square of Youngstown.

A contract for the purchase of the monument was concluded and it was constructed and thereafter dedicated in its present position on July 4, 1870, in which Governor James Garfield gave the dedicating speech.

Thereafter both Governor Hayes and Governor Garfield became Presidents of the United States.

It was found that after the monument was dedicated there were insufficient funds to pay the contractor who refused, we are informed, to deliver the title or acquired the title by foreclosure for failure to pay his contract price. In any event, he was supposed to have retained title to the Civil War monument which continued in his possession until 1892. At that time Governor William McKinley who was campaigning in Ohio and stopped in Youngstown, recommended that public subscription be instituted to pay the contractor and obtain the legal title. This was done and the contractor was paid and the Civil War monument was again dedicated by Governor William McKinley. Incidentally, he also became President of the United States.

It's amazing that more has not been written about the magic of our Civil War monument which was practically the touchstone for dedicators to become President of the United States.

Everything was silent with the Man on the Monument until the early fifties, at which time the city workers in Youngstown accidently knocked the monument from its place of prominence and it was destroyed. United Veterans Council and other groups instituted a program to replace the Man on the Monument in its past position on the Public Square. They were able to attract Mr. Emil Bertolini, a prominent local stone contractor, who purchased a new statue and after considerable photographs and plans were obtained, the order was sent to Italy where it was sculptured by an Italian artisan.

In 1955 the Man on the Monument was again dedicated and Governor Frank Lausche attended the dedication as the principal speaker. He, of course, was attracted by our committee who informed him of the magic in the past of converting our dedicators into Presidents of the United States. We don't know whether he had the desire for the position or that the monument had lost its magic, but Governor Lausche did not become a candidate for President of the United States.

Today is an interesting day. It is Columbus Day and all the Columbus Day activities have been conducted prior to our dedicating ceremonies to our Man on the Monument involving the installation of five steel plaques representing five wars, such as the Spanish-American War, World War I, World War II, the Korean and Vietnam conflict. However, there is a similarity in Columbus Day and the ceremonies to the Civil War monument because they had some birth in Italy by Italian artisans.

Since the Civil War our dedicating ceremonies reveal today that we have had five other wars and two sides of the base of the monument are being used to install five plaques on each side. It has been 104 years for five wars. There are two other sides and there may be five more wars. We don't know how many but we know if history is a sure indicator of things to come, then there could be five more wars in the next one hundred years.

The veteran and his organizations have always observed history in order to keep our country prepared and our people tuned to the day when war may come again, and if there is no preparation there certainly will be havoc. The history of the Civil War revealed that neither side was prepared or the war never would have been. In fact, seven hundred and fifty thousand of our young men were killed. But apparently dedication has been the touchstone to keeping this Civil War monument alive, and there will be dedications of our own purpose to proper preparedness that we will be able to lessen the chances of future wars.

The Man on the Monument has no mystical power but its dedicators and those connected with the dedicators have the power to keep the purpose alive. And dedication is the power of the statue.

HEALTH ISSUES WEEK

HON. DONALD D. CLANCY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. CLANCY. Mr. Speaker, three groups in Cincinnati, Ohio, recently pooled efforts and resources to sponsor a Health Issues Week which should be of interest to our colleagues here in Congress and which other communities may wish to adopt.

Health Issues Week, October 7 through 12, was a week of discussion and exhibitions in Cincinnati of matters pertaining to health. They were sponsored by the Public Library of Cincinnati and Hamilton County, the University of Cincinnati's College of Community Services, and the Health Planning Association of the Central Ohio River Valley.

The ambition of the week was to help inform the public with the expectation that the people would then be better prepared to help formulate community health policies.

The program included presentations on mental health, retardation, comprehensive health planning, health for the aged, vision loss, hearing loss, medicine's responsibility for cost and quality control, physical education and recreation, human sexuality, use and misuse of drugs, availability of health services, confidentiality, medical care for the underserved, environmental control, consumer views of health care, public food service and sanitation enforcement, accident prevention, and health legislation. I would like to take this opportunity to commend these organizations for this fine program and to recommend that other communities consider similar presentations.

ROY BRAMHALL HEADS STATE PYTHIANS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. GAYDOS. Mr. Speaker, it is with distinct pleasure I rise today to pay tribute to a gentleman from my 20th Congressional District of Pennsylvania who has achieved the distinguished honor of being elected grand chancellor commander of the Pennsylvania Knights of Pythias.

I had the privilege of attending a testimonial dinner for this outstanding man, Mr. Roy Bramhall, which was sponsored by his home lodge, Boston Lodge 394. I was greatly impressed with the many tributes paid him by those who know him best—his family, friends, neighbors, and business associates.

Mr. Bramhall, I believe, is typical of the kind of leaders the Knights of Pythias have enjoyed since the order was founded nearly 110 years ago, in February 1864. It was, I understand, the first organization of its kind to be chartered by an act of Congress.

According to its history, Justice H. Rathbone, founded the order during the Civil War in hopes it could help heal the wounds and hatred resulting from that conflict. It is recorded that President Abraham Lincoln, so impressed with the objectives of the order, suggested its great principles be perpetuated and that its founders seek a charter from the Congress "and so organize on a great scale throughout this Nation and disseminate this wonderful work you have so nobly started. I will do all in my power to assist you in this application and with your work."

For those of my colleagues not familiar with the order, may I explain it is dedicated to the promotion of friendship, charity, and benevolence. These are the keystones of its objectives and have sustained the order for more than a century.

Therefore, it is understandable why Mr. Bramhall should be elevated to such a high office in such a noteworthy organization for he exemplifies the epitome of its standards. He has earned the reputation of a humanitarian. He holds the Boy Scout Silver Beaver Award and organized the first troop for retarded youngsters in 1960. In addition he served as president of the Boston Volunteer Fire Company for 4 years.

As a member of the Order of the Knights of Pythias, Mr. Bramhall has compiled a shining record of accomplishment. He joined Boston lodge in 1959, and served as chancellor commander in 1962 and 1973. He also has held other official positions within the lodge. Mr. Bramhall also is an active member of American Legion Post 361, various Masonic bodies, and the First United Presbyterian Church.

Mr. Speaker, I deem it an honor to insert this tribute to Mr. Bramhall, the officers and members of Boston Lodge 394 and the international fraternity of the Knights of Pythias, into the Record for the attention of my colleagues in the Congress of the United States.

UNITED STATES DEFENDED AT FOOD CONFAB

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the article by Kingsbury Smith outlining Philippine Foreign Minister Carlos Romulo's defense of the Western industrialized nations at the World Food Conference in Rome.

Foreign Minister Romulo's courageous words will be, I know, appreciated by everyone in this body.

The article follows:

United States Defended at Food Confab

(By Kingsbury Smith)

Rome, Nov. 8.—A gallant Asian statesman startled the world food conference this weekend by telling off the anti-western bloc for blaming the United States and former European colonial powers for the plight of the poor nations and demanding the west lower its living standards to help feed famine-stricken millions in Asia and Africa.

Foreign Minister Carlos Romulo, who landed with General Douglas MacArthur when the Philippine Islands were liberated in World War II, said the backward nations bear some of the responsibility for their inability to feed their own people. He called on them to look to their own resources rather than expect the Western industrialized nations to continue indefinitely playing the role of rich uncle.

The former ambassador to the United States and world-renowned diplomatic representative of his island republic was the only delegate of the developing countries to defend the West against charges that its exploitation of the backward nations and its over-consumption of food was responsible for the lack of adequate agricultural production in most of Asia and Africa.

He spoke after Communist China had denounced the Western nations for "plundering" the poor countries and after Iran, India, Saudi Arabia and others declared it was the "duty" of the West to assume the major share of the burden of solving the world food crisis.

It was a courageous speech for Romulo since President Ferdinand Marcos just recently moved to improve relations with Communist China and the Philippines is dependent on the Middle East for most of its oil supplies.

Taking the anti-Western bloc to task for assailing the West for enjoying an abundant life, the Filipino foreign minister, who was noted for his outspokenness when he was his country's envoy to the United Nations, said it was "unfair to resent their good fortune and technological skills, or to begrudge their enjoyment of plenty."

"Nor should we," he added, "question the motives of their generosity and the reasons for their avowed concern. They are prepared to help, and that should be enough."

Commenting on published reports that the conference cafeteria was bulging with rich food and that many delegates were frequenting Rome's top restaurants, Romulo proposed that during the course of the conference the delegates eat "only the average daily ration of an Asian or an African peasant."

Turning to the lack of adequate agricultural development in most of the developing countries, he said,

"There must be something wrong with our development plans, something wrong with our objectives and priorities, something terribly and disastrously wrong, when 25 or even 30 years of independence and development have only led us to this sorry pass, to this crisis of world hunger.

"What went wrong, I dare suggest, was our understanding and appreciation of priorities and of the economic and social, and by that token also the political, realities."

In clearly implied criticism of India for spending huge sums to become a nuclear power while millions of its people face famine, Romulo added:

"What is the purpose, the use of brand new factories, or even a nuclear device, when millions of our people do not have enough to eat when an unacceptable proportion of our children die before leaving infancy. When those who survive are stunted physically and mentally. What price, then, a nuclear bomb or the missile to carry it across the globe?"

Asserting it was "shameful and degrading to wait upon the so-called developed countries, to depend on the food-surplus countries, to come to our rescue every time, we come to the brink of starvation." Romulo said the developing countries should look to the resources all of them have. "Our own land. Our own water. And above all, our own people."

He cited what President Marcos has achieved in the Philippines under his New Society program. Forty per cent of the agricultural area cultivated under the landlord system, has been redistributed among the peasants, who have been organized into agricultural cooperatives. About 20 per cent of the national budget is spent on the production of food and related projects.

Despite soaring oil prices and a series of unprecedented devastatingly damaging typhoons, the Philippines is still enjoying an economic boom.

THE HONORABLE EDWARD DEGRAFFENRIED

HON. ROBERT E. JONES

OF ALABAMA

IN THE HOUES OF REPRESENTATIVES

Monday, November 18, 1974

Mr. JONES of Alabama. Mr. Speaker, I want to join my colleagues in observing the passing of our former associate in the House, Hon. Ed deGraffenried, of Tuscaloosa, Ala.

Ed accumulated a distinguished record of public service as a circuit court solicitor in Alabama before his election to the 81st Congress. He was reelected to the 82d Congress and served until 1953, when he returned to his law practice in Tuscaloosa.

His ancestors had been among the first settlers in central Alabama and he maintained the deGraffenried family tradition of outstanding public service.

After his tenure in the Congress, he was widely known as a capable attorney and served as president of the Tuscaloosa County Bar Association in 1961.

It was my privilege to know Ed deGraffenried for more than 45 years—first as a friend and later as a colleague. He will be missed by all who knew him.

I extend my condolences to his children and their families in their great loss.

JOHN LOFTON PRAISES THE CHOICE OF PROFESSOR HAYEK FOR NOBEL PRIZE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. KEMP. Mr. Speaker, the importance of the awarding of the Nobel Prize in Economics to Prof. Friedrich A. von Hayek by Sweden's Royal Academy of Sciences last month should be obvious to any student of government and economics.

At a time when too many governments and leaders seem to be willing to take the road of reliance upon centralized economic planning by government—a pathway which, as Hayek himself pointed out, leads inevitably to the erosion and eradication of individual freedom—the academy has seen fit to call to the attention of the world community the teachings and insight of this truly great philosopher of free market economics and individual freedom, Professor Hayek.

In a recent column on this subject, appropriately entitled, "A Proper Tribute," John D. Lofton, Jr., the nationally syndicated columnist for United Features Syndicate, and a radio commentator, and editor, made some cogent points about the relevance of Hayek's works to our problems today.

The essential question as to which way a society will move—toward centralized planning or toward reliance on individual choice in the marketplace—has not changed for thousands of years, and it is certainly before us today.

At this point, I include the text of Mr. Lofton's column and commend it to the attention of my colleagues:

A Proper Tribute

(By John D. Lofton, Jr.)

Washington.—In awarding the 1974 Nobel Memorial Prize in Economic Science to Dr. Friedrich A. von Hayek, the Royal Swedish Academy of Sciences has chosen to honor one of the truly great philosophers of individual freedom.

The 75-year-old Hayek received the award along with, Dr. Gunnar Myrdal, a socialist, "for their pioneering work in the theory of money and economic fluctuations and for their pioneering analysis of the interdependence of economic, social and institutional phenomena."

Ironically, Dr. Hayek's 1944 best-seller, "The Road to Serfdom," was rejected by the first three publishing houses approached. Written in England during the war years and designed almost exclusively for English readers, it was, he says, "a warning to the socialist intelligentsia of England."

"What I had thus seen of the origins and evolution of the various totalitarian movements," wrote Dr. Hayek, "made me feel that English public opinion, particularly among my friends who held 'advanced' views on social matters, completely misconceived those movements."

But Dr. Hayek did not misconceive them. And what he wrote is as unerringly accurate and brilliantly incisive as when he first published his thoughts 30 years ago.

Regarding the idea which Italian dictator Mussolini says he and his followers were the first to assert, that is that the more complicated civilization becomes, the more restricted the freedom of the individual must become, Dr. Hayek writes:

"It is a revealing fact that few planners are content to say that central planning is desirable. Most of them affirm that we can no longer choose but are compelled by circumstances beyond our control to substitute planning for competition. The myth is deliberately cultivated that we are embarking on the new course not out of free will but because competition is spontaneously eliminated by technological changes which we can neither reverse nor should wish to prevent.

"This argument is rarely developed at any length—it is one of the assertions taken over by one writer from another until, by mere iteration, it has come to be accepted as an established fact.

"It is, nevertheless, devoid of foundation. The tendency toward monopoly and planning is not the result of any 'objective facts' beyond our control but the product of opinions fostered and propagated for half a century until they have come to dominate all our policy."

Freedom of choice in a competitive society, Dr. Hayek says, rests on the fact that if one person refuses to satisfy our wishes, we can turn to another.

"But if we face a monopolist we are at his mercy," he points out. "And an authority directing the whole economic system would be the most powerful monopolist conceiveable."

Those who argue that we have been far more successful at mastering the forces of nature than we have been in making successful use of the possibilities of social collaboration are quite right as far as they go, says Dr. Hayek.

"But," he cautions, "they are mistaken when they carry the comparison further and argue that we must learn to master the forces of society in the same manner which we have learned to master the forces of nature. This is not only the path to totalitarianism but the path to the destruction of our civilization and a certain way to block future progress.

"Those who demand it show by their very demands that they have not yet comprehended the extent to which the mere preservation of what we have so far achieved depends on the co-ordination of individual efforts by impersonal forces."

In another of his classic works, "The Constitution of Liberty"—published in 1960, Dr. Hayek is most prophetic in his warnings about inflation and the dangers of government manipulation of the money supply.

There are two points which cannot be stressed enough, he says. First, it is certain that the drift toward more and more state control shall not be stopped unless the inflationary trend is stopped and, second, any continued rise in prices is dangerous because once this stimulating effect is relied on, it commits us to a course which leaves no choice but between more inflation, on the one hand, and paying for our mistake by a recession or depression, or both.

"Those who wish to preserve freedom should recognize, however, that inflation is probably the most important single factor in that vicious circle wherein one kind of government action makes more and more government control necessary," writes Hayek.

"For this reason, all those who wish to stop the drift toward increasing government control should concentrate their efforts on monetary policy.

"There is perhaps nothing more disheartening than the fact that there are still so many intelligent and informed people who in most other respects will defend freedom and yet are inducted by the immediate benefits of an expansionist policy to support what, in the long run, must destroy the foundations of a free society."

Mr. Speaker, this Congress and the people we represent would be better served by heeding Hayek's advice.

ECONOMIC CONDITIONS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. FORD. Mr. Speaker, on September 19, 1974, I attended the President's minisummit conference on inflation in Detroit, Mich. The purpose of this and other similar conferences conducted in other cities was supposedly to provide a form for public discussion on the economic disaster which continues to plague this country.

Unfortunately, Mr. Speaker, I was somewhat dismayed to learn that virtually every one of the participants in the Detroit summit conference was a representative of big business. To the best of my knowledge there was only one representative of organized labor in the entire conference. This was not only unfortunate, but it was ironic, since the State of Michigan has one of the largest concentrations of organized labor in the entire country.

Mr. Speaker, the one representative of organized labor who did participate in the conference was Glen E. Watts, president of the Communications Workers of America. Following his participation in the Detroit minisummit, Mr. Watts related his views on the economic conditions in this country in an article which was published in the Communications Workers of America News. He points out that while we do not go so far as to brand the economic "summit" and "minisummits" as nothing more than public relations gimmickry—which some have done—we remain skeptical.

President Ford's so-called economic program no longer leaves me skeptical but deeply dismayed. Unemployment in Detroit alone is at 11.3 percent, while the national average is 6 percent, and is expected to rise to 7 percent early next year. The wholesale price index is up another 2.3 percent, bringing the total rise in wholesale prices to 22.6 percent, the most in any 12-month span since 1947. President Ford's economic program of lapel buttons and home gardens, which is supposed to solve these grim economic realities, is like shooting a grizzly bear with a pop gun.

I would also like to note that Mr. Watts points out that after taxes corporate profits, beginning in 1971, rose 17 percent, 25 percent, and then 26 percent, and are now up 28 percent for the second quarter of 1974.

Mr. Speaker, at this point I would like to insert into the Record the article "We Must Change Course Drastically To Avoid a Full-Scale Depression" by Mr. Glen E. Watts, president of the Communications Workers of America. The text of the article follows:

We Must Change Course Drastically To Avoid A Full-Scale Depression

(By Glenn E. Watts)

In the relief of finally having Watergate behind us, American workers and their unions cannot afford to forget that the new administration will have many of the same characteristics as its predecessor. Policy on economic, social and labor matters will be formulated by many of the same people as before, and by people with similar philosophies.

President Ford himself bears a close resemblance to Nixon on domestic issues, as a look at his House voting record for a quarter century reveals. It is a record which offers little hope for White House support of needed programs to aid the average American and the disadvantaged.

Nor can we be overly optimistic about Ford's prospects for solving the problem he rightly has described as the nation's number one concern—the sorry state of the economy. The President, an avowed economic conservative, has noted that he isn't a Lincoln; we just hope he doesn't prove to be another Hoover.

The fact that the administration is holding a series of conferences to listen to widespread views on the economy is, to a degree, encouraging. However, many of the statements to date by Ford and his economic advisors cause us to fear that he may have made up his mind already to pursue much the same course as Nixon did in this area.

While we would not go so far as to brand the economic "summit" and "mini-summits" as nothing more than public relations gimmickry—which some have done—we remain skeptical. CWA is participating in these conferences, offering our views and suggestions, and we will watch the outcome with great interest.

Clearly, the failed policies of the Nixon era demonstrate that the anti-inflation "remedies" of wage restraint, high interest rates and a general tightening of the money supply are ineffective in today's economy.

This is because the type of inflation we are experiencing today is not the "demand-pull" variety, where consumers pull prices up through lavish spending on goods and services.

Instead, it is "cost-push" inflation. The rising costs of food, fuel and raw materials drive prices up throughout the economy, causing labor to constantly attempt to catch-up. This should be obvious to us by now, for the country has gone through an experiment which has been extremely costly to working people and the poor.

The Nixon "wage-price control" program sharply curtailed wages and salaries for more than two years, while prices and profits were virtually unaffected. After-tax corporate profits, beginning in 1971, rose 17%, 25% and then 26%, and are now up 28% for the second quarter of 1974.

The raging two-digit inflation we have today actually began gathering steam in late 1972, while the economic control program was at its peak.

With this experience, it seems incredible that financial spokesmen from big business actually are contending at the mini-summits that even higher profits are needed to control inflation (the theory being that dependence upon scarce foreign commodities is to blame, and higher profits will mean more development at home).

The bitter medicine of monetary restriction—administered chiefly through raising interest rates to the highest level in a century—has not only failed to control inflation, but appears even to have fueled the price surge. High interest rates in manufacturing are passed on directly to consumers. And the economic slump brought on by tight money depresses productivity rates, which in turn causes higher unit costs and higher prices.

Furthermore, higher and higher interest rates have seriously depressed the homebuilding industry, worsening the housing shortage and sending home costs up to the point where the average worker is priced out of the market. The median sales price for a new home today is up to about $36,000—out of reach for anyone earning less than $20,000 per year.

American workers have paid for this economic bungling through severe loss of buying power, and also with their jobs. The Nixon tight money policy sent unemployment up sharply, from about 3% when he took office to the 5–6% range. Unemployment is presently running about 5.3%—meaning 4.9 million out of work—and is expected to rise to between 6% and 8% by next year because of current slump conditions.

Clearly a drastic change of course is needed to avoid a full scale depression in this country. We must end the restrictive monetary policies of the past few years, bring tax relief to low and moderate income citizens, balanced by the closing of many loopholes for corporations and wealthy individuals; and we must begin attacking the monopolistic business practices and excessive speculation in international commodities which constitute the real root cause of today's inflation.

The Republicans have had a dismal record in dealing with economic matters, dating back to the great crash of 1929. We fervently hope that President Ford can learn from past mistakes and prove the exception to the rule.

LATVIAN INDEPENDENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. GILMAN. Mr. Speaker, November 18 commemorates the 56th anniversary of the Latvian Declaration of Independence. It should serve as a reminder to the world that these approximately 2 million citizens of the Baltic Republic of Latvia are spending another year under Communist oppression.

This small country, comprised of ethnic heritages not only of Latvians, but Russians, Byelorussians, Poles, and Ukrainians, has traditionally been free spirited and independent by nature.

The Russian Emperor, Alexander I, granted these peoples freedom from Russia in the early 19th century. This remarkable pronouncement preceded the abolition of serfdom in Russian by some 40 years and developed strong nationalistic feelings. The idea of political self-rule was then conceived which brought about, among other things, the growth of educational establishments and other civil institutions.

The idea of creating an independent State of Latvia was openly espoused during the Russian Revolution of 1905. However, the dream was not brought to fruition due to the advent of World War I and the German onslaught.

Following the German collapse in 1918, the Latvian national council again proclaimed the independence of Latvia, but that dream was once again destroyed when the Soviet government established the "Latvian Communist Government," creating tensions that led to the 1940 invasion of Latvia by the Red Army and its annexation into the U.S.S.R.

Since that time, collective farming has been imposed upon these proud people who have also suffered, among other things, mass deportations to Soviet Russia.

The United States has not recognized the forcible incorporation of Latvia into the Soviet Union and most western countries have been reticent in granting de jure recognition to that government.

As we recognize Latvian Independence Day, let us remind our Nation and the world to continue to press not only for a free and independent Latvian State, but for the right of self-government for all peoples.

SECURITIES REFORM LEGISLATION

HON. SAMUEL H. YOUNG

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. YOUNG of Illinois. Mr. Speaker, the House will shortly be considering the most comprehensive securities reform legislation in 40 years. This bill—H.R. 5050, the Securities Acts Amendments of 1974—will be the most important legislation affecting our securities markets and the capital raising process in this country to be considered by the House since the Congress passed the first Federal Securities Act in 1933.

Subcommittee Chairman JOHN MOSS correctly summarized the impact of this bill in a speech more than a year and one-half ago when he said:

> The 93rd Congress promises to have more impact on this Nation's securities industry than any Congress since the 73rd Congress enacted the Securities Act of 1933 and the Securities Exchange Act of 1934.

The version of H.R. 5050 to be presented to the House is an improved bill over the original bill which was filed in March 1973. Nonetheless, there are serious ramifications with provisions in the current bill, some of which I intend to speak to by way of amendments which I expect to offer.

Essentially my concern, which I hope will be shared by most Members of this House, is the impact which H.R. 5050 will have on the capital raising mechanism in this country. If we impair that mechanism, and I am concerned that H.R. 5050 in its present form will do just that, we will seriously jeopardize the ability of the private sector to marshall the equity capital needed to fuel our economy over the coming decade. One of our most critical shortages is capital.

A recent study of the New York Stock Exchange projects a $650 billion shortage of investment capital over the next decade—a shortage which threatens our national priorities in housing, energy, mass transportation, and a host of critical areas.

Other Members and committees of the House are looking into the capital shortage problem. However, if we members of the Commerce Committee propose legislation to this House which hobbles the ability of the securities industry to assist in raising needed capital, then I am concerned that we will surely fail in our subsequent efforts to solve the problem.

A crucial provision of H.R. 5050 addresses the basic issue of fixed minimum commission rates versus negotiated rates. The current version of the bill would mandate negotiated rates effective May 1, 1975, with the authority in the Securities and Exchange Commission to continue or reestablish fixed minimum commission rates by rule on a SEC public interest finding until October 1, 1976. After October 1, 1976, the Commission could act only by order, after a hearing on the record and after making a series of difficult findings.

The difficulty with the current provision is twofold: First, it tends to prejudge the issue and mandate the imposition of negotiated commission rates; and, second, it makes it exceedingly difficult, after October 1, 1976, for the Commission to continue fixed minimum commission rates.

The securities industry has been operating under an SEC directed experiment with negotiated rates for portions of orders above $300,000 since April 1972. In my judgment, that experiment has been a failure on at least two counts. First, institutions are dictating lower commissions to securities firms on their orders while public investors are paying higher commissions as brokerage firms attempt to recoup their losses. For example, an institution buying $500,000 of a stock selling for $30 a share pays approximately 50 percent less than it did before they were permitted a volume discount on their orders and rates became negotiated in part. During the same period, an individual investor purchasing $5,000 of the same $30 stock has seen his rates increase by almost 50 percent. In brief, it can well be argued that the small investor is subsidizing the large institutional investor. This is clearly contrary to the public interest and ought not be sanctioned in legislation passed by the House.

As a result of negotiated rates for portions of orders above $300,000, the securities industry has seen its revenue reduced by some $73 million in 1973 at a time when all of the New York Stock Exchange member firms doing business with the public had a combined pretax loss of $49 million.

David J. Harris, chairman of the Chicago Corp., a regional brokerage firm, summed up the situation this way in a recent address:

> Negotiated commission rates reduced our commission income $76,400,000 in 1972 and in 1973 an additional $73,700,000. Now they are pursuing fully negotiated rates which I believe will further erode our profit. . . . Theoretically these things have been in the public interest. Practically I say they are not in the public interest. They weaken our profitability and decrease our ability to service the public.

Second, institutions do not "negotiate" commission rates with brokerage firms, but rather they "dictate" the rate to be charged, usually after the transaction is completed. This situation becomes understandable when one compares the size of the largest institutional investors to the size of the securities industry.

For example, banks, life insurance companies and corporate pension plans respectively have some $807 billion, $252 billion and $122 billion in net worth or a combined total of $1 trillion $181 billion in net worth. All member firms of the New York Stock Exchange had a combined net worth of $3.7 billion as of December 1973.

Consider also the fact that institutions account for 60 percent of all commissions paid to these firms and the conclusion as to the economic dominance and ability to "dictate" the charges to be paid is inescapable.

The problem of "dictated" commissions exists at the present time with partially negotiated commission rates and will obviously become more severe if commission rates become fully negotiable by May 1, 1975.

Historically, the securities industry in the United States has been a "cottage" industry consisting principally of small, local firms scattered around the country servicing local investors and financing local businesses. This situation is also changing with many of these local firms merging with the larger firms headquartered in New York or leaving the business entirely. For example, today we have about 31 fewer brokerage firms headquartered in Chicago than we had 10 years ago. The story is the same in St. Louis, Pittsburgh, Kansas City, Atlanta, Dallas-Fort Worth, Los Angeles, Denver and other communities throughout the country.

David J. Harris of the Chicago Corp. recently summed up this situation succinctly stating:

> Because of the pressures on our business and overall decline of profitability, capital is leaving our business when we will most need it. In the past year total capital in our industry declined 12% and equity capital declined 19%.

H.R. 5050 may accelerate this trend for a number of reasons. For example, the bill currently does not permit broker-dealers to execute transactions for their own firm. In other words, if William Blair & Co. in Chicago wanted to buy 1,000 shares for its own account, it would have to do so through Merrill Lynch or some other firm. As a result, the ability of firms to attract and utilize capital will be severely restricted. An amendment which I will propose will correct this situation and permit such transactions.

A further concern which I have with H.R. 5050 is that it grants exceedingly broad new regulatory authority to the Securities Exchange Commission. In a number of instances, it is arguable that there is no justification for the authority conferred. For example, the SEC is given the unprecedented, extraordinary authority—which it has not requested nor sought—to prohibit stock exchange members from buying or selling stocks on the exchanges. There is no comparable provision in existing law.

Historically, the decision to list securities on an exchange is made by corporate management and consummated in a contractual agreement between the company and the exchange where the securities are to be listed. Like any other contract, the company incurs certain obligations and rights as does the exchange.

For example, let us assume the Grain Belt Breweries, Inc. of Minneapolis has made a decision to list its shares exclusively on the Midwest Stock Exchange. Notwithstanding the decision and the listing agreement between Grain Belt and the Midwest Exchange, the SEC could order that their shares not be traded on the Midwest Stock Exchange but only on the New York Stock Exchange, or the SEC could order that they may not be traded on any stock exchange.

Other provisions of the bill delegate sweeping authority to the Securities and Exchange Commission to create a "national securities market system." The bill does not define what is meant by a "national securities market system" nor did the subcommittee reach any agreement as to what it meant by that term. The bill does provide that such a system would include, "as a minimum," a transactional reporting system, a composite quotation system and rules designed to provide "fair competition between competitors." I think it is clear that the subcommittee did not intend the SEC to exercise this authority in a manner which would weaken or destroy traditional property rights which have been the underpinnings of our securities markets.

Accordingly, I intend to offer the following two amendments to H.R. 5050 on the House floor.

The amendments follow:

AMENDMENT No. 1

On page 132 strike section (p)(1) beginning on line 24 and ending on line 4 page 135 and insert in lieu thereof the following revised (p)(1) so that the revised section would read as follows:

"(p)(1) On and after may 1, 1975, no national securities exchange may fix or impose any schedule or rate of commission, allowance, or discount: except that the Commission at any time, and from time to time, may by rule, after appropriate notice and affording interested persons an opportunity for the oral presentation of views, data, and arguments, in addition to an opportunity to make written submissions, permit a national securities exchange or exchanges to continue, establish, or reestablish a reasonable schedule or rate of commission, allowance, or discount for transactions or portions of transactions on such exchange if the Commission determines that the public interest requires the continuation, establishment, or reestablishment of a reasonable schedule or rate for such transactions or portions of transactions on such exchange or exchanges. The Commission shall promptly transmit a copy of any rule or order adopted pursuant to this subsection to the Congress, together with a statement of the Commission's reasons for adopting such rule or order, and the Commission's recommendations, if any, for legislation concerning the matter of commission rates."

Further amendatory changes to conform with any other sections to be consistent with revised (p)(1) are also adopted.

AMENDMENT No. 2

On page 149 of H.R. 5050 as reported insert the following after line 14:

"(K) any transaction for the account of a member in circumstances where a majority of the beneficial interest in such account is owned by associated persons of such member who are natural persons and are engaged on a full time basis in the business of such member."

LATVIAN INDEPENDENCE

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. SARASIN. Mr. Speaker, tension has long plagued the relationship between the United States and the U.S.S.R., two major powers with conflicting ideological persuasions. Yet, despite the estrangement that has often existed between these two governments, the people of America have never forgotten the individuals in the states of Latvia, Lithuania, and Estonia within the Union of Soviet Socialist Republics.

I think it is fitting that Americans with a history of struggling for independence and self-determination recognize that stubborn spirit of national pride that the Latvians and members of her sister states have preserved over long years of persecution. November 18 marked the 56th anniversary of Latvian independence and I deeply regret that we cannot celebrate the recognization of basic human rights long withheld from our Latvian sisters and brothers and their ultimate right to control their own destiny.

In the United States, citizens of Latvian descent are awaiting the promise of freedom for their relatives in Latvia and I join them in their hopes for the future.

THE CASE OF CHILE

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. HUBER. Mr. Speaker, a great deal has been said about what happened in Chile during the last year. The Communist world has mounted its most intensive propaganda drive since the peak days of Vietnam. Again, as in the case of South Vietnam, the persons opposed to the present Government of Chile want to keep everyone's attention focused on peripheral issues, such as CIA involvement and avoid the basic question as to what would have become of Chile if Allende had continued in office. In this way, these critics deal with Chile in isolation instead of in terms of the world situation. Recently Mr. Anthony Harrigan wrote a column on this matter, which was released to the press on September 27, 1974, giving a broader view of the matter. I commend it to the attention of my colleagues:

THE CASE OF CHILE

(By Anthony Harrigan)

A year after the Marxist regime of Salvador Allende was ousted in Chile, American radiclibs are waging a full-fledged propaganda war against that South American country.

In the Congress, liberal senators are raising a hue and cry about pressures applied by the United States to prevent the transformation of Chile into another Cuba. The immediate target is the Central Intelligence Agency. Actually, Congress would have had reason to be aroused if the CIA had failed to be concerned about the establishment of a communist regime and base on the South American mainland.

One of the major roles of the CIA is to be alert to Communist revolutionary activities around the world. The Allende government was an instrument of Marxist revolution in this hemisphere. Allende imported armed Cuban guerrilla units into Chile to destroy that country's way of life.

It is vital, however, that the people of the United States understand that the overthrow of Allende was the will of the Chilean people who realized that their country was being subverted and its institutions and values destroyed by Marxist revolutionary war from within.

Yet such radiclib writers as Tom Wicker of The New York Times writes of the "indefensible American intervention in the internal affairs of Chile."

There's nothing indefensible about trying to stop communism from expanding its beachhead in this hemisphere—or anywhere, for that matter. Had America intervened fully and openly in Cuba in 1959, the Cuban people today would not be living under a cruel communist tyranny. Indeed, in a wider historical perspective, had the United States, Britain and France intervened more fully in Russia after the Bolsheviks destroyed the democratic Kerensky government, the entire world would have been spared decades of aggression and terror. Had the United States intervened in China in the late 1940's, giving Chiang Kai-shek the weapons he needed to defeat the communists, another appalling terror state would not have come into existence.

Americans radiclibs always have been pro-Castro. It is understandable, therefore, that they were pro-Allende. The Americans who favor revolution in Latin America also favor radical restructuring of American economic and social institutions.

Chile is a special target for the liberal-leftist community in the United States because the Chileans are determined to regain national prosperity through use of the free enterprise system.

Unlike revolutionary regimes hailed by American liberals, the Chilean government has vowed to honor foreign debts and has returned expropriated property to private hands. Not surprisingly, those in the U.S. who want to nationalize American companies aren't happy at witnessing a setback for nationalization elsewhere in this hemisphere.

The Chilean government is encouraging business expansion in the country and seeks fresh capital from the U.S., Europe and Japan. It recognizes that private investment is the key to improve job opportunities and a higher living standard for the people of Chile.

The return of economic freedom to the Chilean nation and rebuilding of an economy shattered by Allende's Marxist experiments are matters of no interest to liberal pundits of *The New York Times* and *Washington Post*. They want to continue and extend their vendetta against the Chilean government that is trying to bring order out of chaos.

It is very clear that the community of radiclib commentators wouldn't be happy with anything less than a return of power of another Allende-type Marxist regime. Thus the propaganda war being waged against Chile is a reflection of the ideological sickness in a key sector of American Society.

CITY OF HOPE HONORS HON. ANTHONY VIVO OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. CARNEY of Ohio. Mr. Speaker, on Wednesday, October 16, 1974, I had the pleasure and privilege of attending a testimonial dinner in tribute to the Honorable Anthony Vivo, Mahoning County Clerk of Courts. My distinguished colleague, the Honorable Wayne L. Hays, U.S. Congressman from the 18th Ohio District, also was in attendance. The City of Hope National Medical Center presented the Spirit of Life Award to Mr. Vivo in recognition of his deep concern for the dignity of his fellow man.

Mr. Speaker, Tony Vivo is a great humanitarian. Able, active, benevolent, brotherly, concerned, congenial, dedicated, determined, efficient, effective, fair, forthright, generous, goodly, honest, and so forth, are a few of the adjectives which describe this wonderful human being. We are most fortunate to have Tony Vivo and his lovely wife and family as members of our community.

Mr. Speaker, I would like to take this opportunity to congratulate Anthony Vivo on receiving the Spirit of Life Award, and to commend him for the many good works he has done. I insert excerpts from the testimonial dinner in the RECORD at this time:

ANTHONY VIVO VISITS CITY OF HOPE

This tribute is in recognition of his life's service to our community and philanthropic interests, which are identified with a wide range of health, youth, education, religious, sports and human relations activities.

He has served, or is serving as president of the Mahoning County Easter Seal Society; director and president of the Mahoning County Society of Crippled Children and Adults; president, Nationality Groups of Mahoning County; chairman of the Senior Citizens Activities for Mahoning County; chairman of the Mahoning County Area Boy Scouts Committee; and serves on the board of such organizations as the Youngstown Society for the Blind, Mahoning County Cancer Society, Mahoning County Council for Retarded Children, International Institute, Volunteer Service Bureau and Multiple Sclerosis Society, to mention only a few. At their recent convention, Tony was elected to the National Board of the National Association of Recorders, Clerks, County Officials. In Cleveland he was recently awarded a lifetime membership in AAU. Pat, Tony and their family of eight children were recently announced as the recipients of the Family of the Year Award to be given by the Youngstown Area Chamber of Commerce.

He is a devoted father, husband, philanthropist and humanitarian and is recognized as a leader of our community.

The Hon. Anthony Vivo Medical Research Fellowship at City of Hope is a tribute through which a Fellow is named who will have the responsibility for specifically referring to the Hon. Anthony Vivo Medical Research Fellowship in all scientific reports at international, national and regional conferences at which he presents his findings and discoveries. The same procedure will be adhered to in the articles published by the Fellow in medical and scientific journals. A permanent bronze plaque attesting to the Hon. Anthony Vivo Medical Research Fellowship will be affixed in the main foyer of the City of Hope.

This evening's testimonial dinner recognizes the numerous contributions he has made to his fellow man. The establishment of the Hon. Anthony Vivo Medical Research Fellowship at the City of Hope symbolizes his hope and belief in the better world of health we all seek for now and the future.

THE CITY OF HOPE STORY

The City of Hope, founded in 1913, occupies 92 landscaped acres and is engaged in patient care, research and medical education in the catastrophic diseases. Its doors are open on a nonsectarian basis to sufferers from cancer and leukemia, chest, blood and heart ailments, and certain maladies of heredity and metabolism. Basic studies are also conducted in these areas (such as diabetes) as well as in genetics and neurosciences. No patient has ever paid one penny for treatment, regardless of extent of expense.

The City of Hope is a national and nonsectarian Pilot Medical Center dedicated to the service of humanity through unsurpassed facilities for free patient care and pioneering programs in research and education in the major catastrophic diseases of our era . . . cancer and leukemia, heart, blood and respiratory afflictions, diabetes, lupus, Huntington's and other maladies of heredity and metabolism . . . and basic studies in genetics and the neurosciences. Its Consultation Service is also available at no cost to doctors and hospitals through the nation, regarding diagnosis and treatment of their patients. Many hundreds of original findings and discoveries have emerged from its staff and laboratories in recent years in its efforts to relieve pain, prolong life and effect cures. As a "think tank" for other hospitals, the City of Hope seeks improvements in the quality, quantity, economy and efficiency in the delivery of health care. To meet accelerating needs, this center of healing and research with an annual operating budget of $21 million, requires an additional $10,005,000 for new buildings, new programs, new facilities, and new equipment. The unique role of the City of Hope is one of seeking to influence medicine and science everywhere. Its impact is universal, qualitative and original—a boon to all mankind.

PROGRAM

Invocation

Mrs. Anthony Vivo.

Dinner

Fred Gronvall, Chairman.

Victor Sperling, Greater Youngstown Executive Council No. 1083.

Hon. Herman P. Starks, Youngstown Councilman, Second District.

Hon. Thomas J. Carney, Jr., Ohio State Representative.

Hon. Charles J. Carney, U.S. Congress, 19th Ohio District.

Hon. Wayne L. Hays, U.S. Congress, 18th Ohio District.

William Kaufman, City of Hope Midwest Director.

Hon. Anthony Vivo, 1974 City of Hope Spirit of Life Recipient.

Sonny Mars, Raconteur.

Benediction

Dr. Sidney M. Berkowitz, Congregation Rodef Sholom.

Music

The Michael Ficocelli String Ensemble.

COMMITTEE

Chairman: Fred L. Gronvall.

President: Victor Sperling.

Vice Presidents: Hon. Anthony Vivo, Al Shipka, and Walter R. Zimmerman, Jr.

SPIRIT OF LIFE AWARD

Presented to: Hon. Anthony Vivo. In recognition of His Deep Concern for the Dignity and Welfare of His Fellow Man, Symbolizing the Aims and Aspirations of the City of Hope—A Pilot Medical Center.

Squaw Creek Country Club, October 16, 1974.

GROUP HEALTH COOPERATIVE OF PUGET SOUND

HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. ADAMS. Mr. Speaker, in the Puget Sound area of Washington State we are fortunate to have a group health program that is successfully demonstrating that group health can be both effective and cost-saving. I am submitting for the RECORD an article that appeared in Today's Farmer outlining the program and the record of the Group Health Cooperative of Puget Sound. I am delighted to see that this fine program is receiving well-deserved national attention and I would suggest that it be carefully reviewed for the lessons it can teach us in the development of national health policy and a national health insurance system.

The article follows:

ONE ROUTE TO BETTER HEALTH AT LOWER COST

(By Art Grimm)

If you are an average American, medical services cost you about $311 in 1973. That's for every man, woman and child in the United States.

On the other hand, had you been lucky enough to belong to Group Health Cooperative of Puget Sound, Seattle, Wash., your medical bill would have been $191. A savings of $120.

Imagine, if you will, what such a savings could mean to the some 210 million people in the U.S. Not to mention the economy as a whole.

At the rate of $311 per person, medical care cost the nation some $65.3 billion in 1973.

However, if each of the nation's 210 million people belonged to a cooperative like Puget Sound, the total bill would have been $40.1 billion.

That's an incredible savings of $25.2 billion.

That'll buy a lot of medicine, even at today's prices. Not to mention food, clothing, gasoline and meat.

Now, before you start counting the money you're going to save by forming another Group Health Cooperative of Puget Sound, wait.

There's nothing like Puget Sound. Anywhere. Plenty of prepaid group health plans, yes, including some good cooperatives like the Washington, D.C., Group Health Plan and the Group Health Plan of Minnesota. There's also Kaiser; but that's not a cooperative and has little consumer-member input.

There are some 200 prepaid group health plans; some cooperative, some not. And they'll all probably do a better job than the average health service system.

But Puget Sound is different, largely because it has dedication. And its own hospital. Most other group health plans, with the exception of Kaiser, do not. No one need tell you the cost of hospital care these days.

Except, of course, at Puget Sound, where the medical system is geared to keeping you out of the hospital, not putting you in "so the insurance will pay for it". Then when you do go to the hospital, Puget Sound keeps the daily cost down, and, more important, gets you out faster.

They do this through a well-planned preventive medical care system based on excellent out-patient care, including nurses to visit you at home. There's also a reassuring 24-hour answering service, with trained nurses on hand to handle your calls, give you advice and get you a doctor if needed.

These, and other factors too numerous to mention, have resulted in hospital cost savings so dramatic as to be almost unbelievable. Per person costs at the Puget Sound hospital were nearly two-thirds LESS than for the nation as a whole in 1973. Or $52 for the year, compared with a national per person average of $155. You might expect a cooperative to be better. But so much better?

Furthermore, these Puget Sound figures are no flash in the pan. Long term figures show the same pattern in cooperative costs vs. the nation as a whole. Back in 1967, total medical care (including hospital costs) amounted to $112 per person at Puget Sound, compared with a national average of $168. That's a difference of $56. By 1970, Puget Sound costs were $90 less than for the rest of U.S. In 1971, the difference was $98. In 1972, $112.

Now. What if you had been paying the actual national average for medical care for the seven years from 1967–1973. You'd have shelled out $1,652. How about Puget Sound? $1,039. A savings over the years of $613.

How about all of us in the Nation? How much would we have saved had we all belonged to a cooperative like Puget Sound? More than $100-billion!

As you might imagine, the word about Group Health Cooperative of Puget Sound has gotten around. Especially in Seattle. And it has attracted members to the cooperative like fleas to a dog.

So much so, in fact, that the cooperative has had to stop enrolling new members. Among exceptions, however, are babies born into the families of the some 190,000 Puget Sound members. Last year these new members alone amounted to 2,400. Since there were only 393 deaths among the cooperative members, the net increase was substantial.

To handle these, and other new members, the cooperative is now adding $16-million in facilities and recruiting new staff people. Included, by the way, is a new hospital.

But there's one more thing in Puget Sound's favor, something most cooperatives would like more of. Members are exceedingly active and kept that way by a good communications effort, including a bi-monthly magazine. Also a major factor, say observers of Puget Sound is its director, Doctor H. F. Newman. He puts it this way: "If there is a single aspect of Group Health Cooperative of Puget Sound that differentiates it from most other major health organizations in the United States, it is the grass roots level of consumer participation in the operation of the cooperative. It is our greatest strength and has resulted in our program becoming a model for the nation in consumer participation".

VIRGIN ISLANDS LEGISLATURE HONORS BIL LAMOTTA

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. DE LUGO. Mr. Speaker, I am inserting in the RECORD, Resolution No. 720 of the 10th Legislature of the Virgin Islands honoring Wilbur "Bill" LaMotta, musician, composer, song writer, and arranger. Born in Christiansted, St. Croix, Bill LaMotta is largely responsible for the original introduction of Caribbean folk music to the American public, and has devoted his unique talents to the accomplishment of elevating West Indian folk music to a classical art form. This distinguished Virgin Islander has contributed enormously to the cultural life of his native islands as well as the entire Caribbean region, and it is indeed fiting that the 10th Legislature has honored him.

The resolution follows:

RESOLUTION NO. 720—TO HONOR AND TO CONGRATULATE WILBUR "BILL" LAMOTTA, MUSICIAN, COMPOSER, SONG WRITER AND ARRANGER

Whereas Wilbur (Bill) LaMotta was born in the town of Christiansted on the Island of St. Croix, on January 13, 1919; and

Whereas Bill LaMotta, whose parents were both musicians, acquired an active interest in music at the age of five years, and was presented with his first clarinet before he reached the age of seven years; and

Whereas by age eleven, Bill LaMotta had become an accomplished clarinet player and played for local concerts and at various church musicales, where he also became substitute organist; and

Whereas then Governor, Paul M. Pearson, was so impressed with the virtuosity of Bill LaMotta on the clarinet that the Governor took an active part in helping him obtain his first piano, another instrument on which he had become accomplished; and

Whereas Bill LaMotta proceeded to launch a musical career which included not only accomplished performance with musical instruments but with musical composition, arranging and lyric writing; and

Whereas at the age of seventeen Bill LaMotta was thrilled when his song "Headin' For Home" was accepted and published by a New York publisher and subsequently recorded by several well known artists; and

Whereas Bill LaMotta applied for and was granted admission to the Juilliard School of Music; and

Whereas Bill LaMotta's musical career was launched into full swing when he and his five brothers journeyed to the states and, as the LaMotta Brothers, appeared on several major television programs and had their own radio show on one of New York's most popular radio stations; and

Whereas Bill LaMotta is largely responsible for the initial introduction of Caribbean folk music to the American public at large with the release of an entire album for RCA devoted to Caribbean folk music, including "Voodoo Woman", "Breakfast In A Flying Saucer", "Alfredo Boy" and "Island Girl Audrey"; and

Whereas Bill LaMotta returned to the Virgin Islands in the year 1959 and continued his active and diversified career in music, owning and operating, with his wife, two music oriented businesses ("The Music Man" and "The Guitar Lady"), and composing and arranging one popular song after another, including the extremely popular "Come Back To The Virgin Islands"; and

Whereas Bill LaMotta composed the tune and wrote the lyrics for "Let's Tramp Together", which was played by all bands participating in the recent and altogether successful tramp down Main Street on St. Thomas; and

Whereas the Department of Conservation and Cultural Affairs publicly honored Wilbur "Bill" LaMotta in January, 1974, through concerts held in St. Thomas, St. John and St. Croix, by the Hampton Institute Symphony Orchestra, of which Bill LaMotta is an alumni; and

Whereas Bill LaMotta has dedicated his rare talents over the years to the accomplishment of elevating West Indian folk music to a classical art form, and has composed several widely accepted and acclaimed symphonic renditions in furtherance of that goal, including "The Last Bamboula", "Dawn From A Window In Paradise" and "West Indian Portrait"; and

Whereas it is the will of this body that the outstanding achievements and tremendous success of this talented musical artist and Virgin Islander be recognized through the medium of this Resolution; Now, Therefore, be it

Resolved by the Legislature of the Virgin Islands:

Section 1. That Wilbur (Bill) LaMotta is hereby honored and congratulated for his outstanding achievements in the field of music, for utilizing his musical genius to the immeasurable enrichment of the Virgin Islands and Virgin Islanders, and for his unparalleled contribution not only to the creation but to the dissemination of West Indian music and musical culture throughout the world.

Section 2. That the Legislature, on its own behalf and on behalf of the people of the Virgin Islands, extends best wishes to Bill LaMotta in the continued pursuit of excellence in the world of music which has already been so greatly enriched through his contributions.

Section 3. That a perma plaque copy of this Resolution shall be prepared and presented to Bill LaMotta by the President of the Legislature or his designee at an appropriate ceremony held for that purpose.

Thus passed by the Legislature of the Virgin Islands on September 18, 1974.

SAKHAROV'S FRIEND CANNOT FIND WORK

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. FRASER. Mr. Speaker, one of the most insidious devices used by the Soviet Government against Soviet Jews who applied for exit visas was the dismissal of the applicant from his or her job shortly after the visa application was initiated. Since permission to leave was always slow in coming, at best, the applicant faced a long uncertain period of economic hardship.

According to a Sunday, October 17 New York Times story written by Hedrick Smith, the Soviet authorities are not loath to use this tactic against any person who is brave enough to speak out. Valentin F. Turchin, the subject of Smith's article, is now suffering because he defended Andrei D. Sakharov. His reward was demotion, then dismissal.

Cases such as that of Turchin do not encourage those of us who want a genuine détente with the Soviet Union. Turchin is not a radical nor a revolutionary. But in the Soviet system even criticism by moderates is punished.

The article follows:

SAKHAROV'S FRIEND CANNOT FIND WORK: TURCHIN, A PHYSICIST, IS HELD POLITICALLY UNRELIABLE

(By Hedrick Smith)

Moscow, November 16.—Valentin F. Turchin is a physicist and mathematician who has worked in prestigious Soviet scientific institutes. But today he sits at home without work because he has "a wolf's ticket," which means he is politically unemployable.

Just over a year ago, at the peak of the press campaign against the physicist Andrei D. Sakharov, Mr. Turchin was one of a handful of people who dared to defend Mr. Sakharov.

Reprisals were not long in coming. Within days, the Communist party cell at the Central Research Institute for Automatic Systems in the Building Industry organized a meeting of the staff at which Mr. Turchin and Aleksandr Gorlov, a friend of the writer Aleksandr I. Solzhenitsyn, were denounced by a string of speakers. Mr. Turchin was demoted from chief of laboratory to the post of senior research associate, with a cut in pay.

In March, Mr. Gorlov was dismissed. In July, Mr. Turchin was dismissed. His immediate superiors had praised his scientific work for which he was widely respected but under "social behavior" in his institute record, Mr. Turchin was given bad marks.

EMPLOYMENT RULED OUT

That is the "wolf's ticket," something more damaging than a bad-conduct discharge from the American armed forces because in the Soviet scheme of things any prospective employer will find out about it.

Since July, Mr. Turchin, who is 43 and has a wife and two sons, has managed only a few brief odd jobs as a hod carrier. His wife, who is a mathematician, has supported the family.

Recently, Mr. Turchin made contact with another institute and found scientists interested in his past work and eager to take him on. But when they contacted his former institute, they learned about his "wolf's ticket."

"Of course, they said they would like some promise that I would not make similar statements in the future," said the soft-spoken scientist. "I told them I could not make such a categorical promise because I did not know what would happen.

"And they very politely began to explain that the situation was complicated. The institute director, they said, was very ambitious and wanted to advance and the same applied to the department head. So they felt they had better think it over. I agreed. They have been thinking for some weeks now and I think nothing will come of it."

SUPPORT FOR DISSIDENTS

Mr. Turchin's dissent dates back six years when, with hundreds of other scientists, and other liberal intellectuals, he signed letters protesting against the trials of dissidents.

In the crackdown of 1968 that preceded and accompanied the Soviet-led invasion of Czechoslovakia, some of the signers were expelled from the party or lost their jobs as examples to others.

Mr. Turchin circulated an unofficial leaflet titled "Inertia of Fear" after the invasion of Czechoslovakia. In 1970, he joined with Mr. Sakharov and Roy A. Medvedev in addressing a 4,000-word appeal to the Soviet leadership, proposing liberal reforms.

While he was making these protests, his career was slowly being altered. He had been graduated from Moscow University as a theoretical nuclear physicist in 1953 and had worked for a decade at the Physics-Energetics Institute at Obninsk, an atomic research center about 80 miles southwest of Moscow.

In 1964, still on the rise, he was transferred to the Institute of Higher Mathematics headed by Mstislav V. Keldych, president of the Academy of Sciences. Mr. Turchin visited Hungary in 1961 and Yugoslavia in 1967.

But by 1973, with his dissent known at the institute, he was no longer allowed to travel abroad and discretion prompted him to shift to work in systems control at the Building Institute, where he was made head of a laboratory. Then came his defense of Mr. Sakharov.

"It is better for him to sit at home than sit in jail," remarked a friend. "But still its miserable. No one knows how long it will go on. Turchin himself does not know what to do, and that is enough of an example for others."

JOHN RHODES AN ABLE LEADER

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. STEIGER of Arizona. Mr. Speaker, I would like to call to my colleagues attenion a recent article which appeared in the Arizona Republic. In my view, Mr. Ben Cole, its author, fairly and accurately relates the role that our distinguished minority leader has played during the past year. Also, I cannot fault the projections he has made for the future—particularly his prediction that Mr. Rhodes will withstand any challenge that might be generated to unseat him as minority leader. Mr. Cole's article follows:

[From the Arizona Republic, Nov. 10, 1974]

Rhodes Faces Test of Party Leadership

(By Ben Cole)

Washington.—It isn't likely that young liberals such as Rep. Peter Peyser, R-N.Y., will unseat House Minority Leader John J. Rhodes, R-Ariz.

But Peyser's predictable press conference last week, where he called for Rhodes' replacement, is indication of the type of leadership problems that will confront Rhodes in the 94th Congress.

It has been observed with heavy emphasis, particularly in the Eastern press, that the Republicans who survived the Tuesday debacle were primarily moderates-to-liberals.

In South Dakota, for example, Larry Pressler, 32, was one of only four Republicans to defeat an incumbent Democratic congressman. Pressler's campaign was liberal. He called for President Nixon's impeachment (despite having worked for Henry Kissinger), and he criticized President Ford's pardoning of Nixon. As he put it himself, he ran an "idealistic" campaign.

Rhodes has been aware of mounting pressure from the liberal wing of his party working through the agony of Watergate and into the present inflation-recession situation.

As early as May, Rhodes daringly suggested resignation might be an option Nixon would have to consider. The reaction from within his party was vocal. Even in his own district Rhodes was criticized for what now sounds like a rather modest statement.

Rhodes survived the landslide that wiped out so many of his troops. He survived despite a challenge from a third party candidate who surely drained away some conservative voters who might have voted for Rhodes.

Fortunately, Rhodes will return to Washington to preside over his minority through the balance of the lame duck session. His presence will give his colleagues an opportunity to refresh their memories about the style Rhodes employs in leading them.

For one thing, no party has had a more considerate leader. Rhodes never deals heavily with his fellow Republicans. He respects them as individuals who are capable of thinking out their own problems.

In the wild days of presidential transition, Rhodes preserved an amazing calm. He stuck his neck out for his colleagues by refusing until the last moment to commit himself either for or against impeachment of Nixon. For his own good, Rhodes might have quickly taken a stand against removing the President—a position that would have been popular with his own constituency at the time.

Rhodes quickly took a position against Nixon as soon as Nixon revealed his part in the Watergate cover-up. Rhodes did not, thereby, improve his position at home. He did, however, provide a safe harbor for his Republican colleagues who could refer their leader's position as their own.

A party leader enjoys prestige and a limousine. He pays for it through extra work, sleepless nights, endless travel and ingratitude from his fellow partisans and from his constituents.

As a congressional politician, Rhodes is able and deft. He had the minority leadership cinched a year ago, almost before his predecessor, Gerald Ford, had reached the White House East Room to be named Vice President-designate.

By the time Republicans confer next January to select their leaders, Rhodes' position among his fellow Republicans will be sturdy enough to withstand a challenge from Peyser or anyone else.

But the next two years will confront Rhodes with his most severe test. He will be leading Republicans who may not always want to go where he is headed, and he will be working against the biggest Democratic majority in Congress since the days of Franklin Roosevelt.

Keeping his constituency in the House of Representatives, and at the same time maintaining his position with the constituents who sent him here will be a tough job for Rhodes.

It could be asking too much of the congressmen-constituents of his House leadership to understand his problems. And his constituents at home will never appreciate the subtleties of his actions and the value of his leadership position.

Late House Speaker Sam Rayburn enjoyed a "safe" district in Texas that reelected him endlessly, without worry. Former Speaker John McCormack of Massachusetts and the late former Speaker Joe Martin, also of Massachusetts, both enjoyed unbreakable tenure to the last. And Speaker Carl Albert of Oklahoma is the undisputed longevity champion from his state.

As John Rhodes fights his party's battles on the House floor and keeps a worried eye on his constituency at home, he will have reason to envy these former speakers.

THE FREEDOM OF INFORMATION ACT

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. CHARLES WILSON of Texas. Mr. Speaker, Gerald Ford began his administration with a promise of openness and candor, yet yesterday the House was forced to override his veto of a bill designed to shine light into the dark corners of Government secrecy.

The Freedom of Information Act generated an enormous and spontaneous outpouring of support from concerned individuals, consumer groups, and countless other organizations. Of all the supporters, however, the Nation's newspapers have been the most vocal and the most eloquent in their defense of the act. Newspapers—our daily embodiment of the first amendment—almost unversally condemned the President's veto, just as I am sure they will applaud the House and Senate for rejecting it.

The Palestine Herald-Press, one of the most widely read east Texas dailies, carried an excellent editorial on the subject on October 30, which I submit now for reprinting in the Record.

The Senate is considering the veto at this very moment—the issues dealt with in the Herald-Press are sure to be at the heart of the debate:

[From the Palestine (Tex.) Herald-Press, Oct. 30, 1974]

Protecting Public's Right to Know

Mr. John Q. Citizen has been "had" again.

Veto by President Gerald Ford of H.R. 12471, Freedom of Information Act Amendments, means the White House is still giving the FBI, the CIA, the Department of Justice, and the fears of every card-carrying document-classifier in the Federal government the benefit of the doubt over citizens who pay the bills to keep this gigantic establishment in business.

The House and Senate had agreed to these amendments to the Freedom of Information Act and their compromise passed the House with only two dissenting votes, the Senate unanimously only to be vetoed by the man who had promised an "open administration."

Here are some of the improvements in the Freedom of Information Act which were torpedoed by the Presidential veto:

Fees for searching and copying public records would be limited to the government's actual costs and the information would be provided free of charge to the press.

Courts could require government agencies which lose Freedom of Information cases to pay reasonable attorney fees and court costs.

Government agencies which have been withholding investigative files even after an investigation is completed could continue to withhold information only if disclosure actually would interfere with an investigation or trial.

Courts could direct the Civil Service Commission to hold hearings to determine the punishment of the government employee responsible for "arbitrary and capricious" withholding.

Persons seeking public records would need to "reasonably describe" the information they sought instead of providing detailed descriptions.

An entire government file could not be withheld if part of the file could be reasonably segregated and made public.

All present and future government-controlled corporations, such as the Postal Service, would be covered by the Freedom of Information Law.

Each government agency would have to file an annual report with Congress on its stewardship of the Freedom of Information Law, including the identity of each government employee responsible for each denial.

It is difficult to understand why any reasonable person could object to these amendments and if we don't stand up for our rights to "open government" we will see these rights eroded away day by day.

If you feel President Ford's veto should be overridden, write Sen. John Tower, 142 Old Senate Office Building, Sen. Lloyd Bentsen, 420 Old Senate Office Building and Rep. Charles Wilson, 1209 Longworth Building, all in Washington, D.C. 20510.

The Herald-Press feels strongly the veto should be decisively overridden.

WORLD FOOD DEBACLE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. ASHBROOK. Mr. Speaker, the United Nations World Food Conference has finally come to an end. The proceedings of this meeting can only be described as disgusting.

Rather than effectively dealing with the problem of hunger, the world delegates spent most of their time denouncing the United States. In speech after speech—especially those of the Communist and third world nations—the delegates assailed the United States as somehow being the chief culprit for their difficulties.

The Conference quickly turned into a hate-America session as delegate after delegate charged that the United States is to blame for the food shortages. And their solution? Americans simply must eat less and give away more.

It is extremely ironic that the United States was subjected to such criticism. We are by far the largest donor of food to the needy countries of the world. It is estimated that the United States has contributed 46 percent of all food aid developing nations have received since 1962. America has always been more than generous when it comes to lending a helping hand.

It was also evident at the Conference that our policy of détente with the Soviet Union and Red China means very little. The Communists used the meeting as a forum to launch verbal assaults against the United States. Whenever possible, the Communists tried to foster anti-American sentiment among the third world nations.

As well as waging a propaganda war, the Soviet Union displayed an incredible lack of cooperation. Take, for example, the question of allocating food reserves. Almost everyone agreed that it is necessary to anticipate where food shortages may occur in order to allocate reserves in a rational manner. The Soviets balked at this idea, however, and angrily denounced the proposal to establish a worldwide information system on food import needs. Such information is a matter of "strategic importance," the Soviets asserted, and would be used by "profitmaking corporations" against the U.S.S.R. Since the Soviet Union has recently been the foremost world importer of grain, cooperation of the Soviets is essential for any meaningful information system.

The irresponsible conduct of the world delegates was sharply criticized by Harold B. Steele, president of the Illinois Farm Bureau. After leaving the Conference, Steele charged that a group of developing and underdeveloped nations were trying to seize control. Delegates from these nations, Steele said, have made three claims, starting with "the whole world has a right to the world's supply of food—no strings attached."

I am sure that Steele spoke for many Americans when he stated—

> As a farmer, I'm bothered when someone, some group, or even some nation, tells me he has a right to what I've produced without worrying about paying for it. Farmers are willing—even anxious—to do our fair share to feed the world's hungry. But farmers aren't willing to give up all they've got to someone else and destroy their own chances to make a living.

The heavy anti-American sentiment coupled with the lack of cooperation displayed by the world delegates makes me question our entire food aid program. These nations are ungrateful no matter what we do to help them. I think we should seriously consider giving away less rather than more of our valuable food supplies. Let us look to America's needs and interests first rather than squandering our resources over the entire globe.

GLENSIDE WOMAN'S WORK RESULTS IN FREEDOM FOR SIMAS KUDIRKA

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. COUGHLIN. Mr. Speaker, I am sure my colleagues who were active in efforts to free Simas Kudirka from Soviet prison will be interested in this column on Mrs. Ausra Zerr, of Glenside, Pa., a constituent of mine.

Mrs. Zerr, a leader in Lithuanian-American groups, is herself a refugee from Lithuania which is held in the iron grip of the Soviet bloc. She helped generate the nationwide publicity and governmental interest in the case of Kudirka who was forcibly removed from a U.S. Coast Guard vessel by seamen from a Russian trawler some 4 years ago when he tried to escape to freedom.

That one person's individual endeavors can have a profound effect is illustrated by Mrs. Zerr's actions. This account of Mrs. Zerr's role was written by Harold J. Wiegand, contributing editor of the Philadelphia Inquirer and published in its November 20, 1974, edition.

The article follows:

THE KUDIRKA CASE: A HOUSEWIFE CHALLENGED A NATION

(By Harold J. Wiegand)

It had its beginning four years ago in the waters off Martha's Vineyard, moved to a Soviet prison camp, and had a happy ending just a few days ago on a farm in North Jersey.

It is the story of Simas Kudirka, a Lithuanian seaman who jumped from a Russian trawler on Nov. 23, 1970; was denied asylum on a U.S. Coast Guard cutter; was beaten, dragged back to his ship, and returned in chains to Moscow. There he was convicted of treason and sentenced to 10 years in a labor camp.

It became a Philadelphia Story when the Lithuanian community here, outraged by the Coast Guard's refusal of sanctuary, took up Kudirka's cause. A militant leader in the struggle to help the seaman was a Glenside housewife, Ausra Zerr. She is vice president of the national executive committee of the Lithuanian-American Community of the USA, Inc., which has its headquarters in this city.

She is a refugee from Communist-controlled Lithuania. At the age of 12 she had been smuggled out of the country on a coal cargo ship. So she has an ingrown sympathy for human beings seeking freedom.

Mrs. Zerr went to Washington, along with like-minded Philadelphians like Joseph Gaila, Rimos Chesonis and Anthony Novasitis. They bombarded the State Department with arguments and pleadings. They were not satisfied with the forced retirement of the two Coast Guard officers responsible for the incident at Martha's vineyard.

They wanted help for Kudirka and his family. They received assistance from Sen. Hugh Scott and Rep. Robert Hanrahan of Illinois. They interested the Lithuanian-language press in the case, and newspapers in Chicago, Cleveland and New York pressured the government for action.

Suddenly, by an almost incredible stroke of fortune, they hit the jackpot. It was discovered that Kudirka's mother had been born in Brooklyn, and had been taken to Lithuania when she was six-years-old. Verification was found in the baptismal records of the Church of St. Mary of the Angels in the Williamsburg section.

The new evidence changed the picture completely. It meant that Kudirka's mother is an American citizen, with all the rights that go with it—and so is Kudirka. It gave the State Department, the U. S. Embassy in Moscow and the news media something new and significant to work with.

The results were rapid and startling. Perhaps they would have been different before today's atmosphere of detente, when requests for the seaman's release might have been rejected out of hand.

But at this particular time, U.S. citizen Kudirka was in luck. His release from prison and exit visas for him and his family were approved by the Soviet Parliament.

On Nov. 5 he walked from a plane at New York's Kennedy Airport with his Brooklyn-born mother, Marija; his wife Genovaite, his son Evaldos, and his daughter Lolita. Ausra Zerr was there to meet him for the first time, and to welcome him to a land where, as he told her, "Nowhere do I see towers and border patrols."

Free at last, Simas Kudirka has found safe haven on a farm belonging to old friends of the family, near Locust, N. J.

He has no intention, however, of becoming a farmer. He wants to repay his rescuers by devoting himself to helping other dissidents get out of the Communist prison the Soviets have made of his homeland.

That is just fine with Ausra Zerr.

IN SUPPORT OF REEXAMINING UNITED STATES-LATIN AMERICA RELATIONS

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. WHALEN. Mr. Speaker, in the November 9 issue of Business Week, John Pearson wrote a most insightful commentary on the economic and political atmosphere which has developed in Latin America. Then, in discussing the report of the Commission on U.S.-Latin American Relations, Mr. Pearson joins in urging a reexamination of the basic assumptions of U.S. policy in that area. I concur in the great need for a reassessment, and I urge my colleagues to read his comments at their earliest convenience.

The article follows:

LATIN AMERICA CAN STAND ON ITS OWN

(By John Pearson)

A profound change is under way in relations between the industrial nations and the developing world, a disparate group of about 100 countries that encompasses three-fourths of mankind. The abrupt oil price boost that is siphoning $100-billion annually from the pockets of consumers to a cartel of oil producers is only one sign that a new order is emerging. Less dramatic but probably more important in the long run is the transformation of relations between the U.S. and Latin America in recent years.

Some of the biggest Latin nations, led by Brazil and Mexico, have reached the "takeoff" point of sustained economic growth, with annual increases in real output of goods and services ranging up to 11%. Unlike the commodity booms of earlier years, the current prosperity is based increasingly on manufacturing and is financed largely by local capital. At the same time, Latin America has been rapidly diversifying its markets, its foreign suppliers, and its sources of outside investment, with West Europeans, Japanese, and others playing a larger role. As a result, although the U.S. is still the biggest single customer and supplier for many Latin countries, its economic influence in the region is no longer so overwhelming as it once was.

Politically, Latin countries are evolving their own diverse forms of government, ranging from a free-wheeling multiparty system in Venezuela and a single-party regime in Mexico to a left-wing military junta in Peru and a right-wing junta in Chile.

Almost everywhere, governments are playing an ever-larger role in Latin economies. The scene bears no more resemblance than did the old-style Latin military dictatorships to the model of representative democracy and free enterprise that the U.S. once held up as an example to Latin America.

In relations between countries, the old U.S.-Latin polarization is being replaced more and more by political and economic alignments that reflect the interplay of common interests and rivalries among Latin countries themselves rather than U.S. leadership.

AN UPDATED APPROACH

All this is a far cry from the situation not so long ago, when the U.S. could still regard the rest of the hemisphere as its own back yard. The hegemony that the U.S. proclaimed with the Monroe Doctrine, the paternalism of the Good Neighbor policy, and the U.S.-led Alliance for Progress—conceived partly as a Cold War strategy of defense against Communist penetration in the hemisphere—are all outmoded.

Yet U.S. policies toward Latin America in many ways still reflect the old idea—always part fiction but now wholly unreal—of a cohesive hemispheric bloc working toward common goals under the benevolent leadership of the Colossus of the North.

An updated policy framework that is more in accord with the new realities, together with a series of fresh approaches to specific problems ranging from relations with Cuba to U.S. investment in Latin America, has been proposed in a report delivered to President Ford last week by the Commission on U.S.-Latin American Relations, a private group headed by Sol M. Linowitz, former chairman of Xerox Corp. and former Ambassador to the Organization of American States.

Politically, the commission calls for a more rational U.S. approach to Latin America that is "tolerant of a wide range of political and economic forms" in the region. Moreover, now that detente has replaced the Cold War and fears of Communist takeovers in the hemisphere have largely subsided, U.S. policies should be "concerned less with security in the narrow military sense than with shared interests and values that would be advanced by mutually satisfactory political and economic relations."

What gives the report a spark of originality that is not often found in studies by such groups, is its fresh look at one of the basic assumptions of U.S. thinking about Latin America for 150 years—the notion of a "special relationship." This concept has given rise to endless misunderstandings and resentments, even when the U.S. has applied it with benevolent intent. An example cited by the report is the restrictions on sales of advanced weapons such as jet aircraft to Latin America, aimed at heading off an arms race in the region. The policy has not hindered arms purchases by Latin countries, which have turned to France and other suppliers instead, but the discrimination has needlessly irritated Latin governments.

The commission proposes abandoning the idea that the U.S. should have "special" policies toward the countries to the south. Instead, it argues, the U.S. approach toward the region should be an integral part of a broader pattern of U.S. relations with other industrial countries on the one hand and with developing nations on the other.

Such a reexamination of basic assumptions is long overdue because the disparity between the rhetoric and substance of the special relationship has often embittered inter-American relations. The U.S. has stressed close economic ties with Latin America, for example, and thus has raised Latin hopes for special advantages in trade with the U.S. But such hopes were disappointed because the U.S. has pursued the larger and incompatible goal of an open, nondiscriminatory world trading system.

Economic issues such as these are increasingly important in relations between the U.S. and Latin America, but the study points out that the problems are not peculiar to this hemisphere. The main issues, in fact, are the same as those between other industrial and developing countries: access to markets and resources, capital flows, and the transfer of technology. Instead of a strictly hemispheric approach to such problems, the commission quite reasonably calls for economic policies that support "more efficient and equitable" global arrangements. Among other things, it urges action on the unfulfilled U.S. pledge to lower tariffs—as Europe and Japan have done—on manufactured goods from developing countries. Such concessions would apply equally to products of all developing nations, but Latin America would be a major beneficiary because of its close trading ties with the U.S.

A GLOBAL APPROACH

Some U.S. policies affecting business relations actually have been aimed mainly at Latin America even though they are phrased in broad terms, the commission observes. Examples are the retaliatory sanctions that automatically cut off aid to countries involved in unsettled expropriation disputes with the U.S. While recognizing that U.S. companies are entitled to protection of their rights under international law, the report argues that automatic sanctions usually makes a settlement more difficult by creating political confrontations between the U.S. and Latin governments. The commission urges repeal of the legislative sanctions so that the U.S. government would have greater flexibility in negotiations.

Ironically, controversy over expropriations may be a waning issue because most of the main targets in politically sensitive activities such as mining and utilities have already been taken over. The biggest U.S. investments of all—the oil-producing operations in Venezuela—are scheduled for nationalization next year, and oil companies appear resigned to the prospect. Manufacturing operations, which account for a rising share of U.S. investment in Latin America, are less vulnerable to takeovers, and U.S. companies are increasingly moving toward joint ventures with local investors to reduce their exposure.

But a new and emotional issue is beginning to create problems for U.S. investors south of the border: the growing complaint by Latin Americans that they are paying too much for the technology they get through direct investments and licensing agreements and that foreign investments are hedged with restrictions such as export curbs imposed by the parent company. What is at stake, basically, is how the benefits of multinationalism will be apportioned. And it is plain that the Latin American nations intend to claim a larger share through a variety of investment rules.

But none of this should distort the central reality of U.S.-Latin American relations: that the continent is still the most attractive target of any developing area for U.S. investment. For U.S. businessmen, the region, which already has the biggest concentration of U.S. investment of any developing area, is likely to become even more important in the future because of its industrial boom, its natural resources, and its rapidly expanding population.

INFLATION'S CAUSE AND CURE

HON. DONALD D. CLANCY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. CLANCY. Mr. Speaker, much has been said about the causes of inflation which is injuring the world, this Nation, and the people so badly today.

We should listen to economy experts, not those who talk in theoretical terms, but those who have trained, worked and achieved success in the monetary world. We should pay heed to their admonitions and apply the solutions they recommend.

One such expert is Howard Morgens, chairman of the executive committee of the Procter & Gamble Co. in Cincinnati, Ohio. Mr. Morgens recently spoke about the causes and curse of inflation over radio station WLW. Following are excerpts from Mr. Morgens' address:

The fundamental cause of our inflation is that the supply of money in this country has been increased at a much faster rate than the supply of goods and services which that money will buy. In the past 10 years—from 1963 to 1973—our total money supply has been increased about 120 percent, whereas the goods and services that this Nation produces have increased only about 50 percent.

The money supply had to be increased to an excessive degree in order to provide for the government's deficit spending and for its many credit-guarantee programs. This was the only way that this spending and these credit programs could be accommodated. Clearly, our government has been trying to accomplish too much too fast. When this happens, instead of government programs helping people, they end up hurting people through inflation.

Our inflation will not go away until the supply of money can be made to move forward over a period of time at approximately the same rate as our capacity to produce goods and services. And that can't be achieved without balanced budgets and sound fiscal policies.

If our government can control its spending, it will set an example for other countries to follow. If it can't, our inflation will feed on itself and could eventually destroy our free society.

Many have expressed the view that if we try to correct the inflation too quickly, we can bring about a real depression. However, if we move too gradually to curb inflation, we may not succeed at all.

The process of curing inflation will not be pleasant. It can be more difficult for some part of our society than for others so we must endeavor to spread any hardship as evenly as possible. The danger is that our government will become so bogged down on the question of how to spread the sacrifice equally that nothing adequate will happen. However unpleasant the cure may be, it will not be as painful—or as inequitable—as the continued inflation.

A GREEK TRAGEDY IN MODERN IDIOM

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. HUBER. Mr. Speaker, Mr. Oliver Prescott, Jr., South Dartmouth, Mass., in a letter to the editor of the Standard Times of New Bedford, Mass., expressed very well the tragedy of what happened to former President Nixon. He likened the whole affair to a Greek tragedy and I feel it is worthwhile reading. The letter follows:

A GREEK TRAGEDY IN MODERN IDIOM

To the EDITOR of the Standard Times (New Bedford, Mass.)

The central figure of a classic Greek tragedy is a man of vast energy, great ability, towering ambition, visions of leadership, and the acknowledged head of state. Suddenly he finds himself in a situation where he has defied and flouted the community he has led. He must be and he is destroyed—so that his community can cleanse its soul.

In the Greek play, his downfall is brought about by a strange and unforeseeable concatenation of circumstances that makes the modern reader irritable and impatient.

But is there a real difference between a situation brought about by the dirty tricks of the Greek gods of Olympus and a situation brought about by an inherent, fatal strain of isolated blindness implanted in a man by an equally strange freak of fortune? The tragedy remains the same—disillusion, loss of leadership, and the waste and destruction of great powers and potentialities.

Throughout this Greek tragedy there runs a constant thread—an acknowledgment of fate, a strong feeling of mourning, and a deep sense of fundamental needs of the Republic.

Those whose vindictiveness against Richard Nixon still burns had better search their own souls for seas of personal frustrations and bitterness, and rebellion against their own lots in life.

Those who shed easy tears of sentimentality over the poor man's fate, had better pull up and realize that they are on the very slippery ground indicated by the famous phrase: "Tout comprendre; c'est tout pardonner."

Perhaps the simplest and the soundest immediate reaction is the vivid picture of the President-to-be, standing on his suburban lawn in the rain, with tears in his eyes, quietly making the only graceful remark possible under the appalling circumstances.

When the tumult and the shouting has died and our own great tragedy has settled into perspective, we will come to feel, like the citizens of ancient Athens, memories of agony and of catharsis.

OLIVER PRESCOTT, Jr.,
South Dartmouth, Mass.

SAFE DRINKING WATER ACT

HON. ROBERT W. DANIEL, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, once again the House has passed a bad bill with a good sounding title. It was H.R. 13002, the Safe Drinking Water Act. I found that on final passage, I could not in good conscience vote for this bill although the purpose of providing safe drinking water to all Americans is a goal to which I subscribe.

I believe sincerely that every Representative of Congress is for safe drinking water. The question then is how to acquire it. H.R. 13002 would not assure safe drinking water but would rather have the adverse effect of cutting off the water supply in countless communities across this great land.

This bill would give the Administrator of EPA expansive power to certify or not certify the water-treatment facilities plants of every city and county in this Nation after first adopting its own standards for making such certifications. If they did not adhere to those standards set by EPA bureaucrats, then EPA bureaucrats could go into court and close the waterplants. Mr. Speaker, the question in my mind is, How are communities without the bonding base and without help from the State and Federal Governments going to get water when EPA comes in and closes down their water-treatment facilities?

This bill does not authorize any significant Federal financial assistance to help cities and counties meet EPA standards for water-treatment facilities. Without Federal financial assistance, the thrust of this bill will be to close down waterplants rather than to improve them.

I support and will vote for sound, responsible legislation which would provide safe drinking water by helping our communities, especially the small ones, to upgrade their water-treatment facilities to assure an adequate and safe drinking water supply for all Americans.

This is another example where the bill's title does not truly reflect the bill's real purpose.

IN ANSWER TO GEN. GEORGE BROWN

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. YATES. Mr. Speaker, it is incredible and inexcusable that Gen. George S. Brown should have uttered such shocking statements as he did recently at the Duke University Law School. One of the most perceptive comments on such statements appeared today in a letter to the editor of the New York Times, written by the astute and able director of the American Jewish Committee. It deserves the attention of my colleagues in the Congress.

The letter follows:

IN ANSWER TO GEN. GEORGE BROWN

TO THE EDITOR: Whether or not Gen. George Brown is removed from his critical post as Chairman of the Joint Chiefs of Staff is perhaps the least important aspect of the ugly incident.

In the long run it will be less important what happens to the George Brown who carelessly came out of the closet recently than what happens to the who-knows-how-many other George Browns across the spectrum of American life. Why do presumably intelligent and otherwise civilized Americans continue to hold these distorted views of Jews? Why do they perpetuate calumnies about Jews that have been so thoroughly and frequently refuted and repudiated?

It is shocking enough that because of these lies the Jewish people continue to be threatened in various places around the world with discrimination, suppression and even annihilation. But I find it intolerable that in addition we are accused of seeking to counteract these threats with a "powerful Jewish lobby."

Of course, there are efforts by American Jews to enlighten and persuade and advocate—just as there are by all kinds of groups. And, happy to record, on every issue—"Jewish" issues and "non-Jewish" issues—Jews do not struggle alone. But should there be any wonder that on some issues and under some circumstances there is a special Jewish presence? Can it really be difficult for anyone to understand that when another six million Jews are threatened with physical and/or cultural genocide—three million in Israel and three million in the Soviet Union—American Jews will not stand idly by? Should we have to justify efforts in support of our co-religionists' self-defense through the basic American democratic way—public education and advocacy?

As one of the mere handful of professionals involved in these efforts, I am troubled by the fact that we are never "exposed" for our efforts on behalf of social programs or alleviation of world hunger or integrity of the political process. Even with the overwhelming problems of Jewish security, we heed our Judaic admonition to pursue justice for all people.

Two thousand years ago, Hillel said it for all time and for all peoples: "If I am not for myself, who will be for me? But if I am only for myself, what am I?" And Jews know that Hillel did not speak, then or now, for Jews alone. It is not the Jewish lobby that voted arms for Israel's self-defense or for freer Soviet emigration. It is the vast majority of Congress that acted in the best traditions of American compassion and enlightened self-interest.

American Jews make no apology for trying to make effective use of our democratic processes or trying to invoke our nation's best instincts. Rather, we assert our right to life—and, yes, also to liberty and the pursuit of happiness. And we assert our determination to work and "lobby" for these rights.

HYMAN BOOKBINDER.
WASHINGTON, *Nov. 15, 1974.*

LET YOUR FINGERS DO THE GINNING

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. JONES of Tennessee. Mr. Speaker, an article appeared in the Memphis, Tenn., Commercial Appeal's Mid-South magazine on Sunday, November 10, entitled "Let Your Fingers Do the Ginning." The article tells the story of the new automated cotton gin in Covington, Tenn.

The new cotton gin is the first of its kind in the United States and has increased production from 6 bales per hour to 30 or over. The new "push button" gin, as it is called, has gained much attention since its opening last fall. People have come from all over the world to see the gin in operation.

A major part of the story of the new gin is that the buildings and grounds have been designed and landscaped to make them the best-looking gin, if not the most scenic site, in west Tennessee.

At this point, I want to include the text of the article in today's Record:

Let Your Fingers Do the Ginning

Jesse Adams has been working in the gins a long time now—the past 20 of his 45 years, as a matter of fact. All that time, he has worked and lived in his hometown Covington, Tenn., he says, and most of that time he has worked on the cotton presses.

That's where the cotton lint, separated from the seed and cleaned and dried, is packed and tied tightly together in huge and heavy bales.

The work was hard, the hours long.

"Oh, was it hard!" says Adams, a black man with short hair slightly graying. "We worked four men to a press—two to shove and two to tie. And we had a pretty fast gin—seven to eight bales an hour. Let me tell you, them bales could get mighty heavy, along about the end of the day."

Although he still works at the same job, Adams' talk of hard work is in the past tense, nowadays. For, although he still mans a cotton press, the one at which he works these days is unlike any he ever saw before. Or ever even imagined.

For the press at which he works today is like something out of future generations. And it is but one part of the ultra-modern Tennessee Gins, Inc.—a huge, year-old industry on the north side of Covington, on 22 sprawling acres off Highway 51.

His work is no longer hard, his hours—thanks to split shifts—no longer long. After years of literally back-breaking labor, Jesse Adams now sits and watches a machine all day.

No one need shove. No one need tie. The machine does all that, humming efficiently and moving swiftly, compressing cotton into neat and tidy bales and even spitting binding straps of metal around each bale.

Adams? He just sits and watches, keeping his index finger poised for "emergencies" which never seem to occur. If something should go wrong with the machine, you see, it is Adams' task to push a button which shuts off the press. That's all. One finger. One button. The Age of Automation has arrived for Jesse Adams, fully and finally.

"When you work at it as long as I have and see something like this—why, it's amazing," he says, "I probably would have lived to be 100, if they'd had this all along.

"Me and Malcolm Burnett, we work the two shifts on this job. I've had several operations for spinal trouble, and he's just had a hernia operation, both of that caused by the old presses. If it weren't for this new kind of press, I couldn't have worked in the gin no more."

Covington's brand-new "push-button gin" has gained a sizable share of attention since it was opened last cotton season. It has even had its share of controversy, with a legal hassle over a Tipton County Court decision to use public funds to run a paved road from the highway to the gin, replacing a graveled quagmire as archaic in appearance as the gin is modern.

But most of the attention toward the gin has been far less volatile, coming from visitors who, in turn, have come from all over the world. Like pilgrims, cotton men from foreign lands have flocked to Tipton County to gaze upon the fabulous operation going on within the glittering, gold-tinted metal walls of Tennessee Gins.

"We get a lot of schoolchildren coming out to tour the gin, of course," says Jimmy Peeler, the part-time farmer, part-time political kingpin who is one of four co-partners in the super-gin. "But we also have had lots of folks come by from all over this country and other countries, including Russia. You couldn't talk to the Russians, but through their interpreter, but they seemed pretty impressed with the automation and our warehousing."

And it isn't necessary to see the gin to be impressed with it, it would seem. Take W. E. Lamb, wealthy Mineral Wells, Miss., cotton-ginner, for one example.

"I've never been up to see that gin in Covington, but I'd sure love to," Lamb says. "I've sure heard a lot about it. What it is is a 'high-capacity' gin, and let me tell you, a high-capacity gin is a wonderful thing. Why, just one of their gin stands will gin as much as all three of mine, and they've got four gin stands, so that ought to give you some idea of what you're talking about. I can cut a little better than six bales an hour, running wide open. They can get 30 or more.

"The times have brought on the need for gins like that. I can remember when fieldhands picked all the cotton and brought it to us ginners in mule-drawn wagons. And that wasn't that long ago, either. But you never see the mule-drawn wagons any more. You don't see any fieldhands to speak of, either, because of the government's minimum wage. Cotton men are being forced into high-capacity ginning—you've got to produce more in less time, with fewer people involved. Very soon, a gin like mine—like all the old ones in this part of the country—won't be feasible any more, and that's sort of sad, in a way.

"It's not that this new-fangled gin produces any better cotton, you see. I'd put my gin up against theirs any time, for grade of cotton. But amount of cotton—well, that's where the difference is."

Jimmy Peeler agrees completely.

"The quality of the cotton does not vary that much at all," he says. "This gin produces the same quality cotton, just at a much higher capacity. Volume is the word, to stay in the competitive market, and you sure can't do that with the old gins."

But a major part of the story of the new gin is the fact that it holds an attraction for those who know little or nothing about the cotton industry. Whereas the main purpose of any self-respecting gin in the past was purely functional in nature, the buildings and grounds of the Covington operation have been designed and landscaped to make them—if not the most scenic site in West Tennessee—at least the best-looking cotton gin.

Gold metal buildings with white rooves have replaced the corrugated, silvery tin of the old gins. Neatness is a watchword with none of the traditional greasy spare parts visible anywhere inside the gin.

And it so happened that the brother-in-law of co-owner R. W. Anderson is Memphis architect O. T. Marshall, designer of State Technical Institute, among other works. So the main office building at the gin was designed artistically, featuring pine-paneled offices with stereo speakers, paintings on the walls, plush sofas and chairs and wall-to-wall carpeting.

The landscaping includes patches of well-manicured lawn and rows of saplings here and there. But, just so folks won't forget where they are, there is one touch that is readily observable. In an island area next to the cotton gin, where a row of shrubbery or flowers ordinarily would be planted, there grows a row of cotton.

"That's our own private cotton patch," says Peeler. "As for the gold because that's what we're interested in—making money!"

According to L. C. Thomas, another of the partners, the gin and other buildings could have been constructed much less expensively, with no ill effect on the business.

"But we wanted a place that would be pretty enough to take a man around and show it off," he says. "And since there were several of us involved in it, we could afford to spend a little more."

All four men owned their own gins—Anderson, Peeler, Thomas and Jack Jetton, with Jetton and Thomas in partnership already.

"Oh, we all used to be pretty competitive, all right," says Thomas. "But we stayed good enough friends for us to be able to consider doing something like this. Of course, it did take us about three years to get it all worked out.

"But it was something we all had to do—the farmers were harvesting cotton faster than we could gin it. We just weren't keeping pace with farmer mechanization."

With its ordered arrangement of massive modern machinery, all roaring loudly, the interior of the gin looks like a small factory.

"We were claiming to be the second-largest gin in the world, next to one in California, last year," says Thomas. "But now they're building one like this in Tunica and a couple of others in other places, so I don't know where we stand now. But I think we could still lay claim to being the most attractive gin anywhere."

Part of the neatness is due to federal air-pollution regulations, which prevent ginners from littering the air with cotton lint.

"At my old gin, you'd see trash blowing everywhere," says Peeler. "But not here."

"We've got air-pollution equipment that cost us $40,000 or more," says Thomas. "I'm not sure exactly how much, because the price was included in the over-all bill."

That bill ran on up to $2 million, Thomas says, including the trailers, 100 of which may be stored under five outdoor sheds. And the two warehouses have enough space to stack and store 8,000 to 10,000 bales of cotton in each.

To grasp the enormity of the operation, one may check comparative figures. At W. E. Lamb's gin in Mississippi (a gin, incidentally, considered to be one of the "modern" ones not very long ago), two motors run the works. Total horsepower required is 259.

The 75 motors which keep the Covington gin jumping use 2,476½ horsepower.

Lamb's gin has been known to produce 3,000 bales of cotton in a good season. The Covington gin—which has an intended capacity of an average of 25 bales per hour every 24 hours and has the capacity to gin 35 bales an hour—ginned 11,640 bales last year and is expected to top 12,000 this year.

Mechanization also has reduced greatly the number of workers needed. From an average of 28 men at each of the three gins owned by the four men, the new gin requires only 22 employes—two 11-man crews.

"We use more men outside than we do inside," says Thomas.

Part of the reason for that is that the gin still uses the conventional "suck pipes," rather than automatic loaders, to suction cotton out of the trailers and into the dryers. But, after that, the machines take over, activated by a central control panel that would do Mission Control in Houston proud.

Carried by jets of air, the cotton whirs rapidly through the various pre-cleaning and drying processes, through the gin stands, the lint-cleaners and on to the press. And what few people there are around are safe, thanks to glass-windowed shields which enclose all pulleys and other movable parts of the machines.

The finished product (some of which is bound for foreign ports) is a "high-density" bale of cotton, 20 inches by 28 inches by 54 inches in size and 480 to 550 pounds in weight. The exact weight is determined by a special pre-setting of the press on each load of cotton. Because cotton is sold by the pound, not the bale, the weight-per-bale is calculated upon pre-weighing to make maximum utilization of each load of cotton. In that way, a load of 1,000 pounds of cotton can be packed into two 500-pound bales—not two 480-pound bales, with 40 pounds left over.

After pressing, each bale is wheeled away on a cart to a platform with rollers, upon which it is wrapped in polyethylene bags, instead of the traditional jute or burlap coverings. The plastic bags, says Peeler, not only are lighter, they also are more protective of the cotton inside, in shipping.

Another machine which helps keep the cotton looking nice is an automatic sampler, which mechanically snitches portions of the cotton lint from throughout each bale as it is being pressed. This prevents having to tear a sample off the outer edge of the finished bale and also provides a better idea of the over-all makeup of the bale, all the way through.

So easy is it to cover the heavy bales that the job is handled by two women at Tennessee Gins. And Jesse Adams, who sits nearby while these two women work, doesn't have to lift a finger to help them.

There's no need to, of course. And besides, Jesse has got to keep his finger on constant alert, should that button of his ever need pushing.

It just might, maybe, one of these days.

ED JONES ARGUES THE CASE FOR THE FARMERS

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. BOWEN. Mr. Speaker, our good friend and colleague from Tennessee, the Honorable Ed Jones, has been an effective Congressman, working quietly and responsibly on behalf of his constituents and the Nation. I am privileged to serve on the Agriculture Committee with Ed Jones and on his Dairy and Poultry Subcommittee, and I can speak firsthand on his dedication and outstanding service.

I am pleased that he is receiving public recognition for his work here, and I want to share with the other Members of Congress this article which appeared recently in the Memphis Commercial Appeal. You can tell from reading it that Ed Jones calls the shots as he sees them, and he is a good example for our newly elected colleagues who will be joining us in January to emulate. The article, entitled "Ed Jones Argues the Case for the Farmer," reads as follows:

[From the Memphis Commercial Appeal, Nov. 15, 1974]

Ed Jones Argues the Case for the Farmers

(By James W. Brosnan)

Yorkville, Tenn.—Congressman Ed Jones leaned over his desk and handed out a flat, round, copper object, sized somewhere between a pinhead and a nailhead.

"It's a Republican penny," the Seventh District Democrat said with a laugh.

It was a few days after the Nov. 5 election and Jones was in a good mood. He had coasted through the Democratic primary without much trouble, had no Republican opposition in the general election and could sit back and savor the nationwide Democratic victory.

Not for long, however. Particularly next week when he returns to Washington, where there won't be much to laugh about. Not with inflation. And not on the House Agriculture Committee where Jones will try to get more for the farmer without provoking the wrath of the consumer.

The immediate task of the committee, he said, is to raise target prices on farm products. That's the price the government agrees to pay if the market price ever drops below it. In effect, subsidies.

Jones, as chairman of the poultry and dairy subcommittee, particularly wants milk support prices raised, about nine cents a gallon, but the outlook is bleak.

"Everybody's scared. They're looking at it from the political standpoint only," he said.

The scandals over campaign contributions from milk producers are now hurting them, he said. Jones, himself, relied heavily on dairy contributions, but he points out he represents a dairy area.

"Unless some relief is granted for dairymen—either a decrease in the cost of products to make milk out of it, or unless the secretary of agriculture can raise supports—we'll be faced this time next year with a milk shortage," Jones said.

Unlike 1973, this was not a good year for the farmer, and especially milk and beef producers. Bad weather and shortages of fertilizer cut into production, grain prices soared, dairymen started selling out and beef producers sold their meat lean, unable to pay for fattening the cattle.

"All the grain prices are good, but they're too high to put into a milk cow. A pound of corn is as expensive as a pound of milk," Jones said.

Some dairymen have responded by publicly killing their calves, a step Jones deplores. Others have sold out. Others have or may go broke, he said.

In Minnesota alone, he said 3,188 farms have gone out of business. He predicts more failures around February when federal loans become due.

More typical, Jones said, are calls saying, "Ed, I failed. My corn is not what it should be and my soybeans—I'm getting half-bushels where I expected two bushels. I need some help."

If they can get a loan, or have saved from last year, they can ride it through, Jones said.

If the farmers are so bad off, then why is the price of food so high?

Speculators, middlemen and chain stores make a lot of it, Jones said. Testimony last year from consumer groups indicated chain stores make up their loss items with high meat prices, Jones said.

But Jones blamed most of the increases on the use of prepared foods and items like "TV" dinners. On an infrequent shopping trip in Washington recently, Jones said, he saw a woman check out with $50.63 worth of groceries. The only staple commodity was five-pound bag of sugar.

The Jonses, by the way, drive back to Washington with a load of vegetables from their Yorkville farm.

Secretary of Agriculture Earl Butz is due some criticism for the farm and food situation, Jones said.

Butz urged farmers into production on land previously set aside, and then allowed fertilizer that was needed for them set aside to be sold abroad. The massive Soviet grain deals then depleted U.S. reserves, leaving grain prices vulnerable to a bad crop.

Jones believes we should maintain at least a half-year's reserve to stabilize the grain market. Some government control is needed, he said, to protect the market, the consumer and the small farmer.

"Butz is a salesman for the big farmer," Jones said. "He believes in supply and demand and volume production. Big farms do that more efficiently. But if we don't control agriculture, we're headed for corporate farming and the housewife will pay for it in a closed market."

Jones deplores the moving of rural citizenry to the big cities, which he blames for many of the urban problems, and the growth of farming conglomerates.

Jones says the United States should not be made responsible for feeding the world's poor. Other nations have to do more, he said.

Although rumors abound that Butz is due to be replaced, Jones thinks he will stay. He's not sure a new secretary would change the administration's philosophy on agriculture anyway. With that, he admits to some disillusionment with President Ford on several issues.

"He made the pardon so early. Everything politically he did wrong for my Republican colleagues. Why did he do what he did? . . . for amnesty? . . . for the tax increase?" Jones said.

Jones ticked off five or six Republican members on the Agriculture Committee that were defeated. He said he got along well on both sides of the aisle and regrets to see some of the good Republican colleagues go.

But the Democratic landslide in the House propelled Jones higher on the seniority list. When the 93rd Congresss began two years ago, he was 307th. Now he's under 200, Jones said, and eighth on both the agriculture and administration committees.

With that, he discounts rumors, perhaps from possible opponents in 1976, that he is thinking of retiring.

"I'm just now getting to where I can do some good," Jones said.

He stops to take a call from Washington. He has to bid for congressional office space. That move up in seniority entitles Jones to a move up in offices, too.

JAKE L. HAMON: GOLD MEDAL

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. COLLINS of Texas. Mr. Speaker, everyone calls him Jake. For a man to win the gold medal from the American Petroleum Institute you would expect something more formal than the name Jake.

But the great strength of Jake L. Hamon is the fact that he is just plain Jake and that is what he has been all of his life.

In presenting the award for distinguished achievement at the annual meeting of API in New York last week, this outstanding group of leaders saluted Jake L. Hamon. It is more of a recognition to the oil business, itself. It is because Jake represents the dynamic spirit that built the oil industry in America.

Jake's company is simply called Jake L. Hamon operating as an independent oil and gas producing company located in Dallas, Tex. Jake grew up in Oklahoma and entered the oil business at age 18 when his father died and he needed to support the family. During the 54 years that Jake Hamon has been in the oil business, he has drilled a lot of dry holes. He has also brought in wildcats all over the Southwest and has built up solid production from New Mexico to Louisiana.

I was particularly gratified to see the API choose Jake Hamon as their gold medal winner of the year. Most all of the past recipients have been heads of major oil companies but the great strength and driving spirit within petroleum has come from the independents. Jake Hamon personifies this aggressive, courageous, far-sighted spirit of independents.

But Jake Hamon is more than an outstanding oilman. He is one of the best citizens that we have in the South. He is a most generous giver and hard worker in support of everything from universities to hospitals to culture. If it is good for Dallas, if it helps Texas, if it means more to our country, Jake Hamon reaches deep and always sets the pace.

His record of service to the oil industry is a legend. Jake Hamon has been president of the National Stripper Well Association, the Dallas Wildcat Committee, the Dallas Petroleum Club, the Texas Mid-Continent Oil and Gas Association, and the General Mid-Continent Oil and Gas Association. He has received the Roughneck Award. In addition, he has been on the executive committee of the American Petroleum Institute continuously since 1938. He was chairman of the board of API.

If I want advice on the oil business as to its present, past, or future, I look for the opinion of Jake L. Hamon. He gives you the honest viewpoint of what is good for the country and how to keep moving ahead.

Today, America faces an energy challenge. The answer rests with men of action, and for leadership on the move, there is not a better man than Jake L. Hamon.

TEN MISCONCEPTIONS HURTING THE CATTLE INDUSTRY

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. PRICE of Texas. Mr. Speaker, I recently received the following information, compiled by Mr. M. J. Hankins of Stanton, Nebr., from the Independent Beef Producers of America concerning the current barrage of misinformation being fired at the American consumer about the cattle industry. The points brought out by Mr. Hankins have seriously affected the cattle industry. I wholeheartedly agree that correction of these misconceptions are necessary to solve the tremendous problems the cattle industry continues to face.

Mr. Hankins' information follows:

Propaganda Attack Threatens Cattle Industry

(By M. J. Hankins)

CONSUMERS EQUALLY CONCERNED

A very vicious national propaganda attack, of vital concern to all consumers and to all of agriculture and related industries, is being launched against the livestock feeding business. The purpose, evidently, is to save grain for shipment to other nations around the world. This barrage of mis-information features such misconceptions as:

Misconception No. 1. We Are Eating Too Much Beef.—We are now eating about 5 ounces of beef per person per day; carcass weight basis. This figures to 3 ounces; basis retail cuts, and less than 2 ounces actually cooked trimmed and consumed—just one half of one hamburger per day.

Misconception No. 2. Beef Consumption Is Declining.—Beef consumption dropped slightly last year because of lack of availability. This year consumption was up 4 percent the first eight months, and consumers paid as much or more per pound than the all time high record price.

Misconception No. 3. Grain Fed Beef Is A Costly Luxury.—Only 2 to 3 pounds of grain is used to produce the average pound of beef consumed in this country. Grain is used as a finishing ration to improve beef quality.

Our 138 million head of cattle could be compared to a huge labor force that works around the clock every day of the year including Sundays and holidays and without strikes or lock outs, in converting a much larger tonnage of raw material into a finished product than all other industries combined. Hundreds of millions of acres of grass lands and crop land by-products would be wasted without cattle.

Misconception No. 4. We Need To Stop Wasting Grain By Feeding It To Livestock So That We Can Feed Hungry and Starving People In Other Nations.—The USA is envied around the world for efficiency in food production. No other nation has come close to equalling the United States in variety, quality, or quantity of food produced. This was accomplished by having a free enterprise system and by combining livestock with the production of grain crops. Communist and dictator countries around the world are hungry for meat and short of other food. They are the ones that are crying for help. If they are sincere in stopping hunger they should do just like we have done. The fact that we ship farm products to foreign countries is no guarantee that it will reach the needy and starving people.

Misconception No. 5. Farmers Should Raise Grain And Not Feed Livestock.—This plan would immediately throw the grain farmer into bankruptcy. Without livestock the surplus of grain in this country would be much larger than any time in history. Grain would sell at fire sale prices because we produce much more grain than needed to satisfy foreign demand—much more than our transportation system could ship out of the country. Export demand for wheat now is only moderate with farmers holding most of the 1974 crop.

Misconception 6. People Are Over Weight Because They Eat Too Much Beef.—Beef is commonly featured in reducing diets. The equivalent of half a hamburger a day, our average per capita consumption per day, never made anybody over weight.

Misconception No. 6. Fat Beef Can Be Injurious To Your Health.—There is no conclusive scientific evidence that beef fat causes a build up of cholestrol or is injurious to health. There is abundant evidence, however, that beef fat is highly nutritious and a very wholesome and valuable food product when used as needed.

Misconception No. 7. Foreign Countries Need Our Grains As A Source Of Protein.—All grains are low in protein except soybeans. The crying need of many countries is for high quality well balanced proteins of animal origin. The Japanese are known for being short of stature. Since they started to use more protein, including animal protein, their children grow much taller and much better developed physically.

Misconception No. 8. Beef Is Too High Priced.—The least important factor in setting the price of beef to the housewife is the cost of the original product. What sets the price is what the housewife is willing to pay. In the final analysis the housewife or consumer sets the price. Beef is very cheap when it leaves the farm or feed lot; so cheap in fact that the cattle industry is rapidly being forced into bankruptcy. Cow herds are starting through a stage of large scale and rapid liquidation. King sized price spreads or price mark-ups between the feed lot and the consumer are considerably wider than required to cover costs plus a reasonable profit because of illegal market manipulation and racketeering especially in the big metropolitan areas.

Price spread is paid for by the producer and/or the consumer.

Misconception No. 9. Feed Lots Are Not Needed Because They Waste Grain.—Feed lots double and triple beef production and greatly improve eating and keeping qualities. Grain fed beef has a much longer shelf life than grass beef without becoming stale during the transporting, aging and storing processes.

Misconception No. 10. There Is Not Much Difference In The Eating Qualities Of The Different Grades Of Beef.—Grain fed beef is much more tender, juicy and palatable than grass beef. Steaks served at a good restaurant is an example of grain fed beef. Roast beef served at a cheap restaurant is usually grass beef.

Agriculture, as we have known it in this country, will be destroyed if the consuming public is erroneously led into believing the above misconceptions. We will then be in the same fix as other nations, namely; short of food and asking for help.

The United States has already done much more to alleviate hunger around the world than any other nation. This is because we have a highly efficient and well balanced agriculture that combines livestock with the production of grain crops.

Agricultural market conditions over the past several months has forced many young livestock farmers out of business. Many more have been discouraged from starting. The average farmer is about 60 years old. It is high time the consumer started to think about just who is going to be around to produce food in the immediate future.

Total food production in the USA would take a drastic drop if livestock feeding were eliminated from agriculture.

HANDICAPPED AND FLIGHT SAFETY

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. O'BRIEN. Mr. Speaker, I would like to share with my colleagues two recent articles regarding air transportation for handicapped persons. One appeared in the October issue of Washingtonian magazine and the other in the Chicago Tribune.

The Federal Aviation Administration recently published in the Federal Register a notice of proposed rulemaking covering a series of regulations that would substantially limit the right of handicapped individuals to avail themselves of air travel.

It is my feeling, and that of many colleagues, that a better and fairer way must be found to assure safety in air travel. Let us consider such aspects as better aircraft design and more effective and appropriate training of flight personnel rather than the concept of air safety in a negative manner by unjustly denying air travel to one segment of our society.

The FAA is now in the process of evaluating the proposed rules. Hopefully, officials there will realize their mistake and set standards that will make it easier, not harder, for the handicapped to use air travel. As added protection, however, I have introduced legislation to amend the Federal Aviation Act of 1958 to provide that no physically handicapped individual shall be denied air transportation simply because of that handicap.

Mr. Speaker, I herewith submit for inclusion in the CONGRESSIONAL RECORD the following articles:

[From the Washingtonian, October 1974]

THE HANDICAPPED WILL PLEASE TAKE THE BUS

Anti-hijack legislation gave the captain the authority to keep people off his plane who may be an "endangerment to flight." Recently, an Eastern captain used that provision to keep one Susanne Wyncoop, who is paralyzed from the waist down, off a flight from Newark to Washington. Ms. Wyncoop wasn't a potential hijacker. In fact, she was making the flight to testify before a Senate subcommittee investigating proposed FAA regulations concerning handicapped people on airliners.

The proposals, which have raised a howl of protest from legislators, organizations for the handicapped, and the public, would prevent a handicapped person from flying unless he has a travelling companion or a note from his doctor saying he won't clutter up the aisles after a plane crash. The proposals have been largely supported by the airline industry and flight crew organizations. The official excuse is safety considerations. In truth, the airlines could use the additional revenue generated by all those travelling companions. Flight attendant unions have long sought to promote the image of the stewardess as the "passenger's lifeline to safety" on the theory that airborne safety specialists have a better image and bargaining power than a glorified flying waitress. So keeping the country's 13 million handicapped from flying, or imposing economical burdens on them is considered necessary on the off chance that a paraplegic might get in the way during an airplane accident. Conveniently ignored is the argument that drunks, pregnant women, kids, dead people, luggage, wreckage, and panic-stricken healthy passengers might prove as much a problem.

The flight restrictions on the handicapped are bad, the FAA should throw them out. One aviation PR official inadvertently summed up a possible motivation for keeping the handicapped off airliners when he urged me to see the problem firsthand: "You really should go down to an airport sometime and watch a paraplegic on an airplane. They cause the flight attendants a lot of trouble and work."

[From the Chicago Tribune, October 1974]

INFLIGHT THOUGHTS ON AIRLINE SAFETY

(By Bob Wiedrich)

While crammed into the center throne of a row of three seats aboard a jet slipping into Minneapolis recently, we started pondering the prospects of survival if something went awry.

On our left, a large fat man slumped snoring, his thick thighs jammed sardine-like into the seat, his feet entangled in the straps of a canvas flight bag on the floor. The pungent scent of juniper berries drifting from his open mouth testified to a long cocktail hour between planes at O'Hare Field.

To the right, an equally portly lady sat grimly scrunched against the window. She was sober. But a big leather purse containing knitting on her lap effectively locked her into an uncomfortable posture from which only a giant shoe horn could extricate her.

As the brief, hour-long flight neared the end, both our forearms were turning numb from sitting like a Napoleonic grenadier astride an artillery caisson on parade.

The slumbering fat man was immovable; the lady to starboard intimidating. And the rum-dum, women's-wear salesman across the aisle would be no help if the jet blew a tire on landing and tumbled off the runway.

He was valiantly trying to scribble his name and hotel number on a slip of paper for the stewardess who had just rejected his invitation to a private showing of his wares that evening. If the plane crashed, the ball-point pen in his hand would most likely become imbedded in his whisky-sour soaked brain.

Ahead of us, a young mother shared three seats with two small children. She would have her hands full on impact. The same held true for the elderly couple behind us. The gentleman's eyeglasses were thick, probably the result of cataract surgery.

The planeload of passengers, with every seat occupied six abreast with a narrow aisle between, was ordinary for the airborne rush-hour between two major cities. It was like many others we had witnessed since the energy crunch caused a reduction of flights and the luxury of having empty seats in coach became a thing of the past.

There were probably cardiacs and diabetics and perhaps a mental misfit or two aboard. Perfectly healthy people, too. A typical cross-section of the flying American public.

So we cite this flight only as an example of what airlines encounter hundreds of times a day across the United States in a society in which aviation has become the primary mode of long distance travel. If you don't fly, you just don't get around.

The air carriers maintain flight is one of the safest means of locomotion. Statistics back them up. For the most part, commercial airline cabin crews are well trained, competent to react in an emergency.

Yet today, the Federal Aviation Administration is considering a set of proposals that would condemn the estimated 33 million Americans with physical handicaps to the status of second-class citizens, with their right to free and unencumbered travel sharply restricted.

Presumably, the proposals are based on a genuine concern for the safety of the handicapped and their fellow passengers, although we suspect some carriers would just as soon not bother accommodating a crippled polio victim or a paraplegic who has to get somewhere quick. In fairness, however, some airlines bend over backwards to lend a helping hand.

The fact remains that under the proposed FAA rules some with infirmities would be denied flight unless accompanied by an attendant.

Others would be required to produce a current physician's statement attesting to their ability to evacuate an aircraft without help, a costly provision at today's medical fees.

The handicapped maintain they are more safety and survival oriented than many of their able-bodied counter-parts, that the very nature of their disability makes them act rather than react to an emergency. Certainly, they declare, they need no more attention than a boisterous drunk, riotous children, or an amorous salesman in hot pursuit of a pretty skirt.

We personally would rather be confronted by someone on crutches than that bombed-out slob sprawled next to us on the flight to Minneapolis. It would really have taken us into eternity to awaken him.

As the plane rolled safely to a stop, we wondered how well the late Charles Steinmetz might have fared on an airliner under the proposed FAA rules. Would they have permitted the physically deformed electronic genius of 50 years ago aboard because his brain had spawned the theory for much of the wondrous gear that makes modern flight safe?

Or would they have told him to get a doctor's certificate?

SERVANTS IN SPACE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. TEAGUE. Mr. Speaker, every day the lives of every American citizen and many people throughout the world are being improved by the contributions being made by the space program. In a recent U.S. News & World Report article, dated July 1974, it summarizes a number of the direct benefits that we receive from the NASA orbital satellite program. This same article also outlines a number of scientific contributions being made through satellite research. I am including this article in the RECORD as a succinct summary of the importance of our national space program and urge its reading to my colleagues and the general public:

SERVANTS IN SPACE: SATELLITES BECOME A PART OF DAILY LIFE

Hardly anyone pays attention these days when a space vehicle goes rocketing off into the Florida sky. Yet, with regularity, they do—more than 700 launchings since the start of the Space Age 17 years ago.

Taken for granted, too, is the fact that unmanned satellites have turned the exotic business of space exploration into a tool that serves people in the U.S. and the world: weather maps snapped from 22,300 miles in space . . . phone calls from Washington to Peking via space orbiters . . . newscasts, with film transmitted via satellites halfway around the world.

Other satellites are providing scientists with their first comprehensive pictures measuring the extent of air and water pollution, of strip mining and urban sprawl. And in an age of energy and materials shortages, the satellite is being harnessed to help geologists explore for resources in regions uninhabited by man.

Other wide-ranging experiments are under way to unravel the mysterious relationship between the sun and Earth—how solar energy plays a role in creating the Earth's weather. It's a long list of accomplishments.

On these pages you get a closer look at how applications of satellites become part of day-to-day life in America.

ATS: "MOST VERSATILE EVER"

One of the latest in America's array of spacecraft is the Applications Technology Satellite. It will bring education and medical help to remote parts of the United States during the coming year. A space-agency official describes ATS as "the most complex, versatile and powerful communications spacecraft ever developed."

Launched from Cape Canaveral on May 30, the ATS already is charting new paths in a wide range of experiments. During its first year in orbit—22,300 miles above Earth—this spacecraft will be used to beam special educational programs to sparsely populated areas in the Rocky Mountains, Appalachia and Alaska. Later it will be repositioned in space to provide a similar service to India.

In the Rocky Mountain experiment, 56 rural schools in eight States will have equipment to receive a variety of classroom programs. Nearly 5,000 students and hundreds of teachers, administrators and counselors will be involved. Half the receiving sites will be equipped with two-way communication potential, making possible live participation in seminars from such out-of-the-way towns as Cuba, N.M., Blanding, Utah, and Riverton, Wyo. Community education programs also will be offered on subjects ranging from alcoholism to old-age and health care.

The experiment in Alaska will provide 18 communities in remote areas, most of them now with no TV reception of any kind, not only with regular telecasts of network news programs and Public Broadcast System productions but also with the two-way classroom education sessions.

The Alaska connection, in addition, is to be used for a "telemedicine" experiment. Doctors in remote outposts will be able to consult directly with top specialists, transmitting patients' records and X rays and actually examining the patients before television cameras with live, two-way conversation between the local doctors and big-city specialists.

In the "Lower 48" States, nine Veterans Administration hospitals will be participating in their own experimental satellite program. The ATS will provide live, interhospital exchange of medical data, patient case studies and in-service training seminars for doctors and medical staff.

Next summer, when the satellite is repositioned, it will provide more than 5,000 villages in India with daily classroom broadcasts in subjects ranging from mathematics to agriculture, family planning and hygiene.

The Applications Technology Satellite, which costs about 200 million dollars, will also play a role in transmitting to ground stations television pictures beamed from other satellites.

COMMUNICATIONS "BIRDS"

A network of commercial satellites provides a vital link between the U.S. and the rest of the world. More than half the telephone conversations between Europe and North America today are carried via commercial communications satellites.

Many Americans have forgotten that just nine years ago there was no such thing as live television from abroad. All film taken in foreign lands for television had to be flown back to the U.S. for broadcast.

The forerunner

That has changed. The first commercial satellite, called Early Bird, was launched in 1965, linking the continents across the Atlantic Ocean. It could carry 240 simultaneous telephone conversations—more than double the capacity of the transatlantic cables of the day.

Early Bird also carried the first live television broadcast between New York and Paris. The price tag for that hour-long transmission was $22,350. Today, a 60-minute TV transmission via satellite costs $5,120.

There have been 17 launches since 1965. A network of four advanced satellites—two over the Atlantic, one each over the Pacific and Indian oceans—carries a major portion of all international communications traffic from mainland U.S. to Asia, Australia and Europe.

One of these Intelsat IV spacecraft can transmit 4,000 simultaneous telephone conversations, plus television. The largest oceanic cable—brought into service in April, 1974—carries a maximum of 1,840 conversations, but no TV. The cable costs about three times more than the 36-million-dollar satellite, but lasts three times as long.

WEATHER SATELLITE

No tool, save perhaps the computer, has advanced the science of weather forecasting as rapidly as the satellite. Since 1960, the United States has launched 23 of these spacecraft into orbit for civilian use, providing the raw material for quantum jumps in accurate forecasting.

One "workhorse" weather probe is the Nimbus, a 1,700-pound laboratory that circles the Earth in a polar orbit at an altitude of about 700 miles.

The latest of this Nimbus series—the first of seven was launched in 1964—is capable of mapping temperatures at varying altitudes over the entire globe, twice daily. Its sensors can see through clouds to get low-altitude measurements, previously impossible to obtain on a regular basis.

Aid to shipping

Because the Nimbus can see through most clouds, its imagery is being widely used to map and track ice flows in the Arctic and Antarctic regions. This adds several months to the use of these waters by commercial shipping vessels. The Navy has described the mapping of icebergs as an "indispensable" service to the safe operation of many shipping lanes.

Using Nimbus data, scientists are able to construct daily maps of the Gulf Stream and Humboldt Current—to the west of South America. Variations in these currents can have dramatic effect on weather for hundreds of miles inland. Nimbus reports have been used to gain an understanding of why no major hurricanes have struck the U.S. for several years.

In late May, the space agency launched the first of yet another type of weather station in space—the Synchronous Meteorological Satellite. This 1,400-pound spacecraft orbits the Earth in a relatively fixed position above the Equator, giving scientists a new picture of temperatures and clouds over the U.S. every 30 minutes.

From 22,300 miles above Earth, it also acts as a communication center, relaying to a ground-control center information on tides, river currents, wind velocity and rainfall from thousands of remote, unmanned stations around the globe.

EARTH RESOURCES

Of all the recent satellite launches, none has stirred more excitement in the scientific community than the Earth Resources Technology Satellite, known as ERTS.

This 2,000-pound spacecraft, launched two years ago, has opened whole new fields of study of the Earth. By using a satellite that takes pictures of the land repeatedly in infrared and other wave lengths, scientists have achieved "incredible applications," says one scientist involved in the project.

From 500 miles above Earth, ERTS has provided the ray data from which scientists have discovered polluters of air and water and taken them to court.

Boon to farmers

Farmland of an entire State can be sorted out by crop in a matter of days, giving accurate inventories of food potential. Spread of crop diseases can be monitored precisely because an unhealthy plant or tree shows up as a different color on the picture than a healthy one.

Geologists are exploring for oil, copper and other metals by studying ERTS imagery of Alaska, Oklahoma and the Rocky Mountains.

Biologists say it may be possible to detect declining populations of certain species of valuable marine life.

New maps are being drawn of the interior of Brazil, the coastline of Australia and parts of Iran as photographs transmitted from outer space show old maps to be inaccurate.

Changes in ecology caused by forest fires, floods, earthquakes, strip mining, urban sprawl can be plotted in a matter of days while it previously might have taken years.

At the third annual ERTS symposium held last December, more than 100 technical papers were presented on the diverse and innovative ways this satellite's pictures can be used. They ranged from assessing water pollution around New York City to detecting potential new zones of earthquake hazard in populous areas.

A second ERTS satellite will be ready for launch late this summer to replace ERTS 1 if it develops major problems. Space agency planners, however, do not expect to send the new craft into orbit until early in 1975.

A number of other U.S. unmanned spacecraft are now in orbit, working to gather more purely scientific information.

Together, these scientific craft, as well as the more practical ones, are providing a wide range of services. From globe-spanning newscasts to discoveries of "black holes" beyond the Milky Way, the satellite has become a tool to improve the quality of life and depth of knowledge about man's environment.

PROBING THE OUTERMOST REACHES OF THE UNIVERSE

Since 1958, more than 125 scientific probes have been sent into space. Some have traveled hundreds of millions of miles, sending back close-up views of the planets Mars, Jupiter, Venus and Mercury. Other satellites have focused their instruments on the Earth, the moon and the sun.

Once outside the Earth's obscuring atmosphere, spacecraft carrying fine-tuned sensors have probed far beyond the solar system. They have verified the existence of such distant astronomical phenomenons as the starlike pulsars, quasars, and also "black holes" that scientists hypothesize are stars in their death throes.

Others have discovered and mapped in detail the Earth's magnetic spheres that extend out into space.

Some outstanding examples—

UHURU

This Small Astronomy Satellite was launched in 1970. As a result of the data it has sent back, scientists have located more than 200 sources of X-ray wave-length emissions beyond the solar system. Prior to launch, fewer than 30 of these sensors were known.

HEAO

As a result of discoveries from Uhuru, officials at the National Aeronautics and Space Administration are planning a series of High Energy Astronomy Observatory missions to probe the gamma rays and cosmic rays. Tight budgets have pushed back the schedule for this series to the late 1970s.

LST

The Large Space Telescope, which is to be put into orbit in the early 1980s, will enable scientists to gaze deep into space—possibly to the edge of the cosmos. This unmanned telescope in Earth orbit should provide astronomers with information about stars which are 100 times fainter than those that can be seen by the most powerful ground-based optical telescopes.

RAB

The Radio Astronomy Explorer satellite launched in 1973 holds an orbit 680 miles above the moon. It monitors low-frequency radio signals from Jupiter, the sun and other galaxies. From the first RAE satellite, which was launched in 1968, astronomers were able to make a low frequency radio map of the Milky Way.

OSO

The Orbiting Solar Observatory satellites have been a source of data on activity taking place on the sun since 1962. This information has become the basis for new theories on how solar activity influences the Earth's weather.

MARINER 10

Launched in late 1973, this space craft passed close by Venus and Mercury this past spring. Prior to the mission, scientists knew little about Mercury and had only hazy photographs of its surface characteristics.

PIONEER 10

This spacecraft has journeyed to Mars and beyond. After launch in 1972, it traveled two years and 620 million miles, finally reaching Jupiter. Pioneer 11, launched in 1973, is scheduled to pass by Jupiter later this year, giving scientists a second close-in view of this giant of the solar system.

VIKING

Scheduled for launch next summer, the two Viking spacecraft are to orbit Mars and each will send landers to the surface. The first landing is to coincide with the nation's Bicentennial, July 4, 1976.

ST. MARGARET'S MARKS GOLDEN ANNIVERSARY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. GAYDOS. Mr. Speaker, on April 8, 1923, more than 50 years ago, a group of men met at a private home in the small community of Homestead, Pa., for the purpose of establishing a church for Hungarian people there and in the surrounding areas of Munhall, West Homestead, and Homeville.

The result of that meeting was the founding of St. Margaret's Church in Munhall, which marked its 50th anniversary on September 29, 1974. What makes St. Margaret's milestone unique is that fact the church was not started under the inspiration of any priest or bishop, but in the minds and souls of lay people bound by a common desire and religious faith.

Approximately 20 men attended that first meeting in the home of Mr. John Hasak and a year later, when the first mass was said for members of St. Margaret's, there were 97 families in the parish. Today there are 245 families with a total population of 760 persons.

In commemoration of the golden anniversary, the Reverend Richard Molnar, present pastor of St. Margaret's, compiled a chronological history of the church, listing pertinent facts and figures relative to its growth. But, as Father Molnar so astutely noted in his account, the most important part of any parish history is that which cannot be adequately expressed in words; that is, "the strong faith of the people, the life of prayer and of the sacraments, the holy mass and all acts of public and private worship which answer to the reason why, indeed, a Catholic parish should exist at all—the salvation of souls."

Mr. Speaker, I commend Father Molnar for his work in perpetuating the past of St. Margaret's and the members of his parish, who paid special recognition to Mr. Stephen Podomnik, one of the original founding members, and the widows of four others: Mrs. John Hasak, Mrs. Frank Nagy, Mrs. John Olasz, and Mrs. Stephen Vadasz.

I also would like to compliment those who took part in the formal anniversary program honoring the men and women of St. Margaret's:

Mr. George Beserock, interlocutor; Very Rev. Msgr. Joseph S. Altany, LL. D., pastor of St. Michael's Church; the Reverend Thomas Murphy, pastor of Resurrection Church; Mayor William Knight of Munhall; Mayor James Armstrong of Homestead; Rev. Msgr. George Vida, pastor of St. Elias Church; Dr. Dennis Detorok, Carnegie Mellon University; Stephen Szekely, president of St. Margaret's Parish Council; the Very Reverend Thomas Horner; Mr. Don Abraham, president of Munhall Council; Richard Olasz, West Mifflin councilman; Mr. Sam Roy, Pennsylvania Democratic committeeman, and the Reverend Francis Plantes, pastor of Sts. Peter and Paul Church.

VIRGIN ISLANDS LEGISLATURE HONORS CARL PLASKETT

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. DE LUGO. Mr. Speaker, it is my pleasure to insert in the RECORD Resolution No. 722 of the 10th Legislature of the Virgin Islands honoring Carl Plaskett for his outstanding contributions and achievements in track and field. Mr. Plaskett, a native of St. Thomas, is a member of the Central American and Caribbean Track and Field Confederation Hall of Fame for his outstanding performances at meets sanctioned by that confederation. In addition, he is the only Virgin Islander who has been a medalist in international track and field competition. Carl Plaskett, a remarkable athlete, coach, and administrator, is a most worthy recipient of this latest honor.

The resolution follows:

[Tenth Legislature of the Virgin Islands of the United States]

RESOLUTION NO. 722

To Honor Carl Plaskett, a Native Son, for His Outstanding Contributions and Achievements in Track and Field

Whereas Carl Plaskett was born on September 23, 1943, on the island of St. Thomas, and is the son of Raymond and Adele Marson Plaskett; and

Whereas it soon became obvious that Carl Plaskett was possessed of outstanding athletic abilities, particularly in the track and field specialty of sprinting; and

Whereas Carl Plaskett has, throughout an illustrious amateur career in the sport of track and field, amassed a staggering record of success in sprint races ranging from sixty to two hundred and twenty yards, a few of which are as follows:

(1) Winner of 100 and 220 yard dashes in the inter-island track meet between St. Croix and St. Thomas—1961;

(2) Defeated the New York State champion in the 100 yard dash—1962;

(3) Placed second in the 60 yard dash in the Knights of Columbus meet held at Madison Square Garden—1962;

(4) Placed first in the 100 yard dash at the New York Athletic Club track meet at Travis Island—1965;

(5) Won a bronze medal (3rd place) in the 100 meters and a silver medal (2nd place) in the 200 meters at the Central American and Caribbean Games held in San Juan, Puerto Rico—1966 (where he upset Henrique Figuerola of Cuba, who was a medalist at the 1964 Olympics);

(6) In the Melrose Games, placed third in the 60 yard dash behind Charlie Greene and Bill Gaines, co-world record holders in the event—1967;

(7) Placed first in the 200 meters and second in the 100 meters at the Washington D.C. championships—1967;

(8) Was a finalist in the 100 and 200 meter events at the Central American and Caribbean Games in Panama—1970; and

Whereas Carl Plaskett was selected as a member of the Central American and Caribbean Track and Field Confederation Hall of Fame for his outstanding performances at meets sanctioned by that Confederation; and

Whereas Carl Plaskett is the only Virgin Islander who has been a medalist in international track and field competition; and

Whereas it is the sense of the Legislature that the outstanding accomplishments of this great athlete and Virgin Islander be recognized through the medium of this Resolution; Now, Therefore,

Be it resolved by the Legislature of the Virgin Islands:

Section 1. That Carl Plaskett, outstanding track and field athlete and Virgin Islander, is hereby cited, honored and congratulated for his singularly successful amateur athletic career in the sport of track and field, and for his contributions to that sport not only as a competitor but as a coach and administrator.

Section 2. That a perma plaque copy of this Resolution be presented to Carl Plaskett at a testimonial dinner to be held in his honor on September 21, 1974.

Thus passed by the Legislature of the Virgin Islands on September 19, 1974.

H.R. 16204

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. HELSTOSKI. Mr. Speaker, H.R. 16204, the National Health Policy, Planning, and Resources Development Act, is scheduled to come before the House within the next few days. As I am sure you know, many of the Nation's leading medical and health organizations have expressed their opposition to the bill.

Today I would like to share with my colleagues some arguments against the bill which were presented recently to the members of the New Jersey congressional delegation by representatives of our State's regional medical program. At this meeting we were fortunate enough to hear from Dr. Arthur Bernstein, chairman of the regional advisory group of the New Jersey regional medical program; Dr. Victor Parsonnet, chairman of the program's subcommittee on cardiovascular surgery; Sister Grace Frances Strauber, S.F.P., executive director of St. Mary Hospital in Hoboken; and Dr. Alvin A. Florin, program coordinator. Their remarks follow:

STATEMENT BY ARTHUR BERNSTEIN, M.D., MAPLEWOOD, N.J.

Sister Grace, honored members of the House (and Senate), and colleagues. . . . Little did I dream that one day I would be speaking to the New Jersey Congressional Delegation against the passage of a health bill. But confronted with the unwholesome prospect of H.R. 16204 becoming law, I am faced with the recurring nightmare of seeing health programs in this country fall into terrible disarray.

I speak as a practicing physician, and as Chairman of the Regional Advisory Group of the New Jersey Regional Medical Program. I must apologize for letting the real purposes of H.R. 16204 escape me in the beginning, but I am equally thankful for this opportunity to expose H.R. 16204 for the destructive influence it would have on the health programs of our country. After closer examination of this legislation, it becomes painfully clear that while H.R. 16204 is ostensibly a health bill, it could in effect destroy much of the important heath gains made in New Jersey and the Nation.

As an example, at the end of 1973 under Regional Medical Programs nine million Americans received direct health services, and another 12 million persons benefited directly from new skills taught to local health professionals in RMP training programs.

In addition, RMPs initiated more than 2,000 demonstration projects and provided major technical assistance in over 6,000 instances for needed improvements in local health services and for implementation of new Federal health programs.

In New Jersey, through our Urban Health program, one-half million poor people in 23 cities received better health care . . . through our Radiation Therapy program, every year 10,000 patients receive more precise and effective treatment . . . another 10,000 people were screened for hypertension . . . 13,000 school children were tested for strep infection, which can lead to rheumatic heart disease . . . and more than 10,000 people were trained to rescue heart attack victims.

This record, not to mention countless other achievements of RMP, in social as well as medical advances, is something of which we can all be proud. Now let us take a look at what would happen to this progress if H.R. 16204 passed.

First, there would be a complete cessation of such activities, and the unique teamwork of consumers, physicians, and hospitals painstakingly created by the New Jersey Regional Medical Program over the past seven years would be destroyed.

Second, there would be a dangerous void in New Jersey's health care system, and third, health practioners would be reluctant to join in any future endeavors.

In summary, I envision national chaos rather than harmony among the various health fields under H.R. 16204, causing the country's patients great suffering as a result. Inherent in this bill is the establishment of a skeleton of Health Systems Agencies which would assume the top priority for administering the nation's health programs and which would be shamefully unqualified to do so because of the limited participation by physicians and other experienced health practitioners.

In Health Systems Agencies we would witness a lack of public accountability, and an arbitrary funding system, in that only $75,000 could be allocated for each health project regardless of its importance.

There is also an unlimited authority by HSAs to approve or disapprove the local use of all Federal funds appropriated under the Public Health Service Act without sufficient guidelines from the health community. In addition, the responsibility for planning, regulation and development of health programs—a combination of extremely complex factors each of which requires individual perspective and skills—would be under the sole authority of the unqualified Health Systems Agencies.

That is why I am so vehemently opposed to H.R. 16204. I see this bill as a menace to good medicine destroying in its path the national health goals we have been struggling to achieve. Gentlemen, if there is one thing of which I am convinced it is that we must defeat H.R. 16204 before it defeats both the patient and the Congress. No bill, by any stretch of the imagination, can be considered a health bill when it will produce such destruction as H.R. 16204 will. Therefore, I urge you in the public interest to defeat it and I also ask for a one year extension with funding of Regional Medical Programs to provide much needed time for the development of a true health bill in the next session. I thank you.

STATEMENT BY: VICTOR PARSONNET, M.D., NEWARK, N.J.

Sister Grace, distinguished members of the House (and Senate), gentlemen . . . any time a physician or surgeon finds that improved medical technique is in danger of being shut off at the switch, it's time to see his Congressman. That's why in perfect candor I am grateful to be here today in opposition to H.R. 16204 which until only very recently had many of us believing that it was a good kind of medicine. But on the contrary, quite the opposite is true.

What H.R. 16204 really represents to New Jersey and the nation is a major threat to improved American health care, and in this regard I would like very briefly to speak to you with the experience of a cardiovascular surgeon.

In recent years, very happily, I have witnessed and taken part in some of the most strategic advances in medical history. I have watched the heart, once considered so complex that it was beyond our understanding, come closer to our remedial reach. Through the combined efforts of research and education, new techniques in preventive medicine, surgery and post operative care have led us to sustain life where life never could have existed before.

Personally, as a surgeon, this kind of breakthrough in modern medicine and its impact on the patient, is deeply satisfying. But I would also be sadly remiss if I did not see the total picture of medical performance in perspective with those levels of government support which make much of our work possible. One of the outstanding medical programs aided by the Congress which I think, gentlemen, you should be aware of has been demonstrated in New Jersey with huge success.

It is the pacemaker evaluation program—established first at Newark Beth Israel Medical Center—and then expanded to include a network of eight New Jersey hospitals. What happens under this system is an excellent example of scientific research, medicine, and government working together for the benefit of the patient.

Through this program, a cardiac patient using a pacemaker has his heart and pacemaker checked all in one sweep. The data, taken at any one of the pacemaker affiliated hospitals, is transmitted to Beth Israel Medical Center by teletype. At Beth Israel, the information is received by a centralized computer where it is evaluated, then studied by a team of specialists which I head, and a report on the patient's condition is returned immediately to the transmitting hospital.

The net effect—emergency surgery resulting from unpredicted pacemaker failure has been eliminated, the patient's physical and mental well-being is assured, and costs have been reduced to a minimum. Now you might say, all of this sounds very commendable but how does the pacemaker evaluation program have anything to do with H.R. 16204.

Well, gentlemen, quite simply, this vital program and many others like it—including a new frontal assault against hypertension—which contribute immensely to improved health care and which receive your support through the New Jersey Regional Medical Program, could be wiped out by H.R. 16204.

In taking a closer look at that bill we find that Regional Medical Programs which were established by President Johnson and the Congress in 1967 to fight heart disease as one of their principal targets could be phased out for a loosely defined substitute known as Health Systems Agencies which would limit the amount of medical participation in their programs.

This proposition to me is a hard one to swallow, especially since it contradicts the national priorities of medicine in this country today to which we are all dedicated. Therefore, I am strongly against H.R. 16204 and highly recommend that this bill be defeated, and that a new bill be drawn in the next session to provide wider working areas for Regional Medical Programs which will strengthen the link between research and better medical care for the patient. Thank you.

STATEMENT BY: SISTER GRACE FRANCES STRAUBER, S.F.P., EXECUTIVE DIRECTOR, ST. MARY HOSPITAL, HOBOKEN, N.J.

Distinguished members of Congress, eminent physicians, and honored guests. . . . It is rewarding for me to appear here today on behalf of St. Mary Hospital and improved health care. I have long maintained that the New Jersey Congressional Delegation could be most instrumental in achieving substantial gains in health services for our home state and for the nation as well.

In looking at H.R. 16204 and the frightening specter it poses for all of us, I trust your action will be resolute in defeating this bill. For H.R. 16204 is as objectionable to experienced health care providers as it is dangerous to the public good. This is not a judgment without merit, but it follows a careful analysis of the destructive force of H.R. 16204 on many vital health programs existing today.

For my part let me recite the dangerous effect this bill would have on an important program at St. Mary Hospital, Hoboken, where I have the privilege of being Executive Director. Through the help of New Jersey Regional Medical Program, St. Mary established a Community Health Improvement Program—also known as CHIP—one of six in New Jersey—to provide health care services for the medically underserved.

People who previously could not afford medical treatment are cared for under this program. The beginning of our endeavor was humble; yet gradually we grew into a well-staffed and professionally run facility as Congressman Daniels, who was present at our dedication ceremonies, can testify to. It was our task to answer the medical needs of those who earned too much to qualify for medicaid but who did not earn enough to pay for a full range of medical services.

To give you an idea of how successful we have been, in the 12 months ending June of this year, over 3,300 families for a total of more than 10,000 persons, were helped in the St. Mary Hospital CHIP center, and over 12,000 patient visits were made. This is only one phase of the Center's program but it is symbolic of improved health care in more ways than one. Not only are the medically indigent being reached, but the patients in subsequent visits to the Center are usually treated by the same physician so that the important rapport of a family doctor is established.

Also, and essential, the hospital's emergency room is taken out of the clinical role—with a staggering 50% reduction of non-emergency cases—and properly used as a facility to meet emergency and crises situations. Many of the patient's problems which deprived him of employment are also resolved through our social service staff and a greater stabilization of the neighborhood has resulted.

In speaking of St. Mary, I must say that this program never would have come to fruition had it not been for New Jersey Regional Medical Program which, incredibly, is now threatened by H.R. 16204. In thinking of what has been said before against the passage of this bill, I am all the more convinced that H.R. 16204 is a major obstacle to improved health care in this country. Gentlemen, in good conscience may we defeat this bill and set our sights anew in the next session for supportive action of greater **health care.** **Thank you.**

STATEMENT BY: ALVIN A. FLORIN, M.D., M.P.H., EAST ORANGE, N.J.

Sister Grace, distinguished members of the New Jersey delegation, and colleagues . . . I doubt whether anyone among us can honestly say that he never needed a doctor. The experience could have been serious or it could have been the result of a common cold. But the fact is we all do get sick. And the question is what are we doing about it.

In 1967, as Doctor Parsonnet so eloquently stated, President Johnson and the Congress found a remedy in regional medical programs. And because of that action, more Americans today are receiving better health care than was dreamed possible years ago. Some of the RMP performance you are familiar with through the previous speakers. But there are two other highly important areas which you should know more about in relation to RMP and the threat of H.R. 16204.

We hear a lot about them today—they are cancer and kidney disease. When cancer struck Mrs. Ford, millions of American women asked: Can it happen to me? I better see my doctor! And when cancer hit Mrs. Rockefeller the urge for more medical attention grew even greater. It was as if a whole new kind of epidemic suddenly engulfed the country.

But as a physician directing the cancer projects of New Jersey Regional Medical Program, and with physicians everywhere, we knew this just wasn't so. Cancer unfortunately has been with us too long. But we are not standing idly by doing nothing about it. We are devoting endless energy to fighting it. At this minute, New Jersey Regional Medical Program is measuring the need for additional breast cancer examination programs in our state, and New Jersey is enjoying the results of a major cancer education program started by NJRMP.

In the education program, some of our most eminent physicians teach other doctors the latest procedures in cancer detection and treatment. It is doctors teaching doctors to save patient lives, and I might add that the physicians participating in this program do so on their own time.

Also at this minute, New Jersey Regional Medical Program is developing a physics center in our state to be part of a national program which will monitor the calibration of radiation therapy equipment and insure optimal dose distribution into the affected areas of all cancer patients.

This program which will operate eventually throughout the entire country grew from the first statewide cancer teletype network set up by NJRMP between 22 hospitals in New Jersey and New York's Memorial Hospital for Cancer and Allied Diseases, which quickly determines safe, precise and effective radiation doses. Also, NJRMP established tumor conference boards to review cancer cases in 39 New Jersey Hospitals.

The purpose of these review boards is to provide the cancer patient with the most modern techniques, modern drugs, and modern patient care available and to manage the patient throughout his illness. The fight against cancer is a big one as you can see. And so gentlemen the fight against kidney disease is equally as big. Keeping in mind that the number of hemodialysis patients has doubled in New Jersey in the last two years and a further increase is anticipated, NJRMP is doing the following.

We are coordinating a statewide renal transplantation network; assisting in the development of hospital-based and satellite intermediate renal centers; developing cost containment techniques, and designing educational programs to inform the public about end-stage renal disease treatment and kidney procurement through donors. The educational component is coordinated by the New Jersey-New York Regional Transplant Program which is a pool arrangement to serve the 19 million people living in that area—and we support this program.

New Jersey Regional Medical Program is also maintaining a Central Registry of Dialysis Patients which contains current medical, demographic and socio-economic information on all dialysis patients within the state. This information is vital to identify service shortage areas; to promote greater regionalization, and to provide a uniform reporting system for local, state and federal requirements.

It is an honor for me to review these programs because in each of them I see another inroad in the fight against disease. What Regional Medical Programs stand for is the assurance of quality health care demonstrated to date in 31 major health areas. This was achieved on your mandate through much hard work and a build up of cooperation among the various professionals who deliver health care. Now I see H.R. 16204 destroying all our work. Because that bill would immobilize us and paralyze the better patient care programs which exist today through RMP activity.

I ask your defeat of this bill and to move as swiftly as possible on the recommendation made here today by Dr. Arthur Bernstein for a one-year extension with funding of Regional Medical Programs and the opportunity to draw a true health bill in the next session. Gentlemen, I thank you for allowing us to be with you today and I wish especially to thank Congressman Helstoski who so generously hosted this delegation meeting in the interest of public health.

THE PALESTINIANS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. EILBERG. Mr. Speaker, the question of the Palestinian refugees is one of the most serious threats to peace in the world. One of the reasons this problem has remained with us for so long is the lack of understanding about the facts of the situation. In many cases propaganda has been substituted for the truth. At this time I enter into the Record a statement issued about the problem of the Palestinians by the Pennsylvania-West Virginia-Delaware regional office of the Anti-Defamation League of B'nai B'rith:

THE PALESTINIANS

(The issue of the Palestinians is of real and immediate concern to the Jewish community. Accordingly, this ADL fact sheet drawn from a document prepared by Zev Furst, Director of the Middle Eastern Affairs Department of the Anti-Defamation League of B'nai B'rith, will provide your leadership and members, as well as opinion-molders in your community, with information.)

The "Palestinian problem" will be the number one Middle East propaganda issue during the coming months, not only in this country but throughout the world. The Arabs in their ongoing propaganda campaign have stressed, with some degree of success, the following points:

1. The Palestinian problem was caused primarily by Israel, and Israel is singularly responsbile to find a solution. In short, since Israel "evicted" the Palestinians from their homes and "stole" their land, the Jewish state is to blame for the plight of Palestinian refugees and for the frustration which the Palestinians harbor;

2. The slogan "recognition of the legitimate rights of the Palestinans" is now accepted in certain quarters, both in the media and in public discussion.

3. The Palestine Liberation Organization (PLO) is the sole and legitimate spokesman of all Palestinians throughout the world.

4. The Palestinian goal of a "secular democratic state in Palestine" does not really entail the destruction and dismantling of the Jewish state.

Each of these anti-Israel propaganda arguments must be answered fully, as discussed below.

I. THE ARAB PROPAGANDA

1. The basic facts of the Palestinian problem

Israel recognizes and profoundly understands the existence of a Palestinian problem. But Israel knows that its solution must be part of the overall settlement of the Arab-Israel conflict and also that without a solution to the Palestinian problem there cannot be a just and lasting solution to the entire Arab-Israel conflict.

At the core of the Palestinian problem is the fact that it is a political issue and is tied to the central question of whether the Arab states are prepared to recognize the existence of an independent and sovereign Jewish state in the Middle East. The real issue is not what Arab propagandists are attempting to foist on the American people through the use of slogans or deceptive argumentation.

(a) It is not a problem of a people or nation which was forcibly evicted from their traditional homeland; most Palestinians today are still living in the area of Palestine that existed under the British mandate. Indeed, 70 percent of the Palestinians today are living on the same land which they have occupied for decades.

(b) It is not essentially a problem of refugees. The number of refugees living in refugee camps according to the United Nations' statistics is 450,000, while there are 2.8 million Palestinians living elsewhere throughout the world—1,000,000 in Jordan, 650,000 on the West Bank of the Jordan, 350,000 in Gaza and 800,000 in Syria, Kuwait, Lebanon, etc. Clearly, the overwhelming majority of Palestinians live in Jordan and the West Bank of the Jordan—not in refugee camps.

(c) It is not a problem of a people who do not have homes, because the majority of the Palestinians today live in their own homes—in Jordan, on the West Bank, or outside of what was formerly the British mandate.

2. Legitimate rights of the Palestinians

There is a significant difference between what Arab spokesmen and what the pro Arab apologists in America mean by this slogan. When Arab spokesmen refer to "legitimate rights of the Palestinians" they intimate that these can only be realized at the expense of the independence and sovereignty of Israel.

The pro-Arab apologists usually imply or assert that the Palestinian problem can be solved without the dismantling of Israel. Thus, whenever Arab spokesmen speak about the Palestinians, they should be pressed to state publicly whether by the "legitimate rights of the Palestinians" they mean the dismantling or alteration of Israel as a Jewish state.

3. The Palestine Liberation Organization (PLO)

A. PLO as Sole Spokesman of the Palestinians:

The Palestine Liberation Organization is not a democratically elected body representative of the Palestinians. It was founded in 1964 by the League of Arab States. In a summit meeting in Algiers of the League of Arab States in 1973, the League recognized the PLO as the sole spokesman of the Palestinians. They alone recognized the PLO as the sole spokesman without ever having consulted the Palestinians living either in Jordan, or on the West Bank, or outside of that area.

The goals of the Palestine Liberation Organization as enunciated in the Palestinian Covenant of 1968 and reaffirmed in the Ten Points adopted by the PLO in Cairo (June 1974) are twofold: the elimination of Israel and the elimination of Jordan.

The primary activities of the Palestine Liberation Organization and its member groups are terrorist actions directed against Israel. Equally to blame for these activities are Arab states which continue to aid, abet, and give sanctuary to the PLO and other terrorist bands.

B. *The PLO Solution to the Palestine problem is the Creation of a Single Secular Democratic State:*

In truth, the slogan "secular democratic state" is a catchword by which the PLO means an end to Israel, because secular democratic state, ipso facto, requires that the Palestinians are actually seeking a secular state. The Lahore Conference, which recognized the PLO, was a conference of Moslem states. The Arab states which support the PLO are all Moslem states. No religious Moslem can advocate a secular state. Obviously, in their propaganda campaign the Arabs understand that "secular democratic state" has an appeal to the Western world.

C. Palestinian State on West Bank:

The establishment by PLO of a Palestinian state on the West Bank of the Jordan will mean the establishment of a state determined to fight against the right of the continued existence and sovereignty of both Israel and Jordan. Another result will be the likely introduction of Soviet missiles 15 miles from Tel Aviv.

Finally, most of the Palestinians on the West Bank and in Jordan are opposed to the creation of a state under the leadership of the Palestine Liberation Organization.

II. THE ISRAELI POSITION

1. The Jordanian component

Israel has determined its policy regarding the Palestinians with the following factors in mind:

(a) The majority of the Palestinians are Jordanian citizens.

(b) The majority of Jordanian citizens are Palestinians.

(c) Jordan, therefore, is the state with the largest Palestinian identity. The problem of Palestinian identity and Jordanian identity are therefore bound one with another and cannot be separated. Indeed, there is a historical basis for this:

The British mandate consisted of both sides of the Jordan River, and only imperialist considerations were involved in the British decision in 1922 to partition both sides of the Jordan River into two separate entities. This separation lasted only from 1922 until 1948, and then the West Bank was combined with the territory east of the Jordan. In fact, representatives of the people living on the West Bank met in Jericho in 1948 and requested union with King Abdullah of Transjordan. In short, they demanded annexation of the West Bank with Transjordan and the reunification was accomplished by the military seizure of the West Bank by Abdullah.

(d) There are social, family, cultural and economic ties between the Arabs living west of the Jordan River and those living east of the Jordan River. Witness the success of the "open bridges" policy of Israel during the last five years.

Israel accepts the fact that Arabs—both Palestinians and Jordanians—would like self-identity and self-expression. But it supports the concept only in the context of peace and good neighborly relations. This identity might be expressed in a Jordanian-Palestinian state which would be a neighbor of Israel. However, Israel does not believe it is her obligation to determine how this identity should be expressed or whether this state is to be called Jordan, Palestine or Jordan-Palestine. But Israel opposes the creation of another Arab state in addition to Jordan in the area.

Israel sees no valid reason for their being two Arab states in the area both of which have a strong Palestinian identity. Most Palestinians also prefer one state of their own rather than two separate states, neither of which can be viable without the other. (Even if a few of the Palestinians continue to proclaim separation, this should be viewed only as a tactical step on their part.)

2. With whom will Israel negotiate?

Israel faces a question with whom to negotiate regarding her relations with a Palestinian-Jordanian state. Israel has said she is prepared to negotiate with Jordan. The reason is clear. The Jordanian government is the government of most of the Palestinians, and only a minority of the Palestinians are not Jordanian. Another important point is made by Israel. The United Nations Security Council Resolution 242 specifically states that all negotiations shall be conducted among states. Resolution 338, adopted by the Security Council following the Yom Kippur War, derives directly from Resolution 242 and is the basis for the consensus agreement for the Geneva negotiations. Therefore, Israel in complying with the resolutions of the Security Council will only negotiate with Jordan—an existing state—and not with outside parties.

3. The Israeli position regarding outside parties negotiating in Geneva

The Geneva conference was established to enhance negotiations between states of the Middle East so as to arrive at a durable peace. These states include Egypt, Syria, Jordan, Lebanon and Israel. Israel opposes inviting representatives of the Palestine Liberation Organization, whose avowed goal is Israel's destruction, to attend the Geneva conference either as delegates or as observers. The motives of the various terrorist organizations are in direct contradiction to Resolution 242 of the Security Council, which calls no all states to recognize one another in the region.

Israel has stated on a number of occasions that it does not object to having Palestinians, within the framework of the Jordanian delegation, at the Geneva conference and in any future negotiations. Israel did not oppose the presence of seven Palestinians in the Jordanian delegation in Geneva, and will certainly agree to this formula in the future.

This then is the present position of the Israeli government. The Israelis correctly point out that the "Palestinian problem" is not an Israeli-Palestinian issue. It is rather one which most deeply involves Jordan—the country of the Palestinians—and the burden for the solution of this problem must be Jordan's.

DECIDING THE WORLD'S FATE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Ms. ABZUG. Mr. Speaker, why do decisionmakers in the United States and the Soviet Union persist in risking unimaginable dangers through continuing the arms race? Dr. John Gofman, professor of medical physics at the University of California, presents some interesting theories in an article which I would like to insert in the RECORD.

Perhaps, he suggests, the decisionmakers—and he defines them—have not really grasped the possibility of a 50-50 prospect of losing everything, including their own lives. They are not conditioned to think in such terms. Fortunately, Dr. Gofman also has some thoughts on raising their consciousness:

[From the Science Forum magazine]

NUCLEAR ARMAMENTS AND THE FINANCIAL ÉLITE: DO THEY KNOW THE RISKS?

(By John W. Gofman)

Wide differences of opinion exist about the probability of a major nuclear war in the early, intermediate, or distant future. This article is concerned with one set of variables that may operate significantly to affect this probability: namely, who makes the decisions to deploy nuclear weapons and missiles, the relationship of such individuals (or institutions) to the real societal decisionmakers, and the information base upon which both groups are operating. It is self-evident that governments are the institutions directly involved in deploying nuclear arms. But it is not at all evident that the significant decisionmakers in the free world—who are families with wealth on a level with the DuPonts, Mellons, Pews, or Whitneys—know all the premises upon which such deployment is based, nor whether they would approve continued nuclear-arms deployment if their information base were broadened.

Recently the president of the United States reached some agreements with the apparent leadership of the Soviet Union concerning limitations of both defensive and offensive strategic nuclear arms. Yet less than two weeks later the U.S. Secretary of Defense, Mr. Laird, was requesting funds for advanced development of missile-carrying submarines and bombers. Mr. Laird argued before Congress that the United States must proceed with modernization of its offensive strategic forces to provide an incentive for the Soviet Union to negotiate in the next phase of arms negotiation.

The only interpretation possible at this time is that the agreements concluded in Moscow do not in any way alter the superpowers' technological efforts to get ahead of each other in the strategic-arms area. No bar has been placed upon 'modernization' of strategic forces, even though some quantitative limits have been placed upon certain categories of offensive and defensive missiles or their launchers. So long as technological development proceeds, the real concern of each adversary must be the development of a first-strike capability by its opponent. This goal, ominously different from the deterrence of nuclear war, is not materially altered by the recent strategic-arms limitations.

There are those who hold the hopeful view that success in new technological developments is unlikely, hence technologies will probably always balance each other and the deterrence will remain mutual and stable. It is very difficult to assess the precise likelihood that one superpower will develop a first-strike capability, with its attendant prospect of nuclear blackmail of its adversary or use against its adversary. No credible evidence or theory argues against the possible development of a first-strike capability by one or both superpowers—and such a development either by one or both superpowers undoubtedly increases the probability of nuclear war. In this instance the technical-military groups, both in the USA and the USSR, are the realists, for they refuse, properly, to downgrade the prospects for new technological developments.

The recent agreements on strategic-arms limitation thus do not prevent the technological quest for a first-strike capability. And if we presume that development of a first-strike capability is possible in some time period, that whoever develops such a capability would be sorely tempted to use it, and that the USA and USSR are of approximately equal technological skill, then we must conclude, for such a time period, that the USA and USSR must both consider that there is a 50–50 prospect of losing everything in a nuclear war. This would appear to be the only reality of the continued existence of a technological quest for national security: a 50 percent chance of losing *everything* may be the price of engaging in such a technological quest.

ARE THE REAL DECISIONMAKERS INFORMED?

Are the real decision-makers in the USA and the USSR informed about the 50 per cent chance of losing everything in the continued nuclear-technological arms race? The first, all-too-ready answer is, "Of course they are informed, but 'reality' prevents either side from doing other than what it is doing." A follow-on to this simplistic reply is, "Diplomatic efforts are going on right now by the super-power decision-makers to alter the situation."

Both of these answers deserve serious open challenge. How do we know that there is any relationship between governmental diplomatic activities and either the knowledge or the desires of the real decision-makers?

It is difficult to come by information concerning who are the true wielders of power in the Soviet Union. Since no financial or capitalist group exists there, one might presume that the true decision-makers may be in the Communist Party within or outside the Soviet government, or in the Red Army. We can be very sure that the Soviet people are not of consequence in real decision-making. The USSR, like the USA, has a technical-military establishment of demonstrated skills and capabilities. But we do not know the relationship of the real power-wielders in the USSR to their own technical-military establishment; hence we do no know whether the power-wielders of the USSR have really been informed about the probable consequences of the continued technological arms race.

We know a great deal more about the real decision-makers in the USA, although it may be difficult to rank the most important by name. Let us first dispense with some interesting but inconsequential mythology. As myth would have it, the USA being a constitutional democracy, the real power rests in the hands of the common man through the ballot. Such a myth, while having utility for certain purposes, has little to do with the reality of the power to make decisions in the USA. A second myth is that the president and the Congress jointly represent the seat of decision-making power. Is this to be taken seriously where real power is the issue? While formally the common man votes to elect the president and the Congress, he does not select either the president or the members of Congress. These elected officials cannot, with rare exceptions, even consider aspiring to public office without funds in great quantity. And such funds do not come from the common man.

It is, therefore, broadly inevitable that national political office-holders are in office through the courtesy of the sources of the prime funds required to achieve and maintain public office. The real seat of power, and the real source of major decision-making in the USA, must reside in those sources. It is no secret that most of the material wealth, and hence the true decision-making power, resides in the hands of fewer than 10,000 individuals out of a population of 200 million people. Such power is, in general, exercised through the intermediacy of corporations, including the corporations that own the electronic and press media of dispensing information.

It is important to emphasize the word intermediacy, for the officials of the corporate enterprise are hardly the seat of power. Rather, such officials are wage- and salary-earners totally dependent upon continually pleasing the real owners of the entire corporate system, and these controlling interests are few in number.

There is no merit in a debate over whether the financial elite, who own and manipulate the corporate structures, operate together or independently. No matter what degree of pluralism exists among the financial elite, it remains true that the real seat of decision-making power is at this level. What these men consider to be in their interest will become policy actions at the corporate level. Corporate officials are indeed executives, executing the policy decisions of the financial elite in business, politics, advertising, and other avenues of public education.

Through a variety of corporate dispensing mechanisms, funds are made available to elected or election-bound individuals in the highest governmental offices. It is simply not likely that elected governmental officials, including presidents, senators, and representatives, will easily forget the largesse that makes their political existence possible.

What does this financial community, the real seat of policy and decision-making power, know about the nuclear arms race and the technological quest for security? "National security" and "vital interests" have a very specific meaning for the financial elite, namely preservation and extension of material wealth. We can therefore expect that there will be no fuzzy thinking by this group. Either the technological arms race adds to the prospect of preservation and extension of wealth, or it subtracts from it.

Do the members of the financial elite of the USA realize the possibility that our side has a 50 per cent chance of losing the technological race for a first strike, and that with such loss goes the prospect of nuclear obliteration and loss of all their assets? The members of the financial elite are not particularly noted for being newsmakers. A few of them do hold electoral office, but in general they seem to prefer relative anonymity. As a result, it is difficult to ascertain what they really know about the technological arms race.

There is good reason to wonder whether the financial élite decision-makers have even had the right questions posed for them in technological arms race matters. First of all, this group has been enormously successful in the accumulation of material assets and wealth. They are therefore likely to feel that the governmental-military structure that has served their interests so well in the past can be counted upon to do as well in the future. This would mean that such an élite may not recognize the 'win all-lose all' features as a truly new prospect, a special product of the technological-nuclear arms race. Second, the financial élite, so busy with the task of maintaining and expanding material assets, may have given little or no serious thought to the arms race, feeling that in such matters it is best to rely upon technical and military expertise. Can they rely upon the technical-military experts to provide them with reliable advice?

Two powerful dynamics may operate to lead the technical-military establishment experts to provide poor or misleading information to the financial élite. First, it is an important characteristic of such experts to feel superior. This leads to the view that 'we experts' can achieve any desired goal provided sufficient funds and hardware are placed at 'our' disposal. Besides, 'our' technology is necessarily superior to 'their' technology. There is also the self-preservation aspect of the whole concept of technical-military expertise. It would represent a career disaster for the technical-military experts if the financial élite were ever to recognize that the solution to its security problem must be sought outside technology and military hardware. Career experts always place their own career preservation ahead of all else.

Thus it is entirely possible that the technical-military experts, if consulted by the financial élite, will have attempted to provide abundant reassurance that they (the experts) will be able to manage the situation, whatever develops. It is probably unlikely that the experts will have suggested to the financial élite a 50 per cent probability of losing everything.

DO WE KNOW WHAT THE FINANCIAL ÉLITE THINK ABOUT NUCLEAR ARMS?

As mentioned above, the financial élite seem to prefer to operate anonymously. A valid poll concerning their level of awareness and their opinions about nuclear arms race questions would be of very great interest and importance. Thus far, no such direct evidence is anywhere available. A number of indirect indicators would suggest that either the financial élite have given scant heed to the nuclear arms problem or they are secure in the belief that technological approaches to security will operate successfully to protect their interests.

What are such indirect indicators? First, we have the evidence from recent public polls, which indicates that the overwhelming majority of Americans believe that national security is achievable through technological superiority in nuclear-missile arms, and that other approaches to co-existence with the USSR are not likely to succeed. What the public thinks on such matters is generally a reflection of the prevalent theme being presented by the electronic media and the press.

Since media and the press operate (broadly speaking) to beam the message permitted or desired by the financial élite, it can be presumed that the élite either have not expressed their desires at all, or have expressed confidence in the technological approach to security. The public can usually be taught to believe any message that bears the seal of approval of the élite, no matter how distasteful the hopeful democratic idealist may find this axiom to be.

Second, the political establishment shows no significant signs of deviation from absolute support of the technological-military approach to national security. Ever-increasing funds for the technological-military development effort are regularly voted, flavoured only with a modicum of window-dressing in the form of concern over waste in the military expenditure. The most dovish of the politicians do not effectively challenge the security-through-terror concept. The Arms Control and Disarmament Agency remains as it always has been, thoroughly impotent.

Again, one must conclude from all this either that the financial élite, as yet unconcerned about the nuclear arms problem, have passed no message to the political establishment, or that they have considered the problem (possibly with poor information or advice) and have passed to the politicians the message of continued reliance upon technological solutions to the national security problem.

There are no obvious signs that the financial élite are worried about the 50–50 chance that everything may be lost as a result of the arms race, even including their own lives. For some of the reasons cited above this may only mean that they are uninformed or misinformed. This group rarely has operated, in their economic ventures, with a 50–50 chance of losing everything. Indeed, they have operated almost with certainty that they will remain wealthy.

It is likely that the financial élite have not seriously considered the risks of the technological arms gamble. For this reason, it would appear that alerting them regarding the real risk of the nuclear-technological arms race is of the greatest significance for survival. This group must come to know the nature of the gamble upon which loss of everything is being risked, and that the odds are about even of such loss.

WHAT MAY BE EXPECTED OF THE FINANCIAL ÉLITE DECISIONMAKERS?

Let us suppose that the financial *élite* have been too busy with wealth- and asset-accumulation to give more than perfunctory attention to the technological arms race, or that they have been misinformed by their technical and military experts. In either case it is vital that the group become fully informed concerning the risks.

There is no guarantee that they will act constructively even with full knowledge of the real odds. But with a penchant (and a demonstrated skill) for engaging in ventures with far better odds than are offered in the arms race, it is not fanciful to hope that they may be galvanized into a set of actions that may change the present course of the technological arms race.

The financial *élite* have already demonstrated that national borders are no real barrier to progress with financial-economic interests. The success of multinational operations throughout the free world demonstrates this beyond question. Surely this group knows, or can readily find out, how to establish effective communication with their counterparts in the Soviet Union.

It is doubtful that the issue of so-called "communism *versus* capitalism" would deter the *élite* in this effort. Power-wielders are adept at selection of useful features out of any ideology. There are far more factors of community between the power *élite* of the U.S.S.R. and the U.S. financial *élite* than there are factors of difference, especially where truly vital interests of both groups are involved.

As a result, the two power *élites* may very well be able to work out a modus vivendi providing each group with a better prospect than a 50–50 chance of losing everything. No suggestion is made here that the two groups need necessarily trust each other. Both undoubtedly already have a very good appreciation of the trust that can be placed in the other, and are in no need of advice on that score.

If these *élites* look at the odds seriously and conclude they don't like what they see, real steps might then be initiated to reduce their mutual risks. For example, in the USA, instead of forbidding the Arms Control Agency even to carry on public information programs like those of the Defense Department, we might recruit the finest talent available to develop vigorously some real alternatives to the nuclear-technological arms race. The level of funding of such an effort deserves to be at least several per cent of the military budget, or even much more. And this might all be done in the open, with no secrecy whatever, in close collaboration with similar effort in the U.S.S.R.

If the American and Soviet élites become motivated to seek viable solutions, there is good reason to believe that such multilateral solutions, not dependent on trust alone, will be developed and developed rapidly. Up to now, with no definitive evidence that the élites are really concerned, it is true that no solutions have been seriously proposed, but it is also true that no serious efforts have been made. If anything, the activities of the technical-military experts have been calculated to thwart any such serious efforts.

It is also possible that the élites, even fully informed, will elect to play the 50–50 gamble to "win all or lose all." They may. In this event, the ride to nuclear-technological oblivion for both the élite and the populace of either the USA or the USSR, or both, is most likely to be measured in years or decades at most—certainly not in centuries.

WHAT ABOUT THE PUBLIC AND THE POLITICIAN?

It would be easy to misconstrue the remarks of the foregoing discussion as antidemocratic in tone. This would be false. The common man of the Soviet Union has nothing to gain from a technological arms race. Nor does the common man of the USA. Furthermore, nuclear obliteration of Russians will do nothing for Americans, and vice versa. Both Russian and American citizens are hostages to the arms race, with an appreciable part of their meagre earnings being diverted to the arms race instead of going into the improvement of quality of life. But the technological arms race goes on simply because the power élites have not elected to stop it.

There is an enormous reserve of great thinkers in the public of the USSR and the USA. One senses that in the USSR there is little the public can do to educate the power élite without severe reprisals. However, in the USA the public can make its influence felt through establishment of a clearly audible, sustained dialogue on the technological security issues. The public can, for instance, apply steady pressure upon the national politicians, with the goal of having those politicians learn and pass upward something more than Cold War clichés about the technological arms race. An active public forum on these issues will certainly attract notice, and such notice will certainly drift upward to the attention of the élite.

At best, it will be difficult to get the financial élite to consider the technological arms race seriously, since this group is so thoroughly insulated. However, since they also have the power others lack to turn policies around, reappraisal of the arms race by them might result in major progress toward real security instead of a 50–50 chance of obliteration.

LET US OFFER SENIOR CITIZENS DIGNITY AND RESPONSIBILITY, AND FORGET THE PITY

HON. JERRY L. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. PETTIS. Mr. Speaker, in recent years this country, and consequently Congress, has moved to "help" the senior citizens with various programs of monetary aid accompanied with a lot of talk about the value of these older Americans. However, according to a poll conducted by Louis Harris this talk apparently has not done much to improve the underlying attitude and stereotype Americans have of the elderly. Before any real gain can be made in correcting these misconceptions, we have to enact programs which will give the elderly a chance to regain their own respect for themselves and their peers—such as allowing them to continue working and still receive their social security payments, as would be allowed under my proposal H.R. 905, which removes the social security limitations on outside earnings. The American Association of Retired Persons—AARP—News Bulletin ran an opinion article on the Harris poll in the Bulletin's November issue. The editorial, entitled "Less Pity, More Opportunity" follows:

Less Pity, More Opportunity

Pollster Louis Harris recently completed one of the most definitive attitudinal studies on old age ever conducted in America. He probed the attitudes of the young toward the old, the old toward their peers and the old toward themselves. The results should be required reading for the nation's policy makers.

Most young people, the study indicates, view older persons as "unalert, physically inert, narrow-minded and ineffective." Most older people view their peers in similar terms. But they view themselves quite differently.

In viewing their own needs and potentials, older citizens expose as "a downright lie"—to use Harris' words—the negative stereotype with which they have been branded.

"We are alive and well," Harris sees them saying to society. "And while it is true that many of us suffer from poor housing, inadequate income, lack of proper medical care and other serious problems, it is also true that these are society's problems, not just our own.

"You are drowning us with pity, and your bad conscience has convinced us as well that the plight and lot of older people is well nigh hopeless. Well, we want to tell you that we are in much better command of our competence and capabilities and much more willing to bear our share of societal responsibilities than you ever imagined.

"So give us less pity and more opportunity; give us respect not simply for having lived so long, but respect born of what we are and still can be. Do not count us out."

What practices and policies within our society breed such a negative attitude toward older people? Surely the "youth cult" projected through mass media programs and advertising is a major factor. But our Association has long felt that one of the principal causes is mandatory retirement provisions of union and employment contracts. The work ethic is so deeply ingrained in our society that all too often what gives one identity is not personhood, but profession. To be robbed of profession at an arbitrary age communicates to the individual, his peers and his more youthful associates a message of uselessness, worthlessness.

Respondents to the Harris study seem to agree. Of all retirees interviewed, 37 percent said they were forced to retire. For those in the under-$3,000 a year income group, the figure was 43 percent. Among blacks 65 and older, the figure was 50 percent. Harris estimates that those persons age 65 and older who did not want to retire—who want, and need, to be gainfully employed—total 4.4 million. If they were counted in the unemployment statistics, the nation would have an unemployment rate of close to 10 percent, rather than the currently used figure of 5.8 percent.

The survey shows that most persons in the 18–64 age group believe that an even lower fixed retirement age would be "a good and desirable thing." Seventy-nine percent of the executives interviewed who have direct hiring and firing responsibilities admitted to discrimination in retirement practices.

But those who have been victims of such discrimination feel a deep sense of outrage. "Work in itself makes a person feel useful and keeps him from becoming old," they told Harris. "Just because a person passes age 65 does not mean that he or she is not qualified to work hard and make a significant contribution to society. Nobody should be forced to retire because of age if he wants to continue working and is still able to do a good job."

Had the Harris study been conducted even 10 years ago, the negative attitudes toward older Americans would likely have been even more pronounced. As older citizens have increasingly demonstrated their vigor, independence and potential through our Association and other groups, there has been a major improvement in attitudes in recent years. But much more progress is needed.

The Harris study was released during the same week that a conference was being held in California on "Changing the Image of Aging." Surely the negative image will not be changed until the reality of negation is changed.

FRED M. LANGE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. COLLINS of Texas. Mr. Speaker, Dr. Frederick M. Lange, president of the Dallas Community Chest Trust Fund, and internationally known expert in fund-raising and philanthropic administration, presented a lecture, "American Philanthropy and the World," at Oxford University, England, on October 4, 1974.

During the past 41 years since Dr. Lange came to Dallas, he has been responsible for raising over $250 million for civic agencies, hospitals, colleges, and other community organizations.

In 1953, Dr. Lange organized the Dallas Community Chest Trust Fund, which now has assets of over $20 million, and has served as its president since 1969. The trust fund serves as a depository for funds to be used in meeting the capital and long-range community needs. Dr. Lange has furthered the concept of private philanthropy not only in Dallas, but throughout the world. He has lent his expertise to efforts which established Community Chest organizations in Hong Kong, Bangkok, Japan, and the Philippines.

Dr. Lange has been decorated for his humanitarian work by the following countries: Dominican Republic, Yugoslavia, Liberia, Ethiopia, and the Red Cross of U.S.S.R. And on November 14, Dr. Lange was presented with the Benemerenti Medal, awarded to him by Pope Paul VI for his exceptional accomplishment and service to mankind. The following are some of the key excerpts from the speech by Dr. Lange at Oxford University:

As I stated before this distinguished audience here today I am filled with mixed emotions—pride and honor for the invitation which you have extended to me and considerable humility as I try to offer you some observations on activities which in a real sense might be called "caring for mankind".

Philanthropic activities have progressed far beyond our early concepts of charity. In the United States, with which I am most familiar, they cover a vast area—in money, effort, goals and achievement. In my country, volunteerism and philanthropic giving now is a $25 billion business, with employment by organizations in this sector of the economy representing approximately a third of all employment in the Nation.

If you consider this an exaggeration, let me point out that in many cities the largest—or one of the largest—employers and major contributors to the economy there may be a hospital or group of hospitals or it may be the educational institutions of the area.

Philanthropy is as old as humanity itself and there are references to it in the Book of Genesis. To the Biblical question "Am I my brother's keeper?" philanthropy today answers with a resounding "Yes!" The ancient Hebrew laws relative to gleaning in the fields, to tithing and to the forgiving of debts during sabbatical and jubilee years are an indication of a nation's concern for its poor. But philanthropy has not been limited to the Jewish and Christian religions. The ancient Pharaohs of Egypt had lists of their gifts inscribed on their tombs. Even the Golden Rule appears, in slightly different form, in the doctrines of the Buddha and Confucius.

Philanthropy helped to build the United States. Recognizing this, Congress granted the American people the opportunity of tax deductions to encourage and support philanthropic institutions.

I believe strongly that every person not only has the obligation to contribute to the betterment of mankind, but that in equal measure he may regard this act a privilege. Charity may be considered to be giving without the anticipation of any return from the gift. Philanthropy, on the other hand, expects a return—in the betterment of some segment of mankind, in a city or neighborhood, in better health, in religious work, in culture or in some other field.

I think it is obvious that any philanthropic activity, to be effective, must have money. Without funds it is merely an organization of good wishes. In general, there are four principal sources for philanthropic funds.

1. *Bequests*: In America bequest giving is on the rise as more and more Americans turn to philanthropy as a means of disposing of their worldly goods. Last year's bequests amounted to $3.06 billion, an increase of 8.9 per cent over the previous year.

2. *Corporations:* Indications are that corporate giving also is increasing in America. Corporations in the United States gave $950 million last year, an increase of 13.1%.

3. *Foundations*: These in the past have played an important role in American philanthropy. Recently, however, with stocks depressed, foundation assets have decreased. Last year's grants were about the same as those of the year before—about $2.36 billion.

4. *Individuals*: Giving has become a way of life for most Americans, from the wealthy down to the poor, who find a way to contribute something to some cause. Last year individuals increased that giving to philanthropy by 9.4% for a total of $18.16 billion.

These are the sources of philanthropic funds. Of concern to us is what becomes of these funds. How are they used? Who benefits from them?

Religion: America, like Britain, has a deep religious heritage, and to religion Americans have consistently turned with their gifts. Religious giving in 1973 reached $10.09 billion, an increase of 6.7% over the previous year.

Health and Hospitals: More and more Americans have come to realize that health is both a problem and a goal for all of us. With health a poor man is rich; without it, a rich man is poor. So it was that health last year was the second largest recipient of philanthropic giving. An 8.2% increase brought the total to $3.98 billion.

Education: America long has been dedicated to the principle of an enlightened people. Education in America last year received $3.92 billion, with higher education receiving well over $2 billion of this.

Social Welfare: This is a field that covers many different kinds of projects and represents 7.2% of the total philanthropy, with $1.76 billion going to social welfare last year.

Arts and Humanities: In the not-too-distant past only the very rich were able to be patrons of the arts. Today, however, anyone can contribute to some cultural cause. There was an expansion in demand for cultural activities.

Civic and Public: This resulted in contributions of $600 million last year.

Other: All this still leaves unaccounted for about 12.2% of total philanthropic funds—or some $2.98 billion. Included are foundation endowment, foreign aid and international affairs.

This was the way America spent its philanthropic funds last year. But this much we know: America is committed to the ideal of philanthropy. It will continue to play an important role in our lives.

REV. MELVIN CHESTER SWANN

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. MITCHELL of Maryland. Mr. Speaker, on May 9, 1974, Melvin Chester Swann, Sr., D.D., L.L.D. gave the morning prayer before the U.S. House of Representatives. On Monday, November 18, 1974, funeral services were conducted for Reverend Swann at Waters African Methodist Episcopal Church in Baltimore, Md. He was senselessly and savagely murdered in his home. Thousands of citizens came to pay last tributes to a clergyman who had given so much to his community.

OBITUARY, 1914–1974

A man of destiny who knew the need to work to bring success, this son of Isaiah and Grace Viola Swann was born in Baltimore, Md., in November 1914 on West Preston Street on the east end where the Samuel Coleridge Taylor School now stands. In school, in the community, in the Army, and in the church he gave his best.

In the ripening of God's plan the call to the Christian ministry was heard and answered. He matriculated as a student in Gammon Theological Seminary the 14th of October 1932—ordained a deacon by the late Bishop R. A. Grant, October 28, 1934, and an elder on November 7, 1936, by the late Bishop D. H. Sims. He preached fervently and a host believed in North Carolina, Alabama, Kansas, California, Maryland, and on the foreign soils and in between. Melvin Chester Swann's strength was helping others grow and grow.

From the public schools of Baltimore to the Chaplain School at Harvard, excellence was his mastery and honor his reward. His leadership qualities won him an early commission rank in the Chaplain Corps of the U.S. Army. On foreign soil in Europe under his leadership. "As You Were" with a 35-member entertainment group was organized and toured all of Europe for 6 months entertaining many despondent and hospitalized military personnel. Because of his dedication and sacrifice he received a promotion of captain in less than the usual time it takes for promotion. He was awarded European Theater of Operations Medal with three Bronze Service Stars, Army of Occupation Medal, World War II Victory Medal—American Campaign Medal.

No doubt his greatest contribution in his native Baltimore where he built in Cherry Hill, Hemingway Temple A.M.E. Church and led the congregation of "Waters" into a mammoth rehabilitation program that cost the congregation over a quarter of a million dollars. The establishment of a child day care center, setting in motion a community youth 7-day-week program, and assuming leadership for the erection of Waters Towers East, a housing for the elderly, with a day care for the elderly, at a cost of over $4 million. He had a special knack for getting things done. He was a shining example of a man who loved people.

A busy man in a busy world, he found time for fun and belonging, for young people, for the aging and their concern. He served and was serving in Georgia, Alabama, Kansas, California, North Carolina, and Maryland; former chairman, ministerial division, 1969 United Negro College Fund; director of public relations, Kittrell College, N.C.; chairman, membership committee NAACP, Baltimore branch; Co-director, audio-visual and radio education for the A.M.E. Church; 1964 State department conference for non-governmental agencies; 1966 White House Conference, "To Fulfill These Rights"; chairman, Johns Hopkins Drug Abuse Community Board, vice president, Baltimore Council of Churches.

Dr. Swann married Miss Dorothy Elizabeth Witaker, a native of Raleigh, N.C., while pastoring in Alabama in 1943. Mrs. Swann helped her husband in his work and shared his vision toward excellence and goodly fellowship. To this union was born one son, Melvin Chester Swann, Jr. In addition to Mrs. Dorothy Elizabeth Swann and his son, Melvin Chester Swann, Jr., Dr. Swann is also survived by a daughter-in-law, Glorida M. Swann, granddaughter, Phyllis V. Swann, two brothers, Isaiah "Ike" and Howard Dixon and other relatives and many friends.

THE GENERAL SHOULD GET MARCHING ORDERS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. FRASER. Mr. Speaker, Elsa Goss of the editorial board of the Philadelphia Inquirer devoted a column to the much-discussed episode that occurred at a Duke University Law School forum last month. After his speech, during a question and answer period, Chairman of the Joint Chiefs of Staff, Gen. George S. Brown showed colors which his defenders now insist are not his true colors. I find this hard to swallow, as does Ms. Goss.

The damage General Brown did to his reputation should not be ignored by those in the administration who must judge his ability to remain in office and perform his duties.

I wrote to the President November 13 about this and I have received a reply. I am not happy with the reply. I hope it is not the last word about General Brown remaining in office. He obviously has lost the confidence of many in this country, including me. Does the President really want a man with a tarnished reputation for fairness to be the leader of this country's military forces?

The Goss essay and my exchange with the White House follow:

[From the Philadelphia Inquirer]

THE GENERAL SHOULD GET MARCHING ORDERS

(By Elsa Goss)

Anti-Semitism is probably the oldest and most prevalent form of group prejudice in the world, but that doesn't excuse Air Force Gen. George S. Brown.

At a Duke University Law School forum last month, Brown, chairman of the Joint Chiefs of Staff, made the incredible statement that Jews control the nation's banks and newspapers. He alluded to a Jewish lobby which has an undue influence on Congress to provide equipment and aid to Israel.

That comment contains several centuries worth of propaganda and ought to cost Gen. Brown his job.

For in dredging up the specter of a world-wide Jewish conspiracy, the general showed an unfathomable lack of intelligence, judgment and sensitivity.

From the standpoint of American foreign policy, it was ill-timed and inappropriate. The Mideast situation is particularly delicate; a military officer ought not to be speculating on the use of American force should another oil embargo arise.

From the standpoint of the American armed forces, it was in unconscionably bad taste. Despite the fact that the military has a reputation for widespread anti-Semitism, thousands of Jews have served in it and died fighting for the freedoms soldiers are supposed to protect.

In one stroke, Brown denigrated the memories of these Jewish war veterans, showed a deep disrespect for the Jews currently serving this country and left grave doubt whether he understands what his men are saving the world for.

After all, we once went to war against a country which thought the Jews had too much power for anyone's good.

And lastly, from the standpoint of Gen. Brown's power, it is horrifying to think that a man in his position could actually believe the lies he uttered. His words are disturbingly reminiscent of "the Protocols of the Elders of Zion," a 19th century fabrication charging a Jewish plot to overthrow the Christian world.

His words are not too far removed from a 1917 London newspaper article stating that "there are no state secrets of any nation but are shared by the secret rulers of Jewry."

His words are no different, in fact, from those of any bigot who thinks a nation's problems can be explained by pinning them on minority group scapegoats.

The general displays an appalling ignorance in stating that Jews control the banking industry or the world of journalism.

As Sen. William Proxmire, a senior member of the Senate Banking Committee, noted, "probably no industry in this country has more consistently or cruelly rejected Jews from positions of power and influence than commercial banking."

Sen. Proxmire also said, "While newspapers have not practiced the same Jewish-exclusionary policy, it is a fact that, with very few exceptions, publishers and editors of American newspapers are non-Jewish."

And so, he might have added, are most government leaders, business executives, social arbiters and members of the Joint Chiefs of Staff. If there truly is a power elite in this country, Jews are most certainly not in the midst of it.

Gen. Brown says now that he deeply regrets his remarks. He insists that they do not "represent my convictions."

The apology is unsatisfactory and blatantly insincere. No one without a trace of anti-Semitism would have thought to make those remarks in the first place.

Gen. Brown ought to be replaced. His continued presence would be an embarrassment to the military—and the country. It would, in fact, be a disgrace.

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 13, 1974.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I view with alarm and great concern General George S. Brown's remarks delivered October 10 in Durham, North Carolina.

I ask that you seek and immediately accept General Brown's resignation from his post as Chairman of the Joint Chiefs of Staff. In view of his high position in our military establishment, General Brown's remarks will provide high-powered grist for the anti-Semitic mills that exist in the United States whether this was General Brown's intent or not.

I am not concerned with General Brown's references to the Israeli lobby in the United States. I have faith that the Congress and the Executive can jointly frame a Middle East policy that is in the national interest.

It is General Brown's simplistic, misguided and erroneous references to bank and newspaper ownership that lead to this letter, Mr. President.

One can't ignore what happened within our life times to European Jewry. I firmly believe it can't happen here. And one reason it can't is that we won't countenance public officials who express views such as those expressed by General Brown.

Some suggest we give General Brown the benefit of the doubt. In the past, I have given other public officials this benefit. Without exception I've found that my decision to do so was wrong. We are not so bereft of talent in this country that we must abide grave errors of judgment by public officials. General Brown ought to be asked to resign now.

With best wishes.

Sincerely,

DONALD M. FRASER.

THE WHITE HOUSE,
Washington, D.C., November 15, 1974.

Hon. DONALD M. FRASER,
House of Representatives,
Washington, D.C.

DEAR DON: I would like to acknowledge and thank you for your letter to the President regarding the remarks made by General George Brown at Duke University Law School.

Your message has been passed along for the President's attention. However, as you may now know, the President has publicly disavowed the comments made by General Brown. He met with the General yesterday to express his strong feelings about the matter. I am sure you also know that General Brown has publicly apologized to those that might have been involved in the comments he made. The President has also stated that General Brown has been an excellent Air Force officer and Chairman of the Joint Chiefs of Staff and he does not believe that the General should be fired for that one mistake.

With kind regards,

Sincerely,

MAX L. FRIEDERSDORF,
Deputy Assistant to the President.

SPREADING COMMUNIST DESERT IS THE PROBLEM, NOT OVERPOPULATION

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 21, 1974

Mr. HUBER. Mr. Speaker, the World Food Conference in Rome concerned with the world's supply of food has overlooked a significant factor in the equation. There is much silly talk of the so-called rich countries being at fault, when in reality the world's so-called Socialist nations and the systems they live by are to blame. Collective farms never produce a surplus and they are inefficient farms.

No one outproduces the American farmer in his quest for a comfortable living. This is true not only of wheat, but also as regards the sugar problem. I commend the following two articles from the Washington Star-News of November 10, 1974, and the Christian Science Monitor of November 8, 1974, to the attention of my colleagues in this regard:

[From the Washington Star-News, Nov. 10, 1974]

LOSSES BY RUSSIA CUT SUGAR STOCK

LONDON.—Russian crop failures account in part for the sharp rise in the price of sugar, according to international sugar experts.

"The spark that triggered the recent rise in sugar prices was three consecutive sugar beet crop failures in the Soviet Union," said a senior United Nations sugar expert.

The expert, who refused to be quoted by name, said in an interview that because of the bad harvests beginning in the fall of 1971, the Russians stopped selling sugar on world markets and began buying instead.

As a result, he continued, worldwide demand—81 million tons this year—exceeded supply—80 million tons—and prices began to skyrocket. In 1971, for example, the price of a pound of raw sugar landing in New York was 4.52 cents. Today it is 67.2 cents.

Increased costs of refining, distributing and marketing sugar also have contributed to the price spiral. Experts also cite bad weather which diminished the sugar yield of beet crops throughout Europe and the increase in world population and the ban on cyclamates which increased the demand 2 to 4 percent a year.

In 1971, the Soviets sold 1 million tons of sugar on the world market. But in 1973 they purchased 2.6 million tons.

Of the 80 million tons of sugar produced this year, most is marketed domestically. Only 22 million tons are traded abroad, and of that some 10.5 million tons are reserved for such special deals as the British Commonwealth sugar agreement, the United States import quota, and the Cuban agreements with Communist countries.

That leaves only 11.5 million tons for trade on the free world market, and of that total, the Russians at last count were taking 2.6 million tons.

[From the Christian Science Monitor, Nov. 8, 1974]

FOOD AND THE RUSSIANS

(By Roy D. Laird)

LAWRENCE, KANS.—If it does nothing else, the World Food Conference will underline the fact that mankind is on the verge of a major, perhaps a catastrophic, food crisis. Most probably, however, no one will say that to the degree that human error is at fault the Soviet Union is a major culprit.

Of course the problem has a Janus face. Overpopulation is a critical factor, but so is the failure of nations to exploit their food producing potential. The U.S.S.R. is such a nation.

At a time when the vast Soviet farmlands could be producing more than enough food for domestic needs, the U.S.S.R. has been importing massive quantities of grain, thus contributing to the world decline in grain reserves to their lowest point in decades. Weather problems are a key factor, but beyond uncontrollable natural causes, there have been faulty Soviet agricultural policies which have kept Soviet food production far below the land's potential.

One to one, Soviet and United States comparisons of yields per acre are unfair. Soviet and Canadian comparisons are not unfair. Take wheat, for example, the major grain. Soviet yields per acre continue to lag more than 30 percent behind those achieved in Canada. Thus, for the years 1970–72 the Canadians maintained an average wheat yield of 26.3 bushels per acre, while Soviet yields were only 17.7 bushels per acre.

During the five-year period 1968–1972 average annual Soviet production of all grains was 173.6 million metric tons. Had the Russians met Canadian yield standards, their annual production would have been some 231 million tons, enough for their own needs. The grain the U.S.S.R. purchased from the U.S. and Canada would have been available for shipment abroad to the hungry in developing nations.

A stifling ideology, bad politics and (especially in the past) poor economics are the combined causes of the Soviet agricultural plight.

Under Leonid Brezhnev much has been accomplished on the economic front. Even though considerably more is needed (i.e., Soviet fields still receive only about half the levels of fertilizer applied to American fields), there is good reason to believe that investments will approach desirable levels in a few more years. Indeed, reversing the Stalinist policy of raping the countryside for capital to support industrial development, the current leadership is now pouring massive subsidies into agriculture, probably nearing 20 billion rubles annually.

Nevertheless no amount of investment will solve the problem of lagging peasant incentives to produce which are directly linked to the collectivized system of farming. The system satisfies Moscow's twin needs for tight central controls and for forcing a Communist model on the countryside.

The collectivization story is complex, but at the heart of the matter is the fact that in the name of Marxism-Leninism, Soviet leaders continue to impose grossly inefficient, impossibly huge farms on the peasants. The workers in the barns and fields are allowed no initiative. Soviet farmers are but (to paraphrase Marx) automatons chained to their tractors and livestock.

On a Soviet farm, all power and most key decisions rest in the hands of a director who must (on the average) manage over 1,000 workers and over 10,000 acres in crops. As Western studies have underlined, economies of scale can be crucial to farming efficiency, especially as it relates to timeliness of decisionmaking. Failure to act promptly in face of disease or adverse weather can result in the loss of animals or a crop.

America's own past research has suggested that system losses alone reduce Soviet grain yields below their potential by some 18 percent. Even greater reductions exist with other foods. Again, weather is an important factor. Soviet agriculture still needs more investment. Nevertheless, such factors alone are not the sole reasons behind some astounding differences between U.S. and Soviet farm achievements.

In 1970 American farmers produced 102 kgs. of meat per capita, while the Soviets (with more land under cultivation) produced only 51 kgs. and their leading health authorities state that the average annual consumption of meat should be 82 kgs. per capita. This explains why their attempted 1974 U.S. purchase was largely for feed corn.

The Soviet waste of manpower even surpasses their waste of the land. For example, the average American farmer cultivates 5.5 times as much land, and produces 12 times as much grain and 14 times as much meat as does his Soviet collectivized counterpart. Yet, ask farm chairmen (as I did in 1970) whether they could use more workers, and most will say, "Yes."

The dismal Soviet farm scene is revealed by an astounding incident that occurred a few years ago. An entire region was not meeting its butter delivery plan to the state. Local authorities attempted to solve the problem by selling all they had to the state, then going to the state stores and buying butter in large quantities, which they then added to the next delivery of butter to town in the attempt to meet their production plan.

The Soviet agricultural sins have complex roots. Nevertheless, by any measure, the farming system imposed on the Soviet countryside is the most irresponsible, extremely wasteful enterprise imaginable. Yet the Kremlin's ideological and control needs give no encouragement that it will make the fundamental changes of system necessary if the Soviet Union is to meet its own people's needs, not to mention those of a hungry world.